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UMI

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TABLE OF CONTENTS

Agency entries 1
Federal Register Privacy Act Publications I
List of CFR Parts Affected II
Federal Register Pages and Dates V

INDEX

FEDERAL REGISTER INDEX, MAY 1977

THE PRESIDENT

(See also Executive Office of President)

EXECUTIVE ORDERS
Circuit Judge Nominating Commission, U.S.; D.C. Circuit Panel, recommending nominees (EO 11993), 27197
Environmental impact statements; Council on Environmental Quality, regulations (EO 11991), 26967
Executive Schedule; placement of certain positions in levels IV and V (EO 11983, 11986), 26407, 2312-7
Exotic organisms, introduction into U.S.; restriction (EO 11987), 26949
FBI Director, Selection Committee; reporting time, extension (EO 11982), 22859
Floodplain development, support by Federal agencies; restriction (EO 11988), 26951
Foreign intelligence activities, U.S.; organizational changes (EO 11985), 25487
Foreign Intelligence Advisory Board, President's; abolishment (EO 11984), 23129
Judicial Officers, Commission on Selection of Federal; establishment (EO 11992), 27195
Off-road vehicles, use on public lands; restriction (EO 11989), 26959
Wetlands development, support by Federal agencies; restriction (EO 11990), 26961

MEMORANDUMS
Sugar, imports (May 4, 1977), 23499
Television receivers, imports (May 19, 1977), 26195

EXECUTIVE AGENCIES

ACCIDENTS

See National Transportation Safety Board.

ACTUARIES, JOINT BOARD FOR ENROLLMENT

NOTICES
Meetings:
Joint Board Actuarial Examinations Advisory Committee, 25388

ADDITIVES

See Environmental Protection Agency.
Food and Drug Administration.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

See Federal Register Office.

ADMINISTRATIVE CONFERENCE OF UNITED STATES

NOTICES
Meetings:
Judicial Review Committee, 23867
Licenses and Authorizations Committee, 23867

ADVERTISING

See Federal Trade Commission.

AGED

See Health, Education, and Welfare Department.
Social and Rehabilitation Service.

AGENCY FOR INTERNATIONAL DEVELOPMENT

RULES
Advisory committee management; closed meetings, 26975
Procurement, 27601
Sunshine Act; implementation, 26975

NOTICES
Authority delegations:
Administrator; order of succession, 22966
Bahamas, Bolivia, Brazil, et al., principal officers; operational program grants, 22967
Colombia, Director; contract of guaranty, 24134
Egypt, Mission Director; loan agreements, etc.; correction, 22967
Honduras, Director; farm loans, 23671
Paraguay, Mission Director; contract of guaranty, 27081
Paris Overseas Development Coordinator; grant and contracting functions, 25571
Program and Management Services Assistant Administrator; AID Regulation 1 waiving etc., 26496
Turkey, Ambassador; personal foreign excess property, 23672
Environmental statements; availability, etc.:
Pest management activities, 25394
Meetings:
International Food and Agricultural Development Board, 25572
Voluntary foreign aid agencies; certificates of registration:
Voluntary Foreign Aid Advisory Committee; terminated, 25571

AGING ADMINISTRATION

See Human Development Office.

AGRICULTURAL COMMODITIES AND PROGRAMS

See Agricultural Marketing Service.
Agricultural Stabilization and Conservation Service.
Agriculture Department.
Animal and Plant Health Inspection Service.
Commodity Credit Corporation.
Federal Crop Insurance Corporation.
Federal Grain Inspection Service.
Food and Drug Administration.
Food Safety and Quality Service.

AGRICULTURAL MARKETING SERVICE

RULES
Avocados; imported, 27214
Avocados grown in So. Fla., 27210
Beef research and information; referendums conduct procedure, 25315, 27569
Cherries (sweet) grown in Wash., 27567
Cotton:
Sampling; licensing of warehouses and gins, 24711
Grapefruit; imported, 24717
Lemons grown in Ariz. and Calif., 22360, 23156, 24717, 25849, 26410, 27210, 27568
Milk marketing orders:
Eastern South Dakota, correction, 27215
Upper Midwest, 22360
Nectarines grown in Calif., 23157, 24229
Onions grown in So. Tex., 22126
Oranges, grapefruit, tangerines, and tangelos grown in Fla., 24716
Oranges (navel) grown in Ariz. and Calif., 22875, 24061
Oranges (Valencia) grown in Ariz. and Calif., 24061, 25719, 26197, 26986, 27568
Papayas grown in Hawaii, 25720
Pears, plums, and peaches (fresh) grown in Calif., 22875, 23157, 24230, 26646
Potatoes (Irish) grown in Southeastern States, 25720, 26410
Warehouse regulations:
Nut, 26646

PROPOSED RULES
Avocados; imported, 23514
Avocados grown in So. Fla., 23607
Celery grown in Fla., 25872
Limes grown in Fla., 24066
Milk marketing orders:
Central Arkansas, 26217
Fort Smith, Ark., 26217
Lubbock-Plainview, Tex., 26217
Memphis, Tenn., 26217
Middle Atlantic, 27016
Nebraska-Western Iowa, 24744
Neosho Valley, 26217
New York-New Jersey; extension of time, 23841
Oklahoma Metropolitan, 26217
Red River Valley, 26217
Rio Grande Valley, 26217
Texas, 26217
Texas Panhandle, 26217
Wichita, Kans., 26217

UMI

Nectarines grown in Calif., 26430
Peaches (fresh) grown in Ga., 24744, 27012
Peaches (fresh) grown in Ga.; correction, 23160
Potato research and promotion plan; expenses, 24066
Seed Act regulations:
  Cowpea, field pea, and mung bean land requirements, 25738

NOTICES
Meetings:
  Flue-Cured Tobacco Advisory Committee, 27665
  Shippers Advisory Committee, 24074, 27270

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

RULES
Beef research and information; referendums conduct procedure, 25315, 27569
Rural environmental programs, National:
  Drought and flood area conservation program, 22358
Tobacco (burley); marketing quotas and acreage allotments, 27209
Tobacco (cigar-filler, etc.); marketing quotas and acreage allotments, 27208
Tobacco (flue-cured); marketing quotas and acreage allotments, 27565
Tobacco (Virginia sun-cured); marketing quotas and acreage allotments, 27209

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service.
Agricultural Stabilization and Conservation Service.
Animal and Plant Health Inspection Service.
Commodity Credit Corporation.
Cooperative State Research Service.
Farmers Home Administration.
Federal Crop Insurance Corporation.
Federal Grain Inspection Service.
Food and Nutrition Service.
Food Safety and Quality Service.
Forest Service.
Rural Electrification Administration.
Soil Conservation Service.

RULES
Authority delegations by Secretary and General Officers:
  Conservation, Research, and Education, Assistant Secretary; National Forest System, protect, manage, and administer, 26645
Freedom of information; fee schedule, 23597
Import quotas and fees:
  Cheese, certain, price determination, 22874
Operations Office; fee schedule, 23597

NOTICES
Advisory committees, closed meetings; reports, availability, 27270
Drought impact areas, emergency; various States; memorandum of agreement with Commerce Department, Interior Department, and SBA; correction, 22608
Meetings:
  Apache National Forest Grazing Advisory Board, 26674
  Forest Management Act Committee of Scientists, National, 23618
  Sitgreaves National Forest Grazing Advisory Board, 26674
Privacy Act; systems of records, 25515, 27190

AIR FORCE DEPARTMENT

RULES
Discharge Review Board, 23601

NOTICES
Environmental statements; availability, etc.:
  Greater Pittsburgh International Airport, Pa., 22393
  Vandenberg Air Force Base, Space Shuttle facilities, Calif., 22393
Meetings:
  Scientific Advisory Board, 22922, 23533, 24304, 24765, 24766, 25755, 26692, 27021
Privacy Act; systems of records, 26449

AIRCRAFT, AIR CARRIERS, AIRPORTS

See Air Force Department.
Civil Aeronautics Board.
Federal Aviation Administration.
National Transportation Safety Board.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

NOTICES
Meetings:
  Advisory committees; May, 25379
  Advisory Committees; June, 23879, 23882, 24099, 25916, 26248
  Advisory Committees; July, 25916

ALCOHOL, TOBACCO AND FIREARMS BUREAU

RULES
Explosives, commerce in:
  Black powder; transportation, distribution, etc., 22144
Firearms and ammunition, commerce in:
  Black powder; transportation, distribution, etc., 22144

NOTICES
Authority delegations:
  Regional Regulatory Administrators; trade name information disclosure, 22968
  Regional Regulatory Administrators et al.; compromise of tax liabilities, 22968
Firearms, granting of relief, 26711

ALIENS

See Immigration and Naturalization Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

RULES
Animal and poultry import restrictions:
  Rinderpest and foot-and-mouth disease, 23131
Inflation impact statements, 23132, 25850
Livestock and poultry quarantine:
  Brucellosis, 22370
  Scabies in cattle, 25317, 25849
  Scrapie in sheep, 25850
Overtime services relating to imports and exports:
  Animals, commuted traveltime allowances, 27218
  Commuted traveltime allowances, 25314
Plant quarantine, domestic:
  Pink bollworm; correction, 25849

PROPOSED RULES
Animal welfare:
  Transportation, handling, care, and treatment of animals; standards; extension of time, 22374
Inflation impact statements, 27251
Livestock and poultry quarantine:
  Pseudorabies, 27250

ANIMALS

See Animal and Plant Health Inspection Service.
Fish and Wildlife Service.
Food and Drug Administration.
National Oceanic and Atmospheric Administration.

ANTITRUST DIVISION, JUSTICE DEPARTMENT

NOTICES
Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
  Foremost-McKesson, Inc., 22951
  Lake County Contractors Association, Inc., et al., 25545
  National Broadcasting Co., Inc., 24996

ARMED FORCES

See Air Force Department.
Arms Control and Disarmament Agency.
Army Department.
Civil Aeronautics Board.
Defense Civil Preparedness Agency.
Defense Department.
Defense Intelligence Agency.
Domestic and International Business Administration.
Navy Department.

ARMS CONTROL AND DISARMAMENT AGENCY

NOTICES
General Advisory Committee closed meetings; report availability, 26446

ARMY DEPARTMENT

See also Engineers Corps.

RULES
Freedom of information, 26423
Inflation impact statements, 25725
National Cemeteries, Arlington and Soldiers' Home; eligibility criteria, 25725
Privacy Act; implementation, 27244

NOTICES
Environmental statements; availability, etc.:
  Fort Ord Complex, Calif., 27021
  Toole Army Depot, Utah, 25346
Meetings:
  Chemical Propulsion Advisory Committee, 27021
  Scientific Advisory Board, 22922
Privacy Act; systems of records, 25904

ARTS AND HUMANITIES, NATIONAL FOUNDATION

NOTICES
Grants, guidelines for:
  Architecture and environmental arts, 1978 FY, 24121
Meetings:
  College Library Program Panel, 25390
  Dance Advisory Panel, 26255
  Education Programs Panel, 24126, 24347
  Expansion Arts Advisory Panel, 26256
  Federal Graphics Evaluation Advisory Panel, 22612
  Museum Advisory Panel, 27377
  Music Advisory Panel, 22613
  Planning Office Panel, 27070
  Research Grants Panel, 23564, 24126, 24347, 27070
  Science, Technology and Human Values Advisory Committee, 24125
  Special Projects Advisory Panel, 24347, 26256
  Theatre Advisory Panel, 26256
  Theatre research project consultants, 26256

BANKS, BANKING

See Comptroller of Currency.
Farmers Home Administration.
Federal Deposit Insurance Corporation.
Federal Home Loan Bank Board.
Federal Reserve System.
National Credit Union Administration.

BIOLOGICAL PRODUCTS

See Animal and Plant Health Inspection Service.
Food and Drug Administration.

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

NOTICES
Procurement list, 1977; additions and deletions, 23187, 24302, 25901, 27278

BONNEVILLE POWER ADMINISTRATION

NOTICES
Authority delegations:
  Contracts Manager; materials, equipment, and other contracts, 26250
Environmental statements; availability, etc.:
  Bonneville Dam Integration Transmission, 25383
Meetings:
  Bonneville Dam intergrating transmission, 25923
Procurement:
  Protests against award, 22608

BRIDGES

See Coast Guard.
Federal Highway Administration.

CANADA AND UNITED STATES-INTERNATIONAL JOINT COMMISSION

NOTICES
Pollution problems, Lake Huron and Lake Superior; hearings, 22949

CENSUS BUREAU

RULES
Population censuses, special; fee structure, 22362

PROPOSED RULES
Boundary changes for 1980 census, cutoff dates for recognition, 27255

NOTICES
Meetings:
  Agricultural Statistics Census Advisory Committee, 22187
  Spanish Origin Population for 1980 Census Advisory Committee, 24764
Population censuses, special; results, 24297
Population censuses, special; results; correction, 23574

CENTER FOR DISEASE CONTROL

See Disease Control Center.

CENTRAL INTELLIGENCE AGENCY

RULES
Documents and records; public access; declassification requests, definition; freedom of information, 24049

NOTICES
Privacy Act; systems of records, 24759

CHILD DEVELOPMENT OFFICE

See Human Development Office.

CHILDREN, CHILD PROTECTION

See Education of Disadvantaged Children, National Advisory Council.
Education Office.
Food and Nutrition Service.
Human Development Office.
Social and Rehabilitation Service.

CIVIL AERONAUTICS BOARD

RULES
Accounts and reports for certificated air carriers; uniform system:
  Form 41 revised; approval by Comptroller General, 23146
Fare summaries; publishing and distribution requirements, 26422
Organization and functions:
  Accounts and Statistics Bureau, 25852
  Government Rates Division Chief, 23600

PROPOSED RULES
Accounts and reports for certificated air carriers; uniform system:
  Form 41; schedules, etc., 24216
Air carriers, commuter, certification; inquiry, 26558
Policy statements:
  Discount fares, 26612
Practice and procedure, economic proceedings:
  Carriers, local service; authorized operations; standardized method for costing proposed changes; extension of time, 23841

NOTICES
Charters:
  Cargo transfer rate investigation; prehearing conference, 23619
Commodity rate agreement; Joint Traffic Conferences of International Air Transport Association, 25344
Emergency air transportation requirements:
  Alaska Airlines, Inc., et al., 24294
Fares, domestic passenger; increase; various carriers, 25517, 26680
Mail rates, domestic service priority and nonpriority, 25344
Meetings; Sunshine Act, 23223, 24357, 25592, 25826, 26506
Organization and functions:
  Chairman, Acting; designation, 23621
Hearings, etc.:
  Air Manila, Inc., 24074
  Air Midwest, Inc., 26447
  Air Midwest, Inc., et al., 27665
  Air New England, Inc., 22919, 23184
  Air Wisconsin, Inc., 22920
  Air-India, 22563, 23868
  Alia-Royal Jordanian Airlines Corp. et al., 25345, 25749
  American Airlines, Inc., et al., 25515
  Braniff Airways, Inc., 24074
  British Airways, 22918
  Caribbean area service investigation; correction, 22386
  Chicago-Midway low-fare route proceeding, 25892
  Deutsche Lufthansa Aktiengesellschaft, 22919
  Deutsches Reiseburo GMBH, 22564, 24076
  Five (5) Star Air Freight Corp., 23185
  Frontier Airlines, Inc., 23185, 26447
  Heacock, Amos E., et al., 23869
  International Air Service Co., 23620
  International Air Transport Association, 22386, 22568, 22569, 22915, 23619, 25517, 25891, 26447, 26448, 26674, 26675, 27666
  KLM Royal Dutch Airlines et al., 27019
  Mackery certification proceeding, postponement, 23185
  North Central Airlines, Inc., 25891
  Pan American World Airways, Inc., et al., 22564
  Phoenix-Las Vegas-Reno competitive nonstop service proceeding, 27271
  Profit by Air, Inc., 27019
  Seaboard World Airlines, Inc., 27271
  Sontair Ltd., 24761
  Texas International Airlines, Inc., 25892
  Trans World Airlines, Inc., 22387, 22921, 23186, 25891
  Universal Air Travel Plan; correction, 22388
  Wien Air Alaska, Inc., 24295

CIVIL RIGHTS

See Civil Rights Commission.
Education Office.
Equal Employment Opportunity Commission.
Health, Education, and Welfare Department.

INDEX

UMI

Housing and Urban Development Department.
Justice Department.

CIVIL RIGHTS COMMISSION

NOTICES
Age discrimination in Federal programs; hearing, San Francisco, 26236
Meetings, State advisory committees:
Alaska, 22388
California, 24763
Connecticut, 24763
Idaho, 24763
Iowa, 22388, 26236
Maryland, 22187, 26236
Massachusetts, 24764
Minnesota, 23186
New Hampshire, 24764
New Jersey, 24764
New Mexico, 22187
Rhode Island, 24764
Vermont, 24764
Virginia, 22187
Washington, 22389
West Virginia, 22389
Wyoming, 26236
Meetings; Sunshine Act, 22467, 24173, 25405, 26283

CIVIL SERVICE COMMISSION

RULES
Excepted service:
Agriculture Department, 25313, 27207
Army Department, 25313
Civil Service Commission, 26409
Commerce Department, 25870
Community Services Administration, 26409
Defense Department, 23131, 27599
Entire executive civil service, National Youth Conservation Corps, 24743, 25314
Executive Office of President, 27206
Federal Energy Administration, 25870
Health, Education, and Welfare Department, 25870
Housing and Urban Development Department, 22355, 25313, 25869, 25870, 27207
Interior Department, 25314, 27207
International Trade Commission, 22356
Interstate Commerce Commission, 27207
Justice Department, 27208
Labor Department, 22355
State Department, 22355, 26409, 27206, 27207
Treasury Department, 27207
Pay administration:
Editorial changes, 23131

PROPOSED RULES
Political activity of Federal employees; management and campaigning; exception of certain elections, 23160

NOTICES
Meetings:
Federal Employees Pay Council, 27667
Noncareer executive assignments:
ACTION, 22389
Agriculture Department, 23621, 26448
Community Services Administration, 25895, 26448
Defense Department, 25895
Environmental Protection Agency, 27272
Federal Energy Administration, 25346
Federal Trade Commission, 27272
Health, Education, and Welfare Department, 25895
Housing and Urban Development Department, 25346
Interior Department, 25346
Labor Department, 22389
Management and Budget Office, 25346
Transportation Department, 27272
U.S. Information Agency, 26449

COAL

See Federal Energy Administration.
Geological Survey.
Hearings and Appeals Office, Interior Department.
Land Management Bureau.

COAST GUARD

RULES
Boating safety:
Boats and associated equipment; electrical systems, standards; correction, 24738, 24739
Boats and associated equipment; gasoline fuel systems, standards; correction, 24739
Boats and associated equipment; loading and floatation, standards; correction, 24738
Claims:
Settlement procedures, 22879
Collision regulations; international:
Localities of enforcement, 26976
Dangerous cargoes:
Solids in bulk; metal borings, shavings, etc., 22146
Inflation impact statements, 22146, 23507, 24741, 25735
Merchant marine officers and seamen:
Certification of seamen; engine department ratings, 24741
Motorboat operators and staff officers, licensing and registration; recency of service, military service exclusion, 26985
Records and document copies; exceptions to fees and charges, 23507
Security zones:
Monongahela, Allegheny and Ohio Rivers; Pa., 26977
New York, 24738
Tank vessels:
Air compressors; operations, 25735
Special equipment, machinery, and hull requirements; air compressors, 25735

PROPOSED RULES
Anchorage regulations:
Massachusetts; withdrawal, 24755
Cargo vessels:
Lifesaving equipment; lights and retro-reflective material, 26229
Dangerous cargoes:
Barges, unmanned; handling, transfer, and transportation; qualifications of personnel, correction, 22903
Vessels, self-propelled; chemical tanker safety standards, 23518
Inflation impact statements, 22329, 23517, 23518, 24869, 24871, 24873, 24876, 26232
Marine engineering:
Mobile offshore drilling units, 22296
Merchant marine officers and seamen:
Dangerous cargoes; handling, transfer, and transportation; qualifications of personnel, correction, 22903
Mobile offshore drilling units:
Design and equipment, 22296
Inspection and certification, 22296
Operations, 22296
Navigation safety regulations:
Computer aided collision avoidance system for merchant ships; performance specification, 24871
Oceanographic vessels:
Lifesaving equipment; lights and retro-reflective material, 26229
Passenger vessels:
Lifesaving equipment; lights and retro-reflective material, 26229
Pollution; protection of marine environment; tank vessels carrying oil in cosmetic trade:
Emergency steering standards for oil tankers, 24869
Segregated ballasts, equipment equivalents, etc., 24868
Specifications:
Lifesaving equipment; lights and retro-reflective material, 26229
Tank vessels:
Cargo transfer procedures manual; operations, 23517
Lifesaving equipment; lights and retro-reflective material, 26229
Special equipment, machinery, and hull requirements; inert gas system, 24874
Uninspected vessels:
Lifesaving equipment; lights and retro-reflective material, 26229

NOTICES
Bridges, railroad; proposed alteration:
Mobile, Ala; hearing, 26275
Equipment, construction, and materials; approvals and terminations, 25792, 27081
Meetings:
Boating Safety National Advisory Council, 22968
New York Harbor Vessel Traffic Service Advisory Committee, 25794
Offshore Operations Industry National Advisory Committee, 22213
Rules of the Road Advisory Committee, 23572
President's Cup Regatta; special local regulations, 26276

COMMERCE DEPARTMENT

See also Census Bureau.
Domestic and International Business Administration.
Economic Development Administration.
Maritime Administration.
National Bureau of Standards.
National Oceanic and Atmospheric Administration.
Patent and Trademark Office.
Regional Action Planning Commissions.

RULES
Consumer product information labeling program, voluntary; operation and procedures, 26647
Contract appeals, handling procedures; location change; correction, 27574
Inflation impact statements, 26648

NOTICES
Advisory committees, closed meetings; reports, availability, 26237
Committees; establishment, renewals, etc.:
South Atlantic Fishery Management Council, 22921
Drought impact areas, emergency; various States; memorandum of agreement with USDA, Interior Department, and SBA; correction, 22608
Meetings:
Patent and Trademark Office Advisory Committee, 27278
Technical Advisory Board, 27667
Organization and functions:
Economic Analysis Bureau, 23676
Privacy Act; systems of records, 25900
Watches and watch movements:
Allocation of quotas; Guam and American Samoa, 24301

COMMISSION ON FINE ARTS

See Fine Arts Commission.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

See Blind and Other Severely Handicapped, Committee for Purchase from.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

See Textile Agreements Implementation Committee.

COMMODITY CREDIT CORPORATION

RULES
Export programs:
Agricultural commodities; financing of sales from private stocks, 27569
Inflation impact statements, 23795
Loan and purchase programs:
Corn; correction, 25720
Milk, price support, 22127
Peanuts, 24231
Tobacco, 23795
Wheat; correction, 22126

PROPOSED RULES
Cooperative marketing associations; eligibility requirements for price support; extension of time, 23614
Inflation impact statements, 27250
Loan and purchase programs:
Grain and similarly handled commodities; 1976 and subsequent crops price support; extension of time, 23613
Peanuts, 25329
Tobacco, flue cured, 27249

NOTICES
Meetings; Sunshine Act, 23224, 27131

COMMODITY FUTURES TRADING COMMISSION

RULES
Commodity Exchange Act regulations:
Registration forms; futures commission merchants, floor brokers, etc., 23993
Reports:
Quantities fixed for reporting, 25485

PROPOSED RULES
Commodity Exchange Act regulations:
Futures commission merchants; minimum financial requirements, 27166
Commodity option transactions; hearing, 23614

NOTICES
Futures contracts:
Crude coconut oil; Chicago Mercantile Exchange, 26238
Gold; New York Mercantile Exchange, 26238
Stud lumber; Chicago Mercantile Exchange, 26238
Meetings; Sunshine Act, 22219, 22468, 23579, 24799, 25404, 26283, 27713

COMMUNICATIONS

See Federal Communications Commission.
Rural Electrification Administration.
Telecommunications Policy Office.

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY

NOTICES
Cartographic information program, basic; interagency agreement with Geological Survey, 22940
Community development block grants:
Discretionary grants; new communities, applications for 1977 FY, 25383
Grantee performance reports; inquiry, 24105

COMMUNITY SERVICES ADMINISTRATION

RULES
Community Action Programs:
Financial management, grantee; criteria for non-Federal share waiver; correction, 22145
Food and nutrition program, 27593
Funding, application process; correction, 22365
Poverty guidelines; correction, 23151
Grantee property administration; excess acquisition, moratorium; termination, 25734

COMPTROLLER OF CURRENCY

RULES
Application procedures, supplemental, for charters, branches, mergers and relocations:
De novo operating subsidiaries deleted, 26969
Fiduciary powers; National banks and collective investment funds:
Registered clearing agencies; applications for stays or disciplinary sanctions and summary actions, 26969
Rulings:
Letters of credit, 24207

CONSTRUCTION INDUSTRY

See Employment Standards Administration.

CONSUMER PRODUCT SAFETY COMMISSION

RULES
Environmental review; inquiry, 25495
Hazardous substances and articles; administration and enforcement:
Children's wearing apparel containing TRIS; additional interpretations, 22879
Matchbooks, safety standards, 22667
Privacy Act; implementation, 22818

PROPOSED RULES
Architectural glazing materials; safety standards, 24067
Environmental review; inquiry, 25494
Flammable fabrics:
Children's sleepwear, sizes 7 through 14; advertising noncomplying items; withdrawn, 23853
Lawn mowers, power; safety standards, 23052, 24755

NOTICES
Architectural glazing materials; advisory opinion, correction, 23188
Chlorofluoroalkanes, fully halogenated; non-essential uses as propellants in consumer aerosol products, 24550
Crossbows; enforcement proceedings:
Wham-O Manufacturing Co., 23871
Meetings:
Flammable Fabrics Act National Advisory Committee, 26238
Product Safety Advisory Council, 22188
Meetings; Sunshine Act, 22468, 23027, 23222, 23579, 23580, 23690, 23935, 24173, 25404, 25826, 25947, 26283, 26506, 27131, 27132, 27713
Privacy Act; systems of records, 22922

CONSUMERS

See Consumer Product Safety Commission.
Federal Trade Commission.
National Highway Traffic Safety Administration.

COOPERATIVE STATE RESEARCH SERVICE

NOTICES
Meetings:
Committee of Nine, 24074

COPYRIGHT OFFICE, LIBRARY OF CONGRESS

PROPOSED RULES
Copyright owners and broadcasting entities:
Phonorecord players, coin-operated; recordation and certification; extension of time, 25514

COSMETICS

See Food and Drug Administration.

COST ACCOUNTING STANDARDS BOARD

NOTICES
Cost accounting standards:
Objectives, policies and concepts; restatement, 25751

INDEX

UMI

Standards and regulations promulgated, effectiveness; evaluation conference, 23871

COUNCIL ON ENVIRONMENTAL QUALITY

See Environmental Quality Council.

CUSTOMS SERVICE

RULES
Inspection, search, and seizure:
Merchandise seized to protect U.S. revenue, 25324, 27600
Liquidation of duties; countervailing duties:
Fasteners from Japan, 23147
Footwear from Republic of China, 23801
Sugar-containing articles from Australia, 23505
Personal declarations and exemptions:
Merchandise seized to protect U.S. revenue, 25324

PROPOSED RULES
Drawback claims; records retention, 26993

NOTICES
Countervailing duty petitions and preliminary determinations:
Bicycles from Republic of China, 22216
Cordage, man-made fiber, from Republic of Korea, 23573
Float glass from Italy, 24347
Leather wearing apparel from Republic of China, 25572
Reimbursable services; excess cost of preclearance operations, 24348
Tariff-rate quotas:
Tuna fish, 24348

DEFENSE CIVIL PREPAREDNESS AGENCY

NOTICES
Privacy Act; systems of records, 27021

DEFENSE DEPARTMENT

See also Air Force Department.
Army Department.
Defense Civil Preparedness Agency.
Defense Intelligence Agency.
Engineers Corps.
Navy Department.

RULES
Charters:
Assistant Secretary of Defense; Manpower, Reserve Affairs, and Logistics, 25856
Director of Defense Research and Engineering, 25855
Nondiscrimination; equal opportunity program, 26422

NOTICES
Meetings:
Armed Forces Epidemiological Board, 24077
Chemical Propulsion Advisory Committee, 27280
Electron Devices Advisory Group, 24766, 27281
National Defense University Board of Visitors, 23533
Science Board task forces, 22394, 23533, 27281
Wage Committee, 24077

DEFENSE INTELLIGENCE AGENCY

NOTICES
Meetings:
Scientific Advisory Committee, 23190, 24304

DELAWARE RIVER BASIN COMMISSION

NOTICES
Comprehensive plan, sewage treatment plant projects; hearings, 25755
Environmental statements; availability, etc.:
New York City reservoirs, 22922

DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF

See Education of Disadvantaged Children, National Advisory Council.

DISASTER ASSISTANCE

See Agency for International Development.
Farmers Home Administration.
Federal Crop Insurance Corporation.
Federal Disaster Assistance Administration.
Federal Insurance Administration.
Small Business Administration.

DISEASE CONTROL CENTER

PROPOSED RULES
Grants for education programs in occupational safety and health:
Educational resource centers; establishment, 25340
Inflation impact statements, 25340

NOTICES
Meetings:
Coal Mine Health Research Advisory Committee, 24099
Safety and Occupational Health Study Section, 24319

DISEASES

See Animal and Plant Health Inspection Service.
Disease Control Center.
National Institutes of Health.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

RULES
Copper and copper-base alloys; set-aside percentages, 25328
Export licensing:
Electronic computers, etc.; data accompanying license applications, 23796

NOTICES
Meetings:
Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, 23574
Computer Systems Technical Advisory Committee, 23869, 26236, 26449
Semiconductor Technical Advisory Committee, 22391, 26681
Telecommunications Equipment Technical Advisory Committee, 26682
Scientific articles; duty free entry:
Carnegie-Mellon University, 25895
Children's Hospital Medical Center et al., 24297
Emory University, 22571
Florida A&M University et al., 25896
Georgia Institute of Technology, 22571
Miami University, 25896
National Institutes of Health, 22571
Northwestern University et al., 27272
Northwestern University Medical School et al., 25896
Purdue University, 22572
Stanford University, 24298
Texas Christian University, 25898
That Man May See, Inc., et al., 27274
University of California-Los Alamos Scientific Laboratory, 25899
University of Chicago, 25899
University of Idaho et al., 26680
University of Montana, 25899
University of North Carolina, 27275
University of Rochester et al., 26680
University of South Florida, 25899
University of Utah, 25900
Vanderbilt University, 22572
Yale University et al., 24299

DRUG ENFORCEMENT ADMINISTRATION

RULES
Schedules of controlled substances:
Loperamide, 25499

NOTICES
Registration applications, etc.; controlled substances:
Anderson, Donald Hess, M.D., 23558
Ganes Chemicals, Inc., 26255
M.D. Pharmaceutical, Inc., 25389
Moody, Robert O'Neal, 23558
Noell, John S., M.D., 22950
Penick, S.B., & Co., 25547
Regis Chemical Co., 26255
Sigma Chemical Co., 22950
Stepan Chemical Co., 25547
U.S. Pharmacopeial Convention, Inc., 22951
Schedules of controlled substances:
Alphaprodine, etc.; 1977 production quotas, 23212

DRUGS

See Alcohol, Drug Abuse, and Mental Health Administration.
Drug Enforcement Administration.
Food and Drug Administration.

ECONOMIC DEVELOPMENT ADMINISTRATION

RULES
Business development program:
Refinancing assistance, 26198
Community emergency drought relief program, 27446
Financial assistance:
Physically handicapped; buildings designed, constructed, and altered to accomodate; CFR correction, 23146
Inflation impact statements, 23146, 23796, 26198, 27432, 27446

Local public works capital development and investment program, Round II, 27432
Public works impact program areas; designation standards, 23796

NOTICES
Adjustment assistance eligibility, industry producing firm studies:
Sugar, 25518
Television receivers, 25519
Import determination petitions:
Accent Industries, Inc., 23575
Accessories by Pearl, Inc., 24300
Carter Leather Goods Co., Inc., 27276
Daco Manufacturing, Inc., 22921
Dawson Industries, Inc., 23186
Favorite Footwear, Inc., 24764
J. B. Lion Corp., 23870
Pettyjohn Brothers Shoe Manufacturing, Inc., 26237
Rectilinear Research Corp., 23186

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL

NOTICES
Meetings, 23563

ECONOMIC OPPORTUNITY OFFICE

See Community Services Administration.

EDUCATION

See Education of Disadvantaged Children, National Advisory Council.
Education Office.
Food and Nutrition Service.
Health, Education, and Welfare Department.
National Institute of Education.
Veterans Administration.

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL

NOTICES
Meetings, 26709

EDUCATION OFFICE

RULES
Disadvantaged students, special services, program, 26542
Foreign language and area studies, modern; grants and contracts awards, 26209
Inflation impact statements, 26209, 26536, 26542, 26546
National direct student loan program; loan servicing functions; hearing, 25862
Talent search program, 26546
Upward Bound program, 26537

PROPOSED RULES
Adult education programs, State:
Indochinese refugees, emergency program, 22336
Basic educational opportunity grant program; extension of time, 24291
College work-study program, 24291
Direct project grant and contract programs:
State planning commissions program; interstate planning, 27625
Guidance and counseling programs; grants award criteria, 25881
Higher education, student assistance programs; limitation, suspension, or termination of institutional eligibility; extension of time, 24291
Higher education and vocational students, low interest loans:
Vocational students, low-interest and direct loans; CFR redesignation; extension of time, 24291
Indian children and graduate and professional students; special programs to improve educational opportunities; correction, 24758
Inflation impact statements, 22337, 27626
National direct student loan program; extension of time, 24291
State administered programs; State student financial assistance training programs, incentive grants; extension of time, 24291
State planning commissions program; interstate planning, 27625
Student consumer information services; extension of time, 24291
Supplemental educational opportunity grant program; extension of time, 24291
Vocational education:
Low-interest and direct loans; CFR redesignation; extension of time, 24291

NOTICES
Applications and proposals, closing dates:
Indian children, educational opportunities; programs to improve, 22407
Indian education assistance from non-local and local educational agencies, 25921
Indian fellowship program, 22405
Indians, adult education for; programs, 22406
State planning commissions program, intrastate planning, 26469
State student financial assistance training program; extension of time, 24101
Committees; establishment, renewals, etc.:
Accreditation and Institutional Eligibility Advisory Committee, 25769
Inflation impact statements, 25533
Information collection and data acquisition activity, description; inquiry, 22402, 23180, 23883, 25922
Meetings:
Accreditation and Institutional Eligibility Advisory Committee, 25769
Adult Education National Advisory Council, 24770, 25382
Bilingual Education National Advisory Council, 27677
Career Education National Advisory Council, 25923
Community Education Advisory Council, 23179
Environmental Education Advisory Council, 22204
Equality of Educational Opportunity National Advisory Council, 23178, 23548, 25923
Handicapped National Advisory Committee, 23178
Women's Educational Programs National Advisory Council, 26249
Postsecondary education comprehensive Statewide planning grants program; guidelines, 25532

ELECTIONS

See Census Bureau.
Civil Rights Commission.
Federal Election Commission.
Justice Department.

ELECTRICITY

See Bonneville Power Administration.
Federal Power Commission.
Reclamation Bureau.
Rural Electrification Administration.
Tennessee Valley Authority.

ELECTRONIC FUND TRANSFERS, NATIONAL COMMISSION

NOTICES
Competition in EFT suppliers market; inquiry, 25776
Meetings, 22207

EMERGENCY NATURAL GAS ACT OF 1977, ADMINISTRATOR

RULES
Emergency regulations, 22146

NOTICES
Emergency orders, etc.:
Columbia Gas of Ohio, Inc., et al., 27365
Columbia Gas Transmission Corp., 23182
El Paso Natural Gas Co., 23206, 25889, 27367, 27368, 27665
Mid Louisiana Gas Co. et al., 26235, 26446
Pennsylvania Gas & Water Co. et al., 22562, 24759
Tennessee Gas Pipeline Co., 26674
Texas Gas Transmission Corp., 23182, 23618, 24074, 27374

EMPLOYEE BENEFITS SECURITY OFFICE

See Pension and Welfare Benefit Programs Office.

EMPLOYMENT AND TRAINING ADMINISTRATION

PROPOSED RULES
Alien temporary agricultural and logging employment in U.S.; labor certification; hearings, 22378, 27261

NOTICES
Comprehensive Employment and Training Act programs:
Funds allocation, 23214, 25927, 25930, 27312, 27866
Employment transfer and business competition determinations; financial assistance applications, 23213, 24342, 25926, 27312

EMPLOYMENT STANDARDS ADMINISTRATION

NOTICES
Index to general wage determination decisions and modifications, 23444
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions, 23264, 24551, 26092, 27550

INDEX

UMI

ENDANGERED SPECIES

See Fish and Wildlife Service.
National Oceanic and Atmospheric Administration.

ENERGY

See Emergency Natural Gas Act of 1977, Administrator.
Energy Research and Development Administration.
Federal Energy Administration.
Federal Power Commission.
Geological Survey.

ENERGY CONSERVATION

See Commerce Department.
Federal Energy Administration.
General Services Administration.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

RULES

Procurement, 23508, 25732, 27247, 27600

PROPOSED RULES

Foreign atomic energy programs, unclassified activities:
International safeguards sensitive nuclear facilities, 23865
Plutonium, air transportation, 26431

NOTICES

Americium-241, price increase, 26450, 27630
Awards and grants, Federal assistance manual; issuance, 27630
Environmental statements; availability, etc.:
Portsmouth Gaseous Diffusion Plant, Ohio, 27282
Savannah River Plant, Aiken, S.C., 27281
Foreign inventions, ERDA-owned; licensing availability, 25346
Geothermal energy; demonstration power plant; inquiry, 22576
Industrial fuel switching to coal, forum, 27281
Meetings:
General Advisory Committee, 26238
Geothermal Energy Advisory Committee, 22575
Industrial fuel switching to coal forum, 27281
Procurement Policy Advisory Committee, 27049

ENGINEERS CORPS

RULES

Administrative procedures:
Civil works projects; reimbursement for advance non-Federal participation, 24050
Inflation impact statements, 24050

PROPOSED RULES

Danger zones:
California, 26437
Dredged or fill material discharged into United States waters, permits, 24756
Inflation impact statements, 24757

NOTICES

Meetings:
Environmental Advisory Board, 22188

ENVIRONMENTAL PROTECTION AGENCY

RULES

Air pollution; standards of performance for new stationary sources:
Opacity standards and maintenance requirements; compliance, 26206
Air pollution control, new motor vehicles and engines:
High-altitude vehicles, sale; clarification of designated locations; correction, 24739
Air quality implementation plans; various States, etc.:
Alabama, 22869
Arizona, 23802
California, 23802, 23803, 23804, 23805, 23806, 25501
Maryland, 25500
Massachusetts, 25731
Nebraska, 25505
New York, 25504
North Dakota, 26978
Ohio, 27588
Fuels and fuel additives:
Lead in gasoline, control of, 25732
Grants; environmental financing:
Treatment works construction loan guarantees, 25666
Grants, State and local assistance:
Subagreements; interim regulations; extension of time, 22144
Inflation impact statements, 25478, 26206
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Bentazon, 26979
Methoprene, 22365
Procurement, 22145
Waste management, solid; identification of regions and agencies; interim guidelines, 24927
Water pollution; effluent guidelines for certain point source categories:
Oil and gas extraction, onshore segment; extension of time, 22558
Textile industry, 26980
Water pollution control:
Aquaculture projects; requirements for approval of discharges, 25478
Ocean dumping disposal sites; herbicide orange incineration site-headquarters, 22144

PROPOSED RULES

Air pollution; standards of performance for new stationary sources:
Lime manufacturing plants, 22506, 27051
Reference methods, 26222
Air pollution control, new motor vehicles and engines:
Emission control system performance warranty; short test establishment, 26742
Emission control system performance warranty; short test failure, manufacturer repairs, 26759
Air quality implementation plans; preparation, adoption, and submittal:
Inspection/maintenance program, 22177, 27267
Air quality implementation plans; various States, etc.:
California, 26438, 26997, 26998, 26999, 27000, 27001, 27267, 27616, 27617, 27618
Iowa, 22902
Nevada, 25878
Ohio, 23162
Oklahoma, 26439
Inflation impact statements, 22509, 26222, 26227, 26570
Noise abatement programs:
Construction equipment; air compressors, portable, 27618
Low noise emission products; criteria and data requirements, 27442
Transportation equipment; trucks, medium and heavy, 27620
Ocean dumping; municipal sewage sludge dumping, relocation; hearing, 23163, 25741
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Acetic anhydride et al., 24071
Inert ingredients, 26440
Solid waste; management, treatment, etc.:
Hazardous waste guidelines and regulations; inquiry, 22332
Toxic substances:
Chlorofluorocarbons; reporting requirements, 24542
Polychlorinated Biphenyls (PCBs), 26564
Water pollution; effluent guidelines for certain point source categories:
Meat products and rendering industry; processing plants, 26226
Oil and gas extraction, onshore segment; extension of time, 22560

NOTICES

Air pollution; standards of performance for new stationary sources:
Alabama, authority delegation, 22905
Lime manufacturing plants, 22510
Air pollution control, new motor vehicles and engines:
California; waivers, 25755
Light duty vehicles and trucks, certification; intent to develop rulemaking, 27669
Air pollution control; violating facilities list, 24304
Air quality implementation plans:
Vapor recovery, stage II; gasoline stations; certain final compliance dates, deferral, 27674
Air quality implementation plans; various States, etc.:
Arkansas, 25912
Colorado, required revisions, 22908
New Mexico, 25912
Texas, 25912
Committees; establishment, renewals, etc.:
State-Federal Water Programs Advisory Committee, 27057
Environmental statements; availability, etc.:
Jackson, Wyo., wastewater treatment system, 27668
Orange County, Calif., County Sanitation Districts Wastewater Managmeent Program, 27668
Scarborough, Maine, wastewater collection and treatment facilities, 24311
Sooner Generating Station, Okla., Units 1 and 2, Noble and Pawnee Counties, 23190
Southern Kennebec Valley, Maine, Water quality management plan, 27674
Environmental statements; availability of agency comments, 27282
Meetings:
Environmental Health Advisory Committee, 24305
Environmental Measurements Advisory Committee, 22909
FIFRA Scientific Advisory Panel, 22189, 23872, 25349, 25905
National Lime Assooiation Air Quality Committee, 27051
Science Advisory Board, 22190, 25348, 27053, 27288
State-Federal Water Programs Advisory Committee, 27674
Pesticide applicator certification and interim certification; State plans:
Alaska, 23534
Colorado; extension of time, 25912
Maryland, 25521
Minnesota, 26241
Oregon, 22190
Puerto Rico, 26692
Washington, 27053
Pesticide chemicals; tolerances, exemptions, etc.; petitions:
BASF Wyandotte Corp., 26240
Chevron Chemical Co., 23533
Ciba-Geigy Corp., 27054
Elanco Products Co., 23190
Hercules, Inc., 27053
ICI United States, Inc., 24306
Mobay Chemical Corp., 27054
Monsanto Co., 24305
Pesticide products, minor use registration; priority needs, National list, 27480
Pesticide programs:
Amitraz, pesticide products containing; rebuttable presumption against registration and continued registration, 27055
Diallate, pesticide products containing; rebuttable presumption against registration and continued registration, 27669
Pronamide, pesticide products containing; rebuttable presumption against and continued registration, 25906
Toxaphene, pesticide products containing; rebuttable presumption against registration and continued registration, 26860
Pesticide registration:
Applications, 22906, 23873, 24306, 24307, 27054, 27055
Pesticides; specific exemptions and experimental use permits:
Abbott Laboratories, 26239
Agriculture Department, 24304, 26240
Albany International Co., 25348
Army Environmental Hygiene Agency, 26240
Elanco Products Co. et al.; correction, 23872
Freers Elm Arrester et al., 22905
Hercules Inc., 24305
Idaho State Agriculture Department, 27050
Minnesota Agriculture Department, 27051
Montana, 27052
Stauffer Chemical Co. et al., 22909
Washington State Department of Agriculture, 23873
Zoecon Corp. et al., 26242
Water pollution control:
Violating facilities list, 24304
Water pollution control; safe drinking water; public water systems designations:
Mississippi, 25913
Nebraska, 26239

ENVIRONMENTAL QUALITY COUNCIL

NOTICES

Environmental statements; availability, etc., 23188, 24302, 25901, 27278
Meetings:
Priority Chemicals Testing, TSCA Interagency Committee, 23872
Meetings; Sunshine Act, 24799

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICES

Meetings; Sunshine Act, 24173, 27383

EXECUTIVE OFFICE OF PRESIDENT

See Central Intelligence Agency.
Environmental Quality Council.
Management and Budget Office.
Telecommunications Policy Office.
Trade Negotiations, Office of Special Representative.

EXTENSION AND CONTINUING EDUCATION, NATIONAL ADVISORY COUNCIL

NOTICES

Meetings, 24773, 25548, 26468, 26469

FARMERS HOME ADMINISTRATION

RULES

Association, community facility loans; CFR part removed, 24232
Drought stricken areas; special assistance, 23158
Emergency loans:
Drought, emergency, impact area; designation, 24062
Guaranteed loans:
Loss payable, maximum amount, 24252
Loan and grant programs (group):
Community facility loans, 24233

PROPOSED RULES

Borrowers and grant recipients, supervision:
Labor and rural rental housing projects; monthly rental rates; notice to tenants, 27602
Development work, planning and performing:
Thermal performance standards, new and existing dwellings; establishment; extension of time, 26660
Emergency livestock line of credit guarantees:
Guaranteed loans; portions sold in secondary market, 26358
Guaranteed loans:
Emergency livestock loans; portions sold in secondary market, 26358
Inflation impact statements, 27603

NOTICES

Disaster and emergency areas:
Colorado, 27018
Idaho, 27018
Michigan, 22186, 27018
Mississippi, 27018
New York, 22186
Oklahoma, 27018
South Carolina, 22562
Tennessee, 22186

FEDERAL AVIATION ADMINISTRATION

RULES

Air carriers certification and operations:
Rotocraft external-load operations; compensation or hire, 24198, 25724
Weather information, additional, 27573
Air traffic operating and flight rules:
International Civil Aviation Convention, Annex 2; incorporation by reference, 22139
Rotocraft external-load operations; compensation or hire, 24197, 25724
Airworthiness directives:
Beech, 26970
Bell, 24717, 24718, 24719
Boeing, 22862, 22863, 24724
Canadair, 25722, 25723, 26199, 27571
Cessna, 22137
Detroit Diesel Allison, 23504, 26199
Dowty Rotol, 22862
Enstrom, 23505
General Dynamics, 26200
Lockheed, 24722
Lockheed-California, 24721
McDonnell Douglas, 24722, 24723, 26201, 27571
Messerschmitt-Bolkow-Blohm, 27572
Mooney Aircraft Corp., 25723
Piper, 23502, 23503, 24720
Pratt & Whitney, 26202
Rockwell International, 25723
Control zones, 23505
Inflation impact statements, 22138, 22139, 22863, 24045, 24198, 24718, 24719, 24720, 24721, 24722, 24723, 24724, 24725, 25722, 25723, 25724, 26199, 26200, 26201, 26203, 26204, 26971, 26972, 27571, 27572
Standard instrument approach procedures, 22864, 24725, 26203, 26972
Transition areas, 22138, 23505, 24045, 24046, 26971, 27574

PROPOSED RULES

Airport aid program; nondiscrimination; extension of time, 22896
Airworthiness directives:
Beech, 22172
McDonnell Douglas, 24751
Societe Nationale Industrielle Aerospatiale, 22896
Control zones, 22173, 24067, 25739, 26217
Inflation impact statements, 22172, 22173, 22897, 24067, 24752, 24753, 25739, 26218, 26992, 26993, 27603
Runway markers, distance-to-go; installation; withdrawn, 26991
Transition areas, 22172, 24067, 24752, 25739, 26217, 26992, 27603
VOR Federal airways, 25740

NOTICES

Meetings:
Aeronautics Radio Technical Commission, 24134, 27081

UMI

Southern Region Air Traffic Control Advisory Committee, 23572, 26276
Organization and functions:
Engineering and Manufacturing District Office; moving to Oklahoma City, Okla., 27704
Flight standards district office, Opa Locka, Fla.; rescinded, 27704

FEDERAL COMMUNICATIONS COMMISSION

RULES
Aviation services:
Aeronautical utility mobile stations; availability of air traffic cotrol frequencies, 24055
Frequencies for flight test purposes, 23510
Cable television (SEE ALSO Radio broadcast services):
Systems; definition and creation of classes; correction, 23510
Conduct standards:
Financial disclosure system, 25736, 26216
Experimental broadcast services:
Table Mountain Receiving Zone, protection; contact address, 22559
FM broadcast stations; table of assignments (SEE ALSO Radio broadcast services):
Kentucky, 25507
Nebraska, 24272
West Virginia, 24272
Frequency allocations and radio treaty matters:
Aeronautical utility mobile stations; availability of air traffic control frequencies, 24055
Flight test purposes, frequencies for, 23510
International agreements relating to radio; editorial changes, 27200
Industrial radio services:
Business radio service; frequencies; permission to use, 21276
MHz band; general access pool, land mobile channels; correction, 27206
Land transportation radio services:
MHz band; general access pool, land mobile channels; correction, 27206
Maritime services, land and shipboard stations:
Great Lakes communication system, operation of very high frequency automated, multi-station radiocommunications system; correction, 23510
Mobile-satellite service; conformance with Geneva code; correction, 26656
Ship and coast stations, frequencies for radiotelephony service, 22870, 22873
Microwave service, private operational fixed:
Transmitter power, annual measurement, 24277
Practice and procedure:
Notice and rulemaking proceedings; computation of time, and scope; editorial changes, 25735
Public safety radio services:
MHz band; general access pool, land mobile channels; correction, 27206
Radio broadcast services (SEE ALSO Cable television; FM stations):
Antenna monitors type approved by AM broadcasting stations operating directional antenna systems; editorial changes, 24056, 26656
FM broadcast stations, noncommercial educational; channel assignments under U.S.-Mexico agreement, 24274
Signal propagation, effects of terrain on; stay of procedures for evaluating, 25736
Table Mountain Receiving Zone, protection; contact address, 22559

PROPOSED RULES
Amateur radio service:
Type acceptance of equipment requirement; extension of time, 27628
Cable television:
Financial report, annual, 23519
Citizens radio service:
Class D transmitters, spurious and harmonic emissions; operating rules; extension of time, 27629
Morse code identification equipment, automatic; permission to use; extension of time, 25881
Domestic public radio services:
Land mobile channels in ten largest urbanized U.S. areas; extension of time, 25341
Educational FM broadcast stations:
Noncommercial; activities, credits, etc.; inquiry; extension of time, 25742
FM broadcast stations; table of assignments:
Florida, 26232
Georgia, 25342, 26665, 26666
Mississippi, 27268
Texas, 26667
Washington, 23165
Frequency allocations and radio treaty matters:
External radio frequency power amplifiers, amateur radio service; extension of time, 27628
Type acceptance of equipment requirement, amateur radio service; extension of time, 27628
Industrial radio services:
Land mobile services; spectrum management procedures, 26030
Morse code identification equipment, automatic; permission to use; extension of time, 25881
Land transportation radio services:
Land mobile services; spectrum management procedures, 26030
Morse code identification equipment, automatic; permission to use; extension of time, 25881
Maritime services; land and shipboard stations:
Ship radio stations operating on 1605-3500 kHz band; equipment required, 25879
Public safety radio services:
Land mobile services; spectrum management procedures, 26030
Morse code identification equipment, automatic; permission to use; extension of time, 25881
Telephone companies:
Data processing services; inquiry; list of participants, 23615, 25741
Tariffs, interface of International Telex Service with Domestic Telex and TWX Services; extension of time, 23615
Uniform system of accounts; rate base treatment of claimed amounts for investment, 26444
Uniform system of accounts; ratemaking, plant and expense items, etc., 24291
Telephone network, connection of terminal equipment:
Lamp and/or annunciator functions of systems; extension of time, 25342
Television broadcast stations:
VHF stations, adding in top 100 markets; extension of time, 25742
VHF stations, adding in 100 markets; correction, 27629
Television broadcast stations; table of assignments:
Hawaii, 22183
Ohio, 25343
Wisconsin, 22560

NOTICES
Cable television:
ATR rate case, tariff revisions, 23875
Canada-U.S. FM agreement (1947); Table A amendment, 22577, 25848
Canada-U.S. television agreement (1952); Table A amendment, 22577, 27057
Canadian FM broadcast stations; assignments and allocations list, 25830
Canadian TV stations; assignments and allocations list, 26586
Domestic public radio services; applications accepted for filing, 23191, 24078, 25914, 27288
Emergency radio service, special; central station electrical protection industry licensees, transfer from business radio service; petition denied, 26692
FM, Canada-U.S. agreement (1947); Table A amendment, 22577, 25848
FM broadcast stations, table of assignments:
Virginia, 24312
Meetings:
Federal-State Joint Board, 23876
Marine Services Radio Technical Commission, 22394, 25944, 27290
Personal Use Radio Advisory Committee, 26243, 26693
Meetings; Sunshine Act, 22221, 22469, 23690, 23935, 23936, 24357, 25404, 25405, 26283, 26722, 27132, 27713, 27714
Mexican FM broadcasting stations; assignments and allocations list, 24020
Mexican standard broadcast stations; notification list, 22578
Mexican TV stations; assignments and allocations list, 24008
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies, 22579, 23193, 23536, 24080, 26451
Satellite communications services; applications accepted for filing, 23193, 25349, 26242
Television, Canada-U.S. agreement (1952); Table A amendment, 22577, 27057
World Administrative Radio Conference, 23535, 24081, 25913, 26922, 27756
Hearings, etc.:
American Telephone & Telegraph Co. et al., 23876
Cable Haven TV, Inc., 23875
Jensen, Rex K., et al., 25349
Leer Electronics, 23877
Leivas, Gilbert, 22579
Nutmeg Broadcasting Co., 23874
Springfield Television Broadcasting Co. et al., 25350
Thomas, Benjamin F., et al., 22580
Wire Tele View Corp., 24081

FEDERAL CROP INSURANCE CORPORATION

RULES
Crop insurance, various commodities:
Barley, 26197
Beans (dry), 26197
Citrus, 24713
Corn, 26197
Cotton, 26197
Flax, 26197
Grain Sorghum, 26197
Oats, 26197
Peanuts, 26197
Peas (canning and freezing), 26197
Peas (dry), 26197
Rice, 26197
Rye, 26197
Soybeans, 26197
Sugar beets, 26197
Sugar cane, 26197
Sunflowers, 26197
Tobacco, 26197
Tomatoes, 26197
Wheat, 26197

FEDERAL DEPOSIT INSURANCE CORPORATION

RULES
Interest on deposits:
Individual retirement accounts (IRA) and Keogh (H.R. 10) plans; maximum interest rates; correction, 22362

PROPOSED RULES
Interest on deposits:
Pooled time deposits; restricted payment; withdrawn; correction, 22378

NOTICES
Meetings; Sunshine Act, 25947, 25948, 26283, 27132

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

NOTICES
Disaster and emergency areas:
Alabama, 23641
Arizona, 23641, 23642
California, 23642
Idaho, 27307
Louisiana, 24107
Minnesota, 23642
Missouri, 27678
North Dakota, 23642
Oregon, 24107, 24770, 27679
Tennessee, 24107
Virginia, 23642
Washington, 27679
Drought impact areas, emergency; various States, 22608, 27678

FEDERAL ELECTION COMMISSION

PROPOSED RULES
Corporate and labor organization activity; solicitation methods; inquiry, 26990

NOTICES
Advisory opinion requests, 22513, 23193, 26349
Meetings; Sunshine Act, 22467, 23579, 23690, 25405, 26506

FEDERAL ENERGY ADMINISTRATION

RULES
Administrative procedures and sanctions; oil:
Interpretations; appendix, 23723
Coal, administrative procedures and sanctions:
Energy supply and environmental coordination, implementation, 23134
Coal allocation:
Energy supply and environmental coordination, implementation, 23144
Coal powerplants, new:
Energy supply and environmental coordination, implementation, 23142
Coal utilization:
Energy supply and environmental coordination, implementation, 23140
Energy conservation plans, State:
Guidelines; supplemental plans, 26417
Industrial energy conservation; voluntary reporting programs and corporate exemptions, 23538
Petroleum allocation and price rules:
Interpretations; appendix, 23723, 25649
Petroleum price regulations, mandatory:
Gasoline, leaded and unleaded, 22882
Propane, butane, and natural gasoline resellers and retailers; passthrough of increased non-product costs, 22133
Rulings:
Stripper well property exemption, 23501

PROPOSED RULES
Energy conservation program, appliances:
Clothes washers; hearing, 25329
Home heating equipment, unvented, 23860
Television receivers; correction, 26430
Inflation impact statements, 25333
Petroleum allocation regulations, mandatory:
Alaska North Slope crude oil pricing and entitlements treatment; hearing, 22889, 25329
Gasoline, motor; adjustments to base period volumes, 23859
Petroleum price regulations, mandatory:
Alaska North Slope crude oil pricing and entitlements treatment; hearing, 22889, 25329
Gas station rent increases; retail gasoline sales, pass-through, 22374

NOTICES
Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals Office:
List of applicants, etc., 23536, 24766, 25350, 27022, 27028, 27031, 27037, 27041, 27044
Canadian allocation program:
Mid-continent petroleum pipeline systems, throughputs and capacity; inquiry and hearing, 25352
Coal use, construction orders:
Anheuser-Busch, Inc., et al., 25446
Dartmouth College, 24468, 26243
General Motors Corp. et al., 24458, 24471, 25759
Shell Oil Co. et al., 25452
U.S. Steel Corp. et al., 24886
Committees; establishment, renewals, etc.:
Compliance and Enforcement Task Force, 25521
Consent orders:
Apco Oil Corp., 25759
Guam Oil & Refining Co., 26693
Crude oil, domestic, allocation program; 1977; entitlement notices:
March, 26352
Environmental statement, programmatic; availability, 25351
Environmental statements; availability, etc.:
California energy conservation plan, 27049
Georgia Power Co.; McManus Generating Station Powerplants, 27675
Iowa Power and Light Co., Des Moines Generating Station, Powerplants, 23194
Massachusetts energy conservation plan, 27049
Minnesota energy conservation plan, 27048
Nebraska Public Power District, Sheldon Generating Station, 26243
Oklahoma Energy Conservation Plan, 24312
Strategic petroleum reserves, 22394, 25521
Wisconsin Public Service Corp., Weston Generating Station, Powerplant, 22922
Grants for offices of consumer services, program guidelines, 24768
Industrial energy conservation; efficiency reporting form; hearing and inquiry, 22581
Information and computer requirements, State and local governments; computer support contract clause; inquiry, 22923
International Energy Program:
Voluntary agreement and plan of action; Industry Supply Advisory Group approvals, 26244
Meetings:
Environmental Advisory Committee, 25522
Food Industry Advisory Committee, 23194
International Energy Agency Industry Advisory Board, 27049
Refined petroleum products, independent marketers, 23195
Petroleum price regulations, mandatory; imported crude oil, landed costs:
Establishment, Oct. 1973-Sept. 1974 and Oct. 1974-May 1975, 22190
Powerplants burning natural gas or petroleum products, prohibition orders:
Brown Co., 24508
Chesapeake Corp., 25622
International Paper Co., 24486, 24494, 26243
International Paper Co. et al., 25759
Interstate Power Co., 22273
Kennecott Copper Corp., 24502
New England Electric System/New England Power Co.-Brayton Point, 23194
Oklahoma Gas & Electric Co., 22268, 25759
Union Camp Corp. et al., 24900
Vineland, City of, Electric Utility et al., 22277
Privacy Act; systems of records, 22192, 22588
Refined petroleum products, independent marketers; meeting, 23195
Refiners buy-sell list; crude oil allocation, 26694

FEDERAL GRAIN INSPECTION SERVICE

NOTICES
Grain standards; inspection points:
Illinois, 23532
Indiana, 22909, 25889

INDEX

UMI

Louisiana, 23618
Michigan, 23532, 24759
Ohio et al., 23532

FEDERAL HIGHWAY ADMINISTRATION

RULES
Inflation impact statement, 26652
Motor carrier safety regulations:
Driver qualifications; settlement and hearing procedures; extension of time and correction, 26428
Forfeiture claims, collection and compromise; settlement and hearing procedures; extension of time and correction, 26428
Practice rules; settlement and hearing procedures; extension of time and correction, 26428
Organizations and authority delegations:
Settlement and hearing procedures; extension of time and correction, 26428
Right-of-way and environment:
Acquisition function and project procedures, 26652
Location/design approval and public hearings, 26652

PROPOSED RULES
Planning:
Certification acceptance; correction, 22173
Secondary road plan; correction, 22173

NOTICES
Bridge tolls, etc.:
Bayonne Bridge et al., 25794
Delaware River Port Authority, 26276
Committees; establishment, renewals, etc.:
Uniform Traffic Control Devices, National Advisory Committee, 27379
Meetings:
Uniform Traffic Control Devices, National Advisory Committee, 27379

FEDERAL HOME LOAN BANK BOARD

NOTICES
Applications, etc.:
Homestead Savings & Loan Association, Kans., 25522
Tri-County Savings & loan Association, N.J., 23621
Meetings; Sunshine Act, 22219, 23579, 24357, 24799, 25947, 26506

FEDERAL HOME LOAN MORTGAGE CORPORATION

NOTICES
Meetings; Sunshine Act, 25592

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING

RULES
Authority delegations:
Loan Assistance Committee, 25724
Mortgage and loan insurance programs:
Fire safety equipment in health care facilities, 26552
Home ownership and project rehabilitation; downpayment requirements, 22557
Hospitals; supplemental loans; eligibility; correction, 23601

PROPOSED RULES
Low-income housing:
Housing assistance payments; fair market rents; existing housing, 22704

FEDERAL INSURANCE ADMINISTRATION

RULES
Flood Insurance Program, National:
Communities eligible for sale of insurance, 22866, 22867, 22868, 24932, 24938
Flood elevation determinations, etc., 23972, 23973, 23974, 23975, 25436, 25437, 25438, 25439, 25440
Special hazard areas, 24945, 24987
Special hazard areas, map corrections, 24256, 24257, 24258, 24259, 24260, 24261, 24262, 24263, 24725, 24726, 24727, 24728, 24729, 24730, 24731

PROPOSED RULES
Crime insurance program, Federal:
Protective device requirements; condition of coverage, 22900
Flood Insurance Program, National:
Flood elevation determinations, etc., 25441, 25442, 25443, 25444

FEDERAL MARITIME COMMISSION

RULES
Practice and procedure:
Citation simplification, 23509

PROPOSED RULES
Practice and procedure:
Employees, former; appearance and practice before Commission, 26664
Water carrier protestors of proposed tariff rate changes; "complainants" designation ended, 22383

NOTICES
Casualty and nonperformance, certificates:
Black Sea Steamship Co., 23541
Lion Ferry A/B et al., 27292
Mitsui O.S.K. Lines Ltd. et al., 24082
Royal Cruise Line Special Shipping Co. et al., 26452
Complaints filed:
First International Development Corp. v. Ships Overseas Services, Inc., 26451
Matson Navigation Co. v. Port Authority of Guam, 26451
United States Lines, Inc. v. Port Authority of Guam, 26452
Freight forwarder licenses:
Caribbean Moving & Storage, Inc., 23195
Hermann Ludwig of California Inc., 22193
Gulf ports, equalization, absorption, and minibridge; petition; correction, 22394
Investigations and hearings:
Rebates and similar malpractices in U.S. foreign commerce, 25915
Sea-Land Service, Inc., et al., 26452
Seatrain Gitmo, Inc., 27292
Meetings; Sunshine Act, 22219, 23223, 24357, 25592, 25950, 27383
Oil pollution; certificates of financial responsibility, 23621, 23622
Tariffs, inactive, cancellation; independent carriers in foreign commerce, 22923
Vessel construction; funds used, capitalization of cost, 25353
Agreements filed, etc.:
American Export Lines, Inc., et al., 22394, 23196
American West African Freight Conference, 26451
Attanasio, John R., 24312
Consolidated Forwarders Intermodal Corp., 27290
Flota Mercante Grancolombiana, S.A., et al., 22589
Galveston Wharves Board of Trustees et al., 22192, 22588, 23196, 25759
Greece/U.S. Atlantic Rate Agreement, 25915
Hawaii, State of, et al., 25354
Johnson Scanstar Combined Services et al., 23195
Long Beach, City of, et al., 22395
Lykes Bros. Steamship Co., Inc., et al., 25522, 26695
New Orleans Board of Commissioners of Port, et al., 23196
Pacific Coast-Australasian Tariff Bureau, 23623
Pacific Cruise Conference, 22193
Port Everglades Authority et al., 22395
South and East Africa/U.S.A. Conference, 25523
Trans-Pacific Freight Conference of Japan/Korea et al., 25915
United States/Europe Discussion Agreement, 27293
United States/South and East Africa Conference, 25523

FEDERAL PAPERWORK COMMISSION

NOTICES
Hearings; cancelled, 22922
Meetings, 26692

FEDERAL POWER COMMISSION

RULES
Policy and interpretations:
Electric rate schedule filings and filing of comparative rate information, 27574

PROPOSED RULES
Electric utilities:
Accounts, uniform system; report forms; extension of time, 26436
Application for amendment of license; Federal Power Act; application procedures, 23160
License surrender or termination; Federal Power Act; application procedures, 23160
Licensed projects, takeover and relicensing; Federal Power Act; application procedures, 23160
Licenses, permits, and determination of project costs; Federal Power Act; application procedures, 23160
Rate schedules filing; fuel adjustment clauses; withdrawn, 22897
Statements and reports (schedules); residential electric bill data for CPI, 25337

Natural gas companies:
Accounts, uniform system; report forms; extension of time, 26436
Rate schedules and tariffs, filing; purchased gas adjustment; extension of time, 23615
Organization, operation, information, etc.:
Federal Power Act; application procedures, 23160
Policy and interpretations:
Rates of return on equity, just and reasonable; natural gas pipeline companies and public utilities; extension of time, 25513
Practice and procedure:
Federal Power Act; application procedures, 23160

NOTICES
Environmental statements; availability, etc.:
El Paso Natural Gas Co., 27368
Meetings:
Gas Policy Advisory Council, 23543
Meetings; Sunshine Act, 22219, 22220, 22222, 22467, 23027, 23222, 23224, 23580, 23690, 25406, 25949, 25950, 26283, 26507, 27132, 27133, 27383
Natural gas companies:
Annual report of proved domestic gas reserves, confidentiality, 23199
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend, 24313
Small producer certificates, applications, 23543
Regulatory information system; technical conferences proposed, 22398
Hearings, etc.:
Alabama Power Co., 26453
Alabama-Tennessee Natural Gas Co. et al., 25528
Algonquin Gas Transmission Co., 22925, 27361
Appalachian Power Co., 24082, 26461
Arizona Public Service Co., 22589
Arkansas Louisiana Gas Co. et al., 25362, 25760, 26695, 27063
Arkansas Power & Light Co., 23196
Atlantic Richfield Co. et al., 23877, 25760
Bangor Hydro Electric Co., 26461
Bettis, Boyle & Stovall, et al., 22589
Bobcat Oil Co. et al., 25355
Boston Edison Co., 24082, 25523, 26453
Cabot Corp. et al., 23198
Cardinal Operating Co., 24082
Carolina Power & Light Co., 24083
Central Maine Power Co., 22193
Central Power & Light Co. et al., 25760
Central Telephone & Utilities Corp., 22194
Central Vermont Public Service Corp., 23199
Cincinnati Gas & Electric Co., 22194, 24083
Cities Service Co., 26462
Cities Service Gas Co., 25355, 25369, 25761, 27362
Coastal States Gas Producing Co., 23624
Colorado Interstate Gas Co., 24084, 27363, 27364
Colorado Oil & Gas Corp., 23541
Colorado-Ute Electric Association, Inc., 26462
Columbia Gas Transmission Corp. et al., 22590, 25355, 25523
Columbia Gulf Transmission Co. et al., 22595
Columbus & Southern Ohio Electric Co., 26453
Commonwealth Edison Co., 25524
Community Public Service Co., 25356
Connecticut Light & Power Co., 23624, 24084, 26453, 27365
Consolidated Gas Supply Corp., 22590, 23624, 24085, 26453, 26696
Consumers Power Co., 23199, 27365
Continental Oil Co., 26696
Crown Zellerbach Corp., 27365
Delmarva Power & Light Co. et al., 25761
Detroit Edison Co., 23624
Devon Corp., 23626
Eastern Shore Natural Gas Co., 23626, 23627
El Paso Eastern Co. et al., 23200, 23877
El Paso Electric Co., 24085
El Paso Natural Gas Co., 22595, 23627, 24085, 25356, 27366
Equipment, Inc., et al., 22195
Equitable Gas Co., 25761
Florida Gas Transmission Co. et al., 22595, 26697
Florida Power & Light Co., 22596, 26454, 26463
Ft. Pierce Utility Authority et al., 22928
Gas Research Institute, 27675
Georgia Power Co., 25357, 26463
Gillring Oil Co., 22928
Goldking Properties, Inc., et al., 25761
Graham, Bill, Jr., 27060
Grand Bay Co., 24086
Great Lakes Gas Transmission Co., 26698
Great Southern Oil & Gas Co., Inc., 24086
Gruy Management Service Co., 22927
Gulf States Utilities Co., 22195, 22929, 23628, 24086
Heather, Mary C., 26455
Huggard, Ernest D., 25524
Idaho Power Co., 26454
Illinois Power Co., 23628
Indiana & Michigan Electric Co., 24086, 26454
Inter-City Minnesota Pipelines, Ltd., Inc., 26455
Interstate Drilling, Inc., 26455
Iowa Electric Light & Power Co., 26463
Iowa Power & Light Co., 23628, 26463, 26698
Iowa Southern Utilities Co., 26464
Iowa-Illinois Gas & Electric Co., 23200, 24087
Kansas City Power & Light Co., 23541
Kansas-Nebraska Natural Gas Co., Inc., 25762
Karis Oil Co., Inc., 22591
Kentucky Ohio Gas Co., 22926
Ladd Petroleum Corp., 24087
Lange, Frederick, 25525
Lone Star Gas Co., 22591, 27368
Long Island Lighting Co., 23541
Louisiana Land & Exploration Co., 27369
Louisville Gas & Electric Co., 22195, 26455, 26698
McCulloch Interstate Gas Corp., 22396, 25357
McGalliard & Sparks, 25762
McKelvy, Alfred D., 25354
Michigan Wisconsin Pipe Line Co., 22195, 26455, 26699
Mid Louisiana Gas Co., 25357
Mid-Continent Gas Storage Co. et al., 23878
Minnesota Power & Light Co., 23200
Mississippi River Transmission Corp., 23629
Missouri Utilities Co., 25525, 25762, 26456
Monongahela Power Co. et al., 22596, 25525
Montana Power Co., 24088
Montana-Dakota Utilities Co., 24087
Mountain Fuel Resources, Inc., 24088
Mountain Fuel Supply Co., 22196, 23200, 24089, 26699
Mullins & Prichard, 26456
National Fuel Gas Supply Corp. et al., 22196, 22197, 23629, 24090, 25358, 27060
Natural Gas Pipeline Co. of America et al., 22597, 25358, 26464, 27369
Nekoosa Papers Inc., 25358
NEPOOL Executive Committee, 23542, 24090
New England Power Co., 22197
North Penn Gas Co., 23630
Northeast Utilities Service Co., 23630
Northern Illinois Gas Co., 22597
Northern Natural Gas Co., 22197, 22592, 23201, 23202, 24090, 25525, 25762, 26456
Northern States Power Co., 22198, 27370
Northwest Pipeline Co., 27372
Northwest Pipeline Corp., 25372, 27372
Northwestern Public Service Co., 23203
Northwestern Wisconsin Electric Co., 27373
Occidental Petroleum Corp. et al., 27061
Ohio Edison Co., 25358
Ohio Power Co., 23631
Oklahoma Gas & Electric Co., 25526, 26464
Otter Tail Power Co., 23630
Outline Oil Corp., 26465
Pacific Gas Transmission Co. et al., 25359
Pacific Power & Light Co., 26699
Panhandle Eastern Pipe Line Co., 22396, 24091, 26465
Pearson, Lee, et al., 23628
Pennsylvania Electric Co. et al., 23542, 26456
Pennsylvania-New Jersey-Maryland Interconnection, 26457
Pinto, Inc., et al., 24091
Public Service Co. of Indiana, Inc., 22929
Public Service Co. of New Hampshire, 26457, 27061
Public Service Co. of Oklahoma, 22598, 25526, 25763, 26457, 27061
Public Utility District No. 1 of Chelan County, Wash., 23631
Puget Sound Power & Light Co., 23204
Reliable Energy, Inc., 26457
Rochester Gas & Electric Corp., 26465
Russell, William C., 24093
S.S.C. Gas Producing Co., 22198
Sea Robin Pipeline Co. et al., 22199, 23631, 25763
Siskiyou County Flood Control et al., 27373
South Carolina Public Service Authority, 25763, 25764, 25765
South Georgia Natural Gas Co., 25765
South Texas Natural Gas Gathering Co., 25765
Southern California Edison Co., 25526
Southern Connecticut Gas Co., 27373
Southern Natural Gas Co., 22598, 24093, 24769

INDEX

UMI

Southport Exploration, Inc., 24094
Stingray Pipeline Co., 23204
Tenneco Atlantic Pipeline Co. et al., 25527
Tenneco Oil Co., 25371
Tennessee Gas Pipeline Co. et al., 22592, 23204, 23631, 25359, 25776, 26466
Tennessee Natural Gas Lines, Inc., 25359
Texas Eastern Transmission Corp. et al., 22199, 26458, 27061, 27374
Texas Gas Transmission Corp., 22600, 23632, 24094, 25360
Transcontinental Gas Pipe Line Co., 23205
Transcontinental Gas Pipe Line Corp., 22593, 22599, 23205, 25361, 26458, 26459, 27062, 27375
TransOcean Oil, Inc., 23542
Transwestern Pipeline Co., 27375
Trunkline LNG Co. et al., 23633
Tucson Gas & Electric Co., 25526, 26459
U-T Offshore System, 25373
Union Electric Co., 23640, 26459
Union Light, Heat & Power Co., 23640, 27376
Union Oil Co. of California et al., 27059
United Gas Pipe Line Co. et al., 22200, 22593, 24094, 26700, 27062
Upper Peninsula Generating Co., 23640
Upper Peninsula Power Co., 24095, 26460
Utah Power & Light Co., 23542, 27377
Valley Gas Transmission, Inc., 25361
Venus Oil Co., 26465
Vermont Electric Power Co., Inc., 26460, 26461, 27062
Virginia Electric & Power Co. et al., 23641, 25766
West Texas Utilities Co., 25766
Western Gas Interstate Co., 25361, 25362
White Current Corp., 23206
Wisconsin Electric Power Co. et al., 22931, 25527
Wisconsin Michigan Power Co., 22594
Wisconsin Power & Light Co., 22200, 25530

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

NOTICES
Meetings, 26244

FEDERAL RAILROAD ADMINISTRATION

RULES
Employee hours of service:
Hours of Service Act; policy statement, 27596
Practice rules:
Petitions for reconsideration, 27593
PROPOSED RULES
Caboose cars; minimum safety requirements; inquiry; extension of time, 25743
Operating rules:
Workmen, blue signal, protection; hearing rescheduled, 24293
Walkways on bridges, trestles, and similar structures; withdrawal, 22184
NOTICES
Petitions for exemptions, etc.:
Chicago, Milwaukee, St. Paul & Pacific Railroad Co., 24793
Iowa Terminal Railroad Co. et al., 22213
Johnstown & Stoney Creek Railroad Co., 23906
Port Authority Trans Hudson Corp., 22213

FEDERAL REGISTER OFFICE

RULES
CFR checklist; 1976 and 1977 issuances, 22125
NOTICES
Carter administration executive branch officials, special supplement to U.S. Government Manual, 22257
National Fire Codes:
Standards, proposed revision; inquiry, 25767

FEDERAL RESERVE SYSTEM

RULES
Authority delegations:
Board members; certain personnel and building matters, etc. revoked, 25323
Credit by brokers and dealers:
Uniform margin requirements for writing options, 22862
Equal credit opportunity:
Interpretations, 22861
Truth-in-lending:
Official staff interpretations, 22360, 25489, 25491, 27570
PROPOSED RULES
Bank holding companies:
Management consulting advice, 22560
Credit by brokers and dealers:
Options exchange specialists, credit, 22894
Equal credit opportunity:
Special purpose credit programs, Federal and State agencies; "expressly authorized by law" interpretation; inquiry, 25508
Truth-in-lending:
Credit transactions, disclosure requirements, 23516
NOTICES
Board actions; applications and reports, 22399, 26245, 27063
Federal Open Market Committee:
Domestic policy directives, 22202, 26701
Monetary aggregates; longer run ranges, 23543
Home Mortgage Disclosure Act exemption applications, 24314
Meetings:
Consumer Advisory Council, 25767
Meetings; Sunshine Act, 22220, 22633, 23222, 23935, 23936, 24358, 25408, 25592, 25593, 25949, 26507, 27133, 27383, 27713
Applications, etc.:
Alabama Bancorporation, 25373
American Bancorp, Inc., 23206
Ark Valley Bankshares, Inc., 27293
Banbogota, Inc., et al., 23207
BankAmerica Corp., 27293
Banker Agency, Inc., 22200
Berbanc, Inc., 23207
Berco, Inc., 23207
Brogan Bankshares, Inc., 23207
Central Bancorporation, Inc., 26247, 26701
Central National Bancshares, Inc., 24313
Chemical Financial Corp., 22201
Chemical New York Corp., 26700
Citizens Bankers, Inc., 27295
Country Bank Shares Corp., 22201
Detroitbank Corp., 25916, 26466
European-American Bancorp., 25373
Farmbanc Co., 22935
First City Bancorporation of Texas, Inc., 25378
First International Bancshares, Inc., 22935
First Midwest Bancorp, Inc., 25916
First Northern Bancorporation, 23543
First of Grandfield Corp., 25530
Genia Financial Corp., 27066
Goodlettsville Bancshares Inc., 22402
International Bank, 27295
Kickerillo Co., 27296
KSB, Ltd., 23544
Mahaska Investment Co., 25530
Manufacturers Hanover Corp., 23544
McCune Bancshares, Inc., 23878
Midland Capital Co., 26247
National Detroit Corp., 22402, 26531
Norris Bancor Ltd., 26466
North Fork Corp., 22935
Northeast United Bancorp, Inc. of Texas, 24314
Northwest Bancorporation, 23545
Old Kent Financial Corp., 26701
Pacesetter Financial Corp., 27296
Packwood Financial, Inc., 23878
Panhandle Aviation, Inc., 23207
Peoples Banking Corp., 23546
Peotone Bancorp, Inc., 25532
Phillipsco, Inc., 27297
Piedmont Bankgroup Inc., 23879
Roger Billings, Inc., 24314
Seafirst Corp., 23547
Second Charter Financial Corp., 23879
Southern Bank Holding Co., 23641
SYB Corp., 24315
Texas Commerce Bancshares, Inc., 22935, 26701
304 Corp., 27297
Trans Texas Bancorporation, Inc., 27297
United Banks Corp., 26248
United Kentucky, Inc., 26466
Valley Bancorporation, 22202
Wachovia Co., 24316
Washington Bancorporation, 25378
Wells Fargo & Co., 24317
Western Michigan Corp., 23207
Winner Banshares, Inc., 25379
Winters National Corp., 22936
Yoakum County Bancshares, Inc., 22203

FEDERAL TRADE COMMISSION

RULES
Organization and functions:
Honolulu, Hawaii; field station address change, 27218
Prohibited trade practices:
Atlantic Richfield Co., 26972
Carte Blanche Corp., 26973
City Stores Co., 26973
Diners' Club, Inc., 26973
Federated Department Stores, Inc., 26974
General Electric Co., 22876
Globe Newspaper Co., Inc., 26974
Las Animas Ranch, Inc., et al., 23799
National Service Industries, Inc., 22876
Sears, Roebuck & Co., 22876, 27218
PROPOSED RULES
Consent orders:
CBS Inc., 25335
Copco, Inc., 23841
Fisher Foods, Inc., 23849
Food Fair Stores, Inc., 23847

Frito-Lay, Inc.; correction, 23641
Kroger Co., 23843
Olin Ski Co., Inc., 24753
Performance Sailcraft, Inc., 27255
Shop-Rite Foods, Inc., 23846
Union Carbide Corp., 27257
Walgreen Co., 26661
Health spas, 26432
Mobile home sales and service, 26398
Procedures and practice rules:
Nonadjudicative procedures; complainants names; disclosure, 22897
NOTICES
Advertising, corrective; inquiry; extension of time, 24317
Meetings; Sunshine Act, 22221, 23223, 23580, 24174, 24358, 25827, 25949, 26722, 27133

FINE ARTS COMMISSION

NOTICES
Meetings, 23191

FIREARMS AND AMMUNITION

See Alcohol, Tobacco and Firearms Bureau.

FISCAL SERVICE

RULES
Bonds, U.S. savings; Series E and H offering; women, courtesy title requirement eliminated, 25725
PROPOSED RULES
Withholding of District of Columbia, State, and city income or employment taxes by Federal agencies, 22174
NOTICES
Surety companies acceptable on Federal bonds:
AIU Insurance Co.; name change, 22614

FISH, FISHING

See Fish and Wildlife Service.
Food and Drug Administration.
National Oceanic and Atmospheric Administration.
National Park Service.

FISH AND WILDLIFE SERVICE

RULES
Endangered species convention; wild fauna and flora; correction, 26659
Fishing:
Elk National Refuge, Wyo., 24060
Lake Ilo National Wildlife Refuge, N. Dak., 25737
Necedah National Wildlife Refuge, Wis., 26429
Rice Lake National Wildlife Refuge, Minn., 27599
Salyer, J. Clark, National Wildlife Refuge, N. Dak., 26428
Sherburne National Wildlife Refuge, Minn., 25737
Tewaukon National Wildlife Refuge, N. Dak., 22874
Inflation impact statements, 26428, 27599
Public access, entry, use, and recreation:
Back Bay National Wildlife Refuge, Va., 23154
PROPOSED RULES
Endangered and threatened species; fish, wildlife, and plants:
Boa, ground iguana, and blind snake; Mona Island, 27003
Rattlesnake, New Mexican ridge-nosed, 27007
Toad, Houston, 27009
Hunting:
Hatchie National Wildlife Refuge, Tenn., 22903
Inflation impact statements, 27005, 27009, 27010
Migratory bird hunting:
Seasons, limits, and shooting hours establishment; etc., 26669
NOTICES
Emergency exemption endangered species:
Wolf, eastern timber, 23552
Endangered and threatened species permits; applications, 23552, 23553, 23554, 23555, 23556, 24336, 24337, 24340, 25537, 25539, 25540, 25541, 25542, 25543, 26705, 26706, 26707, 27680, 27682, 27683, 27684
Marine mammal applications, etc.:
California Department of Fish and Game, 23557
University of California, 25924
Marine mammals:
Walrus, Pacific; seasons and bag limits, 25924
Migratory bird hunting:
Early seasons set, hearing, 26709

FLOOD ASSISTANCE

See Engineers Corps.
Federal Disaster Assistance Administration.
Federal Insurance Administration.

FOOD AND DRUG ADMINISTRATION

RULES
Animal drugs, feeds, and related products:
Antibiotic drugs, 23150
Bacitracin and bacitracin-containing drugs, 27239
Carcinogenic residues in edible animal products; extension of time, 24254
Dexamethasone, 24255
Diethylcarbamazine citrate chewable tablets, 23600
Medicated blocks; extension of time, 23149
Methoprene, 22363
Nonstandardized animal foods, common names; correction, 24254
Tebuthiuron, 23149
Tylosin, 25854
Biological products:
Bacterial standards; normal serum albumin (hyman) and plasma protein fraction (human), 27582
Blood and blood products; standards; normal serum albumin (human) and plasma protein fraction (human), 27582
Diagnostic substances for dermal test standards; normal serum albumin (human) and plasma protein fraction (human), 27584
Diagnostic substances for laboratory test standards; normal serum albumin (human) and plasma protein fraction (human), 27585
Standards, general; normal serum albumin (human) and plasma protein fraction (human), 27582
Vaccines, viral; standards; normal serum albumin (human) and plasma protein fraction (human), 27582
Color additives:
D&C Red No. 17; externally applied drugs and cosmetic use; effective date confirmed, 27225
Color certification:
D&C Red No. 17; externally applied drugs and cosmetic use; effective date confirmed, 27225
Cosmetics:
Fluorocarbon propellant ingredients; labeling, establishment of names, 24255
Labeling; ingredient designation; correction, 25855
Dressings, French and salad, and mayonnaise; identity standards; effective date confirmed, 25325
Drug labeling:
Information commonly known; "full disclosure", 27227
Environmental impact considerations:
Applicability, procedural changes; correction, 25854
Food additives:
Synthetic flavoring substances (tomato), 23148
Food labeling:
Foods that are not meaningful sources of nutrients; effective date established; cross reference, 27225
Protein, fat and carbohydrate; content declaration, 27226
Human drugs:
Bacitracin and bacitracin zinc, 27228
Insulin, drugs containing, 27227
Intrauterine contraceptive devices, 23777, 25854
Inflation impact statements, 23783, 27585
Medical devices:
Intrauterine contraceptive devices; patient labeling, 23780, 25854
Pesticide tolerances in food:
Tebuthiuron, 23149
PROPOSED RULES
Administrative practices and procedures:
Fluorocarbons in self-pressurized containers, 24536
Animal drugs, feeds, and related products:
Antibacterials in animal feeds, 27264
Fluorocarbons in self-pressurized containers, 24536
Saccharin and its salts; correction, 25339
Biological products:
Blood and blood products; human source plasma; repeated plasmapheresis of donor, 25339
Cereal flours and related products; butylated hydroxytoluene, use restriction, 27603
Color additives, petitions filed or withdrawn:
Cosmetic, Toiletry, & Gragrance Association, Inc., 27299
Cosmetic products:
Fluorocarbons in self-pressurized containers; prohibition on use, 24536
Saccharin and its salts; correction, 25339

INDEX

UMI

Drug labeling:
Information commonly known; exemption revocation, 27263
Thyroid, digitalis, and related drugs for human use; obesity treatment warnings, 27262
Food additives:
Butylated hydroxytoluene; use restrictions, 27603
Saccharin and its salts; correction, 25339
Food additives, petitions filed or withdrawn:
General Foods Corp., 27299
Food for human consumption:
Fluorocarbons in self-pressurized containers; prohibition on use, 24536
Saccharin and its salts; correction, 25339
Food labeling; nutrition labeling for foods not meaningful sources of nutrition withdrawn; labeling compliance effective date established, 27261
GRAS or prior-sanctioned ingredients:
Butylated hydroxytoluene; use restrictions, 27603
GRAS status, petitions:
Glucose isomerase enzyme, 27298
Human drugs:
Corticotropin; correction, 27298
Fluorocarbons in self-pressurized containers; prohibition on use, 24536
Oral contraceptives, 27303
Over-the-counter drugs; conditions for use and labeling of inactive ingredients; correction, 24279
Pancreatic dornase, 27299
Phenformin hydrochloride; correction, 27301
Phentolamine hydrochloride, 27301
Phentolamine mesylate, 27301
Radioactive drugs, 23161
Saccharin and its salts; correction, 25339
Inflation impact statements, 23161, 25340, 27263, 27264, 27609
Labeling:
Over-the-counter drugs; conditions for use and labeling of inactive ingredients; correction, 24279
Margarine; butylated hydroxytoluene, use restrictions, 27603
Medical devices:
Fluorocarbons in self-pressurized containers; prohibition on use, 24536
Preemption requirements, exemption; California application; hearing, 25919

NOTICES

Animal drugs:
Clinical trials; reporting guideline; availability, 23167
Furazolidone, et al.; correction, 24328
Halocarbons; inquiry; correction, 26468
Beverages in glass and plastic containers; extension of time, 23168
Biological product licenses:
Metabolic, Inc., revocation, 24328, 24329, 27678
Biological products:
Halocarbons; inquiry; correction, 26468
Limulus amebocyte lysate; laboratory procedures guideline; availability, 23167
Plasma, source (human); shipment without license; extension of time, 25381
Color additives, petitions filed or withdrawn:
Aluminum powder, etc., 27299
Committees; establishment, renewals, etc.:
Bacterial Vaccines and Toxoids Review Panel, 23168
Hemorrhoidal Drugs Review Panel, 23168
Opthalmic Drugs Review Panel, 23168
Viral Vaccines and Rickettsial Vaccines Review Panel, 23168
Cosmetics:
Halocarbons; inquiry; correction, 26468
Drug, pesticide, and industrial chemical residues in animal feeds, etc., investigations; memorandums of understanding:
Iowa State Department of Agriculture, 25380
Food additives, petitions filed or withdrawn:
Dow Chemical U.S.A., 23170
General Foods Corp., 23170, 27299
Kay Chemical Co., 23170
Miralin Co., 26467
Southern Sizing Co., 22405
Yoshitomi Phamaceutical Industries, Ltd., 23174
Food for human consumption:
Halocarbons; inquiry; correction, 26468
GRAS or prior sanction determinations; hearings, 27676
GRAS status, petitions:
Acetate, magnesium and zinc, in vitamin-mineral food supplements, 24328
Berries, miracle fruit, concentrates, and extracts, 26467
Glucose isomerase enzyme, 27298
Health care and services; information and administration procedures; meeting; 22405
Human drugs:
Azuresin, guanidine, etc., 25379
Corticotropin; correction, 27298
Halocarbons; inquiry; correction, 26468
Oral contraceptives, 27303
Oral reserpine dosage forms; correction, 26468
Pancreatic dornase, 27299
Phenformin hydrochloride, 23170
Phenformin hydrochloride; correction, 27301
Phentolamine hydrochloride, 27301
Phentolamine mesycate, 27301
Statobex, 25917
Medical devices:
Halocarbons; inquiry; correction, 26468
Meetings:
Advisory committees, panels, etc., 22405, 23167, 24320, 24326, 27677
Packaging and labeling; halocarbons; inquiry; correction, 26468
Radiological health; performance standard variances:
X-ray systems, diagnostic, 23169
Tomato juice concentrate; identity standard; temporary permits for market testing, 25380

FOOD AND NUTRITION SERVICE

RULES

Child nutrition; nonfood assistance programs:
Funds, second apportionment for 1977 FY, 23155
Food stamp program:
Retail food stores, etc., participation; withdrawal of authorization procedures, 23599
State agencies and eligible household participation, 22357, 26409
Food stamp program; State agencies and eligible household participation; list:
Alaska, 26002
Guam, 26007
Hawaii, 26003
Puerto Rico, 26004
Virgin Islands, 26005
Inflation impact statements, 23155, 26003, 26004, 26005, 26006, 26008, 26409
Information, availability:
Address changes, 23155
School breakfast program:
Participation requirements, CFR correction, 27565
School lunch program, National:
Procurement standards, CFR correction, 27565

PROPOSED RULES

Summer food service program for children:
Milk-based products, formulated fortified; alternate food for meals; correction, 23606

NOTICES

Meetings:
Child Nutrition National Advisory Council, 22385
Women, infants and children; special supplemental food program, hearings, 25889

FOOD SAFETY AND QUALITY SERVICE

RULES

Fruits and vegetables (canned or frozen); grade standards, 22356
Meat; grading, certification, and standards:
Fees; increase, 27208
Meat and poultry products, inspection; establishment of agency responsibilities, 22373

PROPOSED RULES

Eggs and egg products, inspection; imports from Canada, 27249
Meat; grading, certification, and standards:
Metal cabinets or lockers for grading equipment storage, 23514
Milk and milk products; sediment standards, 27011

NOTICES

Meetings:
Nitrites and Nitrosamines Export Panel, 24294
Metric measurements; use of; inquiry, 23182

FOREIGN AID

See Agency for International Development.
State Department.

FOREIGN ASSETS CONTROL OFFICE

RULES

Cuban assets control:
Travel, authorized; incidental transactions, 25499
Finland; foreign assets and transaction control; correction, 27199
Poland and Danzig; foreign assets and transaction control; correction, 27199
Rhodesian sanctions:
Import prohibitions; strategic and critical materials; ferrochromium and chromium steel products from any country; correction, 27199
Steel mill products in transit on March 18, 1977, 26653

FOREIGN CLAIMS SETTLEMENT COMMISSION

RULES

German Democratic Republic, deadline for filing claims against; forms, attorney fees, etc., 24741

NOTICES

German Democratic Republic, deadline for filing claims against, 24770
Meetings; Sunshine Act, 23579

FOREIGN-TRADE ZONES BOARD

NOTICES

Foreign-trade zone applications:
Pittsburgh, Pa., 22391
San Francisco, Calif., 24076

FOREST SERVICE

RULES

Grazing:
Reference amendment; correction, 24739
Prohibitions, 24266, 24290, 24739, 27244

PROPOSED RULES

Grazing:
Horses and burros, wild free-roaming; prohibitions, 26662
Occupancy and use of developed sites; prohibitions, 26662
Prohibitions, 26662
Wilderness, primitive areas; land use, etc.; prohibitions, 26662

NOTICES

Environmental statements; availability, etc.:
Alaska National Forests, herbicide use, Alaska, 25515
Angeles National Forest, San Gabriel Unit, Land Management Plan, Calif., 25515
Aroostook County, etc., Cooperative Spruce Budworm Supression Project, Maine, 22563
Big Creek Dam EIS-Selway-Bitterroot Wilderness, Mont., 26235
Cooperative Western Spruce Budworm Pest Management Plan, Oreg. and Wash., 23867
Gallatin National Forest, Mount Hebgen management alternatives, Mont., 25748
Green Mountain National Forest, Deerfield River Area Land Use Plan, Vt., 27019
Gypsy Moth suppression and regulatory program, N.J. and Pa., 22186
Helena National Forest, Ophir-Dog-MacDonald Pass Planning Unit, Mont., 25748
Idaho Panhandle National Forest, Boulder Planning Unit, Idaho, 22915
Idaho Panhandle National Forest, Lamb-Upper West Branch Planning Unit, Idaho, 23183
Lincoln National Forest, Eagle Creek Dam and Reservoir, N. Mex., 22187
Lolo National Forest, Ninemile-Mill Planning Unit, Mont., 25749
Malheur National Forest, John Day Planning Unit, Oreg., 25748
Mt. Hood National Forest, Meadows Ski Area, Oreg., 26446
Oregon-Washington vegetation management with herbicides, 25749
Siskiyou National Forest, Illinois Wild and Scenic River, Oreg., 27270
Tongass National Forest, Sandy Bay and Hidden Falls Lake, Alaska, 22563
Environmental statements under preparation as of March 15, 1977, 22909
Meetings:
Apache National Forest Grazing Advisory Board, 22385
Bighorn National Forest Grazing Advisory Board et al., 23867
Cascade Head Scenic-Research Area Advisory Council, 23533
Deschutes National Forest Advisory Committee, 27019
Sitgreaves National Forest Grazing Advisory Board, 22385

GAS

See Emergency Natural Gas Act of 1977, Administrator.
Federal Energy Administration.
Federal Power Commission.
Geological Survey.
Land Management Bureau.
Pipeline Safety Operations Office.

GENERAL ACCOUNTING OFFICE

NOTICES

Regulatory reports review; proposals, approvals, etc., 22607, 23208, 24095, 25379, 25767, 26248, 26450, 27066, 27298

GENERAL SERVICES ADMINISTRATION

See also Federal Register Office.

RULES

Inflation impact statements, 22558, 23507, 24054, 25862
Procurement:
Federal; small business concerns, 23507
Property management:
Federal; supply activity report, 22558
Federal; transportation and traffic management; loss and damage claims, 25858
Federal; utilization, donation and disposal, certified and noncertified electronic products, 24052

NOTICES

Authority delegations:
Defense Department Secretary et al., 22608, 24319
Environmental impact statements; preparation procedures, 24095
Meetings:
Architectural and Engineering Services Regional Public Advisory Panel, 22203, 22608, 26248, 26702
Privacy Act; systems of records, 22203

Property management regulations, temporary:
Authority delegation to Defense Department Secretary et al., 22608, 24319
Designations and redesignations of Federal buildings, 24318
Travel, government, 23676
Public utilities; hearings, etc.:
Georgia Power Co., 22607
Mountain States Telephone & Telegraph Co., 22608
Public Service Co. of Colorado, 23879, 25916
Southern California Gas Co., 26248
Southwestern Bell Telephone Co., 22608

GEOLOGICAL SURVEY

PROPOSED RULES

Coal-mining operating regulations:
Colorado, surface reclamation standards, 26218
Montana, surface reclamation standards, 23855

NOTICES

Cartographic information program, basic; interagency agreement with HUD/CP&D, 22940
Coal land classifications:
North Dakota, 22609
Coal leasing areas:
Wyoming, 27686
Coal mining plans:
Trail Mountain Coal Co., 22940
Mobile offshore drilling units on Outer Continental Shelf; memorandum of understanding with Coast Guard; correction, 26254
Oil and gas operations:
Marathon Oil Co.; royalty payment, 24111
Royalty accounting reports; Federal and Indian onshore leases; natural gas, 22610
Outer Continental Shelf; oil gas, and sulphur operations:
Systems design analysis; inquiry, 25773
Phosphate land classification:
Utah; correction, 26254

GOVERNMENT EMPLOYEES

See Civil Service Commission.

HANDICAPPED

See Blind and Other Severely Handicapped, Committee for Purchase from.
Education Office.
Health, Education, and Welfare Department.

HAZARDOUS MATERIALS OPERATIONS OFFICE

RULES

Aircraft, carriage by:
Radioactive materials, 22367, 22880
Hazardous materials table and communications regulations:
Radioactive materials, 22367, 22880
Inflation impact statements, 22367, 22880

PROPOSED RULES

Inflation impact statements, 27003
Radioactive materials imported into U.S., 27002

INDEX

UMI

NOTICES
Applications; exemptions, renewals, etc.:
Economics Laboratory et al., 24135
Gallery Chemical Co. et al., 26276
General Electric et al., 24135

HAZARDOUS SUBSTANCES

See Coast Guard.
Consumer Product Safety Commission.
Environmental Protection Agency.
Hazardous Materials Operations Office.
Occupational Safety and Health Administration.

HEALTH

See Alcohol, Drug Abuse, and Mental Health Administration.
Animal and Plant Health Inspection Service.
Disease Control Center.
Food and Drug Administration.
Health, Education, and Welfare Department.
Health Resources Administration.
Health Services Administration.
Mining Enforcement and Safety Administration.
National Institutes of Health.
Occupational Safety and Health Administration.
Public Health Service.
Social and Rehabilitation Service.

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Alcohol, Drug Abuse, and Mental Health Administration.
Disease Control Center.
Education Office.
Food and Drug Administration.
Health Care Financing Administration.
Health Resources Administration.
Health Services Administration.
Human Development Office.
National Institute of Education.
National Institutes of Health.
Public Health Service.
Social and Rehabilitation Service.

RULES
Inflation impact statements, 22677
Nondiscrimination:
Handicapped, in federally-assisted programs, 22677, 22888
Process served on or delivered to Secretary; address change, 22145

NOTICES
Ampicillin; maximum allowable costs; determinations, 27306
Human subjects, protection:
Psychosurgery in practice and research; report and inquiry, 26318
Information collection and data acquisition activity, description; inquiry, 22402, 23180, 23883, 25922
Meetings:
Fund for Improvement of Postsecondary Education, Board of Advisors, 22204
National Health Insurance Issues Advisory Committee, 23179
New Drug Regulation Review Panel, 23884
Protection of Human Subjects of Biomedical and Behavioral Research, National Commission, 26469
Services and Facilities for Developmentally Disabled National Advisory Council, 27067
Student Financial Assistance Study Group, 24101
Organization, functions, and authority delegations:
Food and Drug Administration, 26470
Health, Assistant Secretary for, et al., 23179
Public Health Service, 23548
Public Health Service; Claims Division, 25535
Social Security Administration, 25535, 26250
Social Security; cost-of-living increase, 24210, 26250

HEALTH CARE FINANCING ADMINISTRATION

See also Social and Rehabilitation Service.

NOTICES
Professional Standards Review Organizations; hearings, 25920

HEALTH RESOURCES ADMINISTRATION

NOTICES
Health professions; U.S. citizen foreign medical student transfer provision, capitation grants requirements, 26249
Health service areas:
Connecticut; designation; correction, 25768
Meetings:
Advisory Committees; June, 22204, 22937, 24770, 25382, 25533

HEALTH SERVICES ADMINISTRATION

NOTICES
Health maintenance organizations, qualified, 25535

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT

NOTICES
Applications, etc.:
Gallia Coal Co., 22420
Johnson Coal Co., Inc., 22420
Kentland Elkhorn Coal Corp., 22420
Oakwood Red Ash Coal Corp., 22421, 22422
Petros Coal Corp., 22422
Pontiki Coal Corp., 22422
Slab Fork Coal Co., 22423
V & R Coal Co., Inc., 22423
Winston Mining Co., 22424, 22425
Young's Branch Coal Co., 22425, 22426

HIGHWAYS

See Federal Highway Administration.
Interstate Commerce Commission.
National Highway Traffic Safety Administration.
National Transportation Safety Board.

HISTORY, HISTORIC PRESERVATION

See National Park Service.

HOUSING

See Agency for International Development.
Farmers Home Administration.
Federal Home Loan Bank Board.
Federal Home Loan Mortgage Corporation.
Federal Housing Commissioner—Office of Assistant Secretary for Housing.
Housing and Urban Development Department.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Community Planning and Development, Office of Assistant Secretary.
Federal Disaster Assistance Administration.
Federal Housing Commissioner—Office of Assistant Secretary for Housing.
Federal Insurance Administration.
Interstate Land Sales Registration Office.
New Communities Administration.

RULES
Inflation impact statements, 22364, 23584
Low-income housing:
Fair market rents and contract rent automatic annual adjustment factors, 22364
Families and other terms, definitions; occupancy by single persons, 23583
Housing assistance payments; eligible family, definition, 23585
Housing assistance payments; existing housing, 23585
Housing assistance payments; finance and development agencies; new construction set-aside for rural rental housing projects, 25585
Housing assistance payments; new construction, 23585
Housing assistance payments; special allocations, 23585
Housing assistance payments; substantial rehabilitation, 23585
Income limits for admission and occupation; definitions, 23584

PROPOSED RULES
Community development block grants:
Environmental review procedures, inquiry, 24755
Contract appeals, 24200
Inflation impact statements, 22704
Low-income housing:
Housing assistance payments; fair market rents; existing housing, 22704
Housing assistance payments; fair market rents for new construction and substantial rehabilitation, 24279

NOTICES
Authority delegations:
New Community Development Corporation Acting General Manager; order of succession, 23884
Committee, establishment and meeting; Future of FHA Task Force, 27679
Privacy Act; systems of records, 22408, 24771

HUMAN DEVELOPMENT OFFICE

RULES
Child support enforcement program, Federal financial program:
Claims, submission deadline, 26427
Inflation impact statements, 26428

NOTICES
Child welfare research and demonstration grants program; applications and closing dates, 25770
Gerontology program, multidiscipline centers for; applications and closing dates, 24330
Vocational rehabilitation, research and demonstrations; applications and closing dates, 24331

HUNTING

See Fish and Wildlife Service.
National Park Service.

IMMIGRATION AND NATURALIZATION SERVICE

RULES
Immigration regulations:
Students; nonimmigrant; requirements for maintenance of status, 26413

PROPOSED RULES
Immigration regulations:
Alien crewmen, nonimmigrant, landing permits and identification cards, 25738
Deportation suspension and voluntary departure; extension of time applications, 22148
Forms, 22148
Service officers, powers and duties; availability of service records, 22148

NOTICES
Meetings:
Hispanic Advisory Committee, 22428

IMPORTS AND EXPORTS

See Agriculture Department.
Animal and Plant Health Inspection Service.
Commerce Department.
Customs Service.
Domestic and International Business Administration.
Drug Enforcement Administration.
Federal Energy Administration.
Federal Maritime Commission.
Foreign-Trade Zones Board.
International Trade Commission.
Textile Agreements Implementation Committee.
Trade Negotiations, Office of Special Representative.
Treasury Department.

INDIAN AFFAIRS BUREAU

RULES
Construction; emergency drought assistance and deferments, 1976-1977, 22141
Enrollment:
Grand River Ottawa Indians, 26652
Inflation impact statements, 22141

PROPOSED RULES
Irrigation projects, operation and maintenance charges:
San Carlos, Ariz., 22902
Preference in employment; definition of Indian, 27609

NOTICES
Distribution plans and termination notices:
Cold Springs Rancheria; Sallie Hunter, et al.; status not terminated, 27680
Environmental statements; availability, etc.:
Lower Truckee-Lower Carson River Basins, Nev., 26254, 27311
Papago Indian Reservation, Vekol Hills Project, Ariz., 26477, 26478

INDIAN CLAIMS COMMISSION

NOTICES
Meetings; Sunshine Act, 22467, 22633, 23690, 25593, 26507

INSURANCE

See Farmers Home Administration.
Federal Crop Insurance Corporation.
Federal Deposit Insurance Corporation.
Federal Home Loan Bank Board.
Federal Housing Commissioner—Office of Assistant Secretary for Housing.
Federal Insurance Administration.
Fiscal Service.

INTERIOR DEPARTMENT

See also Bonneville Power Administration.
Fish and Wildlife Service.
Geological Survey.
Hearings and Appeals Office, Interior Department.
Indian Affairs Bureau.
Land Management Bureau.
Mining Enforcement and Safety Administration.
National Park Service.
Outdoor Recreation Bureau.
Reclamation Bureau.

RULES
Inflation impact statements, 23150, 25858
Procurement, 25858
Property management, 23150, 24740

PROPOSED RULES
Trans-Alaska pipeline liability fund, 26441

NOTICES
Colorado River Storage Project; proposed general power marketing criteria; correction, 22205
Drought impact areas, emergency; various States; memorandum of agreement with USDA, Commerce Department, and SBA; correction, 22608
Environmental statements; availability, etc.:
Bonneville Dam Integration Transmission, 25383
Colorado River Water Quality Improvement Program, 26705
Continental Divide National Scenic Trail, 23886
De Luz Heights Municipal Water District, Calif.; water system, 25926
Dolores Project, Colo., 24111
Glacier National Park, Mont., 24119
Lower Truckee-Lower Carson River Basins, Nev., 26254, 27311
Navajo-El Paso/Consolidation Coal Lease and Mining Plan, N. Mex., 24341
Papago Indian Reservation, Vekol Hills Project, Ariz., 26477, 26478
Financial interest statements:
Adams, Gary E., 27688
Glass, Edward C., 27688
Gregg, Donald B., 27688
Hunt, Herbert H., 27689
James, Evan W., 27689
Quigley, Martin T., 27689
Ricci, Nicholas A., 27689
Rolfing, John, 27689
Meetings:
Oil Shale Environmental Advisory Panel, 22205
Organization and functions:
Trans-Alaska Pipeline, 22426
Trans-Alaska Pipeline, functions of Department respecting, 22426
Watches and watch movements:
Allocation of quotas; Guam and American Samoa, 24301

INTERNAL REVENUE SERVICE

RULES
Employment taxes:
Employment waivers, constructive filing; social security taxes for taxexempt organizations, 24046
Excise taxes:
Foundation assets valuation, 24265
Income taxes:
Handicapped and elderly, deduction for removing certain barriers to; hearing, 26204
Oil and gas wells; percentage depletion limitations, 24263
Procedure and administration:
Refund check mailing in litigated cases, 22143

PROPOSED RULES
Excise taxes:
Advance approval of grant procedures for private foundations, 23517
Income taxes:
Bonds, arbitrage, 27610
Oil and gas wells; percentage depletion limitations, 24279, 26437

NOTICES
Authority delegations:
Assistant Commissioner (Administration); identification media, 24139
Assistant Commissioner (Compliance) et al.; tax status of executive or judicial branch appointees, 25945
Commissioner, signing of name for, 23907
Deputy Commissioner et al.; freedom of information, 27379
Employee benefit plans:
Annual information returns/reports; inquiry, 25934
Prohibitions on transactions; exemption proceedings, applications, hearings, etc., 23217, 23220, 25998
Meetings:
Commissioner's Advisory Group, 25572

INTERNATIONAL JOINT COMMISSION-UNITED STATES AND CANADA

See Canada and United States-International Joint Commission.

INDEX

UMI

INTERNATIONAL TRADE COMMISSION

NOTICES

Import investigations:
- Cattle, live, and edible meat products, 25774
- Dot matrix impact printers, 24120, 25387
- Headwear; hearing, 23212
- Impression fabric of man-made fiber from Japan; correction, 22206
- Light shields for sonar apparatus, 24120
- Machining centers, numerically controlled, and components, 25388
- Photocubes, 24120, 25387
- Solder removal wicks, 26478
- Swimming pools, aboveground; termination, 22612
- Television receiving sets, color, 24342, 27689
- Toy vehicles, steel, 24120, 25388

Meetings; Sunshine Act, 23580, 24174, 25405, 26284, 26507

Tariff Schedules; textile imports; change from chief value to chief weight method, domestic impact; hearings, 22427

INTERNATIONAL WOMEN'S YEAR OBSERVANCE, NATIONAL COMMISSION

NOTICES

Meetings; Women's Coordinating Committees:
- Alaska, 22961
- Georgia, 22961
- Idaho, 25390

INTERSTATE COMMERCE COMMISSION

RULES

Motor carriers:
- Certificates and permits; intermediate point authorization; Panel recommendation not adopted, 22369
- Commercial zones; Syracuse, N.Y., 24742
- Credit extension to shippers, 22369, 23840
- Household goods broker licensing procedures; fees, forms, surety bonds and insurance policies; extension of time, 25862

Practice rules:
- Republication, 23806, 25863, 27598

Rail carriers:
- Abandonment of lines and discontinuance of service, 25327
- Credit extension to shippers, 22370, 23840
- Gondolas, incentive per diem charges, 23511, 25326, 26985
- Subsidies, rail service continuation; determination standards; Northeast-Midwest Region, 26658

Railroad car service orders:
- Trailers, return, 26657, 27248

Railroad car service orders; various companies:
- Chicago, Milwaukee, St. Paul & Pacific Railroad Co., 22881, 24278
- Chicago & North Western Transportation Co., 22367
- Delaware & Hudson Railway Co. et al., 22367
- Illinois Central Gulf Railroad Co., 22368
- Louisiana & Arkansas Railway Co., 26656
- Missouri Pacific Railroad Co., 22368
- Octoraro Railway Co.; extension of time, 25326

PROPOSED RULES

Freight forwarders:
- Exemptions; aircraft transportation, motor transportation incidental to, 26667

Motor carriers:
- Exemptions; aircraft transportation, motor transportation incidental to, 26667

NOTICES

Abandonment of railroad services, etc.:
- Allegheny & Western Railway Co. et al., 24348
- Apache Railway Co., 23978
- Baltimore & Ohio Railroad Co., 24349
- Bessemer & Lake Erie Railroad Co., 26770
- Birmingham Southern Railroad Co., 26771
- Buffalo, Rochester & Pittsburgh Railway Co., 24169
- Burlington Northern, Inc., 22463, 24349
- Carbon County Railway Co., 26772
- Chattahochee Valley Railway Co., 24161
- Chesapeake & Ohio Railway Co., 24169, 24350
- Chicago, Rock Island & Pacific Railroad Co., 27111
- Chicago & North Western Transportation Co., 22532, 26773
- Clarendon & Pittsford Railroad Co., 22976
- Clinchfield Railroad Co., 25670
- Columbia, Newberry & Laurens Railroad Co., 23979
- Dequeen & Eastern Railroad Co., 25671
- Durham & Southern Railroad Co., 23980
- El Paso Union Passenger Depot Co., 24169, 25672
- Elgin, Joliet & Eastern Railway Co., 26787
- Fairmont, Morgantown & Pittsburgh Railroad Co., et al., 24169
- Florida East Coast Railway Co., 23981
- Fort Worth & Denver Railway Co., 26788
- Gainesville Midland Railroad Co., 23982
- High Point, Thomasville & Denton Railroad Co., 24162
- Holton Inter-Urban Railway Co., 24163
- Illinois Central Gulf Railroad Co., 22981, 24352
- Illinois Terminal Railroad Co., 22973
- Johnstown & Stony Creek Railroad Co., 26790
- Kanawha Central Railway Co., 24795
- Lake Erie & Eastern Railroad Co., 25673
- Lake Terminal Railroad Co., 26791
- Los Angeles & Salt Lake Railroad Co., 26792
- Lowville & Beaver River Railroad, 23983
- McKeesport Connecting Railroad Co., 26798
- Montour Railroad Co., 23588
- Mount Hood Railroad Co., 26799
- Municipality of East Troy Railroad, 23590
- New Orleans & Lower Coast Railroad Co., 26720
- Newburgh & South Shore Railway Co., 26801
- Norfolk & Western Railway Co., 24354, 26802
- Northampton & Bath Railroad Co., 26813
- Northwestern Pacific Railroad Co., 24164
- Oregon Short Line Railroad Co. et al., 24355, 26816
- Oregon-Washington Railroad & Navigation Co., 22463, 26822
- Petaluma & Santa Rosa Railroad Co., 24355, 25675
- Pittsburgh & Lake Erie Railroad Co., 23592
- Pittsburgh & Western Railroad Co. et al., 22217
- Richmond, Fredericksburg & Potomac Railroad Co., 23984
- Sacramento Northern Railroad Co., 26827
- Seaboard Coast Line Railroad Co., 27114
- Soo Line Railroad Co., 26829
- Southern Pacific Transportation Co., 22463, 22464, 24355, 24356, 25676
- Southern Railway Co., 23104
- Spokane International Railroad Co., 26841
- St. Joseph & Grand Island Railroad Co., 26843
- St Louis Southwestern Railway Co., 25703
- Sunset Railway Co., 25709
- Texas, Oklahoma & Eastern Railroad Co., 25711
- Tidewater Southern Railway Co., 26845
- Toledo, Angola & Western Railway Co., 26847
- Union Pacific Railroad Co., 22464, 26849
- Union Railroad Co., 25712
- Vermont Railway, 23985
- Visalia Electric Railroad Co., 25713
- Washington County Railroad Co. et al., 24356
- Western Pacific Railroad Co., 25714
- Winston-Salem Southbound Railway Co., 24168
- Yakima Valley Transportation Co., 26856
- Youngstown & Northern Railroad Co., 25716
- Youngstown & Southern Railway Co., 23594

Agreements under sections 5a and b, applications for approval, etc.:
- Consolidated Freightways Corp. of Delaware, 25396, 25397

Fourth section applications for relief, 22615, 22970, 23221, 23908, 24169, 24352, 25946

Hearing assignments, 22216, 22462, 22615, 22970, 23221, 23576, 23684, 23908, 24349, 24794, 25396, 25573, 25796, 25946, 26281, 26498, 26712, 27110, 27379, 27706

Meetings; Sunshine Act, 23223, 24358, 25593, 25949, 26284

Motor carrier, broker, water carrier, and freight forwarder applications, 24356

Motor carriers:
- Household goods transportation; informal conference on agency relationships, 27129
- Irregular route property carriers; gateway elimination, 22616, 23908, 25574, 27113
- Lease and interchange of vehicles, 26498

Statistics for Class II carriers of property, 22217

Temporary authority applications, 22629, 23684, 23920, 23924, 23930, 24170, 24795, 25397, 26499, 26713, 26715, 27709

Transfer proceedings, 22464, 22970, 23221, 23576, 24353, 25946, 26262, 26499, 27111, 27706, 27707

Operating rights applications, etc., 22632

Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications, 22997, 24139, 25796, 27083

Petitions filing:
- Bunge Corp. et al., 22216

Pipeline carriers:
- Tentative valuations, 25591

Rail transportation:
- Pennsylvania, light-density rail lines; evaluation, 23078

Railroad car service rules, mandatory; exemptions, 22978, 24350, 26713, 27380

Railroad freight rates and charges; various States, etc.:
- Idaho, 26497

Rerouting of traffic:
- Birmingham Southern Railroad et al., 22978
- Green Mountain Railroad Corp., 26721

Waste product transportation for reuse or recycling, 22218, 25825, 27382

INTERSTATE LAND SALES REGISTRATION OFFICE

NOTICES

Land developers; investigatory hearings, orders of suspension, etc.:
- Alpine Lake, 23209
- Aspen Hills, 23209
- Land O Lakes Estates, 24334
- McShepherd Ranches, 24335
- Ohio Meadows et al., 23549
- San Juan Meadows, 24335
- Wilderness Streams, 23209

INVESTMENTS

See Overseas Private Investment Corporation.
Securities and Exchange Commission.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

See Actuaries, Joint Board for Enrollment.

JUSTICE DEPARTMENT

See also Antitrust Division, Justice Department.
Drug Enforcement Administration.
Immigration and Naturalization Service.
Law Enforcement Assistance Administration.
Parole Commission.
Prisons Bureau.

RULES

Nondiscrimination:
- EEO complaints; direct remedial action authority, 25724

Organization, functions, and authority delegations:
- Assistant Attorney General, Criminal Division; designation as Acting Attorney General, 23801
- Attorneys; conduct of legal proceedings, 26205
- Deputy Attorney General Office, 22557
- Management and Finance Office; supervisory responsibility, 25499

Privacy Act; implementation, 23506

NOTICES

Meetings:
- Circuit Judge Nominating Commission, 22206, 23644, 24773, 26481
- FBI Director, Selection Committee, 22428, 23212

Pollution control; consent judgments; U.S. versus listed companies:
- Corning Fibers, Inc., 26709

Privacy Act; systems of records, 22612, 22953, 23558, 26478

LABOR DEPARTMENT

See also Employment and Training Administration.
Employment Standards Administration.
Labor Statistics Bureau.
Occupational Safety and Health Administration.
Pension and Welfare Benefit Programs Office.

RULES

Comprehensive Employment and Training Act: Public jobs program, 24523

Construction industry wages and price stabilization; removed, 22364

Farm labor contractor registration; category exemptions, 22364

PROPOSED RULES

Contracts, Federal; procedures under Walsh-Healey Public Contracts Act, 26023

Farm labor contractor registration:
- Certificates of registration and employee identification cards, issuance by States, 24289

NOTICES

Consumer price index, all items; U.S. city average, 24344

Industry study reports for adjustment assistance eligibility:
- Sugar, 23670
- Television receivers, 24345

Worker adjustment assistance; certifying officers, designation and responsibilities, 27343

Adjustment assistance:
- Acme Leather Sportswear, Inc., et al., 27330
- Aetna Standard Engineering Co. et al., 23655
- Airco, Inc., 27330
- Airco Alloys, 23644
- Airco Speer Electronics, 25934
- Alabama By-Products Corp., 22430
- Allan Shoe Manufacturing Co., Inc., 22431
- Allied Leather Co. et al., 26481
- Allied Textile Printers Corp., 27330
- American Can Co. et al., 24346
- American Felt Slipper Co., Inc., 22431
- Arco Auto Carriers, Inc., et al., 26481
- Armco Steel Corp., 27689, 27690
- Atkin, William, Co., Inc., 26492
- Atlantic Steel Co., 23645
- Babcock & Wilcox Co., 25935
- Barrymaid Mills et al., 23215
- Beacon Tex-Print Ltd., 27331
- Beckerman Shoe Corp., 27332
- Belle-Moc, Inc., et al., 23656
- Bonck, J. H., Co., Inc., 27690
- Brown Shoe Co., 27691
- Calumet Steel Co., 26483
- Capitol Footwear Corp., 22432
- Cardinal Cottons Corp., 27332, 27333, 27334
- Chemetron Corp., 25935
- Cherie Brassiere Co., Inc., 27334
- Coca-Cola Co., 23667
- Connors Steel Co., 27692
- Converse Rubber Co., 23647, 25936, 25937
- Copperweld Corp., 23648
- Corcoran, Joseph F., Shoe Co., 27337
- Crane Co., 27693
- Creiner & Brumberg, Inc., 27335
- Crest Shoe Co., 27335
- De Laval Turbines, Inc.; correction, 25938
- Delton Shirtmakers, Inc., 23649
- Denison Cotton Mill Co., 23650
- Dixon Ford Shoe Co., 27336
- Dole Co. et al., 25941
- Duchess Garter Corp., 22432
- Empire Oldsmobile, 23650
- Ettelson of Philadelphia, Inc., 23651, 23667
- Evans, L.B., & Son Co., 26488
- Excelsior Cloak & Suit Corp. et al., 23216
- Fashion Mate, Inc., et al., 27691
- Ferry, E. W., Screw Products, Inc., et al., 23657
- Flodar Corp., 22433
- Florsheim Shoe Co., 22434
- Garcia, Carmen, Inc., 24344
- Garcia, Henry, Inc., 24345
- General Motors Corp. et al., 23657
- Gilbert Shoe Co., 23652
- Gold Seal Garter Corp., 23652
- Gossard, H. W., Co., 23653
- Gotham Fifth Avenue, Inc., 27693
- Gulf & Western Industries, Inc., 25938
- Gulfway Trawlers, Inc., 27694
- Halco Industries, Inc., et al., 26482
- Hammond Valve Corp., 25938
- Hanna Furnace Corp., 22434
- Harmony Co., 27336
- Heavenly Shoe Co., 23654
- Homestead Industries, Inc., 23654
- Hull Dye & Print Works, Inc., 27695
- Indian Head Millwork Corp., 26483
- Interlake, Inc., 27698
- International Harvester Co., 26484
- International Shoe Co., 23655, 25942, 27337
- Jo-Gal Shoe, Inc., 22435
- Kaiser Steel Corp., 22438, 26485
- Kathi-Din, 27338
- Kenosha Auto Transport Corp., 23658
- Kerotest Manufacturing Corp., 26487
- Lee, Bob, Manufacturing Co., 24344, 25935
- Lever Brothers Co., 27338
- Macsteel Co., 23659
- Magnavox Co., 27695
- Maidenform, Inc., 22435
- Maline Sewing Corp., 25939
- Mar Mac Manufacturers, Inc., 27339
- Marathon Steel Co., 22436
- Maria Garment Co., 23660
- Maxi Manufacturing Co., 23660
- Mesta Machine Co., 26488
- Milady Brassiere & Corset Co., Inc., 27697
- Mired Foundations, Inc., 27697
- Miss Quality Inc., 23661
- Miss Sarah, Inc., 22436
- National Steel Corp., 26489
- New Humor Co., 23662
- Pacific States Steel Corp., 25939
- Palm Land Fashions, Inc., 27699
- Pettyjohn Brothers Shoe Manufacturing, Inc., 27339
- Phoenix Steel Corp., 23662, 23663
- Pleasant Beef Co., Inc., 27340
- Prestige Shoe Co., 26490

UMI

Raybestos Manhattan Friction Materials Co., 23664
Reynoldsville Industries, Inc., 26490
Robert Hall Clothes, 25940
Roblin Steel Co., 23664
Rockwell International, 26491
Sebastian, Jack, Shoe, Inc.; 23658
Seinsheimer, H. A., Co., 22434
Sheridan AMC/Jeep, Inc., 27698
Soule Steel Co., 22437
Southwest Steel Rolling Mills, Inc., 23665
Springfield Wire of Indiana, Inc., 27699
Standee Manufacturing Corp., 23666
Sweetree Mills, Inc., 22438
TRW, Inc., 27341
Union Electric Steel Corp., 23668
Union Textile Printers, 27341
Uniroyal, Inc., 25941
Walter, Jim, Resources, 23217
Wellington Leather, Inc., 26492
Western Leather Products Corp., 23665
Westminster Corp., 23668
Weyenberg Shoe Manufacturing Co., 22438
Wheeling Machine Products, 23669
Wilton Corp., 22439
Wood, Alan, Steel Co., 23645
YKK USA, Inc., 27342

LABOR MANAGEMENT SERVICES ADMINISTRATION

See Pension and Welfare Benefit Programs Office.

LABOR STATISTICS BUREAU

NOTICES
Authority delegations:
Administrative Management Associate Commissioner, et al.; procurement and contract officers, 25926

LAND MANAGEMENT BUREAU

RULES
Horses and burros, wild free-roaming; protection, management and control:
Helicopter use in management, 26654
Minerals leasing:
Coal leasing, competitive; correction, 25469, 25470
Minerals management:
Environment and safety; coal mining operating regulations; correction, 25462
Public land orders:
Utah, 22365

NOTICES
Airport leases:
Alaska, 22940
Arizona, 22940
Nevada, 25924, 26704
Alaska native selections; applications, etc.:
Alaska, State of, et al., 23549
Kikiktugruk Inupiat Corp., 26475
Knikatnu, Inc., 26473
Applications, etc.:
Arizona, 24772
Colorado, 23642
Idaho, 22937
Minnesota, 22937
Montana, 22937, 25536
New Mexico, 22205, 22938, 22939, 23885, 24110, 25536, 25772, 25773, 27067, 27068
North Dakota, 22937
Utah, 26704
Washington, 22937
Wyoming, 22609, 23886, 24110, 25537, 25773, 26704
Authority delegations:
Oregon State Office, Records and Data Management Branch Chief, 23885
Classification of lands:
Washington; disposal by exchange, 22205
Coal lease offering by sealed bid and oral auction, Colorado; hearing rescheduled, 25537
Indian lands, jurisdiction transfer:
Fort Peck Indian Reservation, Mont., 27308
Mineral surveyor appointment examination, U.S.; announcement, 24773
Opening of public lands:
Oregon, 25384, 25385, 25537, 27067
Washington, 24110, 24336, 25385, 27067
Outer Continental Shelf:
Official protraction diagrams; availability, etc., 22609
Oil and gas lease sales; restricted joint bidders, list, 22939
Oil and gas leasing, 23885, 25385, 26250, 26705, 27307
Oil and gas leasing; qualified joint bidders, 26703
Recreation management, access, etc.:
Rouge National Wild and Scenic River, Oreg., 22937
Withdrawal and reservation of lands, proposed, etc.:
Alaska, 23210, 24108, 25384
Arizona, 24109
California, 22938, 26703
Idaho, 23211, 24335, 24336, 25772, 26473
Oregon, 27068

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

RULES
Public safety officers' death benefits, 23255

NOTICES
Meetings:
Guards and Investigators Committee, 25774
Law Enforcement/Private Security Relationships Committee, 22206
Private Security Advisory Council, 25774

LEGAL SERVICES CORPORATION

RULES
Eligibility; maximum annual income levels for individuals eligible for legal assistance, 24271, 25734

NOTICES
Grants and contracts; applications, 25942, 27377
Meetings:
Board of Directors, 26255

LIBRARIES AND INFORMATION SCIENCE, NATIONAL COMMISSION

NOTICES
Meetings; Sunshine Act, 22221, 22468

LIBRARY OF CONGRESS

See Copyright Office, Library of Congress.

MANAGEMENT AND BUDGET OFFICE

NOTICES
Budget rescissions and deferrals, 22852, 26378, 26390
Clearance of reports; list of requests, 22440, 22613, 23218, 23572, 25392, 25393, 25549, 26259, 26260, 26710, 27078, 27079, 27704
Meetings:
Business Advisory Council on Federal Reports, 26710
Privacy Act; systems of records, 26260
Report forms; U.S. direct investment abroad; hearing, 24778
Zero-base budgeting; guidelines to agencies, 22342

MANPOWER ADMINISTRATION

See Employment and Training Administration.

MARINE MAMMAL COMMISSION

NOTICES
Meetings:
Marine Mammal Commission and Marine Mammals Scientific Advisors Committee, 27068

MARITIME ADMINISTRATION

NOTICES
Applications, etc.:
American Export Lines, Inc., 23676
Mercantile National Bank at Dallas, 24301
Overseas Bulktank Corp. et al., 26237
Prudential Lines, Inc., 24301

MATERIALS TRANSPORTATION BUREAU

See Hazardous Materials Operations Office. Pipeline Safety Operations Office.

MENTAL HEALTH, PRESIDENT'S COMMISSION

NOTICES
Hearings, 23571, 26261
Meetings, 26494

MINERALS, MINING

See Hearings and Appeals Office, Interior Department. Land Management Bureau. Mining Enforcement and Safety Administration.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

RULES
Electric motor-driven mine equipment and accessories; correction, 25855

NOTICES
Hearings, etc.:
Kocher Coal Co.; accident at Porter Tunnel Mine, Tower City, Pa., 23552

MISSISSIPPI RIVER COMMISSION

NOTICES
Meetings; Sunshine Act, 22467, 22468

MOTOR VEHICLES

See Environmental Protection Agency. Federal Highway Administration. General Services Administration. Interstate Commerce Commission. National Highway Traffic Safety Administration.

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

See Oceans and Atmosphere, National Advisory Committee.

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

See Economic Opportunity, National Advisory Council.

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

See Extension and Continuing Education, National Advisory Council.

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

See Education of Disadvantaged Children, National Advisory Council.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PROPOSED RULES
Patents; waiver regulations, 25508

NOTICES
Meetings:
Applications Steering Committee, 25549
Research and Technology Advisory Council, 22206, 22612, 24120, 25548, 25942, 25943, 27069
Space Program Advisory Council, 24121, 24346
Stratospheric Research Advisory Committee, 24121
Wage Committee, 25548

NATIONAL ARCHIVES AND RECORDS SERVICE

See Federal Register Office.

NATIONAL BUREAU OF STANDARDS

NOTICES
Meetings:
Computer Networking Standards for Library and Information Science Community Task Force, 22188
Visiting Committee, 23673
Retrofit materials and products eligible for tax credit, recommended criteria; report review; inquiry and meeting, 24301
Voluntary product standards:
Abrasive grain on coated abrasive products; withdrawn, 27020

NATIONAL CAPITAL PLANNING COMMISSION

NOTICES
Citizen participation and intergovernmental liaison, procedures, 23886
Foreign Missions and International Agencies, planning report; availability and meeting, 25774
Meetings, 25774

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

See Electronic Fund Transfers, National Commission.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

See Libraries and Information Science, National Commission.

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

See International Women's Year Observance, National Commission.

NATIONAL CREDIT UNION ADMINISTRATION

RULES
Federal Credit Unions:
Organization and operations; blanket bonds, 25851
Reserves:
Establishment and maintenance, 24252, 26197

PROPOSED RULES
Federal Credit Unions:
Organization and operations; loans and lines of credit, 27251

NOTICES
Meetings:
National Credit Union Board, 22207
Privacy Act; systems of records, 27069

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

See Arts and Humanities, National Foundation.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

RULES
Bumper standards, 24057
Motor vehicle safety standards:
Bumper requirements, 24057

PROPOSED RULES
Motor vehicle safety standards:
Brake systems, air, 27003

NOTICES
Breath alcohol measuring devices; qualified products list; correction, 22968
Defect proceedings; petitions, etc.:
Ambassador Leather Products, Inc.; child safety harness; proceeding scheduled, 22215
American Motors Corp.; defect and noncompliance notification; denied, 23572
Capri stabilizer bars in front suspension systems, 27705
Electric and hybrid vehicles; meeting and applications for financial assistance, 24793, 27082
Meetings:
Electric and hybrid vehicles; safety standards, 24793, 27082
Highway Safety National Advisory Committee, 22215, 23573
Motor vehicle safety standards; exemption, petitions, etc.:
Brake systems, air; component replacements, 26279
Ford Motor Co., lamps, reflective devices and associated equipment, 27704
General Motors Corp.; control location, identification, and illumination, 22082
Mack Trucks, Inc.; lamps, reflective devices, and associated equipment, 27082
Stutz Motor Car of America, Inc.; exterior protection, 23573

NATIONAL INSTITUTE OF EDUCATION

PROPOSED RULES
Grants programs:
Education and work research, 27626
Inflation impact statements, 27627

NOTICES
Grants programs:
Education and work grant applications; closing date for receipt, 27677
Meetings:
Educational Research National Council, 24329
Research and development utilization program; background information available on microfiche, 23178

NATIONAL INSTITUTES OF HEALTH

NOTICES
Carcinogenesis bioassay of phenformin; availability, 26250
Committees; establishment, renewals, etc.:
Experimental Virology Study Section et al., 27305
Meetings:
Aging Review Committees, 24100
Allergy and Immunology Research Committee, 23174
Allergy and Immunology Study Section et al., 23176, 25534
Allergy and Infectious Diseases National Advisory Council, 23177
Biomedical Library Review Committee, 24100
Cancer Panel, President's, et al., 26702
Carcinogenesis Program Scientific Review Committee A et al., 27305
Cellular and Molecular Basis of Disease Review Committee, 26702

INDEX

Clinical Cancer Education Committee et al., 23176
Clinical Trials Review Committee, 24100
Combined Modality Committee et al., 23174, 25534
Comprehensive Sickle Cell Centers ad hoc Review Committee, 26702
Diabetes National Advisory Board, 25382, 27305
General Clinical Research Centers Committee, 24100
Heart, Lung, and Blood Research Manpower Review Committee, 26703
Heart, Lung, and Blood Research Review Committee A, 26702
Heart, Lung, and Blood Research Review Committee B, 26702
Huntington's Disease and Its Consequences, Control Commission, 23882, 27304
Infectious Disease Committee, 27304
New Findings on Complexity of Nucleic Acids in Viral Genomes Workshop, 25535
Pharmacology-Toxicology Research Program Committee, 24101
Recombinant DNA Molecule Program Advisory Committee, 26703
Sickle Cell Disease Advisory Committee, 25535
Transplantation Immunology Committee, 23177
Vision Research Program Committee, 23177
New Findings on Complexity of Nucleic Acids in Viral Genomes Workshop, 25535
Nitrilotriacetic acid, carcinogenesis bioassay reports; availability, 25534

NATIONAL LABOR RELATIONS BOARD

NOTICES
Meetings:
Chairman's Task Force, 27377

NATIONAL MEDIATION BOARD

NOTICES
Meetings; Sunshine Act, 22220, 25404, 26722, 27383

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

RULES
Environmental data service, 25852
Fishery conservation and management:
Foreign fishing; correction, 22559
Salmon fishery, 26580, 27599
Inflationary impact statement, 25852
Marine mammals:
Incidental taking; commercial fishing operations for yellowfin tuna; effective date extended, 24743
Tuna, Pacific fisheries, 25864
NOTICES
Endangered species parts or products; certificates of exemption, 22392, 25749, 25750, 27021
Endangered species permits; applications, 23675
Environmental statements and fishery management plans; availability, etc.:
Commercial and recreational salmon fisheries, Wash., Oreg., and Calif., 26582
Mid-Atlantic Fishery Management Council, 25750
New England Fishery Management Council, 25750
Fishery transfer applications:
Landers, Fred P., 22188
Fishing in Mexican Gulf of Mexico waters; licensing procedures, 25750
Marine mammal permit applications, etc.:
Alaska Department of Fish and Game, 22392
Aquarium of Niagara Falls, Inc., 23673
Black Hills Marineland, Inc., 27667
Exhibits, Inc., 23674
Fort Wayne Children's Zoological Gardens, 22392
Hogle Zoological Garden, 27667
Hokuyo Longline-Gillnet Association et al., 26683
Japan Salmon Fisheries Cooperative Associations, 23870
Lake Merritt Parks and Recreation Office, 26683
Mystic Marinelife Aquarium, 23674
Northwest and Alaska Fisheries Center, 23675
Overton Park Zoo, 23187
Payne, Dr. Roger S., 26684
Scarpuzzi, Louis, Enterprises, Inc., 27667
Tulsa Zoological Park, 23675
Twentieth Century-Fox Marineland, Inc., 22393
Whittow, Dr. G. Causey, 23674
Windsor Safari Park, 24765
Marine mammals:
Incidental taking; commercial fishing operations for yellowfin tuna, 22575
Porpoises, mortality estimation; methodology, 22573
Meetings:
Caribbean Fishery Management Council, 22389, 26685
Gulf of Mexico Fishery Management Council, 22390, 24076
Marine Fisheries Advisory Committee, 23575
Mid-Atlantic Fishery Management Council, 26685
National Marine Fisheries Service, 26683
North Pacific Fishery Management Council, 23870, 27277
Pacific Fishery Management Council, 23575, 26684
Sea Grant Review Panel, 24076
South Atlantic Fishery Management Council, 22390, 27277
Weather Modification Advisory Board, 22188, 24077
Organization and functions:
Pacific Fishery Management Council, 22672
Satellite data services; environmental and earth resources satellite imagery products; price list, 22573

NATIONAL PARK SERVICE

RULES
Snowmobile routes designation:
Mount Ranier National Park, Wash.; correction, 22557
Whitewater boat trips:
Colorado River, Grand Canyon National Park, Ariz., 25857
NOTICES
Authority delegations:
Chaco Research Division, Southwest Cultural Resources Center, Chief, 25387
Midwest Region, Superintendents, et al., 25386
North Atlantic Region, Superintendents, et al., 27687
Boundary descriptions:
National Historic Landmarks Program, 22941
Environmental statements; availability, etc.:
Glacier National Park, Mont., 24119
Mount Vernon Bike Trail, George Washington Memorial Parkway, Va., 26477
Historic Landmarks National Program; boundary establishment, 22941
Historic Places National Register; additions, deletions, etc., 22408, 22409, 23643, 25385, 26476, 27687
Historic preservation easements:
Green Springs Historic District, 25544
Meetings:
Appalachian National Scenic Trail Advisory Council, 23643
Cape Cod National Seashore Advisory Commission, 27310
Golden Gate National Recreation Area Advisory Commission, 24119
Historic American Buildings Survey Advisory Board, 24341
North Atlantic Region Advisory Committee, 22420
Ozark National Scenic Riverways Advisory Commission, 22611
Pictured Rocks National Lakeshore Advisory Commission, 24341
Rocky Mountain Regional Advisory Committee, 24119
Sleeping Bear Dunes National Lakeshore Advisory Commission, 25925
Western Regional Advisory Committee, 25925
Mining claims, plans of operation; availability:
Death Valley National Monument, Calif., 26254, 27311
Saint-Gaudens National Historic Site; establishment, 27311
Southeast Region, Superintendents, et al., 25387

NATIONAL RAILROAD PASSENGER CORPORATION

NOTICES
Meetings; Sunshine Act, 25826

NATIONAL SCIENCE FOUNDATION

NOTICES
Advisory groups, closed meetings; reports, availability, 27377

Meetings:
Anthropology Advisory Panel, 22962
Astronomy Advisory Panel, 23218
Developmental Biology Advisory Panel, 27378
Ethics and Values in Science and Technology Advisory Committee et al., 25549
Genetic Biology Advisory Panel, 26493
History and Philosophy of Science Advisory Panel, 25549
Human Geography and Regional Science Advisory Panel, 23563
Information Dissemination for Science Education Program Advisory Panel, 25391
International Decade of Ocean Exploration Proposal Review Panel, 26256, 26709
Linguistics Advisory Panel, 23564
Minority Programs in Science Education Advisory Committee, 25391
National Science Foundation Advisory Council, 25390
Neurobiology Advisory Panel, 23670
Political Science Advisory Panel, 27378
Population Biology Advisory Panel, 22962
Psychobiology Advisory Panel, 23218
Public Understanding of Science Advisory Panel, 27700
Regulatory and Developmental Biology Advisory Panel, 26493
Regulatory Biology Advisory Panel, 25943
Science Applications Task Force, 23671
Science Education Projects Advisory Panel, 22440, 25391, 25392, 27700
Science Information Activities Task Force, 23218, 26257, 26493
Scientific and technical information managers, Federal, 27378
Sensory Physiology & Perception Advisory Panel, 23671
Social and Developmental Psychology Advisory Panel, 25943
Sociology Advisory Panel, 26710
Systematic Biology Advisory Panel, 23564
Very Large Array Ad Hoc Advisory Panel, 22440, 25391
Women in science program, project directors, 22440
Meetings; Sunshine Act, 24174
Scientific and technical information managers, Federal; meeting, 27378
Women in science program, project directors; meeting, 22440

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

See Records and Documents of Federal Officials, National Study Commission.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

See Transportation Policy Study, National Commission.

NATIONAL TRANSPORTATION SAFETY BOARD

NOTICES
Aircraft accidents; investigation hearings, 24132
Meetings; Sunshine Act, 23027, 23224, 24175, 25827
Safety recommendations and accident reports; availability, responses, etc., 22962, 24131, 25788, 27076

NAVY DEPARTMENT

NOTICES
Meetings:
CNO Executive Panel Advisory Committee, 23533
Naval Research Advisory Committee, 22189
Navy Resale System Advisory Committee, 22189
Patent licenses, exclusive:
Vail Applied Research Co., Inc., 26450

NEW COMMUNITIES ADMINISTRATION

NOTICES
Environmental statements; availability, etc.:
Jonathan New Community Project, Minn., 24108

NUCLEAR MATERIALS

See Energy Research and Development Administration.
Environmental Protection Agency.
Nuclear Regulatory Commission.

NUCLEAR REGULATORY COMMISSION

RULES
Byproduct material licensing:
Mock iodine-125 calibration or reference source, 26986
Environmental protection; licensing and regulatory policy and procedures:
Uranium fuel cycle impacts, 26987
Financial protection requirements and indemnity agreements:
Indemnified licensees requirements; primary layer increase; correction, 23501
Practice rules:
Appeal Board decisions; review and requests for stays, 22129
Early site reviews and limited work authorizations, 22885
Production and utilization facilities; licensing:
Early site reviews and limited work authorizations, 22887
Reporting and record keeping requirements, 25721
PROPOSED RULES
Facilities and material licenses; fee schedule revised, 22149, 26990
Human uses of byproduct material:
Teletherapy units, 25743
Nuclear material:
Nuclear power reactors physical protection; licensee safeguards contingency plans, 25744
Plants and materials, physical protection:
Nuclear power reactors physical protection; licensee safeguards contingency plans, 25744
Practice rules:
Facility license application review and hearing process, coordination with States, counties, etc., 22168
Production and utilization facilities; licensing:
Nuclear power reactors physical protection; licensee safeguards contingency plans, 25744
NOTICES
Abnormal occurrence reports:
Improper radioactive source handling procedures, 23567
Security incident, 27075
Environmental Standard Review Plans; availability of draft; inquiry, 27702
Environmental statements; availability, etc.:
Georgia Power Co., 22209
Oxide fuels, mixed; policy statements, 22964
Westinghouse Nuclear Fuel Fabrication Plant, 23566
Meetings:
Reactor Safeguards Advisory Committee, 22207, 22965, 23566, 24777, 24778, 25780, 25782, 26257, 26258, 27076
Meetings; Sunshine Act, 23027, 24799
Regulatory guides; issuance and availability, 22210, 22211, 24129, 25786, 27073; 27074, 27703
Applications, etc.:
Alabama Power Co., 22966
Atlantic County Citizens Council on Environment, 25782
Baltimore Gas & Electric Co., 24126
Carolina Power & Light Co., 24773
Cleveland Electric Illuminating Co., 24774
Commonwealth Edison Co. et al., 24774, 25784
Consolidated Edison Co. of New York, Inc., 27701
Consumers Power Co., 22966, 23564, 23568, 27701
Duquesne Light Co. et al., 22208
Florida Power Corp. et al., 22208, 27071
Florida Power & Light Co., 23564, 24127, 24130, 24774, 27071
Free Environment, Inc., et al., 25785
Georgia Power Co. et al., 24774
Iowa Electric Light & Power Co. et al., 25785, 27071
Kansas Gas & Electric Co. et al., 27071
Long Island Lighting Co., 23567
Maine Yankee Atomic Power Co., 23565
Metropolitan Edison Co. et al., 22209, 24778, 27072
Nebraska Public Power District, 24775, 27072
Niagara Mohawk Power Corp., 27073
Northeast Nuclear Energy Co. et al., 27702
Northern States Power Co. et al., 24128, 27073
Ohio Edison Co. et al., 24775, 25786
Pacific Gas & Electric Co., 23565, 24131, 24777, 27702
Philadelphia Electric Co. et al., 23565, 27703
Portland General Electric Co. et al., 22209, 24128, 27703
Power Authority of State of New York, 22210, 24131
Public Service Co. of New Hampshire et al., 24131
Public Service Co. of Oklahoma et al., 22210
San Diego Gas & Electric Co., 23569
Southern California Edison Co. et al., 24129, 25787
State University of New York at Buffalo, 22211

INDEX

UMI

Tech-Ops, 25787
Tennessee Valley Authority, 25788
Toledo Edison Co. et al., 24130
Vermont Yankee Nuclear Power Corp., 22212
Virginia Electric & Power Co., 26258, 27074
Washington Public Power Supply System, 23571, 24777
Westinghouse Electric Corp., 27075
Wisconsin Electric Power Co. et al., 24130
Yankee Atomic Electric Co., 25788

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

RULES
Health and safety standards:
Benzene, exposure; emergency temporary standard, 22525, 23601
Benzene exposure; emergency temporary standard, 26429

PROPOSED RULES
Health and safety standards:
Benzene; exposure; proposal and hearing, 27452
Inflation impact statement, 27460
State plans for enforcement of standards:
California, 27266

NOTICES
Applications, etc.:
Baker Tank Co., 24342
Meetings:
Construction Safety and Health Advisory Committee, 24342
Occupational Safety and Health Federal Advisory Council, 24343
State plans; development, enforcement, etc.:
Alaska, 25389

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

NOTICES
Meetings; Sunshine Act, 25408, 27713

OCEANS AND ATMOSPHERE, NATIONAL ADVISORY COMMITTEE

NOTICES
Meetings, 27069

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

See Science and Technology Policy Office.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

See Trade Negotiations, Office of Special Representative.

OHIO RIVER BASIN COMMISSION

NOTICES
Comprehensive Coordinated Joint Plans; availability of reports:
Big Sandy/Guyandotte River Basin, 26494

OIL

See Domestic and International Business Administration.
Federal Energy Administration.
Geological Survey.
Land Management Bureau.

OUTDOOR RECREATION BUREAU

NOTICES
Environmental statements; availability, etc.:
Continental Divide National Scenic Trail, 23886

OVERSEAS PRIVATE INVESTMENT CORPORATION

NOTICES
Meetings; Sunshine Act, 25950

PAROLE COMMISSION

NOTICES
Meetings; Sunshine Act, 25405, 25406, 25593, 26508

PATENT AND TRADEMARK OFFICE

PROPOSED RULES
Trademark cases:
Forms, 22378, 25513

NOTICES
Meetings:
Trademark Affairs Public Advisory Committee, 25520

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE

RULES
Administration and enforcement:
Claims procedure for employee benefit plans, 27426
Reporting and disclosure requirements:
Annual report, summary; inquiry, 25870

NOTICES
Employee benefit plans:
Annual information returns/reports; inquiry, 25934
Multiemployer and multiple employer plan transactions; pendency of proposed class exemption, 22428
Prohibitions on transactions; exemption proceedings, applications, hearings, etc., 23217, 23220, 25998

PENSION BENEFIT GUARANTY CORPORATION

RULES
Privacy Act; implementation, 26975

PROPOSED RULES
Plan assets, allocation; extension of time, 27615
Plan assets, valuation; extension of time, 27616

NOTICES
Employee benefit plans:
Annual information returns/reports; inquiry, 25934
Privacy Act; systems of records, 26494

PENSION PLANS

See Civil Service Commission.
Internal Revenue Service.
Pension and Welfare Benefit Programs Office.
Pension Benefit Guaranty Corporation.
Railroad Retirement Board.
Veterans Administration.

PESTICIDES

See Environmental Protection Agency.
Food and Drug Administration.

PIPELINE SAFETY OPERATIONS OFFICE

PROPOSED RULES
Liquefied natural gas facilities; Federal Safety standards; inquiry; correction, 24758

NOTICES
Meetings:
Technical Pipeline Safety Standards Committee, 22968
Petition for waiver; pipeline:
Phillips Pipeline Co., 24136

PLANTS

See Animal and Plant Health Inspection Service.
Fish and Wildlife Service.

POLLUTION

See Coast Guard.
Environmental Protection Agency.
Environmental Quality Council.
Federal Aviation Administration.
Federal Maritime Commission.
Occupational Safety and Health Administration.

POSTAL RATE COMMISSION

RULES
Practice rules:
Sunshine Act; implementation, 25729, 25741
Sunshine Act; implementation, 25729, 25741

NOTICES
Meetings; Sunshine Act, 22633, 23224, 23690

POSTAL SERVICE

RULES
Postal Service Manual:
Advertisements, definition; marking of paid reading matter, 27246
Official mail, contractor use of; restrictions revised, 24267
Procurement of property and services:
Regional Contract and Supply Management Branch, Southern Region; address change, 27588

PROPOSED RULES
Postal Service Manual:
Address cards arranged in sequence of carrier delivery; mailing list services, 22176

NOTICES
Privacy Act; systems of records, 22614

PRESIDENT'S COMMISSION ON MENTAL HEALTH

See Mental Health, President's Commission.

PRISONS BUREAU

PROPOSED RULES
Inmate admission, classification, and transfer, 26334
Institutional management, 26334
Management and administration, 26334

NOTICES
Meetings:
Corrections Advisory Board National Institute, 23557

PROCUREMENT, FEDERAL

See General Services Administration.

PUBLIC HEALTH SERVICE

See also Alcohol, Drug Abuse, and Mental Health Administration.
Disease Control Center.
Food and Drug Administration.
Health Resources Administration.
Health Services Administration.
National Institutes of Health.

PROPOSED RULES
Indian health:
Health professions recruitment and scholarship grant programs, etc., 26306
Inflation impact statements, 26308, 26315
National Health Service Corps:
Health manpower shortage area assignments of physicians, dentists, etc.; inquiry, 25992
Procurement, 26314

NOTICES
Health maintenance organizations, qualified, 25535

RAILROAD RETIREMENT BOARD

RULES
Sunshine Act; implementation, 22865

NOTICES
Meetings; Sunshine Act, 25827, 26507
Railroad retirement supplemental annuity program; determination of quarterly rate of excise tax, 27080

RAILROADS

See Federal Railroad Administration.
Interstate Commerce Commission.
National Railroad Passenger Corporation.
Railroad Retirement Board.
United States Railway Association.

RECLAMATION BUREAU

NOTICES
Environmental statements; availability, etc.:
Colorado River Water Quality Improvement Program, 26705
De Luz Heights Municipal Water District, Calif.; water system, 25926
Dolores Project, Colo., 24111
Lower Truckee-Lower Carson River Basins, Nev., 26254

RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS, NATIONAL STUDY COMMISSION

NOTICES
Privacy Act; systems of records, 27070

RECREATION

See Fish and Wildlife Service.
Interior Department.
National Park Service.
Outdoor Recreation Bureau.

REGIONAL ACTION PLANNING COMMISSIONS

RULES
Arts and crafts demonstration projects, indigenous, 22137
Economic development regions, 22135
Energy demonstration projects and programs, 22136
Grant-in-aid, Federal; supplements, 22137
Inflation impact statements, 22135
Regional commissions, 22135
Regional transportation, 22135

REHABILITATION SERVICES ADMINISTRATION

See Human Development Office.

RENEGOTIATION BOARD

NOTICES
Meetings; Sunshine Act, 22468, 24799, 24800, 24801, 26285

REVENUE SHARING OFFICE

RULES
Fiscal assistance to State and local governments:
Entitlement funds, computation and adjustment, 24732
Prohibitions and restrictions on use of funds, 24737
Inflation impact statements, 24732

NOTICES
Entitlement data:
Population estimate revisions, 22615

RURAL ELECTRIFICATION ADMINISTRATION

RULES
Bulletins; revision list and summary lists, 27217

NOTICES
Environmental statements; availability, etc.:
Arkansas Electric Cooperative Corp., 25890
Plains Electric Generation and Transmission Cooperative, Inc., 25890
United Power Association, 27270
Loan guarantees proposed:
Big Rivers Electric Corp., 24294
Colorado-Ute Electric Association, Inc., 23183
Copper Valley Electric Association, Inc., 23618
Pacific Northwest Generating Co., 23184
Sho-Me Power Corp., 22385

SAFETY

See Coast Guard.
Consumer Product Safety Commission.
Disease Control Center.
Federal Aviation Administration.
Federal Highway Administration.
Federal Railroad Administration.
Hearings and Appeals Office, Interior Department.
Mining Enforcement and Safety Administration.
National Highway Traffic Safety Administration.
National Transportation Safety Board.
Occupational Safety and Health Administration.
Occupational Safety and Health Review Commission.
Pipeline Safety Operations Office.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

RULES
Seaways; metric system implementation, 27585

NOTICES
Meetings, 22215

SCIENCE AND TECHNOLOGY POLICY OFFICE

NOTICES
Committees; establishment, renewals, etc.:
Basic Research in Mission Agencies Steering Committee, 23219
Space Systems Advisory Group, 25393
Meetings:
Basic Research Working Group in Defense Department, 25944
Intergovernmental Science, Engineering and Technology Advisory Panel, 22441
Space Systems Advisory Group, 25393

SECURITIES AND EXCHANGE COMMISSION

RULES
Interpretative releases:
Securities Act, 22140
Public Utility Holding Company Act:
Form U5S, annual report; modification of instructions, 24253, 26204
Securities Act:
Registration statement form; general instruction changes, 22140
Securities Exchange Act:
Brokers and dealers; uniform net capital rule, 23800, 27221
Confirmation slips delivery and disclosure requirements, sent to customers by brokers and dealers, 25323
Financial and operational combined uniform single report, 23787
Securities issuers reporting to multiple Federal agencies, 24064

PROPOSED RULES
Financial statements:
Marketable securities and other security investments, 23853
Interpretative releases:
Securities Act, 27260
Securities Exchange Act, 27260

INDEX

UMI

Securities Act:
Electric and gas utility company disclosure guidelines, 27260
Industry and homogeneous geographic segment reporting; disclosure forms and rules changes, 26010, 27603
Railroad industry disclosure guidelines, deferred maintenance, and betterment accounting, 24069
Securities Exchange Act:
Electric and gas utility company disclosure guidelines, 27260
Financial and operational combined uniform single report, 23792
Financial statement requirements exemptions for certain railroad issuers, 24071
Industry and homogeneous geographic segment reporting; disclosure forms and rules changes, 26010, 27603
Railroad industry disclosure guidelines, deferred maintenance, and betterment accounting, 24069
Transactions by exchange members; extension of time, 26436

NOTICES
Investor dispute resolution system; implementation, 23892
Lost and stolen securities program; AutEx, Inc. designated to receive reports and inquiries, 26495
Meetings:
National Market Advisory Board, 23888
Meetings; Sunshine Act, 22467, 22633, 23222, 23690, 24801, 26285, 27134, 27383
Proxy solicitations; shareholder communications, etc.; inquiry, 23901
Regulatory responsibilities; allocation plans:
Boston Stock Exchange, Inc. and Midwest Stock Exchange, Inc., 26263
Boston Stock Exchange, Inc. and New York Stock Exchange, Inc., 26264
Boston Stock Exchange and Pacific Stock Exchange, Inc., 26264
Midwest Stock Exchange, Inc. and New York Stock Exchange Inc., 26269
Midwest Stock Exchange, Inc. and Pacific Stock Exchange, Inc., 26270
New York Stock Exchange, Inc. and Pacific Stock Exchange, 26273
Self-regulatory organizations; allocation of regulatory responsibilities; extension of filing period, 26274
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 24778, 24779, 25550, 26262, 27344
Chicago Board Options Exchange, Inc., 23889
Depository Trust Co., 24781
Midwest Stock Exchange, Inc., 22458, 23896, 24785, 24786, 25568, 27355, 27356
Municipal Securities Rulemaking Board, 27357
National Association of Securities Dealers, Inc., 26270, 27357
National Securities Clearing Corp., 25568
New England Securities Depository Trust Co. et al., 22458, 22459, 26273
New York Stock Exchange, Inc., 22442, 22446, 23897
Options Clearing Corp., 23899, 24788, 24789
Pacific Stock Exchange, Inc., 23900, 23901, 27358, 27359
Philadelphia Stock Exchange, Inc., 24790, 26274
TAD Depository Corp., 27361
Hearings, etc.:
Alabama Power Co., 27344
American Brands Overseas, N.V., 22456
American Tobacco International Corp., 22457
Appalachian Power Co. et al., 23888, 27346
Arkansas Power & Light Co., 26263, 27346
Arwood Corp., 27347
Axe-Houghton Income Fund, Inc., et al., 24780
Boston & Albany Railroad Co. et al., 24781
Boston Stock Exchange, Inc., 23905
Bradford National Clearing Corp., 27348
Bradford Securities Processing Services, Inc., 24781
Central Power & Light Co. et al., 27348
Cincinnati Stock Exchange, 23892
Columbia Gas System, Inc., 23890
Consolidated Natural Gas Co., et al., 23891
Consolidated Natural Gas Co. et al., 26265
Dreyfus Leverage Fund, Inc., et al., 24782
DuPont de Nemours, E. I., & Co., 24782
Fund A Partnership, 23891
Fund for Mutual Depositors, Inc., et al., 27350
General Public Utilities Corp., 26267
I.I., Inc., 23892
Insured Municipals Income Trust, 23894
Investors Mutual, Inc., et al., 26267
Itel Computer Dimensions, Inc., 23895
Keystone Custodian Funds, Inc., et al., 27352
Lincoln National Capital Fund, Inc., 26269
Lincoln National Income Fund, Inc., 26269
Louisiana Power & Light Co., 27353
Massachusetts Mutual Life Insurance Co. et al., 24784
Metropolitan Life Insurance Co. et al., 22457
Middle South Utilities, Inc., 27355
Midwest Stock Exchange, Inc., 23888
National Association of Securities Dealers, Inc., 27357
New England Electric System, et al., 23896
New England Electric System et al., 26272
New York Stock Exchange, Inc., 27358
Nomura Capital Fund of Japan, Inc., 24787
North East Heat & Light Co., 23898
Ohio Edison Co., 25570
Pacific Mutual Fund, Inc., 22459
Philadelphia Stock Exchange, Inc., 23892, 23896, 25571, 26274, 27359
Putnam Convertible Fund, Inc., et al., 24790
Putnam Tax Exempt Income Fund et al., 24791
Ranchers Packing Corp., 27360
Scudder, Stevens & Clark Common Stock Fund, Inc., 27360
Sherwood Medical Industries Inc., 22459
Travelers Insurance Co. et al., 23904
Twentieth Century Fox Film Corp., 26275
U.S. Coal Corp., 27361

SMALL BUSINESS ADMINISTRATION

PROPOSED RULES
Business loans:
Farm cooperatives; eligibility for financial assistance, 23614
Small business size standards:
Farm, small, definition of, 26660

NOTICES
Applications, etc.:
Charles River Resources, Inc., 24133
Community Equity Corp. of Nebraska, 24133
De Soto Capital Corp., 22212
First Colonial Investment Corp., 25571
Market Capital Corp., 25394
S.B.I.C. of Vermont, Inc., 22212
Disaster areas:
Alabama, 23219, 26496
Colorado, 24133, 25944
Georgia, 23220
Idaho, 23220
Iowa, 27080
Louisiana, 27080
Maine, 27080
Missouri, 25944, 27080
North Carolina, 26496
Tennessee, 23220, 27080
Texas, 27081
Vermont, 24133
Virginia, 23220
Wisconsin, 25945
Drought impact areas, emergency; various States; memorandum of agreement with USDA, Commerce Department, and Interior Department; correction, 22608
Meetings, advisory councils:
Sioux Falls District, 22212
Privacy Act; systems of records, 23906

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

See Census Bureau.

SOCIAL AND REHABILITATION SERVICE

RULES
Financial assistance programs:
Experimental housing allowance program; disregard of judgment payments to Ottawa Indians, 26426
Inflation impact statements, 23508, 26427
Medical assistance programs:
Capital expenditures, limitation on Federal participation, 23508

SOCIAL PROGRAMS

See Community Services Administration.
Food and Nutrition Service.
Health, Education, and Welfare Department.
Human Development Office.
Social and Rehabilitation Service.

SOIL CONSERVATION SERVICE

NOTICES
Environmental statements on watershed projects; availability, etc.:
Bishop Creek, Ga., 22563
Christina Creek Park RC&D Measure, Del., 26446
Fourche Creek, Ark. and Mo., 25890

Pinto Lake, Calif., 27665
Pohick Creek, Va., 22385
South Anna River Watershed, Va., 23867

STATE DEPARTMENT

See also Agency for International Development.

RULES
Procurement, 24740

PROPOSED RULES
Fees and funds:
Consular services; United States and Foreign Service posts; consolidation, 26994

NOTICES
Airport, joint, proposed agreement; Pinecreek, Minn. and Piney, Manitoba, Canada, 22441
Art objects, importation:
Bulgaria, culturally significant objects from, 22614
Union of Soviet Socialist Republics, culturally significant objects from, 22212
Authority delegations:
Oceans and International Environmental and Scientific Affairs, Assistant Secretary, 24793
Fishery conservation zone; limits, 24134
Fishing permits, applications:
Germany, Federal Republic, 22544
Japan, 22544
Korea, Republic of, 22553
Union of Soviet Socialist Republics, 22546, 23074
Meetings:
Fine Arts Committee, 22213
International Educational and Cultural Affairs, U.S. Advisory Commission, 27704
International Intellectual Property Advisory Committee, 22967
International Radio Consultative Committee, U.S. National Committee, 25572
International Telegraph and Telephone Consultative Committee, 26711
Overseas Schools Advisory Council, 22967
Shipping Coordinating Committee, 22441, 23906, 24793, 26711
Transnational Enterprises Advisory Committee, 26710

TARIFF COMMISSION

See International Trade Commission.

TELECOMMUNICATIONS POLICY OFFICE

NOTICES
Meetings:
Frequency Management Advisory Council, 25394
INMARSAT Preparatory Committee Working Group, 22966
Rural Telecommunications Interagency Committee, 26494

TENNESSEE VALLEY AUTHORITY

NOTICES
Meetings; Sunshine Act, 23691, 26285, 26507

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

NOTICES
Cotton textiles:
Philippines, 25520
Poland, 23870
International trade arrangement, general agreement on tariffs and trade:
China, Republic of, 24765
Egypt, 24765
Japan, 24765
Korea, Republic of, 24765
Pakistan, 24765
Singapore, 24765
Leather articles containing textiles; temporary suspension from restraints; exemption extended, 27668
Man-made textiles:
Philippines, 25520
Textile category system, proposed revisions; category consolidation for negotiations, 26686

TOBACCO PRODUCTS

See Alcohol, Tobacco and Firearms Bureau.

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

NOTICES
Generalized system of preferences, articles eligible for, 24133, 24878, 26261
Import quotas; reallocation:
Steel, specialty; shortfalls, 25791
Meetings:
Trade Negotiations Advisory Committee, 23671

TRANSPORTATION DEPARTMENT

See also Coast Guard.
Federal Aviation Administration.
Federal Highway Administration.
Federal Railroad Administration.
Hazardous Materials Operations Office.
National Highway Traffic Safety Administration.
Pipeline Safety Operations Office.
Saint Lawrence Seaway Development Corporation.

RULES
Conduct standards, 24278
Organization and functions:
Assistant Secretary for Administration; wage schedules, 22366
Coast Guard Commandant; wage schedules, 22366

NOTICES
Railroad passenger experimental route "Mountaineer"; termination, 24136

TRANSPORTATION POLICY STUDY, NATIONAL COMMISSION

NOTICES
Meetings, 23887, 25944

TREASURY DEPARTMENT

See also Alcohol, Tobacco and Firearms Bureau.
Comptroller of Currency.
Customs Service.
Fiscal Service.
Foreign Assets Control Office.
Internal Revenue Service.
Revenue Sharing Office.

NOTICES
Antidumping:
Plastic tape; from Italy, pressure sensitive, 27705
Railway track maintenance equipment from Austria, 23672
Rubber thread from Italy, 23907
Asset depreciation range guidelines:
Generation and/or distribution systems, industrial steam and electric, and waste reduction plants, 24348
Instruments, professional, scientific, and controlling; photographic and optical goods; watches and clocks, 24348
Authority delegations:
Secretary et al.; order of succession, etc., 26496
Bonds, Treasury:
2002-2007 series, 22461
Notes, Treasury:
A-1984 series, 22460
J-1981 series, 26280
Q-1979 series, 25395, 26712
Organization and functions:
Enforcement, Operations, and Tariff Affairs Office of Assistant Secretary; disestablishment, 23672
Public Affairs Office of Assistant Secretary; establishment, 23672
Secretary et al.; authority delegations, order of succession, etc., 26496
Tax treaties, income; various countries; list, 25394

UNEMPLOYMENT

See Economic Development Administration.
Employment and Training Administration.
Labor Department.
Railroad Retirement Board.

UNITED STATES RAILWAY ASSOCIATION

NOTICES
Meetings; Sunshine Act, 25950

URBAN AFFAIRS

See Community Planning and Development, Office of Assistant Secretary.
Community Services Administration.
Economic Development Administration.

VESSELS

See Coast Guard.
Customs Service.
Engineers Corps.
Federal Maritime Commission.
Interstate Commerce Commission.
Maritime Administration.
Saint Lawrence Seaway Development Corporation.

INDEX

UMI

VETERANS ADMINISTRATION

RULES

Adjudication; pensions, compensation, dependency, etc.:
Educational assistance benefits; eligibility, 22869
Hearse charges for transporting bodies, 26205
Flag for burial purposes, disposition; preference to sons eliminated, 27245
Inflation impact statements, 22868, 26205, 26984, 27245
Procurement, 26984

PROPOSED RULES

Freedom of information, 26437
Inflation impact statements, 26438
Sunshine Act; implementation, 26437

NOTICES

Environmental statements; availability, etc.:
Washington, D.C. Area National Cemetery at Quantico, Va., 23907
Meetings:
Cooperative Studies Evaluation Committee, 22969
Educational Allowances Station Committee, 25396
Health Manpower Training Assistance Review Committee, 25573
Medical School Assistance Review Committee, 25573

VOCATIONAL REHABILITATION AND EDUCATION

See Education Office.
Social and Rehabilitation Service.
Veterans Administration.

WATER AND WATERWAYS

See Canada and United States-International Joint Commission.
Coast Guard.
Delaware River Basin Commission.
Engineers Corps.
Environmental Protection Agency.
Federal Maritime Commission.
Interior Department.
Interstate Commerce Commission.
Saint Lawrence Seaway Development Corporation.
Soil Conservation Service.

PRIVACY ACT PUBLICATIONS—MAY 1977

AGRICULTURE DEPARTMENT

NOTICES
Systems of records, 25515, 27190

AIR FORCE DEPARTMENT

NOTICES
Systems of records, 26449

ARMY DEPARTMENT

RULES
Implementation, 27244
NOTICES
Systems of records, 25904

CENTRAL INTELLIGENCE AGENCY

NOTICES
Systems of records, 24759

COMMERCE DEPARTMENT

NOTICES
Systems of records, 25900

CONSUMER PRODUCT SAFETY COMMISSION

RULES
Implementation, 22818
NOTICES
Systems of records, 22922

DEFENSE CIVIL PREPAREDNESS AGENCY

NOTICES
Systems of records, 27021

FEDERAL ENERGY ADMINISTRATION

NOTICES
Systems of records, 22192, 22588

GENERAL SERVICES ADMINISTRATION

NOTICES
Systems of records, 22203

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

NOTICES
Systems of records, 22408, 24771

JUSTICE DEPARTMENT

RULES
Implementation, 23506

NOTICES
Systems of records, 22612, 22953, 23558, 26478

MANAGEMENT AND BUDGET OFFICE

NOTICES
Systems of records, 26260

NATIONAL CREDIT UNION ADMINISTRATION

NOTICES
Systems of records, 27069

PENSION BENEFIT GUARANTY CORPORATION

RULES
Implementation, 26975
NOTICES
Systems of records, 26494

POSTAL SERVICE

NOTICES
Systems of records, 22614

RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS, NATIONAL STUDY COMMISSION

NOTICES
Systems of records, 27070

SMALL BUSINESS ADMINISTRATION

NOTICES
Systems of records, 23906

UMI

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published during May.

1 CFR

Checklist 22125

3 CFR

EXECUTIVE ORDERS:

11296 26951
11460 23129
11514 ..... 26951, 26961, 26967
11644 26959
11861 ..... 23127, 26407
11872 23127
11905 25487
11932 22859
11971 22859
11972 27197
11983 23127
11984 23129
11985 25487
11986 26407
11987 26949
11988 26951
11989 26959
11990 26961
11991 26967
11992 27195
11993 27197

MEMORANDUMS:

May 4, 1977 23499
May 19, 1977 26195

5 CFR

213 ..... 22355, 22356, 23131, 24743, 25313, 25314, 25869, 25870, 26409, 27206–27208, 27599
550 23131

PROPOSED RULES:

733 23160

7 CFR

1 23597
2 26645
6 22874
28 24711
52 22356
53 27208
107 26645
210 27565
220 27565
230 23155
271 ..... 22356, 26002–26006, 26409
272 23599
295 23155
301 25849
354 25314
401 26197
410 24712
Ch. VII 25314, 27565
701 22358
723 27208
724 27209
725 27565
726 27209
905 24715
907 ..... 22874, 24061
908 ..... 24061, 25719, 26197, 26986, 27568
910 ..... 22359, 23156, 24716, 25849, 26410, 27209, 27568
915 27210
916 ..... 23156, 24229
917 ..... 22875, 23157, 24230, 26646
923 27567
928 25719
944 ..... 24717, 27214
953 ..... 25720, 26410
959 22125
1068 22360
1076 27215
1260 ..... 25315, 27569
1421 ..... 22126, 24231, 25720
1430 22126
1464 23795
1488 27569
1701 27215
1823 24232
1832 24062
1888 23158
1933 24232
1980 24252

PROPOSED RULES:

53 23514
58 27011
59 27249
201 25738
225 23606
911 24066
915 23607
916 26430
918 ..... 23160, 24744, 27012
944 23514
967 25872
1002 23841
1004 27016
1065 24744
1071 26217
1073 26217
1097 26217
1102 26217
1104 26217
1106 26217
1108 26217
1120 26217
1126 26217
1132 26217
1138 26217
1207 24066
1421 ..... 23613, 25329
1425 23614
1446 25329
1464 27249
1802 27602
1804 26660
1845 26358
1980 26358

8 CFR

214 26411

PROPOSED RULES:

103 22148
244 22148
252 25738
299 22149

9 CFR

73 ..... 25317, 25849
78 22370
79 25850
94 23131
97 27218
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373
390 22373
391 22373

PROPOSED RULES:

1 22374
2 22374
3 22374
85 27250

10 CFR

2 ..... 22128, 22882
20 25721
30 25721
31 ..... 25721, 26986
32 ..... 25721, 26986
33 25721
34 25721
35 25721
36 25721
50 22882
51 26987
140 23501
205 ..... 23501, 23722, 25648
212 ..... 22131, 22881
303 23134
305 23140
307 23142
309 23144
420 26413

RULINGS:

1977–6 23501

PROPOSED RULES:

2 22168
35 25743
50 25744
70 25744
73 25744
170 ..... 22149, 26990
211 ..... 22889, 23859
212 ..... 22374, 22889, 25329
430 ..... 23860, 25329, 26430
810 23885
871 26431

11 CFR

PROPOSED RULES:

Ch. II 26990

12 CFR

5 26969
7 24206
9 26969
202 22861
220 22862
226 ..... 22360, 25489, 25491, 27570
265 25318

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING MAY

12 CFR—Continued

329 22362
701 25850
702 ..... 24252, 26197

PROPOSED RULES:

202 25508
220 22894
225 22560
226 23516
329 22378
701 27251

13 CFR

302 23795
306 26198
309 23146
317 27432
318 27446
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137

PROPOSED RULES:

120 23614
121 26660

14 CFR

39 ..... 22137, 22862, 22863, 23502–23504, 24717–24723, 25721–25723, 26199–26201, 26970, 27571
71 ..... 22138, 23505, 24045, 26971, 27574
91 ..... 22139, 24196, 25724
97 ..... 22863, 24724, 26203, 26971
121 27572
133 ..... 24196, 25724
221a 26422
241 23146
385 ..... 23600, 25851

PROPOSED RULES:

Ch. I 26991
39 ..... 22172, 22896, 24751
71 ..... 22172, 22173, 24066, 24752, 25739, 25740, 26217, 26992, 27603
152 22896
Ch. II 26558
241 24216
302 23841
399 26612
1245 25508

15 CFR

3 27574
16 26647
50 22362
376 23796
950 25852

PROPOSED RULES:

70 27255

16 CFR

0 27218
13 ..... 22876, 23799, 26661, 26972–26974, 27218
1014 22878
1021 25494
1202 22656
1500 22878

PROPOSED RULES:

2 22897

16 CFR—Continued

PROPOSED RULES—Continued

13 ..... 23841–23849, 24753, 25335, 27255, 27257
441 26398
443 26432
1021 25513
1201 24067
1205 ..... 23052, 24755
1616 23853

17 CFR

1 23988
15 25485
231 22139
239 22139
240 ..... 23786, 23799, 24062, 25318, 27221
249 ..... 23786, 24062
259 ..... 24253, 26204

PROPOSED RULES:

1 ..... 23614, 27166
1 ..... 23614, 27166
210 23853
230 24069
231 27260
239 ..... 26010, 27603
240 ..... 24069, 26010, 26436, 27603
241 27260
249 ..... 23792, 26010, 27603

18 CFR

2 27574
1000 22146

PROPOSED RULES:

1 23160
2 25513
3 23160
4 23160
5 23160
6 23160
16 23160
35 22897
101 26436
104 26436
141 ..... 25337, 26436
154 23615
260 26436

19 CFR

148 25324
159 ..... 23146, 23505, 23801
162 ..... 25324, 27599

PROPOSED RULES:

22 26993

20 CFR

200 22865

PROPOSED RULES:

655 ..... 22378, 27261

21 CFR

8 ..... 24254, 27225
9 27225
25 25854
101 27225
169 25324
172 23148
193 23148
201 27226
310 25854
429 27227
436 27228
448 27228
500 24254
502 24254
503 24254
510 23149
514 24254
520 23600
522 24254
539 27239
540 23149
548 27239
558 25854
561 ..... 22363, 23148
571 24254
610 27582
620 27582
630 27582
640 27582
650 27584
660 27585
701 ..... 24255, 25855
801 ..... 23772, 25854
1308 25498

PROPOSED RULES:

2 24536
101 27261
137 27603
145 25339
150 25339
166 27603
172 ..... 25339, 27603
173 27603
175 27603
176 27603
177 27603
178 27603
180 ..... 25339, 27603
181 27603
182 27603
189 ..... 24536, 25339
201 ..... 24279, 27262, 27263
310 ..... 24536, 25339
330 24279
361 23161
430 25339
500 ..... 24536, 27264
510 ..... 24536, 25339
589 25339
640 25339
700 ..... 24536, 25339
801 24536

22 CFR

214 26975

PROPOSED RULES:

21 26994
22 26994

23 CFR

712 26651
790 26651

PROPOSED RULES:

640 22173
642 22173

24 CFR

200 25724
201 26552
235 22557
241 23601
812 23582
860 23584
880 23585
881 23585
882 23585

INDEX

UMI

24 CFR—Continued

883 23585
886 23585
888 22363
1914 ..... 22865–22867, 24932, 24937
1915 ..... 24944, 24986
1917 ..... 23972–23975, 25436–25440
1920 ..... 24255–24262, 24725–24731

PROPOSED RULES:

20 24200
58 24755
803 22704
888 ..... 22704, 24279
1917 25441–25444
1932 22900

25 CFR

43n 26652
219 22141

PROPOSED RULES:

221 22902
258 27609

26 CFR

1 24263
7 26204
33 24046
53 24264
301 22143

PROPOSED RULES:

1 ..... 24279, 26437, 27610
53 23517

27 CFR

178 22144
181 22144

28 CFR

0 ..... 22557, 23801, 25499, 26205
16 23506
32 23252
42 25724

PROPOSED RULES:

500 26334
501 26334
523 26334
540 26335
541 26340
543 26346

29 CFR

9 22364
40 22364
94 24522
95 24522
98 24522
99 24522
1910 ..... 22516, 23601, 26429
2520 25870
2560 27426
2607 26975

PROPOSED RULES:

40 24289
1910 27452
1952 27266
2608 27615
2611 27616

30 CFR

18 25855

PROPOSED RULES:

211 ..... 23855, 26218

31 CFR

51 24731
315 25725
316 25725
332 25725
500 27199
505 27199
515 25499
530 ..... 23605, 26653, 27199

PROPOSED RULES:

215 22174

32 CFR

191 26422
351 25855
352 25856
505 27244
518 26423
553 25725
865 23601
1900 24049

32A CFR

634 25327

33 CFR

1 23506
25 22879
Subch. DD 26976
127 ..... 24738, 26977
183 ..... 24738, 24739
209 24049
401 27585

PROPOSED RULES:

110 24755
157 ..... 24868, 24869
164 24877
204 26437
303 24756

36 CFR

7 ..... 22557, 25857
231 24739
261 ..... 24265, 24739, 27244

PROPOSED RULES:

231 26662
261 ..... 24290, 26662
291 26662
293 26662

37 CFR

PROPOSED RULES:

4 ..... 22378, 25513
201 25514

38 CFR

1 27245
3 ..... 22868, 26205

PROPOSED RULES:

1 26437

39 CFR

111 ..... 24266, 27246
601 27588
3001 25728

PROPOSED RULES:

111 22176
3001 25741

40 CFR

33 22144
39 25666
52 ..... 22869, 23802–23805, 25500, 25501, 25504, 25730, 26977, 27588
60 26205
80 25731
86 24739
115 25478
180 ..... 22364, 26978
228 22144
255 24926
410 26979
435 22558

PROPOSED RULES:

51 ..... 22177, 27267
52 ..... 22902, 23162, 25878, 26438, 26439, 26997–27001, 27267, 27616–27618
60 ..... 22506, 26222
85 ..... 26742, 26759
180 ..... 24071, 26440
203 27442
204 ..... 27442, 27618
205 ..... 27442, 27620
228 ..... 23163, 25741
250 22332
432 26226
435 22560
712 24542
761 26564
762 24542

41 CFR

1–1 23507
1–14 23507
6–1 24739
7–1 27601
7–3 27601
7–4 27601
8–74 26984
8–75 26984
9–3 27600
9–7 23507
9–15 23507
9–51 ..... 25732, 27247
9–55 27247
14–4 25857
15–3 22145
101–25 22558
101–40 25858
101–43 24051
101–44 24052
101–45 24052
Ch. 114 24740
114–25 23150

PROPOSED RULES:

3—4 26314
50–201 26022
50–206 26022

42 CFR

PROPOSED RULES:

23 25992
36 26306
86 25340

43 CFR

3040 25462
3500 25462
3520 25462
4700 26653

PUBLIC LAND ORDERS:

5617 22365

43 CFR—Continued

PROPOSED RULES:

29 26441

45 CFR

4 22145
84 ..... 22676, 22888
144 25862
146 26206
155 26536
157 26541
159 26546
233 26426
250 23508
304 26427
500 24740
531 24740
1060 23151
1061 27593
1067 22365
1068 22145
1071 25733
1611 ..... 24271, 25734

PROPOSED RULES:

100a 27625
144 24291
166 22336
168 24291
175 24291
176 24291
178 24291
178a 24291
187 24758
190 24291
191 25881
199 27625
1470 27626

46 CFR

10 26985
12 24741
32 25734
35 25734
148 22145
502 23509

PROPOSED RULES:

10 22903
12 22903
25 26229
30 24874
32 24874
33 26229

46 CFR—Continued

PROPOSED RULES—Continued

35 23517
50 22296
54 22296
56 22296
58 22296
61 22296
75 26229
94 26229
107 22296
108 22296
109 22296
151 22903
153 23518
161 26229
164 26229
167 26229
180 26229
192 26229
502 ..... 22383, 26664

47 CFR

1 25735
2 ..... 23509, 24054, 27200, 27628
19 ..... 25735, 26216
73 ..... 22558, 24055, 24272, 24273, 25505, 25736, 26655
74 22558
76 23510
81 ..... 22869–22872, 23510
83 ..... 22869–22872, 23510, 26656
87 ..... 23509, 24054
89 27206
91 ..... 24274, 27206
93 27206
94 24276

PROPOSED RULES:

2 27628
21 25341
31 ..... 24291, 26444
61 23615
64 ..... 23615, 25741
68 25342
73 ..... 22183, 22560, 23165, 25342, 25343, 25742, 26232, 26665–26667, 27268, 27629
76 23519
83 25879
89 ..... 25881, 26030
91 ..... 25881, 26030
93 ..... 25881, 26030

47 CFR—Continued

PROPOSED RULES—Continued

95 ..... 25881, 27629
97 27628

49 CFR

1 22366
99 24277
172 ..... 22366, 22880
175 ..... 22366, 22880
211 27593
228 27594
Ch. III 26428
581 24056
1002 25862
1003 25862
1033 ..... 22367, 22368, 22880, 24278, 25325, 26656, 26657, 27247
1036 ..... 23511, 25326, 26985
1041 22369
1043 25862
1045A 25862
1048 24741
1100 ..... 23806, 25862, 27598
1121 25327
1125 26657
1320 ..... 22369, 23840
1322 ..... 22369, 23842

PROPOSED RULES:

171 27002
193 24758
218 24293
Ch. II 22184, 25743
571 27003
1047 26667
1082 26667

50 CFR

23 26659
26 23151
33 ..... 22874, 24060, 25736, 25737, 26428, 26429, 27599
216 24742
280 25863
611 26580
661 ..... 26580, 27599

PROPOSED RULES:

17 27003–27009
20 26669
32 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date	Pages	Date	Pages	Date
22125–22354	May 2	23795–24044	11	25849–26194	20
22355–22556	3	24045–24227	12	26195–26405	23
22557–22858	4	24229–24709	13	26407–26644	24
22859–23125	5	24711–25312	16	26645–26968	25
23127–23497	6	25313–25485	17	26969–27197	26
23499–23596	9	25487–25717	18	27199–27564	27
23597–23794	10	25719–25848	19	27565–27874	31

UMI

INDEX

UMI



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INDEX

UMI

code of federal regulations

Cumulative List of CFR Sections Affected

May 1977

CONTAINING:

TITLES 1–16
Changes January 3, 1977
through May 31, 1977

TITLES 17–27
Changes April 1, 1977
through May 31, 1977

TITLES 28–41
Changes July 1, 1976
through May 31, 1977

TITLES 42–50
Changes October 1, 1976
through May 31, 1977

PARALLEL TABLE OF U.S.C.–C.F.R.

CODE

UMI

CUMULATIVE LIST OF CFR SECTIONS AFFECTED

The CUMULATIVE LIST OF CFR SECTIONS AFFECTED is designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

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Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

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Cite a page reference from this publication as 41 FR for 1976 page numbers and 42 FR for 1977 page numbers. Example: Page 5678 cite as 42 FR 5678 if it is a 1977 page number.

ISSUES TO BE SAVED

There is no single annual issue of the CUMULATIVE LIST OF CFR SECTIONS AFFECTED. Four publications must be saved: the DECEMBER issue is the annual for Titles 1–16; the MARCH issue is the annual for Titles 17–27; the JUNE issue is the annual for Titles 28–41; the SEPTEMBER issue is the annual for Titles 42–50.

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

A table is included after Title 50 which contains references to the U.S. Code sections cited as authority for CFR regulations added or revised since January 2, 1976.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the inclusive page numbers and corresponding dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly, quarterly, and annually for the calendar year. A separate volume, the CFR INDEX to the entire Code of Federal Regulations, is revised as of July 1 each year.

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SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

(Comprising a complete CFR set)

Title	Price	Revision Date
1, 2 (2 Reserved)	$1.65	Jan. 1, 1977
3 (Compilation of 1976 Presidential documents)	3.00	Jan. 1, 1977
4	3.25	Jan. 1, 1977
5	4.70	Jan. 1, 1977
6	.95	Jan. 1, 1977
7 (Parts 0–45)	5.30	Jan. 1, 1977
(Parts 46–51)	4.20	Jan. 1, 1977
(Part 52)	5.20	Jan. 1, 1977
(Parts 53–209)	5.80	Jan. 1, 1977
(Parts 210–699)	6.10	Jan. 1, 1977
(Parts 700–749)	4.10	Jan. 1, 1977
(Parts 750–899)	1.80	Jan. 1, 1977
(Parts 900–944)	4.25	Jan. 1, 1977
(Parts 945–980)	2.40	Jan. 1, 1977
(Parts 981–999)	2.50	Jan. 1, 1977
(Parts 1000–1059)	4.25	Jan. 1, 1977
(Parts 1060–1119)	4.40	Jan. 1, 1977
(Parts 1120–1199)	3.20	Jan. 1, 1977
(Parts 1200–1499)	4.20	Jan. 1, 1977
(Part 1500–End)	7.25	Jan. 1, 1977
8	2.60	Jan. 1, 1977
9	6.80	Jan. 1, 1977
10 (Parts 0–199)	4.40	Jan. 1, 1977
(Part 200–End)	4.60	Jan. 1, 1977
11	1.35	Jan. 1, 1975
12 (Parts 1–299)	7.40	Jan. 1, 1977
(Part 300–End)	7.30	Jan. 1, 1977
13	4.20	Jan. 1, 1977
14 (Parts 1–59)	6.00	Jan. 1, 1977
(Parts 60–199)	5.10	Jan. 1, 1977
(Parts 200–1199)	6.20	Jan. 1, 1977
(Part 1200–End)	2.20	Jan. 1, 1977
15	5.35	Jan. 1, 1977
16 (Parts 0–149)	5.50	Jan. 1, 1977
(Parts 150–999)	4.25	Jan. 1, 1977
(Part 1000–End)	3.00	Jan. 1, 1977
17	6.00	Jan. 1, 1976
18 (Parts 1–149)	4.85	April 1, 1976
(Part 150–End)	4.10	April 1, 1976
19	5.75	April 1, 1977
20 (Parts 1–399)	2.45	April 1, 1976
(Part 500–End)	4.00	April 1, 1977
21 (Parts 1–99)	3.25	April 1, 1977
(Parts 100–199)	5.20	April 1, 1976
(Parts 200–299)	2.10	April 1, 1976
(Parts 300–499)	5.95	April 1, 1976
(Parts 500–599)	3.75	April 1, 1976
(Parts 600–1299)	3.50	April 1, 1977
(Part 1300–End)	1.90	April 1, 1976
22	4.20	April 1, 1976
23	5.50	April 1, 1977
24 (Parts 0–499)	6.65	April 1, 1976
(Part 500–End)	6.90	April 1, 1976
25	5.25	April 1, 1976
26 (Part 1 §§ 1.0–1—1.169)	5.95	April 1, 1976
(§§ 1.170—1.300)	3.90	April 1, 1976
(§§ 1.301—1.400)	3.30	April 1, 1976
(§§ 1.401—1.500)	3.55	April 1, 1976
(§§ 1.501—1.640)	4.05	April 1, 1976
(§§ 1.641—1.850)	4.45	April 1, 1976

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

CODE
UMI

(Comprising a complete CFR set)

Title	Price	Revision Date
26 (Con.) (Part 1 §§ 1.851—1.1200)	$6.05	April 1, 1976
(Part 1 §§ 1.1201–End)	6.95	April 1, 1976
(Parts 2–29)	4.05	April 1, 1976
(Parts 30–39)	3.45	April 1, 1976
(Parts 40–299)	5.40	April 1, 1976
(Parts 300–499)	3.60	April 1, 1976
(Parts 500–599)	3.15	April 1, 1974*
(Part 600–End)	2.20	April 1, 1976
27	7.70	April 1, 1976
28	3.10	July 1, 1976
29 (Parts 0–499)	7.30	July 1, 1976
(Parts 500–1899)	5.50	July 1, 1976
(Parts 1900–1919)	7.55	July 1, 1976
(Part 1920–End)	4.05	July 1, 1976
30	4.80	July 1, 1976
31	5.65	July 1, 1976
32 (Parts 1–39 (V.I)	5.80	Nov. 1, 1975
(V.II)	7.40	Nov. 1, 1975
(V.III)	5.10	Nov. 1, 1975
(Parts 40–399)	6.50	July 1, 1976
(Parts 400–589)	5.20	July 1, 1976
(Parts 590–699)	3.10	July 1, 1976
(Parts 700–799)	7.85	July 1, 1976
(Parts 800–999)	6.05	July 1, 1976
(Parts 1000–1399)	2.20	July 1, 1976
(Parts 1400–1599)	3.65	July 1, 1976
(Part 1600–End)	1.95	July 1, 1976
32A	2.90	July 1, 1976
33 (Parts 1–199)	6.20	July 1, 1976
(Part 200–End)	5.85	July 1, 1976
34	1.00	Nov. 30, 1976
35	3.50	July 1, 1976
36	3.40	July 1, 1976
37	2.20	July 1, 1976
38	7.20	July 1, 1976
39	2.75	July 1, 1976
40 (Parts 0–49)	3.15	July 1, 1976
(Parts 50–59)	6.80	July 1, 1976
(Parts 60–99)	5.70	July 1, 1976
(Parts 100–399)	4.50	July 1, 1976
(Part 400–End)	6.70	July 1, 1976
41 Chapters 1–2)	5.70	July 1, 1976
(Chapters 3–6)	5.90	July 1, 1976
(Chapter 7)	1.85	July 1, 1976
(Chapter 8)	1.80	July 1, 1976
(Chapter 9)	4.35	July 1, 1976
(Chapters 10–17)	4.15	July 1, 1976
(Chapter 18)	7.60	July 1, 1974*
(Chapters 19–100)	3.55	July 1, 1976
(Chapter 101–End)	6.80	July 1, 1976
42	5.95	Oct. 1, 1976
43 (Parts 1–999)	3.10	Oct. 1, 1976
(Parts 1000–End), 44 (44 Reserved)	6.00	Oct. 1, 1976
45 (Parts 1–99)	3.45	Oct. 1, 1976
(Parts 100–199)	10.00	Oct. 1, 1976
(Parts 200–499)	3.15	Oct. 1, 1976
(Part 500–End)	6.40	Oct. 1, 1976
46 (Parts 1–29)	2.15	Oct. 1, 1976
(Parts 30–40)	2.20	Oct. 1, 1976
(Parts 41–69)	4.00	Oct. 1, 1976

*No amendments to this volume were promulgated in the FEDERAL REGISTER in the 1975–1976 revision period. The CFR volume issued in 1974 should be retained.

(Comprising a complete CFR set)

Title	Price	Revision Date
46 (Con.) (Parts 70–89)	2.10	Oct. 1, 1976
(Parts 90–109)	1.95	Oct. 1, 1976
(Parts 110–139)	1.90	Oct. 1, 1976
(Parts 140–165)	4.00	Oct. 1, 1976
(Parts 166–199)	2.65	Oct. 1, 1976
(Part 200–End)	7.25	Oct. 1, 1976
47 (Parts 0–19)	3.80	Oct. 1, 1976
(Parts 20–69)	5.00	Oct. 1, 1976
(Parts 70–79)	4.90	Oct. 1, 1976
(Part 80–End), 48 (48 Reserved)	6.20	Oct. 1, 1976
49 (Parts 1–99)	2.05	Oct. 1, 1976
(Parts 100–199)	6.50	Oct. 1, 1976
(Parts 200–999)	7.55	Oct. 1, 1976
(Parts 1000–1199)	3.95	Oct. 1, 1976
(Parts 1200–1299)	7.40	Oct. 7, 1976
(Part 1300–End)	3.60	Oct. 1, 1976
50	4.20	Oct. 1, 1976
CFR Index	3.20	July 1, 1976
Finding Aids	3.05	Jan. 1, 1976
List of Sections Affected, 1949–1963	13.50	1966

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

CODE

UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

TITLE 1—GENERAL PROVISIONS

Page

Chapter IV—Miscellaneous Agencies (Privacy Regulations)

406 Added ---------- 14857
440 Added ---------- 11231
441 Added ---------- 11231
455 Revised ---------- 7921
460 Added ---------- 15405

Title 1—*Proposed Rules:*
438 ---------- 14736
442 ---------- 1267
460 ---------- 9388

TITLE 3—THE PRESIDENT

Proclamations

852 *See* PLO 5615---------- 18859
4313 *See* EO 11967---------- 4393
4357 Superseded by Proc. 4492-- 15889
4423 *See* Proc. 4482---------- 4309
4481 ---------- 4307
4482 ---------- 4309
4483 ---------- 4391
See EO 11967---------- 4393
4484 ---------- 6577
4485 ---------- 6789
Natural gas emergency Terminated by Proc. 4495------- 18053
4486 ---------- 9153
Correctly designated---------- 9375
4487 ---------- 9657
4488 ---------- 9987
4489 ---------- 11805
4490 ---------- 13265
4491 ---------- 15677
4492 ---------- 15889
4493 ---------- 16125
4494 ---------- 16769
4495 ---------- 18053
4496 ---------- 18855
4497 ---------- 19315
4498 ---------- 19317
4499 ---------- 19319
4500 ---------- 19475
4501 ---------- 20111
4502 ---------- 20281
4503 ---------- 21085
4504 ---------- 21467

Executive Orders

4949 Revoked in part by PLO 5616 ---------- 21612
10407 Revoked by EO 11968---- 6787
10480 Amended by EO 11956---- 2947
10672 Revoked by EO 11968---- 6787
10900 Amended by EO 11963---- 4325

Page
10973 Amended by EO 11959---- 4315
11269 Amended by EO 11977---- 14671
11296 Revoked by EO 11988---- 26951
11322 *See* EO 11978---------- 15403
11419 Amended by EO 11978---- 15403
11460 Revoked by EO 11984---- 23129
11490 Amended by EO 11953---- 2492
11501 Revoked by EO 11958---- 4311
11514 *See* EO 11988---------- 26951
See EO 11990---------- 26961
Amended by EO 11991---------- 26967
11532 Superseded by EO 11981- 17095
11644 Amended by EO 11989---- 26959
11651 Amended by EO 11951---- 1453
11718 Revoked by EO 11966---- 4331
11724 Superseded by EO 11954-- 2297
11793 Revoked by EO 11957---- 3295
11803 *See* EO 11967---------- 4393
11808 Revoked by EO 11975---- 13267
11821 Amended by EO 11949---- 1017
11832 Amended by EO 11979---- 16771
Amended by EO 11980---------- 16773
11861 Amended by EO 11976---- 14081
Amended by EO 11983---------- 23127
Amended by EO 11986---------- 26407
11863 Revoked by EO 11968---- 6787
11872 Revoked by EO 11983---- 23127
11888 Amended by EO 11960---- 4317
Amended by EO 11974---------- 11230A
11889 *See* EO 11979---------- 16771
11905 Amended by EO 11985---- 25487
11906 *See* EO 11960---------- 4317
See EO 11974---------- 11230A
11921 *See* EO 11953---------- 2492
11934 *See* EO 11960---------- 4317
See EO 11974---------- 11230A
11949 ---------- 1017
11950 ---------- 1451
11951 ---------- 1453
11952 ---------- 2293
Corrected ---------- 4809
11953 ---------- 2492
11954 ---------- 2297
11955 ---------- 2499
11956 ---------- 2947
11957 ---------- 3295
11958 ---------- 4311
11959 ---------- 4315
11960 ---------- 4317
Revoked by EO 11974---------- 11230A
11961 ---------- 4321
11962 ---------- 4323
11963 ---------- 4325
11964 ---------- 4327
11965 ---------- 4329
11966 ---------- 4331
11967 ---------- 4393
11968 ---------- 6787

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Page
11969 ---------- 6791
11970 ---------- 7919
11971 ---------- 9155
Amended by EO 11982---------- 22859
11972 ---------- 9659
Amended by EO 11993---------- 27197
11973 ---------- 10677
11974 ---------- 11230A
11975 ---------- 13267
11976 ---------- 14081
11977 ---------- 14671
11978 ---------- 15403
11979 ---------- 16771
11980 ---------- 16773
11981 ---------- 17095
11982 ---------- 22859
11983 ---------- 23127
11984 ---------- 23129
11985 ---------- 25487
11986 ---------- 26407
11987 ---------- 26949
11988 ---------- 26951
11989 ---------- 26959
11990 ---------- 26961
11991 ---------- 26967
11992 ---------- 27195
11993 ---------- 27197

Memorandums

February 19, 1977---------- 21087
March 10, 1977---------- 13801
April 1, 1977---------- 18269
April 1, 1977 (Pres. Det. No. 77-13) ---------- 21089
May 4, 1977---------- 23499
May 19, 1977---------- 26195

Reorganization Plans

1958 Plan No. 1 *See* EO 11953--- 2492
1965 Plan No. 4 *See* EO 11977-- 14671
1973 Plan No. 1 *See* EO 11953--- 2492

Salary Recommendations ----- 10297

TITLE 4—ACCOUNTS

Chapter III—Cost Accounting Standards Board

415.80 Revised ---------- 18857

Title 4—*Proposed Rules:*
331 ---------- 6591, 9389, 10318
332 ---------- 9389, 10318
351 ---------- 9389, 10318
401 ---------- 9389, 10318
402 ---------- 9389, 10318
403 ---------- 9389, 10318

Page
404 ---------- 9389, 10318
405 ---------- 9389, 10318
406 ---------- 9389, 10318
407 ---------- 9389, 10318
408 ---------- 9389, 10318
409 ---------- 9389, 10318
413 ---------- 6594

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

213.3102 (r) revised---------- 13533
(hh) revised---------- 24743, 25314
213.3103 (f)(1) added---------- 14083
213.3107 (e) removed---------- 3827
213.3109 (b)(1) added---------- 1455
213.3113 (f)(6) revised---------- 17414
213.3114 (d)(1) revised ---------- 7922
(b)(4) revised---------- 9989
(c)(1) removed; (j)(3) added-- 21759
(h)(10) revised---------- 25870
213.3115 (b)(1) revised---------- 1455
213.3116 (g)(2) revised ---------- 6793
213.3132 (c) revised---------- 21759
213.3182 (b)(14) removed- 7922, 10316
213.3195 (a) revised ---------- 9989
Removed ---------- 20810
213.3207 (b) added---------- 3827
213.3209 (c) added---------- 18607
213.3214 (c)(1) revised---------- 21759
213.3270 Added ---------- 19147
213.3272 (a) revised---------- 18607
213.3273 (a) removed---------- 26409
213.3274 (a)(1) revised ---------- 9989
213.3282 (b)(5) added; (b)(2) revised ---------- 7922
(b)(6) and (7) added---------- 16127
213.3302 Added ---------- 2949
(b) revised---------- 19147
213.3303 (a)(4) removed; (a)(7) and (8) revised; (a)(17) added ---------- 20809
(d) added---------- 27206
213.3304 (a)(25) added ---------- 3297
(a)(4) added---------- 6793
(c)(2) added---------- 9175
(a)(26) and (h)(4) added---- 16613
(u)(1) revised---------- 17414
(a)(11) revised---------- 22355
(a)(27) added---------- 26409
(a)(5) added---------- 27206
(h)(5) added---------- 27207
213.3305 (a)(26) added---------- 15053
(a)(18) revised---------- 27207

CODE
UMI

Title 5, Chapter I—Continued

	Page
213.3306 (a)(81) added	5967
(a)(19) removed	6793
(a)(82) Added	9990
(a)(8) revised	15406
(a)(2) revised	21760
(a)(83) revised	23131
(a)(2) revised; (a)(59) removed; (a)(84) added	27599
213.3307 (b) added	6793
(a)(5) added	16127
(b)(2) added	25313
213.3310 (a)(9) revised	19853
(q)(2) added	27208
213.3311 Added	20809
213.3312 (a)(46) added	25314
(a)(8) revised	27207
213.3313 (h)(9) added	10317
(n)(1) revised	15406
(n)(1) corrected	16613
(u)(1) added	20809
(a)(37) and (38) added; (h)(8) removed	25313
(a)(39) added	27207
213.3315 (a)(1) revised	9989
(a)(1) revised	16127
(a)(13) added	19853
(a)(1) revised	21760
(a)(52), (53), and (54) added	22355
213.3316 (a)(7) added	13533
(a)(7) revised	18082
(s)(1) added	25870
213.3317 (d) added	3827
213.3322 (b) added	27207
213.3327 (a)(1) and (6) through (8) revised	3827
213.3337 (a)(7) added	13533
213.3339 (e) revised	9989
(a) and (b) revised	20809
(h) added	22356
213.3348 (e) added	3827
213.3359 (j) added	21759
213.3360 (e) added	9013
(e) revised	9175
(a) revised	15053
213.3370 Added	26409
213.3384 (a)(61) added	5968
(a)(27) revised	16127
(a)(24) revised	18608
(a)(9) revised; (a)(62) added	19853
(a)(63) added	20809
(j) introductory text amended; (a)(64), (j) (4) and (5) added; (k)(1) removed	22355
(b) (18) and (19) added	25313
(b)(20) added	25869
(b)(21) added	25870
(a) (6), (65), (66) and (b)(22) added	27207
213.3388 (p) added	19853
(o)(2) added	19854
(a)(4) added	21759
(j)(3) added	25870
213.3394 (a)(21) revised	19854
213.3396 (a)(2) revised	15053
295 Added	13009
295.202 (a)(3) corrected	14083
295.208 Corrected	14083
295.401 (a) corrected	14083
430 Revised	18608
550.301 (m) added	10317
550.312 (a) revised	10317
550.371 (b)(3) revised	23131
550.381—550.583 Undesignated center heading and text added	10317
550.801—550.805 (Subpart H) Revised	16127
610.101 Revised	3297
610.201 Revised	3297
610.202 Revised	3297
713.204 (d)(6) revised	11808
713.212 (b) revised	11808
713.251 Undersignated heading and section revised	11808
713.514 Revised	19147
713.601—713.643 (Subpart F) Added	11808
831.801—831.803 (Subpart H) Revised; eff. 10-1-76	6793

Chapter IV—Advisory Committee on Federal Pay

Chapter established	2299
1410 Added	2299

Title 5—*Proposed Rules:*

302	15417
552	19882, 21789
733	23160
900	8644

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

1.1—1.16 (Subpart A) Appendix A revised	23597
1.52 (c) revised	10299
1.130—1.151 (Subpart H) Added	743
Technical correction	5341
1.131 (a) introductory text revised	15406

	Page
2.35 (a) revised	4395
2.60 (b) introductory text and (1) revised	2968
(b)(2) revised	26645
6.15—6.33 (Subpart) Nomenclature change	9377
6.16 Revised	22874
6.20—6.33 Appendix 1 amended	22874
6.21 (j) revised	9377
6.23 (b) revised	9377

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices, Department of Agriculture

26.71 Revised	1019
26.72 Revised	1021
26.73 Revised	1021
26.303 (b) amended	9379
26.651—26.659 Undesignated center heading and text added	9377
26.656 Table and footnotes revised	10996
28.2 (l) revised	24711
28.20—28.24 Undesignated center heading and text revised	24711
28.25 Introductory text, (h) and (i) amended	24712
28.31 Revised	24712
28.906 Revised	24712
28.907 Revised	24712
28.908 (e) and (f) revised	24712
28.911 Revised	24712
29.1 (e) revised	17097
29.2 Introductory text and (a) revised	17097
29.3 (a) revised	17098
29.1001—29.1225 (Subpart C) Revised	21092
52 Editorial changes	22356
53.29 (a) amended	27208
55.10 Revised	2969
55.80 Amended	2969
55.90 (a)(3) amended	2969
55.170 Amended	2969
55.330 (c) removed; (d) redesignated as (c)	2969
55.500 (a) revised	2969
55.530 Revised	2969
55.560 (a)(4) and (b)(3)(v) removed; (a)(5) redesignated as (a)(4); (b)(3)(iv) revised	2969
56.1 Amended	2970
56.3 (a) revised	2970
56.4 (b) removed; (c) redesignated as (b)	2970
56.10—56.18 Undesignated center heading revised	2970
56.11 Revised	2970
56.13 Revised	2970
56.15 Revised	2970
56.16 Revised	2970
56.20—56.27 Undesignated center heading revised	2970
56.20 Revised	2970
56.21 Revised	2970
56.24 Amended	2970
56.27 Amended	2970
56.30 Revised	2970
56.31 (a)(1)(i) revised	2970
56.35 (a) revised	2970
56.36 (a)(3) revised	2971
56.38 Removed	2971
56.39 Revised	2971
56.42 (a)(6) removed; (a)(7) redesignated as (a)(6)	2971
56.45 (a) revised	2971
56.49 Revised	2971
56.52 (a) (4) and (7), and (b)(3)(v) removed; (a) (5) and (8) redesignated as (a) (4) and (5); (b)(3)(iv) revised	2971
56.54 (a)(3) and (b)(3)(v) removed; (a)(4) redesignated as (a)(3); (b)(3)(iv) revised	2971
56.210 (g) revised	2971
58.2621—58.2635 (Subpart P) Revised	5968
59.10 Revised	2971
59.119 Amended	2971
59.148 Amended	2971
59.417 (c) removed; (d) redesignated as (c)	2971
68.2 (e), (f), and (u) revised	12033
68.5 Revised	12033
68.42a Revised	12033
68.43 Revised	12035
68.44 Revised	12035
68.45 Revised	12035
68.46 Revised	12035
68.49 Revised	12035
70.11 Removed	2971
70.75 Revised	2971
70.76 (a)(3) removed; (a)(4) redesignatd as (a)(3)	2971
70.77 (a)(4) removed; (a) (5) through (7) redesignated as (a) (4) through (6)	2971
75 Added	19864
102.2 (q) and (r) revised	12143
102.65 (b) revised	12143
102.67 Revised	12143
102.75 Revised	12144
107.2 (m) and (n) revised	26646

90-120 O - 77 - 2

CODE

UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 7, Chapter I—Continued

Page

107.60 (c) removed; (d), (e), and (f) redesignated as (c), (d) and (e) 26646
107.74 Revised 26646
180.2 (c) revised 9157
180.6 (c) and (d) added 9157
180.7 (a) amended 9157
180.11 (b) revised 9157
180.20 (a) amended 9157
180.22 Amended 9157
180.100 (a) removed 9157
180.101 (b) removed 9157
180.103 Amended 9158
180.178 Amended 9158

Chapter II—Food and Nutrition Service, Department of Agriculture

210.2 (n-3) added 2972
210.8 Heading and (e) revised 27565
210.11 (e) and (f) removed; (g) and (h) redesignated as (e) and (f); (b), (c), and (d) revised 2972
210.15 Revised 2972
210.20 (c) and (d) revised; (g) added 15053
215.16 (d) and (e) revised; (g) added 15054
220.16 Nomenclature changed 27565
220.21 (c) and (d) revised; (g) added 15054
225 Revised 11813
225.18 (d) and (e) revised; (g) added 15054
226.31 (d) and (e) revised; (g) added 15054
226 Appendix C added 1475
230 Appendix amended 23155
230.19 (d) and (e) revised; (g) added 15054
(d) and (e) correctly designated 18587
245.1 (a) amended 20810
245.4 Added 20810
246.21 (d)(4), (5), (6) and (7) revised 15054
250.11 Amended 15055
270.2 (ll) and (mm) restored to prior status 6817
(u) revised; eff. 10-1-76 14083
270.5 (b)(3) and (4) revised: (b)(7) added 15055
271.1 (n)(2) restored to prior status 6817
271.3 Restored to prior status 6817
(d)(8) removed 26409
271.4 Restored to prior status 6817
271.6 Restored to prior status 6817
(d)(2) revised; eff. 10-1-76 14083
271.7 Restored to prior status 6817
271 Appendixes A through F restored to prior status 6817
Appendix A revised 22357
Appendix B revised 26002
Appendix C revised 26003
Appendix D revised 26004
Appendix E revised 26005
Appendix F revised 26007
272.1 (i) added 20283
(g) removed; (h) redesignated as (g); new (h) added 23599
272.2 (e)(8) added 20284
272.3 (b) redesignated as (d); new (b), (c) and (e) added 20284
272.6 (c), (d), and (e) revised 8629
(b) amended 20284
272.7 (f) added 20284
273.7 (a) and (d) revised; (b) amended 8629
273.8 (a)(1) and (f) revised 8629
295.3 Amended 23155
295.7 Revised 23155
295.8 (b) and (e) revised; (g) and (h) added 23155
295.9 (a), (b), and (d) revised 23155

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

301.52-2a Revised 13533
Corrected 25849
301.85-2a Revised 16613
354.1 (a) amended 1475
354.2 Revised 15055
Corrected 18587
Table amended 25314

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

401.101 Appendix amended 9990-9997
401.103 (b) amended 26197
401.104 (a) corrected 4111
402.1 Appendix amended 9997
403.40 Appendix amended 9997
404.20 Appendix amended 9997
406.1 Appendix amended 9997
408.1 Appendix amended 9997
409.30 Appendix amended 9998
410 Revised 24713
410.1 Appendix amended 9998
413.20 Appendix amended 9998

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Chapter VI—Soil Conservation Service, Department of Agriculture

Page

601.1 (h) added 3845
622.22 Revised 12036

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

701.2 (f) amended 5970
701.4 (b) and (c) removed; (a) designation removed 5970
701.5 Amended 5970
701.6 Text designated as (a); (b) added 5970
701.13 (d) added 5970
701.16 (h) revised 5970
701.21 (a), (b), and (c)(2) amended 5970
701.29 Amended 5970
701.32 (a) amended 5970
701.34 (b) amended 5970
701.35 (b) revised 5971
701.69 Heading revised; text designated as (a); (b) added 5971
701.70 Revised 5971
701.85—701.96 (Subpart) Added 22358
718 Revised 2973
722.564 (Subpart) Heading and text revised 1476
722.704 (h) added 18055
722.709 (a) amended 18055
722.805 (b)(1) amended, (b)(2) revised 17414
723.1 Revised 6818
723.2 Revised 6818
723.11—723.12 Undesignated center heading and sections revised 6819
723.21 Revised 27208
723.51—723.66 (Subpart) Revised 17414
724.5 Revised 6821
724.12—724.17 Undesignated center heading and sections revised 6822
724.21 Revised 27209
724.52 Revised 9158
724.57 (b)(1)(ii) removed; (b)(1)(iii) redesignated as (b)(1)(ii) 9158
724.69 (t) removed; (f) revised 9158
724.70 (x) removed 9158
724.71 (d) revised 9158
724.72 (a)(2)(i) removed; (a)(2)(ii), (iii) and (iv) redesignated as (a)(2)(i), (ii), and (iii) 9158
724.73 Amended 9158
724.81 (e)(3)(ii) amended; (e)(3)(iii) removed 9158
724.88 (h) added 9158
725.3 Revised 10996
725.4 Removed 10996
725.50 Amended 27566
725.53 Revised 27566
725.61 Removed 27566
725.66 (b) amended; (c) removed 27566
725.68 (d) amended 27566
725.72 (c)(3)(ii) amended; (c)(3)(iv) and (v) added; (l) revised 27566
725.87 (f) amended; (d) revised; (g) added 27566
725.95 (b) amended 27567
725.98 (a) amended 27567
725.99 (a)(4)(v) removed; (a)(4)(xvii) undesignated text amended; (a)(8) and (k) revised 27567
725.100 (b)(1)(ii), (c)(3), and (f)(1) revised 27567
725.102 (a) revised 9159
725.116 Added 9159
726.1 Revised 6824
726.11—726.21 Undesignated center heading revised 6824
726.11 Revised 6824
726.21 Revised 27209
726.55 Revised 2300
726.56 (b) revised 2300
726.57 Revised 2300
726.60 Revised 2300
726.61 Revised 2301
726.64 (e) amended 2301
726.68 (j) removed 2301
726.86 (c) revised 2301
726.95 (a) revised 2301
728.10 Revised 17419
728.301 Added 20811
728.302 Added 20811
729.22 (a) through (c) revised 750
729.43 (b)(5) added 750
729.69 (b) revised; (s) removed 750
729.106 Revised 17419
730.1—730.32 (Subpart) Undesignated heading and text revised 2301
731 Removed 13534
775.10 Revised 17420
794.2 (a) and (b) revised 17421
794.3 (a) introductory text, (a)(4), and (b) amended 17421

CODE
UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 7—Continued

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

Page

900.16 Revised 10833
905.564 (a)(8) and (b)(8) revised 5072
(a)(1), (5) and (8) and (b)(1), (5), and (8) revised 8361
(a)(6) revised 9663
(a)(1), (3), (5), (7), (9), and (b)(1), (3), (5), (7), and (9) revised 10833
(a)(7) and (b)(7) revised; eff. 4-1—8-14-77 18271
(a)(9) and (b)(9) revised 24716
905.565 (a)(2) revised 9663
(a)(4) revised; (a)(5) added 10834
(a)(3) and (4), (b)(3), and (c) revised 14866
(a)(1) and (b)(1) revised; eff. 4-1—8-14-77 18271
(a)(3) and (b)(3) revised 21469
(a)(1) and (3) and (b)(1) and (3) revised 24716
905.566 (a)(2) revised 1023
(a)(2) revised 8361
(a)(1) and (b)(1) revised 10834
905.567 (a)(2) revised 9663
(a)(1) and (b)(1) revised 10834
906.359 (a) introductory text and (2) revised 6363
907.110 (e) corrected 13803
907.214 Added 13012
907.685 Revised; eff. 1-28—2-24-77 6363
907.691 Added 3846
Revised; eff. 1-28—2-24-77 6364
908.100 (e) revised; (h) added 20473
908.102 (a) introductory text revised 20473
908.108 (a) revised 20473
908.110 (c), (d), and (e) revised; (f) amended 20474
908.112 Amended 20474
908.113 (a) and (c) revised 20474
908.117 (c) revised 20474
908.130 Revised 20474
908.132 Revised 20474
908.133 Heading, (a), and (c) revised 20475
908.141 Amended 20475
908.216 Added 20811
908.853 Added 17127
908.854 Added 21101

Page

910.180 (d)(3) added 10680
910.392 (b)(1) revised 26410
911.339 Added 21786
912.8 Revised 4811
912.24 (b) redesignated as (c); new (b) added 4812
912.25 Revised 4812
912.32 (b) revised 4812
912.41 (a) revised 4811
912.50 Revised 4811
912.124 Added 10299
915.319 Added 27210
916.110 (b)(5) revised 23157
916.351 Added 24229
917.116 Revised 3625
917.122 Added 3625
917.143 (b)(5) revised 22875
917.419 (a)(4)(ii), (5), and introductory text of (6) revised 23157
917.442 (b)(3)(i), (ii), and (4) revised; (b)(5) removed; (b)(6) through (8) redesignated as (b)(5) through (7) and revised 23157
917.443 Added 24230
917.444 Added 26646
918.319 Added 21268
923.315 (a) and (b) introductory texts revised 27568
928.152 (a)(3) and (4) revised. Revised 3 17422
928.206 Added 2665
928.307 Added 2
929.304 Added 21787
930.109 (c) revised 3626
930.591 Introductory text revised 3626
944.17 Added 27214
944.113 (a)(1) and (2) revised; (3) added 9664
(a)(3) revised; (a)(4) added; eff. 3-11 to 8-14-77 14867
(a)(1) revised 18272
(a)(3) revised 21469
(a)(1) and (3) revised 24717
944.133 (a)(1) through (4) revised 10835
944.205 Added 21787
946.331 (a)(2)(iii) removed; (a)(3), (c), and (d) revised; (e)(5) added 7923
953.214 Added 25720
959.217 Added 2308
(b) revised 22126
959.317 Added 4396
(c)(3) and (f)(4) revised; (f)(5) amended 12412

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Page

966.315 (a)(2)(i) revised 5073
971.216 (b) revised 2666
971.317 Introductory text amended 3626
Introductory text amended; eff. 2-6 to 2-13-77 8362
980.115 Revised 10300
980.211 (a)(1) revised 5073
981.48 Removed 19322
981.226 Revised 3847
981.300 Removed 19322
981.441 (b), (d), (e), and (g) revised 5342
Nomenclature change 5343
981.442 Added 3160
(a)(6) amended 5677
981.450 Revised 19322
981.453 Removed 19322
981.455 Revised 19322
981.467 Revised 19322
981.472 (a) amended; (b) revised 19322
981.473 Revised 19322
981.474 Revised 19322
987.224 Added 9160
991.215 Added 18857

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

1002.50a Introductory text and (a) revised 11823
1002.80 (a) through (d) redesignated as (c) through (f); introductory text designated as (a) and revised; new (b) added 11823
1002.85 Revised 11823
1002.86 Revised 11823
1002.90 Revised 11823
1006.7 Introductory text and (b) amended; (c) redesignated as (d); new (c) added 21603
1030.7 (b)(4) and (7)(iii) amended 13103
1033.7 Revised 11234
1033.8 Revised 11234
1033.12 (a)(2)(i), (ii), (iii) revised; (b) amended 11235
1033.41 (c)(1) revised 11235
1033.60 (g) amended 11235
1033.72 (c-1) added 11235
1040.93 (d)(3) revised 10680
1063 Removed 17423
1068.73 (a)(4) suspended from May 1977 through Oct. 1977 22360

Page

1070 Removed 17423
1076.7 (c) revised 27215
1078 Removed 17423
1079 Revised 17423

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

1205.302 Revised 4813
1205.327 (b) amended 4813
1205.330 Revised 4813
1205.331 Revised 4813
1205.334 (c) amended 4813
1260.101—1260.187 (Subpart) Added 19876
Referendum 27569
1260.200—1260.217 (Subpart) Added 25315

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

1409 Added 14673
1421.75 Revised 10997
1421.113 (a) revised 10301
(a) corrected 14867, 16775, 25720
1421.237 (a) revised 10307
(a) corrected 16775
1421.273 (a) revised 10304
1421.280—1421.289 Revised 24231
1421.327 Revised 18055
1421.353 (a) revised 10309
1421.488 (a) revised 4397
(a) table corrected 6364
(a) corrected 22126
1430.282 (a)(1) revised 3
Revised 22127
1464.7 Revised 23795
1472.1405 (e) added 20113
1472.1421 (e) added 20114
1472.1446 (d) added 20114
1473 Revised 2978
1488 Revised 10999
1488.1—1488.22 (Subpart A) Supplement II corrected 13535
1488.8 (a) and (f) amended 27569
1488.12 (a) revised; (b) and (f) amended 27569
1488.13 Amended 27569
1488.14 Amended 27569

Chapter XVII—Rural Electrification Administration, Department of Agriculture

1701 Appendix A amended 3847, 27217

CODE

UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 7—Continued

Chapter XVIII—Farmers Home Administration, Department of Agriculture

Page

1802.1—1802.7 (Subpart A) Removed 4112
1802.11—1802.16 (Subpart B) Removed 4112
1802.21—1802.24 (Subpart C) Removed 4112
1802.31—1802.40 (Subpart D) Removed 4112
1802.51—1802.52 (Subpart E) Removed 4112
1802.61—1802.67 (Subpart F) Removed 4112
1803 Revised 4401
1803.2 (a) introductory text revised 21604
1810.11—1810.17 (Subpart B) Redesignated as 1901.1—1901.5 (Subpart A) and revised 10310
1821.16 Introductory text and (b) revised 4405
1821.20 (d) (1) and (3) revised; (a) revised 10311
1821.21 Revised 4405
1821.22 (a) and (b)(2) revised 4405
1822.1—1822.18 (Subpart A) Exhibit E revised 1024
Exhibit G amended 2051, 15911
1822.3 (n) and (o) revised 1023
1822.7 (n) revised 4406
1822.13 (c)(3)(i)(A) and (ii) revised 4406
1822.14 (a) introductory text and (b)(2) revised; (a) (1) and (2) added 4406
1822.15 (b) (2) and (3) revised 4406
1822.16 (f) revised 4407
1822.17 (f) correctly designated 5971
1822.21—1822.26 (Subpart B) Added 14868
1822.74 (a), (b) (1) and (3) revised 4407
1822.75 (c) (1) through (5) revised 4407
1822.88 (b) revised 4407
1822.93 (b) (2) and (3) revised 4407
1822.95 (c) (1) through (5) revised 4408
(c)(5) removed 21268
1822.272 (a)(1) revised 4408
1822.274 (c) revised 4408
1822.278 (e) and (f) revised 4408
1823.1—1823.48 (Subpart A) Removed 24232
1823.13 (a), (c), and (d) redesignated as (b), (e), and (g) and revised; (b) redesignated as (c); new (c)(2) revised; (e) and (f) redesignated as (h) and (i); new (a), (d), and (f) added 6825
1823.101—1823.118 (Subpart D) Removed 17099
1823.251 Amended 17099
1823.253 (a) and (i)(1) amended 17099
1823.460 Introductory text revised 4409
1832.3 (p) revised 10836
(l) introductory text, (l)(1) and (2) revised; (l)(3) through (6) removed 15912
1832.10 (e) added 24062
1832.16 (a)(2)(ii), (b) (5) and (7) revised; (c) amended 10836
1832.29 Added 4408
1832.30 (a) through (e) revised 4408
1832.31 Amended 4409
1832.36 (c) revised 4409
1843.3 (h) revised; eff. 1-1-77 1231
1845.13 (h) added 2308
1888 Added 19323
Revised 23158
1901.1—1901.5 (Subpart A) Redesignated from 1810.11—1810.17 (Subpart B) and revised 10310
1901.451—1901.456 (Subpart J) Revised 12145
1918-1927 (Subchapter I) Heading revised 4111
1918.112 (a), (b) (1) and (2), and (d) revised 20284
1924 Added 4112
1924.60 (c)(4) revised 14870
1933 (Subchapter J and Part) Added 24233
1955.3 (c) amended 21268
1955.103 (e) and (g) amended 21269
1955.117 (d)(1) revised 13535
1980.1—1980.83 (Subpart A) Appendix A amended 12036
1980.1 Introductory text revised 12036
1980.6 (a) revised 12036
1980.20 Introductory text amended 12036, 24252
1980.401—1980.495 (Subpart E) Revised 12146
Appendix A revised 12156

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 7—*Proposed Rules:*

Page

1 15708
7 20628
26 9391
28 10848
29 12881
51 8644, 9391
52 3178, 10004, 10009, 10849, 12058, 21742, 21746, 21752
53 23514
58 27011
59 27249
201 25738
225 23606
246 8647
270 1479
271 1479
272 780, 2328
275 1479
650 7959
654 15709
661 3311
701-799 (Ch. VII) 19885
723 7962
724 7962, 16632
725 16633
726 7962
728 17456
729 11015
730 780, 17457
905 10693
907 8662
908 12888, 14880, 17128, 17457, 17879
911 24066
915 23607
916 26430
918 13557, 18621, 23160, 24744, 27012
929 20143
932 12063
944 23614
945 19148, 20476
953 20825, 21111
959 18404
967 2691, 5362, 17458, 21487, 25872
980 5982
987 2503, 10695
989 17463
991 13301
1002 4471, 18950, 23841
1004 27016
1006 7962, 15417, 20143
1011 12184
1030 10853
1033 4127
1040 9027
1063 1356, 15842, 16162
1065 24744
1068 19350
1070 1356, 15842, 16162
1071 9674, 13024, 17130, 26217
1073 9674, 13024, 17130, 26217
1078 1356, 15842, 16162
1079 1356, 15842, 16162
1097 9674, 13024, 17130, 26217
1102 9674, 13024, 17130, 26217
1104 9674, 13024, 17130, 26217
1106 9674, 13024, 17130, 26217
1108 9674, 13024, 17130, 26217
1120 9674, 13024, 17130, 26217
1126 9674, 13024, 17130, 26217
1132 9674, 13024, 17130, 26217
1138 9674, 13024, 17130, 26217
1205 2503
1207 24066
1260 4476, 5362, 19885
1409 7963
1421 2328, 19149, 23613, 25329
1425 19149, 23614
1430 8662
1434 2980
1446 16634, 20302, 25329
1464 16636, 20476, 27249
1488 3849, 13561
1701 1479, 4489, 5983, 6827, 10318, 13024, 13025, 16163, 16637
1802 27602
1804 11015, 11841, 15317, 20825, 26660
1822 20302
1823 14116
1845 26358
1890r 9391
1901 9391, 13116
1980 16424, 26358

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

100.4 (c)(2) amended 15301
(a) amended; (b)(20) added; (b)(38) and (c)(1) revised 15408
(c)(2) corrected 17434
103.3 (a) revised 15301
103.10 (a)(1) amended 15408
204.2 (e)(2) revised 3627
204.4 (d) redesignated as (e) and republished; new (d) added 15302
211.1 (b)(1), (2) and (3) revised 19478
212.1 (i) amended 15302
212.7 (c) amended 3627
214.2 (h)(2)(iii), (h)(4) (i) and (iv) revised 3627
(h)(2)(iv) redesignated as (v) and republished; new (h)(2)(iv) added; (j)(2) redesignated as (3) and republished; new (j)(2) added 3627
(c)(1) amended 15302
(h)(9) and (11) revised 16377
(f)(6) revised 26413

CODE
UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 8, Chapter I—Continued

Page
214.3 (b) amended ... 26413
223a.3 Revised ... 19478
223a.5 (b)(2) removed; (b)(3) and (4) redesignated as (b)(2) and (3) ... 19478
238.3 (b) amended ... 15302
238.4 Amended ... 15302
242.1 (a) amended ... 15408
245.4 Existing text designated as (a); (b) added ... 12412
316a.2 Amended ... 15302
341.1 (b) suspended until 10-1-77 ... 16378

Title 8—*Proposed rules:*

244 ... 22148
252 ... 25738

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

4 Revised ... 10959
12 Revised ... 10959
72.13 (b)(1) removed; (b)(2) through (4) redesignated as (b)(1) through (3) ... 19854
72.14 Removed ... 19854
73.1a (a)(3) and (g) added ... 2949
(c) removed ... 3298
(a)(4) added; (g) removed ... 5343
(f) removed ... 8631
(b) revised; (c) added ... 10311
(c) removed; (b) revised ... 20812
(b)(1) removed ... 25317
(a)(5) added ... 25850
78.9 (b)(3)(iii) revised ... 13536
78.20 Revised ... 5343, 12413, 17434, 22370
78.21 Revised ... 5344, 12414, 17435, 22371
78.22 Revised ... 5345, 12415, 17436, 22372
79.2 Amended ... 25850
82.3 (a) introductory text amended; (a)(1) added ... 11824
(a) introductory text amended; (a)(3) added ... 13012
(a)(4) added ... 13537
(a)(3)(v) and (vi) added ... 16129
(a) introductory text and (1) amended ... 16614
(a)(3)(i), (ii), (iii), and (iv) removed ... 20812
(a)(4) removed ... 21760
(a)(3) removed ... 21761
(a)(3) amended ... 21269
92.17 Amended ... 20813
92.23 Revised ... 20813
92.24 (a) amended; (c) added ... 20813
94.1 (a)(2) amended ... 23131
94.11 (a) amended ... 23131
97.1 (a) amended; (b) redesignated as (c); new (b) added ... 1455
97.2 Amended ... 21269, 27218
112.2 (a)(10)(i) and (d) revised ... 11825
112.7 (c) introductory text, (c)(1) and (2), and (d)(1) revised; (c)(3) and (4), (d)(6) and (7) added ... 11825
113.3 (b)(2) and (5) revised ... 1456
113.42 Added ... 6794
113.52 Introductory text and (b) revised; (g)(5) introductory text and (i) through (iii) redesignated as (h) introductory text and (1) through (3) ... 751
113.129 a)(3), (b), (c), (d)(1), (2)(ii), and (3) revised ... 6794
113.147 (a)(3), (b), (c), (d)(1) introductory text and (ii) revised; (d)(1)(iii) added ... 6795
123 Revised ... 10960
162 Revised ... 10960

Chapter II—Packers and Stockyards Administration, Department of Agriculture

201.1 Removed in part ... 5677
201.22 Removed in part ... 5677
202.23 Interpretation ... 5677
202.48 Interpretation ... 5677

Chapter III—Food Safety and Quality Service, Meat and Poultry Inspection, Department of Agriculture

Chapter heading revised ... 22373
301—391 Nomenclature change ... 22373
312.8 (a) revised ... 11825
317.8 (b)(2) amended ... 3299
319.106 Added ... 3299
319.900 (Subpart V) Removed ... 751
322.1 (a) and (b) revised; (c) and (d) removed ... 11825
322.2 Heading, (b), and (h) revised ... 11826
331.2 Table amended ... 12178, 12416, 13013, 18610
335 Revised ... 10960
381.29 Revised ... 12416

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Page
381.221 Republished ... 2949
Table amended ... 12178, 12416, 13013, 13270, 13537, 18610
381.230—381.236 (Subpart W) Added ... 10962

Title 9—*Proposed Rules:*

1 ... 14126, 15210, 22374
2 ... 14126, 15210, 22374
3 ... 15210, 22374
76 ... 20825
85 ... 27250
92 ... 1483, 3859, 6827, 10013
201 ... 11247
203 ... 11247
317 ... 9182
318 ... 9182
319 ... 9182
325 ... 12435

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission

0.735-3 (h) amended ... 20138
2.101 (a-1) added; (a) amended ... 22885
2.110 Heading, (b), and (c) revised; (a) redesignated as (a)(1); new (a)(2) added ... 22885
2.600—2.606 (Subpart F) Added ... 22885
2.761a Amended ... 22887
2.786 Revised ... 22129
2.788 Added ... 22130
2.790 (a)(3) revised ... 12877
2 Appendix A revised ... 22887
7.8 (b) amended ... 12877
7.9 (a) and (e) amended ... 12877
9 Authority citation corrected ... 12877
9.1 Revised ... 12877
9.1a Revised ... 12877
9.2a Added ... 12877
9.5 (a)(3) revised ... 12877
9.100—9.109 (Subpart C) Added ... 12877
20.103 (a)(1) footnote amended ... 20138
20.405 (a) introductory text revised ... 20138
20.601 Note added ... 25721
20 Appendix D note removed ... 25721
30.71 Note added ... 25721
31.5 Footnote 3 removed ... 25721
31.11 (a)(6) added; (c)(1) and (d)(1) revised ... 21604
Note added ... 25721
(a)(7) and (c)(5) added; (d)(1) and (f) revised ... 26987
32.51 Footnote 4 removed ... 25721
32.71 (b)(6) added; (c)(1) revised ... 21605
(b)(7) added; (c)(1) and (e) revised ... 26987
32.110 Note added ... 25721
33.100 Note added ... 25721
34.51 Note added ... 25721
35.100 (b)(26) amended; (b)(27) added; (c)(3)(ix) revised ... 17100
Note added ... 25721
36.21 (a) revised ... 16378
36.50 Note added ... 25721
40.13 (c)(1) revised ... 6580
40.65 Footnote 1 removed ... 25721
40.90 Note added ... 25721
50.10 (e) amended ... 22887
50.33a (b) amended; (d) added ... 22887
Footnote 1 removed ... 25721
50.54 (p) revised; (q) removed ... 10838
50.55a (c)(3), (d)(3), (e)(3), (f)(3) and (h) amended and footnote added ... 22887
50.59 (a)(2)(i) amended ... 20139
50.65 Footnote 2 removed ... 25721
50.110 Note added ... 25721
50 Appendixes F and I amended ... 20139
Appendix Q added ... 22887
51.20 (e) revised ... 13806
(e) table corrected; CFR correction ... 18387
(e) hearing ... 26987
55.60 Note added ... 25721
70.22 (i) added ... 17126
Footnote 1 removed ... 25721
70.23 (a)(11) added ... 17126
70.53 (a) amended ... 17100
70.57 Footnote 1 removed ... 25721
70.59 Footnote 2 removed ... 25721
70.71 Note removed; new note added ... 25721
71 Appendix D note removed ... 25721
71.64 Note added ... 25721
73.2 (q) added ... 10838
73.4 Revised ... 10838
73.50 Introductory text revised ... 10838
73.55 Added ... 10838
73.70 Introductory text and (c) revised ... 10840
73.80 Note added ... 25721
100 Appendix A amended ... 2052
140.2 (a)(3) added ... 48
140.3 (h) through (j) redesignated as (i) through (k); new (h) added ... 48
140.5 Amended ... 49
140.6 Amended ... 49
140.7 (a) revised; (c) added ... 49

CODE
UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 10, Chapter I—Continued

Page

140.10 Revised ... 49
140.11 (b) amended; (a)(4) revised ... 49
(a)(4) amended ... 20140
140.13a Added ... 49
(a) amended ... 20140
140.14 (a)(2) revised ... 49
140.18 (a) amended ... 49
140.20 Revised ... 49
140.21 Added ... 50
140.22 Added ... 50
140.90 Note added ... 25721
140.91 Amended ... 20140
140.92 Amended ... 50, 20141
140.93 Amended ... 50, 20141
140.94 Amended ... 20141
140.95 Amended ... 20141
140.107 Added ... 51
Amended ... 20141
140.108 Added ... 53
Amended ... 20142
Appendix H corrected ... 23501
150.30 Note added ... 25721

Chapter II—Federal Energy Administration

Chapter II Interpretations ... 7923, 10963, 17100, 23722, 25648
203.1 (b) revised; undesignated text following (c) amended ... 3814
203.3 Introductory text revised ... 3814
203.6 (b)(3) and (c)(2) revised ... 3814
203.8 (c) amended ... 3815
203.25 (e) amended ... 3815
203.26a Added ... 3815
203.27 (a) and (b) revised; (d) added ... 3816
203 Appendixes E and F added ... 3816
210.35 (h)(1) added ... 4418
(h)(2) added ... 4421
(h)(1) and (2) removed ... 5036
211.1—211.29 (Subpart A) Appendix amended ... 4419
Appendix removed in part ... 5036
211.1 (b)(10) added ... 4418
(b)(10) removed ... 5036
211.29 Introductory text and (a) through (d) redesignated as (a) introductory text and (1) through (4); (b) added ... 4422
211.61—211.71 (Subpart C) Appendix amended ... 9381
211.66 (k) added ... 21763
211.67 (e)(2) revised ... 21272
(d)(6) and (7) added ... 21763
211.71 (e) added ... 5033
211.81—211.87 (Subpart D) Appendix added ... 5035
Appendix amended ... 7946
211.82 Amended ... 5035
211.83 (c)(2)(v) revised ... 4424
Introductory text added; (c) revised ... 5035
Comment time extended ... 8362
211.93 (c)(2)(iv) revised ... 4424
Comment time extended ... 8362
212.31 Amended ... 4421
Amended text removed ... 5036
212.58 Added ... 4421
Removed ... 5036
212.71—212.74 (Subpart D) Appendix (Schedule No. 5) added ... 1458
Appendix (Schedule No. 2) added ... 13015
212.83 (c)(2)(iii) (C) and (E) amended ... 5028
(c)(1)(i) redesignated (c)(1)(i)(A); (c)(1)(i)(B) added; (c)(2)(i) and (iii)(B) revised ... 5031
(c)(2)(iii)(E) corrected ... 14084
(h)(2)(iv) added ... 22882
212.91—212.94 (Subpart F) Appendix (Special Rule No. 1) added ... 1036
Technical correction ... 2308
Corrected ... 5346
212.93 (b)(4) revised ... 22133
(e) revised ... 22134
212.112 (a) and (b)(1) revised ... 5031
213.5 Revised ... 20814
213.9 (a) and (b) amended ... 20814
213.12 (a) and (b) amended ... 20814
213.13 Nomenclature change ... 20814
213.15 (d) revised ... 20814
213.16 (a) amended ... 20814
213.20 (a)(2) revised ... 20814
213.21 (a)(2) and (b)(2) revised ... 20814
213.32 (d) revised ... 20814
213.34 (b) and (e) revised ... 20815
213.37 (a) and (c) amended ... 20815
303 Authority citation revised ... 23134
303.2 Amended ... 23134
303.4 (b)(1) and (3) amended ... 23135
303.8 (c) amended; (h)(3) added ... 23135
303.9 (d)(1) amended; (f)(3) added ... 23135
303.10 (a), (b)(1) and (2) amended ... 23135
303.12 (a)(2) revised; (b) amended ... 23135

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Page

303.13 Revised ... 23135
303.30 (a) revised ... 23135
303.33 Amended ... 23135
303.34 Revised ... 23136
303.35 (a)(2) revised ... 23136
303.36 (a)(1) through (3) amended; (b) revised ... 23136
303.37 (b)(1) and (2) and (c) revised; (d) amended ... 23136
303.38 (a) and (d) amended ... 23136
303.40 (a) revised ... 23136
303.41 (a) amended; (b) revised ... 23136
303.43 Amended ... 23137
303.44 Amended ... 23137
303.45 (a)(1) through (8) revised; (a)(11) amended ... 23137
303.46 (a)(1) and (3) amended ... 23137
303.47 (b) and (d) amended; (c) revised ... 23137
303.48 (c) revised; (d) amended ... 23137
303.50 (b) amended ... 23137
303.51 Amended ... 23137
303.52 (b) amended ... 23138
303.54 (a) amended ... 23138
303.55 (a) corrected ... 23138
303.56 (a)(3)(i) amended ... 23138
303.57 (b)(1)(ii)(A) and (b)(2) amended ... 23138
303.58 (b)(2) amended; (b)(3) revised ... 23138
303.61 (a)(1) and (2)(ii) and (e)(1), and (g)(1) amended ... 23138
303.73 (a) amended ... 23138
303.85 (b)(1)(i) through (iii) and (2) revised ... 23138
303.86 Revised ... 23138
303.87 Revised ... 23138
303.88 Revised ... 23138
303.105 (c) amended ... 23138
303.106 (a)(2) through (4) amended ... 23138
303.107 (a)(3)(iii) amended; (b)(2)(iii) revised; (b)(3) added ... 23138
303.108 (d) amended ... 23138
303.109 Introductory text revised ... 23139
303.110 (c) amended ... 23139
303.120 Revised ... 23139
303.122 (c) revised; (e) added ... 23139
303.133 Revised ... 23139
303.134 Revised ... 23139
303.135 (a)(1) and (2) amended; (b) removed; (c) and (d) redesignated as (b) and (c) and revised ... 23139
303.136 (b) revised; (c) added ... 23139
303.137 (a)(1) and (2), and (b)(1) removed; (b)(2) redesignated as (b) and amended ... 23139
303.138 Revised ... 23140
303.139 (b) and (c) revised ... 23140
303.140 (a) amended ... 23140
303.145 (a)(3) corrected; (c) revised ... 23140
303.170 Amended ... 23140
303.173 (a) revised; (g) amended ... 23140
303.191 (d) amended ... 23140
303.200 (a) and (b) amended ... 23140
303.203 Amended ... 23140
305 Authority citation revised ... 23140
305.1 (b) amended ... 23140
305.2 Amended ... 23140
305.3 (b)(1) amended; (d) removed ... 23141
305.4 (b)(1) amended; (d) removed; (e) redesignated as (d) ... 23141
305.5 Revised ... 23141
305.6 Removed ... 23141
305.7 Revised ... 23141
305.8 (a) and (c) amended; (b) revised ... 23141
305.9 Revised ... 23141
307 Heading and authority citation revised ... 23142
307.1 (a) and (b) amended ... 23142
307.2 Amended ... 23142
307.3 Revised ... 23143
307.4 (a) revised ... 23143
307.5 Revised ... 23143
307.6 Revised ... 23143
307.7 (a) amended; (b) through (d) revised ... 23144
309 Authority citation revised ... 23144
309.1 Revised ... 23144
309.2 Amended ... 23145
309.3 (a)(1), (b), (c) introductory text, (c)(2), and (d)(2) amended; (c)(1) and (d)(3) revised ... 23145
309.4 Amended ... 23146
420.1 Revised ... 26417
420.11 Amended ... 26417
420.36 Revised ... 26417
420.100—420.109 (Subpart E) Added ... 26418
500 Added ... 4819

CODE

UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 10, Chapter II—Continued

	Page
FEA RULINGS:	
1977–1	3628
1977–2	4409
1977–3	4833
1977–4	12161
1977–5	15302
1977–6	23501

Chapter III—Energy Research and Development Administration

707.8 (b) revised	15891
707.9 (a) revised	15891
710 Heading revised	7946
710.1 Revised	7946
710.3 Amended	7946
710.5 (a) revised; (g) added	7947
710.11 (b)(7) revised	7947
710.20 Revised	7947
710.21 Revised	7947
710.27 (m)(2), (o), and (p)(2) revised	7947
710.33 (c) revised	7948
710.34 (b) revised	7948
711 Revised	4827

Title 10—*Proposed Rules:*

2	3178, 22165
9	17131, 20145
11	14880
31	7158, 15913
32	7158, 15913
35	12165, 25743
50	14880, 17134, 25744
51	3178, 12186
70	13834, 14880, 15914, 25744
73	8382, 25744
150	13837
170	22149, 26990
211	5362, 8382, 9394, 11842, 12187, 13118, 14737, 15419, 16807, 19499, 20826, 21789, 22889, 23859
212	2646, 4491, 5364, 6857, 9675, 10319, 12066, 13116, 15419, 19499, 21789, 22374, 22889, 25329
213	15317, 17470
214	14116, 16811
215	3652
303	15320
305	15320
307	15320
309	15320
420	16150, 20302
430	15423, 16811, 21576, 21580, 21584, 21589, 23860, 25329, 26430
440	17470, 20476
450	20012, 20557
791	20831
810	23865
871	26431

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission

2 Added	13202
3 Added	13202
102.9 Amended	15206
(c)(3)(iii), (4) introductory text and (4)(ii) revised	19324
102.10 Amended	15206, 19324
104.2 Amended	15206
(b)(9) amended	19324
114.4 (c)(2) amended	15206
(c)(2) revised	19324
134.3 (c)(2) amended	15206
(c)(2) revised	19324

Title 11—*Proposed Rules:*

2	3810
3	3810
Ch. II	26990

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury

4.17 (b)(1)(i), (d)(2) introductory text and (d)(2)(i), and (e)(1) amended	2950
5.1 Revised	26969
7.7016 Revised	24207
9.21 Added	26969
9.22 Added	26969
16 Revised	2201
16.6 (b) Items 1 and 8 corrected	3299

Chapter II—Federal Reserve System

202 Revised	1251
Interpretations	15891, 21605
202.13 (c)(1) and (3) amended	2950
202.1101 Added	22861
202.1102 Added	22861
202 Appendix B added	5679
203 Interpretations	19123
204.1 (f) interpretation	13296
204.5 (a)(1)(iii), (b) and (c) revised	9999
206.71 Revised	3172
207 OTC margin stock list	968
208.8 (e)(5) amended	20815
211.112 Added	752
212.3 (h) added	2951

CHANGES JANUARY 3 THROUGH MAY 31, 1977

	Page
213.106 Added	752
217.1 (f) interpretation	13296
217.4 (d) revised	16615
217.7 (b)(1) and (e) revised	20286
220 OTC margin stock list	968
220.3 (d)(5) and (i) temporarily suspended in part; eff. 1–1–77	753
(i)(4) revised	22862
221 OTC margin stock list	968
224 OTC margin stock list	968
225.136 Added; eff. 12–22–76	1263
225.137 Added; correctly designated	1263, 2952
225.138 Added	10969
226 Staff interpretations	1264, 3827, 5690, 7948, 9384, 10680, 12851, 13103, 14859, 16130, 17865, 18056, 22360, 25489, 25491, 27570
226.1 (c) amended	3
(d)(1) and (3) amended	2950
226.2 (x) corrected	753
226.6 (d) and (g) amended	3
(a) amended	20455
226.8 (b)(7) corrected	13296
(b)(8) added	20456
226.10 (h) amended	3
226.15 (a) and (b)(5), (9), (11), and (15)(iii) amended	3
226.810 Interpretation removed	20456
226.821 Added	19125
226.1501 Added	10971
226.1502 Added	10974
226.1503 Added	10976
227.2 (a)(2)(i) amended	2950
261.6 (a)(1) revised	9386
(a)(1) amended	10681
261b Added	13297
265.1a (a) removed; (b) and (c) redesignated as (a) and (b)	25318
265.2 (c), (19) through (22) added; (h) (1) through (3) removed; (h) (4) and (6) revised; (h) (4) through (6) redesignated as (h) (1) through (3)	2950
265.3 Corrected	2501
271.6 (a) revised	13299
281.2 Added	13300

Chapter III—Federal Deposit Insurance Corporation

310.2 (i) added	6796
310.3 (b) amended	6796
310.4 (c) revised	6796
310.5 (b) revised	6796
310.8 (a) amended	6796
310.9 Heading, (a), and (c) revised	6796
310.13 Revised	6797
311 Added	14676
311.5 (b)(3) corrected	16616
311.6 (a) corrected	16616
326.5 (a) revised	10312
329.0 Amended	21101
329.4 (d) amended	19325
329.6 (b)(4) added	21273
(b)(4) technical correction	22362
329.7 (a) revised	21101
(b)(3) revised; (b)(6) added	21273
(b)(3) and (6) technical correction	22362
330.5 Existing text designated as (a); (b) added	10312
331.1 (e) added	10312
335.4 (i) amended; eff. 12–20–76 in part	13105
335.7 (d)(3)(v) and (e)(15)(ix) added; eff. 12–20–76 in part	13105
335.41 Amended; eff. 12–20–76 in part	13107
335.44 Revised; eff. 12–20–76 in part	13105
Corrected	15308
335.51 Amended; eff. 12–20–76 in part	13107
342 Added	19325

Chapter IV—Export-Import Bank of the United States

407 Added	12417

Chapter V—Federal Home Loan Bank Board

505b Added	13107
523.10 (g)(4)(i) and (iii), (h)(3), and introductory texts of (g), (g)(4), and (h) revised	16616
545.6–25 (c) added	14084
545.9–1 (a)(4)(iv) and (v), (b)(3)(i) introductory text and (e) revised	9387
545.9–2 Revised	16616
545.20 (a) revised	21607
563.9–5 (c) added	14084
563.39–1 Added	2952
563b.9 (e) revised; (h) removed	14085
570.2 Removed	2953

Chapter VI—Farm Credit Administration

600.10 (a) revised	20617
601.110 (c) revised	2666
601.127 Added	2666

CODE
UMI

Title 12, Chapter VI—Continued

Page

601.170 Revised 2667
604 Added 12161
611 Subpart D revised 20617
Subpart E amended 20617
614.4340 Revised 20457
614.4345 Revised 20457
614.4354 (e) revised 20457
619.9200 Revised 20457

Chapter VII—National Credit Union Administration

701.20 Revised 10978, 25851
702.1 Revised 24252
Technical correction 26197
702.2 Revised 24253
Technical correction 26197
704 Added 1458
720.4 (a)(3) revised 18057
720.35 Revised 13015
760.2 (a) revised 16131
(a)(3) corrected 20114

Title 12—*Proposed Rules:*

10 16813
202 25508
208 ..... 16821, 20477
217 19350
220 22894
225 ..... 9679, 16821, 22560
226 ..... 780, 1268, 20478, 23516
261b 5699
309 19351
311 ..... 8146, 9680
329 ..... 12188, 21112, 22378
343 16823
405 5364
505b 2503
523 2328
526 18404
545 ..... 2328, 13301, 17483
555 14883
561 17483
564 2328
604 ..... 55, 2078
611 19887
614 12189
615 19887
618 19887
619 12189
701 ..... 11016, 11247, 15427, 27251

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

107.101 (d)(2)(i) revised 12037
107.901 (c) interpretation 14678
108.502-1 (f) revised 18388

Page

112.2 (a) revised 13537
(b) revised 13538, 20286
112 Appendix A added 13538
Appendix A revised 20287
121.3-10 Corrected 20457
123.1 (a) revised 17102

Chapter III—Economic Development Administration, Department of Commerce

301.2 Amended 5598
302.7 (a)(1)(i) and (ii) revised 23796
305.5 (c)(1) removed; (b) (1) and (3)(iii) revised 5599
305.6 (a) revised 5599
305.8 Added 5599
305.53 Removed 5599
306.1 (a)(6) added 12038
(a) revised 26198
306.2 (d) added 12038
306.3 (a) revised; (g) added 12038
(h) added 26198
306.8 (g) added 12038
306.10 (d) redesignated as (e); new (d) added 12038
306.11 (d) removed 12420
306.13 (f) added 12038
309.4 Heading, (a) introductory text and (2)(ii), and (b) introductory text and (2)(ii) revised; (c) added 5599
(c)(1) added 14860
309.14 (a) revised 23146
309.26 (b) revised 753
312.3 Revised 6365
312.4 Revised 6365
312.5 (a) revised 6365
312.6 Revised 6365
312.7 (a) revised 6365
315.61 Revised 12420
317 Added 27432
318 Added 27446

Chapter V—Regional Action Planning Commissions

500.3 (b) revised 22135
520.1 Existing text designated as (a); (b) added 22135
520.2 (b) revised 22135
520.3 Revised 22135
520.4 Revised 22135
551 Added 22135
552 Added 22135
553 Heading added 22137
554 Heading added 22137
555 Added 22137
560.7 Revised 22137

Title 13—*Proposed Rules:*

Page

107 ..... 13561, 15334
108 11842
112 2506
115 9397
118 9183
120 23614
121 ..... 2505, 2980, 4854, 8148, 9184, 12435, 16157, 26660
122 9183

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

1.1 Amended 15041
23.901 (c), (d), and (e) added 15041
23.939 (b) removed 15041
23.943 Added 15041
23.959 Amended 15041
23.967 (a)(4)(ii) amended; (a)(5) revised 15041
23.973 (d) added 15041
23.975 (a)(5) and (6) amended; (a)(7) added 15041
23.995 (c) revised 15041
23.1093 (b) revised 15041
23.1121 (b) revised; (h) added 15042
23.1141 (g) added 15042
23.1145 (c) revised 15042
23.1193 Heading revised; (f) added 15042
23.1203 Added 15042
23.1305 (w) added 15042
23.1337 (a) revised 15042
23.1557 (c) revised; (e) added 15042
25.807 (c)(2) table revised; (c)(3) amended 2053
25.901 (b)(1) and (c) revised 15042
25.903 (c) revised; (e) added 15042
25.933 (a) revised 15042
25.939 (b) removed 15043
25.943 Added 15043
25.945 Added 15043
25.952 Added 15043
25.959 Amended 15043
25.963 (e) removed; (f) added 15043
25.965 (d) added 15043
25.973 (b) and (c) amended; (d) added 15043
25.995 (a) removed 15043
25.1091 (a)(1) and (d) revised; (e) added 15043
25.1093 (b) revised 15043

Page

25.1121 Introductory text added; (b) revised; (c) amended 15043
25.1123 Introductory text added 15044
25.1141 (e) removed; (f) added 15044
25.1145 (c) revised 15044
25.1197 (b) amended; (c) removed 15044
25.1199 (b) and (c) revised 15044
25.1207 Added 15044
25.1337 (a) revised 15044
25.1549 Revised 15044
25.1585 (a)(7) and (8) amended; (a)(9) added 15044
27.571 (a) amended 15044
27.901 (c) added 15044
27.923 (a) through (e) revised; (j) added 15044
27.927 (b) introductory text, (2), and (3) revised; (c) added 15045
27.965 Revised 15045
27.1093 (b) revised 15045
27.1121 (d) revised; (g) added 15045
27.1141 (c) and (d) added 15045
27.1145 (b) revised 15045
27.1337 (a) revised 15046
29.571 (a) amended 15046
29.901 (b)(1) revised; (c) added 15046
29.903 (d) and (e) removed 15046
29.908 Added 15046
29.927 (c) revised 15046
29.965 (d)(3)(i) revised 15046
29.991 (b) amended 15046
29.995 (a) removed 15046
29.1093 (b) revised 15046
29.1121 Introductory text added; (b) revised; (c) amended 15046
29.1141 (f) added 15046
29.1145 (c) revised 15046
29.1193 (e) introductory text amended 15046
29.1195 (b) revised 15047
29.1197 (b) amended; (c) removed 15047
29.1199 (b) and (c) revised 15047
29.1337 (a) revised 15047
33.15 Revised 15047
33.17 (a) amended; (f) added 15047
35.17 Revised 15047
35.35 Revised 15047
36.1 (c) amended; (f) added 12370
36.7 Revised; old (b) (1), (2), and (3) redesignated as 36.9 (a), (b), and (c) 12371
36.9 (a), (b), and (c) redesignated and amended from 36.7 (b) (1), (2), and (3) 12371
36.201 (b) and (c) revised 12371

CODE

UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 14, Chapter I—Continued

Page

36 Appendix F corrected 4113
Appendix C amended 12371
37.203 Amended 19
37.205 Added 17103
39.13 ..... 1217, 1218, 2053–2055, 3170, 3828, 3829, 4114–4116, 5037, 5038, 5691–5693, 6580, 6581, 7124, 8362, 8363, 9013, 9014, 9670, 9671, 10312, 10313, 10841, 10842, 11235, 12164, 12166, 12167, 13270–13272, 13818, 14860, 15308, 15893, 15894, 16379, 17103–17105, 17865–17868, 18388–18390, 18858, 20114–20116, 20618, 21102, 21103, 21607, 21608, 22137, 22862, 22863, 23503–23505, 24717, 24718, 24720–24724, 25722–25724, 26199–26202, 26970, 27571, 27572
61.55 (b)(2) introductory text revised; (e) added 18391
71 Republished 301
71.123 ..... 7121, 7123, 8364, 10843, 10844, 11236, 12168, 15309, 17105, 20117, 20619, 20621, 20622
71.125 7123
71.151 ..... 3829, 7122, 20623
71.163 8364
71.171 ..... 2055, 2056, 3170, 4117, 5038, 5693, 5694, 8364, 9672, 10843, 12167, 13272, 13273, 15308, 17868, 17869, 18859, 20116, 20619, 20620, 23505
71.181 ..... 2055, 2056, 3170, 3171, 4117, 5693, 7121, 9672, 10314, 10843, 11236, 11237, 12167, 13273, 13819, 14861, 15308, 15895, 17105, 17868, 20619–20621, 21103, 21608, 22138, 23505, 24045, 24046, 26971, 27574
71.193 7123
71.203 13272
71.401 14861
73 Republished 654
73.25 20623
73.30 7123
73.34 13273
73.38 3829
73.42 15895
73.53 7122
73.88 ..... 11826, 12168, 14086, 14862
75 Republished 706
75.100 ..... 4117, 7125, 10844, 20624
91.1 (c) added 22139
91.39 (f) added 24197
91.301—91.307 (Subpart E) Technical correction 14862
95 ..... 7126, 15896
97.21—97.35 ..... 1219, 2057, 3171, 5038, 5039, 7124, 9014, 9673, 10844, 12168, 13274, 14862, 15900, 17106, 18392, 20117, 20625, 21609, 22864, 24725, 26203, 26972
101.35 (d) CFR correction 19478
121.13 (a) amended 18394
121.101 (b) and (c) revised; (d) and (e) added 27573
121.311 (d)(2) amended 18394
121.417 (b)(3)(iii) revised 18394
121.571 (a)(3) and (4) added 18394
121.586 Added 18394
121.601 (b) revised and redesignated as (c); new (b) added 27573
123.27 (k) amended 18394
133.1 Revised 24198
Technical correction 25724
133.11 Revised 24198
133.13 Revised 24198
133.15 Revised 24198
133.19 (a)(1) revised; (a)(2) amended; (a)(3) added 24198
133.31 (f) introductory text; (g) added 24198
(f) technical correction 25724
133.45 (e) added 24198
133.51 Revised 24198
135.27 (b)(14) amended; (b)(15) revised; (b)(16) added 18394
135.81 Revised 18394
135.139 (g) and (h) amended; (c) revised; (i) added 18395
139.19 (a) revised 8365
139.49 Introductory text revised 8365
139.53 Introductory text revised 8365
139.55 (b) (2) and (3) and (c) revised; (e) added 14863
139.65 Amended 8365
139.105 Introductory text revised 8365
139.107 Revised 8365
139.109 Revised 8365

Chapter II—Civil Aeronautics Board

207.11 (b)(3) revised 4117, 20119
208.6 (b)(3) revised 4118, 20119
221.4 Amended 12422
221.120 (a) revised 19126
221.176 (a) and (c) through (g) revised; (h) removed 20457
221.177 Added 12422
(a), (b) and (c) revised 15901
221a Effective date corrected to 6-1-77 12169
Effective date extended to 7-1-77 26422

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Page

221a.1 Correctly designated and corrected 12169
221a.3 (g) revised 1220
221a.4 Added 1220
221a.8 Note revised 13016
239 Revised 21765
241 Sec. 03 amended 22
Sec. 1–9 amended 23
Sec. 2–1 amended 23
Sec. 2–3 revised 23
Sec. 2–5 revised 24
Sec. 2–6 amended 24
Sec. 2–7 amended 24
Sec. 2–10 amended 24
Sec. 2–11 amended 24
Sec. 2–12 amended 24
Sec. 2–13 amended 25
Sec. 2–14 amended 25
Sec. 2–15 revised 25
Sec. 2–18 amended 25
Sec. 3 table revised 26
Sec. 5–2 amended 27
Sec. 5–3 amended 27
Sec. 5–4 amended 28
Sec. 5–5 amended 28
Sec. 5–7 amended 28
Sec. 5–8 revised 29
Sec. 5–9 revised 29
Sec. 6 revised 29
Sec. 7 table amended 35
Sec. 8 amended 36
Sec. 10 amended 36
Sec. 11 amended 36
Sec. 12 amended 36
Sec. 14 revised 38
Sec. 15 amended 39
Sec. 17 amended 39
Sec. 22 amended 39, 11828
Sec. 22 technical correction 20286, 23146
Sec. 23 amended 40
Sec. 24 amended 42, 11828
Sec. 24 technical correction 20286, 23146
Sec. 32 amended 43
Sec. 33 amended 44
Sec. 34 amended 45
Form 41 schedules amended 46, 11829
Form 41 schedules technical correction 20286, 23146
287.3a Revised 21610
288.7 (a) and (d) amended 3300
(a)(1) and (d) (1) and (2) revised; (a)(2) amended; eff. 2-14-77 4118
(b)(2) amended 9999
(a) and (d) amended 14086
296.1 (g) revised 20120
296.12 Revised 20120
300 Revised 17438
300.2a Revised 5346
302.39 (d)(2) revised 14678
302.410 (b) revised 2667
305.10 Revised 15062
310b Added 14680
371.23 Heading revised; existing text designated as (a); (b) added 7134
371.25 (a)(3) revised 8366
372.40 (Subpart E) Removed 6797
372a.20a Heading revised; existing text designated as (a); (b) added 7135
373.4 Heading revised; existing text designated as (a); (b) added 7135
373.10 (b)(3) revised 8366
378.3a Heading revised; existing text designated as (a); (b) added 7135
378.12 Existing text designated as (a) and (b) 7136
378.23 Heading revised; existing text designated as (a); (b) added 7137
378a.27 Existing text designated as (a) and (b) 7137
378a.50 Revised 2309
378a Appendix C removed 2309
384.7 Revised 15901
385.2 Revised 15902
385.9 Revised 2668
385.13 (s) revised 2668
(r)(3) revised 8139
(hh) revised; (jj) added 20121
385.14 (f) and (g) added 1220
(a)(3) introductory text revised; (a)(3)(ix) added 15309
385.16 (i) and (j) added 23600
385.17 (g) added 25852
385.18 Heading revised; (g) removed 25852
385.18a (a) revised 25852
385.19 (g) added 14683
385.24 Revised 13016
399.62 (c)(2) revised 21611

Chapter V—National Aeronautics and Space Administration

1201 Revised 12169
1206.300 (b)(3) revised 17869
1206.401 (c) and (k) revised 17869
1206.503 (b) revised 17869
1214 Added 3829
1214.200—1214.207 (Subpart 1214.2) Added 8631

CODE
UMI

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Title 14—*Proposed Rules:*

Page
1—199 (Chapter I) ---- 26991
1 ---- 17135
25 ---- 8390, 21202
33 ---- 21202
39 ---- 1268–1270, 5701–5703, 6598, 7159, 7160, 9680–9682, 10853, 11249, 12190, 13302, 13837, 15914, 17136, 17137, 17879, 17880, 18405, 18861, 20145, 20146, 22172, 22896, 24751
71 ---- 1270, 1271, 2078, 2079, 3179, 3180, 3861–3863, 4132, 4133, 5074, 7160, 7161, 8390–8392, 9029, 9682, 9683, 10854, 12190, 13302–13304, 13838, 14884, 14885, 15335, 15915, 15916, 16445, 17138–17140, 18406, 18861, 19491, 20147, 20634, 20635, 21112, 21620, 22172, 22173, 24066, 24752, 25739, 25740, 26217, 26992, 27603
73 ---- 13304, 13305, 17139
75 ---- 7161, 12191, 17140
91 ---- 3863, 14885
121 ---- 17141, 21202
129 ---- 17141
152 ---- 2850, 4134, 15916, 22896
183 ---- 18407
200—399 (Ch. II) ---- 26558
221 ---- 11843, 19355
239 ---- 2693
241 ---- 8392, 21793, 24216
288 ---- 1271, 15336, 18282, 21487
292 ---- 11016, 12191
298 ---- 2692
302 ---- 15916, 17484, 23841
304 ---- 8663, 9403
310b ---- 2995
313 ---- 9184
370 ---- 2999
371 ---- 5367, 8151
378 ---- 8151
378a ---- 8151, 12066, 16158
399 ---- 3180, 6599, 9184, 15336, 18282, 21487, 26612
1245 ---- 25508

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

3 Technical correction ---- 27574
3.3 Existing text designated as (a); (b) added ---- 7137
16 Added ---- 26648

Chapter I—Bureau of the Census, Department of Commerce

50.10 Revised ---- 22362

Chapter III—Domestic and International Business Administration, Department of Commerce

Page
369.3 (b) amended; (b)(1)(vi) added ---- 2057
371.2 (c)(9) revised ---- 18397
371.9 (b)(1) revised ---- 12852
(a)(1)(i) and (ii) revised; (b)(5) added ---- 18397
371.10 (b) revised ---- 12852
(a)(1)(i) and (ii) revised; (b) redesignated as (b)(1); (b)(2) added ---- 18397
371.12 (d)(1) and (2) revised; (e) added ---- 18398
371.16 Revised; eff. 1–1–77 ---- 1223
(a) amended ---- 18398
376.9 (c)(4) revised ---- 12853
(c)(5) amended ---- 18398
376.10 Revised ---- 23796
377.6 (d)(1)(ii) and (7) revised; (d)(9) and (e)(8) added; eff. 1–1–77 ---- 1223
(c) amended; (d)(7) and (e)(2) revised; (d)(9), (e)(9), and (10) added ---- 18398
377 Supplement No. 2 revised; eff. 1–1–77 ---- 1224
Supplement No. 2 revised ---- 18399
386.2 (a) revised ---- 18401

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce

920 Revised ---- 22041
931 Added ---- 1173
932 Added ---- 19856
950 Revised ---- 25852

Title 15—*Proposed Rules:*

70 ---- 27255
803 ---- 19888
806 ---- 19888
920 ---- 2507
923 ---- 5074
933 ---- 4046, 10319

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

0.5 Removed ---- 13540
0.6 Removed ---- 13540
0.18 (b)(9) amended ---- 27218
2.14 (c) revised ---- 13540
2.32 Revised ---- 3300
3.52 (f) amended ---- 13540

CHANGES JANUARY 3 THROUGH MAY 31, 1977

Page
3.61 (b) revised ---- 13540
4.9 (b)(4) revised; (b)(23), (24), and (25) redesignated as (b)(26), (27), and (28); new (b)(23), (24), and (25) added ---- 13540
4.10 (a) introductory text and (b) revised ---- 13540
4.11 (a)(2)(i)(A) revised ---- 4834
(a)(1)(i)(E), (iii)(D), and (iv)(A), (a)(2)(i)(A), (C), (ii)(A), (iii), (b), (c) revised ---- 13820
4.14 Added ---- 13540
4.15 Added ---- 13541
(a)(3) and (c)(2) corrected ---- 15409
14.10 Removed ---- 13541
21 Removed ---- 12171
28 Removed ---- 19860
30 Removed ---- 12171
32 Removed ---- 12171
39 Removed ---- 12171
43 Removed ---- 12171
48 Removed ---- 12171
50 Removed ---- 12171
51 Removed ---- 12171
58 Removed ---- 12171
64 Removed ---- 19860
71 Removed ---- 12171
88 Removed ---- 12171
92 Removed ---- 12171
101 Removed ---- 12171
136 Removed ---- 12171
144 Removed ---- 12171
145 Removed ---- 12171
149 Removed ---- 19860
161 Removed ---- 12171
169 Removed ---- 12171
181 Removed ---- 12171
185 Removed ---- 12171
193 Removed ---- 19860
196 Removed ---- 12171
198 Removed ---- 12171
199 Removed ---- 12171
202 Removed ---- 12171
217 Removed ---- 12171
220 Removed ---- 19860
222 Removed ---- 12171
227 Removed ---- 12171

Page
433.3 Added ---- 19490
502.100 (c) and CFR source note corrected ---- 18057
702 Interpretation ---- 15679
801 Transitional rule ---- 6365

Chapter II—Consumer Product Safety Commission

1012 Cross reference ---- 5040
Revised ---- 14684
1014.6 (a) amended ---- 22878
1014.8 (a), (c), introductory text of (d) and (d)(3) amended ---- 22878
1014.12 (a)(1) revised ---- 9161
1015 Added ---- 10490
1021 Added ---- 25495
1201 Added ---- 1441
1202 Added ---- 22667
1500.18 (d) added ---- 18853
(d)(3) and (4) added ---- 22879
Technical correction ---- 20479, 21274
1700.14 (a)(1)(ii) revised ---- 20291

Title 16—*Proposed Rules:*

1 ---- 2980
2 ---- 22897
4 ---- 2079
13 ---- 23841, 23843, 23846, 23847, 23849, 24753, 25335, 26661 ---- 27255, 27257
257 ---- 15069
438 ---- 1483, 7965, 9184, 20303
441 ---- 26398
443 ---- 26432
447 ---- 2694
450 ---- 1038
456 ---- 5075
600 ---- 5075
801 ---- 3181, 3655
1012 ---- 5079
1050 ---- 15711
1150 ---- 16445
1201 ---- 24067
1205 ---- 23052, 24755
1301 ---- 1484, 12889
1401 ---- 21807
1616 ---- 23853
1700 ---- 20148, 20291

CODE
UMI

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission

Page

1.8 Removed ---- 23993
1.9 Revised ---- 23993
1.10 (a) revised ---- 23993
1.10a Added ---- 23993
1.10b Revised ---- 23993
1.10c Revised ---- 23993
1.10d Revised ---- 23994
1.14 Revised ---- 23994
15.03 (a) Revised ---- 25485

Chapter II—Securities and Exchange Commission

231 Interpretative releases ---- 22139
239.26 Amended ---- 22140
240.10b–10 Added ---- 25323
240.13a–13 Revised ---- 24064
240.13b–1 Removed ---- 24065
240.14a–3 (b)(9) revised ---- 24064
240.14c–3 (a)(9) revised ---- 24064
240.15c3–1 (c)(2)(vi)(E) revised ---- 19127
(c)(2)(iv)(C) and (f) revised; (c)(2)(vi)(M) and (f)(3)(iii) amended ---- 23800
(b)(2), (c)(2)(iv)(B), (E), (vi)(M), (xii) and (xiii), and (f)(3)(iii) revised ---- 27223
240.15c3–1a (c)(8) revised ---- 27224
240.15c3–3 (d)(4) added ---- 23790
240.15c3–3a Revised ---- 27224
240.15d–13 Revised ---- 24065
240.17a–4 (b)(8) introductory text revised; (b)(9) added ---- 23787
240.17a–5 (a)(2)(i) through (iii) and (3), (b)(1), (c)(2) introductory text and (3), (d)(1)(iii) and (2) revised ---- 23787
(e)(1)(i), (2), (4) introductory text and (4)(iii)(B) through (F), (f)(2), (g)(1)(iv) and (3) revised; (b)(6) added ---- 23787
240.17a–10 (a), (b), and (d) revised ---- 23789
240.17a–11 (a), (b)(1) and (2) revised; (b)(4) added ---- 23789
240.17a–13 (b)(5) revised ---- 23790
240.17a–19 Revised ---- 23790
240.17a–20 Revised ---- 23790
249.312 Form 12–K removed ---- 24065
249.617 Revised ---- 23790
249.618 Removed ---- 23790
249.636 Removed ---- 23790
259.5s Form U5S amended ---- 24253
Form U5S Technical correction ---- 26204
275.206A–1(T) Revised ---- 21770

Title 17—*Proposed Rules:*

1 ---- 18246, 23614, 27166
32 ---- 18246, 23614
210 ---- 21809, 23853
230 ---- 21815, 24069
231 ---- 27260
239 ---- 21815, 26010, 27603
240 ---- 18621, 24069, 24071, 26010, 26436, 27603
241 ---- 27260
249 ---- 23792, 26010, 27603

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

2.17 Rehearing applications denied ---- 27575
3.3 Revised ---- 17449
3.4 Revised ---- 17449
3.5 (b)(2) revised ---- 17449
3.6 Revised ---- 17450
3.8 Added ---- 17450
3.102 Removed ---- 17450
3.105 Footnote 1 revised ---- 17451
3.106 Amended ---- 17451
3.107 Amended ---- 17451
3.109 Removed ---- 17451
3.114 (c) revised ---- 17451
3.116 Amended ---- 17451
3.117 Revised ---- 17451
3.135 Amended ---- 17451
3.137 Amended ---- 17451
3.138 Amended ---- 17451
3.139 Amended ---- 17451
3.162 Amended ---- 17451
3.163 Amended ---- 17451
3.164—3.168 Amended ---- 17451
3.170 (a)(30) added ---- 17451
3.183 Revised ---- 17451
3.186 Revised ---- 17451
3.201—3.211 (Subpart C) Redesignated as 3c.1—3c.11 (Subpart A) and editorial changes ---- 17451
3.221—3.231 (Subpart D) Dedesignated as 3c.101—3c.111 (Subpart B) and edtorial changes ---- 17451

Page

3.241—3.246 (Subpart E) Redesginated as 3c.201—3c.206 (Subpart C) and editorial changes ---- 17451
3c Heading added ---- 17448
3c.1—3c.11 (Subpart A) redesignated from 3.201—3.211 (Subpart C) and editorial changes ---- 17451
3c.101—3c.111 (Subpart B) redesignated from 3.221—3.231 (Subpart D) and editorial changes ---- 17451
3c.111 Revised ---- 20459
3c.112 Added ---- 20459
3c.201—3c.206 (Subpart C) redesignated from 3.241—3.246 (Subpart E) and editorial changes ---- 17451
201 Orders A through G added ---- 20817
260.13 Form No. 40 technical correction ---- 20292
295 Orders A through G rehearing ---- 19860
Orders A through G correctly redesignated under Part 201 Redesignated and republished as Part 1000 ---- 20817 21104

Chapter II—Tennessee Valley Authority

301.43 Revised ---- 21470

Chapter X—Administrator—Emergency Natural Gas Act of 1977

Chapter established ---- 21104
1000 Redesignated from Part 295 and republished ---- 21104
1000.1 (a)(10), (11) and (12) added ---- 22146
1000.9 Added ---- 22146

Title 18—*Proposed Rules:*

1 ---- 23160
2 ---- 19154, 25513
3 ---- 23160
4 ---- 23160
5 ---- 23160
6 ---- 23160
16 ---- 23160
35 ---- 22897
101 ---- 20303, 26436
104 ---- 20303, 26436
141 ---- 20303, 25337, 26436
154 ---- 23615
260 ---- 20303, 26436
295 ---- 19895

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury

Page

18.4 Effective date postponed to 8–22–77 ---- 21785
24.13 Effective date postponed to 8–22–77 ---- 21785
148.19 Amended ---- 25324
159.47 (f) table amended ---- 8588, 19327
(f) table effective date corrected ---- 19127
(f) table amended ---- 23147, 23505, 23801
162.21 (a) revised ---- 25324
162.41 (a) revised ---- 25324
(a)(3) introductory text revised ---- 27600

Title 19—*Proposed Rules:*

22 ---- 26993

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

200.5 (a)(1) and (b) revised ---- 22865
210.2 Revised ---- 18058

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

404.968 Revised ---- 18272
404.968a (b)(1) revised ---- 18272
404.1401 Revised ---- 18272
404.1402 Revised ---- 18273
404.1405 (a) revised ---- 18273
404.1406 Revised ---- 18273
404.1407 Revised ---- 18273
404.1408 Revised ---- 18273
404.1410 Revised ---- 18273
404.1411 Removed ---- 18274
404.1412 Revised ---- 18274
404.1413 Added ---- 18274
405.504 (a)(2) and (3)(i) and (ii) revised ---- 18275
416.901—416.985 (Subpart I) Appendix 1 corrected ---- 21770
416.1126 Added ---- 17441
416.1145 (b)(4–a) added ---- 17441
416.1156 Added ---- 17441

Title 20—*Proposed Rules:*

404 ---- 17484, 17881
405 ---- 17485, 19155
602 ---- 17486, 20312
655 ---- 20312, 22378, 27261
702 ---- 21816

CODE

UMI

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Page

8.36 (c) comment time extended 24254
10.40 (e)(2) corrected 19127
10.50 (a)(2) corrected 19127
10.105 (d) corrected 19127
12.22 (a) introductory text and (1), (b) introductory text, (c), and (d) corrected 19127
12.24 (b)(6) and (d) corrected 19127
12.26 Corrected 19127
12.28 Introductory text, and (b)(1)(ii) and (2)(ii) corrected 19127
12.30 (a) corrected 19127
12.35 (a) corrected 19127
12.37 (a) corrected 19127
12.38 (a) introductory text and (b) corrected 19127
12.100 (a)(2) corrected 19127
20.100 (c)(3) amended 19989
25.1 Revised 19990
25.20 (a)(8) added; (b) amended 19992
25.25 Revised 19992
(b) corrected 25854
25.30 Revised 19993
74.1317 (b) amended 27225
101.9 Effective date in part 7-1-79 27225
(c)(4) through (6) revised; eff. 6-27-77 27226
101.17 (c) added 22033
105.85 (h)(2)(vii) revised 20296
135 Revised; eff. 7-1-79 19132
135.130 Added; eff. 7-1-79 19137
153 Revised 21290
169.115 Effective date confirmed 25325
169.140 Effective date confirmed 25325
169.150 (a) revised; (b) through (g) effective date confirmed 25325
172.515 (b) amended 23148
175.300 (b)(3)(xii) and (xiii) revised 18610
(b)(3)(vii)(c) and (viii)(c) amended 21771
177.1630 (e)(4)(iii) amended 18611
193.415 Revised 23149
201.160 (b) revised 27227
310.502 Revised 23777
(b)(1) corrected 25854
330.10 (a)(5)(i), (ii) and (iii), (6)(i), (ii) and (iii), and (12) revised; (a)(13) added 19141

Page

369.21 Amended 22033
373.373b (a)(1), (a)(4)(iii)(b), (b)(2), (b)(1)(iii), and introductory texts of (b)(1)(i), (iv), and (iv)(a) revised 21280
429.55 (b) introductory text, (b)(1)(i), (2)(ii), (3)(ii), (4), (5), (6)(ii), (7), (8), and (9) revised 27227
430.20 (b)(2) corrected 19142
(c)(14) added 27228
436.33 (b) amended 21275
436.103 (a) table amended 18058
436.105 (b) table amended 27228
436.319 Added 27228
442.11a (a)(1)(vi) and (3)(ii)(b)(1) revised 18059
442.211 Revised 18059
444.70a Revised 21275
444.72a Removed 21275
444.170a Removed 21275
444.270a Revised 21275
444.270b Revised 21275
444.270c Removed 21276
444.570 Removed 21276
444.570a Removed 21276
444.570b Removed 21276
444.570c Removed 21276
444.942b (a)(1) amended 18059
448.10 Added 27229
448.10a Revised 27229
448.13 Revised 27229
448.13a Heading, (a)(1) introductory text and (a)(3)(i) revised; (a)(1)(vii) and (b)(7) added 27230
448.110a Removed 27230
448.110b Removed 27230
448.310a Removed 27230
448.310b Revised 27230
448.310c Revised 27230
448.313 Redesignated as 448.313b and revised; new 448.313 heading added 27231
448.313a Added 27231
448.313b Redesignated from 448.313 and revised 27231
448.510a Revised 27232
448.510b Removed 27232
448.510c Removed 27232
448.510d Revised 27233
448.510e Revised 27233
448.510f Removed 27234
448.513 Added 27234
448.513a Added 27234
448.513b Added 27234
448.513c Added 27235
448.513d Added 27236

Page

448.513e Added 27237
448.513f Added 27237
448.610 Removed 27238
448.910 Revised 27238
448.913 Revised 27238
500.80—500.98 (Subpart E) Comment time extended 24254
501.17 (c) added 22033
502 Correctly cited 24254
502.19 Correctly cited 24254
505.10 Amended 22033
510.455 (e)(1) through (5) revised 23149
510.515 (b)(29) added; (b)(39) removed; (c) table amended 18614
510.600 (c) (1) and (2) amended 18060, 18061, 19861, 21771, 25854
514.111 (a)(10) comment time extended 24254
520.622c Added 23600
520.1560 Added 19143
520.1560a Added 19143
520.1560b Added 19861
522.540 (b)(2) revised 24255
522.1235 (c)(1) amended 20817
539.170 (a)(1)(ii) and (iii), and (4)(i), and (b)(2), (3), and (4) revised; (b)(1) amended 21276
539.310 (a)(1)(ii) and (iii), (4)(i) and (b) revised 27239
540.153 Removed 23150
540.155 Removed 23150
540.163 Removed 23150
540.166 Removed 23150
540.174c Removed 23150
540.180 Removed 23150
540.180a Removed 23150
540.180b Removed 23150
540.181a Removed 23150
540.250 Removed 23150
540.253 Removed 23150
540.255b Removed 23150
540.259 Removed 23150
540.260 Removed 23150
540.265 Removed 23150
540.265a Removed 23150
540.265b Removed 23150
540.274e Removed 23150
540.274f Removed 23150
540.280 Removed 23150
540.281a Removed 23150
540.380a (a)(1) amended 19861
540.881 Removed 23150
544.170a Revised 21276

Page

544.170b (a)(1) and (4)(i) amended; (b)(2) and (3) revised 21277
544.173a (a)(1) and (4)(iii)(a)(1), and (b)(1)(i) amended; (a)(4)(ii)(a) and (b), (iii)(b), and (b)(2) and (3) revised 21277
544.173b (a)(1) amended; (a)(4)(ii)(b) and (iii)(b), and (b) revised 21277
544.173c (a)(1) and (b)(1) amended; (a)(2) introductory text and (3), and (b)(2), (3) and (4) revised 21278
544.173d (a)(1) amended; (a)(4)(ii)(a) and (b), and (b)(2) revised 21278
544.173e (a)(1), and (4)(ii)(a) and (b), and (iii)(b), and (b)(1)(i) and (2) revised 21278
544.211a (a)(1), (2), (3) and (4), and (b)(3) and (4) amended 21278
544.211b (a)(1)(ii) and (v), (3), and (4)(ii)(a), (iii)(b) and (c) and (vi)(b) and (b)(3) revised 21278
544.274 (a)(4)(ii)(a) amended 21279
544.370a Revised 21279
544.370b (a)(1) and (4)(ii)(b) and (iii)(b) and (b) revised 21279
544.373a Revised 21279
544.973b (b)(2) revised 21281
548.110 (a)(1), (4)(ii)(a), (b), and (iii)(b), and (b)(1) and (2) revised 27239
548.111 (a), (b)(1), (2), and (3)(ii) revised 27239
548.112a (a)(1) amended; (b)(1) introductory text and (b)(2) and (3) revised 27240
548.112b (a)(3)(i) introductory text, (b)(2) and (3) revised 27240
548.112c (b)(2) revised 27240
548.112d (a)(1) amended; (a)(4)(ii)(b) and (b) revised 27240
548.113 Heading, (a)(1) and (3)(ii)(a) and (b), (b) and (c) revised 27240
548.114 Heading, (a), (b), and (c)(1) and (3) revised 27240
548.212 Revised 27241
548.310a Revised 27241
548.310b Revised 27242
548.313a Revised 27242
548.313b Heading revised; (a) introductory text, (a)(2)(i) and (b) amended 27243

CODE

UMI

CHANGES APRIL 1 THROUGH MAY 31, 1977

Title 21, Chapter I—Continued

Page

548.314a Heading and (a) revised ... 27243
548.314b Heading, (a), (b), and (c)(1) revised ... 27243
556.70 Revised ... 18614
556.450 Removed ... 18619
558.15 (g)(1) table amended ... 18060, 18061
(g)(1) and (2) tables amended ... 18614, 18619
558.55 (c) revised; (e)(2) table amended ... 18615
558.58 (c) added; (e)(1) introductory text revised and table amended ... 18616
(a) added; (e)(1) table amended ... 21771
558.60 (c) added ... 18617
558.62 (c) added; (e)(2)(iii) and (iv) redesignated as (e)(2)(v) and (vi); new (e)(2)(iii) and (iv) added ... 18617
558.76 (c) revised; (e)(1) table amended; (e)(3) revised ... 18617
558.78 (e)(1)(i) and (ii) tables and (a)(1) amended ... 18061
(c) revised; (e)(3)(iii) and (iv) redesignated as (e)(3)(v) and (vii); new (e)(3)(iii), (iv) and (vi) added ... 18617
558.95 (e)(1)(viii) and (ix) added ... 20817
558.120 (c) added ... 18617
558.126 (e) introductory text revised ... 18617
558.128 (e)(2) and (3) redesignated as (e)(3) and (4); (c) and new (e)(2) added; new (e)(3) amended ... 18617
558.262 (c) added ... 18618
558.274 (c) and (e)(2) added ... 18618
558.342 (e) introductory text revised ... 18618
558.355 (b)(7) revised ... 19144
558.368 Removed ... 18619
558.370 (c) added ... 18618
558.430 (c) added ... 18618
558.460 (d) added; (f)(2)(v) redesignated as (f)(2)(vi); new (f)(2)(v), (vii), (viii), (ix) and (x) added ... 18618
558.465 (d) revised ... 21281
558.530 (e)(4)(xvi) and (xvii) added ... 18618
(e)(4)(xviii) added ... 20817
558.625 (b)(50) added ... 18060
(f)(2) removed ... 18618
(b)(51) added ... 25855
558.680 (c) added; (e)(1) table amended ... 18618
(e)(2) added ... 20817
561.55 Added ... 18620
561.282 Revised ... 22363
561.371 Revised ... 23149
571.115 Comment time extended ... 24254
601.2 (a) amended ... 19993
601.4 (b) corrected ... 19142
601.5 (b) corrected ... 19143
601.7 (a) corrected ... 19143
610.50 (b) revised ... 27582
620.14 (c)(2) revised; (c)(3) added ... 27582
620.24 (c)(2) revised; (c)(3) added ... 27582
620.35 (e)(3) revised ... 27582
630.66 (e)(3) revised ... 27582
630.75 (d)(2) revised ... 27582
630.86 (e)(3) revised ... 27582
640.50 Revised ... 21774
640.51 Revised ... 21774
640.52 Revised ... 21774
640.53—640.57 Added ... 21775
640.80—640.86 (Subpart H) Added ... 27582
640.90—640.96 (Subpart I) Added ... 27583
650.6 (b) revised; (c) added ... 27584
650.11 (c)(4) revised; (c)(5) added ... 27584
660.2 (f)(1)(iii) revised ... 27585
660.15 (c) revised; (d) added ... 27585
701.3 Termination of judicial stay of effective date ... 18061
(c)(1) revised ... 24255
Technical correction ... 25855
701.30 Added ... 24255
740.11 (c) added ... 22033
801.425 Added ... 22034
Revised ... 23780
1002.7 Added ... 18062
1002.40 Heading and (a) revised; (c) added ... 18063
1002.41 Heading, (a)(2) and (b) revised ... 18063
1010.2 (b) revised ... 18063
1010.3 (a) introductory text revised ... 18063

CHANGES APRIL 1 THROUGH MAY 31, 1977

Chapter II—Drug Enforcement Administration, Department of Justice

Page

1308.15 (c) added ... 25499

Title 21—*Proposed Rules:*

2 ... 24536
101 ... 27261
109 ... 17487, 21816
131 ... 21295
137 ... 27603
145 ... 19996, 20009, 25339
150 ... 19996, 20009, 25339
166 ... 27603
172 ... 19996, 20009, 25339, 27603
173 ... 27603
175 ... 27603
176 ... 27603
177 ... 27603
178 ... 27603
180 ... 19996, 20009, 25339, 27603
181 ... 27603
182 ... 27603
189 ... 19996, 20009, 24536, 25339
201 ... 19156, 24279, 27262, 27263
250 ... 20313
310 ... 19996, 20009, 24536, 25339
330 ... 19156, 24279
342 ... 17642, 21816
361 ... 23161
430 ... 19996, 20009, 25339
431 ... 18621
500 ... 24536, 27264
510 ... 19996, 20009, 24536, 25339
514 ... 18621
589 ... 19996, 20009, 25339
640 ... 25339
700 ... 19996, 20009, 24536, 25339
801 ... 24536
1020 ... 17494
1040 ... 17495

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

6a.6 (k) added ... 18064
6a.7 Revised ... 18063
6a.8 Redesignated as 6a.9 and (f) introductory text revised; new 6a.8 added ... 18063
6a.9 Redesignated as 6a.10 and heading, (a) and (d) revised; new 6a.9 redesignated from 6a.8 and (f) introductory text revised ... 18063
6a.10 Redesignated as 6a.11; new 6a.10 redesignated from 6a.9 and heading, (a) and (d) revised ... 18064
6a.11 Redesignated from 6a.10 ... 18064
46.3 (k) and (l) removed ... 19479
51.4 (d) revised ... 17869
Technical correction ... 18588

Chapter II—Agency for International Development, Department of State

214.32 (b)(1) revised ... 26975
214.33 (b) revised ... 26975
214.34 (a)(2) and (b) revised ... 26975

Chapter X—Inter-American Foundation

1004 Added ... 20461

Title 22—*Proposed Rules:*

21 ... 26994
22 ... 26994

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

712.204 (d)(1) revised ... 26652
790.9 (f) removed ... 26652

Title 23—*Proposed Rules:*

1—920 (Ch. 1) ... 21487, 21827
640 ... 22173
642 ... 22173

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

16.6 (a)(1) revised ... 20297

Chapter II—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development

200.94 Revised ... 25724
201.12 (b) revised ... 26552
201.1105—201.1280 (Subpart C) Added ... 26553
203.405 Revised ... 17452
203.479 Revised ... 17452
207.259 (e)(6) revised ... 17452
220.830 Revised ... 17452
235.2 (d) revised ... 22557
235.35 (a) removed; (b) revised ... 22557
241.125 Corrected; eff. 1-17-77 ... 23601

90-120 O - 77 - 5

CODE
UMI

CHANGES APRIL 1 THROUGH MAY 31, 1977

Title 24—Continued

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development

Page

570.200 (a)(2)(xii) revised 20251
570.201 (a)(4) and (6), and (f) revised 20251
570.404 Added 20255

Chapter VIII—Low-Income Housing, Department of Housing and Urban Development

812 Added 23583
860.403 Introductory text revised; (b) through (e) and (j) removed 23584
880.102 Amended 23585
881.102 Amended 23585
882.102 Amended 23585
883.202 Amended 23585
883.702 Amended 23585
886.102 Amended 23585
888.101—888.213 (Subpart A) Schedule A amended 22364
890.101 (a) corrected 18064
890.104 Corrected 18064
890.105 (d)(3) corrected 18064
890.107 (c)(2) corrected 18064
890.108 (a) corrected 18064

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

1914.6 Table amended 19446–19448, 19451, 19452, 19598–19600, 20122, 22866–22868, 24932, 24938
1915.3 Table amended 19601, 19604, 24945, 24987
1917 Appeals from determinations 23972–23975, 25436–25440
1920 Map amendments 24256–24263, 24725–24731

Chapter XX—Office of Assistant Secretary for Consumer Affairs and Regulatory Functions, Department of Housing and Urban Development

3500.6 (a) amended 19328

Title 24—*Proposed Rules:*

20 24200
58 24755
803 22704

Page

888 ..... 21206, 22704, 24279
1917 ..... 17684–17697, 18232–18240, 25441–25444
1932 22900

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

12 Revised 21282
43n Added 26652
219 Added 22141

Title 25—*Proposed Rules:*

171 18083
172 18083
173 18083
177 18083
182 18083
183 18083
221 22902
258 27609
260 20480

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

1.78–1 (a), (e)(1) and (f) amended 20130
1.613–2 (c)(2) amended 24263
1.613A–1—1.613A–7 Added 24264
1.901–3 (b)(2)(i), (ii), and (d) amended 20130
1.902 (b), (c)(1)(A), (d) and historical note revised; (c)(1)(B) amended 20124
1.902–1 Revised 20125
1.902–2 Removed 20129
Redesignated from 1.902–4; (a), (b) and (c) amended; new (d) added 20130
1.902–3 Removed 20129
1.902–4 Redesignated as 1.902–2; (a)((b) and (c) amended; new (d) added 20130
1.902–5 Removed 20130
1.960–1 (b)(4) and (h) amended 20130
1.960–3 (a) amended 20130
7.0 (a) amended; eff. 6–14–76—6–15–81 18276
7.48–2 (b)(1) and (5) amended 19479
7.190–1 Added 17871
Filing date corrected 19479
Hearing 26204
7.190–2 Added 17871
Filing date corrected 19479
Hearing 26204

CHANGES APRIL 1 THROUGH MAY 31, 1977

Page

7.190–3 Added 17873
Filing date corrected 19479
Hearing 26204
7.191–1 Added; eff. 6–14–76—6–15–81 18276
11.415(c)(4)–1 (b) revised 20297
31.3121(k)–1 (c)(4) amended 17874
33 Removed 17874
Added 24047
34 Added 21107
53.4942(a)–2 (c)(4)(i)(b) added 24265
53.4942(a)–3 (c)(2)(i) and (iv) revised 24265
301.6402–2 (f)(2) revised 22143
404.6103(c)–1 Added 19144
404.6694–1 Added 17453
(a) and (b) corrected 19479
404.6695–2 Added 17454
404.7701–1 Added 17454

Title 26—*Proposed Rules:*

1.0–1—1.169 ..... 20150, 27610
1.401—1.500 18621
1.501—1.640 ..... 24279, 26437
1.641—1.850 24279
53 23517

TITLE 27—ALCOHOL, TOBACCO PRODUCTS, AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury

178.11 Corrected 20818
Amended; effective date postponed to 5–12–77 22144
181.1 (c) revised; effective date postponed to 5–12–77 22144
181.11 Amended; effective date postponed to 5–12–77 22144

Page

181.22 Revised; effective date postponed to 5–12–77 22144
181.26 Revised; effective date postponed to 5–12–77 22144
181.30 Revised; effective date postponed to 5–12–77 22144
181.41 (a)(1) corrected 20818
(a) revised; effective date postponed to 5–12–77 22144
181.45 Revised; effective date postponed to 5–12–77 22144
181.105 (g) added; effective date postponed to 5–12–77 22144
181.106 (a) revised; effective date postponed to 5–12–77 22144
181.108 Revised; effective date postponed to 5–12–77 22144
181.109 Revised; effective date postponed to 5–12–77 22144
181.122 (a) corrected 20818
(a) revised; (f) added; effective date postponed to 5–12–77 22144
181.123 (a) revised; (f) added; effective date postponed to 5–12–77 22144
181.124 (a) revised; (g) added; effective date postponed to 5–12–77 22144
181.125 (c) corrected 20818
(a), (b), and (c) revised; effective date postponed to 5–12–77 22144
181.126 (c) and (f) revised; effective date postponed to 5–12–77 22144
181.130 Added; effective date postponed to 5–12–77 22144
181.141 (a)(5) corrected 20818
Revised; effective date postponed to 5–12–77 22144

CODE
UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

Page

0 Technical correction 36650
0.1 Amended *15314
0.6 (d) redesignated (e); new (d) added *4440
Revised *8140
0.8 Added *15314
0.13 Added *26205
0.15 (b)(8) redesignated as (b)(9); new (b)(8) added *5054
(b) revised; (c) removed *15315
(b)(5) redesignated as (b)(10); new (b)(5) added *22557
0.16 Revised 46598
0.18 Revised 55179
Technical correction *3163
0.20 (e) amended *15315
0.25 (m) amended *15315
0.27 (d) amended *15315
0.30 Nomenclature change *15315
0.40 Nomenclature change *15315
(a) amended *26205
0.41 Nomenclature change *15315
0.43 Removed *26205
0.45 (h) amended 54176
Nomenclature change *15315
0.50 Nomenclature change *15315
(a) amended *26205
0.55 (d) amended 52454
(l) revised 54176
0.60 Removed *26205
0.61 (d) revised 54176
0.64–1 Added *12853
0.65 (f) and (g) added 52454
Nomenclature change *15315
0.70 Nomenclature change *15315
0.75 Nomenclature change *15315
Amended *25499
0.76 Nomenclature change *15315
Amended *25499
0.77 Nomenclature change *15315
Amended *25499
0.85 Revised *15315
0.95—0.99 (Subpart Q) Appendix amended 56802
0.96 (t) added 56802
0.105 Nomenclature change *15315
0.115 Nomenclature change *15315
0.116 Nomenclature change *15315
0.125—0.127 (Subpart V) Revised 35184
0.133 Existing text designated as (b); new (a) added *23801
0.160—0.172 (Subpart Y) Appendix amended 53005, 53660

Page

0.160 Nomenclature change *15315
0.161 Nomenclature change *15315
0.162 Nomenclature change *15315
0.163 Nomenclature change *15315
0.164 Nomenclature change *15315
0.165 Nomenclature change *15315
0.166 Nomenclature change *15315
0.167 Nomenclature change *15315
0.168 Nomenclature change *15315
0.171 Amended *15315
0.190 Nomenclature change *15315
2 Revised 37319
2.10 (b) revised *12045
(c) added; eff. 8–1–77 ..... *12045
2.20 Table amended *12045
2.21 (b)(2) revised *12045
2.52 (d)(1) amended *12045
15 Heading revised *15409
Authority citation corrected *17111
15.1 Revised *15409
Corrected *17111
15.2 Heading revised; existing text designated as (a); (b) added *15410
15.3 Revised *15410
16.21—16.26 (Subpart B) Appendix added *19145
16.23 (b)(2) (iii) and (iv) amended; (b)(2)(v) added *10846
16.24 (b) amended *12045
16.76 (f) and (g) added *9999
16.81 (d) and (e) added *9999
(a)(9) added; (b) revised *23506
16.88 (c) and (d) added *10000
16.90 (g) and (h) added *10000
16.91 (s) added 32423
16.92 Revised *10000
16.98 (g) and (h) added *10001
16.99 (a)(24) added; (a) undesignated paragraph and (b) through (d) revised *10001
16.200—16.208 (Subpart F) Added *14713
19.8 (d) removed 50822
19.10 (b) amended 50822
20 Appendix added 34949
22 Added 54846
25 Added 31532
30 Revised *5318
32 Added *23255
42.1 Revised *25724
42.2 (b) revised *25725
42.102 Nomenclature change *15315
42.201—42.217 (Subpart D) Revised *9497
42.206 (a) revised 28478

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Page

42.401—42.415 (Subpart F) Added 52669
Effective date corrected 53478
42.412 Nomenclature change *15315
45.735–3 (b) nomenclature change *15315
45.735–5 (a)(2) nomenclature change *15315
45.735–9 (c) nomenclature change *15315
45.735–12 Nomenclature change *15315
45.735–22 (c)(2) revised 27317
(g) nomenclature change *15315
45.735–24 Nomenclature change *15315
50.6 Revised *11831
50.14 Added 51735
50.15 Added *5695
50.16 Added *5696
52 Removed *21470
55 Revised 29998

Chapter III—Federal Prison Industries, Department of Justice

301.12 Redesignated as 301.21; new 301.12 added 55710, 55711
301.13 Redesignated as 301.22; new 301.13 added 55710, 55711
301.14 Redesignated as 301.23; new 301.14 added 55711
301.15 Redesignated as 301.24; new 301.15 added 55711
301.16 Redesignated as 301.25; new 301.16 added 55711
301.17 Redesignated as 301.26; new 301.17 added 55711
301.18 Redesignated as 301.27; new 301.18 added 55711
301.19 Added 55711
301.20 Added 55711
301.21 Redesignated from 301.12 55711
301.22 Redesignated from 301.13 55711
301.23 Redesignated from 301.14 55711
301.24 Redesignated from 301.15 55711
301.25 Redesignated from 301.16 55711
301.26 Redesignated from 301.17 55711
301.27 Redesignated from 301.18 55711

Title 28—*Proposed Rules:*

2 ..... 52889, 53811
..... *13305
16 ..... 27972, 51089
..... *5104, 6610, 15072, 15075
30 36215
32 ..... *1390
42 ..... 31550, 51762
52 34636
500 ..... *26334
501 ..... *26334
523 ..... *26334

Page

540 ..... *26334
541 ..... *26334
543 ..... *26334

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

2.5 Removed *769
9 Removed *22364
15 Added *769
15.4 (b) existing text designated as (b)(1) and (2); new (b)(2) revised *11832
15.6 (b) revised *11832
15.17 Revised *11832
15.22 Revised *11832
20 Removed 51012
29 Added *10139
40.2 (b) introductory text amended; (b)(7) and (8) revised; (b)(9) added *22364
40.14 (b) corrected 27318
40.42 (b) corrected 27318
50 Removed 51012
51 Removed 51012
55 Removed 51012
56 Revised 47700
60 Redesignated and revised as 20 CFR 656; eff. 2–18–77 ..... *3440
70a Added *6106
Effective date corrected *7949
71 Removed 51012
94.3 Amended 44394, 50110, 54066
Amended *1658, 20908
94.4 (kk) revised; (hhh)(5) removed; (nnn) through (qqq) added 54066
(kk) revised; (hhh)(5) removed; (nnn) through (qqq) added *2426
(ooo) and (ppp) revised; (rrr), (sss) and (ttt) added *24253
95.11 (a) revised 50110
95.14 (b)(2)(i)(C)(*1*)(*vi*), (*vii*), (3)(ii)(F), and (iii)(K) revised 54067
(b)(2)(i)(C)(1) (vi), (vii), (3)(ii)(F), and (3)(iii)(K) revised *2427
95.15 Revised 50110
95.17 (b)(8) revised; (b)(14) added 54067
(b)(8) revised; (b)(14) added *2427
95.18 Revised 50111
95.21 Revised 50111
(a)(1)(iv)(D) revised 54067
(a)(1)(iv)(D) revised *2427

CODE
UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 29, Subtitle A—Continued

Page

95.32 (f) revised 54067
(f) revised *2427
95.33 (d)(4) (ix) and (x) revised 54067
(d)(4) (ix) and (x) revised *2427
(d)(5)(iii)(B) revised *24524
95.34 (f)(1) revised 54067
(f)(1) revised *2427
(f) introductory text and (f)(1) redesignated as (f)(1) and (2) and repuplished *24524
95.37 (a) amended 29378
95.52 (a), (b) introductory text, (b)(1) and (2) revised 50112
95.53 Revised 50112
95.54 Revised 50113
95.56 (c)(1)(iv) revised 54068
(c)(1)(iv) revised *2428
96.2 (b)(2)(i) revised 54068
(b)(2)(i) revised *2428
96.14 (b)(2)(i)(C)(2) (*vi*) and (*vii*) revised 54068
(b)(2)(i)(C)(2) (vi) and (vii) revised *2428
96.23 (b)(11), (12), and (15) revised 54068
(b) (11), (12), and (15) revised *2428
96.24 (j) correctly designated 29378
(c) and (j) revised 54068
(c) and (j) revised *2428
96.27 (d)(1) revised 54068
(d)(1) revised *2428
96.36 Redesignated from 96.37 and revised 54068
Removed; 96.37 redesignated as 96.36 and revised *2428
96.37 Removed; redesignated as 96.36 and revised 54066, 54068
Redesignated as 96.36 and revised *2428
96.45 Revised 50113
97.1—97.26 (Subpart A) Revised *20908
97.201—97.292 (Subpart C) Revised *1658
97.214 (a), (b), (c)(1) and (2) revised 50114
97.215 (b) revised 45987
97.216 (a) revised 50114
97a.130—97a.132 (Subpart H) Added 50114
98.8 (g) revised 54068
(g) revised *2428
98.12 (b)(1) and (3), (d)(4), (f)(2), (5)(v), and (6) revised 54068
(b)(1) and (3), (d)(4), (f)(2), (5); and (6) revised *2429
(b)(3) amended *24524
98.18 (b)(1) and (5)(i) revised 54069
(b)(1) and (5)(i) revised *2429
98.20 (a)(3) revised 54069
(a)(3) revised *2429
98.24 (b) revised 54070
(b) revised *2430
98.25 Revised *24524
98.29a Added 44394
99 Revised 54070
Revised *2430, 24524
99.35—99.38 Corrected *773

Chapter I—National Labor Relations Board

Page

102.126—102.133 (Subpart P) Revised *13113
102.132 Revised *15410
102.133 Revised *15410
102.137—102.142 (Subpart S) Added *13550

Chapter IV—Office of Labor-Management Standards Enforcement, Department of Labor

Page

Chapter heading revision confirmed 27318
402.4 Existing text designated as (a); (b) added *6807
403.4 (b) revised 27318

Chapter V—Wage and Hour Division, Department of Labor

Page

511.4 Revised *2313
524.1 Amended 29378
524.12 Amended 29378
609.2 (a) revised *2955
613.1 Revised *3303
613.2 (a)(1)(v)(A), (vi)(A), and (2)(i) revised *3303
657.2 (a) (1), (2), (3), and (5) revised *4440
672.2 (a)(1) revised *2955
673.1 Revised *2955
673.2 (a) (5)(i), (6)(i), (7)(i), (8)(i), and (b) (5)(i) and (6)(i) revised *2955
675.1 (b) revised *18065
675.2 (a)(1) and (b)(1) revised; (c), (d), and (e) removed *18065

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Page

678.2 Introductory text added; (a)(1) and (2) introductory texts revised; (d) removed *18065
694.1 (a)(1), (2)(i), (3)(i), (b)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), (c)(1)(i), (2)(i), and (3)(i) revised *18589
699 Revised 34744
700.2 (a)(1), (b)(1), (c)(1), (d)(1)(i)(A)(*1*) and (B)(*1*), (d)(1)(ii)(A), (iii)(A), (iv)(A), (2)(i)(A) and (2)(ii)(A) revised 44695
701.2 (a)(1), (c)(1), (d), (e), (f)(1) and (g)(1) revised 43403
720.1 Revised *3304
720.2 (a) (1)(i), (2)(i), (3)(i), (4)(i), (b) (1)(i), and (2)(i) revised; (c) removed *3304
721.1 Revised 38504
721.2 (a) and (b)(1) revised 38504
727.2 Revised 43403

Chapter X—National Mediation Board

Page

1209 Added *14716

Chapter XII—Federal Mediation and Conciliation Service

Page

1404 Revised 50658

Chapter XIV—Equal Employment Opportunity Commission

Page

1601.4 Revised 34745
1601.12 (m) revised 30635, 37104, 47426
(m) revised *3164
1601.13 Revised 34745
1601.19b (c) revised *10315
1602.20 (b) revised 33557
1607 Revised 51984
1611 Revised *7949
1612 Added *13830

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

Page

1903 Interpretation *5356
1904 Interpretation *5356
1910.20 Added *22525
1910.217 Supplemental statement 40103
1910.309 (c) revised 55703
Technical correction *2956
1910.401—1910.441 (Subpart T) Removed 48743
1910.1000 Table Z-2 amended *22525
1910.1003 (c)(6) removed 35184
1910.1004 (c)(6) removed 35184
1910.1005 Removed 35184
1910.1006 (c)(6) removed 35184
1910.1007 (c)(6) removed 35184
1910.1008 (c)(6) removed 35184
1910.1009 (c)(6) removed 35184
1910.1010 (c)(6) removed 35184
1910.1011 (c)(6) removed 35184
1910.1012 (c)(6) removed 35184
1910.1013 (c)(6) removed 35184
1910.1014 (c)(6) removed 35184
1910.1015 (c)(6) removed 35184
1910.1016 (c)(6) removed 35184
1910.1028 Added *22525
(i)(5)(iii) added *23601
(a)(2)(i) revised; (b) amended *26429
1910.1029 Added 46784
Technical corrections *3304
(a), (b), and (f)(1)(i) (*a*), (*b*), (ii), (ii)(*a*), (iii), (iii)(*a*), (2)(i)(*d*), 6(i), (ii)(*e*), (iii), and (7) corrected *3305
(g)(1)(i), (2)(i) table, (iii), (h)(1)(iv), (2)(v), (j)(1)(i), (2), (4)(iii), (k)(1)(ii), and (2)(ii) corrected *3306
(l) correctly designated; (l)(2)(ii), (3), (m)(3)(ii), and Appendixes A and B corrected *3306
(m)(3)(iv) added *3306
1926.400 (h) revised 55703
Technical correction *2956
1928.57 (a)(5), (7), (8)(i), (9), (10), (11)(ii) and (iii), (b)(1)(iii) and (c)(1)(ii) amended 46598
1951 Interpretation *5356
1951.1 (b) amended *12427
1951.2 (b) amended *12427
1952.104 (l) added 31205
Heading revised; (m) added 32425
(j) revised *5972
1952.114 (f) and (g) added 46599
(h) added 51016
1952.124 (h) added 51016
1952.154 (e) added 41083
(f) through (k) added 43897
(l) added 43898
(m) through (r) added 43899
(s) added 43900
(t) added 43902
1952.164 Heading revised; (m) added 39028
1952.174 (j) through (m) added 43405
(n) added 51013

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 29, Chapter XVII—Continued

Page

1952.194 (c) through (g) added 51014
1952.204 (c) through (k) revised 36652
(1) added 42661
1952.213 (c) and (o) removed; (n) redesignated as (c); (k) revised 45564
1952.214 (c) and (d) added 45564
(e), (f), and (g) added *10988
1952.222 Revised 34253
1952.234 Text designated as (a); (b) added 34252
1952.243 Revised 56315
1952.244 Added 36206
(c) added 43406
Revised 56315
1952.254 (c) through (e) added 43406
1952.262 Revised *15411
1952.274 (c) and (d) added *2313
(e) added *9169
(f), (g), and (h) added *10989
Heading revised; (i) added *12428
1952.312 Revised 34251
1952.344 (c) added 28789
(a) and (b) added 30329
1952.353 (e) revised 31813
(c) and (e) revised 56315
1952.354 Added 31813
(g) revised 34251
(h) revised 56316
1952.364 Added 28788
1952.370—1952.373 (Subpart EE) Added 42658
1952.373 (j) revised *10989
1956 Added *12430
1960.20 Added *7954

Chapter XX—Occupational Safety and Health Review Commission

2100 Redesignated as Part 2202 and revised 53011
2200.91a Added 53016
2201 Redesignated from Part 2300 and revised *15412
2202 Redesignated from Part 2100 and revised 53011
2203 Added *15414
2300 Redesignated as Part 2201 and revised *15412

Chapter XXV—Pension and Welfare Benefit Programs, Department of Labor

Chapter heading revised 55510
2520.102-2 Added *14274
2520.102-3 Added *14274
2520.102-4 Added *14276
2520.103-1—2520.103-10 (Subpart C) Added 32529
2520.104-4 Added *14276
2520.104-5 (c)(4)(ii) revised 55511
Revised *14280
2520.104-6 Added *14281
2520.104-26 Added *14277
2520.104-27 Added *14277
2520.104-41—2520.104-46 (Subpart D) Added 32535
Comment time extended *25870
2520.104-44 (b)(2) amended 42654
2520.104a-3 Added *14277
2520.104a-5—2520.104a-6 (Subpart E) Added 32537
2520.104b-2 Added *14278
2520.104b-3 Added *14279
2520.104b-4 Added *14279
2520.104b-10—2520.104b-11 (Subpart F) Added 32537
2520.140b-12 (Subpart F) Added *8849
2520.104b-30 (a) amended 37575
2530 Revised 56473
2560 (Subchapter G and Part) Added; eff. 10-1-77 *27426

Chapter XXVI—Pension Benefit Guaranty Corporation

2602 Revised 32740
2602.3 (d) corrected 38769
(d) revised 42654
2606 Revised 32742
2607.10 Revised *26975
2608 Added 48481
2608.7 (b)(1)(i)(C) and (2)(i)(A) revised *2678, 4440
2608.10 (a) revised *2678, 4441
2608.12 Added *2678
2610 Added 48486
Appendix B revised *2679

Title 29—*Proposed Rules:*

29 46148
40 *24289
60 48947
90 *2981, 5372, 9190
94 46124, 46617, 46998
*14288
95 46998
*14288
96 46998
97 35723, 35724, 46124, 46617
*8806
98 46998
*14288
99 46998
*14288

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Page

102 *5105
215 *3319, 4492, 12442
402 51040
529 *15224
1209 *8155
1601 33924, 41431, 43195, 55366, 56673
1611 49656
1612 *7162
1904 *10015
1908 *22060
1910 27744, 29425, 32911, 32912, 35200, 48746, 48950, 50008, 56336, 56498
*808, 1742, 1806, 5372, 5374, 8680, 9190, 10017, 10018, 11023, 13025, 14134, 21301, 27452
1915 48950, 50008
*11023
1916 48950, 50008
*11023
1917 48950, 50008
*11023
1918 48950, 50008
*11023
1926 48950, 50008
*11023
1928 27378, 28797, 56498
*11023, 14134
1952 28313, 32912, 34298, 36219, 43411, 51040, 51041, 56336
*10015, 11024, 11025, 27266
1953 *15430
1960 47492
2200 34657
*21816
2201 53067
2203 *8680
2300 53067
2550 31870, 31874, 46017, 55206, 56758
*1488, 1618, 3871
2607 52485
2608 48492, 52890
*20156, 27615
2610 48498
*4862
2611 *20158, 27616
2615 48504

TITLE 30—MINERAL RESOURCES

Chapter I—Mining Enforcement and Safety Administration, Department of the Interior

18.80—18.82 (Subpart D) Appendixes I and II amended *8373
Appendix II corrected *25855
18.82 (g)(1) amended *8373
18.95 Heading amended *8373
18.97 (b)(4)(iii) amended *8373
18.99 Amended *8373
55.6 Amended 33263
55.9 Corrected 28266
Technical correction 33263
Amended *7006, 7007
55.14 Amended *7009
56.4 Corrected 28266
56.6 Amended 33263
56.9 Amended *7006, 7009
56.14 Amended *7010
57.5 Corrected 28266
57.9 Technical correction 33263
Amended *7006, 7010
57.14 Amended *7011
57.21 Technical correction 33263
75.1719 Revised 43534
75.1719-1—75.1719-4 Added 43534
75.1719-1 (a) corrected *18859
100.7 (c) revised *1214

Chapter II—Geological Survey, Department of the Interior

211.1 (b) amended *4441
211.2 (r) revised; (s) amended *4441
211.5 (c)(1)(i) revised *4441
211.10 (e) added *3643
(a)(1) and (c)(6) revised; (d)(1) amended *4441
(e)(3) added *18066
(e)(2) added *18068
(e)(4) added *18071
211.40 (a)(2) and (14)(ii) revised 53793
(a)(12)(iii) added *4441
211.74 (e) revised 53793
(g) added *3643
(g)(3) added *18066
(g)(2) added *18068
(g)(4) added *18071
211.76 Added 53793
211.77 Added *3644
(c) added *18066
(b) added *18068
(d) added *18071
250.12 (d) revised 53016
251 Technical correction 27319

Title 30—*Proposed Rules:*

11 44864, 49506
*2986
55 *5546, 7968, 12442, 13840
56 *5546, 7968, 12442, 13840
57 *5546, 7968, 12068, 12442, 13840
75 31553, 49838, 52890
*21295
77 31556, 50299, 52890
*2800, 11250, 21295
100 45574

Note: Symbol (*) refers to 1977 page numbers

90-120 O - 77 - 6

CODE

UMI

Title 30—*Proposed Rules*—Continued

Page

211 ---- 35716, 39036, 43912, 45999, 50008, 53360, 53811, 56830

---- *1489, 2082, 4492, 4493, 8156, 18862, 23855, 26218

226 ---- 53814

231 ---- 54003, 54004

251 ---- *3321

601 ---- *20837

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

1.2 (c)(1)(iii) revised ---- *9382

1.6 (g)(1)(i) and (3)(i) revised; (g)(3)(ii) amended ---- 51396

(g)(1)(i) and (3)(i) revised; (g)(3)(ii) amended ---- *2314

13 Added ---- 55180

Appendix II corrected ---- *3841

Chapter I—Monetary Offices, Department of the Treasury

51.0—51.4 (Subpart A) Revised ---- *18364

51.10—51.19 (Subpart B) Revised ---- *2197

51.20—51.31 (Subpart C) revised ---- *24732

51.40—51.45 (Subpart D) Revised ---- *24737

51.50—51.75 (Subpart E) Revised ---- *18365

Technical correction ---- *19479

51.58 (a) technical correction ---- *20298

51.80—51.105 (Subpart G) Redesignated as 51.200—51.225 (Subpart G) ---- *2422

51.100—51.107 (Subpart F) Revised ---- *2422

51.200—51.225 (Subpart G) Redesignated from 51.80—51.105 (Subpart G) ---- *2422

Revised ---- *18372

Technical correction ---- *19479

52 Added ---- 44842

52.23 (c) time limitation ---- 50369

101 Added ---- *1472

103.11 Amended ---- 27832

128.2 (a) and (c) revised ---- *4122

128.3 Revised ---- *4122

128.11 Revised ---- *4122

128.11a Removed ---- *4122

128.12 Revised ---- *4122

128.13 Revised ---- *4122

128.13a Removed ---- *4122

Page

128.14 Revised ---- *4122

128.14a Removed ---- *4122

128.15 Revised ---- *4122

128.16 Revised ---- *4122

128.17 Revised ---- *4122

128.17a Removed ---- *4122

128.19 Removed ---- *4122

128.35 Revised ---- 43720

Chapter II—Fiscal Service, Department of the Treasury

210.7 (e) revised ---- *10

210.10 Redesignated as 210.11; new 210.10 added ---- *10

210.11 Redesignated from 210.10 ---- *10

223.3 (a) amended ---- *8637

223.7 Revised ---- *8637

223.8 (a) amended ---- *8637

223.9 Revised ---- *8637

223.11 (b)(2)(i) revised; (b)(2)(ii) and (c)(1) amended ---- *8637

223.15 Revised ---- *8637

223.16 Amended ---- *8637

223.17 Amended ---- *8637

223.18 (a) revised ---- *8638

223.20 Amended ---- *8638

223.21 Amended ---- *8638

223.22 (a) and (c) revised; introductory text amended ---- *8638

240.2 Amended ---- 43903

240.6 (c) removed ---- 43903

309 Revised ---- 44006

315.5 Amended ---- *25725

316.2 (e) revised ---- 36342

Footnote 2 amended ---- *25725

316.14 Table 1 revised; tables added ---- 36343

332.2 Footnote 1 removed ---- *25725

332.14 Tables added ---- 36354

341.8 (b) and (c) and footnote 1 amended ---- *21611

341.9 (a)(5) and (b) amended ---- *21611

341.10 (a) amended ---- *21611

341.11 (b) amended ---- *21611

341.12 Nomenclature change ---- *21611

349 Added ---- 53335

350 Added ---- 53337

350.6 (a)(2) revised ---- 56195

350.14 (a) revised ---- 56195

350.17 (f) revised ---- 56195

Chapter V—Office of Foreign Assets Control, Department of the Treasury

500.322 (a)(4) corrected ---- *27199

500.562 (b) removed ---- *16620

500.563 Added ---- *16620

Page

500.564 Added ---- *16621

505.10 Schedule corrected ---- *27199

515.546 (b) removed ---- *16621

515.559 (a)(3) revised; (c) added ---- *1472

(a)(2) removed ---- *16621

515.560 Added ---- *16621

Revised ---- *25499

515.561 Added ---- *16621

520.205 (g) appendix amended ---- 27963

520.205b (g) appendix amended ---- 27963

530.202 Added ---- *18074

530.313 Added ---- *18074

530.503 Revised ---- *18074

530.518 Removed ---- *18074

530.519—530.522 Added ---- *18074

530.520 (b) revised ---- *23605

(c) removed ---- *26653

530.523 Added ---- *23605

530.808 Revised ---- *18075

(c)(2) corrected ---- *27199

Chapter VII—Federal Law Enforcement Training Center, Department of the Treasury

Chapter established ---- 49808

700 Added ---- 49808

Title 31—*Proposed Rules:*

1 ---- 38187

8 ---- 54191

10 ---- *20635

12 ---- 40139

51 ---- 47054

205 ---- 51847

210 ---- 32605, 35855, 37117

215 ---- *22174

223 ---- 56674

---- *5982

344 ---- 56208

350 ---- 47959

700 ---- 30135

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

40 Revised ---- *3647

40.5 Revised ---- *7955

166.11 (d) revised ---- 40466

191 Revised ---- *26422

199 Added ---- *17972

242a Added ---- *12853

243 Added ---- *13018

251 Added ---- 27963

251.9 Added ---- *9169

(b) amended ---- *12045

251.10 Added ---- *9169

251.11 Added ---- *9169

Page

251.12 Added ---- *9169

Table B-5 amended ---- *12045

256 Added ---- *774

256.6 Added ---- *13022

286.2 Removed; new 286.2 redesignated from 286.3 ---- 27074

286.3 Redesignated as new 286.2; new 286.3 redesignated from 286.4 ---- 27074

286.4—286.14 Redesignated from 286.6—286.16 ---- 27074

286.5 Removed; new 286.5 redesignated from 286.7 ---- 27074

286.6—286.16 Redesignated as 286.4—286.14 ---- 27074

287a.8 Added ---- *20298

291a.6 (b) added ---- *21776

296.2—296.7 Redesignated from 296.3—296.8 ---- 27074

296.2 Removed; new 296.2 redesignated from 296.3 ---- 27074

296.3—296.8 Redesignated as 296.2—296.7 ---- 27074

297 Revised ---- 27074

350 Added ---- *15909

351 Added ---- *25855

352 Added ---- *25856

Chapter V—Department of the Army

505.9 Amended ---- 47046

Amended ---- *16385, 27244

518.1—518.19 Existing text designated as Subpart A ---- *26424

518.51—518.69 (Subpart B) Added ---- *26424

553 Revised ---- *25725

581.2 Revised ---- 34253

Revised ---- *13274

581.3 (c)(5)(iii), (f)(1)(i)(c), (2), and (3)(ii), revised; (c)(5)(iv) through (vi), (f)(3)(ii)(a) and (b) and (h)(4) added ---- *17442

642 Added ---- *16386

Chapter VI—Department of the Navy

701.100—701.118 Subpart F) Added ---- 50662

701.120—701.124 (Subpart G Added ---- 50672

701.123 (l) added ---- *9382

701.124 (g) added ---- *9382

705 Added ---- 29101

706.2 Table amended ---- *10316

707.1 (b) amended; (c) revised ---- 29119

710 Revised ---- 41083

711 Revised ---- 27319

721 Revised ---- 29809

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 32, Chapter VI—Continued

	Page
722 Revised	34746
723.2 (b) revised	*18277
723.3 (a)(1) and (2) amended; (e)(3) revised; (e)(4) through (7) added	*18277
723.6 Revised	*18277
723.7 Revised	*18278
723.8 (d) revised; (e) removed	*18278
723.10 (d) revised	*18278
723.11 (e) added	*18278
724 Revised	*18590
725 Technical corrections	32742
725.601 Amended	29814
725.602 Revised	29814
725.604 Revised	29814
731 Revised	31378
732 Revised	30636
737.1–101 Revised	55511
737.1–111–50 Revised	55511
737.1–201 (c)(8) revised	55511
737.1–363 Revised	55511
737.1–401–55 (c)(2) revised; (c)(4)(v), (e)(3)(i) and (iii) amended	55512
737.1–401–58 Added	55512
737.1–403–51 (b)(1)(iv) amended; (b)(2)(viii)(A) revised; (b)(2)(xvii) added	55512
737.1–403–53 (b)(1) amended	55512
737.1–406–51 Added	55513
737.1–406–52 Added	55513
737.1–407 (j) added	55513
737.1–702–50 (b) amended	55513
737.1–950 Removed	55513
737.1–1004 (b)(1)(iii) and (iv) added	55513
737.1–1007 (b) amended	55513
737.1–2100–2 (a)(6) added	55513
737.3–201–50 (a) amended	55513
737.3–206–52 (d)(2) amended	55514
737.3–210–3 (e)(4) amended	55513
737.3–217–2 (d) added	55513
737.3–306–52 (b) amended	55513
737.3–306–53 (c) revised	55514
737.3–408 (b) revised	55514
737.3–410–2 Revised	55514
737.3–507–50 Amended	55514
737.3–805 Added	55514
737.3–805–1 Added	55514
737.3–805–2 Added	55514
737.3–807–53 Amended	55515
737.3–1000 Removed	55515
737.3–1000–1 Removed	55515
737.3–1004—737.3–1008 Removed	55515
737.3–1050 Removed	55515
737.3–1051 Removed	55515
737.3–1100 Removed	55515
737.3–1100–1 Removed	55515
737.3–1100–2 Removed	55515
737.6–103–2 Revised	55515
737.6–103–5 Amended	55515
737.6–203–1 Revised	55515
737.6–203–2 Added	55515
737.6–204 Removed	55515
737.6–204–3 Removed	55515
737.6–706 Added	55515
737.7–104–1 Added	55515
737.7–303 Added	55516
737.7–303–1 Added	55516
737.7–601 Added	55516
737.7–601–1 Added	55516
737.7–602 Heading and text amended	55516
737.7–607 Added	55516
737.7–607–1 Added	55516
737.7–802–5 Amended	55516
737.7–803 Added	55516
737.7–803–1 Added	55516
737.10–301–50 (b) amended	55516
737.10–351 Revised	55516
737.10–501–50 Amended	55516
737.10–552 (a), (b), and (e) amended	55516
737.10–700–1 (b) amended	55516
737.10–702 Amended	55516
737.16–812–51 (a)(2) amended	55516
737.17–208–1 (a)(1) and (2) revised	55516
737.17–208–3 Revised	55516
737.17–208–5 (b)(3) amended	55516
737.20–702–4 (c) added	55516
737.20–702–5 Revised	55517
737.20–702–7 Added	55519
737.20–706–50 Removed	55519
737.20–706–52 (a), (e), and (g) amended; (c)(2)(ii) revised	55519
737.20–802–8 Added	55519
737.21–102 Added	55519
737.21–102–1 Added	55519
737.21–102–2 Added	55520
737.21–102–3 Added	55520
737.21–102–4 Added	55520
737.21–103 Added	55520
737.21–103–1 Added	55520
737.21–501 Added	55521
737.22–102 Added	55523
737.24–205–7 Correctly designated; (a)(1) and (2) amended	55523
737.26–101 (b) amended	55523
737.26–102 (c) removed; (d) revised	55523
737.105–2 Amended	55511
737.108 (d) amended	55511

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

	Page
742.306 Revised	29119
746 Added	55712
754 Authority citation revised	*16622
754.1 Revised	*16622
754.2 (a) and (e) revised; (g) added	*16622
754.3 Revised	*16622
761 Authority citation revised	28957
761.3 (a)(1)(i) removed; (a)(1)(ii) amended; (c) revised	28957
761.4 Revised	28957
761.5 (i)(1) revised	28958
761.6 (b)(7) revised	28958
761.7 (d) amended	28958
761.9 Revised	28958
761.11 (a) amended	28958
761.14 Revised	28958
761.15 Revised	28958
761.18 (d) removed	28959
761.19 Added	28959
762 Added	29672
765.9 Revised	30115
765.17—765.19 Removed	29119

Chapter VII—Department of the Air Force

	Page
806b.18 Revised	*21776
806b.22 Removed	*21777
806b.58 (l) added	*5696
807.1 (c)(1) amended; (c)(2) removed; new (c)(2) and (3) added	47426
807.3 (b) revised	47427
825 Revised	31813
832.1—832.6 Existing text designated as Subpart A	34951
832.10—832.16 (Subpart B) Added	34951
832.20—832.29 (Subpart C) Added	46599
842.1 (a)(1), (f)(1) introductory text and (f)(1)(ii) revised	50420
(c) amended	50446
842.2 Revised	50420
842.4 Revised	50421
842.5 Revised	50421
842.6 (b) introductory text, (b)(2) revised; (b)(3) added	50421
842.7 (a) revised	50421
842.8 Added	50421
842.10 Revised	50422
842.11 Revised	50422
842.12 Revised	50422
842.13 Revised	50422
842.14 Added	50422
842.15 Added	50423
842.22 Revised	50423
842.23 Revised	50423
842.24 Revised	50425
842.25 Revised	50426
842.26 Revised	50426
842.27 Revised	50426
842.28 Revised	50426
842.29 Revised	50426
842.30 Revised	50426
842.31 Revised	50427
842.32 Added	50427
842.41 Revised	50427
842.42 Revised	50427
842.43 Revised	50428
842.44 (d) amended	50429
842.45 Revised	50429
842.46 Revised	50429
842.47 Revised	50429
842.49 Added	50429
842.52 (b)(1) amended; (d) added	50430
842.53 Table amended	50430
Note 2 amended	50446
842.54 Revised	50430
842.61 (a)(2) amended; (b) and (c) revised; (d) added	50431
842.64 Revised	50432
842.65 (b) added	50432
842.66 (b) amended	50432
842.67 Revised	50432
842.68 Heading and (a)(1) and (2) revised; (a)(3) and (b) amended; (c) added	50433
(b) amended	50446
842.69 Revised	50433
842.72 (a) introductory text, (a)(2), (a)(2)(i), (b)(3) and (c) revised	50433
842.73 (b) amended	50433
842.74 (a) amended; (b) through (e) redesignated as (c) through (f); new (b) added; (d) revised	50434
842.76 (a)(5)(iv)(b) amended	50434
842.80—842.83 (Subpart G) Heading revised	50434
842.80 Revised	50434
842.81 Revised	50434
842.83 (b)(1)(ii) through (v)(2) and (3) revised; (b)(3) and (c) added	50434
842.84 Added	50434
842.91 Revised	50434
842.92 Revised	50434
842.93 Revised	50434
842.94 Revised	50434
842.95—842.99E Added	50435
842.101 Revised	50436
842.102 Revised	50436
842.103 (a) and (b) revised; (e) added	50436

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 32, Chapter VII—Continued

	Page
842.104 (a) removed; (b) through (p) redesignated as (a) through (o); (h) amended; (p) and (q) added	50436
842.105 Removed; new 842.105 redesignated from 842.106; (a)(4) added; (b) revised	50437
842.106 Redesignated as 842.105; new 842.106 redesignated from 842.107 and revised	50437
842.107 Redesignated as 842.106 and revised; new 842.107 redesignated from 842.108	50437
842.108 Redesignated as 842.107; new 842.108 redesignated from 842.109 and revised	50437
842.109 Redesignated as 842.108; new 842.109 redesignated from 842.110 and revised	50437
842.110 Redesignated as 842.109; new 842.110 redesignated from 842.111 and revised	50437
842.111 Redesignated as 842.110 and revised; new 842.111 added	50437
842.112 Added	50438
842.121 Revised	50439
842.122 Revised	50439
842.123 Revised	50439
842.124—842.127 Added	50439
842.130 Revised	50440
842.131 Revised	50440
842.132 Revised	50440
842.133 Added	50440
842.134 Added	50441
842.135 Added	50441
842.140 Revised	50441
842.141 (a) and (c)(1), (3) and (4) revised	50441
842.143 Revised	50441
842.144 Revised	50441
842.145 Revised	50442
842.146 Revised	50442
842.147 Added	50442
842.148 Added	50442
842.151 Revised	50442
842.152 Revised	50442
842.153 Revised	50442
842.154 Revised	50442
842.155 Added	50443
842.156 Added	50443
842.157 Added	50443
842.161 Amended	50443
842.162 Revised	50443
842.163 (a)(1)(ii) revised	50443
842.164 Amended	50443
842.165 Added	50444
842.170—842.181 (Subpart O) Added	50444
844 Added	47427
865.3 (a) amended	*16623
865.5 Removed; new 865.5 redesignated from 865.6	*16623
865.6 Redesignated as 865.5; new 865.6 added	*16623
865.7 (c) revised; (d) added	*16624
865.8 (a) revised; (e)(3) amended	*16624
865.10 (a) amended	*16624
865.12 (a)(5)(i)(5) and (c) revised; (a)(5)(i)(6) through (9) added	*16624
865.13 Revised	*16624
865.14 (e) amended; (f) revised; (g) added	*16624
865.15 Removed; new 865.15 redesignated from 865.16	*16624
865.16 Redesignated as 865.15; new 865.16 redesignated from 865.17	*16624
865.17 Redesignated as 865.16; new 865.17 redesignated from 865.18	*16624
865.18 Redesignated as 865.17; new 865.18 redesignated from 865.19	*16624
865.19 Redesignated as 865.18	*16624
865.100—865.111 (Subpart B) Revised	53992
Revised	*23601
879 Added	49630
888e.8 (a)(2)(i) and (ii) amended	31532
888e.12 Revised	31532
888e.14 Heading revised	31533
888e.18 Amended	31533
888e.20 Heading revised; text amended	31533
888e.22 Revised	31533
888e.24 Revised	31533
888e.26 Amended	31534
888e.34 Revised	31534
888e.38 Amended	31534
888e.40 Revised	31534
888e.42 (b) amended	31534
888e.44 Amended	31534
888e.46 Amended	31534
888e.48 Amended	31534
889 Revised	34952
889.10 (a) and (b) added	46855
889.13 Revised	46855
890 Revised	52672
901 Revised	47427
908 Revised	31205
959—960 (Subchapter P) Added	30009
959 Added	30009
960 Added	30011
968 (Subchapter Q) Added	34962
1008 Added	34962
1008.3 (a)(11) amended	47431

Chapter XII—Defense Logistics Agency

Chapter heading revised	*9664
Nomenclature changes	*9664
1281 Removed	*11835
1286 Appendix C amended	39315

Chapter XIV—The Renegotiation Board

1453.3 (d)(2) amended	46600
1482 Added	*12856

Chapter XVI—Selective Service System

1608.4 (c) revised; (i) added	44169
1608.5 (b) revised; (d) added	44169
1608.9 (b) revised	44170
1608.13 Revised	44170
1608.18 Revised	44170
1611 Revised	56803
1631.1 Revised	56803

Chapter XIX—Central Intelligence Agency

1900.3 (g) introductory text amended; (g)(4) and (5) removed	*24049
1900.11 (d) revised	*24049
1900.43 (c) added	*24049

Chapter XX—Interagency Classification Review Committee

2000.1 (b) revised	*2680
2000.10—2000.17 (Subpart B) Revised	*2680
2000.30—2000.31 (Subpart D) Revised	*2680

Title 32—*Proposed Rules:*

40	53673
155	51041
230	53488
242a	55724
	*1492
251	36506, 46867, 50009
253	31842
256	36030
287a	*14738
290	*19356
291a	*14738
505	34764, 39325
	*9685, 18863, 20314
518	*15924
642	32346
656	*21620
657	34924
701	51849
	*21817
724	*8156
754	36666
806b	55885
	*15076
819b	51615
822	*9036
832	34976
865	*13124
867	47056
903	56336
	*2085
972	38512
1286	32231
1482	*3322
1608	36669
1611	51618
1631	51618
1900	*8385

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Federal Preparedness Agency, General Services Administration

Chapter heading revised	27722
110 Revised	51397
113 Added	43720

Chapter VI—Domestic and International Business Administration, Department of Commerce

633 Revised	*16740
634 Schedule A revised	37332
Schedule A revised	*25328
651.1 (c) revised	40106
651.2 (j) revised; (r) added	40106
651.3 (a) revised	40106
651.6 Heading, (a) and (b) revised	40106
651.7 (b), (c), and (e) revised	40106
651.10 (a) revised	40106
651.12 (a) and (b) amended; (c) added	40106

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

1.25–30 (b)(1) through (6) revised; (6)(7) through (12) removed	*23507

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

Title 33, Chapter I—Continued

	Page
3.40–20 Heading and (a) revised; (b) amended	37104
3.70–10 Revised	*6581
3.70–15 Revised	*6581
3.70–55 Removed	*6581
3.70–60 Removed	*6581
19.20 Removed	38770
25.127 Revised	39742
25.309 Revised	39742
25.415 (a)(3) revised	39742
25.703 (a) and (c) revised; (a)(1) introductory text revised; (b)(2) removed	*22879
25.705 (g) revised	*22879
25.713 (e) and (f) revised	*22879
25.717 Added	*22880
25.805 (d) revised	*22880
35.1409 (d) added	*22880
40.3 (d) amended	*11
40.4 (b) introductory text, (2) and (4), and (c) amended; (b)(1) and (3) revised	47235
40.10 Amended	47236
40.11 Revised	47236
40.12 (c), (d), (i), and (j) revised	47236
40.13 (b) and (c) revised	47236
74.20–1 Revised	49809
87 Subchapter DD and Part Added	*17111
Appendix A corrected; (Subchapter DD) Note added	*18401, 20625, *26976
92.09 Removed	*2681
92.15 Removed	*2681
92.19 (a) amended	*2681
109 Authority citation amended	36019
109.07 Added	36019
110 Authority citation amended	36019
110.1a Added	36019
110.33 Added	39743
110.55a Added	40467
110.128a Added	54177
110.155 (c)(1)(i), (2)(i), (3)(i), (4)(i), and (5) revised; (d)(2)(i) note removed; (d)(5) through (7) revised; (e) revised; (l)(13) added; note and authority citation added	36019, 36020
(c)(5) corrected	*17874
110.168 (a)(13) added	55344
110.224 (a)(11)(i) revised	*9021
110.228 (a) revised	27965
110.230 (a)(14) added	29743
110.237 Added	54176
117.15 Revised	48516
117.65a Removed	32217
117.125 Revised	34034
117.200 (j) and (k) removed	32217
117.225 (f)(1–b) amended	*11237
117.245 (i)(8) revised; (j)(35) revised	30638, 31534
(i)(20–a) removed; (j) (4–a) added	35522
(l)(4) revised	53325
(f)(6) added	55345
(i)(8) revised	*10316
117.467 Added	27035
117.540 (b) amended; (a)(3) amended; (b)(2) amended	35522, 39743, 39744
117.548 Added	39744
117.552 Added	39744
117.556 (b) amended	32217
117.560 (g)(16) amended; (g)(8) revised	*11237, *17119
117.641 (f)(5) removed	*8373
117.696 Added	*8374
117.702 Added	*8373
117.712 (d) revised	*3841
117.714 (f)(2)(i) revised	52298
117.720 (a) removed	32217
117.722 Removed	32217
117.730 Removed	32217
117.758a Added	52299
127.104 Added (temporary)	27035
127.106 Added (temporary)	27965
127.107 Added (temporary)	*19490
127.109 Added (temporary)	35067
127.201 Added (temporary)	*26977
127.334 Removed	*24738
127.338 Added (temporary)	27036
127.339 Added (temporary)	27036
127.341 Added (temporary)	27036
127.342 Added (temporary)	27036
127.344 Added (temporary)	27377
127.345 Added (temporary)	27966
127.346 Added (temporary)	27966
127.347 Added (temporary)	27966
127.348 Added (temporary)	29378, 29680
127.349 Added (temporary)	42187
127.506 Added (temporary)	28478
127.510 Added (temporary)	55872
127.900 Added (temporary)	32742
127.1701 Revised	*17119
157 Heading revised	54177
157.01 Revised; note added	54179
157.03 (i) and (w) revised	54179
157.08 Revised	54179
157.11 Note revised	54180
157.15 (b) and note revised	54180
157.17 Note revised	54180
157.19 (a) and note revised	54180

Note: Symbol (*) refers to 1977 page numbers

	Page
157.21 Introductory text revised	54180
157.24 Introductory text, (a), (b), and (d) revised	54180
157.25 Revised	54180
157.43 Revised	54180
157.47 Introductory text revised	54180
159.5 (a); (b)(1), and (c)(1) amended	*11
159.7 (a), (b)(1), and (c)(1) amended	*11
159.12a Added	*11
164 Added	*5960
183.3 (k) added	*2681
183.25 (b)(2) introductory text revised; (b) (3) and (4) added	*2682
183.33 (b) (2) and (3) revised	*2681
183.35 (b)(2) revised	*2681
183.37 (b)(2) revised; Heading and (a) revised	*2681, *2682
183.43 Revised	*2683
183.61 Revised	*2681, 20243
183.63 Revised	*2681
183.67 (a) revised	*2682
183.101—183.110 (Subpart F) Added	*20243
183.201—183.235 (Subpart G) Added	*20243
183.301—183.335 (Subpart H) Added	*20245
183.305 (c) corrected	*24738
183.401—183.460 (Subpart I) Added; eff. 8–1–77	*5944
183.401 (b) corrected	*24739
183.425 Table 5 corrected	*24739
183.435 (c) corrected	*24739
183.501—183.590 (Subpart J) Added; eff. 8–1–77	*5950
183.512 (a) corrected	*24739
183.558 (b)(2)(iii) revised	*24739

Chapter II—Corps of Engineers, Department of the Army

	Page
204.202 (b)(8) revised	*9175
204.203 (c)(9) revised	*3646
206.40 Amended	38770
207.161 Added	*15681
207.440 (w) revised; (v) revised	*6582, *12172
207.590 (l)(3) and (4)(i), (ii), and (iii) and (m)(3) revised	34035
207.640 (j) introductory text and (2) and (n) revised	*17120
209.50 Added	*13286
209.120 (h)(2)(ii) and (iii)(5) revised	55524
209.133 Added	28953
209.135 (d)(50) revised; (d)(29) revised	30329, 31820
209.345 Added	*24050
222 Added	*16134
222.3 Added	*16138
263.17 (l)(1) amended	56943
263.20 (a) amended	56943
263.21 (a) amended	56943
263.23 (a) amended	56943
263 Appendix A amended	56943
265.10 Amended	*3841
265.12 (a) revised	*3841
265.13 (a) amended	*3841
265.15 (b) amended	*3841
276 Added	*9175

Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation

	Page
401.3 (a) and (b) revised	*27585
401.4 Revised	*27585
401.6 Revised	*27585
401.8 Revised	*27585
401.9 (a) and (b)(1) revised	*27585
401.10 (a)(2) and (c) table revised	*27586
401.12 (a) introductory text, (1), (2) introductory text, (3), (4) introductory text, and (b) revised	*27586
401.13 (b) revised	*27586
401.14 Revised	*27586
401.15 Revised	*27586
401.16 Introductory text revised	*27586
401.21 Introductory text revised	*27586
401.22 (a) revised	*27586
401.24 Revised	*27586
401.28 (a) revised	*27586
401.29 Revised	*27586
401.31 (c)(2) revised	*27587
401.35 Revised	*27587
401.42 (a)(2) revised	*27587
401.48 Table amended	*27587
401.51 Revised	*27587
401.65 (a)(1) revised	*27587
401.67 (b) and (c) revised	*27587
401.68 (a)(1), (2), and (3) revised	*27587
401.69 (b)(1) through (11) and undesignated text revised	*27587
401.74 (a) revised	*27587
401.82 Revised	*27587

Note: Symbol (*) refers to 1977 page numbers

90-120 O - 77 - 7

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 33, Chapter IV—Continued

Page

401 Schedule I removed; new Schedule I redesignated from Schedule II and revised ---- *27587
Schedule II redesignated as Schedule I and revised; new Schedule II redesignated from Schedule III ---- *27588
Schedule III redesignated as Schedule II; new Schedule III redesignated from Schedule IV ---- *27588
Schedule IV redesignated as Schedule III ---- *27588

Title 33—Proposed Rules:

1-183 (Chap. I) ---- 42218
1 ---- 37118
40 ---- 28531, 47944
82 ---- *5705
110 ---- 27974, 27975, 28532, 24649, 50842, 54199, 54200, 55366, 55897 ---- *3871, 10319, 12202, 12889, 12890, 24755
114 ---- *3181
115 ---- *3181
117 ---- 32238, 35536, 36510, 37118, 37119, 41711, 47263, 47264, 47945, 50842, 50843, 52307, 53362, 53823, 55367, 55897 ---- *8385, 11251, 15341
128 ---- *13841
155 ---- *21190
157 ---- *24868, 24869
160 ---- *14887
161 ---- 32758 ---- *3182, 7164, 9038
164 ---- *9685, 17889, 24871
165 ---- *14887
181 ---- 55478 ---- *5107
183 ---- 43322, 43858, 49838 ---- *15340
204 ---- 48747, 54777 ---- *26437
206 ---- 27378
207 ---- 56339 ---- *4863, 12443, 14739, 21300, 21622
209 ---- *2572, 18863
221 ---- 47483
222 ---- *15342
237 ---- 29146
303 ---- *24758
307 ---- *10782
308 ---- *10782
309 ---- *10782
310 ---- *10782
401 ---- *15077

TITLE 34—GOVERNMENT MANAGEMENT

Chapter I—Office of Management and Budget

Page

Chapter established ---- *12

Chapter II—General Services Administration

Chapter heading revised ---- 52454
200 (Subchapter A) Removed ---- 52454
211-213 (Subchapter B) Removed ---- 52454
232 Appendix A redesignated and revised as 41 CFR Subpart 101-38.13 ---- *1477
233 Redesignated as 41 CFR 101-6.100—101.-6.112-1 (Subpart 101-6.1) and revised ---- *14097
234 Removed ---- 52454
235 Heading corrected ---- 54487
236 Removed ---- 52454
251-257 (Subchapter D) Removed ---- 52454

Title 34—Proposed Rules:

Ch. I ---- 34324, 43743

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

5.21 (c), (h), (j) and (n) corrected ---- 28789
5.31 (l) corrected ---- 28789
5.41 (f) corrected ---- 28789
5.51 Corrected ---- 28789
7.1 (d), (e), and (f) revised ---- *17875
7.2 Revised ---- *17875
7.5 Introductory text and (c) revised; (d), (e), and (f) redesignated as (e), (f), and (g); new (d) added ---- *17875
7.6 (a) and (g) amended ---- *17875
7.8 Revised ---- *17875
7.9 Revised ---- *17875
7.10 Introductory text and (a) revised ---- *17875
7.11 Revised ---- *17875
7.13 Removed ---- *17875
69.21 Introductory text revised ---- 41089
69.22 Introductory text revised ---- 41089
69.23 Revised ---- 41089
69.85 (a) revised ---- 41089
133.1 Revised ---- 44395, 51794
135.113 Center heading and text removed; CFR correction ---- 42953
253.8 (b)(3) revised ---- 53325

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Page

253.131 Revised ---- 27722
253.135 (b) and (c) revised; (d) removed ---- 27722
(d) added ---- 38163
255.735-32 (c) and (f) amended ---- 29378
255.735-33 (b) amended ---- 29378
255.735-40 (s) amended ---- 29378
255.735-41 (b)(3) amended ---- 29378
255.735-52 Amended ---- 29378
255.735-72 (a) amended ---- 29378

Title 35—Proposed Rules:

133 ---- 27978, 33307

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior

2.38 Added ---- 45564
7.2 (c) added ---- 33263
7.4 (h) introductory text and (9) revised ---- *25857
7.5 (c) added ---- 33264
(c) correctly designated (d) ---- *22557
7.7 (f) added ---- 49629
7.12 Added ---- 29120
7.30 Added ---- *20462
7.38 (c) revised ---- *21777
7.48 (e) removed ---- *25857
7.60 Removed ---- *25857
7.64 Added ---- 40107
7.70 Heading revised; (a)(4) amended ---- 27723
(e) introductory text and (8) revised ---- *25857
7.88 Removed ---- *25857
9 Interim regulation added ---- 49824, 49863
Added ---- *4837
50.24 (c) revised ---- 34749
50.40 (a) revised ---- 42661
60.12 (c) through (f) revised; (g) added ---- *14097
60.13 Revised ---- *14097

Chapter II—Forest Service, Department of Agriculture

212.7 (a)(2) revised; (a)(3) and (b)(2) amended; (a)(4) removed ---- *2957
212.8 (a) amended ---- *2957
212.20 (c) (3) and (4) and (d) removed ---- *2957
213.1 (e) revised ---- 38164
213.5 Removed ---- 38164

Page

221.1 Revised; eff. 11-4-76 to 4-1-77 ---- 48539
Effective date extended to 4-30-77 ---- *17875
Effective date extended to 5-31-77 ---- *21777
221.8 (d) added; eff. 11-4-76 to 4-1-77 ---- 48539
(d) revised; eff. 4-4-77 to 4-30-77 ---- *17875
Effective date extended to 5-31-77 ---- *21777
221.26 (a) amended ---- *2957
231.1 (b)(1) revised ---- 38164
231.2 Revised ---- 38164
231.3 (d) introductory text, (1), (2), (3) and (6) revised; (d)(9) added ---- 38164
231.5 (a)(10) added ---- 38164
(a)(4) revised ---- *12172
231.6 Revised ---- 38164
231.7 (a)(1) and (2)(iv), (b), (c) and (d) revised ---- 38165
231.8 (a) revised ---- 38165
231.9 (a), (b)(1) and (c) revised ---- 38165
231.11 (d) amended ---- *2957
(d) corrected ---- *24739
251.25 Removed ---- *2957
261 Revised ---- *2957
261.6 (d) and (f) corrected ---- *24739
261.9 (e) revised ---- *24739
261.10 (c) revised ---- *24739
261.13 Revised ---- 38165
261.17 (b) corrected ---- *24739
261.20 Corrected ---- *24739
261.50 (b) corrected ---- *24739
261.52 (i) corrected ---- *24739
261.75 Added; eff. through 8-11-77 ---- *24266
261.77 Added ---- *27245
262 Added ---- *2961
271.5 Removed ---- *2962
272.5 Removed ---- *2962
291.1—291.8 Removed ---- *2962
292.15 (a) revised ---- 29379
295.6 Removed ---- *2962
295.7 Removed ---- *2962
295.8 Removed ---- *2962

Chapter VI—American Revolution Bicentennial Administration

606.106 Added ---- *1473

Chapter VIII—Advisory Council on Historic Preservation

800.4 (d) revised ---- *14860
800.5 (d) revised ---- *12858
(d) correctly designated as 800.4 (d) ---- *14860

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 36—Continued

Chapter IX—Pennsylvania Avenue Development Corporation

		Page
902	Added	43143
903	Revised	*5973

Chapter XI—Architectural and Transportation Barriers Compliance Board

Chapter	established	55442
1150	Added	55446

Title 36—*Proposed Rules:*

2	*16639
7	28291, 46452
	*3655, 3656
9	49862
16	*812, 8386
17	*812, 8386
66	*5374
67	*14121
211	54200
221	50699, 52485
	*10806, 11026
223	*10806, 11026
231	52485, 56210
	*7170, 12890, 13565, 26662
251	45577
	*21818
261	45577
	*24290, 26662
291	45577
	*26662
292	*14739
293	*26662
295	45577
606	52486
903	53492

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce

1.8	Added	43721
1.11	Revised	*5593
1.14	(b) and (d) revised	*5593
1.51	Revised	*5593
1.52	(a) revised	*5593
1.56	Revised	*5593
1.65—1.68	Undesignated center heading amended	*5594
1.65	Heading and (a) revised; eff. 1-1-78	*5594
1.69	Added; eff. 1-1-78	*5594
1.97—1.99	Undesignated center heading added	*5594
1.97	Added	*5594
1.98	Added	*5594
1.99	Added	*5594
1.109	Added	*5594
1.175	(a) revised	*5594
1.176	Revised	*5595
1.194	Revised	*5595
1.196	(d) added	*5595
1.228	Revised	27832
1.243	Revised	27832
1.244	Revised	27832
1.254	Revised	27832
1.256	Revised	27833
1.291	Revised	*5595
1.292	(b) revised	*5595
1.346	Revised	*5595
3.55	Added	43721
4.23	Added	43721

Chapter II—Copyright Office, Library of Congress

201.1	Amended	* 2962
	Technical correction	*9665
201.2	(b)(2) removed; (c)(2)(ii) amended	*2962
	Technical correction	*9665
201.3	Amended	*2962
	Technical correction	*9665
201.8	(b) revised	*2962
	Technical correction	*9665
201.9	Added	*16777
201.11	Added	*15067

Title 37—*Proposed Rules:*

1	43729, 52486, 52705, 55367
	*2632
3	*2632
4	*22378, 25513
5	*2632
201	50300, 51428
	*4134, 5109, 15431, 16837, 16838, 25514

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

Chapter 1	Confirmation of regulations	*12858
0.735-12	(b), (c), (d)(5), (e) and (f) revised	*2314
0.735-13	(a), (b) and (c) revised	*2315
0.735-14	(a) introductory text revised	*2315
0.735-15	(a) revised	*2315
0.735-16	(a)(1) revised	*2315
0.735-73	(e) revised	*2315
0.735-75	(b) revised	*2316

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

		Page
0.735-78	Revised	*2316
0.735-79	Revised	*2316
0.735-81	(a), (c), and (d) revised	*2316
1.10	(b)(2) and (3) revised	*27245
1.12	Undesignated center heading added	*27246
1.555	(h)(2) revised	41425
	(h)(2) revised	*10316
1.968	(f) revised	38770
3.3	(c)(3) revised	56803
3.5	(e)(3) and (4) revised	55873
3.21	Added	55873
3.157	(b)(1) revised	53797
3.252	(f) added	56803
3.309	(a) and (b) revised	55873
3.314	(b)(2) revised	56804
3.315	(b) revised	49636
	(c) revised	*22869
3.350	Introductory text, (a) through (c), (e), and (i) introductory texts, (d), (h), (f)(1) and (2)(i) through (iv) revised	55873
3.351	Heading, (a), and (c) introductory text revised	55874
3.352	Revised	29680
3.353	(b) revised	29681
	(b) and (d) revised; (e) added	*2069
3.401	(d)(2), (g), and (h) revised	36493
	Introductory text, (a) and (c) revised	55874
	(i) added	56804
3.403	(b) revised	36493
3.501	Introductory text, (d), and (i)(2) revised; (b)(3) added	55874
3.502	Heading, introductory text, and (c) revised	55874
3.503	Introductory text, (b), and (i) revised	55875
3.552	(g) and (h) revised	55875
	(j) added	56804
3.660	(a)(2) revised	55875
3.707	(b) revised	29120
3.708	(a)(1) through (3) and (b) revised	29120
3.711	(b) revised	29121
3.750	(b) and (c) revised	53797
3.751	Revised	53797
3.805	Heading, introductory text, and (a) revised	49636
3.808	(a) revised	55875
3.810	(a) introductory text	55875
3.855	Revised	*2069
3.1600	(a) and (b)(1), (2), and (4) and (c) revised	38771
	(a) revised; (g) added	55875
3.1601	(a) introductory text and (a)(2)(i) revised	38771
3.1602	(a) revised	38771
3.1604	(a) introductory text revised	38771
3.1606	Heading, introductory text, (a)(1), and (b)(1) revised	55875
	(b)(3) added	*26205
3.1609	(a) revised	55875
4.29	(a), (c) and (e) revised; (f) redesignated as (g); new (f) added	34256
4.30	Revised	34256
4.83	Revised	34257
4.87	Tables IV and V revised	34257
4.115	Revised	34258
4.115a	Amended	34258
4.116	Revised	34258
4.116a	Amended	34258
4.125	Revised	34258
4.127	Revised	34258
4.130	Revised	34258
6.128	Revised	*6807
8.54	Revised	*6807
8.59	(a) and (d) revised	*6087
17.170—17.176	(Subpart) Appendix A revised	*2316
21.3041	(e)(2) revised	47929
21.3042	(a), (b) and (d) revised	47929
21.3043	Revised	47929
21.3044	(b) and (c)(1) revised	47929
21.4106	(b) revised	32217
21.4131	(a)(2) and (d) revised	47929
21.4203	(e) and (f)(1) revised	47929
21.4204	(a) revised	47929
21.4207	(a), (c), (d), and (e) revised	*14735
21.4233	(c)(1) introductory text revised	47930
	(c)(1)(iii) revised	*14734
21.4235	(e) revised	47930
21.4250	(b)(2) revised	30640
21.4259	Revised	30640
21.4271	(a) and (b) revised	47930
21.4272	Introductory text, (a) through (e), and (f)(2) revised	47930
21.4274	(b) revised	47931
21.4279	(b)(1) revised	47931
21.4280	(a)(1) revised	47931
36.4205	(a) revised	32218
36.4210	Revised	32218
36.4212	(a) introductory text, (2), and (3) revised	47049
36.4301	(gg) revised	32218, 44858
36.4311	(a) revised	47049
36.4350	(b)(5) revised	44039

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

Title 38, Chapter I—Continued

Page

36.4501 (o) revised and effective date 6-30-76; (p) removed--- 32218
(o) revised--- 44859
36.4502 Revised --- 44859
36.4503 (a) revised--- 44859, 47049
36.4504 (a) and (b)(2)(iii) revised --- 32218
36.4509 Revised --- 44859
36.4510 (b)(3) and (d) revised--- 44859
36.4511 (a) revised--- 44859

Title 38—*Proposed Rules:*

0-36 (Chapter I)--- 54950
1 --- 32247, 54777, 55558
--- *26437
2 --- 39339
3 --- 37391, 29188, 39772, 45031, 48747, 49838, 49839
--- *10319, 16839
4 --- 27086
6 --- 54004
8 --- 54004
13 --- 39340
--- *12202
14 --- 39340
21 --- 49506, 53824, 54201

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service

Chapter I Appendix--- 35685
1 Revised --- *12859
2 Revised --- *12859
3 Revised --- *12860
4 Revised --- *12861
5 Revised --- *12861
6 Revised --- *12862
7 Added --- *12862
8 Added --- *12864
10 Added --- 35683
10.3 Amended; incorporation by reference --- 54864
10.4 (b) incorporation by reference --- 35685
11-74 Removed --- 35683
111.3 PSM amendments described --- 28481, 29137, 31380, 38166, 46295, 47236, 53478, 53678, 55524
Table amended--- 29137
Revised --- 35684
PSM amendments described--- *3470, 15681, 24267, 27246
Table amended--- *3470

Page

111.4 (a) incorporation by reference, time extended--- 35685
221.1 (e) amended--- *18859
221.5 (c) amended; (d) revised --- *18859
221.7 Amended --- *18859
222.10 Added --- 52299
224.1 (c)(2) and (c)(4) revised; (c)(2) effective 7-3-76--- 27354
(c)(5)(v)(B) revised--- 27354
224.2 Revised --- 27355
224.10 Heading revised; text amended --- *18859
232.6 (n) and (o) redesignated as (o) and (p); new (n) added --- *17443
233.1 (b)(2) amended--- *4123
257.1 Revised --- *4123
257.2 Revised --- *4123
258.1 (a) amended--- *4124
258.4 (b)(1) amended--- *4124
259.1(b) amended; (c) redesignated as (d); new (c) added--- 56196
265.6 (a)(4)(i) revised--- 52052
266.9 (b)(3) revised; (b)(7) added --- *21471
601.104 (a) amended--- *27588
601.105 Table amended--- 44040
Table amended--- *16397, 16781
951.8 Added --- *5357
952.4 Amended --- *7955
952.34 Added --- *5357
953 Revised --- *5357
954.4 Amended --- *7955
954.26 Added --- *5358
957.28 Added --- *5358
958.14 Added --- *5358
959.31 Added --- *5358

Chapter III—Postal Rate Commission

3001 Clarification --- *8374
3001.5 (a) and (h) revised--- *8142
(g) revised; (m) added--- *10992
(m) technical correction--- *13826
(n) and (o) added--- *13290
3001.7 (a) revised--- *10992
Revised --- *13290
3001.17 (a-1) added; (b) and (c) revised--- *10992, 13826
3001.19a Revised --- *8142
3001.19b Added --- *8142
3001.32 (b) and (c) revised--- *8143
3001.42 (c)(4) amended--- *25729
3001.43 Added --- *13290
(a) revised; (f)(1) amended; (g) added--- *25729

Note: Symbol (*) refers to 1977 page numbers

Page

3001.54 (h)(4), (j), and (k) revised; (l) through (p) redesignated as (o) through (s); new (l), (m), and (n) added--- *8143
(a)(1) through (4), (p)(2)(i) and (3), and (s) corrected; (h)(2)(i) revised--- *18076
3001.101—3001.102 (Subpart G) Added --- 47438
3001.110—3001.116 (Subpart H) Added --- *10993
3002.3 Revised --- *3646
3002.4 Revised --- 32743
3002.8 Removed; new 3002.8 redesignated from 3002.9--- *3646
3002.9 Redesignated as 3002.8; new 3002.9 redesignated from 3002.10 --- *3646
3002.10 Redesignated as 3002.9--- *3646
3003.4 (b) revised--- 52455
3003.14 Revised --- 52455

Title 39—*Proposed Rules:*

1 --- *2699
2 --- *2699
3 --- *2699
4 --- *2699
5 --- *2699
6 --- *2699, 5383
7 --- *2699
8 --- *2699
111 --- 30354, 44059, 50301, 53677, 55524
--- *6841, 12068, 12069, 13565, 78154, 22176
232 --- *10699
265 --- *10320
--- *13307
775 --- 35725
3001 --- 45587, 47498, 54950
--- *13841, 20639, 25741
3003 --- 34792

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

1 Revised --- 30640
2.100—2.200 (Subpart A) Revised --- 36903
2.201—2.309 (Subpart B) Added--- 36906
3 Authority citation revised--- *6809
3.102 (e) added--- *6809
3.202 (b)(2)(v) added--- *6809
3.203 (a) amended--- *6809
3.300—3.306 (Subpart C) Appendixes D through F added--- *6810
3.301 (a) and (c) revised; (d) added --- *6809

Page

3.305 Added --- *6809
3.306 Added --- *6810
3.607 (c) and (d) added--- *6811
6.900—6.924 (Subpart I) Added --- *2453
21 Revised --- *8083
30.235 (b) revised--- 36918
30.320 (b) revised--- 36918
30.615-1 Revised --- 56196
30.615-2 (a) amended--- 56196
30.620 (b) amended--- 56197
30.620-2 Revised --- 56197
30.635-5 (c) added--- 56197
30.810-1 (a) amended--- 56197
30.810-3 (a)(6) revised; (a)(8) added --- 56197
30.810-7 (a) revised--- 56197
30.810-8 Amended --- 56197
33 Interim regulations--- *8090
Effective date extended to 5-1-77 --- *16777
Effective date postponed to 6-30-77 --- *22144
35.204 (a) introductory text and (e) amended; (a)(1), (2) and (3) added; (b) revised--- 43728
35.900—35.965 (Subpart E) Appendixes C-1 and C-2, extension of time--- 27966
Technical correction --- 29817
Appendixes C-1 and C-2 revised --- 56638
35.905-27 Added --- 41690
35.910-6 Added --- 51016
35.920-3 (b)(9) added--- 41690
35.925-7 (c) amended; (d) redesignated as (e); new (d) added --- 41690
35.925-20 Added --- 56635
35.926 Added --- 41690
35.935-2 Revised --- 56635
35.935-4 Removed --- 56635
35.935-7 Revised --- 56635
35.935-11 Revised --- 56636
35.935-15 Removed --- 56636
35.935-18 Added --- 41691
35.937-10 Revised --- 56636
35.938-6 (c)(1) amended--- 56636
35.938-8 Revised --- 56636
35.945 Introductory text revised--- 56636
39 Revised --- *25666
40.155 Heading, (a) and (b) revised --- 36918
50 Appendix F revised--- 52688
51.7 (b)(1) and (5) amended--- 35676
51.12 (h)(1) revised--- *19862
51.17 (a)(1) amended--- 52692
51.17a (a) revised--- 52693

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 40, Chapter I—Continued

	Page
51.18 Interpretative ruling	55528
51 Appendix L amended	35676
52.50 (c)(14) added	42674
(c)(15) added	55530
52.57 Revised	42674
52.60 (c) added	*22869
52.70 (c)(3) through (5) added	49636
(c)(6) added	*8375
52.84 (b) table amended; (c) revised	49636
(b) table amended	*8376
52.120 (c)(10) added	*23802
52.170 (c)(4) and (5) added	43904
52.173 Removed	43904
52.220 (c)(31) revised	53662
(c) (21), (24), (26), (28), and 31 added	*8377
(c)(20), (21)(v), (22), (24)(ii), (26)(ii), (30), and (32) added	*23802
(c)(21)(viii) through (ix), (23), (24)(v), (26))(iii), (27), (28)(iii), (30)(ii) and (iii), and (31)(iv) added	*23803
(c)(21)(xii)(A) and (28)(iv)(A) added	*23804
(c)(21)(xxii) and (vi), and (24)(iii), (28)(ii), and (31)(iii) added	*23805
(c)(21)(xx)(A) and (26)(ix)(A) revised	*23806
(c)(21)(vii), (24)(iv), (27)(i), and (32)(ii) revised	*25501
52.224 (a) and (b)(1) revised	*8377
(a)(2)(ii) and (iii) revised	23803
(a)(5)(iii) revised	*23804
(a)(3)(i) and (4)(i) revised	*23805
(a)(2)(iv) revised	*23806
(a)(5)(i) revised	*25501
52.226 (b)(2) revised	*23804
52.233 (d)(1) and (g)(1)(i) removed	53662
52.234 (a) and (d) revised	*23804
(a)(3)(i) revised	*23806
52.241 Removed	45565
52.246 (b) revised	*23805
52.252 (b) revised	*23805
52.254 (a)(1)(i) added	*25501
52.255 (c)(3)(iii) through (vii) amended	56643
52.260 Removed	*23805
52.269 (b) revised	*23804
52.330 Removed	45565
52.336 (c)(3)(iv) added	56643
52.375 Corrected	38166
52.381 Correctly removed	38166
52.420 (c)(10) added	*17877
52.470 (c)(8) revised	53326
52.476 (b)(2)(vii), (3)(iv) and (v), and (5)(iii) revised	53326
(g) removed	*7958
52.570 (c)(16) added	35185
52.577 Removed	35185
52.578 Removed	35185
52.583 Added	35185
52.770 (c)(13) and (14) revised; (c)(15) added	35677
52.771 (c) and (d) added	35677
52.777 (b) added	35677
52.787 (e) revised	56643
52.795 Added	35677
52.820 (c) revised	43407
52.829 Removed	42953
52.1070 (c)(16) added	31535
(c)(15) revised; (c)(18) added	54757
(c)(16) revised; (c)(17) added	56804
52.1080 (b) removed	54757
(g) and (j) removed	*7958
52.1086 (c)(3)(iv) added	56643
52.1101 (c)(3)(iv) added	56643
52.1110 Removed	45565
52.1117 (a) removed	54757
52.1120 Amended	44395
(c) amended	56805
(c) amended	*5977
Amended	*6812
(c) amended	*9177
(c)(11) added	*25731
52.1126 (e) added	56805
(b) added	*5977
(c) added	*9177
(c) revised	*25731
52.1131 (a) amended	42953, 44395
(a) amended	*6812
52.1147 (a)(5)(i) added	56643
52.1170 (c)(13) added	*8638
52.1176 (a) and (b) removed	*8638
52.1335 (a) table amended	*16139
52.1420 (c)(19) and (20) added	*25505
52.1425 (a) table amended	52456
(a) table amended	*16140
52.1570 (c) (10) and (11) added	27833
(c)(12) added	28492
(c)(13) added	43408
(c)(14) added	50823
(c)(15) added	55715
(c)(16) added	*7138
52.1590 (f) approval statement	*3841
(o) added	*13826
52.1592 Removed	45565
52.1594 Removed	27833
52.1595 Revised	27833
52.1598 (c)(3)(iv) added	56643

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

	Page
52.1620 (c)(8) revised	34749
52.1621 Table amended	*20131
52.1624 (a)(1) and (b)(1) revised	34749
52.1670 (c) (30) and (31) added	29818
(c)(30) and (31) amended	34259
(c)(32) added	*25504
52.1770 (c)(16) added	*20132
(c)(17) added	*20133
52.1778 (c) added	56805
52.1820 (c)(6) and (7) added	*26978
52.1825 Removed	*26978
52.1826 Removed	*26978
52.1829 Revised	*26978
52.1870 (c)(10) and (11) added	41692
52.1875 Table amended; footnotes added	36327
Existing text designated as (a) and table and footnotes amended; (b) added	41692
Table footnote f added	*27589
52.1881 (b) added	36328
(b)(12)(v), (23)(iii)(C), (35)(ix), and (36)(v) added; (b)(23)(iii)(B), (xi), (xvii) and (xix), (29)(i) and (ii), (31)(i), (35)(viii), (38)(vii)(A), (46)(ii), and (49)(ii) revised	52455
(b)(1)(iii), (14)(ii) and (iii), (17), and (21) revised	*27589
(b)(30)(iv), (39)(iii), (iv), and (vi) through (xi) and (xiv) revised; (b)(39)(v) removed	*27590
(b)(40)(iii), (47)(ii), (51)(i) and (ii), (58)(vi) and (ix), (59)(vi), (vii), (viii), (ix), (xi), (xii), and (60)(iii) and (iv) revised; (b)(40)(vii) and (59)(xiv) added	*27591
(b)(63)(ii) revised	*27592
52.1882 Added	36339
(b) added	*27592
52.1920 (c)(7) added	32890
52.1970 (c) (21) and (22) added	*9665
(c)(23) through (25) added	*20132
52.1973 Amended	*20132
52.2020 (c)(4) revised	42675
(c)(10) removed	53326
52.2042 (c)(3)(iv) added	56643
52.2079 Removed	42953
52.2131 (c) added	*4124
52.2170 (c)(4) added	32744
52.2220 (c)(27) added	*10995
52.2223 (a)(1), (2)(vii), (3)(v) and (4) amended; (a)(8) removed	*10995
52.2231 Removed	*10995
52.2270 (c)(9) and (10) added	*20131
(c)(11) added	*20463
52.2271 Table designated as (a) and amended; (b) added	*20131
52.2284 Effective dates suspended	50446
52.2285 (c)(3)(iv) added	56643
52.2287 Effective dates suspended	50446
52.2293 Removed	45565
52.2320 (c)(5) added	*21472
52.2325 (a) amended	*21472
(e) added	*21474
52.2370 (c) amended	*6812
52.2428 (c) removed	35676
52.2435 (e) removed	*7958
52.2520—52.2528 (Subpart XX) Reaffirmed	42672
52.2520 (c)(8) added	51018
52.2620 (c)(9) added	36653
52.2624 Removed	36653
52.2625 Revised	36653
52.2720 (c)(25) added	51017
52.2770 (c)(3) and (4) revised	28492
(c)(6) and (7) correctly added	28492, 36810
(c)(8) added	55531
52.2780 Added	28493
(b) revised; (c) added	55531
53.20 Table B–1 revised	52694
53.23 Table B–3 revised	52694
53.32 Table C–1 revised	52693
55.570 (Subpart L) Added	55194
55.820 Added	39316
55.821 Added	39317
55.870 Added	39318
55.871 Added	39317
55.872 Added	43904
55.1320 Added	39319
55.1321 Added	39319
55.1520 (Subpart EE) Added	36813
55.1770 (Subpart II) Added	55195
60.4 (b)(F) revised	27967, 33264
(b)(CCC) added	34629
(b)(CCC) revised	34629
(b)(B) added	40467
(b)(P) added	43148
(b)(JJ) added	44859
(b)(F) revised	48342
(b)(D) added	53017
(b)(F) revised	54757
(b)(KK) added	55531
(b)(II) added	56805
(b)(Q) and (CC) added	56806

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

Title 40, Chapter I—Continued

60.4—(Continued) Page
(b)(UU) added *1214
(b)(PP) added *4214
(b)(NN)(a) added *6812
(a) corrected *16777
(b)(YY) added *16778
60.9 Revised 36918
60.11 (b) revised *26206
60.13 (i) revised 35185
(c)(3) and (e)(1) revised *5936
60.40 Revised 51398
60.41 (d) and (e) added 51398
60.42 (a)(1) revised 51398
60.43 (a)(1) and (2) and (b) revised 51398
60.44 (a)(1) to (3) and (b) revised 51398
60.45 (e) and (f)(1), (2), (4)(i) to (iv), (5) introductory text, (5)(ii) and (6) revised; (f)(4)(v) and (5)(iii) added 51398
(a), (b), (c), and (e) revised; (d) removed *5936
60.46 (b), (f)(1), (2) and introductory text of (3) and (g) revised 51399
60 Appendix A amended 52299
Appendix B amended *5937
61 Authority citation revised 46564
Technical correction 53017
61.04 (b)(F) revised 27967, 33264
(b)(CCC) added 34629
(b)(F) revised 40108
(b)(B) added 40468
(b)(P) added 43149
(b)(JJ) added 44860
(b)(F) revised 48343
(b)(D) added 53017
(b)(F) revised 54758
(b)(II) added 56805
(b)(UU) added *1215
(b)(PP) added *4124
(b)(NN)(b) added *6812
(b)(NN)(a) added *6813
(a) corrected; (b)(YY) added *16778
61.15 Revised 36918
61.21 (x) added *12127
61.60—61.71 (Subpart F) Added 46564
61.65 (b)(9)(i) and (c) amended 53017
61.68 (a) and (c) amended 53017
61.70 (a) amended 53018
61 Appendix B amended 46569, 53018
79.3 Revised 36918
80.1 (b) added *25732
80.20 (a)(1)(i), (ii) and (iii) removed; (a)(1)(iv) and (v) redesignated as (a)(1)(i) and (ii) and revised; (a)(4) added 42677
(a)(4) determination 55646
(a)(4)(ii) and (iv) amended; (b) removed 55345
(a)(4) (ii) and (v) effective date suspended in part to 3-31-77 *1037
85 Appendix I amended; Appendixes IV and VI revised *1150
Appendixes II and III amended *16398
86.077-1 Revised 29389
86.077-2 Amended 29390
(b) amended 31482
86.077-5 (a)(2) introductory text revised 29390
86.077-7 (c)(7)(iv) amended 31483
86.077-9 (a)(1) revised 29390
86.077-23 Revised *16398
86.077-24 (f) revised 29390
(b)(1)(vi) revised *16398
86.077-25 (a), (c)(5)(v), and (d)(3)(i) and (5)(v) revised; (b) removed 29390
(a)(8)(ii) revised *16399
86.077-26 (a)(3) introductory text, (3)(i)(C) and (ii)(C), (a)(4) introductory text, (6)(ii), and (7) revised *16399
(b)(3), (4), and (7), and (c)(3)(i) and (ii) and (5)(iii) revised *16399
86.077-27 Revised 29392
86.077-28 (a)(2) revised *16399
86.077-30 (a)(2) amended; (d) added 31482
(c)(1)(ii) revised 31483
(a)(5) revised *20464
(a)(5) corrected *24739
86.077-35 (a)(1)(iii)(E) and (a)(2)(iii)(F) revised 29392
(a) introductory text, (a)(1)(i), (2)(i), and (3)(i) and (c)(1) revised *16399
86.078-1 Added 56318
86.078-2 Added 35628
Amended *16400
86.078-3 Added 35629
86.078-8 Added 35629
Revised *16400
86.078-9 Added 35629
86.078-21 Added 35629
86.078-22 Added 35629
Heading amended *16400

Note: Symbol (*) refers to 1977 page numbers

Page
86.078-23 Added 35629
Revised *16400
86.078-24 Added 35629
Revised *16400
86.078-25 Added 35630
Revised *16402
86.078-26 Added 35630
Revised *16406
86.078-28 Added 35630
(a)(4)(i)(A)(2) and (iv) revised; (a)(4)(v) removed *16408
86.078-29 Added 35631
86.078-30 Added 35631
(a)(3), (b)(1)(i)(D), (2) and (4) revised; (b)(5) and (6) added *16408
86.078-35 Added 35632
86.078-37 Added 38681
86.079-1 Added 56318
86.079-2 Added 56318
86.079-9 Added 56318
86.079-20 Added 56318
86.079-21 Added 56318
86.079-26 Added 56318
86.079-30 Added 56318
86.079-35 Added 56318
86.101 Redesignated from 86.101-78; (a)(1) and (2) amended *16409
86.101-78—86.145-78 (Subpart B) Added 35632
86.101-78 Redesignated as 86.101 and (a)(1) and (2) amended *16409
86.102 Redesignated from 86.102-78 *16409
86.102-78 Redesignated as 86.-102 *16409
86.103 Redesignated from 86.-103-78 *16409
86.103-78 Redesignated as 86.-103 *16409
86.105-78 (a) amended *16409
86.107-78 (a)(2)(i) and (ii) revised; (a)(3) and (5) amended *16409
86.113-78 (b)(2) and (3) amended 38682
86.114-78 (a)(7) added 38682
(a)(4) revised *16409
86.116-78 (c)(1) amended *16409
86.117-78 (b)(2) revised *16409
86.119-78 (b)(1), (7)(iii) and (v), and (c)(6) amended *16409
86.121-78 (b)(3) revised 38682
86.123-78 (b)(3) revised 38682
86.128-78 Revised *16409
86.129-79 Added 56319
86.133-78 (m) amended *16409
86.135-78 (h) added 38684
86.135-79 Added 56319
86.136-78 (c) revised 38684
(a) and (b) revised *16409
86.137-78 (b)(1), (11), (13), (16), and (17) amended; (b)(7) revised 38684
(b)(7) and (12) amended *16410
86.142-78 (f) revised; (p) added 38684
86.142-79 Added 56319
86.143-78 Amended *16410
86.144-78 (a) and (d)(4) revised; (d)(1), (2), and (3) amended 38684
(c)(3) and (5) amended *16410
86.177-1—86.177-4 Removed 35651
86.177-4 Added *16410
86.177-6 (b) revised 29392
86.177-8 (b)(3) revised 29392
(a)(4) and (b)(3) amended *16410
86.177-12 Revised 29392
86.177-13 Removed 29393
86.177-14 Revised 29393
86.177-15 (a)(2)(ii) revised 29393
86.401-78—86.444-78 (Supart E) Added *1126
86.501-78—86.544-78 (Subpart F) Added *1137
86.601—86.613 (Subpart G) Added 31483
86.777-7 (a)(3) revised 29393
86.777-11 (b)(2) revised 29393
86.777-13 (b)(6) and (c) revised 29393
86.877-7 (a)(2)(iii) and (4) revised 29393
86.877-11 (a)(3) and (b) revised 29393
86.877-13 (a)(4) and (b)(1)(ii) and (4)(i) revised 29393
Appendix VIII added 31491
Appendix IX added 31492
87.1 (a)(32) through (35) added 39745
87.2 Amended 39745
87.21 (d) amended: (e) revised 34725
(e) table amended 39745
87.30 Revised 39745
87.31 (d) correctly designated and republished 39746
(c) revised 54861
87.41 (a) revised 39746
87.42 Revised 39746
87.62 (a)(1) revised 34725
87.64 (c)(1)(ii)(d) revised; (c)(3) added 34725
(c)(2) revised; (c)(3) revised 39746
87.65 (d) revised 39746
87.67 (a)(5) revised 39746

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 40, Chapter 1—Continued

	Page
87.70 (d) revised	34725
(b)(4) revised	39746
87.93 (a) Figure 7 and (c)(2) revised	39747
87.94 (d) revised	39747
87.96 (a)(5) revised	39747
110 Revised	49811
115 Added	*25478
120.104 (c)(1) table corrected	48737
124.1 (u) removed; (v) redesignated as (u)	28496
124.11 (h) removed; (f) and (g) revised	28496
124.80 Redesignated as 124.81	28496
124.81—124.85 (Subpart I) Heading revised	28498
124.81 Redesignated from 124.80	28496
124.84 Added	28496
125.1 (ii) removed; (jj) redesignated as (ii)	28496
125.4 (f) and (i) revised; (j) removed	28496
125.37 Revised	36918
125.53 Added	28496
129 Revised	*2613
129.4 (e) added	*2620
(f) added	*6555
129.104 Added	*2620
129.105 Added	*6555
133.102 Revised	30788
136.2 (f) through (h) revised	52781
136.3 (b) amended; (c) added; table I revised	52781
Table corrected	*3306
136.4 (c) amended; (d) added	52785
136.5 (a) through (d) amended; (e) added	52785
141.2 (j) through (o) added	28403
141.15 Added	28404
141.16 Added	28404
141.25 Added	28404
141.26 Added	28404
167.5 (d) revised	36918
169.3 (c) revised	36918
180.1 (j)(9) added	*26979
180.3 (e)(5) amended	51401
(d)(10) added	*6582
180.7 (c) revised	36918
180.117 Revised	*9178
180.124 Revised	*9178
180.131 Revised	*9178
180.141 Revised	*9178
180.142 (a) revised	27356
180.144 Revised	27358
Amended	31207
180.185 Revised	27357
180.209 Effective date corrected to 6-10-76	27036
180.234 Revised	29121
180.267 Amended	35678
180.269 Revised	*15315
180.319 Amended	31207
180.328 Revised	*17443
180.330 Revised	28791
Corrected	29681
Amended 33265, 34629,	41693
180.339 (a) amended	27358
180.345 Removed	51401
180.355 Revised	*26979
180.359 Revised	*22365
180.367 Added	31207
Table corrected	32426
180.368 Added	51400
180.369 Added	43409
180.371 Added	*6582
Revised	*14879
180.1001 (c), (d), and (e) tables amended	27357
180.1020 (b) revised 44396,	56806
(b) revised	*13115
190 (Subchapter F and Part) Added	*2860
205.54-1 (c)(1)(iv) and (2)(iv) removed	*11836
(c)(1)(iv) and (2)(iv) removed; comment time extended	*15315
220—229 (Subchapter H) Revised	*2468
220 Revised	*2468
221 Revised	*2470
222 Revised	*2471
222.6 Corrected	*6583
222.8 Corrected	*6583
223 Revised	*2474
224 Revised	*2474
225 Revised	*2475
226 Revised	*2475
227 Revised	*2476
227.80 Table amended	39320
228 Added	*2482
228.12 (a) table corrected	*5975
(b)(2) added	*22144
229 Revised	*2489
244 Added	41203
245 Added	41209
255 Added	*24927
402 Heading corrected	41913
406.15 Revised	50823
407.13 Table amended	48737
407.15 Table amended	48737
407.23 Table amended	48737
407.25 Table amended	48737

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

	Page
407.33 Table amended	48737
407.35 Table amended	48737
407.43 Table amended	48737
407.45 Table amended	48737
407.53 Table amended	48737
407.55 Table amended	48737
408.152 (b)(1) table revised	31821
408.153 Table revised	31821
408.155 Table revised	31821
408.162 (b)(1) table revised	31821
408.163 Table revised	31821
Removed	*9665
408.165 (a)(1) table revised	31821
408.172 (b)(1) table revised	31821
408.173 (a) (1) and (2) table revised	31821
Removed	*9665
408.175 (a)(1) table revised	31822
408.182 Table revised	31822
408.183 Table revised	31822
408.185 Table revised	31822
408.192 Table revised	31822
408.193 Table revised	31822
408.195 Table revised	31822
408.203 Removed	*9665
408.212 Table revised	31822
408.213 Table revised	31823
408.215 Table revised	31823
408.222 Table revised	31823
408.223 Table revised	31823
408.225 Table revised	31823
408.252 Table revised	31823
408.253 Table revised	31823
408.255 Table revised	31823
408.262 Table revised	31823
408.263 Table revised	31824
408.265 Table revised	31824
408.273 Amended	*6813
408.275 Amended	*6813
408.293 Removed	*9665
408.313 Removed	*9665
409.62 Suspended until 3-1-78	*3164
410.10 Amended	*26982
410.14 Added	*26983
410.20 Amended	*26983
410.24 Added	*26983
410.30 Amended	*26983
410.34 Added	*26983
410.40 Amended	*26983
410.44 Added	*26983
410.50 Amended	*26983
410.54 Added	*26983
410.60 Amended	*26984
410.64 Added	*26984
410.70 Amended	*26984
410.74 Added	*26984
411.35 Revised	*10681
413.12 Suspended	43018
413.13 Removed	53018
413.15 Removed	53018
413.16 Removed	53018
413.22 Suspended	53019
413.42 Suspended	53019
413.52 Suspended	53019
413.62 Suspended	53019
415.61 (e) through (h) added	51599
(e) through (h) suspended	*17444
415.63 Removed	51602
415.71 (b) through (e) added	51599
(b) through (e) suspended	*17444
415.72 Removed	51602
415.73 Removed	51602
415.75 Removed	51602
415.76 Removed	51602
415.81 (b) through (e) added	51599
(b) through (e) suspended	*17444
415.82 Removed	51602
415.83 Removed	51602
415.85 Removed	51602
415.86 Removed	51602
415.91 (d) through (g) added	51599
(d) through (g) suspended	*17444
415.93 Removed	51602
415.95 Removed	51602
415.96 Removed	51602
415.101 (b) through (e) added	51600
(b) through (e) suspended	*17444
415.102 Removed	51602
415.103 Removed	51602
415.105 Removed	51602
415.106 Removed	51602
415.151 (c) through (f) added	51600
(c) through (f) suspended	*17444
415.152 Removed	51602
415.153 Removed	51602
415.155 Removed	51602
415.156 Removed	51602
415.171 (e) through (h) added	51600
(e) through (h) suspended	*17444
415.173 Removed	51602
415.181 (c) through (f) added	51600
(c) through (f) suspended	*17444
415.182 Removed	51602
415.183 Removed	51602
415.185 Removed	51602
415.186 Removed	51602
415.191 (c) through (f) added	51601
(c) through (f) suspended	*17444
415.192 Removed	51602
415.193 Removed	51602
415.195 Removed	51602
415.196 Removed	51602
415.210 Removed	51602
415.211 (b) through (e) added	51601
(b) through (e) suspended	*17444
415.212 Removed	51602

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 40, Chapter I—Continued

		Page
415.213	Removed	51602
415.215	Removed	51602
415.216	Removed	51602
415.220	Removed	51602
415.221	(d) through (g) added	51601
	(d) through (g) suspended	*17444
415.222	Removed	51602
415.223	Removed	51602
415.225	Removed	51603
415.226	Removed	51603
415.230	Removed	51603
415.231	Removed	51603
415.232	Removed	51603
415.340	Removed	51603
415.341	Removed	51603
415.342	Removed	51603
415.420	Removed	51603
	Removed	*10681
415.421	Removed	51603
	Removed	*10681
415.422	Removed	51603
	Removed	*10681
415.580	Removed	51603
415.581	Removed	51603
415.582	Removed	51603
416.12	Removed in part and suspended	32587
416.13	Removed in part and suspended	32587
416.15	Removed in part and suspended	32587
416.16	Removed	32587
416.22	Removed in part and suspended	32587
416.23	Removed in part and suspended	32587
416.25	Removed in part and suspended	32588
416.26	Removed	32588
416.32	Removed in part and suspended	32588
416.33	Removed in part and suspended	32588
416.35	Removed in part and suspended	32588
416.36	Removed	32588
416.42	Removed in part and suspended	32588
416.43	Removed in part and suspended	32588
416.45	Removed in part and suspended	32588
416.46	Removed	32588
416.52	Removed in part and suspended	32588
416.53	Removed in part and suspended	32588
416.55	Removed in part and suspended	32588
416.56	Removed	32588
416.62	Removed in part and suspended	32588
416.63	Removed in part and suspended	32588
416.65	Removed in part and suspended	32588
416.66	Removed	32588
416.72	Removed in part and suspended	32588
416.73	Removed in part and suspended	32588
416.75	Removed in part and suspended	32588
416.76	Removed	32588
416.82	Removed in part and suspended	32588
416.83	Removed in part and suspended	32588
416.85	Removed in part and suspended	32588
416.86	Removed	32588
416.92	Removed in part and suspended	32588
416.93	Removed in part and suspended	32588
416.95	Removed in part and suspended	32588
416.96	Removed	32588
416.102	Removed in part and suspended	32588
416.103	Removed in part and suspended	32588
416.105	Removed in part and suspended	32588
416.106	Removed	32588
416.112	Removed in part and suspended	32588
416.113	Removed in part and suspended	32588
416.115	Removed in part and suspended	32588
416.116	Removed	32588
416.122	Removed in part and suspended	32588
416.123	Removed in part and suspended	32588
416.125	Removed in part and suspended	32588
416.126	Removed	32588
416.132	Removed in part and suspended	32588
416.133	Removed in part and suspended	32588
416.135	Removed in part and suspended	32588
416.136	Removed	32589
416.142	Removed in part and suspended	32589
416.143	Removed in part and suspended	32589
416.145	Removed in part and suspended	32589
416.146	Removed	32589
416.152	Removed in part and suspended	32589
416.153	Removed in part and suspended	32589
416.155	Removed in part and suspended	32589
416.156	Removed	32589
416.162	Removed in part and suspended	32589
416.163	Removed in part and suspended	32589
416.165	Removed in part and suspended	32589
416.166	Removed	32589
416.172	Removed in part and suspended	32589
416.173	Removed in part and suspended	32589
416.175	Removed in part and suspended	32589
416.176	Removed	32589
416.182	Removed in part and suspended	32589
416.183	Removed in part and suspended	32589
416.185	Removed in part and suspended	32589
416.186	Removed	32589
416.192	Removed in part and suspended	32589
416.193	Removed in part and suspended	32589
416.195	Removed in part and suspended	32589
416.196	Removed	32589
416.202	Removed in part and suspended	32589
416.203	Removed in part and suspended	32589
416.205	Removed in part and suspended	32589
416.206	Removed	32589
416.212	Removed in part and suspended	32589, 48516
416.213	Removed in part and suspended	32589, 48516
416.215	Removed in part and suspended	32589, 48516
416.216	Removed	32589, 48516
418.12	(c) and (d) tables amended	*16141
418.13	(c) and (d) tables amended	*16141
418.15	(c) and (d) tables amended	*16141
418.52	(a) and (b) tables amended; (c) removed	*16141
418.53	(a) and (b) tables amended; (c) removed	*16141
418.55	(a) and (b) tables amended; (c) removed	*16141
418.56	(c) removed	*16141
419.14	Added	*15689
419.24	Added	*15689
419.34	Added	*15690
419.44	Added	*15690
419.54	Added	*15690
420.152	(c) table amended	32218
420.172	(c) table amended	32218, 32219
421.30	Amended	54854
	Comment time extended	*17444
421.34	Added	54854
	Comment time extended	*17444
421.60	Amended	54854
	Comment time extended	*17444
421.64	Added	54854
	Comment time extended	*17444
421	Appendixes A and B added	54851
	Appendixes A and B comment time extended	*17444
423.14	Added	*15695
423.24	Added	*15695
423.34	Added	*15696
423.44	Added	*15696
425.10	Amended	*15703
425.14	Added	*15703
425.20	Amended	*15703
425.24	Added	*15703
425.30	Amended	*15703
425.34	Added	*15703
425.40	Amended	*15703
425.44	Added	*15703
425.50	Amended	*15703
425.54	Added	*15703
425.60	Amended	*15704
425.64	Added	*15704
425.70	Amended	*15704
425.74	Added	*15704
429.10	Amended	53934
429.14	Added	53934
429.20	Amended	53934
429.24	Added	53934
429.30	Amended	53934
429.34	Added	53934
429.40	Amended	53934
429.44	Added	53934
429.50	Amended	53935
429.54	Added	53935

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

Title 40, Chapter I—Continued

		Page
429.60	Amended	53935
429.64	Added	53935
429.70	Amended	53935
429.74	Added	53935
429.80	Amended	53935
429.84	Added	53936
429.90	Amended	53936
429.94	Added	53936
429.100	Amended	53936
429.104	Added	53936
429.110	Amended	53936
429.114	Added	53936
429.120	Amended	53937
429.124	Added	53937
429.130	Amended	53937
429.134	Added	53937
429.170	Amended	53937
429.174	Added	53937
429.180	Amended	53937
429.184	Added	53937
430.60—430.62	(Subpart F) Revised	*1399
430.70—430.72	(Subpart G) Revised	*1401
430.72	(a) table corrected	27733
430.80—430.82	(Subpart H) Revised	*1402
430.90—430.92	(Subpart I) Revised	*1403
430.100—430.102	(Subpart J) Revised	*1404
430.110—430.112	(Subpart K) Revised	*1406
430.120—430.122	(Subpart L) Revised	*1407
430.122	(a) and (c) tables corrected	27733
430.130—430.132	(Subpart M) Revised	*1409
430.132	(c) table corrected	27733
430.140—430.142	(Subpart N) Revised	*1410
430.142	(c) table corrected	27733
430.150—430.152	(Subpart O) Revised	*1411
430.152	(c) table corrected	27733
430.160—430.162	(Subpart P) Revised	*1412
430.170—430.172	(Subpart Q) Revised	*1413
430.180—430.182	(Subpart R) Revised	*1414
430.190—430.192	(Subpart S) Revised	*1415
430.200—430.202	(Subpart T) Revised	*1415
430.210—430.212	(Subpart U) Revised	*1416
430.222	(a) and (b) tables corrected	27733
434	Comment time extended	34440
	Revised	*21380
435	Comment time extended	50446
	Comment time extended	*10682, 22558
435.30—435.32	(Subpart C) Added	44943
435.40—435.42	(Subpart D) Added	44943
435.50—435.52	(Subpart E) Added	44944
435.60—435.61	(Subpart F) Added	44945
436	Comment time extended	36653
439	Interim regulation added	50677
	Comment time extended	*5697
439.12	(a) revised	*6814
440.42	(a)(5) suspended until 4-30-77	*3165
440.52	Suspended until 4-30-77	*3165
454	Comment time extended	27968
455	Interim regulation added	48089
	Comment time extended	*2316
455.00	(4) revised	54181
	Correctly designated	*7956
455.12	Amended	54181
455.22	Amended	54181
455.32	Amended	54181
455.50	Amended	54181
458	Comment time extended	30645, 39320
459	Added	29079
460	Comment time extended	30645
600.001-77—600.009-77	(Subpart A) Added	38685
600.002-77	(a)(8) revised; (a)(33) through (38) added	49759
600.002-78	Added	49759
600.003-77	Amended	49759
600.005-77	Added	49759
600.007-77	(e) added	49760
600.008-77	(h) added	49760
600.010-77	Added	49760
600.101-78—600.113-78	(Subpart B) Added	38688
600.201-77—600.207-77	(Subpart C) Added	38689
600.206-77	(b) and (c) added	49760
600.207-77	(a)(5), (c) and (d) added	49761
600.208-77	Added	49761
600.301-77—600.315-77	(Subpart D) Added	49761
600.401-77—600.407-77	(Subpart E) Added	49764
600.501-78—600.512-78	(Subpart F) Added	38690
600.601-77—600.613-77	(Subpart G) Added	49765
600	Appendixes I and II added	38694
	Appendixes III and IV added	49766

Chapter V—Council on Environmental Quality

1517	Added	*20818

Title 40—*Proposed Rules:*

1—600 (Chapter I)	*9803
22	*1492, 13307
35	29867, 36726
	*6841, 11026
39	51619
	*5705
50	44049
51	55558
	*8404, 22177, 27267
62	31573, 31574, 32241, 34322, 34782, 35725, 37343, 37344, 38190, 38782-38784, 39329, 40502, 41929, 43421, 43920, 44194, 46010, 46617, 47949-47956, 48044, 48750, 48752, 49840, 50700, 51619, 51620, 52488, 54954-54956, 55561, 56831
	*1273, 1494, 2705, 3657, 4134, 4135, 4496, 5383, 5385, 5986, 6613, 6844, 6845, 7968, 7969, 8672, 9189, 9685, 10699, 10700, 13026, 13128, 13307-13309, 14124, 15343, 15344, 15346, 15432, 15926, 16446, 17496-17498, 19359, 20460, 21113, 21488, 21819, 21620, 22902, 23162, 25500, 25878, 26438, 26439, 26997-27001, 27267, 27616-27618
55	38191
	*13566
60	30029, 36600, 42012, 43866, 46618, 47495, 48706, 51621, 52079, 55792
	*2842, 4863, 10019, 12130, 13566, 22506, 26222
61	*12122
80	*3183
85	50566
	*1044, 26742, 26759
86	38520, 38675, 38681
124	*6846
125	52308
	*6846
128	29156
	*6476, 20314
129	29156, 30468, 51048
133	37222
140	*15079
141	28991
143	*17143
146	36730, 50701
162	43920
180	27741, 28804, 28998, 32899, 38784, 42678, 43421, 43920, 45029, 46011, 47076, 50843
	*815, 11850, 12910, 13129, 13841, 13842, 17499, 24071, 26440
201	52317
	*2330
202	52320
	*2330
203	*27442
204	*27442, 27618
205	*27442, 27620
220	34078
228	*23163, 25741
229	34078
250	*22332
260	53363
	*2331, 15433
403	*6476, 13843, 20314
408	44194
411	45583
413	53070
415	51621
416	32013
418	29459
420	32242
430	27741
432	*26226
434	34441
435	44949, 50458
	*22560
436	36669
454	27976
458	30657, 39330
460	30657
600	38520
700	*13130, 15433, 19298
710	*13130, 15433, 19298
712	*24542
750	*20640
761	*26564
762	*24542
1500	*18111
1515	54005
1516	*1044
1517	*8673

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

1-1.009-3	Added	43538
1-1.103-2	(a)(5) revised	43538
1-1.302-1	(b) revised	38166
1-1.323-3	(b)(4) added	53662
1-1.701-1	(b)(1) amended	27723
	(b)(1) and (2), (f), and (g)(3) revised	50687
1-1.701-4	Revised	31207

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 41, Chapter I—Continued

	Page
1-1.701-5 Revised	50688
1-1.701-11 Revised	50688
1-1.708-2 (a)(5)(i) revised	*23507
1-1.1005-1 Amended	43538
1-1.1005-2 Amended	43538
1-2.406-3 (a)(1) through (a)(4), (b), and (c) revised	27725
1-2.406-4 (b)(1) and (2) revised	27726
1-3.203 (a) and (b) revised	46295
1-3.1201 Revised	47237
1-3.1202 (c) added	47237
1-3.1203 (a)(1)(ii), (a)(3), and (g) revised	47237
1-3.1205 Heading revised	47238
1-3.1210 (a) revised; (c)(10) added	47238
1-3.1218 Heading added	47238
1-3.1219 Added	47238
1-3.1220 (b)(38) through (61) added	47238
1-3.1220-3 Amended	47239
1-3.1220-10 Added	47239
1-3.1220-11 Added	47243
1-3.1220-12 Added	47244
1-3.1220-14 Added	47246
1-4.100 (Subpart 1-4.1) Removed	43538
1-4.1100—1-4.1108-5 (Subpart 1-4.11) Added	43538
1-5.800 Revised	53662
1-5.801 (b) revised	53662
1-5.802 (b) and (k) revised	53662
1-5.804-2 Revised	53662
1-5.902 (f) revised	31207
1-5.903-1 (b) revised	31207
1-7.103-16 Temporary regulations	33267
1-7.103-30 Added	43546
Revised	52457
1-7.203-25 Added	52457
1-7.203-66 Added	52457
1-7.403-61 Added	52467
1-7.602-34 Temporary regulations	33267
1-7.603-19 Added	52457
1-7.703-25 Added	52457
1-12.1100—1-12.1102-5 (Subpart 1-12.11) Revised (temporary regulations)	33266
1-14.103-3 (c) revised	*23507
1-16.101 (c) revised	27723
(c) temporary regulations	33267
Revised	53662
1-16.401 (c) and (h) revised	27723
(h) temporary regulations	33267
1-16.601 (b) temporary regulations	33267
1-16.701 (c) revised	27723
1-16.804-3 (a)(2)(iv) added; (f) revised	36654
1-16.901-19B (Standard Form 19-B) Revised	27724
1-18.117 Added	47440
1-18.302 Revised	27725
1-19.108—1-19.108-1 Revised	52457
1-19.108-2 Added	52457

Chapter 3—Department of Health, Education, and Welfare

3-3.301 (b) revised	*2683
3-3.303-52 (a)(9) removed	*2683
3-3.305-50 (a)(3) revised	*2683
3-3.408 (d)(1) amended	*2684
3-3.802-50 Revised	54930
3-4.1001—3-4.1005-6 (Subpart 3-4.10) Added	27835
3-4.5400 Revised	*2684
3-4.6013 Amended	44170
3-4.6014 Amended	44170
3-16.804-2 Revised	52676
3-16.804-3 (f) revised	52676
3-16.856 Removed	52676
3-16.950-314 Added	42188
3-16.950-315 Amended	41693
3-16.950-315A Amended	41695
3-16.950-316 Amended	41697
3-16.5001 (h)(ii)(1)(B) and (2)(B) revised; (h)(iii)(C) amended	*2684
3-16.5002-4 Revised	42200
3-50.4 (Subpart) Added	*2684
3-50.603 (g) revised	*2684
3-50.700—3-50.702 (Subpart 3-50.7) Added	52676

Chapter 3—*Proposed Rules:*

3-1	*1273
3-3	32607
3-4	*26314

Chapter 4—Department of Agriculture

4-1.350 Added	37104
4-1.350-1 Added	37105
4-1.350-2 Heading added	37105
4-1.453 (c)(3) removed	36493
4-1.2302-3—4-1.2302-50 (Subpart 4-1.23) Added	*10682
4-4.5002 Revised	*10682
4-4.5003 (b) and (c) revised	*10683
4-4.5005 (b) revised	*10683

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

	Page
4-4.5006 (a) (1) and (3) and (b) revised; (a)(2) amended	*10683
4-4.5007 Removed	*10683
4-4.5008 (a) and (b)(2) revised	*10683
4-4.5009 Removed	*10683
4-4.5010 Revised	*10683
4-4.5011 Revised	*10683
4-4.5012 Revised	*10683
4-4.5014 (b) revised	*10684
4-4.5015 Revised	*10684
4-4.5018 (a) revised	*10684
4-4.5018-1 Revised	*10684
4-4.5019-1 Revised	*10684
4-4.5020 Revised	*10684
4-4.5021 Revised	*10684
4-4.5022 Revised	*10684
4-4.5025 Revised	*10684
4-4.5026 Revised	*10684
4-4.5030 Revised	*10684
4-4.5031 Removed	*10684
4-4.5034 Removed	*10684
4-4.5036 Revised	*10684
4-4.5039 Revised	*10685
4-4.5041 Revised	*10685
4-4.5045 Revised	*10685
4-4.5046 Revised	*10685
4-4.5050 Revised	*10685
4-4.5051 Removed	*10684
4-4.5052 Removed	*10684
4-4.5054 Revised	*10685
4-4.5056 Revised	*10685
4-4.5057 Revised	*10685
4-4.5058 Removed	*10685
4-4.5063 Removed	*10685
4-4.5064 Removed	*10685
4-4.5068 (e) amended	*10687
4-4.5069 Removed	*10685
4-4.5070 Revised	*10685
4-4.5072 Revised	*10685
4-4.5073 Revised	*10685
4-4.5074 Removed	*10685
4-4.5075 (c) revised	*10685
4-4.5077 Revised	*10685
4-4.5080 (e) revised	*10686
4-4.5083 (b) revised	*10686
4-4.5084 Revised	*10686
4-4.5085 Removed	*10686
4-4.5087 Removed	*10686
4-4.5089 (a) revised	*10686
4-4.5090 Revised	*10686
4-4.5092 (b) and (d)(3) revised	*10686
4-4.5099 Revised	*10686
4-4.5099b Revised	*10687
4-4.5401 Revised	*10687
4-4.5404 Revised	*10687
4-4.5407 Revised	*10687
4-4.5410 (b) revised	*10687
4-5.5301-2 (a) revised	*10687
4-6.151 Amended	*10688
4-7.101 Redesignated as 4-7.102 and revised	*10688
4-7.101-4 Redesignated as 4-7.102-4 and amended	*10688
4-7.101-12 Redesignated as 4-7.102-12	*10688
4-7.101-13 Redesignated as 4-7.102-13	*10688
4-7.102 Redesignated and revised from 4-7.101	*10688
4-7.102-4 Redesignated and amended from 4-7.101-4	*10688
4-7.102-12 Redesignated from 4-7.101-12	*10688
4-7.102-13 Redesignated from 4-7.101-13	*10688
4-10.105-2 Amended	*10688
4-10.154 Amended	*10688
4-10.350 Revised	*10688
4-10.351 Amended	*10688
4-10.352 Amended	*10688
4-12.150 Revised	*20465
4-12.153 Revised	*20465
4-12.202 Removed	*20465
4-12.250 Amended	*20465
4-12.302—4-12.350 (Subpart 4-12.3) Heading revised	*20465
4-12.302 Removed	*20465
4-12.303 Revised	*20465
4-12.304 Amended	*20465
4-12.350 Revised	*20465
4-12.400—4-12.451 (Subpart 4-12.4) Redesignated as 4-18.-701—18.751 (Subpart 4-18.7) and revised	*20465
4-12.602-3 Amended	*20465
4-12.604 Revised	*20465
4-12.650 Amended	*20465
4-12.904—4-12.904-3 (Subpart 4-12.9) Removed	*20465
4-12.5003 Amended	*20465
4-14.107a Amended	*10688
4-17.102 (a) amended	*10688
4-18.150 Added	*20465
4-18.203-2 (b) revised	*20466
4-18.203-50 Revised	*20466
4-18.208 (b), (c)(1), and (d) revised	*20466
4-18.701—4-18.751 (Subpart 4-18.7) Redesignated from 4-12.400—4-12.451 (Subpart 4-12.4) and revised	*20466
4-18.5001 Revised	*20466

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 41, Chapter 4—Continued

	Page
4-18.5002 Amended	*20468
4-18.5003 Revised	*20468
4-18.5101 Revised	*20468

Chapter 5A—Federal Supply Service, General Services Administration

	Page
5A-1.304 Revised	27037
5A-1.305-2 (b) revised	27037
5A-1.305-3 Revised	27037
5A-1.316-5 (a), (b), and (c) revised	27037
5A-1.352-2 (a) revised	27037
5A-1.706-50 (f) revised	*5054
5A-1.1310—5A-1.1310-51 (Subpart 5A-1.13) Added	*5054
5A-1.7301 Revised	27037
5A-2.201-70 (c) and (e) revised	27038
(e)(2) revised	*5055
5A-2.201-74 (e) removed	27038
5A-2.202-4 (k) added	*5055
5A-2.205—5A-2.205-3 Revised	27038
5A-2.207 Revised	27038
5A-2.402 (l) revised	*5055
5A-2.407-84 (a) introductory text, (b), and (f)(1) revised	*5055
5A-3.101 Removed	27038
5A-3.101-70 Removed	27038
5A-3.102 Revised	27038
5A-3.103 Revised	27038
5A-3.150 Added	27039
5A-3.202 Revised	27039
5A-3.203 Revised	27039
5A-3.210 Added	27039
5A-3.405-5—5A-3.408 (Subpart 5A-3.4) Added	27039
5A-3.605 Revised	27039
5A-3.605-1 Added	27039
5A-3.606 Revised	27040
5A-3.606-4 Revised	27040
5A-3.606-50 Revised	27040
5A-3.651 Added	27040
5A-3.651-1 Added	27040
5A-3.651-2 Added	27040
5A-3.651-3 Added	27040
5A-3.1210 Added	27041
5A-3.7003 Revised	27041
5A-5.406—5A-5.408-50 (Subpart 5A-5.4) Added	*5055
5A-5.805—5A-5.805-51 (Subpart 5A-5.8) Revised	*5055
5A-5.805-50 Added	27041
5A-5.5000—5A-5.5007 (Subpart 5A-5.50) Revised	*5056
5A-5.6001 (Subpart 5A-5.60) Added	*5056
5A-6.104-50 (a) revised	27041
5A-7.102-4 (b) and (c) revised	*5057
5A-7.102-6 Revised	27041
5A-7.102-78 Revised	27041
5A-7.102-81 Added	27041
5A-7.103-52 Added	27041
5A-7.103-53 Added	27041
5A-7.103-54 Added	27042
5A-7.103-55 Added	27043
5A-7.103-56 Added	27043
Revised	*5057
(a) and (b) corrected	*10995
5A-7.103-57 Added	27043
5A-7.103-58 Added	27044
5A-7.103-75 Revised	27045
5A-7.103-86 Revised	27045
5A-7.103-87 Revised	27045
5A-7.103-95 Added	27046
5A-11.401-70 Revised	27046
5A-11.401-71 Added	27046
5A-14.105-1 Revised	27046
5A-14.206-1 (b), (c), (d), and (e) revised	*5057
5A-16 Table of contents amended	27047
5A-16.950-1246 Revised	*5058
5A-16.950-1584 Revised	*5058
5A-16.950-1584A Revised	*5058
5A-16.950-1584-1 Amended	*5058
5A-16.950-1790 Revised	*5058
5A-19.150 Added	27047
5A-19.170 Added	*5058
5A-19.202-50 Added	27047
5A-26 Added	27047
5A-30.511-2 Revised	27049
5A-30.551-1 Revised	27049
5A-30.551-3 (a) and (b) revised	27049
5A-53.103 (b) revised	*5058
5A-53.308 Added	27049
5A-53.470 Revised	*5058
5A-53.471 Revised	*5058
5A-53.471-1 Revised	*5058
5A-53.471-2 Revised	*5058
5A-53.471-3 Revised	*5058
5A-53.471-4 Revised	*5058
5A-53.603 Added	27049
5A-72 Revised	27050
5A-72.106 (c)(3) added	*5058
5A-72.107-1 (b) introductory text revised	*5058
5A-72.202 (f) added	*5059
5A-73 Revised	27060
5A-76 Table of contents amended	27072
5A-76.201—5A-76.201-8 (Subpart 5A-76.2) Revised	*5059
5A-76.301 Revised	*5059
5A-76.306 Revised	*5059
5A-76.401—5A-76.404 (Subpart 5A-76.4) Revised	*5059

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Chapter 5B—Public Buildings Service, General Services Administration

	Page
5B-1.706 Revised	50447
5B-1.706-1 Removed	50447
5B-2.202-80 (a) revised	50447
5B-2.207 (a) revised	50447
5B-12.803-50 Revised	50447
5B-16.000 Revised	50448
5B-16.104 Redesignated as 5B-16.001	50448
5B-16.402-1 Revised	50448
5B-16.402-2 Revised	50448
5B-16.402-3 Revised	50448
5B-16.404 Revised	50448
5B-16.703 Added	50448

Chapter 6—Department of State

	Page
6-1.258-2 Revised	*24740

Chapter 7—Agency for International Development, Department of State

	Page
7-1.101 Revised	*27601
7-1.305-2 Removed	*4841
7-1.305-3 Removed	*4841
7-1.306-1 Removed	*4841
7-1.318 Redesignated as 7-1.318-1 and revised	*4841
7-1.318-T Redesignated from 7-1.318 and revised	*4841
7-1.323 Removed	*4841
7-1.323-2 Removed	*4841
7-1.604-1 Redesignated from 7-1.604-1(a)-1 through 7-1.604-1(b)-6 and revised	*4841
7-1.604-1(a)-1—7-1.604-1(b)-6 Redesignated as 7-1.604-1 and revised	*4841
7-3.101-50 (a)(2) revised	*27601
7-3.200-50 Revised	*4841
7-3.204 Removed	*4841
7-3.205 Removed	*4841
7-3.211 Removed	*4841
7-3.305 Removed	*4842
7-4.5100—7-4.5102 (Subpart 7-4.51) Removed	*4842
7-4.5200 (Subpart 7-4.52) Removed	*4842
7-4.5301 (e) revised	*27601
7-4.5400 (Subpart 7-4.54) Removed	*4842
7-4.5603 Removed	*4842
7-4.5703 Removed	*4842
7-4.5803 Removed	*4842
7-4.5805 Revised	*27601
7-6.200 (Subpart 7-6.2) Removed	*4842
7-6.5101 Amended	*16778
7-6.5203 Amended	*4842
7-7.5001-44 Added	*4842
7-7.5002-3 Undesignated subheading amended; (i)(1)(ii) revised; (i) removed	*4842
7-7.5002-15 Undesignated subheading amended; (d) revised	*4842
7-7.5002-16 Added	*4842
7-7.5003-3 Amended	44396
7-7.5003-5 Added	*4842
7-7.5201-1 (h) revised	*4842
7-7.5202-2 Amended	44396
7-7.5202-3 Added	*4842
7-7.5301-1 (g) revised	*4842
7-7.5302-3 Added	*4842
7-7.5401-35 Added	*4842
7-7.5401-36 Added	*4842
7-7.5402-8 Revised	*4842
7-7.5402-10 Added	*4843
7-7.5403-2 Removed	*4843
7-7.5403-6 Added	*4843
7-7.5501-40 Added	*4843
7-7.5502-13 Removed	35067
7-7.5502-16 Added	35067
7-7.5502-19 Added	*4843
7-7.5503-11 Added	*4843
7-8.101 (Subpart 7-8.1) Removed	*4843
7-8.213 Removed	*4843
7-10.351 Redesignated as 7-10.502-3	*4843
7-10.502-3 Redesignated from 7-10.351	*4843
7-12.802-51 Removed	*4843
7-12.5201—7-12.5201-2 (Subpart 7-12.52) Removed	*4843
7-12.5300 (Subpart 7-12.53) Removed	*4843
7-15.102-50 Removed	*4843
7-15.151 Removed	*4843
7-15.200 Removed	*4843
7-15.301 Amended	*4843
7-17.101 Revised	39320
7-30.403 Removed	*4843
7-30.413 Removed	*4843
7-50 Added	39320
Chapter 7 Appendix F amended; Appendix G added	*4843

Chapter 8—Veterans Administration

	Page
8-1.404 Heading added	51018
8-1.404-2 Added	51018
(a) revised	*13828
8-1.404-3 Added	51018
8-1.1302 Added	32219
8-1.1350 Removed	32219

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 41, Chapter 8—Continued

	Page
8-3.207 (a)(2), (b) introductory text, (c), (d), and (e) revised	46436
8-3.209 (a)(2) and (b) introductory text revised	46436
8-3.603-1 Removed	32219
8-4.5102 Revised	*6368
8-4.5103 Revised	*6368
8-4.5104 Revised	*6368
8-7.150-4 (a) and (b) revised	48517
8-7.650-14 (a) and (b) amended	48517
8-7.650-16 (b) revised	48518
8-7.650-20 Revised	48518
8-7.650-21 Amended	48519
8-18.203-1 Revised	48519
8-74.113 (b) and (c)(1) revised	*26984
8-75.101 (a) revised	51018
8-75.201-1 Revised	*26985
8-75.201-4 Revised	51019
8-75.201-5 Revised	51019
8-75.201-9 Removed	*26985
8-75.201-10 Revised	51019
8-75.201-11 Added	51019
Removed	*26985
8-75.201-12 (a) revised	51019
(a) revised	*26985
8-75.201-13 (a) revised	51019
(a) revised	*26985
8-75.201-14 Removed	*26985
8-75.201-16 (c) revised; (d) added	*26985
Chapter 8—Proposed Rules:	
8-4	39051

Chapter 9—Energy Research and Development Administration

	Page
9-1.5402 (c) and (d) added	*21778
9-1.5404 Revised	*21778
9-3.405-50 Added	36021
9-3.809 (b) revised	*27600
9-3.1203 (a)(3) and (b) added	50824
9-4.5201—9-4.5203-9 (Subpart 9-4.52) Added	30331
9-4.5203 Amended	*4125
9-4.5203-1 (b)(9) amended	*4125
9-4.5203-3 Introductory text and (a) amended	*4125
9-7.5006-9 (d)(14) through (17) redesignated as (d)(15) through (18); (d)(14) and (e)(29) added; (d)(13) and (e)(24) revised	*23508
9-7.5006-10 (d)(17 revised; (d)(18) added; (e)(20) removed	*2963
(d)(19) and (e)(26) added; (e)(23) revised	*23508
9-7.5006-12 (d)(19) revised; (d)(20) added; (e)(18) removed	*2963
(e)(24) through (26) redesignated as (25) through (27); (d)(21) and (e)(24) added; (e)(21) and (23) revised	*23508
9-7.5006-40 Added	*21778
9-15.205-3—9-15.205-35 (Subpart 9-15.2) Added	*2963
9-15.205-6 Added	*23508
9-15.205-16 Added	*23508
9-15.205-41 Added	*23508
9-16.807 Added	30646
9-16.951-3 Added	30646
9-51.302 Added	55195
Exhibit 1 corrected	*2684
Revised	*25732
9-51.401 Revised	*27247
9-51.403-2 (b)(3)(i) revised	*27247
9-53.101 Amended	30011
9-53.202 (c) revised	30011
9-55.102-2 Introductory text revised	*27247
9-56.405 Revised	*10688
Chapter 9—Proposed Rules:	
9-4	50844

Chapter 12—Department of Transportation

	Page
Chapter 12—Proposed Rules:	
12-70	*5324

Chapter 14—Department of the Interior

	Page
14-1.705-50 Revised	*1216
14-1.706-1 Revised	*1216
14-1.1003—14-1.1003-7 (Subpart 14-1.10) Added	*9666
14-2.407-8 Revised	54758
14-3.152 Added	54760
14-3.303—14-3.305-51 (Subpart 14-3.3) Heading revised	*9666
14-3.305-51 (r) added	39747
(g) removed	*9666
14-4.5201—14-4.5208 (Subpart 14-4.52) Added	*25858
14-7.150-1 Removed	*9666
14-7.650-5 (b) amended	*9666
14-10.201 Revised	*1216
14-16.804-3 Revised	*9666
14-30.201 Added	39748

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

	Page
14-30.403 Added	39748
14-30.408 Added	39748
14-30.408-1 Added	39748
14-30.413 Added	39748
14-30.414 Added	39748
14-30.414-2 Added	39748
14-30.501—14-30.505 (Subpart 14-30.5) Added	39749

Chapter 15—Environmental Protection Agency

	Page
15-3.805 Removed	*22145
15-3.805-1 (a)(6)(i) amended	46601
Removed	*22145
15-4.1000—15-4.1007-50 (Subpart 15-4.10) Added	50689
Chapter 15—Proposed Rules:	
15-4	31574

Chapter 18—National Aeronautics and Space Administration

	Page
18-1.304-1 Amended	53436
18-1.351 (c)(i) amended	53436
18-3.501 (b)(xlv) revised; (b)(lxxxv) added	53438
18-3.805-1 (b)(vii) revised	53436
18-5.5101 (a) and (b) amended	53436
18-7.104-9 Revised	53436
18-7.104-50 Revised	53436
18-7.104-61 Revised	53436
18-7.204-9 Revised	53436
18-7.204-50 Revised	53436
18-7.204-61 Revised	53436
18-7.303-50 Revised	53436
18-7.303-61 Revised	53436
18-7.350-3 Revised	53437
18-7.403-50 Revised	53436
18-7.403-61 Revised	53436
18-7.452-50 Revised	53436
18-7.452-61 Revised	53436
18-7.460-9 Revised	53437
18-7.705-1 Amended	53437
18-7.705-13 Revised	53436
18-7.902-58 Revised	53436
18-9.000 Added to Subpart 18-9.1	53441
18-9.200—18-9.203-11 (Subpart 18-9.2) Revised	53441

Chapter 24—Department of Housing and Urban Development

	Page
Chapter revised	55796
24-1 Revised	55796
24-2 Revised	55801
24-3 Added	55805
24-4 Added	55811
24-7 Added	55812
24-11 Added	55813
24-13 Added	55814
24-16 Added	55816
24-30 Added	55817
24-50 Added	55817
24-51 Removed	55796

Chapter 28—Department of Justice

	Page
28-1 Added	32426

Chapter 29—Department of Labor

	Page
29-60.101 Revised	35186

Chapter 50—Public Contracts, Department of Labor

	Page
Chapter 50—Proposed Rules	
50-201	*26022
50-206	*26022

Chapter 51—Committee for Purchase From the Blind and Severely Handicapped

	Page
51-1.2 (c) revised; (o) added	45565
51-1.3 Revised	*13552
51-2.3 (e) revised	*13552
51-2.4 (a) and (c) amended	45565
51-3.2 (j) amended; (k) added; (i) revised	45565 *13552
51-3.3 Revised	*13552
51-4.2 (c) revised	45566
51-4.3 (a)(4) revised	45566
51-5.1-1 (b) revised	*13553
51-5.2 (e) added	*13553
51-5.8 Amended	*13553
Chapter 51—Proposed Rules	
51-1	37343, 52323
51-2	52323
51-3	37343, 52323
51-4	37343
51-5	52323

Chapter 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor

	Page
60-1.3 Revised	*3458
Corrected	*5978
60-1.4 (d) and (e) revised	*3459
60-1.5 (a)(1) revised; (a)(6) added	*3459
60-1.10 Added	*3459
60-1.21 Revised	*3459
60-1.22 Revised	*3459
Corrected	*5978

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 41, Chapter 60—Continued

Page

60-1.23 Revised *3459
(b) corrected *5978
60-1.24 Revised *3459
60-1.25 (c) (1), (2), and (5) corrected *5978
60-1.26 Revised *3460
(a)(2), (b)(3), (c), and (g) corrected *5978
60-1.40 (a) revised *3461
(a) amended *5978
60-2.1 Revised *3461
60-2.2 (b) and (c) revised *3462
(c)(1) corrected; (c)(2) revised *5978
60-2.12 (j), (k), (l), and (m) redesignated as (k), (l), (m), and (n); new (j) added *3462
(j) corrected *5978
60-3 Revised 51744
Cross reference *4057
60-30 Revised *3462
Authority citation corrected *5978
60-30.13 (c) and (d) corrected *5978
60-30.14 Corrected *5978
60-30.17 (a) corrected *5978
60-30.20 Corrected *5978
60-30.23 (e) and (f) corrected *5978
60-30.24 (a)(2), (3), (b) (1) and (2) corrected *5978
60-30.25 Corrected *5978
60-250.29 (b) revised *19145
60-741 Table of contents corrected *3307
60-741.2 Corrected *3307
60-741.5 (a) and (c)(1) corrected *3307
60-741.6 (b) corrected *3307
60-741.20 Corrected *3307
60-741.21 Corrected *3307
60-741.24 (a) corrected *3307
60-741.27 Corrected *3307
60-741.29 (b)(2)(B) corrected *3307
(b) revised *19146
60-741.30 Corrected *3307
60-741.52 (a) corrected *3307

Chapter 60—*Proposed Rules:*

60-1 ..... 34298, 40340, 42678, 50015, 54499
60-2 ..... 40340, 42678, 48128, 50015, 54499
60-5 ..... 40340, 42678, 48128, 50015
60-8 ..... 40340, 42678, 48128, 50015

Chapter 101—Federal Property Management Regulations

101-1.103 Revised *12
101-2.104 (c) revised 56320
101-5.201 Revised 46296
101-5.202 Introductory text revised 46296
101-5.203-1(a) Revised 46296
101-5.203-4 Revised 46296
101-5.203-6 Revised 46296
101-5.203-7 Revised 46296
101-5.205-2 (a) and (b) revised 46296
101-5.205-3 (a) revised 46296
101-5.4901 Removed 46297
101-5.4902 Removed 46297
101-5.4903 Removed 46297
101-6.100—101-6.112-1 (Subpart 101-6.1) Redesignated from 34 Part 233 and revised *14098
101-11.406-7 Revised 46297
101-11.1203 (a)(1) and (2), (b), and (c) revised 48737
101-11.1204 Removed 48737
101-11.1205 Revised 48737
101-11.4930-248 Revised 48737
101-11.4930—248-A Added 48737
101-11.4930-249 Revised 48737
101-11.4930-249-A Added 48737
101-11.4930-250 Revised 48737
101-17.204 (a) revised *16778
101-18.101 (c) revised *9666
101-18.102 (a) amended 36206
101-18.105 (d) added 52458
101-19.001 Revised *16779
101-19.100 (a)(1), (b), (c)(1) through (5), (f)(2) through (4) and (g) revised; (c)(6) and (h) added *16779
101-20.113 (b), (c)(1) and (3) and (d) revised 34629
101-25.104 Heading, introductory text and (a) and (b) introductory texts revised *1031
101-25.104-1 Revised *1031
101-25.107 (d) revised *1031
101-25.110-1 Removed *1031
101-25.302 (a) revised *1031
101-25.302-7 Revised *1031
101-25.402 Revised *1031
101-25.404-1 Revised *1031
101-25.502 (b) revised *1031
101-25.503 Heading, introductory text and (a) revised *1031
101-25.504 (b) revised *1031
101-25.4801 (c) revised *22558
101-25.4902-1473.1 (c) amended (d) revised 37575 *22558
101-26.202 Revised 34630
101-26.307 Revised 56320
101-26.307-1 Removed 56320
101-26.307-2 Removed 56320
101-26.307-3 Removed 56320

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Page

101-26.401-4 (b) and (c) revised 34630
101-26.407 Revised 34630
101-26.407-1 Revised 34630
101-26.407-2 Revised 34630
101-26.407-3 Heading and (a) revised 34630
101-26.408-2 Revised 34630
101-26.408-4 (c) added *1032
101-26.501 (b) and (c) revised 34631
101-26.501-3 Introductory text and (c) through (e) revised 34631
101-26.501-6 Revised 34631
101-26.501-8 (a) revised 34631
101-26.502-1 (a) and (c) revised 34632
101-26.503-1 Revised 34632
101-26.503-2 (b) and (d) revised 34632
101-26.505-3 Revised 34632
101-26.506 Revised 42953
101-26.506-1 Revised 42953
101-26.506-3 Revised 42953
101-26.507 Revised 34632
101-26.507-1 Revised 34632
101-26.507-2 Revised 34632
101-26.507-3 Revised 34632
101-26.507-4 Revised 34632
101-26.508-1 Revised 34633
101-26.508-2 (a) and (b) revised 34633
101-26.509-1 Revised 34633
101-26.509-2 (a) and (b) revised 34633
101-26.800—101-26.803-2 (Subpart 101-26.8) Added 56320
101-26.4801 Revised 43722
101-26.4901 (b) revised 34633
101-26.4902 (b) revised 34633
101-26.4902-1424 Revised 38505
101-26.4902-1718 Removed 34633
101-26.4902-1781 Revised 34633
101-26.4902-6317 Removed 34633
101-28.100—101-28.101-22 (Subpart 101-28.1) Removed *2317
101-28.201 (b) revised *2317
101-28.202 Revised *2317
101-28.202-1—101.202-4 Added *2317
101-28.203 Revised *2317
101-28.203-1 Revised *2317
101-28.203-2 Removed *2317
101-28.203-3 Removed *2317
101-28.203-4 Revised *2317
101-28.204—101-28.208 Removed *2317
101-28.300—101-28.308 (Subpart 101-28.3) Revised *2317
101-29.000 Revised *13828
101-29.101 Revised *13828
101-29.102 Revised *13828
101-29.201-1 Revised *13828
101-29.201-2 Revised *13828
101-29.201-3 Revised *13828
101-29.202 Revised *13828
101-29.204 (a) introductory text, (2) and (4) and (b) introductory text revised *13829
101-29.205 Revised *13828
101-29.205-1 Introductory text, (a) and (d) revised *13829
101-29.207 Revised *13829
101-29.208 Revised *13829
101-29.301-2 Revised *13829
101-29.302 Revised *13829
101-32.000 Revised 43546
101-32.200—101-32.203-4 (Subpart 101-32.2) Supplement; expired 1-31-77 34635
101-32.303-2 (a)(1) revised 42954
101-32.306 (a) revised 42954
101-32.309-4 (a) revised 42954
101-32.400—101-32.409 (Subpart 101-32.4) Revised 43546
101-32.403-1 Revised *17120
101-32.403-2 Revised *17120
101-32.1302 Revised *9667
101-32.1307 Revised *9667
101-32.1307-1 Added *9667
101-32.1700 Revised *17120
101-32.1706 (a) introductory text and (b)(5) revised; (b)(4) amended; (b)(6) added 48519
(a) revised *17120
101-34.002 Revised *11836
101-34.003 Revised *11836
101-34.101 Revised *11836
101-34.102 Revised *11837
101-34.103 Revised *11837
101-34.104 Revised *11837
101-34.105 Revised *11837
101-35.202 (a)(11) revised 46297
101-35.203 (f) revised 46297
101-35.309—101-35.309-2 Revised 36207
101-35.502 Revised 36207
101-35.505 Removed 36207
101-38.001-8 Revised *1477
101-38.001-9 Revised *1477
101-38.001-16 Added *1477
101-38.001-17 Added *1477
101-38.100-1 Revised *19328
101-38.100-2 Revised *19328
101-38.102 Revised *19328

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

Title 41, Chapter 101—Continued

	Page
101–38.102–1 Revised	*19328
101–38.102–2 Revised	*19328
101–38.1300—101–38.1305–3 (Subpart 101–38.13) Redesignated from 34 CFR Part 232 Appendix A and revised	*1477
101–38.4901–1 Added	*19328
101–40.109–1 (a) revised	54762
101–40.109–2 Revised	54762
101–40.700 Revised	*25858
101–40.701 Introductory text, (a), (c), and (d) revised	*25859
101–40.702 Heading revised	*25859
101–40.702–1 (a) revised	*25859
101–40.702–2 Revised	*25859
101–40.702–3 Revised	*25859
101–40.703–1 Removed	*25860
101–40.703–2 Revised	*25860
101–40.703–3 Revised	*25860
101–40.704–2 Revised	*25860
101–40.705 Revised	*25860
101–40.707–1 Revised	*25861
101–40.707–2 Introductory text, (a), and (b) introductory text revised	*25861
101–40.709 (b) revised	*25861
101–40.710 Revised	*25861
101–40.711–1 Revised	*25861
101–40.711–2 (b) revised	*25861
101–40.712 Revised	*25861
101–40.713 Revised	*25861
101–40.4906–5 Amended	*25862
101–43.313–12 Added	*24052
101–44.324 Added	*24052
101–44.502–3 Added	*24052
101–45.309–11 Added	*24052
101–45.4926 Added	*24053
101–46.404 Introductory text, (a) (1) and (3) revised	38167

Title 41, Chapter 101—*Proposed Rules:*

101–2	34080
101–11	*17147
101–17	*816
101–19	*9038
101–20	29188
101–25	54202
	*11848
101–26	34080
101–43	*12892, 15080
101–44	*12892, 15080
101–45	*12892, 15080
101–48	*15080

Chapter 105—General Services Administration

	Page
105–54.303 (d) through (h) redesignated as (e) through (i) and revised; new (d) and (j) added	47441
105–54.304 (b) introductory text and (c) revised	47441
105–54.306 (b) revised	47442
105–54.401 (a) introductory text revised	47442
105–61.001–6 Revised	*13022
105–61.101–1 (d) revised	*13022
105–61.101–2 (c) revised	*13022
105–61.101–4 Revised	*13022
105–61.102–5 Revised	*13023
105–61.307 Revised	*13023
105–61.5101–6 (b) revised	*13023
105–61.5101–7 (c) and (d) revised	*13023
105–61.5201 (c)(4) through (6) revised	45001
105–61.5205 (b) and (e) revised	45001
105–61.5206 Revised	45001
105–61.5207 Revised	45002
105–61.5208 Revised	45002
105–64.002 (i) through (l) added	42954
105–64.101–1 Revised	42954
105–64.101–4 (a) and (b) revised	42955
105–64.201 (b) amended	42955
105–64.201a Added	42955
105–64.301–1 (b) revised; (c) added	42955
105–64.301–2 (a) and (b) revised	42955
105–64.301–3 (d) and (g) revised; (h) removed	42955
105–64.301–4 (f) removed	42955
105–64.301–5 Added	42955
105–64.302–3 Revised	42956
105–64.602–1 Amended	42956
105–64.602–2 Amended	42956
105–64.701 (Subpart 105–64.7) Added	42956

Chapter 105—*Proposed Rules:*

105–61	37607
105–64	32245

Chapter 114—Department of the Interior

Chapter 114 Nomenclature changes	*10002, 24740
Correctly designated	*13829
114–25.351 Revised	*23151

Note: Symbol (*) refers to 1977 page numbers

CHANGES JULY 1, 1976 THROUGH MAY 31, 1977

	Page
114–35.204 Revised	55345
114–38.1200 Added	54487
114–38.1201 (d) amended	54487
114–38.5500—114–38.5511 (Subpart 114–38.55) Added	36654
114–39.601 Revised	*6368
114–39.601–50 Added	*6369
114–43.000 Revised	*5359
114–43.001—114–43.001–52 Added	*5359
114–43.104—114–43.104–52 Removed	*5359
114–52.111 Removed	29818
114–60.1000—114–60.1002 (Subpart 114–60.10) Revised	*6814
114–60 Appendix A heading revised; Appendix B added	*6814

Chapter 128—Department of Justice

Chapter 128 Added	45987
128–1 Added	45987
128–18 Added	*21475

Chapter 128—*Proposed Rules:*

128–18	34636

Title 41—*Proposed Rules:*

In this title only see under specific chapters.

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

Page

38 Added 52053
50.402 Revised 49987
50 Appendixes A and B removed 49987
51c Revised 53205
51c.501—51c.507 (Subpart E) Added 57000
52a Revised 44171
52e Revised 44174
53.113 (a) amended *16780
56b Authority citation corrected *4125
82 Added 44397
82.4 Corrected 49636
82.15 (a) corrected 49636
82.64 (g) corrected 49636
85a Added 45004
100 Policy statement *4847
100.102 (e) revised *4024
101.1401—101.1406 (Subpart N) Revised *4677
122.204 (b) revised *18279
122.301—122.310 (Subpart D) Added *4024
122.304 (a)(3) revised *18606
122.308 Technical correction *7955
122.309 Revised *18606
123.401—123.411 (Subpart E) Added *4028
123.404 (a)(3) revised *18607
123.409 Technical correction *7955
123.410 Revised *18607

Title 42—*Proposed Rules:*

23 ..... *25992
35 ..... *17500
36 46792
..... *26306
50–59a (Subchapter D) *15433
52f 56318
54 48242
54a *5866, 6066
54b *2986
59 ..... *18947
72 ..... *15438
84 48753
86 ..... *25340
101 ..... 44286, 53215, 56339
..... *2994, 4256, 4259, 4260, 4624, 4632, 4637, 16839, 17501
122 52079
124 ..... 52079, 52891

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

Page

2.15 (e)(4) and (g) amended 51401
2.16 (d)(3) and (e)(2) amended 51401
2.17 (a) and (c)(2) amended 51401
2.18 (a) and (c)(1) and (2), (d)(1) and (2), and (e) amended 51401
4.544 Revised *1216
20 Revised 56101
Appendixes D, E, and F added *6586
28 Added 51794

Chapter I—Bureau of Reclamation, Department of the Interior

419.0–5 (o) revised *3307
423 Added; effective to Sept. 30, 1977 ..... *19610

Chapter II—Bureau of Land Management, Department of the Interior

2653.0–3—2653.11 (Subpart 2653) Filing date extended *779
2653.4 (b) effective date extended 44041
2653.5 (h) amended 49487
2653.6 (a)(3) amended 49487
2653.9 (d) amended 49487
2801.1–5 (f) revised 47252
3041.0–1—3041.8 (Subpart 3041) Guidelines 43722
Revised *4444, 25462
3041.0–5 (b) introductory text corrected *8144
3041.2–2 (f) introductory text amended; (f)(12)(iii) added *4441
3103.2–1 (b) revised *1032
3103.3–2 (a) revised *1033
3104.0–5—3104.8 Revised 45566
3106.2–1 Revised *1033
3302.3–2 (a) amended 48738
3303.5 (a) revised 53019
3305a.4 Revised 53019
3500.0–5 (d) through (g) revised 56644
(h)) and (i) revised *4451, 25469
3501.1–4 (b)(1) (i) and (ii) revised *4451, 25469
3501.1–5 Revised *4451, 25469
3501.2–1 Revised *4452, 25469
3502.9 Heading revised *4452
Revised *25469
3502.9–1 Revised *4452, 25469

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Page

3503.3–1 (b)(1) revised *4452, 25469
3503.3–2 (b)(1) added 56645
3503.3–3 Added *4452
Republished *25469
3505.1–1 Removed *4452, 25469
3505.2 Removed *25469
3505.2–1 through 3505.2–4 Removed *4452, 25469
3507.0–1—3507.5 (Subpart 3507) Added *4458
3511.2–1 (b)(1) removed *4452, 25470
3511.2–2 Removed *25470
3511.4–4 Removed *4452
3520.0–3 Revised *4452, 25470
3520.0–4 Removed *4453, 25470
3520.1–2 Removed *4453, 25470
3520.1–3 Removed *4453, 25470
3520.2–1 (a)(3) added 56645
Revised *4453, 25470
3520.2–5 Revised 56645
3520.2–6 Added 56645
3521.1–4 Removed *4453
3521.1–5 Removed *4453
3521.2–1 Revised *4452, 25470
3521.2–2 Revised *4452, 25470
3522.2–1 Revised 56646
3523.2–1 (b)(1) redesignated as (b)(1) heading and (b)(1)(i); (b)(1)(ii) and (iii) added 56646
3524.1–1 Removed *4453, 25470
3524.2–1 Revised *4453, 25470
3525.0–2—3525.9 (Subpart 3525) Revised and renumbered from 3525.1—3525.19 ..... *25471
3525.1—3525.19 (Subpart 3525) Added *4453
3720.0–1—3720.0–5 (Subpart 3720) Removed 50257
3721.1 (Subpart 3721) Removed 50257
3723.1–3723.2 (Subpart 3723) Removed 50257
3724.1—3724.5 (Subpart 3724) Removed 50257
3746.1 (c) and (d) removed 50690
3833.0–1—3833.5 (Subpart 3833) Added *5300
4115.2–1 (k)(1)(i), (ii) and (iv) revised *778
4125.1–1 (m)(1)(iii) added *779
4700.0–3 Revised *26654
4700.0–5 (i) revised; (k), (l), and (m) added *26654
4720.2 (a) revised *26655
4730.7 Added *26655
4730.7–1 Added *26655
4730.7–2 Added *26655
4730.7–3 Added *26655

Page

4740.4 Added *26655
6010.0–3 Revised *20626
6010.6 Added *20626
9239.0–3 (b)(3) revised *4460
9239.5–3 (f) added *4460

Public Land Orders

1127 Revoked in part by PLO 5615 ..... *18859
5561 Amended by PLO 5611 56646
Amended by PLO 5612 ..... *2684
5581 See PLO 5611 56646
5601 Amended by PLO 5606 47252
5603 44041
5604 45006
5605 46297
5606 47252
5607 51603
5608 51401
5609 51035
Corrected 52300
5610 55875
5611 56646
Corrected by PLO 5612 ..... *2684
5612 ..... *2684
5613 ..... *9178
5614 ..... *18401
5615 ..... *18859
5616 ..... *21612
5617 ..... *22365

Title 43—*Proposed Rules:*

2 ..... *4496
4 ..... 45574, 51048
5 50845
7 ..... *16641
29 ..... *3660, 26141
1822 ..... *17147
2370 43411
2400 ..... *3657, 15438
2480 ..... *3657
2610 ..... *18100
2850 ..... *20315
2920 50845
..... *5294, 14740
3041 ..... 53360, 56830
3300 ..... *17147
3500 ..... 45571, 48124, 48754
3510 48124
3520 ..... 45571, 47258
..... *2706
3800 53428
..... *1045, 9039, 11026, 11251, 12071, 12895, 13567
3830 54084
4100 43912
..... *13567
4200 43912
..... *13567
4300 43912
..... *13567

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

Title 43—*Proposed Rules*—Continued

Page
4700 ---------- 43912
---------- *4500, 8157, 13567
6260 ---------- *5294, 14740
9230 ---------- 43912, 48754
---------- *13567

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

4.1 Revised ---------- *22145
74 Authority citation amended-- 44552
74.3 Amended ---------- 44552
74.20 Introductory text revised-- 44552
74.23 (b) revised---------- 44552
74.24 (b) and (c) revised; (d) removed ---------- 44553
74.150—74.159 (Subpart P) Revised ---------- 44553
80.6—80.10 Republished ------ *22695
81 Republished ---------- *22697
84 Added ---------- *22677
Note ---------- *22888
99.32 Heading and (b) revised; (c) amended---------- *4460

Chapter I—Office of Education, Department of Health, Education, and Welfare

103 Appendix C revised---------- 51603
Appendix A revised---------- *16142
Appendix B revised---------- *17445
112 Revised ---------- 50777
113 Revised ---------- 50781
115.60—115.69 (Subpart G) Revised ---------- *15546
115.62 Revised ---------- *18279
116c Added ---------- *19288
121f.21 Added ---------- *20300
121f.22 Added ---------- *20300
121f.30 Removed ---------- *20300
144 Revised ---------- 51957
144.48 Hearing ---------- *25862
146 Revised ---------- *26209
155 Revised ---------- *26537
157 Revised ---------- *26542
159 Revised ---------- *26546
166.22 Introductory text revised ---------- *16410
166 Appendix A amended------ *16410
176 Revised ---------- 51973
177.4 (c)(3)(xxix) added------- 44041
(c)(3)(xxx) added---------- *2963
177.73 Revised ---------- 54488
177.77 (b) and (c) revised------ 54488
182a Added ---------- 47163
185.14 (c) revised---------- *3842
185.24 (c) revised---------- *3842
185.54 (c) revised---------- *3842
185.64 (c) revised---------- *3843
193 Added ---------- *1192
196.3 Amended ---------- 44860
196.5 (b) amended---------- 44860
196.12 Amended ---------- 44680
196.13 (a) amended---------- 44860

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

205.40 (a) introductory text, (b)(3)(iv), and (c) revised; eff. 7-1-75 ---------- *14718
205.41 Removed; eff. 7-1-75--- *14719
205.50 (a) revised---------- *12046
205.146 (d) redesignated as (e); new (d) added---------- 55346
224 Revised ---------- 47688
228 Revised ---------- *5848
228.24 (a)(3) revised; (b) added- 55670
228.26 (a) and (c) amended; (f) added ---------- 55671
228.29 (c) added---------- 55671
228.35 (c) added---------- 55671
228.40 (c) added---------- 55671
228.41 (d) added---------- 55671
228.42 (c) and (d) added------- 55671
228.44 (b) added---------- 55672
228.48 Added ---------- 55672
228.51 (c) added---------- 55672
228.52 (c)(3) added---------- 55672
228.55 Removed ---------- 55672
228.56 (b) revised---------- 55672
228.60 (d) revised; (e)(2)(i) republished; (e)(2)(ii) added-- 55672
228.61 (a), (c) and (d) revised-- 55672
228.63 Added ---------- 55673
228.100—228.102 (Subpart J) Added ---------- 55673
231 Added ---------- *5980
233.20 Technical correction----- 47065
(a)(1) and (3)(vi) and (x) revised ---------- 54489
(a)(3)(vi) corrected---------- 56646
(a)(2)(iv) revised; (a)(2)(viii) added ---------- *6584
Technical correction---------- *13292
(a)(3)(ii)(B) and (a)(3)(ix) revised ---------- *16145
(a)(2)(vii) removed; (a)(4)(ii) revised---------- *26427
233.90 (a) revised---------- *3307, 6584

Note: Symbol (*) refers to 1977 page numbers

Page
233.100 (a)(5)(i) and (ii) revised ---------- *16145
235.40 Added; effective date extended to 7-1-76---------- *17877
248.3 (b)(1), (2), and (3) revised; (b)(4), (5), and (6) redesignated as (b)(7), (8), and (9); new (b)(4), (5), and (6) added---------- *2686
248.21 (a)(2) revised---------- *2687
249.10 (d)(3) added---------- *4125
(b)(15)(i)(D) revised-------- *15064
249.12 (c)(6) revised---------- *15064
249.13 Introductory text revised ---------- *15064
249.33 (a)(8) and (a)(8)(i)(B) revised ---------- *15064
250.30 (a)(2)(i) and (iii) and (b)(1) revised---------- 51402
(a)(3)(iii)(B)(1) and (4), (a)(3)(iv) introductory text and (A) amended--------- 53994
(a)(3)(iii)(B)(1) and (4), (a)(3)(iv) introductory text and (A) corrected---------- *779
250.210 Added; interim rule effective date 12-31-72-------- 48738
Added; final rule---------- *23509

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health, Education, and Welfare

302.39 Revised ---------- 55348
303 Heading revised---------- 55348
303.0 Revised ---------- 55348
304.25 Revised ---------- *26427
304.29 Added ---------- *3843
305 Added ---------- 55348

Chapter IV—Social and Rehabilitation Service (Rehabilitation Programs), Department of Health, Education, and Welfare.

409 Removed ---------- *15810
416 Removed ---------- *5276

Chapter V—Foreign Claims Settlement Commission

500.3 (c) revised---------- *24741
504 Heading revised; existing text designated as Subpart A---------- *11010
504.1 Heading revised--------- *11010
504.2 Heading revised--------- *11010
504.20—504.29 (Subpart B) Added ---------- *11010
531.1 (i) added---------- *24741
531.2 (i) and (j) redesignated as (j) and (k); new (i) added- *24741
580—581 (Subchapter F) Heading revised---------- 49094
581 Added ---------- 49094

Chapter VI—National Science Foundation

613.3 (b) amended; (e) added-- *8638
613.4 (c) amended---------- *8639
614 Added ---------- *14719
614.4 (b) correctly designated- *17447

Chapter VII—Commission on Civil Rights

702 Heading revised---------- *14107
702.1—702.18 Designated as Subpart A---------- *14108
702.50—702.57 (Subpart B) Added ---------- *14108
706.3 (b) revised; (c) added-- *12046
706.4 (d) revised---------- *12046
706.7 Amended ---------- *12046
706.8 (d)(3) amended--------- *12047
706.95 Added ---------- *12047

Chapter VIII—Civil Service Commission

801.202 Appendix A amended-- 47938, 48739

Chapter X—Community Services Administration

1005 Part heading revised------ 44860
1005.4 (b)(2) amended---------- *16625
(b)(2) technical correction-- *19329
1005.8 (b)(3) added---------- 48739
1005.10 (c)(1) amended-------- *3165
1006 Part heading revised------ 44860
Appendix A amended-------- *16625
1010 Part heading revised------ 44860
1012 Part heading revised------ 44860
1015 Part heading revised------ 44860
1026 Part heading revised------ 44860
1042 Removed ---------- 44860
1050 Removed ---------- 44860
Added ---------- *3272
Revised ---------- *18034
1060 Part heading revised------ 44860
1060.2-1 Revised ------------- *21108
1060.2-2 Revised ------------- *21108
Undesignated table heading added ---------- *23151
1061 Part heading revised------ 44860
1061.20-1—1061.20-10 (Subpart) Revised ---------- *13292

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 45, Chapter X—Continued

Page

1061.31-1—1061.31-6 (Subpart) Added 52876
1061.50-1—1061.50-14 (Subpart) Added *12047
1061.50-15 Added *27593
1062 Part heading revised 44860
1067 Part heading revised 44860
1967.1-1—1067.1-11 (Subpart) Removed *18047
1067.30-1—1067.30-5 (Subpart 1067.30) Added 56197
1067.40-1—1067.40-5 (Subpart) Added *10689
1067.40-3 (f) and (g) revised *18402
(f) table corrected *21292
(f) table revised *22365
1068 Part heading revised 44860
Effective date corrected *22145
1068.6 Authority citation revised *3165
1068.9-1—1068.9-5 (Subpart) Removed *18038
1068.10-1—1068.10-9 (Subpart) Removed *18038
1068.22-1—1068.22-3 (Subpart) Revised *21485
1068.23-1—1068.23-4 (Subpart) Added *3165
1068.24-1—1068.24-3 (Subpart Added *20469
1069 Part heading revised 44860
1069.3-4 (a)(2) revised 50825
1069.4-1—1069.4-5 (Subpart 1069.4) Revised 50825
1070 Part heading revised 44860
1071 Part heading revised 44860
1071.30 Suspended indefinitely *15704
Suspension removed; eff. 6-1-77 ..... *25734
1075 Part heading revised 44860
1076 Part heading revised 44860
1078 Part heading revised 44860

Chapter XII—ACTION

1209 Added; redesignated and revised from Part 1221 53483
1221 Removed; redesignated and revised as Part 1209 53483

Chapter XIII—Office of Human Development, Department of Health, Education, and Welfare

1336 Added *3785
1340 Heading and authority citation revised 53663
1340.1-2 (h) revised 53663
1340.1-3 (a) revised 53663
1340.2-2 Revised 53663
1340.2-3 Revised 53663
1340.4-1—1340.4-4 (Subpart D) Added 54763
1351 Added 54297
1369 Added *15810
1385 Added *5276
1386 Added *5279
1387 Added *5287

Chapter XIV—National Institute of Education, Department of Health, Education, and Welfare

1440 Added *14721

Chapter XVI—Legal Services Corporation

1611 Added 51606
Appendix A revised *24271
Appendix A corrected *25734
1617 Added 51608
1618 Added 51609
1619 Added *4848
1620 Added 51610

Chapter XVII—National Commission on Libraries and Information Science

1703 Added *13553

Chapter XVIII—Harry S. Truman Scholarship Foundation

1800 Added 52677
1802 Added *14723

Chapter XIX—National Commission on the Observance of International Women's Year

Chapter established *11012
1901 Added *16411
1902 Added *16412
1903 Added *16413
1904 Added *11012

Title 45—*Proposed Rules:*

3—99 (Subtitle A) *3325
5 50846
46 ..... *2792, 3076
63 ..... *4135
70 52473
74 53412
..... *4137
100—196 (Chapter I) *5110
100a *18542, 18864, 27625
100b 56966
..... *18542

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Page

100c *18542
103 46608
104 ..... *18542
105 ..... *18542
115 ..... *15540, 18282
121a 52404, 56966
121m 56966
134 ..... *16159
134b *16159
144 ..... *18738, 20803, 24291
153 ..... *3792
155 ..... *6078
157 ..... *6083
158 52488
..... *2086
169 ..... *6088
160f 46576
..... *17700, 19161, 21623
166 ..... *22336
168 ..... *18743, 20803, 21821, 24291
173 ..... *17889
175 ..... *18738, 20803, 24291
176 ..... *18738, 20803, 24291
177 ..... 48862, 48910
178 ..... *18747, 20803, 24291
178a *18750, 20803, 24291
185 ..... 45702, 46317
..... *4501
186 ..... *24758
187 ..... *16258
188 ..... *16272
189 ..... *18282
190 ..... *18738, 20803, 24291
191 ..... *25881
192 ..... *18407
193 45962
194 ..... *18864
195 ..... *18865
196 ..... *16448
198 ..... *18283
199 ..... *27625
201 ..... *3664
205 ..... 43420, 52491, 55727
..... *2445
206 56832
207 ..... *2440
214 52491
226 ..... *2440
249 ..... *3325, 3665, 4967
250 ..... 52499, 55727
..... *2331, 3328
302 43414
303 43414
304 ..... *3663
305 43414
504 ..... *3872
613 56340
614 54956
702 ..... *5705
706 ..... *2708
1010 ..... *18378
1050 ..... *21623
1061 49179
1115 ..... *13027
1440 ..... *9399
1470 ..... *27626

Page

1480 ..... *1045
1606 ..... *4864, 6614
1621 ..... *4867
1703 ..... *3667
1802 ..... *5986
1901 51050
1902 51050
1903 53495
1904 ..... *7970

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

10.02-5 (f) revised 45842
(f) revised; effective date postponed *12173
10.13-13 (a) revised 45842
(a) revised; effective date postponed *12173
10.15-25 (d) revised *26985
10.16-31 (b)(i) and (ii) added 45842
(b) revised; effective date postponed *12183
12.15-9 (b) and (c) amended *24741
12.15-11 Amended *24741
32.15-10 Amended *5962
32.15-20 (a) amended *5963
32.15-30 Added *5963
32.15-35 Added *5963
32.35-15 Added *25735
35.20-1 (d) revised *5963
35.20-45 Added *5963
35.30-20 (a) introductory text revised *5963
35.35-85 Added *25735
77.09-1 (Subpart 77.09) Added *5963
77.11-1 (Subpart 77.11) Added *5963
77.13-1 (b) added *5963
77.27-1 Amended *5963
78.05-5 Revised *5963
78.19-1 (Subpart 78-19) Added *5963
96.13-1 (b) added *5963
96.17-1 (Subpart 96.17) Added *5963
96.25-1 (Subpart 96.25) Added *5964
96.27-1 (a) amended *5964
96.35-15 Revised *5964
97.05-5 Revised *5964
97.16-1 (Subpart 97.16) Added *5964
147.04-1 (a)(8) added *6584
148.01-7 Table amended 55352
148.04-13 (a)(1) removed *22146
151.05 Table amended *8378
151.55-1 (j) revised *8378
167.40-20 Amended *5964
167.40-40 Added *5964
167.40-45 Added *5964
167.65-35 Added *5964
167.65-45 (d) revised *5964

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 46, Chapter I—Continued

Page

184.25–1 (c) added *5964
185.20–30 Added *5964
185.20–35 Added *5964
195.13–1 (b) added *5964
195.17–1 (Subpart 195.17) Added *5965
195.19–1 (Subpart 195.19) Added *5965
195.27–1 Amended *5965
195.35–10 (b) amended *5965
196.05–5 Revised *5965

Chapter II—Maritime Administration, Department of Commerce

206.1—206.4 (Subpart A) Revised 50259
207 Added 50259
221.7 (a) revised *11837
252.21 (a) amended 54934
294.5 (a) amended; (c) added *11837
297—298 (Subchapter D) Heading revised 44403
297 Removed 44403
308.6 Revised *13023
308.106 Amended *13023
308.206 Amended *13023
308.305 Amended *13023
310.58 (c) amended 55715

Chapter IV—Federal Maritime Commission

502 Amended *23509
502.10 Amended *14111
502.11 Added *14111
502.41 Amended *8378
502.64 Amended *17121
502.101 Amended *17121
502.136 Revised *8378
502.170 Removed *14111
502.181 Amended *17121
502.184 Amended *17121
502.210 (a) amended *8378
502.227 (c) added *8379
503.70—503.87 (Subpart H) Added *12051
Technical correction *13115
514 Effective date postponed 53969
Removed *21486
536 Effective date postponed 44041
536.15 (e) added *1474
536.16 Amended 44041

Title 46—*Proposed Rules:*

1–196 (Chap. I) 55897
..... *6614
4 56833
10 ..... *3186, 21190, 22903
12 ..... *1278, 21190, 22903
25 ..... *26229
30 ..... *21190, 24874
31 ..... 43822, 44711
..... *7170, 21190
32 ..... *24874
33 ..... *26229
34 43822
35 ..... *21190, 23517
50 ..... *22296
54 43822
..... *22296
56 ..... *22296
58 ..... *22296
61 ..... *22296
70 ..... *21190
75 ..... *26229
90 ..... *21190
94 ..... *26229
98 43822
..... *21190
105 ..... *21190
107 ..... *22296
108 ..... *22296
109 ..... *22296
148 ..... *17889
151 55367
..... *21190, 22903
153 ..... *23518
154 43822
157 ..... *13844, 21190
160 55480
161 ..... *26229
164 ..... *26229
167 ..... *26229
176 ..... *13844
180 ..... *26229
182 ..... *14888
186 ..... *13844
192 ..... *26229
201—391 (Ch. II) *21821
298 ..... 44408, 52199
401 ..... *20162, 21626
500–551 (Ch. IV) *11849
502 ..... 44059, 46888, 51621, 55898
..... *817, 22383, 26664
503 55207
511 46352
522 ..... 51622, 54778
531 ..... 53364, 56675
..... *3186
551 ..... *9190

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

0.83 Redesignated from 0.84 53327
0.84 Redesignated as 0.83; new 0.84 redesignated from 0.85 and (f) added 53327
0.85 Redesignated as 0.84; new 0.85 redesignated from 0.86 53327

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Page

0.86 Redesignated as 0.85; new 0.86 redesignated from 0.87 and (d) revised 53327
0.87 Redesignated as 0.86; new 0.87 redesignated from 0.88 and (d) removed 53327
0.88 Redesignated as 0.87; new 0.88 redesignated from 0.89 53327
0.89 Redesignated as 0.88; new 0.89 redesignated from 0.90 53327
0.90 Redesignated as 0.89; new 0.90 added 53327
(f) corrected 53995
0.132 (e) amended *3166
(f) revised *21293
0.211 (e) revised 49095
0.231 (g) added 49095
0.241 (c) revised 56068
(c) revised *8326
0.242 (a), (c) introductory text and (14) revised 56068
(a) and (c) introductory text and (14) revised *8326
0.288 (x) added 48343
0.291 (d) revised 54766
0.314 (v) added *3167
0.431 Revised 56068
Revised *8326
0.455 (h)(1) revised 56069
(h)(1) revised *8327
0.457 Introductory text amended; (c) introductory text revised *12867
0.465 (a) revised; (d) added 51610
(a) revised *20133
0.481 Revised 56069
Revised *8327
0.601—0.607 (Subpart F) Added *12867
1.4 (f) and (g) revised 54766
(f) and (g) revised *12174
(b)(1) revised *25735
1.51 (b) revised 50399
1.224 Added 53021
1.243 (j) and (k) revised; (l) added 53022
1.399 Added *25735
1.417 Removed *25735
1.419 (b) revised 50399
1.544 Revised 53025
(a) corrected 55531
1.547 (c)(4) revised 44177
1.549 Revised 52631
1.573 (a)(1) and (c) revised 44178
1.613 (a) revised *16422
1.773 (b) and (c) revised 54766
(b) and (c) revised *12174
1.912 (d) revised 56069
(d) revised *8327
1.922 Amended 44042, 56069
Amended *3167, 8327
1.924 (a)(2) and (c)(3) revised 56069
(a)(2) and (c)(3) revised *8327
1.925 (d) revised 56069
Heading revised; (e) added *3167
(d) revised *8327
1.926 (b)(1) and (4) revised; (b)(3) removed 44042
(b)(5), (10), and (11) revised 56069
(b) (5), (10), and (11) revised *8327
1.931 (b) revised 56069
(b) revised *8327
1.933 (b) revised 56069
(b) revised *8327
1.934 Revised *3167
1.951 (a) and (d) revised 56069
(a) amended *3166
(a) and (d) revised *8327
1.952 (b) amended 56070
(b) amended *8328
1.1101—1.1120 (Subpart G) Suspended 56647
1.1102 (d) suspension clarification *3168
1.1115 (c)(6) revised *3167
1.1223 Revised *12869
1.1225 (b) revised *12869
1.1251 (a) revised *12869
1 Appendix A (Forms) amended 54935
2.1 Amended 56070
Amended *8328, 24055
2.106 Table amended; footnote NG33 removed; footnotes added 49820
Table amended; footnote added 54491
Footnotes revised 54941
Table amended; footnote NG56 revised 56070
Table amended; footnote NG56 revised *8328
Table amended; footnote added *14728
Table amended *20471
Footnote US32 revised *23510
2.302 Table amended 46437, 52458, 56071
Table amended *8329
2.303 Table amended 44042
2.601 Revised *27200
2.602 Revised *27200
2.603 Revised *27200
2.803 Amended 47050
5.51 Revised 45007
5.52 Removed 45007
5.55 Revised 45007
5.57 Revised 45008

CODE
UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 47, Chapter I—Continued

	Page
5.61 Removed	45008
5.69 Revised	56071
Revised	*8329
13.61 (g)(6) introductory text revised	*1231
13.62 (d) redesignated as (e) and revised; new (d) added	44178
15.59 (a) revised; (b) and (e) amended; (h) added	47444
(h)(1) and (2) corrected	49095
(a) revised; (b) amended	56071
(a) revised; (b) amended	*8329
15.65 Heading revised; existing text designated as (a); (b) added	*1232
(b) revised	*20473
15.68 (d)(4) revised	52461
(a), (c), (d)(2) removed	*3308
15.114 Added	*4463
(g) corrected	*9021
15.115 Heading and introductory text revised	*4463
15.118 (e) revised	*4464
15.119 (d) revised	*4464
15.183 (c) amended	*7955
15.192 Table amended	*7955
15.305 (b) amended	*7955
15.363 Amended	*7955
15.365 Amended	*7955
19.735–403 Revised	*25736, 26216
21.9 (c) introductory text and (2) revised	55352
21.10 Removed	47931
21.15 (i)(3) introductory text and (iii) revised	55352
(i)(3) introductory text amended	*1233
23.20 (b) revised	56071
(b) revised	*8329
25.203 (g) revised	56071
(g) revised	*8329
31.01–3 (k), (x), (y), and (ee) amended	46853
31.02–80 (c) amended	46853
61.21 Revised	54766
61.58 Revised	54767
(b), (c), (d), and (e) revised	*12175
61.60 Revised	*12175
61.61 Revised	*12175
61.62 Revised	*12175
61.63 Revised	*12175
61.64 Revised	*12175
61.66 Revised	*12175
61.152 Revised	54767
61.153 Revised	54767
68.2 Revised	56648
68.104 Reconsideration	*12056
68.308 (a)(4) (i) and (ii) reconsideration	*12056
68.314 (a) revised	46302
68.500—68.504 (Subpart F) Reconsideration	*12056
73 Index	52678
73.14 (t) added	53025
73.17 Revised	52685
(a)(4) corrected	55715
73.18 (c)(2) revised	*22559
73.35 (b) revised	*16148
73.36 (a)(3) through (7) and (c)(2) revised; (a)(8) removed	53025
73.40 (a)(5), (b)(3)(iv) and (v) revised; (b)(3)(vi) added	53026
73.47 (a)(3) revised	53026
73.56 (d) removed	44178
73.66 (d) added	53026
(d) revised	*24056
73.67 (a)(5) and (c)(4) revised; (a)(8) added	44178
(a)(5) amended	52461
73.68 Heading, (b)(3), and (d)(2) revised; (d)(4) removed	*24056
73.69 (b)(2) revised; (b)(4) and note removed	*24056
73.112 (b)(5) added	52631
(a) revised	56649
73.113 (a)(1)(v) revised	52631
(a)(1)(ii) revised	*9179
(a)(2) revised; (a)(3) removed	*24056
73.114 (a)(2)(vii) added	52631
(a)(9)(ii) and (iii) revised	53026
(a)(8) revised; (a)(9) removed	*24056
(a)(8)(iv) added	*26656
73.131 Removed	*16422
73.132 Removed	*16422
73.133—73.138 Removed	*16422
73.140 Added	*1238
73.142 Added	*1238
73.144 Added	*1238
73.146 Added	*1239
(a) corrected	*3646
73.157 Added	53026
73.186 (a) introductory text, (1) and (5) and (b)(1), (3), (5), and (7) revised; (a)(6) added	44178
73.202 (b) table amended	44404, 44405, 47050–47052, 47933, 48400, 49097, 49100, 49102, 49103, 49823, 51611, 52462, 53995, 54801, 55716, 56199
(b) table amended	*2502, 6369, 7956, 9383, 13115, 15065, 16625–16627, 18280, 21109, 24272, 24273, 25507
73.214 Revised	52685
(a)(4) corrected	55715
73.215 (c)(2) revised	*22559
73.231 Removed	*16422
73.232 Revised	*16422
73.233—73.238 Removed	*16422
73.240 (a)(2) revised	*16148
73.256 (a)(2) removed	53026
73.257 (b)(7) revised; (c) redesignated as (d); new (c) added	53026
73.262 (a) and (b) revised	44179
73.265 (d) introductory text and (1) revised	44179
73.267 (a)(3) revised; (a)(4) added	53026
73.275 (a)(5) revised; (a)(8) added	44179
73.282 (b)(5) added	52631
(a) revised	56650
73.283 (a)(2) revised	52631
(a)(5) revised	*9179
73.284 (a)(6)(v) added	52631
(a)(9) redesignated as (10); new (a)(9) added	53027
73.313 (f) through (j) effective date stayed	*25736
73.333 Figures 4 and 5 effective date stayed	*25736
73.340 Added	*1239
73.342 Added	*1239
73.344 Added	*1240
73.346 Added	*1240
73.507 (a) table amended	*9021, 24274
73.514 Revised	52685
(a)(4) corrected	55715
73.515 (c)(2) revised	*22559
73.540 Added	*1240
73.542 Added	*1241
73.544 Added	*1241
73.546 Added	*1241
73.556 (a) introductory text amended; (a)(2) removed	53027
73.557 (b)(7) amended; (c) redesignated as (d); new (c) added	53027
73.562 (a) and (b) introductory text revised	44179
73.565 (b), (d) introductory text and (1) revised; (e) through (h) redesignated as (f) through (i); new (e) added	44179
73.567 (a)(3) revised; (a)(4) added	53027
73.573 (a)(5) revised; (a)(8) added	44180
73.582 (a)(3) added	52631
Revised	56650
(b)(5) added	*3308
73.583 (a)(2) revised	52631
(a)(5) revised	*9179
73.584 (a)(6)(v) added	52631
(a)(9) redesignated as (10); new (a)(9) added	53027
73.602 Revised	52685
(a)(4) corrected	55715
73.606 (b) table amended	49104
(b) table amended	*3168, 6817, 18280
73.614 (a) revised; (b) amended	*20823
73.624 (c)(2) revised	*22559
73.636 (a)(2) revised	*16148
73.637 (a) introductory text revised; (a)(2) removed	53027
73.666 Revised	44180
73.670 (b)(5) added	52631
(a) revised	56651
73.671 (a)(2) revised	52631
(a)(5) revised	*9179
73.672 (a)(6)(v) added	52631
73.675 (b) revised	*5698
73.681 Amended	56325
Amended	*20823
73.682 (a)(22) revised	56325
(a)(14) revised	*20823
73.684 (h) through (l) effective date stayed	*25737
73.699 Figure 17 added	56326
Figures 10d and 10e effective date stayed	*25736
73.710 Revised	52685
(a)(4) corrected	55715
73.711 (c)(2) revised	*22559
73.781 (c) revised; (d) added	*9179
73.901—73.962 (Subpart G) Revised	52631
73.1207 (c) note 2 amended	56072
(c) note amended	*8330
74.12 (c)(2) revised	*22559
74.15 (b) revised	*14728
74.181 (b) revised; (c) redesignated as (d) and revised; new (c) added	*9179
74.281 (b) revised; (c) redesignated as (d) and revised; new (c) added	*9179
74.381 (b) revised; (c) redesignated as (d) and revised; new (c) added	*9179

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 47, Chapter I—Continued

	Page
74.401—74.482 (Subpart D) Effective date postponed to 11–22–76	48520
Effective date confirmed as 11–22–76	52880
Heading revised	*14728
74.401 Amended	*14728
74.402 (c) amended; (d) redesignated as (e); new (d) added; Note revised	*2070
(a)(9) and footnote 9 removed	*14728
74.405 (b) amended	56072
(b) amended	*8330
74.432 (c)(2), (l) and Note revised	*2071
74.435 Removed	*14728
74.451 (a) revised	*2071
(c) and (e) revised	*14728
74.452 (b) revised	*14728
74.464 Note added	*2071
74.466 Revised	*14729
74.468 (a) and (c) revised	*14729
74.481 (a)(1) revised	*9179
(e) removed	*14729
74.581 (b) revised; (c) redesignated as (d) and revised; new (c) added	*9180
74.681 (b) revised; (c) redesignated as (d) and revised; new (c) added	*9180
74.781 (b) revised; (c) and (d) redesignated as (d) and (e) and revised; new (c) added	*9180
74.801—74.882 (Subpart H) Added	*14729
74.981 (a)(5) revised; (a)(6) added	*9180
74.1281 (b) revised; (c) and (d) redesignated as (d) and (e) and revised; new (c) added	*9180
76.5 (y) revised	53798
(ll) added	53996
(a) revised; (mm) and (nn) added	*19345
76.7 (a), (b), (c)(3), (g) and (h) amended	*19345
76.10 Added	*19346
76.11 (b) revised	*10847
Nomenclature change; (a) and (b) revised	*19346
(a) and (b) effective date corrected in part	*20135
76.13 Nomenclature change; (a)(4) and (b)(3) notes amended; (c) revised	*19346
76.27 Nomenclature change	*19346
76.29 (a) and (b)(2) amended	*19346
76.30 Added	*19346
76.31 Nomenclature change	*19346
76.54 (b) and (c) revised	*19346
76.55 Nomenclature change	*19346
76.57 Nomenclature change	*19346
76.59 Nomenclature change; (b) revised	*19346
76.61 Nomenclature change; (b) revised	*19346
76.63 Nomenclature change	*19346
76.65 Nomenclature change; (b) revised	*19346
Existing text designated as (a); (b) added	*23510
76.67 Nomenclature change	*19346
(f) revised	*19347
76.92 (d) revised	*15415
Nomenclature change	*19347
76.94 Nomenclature change	*19347
76.95 Nomenclature change; (b) revised; (d) note removed	*19347
76.97 Nomenclature change; (b) revised; (b) note removed	*19347
76.99 Nomenclature change	*19347
76.151 Nomenclature change	*19347
76.153 (a), (b) and (c) amended	*19347
76.155 (c) and (d) amended	*19347
76.159 Nomenclature change	*19347
76.161 Revised; note removed	*19347
76.205 Nomenclature change; (a) revised	*19347
76.209 (a) and (c) amended; (b) and (d) revised	*19347
76.213 (a) revised	*19347
76.215 Revised	*19347
76.221 Nomenclature change; (b) and (d) revised	*19348
(d) revised	*23510
76.225 Nomenclature change	*19348
76.252 (a) introductory language and (b) revised	*19348
76.254 (b) revised	56203
(a) introductory text, (c), (d) and (f) revised; (a)(1) through (4) and (e) amended	*19348
76.256 (d)(4) revised	56203
Introductory text, (a), (c)(3) and (d)(4) revised; (b), (c), and (d)(1) through (3) amended; (d)(4) note removed	*19348
76.258 Revised; note added	*19348
76.300 Added	*19349

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

	Page
76.305 Heading, (a) introductory text, (b) and (c) revised; (a)(2) through (5) and (d) amended	*19349
76.306 Revised	*19349
76.307 Revised	*19349
76.311 (d)(1) and (e)(1) amended; (e)(4) removed	53996
76.400 Added	*20134
76.401 Removed	53996
76.403 Added	53996
Corrected	*3308
Nomenclature change; note added	*19349
76.405 Removed	53996
76.409 Removed	53996
76.411 Removed	53996
76.601 (b), (c), (d) and (e) amended; (f) added	*19349
(b), (d), and note amended; (c) revised; (e) removed	*21782
76.605 (a)(8) revised	53028
(a) introductory text, (2), (4), (9)(i) and (12), and (b) amended; (c) revised	*19349
(a)(4) and (12) and (b) amended; (c) removed; (a) introductory text, (a)(2), (6), and (9) revised	*21782
76.609 (i) added	*21782
78.18 (a)(2) amended; (l) added	*6370
81.7 (r) revised	*1474
(s) amended	*9384
81.9 (d) revised	*19863
81.66 Added	*19863
81.74 (a) and (b) amended	*9384
81.75 Amended	*9384
81.106 (e)(2) revised	*20137
81.132 (a)(2)(iii) revised	*20137
81.303 (d) added	*20137
81.304 (a) and (b)(22) tables amended; (b)(62) added	54491
(a) and (c)(1) amended	*9384
(a) table amended; (b)(63) added	*20137
(a) table amended	*22870
(a) technical correction	*23510
81.306(a)(1) and (2) revised	*22870
(a)(1) and (b) tables amended and footnotes added	*22873
81.314 (a)(14) added	*20137
81.354 (a)(3) amended	*9384
81.356 (b)(9) revised	*1474
81.359 (a) introductory text and (c) revised	53327
81.708 (a) table amended; (b)(32) revised	*9384
81.710 Revised	*19864
81.711 Revised	*19864
81.712 Removed	*19864
81.713 Table amended	*9384
Removed	*19864
83.6 (k) revised	*1474
(l) amended	*9384
83.33 (a) revised; (d) and (e) removed	47445
83.132 Waived in part	*8639
(a)(2)(iii) revised	*20137
83.139 (g) revised	*26656
83.159 Revised	*1231
83.183 (a) designation removed	*9384
83.223 (a) and (b) amended	*9384
83.351 (a) table amended; (b)(55) revised; (b)(72) added	54491
(c)(3)(i) text revised; (c)(3)(i) note removed	56807
(a) table amended	*1474, 9384, 22871
83.354 (b) table amended	*22871
(b) table amended; footnotes added	*22873
83.355 (a)(1) table amended	*22871
83.359 Table amended	54491
Table amended	*1474
83.532 (b) revised	*20301
87.5 Amended	*20471, 24055
87.29 (c) revised	*3168
87.67 (b) table amended; footnote added	*3309
87.71 (a) (1) and (3) introductory texts revised; (a) (4) and (5) added	*3309
87.183 (cc) introductory text revised	*20138
(g) revised; (m) added	*20471
(i) table amended; footnote A removed	*24055
87.195 (f) revised	*20471
87.201 (b) through (d) revised; (e) and (f) removed	*20471
87.253 (a) through (d) revised	*20471
87.257 (d)(4) revised	*20472
87.271 (a) revised	*20472
87.277 (a) and Introductory text of (b) revised	*20472
87.331 (d) removed	*23510
87.345 Revised	*20472
87.401 (a) table amended; footnote A removed	*24055
87.431 Revised	*24055
87.432 Added	*24055
87.433 Revised	*24055
87.437 Revised	*24055
87.601 (b) amended	44690
87.602 (f) and (i) amended; (t) added	44690

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 47, Chapter I—Continued

	Page
87.603 Amended	44690
87.606 Revised	44691
87.607 (b) revised; Appendix I added	44691
89 Technical correction	46853
89.15 (a)(2) revised	48520
89.81 (b) amended	56072
(b) amended	*8330
89.101 (p) revised	44181
(q) revised	54940
(d)(3) revised	56072
(d)(3) revised	*8330
89.123 (c), (d), (e), (f), (i) and (j) removed; (g) and (h) redesignated as (e) and (f); new (c) and (d) added	*20259
(c) table corrected	*27206
89.259 (g)(4) revised	54940
89.309 (h)(4) revised	54940
89.359 (g)(6) revised	52463
(g)(4) revised	54940
89.409 (f)(1) revised	54940
89.459 (e)(1) revised	54940
89.525 (f)(22) revised	54940
91 Technical correction	46853
91.8 (1) revised	54940
(a)(1)(x) removed	*24276
91.67 (b) amended	56072
(b) amended	*8330
91.114 (c) through (i) removed; (j) and (k) redesignated as (e) and (f); new (c) and (d) added	*20264
(c) table corrected	*27206
91.252 (f)(7) revised	48520
91.254 (b)(26) revised	44182
(b)(30) revised	54940
(b)(5) revised	56072
(b)(5) revised	*8330
91.302 (d)(7) revised	48520
91.304 (b)(29) revised	44182
(b)(33) revised	54940
(b)(7) revised	56072
(b)(7) revised	*8330
91.354 (b)(29) revised	44182
(b)(33) revised	54940
(b)(3) revised	56072
(b)(3) revised	*8330
91.404 (b)(8) revised	56072
(b)(8) revised	*8330
91.454 (b)(12) revised	54940
(b)(6) revised	56072
(b)(6) revised	*8330
91.504 (b)(26) revised	44182
(b)(29) revised	54940
(b)(5) revised	56073
(b)(35) revised	54941
(b)(5) revised	*8331
91.554 (b)(38) revised	44182
(c) revised	48520
(b)(9) revised	54940
(b)(5) revised	56073
(b)(5) revised	*8331
(c) revised	*24276
91.730 (b)(14) revised	44182
(b)(18) revised	54940
(b)(9) and (13) revised	56073
(b)(9) and (13) revised	*8331
91.754 (b)(10) revised	44182
(b)(14) revised	54940
(b)(1) revised	56073
(b)(1) revised	*8331
91.806 Revised	56073
Revised	*8331
93 Technical correction	46853
93.67 (b) amended	56073
(b) amended	*8331
93.101 (b) revised	44183
93.104 (b)(2) table revised	54941
93.106 (b) footnote 1 revised	48520
93.114 (c) through (g) and (j) removed; (h) and (i) redesignated as (e) and (f); new (c) and (d) added	*20269
(c) table corrected	*27206
93.254 (d) revised	56073
(d) revised	*8331
93.352 (d) revised	54941
93.356 (d) revised	56073
(d) revised	*8331
93.404 (d) revised	56073
(d) revised	*8331
93.504 (d) revised	56073
(d) revised	*8331
94.15 (b) revised	52463
Technical correction	56203
94.27 (a) revised	50690
94.61 (a) revised	51403
94.85 Revised	*24277
94.92 Added	51403
(b) table corrected	53028
95 Revised	56074
Revised	*8332
95.53 Revised	*11238
95.55 (c)(6) and (7) added	47450
95.253 Revised	*11238
95.453 Revised	*11238
95.641 (c)(4) revised	*11238
97.3 (d) amended	*3167
97.25 (d) amended	*3166
97.32 Added	*3167
97.33 Revised	*21612
97.41 (d) amended	*3166
97.61 (a) table amended	44183
97.67 (d) revised	*9022
97.73 Revised	*14113
97.87 (b) and (c) removed; (d) through (g) redesignated as (b) through (e); (h) redesignated as (f) and revised	47451, 52685
(f) redesignated as (g); new (f) added	*3167
97.95 (a)(3) and (b)(3) removed	47451, 52685
(a)(2) revised	*15416
97.97 Removed	47451, 52685
97.99 (c) removed; (d) redesignated as (c)	47451, 52685
97.185 (b) introductory text revised; (b) table amended	44042
97.311 (c) removed	47451
99.11 (e) revised	56073
(e) revised	*8331

Title 47—*Proposed Rules:*

	Page
0	56675
1	56675
	*12203, 12204, 27628
2	45584
	*12203, 12204, 27628
15	52705, 56210, 56677
	*6854, 15442
21	45584, 49182, 54203
	*8157, 8386, 13309, 25341
31	*24291, 26444
61	54500
	*10856, 13139, 21113, 23615
63	54505
64	44057
	*1278, 13029, 21626, 23615, 25741
67	50009
68	*20315, 25342
73	43422, 43922, 44427, 44712, 44713, 46350, 46465, 47076, 47496, 47956, 49182, 49659, 49858, 49859, 52499, 54203, 54778, 56677
	*1278, 1279, 2086, 3186, 4157, 6854–6857, 9039, 9401, 10857, 10858, 10860, 12896, 13140, 15084, 15927, 16161, 16450, 16641, 16782, 18286, 18287, 19160, 19491, 20152, 20153, 20317, 20319, 20643, 20644, 21301, 21627–21632, 21822, 22183, 22560, 23165, 25342, 25343, 25742, 26232, 26665–26667, 27268, 27629
74	*2087
76	46466, 54506, 54512, 54778, 56211
	*3670, 5708, 17502, 18103, 19492, 23519
81	45584, 47496
	*18408
83	44194, 45584, 46888
	*2088, 8674, 25879
87	*19498
89	*4158, 14124, 15930, 25881, 26030
91	*14124, 15930, 25881, 26030
93	*14124, 15930, 25881, 26030
95	52709
	*11252, 14124, 15930, 25881, 27629
97	*2089, 5708, 12204, 15438, 18103, 27628

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

	Page
1.4 (f)(5) added	53798
1.22 (a) and (b) amended; (c) removed; (d) through (j) redesignated as (c) through (i)	44042
1.23 (a) amended	44042
1.44 (e)(8) added	*22366
1.45 (a)(10) added	45011
1.46 (v) added	*12176
(v) added	*22366
1.47 (f) revised	48122
1.49 (q), (r), and (u) revised	56327
1.55 (h) amended	56327
1.56 (n) removed	56327
1.59 (c)(8) amended; (c)(10) added	45011
(a)(4) added	49487
(l) removed; (m) redesignated as (n); new (l) and (m) added	56327
(b)(9) added	*22366
1.64 Revised	44042
1.65 Removed	44710
1 Appendix A amended	44043
25 Appendix A tables revised	*13
91 Added	54770
99 Revised	*3119
99.735–11 (a)(2) amended	*5359
99.735–15 (a) and (c)(2) amended	*5359
99.735–35 (b) amended	*5359
99.735–37 Amended	*5359
99 Appendixes B and C amended	*5359
Appendix C amended	*8144, 24278

Chapter I—Materials Transportation Bureau, Department of Transportation

	Page
171.7 (d)(1) amended	52300
171.8 Amended	57020
171.15 (a)(4) revised	57020

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

Title 49, Chapter I—Continued

	Page
172.100 (c) and (h) introductory texts amended; (c)(7) revised	57020
172.101 Revised	57021
Table amended	*7140
172.201 (a)(1) and (a)(1)(ii) revised	57067
172.203 (e) and (g)(1) revised; (g)(2) removed; (g)(3) redesignated as (g)(2)	57067
172.204 (a) introductory text revised	57067
(c)(4) amended	*22367, 22880
172.304 Heading revised	57067
172.306 Heading and (a)(1) revised	57067
172.312 (a) introductory text revised	57067
172.328 Revised	57067
172.330 (a) introductory text, (c)(1) and (2), and (d) revised; (e) added	57067
172.400 (b)(6) revised	57067
172.406 (a) amended	57067
172.504 (a) and (c)(1) revised; (a) tables amended	57067
172.508 (a) revised	57068
172.512 (a) revised and table removed; (b) amended	57068
172.514 (a) amended	57068
172 Appendix B amended	57068
173 Authority citation revised	55878
173.6 (b)(3) revised	57068
173.8 (b) amended	57068
173.22 (a) revised	*2689
173.29 Revised	57068
173.33 (c) removed; (d) through (l) redesignated as (c) through (k)	57068
173.64 (a)(5) revised	55876
173.65 (c) revised	50263
173.68 (a)(1) revised	50263
173.88 (e)(2)(ii) revised	*11239
173.92 (b) revised	*11239
173.100 (p) revised	50263
173.116 (c) removed	57069
173.119 (m)(5) revised	50263
(a)(26) added	55876
(a) introductory text and (d) revised; (m)(10), (11), (12), (13), and (15) amended	57069
173.124 (a)(3) revised	55876
(a)(5) amended	57069
173.132 (a)(2) revised	*11239
173.141 (a)(7) revised	50263
173.145 (a)(7) revised	50263
173.148 (b) added	*11239
173.163 (a)(8) revised	*11239
173.182 (c)(3) and (4) added	55877
173.205 (a)(2) added	*11239
173.208 (a)(2) added	50263
173.214 (c)(5) added	*11239
173.217 (a)(5) revised; (a)(6) amended	57069
(a)(6) revised	*11239
173.219 (a)(1) revised	*11239
173.221 (a)(7) revised	*11239
173.223 (a)(1) revised; (a)(6) added	*11239
173.224 (a)(3) and (4) revised	55877
173.232 (c)(6) revised	57069
173.244 (c) removed	57069
173.245 (a) (29) and (31) revised	50263
173.247 (a)(2) added	55877
(a)(17) revised	*11240
173.247a (a)(3) added	50263
173.249 (b) introductory text amended	57069
(a)(6) revised	*11240
173.252 (g)(1) revised	55877
173.256 (a)(6) added	*11240
173.262 (a)(12) added	50263
(b)(2) revised	55877
173.263 (a)(15) and (17) revised	50263
(e) added	57069
173.264 (a)(11) revised; (a)(18) added	*11240
173.265 (b)(3) revised	*11240
173.266 (b)(9) added	50264
173.271 (a)(11) revised	50264
(a)(3) added; (a)(8)(ii) revised	55877
173.272 (g) and (i)(6) revised	50264
173.276 (a) introductory text revised	57069
173.277 (a)(7) added	50264
(a)(8) added	*11240
173.288 (e) added	55877
(a) introductory text revised	57069
173.289 (a)(2) introductory text and (i) revised	55877
173.294 Heading and (a) introductory text revised	57069
173.299 (a)(2) revised	50264
173.300 (b) introductory text revised	57069
173.301 (d)(2) revised	55877
(i) revised	57069
173.306 (e)(1)(i) revised	50264
(d)(2) and (f)(3)(i) amended	57069
173.314 (c) Note 12 and (e) revised	55877

Note: Symbol (*) refers to 1977 page numbers

	Page
173.315 (a)(1) Note 11 revised	55878
(a)(1) amended; (a)(1) notes 14 and 15 revised	57069
173.332 (d) revised	57070
173.336 (a)(3) revised	50264
173.338 Removed	57070
173.343 (a) introductory text revised	57070
173.345 (a) introductory text and (b) revised	57070
173.346 (a)(27) added	55878
(a)(20) revised	*11240
173.348 Correctly designated 173.384	*2071
173.353 (e) revised	*11240
173.354 (a)(4) revised	57070
173.357 (b)(2) revised	*11240
173.358 (a)(5) revised; (a)(13) added	55878
(a)(11) revised; (a)(14) added	*11240
173.359 (a)(6) and (b)(5) revised; (a)(15) and (b)(11) added	55878
(a)(16) added	*11240
173.360 (a)(5) added	55878
173.364 (a)(2) revised	50264
(a)(1) amended; (b) revised	57070
173.365 (a)(5) added	*11240
173.366 (b)(3) added	55878
173.373 (a)(5) added	50264
173.377 (a) (1) and (2) revised; (b)(6) added	*11241
173.384 Added	57070
Added	*2071
173.386 (d) introductory text amended	57070
173.392 (a), (c)(7), and (d)(5) amended	57070
173.426–173.432 (Subpart I) Appendix A removed	57070
173.615 (e) added	*5059
173.635 (a)(5) added	55878
173.800 Heading and (a) introductory text amended	57070
173.838 (a) revised	*11241
173.1025 Revised	57070
173.1200 (a) introductory text, (a)(2)(iii) and (8)(ii) revised; Appendix A amended	57070
174 Heading corrected	*2071
174.5 Revised	57071
174.8 (b) amended	57071
174.10 (a) amended; (c) revised	57071
174.12 (a) amended	57071
174.24 (b) removed; (c) redesignated as (b) and revised	57071
174.25 (a)(2)(ii), (b) introductory text, (b)(4), and (c) revised; (b)(6) removed	57071
174.26 (b) amended; (c) added	57071
174.63 Heading and (a) amended	57071
174.69 Revised	57071
174.84 Amended	57071
174.88 Amended	57071
174.89 Amended	57071
174.101 (n) introductory text, (1), (2), and (3) amended	57071
174.104 (f) revised	57071
174.112 (b) amended	57072
174.480 Amended	57072
174.810 (c) revised	57072
175.10 (a) amended	57072
(a)(6) revised	*22367, 22880
175.30 (b) amended	57072
175.320 (c)(1) and(2) revised	54942
175.700 (d) revised	*22367, 22880
176.11 (a) amended	57072
176.30 (a) revised	57072
176.45 (a) amended	57072
176.48 (a) and (c) amended	57072
176.52 (b) amended	57072
176.63 (b) amended	57072
176.74 (c) amended	57072
176.83 (d)(3)(i)(B), (ii)(A) and (B), and (iii)(A) amended	57072
176.905 (c) amended; (i) introductory text revised; (i)(2) removed; (i)(3), (4), and (5) redesignated as (i)(2), (3), and (4); (1) added	57072
178.0 Added	*2689
178.0–1 Added	*2689
178.0–2 Added	*2689
178.36–20 (a)(3) amended	*2689
178.37–20 (a)(3) amended	*2689
178.38–20 (a)(2) amended	*2689
178.39–19 (a)(2) amended	*2689
178.40–20 (a)(2) amended	*2689
178.41–19 (a)(2) amended	*2689
178.42–14 (a)(2) amended	*2689
178.43–20 (a)(2) amended	*2689
178.44–23 (a)(2) amended	*2689
178.47–21 (a)(2) amended	*2689
178.48–19 (a)(2) amended	*2689
178.49–19 (a)(2) amended	*2689
178.50–19 (a)(2) amended	*2689
178.51–19 (a)(2) amended	*2689
178.52–19 (a)(2) amended	*2689
178.53–18 (a)(2) amended	*2689
178.54–20 (a)(2) amended	*2689
178.55–20 (a)(2) amended	*2689
178.56–19 (a)(2) amended	*2689
178.57–20 (a)(3) amended	*2689

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

Title 49, Chapter I—Continued

	Page
178.58–21 (a)(2) amended	*2689
178.59–18 (a)(2) amended	*2689
178.60–22 (a)(2) amended	*2689
178.61–20 (a)(2) amended	*2689
178.65–14 (b)(8) revised	*2689
178.68–19 (a)(2) amended	*2689
178.219–3 Corrected	56807
178.219–13 (a)(1) amended; (a)(2) revised; eff. 1–3–77	56807
192.619 (a)(3) and (c) revised	47253
192.707 (d)(1) and (e)(2)(i) revised	56808

Chapter II—Federal Railroad Administration, Department of Transportation

Chapter II Interpretation	*4464, 10995
211 Revised	54183
211.29 (a) revised	*27593
215.11 (b) introductory text, (c)(7), and (e)(1)(i) revised	44044
215.25 Revised	44044
215.223 (c) revised	44044
215.225 (b) introductory text revised	44044
217 Appendix A added	46853
218.5 (a) revised; (d) added	*2320
(e), (f), and (g) added	*5065
218.15 (a) corrected	*3843
218.23 (a) and (b) revised; (d) added	*2320
(a) corrected	*3843
218.25 (a) revised; (b) and (c) redesignated as (c) and (d); new (b), (e), (f), (g) and (h) added	*2321
218.27 Revised	*2321
218.29 (a) revised	*2321
218.31—218.37 (Subpart C) Added	*5065
218 Appendix A added	46854
Appendix A technical correction	48343
220 Added	*5069
220.61 (b)(4) revised	*12176
221 Added	*2325
221.5 (c) corrected	*3843
221.13 (a) corrected	*3843
221.15 (c)(1) revised	*3843
225.5 (b)(2) revised	50690
225.11 Revised	*1221
225.19 (b) and (c) revised	50691
(d) revised	*1221
225.21 (b) and (c) revised	*1221
225.23 (a) and (b) revised	*1221
225 Appendix B revised	*1221
228 Interim rules	53029
Appendix A added	*27596
230.331 (a) revised	*8145
231.1 Note revised	*1222
258 Added	44573
Technical correction	46601
258.7 (a)(4)(v) revised	*4652
(a)(4)(v) corected	*12434
260 Added	44580
260.1 Amended	53998
260.3 (a) revised; (f)(4) amended; (h) through (n) redesignated as (i) through (o); new (h) added	53998
260.5 Amended	53998
260.7 (a)(4)(ii)(D) and (13) corrected	46601
(a)(4)(v) and (a)(10) revised; (a)(6)(i) and (a)(13) amended; (a)(14) redesignated as (a)(15); new (a)(14) added	53998
(a)(7)(i) revised	*4652
260.9 (a) and (b) removed; (c) through (l) redesignated as (a) through (j); new (c) introductory text, (d) and (e) revised; new (f)(1) amended	53998
260.11 (b)(2) corrected	46601
(b)(4) and (5) added	53998
260.13 Removed; new 260.13 redesignated from 260.17	54000
260.14 Redesignated from 260.18	54000
260.15 Removed; new 260.15 redesignated from 260.19	54000
260.16 Redesignated from 260.20	54000
260.17 Redesignated as 260.13; new 260.17 redesignated from 260.21 and amended	54000
260.18 Redesignated as 260.14; new 260.18 redesignated from 260.22	54000
260.19 Redesignated as 260.15; new 260.19 redesignated from 260.23	54000
260.20 Redesignated as 260.16; new 260.20 redesignated from 260.24	54000
260.21 Redesignated as 260.17 and amended; new 260.21 redesignated from 260.25	54000
260.22 Redesignated as 260.18; new 260.22 redesignated from 260.26	54000
260.23 Redesignated as 260.19; new 260.23 redesignated from 260.27	54000

Note: Symbol (*) refers to 1977 page numbers

	Page
260.24 Redesignated as 260.20; new 260.24 redesignated from 260.28	54000
260.25 Redesignated as 260.21; new 260.25 redesignated from 260.29	54000
260.26 Redesignated as 260.22; new 260.26 redesignated from 260.30	54000
260.27 Redesignated as 260.23; new 260.27 redesignated from 260.31	54000
260.28 Redesignated as 260.24; new 260.28 redesignated from 260.32	54000
260.29 Redesignated as 260.25; new 260.29 redesignated from 260.33	54000
260.30 Redesignated as 260.26	54000
260.31—260.35 (Subpart C) Added	*4652
Appendixes A and B amended	*12434
Appendix A corrected	*13278
Appendix B Forms republished	*13279
260.31 Redesignated as 260.27	54000
260.32 Redesignated as 260.28	54000
260.33 Redesignated as 260.29	54000
260.35 (a)(2), (3), and (4), (b)(1)(ii) and (2)(i) amended	*12434
(b)(4) corrected	*13278
265 Added	*4288
267 Added	*8640
268 Added	*4984
Filing time extended	*9181
Authority citation corrected	*11838
268.3 (l) correctly added	*11838
268.9 (b) corrected	*11838
268.17 (a)(2), (5), (7) and (b)(2) corrected	*11838
268.21 Added	*4986
Correctly designated	*11838
268.23 (h) corrected	*11838
268.25 (b) (1), (2), and (3) corrected	*11838
268.27 (b)(1) through (4) and (e)(1) and (2) corrected	*11838
268.29 (e) corrected	*11838
268.35 (e), (f)(1) corrected	*11838

Chapter III—Federal Highway Administration, Department of Transportation

301.60 (a)(2) and (3), (d)(2)(i) and (iii), and (e)(1) and (4) through (6) revised	*18081
310.4a (g) revised	*2964
310.5 Amended	*2964
310.6 Amended	*2964
310.7 Revised	*2964
310.13 Revised	*2964
310.16 Added	*2964
385 Removed	*18077
386 Revised	*18077
Authority citation revised; comment time extended to 8–1–77	*26428
391.47 Revised	*18081
393.24 Footnote 1 amended	53031
393.48 (b)(2) revised	53031
393.60 (c) amended	53031
393.69 (a) amended	53031
393.75 (f) revised	53032
393.95 (j) amended	53031

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

Chapter V Cross-reference to entry for 23 CFR 658.7	49808, 49811
Temporary procedural regulation added	*2866
501.2 (f) revised; eff. 9–22–76	47933
501.3 Introductory text and (a)(1)(i) amended; (b)(6) redesignated as (c); new (b)(6) added; eff. 9–22–76	47933
501.7 (c) introductory text and (1) revised; (c)(2) and (3) redesignated as (c)(3) and (4); new (c)(2) added; eff. 9–22–76	47933
(a)(4) added	*9667
501.8 (e)(1) and (f)(2) revised; eff. 9–22–76	47934
(c) amended; (i) added	*3843
(i)(2) added	*9667
533 Added	*13816
556 Added	*7147
557 Added	56812
567.4 (h) introductory text and (3) added; (h)(2) revised	*7144
569.1 Revised	*21613
569.7 (a)(1) amended; (a)(2) introductory text revised	*21613
571.3 Amended	*7144
571.5 (b)(1) and (3) revised	52880
(b)(3) revised	56812
571.106–74 Std. No. 106–74 amended; eff. 11–26–76	52055
571.108 Std. No. 108 amended; eff. 11–1–76	46437
Amended; eff. 11–18–76	50826
Amended; eff. 2–7–77	*7144

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 49, Chapter V—Continued

	Page
571.109 Std. No. 109 Appendix A amended; eff. 2-22-77	*3844
Appendix A amended; eff. 3-14-77	*9022
Std. No. 109 amended; eff. 3-7-77	*12871
571.111 Std. No. 111 amended; eff. 2-26-77	56813
571.116 Std. No. 116 amended; eff. 9-1-78	54944
571.120 Std. No. 120 revised; eff. 2-7-77	*7144
571.121 Std. No. 121 amended; eff. 11-26-76	52057
571.208 Std. No. 208 amended; eff. 1-19-77	*5071
571.219 Std. No. 219 amended; eff. 12-16-76	54946
571.222 Std. No. 222 amended; eff. 4-1-78	54945
572 Heading amended	*7151
572.1—572.4 (Subpart A) Heading added	*7151
572.1 Revised	*7151
572.2 Amended	*7151
572.3 Amended	*7152
572.4 (c) removed; (a) revised	*7152
572.5—572.11 (Subpart B) Heading added	*7152
572.5 (a) revised	*7152
572.6 (b) and (c)(2) revised	*7152
572.7 (c)(5) removed; (c)(3)(ii) revised; (b) amended	*7152
(b) corrected	*12176
572.8 (d)(9) removed; (d)(4) amended; (c), (d)(1), (3), and (5) revised	*7152
572.9 Revised	*7152
572.10 (b) amended; (c)(1) and (2) revised	*7153
572.11 (i)(6) and (l) added; (c) amended; (b), (h), (i) introductory text, (i)(1) and (4), and (k) revised	*7153
577 Revised	56816
581 Revised; eff. 9-1-78	*24059

Chapter VI—Urban Mass Transportation Administration, Department of Transportation

	Page
601.1—601.4 (Subpart A) Revised	56808
601.10 (Subpart B) Revised	56809
604.3 Amended	56651
604.4 Added	56651
604.15 (a) introductory text revised	56651
604.20 (b) revised	56651
609.15 (a) through (c) revised	45842
(a) revised	*9655, 13817
630 Added	*3773

Chapter VIII—National Transportation Safety Board

800 Appendix revised	*8379
801.53 Revised	*13284
801.59 Added	*13284
804 Added	*13284
821.60—821.63 (Subpart J) Added	*21613
825.40 Added	*21614

Chapter IX—United States Railway Association

903 Added	*14113
905 Added	*16149
922 Revised	50692

Chapter X—Interstate Commerce Commission

1002.2 (d) amended	*21783
Comment time extended	*25862
1003.1 (a) Forms amended	53799
(a) amended	*21783
Comment time extended	*25862
1003.2 Forms amended	53799
1003.3 (b) Forms amended	53799
1012 Added	*13798
1023.32 (f) amended	*6370
1023.40 (b) amended	*6370
1023 Appendix of Forms amended	*6370
1033.16 (a)(3), (c), and (d) revised	*2965
1033.995 Removed	45567
1033.1002 Removed	45567
1033.1084 (e) revised	*6371
1033.1102 (e) revised	48122
(e) revised	*22368
1033.1131 (e) revised	*12056
1033.1156 (f) revised	45843
1033.1163 (e) revised	48343, 56652
(e) revised	*6585, 22368
1033.1171 (g) revised	52695
1033.1182 Revised	*3844
1033.1188 (e) revised	45843
(e) revised	*21294
1033.1200 (d) revised	*3309
1033.1202 (d) revised	43723
(d) revised	*17448
1033.1210 (h) revised	*6817
1033.1211 (e) revised	43723
(e) revised	*17448
1033.1213 (e) revised	50448
Removed	56652
1033.1215 (e) revised	52696
1033.1226 (e) revised	*3310
1033.1229 Removed	*10847
1033.1230 (g) revised	*12057, 22368
1033.1231 (f) revised	*3310
1033.1234 Revised	45989
(k) revised	52695
Revised	55879
Revised	*5359
(k) revised	*12056, 16780
(e) revised	*12056
1033.1237 Added; eff. 11-30-76 to 5-31-77	52880
1033.1240 (e) revised	48343
(e) revised	*22367
1033.1241 (e) revised	43723
(e) revised	*17447
1033.1242 (e) revised	48344
(e) revised	*6584
1033.1245 Revised	52696
(e) revised	*12056
1033.1247 (d) revised	*6371
1033.1248 (e) revised	*6371
1033.1249 (g) revised	50448
(g) revised	*25326
1033.1250 (e) revised	50449
1033.1253 Added	45567
1033.1254 Added	48122
(f) revised	*3309
1033.1255 Added	54772
1033.1256 Added	*4468
1033.1257 Added	*4849
Revised	*6371, 7156
1033.1258 Added	*6372
1033.1259 Added	*9668
1033.1260 Added	*11838
Revised	*13818
(a)(2) revised	*14870
1033.1261 Added	*16628
Added; eff. 3-23-77 to 4-15-77	*16415
1033.1262 Added	*16781
1033.1263 Added	*18082
(f) revised	*22881
1033.1264 Added	*21293
1033.1266 Added	*24278
1033.1267 Added	*26656
1033.1268 Added	*26657
Revised	*27248
1034.994 Removed	45990
1034.1252 Added	45568
1036 Revised	*23512
1036.4 Revised	*8380, 25326
1036.7 Effective date stayed	*26985
1041.21—1041.23 Eff. date stayed to 4-8-77	*16628

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

	Page
1041.21 Revised	56653
1041.22 Removed; new 1041.22 redesignated from 1041.23	56653
1041.23 Redesignated as 1041.22	56653
1043.4 Revised	*21783
Comment time extended	*25862
1045A Added	*21783
Comment time extended	*25862
1047.40 (d)(5) and (6) added	45012
(d) (3) and (4) added	*19
1047.45 (d)(3) added	*10003
(d)(1) revised	*15705
1048.1—1048.15 Eff. date stayed to 4-8-77	*16628
1048.1 Revised	56653
1048.2 Revised	56653
1048.3 Revised	56653
1048.4 Revised	44405
Revised	56653
1048.5 Revised	56653
1048.6 Revised	56654
1048.7 Revised	56654
1048.8 Revised	56654
1048.9 Revised	56654
1048.10 Revised	56654
1048.11 Revised	56654
1048.12 Revised	56654
1048.13 Revised	56655
1048.14 Removed; new 1048.14 redesignated from 1048.42	56655
1048.15 Added	56655
1048.16 Added	*24742
1048.18—1048.42 Eff. date stayed to 4-8-77	*16628
1048.18 Removed	56653
1048.19 Removed	56653
1048.20 Removed	56653
1048.21 Removed	56653
1048.22 Removed	56653
1048.23 Removed	56653
1048.24 Removed	56653
1048.25 Removed	56653
1048.26 Removed	56653
1048.27 Removed	56653
1048.28 Removed	56653
1048.29 Removed	56653
1048.30 Removed	56653
1048.31 Removed	56653
1048.32 Removed	56653
1048.33 Removed	56653
1048.34 Removed	56653
1048.35 Removed	56653
1048.36 Removed	56653
1048.37 Removed	56653
1048.38 Removed	56653
1048.39 Removed	56653
1048.40 Removed	56653
1048.41 Removed	56653

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 49, Chapter X—Continued

Page

1048.42 Redesignated as 1048.14 56655
1048.101 (c)(1) through (4) revised; (c)(5) through (7) added 56655
Eff. date stayed to 4-8-77 *16628
1049.2 (a) revised 56655
Eff. date stayed to 4-8-77 *16628
1056.1 (d) redesignated as (e); new (d) added *3169
1056.6 (e) amended; (f) added 52465
(d) amended *9669
Effective date postponed *10760
(d) added; eff. 5-1-77 *11839
1056.7 Appendix A amended 53486
(b) revised *5361
1056.26 Added *9669
Effective date postponed *10760
Effective date 5-1-77 *11839
1056.30 Added *3169
1057 Administrative ruling 46438
1061.1 (a) nomenclature change 45843
1067 Added *15705
1090.5 (a) revised *25863, 27598
1100.12 (e) revised *25863, 27598
1100.57 Revised 53799
1100.101 (d) amended 50827
1100.247 Revised 53800
(e)(3) revised *4126
1100 Appendix B corrected *27598
1101.1 Introductory text revised; undesignated text following (b) removed 50827
1101.2 Introductory text revised 50827
1102 Schedules A, B, C, and H amended; Schedules D, E, and F removed *8643
1102.1 Amended *8643
1102.4 (f) and (g) redesignated as (g) and (h); new (f) added *8643
1104 Revised; CFR correction *16628
1108.6 (h) amended 54772
1108.7 (a), (b) introductory text, (2), and (4) amended 54772
1108.8 (c) and (e) amended 54772
1108.12 (a) and (b) amended 54772
1108.14 (a), (b), and (e) amended 54772
1108.17 (b) amended 54772
1109.1 Added 44183
1109.10 Added *9023
1109.15 Added *9024
1111 Revised *14871
1121 Revised 48521
1121.20 (b)(2) revised *25327
1121.22 (c) revised *25327
1121.30 (a) amended *25327
1121.32 (d)(1) revised *25327
1125.1 (d) revised; (e) added 55691
1125.2 Amended *8145
1125.3 Introductory text amended; (c)(4) revised 55691
(b) amended *8145
1125.4 (a) and (d) amended; (b) removed; (c) revised 55691
1125.5 Introductory text, (g), (i)(2), (k)(2) through (4) and (l) revised 55692
(a)(1) through (3), (b)(1), (5), (6), (c)(1), (14), (e)(1), (h)(2), (j) introductory text and (j)(5) amended 55692
(a)(5) and (o) through (s) added; (b)(2), (5)(54) and (k)(5) removed 55692
(j)(5) and (k)(2)(ii) amended *8145
(a)(5) revised *26658
1125.9 (f) amended 55693
1125 Appendixes I and II amended 55694
Appendixes I and II amended *8145
1127.5 (h)(10) and (k) amended; (e)(15) revised 56328
1127.6 (b) revised 56328
1127.8 (d) revised 56328
1127.10 Added 56329
1131.4 (c) added 43905
1201 Existing text designated as Subpart A; Subpart B added 48973
Amended 52466
Amended *6585
1201.920 (e) added *8381
1202 Amended 52466
1204 Amended 52467
1205 Amended 52467
1206 Amended 52468
1207 Amended 52468, 56819
Amended *10692
1208 Amended 52470
1209 Amended 52470
1210 Amended 52471
1241.11 (b) removed *1475
1241.21 (b) removed *1475
1241.31 (b) removed *1475
1241.61 (b) removed *1475
1241.70 (b) removed *1475
1249.1 (b) removed *1475
1249.5 (b) removed *1475
1250.10 (b) removed *1475
1250.20 (b) removed *1475
1251.1 (b) removed *1475
1253 Nomenclature change 54773
1254 Added 44045

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Page

1254.03 (j) revised *9026
1254.10 Added *19147
1306.4 (a) revised *10995
1307.21—1307.50 (Subpart B) Removed; effective date stayed *15416
1310 Added; effective date stayed *15416
1310.9 (a)(5) corrected 55716
1310.25 (g)(1) corrected 55716
1310.28 (h)(4) corrected 55716
1320.1 Revised *22370, 23840
1320.2—1320.4 Removed *22370
1320.8 Revised *22370
1320.9 Revised *22370, 23840
1320.14 Removed *22370
1320.15 Revised *22370
1320.16 Revised *22370

Title 49—*Proposed Rules:*

1—99 (Subtitle A) *2864
91 44871
170 53824
*13309
171 44711, 44712, 53824
*13309, 27002
172 50283, 52891, 53824, 54959
*13309, 16459, 17891
173 48553, 52083, 52086, 52324, 53824, 54958, 54959
*2709, 5708, 13309, 18409
174 50283, 53824, 54959
*5708, 13309
175 53824
*13309, 16495, 17891
176 50283, 53824, 54959
*13309
177 44712, 52083, 53824, 54959
*13309
178 53824, 54958
*5708, 13309, 18409
179 52324, 53824
*2709, 5708, 13309
180 53824
181 53824
182 53824
183 53824
184 53824
185 53824
186 53824
187 53824
188 53824
189 53824
192 46463, 56834
*8386, 15932
193 *20776, 24758
195 46463, 56834
*18412
210 49183
211—268 (Ch. II) 50302
*19359, 22184
218 48126
*20154, 24293

Page

221 50701
225 51428
228 53070
*2994, 5387
230 *2994
231 51429
232 56678
240—268 (Chapter II) *13309, 25743
258 *4660, 10862, 12443, 15084
265 46612, 48371, 51052
267 54007, 55898
*2507
268 44954, 50014, 50303
391 55898
*16452
393 47948, 52500
*7171, 15935
395 *17891
396 *18103
417 56679
501—590 (Chapter V) *10321
523 55366
*2092
525 53827
527 46878
529 *9040
531 *18413
533 52087, 53832
537 *18867
570 *5711
571 45021, 46460, 48555, 52892, 54204, 54959, 54961, 56835, 56837
*3187, 10862, 12207, 15935, 27003
575 54205
* 10320
580 *9045
581 *10862
590 *7172
604 56680
630 51536
804 *5111, 21632
821 *12208
825 *12208
850 56837
903 *6614
1012 56340
1041 *15937
1047 52893, 54009, 54517
*6373, 26667
1048 46353
1049 *15937
1056 52501
1057 *21114
1082 *26667
1090 48130, 52754
1100 49282, 52501, 53832
1106 45076
1109 43743
*14740
1201 *15085
1206 *15085
1211 46013
1251 *2092
1300 53680

Note: Symbol (*) refers to 1977 page numbers

CODE

UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior

Page

10.21 Revised *9181
10.22 Revised *9181
Table corrected *21110
13.3 Revised *10465
13.12 Amended *10465
17.1 (a) revised *10465
17.2 (e) added *10465
17.11 (i) amended 45993, 51021, 51022, 51612
(i) revised 47181
(i) amended *2076
Table amended *2968
17.21 Republished 53033
Republished *2967
17.31 Republished *2967
17.40 (c) added 45994
17.42 Revised *2076
17.87 Added 51021
20.105 (e) amended 46854
(e) table amended 48534
(f) table amended 51612
(e) amended *21616
20.108 Added *21616
21.28 (b) revised 56330
21.41 (a) revised *17122
23 Added *10465
23.23 (a) and (d) tables corrected *26659
23.43 Introductory text revised *17122
26.33 Amended 54490
Amended *14732
26.34 Corrected 44185
Amended 47451, 49487, 49488, 49823, 50449, 50828, 51795, 52696, 52697, 52881, 52883, 52884, 53664, 53802, 54767, 54768, 55357, 55531, 55879, 56820
Amended *1033, 2689, 2690
Revised; eff. 6-6-77 through 12-31-77 ..... *23154
27.31 Amended 47452
28.28 Amended *3845, 16630
32.11 Amended 43724, 44047, 45568, 52300
Technical correction 48345
32.12 Amended 43725, 43905, 43907, 43908, 44048, 44693, 44694, 47452, 48535, 50449
32.13 Amended 52884
32.21 Amended 45568, 46314
32.22 Amended 43724, 43725, 43906, 43907, 44047, 44406, 44694, 44695, 45012, 47253, 51403, 51795, 52884, 55879
Corrected 44185
Amended *2690, 6817, 9384
32.31 Amended 45568
32.32 Amended 43724, 43726, 43906, 43907, 44047, 44184, 44185, 44406, 45012, 45013, 46443, 51795, 52885
Corrected 44185
33.4 Amended *20301, 20824
33.5 Amended 44048, 47452, 45013, 49488, 49824, 49987, 50449, 50828, 51795, 52472, 52697, 52885, 52886, 53327, 53486, 53487, 53664, 53977, 54490, 54769, 55358, 55532, 55534
Amended *1034, 2690, 3845, 4849, 7956, 10003, 10692, 10847, 13115, 13829, 14878, 15910, 20824, 22874, 24060, 25737, 26428, 26429, 27599

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

215 Revised 49488
216.3 Amended 43550, 55536
216.24 (d)(2)(i)(A) amended 43727
(e)(3)(v) amended 45569
(e)(3)(v) effective date suspended 47254
(d)(2)(i)(A) revised *1035
Amended *13115, 13829, 14878, 15910
(c)(5)(vi) added; (d)(2), (e), (f) and (g) revised *12012
(d)(2)(Q)(*iv*)(E)(*i*) redesignated as (d)(2)(*iv*)(E) and (d)(2)(*iv*)(E)(*ii*) redesignated as (d)(2)(*iv*)(F); (d)(2)(*iv*)(A)(1) corrected *12874
(c)(5)(vi) added; (d)(2), (e), and (g) revised; effective date confirmed *14733
(e)(2)(ii) and (iv)(L), (4) and (5)(i) amended *24743
216.32 (a) introductory text, (a)(1), (b), and (f)(5) amended 51796, 54946
216.70—216.90 Revised 43550
216.107 Corrected *3845
222.23 (a) amended 51612
240 Interpretation *5698
253 Revised 55535

Note: Symbol (*) refers to 1977 page numbers

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Page

260—266 (Subchapter G) Recodified from Parts 260-279 ..... *2326
260 Subparts A, B, and C headings added *2326
260.70 (b)(1), (2) and (3) revised 51796
260.250—260.299 (Subpart D) Redesignated from Part 277 ..... *2327
261 Redesignated as 264.350—264.399 (Subpart F) *2327
261.100—261.149 (Subpart A) Redesignated from Part 275 ..... *2326
261.150—261.199 (Subpart B) Redesignated from Part 265 ..... *2326
262 Redesignated as 265.150—265.199 (Subpart B) *2327
262.150—262.199 (Subpart B) Redesignated from Part 265 ..... *2326
262.200—262.249 (Subpart C) Redesignated from Part 268 ..... *2326
263 Redesignated as 264.100—264.149 (Subpart A) *2326
263.150—263.199 (Subpart B) Redesignated from Part 267 ..... *2326
263.200—263.249 (Subpart C) Redesignated from Part 267 ..... *2326
263.250—263.299 (Subpart D) Redesignated from Part 264 ..... *2326
263.300—263.349 (Subpart E) Redesignated from Part 269 ..... *2326
264 Redesignated as 263.250—263.299 (Subpart D) *2326
264.100—264.149 (Subpart A) Redesignated from Part 263 ..... *2326
264.150—264.199 (Subpart B) Redesignated from proposed Part 278 ..... *2327
264.200—264.249 (Subpart C) Redesignated from Part 279 ..... *2327
264.300—264.349 (Subpart E) Redesignated from Part 266 ..... *2327
264.350—264.399 (Subpart F) Redesignated from Part 261 ..... *2327
264.400—264.449 (Subpart G) Redesignated from Part 276 ..... *2327
265 Redesignated as 262.150—262.199 (Subpart B) *2326
265.100—265.149 (Subpart A) Redesignated from Part 272 ..... *2327
265.150—265.199 (Subpart B) Redesignated from Part 262 ..... *2327
266 Redesignated as 264.300—264.349 (Subpart E) *2327
266.100—266.149 (Subpart A) Redesignated from Part 273 ..... *2327
266.150—266.199 (Subpart B) Redesignated from Part 270 ..... *2327
267 Redesignated as 263.150—263.199 (Subpart B) *2326
268 Redesignated as 262.200—262.249 (Subpart C) *2326
269 Redesignated as 263.300—263.349 (Subpart E) *2326
270 Redesignated as 266.150—266.199 (Subpart B) *2327
271 Redesignated as 261.150—261.199 (Subpart B) *2326
272 Redesignated as 265.100—265.149 (Subpart G) *2327
273 Redesignated as 266.100—266.149 (Subpart A) *2327
274 Redesignated as 263.200—263.249 (Subpart C) *2326
275 Redesignatd as 261.100—261.149 (Subpart A) *2326
276 Redesignated as 264.400—264.449 (Subpart G) *2327
277 Redesignated as 260.250—260.299 (Subpart D) *2327
279 Redesignated as 264.200—264.249 (Subpart C) *2327
280 Revised *25864

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

601 Comment time extended *2968
602 Comment time extended *2968
611 Added *8813
611.3 (f) corrected *12057
611.9 (a) corrected *12057, 16631
611.10 (a) corrected *12057
611.11 (a) corrected *12057
611.20 (b) corrected; (d) removed *12057
(c)(1), (e), (f), and (g) added; (d) revised *12176
(c)(1) table 2 and (g) corrected *16631
(c)(1) table 2 corrected *18607
611.50 (j)(2) corrected *12057
611.51 (j)(2) corrected *12057
611.52 (e)(2) and (j)(2) corrected *12057
611.53 (j)(2) corrected *12057
611.54 (j)(2) corrected *12057
(d) corrected *16631
611.70 (b)(1) table, (b)(2)(ii), (c), (d)(92)(iii), and (f)(2) corrected *12057
611.80 (a) and (f)(4) corrected *12057

Note: Symbol (*) refers to 1977 page numbers

CODE
UMI

CHANGES OCTOBER 1, 1976 THROUGH MAY 31, 1977

Title 50, Chapter VI—Continued

Page

611.90 (h) introductory text, (1), (2), (3), (4), and (10) corrected *16631
(g)(2) and (4) revised; (g)(5) and (6) added *22559
611.91 Correctly designated 8841, 12057
(c)(2), (d)(1)(iv) and (vi), (3), and (h) introductory text, (2), and (10) corrected *16631
611.92 (d)(2), (d)(3)(iii) corrected *12057
(c)(2) introductory text and (vi) and (h) introductory text, (2) and (10) corrected *16631
(c)(2)(i) revised *22559
611.93 (b)(1), (h) introductory text, (2) and (10) corrected *16631
611.94 (h) introductory text and (10) corrected *16631
620 Added *11839
621 Added *12027
651 Added *13998
Effective date extended to 6-12-77 ..... *21784
651.7 (a) revised *15065
661 Added (eff. 5-25-77 to 7-8-77) 21412
661.8—661.11 Amended *26580
661.8 (c)(2) added *27599

Title 50—*Proposed Rules:*

Page

10 50010
16 ..... *12972
17 ..... 45573, 48757, 49859, 51430, 53074, 53075, 55729, 56839
..... *2101, 2102, 2507, 4868, 6616, 7972, 9402, 9403, 9687, 13567, 13569, 18106, 18109, 18287, 20644, 27003, 27007, 27009
20 ..... 55901, 55903
..... *13311, 26669
21 ..... 46873, 50011
26 ..... *4872
32 44049
..... *22903
33 ..... *5387
216 ..... 43729, 44049, 45015, 49507, 49859, 50458, 50842, 51052
..... *1049
217 ..... *4873
222 56839
..... *9402, 9403
223 ..... *4873
251 ..... *8389
255 ..... *21489
263 ..... *4468, 11849, 15346
274 ..... *11849
278 ..... *2327
280 ..... *12443, 15085
285 ..... *21825
611 55904
651 ..... *20158

Note: Symbol (*) refers to 1977 page numbers

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

(Additions to CFR Finding Aids Volume, Table 1; January 1976 through May 1977)

This table lists the sections of the U.S. Code and U.S. Statutes at Large which are being added to Table 1 of the CFR Finding Aids Volume as a result of authority citations carried in the *Federal Register* from January 1976 through May 1977. Recent legislation not yet assigned within the U.S. Code is carried by public law number at the end of the list.

In order to determine the *Federal Register* page numbers of the parallel CFR citations, consult the Cumulative List of CFR Sections Affected above.

U.S. Code	CFR
2 U.S.C.:	
136	36 Part 703
437d	11 Parts 100—115
	120—125
	130—134
	140—146
438	11 Parts 100—115
3 U.S.C.:	
202	31 Part 13
208	31 Part 13
301	32 Parts 719, 762
5 U.S.C.:	
22	45 Part 415
533	46 Part 536
552	1 Parts 440, 441
	5 Part 2510
	7 Parts 600,2610
	16 Parts 1014, 1015
	17 Part 145
	20 Part 401
	21 Parts 20, 21
	22 Parts 601, 1102
	29 Parts 1904, 2201
	36 Part 902
	39 Part 10
	41 Part 51-7
	43 Part 14
	49 Parts 802, 1007, 1056, 1067, 1131
	50 Part 520
552a	1 Part 455
	5 Parts 1410, 2505
	11 Part 1
	12 Part 405
	16 Part 1016
	20 Parts 200, 401, 903
	21 Part 21
	22 Parts 603, 1003
	24 Part 16
	28 Part 16
	29 Part 70a
	32 Parts 701, 1286, 1481
	36 Part 903
	45 Parts 504, 1800
	49 Part 802
552b	5 Part 295
	7 Part 1409
	10 Parts 9, 707
	11 Parts 2, 3

5 U.S.C.—Continued	CFR
552b—Continued	
	12 Parts 261b, 271, 281, 311, 407, 505b, 604
	14 Parts 302, 310b
	16 Parts 0, 2, 3, 4, 1012
	17 Parts 147, 200
	18 Parts 1, 3, 301
	19 Part 201
	20 Parts 200, 401
	22 Part 708
	25 Part 504
	28 Part 16
	29 Parts 102, 1209, 1612, 2203
	32 Parts 242a, 1482
	33 Part 209
	39 Parts 1—8
	40 Parts 1517
	45 Parts 504, 614, 702, 1440, 1703, 1802
	46 Part 503
	49 Parts 801, 804, 903, 1012
553	22 Part 603
	29 Parts 70a, 1928
	39 Part 3001
	40 Part 2
	46 Part 503
	49 Parts 1007, 1045A, 1056, 1067, 1100, 1109, 1254
553a	5 Part 1302
556	49 Parts 821, 825
557	49 Parts 821, 825
559	7 Part 2160
	49 Parts 1007, 1045A, 1056, 1067, 1100, 1109, 1131, 1254
1101	22 Part 1101
1501—1503	45 Part 1069
8150	32 Part 832
App	29 Part 29
App. I	16 Part 1018
	50 Part 510
App. I et seq	45 Part 11
7 U.S.C.:	
2	17 Part 32
4	17 Parts 2, 140
4a	17 Parts 10, 11, 13, 14, 145, 147
6b	17 Part 155
6c	17 Part 32
6g	17 Part 155
6j	17 Part 155

CODE
UMI

7 U.S.C.—Continued	CFR
6n	17 Part 1
7a	17 Part 180
9	17 Part 11
12	17 Part 11
12a	7 Part 32
	17 Parts 11, 140, 150, 155, 180
18	17 Part 12
76	7 Part 26
135 et seq	40 Part 33
136h	40 Part 2
136j	40 Part 2
136v	40 Part 2
150aa—150jj	7 Part 331
204	9 Part 201
241 et seq	7 Parts 102, 107
394	9 Parts 350, 355
428c note	7 Part 730
483a	17 Part 12
612c-3	7 Part 20
1011	36 Part 262
1385	7 Part 730
1427 note	7 Part 1475
1433	7 Part 1475
1441	7 Parts 730, 755, 775
1621 et seq	7 Parts 42, 70
1622–1624	7 Part 51
1622	7 Part 75
	9 Part 362
1624	7 Parts 58, 75
	9 Part 362
1989	7 Parts 58, 1888, 1901, 1918, 1924, 1927, 1933, 1955, 1980, 2012
2016	20 Part 416
2042	29 Part 40
2101–2118	7 Part 1205
2803	7 Part 360
2809	7 Part 360
2901—2918	7 Part 1260
2901 et seq	7 Part 1260
8 U.S.C.:	
601—674	7 Parts 1006, 1012, 1013
1101	45 Part 175
1101 et seq	29 Part 656
1182	45 Part 50
10 U.S.C.:	
125	32 Parts 1201—1225, 1250
133	32 Parts 155, 350, 1201—1225, 1250
135	32 Part 351
136	32 Parts 350, 352
172	32 Part 251
815	32 Part 719
1079	32 Part 199
1086	32 Part 199
1089	28 Part 15
1162	32 Part 41
1163	32 Part 41
1169	32 Part 41
1170	32 Part 41
1171	32 Part 41
1172	32 Part 41
1173	32 Part 41

10 U.S.C.—Continued	CFR
2101—2111	32 Part 711
2112 et seq	32 Part 242
2667	32 Part 754
2733	32 Part 750
2734	32 Part 753
3012	32 Part 642
5031	32 Parts 705, 719, 720, 726, 727, 731, 746, 750, 751, 752, 753, 757
5148	32 Parts 719, 720, 726, 727, 750, 751, 752, 753, 755, 757
6011	32 Part 770
7420	15 Parts 371, 376, 377, 386
8012	32 Parts 844, 850, 959–960, 968
8140	32 Part 732
12 U.S.C.:	
1 et seq	12 Parts 9, 16
635	12 Part 406
1431	12 Part 525
1437	12 Parts 525, 545, 555, 561, 563
1452	1 Part 460
1464	12 Part 561
1701 et seq	24 Part 204
1707–1715y	24 Part 235
1725	12 Part 545
1725	12 Parts 545, 555
1730	12 Parts 545, 555
1766	12 Part 704
1789	12 Part 704
1818	12 Part 225
1819	12 Part 311
2601 et seq	24 Part 3500
14 U.S.C.:	
31	33 Part 127
15 U.S.C.:	
77f	17 Parts 231, 239, 249
77g	17 Parts 231, 249
77j	17 Parts 231, 249
77l	17 Part 249
77s	17 Parts 231, 249
78a	17 Part 200
78b	17 Part 249
78c	17 Part 249
78h	17 Part 200
78k–1	17 Part 240
78m	17 Part 239
78o	17 Parts 200, 239
78o–4	17 Parts 240, 249
78q–1	12 Part 342
78s	12 Part 342
78w	12 Part 342
	17 Part 239
78x	17 Part 200
78ee	17 Part 240
79c	17 Part 2
272	15 Parts 7, 16
401—411 notes	21 Parts 2, 13, 15, 16, 19
401 et seq	21 Parts 2, 10, 12, 14

15 U.S.C.—Continued	CFR
402	21 Part 2
409	21 Part 2
552	16 Part 1016
714b	7 Part 1434
714c	7 Part 1434
717n	18 Part 3
761 et seq	10 Parts 303, 305, 307, 309
761	10 Part 420
791 et seq	10 Parts 303, 305, 307, 309
1191—1204	16 Part 1016
1191	16 Part 1015
1202	16 Part 1602
1211—1214	16 Part 1016
1211	16 Part 1015
1261—1274	16 Parts 1012, 1016
1261—1262	21 Part 2
1261	16 Parts 1015, 1509
1262	16 Part 1509
1269	16 Part 1509
	21 Part 2
1274	16 Part 1500
1392	49 Parts 557, 581
1401	49 Part 501
1407	49 Parts 501, 581
1411—1420	49 Part 577
1416	49 Part 557
1417	49 Part 556
1451 et seq	15 Part 931
	21 Parts 2, 10–19
1453	21 Part 101
1454	21 Part 101
1455	21 Part 101
1471—1476	16 Part 1016
1471	16 Part 1015
1601—1666j	14 Part 374
1691—1691e	14 Part 374
1828	9 Part 162
1912	49 Part 581
1914	49 Part 501
2002	49 Part 533
2051—2081	16 Part 1016
2051	16 Parts 1015, 1201, 1202, 1207
2052	16 Parts 1201, 1202
2053	16 Part 1009
2055	16 Part 1017
2056	16 Parts 1201, 1202, 1207
2058	16 Parts 1201, 1202, 1207
2059	16 Part 1110
2063	16 Parts 1201, 1202, 1207
2065	16 Part 1202
2068	16 Parts 1201, 1202
2079	16 Part 1207
2601 et seq	40 Part 33
2625	40 Part 3
16 U.S.C.:	
1 et seq	36 Part 9
92	36 Part 7
198c	36 Part 7
431	36 Part 7
460y	43 Parts 2110, 2130, 2270, 3820

16 U.S.C.—Continued	CFR
462	36 Part 60
470a	36 Part 60
472	36 Parts 261, 262
535	36 Part 221
551	36 Part 262
559r	36 Part 262
668dd	50 Parts 25—28
680d	50 Part 26
715s	50 Part 27
825h	18 Part 2
951	50 Part 280
971—971h	50 Part 285
1001–1008	7 Part 622
1084	50 Part 295
1100b	50 Part 245
1100b note	50 Part 245
1151—1187	50 Part 215
1246	36 Part 261
1281	36 Part 261
1331—1340	43 Parts 4700, 4710, 4720, 4730, 4740, 4750, 4760
1451 et seq	14 Part 1204
	15 Part 923
1531—1543	16 Part 225
	50 Part 23
1536	36 Part 7
1801–1882	50 Parts 611, 651
1801—1861	50 Part 621
1851	50 Part 602
1852	50 Part 601
1854	50 Part 601
1855	50 Part 620
1861	50 Part 620
1901 et seq	36 Part 9
18 U.S.C.:	
43	50 Part 246
208	46 Part 500
492	31 Part 101
831—835	49 Parts 385, 386, 389
847	27 Part 181
926	27 Part 181
3655	28 Part 2
4001	28 Part 0
4164	28 Part 2
4201–4218	28 Part 2
4201 et seq	28 Part 0
4203	28 Part 16
4254—4255	28 Part 2
5005—5041	28 Part 2
19 U.S.C.:	
66	19 Part 103
1202 note	7 Part 16
1448	19 Part 10
1551	19 Part 113
1552	19 Part 142
1553	19 Part 142
1565	19 Part 113
1624	19 Part 103
2482	19 Part 206

CODE
UMI

20 U.S.C.:	CFR
107a	45 Part 1369
240	45 Part 113
241–1	45 Part 112
241a—241m	45 Part 116a
241c–3	45 Part 116c
241e	45 Part 116c
241g	45 Part 116c
241m	45 Part 116
242	45 Parts 113, 116a
244	45 Parts 113, 116, 116a, 116c
511–513	45 Part 146
645	45 Part 112
646	45 Part 113
793	41 Part 60–741
821—827	45 Part 117
880b—880b–13	45 Part 123
887d	45 Parts 160, 160e
887e	45 Part 100d
1070d—1070d–1	45 Parts 155, 157, 159
1087–1	45 Part 175
1087aa–ff	45 Parts 144, 175
1088	45 Part 175
1134n–1134r	45 Part 196
1134p	45 Part 196
1134q	45 Part 196
1141	45 Part 175
1221e	45 Parts 1451, 1470
1221e–3	45 Part 123
1231a	45 Part 193
1231d	45 Part 123
1232	45 Parts 99, 112, 113
1232c	45 Parts 123, 159, 175
1232e	45 Part 123
1232g	45 Part 99
1248	45 Part 175
1405	45 Part 84
1412	45 Part 121a
1417	45 Part 121a
1424	45 Part 121d
1424a	45 Part 121k
1851—1853	45 Parts 160, 160a, 160d
1861–1867	45 Part 160
1861—1862	45 Part 160a
1862	45 Part 100a
1863	45 Part 160b
1865	45 Part 160d
1866	45 Part 160f
1867	45 Part 160g
1901–1982	45 Part 162
2001—2012	45 Parts 1801, 1802
21 U.S.C.:	
41–50	21 Parts 2, 10, 12, 14
41 et seq	21 Parts 2, 13, 15, 16, 19
114a–1	9 Part 162
117	9 Part 78
141—149	21 Parts 2, 10, 12, 14
141 et seq	21 Parts 2, 13, 16, 19
321 et seq	21 Parts 2, 10—21
321	21 Parts 101, 105, 186, 310, 320, 801

21 U.S.C.—Continued	CFR
331	21 Parts 7, 100
333	21 Part 7
335	21 Parts 2, 7
341	21 Parts 103–105, 130–169
342	21 Parts 2, 100, 101, 108–129, 500, 571
343	21 Parts 100—105, 500, 571
344	21 Part 108
345	21 Part 561
346	21 Parts 82, 109, 193, 561
346a	40 Part 2
346c	21 Parts 123, 561
348	21 Parts 2, 100, 101, 109, 118, 129, 170—189, 193, 500, 522, 558, 571
350	21 Part 105
351	21 Parts 320, 330
352	21 Parts 320, 801
354	21 Part 82
355	21 Parts 2, 320, 522, 558
357	21 Parts 2, 552, 540, 558
360	21 Part 225
360b	21 Parts 2, 431, 514, 520, 522, 524, 526, 540, 558, 571
360i	21 Part 801
360j	21 Part 801
362	21 Part 101
364	21 Part 82
371	21 Parts 25, 70, 71, 73, 74, 82, 100—197, 320, 431, 436, 440, 444, 446, 448, 449, 455, 505, 510, 514, 540, 544, 546, 548, 571, 801, 809
372	21 Parts 82, 101
373	21 Part 101
374	21 Parts 101, 801
376	21 Parts 70, 71, 73, 74, 80, 82, 500, 571
376 note	21 Part 81
454	9 Part 331
463	9 Parts 331, 350, 355
467f	21 Parts 2, 10—19
468	9 Parts 350, 355
607	9 Part 319
620	9 Part 327
621	9 Parts 327, 350, 355
624	9 Part 381
679	21 Parts 2, 10—19
695	9 Parts 350, 355
821 et seq	21 Parts 2, 10—19
1001—1007	45 Part 182a
1031 et seq	21 Parts 2, 10—19
1053	9 Parts 350, 355
1174	45 Part 84
22 U.S.C.:	
286f	15 Part 805
290f	22 Part 1004
817	28 Part 15
1037	22 Parts 16, 901–908

22 U.S.C.—Continued	CFR
2381	22 Part 216 41 Part 7–50
2393	41 Part 7–50
2451 et seq	22 Part 64 45 Part 50
2452	45 Part 148
2658	22 Parts 16, 93
2778	22 Part 121
23 U.S.C.:	
101	23 Part 522
103	49 Parts 604, 605
104	49 Part 613
105	49 Part 613
108	23 Part 130
109	23 Parts 200, 650, 655
114	23 Part 712
116	33 Part 222
120	23 Part 630
125	23 Part 630
134	49 Part 613
142	49 Parts 604, 605
142 note	49 Part 609
148	23 Part 661
151	23 Part 920
302	23 Part 520
307	23 Parts 520, 522, 524, 530, 540, 542, 544, 560, 630
314	23 Part 663
315	23 Parts 520, 522, 524, 530, 540, 542, 544, 560, 625, 650, 655, 661, 663, 1250 49 Part 613
324	23 Parts 200, 420 49 Part 613
401 et seq	23 Part 1204
402	23 Parts 625, 655, 1215, 1250
403	23 Part 260
412	26 Part 11
25 U.S.C.:	
2	25 Parts 183, 221
9	25 Parts 183, 221
13	25 Part 20
70h	25 Part 504
301	25 Part 221
450	5 Part 352
463	25 Parts 12, 153
640d—640d–24	25 Part 700
640d–18	25 Parts 12, 153
1264	20 Part 416
1407	20 Part 416
26 U.S.C.:	
190	26 Part 7
191	26 Part 7
214	26 Part 1
401	26 Part 1
408	26 Part 1
415	26 Part 11
2778	22 Part 130
2779	22 Part 130
4041	26 Part 154
6103	26 Part 404

26 U.S.C.—Continued	CFR
6334	26 Part 404
7805	26 Parts 141, 403, 404 27 Part 18
9009	11 Parts 120—125, 140—148
9039	11 Parts 130—134
28 U.S.C.:	
509	28 Parts 15, 25, 55
510	28 Parts 15, 25, 55
516	28 Part 0
2672	29 Part 15
29 U.S.C.:	
49 et seq	20 Parts 651, 653, 656, 658
50	29 Part 29
156	29 Part 102
557	20 Part 602
653	29 Part 1910
657	29 Parts 1928, 1952, 1956 42 Part 82
661	29 Parts 2201, 2203
667	29 Part 1956
706	41 Part 60–741 45 Part 84
792	36 Part 1150
794	45 Parts 84, 112, 113 49 Part 609
821	20 Part 416
926	29 Part 15
1021–24	29 Part 2520
1111	28 Part 4a
1133	29 Part 2560
1135	29 Part 2560
1137	28 Part 4a
1301	29 Part 2612
1302	29 Parts 2608, 2609, 2610, 2611, 2612
1322	29 Part 2609
1344	29 Parts 2608, 2610
1362	29 Parts 2610, 2611
30 U.S.C.:	
21 et seq	36 Part 9
158	15 Parts 371, 377, 386
181—287	43 Parts 3040, 3100
189	43 Part 3520
201	43 Part 3520
351—359	43 Part 3040
351—357	43 Part 3100
352	43 Part 3520
877	30 Part 75
957	30 Parts 18, 100
31 U.S.C.:	
111	9 Part 94
134a	9 Part 94
134b	9 Part 94
134c	9 Part 94
134f	9 Part 94
241—243	35 Part 7
241	29 Part 15
483a	22 Part 601
686	7 Part 663
738a	31 Parts 349, 350

CODE

UMI

31 U.S.C.—Continued	CFR
739	31 Part 350
752	31 Part 350
752a	31 Part 350
753	31 Part 350
754	31 Parts 349, 350
754a	31 Part 350
754b	31 Parts 349, 350
1221—1263	31 Part 51
33 U.S.C.:	
403	33 Part 66
409	33 Part 66
467 et seq	33 Part 222
610	33 Part 273
701n	33 Part 214
1224	33 Part 164
1251	40 Parts 434, 439, 454, 457–460
1251 et seq	40 Parts 33, 104, 110, 129
1261	40 Part 402
1281 et seq	40 Part 39
1292	40 Part 35
1311	40 Parts 434, 439, 454, 455, 457–460
1314	40 Parts 434, 439, 454, 455, 457–460
1316	40 Parts 434, 439, 454, 457–460
1317	40 Parts 434, 454, 457, 458, 460
1318	40 Part 2
1320	40 Part 414
1321	33 Part 153
1322	40 Part 140
1326	40 Part 402
1328	40 Part 115
1361	40 Parts 2, 115
1369	40 Part 2
1412	40 Parts 227, 228
1414	40 Part 2
1418	40 Parts 227, 228
38 U.S.C.:	
512	38 Part 3
536	38 Part 3
541	38 Part 3
544	38 Part 3
2001—2008	20 Part 658
2001	20 Part 653
2011 through 2014	20 Part 658
2011	20 Part 653
2012	41 Part 60–250
4116	28 Part 15
39 U.S.C.:	
404	39 Part 10
407	39 Part 10
408	39 Part 10
3603	39 Part 3003
3623	39 Part 111
40 U.S.C.:	
276c	29 Part 29
300*l*–4	42 Part 122
300*l*–5	42 Part 122
318	10 Part 861
442	7 Parts 1901, 1918

40 U.S.C.—Continued	CFR
486	32 Part 746
	41 Parts 28–1, 101–11, 101–18, 101–20, 128–1
870	36 Part 903
42 U.S.C.:	
7	24 Parts 280, 3282
201 et seq	21 Parts 2, 10—21
216	42 Parts 51, 56b, 122, 123
233	28 Part 15
241	40 Part 33
242b	40 Part 33
242c	42 Part 67
243	40 Part 33
246	40 Part 33
	42 Part 51
247b	28 Part 15
247d	42 Part 56
254c	42 Part 51c
257a	21 Parts 2, 10—19
262	21 Parts 20, 25, 620
263	21 Parts 20, 25, 601
263b–263n	21 Parts 20, 25, 601
264	21 Part 640
286b	42 Part 52b
286d	42 Part 52b
299	42 Part 56b
299a	42 Part 56b
299b	42 Part 56b
299c	42 Part 56b
299d	42 Part 56b
299e	42 Part 56b
299f	42 Part 56b
299i	42 Part 56b
300c–21	42 Part 51d
300g–2	40 Part 142
300g–3	40 Part 142
300g–4	40 Part 142
300g–5	40 Part 142
300j–1	40 Part 33
300j–2	40 Part 33
300j–3	40 Part 33
300j–4	40 Parts 2, 142
300j–9	40 Parts 2, 142
300n–1	42 Part 122
334	49 Part 613
503	20 Part 640
602	45 Part 224
625	20 Part 405
630—644	45 Part 224
1302	20 Parts 405, 416, 640
	45 Part 305
1382	20 Part 416
1383	20 Part 416
1395x note	42 Part 51e
1395y	20 Part 405
1395kk	20 Part 405
1402	20 Part 416
1436c	24 Part 805
1437	24 Parts 805, 841, 886, 899
1437 note	24 Parts 861, 867
1437 et seq	24 Parts 805, 860, 868

42 U.S.C.—Continued	CFR
1437a	24 Parts 812, 860
1437c	24 Parts 845, 881, 882, 886, 888, 899
1437d	24 Parts 861, 865, 867
1437f	24 Parts 805, 882, 886
1440	24 Part 260
1480	7 Parts 1822, 1824, 1831, 1832, 1901, 1904, 1918, 1924, 1927, 1955, 1980, 2012
1759a	7 Part 225
1761	20 Part 416
1765	7 Part 240
1766	7 Part 240
1774	7 Part 230
1776	7 Part 235
1779	7 Parts 225, 230, 235
1780	20 Part 416
1856	43 Part 28
1856b	43 Part 28
1857 et seq	40 Part 33
1857c–4	40 Part 50
1857c–5	40 Parts 51, 55, 61
1857c–6	40 Part 61
1857c–7	40 Part 60
1857c–9	40 Part 2
1857c–10	40 Part 55
1857f–6	40 Part 2
1857g	40 Parts 51, 55, 61
1857h–5	40 Part 2
1857q	40 Part 55
1867g	40 Part 2
1891 et seq	40 Part 33
2000	49 Part 613
2000d–2000d–4	23 Part 200
2000e–12	29 Part 1612
2000e–16	5 Part 713
2011 et seq	40 Part 190
2133	10 Parts 2, 40
2134	10 Part 40
2201	10 Part 703
2231	10 Part 2
2458a	28 Part 15
2473	14 Parts 1212–1214
2492	7 Part 1924
2642	45 Part 1069
2661—2665	45 Part 415
2673	45 Part 415
2689—2689p	42 Part 54
2689r—2689aa	42 Part 54
2691	45 Part 415
2751–2756	45 Part 175
2796	45 Part 1069
2942	7 Parts 1821, 1831, 1832, 1901, 1918, 1927, 1955, 1980
	45 Parts 1050, 1069
2943	45 Part 1069
2991	45 Part 1336
2996—2996*l*	45 Part 1600
2996	45 Parts 1608, 1611, 1617, 1620
2996d	45 Part 1608

42 U.S.C.—Continued	CFR
2996e	45 Parts 1606, 1608, 1612, 1616–1619
2996f	45 Parts 1604, 1605, 1606, 1607, 1608, 1609, 1612, 1613–1618
2996g	45 Parts 1604, 1605, 1612, 1617, 1618, 1619
2996i	45 Part 1610
2996j	45 Parts 1606, 1612
3045	20 Part 416
3121	13 Part 309
3121 et seq	13 Parts 306, 312
3181 et seq	12 Part 581
	13 Part 581
3192	13 Part 551
3194	13 Parts 552, 555
3211	12 Part 581
	13 Parts 309, 317, 318, 551, 552, 555, 581
3334	14 Part 1204
	49 Part 613
3535	24 Parts 42, 52, 207, 236, 241, 250, 260, 271, 280, 290, 450, 720, 805, 841, 845, 861, 865, 867, 868, 886, 891, 899, 1925, 3282, 3283
3536	24 Part 886
3601–3619	23 Part 200
3701	28 Part 30
3701 et seq	28 Parts 22, 32, 42
4001–4128	24 Parts 1909, 1913
4102	24 Part 1914
4128	24 Parts 1916, 1925
4151 et seq	36 Part 1150
4231 et seq	14 Part 1204
4233	49 Part 613
4321 et seq	14 Part 1204
	49 Part 1108
4321—4347	26 Part 1021
	43 Part 3040
4331	23 Part 772
4332	10 Part 711
	21 Part 25
	22 Part 216
	49 Part 613
4511	24 Part 720
4581	45 Part 84
4601–4655	23 Part 200
4601	15 Part 916
4633	15 Part 916
	41 Part 128–18
4636	20 Part 416
4905	40 Parts 204, 205
4909	40 Part 205
4910	40 Part 205
4912	40 Parts 2, 205
4916	40 Part 201
4917	49 Parts 385, 386, 389
5044	20 Part 416
5121 et seq	33 Part 203
5183	42 Part 38
5201	24 Part 720
5301 et seq	24 Part 570

CODE

UMI

42 U.S.C.—Continued	CFR
5341	10 Parts 2, 31, 32
5401	24 Part 3282
5403	24 Part 280
5404	24 Part 280
5414	24 Part 3282
5424	24 Parts 280, 3282
5702	45 Part 1351
5814	41 Part 9–4
5815	10 Parts 703, 705, 711 41 Part 9–4
5817	41 Part 9–4
5841	10 Parts 2, 20 30, 31, 32, 34, 35, 40, 50, 51, 55, 73, 140
5871	10 Parts 2, 20, 30, 31, 32, 34, 40, 50, 51, 55, 70, 150
5903	41 Part 9–4
5913	15 Part 270
6212	15 Parts 371, 376, 377, 386
6321	10 Part 420
6326	10 Part 420
6701 et seq	13 Part 316
6701	13 Part 317
6901 et seq	40 Part 33
6906	40 Part 3
6912	40 Part 255
6946	40 Part 255
43 U.S.C.:	
315—315r	43 Parts 4700, 4710, 4720, 4730, 4740, 4750, 4760
1181a	43 Part 6010
1181c	43 Part 6010
1334	43 Part 6220
1340	30 Part 251
1571 et seq	7 Part 663
1620	20 Part 416
1732	43 Part 6010
1733	43 Part 6010
45 U.S.C.:	
22–34	49 Part 216
32	49 Parts 225, 230
38—43	49 Part 230
151 et seq	29 Part 1209
421	49 Part 216
431–441	49 Part 216
431	49 Parts 218, 220
438	49 Parts 218, 220, 225
701 et seq	49 Part 255
711	49 Part 905
712	49 Part 903
744	49 Part 1033
762	49 Parts 257, 267
763	49 Part 257
46 U.S.C.:	
114	46 Part 391
170	46 Parts 148, 500 49 Parts 171, 172, 173, 176, 178
817	46 Part 514
820	46 Part 514
833a	46 Part 536
841	46 Parts 502, 514

46 U.S.C.—Continued	CFR
844	46 Part 514
845	46 Parts 502, 514
847	46 Part 514
882	46 Part 91
1111	46 Part 500
1177	46 Part 391
1451	33 Part 1
1655	46 Part 151
47 U.S.C.:	
151	47 Parts 68, 76, 78
152	47 Part 68
154	47 Part 2
155	47 Parts 76, 97
163	47 Part 0
201–205	47 Parts 2, 68
203	47 Part 1
208	47 Parts 2, 68
214	47 Part 81
215	47 Parts 2, 68
218	47 Part 2
302	47 Parts 89, 97
303	47 Parts 63, 68
305	47 Part 0
307	49 Part 1003
308	47 Part 97
309	47 Part 97
310	47 Part 73
311	49 Part 1003
312	49 Part 1003
313	47 Part 2
314	47 Part 2
316	47 Part 73
403	47 Parts 2, 73, 81
408	47 Part 73
410	47 Part 2
602	47 Part 2
721	14 Part 1214
49 U.S.C.:	
Preceding sec. 1	49 Part 1254
1	49 Part 1254
5	49 Parts 268, 1067
6	49 Part 1254
12	49 Parts 230, 1201—1210, 1249—1251
13	49 Part 1254
15	49 Parts 1034, 1109, 1254
17	49 Parts 1012, 1034
20	49 Parts 230, 1201–1210, 1249–1251, 1254
155	33 Part 117
204	49 Part 1207
220	49 Parts 1241, 1249, 1250, 1251
301	49 Part 1056
302	49 Parts 1045A, 1056
303	49 Part 1045A
304	49 Parts 1045A, 1056, 1201—1210, 1250—1251, 1310
305	49 Part 1045A
306	49 Part 1056
307	49 Parts 1003, 1056, 1067
308	49 Part 1056

49 U.S.C.—Continued	CFR
309	49 Part 1067
310a	49 Part 1310
311	49 Parts 1003, 1045A, 1067
312	49 Parts 1003, 1056, 1067
313	49 Parts 1241, 1249, 1250, 1251
317	49 Part 1310
318	49 Part 1056
320	49 Parts 385, 1045A
322	49 Part 1056
324	49 Parts 385, 386
412	49 Parts 1241, 1249, 1250, 1251
609	49 Part 609
909	49 Part 1067
913	49 Parts 1201—1210, 1249, 1251
1010	49 Part 1067
1012	49 Parts 1201—1210, 1241, 1249—1250
1159a	49 Part 91
1159b	49 Part 91
1301	14 Part 371
1302	14 Part 253
1324	14 Part 298
1324 note	14 Part 385
1348	14 Part 71
1354	14 Parts 39, 191
1356	14 Part 121
1357	14 Parts 121, 191
1371	14 Parts 253, 293, 296, 371, 399
1372	14 Parts 253, 371
1373	14 Parts 253, 296
1374	14 Part 296
1377	14 Parts 253, 293, 298, 371
1381	14 Part 253
1382	14 Part 293
1386	14 Parts 287, 293, 298, 371
1421	14 Parts 121, 135, 191
1424	14 Parts 121, 123, 135
1461	14 Part 399
1471	49 Parts 171—173, 175
1472	49 Parts 171, 172, 175
1481	14 Parts 293, 371
1482	14 Parts 378, 378a
1502	14 Parts 253, 371, 399
1504	14 Part 241
1511	14 Parts 121, 123, 135
1566	14 Part 61
1601 et seq	49 Parts 604, 605, 630
1602	23 Part 420
1603	23 Part 420
1604	23 Part 420 49 Part 609
1605	23 Part 420 49 Part 613
1607	23 Part 420 49 Part 613
1612	23 Part 420 49 Parts 609, 613
1651 et seq	49 Parts 255, 258, 260, 268
1652	49 Part 216
1654	49 Part 267

49 U.S.C.—Continued	CFR
1655	14 Parts 39, 67, 71, 97, 123, 137, 191 33 Parts 52, 74 49 Parts 216, 385, 396
1657	49 Parts 81, 216, 385, 386, 389, 533, 557, 601
1665	46 Part 148
1672	49 Part 192
1741	7 Part 354 9 Part 97
1801	49 Parts 385, 386, 389
1802	49 Part 107
1803	46 Part 146 49 Parts 172—178
1804	46 Parts 146, 148 49 Parts 171—179, 192
1806	49 Parts 172, 175
1807	49 Parts 171—173, 175
1808—1811	49 Part 107
1808	46 Part 146 49 Parts 171, 173—179, 385, 386, 389
1809	49 Parts 385, 386, 389
1810	49 Parts 385, 386, 389
1901 et seq	49 Parts 802, 804, 825
1903	49 Part 840
50 U.S.C.:	
1433	10 Part 703
2061 et seq	32A Part 633
App. 1219	32 Part 1481
App. 2061 et seq	32A Part 634
App. 2071	32A Part 113
App. 2168	4 Parts 410, 414, 415
App. 2403 note	15 Parts 371, 376, 377, 386

U.S. Statutes at Large:	CFR
32 Stat.:	
220–233	14 Part 152
268	13 Part 129
390	43 Part 419
41 Stat.:	
437	43 Part 3100
61 Stat.:	
495	32 Part 256
64 Stat.:	
1273	46 Part 310
75 Stat.:	
842	46 Part 310
688	18 Parts 415, 420
82 Stat.:	
1369	49 Part 601
83 Stat.:	
108	45 Part 1209
141	45 Part 177
616	26 Part 1
84 Stat.:	
1036	46 Part 310
85 Stat.:	
619	12 Part 601
621	12 Part 601

CODE
UMI

U.S. Statutes at Large:	CFR
86 Stat.:	
226	10 Part 712
1280	15 Parts 920, 932
87 Stat.:	
403	45 Part 1209
404	13 Part 129
	45 Part 1209
414	45 Part 1209
456	1 Part 460
466	25 Part 43m
985	49 Parts 1127, 1201
988	49 Part 922
994	49 Parts 1127, 1201
88 Stat.:	
392	7 Parts 1801, 1904
2246	42 Part 123
2251	42 Part 123
89 Stat.:	
871	40 Part 600
1003	45 Parts 1901—1904
1035	43 Part 419
1125 et seq	12 Part 203
90 Stat.:	
31	49 Parts 265, 1127, 1201
57	49 Parts 1127, 1201
93	49 Part 922
889	43 Part 419
1013	15 Parts 920, 932
1211	43 Part 419
2503	25 Part 43n
2617	49 Part 922
2928	33 Part 276
91 Stat.:	
116	13 Part 317
Public Laws:	CFR
81-507	45 Part 660
87-794	10 Parts 205, 213
88-794	10 Part 213
89-272	40 Parts 243-246
89-365	26 Part 20
89-430	49 CFR 1036
90-577	45 Part 660
91-190	10 Part 208
91-512	40 Parts 243-246
91-517	45 Parts 1385-1387
92-305	15 Part 908
92-340	33 Part 401
92-436	32 Part 216
92-463	16 Part 1018
92-500	40 Part 457
92-580	26 Part 20
93-112	36 Part 1150
93-159	10 Parts 210-212
93-203	29 Part 97
93-236	49 Parts 1033, 1125, 1201
93-243	40 Part 35
93-275	10 Parts 208, 209, 210-213, 420
93-357	7 Parts 1801, 1803, 1841, 1871, 1901, 1924, 1955
93-383	24 Part 570

Public Laws—Continued	CFR
93-406	29 Part 2612
93-410	10 Part 790
93-438	10 Parts 745, 790
	41 Parts 9-3, 9-4, 9-16, 9-51, 9-53
93-443	45 Part 1069
93-502	5 Part 1303
93-511	10 Parts 210-212
93-516	36 Part 1150
93-526	5 Part 2515
93-567	20 Part 653
	29 Part 97
93-579	5 Part 2402
93-637	12 Part 227
93-647	45 Part 228
94-63	42 Part 51e
94-99	10 Parts 205, 210-212
94-103	45 Parts 1385-1387
94-105	7 Parts 225, 240
94-106	32 Part 710
94-133	10 Parts 205, 210-212, 214
94-135	29 Part 89
94-142	45 Part 121a
94-158	45 Part 1160
94-163	10 Parts 205, 209, 210-212, 420, 500
	40 Part 600
	43 Part 20
94-167	45 Parts 1901—1904
94-180	43 Part 419
94-182	42 Part 101
94-196	31 Part 13
94-210	49 Parts 258, 260, 1033, 1109, 1111, 1125, 1201
94-239	12 Part 267
94-273	14 Part 1208
94-280	23 Part 1215
	49 Part 1
94-294	7 Part 1260
94-305	13 Part 120
94-332	10 Parts 211, 212
94-350	22 Part 64
94-353	7 Part 354
94-362	15 Parts 371, 377
94-369	13 Part 316
	31 Part 52
94-370	15 Parts 920, 931, 932
94-375	12 Part 208
	24 Part 570
94-385	10 Part 210-212
94-400	43 Part 419
94-401	45 Part 228
94-415	28 Part 42
94-429	43 Part 20
94-430	28 Parts 22, 32
94-432	38 Part 3
94-444	29 Part 97
94-455	26 Part 7
94-488	31 Part 51
94-503	28 Parts 22, 32, 42
94-530	26 Part 154

Public Laws—Continued	CFR
94-542	45 Part 581
94-563	26 Part 33
94-579	36 Part 231
	43 Part 20
94-580	40 Part 255
94-587	33 Parts 263, 276

Public Laws—Continued	CFR
95-2	18 Parts 295, 1000
95-12	31 Part 530
95-18	25 Part 219
	43 Part 423
95-28	13 Part 317
95-31	13 Part 318

CODE
UMI

1976

Pages	Date
27023–27308	July 1
27309–27705	2
27707–27825	6
27827–27951	7
27953–28253	8
28255–28469	9
28471–28782	12
28783–28944	13
28945–29087	14
29089–29371	15
29373–29652	16
29653–29801	19
29803–30003	20
30005–30092	21
30093–30317	22
30319–30582	23
30583–31156	26
31157–31371	27
31373–31519	28
31521–31795	29
31597–32213	30
32205–32398	Aug. 2
32399–32574	3
32575–32688	4
32689–32875	5
32877–33244	6
33245–33543	9
33545–33880	10
33881–34003	11
34005–34238	12
34239–34570	13
34571–34730	16
34731–34935	17
34937–35051	18
35053–35153	19
35155–35475	20
35477–35674	23
35675–35842	24
35843–36012	25
36013–36191	26
36193–36486	27
36487–36637	30
36639–36785	31
36787–37088	Sept. 1
37089–37300	2
37301–37560	3
37759–38145	8
37561–37757	7
38147–38483	9
38485–38753	10
38755–38997	13
38999–39300	14
39301–39733	15
39735–40087	16
40089–40450	17
40451–41073	20
41075–41403	21
41405–41678	22
41679–41906	23
41907–42176	24

1976

Pages	Date
42177–42638	27
42639–42937	28
42939–43129	29
43131–43380	30
43381–43704	Oct. 1
43705–43887	4
43889–44029	5
44031–44150	6
44151–44355	7
44357–44686	8
44687–44850	12
44851–44993	13
44995–45533	14
45535–45815	15
45817–45975	18
45977–46286	19
46287–46424	20
46425–46578	21
46579–46839	22
46841–47017	26
47019–47201	27
47203–47405	28
47407–47907	29
47909–48096	Nov. 1
48097–48315	2
48317–48508	3
48509–48718	4
48719–49081	5
49083–49472	8
49473–49623	9
49625–49797	10
49799–49967	11
49969–50197	12
50199–50397	15
50399–50624	16
[illegible]25–50801	17
[illegible]803–50992	18
50993–51385	19
51387–51577	22
51579–51785	23
51787–52041	24
52043–52285	26
52287–52426	29
52427–52641	30
52643–52855	Dec. 1
52857–52975	2
52977–53314	3
53315–53459	6
53461–53647	7
53649–53767	8
53769–53966	9
53967–54159	10
54161–54473	13
54475–54749	14
54751–54916	15
54917–55146	16
55147–55319	17
55321–55505	20
55507–55704	21
55705–55843	22

1976

Pages	Date
55845–56191	Dec. 23
56193–56296	27
56297–56621	28
56623–56765	29
56767–57072	30

1977

Pages	Date
1–741	Jan. 3
743–1015	4
1017–1194	5
1195–1450	6
1451–2049	7
2051–2291	10
2293–2497	11
2499–2664	12
2665–2946	13
2947–3157	14
3159–3294	17
3295–3624	18
3625–3826	19
3827–4109	21
4110–4394	24
4395–4808	25
4809–5021	26
5023–5339	27
5341–5676	28
5677–5966	31
5967–6362	Feb. 1
6363–6575	2
6577–6786	3
6787–7120	4
7121–7917	7
7919–8137	8
8139–8359	9
8361–8628	10
8629–9012	11
9013–9152	14
9153–9373	15
9375–9655	16
9657–9986	17
9987–10296	18
10297–10676	22
10677–10832	23
10833–10958	24
10959–11230	25
11230A–11804	28
11805–12032	Mar. 1
12033–12141	2
12143–12410	3
12411–12850	4
12851–13007	7
13009–13102	8
13103–13263	9
13265–13532	10
13533–13800	11
13801–14080	14

1977

Pages	Date
14081–14669	Mar. 15
14671–14856	16
14857–15051	17
15053–15299	18
15301–15401	21
15403–15676	22
15677–15887	23
15889–16124	24
16125–16375	25
16377–16611	28
16613–16767	29
16769–17094	30
17095–17412	31
17413–17864	Apr. 1
17865–18052	4
18053–18268	5
18269–18386	6
18387–18585	7
18587–18854	8
18855–19122	11
19123–19313	12
19315–19473	13
19475–19852	14
19853–20109	15
20111–20279	18
20281–20454	19
20455–20616	20
20617–20807	21
20809–21084	22
21085–21265	25
21267–21466	26
21467–21602	27
21603–21757	28
21759–22123	29
22125–22354	May 2
22355–22556	3
22557–22858	4
22859–23125	5
23127–23497	6
23499–23596	9
23597–23794	10
23795–24044	11
24045–24227	12
24229–24709	13
24711–25312	16
25313–25485	17
25487–25717	18
25719–25848	19
25849–26194	20
26195–26405	23
26407–26644	24
26645–26968	25
26969–27197	26
27199–27564	27
27565–27874	31

CODE

UMI

UMI

CODE

UMI

UMI

UMI

84

Vol. 42—No. 84
5-2-77
PAGES
22125–22354

federal register

MONDAY, MAY 2, 1977

highlights

PRINCIPAL EXECUTIVE BRANCH OFFICIALS OF THE ADMINISTRATION OF JIMMY CARTER
OFR publishes special supplement to the U.S. Government Manual..... 22255

SUNSHINE ACT MEETINGS..... 22219

CFR CHECKLIST
OFR publishes revision dates and prices for CFR volumes issued as of 5–1–77..... 22125

PRINCIPAL EXECUTIVE BRANCH OFFICIALS OF THE ADMINISTRATION OF JIMMY CARTER (JANUARY 20–APRIL 30)
OFR publishes special supplement to the U.S. Government Manual (Part II of this issue)..... 22255

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION
FEA issues notice of intention to issue prohibition orders to certain powerplants (3 documents); comments by 5–30–77 (Part III of this issue)..... 22268, 22273, 22277

MOBILE OFFSHORE DRILLING UNITS
DOT/CG proposed rules on inspection, certification, design, equipment and operation; comments by 6–29–77 (Part IV of this issue)..... 22295

HAZARDOUS WASTES
EPA proposes management guidelines; comments by 7–1–77 (Part V of this issue)..... 22331

INDOCHINA REFUGEES
HEW/OE proposes grants to State and local educational agencies for special adult education programs; comments by 6–1–77 (Part VI of this issue)..... 22335

ZERO BASED BUDGETING
OMB issues guidelines on preparation and justification of 1979 budget requests within each Federal agency (Part VII of this issue)..... 22341

AIR POLLUTION
EPA presents estimates of potential emission reductions achievable through inspection and maintenance of light duty vehicles, motorcycles and trucks; comments by 7–1–77 22177

CONTINUED INSIDE

V4284 MAY 2 77
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

CRUDE OIL
FEA determines landed costs for periods October 1973–September 1974 and October 1974–May 1975 ... 22190

OCEAN DUMPING
EPA establishes an approved site for high temperature shipboard incineration of Herbicide Orange; effective 5–15–77 ... 22144

PROPANE, BUTANE AND NATURAL GAS
FEA permits small resellers and retailers the option of passing on certain defined nonproduct cost increases; effective 5–1–77 ... 22131

TAX REFORM ACT OF 1976
Treasury/FS proposes regulations on withholding of District of Columbia, State, and city income or employment taxes by Federal agencies; comments by 5–27–77 ... 22174

MAILING LIST SERVICES
PS proposes regulations on address cards arranged in sequence of carrier delivery; comments by 6–1–77 ... 22176

PRIVACY ACT OF 1974
FEA transfers control of records in a system of records ... 22192
GSA adopts new system of records ... 22203

MEETINGS—
Commerce/Census: Census Advisory Committee on Agriculture Statistics, 5–25–77 ... 22187
NOAA: Weather Modification Advisory Board, 5–4 and 5–5–77 ... 22188
NBS: Task Force, Computer Networking Standards for Library and Information Science Community, 5–16 and 5–17–77 ... 22188
CRC: Advisory Committee, 5–17–77 ... 22187
New Mexico Advisory Committee, 5–11–77 ... 22187
Virginia Advisory Committee, 5–26–77 ... 22187
CPSC: Product Safety Advisory Council, 6–16 and 5–17–77 ... 22188
DOD/Engineers: Environmental Advisory Board, 5–24–77 ... 22188
Navy: Naval Resale System Advisory Commission, 5–23–77 ... 22189
Naval Research Advisory Committee, 5–19 and 5–20–77 ... 22189
DOT/SLS: St. Lawrence Seaway Development Corporation Advisory Board, 5–16–77 ... 22215
CG: National Offshore Operations Industry Advisory Committee, 6–14 and 6–15–77 ... 22213
NHTSA: National Highway Safety Advisory Committee, 5–17 and 5–18–77 ... 22215
EPA: Environmental Measurements Advisory Committee, 5–19–77 ... 22190
Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel, 5–16 and 5–17–77 ... 22189
HEW: Board of Advisors, Fund for Improvement of Postsecondary Education, 5–15 through 5–17–77 ... 22204
OE: Environmental Education Advisory Council, 5–18 and 5–19–77 ... 22204
HRA: Graduate Medical Education National Advisory Committee, 6–27 and 6–28–77 ... 22204
Justice: U.S. Circuit Court Nominating Commission, Western Fifth Circuit Panel, 5–17–77 ... 22206
LEAA: Law Enforcement/Private Security Relationships Committee, 5–19 and 5–20–77 ... 22206
Interior/Secy: Oil Shale Environmental Advisory Panel, 5–18–77 ... 22205
NASA: Research and Technology Advisory Council, Aviation Safety and Operating Systems Panel, 5–24 through 5–26–77 ... 22206
National Commission on Electronic Fund Transfers, 5–13–77 ... 22207
NCUA: National Credit Union Board, 6–2 and 6–3–77 ... 22207
NRC: Reactor Safeguards Advisory Committee, Zion Generating Station, Units 1 and 2, Subcommittee, 5–17–77 ... 22207
SBA: Sioux Falls District Advisory Council, 5–20–77 ... 22212
State: Fine Arts Committee, 5–26–77 ... 22213

SEPARATE PARTS OF THIS ISSUE
Part II, OFR ... 22255
Part III, FEA ... 22267
Part IV, DOT/CG ... 22295
Part V, EPA ... 22331
Part VI, HEW/OE ... 22335
Part VII, OMB ... 22341

V 42 84 MAY 2 77 UMI

contents

AGRICULTURAL MARKETING SERVICE
Rules
Onions grown in So. Tex 22125
AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Commodity Credit Corporation; Farmers Home Administration; Forest Service.
ALCOHOL, TOBACCO AND FIREARMS BUREAU
Rules
Firearms, ammunition and explosives, commerce in:
Black powder; transportation, distribution etc 22144
ARMY DEPARTMENT
See Engineers Corps.
CENSUS BUREAU
Notices
Meetings:
Agricultural Statistics Census Advisory Committee 22187
CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Maryland 22187
New Mexico 22187
Virginia 22187
COAST GUARD
Rules
Dangerous cargoes:
Solids in bulk; metal borings, shavings, etc 22145
Proposed Rules
Marine engineering and mobile offshore drilling units 22295
Notices
Meetings:
Offshore Operations Industry National Advisory Committee 22213
COMMERCE DEPARTMENT
See Census Bureau; National Bureau of Standards; National Oceanic and Atmospheric Administration.
COMMODITY CREDIT CORPORATION
Rules
Loan and purchase programs:
Milk, price support 22126
Wheat; correction 22126
COMMUNITY SERVICES ADMINISTRATION
Rules
Community Action Programs:
Financial management, grantee; non-Federal share contribution, waiver criteria; correction 22145
CONSUMER PRODUCT SAFETY COMMISSION
Notices
Meetings:
Product Safety Advisory Council 22188
CUSTOMS SERVICE
Notices
Countervailing duty petitions and preliminary determinations:
Bicycles from Republic of China 22216
DEFENSE DEPARTMENT
See Engineers Corps; Navy Department.
EDUCATION OFFICE
Proposed Rules
Indochinese refugees, emergency adult education program 22335
Notices
Meetings:
Environmental Education Advisory Council 22204
ELECTRONIC FUND TRANSFERS, NATIONAL COMMISSION
Notices
Meeting 22207
EMERGENCY NATURAL GAS TASK FORCE
Rules
Emergency regulations 22146
ENGINEERS CORPS
Notices
Meetings:
Environmental Advisory Board 22188
ENVIRONMENTAL PROTECTION AGENCY
Rules
Grants, State and local assistance:
Subagreements; interim regulations; extension of time 22144
Procurement; price negotiation policies and techniques; contractors for competitive contracts 22145
Water pollution control:
Ocean dumping disposal sites; herbicide orange incineration site-headquarters 22144
Proposed Rules
Air quality implementation plans; preparation, adoption, and submittal:
Inspection/maintenance program 22177
Solid waste; management, treatment, etc.:
Hazardous waste guidelines and regulations; inquiry 22331
Notices
Meeting:
Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel 22189
Science Advisory Board, Environmental Measurements Advisory Committee 22190
Pesticide applicator certification and interim certification; State plans:
Oregon 22190
FARMERS HOME ADMINISTRATION
Notices
Disaster and emergency areas:
Michigan 22186
New York 22186
Tennessee 22186
FEDERAL AVIATION ADMINISTRATION
Rules
Airworthiness directives:
Cessna 22137
Air traffic operating and flight rules:
International Civil Aviation Convention, Annex 2; incorporation by reference 22139
Transition areas (2 documents) 22138
Proposed Rules
Airworthiness directives:
Beech 22172
Control zones 22173
Transition areas 22172
FEDERAL COMMUNICATIONS COMMISSION
Proposed Rules
Television broadcast stations; table of assignments:
Hawaii 22183
FEDERAL ENERGY ADMINISTRATION
Rules
Petroleum price regulations, mandatory:
Propane, butane, and natural gasoline resellers and retailers; passthrough of increased non-product costs 22131
Notices
Petroleum price regulations, mandatory; imported crude oil, landed costs:
Establishment, Oct. 1973–Sept. 1974 and Oct. 1974–May 1975 22190
Powerplant burning natural gas or petroleum products, prohibition orders:
Interstate Power Co 22273
Oklahoma Gas & Electric Co 22268
Vineland, City of, Electric Utility et. al 22277
Privacy Act; system of records 22192
FEDERAL HIGHWAY ADMINISTRATION
Proposed Rules
Planning:
Certification acceptance and secondary road plan; correction 22173
FEDERAL MARITIME COMMISSION
Notices
Freight forwarder licenses:
Hermann Ludwig of California Inc 22193
Agreements filed, etc.:
Galveston Wharves Board of Trustees et al 22192
Pacific Cruise Conference 22193
FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Central Maine Power Co 22193
Central Telephone & Utilities Corp 22194
Cincinnati Gas & Electric Co 22194
Equipment, Inc., et al 22195
Gulf States Utilities Co 22195
Louisville Gas & Electric Co 22195
Michigan Wisconsin Pipe Line Co 22195
Mountain Fuel Supply Co 22196
National Fuel Gas Supply Corp 22196
National Fuel Gas Supply Corp. et al (2 documents) 22196, 22197
New England Power Co 22197

Northern Natural Gas Co 22197
Northern States Power Co 22198
S.S.C. Gas Producing Co 22198
Sea Robin Pipeline Co 22199
Texas Eastern Transmission Co 22199
United Gas Pipeline Co. (2 Documents) 22200
Wisconsin Power & Light Co 22200
FEDERAL RAILROAD ADMINISTRATION
Proposed Rules
Walkways on bridges, trestles, and similar structures; withdrawal 22184
Notices
Petitions for exemptions, etc.:
Iowa Terminal Railroad Co. et al 22213
Port Authority Trans Hudson Corp 22213
FEDERAL REGISTER OFFICE
Rules
CFR checklist; 1976 and 1977 issuances 22125
Notices
Carter administration executive branch officials, special supplement to U.S. Government Manual 22255
FEDERAL RESERVE SYSTEM
Notices
Federal Open Market Committee:
Domestic policy directives 22202
Applications, etc.:
Banker Agency, Inc 22200
Chemical Financial Corp 22201
Country Bank Shares Corp 22201
Valley Bancorporation 22202
Yoakum County Bancshares, Inc 22203
FISCAL SERVICE
Proposed Rules
Withholding of District of Columbia, State, and city income or employment taxes by Federal agencies 22174
FOREST SERVICE
Notices
Environmental statements; availability, etc.:
Gypsy Moth suppression and regulatory program, Pa., N.J 22186
Lincoln National Forest, Eagle Creek Dam and Reservoir, New Mex 22187
GENERAL SERVICES ADMINISTRATION
See also Federal Register Office.
Notices
Meetings:
Regional Public Advisory Panel on Architectural and Engineering Services 22203
Privacy Act, system of records 22203
HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Education Office; Health Resources Administration.
Rules
Process served on or delivered to Secretary; address change 22145
Notices
Meetings:
Fund for Improvement of Postsecondary Education, Board of Advisors 22204
HEALTH RESOURCES ADMINISTRATION
Notices
Meetings:
Graduate Medical Education National Advisory Committee 22204
IMMIGRATION AND NATURALIZATION SERVICE
Proposed Rules
Immigration regulations:
Deportation suspension and voluntary departure; extension of time applications, etc 22148
INDIAN AFFAIRS BUREAU
Rules
Construction; emergency drought assistance and deferments, 1976–1977 22141
INTERIOR DEPARTMENT
See also Indian Affairs Bureau; Land Management Bureau.
Notices
Colorado River Storage Project; proposed general power marketing criteria; correction 22205
Meetings:
Oil Shale Environmental Advisory Panel 22205
INTERNAL REVENUE SERVICE
Rules
Procedure and administration:
Refund check mailing in litigated cases 22143
INTERNATIONAL TRADE COMMISSION
Notices
Import investigations:
Impression fabric of man-made fiber from Japan; correction 22206
INTERSTATE COMMERCE COMMISSION
Notices
Abandonment of railroad services, etc.:
Pittsburgh & Western Railroad Co. et al 22217
Hearing assignments 22216
Motor carriers:
Statistics for Class II carriers of property 22217
Petitions filing:
Bunge Corp. et al 22216
Waste product transportation for reuse or recycling 22218
JUSTICE DEPARTMENT
See also Immigration and Naturalization Service; Law Enforcement Assistant Administration.
Notices
Meeting:
United States Circuit Judge Nominating Commission, Western Fifth Circuit Panel 22206
LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
New Mexico (2 documents) 22205
Classification of lands:
Washington; disposal by exchange 22205
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
Notices
Meetings:
Law Enforcement/Private Security Relationships Committee 22206
MANAGEMENT AND BUDGET OFFICE
Notices
Zero-base budgeting; guidelines to agencies 22341
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Notices
Meetings:
Research and Technology Advisory Council 22206
NATIONAL BUREAU OF STANDARDS
Notices
Meetings:
Computer Networking Standards for Library and Information Science Community Task Force 22188
NATIONAL CREDIT UNION ADMINISTRATION
Notices
Meetings:
National Credit Union Board 22207
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Notices
Defect proceedings; petitions, etc.:
Ambassador Leather Products, Inc., child safety harness; proceeding scheduled 22215
Meetings:
Highway Safety National Advisory Committee 22215
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Fishery transfer applications:
Landers, Fred P 22188
Meeting:
Weather Modification Advisory Board 22188
NAVY DEPARTMENT
Notices
Meetings:
Naval Research Advisory Committee 22189
Navy Resale System Advisory Committee 22189

V42 84 MAY 2 77 UMI

NUCLEAR REGULATORY COMMISSION

Rules

Practice rules:
Appeal Board decisions; review and requests for stays 22128

Proposed Rules

Practice rules:
Facility license application review and hearing process, coordination with States, counties, etc 22168
Facilities and material licenses, fees; license fee schedule revised 22149

Notices

Environmental statements; availability, etc.:
Georgia Power Co 22209
Meetings:
Reactor Safeguards Advisory Committee 22207
Regulatory guides; issuance and availability (3 documents) 22210, 22211

Applications, etc.:
Duquesne Light Co. et al 22208
Florida Power Corp. et al 22208
Metropolitan Edison Co. et al 22209
New York State University, Buffalo 22211
Portland General Electric Co. et al 22209
Power Authority of State of New York 22210
Public Service Co. of Oklahoma et al 22210
Vermont Yankee Nuclear Power Corp 22212

POSTAL SERVICE

Proposed Rules

Postal Service Manual:
Address cards arranged in sequence of carrier delivery; mailing list services 22176

REGIONAL ACTION PLANNING COMMISSION

Rules

Economic development regions, regional commissions, etc 22134

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Notices

Meetings 22215

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Act and interpretative releases:
Registration statement form; general instruction changes 22139

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
De Soto Capital Corp 22212
S.B.I.C. of Vermont, Inc 22212
Meetings, advisory councils:
Sioux Falls District 22212

STATE DEPARTMENT

Notices

Art objects, importation:
Culturally significant objects from Union of Soviet Socialist Republics 22212
Meetings:
Fine Arts Committee 22213

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Saint Lawrence Seaway Development Corporation.

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Customs Service; Fiscal Service; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

1 CFR
Ch. I 22125

7 CFR
959 22125
1421 22126
1430 22126

8 CFR
PROPOSED RULES:
103 22148
244 22148
299 22149

10 CFR
2 22128
212 22131
PROPOSED RULES:
2 22168
170 22149

13 CFR
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137

14 CFR
39 22137
71 (2 documents) 22138
91 22139
PROPOSED RULES:
39 22172
71 (2 documents) 22172, 22173

17 CFR
231 22139
239 22139

18 CFR
1000 22146

23 CFR
PROPOSED RULES:
640 22173
642 22173

25 CFR
219 22141

26 CFR
301 22143

27 CFR
178 22144
181 22144

31 CFR
PROPOSED RULES:
215 22174

39 CFR
PROPOSED RULES:
111 22176

40 CFR
33 22144
228 22144
PROPOSED RULES:
51 22177
250 22332

41 CFR
15–3 22145

45 CFR
4 22145
1068 22145
PROPOSED RULES:
166 22336

46 CFR
148 22145
PROPOSED RULES:
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296

47 CFR
PROPOSED RULES:
73 22183

49 CFR
PROPOSED RULES:
Ch. II 22184

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*
22125–22354	May 2

V 42 84 MAY 2 7 7 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect April 30, 1977

DOT/CG—Missouri River, Iowa, drainbridge operations..... 17119; 3–31–77
Engineers—Navigation regulations; California..... 17119; 3–31–77
Commerce/DIBA—Defense materials system; aluminum..... 16740; 3–29–77

Rules Going Into Effect May 1, 1977

USDA/AMS—Grain standards; United States standards for wheat.... 26670; 6–29–76
Triticale; grade standards..... 9377; 2–16–77
EPA—Subagreements; minimum standards for procurement under EPA grants. 16777; 3–30–77
[First published at 42 FR 8089, Feb. 8, 1977]
FTC—Warranties: settlement procedures, informal dispute..... 49414; 11–1–76
Interior/GS—Adoption of final cooperative agreement with New Mexico, North Dakota, and Utah for enforcement and administration of surface coal mine reclamation..... 18065; 4–5–77
ICC—Common carriers of household goods; collection of freight charges on goods lost or stolen through shipment. 11839; 3–1–77
[First published at 42 FR 9668, Feb. 17, 1977]

Rules Going Into Effect Today

CAB—Suspension of foreign air transportation tariffs..... 19125; 4–12–77
DOT/FAA—Airworthiness Review Program powerplant provisions..... 15034; 3–17–77
Technical standard order authorizations; Airborne Omega receiving equipment. 17102; 3–31–77
FCC—Radio broadcast services; FM assignment, Gordon, Nebr.. 16626; 3–29–77
Radio broadcast services; FM assignment and substitution, Greeley, Colo. 16625; 3–29–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

Table of Effective Dates and Time Periods—May 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
May 2	May 17	June 1	June 16	July 1	Aug. 1
May 3	May 18	June 2	June 17	July 5	Aug. 1
May 4	May 19	June 3	June 20	July 5	Aug. 2
May 5	May 20	June 6	June 20	July 5	Aug. 3
May 6	May 23	June 6	June 20	July 5	Aug. 4
May 9	May 24	June 8	June 23	July 8	Aug. 8
May 10	May 25	June 9	June 24	July 11	Aug. 8
May 11	May 26	June 10	June 27	July 11	Aug. 9
May 12	May 27	June 13	June 27	July 11	Aug. 10
May 13	May 31	June 13	June 27	July 12	Aug. 11
May 16	May 31	June 15	June 30	July 15	Aug. 15
May 17	June 1	June 16	July 1	July 18	Aug. 15
May 18	June 2	June 17	July 5	July 18	Aug. 16
May 19	June 3	June 20	July 5	July 18	Aug. 17
May 20	June 6	June 20	July 5	July 19	Aug. 18
May 23	June 7	June 22	July 7	July 22	Aug. 22
May 24	June 8	June 23	July 8	July 25	Aug. 22
May 25	June 9	June 24	July 11	July 25	Aug. 23
May 26	June 10	June 27	July 11	July 25	Aug. 24
May 27	June 13	June 27	July 11	July 26	Aug. 25
May 31	June 15	June 30	July 15	Aug. 1	Aug. 29

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
FPCA—National Fire Prevention and Control Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency

V42 84 MAY 2 77 UMI

DSA—Defense Supply Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDO—Human Development Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SRS—Social and Rehabilitation Service
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.65
2 [Reserved]	
4	3.25
5	4.70
7 Parts:	
0–45	5.30
46–51	4.20
52	5.20
53–209	5.80
210–699	6.10
700–749	4.10
750–899	1.80
900–944	4.25
945–980	2.40
981–999	2.50
1000–1059	4.25
1060–1119	4.40
1120–1199	3.20
1200–1499	4.20
1500–end	7.25
8	2.60
10 Parts:	
0–199	4.40
200–end	4.60
12 Parts:	
1–299	7.40
300–end	7.30
13	4.20
14 Parts:	
60–199	5.10
1200–end	2.20
15	5.35
16 Parts:	
0–149	5.50
150–999	4.25
1000–end	3.00

CFR Unit (Rev. as of April 1, 1976):

Title	Price
17	6.00
18 Parts:	
1–149	4.85
150–end	4.10
19	5.65
20 Parts:	
1–399	2.45
400–end	7.50
21 Parts:	
1–9	2.60
10–199	5.20
200–299	2.10
300–499	5.95
500–599	3.75
600–1299	2.75
1300–end	1.90
22	4.20
23	4.55
24 Parts:	
0–499	6.65
500–end	6.90
25	5.25
26 Parts:	
1 (§§ 1.0–1.169)	5.95
1 (§§ 1.170–1.300)	3.90
1 (§§ 1.301–1.400)	3.30
1 (§§ 1.401 to 1.500)	3.55
1 (§§ 1.501–1.640)	4.05
1 (§§ 1.641–1.850)	4.45
1 (§§ 1.851–1.1200)	6.05
1 (§§ 1.1201 to end)	6.95
2–29	4.05
30–39	3.45
40–299	5.40
300–499	3.60
600–end	2.20
27	7.70

CFR Unit (Rev. as of July 1, 1976):

Title	Price
28	$3.10
29 Parts:	
0–499	7.30
500–1899	5.50
1900–1919	7.55
1920–end	4.05
30	4.80
31	5.65
32 Parts:	
1–39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40–399	6.50
400–589	5.20
590–699	3.10
700–799	7.85
800–999	6.05
1000–1399	2.20
1400–1599	3.65
1600–end	1.95
32A	2.90
33 Parts:	
1–199	6.20
200–end	5.85
34	1.00
35	3.50
36	3.40
37	2.20
38	7.20
39	2.75

Title	Price
40 Parts:	
0–49	3.15
50–59	6.80
60–99	5.70
100–399	4.50
400–end	6.70
41 Chapters:	
1–2	5.70
3–6	5.90
7	1.85
8	1.80
9	4.35
10–17	4.15
19–100	3.55
101–end	6.80
CFR Index	3.20

CFR Unit (Rev. as of Oct. 1, 1976):

Title	Price
42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	2.95
110–139	1.90
140–165	4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
70–79	4.90
80–end	6.20
48 [Reserved]	
49 Parts:	
1–99	2.05
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS, AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 959—ONIONS GROWN IN SOUTH TEXAS

Amended Rate of Assessment for the Fiscal Period Ending July 31, 1977

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation increases the rate of assessment under a marketing

V4284 MAY 2 77 UMI

order on onions grown in South Texas. Poor growing conditions have reduced the potential onion crop. An increased assessment rate is necessary to provide the necessary funds for budgeted committee expenses.

DATES: Effective for fiscal period ending July 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 143 and Order No. 959, both as amended, regulate the handling of onions grown in designated counties in South Texas. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the April 7, 1977, FEDERAL REGISTER (42 FR 18404) regarding the proposal. It afforded interested persons an opportunity to submit written comments not later than April 25, 1977. None was received.

The production area in the southern part of Texas has experienced cool, wet weather during much of the growing season. Current estimates indicate production may be down 49 percent. This will reduce income at the current rate of assessment. Therefore, at a meeting at Larado, Texas, on March 16, 1977, the committee unanimously recommended that the rate of assessment be increased from 1½ to 2½ cents per 50-pound bag or equivalent quantity of onions. The income generated by this increased assessment will be used for expenses set forth in the current budget.

Findings. After consideration of all relevant matters, including the proposal in the notice, it is found that the following amended rate of assessment should be approved. It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable onions from the beginning of such period.

The amendment is as follows:

Paragraph (b) of § 959.217 (42 FR 2308) is amended to read as follows:

§ 959.217 Expenses and rate of assessment.

* * * * *

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be two and one-half cents ($0.025) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during the fiscal period.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: April 26, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–12462 Filed 4–29–77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1976 Crop Wheat Supplement, Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Crop Wheat Loan and Purchase Program

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 4397 in the FEDERAL REGISTER of Tuesday, January 25, 1977 (FR Doc.77–2172).

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION, CONTACT:

Merle Strawderman, ASCS (202–447–9223).

The following corrections are made to § 1421.488(a):

1. On page 4397, right column, under the heading "Idaho" the entry that reads "Nez Perce $2.13" is changed to read "Nez Perce $2.31".

2. On page 4399, right column, under the heading "North Dakota" the entry that reads "Pembina $2.17" is changed to read "Pembina $2.27".

3. On page 4400, left column, under the heading "Oregon" the entry that reads "Lincoln $2.27" is changed to read "Lane $2.35" and the entry that reads "Lane $2.35" is changed to read "Lincoln $2.27".

Signed at Washington, D.C., on April 8, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77–12458 Filed 4–29–77;8:45 am]

PART 1430—DAIRY PRODUCTS

Subpart—Price Support Program for Milk 1977–1978 Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to announce an increase to $9.00 per hundredweight in the support price for manufacturing milk for the 1977–78 marketing year. The need for this rule is to satisfy the statutory requirements for price support for milk of the Agricultural Act of 1949, as amended. The statute requires that milk be supported at a level between 75 and 90 percent of parity to assure an adequate supply of milk, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

EFFECTIVE DATES: April 1, 1977, through March 31, 1978.

ADDRESSES: Commodity Operations Division, ASCS, USDA, 5768 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Donald L. Gillis, Director, Commodity Operations Division, ASCS, USDA, 5768 South Building, P.O. Box 2415, Washington, D.C. 20013, 202–447–3571.

SUPPLEMENTARY INFORMATION: On February 11, 1977, a notice was published in the FEDERAL REGISTER (42 FR 8662) inviting comments concerning the 1977–78 price support program for milk. A similar notice was also issued in a USDA press release. The Department received 77 written comments from dairy cooperatives and associations, farmers, dairy product manufacturers and dealers, and consumers. A number of recommendations were for increases in the support price: 17 to 80 percent of parity, one to 85 percent of parity, 3 to from 85 to 90 percent of parity, 29 to 90 percent of parity, and 5 to 100 percent of parity. In addition, 12 respondents recommended an unspecified increase in the support price, and 4 were against a support price increase. Of the 22 dairy farmer cooperatives and associations responding, their recommendations are summarized as follows: 18 recommended removal of the price advantage for cheese, 16 recommended quarterly adjustments in the support price, 13 recommended discontinuing CCC sales of high-moisture and old nonfat dry milk on competitive bids, 13 recommended increasing CCC's prices for unrestricted use sales of dairy products, one favored the purchase of barrel cheese, 4 opposed the purchase of barrel cheese, 5 recommended an increase in utilization of dairy products acquired under the program, and one recommended an increase in processing margins.

After considering the comments received, it was determined necessary to increase the support price to $9.00 per hundredweight, estimated to be 83.0 percent of parity on April 1, 1977. The support price of $8.26, in effect October 1, 1976, through March 31, 1977, was estimated to be only 76.2 percent of parity on April 1, 1977. The price support program for the 1977–78 marketing year was described in a USDA press release. The latest available statistics of the Federal

Government were used in making determinations under this rule.

The increase in support was necessary to assure adequate farm income in light of recent declines in milk prices, increases in the costs of feed, hay and other production items, and the possibility that recent drought conditions may continue.

There has been severe drought in important milk producing areas in the West and Midwest. As a result, feed costs have risen significantly in the last several months. Hay and other roughages have been in very short supply, and producers have been forced to truck needed supplies from distant areas at greatly increased costs. In some localities, the cost of hay has more than doubled.

Moreover, the market prices for milk have dropped 70 cents per hundredweight, nearly 8 percent, in the last six months.

As a result of the higher feed costs, and much lower milk prices, the milk-feed price ratio, an important measure of the profitability of producing milk, has declined substantially in recent months. The milk-feed price ratio (pounds of feed equal in value to a pound of milk) was 1.49 in February, down from both November's 1.65 and last February's 1.66. The difference between the price of 100 pounds of milk and 100 pounds of concentrate ration was $3.14 in February, down from $3.91 in November and $3.90 a year ago.

The increase in the support price should accomplish the objectives of legislation and assure that milk prices received by farmers will keep pace with increases in the prices farmers must pay for feed and other costs of production, including the rising cost of energy, another important item in the cost of producing milk. The increase in the support price will help producers pay these higher costs and continue in dairying, thereby possibly preventing much higher increases in market prices later because of critical supply shortages resulting from large numbers of farmers quitting dairying.

The support level is achieved through offers by the Commodity Credit Corporation (CCC) to purchase carlots of butter, American-type cheese and nonfat dry milk at announced prices. The purchase prices are designed to result in a national annual average price paid to farmers at least equal to the announced support price. The support price will be reviewed again in six months to determine of further adjustments are needed to carry out the legislative objectives.

Other changes in the support program are as follows:

The price advantage for cheese under the support program was eliminated. CCC purchase prices in effect April 1, 1976, through March 31, 1977, enabled cheese manufacturers to pay dairy farmers 30 cents per hundredweight more than butter-nonfat dry milk manufacturers. This provision was established to avoid increasing the purchase price for nonfat dry milk and to minimize the increase in the purchase price for butter. The provision is no longer advisable since cheese production and stocks have risen sharply.

In order to better enable barrel cheese manufacturers to pay producers the support price for their milk, CCC will purchase barrel cheese in fiber barrels for an indefinite period at 95 cents per pound—3 cents less than the price for block cheese. A decision on whether to continue buying barrel cheese on a permanent basis will be made at a later date, based on CCC's experience with storage and processing, and on whether there is a continuing need for such purchases. Barrel cheese, which is used mainly to make American process cheese, represents 60 percent of the American-type cheese produced in the U.S.

Prices of barrel cheese have been severely depressed in the past several months and have remained depressed even though CCC bought large quantities of process cheese. CCC will continue to purchase Cheddar cheese in 40-pound blocks at the announced price and will continue to buy process cheese, as needed, on a competitive bid basis.

The sale by CCC of high-moisture and old nonfat dry milk on competitive bids is being temporarily discontinued. CCC inventories of such nonfat dry milk have been reduced substantially through past sales and donation program dispositions, and it is not necessary to continue sales at this time.

In order to encourage the industry to store its own dairy products for use in the short production season of the fall and winter, the CCC sales prices of dairy products for unrestricted use were increased from 105 to 110 percent of the current CCC purchase prices. In addition to providing more incentive for the industry to store products, the higher sell-back prices will cover increased carrying costs.

Accordingly, based on the $9.00 support price, § 1430.282 is revised to read as follows:

§ 1430.282 Price support program for milk.

(a) (1) The general levels of prices to producers for milk will be supported from April 1, 1977, through March 31, 1978, at $9.00 per hundredweight for manufacturing milk.

(2) Price support for milk will be through purchases by Commodity Credit Corporation of butter, nonfat dry milk, and Cheddar cheese, offered subject to the terms and conditions of purchase announcements issued by the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(3) Commodity Credit Corporation may, by special announcements, offer to purchase other dairy products to support the price of milk.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from:

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Commodity Operations Division, Washington, D.C. 20250; or

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Prairie Village ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208.

(b) (1) Commodity Credit Corporation will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

[In dollars per pound]

Commodity and location	Produced before Apr. 1, 1977	Produced on or after Apr. 1, 1977
Cheddar cheese: Standard moisture, 37.8 to 39.0 pct:[1]		
40-pound blocks, U.S. Grade A or higher	0.9250	0.9800
500 pounds in fiber barrels, U.S. Extra Grade[2]		.9500
Nonfat dry milk, spray process, U.S. Extra Grade:[3]		
Unfortified	.6240	.6800
Fortified (vitamins A and D)	.6340	.6950
Butter: U.S. Grade or A higher, New York, N.Y., Jersey City, Newark, and Secaucus, N.J.	.9275	1.0275

[1] The price per pound for cheese which contains less than 37.8 pct moisture shall be as specified in form ASCS-150. Copies are available in offices listed in (a)(4).

[2] Also includes granular cheese.

[3] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of 0.50 (½) per pound of nonfat dry milk.

(2) Offers to sell butter at any location for which a price is not specifically provided for in this section will be considered at the price set forth in this section for New York City, less 80 percent of the lowest published domestic railroad through freight rate for frozen butter per pound gross weight for a 60,000 pound carlot, in effect at the beginning of each marketing year (April 1), from such other point to New York City. The minimum price at any location shall be the price at New York City minus three cents per pound. Bulk butter offered in the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, must have been produced in such states. Butter produced elsewhere is ineligible for offering to CCC in such states.

(c) (1) The block cheese shall be U.S. Grade A or higher; the barrel cheese shall be U.S. Extra Grade.

(2) The nonfat dry milk shall be U.S. Extra Grade, except moisture content shall not exceed 3.5 percent.

(3) The butter shall be U.S. Grade A or higher.

(d) The products shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(e) Purchases will be made in carlot weights specified in the announcements. Grades and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Sec. 201, 401, Pub. L. 439, 81st Cong., 63 Stat. 1052, 1054, as amended (7 U.S.C. 1446, 1421); sec. 4(d), Pub. L. 806, 80th Cong., 62 Stat. 1070, as amended (15 U.S.C. 714b(d).)

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The Commodity Credit Corporation has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107 and certifies that an Inflation Impact Statement has been prepared.

Signed at Washington, D.C. on: April 21, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-12398 Filed 4-29-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE

Commission Review of Appeal Board Decisions and Procedure for Request for Stays

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules of practice to provide a procedure for parties to petition the Commission for a discretionary review of a decision or action of the Atomic Safety and Licensing Appeal Board. The Commission is also providing a procedure for parties to apply for stays of the decisions or actions of both presiding officers and the Atomic Safety and Licensing Appeal Board. Based on its experience, the Commission is issuing these rules because it believes that they will be of benefit to parties to proceedings.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Martin G. Malsch, Director and Chief Counsel, Regulations Division, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (202–492–7203).

SUPPLEMENTARY INFORMATION: On November 13, 1976, the Commission published for comment two new proposed sections to 10 CFR Part 2. The first of the new sections, § 2.786, would provide a procedure for Commission review of decisions and actions of an Atomic Safety and Licensing Appeal Board. The second new section, § 2.788, would provide a procedure for requesting stays of decisions and actions of presiding officers and Atomic Safety and Licensing Appeal Boards pending review.

It is anticipated that the use of petitions for discretionary review will increase participation in the Commission's decision making process and provide the Commission with focused views on the validity and impact of Appeal Board decisions. It is hoped that the new procedures will not impose an expensive and time consuming burden on parties to licensing proceedings and ultimately on the public.

The rules of practice for requesting stays now provide a formal procedure for seeking that extraordinary relief. As with the procedure for discretionary review, the Commission intends to follow closely the application of these rules in practice with a view to making whatever changes are necessary to reduce unnecessary burdens and prevent abuse or unwarranted harassment of parties by their misuse.

Comments. Nine letters of comment were received from members of the public with respect to these two proposed sections. All of the comments favored the promulgation of regulations providing for discretionary review and for stays of decisions. Several of the commentors, however, had detailed remarks on the procedures and offered detailed drafting changes to the proposed regulations. The comments and their resolutions are as follows:

(1) Two comments were addressed to § 2.786(b)(1). It was noted that the paragraph allowed for a petition with respect to an important question of law or policy, but did not allow for a petition with respect to factual matters. It was pointed out that the rule in § 2.786(b)(4)(ii) implied a review of a question of fact when an Atomic Safety and Licensing Board and an Appeal Board differed in their view of a factual issue. The comment is well taken, and § 2.786(b)(1) has been amended by the addition of the word "fact" before the phrase "law or policy." The second comment questioned the reasonableness of excluding petitions concerning interlocutory matters. The Commission has decided not to change the section in this regard. The review procedure under § 2.786(b) is intended to provide a limited review only of decisions and actions by Appeal Boards that would otherwise be final.

(2) With respect to proposed § 2.786(b)(2)(ii), it was pointed out that the final phrase "if they were not, why not" appeared to be in conflict with the language of § 2.786(b)(4)(iii) that petitions would not be granted to the extent they relied upon matters that could have been but were not raised before the Appeal Board. Asking for the petitioner to explain why matters were not raised appeared to some commentors to conflict with the latter provision. The point of confusion is recognized, and § 2.786(b)(2)(ii) has been amended so that it is clear that the explanatory statement required in the petition should address why matters not raised before the Appeal Board could not have been raised there. If the matter could not have been raised before the Appeal Board, then the constraint in § 2.786(b)(4)(iii) does not apply. A similar change has been made to § 2.788(b)(3).

(3) Several commentors questioned the wisdom of not allowing answers in support of a petition. The difficulty with such answers is that they could raise new arguments without giving other parties an opportunity to respond since, for purposes of efficiency, the Commission does not desire further pleadings after answers are filed. Accordingly, all those who support review shou'd petition under § 2.786(b)(1) within 15 days after service of the Appeal Board decision. This does not mean that duplicative petitions must be filed. Parties can communicate informally prior to filing, and one petition can incorporate by reference the substance of another.

(4) Several commentors questioned whether the limitations on review in § 2.786(b)(4)(ii), (iii) and (iv) should be as inflexible as they appear. It was suggested that in each of the three limiting subparagraphs the word "ordinarily" should be inserted to indicate that in each of those areas the Commission would also act in its discretion. The Commission in this respect intends a set of strict rules in order to retain the concept of a limited review. Accordingly, it prefers, at this time, not to exercise its discretion within the enumerated areas of constraint in § 2.768(b)(4)(ii), (iii) and (iv). The word "ordinarily" is retained in § 2.786(b)(4)(i) since that paragraph concerns more fundamental matters of Commission concern in which a broader degree of discretion is appropriate.

(5) Other comments on § 2.786(b)(4) suggested including important antitrust considerations and important procedural questions as reviewable matters under § 2.786(b)(4)(i). The Commission accepts these comments. The paragraph has been amended accordingly. In addition, one commentor suggested allowing a generalized right to request review as to questions of law in § 2.786(b)(4). The Commission believes, however, that at this time it is preferable procedure to limit its review of questions of law to those involving significant environmental, public health and safety, common defense and security, antitrust or procedural issues, or those questions of law which raise important questions of public policy. Accordingly, no change has been made in this regard.

(6) Commentors also question whether it was appropriate in § 2.786(b)(4)(ii) to preclude Commission review when both the Licensing Board and Appeal Board came to the same factual determinations when the factual determination by both was erroneous. The Commission believes that as to factual matters, two levels of decision within the agency are enough, and that there is no need for a third factual review by the Commission itself.

(7) Further question was raised by a commentor as to whether the constraint in § 2.786(b)(4)(iii) applied to issues raised sua sponte by the Appeal Board itself. The Commission believes that if the Appeal Board raises an issue sua sponte then that is an issue "raised before" the Appeal Board. In order to resolve the ambiguity an appropriate change is made in § 2.786(b)(4)(iii).

(8) In addition to the foregoing, a new paragraph (iv) has been added to § 2.786(b)(4). The new paragraph is in response to comments raising the question of the possibility of duplicate or alternative review requests, one by a motion for reconsideration filed with the Appeal Board and one by a petition for review filed with the Commission. The new paragraph states that a petition for review will not be granted as to issues raised before an Atomic Safety and Licensing Appeal Board on a pending motion for reconsideration. When a reconsideration motion is disposed of, a party may then seek further review by filing a petition for review under § 2.786(b)(1). Seeking reconsideration is not, however, a precondition for a § 2.786(b)(1) petition.

(9) Commentors also raised the question as to whether the proposed rule left open questions of finality of Commission decisions and orders. It is the considered judgment of the Commission that no changes are necessary in § 2.786(b)(5) to meet questions of finality. In the Commission's view, a decision is clearly final under the rule 20 days after filing the petition for review if the Commission has not acted, and, if the Commission grants the petition, Commission action would be final after it has reviewed the matter and issued its decision.

(10) With respect to § 2.786(b)(6) one commentor suggested that participation should not be limited to parties designated by the Commission, but that others should be allowed to file appropriate pleadings and briefs. Because the Commission may desire to limit review to issues involving only certain parties, it does not accept this suggestion.

(11) A comment raised the question as to the necessity of § 2.786(b)(7), noting that acceptance of petitions for reconsideration should be a matter of Commission discretion and need not be stated in a rule. The Commission believes that the provision that it will not accept petitions for reconsideration of Commission decisions granting or denying review in whole or part serves to put parties on notice not to file petitions for reconsideration. The Commission believes that at some point there must be an end to litigation before it. The provision also underscores the finality of denial by silence after 20 days.

With respect to proposed § 2.788, "Stays of Decisions of Presiding Officers and Atomic Safety and Licensing Appeal Boards Pending Review," several commentors commented upon the confusion engendered by including a parenthetical provision allowing an application for a stay of a decision or action denying or granting a stay within the provision for an application for a stay with respect to a decision or action on substantive issues. In order to resolve the apparent confusion the parenthetical expression is deleted from § 2.788(a) and a new paragraph (h) has been added to the section. The new paragraph provides that any party to the proceeding may file an application for a stay of the effectiveness of a decision or action denying or granting a stay. With respect to the decision or action of a presiding officer the new paragraph notes that the application shall be filed with the Atomic Safety and Licensing Appeal Board and with respect to the decision or action of an Atomic Safety and Licensing Appeal Board that the application shall be filed with the Commission. This aspect of the new paragraph differs from the general rule in § 2.788(f) as to where an application for a stay should be filed in other circumstances. The Commission agrees with commentors that it does not appear appropriate or necessary with respect to a request for a stay of a decision or action on a stay to go back again to the same body that either granted or denied the stay in the first instance. The Commission emphasizes, however, that this variation applies only to the unique situation of filing an application for a stay with respect to a decision or action that in itself denied or granted an application for a stay.

Other comments on § 2.788 were of a relatively minor nature and involved primarily drafting problems.

(1) A comment noted that it would be appropriate in § 2.788(b)(4) that references to the record with respect to factual disputes would be appropriate. The Commission agrees and has changed the wording of that paragraph accordingly.

(2) A commentor commented that § 2.788(c) was confusing as to the method for filing the application. The commentor apparently read the section as requiring that the procedure for serving shall be the same as the procedure for filing. This was not the intention of the Commission. The Commission intended that service shall be by the same method of communication as used for filing, that is, if the application is filed by telegram it should be served by telegram. Appropriate words have been added to clarify the intention.

(3) Several commentors noted that §§ 2.788(d) and 2.788(g) had different time periods and different rules for the filing of answers to applications for a stay. In order to resolve the apparent conflict, the Commission has decided to delete in its entirety § 2.788(g) on the ground that it is redundant and unnecessary if other appropriate drafting changes are made in § 2.788(d). These other changes are also responsive to comments. They include, amending § 2.788(d) to change the period of time for filing an answer to an application from 10 days to 7 days. Appropriate drafting changes are also made to indicate clearly that answers both supporting or opposing the granting of a stay may be filed within the time period allowed. Here, unlike the situation with petitions for review, answers in support may be unavoidable since time pressures could prevent the informal communications that enable one filing to incorporate another. It is further clarified that no further replies will be entertained on the ground that replies to answers are not seen as necessary at this stage since the issues should already be precisely defined. The last sentence of § 2.788(d) is amended to conform with the changes made in § 2.788(c) as to the use of like communications methods for both service and filing.

(4) Commentors also raise the question of whether it was approoriate to codify the criteria to be considered in granting or denying a request for a stay. The Commission is of the opinion that it is appropriate to codify these criteria in the regulations on the ground that the codification will assist the parties in framing their applications for and their answers to requests for stays. One commentor suggested removal of the word "highly" in the first criterion. That criterion, like the others, is based on *Virginia Petroleum Jobber's Association* v. *FPC*, 259 F. 2d 921, 925 (D.C. Cir. 1958), and represents a standard that has been previously applied by the Commission. See *In the Matter of Petition of Natural Resources Defense Council*, NRCI–76/2 at 78 (February 12, 1976). The precise phrasing of the first *Virginia Petroleum* criterion is whether the moving party has made a "strong showing that it is likely to prevail on the merits of its appeal." That phrasing has been substituted for the previous version of the first criterion.

(5) A commentor suggested that § 2.788(f) be revised to require that the request for a stay be made to the deciding body above the body that issued the decision as to which the stay is requested. That is, with respect to an Atomic Safety and Licensing Board decision the stay would be requested from the Appeal Board. With respect to an Appeal Board decision the request for a stay would be made to the Commission. The Commission does not believe it appropriate for this procedure to be followed with respect to requests for stays of decisions or actions on substantive issues. Unlike the case addressed in new § 2.788(h) dealing with a stay of a stay, the Commission believes it more desirable that the Appeal Board review in the first instance the request of a stay of its decisions or actions on substantive issues.

(6) Former § 2.788(h) has been renumbered as § 2.788(g), and has been redrafted as suggested by a commentor to provide greater clarity and precision as to the extraordinary request for a temporary stay to preserve the status quo. Also, a provision has been added to the effect that a party applying orally must make all reasonable effort to inform other parties orally of the application for a stay to preserve the status quo prior to the filing of answers.

(7) A request was made to define "decision or action" as used in both §§ 2.786 and 2.788. The Commission does not believe it is necessary to do so at this time. If experience shows that the phrase leads to unnecessary applications for review or a stay, the Commission can amend the rule to further limit its scope.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Part 2 are published as a document subject to codification, to be effective on June 1, 1977.

1. Section 2.786 is revised to read as follows:

§ 2.786 Review of decisions and actions of an Atomic Safety and Licensing Appeal Board.

(a) Within thirty (30) days after the date of a decision or action by an Atomic Safety and Licensing Appeal Board un-

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der § 2.785, the Commission may, in cases of exceptional legal or policy importance, review the decision or action on its own motion.

(b) (1) Within fifteen (15) days after service of a decision or action by an Atomic Safety and Licensing Appeal Board under § 2.785 other than a decision or action on a referral or certification under §§ 2.718(l) or 2.730(f), a party may file a petition for review with the Commission on the ground that the decision or action is erroneous with respect to an important question of fact, law, or policy.

(2) A petition for review under this paragraph shall be no longer than ten (10) pages, and shall contain the following:

(i) A concise summary of the decision or action of which review is sought;

(ii) A statement (including record citation) where the matters of fact or law raised in the petition for review were previously raised before the Atomic Safety and Licensing Appeal Board and, if they were not, why they could not have been raised;

(iii) A concise statement why in the petitioner's view the decision or action is erroneous; and

(iv) A concise statement why Commission review should be exercised.

(3) Any other party to the proceeding may, within ten (10) days after service of a petition for review, file an answer opposing Commission review. Such an answer shall be no longer than ten (10) pages and should concisely address the matters in paragraph (b) (2) of this section to the extent appropriate. No answer in support of a petition for review or further replies to answers will be entertained by the Commission.

(4) The grant or denial of a petition for review is within the discretion of the Commission, except that:

(i) A petition for review of matters of law or policy will not ordinarily be granted unless it appears the case involves an important matter that could significantly affect the environment, the public health and safety, or the common defense and security, constitutes an important antitrust question, involves an important procedural issue, or otherwise raises important questions of public policy;

(ii) A petition for review of matters of fact will not be granted unless it appears that the Atomic Safety and Licensing Appeal Board has resolved a factual issue necessary for decision in a clearly erroneous manner contrary to the resolution of that same issue by the Atomic Safety and Licensing Board;

(iii) A petition for review will not be granted to the extent that it relies on matters that could have been but were not raised before the Atomic Safety and Licensing Appeal Board. A matter raised sua sponte by an Appeal Board has been raised before the Appeal Board for the purpose of this section; and

(iv) A petition for review will not be granted as to issues raised before the Atomic Safety and Licensing Appeal Board on a pending motion for reconsideration.

(5) If within twenty (20) days after the filing of a petition for review the Commission does not grant the petition, in whole or in part, the petition shall be deemed denied, unless the Commission in its discretion extends the time for its consideration of the petition and any answers thereto.

(6) If a petition for review is granted, the Commission may issue an order specifying the issues to be reviewed and designating the parties to the review proceeding and direct that appropriate briefs be filed, oral argument be held, or both.

(7) Petitions for reconsideration of Commission decisions upon review, or granting or denying review in whole or in part, will not be entertained.

(8) Neither the filing nor the granting of a petition for review will stay the effect of the decision or action of the Atomic Safety and Licensing Appeal Board, unless otherwise ordered by the Commission.

(9) Except as provided in this section and Section 2.788, no petition or other request for Commission review of a decision or action of an Atomic Safety and Licensing Appeal Board will be entertained.

2. A new § 2.788 is added to read as follows:

§ 2.788 Stays of decisions of presiding officers and Atomic Safety and Licensing Appeal boards pending review.

(a) Within seven (7) days after service of a decision or action any party to the proceeding may file an application for a stay of the effectiveness of the decision or action pending filing of and a decision on an appeal or petition for review. Except as provided in paragraph (f) of this section, such an application may be filed with the Commission, Atomic Safety and Licensing Appeal Board, or the presiding officer.

(b) An application for a stay shall be no longer than ten (10) pages, exclusive of affidavits, and shall contain the following:

(1) A concise summary of the decision or action which is requested to be stayed;

(2) A concise statement of the grounds for stay, with reference to the factors specified in paragraph (e) of this section;

(3) In the case of an application to the Commission for stay of decisions or actions by an Atomic Safety and Licensing Appeal Board, a statement where (including record citation, if available) a stay was requested from the Appeal Board and denied. If no such request was made of the Appeal Board, the application should state why it could not have been made; and

(4) To the extent that an application for a stay relies on facts subject to dispute, appropriate references to the record or affidavits by knowledgeable persons.

(c) Service of an application for a stay on the other parties shall be by the same method, e.g. telegram, mail, as the method for filing the application with the Commission, Atomic Safety and Licensing Appeal Board, or the presiding officer.

(d) Within seven (7) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. Such answer shall be no longer than ten (10) pages, exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section to the extent appropriate. No further replies to answers will be entertained. Filing of and service of an answer on the other parties shall be by the same method, e.g. telegram, mail, as the method for filing the application for the stay.

(e) In determining whether to grant or deny an application for a stay, the Commission, Atomic Safety and Licensing Appeal Board, or presiding officer will consider:

(1) Whether the moving party has made a strong showing that it is likely to prevail on the merits;

(2) Whether the party will be irreparably injured unless a stay is granted;

(3) Whether the granting of a stay would harm other parties, and

(4) Where the public interest lies.

(f) An application to the Commission for a stay of a decision or action by an Atomic Safety and Licensing Appeal Board will be denied of a stay was not, but could have been, sought before the Appeal Board. An application for a stay of a decision or action of a presiding officer may be filed before either the Atomic Safety and Licensing Appeal Board or the presiding officer, but not both at the same time.

(g) In extraordinary cases, where prompt application is made under this section, the Commission, Atomic Safety and Licensing Appeal Board, or presiding officer may grant a temporary stay to preserve the status quo without waiting for filing of any answer. The application may be made orally provided the application is promptly confirmed by telegram. Any party applying under this paragraph shall make all reasonable efforts to inform the other parties of the application, orally if made orally.

(h) A party may file an application for a stay of a decision or action granting or denying a stay. As to a decision or action of a presiding officer the application shall be filed with the Atomic Safety and Licensing Appeal Board. As to a decision or action of the Atomic Safety and Licensing Appeal Board the application shall be filed with the Commission. In each case the procedures and criteria of paragraphs 2.788(a)-(e) shall be followed.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 27th day of April, 1977.

For the Nuclear Regulatory Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-12575 Filed 4-29-77;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Passthrough of Increased Non-Product Costs by Resellers and Retailers of Propane, Butane, and Natural Gasoline

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This document amends the Federal Energy Administration's (FEA), Mandatory Petroleum Price Regulations to allow small resellers and retailers of propane, butane, and natural gasoline the option of passing through without regard to any cents per gallon price limitation certain defined non-product cost increases incurred by the reseller or retailer in sales of propane, butane, or natural gasoline or of using the standard markup currently applied to sales of propane to reflect non-product cost increases of propane. Large resellers are required to use the former method.

Certain resellers and retailers may carry forward for possible future recovery increased non-product costs incurred in the sale of propane, butane, and natural gasoline which are not recovered in the current month. No amendments to the refiner price regulations are adopted.

The standard markup permitted sellers of propane apparently does not currently reflect the actual non-product cost increases being incurred by many firms. Thus, those sellers, currently forced to absorb increased non-product costs because the standard markup is too low, will be given the option of recouping actual cost increases.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. History

Pursuant to §§ 212.83(c)(2)(iii) and 212.93(b), refiners, resellers and retailers of propane, butane, and natural gasoline are permitted to charge a price for propane, butane or natural gasoline which is the weighted average price charged for the product to the class of purchaser concerned on May 15, 1973, plus an amount which reflects the dollar-for-dollar passthrough of the increased cost of the product since May 15, 1973. In addition, beginning April 1, 1974 (39 FR 12010, April 2, 1974), § 212.83(c)(2)(iii)(E) (originally § 212.87(c)(4)(vi)) and 212.93(b)(4) permitted sellers of propane in sales other than retail sales to add one-half cent per gallon and in retail sales to add one cent per gallon to prices otherwise permitted to be charged, to reflect non-product cost increases incurred by the seller in sales of propane after May 15, 1973.

On October 7, 1975 (40 FR 47755, October 10, 1975), §§ 212.83(c)(2)(iii)(E) and 212.93(b)(4) were amended to increase the maximum markup to reflect non-product cost increases in retail sales of propane from one cent per gallon to three cents per gallon, except for bulk sales to public utilities, synthetic natural gas plants and the petrochemicals industry. The increased non-product cost markups to these customers remained limited to not more than one cent per gallon. With respect to resellers and retailers of butane and natural gasoline, no price increases to reflect increased non-product costs were permitted.

The amendments issued today allow small resellers and retailers of propane, butane, and natural gasoline the option of passing through without regard to any cents per gallon price limitation certain defined non-product cost increases incurred by the reseller or retailer in sales of propane, butane, or natural gasoline or of using the standard cents per gallon markups currently applied to sales of propane to reflect non-product cost increases of propane. Large resellers (those with total sales of propane, butane, and natural gasoline in the preceding calendar year of five million or more gallons) are required to calculate their increased non-product costs pursuant to these amendments to the price regulations.

II. Standardized Markup Concept

The standardized cents-per-gallon markup to reflect cost increases was first implemented during Phase IV of the Cost of Living Council ("CLC") program for certain covered products, to serve as a guide to and as a ceiling on the amount of non-product cost increases which could be passed through in price increases. The standard markup served as a guide in determining price increases for the great majority of resellers and retailers because they were unable accurately to calculate actual non-product cost increases on a cents per gallon basis. It also served as a ceiling on the pass through of non-product costs by resellers and retailers because the standardized markups permitted were conservative estimates of actual non-product cost increases incurred by this segment of the industry.

The primary reasons the standardized markups to reflect increased non-product costs for covered products were adopted were administrative. First, thousands of small firms with unsophisticated accounting systems were subject to petrolum product price controls for the first time and accurate calculation of increased non-product costs for each covered product on a per-gallon basis could not realistically be expected. Second, the CLC and subsequently the FEA did not have the manpower necessary to audit individual firms' non-product cost increase calculations and thus a total industry enforcement effort based on actual non-product cost increases was not feasible. Even though price increases to reflect the standardized markup must be cost justified, (See Rulings 1975-14 and 1975-16) because of the conservative markups permitted by FEA, a majority of retailers and resellers can cost justify the maximum amount permitted under the standardized cents per gallon markups.

III. Passthrough of Defined Non-Product Cost Increases

With respect to propane, butane, and natural gasoline, there are three reasons FEA is permitting certain resellers and retailers the option of using the standardized cents per gallon markup for propane—which serves as a guide to and limit on non-product cost increase passthroughs—or of permitting firms to pass through non-product cost increases calculated pursuant to certain defined category limitations for propane, butane, and natural gasoline, without regard to any cents per gallon limitation.

First, the number of resellers and retailers of propane, butane, and natural gasoline, in relation to the total number of resellers and retailers of petroleum products, is not large. Accordingly, it is feasible for FEA to monitor non-product cost increase calculations to insure they are calculated accurately.

Second, retailers and resellers of propane have considerable experience in making the computations necessary to comply with the new FEA regulations. The two increases in the standardized cents per gallon markup permitted to date for propane have been based on evidence supplied by the industry indicating that a larger markup was justified because of increased non-product costs. Thus, the majority of retailers and resellers of propane have demonstrated experience in making non-product cost increase computations on a cents per gallon basis.

Third, the conservative standard markup permitted sellers of propane apparently does not currently reflect the actual non-product cost increases being incurred by many firms. Thus, those sellers, currently forced to absorb increased non-product costs because the standard markup is too low, will be given the option of recouping actual cost increases.

IV. Non-Product Cost Categories

FEA is limiting the amount of increased non-product costs which may be passed through by sellers of propane, butane, and natural gasoline, which opt or are required to pass through non-product cost increases on the basis of specific cost calculations, to seven defined categories. The categories are labor, utility, interest, tax, maintenance, depreciation, and overhead cost increases, including rent and transportation. All non-product cost increase calculation must be computed and be at-

V42184 MAY 2 77 UMI

tributable to the sale of propane, butane or natural gasoline according to generally accepted accounting practices historically and consistently applied by the firm concerned.

A. *Labor cost.* Labor cost is the total dollar amount of remuneration or inducement, either direct or indirect, paid for personal services to personnel employed by the firm. Compensation for any services paid to personnel who own or control a financial interest (share in the firm's profits) in the firm are excluded from this calculation, except that firms may include other compensation paid to personnel whose sole financial interest is ownership of stock in a public corporation or participation in an established profit sharing plan historically offered by the firm in this calculation. Also, no amount included in maintenance cost increase may be included in labor cost increase.

B. *Utility cost.* Utility cost is the total dollar amount paid for the use of any service or commodity provided by a regulated utility, and includes but is not limited to increases in water, gas, electricity and telephone costs.

C. *Interest cost.* Interest cost is the total dollar amount of interest paid.

D. *Federal, state and local tax.* The federal, state and local tax category of non-product costs includes costs incurred in payment of new types of property, excise, franchise and other similar taxes such as license fees imposed since May, 1973, as well as taxes previously paid but not permitted to be passed through. Federal, state or local income taxes are excluded from this category of non-product costs.

E. *Maintenance cost.* Maintenance cost is the cost attributable to repairing and servicing the firm's equipment, machinery, and facility. Maintenance cost includes the cost of contract maintenance.

F. *Depreciation cost.* Depreciation cost is the cost attributable to depreciation of the firm's equipment, machinery, and facility.

G. *Overhead cost.* Overhead cost includes the dollar amount of costs of rent of real property, postage, office supplies, normal gas losses, insurance, employees' uniforms, outside legal and accounting fees, and transportation costs directly attributable to reselling and retailing operations. Transportation costs included in the computation of product cost increase (i.e., transportation cost associated with bringing product into inventory) are not included in this definition.

V. Non-Product Cost Increase Calculations

An annualized "sales adjusted method" is used to compute increased non-product cost. This method of computing cost increases is similar to the present "output adjusted method" for computation of refiners' non-product cost increases. Pursuant to the annualized "sales adjusted method" of computation, the amount of increase in each category of non-product cost is computed by determining the difference between the amount of the specific non-product cost per unit of propane, butane or natural gasoline sold in the year immediately preceding the current month and the amount of that cost in 1973 (calculated, as discussed below, by using the first three fiscal quarters of 1973 and the average of the fourth quarter of 1972 and the fourth quarter of 1973) per unit of propane, butane or natural gasoline sold, multiplied by the amount of sales in the month preceding the current month.

Most of the comments received by FEA regarding non-product cost increase calculations emphasized the "seasonality" of propane, butane, and natural gasoline sales. The comments pointed out that generally retailers and resellers have fewer sales in May than in the winter months. Because many non-product costs are fixed costs and are incurred evenly over a twelve-month period, the per unit non-product cost of propane, butane, and natural gasoline is higher in May than other months. Accordingly, using May, 1973, as a base month from which to measure non-product cost increases, would not accurately reflect non-product cost increases because of the "seasonality" of product sales.

Retailers and resellers calculating actual non-product cost increases as defined in this amendment shall therefore be required to use an imputed per unit non-product cost for the year 1973 to determine non-product cost computations. As recommended in a number of comments received, firms will compute their current month per unit non-product cost by calculating the per unit cost for the twelve months immediately preceding the current month. This moving average method will insure that firms recoup their total non-product cost increases and do not experience wide fluctuations in calculations of increased non-product costs (including possible decreases) because propane, butane, and natural gasoline sales are highly seasonal.

The 1973 cost per unit of propane, butane or natural gasoline sold shall be computed using the non-product costs incurred and the volume of the specific product sold during the first three fiscal quarters of 1973 (January 1, 1973 through September 30, 1973) plus the average of such costs incurred and volumes sold in the fourth quarters of 1972 and 1973. (October 1, 1972 through December 31, 1972 cost and volume plus October 1, 1973 through December 31, 1973 cost and volume divided by two (2).) Sellers are required to average incurred cost and volume sold during the fourth quarter of 1973 with such cost and volume for the fourth quarter of 1972 because warm weather in the fourth quarter of 1973 resulted in sellers incurring higher costs and selling lower volumes than normal during that quarter.

The abnormal business conditions that existed in the fourth quarter of 1973 were a result of the unusually warm weather experienced by most of the country during that quarter. This is illustrated by comparing "heating degree-days" of the fourth quarter of 1973 with "heating degree-days" of the fourth quarter of 1972, of the average of fourth quarters of the ten year period 1962 through 1971, and of the average of the fourth quarters of the thirty year period 1941 through 1970. A "heating degree-day" is the deviation of the mean daily temperature below a base temperature equal to 65° F adjusted to reflect population density.

4th quarter:	*Heating degree-days*
1972	1,847
1973	1,568
1962 to 1971, 10-yr average	1,682
1941 to 1970, 30-yr average	1,675

NOTE.—Based on information supplied by National Oceanic and Atmospheric Administration.

Thus, the "heating degree-days" in the fourth quarter of 1973 were significantly below that in the fourth quarter of 1972 and the ten and thirty year fourth quarter averages. An average of the two quarters approximates the historic average.

Increased non-product costs may be included in a sellers' price only to the extent they are not included in its May 15, 1973, selling price. Also, non-product cost must be computed pursuant to generally accepted accounting principles historically and consistently applied by the firm concerned.

VI. Refiners

In the notice of proposed rulemaking (42 FR 6857, February 4, 1977) FEA proposed that refiners calculate marketing cost attributable to their propane and butane wholesale and retail activities using the same defined categories of non-product cost increases as those being permitted retailers and resellers pursuant to this amendment. FEA has concluded that the proposed amendment for refiners should not be adopted for two reasons. First, the accounting problems created by the proposed amendments would be complicated and costly. Refiners' accounting systems do not segregate marketing cost as defined by FEA in the proposed amendments on a product basis. Second, refiners are currently allocating increased non-product cost as defined in "Fit" (§ 212.83(c)(2)(iii)(E)) (excludes marketing cost increase) and marketing cost increase, as defined in "Fit" (§ 212.83(c)(2)(iii)(E)) to propane, butane and natural gasoline on a volumetric basis. With respect to propane the passthrough of increased marketing cost in price increases is limited to the standardized cents per gallon markup set forth in subparagraph VI, "Fit." The total marketing cost increase allocated to butane and natural gasoline is available for recovery in price increases. Thus, the proposed amendment, which would have required refiners to calculate marketing cost increase using only the categories of marketing cost proposed in "Fit," would have reduced the total amount of marketing cost increase available for recovery on propane (subject to the limitation of "Fit"), butane, and natural gasoline.

VII. Filings

Sellers which elect or are required to pass through actual increased non-product costs are required to file with the appropriate FEA regional office their per unit non-product costs as defined in this section incurred in 1973, which is computed by using the sum of the average cost and volume for the fourth fiscal quarter of 1972 and 1973 and the first three fiscal quarters of 1973. Once a seller elects to pass through actual increased non-product cost, it shall continue to do so and any may not use the standardized markup in a subsequent month.

VII. Carry-Forward of Unrecovered Increased Non-Product Cost

Sellers of propane, butane, and natural gasoline may carry forward or "bank" non-product cost increases unrecouped in the current month for recovery in a subsequent month. This is consistent with FEA's policy of permitting refiners to "bank" unrecouped non-product cost increases.

Sellers may carry forward such unrecouped costs regardless of the option, as set forth in § 212.93(b)(4), the seller chooses to calculate increased non-product cost.

VIII. Natural Gasoline

FEA has determined that retailers and resellers of natural gasoline have incurred non-product cost increases similar to those incurred by sellers of propane and therefore should be permitted to pass through actual non-product cost increases. Thus, actual increased non-product costs as defined by FEA and incurred by retailers and resellers of natural gasoline may be passed through in price increases on a dollar-for-dollar basis.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended effective May 1, 1977.

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.93(b)(4) is amended to read as follows:

§ 212.93 Price rule.

(b) Not withstanding the provisions of paragraph (a) of this section:

* * * * *

(4) With respect to sales of propane, butane, and natural gasoline beginning with March, 1977: (i) A seller, which sold fewer than five million gallons of propane, butane, and natural gasoline in the immediately preceding fiscal year, may charge a price in excess of the amount otherwise permitted to be charged for propane, butane or natural gasoline pursuant to the provisions of this section to reflect increased non-product cost which the seller incurred since 1973: *Provided,* That the amount of increased non-product costs may be calculated only pursuant to either subparagraph (A) of § 212.93(b)(4)(iii), which permits computation and passthrough of increased non-product costs only for propane (and not for butane and natural gasoline), or subparagraph (B) of § 212.93(b)(4)(iii), which permits computation and passthrough of increased non-product costs for propane, butane, and natural gasoline. However, any seller which elects to pass through increased non-product cost pursuant to subparagraph (B) of § 212.93(b)(4)(iii), in subsequent months may not pass through increased non-product cost pursuant to subparagraph (A) of § 212.93(b)(4)(iii).

(ii) A seller with total sales of propane, butane, and natural gasoline of five million gallons or more during the immediately preceding fiscal year may charge a price in excess of the amount otherwise permitted to be charged for propane, butane or natural gasoline to reflect increased non-product cost which the seller has incurred since 1973 provided that the seller calculates non-product cost increases pursuant to § 212.93(b)(4)(iii)(B).

(iii) *Maximum allowable amounts of increased non-product costs.* The maximum amounts of increased non-product costs which may be reflected in prices charged for propane, or for propane, butane, and natural gasoline pursuant to § 212.93(b)(4)(i) and (ii) are either:

(A) Three cents per gallon with respect to all retail sales of propane except those to the petrochemicals industry, to public utilities and to synthetic natural gas plants; one cent per gallon with respect to retail sales of propane to the petrochemicals industry, to public utilities and to synthetic natural gas plants; and one-half cent per gallon with respect to all other sales of propane, or

(B) The amount of increased non-product cost incurred by the firm since May, 1973, which is computed pursuant to the factor "E'" as follows:

E' = the total increased non-product costs attributable to sales of propane, butane, and natural gasoline: *Provided,* That such costs are included only to the extent that such costs are attributable to propane, butane, and natural gasoline sales operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, and are not included in computing May 15, 1973 prices or in computing increased product costs. The costs treated as paid or incurred during a firm's fiscal year by inclusion in "E'" shall not exceed the amounts of such costs actually paid or incurred during that fiscal year. "E'" shall be computed by adding the amounts calculated by applying the following formula, "E_n'," separately to § 212.93(b)(4)(iii)(B), paragraphs (I) through (VII).

$$E_n' = V' \left(\frac{C_n'}{V^z} - \frac{C_n^z}{V^z} \right)$$

E_n' is the total increased non-product costs of the type "n": *Provided,* That such costs are included only to the extent that they are attributable to propane, butane, and natural gasoline sales operations under generally accepted accounting practices historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices or in computing increased product costs. Where:

"n" = references a category of non-product cost attributable to propane, butane, and natural gasoline sales operations as defined in paragraphs (I) through (VII), and is respectively labor, utility, interest, tax, maintenance, depreciation and overhead cost increases.

V' = the total volume of propane, butane, and natural gasoline sold by the firm in the period "t."

V^z = the total volume of propane, butane, and natural gasoline sold by the firm in the period "z."

V^t = the total volume of propane, butane, and natural gasoline sold by the firm in the period "z."

C_n^z = the total dollar amount of the particular non-product cost of the type "n" incurred in the period "z."

C_n' = the total dollar amount of the particular non-product cost of the type "n" incurred in the period "z."

"t" = the month of measurement (the month of measurement is the month immediately preceding the current month).

"z" = the nine month period beginning January 1, 1973 and ending September 30, 1973 plus the result of adding the three month period beginning October 1, 1972 and ending December 31, 1972 and the three month period beginning October 1, 1973 and ending December 31, 1973 and dividing that sum by two.

"z" = the twelve month period ending on the last day of the month of measurement, "t."

(I) *Labor cost increase.* Labor cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the total dollar amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed by the firm and directly involved in propane, butane, and natural gasoline sales operations, except personal services provided by personnel which own any portion of or receive any profits from the firm involved. (This exception does not include personnel which own stock in the firm if it is a public corporation or participants in any type of profit sharing plan historically offered by the firm.) No amount included in maintenance cost increase may be included in labor cost increase. The calculation must be based on the historical accounting practices employed by the firm and must be substantiated by a supporting document which summarizes the personnel considered in the calculation and the date of any remuneration increases.

(II) *Utility cost increase.* Utility cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for utilities.

(III) *Interest cost increase.* Interest cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to

V 42 84 MAY 2 77 UMI

the dollar amount of costs incurred for interest.

(IV) *Federal, state, and local tax cost increase.* Federal, state and local tax cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of federal, state, and local property, excise, franchise and other similar taxes incurred which are associated with propane, butane, and natural gasoline sales operations. Federal, state, and local income taxes are not includable in this amount.

(V) *Maintenance cost increase.* Maintenance cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the dollar amount of operating cost attributable to maintenance operations which are associated with propane, butane, and natural gasoline sales operations. Maintenance cost increase includes the cost of contract maintenance.

(VI) *Depreciation cost increase.* Depreciation cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the cost attributable to the depreciation of equipment, machinery, and the facility, which are associated with propane, butane, and natural gasoline sales operations: *Provided*, That such costs are computed according to generally accepted accounting practices historically and consistently applied by the firm and to the extent that such costs are not otherwise covered by this section. If Form 10–K is filed with the Securities and Exchange Commission or an analogous report is filed with a state regulatory agency, the amount computed for depreciation cost increase must be consistent with the figures used in preparing Form 10–K or such analogous report. Accounting procedures used to compute depreciation cost increase by refiners which do not file such form or report, or on whose behalf such form or report is not filed, must be calculated according to generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm. No capital investments may be included in non-product costs as expenses; all such investments must be capitalized and depreciated and included in the computation of "$E_n{}^t$" for depreciation cost increase.

(VII) *Overhead cost increase.* Overhead cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the dollar amount of costs of rent of real property, postage, office supplies, normal gas losses, insurance, employees' uniforms, outside legal and accounting fees, and transportation costs directly attributable to propane, butane, and natural gasoline sales operations and not included in the calculation of increased product cost: *Provided*, That such costs are computed according to generally accepted accounting practices and historically and consistently applied.

* * * * *

2. Section 212.93(e) is amended to read as follows:

§ 212.93 Price rule.

* * * * *

(e) Notwithstanding the provisions of paragraph (a) of this section:

(1) If a seller charges prices for a particular product that result in the recoupment of less total revenues than the total amount of increased product costs of that product incurred during that month, the amount of increased product cost not recouped by a price adjustment in the subsequent month pursuant to paragraph (a) of this section may also be added to the May 15, 1973, selling prices of that product in a subsequent month at the time the selling prices are computed pursuant to paragraph (a) of this section. A seller shall calculate its amount of increased product cost of a particular product not recouped, since the most recent price increase after November 1, 1973 to include the following: (i) Any "increased product costs" not added to the May 15, 1973 selling price at the time of the most recent price increase implemented after November 1, 1973 multiplied by the volume sold since that price increase, plus (ii) increases in the weighted average unit cost above the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multiplied by the volume of product purchased at each such increased product cost, less (iii) any decrease in the weighted average unit cost from the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multiplied by the volume of product purchased at each such lesser cost. With respect to each covered product, when a seller calculates its amount of increased product cost not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; except that, where an equal amount of increased product cost is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, such portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

(2) With respect to sellers of propane, butane, and natural gasoline beginning March 1, 1977, the amount of increased non-product cost calculated pursuant to paragraph (b)(4) of this section for propane, butane, or natural gasoline and not recouped by a price adjustment in the subsequent month pursuant to paragraph (b)(4) of this section may also be added to the May 15, 1973 selling price of propane, butane or natural gasoline at the time the selling prices are computed pursuant to paragraphs (a) and (b)(4) of this section.

[FR Doc.77-12466 Filed 4-27-77;2:34 pm]

Title 13—Business Credit and Assistance

CHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

ADMINISTRATIVE PROCEDURES

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The purpose of the regulations is to conform to recent statutory amendments (Pub. L. 94–188 and Pub. L. 94–487) to Title V of the Public Works and Economic Development Act of 1965, as amended. The amendments provide the Title V Regional Commissions with authority to develop and fund demonstration projects in energy, transportation, health and nutrition, education, and indigenous arts and crafts. They also revise the administrative procedures for the internal operation of the commissions, expand the criteria for the designation of regions to include certain single states and noncontiguous regions and update various Federal grant-in-aid programs enacted before September 30, 1979, which are eligible to be supplemented by grants.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Frances Pappas, Office of Regional Economic Coordination, U.S. Department of Commerce, 14th and "E" Streets NW., Washington, D.C. 20230 (202–377–5174).

SUPPLEMENTARY INFORMATION: Notice was given on December 21, 1976, at 41 FR 55553 of a proposal to amend Chapter V of Title 13 by revising Parts 500, 520, and 560, adding new Parts 551, 552, and 555 and reserving Parts 553 and 554.

Two responses were received with respect to the proposed regulations. The comments were seriously considered, and as a result, one addition has been made to these regulations as noted below.

DISCUSSION OF COMMENTS

Sections 551.9, 552.7, and 555.2. Comments were received recommending that community development corporations (CDCs) be included as eligible grant applicants under each of these sections since CDCs promote economic and social development and serve as a link between State and local developmental efforts. The recommendation was not accepted inasmuch as §§ 551.9(e) and 552.7(c) were determined to be broad enough in scope to include CDCs as well as other sub-State planning and development organizations.

Section 555.2 of the regulations is amended, however, to include a new paragraph (e) which reads, "Such other institutions or organizations permitted by law and approved by the commission." This language is identical to that contained in §§ 551.9(e) and 552.7(c).

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular No. A–107 and the interpretive guidelines issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an inflationary impact statement.

In consideration of the foregoing, 13 CFR, Chapter V, is hereby amended as set forth below.

Effective date: These amendments are effective May 2, 1977.

ROBERT T. HALL,
Acting Special Assistant to the Secretary for Regional Economic Coordination.

PART 500—ECONOMIC DEVELOPMENT REGIONS

1. Section 500.3 is amended by revising paragraph (b) to read as follows:

§ 500.3 Criteria for designation.

* * * * *

(b) With the exception of Alaska and Hawaii and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas, the region is within contiguous States, and

* * * * *

PART 520—REGIONAL COMMISSIONS

2. Section 520.1 is amended by designating the existing paragraph as "(a)" and by adding a new paragraph "(b)" to read as follows:

§ 520.1 Establishment.

(a) * * *

(b) If the Secretary finds that the State of Alaska or the State of Hawaii or the State of California or the State of Texas meets the requirements for an economic development region, he may at the request of the Governor of the affected State establish a Commission for such State.

3. Section 520.2 is amended by revising paragraph (b) as follows:

§ 520.2 Membership.

* * * * *

(b) The Federal Cochairman is appointed by the President, by and with the advice and consent of the Senate, and may have an alternate who is similarly appointed. The State member shall be the Governor. Each State member may have a single alternate appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff.

4. Section 520.3 is amended to read as follows:

§ 520.3 Initial meeting.

The Federal Cochairman, after appointment by the President and confirmation by the Senate, is authorized to call the initial organizational meeting of the regional commission at which time, among other things, the State members of the commission shall elect a State Cochairman from among their number for a term of not less than one year, and the commission may declare its establishment, adopt a charter listing its functions, and adopt resolutions governing the internal administration of the commission.

5. Section 520.4 is revised to read as follows:

§ 520.4 Voting.

(a) Decisions by a regional commission require the affirmative vote of the Federal Cochairman and a majority, or at least one if only one of two, of the State members.

(b) No decision involving commission policy, approval of regional development plans, implementing investment programs or allocating funds among the States may be made without a quorum of State members present.

(c) A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in paragraph (b) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.

(d) A State's single designated alternate may vote in the absence of the Governor at a meeting at which a quorum of Governors is required, but the alternate does not count toward establishing a quorum.

(e) An alternate may vote in the event of the absence, death, disability, removal, or resignation of the State member or Federal Cochairman for which he is an alternate.

(f) The Federal Cochairman shall not vote in the election of a State Cochairman or on the determination of the share of administrative expenses to be contributed by each State.

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6. New Parts 551 and 552 are added to read as follows:

PART 551—REGIONAL TRANSPORTATION

Sec.

551.1 Authority and purpose.
551.2 Studies and investigations.
551.3 Regional transportation networks.
551.4 Transportation demonstration projects.
551.5 Grants for planning, construction, purchase of equipment and operation of demonstration projects.
551.6 Construction or equipment of any component of a regional transportation demonstration projects.
551.7 Project financing.
551.8 Limitation on funds.
551.9 Eligible grant applicants.
551.10 Transfer of funds.
551.11 Records retention.

AUTHORITY: 42 U.S.C. 3192; 42 U.S.C. 3211; Executive Order 11386 (December 28, 1967); and Department of Commerce Organization Order 15–5 (August 30, 1975).

§ 551.1 Authority and purpose.

Section 513 of the Act (42 U.S.C. 3192) authorizes each regional commission, with the assistance of the Secretary of Transportation, to conduct investigations and studies of the region's transportation needs, to make grants for the planning of regional transportation networks, and to make grants for the construction, purchase of equipment, and operation of transportation demonstration projects.

§ 551.2 Studies and investigations.

(a) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of its economic development region established under section 501 (42 U.S.C. 3181) of the Act.

(b) Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting purposes of the Act.

(c) Information gathered from such studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

§ 551.3 Regional transportation networks.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks.

(a) The plans for these transportation networks should develop the proper mix of all transportation modes so as to best serve the economic, social, and environmental interests of the region.

(b) As the regional commissions study and plan their transportation systems, they should not only plan new systems but should study existing transportation programs and attempt to integrate their plans with these ongoing transportation programs.

§ 551.4 Transportation demonstration projects.

A regional transportation demonstration project should meet the following requirements:

(a) Responds to an identified transportation need or problem in the region.

(b) Possesses innovative characteristics for the area or region.

(c) Has objectives which are realistically attainable.

(d) May provide a useful model for others to emulate.

(e) Attracts other resources to assist in meeting a part of the cost and the total costs shall be reasonable in relation to the need for the project and the benefits to be gained.

§ 551.5 Grants for planning, construction, purchase of equipment and operation of demonstration projects.

Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the construction, purchase of equipment, and operation of transportation demonstration projects. Such funds:

(a) Should be used for projects which possess new or refined organizational, operational, or technical approaches to meet regional transportation needs.

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(b) May be used for payment of operating deficits.

(c) Should not be used in lieu of private capital particularly to construct facilities although useful to the development of a particular resource of the various regions.

§ 551.6 Construction or equipment of any component of a regional transportation demonstration project.

(a) No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 percent of such cost.

(b) The Federal contribution may be provided entirely from funds authorized under section 513 of the Act (42 U.S.C. 3192) or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities.

(c) The Federal portion of project costs shall not exceed 80 percent of project costs and funds authorized under section 513 of the Act may be used to increase the Federal share of any such project to 80 percent of the cost of such facilities.

§ 551.7 Project financing.

Grants under this part shall be made solely out of funds specifically appropriated for the purpose of carrying out Title V of the Act and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

§ 551.8 Limitation on funds.

In carrying out this part no regional commission shall expend more than $5,000,000 in any one fiscal year.

§ 551.9 Eligible grant applicants.

(a) States in the region, alone or with another member State, as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Local multijurisdictional or State public transportation authorities.

(d) State of federally licensed or certificated common carriers that the commission may approve.

(e) Such other institutions or organizations permitted by law and approved by the commission.

§ 551.10 Transfer of funds.

When the contribution is supplied by the commission and is provided in combinatio.. with funds available under other Federal grant-in-aid programs, the Federal Cochairman will, where appropriate, transfer funds for the construction, purchase of equipment, and operation (including payment of operation deficits) of such projects to the basic Federal grant agency administering the grant program or project being supplemented pursuant to a grant agreement between the Federal Cochairman and the appropriate official of the basic agency.

§ 551.11 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

PART 552—ENERGY DEMONSTRATION PROJECTS AND PROGRAMS

Sec.
552.1 Authority and purpose.
552.2 Regional energy policy.
552.3 Energy-related demonstration programs and projects.
552.4 Grants for demonstration programs and projects.
552.5 Limitation on funds.
552.6 Transfer of funds.
552.7 Eligible grant applicants.
552.8 Records retention.

AUTHORITY: 42 U.S.C. 3194; 42 U.S.C. 3211; Executive Order 11386 (December 28, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 552.1 Authority and purpose.

Section 515 of the Act (42 U.S.C. 3194) authorizes each regional commission to carry out energy-related demonstration projects and programs. Each regional commission should develop a regionwide strategy for (a) anticipating the effects of alternative energy policies, and practices, (b) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmental costs, and (c) implementing programs and projects to be carried out in the region by Federal, State and local government agencies in a coordinated way so as to better meet the special problems generated in the region by the Nation's energy needs and policies. Such special problems include those related to transportation, housing, community facilities and human services.

§ 552.2 Regional energy policy.

To formulate regional energy policies, the Federal Cochairmen and the regional commissions shall work closely with those Federal and State agencies having primary responsibility for developing national energy policy and basic energy research and development.

§ 552.3 Energy-related demonstration programs and projects.

Each regional commission is authorized to carry out energy-related demonstration projects and programs within its region, including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. An energy-related demonstration project should meet the following requirements:

(a) Responds to an identified energy impact or problem in the region.

(b) Possesses innovative characteristics for the area or region.

(c) Has objectives which are realistically attainable.

(d) May provide a useful model for others to emulate.

(e) Attracts other resources to assist in meeting a part of the cost and the total costs should be reasonable in relation to the need for the project and the benefits to be gained.

§ 552.4 Grants for demonstration programs and projects.

(a) Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and impact.

(b) The Federal contribution may be provided entirely from funds authorized under section 515 of the Act (42 U.S.C. 3194) or in combination with funds authorized under other Federal grant-in-aid programs.

§ 552.5 Limitation on funds.

In carrying out this part no regional commission shall expend more than $5,000,000 in any one fiscal year.

§ 552.6 Transfer of funds.

When the contribution is supplied by the commission and is provided in combination with funds available under other Federal grant-in-aid programs, the Federal Cochairman will, where appropriate, transfer funds for such projects to the basic Federal grant agency administering the grant program or project being supplemented pursuant to a grant agreement between the Federal Cochairman and the appropriate official of the basic agency.

§ 552.7 Eligible grant applicants.

(a) States in the region alone or with another member State as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Such other institutions or organizations permitted by law and approved by the commission.

§ 552.8 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

8. Two new Parts, Part 553 and Part 554, are reserved as follows:

PART 553—HEALTH AND NUTRITION DEMONSTRATION PROJECTS [Reserved]

PART 554—EDUCATION DEMONSTRATION PROJECTS [Reserved]

9. A new Part 555 is added to read as follows:

PART 555—INDIGENOUS ARTS AND CRAFTS DEMONSTRATION PROJECTS

Sec.
555.1 Authority and purpose.
555.2 Eligible grant applicants.
555.3 Limitation on funds.
555.4 Records retention.

AUTHORITY: 42 U.S.C. 3194; 42 U.S.C. 3211; Executive Order 11386 (December 28, 1967); and Department of Commerce Organization Order 15-5 (August 30, 1975).

§ 555.1 Authority and purpose.

Pursuant to section 515 of the Act (42 U.S.C. 3194), each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

§ 555.2 Eligible grant applicants.

(a) States in the region, alone or with another member State, as well as any political subdivision of the States.

(b) Agencies of State and local governments.

(c) Indian tribe, band, group, pueblo recognized by the Federal Government or by the States of the region in which the tribe, band, group, or pueblo is located.

(d) Nonprofit or tax supported organizations established to foster and encourage development of indigenous arts and crafts.

(e) Such other institutions or organizations permitted by law and approved by the commission.

§ 555.3 Limitation on funds.

In carrying out this part no regional commission shall expend more than $2,500,000 in any one fiscal year.

§ 555.4 Records retention.

(a) The commission shall keep, and shall require its grantees and contractors to keep, such records as will fully disclose the amount and disposition of the total budgeted funds, the purpose of the undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as may be necessary. Records pertaining to the expenditures of Federal funds should be preserved for a period of not less than three (3) years following disbursement of funds.

(b) The Secretary of Commerce and the Comptroller General of the United States or their duly authorized representatives shall have access for the purpose of audit and examination to any books, and documents, papers, and records of the commission pertaining to the expenditure of Federal funds that will facilitate an effective audit.

10. Section 560.7 is revised to read as follows:

§ 560.7 Definition of Federal grant-in-aid programs.

The term "Federal grant-in-aid programs" as used in this subpart means all Federal grant-in-aid programs in existence on or before September 30, 1979, assisting in the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of the Public Works and Economic Development Act.

[FR Doc.77-12526 Filed 4-29-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-CE-9-AD; Amdt. 39-2883]

PART 39—AIRWORTHINESS DIRECTIVES
Cessna Models 421B and 421C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain Cessna Model 421B and 421C airplanes which requires visual inspection of the pilot's and co-pilot's windshields on these pressurized airplanes for proper installation, possible cracks and repair if necessary. This action is necessary to assure continued structural integrity of the windshields, the failure of which could result in injury to occupants of the airplane.

EFFECTIVE DATE: May 9, 1977. Compliance required within 50 hours' time in service after the effective date of this AD for aircraft having 50 hours' or more time in service or upon the accumulation of 100 hours' time in service for those aircraft having 49 hours' or less time in service.

ADDRESSES: Cessna Service Letter ME77-5, dated March 14, 1977, and the attachment thereto dated March 11, 1977, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685-9111.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: The FAA has received reports showing that the co-pilot's windshield on two Cessna Model 421B airplanes fractured and separated completely from the airplanes. Investigation and tests performed by Cessna have demonstrated that the failures were caused by cracks which initiated at certain critical windshield bolt holes in which the bolt was bearing against the acrylic windshield material. The FAA has concluded that possible cracking and separation of windshields from these airplanes is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. Therefore, an AD is being issued requiring inspection of the windshields for proper installation, possible cracks and repair if necessary. The AD authorizes only those maintenance personnel that have been specially trained by Cessna or its designated representative to perform the required inspections and repairs. As an alternate means of compliance the AD provides provisions which allow continued use of the affected aircraft unpressurized until the inspections and necessary repairs can be accomplished. This AD was coordinated with the aircraft manufacturer prior to its issuance. The FAA has determined that there is an immediate need for a regulation to provide for the safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than thirty (30) days after its publication.

Accordingly, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended effective May 9, 1977, by adding the following new AD:

CESSNA: Applies to Models 421B (Serial Numbers 421B0301 thru 421B0970 except 421B0463, 421B0663, and 421B0962) and 421C (Serial Numbers 421C0001 thru 421C0272 except 421C0224, 421C0232, 421C0246, 421C0260, 421C0261 and 421C0264 thru 421C0271) airplanes

Compliance: Required as indicated, unless already accomplished.

To prevent separation of the pilot's or co-pilot's windshields from the aircraft, within 50 hours' time in service after the effective date of this AD for those aircraft having 50 hours' or more time in service or upon accumulation of 100 hours' time in service for those aircraft having 49 hours' or less time in service, accomplish either Paragraph A or B below:

A. Windshield Inspection and Repair: (1) Visually inspect the pilot's and co-pilot's windshield installation and if necessary, repair in accordance with Cessna Service Let-

V4284 MAY 2 77 UMI

ter ME77-5, dated March 14, 1977, or later approved revisions and Windshield Inspection and/or Modification Attachment thereto dated March 11, 1977, or later approved revisions.

(2) Paragraph A(1) must be accomplished only by maintenance personnel that have been specially trained by Cessna Aircraft Company or its designated representative for this purpose.

NOTE.—Owners/operators should contact their local Cessna dealer to schedule their airplane into the nearest Cessna dealership having the specially trained personnel required to accomplish Paragraph A(1).

B. Unpressurized Aircraft Operation: (1) Move the cabin pressurization switch to the "unpressurized" position and place adhesive tape over the switch to prevent its movement to the "pressurized" position.

(2) Fabricate a placard having white 3/16 inch or larger letters on a red background reading:

"Do Not Pressurize Cabin".

(3) Install the placard fabricated in Paragraph B(2) just above or adjacent to the cabin pressurization switch and operate the aircraft in accordance with this limitation until Paragraph A is accomplished.

C. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective May 9, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)); sec. 11.81 of the Federal Aviation Regulations (14 CFR 11.81).)

The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on April 22, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-12415 Filed 4-29-77;8:45 am]

[Airspace Docket No. 77-EA-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of North Philadelphia, Pa. Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will establish additional controlled airspace (transition area) so as to protect helicopters using a new instrument approach procedure in the Philadelphia Terminal Area. The new airspace will be added to the present North Philadelphia, Pa. Transition Area.

EFFECTIVE DATE: 0901 GMT May 1, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFOMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, February 17, 1977, (42 FR 9683) which proposed to alter the North Philadelphia, Pa., Transition Area, so as to provide additional controlled airspace protection for IFR arrivals into the Philadelphia Terminal Area.

Interested parties were given 30 days in which to submit comments on the proposal. The Department of Transportation, State of New Jersey, objected to the establishment of additional airways for the procedures on the grounds that there would be an unsafe inter-mix of IFR and VFR traffic and, as well as a loss of airspace to acrobatic training. However, this rule only applies to the transition area to which DOT has no objection. There were no further objections.

Accordingly, and pursuant to the authority delegated to me by the Administrator, (14 CFR 11.69), § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is amended, effective 0901 GMT May 1, 1977, by adoption of the amendment as proposed.

(Sections 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on April 20, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by adding the following to the description of the North Philadelphia, Pa. 700-foot floor transition area:

"; within 5 miles each side of a 219° bearing and a 039° bearing from a point, 40°05'51" N., 74°49'49" W., extending from 6 miles southwest of said point to 12 miles northeast of said point."

[FR Doc.77-12416 Filed 4-29-77;8:45 am]

[Airspace Docket No. 77-CE-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, at Humboldt, Nebraska

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700 foot transition area at Humboldt, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Humboldt, Nebraska, Municipal Airport, based on the Pawnee City, Nebraska, VORTAC.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Alden C. Schneider, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Regional 601 East 12th Street, Kansas City, Missouri 64106, 816-374-3408.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, March 10, 1977 (42 FR 13303), which proposed to designate a transition area at Humboldt, Nebraska, Municipal Airport, requested that the FAA establish a public use instrument approach procedure to that airport. The FAA has determined that this request was appropriate and has established such an instrument approach procedure based upon the Pawnee City, Nebraska VORTAC. In that regard a transition area is being designated at Humboldt, Nebraska, based at 700 feet above the ground to encompass the flight of aircraft executing the new instrument approach procedure. No objections were received from this notice. Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977, (42 FR 440), is amended, effective 0901 G.m.t. June 16, 1977, by adding the following new transition area:

HUMBOLDT, NEBRASKA

That airspace extending upward from 700 feet above the surface within a five mile radius of the Humboldt Municipal Airport (latitude 40°09'50" N, longitude 95°55'55" W); within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC, extending from the five mile radius to seven miles west of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on April 21, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc 77-12266 Filed 4-29-77;8:45 am]

[Docket No. 16745; Amdt. No. 91-137]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Incorporation by Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to incorporate by reference Annex 2 to the Convention on International Civil Aviation and make it a part of § 91.1 as provided by statute and regulation.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Leary, Air Carrier and General Operating Branch, Regulations and Enforcement Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3081.

SUPPLEMENTARY INFORMATION: By virtue of § 91.1(b)(1), each person that operates a civil aircraft of United States registry outside of the United States is required, when over the high seas, to comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation (Annex 2) and with §§ 91.70(c) and 91.90 of Subpart B of Part 91. Annex 2 has not been published in the FEDERAL REGISTER and, because of the length and complexity of the Annex and because it is periodically amended, its publication as an appendix to Part 91 would be impractical and expensive.

As provided by statute (5 U.S.C. 552 (a)(1)) and the Regulations of the Office of the Federal Register (1 CFR Part 51), matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register. Approval for incorporation by reference of Annex 2 has been obtained from the Director of the Federal Register and is available in the FAA Rules Docket for examination by interested persons.

Annex 2 is currently available for inspection at the FAA Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591.

Since this amendment is necessary to make the Federal Aviation Regulations conform to 5 U.S.C. 552(a)(1) and 1 CFR Part 51, and does not impose an additional burden on any person, I find that notice and public procedure thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective May 2, 1977, by adding a new paragraph (c) to § 91.1 to read as follows:

§ 91.1 Applicability.

* * * * *

(c) Annex 2 to the Convention on International Civil Aviation, Sixth Edition—September 1970, with amendments through Amendment 20 effective August 1976, to which reference is made in this part is incorporated into this part and made a part hereof as provided in 5 U.S.C. 552 and pursuant to 1 CFR Part 51, Annex 2 (including a complete historic file of changes thereto) is available for public inspection at the Rules Docket, AGC-24, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. In addition, Annex 2 may be purchased from the International Civil Aviation Organization (Attention: Distribution Officer), P.O. Box 400, Succursale; Place deL'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2.

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 5 U.S.C. 552(a)(1).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on March 23, 1977. A copy of the incorporated material is on file in the FEDERAL REGISTER Library.

Issued in Washington, D.C., on April 21, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-12269 Filed 4-29-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5821]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Amendments to Registration Form

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: As a result of its review of a revised simplified registration form for the offering of securities, the Commission has noted several areas requiring clarification or simplification. Consequently, the Commission amends the general instructions to a short form registration statement to indicate that it is not available for use by certain foreign private issuers, and the summary prospectus requirements for that form to permit the inclusion of certain statements of income. Also, an amendment is made to the form's general instructions and an undertaking concerning certain information which is required to be publicly disseminated. The changes are being made at this time so that qualifying registrants will have the benefit of the relaxation or clarification of requirements as quickly as possible.

EFFECTIVE DATE: April 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. 202-755-1750.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announces the adoption of amendments to Form S-7 (17 CFR 239.26) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.) concerning the availability of the form to certain issuers, summary prospectus requirements and certain information which must be publicly disseminated. The amendments are a relaxation of the present provisions of the form or in the nature of a clarification.

BACKGROUND

On December 20, 1976, the Securities and Exchange Commission announced the adoption of amendments to Form S-7 under the 1933 Act making the form available to a larger number of issuers.[1] As a result of its review of the revised form, the Commission is taking this opportunity to amend the general instructions to the form to preclude its use by certain foreign private issuers and also to amend the general instructions and an undertaking so that certain information need only be disseminated to common stockholders and holders of securities which are convertible into common stock. In addition, the Commission has amended the "Instructions As to Summary Prospectuses" for Form S-7 to revise the requirements regarding the inclusion of certain statements of income. Since this action represents a relaxation and a clarification of the form's provisions, the Commission finds that a significant additional burden is not being imposed upon registrants and that publication for comment pursuant to the Administrative Procedure Act of 1946 (5 U.S.C. 553) is unnecessary.

FOREIGN PRIVATE ISSUERS

The question has been raised as to whether all foreign issuers with securities listed on national securities exchanges regardless of their reporting obligations under the Securities Exchange Act of 1934 ("1934 Act") (15

[1] Securities Act Release No. 5792 (December 20, 1976) (41 FR 56301).

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U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) can use Form S-7, General Instruction A to Form S-7 might appear to permit any registrant with a class of securities registered pursuant to section 12(b) of the 1934 Act to use the form, assuming that all other conditions under Form S-7 are satisfied. The Division of Corporation Finance had consistently interpreted Form S-7 prior to its recent revision to be unavailable to foreign issuers that file annual reports on Form 20-K (17 CFR 249.320) with the Commission.[3] The rationale for the interpretation centered upon the type of information which was available from a foreign issuer's reports, usually on Form 20-K. This report does not require the caliber of information contained in Forms 8-K (17 CFR 249.308) and 10-K (17 CFR 249.310) and, when applicable, Form 10-Q (17 CFR 249.308a). Because the basis for abbreviated registration forms such as Form S-7 is found in the availability of extensive issuer information in 1934 Act reports on Forms 8-K, 10-K and 10-Q, when required, the Commission believes that the purposes for the 1933 Act could be frustated if an issuer with minimal information on file with the Commission could use Form S-7 or S-16 (17 CFR 239.27). Thus, Form S-7, as was the case prior to the recent amendments, is to be amended in order that it will not be permitted to be used by foreign issuers filing annual reports on Form 20-K. For the same reasons, those foreign issuers subject to section 13(a) or 15(d) of the 1934 Act required to file the same reports with the Commission as domestic issuers, i.e., Forms 8-K, 10-Q and 10-K, will be permitted to use Form S-7 or S-16 if all other conditions as to the use of the forms are satisfied. This position is also consistent with the prior administrative practice and the amendment to General Instruction A(a) clarifies the matter.

The Commission notes that there is support for this position in the language of the adopting release concerning the amendment of Form S-7, particularly in the emphasis which is placed upon 1934 Act reports and the availability of that information to prospective investors[3] as well as the absence therein of an affirmative statement that the prior administrative practice in this regard had been abandoned.

SUMMARY PROSPECTUSES

The Commission this day has also amended the "Instructions As to Summary Prospectuses" for Form S-7 by making Instruction 1(g) require either the information which is contained in Item 6 of Form S-1 (17 CFR 239.11) or that contained in Item 6 of Form S-7 except that such information in the latter case is not required to be separately reported upon by the independent public accountants. Generally, Item 6 of Form S-1 only requires a summary of operations for the registrant whereas the comparable Form S-7 requirements entails complete certified statements of income. In the past, for Form S-7 summary prospectus purposes, the Division of Corporation Finance has permitted an uncertified summary of operations to be used in lieu of the certified statements, upon the application of the registrant.[4] Consequently, the instruction change being adopted today merely simplifies the procedure by giving the registrant the option of including full statements or a summary of operations.

DISSEMINATION OF INFORMATION

The Commission has also amended General Instruction A(b)(3) and Undertaking D to Form S-7 so that the information contained in Part II of Form 10-K is only required to be disseminated to common stockholders and holders of securities convertible into common stock. The provisions referred to above as presently structured require dissemination of an annual report containing the information called for by rule 14a-3(b) (17 CFR 240.14a-3(b)) as well as Part II of Form 10-K, both before and after the filing of a registration statement on Form S-7. The purpose of this requirement is to ensure a wide distribution of information about issuers using Form S-7, when the issuer is subject to section 15(d) of the 1934 Act and not section 12. The importance of requiring the information of Part II of Form 10-K where an offering involves securities other than common stock or convertibles into common stock has been called into question. The argument presented is that the information in Part II of Form 10-K which requires disclosure of director and officer identification, background, remuneration and certain transactions is not of material importance to purchasers of debt securities and preferred stock. The Commission finds some merit to these arguments and is making appropriate revisions to the general instruction and undertaking previously referred to.

These modifications are taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10 and 19(a) thereof. The text of the amendments to Form S-7 follows.

ADOPTION OF AMENDMENTS

Text of amendments to Form S-7.—Form S-7 (17 CFR 239.26) is amended to read as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

GENERAL INSTRUCTIONS

A. *Rule as to use of form S-7.* Any registrant which meets the following conditions may use this form for registration of securities under the Securities Act of 1933:

(a) The registrant (1) has a class of securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act or is required to file reports pursuant to section 15(d) of the above Act. A foreign issuer comes within the purview of this instruction but only if it is required to file the same reports with the Commission under section 13(a) or 15(d) of the above Act as a domestic issuer.

(b) The registrant (1) has been subject to the requirements of section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d), as applicable, for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the twelve calendar months preceding the filing of the registration statement; and (3) if subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by rule 14a-3(b) and Part II of Form 10-K under the Securities Exchange Act of 1934 within the twelve calendar months preceding the filing of the registration statement, except that the information required by Part II of Form 10-K need only be provided to common stockholders and holders of securities convertible into common stock.

* * * * *

UNDERTAKINGS

A. to C. (No change.)

D. The following undertaking shall be included in the registration statement if the registrant is subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934:

"The undersigned registrant hereby undertakes, so long as it remains subject to a duty to file under section 15(d) of the Securities Exchange Act of 1934 to send to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by rule 14a-3(b) and Part II of Form 10-K under the Securities Exchange Act of 1934, except that the information required by Part II of Form 10-K need only be provided to common stockholders and holders of securities convertible into common stock."

* * * * *

INSTRUCTIONS AS TO SUMMARY PROSPECTUSES

1. A summary prospectus used pursuant to rule 434A (17 CFR 230.434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) to (f) (No change.)

(g) Item 6 except that the information is not required to be separately reported upon by the independent accountants, or the information required by Item 6 to Form S-1 (17 CFR 239.11);

(h) to (k) (No change.)

2. to 3. (No change.)

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 15, 1977.

[FR Doc.77-12417 Filed 4-29-77;8:45 am]

[3] Under rule 401 (17 CFR 230.401), a registration statement is deemed filed upon the proper form unless the Commission objects prior to its effective date. On rare occasions where such an issuer improperly used Form S-7, the Division did not insist upon a refiling on Form S-1 (17 CFR 239.11) but permitted the registrant to use Form S-7 provided the disclosure required by Form S-1 was contained in the registration statement.

[3] 41 FR at 56301 n. 2, 56302 n. 7 and accompanying text.

[4] General Instruction F to Form S-7 permits the Commission, upon the registrant's request and where consistent with investor protection, to accept such statments. See also Instruction 3 to Instructions As To Summary Prospectus.

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER S—CONSTRUCTION

PART 219—1976–1977 EMERGENCY DROUGHT ASSISTANCE AND DEFERMENTS

Establishment of New Part

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: These rules add a new part to the Code of Federal Regulations which implements the Emergency Drought Act of 1977. These new regulations provide guidelines for obtaining financial assistance to remedy the effects of actual or prospective substantial economic injury resulting from the 1976–77 drought; includes short-term actions to increase water supplies and to repair, replace and improve the affected water supply facilities on Indian Irrigation Projects; and actions to lessen drought damage to Indian fisheries.

DATES: This rule is effective April 7, 1977 and expires on September 30, 1977.

ADDRESS: Send comments for consideration in future modifications to: Commissioner of Indian Affairs, Attention: Charles P. Corke, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Charles P. Corke, same address as above, telephone number 202—343-2287.

SUPPLEMENTARY INFORMATION: Legislation to provide temporary authorities to the Secretary of the Interior (acting through the Bureau of Reclamation and the Bureau of Indian Affairs) to facilitate emergency actions to mitigate the impacts of the 1976–77 drought was enacted by the Congress and signed by President Carter on April 7, 1977. The legislation provides the authority to appropriate $100 million to augment, manage, and conserve water supplies for irrigation farming operations on projects constructed or funded under Reclamation law, Indian irrigation projects constructed by the Secretary, and irrigation projects financed with non-Federal funds. The objective is to mitigate losses and damages due to the 1976–77 drought period.

Under the Act, the funds may be used to (a) augment water supplies in 1977 by permitting Federal Reclamation Projects and Indian Irrigation Projects constructed by the Secretary to undertake construction management and conservation activities to alleviate the impact of the 1976–77 drought, (b) establish a water bank to assist water users to purchase water from willing sellers including producers of lower value annual crops and redistribute such available water supplies for the maintenance of higher value perennial crops, foundation dairy and beef cattle herds and other breeding stock and other uses as appropriate; and (c) to conduct studies to identify opportunities to augment, utilize or conserve water supplies and evaluate potential facilities to mitigate the effect or recurrence of the current emergency and make recommendations to the President and Congress.

The Secretary's authority under the Emergency Fund Act of June 26, 1948, is broadened to cover actions because of the 1976–77 drought and allows projects financed with non-Federal funds to obtain reimbursable loans from the expanded Emergency Fund for drought measures. However, the funds for non-Federal projects are limited to 15 percent of the available funds, and not more than $1 million may be expended for any individual non-Federal contracting entity.

During fiscal year 1977, a State water resource agency may obtain emergency funds up to $1 million in a given State for its drought emergency programs that provide benefits of a widespread and diffused nature, but the total for this program is limited to 5 percent of the available funds. Expenditures for those State programs are nonreimbursable.

Funds are authorized up to $10 million on a nonreimbursable basis to purchase or to acquire entitlement to water from an available source to mitigate damages to fish and wildlife resources caused by drought.

The Secretary is authorized to defer payment of construction installments and operation and maintenance costs owed to the United States by a contracting entity in calendar year 1977 because of the financial hardship attributable to the drought.

NOTE.—As specified in Sec. 5 of the Act, "actions taken pursuant to this Act are in response to emergency conditions and depend for their effectiveness upon their completion prior to or during the 1977 irrigation season and, therefore, are deemed not to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969." (83 Stat. 852, as amended, 42 U.S.C. 4321).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget (OMB) Circular A-107.

The authority for the Secretary to issue these regulations is contained in Pub. L. 95-18.

Subchapter S, of Chapter I of Title 25 of the Code of Federal Regulations is amended by adding a new Part 219, to read as follows:

Sec.
219.0 General.
219.1 Objective.
219.2 Applicant eligibility.
219.3 Definitions.
219.4 Construction, management and conservation activities.
219.5 Water bank program.
219.6 Deferment of 1977 payments.
219.7 Programs pursuant to the Emergency Act of 1948.
219.8 Fish and wildlife mitigation procedures.
219.9 Studies and reporting requirements.
219.10 Disclaimer.

AUTHORITY: Pub. L. 95-18.

§ 219.0 General.

This Part 219 prescribes the policies, procedures, and authorizations of the Bureau of Indian Affairs for making funds available to Indian Irrigation Projects constructed by the Secretary, deferring payments and assisting Tribal fisheries pursuant to the Emergency Drought Act of 1977.

§ 219.1 Objectives.

The basic objective is to provide financial assistance to Indian Irrigation Projects constructed by the Secretary to drill wells, install pumps in wells, drains, lakes and streams; build diversion structures for providing additional water; install water conservation measures such as replacing open ditches with pipes and lining of canals and laterals; implement improved system operations and irrigation practices; defer installment payments on construction or

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operation and maintenance costs owed to the United States for 1977 by existing contracting entities due to hardship conditions created by the 1976–77 drought; and take all other appropriate actions to alleviate the effects of the 1976–77 drought.

§ 219.2 Applicant eligibility.

(a) Applicants eligible for financial assistance for construction, management and conservation activities are Indian irrigation projects constructed by the Secretary located in an area experiencing water shortage due to the 1976–77 drought.

(b) Loans requested by individuals on Indian irrigation projects constructed by the Secretary shall be processed under existing authority of the Department of Agriculture.

(c) Assistance for acquisition and transportation of water (water bank) and for expenditure from the emergency fund created by the Act of June 26, 1948 (62 Stat. 1052) will be processed under Part 423 of Title 43 of the Code of Federal Regulations promulgated by the Bureau of Reclamation.

§ 219.3 Definitions.

(a) *Act.* The Emergency Drought Act of 1977.

(b) *Commissioner.* The Commissioner of the Bureau of Indian Affairs.

(c) *Secretary.* The Secretary of the Interior.

(d) *Drought.* The 1976–77 drought.

(e) *Contracting entity.* An Indian Tribe utilizing contracting procedures provided in Part 271 of this Title, "Contracts under Indian Self-Determination Act," (Pub. L. 93–638, 25 U.S.C. 450).

(f) *Indian tribe.* Any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(g) *Indian irrigation projects constructed by the Secretary.* Any Irrigation Project within an Indian Reservation constructed by or under the direction of the Secretary or constructed by Indians or Indian Tribes utilizing funds advanced by the Secretary for that purpose. An entity such as the San Carlos Indian Irrigation Project will be treated as if it were entirely within an Indian Reservation for purposes of these rules.

§ 219.4 Construction, management and conservation activities.

(a) The Secretary is authorized to make reimbursable and non-reimbursable funds available to Indian Irrigation Projects constructed by the Secretary for them to undertake such activities as the drilling of wells; installing pumps in wells, drains, lakes, and streams; building diversion structures for providing additional water; installing water measuring devices; implementing improved system operations and irrigation practices; and other appropriate actions to alleviate the effects of the 1977 drought.

(b) Where reimbursable funds are provided, Indian lands shall be treated in accordance with the Act of July 1, 1932 (25 U.S.C. 386a), commonly known as the Leavitt Act, which provides "* * * the collection of all construction costs against any Indian-owned lands within any government irrigation project is hereby deferred, and no assessments shall be made on behalf of such charges against such lands until the Indian title thereto shall have been extinguished * * *" (47 Stat. 564).

(c) Applications for financial assistance shall include appropriate information as follows:

(1) Identification of tribal entity with name, address, telephone number and title of the contact official;

(2) Identification of plans to construct or install facilities and the expected completion date;

(3) Relevant data, records or statements supporting the need;

(4) A resolution setting forth the funding needs and purposes;

(5) Other relevant supporting data or justification.

(d) Applications must be postmarked no later than June 1, 1977 to be eligible under the initial allocation of funds. Applications postmarked after June 1, 1977 will be considered within remaining fund availability.

(e) All facilities obtained or constructed must be installed and operational on or before November 30, 1977.

(f) Financial assistance for facilities on Indian Irrigation Projects constructed by the Secretary containing both land in fee title and Indian land held in Trust will be handled as follows:

(1) The ratio of each category of land—Trust or fee—to the total project acreage and the per acre cost will be determined.

(2) Funds expended on behalf of Indian Trust land will be either non-reimbursable or, if reimbursable, collection will be deferred under terms of the Leavitt Act.

(3) Funds expended on behalf of fee land will be reimbursable and considered as an interest free loan. The loan will be repaid in annual installments without interest within 5 years beginning not later than the first year following the next year of normal water supply, as determined by the Secretary or his designee. In the event the facilities provided generate benefits which are usable beyond 1977, the repayment period for those items may be established beyond 5 years beginning not later than the first year following the next normal water supply as determined by the Secretary or his designee; however, such repayment period shall be based upon the payment capacity of the water users, or the estimated useful life of the facilities whichever produces a shorter repayment period.

(g) Estimated costs associated with pumping water from underground aquifers, dead pool storage, rivers, drains, etc. may be capitalized and included in reimbursable loans if such costs will be in excess of the reasonable ability to pay such operation and maintenance costs as they occur.

(h) Repayment contracts for reimbursable loans will be developed separately and apart from existing repayment contracts. The document will cover the terms and conditions for repayment specified above and will be approved by the appropriate Area Director of the Bureau of Indian Affairs on behalf of the Secretary following review and sufficiency of the form by the Department of the Interior Field or Regional Solicitor.

§ 219.5 Water bank program.

Indian Irrigation Projects constructed by the Secretary are eligible to participate in the water bank provisions of the Act. Rules for participation are contained in Parts 423.5–423.9 of Title 43 of the Code of Regulations promulgated by the Bureau of Reclamation.

§ 219.6 Deferment of 1977 payments.

(a) The Secretary or his designee may defer payments for construction installments or operation and maintenance costs owed to the United States by non-Indian water users on Indian Irrigation Projects constructed by the Secretary by a showing of hardship conditions related to the 1976–77 drought.

(b) Deferral of payment or payments of individual non-Indian water users or groups of users with similar circumstances will be analyzed on a case-by-case basis taking into account ability to pay the 1977 payment or payments based upon a financial showing of hardship related to the 1976–77 drought.

(c) The application for a deferment action shall include appropriate information as follows:

(1) Identification of name or names, address, and telephone number;

(2) Amount and type of 1977 payment or payments requested for deferral;

(3) Justification for the needed deferment related to the 1976–77 drought conditions;

(4) Relevant financial data, records, or statements which demonstrate or support the need for financial relief;

(5) A statement committing to repay the deferment caused by the application;

(6) Other relevant and supporting data or justification.

(d) Construction installments or operation and maintenance costs owed to the United States for 1977 may be deferred as provided in (a) and (b) above. Such deferment action granted will be documented by a contract containing the following conditions:

(1) Beneficiaries who receive the relief generally will repay the deferment. Any deferred payment or payments shall be rescheduled for repayment in annual installments, along with current payments, as soon as practicable within the water users payment capacity. The initial payment for the deferred amount shall begin not later than the first year following the next year of normal water supply, as determined by the Secretary or his designee. Such deferred payments may be added to the end of the repayment period if necessary to stay within payment capacity or capability.

(2) Provisions will be included providing for repayment of the deferred installment earlier than the negotiated time period.

(3) The contract form will be simplified to the extent practicable but will properly reference existing contracts, amendments, or supplements. No new terms or conditions will be added except those required to repay the deferred amount and will be negotiated based on the criteria set forth in this section.

(4) Contracts meeting the above criteria will be approved by the appropriate Area Director of the Bureau of Indian Affairs in behalf of the Secretary following review of the legal sufficiency of such contracts by the Solicitor.

§ 219.7 Programs pursuant to the Emergency Fund Act of 1948.

Indian Irrigation Projects constructed by the Secretary are eligible to participate in programs administered by the Bureau of Reclamation under the Emergency Fund Act of 1948 (62 Stat. 1052) as authorized and broadened by this Act. Rules for participation are contained in §§ 423.14–423.17 of Title 43 of the Code of Federal Regulations promulgated by the Bureau of Reclamation.

§ 219.8 Fish and wildlife damage mitigation procedures.

(a) Non-reimbursable funds up to $10 million may be expended by the Secretary to purchase or otherwise acquire available water or entitlement to water to mitigate damage to fish and wildlife resources caused by the 1976–77 drought.

(b) Applications from Tribes must be received by June 1, 1977 in order to be considered in the initial allocation of funds. The need for action must be attributable to the 1976–77 drought. Area Directors of the Bureau of Indian Affairs shall contact prospectively eligible Tribes to ascertain needs. If a need exists the Area Director shall assist the Tribe to find a solution and to prepare an application for funding under this section. The Area Director shall submit any applications received to the Commissioner with recommendations for consideration. Timely applications from Indian Tribes will be considered by the Secretary simultaneously with applications received by the Bureau of Reclamation from other entities.

(c) The application for non-reimbursable funds pursuant to this section shall include appropriate information as follows:

(1) Identification of the Tribe together with the name, address, telephone number and title of the contact official.

(2) Identification of the water acquisition need and plans, the quantity of water involved, the cost, the benefits justifying the expenditure and other relevant information.

§ 219.9 Studies and reporting requirements.

(a) A detailed report on expenditures and accomplishments under the Act will be submitted to the President and the Congress on or before March 1, 1978.

(b) The Secretary is authorized and directed

"to undertake expedited evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of the current emergency and make recommendations to the President and to the Congress evaluating such potential undertaking including, but not limited to, wells, pumping plants, pipelines, canals, and alterations of outlet works of existing impoundments."

Proposals by Tribes and/or water-users are encouraged and may be submitted to the appropriate Area Director.

§ 219.10 Disclaimer.

Actions taken or water used pursuant to this Act do not modify, alter, or otherwise affect existing Federal, Indian, State, local entity, or individual rights to the use of water nor modify the terms of any interstate compact.

CECIL D. ANDRUS,
Secretary.

APRIL 22, 1977.

[FR Doc.77-12482 Filed 4-29-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7484]

PART 301—PROCEDURE AND ADMINISTRATION

Delivery of Refund Checks in Litigated Cases

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains an amendment to the regulations relating to authority to make credits or refunds. The amendment identifies who will be responsible for delivering a refund check to the taxpayer or the counsel of record in a United States district court proceeding. This change is necessary because the Department of Justice has revised its procedures for delivery of refund checks in the United States district court proceedings.

DATE: This amendment to the regulations applies to claims reduced to judgment or settled in the course of or as a result of litigation after March 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John H. Parcell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) 202–566–3328.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains an amendment to the Income Tax Regulations (26 CFR Part 301) under section 6402 of the Internal Revenue Code of 1954, relating to authority to make credits or refunds. Previously, checks paying claims reduced to judgment or settled in the United States district courts had to be sent to the appropriate United States attorney. The United States attorney was then responsible for delivery of the check to the taxpayer or the counsel of record in the court proceeding. After March 31, 1977, the Tax Division, Department of Justice, will be responsible for delivery of these refund checks. Consequently, they will be sent to the Assistant Attorney General, Tax Division, Department of Justice rather than to the United States Attorney.

DRAFTING INFORMATION

The principal author of this regulation was John H. Parcell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations.—Accordingly, the Income Tax Regulations (26 CFR Part 301) are amended as set forth below:

Section 301.6402–2 is amended by revising paragraph (f)(2) to read as follows:

§ 301.6402–2 Claims for credit or refund.

* * * * *

(f) *Mailing of refund check.* * * *

(2) Checks in payment of claims which have either been reduced to judgment or settled in the course or as a result of litigation will be drawn in the name of the person or persons entitled to the money and will be sent to the Assistant Attorney General, Tax Division, Department of Justice, for delivery to the taxpayer or the counsel of record in the court proceeding.

* * * * *

The provisions contained in this Treasury decision relate solely to rules of agency procedure. For this reason, it is not necessary to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Approved: March 31, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-12452 Filed 4-29-77;8:45 am]

V42184 MAY 2 77 UMI

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER M—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. ATF-41]

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

PART 181—COMMERCE IN EXPLOSIVES

Black Powder

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Postponement of Effective Date.

SUMMARY: The Department of the Treasury is postponing the effective date of regulations concerning black powder, in order to allow affected persons additional time to familiarize themselves with the new requirements and to take necessary actions to comply.

DATE: Effective date is postponed until May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Wayne Miller, (202) 566-7626.

SUPPLEMENTARY INFORMATION: On January 28, 1977, the Bureau of Alcohol, Tobacco and Firearms published regulations [43 FR 5350, January 28, 1977] amending 27 CFR Part 178 (Commerce in Firearms and Ammunition) and Part 181 (Commerce in Explosives) to implement Pub. L. 93-639 concerning black powder. The effective date of the regulations was delayed for ninety days, until April 28, 1977. However, based on information received, additional time is needed for affected persons to become familiar and comply with the new provisions. Therefore, the effective date is delayed an additional fourteen days, until May 12, 1977.

Signed: April 27, 1977.

REX D. DAVIS,
Director.

Approved: April 27, 1977.

BETTE ANDERSON,
Under Secretary.

[FR Doc.77-12604 Filed 4-29-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 719-4]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

AGENCY: Environmental Protection Agency.

ACTION: Amendment to interim rule.

SUMMARY: This amendment changes the effective date of the interim subagreement regulations to allow additional time to review comment received.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0860.

Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to May 1, 1977 (42 FR 16777). By this action, the effective date of the regulations is changed to June 30, 1977.

Dated: April 26, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-12534 Filed 4-29-77;8:45 am]

SUBCHAPTER H—OCEAN DUMPING

[FRL 721-5]

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

Final Designation of Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes an approved ocean dumping site for high temperature shipboard incineration of Herbicide Orange.

The Air Force had applied for an ocean incineration permit for the disposal of its remaining stocks of Herbicide Orange. The site was selected because of its location in a remote area of the Pacific and its logistical proximity to Johnston Island where the bulk of the material to be incinerated is located.

EFFECTIVE DATE: May 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA, 401 M Street SW., Washington, D.C. 202-245-3051.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1412 (hereafter "the Act") gives the Administrator of the Environmental Protection Agency (EPA) the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated in accordance with the requirements of, and by publication in, this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.).

On March 24, 1975, EPA published (40 FR 13004) a proposed designation of an ocean dumping site in the tropical sea west of Johnston Island for use under certain controlled conditions for high temperature shipboard incineration of Herbicide Orange.

Public comment period for the proposed site designation expired on April 23, 1975. No comments on the proposed designation were received by EPA.

Public hearings were held in Honolulu, Hawaii, and San Francisco, California, on April 25 and 28, 1975, respectively, to consider the application of the Air Force to incinerate Herbicide Orange. At those hearings the Air Force requested that the proceedings be recessed pending the study of reprocessing Herbicide Orange into usable pesticide compounds. The hearing was to be reconvened in Washington, D.C., on ten days' notice should the applicant determine that the reprocessing alternative was infeasible and that incineration at sea was the more appropriate disposal alternative.

On March 25, 1977, EPA published (42 FR 16175) a notice of reconvening the public hearing on the Air Force's application for a permit to incinerate Herbicide Orange at sea. This reconvened hearing was held on April 7, 1977, at EPA Headquarters in Washington, D.C. Research results included in the hearing record indicate that the plume, containing hydrochloric acid fumes, can be kept from touching down on the incinerator vessel if sufficient area is available for maneuvering. To allow this in this area of relatively constant easterly winds, the east-west dimension of the dump site has been increased by 60 nautical miles. This is done solely to increase crew safety aboard the incinerator vessel. A final Environmental Impact Statement prepared by the Air Force relating to the proposed incineration has been filed with the Council on Environmental Quality.

The site will be used solely for the at sea incineration of Herbicide Orange by the United States Air Force aboard the *M/T Vulcanus*, owned and operated by Ocean Combustion Service, and the period of use will be from May 15, 1977, to September 30, 1977. The designation of this site will be withdrawn after this period of use.

The proposed site designation with the modification noted above is hereby adopted with the addition of use and period of use specifications and is set forth below, effective May 15, 1977.

(33 U.S.C. 1412, 1418.)

Dated: April 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, paragraph (b) of § 228.12 is amended by adding subparagraph (2), an ocean incineration site as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(2) Herbicide Orange Incineration Site—Headquarters. Location—Latitude and Longitude—15°45' to 17°45' north latitude; 171°30' to 173°30' west longitude.

Size—14,400 sq. n.mi.

Depth—greater than 15,000 feet.

Use—solely for at sea incineration of Herbicide Orange by the United States Air Force aboard the *M/T Vulcanus*, owned and operated by Ocean Combustion Service.

Period of Use—May 15, 1977, to September 30, 1977. The designation of this site will be withdrawn after this period of use.

[FR Doc.77-12430 Filed 4-29-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

[FRL 692-7]

PART 15-3—PROCUREMENT BY NEGOTIATIONS

Subpart 15-3.8—Price Negotiation Policies and Techniques

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action deletes an Environmental Protection Agency (EPA) regulation that covers the selection of contractors for competitive contracts. The intended effect of this action is to remove an out-of-date EPA regulation.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

David S. Taylor, Contracts Policy and Review Branch (PM-214), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0900.

SUPPLEMENTARY INFORMATION: New internal rules of procedure relating to the composition and conduct of source evaluation boards and panels convened for the purpose of evaluating offers and making recommendations to source selection officials are in the process of development and testing.

It is the general policy of the EPA to invite comments regarding the development of proposed rules; however, this action consists only of the deletion of a superseded procedure and no purpose would be served in inviting comments.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Dated: April 1, 1977.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

The Table of Contents for Part 15-3 is revised to provide that §§ 15-3.805 and 15-3.805-1 are reserved as follows:

Sec.
15-3.805 [Reserved]
15-3.805-1 [Reserved]

1. Section 15-3.805 is revised to delete the caption and reserve the section as follows:

§ 15-3.805 [Reserved]

2. Section 15-3.805-1 is revised to delete the caption and text and reserve the section as follows:

§ 15-3.805-1 [Reserved]

[FR Doc.77-12537 Filed 4-29-77;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 4—SERVICE OF PROCESS

Service of Process Served on or Delivered to Secretary

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The regulations of the Department of Health, Education, and Welfare, relating to the service of process, are being amended to reflect the fact that the Office of General Counsel, and the persons in that office who are authorized to accept service of process, have recently moved their office. The official mailing address for the Secretary of Health, Education, and Welfare, remains the same.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary M. Goggin, Office of General Counsel, 330 Independence Avenue, NW., Washington, D.C. 20201, 202-245-7743.

SUPPLEMENTARY INFORMATION: Because this amendment is technical in nature, reflecting solely the change in office location, no comment from the public is feasible.

Accordingly, 45 CFR Part 4 is amended as follows:

1. By revising § 4.1 to read as follows:

§ 4.1 Service of process required to be served or delivered to Secretary.

Summons, complaints, subpoenas and other process which are required to be served on or delivered to the Secretary of Health, Education, and Welfare shall be delivered to the Deputy General Counsel, the Secretary to the Deputy General Counsel, or the Secretary to the General Counsel, by mail at 330 Independence Avenue, SW., Washington, D.C. 20201 or by personal service at 200 Independence Avenue, SW., Washington, D.C. 20201. The persons above designated are authorized to accept service of such process.

Dated: April 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-12450 Filed 4-29-77;8:45 am]

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802-5a]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Non-Federal Share Contribution; Eligibility for Waiver of Increase

Correction

In FR Doc. 77-12003 appearing at page 21485, in the issue for Wednesday, April 27, 1977, make the following correction. In the middle column, the effective date should read, April 27, 1977.

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-133]

PART 148—SOLIDS IN BULK

Metal Borings, Shavings, Turnings, and Cuttings

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule making amends the regulations for shipping metal borings, shavings, turnings, and cuttings in bulk on vessels. Shipboard carbon dioxide systems are ineffective in controlling fires in these cargoes. Consequently, the requirement that a hold in which these cargoes are stowed must have a carbon dioxide or equivalent fire extinguishing system is deleted.

DATES: This amendment is effective on July 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Grenier, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the FEDERAL REGISTER on August 1, 1975 (40 FR 32341). Interested persons were invited to submit written views, data, or comments to the Coast Guard before September 15, 1975. Two comments were received. One supported the proposal; the other opposed the proposal and recommended that no change be made to the existing regulations.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Mr. William Boyce, Project Manager and LT William Kerivan, Project Counsel.

DISCUSSION OF COMMENT

The opposing commenter indicated that his records showed that a number of vessels contained or suppressed heating of metal turnings by the application carbon dioxide. He cited his records as showing that, to control heating of cargoes of turnings, vessels without carbon dioxide systems had to proceed to ports of refuge and usually had to flood their holds with water, endangering their stability. He also questioned the validity of the small scale tests conducted by the Coast Guard.

The Coast Guard has re-examined its proposal in light of the opposing comments. The opposing commenter's recommendations were not adopted for the following reasons:

(1) Coast Guard records contain numerous cases in which cargoes of metal borings, shavings, turnings, or cuttings heated spontaneously after being loaded. Most of these reached a peak temperature after several hours or days and then began to cool. There is no evidence that the application of carbon dioxide would have changed this heating and cooling process. In addition, there were several

V42184 MAY 2 77 UMI

cases in which fires in bulk cargoes of metal turnings were not extinguished despite the application of large amounts of carbon dioxide. In these cases, it was necessary to unload the overheated cargoes or to flood the holds with water.

(2) The conditions and results of the Coast Guard tests clearly demonstrated that practical amounts of carbon dioxide are ineffective in controlling fires in metal cargoes. These tests were conducted at the U.S. Coast Guard Fire and Safety Test Facility, Mobile, Alabama, to determine which agents were equivalent to carbon dioxide in extinguishing fires in bulk metal cargoes. The test sample was twelve tons of metal turnings in an 8 foot by 8 foot by 12 foot steel container which was insulated to simulate the larger volume of a ship's hold. Carbon dioxide, Halon 1301, and foam were applied to the burning sample. None of these agents extinguished the fire. The fire was extinguished only by the use of a large quantity of water to cool the hot metal.

The application of a large amount of water could endanger the stability of a vessel but, as the tests show, that is the only effective method for controlling a metal fire. The possible danger to stability from flooding a hold to control a metal fire is no reason for requiring an ineffective carbon dioxide fire extinguishing system. The heat method of controlling a metal fire is to unload the cargo, if conditions permit.

Since the opposing commenter provided no detailed information concerning specific fires which would refute the findings of the review or tests by the Coast Guard, and offered no evidence that carbon dioxide or any other agent is effective on fires involving metal borings, shavings, turnings, and cuttings, the Coast Guard is deleting the regulation.

The regulation to be deleted was codified as 46 CFR 146.27-28(b)(1) when the notice of proposed rule making was issued. In the FEDERAL REGISTER issue of June 10, 1976 (41 FR 23404) it was recodified without change as 46 CFR 148.04-13(a)(1).

§ 148.04-13 [Amended]

In consideration of the foregoing, Part 148 of Title 46, Code of Federal Regulations is amended by deleting and reserving § 148.04-13(a)(1).

(46 U.S.C. 170; 49 U.S.C. 1655(b)(1) and 49 CFR 1.46(b).)

Effective Date: This amendment is effective on July 31, 1977.

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 21, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-12557 Filed 4-29-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER X—ADMINISTRATION OF THE EMERGENCY NATURAL GAS ACT OF 1977

[General Order No. 7]

PART 1000—REGULATIONS UNDER THE THE EMERGENCY NATURAL GAS ACT OF 1977

Emergency Regulations

AGENCY: Administrator-Emergency Natural Gas Act of 1977.

ACTION: Final rule.

SUMMARY: This is an amendment to the General Orders issued by the Administrator of the Emergency Natural Gas Act which were republished and codified on April 25, 1977. This order amends § 1000.1, Definitions by adding Paragraphs (a)(10), (a)(11), and (a)(12). This order adds a new § 1000.9, "Allocation of Charges for Emergency Purchases." This order applies to interstate pipeline companies who purchased natural gas either as an agent for its customers or for its general system supply. It allocates these charges in accordance with the type of purchase involved. The Task Force has determined that this will facilitate the purchase of natural gas.

EFFECTIVE DATE: April 22, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Paul Douglas, Federal Power Commission, Room 9200, 825 North Capitol Street, NE., Washington, D.C. 20426. (202-432-1212).

SUPPLEMENTARY INFORMATION: The Emergency Natural Gas Act of 1977 (Pub. L. 95-2) 91 Stat. 4 (1977), provides in section 7 (91 Stat. 4, 8) for the allocation of charges paid for deliveries under Section 4 (91 Stat. at 5-7) or for purchases or deliveries under Section 6 (91 Stat. at 7-8) to the local distribution companies receiving such gas from an interstate pipeline. This order allocates these charges in the following manner:

(1) All charges (including applicable transportation charges) attributable to gas purchased by an interstate pipeline as agent for certain of its customers shall be billed to those customers receiving such gas in proportion to the volumes received by each customer.

(2) All charges (including applicable transportation charges) attributable to gas purchased for general system supply shall be billed to all customers served by the interstate pipeline in proportion to the volumes received by each customer in accordance with the pipeline's effective Federal Power Commission (FPC) curtailment plan, as implemented during the billing period.

Pursuant to section 7 of the Act and the authority granted to me by the President in Executive Order No. 11969 (February 2, 1977), Part 1000 of Chapter X of Title 18 of the Code of Federal Regulations is amended by adding Paragraphs (a)(10), (a)(11), and (a)(12) to § 1000.1, Definitions and § 1000.9 Allocation of charges for emergency purchases, effective on the date of issuance of this order.

(1) Section 1000.1, Definitions, Chapter X, Title 18 of the Code of Federal Regulations is amended to add Paragraphs (a)(10), (a)(11), and (a)(12) as follows:

§ 1000.1 Definitions.

* * * * *

(a)(10) "Effective FPC curtailment plan" means any plan by which an interstate pipeline curtailed deliveries to its customers during the period of the Act whether or not such plan has been finally approved by the FPC.

(a)(11) "Billing period" means the calendar month or similar period on which an interstate pipeline bills its customers in accordance with its tariff on file with the FPC.

(a)(12) "Section 6 gas" means any and all natural gas purchased pursuant to the authority of Section 6(a) of the Act.

(2) That Part 1000, Chapter X, Title 18 of the Code of Federal Regulations is amended to add § 1000.9, Allocation of Charges for Emergency Purchases as set out below:

§ 1000.9 Allocation of charges for emergency purchases.

(a)(1) If curtailment under the pipeline's effective FPC curtailment plan is on a daily basis, the pipeline shall allocate its available gas supplies, including Section 6 gas, on a daily basis.

(2) If curtailment under the pipeline's effective FPC curtailment plan is on a monthly or seasonal basis, the pipeline shall allocate its available gas supplies, including Section 6 gas, during each billing period on such basis. The allocation shall reflect the effect of each change in the level of curtailment imposed during the applicable billing periods.

(b) Section 6 gas purchased by a pipeline as agent for certain of its customers shall be allocated to those customers which received such gas. Those customers shall pay all charges attributable to such supplies including applicable transportation charges.

(c) Section 6 gas purchased for system supply shall be allocated to all customers in proportion to system volumes purchased by each customer during the applicable billing period. The charges for such volumes shall be billed pursuant to paragraph (e) below.

(d) The following billing procedures may be utilized by interstate pipeline companies to flow through all authorized costs[1] of ENGA purchases pursuant to Section (6) of the Act:

(1) If the purchases are 2.0 percent or less of an interstate pipeline company's total purchases for the monthly billing period as forecasted in its September 1976 FPC Form No. 16 for the months of February and March 1977 and for ensuing months its April 1977 Form No. 16, the interstate pipeline company is authorized by the Administrator to seek FPC approval to use its effective FPC PGA tariff provision to flow the allocable jurisdictional costs through to its jurisdictional customers.

(2) If an interstate pipeline company's monthly ENGA purchases exceed 2.0 percent of its forecasted monthly sales in its September 1976 FPC Form No. 16 for the months of February and March 1977 and for ensuing months its April 1977 FPC Form No. 16, alternate billing options are available to the company. ENGA purchases would be allocated pro rata to its customers and storage on the basis of total sales and general system storage injections for the billing month and may be recovered as follows:

(i) The company may utilize the procedure set forth in FPC Docket No. RM77-10 which provides for notification of the costs of ENGA gas allocated to each customer on the billing date following delivery and recovery of the costs in the following monthly billing; or

(ii) The company may elect to bank the ENGA costs allocated to each customer through July 31, 1977. These banked costs, plus carrying costs computed at nine (9) percent per annum, would be recovered from each customer over an eleven month period beginning October 1, 1977 and ending August 31, 1978. Individual surcharges for each customer would be computed by dividing each customer's banked costs by each customer's forecasted eleven month sales included in the pipeline company's September 1977 FPC Form No. 16.

(3) If an interstate pipeline company elects to utilize the revenue recovery procedures provided in 2(ii) above, each individual surcharge will remain in effect until the interstate pipeline company recovers banked costs, plus applicable carrying charges. These individual surcharges should be set forth on a tariff sheet filed with the FPC.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977) and shall be published in the FEDERAL REGISTER. This order is subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

APRIL 22, 1977.

[FR Doc.77-12715 Filed 4-29-77;9:44 am]

[1] Refers to purchases authorized by the Administrator or consistent with the guidelines laid down by the Administrator in various orders.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 244]

VOLUNTARY DEPARTURE

Application for Extension of Time To Depart

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of proposed rule making.

SUMMARY: This is a proposal to amend the regulations of the Immigration and Naturalization Service to provide a formal procedure and application with fee to be filed by aliens to request an extension of time to depart in voluntary departure cases. This proposed rule is necessary to formalize the procedures for requesting a stay of voluntary departure in all Service offices and will insure that an appropriate record is made in all cases. This proposed procedure is similar to that now in effect for applications for stay of deportation.

DATE: Comments must be received on or before June 1, 1977.

ADDRESSES: Please submit written representations only to the Commissioner of Immigration and Naturalization, 425 Eye Street NW., Room 7100, Washington, D.C. 20536. All relevant comments received on or before that date will be considered. Oral representations may not be presented in any manner and will not be considered.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536; telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: This notice of proposed rule making is published pursuant to sec. 553 of Title 5 of the United States Code (80 Stat. 383). 8 CFR 244.2 currently provides that an alien may file a request for extension of time to depart voluntarily with the district director having jurisdiction over his place of residence. However, this regulation does not specify that the request must be filed in writing, and it is Service experience that many such request are made orally by the alien when he appears at the Service office as required by his Vountary Departure notice. Under these circumstances, it is difficult, if not impossible for the Service to make and adequate record on which the district director must base his decision. This is a very important consideration because the district director's decision on the application must be in writing and the alien may not appeal that decision. Accordingly, it is in the best interest of the alien and the Service to require a formal written application for extension of voluntary departure time. In this way the alien will have the opportunity to state and record his reasons for requesting an extension of voluntary departure time completely and in detail, and the district director who must make the decision to deny or grant the request will have a complete record on which to base his decision. Implementation of this proposed rule adopting a formal application procedure will replace the current "informal" method of requesting such extensions and provide for more deliberate and fair decisions in these matters. In this connection, we should like to point out that the proposed procedure for applications for extension of voluntary departure is similar to the current procedure in effect for application for a stay of deportation set forth at 8 CFR 243.4.

It is also proposed to require that applications for extension of voluntary departure be filed at least three working days prior to the expiration of voluntary departure time. This requirement is necessary to provide the Service adequate time for consideration of the request and prevent the filing of applications for extension of voluntary departure solely for the purpose of delay.

The consideration of applications for the extension of voluntary departure requires the services of clerks, deportation officers, and district directors, at a total personnel cost of $15 per application.

Therefore, in accordance with the provisions of section 483a of Title 31 of the United States Code (65 Stat. 290), which state that any benefit or service provided to or for any person by any Federal agency shall be self-sustaining to the full extent possible, and OMB Circular No. A-25, it is proposed to charge a fee of $15 for filing the application, which will not be returnable regardless of the action taken on the application. However, should extension of voluntary departure be granted pursuant to such application no additional fee will be required for subsequent applications for extension of voluntary departure provided the reason for the grant of the first extension is still viable.

In the light of the foregoing, it is proposed to revise 8 CFR 244.2 to further provide that a request for extension of time within which to depart voluntarily shall be filed on Form I-366 with the district director having jurisdiction over the place where the alien is at the time of filing and that this application must be filed at least three work days prior to the expiration of the voluntary departure time. Also, it is proposed to amend 8 CFR 103.7(b)(1) by adding provision for a fee of $15 for filing an application for extension of voluntary departure in accordance with section 244(e) of the Act. This proposed amendment will further provide that if an extension of voluntary departure is granted pursuant to such application no further fee will be required for additional applications for extension of voluntary departure if the reason for the grant of the initial extension is still viable.

Finally, a corollary and conforming amendment will be made to 8 CFR 299.1.

Accordingly, it is proposed to amend 8 CFR §§ 103.7(b)(1), 244.2 and 299.1 as set forth below.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

It is proposed to amend § 103.7(b)(1) by adding the following applications and fee to provide as follows:

§ 103.7 Fees.

* * * * * *

(b) *Amounts of fees.* (1) The following fees and charges are prescribed:

* * * * * *

For filing an application for extension of voluntary departure in accordance with section 244(e) of the Act—$15.00. If, pursuant to the filing of such application and payment of the required fee, an extension of voluntary departure is granted, no further fee will be required for additional applications for voluntary departure if the same reason(s) for the initial grant of extension of voluntary departure are still viable.

* * * * * *

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

2. It is proposed to revise § 244.2 to read as follows:

§ 244.2 Extension of time to depart.

Authority to extend the time within which to depart voluntarily specified initially by a special inquiry officer, or the Board, is within the sole jurisdiction of the district director. A request by an alien for an extension of time within which to depart voluntarily shall be filed on Form I-366 with the district director having jurisdiction over the place where the alien is at the time of filing and shall be accompanied by the fee required under 8 CFR 103.7(b)(1) of this chapter, which is not returnable regardless of the action taken on the application. Written notice of the disposition of the alien's request shall be served upon him, and any notice of denial shall include specific reasons for such denial and no appeal may be taken therefrom. Such application for extension of voluntary departure must be filed at least three (3) work days prior to the expiration of the voluntary departure time.

PART 299—IMMIGRATION FORMS

3. It is proposed to amend the listing of forms in § 299.1 *Prescribed forms* by adding the following form and reference thereto in alphabetical and numerical sequence:

* * * * * *

§ 299.1 Prescribed forms.

Form No., title, and description

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I-366 Application for Extension of Voluntary Departure (Sections 103 and 244(e) of the Immigration and Nationality Act; 8 U.S.C. 1103 and 1254(e)).

* * * * * *

Dated: April 26, 1977.

L. F. CHAPMAN, JR.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-12480 Filed 4-29-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 170]

FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Proposed Revision of License Fee Schedules

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to revise its schedule of fees for facilities and materials applications and licenses. The revised schedule would take into account the approaches to standardization implemented by the Commission. It would establish fees for (1) requests filed by vendor and architect engineers for standardized reference design approvals; (2) license amendments and renewals; (3) routine inspections; (4) special projects; (5) requests for approval of spent fuel casks and shipping containers; and (6) requests for approval of sealed sources and devices containing or utilizing byproducts, source, or special nuclear material. The proposed amendments would implement recent licensing fee decisions of the U.S. Supreme Court and the Court of Appeals for the District of Columbia.

DATE: Comments must be received on or before June 1, 1977.

ADDRESSES: The Commission will hold a public meeting to discuss this notice at 10 a.m., May 12th. The public meeting will be held in Room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Mr. W. O. Miller, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7225.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Atomic Energy Commission (AEC), the Nuclear Regulatory Commission's (NRC) predecessor, adopted its first license fee schedule on October 1, 1968. This schedule was promulgated pursuant to Title V of the Independent Offices Appropriation Act ("IOAA"), 31 U.S.C. 483(a), a statute authorizing and encouraging Federal regulatory agencies to recover to the fullest extent possible costs attributable to services provided to identifiable recipients.

The relevant text of the IOAA is as follows:

It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts.

The schedule contained a construction permit application fee, a construction permit fee, an operating license fee, fees for three types of materials licenses, and annual fees for facilities licenses and certain materials licenses. These fees were designed to recover a small portion of the Commission's costs attributable to specific services (processing of applications) provided to identifiable recipients. Only those costs that were associated with the review of an application and related to an identifiable beneficiary were included in the cost base for the establishment of a fee schedule. Activities and services, such as inspection of licensed programs, compliance and enforcement, rule making, standards development, research, safeguards, administration of the Agreement State Program, the indemnity program, and export licenses, were excluded from fee schedule computation.

On February 5, 1971, the AEC revised its October 1, 1968 schedule to account for expanding services and their associated costs. This revised schedule continued the AEC policy of limiting cost recovery to licensing services attributable to identifiable beneficiaries. This schedule was further revised on April 25, 1972 to include health and safety inspection services attributable to identifiable beneficiaries.

The current schedule was adopted by the AEC on August 10, 1973. This schedule was designed to incorporate costs arising from statutorily mandated environmental and antitrust reviews. It reflected a policy of recovering only those costs attributable to identifiable beneficiaries for the processing of applications, permits and licenses, amendments to existing licenses, and health and safety inspection which were part of the licensing process.

On March 4, 1974, the Supreme Court decided two cases challenging the validity of annual licensing fees issued by the Federal Communications Commission and Federal Power Commission under the IOAA. "National Cable Television Association, Inc. *v.* United States," 415 U.S. 336 (1974) ("NCTA") and "Federal Power Commission *v.* New England Power Company," 415 U.S. 345 (1974) ("New England Power"). The Court ruled that the IOAA allowed an agency to charge fees only for special benefits rendered to identifiable persons measured by the "value to the recipient" of the agency service. In "NCTA," it set aside the challenged portion of the FCC's fee schedule because the schedule had been constructed on factors more expansive than the value of the agency's service to the recipient company. Similarly, in the companion "New England Power" case, the Court invalidated the FPC's annual fee rules because its fee structure assessed an annual fee against the regulated industry at large without considering whether each company had received benefits from any Commission services during the year in question.

Responding to the Court's decisions, the AEC promptly eliminated annual license fees and announced procedures for requesting refunds of annual license fees previously assessed. The Commission left unchanged the remainder of the fee schedule.

On November 11, 1974, the AEC published proposed revisions to its schedule of license fees (39 FR 39734). Since that time the Commission has been reviewing public comments and considering a variety of approaches for proper evaluation of its expanding services and proper assessment based upon the corresponding increase in rising costs. A substantial effort has been devoted to re-evaluating the Supreme Court decisions, some aspects of which were notably complex, and devising an updated schedule. While this effort was underway, the Court of Appeals for the District of Columbia Circuit issued four opinions on December 16, 1976, invalidating license fee schedule promulgated by the Federal Communications Commission. "National Cable Tele-

V42N84 MAY 2 77 UMI

vision Association v. Federal Communications Commission," No. 75–1053; et. al; "National Association of Broadcasters v. Federal Communications Commission," No. 75–1087 et al; "Electronic Industries Association v. Federal Communications Commission," No. 75–1120 et. al; and "Capital Cities Communication, Inc. v. Federal Communications Commission," No. 75–1503 et. al. These cases have provided the Commission with additional guidance for the prompt adopting and promulgation of an updated license fee schedule.

GUIDELINES FOR FEE DEVELOPMENT

Based on the Court decisions, the NRC has developed new guidelines for use in establishing a new proposed schedule of fees. In summary, the guidelines provide that:

1. Fees may be assessed to persons who are identifiable recipients of special benefits conferred by specifically identified activities of the NRC. The special benefits would include services rendered at the request of a recipient. This includes all services necessary for the issuance of a required permit, license, approval, or amendment, and all services necessary to assist a recipient in complying with statutory obligations or obligations under the Commission's regulations.

2. All direct and indirect costs incurred by the NRC in providing special benefits may be recovered by fees.

3. It is not necessary to allocate costs in proportion to the degree of public or private benefit resulting from conferring a special benefit on a recipient.

4. Where the identification of the ultimate beneficiary of NRC activity is obscure, the cost of the activity may not be included in the cost basis for fees.

5. A fee on the average should not exceed the sum of the direct and indirect costs which the NRC incurs in furnishing the service for a member of the class of recipients as to which the fee is assessed.

6. Calculation of agency costs shall be performed as accurately as is reasonable and practical, and shall be based on specific expenses identified to the smallest practical unit and associated with the rendering of the type of agency service to the particular class of recipients.

REGULATORY FUNCTIONS

NRC is reponsible under the Atomic Energy Act of 1954, as amended, for the regulation of facilities and materials as defined in the Act. These activities may be broadly categorized as follows:

1. The processing of applications for permits licenses, amendments, and approvals.

2. Health, safety, environmental and special nuclear material safeguards inspections of licensed activities and their environs.

3. Facility quality asurance inspections and evaluations of facilities licensed under 10 CFR Part 50.

4. The processing of topical reports covering special projects and reactor components.

5. The conduct of section 189 hearings for construction permit applications and such other hearings as are necessary.

6. Antitrust reviews of Part 50 applications.

7. Development of standards including regulations, regulatory guides, codes, and criteria for applications of nuclear energy and materials.

8. Safety and confirmatory research for facilities and materials applications.

9. Generic licensing studies.

10. Enforcement of applicable regulations, orders, and license conditions.

11. Early review of prospective reactor sites.

12. Inspection of major reactor components and systems.

13. Export licensing.

14. Indemnification program for Part 50 production and utilization facilities.

15. Agreement State Program.

16. Cooperation and participation in international programs.

The "Office of Nuclear Reactor Regulation" has responsibility within NRC for processing Part 50 applications for licensing and regulation of nuclear power plants. Before a company can build a power plant at a particular site, it must file an application and obtain a construction permit from the NRC. In support of the application, the applicant files a Preliminary Safety Analysis Report (PSAR) which presents the design criteria and preliminary design information for the facility structures, systems and components, as well as comprehensive data on the site for the plant. The report also discusses various hypothetical accident situations and the safety features which will be provided to prevent accidents or, if they should occur, to mitigate their effects on both the public and the facility's employees. In addition, the applicant must submit a comprehensive Environmental Report (ER) providing a basis for the NRC to evaluate the environmental impact of the proposed plant. Information must also be submitted for use by the Attorney General and the NRC in the reviews of the antitrust aspects of the proposed facility.

When an application is submitted to the NRC, it is subjected to a preliminary review to determine whether it contains sufficient information to satisfy NRC requirements for a detailed review. If an application is not sufficiently complete, the applicant is requested to submit specific additional information. An application is formally docketed only if it meets certain minimum acceptance criteria. In addition, when the PSAR is submitted, a substantive review and inspection of the applicant's quality assurance program covering design and procurement is conducted.

The NRR staff reviews an application for a construction permit to determine whether the public health and safety and the environment will be fully protected. If any portion of the application is considered to be inadequate, the applicant is requested to modify the plant so that it will be acceptable. If the appropriate modifications are not made, authorization to begin construction will not be issued.

The review is to determine whether the plant design is consistent with NRC rules and regulations, regulatory guides, and other regulatory requirements. Design methods and procedures of calculations are examined to establish their validity. Checks of actual calculations and other procedures of design and analysis are made to establish the validity of the applicant's design and to determine that the applicant has conducted his analysis and evaluation in sufficient depth and breadth to support required findings with respect to safety.

During the staff's review, an applicant is required by regulation to provide such additional information as is needed to complete its evaluation. The principal features of the evaluation include:

1. A review of the population density and use characteristics of the site and environs, and the physical characteristics of the site of the proposed power plant, including seismology, meteorology, geology, and hydrology to determine that these characteristics have been properly evaluated and have been given appropriate consideration in plant design, and that the characteristics of the site are in accordance with the siting criteria set forth in 10 CFR Part 100, taking into consideration the design of the facility including the engineered safety features provided.

2. A review of the facility design and of the programs for fabrication, construction, and testing of the plant structures, systems, and components important to safety to determine that they are in accord with the regulations, regulatory guides, and other regulatory requirements, and that any departures from these requirements have been fully identified and justified.

3. Evaluation of the response of the facility to various anticipated operating transients and to a broad spectrum of hypothetical accidents. The potential consequences of these hypothetical accidents are then evaluated conservatively to determine that the calculated potential offsite radiation doses that might result, in the very unlikely event of an accident occurrence, would not exceed the guidelines for site acceptability given in 10 CFR Part 100.

4. A review of the applicant's plans for th conduct of plant operations, including the organizational structure, the technical qualifications of operating and technical support personnel, the measures taken for industrial security, and the planning for emergency actions to be taken in the unlikely event of an accident that might affect the general public. An important aspect of this review includes review and assessment of the applicant's programs for quality assurance and quality control to assure compliance with NRC's requirements. This review forms the basis for determining whether the applicant is technically qualified to operate the plant and whether he has established effective organizations and plans for continuing safe operation.

5. Evaluation of the design of systems provided for control of the radiological effluents from the plant to determine that the proposed systems can control the release of radioactive wastes from the nuclear power station to the limits specified by appropriate regulations and that the applicant will operate the facility in such a manner as to reduce radioactive releases to levels that are as low as practicable.

The review and evaluation of an application for a construction permit is performed by the NRC staff and its consultants over an average period of 24 months. To the extent feasible and appropriate, the staff makes use of previous evaluations of other reactors approved for construction or operation, standardized designs, and previous evaluations of various aspects of reactor design described in topical reports.

The licensing process includes the consideration of programs proposed by an applicant for a construction permit to verify plant design and to confirm design margins. The licensing process includes consideration of programs of basic research and development necessary to assure the resolution of questions associated with safety features or facility components and must identify any research and development work that will be conducted to confirm the adequacy or to resolve any safety questions associated with the design of a particular facility along with a schedule for completion of the research and development work showing that such safety questions will be resolved prior to operation of the facility.

When the staff review and evaluation of the application has progressed to the point that acceptable criteria, preliminary design information and financial information are documented in the application, a Safety Evaluation Report (SER) will be prepared. This report represents a summary of the staff review and evaluation of the application.

The "Advisory Committee on Reactor Safeguards" (ACRS), an independent statutory committee established to provide advice to the NRC on reactor safety is required to review each application for a construction permit or an operating license for a commercial nuclear power plant. At the time an application for a construction permit is docketed, copies of the PSAR are provided to the ACRS. Each application is assigned to a project subcommittee. During the course of the review by the NRC staff, the ACRS is kept informed of the staff's request for additional information from the applicant and of meetings held with the applicant, so that the ACRS subcommittee chairman is aware of any developments that may warrant a change in the plant.

Normally, the full ACRS considers a project upon receipt of the staff SER and the report of the ACRS subcommittee. The ACRS gives special attention to those items which have particular safety significance for the reactor involved and of any new or advanced features proposed by the applicant. The full committee meets at least once with the NRC staff and with the applicant to discuss the application. These full committee meetings are open to the public. When the committee has completed its review, its report is submitted to the NRC in the form of a letter to the Chairman.

The NRC staff prepares a supplemental SER to address the ACRS report and to include any other information made available since issuance of the original SER.

Either concurrent with or separately from the radiological safety review, an environmental review is performed by the staff and its consultants. This review is to evaluate the potential environmental impact of the proposed plant and to provide comparisons between the benefits to be derived from the plant and the possible risk to the environment. After completion of this review, a Draft Environmental Statement (DES) containing conclusions on environmental matters is issued. The DES is circulated to interested Federal and State agencies for review and comment. It is also available for comment by individuals and by organizations representing the public. After receipt of all comments and resolution of any outstanding issues, a Final Environmental Statement (FES) is published and made available to the public.

A mandatory public hearing is held before a construction permit is issued for a nuclear power plant. Upon docketing an application, the NRC issues a notice of hearing. The evidentiary public hearings will be held after completion of the safety and environmental reviews. Opportunity is afforded to members of the public to intervene as participants or make limited appearances at the hearing. At an early stage in the review process, potential intervenors are invited to meet informally with the NRC staff to discuss their concerns respecting the proposed nuclear power plant.

The public hearing for an application for a construction permit is conducted by a three-member "Atomic Safety and Licensing Board" (ASLB) appointed from the NRC's "Atomic Safety and Licensing Board Panel." The board is composed of one lawyer, who acts as chairman for the proceeding, and two other technically qualified persons. The safety evaluation, supplements to the SER and the FES are offered to the board as evidence by the NRC staff at the public hearing. The hearing(s) may be a combined safety and environmental hearing or in the case of a split application, separate hearings. The board considers all the evidence which has been presented by the Commission, applicant and intervenor, together with findings of fact and conclusions of law filed by the parties, and issues an initial decision. If the initial decision regarding the requirements of the National Environmental Policy Act and safety matters is favorable, a construction permit is issued to the applicant. The board's initial decision is subject to review by an "Atomic Safety and Licensing Appeal Board (ASLAB) on its own motion or upon exceptions filed by any party to the proceeding. Under certain circumstances, the ASLAB decision may be reviewed by the Nuclear Regulatory Commissioners.

Prior to a decision on an application for a construction permit, Commission regulations provide that the Director of Nuclear Reactor Regulation may authorize limited amounts of work to be performed by the applicant prior to the issuance of the construction permit. This authorization is known as a Limited Work Authorization (LWA). An LWA may be granted only after the ASLB has made all of the National Environmental Policy Act (NEPA) findings required by the Commission's regulations in 10 CFR Part 51 for the issuance of a Limited Work Authorization and has determined that there is reasonable assurance that the proposed site is suitable with the site suitability regulations of the Commission.

Statutes require that antitrust aspects of a nuclear power plant license application be considered in the licensing process. The antitrust information required in the application for a construction permit is sent to the Attorney General of the United States for his advice on whether activities under the proposed license would create or maintain a situation inconsistent with antitrust laws. The Attorney General's advice is promptly published and opportunity is provided for interested parties to raise antitrust issues. An antitrust hearing may be held upon the recommendation of the Attorney General or on the petition of an interested party. The NRC is required to make a finding on antitrust matters in each case where the issue is raised. Antitrust hearings are held separately from hearings on environmental and safety matters.

At such time as the construction of the nuclear power plant has progressed to the stage where most of the final design information and plans for operation are ready, the applicant submits the Final Safety Analysis Report (FSAR) in support of an application for an operating license. The FSAR sets forth the pertinent details on the final design of the facility. The FSAR also supplies plans for operation and procedures for coping with emergencies. The staff makes a detailed review of the FSAR. Amendments to the application and reports may be submitted from time to time. The staff again prepares a SER and, as during the construction permit stage, the ACRS again makes an independent evaluation and presents its advice to the Commission by letter.

A public hearing is not mandatory prior to the issuance of an operating license; however, after acceptance of the operating license application, the Commission publishes notice that it is considering issuance of the license. The notice provides that any person whose interest may be affected by the proceeding may petition the NRC to hold a hearing.

Each license issued by the NRC for operation of a nuclear reactor contains Technical Specifications, which set forth the particular safety and environmental protection measures to be imposed upon

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the facility and the conditions of its operation.

The Office of Nuclear Reactor Regulation also has responsibility within NRC for the processing of Part 50 applications for licensing of test facilities and research reactors. This office also reviews standardized reference designs for nuclear power plants, conducts generic licensing studies, topical report reviews, and develops research proposals necessary to aid in evaluation of reactor safety.

The licensing process for test facilities and other production and utilization facilities follows the review and licensing pattern for nuclear power plants. Research reactors are not subject to mandatory hearings and antitrust review, however, they are subject to a safety review.

Sites for proposed production or utilization facilities under 10 CFR Part 50 may be reviewed and evaluated in conjunction with an application for a construction permit, as described above or prior to the filing of an application. Such early site reviews for nuclear power plants may be complete or partial. The procedure for Commission review of a site, which may later be a part of a construction permit application, is identical to the comprehensive review of a site included as part of the application for a construction permit.

The "Office of Nuclear Materials Safety and Safeguards" (NMSS), under statute and regulation, licenses and regulates all non-reactor facilities and materials associated with the processing, transport, use and handling of special nuclear, source, and byproduct materials. This office also reviews the safeguards of non-reactor facilities and special nuclear materials.

The NMSS fuel cycle safety and environment program involves the processing of license applications for uranium mills, conversion facilities, reprocessing centers, fuel fabrication plants, spent fuel storage, and waste disposal. Each applicant is required to describe the site(s) of proposed use, plant design, method of criticality control, radioactivity waste management, operating procedures, and impact on the plant environs. The NRC staff and its consultants review each application to determine the adequacy of the proposed facility, operation, and safety and environmental controls.

The NMSS safeguards licensing program has responsibility for the review of all applications to license non-reactor facilities and materials which involve the processing, transport, storage, and handling of quantities of special nuclear materials subject to safeguards under 10 CFR Parts 70 and 73. The staff reviews and evaluates the applicant's descriptions of his physical protection and material control programs to determine adequacy. NMSS is also responsible for developing contingency plans to deal with threats, thefts, and sabotage and monitoring, testing, and upgrading safeguards systems.

NMSS evaluates the design and testing of shipping casks, packages and containers to determine that they meet regulatory requirements.

The NMSS radioisotope licensing program reviews and processes license applications for the possession and use of byproduct, source, and small quantities of special nuclear material. These applications cover medical usage, basic and applied research, teaching, consumer products, and various industrial usages such as radiography, well-logging, irradiation facilities, nuclear laundries, etc. Such staff reviews cover safety and the environmental aspects of the proposed radioisotope program and cover factors, such as the training of user personnel, procedures for the use of licensed materials, contamination control, controlling exposure to personnel, adequacy of proposed facilities and instrumentation and waste management.

Activities of NMSS also encompass generic licensing studies and safeguards assessment studies. These generic activities cut across the fuel cycle and radioisotope licensing programs. The office also participates in standards development activities and recommends research requirements.

"The Office of Inspection and Enforcement (IE)" is responsible for NRC's inspection and enforcement program and the program is based on the precept that nuclear quality requirements are mandatory and enforceable under Federal law. The NRC's IE inspects the industry quality assurance process on a continuing basis and takes enforcement action where necessary. The program is designed to assure that applicants for NRC permits and licenses, as well as existing licensees, conduct their activities in a manner that adequately protects the health, safety, and security of the public and the environment in which they live.

The IE performs three essential functions:

1. Inspects facility and materials licensees and their contractors and suppliers to ascertain whether their quality assurance programs and activities are being conducted in accordance with NRC rules and regulations and conditions of their licenses.

2. Investigates incidents, accidents, allegations and other unusual circumstances involving matters subject to NRC jurisdiction to ascertain the facts and to recommend or take appropriate corrective action.

3. Enforces compliance through issuance of notices of violation, imposition of civil monetary penalties, and promulgation of orders to suspend, modify or revoke licenses, or to cease and desist licensed operations.

A key component in the construction and operation of nuclear power plants is quality assurance. This involves a planned management program of checks and controls designed to assure that plants are conceived, built, and operated to permit a high degree of confidence in their safe performance. Each prospective reactor licensee is responsible for developing a detailed quality assurance plan which also includes the verification of product quality from its contractors and vendors. The requirements against which licensee quality assurance plans and activities are measured are specified in NRC regulations, national codes and standards, conditions specified in permits and licenses and the applicant's or licensee's own approved operating procedures.

IE begins reviewing the organization and plans, six to nine months prior to the submission of an application for a construction permit for a nuclear power plant, to determine that the proposed quality assurance program is fully responsive to regulations.

IE inspections are of two general types, safety and environmental protection inspections; and materials and facility protection inspections (safeguards). The first type covers quality assurance activities related to health, safety and environmental concerns for power and other reactors; fuel cycle facilities; architect-engineers, vendors and suppliers; and materials licensees, including universities, hospitals, research organizations, and other firms or institutions using nuclear materials. The second type deals with quality assurance in physical protection and safeguarding of special nuclear materials and facilities held or owned by licensees. Through direct observation, interviews, independent testing and review of records, NRC inspectors gather facts to ascertain compliance with approved quality assurance programs and with other NRC requirements.

The IE inspection program for nuclear power plants begins with quality assurance planning and extends over the facility's entire lifetime.

Based on the premise that the applicant or licensee is responsible for the design, construction, and safe operation of its facility, NRC inspectors examine the licensee's efforts to obtain assurance that this responsibility is being met, and to prepare the way for corrective action if it is not.

IE inspections cover five phases of a nuclear power plant's life:

Preconstruction activities. Prior to docketing of an application for a construction permit, inspection focus on the prospective licensee's quality assurance program. An acceptable program must be in existence before the application will be accepted for formal NRC review. Subsequent to docketing and prior to issuance of a construction permit, inspections are carried out to confirm that an adequate program has, in fact, been implemented.

Construction activities. During construction, IE inspects to verify that the described quality assurance program for construction is being properly implemented. When components are received onsite, IE inspectors, on a selective sampling basis, verify conformance with specifications and ensure that quality assurance procedures for handling and storage are implemented. During plant erection and the installation of components, they selectively observe activities

such as welding, concrete installation, and electrical and instrument cable installation, and review the results of tests to determine whether requirements are being met.

Preoperational testing and *startup.* The frequency of inspections is increased significantly during preoperational testing and startup. Inspectors observe selected preoperational and startup tests and check results to verify that components and safety systems do perform their intended functions. They also examine the operating organizational structure, training of personnel, performance of equipment and personnel, monitoring and sampling programs for radiation and effluent control, results of environmental monitoring, plans and training for emergencies, security provisions, and administrative controls for safety.

Operations activities. After routine operations of the plant begins, periodic inspections ascertain whether the licensee is operating in a safe and responsible manner in conformity with NRC requirements. Particular attention is devoted to evaluating corporate and plant management to determine whether its steps to prevent safety problems are effective, and whether it takes positive and timely corrective action in the event of abnormal occurrences.

During 1975, the NRC initiated the Licensee Contractor and Vendor Inspection Program (LCVIP). The purpose of LCVIP is to verify that industry has quality assurance programs which are consistent with NRC criteria established in 10 CFR Part 50, Appendix B. Under this program, selected vendors are inspected directly by IE inspectors rather than in association with licensee or utility inspectors, as previously done. This provides a more uniform application of the Commission's quality assurance requirements and, at the same time, reduces the need for repetitive audits and evaluations by licensees of their suppliers' generic quality assurance programs.

The routine inspection program has been structured so that certain elements of a licensee's authorized activities (involving personnel, procedures, operations, facilities, materials, and equipment) are inspected at a prescribed frequency. The inspection is made to assure that a licensee's activities are being conducted in accordance with regulatory requirements and that associated facilities and equipment are operated in a safe manner. To ensure that adequate inspection of each of the identified elements of a licensees' activities are being conducted in accordance with regulatory requirements and the associated facilities and equipment are operated in a safe manner, procedural requirements have been established, and appropriately keyed to licensee activities. The scheduling and frequency for inspection against the various requirements for each licensee depends upon the scope and complexity of the licensed program. For the majority of the NRC licenses, i.e., nonpower reactors, source material and most byproduct and special nuclear material uses, the inspection program specifies that all requirements should be scheduled for inspection during one visit at the site and that, depending upon the nature of the licensed program, the inspection frequency would be once each year, once every two years, once every three years, once every five years or no more than approximately once every three years. Inspection of newly licensed activities would be within 1½ years after issuance of the license.

The inspection program for operating test and power reactors, some research reactors, which are rated at greater than one megawatt, fuel reprocessing facilities, licensed activities involving large quantities of special nuclear material for research and development, processing or fabrication and major processors of byproduct material, specifies that some of the regulatory and safety requirements should be scheduled on a staggered basis throughout a 12 month period (and in a few instances over a 36 month period). The scope and complexity of these licensed activities are such that it is not feasible or prudent to schedule and complete all inspection requirements during one site visit. The inspection requirements for these licensees are normally clustered into three 4-month periods or four 3-month periods which comprise an inspection year. Due to the nature of the inspection program which involves operational, environmental and radiological safety, as well as emergency planning and many different inspector skills, several inspections may be performed during a 3 or 4 month period in order to satisfy the inspection requirements. The frequency of inspections is set forth in the Notice of Proposed Rule Making.

IE conducts safety and environmental inspections of more than 8,500 materials and fuel facility licensees, including spent-fuel reprocessors, fuel fabricators, waste disposal licensees, major radiopharmaceutical firms, radiographers, and operators of medical facilities, educational institutions, exporters, Federal and State agencies, and various industrial organizations.

It should be noted that, for most nonpower reactors and the majority of the materials licenses, the frequency of inspections ranges from intervals of two per year to one every ten years. There is a group of materials licenses which authorize small quantities where no prescribed frequency is specified. Rather the policy is to select approximately five percent of these licenses each year. For licenses authorizing major byproduct uses, such as processing and manufacturing operations, fuel fabrication, fuel reprocessing and power reactors, the inspection program focuses a set of inspection requirements which must be completed during a 12-month period. Several of the inspection requirements might be completed at one time. A single fee would be collected for the total inspection.

Inspections of materials and fuel facility licenses are performed at frequencies determined by a classification system based on the relative weight given to safety considerations. Fuel facility inspections focus on the evaluation of management quality assurance programs and controls over operations. A typical inspection might include a review of processing and equipment, such as filtration systems, checks for releases of radioactive effluents, and monitoring personnel to determine if regulatory requirements are being followed. The IE gathers on a selective sampling basis detailed information to ascertain whether licensees are conducting their activities with due regard to nuclear criticality control and radiological health and safety.

The NRC's safeguards inspection program, covering physical protection of nuclear materials and reactor facilities, control and accountability of these materials, including direct measurements to verify licensees control and accountability, is conducted by IE. This program involves the inspection of licensees possessing given quantities of special nuclear material. The inspection staff conducts physical protection, nuclear material control and accounting, and inventory verification inspections of licensees which include fuel cycle facilities, reactors, research and development facilities, fuel reprocessing facilities, and universities having research reactors. Frequencies of inspections are determined by the quantity, quality, and accessibility of special nuclear materials which the licensees are authorized to possess and depend on the type of inspection conducted. The basic elements of an inspection include a review of material controls systems and procedures, physical inventory controls, measurement controls, and records and reporting controls. NRC inspectors use specially equipped vans to verify, through selective on-site sampling, the enriched uranium and/or plutonium content of inventory. (The mobile equipment also is used to analyze low-level radioactivity in air and water effluents as part of the inspection program of confirmatory measurements of environmental releases.)

Physical protection inspections involve the review of physical protection systems, procedures and personnel to determine if adequate protections have been implemented in compliance with the existing security plan, license conditions, rules and regulations. These reviews consist of direct observation of systems performance, examinations of records and documentations, interviews with licensee and local law enforcement personnel, and selected listing of certain hardware and procedures.

IE conducts surveillance programs for nuclear materials in transit which require that the export and import of significant quantities of special nuclear material, and not less than 20 percent of all other shipments, be monitored by IE inspectors.

Shipments by all modes of transportation are subjected to unannounced inspections, examination at points of origin,

V42184 MAY 2 77 7 UMI

transfer and destination, observation and other surveillance by NRC inspectors to detremine compliance with appropriate regulations and to assess the adequacy of the protection.

The main objective of the NRC's environmental monitoring program is to determine if there is a buildup of radioactivity in the environment. Each nuclear facility licensee is required to monitor major and potentially significant paths for release of gaseous and liquid radioactive effluents during normal operation. IE inspectors check the licensee's radiological monitoring and waste systems to assure they are built as designed and operated to keep releases within regulatory limits. If a regulatory limit is exceeded, the licensee must so inform the NRC and take appropriate action. Each power plant licensee also is required to monitor major pathways in the environment. During NRC inspections, random samples of monitoring records, procedures, and reports are examined and confirmatory measurements are made to assess the accuracy and consistency of licensee measurements of radioactivity in effluent and environmental samples.

Enforcement action is taken to assure that persons who do not comply with regulatory requirements will act promptly to bring their programs into compliance. Notifications of deviations from approved codes, standards and guides, and from licensee commitments to the Commission, are forwarded to licensees and, if corrective measures are not properly implemented, appropriate enforcement actions are imposed.

A significant part of the NRC's inspection and enforcement effort is involved in responding to reports of radiation incidents, abnormal occurrences, equipment problems, and allegations of improper or unsafe operations.

Standards are basic to the NRC's comprehensive program for the control and safe use of nuclear energy. Developed by the NRC's "Office of Standards Development," (SD), they govern protection of the public and nuclear industry workers from radiation, safeguarding nuclear materials and plants, and protection of the quality of the environment.

In setting forth safety requirements, including quality assurance requirements for the design, construction, and operation of nuclear reactors, standards, provide the mechanism for codifying sound engineering practices and the lessons of experience.

The standards development function of NRC also provides a mechanism for resolving frequently recurring technical issues through generic rulemaking, provides a forum for all segments of the public to provide input to proposed standards, and clearly establishes NRC's bases for inspection.

NRC develops two kinds of standards: Regulations and regulatory guides. NRC regulations, established by the Commission and published in Title 10. Chapter I, of the Code of Federal Regulations, set forth both general and specific requirements that must be met. NRC regulatory guides describe and make available to the public methods acceptable to the NRC staff for implementing specific parts of the Commission regulations, delineate techniques used by the staff in evaluating specific problems or postulated accidents, or provide guidance to applicants. Public input to the development of NRC regulations and guides is encouraged.

The major responsibilities and activities of the SD are:

1. Developing siting safety and environmental impact standards for selection and evaluation of sites for nuclear facilities.

2. Developing nuclear power plant safety engineering standards for design, procurement, construction, testing, operations, and decommissioning of power reactors.

3. Developing fuel cycle facility safety engineering standards for fuel cycle plants including waste storage.

4. Developing safeguards standards for physical protection of nuclear materials and facilities and for control of nuclear materials.

5. Developing standards for safety in transportation of radioactive materials and standards for use of radioactive materials in medical, industrial and consumer product applications.

6. Developing radiation protection standards.

7. Providing and managing technical interaction with national and international standards-development groups.

The "Office of Nuclear Regulatory Research" has the responsibility to develop and analyze technical information on reactor safety, safeguards and environmental protection as a basis for licensing and other decisions in the regulatory process. The office performs research, characterized as "confirmatory assessment," which relates specifically to regulatory decisions for the safe and environmentally compatible operation and protection of nuclear facilities and materials.

The goal of the NRC's reactor safety research program is to develop an independent basis and means to reliably and credibly analyze the course of events in hypothetical nuclear reactor accidents and to estimate the consequences of such accidents. The program proceeds on two interlocking approaches: experimental programs, and analytical model development. The experimental programs generate the independent data base for developing and validating the analytical models. The models, in turn, are used to extrapolate between laboratory scales or conditions and full-scale reactors, and the validity of the extrapolation is tested through further integral experiments.

This program attempts to develop methods of analysis by which the safety of reactors can be independently assessed by NRC, and to provide information and methods needed to achieve safe operation.

The overall objective of the reactor safety research program is to develop analytical methods that can confidently be used by NRC to assess the safety of nuclear power reactors on an independent basis. This includes:

1. Establising and testing, on a sound engineering base and improved analytical methods of safety analysis;

2. Improving the engineering data base concerning the conditions that might trigger a reactor accident;

3. Extending and improving of independently-derived technical information against which to compare applicant or licensee safety justifications in licensing actions, and

4. Reducing present margins of uncertainty in the data and models so that the degree of conservatism applied to safety assessment may be further quantified.

Water reactor safety research is directed at providing a capability for independent confirmatory assessment of the safety of the current generation of nuclear plants under postulated accident conditions. The research data and analytic methods applied to the assessment of hypothetical nuclear plant accidents is intended to result in a greater measure of confidence that the margins of safety identified in the licensing review are well defined and quantified.

Safety research in systems engineering is addressed primarily to the study of postulated loss-of-coolant accidents in reactors and the effectiveness of emergency core cooling systems. In general, the research is conducted through two types of tests: (1) "Separate effects" tests to obtain data on those portions of a postulated accident where transient heat transfer and fluid flow phenomena are isolated, thus reducing the number of test variables and simplifying understanding of those complex phenomena, and (2) "integral systems" tests to study combined phenomena representing an entire postulated accident sequence, both to assess the significance of knowledge gained from separate effects.

In conjunction with the safety review of nucelar power plant applications, the NRC technical staff conducts evaluations of potential safety problems that may apply to many reactors of a given design type. The detailed reviews and independent analyses of emergency core cooling system performance, the reliability of automatic shutdown (scram) systems, and containment pressure during accidents, are examples of this type of study. The staff also conducts engineering audits of reactor vendors' and architect-engineers' design calculations and procedures to assure conformance with safety design practice.

Data obtained from research and development programs on particular facilities and from the Commission's confirmatory research program are factored into the licensing reviews performed by the NRC staff.

Program Direction and Administration Offices" provide overall policy direction, resource management effectiveness, administrative and logistic support to the NRC, and includes the staff offices of the Commissioners and the Executive Director for Operations. They are, Office of Commission, Office of the Secretary, Office of the General Counsel, Office of Policy Evaluation, Office of Inspector and Auditor, Office of Congressional Affairs, Office of Public Affairs, Office of the Executive Director for Operations, Office of Administration, Office of the Controller, Office of Planning and Analysis, Office of Management Information and Program Control, and Office of Equal Employment Opportunity.

The "Commissioners" are the governing body of NRC who exercise the overall responsibilities of the Energy Reorganization Act of 1974 and the Atomic Energy Acts of 1946 and 1954, as amended. They provide the fundamental policy guidance and administration and management direction necessary to assure that the civilian use of nuclear energy is developed in a manner consistent with the public health and safety, environmental quality, national security, and antitrust laws.

The "Office of the Secretary" develops policies and procedures for complete secretariat services for the conduct of Commission business and implementation of Commission decisions; advises and assists the Commission and all NRC staff offices on the scheduling and conduct of Commission business; records Commission meetings; plans, directs and operates the NRC staff paper system; operates the Commission Correspondence & Records Facility and a consolidated mail facility for the NRC Washington, D.C. office; maintains the Commission's official docket; coordinates the protocol activities at Commission level; provides logistic assistance to the Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Board Panel and the Advisory Committee on Reactor Safeguards; performs services of the Federal Advisory Committee Management Officer; operates a reproduction facility; directs a historical program; operates the classified document control system for the Commissioners; provides personnel, administrative and logistical support services to the Commission and other NRC offices located in Washington, D.C.; and supervises and administers the NRC Public Document Room.

The "Office of the General Counsel" is the chief legal advisor to the Commission and provides legal opinion, advice, and consultations to the Commission in connection with the quasi-judicial responsibilities of the Commission and in the development of substantive policy matters. It represents the Commission in matters relating to litigation, and, in cooperation with the Department of Justice, represents the Commission in court proceedings affecting the NRC program. The office also provides legal advice with respect to legislative matters of concern to NRC, including drafting of legislation, preparation and review of testimony, and preparation and transmission of statements of views requested on proposed legislation.

The "Office of Policy Evaluation" advises the Commission on a broad range of substantive policy matters to enhance the information base on which Commission decisions are made.

The "Office of the Inspector & Auditor" is resoonsible for developing policies ad standards that govern the financial and management audit program including planning and directing the long-range comprehensive audit program as well as conducting day-to-day internal audit activity; conducting investigations and inspections, as necessary, to ascertain and verify the facts with regard to the integrity of all operations, employees, organizations, programs and activities; referring suspected or alleged criminal violations to the Department of Justice; and serving as the point of contact with the General Accounting Office and maintaining liaison with the Department of Justice and other law enforcement agencies.

The "Office of Congressional Affairs" assists and advises the Commission and senior staff on Congressional matters, coordinates interagency Congressional relations activities, and is the principal liaison for the Commission with Congressional committees and members of Congress.

The "Office of Public Affairs" plans and administers NRC coordinated and comprehensive programs to inform the public of Commission policies, programs and activities, as appropriate, and for informing NRC management of public affairs activities of interest to the Commission.

The "Executive Director for Operations" coordinates and directs the Commission's operational and administrative activities and is responsible for coordinating and developing policy and program options generated by the directors of the program offices.

The "Office of Administration" is responsible for personnel administration; security and classification; document control; facilities and materials license fees; contracting and procurement; rules, administration of Freedom of Information requests, proceedings and document services; telecommunications; automatic data processing; building management; printing and reproduction; records management; and a variety of other housekeeping functions. Additionally, the office is responsible for directing the activities of management and administrative support programs, and for developing policy options for Commission consideration.

The "Office of the Controller" provides the budgetary and fiscal management organization for the NRC, including the development and maintenance of a financial control system and a system of accounting which conforms to the standards prescribed by the Comptroller General.

The "Office of Management Information and Program Control" provides a comprehensive management information and control system for program planning, scheduling, reporting and analysis of program performance for the NRC.

The "Office of Planning and Analysis" assists the Executive Director for Operations in program assessment and policy analysis and development. The office's major objectives are to define and estimate the economic parameters of the licensed nuclear industry: complete cost-benefit guidelines for NRC; direct and support efforts to improve regulatory effectiveness; and continue to implement and refine management systems.

The "Office of Equal Employment Opportunity" is responsible for defining the procedures and practices necessary to attain and maintain equal employment opportunities within the NRC. The office develops and prepares the agency's Affirmative Action Plan, advises and assists on recruitment plans, and provides prompt investigation of discrimination complaints when necessary.

Offices supplying direct Program Technical Support to the NRC are the Office of the Executive Legal Director, the Advisory Committee on Reactor Safeguards, the Office of State Programs, and the Office of International Programs, with the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel performing adjudicatory functions. The services provided for the Advisory Committee on Reactor Safeguards, the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel were discussed earlier in this notice.

The "Office of the Executive Legal Director" is responsible for providing legal advice and services to the Executive Director for Operations and the programmatic and support offices reporting to him. These responsibilities include representation of the NRC Staff in administrative proceedings involving the licensing of nuclear facilities and materials, and the enforcement of license conditions and NRC regulations; counseling with respect to safeguards matters, contracts, security, patents, administration, research, personnel, and the development of regulations to implement applicable Federal statutes.

The "Office of State Programs" is responsible for developing and implementing plans, policies, and programs for the coordination and integration of Federal and State responsibilities in the regulation of nuclear materials and facilities; carrying out NRC's federally assigned "lead-agency" role in providing training and technical assistance to State and local governments to enhance their radiological emergency response planning and operations capabilities; developing NRC's national-level emergency preparedness program; administering the State Agreements program whereby qualified States assume certain NRC regulatory functions; and providing direct program support to NRC in all aspects of State-related activities, including the monitoring of all State Legislation and activities impacting the NRC.

The "Office of International Programs" is responsible for negotiation and implementation of regulatory and safety information exchange agreements with other countries, licensing the import and export of nuclear materials and nuclear facilities, NRC nonproliferation and international safeguards policy planning, analysis and coordination, and providing direct program support to NRC for all of its international activities.

V42184 MAY 2 77 UMI

SPECIAL BENEFITS

Services providing "special benefit" includes those rendered by an agency at the request of the recipient and services necessarily rendered to aid the recipient in complying with statutory and regulatory obligations. Respecting NRC services, this includes all services necessary for the issuance of a license or amendment to process and use material, to construct or operate a facility, export or import facilities or materials, to review a standardized design or special project or conduct an inspection. Services neither requested by the applicant nor strictly necessary to assist private recipients in complying with statutory or regulatory requirements may be considered as "independent public benefit".

Based on analysis of all NRC offices, their responsibilities and activities, and the Commission guidelines, which were formed around the decisions of the Supreme Court in the FCC and FPC cases and the Appeals Court decisions in the FCC cases, the services of these offices have been categorized as follows. Only those services which provide special benefits to identifiable recipients have been included for computation of fees; those for which the beneficiary is obscure, or which confer independent public benefit. have been excluded from fees. The services have been designated as included or excluded. The fact that a particular service is designated as excluded should not be taken to imply that the Commission does not view the service as a special benefit.

1. *Office of Nuclear Reactor Regulation.* (a) Processing of applications for facility construction permits and operating licenses by the NRC staff and consultants. This involves safety, environmental, and antitrust and special nuclear materials safeguards reviews (included).

(b) Processing of applications for facility license amendments and technical specification changes performed by the NRC staff and consultants (included).

(c) Review of topical reports filed by licensees and vendors of reactor components (included).

(d) Review of standardized reference designs for nuclear steam supply systems filed by vendors (included).

(e) Review of standardized reference designs for balance of nuclear plants filed by architect engineers (included).

(f) Examination and testing of the qualifications of prospective reactor operators (included).

(g) Staff assistance in development of standards, codes, criteria and licensing guides (excluded).

(h) Staff effort in facilities research projects (excluded).

(i) Licensing effort which is generic in nature, i.e., not specifically identified with applications on file (excluded).

2. *Advisory Committee on Reactor Safeguards.* The services of this office are concerned with facilities. Its safety review is included in the computation of fees. Generic licensing, research and standards development effort are all excluded.

3. *Atomic Safety and Licensing Board Panel.* Boards appointed from this panel in accordance with the provisions of section 191 of the Atomic Energy Act of 1954, as amended, conduct mandatory hearings for power reactors and test facilities and issue initial decisions with respect to granting, suspending, revoking, or amending licenses or authorizations. Effort in this office concerned with uncontested facility hearings is included in fee computation. All other effort was excluded.

4. *Atomic Safety and Licensing Appeal Board.* These boards review decisions affecting facility licensing. Effort concerned with uncontested cases is included in fee computation; the remainder concerning contested cases is excluded.

5. *Office of Nuclear Materials Safety and Safeguards.* (a) Processing of applications for non-reactor facility construction permits and operating licenses, fuel cycle licenses, and materials licenses by the NRC staff and consulants. This includes safety, environmental, and special nuclear material safeguards reviews (included). Antitrust reviews as required by 10 CFR Part 50 non-reactor facility applications (included).

(b) Processing of applications for license renewal and amendments by the NRC staff and consultants (included).

(c) Examination and testing of the qualifications of non-reactor facility operators (included).

(d) Staff assistance in development of standards and licensing guides (excluded).

(e) Staff effort to research projects (excluded).

(f) Licensing effort which is generic in nature, i.e., not specifically identified with applications on file (excluded).

(g) Staff assistance in development of safeguards contingency plans, and safeguards assessment activities (excluded).

6. *Office of Inspection and Enforcement.* (a) Routine health, safety, environmental and safeguards inspections of licensed activities (included).

(b) Quality assurance inspections during the preconstruction, construction, preoperational and operations phases of facility licensing (included).

(c) Staff assistance in development of standards and inspection criteria (excluded).

(d) Nonroutine inspections: Investigations, incident inspections, audit of licensee management and enforcement activities (excluded).

(e) Generic inspection activities, i.e., inspection activities which are not concerned with a specific licensee, facility or vendor (excluded).

7. *Office of Standards Development.* (a) All standards services would be excluded even though these activities provide substantial benefit to applicants, licensees and vendors by helping to define NRC requirements and practices and helping to establish predictability of the regulatory process. However, the identifiable recipient of the service is obscure.

8. *Office of Nuclear Regulatory Research.* (a) Research or confirmatory assessment which generally relates to regulatory decisions for the safe and environmentally compatible operation and protection of nuclear facilities and materials has been excluded from fee computation because the identifiable recipient of the benefit is obscure.

9. *The Office of the Commissioners.* (a) The Commissioners are the governing body of NRC who exercise the overall responsibility for policy guidance and administration and management of the Commission. Accordingly, it is not practical to isolate and allocate the services of this office to individual activities. The services provided by this office have been excluded from fee computation.

10. *The Office of the Secretary.* (a) The allocation of services as well as related costs to the various offices was determined by examination of the functional workload associated with each operating activity of the Office of the Secretary. Those activities supporting the licensing and inspection process were included in fee computation.

11. *Office of the General Counsel.* Effort in this office is devoted to contested hearings as well as providing legal opinion and advice in connection with quasi-judicial responsibilities of the Commission and in policy development, litigation and legislative matters. These services are not directly concerned with the licensing and inspection process, except for the effort in contested hearings. All services provided by this office were excluded from fee computation.

12. *Office of Policy Evaluation.* This office advises the Commissioners on a broad range of substantive policy matters and provides an independent review of positions developed by the NRC staff which require policy decisions by the Commission. Services provided by this office do not generally deal directly with licensing or inspection activities and are thus excluded from fee computation.

13. *Offices of the Inspector and Auditor, Congressional Affairs, Public Affairs and Equal Employment Opportunity.* The services provided by these offices provide an independent public benefit and were excluded from fee computation.

14. *The Executive Director for Operations.* This office coordinates and directs the Commission's operational and administrative activities. It is concerned directly with the licensing, inspection, standards and research activities of the Commission. The services and related costs of this office, with the exception of the Special Projects Branch, were allocated to the operation offices after analysis of the services provided. Those services supporting the licensing and inspection process were included in fee computation. The Special Projects Branch is concerned with special projects which are not directly concerned with licensing, inspection, standards, or research activities and, therefore, the services of this branch were excluded from fee computations.

15. *The Office of Administration.* Analysis shows that this office, with the exception of the Division of Rules and Records, provides service to the respective NRC offices essentially on a per capita basis, and this is the basis for distribution of its services for fee computation purposes. Those services supporting the licensing and inspections process were included in fee computation. The Division of Rules and Records is concerned primarily with requests under the Freedom of Information Act, Privacy Act, and the Federal Reports Act and provides support involving changes to rules and regulations. It services an independent public interest and it was excluded for fee computation purposes.

16. *The Office of the Controller.* Analysis shows that this office provides services to the respective NRC offices essentially on a per capita basis. Those services supporting the licensing and inspection process were included in fee computation.

17. *The Office of Management Information and Program Control.* This office provides management information and control systems dealing with project status and schedules for several of the NRC offices. Based on analysis, the services, as well as costs, were allocated to the offices receiving the services. Those services supporting the licensing and inspection process were included in fee computation.

18. *Office of Planning and Analysis.* This office assists the Executive Director for Operations in program assessment and policy analysis and development. It does not deal with licensing or inspection activities and the services were excluded from fee computation.

19. *Office of the Executive Legal Director.* Analysis of the services provided by this office shows that the effort goes to licensing, hearings, and providing legal advice to the Executive Director of Operations. Those services supporting the licensing and inspection process were included in fee computation.

20. *Offices of State Programs and International Programs.* These offices provide an independent public benefit and all of their services were excluded from fee computation.

SMALLEST PRACTICAL UNIT

The smallest practical units for the various NRC services, which were used in the license fee determination relating to the licensing of facilities was the basic application or license. This includes applications for a construction permit, operating license, standard design approval, early review of a facility site, review of a topical report or of a special project. The applicant for a nuclear power plant permit or license may propose to use one of the standardization approaches implemented by the Commission or file an application for a unit that is customed reviewed. The several types of applications and requests filed by utilities and vendors became the basis for categories used for fee purposes.

The smallest practical units for allocating regulatory services and determining fees associated with byproduct material are the different types of applications covering the various uses of byproduct material, e.g., industrial radiography, hospitals, oil well logging, etc. In certain instances applications were further divided into sub-units based on the difference in professional time required to review the sub-units. An example of this is field radiography v. radiography at one location.

The smallest practical units for licensing special nuclear material are based on the type of material (plutonium, enriched uranium, etc.), use of material (reactor fuel fabrication, research, etc.), and the quantity of material. The amount of professional effort required to process a special nuclear material license or conduct an inspection is directly related to these factors. Using this approach applications and licenses were divided into 10 sub-units or fee categories.

The smallest practical units for source material licensing are based on the use of the source material, i.e., uranium mills, refining mill concentrates to uranium hexafluoride, recovery of uranium through in-situ leaching operations, etc. Using this approach source material applications and licenses were divided into four sub-units or fee categories.

Other fee categories which cover special applications or reviews are based on the type of application or request, e.g., evaluation of spent reactor fuel shipping casks; manufacture and distribution of power sources; evaluation of sealed sources containing byproduct, source, or special nuclear material, and evaluation of devices or products containing or utilizing byproduct, source, or special nuclear material.

In all cases the fee categories developed by the Commission represent the smallest practical units of NRC services.

The current schedule of fees for power reactor construction permits and operating licenses is partially on a sliding scale based on the capacity of the plant (megawattage). When fees were first adopted in 1968, proposed reactors were all custom units in design and increasing in size and capacity, and vendor designs still evolving based on limited experience.

When the current fee schedule was adopted some stabilization in design had occurred; however, the review process was still custom in nature because of growing safety and environmental concerns.

With implementation of the standardization program in vendor design and the licensing review and the leveling off in size and power level capacity, the manpower required to review an application for a construction permit and operating license is about the same for all new light water reactors of a particular class. The difference depends upon whether it is a standard design and whether the site has been previously reviewed. In view of this change, the sliding scale of fees for nuclear power reactors has been eliminated. Fees will be based on a fixed charge and remain so unless the pattern of reactor design and licensing requirements dictate a change.

When an application covers two or more identical power plants at a single site or at additional sites, fee categories reflect the reduced licensing effort.

For certain categories of new services or special project reviews, it was not practical to develop a fee for the category because of the extremely wide variation in review requirements. Charges will be made at the time the review process is completed, and will be based on the professional manpower required to complete the review. Examples of services in this category are reviews of reactor component designs submitted by vendors or suppliers and early site reviews.

The NRC processes large numbers of applications to amend reactor operating licenses or to make changes in the technical specifications of a nuclear power plant. Fee categories have been developed to cover these services. Applications for amendments have been grouped into six classes which reflect differences in the effort required to complete these reviews.

The current fee category for a reactor manufacturing license has been separated into two categories which reflect current application review procedures. The new categories are (1) review of the preliminary design, and (2) review of the final design.

The current fee category, "Other production or utilization facility" has been separated into two categories, namely, (1) fuel reprocessing plant complex, and (2) uranium enrichment plant. This category has been split to provide greater equity because the licensing process for uranium enrichment plants requires less effort.

The fee categories for test reactors and research reactors have been continued.

The current categories for fuel cycle licenses and applications have been subdivided to reflect substantive changes which have occurred in licensing requirements and procedures since the current fee schedule was developed. The most significant changes have been increased safety, environmental, and natural phenomena considerations in the review of applications for licenses for uranium and plutonium fuel processing and fabrication plants. With respect to uranium, the complexity of the review from a safeguards point of view is also colored by whether the uranium containing uranium 235 is enriched to 20 percent or more. In the case of licensing a plutonium fuel processing and fabrication plant, an environmental review is required prior to the start of construction. An applicant must submit its environmental report and its safety analysis nine months prior to the expected start of construction so that NRC can complete the environmental review and issue a construction approval prior to the start of construction. A new fee category, "Application for construction approval" has been developed because of this licensing change.

Because of the expected increase in storage of spent reactor fuel and the extensive safety and environmental matters to be resolved in licensing such in-

V42184 MAY 2 77 UMI

stallations, a fee category has been established for this type of application and license.

Because of the substantial increase in licensing effort resulting from additional environmental considerations, a separate fee category has been developed for licenses authorizing uranium mills. In situ leaching operations or heap leaching operations are in a separate fee category, as are licenses for refining of uranium mill concentrates to uranium hexafluoride. Licenses for quantities of source material, except when used in milling or refining operations, have been combined into one fee category. This was done because the quantity of source material is not a significant consideration in licensing.

Each of the fee categories covering licenses for small quantities of byproduct, source, or special nuclear material was analyzed to determine whether it adequately describes the effort required by the Commission. As a result of this analysis several new license fee categories have been developed while others have been modified. New fee categories established cover licenses or reviews for (1) the processing or manufacturing and distribution of radiopharmaceuticals using byproduct material, (2) authorization to receive prepackaged waste byproduct material, source material, or special nuclear material from other persons and transfer to persons authorized to dispose of the material, (3) safety evaluations of devices or products containing byproduct material, or special nuclear material, (4) safety evaluations of sealed sources containing byproduct material, source material, or special nuclear material, (5) the manufacture and distribution of encapsulated byproduct material or special nuclear material for use in power generation sources, (6) evaluation of spent fuel casks and other shipping containers and packages, and (7) special projects. The fee category for licenses authorizing the possession of byproduct material for processing of items containing byproduct material for commercial distribution has been modified to remove the phrase, "that require safety evaluation." This modification will permit all processing or manufacturing of commercial items or products, except for power sources, to be covered by one license fee category and simplify the license fee program. The fee category for licenses issued to medical institutions authorizing the human use of byproduct material, source material, or special nuclear material, has been amended to include licenses covering two or more physicians on a single license.

Under the current schedule of fees, no charges are made for routine health, safety, environmental or safeguards inspections of licensed activities; however, since these activities provide special benefit to identifiable recipients, a schedule of fees has been developed for these services. Likewise, there is currently no charge for license amendments, except those increasing the power level of an operating power reactor and those increasing the scope of a license. These amendments provide special benefit to identifiable recipients, and fees have been developed for amendments. This means that the Commission has been processing about 4,000 amendments and conducting about 1,400 routine inspections each year without any charge.

Fee Development

After each of the services performed by the NRC staff were analyzed to determine the existence of special benefit, the program support services (contractual line items) were individually reviewed to determine whether they support the review of applications, permits, licenses, approvals or inspections. If a contractual service was found to be supportive of the review, licensing, or inspection process, it was considered as providing special benefit and included in the appropriate fee computation. For example, a contract laboratory completes most of the statutorily required environmental review for nuclear power plants. If the contractual service was in support of a specific license, approval, or inspection activity, the average cost per license was computed and used in developing the license for the specific fee category.

Each operating office responsible for processing of applications and conducting inspections developed the average professional manpower required to process each category or type of application, license, amendment, approval, and inspection. The categories are described in §§ 170.21, 170.22, 170.23, 170.24, 170.31, and 170.32 of this notice of proposed rulemaking. The professional manpower time is necessary to calculate the fee for each license and inspection fee category.

The NRC has a manpower system where employees conducting reviews and inspections submit weekly records identifying where their effort was expended. These records are periodically audited and entered into the NRC's automated data retrieval system. This information is retrievable as professional manpower expended against the several milestones involved in the review of facility applications. For materials it is retrievable for a class or type of application. This raw information was further analyzed after retrieval and used to develop the average manpower expended for each type of application, license, or inspection.

After each NRC service was properly categorized, contractual services analyzed, and the professional manpower figures obtained for each fee category, the cost per man-year to maintain a professional employee (professional man-year rate) was developed for the Offices of Nuclear Reactor Regulation, Nuclear Materials Safety and Safeguards and Inspection and Enforcement, and the Advisory Committee on Reactor Safeguards, Atomic Safety Licensing Board Panel and the Atomic Safety Licensing Appeal Panel. These rates were developed by using (1) each office's costs of personnel compensation (salaries), personnel benefits, administrative support and travel, (2) the number of professional employees who were identified as working on licensing, inspection, and other special projects (excluding administrative, supervisory and management direction employees), and (3) the overhead support provided to the Nuclear Reactor Regulation, Nuclear Materials Safety and Safeguards, Inspection and Enforcement, Advisory Committee on Reactor Safeguards, Atomic Safety Licensing Board Panel and Atomic Safety Licensing Appeal Board (operating offices) by the Program Direction and Administration and Program Technical Support offices. To determine overhead support these offices were analyzed to identify what service, if any, they provided to the operating offices.

After the analysis, the manpower and other costs of the offices of the Secretary, Controller, Management Information and Control, Administration, Executive Legal Director, and the Executive Director for Operations were allocated as overhead support to other NRC offices. Each of these offices, with the exception of the Offices of Controller and Administration, analyzed its operations in terms of the support it provides to the various operating offices. Based on this analysis, each office allocated its effort on a percentage basis. This overhead was applied to the total cost of the office receiving the support. The costs for the Offices of Administration and Controller were distributed to all of the NRC offices on a pro-rata basis based on distribution of manpower. This procedure was followed for the offices of the Controller and Administration because their support directly follows the needs of the staffing of the various NRC offices. PDA and PTS offices excluded from fees are the Offices of Commission, General Counsel, Policy Evaluation, Inspector and Auditor, Congressional Affairs, Public Affairs, Planning and Analysis, Equal Employment Opportunity, and International and State Programs.

The following shows how the professional man-year rate was developed for the Offices of Nuclear Reactor Regulation, Nuclear Materials and Safeguards, Inspection and Enforcement, Advisory Committee on Reactor Safeguards, Atomic Safety Licensing Board Panel, and Atomic Safety Licensing Appeal Panel.

Office of Nuclear Reactor Regulation (NRR)—Average cost per man-year computation (fiscal year 1977)

	Cost	Staff
Personnel compensation	$17,700,000	613
Personnel benefits	1,590,000	
Administrative support	4,460,000	
Travel and transportation of persons	810,000	
Subtotal	24,560,000	613
Less consultants	106,675	
Total	24,453,325	
NRR's proportionate share of PDA and PTS [1] costs	5,731,134	
NRR training costs	300,000	
Added factor [2] 613 man-years × $295/man-year	180,835	
Total	30,665,294	[3] 613

See footnotes at end of table.

	Costs	Staff
Average cost/man-year to maintain a professional employee	$30,665,294÷[3] 438 = $70,012	

[1] PDA=program direction and administration, PTS=program technical support.
[2] The added factor represents interest and depreciation on plant and capital equipment.
[3] Of the total 613 budgeted employees 438 were identified as professionals exclusive of administrative, clerical, supervisory, and management direction employees.

Office of Nuclear Material Safety and Safeguards (NMSS)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$6,700,000	276
Personnel benefits costs	600,000	
Administrative support costs	1,720,000	
Travel and transportation of persons costs	530,000	
Subtotal	9,550,000	276
Less consultants	85,624	
Total	9,464,376	
NMSS proportionate share of PDA and PTS [1] costs	2,640,951	
Added factor,[2] 276 man-years×$295/man-years	81,420	
Total costs	12,186,747	[3] 276
Average cost/man-year to maintain a professional employee	$12,186,747÷[3] 176 = $69,243	

[1] PDA=program direction and administration, PTS=program technical support.
[2] Added factor represents interest and depreciation on plant and capital equipment.
[3] Of the 276 total, 176 have been identified as professional man-years.

Office of Inspection and Enforcement (IE)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$15,180,000	592
Personnel benefits costs	1,370,000	
Administrative support costs	3,920,000	
Travel and transportation of persons costs	1,770,000	
Subtotal	22,240,000	592
IE's proportionate share of PDA and PTS [1] costs	3,665,623	
IE training costs	56,000	
Added factor,[2] 592 man-years ×$295/man-year=$174,640; IE special equipment only=100,490	275,130	
Total costs	26,236,753	[3] 592
Average cost/man-year to maintain a professional employee	$26,236,753÷406 [3]=$64,623	

[1] PDA=program direct on and administration; PTS=program technical support.
[2] Added factor represents interest and depreciation on plant and capital equipment.
[3] Of the 592 total, 406 have been identified as professional man-years.

Advisory Committee on Reactor Safeguards (ACRS)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$1,035,511	37
Personnel benefits costs	102,413	
Subtotal	1,137,924	
Administrative support costs	286,424	
Travel and transportation of persons cost	348,000	
Program support costs	537,000	
Subtotal	2,291,348	37
ACRS's proportionate share of PDA and PTS [1] costs	236,926	
Added factor [2], 37 man-years×$295/man-year	10,915	
Total costs	2,539,189	[3] 37
Average cost/man-year to maintain a professional employee	$2,539,189÷28.5 [3]=$89,094	

[1] PDA=program direction and administration; PTS=program technical support.
[2] Added factor represents interest and depreciation on plant and capital equipment.
[3] Of the 37 total, 28.5 have been identified as professional man-years.

Atomic Safety and Licensing Board Panel (ASLBP)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$1,175,445	42
Personnel benefits costs	116,253	
Subtotal	1,291,698	
Administrative support costs	304,698	
Travel and transportation of persons cost	127,000	
Program support costs	230,000	
Subtotal	1,953,396	42
ASLBP's proportionate share of PDA and PTS [1] costs	458,685	
Added factor,[2] 42 man-years×$295/man-year	12,390	
Total costs	2,424,471	[3] 42
Average cost/man-year to maintain a professional employee	$2,424,471÷[3] 28.38 = $85,429	

[1] PDA—Program direction and administration; PTS—program technical support.
[2] Added factor represents interest and depreciation on plant and capital equipment.
[3] Of the 42 total, 28.38 have been identified as professional man-years.

Atomic Safety and Licensing Appeal Panel (ASLAP)—Average cost per man-year computation (fiscal year 1977)

	Costs	Staff
Personnel compensation costs	$475,775	17
Personnel benefits costs	47,055	
Subtotal	522,830	
Administrative support costs	123,330	
Travel and transportation of persons cost	25,000	
Program support costs	15,000	
Subtotal	686,160	17
ASLAP's proportionate share of PDA and PTS [1] costs	150,623	
Added factor [2], 17 man-years×$295/man-year	5,015	
Total costs	841,798	[3] 17
Average cost/man-year to maintain a professional	$841,798÷[3] 9.56 = $88,054	

[1] PDA—program direction and administration; PTS—program technical support.
[2] Added factor represents interest and depreciation on plant and capital equipment.
[3] Of the 17 total, 9.56 have been identified as professional man-years.

The costs of contested hearings were excluded in fee computation. The statutory hearing plays a significant role in the licensing of production and utilization facilities. Most of these hearings are contested proceedings and may consume several man-years of Commission time. The hearing is an adjudicatory process which gives the public an opportunity to intervene or participate in the licensing process. It also serves an educational purpose. The Commission has no way of estimating, in advance, the cost of a hearing. Accordingly, based on a policy decision, the costs of contested hearings were excluded in fee computation.

The actual fee for a specific category was computed by multiplying the average professional manpower required to perform the service by the professional man-year or man-hour rate, and adding the average share of the costs of the contractual support services. The following example illustrates how fees were calculated for nuclear power reactors. The example covers a duplicate design plant.

Nuclear power plant—Construction permit—1st unit on site

Organization providing service	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
NRR safety and environmental (manpower)	6.1	$70,012	$427,073
NRR safety and environmental (contractor support)			276,346
NRR antitrust (manpower)	.2	70,012	14,002
NRR safeguards (manpower)	.3	70,012	21,004
NRR consultants			556
IE safety and environmental (manpower)	1.86	64,623	120,199
IE safety and environmental (contractor support)			2,784
IE vendor program			36,800
ACRS review	1.5	89,094	133,641
ASLBP review	.4	85,429	34,172
ASLAB review	.027	88,054	2,377
Total			1,068,954

After an application fee of $125,000 was deducted from the $1,068,954 the construction permit fee became $944,000 (rounded to the nearest $100). The application fee is part of the construction permit fee moved up front so that when applications for nuclear power plants are withdrawn, cancelled or denied, the Commission will recover part of its review costs.

V42N84 MAY 2 77 UMI

Nuclear power plant—Operating license—1st unit on site

Organization performing service	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
NRR safety and environmental (manpower)	5.8	$70,012	$406,070
NRR safety and environmental (contract support)			163,215
NRR antitrust (manpower)	.1	70,012	7,001
NRR safeguards (manpower)	.3	70,012	21,004
NRR consultants			556
NRR operator examinations			30,248
IE safety and environmental (manpower)	4.13	64,623	266,893
IE safety and environmental (contract support)			15,565
IE safeguards (manpower)	.1	64,623	6,462
IE safeguards (contract support)			445
ACRS review	1.2	89,094	106,913
Total			1,024,472

The operating license fee (rounded) becomes $1,024,500 for the first reactor unit on site. The fees covering review of (1) concurrent units (second, third, etc., units of the same design at a single power station and reviewed at the same time) and (2) the first identical unit located at a different site, were computed using the method shown above. The fee for an identical unit located at a different site is substantially lower than the fee for a first unit of a kind. Information used to develop fees for nuclear power plants; facility manufacturing licenses; the Clinch River Breeder reactor; review of preliminary and final standardized designs filed by vendors and architect engineers; test facilities; research reactors; reprocessing facility complexes and uranium enrichment plants, is available for public review in the Public Document Room, 1717 H Street, Washington, D.C. Individual materials licenses have been separated into 41 fee categories based on the type of license and inspection performed. The 41 categories cover applications, licenses and inspections for special nuclear material, source material, byproduct material, sealed source and device evaluations and the review of packages designed to transport radioactive materials. The development of three materials license application fees are shown below for illustrative purposes.

Plutonium processing and fuel fabrication plant

	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
Request for construction approval:			
NMSS safety and environmental (manpower)	3.8	$69,243	$263,123
NMSS safety and environmental (contract support)			220,000
NMSS safeguards (manpower)	0.32	69,243	22,158
NMSS safeguards (contract support)			25,000
Total			530,281
New license application:			
NMSS safety and environmental (manpower)	2.1	69,243	145,410
NMSS safety and environmental (contract support)			65,000
NMSS safeguards (manpower)	0.45	69,243	31,159
Total			241,569
Uranium mills:			
NMSS safety and environmental (manpower)	0.4	69,243	27,697
NMSS safety and environmental (contract support)			80,000
Total			107,697
Private physicians for use of special nuclear material or byproduct material in humans, NMSS safety (manpower)	[1] 5	[1] 38	190

[1] Man-hour.

The computation of all the fees for the materials license categories followed the method illustrated above. The cost detail is available for public review in the Commission's Public Document Room, 1717 H Street, Washington, D.C.

The following illustrates how inspection fees were developed for facility and materials licenses.

	Average professional inspection time (man-year)	Professional man-year rate	Cost elements of proposed fee
Power reactor (1st unit):			
IE safety and environmental (manpower)	[1] 1.004	$64,623	$64,881
IE (contract support)			10,789
Total			[1] 75,670

See footnotes at end of table.

	Average professional processing time (man-year)	Professional man-year rate	Cost elements of proposed fee
Special nuclear material licenses with quantities of 5 kg or more of U-235 used for fuel processing and fabrication:			
IE safety (manpower)	[1] 0.07	64,623	4,524
IE (contract support)			748
Total			[2] 5,272

[1] Per year.
[2] Inspection.

The computation of all inspection fees (safety and safeguards) were developed using the method shown above. The cost detail is available for public inspection in the Commission's Public Document Room, 1717 H Street, Washington, D.C.

Inspection fees cover not only the time the inspector spends at the licensee's site but also takes into account the time the inspector or inspection team spends in reviewing the application and supporting documentation and records, the time required to prepare the inspection report, and travel costs.

It is the intent of the Nuclear Regulatory Commission to assess inspection fees as follows:

1. Upon completion of an inspection, where the frequency of the site visit is once per year or less.

2. Upon completion of 90 percent or more of the inspection requirements where the frequency of the site visit is more than once per year.

Routine inspections conducted by resident inspectors will be assessed a fee once per year for the inspection service.

No charge will be assessed for management audits, incident inspections, investigations, and enforcement activities. These actitvities fall outside the routine inspection program and they are considered to be an independent public benefit.

In special situations the following procedures will be used in the assessment of inspection fees.

1. When a person holds multiple materials licenses with use restricted to one location, and more than one of these licenses is inspected during a single inspection visit, the licensee will be assessed only the fee for the license for which the highest fee is due.

2. When a person holds one materials license which authorizes use of material at more than one location, an inspection fee will be assessed for each location when inspected.

3. When a single license authorizes materials which fall into more than one fee category, a single inspection fee will be assessed based on the highest fee category.

4. When more than one operating power reactor is inspected concurrently at a single site, one unit will be assessed the regular routine inspection fee and the additional unit(s) will be assessed a lower fee.

Each person holding a facility or materials license will be informed by letter of the frequency for which fees for routine inspections will be assessed. The schedule of fees in §§ 170.23, 170.24 and 170.32 contain inspection frequencies. Persons receiving licenses on or after the effective date of this amendment will be informed of the inspection frequency when the license is issued. It should be recognized that changes in individual programs or in the quantity of material authorized under a license may require a change in inspection frequency. When a change occurs, the licensee will be informed in writing.

"Special project", as used in the fee schedule, means those projects for which the review is not intended to result in a permit or license and for which the fee is not stated numerically in Part 170.

A separate schedule of fees has been established for uranium enrichment facilities. These charges are substantially less than those for reprocessing facilities, because the review is less complex.

Because of changing considerations in processing fuel cycle applications, fees for such applications are based on limited experience. Accordingly, the Commission plans to reassess the professional manpower required to process each fuel cycle application for a license or amendment when the review process is complete. No applicant will be charged more than that specified in this schedule of fees.

All new applications filed on or after the effective date of this amendment will be subject to the fees prescribed by this amendment to Part 170. Construction permits, operating licenses, manufacturing licenses, standardized design approvals, issued on or after the effective date of this amendment and special project reviews completed on or after the effective date of this amendment will be required to pay the fee prescribed by this amendment.

Fees for construction permits, operating licenses, facility manufacturing licenses, approvals of standardized reference designs, early site reviews, and special project reviews will be collected upon issuance of the permit, license, and approval, or upon completion of the review.

Collections under the revised schedule of fees are estimated to be approximately $18 million in FY 1977, or about seven percent of the NRC budget. This estimate assumes adoption of the revised schedule on August 1, 1977. In FY 1978, estimated collections would be approximately $40 million.

Following the Supreme Court decisions on March 4, 1974, in "National Cable Television Association, Inc. v. United States" 415 U.S. 336 (1974), and "Federal Power Commission v. New England Power Co.," 415 U.S. 345 (1974), the Commission eliminated annual license fees and notified licensees that a request may be filed for refund of annual fees collected. We again advise licensees that a refund of annual fees is available. A request for refund should include the name and address of the licensee and the license number. Each specific annual fee refund claim should include the invoice number, the amount paid by year, the amount of the refund requested, and the amount of any previous refund. Requests for refunds should be mailed to the Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The Commission will hold a public meeting to discuss this Notice at 10 a.m., May 12, 1977, in Room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. At that time, data used in developing the proposed schedule of fees will be made available and the Commission will explain how the proposed schedule of fees was developed.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 170, is contemplated. All interested parties who desire to submit written comments for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by June 1, 1977.

1. Section 170.2 is amended to read as follows:

§ 170.2 Scope.

Except for persons who apply for or hold the licenses exempted in § 170.11, the regulations in this part apply to a person who is an applicant for, or holder of, a specific license for byproduct material license issued pursuant to Parts 30 and 32–35 of this chapter, a specific source material license issued pursuant to Part 40 of this chapter, a specific special nuclear material license issued pursuant to Part 70 of this chapter, or a production or utilization facility construction permit and operating license issued pursuant to Part 50 of this chapter, to rountine safety and safeguards inspection of a license person, and to a person who applies for approval of a reference standardized design of a nuclear steam supply system or balance of plant, for review of a facility site prior to the submission of an application for a construction permit, or for a special project review which the Commission completes or makes whether or not in conjunction with a license application on file or which may be filed.

2. Section 170.3 is amended to add:

§ 170.3 Definitions.

* * * * *

(q) "Nuclear Steam Supply System" consists of the reactor core, reactor coolant system, and related auxiliary systems including the emergency core cooling system; decay heat removal system; and

V42N84 MAY 2 77 UMI

coolant volume and chemical control system.

(r) "Balance of plant" consists of the remaining systems, components, and structures that comprise a complete nuclear power plant and are not included in the nuclear steam supply system.

(s) "Special Projects" means those projects for which the review is not intended to result in a permit or license and for which a fee is not stated numerically in this chapter.

(t) "Routine Inspection" means an inspection performed at frequencies or during a certain period of time prescribed by the Commission for purposes of reviewing a licensee's authorized activities to assure that they are being conducted in accordance with regulatory requirements and that associated facilities and equipment are being operated in a safe manner.

§ 170.11 [Amended]

3. The introductory langauge in paragraph (a) and paragraph (9) of § 170.11 is amended to read as follows:

(a) No application filing fees, license fee, amendment fees, renewal fees, or inspection fees shall be required for:

* * * * *

(9) A license for possession and use of byproduct material, source material, or special nuclear material applied for by, or issued to, an agency of a State or any political subdivision thereof, except for licenses which authorize distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material, or licenses authorizing services to any person other than an agency or political subdivision of the State.

* * * * *

4. Paragraph (b)(3) of § 170.11 is deleted.

5. Paragraphs (b) and (c) of § 170.12 are amended to read as follows:

§ 170.12 Payment of fees.

* * * * *

(b) *Facility fees.* Construction permit fees, manufacturing license fees, operating license fees, reference standardized design approval fees, special project fees, amendment fees, and safety and safeguards inspection fees.

(1) Fees for construction permits, operating licenses, manufacturing licenses, and reference standardized design approvals are payable when the construction permit, operating license, manufacturing license, or standardized design approval is issued.

(2) Fees for special projects are payable upon notification by the Commission when the project is completed.

(3) Fees for amendments are payable upon notification by the Commission.

(4) Fees for inspections are payable upon notification by the Commission.

(c) *Materials fees.* Amendment, inspection, and special project fees.

(1) Fees for material license amendments shall accompany the application except for Categories 1A, 1B, 1C, 1H, 2A, 2C, 4A, 11A, 11B, and 11C, in § 170.31 where the fees are payable upon notification by the Commission.

(2) Fees for a special project involving byproduct, source, or special nuclear material are payable upon notification by the Commission.

(3) Fees for inspections are payable upon notification by the Commission.

* * * * *

6. Section 170.21 of Part 170 is amended to read as follows:

Schedule of facility fees

Facility categories	Types of fees	Fee [1]
A. *Power reactors:*		
1. Custom	Application-construction permit	$125,000
	Construction permit-first unit	944,000
	Construction permit-concurrent unit [2]	174,000
	Operating license-first unit	1,024,500
	Operating license-concurrent unit [2]	302,800
2. Standardized design-duplicate unit [3]	Application-construction permit	125,000
	Construction permit-first unit	944,000
	Construction permit-concurrent unit [2]	174,000
	Construction permit-1st identical unit additional site(s)	757,100
	Operating license-first unit	1,024,500
	Operating license-concurrent unit [2]	300,200
	Operating license-1st identical unit additional site(s)	712,000
3. Standardized design-replicate unit [4]	Application-construction permit	125,000
	Construction permit-first unit	811,600
	Construction permit-concurrentiunit [2]	164,200
	Construction permit-first identical unit additional site(s)	725,900
	Operating license-first unit	914,400
	Operating license-concurrent unit [2]	293,900
	Operating license-first identical unit additional site(s)	691,500
4. Standardized Design-Reference Systems Concept: [5]		
a. Utility referencing a nuclear steam supply system and custom balance of plant.	Application-construction permit	125,000
	Construction permit-first unit	853,600
	Construction permit-concurrent unit [2]	162,500
	Construction permit-first identical unit additional site(s).	725,900
	Operating license-first unit	934,100
	Operating license-concurrent unit [2]	292,100
	Operating license-first identical unit additional site(s).	669,200
b. Utility referencing a nuclear steam supply system and standardized balance of plant.	Application-construction permit	125,000
	Construction permit-first unit	721,800
	Construction permit-concurrent unit [2]	162,500
	Construction permit-first identical unit additional site(s).	725,900
	Operating license-first unit	829,100
	Operating license-concurrent unit [2]	292,100
	Operating license-first identical unit additional site(s).	669,200
5. Manufacturing license concept: [6]		
a. Vendor-review of preliminary design.	Application	125,000
	Manufacturing license	[7] 1,477,500
b. Vendor-review of final design	Final design amendment	[7] 448,100
c. Utility referencing a manufacturing license.	Application-construction permit	125,000
	Construction permit-first unit	730,000
	Construction permit-concurrent unit [2]	61,500
	Operating license-first unit	1,001,200
	Operating license-concurrent unit [2]	221,000
6. Breeder reactors	Appl cation-construction permit	125,000
	Construction permit	1,781,000
	Operating license	[7] 1,954,900
B. Standard reference design review: [8]		
1. Vendor-standardized nuclear steam supply system:		
a. Review of preliminary reference design.	Application	50,000
	Approval	412,100
b. Review of final reference design	Application	50,000
	Approval	483,400
2. Architect-engineer-standardized balance of plant:		
a. Review of preliminary reference design.	Application	50,000
	Approval	412,100
b. Review of final reference design	Application	50,000
	Approval	501,200
C. Test facility	Application-construction permit	5,000
	Construction permit	67,200
	Operating license	100,300
D. Research reactor	Application-construction permit	5,000
	Construction permit	34,900
	Operating license	55,000
E. Reprocessing plant complex [9]	Application-construction permit	125,000
	Construction permit	873,700
	Operating license	952,400
	Amendment Fees: [10]	
	Major safety and environment	71,500
	Major safeguards	43,800
	Minor safety and environment	3,500
	Minor safeguards	3,500

See footnotes at end of table.

Schedule of facility fees—Continued

Facility categories	Types of fees	Fee [1]
F. Uranium enrichment plants [9]	Application-construction permit	125,000
	Construction permit	388,400
	Operating license	457,200
G. Special projects and reviews [10]		

[1] Where a partial fee for a power reactor operating license has been paid prior to the effective date of this amendment, the amount paid shall be deducted from the fee prescribed by this amendment and the difference will be due when the operating license for 100 pct power is issued.

[2] Concurrent unit: A concurrent unit is defined as a power reactor of the same design at a single power station that was subject to concurrent licensing review.

[3] Duplicate unit: A duplicate unit involves a single review of a facility design when an applicant or group of applicants propose to construct several identical units at one or more sites. (See Appendix N, 10 CFR Part 50.)

[4] Replicate unit: The review of a replicate unit involves submission of an application by a utility for a permit or license for a nuclear power plant utilizing a plant design that was previously submitted by the same utility or by another utility. Its ultimate objective would be the duplication of plants through the detailed design and construction phases.

[5] Reference system: The application for a construction permit or operating license references an *approved* standardized design covering either the nuclear steam supply or the "balance of plant." (See Appendix O, 10 CFR Part 50.)

[6] Manufacturing license concept: This type of review encompasses a number of identical units to be manufactured at one location and moved to a different location for operation. (See Appendix M, 10 CFR Part 50.)

[7] When review of application is complete, the fees will be checked against professional manpower and related contractual services costs required to process the application and in no event will fees exceed those shown in the Schedule of Facility Fees.

[8] Standard reference design review: The standard reference design review involves the review of an entire facility design or major fractions of a facility design outside the context of a license application. The standard design would be referenced by utilities in license applications. (See Appendix O, 10 CFR Part 50.)

[9] A major amendment is defined as one requiring evaluation of many aspects of licensed activities where the proposed action could present a potential risk to public health and safety. A minor amendment is defined as one that is primarily administrative in nature, where safety and environmental or safeguards considerations may be easily resolved.

[10] Charge will be separately determined by the Commission taking into account the professional manpower required to conduct the review multiplied by the applicable cost per man-year, plus any program support (contractual) costs incurred.

7. A new § 170.22 is added to read as follows:

§ 170.22 Schedule of fees for facility license amendments.

Schedule of amendment fees for facility permits, licenses, or design approvals

Class of Amendment [1]	Fee [2] (in dollars) Power reactors [3]	Test and research reactors [3]
Class I: Amendments that are a duplicate of an amendment for a second essentially identical unit at the same site, where both proposed amendments are received, processed, and issued at the same time	400	
Class II: Amendments that are pro forma, administrative in nature, or do not have a significant safety considerations	1,200	600
Class III: Amendments that involve a single consideration, have acceptability for the consideration clearly identified by a regulatory position, or are deemed not to involve significant hazards consideration	4,000	2,000
Class IV: Amendments that involve a complex issue or more than one consideration, several changes of the Class III type incorporated into proposed amendment, or have been judged to involve significant hazards consideration	12,300	6,000
Class V: Amendments that require evaluation of many aspects of facility operation and the associated safety analysis, are likely to involve review by the ACRS or involve significant hazards consideration and may require a hearing	25,900	12,000
Class VI: Amendments that require evaluation of a new Safety Analysis Report and rewrite of the facility license (including technical specifications), are likely to involve significant hazards consideration or require review by ACRS and are known to involve a hearing	45,900	20,000

[1] At the time the application is filed, the Commission will determine the appropriate class of amendment and the applicant will be notified of payment due.

[2] No fee will be charged for amendments which authorize an increase in power to 100 pct of the initial design power level.

[3] No fee will be assessed for Commission-ordered amendments. Fees shown are intended to apply to applicant changes resulting in an amendment to a design approval.

8. A new § 170.23 is added to read as follows:

§ 170.23 Schedule of fees for routine inspections of facilities.

Schedule of facility routine inspection fees [1]

Category	Fee [1] (dollars)	Minimum frequency [2]
1. Power reactor:		
First unit	75,700/yr	Continuous.
Additional units at same site [3]	60,400/yr	Do.
2. Test reactor	4,500 per inspection.	2/yr.
3. Research reactor	4,200 per inspection.	(4).
4. Other production or utilization facility [5] (operating).	42,100/yr	Continuous.
5. Production or utilization facility licensed for possession but not operation.	650/yr	1/yr.

[1] Routine inspections are safety, environmental, and health physics inspections performed at specified frequencies for purposes of reviewing a licensed program to assure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, Commission regulations, and the terms and conditions of the license. These inspections involve, as necessary, direct observations of operations, personnel interviews, independent measurements and evaluations, and selective record and procedure examination. They do not include safeguards inspections of special nuclear material. Fees will be due upon receipt of notice from the Commission.

[2] The frequency of inspections depends upon the type of licensed activities and facilities, the quantities of material used or possessed, and the inherent potential safety hazards. The frequency may change because of problems experienced by licensees or previous inspection findings.

[3] A reduced fee will be charged when the inspection of an additional unit at the same site is conducted concurrently with the first unit.

[4] The inspection frequency for research reactors and critical facilities varies from once every two years to once every three years, depending on the licensed power level.

[5] Fee is applicable for a fuel reprocessing facility and for a uranium enrichment facility.

V42184 MAY 2 77 UMI

9. A new § 170.24 is added to read as follows:

§ 170.24 Schedule of fees for routine safeguards inspections of facilities.

Schedule of facility routine safeguards inspection fees

Category	Fee [1] (dollars)	Minimum Frequency [2]
1. Power reactor:		
First unit	$11,800/yr	2/yr.
Additional unit at same site. [3]	9,500/yr	2/yr.
2. Test reactor (fuel of high strategic importance).	6,500 per inspection.	1/yr.
3. Research reactor (fuel of moderate strategic importance).	1,300 per inspection.	1 every 2 yrs.
4. Other production or utilization facility. [4]	38,700/yr	3/yr.

[1] Inspection fees are due upon receipt of notice from the Commission.

[2] The frequency of inspections depends upon the type of licensed activities and facilities, and upon the type of inspections conducted. The term "frequency" means the number of times per year that a specific inspection requirement is performed. Thus, a frequency of once per year may involve more than one trip to the facility to complete the requirement. The frequency may change because of problems, experience, or inspection findings.

[3] A reduced fee will be charged when the inspection of additional unit(s) at the same site is conducted concurrently with the first unit.

[4] Fee is applicable for a fuel reprocessing facility and for a uranium enrichment facility.

10. Section 170.31 is amended to read as follows:

§ 170.31 Schedule of fees for materials licenses and special projects.

Applicants for materials licenses and holders of materials licenses shall pay the following fees.

Schedule of materials license fees

Category of materials licenses	Type of fee [1]	Fee
1. Special nuclear material: [2]		
A. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to 20 pct or more, or more than 2 kg of uranium 233, for fuel processing and fabrication.	Application—new licenses	$136,600
	Renewal	76,800
	Amendment: [3]	
	Major—safety and environment.	34,600
	Major—safeguards	8,300
	Minor—safety and environment.	1,400
	Minor—safeguards	3,500
B. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to less than 20 pct, for fuel processing and fabrication.	Application, new license	124,800
	Renewal	71,900
	Amendment: [3]	
	Major—safety and environment.	34,600
	Major—safeguards	6,900
	Minor—safety and environment.	1,400
	Minor—safeguards	3,500
C. Licenses for possession and use of more than 2 kg of plutonium for fuel processing and fabrication. [4]	Application for construction approval.	530,300
	License fee	241,600
	Renewal	170,800
	Amendment: [3]	
	Major—safety and environment.	75,000
	Major—safeguards	13,800
	Minor—safety and environment.	1,400
	Minor—safeguards	6,200
D. Licenses for possession and use of more then 5 kg of contained uranium 235 or uranium 233 for activities other than fuel processing and fabrication.	Application-new license	34,600
	Renewal	18,000
	Amendment:	
	Safety and environment	1,400
	Safeguards	2,800
E. Licenses for possession and use of quantities of plutonium exceeding 2 kg for activities other than fuel processing and fabrication.	Application—new license	62,300
	Renewal	38,100
	Amendment:	
	Safety and environment	1,400
	Safeguards	6,900
F. Licenses for possession and use of 200 g to 2 kg of plutonium	Application, new license	47,100
	Renewal	29,800
	Amendment:	
	Safety and environment	1,400
	Safeguards	4,800
G. Licenses for possession and use of 350 g to 5 kg of contained uranium-235 or 200 g to 2 kg of uranium-233.	Application, new license	20,800
	Renewal	11,100
	Amendment:	
	Safety and environment	1,400
	Safeguards	2,800

Category of materials licenses	Type of fee [1]	Fee
H. Licenses for receipt and storage of spent reactor fuel [4]	Application, new license	335,400
	Renewal	32,000
	Amendment: [3]	
	Major, safety and environment.	88,500
	Major, safeguards	6,200
	Minor, safety and environment.	3,500
	Minor, safeguards	3,500
I. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems.	Application, new license	190
	Renewal	150
	Amendment	40
J. All other special nuclear material licenses, except licenses authorizing special nuclear material in combination that would constitute a critical quanity as defined in sec. 150.11 of pt. 150 which shall pay the same rate as category 1G.	Application, new license	460
	Renewal	460
	Amendments	110
2. Source material:		
A. Licenses for possession and use of source material in milling operations, except in situ leaching and heap-leaching operations. [4]	Application, new license	107,700
	Renewal	100,800
	Amendment: [3]	
	Major, safety and environment.	20,800
	Minor, safety and environment.	3,500
B. Licenses for processing and recovery of source material in in situ leaching operations or heap-leaching operations. [4]	Application, new license (production scale activity).	66,500
	Application, new license (R. & D. Scale Activity).	23,800
	Renewal	17,300
	Amendment	4,200
C. Licenses for refining uranium mill concentrates to uranium hexafluoride. [4]	Application, new license	107,700
	Renewal	45,800
	Amendment: [3]	
	Major, safety and environment.	20,800
	Minor, safety and environment.	3,500
D. All other source material licenses	Application, new license	140
	Renewal	70
	Amendment	40
3. Byproduct material:		
A. Licenses for possession and use of byproduct material issued pursuant to pts. 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	Application, new license	480
	Renewal	480
	Amendment	110
B. Licenses issued pursuant to sec. 32.72 of this chapter authorizing the processing or manufacture and distribution of radio-pharmaceuticals containing byproduct material.	Application, new license	190
	Renewal	150
	Amendment	40
C. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at one location.	Application, new license	190
	Renewal	150
	Amendment	40
D. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at more than one location.	Application, new license	460
	Renewal	460
	Amendment	110
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is not removed from its shield (self-shielded units).	Application, new license	190
	Renewal	150
	Amendment	40
F. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is exposed for irradiation purposes.	Application, new license	460
	Renewal	460
	Amendment	110
G. Licenses issued pursuant to subpt. B of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons generally licensed under pts. 31 or 35 of this chapter, except specific licenses authorizing redistribution of items which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons generally licensed under pts. 31 or 35 of this chapter.	Application, new license	950
	Renewal	570
	Amendment	230
H. Licenses issued pursuant to subpt. A of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of pt. 30 of this chapter, except (1) secs. 32.11 and 32.18 of this chapter, (2) specific licenses authorizing redistribution of items and quantities which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons exempt from the licensing requirements of pt. 30 of this chapter, and (3) specific licenses which authorize distribution of timepieces, hands, and dials.	Application, new license	950
	Renewal	570
	Amendment	230
I. Licenses issued pursuant to sec. 32.18 of this chapter to distribute quantities of byproduct material to persons exempt from the licensing requirements of Pt. 30 of this chapter.	Application, new license	190
	Renewal	150
	Amendment	40
J. Licenses issued pursuant to sec. 32.14 of this chapter to distribute timepieces, hands and dials, containing hydrogen 3 or promethium 147 to persons exempt from the licensing requirements of pt. 30 of this chapter.	Application, new license	190
	Renewal	150
	Amendment	40
K. Licenses for possession and use of byproduct material for research and development, except those licenses covered by categories 3A or 3B, and licenses covered by categories 7B or 7C authorizing medical research.	Application, new license	190
	Renewal	150
	Amendment	40
L. All other specific byproduct material licenses, except those in categories 4A through 10B.	Application, new license	110
	Renewal	110
	Amendment	40
4. Waste disposal:		
A. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of commercial disposal by land or sea burial by the waste disposal licensee. [4]	Application, new license	323,100
	Renewal	98,500
	Amendment: [3]	
	Major, safety and environment.	197,700
	Minor, safety and environment.	690
B. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	Application, new license	1,100
	Renewal	570
	Amendment	570
C. Waste disposal licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	Application, new license	190
	Renewal	150
	Amendment	40

V42N84 MAY 2 77 UMI

Category of materials licenses	Type of fee [1]	Fee
5. Well logging and well surveys and tracer studies:		
A. Licenses for possession and use of special nuclear material and/or byproduct material for well logging, well surveys, and tracer studies.	Application, new license	460
	Renewal	460
	Amendment	110
6. Nuclear laundries:		
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	Application, new license	460
	Renewal	460
	Amendment	110
7. Human use of byproduct material, source material, or special nuclear material:		
A. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	Application, new license	300
	Renewal	270
	Amendment	40
B. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter to medical institutions, or 2 or more physicians on a single license, for human use of byproduct material, source material, or special nuclear material, except licenses in category 7A.	Application, new license	190
	Renewal	150
	Amendment	40
C. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter to an individual physician for human use of byproduct material, source material, or special nuclear material, except licenses in category 7A.	Application, new license	190
	Renewal	150
	Amendment	40
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	Application, new license	190
	Renewal	150
	Amendment	40
9. Device, product, or sealed source safety evaluation:		
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices and devices or products distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	Application, evaluation	570
B. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material except reactor fuel and sealed sources distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	Application, evaluation	110
10. Power source: A. Licenses for the manufacture and distribution of encapsulated byproduct material or special nuclear material for use in power generation, except reactor fuel.	Application, new license	1,900
	Renewal	460
	Amendment	460
11. Transportation of licensed material:		
A. Evaluation of spent fuel casks and air shipping packages for plutonium.	Application, evaluation	83,100
	Amendment:	
	Major	6,900
	Minor	3,500
B. Evaluation of high level waste casks and large irradiator packages.	Application, evaluation	76,200
	Amendment:	
	Major	6,900
	Minor	3,500
C. Evaluation of all other packages	Application, evaluation	6,900
	Amendment:	
	Major	3,500
	Minor	690
12. Special projects: [4]		

[1] Types of fees: Separate charges as shown in this schedule will be assessed for applications for new licenses, amendments, and renewals to existing licenses. The following guidelines apply to these charges:

a. Application fees: Applications for materials licenses covering more than one fee category shall be accompanied by the prescribed application fee for each category. Where a license has expired, the full application fee shall be due.

b. Renewal fees: Applications for renewal covering more than one fee category shall be accompanied by the prescribed fee for each category.

c. Amendment fees: Applications for amendments will not be accepted for filing unless accompanied by the prescribed amendment fee, except for categories 1A, 1B, 1C, 1H, 2A, 2C, 4A, 11A, 11B, and 11C, where the fee is due upon notification by the Commission. Applications for amendments covering more than one fee category shall be accompanied by the prescribed fee for each category. Applications for amendments increasing the scope of a program to a higher fee category will not be accepted for filing unless accompanied by the prescribed amendment fee for the higher fee category. Applications to terminate licenses shall not be subject to fees.

[2] Licensees paying fees under categories 1A through 1G are not subject to fees under categories 1H and 1I for sealed sources authorized in the same licenses.

[3] A major amendment is defined as one requiring evaluation of many aspects of licensed activities where the proposed action could present a potential risk to the public health and safety. A minor amendment is defined as one that is primarily administrative in nature, where safety and environmental or safeguards considerations may be easily resolved.

[4] When review of application is complete, all fees will be checked against professional manpower and related contractual services required to process the application and in no event will fees exceed those shown in the Schedule of Materials License Fees.

[5] Special projects encompass those activities for which the review is not intended to result in a license and for which a fee is not stated numerically in this part. The charge will be assessed based on the professional manpower required to conduct the review, multiplied by the applicable cost per man-year, plus any program support (contractual) costs incurred.

11. Section 170.32 is added to read:

§ 170.32 Schedule of fees for health and safety, and safeguards inspections for materials licenses.

Schedule of materials license inspection fees

Category of materials licenses	Type of fee [1]	Fee [2]	Minimum frequency [3]
1. Special nuclear material:			
A. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to 20 pct or more, or more than 2 kg of uranium 233, for fuel processing and fabrication.	Health and safety.	$5,300	3/yr.
	Safeguards	10,300	3/yr.
B. Licenses for possession and use of 5 kg or more of contained uranium 235 in uranium enriched to less than 20 pct for fuel processing and fabrication.	Health and safety.	5,300	3/yr.
	Safeguards	10,300	1/yr.
C. Licenses for possession and use of more than 2 kg of plutonium for fuel processing and fabrication.	Health and safety.	4,600	4/yr.
	Safeguards	11,700	3/yr.

Category of materials licenses	Type of fee [1]	Fee [2]	Minimum frequency [3]
D. Licenses for possession and use of more than 5 kg of contained uranium 235 or uranium 233 for activities other than fuel processing and fabrication.	Health and safety.	4,900	1/yr.
	Safeguards	7,600	2/yr.
E. Licenses for possession and use of quantities of plutonium exceeding 2 kg for activities other than fuel processing and fabrication.	Health and safety.	790	1/yr.
	Safeguards	5,400	2/yr.
F. Licenses for possession and use of 200 grams to 2 kg of plutonium.	Health and safety.	780	1/yr.
	Safeguards	2,300	1/yr.
G. Licenses for possession and use of 350 grams to 5 kg of contained uranium 235 or 200 g to 2 kg of uranium 233.	Health and safety.	780	1 every 2 yr.
	Safeguards	4,000	1/yr.
H. Licenses for receipt and storage of spent reactor fuel	Health and safety.	780	1/yr.
	Safeguards	2,900	2/yr.
I. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems.	Health and safety.	330	1 every 5 yr.
J. All other special nuclear material licenses	Health and safety.	780	1/yr.
2. Source material:			
A. Licenses for possession and use of source material in milling operations, except in situ leaching and heap-leaching operations.	do	1,800	1/yr.
B. Licenses for processing and recovery of source material in in situ leaching operations or heap-leaching operations.	do	1,800	1/yr.
C. Licenses for refining uranium mill concentrates to uranium hexafluoride.	do	1,800	1/yr.
D. All other source material licenses	do	460	1 every 2 yr.
3. Byproduct material:			
A. Licenses for possession and use of byproduct material issued pursuant to pts. 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	do		
	Large program	1,600	1/yr.
	Small program	780	1/yr.
B. Licenses issued pursuant to sec. 32.72 of this chapter authorizing the processing or manufacture and distribution of radiopharmaceuticals containing byproduct material.	Health and safety.	650	1 every 3 yr.
C. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at one location.	do	720	1/yr.
D. Licenses for byproduct material issued pursuant to pt. 34 of this chapter for industrial radiography operations at more than one location.	do	980	1/yr.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is not removed from its shield (self-shielded units).	do	390	1 every 5 yr.
F. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials where the source is exposed for irradiation purposes.	do	390	1 every 3 yr.
G. Licenses issued pursuant to subpt. B of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons generally licensed under pts. 31 or 35 of this chapter, except specific licenses authorizing redistribution of items which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons generally licensed under pts. 31 or 35 of this chapter.	do	390	Do.
H. Licenses issued pursuant to subpt. A of pt. 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of pt. 30 of this chapter, except (1) secs. 32.11 and 32.18 of this chapter, (2) specific licenses authorizing redistribution of items and quantities which have been manufactured or imported under a specific license and licensed by the Commission for distribution to persons exempt from the licensing requirements of pt. 30 of this chapter, and (3) specific licenses which authorize distribution of timepieces, hands, and dials.	do	390	Do.
I. Licenses issued pursuant to sec. 32.18 of this chapter to distribute quantities of byproduct material to persons exempt from the licensing requirements of pt. 30 of this chapter.	do	390	Do.
J. Licenses issued pursuant to sec. 32.14 of this chapter to distribute timepieces, hands and dials, containing hydrogen 3 or promethium 147 to persons exempt from the licensing requirements of pt. 30 of this chapter.	do	390	Do.
K. Licenses for possession and use of byproduct material for research and development, except those licenses covered by categories 3A or 3B, and licenses covered by categories 7B or 7C authorizing medical research.	do	300	Do.
L. All other specific byproduct material licenses, except those in categories 4A through 10B.	do	390	1 every 5 yr.
4. Waste disposal:			
A. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of commercial disposal by land or sea burial by the waste disposal licensee.	do	980	1/yr.
B. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	do	650	1 every 3 yr.
C. Waste disposal licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	do	650	Do.
5. Well logging and well surveys and tracer studies. A. Licenses for possession and use of special nuclear material and/or byproduct material for well logging, well surveys, and tracer studies.	do	520	Do.
6. Nuclear laundries. A. Licenses for commerical collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	do	590	Do.

V 4284 MAY 2 77 UMI

Category of materials licenses	Type of fee [4]	Fee [3]	Minimum frequency [5]
7. Human use of byproduct material, source material, or special nuclear material:			
A. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	....do....	460	1 every 2 yr.
B. Licenses issued pursuant to pts. 30, 40, and 70 of this chapter to medical institutions, or two or more physicians on a single license, for human use of byproduct material, source material, or special nuclear material, except licenses in category 7A.	....do....	460	1 every 3 yr.
C. Licenses issued pursuant to Parts 30, 40, and 70 of this chapter to an individual physician for human use of byproduct material, source material, or special nuclear material, except licenses in Category 7A.	....do....	330	Do.
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	....do....	200	1 every 10 yr.
9. Device, product, or sealed source safety evaluation:			
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices and devices or products distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	Not applicable....		No inspections conducted
B. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material except reactor fuel and sealed sources distributed to general licensees or persons exempt from the requirements for a license pursuant to pts. 30, 40, and 70 of this chapter.	....do....		Do.
10. Power source: A. Licenses for the manufacture and distribution of encapsulated byproduct material or special nuclear material for use in power generation, except reactor fuel.	Health and safety.	780	1/yr.
11. Transportation of licensed material:			
A. Evaluation of spent fuel casks and air shipping packages for plutonium.	Not applicable....		No inspections conducted.
B. Evaluation of high level waste casks and large irradiator packages.	....do....		Do.
C. Evaluation of all other packages....	....do....		Do.

[1] Types of fees: Separate charges as shown in this schedule will be assessed for each routine inspection which is performed at frequencies prescribed by the Office of Inspection and Enforcement. Routine inspections are health and safety, and safeguards inspections performed at specified frequencies for purposes of reviewing a licensed program to assure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, Commission regulations, and the terms and conditions of the license. These inspections involve, as necessary, direct observations of operations, personnel interviews, independent measurements and evaluations, and selective record and procedure examinations.

[2] Inspection fees are due upon receipt of notice from the Commission. The inspection fee for licenses covering more than one fee category will be charged only for the highest fee category assigned the license, if the inspection of the entire license is done at the same time. Where a licensee holds more than one materials license at a single location, a fee equal to the highest fee category covered by the licenses will be assessed, if the inspections are conducted at the same time.

[3] The frequency and scope of inspection depends upon the type of licensed activities, the quantities of material used or processed, the inherent potential safety hazards, and problems experienced by licensees and previous inspection findings.

[4] For inspection purposes, large and small programs in Category 3A are defined as follows:

a. Large programs: Those licensees handling or processing loose or unsealed material for the manufacture of tagged compounds or products, such as sealed sources and distribution of same to others.

b. Small programs: Those licensees who are processors of "finished products", such as previously tagged compounds and sealed sources for introduction into products or repackaging for sale to others.

12. Section 170.41 of Part 170 is amended to read as follows:

§ 170.41 Failure by applicant or licensee to pay prescribed fees.

In any case where the Commission finds that an applicant or a licensee has failed to pay a prescribed fee required in this part, the Commission will not process any application and may suspend or revoke any license involved or may issue an order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part, Parts 30, 40, 50, and 70 of this chapter, and of the Act.

(Sec. 501, 65 Stat. 290; (31 U.S.C. 483a).)

For the U.S. Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-12447 Filed 4-27-77;11:30 am]

[10 CFR Part 2]

RULES OF PRACTICE

Miscellaneous Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending certain sections of its "Rules of Practice" to facilitate public participation in its facility license application review and hearing process, to improve coordination with States, counties, and municipalities, and to make certain other improvements.

DATES: Comment period expires on June 16, 1977.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. Marc R. Staenberg, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-492-7437).

SUPPLEMENTARY INFORMATION: In 1972, the Atomic Energy Commission (now the Nuclear Regulatory Commission) [1] undertook a comprehensive and in-depth examination of its Rules of Practice with a view toward expediting the decision process. As a result, comprehensive amendments to the Rules of Practice in 10 CFR Part 2 were proposed in May 1972 (37 FR 9331) and, after consideration of public comments, effective amendments were published in July 1972 (37 FR 15127).

Experience under the restructured rules suggests the desirability of certain additional improvements. These are described below.

1. *Petitions to intervene.* The present rule, § 2.714, requires that petitions for leave to intervene include both the petitioner's contentions and an affidavit which sets forth with particularity how petitioner's interest may be affected and the bases for petitioner's contentions in the proceeding. Current practice has generally provided 30 days between the date a notice of hearing or notice of proposed action on an application for a nuclear power plant construction permit or operating license is published in the FEDERAL REGISTER and the last date for filing of timely petitions for leave to intervene. In contrast, the time generally required for complete review of the application for a nuclear power plant construction permit or operating license is over one year. Any contested hearings on such applications would likely commence more than six months after the expiration of the time for receipt of timely intervention petitions.

Experience has indicated that 30 days is often insufficient for potential petitioners to frame and support adequate contentions. It has become common practice for parties and petitioners in nuclear power plant licensing proceedings to discuss informally the framing of contentions until just before the special prehearing conference which is held some months or more after expiration of the 30 day period for timely petitions pursuant to § 2.751a. During this period the contentions are frequently revised based on the discussions among the parties and petitioners. Often the petitioners and parties will be able to present the presiding atomic safety and licensing board with an agreed upon set of contentions at the special prehearing conference. This practice reduces unnecessary controversy and litigation and should be encouraged. Accordingly, it is proposed to amend the rules to permit the filing of contentions until shortly before the special prehearing conference. In this connection, it is also proposed to amend § 2.751a, which generally provides for a special prehearing conference within 60 days after the notice of hearing, to generally provide for a special prehearing conference within 90 days of the notice of hearing. This amendment more closely conforms with present practice. Timely petitions to intervene which address the petitioners' interest in the proceeding would still be filed within the initial 30 day period. At the same time, adequate time for discovery and preparation for hearing should remain, so that the time required for completion of the formal hearing process should be the same.

[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission was abolished and replaced by the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission (NRC). The NRC assumed the licensing and related regulatory functions of the AEC.

At present, § 2.714(c) provides that answers to a petition for leave to intervene must be filed by a party within 5 days after the petition for leave to intervene is filed. The Staff is given 10 days to answer. Experience has indicated that the present time limits are too short. It is therefore proposed to increase the time allowed to answer petitions to 10 days for parties and to 15 days for the Staff.

It is also proposed to abolish the requirement that an affidavit accompany petitions to intervene. Experience has shown that such affidavits do not serve a useful purpose at this early stage in licensing proceedings.

2. *Late filing of petitions and contentions.* At present, § 2.714 provides that late filed petitions will not be admitted absent a determination that petitioner has made a substantial showing of good cause and with reference to a balancing of specified factors. There is no provision in § 2.714 which specifically addresses the matter of amending or expanding contentions after a petitioner has been admitted as a party. Yet contentions are frequently expanded or amended because of new information which comes to light after petitioners have been admitted, such as information in the Commission Staff's safety evaluation or environmental impact statements.

It is proposed to amend § 2.714 in the interest of clarifying the requirements in regard to both late filings of petitions and amending, expanding, and deleting contentions. First, it is proposed to amend § 2.714 to outline clearly the factors which need to be considered and balanced before the presiding officer passes upon the admissibility of late filings. In essence, the amendment makes clear that good cause is one factor to be balanced along with others in determining whether a late filing will be admitted. Second, it is proposed that § 2.714 be revised to specifically provide that late filed contentions (a contention or amended contention which is filed after 15 days prior to the special prehearing conference or, where there is no special prehearing conference, first prehearing conference) will be considered for admission under the clarified criteria set forth in subparagraph (a)(1). Third, revised § 2.714 is intended to make clear that late filed contentions must meet the same requirements as timely filed contentions. That is, a proposed contention must be set forth with particularity and with the factual basis for it given. Finally, this section has been generally reorganized to make the language more clear and to incorporate the present practice of granting intervention based upon adequate interest and at least one adequate contention.

3. *Time for staff answers and mailings.* There are several sections in the Commission's "Rules of Practice" (e.g., §§ 2.714(c) and 2.730) which provide the Commission's Staff with additional time for certain filings. For example, the Staff is provided slightly more time than other parties to answer certain motions. Originally, this was intended to enable the Staff to consider other parties' answers (or other filings) before responding itself.

Due to the small amount of additional time provided the Staff and the interplay of the various sections with § 2.710 (Computation of time) the Staff in many cases has been actually provided little or no additional time during which to review other parties' filings, contrary to the intent of the rules. At present, § 2.710 provides that where a party is given less than 7 days in which to answer, weekends and holidays are excluded from the computation of time; if more than 7 days is given weekends and holidays are included. Thus, in those instances where parties are allowed 5 days to file (8 days including time for mailing under § 2.710) and the Staff is allowed 10 days to file (13 days including time for mailing), the result is that rather than there being 5 days difference there may be as little as one. It is therefore proposed to amend § 2.710 to allow that where a party is given 10 days or less to file (excluding time for mailing) it may exclude weekends and holidays from the computation of its time.

4. *Expanded participation: Limited appearances at prehearings, interested counties and cities, and "Amicus" participation.* Section 2.715 set forth the ground rules for limited appearances at NRC proceedings and for participation by interested States without the necessity for their being admitted as a party under § 2.714. This form of participation by members of the public and the States has been a welcome and valuable part of the Commission's licensing proceedings.

(a) At present, the Rules of Practice (§ 2.714(a)) provide for limited appearances, at the presiding officer's discretion, during the course of a proceeding. This discretion has been exercised to permit limited appearances at a hearing but has generally excluded such appearances at prehearing conferences. Since prehearing conferences often precede the hearing by several months, members of the public are sometimes understandably disappointed when they learn that their limited appearance must be postponed until some uncertain date in the future. Experience indicates that members of the public are often interested in making their limited appearances early in the licensing process. It is therefore proposed to amend § 2.715(a) to clarify that limited appearances may be allowed at prehearing conferences as well as at the hearing.

(b) Section 2.715(c) of the Commission's Rules of Practice implements section 274 of the Atomic Energy Act to permit interested States to participate in NRC licensing proceedings without taking a position with respect to the issues. This type of cooperation could be extended to other units of government which also have an interest in the licensing proceeding. It is therefore proposed to expand § 2.715(c) to include interested cities, counties, and agencies thereof. In addition, it is proposed to provide specifically in § 2.715(c) that such interested States, counties, cities, and agencies thereof may, in addition to participation at the hearing, file proposed findings of fact and conclusions of law pursuant to § 2.754 and file exceptions (requests for appeal) pursuant to § 2.762. It is, however, further proposed that the presiding officer have discretion to require such participants to indicate, in advance of the hearing, the subject matters on which they desire to participate. These proposals conform to present practice.

(c) At present, there is no specific provision in Part 2 for participation in appeals before the Atomic Safety and Licensing Appeal Board or Commission by a person in an "amicus" capacity on particular legal or factual issues. Although discretion already rests with the Commission or Appeal Board to permit such "amicus" participation, it is proposed to add a new paragraph (d) to § 2.715 to set forth specifically the guidelines for such participation. It is envisioned that a person who is not a party and who seeks to so participate will move for permission to file a brief in support of an existing party. Oral argument will be granted to such persons at the discretion of the Appeal Board or the Commission.

5. *Consolidated and joint hearings with States.* At present, the rules (§§ 2.402 and 2.716) provide that the Commission may consolidate for hearing two or more proceedings if it finds that consolidation is desirable. It is here proposed to extend the authority to consolidate two or more proceedings to Atomic Safety and Licensing Boards. There appears to be no good reason why such authority should only rest with the Commission or Atomic Safety and Licensing Appeal Board.

It is also proposed to amend § 2.716 to provide specific authority to hold joint hearings with States and/or other Federal agencies on matters of concurrent jurisdiction provided that the Commission's Rules of Practice are not waived. Joint hearings promise to minimize duplication in the reviews by the Commission, State and/or Federal agencies, and improve State and interagency coordination. Whether joint hearings should be held will be determined on a case-by-case basis.

6. *Earlier filing of written testimony.* At present, § 2.743(b) provides that writ-

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ten testimony must be served on each other party at least 5 days in advance of the session of the hearing at which the testimony is to be presented. In light of experience which suggests that 5 days is often too short for review of testimony. it is proposed to amend the time for filing testimony to 15 days in advance of the hearing at which it will be presented. This proposed amendment is also offered in response to a petition for rule making filed with the Commission by Forelaws on Board and the Coalition for Safe Power (Docket No. PRM–2–3). The petitioners requested that § 2.743(b) be changed to provide that written testimony be filed "at least thirty (30) days in advance of the hearing * * * unless otherwise agreed upon by all parties and the presiding officer." Notice of receipt of the petitions and a request for public comment was published on September 7, 1976 (41 FR 37605). One comment, opposed to the petition, was received.

The Commission has given consideration to the petition, comment, and its own experience in proposing to change the time for filing testimony from 5 days to 15 days in advance of the hearing. It was necessary, in reaching this position, to balance the needs of parties to have adequate time to consider written testimony and prepare for the hearing, with the Commission's goal of avoiding unwarranted delays. The Commission believes that the 30 day period suggested by petitioners would be unnecessarily long in the majority of cases. At the same time, the rules allow the presiding officer flexibility to impose a greater than 15 day period for advance filing of written testimony—including 30 days—in complex cases.

7. *Summary disposition.* Motions for summary disposition have proved to be a very valuable tool for disposing of issues which have little arguable merit. However, § 2.749 does not provide adequate time limits for such motions. At present, motions for summary disposition must be filed 10 days before the time fixed for the hearing and answers must be filed 2 days before the date of hearing.

Usually such motions are filed well before these dates and contain an extensive factual presentation. Thus, these filing times do not give parties a reasonable period of time in which to respond nor the presiding officer adequate time to consider the response.

It is, therefore, proposed to amend § 2.749 to require that (1) motions for summary disposition be filed at least 45 days before the time fixed for evidentiary hearings and (2) answers be filed within 20 days after service of the motion, unless other time limits are specified by the presiding officer. It is expected that this will facilitate responses to motions for summary disposition and consideration of the motions and answers by presiding boards. It is hoped that with adequate time, last minute delays in commencement of hearings caused by such motions may be avoided.

8. *Findings and conclusions.* Review of § 2.754, which sets forth the time requirements for the filing of findings of fact and conclusions of law, revealed an apparent inconsistency between the general language of paragraph (a) and the more specific provision of paragraph (b). In addition, experience suggests that the time limits established in paragraph (b) are too short.

It is therefore proposed to revise § 2.754 (a) and (b) to clarify the time requirements under which parties must file, unless otherwise provided by the presiding officer. In addition, its is proposed to increase the time allowed parties, pursuant to subparagraphs (a)(1) and (a)(2), to file their findings and conclusions. It is expected that this increased time will allow sufficient time for the filing of findings and conclusions in ordinary cases.

9. *Additional briefing time on exceptions to initial decisions.* At present, § 2.762(a) provides that within 7 days after service of an initial decision, any party may take an appeal to the Commission by the filing of exceptions to that decision or designated portions thereof. Section 2.762(a) further provides that briefs in support of exceptions must be filed within 15 days (20 days for the Staff) after the filing of exceptions. Experience has shown that these time periods are often too short. The result has been that parties do not have adequate opportunity to thoroughly consider the initial decision and brief exceptions.

It is therefore proposed to amend § 2.762(a) to provide that exceptions, if any, must be filed within 10 days after service of the initial decision and that briefs in support of exceptions must be filed within 30 days (40 days for the Staff) after the filing of exceptions: It is hoped that this will offer sufficient time for improved briefs and less reason for filing requests for additional time.

In proposing these amendments, the Commission recognizes both an obligation to the segment of the public participating in the Commission's licensing process to provide an adequate forum for the consideration and resolution of their concerns, and a responsibility to the general public to arrive at sound licensing decisions in a timely fashion. The Commission expects that these proposed amendments will improve the hearing process without causing significant delays in reaching sound licensing decisions.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Part 2 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Section 2.402(b) is amended as follows:

§ 2.402 [Amended]

1. In § 2.402(b) of 10 CFR Part 2, the expression "or presiding officer" is inserted immediately following the phrase "the Commission".

§ 2.710 [Amended]

2. In § 2.710, the expression "less than seven (7) days" is changed to "ten (10) days or less" and the phrase "three (3) days" is changed to "five (5) days".

3. In § 2.714, paragraphs (a), (b), and (c) are revised to read as follows:

§ 2.714 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, or as provided in § 2.102(d)(3). Non-timely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

(3) Any person who has filed a petition for leave to intervene or who has been admitted as a party pursuant to this section may alter his petition for leave to intervene by amendments, deletions, or additions. A petition may be so amended without prior approval of the presiding officer at any time up to fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference. After this time a petition may be so amended only with approval of the presiding officer, based on a balancing of the factors specified in paragraph (a)(1) of this section. Such an amended petition for leave to intervene must satisfy the requirements of this paragraph (a) of this section pertaining to specificity.

(b) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a suplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within ten (10) days after the petition is filed, with particular reference to the factors set forth in paragraph (d) of this section. However, the staff may file such an answer within fifteen (15) days after the petition is filed.

* * * * *

4. In § 2.715, paragraph (a) is amended by adding the phrase "at any session of the hearing or any prehearing conference" immediately following the phrase "on the issues", paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 2.715 Participation by a person not a party.

* * * * *

(c) The presiding officer will afford representatives of an interested State, County, municipality, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issues: and further, allow such participants to file proposed findings and exceptions pursuant to §§ 2.754 and 7.762. The presiding officer may require such representative to indicate in advance of the hearing the subject matters on which he desires to participate.

(d) If a matter is taken up by the Appeal Board on appeal or sua sponte or by the Commission pursuant to § 2.786 or sua sponte, a person who is not a party may, in the discretion of the Appeal Board or the Commission, respectively, be permitted to file a brief. A person who is not a party and desires to file a brief must submit a motion for leave to do so which identifies the interest of the person and states the reasons why a brief is desirable. Except as otherwise provided by the Commission or the Appeal Board, such brief must be filed within the time allowed to the party whose position the brief will support. A motion of a person who is not a party to participate in oral argument before an Appeal Board or the Commission will be granted at the discretion of the Appeal Board or the Commission.

5. Section 2.716 is revised to read as follows:

§ 2.716 Consolidation of proceedings.

On motion and for good cause shown or on its own initiative, the Commission or the presiding officer may consolidate for hearing or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other Federal agencies on matters of concurrent jurisdiction, if it finds that such action will be conducive to the proper dispatch of business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

§ 2.743 [Amended]

6. In § 2.743(b), the expression "five (5) days" is changed to "fifteen (15) days".

§ 2.749 [Amended]

7. In § 2.749(a), the expression "ten (10) days" in the first sentence is changed to "forty-five (45) days" and the phrase "at least two (2) days before the date of the hearing" in the third sentence is changed to "within twenty (20) days after service of the motion".

§ 2.751a [Amended]

8. In § 2.751a, the expression "sixty (60) days" is changed to "ninety (90) days".

9. In § 2.754, paragraphs (a) and (b) are revised to read as follows:

§ 2.754 Proposed findings and conclusions.

(a) Any party to a proceeding may, or if so directed by the presiding officer shall, file proposed findings of fact and conclusions of law, briefs and a proposed form of order or decision within the time provided by the following subparagraphs, except as otherwise ordered by the presiding officer:

(1) The party who has the burden of proof shall, within twenty (20) days after after the record is closed, file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision.

(2) Other parties may file proposed findings, conclusions of law and briefs within thirty (30) days after the record is closed. However, the staff may file such proposed findings, conclusions of law and briefs within forty (40) days after the record is closed.

(3) A party who has the burden of proof may reply within ten (10) days after service of proposed findings and conclusions of law and briefs by other parties.

(b) Failure to file proposed findings of fact, conclusions of law or briefs when directed to do so may be deemed a default, and an order or initial decision may be entered accordingly.

* * * * *

§ 2.762 [Amended]

10. In § 2.762(a) the expression "7 days" is changed to "ten (10) days", the expression "fifteen (15) days" is changed to "thirty (30) days" and the phrase "(twenty (20) days in the case of the staff)" is changed to "(forty (40) days in the case of the staff)."

11. In section II(a) of Appendix A to 10 CFR Part 2, the expression "sixty (60) days" is changed to "ninety (90) days".

12. In section III of Appendix A, paragraphs (a)(1) and (a)(2) are revised to read as follows:

III. INTERVENTION AND LIMITED APPEARANCES

(a)(1) As required by § 2.714, a person who wishes to intervene must set forth, in a petition for leave to intervene, his interest in the proceeding and how the interest may be affected by Commission action. Petitions for leave to intervene shall, as a basis for enabling the board or the Commission to determine how the petitioner's interest may be affected by the proceeding, set forth (i) the nature of his right under the Act to be made a party to the proceeding, (ii) the nature and extent of the interest that may be affected by the proceeding, and (iii) the effect of any order which may be entered in the proceeding on the petitioner's interest. The petition must identify the specific aspects as to which the petitioner wishes to intervene and set forth with particularity the facts pertaining to his interest. The petitioner must file a supplement to his petition containing his contention(s) and bases therefor not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a. After consideration of any answers to the petition, the board will rule on the petition. If the board finds that the petitioner's interest is limited to one or more of the issues in the proceeding, the intervenor's participation will be limited to those issues.

Petitions and supplements thereto which set forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. In any event, the granting of a petition for leave to intervene does not operate to enlarge the issues, or become a basis for receipt of evidence, with respect to matters beyond the jurisdiction of the Commission.

(2) Petitions for leave to intervene which are not filed within the time specified in the notice of hearing will not be granted unless the board determines that the petition should be granted based upon paragraph (a)(1) of this section and upon a balancing of (i) good cause, if any, for petitioner's failure to file on time, (ii) the availability of other means whereby the petitioners' interest will be protected, (iii) the extent to which petitioner's participation may reasonably be expected to assist in developing a sound record, (iv) the extent to which petitioner's interest will be represented by existing parties, and (v) the extent which the petitioner's participation will broaden the issues or delay the proceedings.

* * * * *

13. In section V(d)(2) of Appendix A, the expression "at least 5 days" is changed to "at least 15 days."

14. In section IX(d)(1) of Appendix A, the third sentence is revised to read as follows: "A brief in support of the exceptions shall be filed by the appellant

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within 30 days thereafter (40 days in the case of the staff)".

* * * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 27th day of April 1977.

For the Nuclear Regulatory Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-12576 Filed 4-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-10-AD]

BEECH MODELS 60, A60 AND B60 AIRPLANES

Proposed Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an Airworthiness Directive (AD) that would require installation of drain holes in the fuselage of certain Beech Models 60, A60 and B60 airplanes to preclude the accumulation of water that can subsequently freeze during flight and prevent or restrict movement of the elevator controls, which could result in the aircraft becoming difficult for the pilot to control.

DATES: Comments must be received on or before June 12, 1977.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 77-CE-10-AD, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number, and be submitted in duplicate to the FAA, Office of the Regional Counsel, Central Region, Attention: Rules Docket Clerk, Docket No. 77-CE-10-AD, 601 East 12th Street, Kansas City, Missouri 64106. All comments received on or before June 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

There have been reports of water collecting in the fuselage, freezing and thereby restricting movement of elevator controls on Beech Model 60 and A60 airplanes. These reports show that water seeps into the fuselage around the cabin door while aircraft are on the ground and collects around the elevator control cables just aft of the wing rear spar carry through structure in the bottom of the fuselage. When aircraft encounter low temperatures at high altitudes, the water freezes and prevents or restricts elevator movement. As a result of these occurrences, Beech issued Service Instructions No. 0741-103, Rev. I, applicable to inservice aircraft and began installing drain holes and valves in the critical locations on current production aircraft. The FAA has concluded that lack of these drain holes on inservice airplanes in an unsafe condition that is likely to exist in other airplanes of the same type design. Accordingly, an AD is being proposed that would require installation of five (5) drain holes and valves in the fuselage of certain Beech Models 60, A60 and B60 aircraft in accordance with the aforementioned service instructions. Accomplishment of this modification will correct the unsafe condition.

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD.

BEECH. Applies to Models 60 (Serial Numbers P-3 through P-126 except P-123), A60 (Serial Numbers P-123, P-127 through P-246) and B60 (Serial numbers P-247 through P-348) airplanes certified in all categories.

Compliance: Required as indicated, unless already accomplished.

To prevent collection of water in the bottom of the fuselage, subsequent freezing of the water and resulting restriction of elevator control, within 100 hours' time in service after the effective date of this AD, accomplish the following:

A. Locate and drill five (5) .250 inch diameter drain holes and install five (5) Beech P/N 50-420082-3 drain seals in the bottom of the fuselage in accordance with Beechcraft Service Instructions No. 0741-103, Rev. I, or later approved revisions.

B. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); sec. 11.81 of the Federal Aviation Regulations (14 CFR 11.81).)

Issued in Kansas City, Mo., on April 21, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-12429 Filed 4-29-77;8:45 am]

[14 CFR Part 71]

[Docket No. 77-SO-11]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Fernandina Beach, Florida, transition area. An ASR approach procedure is being developed for the Fernandina Beach Airport, and additional controlled airspace is required for containment of IFR operations. This action will lower the base of controlled airspace from 1200 to 700 feet in the vicinity of Fernandina Beach to accommodate aircraft executing the ASR approach procedure.

DATES: Comments must be received on or before June 10, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. (404-763-7646).

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airpsace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 10, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Fernandina Beach, Fla., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft executing ASR approaches to the Fernandina Beach Airport.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

FERNANDINA BEACH, FLORIDA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fernandina Beach Airport (lat. 30°36'34" N., Long. 81°27'39" W.); excluding the portion outside the continental limits of the United States.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on April 15, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-12268 Filed 4-29-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-7]

PROPOSED ALTERATION OF CONTROL ZONE[1]

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the Riverside, California (March AFB) Control Zone.

The Riverside, California (March AFB) Control Zone does not incorporate the March AFB TACAN Procedures. Action proposed herein is to include these procedures as Control Zone Extensions and reduce or eliminate the existing Control Zone Extensions as required.

DATE: Comments must be received on or before June 3, 1977.

ADDRESS: Copies of this NPRM may be obtained from; and comments should be sent to: Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Specialist, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, 213-536-6182.

SUPPLEMENTARY INFORMATION: This notice proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171).

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before June 3, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public document will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

Accordingly, the Federal Aviation Administration proposed to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) as follows:

§ 71.171 [Amended]

1. By amending § 71.171 (42 FR 355) of Part 71 of the Federal Aviation Regulations by redesignating the Control Zone and Extensions as follows:

RIVERSIDE, CALIFORNIA (MARCH AFB)

Within a five mile radius of March AFB (latitude 33°52'50" N., longitude 117°15'30" W.); within two miles either side of the March AFB TACAN 150° radial extending from the five mile radius zone to 8.3 miles SE of the TACAN and within two miles either side of the March AFB TACAN 304° radial, extending from the five mile zone to six miles NW of the TACAN.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348 (a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Los Angeles, California on April 20, 1977.

W. R. FREHSE,
Acting Deputy Director, Western Region.

[FR Doc.77-12267 Filed 4-29-77;8:45 am]

[1] Map filed as part of original.

Federal Highway Administration

[23 CFR Parts 640 and 642]

[FHWA Docket No. 77-2]

Certification Acceptance and Secondary Road Plan; Correction

AGENCY: Federal Highway Administration, DOT.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule that appeared at page 16734 in the FEDERAL REGISTER of Tuesday, March 29, 1977 (FR Doc. 77-9037).

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Clifford R. Green, Special Procedures Branch, Office of Engineering, 202-426-0334; Kathleen S. Markman, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. EST, Monday to Friday.

The following corrections are made in the preamble to the general comments received from the Center for Auto Safety:

1. On page 16734, right column, comment number 2, "23 CFR 640.111(a)(1)" is corrected to read "23 CFR 640.109(a)(2)(i)(C)."

2. On page 16734, right column, comment number 5, "23 CFR 640.111" is corrected to read "23 CFR 640.109," and

3. On page 16735, left column, comment number 6, "23 CFR 640.111" is corrected to read "23 CFR 640.109."

Issued on: April 25, 1977.

DOWELL H. ANDERS,
Acting Chief Counsel.

[FR Doc.77-12521 Filed 4-29-77;8:45 am]

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DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 215]

WITHHOLDING OF D'STRICT OF COLUMBIA, STATE, AND CITY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Proposed Rulemaking

AGENCY: Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulation prescribes procedures for the District of Columbia, States, and cities to follow in order to enter into an agreement with the Secretary of the Treasury covering the withholding of District of Columbia, State or city income or employment taxes by Federal agencies. A standard agreement governing such withholding is also contained in the proposed regulation. It is intended that the proposed regulation will provide the basis for withholding District of Columbia and State income taxes from the compensation of members of the Armed Forces in accordance with the Tax Reform Act of 1976 and will combine District of Columbia, State and city withholding provisions into a single regulation.

DATES: Comments on this proposal must be received on or before May 27, 1977. It is intended that the final version of this regulation will be made effective June 10, 1977.

ADDRESSES: Comments should be addressed to the Fiscal Assistant Secretary, Office of the Secretary, Department of the Treasury, Room 2112, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT THE PRIMARY AUTHOR:

Mr. Allan I. Lund, Government Accounting Systems Staff, Bureau of Government Financial Operations, Room 412, Annex No. 1, Department of the Treasury, Washington, D.C. 20226. (202-566-8374).

SUPPLEMENTARY INFORMATION: The proposed regulation will supersede 31 CFR 215 which presently governs city income or employment tax withholding agreements. The proposed regulation will govern District of Columbia, State, and city income or employment tax withholding agreements. The language of District of Columbia, State and city agreements now in effect is substantially retained in a new Standard Agreement appearing in the proposed regulation; District of Columbia and State income tax withholding from the pay of members of the Armed Forces is also provided for. Existing standard agreements would be replaced by the Standard Agreement appearing in the proposed regulation. Therefore, no action will be necessary on the part of a State or city which currently has a standard agreement. The District of Columbia, a State or city which presently has an agreement which is not a standard agreement, will have its present agreement replaced by the Standard Agreement appearing in the proposed regulation unless a new nonstandard agreement is requested and entered into within 120 days of the date of the final regulation.

The need for the proposed regulation derives from the Tax Reform Act of 1976 which amended 5 U.S.C. 5516, 5517, and (through 5517) 5520. The prohibition in 5 U.S.C. 5516 and 5517 against the Secretary of the Treasury entering into agreements with States and the District of Columbia to withhold State and District income taxes from the pay of members of the Armed Forces was eliminated. It should be noted that, whereas agreements presently in effect provide for withholding on civilian Federal employees based on place of regular employment, the withholding on members of the Armed Forces is based on place of legal residence. The Tax Reform Act of 1976, by amending 5 U.S.C. 5517, also permitted the Secretary of the Treasury to enter into agreements with States to withhold State income taxes from civilian Federal employees and members of the Armed Forces in those States where such withholding is voluntary. The amendments to 5 U.S.C. 5516 and 5520 (through 5517) exclude from the definition of a member of the Armed Forces those members of the National Guard and the Ready Reserve participating in activities under 32 U.S.C. 502 and 10 U.S.C. 270(a), respectively.

The proposed regulation accommodates the Tax Reform Act amendments noted above. In addition, the proposed regulation combines District, State, and city income or employment tax withholding agreements and procedures into one regulation. It is intended that the proposed regulation will provide a single point of reference for all tax officials and consolidate administrative provisions that relate to withholding agreements at District, State and city levels.

NOTE: The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, it is proposed to amend 31 CFR 215 in its entirety to read as follows:

PART 215—WITHHOLDING OF DISTRICT OF COLUMBIA, STATE AND CITY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Subpart A—General Information

Sec.
215.1 Scope of part.
215.2 Definitions.

Subpart B—Procedures

215.3 Relationship of Standard Agreement to existing agreements.
215.4 Procedures for entering into a Standard Agreement.
215.5 Procedures for an agreement other than a Standard Agreement.

Subpart C—Standard Agreement

215.6 In general.
215.7 Parties.
215.8 Compliance by agencies.
215.9 Withholding certificates.
215.10 Change of legal residence by members of the Armed Forces.
215.11 Agency withholding procedures.
215.12 Miscellaneous provisions.
215.13 Supersession, amendment and termination provisions.

AUTHORITY: The provisions of this Part are issued under 5 U.S.C. 5516, 5517, and 5520 and section 4 of Executive Order 11968, January 31, 1977 (42 FR 6787).

Subpart A—General Information

§ 215.1 Scope of part.

This part relates to agreements between the Secretary of the Treasury and States, the District of Columbia or cities for withholding of State and city income or employment taxes from the compensation of civilian Federal employees, and for the withholding of State income taxes from the compensation of members of the Armed Forces. Subpart A contains general information and definitions. Subpart B prescribes the procedures to be followed in entering into an agreement for the withholding of State or city income or employment taxes. Subpart C is the Standard Agreement which the Secretary will enter into with any State or city which qualifies to have tax withheld. Requests for deviations from this Standard Agreement will be agreed to by the Secretary only if the State or city's unique circumstances require it.

§ 215.2 Definitions.

As used in this part:

(a) "Agency" means each of the executive agencies and military departments (as defined in 5 U.S.C. 105 and 102, respectively) and the United States Postal Service; and in addition, for city withholding purposes only, all elements of the judicial branch.

(b) "City" means any unit of general local government

(1) Which (A) is classified as a municipality by the United States Bureau of the Census, or

(B) Is a town or township which, in the determination of the Secretary of the Treasury,

(i) Possesses powers and performs functions comparable to those associated with municipalities,

(ii) Is closely settled, and

(iii) Contains within its boundaries no incorporated places as defined by the United States Bureau of the Census; and

(2) Within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

(c) "City income or employment taxes" means any form of tax for which, under a city ordinance, (1) collection is provided by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and (2) the duty to withhold generally is imposed on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction. Whether the tax is described as

an income, wage, payroll, earnings, occupational license, or otherwise, is immaterial.

(d) "Compensation" as applied to employees of an agency and members of the Armed Forces means "wages" as defined in 26 U.S.C. 3401(a) and regulations issued thereunder.

(e) "District of Columbia income tax" means the income tax imposed under 47 District of Columbia Code, Chapter 15, Subchapter II.

(f)(1) "Employees" for purposes of State and city income or employment tax withholding, means all employees of an agency, other than members of the Armed Forces. The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government, who are not performing active civilian service or persons receiving remuneration for services on a contract-fee basis.

(2) "Employees" for purposes of District of Columbia income tax withholding, means employees as defined in 47 District of Columbia Code 1551c(z).

(g) "Members of the Armed Forces" means all individuals in active duty status (as defined in 10 U.S.C. 101(22)) in regular and reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard, except members of the National Guard while participating in exercises or performing duty under 32 U.S.C. 502, and members of the Ready Reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. 270(a).

(h) "Regular place of Federal employment" means the official duty station, or other place, where an employee actually and normally (i.e., other than in a travel or temporary duty status) performs services, irrespective of residence.

(i) "Secretary" means Secretary of the Treasury and Fiscal Assistant Secretary and his designee.

(j) "State" means a State of the United States or the District of Columbia, unless otherwise specified.

(k) "State income tax" means any form of tax for which, under a State statute, (1) collection is provided, either by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State, or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to have such sums withheld; and (2) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of such State.

Subpart B—Procedures

§ 215.3 Relationship of Standard Agreement to existing agreements.

(a) Subpart C of this Part is the Standard Agreement which the Secretary will enter into with a State or city. This Standard Agreement replaces all prior agreements between the Secretary and the State or city covering the withholding of income or employment taxes from the compensation of Federal employees. The Standard Agreement is essentially the same as the prior agreements. A State or city which currently is a party to an agreement with the Secretary covering the withholding of income or employment taxes from the compensation of Federal employees does not need to apply for a new agreement under this Part. A State or city currently a party to an agreement will be presumed to have consented to be bound by the terms of the Standard Agreement (Subpart C). If a State or city, which is currently a party, does not want to be bound by the Standard Agreement, it shall notify the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, in writing over the signature of an officer authorized to contractually bind the State or city within 90 days of the effective date of this Part. The procedures of § 215.5 shall be followed by a State or city which proposes to be bound by an agreement other than the Standard Agreement.

(b) The effective date for the replacement of existing State or city Standard Agreements by the Standard Agreement appearing as Subpart C of this Part is the effective date of this Part. For current other-than-Standard-Agreements, it is 120 days after the effective date of this Part unless an earlier effective date is specifically agreed to or a new agreement which is other than the Standard Agreement of Subpart C is entered into as provided in this Subpart.

§ 215.4 Procedures for entering into a Standard Agreement.

(a) A State or city which does not have an existing agreement and wishes to enter into a Standard Agreement shall indicate in a letter its agreement to be bound by the provisions of Subpart C. The letter shall be addressed to the Fiscal Assistant Secretary, Department of the Treasury, Washington, D.C. 20220, and be signed by an officer authorized to contractually bind the State or city. Copies of all applicable State laws or city ordinances and implementing regulations, instructions, and forms shall be enclosed. The letter shall also indicate the title and address of the official whom Federal agencies may contact to obtain forms and other information necessary to implement withholding.

(b) Within 120 days of the receipt of the letter from the State or city official, the Fiscal Assistant Secretary will, by letter, notify the State or city (1) that the Standard Agreement has been entered into as of the date of the Fiscal Assistant Secretary's letter, or (2) that an agreement cannot be entered into with the State or city and the reasons for that determination. The withholding of the State and city income or employment tax shall commence within 90 days after the effective date of the agreement.

§ 215.5 Procedures for an agreement other than a Standard Agreement.

(a) If a State or city proposes an agreement which varies from the Standard Agreement, the State or city shall follow the procedure in § 215.4(a), except that its letter shall indicate which provisions of the Standard Agreement are not acceptable and the basis therefor, and propose substitute provisions.

(b) Within 60 days of the receipt of the letter from the State or city official, the Fiscal Assistant Secretary will notify the State or city which substitute provisions may be included in the agreement. The State or city shall, by letter, notify the Fiscal Assistant Secretary if it accepts such an agreement. When accepted by the State or city, the effective date of that agreement shall be the date such acceptance letter is received by the Fiscal Assistant Secretary. The withholding of the State and city income or employment tax shall commence within 90 days after the effective date of the agreement.

Subpart C—Standard Agreement

§ 215.6 In general.

This Subpart is the text of the Standard Agreement between the Secretary and the State or city. The terms used in this agreement are defined in § 215.2 of this Part.

§ 215.7 Parties.

The parties to this agreement are the Secretary and the State or city which has entered into this agreement pursuant to 5 U.S.C. 5516, 5517, or 5520 and Executive Order No. 11968 (January 31, 1977).

§ 215.8 Compliance by agencies.

(a) In the case of an agreement with a State, the head of each agency is required to withhold State income taxes from the compensation of (1) employees of such agency who are subject to such taxes and whose regular place of Federal employment is within the State, and (2) members of the Armed Forces who are subject to such taxes and who are legal residents of the State. The foregoing is also applicable with respect to a State whose statutes permit but do not require withholding by employers, provided the employee voluntarily elects to have such tax withheld.

(b) In the case of an agreement with a city, the head of each agency is required to withhold city income or employment taxes from the compensation of employees of such agency who are subject to such taxes and whose regular place of Federal employment is within the city.

(c) In withholding taxes, the head of each agency, except as otherwise provided in this agreement, shall comply with the withholding provisions of the State or city income or employment tax statute, regulations, procedural instructions and reciprocal agreements related thereto.

§ 215.9 Withholding certificates.

Each agency may require employees or members of the Armed Forces under its jurisdiction to complete a withholding certificate in order to calculate the amount to be withheld. The agency shall use the withholding certificate which the State or city has prescribed. Where the State or city has not prescribed a cer-

V4284 MAY 2 7 7 UMI

tificate, the agency may use a certificate approved by the Department of the Treasury. The agency may rely on the information in the certificate. Copies of completed certificates shall be provided to the taxing authority by agencies upon request.

§ 215.10 Change of legal residence by members of the Armed Forces.

(a) In determining the legal residence of a member of the Armed Forces for tax withholding purposes, the head of any agency at all times may rely on the agency's current records which may include a certificate of legal residence. The form of the certificate of legal residence shall be approved by the Department of the Treasury. A change of legal residence of a member of the Armed Forces shall become effective for tax withholding purposes only after a member of the Armed Forces completes a certificate indicating a new legal residence and delivers it to the agency.

(b) Heads of agencies shall notify the State of prior legal residence of the member of the Armed Forces involved on a monthly basis concerning the change of the member's legal residence. The notification shall include the name, social security number, current mailing address and the new legal residence of such member of the Armed Forces. The effective date of the change in legal residence shall also be included in the notification.

§ 215.11 Agency withholding procedures.

(a) State income tax shall be withheld only on the entire compensation of Federal employees and members of the Armed Forces. Nonresident employees, who under the State income tax law are required to allocate at least three-fourths of their compensation to the State, shall be subject to withholding on their entire compensation. Nnonresident employes, who under the State income tax law are required to allocate less than three-fourths of their compensation to the State, may elect to (1) have State income tax withheld on their entire compensation, or (2) have no income tax withheld on their compensation.

(b) In calculating the amount to be withheld from an employee's or a member's compensation, each agency shall use the method prescribed by the State income tax statute or city ordinance or a method which produces approximately the tax required to be withheld (1) by the State income tax statute from the compensation of each employee or member of the Armed Forces subject to such income tax, or (2) by the city ordinance from the compensation of each employee subject to such income or employment tax.

(c) Where it is the practice of a Federal agency under Federal tax withholding procedure to make returns and payment of the tax on an estimated basis, subject to later adjustment based on audited figures, this practice may be applied with respect to the State or city income or employment tax where the agency has made appropriate arrangements with the State or city income tax authorities.

(d) Copies of Federal Form W-2, "Wage and Tax Statement", may be used for reporting withheld taxes to the State or city.

(e) Withholding shall not be required on wages earned but unpaid at the date of an employee's or member's death.

(f) Withholding of District of Columbia income tax shall not apply to pay of employees who are not residents of the District of Columbia as defined in 47 District of Columbia Code, Chapter 15, Subchapter II.

§ 215.12 Miscellaneous provisions.

Nothing in this agreement shall be deemed:

(a) To require collection by agencies of the United States of delinquent tax liabilities of Federal employees or members of the Armed Forces, or

(b) To consent to the application of any provision of law of the State or city which has the effect of (1) imposing more burdensome requirements upon the United States than it imposes on other employers, or (2) subjecting the United States or any of its officers or employees to any penalty or liability, or

(c) To consent to procedures for withholding, filing of returns, and payment of the withheld taxes to a State or city that do not conform to the usual fiscal practices of agencies, or

(d) To permit the withholding of city income or employment taxes from the pay of a Federal employee who is not a resident of the State in which the city is located unless the employee consents to the withholding, or

(e) To permit the withholding of city income or employment taxes from the pay of members of the Armed Forces of the United States, or

(f) To allow agencies to accept compensation from a State or city for services performed in withholding of State or city income or employment taxes, or

(g) To require withholding of State income tax from the compensation of members of the Armed Forces, prior to the first full pay period after June 30, 1977.

§ 215.13 Supersession. amendment and termination provisions.

(a) This agreement supersedes any prior agreement between the Secretary of the Treasury and a State or city pursuant to 5 U.S.C. 5516, 5517, or 5520.

(b) This agreement shall be subject to any amendment of 5 U.S.C. 5516, 5517, 5520 or Executive Order No. 11968, and any rules and regulations issued pursuant to them and amendments thereto.

(c) This agreement may be terminated as to a specific State or city which is a party to this agreement by providing written notice to that effect to the Secretary at least 90 days prior to the proposed termination.

It is intended that the final version of this regulation will be effective on June 10, 1977.

Date: April 26, 1977.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-12474 Filed 4-29-77;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

MAILING LIST SERVICES

Address Cards Arranged in Sequence of Carrier Delivery

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Under this proposed rule the Postal Service would modify its mailing list sequencing service offered to customers by correcting wrong addresses and providing new addresses if mailers meet certain specific requirements. For each correction made the charge would be ten cents. This would aid the Postal Service by reducing the volume of costly undeliverable as addressed mail. It would also aid mailers who would be able to come to one source for information to correct their mailing list.

DATE: Comments must be received on or before June 1, 1977.

ADDRESS: Written comments should be directed to the Manager, Letter Services Branch, Customer Services Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Gregory Whiteman (202-245-5630).

SUPPLEMENTAL INFORMATION: Under the provisions of 39 CFR 111.3, the Postal Service is proposing to modiy its mailing list sequencing service by revising 122.53 of the Postal Service Manual, chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1.

At the present time, the Postal Service provides a series of list correction services for mailing lists of occupant or resident addresses. For example, the Postal Service will, pursuant to 122.513 of the Postal Service Manual, correct an occupant or resident list that is submitted on cards (one address per card) as follows:

1. Incorrect or non-existent street addresses are crossed off.
2. Business addresses are indicated by inserting a "B" opposite the number.
3. Addresses on a rural route are indicated by an "R".
4. The number of separate family units are indicated for apartment houses or other multiple dwellings.
5. Cards with no changes are marked with an "X".

In addition to the above service the Postal Service provides under 122.53 of the Manual a list sequencing service in which incorrect, non-existent, or other undeliverable addresses are withdrawn. For each existing address not included in the list, the Postal Service inserts a blank card in the proper slot, and indicates the number of missing addresses on the card where more than one address in a series is missing. List sequencing reduces the amount of undeliverable as addressed mail and enables the mailing to be produced presorted to carrier route and at times even to carrier walk sequence. However, the existing list sequencing service regulations limit the ability of the Postal Service effectively to corerct mailing lists since correct addresses or new addresses cannot be supplied. As new buildings are opened, and new homes built, and new housing developments completed, mailing lists contain many incorrect or missing addresses which the Postal Service has been unable to correct or supply. This proposed change in the regulations will remedy the matter.

The Postal Service proposes this change in the full awareness of the provisions of 39 U.S.C. 412, which prohibits the Postal Service from making available to the public by any means or for any purpose any mailing or other list of names or addresses of postal patrons or other persons. The Postal Service does not believe that this proposed regulation change would be inconsistent with 39 U.S.C. 412, since the requirements that customers must meet to receive this additional service are designed to insure that the additional street addresses provided do not constitute a list but are rather an interstitial correction of a bona-fide existing list.

Accordingly, although exempt from the notice and comment requirements of the Admininstrative Procedure Act (5 U.S.C. 553 (b), (c) regarding proposed mulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of 122.53 of the Postal Service Manual, which would permit incorrect addresses to be changed and new addresses to be added if specific requirements are met by the mailing list owner.

PART 122—ADDRESSES

In 122.5, revise .53 to read as follows:

122.5 Mailing list services.

* * * * *

.53 Address cards arranged in sequence of carrier delivery.

Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them.

Withdraw cards with nonexistent or other undeliverable addresses. Insert a card showing the correct address for each existing address that is not included in the owner's address cards, plates, or stencils and correct cards with incorrect addresses if the owner meets the following requirements:

(a) Separate mailing lists must be submitted for each five digit ZIP Code area, and

(b) The mailing list must contain 90 percent of all addresses within the five digit ZIP Code area.

In submitting the list to be sequenced, the owner must provide a statement indicating the total number of addresses in the list.

Withdraw cards with incorrect addresses and insert a blank card for each existing address that is not included in the owner's address cards, plates, or stencils if the owner does not meet the requirements specified above. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing.

For each correction made, the charge is 10 cents.

Postmasters must check to see that customers whose lists have been arranged in sequence ensure that bundles are prepared for each route with the individual pieces in address sequence. This above service shall not be provided to customers who do not ensure the required premailing preparation is made.

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-12481 Filed 4-29-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 703-4]

APPENDIX N—EMISSION REDUCTIONS ACHIEVABLE THROUGH INSPECTION AND MAINTENANCE OF LIGHT DUTY VEHICLES, MOTORCYCLES, AND LIGHT AND HEAVY DUTY TRUCKS

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This Appendix presents estimates of potential emissions reduction benefits which, in the judgment of the Administrator, are likely to be achievable through the application of a properly structured and managed inspection/maintenance (I/M) program. Estimates of emission reductions available through retrofit programs, formerly contained in Appendix N, have been deleted. Inspection/Maintenance program effectiveness is given as a function of the level of technology, the stringency of emission standards, the length of program operation, and the adequacy of mechanic training. Basic program requirements are outlined for both the centralized and decentralized program concept. Attachment 1 provides a discussion of the modeling techniques utilized to generate the emission reduction estimates, while Attachment 2 provides computational examples illustrating the usage of Appendix N.

FOR FURTHER INFORMATION CONTACT:

John O. Hidinger, Director, Office of Transportation and Lsnd Use Policy (AW-445) U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0480).

ADDRESS: Submittal of Comments: Comments upon Appendix N are requested. Such comments should be directed to the individual below and postmarked no later than August 1, 1977.

Dated: April 19, 1977.

DOUGLAS M. COSTLE,
Administrator.

In Part 51, of Title 40, Code of Federal Regulations, Appendix N is revised to read as follows:

APPENDIX N—EMISSION REDUCTIONS AND ACHIEVABLE THROUGH INSPECTION AND MAINTENANCE OF LIGHT DUTY VEHICLES, MOTORCYCLES, AND LIGHT AND HEAVY DUTY TRUCKS

AUTHORITY: Section 301(a) of the Clean Air Act as amended by section 15(c)(2) of Pub. L. 91-604, 84 Stat. 1713; 81 Stat. 504 (42 U.S.C. 1857g(a)).

1. *Introduction.* This Appendix presents estimates of the potential emissions reduction benefits which, in the judgment of the Administrator, are likely to be achievable through the application of a properly structured and managed inspection/maintenance (I/M) program. Since the publication of the original Appendix N, new data obtained and experience gained from operating programs have shown the necessity for a revision to certain portions of this document. In addition, estimates of emission reductions available through retrofit programs, formerly contained in Appendix N, have been deleted. Retrofit guidance will be placed in a separate appendix consistent with a format to be followed for other strategies.

To the extent possible, estimates in this Appendix are based on empirical data. However, lack of data in several areas has necessitated extrapolation of empirical data using modeling techniques based on sound engineering judgment. A description of these modeling techniques is contained in Attachment 1. As new data become available, or as predicted extrapolations change, this Appendix will be revised and amended accordingly.

Several definitions have been modified to reflect their intended meaning. Most important, "initial failure rate" has been redefined as a "stringency factor." Hopefully, this new definition will dispel past misapprehension concerning the "initial failure rate" concept. In addition, the idle test has been slightly redefined to reflect actual idle emission testing currently being used.

The minimum requirements of an I/M program are defined. Those programs which are contemplating the use of a private garage I/M program should note the special requirements necessary to obtain the basic emission reduction credits.

Emission reductions for light duty vehicles are estimated not only for, the first year of an I/M program but also for subsequent years since modeling has shown that the reduction benefits can increase with time. Additional emission reductions are estimated for those programs which include twice-a-year inspection and special mechanic training. Estimates of emission reductions resulting from I/M programs for light-duty trucks, heavy-duty trucks, and motorcycles are also given.

Certification data and recent surveillance data indicate that I/M effectiveness may be greater (especially for carbon monoxide) for catalyst equipped in-use vehicles than for pre-catalyst vehicles. By the time many I/M programs are fully implemented, catalyst-equipped vehicles will dominate the vehicle mix. Estimates are therefore given for the effectiveness of I/M on such vehicles, despite the limited data base at the present time.

Tables 1 through 5 summarize the emission reductions obtainable from I/M pro-

V4284 MAY 2 77 UMI

grams. The actual benefit obtained by any state or region implementing a well-designed program may exceed the emissions reductions listed. Such higher reductions, however, would have to be shown through an adequate source surveillance study.

2. *Definitions.* a. "Cutpoint" means the level of emissions which discriminates between those vehicles requiring emission-related maintenance and those that do not.

b. "Federal Test Procedure" (FTP)—A sequence of testing utilized by the Agency to measure vehicle exhaust emissions over a typical urban driving cycle.

c. "Heavy-duty vehicle" means for the purpose of this Appendix, a gasoline fueled motor vehicle whose GVW is greater than 8,500 pounds.

d. "Idle emissions test" or "idle test" means a test procedure for sampling exhaust emissions which requires operation of the engine in the idle mode only. At a minimum, the idle test should consist of the following procedure carried out on a fully warmed-up engine: a measurement of the exhaust emission concentrations for a period of time of at least 15 seconds, shortly after the engine was run at 2,000 to 2,500 rpm with no load for approximately 60 seconds.

e. "Inspection/maintenance" means a strategy to reduce emissions from in-use vehicles by identifying vehicles that need emissions-related maintenance and requiring that such maintenance be performed.

f. "Light-duty vehicle" means a passenger car or passenger car derivative capable of seating 12 persons or less.

g. "Light-duty truck" means, for the purpose of this Appendix, a motor vehicle designed primarily for the transportation of property, or the derivation of such a vehicle, whose GVW is 8500 pounds or less.

h. "Load emissions test" or "loaded test" means a test procedure for sampling exhaust emissions which exercises the engine under loading by use of a chassis dynamometer to stimulate actual driving conditions. As a minimum requirement, the loaded test must include running the vehicle and measuring exhaust emissions at two speeds and loads other than idle.

i. "Motorcycle" means for the purpose of this Appendix, a two-wheeled motorized vehicle designed to transport persons or property on a street or highway.

j. "Stringency factor" is a measure of the rigor of a program based on the estimated fraction of the vehicle population whose emissions would exceed cutpoints for either or both carbon monoxide and hydrocarbons were no improvements in maintenance habits or quality of maintenance to take place as a result of the program.

k. "Tampering" means, for the purpose of this Appendix, rendering inoperative, or intentional misadjustment of any motor vehicle device or element of design intended to control exhaust emissions.

l. "Technology I" means the general type of exhaust emission control technology utilized on all light-duty vehicles subject to pre-1975 Federal emission standards.

m. "Technology II" means the general type of exhaust emission control technology utilized on light-duty vehicles subject to 1975 and later model year federal exhaust emission standards.

3. *Emission reductions for light-duty vehicles.* Tables 1 through 4 list emission reductions for light-duty vehicles that can be achieved through properly structured and managed programs of inspection/maintenance and accompanying mechanic training. See Attachment 1 and 2 for a description of the derivation of these credits and for computational examples of the use of the tables.

a. *First year program credits.* The following first year credits are applicable to both idle and loaded tests.

TABLE 1.—*First year of program credits*

Stringency factor	HC (percent)		CO (percent)	
	Technology I	Technology II	Technology I	Technology II
0.10	1	1	3	8
.20	5	3	8	20
.30	7	9	13	28
.40	10	16	19	33
.50	11	24	22	37

b. *Subsequent years program credit.* The following additional (to Table 1) credits are applicable to vehicles which have undergone more than one inspection by the beginning of the calendar year of interest. These credits are not applicable to programs having inspection intervals of longer than one year. For a model year group of vehicles, the appropriate credit is selected on the basis of the specific number of inspections that the group has incurred by the beginning of the calendar year of interest. The credit is then added to the appropriate first year credit above. Credits are applicable to both technology level cases, to the idle and loaded tests, and to all stringency factor programs.

TABLE 2.—*Subsequent years program credit*

Number of inspections	Additive credit	
	HC (percent)	CO (percent)
2	7	8
3	14	15
4	20	19
5	25	23
6	30	27
7	33	30
8 or more	36	35

c. *Semi-annual I/M program credit.* A credit of 0.2 percent per subsequent semi-annual inspection may be added, up to 15 times, to the first year (Table 1) credits for those programs requiring semi-annual inspection. This credit is applicable at all stringency factors for both HC and CO, idle and loaded tests, and both technology levels.

d. *Mechanic training program credit.* The following additional credits may be taken for the presence of an adequate program of mechanic training.[1] Table 3 provides the basic credits for mechanic training, while Table 4 lists the appropriate credits to be added to Table 3 credits for subsequent years of program operation. The sum of Table 3 and 4 credits is then to be added to the basic credit computed from Tables 1 and 2.

TABLE 3.—*Mechanic training first year credits*

Stringency factor	Technology I		Technology II	
	HC (percent)	CO (percent)	HC (percent)	CO (percent)
0.10	1	5	3	7
.20	3	7	5	10
.30	4	9	4	10
.40	6	8	1	7
.50	7	7	1	5

[1] The "adequacy" of a mechanic training program will, for the present, be determined on a case-by-case basis. Guidelines will be issued in the future if found to be feasible.

TABLE 4.—*Mechanic training subsequent year credits*

Technology I

Stringency factor	Number of inspections			
	2		3 or more	
	HC (percent)	CO (percent)	HC (percent)	CO (percent)
0.10	3	3	15	18
.20	4	8	10	15
.30	6	5	9	9
.40	5	5	5	5
.50	3	2	3	2

Technology II

Stringency factor	Number of inspections—2 or more	
	HC (percent)	CO (percent)
0.10	10	4
.20	8	2
.30	2	1
.40	1	3
.50	1	1

The above Table 4 credits are applicable to vehicles which have undergone more than one inspection by the beginning of the calendar year of interest. For a model year group of vehicles, the appropriate credit is selected on the basis of the technology level of the vehicles, the number of inspections the vehicles have incurred by the beginning of the calendar year of interest, and the stringency factor of the I/M program. The credit is then added to the appropriate first year mechanic training credit (Table 3) and the result is added to the basic credit calculated from Tables 1 and 2. Credits are applicable to both the idle and the loaded test.

Inspection/maintenance approaches are expected to be applicable to heavy duty gasoline fueled trucks and motorcycles, as well as light duty vehicles.

a. *Emission reductions for motorcycles and light duty trucks.* The estimated emission reductions for this group of vehicles are the same as those given in Tables 1 through 4 for Technology I light duty vehicles.

b. *Emission reductions for heavy duty trucks.* Estimated emission reductions due to I/M for gasoline fueled heavy duty vehicles, using either an idle or loaded emissions test are as follows:

TABLE 5.—*Heavy duty vehicle I/M credit*[2]

Stringency factor	HC (percent)	CO (percent)
0.20	11.4	8.3
.30	12.3	9.2
.40	15.6	10.5
.50	17.2	12.0

Analysis of data (generated by the City of New York under EPA grant) on 65 trucks indicate that I/M is a potentially viable emission reducing strategy. The estimated emission reductions given above are based on these limited data. No data on the deterioration of trucks with or without I/M are available. The assumption utilized to develop Table 5 is that the average yearly effectiveness is one-half of the initial benefit achieved as a result of a tune-up.

5. *Basic program requirements.* There are two basic types of operation which may be utilized for an I/M program, namely a centralized inspection system (government or contractor operated) and a decentralized inspection system (private commercial garages). In order to obtain full emission reduction benefits for either a centralized or decentralized inspection system, certain minimum requirements are established, which if not met, will result in assessed emission reductions lower than those listed in Tables 1 through 5 of this Appendix.

a. *Program requirements*—Minimum for all programs.

i. Provisions for regular periodic inspection (at least annually) of all vehicles for which emissions reductions are claimed.

ii. Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. The basic method is to require that failing vehicles pass a retest following maintenance.

iii. Provisions for quality control. The reliability of the inspection system and equipment accuracy must be ensured. This will include routine maintenance, calibration and inspection of all I/M equipment, and routine auditing of inspection results.

b. *Minimum decentralized program requirements.* In order to receive the basic emission reduction benefits for a decentralized I/M program, the following requirements must be included in addition to provisions listed in Section 5(a).

i. Provisions for the licensing of inspection facilities which insure that the facility has obtained, prior to licensing, analytical instrumentation which has been approved for use by the appropriate governing agency. A representative of the facility must have received instructions in the proper use of the instruments and in vehicle testing methods. The facility must agree to maintain records, to collect signatures of operators whose vehicles have passed inspection, and to submit to inspection of the facility.

ii. Records required to be maintained should include the description (make, year, license number, etc.) of each vehicle inspected, and its emissions test results. Records must also be maintained on the calibration of testing equipment.

iii. Copies of these inspection records should be submitted on a periodic basis to the governing agency for auditing.

iv. The governing agency should inspect each facility at least once every 90 days to check the facilities' records, check the calibration of the testing equipment and observe that proper test procedures are followed.

v. The governing agency should have an effective program of unannounced/unscheduled inspections both as a routine measure and as a complaint investigation measure. It is also recommended that such inspections be used to check the correlation of instrument readings among inspection facilities.

c. *Motorcycle and heavy duty truck program requirements.* An acceptable I/M program for motorcycles and trucks must include the same provision specified in Section 5 for light duty vehicles. In addition, a source surveillance program, such as discussed in Section 6(c) is strongly recommended for any emission reduction estimates for motorcycles and heavy duty vehicles. The test procedures and program design for the evaluation of emission reductions should be reviewed in advance by EPA. The source surveillance program can include an assessment of emission deterioration at the option of a state. Without such an assessment, the assumption will be made that average yearly effectiveness is half of the initial benefit found.

6. *Additional Topics*—Emission reductions.

a. *Idle vs. loaded testing.* Although idle and loaded testing do not necessarily fall a mutually inclusive set of vehicles, latest available data indicate no overall difference in HC and CO emission reductions between the two tests. The available data do indicate that the loaded test can be more effective in reducing emissions than the idle test, but only if mechanics are extensively trained in the proper use of loaded test diagnostic information. For this reason, no additional credit is given for loaded mode testing. The loaded emission test does, however, have the potential to measure oxides of nitrogen from automobile emissions and can therefore be a valuable strategy in areas where there is a defined NOx problem.

b. *Tampering inspection.* Additional annual reductions in emissions can be achieved from a program of tampering inspection, in conjunction with emissions inspection. The amount of reduction credited will be a function of the sophistication and complexity of the tampering inspection and the training of the inspectors. To obtain these reductions there must be inspection and maintenance for tampering along with emission I/M. Any plans for tampering inspection should be reviewed with EPA in advance in order to estimate the potential benefits.

c. *Added benefits—source surveillance program.* It is possible that well designed and managed I/M programs will achieve greater reductions than those estimated in this Appendix. This can occur because deterioration rates and other factors may be different for specific geographic areas or because the service industry is doing a better job than estimated or because public maintenance habits improve significantly in response to the program.

To overcome the uncertainty associated with the above it is recommended that a source surveillance program be performed. The results of such a program would allow states and areas to update the emission reduction benefit for I/M as data become available. Such source surveillance studies can determine three key pieces of information: the initial reduction which vehicles can achieve in the first year of a program as a result of inspection and repair, the change in lifetime vehicle emission deterioration which can be credited to yearly inspections, and an accurate location specific emission inventory prior to I/M implementation.

An I/M program has the potential to change both the first year emission rate and the lifetime deterioration curve. Since a source surveillance program needs to be carefully designed to adequately evaluate benefits attributable to I/M, states are encouraged to review source surveillance study designs with regional EPA offices before beginning such programs. Technical guidance for program design and sizing of test samples will be available from EPA.

In the absence of a source surveillance program, states required to submit transportation control plans must use the estimates contained in this Appendix in the determination of emission reductions from inspection/maintenance programs. In addition, current and projected emission factors supplied by EPA must be used in these determinations, unless substantiating justification for other factors is provided.

At the present time, EPA is looking at the possibility of using short inspection tests to determine both percent emission reduction due to inspection and maintenance, and emission deterioration of vehicles over time. The ability to use short tests to determine percent emission reductions due to maintenance will depend upon the correlation of the short test with the Federal Test Procedure. Additional source surveillance implementation information will become available as current analyses are completed.

d. *Alternative approaches.* Maintenance-oriented programs that employ approaches other than emission testing may be capable of achieving emission reductions for in-use motor vehicles. Such approaches, including mandatory maintenance procedures and engine parameter inspection, will be acceptable only if sufficient data are provided to justify the emission reductions estimated.

e. *Program alterations.* Alternations to program design during the course of an I/M program will be evaluated on a case-by-case basis. Such alternations might include: change from an idle test, after several years of use, to a loaded test; change from annual inspection, after several years of use, to a semiannual inspection.

f. *Cutpoint variations.* For a given stringency factor (which is based on both hydrocarbons and carbon monoxide), individual cutpoints for hydrocarbons and carbon monoxide can be varied in a theoretically infinite number of ways. The reductions given in this Appendix assume that there is a particular relationship between hydrocarbon and carbon monoxide cutpoints. This relationship, though considerably more complex than mentioned here, can be generally stated as, for Technology I vehicles, two carbon monoxide failures for each hydrocarbon failure, and for Technology II vehicles, three carbon monoxide failures for each hydrocarbon failure. It is possible that an area's particular pollution problem may call for I/M cutpoints that result in substantial deviations from the HC/CO relationships implicit in this Appendix. At the State's or local area's request, EPA will review the program's cutpoint structure, and make adjustments to emissions reduction credit as necessary.

g. *High altitudes, California.* All emission reductions estimated in this section are also applicable to high altitude areas and for vehicles equipped for use in California.

h. *Oxides of nitrogen.* It has not been shown that maintenance directed at reducing HC and CO emissions has a significant impact on oxide of nitrogen (NOx) emissions. All available data show very minor increases or decreases in NOx levels. It has already been cited (Section 6(a)) that a loaded test is capable of detecting high NOx emitters. Maintenance procedures and an ensuing control strategy to reduce NOx emissions, based on I/M, are therefore conceivable. To the extent that tampering is directed toward NOx emission controls, a good anti-tampering program can reduce NOx emissions.

ATTACHMENT 1

DESCRIPTION OF THE SIMULATION MODEL

Introduction. Empirical data from ongoing inspection/maintenance (I/M) programs has shown that mandatory inspection and maintenance will result in significant air quality benefits. Increased future benefits are to be expected as such programs become stabilized, i.e., the vehicle population has been subject to I/M requirements during its full lifetime. Currently available data, however, is somewhat limited in its ability to estimate these future benefits quantitatively. For this reason, a mathematical model of the I/M process has been developed, in which available empirical data is utilized to make the model as realistic as possible. This approach was used to derive the estimates of benefit presented in Appendix N. Two groups of vehicles were considered, and these groups of vehicles are designated as Technology I and Technology II. Technology I vehicles include all light-duty vehicles manufactured prior to the 1975 model year that were designed to meet pre-1975 exhaust emission standards. Technology II vehicles include all post-1974 light-duty vehicles that were de-

V42N84 MAY 2 77 UMI

signed to meet the more stringent 1975 and later emission standards. Samples of vehicles of the two technology levels were input to the model, and were taken as representative of Technology I and Technology II vehicles on a nationwide basis. Please note: all computations in Attachments 1 and 2 are based upon the metric system.

I. *Description of the simulation model of the inspection/maintenance process.* The I/M process as currently conceived in the model consists of the following events:

1. Emission deterioration from existing levels,

2. Inspection lane testing of HC and CO levels using the idle test to detect high FTP emitters (NOx emissions are insignificant at idle, and therefore are not considered in the model),

3. Maintenance or repair (resulting in lower emission levels), if a vehicle fails the inspection.

Each vehicle undergoes this sequence of events throughout its useful life, which is assumed to be nine years, or approximately 160,000 kilometers.

The model compares average FTP emissions in the case where an I/M program is operational, with emissions in the case where no I/M program exists. Benefit is calculated as the percent reduction in FTP emissions from the average level in the no I/M case. FTP emission levels are used to measure benefit since the FTP driving cycle is assumed to be representative of vehicle operation in urban areas. Two types of benefit can be computed: (1) the average benefit over a vehicle's life, and (2) the benefit in a particular year of a vehicle's life. Both types of benefit are dependent upon the vehicle's level of emission control technology and the number of times the vehicle has been subjected to a mandatory inspection program. The average benefit for a population of vehicles in a given calendar year is computed from the individual technology level vehicle benefits given in Appendix N, which are of the second type. The calculation methodology is discussed in a later section of this Appendix.

Issues affecting estimated I/M benefit. Benefit due to I/M depends upon the assumptions used to implement the simulation of the I/M process; that is, the assumptions surrounding the three events identified above. Because the currently available data are limited, assumptions were made regarding some of the issues that logically affect benefit. The model reflects these assumptions, which were based on engineering judgment. The issues and assumptions are discussed below.

Issue 1. Emission levels of vehicles at first inspection.

Concept. Benefit in the first and subsequent inspection years is expected to depend on the emission levels of vehicles at their first inspection. There are two ways in which differences in the first year emission levels could produce significant differences in benefit. First, it is possible that for vehicles of a given age there will be differences in the distribution of emission levels at first inspection from one technology level to another; for example, it might be the case that for one technology level vehicles have either very low or very high emissions at first inspection, whereas for another technology level vehicles have emissions which are clumped closely together around some average value. This situation could possibly result in more benefit for the first technology level case, even if the same percentage of vehicles of each technology level were to fail an inspection, since failures in the first technology level case could result in bigger drops in emissions percentagewise. Second, within a technology level, different emission levels at the time of I/M implementation will naturally exist for different model year vehicles, and it is possible that these absolute numerical differences will result in benefit (or percentage) differences as well.

Assumptions. The first year Appendix N benefits, and indirectly the benefits for each subsequent inspection year, were determined by analyzing the emissions performance of one-year-old cars with and without I/M. Separate benefits were calculated for the Technology I and Technology II cases. Technology I first year benefits were based on emissions data on 180 1973–74 models tested in the FY '73 Emission Factor Program. Technology II first year benefits were based on emissions data on 587 1975 models tested in the FY '74 Emission Factor Program. These vehicles were taken to be representative of the nationwide mix of low altitude non-California one-year-old Technology I and Technology II vehicles, respectively, in terms of mileage and maintenance characteristics. As Appendix N benefit numbers indicate, I/M benefits differ by technology level, at least for CO.

With regard to different first year emission levels that all model year vehicles, regardless of age, obtain the same first year benefits. This assumption is based upon the premise that, for public acceptance reasons, the first year pass/fail cutpoints would differ with age or model year so that all vehicles would experience similar failure rates. Limited data indicate that under this premise, benefits (on a percentage-wise basis) are similar.

Issue 2. Emission deterioration.

Concept. Emission deterioration is the process whereby vehicle emission rates increase over time from the levels at which the vehicles were intended to emit when new. Emission deterioration includes changes in emissions due to normal wear of engine/emission control components as well as changes in emissions due to tampering or poor maintenance.

Assumptions. The deterioration rates used in the model are expressed as a percentage of low mileage average FTP values per year. These percentage rates are assumed to be equal for all vehicles of a given technology level, and are constant over time. Specifically, the rates were taken to be 18 percent per year for HC and 15 percent per year for CO for Technology I vehicles; 21 percent per year for HC and 14 percent per year for CO for technology II vehicles. These rates are based on data from EPA's FY '71 through FY '74 Emission Factor Programs and represent vehicle deterioration under typical owner maintenance practices. For a given pollutant and vehicle, the model considers the FTP rate of deterioration per year (grams/kilometer/year) to be constant over time. Thus, deterioration is modeled as a linear phenomenon. The grams/kilometer/year value is calculated as the overall deterioration rate, (in percent) multiplied by the individual vehicle's first-year emission level. Thus, each vehicle is considered to be an inherently low or high emitter with respect to each pollutant; vehicles which have low emissions when new will continue to have relatively low emissions as they accumulate mileage. Emissions of vehicles in the no I/M case are assumed to deteriorate throughout their useful life until they reach the average levels of pre-controlled cars at 161,000 kilometers (100,000 miles).

Significant percentages of catalytic converter failure may occur with increasing vehicle age and if such a situation does occur, the emission rates will increase sharply in later years; that is, a constant deterioration rate assumption will not be valid. However, the surveillance data currently available to EPA do not cover mileage ranges extensive enough to estimate the frequency and effect of such failures.

The FTP deterioration rate (grams/kilometer/year) is assumed not to be affected by the existence of an I/M program. However, if an I/M program is operational, the deterioration process is not continuous because deterioration is interrupted by annual idle test emissions inspections. If a vehicle fails the idle test, its emissions are assumed to be reduced via maintenance or repair to meet the pre-determined idle test standards. The FTP emissions are assumed to be reduced correspondingly, as determined by regression relationships. Following an I/M repair, the deterioration process continues under the assumption that a vehicle's yearly rate of deterioration (gm/km) is unaffected by the repair that occurred. The implication is that the inherent emissions characteristics of a vehicle cannot be improved via repair. If a vehicle passes the idle test, its emissions are left unchanged for the calculation of the average emission levels (gm/km) following the round of I/M. The deterioration process then continues until the next annual inspection occurs.

The idle test deterioration rate per year (percent CO or ppm HC) is also assumed to be constant over time for each vehicle. Idle test deterioration rates are determined from FTP deterioration rates using the following rationale: The effectiveness of I/M in reducing in-use vehicle emissions as measured over the FTP requires that the short test used in the inspection lane be an accurate predictor of FTP passage or failure. One way to ensure this is to define the idle deterioration rate in terms of the FTP deterioration rate. Currently in the model the assumption is made that FTP emissions can be quantitatively predicted from idle test emissions, and vice versa. The idle deterioration rate for a given vehicle is determined from the FTP deterioration rate and a regression relationship. Based on data over a limited mileage range, the relationships are assumed to be independent of milage and maintenance state.

Issue 3. Short test pass/fail cutpoints.

Concept. The purpose of an inspection/maintenance program is to reduce the emissions of in-use vehicles as measured over the FTP. A short emissions test procedure is intended to provide a practical method (i.e., quick and inexpensive) for identifying high FTP emitting vehicles. The benefit associated with an I/M program is dependent on the methodology used to determine the short test pass/fail cutpoint for each pollutant from year to year. The method of determining initial short test cutpoints has varied in practice from assigning cutpoints that are make/model specific to assigning one set of cutpoints for all light duty vehicles with similar emission control technology. The possibility of changing short test cutpoints to reflect vehicle age is also an important consideration.

Assumptions. The HC and CO cutpoints on which the Appendix N benefits are based are technology level specific. Thus, all vehicles of a given emission control technology (for example, catalyst-equipped cars) are assumed to have the same cutpoints. Cutpoints for the first year of the simulated I/M program were set by first specifying a stringency factor and then analyzing appropriate EPA emission factor data on one-year-old vehicles which were assumed to be representative of the nationwide mix of one-year-old vehicles. The analysis resulted in the determination of idle test pass/fail cutpoints for HC and O which corresponded to the specified stringency factor (ranging from 10 percent to 50 percent). For example, if a 30 percent stringency factor was specified, then HC and CO idle test cutpoints were determined so that approximately 30 percent of all vehicles would fail the idle test at the first inspection assuming that owners did not change their maintenance habits from those typically in effect prior to the implementation of I/M.

The relative stringency factors for HC and CO were determined by assuming that a car emitting at twice the HC FTP standard is equally likely to be failed as a car which is emitting at twice the CO FTP standard. This assumption is only one of an infinite number of ways that relative HC and CO stringency factors could be weighted to achieve the specified overall stringency factor. For example, since more AQCRs exceed ambient oxidant emission standards than exceed ambient CO standards, a car at twice the HC FTP emission standard could be considered equally likely to fail as a car which is at four times the CO FTP standard. The result of the weighting criterion which was applied is that at stringency levels below 30 percent, the large majority of vehicle failures can be attributed to high CO emission levels; even though significant percentages of HC failure are detected at stringency levels of 40 percent and above, HC failure is never as high as CO failure, percentagewise.

One of the model's critical assumptions with regard to cutpoint specification is that the first year cutpoints continue to be used year after year to determine which vehicles will pass or fail the idle test. One implication of the assumption of maintaining constant cutpoints over time is that vehicles can continue to be repaired to meet the same standards year after year, regardless of vehicle age or mileage. In support of this assumption, data from the 1972 and 1973 EPA In-use Compliance Program (IUCP) programs indicate that vehicles can continue to be repaired to FTP levels well below short test levels which represent 50 percent stringency levels.

If service industry repair capability is assumed to be minimal (as in the base case Appendix N credits, where failed vehicles are repaired just to meet the idle test cutpoints), another implication is that the percentage of failed vehicles increases over time to about twice the initial stringency factor if, as the model assumes, significant voluntary owner maintenance does not occur. Data from I/M programs in New Jersey and Chicago indicate that the failure rates of a given model year of vehicles do not increase significantly as vehicles age, even though the same cutpoint is applied. Thus, either considerable voluntary maintenance is occurring or mechanics are repairing vehicles to levels significantly better than the minimum required repair levels.

Issue 4. Service industry repair capability.

Concept. Air quality benefit derived from an I/M program is dependent on the ability of the service industry to perform the repair work necessary to lower emissions. Depending on the level of service industry training, idle emissions could be reduced just to the cutpoints, or well below the cutpoints, potentially resulting in different benefits to air quality.

Assumptions. The base case benefits given in Table 1 of Appendix N assume that the service industry is capable of repairing all failed vehicles exactly to the idle test cutpoints. Then the equivalent FTP levels are computed so that the average urban benefits can be calculated. The model assumes that a vehicle which is failed incorrectly on the idle test does not have its FTP emissions either raised or lowered by the repair process. The model also assumes that a vehicle which fails for one pollutant only will have the other pollutant emissions lowered to the FTP equivalent idle standard in cases where errors of emission occurred.

Additional benefit is predicted if mechanic training is in effect. The model assumes that mechanic training would result in the reduction of emissions of failed vehicles to the FTP standards. As in the base case, the model assumes that if a vehicle fails for one pollutant only, the other pollutant will also be reduced to the FTP standard if an error of omission occurred. The first year credits indicate a dependency on stringency factor. For catalyst vehicles, the tendency is for mechanic training to have the largest effect on programs with stringency factors of 20 and 30 percent. This is reasonable because the effect of mechanic training is jointly dependent on the percent of cars failed and the degree of improvement in the FTP levels of repaired vehicles resulting from the mechanic training program: If only 10 percent of all cars are failed initially, then only 10 percent of all cars are repaired so that even an apparently significant increased reduction due to mechanic training will be somewhat dampened by the fact that a good percentage of the remaining cars are undoubtedly high FTP emitters which simply were not caught. If, on the other hand, 50 percent are failed and the FTP standards in gm/km are approximately equal to the FTP levels corresponding to the more stringent idle test cutpoints, additional benefit due to mechanic training would be insignificant. For precatalyst CO, the tendency described above, although less apparent, still seems to be present. However, precatalyst HC exhibits a tendency for mechanic training to have an increasing effect with increasing stringency factor. The tendency is explained by the fact that for the data which were input to the computer program, the HC FTP standards in gm/km was significantly lower than the FTP level corresponding to the idle test HC cutpoint, even at stringencies of 40 to 50 percent. As a result, an increased percentage of failed vehicles continued to produce increased benefit due to mechanic training.

The model assumes that owner tampering following the sequence of events: failure of the idle test, vehicle repair, and subsequent passage of the idle test, does not occur. Since motorists frequently attribute driveability problems to properly-functioning emission control devices, this assumption may be somewhat unrealistic unless mechanics become more knowledgeable about the trade-offs between performance and emission rates. However, a good estimate of the frequency and effect of owner tampering (either with or without IM) is not available at the present time. Moreover, the benefit credits given in Appendix N require the existence of an effective anti-tampering program.

Issue 5. Frequency of inspection.

Concept. Since emission deterioration is modeled to occur continuously over time, the frequency of inspection determines the extent of vehicle deterioration between inspections. The more frequent the inspection, the less the vehicles deteriorate and thus the greater the I/M benefit.

Assumptions. For the base case benefits given in Appendix N, inspections are modeled to take place annually. Additional benefits result from semi-annual inspections. The difference in benefits from the annual to the semi-annual case is presented in section 3(c) of Appendix N.

Issue 6. Short test procedure used in the inspection lane.

Concept. Since the intent of an I/M program is to reduce the emissions of in-use vehicles as measured over the FTP, one would ideally be able to design a short emissions test procedure whose results could be used to accurately predict FTP emission levels. From a practical standpoint, the short test procedure must be quick, inexpensive, and applicable to vehicles in a warmed-up condition.

Assumptions. Benefits presented in Appendix N are based on the assumption that the idle test is used in the inspection lane. Limited analysis using the simulation model indicates that benefits using the idle test and a loaded test are comparable since the two tests are equally able to identify high FTP emitters.

ATTACHMENT 2

METHODOLOGY FOR APPLYING APPENDIX N BENEFIT NUMBERS

Tables 1 and 2 of Appendix N provide the I/M benefit numbers necessary to calculate the estimated calendar year percent reduction in HC and CO emissions from emission levels expected in the absence of I/M. To determine the percent reduction in HC and CO emissions for a given calender year, the Appendix N numbers must be applied to the scenario in question. The scenario is specified in determining the following for the calendar year i of interest;

1. The calendar year, y, in which an I/M program was implemented.

2. The number or percentage of vehicles of each model year ($i-12$ through i) contributing to the total vehicle population (vehicles of model years earlier than $i-12$ should be considered as model year $i-12$),

3. Average vehicle kilometers traveled by each model year group of vehicles,

4. HC and CO emission factors (grams/kilometer) for each model year group of vehicles, assuming I/M has never been in effect.

The calculation of emission reduction in kilograms for a given pollutant (HC or CO) in calender year i is performed as follows:

$$D_i = \sum_{t=i-12}^{i} b_{it} e_{it} m_{it} n_{it},$$

where

b_{it} = percent reduction in emissions for vehicles of model year t in calendar year i,[1]

e_{it} = emission factor (grams/kilometer) for vehicles of model year t in calendar year i, assuming I/M has never been in effect,

m_{it} = average kilometers traveled by vehicles of model year t in calendar year i,

n_{it} = number of vehicles of model year t in calendar year i,

[1] The benefit numbers in Tables 1 through 4 of Appendix N (which represent both the base case of I/M and the case where mechanic training and/or a semi-annual program is in effect), can be used to determine b_{it} by identifying the technology level represented by vehicles of model year t and the number of inspections which vehicles of model year t have undergone by the beginning of calendar year i. The number of inspections can be calculated formally as the minimum of $(i-y)$ and $(i-t)$ for an annual I/M program, where i is the calendar year of interest, y is the year in which I/M was implemented, and t is the model year. It is assumed that the maximum number of annual inspections for vehicles of all model years will be eight. For purposes of calculating benefit, model year vehicles which have undergone more than eight inspections should be treated as if only eight have been undergone.

The calculation of benefits in percent, B_i, in calendar year i requires one further step:

$$B_i = 100\, D_i \Big/ \left(\sum_{t=i-12}^{i} e_{it} m_{it} n_{it} \right),$$

where the definitions of m, n, and e are as above.

If only the percent reduction is of interest, rather than the kilograms, the following alternative calculation of B_i can be used:

$$B_i = 100\, \frac{\sum_{t=i-12}^{i} b_{it} e_{it} m_{it} p_{it}}{\sum_{t=i-12}^{i} e_{it} m_{it} p_{it}},$$

where b, e, and m, are defined as above, and p is the fraction of vehicles on the road in calendar year i which are of model year t.

The calculation of the scenario's reduced emission factor (grams/kilometer) in calen-

V 42 84 MAY 2 77 UMI

dar year i as a result of I/M, is performed as follows:

$$(BF)_i = \frac{(100-B_i)}{100} \cdot \left(\sum_{t=i-12}^{i} e_{i,t} m_{i,t} n_{i,t}\right) \Big/ \left(\sum_{t=i-12}^{i} m_{i,t} n_{i,t}\right),$$

where B_i, $e_{i,t}$, $m_{i,t}$, and $n_{i,t}$ are as defined above. (Replacement of $n_{i,t}$ with $p_{i,t}$ will yield the same numerical results).

Appendix N can also be used to compute the average percentage benefit of I/M for a given vehicle over its useful life, which is assumed to be nine years or approximately 160,000 kilometers and represents eight annual I/M inspections. If the vehicle is of model year t and I/M began in calendar year y, this percent reduction in emissions for a specific pollutant is computed as follows:

$$U_t = 100 \cdot \left(\sum_{k=t}^{t+8} b_{k,t} e_{k,t} m_{k,t}\right) \Big/ \left(\sum_{k=t}^{t+8} c_{k,t} m_{k,t}\right),$$

where

k=calendar years covering the useful life of a vehicle of model year t; $k=t, t+1, \cdots, t+8$,

$b_{k,t}$=percent reduction in emissions for vehicles of model year t in calendar year k,[3]

$e_{k,t}$=emission factor (grams/kilometer) for vehicles of model year t in calendar year k, assuming I/M has never been in effect,

$m_{k,t}$=average kilometers traveled by vehicles of model year t in calendar year k.

[3] The benefit numbers in Tables 1 through 4 of Appendix N (which represent both the base case of I/M and the case where mechanic training and/or a semi-annual program is in effect), can be used to determine $b_{k,t}$, by identifying the technology level represented by vehicles of model year t and the number of inspections which vehicles of model year t have undergone by the beginning of calendar year k. The number of inspections (for calendar years after calendar year y) can be calculated formally as the minimum of $(k-y)$ and $(k-t)$ for an annual I/M program, where y is the year in which I/M was implemented, t is the model year, and k is the calendar year. Note that $b_{k,t}=0$ for k less than or equal to y.

Nationwide estimates of the number of vehicles of each model year in the calendar year of interest, and average kilometers traveled by each model year vehicle for the calendar year of interest can be obtained by referring Table 1 which provides nationwide estimates of number of vehicles by vehicle age, and average kilometers traveled by vehicle age. Nationwide estimates of emission factors by calendar year are available in AP-42. Tables 2 and 3 provide, for illustrative purposes only, sample emission factors for calendar years 1977–1980 in format to be utilized in the upcoming revision of AP-42, Supplement 5.

Examples of the application of the methodology for calculating benefit.

Specification of scenario for problem examples 1 and 2. The nationwide mix of vehicles by age and average VKTs, as given in AP-42, applies. An I/M program with a 40 percent stringency factor was implemented in 1973, and vehicles one-year-old or older were tested by the end of calendar year 1973.

Problem 1. Determine the present reduction in emissions for HC and CO in CY 1977, assuming that the I/M inspections are annual, and that no mechanic training program is in effect.

Solution. The percent reduction, B_{77}, can be calculated from the formula:

$$B_{77} = \frac{\sum_{t=77-12}^{77} b_{77,t} e_{77,t} m_{77,t} p_{77,t}}{\sum_{t=77-12}^{77} e_{77,t} m_{77,t} p_{77,t}} \times 100,$$

where

$b_{77,t}$=percent reduction in emissions for vehicles of model year t in calendar year 1977 (obtained from Appendix N),

$e_{77,t}$=emission factor (gm/km) for vehicles of model year t in calendar year 1977, assuming I/M has never been in effect (obtained from AP-42),

$m_{77,t}$=average kilometers traveled by vehicles of model year t in calendar year 1977 (obtained from AP-42)

$p_{77,t}$=fraction of total vehicles on the the road in calendar year 1977 which are of model year t (obtained from AP-42).

Note that the denominator of B_{77} is the usual AP-42 type calculation of emission factors.

The following tables detail the calculation of both the numerator and denominator of B_{77} for HC and CO:

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	0.9	25.6	0.081	0	1.86
1976	16	1.1	24.2	.110	.47	2.93
1975	23	1.2	22.5	.107	.66	2.89
1974	24	2.9	21.1	.106	1.56	6.48
1973	30	3.4	19.6	.102	2.04	6.80
HC 1972	30	3.7	18.2	.096	1.94	6.46
1971	30	4.1	16.6	.088	1.80	5.99
1970	30	4.5	15.1	.077	1.57	5.23
1969	30	4.9	13.7	.064	1.29	4.30
1968	30	5.3	12.2	.049	.95	3.17
Pre-1968	30	6.1	10.8	.120	2.37	7.96
					14.65	54.07

HC: $B_{77}=(14.7/54.1)\times 1.00=.27$.

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	14.7	25.6	0.081	0	30.5
1976	33	16.6	24.2	.110	14.6	44.2
1975	41	18.6	22.5	.107	18.4	44.8
1974	34	35.3	21.1	.106	26.8	78.9
1973	38	39.5	19.6	.102	30.0	79.0
CO 1972	38	43.7	18.2	.096	29.0	76.3
1971	38	47.9	16.6	.088	26.6	70.0
1970	38	52.1	15.1	.077	23.0	60.6
1969	38	56.3	13.7	.064	18.8	49.4
1968	38	60.5	12.2	.049	13.7	36.2
Pre-1968	38	77.5	10.8	.120	38.2	100.4
					239.1	670.3

CO: $B_{77}=(239.1/670.3)\times 1.00=.36$.

Problem 2. Determine the percent reduction in emissions, B_{77}, for HC and CO in CY 1977, assuming that the inspections are annual and that an adequate mechanic training program is in effect.

Solution. The method used for Problem 1 applies. Only the $b_{77,t}$ numbers will differ to reflect the presence of an adequate program of mechanic training. The following tables detail the calculation of both numerator and denominator of B_{77} for HC and CO:

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	0.9	25.6	0.081	0	1.87
1976	17	1.1	24.2	.110	.50	2.93
1975	25	1.2	22.5	.107	.72	2.89
1974	35	2.9	21.1	.106	2.27	6.49
1973	41	3.4	19.6	.102	2.79	6.80
HC 1972	41	3.7	18.2	.096	2.65	6.46
1971	41	4.1	16.6	.088	2.46	5.99
1970	41	4.5	15.1	.077	2.15	5.23
1969	41	4.9	13.7	.064	1.76	4.30
1968	41	5.3	12.2	.049	1.30	3.17
Pre-1968	41	6.1	10.8	.120	3.24	7.91
					19.84	54.04

HC: $B_{77}=(19.8/54.0)\times 1.00=.37$.

t	$b_{77,t}$ (percent)	$e_{77,t}$	$m_{77,t}$	$p_{77,t}$	Numerator product	Denominator product
1977	0	14.7	25.6	0.081	0	30.5
1976	40	16.6	24.2	.110	17.7	44.2
1975	51	18.6	22.5	.107	22.8	44.8
1974	47	35.3	21.1	.106	37.1	78.9
1973	51	39.5	19.6	.102	40.3	79
CO 1972	51	43.7	18.2	.096	38.9	76.3
1971	51	47.9	16.6	.088	35.7	70
1970	51	52.1	15.1	.077	30.9	60.6
1969	51	56.3	13.7	.064	25.2	49.4
1968	51	60.5	12.2	.049	18.5	36.2
Pre-1968	51	77.5	10.8	.120	51.2	100.4
					318.3	670.3

CO: $B_{77}=(318.3/670.3)\times 1.00=.48$.

Specification of scenario for problem example 3. The nationwide mix of vehicles by age and average VKT, as given in AP-42, applies. An I/M program with a 30% stringency factor was implemented in calendar year 1980, and vehicles one year old or older were tested by the end of calendar year 1980. The program is annual and no mechanic training program is in effect. Since the emissions characteristics of 1978 and later model year cars are unknown, it will be assumed that the initial year emissions from these vehicles will be the same as that determined for 1975 model year vehicles by the Agency's Emission Factor Program; namely, .87 gm./km. HC and 14.7 gm./km. CO. Also, it will be assumed that 1978 and later model year vehicles deteriorate at the same rate as 1975–77 models; namely, .17 gm/km./yr. HC and 1.95 gm./km./yr. CO.

Problem 3. Determine the percent reduction in emissions, B_{90}, for HC and CO in calendar year 1990, and the resulting reduced emission factors for HC and CO for calendar year 1990.

Solution. To calculate B_{90}, the method used in the solutions to Problems 1 and 2 applies. The following tables detail the numerical calculation of both numerator and denominator of B_{90} for HC and CO.

t	$b_{90,t}$ (percent)	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	0	0.9	25.6	0.081	0	1.87
1989	9	1.1	24.2	.110	.26	2.93
1988	16	1.2	22.5	.107	.46	2.89
1987	23	1.4	21.1	.106	.72	3.13
1986	29	1.6	19.6	.102	.93	3.20
1985	34	1.7	18.2	.096	1.01	2.97
HC 1984	39	1.9	16.6	.088	1.08	2.78
1983	42	2.0	15.1	.077	.98	2.32
1982	45	2.2	13.7	.064	.86	1.93
1981	45	2.4	12.2	.049	.65	1.44
1980	45	2.4	10.8	.033	.38	.86
Pre-1980	45	2.4	10.8	.087	1.01	2.26
					8.34	28.58

HC: $B_{90}=(8.3/28.6)\times 1.00=.29$.

t	$b_{90,t}$ (percent)	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	0	14.7	25.6	0.081	0	30.5
1989	28	16.6	24.2	.110	12.4	44.2
1988	36	18.6	22.5	.107	16.1	44.8
1987	43	20.6	21.1	.106	19.8	46.1
1986	47	22.5	19.6	.102	21.1	45.0
1985	51	24.5	18.2	.096	21.8	42.8
CO 1984	55	26.4	16.6	.088	21.2	38.6
1983	58	28.4	15.1	.077	19.2	33.0
1982	63	30.3	13.7	.064	16.7	26.6
1981	63	32.3	12.2	.049	12.2	19.3
1980	63	32.3	10.8	.033	7.3	11.5
Pre-1980	63	32.3	10.8	.087	19.1	30.3
					186.9	412.7

CO: $B_{90}=(186.9/412.7)\times 1.00=.45$.

To calculate the reduced emission factors for HC and CO, the following formula can be used:

$$(EF)_{90} = \frac{100-B_{90}}{100} \times \frac{\sum_{t=90-12}^{90} e_{90,t} m_{90,t} p_{90,t}}{\sum_{t=90-12}^{90} m_{90,t} p_{90,t}}$$

The following tables detail the calculation of the numerator and denominator:

t	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	0.9	25.6	0.081	2.07	1.87
1989	1.1	24.2	.110	2.93	2.66
1988	1.2	22.5	.107	2.89	2.41
1987	1.4	21.1	.106	3.13	2.24
1986	1.6	19.6	.102	3.20	2.00
1985	1.7	18.2	.096	2.97	1.75
HC 1984	1.9	16.6	.088	2.78	1.46
1983	2.0	15.1	.077	2.32	1.16
1982	2.2	13.7	.064	1.93	.88
1981	2.4	12.2	.049	1.43	.60
1980	2.4	10.8	.033	1.86	.36
Pre-1980	2.4	10.8	.087	2.25	.94
				28.76	18.33

HC: $(EF)_{90}=.71\times\frac{28.8}{18.3}=1.12$ g/km.

t	$e_{90,t}$	$m_{90,t}$	$p_{90,t}$	Numerator product	Denominator product
1990	14.7	25.6	0.081	30.5	2.07
1989	16.6	24.2	.110	44.2	2.66
1988	18.6	22.5	.107	44.8	2.41
1987	20.6	21.1	.106	46.1	2.24
1986	22.5	19.6	.102	45.0	2.00
1985	24.5	18.2	.096	42.8	1.46
CO 1984	26.4	16.6	.088	38.6	1.46
1983	28.4	15.1	.077	33.0	1.16
1982	30.3	13.7	.064	26.6	.88
1981	32.3	12.2	.049	19.3	.60
1980	32.3	10.8	.033	11.5	.36
Pre-1980	32.3	10.8	.087	30.3	.94
				412.7	18.24

CO: $(EF)_{90}=.55\times\frac{412.7}{18.2}=12.5$ g/km.

TABLE 1.—*Estimated fraction of vehicles in use nationwide and average annual kilometers driven nationwide, by vehicle age*

Vehicle age, in years	Fraction of vehicles	Average annual kilometers driven, in thousands
1	0.081	25.6
2	.110	24.2
3	.107	22.5
4	.106	21.1
5	.102	19.6
6	.096	18.2
7	.088	16.6
8	.077	15.1
9	.064	13.7
10	.049	12.2
11	.033	10.8
12+	.087	10.8

Source: AP-42.

TABLE 2.—*Emission factors for light-duty, gasoline-powered vehicles (automobiles) (low altitude, non-California)*

Model year	Carbon monoxide, grams/kilometer; calendar year—			
	1977	1978	1979	1980
Pre-1968	77.5	77.5	77.5	77.5
1968	60.5	60.5	60.5	60.5
1969	56.3	60.5	60.5	60.5
1970	52.1	56.5	60.5	60.5
1971	47.9	52.1	56.5	56.5
1972	43.7	47.9	52.1	56.5
1973	39.5	43.7	47.9	52.1
1974	35.3	39.5	43.7	47.9
1975	18.6	20.6	22.5	24.5
1976	16.6	18.6	20.6	22.5
1977	14.7	16.6	18.6	20.6

TABLE 3.—*Emission factors for light-duty, gasoline-powered vehicles (automobiles) (low altitude, non-California)*

Model year	Hydrocarbons, grams per kilometer; calendar year			
	1977	1978	1979	1980
Pre-1968	6.1	6.1	6.1	6.1
1968	5.3	5.3	5.3	5.3
1969	4.9	5.3	5.3	5.3
1970	4.5	4.9	5.3	5.3
1971	4.1	4.5	4.9	5.3
1972	3.7	4.1	4.5	4.9
1973	3.4	3.7	4.1	4.5
1974	2.9	3.4	3.7	4.1
1975	1.2	1.4	1.6	1.8
1976	1.1	1.2	1.4	1.6
1977	.9	1.1	1.2	1.4

[FR Doc.77-12296 Filed 4-29-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21205; RM-2781]

TV BROADCAST STATION IN LIHUE, HAWAII

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: Notice of Proposed Rule Making is issued in response to petition for educational television channel in Lihue (Kauai) Hawaii.

DATES: Comments must be received on or before May 31, 1977, and reply comments must be received on or before June 21, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley Schmulewitz, Policy and Rules Division, Broadcast Bureau (202–632–9660).

SUPPLEMENTARY INFORMATION:

Adopted: April 15, 1977.

Released: April 22, 1977.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Lihue (Kauai), Hawaii).

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration a petition for rule making filed by the Hawaii Public Broadcasting Authority ("Authority"). The petition seeks amendment of Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning Channel 67 to Lihue (Kauai), Hawaii and reserving it for noncommercial educational use.

2. We are told that the Authority is an agency created by an Act of the state legislature of Hawaii for the purpose of making educational television available to the citizens of Hawaii on a coordinated state-wide basis. In pursuance of its statutory mandate, the Authority operates noncommercial educational Station KHET, Channel 11, Honolulu, and noncommercial educational Station KMEB, Channel 10, Wailuku, which operates as a satellite of Station KHET. In addition, the Authority is operating or plans to operate a series of translator facilities which it believes to be the most efficient, cost-effective method of spreading public television to the less populated areas of the Hawaiian Islands.

3. The objective here is to be able to serve the area of Lihue, Kauai Island, with a one kilowatt translator on Channel 67.[1] This channel is requested although Channels 21 and 27 are already allocated to the community and reserved for educational use. The reason given by the Authority for the request is that virtually all receiving antennas on the Island of Kauai are designed for Channels 55 and above. This appears to be borne out by existing translator licenses on Channels 70, 74, 76 and 78 in Lihue.

4. Lihue (pop. 3,124) is located on the Island of Kauai (pop. 27,761), the westernmost of the principal Hawaiian Islands and is approximately 160 kilometers (100 miles) northwest of Honolulu. The proposed assignment meets all spacing requirements and would allow improved educational television service on the Island of Kauai. Other channels

[1] Pursuant to paragraph 4 of the *Report and Order* in Docket No. 18861, 36 FR 19588, 23 R.R. 2d 1504 (1971), high-powered UHF translators such as this may be operated only on unoccupied channels which are listed in the Television Table of Assignments. See also §§ 74.702(g) and 74.735(e) of the rules.

V42N84 MAY 2 77 UMI

would remain available for assignment to communities in the Hawaiian Islands sustaining preclusion. For this reason it is not necessary to delete Channels 21 and 27 from Lihue.

5. The Commission is persuaded that a rule making proceeding should be instituted to request comments on the Authority's proposal. Therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) as it relates to Lihue, as follows:

City	Channel no.	
	Present	Proposed
Lihue, Hawaii.	3+, *8−, 10+, 12−, 15−, *21−, *27−	3+, *8−, 10+, 12−, 15−, *21−, *27−, *67

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

7. Interested parties may file comments on or before May 31, 1977, and reply comments on or before June 21, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the television table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in intial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-12471 Filed 4-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSB-1, Notice 2]

WALKWAYS ON RAILROAD BRIDGES, TRESTLES, AND SIMILAR STRUCTURES

Termination of Rulemaking Proceeding

AGENCY: Federal Railroad Administration, DOT.

ACTION: Termination of rulemaking proceeding.

SUMMARY: On November 15, 1976, the Federal Railroad Administration (FRA) published an advance notice of proposed rulemaking (ANPRM, 41 FR 50302) in response to two petitions for rulemaking filed by the Railway Labor Executives Association (RLEA). The ANPRM stated that FRA was studying the need for a Federal regulation requiring the construction of walkways on railroad bridges, trestles, and similar structures. Interested persons were requested to comment as to the necessity for, cost of, and benefit to be derived from a Federal regulation concerning this subject After additional study and analysis of the comments submitted in response to the ANPRM, the FRA has decided to terminate this rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: William R. Paxton (202—426–0912), Principal Attorney: Anne-Marie Hyland. (202—426–8836).

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

The ANPRM published by the FRA restated the assertion of the RLEA that the safety of railroad operating employees is placed in serious jeopardy when trains are forced to stop on railroad bridges, trestles, and similar structures without walkways to provide access so that they can locate equipment problems promptly and take appropriate corrective action. Walkways on such structures would also provide trackmen and signalment with a place to stand clear of trains and switching movements.

A review of accident reports filed with FRA during the past three years revealed that a total of eight railroad employees were killed as a result of falls from bridges or being struck by moving equipment while on bridges. Although some States do have statutes or regulations concerning walkways, many do not, and there is great variety among those State laws that do exist. This being the case, the FRA believed that additional information and opportunity for public comment was required before a decision could be made as to the desirability of issuing a Federal regulation requiring walkways on railroad bridges, trestles, and similar structures. Comments as to the necessity for, the cost of, and the benefits to be derived from any such regulation were submitted by two Federal agencies, five State agencies, one railroad association, and 15 individual railroads. No additional information or comments were submitted by the petitioner in support of the statements included in its petition or in response to the specific questions posed in the ANPRM.

ISSUES CONSIDERED

1. What is the necessity for a Federal regulation requiring walkways on railroad bridges, trestles and similar structures?

Several commenters expressed the opinion that a rule requiring walkways on all railroad bridges, trestles and similar structure would not contribute to the safety of railroad employes. They contended that experience has shown that the presence or absence of walkways has little influence on the injury rate for employees.

Several reasons were given in support of this opinion. Railroad industry commenters believed that the absence of any significant statistical correlation between the lack of walkways and injuries to employees could be explained by the fact that carriers have identified those structures that pose the greatest hazards and have voluntarily installed walkways in order to reduce those hazards. Two State agencies supported that view. In fact, one State agency cited a study carried out jointly by State personnel, railroad labor and railroad management which failed to identify any Statewide hazard due to the lack of walkways on bridges. Anothers commenter cited common operating practices that are designed to minimize the risk of employee injuries. For example, when track forces are working, a train is permitted to leave the terminal only when the track forces are notified and the train crew is made aware of the location of the track work.

Other commenters urged FRA to review accident statistics to determine whether the lack of walkways on railroad bridges, trestles or similar structures represents a substantial danger of employee injury when compared with other employee injury causes. FRA has reviewed accident data for the 13-year period from 1962 through 1974. A comparison of three cause codes relating to falls from or through bridges or trestles with a single cause code relating to "falling on stairways, ramps, station platforms, etc." revealed almost five times as many injuries resulting from the later category as resulted from all three categories related to bridges and trestles.

2. Would the cost of providing walkways on bridges, trestles and similar structures outweigh the benefits to be derived?

Many of the commenters emphasized the potentially high cost of compliance should a rule requiring walkways on all bridges, trestles and similar structures be issued. Data submitted by one commenter indicated that there are approximately 2,100 miles of bridges, trestles and similar structures that do not presently have walkways. This commenter provided an estimated cost range for the construction of walkways that varied from a low of $45 per linear foot of walkway when installed concurrently with deck renewal or new construction, to a high of $100 per linear foot for installations on existing structures. The FRA agrees with this commenter that $65 per linear foot of walkway would be a reasonable average estimate for determining the overall potential cost to the industry. Given this estimate, a program requiring the construction of walkways along one side of the 2,100 miles of structures not presently so equipped would cost in excess of $700 million. Even if a more restricted approach were taken, requiring the construction of walkways at the time of deck renewal or new construction only, the potential cost would be approximately $500 million.

Nine commenters, including two State agencies, expressed the concern that a requirement to provide walkways on all such structures would have a negative impact on overall railroad safety because it would lead to a diversion of railroad resources from other maintenance or improvement programs that would have a more direct and significant impact on safety. Several commenters suggested that the shear magnitude of the cost of such a program would lead to the need for Federal financial assistance to prevent the cost of compliance from resulting in line abandonments and railroad insolvencies.

Another major concern of several commenters was that any safety benefit to the employees who would use the walkways would be more than offset by the increased potential danger to trespassers. Death and injury to trespassers on railroad property is already a problem, and these commenters believed that additional walkways, especially in remote areas, would encourage the use of railroad bridges or other structures by snowmobilers, motorcyclists, fishermen, hunters and hikers. A similar trespasser problem exists in urban areas where there is often easy access to railroad bridges. FRA's accident data support this concern about the danger to trespassers on these structures. During the period from 1962 through 1974 fatalities resulting from being struck by a train on a railroad bridge were 76 times greater for trespassers than for railroad employees; injuries in that same category were 51 times greater for trespassers than for railroad employees.

Problems, other than personal injuries, also result from the presence of trespassers on railroad property. In recent years the incidence of fires and vandalism on railroad property in rural areas has increased, and in cities bridges often provide a vantage point from which vandals can drop missiles onto passing trains. Commenters believed that the presence of walkways on all bridges would improve access for trespassers and further increase the already serious problems of vandalism. Because of this, some railroads recommended against the installation of walkways except where absolutely necessary for the safety of operating personnel. One State agency supported this view.

3. Are Federal regulations concerning walkways appropriate?

Seven commenters expressed the opinion that a uniform Federal standard for walkways that would be applicable nationwide is not appropriate. Such a standard, they contended, could not deal effectively with the wide variety of conditions that exists on railroads throughout the country. They cited the differences in topography and weather, traffic frequency, operating conditions and the design and historical or architectural merit of the structures. Because of this variety, the walkway question should be addressed on a case-by-case basis rather than by issuance of a single uniform rule.

Secondly, commenter contended that, where a safety problem does exist because of topography or operating conditions in a particular area or with respect to particular structures, the problem is a local one which should be addressed by State regulatory agencies. Several commenters believed that, where such regulatory action has been necessary in the past, State activity has been effective in responding to the safety problem on a case-by-case basis. The issuance of a Federal standard for walkways might be counterproductive since it would generally preempt the States from carrying out their responsibilities under existing State laws except where an essentially local safety hazard could be identified.

CONCLUSIONS AND ACTION

In compliance with the President's policy of economic impact evaluation of Federal agency actions (E.O. 11821, as amended by E.O. 11949) and the Secretary of Transportation's policy to ensure that regulations will be effective in accomplishing their intended purposes and will not impose unnecessary burdens on the private sector, consumers, or on Federal, State or local governments (41 FR 16200), the FRA has determined that the issuance of a Federal rule requiring walkways on railroad bridges, trestles, and similar structures cannot be justified at the present time. First, any such rule would impose significant added burdens in terms of the large dollar cost to the railroad industry for construction of the walkways, the added hazard to persons and property and additional liability exposure for the railroads because of increased trespassing, and the possible decrease in overall railroad safety because of the diversion of resources from other maintenance and improvement projects. Secondly, neither the commenters nor the FRA has been able to demonstrate that such a rule would result in a definite or measurable improvement to railroad employee safety. Finally, if an employee safety problem does exist because of the lack of walkways in a particular area or on a particular structure, regulation by a State agency that is in a better position to assess the local need is the more appropriate response. Therefore, the petitions for rulemaking are denied, and this proceeding is terminated.

(This notice is issued under section 202 of the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 431; 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n); and § 211.11(c) of the FRA Rules of Practice, 49 CFR 211.11 (c) (41 FR 54181, Dec. 13, 1976).)

Issued in Washington, D.C. on April 26, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-12455 Filed 4-29-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A472]

MICHIGAN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Michigan Counties as a result of hail June 16 and June 28, 1976, flood June 16, 1976, and drought July 1 through September 30, 1976, in Clinton County; and drought June 20 through September 15, 1976, in Mecosta County.

Therefore, the Secretary has designated this areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor William G. Milliken that such designation be made.

Applications for emergency loans must be received by this Department no later than June 13, 1977, for physical losses and January 13, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of April, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–12456 Filed 4–29–77;8:45 am]

[Designation No. A470]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of excessive rainfall April 1 to November 1 and hail June 14, 1976, in Cayuga County; and excessive raifall May 1 through October 31, 1976, in Fulton County; April 1 through October 1, 1976, in Madison County; April 1 through October 30, 1976, in Montgomery County; and April 1 through September 30, 1976, in Schoharie County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than June 13, 1977, for physical losses and January 13, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of April 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–12525 Filed 4–29–77;8:45 am]

[Designation Number A473]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Tennessee Counties as a result of extremely cold weather and freezes December 27, 1976, through February 21, 1977:

DeKalb	Warren
Grundy	

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than June 16, 1977, for physical losses and January 16, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 25th day of April, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–12460 Filed 4–29–77;8:45 am]

Forest Service

COOPERATIVE GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM—1977 ACTIVITIES

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, and Animal and Plant Health Inspection Service, Department of Agriculture, have prepared for the 1977 activities, a Final Environmental Statement for the Cooperative Gpysy Moth Suppression and Regulatory Program, USDA–FS–APHIS(Adm) 77–01.

The Final Statement concerns a cooperative suppression program with the States of Pennsylvania and New Jersey to protect forests and forest resources on about 100,595 acres of high-value, high-use forest land from unacceptable damage by the gypsy moth. Most areas will be sprayed with carbaryl or trichlorfon insecticides. Some areas will be treated with acephate and Dimilin insecticides. The cooperative regulatory program is designed to prevent artificial long-distance spread and to eradicate remote infestations in the United States.

This Final Statement was filed with CEQ on April 26, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20013.
USDA Animal and Plant Health Inspection Service, Administration Bldg., Room 302–E, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 6816 Market Street, Room 409, Upper Darby, Pa. 19082.

A limited number of single copies are available upon request to John R. McGuire, Chief, U.S. Forest Service, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

Copies of the Final Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

R. MAX PETERSON,
Deputy Chief, Forest Service.

APRIL 20, 1977.

[FR Doc.77–12448 Filed 4–29–77;8:45 am]

EAGLE CREEK DAM AND RESERVOIR

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Eagle Creek Dam and Reservoir, USDA–FS–R3 DES Adm. 77–02.

The environmental statement concerns a proposed construction of an earthen and rock fill dam on Eagle Creek to provide domestic water storage.

This draft environmental statement was transmitted to CEQ on April 25, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, New Mexico 87102.
Lincoln National Forest, 11th and New York Sts., Alamogordo, New Mexico 88310.

A limited number of single copies are available upon request to James R. Abbott, Forest Supervisor, 11th & New York Sts., Alamogorde, New Mexico 88310.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and request for additional information should be addressed to M. J. Hassell, Regional Forester, Southwestern Region, 517 Gold Ave. S.W., Albuquerque, New Mexico, 87102. Comments must be received within 60 days from the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

GARY E. CARGILL,
Acting Regional Forester Region 3.

APRIL 25, 1977.

[FR Doc.77–12449 Filed 4–29–77;8:45 am]

COMMISSION ON CIVIL RIGHTS

NEW MEXICO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 10:30 p.m. on May 11, 1977, in the Albuquerque Hilton Inn, 1901 University Blvd. NE., Albuquerque, New Mexico 87106.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting will be mainly concerned with developing program in New Mexico. Major items on the agenda will include Indian employment in State government. Farmington follow-up, and the release of the New Mexico handbook, Working With Your School.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77–12422 Filed 4–29–77;8:45 am]

VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 9:30 p.m. on May 26, 1977, in Morton's Tea Room, 2 East Franklin Street, Richmond, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to review a paper prepared by staff for a conference in June.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77–12423 Filed 4–29–77;8:45 am]

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:00 p.m. and will end at 10:00 p.m. on May 17, 1977, at 2404 Ken Oak Road, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss current projects and plans for new programs, and receive subcommittee reports on education, housing and employment.

This meeting will be conducted pursuant to provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 29, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77–12745 Filed 4–29–77;11:58 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON AGRICULTURE STATISTICS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee on Agriculture Statistics will convene on May 25, 1977 at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from agricultural respondents; to prepare recommendations regarding the contents of agricultural reports; and to present the views and needs for data of major agricultural organizations and their members, and other suppliers and users of agricultural statistics.

The Committee is composed of 21 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and two members from the U.S. Department of Agriculture.

Th agenda for the meeting is: (1) Status of 1974 Agriculture Census Program; (2) legislation relating to the census of agriculture; (3) report on meetings with farmers regarding census forms; (4) 1978 mail list development, including the Statistical Reporting Service list sample frame and Census Bureau mail list plans; (5) review of content proposal for the 1978 Census of Agriculture Program including all farm items, county sample items, follow-on survey items, and irrigation and drainage; and (6) Committee recommendations.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning

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this meeting or who wish to submit written statements may contact the Committee Control Officer, Hr. Orvin L. Wilhite, Chief, Agriculture Division, Bureau of the Census, Room 3015, Federal Building 4, Suitland, Maryland. Mail address, Washington, D.C. 20233. Telephone 301–763–5230.

Dated: April 26, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

[FR Doc.77–12461 Filed 4–29–77;8:45 am]

National Bureau of Standards

TASK FORCE MEETING

Computer Networking Standards for Library and Information Science Community

A task force has been established to address the problem of developing high-level computer-to-computer protocols for the nationwide interchange of information among existing and planned library and information science networks.

Members of the task force were designated by the National Commission on Libraries and Information Science on the basis of their recognized experience and knowledge in the area of computer-to-computer data interchange for this class of application, and their competence in developing related computer networking standard protocols. The task force receives technical support from the NBS Institute for Computer Sciences and Technology.

The results of the task force effort, expected to be completed in September 1977, will be provided directly to the American National Standards Institute, the American Library Association, and the American Society for Information Science for their respective consideration in development and adoption of standards directed specifically to the library and information science community.

All meetings of this task force will be open to the public; the purpose of this public notice is to announce the fifth task force meeting which will be held on May 16 and 17, 1977, in Room 10104, New Executive Office Building, 17th and H Streets NW., Washington, D.C. The sessions will convene at 9 a.m. Future meetings of this task force will be announced in the FEDERAL REGISTER.

For further information, interested members of the public may contact John L. Little, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301/921–3723.

Dated: April 27, 1977.

JOHN D. HOFFMAN,
Acting Director.

[FR Doc.77–12533 Filed 4–29–77;8:45 am]

National Oceanic and Atmospheric Administration

TRANSFER OF A FISHING VESSEL TO A RESIDENT ALIEN

Receipt of Application for Approval

Notice is hereby given that on April 5, 1977, the Maritime Administration of the Department of Commerce received an application from Mr. Fred P. Landers, 2001 57th Street, Tampa, Florida 33619, for the approval of the sale to Mr. Hau Hong Pham of the 31.6 foot registered length fishing vessel *Capt. Dave,* O.N. 271731. Such approval is required by Sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), because the applicant, a resident alien, is a citizen of Vietnam. The vessel will be modified to be admeasured at under 5 net tons and will be operated primarily in the Florida fishery for shrimp.

The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted pursuant to Sections 9 and 37 of the Shipping Act. However, the Maritime Administration customarily solicits the views of the National Marine Fisheries Service before deciding on an application relating to a fishing vessel, and has sought the views of the Service with regard to this application. Accordingly, the Service solicits the written comments of interested persons in regard to this application. Such comments should be addressed to the Director, National Marine Fisheries Service, Washington, D.C. 20235, and received no later than June 1, 1977. All communications received by such date will be considered before action is taken with respect to this application.

Dated: April 26, 1977.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77–12513 Filed 4–29–77;8:45 am]

WEATHER MODIFICATION ADVISORY BOARD

Change in Location of Public Meeting

Notice is hereby given of a change in the meeting Notice of the Weather Modification Advisory Board published in the FEDERAL REGISTER, Vol. 42, No. 70, on April 12, 1977. The meeting location will be changed from Room B–841 of the Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. to Conference Room 545 of the National Science Foundation, 1800 G Street, N.W., Washington, D.C. The agenda and daily convening times for May 4 and 5, 1977, remain unchanged.

Dated: April 29, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.77–12748 Filed 4–29–77;12:11 pm]

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council (PSAC) on Monday, May 16, 1977 from 9:30 a.m. to 5 p.m. and Tuesday, May 17, 1977 from 9:30 a.m. to 4 p.m., in the third floor hearing room, 1111 18th St. NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda for this meeting is not final, but will include on Monday a discussion of the proposed plan for establishing an Office of Public Participation within CPSC and proposed rules for financial compensation for participation in Commission activities; and review of a draft policy on voluntary safety standards. On Tuesday, the agenda will include a discussion of the Commission's priority-setting mid-year review of its activities.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Advisory Council should notify the Office of the Secretary (see address below) by May 11, 1977.

The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the appropriate time requested.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207. (202–634–7700).

Dated: April 28, 1977.

SADYE E. DUNN,
Secretary.

[FR Doc.77–12701 Filed 4–29–77;9:34 am]

DEPARTMENT OF DEFENSE

Department of the Army, Chief of Engineers

ENVIRONMENTAL ADVISORY BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held on May 24, 1977, at the Office of the Chief of Engineers, Forrestal Building, room 5A092, 10th and Independence Avenue SW., Washington, D.C. 20314. All sessions of the meeting are open to the public. Time and subjects of each session follow:

A.M. SESSION

0900—Opening remarks.
0930—Report of the EAB: Policy recommendations for mitigation or compensation of unpreventable losses to fish and wildlife.
1045—Discussion of EAB report.

P.M. SESSION

1345—Continue discussion.
1430—Civil works update.
1530—Adjourn.

Seating in the meeting room is limited to approximately 20 persons. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule. Persons planning to attend or desiring further information should contact Lt. Col. John R. Hill, Jr., Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone 202–693–7093.

The EAB will conduct a workshop session on May 23, room 4A242, Forrestal Building, to prepare for their report to be delivered during the plenary session on May 24. There will be no formal discussions or presentations during this workshop session. Interested members of the public will, however, be permitted to observe this workshop session. Interested persons should contact Lt. Col. Hill.

JOHN R. HILL, Jr.,
Lt. Col., Corps of Engineers, Assistant Director of Civil Works, Environmental Programs.

[FR Doc.77–12514 Filed 4–29–77;8:45 am]

Department of the Navy

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 23, 1977, at the Naval Air Station, Alameda, California. Sessions of the meeting will commence at 9:00 a.m. and terminate at 12 noon. All sessions of the meeting will be closed to public.

The purpose of the meeting will be to review and discuss the internal policies and practices of Navy Resale affairs. The agenda will consist of matters relating solely to the internal personnel rules and practices of the Department of the Navy and trade secrets and commercial or financial information obtained from a person which is privileged or confidential, including discussions of standards of conduct, financial and audit programs, staffing and funding of commissary stores and Navy Exchange inventory shortages. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in sections 552(c) (2) and (4) of title 5, United States Code.

For further information concerning this matter, contact Commander J. D. Felt, Director, Resale Program Assistance Staff, Naval Supply Systems Command (SUP–09B), Washington, D.C. 20376, telephone number 202–695–5437.

Dated: April 27, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.77–12478 Filed 4–29–77;8:45 am]

NAVAL RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on May 19–20, 1977 at the Pentagon, Room 4E577, Washington, D.C. Sessions of the May 19 meeting will commence at 9:00 a.m. and terminate at 4:30 p.m. Sessions of the May 20 meeting will commence at 9:00 a.m. and terminate at 3:30 p.m. All sessions of the meeting will be closed to the public.

The purpose of the meeting will be to discuss technical programs of Navy Centers/Laboratories. The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order, including discussion of information on Command, Control and Communications, Intelligence, Surveillance, Advanced Weapons Survivability, Undersea Warfare and ship Survivability. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with the matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Mrs. Marianne Jennison, Executive Secretary of the Naval Research Advisory Committee, Ballston Tower No. 1, Arlington, VA 22217; telephone number 202–692–4263.

Dated: April 27, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc. 77–12477 Filed 4–29–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 723–1, OPP–00050]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: There will be a two-day special subcommittee meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Monday, May 16, and Tuesday, May 17, 1977. The meeting will be held in Rm. 2812 (a) and (b), Waterside Mall, 401 M St. SW., Washington, D.C. 20460. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH–567), Rm. E–315, EPA, 401 M St. SW., Washington, D.C. 20460, telephone 202–755–4851.

SUPPLEMENTARY INFORMATION: In accordance with Section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25 (a) prior to implementation. The purpose of this meeting is to discuss the topic:

Advance draft of the subpart on human hazard evaluation of the guidelines for registering pesticides in the United States.

Any member of the public wishing to attend this meeting should contact Dr. H. Wade Fowler, Jr., at the address shown above. Time will be allotted for brief comments by the public each day; interested persons should contact Dr. Fowler for special instructions regarding oral statements. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory panel. All statements will be made a part of the record and will be taken into consideration by the Panel in formulating its own comments.

All interested persons are further advised that the meeting announced in this notice is a subcommittee meeting of the Advisory Panel for the purpose of conducting preliminary reviews of draft proposed rulemaking. Formal review of topics considered by the subcommittee will be conducted by the FIFRA Scientific Advisory Panel at a later date.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.) and

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sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: April 28, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-12658 Filed 4-29-77;8:45 am]

[FRL 722-4; OPP-42010B]

OREGON

Submission of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides—Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On March 10, 1976, the Oregon State Plan was approved contingent upon the promulgation of regulations by the Oregon Department of Agricuture necessary for the implementation of the Oregon State Plan. Notice of contingent approval was published in the FEDERAL REGISTER on March 30, 1976 (41 FR 13397). Subsequently, on April 4, 1977, regulations to amend the Oregon Pesticide Statutes became effective. Having reviewed the legislation and the regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region X, hereby gives notice that the Oregon State Plan is now a fully approved State Plan.

Dated: April 21, 1977.

DONALD P. DUBOIS,
Regional Administrator, U.S. Environmental Protection Agency, Region X.

[FR Doc.77-12535 Filed 4-29-77;8:45 am]

[FRL 722-5]

SCIENCE ADVISORY BOARD ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 82-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee will be held beginning at 9:00 a.m., May 19, 1977 in Conference Room 1101 of the West Tower, Waterside Mall, 401 M Street SW., Washington, D.C.

This is the seventh meeting of the Committee. The agenda includes current activities of the Science Advisory Board; status of the Subcommittee for Automotive Catalytic Converter Emission Studies; a report by the Chairman of the Task Group for the review of the EPA Air and Water Monitoring Strategies; a briefing on the quantification of 2,3,7,8 TCDD in environmental samples; progress on the Committee's assessment of the quality of the measurement and monitoring activities by the Agency's Office of Research and Development; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Executive Secretary, Environmental Measurements Advisory Committee, (703) 557-7720 by close of business May 16, 1977.

LLOYD T. TAYLOR,
Acting Staff Director, Science Advisory Board.

APRIL 27, 1977.

[FR Doc.77-12536 Filed 4-29-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

LANDED COSTS

Establishment of Costs for Certain Crude Oils, October 1973–September 1974 and October 1974–May 1975

Notice is hereby given of the proper measurement of costs as determined by the Federal Energy Administration (FEA) for certain crude oils when imported pursuant to a transaction between affiliated entities. This notice supersedes those published on June 26, 1975 (40 FR 27058 and 27059) and August 29, 1975 (40 FR 39934); pursuant to which Notices of Proposed Disallowance (NOPD) were issued. Such NOPD's were challenged by their recipients and never matured into Orders of Disallowance. Since this notice supersedes those issued in 1975, the NOPD's issued pursuant thereto wil be superseded by any new NOPD's issued for the same periods. Pursunat to 10 CFR 212.83(b), FEA intends to disallow costs in excess of those set out in Appendix A to this notice.

Section 212.83(b) provides:

> Whenever a firm uses a landed cost which it computed by use of its customary accounting procedures, the FEA may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of these entities or the FEA may disallow costs which it determines to be in excess of the proper measurement of costs.

This section was first issued by the Cost of Living Council as part of an amendment to § 150.363 of its Phase IV price regulations, September 12, 1973 (38 FR 25688) and has been continued in force by the Federal Energy Administration, first as 10 CFR 212.83(e) and as 10 CFR 212.83(f).

To establish standards for applying this section and to adopt more definitive regulations in this area, FEA went through two proposed rulemakings culminating in the promulgation of 10 CFR 212.84. See 39 FR 17771 (May 20, 1974), 39 FR 32310 (September 5, 1974), 39 FR 38364 (October 31, 1974). In its proposed rulemakings and in its preamble to § 212.84, FEA indicated its intent to apply the standards in § 212.84 as interpretative of "actual costs" and the "proper measurement of costs" as used in § 212.83(b).

To the extent that the standards in these regulations are applied to months earlier than October 1974, they are not intended to alter or to expand in any way the authority which FEA presently has under its existing regulations. Rather the proposed regulations are interpretative in nature, setting out with more precision the methods for measurement of actual landed costs, which is required in any application of (§ 212.83(f)).

FEA will compute representative arms-length prices for the period from October 1973 through September 1974 and use such prices as standards for disallowing costs pursuant to § 212.83(e) as it always read. Because § 212.83 provided only general guidance, however, and because of great price uncertainty during much of this period, FEA may allow somewhat greater leeway in determining appropriate transfer prices for this period than is provided for in the new regulation and FEA may permit some form of offset. In addition, the form of remedy may differ from that for the prospective months. 39 FR 38365 (October 31, 1974)

The prices in Appendix A have been calculated on the basis of data submitted pursuant to FEA Instructions to Form F701-M-O and constitute in general "maximum" prices as defined in § 212.84(e)(2). They represent, except for Indonesia, the higher of: (i) The lowest price, plus 10 cents per barrel, at which fifty percent or more (as measured by volume) of arms-length transactions in that reference crude oil and related crude oils, loaded during the particular month and reported to FEA, took place, or (ii) the lowest price at which 65 percent or more (as measured by volume) of the arms-length transactions, in that reference and related crude oils, loaded during the particular month and reported to FEA, took place. The Indonesian price is the official selling price.

Since the notices published by FEA on June 26, 1975, and on August 29, 1975, FEA has received resubmission of FEA Form F701-M-O from reporting companies. These resubmissions, along with other information received by FEA, have changed FEA's base data sufficiently to justify a recalculation of the maximum allowable prices.

For Venezuela, adjustments for related crudes have been made using, with slight modification, the differences in the tax-export values in effect since January 1974. These values ascribe a premium for low-sulphur crude oils (those with a sulphur content of 1.6 percent or less) whereas the values before that period did not. In view of the fact that low-sulphur oils did enjoy a market premium during the period covered by this notice, FEA has determined that the relative differences in tax-export values in the schedule for January 1974 are more reflective of relative market values. FEA has further used for Venezuela crudes an average adjustment of $0.06 per API degree for gravity.

In accordance with § 212.84(f), no designation of a reference crude has been made whenever (i) the number of arms-length transactions of at least 100,000 barrels is less than four, (ii) the total volume is less than 600,000 barrels, or (iii) more than 35 percent of the transactions by volume are pursuant to a single contract.

For the period preceding the adoption of § 212.84, FEA utilized the maximum prices rather than the representative prices in order to provide greater leeway in the disallowance calculation. The representative price was used from October 1974 onward when § 212.84 was adopted. Accordingly, in this instance, for the pre-October 1974 period covered by this Notice, FEA is using maximum rather than representative prices. The maximum price by definition embraces at least 65 percent of all reported arms-length transactions as opposed to the 50 percent included within the representative price. Thus the maximum price takes account of the greater dispersion in prices which existed during this time.

Prices have been computed on a country-by-country basis. This conforms with § 212.84, and is particularly important during this period since traditional value relationships were not maintained and significant variations in crude oil prices developed based on individual producing government actions. As an additional degree of freedom, FEA is permitting any overages to be first offset against any undercharges within a month for imported crude oils from the same country of origin.

For the month of October 1973 in which most producing governments changed their tax reference prices in mid-month, FEA is using for purposes of disallowance the maximum prices calculated for November 1973.

In the instances in which the volume or nature of third party transactions is insufficient to permit the direct calculation of arms-length prices, prices have been calculated in accordance with the procedures of § 212.84(e)(6), as modified in the Notice and Order on the Determination of Maximum and Representative Prices for January 1975, dated June 20, 1975 (40 FR 27058, June 26, 1975).

To prevent the disclosure of proprietary information, prices are being published only for crude streams in which sales (including sales in related crudes) have been reported to FEA by three or more sellers, including, for this purpose, sales by host governments, or by companies buying from a host government and reselling in an arms-length transaction. Prices are also being published when sales have been reported to FEA by three or more purchasers except when less than three persons generally make sales of the particular reference and related crudes.

Notice is also hereby given of the representative and maximum prices as determined by FEA for certain crude oils when imported pursuant to a transaction between affiliated entities for the months of October 1974 through May 1975. These prices, in general, have been calculated pursuant to § 212.84(e) and modified by the Notice and Order on the Determination of Representative and Maximum Prices for January 1975, dated June 20, 1975 (40 FR 27058, June 26, 1975).

In two countries that have more than one reference crude, Saudi Arabia and Venezuela, FEA has sufficient data to calculate arms length prices each month for most, but not all, reference crudes. In those months when the volume or nature of transactions in one of the reference crudes is insufficient to calculate an arms length price, FEA has derived the reference crude price by relating it to one of the other reference crudes from the same country which has a valid arms length price.

In Venezuela, the transactions for one month are insufficient to determine an arms length price for all of the three Venezuelan reference crudes. Rather than calculating a price by reference to a crude from another country for that month, FEA has decided to use as the allowed cost the averages of the respective maximum and representative prices for the immediately preceding and succeeding months. FEA believes that this procedure provides a better estimate of arms-length prices since it is based directly upon arms-length sales of the crude for which the price is being calculated.

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

APPENDIX A

Maximum prices

Reference crudes	October 1973	November 1973	December 1973	January 1974	February 1974	March 1974	April 1974
Abu Dhabi (TC-010)	$4.77	$4.77	$4.74	$11.85	$11.83	$11.99	$12.24
Algeria (AG-020)	8.59	8.59	8.19	14.13	14.16	14.22	14.09
Angola (AO-030) [1]	7.53	7.53	7.57	17.39	16.92	12.99	15.05
Colombia (CO-040) [2]			[3] 6.52				
Dubai (TC-015) [2]							
Ecuador (EC-050) [2]					[1] 10.21	[1] 10.47	[1] 10.17
Indonesia (ID-070) [2]	6.00	6.00	6.00	10.80	10.80	10.80	11.70
Iran (IR-060)	4.38	4.38	4.33	10.67	11.72	10.72	11.19
Kuwait (KU-110)	3.88	3.88	3.80	9.65	9.80	9.80	9.85
Libya (LY-120)	7.55	7.55	9.05	14.33	14.68	14.01	13.54
Neutral zone (LY-138) [1]						[1] 9.40	[1] 9.40
Nigeria (NI-140)	7.17	7.17	7.20	17.04	16.57	12.64	14.69
Norway (NO-158) [2]					[1] 14.73	[1] 14.06	[1] 13.59
Saudi Arabia (SA-180)	3.94	3.94	3.91	9.74	9.75	9.80	9.80
Trinidad (TD-190)	7.05	7.05	7.20	11.03	11.43	11.68	11.38
Venezuela (VE-235)	5.27	5.27	5.42	9.26	9.66	9.91	9.61

[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.
[2] Less than three sellers. Data treated as proprietary.
[3] Price set by regulation at official selling price.

Maximum prices

Reference crude	May 1974	June 1974	July 1974	August 1974	September 1974
Abu Dhabi (TC-010)	$11.88	$11.41	$11.55	$11.28	$11.27
Algeria (AG-020)	14.08	14.00	13.28	13.26	13.23
Angola (AO-030) [2]	13.98	13.72	13.26	12.96	12.64
Dubai (TC-015) [2]		[1] 11.03	[1] 10.81	[1] 10.59	
Ecuador (EC-060) [2]	[1] 10.18		[1] 10.53	[1] 10.50	[1] 10.57
Egypt (EG-056) [2]	[1] 10.59	[1] 10.55	[1] 10.33	[1] 10.11	[1] 9.95
Indonesia (ID-070) [2]	11.70	11.70	12.60	12.60	12.60
Iran (IR-060)	11.04	11.00	10.78	10.56	10.39
Kuwait (KU-110)	10.10	10.10	9.85	10.04	10.05
Libya (LY-120)	12.65	12.57	12.38	12.44	12.68
Nigeria (NI-140)	13.62	13.36	12.90	12.60	12.28
Norway (NO-158) [2]	[1] 12.69	[1] 12.62	[1] 12.42	[1] 12.48	[1] 12.72
Saudi Arabia (SA-180)	9.85	9.85	10.10	9.98	10.00
Trinidad (TD-190) [1]	11.39	11.39	11.74	11.70	11.76
Venezuela (VE-235)	9.62	9.62	9.97	9.93	9.99

[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.
[2] Less than three sellers. Data treated as proprietary.
[3] Price set by regulation at official selling price.

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Maximum prices

Reference crude	October 1974	November 1974	December 1974	January 1975	February 1975	March 1975	April 1975	May 1975
Abu Dhabi (TC-010)	$11.51	$11.40	$11.46	$11.62	$11.10	$11.37	$10.98	$10.89
Algeria (AG-020)	12.52	12.39	12.35	12.17	12.17	12.15	11.80	11.78
Angola (AO-030) [1]	12.21	12.39	12.32	12.21	12.22	12.28	12.09	12.10
Dubai (TC-015) [2]				[3] 10.80			[3] 10.73	
Ecuador (EC-050) [2]	[1] 11.05	[1] 11.40	[1] 11.33	[1] 12.27	[1] 11.85	[1] 11.42	[1] 11.37	[1] 11.43
Indonesia (ID-070) [1]	12.60	12.60	12.60	12.60	12.60	12.60	12.60	12.60
Iran:								
(1R-060)	10.63	10.74	10.68	10.78	10.77	10.78	10.70	10.75
(1R-062)	10.47	10.60	10.64	10.56	10.56	10.55	10.55	10.54
Kuwait (KU-110)	10.26	10.56	10.56	10.43	10.44	10.44	10.47	10.47
Libya (LY-120)	12.58	12.36	12.35	12.05	12.07	12.06	11.62	11.52
Nigeria (NI-140)	11.85	12.03	11.95	11.84	11.85	11.91	11.72	11.73
Saudi Arabia:								
(SA-180)	10.40	10.56	10.56	10.57	10.56	10.56	10.56	10.56
(SA-181)	10.10	10.37	10.35	10.37	10.37	10.37	10.37	10.37
(SA-182)	10.31	10.47	10.49	10.48	10.49	10.64	10.48	10.56
Trinidad (TD-190) [1]	12.17	12.49	12.40	13.36	12.94	12.51	12.46	12.52
Venezuela:								
(VE-234)	10.90	11.22	11.13	12.10	11.68	11.25	11.20	11.26
(VE-235)	9.78	10.74	9.90	11.62	11.26	10.89	10.67	10.78
(VE-236)	9.86	9.90	9.86	11.26	10.90	10.53	10.46	10.34

[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.
[2] Less than three sellers. Data treated as proprietary.
[3] Price set by regulation at official selling price.

Representative prices

Reference crude	October 1974	November 1974	December 1974	January 1975	February 1975	March 1975	April 1975	May 1975
Abu Dhabi (TC-010)	$11.39	$11.20	$11.36	$11.43	$10.91	$11.00	$10.86	$10.75
Algeria (AG-020)	12.42	12.26	12.22	12.07	12.07	12.05	11.70	11.68
Angola (AO-030) [1]	12.06	12.29	12.22	12.11	12.12	12.18	11.99	12.00
Dubai (TC-015) [2]				[3] 10.70			[3] 10.63	
Ecuador (EC-050) [2]	[1] 10.79	[1] 10.85	[1] 10.81	[1] 11.92	[1] 11.82	[1] 11.32	[1] 11.27	[1] 11.33
Indonesia (ID-070) [1]	12.60	12.60	12.60	12.60	12.60	12.60	12.60	12.60
Iran:								
(1R-060)	10.50	10.64	10.55	10.66	10.67	10.66	10.60	10.65
(1R-062)	10.33	10.50	10.54	10.46	10.46	10.45	10.45	10.44
Kuwait (KU-110)	10.16	10.46	10.46	10.33	10.34	10.34	10.37	10.37
Libya (LY-120)	12.36	12.25	12.25	11.95	11.97	11.96	11.50	10.92
Nigeria (NI-140)	11.70	11.93	11.85	11.74	11.75	11.81	11.62	11.63
Saudi Arabia:								
(SA-180)	10.28	10.46	10.46	10.47	10.46	10.46	10.46	10.46
(SA-181)	10.00	10.27	10.25	10.27	10.27	10.27	10.27	10.27
(SA-182)	10.19	10.37	10.39	10.38	10.39	10.45	10.38	10.44
Trinidad (TD-190) [1]	11.91	11.94	11.88	13.01	12.71	12.41	12.36	12.42
Venezuela:								
(VE-234)	10.64	10.67	10.61	11.75	11.45	11.15	11.10	11.16
(VE-235)	9.68	10.19	9.68	11.27	11.03	10.79	10.57	10.63
(VE-236)	9.76	9.80	9.76	10.91	10.67	10.43	10.36	10.24

[1] Does not meet requirements of 212.84(f)(1). Figures are based on comparison to most similar crude in same geographic region.
[2] Less than three sellers. Data treated as proprietary.
[3] Price set by regulation at official selling price.

[FR Doc.77-12255 Filed 4-26-77;10:04 am]

PRIVACY ACT

Transfer of Control of Records in a System of Records

The Federal Energy Administration (FEA) hereby gives notice of a change in the custodianship of all records contained within the system of records designated as "FEA-7, Investigative Report Records." The FEA has recently established an Office of the Inspector General (OIG), which reports directly to the Administrator. Among other duties, the OIG will perform those investigations formerly performed by the FEA Office of Security which result in the creation of records within FEA-7. Accordingly, the description of FEA-7, as last published in the annual republication of all Agency systems of records at 41 FR 40076, is hereby amended to reflect that the Inspector General, Office of the Inspector General, is the new custodian of the records contained within that system of records. Therefore, the description of the category "System location" within the description of FEA-7 as previously published shall now be:

Office of the Inspector General, Federal Energy Administration, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

The description of the category "System Manager(s) and Address" within the description of FEA-7 as previously published shall now be:

Inspector General, Office of the Inspector General, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

The description of FEA-7 is unchanged in all other respects.

Privacy Act of 1974 (5 U.S.C. 552a); Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185, June 27, 1974).)

Issued in Washington, D.C., April 27, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-12612 Filed 5-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF TRUSTEES OF THE GALVESTON WHARVES AND ST. JOHN SHIPPING CO., INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Carl S. Parker, Jr., Traffic Manager, Galveston Wharves, P.O. Box 328, Galveston, Texas 77550.

Agreement No. T-3456, between the Board of Trustees of the Galveston Wharves (Fort) and St. John Shipping Co., Inc., (St. John), is a 10-year terminal agreement whereby the Port grants St. John a preferential first call on berth and a preferential assignment of transit shed at Piers 30-33 at the Port of Galveston for the mooring, berthing, loading and unloading of vessels and for the accumulation and movement of cargo. As compensation, St. John shall pay Port charges for such premises and for all services, as more particularly described in the Port's tariff. St. John shall advance to the Port the sum of $234,000.00 for roofing reconstruction over the transit shed facility, which will be credited back in this same amount to St. John in forty equal quarterly payments over a ten-year period as partial payment of

published tariff charges for the preferential assignment.

By Order of the Federal Maritime Commission.

Dated: April 27, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12522 Filed 4-29-77;8:45 am]

[Independent Ocean Freight Forwarder License 1111]

HERMANN LUDWIG OF CALIFORNIA INC.

Order of Revocation

On April 25, 1977, Hermann Ludwig of California Inc., 427 W. Fifth Street, Los Angeles, CA 90013, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1111 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1111 issued to Hermann Ludwig of California Inc., be and is hereby revoked effective April 25, 1977 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Hermann Ludwig of California Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.77-12523 Filed 4-29-77;8:45 am]

[No. 77-11]

PACIFIC CRUISE CONFERENCE—PETITION FOR DECLARATORY ORDER

Filing of Petition for Declaratory Order

APRIL 26, 1977.

Notice is hereby given that a petition has been filed by the Pacific Cruise Conference requesting the Commission to issue a declaratory order on the question of whether certain practices of Savers Travel Club, Ltd. and/or Save-On Travel, Inc. are in violation of the Shipping Act, 1916 and/or FMC Agreement No. 131. The practices are said to involve the solicitation of cruise passage through an offer of a "cash bonus" which is given in the form of a certificate redeemable for travelers checks at participating Savings and Loan institutions.

Replies to the petition may be filed by Savers Travel Club, Ltd., Save-On Travel Inc. and the Commission's Bureau of Hearing Counsel on or before May 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12524 Filed 4-29-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-217]

CENTRAL MAINE POWER CO.

Order Denying Request To Reject or, In the Alternative, To Suspend for Five Months, Granting Intervention, Denying Intervention, Establishing Additional Procedures, and Denying Motion for Reconsideration

APRIL 26, 1977.

Electric rates; suspension; intervention; additional procedures; motion for reconsideration.

On March 30, 1977, the Commission issued an order in the above-entitled proceeding[1] that, inter alia, accepted for filing a proposed rate increase tendered by Central Maine Power Company (Company), suspended that increase for a day, and established procedures for determining the lawfulness of that increase. By letter filed April 1, 1977, Kennebunk Light and Power District, Madison Electric Works, and Fox Island Electric Cooperative, Inc. (Customers) stated that the Commission, in its March 30th order, did not consider their protest, petition to intervene, and motion.[2] The Customers request that the Commission issue an order permitting them to intervene because (1) they are municipally or cooperatively owned electric distribution systems which purchase all of their capacity and energy requirements from the Company, (2) the Company's proposed rate increase is substantial and will affect the Customers, and (3) their interests cannot be adequately represented by the other parties. Because the Customers have met the requirements of Section 1.8 of the Commission's Rules of Practice and Procedure, we will permit them to intervene.

In support of their motion to reject, the Customers state that the entire filing or a portion thereof should be rejected because the Company's increase in depreciation rates included the use of a change in the remaining lives of depreciable property. According to the Customers, such a depreciation change without the Commission authorization is prohibited by Section 302 of the Federal Power Act. The Company, in its response,[3] states that this argument is without merit since Section 302 expressly reserves the right of a State Commission to set depreciation rates in the exercise of its jurisdiction over retail rates. Consequently, the Company states that the changes in depreciation rates (recommended by a management consultant study) were implemented only pursuant to an order of the Maine Public Utilities Commission. We do not believe that the Company's filing or a portion thereof warrants rejection. The issue of depreciation changes presents a factual question that can only be resolved after a full evidentiary hearing is made. For it was noted in *Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341, 1346 (1971), that a rejection by the Federal Power Commission of a matter submitted for filing is a "peremptory form of response to filed tariffs" which classically is used not to dispose of matter on the merits but rather is used as a technique for calling on the filing party to put its papers in proper form and order. In this case, the Company's papers are in order.

In their alternative motion to suspend the Company's filing for 5 months, the Customers make several arguments. Firstly, the Customers argue that the Company has overstated its rate base and over-allocated that portion of the rate base assigned to the jurisdictional class by using improper cost allocation methods or methods that are inconsistent with Commission precedent. Some of the examples cited by the Customers are (1) including $35,138,900 of investment in subsidiary companies in the rate base; (2) use of a year-end rate base; (3) use of the single-annual peak method in determining the demand allocation factor; (4) failure to use "rolled-in" transmission plant; and (5) improper allocation of general plant.

Secondly, the Customers contend that the Company has included excessive expenses in its cost of service. However the Customers further state that, although it was not possible to determine the overall effect of the excessive expenses, the immediate effect is to substantially increase the Company's revenue requirement.

Thirdly, the Customers allege that the Company has inflated its capital structure by including therein a number of items (such as investments in its subsidiary and affiliates) which are excluded by Commission precedent. The effect of this improper inclusion, state the Customers, is an excessive rate of return.

Finally, the Customers state that the Company's rates to its wholesale customers will be higher than its equivalent retail rates which it is now charging to its retail customers.

The Company, in its response, merely states that the above-mentioned allegations are unsupported and should afford no basis for a full five month suspension. We conclude that the one day suspension set forth in our March 30th order was appropriate. The allegations raised in the Customer's motion and in the Company's response present factual questions that can only be resolved after a full evidentiary record is made. Our March 30th order found that a hearing should be held on the question of the lawfulness of the Company's filing. However, none of the arguments presented in the motion to suspend convince us that a change in the suspension period is warranted. The length of a suspension period is within the Commission's discretion. *Municipal Light Boards* v. *F.P.C.*,

[1] That order also encompassed Docket No. ER77-216, which is not involved in this matter herein discussed.

[2] The protest, petition to intervene, and motion to reject and/or suspend for five months was filed on March 21, 1977.

[3] The Company's response to the Customer's pleading was filed on April 1, 1977.

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450 F. 2d 1341 (D.C. Cir. 1971). The pleadings before us, in our judgment, sustain the one-day suspension of our March 30th order.

As to the price squeeze issue, further procedures are necessary to coincide with our recently adopted Order No. 563.[4] We hereby direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Customers' request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also the Company shall be required to respond within 30 days, to the discovery requests authorized by the Administrative Law Judge and the Customers shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

By letter addressed to the Secretary dated March 24, 1977, the Town of Kennebunk Board of Selectmen requested that it be granted intervenor status. This letter will not be treated as a petition to intervene as it is patently deficient in meeting the requirements of Section 1.8 of the Commission's Rules of Practice and Procedure in that there were no allegations of facts from which the nature of the Board of Selectmen's alleged right or grounds for the proposed intervention can be determined. However, we will permit the letter to be treated as a protest and, as such, we have considered it in determining the appropriate action to be taken on the Company's filing.

On April 11, 1977, Customers filed an application requesting rehearing of the order of March 30, 1977.[5] In that application, Customers request the Commission to grant them intervention in this proceeding. Our action herein does grant that request. Customers also renew their arguments for rejection or for a five months suspension of the subject rate filing. Our discussion of those arguments considers and adequately disposes of the issues presented by Customers' application.

The Commission finds:

(1) Good cause exists to deny the motion to reject or, in alternative, to suspend for five months the proposed increased rates filed by Company on February 28, 1977.

(2) Good cause exists to establish additional procedures to effectuate the Commission's policy announced in Order No. 563.

(3) The participation in this proceeding of Kennebunk Light and Power District, Madison Electric Works, and Fox Islands Electric Cooperative, Inc. may be in the public interest.

(4) Good cause does not exist at this time to grant intervention to the Town of Kennebunk Board of Selectmen.

(5) The application for rehearing filed by Customers on April 1, 1977, treated as a motion for reconsideration of the suspension order of March 30, 1977, presents no new facts or principles of law that were not considered by the Commission when it issued that order or, now having been considered, warrant any change or modification of said order. Accordingly, good cause exists to deny the application for modification of the subject order.

The Commission orders:

(A) The motion to reject or, in the alternative, to suspend for five months the proposed increased rates filed by Company is hereby denied.

(B) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Customers request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also, the company shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Customers shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

(C) Kennebunk Light and Power District, Madison Electric Works, and Fox Islands Electric are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petition to intervene; and *Provided further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The Town of Kennebunk Board of Selectmen are denied intervenor status without prejudice. Their request will be reconsidered if they meet the requirements of our rules (18 CFR § 1.8).

(E) The application for rehearing filed by Customers on April 11, 1977, treated as a motion for reconsideration of the suspension order of March 30, 1977, is hereby denied.

(F) The order of March 30, 1977, issued in this proceeding shall remain in full force and effect except as hereinabove modified.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12493 Field 4-29-77;8:45 am]

[Docket No. ER77-310]

CENTRAL TELEPHONE AND UTILITIES CORP.

Application for Tariff Change

APRIL 26, 1977.

Take notice that Central Telephone & Utilities Corporation (CTU) on April 18, 1977, tendered for filing proposed changes in its Federal Power Commission Electric Service Tariff No. 33.

CTU states that the filing is Service Schedule P, Interim Power Service which provides electric power and accompanying energy to be supplied June 1, 1977, through May 31, 1978, to Sunflower Electric Cooperative, Inc. (Sunflower). CTU indicates that it desires to sell Sunflower 30 MW of capacity as a result of the installation of a specific 630 MW steam electric generating unit identified as La Cygne Unit No. 2, which is owned by Kansas Gas and Electric Company and Kansas City Power & Light Company. CTU also indicates that it has contracted with Kansas Gas and Electric Company for 60 MW of capacity from La Cygne No. 2 for the period June 1, 1977, through May 31, 1978, and desires to sell 30 MW of this capacity to Sunflower.

CTU states that copies of the filing were served upon Sunflower Electric Cooperative, Inc. and the Utilities Division of the State Corporation Commission.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commision's Rules and Practice of Procedure (18 CFR 1.8, 1.10). Such petitions or protests should be filed on or before May 6, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12494 Filed 4-29-77;8:45 am]

[Docket No. ER76-709]

CINCINNATI GAS AND ELECTRIC CO.

Filing of Settlement Agreement and Motion for Approval of Said Agreement

APRIL 26, 1977.

Take notice that Cincinnati Gas and Electric Company (CG&E) on April 19, 1977 tendered for filing a Settlement Agreement and a Motion for Approval of said Agreement.

CG&E indicates that the Settlement Agreement arises out of conferences and discussions with the Commission Staff, the Union Light, Heat and Power Company, Interlake, Inc., and the Commonwealth of Kentucky. CG&E further indicates that it has not been able to make a settlement agreement with the Village of Georgetown, Ohio.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 13, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12488 Filed 4-29-77;8:45 am]

[Docket No. RI76-146]

EQUIPMENT, INC., AND ANNCO PETROLEUM, INC.

Order Granting Petition for Special Relief

APRIL 25, 1977.

On August 23, 1976, Equipment, Inc., and Annco Petroleum, Inc. (Equipment) filed a petition for special relief pursuant to § 2.76[1] of the Commission's general policy and interpretations for the sale of gas to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) from the E. Savoie #1 Well located in the Lawtell Field, St. Landry Parish, Louisiana.[2] Equipment is making this sale under its small producer certificate issued in Docket No. CS71-511 on October 12, 1971, and as successor in interest to a contract dated May 27, 1960, between various small producers and American Louisiana Pipeline Company (American Louisiana). Michigan Wisconsin has succeeded to the interest of American Louisiana.

In its petition Equipment states that production from the subject well is no longer economical at the current price of 26.79 cents per Mcf at 15.025 psia. As a result, Equipment seeks Commission authorization to increase its rate to 87.74 cents per Mcf. By contract amendment dated May 12, 1976, Michigan Wisconsin has agreed to pay Equipment the increased rate in consideration for the installation of compression facilities and the performance of certain remedial operations by Equipment.

Notice of the petition was issued on September 17, 1976, and appeared in the FEDERAL REGISTER on September 24, 1976, at 41 FR 41958. No petitions to intervene have been filed.

Staff has reviewed the cost information supplied by Equipment and based thereon has determined that the proposed rate is cost justified.[3] Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the petition should be granted.

The Commission finds: The petition for special relief filed by Equipment in Docket No. RI76-146 meets the criteria set forth in § 2.76 of the Commission's general policy and interpretations.

The Commission orders: For the above-stated reasons, the petition for special relief filed by Equipment in Docket No. RI76-146 is hereby granted. Equipment is authorized to collect from Michigan Wisconsin a total rate of 87.74 cents per Mcf at 15.025 psia for all gas produced from the subject well effective as of the date of issuance of this order, provided Equipment files with the Commission within 30 days hereof a statement signed by Michigan Wisconsin that the remedial work performed by Equipment has been completed to Michigan Wisconsin's satisfaction.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12509 Filed 4-29-77;8:45 am]

[Docket No. ES77-30]

GULF STATES UTILITIES CO.

Application

APRIL 26, 1977.

Take notice that on April 20, 1977, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of 350,000 Additional Shares of Common Stock.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

The Applicant proposes to sell the Additional Common Stock from time to time pursuant to the provisions of an Employees Thrift Plan in accordance with the Commission's Regulations under the Federal Power Act.

From time to time as sales of the new securities occur, the proceeds will be added to the general funds of the Company to be used to refund a portion of its short-term notes.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12492 Filed 4-29-77;8:45 am]

[Docket No. ER77-306]

LOUISVILLE GAS AND ELECTRIC CO.

Tariff Change

APRIL 26, 1977.

Take notice that Louisville Gas and Electric Company (Louisville) on April 18, 1977, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Kentucky Utilities Company (Kentucky) designated Louisville Gas and Electric Company FPC Rate Schedule No. 20. Louisville indicates that the proposed changes would increase revenues from jurisdictional sales and service by $213,000 based on the 12 months period ending February 28, 1977.

Louisville further indicates that the purpose of this filing is to increase the demand charge for Short Term Power as set forth on Service Schedule D from 45¢ per kilowatt-week to 60¢ per kilowatt-week and that this proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their system.

Louisville requests that these proposed changes become effective as of June 1, 1977.

Copies of the filing were served upon Kentucky Utilities Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commissions' Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12487 Filed 4-29-77;8:45 am]

[Docket No. RP76-50]

MICHIGAN WISCONSIN PIPE LINE CO.

Availability of Draft Environmental Impact Statement

APRIL 26, 1977.

Notice is hereby given in the above Docket that on April 30, 1977, a Draft Environmental Impact Statement prepared by the staff of the Federal Power Commission has been published and is available for review and comment in conformity with the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) and Section 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)).

This draft statement deals with the environmental impact of alternative permanent curtailment plans proposed in Docket No. RP76-50 across the Michigan Wisconsin Pipe Line Company system.

This draft statement has been circulated to Federal, State, and local agencies, and has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE.,

[4] See, Order Prescribing A New Section 2.16 of the Commission's General Policy and Interpretations and Terminating Rulemaking, Order No. 563, Docket No. RM76-29, issued March 21, 1977.

[5] Rehearing of an interlocutory order such as the March 30th suspension order is not permitted by the Federal Power Act or our Rules.

[1] 18 CFR 2.76.

[2] Equipment filed an amendment to its petition on January 28, 1977.

[3] Appendix A filed as part of the original.

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Washington, D.C. 20426 and its Regional Office located at 230 South Dearborn Street, Chicago, Illinois 60604. Copies are also available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

Any comments on the Draft Environmental Impact Statement shall be filed with the Commission on or before June 27, 1977, and mailed to the following address:

Secretary, Federal Power Commission, Washington, D.C. 20426.

All parties filing comments with the Commission on the Draft Environmental Statement should transmit ten copies of their comments to the Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12486 Filed 4-29-77;8:45 am]

[Docket No. CP77-343]

MOUNTAIN FUEL SUPPLY CO.

Application

APRIL 26, 1977.

Take notice that on April 18, 1977, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-343 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of pipeline and related facilities necessary to bring into Applicant's system new and additional supplies of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct, install, and operate approximately 20 miles of 10-inch diameter pipeline together with necessary valves, meters and ancillary facilities extending from the Whiskey Buttes field area in Lincoln and Sweetwater Counties, Wyoming, through the Bruff area, Uinta, Sweetwater, and Lincoln Counties, Wyoming, to a point on Applicant's interstate transmission system in Uinta County, Wyoming, near Granger, Wyoming. Applicant states that the proposed facilities are necessary to bring into its system new and additional supplies of natural gas needed to augment its existing primary natural gas suplies and to help offset the continuing decline in deliveries from existing fields dedicated to Applicant's market area and curtailment of deliveries by Applicant's principal supplier, Northwest Pipeline Corporation.

At present, there is one well completed in the Whiskey Buttes area, with the prospect of several additional productive wells being drilled in the area, and there are four wells in the Bruff area, through which the proposed line would pass, which are currently capable of production, it is said. It is stated that additional drilling is continuing in the Bruff area also. Applicant states that initially, deliverability from the Whiskey Buttes well is estimated to be in excess of 3 million Mcf of natural gas per day, and deliverability from the existing Bruff wells is estimated at 6 million Mcf per day. There are also several other wells in various stages of drilling as well as several proposals to drill additional wells in the vicinity of the proposed line it is asserted. Applicant indicates that it has a gas call on a portion of the production from one of the already completed wells in the vicinity of the proposed line, holds gas calls on substantial as yet undeveloped acreage, and owns substantial working interests in undeveloped acreage adjacent to and in the vicinity of the proposed pipeline.

Applicant states that the proposed pipeline would be entering and traversing the Moxa Arch geologic area, one of the most active wildcat areas in the Rocky Mountains, and there is already in existance on intrastate line into the area. Applicant states that pipeline routing by it has been designed to give interstate pipeline access to the substantial volume of discoverable reserves in the Moxa Arch area while making maximum use of existing pipeline rights-of-way. Applicant asserts that a ready interstate pipeline outlet for newly discovered gas in the area would stimulate the exploration for and development of the substantial volume of undiscovered natural gas reserves believed by Applicant to exist along or in the vicinity of the proposed pipeline, while at the same time offering the interstate market an opportunity to compete for newly discovered reserves.

Applicant states that for approximately 10.3 miles of its length the proposed pipeline would parallel an existing oil pipeline, and another approximately 6.1 miles of the proposed line would be on the existing Bruff pipeline and well lateral rights-of-way. Only for approximately 3.6 miles of the pipeline route would there be necessary deviation from the existing pipeline routes, and in those instances the proposed pipeline is to follow the most convenient route, it is said.

Applicant states that the estimated cost of the proposed facilities is $1,640,000 which would be financed by Applicant out of funds obtained from internal sources and from short-term bank borrowings as may be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-12489 Filed 4-29-77;8:45 am]

[Docket No. RP76-9]

NATIONAL FUEL GAS SUPPLY CORP.

Filing of Revisions to Settlement Agreement

APRIL 26, 1977.

Take notice that on April 18, 1977, National Fuel Gas Supply Corporation (National Fuel) tendered for filing certain revisions to the proposed settlement agreement certified to the Commission in the captioned proceeding on September 27, 1977. National Fuel states that the revisions having resulted from further settlement discussions among the parties, reduce the settlement cost of service by $23,666.

Any person desiring to be heard or to protest said revisions to the proposed settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 9, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12485 Filed 4-29-77;8:45 am]

[Docket Nos. CP76-313, CP76-381, CP76-536, CP77-353]

NATIONAL FUEL GAS SUPPLY CORP., ET AL.

Order To Show Cause Why Sale of Storage Gas in Place to be Delivered Over a Period Exceeding 60 Days Is Permitted Under § 2.68 of the Commission's Rules and Regulations and Not In Violation of the Natural Gas Act; and Consolidating Proceedings

APRIL 22, 1977.

National Fuel Gas Supply Corporation, Transcontinental Gas Pipe Line Corporation, Columbia Gas Transmission Corporation, and National Fuel Gas Supply Corporation, National Fuel Gas Distribution Corporation.

National Fuel Gas Distribution Corporation (Distribution) sold gas in place in storage to South Jersey Gas Company and UGI Corporation. In our Order of January 19, 1977, in Docket Nos. CP76-313, et al., the validity of utilizing § 2.68 of the Commission's Rules and Regulations to sell gas in place in storage in excess of a 60-day delivery period was brought into question. The petition to Intervene Out of Time filed by Distribution on March 7, 1977, brought to our attention the fact that there now exists no appropriate proceeding in which to determine the validity of utilizing § 2.68 for such purposes. We shall therefore herein institute a proceeding in which Distribution shall be afforded the opportunity to show cause why such sales are not outside the ambit of § 2.68 and, as such, are sales in interstate commerce in violation of section 7 of the Natural Gas Act.

These sales are part of the same transactions giving rise to the consolidated proceedings in Docket Nos. CP76-313, et al., and for hearing and decisional purposes should be consolidated therewith.

The institution of this instant proceeding and consolidation thereof with Docket Nos. CP76-313, et al., renders moot Distribution's Petition to Intervene Out of Time in those proceedings.

The Commission orders: (A) Within 45 days form the issuance of this Order Distribution shall come forward with appropriate evidence and show cause why the sale of natural gas to South Jersey Gas Company and UGI Corporation are not in violation of the Natural Gas Act, particularly sections 1, 4, and 7 thereof.

(B) The proceedings in Docket Nos. CP76-313, CP76-381, CP76-536, and this CP77-353 are consolidated for purposes of hearing and disposition.

(C) Distribution's Petition for Leave to Intervene Out of Time is denied as moot.

(D) Notices of Intervention and Petitions to Intervene in Docket No. CP77-353 may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before May 20, 1977, in accordance with the Commission's Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12507 Filed 4-29-77;8:45 am]

[Docket Nos. ER77-97, ER77-75]

NEW ENGLAND POWER CO.

Order Granting Late Intervention

APRIL 26, 1977.

Electric Rates: (Interventions).

By order issued January 5, 1977, the Commission accepted for filing rate changes (Rate R-11) proposed by New England Power Company (NEPCO) in Docket No. ER77-97, suspended their effectiveness until February 1, 1977, and mandated hearing procedures to determine the lawfulness of said charges.

Public notice of NEPCO's filing in Docket No. ER77-97 was issued on December 15, 1976, with protests or petitions to intervene due on or before December 31, 1976.

On April 4, 1977, the Attorney General of the Commonwealth of Massachusetts, Francis X. Bellotti, and the Massachusetts Consumer Council, a state agency, filed an untimely petition to intervene.

Petitioners submit that one of NEPCO's wholesale customers is Massachusetts Electric Company which in turn supplies several hundred thousand retail customers in Massachusetts. Petitioners allege that the interests of these ultimate consumers will not be adequately represented by the current intervenors in this case, and that petitioners' intervention is in the public interest.

In light of the foregoing, the Commission concludes that the Petitioners should be permitted to intervene in this proceeding.

The Commission finds:

Participation in this proceeding by the Petitioners is in the public interest.

The Commission orders:

(A) The Petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of these Petitioners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petition to intervene; and *Provided, further,* That the admission of these Petitioners shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12490 Filed 4-29-77;8:45 am]

NATIONAL FUEL GAS SUPPLY CORP, ET AL.

[Docket No. CP76-313, etc.]

Order To Show Cause

APRIL 22, 1977.

National Fuel Gas Supply Corp., Docket No. CP76-313; Transcontinental Gas Pipe Line Corp., Docket No. CP76-381; Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp., Docket No. CP76-536; National Fuel Gas Distribution Corp., Docket No. CP77-353.

Order to show cause why sale of storage gas in place to be delivered over a period exceeding 60 days is permitted under section 2.68 of the Commission's Rules and Regulations and not in violation of the Natural Gas Act; and consolidating proceedings.

National Fuel Gas Distribution Corporation (Distribution) sold gas in place in storage to South Jersey Gas Company and UGI Corporation. In our Order of January 19, 1977, in Docket Nos. CP76-313, et al., the validity of utilizing Section 2.68 of the Commission's Rules and Regulations to sell gas in place in storage in excess of a 60-day delivery period was brought into question. The petition to Intervene Out of Time filed by Distribution on March 7, 1977, brought to our attention the fact that there now exists no appropriate proceeding in which to determine the validity of utilizing Section 2.68 for such purposes. We shall therefore herein institute a proceeding in which Distribution shall be afforded the opportunity to show cause why such sales are not outside the ambit of Section 2.68 and, as such, are sales in interstate commerce in violation of Section 7 of the Natural Gas Act.

These sales are part of the same transactions giving rise to the consolidated proceedings in Docket Nos. CP76-313, et al., and for hearing and decisional purposes should be consolidated therewith.

The institution of this instant proceeding and consolidation thereof with Docket Nos. CP76-313, et al., renders moot Distribution's Petition to Intervene Out of Time in those proceedings.

The Commission orders: (A) Within 45 days from the issuance of this Order Distribution shall come forward with appropriate evidence and show cause why the sale of natural gas to South Jersey Gas Company and UGI Corporation are not in violation of the Natural Gas Act, particularly Sections 1, 4, and 7 thereof.

(B) The proceedings in Docket Nos. CP76-313, CP76-381, CP76-536, and this CP77-353 are consolidated for purposes of hearing and disposition.

(C) Distribution's Petition for Leave to Intervene Out of Time is denied as moot.

(D) Notices of Intervention and Petitions to Intervene in Docket No. CP77-353 may be filed with the Federal Power Commission, Washington, D.C., 20426, on or before May 20, 1977, in accordance with the Commission's Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12497 Filed 4-29-77;8:45 am]

[Docket No. CP76-412]

NORTHERN NATURAL GAS CO.

Petition To Amend

APRIL 26, 1977.

Take notice that on April 15, 1977, Northern Natural Gas Company, (Petitioner) filed in Docket No. CP76-412 a petition to amend the Commission's order of January 19, 1977 (57 FPC ____), issued in the instant docket and Docket

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No. CP76–425 pursuant to Section 7(b) of the Natural Gas Act so as to authorize Petitioner to retain certain facilities in place as an emergency interconnection with El Paso Natural Gas Company (El Paso), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the Commission's order of January 19, 1977, issued in the instant docket and Docket No. CP76–425, Petitioner was authorized to abandon and remove 4,000 feet of 10-inch pipeline located in Peco County, Texas. Petitioner states that the pipeline connects its 6-inch gathering line with El Paso's 24-inch Gomez-Waha transmission line.

Petitioner asserts that in reflecting upon the severe winter just experienced and the measures that were necessary to move natural gas to high priority consumers, Petitioner believes it to be in the public interest to retain in place as an emergency interconnection with El Paso the pipeline it is authorized to abandon and remove. By retaining this pipeline in place the emergency interconnection can quickly be completed by the installation of the necessary measurement facilities, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12500 Filed 4-29-77;8:45 am]

[Docket No. E-9589]

NORTHERN STATES POWER CO.

Application for Authorization To Transmit Electric Energy to Foreign Country

APRIL 26, 1977.

Taken notice that Northern States Power Company (NSPC) on April 18, 1977, tendered for filing an application for authorization to transmit electric energy to Canada from the United States through facilities at the boundary of the United States and Canada, for which construction, operation, maintenance and connection is covered by application for Presidential Permit filed simultaneously herewith. With this filing NSPC also submitted for public inspection an Environmental Impact Statement.

NSPC indicates that the purchaser of the electric energy proposed to be transmitted is the Manitoba Hydro Electric Board (MHEB), Winnipeg, Manitoba, Canada. NSPC also indicates that the electric energy is proposed to be used by MHEB for supplying its electric system load requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12491 Filed 4-29-77;8:45 am]

[Docket No. RI77-14]

S.S.C. GAS PRODUCING CO.

Order Setting Date for Hearing

APRIL 25, 1977.

On November 24, 1976, S.S.C. Gas Producing Company (S.S.C.) filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). S.S.C. requests authorization to increase its rate from the presently allowed 37.8 cents per Mcf to 76 cents per Mcf, inclusive of production taxes. S.S.C.'s sale to Trunkline Gas Company (Trunkline), is being made under a small producer certificate issued on January 31, 1972 in Docket No. CS72–258. The three wells here involved were commenced prior to January 1, 1973.

S.S.C. states that no additional investment is proposed to be made in order to recover this gas. It says only that the presently allowed rate "makes this production uneconomical and will precipitate its abandonment." (Petition at 1). In the event S.S.C. wishes to apply for abandonment of the subject wells, it must fully comply with Sections 157.5, 157.18, 157.30, 250.7 of the Commission's Regulations under the Natural Gas Act (18 CFR §§ 157.5, 157.18, 157.30, 250.7). Section 7 (b) of the Natural Gas Act (15 U.S.C. § 717f(b)) prohibits a company from abandoning its certificated service without prior Commission authorization. If a producer were to cease deliveries without Section 7(b) authorization, it would be incumbent upon the pipeline purchaser to immediately notify the Commission of such fact. It is the Commission's view that this petition does not meet the criteria for special relief set forth in Section 2.76. Therefore, this petition will be considered as one seeking a rate in excess of the adjusted national rate pursuant to Sections 2.56b(h) and 1.7(b) of the Commission's Regulations (18 CFR §§ 2.56b(h) and 1.7(b)). Under this special relief provision of Section 2.56b(h), Petitioner must justify its request for a higher rate by demonstrating that its out-of-pocket expenses incurred in the operation of the subject wells are greater than the revenues obtained from the sale of the gas therefrom. Out-of-pocket expenses are production expenses, regulatory expense and production taxes minus any liquid revenue credit. It is incumbant upon Petitioner to prove by his books and accounts that the operating expenses are in excess of the revenues earned from the sale of the gas from these three wells, in order for him to receive special relief.

Based upon S.S.C.'s filed data, Staff has caculated that Petitioner needs a rate of 31.627 cents per Mcf at 14.65 psia to cover its out-of-pocket expenses. Staff estimated the remaining recoverable reserves to be 103,600 Mcf of gas, no liquids, together with a productive life of 3 years for the gas.

S.S.C. Petition was noticed December 27, 1976 and appeared in the FEDERAL REGISTER on December 27, 1976 at 41 F.R. 56236. A timely intervention was filed on January 10, 1977 by Trunkline by which, inter alia is agreed to pay S.S.C. 70.3 cents per Mcf, plus tax adjustment subject to the Commission's approval.

Upon consideration, the Commission has concluded that these matters can better be resolved by a formal hearing.

The Commission finds:

Good cause exists to set this proceeding for a formal hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), Docket No. RI77–14, is set for hearing and disposition. The hearing will be held in a hearing room of the Federal Power Commission 825 North Capitol Street NE., Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See, Delegation of Authority, 18 CFR § 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure.)

(C) S.S.C. shall file its direct testimony and evidence on or before May 2, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) Trunkline Gas Company is permitted to intervene in the above entitled proceeding, subject to the Rules and Regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting their asserted rights and interests specifically

set forth in its petition for leave to intervene; and *Provided further,* That the admission of Trunkline shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding.

(E) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on May 12, 1977 at 10:00 a.m. EST. in a hearing room at the address noted in Ordering Paragraph (A).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12495 Filed 4-29-77;8:45 am]

[Docket No. RP73-89 (PGA76-1)]

SEA ROBIN PIPELINE CO.

Order Terminating Show Cause Proceeding and Pipeline Refund Liability

APRIL 25, 1977.

By order of December 31, 1975, the Commission accepted for filing and suspended for one day a rate filing by Sea Robin Pipeline Company (Sea Robin) to collect increased costs of purchased gas through its Purchased Gas Adjustment Clause (PGA).[1] That order noted that Sea Robin's PGA filing reflected purchases at the small producer ceiling rate from Mesa Offshore Company (Mesa Offshore) which may not qualify for the small producer ceiling rate (130 percent of the national rate) prescribed in Opinion No. 742 issued August 28, 1975, in Docket No. R–393. Therefore, a show cause proceeding was instituted and Mesa Offshore was required to show cause why it should not be directed to reduce its rate to the national ceiling rate, make appropriate refunds, and file for authorization under section 7 of the Natural Gas Act to continue the sale to Sea Robin.

On February 27, 1976 and December 13, 1976, Mesa Offshore filed its answers to our show cause order and requested the issuance of an order determining that sales made pursuant to the February 1, 1972 Gas Purchase Contract between Mesa Offshore and Sea Robin are small producer sales and that a reduction in rates and a refund of the amounts collected in excess of the national rate are not required. Finding that Mesa Offshore has answered the questions raised in our earlier order, we will terminate both the show cause proceeding and Sea Robin's liability to refund amounts collected under the PGA filing.

Mesa Offshore is a wholly-owned subsidiary of Mesa Petroleum Company (Mesa Petroleum). A valid small producer certificate was held by Mesa Petroleum or its predecessor from December 1967 through April 30, 1973, when Mesa Petroleum's annual sales first exceeded the 10,000,000 Mcf small producer sales limitation as a result of its acquisition of Pubco Petroleum Corporation.[2]

The subject sale to Sea Robin is made under a contract dated February 1, 1972. Deliveries commenced on March 15, 1973.[3] Our order of December 31, 1975 raised two questions concerning Mesa Offshore's eligibility to make this sale at the small producer ceiling rate: first, whether Mesa Offshore was ever covered by its parent's small producer certificate; and second, if it were, whether this specific sale qualifies for the small producer ceiling rate, since it then appeared that the sale commenced after the parent, Mesa Petroleum, had become ineligible for a small producer exemption.

Responding to the first question, Mesa Offshore argues that in determining its status as a large or small producer, it stands in the same position as its affiliate parent, Mesa Petroleum. The answer notes that under our Regulations Section 157.40, Mesa Offshore could not become a separate small producer entity by obtaining a small producer certificate in its own name, and further suggests that our order certificating this sale for a limited term, issued July 13, 1973 in Docket No. CI73–663, recognized that Mesa Offshore held a small producer status under its parent's small producer certificate. As to the second question, this sale assertedly qualifies for the small producer ceiling rate under Section 157.40(d) of the Regulations because it is made under a contract executed on February 1, 1972, while Mesa Petroleum held a valid small producer certificate.[4] Alternatively, Mesa Offshore argues that the small producer ceiling rate is appropriate for this sale because the actual deliveries commenced under a sixty-day emergency sale on March 15, 1973, before the acquisition, which became effective April 30, 1973, increased Mesa Petroleum's total sales above the 10,000,000 Mcf qualifying limitation for small producer status.

We have concluded that this sale to Sea Robin is eligible for the small producer ceiling rate which is now being collected. The sales contract was executed by Mesa Offshore while its affiliate parent, Mesa Petroleum, held and qualified for a small producer certificate. While the Commission Regulations did not prohibit Mesa Offshore from obtaining separate small producer status,[5] under the particular circumstances as set forth herein Mesa Offshore was reasonable in its belief that it was covered by its parent's small producer certificate. Once small producer status has been terminated, under Section 157.40 of the Regulations the contract date is controlling in determining whether the small producer exemption applies to an earlier sale. Therefore, we shall terminate this show cause proceeding. Also, as this sale can properly be made at the small producer ceiling rate, we shall terminate Sea Robin's refund liability as to any revenues collected under this PGA filing. Previously, we had determined that all of the purchased gas cost increases reflected in that PGA filing, with the exception of the Mesa Offshore sale, were appropriately included.

The Commission finds: Good cause has been shown to terminate the show cause proceeding instituted by order of December 31, 1975, in this docket and to terminate Sea Robin's liability to refund amounts collected under its PGA filing made effective subject to refund on January 2, 1976.

The Commission orders: (A) The show cause proceeding instituted by order of December 31, 1975, in this docket is hereby terminated.

(B) The liability of Sea Robin to refund amounts collected under its PGA filing made effective on January 2, 1976, is hereby terminated.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.[5]

[FR Doc.77-12496 Filed 4-29-77;8:45 am]

[Docket Nos. RP71-130, RP72-58, and RP75-111]

TEXAS EASTERN TRANSMISSION CORP.

Extension of Time

APRIL 26, 1977.

On April 13, 1977, Consolidated Edison Company of New York, Inc. (Con Edison) filed a motion to extend the time for demonstrating to the Administrative Law Judge the "areas of unreliability in the current data" on which the curtailment plan is based, as ordered by Opinion No. 787, issued January 28, 1977.

[1] Seventh Revised Sheet No. 4 to Sea Robin's FPC Gas Tariff, Original Volume No. 1 was accepted for filing on January 1, 1976 and permitted to become effective on January 2, 1976, subject to refund upon the outcome of the show cause proceeding instituted therein. Sea Robin was also granted leave to file revised tariff sheets, to become effective without suspension on January 1, 1976, which do not reflect the claimed increased costs associated with the purchases from Mesa Offshore Company.

[2] The Commission, by order of May 23, 1974 approved Mesa Petroleum's acquisition of Pubco Petroleum Corporation effective as of April 30, 1973. The small producer certificate held by Mesa Petroleum was formally terminated as of April 30, 1973, by order issued August 5, 1976, in Docket No. CS67–82. An Order denying Rehearing was issued on October 1, 1976 in Docket No. CS67–82.

[3] The order of December 31, 1975 instituting the show cause proceeding stated that these sales commenced with a sixty-day emergency sale from May 15 through July 12, 1973. Mesa Offshore notes in its answer that there were actually two emergency sales beginning with the sixty-day period from March 15, through May 13, 1973.

[4] Section 157.40(d) provides that upon termination of a small producer certificate "• • • the producer will be required to file separate certificate applications and individual rate schedules for future sales, but the exemption will still be effective as to those made under contracts prior to such termination."

[5] Such small producer status could only have been obtained by Mesa Offshore prior to April 30, 1973 while Mesa Petroleum was eligible for the small producer exemption.

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Upon consideration, notice is hereby given that an extension of time is granted to and including June 29, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12498 Filed 4-29-77;8:45 am]

UNITED GAS PIPE LINE CO.

[Docket Nos. RP71-29, etc.]

Order Granting Motion for Establishment of Procedural Dates

APRIL 22, 1977.

On March 23, 1977, Columbia Gas Transmission Corporation ("Columbia") filed a motion seeking the establishment of the following procedural dates in Phase II to the end that the Commission would be able to achieve its present objective of establishing a just and reasonable curtailment plan prior to November 1, 1977:

April 8: Filing of all reply briefs.
June 29: Issuance of initial decision.
July 29: Filing of all briefs on exceptions.
August 18: Filing of all briefs opposing exceptions.

We note that the April 8 date for filing of reply briefs was established by order of the Acting Chief Presiding Administrative Law Judge issued March 8, 1977, and has been adhered to by most of the parties.

Southern Natural Gas Company ("Southern") on March 30, 1977, filed an answer to Columbia's motion suggesting in the alternative considerably shorter intervals between the procedural dates following the filing of reply briefs.

On the one hand, we are reluctant to set a firm date for the issuance of the initial decision due to our desire that the Judge have ample time to deliberate in this most complex of curtailment proceedings. On the other hand, the history of this proceeding and the highly adversary inclination of the parties suggests that exceptions are likely to be taken to the initial decision, irrespective of the care with which the Judge takes in its preparation. The Commission must have sufficient time before November 1, 1977, to consider the record in light of the exceptions or take any further procedural steps as are required to allow a just and reasonable curtailment plan to be effective on that date. The procedural dates suggested by Columbia would appear to permit all this to occur if there is little slippage. We do not believe, however, that the dates suggested by Southern will allow sufficient time for the Presiding Judge to fully review the record in this proceeding.

The Commission finds:

Good cause has been shown for establishing procedural dates in this proceeding as ordered below.

The Commission orders:

(A) The following dates shall constitute the dates on or before which the indicated action to issue or file shall be made by the Presiding Judge and all parties to this proceeding:

June 29: Issuance of initial decision.
July 29: Filing of all briefs on exceptions.
August 18: Filing of all briefs opposing exceptions.

(B) The Presiding Judge may request an extension of time for the issuance of the initial decision, provided that a request for extension in excess of two weeks should be supported with an explanation of the need for such an extension.

(C) The motion of Columbia is granted, and the motion of Southern is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12494 Filed 4-29-77;8:45 am]

[Docket No. CP76-469]

UNITED GAS PIPE LINE CO.

Filing of Original Tariff Sheets

APRIL 26, 1977.

Take notice that on April 12, 1977, United Gas Pipe Line Company (United) tendered for filing Original Sheet Nos. 707 through 716 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between United and Sea Robin Pipeline Company dated July 19, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect West Cameron Block 586 are completed and the transportation service certificated in Docket No. CP76-469 commences.

The Company states that copies of these tariff sheets have been received by Sea Robin Pipeline Company.

Any person desiring to be heard or to make any protest with refeernce to said application, on or before May 19, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and the subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12483 Filed 4-29-77;8:45 am]

[Docket No. ER76-331]

WISCONSIN POWER & LIGHT CO.

Motion for Order Approving Settlement Agreement

APRIL 26, 1977.

Take notice that Wisconsin Power and Light Company (WP&L) an April 6, 1977 tendered for filing a motion for an order (1) approving the Settlement Agreement among the parties dated as of April 1, 1977, and the rate schedules attached thereto; (2) accepting for filing effective March 4, 1976, the tariff sheets containing the settlement rates provided for in the Settlement Agreement; and (3) terminating these proceedings.

WP&L states that the intervenors in this proceeding concur in this motion.

Any person desiring to be heard or to protest said motion should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 13, 1977. Comments will be considered in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12499 Filed 4-29-77;8:45 am]

FEDERAL RESERVE SYSTEM

BANKER AGENCY, INC.

Order Approving Acquisition of Additional Shares of Bank

Banker Agency, Inc., Mohall, North Dakota, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire an additional 56 percent of the voting shares of The Citizens State Bank at Mohall, Mohall, North Dakota ("Bank"), thereby increasing its ownership of Bank's voting shares from 40 percent to 96 percent.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a one-bank holding company through its ownership of 40 percent of the outstanding voting shares of Bank. By virtue of its control of Bank ($6.8 million in deposits), Applicant is the 94th largest banking organization in North Dakota, controlling 0.2 percent of the total commercial bank deposits in the State. Bank is located in Mohall, North Dakota, and is the smaller of the two banking organizations operating in the Westhope banking market, controlling 37 percent of market deposits.[1] Applicant proposes to exchange its shares for an additional 56 percent of Bank's outstanding voting shares. All of Bank's shares to be acquired by Applicant are presently held by members of the same family that controls Applicant. Since Applicant's proposal represents merely a reorganization of the ownership of a bank that Applicant already controls, consummation of the proposal would neither eliminate existing or potential competition, nor increase the concentration of banking resources. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and Bank are regarded as satisfactory and consistent with approval of the application. Although there will be no immediate change in the services offered by Bank as a result of consummation of the proposal, convenience and needs considerations are also consistent with approval of the application. Therefore, it is the Board's judgment that the proposed transaction is consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[2] effective April 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12485 Filed 4-29-77;8:45 am]

CHEMICAL FINANCIAL CORP.

Order Approving Acquisition of Bank

Chemical Financial Corporation, Midland, Michigan, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares of The Au Gres State Bank, Au Gres, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)). Applicant, the 27th largest banking organization in the State of Michigan, controls two banks[3] with aggregate deposits of $165.3 million, representing 0.53 percent of total deposits in commercial banks in the State.[4] Acquisition of Bank with deposits of $7.7 million would increase Applicant's share of commercial bank deposits in Michigan by 0.03 percent, but would not have an appreciable effect upon the concentration of banking resources in the State.

Bank is the smallest of four banks located in the relevant banking market[5] and controls 8.0 percent of market deposits. Since Applicant's subsidiary banks do not compete in the relevant banking market and Applicant's nearest office is 45 miles from Bank, no significant competition exists between them. Under Michigan banking laws, Applicant could establish a de novo bank in the relevant banking market, but such entry appears unlikely in view of the fact that the area has been growing less rapidly than in other parts of the State. In view of the foregoing, it is concluded that approval of this application would not have any significant adverse effects upon competition.

The financial and managerial resources and future prospects of Applicant, its existing subsidiary banks, and Bank are considered to be generally satisfactory. Although Applicant will incur acquisition debt in connection with the subject transaction, it appears that such indebtedness can be retired without unduly burdening the capital position of Applicant's existing subsidiary banks or Bank. Banking factors are consistent with approval of the application.

Applicant would improve Bank's services somewhat by reducing service charges on demand deposits, remodeling Bank's physical facilities, changing the rates and terms on mortgage loans, extending Bank's hours of operations, creating new time deposit services, and by introducing trust services and a Master Charge program to the relevant market. Convenience and needs considerations are consistent with and lend some weight toward approval of the application. Accordingly, it is the judgment of this Reserve Bank that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Chicago approves the application provided the transaction shall not be consummated: (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective April 20, 1977.

DANIEL M. DOYLE,
First Vice President.

[FR Doc.77-12436 Filed 4-29-77;8:45 am]

COUNTRY BANK SHARES CORP.

Order Denying Acquisition of Bank

Country Bank Shares Corporation, Janesville, Wisconsin ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire 72.8 percent of the voting shares of the State Bank of Argyle, Argyle, Wisconsin ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant presently controls one bank, The Montello State Bank, Montello, Wisconsin, with deposits of $10.1 million, representing .07 percent of total commercial bank deposits in Wisconsin.[1] Bank ($9.5 million in deposits) is the sixth largest of thirteen commercial banking organizations competing in the Darlington/Monroe banking market,[2] controlling 5.0 percent of market deposits. Bank is currently controlled by McGuire Wausau Agency and Management Operations, Inc., both of which are controlled by applicant's principals. Several of Applicant's principals are affiliated with six other Wisconsin banks, each of which is located in a banking market separate from Bank. Inasmuch as the proposal involves essentially a restructuring of Bank's ownership, the proposed transfer would eliminate neither existing nor potential competi-

[1] All banking data are as of December 31, 1975.

[2] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Partee and Lilly. Absent and not voting: Governors Coldwell and Jackson.

[3] By Order dated April 14, 1977, the Board of Governors approved Applicant's proposal to acquire the successor by merger to Gladwin County Bank, Beaverton, Michigan.

[4] All banking data as of June 30, 1976.

[5] The relevant banking market is approximated by all of Arenac and Ogemaw Counties, the western half of Iosco County, and Curtis Township from Alcona County.

[1] All deposit data are as of December 31, 1975.

[2] The Darlington/Monroe banking market is approximated by Green County, except Decatur township and the eastern three-fifths of Lafayette County.

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tion, and would not increase the concentration of banking resources in any relevant area. Therefore, competitive considerations are consistent with approval of the application.

The Board's inquiry, however, does not end here. As the Board has indicated on previous occasions, it believes a bank holding company should constitute a source of both financial and managerial strength to its subsidiary bank(s). Accordingly, in acting upon any application under the Act, the Board will closely examine the financial condition, managerial resources, and future prospects of an applicant and its subsidiary bank(s) with these factors in mind. Based upon an evaluation of such factors with respect to this application, the Board has determined that denial of this application is warranted.

With respect to the financial resources and future prospects associated with this application, the record indicates that the overall financial condition of Applicant does not permit it to be a source of strength to Bank. Based upon an examination of all the facts of record, including the debt burden Applicant must bear and the flow of funds needed to service such debt, consummation of the proposal may cause Applicant to make demands upon Bank in the form of dividend payments which may serve to weaken the capital position of Bank. In view of the limited financial flexibility of Applicant, a strain may be placed upon Bank's capital position as a result of Applicant's debt servicing requirements. Furthermore, in light of Applicant's financial condition, it is not in a position to come to Bank's assistance in the event any unexpected problems arise at Bank. Accordingly, the Board concludes that financial considerations weigh against approval of this application.

With respect to managerial resources, the facts of record suggest that Applicant's principals have engaged in certain transactions involving other financial institutions with which they are affiliated which reflect unfavorably on the managerial resources of Applicant and lend weight for denial. In considering all the facts of record, the Board is unable to conclude that approval of the subject application would be consistent with the financial and managerial standards the Board is required to consider under section 3(c) of the Act, or that the public interest would be served by such action.

In regard to considerations relating to the convenience and needs of the communities to be served, the record indicates that banking needs are currently being adequately served by Bank. While these considerations appear to be consistent with approval of the application, they are not sufficient, in the Board's view, to outweigh the adverse banking factors reflected in the record that are associated with this proposal. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied. Accordingly, the application is hereby denied for the reasons summarized above.

By order of the Board of Governors,[2] effective April 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12437 Filed 4-29-77;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on March 15, 1977.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services has increased in the current quarter from the reduced pace in the fourth quarter of 1976. In February industrial output and retail sales expanded substantially after being held down for a time by the effects of unusually severe weather. Employment rose considerably further; the unemployment rate increased somewhat to 7.5 percent—as the labor force more than recovered the decline of January—but it remained below the 7.8 percent of December. The wholesale price index for all commodities rose substantially in February, reflecting large increases for farm products and foods and for fuels and power. The index of average wage rates rose more moderately over the first 2 months of 1977 than it had on the average during 1976.

The average value of the dollar against leading foreign currencies has changed little over the past month. In January the U.S. foreign trade deficit increased further; exports were down a little from the fourth-quarter rate and imports were substantially higher.

Growth in M–1 slowed sharply in February from the moderate pace in January. At banks and thrift institutions, inflows of time and savings deposits other than large-denomination CD's continued to slaken. Business demands for short-term credit appear to have strengthened further in early 1977. Since mid-February short-term market interest rates have changed little on balance, but most longer-term rates have edged higher.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion, while resisting inflationary pressures and contributing to a sustainable pattern of international transactions.

At is meeting on January 18, 1977, the Committee agreed that growth of M–1, M–2, and M–3 within ranges of 4½ to 6½ percent, 7 to 10 percent, and 8½ to 11½ percent, respectively, from the fourth quarter of 1976 to the fourth quarter of 1977 appears to be consistent with these objectives. These ranges are subject to reconsideration at any time as conditions warrant.

The Committee seeks to encourage near-term rates of growth in M–1 and M–2 on a path believed to be reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, at present, it expects the annual growth rates over the March–April period to be within the ranges of 4½ to 8½ percent for M–1 and 7 to 11 percent for M–2. In the judgment of the Committee such growth rates are likely to be associated with a weekly average Federal funds rate of about 4⅝ to 4¾ percent. If, giving approximately equal weight to M–1 and M–2, it appears that growth rates over the 2-month period will deviate significantly from the midpoints of the indicated ranges, the operational objective for the Federal funds rate shall be modified in an orderly fashion within a range of 4¼ to 5¼ percent.

If it appears during the period before the next meeting that the operating constraints specified above are proving to the significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, April 22, 1977.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-12434 Filed 4-29-77;8:45 am]

VALLEY BANCORP.

Order Approving Acquisition of Bank

Valley Bancorporation, Appleton, Wisconsin, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the Voting shares of The Brownsville State Bank, Brownsville, Wisconsin ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixth largest banking organization in Wisconsin, controls 14 banks with aggregate deposits of $272.1 million,[1] which represent about 1.7 percent of the total commercial bank deposits in the State. Applicant also controls a trust company and six other nonbank companies. Upon consummation of this proposal, the increase in commercial bank deposits controlled by Applicant would be only nominal, and Applicant's rank in the State would not change. The proposed acquisition would not result in a significant increase in the concentration of banking resources in Wisconsin.

Bank (deposits of $8.8 million) is the fourth largest of five banking organizations operating in the relevant market area,[2] controlling 14.3 percent of total

[2] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Partee, and Lilly. Absent and not voting: Governors Coldwell and Jackson.

[1] The Record of Policy Actions of the Committee for the meeting of March 15, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[1] All banking data are as of June 30, 1976.

[2] The relevant market is approximated by the northeastern one-fourth of Dodge County and the southeastern portion of Fond du Lac County, Wisconsin.

market commercial bank deposits. The banking office of a subsidiary of Applicant closest to an office of Bank is located about 14 miles away and outside the relevant banking market. There is no meaningful competition presently existing between it and Bank, nor is there any existing competition between Bank and Applicant's other banks. Moreover, future competition between these banks is unlikely to develop due to the restrictions of Wisconsin branching law and the predominantly rural nature of the intervening areas. Although Applicant has the resources to enter the relevant market de novo, the population per banking office ratio and the low absolute population growth of the Brownsville area of the relevant market make the novo entry unlikely. Accordingly, competitive considerations are consistent with approval of the application.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its existing subsidiary banks, and Bank are generally satisfactory and consistent with approval of the application, especially in view of certain capital commitments made by Applicant. Banking factors are consistent with approval of the application.

Applicant proposes to assist Bank in making available additional consumer and agricultural loans and municipal financing. Trust services, not now available in Brownsville, would be introduced by Bank with assistance from Applicant's trust company subsidiary. Convenience and needs considerations are consistent with and lend some weight toward approval of the application. It has been determined that the proposed acquisition is in the public interest and that the application should be approved for the reasons summarized above.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective April 19, 1977.

DANIEL M. DOYLE,
First Vice President.

[FR Doc.77-12439 Filed 4-29-77;8:45 am]

YOAKUM COUNTY BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

Yoakum County Bancshares, Inc., Denver City, Texas, has applied for the Board's approval under § 3(a) (1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 96.04 percent of the voting shares (less directors' qualifying shares) of Yoakum County State Bank, Denver City, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was formed for the purpose of becoming a bank holding company through the acquisition of Bank. Bank has total deposits of $17.8 million, representing 0.04 percent of total deposits in commercial banks in the State of Texas.[1] Bank is the larger of two commercial banks in the relevant banking market,[2] controlling 74.6 percent of the deposits therein. The purpose of the proposed transaction is to facilitate the transfer of the ownership of shares of Bank from individuals to a corporation owned by the same individuals. Principals of Applicant are principals of West Texas Bancorporation, a one-bank holding company controlling The First National Bank of Post, Post, Texas. First National Bank is located ninety-three miles from Bank in a separate banking market. In view of the relatively small sizes of Bank and First National Bank and the distance between them, consummation of the instant proposal will have no adverse effect upon existing or potential competition nor increase the concentration of banking resources in any relevant market. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The Board applies multi-bank holding company standards in assessing the financial and managerial resources and future prospects both of an applicant seeking to become a one-bank holding company, and of its proposed subsidiary bank, where the principals of the Applicant are engaged in establishing a chain of one-bank holding companies.[3] First National Bank appears to be in satisfactory condition, which suggests that Applicant's principals would conduct the operations of the proposed holding company and of Bank in a satisfactory manner. In addition, Applicant has committed that it will not declare dividends on its common stock unless the debt it will incur to purchase shares of Bank is amortized as projected in the application. Applicant has also committed that, in the event any such dividend is paid, certain capital ratios set forth in the application will be maintained. Applicant proposes to service the debt it will incur as a result of the proposed transaction through dividends from Bank over a 12-year period. Based on Bank's past earnings, it appears that Applicant will be able to meet its annual debt-servicing requirements and maintain Bank's capital position. These commitments together with other commitments by Applicant and Applicant's shareholders, individually, which commitments are contained in the instant application, cause the considerations relating to banking factors to be consistent with approval of the application.

It does not appear that the convenience and needs of the community to be served are not being met currently. Although there will be no immediate change in the services offered by Bank upon consummation of the proposal, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Consummation of the proposed transaction is in the public interest and it should be approved.

On the basis of the record, the application is approved for the reasons set forth above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or, (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective April 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-12438 Filed 4-29-77;8:45 am]

[1] All deposit data are as of December 31, 1975.

[2] The relevant banking market is approximated by Yoakum County.

[3] See the Board's Order of June 14, 1976, denying the application of Nebraska Banco, Inc., Ord, Nebraska (62 *Red. Res. Bull.* 638 (1976)).

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Additional System of Records

On March 22, 1977, there was published in the FEDERAL REGISTER (42 FR 15466) a notice of an additional system of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a. The public was given the opportunity to submit, not later than April 21, 1977, written comments concerning the proposed system of records. No comments were received and the proposed notice of the system of records, Defunct Agency Records, GSA/OAD–36, system identification number 23–00–0103, is hereby adopted.

Dated at Washington, D.C., on April 27, 1977.

PAUL S. CARTER,
Acting Director of Administration.

[FR Doc.77-12610 Filed 5-2-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Region-

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al Public Advisory Panel on Architectural and Engineering Services, Region 3, May 17, 18 and 19, 1977, from 9 a.m. to 4 p.m., each day. Room 5651, GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of Architect-Engineers under consideration for selection to furnish professional services for three proposed projects: (1) Building Renovation, International Trade Commission Building, Washington, D.C. (2) Building Renovation, Federal Building and Courthouse, Wheeling, West Virginia (3) Building Renovation, Federal Building, 1951 Constitution Avenue, Washington, D.C. The meeting will be open to the public.

Dated: April 25, 1977.

JOHN F. GALUARDI,
Regional Administrator.

[FR Doc.77-12609 Filed 4-29-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION

Meeting

AGENCY: Advisory Council on Environmental Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the Advisory Council on Environmental Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: May 18, 1977, 9:00 a.m. to 4:30 p.m., May 19, 1977, 9:00 a.m. to 12:30 p.m.

ADDRESS: Demonstration Center, Federal Office Building No. 6, Room 1134, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Bogan, Office of Environmental Education, Room 2025, FOB No. 6, 400 Maryland Avenue, SW., Washington, D.C. 20202, 202-245-9231.

SUPPLEMENTARY INFORMATION: The Advisory Council on Environmental Education is established under (20 U.S.C. 1532) Environmental Education Act, Pub. L. 91-516, section 3 (84 Stat. 1312), as amended by Pub. L. 93-278 (88 Stat. 121).

The Council shall: (A) Advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and operation of preparation of general regulations for, and operation of programs assisted under the Environmental Education Act;

(B) Make recommendations to the Office with respect to the allocation of funds appropriated pursuant to section 7 among the purposes set forth in paragraph (2) of subsection (b) of the Environmental Education Act and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) Develop criteria for the review of applications and their disposition; and

(D) Evaluate programs and projects assisted under the Environmental Education Act and disseminate the results thereof.

The meeting of the Council shall be open to the public. The meeting on May 18 will begin at 9:00 a.m. and end at 4:30 p.m. and on May 19 the meeting will begin at 9:00 a.m. and end at 12:30 p.m. The meeting will be held at the Office of Education, Demonstration Center, Federal Office Building No. 6 (FOB No. 6), located at 400 Maryland Avenue SW., Room 1134, Washington, D.C. 20202.

The proposed agenda includes: (1) Swearing-in and orientation of new members.

(2) Overview and summary of the implementation of the Environmental Education Act as of 1977.

(3) Review of the Commissioner's Annual Report to the Council.

(4) Presentation of two promising prototype products for Environmental Education:

One for formal education use
One for nonformal/adult education use

(5) General Council business for 1977.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Advisory Council on Environmental Education located in Room 2025, Federal Office Building No. 6, 400 Maryland Avenue SW., Washington, D.C.

Signed at Washington, D.C., on April 26, 1977.

WALTER J. BOGAN, Jr.,
Director, Office of Environmental Education.

[FR Doc.77-12431 Filed 4-29-77;8:45 am]

Health Resources Administration

GRADUATE MEDICAL EVALUATION NATIONAL ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1977:

NAME: Graduate Medical Education National Advisory Committee.

DATE AND TIME: June 27-28, 1977, 9 a.m.

PLACE: Conference Room G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open for entire meeting.

PURPOSE: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) Present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

AGENDA: Primary attention will be devoted to providing Committee members with background information on the issues and a review of other major efforts that have been conducted in the last several years related to the Committee's mission. A portion of the meeting will be available for comments and participation by the public.

Limited seating will be available to the public on a first come, first served basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Frederick V. Featherstone, Bureau of Health Manpower, Room 4-42. Federal Center Building #2, 3700 East West Highway, Hyattsville, Maryland 20782.

Agenda items are subject to change as priorities dictate.

Dated: April 25, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-12432 Filed 4-29-77;8:45 am]

Office of the Secretary

BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Board of advisors to the Fund for the Improvement of Postsecondary Education will be held on May 15, 1977 at 5:00 p.m. through May 17, 1977 at 4:00 p.m. at the Dulles Marriott Hotel, Washington, D.C.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under section 404 of the General Education Provisions Act.

The meeting will not be open to the public. It will be for the sole purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program. The meeting will involve discussion of project designs, personnel, and other information

the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. It has therefore been determined that closing this meeting is in accordance with 5 U.S.C. 552b(c)(6) and the policies of the Federal Advisory Committee Act.

A summary of the proceeding of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondy Education, 400 Maryland Avenue SW., Room 3141, Washington, D.C. 20202, telephone 202-245-8091.

Signed at Washington, D.C., on April 19, 1977.

VIRGINIA B. SMITH,
Director, Fund for the Improvement of Postsecondary Education.

[FR Doc.77-12475 Filed 4-29-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 30285, 30286, 30325, 30327, 30328, and 30329]

NEW MEXICO

Applications

APRIL 22, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 17, SW¼NE¼.
T. 31 N., R. 9 W.,
Sec. 7, lots 19 and 20.
T. 32 N., R. 10 W.,
Sec. 34, lots 6 and 11.
T. 25 N., R. 12 W.,
Sec. 13, NW¼NE¼, N½NW¼ and SW¼NW¼.
T. 26 N., R. 12 W.,
Sec. 7, SE¼SW¼;
Sec. 18, S½NE¼ and E½NW¼.

These pipelines will convey natural gas across 1.869 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12516 Filed 4-29-77;8:45 am]

[NM 30326]

NEW MEXICO

Application

APRIL 22, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc. has applied for compressor station site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 28 E.,
Sec. 6, lot 9.

The compressor station site will occupy 0.92 acres of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12515 Filed 4-29-77;8:45 am]

[OR 17295 Wash.]

WASHINGTON

Proposed Classification of Public Lands for Disposal by Exchange

APRIL 20, 1977.

Pursuant to the provisions of 43 CFR 2400, it is proposed to classify the lands described below for disposal through exchange under the Act of October 21, 1976 (90 Stat. 2743, 2756; 43 U.S.C. 1716), for lands within the Spokane Bureau of Land Management District.

WILLAMETTE MERIDIAN

T. 11 N., R. 24 E.,
Sec. 4, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 6, SE¼SW¼ and S½SE¼.
T. 12 N., R. 20 E.,
Sec. 12, E½E½.
T. 12 N., R. 21 E.,
Sec. 2, SW¼NW¼ and NW¼SW¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, E½SW¼, and SE¼;
Sec. 6, NW¼NE¼ and NE¼NW¼;
Sec. 16;
Sec. 14, SW¼.
T. 12 N., R. 22 E.,
Sec. 12, NW¼ and S½;
Sec. 18, lots 1, 2, 3, and 4, E½SW¼, and E½.
T. 12 N., R. 23 E.,
Sec. 2, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 10, NE¼ and NE¼NW¼;
Sec. 12, NE¼, E½SE¼, and N½NW¼.
T. 12 N., R. 24 E.,
Sec. 4, N½SW¼;
Sec. 6, lots 3, 4, 5, 6, and 7, SE¼NW¼ and E½SE¼;
Sec. 22, SW¼.
T. 13 N., R. 21 E.,
Sec. 32, N½NW¼ and E½SE¼;
Sec. 34, W½.
T. 13 N., R. 24 E.,
Sec. 28, E½SE¼;
Sec. 22, W½SW¼ and SE¼SW¼.

The areas described aggregate 5853.5 acres in Yakima and Benton counties. Publication of this notice will segregate the lands from all appropriations including location under the mining laws, except applications for exchange. Publication will not alter the applicability of the public land laws governing the disposal of their mineral and vegetative resources, other than the mining laws. In accordance with 43 CFR 2201.2 and 2202.1, no application for an exchange will be accepted until the land has been classified and the application is accompanied by a statement from the Spokane District Manager Bureau of Land Management, that the proposal is feasible.

Information concerning these lands is available at the Spokane District Office, Bureau of Land Management, Room 551, U.S. Court House, Spokane, Washington 99201.

MURL W. STORMS,
State Director.

[FR Doc.77-12517 Filed 4-29-77;8:45 am]

Office of the Secretary

COLORADO RIVER STORAGE PROJECT

Proposed Revised General Power Marketing; Criteria

Correction

FR Doc. No. 77-11519, filed April 20, 1977, page no. 20682, vol. 42, no. 77—Thursday, April 21, 1977. The deadline for comments is corrected to read "June 1, 1977."

Dated: April 27, 1977.

JAMES J. FLANNERY,
Acting Assistant, Secretary of the Interior.

[FR Doc.77-12476 Filed 4-29-77;8:45 am]

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Notice of Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on May 18, 1977, at the Ute Bottle Hollow Resort which is located 7 miles east of Roosevelt, Utah, on U.S. Highway 40. The meeting will begin at 8:30 a.m. on Wednesday, May 18, in the Avinequin Convention Center and conclude at 4 p.m. that afternoon.

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The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is complete the Panel's review and to develop summary advice on the modifications of the Detailed Development Plan for oil shale lease Tract C-b, to receive reports from Interior officials, and to consider any other matters which have come before the Panel.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Requests should be made to Mr. Henry O. Ash, Acting Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the panel office.

JAMES J. FLANNERY,
Acting Assistant Secretary of the Interior.

APRIL 29, 1977.

[FR Doc.77-12725 Filed 4-29-77;10:35 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-6]

IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

Determination

Correction

In FR Doc. 77-11113 appearing at page 19934 in the issue for Friday, April 15, 1977, in the second line of the footnote at the bottom of the first column, "there is no reasonable indication" should have read "there is not no reasonable indication".

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

LAW ENFORCEMENT/PRIVATE SECURITY RELATIONSHIPS COMMITTEE

Meeting

Notice is hereby given that the Law Enforcement/Private Security Relationships Committee of LEAA's Private Security Advisory Council (PSAC) will meet Thursday and Friday, May 19-20, 1977. The meeting will convene at 9:30 a.m. May 19, in the Club Room of the Ramada Inn Rosslyn, Arlington, Virginia. The meeting is scheduled to adjourn by 1 p.m., May 20.

Discussion at the meeting will focus upon the development of plans and programs for the resolution of areas of conflict between law enforcement and private security. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. William F. Powers, Special Programs Division, Office of Regional Operations, LEAA, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531, 202-376-3550.

JAY A. BROZOST,
Attorney-Advisor.

[FR Doc.77-12451 Filed 4-29-77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, WESTERN FIFTH CIRCUIT PANEL

Meetings

APRIL 28, 1977.

"The Western Fifth Circuit Panel of the United States Circuit Judge Nominating Commission will meet in Houston, Texas at the United States Court of Appeals for the Fifth Circuit, 11th floor of the Federal Building, 515 Rusk on May 17, 1977 at 10:00 a.m. This meeting is to organize the work of the Panel and to begin the consideration of nominations to be submitted to the President for the judicial vacancy in the Western Fifth Circuit. That part of the meeting concerning the organization and procedures of the Panel will be open to the public, and that part of the meeting considering candidates for nomination and related matters will be closed to the public, all in accord with Pub. L. 92-463; section 10(D) as amended.

The Panel will hold its second meeting in New Orleans, Louisiana at the United States Court of Appeals for the Fifth Circuit, 600 Camp Street on June 3, 1977 at 10:00 a.m. This meeting is to consider candidates for nomination to the judicial vacancy in the Western Fifth Circuit, and it will be closed to the public in accord with Pub. L. 92-463, section 10(D) as amended.

The Panel will hold a third meeting, if necessary, in New Orleans, Louisiana at the United States Court of Appeals for the Fifth Circuit, 600 Camp Street on June 22, 1977 at 10:00 a.m. This meeting is for the further consideration of nominations for the judicial vacancy in the Western Fifth Circuit and the submission of such nomination to the President. It will be closed to the public in accord with Pub. L. 92-463, section 10(D) as amended.

WILLIAM C. HARVIN,
Chairman of the Panel.

[FR Doc.77-12659 Filed 4-29-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-28]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, AVIATION SAFETY AND OPERATING SYSTEMS PANEL

Meeting

The NASA Research and Technology Advisory Council Panel on Aviation Safety and Operating Systems will meet on May 24-26, 1977, at the NASA Ames Research Center, Moffett Field, California 94035. The meeting will be held in the Committee Room of the Administration Building N-200. The meeting will be open to the public on a first-come, first-served basis, up to the seating capacity of the room, which is about 45 persons. All visitors must report to the Receptionist in the Administration Building.

The NASA Research and Technology Advisory Council's Panel on Aviation Safety and Operating Systems serves in an advisory capacity only. The Panel reviews, assesses, critiques, and provides recommendations concerning NASA research and technology thrusts, goals, balance, content, and benefits in areas of Panel responsibility and interest. There are 20 members. The following list sets forth the approved agenda and schedule for the May 24-26, 1977 meeting of the Panel. For further information, please contact the Executive Secretary, Mr. Kenneth E. Hodge, Code RO, NASA Headquarters, Washington, D.C. 20546, area code 202-755-2375.

MAY 24, 1977

TIME AND TOPIC

8 a.m.—Registration of members and visitors.

8:30 a.m.—Chairman's opening remarks and reports. (Purpose: To report on the February 1977 meeting of the Research and Technology Advisory Council (RTAC) and relay to the members the Council's response to this Panel's activity and recommendations.)

9 a.m.—Report of the Executive Secretary. (Purpose: To advise the Panel of recent NASA organizational changes, to review the FY 1978 budget status, and to present candidate new initiatives and program augmentations for FY 1979.)

10 a.m.—Status reports from NASA research centers on research of interest to the Panel. (Purpose: To augment Ames and Langley Research Centers' written reports to the panel with presentations on various research projects related to aircraft safety and operating systems.)

1 p.m.—Review of panel comments on NASA aircraft energy efficiency program. (Purpose: To review chairman's comments to RTAC (council) on the ACEE program and determine whether panel members have other areas of concern, e.g., timing, emphasis, operational considerations, etc., which should be brought to the attention of NASA.)

1:30 p.m.—Report on government wind shear research program. (Purpose: To brief members on the status of research into wind shear and its effects upon aircraft, including related tasks in support of other agencies. Representatives of FAA and NOAA will briefly discuss their wind shear R&D programs.)

3 p.m.—Members reports. (Purpose: To report on non-NASA safety and operating systems research of interest to the Panel.)

5 p.m.—Adjournment.

MAY 25, 1977

8 a.m.—Report of the NASA Aviation Safety Reporting System (ASRS) Advisory Subcommittee. Purpose: To provide a status report on the first year of ASRS operation.

8:30 a.m.—Status of NASA Programs on Human Factors. Purpose: To brief the Panel on agency research on head-up displays, cockpit warning systems, etc.

10:30 a.m.—Report of the NASA Ad Hoc Panel on Terminal Configured Vehicles (TCV). Purpose: To report on member activities and plans for the next (and probably final) meeting.

11 a.m.—Status Reports from NASA Research Centers on Research of Interest to the Panel, concluded. Purpose: To augment Lewis and Dryden Flight Research Centers' written reports to the Panel with presentations on various research projects related to aircraft safety and operating systems.

1 p.m.—Members' Discussion and Development of Panel Recommendations. Purpose: To discuss relevancy, timing, scope, and efficacy of research and programs covered in briefings up to this point and to begin formalizing recommendations and resolutions to be reported to the Council.

3:30 p.m.—Status of NASA Research into Lightning Effects on Aircraft. Purpose: To brief the Panel on the status of the transfer of research into lightning effects on aircraft from Lewis Research Center to Langley Research Center and plans for future R&D efforts.

4 p.m.—Status of Industry Research on Lightning Effects on Aircraft. Purpose: To report on status and future thrusts of research by industry on lightning effects on aircraft and how these efforts relate to NASA and DOD programs.

5 p.m.—Adjournment.

MAY 26, 1977

8 a.m.—Status of Air Force Aviation Safety Research. Purpose: To provide briefings on USAF aviation safety programs of interest to the Panel on such topics as aircraft lightning protection, fire hardening and prevention, and collision avoidance.

10 a.m.—Members' Discussion and Finalization of Recommendations. Purpose: To complete discussions of material presented at the Panel meeting and to provide final recommendations and resolutions to be reported to the Council.

11:30 a.m.—Chairman's Concluding Remarks.

12 Noon—Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.77-12472 Filed 4-29-77;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

MEETING

As previously scheduled, 41 FR 12356, the National Commission on Electronic Fund Transfers will meet on Friday, May 13, 1977 at 9:30 a.m. The meeting will be held in the first floor meeting room of the Federal Reserve Bank of Denver, located at 1020 16th Street, Denver, Colorado, and will consist of progress reports and discussions of the Commission's work.

On Thursday, May 12 the Commission will hold a "Public Interchange" meeting at the same location, beginning at 9:30 a.m., to learn the views of consumer representatives, financial representatives and others in the Denver area, on the Commission's recommendations.

The Public Interchange meeting will begin with briefings by several Commissioners on EFT and the recommendations of the Commission, following which the audience and Commissioners will break into smaller groups for a discussion of these issues. Later the groups will reconvene, and each group will report on its conclusions.

While direct invitations have been sent to over 100 persons, primarily consumer representatives to attend and participate in the Public Interchange meeting, any other person wishing to participate in that meeting should contact Dr. John B. Benton at (202) 254-7400. All interested persons are invited to attend both the Public Interchange meeting on May 12, and the meeting of the full Commission on May 13, on a first-call basis to the extent that space permits. Interested persons should contact Ms. Janet Miller at (202) 634-1746 to check on the availability of space.

Dated: April 27, 1977.

JAMES O. HOWARD, Jr.,
General Counsel.

[FR Doc.71-12628 Filed 4-29-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on June 2-3, 1977, at the Offices of the National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. The meetings will commence at 9:00 a.m. daily in Room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. The Board will also discuss share insurance and other aspects of the Administration.

A discussion of legislative activities will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

C. AUSTIN MONTGOMERY,
Administrator.

APRIL 25, 1977.

[FR Doc.77-12518 Filed 4-29-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE ZION GENERATING STATION, UNITS 1 AND 2

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Zion Generating Station, Units 1 and 2 will hold a meeting on May 17, 1977 at the Holiday Inn, 5126 Sixth Avenue, Kenosha, WI 53140 to review the status of the items identified in the ACRS letter on the Zion Generating Station dated June 9, 1976.

The agenda for subject meeting shall be as follows:

Tuesday, May 17, 1977—10:30 a.m. until the conclusion of business.

The Subcommittee, with any of its consultants who may be present, will meet in open Executive Session to exchange opinions and discuss preliminary views and recommendations relating to the above evaluation.

At the conclusion of the Executive Session, the Subcommittee will meet in open session to hear presentations by representatives of the NRC Staff, the Commonwealth Edison Company, and their consultants, and will hold discussions with these groups pertinent to its review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information

V 42 84 MAY 2 77 UMI

gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than May 10, 1977, to Mr. Elpidio Igne, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at the meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555, and at the Waukegan Public Library, 128 North County Street, Waukegan, IL 60085.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on May 16, 1977 to the Office of the Executive Director of the Committee (telephone 202/634–1920, Attn: Mr. Elpidio Igne) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Elpidio Egne of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after May 24, 1977 at the NRC Public Document Room, 1717 H. St., N.W., Washington, DC 20555, and at the Waukegan Public Library, 128 North County Street, Waukegan, IL 60085.

Copies of the minutes of the meeting will be made available for inspection at the NRC Document Room, 1717 H St., N.W., Washington, DC 20555 after August 17, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: April 27, 1977.

JOHN C. HOYLE,
Advisory Committee, Management Officer.

[FR Doc.77–12560 Filed 4–29–77;8:45 am]

[Docket No. 50–412]

DUQUESNE LIGHT COMPANY, ET AL.

Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR–105 issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and the Toledo Edison Company. The amendment reflects a change in the ownership of Beaver Valley Power Station, unit No. 2 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment provides for the deletion of Pennsylvania Power Company as an applicant for all licenses previously requested for the facility and the transfer to Ohio Edison Company of the 6.28 percent ownership interest held by Pennsylvania Power Company in the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter dated February 28, 1977, (2) Amendment No. 1 to Construction Permit No. CPPR–105, and (3) the Commission's related Safety Evaluation supporting Amendment No. 1 to Construction Permit No. CPPR–105 dated April 13, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pennsylvania.

A copy of item (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 19th day of April, 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77–12562 Filed 4–29–77;8:45 am]

[Docket No. 50–302]

FLORIDA POWER CORPORATION, ET AL. CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc. and the City of Tallahassee for the Crystal River Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

Amendment No. 3 incorporates Appendix B, the Environmental Technical Specifications, which were inadvertently omitted from Amendment No. 2, but which were incorporated in the original license issued on December 3, 1976. Amendment No. 3 also corrects the wording of paragraph 1.H of Amendment No. 2 to include the words which were contained in the original license and which were inadvertently omitted in Amendment No. 2, and corrects the number designation of the isolation valves identified in paragraph 2.C.(4).

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

A copy of Amendment No. 3 to Facility Operating License No. DPR–72 is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Crystal River Public Library, Crystal River, Florida 32629.

Single copies of Amendment No. 3 may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 24th day of February 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77–12348 Filed 4–19–77;8:45 am]

[Docket No. 50–366]

GEORGIA POWER CO. EDWIN I. HATCH NUCLEAR PLANT, UNIT NO. 2

Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG–0257) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Edwin I. Hatch Nuclear Plant Unit No. 2 in Appling County, Georgia is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Appling County Public Library, Parker Street, Baxley, Georgia. The Draft Statement is also being made available at the Office of Planning and Budget, Room 615B, 270 Washington Street SW., Atlanta, Georgia and the Altahama Area Planning Commission, P.O. Box 328, Baxley, Georgia 31513. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by the Georgia Power Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on January 5, 1976 (41 FR 830).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Draft Environmental Statement. Other interested persons may obtain this document upon request.

Comments from Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Appling County Public Library, Parker Street, Baxley, Georgia. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER. Comments on the Draft Environmental Statement are due by June 20, 1977.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 20th day of April 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77–12008 Filed 4–29–77;8:45 am]

[Docket No. 50–289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR–50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station Unit No. 1 (TMI–1) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to: (1) Permit irradiation of TMI–1 reactor vessel material surveillance specimens in the Three Mile Island Nuclear Station, Unit No. 2 reactor vessel; (2) reflect plant operating limitations for the fuel loading to be used during Cycle 3; and (3) update the reactor coolant system pressure limits during system heatup and cooldown.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with Item 1, above, was published in the FEDERAL REGISTER on February 3, 1977 (42 F.R. 6652). No request for a hearing or petition for leave to intervene was filed following notice for this action. Prior public notice of Items 2 and 3, above, was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 29, 1976, as supplemented December 29, 1976 and January 20, 1977; January 26, 1977, as supplemented March 31, 1977; and February 23, 1977, (2) Amendment No. 29 to License No. DPR–50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd of April 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–12563 Filed 4–29–77;8:45 am]

[Docket No. 50–344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. NPF–1 issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is affective March 25, 1977.

V42N84 MAY 2 77 UMI

The amendment extends, on a one-time basis, the allowable out of service period for one auxiliary feedwater pump from 72 to 144 hours. This extension is applicable for the period commencing at 9:30 a.m., March 27, 1977, and ending at 9:30 a.m., March 30, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 25, 1977, (2) Amendment No. 15 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of April 1977.

For the Nuclear Regulatory Commission,

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-12564 Filed 4-29-77;8:45 am]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Mr. Coufal is unable to continue his service on this Board.

Accordingly, John F. Wolf, Esq., whose address is 3409 Shepherd Street, Chevy Chase, Maryland 20015, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Maryland, this 25th day of April 1977.

JAMES R. YORK,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-12349 Filed 4-29-77;8:45 am]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX, UNITS 1 AND 2)

Order Cancelling Prehearing Conference Under 10 CFR 2.752

On April 26, 1977, the Atomic Safety and Licensing Board (the Board) was advised by counsel for the NRC Staff (the Staff) that, because of certain issues that had arisen relating to proposed water contracts with the City of Tulsa, most of the parties[1] were agreeable to an extension in the current schedule which has the evidentiary hearing set to begin on May 24, 1977. Applicants are going to file a request for a continuance with a new agreed-upon schedule, if such agreement can be reached. Counsel advised the Board that the requested continuance would be for about three months.

Further, Staff counsel informed the Board that a stipulation had been reached to grant the request by the Intervenors C.A.S.E. and Ilene Younghein for an additional fifteen (15) days to respond to the Applicants' motion for summary disposition. The Board indicated, therefore, that it would grant that request.

In light of the above developments, Staff counsel suggested and the Board concurred that the prehearing conference set for May 6, 1977 in Tulsa, Oklahoma, should be cancelled. The Board will reset this prehearing conference following Board action with regard to the hearing schedule.

Accordingly, it is hereby ordered, That the prehearing conference under 10 CFR 2.752 which is scheduled for May 6, 1977 in Tulsa, Oklahoma, is hereby cancelled.

It is further ordered, That the motion by the Intervenors C.A.S.E. and Ilene Younghein for a 15-day extension to respond to Applicants' motion for summary disposition is granted and that Intervenors are hereby given up to and including May 5, 1977 to file such a response.

Issued at Bethesda, Maryland, this 27th day of April, 1977.

By order of the Atomic Safety and Licensing Board,

DANIEL M. HEAD,
Chairman.

[FR Doc.77-12561 Filed 4-29-77;8:45 am]

[1] Staff counsel informed the Board that he was unable to reach Intervenors Mrs. Roberta Ann Paris Funnell and Ms. Sherri Ellis in connection with these matters. However, since the matters are procedural in nature and in view of the time limitations the Board considered it necessary to act promptly to cancel the May 6, 1977 prehearing conference and to grant the stipulated extension of time for response to the motion for summary disposition. The Board instructed counsel for the Staff to advise all the parties of his conversation with the Board and stated that this Order would issue.

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.33 "Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Fuel Reprocessing Plant," lists assumptions used to evaluate the magnitude and radiological consequences of a criticality accident in a fuel reprocessing plant. These assumptions are based on previous accident experience, engineering judgment, and analysis of applicable experimental results from safety research programs.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.33 will, however, be particularly useful in evaluating the need for an early revision if received by June 27, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 25th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director Office of Standards Development.

[FR Doc.77-12351 Filed 4-29-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.128, "Installation Design and Installation of Large Lead Storage Batteries for Nuclear Power Plants," describes a method acceptable to the NRC staff for performing the installation design and installation of large lead storage batteries for all types of nuclear power plants. This guide endorses IEEE Standard 484-1975, "IEEE Recommended Practice for Installation Design and Installation of Large Lead Storage Batteries for Generating Stations and Substations."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.128 will, however, be particularly useful in evaluating the need for an early revision if received by June 30, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 26th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-12565 Filed 4-29-77;8:45 am]

[Docket No. 50-57]

STATE UNIVERSITY OF NEW YORK AT BUFFALO NUCLEAR SCIENCE AND TECHNOLOGY FACILITY

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R-77 issued to State University of New York at Buffalo which will revise Technical Specifications for operation of the Nuclear Science and Technology Facility, located in Buffalo, New York.

The amendment would revise the provisions in the Technical Specifications to reflect modifications to the reactor coolant system in accordance with the licensee's application for amendment dated March 14, 1977. The requested plant modifications and technical specification changes would allow (1) alteration of the existing flow path for reactor coolant and (2) a change in design in the core plenum.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By June 1, 1977 the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provision of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceedings, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regard the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amend-

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts

V42N84 MAY 2 7 7 UMI

ment dated March 14, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Public Health Library, Mr. August La Rocca, New York City Department of Health, 125 Worth Street, New York, New York 10013.

Dated at Bethesda, Maryland this 22nd day of April 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-12347 Filed 4-29-77;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. PDR-28, issued to Vermont Yankee Nuclear Power Corporation (the licensee), which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment becomes effective 90 days after its date of issuance.

This amendment revises the provisions in the Technical Specifications relating to the scope of the Vermont Yankee Radiological monitoring program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commissions' rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 15, 1976, and (2) Amendment No. 35 to License No. DPR-28. Both of these items are available for public inspection at the Commissions' Public Document Room, 1717 H Street NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 19th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-12350 Filed 4-29-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0125]

DE SOTO CAPITAL CORP.

Issuance of Small Business Investment Company License

On March 16, 1977, a notice was published in the FEDERAL REGISTER (42 FR 14797) stating that an application had been filed by De Soto Capital Corporation, Pine Creek Commercial Plaza, 9991 Old Highway 78—Suite 10, Olive Branch, Mississippi 38654, with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)) for a License as a small business investment company (SBIC).

Interested parties were given until the close of business March 31, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04-0125 to De Soto Capital Corporation to operate as an SBIC.

Dated: April 26, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-12532 Filed 4-29-77;8:45 am]

[License No. 01/01-0287]

S.B.I.C. OF VERMONT, INC.

Issuance of a License to Operate as a Small Business Investment Company

On March 2, 1977, a notice was published in the FEDERAL REGISTER that S.B.I.C. of Vermont, Inc., 121 West Street, Rutland, Vermont 05701, had filed an Application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)) for a license to operate as a small business investment company.

Interested parties were given until the close of business on March 17, 1977, to submit written comments on the Application to SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0287 on April 25, 1977, to S.B.I.C. of Vermont, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 25, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-12531 Filed 4-29-77;8:45 am]

SIOUX FALLS DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Sioux Falls District Advisory Council will hold a public meeting at 9:30 a.m., Friday, May 20, 1977, at the Downtown Holiday Inn, Sioux Falls, South Dakota, to discuss such business as may be presented by members, staff of the Small Business Administration and others attending. For further information, call or write Chester B. Leedom, District Director, U.S. Small Business Administration, 402 National Bank of South Dakota Building, 8th and Main Avenue, Sioux Falls, South Dakota 57102, 605-336-2980, Extension 231.

Dated: April 26, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-12433 Filed 4-29-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice 538]

CULTURALLY SIGNIFICANT OBJECTS FROM THE UNION OF SOVIET SOCIALIST REPUBLICS

Notice is hereby given of the following determination:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and delegation of authority number 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that (1) the three revolvers described in this notice, imported from the Union of Soviet Socialist Republics pursuant to a loan agreement between the Head of the International Department, Ministry of Culture of the USSR, and Mr. Franklin P. Decker on behalf of the Colt Industries Historical Foundation, Inc. for temporary exhibition without profit within the United States are of cultural significance and that (2) the temporary exhibition or display of such revolvers at the Colt Headquarters Museum, 430 Park Avenue, New York, New York, and at the Museum of the Connecticut State Library, 231 Capital Avenue, Hartford, Connecticut, beginning on or about June 1, 1977, for 24 months, is in the national interest.

A description of the objects follows:

(1) 479 (PLV). Colt old model army/holster pistol or third model dragoon, Six-shot revolver. Presentation specimen given to Nicholas I, Emperor of Russia, by Samuel Colt in 1854. Steel parts blued, decorated with engraving and damascened with gold. The grip mounts of gilt bronze enriched with engraving. The barrel signed, "Sam Colt", the frame and cylinder inscribed "Colt's patent". On the cylinder is the U.S. Capitol Building and the inscription "Capitol of the United States". The decorative treatment by Gustav Young. Serial number 12407. L 358/191, C 11.1. U.S.A., Hartford, about 1853. 3.0 No. 73.

(2) 480 (PLV). Colt old model navy/belt pistol (Navy belt model 1851). Six-shot revolver. Presentation specimen given to Nicholas I, Emperor of Russia, by Samuel Colt in 1854. Steel parts blued and damascened with gold. The grip mounts of gilt bronze enriched with engraving. The barrel signed "Sam Colt", the frame and cylinder inscribed "Colt's Patent". The decorative treatment by Gustav Young. Serial number 20131. L 333/191, C 9.1 U.S.A., Hartford, about 1853. 3.0 No. 72.

(3) 481. Colt old model pocket pistol (pocket model 1849). Five-shot revolver. Presentation specimen given to Nicholas I, Emperor of Russia, by Samuel Colt in 1854. Steel parts blued, decorated with engraving and damascened with gold. The grip mounts of gilt bronze enriched with engraving. The barrel signed "Samuel Colt", the frame and cylinder inscribed "Colt's Patent". The decorative treatment by Gustav Young. Serial number 63305. L 274/152, C 7.8 U.S.A., Hartford, about 1853. 3.0 No. 4987.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

JOSEPH D. DUFFEY,
Assistant Secretary for Educational and Cultural Affairs.

APRIL 26, 1977.

[FR Doc.77-12520 Filed 4-29-77;8:45 am]

[Public Notice CM-7/61]

FINE ARTS COMMITTEE

Meeting

The Fine Arts Committee of the Department of State will hold its Spring meeting on Thursday, May 26, 1977. The meeting of the Finance Committee will be held at 11:15 a.m. in the John Quincy Adams State Drawing Room and the full Committee will meet at 2:15 p.m. the same day also in the John Quincy Adams State Drawing Room.

The agenda for the full Committee will include a summary of the work of the Fine Arts Committee since its last meeting, the announcement of all gifts and loans during the first half of 1977, as well as a discussion of the architectural changes in the Entrance Hall and Lounges of the Diplomatic Reception Rooms. The agenda for the Finance Committee will be a discussion of the present and long term financial needs of the Fine Arts Committee.

The meetings are open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office by Monday, May 23, 1977, 202-632-0298 to make arrangements to enter the building.

Dated: April 18, 1977.

CLEMENT E. CONGER,
Chairman, Fine Arts Committee.

[FR Doc.77-12519 Filed 4-29-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-099]

NATIONAL OFFSHORE OPERATIONS INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the National Offshore Operations Industry Advisory Committee to be held June 14-15, 1977, at 9 a.m. at the Town and Country Hotel, San Diego, California. The agenda for this meeting is as follows:

1. Discussion of the following items:

a. 1969 Tonnage Convention.
b. Occupational safety and health standards.
c. Commercial diver safety.
d. Overseas operations.
e. Marine firefighting.
f. Tankerman requirements.
g. Mobile drilling unit personnel licensing.
h. Safety survey of offshore oil and mineral vessels—violations.
i. Lifesaving appliance on unmanned platforms.
j. Pressure vessels for human occupancy (PVHO).
k. Carriage of more than 16 industrial personnel aboard offshore supply vessels.

2. Any other business brought before the committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Captain G. K. Greiner, Jr., Executive Director, National Offshore Operations Industry Advisory Committee, Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590, 202-426-1477. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on April 26, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

APRIL 25, 1977.

[FR Doc.77-12556 Filed 4-29-77;8:45 am]

Federal Railroad Administration

[RSAF No. 406]

PORT AUTHORITY TRANS HUDSON CORPORATION

Hearing

The Port Authority Trans-Hudson Corporation (PATH) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with the provisions of § 236.51 of the standards concerning the installation of signal systems for railroads (49 CFR Part 236). PATH requested the waiver in order to permit the use of a modified track circuit for its signal system at switch locations.

The Railroad Safety Board (Board) has voted to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 10 a.m. on June 7, 1977, at the Downtowner Motor Inn, Gateway Center, Newark, New Jersey.

The hearing will be an informal one and will be conducted in accordance with the provisions of § 211.25 of the FRA rules of practice (49 CFR Part 211). A representative designated by the Board will conduct this hearing.

The hearing will not be an adversary proceeding, and consequently, there will be no cross-examination of persons making statements. The Board's representative will make an opening statement outlining the scope of the hearing and will provide interested parties with an opportunity to make statements or rebuttal statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

This notice is issued under the authority of section 25 of the Interstate Commerce Act, 49 U.S.C. 26; and § 1.49(g) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(g).

Issued in Washington, D.C. on April 22, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-12456 Filed 4-29-77;8:45 am]

RAILROAD SAFETY APPLIANCE STANDARDS

Petitions for Waivers

Notice is hereby given that six railroads and one locomotive manufacturer have submitted requests for permanent waivers of compliance with certain requirements of the Railroad Safety Appliance Standards (49 CFR Part 231). Each of these petitions for waiver involve provisions of the Railroad Safety Appliance Standards that are applicable to locomotives used in road or switching service.

The Federal Railroad Administration (FRA) published a final rule on September 8, 1976 (41 FR 37782) that prescribed configurations for the handholds and uncoupling mechanisms of locomotives used in road service (49 CFR 231.29) and that prescribed configurations for the handholds, uncoupling mechanisms and stairways of locomotives used in switching service (49

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CFR 231.30). These regulations are applicable to both existing locomotives and locomotives that will be constructed in the future. Full compliance for the entire locomotive fleet is scheduled for October 1, 1979.

The individual petitions for a waiver of compliance with the certain provisions of this regulation are described below. The description indicates the nature and extent of the relief requested as well as any information that has been submitted in support of the request for the waiver of compliance.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on these petitions since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g. FRA Waiver Petition Docket Number SA–76–2) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before June 10, 1977 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available for examination during regular business hours, both before and after the closing date for comments, in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

LONG ISLAND RAIL ROAD

[FRA Waiver Petition Docket No. SA–75–2]

The Long Island (LI) seeks a waiver of compliance with the provisions of §§ 231.29(b) and 231.30(e) that require vertical handholds to begin no more than 32 inches above the safety tread surface of a switching step. LI seeks a waiver of that requirement for its entire fleet of diesel locomotives. That fleet currently consists of approximately seventy (70) locomotives and includes eight (8) locomotives that are permanently assigned to switching service. LI also seeks to have the waiver apply to locomotives that it subsequently acquires.

LI is primarily a passenger commuter railroad and it has built numerous high level passenger station platforms. These high level station platforms require the vertical handhold on a locomotive begin thirty five (35) inches above the switching step in order to permit a locomotive to pass the station without striking the platform.

LI indicates that compliance with this provision would necessitate modification of all of its high level station platforms. That modification work could create a severe hazard for passengers during loading and unloading since it would create a significant gap between the body of a passenger car and the platform. In addition to creating a hazard for passengers the modification work for these stations would cost several million dollars.

LI states that the higher level for the handholds has not presented a safety problem on its current fleet of locomotives which have been operating for many years. Consequently, LI seeks a waiver of compliance with the regulation in order to have the vertical handholds on its locomotives begin thirty five inches above the switching step.

ELECTRO-MOTIVE DIVISION OF GENERAL MOTORS CORP.

[FRA Waiver Petition Docket No. SA–76–2]

The Electro-Motive Division of General Motors Corporation (EMD) seeks a waiver of compliance with § 231.29(a) for two locomotives. These two locomotives, which are prototypes for future electric locomotives, are identified as model GM10B and GM6C.

These two locomotives were designed with a staircase arrangement on the front or short hood end and a vertical ladder arrangement on the back or long hood end. The uncoupling mechanism for both ends of these two locomotives does not comply with the provisions of § 231.29(a). EMD states that the design of the platform walkway, the anticlimber and the snowplow configuration make it impractical to alter these units to bring them into conformity with the regulation.

The information submitted by EMD also indicates that the handhold arrangement on the back or long hood end of these units does not comply with the provisions of § 231.29(b). EMD also seeks a waiver of compliance with this provision to the extent that the vertical ladder arrangement or the vertical handholds for that ladder would have to be modified to bring the handholds into conformity with the provision.

In support of its request EMD notes that both units are intended for through freight train operation. The design of both units employs the same uncoupler and handhold configurations used on several hundred models designated SDP40T–2 and SD45T–2 without creating any safety hazard that EMD knows about. Furthermore, one of these units, the prototype GM6c model, was placed in service prior to the FRA proposal to adopt such a regulation while the other unit, the GM10B model, was in such an advanced state of construction that it was not practical to alter the design in order to comply with the regulation.

IOWA TERMINAL RAILROAD CO.

[FRA Waiver Petition Docket No. SA–77–1]

The Iowa Terminal Railroad (IT) seeks a complete waiver of compliance with § 231.30 for five locomotives. These five locomotives are small electric locomotives that were built before 1928.

The five locomotives are operated in the vicinity of Mason City, Iowa in both road and switching service since they comprise the entire locomotive fleet of the Mason City division of the IT. These units are equipped with footboards and vertical side steps on both ends instead of the switching step and vertical handholds required by the regulation. Furthermore, the uncoupling lever cannot be operated from the side step as required by regulation.

The design of these units, which includes a solid cast front end, makes it impossible in the judgment of IT to modify these locomotives so that they comply with the regulation. IT has also provided affidavits from train crew members indicating their belief that the use of these locomotives without modification will not present a safety hazard for them.

SANTA MARIA VALLEY RAILROAD CO.

[FRA Waiver Petition Docket No. SA–77–2]

The Santa Maria Valley Railroad (SMV) seeks a complete waiver of compliance with § 231.30 for one diesel locomotive. The locomotive is a 70 ton unit built by General Electric in 1959 and bears SMV designation number 60.

The SMV operates this unit and seven other locomotives over a fifteen mile system in the State of California. SMV indicates that the other seven units will be brought into compliance but that locomotive number 60 cannot be modified to comply with the regulation without creating an unsafe condition.

SMV states that this unit was designed for industrial or export use and consequently the sandboxes were placed directly behind the steps. The location of the sandboxes, the side walkways and end platforms of this unit were designed so that it is now impossible to modify this unit. SMV states that it will use this locomotive only as a helper unit if this waiver is granted.

LOUISVILLE & NASHVILLE RAILROAD

[FRA Waiver Petition Docket No. SA–77–3]

The Louisville & Nashville Railroad (L&N) seeks a waiver of compliance with § 231.29 for four diesel locomotives. These locomotives are designated as Electro-Motive Division models SDP–35 and bear L&N locomotive numbers 1221, 1222, 1223 and 1224.

These locomotives were designed with a staircase arrangement on the front or short hood end and a vertical ladder arrangement on the back or long hood end. The vertical ladder arrangement apparently was designed to accommodate the passenger train heating equipment that was originally installed on these locomotive units. The current uncoupling mechanism and the vertical handhold configuration do not comply with the regulation and due to the nature of the construction of these units L&N believes that it will require a major task to modify these units so that they can be used in road service. Consequently, L&N is seeking a permanent waiver of compliance for back or long hood ends of these units.

SPRINGFIELD TERMINAL RAILWAY CO.

[FRA Waiver Petition Docket No. SA–77–4]

The Springfield Terminal Railway (ST) seeks a waiver of compliance with § 231.30 for one diesel locomotive. This single locomotive is used to perform switching in the vicinity of Springfield, Vermont and is the only locomotive owned by the ST. The footboards will be removed from this unit but ST believes that any modification of the step arrangement will seriously weaken the main frame and interfere with the necessary minimum truck clearance.

The current configuration for the steps, vertical handholds and uncoupling mechanism do not conform to the requirements of the regulation. ST seeks this waiver to permit the locomotive to continue operating without modification of the unit other than the removal of the footboards.

MAINE CENTRAL RAILROAD CO.

[FRA Waiver Petition Docket No. SA–77–5]

The Maine Central Railroad (MEC) seeks a waiver of compliance with § 231.30 for two diesel locomotives. These two locomotives are 44-ton units built by General Electric and bear MEC designation numbers 14 and 16.

The locomotives are only used for switching service on the line known as the Eastport Branch in the State of Maine. MEC indicates that operational limitations prevent the use of any other locomotives on this line. The modifications of these units to bring them into compliance with the regulation would prevent the use of these locomotives on this line since there are very close clearances.

These locomotives currently have uncoupling mechanisms, steps and vertical handhold configurations that do not comply with the regulation. MEC plans to retire these locomotives as soon as it received Interstate Commerce Commission authority to abandon the Eastport Branch.

This notice is issued under the authority of sections 4, 6 and 12, 27 Stat. 531, as amended, sections 6 (e) and (F), 80 Stat. 939; 45 U.S.C. 4, 6, 12; 49 U.S.C. 1655 and § 1.49(c) of the regulations of the Secretary of Transportation, 49 CFR 1.49(c).

Issued in Washington, D.C. on April 22, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77–12457 Filed 4–29–77;8:45 am]

National Highway Traffic Safety Administration

AMBASSADOR LEATHER PRODUCTS CHILD SAFETY HARNESS

Public Proceeding Scheduled

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amneded (15 U.S.C. 1412), the Associate Administrator, Motor Vehicle Programs, has made an initial determination that a noncompliance with Federal Motor Vehicle Safety Standard No. 209 (49 CFR 571.209) exists with respect to the Child's Auto Safety Strap Model B–1000, also known as the All Purpose Child's Safety Harness Strap Model H–1000, and the Children's Auto Safety Strap Model 3000, manufactured by Ambassador Leather Products, Inc. of Brooklyn, New York.

A public proceeding will be held at 10 a.m., June 1, 1977, in Room 5332, Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590, at which Ambassador will be afforded an opportunity to present data, views and arguments to establish that there is no failure to comply.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Gail Willis, Office of Standards Enforcement, National Highway Traffic Safety Administration, Room 3222, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20590, telephone 202–426–2832, before close of business on May 27, 1977.

The agency's investigation file in this matter is available for public inspection during working hours, 7:45 a.m. to 4:15 p.m., in the Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 18, 1977.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.77–12271 Filed 4–29–77;8:45 am]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held May 17 and 18, 1977 at the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

The agenda for this meeting is as follows:

On May 17 at 8:30 a.m. the Highway Environment Subcommittee will meet in room 6244 to hear a briefing on all FHWA Certification-Acceptance Programs and will discuss old and new business.

At 9:30 a.m. on May 17 in room 2230 the Adjudication and Alcohol Subcommittee will meet to hear briefings on current developments in judicial education and on the status of drunk driving warning systems-field research and will discuss old and new business.

On May 17 at 1:00 p.m. in room 2230 the Driver Subcommittee will meet to hear a briefing on NHTSA activities in the youth area—ages 16 to 24, a status report on 55 MPH Program and to discuss old and new business.

On May 18 at 8:30 a.m. in room 6244 the Vehicle Subcommittee will meet to review films on advanced rider techniques, to hear briefing on helmet construction, standards and effectiveness and a status report on comprehensive study of motorized bicycle accidents, injuries and operational problems in America and in Europe, and to discuss old and new business.

On May 18 at 10:45 a.m. in room 2230 the full Committee will meet to hear briefing on various automatic highway monitoring devices, a status report on the 402–403 Highway Safety Program reappraisals, reports from Subcommittee Chairmen: Adjudication and Alcohol Subcommittee, Truck and Bus Safety Subcommittee, Highway Environment Subcommittee, Driver Subcommittee, and Vehicle Subcommittee. There will also be discussion of draft Committee Bylaws, the swearing in of new members and old and new business.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the Secretary of Transportation.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C. on April 27, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77–12539 Filed 4–29–77;8:45 am]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 11 a.m., May 16, 1977, Room 814, at 800 Independence Avenue SW., Washington, D.C. 20591. The agenda for this meeting is as follows: Opening remarks; approval of minutes; administrator's report; review of responses to request for comments on Canadian toll proposal; closing remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than May 13, 1977, and information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue SW., Washington, D.C. 20591; 202–426–3574.

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Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C. on April 26, 1977.

D. W. OBERLIN,
Administrator.

[FR Doc.77-12473 Filed 4-29-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

BICYCLES FROM THE REPUBLIC OF CHINA

Final Countervailing Duty Termination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final negative determination.

SUMMARY: This notice is to advise the public that it has been determined that the Government of the Republic of China (Taiwan) has not given benefits which are considered to be bounties or grants on the manufacture, production or exportation of bicycles within the meaning of the U.S. countervailing duty law.

EFFECTIVE DATE: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Rimlinger, Duty Assessment Division, Technical Branch, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On October 27, 1976, a "Notice of Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (41 FR 47084) announcing that on the basis of an investigation conducted pursuant to § 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily had been determined that certain practices of the Government of the Republic of China constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). These practices are:

1. Loans at preferential rates of interest for the purchase of equipment by bicycle manufacturers and short-term exporting financing.
2. Exemption from income taxes, deed taxes and customs duties on imported capital items for firms located in Export Processing Zones.
3. Income tax holidays for newly established firms granted under the Statute for Encouragement of Investment.

Nine practices were preliminarily determined not to constitute a bounty or grant, and four other measures were preliminarily determined to be not applicable or have never been utilized by the bicycle industry.

The notice stated further that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing within 30 days from the date of the notice with respect to the preliminary determination.

After consideration of all information received, and on the basis of information received since the preliminary determination, it is determined that the bicycle industry of the Republic of China is not receiving benefits from income tax holidays under the Statute for Encouragement of Investment, nor from available incentives, by reason of location in an Export Processing Zone. It is further determined that in the fiscal year ending June 30, 1976, the total benefit received by the bicycle industry (0.01 percent ad valorem) from loans at preferential rates of interest is de minimis in relationship to the value of merchandise estimated to be exported during that period. All other practices noted in the preliminary countervailing duty determination are determined not applicable or not utilized by the bicycle industry, or not to constitute a bounty or grant. The Customs Court, in *Zenith Radio Corporation v. United States*, C.D. 4691, ruled that the rebate of the Japanese commodity tax on exportation is a bounty or grant within the meaning of section 303 of the Act. To the extent that the ruling in that case is applicable here, the Department, in the absence of a final court decision to the contrary, maintains its position that the rebate or remission upon exportation of indirect taxes directly related to the exported product does not constitute a bounty or grant.

Accordingly, for the reasons stated above, it is hereby determined that no bounties or grants are being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production, or exportation of bicycles from the Republic of China.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

APRIL 19, 1977.

[FR Doc.77-12440 Filed 4-29-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 380]

ASSIGNMENT OF HEARINGS

APRIL 27, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8917, *Dignan Trucking, Inc., et al v Southern Maryland Transportation Co., Inc.*, now assigned continued hearing April 28, 1977 at Washington, D.C., has been postponed to June 21, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1974 Sub 16, Allegheny Freight Lines, Inc. now assigned May 9, 1977 at Charleston, West Virginia is cancelled.

MC 136669 (Sub-No. 10), Processed Beef Express, Inc., now being assigned for continued hearing on May 24, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119789 (Sub-No. 290), Caravan Refrigerated Cargo, Inc., now assigned May 4, 1977, at Tampa, Fla. will be held in Room 412, Federal Building, 500 Zack Street.

MC 120472 (Sub-No. 2), Goliot & Sons Transfer & Storage, Inc., now assigned May 9, 1977, at Biloxi, Miss. will be held in the Grand Jury Room, District Courthouse, on the Corner of Washington & Lameuse St.

MC 113855 (Sub-358), International Transport, Inc., now being assigned June 9, 1977 (2 days) at Minneapolis, Minnesota, in a hearing room to be later designated.

MC 118202 Sub 60, Schultz Transit, Inc. now assigned June 9, 1977 at Minneapolis, Minnesota is cancelled.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12503 Filed 4-29-77;8:45 am]

[No. 36375]

BUNGE CORP., ET AL.

Petition for Declaratory Order, Tariff Interpretation

ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 2, Acting as an Appellate Division, held at its office in Washington, D.C., on the 19th day of April, 1977.

Upon consideration of the record in the above-entitled proceeding, including the order served on January 4, 1977; the petition to reopen the proceeding, filed by the Atchison, Topeka and Santa Fe Railway Company, on January 24, 1977; the separate petitions (1) for leave to intervene and (2) to reopen the proceeding, filed by Archer Daniels Midland Company, on January 24, 1977; the petition for reconsideration and to reopen the proceeding for receipt of additional evidence, filed jointly by Bunge Corporation, C-G-F Grain Company, Inc., Garvey Elevators, Inc., Garvey International, Inc., and Koppel, Inc., on January 24, 1977; the replies filed by replicant Southern Pacific Transportation Company, to the petition of the Atchison, Topeka and Santa Fe Railway Company, on January 31, 1977, and to the remaining petitions on February 14, 1977;

It appearing, That by order served in this proceeding on January 4, 1977, Division 2 granted the petition for a declaratory order filed jointly by Bunge Corporation, Koppel, Inc., C-G-F Grain Company, Inc., Garvey Elevators, Inc., and Garvey International, Inc., and found the proper interpretation of the subject tariff matter was that stated by replicant Southern Pacific Transportation Company;

It further appearing, That petitioners have established good cause for reopening this proceeding;

It further appearing, That the Archer Daniels Midland Company has an interest in the matters at issue in this proceeding;

And it further appearing, That the issue presented in this proceeding is whether Trans-Continental Tariff Bureau, Agent, Tariff 45-N, ICC 1850, Part 5 Item 3295 series, provides a specific through route and rate which supersedes the provisions providing for gateway restrictions in General Routing Guide, TCFB Tariff 5-B, ICC 1674;

Wherefore, and good cause appearing therefor:

It is ordered, That the petitions for reconsideration and reopening be, and they are hereby, granted, and that this proceeding be, and it is hereby, reopened for handling, on a de novo basis, under the modified procedure;

It is further ordered, That petitioner, Archer Daniels Midland Company be, and it is hereby, made a party to this proceeding; that all other persons desiring to participate shall make such fact known by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C., 20423, on or before May 23, 1977 and that as soon as practicable thereafter, the Commission will add to the list of names and addresses any such additional persons upon whom service of an opening and reply statement shall be made.

It is further ordered, That a service list of all additional parties indicating a desire to participate herein be promptly served upon all parties of record.

It is further ordered, That all parties hereto should comply with rules 45 to 54 inclusive, of the Commission's General Rules of Practice. and the filing and service of pleadings [1] is to be as follows:

(a) Opening statement of facts and arguments by the original petitioners and parties in support are due 50 days after publication of this in the FEDERAL REGISTER;

(b) 30 days after that date, statement of facts are due by original replicants and parties in support thereof; and

(c) Replies are due 20 days thereafter.

It is further ordered, That a copy of this order be served upon all parties hereto including those persons who requested to be advised of Commission actions herein, that a copy be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and that notice of this order be given to the public by delivery of a copy hereof to the Director, Office of the Federal Register for publication therein.

And it is further ordered, That the prior order served January 4, 1977, in the instant proceeding, to the extent it is inconsistent with our actions herein be, and it is hereby, vacated.

By the Commission, Division 2, acting as an Appellate Division. Commissioners Harin, Clapp, and Christian.

ROBERT L. OSWALD,
Secretary.

APPENDIX

Norman Walker, General Traffic Manager, Bunge Corporation, 300 Southwest Blvd., Kansas City, Kansas 66103.
H. A. Woodbury, General Manager Transportation, Koppel, Inc., P.O. Box 747, Salina, Kansas 67401.
C-G-F Grain Company, Inc., 2015 George Blvd., Topeka, Kansas 66604.
Garvey Elevators, Inc., 816 Wiley Building, Hutchinson, Kansas 67501.
Garvey International, Inc., 5755 West 55th Street, South, Wichita, Kansas 67202.
Charles W. Burkett, John MacDonald Smith, Attorneys for Southern Pacific Transportation Company, One Market Plaza, SP Bldg., San Francisco, Calif. 94105.
Atchison, Topeka & Santa Fe Railway Co., 80 East Jackson Blvd., Chicago, Illinois 60604.
Burlington Northern, 176 East 5th Street, St. Paul, Minnesota 55101.
Archer Daniels Midland Company, 4666 Faries Parkway, P.O. Box 1470, Decatur, Illinois 62525.

[FR Doc.77-12506 Filed 4-29-77;8:45 am]

[AB 19 (Sub-No. 34)]

PITTSBURG & WESTERN RAILROAD CO. AND BALTIMORE & OHIO RAILROAD CO.

Abandonment Near Parkers Landing and Mt. Jewett in Armstrong, Clarion, Forest, Elk and McKean Counties, Pa.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Pittsburg and Western Railroad Company and The Baltimore and Ohio Railroad Company of 96.69 miles of branch line in Armstrong, Clarion, Forest, Elk, and McKean Counties, Pa., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that diversion of rail traffic to motor carrier would consume slightly more fuel and produce minimal changes in ambient environmental conditions along the affected corridor. No threatened or endangered species would be impacted by the proposed action and no historic structures are found within or adjacent to the subject line. Because no definitive economic development plans have been found with a dependency on continued rail service and alternate rail service in the area is available to existing industries, approval of the abandonment should not seriously adversely affect community and rural development. Finally, while the highways of the tributary area are antiquated and slow, they are reported to be in suitable physical condition to accept the additional truck traffic that would result from the diversion of rail traffic to motor carrier.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before June 6, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12502 Filed 4-29-77;8:45 am]

STATISTICS OF CLASS II MOTOR CARRIERS OF PROPERTY

Availability of Selected Items

APRIL 27, 1977.

The third release of Transport Statistics in the United States, Part 2—Motor (Formerly designated Part 7), containing detailed statistics for Class II motor carriers of property will no longer be published by the Commission. Effective with data for calendar year 1974, the third release will be replaced by a condensed publication, Selected Statistics of Class II Motor Carriers of Property, which will include basic financial and statistical items related to operations of these carriers, such as, number of carriers, total operating revenues, total operating expenses, income taxes, extraordinary and prior period items, average number of employees, revenue equipment and revenue tons.

The change will enable the Commission to publish basic data for Class II motor

[1] Any party may rely on verified statements previously submitted or provide verification thereof. Parties relying on such statements must notify the Commission and serve copies on additional parties within the filing schedule outlined herein.

V42N84 MAY 77 UMI

carriers of property on a more timely basis.

The first issue of the new publication is expected to be available for public distribution at the Commission in six to eight weeks. Requests should be addressed to Publications, Room 1333, Interstate Commerce Commission, Washington, D.C. 20423.

JOHN A. GRADY,
Director, Bureau of Accounts.

[FR Doc.77-12505 Filed 4-29-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notices

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before May 23, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-7-77 (Special Certificate—Waste Products), filed March 23, 1977. Applicant: SCHNEIDER TANK LINES, INC., 200 W. Cecil St., Neenah, Wis. 54956. Applicant's representative: Wayne Downing, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *recyclable organic chemicals, chrome plating solutions, and recyclable solvents*, in bulk, between points in the United States (except Alaska and Hawaii), in furtherance of a recognized pollution control program sponsored by Hydrite Chemical Company, located at Milwaukee, Wis., for the purpose of transporting recyclable organic chemicals, chrome plating solutions and recyclable solvents for reuse.

P-8-77 (Special Certificate—Waste Products), filed April 1, 1977. Applicant: CHEMICAL WASTE MANAGEMENT, INC., P.O. Box 214, Calumet City, Illinois 60409. Applicant's representative: William H. Towle, 180 North LaSalle Street, Suite 3520, Chicago, Illinois 60601. Authority sought to operate pursuant to a Certificate of Public Convenience and Necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste and recyclable chemicals and petroleum products*, between points in Illinois, Wisconsin, Minnesota, Iowa, Indiana, Michigan, Missouri, Kansas and South Dakota, in furtherance of recognized pollution control programs sponsored by: (1) Waste Research and Reclamation Co., Inc.; (2) Motor Oils Refining Company; and (3) Chemical Waste Management, Inc., for the purpose of collecting such waste chemicals for recycling.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12504 Filed 4-29-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1
Federal Home Loan Bank Board	2, 3
Federal Maritime Commission	4
Federal Power Commission	5, 6, 7, 8, 18
Federal Reserve System	9
National Mediation Board	10, 11
National Commission on Libraries and Information Science	12
Federal Trade Commission	13, 14
Federal Communications Commission	15, 16, 17

1

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., May 3, 1977.

PLACE: 2033 K Street NW., Washington, D.C. 5th Floor Hearing Room.

STATUS: Open

MATTERS TO BE CONSIDERED:

1. Contract Terms and Conditions—Location and Quality Price Differentials.
2. Changes in the Commission's Large Trader Reporting System.
3. FEDERAL REGISTER release re: Revised Registration Forms.
4. Continuation of Planning and Zero-Base Budgeting.
5. Requests for exemptions—Palmer Trading Co., International Trading Group Ltd., National Association of Commodity Option Dealers.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, (254-6126).

[S-289-77 Filed 4-27-77;3:39 pm]

2

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., May 4, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Application for Merger, Cancellation of Membership and Insurance, and Maintenance of Branch Office, Bell Federal Savings and Loan Association, Chicago, Illinois (Survivor), Highland Park Federal Savings and Loan Association, Highland Park, Illinois (Disappearing Association).

Agency Office Application, Security Federal Savings and Loan Association of Nashville, Nashville, Tennessee.

Concurrent consideration of two branch office applications, 1. Union Federal Savings and Loan Association, Los Angeles, California, 2. Republic Federal Savings and Loan Association, Pasadena, California.

No. 19, April 27, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S-291-77 Filed 4-27-77;3:39 pm]

3

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., on May 4, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Designation of supervisory agent under §§ 501.10 and 501.11 of the general regulations and under § 583.5 of the Holding Company regulations.

No. 20, April 27, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S-292-77 Filed 4-27-77;3:39 pm]

4

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: May 6, 1977, 2:30 p.m.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement No. 8100-9: Modification of the Thailand/U.S. Atlantic and Gulf Conference Agreement—Extension of Exclusive Agency Provision.
2. Agreement No. 9989-6, modification of the North Atlantic Discussion Agreement to extend it beyond its present expiration date.
3. Agreement No. 10253, Israel/South Atlantic-Gulf Rate Agreement.
4. Petition of Matson Navigation Company for Rulemaking Concerning Capitalization of Cost of Funds During Construction.
5. Docket No. 75-53—*Refrigerated Express Lines (A/Asia) Pty., Ltd., et al.* v. *Columbus Line, Inc., et al.*—Possible Past Violations.

Portions closed to the public:

1. Docket No. 76-2—*Borden Interamerica Inc.* v. *Venezuelan Line.*
2. Docket No. 76-43—Matson Navigation Company—Proposed Rate Increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade—Appeal of ALJ Ruling on Scope of Proceeding.

(202-523-5727).

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-298-77 Filed 4-28;10:07 am]

5

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on April 20, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., April 27, 1977.

CHANGES IN THE MEETING: Addition of G-14, Docket No. CP77-221, Transcontinental Gas Pipe Line Corporation, Addition of G-15, Docket No. CP76-492, National Fuel Gas Supply Corporation.

KENNETH F. PLUMB,
Secretary.

[S-295-77 Filed 4-27-77;3:39 pm]

6

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on April 20, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., April 27, 1977.

CHANGES IN THE MEETING: Addition of P-1, Docket No. ES77-24, Pacific Power & Light Company.

KENNETH F. PLUMB,
Secretary.

[S-296-77 Filed 4-27-77;3:39 pm]

7

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on April 26, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m. May 3, 1977.

CHANGES IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of

V42N84 MAY 2 77 UMI

Chairman Dunham, Commissioners Smith, Holloman and Watt.

P–7—Docket No. E–9578, Texas Power and Light Co.
P–8—Docket No. ER76–848, Montana Power Co.

KENNETH F. PLUMB,
Secretary.

[S–297–77 Filed 4–27–77;3:59 pm]

8

AGENCY HOLDING THE MEETING: Federal Power Commission.

TIME AND DATE: 2 p.m., May 4, 1977.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda). NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, (202–275–4166).

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA 7591ST MEETING—MAY 4, 1977
REGULAR MEETING—PART I (2 P.M.)

G–1—Docket No. RP75–73, Texas Eastern Transmission Corporation.
G–2—Docket Nos. CP74–289, CP73–334 and CP75–360, El Paso Natural Gas Company.
G–3—Docket No. RP76–86, *Arizona Electric Power Cooperative, Inc., and the City of Willcox, Arizona, v. El Paso Natural Gas Company.*
G–4—Docket No. RP75–62, Cities Service Gas Company.
G–5—Docket No. RP76–86. *General Motors Corporation v. Natural Gas Pipeline Company of America.*
G–6—Dockets Nos. RP71–29, et al., (Phase II), United Gas Pipe Line Company.
G–7—Docket No. RP74–24, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
G–8—Docket Nos. RP71–119 and RP74–31–1, et al., Panhandle Eastern Pipe Line Company.
G–9—Docket No. RP71–131, Algonquin Gas Transmission Company.
G–10—FPC Gas Rate Schedule No. 1, Alfred J. Smith.
G–11—Docket No. CI75–45, et al., Tenneco Oil Company.
G–12—Docket Nos. CI77–95, CI77–96 and CI77–97, Gulf Oil Corporation.
G–13—Docket No. CP76–511, Natural Gas Pipe Line Company of America. Docket No. CP77–106, Mississippi River Transmission Corporation. Docket No. CP77–131, Natural Gas Pipe Line Company of America.
G–14—Docket No. CP77–322, United Gas Pipe Line Company, and Southern Natural Gas Company.
G–15—Docket No. CP77–295, Texas Eastern Transmission Corporation.

GAS AGENDA
7591ST MEETING—MAY 4, 1977
REGULAR MEETING—PART II

CG–1—Docket No. RP73–8 (PGA No. 77–8). North Penn Gas Company.
CG–2—Ashland Oil, Inc., FPC Gas Rate Schedule No. 111. CIG Exploration, Inc., FPC Gas Rate Schedule No. 1. Colorado Oil and Gas Corporation, FPC Gas Rate Schedule No. 25. Union Oil Company of California, FPC Gas Rate Schedule No. 169. Pan Eastern Exploration Company, FPC Gas Rate Schedule No. 1. Pan Eastern Exploration Company, FPC Gas Rate Schedule No. 5. Chevron Oil Company, Western Division, FPC Gas Rate Schedule No. 6.
CG–3—Docket Nos. CI77–46, CI77–47, CI77–48 and CI77–122, Exxon Corporation. Docket Nos. CP77–8 and CP77–42, Columbia Gulf Transmission Company.
CG–4—Docket No. CI77–313, Exxon Corporation.
CG–5—Docket No. CI76–516, et al., Bill J. Graham, et al.
CG–6—Docket Nos. CS72–1059, et al., (CS66–85), Miles Kimball Company, et al.
CG–7—Docket Nos. CS71–12, et al., MGF Operating Corporation, et al.
CG–8—Docket No. CP77–277, Northern Natural Gas Company.
CG–9—Docket No. CP77–190, Natural Gas Pipeline Company of America. Docket No. CP77–235, Colorado Interstate Gas Company.
CG–10—Docket No. CP70–239, Kansas-Nebraska Natural Gas Company, Inc. Docket No. CP70–258, Cities Service Gas Company. Docket No. CP76–5, Cities Service Gas Company. Docket No. CP76–422, Colorado Interstate Gas Company.
CG–11—Docket No. CP77–110, United Gas Pipe Line Company.
CG–12—Docket No. CP77–74, Colorado Interstate Gas Company. Docket No. CP77–120, Natural Gas Pipeline Company of America.
CG–13—Docket No. CP73–332, Northwest Pipeline Corporation.
CG–14—Docket No. CP77–250, Panhandle Eastern Pipeline Company.
CG–15—Docket No. CP77–145, Columbia Gas Transmission Corporation.
CG–16—Docket No. CP77–201, Consolidated Gas Supply Corporation.
CG–17—*State of North Carolina, et al.* v. *F.P.C.*, D.C. Cir. No. 76–2102. *Austral Oil Co.* v. *F.P.C.*, 5th Cir. No. 76–3647.
CG–18—*Gilbring Oil Company* v. *F.P.C.*, 5th Cir. No. 77–1664.
CG–19—(A) Docket No. G–2712, et al., Cities Service Oil Company, (Operator), et al.
(B) Docket No. RI76–157, Bridwell Oil Company. Docket No. RI76–158, W. M. Laughlin. Docket No. RI76–159, Manler Oil Company. Docket No. RI76–161, William Perlman.
(C) Docket Nos. CP76–14, et al., Natural Gas Pipeline Company of America, et al.
(D) Docket No. G–3072, et al., Humble Oil & Refining Company.
(E) Docket No. CI75–525, Amoco Production Company (Operator), et al. Docket No. CI76–546, Skelly Oil Company. Docket No. CI77–160, Phillips Petroleum Company.

KENNETH F. PLUMB,
Secretary.

[S–290–77 Filed 4–27–77;3:39 pm]

9

AGENCY HOLDING THE MEETING: Federal Reserve System

On Monday, May 2, 1977, at 10:00 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, N.W., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Subcommittee on Employee Ethics and Utilization of the House Committee on Post Office and Civil Service, regarding H.R. 2387, a bill to increase the compensation of the Chairman and members of the Federal Reserve Board and of the Director and Deputy Director of the Office of Management and Budget.

2. Any agenda items carried forward from a previously announced closed meeting.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was possible.

This meeting will be closed to public observation because all the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202–452–3204).

Board of Governors of the Federal Reserve System.

APRIL 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–299–77 Filed 4–28–77;11:26 am]

10

AGENCY HOLDING THE MEETING: National Mediation Board.

TIME AND DATE: Monday, May 9, 1977, 2:00 p.m.

PLACE: Board Hearing Room, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Jurisdictional determination re Air Florida, Inc., 2. Jurisdictional determination re Vecellio and Grogan, Inc., 3. Request for public hearing in NMB Case No. R–4549, Trans World Airlines, Inc. 4. Request for public hearing in NMB Case No. R–4725, Allegheny Airlines, Inc. 5. Pending application in NMB Case No. R–4714, Milwaukee, St. Paul and Pacific Railroad Company. 6. Scheduling of future Board meetings.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Rowland K. Quinn, Jr., Executive Secretary, 202–523–5920.

Date of notice: April 27, 1977.

[S–294–77 Filed 4–27–77;3:39 pm]

11

AGENCY HOLDING THE MEETING: National Mediation Board.

TIME AND DATE: Tuesday, May 17, 1977, 10:00 a.m.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Oral Argument, NMB Case No. R–4448, Continental Air Lines, Inc.

CONTACT PERSON FOR MORE INFORMATION:
Mr. Rowland K. Quinn, Jr., Executive Secretary, 202–532–5920.

Date of notice, April 27, 1977.

[S–293–77 Filed 4–27–77;3:39 pm]

12

AGENCY HOLDING THE MEETING: National Commission on Libraries and Information Science.

TIME: 9 a.m. to 5 p.m. and 8:30 a.m. to 12 noon, respectively.

DATE: June 1 and June 3, 1977.

PLACE: Waldorf Astoria Hotel, New York, New York.

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of Activities Since February 18–19 meeting; White House Conference on Library and Information Services; Status Project Reports; Commissioners' Comments; Executive Director's Report; Old Business; New Business.

CONTACT PERSON FOR MORE INFORMATION:
Alphonse F. Trezza, Executive Director, NCLIS, 1717 K St., N.W. (Suite 601), Washington, D.C. 20036.

ALPHONSE F. TREZZA

[S–302–77 Filed 4–28–77;4:00 pm]

13

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2:00 p.m., Tuesday, May 3, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: The first part of this meeting will be open to public. Following the open portion of the meeting there will be an intermission and the rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to Public: (1) Consideration of participation by Miles W. Kirkpatrick, Caswell O. Hobbs III and law firm of Morgan, Lewis & Bockius in Mobile Home Trade Regulation Rule Proceeding, File No. R511022. (2) Report from General Counsel on Congressional Matters Portions closed to Public:

Nonadjudicative Matters—(1) Approval of minutes of Nonadjudicative Matters Considered at Meeting of April 26, 1977, (2) Consideration of Issuance of Proposed Complaint in a (Nonpublic) Part II Matter; (3) Consideration of Disposition of (Nonpublic Part II Matter; (4) Consideration of (Nonpublic) Part II Matter; (5) Consideration of Proposed Disposition of Compliance Investigation In the Matter of Atlantic Industries, Inc., at al Docket No. 8941; (6) Consideration of Proposed Resolution Authorizing Compulsory Process in a (nonpublic) Part II Matter.

Adjudicative Matters Under Part 3 of the Rules of Practice: (1) Approval of Minutes of Adjudicative Matters Considered at Meeting of April 26, 1977; (2) Consideration of Disposition of Respondents' Appeal from the Initial Decision in Docket No. 9063, Providence Washington Insurance Co., et al.

CONTACT PERSON FOR MORE INFORMATION:
Leonard J. McEnnis, Jr., Office of Public Information: 202–523–3830; Recorded Message, 202–523–3806.

[S–303–77 Filed 4–28–77;4:05 pm]

14

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2:00 p.m., Thursday, May 5, 1977.

PLACE: Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to Public: (1) Oral argument in National Housewares, Inc., et al., Docket No. 8733, and Emdeko International, Inc., et al., Docket No. 8973; Portions closed to the Public: (1) Executive Session for Consideration of Disposition in National Housewares, Inc., et al., Docket No. 8733, and Emdeko International, Inc., et al, Docket No. 8973.

CONTACT PERSON FOR MORE INFORMATION: Leonard J. McEnnis, Jr., Office of Public Information: 202–523–3830; Recorded Message, 202–523–3806.

[S–304–77 Filed 4–28–77;4:05 pm]

15

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Approximately 10:30 a.m. (following the open meeting), Thursday, May 5, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No. and Subject

Hearing—1—Motion to consolidate a transfer of control application with the WNAC–TV, Boston, Massachusetts, comparative renewal proceeding, together with two motions to strike pleadings (Docket Nos. 18759–18761).

CONTACT PERSON FOR MORE INFORMATION:
Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: April 28, 1977.

[S–305–77 Filed 4–28–77;4:09 pm]

16

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Thursday, May 5, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

General—1—Equipment Authorization for equipment sold in kit form (RM–1093, RM–1164).
Renewal—1—Staff EEO inquiry of stations with renewal termination date of October 1, 1976.
Television—1—Application (BPTT–2487) of Blonder-Tongue Broadcasting Corporation for Construction Permit for new 1,000-watt UHF translator on World Trade Center Building, New York City.
Complaints and Compliance—1—Application for Review filed by Anthony Martin-Trigona, of the Broadcast Bureau's ruling of March 23, 1977, which denied his political broadcast complaint against stations WMAQ–TV and WBBM–TV, both of Chicago, Illinois.
Special—1—Memorandum Opinion and Notice of Proposed Rule Making concerning uniform settlement rates on parallel international communications routes.

CONTACT PERSON FOR MORE INFORMATION:
Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: April 28, 1977.

[S–306–77 Filed 4–28–77;4:09 pm]

17

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Wednesday, May 4, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

Special—1—Report and Order in Docket No. 20496 relating to the use of fixed mileage zones for the purposes of determining cable television signal carriage obligations.—2—Legislative recommendation to repeal § 315 of the Communications Act.

V42N84 MAY 77 UMI

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: April 27, 1977.

[S–307–77 Filed 4–28–77;4:10 pm]

18

AGENCY HOLDING THE MEETING: Federal Power Commission.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

TIME AND DATE: May 2, 1977, 9:30 a.m.

PLACE: 825 North Capitol Street, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. CP75–96 et al., El Paso Alaska Company, et al. Chairman Dunham and Smith, Holloman and Watt voted that agency business requires that the meeting be called with less than the week's notice required by the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202–275–4166.

[S–308–77 Filed 4–28–77;4:10 pm]

federal register

MONDAY, MAY 2, 1977

PART II

PRINCIPAL EXECUTIVE BRANCH OFFICIALS of the ADMINISTRATION of JIMMY CARTER

■

appointed
January 20–April 30, 1977

Supplement 3 to 1976/77 United States Government Manual

NOTE: This special supplement to the United States Government Manual is limited to appointments and nominations made after January 20, 1977. Names contained herein replace corresponding names appearing in the 1976/77 edition of the Manual.

Office of the Federal Register
National Archives and Records Service
General Services Administration

V4284 MAY 2 77 UMI

PRINCIPAL EXECUTIVE BRANCH OFFICIALS
of the
ADMINISTRATION OF JIMMY CARTER
appointed
January 20–April 30, 1977

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Jimmy Carter

VICE PRESIDENT
Walter F. Mondale

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Secretary of Agriculture	Bob S. Bergland
Secretary of Commerce	Juanita M. Kreps
Secretary of Defense	Harold Brown
Secretary of Health, Education, and Welfare	Joseph A. Califano, Jr.
Secretary of Housing and Urban Development	Patricia Roberts Harris
Secretary of the Interior	Cecil D. Andrus
Attorney General	Griffin B. Bell
Secretary of Labor	Ray Marshall
Secretary of State	Cyrus Vance
Secretary of Transportation	Brockman Adams
Secretary of the Treasury	W. Michael Blumenthal
Assistant to the President for National Security Affairs	Zbigniew Brzezinski
Director, Office of Management and Budget	Thomas Bertram Lance
Assistant to the President	James R. Schlesinger
Chairman, Council of Economic Advisers	Charles L. Schultze
United States Representative to the United Nations and Representative in the Security Council	Andrew J. Young

The Cabinet, a creation of custom and tradition dating back to George Washington's administration, functions at the pleasure of the President. Its purpose is to advise the President upon any subject on which he requests information (pursuant to Article II, section 2, of the Constitution).

The Cabinet is composed of the eleven executive departments listed above and certain other officials of the executive branch to whom the President has accorded Cabinet rank. The Vice President participates in all Cabinet meetings. Also, from time to time, others are invited to participate in a discussion of particular subjects.

V 42 84 MAY 2 77 7 UMI

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The White House Office

Assistant to the President for National Security Affairs	ZBIGNIEW BRZEZINSKI
Assistant to the President for Public Liaison	MARGARET COSTANZA
Assistant to the President for Domestic Affairs and Policy	STUART E. EIZENSTAT
Assistant to the President	HAMILTON JORDAN
Counsel to the President	ROBERT J. LIPSHUTZ
Assistant to the President for Congressional Liaison	FRANK B. MOORE
Press Secretary to the President	JOSEPH L. POWELL
Assistant to the President	JAMES R. SCHLESINGER
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Special Assistant to the President	JOSEPH W. ARAGON
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Special Assistant to the President for Administration	HUGH A. CARTER, JR.
Special Assistant to the President for Budget and Organization	RICHARD M. HARDEN
Special Assistant to the President for Media and Public Affairs	BARRY JAGODA
Special Assistant to the President for Personnel	JAMES B. KING
Special Assistant to the President for Appointments	TIMOTHY E. KRAFT
Special Assistant to the President for Special Projects	MARTHA M. MITCHELL
Special Assistant to the President for Consumer Affairs	ESTHER PETERSON
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Social Assistant to the President	MAXIE WELLS
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Deputy Assistant for Intergovernmental Affairs	LAWRENCE A. BAILEY
Deputy Assistant	LANDON BUTLER
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Deputy Counsel	MARGARET A. MCKENNA
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Deputy Assistant for Domestic Affairs and Policy	DAVID M. RUBENSTEIN
Deputy Director for Congressional Liaison	ROBERT K. RUSSELL, JR.
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Deputy Press Secretary	WALTER W. WURFEL
Deputy Press Secretary to the First Lady	ANN M. ANDERSON
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Chief Speechwriter	JAMES M. FALLOWS
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Staff Secretary	RICHARD G. HUTCHESON, III
Associate for Intergovernmental Affairs	BRUCE KIRSCHENBAUM
Associate for Congressional Liaison (House)	FREDERICK T. MERRILL, JR.
Associate for Intergovernmental Affairs	THOMAS M. PARHAM, JR.
Associate for Congressional Liaison (House)	VALERIE F. PINSON
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Deputy Staff Secretary	WILLIAM D. SIMON
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Editor, News Summary	CLAUDIA M. TOWNSEND
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Director of Advance	ELLIS A. WOODWARD
Director, White House Military Office	WARREN L. GULLEY
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Chief Usher	REX W. SCOUTEN

V42 84 MAY 2 77 UMI

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Director	THOMAS BERTRAM LANCE
Deputy Director	JAMES T. MCINTYRE, JR.
Administrator for Federal Procurement Policy	LESTER A. FETTIG (Nominatetd 4–12–77)

Council of Economic Advisers

Chairman	CHARLES L. SCHULTZE
Member	LYLE E. GRAMLEY
Member	WILLIAM D. NORDHAUS

National Security Council

MEMBERS

The President	JIMMY CARTER
The Vice President	WALTER F. MONDALE
Secretary of State	CYRUS VANCE
Secretary of Defense	HAROLD BROWN

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Central Intelligence Agency

Director	ADM. STANSFIELD TURNER

Office of the Special Representative for Trade Negotiations

Special Representative for Trade Negotiations	ROBERT S. STRAUSS

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Member	JAMES GUSTAVE SPETH

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Secretary of Health, Education, and Welfare	JOSEPH A. CALIFANO, JR.
Special Representative for Trade Negotiations	ROBERT S. STRAUSS

Office of Drug Abuse Policy

Director	PETER G. BOURNE (Nominated 2–7–77)
Deputy Director	LEE I. DOGOLOFF (Nominated 2–7–77)

Office of Science and Technology Policy

Director	FRANK PRESS

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Deputy Chief of Staff and Counsel to the Vice President	MICHAEL BERMAN
Press Secretary and Special Assistant to the Vice President	ALBERT EISELE
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Assistant to the Vice President for Congressional Relations	WILLIAM SMITH
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Scheduling Secretary to the Vice President	BECKIE MCGOWAN
Appointments Secretary to the Vice President	PENNY MILLER

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Assistant Secretary for Food and Consumer Services	CAROL TUCKER FOREMAN
Assistant Secretary for Marketing Services	ROBERT H. MEYER
Assistant Secretary for International Affairs and Commodity Programs	DALE E. HATHAWAY
Assistant Secretary for Conservation, Research and Education	M. RUPERT CUTLER
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Member, Board of Directors	M. RUPERT CUTLER
Member, Board of Directors	CAROL TUCKER FOREMAN
Member, Board of Directors	DALE E. HATHAWAY
Member, Board of Directors	HOWARD W. HJORT
Member, Board of Directors	ROBERT H. MEYER
Member, Board of Directors	JOHN C. WHITE

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Assistant Secretary for Economic Development	ROBERT THALLON HALL
Assistant Secretary for Science and Technology	JORDAN J. BARUCH
Assistant Secretary for Tourism	FABIAN CHAVEZ, JR. (Nominated 4–15–77)
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SECRETARY OF DEFENSE	HAROLD BROWN
Deputy Secretary of Defense	CHARLES WILLIAM DUNCAN, JR.
Director of Defense Research and Engineering	WILLIAM J. PERRY
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Assistant Secretary for Public Affairs	THOMAS B. ROSS
Assistant Secretary	GERALD P. DINNEEN
General Counsel	DEANNE C. SIEMER

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Assistant Secretary for Research and Development	PERCY ANTHONY PIERRE (Nominated 4–25–77)

V 42 84 MAY 2 77 UMI

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Assistant Secretary for Research and Development	DAVID E. MANN

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Inspector General	THOMAS D. MORRIS
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General Counsel	FRANK PETER S. LIBASSI
Assistant Secretary for Education	MARY BERRY
Commissioner of Education	ERNEST L. BOYER
Assistant Secretary	HENRY JACOB AARON
Assistant Secretary	ARABELLA MARTINEZ
Assistant Secretary	EILEEN SHANAHAN

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General Counsel	RUTH T. PROKOP
Assistant Secretary for Legislative Affairs	HARRY K. SCHWARTZ
Assistant Secretary for Community Development and Planning	ROBERT C. EMBRY, JR.
New Community Development Corporation: Member, Board of Directors	WILLIAM J. WHITE
Assistant Secretary for Housing	LAWRENCE B. SIMONS
President, Government National Mortgage Association	JOHN H. DALTON (Nominated 4-7-77)
Assistant Secretary for Fair Housing and Equal Opportunity	CHESTER C. MCGUIRE, JR.
Assistant Secretary for Policy Development and Research	DONNA E. SHALALA
Assistant Secretary for Administration	WILLIAM ANTONIO MEDINA (Nominated 4-25-77)
Assistant Secretary for Neighborhood and Consumer Affairs	GENO C. BARONI

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Under Secretary	JAMES A. JOSEPH
Solicitor	LEO M. KRULITZ
Assistant Secretary for Fish, Wildlife, and Parks	ROBERT L. HERBST
Assistant Secretary for Energy and Minerals	JOAN M. DAVENPORT
Assistant Secretary for Land and Water Resources	GUY R. MARTIN

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ATTORNEY GENERAL OF THE UNITED STATES	GRIFFIN B. BELL
Deputy Attorney General	PETER F. FLAHERTY
Solicitor General	WADE HAMPTON MCCREE, JR.
Assistant Attorney General, Legislative Affairs	PATRICIA M. WALD
Assistant Attorney General, Civil Division	BARBARA BABCOCK
Assistant Attorney General, Civil Rights Division	DREW S. DAYS III
Assistant Attorney General, Criminal Division	BENJAMIN R. CIVILETTI
Assistant Attorney General	DANIEL J. MEADOR
Commissioner, Immigration and Naturalization Service	LEONEL CASTILLO

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SECRETARY OF LABOR	RAY MARSHALL
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Assistant Secretary for Employment and Training	ERNEST G. GREEN
Assistant Secretary for Labor-Management Relations	FRANCIS X. BURKHARDT
Assistant Secretary for Employment Standards	DONALD ELISBURG
Director, Women's Bureau	ALEXIS M. HERMAN
Assistant Secretary for Occupational Safety and Health	EULA BINGHAM
Solicitor	CARIN ANN CLAUSS

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SECRETARY OF STATE	CYRUS VANCE
Chief of Protocol	EVAN S. DOBELLE
Executive Secretary of the Department	C. ARTHUR BORG
Special Assistant to the Secretary for Narcotics Matters	MATHEA FALCO
Ambassador at Large and Special Representative of the President for the Law of the Sea Conference	ELLIOT L. RICHARDSON
Deputy Secretary of State	WARREN M. CHRISTOPHER
Coordinator for Human Rights and Humanitarian Affairs	PATRICIA M. DERIAN (Nominated 4-29-77)
Under Secretary for Coordinating Security Assistance Programs	LUCY WILSON BENSON
Under Secretary for Economic Affairs	RICHARD N. COOPER
Deputy Under Secretary	RICHARD M. MOOSE
Deputy Under Secretary for Security, Science and Technology	JOSEPH SAMUEL NYE, JR.
Director General of the Foreign Service	CAROL C. LAISE
Counselor of the Department	MATTHEW NIMETZ
Legal Adviser	HERBERT J. HANSELL
Assistant Secretary for Administration	JOHN M. THOMAS
Assistant Secretary for Economic and Business Affairs	JULIUS L. KATZ
Director, Bureau of Intelligence and Research	HAROLD H. SAUNDERS
Assistant Secretary for Oceans and International Environmental and Scientific Affairs	PATSY T. MINK
Assistant Secretary	DOUGLAS J. BENNET, JR.
Assistant Secretary	HODDING CARTER III
Assistant Secretary	JOSEPH D. DUFFEY
Assistant Secretary	RICHARD HOLBROOKE
Assistant Secretary	CHARLES WILLIAM MAYNES, JR.
Assistant Secretary	TERENCE A. TODMAN
Administrator, Bureau of Security and Consular Affairs	BARBARA M. WATSON

Agency for International Development

Administrator	JOHN J. GILLIGAN
Assistant Administrator	FREDERICK T. VAN DYK (Nominated 4-29-77)

Permanent Mission of the United States of America to the Organization of American States

Permanent Representative of the United States of America to the Organization of American States	GALE W. MCGEE

United States Mission to the United Nations

United States Representative to the United Nations and Representative in the Security Council	ANDREW J. YOUNG
Deputy United States Representative to the United Nations	JAMES F. LEONARD, JR.
Deputy United States Representative in the Security Council	DONALD F. MCHENRY

United States Diplomatic Offices—Foreign Service

United States Ambassadors:	
Algeria	ULRIC S. HAYNES, JR. (Nominated 4-27-77)
Australia	PHILIP H. ALSTON, JR.
Belgium	ANNE COX CHAMBERS
Botswana	DONALD R. NORLAND (Nominated 4-25-77)
Cameroon	MABEL MURPHY SMYTHE (Nominated 4-25-77)

V42N84 MAY 2 77 UMI

United States Ambassadors—Continued

India	ROBERT F. GOHEEN
Iran	WILLIAM H. SULLIVAN (Nominated 4–7–77)
Israel	SAMUEL W. LEWIS
Italy	RICHARD N. GARDNER
Japan	MICHAEL J. MANSFIELD
Kenya	WILBERT J. LEMELLE (Nominated 4–7–77)
Lebanon	RICHARD B. PARKER
Lesotho	DONALD R. NORLAND (Nominated 4–25–77)
Malta	LOWELL BRUCE LAINGEN (Nominated 4–25–77)
Pakistan	GEORGE S. VEST (Nominated 4–7–77)
Seychelles	WILBERT J. LEMELLE (Nominated 4–7–77)
Swaziland	DONALD R. NORLAND (Nominated 4–25–77)
Turkey	RONALD I. SPIERS (Nominated 4–15–77)
Union of Soviet Socialist Republics	MALCOLM TOON (Nominated 4–25–77)
United Kingdom	KINGMAN BREWSTER, JR.

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General Counsel	LINDA KAMM
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Assistant Secretary for Congressional and Intergovernmental Affairs	TERRENCE L. BRACY

Federal Aviation Administration

Administrator	LANGHORNE M. BOND
Deputy Administrator	QUENTIN S. TAYLOR

Federal Highway Administration

Administrator	WILLIAM M. COX

Federal Railroad Administration

Administrator	JOHN MCGRATH SULLIVAN (Nominated 4–29–77)

National Highway Traffic Safety Administration

Administrator	JOAN B. CLAYBROOK

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SECRETARY OF THE TREASURY	W. MICHAEL BLUMENTHAL
Deputy Secretary	ROBERT CARSWELL
Under Secretary for Monetary Affairs	ANTHONY MORTON SOLOMON
Under Secretary	BETTE B. ANDERSON
Deputy Under Secretary	C. FRED BERGSTEN
Deputy Under Secretary	GENE GODLEY
Assistant Secretary for Capital Markets and Debt Management	ROGER C. ALTMAN
Assistant Secretary for Economic Policy	DANIEL H. BRILL
Assistant Secretary for Administration	WILLIAM J. BECKHAM, JR.
Assistant Secretary for Public Affairs	JOSEPH LAITIN
Assistant Secretary for Tax Policy	LAURENCE N. WOODWORTH

Internal Revenue Service

Commissioner	JEROME KURTZ

ACTION

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Deputy Director	MARY E. KING

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Administrator	DOUGLAS M. COSTLE
Deputy Administrator	BARBARA BLUM

EXPORT-IMPORT BANK OF THE UNITED STATES

President	JOHN L. MOORE, JR.

FEDERAL ENERGY ADMINISTRATION

Administrator	JOHN F. O'LEARY
Deputy Administrator	DAVID J. BARDIN
Assistant Administrator	LESLIE J. GOLDMAN (Nominated 4–7–77)

FEDERAL MEDIATION AND CONCILIATION SERVICE

Director	WAYNE L. HORVITZ

FEDERAL TRADE COMMISSION

Chairman	MICHAEL PERTSCHUK

GENERAL SERVICES ADMINISTRATION

Administrator of General Services	JAY SOLOMON

NATIONAL LABOR RELATIONS BOARD

Chairman	JOHN H. FANNING

NATIONAL SCIENCE FOUNDATION

Director	RICHARD C. ATKINSON (Nominated 4–21–77)

V4284 MAY 2 77 UMI

RENEGOTIATION BOARD

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Member	WILLIAM F. McQUILLEN (Nominated 3-11-77)
Member	HARRY R. VAN CLEVE

SECURITIES AND EXCHANGE COMMISSION

Chairman	HAROLD M. WILLIAMS

SMALL BUSINESS ADMINISTRATION

Administrator	A. VERNON WEAVER, JR.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Director	PAUL C. WARNKE
Deputy Director	SPURGEON M. KEENY, JR. (Nominated 4-27-77)

UNITED STATES CIVIL SERVICE COMMISSION

Commissioner	ALAN K. CAMPBELL (Nominated 4-5-77)

UNITED STATES INFORMATION AGENCY

Director	JOHN E. REINHARDT
Deputy Director	CHARLES W. BRAY III (Nominated 4-27-77)

VETERANS ADMINISTRATION

Administrator of Veterans Affairs	JOSEPH MAXWELL CLELAND

[FR Doc.77-12118 Filed 4-29-77;8:45 am]

federal register

MONDAY, MAY 2, 1977
PART III

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

V4284 MAY 2 77 UMI

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplants:

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-151	Oklahoma Gas & Electric Co.	Mustang	1,2	Oklahoma City, Okla.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find that the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named powerplants. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119 (d) (1) (B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119 (c) or (b) of such Act, if such notification is not given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d) (1) (B) of the Clean Air Act is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a) (4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75–1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2) (C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectivenes. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant tha has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibition Orders to the powerplants issued above is invited in the form of written and oral presentation of data, views, and arguments.

Comments should address: (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 23–25, 1977, in the 2d Floor Training Room, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Texas 75235. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Darryl Greenwell, FEA Region VI, 2626 W. Mockingbird Lane, Dallas Texas 75235, 214–749–7727. The request should be received before 4:30 p.m., Monday, May 16, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may by contacted through May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Wednesday, May 18, 1977, and should submit ten (10) copies of the oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Delbert Fowler, Regional Administrator, Federal Energy Administration, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Texas 75235, before 4:30 p.m., Friday, May 20, 1977.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Reading Room, 2626 W. Mockingbird Lane, Dallas, Texas 75235, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MC, Federal Energy Administration, Federal Building, Room 3309, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Mustang Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway St., room 700, Boston, Mass. 02113; 617–223–3701.
II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007; 212–264–1021.
III—J. A. LaSala, Regional Administrator, 1421 Cherry St., room 1001, Philadelphia, Pa. 19102; 215–597–3390.
IV—Donald Allen, Regional Administrator, 1655 Peachtree St. NE., 8th floor, Atlanta, Ga. 30309; 404–526–2837.
V—N. Allen Andersen, Regional Administrator, Federal Office Bldg., 175 West Jackson Blvd., room A–333, Chicago, Ill. 60604; 312–353–0540.
VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235; 214–749–7345.
VII—Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106; 816–374–2061.
VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226; 303–234–2430.
IX—William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111; 415–556–7216.
X—Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174; 206–442–7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: Mustang Powerplant), Washington, D.C. 20461, 202–566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain fiidings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-151	Oklahoma Gas & Electric Co.	Mustang	1 2	Oklahoma City, Okla.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Oklahoma Gas & Electric Company shall be referred to as the "utility" and as "OG&E".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Numbers 1 and 2 at Mustang Generating Station (Mustang 1 and 2) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. OG&E, in information filed with FEA dated July 8, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information OG&E filed with FEA dated July 8, 1975, and other information available to FEA, the following plant equipment or facilities at Mustang 1 and 2 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment.
2. Boiler (refurbish).
3. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Mustang 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Mustang 1 and 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Mustang 1 and 2 will be operated at a 41 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 15 years (as of the date of this NOI), are expected to have at least 10 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Mustang 1 and 2 are estimated to be approximately $13,296,000 which assumes that electrostatic precipitators will be required at a cost of $3,321,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Mustang Generating Station," February 25, 1977, hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $1,021,000 per year including $290,000 for operating and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report,

V42N84 MAY 2 77 UMI

c. *Fuel costs.* (i) Based on information supplied by OG&E, the price of natural gas available to Mustang 1 and 2 is approximately $1.08 per million BTU's for natural gas. This represents $1.11 per MCF of natural gas, assuming 1.04 million BTU's per MCF.

(ii) Based on information supplied by OG&E the price of coal available to Mustang 1 and 2 is approximately $1.01 per million BTU's. This represents $16.73 per ton of coal, assuming 16.5 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $0.10 per million BTU's, or $333,000 per year in fuel costs. This estimate is based on fuel consumption presuming Mustang 1 and 2 are operated at a weighted average 41 percent capacity factor and with an average heat rate of 12,500 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Mustang 1 and 2, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $4,509,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Mustang 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $3,488,000 (this represents an amortized cost over the 10 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 26.3 percent of the total initial capital investment of $13,276,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $1,021,000 (these figures are derived from the figures in paragraphs A.1. a., and b.), but will experience an annual fuel cost savings of approximately $333,000. (See paragraph A.1.c.) The estimated net annual increased in cost of producing electricity at Mustang 1 and 2 after conversion will be $4,176,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Mustang 1 and 2. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Mustang 1 and 2 will result in an estimated annual equivalent savings of 5,157,000 MCF of natural gas that otherwise would be used in providing steam for electric power generation. The cost of conversion per MCF of natural gas saved is estimated to be $0.81.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Mustang 1 and 2, FEA proposes to find that such increased cost, per MCF of natural gas saved, is not unreasonable. This determination is based on consideration of the substantial savings of natural gas that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 10 years remaining useful life of the powerplants after conversion, the size and resources of OG&E as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Oklahoma Gas & Electric Co.—a. Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Mustang 1 and 2 would be economically feasible. FEA's analysis took into consideration the $13,276,00 additional capital investment cost required for OG&E to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to OG&E powerplants. FEA related these additional capital investment costs to OG&E's net property and plant of $879 million, OG&E's estimate of its 1977–79 construction budget of $488 million, the total capitalization of OG&E of $754 million and the 10 years remaining useful life after conversion of Mustang 1 and 2. FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capability of OG&E to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $4,509,000. This also represents the total estimated annual incremental increase in revenue requirements of OG&E. (FEA also took into consideration revenue requirements of OG&E resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to OG&E powerplants.) This estimate of $4,509,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal", October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $3,330,000, which assumed a predicted effect on OG&E's financial statement and represents revenues required to offset any potential loss in OG&E's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $4,509,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $333,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of OG&E should increase by approximately $4,176,000.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Mustang 1 and 2 is a net increase in revenues required from OG&E consumers of approximately $0.00028 per kilowatt hour of electricity sold by OG&E. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which OG&E selects to finance the increased costs associated with burning coal as a primary energy source at Mustang 1 and 2, the extent to which the cost increase is spread among OG&E consumers, the regulations of policies of the regulatory agencies with jurisdiction over OG&E regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Mustang 1 and 2 will discourage the use of natural gas or pretroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Mustang 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.—A. Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Potential production (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980.

The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows ("FEA 1976 National Energy Outlook"):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Mustang 1 and 2. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from those companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal wet bottom units, of the type used at Mustang 1 and 2 will be able to burn coal of the following characteristics and comply all applicable air pollution control requirements:

Btu's/lb.	[1] 9,900
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[2] 2,300
Sulfur (approx.) (percent)	[2] 4.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	7,324

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Mustang 1 and 2 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	32,476
1978	80,178
1979	170,964
1980	200,856
1981	242,590
1982	255,739
1983	272,957
1984	332,834

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Phohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	*Demand (thousand tons)*
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Mustang 1 and 2 (in a probable regional supply/demand relationship related to the location of these powerplants) from BOM Districts 7 through 15, 17, 18, and 20, as follows:

Year:	*Production (thousand tons)*
1977	22,539
1978	54,909
1979	116,267
1980	136,035
1981	164,946
1982	173,938
1983	185,721
1984	226,694

1. Regional ESECA prohibition order demand for coal, regardless of characteristic. The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7 through 15, 17, 18, and 20 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	1,755
1978	3,574
1979	5,070
1980	8,681
1981	10,405
1982	11,156
1983	11,156
1984	11,156

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7 through 15, 17, 18, and 20 with a 2.21–4.71 percent sulfur content (which includes the 4.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 2.21 to 4.71*
1977	0
1978	0
1979	26
1980	78
1981	78
1982	3,421
1983	3,421
1984	3,421

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 7 through 15, 17, 18 and 20 uncommitted coal production that meets the requirements of Mustang 1 and 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI from all other

V42N84 MAY 2 7 7 UMI

Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Mustang 1 and 2 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from BOM Districts 7 through 15, 17, 18 and 20. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of powerplants and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Mustang 1 and 2 would probably come from BOM District 20 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Mustang 1 and 2 would originate in District 20 on the Denver and Rio Grande Western (D&RGW) Railroad taking the coal to Pueblo, Colorado, (coal is trucked from the mine site to the originating point at Salina, Utah), taking the Colorado and Southern (Burlington Lines) to Sixela, Texas, taking Fort Worth & Dallas to Amarillo, Texas, and taking the Chicago, Rock Island & Pacific (CRI&P) to the plants. The total distance is approximately 1,100 miles.

One alternate route from BOM District 20 would involve originating coal on the D&RGW to Pueblo, Colorado, and taking the Atchison, Topeka, and Santa Fe via Newton, Kansas and Wichita, Kansas to the plants.

Another alternate route from the alternate supply would be to originate coal from BOM District 20 on the D&RGW to Denver, Colorado, taking the CRI&P to the plants, via Kansas City, Kansas.

3. *Originating trunk carrier.* The D&RGW, the expected originating carrier of coal for Mustang 1 and 2, has approximately 2,500 hopper cars with an estimated average capacity of 90 tons. Using an average number of deliveries of 20 per year per 90-ton car, the D&RGW may need as many as 180 additional cars to handle the increased demand from Mustang 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 1 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 5 percent per year. The D&RGW indicated that it is willing to acquire any needed capacity involved in shipment to Mustang 1 and 2 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The D&RGW indicated that transportation facilities at those mine sites within BOM District 20 served by the D&RGW are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carrier for Mustang 1 and 2 is the Chicago, Rock Island & Pacific (CRI&P) Railroad. This company's jurisdiction includes tracks to the plant. They presently make non-coal deliveries to the plant.

Oklahoma Gas and Electric Company has informed FEA that Mustang 1 and 2 were designed to burn natural gas with coal as a standby fuel. The existing trackage to the site was not intended to handle coal quantities of the magnitude projected after conversion. Tight curves and loose ties have caused several derailments in the past. To deliver the required coal quantities, the utility indicated that new spur trackage to the plant would have to be constructed. The CRI&P concurred with this assessment and indicated that an engineering study would be necessary to determine the best routing of a new track to the plant. Two possibilities included building a half-mile spur over the existing railroad bed, or building a spur from a new track section recently built to the west of the plant.

The Mustang plant currently has minimal coal unloading capability. This consists of a hopper dump/conveyor system for small car deliveries and a railroad mounted unloading crane capable of handling one 40 or 50 ton car per hour. The utility reported that new unloading facilities would have to be constructed to handle the required tonnage using 90 ton cars.

None of the required construction of track or unloading facilities is either currently underway or planned. While there is no physical reason to preclude coal transportation to Mustang 1 and 2, it will be necessary to construct new trackage and unloading facilities before the required tonnages can be delivered. It is expected that this new construction can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Mustang 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Mustang 1 and 2 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Mustang 1 and 2 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Mustang Generating Station is owned by OG&E, which is a member of the Southwest Power Pool Regional Electric Reliability Council.

2. The term "dispatching system" as used in the proposed finding means OG&E.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 3,325 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Mustang 1 and 2 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Muskogee 4	Coal	Add	+572	Feb. 1977.
Muskogee 5	do	Add	+572	Feb. 1978.
Sooner 1	do	Add	+567	Feb. 1979.
Sooner 2	do	Add	+567	Feb. 1980.
		Totals: Added	+2,278	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 18, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Mustang 1 and 2.

FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Mustang 1 and 2 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for these forecasts is 7.7 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance during the period in which Mustang 1 and 2 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments resquired by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from a combined outage of Mustang 1 and 2 would be approximately 145 MW (line 7, attachment 1). This represents the maximum potential loss due to outages at these powerplants, but it is expected that Mustang 1 and 2 will be implementing a Prohibition Order at different times. This maximum potential loss of 145 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all power plants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparison of this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of the reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Mustang 1 and 2.

5. At the completion of the conversion there will be a net 1.9 MW derating of Mustang 1 and 2 as a result of using coal as their primary energy source.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Mustang 1 and 2, are as presently forecast during the time required to implement a Prohibition Order by Mustang 1 and 2, there will be no impairment of reliability of service within the meaning of ESECA in the area served by OG&E or in the dispatching system as a result of the Order.

OKLAHOMA GAS AND ELECTRIC COMPANY
MUSTANG

ASSUMED CONVERSION PERIODS, MARCH 1—APRIL 30, 1982

	Megawatt capacity
1. Gross capacity as of September 1, 1976	3,325
2. Added capacity	2,278
3. Gross capacity	5,603
4. Scheduled outages for maintenance	687
5. Projected outages due to prohibition orders	145
6. Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	832
7. Unit outage	145
8. Peak load spring 1982	2,653
9. New dependable capacity	4,771
10. Reserve capacity	2,118
11. Reserve margin percent (maintenance and prohibition orders	79.83
12. Reserve margin percent (maintenance only)	85.3

[FR Doc.77-12162 Filed 4-29-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2(a) and (b) of the Energy Supply and Environmental Coordintaion Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplant:

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-150	Interstate Power Co	For Lake	3	Sherburn, Minn.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplant from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the Prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue a Prohibition Order to the above-named powerplant. This Prohibition Order will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness.

That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue a Prohibition Order to the powerplant listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to the individual docket numbers

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and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9:00 a.m. on May 23 and 24, 1977, 219 S. Dearborn Street, Room 1903, at Chicago, Illinois 60604. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request or a verbal request, if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to George Evans, Region V, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-5168. The request should be received before 4:30 p.m., Monday, May 16, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Wednesday, May 18, 1977, and should submit ten (10) copies of their oral presentation to be made at the hearing, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to N. Allen Anderson, Regional Administrator, Federal Energy Administration, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Illinois 60604, before 4:30 p.m., Friday, May 20, 1977.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the questions are relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, and the FEA Regional Office, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to this proposed Prohibition Order to Executive Communications, Federal Energy Administration, Box MC, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Fox Lake Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat in in accordance with that determination.

Copies of the regulations implementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Region Administrator, 150 Causeway St., room 700, Boston, Mass. 02114; 617-223-3701.

II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007; 212-264-1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry St., room 1001, Philadelphia, Pa. 10102; 215-597-3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree St. NE., 8th Floor, Atlanta, Ga. 30309; 404-526-2837.

V—N. Allen Andersen, Regional Administrator, Federal Office Bldg., 175 West Jackson Blvd., room A-333, Chicago, Ill. 60604; 312-353-0540.

VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235; 214-749-7345.

VII—Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106; 816-374-2061.

VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226; 303-234-2420.

IX—William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111; 415-556-7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174; 206-442-7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OFU (Prohibition Order: ------ Powerplant), Washington, D.C. 20461, (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-150	Interstate Power Co.	Fox Lake	3	Sherburn, Minn.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Interstate Power Company shall be referred to as the "utility" and as "Interstate".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 3 at Fox Lake Generating Station (Fox Lake 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Interstate, in information filed with FEA dated July 10, 1975, indicated that this powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Fox Lake 3 is presently burning coal as its primary energy source. Therefore, FEA proposes to find that Fox Lake 3 has the necessary plant equipment and facilities associated with the burning of coal.

C. Within the meaning of ESECA and the regulations promulgated pursuant thereto, this powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning coal at Fox Lake 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* Since Fox Lake 3 is currently burning coal as its primary energy source, FEA proposes to find that Fox Lake 3 has acquired or modified the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions were not undertaken as a result of (or in contemplation of) the issuance of a Prohibition Order. These acquisitions or modifications either include or should include those necessary for compliance with the requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* FEA proposes to find that there are no apparent significant increases in operating and maintenance costs that would result from the continued burning of coal by Fox Lake 3.

c. *Fuel costs.* The alternate fuel which could be used by Fox Lake 3 is natural gas. However, based on information obtained from the Federal Power Commission and from Interstate, FEA has determined that Fox Lake 3 should continue to experience a substantial curtailment of any future supply of natural gas. FEA, therefore, proposes to find that Fox Lake 3 will continue to burn coal as its primary energy source with no increase in fuel costs as a result of a Prohibition Order.

d. *Total annual costs.* FEA proposes to find that there will be no annual increase in costs incurred, at Fox Lake 3, as a result of an order which prohibits the burning of natural gas or petroleum products.

2. *Reasonableness of costs.* Considering the fact that FEA has determined that Fox Lake 3 should continue to experience a curtailment of its alternate fuel, natural gas, as well as the fact that the utility has acquired or modified such equipment and facilities as are necessary in order to burn coal as its primary energy source, FEA proposes to find that the cost of burning coal in lieu of natural gas or petroleum products is reasonable.

3. *Financial capability of Interstate Power Company.* FEA assumes that any capital investment costs associated with the acquisitions and modifications necessary for the burning of coal at Fox Lake 3 are identified in the utility's current and prospective budgetary plans. FEA proposes to find that the decision by the utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source at Fox Lake 3 was based on an analysis of the financial capability of the utility to assume such capital investment costs as well as any additional operating and maintenance costs, associated with the burning of coal.

FEA, therefore, proposes to find that the utility has concluded that the burning of coal in lieu of petroleum products or natural gas is economically feasible.

4. *Consumer impact.* FEA proposes to find that the issuance of a Prohibition Order to Fox Lake 3 should have no material effect on Interstate consumers since there will be no significant change in the cost of producing electricity at Fox Lake 3 as a result of the continued burning of coal at this powerplant.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Fox Lake 3 will discourage the use of nautral gas or petroleum products and encourage the continued use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Fox Lake 3 would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*—A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1976," Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 260 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 80% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	49.4
1978	122.2
1979	237.1
1980	307.3
1981	344.9
1982	363.9
1983	369.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA is as follows ("FEA 1976 National Energy Outlook"):

Year:	Demand (million tons)
1977	698
1978	739
1979	784
1980	799
1981	842
1982	867
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and Round II Coal Conversion Candidates," August 1976 [hereafter "Coal Conversion Study"]):

Year:	Demand (million tons)
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	39.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Fox Lake 3. The survey is based on data from 91 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommit-

V42184 MAY 2 77 UMI

ted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler, of the type used at Fox Lake 3, is able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 8,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximate) (percent)	[2] 2

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	198

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Fox Lake 3 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	24,139
1978	46,733
1979	92,055
1980	113,447
1981	134,286
1982	141,194
1983	150,591
1984	175,497

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Fox Lake 3 (in a probable regional supply/demand relationship related to the location of this powerplant) from BOM Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	20,378
1978	39,573
1979	74,016
1980	84,992
1981	99,602
1982	105,362
1983	113,346
1984	132,903

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.c., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand from BOM Districts 1 through 15 for coal with a 1.81–2.20 percent sulfur content (which includes the 2.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.81 to 2.20
1977	0
1978	0
1979	63
1980	377
1981	377
1982	10,170
1983	10,170
1984	10,170

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Fox Lake 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Fox Lake 3 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from BOM Districts 1 through 15. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of powerplant and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Fox Lake 3 would probably come from BOM District 19 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to the Fox Lake plant would originate on the Union Pacific Railroad (UP) to Council Bluffs, Iowa. The Chicago & North Western (C&NW) would take the coal to Miloma, Minn. via Sioux City, Iowa. The Chicago Milwaukee St. Paul and Pacific (CMSP&P) would then take it to the plant at Sherburn, Minnesota. The total distance is approximately 800 miles. The alternate route from the primary supply area would involve originating on the Union Pacific to Council Bluffs. The C&NW would carry the coal to Albert Lea, Minnesota. The CMSP&P would then deliver it to the plant.

3. *Originating trunk carrier.* The UP, the originator of coal for Fox Lake 3 has approximately 7,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the UP may need as many as 90 additional cars to handle the demand from Fox Lake 3. This estimate assumes that the railroad will neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The UP indicated that it is willing to acquire any needed capacity involved in shipment to the Fox Lake facility and that it will modify its expansion plans with demand conditions.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The UP indicated that transportation facilities at those mine sites within BOM District 19 are in satisfactory operating conditions and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carrier for Fox Lake 3 is the Chicago, Milwaukee, St. Paul and Pacific (CMSP&P). This company's jurisdiction includes tracks to the plant, and coal deliveries are presently being made to the plant via the CMSP&P. The existing tracks are adequate to handle the projected coal demand through 1985. The plant currently has coal unloading facilities which are able to handle the indicated demand, although it is possible that some expansion will be necessary.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to Fox Lake 3 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission and Interstate, FEA proposes to find that the issuance of a Prohibition Order to Fox Lake 3 will not impair the reliability of service in the area served by the powerplant since there will be no outage as a result of a Prohibition Order to Fox Lake 3.

Interstate has advised FEA that Fox Lake 3 was designed to burn natural gas or coal and is currently burning coal. There will, therefore, be no impairment of reliability of service within the meaning of ESECA in the area served by Interstate as a result of a Prohibition Order.

[FR Doc.77-12163 Filed 4-29-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplants:

Docket No.	Owner	Generating station	Number	Location
OFU-108	City of Vineland Electric Utility	Howard M. Down	10	Vineland, N.J.
OFU-111	General Public Utilities Corp./Jersey Central Power & Light Co.	Sayreville	7	Sayreville, N.J.
OFU-112	do	do	8	Do.
OFU-122	Long Island Lighting Co.	E. F. Barrett	19	Island Park, N.Y.
OFU-124	do	Port Jefferson	30	Port Jefferson, N.Y.
OFU-125	do	do	40	Do.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find that the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named powerplants. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective, will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness.

Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality, and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposes to issue Prohibition Orders to the powerplants listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments of interested persons will be held beginning at 9:00 a.m. on May 13 and 14, 1977, at the Federal Building, Room 305, at 26 Federal Plaza, New York, New York 10007. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Clifford Tomaszewski, FEA Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (214) 264-4234. The request should be received before 5:00 p.m., Friday, May 6, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation

V 42 84 MAY 2 77 7 UMI

and a phone number where person may be contacted through May 12, 1977. Speakers will be contacted by an FEA representative before 5:00 p.m., Monday, May 9, 1977, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Alfred Kleinfeld, Regional Administrator, Federal Building, 26 Federal Plaza, Room 3206, New York, New York 10007, before 5:00 p.m., Thursday, May 12, 1977.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Rm. 2107, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office Reading Room, Federal Building, Room 3200, 26 Federal Plaza, New York, New York 10007, between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to these proposed Prohibition Orders to Executive Communications, Federal Energy Administration, Box MC, Room 3309, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Powerplant." Fifteen copies should be submitted.

All written comments received by 5:00 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices.

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway St., room 700, Boston, Mass. 02114; 617–223–3701.

II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007; 212–264–1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry St., room 1001, Philadelphia, Pa. 19102; 215–597–3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree St. NE., 8th floor, Atlanta, Ga. 30309; 404–526–2837.

V—N. Allen Andersen, Regional Administrator, Federal Office Bldg., 175 West Jackson Blvd., room A–333, Chicago, Ill. 60604; 312–353–8420.

VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235; 214–749–7345.

VII—Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106; 816–374–2061.

VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226; 303–234–2420.

IX—William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111; 415–556–7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174; 206–442–7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: _____ Powerplant), Washington, D.C., 20461, 202–566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU–103	City of Vineland Electric Utility	Howard M. Down	10	Vineland, N.J.

These findings, which are now proposed by FEA, are based on information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

City of Vineland Electric Utility shall be referred to as the "utility" and as "Vineland."

I. Capability and necessary plant equipment to burn coal. FEA proposes to find that on June 22, 1974, Powerplant Number 10 at the Howard M. Down Generating Station (Down 10) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Vineland, in information filed with FEA dated July 10, 1975, indicated that the powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Vineland filed with FEA dated July 10, 1975, and other information available to FEA, the following plant equipment or facilities at Down 10 would have to be acquired or refurbished in order for this powerplant to burn coal as its primary energy source:

1. Pulverizers and associated equipment.

C. FEA proposes to find that on June 22, 1974, Down 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.

FEA proposes to find that the burning of coal at Down 10 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Down 10 will be operated at an 80 percent capacity factor, has a remaining useful life of 29 years (as of the date of this NOI), is expected to have at least 28 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Down 10 are estimated to be approximately $184,000 which assumes that waste water treatment equipment will be required at a cost of $173,000 to comply with the water pollution control requirements of the Federal Water Pollution Control Act. This estimate is based on a PEDCo—Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Down 10 Plant," March 5, 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $251,000 per year. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Vineland, the price of petroleum products available to Down 10 is approximately $2.31 per million BTU's for oil. This represents $14.07 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by Vineland, the price of coal available to Down 10 is approximately $1.23 per million BTU's. This represents $31.98 per ton of coal, assuming 26.0 million BTU's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in the reduction of approximately $1.08 per million BTU's, or $2,366,000 per year in fuel costs. This estimate is based on fuel consumption presuming Down 10 is operated at an 80 percent capacity factor and with an average heat rate of 12,514 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Down 10, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $271,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Down 10 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $19,700 (this represents an amortized cost over the 28 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 10.7 percent of the total initial capital investment of $184,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $251,000 (these figures are derived from the figures in paragraphs A.1. a, and b.), but will experience an annual fuel cost savings of approximately $2,368,000. (See paragraph A.1.c.) Considering the fuel cost savings, the total annual cost of operating Down 10 should be reduced by $2,097,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Down 10. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Down 10 will result in an estimated annual equivalent savings of 360,000 barrels of oil that otherwise would be used in providing steam for electric power generation.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplant are offset by the current fuel cost differential between oil and coal burning at this powerplant, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of Vineland.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Down 10 would be economically feasible. FEA's analysis took into consideration the $184,000 additional capital investment costs required for Vineland to comply with this NOI, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to Vineland's powerplants.

FEA related these additional capital investment costs to Vineland's net property and plant of $23.9 million, the utility's estimate of its 1977–79 construction budget of $295 million, the total capitalization of the utility of $29 million, and the 28 years remaining useful life after conversion of Down 10.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of Vineland to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI would be $271,000. This also represents the total estimated annual incremental increase in revenue requirements of the utility.

(FEA also took into consideration revenue requirements of the utility resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to Vineland's powerplants.) This estimate of $271,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities To The Use Of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $264,000 which assumed a predicted effect on Vineland's financial statement and represents revenues required to offset any potential loss in net income as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $271,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $2,368,000 attributable to compliance with this NOI, the net annual revenue requirements of Vineland should decrease by approximately $2,097,000.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Down 10 is a net decrease in revenues required from Vineland's consumers of approximately $0.0074 per kilowatt hour of electricity sold by Vineland. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Vineland selects to finance the increased costs associated with burning coal as a primary energy source at Down 10, the extent to which the cost decrease is spread among Vineland's consumers, the regulations or policies of the regulatory agencies with jurisdiction over Vineland regarding inclusion of such cost decreases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Down 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Down 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.—A. Coal *availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected

V42N84 MAY 2 77 7 UMI

total planned national coal production, already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows ("FEA 1976 National Energy Outlook"):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976 [hereafter "Coal Conversion Study"]):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Down 10. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their uncommitted 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler, of the type used at Down 10, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 12,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 10
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1977	21
1978 and thereafter	84

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Down 10 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	15,511
1978	30,521
1979	56,681
1980	69,131
1981	81,867
1982	86,452
1983	92,821
1984	107,352

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.3.c., above, is:

Year:	*Demand (thousand tons)*
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Down 10 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	*Production (thousand tons)*
1977	15,004
1978	29,231
1979	53,016
1980	61,052
1981	71,658
1982	76,033
1983	82,124
1984	95,690

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 1 through 15 for coal with a 1.41–1.80 percent sulfur content (which includes the 1.5 percent maximum sulfur content described in paragraph A.3.a., above), resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 1.41 to 1.80*
1977	1,143
1978	1,766
1979	1,957
1980	2,880
1981	3,362
1982	3,458
1983	3,458
1984	3,458

The regional planned production of coal stated in paragraph A.3.c., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in BOM Districts 1 through 15 uncommitted coal production that meets the requirements of Down 10 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

Coal for Down 10 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from BOM Districts 1 through 15. FEA observes, however, that the powerplant could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal By Midwestern and Eastern Utilities in the Period 1978 and Beyond", School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of the powerplant and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability", November 1976, (hereafter "Transportation Availability Study"), coal for Down 10 would probably come from BOM District 8 as the primary and alternate source of supply. While this supply area is the nearest available potential source able to provide complying coal to this plant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Down 10 would originate on Consolidated Railroad Corporation (ConRail) which can carry the coal to Down 10 at Vineland, New Jersey, via Altoona, Pennsylvania, Lancaster, Pennsylvania, and Philadelphia, Pennsylvania. The total distance is approximately 300 miles.

One alternate route from BOM District 8 would involve originating coal on ConRail via Williamsport, Pennsylvania, Reading, Pennsylvania, and Philadelphia, Pennsylvania, to the powerplant.

Another alternate route from the alternate supply would be to originate coal from BOM District 8 (Virginia) to Baltimore, Maryland on the Chessie (Baltimore & Ohio), to the powerplant via Philadelphia, Pennsylvania, on ConRail.

3. *Originating trunk carrier.* ConRail, the expected originating carrier of coal for Down 10 has approximately 52,000 hopper cars with an estimated average capacity of 80 tons. Using an average number of deliveries of 10 per year per 80-ton car, ConRail may need as many as 105 additional cars to handle the increased demand from Down 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

ConRail indicated that it is willing to acquire any needed capacity involved in shipment to Down 10 and that it would modify its expansion plans with demand conditions. ConRail also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive Orders under section 2(a) of ESECA.

ConRail indicated that transportation facilities at the mine sites within BOM District 8 are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carrier for Down 10 is ConRail. This carrier's jurisdiction includes tracks to the plant on which coal deliveries have historically been made. The plant has two sidings, each of which has well maintained loading facilities sufficient to handle the indicated demand according to the utility. Conversion of Down 10 to coal is presently planned and supply arrangements have been negotiated. All facilities are in good condition and have adequate capacity.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no constraints to coal delivery over the primary route to Down 10 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Down 10 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Down Station is owned by Vineland, which is a member of the Pennsylvania/New Jersey/Maryland Interconnection (PJM), which is within the geographical area of the Mid-Atlantic Area Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the PJM.

3. The gross capacity, as of September 1, 1976, of all dispatching system powerplants was 44,543 MW (see line 1, attachment 1).

4. Proposed changes up to the period in which Down 10 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Salem 1	Nuclear	Add	+1000	Dec. 1976.
Martins Creek 4	Oil	Add	+850	Jan. 1977.
Calvert Cliffs 2	Nuclear	Add	+900	Mar. 1977.
Crawford 3	Coal	Retired	−42	Do.
Crawford 4	do	do	−5	Do.
Gould St. 1	Oil	do	−33	Apr. 1977.
Gould St. 2	Oil	do	−33	Do.
Easton 21	Oil	Add	+625	May 1977.
Easton 22	Oil	Add	+625	Do.
Easton 3	Oil	Retired	−7	Do.
Gilbert 8	Oil	Add	+130	Do.
Totals:				
Added			+2983	
Retired			−114	
Net change			+2869	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E–2 dated October 29, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to be projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Down 10. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Down 10 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for this forecast is 5.4 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the period in which Down 10 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the year 1977. The potential loss of capacity from an outage of Down 10 would be approximately 25 MW (line 7, attachment 1) which is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

V42N84 MAY 2 77 UMI

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Down 10.

5. There will be no derating of Down 10 as a result of using coal as its summary energy source.

6. Existing transmission system interconnections may transfer an additional 6,350 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Down 10, are as presently forecast during the time required to implement a Prohibition Order by Down 10, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Vineland or in the dispatching system as a result of the Order.

PJM RELIABILITY DATA VINELAND

ASSUMED CONVERSION PERIOD, JULY 1 TO AUGUST 31, 1977

	Megawatt capacity
1. Gross capacity of PJM as of Sept. 1, 1976	44,543
2. Added capacity	2,869
3. Gross capacity	47,412
4. Scheduled outages for maintenance	2,000
5. Projected outages due to prohibition orders	25
6. Maximum projected outages due to maintenance and prohibition ordera (line 4 plus line 5)	2,025
7. Unit outage	25
8. Peak load summer 1977	33,130
9. Net dependable capacity	45,387
10. Reserve capacity	12,257
11. Reserve margin percent (maintenance and prohibition orders)	37
12. Reserve margin percent (maintenance only)	37.07

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-111 OFU-112	General Public Utilities Corp./Jersey Central Power & Light Co.	Sayreville	7 8	Sayreville, N.J.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Jersey Central Power and Light Company, a wholly-owned subsidiary of General Public Utilities Corporation, shall be referred to as the "utility" and as "JCPL."

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 7 and Number 8 at Sayreville Generating Station (Sayreville 7 and 8) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. JCPL, in information filed with FEA dated July 24, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information JCPL filed with FEA dated July 24, 1975, and other information available to FEA, the following plant equipment or facilities at Sayreville 7 and 8 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment
2. Pulverizers, burners and boilers
3. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Sayreville 7 and 8 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Sayreville 7 and 8 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Sayreville 7 and 8 will be operated at a 55 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 18 years (as of the date of this NOI), are expected to have at least 11 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Sayreville 7 and 8 are estimated to be approximately $37,102,000, which assumes that flue gas desulfurization equipment (venturi scrubbers included) will be required at a cost of $28,164,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Sayreville Generating Station," February 25, 1977, (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $9,903,000 per year including $7,980,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by JCPL, the price of petroleum products available to Sayreville 7 and 8 is approximately $2.44 per million BTU's for oil. This represents $14.74 per barrel of oil, assuming 6.04 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission, the price of coal available to Sayreville 7 and 8 is approximately $1.07 per million BTU's. This represents $26.90 per ton of coal, assuming 25.0 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $1.37 per million BTU's, or $17,189,000 per year in fuel costs. This estimate is based on fuel consumption presuming Sayreville 7 and 8 are operated at a weighed average 55 percent capacity factor and with an average heat rate of 10,568 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Sayreville 7 and 8, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $19,258,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Sayreville 7 and 8 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $9,955,000 (this represents an amortized cost over the 11 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 25.2 percent of the total initial capital investment of $37,102,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $9,903,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual fuel cost savings of approximately $17,189,000. (See paragraph A.1.c.) The estimated net annual increase in cost of producing electricity at Sayreville 7 and 8 after conversion will be $2,069,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be in an increase in the cost of producing electricity at Sayreville 7 and 8. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Sayreville 7 and 8 will result in an estimated annual equivalent savings of 2,066,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrell of oil saved is estimated to be $0.99.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Sayreville 7 and 8, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 11 years remaining useful life of the powerplants after conversion, the size and resources of General Public Utilities Corporation as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of General Public Utilities Corporation.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Sayreville 7 and 8 would be economically feasible. FEA's analysis took into consideration the $37,102,000 additional capital investment required for General Public Utilities Corporation to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to General Public Utilities Corporation powerplants. FEA related these additional capital investment costs to General Public Utilities Corporation's net property and plant of $2.4 billion, General Public Utilities Corporation's estimate of its 1977–79 construction budget of $1.3 billion, the total capitalization of General Public Utilities Corporation of $3.2 billion, and the 11 years remaining useful life after conversion of Sayreville 7 and 8.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relationship which exists between General Public Utilities Corporation and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $19,258,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of General Public Utilities Corporation. (FEA also took into consideration revenue requirements of the subsidiaries of General Public Utilities Corporation resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to General Public Utilities Corporation powerplants). This estimate of $19,258,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976 (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled, "Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities to the Use of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $17,849,000 which assumed a predicted effect on General Public Utilities Corporation's financial statement and represents revenues required to offset any potential loss in General Public Utilities Corporation's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $19,258,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $17,189,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of General Public Utilities Corporation should increase by approximately $2,069,000.

4. *Consumer impact.* The JCPL, a wholly-owned subsidiary of General Public Utilities Corporation, is the owner and operator of the Sayreville Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Sayreville 7 and 8.

The potential initial impact of a Prohibition Order to Sayreville 7 and 8 is a net increase in revenues required from JCPL consumers of approximately $0.000077 per kilowatt hour of electricity sold by JCPL. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which General Public Utilities Corporation selects to finance the increased costs associated with burning coal as a primary energy source at Sayreville 7 and 8, the extent to which the cost increase is spread among JCPL consumers, the regulations or policies of the regulatory agencies with jurisdiction over JCPL regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Sayreville 7 and 8 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Sayreville 7 and 8 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Potential production (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	Demand (million tons)
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

V42N84 MAY 2 7 7 UMI

3. *Characteristic coal production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Sayreville 7 and 8. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that cyclone boilers of the type used at Sayreville 7 and 8 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 13,000
Moisture (percent)	[2] 15
Ash softening temp. (°F)	[2] 2,300
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[2] 2,300
Sulfur (approx.) (percent)	[2] 2

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	504

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Sayreville 7 and 8 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	7,288
1978	18,537
1979	18,289
1980	49,159
1981	58,289
1982	61,337
1983	65,321
1984	79,190

d. *National ESECA prohibition demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Sayreville 7 and 8 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	7,288
1978	18,537
1979	18,289
1980	49,159
1981	58,289
1982	61,337
1983	65,321
1984	79,190

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 15 with a 1.81–2.20 percent sulfur content (which includes the 2.0 maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.81 to 2.20
1977	0
1978	0
1979	63
1980	377
1981	377
1982	10,170
1983	10,170
1984	10,170

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availibility Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Sayreville 7 and 8 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

Coal for Sayreville 7 and 8 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from Bureau of Mines Districts 1 through 15. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of powerplants and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Sayreville 7 and 8 would probably come from Bureau of Mines (BOM) District 8 as the primary supply area and from District 13 as the alternate source location. While these supply areas are the nearest available potential sources able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery from BOM District 8 for Sayreville 7 and 8 would originate on the Norfolk & Western (N&W) Railroad which can carry the coal to Hagerstown, Maryland, then Consolidated Railroad Corporation (Conrail) can take the coal to New York's Port Reading pier, where it is transferred to Sayreville 7 and 8 on the Raritan River by inland barges operated by Express Marine or Red Star Towing and Transportation. The total rail distance is approximately 600 miles.

One alternate route from BOM District 8 would involve originating coal on the Chessie (Chesapeake & Ohio) to Huntington, West Virginia, to Pittsburgh, Pa. on the Baltimore & Ohio (Chessie), to Port Reading, New York, on Conrail and by barge to the plant as above.

Another alternate route from the alternate supply source would be to originate coal from BOM District 13 (Alabama) to Bristol, Virginia, on the Southern Line via Chattanooga, Tenn. the N&W to Hagerstown, Md., and to the plant as in the primary route.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Sayreville 7 and 8, has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85–ton car, the N&W may need as many as 300 additional cars to handle the increased demand from Sayreville 7 and 8. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Sayreville 7 and 8 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal would be delivered to Sayreville 7 and 8 by inland barge from New York's Port Reading. Express Marine and Red Star Towing and Transportation have expressed willingness to provide the necessary barging services. Although present barge capacity is sufficient to handle the needs of this plant, if all the conversion candidates are ordered to convert, new barges will have to be built. The barge companies have indicated that they are willing to undertake the necessary construction given sufficient lead time and a long term barging commitment.

Sayreville 7 and 8 are equipped with a coal tower with a bucket unloading system. Since the equipment has not been in routine use for several years, some time will be spent on minor repairs to put it in operating condition. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Sayreville 7 and 8.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Sayreville 7 and 8 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Sayreville 7 and 8 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below.

A. *Description of the dispatching system.* 1. The Sayreville Generating Station is owned by JCPL, which is owned by General Public Utilities Corporation, which is a member of the Pennsylvania/New Jersey/Maryland (PJM) Interconnection system, which is within the geographical area of the Mid-Atlantic Area Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the PJM.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 44,543 MW. (See line 1 of attachment 1).

4. Proposed changes up to the period in which Sayreville 7 and 8 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Salem 1	Nuclear	Add	+1090	Dec. 1976.
Martins Creek 4	Oil	Add	+850	Jan. 1977.
Calvert Cliffs 2	Nuclear	Add	+900	Mar. 1977.
Crawford 5	Coal	Retire	−42	Do.
Crawford 4	do	do	−5	Do.
Gould St. 1	Oil	do	−33	Apr. 1977.
Gould St. 2	Oil	do	−33	Do.
Easton 21	Oil	Add	+6.25	May 1977.
Easton 22	Oil	Add	+6.25	Do.
Easton 3	Oil	Retire	−.7	Do.
Gilbert 8	Oil	Add	+130	Do.
Homer City 3	Coal	Add	+693	Oct. 1977.
Twice Mile Island 2	Nuclear	Add	+927	May 1978.
Crawford 1	Oil	Retire	−33	June 1978.
Crawford 2	Oil	do	−33	Do.
Salem 2	Nuclear	Add	+1115	May 1979.
Indian River 4	Coal	Add	+445.5	Do.
Brandon Shores 1	Oil	Add	+610	Feb. 1980.
Chalk Point 4	Oil	Add	+691	May 1980.
Susquehanna 1	Nuclear	Add	+1060	Nov. 1980.
Easton 4	Oil	Retire	−.7	May 1981.
Westport 1	Oil	do	−25	Jan. 1982.
Westport 13	Oil	do	−20	Do.
Westport 14	Oil	do	−20	Do.
Brandon Shores 2	Oil	Add	+610	Feb. 1982.
Totals: Added			+9094	
Retired			−345	
Net change			+8749	

See line 2 of attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 29, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for the conversion of Sayreville 7 and 8. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Sayreville 7 and 8 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for this forecast is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the period in which Sayreville 7 and 8 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the Spring load period. The potential loss of capacity from a combined outage of Sayreville 7 and 8 would be approximately 248 MW (line 7 of attachment 1). This represents the maximum potential loss due to outages at these powerplants, but it is expected that Sayreville 7 and 8 will be implemening a Prohibition Order at different times. This maximum potential loss of 248 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

V42N84 MAY 2 77 UMI

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Sayreville 7 and 8.

5. At the completion of the conversion there will be a net 5.8 MW derating of Sayreville 7 and 8 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 9,250 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Sayreville 7 and 8, are as presently forecast during the time required to implement a Prohibition Order by Sayreville 7 and 8, there will be no impairment of reliability of service within the meaning of ESECA in the area served by JCPL or in the dispatching system as a result of the Order.

ATTACHMENT 1
PJM RELIABILITY DATA SAYREVILLE
ASSUMED CONVERSION PERIOD MAR. 1–JUNE 30, 1982

	Megawatt capacity
1. Gross capacity of PJM as of Sept. 1, 1976	44, 543
2. Added capacity	8, 789
3. Gross capacity	53, 332
4. Scheduled outages for maintenance	10, 132
5. Projected outages due to prohibition orders	468
6. Maximum projected outages due to maintenance and prohibition orders (line 4 and line 5)	10, 600
7. Unit outage	248
8. Peak load spring 1982	32, 923
9. Net dependable capacity	42, 732
10. Reserve capacity	9, 809
11. Reserve margin and (maintenance and prohibition orders)	29. 79
12. Reserve margin and (maintenance only)	31. 22

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-122	Long Island Lighting Co.	E. F. Barrett	10	Island Park, N.Y.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Long Island Lighting Company shall be referred to as the "utility" and as "LILCO".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 10 at E. F. Barrett Generating Station (Barrett 10) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. LILCO, in information filed with FEA dated July 23, 1975, indicated that the power plant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information LILCO filed with FEA dated July 23, 1975, and other information available to FEA, the following plant equipment or facilities at Barrett 10 would have to be acquired or refurbished in order for the powerplant to burn coal as its primary energy source:

1. Coal handling equipment.
2. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Barrett 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Barrett 10 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Barrett 10 will be operated at a 61 percent capacity factor, has a remaining useful life 15 years (as of the date of this NOI), is expected to have at least 10 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Barrett 10 are estimated to be approximately $22,972,000, which assumes that flue gas desulfurization equipment (venturi scrubber included) will be required at a cost of $16,574,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The E. F. Barrett Plant," February 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $4,678,000 per year including $2,617,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by LILCO, the price of petroleum products available to Barrett 10 is approximately $2.28 per million BTU's for oil. This represents $13.93 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission, the price of coal available to Barrett 10 is approximately $1.19 per million BTU's. This represents $29.51 per ton of coal, assuming 24.8 million BTU's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in a reduction of approximately $1.09 per million BTU's, or $10,797,000 per year in fuel costs. This estimate is based on fuel consumption presuming Barrett 10 is operated at a 61 percent capacity factor and with an average heat rate of 9,808 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Barrett 10, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $11,343,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Barrett 10 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $6,665,000 (this represents an amortized cost over the 10 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 29.0 percent of the total initial capital investment of $22,972,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $4,678,000 (these figures are derived from the figures in paragraph A.1 a. and b.), but will experience an annual fuel cost savings of approximately $10,797,000. (See paragraph A.1.c.) The estimated net annual increase in the cost of producing electricity at Barrett 10 after conversion will be $546,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Barrett 10. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Barrett 10 will result in an estimated annual equivalent savings of 1,621,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $0.34.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Barrett 10, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 10 years remaining useful life of the powerplant after conversion, the size and resources of LILCO as examined in the following analysis of financial capability, the nature of the expected operations of this powerplant, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Long Island Lighting Company.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Barrett 10 would be economically feasible. FEA's analysis took into consideration the $54,965,000 additional capital investment required for LILCO to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to LILCO's powerplants. FEA related these additional capital investment costs to LILCO's net property and plant of $1.7 billion, LILCO's estimate of its 1977–79 construction budget of $1.1 billion, the total capitalization of LILCO of $1.7 billion, and the 10 years remaining useful life after conversion of Barrett 10.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of LILCO to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $29,141,000. This also represents the total estimated annual incremental increase in revenue requirements of the utility. (FEA also took into consideration revenue requirements of LILCO resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to LILCO powerplants.) This estimate of $29,141,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $27,917,000, which assumed a predicted effect on LILCO's financial statement and represents revenues required to offset any potential loss in LILCO's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $29,141,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $26,070,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the utility should increase by approximately $3,071,000.

4. *Consumer impact.* The potential initial impact of a prohibition Order to Barrett 10 is a net increase in revenues required from LILCO consumers of approximately $0.00005 per kilowatt hour of electricity sold by LILCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which LILCO selects of financing the increased costs associated with burning coal as a primary energy source at Barrett 10, the extent to which the cost increase is spread among LILCO consumers, the regulations or policies of the regulatory agencies with jurisdiction over LILCO regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Barrett 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Barrett 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quanties:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1, 040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issued Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows "Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study"):

Year:	Demand (million tons)
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Barrett 10. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler of the type used at Barrett 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 13, 000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2, 200
Sulfur (approximately) (percent)	[2] 2

[1] Minimum.
[2] Maximum

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

V42N84 MAY 2 1977 UMI

Year:	Demand (thousand tons)
1982 and thereafter	399

c. National planned production, characteristic coal. The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Barrett 10 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	11,872
1978	23,889
1979	48,726
1980	55,980
1981	65,394
1982	68,777
1983	73,194
1984	87,303

d. National ESECA prohibition order demand for coal, regardless of characteristics. The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. Regional planned production, characteristic coal. Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Barrett 10 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	11,872
1978	23,889
1979	48,726
1980	55,980
1981	65,394
1982	68,777
1983	73,194
1984	87,303

f. Regional ESECA prohibition order demand for coal, regardless of characteristic. The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 1 through 15 with a 1.0–2.2 percent sulfur content (which includes the 2.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.8 to 2.20
1977	0
1978	0
1979	63
1980	377
1981	377
1982	10,170
1983	10,170
1984	10,170

The regional planned production of coal, stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Barrett 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

Coal for Barrett 10 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from Bureau of Mines Districts 1 through 15. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Barrett 10 would probably come from Bureau of Mines (BOM) District 1 as the primary source of supply and from District 8 as the alternate source of supply. While these supply areas are the nearest available potential sources able to supply complying coal to this powerplant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery from BOM District 1 for Barrett 10 would originate on Consolidated Railroad Corporation (Conrail) to Scranton, Pennsylvania, taking the Delaware & Hudson (D&H) to Lansdboro, Pennsylvania, Conrail to New York City and the Long Island Railroad (LIRR) to Island Park, New York. The total rail distance is approximately 500 miles.

One alternate route from BOM District 1 would involve originating on Conrail to New York City via Lewistown, Pennsylvania, Harrisburg, Pennsylvania, and Philadelphia, Pennsylvania and then by LIRR to the powerplant.

Another alternate route from an alternate supply source would be to originate coal from BOM District 8 (Virginia) to Norfolk, Virginia, on the Norfolk & Western (N&W), then by ocean barge to Port Reading, New York, and by Conrail to New York City and the LIRR to the powerplant.

3. *Originating trunk carrier.* Conrail, the expected originating carrier of coal for Barrett 10, has approximately 52,000 hopper cars with an estimated average capacity of 80 tons. Using an average number of deliveries of 10 per year per 80-ton car, Conrail may need as many as 500 additional cars to handle the increased demand from Barrett 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Conrail indicated that it is willing to acquire any needed capacity involved in shipment to Barrett 10 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under Section 2(a) of ESECA.

Conrail indicated that transportation facilities at those mine sites within BOM District 1 served by Conrail are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Long Island Railroad (LIRR) is the destination carrier for Barrett 10. LIRR's jurisdiction includes tracks to the plant. The existing trackage is sufficient to handle the indicated coal demand through 1985. Barrett 10 presently has coal unloading facilities, since it once burned coal as its primary fuel. These facilities are adequate to handle the projected coal demand. Some construction or refurbishment of trackage may be needed according to LIRR to replace removed facilities and upgrade old tracks. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Barrett 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Barrett 10 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal

Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Barrett 10 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The E. F. Barrett Generating Station is owned by Long Island Lighting Company, which is a member of the New York Power Pool (NYPP), which is within the geographical area of the Northeast Power Coordinating Council.

2. The term "dispatching system" as used in the proposed finding means the NYPP.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 29,786 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Barrett 10 would implement a Prohibition Order, will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Astoria 6	Oil	Add	+787	Dec. 1976.
Hudson Avenue 2 and 3	do	Retire	−34	Do.
Waterside 12	do	do	−33	Do.
Miscellaneous GTS	do	Add	+59	May 1977.
Northport 4	do	do	+386	June 1977.
Horner City 3	Coal	do	+335	Nov. 1977.
Indian Point 3	Nuclear	do	+92	May 1978.
Miscellaneous GTS	do	do	+10	Do.
Mitchell Grds I and 2	Solid waste	do	+32	Nov. 1978.
Steele St. 2 and 4	Coal	Retire	−18	May 1978.
Waterside 10, 11, and 13	Oil	do	−73	Dec. 1978.
Waterside 7	do	do	−60	Do.
Miscellaneous GTS	do	Add	+21	May 1979.
Shoreham 1	Nuclear	do	+820	Do.
Indian Point 2 Upr	do	do	+160	Do.
Oswego 6	Oil	do	+850	Nov. 1979.
Indian Point 3 Upr	Nuclear	do	+68	May 1980.
		Totals:		
		Added	+3610	
		Retired	−218	
		Net changes	+3392	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC) Form 12E–2 dated October 15, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, the gross capacity in the dispatching system would not be significantly affected during the period required for the conversion of Barrett 10. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Barrett 10 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for this forecast is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants receiving Prohibition Orders and nuclear plant refueling within the NYPP system during the period in which Barrett 10 may be implementing a Prohibition Order may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for the powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the Winter Load Period. The potential loss of capacity from an outage of Barrett 10 would be approximately 188 MW (line 7, attachment 1) which is included on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Barrett 10.

5. At the completion of the conversion there will be a net 4.7 MW derating of Barrett 10 as a result of using coal as its primary energy source.

6. Existing transmission system interconnections may transfer an additional 2,500 MW into the dispatching system. This capacity may provide an additional resource of electrical power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Barrett 10, are as presently forecast during the time required to implement a Prohibition Order by Barrett 10, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Long Island Lighting Company, or in the dispatching system as a result of the Order.

NYPP RELIABILITY DATA
BARRETT

ASSUME: CONVERSION PERIOD JAN. 1 TO FEB. 28 1982

	Megawatt capacity
1. Gross capacity of NYPP as of Sept. 1, 1976	29,786
2. Added capacity	3,392
3. Gross capacity	33,178
4. Scheduled outages for Maintenance	2,856
5. Projected outages due to prohibition orders	558
6. Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	3,414
7. Unit outages	188
8. Peak load winter 1982	23,820
9. Net dependable capacity	29,764
10. Reserve capacity	5,944
11. Reserve margin percent (maintenance and prohibition orders)	24.95
12. Reserve margin percent (maintenance only)	27.30

V42N84 MAY 2 77 UMI

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-124 OFU-125	Long Island Lighting Co.	Port Jefferson	30 40	Port Jefferson, N.Y.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Long Island Lighting Company shall be referred to as the "utility" and as "LILCO".

I. Capability and necessary plant equipment to burn coal. FEA proposes to find that on June 22, 1974, Powerplants Number 30 and Number 40 at Port Jefferson Generating Station (Port Jefferson 30 and 40) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. LILCO information filed with FEA dated July 23, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information LILCO filed with FEA dated July 23, 1975, and other information available to FEA, the following plant equipment or facilities at Port Jefferson 30 and 40 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment
2. Waste water treatment system

C. FEA proposes to find that on June 22, 1974, Port Jefferson 30 and 40 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Port Jefferson 30 and 40 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Port Jefferson 30 and 40 will be operated at a 79 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 19 years (as of the date of this NOI), are expected to have at least 14 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Port Jefferson is estimated to be approximately $31,993,000, which assumes that electrostatic precipitators will be required at a cost of $25,085,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Coal Conversion Cost Reasonableness Analysis For The Port Jefferson Plants," February 25, 1977, (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $9,451,000 per year including $6,905,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by LILCO, the price of petroleum products available to Port Jefferson 30 and 40 is approximately $1.91 per million BTU's for oil. This represents $11.63 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by NUS Corporation and The Center for Energy Policy the price of coal available to Port Jefferson 30 and 40 is approximately $1.37 per million BTU's. This represents $35.07 per ton of coal, assuming 25.6 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $0.54 per million BTU's, or $15,273,000 per year in fuel costs. This estimate is based on fuel consumption presuming Port Jefferson 30 and 40 are operated at a weighted average 79 percent capacity factor and with an average heat rate of 10,426 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Port Jefferson 30 and 40, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $17,796,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Port Jefferson 30 and 40 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $8,347,000 (this represents an amortized cost over the 14 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 26.0 percent of the total initial capital investment of $31,993,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $9,451,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately $15,273,000. (See paragraph A.1.c.) The estimated net annual increase in cost of producing electricity at Port Jefferson 30 and 40 after conversion will be $2,525,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Port Jefferson 30 and 40. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Port Jefferson 30 and 40 will result in an estimated annual equivalent savings of 4,644,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $0.54.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Port Jefferson 30 and 40, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 14 years remaining useful life of the powerplants after the conversion, the size and resources of the LILCO utility as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Long Island Lighting Company*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Port Jefferson 30 and 40 would be economically feasible. FEA's analysis took into consideration the $54,965,000 additional capital investment required for the utility to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued under authority of section 2(a) and (c) of ESECA to LILCO powerplants. FEA related these additional capital investment costs to LILCO's net property and plant of $1.7 billion, LILCO's estimate of its 1977–79 construction budget of $1.2 billion, the total capitalization of the utility of $1.7 billion, and the 14 years remaining useful life after conversion of Port Jefferson 30 and 40.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of the utility to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $29,141,000. This also represents the total estimated annual incremental increase in revenue requirements of LILCO. (FEA also took into consideration revenue requirements of the utility resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2(a) and (c) of ESECA to LILCO powerplants.) This estimate of $29,141,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination", August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal", October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $27,917,000, which assumed a predicted effect on LILCO's financial statement and represents revenues required to offset any potential loss in LILCO's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $29,141,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $26,070,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of LILCO should increase by approximately $3,071,000.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Port Jefferson 30 and 40 is a net increase in revenues required from LILCO consumers of approximately 0.00021 per kilowatt hour of electricity sold by LILCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which LILCO selects to finance the increased costs associated with burning coal as a primary energy source, the extent to which the cost increase is spread among LILCO consumers, the regulations or policies of the regulatory agencies with jurisdiction over LILCO regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Port Jefferson 30 and 40 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Port Jefferson 30 and 40 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable ("Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974," Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976, (hereafter "Availability Study") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	48.4
1978	122.2
1979	237.1
1980	297.3
1981	344.0
1982	363.9
1983	390.1
1984	409.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows ("FEA 1976 National Energy Outlook"):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	877
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows ("Coal Availability and Demand: Round I and II Coal Conversion Candidates," August 1976, (hereafter "Coal Conversion Study")):

Year:	Demand (million tons)
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Port Jefferson 30 and 40. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal dry bottom boilers of the type used at Port Jefferson 30 and 40 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 13,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 0.8

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	1,105

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Port Jefferson 30 and 40 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	7,258
1978	13,319
1979	23,732
1980	26,889
1981	31,469
1982	33,235
1983	35,543
1984	42,298

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal ,as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand, as previously state in paragraph A.2.c., above, is:

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Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Port Jefferson 30 and 40 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines (BOM) Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	7,258
1978	13,319
1979	23,732
1980	26,889
1981	31,469
1982	33,235
1983	35,543
1984	42,298

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds potential demand for coal regardless of characteristic from BOM Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,898
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 15 with a 0.61–1.0 percent sulfur content (which includes the 1.0 percent maximum sulfur content described in paragraph A.3.a., above), resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 0.61 to 1.0
1977	1,247
1978	2,767
1979	3,854
1980	7,198
1981	8,750
1982	14,014
1983	14,014
1984	14,014

The regional planned production of coal, as previously stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 15 uncommitted coal production that meets the requirements of Port Jefferson 30 and 40 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued under authority of section 2(a) of ESECA.

Coal for Port Jefferson 30 and 40 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' location from Bureau of Mines Districts 1 through 15. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. ("The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond," School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal Transportation*—1. *Location of powerplants and coal supply.* Based on an FEA Study, "Utility Analysis of Coal Transportation Availability", November 1976, (hereafter "Transportation Availability Study"), coal for Port Jefferson 30 and 40 would probably come from Bureau of Mines (BOM) District 8 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to the powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for the Port Jefferson 30 and 40 would originate on the Norfolk & Western (N&W) Railroad to Hagerstown, Maryland. Consolidated Railroad Corporation (Conrail) would be used as the connecting carrier between Hagerstown and New York City's Port Reading Pier, from which inland barges operated by Express Marine or Red Star Towing and Transportation would take the coal to the plant. The total distance is approximately 600 miles.

One alternate route from BOM District 8 would involve originating coal on the N&W to Lynchburg, Virginia, taking the Southern to Washington, D.C., the Chessie (Baltimore & Ohio) to Baltimore, Conrail to Port Reading, New York, and local barge to the plant.

Another alternate route from an alternate supply would be to originate coal from BOM District 8 (West Virginia) to Hagerstown, Maryland, via the N&W and to the plant as in the primary route.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Port Jefferson 30 and 40 has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 650 additional cars to handle the increased demand from Port Jefferson 30 and 40. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 2 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 1,200 cars/year. The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Port Jefferson 30 and 40 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity would be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studies, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that existing loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal will most likely be delivered to Port Jefferson 30 and 40 by barge from Port Reading, New York. Express Marine and Red Star Towing and Transportation have expressed willingness to provide the necessary barge services. Although present barge capacity is sufficient to handle the needs of Port Jefferson 30 and 40, if all the conversion candidates are ordered to convert, new barges may have to be built. The barge companies have indicated that they are willing to undertake the necessary construction, given sufficient lead time and a long-term barging commitment.

Port Jefferson 30 and 40 are equipped with bucket unloaders capable of meeting their unloading needs. Since the equipment has not been in routine use for several years, some maintenance will be required to put it into working order. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Port Jefferson 30 and 40.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Port Jefferson 30 and 40 presently exist, and alternate routes are available.

--IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Port Jefferson 30 and 40 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Port Jefferson Station is owned by Long Island Lighting Company, which is a member of the New York Power Pool (NYPP), which is within the geographical area of the New York Subarea of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the NYPP.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 29,786 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Port Jefferson 30 and 40 would implement a Prohibition Order will result in the gross capacity indicated on line 3 attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatts)	Effective date
Astoria 6	Oil	Add	+787	Dec. 1976.
Hudson Avenue 2, 3	Oil	Retire	−34	Do.
Waterside 12	Oil	do	−33	Do.
Miscellaneous GT8	Oil	Add	+59	May 1977.
Northport 4	Oil	Add	+386	June 1977.
Homer City 3	Coal	Add	+325	Nov. 1977.
Indian Pt. 3	Nuclear	Add	+92	May 1978.
Miscellaneous GT8	Oil	Add	+10	Do.
Mitchel Grds. 1 and 2	Solid waste	Add	+32	Nov. 1978.
Steele St. 2 and 4	Coal	Retire	−18	May 1978.
Waterside 10, 11 and 13	Oil	do	−73	Dec. 1978.
Waterside 7	Oil	do	−60	Do.
Miscellaneous GT8	Oil	Add	+21	May 1979.
Shoreham 1	Nuclear	Add	+820	Do.
Indian Pt. 2 Upr	do	Add	+160	Do.
Oswego 6	Oil	Add	+850	Nov. 1979.
Indian Pt. 3 Upr	Nuclear	Add	+68	May 1980.
		Totals:		
		Added	+3,610	
		Retired	−218	
		Net change	+3,392	

See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E–2 dated October 15, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Port Jefferson 30 and 40.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Port Jefferson 30 and 40 would implement a Prohibition Order is indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for these forecasts is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Port Jefferson 30 and 40 may be implementing a Prohibition Order, may result in some loss of capacity which is excepted to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the Winter 1982 peak load period. The potential loss of capacity from a combined outage of Port Jefferson 30 and 40 would be approximately 370 MW (line 7, attachment 1).. This represents the maximum potential loss due to outages at these powerplants, but it is expected that Port Jefferson 30 and 40 will be implementing a Prohibition Order at different times. This maximum potential loss of 370 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Port Jefferson 30 and 40.

5. At the completion of the conversion there will be a net 4.3 MW derating of Port Jefferson 30 and 40 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 2,500 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Port Jefferson 30 and 40 are as presently forecast during the time required to implement a Prohibition Order by Port Jefferson 30 and 40 there will be no impairment of reliability of service within the meaning of ESECA in the area served by LILCO in the dispatching system as a result of the Order.

ATTACHMENT 1

NYPP RELIABILITY DATA

PORT JEFFERSON

ASSUMED CONVERSION PERIOD

JANUARY 1—FEBRUARY 28, 1982

	Megawatt capacity
1. Gross capacity of NYPP as of September 1, 1976	29,786
2. Added capacity	3,392
3. Gross capacity	33,178
4. Scheduled outages for maintenance	2,856
5. Projected outages due to prohibition orders	558
6. Maximum projected outages, due to maintenance and prohibition orders (line 4 plus line 5)	3,414
7. Unit outage	370
8. Peak load winter 1982	23,820
9. Net dependable capacity	29,764
10. Reserve capacity	5,994
11. Reserve margin percent (maintenance and prohibition orders)	34.95
12. Reserve margin percent (maintenance only)	27.30

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V42 84 MAY 2 77 UMI

federal register

MONDAY, MAY 2, 1977

PART IV



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

MOBILE OFFSHORE DRILLING UNITS

Requirements

V42|84 MAY 2 77 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 50, 54, 56, 58, 61, 107, 108, 109]

[CGD 73-251]

REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard is proposing regulations for the inspection and certification, design and equipment, and operation of mobile offshore drilling units, including regulations for industrial systems. Mobile offshore drilling units have previously been subject to various regulations depending on whether they float while engaged in drilling operations, or whether they drill while bearing on the seabed. These proposed regulations will bring all mobile offshore drilling units under one set of uniform, comprehensive reguations, and will provide that all units be inspected and certificated by the Coast Guard.

DATES: 1. Comments must be received on or before June 29, 1977. 2. Public Hearing: The Coast Guard will hold a public hearing commencing on June 1, 1977, at 9:00 a.m., in Meeting Rooms 2 and 3, The Rivergate, 4 Canal Street, New Orleans, Louisiana 70130.

ADDRESSES: Comments should be submitted to Commondant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Copies of the Navigation and Vessel Inspection Circular addressing the inspection and certification of existing units reference in this document are available for examination at the above address. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this ruelmaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 73-251), the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed. The proposal may be changed in light of comments received before final action on this proposal. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

DISCUSSION OF THE PROPOSED REGULATIONS

GENERAL DISCUSSION

These proposed regulations are applicable to all types of mobile offshore drilling units. Units which float while engaged in drilling operations have been inspected and certificated by the Coast Guard under the regulations in 46 CFR Subchapter I, Rules and Regulations for Cargo and Miscellaneous Vessels. Those which drill while bearing on the seabed have been subject to the regulations in 33 CFR Subchapter N, Rules and Regulations for Artificial Islands and Fixed Structures on the Outer Continental Shelf.

In 1967, the Coast Guard began discussions with the offshore drilling industry to bring bottom bearing units under inspection. In FEDERAL REGISTER Document 87-71, the Coast Guard published proposed rulemaking to inspect bottom bearing mobile drilling units under Subchapter I, Title 46 CFR, Rules and Regulations for Cargo and Miscellaneous Vessels. This was followed by a public hearing in March 1972. All comments received in response to the public rulemaking proceedings were negative and almost unanimous in stating that many of the provisions in Subchapter I were inappropriate for mobile offshore drilling units and in recommending that a separate set of regulations be developed for these unique vessels. Upon evaluation of the comments, the Coast Guard agreed that application of existing regulations to these vessels would result in inconsistencies and would require considerable improvisation during the inspection process. The Coast Guard, therefore, withdrew the Notice of Proposed Rulemaking in May 1972.

In the development of this proposal, the Coast Guard has met at various times, beginning in 1973, with members of the Mobile Offshore Drilling Unit Subcommittee of the National Offshore Operations Industry Advisory Committee (NOOIAC). The Advisory Committee submitted is recommendations to the Coast Guard on November 19, 1976. These recommendations were taken into consideration in the preparation of this proposal.

As previously stated, the regulations in this proposal will be applied to new units. An "existing unit" under the proposed regulations is considered to be a unit which was in existance or contracted for as a mobile offshore drilling unit prior to the effective date of the final rule. All other units will be considered new units and be required to comply with the new regulations.

"Existing units" will fall into two general categories as follows:

(1) Those units which drill while in a floating condition. These units are presently inspected and certificated under the provisions of Subchapter I of Title 46 CFR, Rules and Regulations for Cargo and Miscellaneous Vessels.

(2) Those units which drill while bearing on the seabed. These units are currently subject to the regulations in Subchapter N of Title 33 CFR, Rules and Regulations for Artificial Islands and Fixed Structures on the Outer Continental Shelf, and are not issued Certificates of Inspection by the Coast Guard.

It is not practical to prescribe detailed standards for all existing units which would correct unsafe conditions or bring certain equipment up to present day standards and yet provide the flexibility required by the variety of designs and arrangements. The Coast Guard does not intend to prohibit the use of an existing unit simply because its design and construction do not conform to the minimum standards that will be required for new units. To provide the necessary flexibility, a draft Navigation and Vessel Inspection Circular addressing the inspection and certification of existing units is being prepared.

This proposal does not address manning standards or the licensing and certification of officers and seaman for mobile offshore drilling units. These matters will be addressed by the Coast Guard in separate regulatory proposals.

In addition, this proposal does not address electrical equipment standards for industrial systems aboard mobile offshore drilling units. This matter is being addressed by the Coast Guard in a separate regulatory proposal revising 46 CFR Subchapter J—Electrical Engineering Regulations.

This proposal does not address either the actual drilling operation and procedures or control of the subsea well. It is the intent of the Coast Guard to regulate the "industrial" (drilling) system on mobile offshore drilling units to the extent necessary to assure an acceptable level of safety for the unit and the personnel on board. On the Outer Continental Shelf of the U.S., drilling operations conducted by mobile offshore drilling units and subsea well control equipment and procedures are subject to regulation and monitoring by the U.S. Department of Interior, U.S. Geological Survey. Similarly in waters adjacent to other coastal nations where U.S. mobile offshore drilling units may operate, the actual drilling operation is subject to control by the government of that coastal state.

DISCUSSION OF SPECIFIC PROPOSALS

The proposed regulations are generally self-explanatory. However, the proposed Subchapter II is based on the provisions of 46 CFR Subchapter I, Rules and Regulations for Cargo and Miscellaneous Vessels, with additional provisions appropriate for mobile offshore drilling units added and inappropriate segments of Subchapter I not included. All provisions taken from Subchapter I to be included in the proposed new subchapter have been drafted in a new, less complex format and the entire subchapter has been organized into only three parts: Part

107—Inspection and Certification, Part 108—Design and Equipment, and Part 109—Operations.

Items which represent a significant departure from the provisions of existing regulations (Subchapter I), as currently applied to inspected units, are discussed in the following paragraphs.

For existing uninspected bottom bearing units, all of the provisions of this proposal, with the exception of certain provisions concerning lifesaving equipment, firefighting equipment, guards and rails, station bill and a general alarm system, differ from the regulations currently applied to these units (33 CFR Subchapter N, Rules and Regulations for Artificial Islands and Fixed Structures on The Outer Continental Shelf). This is not intended to imply that existing bottom bearing units do not meet many of the provisions of Subchapter I currently applied to existing inspected units. Although bottom bearing units have not been inspected as vessels by the Coast Guard, they were in fact constructed as vessels and many of them do meet the rules of, and are classed by, the American Bureau of Shipping, or another classification society. Existing inspected units, on the other hand, are required to be constructed in accordance with the applicable rules of the American Bureau of Shipping.

Proposed §§ 107.259 and 107.260 establish requirements for inspection and testing of the material handling cranes that are installed aboard all units. These installations have not been subject to the cargo gear provisions of Subchapter I, being specifically excluded in the definition of cargo gear.

Proposed §§ 107.265 and 107.267 provide for a special examination, in lieu of drydocking, for large column stabilized and self-elevating units. The Coast Guard previously published guidelines for such special examination for large column stabilized units in Navigation and Vessel Inspection Circular 12-69. The provisions of this circular have been incorporated into the proposed regulations. Since the hull of a self-elevating unit is above the water surface and reasonably accessible for inspection during most of the vessel's life, the Coast Guard has concluded that these units should also be given some special consideration in regard to drydocking requirements. Therefore, provisions for a special examination in lieu of drydocking are included for self-elevating units.

Proposed § 108.185 establishes requirements for ventilation of enclosed classified areas. This subject is not addressed in regulations currently applied to mobile offshore drilling units.

Proposed § 108.201 allows the berthing of up to six temporary industrial personnel in one accommodation space. Present regulations limit the maximum number of persons in a space to four. This provision is considered desirable because mobile offshore drilling units often have several service company personnel aboard in addition to their normal personnel complement.

Proposed § 108.209 provides an alternative to the large, dedicated hospital space historically required on seagoing vessels. This provision recognizes that mobile offshore drilling units do not often engage in long ocean voyages, and that transportation to shore is normally available within a reasonable time.

Proposed §§ 108.231 through 108.241 prescribe requirements for helicopter facilities aboard mobile offshore drilling units. These facilities are not covered by existing reguations. The proposal includes requirements for location and size, construction, fuel storage facilities, fuel transfer equipment, and visual aids.

Sections 108.301 through 108.343 provide stability requirements for mobile offshore drilling units in detail rather than the general requirements existing in Subchapter I. The Coast Guard feels that due to the unique operations of mobile offshore drilling units and their various configurations, detailed stability requirements are essential. A requirement for an operating manual including stability information is in the proposal.

Proposed Subpart E of Part 108, Firefighting Equipment, contains requirements similar to existing requirements in Subchapter I, and proposes fire protection requirements for helicopter facilities.

Proposed Table 108.495(a) establishes requirements for hand portable and semi-portable fire extinguishers in areas unique to mobile offshore drilling units including helicopter facilities, the drill floor, and cranes powered by internal combustion engines.

Proposed § 108.497 establishes requirements for an oxygen and explosive meter approved by, Underwriters' Laboratory or Factory Mutual Laboratory as a part of the required fireman's outfits.

Proposed Subpart F of Part 108, Lifesaving Equipment, differs from existing regulations in that the basic standards which now apply only to self-propelled units will be extended to all units. Proposed § 108.503 establishes the requirement that all units be equipped with enough covered, motor propelled lifeboats for 100 percent of the persons on board, and proposed § 108.505 requires enough inflatable liferafts for 100 percent of the persons on board. Existing regulations allow the substitution of inflatable liferafts for lifeboats on all non-self-propelled vessels of over 100 gross tons. This substitution will no longer be permitted since, from a lifesaving viewpoint, there is no significant difference between self-propelled and non-self-propelled mobile offshore drilling units and since, on a drilling location, mobile offshore drilling units have the maximum number of person on board and are subject to the hazards peculiar to the drilling operation as well as to the normal hazards of the marine environment. The term "lifeboat" as used in this proposal means all types of hard hulled motor propelled survival craft approved by the Coast Guard including the type usually referred to as a "survival capsule".

Although the proposal would require either davit launched or throw over type inflatable liferafts for 100 percent of the persons on board, further consideration is being given to requiring davit launching equipment for the required inflatable life rafts. This would provide escape backup in case of damage or malfunction. Tests have been conducted on such launching equipmnt, a sea trial is anticipated soon in the Gulf of Mexico, and the equipment is installed on fixed structures in the North Sea. Approval specifications for launching equipment will be proposed in the FEDERAL REGISTER soon under Docket No. CGD 75-217. Comments on this subject are specifically requested.

The proposal has a requirement for liferaft operation instruction and periodic drills. Analysis of casualties and discussions of IMCO Subcommittee on Life Saving Appliances and the Society of Naval Architects and Mariner Engineers, Life Saving Equipment Panel 0-25 indicate, that improved training would have a significant effect on success of abandonment operations. Considerations is being given to requiring more definite instructions. A manual for each crew member is being considered. Comments and recommendations on the general subject of training and the content of such a manual are specifically requested.

Proposed § 108.517(b) extends the requirement for a line throwing appliance to all non-self-propelled units. This provision is considered desirable because units are almost always attended by smaller supply vessels or tugs in all weather conditions.

Proposed § 108.601 establishes design criteria for the material handling cranes. As noted previously, these installations are exempted from inspection under current regulations.

Proposed §§ 108.611 through 108.615 establish requirements for power operated industrial trucks aboard units. The use of power operated industrial trucks aboard units differs greatly from their use aboard cargo vessels, where most operations take place in cargo holds. The proposed requirements are therefore considerably less complicated than the requirements currently existing in Subchapter I.

Proposed § 108.661 modifies existing draft mark requirements to take into consideration the various configurations of units.

Proposed Part 109 sets forth operating rules which are already applied to mobile offshore drilling units, together with additions which have been made to cover operations peculiar to the offshore oil drilling industry. Included are new operating rules concerning personnel working over the water, crane operations, power industrial truck operation, storage and handling of hazardous materials, and helicopter refueling operations.

This proposal would also amend 46 CFR Subchapter F—Marine Engineering Regulations, to establish requirements for certain industrial systems and components aboard mobile offshore drilling units. Industrial systems and components aboard mobile offshore drilling units are not specifically addressed in existing regulations except in 46 CFR 54.01-16. Significant subjects addressed in this portion of the proposal include the following.

V 4284 MAY 2 77 UMI

Proposed § 50.15–20(a)(13) provides for Coast Guard recognition of appropriate standards or recommended practices promulgated by the American Petroleum Institute.

Section 54.01–16 has been revised to propose requirements for Class I, II and III pressure vessels installed as components in industrial systems on mobile offshore drilling units, including those used for the storage of compressed gases, including air. Although pressure vessels in these classes which meet the full requirements of Table 54.01–5(b) would still be accepted, the standards proposed in the revised § 54.01–16 are considered sufficient. It should be noted that the postweld heat treatment and minimum joint and radiographic requirements of Table 54.01–5(b) would still apply, but that pressure-relief devices that meet subpart 54.15 would also be required. Class I–L and II–L pressure vessels would continue to be governed by Table 54.01–5(b).

The Coast Guard is of the opinion that the current practice of simply accepting ASME Code stamping could lead to a reduction in the reliability of pressure vessels used in industrial systems below the level required of other pressure vessels on drilling units. The Coast Guard feels that the hazards associated with higher pressures (over 200 p.s.i.) and lower temperatures (below 0°F) must be minimized. This can best be assured by combing the tight material control and design criteria of the ASME Code with those requirements of Table 54.01–5(b) which would be extended to pressure vessels in industrial systems by the proposed revision of § 54.01–16. This revision would also affect pressure vessels used for the storage of compressed gases, including air, by eliminating the current provision which subjects them to plan approval and shop inspection by the Coast Guard. Thus, while the ASME Code has very board application, the specifies outlined in the proposal would clearly define the scope of the Code's applicability. Furthermore, the Coast Guard intends to monitor this proposed pressure vessel acceptance program closely, with a view toward the possible extension of a similar program to all shipboard pressure vessels.

Proposed Subpart 58.60 was developed to address the industrial systems which are installed on mobile offshore drilling units for use exclusively in conducting drilling operations. These systems are not specifically addressed in existing regulations and are generally not constructed to the same standards as vessel machinery systems. The present Coast Guard approach to industrial systems has been inconsistent due to broadly worded exclusions in Parts 54 and 56 of Title 46, CFR Subchapter F—Marine Engineering Regulations.

The industrial systems specifically addressed in the proposed subpart are the cementing system, circulation system (mud pumps, mud piping, shale shaker, desander and degasser), blowout preventor control system, riser and guideline tensioning system, motion compensation system, bulk material (dry cement, barite) storage and handling system, and other pressurized systems necessary to the performance of the design function of the unit.

The proposed regulations would require that the blowout prevention control system meet API RP 53, Recommended Practice for Blowout Protection Equipment Systems.

The proposed regulations would require all industrial piping systems to comply with ANSI B31.3—Refinery Piping, and additionally require that all industrial systems be evaluated in a manner similar to that presented in API RP 14C. This specification is a safety analysis of the impact of a failure in the system on the operation of the system and the unit, on the operations of proximate personnel, and on the ecology. It includes methods of preventing or limiting the effects of failure. It would fill any voids that may exist in the simple application of a standard. The design would be certified by a registered professional engineer as complying with B31.3. The safety analysis would also be certified. All pressure vessels used as components of the system would be required to meet the proposed § 54.01–46. The Coast Guard would reserve the right to spot check or review these systems in their entirety. The Coast Guard would inspect the installation.

The proposal would, for the specified industrial system, assure compliance with known standards, remove the Coast Guard from complete plan approval procedure for these systems, and permit an allowable stress of ⅓ the specified minimum tensile strength, and the utilization of a broader range of materials.

The Coast Guard does not consider it necessary to specify marine engineering standards for other non-pressurized, mechanical or structural industrial systems and components such as the drilling derrick, draworks, and rotary table. The proposal includes the provision that these systems may comply with standards or specifications not specifically referenced in the regulations. Any standards or specifications used for these systems will be required to be indicated on the plans, or in the specifications, for the unit.

Economic Summary

This proposed rule has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200) and determined to be a non-major proposal. The analysis considered the economic effect on both government and industry. In evaluating the effect on industry it was necessary to consider the effect of the proposal on both existing mobile offshore drilling units and new units that will be constructed under the provisions of the new regulations.

For the approximately 142 existing U.S. units, the total cost of the proposal to industry is estimated at $12,249,000. Since all existing units will be allowed two years to comply with applicable provisions of the proposal, the estimated annual cost is $6,124,500. The following factors were taken into consideration in arriving at the above estimates: preparation and submittal of plans, lifesaving equipment update, firefighting equipment update, load line assignments, preparation of operating manuals, testing of cranes, marine sanitation requirements, and miscellaneous inspection requirements.

It is estimated that ten new U.S. mobile offshore drilling units will be built each year for the next two to three years, although this number may vary depending on U.S. government policy regarding development of the Outer Continental Shelf. For new units, the cost effect of this proposal will be the cost of differences in requirements between the proposal and existing regulations. This cost was estimated at $249,300 per unit or $2,493,000 per year, taking the following factors into consideration: additional plan preparation and submittal, additional equipment (including lifesaving and firefighting), crane certification and testing, helicopter facility requirements, load line assignments, operating manual expansion, requirements for industrial (drilling) systems, and arrangement/construction requirements.

The proposal requires Coast Guard inspection and certification of all mobile offshore drilling units, including approximately 87 existing units not currently under inspection. To accomplish the proposed requirements for all units, additional Coast Guard personnel will be required. Estimated personnel requirements are 18 officers and two civilians at an estimated cost of $654,000 per year. Considering all of the above, the estimated total cost of the proposal is $9,271,500 a year for the first two years and $3,147,000 per year there after.

The major benefit of the proposal will be the establishment of a uniform, comprehensive set of regulations for all types of mobile offshore drilling units operating under the flag of the United States. This will further U.S. efforts at the Intergovernmental Maritime Consultative Organization (IMCO) where the United States is the lead nation in the development of an international code for mobile offshore drilling units. It will also facilitiate the employment of U.S. units on a worldwide basis inasmuch as the coastal nations concerned can be assured that the units meet established safety standards. The proposal adds new or expanded safety requirements for mobile offshore drilling units including requirements for cranes, helicopter facilities, classified areas, stability, lifesaving and firefighting equipment, industrial (drilling) systems and operating rules. It is anticipated that this proposal will result in an improvement in safety in these areas.

Drafting Information

The principal project manager and lawyer involved in the drafting of this rulemaking are: Commander Kenneth F. Bishop, Jr., Project Manager, and Lieutenant Edward J. Gill, Jr., Project Attorney.

In consideration of the foregoing, it is proposed that Chapter 1 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 50—GENERAL PROVISIONS

1. By adding a new paragraph (j) to § 50.01–1 to read as follows:

§ 50.01–1 **Authority for regulations.**

• • • • •

(j) *Mobile offshore drilling units.* The citation regarding authority to prescribe requirements for mobile offshore units is in Subchapter II of this chapter.

2. By adding a new paragraph (e) to § 50.05–1 to read as follows:

§ 50.05–1 **General.**

• • • • •

(e) Industrial systems and components on mobile offshore drilling units must meet § 54.01–16 and Subpart 58.60 of this chapter.

3. By adding a new paragraph (b) to § 50.05–10 to read as follows:

§ 50.05–10 **Alterations or repairs.**

• • • • •

(b) When alterations or repairs are made to a U.S. vessel in a port or place not in the United States, a notice containing details of the proposed alterations or repairs must be submitted to the appropriate Officer in Charge, Marine Inspection.

4. By adding the words ", mobile offshore drilling units," after the words "nautical schoolships" in the first sentence of § 50.05–15(a).

5. By adding new paragraph (a)(13) to § 50.15–20 to read as follows:

§ 50.15–20 **Additional standards.**

(a) • • •

(13) American Petroleum Institute (API), 1201 L Street, Washington, D.C. 20037.

• • • • •

PART 54—PRESSURE VESSELS

6. By revising § 54.01–16 to read as follows:

§ 54.01–16 **Mobile offshore drilling units: pressure vessels for industrial systems.**

A Class I, II, or III pressure vessel which is a component in an industrial system under Subpart 58.60 of this chapter must—

(a) Be stamped "U" under Section VIII of the ASME Code;

(b) Meet the postweld heat treatment and the minimum joint and radiographic requirements of Table 54.01–5(b); and

(c) Have pressure-relief devices that meet Subpart 54.15 of this chapter.

NOTE 1.—Class I, II, or III pressure vessels which are components in industrial systems and which meet Table 54.01–5(b) in full will also be accepted.

NOTE 2.—Class I–L and II–L pressure vessels must meet the shop inspection and plan approval requirements of Table 54.01–5(b) and are not accepted under § 54.01–16.

PART 56—PIPING SYSTEMS AND APPURTENANCES

7. By revising § 56.01–1(c) to read as follows:

§ 56.01–1 **Scope (replaces 100.1).**

• • • • •

(c) Piping for industrial systems on mobile offshore drilling units must meet Subpart 58.60 of this chapter.

8. By adding a new paragraph (d–1) to follow paragraph (d) in § 56.01–10 to read as follows:

§ 56.01–10 **Plan approval.**

• • • • •

(d–1) Plans of piping for industrial systems on mobile offshore drilling units must be submitted under Subpart 58.60 of this chapter.

• • • • •

9. By adding the words ", Section 108.417 of Subchapter I–A (Mobile Offshore Drilling Units)," after the words "Subchapter H (Passenger Vessels)" in the second sentence of § 56.50–10(b).

10. By striking the words "crew and passenger quarters" in the first sentence of § 56.50–15(h) and inserting the words "accommodation spaces" in place thereof.

11. By adding the footnote "(4)" to follow footnote "(1)" in § 56.50–50(d)(1).

12. By adding the footnote "(3)" to follow footnote "(2)" in § 56.50–50(d)(2).

13. By adding Notes 3 and 4 to follow Notes 1 and 2 in § 56.50–50(d)(2) to read as follows:

§ 56.50–50 **Bilge and ballast piping.**

(d) • • •

(2) • • •

NOTE 3.—In the calculation for a vessel with more than one hull such as a catamaran, the breadth of the unit is the breadth of one hull.

NOTE 4.—In the calculation for a mobile offshore drilling unit, "L" is reducible by the combined length of spaces that can be pumped by another piping system meeting §§ 56.50–50 and 56.50–55, where "L" is the length of the unit at the waterline.

14. By adding the following two sentences to follow the last sentence in § 56.50–50(e):

"In a vessel with more than one hull, there must be one bilge pump that has an independent bilge suction in each hull. In a column stabilized mobile offshore drilling unit, the independent bilge suction must be from the pumproom bilge."

15. By adding new paragraphs (f)(5) and (6) to § 56.50–50 to read as follows:

§ 56.50–50 **Bilge and ballast piping.**

• • • • •

(f) • • •

(5) Each vessel with more than one hull must have an emergency bilge suction in each hull.

(6) Each column stabilized mobile offshore drilling unit[1] must have—

(i) An emergency bilge suction in each hull; and

(ii) A remote control for the emergency pump and associated valves that can be operated from the ballast control room.

• • • • •

16. By adding a fourth category of vessel to Table 56.50–50(a) to read as follows:

TABLE 56.50–55(a).—*Power bilge pumps required for self-propelled vessels*

Vessel length, in feet	• • •	Mobile offshore drilling units all waters
180 or more	• • •	2
Below 180 and exceeding 65	• • •	2
65 or less	• • •	2

• • • • •

17. By adding a fourth category of vessel to Table 56.50–55(b)(1), to read as follows:

TABLE 56.50–55(b)(1).—*Bilge pumps required for non-self-propelled vessels*

Type of vessel	Waters navigated	Power pumps[1]	Hand pumps
• • •	• • •	• • •	• • •
Mobile offshore drilling units.	All waters	2	None.
• • •	• • •	• • •	• • •

[1] For the purpose of this section, a pumproom is a machinery space on a column stabilized unit.

18. By amending § 56.50–55 by adding new paragraph (a)(6) to follow paragraph (a)(5) and new paragraph (b)(3) to follow paragraph (b)(2) to read as follows:

§ 56.50–55 **Bilge pumps.**

(a) • • •

(6) Each hull of a vessel with more than one hull such as a catamaran must meet Table 56.50–55(a).

(b) • • •

(3) Each hull of a vessel with more than one hull, such as a catamaran, must meet Table 56.50–55(b).

• • • • • • •

19. By adding a new paragraph (e)(4) to § 56.50–55 to read as follows:

§ 56.50–55 **Bilge pumps.**

• • • • • • •

(e) • • •

(4) Each hull of a vessel with more than one hull must have at least two means for pumping the bilges in each hull. No vessel may operate unless one of these means is available to pump the bilge.

• • • • • • •

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

20. By amending Subpart 58.03 by adding a new § 58.03–35 to read as follows:

§ 58.03–35 **American Petroleum Institute (API).**

The standards of the American Petroleum Institute (API)[2] that are referred to in this part are hereby adopted.

21. By adding new paragraphs (c) and (d) to § 58.10–10 to read as follows:

§ 58.10–10 **Diesel engine installations.**

• • • • • • •

[2] See § 50.15–20(a)(13) for the address of API.

V 42 84 MAY 2 77 UMI

(c) A diesel engine air intake on a mobile offshore drilling unit must not be in a hazardous location.[1]

(d) A diesel engine exhaust on a mobile offshore drilling unit must not discharge into a hazardous location.[1]

22. By adding a new paragraph (c)(4) and revising paragraph (d) in § 58.10–15 to read as follows:

§ 58.10–15 Gas turbine installations.

• • • • •

(c) • • •

(4) A gas turbine exhaust on a mobile offshore drilling unit must not discharge in a hazardous location.[1]

(d) *Air inlets.* Air inlets on a mobile offshore drilling unit must be designed as follows:

(1) Each air inlet must have means to protect the safety of life and to prevent the entrance of harmful foreign material, including water, into the system.

(2) A gas turbine air inlet must not be in a hazardous location.[1]

• • • • •

23. By amending Subchapter F by adding a new Subpart 58.60 to read as follows:

Subpart 58.60—Industrial Systems and Components on Mobile Offshore Drilling Units (MODU)

Sec.

58.60–1 Applicability.
58.60–3 Pressure vessel.
58.60–5 Industrial systems: locations.
58.60–7 Industrial systems: piping.
58.60–9 Industrial systems: design.
58.60–11 Analyses, plans, diagrams and specification: submission.
58.60–13 Inspection.

§ 58.60–1 Applicability.

This subpart applies to the following industrial systems on board a mobile offshore drilling unit (MODU):

(a) Cementing systems.

(b) Circulation systems, including—

(1) Pipes and pumps for mud;

(2) Shale shakers;

(3) Desanders; and

(4) Degassers.

(c) Blow out preventor control systems.

(d) Riser and guideline tensioning systems.

(e) Motion compensation systems.

(f) Bulk material storage and handling systems.

(g) Other pressurized systems designed for the MODU's industrial operations.

§ 58.60–3 Pressure vessel.

A pressure vessel that is a component in an industrial system under this subpart must meet § 54.01–16.

§ 58.60–5 Industrial systems: locations.

An industrial system under this subpart must not be in a space that is—

(a) Concealed; or

(b) Inaccessible to industrial personnel.

[1] Section 111.105 of this chapter contains the requirements for Class I hazardous locations.

§ 58.60–7 Industrial systems: piping.

The piping for industrial systems under this subpart must meet ANSI B31.3, except that blow out preventor control systems must also meet API RP 53, Recommended Practice for Blowout Protection Equipment Systems.

§ 58.60–9 Industrial systems: design.

Each system under this subpart must be designed and analyzed under API RP 140, Analysis, Design, Installation and Testing of Basic Surface Safety Systems on Offshore Production Platforms.

§ 58.60–11 Analyses, plans, diagrams and specifications: submission.

(a) Each industrial system must be analyzed by a registered professional engineer to certify that the system has been designed in accordance with applicable standards.

(b) The certification must—

(1) Appear on all diagrams and analyses; and

(2) Be submitted under § 50.20–5 of this chapter.

(c) Standards or specifications for non-pressurized, mechanical or structural systems, and components such as derricks, drawworks, and rotary tables which comply with standards or specifications not referenced in this subchapter must be placed on the plans or in the specifications of the unit.

§ 58.60–13 Inspection.

An industrial system is accepted by the Coast Guard if the inspector finds—

(a) The system meets this subpart;

(b) There are guards, shields, insulation or similar devices for protection of personnel; and

(c) The system is not manifestly unsafe.

PART 61—PERIODIC TESTS AND INSPECTIONS

24. By adding the words "mobile offshore drilling units," after the words "aboard ships," in § 61.10–1(a).

25. By adding the words "pressure vessels that are accepted under § 54.01–16" after the words "shop inspection and" in the first sentence of § 61.10–5(b).

26. By adding the words "Subchapter I–A (Mobile Offshore Drilling Units)," after the words "(Cargo and Miscellaneous Vessels)," in § 61.10–5(h).

27. By adding a new paragraph (b)(4) in § 61.20–15 to read as follows:

§ 61.20–15 Tailshaft survey.

• • • • •

(b) • • •

(4) A mobile offshore drilling unit that has a tailshaft is not subject to specified periods for drawing the tailshaft if the tailshaft is—

(i) Drawn for inspection during regularly scheduled drydocking; or

(ii) Regularly inspected in a manner acceptable to the Commandant.

28. By adding a new Subchapter II to read as follows:

SUBCHAPTER I–A—MOBILE OFFSHORE DRILLING UNITS

PART 107—INSPECTION AND CERTIFICATION

Subpart A—General

107.01 Purpose of subchapter.
107.111 Definitions.
107.113 Industrial personnel.
107.115 Seagoing barges.

Subpart B—Inspection and Certification

107.201 Purpose.
107.211 Original certificate of inspection.
107.215 Biennial inspection for certification.
107.219 Permit to proceed to another port for repairs.
107.223 Temporary certificate of inspection: period in effect.
107.227 Certificate of inspection amendment.
107.231 Inspection for certification; lifesaving equipment; fire fighting equipment; cranes; miscellaneous; installation tests; other tests and inspections.
107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers abd fixed fire-extinguishing systems.
107.239 Testing of lifeboats, lifeboat launching systems, and davit launched life raft systems.
107.243 Testing of winch electrical control apparatus for lifeboats.
107.247 Testing of gravity davits.
107.251 Testing of the fire main.
107.257 Testing of fire hoses.
107.258 Crane certification.
107.259 Crane inspection and testing.
107.260 Rated load test for cranes.
107.261 Drydock or special examination.
107.265 Special examination in lieu of drydocking for column stabilized units.
107.267 Special examination in lieu of drydocking for self elavating un.
107.269 Reinspection.
107.271 Inspection: alternations.
107.275 Other inspections.
107.279 Certificate of inspections: failure to meet requirements.

Subpart C—Plan Approval

107.301 Purpose.
107.305 Plans and information; general; hull structure; stability; fire control; marine engineering; electrical engineering; lifesaving equipment; personnel accommodations; construction portfolio; operating manual.
107.309 Crane plans and information.
107.317 Addresses for submittal of plans, specifications, and calculations.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

107.401 Purpose and definition.
107.405 Safety equipment certificate.
107.409 Safety construction certificate.
107.413 Exemption certificate.

PART 108—DESIGN AND EQUIPMENT

Subpart A—General

108.103 Equipment not required on a unit.
108.105 Substitutes for required fittings, material, apparatus, and equipment, arrangements and tests.
108.109 Classification society standards.

Subpart C—Construction and Arrangement

HULL STRUCTURE

108.113 Structural standards.
108.114 Appliances for watertight and weathertight integrity.
108.115 Sliding watertight doors.

FIRE PROTECTION: GENERAL

108.123 Isolation of combustible material.
108.127 Storage lockers for combustibles.

STRUCTURAL FIRE PROTECTION

108.131 Definitions.
108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.
108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.
108.137 Bulkhead and deck separations of accommodation spaces.
108.139 Boundary bulkheads and decks of a space containing emergency power.
108.141 Boundary bulkheads and decks between the emergency power source and service generators.
108.143 Accommodation space.
108.145 Hatches and tonnage openings.
108.147 Certain paints prohibited.

MEANS OF ESCAPE

108.151 Two means required.
108.153 Location of means of escape.
108.155 Type of means of escape prohibited.
108.157 Locked doors.
108.159 Stairway width.
108.160 Vertical ladder width.
108.161 Dead end corridors.
108.165 Access to lifeboats and liferafts.
108.167 Weather deck ladders.

VENTILATION

108.181 Ventilation for enclosed spaces.
108.185 Ventilation for enclosed classified locations.
108.187 Ventilation for brush type electrical motors in classified spaces.
108.193 Accommodation spaces: location: all units.
108.195 Accommodation spaces: location: surface type units.
108.197 Accommodation spaces: construction: all units.
108.199 Accommodation spaces: sleeping spaces: arrangement.
108.201 Accommodation spaces: sleeping spaces: size.
108.203 Accommodation spaces: sleeping spaces: berths and lockers.
108.205 Accommodation spaces: wash spaces; toilet spaces; and shower spaces.
108.207 Accommodation spaces: messrooms.
108.209 Accommodation spaces: hospital space.
108.211 Accommodation spaces: other spaces.
108.213 Accommodation spaces: heating.
108.215 Accommodation spaces: insect screens.

RAILS

108.217 Guardrails and bulkheads.
108.219 Guardrails.
108.221 Storm rails.
108.223 Guard on exposed places.

HELICOPTER FACILITIES

108.231 Application.
108.233 Location and size.
108.235 Construction of the helicopter facility.
108.237 Fuel storage facilities.
108.239 Fuel transfer equipment.
108.241 Visual aids.

Subpart D—Stability

108.301 Stability: definitions.
108.303 Stability Requirements: general.
108.305 Intact stability requirements.
108.309 Stability on bottom.
108.311 Calculation of wind heeling moment [Hm].
108.313 Submission of intact stability data.
108.315 Damage stability requirements.
108.317 General stability assumptions.
108.319 Compartments assumed flooded: general.
108.321 Flooding on self-elavating and surface type units.
108.323 Flooding on column stabilized units.
108.325 Permeabilities.
108.329 Submission of damage stability data and calculations.
108.335 Stability test.
108.337 Plans and information required at the stability test.
108.339 Stability test preparations.
108.341 Stability test procedure modifications.
108.343 Stability: alterations.

Subpart E—Fire Extinguishing Systems

108.401 Fire main system.
108.403 Fire extinguishing systems: general.
108.403a Fire extinguishing systems: non vital services.
108.404 Selection of fire detection system.
108.405 Fire detection system.
108.407 Detectors for electrical fire detection system.
108.409 Location and spacing of tubing in pneumatic fire detection system.
108.411 Smoke detection system.
108.413 Fusible element fire detection system.

FIRE MAIN SYSTEM

108.415 Fire pumps: general.
108.417 Fire pump components and associated equipment.
108.419 Fire main capacity.
108.421 Location of fire pumps and associated equipment.
108.423 Fire hydrants and associated equipment.
108.425 Fire hoses and associated equipment.
108.427 International shore connection.
108.429 Fire main system protection.

FIXED CARBON DIOXIDE FIRE EXTINGUISHING SYSTEMS

108.431 CO_2 systems; general.
108.433 Quantity of CO_2 general.
108.435 CO_2 for enclosed ventilation systems for rotating electrical equipment.
108.437 Pipe sizes and discharge rates for enclosed ventilation systems for rotating electrical equipment.
108.439 Quantity of CO_2 for protection of spaces.
108.441 Piping and discharge rates for CO_2 protection of spaces.
108.443 Controls and valves.
108.445 Alarm and Means of escape.
108.447 Piping.
108.449 Piping tests.
108.451 CO_2 storage.
108.453 Discharge outlets.
108.455 Enclosure openings.
108.457 Pressure release.

GAS EXTINGUISHING SYSTEMS: HALOGENATED

108.458 General.

FOAM EXTINGUISHING SYSTEMS

108.459 Number and location of outlets.
108.461 Coamings.
108.463 Foam rate: protein.
108.467 Water supply.
108.469 Quantity of foam producing materials.
108.471 Water pump.
108.473 Foam system components.
108.475 Piping.
108.477 Fire hydrants.

FIRE PROTECTION FOR HELICOPTER FACILITIES

108.486 Helicopter decks.
108.487 Helicopter deck fueling operations.
108.489 Helicopter fueling facilities.

HAND PORTABLE AND SEMI-PORTABLE FIRE EXTINGUISHING SYSTEM

108.491 General.
108.493 Location.
108.495 Spare charges.

MISCELLANEOUS EQUIPMENT

108.497 Firemen's outfits.
108.499 Fire axes.

Subpart F—Lifesaving Equipment

108.501 Survival capsule.
108.503 Lifeboats.
108.505 Liferafts.
108.506 Lifeboat and lifeboat launching capability.
108.507 Launching equipment for lifeboats.
108.508 Launching equipment for davit launched inflatable liferafts.
108.509 Wire fall fleet angle.
108.510 Hydrostatic releases.
108.511 Lifeboat and liftraft arrangement.
108.513 Illumination.
108.514 Life preservers.
108.515 Ring life buoys.
108.517 Line throwing appliance.
108.519 Portable radio apparatus.
108.521 Distress signals.
108.523 EPIRB.
108.525 Means of embarkation.
108.527 Means of abandonment.

Subpart G—Cranes and Power Operated Industrial Trucks

CRANES

108.601 Crane design.

POWER OPERATED INDUSTRIAL TRUCKS

108.611 Power operated industrial trucks: definition.
108.613 Power operated industrial trucks.
108.615 Charging facilities for battery powered industrial trucks.

Subpart J—Equipment Markings and Instructions

108.621 Equipment markings: general.
108.623 General alarm bell switch.
108.625 General alarm bell.
108.627 Carbon dioxide alarm.
108.629 Fire extinguishing system branch line valve.
108.631 Fixed fire extinguishing system controls.
108.633 Fire stations.
108.635 Self-contained breathing apparatus.
108.636 Work vests.
108.637 Hand portable fire extinguishers.
108.639 Emergency lights.
108.641 Instructions for changing steering gear.
108.643 Rudder orders.
108.645 Lifeboats.
108.647 Inflatable liferafts.
108.649 Life preservers and ring life buoys.
108.651 Portable magazine chests.
108.653 Helicopter facilities.
108.655 Liferaft instructions.
108.657 Unit markings.
108.659 Breeches buoy and lifesaving signal instructions.
108.661 Unit markings: draft marks.
108.663 Unit markings: load line.
108.665 Appliances for watertight integrity.

Subpart K—Miscellaneous Equipment

108.697 Buoyant work vest.
108.699 Substitution of life preservers.

V 42 84 MAY 2 77 UMI

108.701 Sounding equipment.
108.703 Self-contained breathing apparatus.
108.705 Anchors, chains, wire rope, and hausers.
108.707 First aid kit.
108.709 Litter.
108.711 Pilot ladders.
108.713 International code of signals.
108.715 Magnetic compass and gyrocompass.
108.717 Radar.

PART 109—OPERATIONS

Subpart A—General

109.101 Applicability.
109.103 Safety construction certificate.
109.107 Designation of master or person in charge.
109.109 Responsibilities of master of person in charge.
109.121 Operating manual.

Subpart B—Tests, Drills, and Inspections

109.201 Steering gear, whistles, general alarm, and means of communication.
109.203 Sanitation.
109.205 Inspection of boilers and machinery.
109.207 Line throwing equipment.
109.208 EPIRB.
109.209 Appliances for watertight integrity.
109.211 Testing of emergency lighting and power systems.
109.213 Fire drill.
109.215 Boat drill.
109.217 Lifeboats and lifeboat launching equipment-inspection and testing.
109.219 Inflatable liferaft: servicing.
109.221 Electrical power operated winches.
109.223 Fire fighting equipment.

Subpart C—Operation and Stowage of Safety Equipment

109.301 Maintenance of equipment.
109.305 Obstruction on launching decks.
109.307 EPIRB.
109.313 Stowage of life preservers.
109.317 Replacement of distress signal and self-activated smoke signals.
109.320 Line throwing equipment.
109.321 Portable radio.
109.323 Manning of lifeboats and inflatable liferafts.
109.325 Persons in command of lifeboats or liferafts.
109.327 Davit launched liferafts.
109.329 Fire pumps.
109.331 Firehoses and hydrants.
109.333 Fire main cutoff valves.
109.334 Working over water.
109.335 Stowage of work vests.
109.337 Fireman's outfit.
109.339 Location of fire axes.
109.341 Chain suspension ladders.
109.343 Pilot ladders and equipment.
109.345 Pilot ladder use.

Subpart D—Reports, Notifications, and Records

REPORTS AND NOTIFICATIONS

109.411 Notice of casualty.
109.413 Written report of casualty.
109.415 Retention of records after casualty.
109.417 Report of damage to aid to navigation.
109.419 Report of unsafe machinery.
109.421 Report of repairs to boilers and pressure vessels.
109.423 Report of breaking safety valve seal.
109.425 Repairs and alterations—emergency equipment.

RECORDS

109.431 Logbook.
109.433 Logbook entries.
109.435 Record of fire fighting equipment inspection.
109.437 Crane record book.

Subpart E—Station Bill

109.501 Station bill: duties of personnel.
109.503 Station bill: emergency signals.
109.505 Station bill: general.

Subpart F—Cranes and Powered Industrial Trucks

109.521 Cranes: general.
109.525 Cranes: working loads.
109.527 Cranes: operator designation.
109.529 Powered industrial trucks: use.
109.531 Powered industrial trucks: ventilated spaces.
109.533 Powered industrial trucks: rated lifting capacity.
109.535 Designated refueling areas for diesel powered industrial trucks.
109.537 Refueling diesel powered industrial trucks: operations.
109.539 Recharging battery powered industrial trucks.

Subpart G—Miscellaneous

109.555 Propulsion boilers.
109.557 Flammable and combustible liquids: carriage.
109.558 Stores and supplies.
109.559 Explosives and radioactive materials.
109.563 Posting of documents.
109.564 Maneuvering characteristics.
109.565 Charts and nautical publications.
109.573 Riveting, welding, and burning operations.
109.575 Accumulation of liquids on helicopter decks.
109.577 Helicopter fueling.
109.581 Fixed ballast.
109.583 Prevention of oil pollution.
109.585 Use of auto pilot.
109.587 Use of sleeping spaces.

AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86), sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367), R.S. 4405, as amended (46 U.S.C. 375), R.S. 4423, as amended (46 U.S.C. 400), R.S. 4429, as amended (46 U.S.C. 407), R.S. 4430, as amended (46 U.S.C. 408), 88 Stat. 423 (46 U.S.C. 411), R.S. 4434, as amended (46 U.S.C. 416), sec. 1, 73 Stat. 475 (46 U.S.C. 481), sec. 4, 67 Stat. 462 (43 U.S.C. 1333(e)); 49 CFR 1.46 (b) and (n)(6).

PART 107—INSPECTION AND CERTIFICATION

Subpart A—General

§ 107.01 Purpose of subchapter.

This subchapter prescribes rules for the design, construction, equipment, inspection and operation of mobile offshore drilling units operating under the U.S. flag.

§ 107.111 Definitions.

As used in this subchapter:

"Approved" means approved by the Commandant.

"Column stabilized unit" means a unit with the main deck connected to the underwater hull or footings by columns or caissons.

"Commandant" means the Commandant of the Coast Guard or his authorized representative.

"District Commander" means an officer of the Coast Guard who commands a Coast Guard District described in 33 CFR Part 3 or his authorized representative.

"Headquarters" means Office of the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

"Industrial systems and components" means any machinery or equipment on board a mobile offshore drilling unit for use in the industrial function of the unit.

"International service" means operation of a mobile offshore drilling unit on an international voyage or in waters under the jurisdiction of foreign nations or the United Nations.

"Marine inspector" means any person designated by an Officer in Charge, Marine Inspection, as a marine inspector.

"Master" or "Person in charge" means a person designated under § 109.107.

"Mobile offshore drilling unit" or "unit" means a vessel, except a public vessel of the United States, capable of engaging in drilling operations for the exploration or exploitation of subsea resources that is—

(1) Seagoing and 300 or more gross tons and self-propelled by motor;

(2) Seagoing and 100 or more gross tons and non-self-propelled; or

(3) More than 65 feet in length and propelled by steam.

"Non-self-propelled unit" means a unit which is not self-propelled.

"Officer in Charge, Marine Inspection" means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR Part 3 or his authorized representative.

"Self-elevating unit" means a unit with movable legs capable of raising its hull above the surface of the sea.

"Self-propelled unit" means a unit that has propulsion machinery that provides for independent underway navigation.

"Surface type unit" means a unit with a ship shape on barge type displacement hull of single or multiple hull construction intended for operation in the floating condition.

"Watertight" means designed and constructed to withstand a static head of water without any leakage, except that "watertight equipment" means enclosed equipment so constructed that a stream of water from a hose (not less than 1 inch in diameter) under head of about 35 feet from a distance of about 10 feet, and for a period of 5 minutes, can be played on the apparatus without leakage.

"Weathertight" means that water will not penetrate into the unit in any sea condition, except that "weathertight equipment" means equipment so constructed or protected that exposure to a beating rain will not result in the entrance of water.

§ 107.113 Industrial personnel.

Industrial personnel are all persons, exclusive of the required crew as set forth in the Certificate of Inspection, carried on board a mobile offshore drilling unit for the sole purpose of carrying out the industrial business or functions of the unit.

§ 107.115 Seagoing barges.

All non-self-propelled units of 100 gross tons and over that proceed on voyages on the high seas or ocean are subject to inspection and certification as seagoing barges.

Subpart B—Inspection and Certification

§ 107.201 Purpose.

This subpart prescribes rules for the—

(a) Original inspection and issuance of an original Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(b) Biennial inspection for certification and renewal of a Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(c) Reinspection required by 46 U.S.C. 435;

(d) Inspection after an accident required by 46 U.S.C. 435; and

(e) Inspection of repairs or alterations, or both, required by 46 U.S.C. 435;

(f) Amendments to Certificates of Inspection; and

(g) Issuance of Temporary Certificate of Inspection; and

(h) Issuance of Permit To Proceed to Another Port for Repairs.

§ 107.211 Original certificate of inspection.

(a) The owner or builder of a unit applies for an inspection for an original Certificate of Inspection by submitting before construction is started—

(1) A completed Application for Inspection of U.S. Vessel, Form CG–3752, to the Officer in Charge, Marine Inspection, of the marine inspection zone in which the unit is to be constructed; and

(2) Plans and information indicating the proposed arrangement and construction of the unit to the Coast Guard in accordance with Subpart C of this Part.

(b) An original Certificate of Inspection is issued if the Coast Guard finds, during the inspections conducted while the unit is being constructed, that a unit contracted for on or after (effective date) meets § 107.231.

(c) An original Certificate of Inspection is issued if the Coast Guard finds that an uncertified unit contracted for before (effective date) meets the requirements of this Subchapter and Navigation and Vessel Inspection Circular, Inspection of Existing Mobile Offshore Drilling Units. Existing structure, arrangements, materials, equipment, and facilities will be considered satisfactory so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as originally used. Major alterations and conversions shall be in compliance with the provisions of each subpart of this part to the satisfaction of the Officer in Charge, Marine Inspection.

(d) A Certificate of Inspection expires 24 months after the date of issue.

§ 107.215 Biennial inspection for certification.

(a) The master, owner, or agent of a certificated unit may apply for a biennial inspection for the renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel, Form CG–3752, to the Officer in Charge, Marine Inspection, in or nearest to the port where the inspection will be made.

(b) The master, owner, or agent of a certificated unit operating in international service may apply for renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel Form CG–3752, to the appropriate Officer in Charge, Marine Inspection, at least 90 days before the expiration date that appears on the unit's unexpired Certificate of Inspection.

(c) A Certificate of Inspection is renewed if the Coast Guard finds, during the biennial inspection, that—

(1) A unit contracted for on or after (effective date), meets the requirements of this Subchapter; or

(2) A unit contracted for before (effective date), and issued a Certificate of Inspection under Subchapter I of this Chapter, meets the requirements of Navigation and Vessel Inspection Circular, Inspection of Existing Mobile Offshore Drilling Units.

§ 107.219 Permit to proceed to another port for repairs.

(a) If a unit fails to meet the requirements in § 107.231, and the Coast Guard withholds reissuance of a Certificate of Inspection, or suspends an unexpired Certificate of Inspection, as described in § 107.279, a Permit to Proceed to Another Port for Repairs (Form CG–948) is issued by the Coast Guard if—

(1) The owner, master, person in charge, or agent makes a written request for a permit to the Officer in Charge, Marine Inspection, that includes—

(i) The reason the permit is requested;

(ii) The port in which the repairs are to be made; and

(iii) The period of time for the voyage;

(2) The Officer in Charge, Marine Inspection finds that the unit is seaworthy for the voyage.

(b) A Permit to Proceed to Another Port for Repairs is in force for the period of the voyage to the port in which the repairs are to be made.

§ 107.223 Temporary certificate of inspection: period in effect.

A Temporary Certificate of Inspection, issued under 46 U.S.C. 399, is effective until a Certificate of Inspection is issued to the unit.

§ 107.227 Certificate of inspection amendment.

The Coast Guard issues a Certificate of Inspection Amendment, Form CG–858, to a certificated unit if a requirement for equipment and data listed on the unexpired Certificate of Inspection is changed.

§ 107.231 Inspection for certification.

A unit is issued a Certificate of Inspection under § 107.211 or § 107.215(c) if the inspector finds the following:

(a) The unit and its equipment comply with—

(1) Part 108 of this subchapter;

(2) Subchapter J of this chapter, Electrical Engineering; [2]

(3) Subchapter F of this chapter, Marine Engineering; [2]

(4) Subchapter E of this chapter, Load Lines;

(5) Part 64 or Part 98 of this chapter, or both, if the unit carries marine portable tanks or portable tanks;

(6) The vessel design and equipment requirements of the Pollution Prevention Regulations (33 CFR Part 155, Subpart B);

(7) the Rules of the Road requirements for the waters in which the unit navigates, contained in—

(i) 33 U.S.C. Chapters 3, 4, 5, or 21; and

(ii) 33 CFR Parts 80, 85, or 86.

LIFESAVING EQUIPMENT

(b) The air tanks of each lifeboat are airtight.

(c) Each lifeboat, each lifeboat launching system, and each davit launched liferaft launching system passes the test in § 107.239.

(d) Each winch electrical control apparatus for lifeboats meets the testing requirements in § 107.243.

(e) Each inflatable liferaft is serviceable and meets the servicing requirement in § 160.051–6 of this chapter.

(f) Each hydraulic release for inflatable liferafts meets the periodic servicing and testing requirements in § 160.062–4 of this chapter.

(g) Each gravity davit meets the testing requirements in § 107.247.

(h) Each life preserver is serviceable.

(i) A life preserver that is cleaned or repaired meets Subpart 160.006 of this chapter.

(j) Each buoyant work vest is serviceable.

FIRE FIGHTING EQUIPMENT

(k) Each hand portable fire extinguisher and each semiportable fire extinguisher is serviced, if required, in accordance with § 107.235(a).

(l) Each fixed fire-extinguishing system is serviced, if required, in accordance with § 107.235(b).

(m) Each fire main system meets the testing requirements in § 107.251.

(n) Each fire hose meets the testing requirements in § 107.257.

CRANES

(o) The rated load test for cranes in § 107.260 is met.

(p) Each crane is inspected and tested in accordance with § 107.259.

MISCELLANEOUS

(q) Each sliding watertight door is operative.

(r) Each valve with a remote control is operative.

(s) Each means of escape on the unit is safe for the intended service.

(t) There is not an accumulation of oil which might create a fire hazard on

[2] Requirements for industrial systems and components are in Subpart 111.107 of this Chapter.

[3] Requirements for industrial systems and components are in Subpart 58.60 of this Chapter.

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tank tops, decks, in drip pans, machinery spaces, and pumproom bilges.

(u) Each accommodation space is sanitary.

(v) The unit meets the drydocking requirement in § 107.261 or the special examination in § 107.265 or § 107.267.

(w) The unit meets the equipment and data information requirements on its certificate of inspection.

(x) The unit that engages in international voyages has on board the appropriate certificates issued under 47 U.S.C. 360:

(1) Safety Radiotelegraph Certificate or Safety Radiotelephony Certificate.

(2) Exemption Certificate, if an exemption has been granted.

INSTALLATION TESTS

(y) Each lifeboat, lifeboat davit, and liferaft winch meets the installation tests in § 94.35–5(b) of this chapter.

(z) Each davit launched life raft meets the installation test in § 95.37–5 of this chapter.

(aa) Piping for each carbon dioxide extinguishing system meets the installation test in § 108.449 of this chapter.

(bb) Each sliding watertight door meets the installation tests in § 163.001–6(b) of this chapter.

OTHER TESTS AND INSPECTIONS

(cc) The unit and its equipment meet any other test or inspection deemed necessary by the inspector to determine if they are suitable for the service in which they are to be employed.

§ 107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.

(a) To meet the servicing requirements in § 107.231(k), each hand portable fire extinguisher and each semi-portable fire extinguisher on board the unit must be serviced by—

(1) Discharging each extinguisher containing soda acid, cleaning each hose and the insides of the extinguisher, and recharging;

(2) Discharging each extinguisher containing foam, cleaning each hose and the insides of the extinguisher, and recharging;

(3) Discharging each pump tank extinguisher containing water or antifreeze, cleaning each base and the insides of the extinguisher, and recharging;

(4) Removing the pressure cartridge of each cartridge operated extinguisher and replacing the cartridge if the end is punctured, draining the water, antifreeze, or solution from the extinguisher, cleaning each hose and the insides of the extinguisher, and recharging;

(5) Recharging the cylinder of each carbon dioxide extinguisher, if the weight loss is more than 10 percent of the weight of the charge, and cleaning each hose and each nozzle;

(6) Removing the pressure cartridge of each cartridge operated dry chemical extinguisher, cleaning each hose and each nozzle of the extinguisher, and recharging; and

(7) Weighing each stored pressure type dry chemical extinguisher, adding dry chemicals if not fully charged, and pressurizing to the operating range.

NOTE.—All carbon dioxide cylinders and discharge hoses of semi-portable carbon dioxide systems must be tested and marked in accordance with § 147.04–1 of this Chapter.

(b) To meet the servicing requirements in § 107.231(l), each fixed fire-extinguishing system must be serviced by—

(1) Recharging the cylinders of each carbon dioxide system, if the weight loss is more than 10% of the weight of the charge;

(2) Testing each foam system, except premix systems by—

(i) Discharging foam for approximately 15 seconds form a nozzle designated by the marine inspector;

(ii) Discharging water from all other lines and nozzles; and

(iii) Taking a sample of the foam liquid and submitting it for determination of its specific gravity, PH, percentage of water dilution, and solid content, and certification as a suitable firefighting foam;

(3) Removing the pressure cartridge of each premix aqueous film forming foam system and replacing the cartridge if the seal is punctured, sampling the premix solution in accordance with the manufacturer's instructions, and replacing cylinders that are discharged.

§ 107.239 Testing of lifeboats, lifeboat launching systems, and davit launched life raft systems.

To meet the requirements in § 107.231(c)—

(a) Each lifeboat must be loaded to the deadweight equivalent of the allowed capacity, lowered into the water, and released from the falls;

(b) The launching equipment for each davit launced life raft must be tested by suspending a test weight from the releasing hook and lowering the weight to near the water; and

(c) The launching equipment for each lifeboat or davit launched life raft must be tested with a weight equal to the weight of the lifeboat or raft plus the full complement of persons and equipment.

NOTE.—In making these tests deadweight is equivalent to 165 pounds for each person in the allowed capacity.

§ 107.243 Testing of winch electrical control apparatus for lifeboats.

To meet the requirement in § 197.231(d), each winch electrical control apparatus for lifeboats must be opened and inspected.

§ 107.247 Testing of gravity davits.

To meet the requirements in § 107.231(q), each lifeboat on gravity davits must be swung out and lowered from any stopped position by releasing the brake on the lifeboat winch.

§ 107.251 Testing of the fire main.

To meet the requirements in § 107.231(m), each fire main system must be opened and the pressure checked at—

(a) The most remote outlet; and

(b) The highest outlet.

§ 107.257 Testing of fire hose.

To meet the requirements in § 107.231(n), each fire hose must be subjected to a test pressure equivalent to the maximum pressure to which it may be subjected during operation. However, each fire hose must be subjected to a pressure of at least 100 p.s.i.g.

§ 107.258 Crane certification.

(a) The Coast Guard may accept current certificates issued by approved organizations as evidence of condition and suitability of cranes. The following organizations are approved by the Coast Guard as crane certifying authorities:

(1) American Bureau of Shipping, 45 Broad St., New York, N.Y. 10004.

(2) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, N.Y. 10004.

(b) Crane certification must be based upon—

(1) A review of plans submitted under § 107.309; and

(2) The continuing program of tests and inspections in § 107.258.

(c) Each load test and inspection by the certifying authority must be recorded in the unit's Crane Record Book required in § 109.437.

§ 107.259 Crane inspection, and testing.

(a) To meet the requirements in § 107.231(p), each crane must be inspected and tested in accordance with Section 3 of the American Petroleum Institute (A.P.I.) Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition, October 1972, except that the rated load test must be performed in accordance with § 107.260.

(b) The tests and inspections must be conducted by—

(1) A Coast Guard marine inspector; or

(2) The American Bureau of Shipping (A.B.S.), or the International Cargo Gear Bureau, Inc. (I.C.G.B.) for cranes under certification by these organizations.

(c) If the tests and inspections are conducted by the A.B.S. or the I.C.G.B. the surveyor shall certify that the tests and inspections were conducted in accordance with the A.P.I. specification.

§ 107.260 Rated load test for cranes.

(a) To meet the requirements in § 107.231(o), each crane must meet the following rated load test at the usual boom angle employed in material transfers over the side of the unit:

Rated load of assembled gear	*Proof load*
Less than or equal to 20 tons.	25 percent in excess.
Greater than 20 tons but less than or equal to 50 tons.	5 tons in excess.
Greater than 50 tons.	10 percent in excess.

(b) The weight of the hook, hook blocks, slings, rib, and other rigging, except the hoist rope, must be considered part of the load for the rated load test.

(c) The rated load test must be performed—

(1) When the crane is installed;

(2) Each 48 months; and

(3) After repairs or alteration to any structural component of the crane.

§ 107.261 Drydock or special examination.

(a) Each unit must at least once during each 24 month period after it is issued a Certificate of Inspection be—

(1) Drydocked in the presence of a Coast Guard inspector;

(2) If a unit is column-stabilized, especially examined in accordance with § 107.265 in the presence of a Coast Guard inspector; or

(3) If a unit is self-elevating, specially examined in accordance with § 107.267 in the presence of a Coast Guard inspector.

(b) The master, person in charge, owner, or agent of a certificated unit must notify the appropriate Officer in Charge, Marine Inspection before the unit is drydocked, or specially examined.

(c) The master, person in charge, owner, or agent of a certificated unit operating in international service must notify the appropriate Officer in Charge, Marine Inspection at least 90 days before the unit is drydocked or specially examined under § 107.265.

§ 107.265 Special examination in lieu of drydocking for column stabilized units.

(a) A column stabilized unit must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Accepted by the Coast Guard.

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Coast Guard that provides the methods used to determine the condition of the hull and that contains the following information:

(1) The planned location where the unit is to be examined.

(2) The draft at which the unit is to be examined.

(3) The names of the diver or diving company selected for the examination.

(4) The method of visual presentation for the examination.

(5) The method used to clean the underwater portion of the hull.

(6) The method and location of gauging the underwater portion of the hull.

(7) The number of underwater hull fittings and number of compartments to be opened.

(8) The underwater high stress areas and the welds in those areas to be examined.

§ 107.267 Special examination in lieu of drydocking for self-elevating units.

(a) A self-elevating unit must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Accepted by the Coast Guard.

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Coast Guard that provides for—

(1) Examination of the unit's hull while it is in the elevated position; and

(2) Examination of the supporting mat, spud cans, or footings while the unit is afloat.

(c) The plan required in paragraph (b) must contain the following information:

(1) The planned location where the unit is to be examined.

(2) The methods to be used to conduct the hull examination.

(3) The method of visual presentation for examination of the underwater components.

(4) The methods of determining the condition of the underwater components.

(5) The underwater high stress areas and the welds in those areas that are to be examined.

(6) The names of the diver or diving company selected for the examination.

§ 107.269 Reinspection.

The Coast Guard reinspects a unit within the period between the 10th and 14th months after the month in which the certificate is issued to determine if the unit meets the requirements in § 107.231, except § 107.231 (y), (z), (aa), and (bb).

§ 107.271 Inspection: alterations.

After plans are approved for alterations affecting the safety of the unit, the Coast Guard conducts inspections of the—

(a) Hull;

(b) Machinery; or

(c) Equipment.

§ 107.275 Other inspections.

When the Coast Guard receives the report required in § 109.411 or § 109.425, the Coast Guard conducts the following inspections of a unit to determine if the unit meets the requirements under which it was issued its original Certificate of Inspection:

(a) An inspection after an accident.

(b) An inspection after a defect is found that affects—

(1) The seaworthiness of the unit; or

(2) The safety or efficiency of a life-saving device, or firefighting device.

(c) An inspection of repairs made because of an accident or a defect.

§ 107.279 Certificate of inspection: failure to meet requirements.

If a unit fails to meet the requirements in § 107.231, the Coast Guard may—

(a) Withhold issuance of an original Certificate of Inspection after an original inspection for certification, until the unit meets the requirements in § 107.231;

(b) Withhold renewal of a Certificate of Inspection after a biennial inspection for certification until the unit meets the requirements in § 107.231, except § 107.231 (y), (z), (aa), and (bb);

(c) Suspend an unexpired certificate of inspection after a reinspection, until the unit meets the requirements in § 107.231, except § 107.231 (y), (z), (aa), and (bb);

(d) Revoke an unexpired Certificate of Inspection after a reinspection if the unit operates without complying with Coast Guard orders to correct unlawful conditions;

(e) Revoke or suspend an unexpired Certificate of Inspection;

(f) Withhold renewal of safety equipment certificate;

(g) Withhold renewal of safety equipment certificate;

(h) Suspend an unexpired safety equipment certificate;

(i) Revoke an unexpired safety equipment certificate; and

(j) Withhold, suspend, or revoke an exemption certificate.

Subpart C—Plan Approval

§ 107.301 Purpose.

This subpart prescribes procedures for submitting plans and specifications for plan approval and describes the information that must be submitted.

§ 107.305 Plans and information.

Each applicant for approval of plans must submit three copies of each of the following generally described plans, specifications, details, and structural calculations showing the construction, arrangement, required equipment, and safety features of the unit.

GENERAL

(a) Specifications.

(b) General arrangement plan of decks, holds, inner bottoms, etc. including inboard and outboard profile.

HULL STRUCTURE[*]

(c) *Inner bottom plating and framing.

(d) *Midship section.

(e) *Shell plating and framing.

(f) *Stern, stern frame, and rudder.

(g) *Structural deck plans for strength decks.

(h) *Pillars and girders.

(i) *Watertight and oiltight bulkheads.

(j) *Foundations for main machinery and boilers.

(k) *Arrangement of ports, doors, and airports in shell plating.

(l) *Hatch coamings and covers in weather and watertight decks.

(m) *Details of watertight doors and operating gear.

(n) *Scuppers and drains penetrating shell plating.

(o) Arrangement of cranes.

(p) For self-elevating units, column stabilized units, and units with special

[*] The asterisk(*) indicates items that are approved by the American Bureau of Shipping for vessels classed by it. Items approved by the American Bureau of Shipping are generally accepted as satisfactory unless the law or Coast Guard regulations contain requirements that are not covered by the American Bureau of Shipping.

V 42 84 MAY 2 77 UMI

hull configuration, structural calculations and plans showing special structural features.

STABILITY

(q) Lines.
(r) Curves of form and cross curves of stability.
(s) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces and tanks.
(t) Tank sounding tables.
(u) Draft mark locations.
(u–1) Intact stability and damage stability data.

FIRE CONTROL

(v) General arrangement plans showing, for each deck, the control stations, fire sections enclosed by fire resisting bulkheads, alarm and extinguishing systems, fire extinguishers, means of access to compartments and other decks, and the ventilation system, including location of ventilation shut downs, positions of dampers, and the numbers identifying each system.
(w) Ventilation diagram, including dampers and other fire control features.
(x) Details of fire alarm systems.
(y) Details of fixed fire extinguishing systems.

MARINE ENGINEERING

(z) Plans required for marine engineering equipment and systems by Subchapter F of this chapter.

ELECTRICAL ENGINEERING

(aa) Plans required for electrical engineering equipment and systems by Subchapter J of this chapter.

LIFE SAVING EQUIPMENT

(bb) The location and arrangement of each life saving system including each embarkation deck, showing each overboard discharge, and projections in the way of launching lifeboats and liferafts.
(cc) The weight of each lifeboat when fully equipped and loaded.
(dd) Working loads of davits and winches.
(ee) Types and sizes of falls.
(ff) Manufacturer's name and identification of each item of equipments.

PERSONNEL ACCOMMODATIONS

(gg) Arrangement plans showing each accommodation space, ventilation, and means of escape.

CONSTRUCTION PORTFOLIO [1]

(hh) A construction portfolio that documents the areas where high or higher strength special steels are used in the hull construction of any unit and provides sufficient information to enable quality repairs to be made. The portfolio must contain the following:
(1) Structural plans showing areas incorporating the special steels. A simplified steel plan may be included in the portfolio if it adequately defines the areas of steel application.
(2) A list of special steels that conform to ABS or ASTM specifications. For steels that do not conform to ABS or ASTM specifications, complete specifications, including chemical and physical properties and special testing and heat treating.
(3) Each approved weld procedure for the fabrication of each structure using special steel and each approved weld test procedure.

OPERATING MANUAL

(ii) The operating manual required in § 109.121.

§ 107.309 Crane plans and information.

(a) Three copies of each of the following must be submitted:*
(1) Stress and arrangement diagrams, bill of materials, and supporting calculations for all structural components listed in API Spec. 2C, Second Edition, February 1972 (with supplement 2).
(2) Drawings of foundations and substructures with supporting calculations for support and stability of each crane.
(3) Plans showing the installation of the safety features required in § 108.601.
(4) Drawing of the means provided to stop motion and set brakes during a power failure.

NOTE: These plans may be submitted to the Coast Guard, if the crane is not certified. If the crane is to be certified, four copies must be sent to the American Bureau of Shipping or the International Cargo Gear Bureau.

(b) In addition to the plans and information required in paragraph (a), the following plans and information must be submitted to the Coast Guard only:
(1) One-line diagrams of the electric power circuits of the electric power crane overload protection required in Subpart 111.50 of this chapter.
(2) Drawings of the hydraulic control system, with a bill of materials, if the system is—
(i) Used for hoisting and raising and lowering the boom; and
(ii) Not designed to be fail safe in accordance with Subpart 58.30 of this chapter.
(3) Drawing of pneumatic control systems, with a bill of materials, for systems designed for an air pressure of greater than 150 p.s.i.g.

§ 107.317 Addresses for submittal of plans, specifications, and calculations.

The copies of each plan, specification, and calculation required under § 107.305 and § 107.309 must be submitted to one of the following:

(a) The Officer in Charge, Marine Inspection, in the zone in which the unit is to be built or altered.

(b) One of the following field technical offices:

(1) Commander(mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st and 3rd Coast Guard Districts.
(2) Commander(mmt), 5th Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23705.
(3) Commander(mmt), 8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard Districts.
(4) Commander(mmt), 9th Coast Guard District, 1240 East 9th St., Cleveland, OH 44199.
(5) Commander(mmt), 12th Coast Guard District, 630 Sansome St., San Francisco, CA 94126, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(c) The American Bureau of Shipping, (ABS) 45 Broad St., New York, NY 10004.

NOTE.—Only the plans indicated with an asterisk in § 107.305 for a unit classed by the ABS may be submitted to the ABS.

(d) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, NY 10004.

NOTE.—Only the plans required in § 107.309 may be submitted to the International Cargo Gear Bureau.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

§ 107.401 Purpose and definition.

(a) The International Convention for Safety of Life at Sea, 1960, requires one or more of the certificates described in this subpart to be carried on self-propelled vessels of 500 gross tons or over engaged in international voyages. This subpart prescribes rules for the issuance of these certificates.

(b) "International voyage" has the same meaning as stated in Regulation 2(d) of Part A, Chapter I in the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60), which is: " a voyage from a country to which the present Convention applies to a port outside such country, or conversely; and for this purpose every territory for the international relations of which a Contracting Government is responsible or for which the United Nations are the administering authority is regarded as a separate country." The Coast Guard has interpreted this definition to include—

(1) A voyage from a country to which SOLAS 60 applies, to a port outside that country or the reverse;

(2) A voyage from any territory, including the Commonwealth of Puerto Rico, the Canal Zone, all possessions of the United States, and all lands held by the United States under a protectorate or mandate, whose international relations are the responsibility of a contracting SOLAS 60 government, or which is administered by the United Nations, to a port outside that territory or the reverse; or

(3) a voyage between the contiguous states of the United States and the states of Hawaii or Alaska or between the states of Hawaii and Alaska. The Coast Guard has interpreted this definition to not include a "Great Lakes voyage" which means a voyage solely on the Great Lakes of North America and the St. Lawrence River west of a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd Meridian.

§ 107.405 Safety equipment certificate.

(a) A self propelled unit of at least 500 gross tons that engages in international voyages is issued a safety equipment certificate if the inspector issues it a certificate of inspection under § 107.211 or § 107.215 and it meets Chapter 3 of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(b) A safety equipment certificate expires 24 months after the date of issue.

§ 107.409 Safety construction certificate.

(a) Application for a safety construction certificate is made by indicating in the space provided on the Application for Inspection Form CG–3752 whether the American Bureau of Shipping or the Coast Guard is to issue the certificate.

(b) The American Bureau of Shipping or the Coast Guard may issue a unit of at least 500 gross tons that engages on international voyages a safety construction certificate if the unit meets the requirements in Regulation 12(a)(ii), Chapter I of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(c) A safety construction certificate expires 60 months after the date of issue.

(d) If a unit fails to meet the requirements in Regulation 12(a)(ii), the Coast Guard may—

(1) Suspend an unexpired safety construction certificate; or

(2) Revoke an unexpired safety construction certificate.

§ 107.413 Exemption certificate.

(a) An owner or operator of a unit may request an exemption from the requirements of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) by writing to the OCMI.

(b) The Coast Guard may exempt a self-propelled unit of at least 500 gross tons on an international voyage from any of the requirements in the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) if the unit meets the conditions of Regulation 4 of Part A, Chapter I, of SOLAS 60 which states the following: "A ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Administration from any of the requirements of the present Regulations provided that it complies with safety requirements which are adequate in the opinion of the Administration for the voyage which is to be undertaken by the ship."

(c) The Coast Guard may exempt a self-propelled unit of at least 500 gross tons on an international voyage from the requirements of Chapter III (Lifesaving Appliances, & C.) of SOLAS 60 if the unit meets the conditions of Regulation 3 of Chapter III which states in part: "The Administration, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of the full requirements of this chapter (Chapter III) unreasonable or unnecessary, may to that extent exempt from the requirements of this chapter individual ships or classes of ships which, in the course of their voyage, do not go more than 20 miles from the nearest land * * *."

(d) The Coast Guard may exempt a unit from the requirements of Chapter II (Construction) of SOLAS 60 if the unit meets the conditions of Regulation 1(c) of Part A of Chapter II of SOLAS 60 which states the following: "The Administration may, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of this chapter (Chapter II) unreasonable or unnecessary, exempt from those requirements individual ships or classes of ships belonging to its country which, in the course of their voyage, do not proceed more than 20 miles from the nearest land."

(e) An Exemption Certificate is in force for the period of validity of the certificate to which it refers.

PART 108—DESIGN AND EQUIPMENT

Subpart A—General

§ 108.103 Equipment not required on a unit.

Each item of lifesaving and firefighting equipment that a unit has in addition to those required by this part for the unit must meet the requirements of this subchapter for that item of equipment.

§ 108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, and tests.

(a) The Coast Guard may accept substitutes for fittings, material, apparatus, equipment, arrangements, and tests required in this Subchapter if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, arrangement, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, apparatus, arrangement, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this subchapter.

§ 108.109 Classification society standards.

(a) When, in this Subchapter, the standards established by the American Bureau of Shipping are required to be met, the current standards in effect at the time of the contract date of the unit must be used.*

(b) Any person who desires to use the rules of a classification society other than the American Bureau of Shipping to meet requirements in this Subchapter must request recognition of that society from the Commandant (G–MMT). The relevant rules must be submitted with the request.

Subpart B—Construction and Arrangement

HULL STRUCTURE

§ 108.113 Structural standards.

Each unit must meet the structural standards of a recognised classification society described in § 108.109 of this subchapter.

§ 108.114 Appliances for watertight and weathertight integrity.

(a) Appliances to ensure watertight integrity include watertight doors, hatches, scuttles, bolted manhole covers, or other watertight closures for openings in watertight decks and bulkheads.

(b) Appliances to ensure weathertight integrity include weathertight doors and hatches, closures for air pipes, ventilators, ventilation intakes and outlets, and closures for other openings in deckhouses and superstructures.

(c) Each internal opening fixed with appliances to ensure watertight integrity which are used temporarily during operation of the unit while afloat must meet the following:

(1) Each door, hatch, and scuttle must—

(i) Be remotely controlled from a normally manned control station, and be operable locally from both sides of the bulkhead; or

(ii) If there is no means of remote control there must be an alarm system which signals whether the appliance is open or closed both locally at each appliance and in a normally manned control station.

(2) Each closing appliance must remain watertight under the design water pressure of the watertight boundary of which it is a part.

(d) Each external opening fitted with an appliance to ensure weathertight integrity must be located so that it would not be submerged below the final equilibrim waterline if the unit is subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311 using a wind velocity of 25.8 meters per second (50 knots).

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[1] This portfolio may be included in the operating manual required in § 109.121, and a precautionary statement is written on the certificate of Inspection.

* The standards established by the American Bureau of Shipping are usually published annually and may be purchased from the American Bureau of Shipping, 45 Broad Street, New York, N.Y. 10004. These standards may also be examined at the Office of the Commandant (M), U.S. Coast Guard, Washington, D.C. 20590, or at the office of any Coast Guard District Commander or Officer in Charge, Marine Inspection.

V42N84 MAY 2 77 UMI

§ 108.115 Sliding watertight doors.

If a unit is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of Subchapter Q of this chapter.

FIRE PROTECTION: GENERAL

§ 108.123 Isolation of combustible material.

Each internal combustion engine exhaust, boiler and galley uptake, and similar heat source must be separated or insulated from combustible materials.

§ 108.127 Storage lockers for combustibles.

Each oil and paint locker must be made of steel or an equivalent material or be completely lined with steel or an equivalent material as described in § 108.131(c) of this subpart.

STRUCTURAL FIRE PROTECTION

§ 108.131 Definitions.

(a) "Standard Fire Test" means the test in which specimens of the relevant bulkheads or decks, having a surface of approximately 4.65 square meters (50 square feet) and a height of 2.44 meters (8 feet) resembling as closely as possible the intended construction and including, where appropriate, at least one joint, are exposed in a test furnace to a series of temperature relationships approximately as follows:

At the end of 5 minutes —538° C. (1,000° F.).
At the end of 10 minutes —704°C. (1,300° F.).
At the end of 30 minutes —843°C. (1,550° F.).
At the end of 60 minutes —927°C. (1,700° F.).

(b) Bulkheads and decks are classed as follows:

(1) "A class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of steel or other equivalent material; and

(ii) Prevents the passage of flame and smoke for 60 minutes if subjected to the standard fire test.

(2) "A 60 bulkhead or deck" means an A class bulkhead or deck that—

(i) Is insulated with approved insulation, bulkhead panels, or deck covering;

(ii) If subjected to the standard fire test for 60 minutes, has an average temperature rise on the unexposed side of the insulated bulkhead or deck of less than 139°C. (250°F.) above the temperature before the standard fire test and has a temperature rise at any point on the unexposed surface, including any joint, of less than 180°C. (325°F.) above the temperature before the standard fire test.

(3) "B class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of approved noncombustible material;

(ii) Prevents flame from passing through it for 30 minutes if subjected to the standard fire test.

(4) "C class bulkhead or deck" means a bulkhead or deck made of approved noncombustible material.

(c) "Equivalent material" means a material that by itself or with insulation has smoke and fire retardant properties equal to that of the steel required for "A" or "B" class bulkheads or decks and has structural qualities equivalent to steel at the end of the applicable fire exposure.

(d) "Approved material" means a material approved under one of the following subparts of Subchapter Q of this chapter:

(1) Deck coverings, Subpart 164.006.
(2) Structural insulation, Subpart 164.007.
(3) Bulkhead panel, Subpart 164.008.
(4) Noncombustible materials, Subpart 164.009;
(5) Interior finishes, Subpart 164.012.

(e) "Stairtower" means a stairway that penetrates more than one deck within the same enclosure, or two or more stairways that—

(1) Are arranged vertically one above the other; or

(2) Penetrate both the deck and the overhead within the same enclosure.

(f) "Classified location" means—

(1) The following Class I Division 1 locations:

(i) An enclosed space that has—

(A) A shale shaker;

(B) Mud processing equipment between the well and the location of final degassing; or

(C) Open drilling mud tanks or open ditches between the well and the location of final degassing.

(ii) A location in the weather that is—

(A) Within 1.5 meters (5 feet) of any of the equipment listed in paragraph (1)(i);

(B) Within 1.5 meters (5 feet) of a ventilation outlet, door, or opening of a space listed in paragraph (1)(i); or

(C) Within 1.5 meters (5 feet) of a gas vent outlet.

(iii) A Division 2 location, as defined in paragraph (b)(2) where combustible or flammable gases might accumulate.

(iv) All of the enclosure of an enclosed derrick substructure.

(v) Except as provided in paragraph (3), an enclosed space that has a direct access to a location under paragraphs (1)(i) through (iv).

(2) The following Class I Division 2 locations;

(i) An enclosed space that has any open portion of the mud return system, from the location of final degassing to the mud pump suction connection at the mud pit.

(ii) A location in the weather that is—

(A) Within 3 meters (10 feet) of the center of the bottom surface of the rotary table;

(B) Within 1.5 meters (5 feet) of a ventilation outlet for or a door for a space listed in paragraph (2)(i); or

(C) Within 1.5 meters (5 feet) of a Class I Division 1 location in the weather.

(iii) The surface of an enclosed derrick floor and all of the floor's enclosure above the drilling floor.

(iv) Except as provided in paragraph (3), an enclosed space that has a direct access to a location under paragraph 2 (i) through (iii).

(3) An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location except—

(i) An enclosed space that has direct access to a Division 1 location is not a classified location if—

(A) The access has a self-closing gastight door that opens into the space and that has no hold back device; and

(B) Ventilation causes greater pressure in the space than in the Division 1 location; and

(C) Loss of pressure in the space to a lesser pressure than that in the Division 1 location actuates an alarm at a manned control station.

(ii) An enclosed space that has direct access to a Division 2 location is not a classified location if—

(A) The access has a gastight door;

(B) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and

(C) Loss of ventilation actuates an alarm at a manned control station.

(g) "Accommodation space" includes, sleeping, mess, hospital, recreational, toilet, washing and shower spaces, and corridors.

§ 108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.

Each hull superstructure, structural bulkhead, deck, and deckhouse must be made of steel or an equivalent material.

§ 108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.

Each boundary bulkhead and deck of each galley, each combination galley and messroom, and each combustible material storage locker must be an A class bulkhead and A class deck respectively,

§ 108.137 Bulkhead and deck separations of accommodation spaces.

Each boundary bulkhead and deck that separates an accommodation space or control station from the following must be an A class bulkhead and A class deck respectively—

(a) Machinery space;
(b) Galley or combination galley and messroom;
(c) Main pantry;
(d) Classified space;
(e) Store room.

§ 108.139 Boundary bulkheads and decks of a space containing emergency power.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of an emergency electric power source must be an A class bulkhead and A class deck. When separate but adjoining spaces are provided, boundary bulkhead type construction is not required for separating partitions common to each space.

§ 108.141 Boundary bulkheads and decks between the emergency power source and service generators.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of an emergency electric power source that adjoins a space containing a ship's service generator, the components of a ship's service generator, or a restricted space must be an A–60 bulkhead and A–60 deck.

§ 108.143 Accommodation space.

(a) Each corridor bulkhead in an accommodation space must be an A class or B class bulkhead except if an A class bulkhead is specifically required by this Part.

(b) No door in a corridor bulkhead in an accommodation space may have a louver, except that a stateroom door may have louvers in its lower half.

(c) Each stairtower, elevator, and dumbwaiter, and other trunk must be enclosed by A class bulkheads.

(d) Each bulkhead not described under paragraph (a) of this section must be either A class, B class, or C class bulkheads.

(e) At least one opening to each stairway must be enclosed by either A class or B class bulkheads and doors.

(f) Each stairtower must have doors at all levels and each must be an A class door.

(g) Each door required by paragraphs (e) and (f) of this section—

(1) Must be self-closing;

(2) May not have any means to permanently hold the door open, except for magnetic holdbacks that are operated from the bridge or other remote location.

(h) Interior stairs, including stringers and treads, must be made of steel or an equivalent material.

(i) Except in washrooms and toilet spaces, each deck covering in an accommodation space must be made of an approved material, except an overlay on a deck for leveling or finishing that is not more than 9.375 millimeters (3/8 inch) thick.

(j) Except as provided in paragraph (1), each ceiling, lining, insulation, and pipe and duct lagging in an accommodation space must be made of an approved material that is noncombustible.

(k) Each sheathing, furring, or holding piece used to secure a bulkhead, ceiling, lining, or insulation in an accommodation space must be made of an approved material that is noncombustible.

(l) No bulkhead, lining, or ceiling in an accommodation space may have a combustible veneer greater than 2.1 millimeters (1/12 inch) in thickness.

(m) Each corridor or hidden space in an accommodation space may be covered by an approved interior finish or a reasonable number of coats of paint. However, no corridor or hidden space may have combustible veneer, trim, or decoration.

§ 108.145 Hatches and tonnage openings.

Each hatch, except a hatch between storage spaces and each tonnage opening closure, must be made of steel or an equivalent material of the same class as the bulkhead or deck where the opening occurs.

§ 108.147 Certain paints prohibited.

No nitrocellulose or other highly flammable or noxious fume-producing paint or lacquer may be used on a unit.

MEANS OF ESCAPE

§ 108.151 Two means required.

(a) Each of the following must have at least 2 means of escape:

(1) Each space that is used by personnel on a regular basis, except an individual living space.

(2) Each accommodation space with a deck area of at least 27 square meters (300 square feet).

(b) When two means of escape are required from a space below the main deck, at least one of the means of escape must be through an opening other than a watertight door.

(c) When two means of escape are required from a space opening to the weather, at least one of the means of escape must be through a quick acting door.

§ 108.153 Location of means of escape.

The required two means of escape must be through exits that minimize the possibility of having both exits blocked if a fire or other casualty occurs in the area.

§ 108.155 Type of means of escape prohibited.

A required means of escape may not be a vertical ladder or deck scuttle, except that one of the means of escape may be a vertical ladder or deck scuttle if a stairway would be impracticable.

§ 108.157 Locked doors.

No door to the required means of escape may be designed to lock except—

(a) A crash door or a door that has a locking device that can be easily forced, if on both sides of the door a permanent and easily seen instruction is placed; or

(b) An outside door to a deckhouse if the door can be locked by key only and if the master or person in charge has control of the key to the door's lock.

§ 108.159 Stairway width.

Each stairway, except a stairway in a machinery or storage space, must be at least 70 centimeters (28 inches) wide with an angle of inclination from the horizontal of not more than 50 degrees, except that special consideration may be given if it is impracticable to install a 70 centimeters (28 inch) wide stairway.

§ 108.160 Vertical ladder width.

Each vertical ladder must meet the requirements of ANSI Code A14.3 for Fixed Ladders.

§ 108.161 Dead end corridors.

No dead end corridor may be more than 13 meters (43 feet) long.

§ 108.165 Access to lifeboats and liferafts.

Each unit must be designed to provide direct access to the lifeboat and liferaft embarkation areas.

§ 108.167 Weather deck ladders.

Each unit must have at least one permanent, inclined ladder between each weather deck.

VENTILATION

§ 108.181 Ventilation for enclosed spaces.

(a) Each enclosed space must be vented or ventilated.

(b) There must be a means to close each vent or ventilating system.

(c) Each fan in a ventilating system must have remote controls installed in accordance with Subpart 111.103 of this chapter.

(d) There must be a means to close each doorway, ventilator, and annular space around each funnel or other opening to machinery, stowage, or working spaces. The means must be located outside the space.

(e) Each intake in a ventilating system must be located so as to prevent as far as practicable the intake of noxious fumes.

§ 108.185 Ventilation for enclosed classified locations.

(a) The ventilation system for each enclosed classified location must be designed to maintain a pressure differential between the enclosed classified location and each non-classfied location adjacent to the enclosed classfied location, so as to prevent the discharge of ignitable gases into these non-classified adjacent locations.

(b) Each air intake must be outside of enclosed classified locations.

(c) Each unit must have alarms at a continuously manned station that signal that—

(1) Gas is present in a enclosed classified location; or

(2) The ventilation system for the space is not working.

(d) Each ventilation system for classified locations must provide a complete change of air every five minutes.

§ 108.187 Ventilation for brush type electric motors in classified spaces.

Ventilation for brush type electric motors in classified locations must meet NFPA 496, "Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations", except audible and visual alarms may be used if shutting down the motors may cause unsafe conditions.

ACCOMMODATION SPACES

§ 108.193 Accommodation spaces: location: all units.

(a) There must be no direct communication between the accommodation spaces and any chainlocker, stowage, or machinery space, except through solid, close-fitted doors or hatches.

(b) No access, vent, or sounding tube from a fuel or oil tank may open into any accommodation space, except that accesses and sounding tubes may open into corridors.

§ 108.195 Accommodation spaces: location: surface type units.

On surface type units—

(a) Accommodation spaces must not

V 42184 MAY 2 77 UMI

be located forward of a vertical plane located at 5 percent of the unit's length aft of the stem, at the designed summer load line; and

(b) The deckhead of each accommodation space must be above the deepest load line.

§ 108.197 Accommodation spaces: construction: all units.

(a) Each sleeping, mess, recreational, or hospital space that is adjacent to or immediately above a stowage or machinery space, paint locker, drying room, washroom, toilet space, or other odor source, must be protected by odorproof bulkheads and deckheads.

(b) Each accommodation space that is adjacent to or immediately above a galley, machinery space, machinery casing, boiler room, or other heat source, must be protected from the heat.

(c) Where the shell or an unsheathed weather deck forms a boundary of an accommodation space, the shell or deck must have a covering that prevents the formation of moisture.

(d) The interior sides and deckheads of each accommodation space must be a light color.

(e) Each accommodation space in which water may accumulate must have a drain scupper located in the lowest part of the space, considering the average trim of the unit.

(f) Each public toilet space must be constructed and located so that its odors do not readily enter any sleeping, mess, recreational, or hospital space.

§ 108.199 Accommodation spaces: sleeping spaces: arrangement.

To the extent practicable, each occupation group must be berthed together in sleeping spaces arranged to minimize disturbance created by personnel leaving for or arriving from a working period.

§ 108.201 Accommodation spaces: sleeping spaces: size.

(a) No sleeping space may berth more than four persons, except that a sleeping space for industrial personnel not regularly employed on a unit may berth up to six persons if the space meets § 108.199 and berthing of six persons in that space is authorized by the Commandant.

(b) Without deducting any equipment used by the occupants, each sleeping space must have for each occupant—

(1) 2.8 square meters (approximately 30 square feet) of deck area; and

(2) 6 cubic meters (approximately 210 cubic feet) of volume.

(c) Each sleeping space must have at least 191 centimeters (approximately 6 feet 3 inches) of headroom over clear deck areas.

§ 108.203 Accommodation spaces: sleeping spaces: berths and lockers.

(a) Each sleeping space must have a separate berth for each occupant.

(b) No more than one berth may be placed over another.

(c) Each berth must have a framework of hard, smooth material that is not likely to corrode or harbor vermin.

(d) Each berth must be arranged to provide ample room for easy occupancy.

(e) Each berth must be at least 76 centimeters (approximately 30 inches) wide by 193 centimeters (approximately 76 inches) long.

(f) Adjacent berths must be separated by a partition that extends at least 46 centimeters (approximately 18 inches) above the sleeping surface.

(g) The bottom of a lower berth must be at least 30 centimeters (approximately 12 inches) above the deck.

(h) The bottom of an upper berth must be at least 76 centimeters (approximately 2 feet 6 inches) from the bottom of the berth below it and from the deck or any pipe, ventilating duct, or other obstruction above it.

(i) Each occupant of a sleeping space must have a readily accessible locker of hard, smooth material.

(j) Each locker must be at least .194 square meters (approximately 300 square inches) in cross section and 1.53 meters (approximately 60 inches) high.

(k) Each berth must have a berth light.

§ 108.205 Accommodation spaces: wash spaces; toilet spaces; and shower spaces.

(a) For the purposes of this section—

(1) "Private facility" means a toilet, washing, or shower space that is accessible only from one single or double occupancy sleeping space;

(2) "Semi-private facility" means a toilet, washing or shower space that is accessible from either of two one-to-four person occupancy sleeping spaces; and

(3) "Public facility" means a toilet, washing, or shower space that is not a private or semi-private facility.

(b) Each private facility must have one toilet, one shower, and one washbasin, all of which may be in a single space.

(c) Each semi-private facility must have at least one toilet and one shower, which may be in a single space.

(d) Each room adjoining a semi-private facility must have a washbasin if a washbasin is not installed in a semi-private facility.

(e) Each unit must have enough public facilities to provide at least one toilet, one shower, and one washbasin for each eight persons who occupy sleeping spaces that do not have private or semi-private facilities.

(f) Urinals may be installed in toilet rooms, but no toilet required in this section may be replaced by a urinal.

(g) Each public toilet space and washing space must be convenient to the sleeping space that it serves.

(h) No public facility may open into any sleeping space.

(i) Each washbasin, shower, and bathtub must have hot and cold running water.

(j) Adjacent toilets must be separated by a partition that is open at the top and bottom for ventilation and cleaning.

(k) Public toilet facilities and shower facilities must be separated.

(l) Each public facility that is a toilet space must have at least one washbasin unless the only access to the toilet space is through a washing space.

(m) Each toilet must have an open front seat.

(n) Each washing space and toilet space must be so constructed and arranged that it can be kept in a clean and sanitary condition and the plumbing and mechanical appliances kept in good working order.

(o) Washbasins may be located in sleeping spaces.

§ 108.207 Accommodation spaces: messrooms.

(a) Each messroom that is not near the galley that serves it must be equipped with a steamtable.

(b) Each messroom must seat the number of persons expected to eat in the messroom at one time.

§ 108.209 Accommodation spaces: hospital space.

(a) Each unit carrying twelve or more persons on a voyage of more than three days must have a hospital space.

(b) Each hospital space must be suitably separated from other spaces.

(c) No hospital space may be used for any other purpose, when used for care of the sick.

(d) An entrance to each hospital space must be wide enough and arranged to readily admit a stretcher.

(e) Each berth in a hospital space must be made of metal.

(f) Each upper berth must be hinged and arranged so that it can be secured clear of the lower berth.

(g) Each hospital space must have at least one berth that is accessible from both sides.

(h) Each hospital space must have one berth for every 12 persons or portion thereof on board, who are not berthed in single occupancy rooms, but the number of berths need not exceed six.

(i) Each hospital space must have a toilet, washbasin, and bathtub or shower accessible from the hospital space.

(j) Each hospital space must have equipment such as clothes lockers, a table, and a seat.

(k) A hospital space is not required on a unit if one single or double occupancy sleeping space is designated and equipped as a treatment or isolation room or both and—

(1) Is available for immediate medical use;

(2) Has an entrance that is wide enough and arranged to admit a stretcher case readily;

(3) Has a single berth or examination table that is accessible from both sides;

(4) Has a washbasin in or immediately adjacent to it.

§ 108.211 Accommodation spaces: other spaces.

(a) Each unit must have enough facilities for personnel to wash their own clothes, including at least one tub or sink that has hot and cold running water.

(b) Each unit must have enough equipment or space for the personnel to dry their own clothes.

(c) Each unit must have an accommodation space that can be used for recreation.

§ 108.213 Accommodation spaces: heating.

(a) Each accommodation space must be heated by a heating system that can maintain at least 20°C. (68°F.).

(b) Radiators and other heating apparatuses must be located or shielded or both so as to avoid risk of—

(1) Fire;

(2) Personal injury; and

(3) Discomfort to the occupants of each accommodation space.

(c) Each exposed pipe in an accommodation space, leading to a radiator or other heating apparatuses must be insulated.

§ 108.215 Accommodation spaces: insect screens.

Accommodation spaces must be protected against the admission of insects.

RAILS

§ 108.217 Guardrails and bulwarks.

(a) Each unit must have guardrails or bulwarks along the edge of the bridge, of each deck, and of each deck opening.

(b) Each guardrail and bulwark must extend at least one meter (39.37 inches) above the deck except where this height may interfere with the normal operation of the unit, a lesser height may be approved.

§ 108.219 Guardrails.

(a) Except on a freeboard or superstructure deck, each guardrail must have at least three courses not more than 38 centimeters (15 in.) apart with the lowest course not more than 23 centimeters (9 in.) above the deck.

(b) Each guardrail on a freeboard or superstructure deck must have at least three evenly spaced courses.

(c) For a rounded gunwale, the guardrail must be at the edge of the flat of the deck.

§ 108.221 Storm rails.

Each unit must have a storm rail in the following locations:

(a) On each deckhouse side that is normally accessible.

(b) On each side of each passageway that is wider than 1.83 meters (6 feet).

(c) On at least one side of each passageway that is less than 1.83 meters (6 feet) wide.

§ 108.223 Guard on exposed places.

Each unit must have hand covers, guards, or rails installed on all belts, gears, shafts, pulleys, sprockets spindles, flywheels or other reciprocating, rotating or moving parts of machinery or equipment normally exposed to contact by personnel.

HELICOPTER FACILITIES

§ 108.231 Application.

Section 108.231 through § 108.241 apply to each unit with a helicopter landing facility.

§ 108.233 Location and size.

Each helicopter landing facility must be—

(a) At least the size of the rotor diameter of the largest helicopter using the deck; and

(b) Located so as to provide clear paths to enable the largest helicopter using the deck to operate in all weather conditions which allow helicopter operations.

§ 108.235 Construction of the helicopter facility.

(a) Each helicopter landing facility must be designed to accommodate the loading (static) and landing (dynamic) characteristics of the largest helicopter that can use the facility.

(b) Design calculations for a helicopter landing facility must be made by placing the load in the most unfavorable position for each structural member analyzed.

(c) For a landing area on a deck that forms an integral part of a unit's structure, the analysis required in paragraph (b) must be based on—

(1) A classification society standard acceptable to the Coast Guard; or

(2) Existing stresses in the deck and the greater of—

(i) The gross weight of a loaded helicopter plus inertia forces from the helicopter due to vessel motions; or

(ii) The collapse load of the landing gear specified by the helicopter manufacturer.

(d) For a landing platform that is erected as a separate structure, the analysis required in paragraph (b) must be based on—

(1) A classification society standard acceptable to the Coast Guard; or

(2) The dead load of the structure, wind forces and the greater of—

(i) The gross weight of a loaded helicopter plus inertia forces from the helicopter and the platform due to vessel motions; or

(ii) The collapse load of the landing gear specified by the helicopter manufacturer.

(e) The landing area of all helicopter facilities must—

(1) Have a non-skid surface;

(2) Have drainage facilities that prevent the collection of liquids and prevent liquids from spreading to or falling on other parts of the unit;

(3) Have recessed tie-down points; and

(4) Be free of projections, except that landing lights or other projections may be installed around the periphery of the landing deck provided they do not interfere with landing and take-off operations.

(f) The unprotected perimeter of each helicopter facility must have a safety net at least 1.5 meters (4.92 ft.) wide.

(g) Each helicopter facility must have at least two access routes that are located as far apart from each other as practicable.

§ 108.237 Fuel storage facilities.

(a) Helicopter fuel storage tanks must be installed as far as practicable from—

(1) The landing area; and

(2) Each source of vapor ignition.

(b) Integral tanks must meet Subpart 58.50 of this chapter.

(c) Marine portable fuel stowage tanks must meet Subpart 96.40 of this chapter.

(d) Each marine portable fuel stowage tank must have a means to contain fuel spills or leaks.

§ 108.239 Fuel transfer equipment.

(a) Each nozzle must be a "deadman" type.

(b) Each hose must have a storage reel.

(c) Each hose must have a static grounding device.

(d) Each electric fuel transfer pump must have a control with a fuel transfer pump operation indicator light at the pump.

(e) There must be a fuel pump control at each access.

(f) Each fuel transfer pump and each hose reel must have a means to contain fuel spills or leaks.

(g) Each hose must meet paragraph 510 of Part V of the National Fire Protection Association Standard for Aircraft Fue Servicing (N.F.P.A. No. 407–1973).

§ 108.241 Visual aids.

Each helicopter landing area must have visual aids that meet the intent of the recommendations in the FAA Heliport Design Guide (AC 150/5390–1A November 5, 1969).

Subpart D—Stability

§ 108.301 Stability: definitions.

For the purposes of this subpart—

(a) "Normal operating condition" means a condition of a unit when loaded or arranged for drilling, field transit, or ocean transit; and

(b) "Severe storm condition" means a condition of a unit when loaded or arranged to withstand the passage of a severe storm.

§ 108.303 Stability requirements: general.

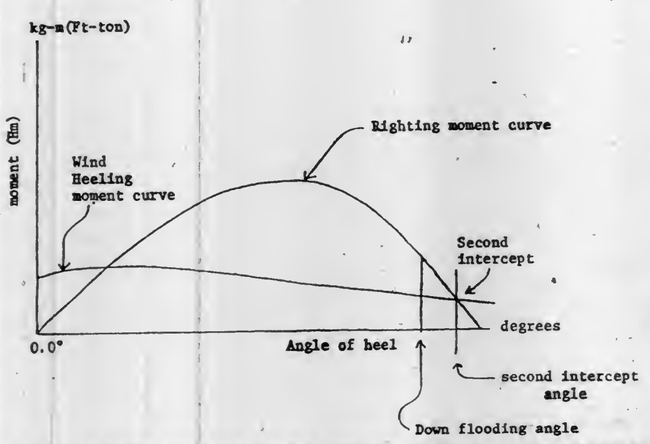
Each unit must be designed in accordance with the stability criteria in § 108.305 to have positive metacentric height in the upright equilibrium position for the full range of drafts, whether at the operating draft for navigation, towing, or drilling afloat, or at a temporary draft when changing drafts.

§ 108.305 Intact stability requirements.

(a) Each unit must be designed so that the wind heeling moments (Hm) and righting moments calculated for each of its normal operating conditions and severe storm conditions, when plotted on graph 108.305, define areas that satisfy the equation [Area (A)] ≧ [K] × [Area (B)] where—

V42184 MAY 2 77 UMI

Graph 108.305 - Intact Stability Curves for a Given Normal Operating or Severe Storm Mode



(i) K=1.4, except that if the unit is a column stabilized unit K=1.3;

(ii) Area (A) is the area on graph 108.305 under the righting moment curve between 0° and the second intercept angle or the angle of heel at which downflooding would occur, whichever angle is less; and

(iii) Area (B) is the area on graph 108.305 under the wind heeling moment curve between 0° and the second intercept angle or the angle of heel at which downflooding of the unit would occur whichever angle is less.

(b) Each righting moment on graph 108.305 must be positive for all angles greater than 0° and less than the second intercept angle.

(c) The downflooding angle must be taken at the first opening which cannot rapidly be closed watertight. Small openings through which progressive flooding cannot take place need not be considered as points of downflooding.

(d) Each unit must be designed so that it can be changed from each of its normal operating conditions to a severe storm condition within a minimum period of time consistent with operating conditions as set out in § 109.121.

§ 108.309 Stability on bottom.

Each bottom bearing unit must be designed so that, while supported on the sea bottom with footings or a mat, it continually exerts a downward force on each footing or the mat when subjected to the forces of wave and current and to wind blowing at the velocities described in § 108.311(b)(3).

§ 108.311 Calculation of wind heeling moment (Hm).

(a) The wind heeling moment (Hm) of a unit in a given normal operating condition or severe storm condition is the sum of the individual wind heeling moments (H) calculated for each of the exposed surfaces on the unit; i.e., $Hm=\epsilon H$.

(b) Each wind heeling moment (H) must be calculated using the equation $H=kv^2C_hC_sAh$

where—

(1) H=wind heeling moment for an exposed surface on the unit;

(2) k=0.0623 (kg-sec²)/m⁴ (0.00338 lb/(ft²—knots²));

(3) v=wind velocity of—

(i) 36 meters per second (70 knots) for normal operating conditions

(ii) 51.5 meters per second (100 knots) for severe storm conditions

(iii) 25.8 meters per second (50 knots) for damage conditions.

(4) A=projected area of an exposed surface on the unit;

(5) C_h=height coefficient for "A" from Table 108.311(a);

(6) C_s=shape coefficient for "A" from Table 108.311(b); and

(7) h=the vertical distance from the center of lateral resistance of the underwater hull to the center of wind pressure on "A".

(c) When calculating "A" in the equation described in paragraph (b) of this section—

(1) The projected area of each column or leg, if the unit has columns or legs, must not include shielding allowances;

(2) Each area exposed as a result of heel must be included;

(3) The projected area of a cluster of deck houses may be used instead of the projected area of each individual deck house in the cluster; and

(4) The projected area of open truss work may be calculated by taking 30% of the projected areas of both the front and back sides of the open truss work rather than by determining the projected area of each structural member of the truss work.

TABLE 108.311(a).—C_h values, height

Meters at— Over	Meters at— Not exceeding	Feet at— Over	Feet at— exceeding	C_h
0	15.3	0	50	1.00
15.3	30.5	50	100	1.10
30.5	46.0	100	150	1.20
46.0	61.0	150	200	1.30
61.0	76.0	200	250	1.37
76.0	91.5	250	300	1.43
91.5	106.5	300	350	1.48
100.6	122.0	350	400	1.52
122.0	137.0	400	450	1.56
137.0	152.5	450	500	1.60
152.5	167.5	500	550	1.63
167.5	183.0	550	600	1.67
183.0	198.0	600	650	1.70
198.0	213.5	650	700	1.72
213.5	228.5	700	750	1.75
228.5	244.0	750	800	1.77
224.0	256.0	800	850	1.79
>256	----------	>850	----------	1.80

NOTE.—The "Ch" value in this table used in the equation described in § 108.311(b) corresponds to the value of the vertical distance in meters (feet) from the actula water line of the unit to the center of area "A".

TABLE 108.311(b).—C_s values

Shape:	C_s
Cylindrical shapes	.5
Hull (surface type)	1.0
Deckhouse	1.0
Cluster of deckhouses	1.1
Isolated structural shapes (cranes, angles, channels, beams, etc.)	1.5
Under deck areas (smooth surfaces)	1.0
Under deck areas (exposed beams and girders)	1.3
Rig derrick (each face)	1.25

NOTE.—The value of C_s in this table used in the equation described in § 108.311(b) corresponds to the shape of the projected area "A".

§ 108.313 Submission of intact stability data.

Intact stability data submitted under § 107.305 of this subchapter must contain the righting moment curves and wind heeling moment curves described in graph 108.305 of this subpart, each with supporting calculations, for each of the unit's normal operating conditions and severe storm conditions.

§ 108.315 Damage stability requirements.

(a) Each unit must be designed so that, while in each of its normal operating conditions and severe storm conditions, its final equilibrium waterline would remain below the lowest adge of any opening through which additional flooding could occur if the unit were subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311(b) using a wind velocity of 25.8 meters per second (50 knots).

(b) Each unit must have a means to close off each pipe, ventilation system, and trunk in each compartment described in § 108.321 or § 108.323 if any portion of the pipe, ventilation system, or trunk is within 1.5 meters (5 feet) of the hull.

§ 108.317 General damage stability assumptions.

For the purpose of determining compliance with § 108.315 of this subpart, the assumptions are made that during flooding and the resulting change in the unit's waterline—

(a) The unit is not anchored or moored; and

(b) No compartments on the unit are ballasted or pumped out to compensate for the flooding described in §§ 108.319–108.323 of this subpart.

§ 108.319 Compartments assumed flooded: general.

The individual flooding of each of the compartments described in § 108.321 and § 108.323 of this subpart must be assumed for the purpose of determining compliance with § 108.315(a) of this subpart. Simultaneous flooding of more than one compartment must be assumed when indicated in § 108.321 and § 108.323.

§ 108.321 Flooding on self-elevating and surface type units.

(a) On a self-elevating or surface type unit each watertight compartment within 1.5 meters (5 feet) of the bottom shell or an exposed deck must be assumed to be subject to flooding.

(b) On a surface type unit or self-elevating unit all compartments within 1.5 meters (5 feet) of the hull of the unit between two adjacent main watertight bulkheads, the bottom shell, and the uppermost deck must be assumed to be subject to simultaneous flooding.

(c) On the mat of a self-elevating unit all compartments within 1.5 meters (5 feet) of an outer side of the mat between two adjacent main watertight bulkheads, the bottom of the mat and the top of the mat must be assumed to be subject to simultaneous flooding.

§ 108.323 Flooding on column stabilized units.

(a) On a column stabilized unit, each watertight compartment within 1.5 meters (5 feet) of an outer surface of each column or footing on the periphery of the unit must be assumed to be subject to flooding.

(b) When a column is subdivided into watertight compartments by horizontal watertight flats, all compartments in the column within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(c) When a column is subdivided into watertight compartments by vertical watertight bulkheads, each two adjacent compartments must be assumed subject to simultaneous flooding if the angle between the vertical watertight bulkheads forming the compartments is 45 degrees or less.

(d) When a column is subdivided into watertight compartments by horizontal watertight flats and vertical watertight bulkheads, all compartments assumed to be subject to flooding in paragraphs (b) and (c) must be assumed to be subject to simultaneous flooding.

(e) Compartments in a footing must be assumed to be subject to flooding when any part of the compartment is within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding.

§ 108.325 Permeabilities.

The calculations submitted in accordance with § 108.329 of this subpart must show the permeability of each space considered in the calculations. The calculation of each permeability used must also be shown unless the value used is listed in Table 108.325.

TABLE 108.325—*Permeability values*

Space:	Permeability
Cargo or storage space	0.60
Accommodation space	0.95
Machinery space	0.85
Tank intended for liquids	[1] 0.0 or 0.95

[1] Use the value which results in the greatest change in the unit's waterline.

§ 108.329 Submission of damage stability data and calculations.

Damage stability data must be submitted for approval before the unit's original inspection for certification. This data must contain residual righting moment curves, wind heeling moment curves, and plans or sketches showing the unit's final equilibrium waterline, with supporting calculations for each, for each of the unit's normal operating conditions and severe storm conditions. This data must show compliance with § 108.315.

§ 108.335 Stability test.

(a) Except as provided in paragraph (c) of this section, the owner of a unit must—

(1) Conduct a stability test of the unit to determine its center of gravity and lightship displacement; and

(2) Submit the results of the test for approval by the Coast Guard before the unit's original inspection for certification.[1]

(b) An authorized Coast Guard representative must be present at each stability test conducted under this section.

(c) A stability test is not required for a unit if the owner provides the Coast Guard with the Coast Guard approved results of a stability test of a sister unit and the Commandant determines that reliable stability information for the unit not tested is obtainable from the test results of the sister unit.

§ 108.337 Plans and information required at the stability test.

The owner of a unit must provide the following plans and information to the authorized Coast Guard representative at the time of the stability test:

(a) Lines.

(b) Curves of form.

(c) Capacity plans showing capacities and vertical and longitudinal centers of gravity of stowage spaces and tanks.

(d) Tank sounding tables.

(e) Draft mark locations.

(f) General arrangement plan of decks, holds, and inner bottoms.

(g) Inboard and outboard profile.

(h) A complete list of material or equipment to be installed, removed, or relocated after the test, including the weight and location of each item on the list.

§ 108.339 Stability test preparations.

The following preparations must be made before conducting a stability test:

(a) The unit must be as complete as practicable at the time of the test.

(b) Each tank must be either empty and dry or full and without air pockets, except that a tank may be partially filled if the Commandant determines that compliance with this requirement is impracticable and that the effect of partial filling on the location of the center of gravity and the displacement of the unit can be accurately determined.

(c) All dunnage, tools, and other items extraneous to the complete unit must be removed from the unit.

(d) The water depth at the mooring site must provide ample clearance against grounding.

(e) Each mooring line must be arranged so that it does not interfere with the free inclination of the unit during the test.

(f) The draft and axis of rotation selected for the test must be those that result in the greatest accuracy in calculating the unit's center of gravity and displacement.

(g) At least two weeks prior to the date of the test, a stability test procedure must be submitted for approval. The procedure must include:

(1) Identification of the unit to be tested.

(2) Date and location of the test.

(3) Inclining weight data.

(4) Pendulum location and length.

(5) Approximate draft and trim of the unit.

(6) Condition of each tank.

(7) Estimated items to be installed, removed, or relocated after test, including the weight and location of each item.

(8) Schedule of events.

§ 108.341 Stability test procedure modifications.

The authorized Coast Guard representative present at a stability test may allow a deviation from the requirements of §§ 108.337 and 108.339 of this subpart if he determines that the deviation will not affect the accuracy of the test results.

§ 108.343 Stability: alterations.

Where alterations are made which materially affect the stability of a unit, amended stability information must be approved by the Coast Guard. The Coast Guard may require the unit to have a new stability test.

Subpart E—Fire Extinguishing Systems

§ 108.401 Fire main system.

Each unit must have a fire main system.

[1] A stability letter is issued by the Coast Guard after approval of the test results and of the information required in § 109.121.

V42 84 MAY 2 77 UMI

§ 108.403 Fire extinguishing systems: general.

(a) Each of the following on a unit must have a fixed gas type extinguishing system:

(1) Each paint locker, oil room, and similar space.

(2) Each enclosed space containing internal combustion or gas turbine main propulsion machinery.

(3) Each enclosed space containing internal combustion auxiliary machinery with an aggregate power of at least 1000 B.H.P.

(4) Each enclosed space containing a fuel oil unit, purifier, valve, or manifold for main propulsion machinery or internal combustion auxiliary machinery with an aggregate power of at least 1000 B.H.P.

(5) Each enclosed ventilation system for electric motors or generators used for vital services including bilge pumps, fire pumps, or propulsion.

(b) Each space containing an oil fired boiler, the fuel oil unit or valves for the boiler, or manifolds in the line between the fuel settling tanks and the boiler on a unit must have a fixed gas type, foam, water spray, or other fire extinguishing system.

§ 108.403a Fire extinguishing systems: non-vital services.

Each enclosed ventilating system for electric motors or generators not used for vital services must have an access into the system for firefighting or be protected by a fixed fire protection system.

§ 108.404 Selection of fire detection system.

If a fire detection system is in a space, it must provide effective detection, without false alarms, of the types of fires most likely to occur in the space.

§ 108.405 Fire detection system.

(a) Each fire detection system and each smoke detection system on a unit must—

(1) Be approved by the Commandant; and

(2) Have a visual alarm and an audible alarm in the pilothouse or at a normally manned control station for the system.

(b) Each fire detection system must be divided into zones to limit the area covered by any particular alarm signal.

(c) Each visual alarm must—

(1) Have a chart or diagram next to the alarm that shows the location of the zones in the system and that contains the instructions for operating, and testing the system;

(2) When activated show the zone in the system where fire has been detected; and

(3) Be in a noticeable location in the pilothouse or control station.

§ 108.407 Detectors for electric fire detection system.

(a) Each detector in an electric fire detection system must be located where—

(1) No portion of the overhead of a space protected is more than 3 meters (10 feet) from a detector;

(2) Beams and girders extending below the ceiling of the space protected and any other obstructions do not detract from the effectiveness of the detector; and

(3) Damage to the detector is unlikely to occur if it is not protected.

(b) Each detector must be set to activate at not less than 57°C (135°F) and at not more than 73°C (165°F) except that if a space normally has a high ambient temperature each detector may be set to activate at not less than 80°C (175°F) and not more than 107°C (225°F).

§ 108.409 Location and spacing of tubing in pneumatic fire detection system.

(a) All tubing in a pneumatic fire detection system must be on the overhead or within 300 millimeters (12 inches) of the overhead on a bulkhead in a location where—

(1) No portion of the overhead is more than 3.6 meters (12 feet) from the nearest point of tubing;

(2) Beams or girders extending below the ceiling or other obstructions do not detract from the effectiveness of the tubing; and

(3) Damage to the tubing, is unlikely to occur if it is not protected.

(b) If tubing in a tubing circuit is installed in an enclosed space, at least 5 percent of the tubing in the circuit must be exposed in the space, except that at least 7.6 meters (25 feet) of tubing must always be exposed in the space.

(c) A pneumatic fire detection system must be set to activate after approximately a 22°C. (40°F.) per minute increase in temperature at the center of the circuit in the system.

§ 108.411 Smoke detection system.

Each smoke accumulator in a smoke detection system must be located on the overhead of the compartment protected by the system in a location—

(a) Where no portion of the overhead of the compartment is more than 12 meters (40 feet) from an accumulator;

(b) That is no closer to the opening of a ventilator than 3 times the diameter or equivalent size of the opening.

(c) Where damage to the accumulator is unlikely to occur if it is not protected.

§ 108.413 Fusible element fire detection system.

(a) A fusible element fire detection system may be installed.

(b) The arrangements for the system must be acceptable to the Commandant.

FIRE MAIN SYSTEM

§ 108.415 Fire pump: general.

A fire main system must have at least two independently driven fire pumps that can each deliver water at a continuous pitot tube pressure of at least 3.5 kilograms per square centimeter (approximately 50 pounds per square inch) at at least two fire hose nozzles that are connected to the highest two fire hydrants on the unit, except that a column stabilized or self-elevating unit may have a fire main system of at least two independently driven fire pumps with booster pumps or storage tanks that meet the pressure requirement in this paragraph.

§ 108.417 Fire pump components and associated equipment.

(a) Each fire pump in a fire main system must have a relief valve on its discharge side that is set to relieve at 1.75 kilograms per square centimeter (approximately 25 pounds per square inch) in excess of the pump discharge pressure necessary to meet the pressure required in § 108.415 for the pump or 8.6 kilograms per square centimeter (approximately 125 pounds per square inch), whichever is greater. A relief valve may be omitted if the pump operating under shut off condition is not capable of developing the pressure described in § 108.415 plus 1.75 kilograms per square centimeter (25 pounds per square inch).

(b) Each fire pump in a fire main system must have a pressure gauge on its discharge side.

(c) Fire pumps may be used for other purposes. If a fire pump is used in a system other than the fire main system, each pipe connecting the other system must be connected to the pump discharge through a shut off valve at a manifold near the pump. If the fire pump exceeds the pressure in § 108.415 of this subpart, the pipe leading from the discharge manifold to other portions of the fire main system must have a reducing station and a pressure gauge in addition to the pressure gauge required by paragraph (b) of this section.

(d) If a fire pump has a reducing station, the relief valve required by paragraph (a) of this section for the pump and the additional pressure gauge required in paragraph (c) of this section must be located on the discharge side of the reducing station.

(e) An oil line must not be connected to a fire pump.

§ 108.419 Fire main capacity.

The diameter of the fire main must be sufficient for the effective distribution of the maximum required discharge from two fire pumps operating simultaneously.

§ 108.421 Location of fire pumps and associated equipment.

Each fire pump required by § 108.415, and the source of power, controls, sea connections for the fire pump, and booster pumps, if installed must be installed in locations where, if a fire occurs in an enclosed space, all of the fire pumps on the unit are not made inoperative, except that if compliance with this requirement is impracticable, a gas type extinguishing system may be installed to protect at least one of the fire pumps, its source of power, and controls.

§ 108.423 Fire hydrants and associated equipment.

(a) A fire main system must have enough fire hydrants so that each accessible space may be sprayed with at least two spray patterns of water.

(b) In a main machinery space except a shaft alley with no assigned space for stowage of combustibles, each spray pattern of water must be from one length of fire hose and each must be from a separate outlet. In all other spaces at least one spray pattern of water must be from one length of fire hose.

(c) No outlet on a fire hydrant may point above the horizontal.

(d) Each fire hydrant must have at least one spanner and at least one fire hose rack or reel.

§ 108.425 Fire hoses and associated equipment.

(a) Each length of fire hose in a fire main system must be—

(1) Of 1½ or 2½ inch nominal hose size diameter;

(2) Of 50 foot nominal hose size length; and

(3) Lined commercial fire hose that meets Standard 19 of the Underwriters' Laboratories, Inc., or Federal Specification ZZ–H–451d.

(b) Each fire hose coupling must—

(1) Be made of brass, bronze, or material that has corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have 9 National Standard Fire-hose Coupling (NSFC) threads per inch for 1½ inch hose or 7½ NSFC threads per inch for 2½ inch hose.

(c) Each nozle for a fire hose in a fire main system must be a combination solid stream and water spray fire hose nozzle that is approved under Subpart 162.027 of this chapter.

(d) A low velocity spray applicator approved under Subpart 162.027 of this chapter is required at each fire hydrant serving—

(1) Machinery spaces containing oil fired boilers, internal combustion machinery or oil fuel units; and

(2) Helicopter decks.

§ 108.427 International shore connection.

(a) A fire main system on a unit in international service must have—

(1) At least two international shore connections that meet the requirements in Subpart 162.034 of this chapter; and

(2) A cutoff valve and check valve for each connection.

(b) Each connection must be in an accessible location and on opposite sides of the unit.

§ 108.429 Fire main system protection.

(a) Each pipe and fire hydrant in a fire main system must be installed to the extent practicable in locations that are not exposed to damage by materials that are moved on or onto the deck.

(b) Each part of the fire main system located on an exposed deck must either be protected against freezing or be fitted with cutout valves and drain valves to shut off and drain the entire exposed system in freezing weather.

FIXED CARBON DIOXIDE FIRE EXTINGUISHING SYSTEMS

§ 108.431 CO_2 systems; general.

(a) Sections 108.431 through 108.457 apply to high pressure carbon dioxide fire extinguishing systems.

(b) Low pressure systems, that is, those in which the carbon dioxide is stored in liquid form at low temperature, must be approved by the Commandant.

§ 108.433 Quantity of CO_2; general.

Each CO_2 system must have enough gas to meet the quantity requirements of § 108.439 for the space requiring the greatest amount of CO_2.

§ 108.435 CO_2 for enclosed ventilation systems for rotating electrical equipment.

(a) The number of pounds of CO_2 required for the initial charge to protect enclosed ventilation systems for rotating electrical equipment must be equal to the gross volume measured in cubic feet of the system divided by—

(1) 10 for systems having a volume less than 2,000 cubic feet, or

(2) 12 for systems having a volume of 2,000 cubic feet or more.

(b) In addition to the CO_2 required for the initial charge, the system must have enough CO_2 for delayed charges to maintain at least a 25 percent concentration until the equipment can be stopped, unless the initial charge is enough to maintain a 25 percent concentration.

§ 108.437 Pipe sizes and discharge rates for enclosed ventilation systems for rotating electrical equipment.

(a) The minimum pipe size for the initial charge must meet table 108.441 and the discharge of the required amount of CO_2 must be completed within 2 minutes.

(b) The minimum pipe size for the delayed discharge must be at least 1.25 centimeters (½ inch) standard pipe.

(c) The pipe used for the initial discharge must not be used for the delayed discharge, except on "small" systems.

§ 108.439 Quantity of CO_2 for protection of spaces.

(a) The number of pounds of CO_2 required to protect a space must be equal to the gross volume of the space divided by the appropriate factor from Table 108.439.

(b) If a machinery space includes a casing, the gross volume of the space may be calculated using the reductions allowed in 46 CFR 95.10–5(e).

(c) If fuel can drain from a space to an adjacent space or if two spaces are not entirely separate, the requirements for both spaces must be used to determine the amount of CO_2 to be provided and the CO_2 system must be arranged to discharge into both spaces simultaneously.

TABLE 108.439.—CO_2 *supply factors*

Gross volume of space in cubic feet		Factor
Over	Not over	
0	500	15
500	1,000	16
1,000	4,500	18
4,500	50,000	20
50,000		22

§ 108.441 Piping and discharge rates for CO_2 protection of spaces.

(a) The size of branch lines to spaces protected by a CO_2 system must meet Table 108.441.

(b) Distribution piping within a space must be proportioned from the supply line to give proper distribution to the outlets without throttling.

(c) The number, type, and location of discharge outlets must distribute the CO_2 uniformly throughout the space.

TABLE 108.441—CO_2 *system pipe size*

CO_2 supply in system, kilograms (pounds):	*Minimum pipe size, millimeters (inches)*
45 (100)	12.7 (½)
104 (225)	19.05 (¾)
136 (300)	25.4 (1)
272 (600)	31.75 (1¼)
450 (1,000)	38.10 (1½)
1,100 (2,450)	50.80 (2)
1,130 (2,500)	63.5 (2½)
2,023 (4,450)	76.2 (3)
3,229 (7,100)	88.9 (3½)
4,750 (10,450)	101.6 (4)
6,818 (15,000)	114.3 (4½)

(d) The total area of all discharge outlets must be more than 35 percent and less than 85 percent of the nominal cylinder outlet area or the area of the supply area of the supply pipe, whichever is smaller. The nominal cylinder outlet area in square inches is determined by multiplying the factor 0.0022 by the number of pounds of CO_2 required. The nominal cylinder outlet area must not be less than 71 square millimeters (0.110 square inches).

(e) A CO_2 system must discharge at least 85 percent of the required amount within 2 minutes.

§ 108.443 Controls and valves.

(a) At least one control for operating a CO_2 system must be outside the space or spaces that the system protects and in a location that would be accessible if a fire occured in any space that the system protects. Control valves must not be located in a protected space.

(b) A CO_2 system that protects more than one space must have a manifold with a stop valve, the normal position of which is closed, that directs the flow of CO_2 to each protected space.

(c) A CO_2 system that protects only one space must have a stop valve installed between the cylinders and the discharge outlets in the system, except on a system that has a CO_2 supply of 136 kilograms (300 pounds) or less.

(d) At least one of the control stations in a CO_2 system that protects a machinery space must be as near as practicable to one of the main escapes from that space.

(e) All distribution valves and controls must be of an approved type.

V 42184 MAY 2 77 UMI

(f) Each CO_2 system that has a stop valve must have a remote control that operates only the stop valve and must have a separate remote control for releasing the required amount of CO_2 into the space protected by the system.

(g) Each CO_2 system that does not have a stop valve must be operated by a remote control that releases the required amount of CO_2 into the space protected by the system.

(h) Remote controls to each space must be in an enclosure.

(i) Each system must have a manual control at its cylinders for releasing CO_2 from the cylinders, except that if the system has pilot cylinders, a manual control is not required for other than pilot cylinders.

(j) If gas pressure is used to release CO_2 from a system having more than 2 cylinders, the system must have at least 2 pilot cylinders to release the CO_2 from the remaining cylinders.

(k) If the entrance to a space containing the CO_2 supply or controls of a CO_2 system has a lock, the space must have a key to the lock in a break-glass type box that is next to and visible from the entrance.

§ 108.445 Alarm and means of escape.

(a) Each CO_2 system that has a supply of more than 136 kilograms (300 pounds) of CO_2, except a system that protects a tank, must have an alarm that sounds for at least 20 seconds before the CO_2 is released into the space.

(b) Each audible alarm for a CO_2 system must have the CO_2 supply for the system as its source of power and must be in a visible location in the spaces protected.

§ 108.447 Piping.

(a) Each pipe, valve, and fitting in a CO_2 system must have a bursting pressure of at least 420 kilograms per square centimeter (6,000 pounds per square inch).

(b) All piping for a CO_2 system of nominal size of 19.05 millimeters (¾ inch) inside diameter or less must be at least Schedule 40 (standard weight) and all piping of nominal size over 19.05 millimeters (¾ inch) inside diameter must be at least Schedule 80 (extra heavy).

(c) Each pipe, valve, and fitting made of ferrous materials in a CO_2 system must be protected inside and outside from corrosion.

(d) Each CO_2 system must have a pressure relief valve set to relieve between 168 and 196 kilograms per square centimeter (2,400 and 2,800 pounds per square inch) in the distribution manifold or other location that protects the piping when all branch line shut off valves are closed.

(e) The end of each branch line in a CO_2 system must extend at least 50 millimeters (2 inches) beyond the last discharge outlet and be closed with a cap or plug.

(f) Piping, valves, and fittings in a CO_2 system must be securely supported and protected from damage.

(g) Each CO_2 system must have drains and dirt traps located where dirt or moisture can accumulate in the system.

(h) Discharge piping in a CO_2 system may not be used for any other purpose except as part of a fire detection system.

(i) Piping in a CO_2 system that passes through accommodation spaces must not have drains or other openings within these spaces.

§ 108.449 Piping tests.

Each test prescribed in (a), (b), and (c) of this section must be performed upon completion of the piping installation—

(a) When tested with CO_2 or other inert gas under a pressure of 70 kilograms per square centimeter (1000 pounds per square inch) with no additional gas introduced into the system, the leakage in the piping from the cylinders to the stop valves in the manifold must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2 minute period.

(b) When tested with CO_2 or other inert gas under a pressure of 42 kilograms per square centimeter (600 pounds per square inch) with no additional gas introduced into the system, the leakage in each branch line must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2 minute period. The distribution piping must be capped within the protected space.

(c) Small independent systems protecting emergency generator rooms, lamp lockers and similar small spaces need not meet the tests prescribed in paragraphs (a) and (b) of this section if they are tested by blowing out the piping with air at a pressure of at least 7 kilograms per square centimeter (100 pounds per square inch).

§ 108.451 CO_2 storage.

(a) Except as provided in paragraph (b) of this section, each cylinder of a CO_2 system must be outside each space protected by the system and in a location that would be accessible if a fire occurred in any space protected by the system.

(b) A CO_2 system that has a CO_2 supply of 136 kilograms (300 pounds) or less may have one or more cylinders in the space protected by the system if the space has a heat detection system to activate the system automatically in addition to the remote and manual controls required by this subpart.

(c) Each space that contains cylinders of a CO_2 system must be ventilated and designed to prevent an ambient temperature of more than 54° C. (130° F.)

(d) Each cylinder in a CO_2 system must be fastened, supported, protected from damage, in an accessible location, and capable of removal from that location.

(e) Each unit must have a means for weighing cylinders of a CO_2 system.

(f) A cylinder in a CO_2 system may not be mounted in a position that is inclined more than 30° from a vertical position, except that a cylinder having flexible or bent siphon tubes may be mounted in a position that is inclined up to 80° from the vertical. The bottom of each cylinder when mounted must be at least 50.8 millimeters (2 inches) from the deck.

(g) If a cylinder does not have a check valve on its independent cylinder discharge, it must have a plug or cap to close the outlet when the cylinder is moved.

(h) Each CO_2 system cylinder must be made, tested, and marked in accordance with 46 CFR 147.04–1.

§ 108.453 Discharge outlets.

Each discharge outlet must be of an approved type.

§ 108.455 Enclosure openings.

(a) Mechanical ventilation for spaces protected by a CO_2 system must be designed to shut down automatically when the system is activated.

(b) Each space that is protected by a CO_2 system and that has natural ventilation must have a means for closing that ventilation.

(c) Each space protected by a CO_2 system must have the following means for closing the openings to the space from outside the space:

(1) Doors, shutters, or dampers for closing each opening in the lower portion of the space.

(2) Doors, shutters, dampers or temporary means such as canvas or other material normally on board a unit may be used for closing each opening in the upper portion of the space.

§ 108.457 Pressure release.

Each air tight or vapor tight space, such as a paint locker, that is protected by a CO_2 system must have a means for releasing pressure that accumulates within the space if CO_2 is discharged into the space.

Gas Extinguishing System: Halongenated

§ 108.458 General.

Halongenated gas extinguishing systems may be installed if approved by the Commandant.

Foam Extinguishing Systems

§ 108.459 Number and location of outlets.

(a) A foam extinguishing system in a space must have enough outlets to spread a layer of foam of uniform thickness over the deck or bilge areas of the space.

(b) A foam extinguishing system in a space that has a boiler on a flat that is open to or can drain into a lower portion of the space must have enough outlets to spread a layer of foam of uniform thickness over the—

(1) Flat; and

(2) Deck or bilge areas of the space.

(c) A foam extinguishing system for a tank must have enough outlets to spread a layer of foam of uniform thickness over the surface of the liquid in the tank.

§ 108.461 Coamings.

Each machinery flat in a space that has a foam extinguishing system must have coamings on all openings except deck drains that are high enough to retain spilled oil and foam on the flat.

§ 108.463 Foam rate: protein.

(a) If the outlets of a protein foam extinguishing system are in a space, the foam rate at each outlet must be at least 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered by the system.

(b) If the outlets of a protein foam extinguishing system are in a tank, the foam rate at each outlet must be at least 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of liquid surface in the tank.

§ 108.467 Water supply.

The water supply of a foam extinguishing system must not be the water supply of the fire main system on the unit unless when both systems are operated simultaneously—

(a) The water supply rate to the foam production equipment meets the requirements of this section; and

(b) Water supply rate to the fire hydrants required by § 108.415(a) of this subpart allows compliance with the pressure requirement in that section.

§ 108.469 Quantity of foam producing materials.

(a) Except as provided in paragraph (b) of this section, each foam extinguishing system with outlets—

(1) In a tank must have enough foam producing material to discharge foam for at least 5 minutes at each outlet; and

(2) In a space must have enough foam producing material to discharge foam for at least 3 minutes at each outlet.

(b) If a foam system has outlets in more than one tank or space, the system need have only enough foam producing material to cover the largest space that the system covers or, if the liquid surface of a tank covered by the system is larger, the tank with the largest liquid surface.

§ 108.471 Water pump.

Each water pump in a foam extinguishing system must be outside each machinery space in which the system has outlets and must not receive power from any of those spaces.

§ 108.473 Foam system components.

(a) Each foam agent, each tank for a foam agent, each discharge outlet, each control, and each valve for the operation of a foam extinguishing system must be approved by the Commandant.

(b) Each foam agent tank and each control and valve for the operation of a foam extinguishing system with outlets in a space must be outside the space and must not be in a space that may become inaccessible if a fire occurs in the space.

(c) Each control for a foam extinguishing system with outlets in a space must be near a main escape from the space.

§ 108.475 Piping.

(a) Each pipe, valve, and fitting in a foam extinguishing system must meet the applicable requirements in Subchapter F of this chapter.

(b) Each pipe, valve, and fitting made of ferrous material must be protected inside and outside from corrosion.

(c) Each pipe, valve, and fitting must have support and protection from damage.

(d) Each foam extinguishing system must have enough—

(1) Dirt traps to prevent the accumulation of dirt in its pipes; and

(2) Drains to remove liquid from the system.

(e) Piping in a foam extinguishing system must be used only for discharging foam.

§ 108.477 Fire hydrants.

(a) If a fixed foam extinguishing system has outlets in a main machinery space, at least 2 fire hydrants, in addition to the fire hydrants required by § 108.423 of this subpart, must be installed outside the entrances to the space with each at a separate entrance.

(b) Each hydrant must have enough hose to spray any part of the space.

(c) Each hose must have a combination nozzle and applicator.

Fire Protection for Helicopter Facilities

§ 108.486 Helicopter decks.

At least two of the access routes to the helicopter landing deck must each have a fire hydrant on the unit's fire main system located next to them.

§ 108.487 Helicopter deck fueling operations.

(a) Each helicopter landing deck on which fueling operations are conducted must have a fire protection system that discharges protein foam, or aqueous film forming foam.

(b) Each foam system must—

(1) Have enough foam agent to discharge foam continuously for at least 5 minutes at maximum discharge rate;

(2) Have at least the amount of foam agent needed to cover an area equivalent to the swept rotor area of the largest helicopter for which the deck is designed with foam at—

(i) If protein foam is used, 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes;

(ii) If aqueous film forming foam is used, 4.07 liters per minute for each square meter (.1 gallons per minute for each square foot) of area covered for five minutes; and

(3) Be capable of discharging from each hose at 7 kilograms per square centimeter (100 pounds per square inch) pressure—

(i) A single foam stream at a rate of at least 340 liters (90 gallons) per minute; and

(ii) A foam spray at a rate of at least 190 liters (50 gallons) per minute.

(c) Each system must have operating controls at each of its hose locations, be protected from icing and freezing, and be capable of operation within 10 seconds after activation of its controls.

(d) Each system must have at least one hose at each of the two access routes required by § 108.235(e) of this Part. Each hose must be reel mounted and long enough to cover any point on the helicopter deck. Each hose that discharges foam must have a nozzle that has foam stream, foam spray, and off positions.

§ 108.489 Helicopter fueling facilities.

(a) Each helicopter fueling facility must have a fire protection system that discharges one of the following agents in the amounts prescribed for the agents over the area of the fuel containment systems around marine portable tanks, fuel transfer pumps and fuel hose reels:

(1) Protein foam at the rate of 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes.

(2) Aqueous film forming foam at the rate of 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of area covered for five minutes.

(3) 22.5 kilograms (50 pounds) of dry chemical (BV semi-portable) for each fueling facility of up to 27.87 square meters (300 square feet).

(b) If the fire protection system required by § 108.487 of this subpart is arranged so that it covers both a helicopter fueling facility and a landing deck, the system must have the quantity of agents required by this section in addition to the quantity required by § 108.487.

Hand Portable and Semiportable Fire Extinguishing Systems

§ 108.491 General.

Each hand portable and semiportable fire extinguisher on a unit must be approved under Subpart 162.028 or 162.039 of this chapter.

§ 108.493 Location.

(a) Each unit must have the hand portable and semiportable fire extinguishers prescribed in Table 108.495(a) of this subpart and installed in the locations prescribed in the table.

(b) Each portable and semi-portable fire extinguisher must be visible and readily accessible.

(c) The location, size, and number of each portable and semiportable fire extinguisher on a unit must be acceptable to the OCMI. The OCMI may prescribe additional extinguishers that he considers necessary for fire protection on the unit.

(d) Each hand portable and semiportable fire extinguisher that is required on its nameplate to be protected from freezing must be located where freezing temperatures do not occur.

§ 108.495 Spare charges.

(a) Each unit must have enough spare charges for 50 percent of the hand portable fire extinguishers required under Table 108.495(a) of this subpart that are rechargeable by personnel on the unit.

(b) If a unit has extinguishers that cannot be recharged by personnel on the unit, it must also have at least one spare extinguisher for each classification and variety of those extinguishers.

V42|84 MAY 2 77 UMI

TABLE 108.495(a)

HAND PORTABLE FIRE EXTINGUISHERS AND SEMIPORTABLE FIRE-EXTINGUISHING SYSTEMS

Space	Classification (see Table 108.495(b))	Quantity and Location
Safety Areas		
Wheelhouse and control room	C-I	2 in vicinity of exit.
Stairway and elevator enclosure		None required.
Corridors	A-II	1 in each corridor not more than 45 meters (150 feet) apart. (May be located in stairways.)
Lifeboat embarkation and lowering stations		None required
Radio room	C-I	2 in vicinity of exit.
Accommodations		
Staterooms, toilet spaces, public spaces, offices, lockers, small storerooms, and pantries, open decks, and similar spaces		None required.
Service spaces		
Galleys	B-II or C-II	1 for each 232 square meters (2,500 square feet) or fraction thereof suitable for hazards involved.
Paint and lamp rooms	B-II	1 outside each room in vicinity of exit.
Storerooms	A-II	1 for each 232 square meters (2,500 square feet) or fraction thereof located in vicinity of exits, either inside or outside the spaces.
Work shop and similar spaces	C-II	1 outside each space in vicinity of an exit.

Space	Classification (see Table 108.495(b)	Quantity and Location
Machinery spaces		
Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel oil units.	B-II B-V	2 required in each space. 1 required in each space.
Internal combustion or gas turbine propelling machinery spaces	B-II B-III	1 for each 1000 brake horsepower but not less than 2 nor more than 6 in each space. 1 required in each space. See Note 1.
Motors or generators of electric propelling machinery that do not have an enclosed ventilating system.	C-II	1 for each motor or generator
Motors and generators of electric propelling machinery that have enclosed ventilating systems.		None required.
Auxiliary spaces		
Internal combustion engines or gas turbine.	B-II	1 outside the space containing engines or turbines in vicinity of exit.
Electric emergency motors or generators.	C-II	1 outside the space containing motors or generators in vicinity of exit.
Steam driven auxiliary machinery		None required.
Trunks to machinery spaces		None required.
Fuel tanks		None required.
Miscellaneous areas		
Helicopter Landing Decks	B-V	1 at each access route.
Helicopter Fueling Facilities	B-IV	1 at each fuel transfer facility. See Note 2.
Drill floor	C-II	2 required
Cranes with Internal Combustion Engines	B-II	1 required

Note: 1. Not required where a fixed carbon dioxide system is installed.
2. Not required where a fixed foam system is installed in accordance with § 108.489 of this subpart.
3. For outside use, double the quantity of agent that must be carried.

V 42 84 MAY 2 77 UMI

TABLE 108.495(b)

Classification Type	Size	Water liters (gallons)	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)
A	II	9.5(2 1/2)	9.5 (2 1/2)		2.25 (5)[3]
B	I		4.7 (1 1/4)	1.8 (4)	.9 (2)
B	II		9.5 (2 1/2)	6.7 (15)	4.5 (10)
B	III		45.5 (12)	15.8 (35)	9.0 (20)
B	IV		7.6 (20)	22.5 (50)	13.5 (30)
B	V		152 (40)	45 (100)	22.5 (50)
C	I			1.8 (4)	.9 (2)
C	II			6.7 (15)	4.5(10)
C	III			15.8 (35)	9.0 (30)
C	IV			22.5 (50)	13.5 (30)

Note 1: Fire extinguishers are designated by type as follows:
(a) "A" for fires in combustible materials such as wood.
(b) "B" for fires in flammable liquids and greases.
(c) "C" for fires in electrical equipment.

2: Fire extinguishers are designated by size where Size "I" is the smallest and size "V" is the largest. Sizes "I" and "II" are hand portable extinguishers and sizes "III", "IV", and "V" are semiportable extinguishers.

3: Must be specifically approved as a Type A, B, or C extinguisher.

MISCELLANEOUS EQUIPMENT

§ 108.497 Fireman's outfits.

Each unit must have at least 2 fireman's outfits. Each fireman's outfit on a unit must consist of—

(a) A self-contained breathing apparatus approved under § 160.011 of this chapter;

(b) A three-cell, explosionproof flashlight with the Underwriter's Laboratories, Inc., label and set of spare batteries for the flashlight;

(c) An oxygen and explosive meter with the Underwriter's Laboratories, Inc. label or the Factory Mutual label;

(d) A lifeline that—

(1) Is attached to the self-contained breathing apparatus;

(2) Is made of bronze wire rope, inherently corrosion resistant steel wire rope, or galvanized or tinned steel wire rope;

(3) Is made up of enough 15.2 meters (50 foot) or greater lengths of wire rope to permit use of the outfit in any location on the unit;

(4) Has each end fitted with a hook with a 16 millimeters (⅝ inch) throat opening for the keeper; and

(5) Has a minimum breaking strength of 680 kilograms (1,500 pounds).

(e) Boots and gloves that are made of rubber or other electrically non-conductive material;

(f) A helmet that meets the requirements in ANSI Z-89.1–1969; and

(g) Clothing that protects the skin from scalding steam and the heat of fire and that has a water resistant outer surface.

§ 108.499 Fire axes.

Each unit must have at least two fire axes.

Subpart F—Lifesaving Equipment

§ 108.501 Survival capsule.

For the purposes of this subpart, the term lifeboat includes survival capsules.

§ 108.503 Lifeboats.

(a) Each unit with 30 persons or less on board must have at least one lifeboat. Each unit with more than 30 persons on board must have at least two lifeboats. The total number of lifeboats on a unit must accommodate all personnel on board.

(b) Each lifeboat on a unit must be approved under Subpart 106.035 of this chapter.

(c) Each lifeboat on a unit must be motor propelled and have an installed cover of international orange that provides protection from exposure and fire during operation of the lifeboat.

(d) Each lifeboat on a unit must have the equipment required by § 94.20–10 of this chapter for a lifeboat on an ocean or coastwise vessel other than a seagoing barge, except a ditty bag and a protective cover, and must have a list of that equipment. Except for boat hooks, the equipment and list must be securely stowed in the lifeboat. The equipment must meet the requirements in § 94.20–15 of this chapter.

§ 108.505 Liferafts.

(a) Each unit must have enough inflatable liferafts to accommodate at least 100 percent of the persons on board.

(b) Each inflatable liferaft on a unit must—

(1) Be approved under Subpart 160.051 of this chapter as an inflatable liferaft intended for an ocean service vessel; and

(2) Have a carrying capacity of not less than 6 nor more than 25 persons.

(c) Lifeboats may be substituted for inflatable liferafts.

§ 108.506 Lifeboat and lifeboat launching capability.

(a) Each lifeboat and liferaft on a surface type unit must be capable of being launched to the water at the highest operating draft when the unit has an adverse list up to 15° or trim up to 10°.

(b) Each lifeboat and liferaft on a non-surface type unit must be capable of being launched to the water at the highest operating draft when the unit has an adverse list and trim, the amount of which is determined by the characteristics of the unit.

§ 108.507 Launching equipment for lifeboats.

(a) Each unit must have the following launching equipment for each lifeboat:

(1) Mechanical disengaging apparatus that is approved under Subpart 160.033 of this chapter.

(2) Gravity davits that are approved under Subpart 160.032 of this chapter.

(3) A winch that is approved under Subpart 160.015 of this chapter.

(4) A means to hold the lifeboat steady in a location that allows a person to enter it.

(5) Wire falls that are—

(i) Equal or superior to 6 x 19 regular lay filler wire pre-lubricated during construction;

(ii) Not more than 2 part falls; and

(iii) Designed to have a minimum breaking strength of at least six times the maximum working load.

(6) Blocks, if necessary to allow the falls to lead freely from the drum of the winch, that—

(i) Have sheaves each with a diameter measured from the base of the groove in the sheave that is at least 12 times as large as the diameter of the fall passing over the sheave;

(ii) Have a means to lubricate the moving parts of the blocks; and

(iii) Are designed to have a minimum breaking strength of at least six times the maximum working load.

(b) If a lifeboat is mounted more than 9.2 meters (30 feet) above the design waterline of the unit, the lowering mechanism for the lifeboat must be operative from the lifeboat and from the unit.

(c) Each exposed wire fall on a unit must have a cover or means of protection from damage or fouling.

(d) The winch controls on the unit must be located where the operator can observe the lifeboat launching.

§ 108.508 Launching equipment for davit launched inflatable liferafts.

(a) Each unit that has davit launched inflatable liferafts must have the following launching equipment at each launching station:

(1) Winches that are approved by the Commandant.

(2) Mechanical disengaging apparatus that is approved by the Commandant.

(3) Davits that are approved by the Commandant.

(4) Load beaming components that meet §§ 108.507(a)(5), 108.507(c), and 108.509.

(5) A means to hold the liferaft against the unit that allows a person to enter the liferaft.

(6) A means to rapidly retrieve the falls if the station has more than one liferaft.

(b) The launching equipment must be capable of being operated by a person in the liferaft and a person on the unit.

(c) The winch controls on the unit must be located where the operator can observe the liferaft launching.

(d) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

§ 108.509 Wire fall fleet angle.

(a) The portion of a wire fall between the drum of a winch on a unit and the first sheave over which the wire fall passes must have a fleet angle that is less than 8 degrees if the drum is a grooved drum and less than 4 degrees if the drum is a nongrooved drum.

(b) "Fleet angle" is the angle made by two lines that intersect at the center of the sheave. One line is perpendicular to the axis of the drum and the other passes through either end of the drum at its axis.

§ 108.510 Hydrostatic releases.

Each inflatable liferaft that is not intended for davit launching must have—

(a) A hydrostatic release approved under Subpart 160.062 of this chapter; or

(b) A means to ensure that the liferaft will float free if the unit sinks.

§ 108.511 Lifeboat and liferaft arrangement.

The lifeboats and liferafts on a unit must be arranged—

(a) To provide ready access to them;

(b) So that a fire or other casualty does not immobilize all lifeboats and liferafts;

(c) So that they are accessible for inspection, maintenance, and testing;

(d) In locations clear of overboard discharge lines, propellers, and hull obstructions; and

(e) In locations to launch as designed.

§ 108.514 Life preservers.

(a) Each unit must have enough adult life preservers for 125% of the persons on board.

(b) Each unit must have lockers, boxes, closets, shelves, or racks in readily accessible locations in berthing areas, watch stations, or other work areas for the stowage of life preservers. The stowage containers must not be capable of being locked.

(c) Each life preserver on a unit must be approved under Subpart 160.002, 160.005, or 160.055 of this chapter as a Type I—personal flotation device.

(d) Each life preserver on a unit must have a whistle that is—

(1) Of a ball-type;

(2) Corrision resistant; and

(3) Attached to the life preserver by a 1 meter (3 foot) lanyard that—

(i) Does not have hooks, snaps, clips, or other metal connecting devices;

(ii) Allows the whistle to extend at least 38 centimeters (15 inches) from the top of the life preserver; and

(iii) Is coiled and bound with breakable thread.

§ 108.515 Ring life buoys.

(a) Each unit must have at least eight ring life buoys and mounting racks.

(b) Each ring life buoy on a unit must—

(1) Have a mounting rack that secures the buoy and allows it to be easily removed from the rack;

(2) Be approved under Subpart 160.009 or 160.050 of this chapter.

(c) At least four ring life buoys on a unit must each have a waterlight attached to the buoy by a 1 to 2 meters (3 to 6 foot) lanyard. Each waterlight must be approved under Subpart 161.010 of this chapter.

(d) At least two ring life buoys that have waterlights must each—

(1) Have a smoke signal approved under Subpart 160.057 of this chapter that self-activates upon contact with the water;

(2) Have a releasing mechanism that can be operated from the bridge, except that if the bridge is not continuously manned the mechanism must be capable of operation from a location authorized by the OCMI.

(3) Be mounted in a location where the buoy, if released by the releasing mechanism, will drop into the water.

(e) At least one ring life buoy on each side of the unit must have a bouyant line attached to the buoy that is 1½ times the distance from the buoy to the design waterline of the unit or 15 fathoms in length, whichever is greater.

(f) Each ring life buoy on a unit must be readily accessible to persons on board.

§ 108.517 Line throwing appliance.

(a) Each unit on an international voyage must have at least one impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter.

(b) Each unit not on an international voyage must have—

(1) An impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter; or

(2) A shoulder type line throwing gun approved under Subpart 160.031 of this chapter.

§ 108.519 Portable radio apparatus.

Each unit on an international voyage must have a portable radio apparatus that meets the requirements of the Federal Communications Commission.

§ 108.521 Distress signals.

(a) Each self-propelled unit must have at least 12 hand held, rocket-propelled, parachute, red flare, distress signals. Each distress signal on a unit must be approved under Subpart 160.036 of this chapter.

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(b) Each distress signal must be stowed in a portable, watertight, and noncorrosive container on the bridge or, if the unit does not have a bridge, in the control room.

§ 108.523 EPIRB.

Each self-propelled unit must have a Class A emergency position indicating radio beacon (EPIRB). Each EPIRB on a unit must be approved under Subpart 161.010 of this chapter.

§ 108.525 Means of embarkation.

(a) Except as provided in paragraph (c), each unit must have a chain suspension ladder approved under subpart 160.017 of this chapter for each lifeboat installation where the lifeboat is not equipped with a self-lowering device.

(b) Each chain suspension ladder must extend to the unit's light loadline with the unit at a 15° list away from the side where the ladder is installed.

(c) If a chain suspension ladder cannot be supported against a vertical flat surface, a fixed ladder must be installed; however no more than four fixed ladders are required.

(d) Each inclined fixed ladder must—

(1) Be at least 71 centimeters (28 inches) wide; and

(2) Have a pitch of 50° or less.

(e) Each vertical fixed ladder must meet the requirements of ANSI Code A14.3 for Fixed Ladders, except—

(1) Vertical bars in cages must be open at least 50 centimeters (20 inches) on one side for the length of the ladder; and

(2) No vertical fixed ladder may be made of wood.

§ 108.527 Means of abandonment.

Portable slides, safety booms, moveable ladders, elevators, and other means of abandonment may be installed if approved by the Commandant.

Subpart G—Cranes and Power Operated Industrial Trucks

CRANES

§ 108.601 Crane design.

(a) Each crane and crane foundation on a unit must be designed in accordance with the American Petroleum Institute Specification for Offshore Cranes, API Spec. 2C, Second Edition, February, 1972 (with supplement 2).

(b) In addition to the design requirements of paragraph (a), each crane must have the following:

(1) Each control marked to show its function.

(2) Instruments with built-in lighting.

(3) Fuel tank fills and overflows that do not run onto the engine exhaust.

(4) No gasoline engines.

(5) Spark arrestors fitted on engine exhaust pipes.

POWER OPERATED INDUSTRIAL TRUCKS

§ 108.611 Power operated industrial trucks: definition.

For the purposes of § 108.613 through § 108.615, "power industrial truck" means a tractor, lift truck, or specialized industrial truck used for material handling on a unit.

§ 108.613 Power operated industrial trucks.

(a) Each power operated industrial truck used on a unit must be designated as follows:

(1) "E"—electrically powered trucks that have safeguards against inherent sources of ignition.

(2) "EE"—electrically powered trucks that have the requirements for "E" trucks, and completely enclosed electric motors and equipment.

(3) "EX"—electrically powered trucks whose electrical fittings and equipment are designed, constructed, and assembled to permit the trucks to be used in atmospheres containing flammable vapors or dusts.

(4) "D"—diesel powered trucks that have safeguards against inherent sources of ignition.

(5) "DS"—diesel powered trucks that are provided with safeguards to the exhaust, fuel, and electrical systems not provided on a "D" truck.

(b) Each power operated industrial truck used on a unit must be approved and designated by a testing laboratory listed in paragraph (c) of this section.

(c) The Coast Guard recognizes the following testing laboratories for the purposes of this section:

(1) Underwriters' Laboratories, Inc., P.O. Box 247, Northbrook, Illinois, 60092.

(2) Factory Mutual Laboratories, Engineering Divisions, 1115 Boston Providence Turnpike, Norwood, Massachusetts 02062.

(d) Each power operated industrial truck used on a unit must have at least the following safety features—

(1) A warning device that can be heard above normal background noises.

(2) A driver's overhead guard.

(3) If the truck has a fork lift—

(i) A vertical load back rest or rack to prevent the load from falling toward the driver when the mast is in a position of maximum backward tilt;

(ii) A means of securing the forks to the carriage to prevent unintentional lifting of the toe;

(iii) A means of securing fork extensions and other attachments to prevent lifting or displacement on the primary forks; and

(iv) A factor of safety for the forks of at least three to one, based on the elastic limit of the fork material.

(4) Guards on each exposed wheel to prevent the wheel from throwing particles at the operator.

(5) A steering knob mounted within the perimeter of the wheel, if used on a steering mechanism that allows the wheel to spin as a result of road reaction, that is—

(i) Mushroom type that engages the palm of the operator's hand; or

(ii) Arranged in some other manner to prevent injury to the operator.

(6) Steering controls that are—

(i) Within the clearances of the truck; or

(ii) Guarded so that movement of the controls will not result in injury to the operator when the truck is passing an obstruction.

§ 108.615 Charging facilities for battery powered industrial trucks.

Each supply or charging circuit for charging batteries of powered industrial trucks must be connected to the truck by a portable plug that is—

(a) Break away type; and

(b) Connected to the charging outlet so that any movement of the truck away from the charging station—

(1) Breaks the connection;

(2) Does not expose any live parts to contact with a conducting surface or object; and

(3) Does not allow the plug to fall on to the deck.

Subpart J—Equipment Markings and Instructions

§ 108.621 Equipment markings: general.

Each marking required in this subpart must be—

(a) Printed in English;

(b) In red letters with a contrasting background;

(c) Permanent;

(d) Easy to be seen; and

(e) At least 1.3 centimeters (½ inch) in height; unless otherwise provided.

§ 108.623 General alarm bell switch.

Each general alarm bell switch must be marked "general alarm" on a plate or other firm noncorrosive backing.

§ 108.625 General alarm bell.

Each general alarm bell must be identified by marking "General Alarm—When Bell Rings Go To Your Station" next to the bell.

§ 108.627 Carbon dioxide alarm.

Each carbon dioxide alarm must be identified by marking: "When Alarm Sounds Vacate At Once. Carbon Dioxide Being Released" next to the alarm.

§ 108.629 Fire extinguishing system branch line valve.

Each branch line valve of each fire extinguishing system must be marked with the name of the space or spaces it serves.

§ 108.631 Fixed fire extinguishing system controls.

(a) Each cabinet or space that contains a valve, control, or manifold of a fixed fire extinguishing system must be marked by one of the following: "Carbon Dioxide Fire Apparatus", "Foam Fire Apparatus", or "Water Spray Fire Apparatus" in letters at least 5 centimeters (2 inches) high.

(b) Instructions for the operation of a fixed fire extinguishing system must be posted next to a fire apparatus described in paragraph (a) of this section.

§ 108.633 Fire stations.

Each fire station must be identified by marking: "Fire Station No. ——" next to the station in letters and numbers at least 5 centimeters (2 inches) high.

§ 108.635 Self-contained breathing apparatus.

Each locker or space containing a self-contained breathing apparatus must be marked: "Self Contained Breathing Apparatus".

§ 108.636 Work vests.

Each space containing a work vest must be marked: "WORK VEST."

§ 108.637 Hand portable fire extinguishers.

(a) Each hand portable fire extinguisher must be marked with a number that identifies it in relation to all other hand portable fire extinguishers.

(b) The location of each hand portable fire extinguisher must be marked with the same number that is marked on the extinguisher.

§ 108.639 Emergency lights.

Each emergency light must be marked: "E".

§ 108.641 Instructions for changing steering gear.

Instructions stating in order the different steps to be taken for changing to emergency and secondary steering gear must be posted in the steering gear room and at each secondary steering station in 1.3 centimeters (½ inch) letters and numerals of contrasting color to the background.

§ 108.643 Rudder orders.

At each steering station, the direction which the wheel or steering device must be moved for right rudder or left rudder must be marked in letters of contrasting color to the background on the wheel or steering device or in a place that is directly in the helmsman's line of vision to indicate "Right Rudder" and "Left Rudder".

§ 108.645 Lifeboats.

(a) The bow of each lifeboat must be marked in letters and numbers of contrasting color to the background with—

(1) The name and port of registry of the unit in letters at least 7.5 centimeters (3 inches) high;

(2) The number of the boat in numbers at least 7.5 centimeters (3 inches) high; and

(3) Its cubic capacity and the number of persons allowed in the boat in letters and numbers at least 4 centimeters (1½ inches) high.

(b) Each mechanical disengaging apparatus control lever must be—

(1) colored red; and

(2) marked in raised letters of a contrasting color to the background: "DANGER—LEVER DROPS BOAT" or "DANGER—LEVER RELEASES HOOKS."

(c) The location of each mechanical disengaging apparatus control lever must be marked by a white band approximately 30 centimeters (12 inches) wide from the keel to each side bench.

§ 108.647 Inflatable liferafts.

Each inflatable liferaft must be identified by marking: "INFLATABLE LIFERAFT NO. -- . . . PERSONS CAPACITY" next to the liferaft—

(a) in letters at least 4 centimeters (1½ inches) high; and

(b) in a contrasting color to the background.

§ 108.649 Life preservers and ring life buoys.

(a) Each life preserver must be marked in a color in contrast to the life preserver with the unit's name.

(b) Each locker box or closet used for stowing life preservers must be marked "LIFE PRESERVERS".

(c) Each ring life buoy must be marked in a color in contrast to the ring life buoy with the unit's name and port of registry.

§ 108.651 Portable magazine chests.

Each portable magazine chest must be marked: "PORTABLE MAGAZINE CHEST — FLAMMABLE — KEEP LIGHTS AND FIRE AWAY" in letters at least 7.5 centimeters (3 inches) high.

§ 108.653 Helicopter facilities.

(a) Each helicopter fueling facility must be marked adjacent to the fueling hose storage: "Warning—Helicopter Fueling Station—Keep Lights and Fire Away".

(b) Each storage tank for helicopter fuel must be marked: "Danger—Flammable Liquid".

(c) Each access to a helicopter landing area must be marked: "Beware Of Tail Rotor."

(d) Each marking required by this section must be in letters at least 7.5 centimeters (3 inches) high.

§ 108.655 Liferaft instructions.

Placards approved by the Commandant that contain instructions for launching and inflating inflatable liferafts must be conspicuously posted.

§ 108.657 Unit markings.

The hull of each unit must be marked in accordance with Parts 67 and 69 of this chapter.

§ 108.659 Breeches buoy and lifesaving signal instructions.

Instructions on Form CG-811 for the use of breeches buoys and lifesaving signals must be posted so that they can be easily seen in the pilothouse or control room, engine room, and each living space.

§ 108.661 Unit markings: draft marks.

(a) Each unit must have draft marks for each foot of immersion—

(1) If the unit is a surfact unit, on both the port and starboard sides of the stem and the stern-post or rudderpost or at any other place at the stern of the unit as may be necessary for easy observance;

(2) If the unit is a self-elevating unit, near each corner of the hull but not more than 4 required; and

(3) If the unit is a column-stabilized unit, on each corner column, continuing to the footing or lower displacement hull.

(b) The bottom of each mark must be at the draft indicated by that mark.

(c) Each mark must be—

(1) In numerals 15 centimeters (6 inches) high ;and

(2) In contrasting color to the background.

(d) For the purposes of this section, "draft" means the distance from the bottom of the keel or the lowest shell plate on the outer surface of the unit to the surface of the water, except that where a unit has a permanent appendage extending below the bottom of the keel, "draft" means the distance from the lowest part of the appendage to the surface of the water.

§ 108.663 Unit markings: load line.

Each unit that is assigned a load line must have the load line marked in accordance with Part 42 of this Chapter.

§ 108.665 Appliances for watertight integrity.

Each appliance for watertight integrity must be marked in letters of contrasting color to the background: "Keep Closed".

Subpart K—Miscellaneous Equipment

§ 108.697 Buoyant work vest.

Each buoyant work vest on a unit must be approved under § 160.053 of this chapter.

§ 108.699 Substitution of life preservers.

A work vest may not be substituted for a required life preserver—

(a) for the life saving equipment requirements of this part; or

(b) for use during drills and emergencies.

§ 108.701 Sounding equipment.

Each self-propelled unit must have a mechanical or electronic sounding apparatus.

§ 108.703 Self-contained breathing apparatus.

(a) Each unit must have a self-contained breathing apparatus to be used as protection from gas leaking from a refrigeration unit.

(b) The self-contained breathing apparatus required in § 108.497 may be used for this purpose.

§ 108.705 Anchors, chains, wire rope, and hausers.

(a) Each unit must be fitted with anchors, chains, wire rope, and hausers in agreement with the standards established by the American Bureau of Shipping.

(b) Units which are equipped with anchors used as operational equipment are not required to have additional anchors if the operational anchors meet the requirements of paragraph (a).

§ 108.707 First aid kit.

Each unit must have a first-aid kit approved by the Mining Enforcement Safety Administration of a size suitable for the number of persons on the unit that is stowed in a location that is accessible to persons on board.

§ 108.709 Litter.

Each unit must have a Stokes litter that is stowed in a location that is accessible to the persons on board.

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§ 108.711 Pilot ladders.

(a) Except as provided in paragraph (c), each unit which normally uses a pilot must have a pilot ladder in addition to the ladders required in § 108.525.

(b) Each unit which has a pilot ladder must have the following:

(1) Spreaders.

(2) A man rope.

(3) A safety line.

(c) A pilot ladder is not required if—

(1) the vertical distance from sea level to the deck of the unit is more than 9 meters (approximately 30 feet); or

(2) there is no flat vertical surface to support a pilot ladder.

(d) Illumination over the side of the unit and on the deck where the pilot boards the unit must be provided.

§ 108.713 International code of signals.

Each vessel on an international voyage which is required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

§ 108.715 Magnetic compass and gyrocompass.

(a) Each self-propelled unit in ocean or coastwise service must have a magnetic compass.

(b) Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have a gyrocompass in addition to the magnetic compass required in paragraph (a).

(c) Each unit that is required to have a gyrocompass must have an illuminated repeater for the gyrocompass that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

§ 108.717 Radar.

Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have—

(a) A marine radar system for surface navigation; and

(b) Facilities on the bridge for plotting radar readings.

PART 109—OPERATIONS

Subpart A—General

§ 109.101 Applicability.

No unit may be operated unless it complies with the regulations in this part.

§ 109.103 Safety construction certificate.

No unit may embark on an international voyage unless it is issued—

(1) a safety construction certificate by the American Bureau of Shipping or the Coast Guard; and

(2) a safety equipment certification by the Coast Guard.

§ 109.107 Designation of master or person in charge.

The owner of a unit or his agent shall designate an individual to be the master or person in charge of the unit.

§ 109.109 Responsibilities of master or person in charge.

The master or person in charge shall be fully cognizant of the provisions in the Operating Manual required by § 109.121.

§ 109.121 Operating manual.

(a) An operating manual must be prepared for each unit.

(b) Each operating manual must be approved by the Coast Guard.

(c) The operating manual must contain guidance for the safe operation of the unit.

(d) The operating manual must contain the following information:

(1) A general description of the unit, including lightship data.

(2) Data for each operating mode, including design loading, wave height, and draft.

(3) General arrangement showing watertight compartments, closures, vents, permanent ballast, and allowable deck loadings.

(4) Hydrostatic curves or equivalents.

(5) Capacity plan showing capacities of tanks, center of gravity, and free surface corrections.

(6) Instructions for the operation of the unit while—

(i) preparing for the passage of a severe storm, including the specific actions and approximate length of time necessary to attain each level of preparedness; and

(ii) changing operating condition.

(7) Stability information setting forth maximum KG versus draft curve, or other parameters based upon compliance with the intact and damaged stability criteria.

(8) Examples of loading conditions for each mode of operation, and a means for evaluation of other loading conditions.

(9) Inherent limitations of operation.

(10) General guidance and precautions regarding unintentional flooding.

Subpart B—Tests, Drills, and Inspections

§ 109.201 Steering gear, whistles, general alarm, and means of communication.

The master or person in charge shall ensure that—

(a) Steering gear, whistles, general alarm bells, and means of communication beaween the bridge or control room and the engine room on self propelled units are inspected and tested—

(1) Within 12 hours before getting under way; and

(2) At least once each week if under way or on station; and

(b) Whistles and general alarm bells on all other units are inspected examined and tested at least once each week.

§ 109.203 Sanitation.

(a) The master or person in charge shall ensure that the accommodation spaces are in a clean and sanitary condition.

(b) The chief engineer shall ensure that the engineering spaces are in a clean and sanitary condition.

§ 109.205 Inspection of boilers and machinery.

The chief engineer or engineer in charge, before he assumes charge of the boilers and machinery of a unit shall inspect the boilers and machinery and report to the master or person in charge and the Officer in Charge, Marine Inspection, any parts that are not in operating condition.

§ 109.207 Line-throwing equipment.

(a) The master or person in charge shall ensure that personnel are instructed in the use of line-throwing equipment.

(b) The master or person in charge shall ensure that each line throwing appliance is tested by firing it at least once every four months. A service line may not be used for test firings.

§ 109.208 EPIRB.

The master or person in charge shall ensure that each EPIRB required in § 108.523 of this subchapter is tested monthly using the integrated test circuit and output indicator.

§ 109.209 Appliances for watertight integrity.

(a) Before getting underway, the master or person in charge shall ensure that each appliance for watertight integrity is closed and watertight.

(b) If existing conditions warrant, the master or person in charge may permit appliances for watertight integrity to be used while afloat.

§ 109.211 Testing of emergency lighting and power systems.

The master or person in charge shall ensure that—

(a) Each emergency lighting and each emergency power system is tested at least once each week;

(b) Each emergency generator is tested at least once each month by operating it under load for at least 2 hours; and

(c) Each storage battery for emergency lighting and power systems is tested under actual connected load for—

(1) A period of at least 12 hours; or

(2) A period of at least 2 hours if—

(i) After the 2 hour test period, voltage values under load or electrolyte specific gravity are measured and these values may be extrapolated to approximate the values that would result following a 12 hour test period; and

(ii) The capacity of the battery corresponding to the extrapolated values of voltage or specific gravity are sufficient to supply the actual connected load for 12 hours.

§ 109.213 Fire drill.

The master or person in charge shall conduct a fire drill at least once each week and shall ensure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each fire pump is started;

(c) Each item of rescue and safety equipment is brought from the emergency lockers; and

(d) Each watertight door which is in use while the unit is underway is operated.

§ 109.215 Boat drill.

The master or person in charge shall conduct a boat drill at least once each week, and shall ensure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each lifeboat is prepared for use;

(c) Weather permitting, at least one lifeboat is lowered, released and its engine started and operated; and

(d) Each person not assigned duties in the station bill is instructed in the use of life preservers.

§ 109.217 Lifeboats and lifeboat launching equipment-inspection and testing.

The master or person in charge shall ensure that—

(a) Each lifeboat is lowered to the water at least once each three months;

(b) Each lifeboat is properly equipped;

(c) The motor of each motor propelled lifeboat is operated in the ahead and the astern position for at least 5 minutes at least once each week;

(d) Each lifeboat is cleaned and inspected at least once each year;

(e) The fuel tank of each motor propelled lifeboat is emptied, and the fuel is changed at least once each year;

(f) Each rechargeable battery for each lifeboat radio is fully charged at least once each week; and

(g) Each lifeboat radio transmitter is tested at least once each week.

§ 109.219 Inflatable liferaft: servicing.

The master or person in charge shall ensure that each inflatable liferaft is serviced every 12 months or not later than the next inspection for certification provided the time since the date of the last servicing does not exceed 15 months. Except in an emergency, no servicing may be done aboard the unit.

§ 109.221 Electric power operated winches.

(a) The master or person in charge shall ensure that each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches, is inspected at least once each 3 months.

(b) The inspection required in paragraph (a) of this section must include the removal of drain plugs from the electrical enclosures of each lifeboat winch control apparatus.

§ 109.223 Fire fighting equipment.

The master or person in charge shall ensure that each hand portable fire extinguisher, semi-portable fire-extinguisher, and fixed fire-extinguishing system is tested and inspected at least once each twelve months.

Subpart C—Operation and Stowage of Safety Equipment

§ 109.301 Maintenance of equipment.

The master or person in charge shall ensure that each item of lifesaving and firefighting equipment required by this subchapter is maintained in operative condition.

§ 109.305 Obstruction on launching decks.

The master or person in charge shall ensure that each deck from which lifeboats and liferafts are launched is kept clear of any obstruction that interferes with the immediate launching of lifeboats and liferafts.

§ 109.307 EPIRB.

The master or person in charge shall ensure that—

(a) Each EPIRB required in § 108.523 is stowed in a manner so that it will float free if the unit sinks; and

(b) Each battery of the EPIRB is replaced before the date marked on the outside of the body of the EPIRB, or after the EPIRB is used.

§ 109.313 Stowage of life preservers.

The master or person in charge shall ensure that each life preserver required in § 108.514 for each person assigned a berth, is stowed in his berthing area as provided in § 108.514(b), and that the remaining life preservers required in § 108.514(a) are stowed in each work area and watch station as provided in § 108.514(b).

§ 109.317 Replacement of distress signal and self-activated smoke signals.

The master or person in charge shall ensure that each distress signal and self-activated smoke signal is replaced not later than 36 months after the date of manufacture.

§ 109.320 Line-throwing equipment.

The master or person in charge shall ensure that—

(a) The line-throwing equipment required by § 108.517 is stowed in a readily accessible location; and

(b) The service life of rockets for impulse projected rocket type equipment is limited to a period of four years from the date of manufacture, and replacement of out-dated items is made at the first arrival in the United States, except that replacement is made in all cases within twelve months after the date of expiration.

§ 109.321 Portable radio.

The master or person in charge shall ensure that the portable radio required in § 108.519 is—

(a) Stowed in the radioroom, bridge, or a protected location near a lifeboat; and

(b) Readily accessible for transfer to a lifeboat.

§ 109.323 Manning of lifeboats and inflatable liferafts.

The master or person in charge shall—

(a) Assign to each lifeboat and each inflatable liferaft, to which seat assignments are made in the station bill—

(1) A licensed deck officer, able seaman, or certificated lifeboatman to command the lifeboat;

(2) A licensed deck officer, able seaman, or certificated lifeboatman as second in command, if the lifeboat has a capacity of more than 40 persons;

(3) A person who can operate the lifeboat's motor; and

(4) A person who can operate the portable radio, if the lifeboat has a portable radio; and

(b) Ensure that the person assigned to command a lifeboat has a list of the persons assigned to seats in the lifeboat or liferaft.

§ 109.325 Persons in command of lifeboats or liferafts.

A person assigned to command a lifeboat or liferaft shall ensure that each person assigned to the lifeboat or liferaft can perform the duties assigned to that person.

§ 109.327 Davit launched liferafts.

The master or person in charge shall ensure that no more than two davit launched liferafts are launched from each launching station.

§ 109.329 Fire pumps.

The master or person in charge shall ensure that at least one of the fire pumps required in § 108.415 is ready for use on the fire main system at all times.

§ 109.331 Firehoses and hydrants.

The master or person in charge shall ensure that—

(a) At least one length of firehose with a combination nozzle is connected to each fire hydrant required by this subchapter, at all times, except that during heavy weather a firehose in an exposed location may be temporarily removed from the first hydrant and stowed in an accessible, nearby location;

(b) A fire hose required by this subchapter is not used for any purpose other than firefighting, fire drills, and testing;

(c) Access to each fire hydrant is not blocked;

(d) Each firehose, except a firehose temporarily removed from an exposed location, is stowed on a rack or reel required by this subchapter; and

(e) Each low velocity spray applicator for a fire hose nozzle is attached to the nozzle or stowed next to the fire hydrant to which the fire hose is attached.

§ 109.333 Fire main cutoff valves.

The master or person in charge shall ensure that each fire main cutoff valve is open and sealed to prevent closing, except that a cutoff valve may be closed to protect the portion of the fire main system on an exposed deck from freezing.

§ 109.334 Working over water.

The master or person in charge shall ensure that each person working over the water is wearing a life preserver or a buoyant work vest.

V 4284 MAY 2 77 UMI

§ 109.335 Stowage of work vests.

The master or person in charge shall ensure that no work vest is stowed where life preservers are stowed.

§ 109.337 Fireman's outfit.

The master or person in charge shall ensure that—

(a) At least 2 persons who are trained in the use of the fireman's outfit are on board at all times; and

(b) Each fireman's outfit and its spare equipment is stowed in a separate and accessible location.

(c) A fireman's outfit is not used for any purpose other than fire fighting except as provided in § 108.703.

§ 109.339 Location of fire axes.

The master or person in charge shall ensure that the fire axes required in § 108.499 of this subchapter are located in the enclosures for fire hoses marked in accordance with § 108.633 of this subchapter, if the fire axes are not located in plain view.

§ 109.341 Chain suspension ladders.

The master or person in charge shall ensure that each chain suspension ladder required in § 108.525(a) of this subchapter is—

(a) Kept ready for immediate use; and

(b) Stowed near the lifeboat or inflatable liferaft davits.

§ 109.343 Pilot ladders and equipment.

The master or person in charge shall ensure that the equipment required in § 108.711(b) is kept available for use with the pilot ladder required in § 108.711(a).

§ 109.345 Pilot ladder use.

The master or person in charge shall ensure that—

(a) A pilot ladder, when in use, is secured so that each step rests firmly against the side of the unit;

(b) a pilot boards a unit by means of an accommodation ladder or personnel transfer equipment if a pilot ladder is not used.

Subpart D—Reports, Notifications, and Records

Reports and Notifications

§ 109.411 Notice of casualty.

(a) The owner, agent, master, or person in charge of a unit that is involved in a marine casualty shall notify the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, if the casualty involves any of the following:

(1) Damage to property exceeding $1,500.

(2) Damage affecting the seaworthiness of the unit.

(3) Stranding or grounding of the unit, except when the unit is grounded to conduct normal operations.

(4) Loss of life.

(5) Injury to any person incapacitating the person for more than 72 hours after the injury, except injury to a harbor worker not resulting from a unit casualty or failure of unit equipment.

(b) The notice required by this section must contain the following:

(1) Name and official number of the unit.

(2) Name of the owner or agent of the unit.

(3) Description of the casualty, including cause.

(4) Location of the unit at the time of the casualty.

(5) Nature and extent of injury to persons.

(6) Damage to property.

(c) The notice required by this section is not required to be submitted if the written report of casualty required by § 109.413 is submitted without delay.

§ 109.413 Written report of casualty.

The master or person in charge of a unit for which a report of casualty is made under § 109.411 of this subpart shall submit a report to the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, on—

(a) Form CG–924E if the casualty involves injury to persons or loss of life; and

(b) Form CG–2692 if the casualty involves damage to property or grounding or stranding of a vessel.

§ 109.415 Retention of records after casualty.

(a) The owner, agent, master, or person in charge of a unit for which a report of casualty is made under § 109.411 of this subpart shall ensure that all records maintained on the unit are retained on board the unit for at least 3 months after the report of casualty is made or until advised by the Officer in Charge, Marine Inspection, that records need not be retained on board.

(b) The records which must be retained in accordance with paragraph (a) of this section include:

(1) Rough and smooth deck log.

(2) Rough and smooth engineroom log.

(3) Tour reports.

(4) Bell books.

(5) Navigation charts in use at the time of casualty.

(6) Navigation work books.

(7) Compass deviation cards.

(8) Gyrocompass records.

(9) Storage plans.

(10) Record of drafts.

(11) Notices to mariners.

(12) Radiograms sent and received.

(13) The radio log.

(14) Personnel list.

(15) Crane record book.

(c) The owner, agent, master, or person in charge shall, upon request, make the records described in this section available for examination by any Coast Guard official authorized to investigate the casualty.

§ 109.417 Report of damage to aid to navigation.

If a unit collides with an aid to navigation maintained by the Coast Guard, the master or person in charge shall report the collision to the Officer in Charge, Marine Inspection.

§ 109.419 Report of unsafe machinery.

If a boiler, unfired pressure vessel, or other machinery on a unit is unsafe to operate, the master or person in charge shall report the existence of the unsafe condition to the Officer in Charge, Marine Inspection.

§ 109.421 Report of repairs to boilers and pressure vessels.

Before making repairs, except normal repairs and maintenance such as replacement of valves or pressure seals, to boilers or unfired pressure vessels in accordance with § 50.05–10 of this chapter, the master or person in charge shall report the nature of the repairs to the Officer in Charge, Marine Inspection.

§ 109.423 Report of breaking safety valve seal.

(a) If a required seal on a safety valve is broken, the chief engineer or engineer in charge shall notify the Officer in Charge, Marine Inspection.

(b) The notice must—

(1) State the reason for breaking the seal; and

(2) Request that the valve be examined and adjusted.

§ 109.425 Repairs and alterations—emergency equipment.

(a) Before making repairs or alterations, except emergency repairs or alterations, to lifesaving, fire detecting or extinguishing equipment, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

(b) When emergency repairs or alterations to livesaving, fire detecting or fire extinguishing equipment have been made, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

Records

§ 109.431 Logbook.

(a) The master or person in charge of a unit that is required by 46 U.S.C. 201 to have an official log book shall maintain the logbook on Form CG–706. When the voyage is completed, the master or person in charge shall file the logbook with the Officer in Charge, Marine Inspection.

(b) The master or person in charge of a unit that is not required by 46 U.S.C. 201 to have an official logbook, shall maintain, on board, an unofficial logbook for making the entries required by this subpart, until the unit is reinspected or inspected for certification.

§ 109.433 Logbook entries.[1]

The master or person in charge shall ensure that the following entries are made in the logbook required by this subpart:

[1] Note.—R.S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook, in addition to the entries required by this section; and R.S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

(a) The date of each test of the steering gear, whistle, general alarm, and communications equipment and the condition of the equipment.

(b) The time and date of each opening and closing of each appliance for watertight integrity not fitted with a remote operating control or alarm system and the reasons for the action.

(c) The date of each test of emergency lighting and power systems and the condition and performance of the equipment.

(d) The following information pertaining to each fire drill:

(1) Date and hour of each drill.

(2) Duration of each drill.

(3) The condition of all fire fighting equipment, watertight door mechanisms, and valves used during each drill.

(e) The following information pertaining to each boat drill:

(1) Date and hour of each drill.

(2) Duration of each drill.

(3) The number of each lifeboat swung out during each drill.

(4) The number of each lifeboat lowered during each drill.

(5) Length of time that each motor propelled lifeboat was operated during each drill.

(6) The condition of lifesaving equipment used during each drill.

(f) The date of the lifeboat equipment examination required in § 109.217 of this part.

(g) If a drill required in § 109.213 or § 109.215 of this part is not held, the reasons for not holding the drill.

(h) If a drill required in § 109.213 or § 109.215 of this part is not completed, the reasons for not completing the drill, and the date and a description of the incomplete drill.

(i) The date of each lifeboat winch inspection required in § 109.221 of this part and the condition of the winch.

(j) The fore and aft drafts, the position of the loading marks in relation to the surface of the water, and the density of the water in which the vessel is floating, if in fresh or brackish water.

(k) The date of each inspection of each accommodation space.

(l) The date of each inspection required in § 109.573 of this subpart, if performed by the master or person in charge.

Note: R.S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook, in addition to the entries required by this section; and R.S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

§ 109.435 Record of fire fighting equipment inspection.

(a) The master or person in charge shall ensure that a record of each test and inspection required in § 109.223 of this part is maintained on board, until the unit is reinspected or inspected for certification.

(b) The record required in paragraph (a) of this section must show—

(1) The date of each test and inspection;

(2) The number or other identification of each item of equipment tested or inspected; and

(3) The name of the person, and the company he represents if any, who conducts the test or inspection.

§ 109.437 Crane record book.

The master or person in charge shall ensure that the following are maintained in a crane record book:

(a) Descriptive information which will identify each crane including—

(1) The API name plate data required by Section 11 of API Spec. 2C, Second Edition, February 1972; and

(2) The rated load chart for each line reeving.

(b) Information required by Section 3 of the American Petroleum Institute Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition, October 1972.

(c) Dates and results of frequent inspections and tests.

(d) Dates and results of periodic inspections and tests.

(e) Date and result of each rated load test.

(f) Date and description of each replacement or renewal of wire rope, hooks, and other load components.

(g) Date and description of each failure of the crane, or any component or safety feature.

(h) Date and description of each repair to the crane structure, boom, or equipment.

(i) Each record and original certificate, or certified copy of a certificate of manufacturers or testing laboratories, companies, or organizations for—

(1) Loose gear;

(2) Wire rope; and

(3) The annealing of wrought iron gear.

Subpart E—Station Bill

§ 109.501 Station bill: duties of personnel.

(a) The station bill must set forth the duties and station of each person during emergencies, including an assigned seat in a lifeboat or liferaft for each person on the unit.

(b) The duties must, as far as possible, be comparable with the regular work of the individual.

(c) These duties must include:

(1) Closing airports, watertight doors, scuppers, and sanitary and other discharges that lead through the unit's hull.

(2) Stopping fans and ventilating systems.

(3) Operating all safety equipment.

(4) Preparing lifeboats and liferafts for launching.

(5) Extinguishing fires.

(6) Warning personnel of the emergency.

(7) Instructing all personnel on use and wearing of their life preservers.

(8) Directing personnel to appointed stations.

(9) Carrying the portable radio apparatus, required in § 108.519, to a lifeboat.

§ 109.503 Station bill: emergency signals.

(a) The station bill must set forth signals that—

(1) Call personnel to their stations; and

(2) Direct personnel at their stations.

(b) Emergency stations signals are established as follows:

(1) The signal to man emergency stations is a rapid succession of short soundings of both the general alarm bell and the whistle, if a whistle is installed, for a period of not less than 10 seconds.

(2) The signal to secure from emergency stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

(c) The abandon unit stations signals are established as follows;

(1) The signal to man abandon unit stations is a continuous sounding of both the general alarm and the whistle, if a whistle is installed.

(2) If whistle signals are used to direct the handling of lifeboats, they must be—

(i) One short blast to lower lifeboats; and

(ii) Two short blasts to stop lowering the lifeboats.

(3) The signal to secure from abandon unit stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

§ 109.505 Station bill: general.

The master or person in charge shall—

(a) Ensure that the station bill is prepared and maintained;

(b) Sign the station bill;

(c) Ensure that the station bill is posted in conspicuous locations on the unit; and

(d) Ensure that all persons on the unit are familiar with the station bill.

Subpart F—Cranes and Powered Industrial Trucks

§ 109.521 Cranes: general.

The master or person in charge shall ensure that each crane is operated and maintained in accordance with the API Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition.

§ 109.525 Cranes: working loads.

The master or person in charge shall ensure that tables indicating the maximum safe working loads for the various working angles of the boom, where the boom is rated at varying capacities depending on the radius, and the maximum and minimum radius at which the boom may be safely used, are conspicuously posted near the controls and are visible to the operator when working the crane.

§ 109.527 Cranes: operator designation.

(a) The master or person in charge shall designate, in writing, each crane operator.

(b) The master or person in charge shall ensure that only designated operators operate cranes.

V42184 MAY 2 77 UMI

(c) The master or person in charge shall ensure that each designated operator is familiar with the provisions of the API Recommended Practice for Operation and Maintenance of Offshore Cranes, API RP 2D, First Edition.

§ 109.529 Powered industrial trucks: use.

The master or person in charge shall ensure that—

(a) Only "EX" designated trucks are used in Class I, Division 1 spaces; and

(b) Only "EE", "EX", or "DS" designated trucks are used in—

(1) Class I, Division 2 spaces; and

(2) In spaces that are within the periphery of a Class I, Division 1 space.

§ 109.531 Powered industrial trucks: ventilated spaces.

The master or person in charge shall ensure that diesel powered industrial trucks are operated only in ventilated spaces.

§ 109.533 Powered industrial trucks: rated lifting capacity.

The master or person in charge shall ensure that the rated lifting capacity of each powered industrial truck is posted on each truck.

§ 109.535 Designated refueling areas for diesel powered industrial trucks.

The master or person in charge shall designate refueling areas for diesel powered industrial trucks only on—

(a) The weather deck; or

(b) In spaces that are—

(1) Ventilated to prevent accumulation of vapors; and

(2) Located at least 3 meters (10 feet) from a source of ignition.

§ 109.537 Refueling diesel powered industrial trucks: operations.

The master or person in charge shall ensure that—

(a) Each diesel powered industrial truck is refueled only in a refueling area designated under § 109.535;

(b) Before a diesel powered industrial truck is refueled its engine is stopped;

(c) If refueling operations are conducted in an encolsed, space, no truck engine is operated in the space;

(d) Diesel powered industrial trucks are refueled from—

(1) A portable container of five gallons or less that has a self-closing spout; or

(2) If the refueling operation is on the weather deck, a pump with a hose that has a pistol grip, deadman nozzle; and

(e) Each designated refueling area has at least one four pound, dry chemical, portable fire extinguisher available during refueling operations.

§ 109.539 Recharging battery powered industrial trucks.

The master or person in charge shall ensure that batteries of powered industrial trucks are charged in a ventilated area that is not a Class I location.

Subpart G—Miscellaneous

§ 109.555 Propulsion boilers.

The master or person in charge and the engineer in charge shall ensure that—

(a) Steam pressure does not exceed that allowed by the Certificate of Inspection; and

(b) Except as provided in § 109.423, the safety valves, once set and sealed by the inspector, are not tampered with or made inoperative.

§ 109.557 Flammable and combustible liquids: carriage.

The master or person in charge shall ensure that—

(a) Flammable and combustible liquids in bulk are not carried, except as allowed by endorsement to the Certificate of Inspection;

(b) Portable tanks are handled and stowed in accordance with Subparts 98.30 and 98.35 of this Chapter, and 49 CFR Parts 170 to 189; and

(c) Grades A and lower liquids are—

(1) Authorized, by the Commandant, to be carried; and

(2) Carried only in fixed independent or integral trunks.

§ 109.558 Stores and supplies.

The master or person in charge shall ensure that dangerous articles, substances, and combustible liquids which are used on board a unit, except those used in industrial operations and as fuel for the unit's machinery, are accepted, handled, stowed, and used only in accordance with the provisions for cargo vessels in Part 147 of this Chapter.

§ 109.559 Explosives and radioactive materials.

(a) Except as authorized by the master or person in charge, no person may use explosives or radioactive materials and equipment on a unit.

(b) The master or person in charge shall ensure that explosives and radioactive materials and equipment are stored only in accordance with the provisions for cargo vessels in Part 147 of this Chapter.

§ 109.563 Posting of documents.

The master or person in charge shall ensure that the following are posted under glass in the pilot house or control center:

(a) General arrangement plans for each deck showing—

(1) Each fire retardant bulkhead;

(2) Each fire detecting, manual alarm, and fire extinguishing system;

(3) Each fire door;

(4) Each means of ingress to compartments; and

(5) Each ventilating system, including the location of each damper, fan, and remote means of stopping the fans.

(b) The stability letter issued by the Coast Guard.

(c) Each SOLAS and Coast Guard certificate issued to the unit.

§ 109.564 Maneuvering characteristics.

(a) The master or person in charge of each self-propelled unit of 1,600 gross tons and over shall ensure that a maneuvering information fact sheet is prominently displayed in the pilothouse.

(b) For surface type units, the maneuvering information in Part 97.19 of this chapter must be displayed.

(c) The maneuvering information requirements for column stabilized, self-elevating, and other units of unusual design will be specified on a case by case basis.

§ 109.565 Charts and nautical publications.

(a) The master or person in charge of a self-propelled unit shall ensure that the unit has the following:

(1) Charts.
(2) Sailing directions.
(3) Coast pilots.
(4) Light lists.
(5) Notices to mariners.
(6) Tide tables.
(7) Current tables.
(8) All other nautical publications necessary.[1]

NOTE 1.—For U.S. units in or on the navigable waters of the United States, see 33 CFR 164.33.

(b) The master or person in charge shall ensure that the items required in paragraph (a) are adequate, up-to-date, and appropriate for the intended voyage of the unit.

§ 109.573 Riveting, welding, and burning operations.

Except as allowed by this section—

(a) The master or person in charge shall ensure that there is no riveting, welding, or burning—

(1) In a fuel tank;

(2) On the boundary of a fuel tank;

(3) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks; or

(4) On the boundary of spaces adjacent to tanks carrying Grades A, B, or C flammable liquids in bulk.

(b) The operations prohibited in paragraph (a) of this section may be allowed if—

(1) An inspection conducted in accordance with the "Standard for the Control of Gas Hazards on Vessels to be Repaired," NFPA No. 306, is made—

(i) In ports or navigable waters of the United States, its territories and possessions, by—

(A) A marine chemist certified by the National Fire Protection Association; or

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(ii) In all other locations by—

(A) A marine chemist certified by the National Fire Protection Association;

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(C) If the persons required in paragraph (b) (ii) (A) and (B) are not available, the master or person in charge, or welding supervisor designated, in writing; and

(2) A certificate is issued by the person conducting the inspection stating—

(i) That he conducted the inspection in accordance with the standard in paragraph (b) (1);

(ii) The operations that may be conducted; and

(iii) A list of precautions to be followed during the operations;

(c) The master or person in charge shall ensure that the precautions in paragraph (b) (2) (iii) are followed.

§ 109.575 Accumulation of liquids on helicopter decks.

The master or person in charge shall ensure that no liquids are allowed to accumulate on the helicopter decks.

§ 109.577 Helicopter fueling.

(a) The master or person in charge shall designate persons to conduct helicopter fueling operations.

(b) No person may be designated to conduct such operations unless he is familiar with the fueling procedures and safety precautions.

§ 109.581 Fixed ballast.

(a) The master or person in charge shall ensure that fixed ballast is not removed from the unit or relocated unless the removal or relocation is approved by the Commandant.

(b) Fixed ballast may be moved for examination or repair of the unit if done in the presence of a marine inspector.

§ 109.583 Prevention of oil pollution.

The master or person in charge shall ensure that the unit is operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (86 Stat. 816; 33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (75 Stat. 404; 33 U.S.C. 1011); and

(c) 33 CFR Parts 151, 155 and 156.

§ 109.585 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, and all other hazardous navigational situations, the master or person in charge shall ensure that—

(a) It is possible to immediately establish manual control of the unit's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the officer of the watch.

§ 109.587 Use of sleeping spaces.

The master or person in charge of a self-elevating unit shall ensure that no accommodation space below the main deck used as a sleeping space is used when the unit is in the floating condition.

(Sec. 2, 87 Stat. 418 (46 U.S.C. 86), sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367), R.S. 4405, as amended (46 U.S.C. 375), R.S. 4423, as amended (46 U.S.C. 400), R.S. 4429, as amended (46 U.S.C. 407), R.S. 4430, as amended (46 U.S.C. 408), 88 Stat. 423 (46 U.S.C. 411), R.S. 4434, as amended (46 U.S.C. 412), R.S. 4462, as amended (46 U.S.C. 416), sec. 1, 73 Stat. 475 (46 U.S.C. 481), sec. 4, 67 Stat. 462 (43 U.S.C. 1333(e)); 49 CFR 1.46(b) and (n)(6).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: April 22, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-12251 Filed 4-26-77;8:45 am]

V42 84 MAY 2 77 UMI

federal register

MONDAY, MAY 2, 1977
PART V

ENVIRONMENTAL PROTECTION AGENCY

Office of Solid Waste

■

HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Advance Notice of Proposed Rulemaking

V42 84 MAY 2 77 UMI

ENVIRONMENTAL PROTECTION AGENCY

Office of Solid Waste

[40 CFR Part 250]

[FRL 710-4]

HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: This Notice begins the process of developing guidelines and regulations for the management of hazardous wastes. These regulatory actions are required under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976.

DATES: Comments received on or before July 1, 1977 will be of primary importance in developing these regulations. All comments will be available for public inspection by contacting the Docket Section at the address below.

ADDRESSEES: All comments should be addressed to the individual and docket numbers listed below: Section 3001—Mr. Alan Corson, Section 3002—Mr. Harry Trask, Section 3003—Mr. Harry Trask, Section 3004—Mr. John Schaum, Section 3005—Mr. William Wallace, Section 3006—Mr. Murray Newton, at the following address: Hazardous Waste Management Division (AW-465), Office of Solid Waste, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. For correspondence relating to more than one section, use the name of only one individual, but cite specific docket numbers in the response.

FOR FURTHER INFORMATION CONTACT:

Persons wishing to discuss these questions may reach the individuals listed above by calling the following telephone numbers: Mr. Alan Corson (202-755-9187) Mr. Harry Trask (202-755-9187), Mr. John Schaum (202-755-9203), Mr. William Wallace (202-755-9190), Mr. Murray Newton (202-755-9190).

SUPPLEMENTARY INFORMATION: This Notice creates a new Part 250, "Hazardous Waste Guidelines and Regulations," for the purpose of soliciting information, data, case studies, operating experiences, and other public input as to the nature and scope of guidelines and regulations to be developed for the control of hazardous wastes. Congress has found that hazardous wastes present special dangers to health and require a greater degree of regulation than do non-hazardous solid wastes. Consequently, Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580), mandates by April 1978, the development of a set of national standards affecting generators, transporters, and those who store, treat, and dispose of hazardous wastes. Also, by April 1978, a system for notification of EPA or States by each of these groups is required. Regulations for a permit system affecting owners and operators of hazardous waste storage, treatment, and disposal facilities are mandated as well. Such facilities are included in the permit system even if they are located on the property of the waste generators. Subtitle C also provides for the development of guidelines under which States may apply for and receive authorization to operate this control program in lieu of EPA.

This Notice is part of a broad program to solicit public participation on all aspects of the Resource Conservation and Recovery Act. This Notice includes detailed questions on each of six sections of Subtitle C. Interested persons are invited to comment on any or all of these questions, but are requested to group their responses under the docket number and name of the individual indicated for each section. Responses will be acknowledged by postcard. Also, those who comment may be contacted by EPA staff for further information or elaboration as regulation development proceeds.

SECTION 3001—CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Section 3001(a) requires EPA to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous wastes. Section 3001(b) requires EPA to identify those characteristics and to list specific hazardous wastes. The purpose of section 3001 is to provide standards of judgment which can be used to identify those wastes which pose a substantial present or potential hazard to human health or the environment if not managed and disposed of properly. The criteria being considered are the following: Flammability, corrosiveness, reactivity, radioactivity, toxicity, and potential for bioaccumulation, persistence, and for causing disease. Comments are welcomed as to the suitability of these criteria or the suggestion of others which should be considered.

(1) EPA is considering the use of flash point as a criterion for waste flammability. The specific flash point chosen will relate to the potential sources of ignition existing at a landfill site, such as hot truck exhaust pipes, and heat from neutralization reactions. Comments concerning potential ignition sources and suitable flash point limits are solicited.

(2) The National Association of Corrosion Engineers has a recommended precedure to determine the rate of corrosion on test metals. A test of this sort is being considered as a measure of hazard due to leakage for long-term contained storage. EPA solicits the public's comments on the protocols for assessing waste corrosivity.

(3) Certain apparatus and protocols (such as Differential Thermal Analysis, redox electrodes, etc.) can be used to measure what is generically termed "reactivity" (i.e., oxidation potential, tendancy to auto-polymerize, tendency to undergo self-accelerating decomposition reactions, etc.). These tests may have limitations when applied to wastes. Views as to the applicability of tests of this as a measure of a waste's reactivity are solicited.

(4) Wastes tend to be of heterogenous composition, separated into several phases or viscous sludges or suspensions. Protocols must be developed for taking representative samples of such materials from such diverse containers as drums, tanks, and trucks. Suggestions and comments on sampling methods currently in use are solicited.

(5) There is evidence that environmental damage has resulted from the mixing of incompatible wastes. When this has occurred, acids or bases have usually been involved. Should neutralization be required before disposal? If so, what pH range should be chosen?

(6) EPA is considering requiring toxicity tests of the leachates of wastes believed to contain soluble hazardous constituents. EPA solicits information and comment on toxicity levels (LD50, experimental organisms, etc.) which can be used to define hazardous wastes.

(7) If it is determined that testing of wastes is necessary to define a waste as hazardous, who should bear the testing burden and expense?

(8) Section 3001 requires that criteria for both identifying the characteristics of hazardous waste and listing hazardous wastes be developed. It also requires that EPA identify the characteristics of hazardous wastes and list specific wastes. Comments are solicited on the relationship of the criteria to the characteristics and the list, i.e., what regulatory content should be attached to the list as opposed to the characteristics. What advantages may be apparent for the various ways of constituting the list (i.e., a production process, by industry, by pure compound, etc.)

SECTION 3002—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Section 3002 requires EPA to develop and implement standards applicable to hazardous waste generators. These standards are to establish requirements for: (1) Recordkeeping practices respecting quantities and constituents of wastes generated; (2) labeling and other requirements for containers; (3) identification of chemical composition of wastes; (4) use of a manifest system to control waste movement, and (5) submission of reports. The Agency is considering two approaches to the manifest system which are expected also to satisfy the recordkeeping and reporting requirements. The manifest form would be the same for both options and would require substantial information from hazardous waste generators regarding principal constituents and chemical composition, together with the designation of a permitted treatment, storage, or disposal site or facility. The options differ mainly with respect to the systems approach used and the reporting requirements.

Option I would require the hazardous waste generator to provide the waste transporter with a manifest for each hazardous waste being shipped. Under this option, hazardous waste generators, transporters, and storage, treatment, and disposal facility operators would be required to retain copies of the manifest for three years before discarding. In this option receivers of the hazardous waste as well as generators would be required to submit a copy of the manifest to the appropriate agency. Receivers of hazardous waste also would be required to return a copy of the manifest to the waste generator.

Option II would require generators to provide transporters with a manifest for each hazardous waste. Hazardous waste receivers would be required to return copies of the manifest to the generator. Generators, transporters, and receivers of hazardous wastes would retain copies of the manifest for three years. In addition, generators would be required to submit quarterly reports to the Agency describing the types, quantities, composition, and disposition of wastes generated during that period.

The Agency is specifically interested in obtaining comments on the two basic options presented. Specifically, comment is solicited on the following.

1. Sufficiency of each option to meet recordkeeping and reporting requirements.

2. Other manifest options which might satisfy the purpose and intent of the Act including forms and examples where appropriate.

3. Information needed on the manifest form particularly with regard to level of detail necessary to properly identify and described the waste.

4. Whether the same standards should be applied to generators of all wastes or whether different standards should be developed for different wastes.

With regard to the container requirements, the Agency believes that the U.S. Department of Transportation requirements (49 CFR 173) and container specifications (49 CFR 178 and 179) offer a substantial base for developing the necessary container and labeling standards. In addition, however, the Agency is considering requirements that hazardous waste containers also carry labels which indicate the chemical composition of the contents, the type(s) of hazard, hazard emergency procedures and, if the container is used to transport the waste, the manifest number.

The Agency is seeking information, comment and data relative to such requirements including specific labeling suggestions and the advantages and alternatives for various labeling requirements. Specific comments are desired on:

1. How to best use the DOT container, labeling, and placarding requirements.

2. Identification of need and specification for other types of containers which may be necessary for certain waste classes.

SECTION 3003—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Section 3003 directs EPA to develop and implement standards applicable to hazardous waste transporters. These standards are to establish requirements with respect to: (1) Recordkeeping concerning the kinds, sources, and delivery points of the wastes; (2) transportation of hazardous wastes only if properly labeled; (3) compliance with the manifest system; and (4) transportation only to the designated waste management facility. Standards on the following subjects are also being considered: (5) safety in transport and handling; and (6) insurance requirements.

Current Federal authority for the regulation of surface transportation of hazardous materials is shared by the Department of Transportation (DOT), the Interstate Commerce Commission (ICC), and EPA. The Agency is considering adopting the DOT and ICC requirements with regard to marking, placarding, packaging, safety (motor carrier, tank vessel, barges, rail carriers), incident reporting and insurance coverage to provide a base for Section 3003 standards. To these would be added the specific standards to protect public health and the environment as required by the Act.

In carrying out its duties and responsibilities under the Act, EPA is soliciting comments specifically on the following topics:

(1) Applicability of standards to all hazardous waste transporters. Are there reasons to develop separate standards applicable to each mode of transportation (motor carriers, tank vessels, barges, rail, pipelines, air, etc.)?

(2) What kinds and length of storage of records?

(3) What special handling procedures, if any, may be necessary to assure the delivery of the manifest to the designated facility?

(4) Sufficiency of existing Federal regulations to protect public health and the environment during transportation of hazardous wastes. Should additional placards be developed to identify hazardous wastes? Is the classification of hazardous wastes, for example, as "flammable not otherwise specified" sufficient for environmental emergency response? Are special safety rules needed for hazardous wastes in addition to existing rules? Should the Federal Motor Carrier Safety Regulations be adopted for all motor carriers of hazardous wastes?

(5) What additional, if any, vehicle inspection or certification rules are needed for transport of hazardous wastes?

(6) Is there need for contingency spill cleanup plans in addition to those established under the Federal Water Pollution Control Act, for hazardous waste spills?

(7) Is there need to establish minimum insurance coverage requirements for hazardous waste transporters to cover the cost of spill cleanup and possible environmental damage?

SECTION 3004—STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Section 3004 requires the development of standards for performance applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities in order to protect human health and the environment. The standards formulated by the Agency will include requirements respecting the monitoring, operations, location, design, ownership, contingency plans, and training programs of hazardous waste management facilities.

Hazardous wastes exist in an almost infinite number of forms, combinations, and concentrations. Although many technologies have been developed to deal with these wastes, in most cases their application to a broad spectrum of wastes has not been demonstrated.

Comments are specifically requested on the following:

(1) Open burning, odors and other air pollution problems may occur at hazardous waste management facilities. How can air pollution best be controlled and monitored at these facilities? Are existing Federal regulations sufficient to protect public health and the environment?

(2) Experience shows that pollution of both ground and surface waters is common at land disposal sites. What existing regulatory controls may be adopted to protect ground and surface waters? What other standards may be effective in controlling water pollution? What parameters and limits can be supported?

(3) Hazardous waste management facilities are prone to accidents. Some, such as fires and spills, pose threats to the public health and environment. What form of regulation, if any, is likely to have impact on this problem? What techniques might be required to reduce the number or impact of these accidents?

(4) One of the major means of reducing public health and environmental damage potential from hazarodus waste management facilities is to locate them so as to take advantage of natural features such as climate, distance from water bodies, and soil types. Comments are solicited concerning regulatory actions which would control location of these facilities. Which geologic settings (i.e., wetlands, fault zones) should be restricted from accepting the location of hazardous waste facilities? What are the advantages and disadvantages of setting minimum distances to surface and groundwaters? What may be appropriate levels and why? Which location regulations should apply to treatment and storage facilities as well as land disposal operations?

(5) Some hazardous waste management facilities have been designed to overcome natural site deficiencies. Which techniques have been shown to be capable of overcoming limitations in natural sites? Are there site deficiencies for which engineering modifications are not sufficient? Are techniques to limit rainfall infiltration successful? Should such techniques be required? Is erosion control at land disposal sites a problem?

(6) The Act mandates that ownership and management standards be formulated. Such requirements can take many forms. The Agency is considering the

V 4284 MAY 2 77 UMI

following requirements on which comments are solicited:

Effectiveness and content of contingency plans,

Use and content of employee training programs including formulation of an operator certification program,

Content of and funding options for closure and perpetual care plans,

Availability (including time limitations) of liability insurance for hazardous waste facilities,

Routine recordkeeping and reporting requirements for both environmental monitoring and waste handling (wastes received, methods used for treatment/storage/disposal) data,

Procedures for reporting non-routine occurrences (e.g., faulty manifests, spills, etc.).

(7) To what extent is the escape of significant levels of radiation from waste management facilities a problem? To what extent do noise levels at hazardous waste management facilities pose a significant problem? What noise and radiation levels are appropriate for hazardous waste facilities?

(8) In addition to location and design standards, pollution potential at hazardous waste management facilities is affected by operating techniques. What techniques for handling wastes have been effective which may be formulated into standards? For example, should time limits be imposed on exposed storage of drummed wastes to take into account corrosion? Should mandatory requirements be set relative to segregating hazardous wastes from each other and from wastes (to prevent fires, toxic emissions, etc.)?

SECTION 3005—PERMITS FOR TREATMENT, STORAGE OR DISPOSAL OF HAZARDOUS WASTE

Section 3005 requires each person owning or operating a facility for the treatment, storage, or disposal of a hazardous waste to have a permit.

While the permit system has yet to be designed, it will probably include general procedures for:

Application (used for collection and review of information),

Interim status,

Preliminary review and tentative permit decisions,

Issuing and denying permits,

Monitoring, reporting for permitted sites,

Modifying, revoking permits.

The Agency desires information, analysis, and opinions concerning permit system development for facilities which treat, store or dispose of hazardous wastes. Comments are specifically requested on the following:

(1) Who should be required to secure a permit? What are the economic and environmental factors to be considered in making this judgment? Should small businesses identified as storers, treaters, or disposers of hazardous wastes be required to obtain a permit? Should exemptions be granted based on quantities of hazardous waste? Would enforcement be practical?

(2) What type of information should be required for the reviewing official to properly evaluate a permit application? Should a detailed engineering plan be submitted with the application to properly evaluate the facility? What are the technical and economic considerations in selecting this information?

(3) What are the specific costs that face the applicant in the permit procedure process if a detailed system is developed? A simple program is developed? What are typical costs for preparing an existing (i.e., NPDES, etc.) environmental permit application?

(4) Should the permitting procedure that is to be developed under RCRA consider various local conditions or be more definite, specific, and universally applicable?

(5) Should a permit for a hazardous waste management facility be issued for a fixed number of years, for the life of the facility, or some other period?

(6) Should the substantive and procedural aspects of a permit program vary for:

(1) Different types of operations?
(2) Different types of wastes?
(3) Different volumes of wastes?

(7) What type of permit information should be held confidential by the Agency and for what reasons, if any? What administrative procedures can be used to protect legitimate confidential information that would be necessary to properly evaluate a permit application?

(8) Will public opposition to the siting of facilities that would treat, store or dispose of hazardous wastes in an adequate manner be a major problem? What methods may be available to EPA and the States (either through the regulatory process or otherwise) to ensure that sufficient capacity in terms of permitted hazardous waste management facilities will be available for all hazardous wastes?

(9) Are there any aspects of existing operational permit programs which should be considered? How should RCRA permit system be integrated with other permit systems?

(10) What are the various alternatives to be considered in granting an interim status to those facilities which began operation after the legislation was enacted (October 21, 1976) but before regulations are promulgated? Should nothing be done? Should specific provisions be considered for these facilities?

(11) What would constitute a modification to a facility (i.e., expansion, change in waste streams, change in handling procedures, etc.) that would require the facility to apply for a permit modification?

SECTION 3006—AUTHORIZED STATE HAZARDOUS WASTE PROGRAMS

Section 3006 requires EPA to "• • • promulgate guidelines to assist States in the development of State hazardous waste programs." The Agency intends to encourage States to request and receive authorization under Section 3006 of the RCRA to administer and enforce the requirements of the Act. Consequently, the guidelines are intended to identify those elements in the State program which must be developed or implemented before the Administrator can grant the above authorization. The following issues have been identified: (1) The Act directs the Administrator to approve State applications for authorization under Section 3006 unless (a) such State program is not equivalent to the Federal program, (b) such program is not consistent with the Federal or State programs applicable in other States, or (c) such program does not provide adequate enforcement of compliance with the requirements of the Act's hazardous waste provisions. Comments are solicited on the nature of criteria which can be applied to determine whether or not a State program is "equivalent," "consistent with" the Federal program or the programs in other States, and whether "adequate enforcement of compliance" is provided. Views as to whether presence of a policy of non-importation of waste from other States should be considered inconsistent are of special interest. To what extent should the criteria incorporate substantive provisions of the standards (Section 3001–3004) and the procedural provisions of the 3005 regulations?

(2) Section 3006(b) provides for "interim authorization" of State programs, and directs the Administrator to grant such authorization to States which submit evidence that the proposed program is "substantially equivalent" to the Federal program. Comments are requested on the criteria which should be applied to determine whether or not a State program is "substantially equivalent" to the Federal program? How should the criteria for "substantially equivalent" differ from those for "equivalent"?

(3) Section 3006(c) requires that States have "in existence a hazardous waste program pursuant to State law" by July 21, 1978, in order to request interim authorization. Comments as to what criteria should be used to determine whether a State has a program "in existence" are solicited.

(4) According to the Act, the Environmental Protection Agency is given until April 21, 1978, to develop most of the hazardous waste regulations. Yet section 3006(b) does not include any minimum waiting period before States may apply for full program authorization. Suggestions are requested as to when the Federal program may be sufficiently developed to allow the Administrator to certify that a State program has met the criteria of section 3006(b) for authorization.

(5) Once authorization has been granted, how should the agency monitor State activities to assure the adequate administration and enforcement of the provisions of Subtitle C. Comment is also solicited on the criteria which might be used to withdraw authorization.

Dated: April 19, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-12320 Filed 4-29-77;8:45 am]

federal register

MONDAY, MAY 2, 1977

PART VI



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

STATE ADULT EDUCATION PROGRAMS

Emergency Adult Education Program for Indochina Refugees

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 166]

STATE ADULT EDUCATION PROGRAMS

Emergency Adult Education Program for Indochina Refugees

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document governs the award of grants to State and local educational agencies for the purpose of operating special adult education programs for adult Indochina refugees in Fiscal Year 1977 in order to facilitate their integration into American society and to contribute to their employability.

COMMENT DATE: Comments must be received on or before June 1, 1977.

ADDRESSES: Comments should be addressed to Paul V. Delker, U.S. Office of Education, 7th and D Streets SW., Room 5056, Washington, D.C. 20202. All relevant material received on or before the 30th day after publication of this notice will be considered. Comments received in response to this notice will be available for public inspection at the above office, Mondays through Fridays, between 8:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Paul V. Delker (202–245–2278).

SUPPLEMENTARY INFORMATION: All comments, suggestions, or recommendations to be considered must be received not later than June 1, 1977.

In accordance with section 431(g) of the General Education Provisions Act (20 U.S.C. 1232(g), S. Rept. No. 94–882 (94th Cong., 2d Sess.) at 108), the Commissioner is contrained to issue regulations to implement the program.

1. *Summary of emergency adult education program for adult Indochina refugees.* This subpart governs a program of grants to State and local educational agencies in Fiscal Year 1977 to operate the following types of one-year adult education programs for adult Indochina refugees:

(a) Programs of instruction in basic reading, mathematics, promotion of literacy and development and enhancement of necessary skills;

(b) Special adult education projects operating in conjunction with Federal and non-Federal occupational programs to develop occupational and related skills;

(c) Educational support services, including tutoring in geographically isolated areas, counseling, job placement, and follow-up;

(d) Any combination of programs and services described in (a), (b), and (c).

The goals of the special adult Indochina refugee program to be funded under this subpart are to:

(a) Facilitate the integration of adult Indochina refugees into American society; and

(b) Contribute to the employability of adult Indochina refugees through development of basic education and occupational skills.

Only State and local educational agencies are eligible for grants available under this subpart. The Congress has provided for direct application by State educational agencies and local educational agencies to assure rapid implementation of the special programs uniquely designed for needs of adult Indochina refugees (S. Rept. No. 94–432, 94th Cong., 2d Sess. at 7). A State educational agency and one or more local educational agencies or two or more local educational agencies are eligible to file a joint application in which each joint applicant is directly responsble for carrying out a portion of the program. The Commissioner will not fund an application from a local educational agency unless the appropriate State educational agency has provided the assurance of nonduplication required in § 166.79(a). Applications are evaluated using criteria described in § 166.80. No State or local cost sharing is required.

Eligible participants in programs provided under this subpart are adult Indochina refugees, as defined in § 166.76, who posses a Form I–94 indicating a person has been paroled into the United States or has been granted voluntary departure status.

2. *Public comment to the notice of intent to issue regulations.* As a first step in the regulation process, the Commissioner published a Notice of Intent to Issue Regulations in the FEDERAL REGISTER on November 23, 1976 (41 FR 51652–51654). The public was invited to offer comment, advice, and guidance to the Office of Education in response to identified or other issues relating to the development of regulations for this program. The suggestions received from the public have been given consideration in the preparation of this proposed rule.

The public's comments and the Commissioner's responses to these comments are summarized as follows:

Issue (a)—Support services. What types of educational support services are required to meet the needs of adult Indochina refugees?

Comments. The comments mentioned guidance and counseling, day care services, and transportation as the support services needed to serve the educational needs of adult Indochina refugees.

Response. This regulation provides that educational support services may be included as a component of a program of adult education instruction and a program of combined adult educational-occupational skills training instruction, or as an independent program where need for these services is demonstrated. Support services may include guidance and counseling, such as job development, placement, and follow-up, and tutoring when the program is to be operated in a geographically isolated area. The Commissioner has determined that day care services shall not be considered support services for the purposes of this subpart. The legislation and legislative history do not indicate that funding was intended for day care services and the Commissioner concludes that the limited resources which may be available for the programs will be more effectively spent on more educationally related support services.

Transportation costs may be allowable if need is demonstrated.

Issue (b).—Pre-service and in-service Training. What provisions for pre-service and in-service training of teachers, counselors, and paraprofessionals are needed to meet the special educational needs of adult Indochina refugees?

Comments. The responses expressed the view that there is a need for additional training of teachers, counselors, and paraprofessionals in the culture and background of Indochinese. One of the comments stated that a local educational agency should be able to contract directly with outside trainers and consultants to provide suitable staff training in aspects of Indochinese culture.

Response § 166.71(b)—Program Purpose. As indicated in this section and in paragraphs one and two of the preamble, the purpose of the program authorized by the Act is to provide emergency adult education programs to assist the adult Indochina refugees in developing basic skills and to become productive members of the society. In view of these purposes, the Commissioner, in § 166.81(f) will allow pre-service or in-service training provided it can be demonstrated that the required competence is not otherwise available.

Issue (c).—Duplication of services. What criteria should be used to determine whether a State educational agency provides reasonable assurance that a grant to a particular local educational agency would not result in duplication of services already being provided?

Comments. It was suggested in the comments that a State educational agency provide a listing of on-going activities in the State and a description of coordination of activities.

Response § 166.79—State review of applications. The Commissioner relies on the assurance of the State educational agency as to non-duplication and does not impose any requirements as to the adequacy or basis of assurance.

Issue (d).—Cash assistance refugees. Should priority be given in the evaluation of grant applications to the number of cash assistance refugees in the area of the local educational agency or State educational agency applicant?

Comments. Comments from the public expressed the opinion that it is too early to evaluate HEW projects designed to remove the refugees from the cash assistance rolls, and for this reason priority should be given according to the total number of refugees needing services within a given area. One commentator indicated that additional funding is needed to continue existing programs and that the aim of the programs funded under this subpart should be to provide language skills to all the refugees, and enable them to adjust to American society.

Response § 166.80(b) — Evaluation. The regulation provides that a major consideration in the evaluation of a proposed project will be the extent of the need for education programs designed especially for adult Indochina refugees. The regulation allows for flexibility in the types of needs to be shown and the evidence of a given need. Thus, the number of refugees on cash assistance may be used by a local educational agency or State educational agency to indicate need for services, but is not the exclusive criterion of "need" for a program. The Commissioner is also concerned about the needs of refugees living in geographically isolated areas who have not been served by existing programs, as well as needs of many refugees who came to this country with occupational skills but who need adult education classes (combined adult education-occupational curriculum) to adapt to their new work environment. See § 166.80 (c) and (f).

Issue (e).—Priorities. Should priority be given to any of the three types of grants under this Act (programs of instruction and administration, special projects to develop occupational and related skills, and educational support services) or which combines any of the above-mentioned types of programs which may be funded?

Comments. The comments indicated that priorities should be given to:

(1) Educational support services to accompany existing programs of instruction (examples of support services needed were transportation, tutoring, guidance and counseling); and

(2) Adult education classes with emphasis on technical vocabulary integrated into vocational and occupational instructional programs.

Response. An application which provides support services (described in the comment on issue (a)) as a component of a program of adult education instruction receives points in the evaluation of criteria.

With regard to the suggested combined adult educational-occupational program, it is evident that many adult Indochina refugees have received basic skills instruction but could benefit from adult education instruction as a component of an occupational training program which teaches new occupational skills and/or the transferability of existing skills to the new work environment. For example, adult Indochina refugees who were auto mechanics in Cambodia might attend an adult education course through which they could acquire literacy and adaptive skills to greatly enhance their chances of securing employment as mechanics.

Adult education programs related to occupational skills could be an integral component of existing Federal or non-Federal occupational training programs, such as the Comprehensive Employment and Training Act of 1973, and the Vocational Education Act of 1963, as amended. However, where it is documented in the application that occupational education and training for refugees is unavailable or insufficient, a program funded under this subpart may provide a combined occupational-adult education program to enable refugees to acquire necessary job and language skills to obtain employment. An application which proposes a project to provide an adult education program which operates in conjunction with an occupational training program, or where necessary as a combined occupational-adult education program, will receive points in the review of application criteria.

(29 U.S.C. 801 and 20 U.S.C. 1241.)

Issue (f).—Provision for expertise. Should provisions be included in the grant application to assure that the expertise of private and other public organizations already employed in educating Indochina adults is utilized by State and local educational agency recipients of grants? If so, how can the Office of Education ensure that utilization by State educational agencies and local educational agencies of these private and other public organizations in providing services to the refugees is carried out on a cost-effective basis?

Comments. Comments from the public expressed the view that local educational agencies and State educational agencies should have flexibility to enter into contracts or coordinate with other voluntary resettlement agencies or associations which have experience with refugees. One comment also stressed the need for continuation of already established resource dissemination and technical assistance centers to serve education needs of adult Indochina refugees.

Response 45 CFR 100a.30; § 166.80 (g)—Service contracts. An applicant may enter into service contracts with public and private agencies and organizations to obtain services from resource, dissemination, and technical assistance centers to provide educational services to adult Indochina refugees, subject to the Code of Federal Regulations. Further, applications which involve cooperative arrangements with, and obtain support services from, voluntary agencies, business, and industry will receive points in the evaluation criteria as shown in this document.

3. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of the statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section.

4. *Other applicable regulations.* The proposed regulation does not contain provisions relating to general fiscal and administrative matters. Requirements of this nature are covered by the General Education Provisions Regulations (45 CFR Parts 100 and 100a) as cross-referenced in the proposed regulation.

5. *Notice to prospective applicants.* The notice of closing date for receipt of applications under this subpart will be published in the FEDERAL REGISTER at a later date.

6. *Other information.* The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Program No. 13.579, Emergency Adult Education Program for Indochina Refugees.)

Dated: March 3, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: April 27, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

PART 166—STATE ADULT EDUCATION PROGRAMS

Subpart H—Emergency Adult Education Program for Indochina Refugees

Sec.

166.71 Scope and purpose.
166.72 Applicability of General Education Provisions Regulations.
166.73 Definitions.
166.74 Eligible applicants.
166.75 Grantee responsibilities.
166.76 Eligible participants.
166.77 Eligible activities.
166.78 Application requirements.
166.79 State review of applications.
166.80 Criteria for evaluation of applications.
166.81 Allowable costs.
166.82 Records and reports.

AUTHORITY: Pub. L. 94–405, 20 U.S.C. 1211b.

§ 166.71 Scope and purpose.

(a) *Scope.* The regulations in this subpart govern the Emergency Adult Education Program for Indochina Refugees for which Federal funds are authorized by section 315 of the Adult Education Act (20 U.S.C. 1211b), as added by section 301 of Pub. L. 94–405, the Indochina Refugee Children Assistance Act of 1976, 20 U.S.C. 1211b. These funds are authorized for the period beginning July 1, 1976, and ending September 30, 1977.

(b) *Purpose.* The purpose of this program is to provide grants to State and local educational agencies to operate special adult education programs for adult Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975, as amended.

(20 U.S.C. 1211b(a); 22 U.S.C. 2601 note.)

§ 166.72 Applicability of general education provisions regulations.

(a) Subchapter A of this Chapter, entitled "General Provisions for Office of Education Programs" and commonly referred to as the General Education Provisions Regulations, pertains to fiscal, administrative, property management and other matters. Parts 100 and 100a of the General Education Provisions Regulations (45 CFR Parts 100 and 100a) apply to assistance under this subpart except for the following provisions which do not apply:

(1) § 100a.16 (relating to project description);

(2) § 100a.19(b) (relating to cooperative management); and

V 42 84 MAY 2 77 UMI

(3) § 100a.26(b) (relating to criteria for review of applications).

(b) The General Education Provisions Regulations are referred to in this subpart as "GEPR".

(20 U.S.C. 1211b; 45 CFR Parts 100, 100a.)

§ 166.73 Definitions.

(a) The terms "adult education", "local educational agency", "State", and "State educational agency", as used in this subpart, are defined in section 303 of the Adult Education Act (20 U.S.C. 1202).

(b) "Adult" means any individual who has attained the age of sixteen.

(c) The term "Indochina Refugee", as defined in the Indochina Migration and Refugee Assistance Act of 1975, as amended by Pub. L. 94–313 and used in this subpart, means an alien who:

(1) Because of persecution or fear of persecution on account of race, religion, of political opinion, filed from Cambodia, Vietnam, or Laos;

(2) Cannot return there because of fear of persecution on account of race, religion, or political opinion; and

(3) Is in urgent need of assistance for the essentials of life.

(20 U.S.C. 1201, 1211b; 22 U.S.C. 2601 note.)

§ 166.74 Eligible applicants.

(a) *General.* Only the following are eligible to apply for grants under this subpart:

(1) State educational agencies; and

(2) Local educational agencies.

(b) *Joint applications.* Two or more local educational agencies or a State educational agency and one or more local educational agencies may submit a joint application under § 100a.19(a) of the GEPR to provide programs of adult education to meet the needs of adult Indochina refugees.

(20 U.S.C. 1211b(a); 20 U.S.C. 1221c(b)(1), 1232c(b)(1).)

§ 166.75 Grantee responsibilities.

(a) A State or local educational agency which applies for a grant under this subpart must establish that it is prepared to operate the programs of adult education for adult Indochina refugees for which it requests assistance.

(b) A recipient of a grant under this subpart may not award a sub-grant to another entity or person.

(c) A recipient of a grant under this subpart may, in accordance with § 100a.30 of the GEPR, enter into a service contract to carry out a portion of the grant activities, subject to the provisions of § 100a.30(b) of the GEPR (prohibiting transfer of responsibility) and subpart I of Part 100a of the GEPR (relating to procurement by grantees).

(d) No State or local cost sharing is required.

(Implements 20 U.S.C. 1211b.)

§ 166.76 Eligible participants.

Only adult Indochina refugees who possess a form (I.N.S. Form I–94) issued by the United States Immigration and Naturalization Service, indicating that they have been paroled into the United States or have been granted voluntary departure status may participate in a program assisted under this subpart.

(Implements 20 U.S.C. 1211b; 22 U.S.C. 2601 note.)

§ 166.77 Eligible activities.

A grantee may use funds under this subpart only for:

(a) Programs of instruction (including administrative costs of planning and operating these programs) for adult Indochina refugees in basic reading, mathematics, the promotion of literacy, and the development and enhancement of necessary skills (such as consumer, social, survival, occupational, and communication skills) for the purpose of enabling the adult refugees to become employable and productive members of the American society.

(b)(1) Adult education programs designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for adult Indochina refugees, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 (20 U.S.C. 801) or under the Vocational Education Act of 1963, as amended (20 U.S.C. 1241).

(2) Where occupational skills programs are otherwise unavailable or insufficient, combined occupational-adult education programs to provide adult Indochina refugees with skills necessary to their obtaining employment;

(c) Programs providing educational support services which meet the needs of adult refugees, including but not limited to (1) tutoring (in the case of geographically isolated refugees) and (2) guidance and counseling with regard to educational, career, and employment opportunities (such as job placement and job follow-up services); or

(d) Any combination of programs described in paragraphs (a), (b), and (c) of this section.

(Implements 20 U.S.C. 2111b(a).)

§ 166.78 Application requirements.

(a) *General.* To receive consideration for assistance under this subpart, an applicant (as described in § 166.74) must submit to the Commissioner an application which meets the requirements of paragraphs (b) through (h) of this section. The Commissioner does not consider applications proposing a program of more than 12 months in duration.

(b) *Nature and purpose of program.* An application under this section must contain information sufficient to satisfy the Commissioner that the proposed program will serve, through activities described in § 166.77, the special adult education needs of adult Indochina refugees who are in or near the area served by the applicant.

(c) *Need for program; assurance of participation.* An application under this section must:

(1) Identify the needs of the target population to be addressed by the proposed program, and supply documentation of those needs; and

(2) Provide reasonable assurance that the adult Indochina refugees to whom the program is addressed will participate in the program if it is available.

(d) *Program description.* An application under this section must:

(1) Describe the objectives and design of the program in relation to the needs set forth under paragraph (c) of this section;

(2) In the case of a joint application, specify the parts of the program to be carried out by each of the applicants.

(e) *Budget.* An application under this section must:

(1) Set forth a detailed budget by program component showing any non-Federal sources of funds; and

(2) Include separate budgets in the case of joint applications corresponding to programs, services, and activities of each of the applicants.

(f) *Applicant qualifications.* An application under this section must contain sufficient information to enable the Commissioner to determine qualifications of the applicant for receiving an award. The application must include information about key professional personnel regarding such matters as their education, training, and experience in areas of adult and/or occupational education and qualifications for the proposed position, together with a description of the applicant's available facilities and other resources for the program.

(g) *Coordination.* An application under this section must describe plans for coordination of services and resources under the proposed program with Federal or non-Federal programs such as those carried out under the Comprehensive Employment and Training Act of 1973 or the Vocational Education Act of 1963, as amended. The application must also describe plans for such coordination with programs carried out by voluntary agencies, sponsor groups, public assistance agencies, social/vocational rehabilitation services, business and industry, social organizations, health services, legal aid, and with other State and local educational activities.

(h) *Additional information.* An application under this section should include other information which is responsive to the applicable criteria set forth in § 166.80 in sufficient detail to permit review of the application in accordance with these criteria. Information which relates to a particular criterion should identify that criterion.

(Implements 20 U.S.C. 1211b(c).)

§ 166.79 State review of applications.

(a) The Commissioner may not approve an application under this subpart from a local educational agency unless the State educational agency (for the State in which that local educational agency is located) assures the Commissioner that the program proposed in the application will not duplicate existing and available (Federal and non-Federal) adult education programs which meet the needs of adult Indochina refugees.

(b) To facilitate review by the State educational agency, a local educational agency applying for assistance under this subpart shall:

(1) Send a copy of its application to the State educational agency at the same time that it sends the application to the Commissioner, and

(2) Notify the Commissioner that it has sent the application to the State educational agency by furnishing the Commissioner a copy of its transmittal letter.

(c) The State educational agency has 30 days from the receipt of the application from the local educational agency to notify the Commissioner in writing whether the application does nor does not duplicate existing and available programs. If the Commissioner does not, within that period, receive this notification, the Commissioner need not give further consideration to the application.

(Implements 20 U.S.C. 1211b(b).)

§ 166.80 Criteria for evaluation of applications.

The Commissioner evaluates applications which meet the requirements of this subpart only according to the following criteria. Each criterion is weighted and includes the maximum score that can be given for that criterion with the total number of points equaling 100. Applications will be judged on the basis of the extent to which each criterion is met. An application which receives a score of less than 30 points will not be approved.

(a) *Need.* (Maximum 10 points.) The application:

(1) Describes the need for the proposed adult Indochina educational program;

(2) Provides specific evidence of the need; and

(3) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points.) The objectives:

(1) Are significant and meet clearly identified needs of adult Indochina refugees;

(2) Clearly describe the proposed project outcomes; and

(3) Are capable of being measured and attained.

(c) *Program design.* (Maximum 15 points.) The application clearly describes how:

(1) The overall design relates to the objectives; and

(2) Each segment of the design relates to one or more objectives.

(d) *Applicant's staff competencies and experience.* (Maximum 25 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director and key professional staff and the qualifications and, to the extent feasible, the names of consultants and advisory groups;

(2) Time commitments planned for the project director, staff, advisory groups, and any consultants;

(3) Past and successful experiences of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential to understand the cultures of the adult Indochina refugees and to assist them in becoming self-sufficient members of the American society.

(e) *Evaluation plan.* (Maximum 5 points.) The application includes valid and reliable procedures for assessing and documenting the progress of participants.

(f) *Cooperative arrangements.* (Maximum 15 points.) The application clearly describes arrangements and support services to be provided by existing agencies in order to maximize the impact of the proposed program. The types of agencies with which cooperative arrangements are encouraged include but are not limited to voluntary agencies, sponsor groups, public assistance agencies, social/vocational rehabilitation services, business and industry, social organizations, health services, legal aid, and other existing State and local education, employment, and training programs.

(g) *Budget and cost effectiveness.* (Maximum 5 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and is cost effective.

(h) *Facilities and equipment.* (Maximum 5 points.) The application describes adequate facilities, equipment, and materials for the operation of the proposed program.

(i) *Reaching the geographically isolated.* (Maximum 5 points.) The application provides for meeting the educational needs of previously unserved adult Indochina refugees living in isolated geographic areas.

(j) *Support services.* (Maximum 5 points). The application provides for support services for adult Indochina refugees, including but not limited to guidance and counseling.

(Implements 20 U.S.C. 1211b.)

§ 166.81 Allowable costs.

(a) Allowable costs under grants awarded under this subpart are determined in accordance with the applicable cost principles subject to the limitations in this section. See § 100a.81 of the GEPR.

(b) Stipends and/or dependency allowances are not allowable.

(c) The cost of child care is not allowable. (Grantees are encouraged to utilize the services of volunteers or other community agencies for child care services.)

(d) Transportation costs are allowable only where need is demonstrated.

(e) The development of curriculum materials is not a priority for this program, and the cost of such development is allowable only if it can be demonstrated that necessary materials do not exist or cannot be obtained from existing sources.

(f) The cost of limited pre-service or in-service training of personnel is allowable if it can be demonstrated that the required competence is not otherwise available on a cost-effective basis.

(Implements 20 U.S.C. 1211b.)

§ 166.82 Records and reports.

(a) Each grantee shall report to the Commissioner on all programs and services provided adult Indochina refugees from Federal funds granted under this subject.

(b) A grantee shall submit these reports as part of the financial and narrative reporting requirements set forth in subparts P and Q of Part 100a of the GEPR.

(c) In addition to reporting the information required under §100a.432 of the GEPR, a grantee shall include the following in the performance report:

(1) Total number of adult Indochina refugees that participated in adult education programs which were funded from a Federal grant awarded under this subpart by:

(i) Type of program (basic skills program of instruction, adult education program operating in conjunction with occupational skills program, and support services program); and

(ii) Nature of instruction (English as a second language, bilingual education, adult education, and occupational training);

(2) Total number of participants under this subpart who:

(i) Gained employment;

(ii) Obtained a better job; and

(iii) Were removed from public assistance; and

(3) A list of those agencies and resources that participated in meeting the objectives of this grant and the extent of their participation.

(Implements 20 U.S.C. 1211b.)

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V42184 MAY 2 77 UMI

federal register

MONDAY, MAY 2, 1977

PART VII

OFFICE OF MANAGEMENT AND BUDGET

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ZERO-BASE BUDGETING

V42 84 MAY 2 77 UMI

OFFICE OF MANAGEMENT AND BUDGET

[Bulletin No. 77-9]

ZERO-BASE BUDGETING

APRIL 19, 1977.

To the heads of executive departments and establishments:

1. *Purpose.* The President, in a memorandum of February 14, 1977 (Attachment), asked each agency head to develop a zero-base budgeting system to be used in the preparation of the 1979 Budget. In accordance with the President's direction, these instructions provide guidance on the use of zero-base budgeting techniques for the preparation and justification of 1979 budget requests within each agency. Separate instructions will be issued in OMB Circular No. A-11 to advise agencies of budget materials to be submitted to OMB. The instructions in this Bulletin lay the foundation for agency budget submissions in September in accordance with Circular No. A-11.

2. *Coverage.* These instructions apply to all agencies in the executive branch whose budgets are subject to Presidential review (see OMB Circular No. A-11, section 11.1). These concepts and guidelines are a framework within which each agency should develop necessary procedures to meet its individual requirements. Agencies should insure that the fundamental characteristics of zero-base budgeting are retained. Agencies excluded from coverage of this bulletin are encouraged to develop zero-base budgeting procedures.

3. *Definition of terms.* a. *Decision unit.* The program or organizational entity for which budgets are prepared and for which a manager makes significant decisions on the amount of spending and the scope or quality of work to be performed.

b. *Decision package.* A brief justification document that includes the information necessary for managers to make judgments on program or activity levels and resource requirements. A series of decision packages (a decision package set) is prepared for each decision unit and cumulatively represents the total budget request for that unit.

c. *Consolidated decision packages.* Packages prepared at higher management levels that summarize and supplement information contained in decision packages received from lower level units. Consolidated packages may reflect different priorities, including the addition of new programs or the abolition of existing ones.

d. *Ranking.* The process by which managers array program or activity levels (as shown in decision packages(in decreasing order of priority. This ranking process identifies the relative priority assigned to each decision package increment contained in the manager's budget request based on the benefits to be gained at and the consequences of various spending levels.

e. *Minimum level.* The program, activity, or funding level below which it is not feasible to continue the program, activity, or entity because no constructive contribution can be made toward fulfilling its objective. The minimum level:

May not be a fully acceptable level from the program manager's perspective; and

May not completely achieve the desired objectives of the decision unit.

f. *Current level.* The level that would be reflected in the budget if fiscal year 1978 activities were carried on at 1978 service or other output levels without major policy changes. A concept, not unlike current services, that nevertheless permits internal realignments of activities within existing statutory authorization. Estimates of personnel compensation and other objects of expenditure will be made in accordance with OMB Circular No. A-11.

4. *The zero-base budgeting concept.* Zero-base budgeting is a management process that provides for systematic consideration of all programs and activities in conjunction with the formulation of budget requests and program planning.

The principal objectives of zero-base budgeting are to:

Involve managers at all levels in the budget process;

Justify the resource requirements for existing activities as well as for new activities;

Focus the justification on the evaluation of discrete programs or activities of each decision unit;

Establish, for all managerial levels in an agency, objectives against which accomplishments can be identified and measured;

Assess alternative methods of accomplishing objectives;

Analyze the probable effects of different budget amounts or performance levels on the achievement of objectives; and

Provide a credible rationale for reallocating resources, especially from old activities to new activities.

To accomplish these objectives zero-base budgeting requires these decisionmakers to:

Use "decision packages" as the major tool for budgetary review, analysis, and decisionmaking; and

Rank program or activity levels in order of priority.

5. *Benefits anticipated in the Federal Government.* This new system can provide significant benefits at all levels throughout the Federal Government. These benefits include:

Focusing the budget process on a comprensive analysis of objectives, and the development of plans to accomplish those objectives;

Providing better coordination of program and activity planning, evaluation, and budgeting;

Expanding lower level management participation in program and activity planning, evaluation, and budgeting;

Causing managers at all levels to evaluate in detail the cost effectiveness of their operations and specific activities—both new and sold—all of which are clearly identified;

Requiring that alternative ways to meet objectives are identified;

Identifying trade-offs between and within programs; and

Providing managers at all levels with better information on the relative priority associated with budget requests and decisions.

Many agency management processes are aimed at providing some if not all of these same benefits. In many instances, however, such processes do not operate agencywide and the information relevant to the processes is not gathered, analyzed and reviewed in a systematic manner for all programs and activities. The value of zero-base budgeting is that it provides a process requiring systematic evaluation of the total budget request and all program objectives.

6. *The zero-base budgeting process.* Agencies should develop their internal zero-base budgeting procedures within the following framework.

a. *Identification of objectives.* An important early step in zero-base budgeting is the identification of objectives for all managers preparing and reviewing decision packages.

Top level agency management should be involved in setting objectives for lower level agency managers to:

(1) Help ensure that appropriate guidance is furnished to managers throughout the agency;

(2) Aid managers preparing decision packages in defining, explaining, and justifying their work to be performed and the associated resources; and

(3) Aid top and intermediate level managers in understanding and evaluating the budget requests.

Program and organization objectives should be explicit statements of intended output, clearly related to the basic need for which the program or organization exists. The task of identifying objectives requires the participation by managers at all levels to determine the ultimate realistic outputs or accomplishments expected from a program or organization (major objectives) and the services or products to be provided for a given level of funding during the budget year (short-term objectives).

However, lack of precise identification and quantification of such objectives does not preclude the development and implementation of zero-base budgeting procedures.

As objectives are identified, managers should simultaneously determine the key indicators by which performance and results are to be measured. Agencies should specify measures of effectiveness, efficiency, and workload for each decision unit. These measures can often be obtained from existing evaluation and workload measurement systems. If such systems do not exist, or if data are not readily available, desirable performance indicators should not be rejected because of apparent difficulties in measurement. Indirect or proxy indicators should be considered initially, while evaluation and workload systems are developed to provide the necessary data for subsequent budget cycles.

b. *Identification of decision units.* Another of the first steps in zero-base budgeting is the identification of the entities in the program or organization structure whose managers will prepare the initial decision packages. In all instances, the identification of the decision units should be determined by the information needs of higher level management. Agencies should ensure that the basic decision units selected are not so low in the structure as to result in excessive paperwork and review. On the other hand, the units selected should not be so high as to mask important considerations and prevent meaningful review of the work being performed. In general, the decision unit should be at an organizational or program level at which the manager makes major decisions on the amount of spending and the scope, direction, or quality of work to be performed. A decision unit normally should be included within a single account, be classified in only one budget subfunction, and to the extent possible, reflect existing program and organizational structures that have accounting support.

c. *Preparation of decision packages.* The decision unit manager performs two types of analyses based on the program and budget guidance received from higher level management. First, the manager examines alternative ways of accomplishing the major objectives. Such alternatives may require legislation and may have been identified and developed as a result of a major reexamination of the program or activity. In other instances the alternatives identified may not be fully developed, but will serve as a basis for reexamining the program at a later date. In still other instances, the alternatives identified may be the first steps toward more significant changes that will take longer than one year to accomplish. Normally, the best alternative is then selected and used as the basis for the second type of analysis—the identification of different levels of funding, activity, or performance. The purpose of identifying these different levels is to provide information on: (1) where reductions from the total request may be made, (2) the increased benefits that can be achieved through additional or alternative spending plans, and (3) the effect of such additions and reductions. Again, legislation may be required to put into effect some level of funding or performance.

However, nothing in this process should inhibit or prohibit any decisionmaker from submitting, requesting, or reviewng any information needed for analyses and decisionmaking. For example, separate decision package sets may be prepared to examine the impact of different alternatives. Also, packages reflecting increased performance or funding levels may introduce alternative methods of accomplishment that were not feasible at a lower level.

The guidance received from higher level management may determine the specific service, performance, output, or funding levels and the objectives to be discussed. This helps to insure that information provided in the decision package is broken down and arrayed in a manner conducive to higher level review of issues concerning the decision unit and also covering more than one decision unit. However, in all instances the decision package set should include:

(1) A minimum level. In all instances, the minimum level should be below the current level (unless it is clearly not feasible to operate below the current level); and

(2) A current level (unless the total requested for the decision unit is below the current level).

The decision package set may also include, when appropriate:

(1) A level or levels between the minimum and current levels; and

(2) Any additional increments desired above the current level.

Proposed changes (supplementals, amendments, rescissions) in current year amounts should be shown in packages separate from the packages described above. However, the above packages should include any budget year effect of current year changes. New programs or activities (e.g., those resulting from new legislative authority or a new major objective) will be proposed in a separate decision package set. Proposals for abolition of current programs or activities normally will not be reflected in a decision package set. However, such proposals should be highlighted, as appropriate, in another part of the agency justification.

The decision unit manager prepares a decision package set that includes decision packages reflecting incremental levels of funding and performance, so the cumulative amount of all packages represents the total potential budget request of the decision unit. Each package shows the effect of that funding and performance level on meeting the assigned objectives. The decision packages serve as the primary tool for budgetary review, analysis, and decisionmaking, although additional material may also be made available or requested for review.

Generally, a series of packages should be prepared for all programs and activities where, through legislative or administrative means, there is discretion as to the amount of funds to be spent or the appropriate method or level of activity. This does not mean that where a spending level is mandatory under existing substantive law, only one level will be identified. There are many instances in which the decision on whether to propose legislative changes is made during the preparation of the budget. There are also instances in which changes in regulations or program administration can affect the amount of resources needed to carry out a mandatory program. In these instances, packages should be prepared that analyze the effects of different funding or performance levels or alternative methods of accomplishing the objectives. In any instance where there is clearly no discretion in the amounts of funds to be spent or the appropriate method or level of activity, at least one decision package should be prepared that summarizes the analysis and decisionmaking that resulted in that request. That decision package should support the conclusion that only one funding or activity level can be considered during the budget process.

d. *Ranking of decision packages.* Completed decision packages should be ranked initially by the decision unit manager. At higher management levels, the rankings of each subordinate manager are reviewed and formed into a consolidated ranking. This consolidation process is illustrated in Exhibit 1. The ranking shows the relative priority that discrete increments of services or other outputs have in relation to other increments of services or other outputs. The process is explicitly designed to allow higher level managers the opportunity to bring their broader perspectives to bear on program priorities by allowing them to rank the decision packages and make program trade-offs.

Agencies may use whatever review and ranking techniques appropriate to their needs. However, the minimum level for a decision unit is always ranked higher than any increment for the same unit, since it represents the level below which the activities can no longer be conducted effectively. However, the minimum level package for a given decision unit need not be ranked higher than an incremental level of some other decision unit. A minimum level for a decision unit may be ranked so low in comparison to incremental levels of other decision units that the funding level for the agency may exclude that minimum level package. This would signify the loss of funding for that decision unit.

Decision packages or decision package sets may be prepared to examine the effect of alternative ways to meet an objective (see Section 6.c.). In these instances, only those decision packages that are part of the unit's request should be ranked. The other decision packages should accompany the submission, however, so higher review levels may examine the alternatives and have an opportunity to replace the requested packages with those representing an alternative thus far not recommended.

e. *Higher level review.* In all instances, the use of decision packages and priority rankings are the major tools for analysis, review, and decisionmaking. At each higher management level:

Decision packages may be revised, deleted, or added; and

Rankings submitted by subordinate managers may be revised.

(1) *Consolidation of decision packages.* In some small agencies, it may be desirable for each higher management level to review every decision package prepared by each decision unit. In other instances, however, higher level management's decisionmaking needs may better be met by recasting all or some of the initial decision packages into a lesser number of consolidated decision packages. The consolidated packages would be based upon the more detailed information in the initial packages, but the information would be recast or reinter-

V42184 MAY 2 77 UMI

preted in a broader frame of reference to focus on significant program alternatives or issues. The objectives may be redefined to reflect the higher level manager's program perspective.

This consolidation process may also be used to reduce what would otherwise be an excessive paperwork and review burden at higher levels. The agency head or his designee should determine at which review level(s) all or some of the packages will be consolidated into a lesser number of packages before submission to the next higher review level (see Exhibit 1). This consolidation should be based on natural groupings of subordinate decision units. Decision units in different budget subfunctions generally should not be consolidated. The consolidated package will summarize the more detailed information contained in the individual packages and identify the subordinate decision units covered.

In all instances a minimum level consolidated decision package will be prepared. This package may or may not include each of the minimum level packages from the decision package sets being consolidated. There will be instances when the preparation of a current level consolidated package is not feasible (e.g., when a decision package for a new program or activity is ranked higher than a current level package). When appropriate, there should also be a level or levels identified between the minimum and current levels.

(2) *Type of review.* The review can be conducted more effectively at each management level if the type of review is determined beforehand. This is especially important in the mid and higher levels in the agency, where the review workload may be significant, even with consolidation of packages. As a means of increasing the effectiveness of its review, higher level management may decide to limit its review of the higher-ranked packages to that necessary to provide a sound basis for ranking the packages and may choose to examine in more depth only the lower-ranked packages. The lower-ranked packages would be the first to be affected by an increase or decrease in the expected budgetary resources.

7. *Preparation of materials.* The following materials should be prepared for each decision unit.

a. *Decision unit overview.* The overview provides information necessary to evaluate and make decisions on each of the decision packages, without the need to repeat that information in each package. It should be at most two pages long, prepared in the format of Exhibit 2, and contain the following information:

(1) *Identifying information.* Include sufficient information to identify the decision unit, and the organizational and budgetary structure within which that decision unit is located. Each package should include the title of the appropriation or fund account that finances the decision unit, the account identification code (see OMB Circular No. A–11, section 21.3), and any internal agency code necessary.

(2) *Long-range goal.* When appropriate, identify the long-range goal of the decision unit. Goals should be directed toward general needs, to serve as the basis for determining the major objective(s) undertaken to work towards that goal.

(3) *Major objective(s).* Describe the major objectives of the decision unit, the requirements these objectives are intended to satisfy and the basic authorizing legislation. Major objectives normally are of a continuing nature or take relatively long periods to accomplish. Objectives should be measurable and should be those that program managers employ; they should form the basis for first determining and subsequently evaluating the accomplishments of programs or activities.

(4) *Alternatives.* Describe the feasible alternative ways to accomplish the major objectives. Identify which of the alternatives represents the method proposed for the budget year. Briefly explain how the approach selected contributes to satisfying the major objectives and the rationale for not pursuing other alternatives. This may include a discussion of organizational structure and delivery systems; longer-range cost factors; and when applicable, the unique aspects and need for the program that cannot be filled by State or local governments or the private sector (particularly for any enlarged or new proposed action).

(5) *Accomplishments.* Describe the progress of the decision unit toward meeting the major objectives. This section should include both quantitative and qualitative measures of results.

b. *Decision packages.* Each (consolidated) decision package should be no more than two pages long, be prepared in a format similar to Exhibit 3, and contain at least the following information:

(1) *Identifying information.* This information should include organizational identification (agency, bureau), appropriation or fund account title and identification number, specific identification of the decision unit, the package number, and the internal agency code.

(2) *Activity description.* Describe the work to be performed or services provided with the incremental resources specified in the package. This section should include a discussion and evaluation of significant accomplishments planned and the results of benefit/cost and other analyses and evaluations that will contribute to the justification of that level.

(3) *Resource requirements.* Include appropriate information, such as obligations, offsetting collection, budget authority or outlays, and employment (full-time permanent and total), for the past, current, and budget years for the upcoming budget. The increment associated with each package should be listed, along with the cumulative totals for each measure used in that package, plus all higher ranked packages for that decision unit. At an appropriate level in the process, budget authority and outlay amounts for the four years beyond the budget year should also be included, in accordance with criteria in OMB Circular No. A–11.

(4) *Short-term objective.* State the short-term objectives (usually achievable within one year), that will be accomplished and the benefits that will result with the increment specified and the cumulative resources shown in the package. The expected results of the work performed or services provided should be identified to the maximum extent possible through the use of quantitative measures.

(5) *Impact on major objective(s).* Describe the impact on the major objective(s) or goals of both the incremental and the cumulative resources shown in the package.

(6) *Other information.* Include other information that aids in evaluating the decision package. This should include:

Explanations of any legislation needed in connection with the package;

The impact or consequences of not approving the package;

For the minimum level package, the effects of zero-funding for the decision unit;

For packages below the current level, an explanation of what now is being accomplished that will not be accomplished at the lower level; and

The relationship of the decision unit to other decision units, including the coordination that is required.

c. *Ranking sheet.* Each review level will prepare a ranking sheet to submit to the next higher review level. This ranking sheet should generally contain the information shown in Exhibit 4 for the budget year.

In instances (e.g., revolving funds, where budget authority and net outlays are not a factor in reflecting the appropriate or priority level of performance, managers should use other measures (e.g., total obligations, employment).

8. *OMB review and consultation.* As an important element of initiating zero-base budgeting, agencies are required this year to submit for OMB and Presidential review their proposals for:

The program, activity, or organizational level to be the basis of the (consolidated) decision packages that will form the agency budget submission to OMB;

Current and/or budget year issues that should be highlighted through either particular decision packages or, when decision packages are not appropriate, through issue papers that ultimately tie in to one or several decision extensive evaluations.

Longer-range issues for which agencies will initiate extensive evaluations.

This identification of issues will play an integral role in OMB's spring review of agency programs, activities, and plans. Policy guidance letters to the agencies regarding the preparation of the fall budget submission will be based in part on this information.

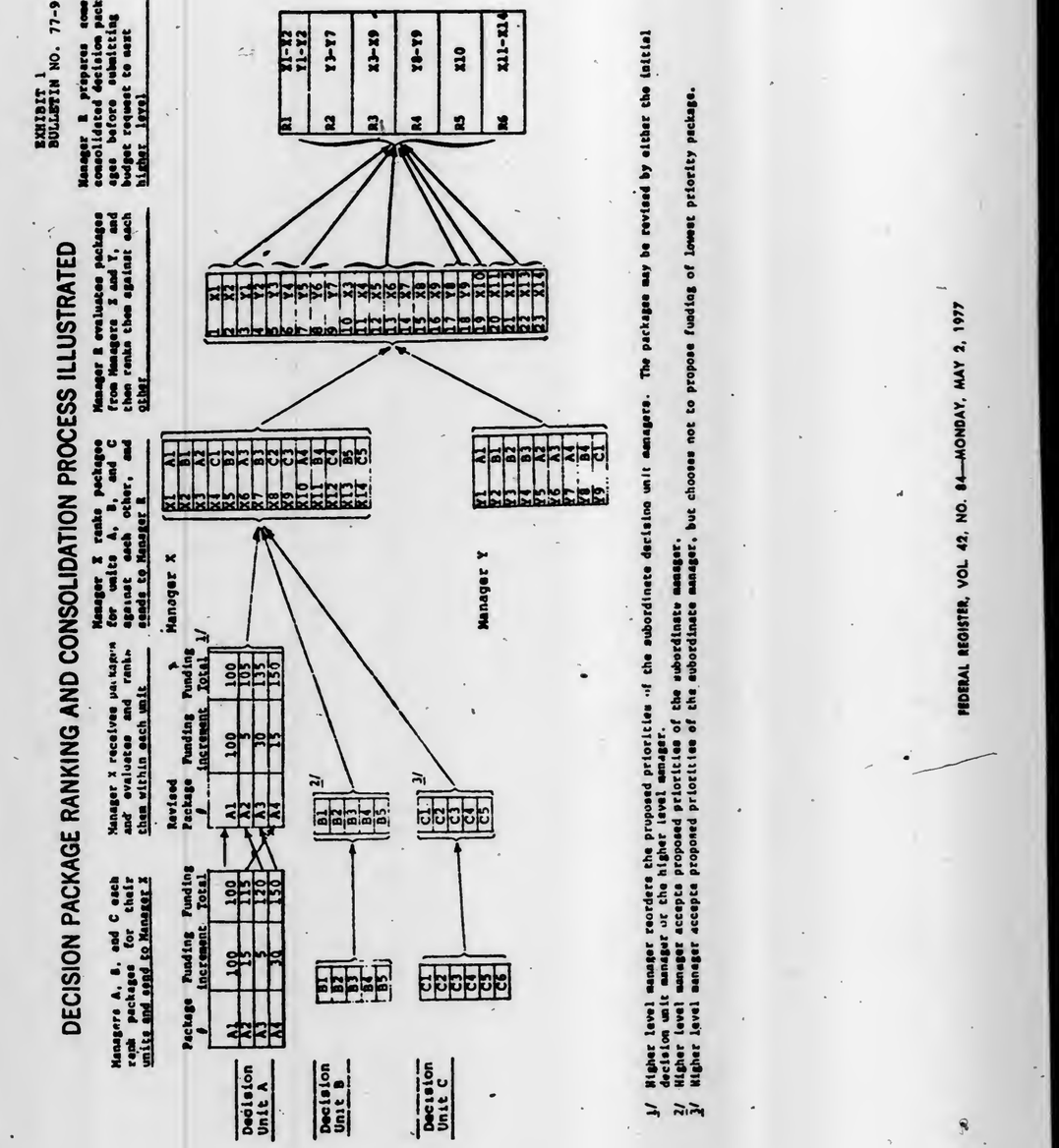
OMB representatives will contact the agencies shortly and request these proposals.

9. *Inquiries.* Should additional discussion be necessary, agencies should contact their OMB budget examiner.

BERT LANCE,
Director.

EXHIBIT 1
BULLETIN NO. 77-9

DECISION PACKAGE RANKING AND CONSOLIDATION PROCESS ILLUSTRATED



1/ Higher level manager reorders the proposed priorities of the subordinate decision units managers. The packages may be revised by either the initial decision unit manager or the higher level manager.
2/ Higher level manager accepts proposed priorities of the subordinate manager.
3/ Higher level manager accepts proposed priorities of the subordinate manager, but chooses not to propose funding of lowest priority package.

V42|84 MAY 2 77 UMI

BULLETIN No. 77-9

EXHIBIT 2

DECISION UNIT OVERVIEW

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, MENTAL HEALTH ADMINISTRATION, FEDERAL SUPPORT OF COMMUNITY MENTAL HEALTH SERVICES, MENTAL HEALTH: 75-0001-0-1-550

Goal. To ensure needy citizens access to community based mental health services, regardless of ability to pay. Services should be of high quality, provided in the least restrictive environment, and in a manner assuring patients' rights and dignity.

Major objective. To assist in the establishment and operation of a nationwide network of 1,200 qualified community mental health centers (CMHCs) by 1984 to ensure availability and accessibility of services to residents of each mental health catchment area.

Current method of accomplishing the major objectives. Grants are made to public and nonprofit entities to plan and operate community mental health center programs. The planning grants are one-time grants, not to exceed $75,000 each. The operating grants are for eight-year periods with a declining Federal matching rate.

Alternatives. 1. Consolidate Federal funding for community mental health services and other categorical health service programs into a single formula grant to the States.

2. Consolidate Federal funding for community mental health services and other community-based inpatient and outpatient services—as well as institutionally based short-term acute and long-term care services—for the mentally ill and mentally retarded.

These alternatives are not being pursued because the States thus far have not been able to ensure that funds will be targeted into high priority areas. The Secretary believes the Federal Government must have the ability to control the funding.

3. Provide for mental health services coverage through the national health insurance proposal. This alternative is not presently viable because passage of the national health insurance act is not near. Intensive study is now being directed toward this alternative for possible consideration next year.

Accomplishments. Since the establishment of the CMHC program in the mid-1960's, 670 CMHC's have received Federal funding of nearly $2.0 billion. In 1977, nearly 600 centers were operational, covering 45 percent of the population (90 million people), and providing treatment services to 2 million individuals annually.

In 1977, 450 centers received Federal grant support and 100 centers completed the eight-year Federal grant cycle. To qualify for an operational grant, Pub. L. 100-63, requires centers to provide the following services on a 24 hour a day, seven day a week basis:

1. Inpatient hospitalization;
2. Outpatient treatment and counseling;
3. Partial hospitalization as an alternative to full-time hospitalization;
4. 24-hour emergency services by telephone or on a walk-in basis;
5. Consultation and education services.
6. Services to children;
7. Services to the elderly;
8. Screening services to the courts and other agencies;
9. Follow-up care for former full-time patients from a mental health facility;
10. Transitional services for same; and
11. Alcoholism and alcohol abuse program and drug addiction and abuse program.

Bulletin No. 77-9
Exhibit 3

DECISION PACKAGE
Department of Health, Education and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Package 1 of 4 (minimum level)

Activity Description:

Continue grants only to the 450 CMHC's currently receiving Federal support, until each CMHC's eight-year grant cycle is completed.

Resource Requirements: Dollars (in thousands)

	1977	1978	1979			Cumulative Total
			This Package	1982	1983	
Planning grants ($)	1,000	1,000	0			0
Operating grants ($)	97,000	147,000	120,000			120,000
Total obligations	98,000	148,000	120,000			120,000
Budget authority	98,000	148,000	120,000			120,000
Outlays	97,000	145,000	119,000			119,000
Five-year estimates						
Budget authority	1979	1980	1981	1982	1983	
Outlays	120,000	100,000	80,000	60,000	40,000	
	119,000	98,000	79,000	59,000	40,000	

Short-term objective:

To ensure in 1979 access to qualified comprehensive mental health services to 45% of the population (this results in treatment of about 2 million patients).

Impact on major objectives:

The major objective of 1200 qualified CMHC's by 1984 would not be met if this short term objective were continued. It is unlikely that any net increase in qualified CMHC's would result at this level because few communities have the resources to develop a qualified program. It is estimated that for each community that would develop a qualified CMHC, an existing qualified CMHC would cease to qualify because of cutbacks in service provided due to tight funds. The impact of continuing this level objective follows:

V 42 84 MAY 2 77 UMI

	1977	1978	1979	1980	1981	1982	1983	1984
Number of public and non-profit CMHC's	700	710	720	730	740	750	760	770
Number of CMHC's providing comprehensive services, as now defined	550	600	600	600	600	600	600	600
Number of CMHC's receiving grants	400	450	400	350	300	250	200	150
Percent of population covered	43	45	45	45	45	45	45	45
Percent of probable patients covered	45	50	50	50	50	50	50	50

Other Information:

Continuing grants to the 450 CMHC's currently receiving Federal support until each CMHC's eight-year cycle is completed is the minimum level because (a) the government has an eight-year contract with each CMHC, and (b) no new CMHC's will receive any grants. If zero-funded, the government would be subject to legal action brought by CMHC's.

This level would cease to encourage communities to develop CMHC's because of the (a) lack of planning grant funds and (b) lack of operational grant funds, thus negating the potential growth in the number of qualified CMHC's.

Only 57% of the high priority catchment areas would receive qualified CMHC coverage.

Package 2 of 4

Bulletin No. 77-9
Exhibit 3

DECISION PACKAGE
Department of Health, Education, and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description

Continue grants to a total of 450 CMHC's each year. When a currently funded CMHC reaches the end of its eight-year cycle for eligibility, provide an eight-year grant to a newly qualified CMHC.

Resource Requirements: Dollars in thousands.

	1977	1978	1979	
			This Package	Cumulative Total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	20,000	140,000
Total obligations	98,000	148,000	20,000	140,000
Budget authority	98,000	148,000	20,000	140,000
Outlays	97,000	145,000	19,000	138,000

Five year estimates	1979	1980	1981	1982	1983
Budget authority	140,000	142,000	143,000	145,000	146,000
Outlays	138,000	141,000	142,000	144,000	145,000

Short-term objective.

To ensure in 1979 access to qualified comprehensive mental health services to 49% of the population (this results in treatment of about 2.1 million patients).

Impact on major objectives.

Even without the planning grants, many communities will be encouraged to develop CMHCs because of the possibility of receiving the operating grants. However, the major objective would not be met at this level of funding. It would take until about 1990 to establish 1200 qualified CMHCs. The impact of continuing this level follows:

	1977	1978	This package	1979 cumulative	1980	1981	1982	1983	1984
Number of public and nonprofit CMHCs	700	710	40	750	800	850	900	950	1,000
Number of CMHCs providing comprehensive services, as now defined	550	600	50	650	700	750	800	850	900
Number of CMHCs receiving grants	400	450	50	450	450	450	450	450	450
Percent of population covered	43	45	4	49	58	65	75	80	85
Percent of probable patients covered	45	50	4	54	64	69	80	84	88

Other information.

By 1982, 70% of the high priority catchment areas will have a qualified CMHC. Assuming the objective of CMHCs is desirable even by 1990, stretching out the program past the major objective date of 1984 will increase total program costs from $3.6 billion to $4.3 billion due to estimated increases in service costs.

Bulletin No. 77-9
Exhibit 3

Package 3 of 4 (Current level)

DECISION PACKAGE
Department of Health, Eduction, and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description:

Fund 50% more newly qualifying CMHC's. That is, for every two CMHC's whose eight-year eligibility period ends, fund three newly qualifying CMHC's.

Resource Requirements: (Dollars in thousands)

	1977	1978	1979 This Package	1979 Cumulative Total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	10,000	150,000
Total obligations	98,000	148,000	10,000	150,000
Budget authority	98,000	148,000	10,000	150,000
Outlays	97,000	145,000	10,000	148,000

Five year estimates	1979	1980	1981	1982	1983
Budget authority	150,000	162,000	172,000	183,000	194,000
Outlays	148,000	161,000	171,000	182,000	193,000

Short-term Objective:

To ensure in 1979 access to qualified comprehensive mental health services to 51% of the population (this results in treatement of about 2.2 million patients).

Impact on Major Objectives:

	1977	1978	this Pkg.	1979 Cum.	1980	1981	1982	1983	1984
Number of public and non-profit CMHC's	700	710	25	775	850	925	1,000	1,075	1,150
Number of CMHC's providing comprehensive services, as now defined	550	600	25	675	750	825	900	975	1,050
Number of CMHC's receiving grants	400	450	25	475	500	525	550	575	600
Percent of population covered	43	45	6	51	65	75	80	85	90
Percent of probable patients covered	45	50	6	56	66	77	83	87	90

Other information:

By 1982 95% of the high priority catchment areas will have a qualified CMHC. If stretched out from 1984 to 1986, total program costs for establishing 1200 CMHC's will increase from $3.6 billion to about $3.8 billion.

DECISION PACKAGE
Department of Health, Education, and Welfare
Mental Health Administration
Federal Support of Community Mental Health Services
Mental Health: 75-0001-0-1-550

Activity Description:

For every CMHC whose eight year eligibility periods ends, fund two newly qualifying CMHC's.

Resource Requirements: Dollars in thousands

	1977	1978	1979 This Package	1979 Cumulative total
Planning grants ($)	1,000	1,000	0	0
Operating grants ($)	97,000	147,000	10,000	160,000
Total obligations	98,000	148,000	10,000	160,000
Budget authority	98,000	148,000	10,000	160,000
Outlays	97,000	145,000	10,000	158,000

Five year estimates	1979	1980	1981	1982	1983
Budget authority	160,000	172,000	183,000	193,000	204,000
Outlays	158,000	170,000	182,000	192,000	203,000

Short-term Objectives

To ensure in 1979 access to qualified comprehensive mental health services to 53% of the population (this results in treatment of about 2.3 million patients).

Impact on Major Objectives

	1977	1978	this pkg.	1979 cum.	1980	1981	1982	1983	1984
Number of public and non-profit CMHC's	700	710	25	800	900	1,000	1,100	1,200	1,300
Number of CMHC;s providing comprehensive services, as now defined	550	600	25	700	800	900	1,000	1,100	1,200
Number of CMHC's receiving grants	400	450	25	500	550	600	650	700	750
Percent of population covered	43	45	2	53	75	80	84	93	100
Percent of probable patients covered	45	50	2	58	77	82	85	93	100

The major objective will be met at this level of funding.

Other Information

By 1982 100% of the high priority catchment areas will have a qualified CMHC. Total program cost by 1984 will be $3.6 billion.

RANKING SHEET

Department of Government
Fiscal year 1979

(Other identifying information)

Date: July 17, 1977

Rank	Decision Package	BA	Outlays	Cumulative BA	Cumulative Outlays
1	A1	924	901	924	901
2	B1	800	785	1,724	1,686
3	A2	121	121	1,845	1,807
4	C1	0	0	1,845	1,807
5	B2	30	30	1,875	1,837
6	A3	0	0	1,875	1,837
7	B3	30	30	1,905	1,867
8	C2	0	0	1,905	1,867
9	C3	0	0	1,905	1,867
10	A4	22	22	1,927	1,889
11	B4	11	11	1,938	1,900
12	C4	0	0	1,938	1,900
13	B5	30	30	1,968	1,930
14	C5	0	0	1,968	1,930
15	C6	0	0	1,968	1,930

ATTACHMENT BULLETIN NO. 77-9

THE WHITE HOUSE

WASHINGTON

FEBRUARY 14, 1977.

Memorandum for the Heads of Executive Departments and Agencies

During the campaign, I pledged that immediately after the inauguration I would issue an order establishing zero-base budgeting throughout the Federal Government. This pledge was made because of the success of the zero-base budget system adopted by the State of Georgia under my direction as Governor.

A zero-base budgeting system permits a detailed analysis and justification of budget requests by an evaluation of the importance of each operation performed.

An effective zero-base budgeting system will benefit the Federal Government in several ways. It will:

Focus the budget process on a comprehensive analysis of objectives and needs;

Combine planning and budgeting into a single process;

Cause managers to evaluate in detail the cost-effectiveness of their operations;

Expand management participation in planning and budgeting at all levels of the Federal Government.

The Director of the Office of Management and Budget will review the Federal budget process for the preparation, analysis, and justification of budget estimates and will revise those procedures to incorporate the appropriate techniques of the zero-base budgeting system. He will develop a plan for applying the zero-base budgeting concept to preparation, analysis, and justifications of the budget estimates of each department and agency of the Executive Branch.

I ask each of you to develop a zero-base system within your agency in accordance with instructions to be issued by the Office of Management and Budget. The Fiscal Year 1979 budget will be prepared using this system.

By working together under a zero-base budgeting system, we can reduce costs and make the Federal Government more efficient and effective.

Jimmy Carter

[FR Doc.77-12035 Filed 4-28-77;8:45 am]

V42 84 MAY 2 77 UMI

85

Vol.42—No.85
5-3-77
PAGES
22355-22556

federal register

TUESDAY, MAY 3, 1977

highlights

PRIVACY ACT
OFR announced publication guidelines for the 1977 compilation on Friday, April 8, 1977 (42 FR 18760). Agencies are reminded to consult that issue regarding their publication responsibilities.

SUNSHINE ACT MEETINGS 22467

DROUGHT AND FLOOD CONSERVATION
USDA/ASCS implements special emergency financial assistance program for designated areas; effective 5-3-77 22358

RETAIL GASOLINE SALES
FEA proposal regarding service station rent cost increases; comments by 6-20-77; hearing on 6-21-77.... 22374

OCCUPATIONAL EXPOSURE TO BENZENE
Labor/OSHA establishes emergency temporary standards for protection of workers; effective 5-21-77; hearing on 7-12-77 (Part IV of this issue)..... 22515

ANIMAL FEEDS AND DRUGS
HEW/FDA permits feeding of methoprene to cattle without 14-day preslaughter withdrawal period; effective 5-3-77..... 22363
EPA increases established tolerances of residues of methoprene in cattle fat and milk; effective 5-3-77.... 22364

FOOD STAMP PROGRAM
USDA/FNS revises maximum allowable income standards and basis of coupon issuance; effective 7-1-77.... 22356

FARM LABOR CONTRACTOR REGISTRATION ACT
Labor/ESA exempts additional categories from coverage; effective 5-3-77..... 22364

MOTOR CARRIERS
ICC amends rail credit regulations; effective 5-3-77.... 22369

AIR POLLUTION
EPA proposes standards of performance for lime manufacturing plant; comments by 7-5-77 (Part II of this issue) 22506
EPA adds lime manufacturing plants to list of categories of stationary sources; effective 5-3-77 (Part II of this issue) 22510

CONTINUED INSIDE

V 42 85 MAY 3 7 7
UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

CHICAGO, NORTH WESTERN TRANSPORTATION CO.
ICC publishes system diagram map (Part V of this issue) 22531

FISHERY CONSERVATION AND MANAGEMENT
State publishes applications for permits to fish off U.S. Coast (3 documents) (Part VI of this issue) 22544–22553

TRADEMARK CASES
Commerce/PTO proposes to amend certain forms; comments by 6–1–77 22378

FEDERAL ELECTIONS
FEC announces availability of advisory opinion request 1977–20 (Part III of this issue) 22511

SPECIAL POPULATION CENSUS
Commerce/Census amends fee structure; effective 5–1–77 22362

EDUCATIONAL ASSISTANCE
HEW/OE announces closing dates for receipt of applications for the following programs:
Indian Adult Education Special Programs; 6–13 and 6–17–77 22406
Indian Fellowship Program; 6–15 and 6–17–77 22405
Indian Children Special Programs and Projects For Improvement of Educational Opportunities; 6–15 and 6–17–77 22407

PRIVACY ACT
HUD amends routine uses of certain systems of records; comments by 6–2–77 22408

MEETINGS—
USDA/FS: Apache National Forest Grazing Advisory Board, 6–9–77 22385
Sitgreaves National Forest Grazing Advisory Board, 6–10–77 22385
CRC: State Advisory Committees:
Alaska, 6–3–77 22388
Washington, 6–18–77 22389
West Virginia, 5–26–77 22389
Commerce/DIBA: Semiconductor Technical Advisory Committee, 5–19–77 22391
NOAA: Caribbean Fishery Management Council and Scientific and Statistical Committee and Advisory Panel, 5–23 thru 5–26–77 22389
Gulf of Mexico Fishery Management Council's Shallow Water Shrimp, Groundfish, Coastal Migratory Pelagic and Reef Fish Advisory Panels, 5–31, 6–1, 5–24 and 5–25–77 respectively 22390
South Fishery Management Council Scientific and Statistical Committee Advisory Panel, 5–24 thru 5–26–77 22390
DOD: Task Force On Intelligence Advisory Committee, 5–20–77 22394
FCC: WARC–79 Advisory Committee For Maritime Mobile Service, 5–24–77 22394
FPC: Technical Conference regarding Regulatory Information System, 5–18 thru 5–20, 5–23, 5–25, 5–26, 6–1, and 6–3–77 22398
HEW/FDA: Health Care and Services, 5–18–77 22405
Interior/NPS: North Atlantic Committee, 5–26 and 5–27–77 22420
Justice: Director of the Federal Bureau of Investigation Selection Committee, 5–6, 5–7, 5–12 thru 5–14, 5–19 thru 5–21, and 5–26 thru 5–28–77 22428
INS: Immigration and Naturalization Hispanic Advisory Committee, 5–19 and 5–20–77 22428

V 42 85 MAY 3 77 UMI

NSF: Ethics and Values in Science and Technology Program Subpanel, 5–19 and 5–20–77..... 22440
Project Director's project on "Women In Science Program", 5–19–77..... 22440
Very Large Array Ad Hoc Advisory Panel, 5–19–77.. 22440
Science and Technology Policy Office: Intergovernmental Science, Engineering, and Technology Advisory Panel, 5–27–77..... 22441
State: Shipping Coordinating Committee, 5–26–77..... 22441

CANCELLED MEETING—

CRC: Iowa Advisory Committee, 5–12–77..... 22388

SEPARATE PARTS OF THIS ISSUE

PART II, EPA..... 22505
PART III, FEC..... 22511
PART IV, Labor/OSHA..... 22515
PART V, ICC..... 22531
PART VI, State..... 22543

contents

AGRICULTURAL MARKETING SERVICE
Rules
Fruits and vegetables (canned or frozen); grade standards..... 22356
Lemons grown in Ariz. and Calif.. 22359
Milk marketing orders:
Upper Midwest..... 22360

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules
Rural environmental programs, National:
Drought and flood area conservation program..... 22358

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.

AIR FORCE DEPARTMENT
Notices
Environmental statements; availability, etc.:
Greater Pittsburgh International Airport, Pa..... 22393
Vandenberg Air Force Base, Space Shuttle facilities, Calif.. 22393

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Livestock and poultry quarantine:
Brucellosis..... 22370
Proposed Rules
Animal welfare:
Transportation, handling, care and treatment; standards, extension of time..... 22374

CENSUS BUREAU
Rules
Population censuses, special; fee structure..... 22362

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Caribbean area service investigation; correction..... 22386
International Air Transport Association..... 22386
International Air Transport Association; correction..... 22386
Trans World Airlines, Inc..... 22387
Universal Air Travel Plan; correction..... 22388

CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Alaska..... 22388
Iowa; cancelled..... 22388
Washington..... 22389
West Virginia..... 22389

CIVIL SERVICE COMMISSION
Rules
Excepted service:
Housing and Urban Development Department (2 documents)..... 22355
International Trade Commission..... 22356
Labor Department..... 22355
State Department..... 22355
Notices
Noncareer executive assignments:
ACTION..... 22389
Labor Department..... 22389

COMMERCE DEPARTMENT
See Census Bureau; Domestic and International Business Administration; Foreign-Trade Zones Board; National Oceanic and Atmospheric Administration; Patent and Trademark Office.

COMMUNITY SERVICES ADMINISTRATION
Rules
Community Action Program:
Funding, application process; correction..... 22365

DEFENSE DEPARTMENT
See also Air Force Department.
Notices
Meetings:
Science Board task forces..... 22394

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Meetings:
Semiconductor Technical Advisory Committee..... 22391

EDUCATION OFFICE
Notices
Applications and proposals, closing dates:
Indian children, educational opportunities; programs to improve..... 22407
Indian fellowship program..... 22405
Indians, adult education for; programs..... 22406

EMPLOYMENT AND TRAINING ADMINISTRATION
Proposed Rules
Alien temporary agricultural and logging employment in U.S.; labor certification; hearings... 22378

ENVIRONMENTAL PROTECTION AGENCY
Rules
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Methoprene..... 22364
Proposed Rules
Air pollution; standards of performance for new stationary sources:
Lime manufacturing plants..... 22505
Notices
Air pollution; standards of performance for new stationary sources:
Lime manufacturing plants..... 22510

FEDERAL COMMUNICATIONS COMMISSION
Notices
Meetings:
Maritime Services Radio Technical Commission..... 22394

FEDERAL DEPOSIT INSURANCE CORPORATION
Rules
Interest on deposits:
Individual retirement accounts (IRA) and Keogh (H.R. 10) plans; maximum interest rates; correction..... 22362
Proposed Rules
Interest on deposits:
Pooled time deposits; restricted payment; withdrawn; correction..... 22378

FEDERAL ELECTION COMMISSION
Notices
Advisory opinion requests..... 22511

FEDERAL ENERGY ADMINISTRATION
Proposed Rules
Petroleum price regulations, mandatory:
Gas station rent increases; retail gasoline sales, pass-through..... 22374
Notices
Environmental statements; availability, etc.:
West Hackberry salt dome storage site..... 22394

FEDERAL MARITIME COMMISSION
Proposed Rules
Practice and procedure:
Water carrier protestors of proposed tariff rate changes; "complainants" designation ended..... 22383
Notices
Gulf ports, equalization, absorption, and minibridge; petition; correction..... 22394
Agreements filed, etc.:
American Export Lines, Inc. et al..... 22394
Long Beach, City of, et al. (2 documents)..... 22395
Port Everglades Authority et al..... 22395

FEDERAL POWER COMMISSION
Notices
Regulatory information system; technical conferences..... 22398
Hearings, etc.:
McCulloch Interstate Gas Co.. 22396
Panhandle Eastern Pipe Line Co..... 22396

FEDERAL RESERVE SYSTEM
Rules
Truth-in-lending:
Official staff interpretations..... 22360
Notices
Board actions; applications and reports..... 22390
Applications, etc.:
Goodlettsville Bancshares, Inc.. 22402
National Detroit Corp..... 22402

FOOD AND DRUG ADMINISTRATION
Rules
Animal drugs, feeds, and related products:
Methoprene..... 22363
Notices
Food additives, petitions filed or withdrawn:
Southern Sizing Co..... 22405
Health care and services; information and administration procedures; meeting..... 22405
Meetings:
Toxicology Advisory Committee; correction..... 22405

FOOD AND NUTRITION SERVICE
Rules
Food stamp program:
State agencies and eligible households participation..... 22356
Notices
Meetings:
Child Nutrition National Advisory Council..... 22385

FOOD SAFETY AND QUALITY SERVICE
Rules
Meat and poultry products, inspection; realignment of agency and program responsibilities... 22373

FOREIGN-TRADE ZONES BOARD
Notices
Foreign-trade zone applications:
Pittsburgh, Pa..... 22391

FOREST SERVICE
Notices
Meetings:
Apache National Forest Grazing Advisory Board..... 22385
Sitgreaves National Forest Grazing Advisory Board..... 22385

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Education Office; Food and Drug Administration.
Notices
Information collection and data acquisition activity, description; inquiry..... 22402

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT
Notices
Applications, etc.:
Gallia Coal Co..... 22420
Johnson Coal Co., Inc..... 22420
Kentland Elkhorn Coal Corp... 22420
Oakwood Red Ash Coal Corp. (2 documents)..... 22421, 22422
Petros Coal Corp..... 22422
Pontiki Coal Corp..... 22422
Slab Fork Coal Co..... 22423
V & R Coal Co., Inc..... 22423
Winston Mining Co. (3 documents)..... 22424, 22425
Young's Branch Coal Co. (2 documents)..... 22425, 22426

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Rules
Low-income housing:
Fair market rents and contract rent automatic annual adjustment factors..... 22363
Notices
Privacy Act; systems of records.. 22408

IMMIGRATION AND NATURALIZATION SERVICE
Notices
Meetings:
Hispanic Advisory Committee.. 22428

INTERIOR DEPARTMENT
See also Hearings and Appeals Office, Interior Department; National Park Service.
Notices
Organization and functions:
Trans-Alaska Pipeline..... 22426

INTERNATIONAL TRADE COMMISSION
Notices
Tariff Schedules; textile imports; change from chief value to chief weight method, domestic impact; hearings..... 22427

INTERSTATE COMMERCE COMMISSION
Rules
Credit extension to shippers by rail and motor carriers..... 22369
Motor carriers:
Certificates and permits; intermediate point authorization; Panel recommendation not adopted..... 22369
Railroad car service orders; various companies:
Chicago & North Western Transportation Co..... 22367
Delaware & Hudson Railway Co. et al..... 22367
Illinois Central Gulf Railroad Co..... 22368
Missouri Pacific Railroad Co.. 22368
Notices
Abandonment of railroad services, etc.:
Burlington Northern Inc..... 22463
Chicago & North Western Transportation Co..... 22531
Oregon-Washington Railroad & Navigation Co..... 22463
Southern Pacific Transportation Co. (3 documents).. 22463, 22464
Union Pacific Railroad Co. (2 documents)..... 22464
Hearing assignments..... 22462
Motor carriers:
Transfer proceedings (2 documents)..... 22464

JUSTICE DEPARTMENT
See also Immigration and Naturalization Service.
Notices
Meetings:
FBI Director, Selection Committee..... 22428

LABOR DEPARTMENT
See also Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
Rules
Construction industry wages and prices stabilization; removed.. 22364
Farm labor contractor registration; category exemptions..... 22364

V 42 85 MAY 3 77 UMI

CONTENTS

Notices

Adjustment assistance:
Alabama By-Products Corp. 22430
Allan Shoe Manufacturing Co., Inc 22431
American Felt Slipper Co. 22431
Capitol Footwear Corp. 22432
Duchess Garter Corp. 22432
Flodar Corp. 22433
Florsheim Shoe Co. 22434
Hanna Furnace Corp. 22434
Jo-Gal Shoe, Inc. 22435
Kaiser Steel Corp. 22438
Maidenform Inc. 22435
Marathon Steel Co. 22436
Miss Sarah, Inc. 22436
Seinsheimer, H. A., Co. 22434
Soule Steel Co. 22437
Sweetree Mills, Inc. 22438
Weyenberg Shoe Manufacturing Co. 22438
Wilton Corp. 22439

LAND MANAGEMENT BUREAU

Rules

Public land orders:
Utah 22365

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 22440

MATERIALS TRANSPORTATION BUREAU

Rules

Radioactive materials, low-level; air transportation of limited quantities; exemption renewal. 22366

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Marine mammal permit applications, etc.:
Alaska Department of Fish and Game 22392
Cohen, Marvin Morris 22392
Fort Wayne Children's Zoological Gardens 22392
Twentieth Century-Fox Marineland, Inc. 22393
Meetings:
Caribbean Fishery Management Council, Scientific and Statistical Committee and Advisory Panel 22389
Gulf of Mexico Fishery Management Council, Shallow Water Shrimp Advisory Panel, et al. 22390
South Atlantic Fishery Management Council, Scientific and Statistical Committee and Advisory Panel 22390

NATIONAL PARK SERVICE

Notices

Historic Places National Register; additions, deletions, etc. (2 documents) 22408, 22409
Meetings:
North Atlantic Committee 22420

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Science Education Projects Advisory Panel, Ethics and Values in Science and Technology Program Subpanel 22440
Very Large Array Ad Hoc Advisory Panel 22440
Women in science programs, project directors 22440

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

Health and safety standards:
Benzene, exposure; emergency temporary standard and hearing 22515

PATENT AND TRADEMARK OFFICE

Proposed Rules

Trademark cases:
Forms 22378

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE

Notices

Employee benefit plans:
Multiemployer and multiple employer plan transactions; pendency of proposed class exemption 22428

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed:
Sho-Me Power Corp. 22385

SCIENCE AND TECHNOLOGY POLICY OFFICE

Notices

Meetings:
Intergovernmental Science, Engineering and Technology Advisory Panel, Human Resources Task Force 22441

SECURITIES AND EXCHANGE COMMISSION

Notices

Self-regulatory organizations; proposed rule changes:
Midwest Stock Exchange, Inc. 22458
New York Stock Exchange, Inc. (2 documents) 22442, 22446
Hearings, etc.:
American Brands Overseas, N.V. 22456
American Tobacco International Corp. 22457
Metropolitan Life Insurance Co. et al. 22457
New England Securities Depository Trust Co. (2 documents) 22458, 22459
Pacific Mutual Fund, Inc. 22459
Sherwood Medical Industries Inc 22459

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Pohick Creek, Va. 22385

STATE DEPARTMENT

Notices

Airport, joint, proposed agreement; Pinecreek, Minn. and Piney, Manitoba, Canada 22441
Fishing permits, applications:
Japan and West Germany 22544
Korea, Republic of 22553
Union of Soviet Socialist Republics 22546
Meetings:
Shipping Coordinating Committee, Prevention of Marine Pollution U.S. National Committee 22441

TRANSPORTATION DEPARTMENT

Rules

Organization and functions:
Coast Guard Commandant and Assistant Secretary for Administration; wage schedules. 22366

TREASURY DEPARTMENT

Notices

Bonds, Treasury of 2002–2007 22461
Notes, Treasury:
A–1984 series 22460

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR
213 (5 documents) 22355, 22356

7 CFR
52 22356
271 22356
701 22358
910 22359
1068 22360

9 CFR
78 22370
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373
390 22373
391 22373

PROPOSED RULES:
1 22374
2 22374
3 22374

10 CFR
PROPOSED RULES:
212 22374

12 CFR
226 22360
329 22362

PROPOSED RULES:
329 22378

15 CFR
50 22362

20 CFR
PROPOSED RULES:
655 22378

21 CFR
561 22363

24 CFR
888 22363

29 CFR
9 22364
40 22364
1910 22516

37 CFR
PROPOSED RULES:
4 22378

40 CFR
180 22364

PROPOSED RULES:
60 22506

43 CFR
PUBLIC LAND ORDERS:
5617 22365

45 CFR
1067 22365

46 CFR
PROPOSED RULES:
502 22383

49 CFR
1 22366
172 22366
175 22366
1033 (4 documents) 22367, 22368
1041 22369
1320 22369
1322 22369

V 42 85 MAY 3 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR
Ch. I 22125

5 CFR
213 ..... 22355, 22356

7 CFR
52 22356
271 22356
701 22358
910 22359
959 22125
1068 22360
1421 22126
1430 22126

8 CFR
PROPOSED RULES:
103 22148
244 22148
299 22149

9 CFR
78 22370
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373
390 22373
391 22373
PROPOSED RULES:
1 22374
2 22374
3 22374

10 CFR
2 22128
212 22131
PROPOSED RULES:
2 22168
170 22149
212 22374

12 CFR
226 22360
329 22362
PROPOSED RULES:
329 22378

13 CFR
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137

14 CFR
39 22137
71 (2 documents) 22138
91 22139
PROPOSED RULES:
39 22172
71 (2 documents) 22172, 22173

15 CFR
50 22362

17 CFR
231 22139
239 22139

18 CFR
1000 22146

20 CFR
PROPOSED RULES:
655 22378

21 CFR
561 22363

23 CFR
PROPOSED RULES:
640 22173
642 22173

24 CFR
888 22363

25 CFR
219 22141

26 CFR
301 22143

27 CFR
178 22144
181 22144

29 CFR
9 22364
40 22364
1910 22516

31 CFR
PROPOSED RULES:
215 22174

37 CFR
PROPOSED RULES:
4 22378

39 CFR
PROPOSED RULES:
111 22176

40 CFR
33 22144
180 22364
228 22144
PROPOSED RULES:
51 22177
60 22506
250 22332

41 CFR
15-3 22145

43 CFR
PUBLIC LAND ORDERS:
5617 22365

45 CFR
4 22145
1067 22365
1068 22145
PROPOSED RULES:
166 22336

46 CFR
148 22145
PROPOSED RULES:
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296
502 22383

47 CFR
PROPOSED RULES:
73 22183

49 CFR
1 22366
172 22366
175 22366
1033 ..... 22367, 22368
1041 22369
1320 22369
1322 22369
PROPOSED RULES:
Ch. II 22184

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date
22125–22354	May 2
22355–22556	3

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the headnote, Community Development Corporation, to New Community Development Corporation to reflect a recent organization redesignation. Also, this amendment changes the title of an existing Schedule C position from Confidential Secretary to the Administrator, New Communities Administration, to Administrative Aide to the General Manager, New Community Development Corporation, to reflect this same organizational redesignation and to more accurately describe the duties of the position. Finally, this amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the General Manager, New Community Development Corporation, because the position is confidential in nature.

EFFECTIVE DATE: May 3, 1977

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213 is amended by (1) amending the headnote of § 213.3384(j); (2) adding § 213.3384(j) (4) and (5); and (3) revoking § 213.3384(k) (1) as set out below:

§ 213.3384 Department of Housing and Urban Development.

• • • • • •

(j) *New Community Development Corporation.* • • •

(4) One Administrative Aide to the General Manager.

(5) One Executive Assistant to the General Manager.

(k) *Office of the New Communities Administration.*

(1) [Revoked]

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12649 Filed 5–2–77;8:45 am]

PART 213—EXCEPTED SERVICE

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Private Secretary to the Counselor to the Secretary because of the confidential nature of the position.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(a) (64) is added as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* • • •

(64) One Private Secretary to the Counselor to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12650 Filed 5–2–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C the following positions in the Employment and Training Administration because they are confidential in nature: (1) Special Assistant to the Administrator/Deputy Assistant Secretary for Employment and Training; (2) Private Secretary to the Administrator/Deputy Assistant Secretary for Employment and Training; and (3) Confidential Staff Assistant to the Assistant Secretary for Employment and Training.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3315(a) (52), (53) and (54) are added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* • • •

(52) One Special Assistant to the ETA Administrator/Deputy Assistant Secretary for Employment and Training.

(53) One Private Secretary to the ETA Administrator/Deputy Assistant Secretary for Employment and Training.

(54) One Confidential Staff Assistant to the Assistant Secretary for Employment and Training.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12652 Filed 5–2–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Under Secretary for Coordinating Security Assistance Programs because the position is confidential in nature.

EFFECTIVE DATE: May 3, 1977

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3304(a) (11) is amended to read as follows:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* • • •

(11) One Personal Assistant and one Special Assistant to the Under Secretary for Coordinating Security Assistance Programs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12653 Filed 5–2–77;8:45 am]

V42I85 MAY 3 77 UMI

PART 213—EXCEPTED SERVICE

U.S. International Trade Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 213 is amended to show that one position of Congressional Liaison to the Commissioners is excepted under Schedule C because the position is confidential in nature.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3339(h) is added to read as follows:

§ 213.3339 U.S. International Trade Commission.

* * * * *

(h) One Congressional Liaison to the Commissioners.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12651 Filed 5–2–77;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Various Canned or Frozen Fruits and Vegetables

AGENCY: Food Safety and Quality Service, Agriculture.

ACTION: Final rule.

SUMMARY: The product description of various grade standards for certain processed fruits and vegetables are being changed to reflect new section numbers for Food and Drug Definitions and Standards of Identity. The section numbers were changed when the Food and Drug Definitions and Standards of Identity were recently recodified.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4694.

SUPPLEMENTARY INFORMATION: The Food and Drug Definitions and Standards of Identity for various processed fruits and vegetables, which are integrally incorporated into the product description of U.S. Department of Agriculture grade standards, were recodified effective March 15, 1977 (42 FR 14302). As a result, it is necessary to amend the affected United States Department of Agriculture grade standards to properly incorporate the Food and Drug Definitions and Standards of Identity citations.

Reprints of the U.S. Department of Agriculture grade standards will not reference the new Food and Drug section numbers until such time as the individual grade standards are revised or reprinted.

In consideration of the foregoing, Part 52 of Chapter I of Title 7 of the Code of Federal Regulations is amended as follows:

Sec. 52.—	U.S. standards for grades of—	References to 21 CFR—	Changed to 21 CFR—
331	Canned applesauce	27.80	145.110(a)
441(a)	Canned green beans and canned wax beans	51.10	155.120(a)
441(b)		51.15	155.120(a)
471	Canned lima beans	51.990	155.200
521	Canned beets	51.990	155.200
551	Canned blackberries	27.35	145.120
581	Canned blueberries	27.35	145.120
671	Canned carrots	51.990	155.200
771	Canned red tart pitted cherries	27.30	145.125(a)
821	Canned sweet cherries	27.30	145.125(a)
851	Canned cream style corn	51.20	155.130(a)
881	Canned whole kernel corn	51.20	155.130(a)
1031	Canned fruit cocktail	27.40	145.135(a)
1061	Fruit jelly	29.2	150.140
1111	Fruit preserves (or jams)	29.3	150.160
1141	Canned grapefruit	27.90	145.145(a)
1481	Canned mushrooms	51.990	155.201
1551	Canned orange juice	27.108	146.141
1581	Frozen concentrated orange juice	27.109	146.146
1611	Canned pears	27.20	145.175(a)
1641(a)	Canned field peas	51.990	155.200
1641(b)	Canned black-eye peas	51.990	155.200
1711	Canned pineapple	27.50	145.180(a)
1761	Canned pineapple juice	27.54	146.185(a)
1781	Canned plums	27.45	145.185(a)
1811	Canned white potatoes	51.990(c)(3)	155.200
1901	Canned spinach	51.990	155.200
2041	Canned sweetpotatoes	51.990	155.200
2101	Tomato catsup	53.10	155.194
2221	Concentrated orange juice for manufacturing	27.114	146.153
		27.115	146.154
		27.110	146.150
2251	Canned concentrated orange juice	51.1	155.170(a)
2281	Canned peas	51.990	155.200
2541	Canned asparagus	27.2	145.170(a)
2561(a)	Canned Clingstone peaches	27.6	145.171
2601	Canned Freestone peaches	27.2	145.170(a)
		27.6	145.171
2641(a)	Canned apricots	27.10	145.115(a)
		27.14	145.116
2681(a)	Canned pimientos	51.990	155.200
2801	Apple butter	29.1	155.110
2821	Canned figs	27.70	145.130
		27.73	145.131
3061	Peannt butter	46.1	164.150
3311	Canned raspberries	27.35	145.120
3331	Canned okra	51.990	155.200
3621	Canned tomato juice	53.1	156.145
4021	Canned grapes	27.25	145.140
5041	Tomato paste	53.30	155.191
5081	Canned tomato puree	53.20	155.192
5161	Canned tomatoes	53.40	155.190(a)
5201	Concentrated tomato juice	53.20	155.192
5601	Canned dried prunes	27.15	145.190
5641	Pasteurized orange juice	27.107	146.140
5681	Orange juice from Concentrate	27.111	146.145
6241	Canned solid-pack apricots	27.10	145.115(a)

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than May 1, 1977, (5 U.S.C. 553) are impracticable, unnecessary, and contrary to the public interest in that (1) no substantive rule or change of rule is involved, (2) recodification in the Code of Federal Regulations is an editorial change only, and (3) additional time is not required by the users of the grade standards to comply with any portion of these amendments.

(Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).)

Dated to become effective May 1, 1977.

Dated: April 26, 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operations.

[FR Doc.77–12470 Filed 5–2–77;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[FSP No. 1977–1.2, Amdt. No. 105]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance

APPENDIX A—48 STATES AND DISTRICT OF COLUMBIA

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for the 48 States and the District of Columbia appearing in Appendix A to Part 271 which were effective January 1, 1977. Semi-annual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT: Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (447–8325).

SUPPLEMENTARY INFORMATION:

APPENDIX A—48 STATES AND DISTRICT OF COLUMBIA

[FSP No. 1977–1.2, Amdt. No. 105]

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in February 1977 has been made in the coupon allotment for all except the one-person household. The cost of food did not increase enough for a change in the coupon allotment for the one-person household, since Section 7(a) specifies that no such adjustment shall be made unless the increase in the coupon allotment is a minimum of $2.00.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August, as required by the Act. The income standards and coupon allotments to become effective on July 1, 1977 are based on the cost of the Thrifty Food Plan in February 1977.

Households in which all members are included in the Federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of Federally-aided public assistance, general assistance, or supplemental security income benefit, in any State (other than Alaska, Hawaii, Puerto Rico, Guam, or the Virgin Islands) or in the District of Columbia shall be as follows:

Household size:	*Maximum allowable monthly income standards—48 States and District of Columbia*
One	[1] $245
Two	[1] 322
Three	447
Four	567
Five	673
Six	807
Seven	893
Eight	1,020
Each additional member	+127

[1] 1976 USDA Poverty Guideline. "Income" as the term is used in the notice is as defined in paragraph (e) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Pub. L. 91–671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the 48 States and the District of Columbia shall be:

Monthly coupon allotments and purchase requirements—48 States and District of Columbia

Monthly net income	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$50	$94	$134	$170	$202	$242	$268	$306
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	38	44	46	47	48	49	50	51
$190 to $209.99	38	50	52	53	54	55	56	57
$210 to $229.99	40	56	58	59	60	61	62	63
$230 to $249.99	40	62	64	65	66	67	68	69
$250 to $269.99		68	70	71	72	73	74	75
$270 to $289.99		74	76	77	78	79	80	81
$290 to $309.99		74	82	83	84	85	86	87
$310 to $329.99		74	88	89	90	91	92	93
$330 to $359.99			94	95	96	97	98	99
$360 to $389.99			103	104	105	106	107	108

V42N85 MAY 3 77 UMI

Monthly net income	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$50	$94	$134	$170	$202	$242	$268	$306
	And the monthly purchase requirement is—							
$390 to $419.99			112	113	114	115	116	117
$420 to $449.99			116	122	123	124	125	126
$450 to $479.99				131	132	133	134	135
$480 to $509.99				140	141	142	143	144
$510 to $539.99				146	150	151	152	153
$540 to $569.99				146	159	160	161	162
$570 to $599.99					168	169	170	171
$600 to $629.99					174	178	179	180
$630 to $659.99					174	187	188	189
$660 to $689.99					174	196	197	198
$690 to $719.99						205	206	207
$720 to $749.99						210	215	216
$750 to $779.99						210	224	225
$780 to $809.99						210	232	234
$810 to $839.99							232	243
$840 to $869.99							232	252
$870 to $899.99								261
$900 to $929.99								266
$930 to $959.99								266
$960 to $989.99								266
$990 to $1,019.99								266
$1,020 to $1,049.99								266

For issuance to households of more than eight persons use the following formula:

A. *Value of the Total Allotment.* For each person in excess of eight, add $38 to the monthly coupon allotment for an eight-person household.

B. *Purchase Requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $899.99 or less per month.

2. For households with monthly incomes of $900 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $899.99, add $9 to the monthly purchase requirement for an eight-person household with an income of $899.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $34 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisable by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

In view of the need for placing this notice into effect on July 1, 1977, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: APRIL 26, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-12402 Filed 5-2-77;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

PART 701—NATIONAL RURAL ENVIRONMENTAL PROGRAMS FOR 1975 AND SUBSEQUENT YEARS

Drought and Flood Conservation Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to implement a special emergency agricultural conservation program in designated drought and flood damaged areas in the United States. The program assistance consists of sharing costs with eligible land owners of practices designed to alleviate the effects of drought or flood on agricultural resources. Up to 80% of the costs of installing applicable practices will be paid to eligible farmers and ranchers based on determinations made by State and county ASC committees and where applicable, on technical determinations by the Soil Conservation Service. This assistance is offered as a part of an overall drought emergency program in response to the serious effects of drought on widespread areas primarily in the central and western States and to damage to farmland from floods.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Mondloch (ASCS) (202) 447-6221.

SUPPLEMENTARY INFORMATION: It is essential that these provisions be effective as soon as possible since it is imperative that farmers take immediate action to alleviate the effects of the drought. Accordingly, it is hereby found and determined that compliance with notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. The impact of the drought which began in the early 1970's, and has continued without significant relief into 1977, is causing widespread damage to soil resources through wind erosion in many central and western States. Agricultural water supplies are at record lows in many areas. Certain measures can be undertaken by farmers to alleviate wind erosion damage and to extend limited agricultural water supplies. Also, practices can be carried out by eligible agricultural producers to repair and restore their land where it has been damaged by flood during the program period. This program is designed to have immediate impact on these problems by providing financial assistance to install practices which will decrease loss of soil from wind erosion, extend available water supplies and for other drought and flood related measures. As an incentive to stimulate immediate action by farmers, up to 80% of the cost of the practices will be paid for as a grant to eligible producers. Eligibility will be confined to agricultural producers in those areas designated by the President or Secretary of Agriculture for drought or flood disaster relief. The program is available only through September 30, 1977.

Accordingly, 7 CFR Part 701 is amended by adding to the table of contents and the text the following subpart:

Subpart—Drought and Flood Conservation Program

Sec.
701.85 Program objective.
701.86 Distribution of funds.
701.87 Eligible land and person.
701.88 Selection of Practices.
701.89 Eligible practices.
701.90 Rates of cost-sharing.
701.91 Starting of practices.
701.92 Method of approval.
701.93 Maximum cost-share limitation.
701.94 Completion of Practices.
701.95 Time of filing payment application.
701.96 Other program provisions.

Subpart—Drought and Flood Conservation Program

§ 701.85 Program objective.

The objective of the Drought and Flood Conservation Program is to rebuild or restore the productive capacity of soil, repair flood-damaged farmland, conserve agricultural soil and water, and prevent other environmental problems resulting from flood, wind erosion, and other extended drought problems in areas designated by the President or the Secretary.

§ 701.86 Distribution of funds.

Funds available for practices to be performed under the program will be distributed among States and counties on the basis of need to alleviate the impact of the drought or flood.

§ 701.87 Eligible land and person.

Eligibility of land and person is the same as for the Agricultural Conservation Program as provided in § 701.7 and § 701.8.

§ 701.88 Selection of Practices.

The practices to be included in the county program shall be only those practices for which cost-sharing is essential to permit accomplishment of the program objective as stated in § 701.85.

§ 701.89 Eligible practice categories.

Emergency practice categories for which cost-sharing may be authorized are the following:

(a) Establishing Vegetative Cover.
(b) Emergency Wind Erosion Control Measures.
(c) Emergency Modification of Irrigation Systems for Conservation of Water.
(d) Developing Emergency Sources of Irrigation Water.
(e) Fire Breaks and Other Pre-Fire Suppression Measures.
(f) Developing Livestock Water to Prevent Erosion Due to Overgrazing.
(g) Stabilizing Drought or Flood Damaged Resources.
(h) Maintaining Stands of Permanent Herbacious or Woody Vegetation.
(i) Emergency Soil Moisture Conservation.
(j) Restoring Drought or Flood Damaged Conservation Measures.
(k) Other Special Practices as Recommended by the County Committee and Concurred in by the State Committee.

§ 701.90 Rates of cost-sharing.

(a) Levels of cost-sharing shall not be in excess of 80 percent of the average cost for all practices in the program as recommended by the county committee and approved by the State committee. (See § 701.19 for special provisions for low-income farmers.)

(b) For the purpose of establishing rates of cost-sharing, the average cost of performing a practice may be the average cost for a State, a county, or a part of a county, as determined by the State committee.

§ 701.91 Starting of practices.

Cost will not be shared for practices, or components of practices, which are started before a request is made to the county committee.

§ 701.92 Method of approval.

The county committee will determine the extent to which Federal funds will be made available to share the cost of each approved practice, taking into consideration the county allocation, the conservation and environmental problems created by drought or flood in the county and of the land involved, and the practices for which requested cost-sharing is considered by the county committee as most needed. The method approved shall provide for the issuance of notices of approval showing for each approved practice the number of units of the practice for which the Federal Government will share in the cost and the amount of the cost-share for the performance of that number of units of the practice. To the extent practicable, notices of approved practices shall be issued before performance of the practice is started. No practice may be approved for cost-sharing except as authorized by the county program, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a pro-rata basis.

§ 701.93 Maximum cost-share limitation.

For each program year the total of all cost-shares to any person with respect to farms and ranches (§ 701.2(b)) in the United States, Puerto Rico, and the Virgin Islands for approved practices, which are not carried out under pooling agreements shall not exceed the sum of $2,500, and those carried out under pooling agreements shall not exceed the sum of $10,000, except that the total of cost-shares paid to any person under the Drought and Flood Conservation Program and the Agricultural Conservation Program shall not exceed the sum of $10,000. (Also see § 701.73.)

§ 701.94 Completion of practices.

Cost-sharing for the practices contained in this part is conditioned upon the performance of the practice in accordance with applicable specifications and program provisions. Approval for cost-sharing must be issued by September 30, 1977, with completion of all components of the practice by November 30, 1977, except that the county committee may extend the completion date if completion is delayed for reasons beyond the control of the farmer.

§ 701.95 Time of filing payment application.

Payment of cost-shares will be made only upon application submitted on the prescribed form to the county office by a date established by the county committee. Any application for payment may be rejected if any information required of the applicant is not submitted to the county office within the applicable time limit.

§ 701.96 Other program provisions.

Other provisions as contained in §§ 701.2 (b), (e), (g), 701.17, 701.18, 701.19, 701.22 and 701.24 and in the Subpart, General Provisions, shall apply to the Drought and Flood Conservation Program.

Signed at Washington, D.C., on April 28, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-12716 Filed 5-2-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 89; Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 24–30, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period April 24–30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 20,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to

V 42 85 MAY 3 77 UMI

effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b) (1) of § 910.389 Lemon Regulation 89 (42 FR 20811) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period April 24, 1977, through April 30, 1977, is established at 270,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: April 27, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–12601 Filed 5–2–77;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

Suspension of Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends a requirement under the Upper Midwest milk marketing order that handlers make a partial payment for milk received from producers by the 25th day of the month. The suspension, which was requested by handlers, will permit handlers to make such payments about 8 days later so that their partial payments and final payments for milk will be spaced about 15 days apart. The suspension applies for the period of May through October 1977.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of proposed suspension, issued April 8, 1977; published April 13, 1977 (42 FR 19350).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. et seq.), and of the order regulating the handling of milk in the Upper Midwest marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 19350) concerning a proposed suspension of a certain provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of May 1977 through October 1977 the following provision of the order does not tend to effectuate the declared policy of the Act:

Section 1068.73(a)(4) "If received from a producer for whom payment is not being made pursuant to paragraph (a) (2) and (3) of this section and who has not discontinued shipping to such handler, at not less than the uniform price at this plant location for the preceding month, adjusted by the butterfat differential for the proceding month."

Statement of Consideration. The provision that is hereby suspended requires handlers to make a partial payment to producers for whom a cooperative is not collecting payment on or before the 25th day of the month. The provision has been suspended since November 1976.

An extension of the suspension was requested by several handlers that are regulated under the Upper Midwest order. The handlers stated that the payment dates under the order were confusing to their producers because such dates are on the 18th and 25th days of the month, only 7 days apart, while their producers, who until last year were not under the order, historically had been accustomed to being paid about 15 days apart. Under the suspension now in effect, these handlers are making a partial payment on or about the 3rd day of the month, 15 days prior to the final payment date.

Written views on the proposed extension of the suspension were received from 5 dairy farmers, one cooperative association, 8 handlers, and one trade association representing proprietary plants. Two dairy farmers opposed the suspension; all other views were in favor of it.

Since it is possible that a hearing will be held within the next six months, the suspension should only be extended for the months of May 1977 through October 1977. If a hearing has not been held, the need for continuing the suspension may be reviewed at a later time.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date and notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the months of May 1977 through October 1977.

(Sec. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Effective date. May 3, 1977.

Signed at Washington, D.C., on: April 28, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77–12600 Filed 5–2–77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC–0056, FC–0057, FC–0058, FC–0059]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

12 CFR Part 226, FC–0056

§ 226.2(r) Card used to make a claim under a medical insurance policy is not a credit card.

§ 226.4(1). A discount offered to induce cash payment rather than reliance upon an insurance policy is not a finance charge.

MARCH 28, 1977.

This will respond to your letter of * * *, in which you request a formal Board interpretation of §§ 226.2(r) and 226.4(1) of regulation Z. You indicate that your client, a hospital, accepts cards issued by a medical insurance company in lieu of cash payment for medical services. The card identifies those covered by insurance policies issued by the company. You ask whether the presentation of the card to cover medical treatment is a "credit card" transaction if the insurance company and not the patient is billed for the services. You also ask if a hospital or medical clinic becomes subject to § 226.4(1) by offering a discount if a patient pays in cash rather than using the card.

Section 226.2(r) defines "credit card" as any card that is used "* * * to obtain * * * services on credit." "Credit" is defined as: "* * * the right granted by a creditor to a customer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefor."

A credit card transaction, therefore, must involve the use of a card to defer a debt. It appears that the card you describe is presented by the patient to make a claim under a medical insurance policy. Assuming that the claim is valid, the patient's liability for the debt is extinguished, not deferred. Under such circumstances, no credit card transaction has occurred because the patient has not received an extension of credit.

Your second question relates to a practice of offering a discount for those who pay in cash rather than using the medical insurance card described above. You ask whether offering such a discount subjects the hospital or medical clinic offering it to the requirements of § 226.4(1).

Section 226.4(1) requires that a discount offered to induce "* * * payments for a purchase by cash, * * * rather than by use of an open end credit card account * * *" is a finance charge, unless the three criteria of that section are met. It is the opinion of the staff that since the card you describe is not used in connection with "an open end credit card account," but rather in connection with an insurance policy, § 226.4(1) is not applicable to the transaction.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues outlined herein.

We hope this response has been helpful. If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR Part 226, FC–0057

§§ 226.7(b) and 226.7(f) Change in billing cycle from staggered dates to single date necessitates change in terms disclosure regarding interim periodic rate where normal periodic rate is on a monthly basis. Change in terms notice should tell interim rate or how to compute it. Periodic statements should reflect actual interim periodic rate. Where transition billing cycle does not vary normal billing cycle by more than 4 days, no additional disclosures are required.

MARCH 28, 1977.

This is in reply to your letter of * * *, in which you requested an official staff interpretation concerning a method for converting from multiple billing dates to a single billing date for an open end credit plan.

The facts as outlined in your letter are as follows:

The creditor of the open end credit plan currently sends monthly periodic statements to customers using a staggered billing date system under which some customers have closing dates on the 3rd day of each month, others on the 6th, still others on the 9th, etc. The creditor wants to eliminate the staggered billing system and, instead, wishes to have a uniform closing date on the 9th of each month for all customers. Under the terms of the open end credit plan, the creditor's finance charge is assessed on the previous balance outstanding at the beginning of the billing cycle at a monthly periodic rate of 1½ per cent (18 percent A.P.R.) on the first 500 dollars, and at a monthly periodic rate of 1 per cent (12 per cent A.P.R.) on the excess over $500.

The creditor's plans for making the transition are as follows:

The creditor would make the transition from staggered closing dates to a single closing date during a period of no more than two months, and would advise its customers, in the manner required under § 226.7(f), of the change in billing cycle and of the method to be used in calculating the finance charges during the transition cycle which, staff assumes, will include an explanation of the different periodic rates. No customer would be assessed a finance charge in excess of the previously stated annual percentage rate.

You state that the shortest billing cycle during the transition would be 15 days and the longest cycle would be 45 days. The billing statements would be mailed to the customer no less than 14 days prior to the date by which payment of the new balance must be made in order to avoid the imposition of an additional finance charge.

To determine the finance charge during the transition cycle, the creditor would prorate the finance charge calculated in the usual manner. For example, in a transition billing cycle of 20 days, if the customer's previous balance is $300 and the finance charge would normally be $4.50, the customer would be assessed a finance charge of only $3.00 for the 20-day period. The customers would be advised on the periodic statement that for that specific transition cycle the periodic rate for the relevant range of balances is 1 per cent (instead of 1½ per cent). Additionally, the customer's minimum periodic payment would be similarly pro-rated for a shorter cycle but would remain the same for a longer than normal cycle. Under the contemplated method of calculation, the annual percentage rate would continue to be 18 per cent for balances of $500 or less and 12 per cent on the excess over $500.

You asked two questions with respect to the above stated facts and proposed transition implementation. First, you asked whether this method of changing to a single billing date complies with Regulation Z. Second, you asked whether customers with closing dates of the 6th, 9th, or 12th of the month need be given any additional notification or additional disclosures or whether any recalculations would be required.

With respect to your first question, in staff's view, the only required change in terms disclosure which this situation presents is in the periodic rate and, consequently, the finance charge for the period. Therefore, if the notice of change in terms correctly informs the customer of the changed periodic rate (either by disclosing the changed rate or by explaining how it will be determined) and if the periodic statement also informs the customer of the changed periodic rate (numerically) and the proper amount of the finance charge given that periodic rate, the staff believes that the method of converting from a multiple billing date system to a single billing date system which you outlined is proper under the regulations.

In staff's view, it is not necessary to prorate the amount of the minimum periodic payment for shorter billing cycles. However, if the creditor chooses to do so, this change should be disclosed to the customer in the notice sent pursuant to § 226.7(f).

Further, it is staff's opinion that your plans to send the periodic statements during the transition period 14 days prior to the date by which payment of the new balance must be made to avoid an additional finance charge may not be mandated by Regulation Z. Section 226.7(b)(2) only requires sending the periodic statement in this fashion if the creditor normally gives a free period within which payment may be made to avoid the imposition of a finance charge. Under your "previous balance" method of computing the finance charge there appears to be no free period and, thus, § 226.7(b)(2) may be inapplicable. Without knowing more about your system of computing the finance charge, staff cannot say with certainty that this is the case, however.

In staff's view, since there will be a change in terms back to the previously disclosed terms following the transition, the notice sent pursuant to § 226.7(f) should indicate clearly to the customer that this will be the case so that the customer is not left with the impression that the changes are permanent. If this is not done, in staff's view, a subsequent notice to that effect would be necessary.

With respect to your second question, in staff's view those customers whose current billing dates are the 6th and 12th of the month need not be given any notice of the change in terms since their billing cycles would not be varied by more than four days. Under § 226.2(i) the transition billing cycle would be considered equal to the normal billing cycle for these customers and, consequently, no change in terms is involved. Those whose current billing date is the 9th clearly require no notices of changes or new disclosures.

This is an official staff interpretation Regulation Z issued pursuant to § 226.1(d)(3) of the regulation and limited in its application to the facts as outlined above. I trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR Part 226, FC–0058

§ 226.4(d) An "overdraft charge" is a finance charge when imposed in connection with a demand deposit account only if it is imposed pursuant to a written agreement to pay overdrafts.

An "overdraft charge" is a finance charge when the bank treats the overdraft as a transaction on an overdraft credit plan.

APRIL 1, 1977.

This will respond to your letter of * * * in which you request a formal Board interpretation of § 226.4 of Regulation Z. You are concerned with a situation in which a bank offers a demand deposit account with provision for paying overdrafts by debiting the customer's bank credit card account in a sufficient number of $100 increments to cover the overdraft. When a customer has reached the credit limit available on the bank card, the creditor may, nevertheless, decide to pay an overdraft and may either:

(1) Treat the amount as an overdraft on the demand deposit account; or

(2) Debit the bank credit card account to cover the demand deposit overdraft, thus exceeding the credit limit.

The question arises whether in either of these situations the "overdraft charge" should be treated as a "finance charge" or "other charge" under Regulation Z.

With respect to situation one, staff believes that the overdraft charge would be a finance charge, as provided in § 226.4(d), only if it was imposed pursuant to a written agreement between the bank and the customer to pay the check.

With respect to situation two, it is staff's view that a fee charged by a bank for honoring a check exceeding the credit limit in a credit agreement must be considered a finance charge where the bank treats such a transaction as a part of the credit plan. For example, if the bank debits the amount of the overdraft to the customer's credit ac-

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count and imposes the regular finance charges on that amount, then the fee must be disclosed as a finance charge under §§ 226.7(a) and (b) and included in computation of the annual percentage rate under § 226.5(a). In staff's opinion, this conclusion in no way conflicts with § 226.4(d), which provides that a charge for honoring checks "which overdraw or increase an overdraft in a checking account is not a finance charge unless the payment of such checks and the imposition of such finance charge were previously agreed upon in writing." That section relates only to regular demand deposit accounts which carry no credit features and in which a bank may occasionally, as an accommodation to its customer, honor a check which inadvertently overdraws that account. Staff believes that § 226.4(d) has no applicability to those credit accounts which involve a prearranged line of credit privilege.

On the other hand, where such an overdraft is accorded the same treatment as an overdraft of a regular checking account without overdraft privileges, then a fee assessed for honoring that check need not be treated as a finance charge. Thus, if the bank takes the same customer notification and collection action with respect to such overdrafts as it takes with respect to overdrafts in regular checking accounts without overdraft privileges, a charge imposed for honoring the overdraft would not constitute a finance charge.

With regard to the question of whether the overdraft fee should be disclosed as an "other charge" under § 226.7(a)(6), assuming it is not a finance charge, staff believes that this disclosure is not required. Where the overdraft is not treated as part of the credit plan and the fee assessed for honoring it is identical to the fee charged on an overdraft of a checking account without a credit feature, the fee would not seem to be an element of the credit plan, but rather would seem to be related to the basic checking account agreement. Under these circumstances, the fee would not, in staff's opinion, come within the definition of an "other charge" to be disclosed under § 226.7(a)(6).

Since the questions you ask do not appear to raise significant policy questions or involve substantial ambiguities under the regulation, staff believes that issuance of a Board interpretation is inappropriate. This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation. The interpretation relates solely to the specific question presented. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR Part 226, FC–0059

§ 226.13(1) Card issuer may require merchant who honors the card to maintain or designate an account solely for reflecting transactions and payments involving the use of the card where such account is essential to the credit card plan.

APRIL 1, 1977.

This is in reply to your letter of * * *, in which you requested an official staff interpretation regarding § 226.13(1)(1)(ii) of Regulation Z. That section prohibits a credit card issuer from requiring any person who honors the card issuer's credit card to open or maintain a deposit account or procure any other service not essential to the operation of the credit card plan from the card issuer or any other person as a condition of participation in the credit card plan. You ask whether this section prohibits a card issuer from requiring a merchant who honors the card (1) to open an account solely for the purpose of crediting the merchant with purchases or other extensions of credit and debiting the merchant in the case of a debit memorandum, such as for a return or (2) to designate an existing account for such purpose. No minimum balance or service would be required on the limited purpose accounts.

In staff's view, § 226.13(1)(1)(ii) does not prohibit a card issuer from requiring a merchant who honors the credit card to open or maintain such an account solely for the purpose of reflecting payments to the merchant for the extensions of credit and facilitating any debits or charge-backs from the merchant to the bank, when necessary. Section 226.13(1)(1)(ii) prohibits the card issuer from requiring that an account be opened or maintained by the merchant only where the account is not essential to the credit card plan. To the extent that the functions served by the accounts which you discuss in your letter are essential to the credit card plan, staff believes that it is permissible to require merchants who honor the card to open such limited purpose accounts or designate existing accounts to be used for such purposes.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues outlined herein. I trust that you will find this helpful.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, April 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–12552 Filed 5–2–77;8:45 am]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 329—INTEREST ON DEPOSITS

Individual Retirement Accounts ("IRA") and Keogh (H.R. 10) Plans: Correction

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final Rule; correction.

SUMMARY: In F.R. Doc. 11934, published on page 21272 in the FEDERAL REGISTER on Tuesday, April 26, 1977 in column 2 in the second paragraph under Supplementary Information, the citation in the first sentence should read 26 U.S.C. 401 and 408 rather than 12 U.S.C. 401 and 408.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Room 6108, Washington, D.C. 20429, 202–389–4324.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77–12614 Filed 5–2–77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS DEPARTMENT OF COMMERCE

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

Fee Structure for Special Population Censuses

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is authorized to make special statistical surveys and studies, and to perform other specified services upon payment of the cost thereof. This change is being made to amend the fee structure for special population censuses.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

George Hurn, Chief, Special Census Branch, Demographic Census Staff, Bureau of the Census, Washington, D.C. 20233, 301–763–5806.

SUPPLEMENTARY INFORMATION: The following § 50.10 replaces § 50.10 which was published in the FEDERAL REGISTER on March 1, 1976, (41 FR 8767) and in the Code of Federal Regulations revised as of January 1, 1969, (15 CFR 50.10).

In accordance with the rulemaking provisions of the Administrative Procedures Act, 5 U.S.C. 553, and recommendation 76–5 of the Administrative Conference of the United States, the Bureau finds that notice and opportunity for interested persons to submit written comments (either before or after the promulgation of this amendment) would serve no public interest. Authority to conduct special censuses is granted by 13 U.S.C. 196 which requires the payment "of the actual or estimated cost of each such special census." Because the costs of conducting these censuses have increased, written comments would serve no public interest.

The fees for special censuses are established under the provisions of 13 U.S.C. 196, authorizing the Department of Commerce to make special statistical surveys and studies, and to perform other specified services upon payment of the cost thereof. No transcript of any record will be furnished under authority of this act which would violate existing or future acts requiring that information furnished be held confidential.

The following amended fee schedule is effective May 1, 1977, provided, however, that work will be performed at the previous fee for cost estimates issued at the former rate, if accepted within 90 days after the date of the cost estimate letter.

§ 50.10 Fee structure for special population censuses.

(a) The Bureau of the Census is authorized to conduct special population censuses at the request of and at the expense of the community concerned. To obtain a special population census, an authorized official of the community should write a letter to the Associate Director for Demographic Fields, Bureau of the Census, Washington, D.C. 20233, requesting detailed information and stating the approximate present population. The Associate Director will reply giving an estimate of the cost and other pertinent information.

(b) The fee for a special population census consists of two parts:

(1) Certain local expenses to be paid directly by the community for salary and travel (if necessary) of enumerators and crewleaders, who are hired locally and, unless otherwise furnished, for incidental expenses such as office space, telephone, and the like, and where applicable for social security, State and Federal taxes.

(2) Expenses of the Bureau of the Census for preparation of the enumerator assignment maps, salary, and travel expense of the supervisor or supervisors assigned by the Bureau, the cost of tabulation of results, and office and administrative expenses. The fee structure for this portion of the cost is:

	Bureau fee	Estimated total cost
Population size:		
100	$900	$955.
500	1,135	$1,240 to $1,250.
1,000	1,380	$1,575 to $1,595.
5,000	2,290	$3,180 to $3,355.
10,000	4,095	$6,305 to $6,530.
15,000	4,980	$8,565 to $9,125.
20,000	5,970	$10,740 to $11,475.
25,000	6,790	$13,205 to $14,140.
30,000	7,730	$14,855 to $16,085.
35,000	8,360	$16,895 to $18,360.
40,000	9,480	$19,460 to $21,035.
45,000	9,900	$21,165 to $22,945.

For communities of 50,000 population and over, counties, special geographic areas, and States, regardless of size, an individual estimate will be prepared, and the census will be conducted on an actual cost basis.

Dated: April 27, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

[FR Doc.77–12527 Filed 5–2–77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 721–6; FAP5H5070/R31]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Methoprene

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule permits the feeding of the insect growth regulator methoprene to cattle without a 4-day preslaughter withdrawal period and deletes those portions of the established regulation no longer in effect. This amendment was requested by Zoecon Corp. This rule change will permit the safe use of methoprene in processed feed supplements fed to beef cattle.

EFFECTIVE DATE: Effective on May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Mitchell, Product Manager (PM) 17, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460, 202–426–9425.

SUPPLEMENTARY INFORMATION: On March 1, 1977, the EPA published in the FEDERAL REGISTER (42 FR 11850) a notice of proposed rulemaking to revise 21 CFR 561.282 which provides for the safe use of the insect growth regulator methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2, 4-dodecadienoate) in processed feed supplements for cattle. This notice proposed that the restriction of a 14-day withdrawal period prior to slaughter be deleted and that paragraph (b) and its subdivisions which are no longer in effect be deleted.

Interested persons have been afforded an opportunity to participate in the rulemaking process. No comments or requests for referral to an advisory committee were received.

It is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.). Therefore, the regulation is being established as proposed (A related document concerning the establishment of increased tolerances for residues of methoprene in the fat of cattle and in milk appears elsewhere in today's FEDERAL REGISTER.)

Any person adversely affected by this regulation may, on or before June 2, 1977, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW, Washington DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on May 3, 1977, 21 CFR 561.282 is amended as set forth below.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: April 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

21 CFR 561.282 is revised to read as follows:

§ 561.282 Methoprene.

The feed additive methoprene (isopropyl (*E,E*) - 11 - methoxy - 3,7,11-trimethyl-2,4-dodecadienoate) may be safely used in accordance with the following prescribed conditions:

(a) It is used as a feed additive in the form of mineral and/or protein blocks or other feed supplements in the feed of cattle at the rate of 22.7 to 45.4 milligrams per 100 pounds of body weight per month.

(b) It is used to prevent the breeding of hornflies in manure of treated cattle.

(c) To ensure safe use of the additive, the label and labeling of the pesticide formulation containing this additive shall conform to the label and labeling registered by the U.S. Environmental Protection Agency.

[FR Doc.77–12421 Filed 5–2–77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–311]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule establishes fair market rents for three new market areas in Alaska. Current rental data indicates a need to establish fair market rents for these new areas.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, by calling (202) 472–4810.

SUPPLEMENTARY INFORMATION: Notice was given on December 17, 1976, at 41 FR 55204 that the Department of Housing an Urban Development (HUD) was proposing to amend Title 24 of the Code of Federal Regulations by incorporating in Part 888, Subpart A, additional Schedules A, "Fair Market Rents for New Construction and Substantial Rehabilitation (including Housing Finance and Development Agencies Program)" for the preceding market areas.

HUD has received no comments in reponse to the December 17, 1976, publication; therefore, the Fair Market Rents as appearing therein are adopted without change.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Room 10141, Department

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of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, Subpart A of Part 888 is amended by inserting the following additional Schedules A in the document published at 41 FR 14717.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d).)

Issued on April 15, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These Fair Market Rents have been trended ahead two years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-Bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units and (3) single room occupancy dwelling units are those for 0-Bedroom units of the same type.

Area office, Anchorage, Alaska; region X—Seattle

Market area	Structure type	Number of bedrooms				
		0	1	2	3	4 or more
Barter Island, north coastal area	Detached		640	703	773	851
	Semidetached/row		621	683	751	826
	Walkup	548	603	663	729	802
	Elevator					
Coastal area, north of Aleutians	Detached		640	703	773	851
	Semidetached/row		621	683	751	826
	Walkup	548	603	663	729	802
	Elevator					
Inland area, north of Aleutians	Detached		640	703	773	851
	Semidetached/row		621	683	751	826
	Walkup	548	603	663	729	802
	Elevator					

[FR Doc.77-12538 Filed 5-2-77;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 9—STABILIZATION OF CONSTRUCTION INDUSTRY WAGES AND PRICES UNDER EXECUTIVE ORDER 11588

Removal of Part

AGENCY: Department of Labor.

ACTION: Removal of final rule.

SUMMARY: The Department of Labor is removing its regulations that governed the Construction Industry Stabilization Committee because of the expiration of the law and revocation of the Executive Order on the basis of which it was issued.

SUPPLEMENTARY INFORMATION: The Construction Industry Stabilization Committee was established under the authority of Executive Order 11588 (36 FR 6339), which in turn was issued under the authority of the Economic Stabilization Act of 1970 (Pub. L. 91-379; 84 Stat. 799). Part 9 of Title 29 was issued by the Secretary of Labor under the authority delegated in Executive Order 11588.

The Economic Stabilization Act of 1970 expired on April 30, 1974. By Executive Order 11788 dated June 18, 1974 (39 FR 22113), the President provided for the orderly termination of the Economic Stabilization Program. The Construction Industry Stabilization Committee was abolished by Section 7 of Executive Order 11788 and Executive Order 11588 was revoked by Section 10 of Executive Order 11788.

In view of the expiration of the Economic Stabilization Act of 1970, the abolition of the Construction Industry Stabilization Committee and the revocation of the Executive Order which created it, Part 9 of Title 29 is removed from the Code of Federal Regulations.

Signed at Washington, D.C., on this 26th day of April, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-12660 Filed 5-2-77;8:45 am]

PART 40—FARM LABOR CONTRACTOR REGISTRATION

Exemption of Additional Categories From Coverage of Farm Labor Contractor Registration Act

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment Standards Administration is amending its regulations under the Farm Labor Contractor Registration Act by exempting additional categories from coverage by the Act. The amendment to the regulations is being made to reflect congressional amendment of the Act.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul E. Myerson, Counsel for Employment Standards, Office of the Solicitor, Room N2464, New Department of Labor Bldg., Washington, D.C. 20210, phone 202-523-8244.

SUPPLEMENTARY INFORMATION: Public Law 94-561 amended 7 U.S.C. 2042(b) by adding a new subparagraph 9 thereto. This subparagraph exempts from the coverage of the Act:

(9) Any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.

By this FEDERAL REGISTER document 29 CFR 40.2(b) is amended to add a new subparagraph (9) which sets out this exemption to the Farm Labor Contractor Registration Act regulations, thereby conforming this Department's regulations to the law. As this amendment to Part 40 merely reflects congressional amendment of the Act, notice and public comment is unnecessary and this amendment is effective on May 3, 1977.

This document was prepared under the direction and control of Donald S. Shire, Associate Solicitor, Division of General Legal Services, Office of the Solicitor, room N2464, New Department of Labor Bldg., Washington, D.C. 20210, phone 202-523-8286.

Part 40 of Title 29 is amended by adding to § 40.2(b) a new subparagraph (9), with editorial amendments to subparagraphs (7) and (8), as follows:

§ 40.2 Definitions.

* * * * *

(b) The term "farm labor contractor" means * * *. The term shall not include—

* * * * *

(7) Any common carrier or any full-time regular employee thereof engaged solely in the transportation of migrant workers;

(8) Any custom combine, hay harvesting, or sheep shearing operation; or

(9) Any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.

* * * * *

Signed at Washington, D.C. on this 25th day of April, 1977.

WARREN D. LANDIS,
Acting Administrator.

[FR Doc.77-12717 Filed 5-2-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 721-7; PP 6F1801/R127]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methoprene

AGENCY: Office of Pesticide Program, EPA.

ACTION: Final rule.

SUMMARY: This rule increases the established tolerances for residues of methoprene in the fat of cattle and in milk. This amendment was requested by Zoecon Corp. This rule will provide for the safe use of methoprene fed to beef cattle.

EFFECTIVE DATE: Effective on May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Mitchell, Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC, 202-426-9425.

SUPPLEMENTARY INFORMATION: On March 1, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 11850) in response to a pesticide petition (PP 6F1801) submitted to the Agency by Zoecon Corp., 975 California Ave., Palo Alto CA 94304. This petition proposed that 40 CFR 180.359 be amended by increasing the established tolerances for residues of the insecticide methoprene (isopropyl (*E,E*-)-11 - methoxy - 3,7,11 - trimethyl - 2,4-dodecadienoate) in the raw agricultural commodities fat of cattle from 0.1 part per million (ppm) to 0.3 ppm and in milk from 0.01 ppm to 0.05 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.359 should be adopted without change, and it has been determined that this regulation will protect the public health. (A related document concerning the deletion of the 14-day preslaughter withdrawal period for beef cattle fed methoprene-treated feed appears elsewhere in today's FEDERAL REGISTER.)

Any person adversely affected by this regulation may, on or before June 2, 1977, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on May 3, 1977, Part 180, Subpart C, § 180.359 is amended as set forth below.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2).))

Dated: April 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

40 CFR Part 180, Subjart C, § 180.359 is amended by: (1) increasing the established tolerances for residues of the pesticide in the fat of cattle and in milk, (2) deleting the established tolerance in the meat and meat byproducts of cattle, and (3) editorially restructuring the section into an alphabetized columnar listing, to read as follows:

§ 180.359 Methoprene; tolerances for residues.

Tolerances are established for residues of the insect growth regulator methoprene (isopropyl (*E,E*) - 11 - methoxy - 3,7,11 - trimethyl-2,4-dodecadienoate) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.3
Milk	0.05

[FR Doc.77-12420 Filed 5-2-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5617]

[U-30472]

UTAH

Emergency Withdrawal of Critical Environmental Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This public land order withdraws 26,927.24 acres of land in the Deep Creek Mountains area and reserves them for the protection of the critical environment area.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, Natural Resource Specialist, Division of Lands and Realty, Bureau of Land Management, Washington, D.C. 20240, 202-343-8731.

By virtue of the authority contained in section 204(e) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701, 1714 (hereinafter referred to as the Act), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, and reserved for the protection of Deep Creek Mountains critical environment area:

SALT LAKE MERIDIAN

T. 11 S., R. 17 W.,
Sec. 18, lots 3 and 4, E½, E½SW¼;
Sec. 19, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼;
Sec. 30, S½ lot 1, lots 2, 3, 4;
Sec. 31, W½ lot 1, W½ lot 2, W½ lot 3.
T. 11 S., R. 18 W.,
Sec. 17, N½, E½SW¼, SE¼;
Sec. 18, E½NE¼;
Secs. 19 and 20;
Sec. 21, N½, SW¼, N½SE¼, SE¼SE¼;
Sec. 22, E½SE¼, S½SW¼;
Sec. 23, NE¼, S½;
Sec. 24;
Sec. 25, lots 3 and 4, W½;
Sec. 26;
Sec. 27, S½, S½NE¼, NE¼NE¼, NW¼;
Secs. 28 through 31, 33 through 35.
T. 12 S., R. 18 W.,
Sec. 1, lots 3 through 6, 9 through 16, S½;
Secs. 3 through 8;
Sec. 9, lots 1 through 6, SW¼;
Sec. 10;
Sec. 11, N½N½;
Sec. 12, N½N½;
Secs. 17 through 20;
Sec. 29, lots 1 and 2, W½E½, W½;
Secs. 30 and 31.
T. 13 S., R. 18 W.,
Sec. 6.
T. 12 S., R. 19 W.,
Sec. 1;
Secs 12 and 13;
Sec. 24, E½;
Sec. 25, E¼, SW¼SW¼;
Sec. 35, S½SE¼.
T. 13 S., R. 19 W.,
Sec. 1.

The areas described aggregate 26,927.24 acres in Juab County.

2. The purpose of this withdrawal is to protect and preserve the following rare species and resources: (a) Snake Valley cutthroat trout (Salmo clarkii spp) that remain in Birch Creek and Trout Creek; (b) the remaining watersheds in Deep Creek Range that may contain remnant populations and potential habitat to allow for the study and reestablishment of the Snake Valley cutthroat trout; (c) location of Grape fern (Batrychium lauceolatum); (d) Bristlecone pine area (Pinus logaeva); (e) location of Stone fly (Pteronarcys princeps); (f) the habitat area required for support of the reintroduction of Big Horn Sheep; (g) archeological sites dating back 9,000 years which are the key to scientific research of Great Basin Archeology; (h) outstanding scenic resources.

3. This emergency withdrawal shall remain in effect for a period not to exceed three years unless extended under the provisions of subection (c)(1) or (d), whichever is applicable, and (b)(1) of section 204 of the Act.

GUY R. MARTIN,
Assistant Secretary of the Interior.

APRIL 23, 1977.

[FR Doc.76-12598 Filed 5-2-77;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6710-1, CH 11]

PART 1067—FUNDING OF CSA GRANTEES

Applying for a Grant Under Title II, Sections 221, 222(a) and 231 of the EOA Correction

In FR Doc. 77-10269, appearing at page 18402, in the issue of Thursday, April 7, 1977, the table appearing on page 18403 and corrected at 42 FR 21292, in the issue of Tuesday, April 26, 1977, had typographical errors. For the convenience of the reader, the table is reprinted as set forth below:

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Required documents

Sections of the act under which funds requested	Applicant	Forms to be submitted prior to formal application [1]						Forms to be submitted at time of formal application						When delegating programs		
		424	3	5	393	394	395	424	25	25a	419	84 [6]		85	87	11
I. 221:																
A. Initial funding.	Community action agency.	X	X	X	.....	Opt.	X	X	X	X	X	X		X	X	X
	Limited purpose agency (including SEOO's).	X	----	X [2]	X [3]	X	X [4]	X	X	X	X	X		X	X	X
B. Refunding...	Community action agency.	X	X [3]	X [3]	.....	Opt.	X	X	X	X	X	X		X	X	X
	Limited purpose agency (including SEOO's).	X	----	X [3]	----	X	X [4]	X	X	X	X	X		X	X	X
II. 222:																
A. Initial funding.	Community action agency.	X	----------			Opt.	X [4]	X	X	X	X	X		X	X	X
	Limited purpose agency (including SEOO's).	X	----	X [3]	X	Opt.	X [4]	X	X	X	X	X		X	X	X
B. Refunding...	Community action agency.	X	----------			Opt.	X [4]	X	X	X	X	X		X	X	X
	Limited purpose agency (including SEOO's).	X	----------			Opt.	X [4]	X	X	X	X	X		X	X	X
III. 231	State economic opportunity offices.	X	----------			Opt.	X [4]	X	X	X	X	.....		X	X	X

[1] For refundings, submission will be 150 days prior to PYE.
[2] Except SEOO's.
[3] Keep on file.
[4] Except sec. 1.
[5] Except Program Account 01.

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-128]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegations Under the Federal Wage System

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to delegate to the Commandant, U.S. Coast Guard, and the Assistant Secretary for Administration authority to develop, coordinate, and issue wage schedules for trades, crafts, and laboring positions under the Federal Wage System. This change is being made because nonappropriated fund activities are not conducted by any part of the Department of Transportation except the Coast Guard.

EFFECTIVE DATE: This amendment is effective May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Gail A. Batt, Personnel Management Specialist, Office of Personnel and Training, Department of Transportation, Washington, D.C. 20590, 202-426-2164.

SUPPLEMENTARY INFORMATION: The persons principally responsible for drafting this document are: Program—Gail A. Batt, Office of Personnel and Training; legal—Robert I. Ross, Office of the General Counsel.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.44, a new subparagraph (8) is added to paragraph (e) to read as follows:

§ 1.44 Reservations of authority.

* * * * * * *

(e) *Personnel.* * * *

(8) Authority to develop, coordinate, and issue wage schedules under the Federal Wage System, except as delegated to the Commandant of the Coast Guard at § 1.46.

* * * * * * *

2. In § 1.46, a new paragraph (v) is added to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * * * *

(v) Issue wage schedules for trades, crafts, and laboring employees in nonappropriated fund activities.

3. In § 1.59, a new subparagraph (9) is added to paragraph (b) to read as follows:

§ 1.59 Delegations to Assistant Secretary for Administration.

* * * * * * *

(b) *Personnel.* * * *

(9) Develop, coordinate, and issue wage schedules for Department employees under the Federal Wage System, except as delegated to the Commandant of the Coast Guard at § 1.46.

* * * * * * *

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).

Issued in Washington, D.C. on April 21, 1977.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc.77-12709 Filed 5-2-77;8:45 am]

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-149; Amdt. Nos. 172-35, 175-4]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATION REGULATIONS

PART 175—CARRIAGE BY AIRCRAFT

Air Transportation of Limited Quantities of Low-Level Radioactive Materials; Exemption Renewal

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: The Materials Transportation Bureau (MTB) is renewing for two years the limited quantity exception for air transportation of materials exhibiting very low levels of radiation. These materials do not present a significant hazard to passengers and crew of an aircraft. The intended effect of this action is to permit continued transportation by passenger aircraft of these materials under existing restrictions.

DATES: This amendment is effective May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. C. Hugh Thompson, Director, Office of Hazardous Materials Operations, 2100 Second Street, SW., Washington, D.C. 20590. Phone: 202-426-0656.

SUPPLEMENTARY INFORMATION: By notice (42 FR 16459, March 28, 1977) the MTB proposed to renew the expiring exemption found at 49 CFR 175.10 (a)(6). Twelve comments were received which may be grouped as follows:

(1) Objection to imposition of the proposed shipping paper requirements for § 173.391(a) materials, and request for a public hearing on that subject.

(2) Objection to continuation of surface shipping paper requirements for § 173.391 (b) and (c) materials in light of the proposed continuance of air shipping paper exceptions for § 173.391 (b) and (c) materials;

(3) Request for amendment of § 172.203(d)(1)(iii) to allow alternative use of a statement of maximum permitted activity in place of the actual activity per package;

(4) Request for a permanent regulation instead of an exemption renewal;

(5) General support for the March 28 proposals.

There were not received any objections to basic continuation of the exemption. Given the public interest in matters related to the exemption, such as shipping paper requirements for surface transportation as well as for transportation by air, the MTB has decided to limit final action under this docket to the exemption itself and to consider the question of shipping paper requirements and the request for a public hearing as separate matters under a new docket. A notice of proposed rulemaking for that purpose will appear in a subsequent issue of the FEDERAL REGISTER.

The exemption itself is authorized by § 107(a) of the Hazardous Materials Transportation Act of 1974 (Title I of Pub. L. 93-633; 49 U.S.C. 1806(a)) and necessitated by § 108(b) of that Act (49 U.S.C. 1807(b)). It is predicated on the very limited hazards posed by those materials meeting the criteria of § 173.391 (a), (b), and (c). Because the existing exemption, which relieves a restriction stated in the Act and in § 175.700(d), will expire on May 3, 1977, an effective date of less than 30 days following this publication is necessary to avoid disrupting exempted shipments. Continuation of the exemption will have a negligible environmental impact and will not impose any additional costs on shippers, carriers or consumers.

Primary drafters of this document are Douglas A. Crockett and Alfred W. Grella.

In consideration of the foregoing, Parts 172 and 175, Title 49, Code of Federal Regulations, are amended as follows:

§ 172.204 [Amended]

1. In § 172.204, paragraph (c)(4) is amended by changing the last sentence to read "* * * Prior to May 3, 1979, this provision does not apply to materials meeting the requirements of § 173.391 (a), (b) or (c) of this subchapter in effect on May 3, 1977."

2. In § 175.10, paragraph (a)(6) is revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(6) Prior to May 3, 1979, radioactive materials which meet the requirements of § 173.391 (a), (b) or (c) of this subchapter in effect on May 3, 1977.

* * * * * * *

3. In § 175.700, paragraph (d) is amended to read as follows:

§ 175.700 Special requirements for radioactive materials.

* * * * * * *

(d) Except as provided in this paragraph, no person may carry aboard a passenger-carrying aircraft any radioactive material other than a radioactive material intended for use in, or incident to, research or medical diagnosis or treatment. Prior to May 3, 1979, this prohibition does not apply to materials which meet the requirements of § 173.391 (a), (b) or (c) of this subchapter in effect on May 3, 1977.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on April 28, 1977.

JAMES T. CURTIS, JR.,
Director, Materials Transportation Bureau.

[FR Doc.77-12832 Filed 5-2-77;9:29 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1240; Amdt. 2]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Kansas City Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (Amdt No. 2 to Service Order No. 1240).

SUMMARY: This amendment extends for six months an emergency order issued April 9, 1976, which authorized the Chicago and North Western Transportation Company (CNW) to operate an unused yard of the Kansas City Southern Railway Company (KCS) at Kansas City, Missouri. Increases in traffic on the CNW in the Kansas City area have resulted in severe congestion and delays to shipments in the Kansas City terminals of that line. The adjoining Henning Street Yard of the KCS is no longer needed by that line because of changes in operating patterns.

Use of this yard by the C&NW enables that line to move traffic through Kansas City without the excessive delays previously encountered.

DATES: Effective 11:59 p.m., April 30, 1977. Expires 11:59 p.m., October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7840, TLX 89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of April, 1977.

Upon further consideration of Service Order No. 1240 (41 FR 15698 and 48343), and good cause appearing therefor:

It is ordered, That S.O. No. 1240 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1240 Chicago and North Western Transportation Co. authorized to operate over tracks of the Kansas City Southern Railway Co.

* * * * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4) and 17(2)).)

[S.O. No. 1102; Amdt. 11]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co. and Consolidated Rail Corp. Authorized To Assume Joint Supervisory Control Over Railroad Operations of Albany Port District Commission, Albany, N.Y.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (Amdt. No. 11 to Service Order No. 1102).

SUMMARY: This order extends for six months authority granted to Consolidated Rail Corporation (ConRail) and the Delaware and Hudson Railway (D&H) to assume operating control of the railroad facilities of the Albany, New York, Port District. For financial reasons, the Port District relinquished control of rail operations serving the port facilities. In order to provide continued rail service to industries and port facilities served by these tracks, ConRail and the D&H have been granted temporary authority to assume operating control of these properties. Applications for the formation of a new corporation to acquire and operate these properties and for ConRail and the D&H each to purchase one half of the stock in the new corporation are pending in Finance Dockets 28069 and 28072, respectively.

DATES: Effective 11:59 p.m., April 30, 1977. Expires 11:59 p.m., October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275-7840, TLX89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of April, 1977.

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Amendment No. 2 to Service Order No. 1240.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12683 Filed 5-2-77;8:45 am]

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Upon further consideration of Service Order No. 1102 (37 F.R. 13697, 28634; 38 F.R. 17843, 33086, 33302; 39 F.R. 18655, 41853; 40 F.R. 24005 and 55860; 41 F.R. 15414, 22067, and 48122), and good cause appearing therefor:

It is ordered, That S.O. No. 1102 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1102 Delaware and Hudson Railway Co. and Consolidated Rail Corp. authorized to assume joint supervisory control over railroad operations of Albany Port District Commission, Albany, New York.

* * * * *

(e) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Amendment No. 11 to Service Order No. 1102.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–12682 Filed 5–2–77;8:45 am]

[Corrected S.O. No. 1230; Amdt. 3]

PART 1033—CAR SERVICE

Illinois Central Gulf Railroad Co. Authorized To Operate Over Tracks of Waterloo Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (Amdt No. 3 to Service Order No. 1230).

SUMMARY: This amendment extends for six months an emergency order issued August 24, 1976, which authorized the Illinois Central Gulf Railroad Company (ICG) to operate over tracks of the Waterloo Railroad (WLO) between Cedar Rapids, Iowa, and Shaver, Iowa. That portion of the WLO extending between Gilbertsville, Iowa, and Shaver has been abandoned by authority of the Commission in Docket AB–124. The order authorizes the ICG to operate over that portion of the WLO in order to provide continued rail service to shippers located adjacent thereto.

DATES: Effective 11:59 p.m., April 30, 1977. Expires 11:59 p.m., October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7840, TLX 89–2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of April 1977.

Upon further consideration of Corrected Service Order No. 1230 (41 FR 8347, 36209, and 42 FR 12057), and good cause appearing therefor:

It is ordered, That corrected S.O. No. 1230 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1230 The Illinois Central Gulf Railroad Co. authorized to operate over tracks of the Waterloo Railroad Co.

* * * * *

(g) Expiration date. The provisions of this order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77–12681 Filed 5–2–77;8:45 am]

[S.O. No. 1163; Amdt. 9]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (Service Order No. 1163).

SUMMARY: This order extends for three months an emergency order issued by the Commission authorizing the Missouri Pacific Railroad (MP) to operate over certain tracks owned by the Union Pacific Railroad (UP) at Cochrane, Kansas. The UP has abandoned its line serving Cochrane. Acquisition by the MP of a portion of this line has been approved by the Commission in order to provide continued rail service to shippers located adjacent thereto. Transfer of ownership of the track to the MP will be completed upon release of the property from the mortgage by the mortgage trustee of the UP.

DATES: Effective 11:59 p.m., April 30, 1977. Expires 11:59 p.m., June 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7840, TLX 89–2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of April, 1977.

Upon further consideration of Service Order No. 1163 (38 FR 32259; 39 FR 18280, 41854; 40 FR 24005, 56443; 41 FR 22067, 48343, 56652, and 42 FR 6585), and good cause appearing therefor:

It is ordered, That S.O. No. 1163 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1163 Missouri Pacific Railroad Co. authorized to operate over tracks of Union Pacific Railroad Co.

* * * * *

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., July 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., April 30, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads

subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

Amendment No. 9 to Service Order No. 1163.

By the Commission, Railroad Service Board, members, Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–12684 Filed 5–2–77;8:45 am]

PART 1041—INTERPRETATION; CERTIFICATES AND PERMITS

Determination Not To Institute Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision not to implement recommendation 34 of the Commission's staff Blue Ribbon Panel.

SUMMARY: Recommendation 34 of the Blue Ribbon Panel would expand the corridor that regular route motor carriers of passengers are presently allowed to serve from 1 to 3 miles. After careful consideration the Commission has determined that implementation of this recommendation is not warranted.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, 202–275–7292.

SUPPLEMENTAL INFORMATION: The Blue Ribbon Panel recommended that 49 Code of Federal Regulations (CFR) 1041.12 be revised to allow carriers of passengers holding all intermediate point authorization to serve all points within 3 miles of authorized routes (within necessary exceptions). After due consideration the Commission has determined that the recommendation should not be adopted.

In Administrative Ruling No. 102, 82 M.C.C. 581 (1960), as codified at 49 CFR 1041.12, the Commission found, in pertinent part, that common carriers by motor vehicle holding a certificate authorizing the transportation of passengers between two or more points over a defined route or segment thereof, and authorizing service at all intermediate points thereon may serve (a) all municipalities situated wholly within 1 airline mile of the highway or highways composing the carrier's authorized routes, portions, or segments thereof, and (b) all unincorporated areas within 1 airline mile of the highway or highways composing the carrier's authorized service routes, portions, or segments thereof. Recommendation 34 of the Blue Ribbon Panel would expand the corridor that regular route motor carriers of passengers are presently allowed to serve from 1 to 3 miles. After careful consideration the Commission has determined that implementation of this recommendation is not warranted.

Various factors have led to this conclusion. First, present indications are that motor bus operators are not experiencing any difficulty operating within the existing 1-mile corridor within which they may operate. Neither the regular route passenger motor carrier industry nor the general public which the industry serves have complained that the present corridor is too restrictive.

Second, common carriers of passengers which hold authority to operate over regular routes, may, pursuant to the Passenger Carrier Superhighway Rules, 49 CFR 1042.1, seek authority to deviate from their regular routes and operate over adjacent superhighways. This procedure will, in certain cases, allow carriers to serve territories commensurate with the expanded corridors contemplated by recommendation 34. Despite the lessened burden of proof involved in a Superhighway Deviation application, and the expanded service territory obtainable by such a filing, only a minimal number of such applications have been filed since the regulations in 49 CFR 1042.1 went into effect in January 1970.

By the Commission (Commissioners Murphy and Brown are of the opinion that the notice is unnecessary and Commissioner Hardin voted not to issue the draft notice).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–12619 Filed 5–2–77;8:45 am]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. 73, MC–1]

PART 1320—EXTENSION OF CREDIT TO SHIPPERS BY RAIL CARRIERS

PART 1322—EXTENSION OF CREDIT TO SHIPPERS BY MOTOR CARRIERS

Provisions for Payment of Rates and Charges

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission has adopted certain minor technical changes in the rail credit regulations. These included converting hours into days, requiring equal credit periods for less-than-carload (LCL) and carload traffic, and eliminating unnecessary provisions. The changes are for the purpose of simplifying the readability of the rules and to provide style consistency with the motor carrier credit regulations.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202–275–7693.

SUPPLEMENTARY INFORMATION: *Background:* Pursuant to parts I and II of the Interstate Commerce Act (sections 3(2) and 223, respectively), and section 553 of the Administrative Procedure Act (5 U.S.C. 553), a rulemaking proceeding was instituted by the Commission on February 14, 1973, for the purpose of studying recent developments which may have caused or significantly contributed to difficulties being encountered by certain carriers subject to our jurisdiction in the proper extension of credit and the timely collection of their lawful charges; and also, for the purpose of determining what, if any, is the effect various practices engaged in by shippers and other parties have upon such carrier compliance, and what corrective measures should be implemented to insure greater compliance with our credit regulations.

In the report and order served on August 29, 1975, in the above-entitled proceeding (350 I.C.C. 527), the credit rules in parts 1320 and 1322 of Chapter X of Title 49 of the Code of Federal Regulations were modified to: (1) Provide a uniform period of free credit for rail and motor carrier freight bill payments; (2) provide for an extended credit period; and (3) otherwise eliminate the possibility of discriminatory treatment of shippers by carriers. Numerous petitions for reconsideration of this report and order were filed by carriers, shippers and other interested parties, and therefore in an order served September 19, 1975, the Commission stayed the effective date of the August 29, 1975, order. In a subsequent order served July 2, 1976, the Commission granted the petitions for reconsideration and ordered an informal conference to be held on July 28, 1976, to provide interested parties the opportunity of presenting their views as to the problems arising under the revised rules.

Proceeding held open: Upon consideration of all the evidence of record, including the petitions for reconsideration and the arguments of the various parties, it is apparent that the proposed rules would be difficult to implement and enforce without modification. However, it is also apparent that some shippers are not paying their freight bills within the existing credit time limits which creates a potentially discriminatory situation. Such opportunities for unlawfulness should not go uncorrected, therefore, we will hold this proceeding open for one year. During this period, our field staff will investigate and compile data on the frequency and magnitude of violations of the existing credit rules. Violations discovered by the Bureau of Accounts will be reported to the Bureau of Investigation and Enforcement, and violators vigor-

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ously pursued. In addition, the data gathered will be reviewed by the Commission to determine what action should be taken to prevent violations of the Interstate Commerce Act. We will also further investigate the feasibility of implementing the proposed rules or modifications thereof, as necessary to insure compliance with the provisions of the act, and whether or not there are violations of the credit rules by the use of transport clearing organizations.

Changes in rule: Certain technical changes in the rail credit rules were considered and accepted in the report and order served August 29, 1975. These minor changes (converting hours into days, requiring equal credit periods for less-than-carload (LCL) and carload traffic, and eliminating unnecessary provisions), as set forth hereafter, are warranted and hereby implemented.

These changes shall become effective May 3, 1977, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission.

Issued at Washington, D.C., April 15, 1977.

ROBERT L. OSWALD,
Secretary.

Part 1320 of Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

(1) Section 1320.1 be, and it is hereby, amended to read as follows:

§ 1320.1 Carrier may extend credit to shipper.

The carrier, upon taking precautions deemed by it to be sufficient to assure payment of the tariff charges within the credit periods specified in this part, may relinquish possession of freight in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay such charges, such person herein being called shippers, for a period of 4 days (or 5 days where retention or possession of freight by the carrier until tariff rates and charges thereon have been paid will retard prompt delivery or will retard prompt release of equipment or station facilities) as set forth in this part. In regard to traffic of nonprofit shippers' associations and shippers' agents, within the meaning of section 402(c) of part IV of the Interstate Commerce Act, the carriers shall require such organizations to furnish the names of the beneficial owners of the property in the bills of lading or at least have the bills of lading incorporate by reference a document containing the names of the beneficial owners.

§§ 1320.2—1320.4 [Removed]

(2) Sections 1320.2, 1320.3 and 1320.4 be, and they are hereby, canceled.

(3) Section 1320.8 be, and it is hereby, amended to read as follows:

§ 1320.8 Periods of credit following delivery.

Where the freight bill is presented to the shipper prior to, or at the time of, delivery of the freight, the 4- and 5-day period of credit shall run from the first 12 o'clock midnight following the delivery of the freight.

(4) Section 1320.9 be, and it is hereby, amended to read as follows:

§ 1320.9 Periods of credit following presentation of freight bill.

Where the freight bill is presented to the shipper subsequent to the time the freight is delivered, the 4- and 5-day periods of credit shall run from the first 12 o'clock midnight following the delivery of the freight bill.

§ 1320.14 [Removed]

(5) Section 1320.14 be, and it is hereby, canceled.

(6) Section 1320.15 be, and it is hereby, amended to read as follows:

§ 1320.15 Computation of credit period for payment of export traffic rates.

The period of 4 days fixed for the payment of transportation rates and charges, insofar as applicable to export traffic which is loaded into vessels direct from railroad cars or piers or from such cars or piers by means of lighters, may be computed from the first 4 p.m. following the time when the vessel is completely loaded, freight bills to be delivered to vessel owner or his representative not later than the day on which the loading of the vessel is completed.

(7) Section 1320.16 be, and it is hereby, amended to read as follows:

§ 1320.16 Computation of period for payment of freight rates at interior California points not served by railroads.

The period of 4 days fixed for the payment of transportation rates and charges, insofar as applicable to freight from and to Bartle, Calif., when destined to or from interior points described in the report, in Siskiyou, Shasta, and Modoc Counties, Calif., not served by railroad, may be computed from the first 4 p.m. following 26 days after the mailing by petitioner of the freight bills for such traffic.

[FR Doc.77-12572 Filed 5-2-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis regulations to update the current status of various counties and states which have been designated as Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Maryland, Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they again come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Montgomery County in Iowa.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Henry and Lee Counties in Alabama; Dawson and Henry Counties in Georgia; Massac County in Illinois; Clayton County in Iowa; Dallas, Douglas, and Iron Counties in Missouri; and Cheatham, Decatur, and Hardin Counties in Tennessee.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Pope and Williamson Counties in Illinois.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*—*Alabama,* Dale, Geneva.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clinton, Dallas, Davis, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Johnson, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Tama, Taylor, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Graham, Greeley, Haskell, Hodgeman, Johnson, Lane, Logan, Marshall, Pawnee, Phillips, Riley, Scott, Sheridan, Thomas, Trego, Wallace, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Franklin, Gasconade, Hickory, Jackson, Laclede, Lewis, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Dickson, Fentress, Grainger, Greene, Grundy, Hancock, Jefferson, Johnson, Knox, Lake, Meigs, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sampete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Baranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comeiro, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*—*Alabama.* Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison,

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Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Butte, Cassia, Clark, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Teton, Twin Falls.

Illinois. Massac.

Iowa. Allamakee, Appanoose, Cerro Gordo, Clayton, Crawford, Decatur, Delaware, Guthrie, Harrison, Jasper, Jefferson, Jones, Monroe, Ringgold, Sac, Sioux, Story, Union, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Grant, Gray, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Wabaunsee, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Mississippi, Monroe, New Madird, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamblen, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lewis, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Van Buren, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwell, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Carolina, Hatillo, Las Piedras, Naguabo.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*—*Missouri:* Morgan. *Puerto Rico:* Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f), 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of April 1977.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77–12654 Filed 5–2–77;8:45 am]

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

INSPECTION OF MEAT AND POULTRY PRODUCTS

Realignment of Agency and Program Responsibilities

AGENCY: Department of Agriculture, Food Safety and Quality Service, Meat and Poultry Inspection.

ACTION: Final rule.

SUMMARY: On April 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 20165) transferring the responsibility for the inspection of meat and poultry products from the Animal and Plant Health Inspection Service into a new Food Safety and Quality Service. Accordingly, the provisions of Chapter III, 9 CFR, are amended to change the appropriate references from the Animal and Plant Health Inspection Service to the Food Safety and Quality Service.

EFFECTIVE DATE: March 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6189.

SUPPLEMENTARY INFORMATION: On April 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 20165) transferring the responsibility for the inspection of meat and poultry products from the former Animal and Plant Health Inspection Service into a new Food Safety and Quality Service. Accordingly, the provisions of Chapter III, 9 CFR, are amended as follows, pursuant to said notice and the statutory authority under which the provisions of Chapter III, 9 CFR were issued:

1. The designation of Chapter III of Title 9 is changed to read as set forth in the heading of this document.

2. In § 301.2(d), § 301.2(e), § 301.2(f), § 307.5(a), footnote to § 308.3(h), § 308.5(c), footnote to § 308.8(c), footnote to § 310.9(e)(1), footnotes 1 and 2 to table in § 318.7(c)(4), footnote to § 318.14(b) and (c)(2)(i), § 320.5(a), § 320.7, § 325.11(b)(2), footnote to § 325.13(a)(2), § 325.18(b), footnote to § 325.20(b), § 327.5(a), § 327.6(b), § 327.6(c), § 327.7(h), footnote to § 327.12(c), § 327.14(c), § 327.17, footnote to § 327.21(a)(2), footnote to § 327.21–(b), (c), and (d), and § 331.3(e)(3) of Subchapter A, "Animal and Plant Health Inspection Service" is changed to "Food Safety and Quality Service."

3. In § 350.2(b), § 350.3(a)(4), § 351.2(b), § 351.2(c), § 354.1(c), § 354.1(u), § 354.1(ee), § 354.3, § 354.100(b), § 355.2(b), § 355.2(r), § 355.5, and § 362.3 of Subchapter B, "Animal and Plant Health Inspection Service" is changed to "Food Safety and Quality Service."

4. In § 381.1(b)(3), footnote to § 381.1(b)(27)(ii), § 381.11(a), § 381.17, § 381.34(d), § 381.38(a), § 381.53(a)(3), footnote 2 to § 381.66(d)(8), § 381.135(b), footnote 2 to table in § 381.147(f)(3), footnote to § 381.151(c)(2)(i), § 381.179(a), § 381.181, § 381.194(c), § 381.198, § 381.200(f), § 381.205(c), and § 381.222(d)(3) of Subchapter C, "Animal and Plant Health Inspection Service" is changed to "Food Safety and Quality Service."

5. In § 390.1(b), § 391.1(b), and § 391.1(c) of Subchapter D, "Animal and Plant Health Inspection Service" is changed to "Food Safety and Quality Service."

These amendments are organizational in nature. They reflect the transfer of certain functions of the former Animal and Plant Health Inspection Service to the newly established Food Safety and Quality Service. The amendments do not substantially affect any member of the public. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an Inflation Review Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., on: April 29, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary for
Food and Consumer Services.

[FR Doc.77–12811 Filed 5–2–77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 1, 2, and 3]

ANIMAL WELFARE

Proposed Standards and Regulations for Transportation and Handling, Care, and Treatment in Connection Therewith, of Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Certain Other Warmblooded Animals; Extension of Time

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rulemaking; i.e., extension of comment period.

SUMMARY: This notice extends the time period for submitting written comments on the notice published March 18, 1977 (43 FR 15210–15221), proposing new and revised standards and regulations under the Animal Welfare Act concerning the transportation and handling, care, and treatment in connection therewith, of dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates, and certain other warmblooded animals in commerce. Certain representatives of carriers, breeders, USDA licensed dealers, and other related industries have requested that the comment period be extended in order to give them adequate time to obtain relevant data and information and to develop sound views and comments. This document is to provide an extension of the comment period as requested.

DATE: Comments on or before May 9, 1977.

ADDRESS: Send comments to: Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Animal and Plant Health Inspection Service, Veterinary Services, USDA, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782. (301) 436–8271.

SUPPLEMENTARY INFORMATION: Notice was given March 18, 1977 (42 FR 15210–15221), of proposed new and revised standards and regulations under the Animal Welfare Act concerning the transportation and handling, care, and treatment in connection therewith, of dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and certain other warmblooded animals in commerce to conform to the Animal Welfare Act Amendments of 1976 (Pub. L. 94–279) enacted on April 22, 1976.

This proposal provided for receipt of comments on or before April 22, 1977.

In response to this notice, requests were received from representatives of carriers, breeders, USDA licensed dealers, and other related industries for additional time in which to obtain relevant data and information and to develop sound views and comments. Since the Department is interested in receiving meaningful views and comments, these circumstances are considered justification for an extension of the time period originally allotted for submitting views and comments.

Done at Washington, D.C., this 28th day of April 1977.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-12655 Filed 5-2-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

RETAIL GASOLINE SALES

Pass-Through of Service Station Rent Increases

AGENCY: Federal Energy Administration.

ACTION: Notice of withdrawal of proposed rent guidelines and notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) hereby withdraws a proposal issued on December 24, 1975, calling for public participation in development of service station rent guidelines to aid FEA in determining what rent increases and rental practices might be construed by FEA as constituting a means to obtain prices higher than those permitted under the price regulations.

FEA also hereby gives notice of a proposal to amend its regulations to permit service station rent increases to be passed through in sales at the retail level, without regard to the three cent-per-gallon maximum currently authorized to reflect non-product cost increases; due to the significant increases in service station rents which have occurred over the approximately 18 months since FEA's service station rent regulations were revoked.

DATES: Comments by Monday, June 20, 1977, 4:30 p.m.; Requests to speak by Wednesday, June 8, 1977, 4:30 p.m.; Hearing will be held Tuesday, June 21, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box ME, Washington, D.C. 20461.

Hearing will be held at Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202–254–5201.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Chuck Boehl (Program Office), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202–254–7200.

Richard S. Greene (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202–566–9567.

SUPPLEMENTARY INFORMATION: A. Background; B. Rent Guidelines; C. Proposal for Pass-Through of Rent Increases; D. Comment Procedures.

A. BACKGROUND

Prior to November 11, 1975, FEA and its predecessor agencies regulated gasoline service station rents in conjunction with gasoline prices to the retail dealer. Applicable regulations generally provided that gasoline service station rents were frozen at the "base rent" level (the rent charged under contract terms prevailing on May 15, 1973). Often those contract terms stated a base rent in terms of a cent-per-gallon rate (e.g., two cents per gallon of gasoline sold), and in such cases it was this rate which was frozen under applicable regulations rather than an absolute dollar rental amount.

This system of conjunctive rent control was begun by the Cost of Living Council on August 19, 1973, and, pursuant to the Council's broad authority under the Economic Stabilization Act of 1971, applied initially to all leased real property used in the retailing of gasoline. When the Economic Stabilization Act expired on April 30, 1974, the Federal Energy Office, as successor to the Council, narrowed the scope of these regulations to conform with the price control authority surviving under the Emergency Petroleum Allocation Act of 1973 ("EPAA"), so that, beginning May 1, 1974, rent controls applied only in those cases in which both the lessor and lessee of real property were subject to the petroleum price regulations as refiners, resellers, reseller-retailers or retailers of covered products. Although the EPAA did not provide express authority to regulate service station rents, FEO/FEA took the position that, due to the direct

and inextricable relationship between the prices charged to dealers for gasoline and their service station rents, it was necessary to continue to regulate rental terms in the petroleum retailing industry in order to carry out effectively the EPAA mandate to allocate petroleum products at equitable prices.

On September 30, 1975, FEA issued proposed amendments to the rent regulations (40 FR 47147, October 8, 1975) which, if adopted, would have, among other things, provided for limited rent increases by (1) permitting the base rent to be increased in those cases in which a temporary rent modification agreement was in effect on May 15, 1973, and the circumstances which gave rise to that modification no longer exist, and (2) permitting the lessor to recover increased costs relating to the rental of real property by increasing the rent above the base rent, while permitting the lessee to pass through rent increases above the base rent as a non-product cost increase not subject to the cent-per-gallon maximum otherwise applicable to non-product cost increases under 10 CFR 212.93 (b). In addition, FEA at that time requested comment on how costs related to installation of EPA-mandated vapor recovery equipment were being handled as between lessors and lessees, with a view toward possible modification of the rent increase proposal to take into account these special costs.

On November 11, 1975, the Temporary Emergency Court of Appeals, in the case of *Shell Oil* Co. v. *FEA*, 527 F. 2d 1243, enjoined FEA from enforcing its rent regulations upon Shell on the ground that those regulations, as applied to rentals charged by Shell Oil Co., were beyond the scope of FEA's statutory authority. In reaching this decision, the court commented that FEA possessed regulatory authority outside its rent regulations to deal effectively with the possibility of gasoline price increases "hidden" in rent increases. The court stated that "in any instance in which FEA believes a lessor who supplies gasoline to its lessee has raised its rents as a means of obtaining a higher price for its gasoline that would otherwise be allowed • • •," FEA could take action under 10 CFR 210.62(c), a general provision which prohibits "[a]ny practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter • • •."

FEA subsequently revoked its rent regulations effective November 11, 1975, the date of the *Shell* decision (40 FR 60036, December 31, 1975), in view of the decision in the *Shell* case and in order to assure the equal application of that decision to all firms. At the same time, FEA withdrew the rulemaking then pending concerning rent increases under the rent regulations but save the question of vapor recovery equipment costs for further review and consideration.

FEA also at that time called for public participation in the development of "rent guidelines" to aid FEA in determining what rent increases and rental practices might be construed by FEA as constituting a means to obtain prices higher than those permitted under the regulations in violation of 10 CFR 210.62(c).

B. RENT GUIDELINES

Several factors contributed to the delay in developing rent guidelines and the ultimate decision as reflected in today's action to withdraw the "guidelines" proposal.

First, comment received in response to FEA's proposal was not as useful as FEA would have wished. FEA received only 19 written comments in response to its invitation to the public to participate in the development of rent guidelines under 10 CFR 210.62(c). Five of the comments were nonresponsive (e.g., comments which simply objected to individual rent increases instituted or planned by the lessor concerned, without proposing specific rent guidelines) and eight comments essentially opposed the concept of instituting rent guidelines. Of the remaining comments, most discussed rent guidelines in very broad terms such as permitting rental levels which reflect "a fair return on investment" or the "fair market value" of the leased property. Thus, the comments which actually proposed rent guidelines were either too few to qualify as adequately representing the views of affected segments of the industry or too general to be of significant use to FEA in developing rent guidelines.

Some of the firms which opposed the development of rent guidelines took the position that FEA was merely proposing to do indirectly what the court in the *Shell* case indicated was beyond FEA's authority to do—i.e., control rents charged in the leasing of service station property. However, FEA made it clear that its proposal was not to regulate service station rents per se, directly or indirectly, but only to develop guidelines in aid of its undisputed authority under § 210.62(c), in order to determine whether rent increases or rental practices "constitute[d] a means to obtain a price higher than is permitted under the regulations" applicable to sales of gasoline to the retail dealer. In other words, the proposal essentially related to implementation of FEA's authority over gasoline prices, and FEA's authority to challenge circumvention of its existing price regulations, rather than to the control of service station rents as such. It should be remembered in this connection that § 210.62(c) was specifically cited, in the *Shell* decision itself, as providing the appropriate means by which gasoline price increases "hidden" in service station rent increases could be challenged by FEA.

Second, FEA has been unable, in the absence of sufficient comment and assistance from lessors and lessees in the industry, to develop detailed or specific guidelines for general use. The situation is, of course, complicated by the fact that many lessors have imposed "catch-up" rent increases which take into account the approximately two and one-half years during which rental rates were frozen under FEA service station rent regulations in effect until November 11, 1975. In addition, the period between May 15, 1973, and the end of 1975 was a period during which costs and market values increased substantially in many cases. Thus, while FEA is sympathetic toward complaints received concerning large rent increases, FEA now believes, based on further reflection, that it does not appear realistic, under the circumstances noted above, to attempt to establish any uniform quantitative limits above which rent increases might appear to be suspect under § 210.62(c). In FEA's view, competitive forces should normally prevent new rent levels from exceeding those which reflect reasonable rates of return based on current market levels.

Third, FEA's authority in this area has been somewhat clouded, until recently, by court decisions following the ruling in the *Shell* case. The Temporary Emergency Court of Appeals on April 7, 1976, stated in the case of *Atlantic Richfield Co.* v. *Zarb*, 532 F. 2d 1363, that "FEA simply has no authority to regulate directly or indirectly the use of real property, or the leasing of service station property" (emphasis added). Later, in construing paragraph (a) of § 210.62, an anti-circumvention provision which generally prohibits the imposition of more stringent credit terms on purchasers of petroleum products, a U.S. district court in the case of *Marathon Oil Co.* v. *FEA*, (Northern District of Ohio, W.D., Civ. 74–316) held that § 210.62(a) was invalid as beyond the scope of FEA's authority, to the extent that it regulates the credit terms which a supplier of petroleum products may apply to a purchaser thereof.

On December 6, 1976, however, the *Marathon* decision was reversed and remanded by the Temporary Emergency Court of Appeals (TECA No. 6–11). The appeals court said the district court had not sufficiently recognized the distinction between

> • • • power to regulate credit terms per se and power to regulate such terms as a reasonable and non-arbitrary, non-capricious means of more effectively regulating the pricing and allocation of petroleum products to achieve the objectives of • • • expressly granted power (with respect to pricing and allocation).

This express distinction with respect to credit terms under § 210.62(a) appears to be the same distinction which the Temporary Emergency Court of Appeals impliedly made with respect to rental terms in the *Shell* case when it found FEA's rent regulations beyond FEA's statutory authority but at the same time pointed to § 210.62(b) as a valid and appropriate basis for challenging rent increases which appeared to circumvent FEA's gasoline price regulations. Thus, although FEA's rent regulations (10 CFR Part 212, Subpart G) were never intended as rent regulations per se, the import of the *Shell* and *Marathon* cases evidently is that the Temporary Emergency Court of Appeals believed them to have this effect in the situation presented in *Shell*.

Based on all the foregoing considerations, FEA believes that it retains authority under § 210.62(b) to investigate

V 4285 MAY 3 77 UMI

dealer complaints concerning alleged excessive rent increases and to take appropriate administrative or other action, as stated in the *Shell* case,

> • • • in any instance in which FEA believes a lessor who supplies gasoline to its lessee has raised its rents as a means of obtaining a higher price for its gasoline than would otherwise be allowed • • • .

However, FEA regional compliance offices receiving such complaints must be guided in this respect by the general guidelines set forth in the *Shell* and *Marathon* decisions and by reasonable rates of return based on current market values in each locale and local rental rates for similar properties.

C. PROPOSAL FOR PASS-THROUGH OF RENT INCREASES

In view of the various considerations noted in Sections A and B, above, FEA is considering a proposal to permit retail gasoline dealers to pass through increased rental charges without regard to the three cent-per-gallon maximum authorized under § 212.93(b)(1) to reflect increased nonproduct costs. This proposal is intended to help ease the burden on retail dealers subject to Subpart F of the price regulations, who have incurred substantially increased rental rates over the past year or more with no corresponding increase in the maximum amount permitted to be charged to reflect non-product cost increases. FEA also proposes to extend this relief to refiners with company-owned retail outlets in certain case, (as discussed above), by a parallel amendment with respect to the three cent-per-gallon maximum authorized under § 212.83(c)(2)(E) to reflect marketing cost increases in connection with retail sales of gasoline.

Issue No. 1. When FEA formally reviewed in 1975 the question of the adequacy or inadequacy of the three cent/gallon maximum price increment to reflect retail gasoline dealers' non-product cost increases, it concluded that no increase in the three cent/gallon maximum was warranted at that time (40 FR 54561, November 25, 1975). In reaching that decision, FEA noted that significant nonproduct cost increases were being absorbed by retail dealers due to competition and other marketing factors. Dealers had increased their gross margins, on the average, by only 1.5 cent/gallon in 1975 over the average margins prevailing in May, 1973, despite the more than three cent/gallon increase in operating costs.

FEA's "Preliminary Findings and Views Concerning the Exemption of Motor Gasoline," issued in November, 1976, in connection with FEA's notice of proposed rulemaking and public hearing on this subject (41 FR 51832, November 24, 1976), indicated that dealer margins have now returned to May 15, 1973, levels and that market forces have continued to hold gasoline prices significantly below those permitted by price controls.

FEA requests comment on whether, in view of the market situation as indicated above, an increase in retail dealers' ceiling prices to reflect rent increases can be expected actually to provide price relief to retail dealers or whether market forces will continue to constrain pass-through of increased non-product costs at levels below those authorized by FEA.

Issue No. 2. FEA understands that in most cases service station rental rates are expressed in terms of cents per gallon of gasoline sold. Thus, if the rent increase is, for example, 1.5 cent/gallon, it would be easy for the dealer to determine the increase in his ceiling price since both product and non-product cost increases under current regulations as well as ceiling prices are measured in cent-per-gallon terms.

However, in those cases in which rental increases have been expressed in gross dollar terms or on some basis other than strictly cents-per-gallon, it may be difficult for the dealer to translate this "lump-sum" increased cost into a valid cent-per-gallon increase in the ceiling price unless specific guidance is provided by FEA. FEA therefore requests information on rent increase formulas currently in use which are expressed in terms other than cents per gallon of gasoline purchased or sold and requests comment on how a cent-per-gallon increase in the ceiling price to reflect rent increases might be validly determined in these cases. FEA also requests comment on whether it would be desirable to impose a cent-per-gallon maximum to reflect allowable rent increases, like the cent-per-gallon maximum to reflect non-product cost increases, in view of possible inability to calculate rent increases on a cent-per-gallon basis in some cases, or whether the rule in this respect should permit the passthrough of whatever unit rent increases have been incurred.

Issue No. 3. FEA proposes to extend relief with respect to rent increases primarily to independent retail gasoline dealers who have no control over rent increases charged by their lessors. In addition, some refiners maintain significant numbers of company-operated service stations which are rented from third parties not controlled by the refiner, and FEA believes it is appropriate to extend the proposed relief to these cases also. It would not appear appropriate, however, to extend relief where the refiner is the lessor, or where the lessor is controlled by the refiner, since in such cases the amount of the rent increase would not represent a true "outside" cost to the refiner. Generally, "costs" under the price control regulations are restricted to "outside" costs of the "firm" concerned and not "costs" as represented in intra-firm sales or other inter-firm transactions. Comment on this approach is requested.

Issue No. 4. As noted in Section A, above, FEA has under continuing review the question of how costs of government-mandated vapor-recovery equipment are being borne, with a view toward possible amendment to the regulations relating to pass-through of those costs. It was initially anticipated that an amendment in this respect might be promulgated as an amendment to the rent regulations (now revoked) or as an amendment to the price regulations under Subpart F. Under current regulations, the costs associated with purchase, installation and operation of vapor-recovery equipment are non-product costs and are therefore subject to all restrictions applicable to non-product cost increases.

In its notice of proposed rulemaking concerning amendment to the rent regulations (40 FR 47147, October 8, 1975), FEA stated as follows:

> • • • FEA has observed, in connection with its review of the present rental regulations, that certain refiners, resellers, reseller-retailers and retailers are incurring expenses resulting from installation of vapor recovery equipment required by the Environmental Protection Agency. In some cases, refiners are apparently installing the equipment and seeking to recover from their retailer-lessees the cost of the equipment. In other cases, retail dealers have been required to install such equipment at their own expense. FEA hereby solicits comments describing the arrangements for purchasing, installing and financing the costs of vapor recovery equipment, particularly any terms proposed by refiners for recovering these costs from their gasoline retailer-lessees. Relevant considerations include who is bearing the initial costs of purchasing and installing vapor recovery equipment, whether these costs ultimately fall on retail gasoline dealers and whether and in what manner such costs should be passed through in the form of increased prices by refiners or by retailers. Depending upon comment provided in this connection and other relevant considerations, the FEA may modify the present proposal to also take into account the costs of vapor recovery equipment.

Comment received on this subject indicated that the costs associated with vapor-recovery equipment generally fall on retail dealers ultimately. However, in view of the passage of time since these comments were received, and the somewhat different context in which this subject is now being considered, it is requested that interested persons again submit comments with regard to these questions. In particular, FEA wishes to know whether rent increases reflect costs associated with vapor-recovery equipment being borne by the lessor as owner of the real property on which such equipment has been or is being installed, or whether lessors are passing through costs associated with vapor-recovery equipment to the lessee under separate contractual arrangements.

Because of the small size and large numbers of retail dealers in the nation, the interests of retail dealers affected by proposed rule changes are generally best represented before FEA by retail dealer associations, retail dealer marketing/management firms, and larger dealers. While all dealers as well as other interested persons are invited to participate in this rulemaking proceeding, FEA is aware that the views of larger numbers of dealers can be represented by dealer associations or dealer management firms compared with individual participation by dealers. FEA therefore requests that, to the extent possible, such associations or firms which wish to participate in this proceeding attempt by surveys or other means to solicit views of and data from individual dealers in advance of submission of comment or in advance of oral presentations. FEA wishes to obtain as wide a sampling of views and data from dealers as possible. Accordingly, FEA has provided additional time in which to submit comment in this matter.

D. COMMENT PROCEDURES

1. *Written Comments.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Retail Gasoline Sales; Pass-Through of Service Station Rent Increases," Box ME. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public Hearings*—a. *Request Procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., Friday, June 10, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street, N.W., Washington, D.C., before 4:30 p.m., e.d.t., Monday, June 20, 1977.

b. *Conduct of the Hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will begiven in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., e.d.t., Thursday, June 16, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

This proposal has been reviewed in accordance with Executive Order 11821, issued November 24, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., April 26, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.83(c)(2)(iii)(E) is amended in the definition of "F_i'" by adding a new subparagraph (II)(cc) to read as follows:

§ 212.83 Price rule.

• • • • • •

(c) *Allocation of increased costs.* • • •
(2) *Formulae.* • • •
(iii) *Definitions.* • • •

(E) *The "N" Factor.* • • • $F_i' = $ • • •
(II) • • •

(cc) Allow an increase in the price of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to this part (including paragraphs (I) and (II)(aa) of this definition) by an amount not in excess of -- cents per gallon with respect to retail sales to reflect "increased rental costs" by "independent lessors" (as these terms are defined in § 212.92); and

2. Section 212.92 is amended by adding, in appropriate alphabetical order, the following definition:

§ 212.92 Definitions.

• • • • • •

"Increased rental costs" means that amount, stated in terms of cents per gallon of gasoline sold by the lessee concerned, which reflects the rent charged by an independent lessor in excess of rent charged by that lessor on November 10, 1975, with respect to the same real property leased for purposes of retail gasoline sales. For purposes of this paragraph, "independent lessor" means a lessor which is not directly or indirectly controlled by the lessee concerned or by any firm which directly or indirectly controls that lessee.

• • • • • •

3. Section 212.93 is amended by adding a new paragraph (b)(1)(ii)(C) to read as follows:

§ 212.93 Price rule.

• • • • • •

(b) • • •
(1) • • •
(ii) • • •

(C) Beginning ----------, 1977, in retail sales of gasoline, a seller may charge -- cents per gallon of gasoline in excess of the amount otherwise permitted to be charged for that item pursuant to this section, to reflect increased

V42N85 MAY 3 77 UMI

rental costs incurred by the seller since November 10, 1975.

[FR Doc.77-12555 Filed 4-28-77;9:44 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 329]

[26609]

INTEREST ON DEPOSITS

Restricting Payment of Negotiated Rates of Interest on Pooled Time Deposits of $100,000 or More

Correction

In FR Doc. 77-11808 appearing on page 21112 in the issue of Monday, April 25, 1977, make the following changes:

(1) Third paragraph, designated "SUMMARY", 13th line, "intreest" should read "interest";

(2) Third paragraph, designated "SUMMARY", the 24th line should read "proposal, the concern that the proposal, if adopted, might prove ineffec-";

(3) Sixth paragraph, designated "SUPPLEMENTARY INFORMATION", 14th line, "fnnds" should read "funds".

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 655]

TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE

Locations of Public Hearings

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule, notice of hearing locations.

SUMMARY: This is a notice of specific locations at which a series of public hearings will be conducted by the Department of Labor regarding proposed revisions to the Department's regulations. These proposed regulations govern the temporary employment of aliens working in agriculture (including logging and sheepherders). The hearings were announced on April 19 at 42 FR 20312. The previous notice listed the cities and scheduled dates of the six hearings, but did not list the exact addresses of the hearing sites within those cities. This notice provides that information. It also changes the name of the contact person, and the closing dates to File Notices of Intention to appear at the hearings.

FOR FURTHER INFORMATION CONTACT:

See Supplementary Information below.

SUPPLEMENTARY INFORMATION: List of specific hearing sites and new closing dates for filing Notices of Intention to appear.

Area and address	Closing date for notice [1]	Hearing dates
Martinsburg, W. Va.: Martinsburg Room, Martinsburg Public Library, King and Queen Sts., Martinsburg, W. Va.	May 6	May 12 and 13.
Belle Glade, Fla.: Auditorium, U.S. Department of Agriculture Research and Development Center, State Rd. 80, 3 mi east of Belle Glade.	May 10	May 24 and 25.
San Antonio, Tex.: Room 25, Convention Center, Hemisphere Grounds, San Antonio, Tex.	May 13	May 27.
Denver, Colo.: Room 269, U.S. Post Office Auditorium, 19th and Stout, Denver, Colo...	May 18	June 1 and 2.
Springfield, Mass.: Holiday Inn, Dwight and Congress, Springfield, Mass	May 25	June 8 and 9.
Albany, N.Y.: Legislative Office Bldg., hearing room C, 2d floor, Albany, N.Y.	May 31	June 14.

[1] Telegraphic notices will be acceptable.

NEW CONTACT PERSON

A change has been made in the person listed as the individual to contact for further information and to send written statements or comments for the record. The person now designated for this purpose is:

Mr. William E. Daly, U.S. Employment Service (Attn: TET), Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213, 202-376-6297.

Signed at Washington, D.C. this 27th day of April 1977.

WILLIAM B. LEWIS,
Administrator,
Employment Service.

[FR Doc.77-12623 Filed 5-2-77;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 4]

TRADEMARK FORMS

Proposed Rulemaking

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This notice invites written comment on a Patent and Trademark Office proposal to amend certain existing forms for trademark cases and to provide one new form for trademark cases. The language in certain of the existing trademark forms has been found to be confusing or susceptible of misinterpretation, and difficulties have been encountered by users in combining two of the existing trademark forms into a combined form. The purpose of the proposed amendments is to clarify the trademark forms and simplify their use by trademark applicants and other parties. The proposed new trademark form would eliminate the need for the user to combine two forms.

DATES: Comments must be received on or before: June 1, 1977.

ADDRESSES: Comments may be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. All comments received will be available for public inspection in Room 11E10, Crystal Plaza, Building 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Miss Katharine Hancock, Patent and Trademark Office (703) 557-5380, or by mail addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attn. Miss Katharine Hancock.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the authority contained in section 41 of the Act of July 5, 1946 (60 Stat. 440, 15 U.S.C. 1123) and section 6 of the Act of July 19, 1952, as amended (85 Stat. 364, 88 Stat. 1949, 35 U.S.C. 6), the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending §§ 4.1, 4.1a, 4.2, 4.5, 4.6, 4.8, 4.10, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.21 and 4.22, and by adding new § 4.16a. The proposal is summarized as follows:

Acknowledgments. In forms 4.21 and 4.22 it is proposed to amend the acknowledgment by deleting the words "being sworn" and by rearranging the wording to avoid the implication that the notary public is stating of his own knowledge that a person signing for a juristic entity is authorized so to do.

It is also proposed to amend the footnote to the acknowledgment in forms 4.21 and 4.22 to reflect the fact that acknowledgments may vary in wording but that wording acceptable in the jurisdiction where executed should be used, and to indicate that the person signing the acknowledgment must have authority to do so under the law of the jurisdiction where executed.

Verifications. It is proposed to amend all verifications by deleting the words "being sworn, states" at the beginning and substituting the words "hereby swears," in order that there will be a statement of oath by the signer rather than a statement which depends upon an oath having been administered before signature. The forms being thus amended are 4.1, 4.5, 4.6, 4.13, 4.14, 4.15, 4.16, 4.17 and 4.18.

Jurats. In forms 4.1, 4.5 and 4.6 it is proposed to amend the footnote to the jurat to state that the person signing the jurat must be authorized to do so under the law of the jurisdiction where executed, rather than that the jurat must be in any prescribed form. Further, the word "(JURAT):" has been inserted at the beginning of the jurat wording in order to indicate the portion of the verification which is referred to by the term jurat.

Declaration. It is proposed to amend form 4.1a to place in a prominent position at the beginning of the declaration the warning which is required by statute relative to willful false statements (35 U.S.C. 25), and to insert at the end of the declaration the same language which appears in other application forms to the effect that "the facts set forth in this application are true," as well as clearer wording indicating that statements made of knowledge are true and those made on information and belief are believed to be true.

It is proposed to include at an appropriate place in application form 4.8 reference to the declaration in form 4.1a as an alternative to the reference to use of the verification in form 4.6.

New form for combined sections 8 and 15. It is proposed to provide a new form 4.16a for an affidavit which combines the requirements for section 8 of the Act as to continued use and section 15 of the Act as to incontestability.

Present form 4.16 for a section 15 affidavit contains a note stating the circumstances under which such form may be combined with form 4.15 for section 8, but it has been found that the note is easily overlooked and that in any event users of the forms have difficulty combining the two forms without additional guidance. It is proposed to delete reference to combining such form with section 8 requirements.

Representation. It is proposed that for greater clarity a footnote be added to form 4.2 to indicate that a power of attorney is not required from an attorney at law in order for such attorney to represent a trademark applicant.

Notes. In forms 4.1a and 4.10 it is proposed to alter the wording which introduces the Notes, in order to make the wording more clear and to agree with the wording used for the Notes in other forms. A brief general instruction has been added at the beginning of the Notes for form 4.15.

Miscellaneous. In order to make the language correct, in form 4.6 the word "affidavit" has been changed to "application," and in form 4.16 under "Representation," the word "rule" has been changed to "form." In forms 4.17 and 4.18 the term "members" has been changed to "partners" for greater accuracy. Changes or additions which are for editorial purposes and are not substantive have been made to form 4.8 in the parenthetical phrase concerning the verification, and to forms 4.13, 4.14 and 4.16 in the phrase concerning the listing of the goods.

The text of the proposed revised and added sections is as follows (additions are indicated by arrows; deletions are bracketed):

§ 4.1 Trademark application by an individual; Principal Register with oath.

Mark _____
(Identify the mark)
Class No._____
(If known)

To the Commissioner of Patents and trademarks:

_____
(Name of applicant, and trade style, if any)

_____
(Business address, including street, city and State)

_____
(Residence address, including Street, city and State)

_____
(Citizenship of applicant)

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing (1) for

_____
(Common, usual or ordinary name of goods)

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the act of July 5, 1946.

The trademark was first used on the goods (2) on _____; was first used in (3) (Date)

_____ commerce on _____;
(Type of commerce) (Date)

and is now in use in such commerce. (4)

The mark is used by applying it to (5)

_____ and five specimens showing the mark as actually used are presented herewith.

(6)

State of_____ }
County of_____ } ss.

_____ ►hereby swears◄
(name of applicant)

[being sworn, states] that [:] he believes himself to be the owner of the trademark sought to be registered; to the best of his knowledge and belief no person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and the facts set forth in this application are true.

_____
(Signature of applicant)

►(JURAT):◄

Subscribed and sworn to before me, this _____ day of _____, 19__.

_____ (*)
Notary Public

(*) (The ►person who signs the above jurat must be authorized to administer oaths◄ [jurat shall be in the form prescribed] by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.)

REPRESENTATION

(See form 4.2 and Note (7) below.)

NOTES

(1) If registration is sought for a word or numeral mark not depicted in any special form, the drawing may be the mark typed in capital letters on letter-size bond paper; otherwise, the drawing shall comply with § 2.52.

(2) If more than one item in a class is set forth and the dates given for that class apply to only one of the items listed, insert the name of the item to which the dates apply.

(3) Type of commerce should be specified as "interstate," "territorial," "foreign," or other type of commerce which may lawfully be regulated by Congress Foreign applicants relying upon use must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(4) If the mark is other than a coined, arbitrary or fanciful mark, and the mark is believed to have acquired a secondary meaning, insert whichever of the following paragraphs is applicable:

(a) The mark has become distinctive of applicant's goods as a result of substantially exclusive and continuous use in _____ commerce for the
(Type of commerce)
five years next preceding the date of filing of this application.

(b) The mark has become distinctive of applicant's goods as evidenced by the showing submitted separately.

(5) Insert the manner or method of using the mark with the goods, i.e., "the goods," "the containers for the goods," "displays associated with the goods," "tags or labels affixed to the goods," or other method which may be in use.

(6) The required fee of $35 for each class must be submitted.

(7) If the applicant is not domiciled in the United States, a domestic representative must be designated. See form 4.4.

§ 4.1a Trademark application by an individual Principal Register with declaration.

Mark _____
(Identify the mark)
Class No._____
(If known)

To the Commissioner of Patents and Trademarks:

_____
(Name of applicant, and trade style, if any)

_____
(Business address, including street, city and State)

_____
(Residence address, including street, city and State)

_____
(Citizenship of applicant)

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing (1) for

_____
(Common, usual or ordinary name of goods)

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the act of July 5, 1946.

The trademark was first used on the goods (2) on _____; was first used in (3) (Date)

_____ commerce on _____;
(Type of commerce) (Date)

and is now in use in such commerce. (4)

The mark is used by applying it to (5)

_____
and five specimens showing the mark as actually are presented herewith.

(6)

[The undersigned applicant] _____

_____
(Name of applicant)

►being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom,◄ declares: That he believes himself to be the

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owner of the trademark sought to be registered; that to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; ►that the facts set forth in this application are true; and, further,◄ that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true [; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom].

_____
(Signature of applicant)

_____
(Date)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1)

[NOTES: See] ►NOTES◄

►For Notes referred to in this form but not set out here, see◄ same numbered Notes under form 4.1.

§ 4.2 Power of attorney at law (which may accompany application). ►(*)◄

Applicant hereby appoints (8) _____,
(Address)
_____, an attorney at law or attorneys at law, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration.

NOTE.—(8) An individual attorney at law or individual attorneys at law must be named here. If the name of a law firm is given, it will be regarded merely as a designation of address for correspondence.

►(*) An attorney at law is not required to file a power of attorney; an attorney at law may represent a trademark applicant on the basis of being an attorney at law without presenting a power of attorney.)◄

§ 4.5 Trademark application by a firm; Principal Register.

Mark _____
(Identify the mark)
Class No._____
(If known)

To the Commissioner of Patents and Trademarks:

_____
(Firm name and names of members comprising firm)

_____
(Business address, including street, city and State)

_____
(Domicile of firm)

_____
(Citizenship of members of firm)

(Body of application is same as in form 4.1)

State of_____}
County of_____} ss.

_____ ►hereby swears◄
(Name of member of firm)
[being sworn, states] that he is a member of the applicant firm; he believes said firm to be the owner of the trademark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and the facts set forth in this application are true.

_____
(Signature of member of firm)

►(JURAT):◄
Subscribed and sworn to before me, this _____ day of _____, 19---.

_____ (*)
Notary Public

(*) (The ►person who signs the above jurat must be authorized to administer oaths◄ [jurat shall be in the form prescribed] by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1)

§ 4.6 Trademark application by a corporation; Principal Register.

Mark _____
(Identify the mark)
Class No._____
(If known)

To the Commissioner of Patents and Trademarks:

_____
(Corporate name and State or country of incorporation) (10)

_____
(Business address, including street, city and State)

(Body of application is same as in form 4.1.)

State of_____}
County of_____} ss.

_____ ►hereby swears◄
(Name of corporate officer)
[being sworn, states] that [:] he is

_____
(Official title)
applicant corporation (10) and is authorized to execute this ►application◄ [affidavit] on behalf of said corporation; he believes said corporation to be the owner of the trademark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and the facts set forth in this application are true.

_____
(Corporate name)

By _____
(Signature of corporate officer and official title)

►(JURAT):◄
Subscribed and sworn to before me, this _____ day of _____, 19---.

_____ (*)
Notary Public

(*) (The ►person who signs the above jurat must be authorized to administer oaths◄ [jurat shall be in the form prescribed] by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTE.—(10) If applicant is an association or other collective group, the word "association" or other appropriate designation should be substituted for "corporation" when referring to applicant.

§ 4.8 Collective mark application (including collective membership mark); Principal Register.

Mark _____
(Identify the mark)
Class No. _____
(If known)

To the Commissioner of Patents and Trademarks:

(Insert identification of applicant in accordance with form 4.6.)

The above identified applicant has adopted and is exercising legitimate control over the use of the collective mark shown in the accompanying drawing (1) for (13)

_____
(Common, usual or ordinary name of goods or services)

to indicate (14) _____ and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the act of July 5, 1946.

The collective mark was first used on the (2)

_____
(Insert "goods" or "services") (15) by members of applicant on _____;
(Date)
was first used by said members in (3) _____ commerce on
(Type of commerce)
_____; and is now in use in
(Date)
such commerce. (4)

The mark is used by applying it to (5) _____ and five specimens of the mark as actually used are presented herewith.

(Insert verification from form 4.6 ►or 4.1a◄, changing ►the wording as necessary to agree with applicant's legal entity.)◄ [("corporation" to "association" or the like, if necessary.)]

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1)

NOTES

For Notes referred to in this form but not set out here, see same numbered Notes under form 4.1.

(13) If the application is for a membership mark, omit the word "for" and the space for the name of the goods or services.

(14) If the application is for a membership mark, insert "membership in applicant organization," or similar appropriate statement. If not for a membership mark, omit the words "to indicate" and the following space.

(15) If the application is for a membership mark, the phrase "on the goods or services" should be omitted.

§ 4.10 Application based on concurrent use; Principal Register.

Mark _____
(Identify the mark)
Class No._____
(If known)

To the Commissioner of Patents and Trademarks:

(Insert appropriate identification of applicant in accordance with form 4.1, 4.5 or 4.6.)

Use form 4.1, and add at the end of the first paragraph: "for the area comprising_____

_____
(List the States for which registration is sought)

and add as final paragraph of application:

The following exception(s) to applicant's right to exclusive use are:

By _____, doing business at _____, who is using the mark _____

_____
(Identify mark and Reg. No. or Ser. No., if any)

for _____
(Common, usual, or ordinary name of goods or services)

in the States of _____ by applying the mark to (5) _____ from _____ to the present."
(Earliest known date of such use)

(Insert appropriate verification or declaration from form 4.1, 4.1a, 4.5 or 4.6 and add after the word "association" the words "other than specified in the application.")

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

[NOTES: See] ►NOTES◄

►For Notes referred to in this form but not set out here, see◄ same numbered Notes under form 4.1.

§ 4.13 Application for renewal.

Mark _____
(Identify the mark)
Reg. No._____
Class No._____

To the Commissioner of Patents and Trademarks:

(Insert appropriate identification of applicant for renewal in accordance with form 4.1, 4.5 or 4.6.) (1)

The above identified applicant for renewal requests that the above identified registration, granted to _____
(Name of original registrant)
on _____
(Date of Issuance)
which applicant for renewal now owns, as shown by records in the Patent and Trademark Office, be renewed in accordance with the provisions of section 9 of the act of July 5, 1946.

The mark shown in said registration is still in use in (2) _____
(Type of commerce)
commerce on each of the following goods (3) recited in the registration:

_____;
►(List the goods or insert the words "all the goods")◄
the attached specimen (or facsimile) showing the mark as currently used. (4)

(5)

State of_____}
County of_____} ss.

_____
(Name of renewal applicant or of person authorized to sign for renewal applicant)
►hereby swears◄ [being sworn, states] that the applicant for renewal owns the above identified registration; and that to the best of his knowledge and belief the facts set forth in this application are true.

_____
(Signature of renewal applicant; if renewal applicant is a corporation or other juristic organization, give the official title of the person who signs for renewal applicant.)

(JURAT) (use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (6) below.)

NOTES

(1) Applicant for renewal must be the present owner of the registration.

(2) Type of commerce should be specified as "interstate," "foreign," territorial," or other type of commerce which may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(3) If a service mark registration, state: "in connection with each of the following services."

(4) The required fee of $10.00 must be submitted.

(5) If registrant is not domiciled in the United States, a domestic representative must be designated. See form 4.4. If a designation is not made, an unrevoked designation will meet the requirement if such is already in the registration file.

§ 4.14 Affidavit for publication under section 12(c).

Mark _____
(Identify the mark)
Reg. No._____
Date of Issue_____
To: _____
(Name of original registrant)

State of_____}
County of_____} ss.

_____
(Name of registrant or of person authorized to sign for a juristic registrant)
►hereby swears◄ [being sworn, states] that (1) _____
(Name of registrant)
owns the above identified registration, as shown by records in the Patent and Trademark Office; that said registration is now in force; that the mark shown therein is in use in (2) _____ commerce on
(Type of commerce)
each of the following goods (3) recited in the registration: _____;
►(List the goods or insert the words "all the goods")◄
and that the benefits of the act of July 5, 1946, are hereby claimed for said registration.

_____
(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)

(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (5) below)

NOTES

(1) The present owner of the registration must file the affidavit as registrant.

(2) Type of commerce should be specified as "interstate," "territorial," "foreign," or other type of commerce which may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(3) If a service mark registration, state: "in connection with each of the following services."

(4) The required fee of $10.00 must be submitted.

(5) If registrant is not domiciled in the United States, a domestic representative must be designated. See form 4.4. If a designation is not made, an unrevoked designation will meet the requirement if such is already in the registration file.

§ 4.15 Affidavit required by section 8.

Mark _____
(Identify the mark)
Reg. No._____
Class No._____

State of_____}
County of_____} ss.

_____
(Name of registrant or of person authorized to sign for a juristic registrant)
►hereby swears◄ [being sworn, states] that (1) _____ owns the above
(Name of registrant)
identified registration issued _____
(Date)
(2), as shown by records in the Patent and Trademark Office; and that the mark shown therein is still in use (3) as evidenced by (4) _____
(5)

_____
(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)

(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (6) below)

NOTES

►The affidavit illustrated by this form must be filed within the sixth year after the date of registration under the act of 1946 or after the date of publication under section 12(c) of said act.◄

(1) The present owner of the registration must file the affidavit as registrant.

(2) If the registration issued under a prior act and has been published under section 12(c), add: "and published under section 12(c) on _____".
(Date)

(3) If the mark is not in use at the time of filing the affidavit, but there is no intention to abandon the mark, facts must be recited to show that the nonuse is due to special circumstances.

(4) Insert "the specimen included showing the mark as currently used," or recite facts as to sales or advertising which will show that the mark is in current use. Specimen illustrating use, or facts as to use or nonuse, are required for each class for which action is sought.

(5) The required fee of $10.00 must be submitted for each class for which action is sought, and if action is sought for less than the total number of classes in the registration, the classes for which action is sought should be specified.

(6) If registrant is not domiciled in the United States, a domestic representative must be designated. See form 4.4. If a designation is not made, an unrevoked designation will meet the requirement if such is already in the registration file.

§ 4.16 Affidavit under section 15. [(or combined sections 8 and 15)]

Mark _____
(Identify the mark)
Reg. No._____
Class No._____

State of_____}
County of_____} ss.

_____
(Name of registrant or of person authorized to sign for a juristic registrant)
►hereby swears◄ [being sworn, states] that (1) _____ owns the above
(Name of registrant)
identified registration issued _____
(Date)
(2), as shown by records in the Patent and Trademark Office; that the mark shown therein has been in continuous use in (3)

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_____ commerce for five
(Type of commerce)
consecutive years from (4) _____
(Date)
to the present, on each of the following goods (5) recited in the registration:

_____
(List [of] ▶the◀ goods ▶or insert the words "all the goods"◀)
that such mark is still in use in (3) _____
_____
(Type of commerce)
commerce; that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register, and that there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

_____
(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)
(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See [rule] ▶form◀ 4.2 [and note (6) below])

NOTES

[This form may be used as a combined affidavit under sections 8 and 15 provided it contains matter which will meet the requirements of section 8 as to use or nonuse and fee (see form 4.15, Notes (3), (4) and (5)).]

(1) The present owner of the registration must file the affidavit as registrant.

(2) If the registration issued under a prior act and has been published under section 12(c), add: "and published under section 12(c) on _____"
(Date)

(3) Type of commerce must be specified as "interstate," "territorial," "foreign," or such other commerce as may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(4) The date should be at the beginning of a five year period of continuous use, all of which five year period falls after the date of registration under the act of 1946 or after the date of publication under section 12(c). A date which would produce a period of continuous use which is longer than five years may be stated provided the period indicated includes five years of continuous use after registration under the act of 1946 or publication under section 12(c).

(5) If a service mark registration, state: "in connection with each of the following services."

[(6) If registrant is not domiciled in the United States, a domestic representative must be designated as to the section 8 affidavit. See form 4.4. If a designation is not made, an unrevoked designation will meet the requirement if such is already in the registration file.]

►§ 4.16a Combined affidavit for sections 8 and 15.

Mark _____
(Identify the mark)
Reg. No. _____
Class No. _____

State of _____ }
County of _____ } ss.

_____
(Name or registrant or of person authorized to sign for a juristic registrant)
hereby swears that (1) _____
(Name of registrant)
owns the above identified registration issued _____ (2), as shown by records in the Patent and Trademark Office; that the mark shown therein has been in continuous use in (3) _____
(Type of commerce)
commerce for five consecutive years from the date of the registration (4) to the present, on each of the following goods (5) recited in the registration: _____;
(List the goods or insert the words "all the goods")
that such mark is still in use as evidenced by (6) _____; that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register, and that there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

(7) _____
(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)
(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and note (8) below)

NOTES

This form should not be used when the section 8 affidavit is based on nonuse.

(1) The present owner of the registration must file the affidavit as registrant.

(2) If the registration issued under a prior act and has been published under section 12(c), add: "and published under section 12(c) on _____"
(Date)

(3) Type of commerce must be specified as "interstate," "territorial," "foreign," or such other commerce as may lawfully be regulated by Congress. Foreign registrants must specify commerce, which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(4) This form is only appropriate when the five year period of continuous use required for section 15 is the first five years after registration or publication under section 12(c) which is required for section 8.

(5) If a service mark registration, state: "in connection with each of the following services."

(6) Insert "the specimen included showing the mark as currently used," or recite facts as to sales or advertising which will show that the mark is in current use.

(7) The required fee of $10.00 for section 8 must be submitted for each class for which action is sought, and if action is sought for less than the total number of classes in the registration, the classes for which action is sought should be specified.

(8) If registrant is not domiciled in the United States, a domestic representative must be designated for section 8. See form 4.4. If a designation is not made, an unrevoked designation will meet the requirement if such is already the registration file.◀

§ 4.17 Opposition in the United States Patent and Trademark Office.

In the matter of application Serial No. _____. Published in the Official Gazette on _____
(Date)

_____
(Name of opposer)
v.
_____
(Name of applicant)

Opposition No. _____
(To be inserted by Patent and Trademark Office)

_____
(Name of opposer)
a(n) (1) _____, located and
(Legal entity of opposer)
doing business at _____,
(Street, city and State)
believes that he will be damaged by registration of the mark shown in the above identified application, and hereby opposes the same.

As grounds of opposition, it is alleged that:
(Numbered paragraphs should state the grounds and recite facts tending to show why opposer believes he will be damaged.)

(2) _____
(Signature of opposer; if opposer is a corporation or other juristic organization, give the official title of the person who signs for opposer.)

State of _____ }
County of _____ } ss.

_____
(Name of opposer or of person authorized to sign for opposer)
►hereby swears◀ [being sworn, states] that he is the opposer named in the foregoing opposition, or is the person authorized to sign for the opposer named in the foregoing opposition; that he has read and signed the opposition and knows the contents thereof; and that the allegations are true, except as to the matters stated therein to be upon information and belief, and as to those matters he believes them to be true.

_____
(Signature of opposer; if opposer is a corporation or other juristic organization, give the official title of the person who signs for opposer.)
(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See foam 4.2 and Note (7) under foam 4.1. For opposers who are foreigners, it is customary to regard a power of attorney as the equivalent of a domestic representative.)

NOTES

(1) If an individual, state: "an individual," or "an individual trading as _____," if there is a trade style. If a partnership, state: "a partnership composed of _____

_____
(Names of [members] ►partners◀)
If a corporation, association, or other organization, state "a corporation (or specify other type of organization) organized and existing under the laws of _____"
(State or country)

(2) The required fee of $25 must be submitted for each class to be opposed, and if opposition is sought for less than the total number of classes, the classes sought to be opposed should be specified.

§ 4.18 Petition to cancel a registration in the United States Patent and Trademark Office.

In the matter of Registration No. _____
Date of Issue _____

_____
(Name of petitioner)
v.

_____
(Name of registrant)
Cancellation No. _____
(To be inserted by Patent and Trademark Office)

_____
(Name of petitioner)
a(n) (1) _____,
(Legal entity of petitioner)
located and doing business at _____,
(Street, City and State)

believes that he is or will be damaged by the above identified registration, and hereby petitions to cancel the same.

As grounds therefor, it is alleged that:
(Numbered paragraphs should state the grounds and recite facts tending to show why petitioner believes that he is or will be damaged.)

(2) _____
(Signature of petitioner; if petitioner is a corporation or other juristic organization, give the official title of the person who signs for petitioner.)

State of _____ }
County of _____ } ss.

_____
(Name of petitioner or of person authorized to sign for petitioner)
►hereby swears◀ [being sworn, states] that he is the petitioner named in the foregoing petition to cancel, or is the person authorized to sign for the petitioner named in the foregoing petition to cancel; that he has read and signed the petition to cancel and knows the contents thereof; and that the allegations are true, except as to the matters stated therein to be upon information and belief, and as to those matters he believes them to be true.

_____
(Signature of petitioner to cancel; if petitioner is a corporation or other juristic organization, give the official title of the person who signs for petitioner.)
(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1. For petitioners who are foreigners, it is customary to regard a power of attorney as the equivalent of a domestic representative.)

NOTES

(1) If an individual, state: "an individual," or "an individual trading as _____," if there is a trade style. If a partnership, state: "a partnership composed of _____

_____
(Names of [members] ►partners◀)
corporation, association, or other organization, state "a corporation (or specify other type of organization) organized and existing under the laws of _____"
(State or country)

(2) The required fee of $25.00 must be submitted for each class sought to be cancelled, and if cancellation is sought for less than the total number of classes, the classes sought to be cancelled should be specified.

§ 4.21 Assignment of application.

Whereas _____, of
(Name of assignor)
_____,
(Street, city, and State)
has adopted and is using a mark for which he has filed application in the United States Patent and Trademark Office for registration, Serial No. _____; and
Whereas _____, of
(Name of assignee)
(1) _____,
(Street, city and State)
is desirous of acquiring said mark;
Now, therefore, for good and valuable consideration, receipt of which is hereby acknowledged, said _____
(Name of assignor)
does hereby assign unto the said _____ all rights, title and
(Name of assignee)
interest in and to the said mark, together with the good will of the business symbolized by the mark, and the above identified application for registration of said mark.

The Commissioner of Patents and Trademarks is requested to issue the certificate of registration to said assignee.

_____
(Signature of assignor; if assignor is a corporation or other juristic organization, give the official title of the person who signs for assignor.)

State of _____ }
County of _____ } ss.

On this _____ day of _____, 19__, before me appeared _____, the person who signed this instrument, ►who acknowledged that he signed it as a free act on his own behalf (or on behalf of the identified corporation or other juristic entity with authority to do so).◀ [on his own behalf, or who was authorized to sign on behalf of the identified corporation or other juristic entity, who being sworn, acknowledged that he signed this instrument as a free act.]

_____(*)
Notary Public

(*) ►(The wording of the acknowledgment may vary from this illustration but should be wording acceptable under the law of the jurisdiction where executed; the person who signs the acknowledgment must be authorized to do so◀ [(The acknowledgment shall be in the form prescribed] by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.)

NOTES

(1) If the postal address of the assignee is not given either in the instrument or in an accompanying paper, registration to the assignee may be delayed.

(2) If assignee is not domiciled in the United States, a domestic representative must be designated. See form 4.4.

§ 4.22 Assignment of registration.

Whereas _____, of
(Name of assignor)
_____,
(Street, city, and State)
has adopted, used and is using a mark which is registered in the United States Patent and Trademark Office, Registration No. _____, dated _____; and
Whereas _____, of
(Name of assignee)
(1) _____,
(Street, city and State)
is desirous of acquiring said mark and the registration thereof;
Now, therefore, for good and valuable consideration, receipt of which is hereby acknowledged, said _____
(Name of assignor)
does hereby assign unto the said _____
(Name of assignee)
all rights, title and interest in and to the said mark, together with the good will of the business symbolized by the mark, and the above identified registration thereof.

(2) _____
(Signature of assignor, if assignor is a corporation or other juristic organization, give the official title of the person who signs for assignor.)

State of _____ }
County of _____ } ss.

On this _____ day of _____, 19__, before me appeared _____, the person who signed this instrument, ►who acknowledged that he signed it as a free act on his own behalf (or on behalf of the identified corporation or other juristic entity with authority to do so).◀ [on his own behalf, or who was authorized to sign this instrument on behalf of the identified corporation or other juristic entity, who being sworn, acknowledged that he signed this instrument as a free act.]

_____(*)
Notary Public

(*) ►(The wording of the acknowledgment may vary from this illustration but should be wording acceptable under the law of the jurisdiction where executed; the person who signs the acknowledgment must be authorized to do so◀ [(The acknowledgment shall be in the form prescribed] by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.)

NOTES

(1) If the postal address of the assignee is not given either in the instrument or in an accompanying paper, recording may be delayed pending receipt of such address.

(2) If assignee is not domiciled in the United States, a domestic representative must be designated. See form 4.4.

Dated: April 4, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved:

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.77-12616 Filed 5-2-77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 77-12]

RULES OF PRACTICE AND PROCEDURE; DESIGNATION OF PARTIES

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule change.

SUMMARY: The Federal Maritime Commission is proposing to amend its regulations to terminate the practice of naming persons protesting individual changes in tariffs "complainants" and to cease making them automatic parties to formal proceedings instituted by the Commission to investigate rate changes in general-revenue cases. These changes are made to eliminate confusion and unnecessary consumption of time, and to assist persons in understanding their rights.

DATES: Comments on or before: June 1, 1977.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission is proposing to amend Rule 3(a), 46 CFR 502.41, of its rules of practice and procedure. It is proposed that persons who protest proposed rate changes in tariffs published by water

V 42 85 MAY 3 77 UMI

carriers regulated by this Commission no longer be designated as "complainants" in Orders of Investigation which are issued by the Commission to determine the lawfulness of such carriers' requests for additional revenue in so-called "general-revenue" cases. Secondly, it is proposed that such persons no longer automatically be made parties to formal proceedings initiated by the aforesaid Orders. The reasons for these proposed changes are as follows.

In so-called "general-revenue" investigations, the basic issue is whether the gross revenue which the carrier is seeking to derive from its proposed rate changes is just and reasonable. This issue is not whether the rate on any particular commodity is just and reasonable. Nevertheless, under the current rule any person stating his dissatisfaction with any particular rate is named a "complainant" and automatically becomes a party to the formal proceeding instituted by the Commission despite the fact that such person is usually raising an issue which is irrelevant to the issue to be determined in such an investigation and under other circumstances such person would have to justify his desire to become a party to the proceeding by showing, among other things, that he would not broaden the issues in the proceeding unduly. See Rule 5(1), 46 CFR 502.72. Because such persons are frequently interested in a different issue, they either consume time needlessly during the proceeding while they attempt to present irrelevant evidence and arguments or they often do not appear or participate at all, although all active parties are required to serve them with pleadings and documents, often at great expense to these active parties. A final problem that arises is that the use of the term "complainant" under the present rule confuses such persons who file actual complaints pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821), and deludes the former class of persons into believing that they have complied with section 22 of the Act.

In order to clarify these matters, eliminate the confusion and unnecessary consumption of time, and assist persons in understanding their rights, the Commission's Orders of Investigation will hereafter take cognizance of these problems; and the Commission is proposing appropriate amendments to its rules of practice and procedure, specifically Rule 3(a) 46 CFR 502.41.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 841a), and section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845), Part 502 of Title 46, Code of Federal Regulations, is proposed to be amended as set forth below.

§ 502.41 [Amended]

1. Section 502.41 is proposed to be amended by deleting the following words from the second sentence: "and/or § 502.67 (Rule 5(g))".

Since the proposal set forth in this rulemaking proceeding concerns procedural matters limited to the conduct of formal proceedings before the Commission, its adoption could in no way be considered to result in major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Consequently no environmental impact statement will be issued in this proceeding.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12551 Filed 5-2-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

APACHE NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Apache Grazing Advisory Board will meet at 1:00 p.m. on June 9, 1977, at the Ramada Inn, Springervile, Arizona.

The purpose of the meeting is to elect officers for the Apache National Forest Grazing Advisory Board. Other business concerning permittee and Forest Service relationships will be discussed. The procedures for establishing a new board and charter under the Federal Land Management Policy Act will be discussed. Also the authority of the new board, which will be limited to development of Allotment Management Plans, and use of Range Betterment funds, will also be discussed.

The meeting will be open to the public. Persons who wish to attend may contact:

Forest Supervisor, Apache-Sitgreaves National Forests, P.O. Box 640, Springerville, Arizona, Phone 333-4301.

1. Those wishing to make a verbal statement or comment on the petition for forming a grazing advisory board should present written documentation and state the amount of time required to present the topic.

2. The Forest Supervisor will review all requests and inform each participant of the time alloted for their presentation.

Time permitting, other questions or statements will be received following the meeting. If not, written statements will be received.

Dated: May 5, 1977.

MILES P. HANRAHAN,
Acting Forest Supervisor.

[FR Doc.77-12573 Filed 5-2-77;8:45 am]

SITGREAVES NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Sitgreaves Grazing Advisory Board will meet at 10:00 a.m. on June 10, 1977, at the Maxwell House, Show Low, Arizona.

The purpose of the meeting is to elect officers for the Sitgreaves National Forest Grazing Advisory Board. Other business concerning permittee and Forest Service relationships will be discussed. The procedures for establishing a new board and charter under the Federal Land Management Policy Act will be discussed. Also the authority of the new board, which will be limited to development of Allotment Management Plans, and use of Range Betterment funds, will also be discussed.

The meeting will be open to the public. Persons who wish to attend may contact:

Forest Supervisor, Apache-Sitgreaves National Forests, P.O. Box 640, Springerville, Arizona, Phone 333-4301.

1. Those wishing to make a verbal statement or comment on the petition for forming a grazing advisory board should present written documentation and state the amount of time required to present the topic.

2. The Forest Supervisor will review all requests and inform each participant of the time alloted for their presentation.

Time permitting, other questions or statements will be received following the meeting. If not, written statements will be received.

Dated: May 2, 1977.

MILES P. HANRAHAN,
Acting Forest Supervisor.

[FR Doc.77-12574 Filed 5-2-77;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Advisory Council on Child Nutrition, which was established to make a continuing study of the child nutrition programs of the Department of Agriculture, is scheduled to hold a meeting on May 10-11, 1977, in room 645 GHI Building, 500 12th Street SW., Washington, D.C. On May 10 the meeting will be held from 9 a.m. to 4:30 p.m. and on May 11 from 9 a.m. to 12 noon. The meeting which is in effect a rescheduling of a previously postponed meeting will include a review of the Budget Request for 1978, Summer Food Service Program, Legislative Update, Training Grants Study, Update on Surveys and Studies and Offer vs. Serve. The meeting will be open to the public. Additional information can be obtained by contacting the executive secretary, Herbert D. Rorex, at 202-447-6603.

Dated: April 29, 1977.

CAROL T. FOREMAN,
Assistant Secretary and Chairman, National Advisory Council on Child Nutrition

[FR Doc.77-12753 Filed 5-2-77;8:45 am]

Rural Electrification Administration

SHO-ME POWER CORP., MARSHFIELD, MO.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider: (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $3,517,000 to Sho-Me Power Corporation of Marshfield, Mo., and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $6,012,000 to this corporation. These loan funds will be used to finance a project consisting of approximately 27 miles of 161 kV transmission line, 49 miles of 69 kV transmission line and related facilities.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John K. Davis, Manager, Sho-Me Power Corporation, Marshfield, Mo. 65706.

In order to be considered, proposals must be submitted on or before June 1, 1977, to Mr. Davis. The right is reserved to give such consideration and make such evaluation or other dispostion of all proposals received, as Sho-Me and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 26th day of April 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77-12656 Filed 5-2-77;8:45 am]

Soil Conservation Service

POHICK CREEK WATERSHED, VIRGINIA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of

V 42 85 MAY 3 77 UMI

1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Pohick Creek Watershed, Fairfax County, Virginia.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment, and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. David N. Grimwood, State Conservationist, Soil Conservation Service, USDA, 400 North 8th Street, Room 9201, Richmond, Virginia 23240, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two single purpose floodwater retarding structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 400 North 8th Street, Room 9201, Richmond, Virginia 23240. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 USC 1001-1008).

JOSEPH W. HAAS,
Assistant Administrator for Water Resources Soil Conservation Service

[FR Doc.77-12577 Filed 5-2-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30697; Order 77-4-28]

CARIBBEAN AREA SERVICE INVESTIGATION

Order Instituting Investigation; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of April 1977.

In FR Doc. 77-10720, appearing at page 19165, in the issue of Tuesday, April 12, 1977, the following civic parties were inadvertently omitted from the service list attached as Appendix A:

Commonwealth of Puerto Rico
State of Maryland

In addition, Antilles Air Boats, Inc., a commuter air carrier, has requested that it be served with copies of comments and responses in this proceeding. Accordingly, a corrected copy of Appendix A is attached below.

By the Civil Aeronautics Board.

Dated: April 18, 1977.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A

SERVICE LIST

Certificated Route Air Carriers

Airlift International, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
National Airlines, Inc.
Northwest Airlines, Inc.
Pan American World Airways, Inc.
Southern Airways, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.

Supplemental Air Carriers

Capitol International Airways, Inc.
Evergreen International Airlines, Inc.
McCulloch International
Overseas International Airways, Inc.
Rich International Airways, Inc.
Trans International Airlines, Inc.
World Airways, Inc.

Commuter Air Carriers

Air Florida
Air Sunshine
Chalk's International Airline, Inc.
Florida Airlines, Inc.
Mackey International Airlines, Inc.
Marco Island Airways
Naples Airlines
Puerto Rico International Airlines, Inc.
Southeast Airlines
Antilles Air Boats, Inc.

Civic Parties

City of Baltimore
City of Boston
City of Chicago
City of Miami
City of New Orleans
City of New York
City of Philadelphia
Commonwealth of Puerto Rico
State of Maryland

[FR Doc.77-12708 Filed 5-2-77;8:45 am]

[Doc. 27573, Agreement C.A.B. 26537; Order 77-4-76]

IATA

Agreement Adopted Relating to Specific Commodity Rates

Correction

In FR Doc. 77-11827 appearing at page 21303 in the issue of Tuesday, April 26, 1977, there are 2 errors:

(1) In the table, the second column, line 26 should read "' 33";

(2) In the table on page 21304, the heading "Rates extended under existing commodity descriptions:" should appear under the rule line and above the entry "2201" in the first column.

[Docket No. 27573; Agreement C.A.B. 26573; Order 77-4-112]

IATA

Agreement and Order Relating to Specific Commodity Rates

Issued under delegated authority, April 25, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity description and rate as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated April 19, 1977.

Specific commodity item No.	*Description and rate* [1]
4515 ----------	Nuclear and hydrocarbon powerplant equipment; namely valves, electrical machinery, mechanical machinery, and parts thereof; 202c/kg.[2] minimum weight 2,000 kg. From New York to Taipei.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Expires Dec. 31, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

Agreement C.A.B. 26573 is approved, provided that: (a) Approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12705 Filed 5-2-77;8:45 am]

[Docket No. 30716; Order 77-4-107]

TRANS WORLD AIRLINES, INC.

Order of Suspension and Investigation Regarding Cargo Advance Purchase Tariffs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of April 1977.

On March 1, 1977, Trans World Airlines, Inc. (TWA) filed a tariff, effective April 24, 1977, proposing freight-all-kinds (FAK) "Cargo Advance Purchase" (CAP) minimum charges and rules for carriage of unit-load-device (ULD) cargo in the U.S.-U.K. market.[1] The proposal involves a contractual commitment by the shipper to use a specified number of container positions on specified days and flights (at least one Type 8 container position per week), for a minimum period of 140 days. The space would be reserved and paid for by the shipper whether actually occupied or not. The New York–London rate, constructed in relation to the $7.25-per-mile charter rate for narrow-body equipment, would be set at 74 cents per kilogram at the specified pivot weight. Under TWA's present tariff conversion procedures, the westbound, London-New York rate would be set at a level approximating 38 pence per kilogram, which would yield approximately 65 cents per kilogram at the specified pivot weight.[2]

In support of its proposal, TWA alleges that CAP rates are a superior competitive alternative to the British Airways Contract Cargo Rates[3] and other high-volume discount schemes, in that CAP rates are premised upon transfer of the "load factor risk" to the shipper; that CAP rates are available to both large and small shippers; are economical and will provide adequate compensation to the carrier; will attract surface cargo to air while preserving the benefits inherent in air transportation; and will reduce traffic peaking problems and disruptions at air cargo terminals caused by high weightbreak offerings. The carrier argues further that CAP's FAK application will extend discounts to all customers whose shipments achieve a relatively high density; and that all carriers will be able to compete on an equal basis, regardless of equipment type, because CAP rates are set at equal levels for equal density for all container types.

[1] Trans World Airlines, Inc., Air Freight Tariff No. AP-1 and Supp. No. 1, C.A.B. No. 315.
[2] Based upon the March 15, 1977, bank transfer rate of £1=$1.7196.
[3] Suspended pending investigation, Order 76-12-162, Dec. 17, 1976, proceeding dismissed as moot, Order 77-3-164, March 29, 1977.

In supplementary justification, filed March 21, 1977, TWA contends that CAP rates will generate approximately 3.4 million kilograms of air cargo traffic per year, a 19-percent increase, producing about six times the revenue required to offset its annual revenue loss of $389,000 through diversion of ULD traffic to CAP.

Complaints requesting suspension pending investigation of TWA's proposal have been filed by Pan American World Airways, Inc. (Pan Am) and Seaboard World Airlines, Inc. (Seaboard). These parties assert, among other things, that TWA's economic justification is premised upon attainment of an unrealistic cargo traffic density of 14.7 lbs./cu. ft., such that at 100 percent load factor the cargo weight would exceed the operational capability of a B-707 freighter; that CAP rates are uneconomical even at 100 percent load factor, producing yields in all-cargo operations of 16.8–19.7 cents per revenue ton-mile (RTM), well below TWA's operating cost of 22.59 cents per available ton-mile (ATM); that westbound CAP rates are below TWA charter rates and, therefore, patently uneconomical; and that TWA has failed to make any quantitative generation study. Seaboard further alleges that the CAP proposal is unjustly discriminatory under section 404(b) of the Federal Aviation Act of 1958, citing our suspension pending investigation of British Airways' Contract Cargo Rates in Order 76-12-162.

TWA has filed a consolidated answer to the complaints, stating that acceptable revenue improvement is achievable at densities below 14.7 lbs./cu. ft. because CAP minimum charges are based upon container type; that even assuming a density of 14.7 for CAP traffic, TWA plans to limit CAP space to 50 percent of available cargo capacity and, coupled with an industry-average density of 11.23 for non-CAP traffic, the total load would be well within the lift capability of the B-707 freighter; that TWA's alleged operating cost of 22.59 cents per ATM, relied upon by Pan Am and Seaboard in their complaints, is taken from TWA's justification for the most recent IATA North Atlantic freight rate increase, and reflects discontinued multi-stop service by TWA to France, Italy, and Switzerland, misallocated training costs, and overstated contractual cost increases, whereas under its lower, amended costs, which better reflect operations in the U.S.-U.K. market, CAP rates are economical; that CAP rates are in excess of industry-average cost per ATM, which is a truer measure of the viability of CAP rates than cost per RTM; and that CAP rates are not discriminatory because the shipper is assuming the carrier's load factor risk, and because the Board has previously reviewed the discriminatory aspects of blocked-space rates, upon which the CAP concept is based, and allowed these rates to go into effect.

Upon consideration of the proposal, the complaints and answer thereto, and all other relevant matters, the Board finds that the proposed rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further finds that the proposed rates should be suspended pending investigation.

We consider TWA's traffic generation analysis to be of dubious value. The attractiveness of CAP rates depends upon the level of their discount, which in turn increases with the density of the cargo tendered up to a certain pivot density, and declines somewhat at higher densities. In order to achieve the greatest discount from the regular ULD rates, the generated traffic must significantly exceed the average traffic density.[4] Specifically, TWA's analysis in its justification discusses a Type 3 container which, with a 2,800 kg. pivot weight based upon a density of 14.7 lbs./cu. ft., produces a unit charge of 74 cents per kilogram, a 20.7-percent discount from ULD rates. In its consolidated answer, however, TWA indicates that it expects cargo moving under its CAP rates to average about 12.6 lbs./cu. ft. Cargo of this density would receive an average discount of less than 11 percent from existing ULD rates, and we do not see how this discount can attract more cargo from surface to air, especially when surface rates are so low. Certainly, TWA has submitted no comparison of surface and CAP rates, and very little else in the way of evidence in support of its generation estimate. Instead, we believe that the proposed CAP rates will produce only a significant danger of diversion of air cargo from ULD and specific commodity rates.

Moreover, the CAP rates appear to be below cost. Assuming arguendo that CAP rates do attract traffic of sufficient density to achieve the pivot weight, this would result in a yield of 19.7 cents per RTM in the New York-London market, and 17.1 cents in the London-New York market. Based upon the data submitted by TWA in Docket 27573, in support of the recent North Atlantic rate package, and in its initial justification for the CAP rates, TWA's transatlantic scheduled service, all-cargo operating cost projected for the year ending October 31, 1977, is approximately 34 cents per RTM. TWA's CAP rates appear to be up to 49 percent below this figure. Moreover, in claiming that the proposed rates will produce adequate compensation for the transatlantic all-cargo carriers, TWA uses costs which are an average of ATM costs, which reflect planeload economies rather than the economies of scheduled service. If we consider the average cost of 16.8 cents per ATM for the three U.S. transatlantic carriers operating all-cargo equipment, CAP rates are barely above planeload cost; when compared to TWA's own cost of 22.6 cents per

[4] In this regard, as noted in the complaints, the transatlantic, transpacific, and Latin American Mail Rates Case, Docket 26437, found the average transatlantic freighter service cargo density to be 11.23 lbs./cu. ft.

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ATM, however, CAP rates are plainly below cost.

We note that TWA in its consolidated answer submitted cost figures lower than those submitted in Docket 27573 in support of the IATA North Atlantic rate structure. TWA, however, has used data from that docket in three complaints against various British Airways' rate proposals which were suspended by the Board pending investigation. This sudden recanting of data previously tendered the Board in matters involving the U.S.–U.K. market and substitution of new, largely unverifiable data which better suits the carrier's immediate purpose in that market can only be viewed with great suspicion. For the time being, the Board accepts the costs submitted in Docket 27573. Whether these costs or TWA's amended costs are more accurate or more germane will, of course, be a proper issue for examination in the investigation ordered herein.

TWA apparently believes that the possible discriminatory aspects of CAP rates are not open to serious question on the ground that the principal features of CAP are the same as those which the Board examined previously for discrimination and approved for application on U.S. domestic routes as "Blocked-Space" rates.[6] The CAP concept and blocked-space service are, in fact, similar; indeed, CAP appears to be more restrictive.[7] The history of Board actions regarding blocked space, however, reveals no generic determination of lawfulness. In 1964, the Board adopted a Statement of General Policy (14 CFR 399.37) establishing the exclusive right of all-cargo carriers to sell blocked space, but making it clear that each filing would be subjected to full evaluation.[8] Consequently, numerous blocked-space tariffs went into effect but were placed under investigation in Docket 15419[9] with the Board being prepared to address, among other matters, "a major question of unjust discrimination • • •."[10] The 1964 Statement of General Policy was deleted in October 1968,[10] and the investigation in Docket 15419 was dismissed as moot in December of that year.[11] As expressed by the Board at that time:

> [I]t would be more appropriate, in our view, to determine the precise requirements of blocked space service upon the filing of particular blocked space tariffs in the course of normal rate proceedings.[12]

This opportunity arose in the *Airlift Blocked-Space* Case, Docket 24215,[13] in which the Board affirmed the finding of the administrative law judge that the blocked-space rates in question were unjustly discriminatory.[14] In sum, the issue of whether blocked-space rates are unjustly discriminatory is not settled, and the discrimination issue must be addressed in the course of this investigation as it relates to the specific terms of the CAP proposal.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801, and 1002(j) thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rates, charges, and provisions on Original Title Page, and Original Pages 1 through 14, 1st Revised Pages 7, 13, and 14, and Supplement No. 1 of Tariff C.A.B. No. 315, issued by Trans World Airlines, Inc., and rules, regulations, or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such rates and provisions and rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff rules and provisions specified in paragraph 1 above are suspended and their use deferred from April 24, 1977, to and including April 23, 1978, unless otherwise ordered by the Board; and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[15] and shall become effective on April 24, 1977;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Copies of this order shall be filed in the aforesaid tariffs and served upon Trans World Airlines, Inc., Pan American World Airways, Inc., and Seaboard World Airlines, Inc.; and

6. Except to the extent granted herein, the complaints in Dockets 30640 and 30647 be and hereby are dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–12706 Filed 5–2–77;8:45 am]

[Docket No. 30452; Order 77–4–72]

UNIVERSAL AIR TRAVEL PLAN

Order Authorizing Discussions; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of April 1977.

In FR Doc. 77–11582, appearing at page 20645 in the issue of Thursday, April 21, 1977, a correction was misplaced in the second full paragraph in the first column on page 20646. The paragraph should read as follows:

> Upon consideration of the application, we have decided to grant authorization for the discussions, subject however to several conditions. We do not take any position at this time on the merits of the provisions in the proposed agreement which are to be discussed or of any amendments theerto. We note, however, that in approving the present plan in 1951 the Board stated that a degree of uniformity for the plan throughout the industry was highly desirable.[4] We thus find that the discussions called to attemp a compromise solution to differences among the parties to the plan warant approval as discussions with potential public benefits and, of course, results that could not be achieved by individual carier action."

Dated: April 18, 1977.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–12707 Filed 5–2–77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ALASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 6 p.m. and will end 10 p.m. on June 3, 1977, at 4706 Harding Drive, Anchorage, Alaska 99503.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to plan for future project in Alaska.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 28, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–12624 Filed 5–2–77;8:45 am]

IOWA ADVISORY COMMITTEE

Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission originally scheduled for May 12, 1977 a notice previously published in the FEDERAL REGISTER Friday, April 1 1977 (FR Doc. 77–9730) on page 17508 has been cancelled.

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[6] Justification of Cargo Advance Purchase Tariff, at 1–2; Consolidated Answer of TWA, at 9.

[7] For example, domestic blocked-space service required a time commitment of 60–90 days, while CAP requires 140. Also, the blocked-space concept was valid for shipment commitments on a weekly basis, while CAP requires that shippers specify days and flights. See Flying Tiger Line, Blocked-Space Tariff, 44 C.A.B. 814 (1966).

[8] PS–24, Aug. 7, 1964.

[9] Initiated by Order E–21076, July 17, 1964.

[10] Order E–21160, Aug. 7, 1964, at 4 (Gurney and Gilliland, dissenting).

[10] PS–37, Oct. 14, 1968.

[11] Order 68–12–118, Dec. 20, 1968.

[12] PS–37, supra note 10, at 2–3. See also PS–24, supra note 7, at 6.

[13] Initiated by Order 72–2–36, Feb. 10, 1972.

[14] Order 73–4–25, Apr. 4, 1973, at 2, aff'g Initial Decision at 31.

[15] This order was submitted to the President on Apr. 12, 1977.

Dated at Washington, D.C., April 28, 1977.

JOHN I. BINKLEY,
Advisory Committee, Management Officer.

[FR Doc.77–12625 Filed 5–2–77;8:45 am]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 12:30 p.m. on June 18, 1977, at Northwest Regional Office, U.S. Commission on Civil Rights, 915 Second Ave., Suite 2854, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Ave., Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss civil rights issues in the State of Washington, rechartering of the Advisory Committee, and plans for the future projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 28, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–12626 Filed 5–2–77;8:45 am]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 4 p.m. on May 26, 1977, at the Holiday Inn, Route 50, Parkersburg, West Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within the State.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 28, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–12627 Filed 5–2–77;8:45 am]

CIVIL SERVICE COMMISSION

ASSISTANT TO DIRECTOR FOR TRANSITION PLANNING

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 C.F.R. 9.20), the Civil Service Commission authorizes Action to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Assistant to the Director for Transition Planning.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12648 Filed 5–2–77;8:45 am]

DEPARTMENT OF LABOR

Title Change in Noncareer Executive Assignment

By notice of May 29, 1975, FR Doc. 75–13883 the Civil Service Commission authorized the Department of Labor to fill by noncareer executive assignment the position of Deputy Under Secretary for Legislative Affairs, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Under Secretary for Legislation, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–12445 Filed 5–2–77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meetings

Notice is hereby given of a meeting of the Caribbean Fishery Management Council and its Scientific and Statistical Committee and Advisory Panel.

The Council was established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). The Council has authority over fisheries within the fishery conservation zone adjacent to Puerto Rico and the Virgin Islands. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This is one of a series of organizational meetings of the Council. The meeting will be held Monday through Thursday, May 23 to May 26, 1977, at the Condado Holiday Inn, 999 Ashford Avenue, Condado, San Juan, Puerto Rico. The meeting will convene at 1 p.m. on May 23 and adjourn at about noon on May 26, 1977. Daily sessions will normally start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

1. Council organization and administrative procedures.
2. Technical organization and procedures.
3. National Marine Fisheries Service Law Enforcement presentation.
4. Management plans for spiny lobster and reef fishes.
5. Review of Puerto Rico fishing.
6. Report of the State Department on fishing relationships with the British Virgin Islands.
7. Other management business.

Meeting concurrently at the same place and time as the Council, and perhaps in conjunction with the Council at times, will be the Council's Scientific and Statistical Committee and Advisory Panel. These are established pursuant to ical, economic, social, and other scientific and Statistical Committee will assist the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out is functions under the Act.

The Scientific and Statistical and the Advisory Panel will meet separately but will utilize the same agenda.

PROPOSED AGENDA

1. Consideration of internal program matters.
2. Review of fishery management plan issues.
3. Appropriate recommendations to the Council.
4. Other management business.

All of these meetings will be open to the public, and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about May 20, 1977:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco de Ponce Bldg., Munoz Rivera Ave., Hato Rey, P. R. 00936.

At the discretion of the Council, the Committee, or the Panel, as appropriate, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments

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should do so by addressing the Executive Director at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: April 28, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-12710 Filed 5-2-77;8:45 am]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL'S SHALLOW WATER SHRIMP ADVISORY PANEL, GROUNDFISH ADVISORY PANEL, COASTAL MIGRATORY PELAGIC ADVISORY PANEL, AND REEF FISH ADVISORY PANEL

Public Meetings

Notice is hereby given of meetings of four of the Advisory Panels of the Gulf of Mexico Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the west coast of Florida, Alabama, Louisiana, Mississippi, and Texas. The Council's functions are, among other things, to prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Advisory Panels composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of the particular resources involved, assist the Council in establishing the goals and objectives of fishery management plans. They also provide pragmatic advice and counsel on the contents of fishery management plans during their review and define and evaluate criteria for judging plan effectiveness after initiation.

The meeting of the Reef Fish and Coastal Migratory Pelagic Advisory Panels will be held Tuesday and Wednesday, May 24 and 25, 1977. The meeting of the Shallow Water Shrimp and Groundfish Advisory Panels will be held Tuesday and Wednesday, May 31, and June 1, 1977. Both meetings will be held in the Tampa Room of the Barclay Quality Inn, 5303 West Kennedy Boulevard, Tampa. Fla. Both meetings will convene at 1:30 p.m. Tuesday, adjourning at 5 p.m.; and will reconvene at 8:30 a.m. Wednesday, adjourning at 5 p.m. The meeting may be extended or shortened depending on programs on the agenda.

PROPOSED AGENDA

1. Orientation.
2. Goals and Objectives of Management Plan.
3. Other Business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about May 18:

Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, suite 881, 5401 West Kennedy Blvd., Tampa, Fla. 33609.

At the discretion of the Panels, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Panel business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the Panel meetings.

Dated: April 28, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-12711 Filed 5-2-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE ADVISORY PANEL

Public Meetings

Notice is hereby given of meetings of the South Atlantic Fishery Management Council, established by section 302, and the Council's Scientific and Statistical Committee and Advisory Panel, established by section 302(g), of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

The Council and Scientific and Statistical Committee will meet jointly Tuesday through Thursday, May 24, 25, and 26, 1977, at the Happy Dolphin Inn, 4900 Gulf Boulevard, St. Petersburg Beach, Fla. The meeting will convene at 1:30 p.m. on May 26, and adjourn at about noon on May 26. The daily sessions will start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Organization of Steering Committees and Teams for: (1) billfish, (2) snapper-grouper complex, and (3) king and Spanish mackerel.
2. Finalization of technical procedures and development of outline for fishery management plans in cooperation with the Council's Scientific and Statistical Committee.
3. Orientation of fishery Advisory Panel members.
4. Consideration of permit requests and other related Council business.

The Advisory Panel will meet jointly with the Council and the Scientific and Statistical Committee on May 24 and 26, and in separate session at the same facility on May 25, beginning at 9 a.m. and adjourning at approximately 5 p.m.

PROPOSED AGENDA

1. Election of Chairman and Vice Chairman.
2. Review of charter and development of operational procedures.
3. Other management business.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Advisory Panel must be legally chartered before it may meet or take any action. At this time the Advisory Panel does not have an approved charter. This notice is being given with the condition that a charter will be in effect by the meeting date. The Advisory Panel will meet only if its charter is in effect at the scheduled time for the meeting. In order to determine whether the charter will be in effect in time for the meeting to take place, any interested person should contact the Council official listed elsewhere in this notice. The Council and Scientific and Statistical Committee will meet regardless of whether the Advisory Panel meets.

These meetings will be open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about May 20, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Bldg., suite 306, No. 1 Southpark Circle, Charleston, S.C. 29407; telephone: 803-571-4366.

At the discretion of the Council, the Committee, or the Panel, as appropriate, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the aforementioned address. To receive due consideration and to facilitate inclusion of these comments in

the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: April 28, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-12712 Filed 5-2-77;8:45 am]

Domestic and International Business Administration, Bureau of East-West Trade

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Thursday, May 19, 1977, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor products, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has seven parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of membership status and suggestions for new members.
(4) Selection of new committee chairman.
(5) Discussion of foreign availability for digital integrated circuits, specifically 7400 TTL, Emitter Coupled Logic (ECL) and Complimentary MOS (CMOS).
(6) New business.

EXECUTIVE SESSION

(7) Discussion of matters properly classified under Executive Order 11652 dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (7), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: April 27, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77-12566 Filed 5-2-77;8:45 am]

Foreign-Trade Zones Board

[Docket No. 4-77]

REGIONAL INDUSTRIAL DEVELOPMENT CORP. OF SOUTHWESTERN PENNSYLVANIA

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Regional Industrial Development Corporation of Southwestern Pennsylvania (RIDC), a Pennsylvania nonprofit development corporation with its headquarters in Pittsburgh, requesting a grant of authority to establish a foreign-trade zone in Allegheny County, Pennsylvania, within the Pittsburgh Customs port of entry, and a special-purpose subzone in Westmoreland County, Pennsylvania, adjacent to the port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 28, 1977. The applicant is authorized to make such proposals under Pennsylvania law (Act No. 126, approved June 10, 1935, Pub. L. 291).

The proposed general-purpose zone will occupy 6 acres within the RIDC Park West, a 340 acre planned industrial park development in the Townships of Findlay and North Fayette, Allegheny County, Pennsylvania, near the Greater Pittsburgh International Airport. The site, which is served by rail, is located near the Montour interchange of the Penn-Lincoln Parkway, the principal artery between the airport and downtown Pittsburgh. Within the zone RIDC will construct a 40,000 square foot multiple-occupancy building. Zone users would be able to lease such space or have facilities constructed to meet their individual needs. Park West is RIDC's third master-planned industrial park established in the nine-county Southwestern Pennsylvania area. The zone is intended to complement RIDC's efforts at improving the area's resources and services to encourage industrial investment. Some 22 firms have indicated an immediate interest in using the proposed zone for international-trade related manufacturing, processing, assembly and warehousing operations involving such products as: optical instruments, amplifiers, motors, control and instrumentation devices, machines and machine parts, valves, compressors, chemicals and chemical products, metals and metal products, and processed foods.

The special-purpose subzone would encompass a 147 acre portion of the new automobile assembly and manufacturing facility of the Volkswagen Manufacturing Corporation of America (VW) located on 300 acres in the Townships of East Huntingdon and Hempfield, Westmoreland County, Pennsylvania. (The Customs port of entry of Pittsburgh extends into Westmoreland County.) It was acquired by VW from the Chrysler Corporation. Located on U.S. Route 119, the site is about 35 miles southeast of Pittsburgh and 2 miles south of the Pennsylvania Turnpike. RIDC, as sponsor of the subzone, would enter into an operating agreement with VW to satisfy the requirements of the Board. From the inception of its planning for a U.S. plant, VW considered it important to operate under free-trade zone procedures, and this desire was conveyed to the officials with whom it conducted its negotiations. Consequently, the application contains a letter from the Governor of Pennsylvania supporting the proposal. VW is expected to start operations in late 1977 for producing 200,000 Rabbit model au-

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tomobiles annually, employing up to 5,000 persons. The secondary impact is expected to result in some 20,000 additional regional jobs. Zone procedures are requested to reduce Customs costs and facilitate entry procedures. Duties would be paid on autos entering the U.S. market from the plant at the 3 percent rate applicable to the finished product. No duties would be levied on reexports to Canada. VW has determined that without zone procedures the average duty rate on imported parts and components would be 4.2 percent ad valorem. At the outset VW plans to import some components such as engines, transmissions, and drive systems. In terms of value it is estimated that half of the components would be of domestic origin. VW indicates that it uses free-trade zone type Customs procedures at its other overseas plants.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; John Noon, Director, Inspection and Control Division, U.S. Customs Region III, 40 S. Gay Street, Baltimore, Maryland 21202; and Colonel Max R. Janairo, Jr., District Engineer, U.S. Army Engineer District Pittsburgh, Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

In connection with its investigation of the proposal, the Examiners Committee will hold a public hearing on June 1, 1977, beginning at 9:00 a.m., in Room 2214 of the Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania. The purpose of the hearing is to help inform interested persons about the proposal, to provide them with an opportunity to express their views, and to obtain information useful to the committee.

Interested persons or their representatives will be given the opportunity to present their views at the hearing. Such persons should, by May 24, 1977, notify the Board's Executive Secretary in writing, at the address below, of their desire to be heard. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through July 1, 1977. A copy of the application with accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, 2002 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: April 28, 1977.

JOHN J. DA PONTE, JR.,
Executive Secretary, Foreign-Trade Zones Board, Department of Commerce.

[FR Doc.77-12605 Filed 5-2-77;8:45 am]

National Oceanic and Atmospheric Administration

FORT WAYNE CHILDREN'S ZOOLOGICAL GARDENS

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.23 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the public display Permit issued to Fort Wayne Children's Zoological Gardens, Fort Wayne, Indiana 46803, on April 26, 1974, is modified in the following manner.

The period of validity, during which the authorized marine mammals may be taken, is extended from December 31, 1976, to December 31, 1978.

This modification is effective May 3, 1977.

The permit, as modified, is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: April 15, 1977.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77-12543 Filed 5-2-77;8:45 am]

MARVIN MORRIS COHEN

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Marvin Morris Cohen, 14116 Bauer Drive, Rockville, Maryland 20853.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibition, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 973 whole whale teeth and 15 pounds of cuttings and pieces of whale teeth.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before June 2, 1977.

Dated: April 27, 1977.

ROBERT J. AYERS,
Associate Director for Fisheries Management.

[FR Doc.77-12646 Filed 5-2-77;8:45 am]

STATE OF ALASKA DEPARTMENT OF FISH AND GAME

Receipt of Application for Scientific Research Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for the purpose of scientific research, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

State of Alaska, Department of Fish and Game, Support Building, Juneau, Alaska 99801, to take by killing three hundred sixty (360) animals, consisting of ninety (90) each of the following species:

Ringed seal (*Phoca hispida*)
Bearded seal (*Erignathus barbatus*)
Ribbon seal (*Phoca fasciata*)
Spotted seal (*Phoca vitulina largha*)

and by marking the following number and species of animals:

200 Ringed seal (*Phoca hispida*)
100 Ribbon seal (*Phoca fasciata*)
300 Spotted seal (*Phoca vitulina largha*)

The proposed research will be conducted over a three year period in the Gulf of Alaska by personnel of the Alaska Department of Fish and Game. The species are needed as a basic source of material and data for the research and management programs conducted by the State of Alaska, including, but not limited to, studies of: species life history, population assessment, food habits, reproduction, natural mortality, taxonomy and systematics, physiology, interspecific relationships, pesticides and heavy metal burdens, and seasonal movements and distribution.

Specimen materials not utilized in Department of Fish and Game projects will be made available to other researchers. Skeletal materials will be placed in the collections of the University of Alaska and the Smithsonian Institution. Usable remains will be given, where feasible, to coastal residents for food.

Documents submitted in connection with this application are available in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is sending copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or request for a public hearing on this application, should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 2, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions that may be contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: April 26, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-12542 Filed 5-2-77;8:45 am]

TWENTIETH CENTURY-FOX MARINELAND, INC.

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Twentieth Century-Fox Marineland, Incorporated, 6600 Palos Verdes Drive South, Rancho Palos Verdes, California 90274, requests to take two (2) Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) and two (2) Pacific bottlenosed dolphins (*Tursiops gilli*) for the purposes of public display.

The four dolphins will be taken by the Applicant's collecting vessel near Santa Catalina, California. The animals will be taken by means of a hoop-net.

The animals will be acclimated in a circular pool with a diameter of 43 feet and a depth of 12.5 feet having a capacity of 135,000 gallons.

The white-sided dolphins will be displayed in an oval shaped pool, 61 feet by 38 feet by 12.5 feet deep. The bottlenosed dolphins will be displayed in a pool 118 feet by 58 feet by 13 feet deep.

Twentieth Century-Fox Marineland Incorporated is a profit organization. The facility hosts 1.0 million visitors annually, and approximately 100,000 of those visitors are involved in educational programs.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 2, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: April 27, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management National Marine Fisheries Service.

[FR Doc.77-12645 Filed 5-2-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

ENVIRONMENTAL DETERMINATION

APRIL 21, 1977.

On April 9, 1976 the Department of the Air Force announced in the FEDERAL REGISTER (page 15038) its intent to prepare Environmental Impact Statements (EISs) on certain proposed management actions announced by Secretary of the Air Force Thomas C. Reed on March 11, 1976.

Among the actions for which an EIS was to be prepared was the transfer of KC-135 tankers to the Air Reserve Forces at Greater Pittsburgh International Airport, Pennsylvania. After careful review of the Environmental Impact Assessment (EIA) it was determined that the proposed action was not a major Federal action significantly affecting the quality of the human environment nor was it likely to be highly controversial with regard to its environmental impacts.

a. Analysis of the noise environment indicates an insignificant contribution by the proposed KC-135 operations at Greater Pittsburgh International Airport (IAP). Installation of a sound suppressor on the engine test stand is programmed.

b. The change in air pollutent emissions will be an increase in visible smoke emissions and hydrocarbons, a slight increase in the amount of sulfur-oxides and nitrogen oxides and a substantial decrease in carbon monoxide and particulate emissions from the present National Guard Bureau (NGB) operations. Visible smoke emissions will be increased since some training takeoffs will be in the augmented (wet) mode. Ambient air quality in the vicinity of Greater Pittsburgh IAP revealed minimal exceedance of Ambient Air Quality Standards for particulates. It is anticipated that the proposed aircraft operation would have a minimal effect on present ambient quality levels in the vicinity of the airport.

c. The proposed action has been widely publicized in the local area. There is no known opposition or concern which has surfaced as a result of the announcement of the proposed conversion.

For the reasons outlined above, the United States Air Force has decided not to file a Draft EIS with the Council on Environmental Quality (CEQ) but has prepared an Environmental Determination.

Copies of the Environmental Determination and the supporting documentation are available upon request to the HQ USAF/PREV, Pentagon, Washington, D.C. 20330.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-12578 Filed 5-2-77;8:45 am]

INTENT TO PREPARE ENVIRONMENTAL IMPACT STATEMENT

APRIL 21, 1977.

Notice is hereby given that in accordance with the National Environmental Policy Act, the United States Air Force intends to prepare a Draft Environmental Impact Statement on the proposed construction, activation and operation of Space Shuttle facilities at Vandenberg Air Force Base and supporting activities at Port Hueneme, California.

Construction of facilities is proposed to begin in 1979 for completion in late 1982. The initial operational capability of Vandenberg for the Space Shuttle program is proposed for December 1982. Operations would include the launch and landing of the space orbiter; the recovery and refurbishing of the solid rocket boosters; and all associated ground support for the shuttle program at Vandenberg.

All interested persons desiring to submit comments on the environmental effects of the above action should address them to the Special Assistant for Environmental Quality, SAF/ILE, Office of the Secretary of the Air Force, Washington, D.C. 20330.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Directorate of Administration.

[FR Doc.77-12579 Filed 5-2-77;8:45 am]

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Office of the Secretary

DEFENSE SCIENCE BOARD, TASK FORCE ON INTELLIGENCE

Advisory Committee Meeting

The Defense Science Board Task Force on Intelligence will meet in closed session on May 20, 1977, in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will provide a review of intelligence requirements and issues reporting on alternative solutions.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b.(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

APRIL 28, 1977.

[FR Doc.77-12622 Filed 5-2-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

RTCM SC 69/FCC WARC-79 ADVISORY COMMITTEE FOR MARITIME MOBILE SERVICE

Thirteenth meeting at 1919 M Street NW., Washington, D.C., in Room 847, at 9:30 a.m.-12:30 p.m., Tuesday, May 24, 1977.

AGENDA

1. Call of the agenda.
2. Chairman's opening remarks.
3. Reports of the task forces.
4. Review work to be accomplished.
5. Further business.
6. Set date for next meeting.
7. Adjournment.

Charles Dorian, Chairman SC 69, COMSAT General, 950 L'Enfant Plaza SW., Washington, D.C. 20024.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat, phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-12647 Filed 5-2-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

STRATEGIC PETROLEUM RESERVE

West Hackberry Salt Dome Storage Site; Availability of Supplement to Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) et seq., the Federal Energy Administration (FEA) has prepared a supplement to the environmental impact statement (EIS) for the West Hackberry salt dome site. The supplement describes the environmental impacts of a proposed change in pipeline siting associated with the West Hackberry storage facility.

The West Hackberry site has been selected as a key element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) will be created for the storage of crude oil and/or petroleum products for use in the event of Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

FEA will allow for a minimum of 30 days for interested parties to comment before taking any administrative action with regard to the proposed pipeline alteration. Moreover, FEA will endeavor to comply with any requests (received during the 30-day period) for extensions of the review period up to a maximum of 15 days.

Single copies of the supplement to the West Hackberry EIS (DES-76/77-4) may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the supplement will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue N.W., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the supplement to Executive Communications, Box MB, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submited to FEA Executive Communications with the designation "Supplement to the West Hackberry EIS (FES-76/77-4)." Fifteen copies should be submitted. All comments should be received by FEA by June 1, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential must be so identified and subject and to treat it according to that determination.

Issued in Washington, D.C., April 27, 1977.

ERIC J. FYGI,
Acting General Council, Federal Energy Administration.

[FR Doc.77-12613 Filed 4-28-77;3:22 pm]

FEDERAL MARITIME COMMISSION

GENERAL PRINCIPLES RELATING TO EQUALIZATION AND ABSORPTION CLARIFICATION OF DENIAL OF PETITION FOR RULEMAKING

Filing of Petition for Modification

Correction

In FR Doc. 77-12109, appearing on page 21511 in the issue of Wednesday, April 27, 1977, the number in the fourth line of the last paragraph in the first column should read, "73-35".

AMERICAN EXPORT LINES, INC., ET AL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, New York 10004.

Agreement No. 10294, among American Export Lines, Inc., Atlantic Container Line (G.I.E.), Dart Containerline Co., Ltd., Hapag-Lloyd AG, Sea-Land Service, Inc., Seatrain International, S.A. and United States Lines, Inc. applies to shipments from, to or via Atlantic and Gulf ports of the United States moving in marine container units stuffed by shippers and/or stripped by consignees, or any agent or contractor of such shippers and/or consignees. The agreement applies to containers loaded with any number of mixed commodities by any person, as defined by the Shipping Act, 1916, but not limited to forwarders, consolidators and non-vessel operating common carriers, on behalf of any number of multiple shippers. The parties shall not make or give, directly or indirectly, any payment, allowance, or other compensation for the consolidation or deconsolidation of shipments subject to this agreement performed at any place other than a deepsea waterfront facility.

By Order of the Federal Maritime Commission.

Dated: April 19, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12641 Filed 5-2-77;8:45 am]

CITY OF LONG BEACH AND NATIONAL MOLASSES CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. Leslie E. Still, Jr., Deputy City Attorney, City of Long Beach, City Hall, 333 West Ocean Blvd., Long Beach, California 90802.

Agreement No. T-2153-5, between City of Long Beach and National Molasses Company (NMC), modifies the basic agreement between the parties which provides for the exclusive use of land and the preferential use of a wharf on Pier J to be used as a liquid bulk terminal. The purpose of the modification is to allow NMC to amend the insurance requirements by providing for deductibles or self-insured retention in any amount up to $25,000.

By Order of the Federal Maritime Commission.

Dated: April 28, 1977.

JOSEPH S. POLKING,
Acting Secretary.

[FR Doc.77-12642 Filed 5-2-77;8:45 am]

CITY OF LONG BEACH AND NATIONAL MOLASSES CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. Leslie E. Still, Jr., Deputy City Attorney, City of Long Beach, City Hall, 333 West Ocean Blvd., Long Beach, California 90802.

Agreement No. T-2647-1, between City of Long Beach and National Molasses Company (NMC), modifies the basic agreement between the parties which provides for the lease of certain premises on Pier A to be used as a tank farm, the secondary assignment of berths and a license for the continued operation of pipeline between the tank farm and berths. The purpose of this modification is to allow NMC to amend the insurance requirements by providing for deductibles of self-insured retention in any amount up to $25,000.

By Order of the Federal Maritime Commission.

Dated: April 28, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12644 Filed 5-2-77;8:45 am]

PORT EVERGLADES AUTHORITY AND SEA-LAND SERVICE INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 23, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

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Notice of Agreement Filed by:

Mr. William C. Blood, Manager, Foreign-Trade Zone No. 25, Port Everglades Authority, P.O. Box 13136, Port Everglades, Florida 33316.

Agreement No. T-3457, between Port Everglades Authority (Authority) and Sea-Land Service, Inc. (Sea-Land), provides for the one-year lease of 4.67 acres of land in Hollywood, Florida, to be used in connection with the handling of containers. As compensation, Sea-Land will pay $2,980 per month (based on land rental and a percentage of improvements on the land) plus applicable taxes and utility charges. Thirty days after Authority has received combined revenues of $54,929 (which includes land rent, revenues from vessel dockage and cargo wharfage and one month's rent) and for each succeeding month, Authority will refund to Sea-Land that month's land rent. In the event combined revenues exceeds $83,625, Authority will refund all land rental paid during the lease year not previously refunded. Sea-Land has option to expand operations to include adjoining three acres of land.

By Order of the Federal Maritime Commission.

Dated: April 28, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12643 Filed 5-2-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP76-66]

McCULLOCH INTERSTATE GAS CO.

Order Approving Transportation Rate Settlement

APRIL 25, 1977.

On August 24, 1976, McCulloch Interstate Gas Corporation (McCulloch) filed a proposed stipulation and agreement of settlement which, if approved, would resolve all issues in the above-captioned proceeding. For the reasons set forth, the Commission finds the proposed stipulation and agreement to be reasonable and that it should be approved and adopted.

This proceeding began on March 2, 1976, when McCulloch tendered for filing First Alternative and Second Alternative First Revised Sheets to its FPC Gas Tariff, Original Volume No. 1. The purpose of McCulloch's proposed sheets was to increase the rate for jurisdictional natural gas transportation service in the Powder River Basin areas of Wyoming. The First Alternative Sheet proposed an increase in McCulloch's X-1 special transportation rate from 3.5 cents per Mcf to 14.68 cents per Mcf. This would have increased McCulloch's revenues by $964,380 annually based upon a volumetric allocation of transportation costs. The Second Alternative Sheet proposed use of an inch-mile method of allocation and would have increased the rate to 6.10 cents per Mcf. On March 31, 1976, the Commission accepted for filing the First Alternative Sheet, suspended its operation for five months, until September 1, 1976, and set the matter for hearing.

After the service of Staff's top sheets settlement discussions were held on July 22 and 23, 1976. These discussions led to the instant agreement. Public notice of the settlement was issued on September 9, 1976, with comments due to be filed on or before October 8, 1976. No comments have been received.

The settlement transportation rate of 7.0¢ per Mcf represents an annual increase in revenues under McCulloch's Rate Schedule X-1 of $460,000 for these transportation services. This is based upon a total cost of service of $5,087,243, as shown in Appendix A, with an overall rate of return of 9.83 percent. The settlement cost of service reflects also downward revisions relating to the elimination of an inflation factor, the elimination of purchased gas cost adjustments in this docket, and decreases in income taxes and working capital. The $460,000 transportation revenue relates to the transportation services by McCulloch for Mt. Fuel Supply Company. McCulloch supplies transportation service to Arco at a contractual rate of $1.00375 per Mcf. Arco's transportation rate is unaffected by this settlement agreement.

The other sections of the proposed agreement state that this "represents a negotiated settlement" and that no party has agreed to or accepted any ratemaking principle as a result of this settlement: that McCulloch shall file within 10 days of the issuance of an order approving the settlement revised tariff sheets to reflect the settlement; and, that McCulloch will refund within 10 days of the issuance of the order any excess amounts, together with simple interest at the rate of 9 percent per annum from the effective date of the rates to the date McCulloch mails the refund. Finally, the proposed agreement provides that the agreement shall be effective as of September 1, 1976, and shall terminate as of the effective date of any rate change filed by McCulloch.

The Commission's review of the proposed Agreement indicates that it resolves the issues in this proceeding in an equitable manner. The agreed upon amount for transportation service represents a compromise which provides a reasonable increase in the revenues received from the transportation service. Accordingly, the Commission finds that the proposed Agreement should be approved.

The Commission orders: (A) The proposed Stipulation and Agreement certified on August 24, 1976, in the referenced docket is hereby approved. That Agreement is hereby incorporated by reference to this order.

(B) McCulloch shall file within ten days of the issuance of this order revised tariff sheets, to be effective September 1, 1976, in accordance with the Rate Reduction section of the Agreement, to reflect the reduced rates resulting from approval of this Agreement.

(C) Within 10 days from the date of this order, McCulloch shall refund to its customers all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Within 10 days thereafter, McCulloch shall file with the Commission a report of the refunds and interest paid.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against McCulloch or any person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12501 Filed 5-2-77;8:45 am]

[Docket No. RP75-102]

PANHANDLE EASTERN PIPE LINE CO.

Order Accepting in Part and Rejecting in Part Settlement Agreement

APRIL 25, 1977.

PROCEDURAL HISTORY

On May 14, 1975, Panhandle Eastern Pipe Line Company (Panhandle) filed revised tariff sheets providing for a general rate increase of $31.2 million based on a claimed cost of service of $415,899,703 for the twelve months ended February 28, 1975, as adjusted. By order issued June 30, 1975, the use of the tariff sheets was suspended until December 1, 1975. Based on conditions in the suspension order, Panhandle filed substitute tariff sheets on October 31, 1975, which were amended by a subsequent filing on December 10, 1975, reflecting a reduction in the cost of purchased gas, an increase in advance payments, a United rate design and a revised demand charge adjustment. The substitute rates increased Panhandle's proposed annual increase to $41 million, based mainly on a claimed rate of return of 9.45%, increases in gas supply facilities and operating costs, and decreased sales volumes.

After completing its investigation, Staff served its case on February 25, 1976. Staff's primary adjustments reducing Panhandle's claimed cost of service by $17,451,896 represented reductions in purchased gas costs, labor, Gas Arctic and Northern Border project costs, return and related income taxes, and an increase in revenue credits. Subsequent conferences held among Panhandle, Staff, intervening customers, consumers and municipalities resulted in a settlement agreement which would provide an annual revenue increase of approximately $32 million based upon a stipulated total cost of service of $402,454,016. The Presiding Administrative Law Judge, Samuel Kanell, opened the hearings[1] on June 22, 1976, at which time the testimony of witnesses for Panhandle, intervenors, and Staff was taken into the record. The hearings were concluded on June 28, 1976, with the taking of additional testimony relating to Panhandle's expenses applicable to the Gas Arctic and Northern Border projects. The settlement agreement was certified to the Commission on June 30, 1976. The agreement reflected the concurrence of all parties with the exception of Staff which opposed the inclusion of $1,951,181 in the stipulated cost of service relating to the aforementioned projects.

STIPULATION AND AGREEMENT

The agreement provides for rate reductions and refunds, with interest at the rate of 9% per annum, based on the settlement rates shown on Appendices A through D of Exhibit No. 3. The Appendix B rates are to be effective December 1, 1975, through January 31, 1976. For February 1, the rates are reflected in Appendix C of Exhibit No. 3, and for the period commencing February 2 through March 31, the rates are reflected in Appendix D of the same exhibit. The rates set out at Appendix A of Exhibit No. 3 are to be effective commencing April 1, 1976. The differences between the settlement rates are due to PGA and surcharge adjustments.

Other important provisions of the agreement are summarized as follows:

Article IV provides for tracking of advance payments and sets forth the manner in which Panhandle may increase its rates to reflect a level higher than the $59,144,787 included in rate base, and reduce its rates to reflect any repayment of advance payments included in rate base.

Article V provides for adjustment of rates to reflect any change in the Federal income tax rate of 48% up or down.

Article VI reserved for hearing the issues on costs applicable to the Gas Arctic and Northern Border projects in the amounts of $1,632,481 and $525,000, respectively. Panhandle agrees to make rate reductions and refunds on amounts ultimately disallowed.

Article VII provides that the effectiveness of the agreement is subject to final Commission approval without modification or condition, except with respect to Article VI. Panhandle requests waiver of the Regulations, as required.

SETTLEMENT COST OF SERVICE

The agreement is based upon a jurisdictional cost of service of $381,999,724 with annual jurisdictional sales of 540,899,311 Mcf. This cost of service represents an increase in annual revenue requirements of $32 million above the revenue that would be generated by Panhandle's underlying rates and test period sales. It also represents a reduction of $9 million from the revenues generated by the revised jurisdictional rates claimed by Panhandle.

Notice of the settlement certification was issued on July 9, 1976, with comments due by July 23, 1976. Staff filed comments supporting the exclusion of $1,951,181 from the settlement cost of service, representing post certificate application costs on the Gas Arctic and Northern Boarder projects. Michigan Consolidated Gas Company filed comments urging the Commission to approve the entire settlement agreement including all costs associated with these projects.

On March 10, 1977, Panhandle filed a motion for a prompt decision in this matter or in the alternative, to approve the proposed settlement agreement and reserve its decision on the contested issue. The settlement agreement provides that the Commission should decide this issue on the record evidence. Should the Commission determine that all or a portion of the project costs are not includable in the settlement cost of service, the agreement provides that Panhandle would be required to make a further adjustment in the settlement rates as a result of a final Commission order no longer subject to judicial review. Panhandle further states that by severing the contested issue and permitting the reduced rates in the agreement to go into effect, the Commission can implement the benefits of the settlement and at the same time protect the public interest. Inasmuch as the instant order disposes of the entire settlement, we will treat Panhandle's motion as moot.

DISCUSSION

We turn first to the only litigated and contested portion of the settlement; the inclusion of the actual expenditures of Panhandle for test year operating expenses in the amount of $1,426,181 and $525,000 for Panhandle's share of expenses applicable to the Gas Arctic Northwest Project and the Northern Border Pipe Line PProject, respectively. As noted by the Judge:

> Staff argues that while it was proper for Panhandle to include the engineering, environmental and related research and exploratory costs of these projects in its annual cost of operations in accordance with Panhandle's normal accounting practice, it was inappropriate for Panhandle to consider these expenses ordinary costs of doing business after Panhandle sought Commission certification of these projects. Thus, staff asserts that these costs should be excluded from Panhandle's cost of service in this proceeding and should be charged to Account No. 183. This would afford Panhandle the opportunity to request Commission approval to amortize these charges over an appropriate period.[2]

The costs involved, relate to engineering, gas supply, environmental and financial feasibility studies, consulting fees, legal fees and the expenses of the proceedings in which the gas supply project is being reviewed by regulatory authorities both here and in Canada.[3] Staff maintains that these expenditures represent investments by Panhandle in projects already judged to be feasible and are not related to research and development and should be treated as all other expenses related to a project which remains uncertificated. Staff believes that "by filing for a certificate the group involved made a statement that the projects were feasible. Thus they can no longer fit within the definition of R&D found in the Commission's regulations."[4]

In support of inclusion of the subject expenditures, Panhandle argues that Account No. 183 is inappropriate for expenditures made after the feasibility of a project has been determined. Panhandle characterizes as "purely mechanical" staff's proposal to eliminate these expenditures. "There simply is no basis for considering the expenditures after the cut off as being less worthy or more shareholder-related than the earlier expenditure."[5] Panhandle also contends that the evidence demonstrates that the expenditures involved here have been relatively constant and that the amounts expended by Panhandle for its share of the Gas Artic and Northern Border Projects during the months of the test year have not decreased during succeeding months.

The question in this proceeding comes down to whether or not the expenses at issue represent research and development expenditures. The staff agrees that all such expenditures made by Panhandle in "Phase I" (i.e., prior to the application by Panhandle for a certificate) of these projects should be treated as research and development costs.[6]

Research and Development is defined in the Commission's Uniform System of Accounts at 18 C.F.R. 212, Definition 28B.

> "Research and Development" means expenditures incurred by natural gas companies either directly or through another person or organization (such as research institute, industry association, foundation, university, engineering company, or similar contractor) in pursuing research and development activities including experiment, design, installation, construction, or operation. Such research and development costs should be reasonably related to the existing or future utility business, broadly defined, of the company or to the environment in which it operates or expects to operate. The term includes but is not limited to: all such costs incidental to the design, development or implementation of an experimental facility, a plant process, a product, a formula, an invention, a system or similar theme, and the improvement of already existing items of a like nature; amounts expended in connection with the proposed development and/or proposed delivery of substitute or synthetic gas supplies (alternate fuel sources for example, an experimental coal gasification plant or an experimental plant synthetically producing gas from liquid hydrocarbons); and the costs of obtaining its own patent, such as attorney's fees expended in making and perfecting a patent application. The term does not include expenditures for efficiency surveys; studies of management, management techniques and organizations; consumer surveys, advertising, promotions, or items of a like nature.

Account No. 183 (18 C.F.R. 201 § 183.2), provides:

> a. This account shall be charged with all expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of

[1] Certification of proposed settlement agreement at 2.

[2] Exhibit No. 2a at 3.

[3] Comments of Commission Staff at 4.

[4] Comments of Panhandle at 8.

[5] *See*, Comments of Commission Staff at n. 4.

V42N85 MAY 3 77 7 UMI

determining the feasibility of utility projects under contemplation other than the acquisition of land * * *.

Section 7(e) of the Natural Gas Act provides that "a certificate shall be issued to any qualified applicant therefore, authorizing the whole or any part of the operation, sale, service, construction, extension, or acquisition covered by the application if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Act and Requirements, Rules, and Regulations of the Commission thereunder * * *." (emphasis added).

From the foregoing we conclude that Panhandle's application for a certificate must be viewed as an admission that Panhandle is able and willing to perform. Such a conclusion is inconsistent with the characterization of these expenditures as research and development. The feasibility of the projects having impliedly been determined, it is equally impossible to categorize these expenditures under Account No. 183. These expenditures are not unlike funds expended during construction. Such funds are excluded from rate base until such time as the facilities are used and useful to the company.[6] The same result should obtain in connection with preconstruction expenditures. Inasmuch as these funds do not, in our view, qualify for treatment as research and development nor as preliminary survey and investigation charges, we conclude that they can properly be included in Account No. 186 "Miscellaneous Deferred Debits". Panhandle shall retain the $1.9 million in this account pending disposition of the certificate applications filed in Docket Nos. CP74-239 and CP74-290.

We turn now to the unchallenged portion of the settlement agreement. As noted above, this agreement, set forth more fully as Exhibit No. 3, increases Panhandle's annual revenues by roughly $32 million on a stipulated jurisdictional cost of service of $381,999,724. The settlement provides for a 9.35% rate of return and a 12.7% return on common equity. Our determination to exclude from Panhandle's cost the engineering, environmental, and exploratory costs dealt with above, will require adjustment of the settlement cost of service with attendant rate reductions and refunds.

We find that the proposed settlement agreement is fully supported by the record and is just and reasonable and not unduly discriminatory. We will, therefore, approve the proposed settlement agreement in all of its terms with the exception of Article VI which refers to the inclusion of the engineering, environmental, and exploratory costs more fully discussed above.

[6] See, e.g., order issued August 14, 1975, in *Tennessee Natural Gas Company*, Docket No. RP75-114; and order issued August 15, 1975, in *Tennessee Gas Pipeline Company*, Docket No. RP75-113, et al.

The Commission finds: (1) The $1.9 million representing Panhandle's share of expenses applicable to the Gas Arctic Northwest Project and the Northern Border Pipeline Project should be excluded from the company's cost of service.

(2) Approval of the proposed settlement agreement certified to the Commission on June 30, 1976, as modified by the exclusion set forth in Paragraph (1) herein is just, reasonable, and not unduly discriminatory and should be approved.

The Commission orders: (A) The proposed settlement agreement set forth as Exhibit No. 3 in the instant docket certified to the Commission on June 30, 1976, as amended as more fully set forth above to exclude from Panhandle's total cost of service, $1,951,181 representing Panhandle's share of expenses applicable to the Gas Arctic Northwest Project in the Northern Border Pipe Line Project is adopted.

(B) Within 15 days from the date of this order, Panhandle shall file revised tariff sheets in accordance with the settlement agreement and this order.

(c) As soon as practicable but not later than 60 days after the date of this order, Panhandle shall refund all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Panhandle shall thereafter submit a report of the refunds and interest to the Commission.

(D) Upon compliance by Panhandle with the terms of this order, this proceeding shall be terminated.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the Staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Panhandle or any other person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

PANHANDLE EASTERN PIPE LINE COMPANY

SETTLEMENT COST OF SERVICE

[Docket No. RP75-102]

	Amount
Operating expenses	$294,159,331
Depreciation and amortization	39,322,495
Revenues-credit	(25,071,117)
Taxes:	
Federal income	30,268,914
State income	2,073,526
Other	12,063,855
Return at 9.35 pct	49,637,012
Total cost of service	402,454,016
Jurisdictional cost of service	381,999,724
Jurisdictional sales volumes-MCF	540,899,311

Panhandle Eastern Pipe Line Co.—Settlement capitalization and rate of return

[Docket No. RP75-102]

	Amount—in millions dollars	Ratio (percent)	Cost	Return component (percent)
Long-term debt	$476,110	62.84	$7.81	4.91
Preferred stock	33,500	4.42	6.96	.31
Accumulated deferred Federal income taxes	1,728	.23		
Common equity	246,319	32.51	12.70	4.13
Total	757,657	100.00		9.35

[FR Doc.77-12511 Filed 5-2-77;8:45 am]

REGULATORY INFORMATION SYSTEM

Proposed Technical Conference

APRIL 25, 1977.

Notice is hereby given that the Federal Power Commission intends to conduct during May/June 1977 a series of technical conferences regarding its Regulatory Information System. These technical conferences will be held for one day each at the following locations:

Date	Location	Subject
May 18, 1977	Washington, D.C., hearing room A, Federal Power Commission, 825 North Capitol St.	Electric power.
May 19, 1977	do	Natural gas.
May 20, 1977	Boston, Mass., room 2003A, J. F. Kennedy Federal Center	Electric power.
May 23, 1977	Dallas, Tex., room 7A23, 1100 Commerce St.	Do.
Do.	Tulsa, Okla., David Copperfield Room, Sheraton Inn, 2201 North 77th Ave.	Natural gas.
May 25, 1977	Dallas, Tex., room 7A23, 1100 Commerce St.	Do.
Do.	San Francisco, Calif., The Federal Bldg., room 13450, 450 Golden Gate Ave.	Electric power.
May 26, 1977	do	Natural gas.
June 1, 1977	Houston, Tex., Ponderosa Room, Quality Inn, Airport, 6115 Jetero Blvd	Do.
Do.	Chicago, Ill., The Federal Bldg., room 3619, 230 South Dearborn St.	Electric power.
June 3, 1977	New Orleans, La., Delta Tower Hotel, 1732 Canal St.	Natural gas.
Do.	Atlanta, Ga., room 556, 275 Peachtree St.	Electric power.

The Agenda for the technical conferences is as follows:

9 to 12 a.m.—Introduction; Respondent reporting system overview; Forms analysis and design; Data base and standards; System outputs.
12 to 1 p.m.—Lunch break.
1 to 4:30 p.m.—Use of reference materials; Filling out sample forms; Availability of information; Questions and answers; System demonstration.

The locations of these technical conferences have been determined based on replies to the first notice on the subject of February 14, 1977. If you have already responded to the first notice and you anticipate no change in your plans, you need not reply to attend.

If you now wish to attend or change your plans about how many from your company will attend or what location you prefer, you are invited to reply by May 16, 1977 to:

Secretary, Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12510 Filed 5-2-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 16]

ACTIONS OF THE BOARD

Applications and Reports Received During Week Ending April 16, 1977

ACTIONS OF THE BOARD

Regulation Z amendment, effective October 10, 1977, to require advance disclosure of any variable rate clause in a credit contract that may result in an increase in the cost of the credit to the customer (Docket No. R-0003).

Regulation Z amendment, to permit—but not require—disclosures called for by the Truth in Lending Act and Regulation Z to be made in Spanish in Puerto Rico (Docket No. R-0066).

Regulation Z, interpretation of Regulation Z (Truth in Lending) affecting credit card issuers which bill customers in full on a transaction-by-transaction basis and impose no finance charges; the Board will receive comment through May 16, 1977 (Docket No. R-0094).

Regulation H, proposed amendment that generally would prohibit State member banks from purchasing loans on improved real estate or mobile homes located in a flood hazard area if the property is not covered by flood insurance; the Board will receive comment through May 20, 1977 (Docket No. R-0069.

Regulation H, adoption of four technical amendments to the flood insurance provisions of Regulation H to make the regulation conform to recent changes in the Flood Disaster Protection Act of 1973 (Docket No. R-0095).

Purchase of Telephone System for the Federal Reserve Bank of St. Louis.

Purchase of Computers for the Branches of the Federal Reserve Bank of St. Louis.

Bank of the Commonwealth, Detroit, Michigan, to make an additional investment in bank premises.

Elliott State Bank, Jacksonville, Illinois, to make an additional investment in bank premises.[1]

Farmers Bank of Mathews, Mathews, Virginia, to make an investment in bank premises.[1]

Walter E. Heller International Corporation, Chicago, Illinois, extension of time to May 11, 1978, within which to divest its nonbanking subsidiary, Knoll International Inc., Chicago, Illinois.[1]

Deregistration under Regulation G for Electronic Data Systems Corporation, Dallas, Texas; Clovis Production Credit Association, Clovis, New Mexico, and for Cattleman's Production Credit Association, San Saba, Texas.[1]

Detroit Bank—Troy, Troy, Michigan, extension of time to September 24, 1977, within which to establish branches at the southwest corner of the intersection of Crooks and Maple Roads, and at the southeast corner of the intersection of Maple and John R. Roads, Troy, Michigan.[1]

Union Bank, Los Angeles, California, extension of time to May 2, 1978, within which to establish a branch in the vicinity of the southeast corner of Century Boulevard and La Cienega Boulevard, Los Angeles.[1]

Atlantic Bancorporation, subsidiaries of, Jacksonville, Florida, proposed merger with Atlantic Bank of Conway, Orange County, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Bank of Sebastopol, Sebastopol, Mississippi, proposed merger with Bank of Central Mississippi, Carthage, Mississippi; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First Marine Bank, Inc., subsidiaries of, Riviera Beach, Florida, proposed merger with First Marine Bank & Trust Company of Palm Beaches, Riviera Beach, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Flagship Bank of Haines City, Haines City, Florida, proposed merger with Flagship Bank of Lake Alfred, Lake Alfred, Florida and Davenport Flagship Bank, Davenport, Florida; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Fourth National Bank of Jackson, Jackson, Tennessee, proposed merger with The National Bank of Commerce of Jackson, Jackson Tennessee; report to the Comptroller of the Currency on competitive factors.[1]

Houston County Bank, Ashford, Alabama, proposed merger with The Farmers & Merchants Bank, Ashford, Alabama; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Independent National Bank, Stone Harbor, New Jersey, proposed merger with First Peoples National Bank of New Jersey, Westmont, New Jersey; report to the Comptroller of the Currency on competitive factors.[1]

Landmark Banking Corporation of Florida, subsidiaries of, Fort Lauderdale, Florida, proposed marger with Landmark First National Bank of Fort Lauderdale, Fort Lauderdale, Florida; report to the Comptroller of the Currency on competitive factors.[1]

West Main State Bank, Baytown, Texas, proposed merger with Peoples State Bank, Baytown, Texas; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

[1] Application processed on behalf of the Board of Governors under delegated authority.

APPROVED

Seabrook Bank and Trust Company, Seabrook, New Hampshire. Branch to be established on Route 1-A, Seabrook Beach.[2]
The Detroit Bank-Southfield, Southfield, Michigan. Branch to be established at the southeast corner of Southfield and Edwards Roads, Southfield, Oakland County.[2]
Elliott State Bank, Jacksonville, Illinois. Branch to be established at Westgate Avenue and West Morton Road, Jacksonville, Morgan County.[2]

* * * * *

International Investments and Other Actions Pursuant to sections 25 and 25 (a) of the Federal Reserve Act and sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Citibank Overseas Investment Corporation, New York, New York: period of time for Trinkaus and Burkhardt, Germany, to dispose of three real estate holdings.
Citibank Overseas Investment Corporation, New York, New York: additional investment in IAC (Holdings) Limited, Melbourne, Australia.
United States Trust Company International Corporation, New York, New York: Investment—½ of the shares of a de novo Investment Management Co., Geneva, Switzerland.

* * * * * *

Thirty Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

APPROVED

Bank of America N.T. and S.A., San Francisco, California: additional branch in New Delhi, India.

International Investments and Other Actions Pursuant to sections 25 and 25(a) of the Federal Reserve Act and sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

DENIED

Allied Bank International, New York, New York: amend Articles of Association to reduce capital stock and number of shareholders.

* * * * *

To Form a Bank Holding Company Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

RETURNED

Northwest Arkansas Bancshares, Inc., Bentonville, Arkansas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of First National Bank, Rogers, Arkansas.

REACTIVATED

First Bancshares of Kirksville, Inc., Kirksville, Missouri, for approval to acquire 80 percent or more of the voting shares of First National Bank, Kirksville, Missouri.[2]
Torrington National Company, Torrington, Wyoming, for approval to acquire 100 percent of the voting shares of First National Bank, Torrington, Wyoming.[2]

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

V42N85 MAY 77 UMI

APPROVED

First Bancshares of Kirksville, Inc., Kirksville, Missouri, for approval to acquire 80 percent or more of the voting shares of First National Bank, Kirksville, Missouri.[2]

Torrington National Company, Torrington, Wyoming, for approval to acquire 100 percent of the voting shares of First National Bank, Torrington, Wyoming.[2]

DENIED

Glen-An Corporation, Kanaranzi, Minnesota, for approval to acquire 95.6 percent of the voting shares of Farmers State Bank of Kanaranzi, Kanaranzi, Minnesota.

To Expand a Bank Holding Company Pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Chemical Financial Corporation, Midland, Michigan, for approval to acquire 100 percent of the voting shares of the successor by consolidation to Gladwin County Bank, Beaverton, Michigan.

Manufacturers National Corporation, Detroit, Michigan, for approval to acquire 100 percent of the voting shares of Manufacturers Bank of St. Clair Shores, St. Clair Shores, Michigan, a proposed new bank.[2]

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To Expand a Bank Holding Company Pursuant to section 3(a)(5) of the Bank Holding Company Act of 1956.

APPROVED

Texas Commerce Bancshares, Inc., Houston, Texas, for approval to merge with The BanCapital Financial Corporation, Austin, Texas.

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To Expand a Bank Holding Company Pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

PERMITTED

Massachusetts Bankshares, Inc., Hingham, Massachusetts, notification of intent to engage in *de novo* activities (making, acquiring, or servicing loans or other extensions of credit to persons, partnerships, trusts, associations, and corporations secured by a mortgage or other lien on real estate, or pledge, or by security interest in personal property, or without security) at 13 Main Street, Hingham, Massachusetts, through its subsidiary, Mortgage Shops, Inc. (4/14/77)[3]

Horizon Bancorp, Morristown, New Jersey, notification of intent to relocate de novo activities (leasing real and personal property on a nonoperating, full payout basis and acting as agent, broker, or adviser with respect to such property to be leased on that basis; and making or acquiring, for its own account or for the account of others, loans and other extensions of credit as would be made by a finance company, such loans or other extensions of credit would generally be secured by equipment or other assets which may be legally pledged) from Host Airport Hotel, Tampa International Airport, Tampa, Florida to 1600 SE. 17th Street, Fort Lauderdale, Florida, through its subsidiary, Horizon Creditcorp (4/11/77)[3]

Horizon Bancorp, Morristown, New Jersey, notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit principally secured by second mortgages on one-to-four family residences pursuant to the New Jersey Secondary Mortgage Act, Chapter 205, Pub. L. 1970; and, in connection therewith, selling credit life, health and accident insurance) from 900 State Road, Princeton, New Jersey to 479 Midland Avenue, Saddle Brook, New Jersey, through its subsidiary, Horizon Creditcorp (4/11/77)[3]

First Banc Group of Ohio, Inc., Columbus, Ohio, notification of intent to engage in de novo activities (leasing personal property and equipment, or acting as agent, broker, or adviser in leasing of such property where such property is acquired by the leasor at the request of the lessee for business purposes and where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessors full investment in the property plus the estimated total cost of financing the property over the term of the lease; making, acquiring, and selling, for its own account or for the account of others, loans and other extensions of credit secured by interests in real property; and servicing loans and other extensions of credit secured by interest in real property for itself and for others) at 8060 Montgomery Road, Suite 201, Cincinnati, Ohio, through its wholly-owned subsidiary, First Banc Group Financial Services Corporation, Columbus, Ohio (4/14/77)[3]

Tennessee Valley Bancorp, Inc., Nashville, Tennessee, notification of intent to engage in de novo activities (making or acquiring, for its account or for the account of others, loans and extensions of credit; for the servicing of loans and other extensions of credit made by it and any other persons or entities; acting as an investment or financial adviser; acting as a mortgage bank or agent for others in negotiating, obtaining, placing, or making loans including, but not limited to, real estate loans and in connection therewith and/or to aid thereof; and to sell insurance directly related to such mortgages as prescribed by the laws of the State of Kentucky) at 4400 Breckinridge Lane, Louisville, Kentucky, through a subsidiary, TVB Mortgage Corporation. (4/13/77)[3]

Merchants National Corporation, Indianapolis, Indiana, notification of intent to engage in de novo activities (leasing of capital goods and equipment to industry and banks or others, or acting as agent, broker, or adviser in leasing such personal property where at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the terms of the lease) at Austin Center, Cypress at Westshore Boulevard, Tampa, Florida, through a subsidiary of Circle Leasing Corp. known as Circle Leasing of Florida Corp. (4/14/77)[3]

Northern States Bancorporation, Inc., Detroit, Michigan, notification of intent to relocate de novo activities (mortgage banking activities by originating residential, commercial and industrial mortgage loans for its own account but principally for sale to others; servicing such loans for others and acting as an investment or financial adviser to the extent of serving as the advisory company for a mortgage or real estate investment trust) from 101 Southfield Road, Suite 302, Birmingham, Michigan to 4190 Telegraph Road, Bloomfield Hills, Michigan, through its subsidiary, Kelly Mortgage and Investment Company. (4/11/77)

Otto Bremer Foundation and Otto Bremer Company, both of St. Paul, Minnesota, notification of intent to engage in de novo activities (providing portfolio investment advice to any other person and furnishing general economic information and advice, general economic statistical forecasting services and industry studies) at 1300 Northern Federal Building, 366 North Wabasha Street, St. Paul, Minnesota, through a wholly-owned subsidiary, Bremer Service Company (4/11/77)[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit by FinanceAmerica Corporation of Massachusetts) from Store 31B, Westgate Shopping Center, Brockton, Massachusetts to Store No. 11, Park Plaza, 1334 Park Street, Stoughton, Massachusetts, through its indirect subsidiary, FinanceAmerica Corporation of Massachusetts (4/15/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit, servicing for itself and others, loans and other extensions of credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products; making available to such dealers at their option and cost, fire, theft, and damage insurance on a monthly reporting basis covering only the outstanding indebtedness on such floor plan inventory) from 151—87th Street to 347 Gellert Boulevard, Dale City, California, through its indirect subsidiaries, FinanceAmerica Private Brands, Inc. and Ariens Credit Corporation (Pennsylvania Corporation) and Hupp Credit Corporation (a Delaware Corporation) (4/15/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for itself and for others including commercial and residential loans) at No. 8 East Broadway, Salt Lake City, Utah, through its subsidiary, First Security Mortgage Co. (4/14/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for itself and for others including commercial and residential loans) at 502 South Main, Rock Springs, Wyoming, through its subsidiary, First Security Mortgage Co. (4/14/77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the organization and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 3441 Torrance Boulevard, Torrance, California to 20620 South Leapwood, Carson, California, through its subsidiary, Security Pacific Mortgage Corporation (4/14/77).[3]

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To Expand a Bank Holding Company Pursuant to section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

American Financial Corporation, Cincinnati, Ohio, notification of intent to acquire 100 per cent of the outstanding common stock of Stonewall Insurance Company, Birmingham, Alabama, an on-going casualty insurance company (4/10/77).

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Union Trust Company of Maryland, Baltimore, Maryland. Branch to be established at the intersection of U.S. Route 40 (Pulaski Highway) and Rossville Boulevard, Baltimore County.

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Thirty Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

The First National Bank of Chicago, Chicago, Illinois: additional branch in Munich, Germany.

• • • • •

To Establish an Overseas Branch of a Member Bank Pursuant to section 25 of the Federal Reserve Act.

Chemical Bank, New York, New York: Branch in Hong Kong.

• • • • •

To Form a Bank Holding Company Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

Crown Bancshares, Incorporated, Hammond, Indiana, for approval to acquire 90 percent or more of the voting shares of The First National Bank of Crown Point, Crown Point, Indiana.

Guaranty Bancshares Corporation, Kansas City, Kansas, for approval to acquire 96.03 percent of the voting shares of Guaranty State Bank & Trust, Kansas City, Kansas.

To Expand a Bank Holding Company Pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956.

First International Bancshares, Inc., Dallas, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Peoples State Bank, Baytown, Texas.

Republic of Texas Corporation, Dallas, Texas, for approval to acquire 2,800 additional shares of the voting shares of First National Bank of Duncanville, Duncanville, Texas.

• • • • •

To Expand a Bank Holding Company Pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (leasing real and personal property and equipment on a nonoperating, full payout basis and acting as agent, broker, and adviser with respect to such leases; financing real and personal property and equipment such as would be done by a commercial finance company; and servicing such extensions of credit) at 244 West Passaic Street, Rochelle Park, New Jersey, through its subsidiary, Chemlease, Inc. (4/13/77).[3]

Citicorp, New York, New York, notification of intent to relocate de novo activities (consumer sales finance activities) from 3401 Chinden Boulevard, Boise, Idaho to 1775 Westgate Drive, Suite 225, Boise, Idaho, through its subsidiary, Nationwide Financial Corporation and its subsidiary, Nationwide Financial Corporation of Idaho. This replaces the notification that was received on H. 2 No. 10 (4/12/77).[3]

Citicorp, New York, New York, notification of intent to relocate de novo activities (the making of consumer installment personal loans; and the sale of life/accident and health, and property insurance related thereto) from 3401 Chinden Boulevard to the Corner of Five Mile Road and Fairview Avenue, Boise, Idaho, through its subsidiary, Nationwide Financial Corporation and its subsidiary, Nationwide Financial Corporation of Idaho. This replaces the notification that was received on H. 2 No. 10 (4/12/77).[3]

United Virginia Bankshares Incorporated, Richmond, Virginia, notification of intent to relocate de novo activities (originating loans as principal; originating loans as agent; servicing loans for nonaffiliated individuals, partnerships, and corporations; servicing loans for affiliates of United Virginia Bankshares Incorporated; the sale, as agent, of credit life, credit disability, mortgage redemption and mortgage cancellation insurance in connection with such loans and other activities as may be incidental to the business of a mortgage corporation) from 11009 Warwick Boulevard, Newport News, Virginia to 718 J. Clyde Morris Boulevard, Newport News, Virginia, through its subsidiary, United Mortgage Corporation (4/14/77).[3]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary agency or custodian nature in the manner authorized by Federal and State law; provided, however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 1900 Tyler Street, Hollywood, Florida, through a subsidiary, Barnett Banks Trust Company, N.A. (4/11/77).[3]

Landmark Bancshares Corporation, St. Louis, Missouri, notification of intent to engage in de novo activities (providing bookkeeping and data processing services to the parent company and its subsidiaries and the storing and processing of other banking, financial and related economic data including the performance of payroll, accounts receivable or payable, or billing services) at 6313 Dr. M. L. King Drive, St. Louis, Missouri, through a subsidiary, Landmark Data Services Incorporated (4/11/77).[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and making of loans to small businesses; leasing personal property and equipment or acting as agent, broker, or adviser in such leasing where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, resonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property over the term of the lease; acting as insurance agent or broker with regard to credit life and disability insurance relating only to extensions of credit by Rainier Credit Company, secured or unsecured, with the limitation that the initial amount of such insurance issued with respect to any debtors may at no time exceed the amount owed by debtors) at 3278 B Lancaster Drive NE., Salem, Oregon, through its subsidiary, Rainier Credit Company (4/11/77).[3]

Valley Bancorporation, Rexburg, Idaho, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans secured by real property and related fixtures and/or personal property and servicing such loans for any other person, corporation, firm, or legal entity) at 110 East Main, Rexburg; 1625 Northgate Mile, Idaho Falls; 1 Riverside Plaza, Blackfoot; 910 Yellowstone Avenue, Pocatello; 30 West Main, St. Anthony; 503 Main, Ashton; and 15 North Main, Driggs; all located in Idaho, through its subsidiary, Mountain Mortgage Company (4/11/77).[3]

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To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

American Financial Corporation, Cincinnati, Ohio and its subsidiaries, notification of intent to acquire from 5 percent to 35 percent of the outstanding voting shares of the following 24 specified corporations: Air Florida Systems, Inc.; Bangor Punta Corporation; The Charter Company; Cowles Communications, Inc.; CNA Financial Corporation; DWG Corporation; Floyd Enterprises, Inc.; General Host Corporation; Gulf Life Holding Company; Gulf Life Insurance Company; IC Industries, Inc.; International Mining Corporation; Lone Star Industries, Inc.; New York Magazine Company, Inc.; The New York Times Company; Orion Capital Corporation; Pennsylvania Engineering Company; , The Progressive Corporation; Rapid-American Corporation; Reliance Group, Inc.; St. Joe Paper Company; Stutz Motor Corporation of America, Inc.; The TI Corporation of California; and WUI, Inc. (4/13/77).[3]

• • • • •

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

The Lorain County Savings & Trust Co., Elyria, Ohio.

Manufacturers Bank & Trust Company of St. Louis, St. Louis, Missouri.

Southwest Bank of St. Louis, St. Louis, Missouri.

• • • • •

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

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PETITION FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, April 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12569 Filed 5-2-77;8:45 am]

GOODLETTSVILLE BANCSHARES, INC.

Formation of Bank Holding Company

Goodlettsville Bancshares, Inc., Goodlettsville, Tennessee, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The Bank of Goodlettsville, Goodlettsville, Tennessee. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 25, 1977.

Board of Governors of the Federal Reserve System, April 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12567 Filed 5-2-77;8:45 am]

NATIONAL DETROIT CORP.

Proposed Acquisition of Grand Traverse Mortgage Co., Inc.

National Detroit Corporation, Detroit, Michigan, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire, through its subsidiary NBD Mortgage Company, certain assets of Grand Traverse Mortgage Company, Inc., Traverse City, Michigan. Notice of the application was published on March 18, 1977, in the Record Eagle, a newspaper circulated in Traverse City, Michigan.

Applicant states that upon consummation of the proposed transaction, NBD would engage in the activity of making, acquiring and servicing mortgage loans for its own account and for the account of others. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 25, 1977.

Board of Governors of the Federal Reserve System, April 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12568 Filed 5-2-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Comments

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows: The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before June 2, 1977, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated April 28, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Nonprofit Organization Grants Under the Emergency School Aid Act.

2. AGENCY/BUREAU OFFICE

U.S. Office of Education/Bureau of Elementary and Secondary Education/Equal Educational Opportunity Programs.

3. AGENCY FORM NUMBER

OE Form 116.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Assistant Secretary is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions and organizations (other than local educational agencies and nonpublic elementary and secondary schools) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706." (Pub. L. 92-318, sec. 708(b); (20 U.S.C. 1604(a)(3) and 1607(b); (45 CFR 185.61(a)).)

Bilingual projects (nonprofit organizations). "• • • the Assistant Secretary is authorized to make grants to, and contracts with private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members • • •"

(Pub. L. 92-318, sec. 708(c)(1)(A); (20 U.S.C. 1607(c)(1)(A)); (45 CFR 185.51(b)).)

Special mathematics projects. "(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience."

(Pub. L. 92-318, sec. 708(a)(3) (20 U.S.C. 1605(d) and 1607(a)(3)) (45 CFR 185.92).)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Each application for a nonprofit organization grant under the Emergency School Aid Act will be subject to the following reviews:

A. *Statistical data review.* The statistical data regarding the enrollment and isolation of minority group students will be taken from the application and used to compute the extent of reduction of minority group isolation in the local educational agency or agencies whose plan(s) the applicant proposes to support.

B. *Eligibility/assurances review.* The Office for Civil Rights (OCR) has the delegated authority to validate those assurances which determine if districts are eligible to apply for and receive financial assistance. In addition, OCR determines if the document submitted as a desegregation plan is actually a plan which requires the elimination, reduction or prevention of minority group isolation. The remaining ESAA assurances are verified by program personnel responsible for administering the Emergency School Aid Act.

C. *Educational quality review.* The educational quality score of each application will be determined by a panel of qualified persons. The listing of prominent milestones outlined by the applicant will be used by OE personnel to track the relative progress of the project.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: January.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Public and private nonprofit agencies, institutions, or organizations.
b. Number: Sample, 1,000.
c. Estimated average number manhours per respondent: 35 hours.

9. INFORMATION TO BE COLLECTED

Applicants are required to submit the following information:

(a) *Documentation.* (1) A copy of the charter, articles of incorporation, bylaws, or other legal documents indicating the nature and purpose of the application, including evidence of nonprofit status.

(2) A copy or description of the plan being implemented by the appropriate local educational agency, except where the LEA has also applied for assistance.

(3) Applicants proposing to support the development of a plan or project should provide written documentation of the LEA's request for such support of development.

(4) A statement indicating the name of the LEA representative to whom the application was submitted and the date of submission and any comments received.

(5) A description of the provisions which have been made for effective liaison with the cooperating LEA with regard to operation of the proposed project.

(b) *Data items.* (1) Data regarding the establishment of the advisory committee including date established, date application was submitted to advisory committee for review and comment and the date the names of the advisory committee members and purpose of such committee were published in a newspaper.

(2) Data regarding the composition of the advisory committee including names of committee members, race or ethnic group and community organization represented. Applicant must also indicate if the advisory committee member is a parent of student affected by the ESAA plan or project, a classroom teacher or secondary school student.

(3) The current enrollment of minority group students in all schools of the LEA, and the total number of schools currently operated by the local educational agency and the total number of schools which have been affected by the desegregation plan under which the LEA is operating. This information need not be provided by applicants for bilingual projects.

NOTE.—Items (4) through (6) apply only if the LEA is not applying for Emergency School Aid assistance.

(4) By names of schools affected by the LEA's desegregation plan and by number of schools not affected by the plan, provide the total enrollment of the school district and the number and percentage of minority group pupils enrolled in such schools.

(5) By names of schools predicted to be affected by the LEA's desegregation plan, and by number of schools predicted not to be affected by the plan, provide the total enrollment and the number and percentage of minority pupils predicted to be enrolled in such schools.

(6) Provide a copy of the plan to prevent minority group isolation or plan to establish or maintain one or more integrated schools. By names of schools predicted to be affected by the LEA's desegregation plan, and by number of schools not predicted to be affected, provide the total enrollment and the number and percentage of minority group pupils predicted to be enrolled in such schools assuming the plan is implemented and assuming the plan is not implemented.

(7) Applicants for bilingual projects only. Provide the total enrollment in the LEA of pupils from environments in which a dominant language is other than English and the number and percentage of such children who receive instruction of any kind (prior to the application for assistance under this sub-part) in such language, the average number of hours per day such instruction is provided, and the educational goals of such instruction; the extent to which minority group children are separated from non-minority group children by or within classes for any part of the day for the provision of instructional or other services to such minority group children or for purposes of ability grouping or homogeneous instruction, and the educational justification for such separation; the extent to which materials utilized for reading instruction are varied (by primary language, subject matter, or intended level of instruction as between the various schools in the affected school district or between the various classrooms within such schools).

(c) *A program narrative.* Presented in the following manner:

(1) The needs assessment with each need ranked in order of priority and presented separately. Under each need component, the objectives and activities associated with the particular need, the plans for evaluation of those activities and the management of resources. Key project staff positions should be discussed.

(2) A statement of past activities etc.

(3) A statement of the extent to which other public or private nonprofit agencies or organizations in the affected school districts have been consulted in the preparation of the application and the provisions made for coordination with such organizations which have applied for or received Emergency School Aid Act (ESAA) assistance.

(4) Procedures by which the proposed ESAA program, project or activity will be coordinated with projects conducted pursuant to Titles I, III, and VII of the Elementary and Secondary Education Act of 1965 and Title IV of the Civil Rights Act of 1964.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Local Educational Agency Grants under the Emergency School Aid Act.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

3. AGENCY FORM NUMBER

OE Form 116-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

(A) *Basic grants.* "The Assistant Secretary is authorized to make a grant to, or a contract with a local educational agency.

(A) Which is implementing a plan:

(i) Which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools; or

(ii) Which has been approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) Which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) Which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan:

(i) To eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) To reduce the total number of minority group children who are in minority group isolated schools of such agency,

(iii) To prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum but not more than 50 per centum, of the enrollment consists of such children, or

(D) Which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates; or

(E) Which will establish or maintain one or more integrated schools as defined in section 720(7) and which:

(i) Has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

(ii) Has agreed to apply for an equal amount of assistance under section (b)." (Pub. L. 92-318, sec. 706(a)(1); (20 U.S.C. 1605(a)(1)); (45 CFR 185.21).)

(B) *Pilot projects.* "The Assistant Secretary is authorized to make grants to or contracts with local educational agencies • • • for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools if • • • the local educational agency had a number of minority group children enrolled in its schools • • • which (1) is at least 15,000 or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools." (Pub. L. 92-318, sec. 706(b); (20 U.S.C. 1605(b)); (45 CFR 185.21).)

(C) *Bilingual projects.* "The Assistant Secretary shall carry out a program to meet the

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needs of minority group children who are from an environment in which a dominant language is other than English * * * the Assistant Secretary is authorized to make grants to and contracts with * * *

"(B) local educational agencies eligible for assistance under section 706 for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under section 706 for the purpose of carrying out activities authorized under section 707(a) * * *."

(Pub. L. 92-318, sec. 708(c)(1)(B) and (C)); (20 U.S.C. 1607(c)(1)(B) and (C)); (45 CFR 185.51.)

(d) *Special projects.* "The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purposes of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title."

(1) *Special arts projects.* "(a) Any public agency or organization responsible for the administration of statewide public arts programs, such as a State Arts Council or State Arts and Humanities Commission, may apply for assistance by grant * * * for special projects that would through the arts provide opportunities for interracial and intercultural communication and understanding to help meet the special needs incident to the implementation of a plan or project described in § 185.11 or § 185.31(a) * * *."

(Pub. L. 92-318, sec. 708(a)(2); (20 U.S.C. 1607(a)(2)) (45 CFR 185.91).)

(2) *Special student concerns projects.* "(a) Any public agency or organization * * * other than a local educational agency may apply for assistance by grant * * * for the conduct of special student concerns projects designed to eliminate the disproportionately high incidence of suspension, expulsion, and other disciplinary action involving minority group students in the schools of cooperating local educational agencies * * *."

(Pub. L. 92-318, sec. 708(a)(2); (20 U.S.C. 1607(a)(2)) (45 CFR 185.93).)

(3) *Other special projects.* "(a)(1) The Assistant Secretary may assist * * * any State or local educational agency or other public agency or organization * * * for the purpose of conducting special programs or projects which the Assistant Secretary determines will make substantial progress toward achieving the purposes of the Act."

(Pub. L. 92-318, sec. 708(a); (20 U.S.C. 1607(a)) (45 CFR 185.94).)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE:

Required to obtain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Each application for a LEA grant under the Emergency School Aid Act will be subject to the following reviews conducted in the regional offices:

A. *Statistical Data Review.* The statistical data regarding the enrollment and isolation of minority group students will be taken from the application and used to compute the extent of reduction of minority group isolation. Pilot project applications must be verified to have at least 15,000 minority group students in the district or 50 percent minority enrollment in the project schools.

B. *Eligibility/assurances review.* The Office for Civil Rights (OCR) has been delegated the authority to determine if districts are eligible to apply for and receive assistance under Pub. L. 92-318. The Office of Education is responsible for determining if the applicant has met the requirements for all other assurances.

C. *Educational quality review.* The educational quality score of each application will be determined by a panel of qualified persons using the criteria outlined in 45 CFR 185.14, 185.34, 185.35, 185.54(b), 185.84, 185.91-2, 185.93-3, and 185.94-3, as applicable. The listing of prominent milestones outlined by the applicant will be used by OE personnel to track the progress of the project.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: January.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Local educational agencies.
b. Number: Sample—2000.
c. Estimated average man hours per respondent: 40 hours.

9. INFORMATION TO BE COLLECTED

Applicants for local educational agency (LEA) grants, including basic grants, pilot projects, bilingual projects, emergency special projects, territories, special arts, and special student concerns projects, are required to submit the following information:

(a) A copy of the desegregation plan including attachments to document assurances.

(b) Enrollement data showing the number of schools currently operated by the LEA as well as the number of schools to be affected by the plan under which the LEA is operating.

(c) Enrollment data on the number and/or percentage of minority group students as defined in 45 CFR 185.02(f) currently enrolled in such school district. (Applicants for bilingual projects must also list the total non-English dominant enrollment in the LEA.)

(d) Names of schools to be affected by the plan, as well as the percentage of minority group students enrolled in such schools for:

(1) School year immediately preceding the initiation of a LEA's current desegregation plan;

(2) School year for which funds are being requested or the next most recent school term for which such data are available.

(e) Number of schools not affected by the plan and the number and percentage of minority pupils currently enrolled.

(f) A program narrative presented in the following manner:

Needs Assessment should be broken down into individual needs, and each need should be ranked in order of priority and presented separately. Under each component, discuss the objectives and activities associated with the particular need, the plans for evaluation of those activities, the management of resources and for pilot projects only, the plans for replication of the program In discussing staffing, present a biographical sketch of the program director which includes his or her name, address, telephone number, background and other qualifying experience for the project. Special arts applicants must also state the prior experience in education, the arts, and interracial/intercultural relations of the State director level to be employed. Also, list the name and relevant experience of other key personnel to be involved in the project.

Bilingual applicants must include a description of the plan for inservice training, and the plan for implementation of any program developed or proposed to be developed (see 45 CFR 185.52 (b) and (c)).

LEA applicants only: (1) Describe the procedures proposed for the coordination of this proposed program or project with projects, when applicable, of Titles I, III, and VII of the Elementary and Secondary Education Act of 1965 and Title IV of the Civil Rights Act of 1964 and other laws of the United States (see 45 CFR 185.13(h)).

(2) Attach a description of how nonpublic school children and staff are expected to participate in the proposed project and of the procedure by which the applicant consulted with representatives of nonpublic schools in the development of the application, and procedures for effective liaison with such persons after the receipt of the funds requested (see 45 CFR 185.42(f)).

(g) For applicants for integrated schools projects only, for each school provide the total predicted enrollment and the number and percent of minority enrollment for each school affected by the plan and each school not affected by the plan.

(h) Number of students who are expected to participate in each school, by type of project and by racial category.

(i) For each nonpublic school which enrolls students or employs staff who will participate in the proposed ESAA project (45 CFR 185.42(f)), indicate the type of grant, the total number of staff and students, by race, in each school, and the number of staff and students who will participate in each project.

(j) For 45 CFR 185.13(i), show the total local revenue and tax rate for fiscal years 1977 and 1973 and show expenditures per pupil from local revenues for the applicable fiscal years (potential 3 years).

(k) For 45 CFR 185.13(i)(1); list the district's transactions with nonpublic schools since June 23, 1972, including gifts, leases, loans, sales or other transactions of property or service, by name and address of nonpublic school, date of transaction and description of property or services.

(l) For 45 CFR 185.13(i)(2), list by race, the number of principals, full-time classroom teachers, and head coaches for athletics employed by your district for the academic year immediately preceding implementation of any portion of the district's earliest plan and as of the date of the application.

(m) For 45 CFR 185.13(i)(3), give the total number of all minority or all-nonminority classes in the district and attach an educational justification of such assignments.

(n) For 45 CFR 185.13(i)(4), supply the district's current enrollment by race and type of disability in classes for the mentally retarded or for children with other learning disabilities; supply the current number and percentage of students enrolled in the first grade in the district whose primary home language is other than English. If the number of non-English dominant students is more than 100 or more than 5 percent, attach the averages of the most recent standardized reading achievement scores, by race, for students enrolled in the third and six grades (or the nearest grades).

(o) Provide data for advisory committees including date established, date application submitted to committee for review, date names of members and purpose published in newspaper and a copy of the minutes of the hearing must be attached. Also, indicate the names of advisory committee members, by race, organization represented, whether a parent of student affected by ESAA project or plan, classroom teacher or secondary school student. (For Special Student Concerns Projects only, indicate which members were designated by the cooperating LEAs and their advisory committees (45 CFR 185.65 (b)(2)).)

(p) For applicants for bilingual projects only (45 CFR 185.53(c)(3)), provide (1) number and percentage of minority group children in district from an environment in

which the dominant language is other than English who currently receive instruction in such language, the average number of hours per day, and the educational goals of such instruction; (2) indicate the extent to which such minority children are separated from nonminority children by or within classes for any part of the day for the provision of instructional or other services or for purposes of ability grouping or homogeneous instruction, by name of school, average number of hours of separation per day, and educational justification for separations (45 CFR 185.53(c)); and (3) explain any variation in materials used for reading instruction between the various schools in the district or between the various classrooms within such school. Variations should be described in terms of primary language, subject matter, or intended level of instruction.

[FR Doc.77-12611 Filed 5-2-77;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

Correction

In FR Doc. 77-10893, appearing at page 19917 in the issue for Friday, April 15, 1977, on page 19918, under entry number 8, Toxicology Advisory Committee, under the heading "Type of meeting and contact person", the telephone at the end of the paragraph should read 301-443-4490.

HEALTH CARE AND SERVICES

Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming national Ad Hoc Professional Meeting to be chaired by the Deputy Commissioner of Food and Drugs.

DATE: The meeting will be at 1 p.m., Wednesday, May 18, 1977.

ADDRESS: The meeting will be held at the Shoreham Americana Hotel, 2500 Calvert St. NW., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT:

Alan S. Kaplan, Office of Professional Programs (HFG-15), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5470.

SUPPLEMENTARY INFORMATION: The theme of the meeting is "Agency Procedures for Public Information and Administration," which is pertinent to health professionals. The purpose of the meeting is to exchange educational and other informational items of mutual interest, to identify common problems within the sphere of FDA's responsibility that have an effect on the health care practioner and/or the delivery of health services, to seek solutions to those problems, and to conduct other activities of similar interest and benefit. The meeting will be open to all interested persons.

Dated: April 27, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12588 Filed 5-2-77;8:45 am]

[Docket No. 76F-0484]

SOUTHERN SIZING CO.

Withdrawal of Petition for Food Additives

Agency: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: Southern Sizing Co. has withdrawn its petition (FAP 7A3251) to use polypropylene glycol as a defoaming agent in the manufacture of edible protein.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with procedures for withdrawal of food additive petitions under § 171.7 (21 CFR 171.7, formerly § 121.52, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), Southern Sizing Co., P.O. Box 90987, East Point, GA 30364, has withdrawn its petition (FAP 7A3251), notice of which was published in the FEDERAL REGISTER of December 28, 1976 (41 FR 56396), proposing that § 173.340 Defoaming agents (21 CFR 173.340, formerly § 121.1099, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the safe use of polypropylene glycol as a defoaming agent in the manufacture of edible protein.

Dated: April 21, 1977.

HOWARD ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-12427 Filed 5-2-77;8:45 am]

INDIAN FELLOWSHIP PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in section 423 of the Elementary and Secondary Education Act, as added by the Indian Education Act, Part B of Title IV of Pub. L. 92-318 and as amended by Part C of Title VI of Pub. L. 93-380 (20 U.S.C. 887c-2), applications are being accepted from eligible applicants for purposes of the program described below. Applications for new fellowships must be received by the U.S. Office of Education Application Control Center on or before June 15, 1977. Applications for non-competing continuation fellowships should be received by the U.S. Office of Education Application Control Center on or before June 17, 1977.

References below to proposed regulations relate to the Notice of Proposed Rulemaking for the Indian Education Act, Part B, which was published in the FEDERAL REGISTER on March 25, 1977, at volume 42, pages 16267-16268 (Subpart H).

A. *Subpart H Awards (CFDA No. 13.569).* Pursuant to proposed 45 CFR 187.71 Subpart H, an Indian who is in attendance, or who has been accepted for admission, as a full-time student at an institution of higher education for study in a graduate or professional program may apply for a fellowship. The applicant's program of study must be one of not less than three nor more than four academic years and provide a professional or graduate degree in engineering, medicine, law, business, forestry, or a field related to one of these areas.

A program of study to be undertaken by a fellow must be one leading to a post-baccalaureate degree. Applicants in the field of business, engineering, or forestry must be entering at a level not lower than the third year of undergraduate school. Applicants in the fields of medicine or law must be entering at a level not lower than the first year of medical school or law school, whichever is applicable.

Criteria for the Indian Fellowship Program are set forth in proposed 45 CFR 187.72. Priorities are set forth in proposed 45 CFR 187.73.

B. *Availability of funds and estimated number of awards.* The estimated total amount of funds which will be available for the Indian Fellowship Program is $1,000,000. Of this amount, approximately half has been committed to continue fellowship awards which began with Fiscal Year 1976 funds. Based on an average fellowship award of $5,000, approximately 100 new fellowship awards will be made.

C. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.569. An application for a new fellowship sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 10, 1977 for new applications and June 13 for non-competing continuation, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date, by either the

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Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

D. *Hand-delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

E. *Program information and forms.* Information and application forms may be obtained from the Office of Indian Education, Division of Special Projects and Programs, U.S. Office of Education, Room 2158, 400 Maryland Avenue SW., Washington, D.C. 20202.

F. *Applicable regulations.* Awards under this program will be subject to the Office of Education General Provisions Regulations (45 CFR Part 100a) and, subject to their becoming effective, the Indian Education Act, Part B program regulations (45 CFR Part 187) published in the FEDERAL REGISTER as proposed rules on March 25, 1977, at volume 42, pages 16257–16258.

(20 U.S.C. 887c–2.)

(Catalog of Federal Domestic Assistance Number 13.569, Indian Education—Fellowships for Indian Students.)

Dated: April 7, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77–12606 Filed 5–2–77;8:45 am]

SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 314 of Pub. L. 89–750, as amended by Title IV, Part C of Pub. L. 92–318 and Title VI, Part A of Pub. L. 93–380 (20 U.S.C. 1211a), applications are being accepted for the following programs:

A. *Programs for which applications are being solicited.* (1) *Demonstration, basic literacy and high school equivalency, research and development, and dissemination and evaluation.* Applications are being accepted from State educational agencies; local educational agencies; and Indian tribes, institutions, and organizations for planning, pilot, and demonstration projects described in the following paragraphs of the proposed rules published in the FEDERAL REGISTER on March 25, 1977, at volume 42, page 16272.

(a) Demonstration, proposed 45 CFR 188.5(a). Projects to test and demonstrate the effectiveness of adult Indian education programs;

(b) Basic literacy and high school equivalency, proposed 45 CFR 188.5(b). Projects that establish and operate programs for basic literacy training and high school equivalency;

(c) Research and development, proposed 45 CFR 188.5(c). Projects to support a major research and development program to develop innovative and effective techniques for achieving literacy and high school equivalency; and

(d) Dissemination and evaluation, proposed 45 CFR 188.5(e). Projects for dissemination and evaluation of materials on Adult Indian education.

Applications received in the areas described above will be evaluated against the criteria in § 188.15. Priority points will be awarded in accordance with § 188.17.

(2) *Basic surveys.* Applications are being accepted from State and local education agencies; and Indian tribes, institutions, and organizations for basic surveys on the problems of illiteracy and lack of completion of high school on Indian reservations as described in proposed 45 CFR 188.5(d), published in the FEDERAL REGISTER on March 25, 1977, at volume 42, page 16273. Applications received in this area will be evaluated against the criteria in paragraphs 188.15 (a), (c), (d), (e), and (f) plus the criteria in § 188.16. Priority points will be awarded in accordance with § 188.17.

(3) *Dissemination and evaluation.* Applications are being accepted from public agencies and institutions; and Indian tribes, institutions and organizations for projects which evaluate the effectiveness of federally assisted programs in which adult Indians may participate and disseminate information concerning adult Indian education as described in proposed 45 CFR 188.6, published in the FEDERAL REGISTER on March 25, 1977, at volue 42, page 16273A.

Applications received in this area will be evaluated against the criteria in paragraphs 188.15 (a), (c), (d), (e), and (f) plus the criteria in § 188.16. Priority points will be awarded in accordance with § 188.17.

Applications must be received by the U.S. Office of Education Application Control Center on or before June 17, 1977.

B. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education; Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.536. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 13, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* Applications to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washintgon, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *Program information and forms.* Information and application forms may be obtained from the Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, Room 2161, Federal Office Building Six, 400 Maryland Avenue SW., Washington, D.C. 20202.

E. *Multiple year project grants.* Applicats may submit applications for projects which will require more than one year for completion as authorized by proposed 45 CFR 188.11. Consideration will be given to providing support for projects of two to three years on a case-by-case basis. Where assistance is provided for multiple year project grants, grant awards will be made for a budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance (as determined pursuant to proposed 45 CFR 188.11(d)) and the availability of funds in future fiscal years.

F. *Available funds.* Funds available from appropriations for this program are approximately $4,000,000 for this fiscal year. It is anticipated that sixty-one grants will be awarded with the approximate range of award amounts from $20,000 to $100,000.

G. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a, except 45 CFR 100a.26(b)) and subject to their becoming effective, the proposed rules for awarding Financial Assistance for the Improvement of Educational Opportunities for Adult Indians published in the FEDERAL REGISTER on March 25, 1977, at volume 42, page 16272.

(20 U.S.C. 1211a.)

(Catalog of Federal Domestic Assistance Number 13.536; Indian Education—Adult Education.)

Date: April 7, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77–12607 Filed 5–2–77;8:45 am]

SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

Closing Date for Receipt of Applications

Notice is hereby given pursuant to the authority contained in the Elementary and Secondary Education Act of 1965, as added by the Indian Education Act, Part B of Title IV, Pub. L. 92–318 and as amended by Part C of Title VI, Pub. L. 93–380 (20 U.S.C. 887c; 20 U.S.C. 887c–1; 20 U.S.C. 887c–2), that applications are being accepted from eligible applicants for purposes of the programs listed below. An eligible applicant may submit applications for one or more programs. Competing applications (those which did not receive a multiple year award in Fiscal Year 1975 or Fiscal Year 1976) should be based upon a ten-month grant award period and must be received by the U.S. Office of Education Application Control Center on or before June 15, 1977. Non-competing continuation applications (multiple year awards made in Fiscal Year 1975 and Fiscal Year 1976) may be based upon a twelve-month grant award period and should be received on or before June 17, 1977.

References below to proposed regulations relate to the Notice of Proposed Rulemaking for the Indian Education Act, Part B, which was published in the FEDERAL REGISTER on March 25, 1977, at volume 42, pages 16257–16269.

A. *Subpart B Awards. (CFDA No. 13.535A).* Pursuant to 45 CFR 187.11 of the proposed regulations, State and local educational agencies; federally supported elementary and secondary schools for Indian children; and Indian tribes, Indian organizations, and Indian institutions may submit applications for grants to support planning, pilot, and demonstration projects for improving educational opportunities for Indian children. Criteria for this program are set forth in proposed 45 CFR 187.12. Priorities are set forth in proposed 45 CFR 187.13.

B. *Subpart C Awards. (CFDA No. 13.535A).* Pursuant to 45 CFR 187.21 of the proposed regulations, State and local educational agencies, and tribal and other Indian community organizations may submit applications for programs to provide educational services to improve the educational opportunities for Indian children. Criteria for this program are set forth in proposed 45 CFR 187.22. Priorities are set forth in proposed 45 CFR 187.23.

C. *Subpart D Awards. (CFDA No. 13.535A).* Pursuant to 45 CFR 187.31 of the proposed regulations, State and local educational agencies, and tribal and other Indian community organizations may submit applications for programs to provide exemplary programs and centers to improve the educational opportunities for Indian children. Criteria for this program are set forth in proposed 45 CFR 187.32. Priorities are set forth in 45 CFR 187.33.

D. *Subpart E Awards. (CFDA No. 13.535A).* Pursuant to 45 CFR 187.41 of the proposed regulations, public agencies and institutions, Indian tribes, Indian institutions, and Indian organizations may apply for assistance for dissemination, evaluation, and training and technical assistance programs. Criteria for this program are set forth in proposed 45 CFR 187.42. Priorities are set forth in proposed 45 CFR 187.43.

E. *Subpart F Awards. (CFDA No. 13.535A).* Pursuant to 45 CFR 187.51 of the proposed regulations, institutions of higher education and State and local educational agencies in combination with institutions of higher education, may apply for grants to prepare persons to serve Indian children as teachers, teacher aides, social workers, or ancillary educational personnel, or to improve the qualifications of those persons serving Indian children in those capacities. Criteria for this program are set forth in proposed 45 CFR 187.53. Priorities are set forth in proposed 45 CFR 187.54.

F. *Subpart G Awards. (CFDA No. 13.535B).* Pursuant to 45 CFR 187.61 of the proposed regulations, institutions of higher education, Indian tribes, and Indian organizations may apply for grants to prepare individuals for teaching in or administering special programs and projects designed to meet the special educational needs of Indian children; or to provide in-service training for persons already teaching in those programs and projects; or both. Criteria for this program are set forth in proposed 45 CFR 187.63. Priorities are set forth in proposed 45 CFR 187.64.

G. *Subpart H Awards—Indian Fellowship Program. (CFDA No. 16.569).* Applications for Subpart H, 45 CFR 187.71 are not being solicited at present in this notice. A separate notice of closing date will be published this year soliciting applications for fellowship awards.

H. *Mutliple year awards.* Applicants may submit applications for projects which will require more than one year for completion. Consideration will be given to providing support for projects of two to three years on a case-by-case basis. Where assistance is provided for multiple year projects, grant awards will be made for budget periods of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined pursuant to 45 CFR 187.6(d) and the availability of funds in future fiscal years.

I. *Availability of funds and estimated number and amount of awards.* The estimated total amount of funds which will be available for the above activities is $13,080,000. Of this amount, approximately $4,317,000 has been committed to continue 27 multiple year grants which began with Fiscal Year 1975 or 1976 funds.

Based on a $103,000 average grant for a ten-month period, it is estimated that, with the remainder of the Fiscal Year 1977 funds ($8,763,000), approximately 85 new grants will be awarded. A more detailed subpart by subpart estimate follows:

Subpart B—$1,063,000—11 grant awards.
Subpart C—$2,500,000—26 grant awards.
Subpart D—$1,000,000—9 grant awards.
Subpart E—$1,200,000—11 grant awards.
Subpart F—$1,500,000—14 grant awards.
Subpart G—$1,500,000—14 grant awards.

J. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education; Grant and Procurement Management Division, Attention: CFDA # 13.535, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 10, 1977 for the competing portion of the program and June 13, 1977 for the non-competing portion, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date, by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

K. *Hand-delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center,. Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

L. *Program information and forms.* Information and application forms may be obtained from the Office of Indian Education; Division of Special Projects and Programs; U.S. Office of Education; Room 2158; 400 Maryland Avenue, SW.; Washington, D.C. 20202.

M. *Applicable regulations.* Awards under these programs will be subject to the Office of Education General Provisions Regulations (45 CFR Part 100a, except 100a.26(b)) and subject to their becoming effective, the Indian Education Act Part B program regulations (45 CFR Part 187) published in the FEDERAL REGISTER as proposed rules on March25, 1977, at vol. 42, pages 16257–16269.

(20 U.S.C. 887c.)

(Catalog of Federal Domestic Assistance Number 13.535A and 13.535B, Indian Education—Special Programs and Projects.)

Dated: April 7, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77–12608 Filed 5–2–77;8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-77-506]

PRIVACY ACT OF 1974

Proposed Amendment of Notice of System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed amendment.

SUMMARY: The Department is proposing to amend its Statement of Routine Uses required by the Privacy Act for one of its systems of records by adding a new routine use.

DATES: Interested persons may submit comments on or before June 2, 1977.

ADDRESSES: Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, on (202) 755-5192.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the Statement of Routine Uses for the system of records designated as HUD/DEPT-28 (Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default) by adding a routine use for the disclosure of individually identifiable information concerning delinquent government-owed debts to debtors' employers and Federal agencies to the extent necessary for the Department to carry out its functions in exercising diligence in collecting government-owed debts as required by the Federal Claims Collection Act of 1966 (31 U.S.C. 95). The system of records was published at 41 FR 50610 on November 16, 1976.

In order to more properly reflect the type of records, the system name is being changed to "Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default." The designation, HUD/DEPT-28, is being retained.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address set forth above.

The Department of Housing and Urban Development proposes the routine uses to read:

Routine Uses of records maintained in the system including categories of users and the purposes of such uses. See Routine Uses paragraphs in prefatory statement. Other routine uses: To GAO for audit purposes; to private employers and other Federal agencies for the purpose of collecting government-owed debts; and to the Department of Justice and U.S. Attorney's offices for collection purposes.

For the convenience of the public, the Department is republishing the system of records in its entirety, as follows:

HUD/DEPT-28

System name:

Property and Mobil Home Improvement and Rehabilitation Loans-Delinquent/Default.

System location:

Headquarters and most area and insuring offices maintain files of this type. For a complete listing, with addresses, see Appendix A.

Categories of individuals covered by the system:

Mobile home, home improvement, and rehabilitation loan debtors; builders and contractors under mobile home, home improvement and rehabilitation programs.

Categories of records in the system:

Names, credit applications, and case histories of borrowers; records of payments, financing statements; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor request for collection assistance; justifications for closing collection actions; related correspondence.

Routine Uses of records maintained in the system including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: To GAO for audit purposes; to private employers and other Federal agencies for the purpose of collecting government-owed debts; and to the Department of Justice and U.S. Attorney's offices for collection purposes.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In file folders.

Retrievability:

By name and case file number of individual covered.

Safeguards:

Files are stored in lockable file cabinets.

Retention and disposal:

Files are partly active and partly historical and are disposed of in accordance with HUD Handbook.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (1) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (11) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Subject individual; current and previous employers; credit bureaus; financial institutions; firms; federal and non-federal agencies; law enforcement agencies.

Authority:

5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535 (d)).

It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washington, D.C., April 12, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-12540 Filed 5-2-77;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 22, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 13, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

ARIZONA

Yavapai County

Poland vicinity, *Poland Tunnel*, W of Poland off AZ 69.

CALIFORNIA

Alameda County

Oakland, *Peralta, Antonio Maria, House*, 2465 34th Ave.

El Dorado County

Placerville, *Episcopal Church of Our Savior*, 2979 Coloma St.

Monterey County

Monterey, *Merritt, Josiah, Adobe*, 386 Pacific St.

San Mateo County

Portola Valley, *Our Lady of the Wayside*, 930 Portola Rd.

Santa Clara County

San Jose, *St. Joseph's Roman Catholic Church*, Market and San Fernando Sts.

Tulare County

Visalia, *The Pioneer*, 27000 S. Mooney Blvd.

Ventura County

Ventura, *Bard, Elizabeth, Memorial Hospital*, 121 N. Fir St.

KANSAS

Bourbon County

Fort Scott, *Moody Building*, 15 E. 2nd St.

Chase County

Cottonwood Falls, *Cartter Building*, 303 Broadway.
Cottonwood Falls, *Chase County National Bank*, 301 Broadway.

Jackson County

Holton, *State Bank of Holton*, 4th and Pennsylvania Ave.
Whiting, *Shedd and Marshall Store*, 3rd and Whiting Sts.

Leavenworth County

Leavenworth, *Angell, A. J., House*, 714 S. Broadway.

Mitchell County

Beloit, *Mitchell County Courthouse*, Main St. and Hersey Ave.

MARYLAND

Baltimore (independent city)

Baltimore Equitable Society, 21 N. Eutaw St.

Baltimore County

Brooklandville vicinity, *Brooklandville House*, S of Brooklandville at Falls and Hillside Rds.
Lansdowne, *Hull Memorial Christian Church*, 101 Clyde Ave.

Harford County

Aberdeen vicinity, *Griffith House*, 1120 Old Philadelphia Rd.
Bel Air vicinity, *Thomas Run Church*, NE of Bel Air off MD 136.

Howard County

Ellicott City vicinity, *Elmonte*, N of Ellicott City at Mt. Hebron Dr. and MD 99.

Queen Annes County

Church Hill, *St. Luke's Church*, jct. of MD 213 and MD 19.
Wye Mills vicinity, *Wilton*, 0.5 mi. N of Wye Mills on MD 213.

Washington County

Keedysville vicinity, *B & O Bridge*, NW of Keedysville over Antietam Creek.

NEW JERSEY

Bergen County

Ridgewood Vicinity, *Zabriskie, Albert J., Farmhouse*, E. 37 Ridgewood Ave.

Warren County

Oxford, *Oxford Furnace*, Belvidere and Washington Aves.

NEW YORK

Chemung County

Elmira, *Park Church*, 208 W. Gray St.

Warren County

Glens Falls, *Sherman House*, 380 Glen St.

NORTH CAROLINA

Buncombe County

Asheville, *Montford Area Historic District*, irregular pattern along Montford Ave.

PENNSYLVANIA

Carbon County

Jim Thorpe, *Old Mauch Chunk Historic District*, Broadway, Susquehanna, Race, and High Sts.

Huntingdon County

Marklesburg vicinity, *Brumbaugh Homestead*, NE of Marklesburg off PA 26.

York County

Wellsville, *Wellsville Historic District*, PA 74.

RHODE ISLAND

Providence County

Providence, *Providence-Biltmore Hotel*, 11 Dorrance St.

TENNESSEE

Clay County

Celina, *Clay County Courthouse*, TN 52.

Franklin County

Old Salem vicinity, *Mann, R. N., House*, N of Old Salem off U.S. 64.

WASHINGTON

WA *San Juan County*

East Sound vicinity, *Rosario*, S of East Sound, Orcas Island.

[FR Doc.77-12330 Filed 5-2-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

The following properties have been added to the National Register since April 5, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ALABAMA

Lawrence County

Courtland vicinity, *Wheeler, Joseph, Plantation*, E of Courtland off AL 20 (4-13-77) HABS.

Marengo County

Demopolis, *Curtis House*, 510 N. Main (4-11-77).

ARKANSAS

Clay County

Success, *Waddle House*, S. Erwin (3-28-77).

Cleveland County

Rison, *Cleveland County Courthouse*, Main and Magnolia (4-11-77).

Monroe County

Clarendon, *Monroe County Jail*, 2nd and Kendall (4-11-77).

Pulaski County

Little Rock, *Bruner House*, 1415 Cantrell Rd. (4-11-77).

CALIFORNIA

Butte County

Chico, *Allen-Sommer-Gage House*, 410 Normal St. (4-13-77).

Los Angeles County

Los Angeles, *Watts Towers of Simon Rodia*, 1765 E. 107th St. (4-13-77).
Pearland vicinity, *Little Rock Creek Dam*, 4.5 mi. S of Pearland off CA 138 (4-15-77).
Santa Monica, *Horatio West Court*, 140 Hollister Ave. (4-11-77) HABS.

Orange County

Santa Ana, *Howe-Waffle House and Carriage House*, Sycamore and Civic Center Dr. (4-13-77).

San Francisco County

San Francisco, *Mills Building and Tower*, 220 Montgomery St. and 220 Bush St. (4-13-77).

Santa Clara County

Los Altos vicinity, *Griffin, Willard, House and Carriage House*, 12345 S. El Monte Ave. (4-13-77).
Santa Clara, *Morse, Charles Copeland, House*, 981 Fremont St. (4-13-77).

Santa Cruz County

Scotts Valley, *Scott, Hiram D., House*, 4603 Scotts Valley Dr. (4-13-77).

COLORADO

Eagle County

McCoy vicinity, *Waterwheel*, SE of McCoy at Colorado River (4-11-77).

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El Paso County

Manitou Springs, *Miramont (Francolon's Castle)*, 9 Capitol Hill (4–11–77).

DELAWARE

New Castle County

New Castle vicinity, *Swanwyck*, 65 Landers Lane (3–17–77) HABS.
Odessa vicinity, *Hell Island Site*, S of Odessa (4–13–77).

Sussex County

Lewes, *Coleman House*, 422 Kings Highway (4–11–77).

GEORGIA

Chatham County

Savannah, *Hodgson, W. B., Hall*, 501 Whitaker St. (3–25–77).

Cobb County

Marietta, *Glover–McLeod–Garrison House*, 250 Garrison Rd., SE (3–25–77).

Fulton County

Atlanta, *Nicolson, William P., House*, 821 Piedmont Ave. (3–25–77).
Atlanta, *Sweet Auburn Historic District*, Auburn Ave. (12–8–76) NHL.

Oglethorpe County

Lexington, *Lexington Historic District*, U.S. 78 (4–13–77).

INDIANA

Fayette County

Connersville vicinity, *Elmhurst*, S of Connersville on IN 121 (4–11–77) HABS.

Marion County

Indianapolis, *Bates–Hendricks House*, 1526 S. New Jersey St. (4–11–77) HABS.
Indianapolis, *Hollingsworth House*, 6054 Hollingsworth Rd. (4–13–77).

IOWA

Allamakee County

Waukon, *Allamakee County Courthouse*, 107 Allamakee St. (4–11–77).

Clayton County

Elkader, *Schmidt House*, 101 Oak St., NW (3–25–77).
Garnavillo, *First Congregational Church*, Washington St. (3–25–77).

Dubuque County

Dubuque, *Rath, Johann Christian Frederick, House*, 1204 Mt. Loretta Ave. (4–11–77).

Howard County

Lime Springs, *Lime Springs Mill Complex*, SR 157 (4–11–77).

Jefferson County

Fairfield vicinity, *New Sweden Chapel*, E of Fairfield off U.S. 34 (3–25–77).

Johnson County

Coralville, *Coralville Union Ecclesiastical Church*, 405 2nd Ave. (4–11–77).
Kalona vicinity, *St. John's* Lutheran Church, N of Kalona (4–5–77).

Madison County

Winterset vicinity, *North River Stone Schoolhouse*, N of Winterset off U.S. 169 (4–11–77).

O'Brien County

Sheldon, *Carnegie Library*, 321 10st St., (4–11–77).

Polk County

Des Moines, *Maish House*, 1623 Center St., (4–11–77).

Scott County

Davenport, *Ambrose Hall*, 518 W. Locust (4–11–77).

Sioux County

Orange City, *Sioux County Courthouse*, off IA 10 (4–11–77).

Winneshiek County

Decorah vicinity, *Horn House*, NW of Decorah (3–25–77).

KANSAS

Leavenworth County

Eastern vicinity, *Biehler Barn*, 2.5 mi. N of Easton (4–11–77).

Pottawatomie County

Olsburg, *Coffey Site*, N of Olsburg (4–11–77).

KENTUCKY

Henry County

New Castle, *Henry County Courthouse, Jail, and Warden's House*, Courthouse Sq. (4–11–77).

Mercer County

Harrodsburg vicinity, *Taylor, Capt. Samuel, House (Bachelor's Barter)*, NE of Harrodsburg on Chatham Pike (4–13–77).

Scott County

Georgetown vicinity, *Blackburn, Julius, House*, W of Georgetown off U.S. 460 (4–14–77).

Taylor County

Campbellsville vicinity, *Cowherd, Jonathan Jr., House*, W of Campbellsville off KY 70 (4–11–77).

LOUISIANA

Ascension Parish

Donaldsonville vicinity, *Palo Alto Plantation*, W of Donaldsonville on LA 1 (4–13–77).

DeSoto Parish

International Boundary Marker. Reference—see Panola County, TX.

Orleans Parish

New Orleans, *Julia Street Row*, 602–646 Julia St. (3–28–77).

MAINE

Washington County

Cherryfield, *Campbell, Gen. Alexander, House*, Campbell Hill (4–13–77).

MARYLAND

Baltimore (independent city)

U.S. Post Office and Courthouse, 111 N. Calvert St. (3–25–77).

Talbot County

St. Michaels vicinity, *Sherwood Manor*, 4 mi. N of St. Michaels on MD 451 (4–5–77).

Worcester County

Showell vicinity, *St. Martins Church*, 1 mi. S of Showell at jct. of U.S. 113 and MD 589 (4–13–77).

MASSACHUSETTS

Essex County

Lawrence, *Great Stone Dam*, Merrimack River and MA 28 (4–13–77).

Middlesex County

Bedford vicinity, *Bacon-Gleason-Blodgett Homestead*, 118 Wilson Rd. (4–14–77).

Lexington, *Chandler, Gen. Samuel, House*, 8 Goodwin Rd. (4–13–77).
Lowell, *Holy Trinity Greek Orthodox Church*, Lewis St. (4–13–77).

MICHIGAN

Berrien County

Buchanan vicinity, *Moccasin Bluff Site*, (4–13–77).

St. Clair County

Port Huron, *Grand Trunk Western Railroad Depot*, 520 State St. (4–13–77).

Tuscola County

Vassar, *North, Townsend, House*, 325 N. Main (4–13–77).

Washtenaw County

Ypsilanti, *Starkweather Religious Center*, 901 W. Forest (4–13–77).

MINNESOTA

Douglas County

Alexandria, *Nelson, Knute, House*, 420 12th Ave., SE (4–13–77).

Faribault County

Blue Earch, *Faribault County Courthouse*, N. Main and 2nd Sts. (4–11–77).

Goodhue County

Red Wing vicinity, *Tower View*, W. of Red Wing in U.S. 61 (4–13–77).

Jackson County

Jackson, *Jackson County Courthouse*, bounded by Sherman, W. Ashley, 4th and 5th Sts. (4–13–77).

Kanabec County

Mora, *Kenabec County Courthouse*, Maple and Vine Sts. (4–11–77).

Lincoln County

Lake Benton, *Lake Benton Opra House*, Benton St. between Fremont and Center Sts. (3–25–77).

Mille Lacs County

Milaca, *Mille Lacs County Courthouse*, 5th Ave., SE and 2nd St, SE (3–25–77).

Murray County

Slayton, *Murray County Courthouse*, Main and 7th Sts. (4–13–77).

Wright County

Cokato, *Akerlund, August, Photographic Studio*, 390 Broadway Ave. (4–11–77).

MISSISSIPPI

Alcorn County

Corinth, *Battery Williams*, Fulton Dr. at Southern Railroad (4–11–77).

Warren County

Vicksburg, *Sprague*, Vicksburg Harbor (4–15–77).

NEBRASKA

Cass County

Elmwood, *The Elms (Bess Streeter Aldrich House)*, off NE 1 (3–24–77).
Murray vicinity, *Naomi Institute*, 3 mi. E of Murray (3–24–77).

Gage County

Filley vicinity, *Filley, Elijah, Stone Barn*, S of Filley off U.S. 136.

NEW HAMPSHIRE

Grafton County

Woodsville, *Haverhill–Bath Covered Bridge*, NH 135 (4–18–77).

NEW JERSEY

Essex County

Newark, *Cathedral of the Sacred Heart*, 89 Ridge St. (12–22–76).

Middlesex County

New Brunswick, *Buccleuch Mansion*, 200 College Ave., Buccleuch Park (4–13–77) HABS.

Monmouth County

Atlantic Highlands, *Alexander Hamilton* (Steamship), off NJ 36 3–25–77).

Morris County

Mountain Lakes, *Grimes Homestead*, 45 Bloomfield Ave. (4–1–77).

NEW YORK

Livingston County

Livonia, *Livonia Baptist Church*, 9 High St. (3–25–77).

Nassau County

Manhasset vicinity, *Valley Road Historic District*, S of Manhasset on Community Dr. (4–8–77).

Saratoga County

Hadley, *Hadley Parabolic Bridge*, Corinth Rd. (3–25–77).

Westchester County

Ardsley-on-Hudson, *Nuits*, Hudson Rd. and Clifton Pl. (4–13–77).

NORTH CAROLINA

Bladen County

Tar Heel vicinity, *Purdie House and Purdie Methodist Church*, 2.8 mi. E of Tar Heel (4–13–11).

Buncombe County

Asheville, *S and W Cafeteria*, Patton Ave. (3–28–77).

Northampton County

Jackson, *Northampton County Courthouse Square*, Jefferson St. between Atherton and Brown Sts. (4–11–77).

Wake County

Raleigh, *Polk, Leonidas L., House*, 612 N. Blount St. (4–13–77).

Wayne County

Goldsboro, *Goldsboro Union Station*, 101 North Carolina St. (4–13–77).

NORTH DAKOTA

Traill County

Hatton, *Eielson, Carl Ben, House*, 405 8th St. (4–11–77).
Mayville, *Mayville Public Library*, Center Ave. N. (4–11–77).
Mayville, *Robinson, Col. William H., House*, 127 4th Ave., NE (4–11–77).

Wells County

Fessenden, *Beiseker Mansion*, 2nd St. and Roberts Ave. (4–13–77).
Hurdsfield vicinity, *Hurd Round House*, 7 mi. SE of Hurdsfield (4–11–77).

OHIO

Adams County

Seaman vicinity, *Wilson, John T., Homestead*, NE of Seaman on OH 32 (4–11–77).

Ashland County

Ashland vicinity, *Anderson Schoolhouse*, SW of Ashland on U.S. 42 (3–25–77).

Athens County

Truetown vicinity, *Kidwell Covered Bridge*, 1 mi. N of Truetown (4–11–77).

Brown County

Decatur vicinity, *Sutton House*, 0.3 mi. E of Decatur on OH (3–25–77).

Butler County

Hamilton vicinity, *Hughes, Phillip, House*, E of Hamilton at jct. of OH 4 and OH 747.
Shandon, *Thomas Select School*, 3637 Millville-Shandon Rd. (4–11–77).

Carroll County

Waynesburg vicinity, *St. Mary's of Morges*, 8012 Bachelor Rd., NW (4–11–77).

Clermont County

Mt. Olive vicinity, *Winter, William, Stone House*, N of Mt. Olive on OH 133 (3–25–77).

Cuyahoga County

Independence, *Independence Presbyterian Church*, U.S. 21 (4–13–77).
Lakewood, *Honam, John, House*, 14710 Lake Ave. (4–13–77) HABS.

Darke County

Greenville, *Beir, Anna, House*, 214 E. 4th St. (4–11–77).

Defiance County

Defiance, *Riverside Chapel*, S. Clinton St. in Riverside Cemetery (4–11–77).

Delaware County

Harlem vicinity, *Cook, John, Farm*, E of Harlem at Miller Paul Rd. and Gorsuch Rd. (4–11–77).

Fairfield County

Pickerington vicinity, *Blacklick Covered Bridge*, 3.5 mi. NW of Pickerington (4–11–77).

Franklin County

Westerville vicinity, *Osborn, Charles S.*, 5785 Cooper Rd. (3–28–77).

Hamilton County

Cincinnati, *Bepler, August, House (Holly Ridge)*, 805 Tusculum Ave. (4–13–77).
Cincinnati, *Episcopal Church of the Resurrection*, 7346–48 Kirkwood La. (4–13–77).
Cincinnati vicinity, *Williams, W. L., House*, 280 Anderson Ferry Rd. (3–25–77).
Newtown and vicinity, *Perin Village Site*, off OH 32 (3–25–77).

Lawrence County

Chesapeake vicinity, *Maplewood*, W of Chesapeake on Maplewood La. (4–13–77).

Licking County

Newark, *Chapel Hill Cemetery Buildings*, Cedar St., Chapel Hill Cemetery (4–13–77).

Montgomery County

Dayton, *Brown, Samuel N., House*, 1633 Wayne Ave. (4–11–77).
Dayton, *Gottschall, Oscar M., House*, 20 Livingston Ave. (4–11–77).
Germantown vicinity, *Koehne–Poast Farm*, W of Germantown off OH 725 (4–11–77).

Muskingum County

Zanesville vicinity, *Five Mile House*, S of Zanesville off U.S. 22 (4–11–77).

OKLAHOMA

Le Flore County

Cameron vicinity, *Reynolds, James E., House*, E of Cameron off OK 112 (4–13–77).

Oklahoma County

Oklahoma City, *St. Paul's Cathedral*, 127 NW 7th St. (4–11–77).

PENNSYLVANIA

Allegheny County

East Pittsburgh, *Westinghouse, George, Memorial Bridge*, U.S. 30 at Turtle Creek (3–28–77).

Bucks County

Wrightstown, *Smith, William, House*, Mud and Penns Park Rd. (4–13–77).

Butler County

Zelienople, *Passavant House*, 243 S. Main St. (4–11–77).

Centre County

Bellefonte, *Brockerhoff Hotel*, High and Allegheny Sts. (4–11–77).
Bellefonte vicinity, *Logan Furnace Mansion*, 3 mi. S of Bellefonte on PA 144 (4–11–77).
Boalsburg, *Hill House (Col. James Johnston House)*, Tennis St. (3–28–77).
Centre Hall vicinity, *Neff, Maj. John, Homestead*, SW of Centre Hall (4–11–77).
Stormstown, *Elder, Abraham, Stone House/Tavern*, PA 550 (4–13–77).

Crawford County

Meadville, *Mosier, Dr. J. R., Office*, Terrace St. (3–28–77).

Cumberland County

Dickinson vicinity, *Pine Grove Furnace*, S of Dickinson on PA 233 (4–13–77).

Delaware County

Westchester vicinity, *Thompson Cottage*, SE of Westchester on Thornton Rd. (4–13–77).

Franklin County

Chambersburg vicinity, *Gass House*, E of Chambersburg off U.S. 30 (4–11–77).

Montgomery County

Schwenksville vicinity, *Sunrise Mill*, 3 mi. W of Schwenksville on Neiffer Rd. (4–11–77).

Northumberland County

Milton, *Milton Freight Station*, 90 Broadway (4–13–77).

Philadelphia County

Philadelphia, *Eyre, Wilson, House*, 1003 Spruce St. (4–13–77).

Wyoming County

Nicholson vicinity, *Tunkhannock Viaduct*, 0.5 mi. E of Nicholson at Tunkhannock Creek (4–11–77).

PUERTO RICO

Guanica vicinity, *Faro de Guanica*, S of Guanica (3–28–77).

RHODE ISLAND

Providence County

Providence, *St. Michael's Roman Catholic Church, Convent, Rectory, and School*, 251 Oxford St. (3–25–77).

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Augustana College Historic Buildings*, 29th and S. Summit Sts. (3–25–77).

Pennington County

Hill City, *Harney Peake Hotel*, U.S. 16 (4–11–77).
Hill City, *Von Woehrmann Building*, U.S. 16 (4–13–77).

Walworth County

Mobridge, *Mobridge Masonic Temple*, 6th and Main Sts. (3–25–77).

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TENNESSEE

Montgomery County

Clarksville, *Rexinger, Samuel, House*, 703 E. College St. (4–13–77).

TEXAS

Bosque County

Meridian, *Bosque County Courthouse*, Public Sq. (4–13–77).

Culberson County

Toyah vicinity, *Granado Cave*, 36.6 mi. W of Toyah (3–25–77).

El Paso County

El Paso vicinity, *Doyle, Sgt., Site*, 4 mi. NE of El Paso (4–11–77).

Hill County

Itasca vicinity, *Turner, Joe E., House*, 3 mi. E of Itasca on SR 934 (4–13–77) HABS.

Hopkins County

Sulphur Springs, *Hopkins County Courthouse*, Church and Jefferson Sts. (4–11–77).

Johnson County

Rio Vista vicinity, *Hart, Meredith, House*, E of Rio Vista on SR 916 (4–13–77).

Panola County

Deadwood vicinity, *International Boundary Marker*, SE of Deadwood off SR 31 at LA State line (4–13–77).

Parker County

Tin Top vicinity, *Tin Top Suspension Bridge*, 2 mi. S of Tin Top on SR 1884 (3–25–77).

Presidio County

Redford vicinity, *Tapalcomes*, S of Redford (3–25–77).

Rains County

Emory vicinity, *Gilbert Site*, 3 mi. N of Emory (4–13–77).
Emory vicinity, *Koons Site*, 3 mi. N of Emory (4–13–77).
Emory vicinity, *Yandell Site*, N of Emory (4–13–77).

San Augustine County

San Augustine vicinity, *Garrett, William, Plantation House*, 1 mi. W of San Augustine on Tx 21 (3–25–77) HABS.

Tarrant County

Fort Worth, *Texas & Pacific Steam Locomotive #610*, Felix and Hemphill Sts. (3–25–77).

Wood County

Alba vicinity, *Sadler Site*, N of Alba (4–13–77).
Quitman vicinity, *Howle Site*, W of Quitman (4–13–77).

Zapata County

San Ygnacio vicinity, *San Francisco Ranch*, 1 mi. N of San Ygnacio (3–25–77).

UTAH

Sevier County

Joseph vicinity, *Parker, Joseph William, Farm*, 2.5 mi. NE of Joseph (3–25–77).

VERMONT

Addison County

Orwell vicinity, *Orwell Site* (4–11–77).

Rutland County

Poultney, *Poultney Central School*, Main St. (3–25–77).

Windham County

Townshend vicinity, *Simpsonville Stone Arch Bridge*, N of Townshend on VT 35 (4–11–77).

VIRGINIA

Fairfax County

Great Falls vicinity, *Cornwell Farm*, SE of Great Falls, 9414 Georgetown Pike (4–13–77).

Richmond County

Farnham vicinity, *Linden Farm*, N of Farnham on VA 3 (4–13–77).

WASHINGTON

Kittitas County

Ellensburg vicinity, *Springfield Farm*, 9 mi. N of Ellensburg (4–13–77).

WEST VIRGINIA

Greenbrier County

Lewisburg vicinity, *Morlunda (Col. Samuel McClung Place)*, NW of Lewisburg on SR 40 (3–25–77).

WISCONSIN

Milwaukee County

Milwaukee, *German–English Academy*, 1020 N. Broadway (4–11–77).
Milwaukee, *Schlitz, Joseph, Brewing Company Saloon*, 2414 S. St. Clair St. (4–11–77).

Rock County

Beloit, *Hanchett–Bartlett Farmstead*, 2149 St. Lawrence Ave. (4–11–77).
Janesville vicinity, *LaPrairie Grange Hall No. 79*, SE of Janesville on Town Hall Rd. (4–11–77).

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER:

CALIFORNIA

Mariposa County

Curry Village, *Le Conte Memorial Lodge*, Yosemite Valley, Yosemite National Park (3–8–77).

GEORGIA

Floyd County

Rome, *Chieftains*, 80 Chatillon Rd. (4–7–71) NHL; G.

Wilkes County

Washington, *Toombs, Robert, House*, 216 E. Robert Toombs Ave. (4–11–72) NHL; HABS; G.

IDAHO

Bannock County

Fort Hall vicinity, *Fort Hall*, 11 mi. W. of Fort Hall, Fort Hall Indian Reservation (10–15–66) NHL.

ILLINOIS

Cook County

Chicago, *Auditorium Building, Roosevelt University*, Michigan Ave. and Congress St. (4–17–70) NHL; HABS; G.

KANSAS

Douglas County

Lecompton, *Constitution Hall*, Elmore St. between Woodson and 3rd Sts. (5–14–71) NHL.

Linn County

Trading Post vicinity, *Marais des Cygnes Massacre Site*, 5 mi. NE of Trading Post (6–21–71) NHL.

LOUISIANA

Natchitoches Parish

Melrose, *Melrose Plantation (Yucca)*, LA 119 off LA 493 (6–13–72) NHL; HABS; G.

MAINE

Aroostook County

Fort Kent vicinity, *Fort Kent*, 0.75 mi. SW of Fort Kent off ME 11 (12–1–69) NHL.

Kennebec County

Augusta, *Fort Western*, Bowman St. (12–2–69) NHL; HABS.

MARYLAND

Prince Georges County

Rosaryville vicinity, *His Lordship's Kindness*, 3.5 mi. W of Rosaryville (4–15–70) NHL; G.

MASSACHUSETTS

Suffolk County

Boston, *Massachusetts Historical Society Building*, 1154 Boylston St. (10–15–66) NHL.
Boston, *Old South Church in Boston*, 645 Boylston St. (12–30–70) NHL.

MONTANA

Powell County

Deer Lodge, *Montana Territorial and State Prison*, 925 Main St. (9–3–76) (county correction).

NEBRASKA

Otoe County

Nebraska City vicinity, *Arbor Lodge (J. Sterling Morton House)*, W of Nebraska City on Arbor Lodge State Park (4–16–69) NHL; G.

Scotts Bluff County

Gering vicinity, *Robidoux Pass*, 9 mi. W of Gering (10–15–66) NHL.

NEW JERSEY

Union County

Elizabeth, *Boxwood Hall (Boudinot Mansion)*, 1073 E. Jersey St. (12–18–70) NHL; HABS.

NEW YORK

Albany County

Watervliet, *Watervliet Arsenal*, S. Broadway (11–13–66) NHL.

Columbia County

Germantown, *Clermont*, Clermont State Park (2–18–71) NHL; HABS.

Greene County

Catskill, *Cole, Thomas, House*, 218 Spring St. (10–15–66) NHL.

Nassau County

Westbury vicinity, *Old Westbury Gardens (Phipps Estate)*, 71 Old Westbury Rd. (11–8–76).

New York County

New York, *Metropolitan Savings Bank (First Ukrainian Assembly of God)*, 9 E. 7th St. (12–12–76).

Oneida County

Utica, *Conkling, Roscoe, House*, 3 Rutger St. (5–15–75) NHL.

Orange County

West Point, *U.S. Military Academy (West Point)*, NY 218 (10–15–66) NHL.

OHIO

Cuyahoga County

Cleveland, *Cleveland Arcade*, 401 Euclid Ave. (3–20–73) NHL; HABS.

PENNSYLVANIA

Bucks County

New Hope vicinity, *Honey Hollow Watershed*, 2.5 mi. S of the Delaware River on PA 263 (8–4–69) NHL.

Philadelphia County

Philadelphia, *Mother Bethel A.M.E. Church*, 419 6th St. (3–16–72) NHL; G.
Philadelphia, *Music Fund Hall*, 808 Locust St. (3–11–71) NHL.

SOUTH CAROLINA

Beaufort County

Beaufort, *Beaufort Historic District*, bounded by the Beaufort River, Bladen, Hamar, and Boundary Sts. (12–17–69) NHL; HABS.

Charleston County

Charleston, *Fireproof Building*, 100 Meeting St. (7–29–69) NHL; HABS; G.
Charleston, *Market Hall and Sheds*, 188 Meeting St. (6–4–73) NHL.
Charleston, *Russell, Nathaniel, House*, 51 Meeting St. (8–19–71) NHL; HABS.
Charleston, *Simmons-Edwards House*, 12–14 Legare St. (1–35–71) NHL; HABS.
Charleston, Stuart, Col. John, House, 104–106 Tradd St. (10–22–70) NHL; HABS.
Mt. Pleasant vicinity, *Snee Farm*, 6 mi. W of Mt. Pleasant off U.S. 17 (4–13–73) NHL.

Georgetown County

Georgetown vicinity, *Hopsewee (Thomas Lynch House)*, 12 mi. S. of Georgetown on U.S. 17 (1–25–71) NHL.

Greenwood County

Ninety Six vicinity, *Old Ninety Six and Star Fort*, 2 mi. S. of Ninety Six between SC 248 and 27 (12–3–69) NHL; G.

Lancaster County

Lancaster, *Lancaster County Courthouse*, 104 N. Main St. (2–24–71) NHL.

Richland County

Columbia, *First Baptist Church*, 1306 Hampton St. (1–25–71) NHL.
Columbia, *South Carolina State Hospital*, Mills Building, 2100 Butt St. (11–7–73) NHL.

Sumter County

Pinewood vicinity, *Milford Plantation*, W of Pinewood on SC 261 (11–19–71) NHL.

TEXAS

Travis County

Austin, *Governor's Mansion*, 1010 Colorado St. (8–25–70) NHL.

VIRGINIA

Bedford County

Lynchburg vicinity, *Popular Forest*, S of jct. of Rtes 661 and 460 (11–12–69) NHL; HABS.

Caroline County

Port Royal vicinity, *Camden*, N of jct. of Rte 686 and U.S. 17 (11–12–69) NHL; HABS.

Charles City County

Hopewell vicinity, *Shirley*, 5 mi. N of Hopewell off VA 608 (10–1–69) NHL; HABS.

Clarke County

Boyce vicinity, *Saratoga*, SE of jct. of Rtes. 723 and 617 (2–26–70) NHL; HABS.

Goochland County

Manakin vicinity, *Tuckahoe*, SE of Manakin near jct. of Rtes 650 and 647 (11–22–68) NHL.

Halifax County

South Boston vicinity, *Berry Hill*, S of jct. of Rtes 659 and 682 (11–25–69) NHL; HABS.

VIRGINIA

James City County

Williamsburg vicinity, *Carter's Grove*, SE of jct. of Rte 667 and U.S. 60, (11–12–69) NHL; HABS.

King William County

Tunstall vicinity, *Elsing Green*, SW of jct. of SR 632 and 633 (11–12–69) NHL; HABS.

Loudoun County

Leesburg vicinity, *Oatlands*, S of jct. of Rtes 15 and 651 (11–12–69) NHL; G.

Portsmouth (independent city)

Drydock No. 1, Norfolk Naval Shipyard (11–11–71) NHL.

Prince George County

Brandon vicinity, *Brandon*, W bank of the James River on Rte 611 (11–12–69) NHL; HABS.

Richmond (independent city)

City Hall, bounded by 10th, Broad, 11th and Capitol Sts. (10–1–69) NHL.
Egyptian Building, E. Marshall and College Sts. (4–16–69) NHL.
Monumental Church, 1224 E. Broad St. (4–16–69) NHL; G.

Richmond County

Ethel vicinity, *Menokin*, NW of jct. of Rtes. 690 and 621 (10–1–69) NHL; HABS.

WISCONSIN

Fond du Lac County

Ripon, *Little White Schoolhouse*, SE corner of Blackburn and Blossom Sts. (8–14–73) NHL; HABS.

* * * * *

The following properties were omitted from the February 1, 1977, listing of properties in the FEDERAL REGISTER.

PENNSYLVANIA

Allegheny County

Bruceton vicinity, *Experimental Mine*, S of Bruceton off Cochran Mill Rd. (10–18–77).

Crawford County

Prairie du Chien, *Dousman Hotel*, Water St. (10–15–66) NHL.

* * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity. *Archeological Sites in Gainesville Project.* Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36. Project I–459–4(4).

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF–98(7).

ALASKA

Nome Division

Little Diomede Island, *Iyapana, John House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Conconino County

Gray Mountain Site, (AR–02–020–046).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Maricopa County

Beth Israel Synagogue, 120 E. Culver.
Cave Creek Archeological District.
Glendale vicinity, *Cave Creek Dam.*
New River Dams Archeological District.
Phoenix, *Brooks, M. B., House,* 334B 75th Ave.
Phoenix, *Ellis-Shackleford House,* 1242 N. Central.
Phoenix, *Evans Barn,* 67th Ave., between Van Buren and McDowell.
Phoenix, *Fennemore House,* 501 E. Moreland.
Phoenix, *Hidden-Porcher House,* 763 E. Moreland.
Phoenix, *Ivy House,* 111 W. Monroe St.
Phoenix, *Kenilworth Elementary School,* 1210 N. 5th Ave.
Phoenix, *Stewart House,* 1115 N. Central.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258.*

V 42 85 MAY 3 77 UMI

Navajo County

Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site*.

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, Southern Pacific Depot.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49–3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp–105*.

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calavras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Hisrorical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld–58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District*.
Lake Cahuilla, *Lot 1*.
Lake Cahuilla, *Lot 5*.

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The Twenty Mule Team Borax Wagon Road (also in Kern and San Bernardino counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ–1 and HJ–5.

Los Angeles County

Big Tuijunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Simi Valley, *Archeological Site Ven–341*.
Van Norman Reservoir, Site CA–LAN 646, CA–LAN 643, Site CA–LAN 490, and a cluster made up of Sites CA–LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites CA–MAD 176–185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station*.

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Johnson Slough Site (Site 1).
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA–MNO–684.

Monterey County

Big Sur, *Point Sur Light Station*.
Pacific Grove, *Point Pinos Light Station*.

Napa County

Archeological Sites 4–Nap–14, 4–Nap–281.
Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Inland, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Twin Peaks Tunnel*.

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station*.

San Mateo County

Hillsborough, *Point Montara Light Station*.

Santa Barbara County

Santa Barbara, *Site SBa–1330*, Santa Monica Creek.
Site CA–Sba–1325.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ–5 (Border Site 26WA–1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office*.

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.

Yuba County

Site 4–Yub–S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5–LR–257 and 5–LR–263, Boxelder Watershed Project.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges*.
Norwalk, *Washington Street—S. Main Street Area*.

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, Rte. 4, Farmington Ave.
Hartford, *Christ Church Cathedral and Cathedral House*, 955 Main St. and 45 Church St.
Hartford, *Houses on Charter Oak Place*.
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97–81, 65.
Southington, *Lewis, Sally, House*, 500 N. Main St.

Middlesex County

Middletown, *Cookson, John, House*, S. Main St.
Middletown, *Fuller, Caleb. House*, Upper Williams St.
Middletown, *Southmayd, William, House*, Lower Williams St.

New London County

New London, *Buckingham Memorial Building*, 307 Main St.
New London, *Washington Street Historic District*, project 103–159.
New London, *Williams Memorial Institute Building*, 110 Broad St.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SW.
Central Heating Plant, 13th and C Sts. SW.
SE between 4th and 6th Sts SE
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1536, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station*.

Collier County

Marco Island, *Archeological Sites on Marco Island*.

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31–S, R–15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street*.
Savannah, *908 Wheaton Street*.
Savannah, *914 Wheaton Street*.
Savannah, *920 Wheaton Street*.
Savannah, *828 Wheaton Street*.
Savannah, *930 Wheaton Street*.
Skidaway Island, *Priest's Landing Mounds*.

Chatooga County

Archeological Sites in area of Structure 1–M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Cobb County

Bostwick, Charles C., House, 325 Atlanta St.
Brumby, Arnoldus, House, 472 Powder Springs St.
Clay, Alexander Stephens, House, 353 Atlanta St.
McCullock-Wellons House, 348 Powder Springs Rd.
Slaughter, M. G., Cottage, 216 Fraser St.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area*.

Fulton County

Atlanta, *Downtown Atlanta Historic District*, beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Greene County

Wallace Reservoir Archeological District, (also in Hancock, Morgan, and Putnam counties).

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F–117–1 (7).
Augusta, *Blanche Mill*.
Augusta, *Enterprise Mill*.
Augusta, *Green Street*.

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail*.
Kwalakakwa Bay, *Kona Field System*

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah*—Suite 15, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp*.

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding*.
Lewiston, *Fix Building*, 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.
Fort Sheridan, *Water Tower*, Bldg. 49, Leonard Wood Ave.

Madison County

American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–Ri–337, East Moline, Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site*, SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Mitchell, *Riley School*.

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda*, 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library*.

V42185 MAY 3 77 UMI

Orange County

Coz Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House.*

Vanderburgh County

Evansville, *Riverside Neighborhood.*

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Ida County

Muri Brown Site (13-IA-4), County Courthouse.

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

KENTUCKY

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.

Johnson County

Fishtrap United Methodist Church.
Volga, *McKenzie Log Cabin*, McKenzie Branch.

Lawrence County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Orleans Parish

New Orleans, *Casey, Kate, House*, 932–934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cordes, John, House*, 3027–3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House*, 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House*, 928–930 Calliope St., Square 119.
New Orleans, *Duyer, James, House*, 933–935 Galenne St., Square 119.
New Orleans, *Gasquet, William, Houses*, 1128–1130 Constance St., Square 119.
New Orleans, *Hart, James S., House*, 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building*, 2201 Clio St., Square 348.
New Orleans, *Jahucke Building*, 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument*, St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills*, 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House*, 1119–1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House*, 1122–1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir, House*, 1523–1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House*, 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse*, 1043 Magazne St., Square 156.
New Orleans, *Peyton, William H., House*, 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House*, 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church*, 1139 Dryedes St., Square 277.
New Orleans, *Saulet, Marie Theresa, House*, 1218–1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House*, 1061 Camp St., Square 183.
New Orleans, *Sporl, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House*, 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai*, 1032 Cefoudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Ft. Polk, *Site 16 VN 18.*

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Fayette Street Methodist Episcopal Church, 745 West Fayette St.

Baltimore County

Federal Hill-Riverside Park Historic District, Federal Hill and Riverside Park areas.
Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
St. Paul's Cemetery, Union Block, Fremont Ave.

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, *Horton Test Sphere (One-Million-Liter Test Sphere).*

Montgomery County

Rockville, *Third Addition to Rockville and Old St. Mary's Church and Cemetery.*

St. Marys County

Piney Point, *Piney Point Light Station.*
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut*, jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light, area.
Truro, *Highland House*, Cape Cod Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House*, Boundbrook Island.

Bristol County

New Bedford, *Fire Station No. 4*, 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185–193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190–196 High St.
Holyoke, *Steamer Company No. 3.*

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Waterahed.
Worcester, *Oxford-Crown Streets District*, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Kalamazoo County

Masonic Temple, corner Rose and Eleanor Sts.
Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Greene County

Springfield, *Landers Theater*, 311 East Walnut St.

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Big Horn County

Fort Smith *Big Horn Canal Headgate.*

Carbon County

Hardin *Pretty Creek Site (Hough Creek Site)* Big Horn Canyon National Recreation Area.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Lamberton Interceptor.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

Cranbury Historic District.
New Burnswick, *Delaware and Raritan Canal*, between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation*, 1–9 New Ocean Ave.

Morris County

Morristown, *Abbett Avenue Bridge.*

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Warren County

Oxford Industrial District, Oxford Township.

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Cites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Mill Site at Site 7–A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Kings County

Steeplechase Parachute Jump.

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd.
Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Colonial Park Pool Complex*, Bradhurst Ave.
New York, *Harlem Courthouse*, 170 E. 121st St.
New York, *New York Cancer Hospital (Towers Nursing Home)*, 2 W. 106th St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.
Musico Motors Building, W. First and W. Seneca Sts.

Otsego County

Swart-Wilcox House

Queens County

Fort Totten Officers' Club.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens*, Saratoga Springs Historic District.
Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District*, between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

V 42 85 MAY 3 7 7 UMI

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station*, Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building*.
Yorktown, *Yorktown Railroad Station*.

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston*, Moore St.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse*.

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site*.

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39)*, Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36)*, *Killen Electric Generating Station*.

Astabula County

Astabula, *West Fifth Street Bridge*, over Astabula River.

Clermont County

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Skunk Museum.

Darke County

DAR-S.R.-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 mi. NW of Williamsport.

Richland County

Mansfield, *Ritter, William, House*, 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shaffer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.

Wayne County

Wooster, *Thorne House*, 1578 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Camp Comanche Site*, E range on Cache Creek.
Fort Sill, *Chiefs Knoll*, Post Cemetery, N of

Haskell County

Keota vicinity, *Otter Creek Archeological Site*, SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station*.

Curry County

Port Orford, *Cape Blanco Light Station*.

Douglas County

Winchester Bay, *Umpqua River Lighthouse*.

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge*.

Lane County

Roosevelt Beach, *Heceta Head Lighthouse*.
Roosevelt Beach, *Heceta Head Light Station*.

Lincoln County

Agate Beach, *Yakuina Head Lighthouse*.

Tillamook County

Tillamook, *Cape Meares Lighthouse*.

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Rolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.

Butler County

Butler, *Bonnie Brook Archeological Site*.

Chester County

Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Lock Aerie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 20 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).
Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.*, 13 N. Main St.

Lancaster County

Bainbridge Township, *Haldeman Mansion*.

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I-78.

Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Fazon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I-78.
Site 4: Farmhouse, barn, and outbuildings, I-78.

Philadelphia County

Philadelphia, *Bridge on "I" Street, over Tacony Creek*.
Philadelphia, *Courthouse and Post Office*, 9th St., between Chestnut and Market Sts.
Philadelphia, *New Forest Theatre*, 1108-1114 Walnut St.
Philadelphia, *Poth, Frederick, House*, 216 N. 33rd St.
Philadelphia, *Tremont Mills*, Wigonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters*.

Washington County

Charleroi, *Ninth Street School*.
Somerset Township, *Wright No. 22 Covered Bridge*.

RHODE ISLAND

Providence County

Providence, *Woonesquatucket Bridge*.
Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)*, Cumberland St.

Washington County

Narragansett, *Sprague, Gov., Bridge*, Boston Neck Rd.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot*.

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *310 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

SOUTH DAKOTA

Minnehaha County

Orpheum Theater, 315 N. Phillips Ave.

Pennington County

Rapid City, *612-632 Main St.*

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

Trousdale County

Dixon Springs, *McGee House*.

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragosa St.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Truk District

Sapore Village, *Aikei/Winas*, Fefen Island.

UTAH

Emery County

Site ML-2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block*, 238-240 S. Main St.

VERMONT

Chittenden County

Clark Memorial Building.

Windham County

Rockingham, *Bellow Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building*.

VIRGINIA

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S o' Cape Alava*.
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station*.

Grays Harbor County

West Port, *Grays Harbor Light Station*.

King County

Burton, *Point Robinson Light Station*.
Seattle, *Alki Point Light Station*.
Seattle, *Home of the Good Shepherd*.
Seattle, *West Point Light Station*.

Kitsap County

Hansville, *Point No Point Light Station*.

Pacific County

Ilwaco, *North Head Light Station*.

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site*.
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station*.

Skamania County

North Bonneville, *Site 45SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station*.

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse*.
St. Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse*.
Parkersburg, *Wood County Jail*.

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302*.

Fond du Lac County

Fond du Lac, Aetna Station No. 5, 193 N Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office*.

Rock County

Portion of Evansville Historic District.

WYOMING

Albany County

Woods Landing vicinity, *Boswell Ranch*, WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Casper, *Cantonment Reno*.
Casper, *Castle Rock Archeological Site*.
Casper, *Dull Knife Battlefield*.
Casper, *Middle Fork Pictograph-Petroglyph Panels*.
Casper, *Portuguese Houses*.

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts*.

[FR Doc.77-12617 Filed 5-2-77;8:45 am]

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NORTH ATLANTIC REGION ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act—Pub. L. 92–463, that a meeting of the North Atlantic Committee will be held at 9 a.m., e.s.t. on May 26, 1977 through approximately 3 p.m., e.s.t. on May 27, 1977 at the New England Center for Continuing Education, University of New Hampshire, Durham, New Hampshire in the Adams Residential Tower Kennebec Room.

The purpose of the Committee is to provide for the free exchange of ideas between the National Park Service and the Public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the North Atlantic Region.

The members of the Committee are as follows:

Dr. Charles H. W. Foster, New Haven, Connecticut.
Mr. George Hamilton, Dover, New Hampshire.
Dr. John P. Keith, Hartsdale, New York.
Frederick R. Micha, Ontario, New York.
Mr. William Niering, Gales Ferry, Connecticut.

Matters to be discussed at this meeting include:

1. Current activities in the North Atlantic Region.
2. Report of Subcommittee: Proposed Lowell National Cultural Park.
3. Report of Subcommittee: St. Gaudens Interpretation.
4. Policy Discussion: Personnel Rotation Local Advisory Commissions.

The meeting will begin approximately 9 a.m., May 26, 1977, at the New England Center for Continuing Education, University of New Hampshire, Durham, New Hampshire in the Adams Residential Tower Kennebec Room. The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

The meeting will conclude approximately 3 p.m., May 27, 1977.

LEONARD A. FRANK,
Acting Regional Director,
North Atlantic Region.

[FR Doc.77–12615 Filed 5–2–77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77–161]

GALLIA COAL CO.

Petition for Modification of Application of Mandatory Safety Standards

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Gallia Coal Co., P.O. Box 414, Pt. Pleasant, West Virginia 25550, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Williams Mine, located in Mason County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Because of low seam heights encountered and the expectations of such conditions in its mining operations, the continued use of canopies is creating hazards that far exceed the protection they provide under the supported roof.

2. Petitioner's present mining height in its seven working places vary from 41 to 48 inches in seam height. With the use of a 2-inch half header in its roof bolting operation the travel height for equipment is reduced to less than 39 inches. This is not to say that all of Petitioner's coal will be that low, as some of it will be as much as 60 inches. However, while Petitioner cannot use the equipment with canopies because such cannot get through the lowest areas of the mine. Even in the areas of higher seam height Petitioner very frequently encounters rolls that reduce the mining height to less than 40 inches.

3. Petitioner bases the statement "using canopies is creating hazards that far exceed the protection they provide" on the following reasons:

a. It is nearly impossible to maintain check curtains to provide ventilation to the working places.

b. Water lines are torn down frequently in places where they have to cross over the haulroad.

c. Trailing cables are caught by the canopies.

d. Roof bolts are frequently being bumped, thereby destroying their effectiveness.

e. The vision of the equipment operators is so restricted that they cannot see where they are going or when they might have caught a cable.

f. There is an added danger of equipment striking other workers or collisions of equipment.

g. Equipment operators will be tempted to protrude their heads out from under the canopy for better vision, thereby creating the likelihood of getting crushed between the machine and the rib.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office
of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77–12580 Filed 5–2–77;8:45 am]

[Docket No. M77–162]

JOHNSON COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Johnson Coal Company, Inc., Box 644, Martin, Kentucky 41649, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 11 Mine, located in Knott County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that by having canopies installed on its equipment, it is creating a hazard to the operators.

2. Petitioner's equipment consists of: one cutting machine, model 16RB serial number 18005; one 14BU10 loader, serial number 10080; one Joy CD81 coal drill, serial number 4104; one Galis 300 roof bolter, serial number 8742728; one D3 Acme pinner, serial number 1990; one D1 Acme pinner, serial number 2142; and two 21SC shuttle cars, serial numbers ET11314 and ET11313.

3. The No. 11 Mine is in the Hazard 4 Seam which ranges from 42 to 46 inches. In this seam Petitioner is constantly running into ascending and descending grades, resulting in dips both in top and bottom. By installing canopies on the equipment, Petitioner is limiting the vision of the operators of the equipment, creating a hazard to them as well as to other employees in the mine.

4. Petitioner feels that since the operator's vision is limited and because of the position which he must assume in order to see (hanging out, etc.) canopies could be a contributing factor to accidents that may arise. The Kentucky Department of Mines and Minerals has ordered Petitioner not to use them.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77–12581 Filed 5–2–77;8:45 am]

[Docket No. M 77–168]

KENTLAND ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standards

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentland Elkhorn Coal Corporation, Lebanon, Virginia 24266, has filed a petition to modify the application of 30 CFR 75.329–1, sealing or ventilation of pillared or abandoned area, to its No. 1 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The location of the areas involved are as follows:

a. The entire length of No. 1 belt (1,800 feet, the areas behind the right permanent stopping line).

b. The entire length of No. 2 belt (1,500 feet, the areas behind the right permanent stopping line).

c. The abandoned 2 North Panel adjacent to No. 3 belt, behind the permanent stopping line to the left.

2. Kentland No. 1 Mine is located in the Lower Elkhorn seam and operates one mining section using a 265 Lee-Norse continuous miner.

3. The mine employs 30 men and has a daily estimated production of 159 tons of clean coal per shift. The mine was in operation from October 1946 to September 1976 and reopened March 14, 1977.

4. Petitioner states the following alternate method for locations Number 1 and 2.

a. These areas were originally mined from 1948 to 1952, with no provisions being made for the establishment of a bleeder system.

b. The Petitioner proposes to install two 12-inch corrugated iron pipes on the No. 1 belt with a velocity of 2,500 C.F.M. These pipes will serve as regulators. They will be installed in the permanent stoppings on the intake airway side and will extend across the belt entry, under the belt and be installed in the permanent stoppings on the right side of the No. 1 belt, at a distance of approximately 40 feet. This will insure ventilation of the abandoned area at all times.[1]

c. The regulators mentioned in the above proopsal will be examined weekly to insure that they are functional and the air will be examined to determine the quantity, quality and the direction of travel.[1]

d. The permanent stoppings on the right side on No. 1 belt will be maintained in good repair at all times.[1]

e. The Petitioner proposes one additional regulator to be installed in a permanent stopping adjacent to the No. 4 Belt Drive with 3,000 C.F.M. passing through to add additional ventilation to the abandoned areas adjacent to No. 2 belt.

f. A survey was conducted and the air was traveling over the abandoned areas to surface openings at the following different locations:

Belt	Auger hole	Drift openings
No. 1	29	7
No. 2	9	6

g. This mine has no history of methane.

5. Petitioner states the following for the No. 3 location:

a. This area was originally mined from 1950 to 1952, with no provisions being made for the establishment of a bleeder system.

b. There is a difference in elevation of approximately 60 feet between the outby and inby ends of 2 North and it is believed the area is roofed with water due to adverse roof conditions. This cannot be safely ascertained.

c. This area is on the return side.

d. There is 45,000 C.F.M. of air sweeping the outby end of this area.

e. No one is required to travel in or by this area.

f. We have one evaluation station located 1 break inby this area and another evaluation station in the return drift portal to monitor the air for quantity, quality and direction of travel. This relieves us from traveling this area of the return outby the first location, in which 2 North is located (previous approved 301(c), Docket No. M 76–489).

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77–12582 Filed 5–2–77;8:45 am]

[Docket No. M77–157]

OAKWOOD RED ASH COAL CORP.

Petition for Modification of Application of Mandatory Safety Standards

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Oakwood Red Ash Coal Corp., Box 227, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Oakwood Red Ash No. 3 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 6 years old. Petitioner has owned and operated the mine for 6 years. The projected life of the mine is 3 years. There has been no recent rehabilitation of the mine. Petitioner employs 95 men and they are not represented by a labor union.

2. The mine is located in the Widow Kennedy seam and the thickness of the coal seam is 24 to 36 inches. The average height of the coal seam is 32 to 34 inches in locations where equipment, subject to cab and canopy regulations, is being used. The lowest height of the coal seam is 24 inches and the distance of the low height is 5,280 feet.

3. Petitioner's equipment consists of the following: Lee-Norse miner 245; 1410 Joy loader 739; 16RB Joy cutter 733; Galis pinners (4); Schroeder drill 296; Joy Shuttle cars; Elkhorn tractors (4). The height, length and width of each piece of equipment is: cutter—39 feet long, 9 feet wide, 25½ inches high; loader—31 feet long, 8 feet wide, 26 inches high; pinners 14 feet long, 8 feet wide, 26 inches high; drill 30 feet long, 8 feet wide, 26 inches high; miner—37 feet long, 8 feet wide, 26 inches high; shuttle cars—29 feet long, 10 feet wide, 26 inches high; tractor—17 feet long, 9 feet wide, 26 inches high.

4. Petitioner's mine produces 750 tons of coal with four shifts per day. Cab and canopy installation will cut production by 50 percent per day. Petitioner uses the continuous and conventional mining method. The average room size of each working section where equipment is used is 30 to 35 inches high, 25 to 26 inches high, 22 feet wide. In these locations the top is fair. The floor is also fair.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment, the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants his modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified systems.

7. The mine operator has an on-going and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1(4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the dangers of limiting vision, cramping (and possibly trapping) the operator during the workshift, and endangering personnel working in the vicinity of the equipment. (Note: Unlike high coal, low coal cabs and canopies must generally be placed on one side of mining equipment, thus making it impossible for the operator to see anything on the other side.) In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal regulation. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and

[1] This will be duplicated for No. 2 belt. Maps are available for inspection at the address listed in the last paragraph of this notice.

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competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12583 Filed 5-2-77;8:45 am]

[Docket No. M77-158]

OAKWOOD RED ASH COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Oakwood Red Ash Coal Corp., Box 227, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Oakwood Red Ash No. 4 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 7 years old. Petitioner has owned and operated the mine for 7 years. The projected life of the mine is 2 years. There has been no recent rehabilitation of the mine. Petitioner employs 55 men and they are not represented by a labor union.

2. The mine is located in the Widow Kennedy Seam and the thickness of the coal seam is 40–42 inches. The average height of the coal seam is 40–42 inches in locations where equipment, subject to cab and canopy regulation, is being used. The lowest height of the coal seam is 30 inches and the distance of the low height is 120 feet.

3. Petitioner's equipment consists of the following: Continuous miner-Joy-14 CM (1); Galis 300 roof bolters (2); AR5 Elkhorn tractors (5); AR5b Elkhorn scoop (1); S & S scoop (1). The height, length and width of each piece of equipment is: 14 CM miner—11 feet wide, 35 feet long, 34 inches high; roof bolter—8½ feet wide, 12 feet long, 24 inches high; tractor—9 feet wide, 16 feet long, 25 inches high; scoop—9 feet wide, 23½ feet long, 24 inches high; scoop—8½ feet wide, 25 feet long, 27 inches high.

4. Petitioner's mine produces 200 tons of coal with two shifts per day. Cab and canopy installation will cut production by 50 percent per day. Petitioner uses the continuous mining method. The average room size of each working section where equipment is used is 60 by 60 centers, 22 feet wide. In these locations the top is fair. The floor is good.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment, the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. Petitioner's equipment is 3 to 5½ years old. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants this modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified system.

7. The mine operator has an on-going and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1(4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the danger of limiting vision, cramping (and possibly trapping) the operator during the workshift, and endangering personnel working in the vicinity of the equipment. (NOTE: Unlike high coal, low coal cabs and canopies must generally be placed on the side of mining equipment, thus making it impossible for the operator to see anything on the other side.) In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's, until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal Regulation. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-12584 Filed 5-2-77;8:45 am]

[Docket No. M77-160]

PETROS COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Petros Coal Corp., Route No. 3, Box 150, Oliver Springs, Tennessee 37840, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mine No. 2, located in Anderson County, Tennessee.

The substance of petitioner's statement is as follows:

1. Installing canopies or cabs on Petitioner's equipment will create more hazards than presently exist.

2. The mine roof at Petitioner's mine is not uniform, and the average thickness of the coal is approximately thirty-six (36) inches or less. The operator could be fatally injured by the projection of the canopy or cab higher than the space provided in the mine. Commercials showing the safety value of canopies are photographed in mines where the coal is 5 to 6 feet in height, which is ideal for their use.

3. Present safety rules in effect at the mine have prevented accidents to operators of electric face equipment, including shuttle cars in low-seam mining; and these measures already taken will be of more benefit than the installation of the canopies or cabs as ordered by the Mining Enforcement and Safety Administration.

4. A copy of this Petition has been given to the representative of the miners at the mine, and in addition, has also been posted at the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12585 Filed 5-2-77;8:45 am]

[Docket No. M77-166]

PONTIKI COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), Pontiki Coal Corp., Box 57, Lovely, Kentucky 41231, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Pontiki No. 1 Mine, located in Martin County, Kentucky.

The substance of petitioner's statement is as follows:

1. Petitioner's equipment consists of: Joy 15RU cutting machine—Ser. No. 18347—38" high. Joy 14BU10–11BKK loading machine—Ser. No. 10361—35" high.

2. The present minimum coal height is 42 inches where this equipment is to be used. Petitioner plans to use header boards to aid in its roof support.

3. Petitioner feels that a cab or canopy on this equipment would so restrict the operator's vision that hazards would be created which would exceed any benefits to be gained by the use of the cab or canopy.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12586 Filed 5-2-77;8:45 am]

[Docket No. M77-167]

SLAB FORK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Slab Fork Coal Company, P.O. Box 553, Charleston, West Virginia 25322, has filed a petition to modify the application of 30 CFR 75.1405, automatic couplers, to its Slab Fork No. 8 Mine, located in Wyoming County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner avers that it has an alternative method which will guarantee no less than the same measure of protection as would be afforded by the mandatory standard, and in support thereof states:

a. Petitioner requests that the regulation be modified to permit the use of its existing supply cars and rock loading cars altered as hereinafter described.

b. Supplies for this mine are received at two separate portals. The "Tams Portal" is a drift portal and the track outside upon which supply cars are loaded is limited in length with no apparent means for lengthening the track available. Supplies are loaded into three or four cars. These cars then must be switched out and more cars located at the same place for further loading of supplies. Unitized trains are extremely difficult to handle at this point.

c. The "Slab Fork Portal" for supplies is a slope entry. Supply cars are pulled to the surface by use of a hoist and set off on an adjacent track for receiving supplies. Only two cars at a time can be hoisted to the surface.

d. Supplies necessary to mining are varied requiring many separate cars to be used. The supplies are stored inside the mine in the cars on side tracks adjacent to the main line track. Individual supply cars are switched onto or from these storage tracks as needed.

e. Supply cars are placed at each belt head when transporting supplies on each section. Each belt head is located either on a side track adjacent to the main line track, or, if necessary, near the end of a main line track. The supply cars must be switched to and from these supply points.

f. Upon removal of all supplies from a car, the car is shifted out of the train of supply cars and returned to a portal for reloading.

g. Rock loading at this mine is accomplished by using a continuous or mobile loading machine which load directly into rock cars at the end of the machine by a locomotive. When loaded, it is pulled from the loading area and switched to an adjacent track. Another car is placed in loading position and the process repeated.

h. When several cars have been loaded, they are transported to a rotary dump where they are unloaded. The cars are then returned to the rock loading area for reloading.

i. Supply cars and rock loading cars (empty or loaded) are transported to and from portals and rotary dump area by electric locomotives in unit trips over a rail haulage system. Lead and tail locomotives are coupled to these trips. When switching of cars is necessary, one locomotive is uncoupled and the cars switched to the location necessary by the remaining locomotive coupled to the cars.

j. Petitioner requests in lieu of the regulation that it be permieted to provide all track supply and rock loading cars with a lever system permanently mounted on the pin end of the car. The lever system will enable a worker to lower the pin to couple the cars or lift the pin from the car bumper sufficiently to uncouple the cars. The lever can be latched in a notch welded on the end of the mine car so that the pin can be maintained in an "up" position until there is occasion to use the lever again to lower the pin coupling.

k. The lever will extend toward both sides of the car and will be of such length as to obviate the worker placing himself between the mine cars to position the link.

l. Detailed specifications for the coupling lever, link aligners, and proposed coupling and uncoupling linkage for the Slab Fork No. 8 Mine Track Haulage supply and rock loading cars have been prepared. In addition the coupling-uncoupling levers and the link aligners have been designed and prototypes prepared.

m. If the foregoing alternative is permitted in lieu of the requirements of the regulation, all workers who couple and uncouple supply and rock loading cars will be trained and instructed in the proper operation and use of the coupling levers and link aligners and their proper use will be a mandatory requirement for coupling and uncoupling of all supply and rock loading cars.

n. The alternative system for coupling and uncoupling mine supply and rock loading cars will at all times guarantee to the miners in this mine no less than the same measure of protection sought to be accomplished by automatic couplers; and will, under the particular conditions and lay-outs pertaining to supplying, and to the loading of rock at this particular mine, eliminate certain hazards which would be encountered if automatic couplers were mandated.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12587 Filed 5-2-77;8:45 am]

[Docket No. M77-164]

V & R COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), V & R Coal Co., Inc., P.O. Box 1026, Mullens, West Virginia 25882, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 19–A Mine, located in Itmann County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner requests modification of the regulation regarding its underground mining equipment because the regulation is detrimental to the safety of its operators.

2. Petitioner's equipment consists of one 32 Lee-Norse miner.

3. With the addition of canopies the height of equipment is raised to 48 inches. Due to the uneven roadway of its mine, this height is not feasible and is unsafe.

4. Canopy replacement has been made several times on Petitioner's equipment, but each time the canopy has been dislodged from the miner, causing near accidents to the operator.

5. It is because of dangers to the operators that Petitioner requests this Petition. The application of this statute causes a more serious threat of injury or death to the operator than would be

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necessitated without such application of the regulation.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12589 Filed 5-2-77;8:45 am]

[Docket No. M 77-152]

WINSTON MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Winston Mining Company, Box 227, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs and canopies, to its Winston No. 9 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 4 years old. Petitioner has owned and operated the mine for 4 years. The projected life of the mine is 4 years. There has been no recent rehabilitation of the mine. Petitioner employs 93 men and they are not represented by a labor union.

2. The mine is located in the Widow Kennedy Seam and the thickness of the coal seam is 32 inches. The average height of the coal seam is 36 inches in locations where equipment, subject to cab and canopy regulation, is being used. The lowest height of the coal seam is 36 inches and the distance of the low height is 500 feet.

3. Petitioner's equipment consists of the following:

Height	Width	Length	Type	Type	Serial No.
22 in.	8 ft 2 in	32 ft	15CM miner	Joy	JM 2170
28½ in.	11 ft	35½ ft	14CM4 miner	Joy	JM 2075
28 in.	118 in.	25 ft	21 SC shuttle car	Joy	ET 11078
28 in.	118 in.	25 ft	do	Joy	ET 11077
29 in.	10 ft 5 in	27 ft	18 SC shuttle car	Joy	ET 11998
29 in.	10 ft 5 in	27 ft	do	Joy	ET 12008
24 in.	93 in.	15 ft	300 roof bolter	Galis	43076-1
24 in.	93 in.	15 ft	do	do	10297-6
24 in.	93 in.	15 ft	do	do	12877-1

4. Petitioner's mine produces 500 tons of coal with four shifts per day. Cab and canopy installation will cut production by 50 percent per day. Petitioner uses the continuous mining method. The average room size of each working section where equipment is used is 60 by 60 centers, 18 feet wide. In these locations the top is irregular. The floor is irregular and rough in places.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment, the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. Petitioner's equipment is 3 months to 1 year old. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants this modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified system.

7. The mine operator has an on-going and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1(4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the danger of limiting vision, cramping (and possibly trapping) the operator during the workshift, and endangering personnel working in the vicinity of the equipment.

NOTE.—Unlike high coal, low coal cabs and canopies must generally be placed on one side of mining equipment, thus making it impossible for the operator to see anything on the other side.

In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal Regulation. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12590 Filed 5-2-77;8:45 am]

[Docket No. M77-153]

WINSTON MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), Winston Mining Company, Box 227, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs and canopies, to its Winston No. 10 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 2 years old. Petitioner has owned and operated the mine for 2 years. The projected life of the mine is 20 years. There has not been recent rehabilitation of the mine. Petitioner employs 78 men and they are not represented by a labor union.

2. The mine is located in the Jawbone Seam and the thickness of the coal seam is 42 inches. The average height of the coal seam is 42 inches in locations where equipment, subject to cab and canopy regulation, is being used. The lowest height of the coal seam is 30 inches and the distance of the low height is 1,000 feet.

3. Petitioner's equipment consists of the following: 14CM Joy miner, 18SC shuttle cars, 21SC shuttle cars, 300 Galis pinners. The height, length and width of each piece of equipment is: Joy miner–31 inches high, 35 inches long; 18SC shuttle car–36 inches high, 27 inches long; 21 SC shuttle car–38 inches high, 21 inches long; 300 Galis roof drill–28 inches high, 14 inches long.

4. Petitioner's mine produces 600 tons of coal with four shifts per day. Cab and canopy installation will cut production by 50 percent per day. Petitioner uses the continuous mining method. The average room size of each working section where equipment is used is 60 by 60 centers, 18 feet wide. In these locations the top is slate and sandstone. The floor contains fair-dips and humps.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment, the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. Petitioner's equipment is 2 years old or new. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants this modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified system.

7. The mine operator has an on-going and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1 (4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the danger of limiting vision, cramping (and possibly trapping) the operator during the workshift, and endangering personnel working in the vicinity of the equipment.

NOTE.—Unlide high coal, low coal cabs and canopies must generally be placed on one side of mining equipment, thus making it impossible for the operator to see anything on the other side.

In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's, until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal Regulation. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May __, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12591 Filed 5-2-77;8:45 am]

[Docket No. M77-154]

WINSTON MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Winston Mining Company, Box 277, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs and canopies, to its Winston No. 13 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 4 years old. Petitioner has owned and operated the mine for 4 years. There has been no recent rehabilitation of the mine. Petitioner employs 94 men and they are not represented by a labor union.

2. The mine is located in the Widow Kennedy Seam and the thickness of the coal seam is 38 inches in locations where equipment, subject to cab and canopy regulation, is being used. The lowest height of the coal seam is 28 inches, and the distance of the low height is 400 feet.

3. Petitioner's equipment consists of the following: 14 CM continuous miner; 18SC shuttle car and Galis 300. The height, length and width of each piece of equipment is: shuttle car, 10 feet wide, 26 feet long, 32 inches high; miner, 11½ feet wide, 26 feet long, 29 inches high; Galis roof bolter, 8 feet wide, 15 feet long, 25 inches high.

4. Petitioner's mine produces 750 tons of coal with two shifts per day. Cab and canopy installation will cut production by 50 percent per day. Petitioner uses the continuous mining method. The average room size of each working section where equipment is used is 40 inches high, 28 feet wide. In these locations the top is sluggy and hard. The floor is hard.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. Petitioner's equipment is 1 to 2 years old. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants this modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified systems.

7. The mine operator has an ongoing and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1(4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the dangers of limiting vision, cramping (and possibly trapping) the operator during the workshift, and endangering personnel working in the vicinity of the equipment.

NOTE.—Unlike high coal, low coal cabs and canopies must generally be placed on one side of mining equipment, thus making it impossible for the operator to see anything on the other side.

In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's, until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal Regulations. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77-12592 Filed 5-2-77; 8:45 am]

[Docket No. M 77-155]

YOUNG'S BRANCH COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Young's Branch Coal Co., Box 227, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Young's Branch No. 14 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 1½ years old. Petitioner has owned and operated the mine for 1½ years. The projected life of the mine is 2 years. There has been no recent rehabilitation of the mine. Petitioner employ 83 men and they are not represented by a labor union.

2. The mine is located in the Widow Kennedy seam and the thickness of the coal seam is 6 feet. The average height of the coal seam is 6 feet in locations where equipment, subject to cab and canopy regulation is being used. The lowest height of the coal seam is 28 to 30 inches and the distance of the low height is 600 feet.

3. Petitioner's equipment consists of the following: 14BU Joy loaders; 16 RB cutting machines; 300 Galis roof bolters; CDB–2000A Schroeder coal drills; and 18SC Joy shuttle cars. The height, length and width of each piece of equipment listed is: 14BU loaders—24 inches, 221 inches, 9¾ inches; 16 RB cutters—24 inches, 442 inches, 107 inches; 300 Galis roof bolters—24 inches; 174¼ inches, 93 inches; Schroeder face drills—25 inches, 363 inches, 86⅛ inches;

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18SC shuttle cars—24 inches, and 324 inches.

4. Petitioner's mine produces 500 tons of coal with two shifts per day. Cab and canopy installation will cut production by 50 percent per day. Petitioner uses the conventional mining method. The average room size of each working section where equipment is used is 6 feet high, 20 feet wide. In these locations the top is good. The floor is dry.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment, the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. Petitioner's equipment is 4 months to 1 year old. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants this modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified systems.

7. The mine operator has an on-going and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1(4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the dangers of limiting vision, cramping (and possibly trapping) the operator during the workshift, and endangering personnel working in the vicinity of the equipment. (Note: Unlike high coal low coal cabs and canopies must generally be placed on one side of mining equipment, thus making it impossible for the operator to see anything on the other side.) In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal regulation. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77–12593 Filed 5–2–77;8:45 am]

[Docket No. M 77–156]

YOUNG'S BRANCH COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Young's Branch Coal Co., Box 277, Vansant, Virginia 24656, has filed a petition to modify the application of 30 CFR 75.1710, cabs and canopies, to its Young's Branch No. 15 Mine, located in Buchanan County, Virginia.

The substance of Petitioner's statement is as follows:

1. The mine is approximately 1 year old. Petitioner has owned and operated the mine for 1 year. The projected life of the mine is 15 years. There has been no recent rehabilitation of the mine. Petitioner employs 30 men and they are not represented by a labor union.

2. The mine is located in the Red Ash Seam, and the thickness of the coal seam is 28 inches. The lowest height of the coal seam is 26 inches.

3. Petitioner's equipment consists of the following: 15 CM Joy miner and 18SC Joy shuttle cars.

4. Petitioner's mine produces 100 tons of coal with two shifts per day. Petitioner uses the continuous mining method. The average room size of each working section where equipment is used is 60 x 70 feet center. In these locations the top is shale. The floor is sandstone.

5. Petitioner is operating in very low coal. As a result, when cabs or canopies are placed on its equipment, the operator is "trapped" on one side. His vision is obscured or blocked because of the cramped position.

6. Petitioner's equipment is 6 months old. The roof fall prevention techniques used consist of roof bolting per an approved plan. Petitioner wants this modification for as long as it is operating in coal below 48 inches. Petitioner will train its employees regarding the modified systems.

7. The mine operator has an ongoing and comprehensive safety instructional program which includes instruction provided by MESA personnel through operator invitation.

8. Requiring cabs and canopies on equipment being operated in coal below 48 inches is unrealistic, impractical and unsafe. Section 75.1710–1(4) et seq. attempts to oversimplify what is actually a very complicated situation. Coal seams under 48 inches vary in height throughout the terrain, requiring more specialized equipment than that which is used in higher coal. Such equipment must be capable of traversing the lowest sections of the mine smoothly and safely. Cabs and canopies in low coal create the dangers of limiting vision, cramping (and possibly trapping) the operator during the working shift, and endangering personnel working in the vicinity of the equipment. (NOTE: Unlike high coal, low coal cabs and canopies must generally be placed on the side of mining equipment, thus making it impossible for the operator to see anything on the other side.) In addition, the Virginia Division of Mines and Quarries has issued closure orders in coal as high as 50 inches in other mines near Petitioner's until such time as the operator therein removed its cabs and canopies, considering such equipment unsafe and thus acting in a manner which directly conflicts with Federal Regulation. Well-intentioned regulations requiring cabs and canopies in coal below 48 inches present a dangerous situation, whereas safety programs, good roof bolting plans, and competent monitoring by qualified personnel provide a safe working environment.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 2, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 25, 1977.

[FR Doc.77–12594 Filed 5–2–77;8:45 am]

Office of the Secretary

[Order No. 3003]

TRANS-ALASKA PIPELINE

Organizational and Functional Responsibilities

Sec. 1 *Purpose.* The purpose of this Order is to repeal Orders No. 2960, 2961, and 2972, and substitute therefor new supervisory and management responsibilities for Department of the Interior supervision of the Trans-Alaska Pipeline System; and reaffirmation of prior delegation of authority to the Director, Bureau of Land Management to issue pipeline rights-of-way pursuant to section 28 of the Mineral Leasing Act, as amended, 30 U.S.C. 185 (Supp. 1975), on lands administered by the Bureau of Land Management or by two or more Federal agencies.

Sec. 2 *Authority.* This Order is issued in accordance with the authority provided by Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), Executive Order 10480 of August 14, 1953, as amended (18 F.R. 4939), and Defense Mobilization Order 8400.1 of November 6, 1963 (28 F.R. 12164).

Sec. 3 *Responsibility.* Supervisory, management and support responsibilities are assigned as follows:

(a) *The Under Secretary.* The Under Secretary is the principal Departmental official responsible to the Secretary for Trans-Alaska Pipeline matters. He supervises the work of the Assistant Secretary—Land and Water Resources in the day-to-day management of Trans-Alaska Pipeline operations within the Department. He serves as Chairman of the Federal Task Force on Alaska Oil Development and resolves internal jurisdictional and other conflicts which may arise within the Department.

(b) *The Assistant Secretary—Land and Water Resources.* The Assistant Secretary—Land and Water Resources, is the principal Department official responsible for day-to-day managment of Trans-Alaska Pipeline matters, and under the direction of the Under Secretary coordinates the contact with Congressional Committees, pipeline officials and the general public. He supervises the Department's Authorized Officer.

(c) *Authorized Officer.* There is hereby established the position of Authorized Officer, referred to in the "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline", and in the Stipulations thereto. The Authorized Officer is responsible for ensuring compliance with the terms and conditions of the "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline," and other terms and conditions placed on rights-of-way, permits, and leases issued pursuant to the Trans-Alaska Pipeline Authorization Act of November 16, 1973, Pub. L. 93–153, 87 Stat. 584, which relate to the construction, operation, maintenance, or termination of the Trans-Alaska Pipeline System, and any stipulations attached to such authorizations. Additionally, the Authorized Officer is responsible for taking necessary steps to enforce the terms and conditions of the above authorizations; protecting Federal interests relating to the Trans-Alaska Pipeline; monitoring of the Permittees and their agents, contractors and subcontractors; and coordinating monitoring activities with State of Alaska government officials.

(d) *Technical Assistant to the Assistant Secretary—Land and Water Resources.* The Technical Assistant to the Assistant Secretary—Land and Water Resources provides advice and guidance on the Trans-Alaska Pipeline issues and problems which are referred to the Under Secretary and Assistant Secretary—Land and Water Resources for solutions or decisions; assesses the adequacy, quality and effectiveness of the Authorized Officer's level of effort, technical and environmental judgments and actions, and responsiveness to problems which arise in the course of pipeline construction; coordinates Trans-Alaska Pipeline intra-agency matters in Washington and responds to requests for technical assistance from the Authorized Officer. He serves as Chairman of the Technical Advisory Board of the Federal Task Force on Alaska oil Development.

(e) *Director, Bureau of Land Management.* The Director, Bureau of Land Management will make available to the Authorized Officer the personnel of the Division of Pipeline, Alaska State Office, for the duration of the construction of the Trans-Alaska Pipeline; and such other personnel and expertise as the Authorized Officer may from time to time require. Such personnel will be under the direction and supervision of the Authorized Officer.

(f) *Director, Fish and Wildlife Service and Director, Geological Survey.* The Director, Fish and Wildlife Service and the Director, Geological Survey will make available to the Authorized Officer such personnel and expertise as the Authorized Officer may from time to time require. Personnel provided will be under the direction and supervision of the authorized Officer.

(g) *Other Bureaus and Officers.* Other bureaus and offices will cooperate by providing any assistance and personnel which the Authorized Officer may from time to time require.

Sec. 4 *Secretarial Delegation of Authority.*

(a) *Authorized Officer.* The Authorized Officer is delegated:

(1) The authority of the Secretary of the Interior necessary to perform the functions specified for the Authorized Officer in the "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline", including the Stipulations thereto; and for ensuring compliance with the terms and conditions of other authorizations, including, but not limited to, rights-of-way, any permits and leases issued pursuant to the Trans-Alaska Pipeline Authorization Act of November 16, 1973, Pub. L. 93–153, 87 Stat. 584, which relate to the construction, operation, maintenance, or termination of the Trans-Alaska Oil Pipeline System, and any stipulations attached to such authorizations.

(2) The authority, subject to the limitation contained in Part 205 of the Departmental Manual, to enter into procurement contracts and amendments or modifications thereof.

(3) The authority of the Secretary of the Interior under the Defense Production Act insofar as it pertains to the Department of the Interior's serving as claimant for the materials and equipment for which priorities and allocation support is being provided, or may be provided, to the Trans-Alaska Pipeline System and facilities related to its support and supply pursuant to section 101(a) of the Act, under systems administered by the Department of Commerce and utilized to furnish such priorities and allocation support in accordance with the joint authorization of the Director, Federal Preparedness Agency, General Services Administration, and the Administrator, Federal Energy Administration, dated September 23, 1974, and December 30, 1974 (39 FR 34608 and 40 FR 26, 27) and amendments thereto.

(b) *Director, Bureau of Land Management.* All authority granted to the Secretary of the Interior by Title I and Title II of the Act of November 16, 1973, Pub. L. 93–153, 87 Stat. 576 (Amendments to the Mineral Leasing Act of 1920 and Trans-Alaska Pipeline Authorization Act) is hereby delegated to the Director, Bureau of Land Management except any authority of the Secretary or the Authorized Officer under the "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline", including the authority to amend or modify said "Agreement"; *Provided,* That all authorizations, including but not limited to rights-of-way, permits, and leases, issued under the Trans-Alaska Pipeline Authorization Act of November 16, 1973, 87 Stat. 584, which relate to the construction, operation, maintenance or termination of the trans-Alaska oil pipeline system will be issued only with the concurrence of the Authorized Officer as described in Sec. 4 (a) of this Order, and will be delivered to the applicant by the Authorized Officer.

(c) *Redelegation.* The authority granted in sections 4(a) and 4(b) of this Order may be redelegated.

Sec. 5. *Revocation.* This Order supersedes Order No. 2960 dated January 23, 1974 (39 FR 5645), Order No. 2961 dated February 6, 1974 (39 FR 6749), and Order No. 2972 dated February 24, 1975 (40 FR 8837).

Sec. 6 *Effective date.* This Order is effective immediately. Its provisions will remain in effect until termination of the Trans-Alaska Pipeline, or until it is amended, superseded, or revoked, whichever occurs first.

Dated: April 26, 1977.

CECIL D. ANDRUS,
Secretary.

[FR Doc.77–12595 Filed 5–2–77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332–82]

PROBABLE DOMESTIC IMPACT OF CHANGING FROM CURRENT "CHIEF VALUE" METHOD OF CLASSIFYING TEXTILE IMPORTS TO "CHIEF WEIGHT" METHOD

Time and Place of Upcoming Hearings in New York, Los Angeles, and Washington, D.C.

Notice is hereby given that the final 3 public hearings in this matter scheduled for New York, Los Angeles, and Washington, D.C., will be held at the following places and times.

The public hearing scheduled for New York City will be held on May 10, 1977, at 10 a.m., e.d.t., in the auditorium of the U.S. Mission to the United Nations, 799 U.N. Plaza (45th Street and First Avenue), New York City. All persons desiring to attend must enter at the 45th Street entrance, as this will be the only means of access permitted to the public.

The public hearing scheduled for Los Angeles will be held on May 24, 1977, at 10 a.m., p.d.t., in room 8544 of the Federal Building, 300 North Los Angeles Street, Los Angeles, California.

The final hearing scheduled for Washington, D.C. will be held on June 7, 1977, at 10 a.m., e.d.t., in conference room B,

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Departmental Auditorium, Between 12th and 14th Streets on Constitution Avenue, NW., Washington, D.C.

Requests to appear at these hearings should be filed, in writing, with the Secretary of the Commission at his office in Washington, D.C., by no later than noon of the fifth calendar day preceding the hearing.

The notice of the institution of this investigation and the scheduling of hearings was published in the FEDERAL REGISTER of January 28, 1977 (42 FR 5432).

By order of the Commission.

Issued: April 28, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-12700 Filed 5-2-77;8:45 am]

DEPARTMENT OF JUSTICE

COMMITTEE ON SELECTION OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

Meetings

APRIL 27, 1977.

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Committee on Selection of the Director of the Federal Bureau of Investigation will meet in Washington, D.C. on May 6, 7, 12, 13, 14, 19, 20, 21, 26, 27 and 28, 1977 for the purpose of interviewing persons who may be recommended to the President for consideration as Director of the Federal Bureau of Investigation. The meetings of May 6, 12, 19 and 26 will begin at 10:00 a.m. All other meetings will begin at 9:00 a.m.

Meeting dates were established by the Committee during the public session of its April 26, 1977 meeting. The Committee concluded that the President's decision to extend the time for its report by only 30 days necessitated the scheduling of meetings on an emergency basis without the full fifteen days notice prior to the first meeting. The location of the meetings will be announced at a later date.

The meetings will deal with the qualifications of individuals being interviewed and will be closed to the public pursuant to section 10(d) of Pub. L. 92-463 as amended (see 5 U.S.C. 552(b)(c)(6)). Minutes of the meetings will not be available to the public.

Additional information may be obtained from Ms. Mary C. Lawton, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530.

MARY C. LAWTON,
Staff Director, Committee on Selection of the Federal Bureau of Investigation Director.

[FR Doc.77-12658 Filed 5-2-77;8:45 am]

Immigration and Naturalization Service

HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Meeting

AGENCY: Immigration and Naturalization Service.

ACTION: Meeting.

SUMMARY: This notice announces the Meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held in San Diego, Calif., on May 19-20, 1977.

FOR FURTHER INFORMATION CONTACT:

E. B. Duarte, Special Assistant to the Commissioner of Immigration and Naturalization for Hispanic Liaison, Room 7058, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone 202-376-8211.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463 (5 U.S.C. App. I) notice is hereby given of a meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held from 9:00 a.m. to 5:30 p.m. on Thursday, May 19, 1977 and continuing from 8:30 a.m. to 1:00 p.m. on Friday, May 20 in the Board Room of the Executive Hotel, 1055 First Avenue, San Diego, California.

THURSDAY, MAY 19, 1977

I—Call to order by the Chairperson.
II—Welcoming remarks by the Commissioner, INS.
III—Approval of minutes of previous meetings.
IV—Briefings: (a) Overview of Western Region, INS; (b) Impact of Silva case on INS policy.
V—Presentation from audience.
VI—Briefings (continued): (c) Report on study of "Impact of Illegal Aliens on County of San Diego;" (d) Update on INS Residential Survey on Illegal Immigration; (e) Overview of State Department Visa Office Operations.
VII—Subcommittee meetings.
VIII—Recess.

FRIDAY, MAY 20, 1977

IX—Meeting reconvenes.
X—Subcommittee Reports, Committee Action, and Formal recommendations to the Commissioner.
XI—Old/new business.
XII—Subcommittee meetings.
XIII—Adjournment.

Attendance is open to the interested public, but is limited to the space available.

Because the Administration is conducting a review of the effectiveness of all federal advisory committees, the INS welcomes expressions from the general public on whether the INS Hispanic Advisory Committee should be continued beyond its December 31, 1977, termination date, or terminated, modified, etc. The general public may comment publicly during the portion of the May 19-20, 1977 meeting set aside for audience presentations, or may submit written statements to the Commissioner, in care of Mr. Duarte's above address.

Dated: April 27, 1977.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-12554 Filed 5-2-77;8:45 am]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application No. L-562]

EMPLOYEE BENEFIT PLANS

Pendency of Proposed Class Exemption from Prohibitions Respecting Certain Transactions in Which Multiemployer and Multiple Employer Plans Are Involved Requested by the National Coordinating Committee for Multiemployer Plans

Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed class exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for the joint use by or leasing of office space or the provision of administrative services or sale or leasing of goods by a multiple employer plan to a participating employee organization, participating employer, or participating employer association, or to another multiple employer plan which is a party in interest with respect to such plan. The pending class exemption was requested in an application filed by the National Coordinating Committee for Multiemployer Plans (NCCMP), pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If granted, the application would provide an exemption from the restrictions of section 406(b)(2) of the Act for those transactions already exempt from the restrictions of sections 406(a)(1)(A) through (D) of the Act by virtue of the exemption granted in part C of Prohibited Transaction Exemption 76-1, 41 FR 12740, March 26, 1976, as well as an exemption from the restrictions of section 406(b)(2) in situations involving the sharing of office space, services, etc. on a pro rata basis.

Summary of representations. The application contains representations with regard to the pending class exemption, which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of NCCMP.

On March 26, 1976, the Department, in conjunction with the Internal Revenue Service, granted class exemptions from the restrictions of sections 406(a) and 407(a) of the Act and from the taxes imposed by sections 4975 (a) and (b) of the Internal Revenue Code of

1954 (the Code) by reason of section 4975(c)(1) of the Code, for several classes of transactions between a multiple employer plan and a participating employee organization, employer, or employer association, or another multiple employer plan which is a party in interest or disqualified person with respect to the plan. The exemptions granted did not, however, extend to those aspects of the transactions which may be subject to the restrictions of section 406(b)(2) of the Act. Although many comment letters were received at the time that the multiemployer exemptions were first proposed, the Department noted in the March 26, 1976 exemptions that none of the comments received provided a sufficient basis for proposing an exemption from the restrictions of section 406(b)(2) with respect to the class of transactions exempted, but that it was prepared to consider applications for a class exemption from the restrictions of section 460(b)(2) of the Act with respect to such transactions upon the receipt of applications providing information sufficient to provide a basis for proposing such an exemption.

NCCMP, in its application, has represented that, pursuant to the Labor Management Relations Act, 1947 (LMRA), collectively bargained multiple employer plans under which money is transferred from employers to funds established by employee representatives are required to be administered by a board of trustees on which "employees and employers are equally represented." Trusts for health and welfare purposes must be established separately from trusts for retirement purposes.

Although separate trusts are required to be established for retirement and health and welfare funds, it has been common for one or both of the collective bargaining parties to designate the same trustees to the different boards of trustees because it has been deemed desirable to utilize fully the expertise of the trustees who are familiar with the industry and with the structure and scope of plan participation in the industry.

Further, since the 1959 amendments to the LMRA, jointly administered trusts have also been created for the purpose of providing holiday and vacation benefits and to operate apprenticeship and training programs. Because service on most of the joint boards of these trusts was a voluntary act or, at best, a minimally compensated act, the persons available to serve on these boards of trustees were limited in number.

NCCMP also represents that, but for the limitations in section 302(c)(5) of the LMRA with respect to the establishment of separate trusts and the piecemeal amendment of the LMRA to permit new types of trusts, it is likely that unitary, multi-purpose trusts would be established in each industry and the exemption granted in part C of Prohibited Transaction Exemption 76-1 (March 26, 1976) would suffice. However, to effectuate that exemption, an additional exemption, from the restrictions of section 406(b)(2) is necessary if plans are to be able to place trustees who are familiar with the industry and with the scope of plan participation on the boards of related plans.

NCCMP states that if its application for a class exemption from the restrictions of section 406(b)(2) is denied, the existing class exemptions of March 26, 1976 would be insufficient, in most situations, to permit the very transactions contemplated by those exemptions.

Further, NCCMP represents that when related plans share space, goods or facilities on a pro rata basis, even if they are not parties in interest with respect to one another, common trustees of both plans will face a similar section 406(b)(2) problem, in that the trustees, in determining the allocation of costs, will be representing parties with adverse interests. Nevertheless, NCCMP concludes that the desirability of having common trustees who are familiar with the industry and know how the plans relate to each other outweighs the potential abuses, if an exemption containing the safeguards proposed is granted.

The proposed exemption is identical to that granted in part C of Prohibited Transaction Exemption 76-1, except that it also covers sharing of office space, goods and services and is restricted to plans established in accordance with the representation requirements of section 302(c)(5) of the LMRA. As proposed, the exemption would be in two parts—the first containing conditions appropriate for a prospective class exemption effective June 12, 1975, and the second containing conditions appropriate for a class exemption retroactive to January 1, 1975, the effective date of the prohibited transaction provisions. For the purposes of the exemption, the term "multiple employer plan" is defined as an employee benefit plan which is a multiemployer plan within the meaning of section 3(37) of the Act, or a plan which meets all the requirements of at least subsections 3(37)(A)(i), (ii) and (v) of the Act.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plan or plans.

(3) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provision of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(5) The application for exemption referred to herein is available for public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C., 20216.

All interested persons are invited to submit written comments on the pending class exemption set forth herein. In order to receive consideration, such comments should be received by the Department of Labor on or before June 6, 1977. In addition, any interested person may submit a written request that a hearing be held relating to the pending class exemption. Such written request must be received by the Department on or before June 6, 1977, and should state the reasons for such person's request for a hearing and the nature of such person's interest in the pending class exemption.

All written comments and all requests for a hearing (preferably six copies) should be addressed to Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Application No. L-562. All such comments will be made part of the record, and will be available for public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Deparment of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20210.

Pending exemption. Based on the application referred to above, the Department has under consideration the granting of the following class exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975):

Section I—Prospective. Effective June 12, 1975, the restrictions of section 406(b)(2) of the Act shall not apply to the sharing of office space and administrative services and goods, leasing of office space or the provision of administrative services or sale or leasing of goods by a multiple employer plan established in accordance with the requirements for representation on the board of trustees imposed by section 302(c)(5) of the Labor Management Relations Act, 1947 (LMRA) to a participating employee organization, participating employer, or participating employer association, or to another such multiple employer plan which is a party in interest with respect

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to such plan or plans, provided that the following conditions are met:

(a) With respect to the sharing of office space, administrative services and goods, the costs of securing such space, services and goods are assessed and paid on a pro rata basis with respect to each party's use of such space, services and goods.

(b) With respect to the leasing of such office space or the provision of such administrative services or other sale or leasing of goods,

(1) The plan receives reasonable compensation for such leasing, or the provision of such services or the sale or leasing of such goods. Solely for purposes of this exemption, "reasonable compensation" need not include a profit which would ordinarily have been received in an arm's-length transaction, but must be sufficient to reimburse the plan for its costs.

(2) With regard to the leasing of office space by a plan to a participating employer, such transaction will be exempt from the restrictions of section 406(b)(2) only to the extent that such office space constitutes "qualifying employer real property" as that term is defined in section 470(d)(4) of the Act. The 10 percent limitation provisions of sections 406(a)(1)(E), 406(a)(2) and 407(a) of the Act will apply to such transactions as if the employer real property involved in the transaction were "qualifying employer real property."

(c) With respect to the sharing of office space, administrative services or goods or the leasing of office space or the provision of administrative services or the sale or leasing of goods, the arrangement allows any plan which is a party to the transaction to terminate the transaction on reasonably short notice under the circumstances.

(d) Any plan which shares office space, administrative services or goods or is the lessor of such office space or which provides such administrative services or goods, maintains or causes to be maintained during the period of such sharing arrangement or lease or of such provision of services or sale or leasing of goods and for a period of six years from the date of termination of such sharing arrangement or lease or such provision of services or sale or lease of goods, such records as are necessary to enable the persons described in paragraph (e) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six-year period, and (2) such participating employee organization, participating employer, participating employer association, or other plan shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act if such records are not maintained, or are not available for examination as required by paragraph (e) below.

(e) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (d) are unconditionally available at their customary location for examination during normal business hours by duly authorized employees or representatives of (1) the Department of Labor, (2) plan participants and beneficiaries, (3) any employer of plan participants and beneficiaries, and (4) any employee organization any of whose members are covered by the plan.

Sec. II. *Retroactive.* Effective January 1, 1975, the restrictions of sections 406(b)(2) of the Act shall not apply to the sharing of office space, administrative services or goods or the leasing of office space or the provision of administrative services or the sale or leasing of goods by a multiple employer plan established in accordance with the requirements for representation on the board of trustees imposed by section 302(c)(5) of the LMRA to a participating employee organization, participating employer, or participating employer association, or to another such multiple employer plan is a party in interest with respect to such plan, which occurred before June 12, 1975, or which occurred before October 1, 1975 pursuant to a binding arrangement entered into before June 2, 1975, provided that such transaction was:

(a) Of a type that was ordinarily and customarily engaged in by multiple employer plans before January 1, 1975; and

(b) At the time it was entered into, not a prohibited transaction within the meaning of section 503(b) of the Internal Revenue Code or the corresponding provisions of prior law, except that solely for purposes of this exemption the terms of such arrangement need not provide for a profit which would ordinarily have been received by the plan in an arm's-length transaction, provided that the compensation received by the plan is otherwise reasonable.

Sec. III. *Definitions.* For purposes of sections I and II above, the term "multiple employer plan" shall mean an employee benefit plan which is a multiemployer plan within the meaning of section 3(37) of the Act, or a plan which meets the requirements of at least subsections 3(37)(A)(i), (ii) and (v) of the Act.

Signed at Washington, D.C. this 28th day of April 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.77-11821 Filed 5-2-77;8:45 am]

Office of the Secretary

[TA-W-1514]

ALABAMA BY-PRODUCTS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1514: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing coke at Alabama By-Products Corporation, Tarrant, Alabama.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America, officials of Alabama By-Products, its customers, the U.S. International Trade Commission, U.S. Department of Commerce publications, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that imports of metallurgical coke have decreased absolutely and relative to domestic production from 1974 through 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of metallurgical coke like or directly competitive with coke produced at Alabama By-Products Corporation, Tarrant, Alabama have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 22nd day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-12661 Filed 5-2-77;8:45 am]

[TA-W-1617]

ALLAN SHOE MANUFACTURING COMPANY, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1617: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 31, 1977 in response to a worker petition received on January 24, 1977 which was filed on behalf of workers and former workers engaged in employment related to the production of men's, youths' and boys' dress and casual footwear and work footwear at the Allan Shoe Manufacturing Company, Inc., Norwich, Connecticut.

The notice of investigation was published in the FEDERAL REGISTER on February 15, 1977 (42 FR 9236). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of the Allan Shoe Manufacturing Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be set:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Allan Shoe Manufacturing Company, Inc. decreased 33 percent from 1974 to 1975 and 27 percent from 1975 to 1976.

Average weekly hours worker by production workers at the Allan Shoe Manufacturing Company, Inc. increased 3 percent from 1974 to 1975 and 7 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at the Allan Shoe Manufacturing Company, Inc. decreased 45 percent in value from 1974 to 1975, and 20 percent from 1975 to 1976.

Production at the Allan Shoe Manufacturing Company, Inc. decreased 48 percent in quantity from 1974 to 1975, and 23 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of men's, youths and boys' dress and casual footwear increased absolutely from 1971 to 1972 and from 1972 to 1973, then decreased from 1973 to 1974. Imports increased 13 percent from 1974 to 1975, and 36 percent in the first 9 months of 1976 compared to the first 9 months of 1975. The ratio of imports to domestic production increased from 49.5 percent in the first 9 months of 1975 to 59.8 percent in the first 9 months of 1976.

Imports of men's, youths, and boys' work footwear increased absolutely from 1971 to 1972, from 1972 to 1973, and from 1973 to 1974. Imports decreased 21 percent from 1974 to 1975, then increased 124 percent in the first 9 months of 1976 compared to the first 9 months of 1975. The ratio of imports to domestic production increased from 9.3 percent in the first 9 months of 1975 to 19.6 percent in the first 9 months of 1976.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated that they had switched their purchases from shoes purchased at the Allan Shoe Manufacturing Company, Inc. to imported shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's, youths' and boys' dress and casual footwear and work footwear produced at the Allan Shoe Manufacturing Company, Inc., Norwich, Connecticut contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Allan Shoe Manufacturing Company, Inc., Norwich, Connecticut who became totally or partially separated from employment on or after January 21, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-12662 Filed 5-2-77;8:45 am]

[TA-W-1586]

AMERICAN FELT SLIPPER CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1586: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1977 in response to a worker petition received on that date which was filed by three workers on behalf of workers and former workers producing women's and children's slippers at the Brewer, Maine plant of American Felt Slipper Company.

The Notice of Investigation was published in the FEDERAL REGISTER on February 1, 1977 (42 FR 6016). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the American Felt Slipper Company, its customers, Amfesco Industries, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met criteria (2) and (4) have not been met.

The American Felt Slipper Company, Brewer, Maine, is one of four facilities owned by Amfesco Industries. American Felt Slipper manufactures women's and children's house slippers.

The Department's investigation revealed that sales of house slippers by the American Felt Slipper Company increased 14.1 percent in value in 1976 compared to 1975, while production in-

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creased 23.3 percent in quantity in 1976 compared to 1975.

Customers of the American Felt Slipper Company, Brewer, Maine indicated that in 1976 compared to 1975 they had increased their purchases of women's and children's slippers from American Felt Slipper, while also increasing purchases of imported women's and children's slippers.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that sales and production of women's and children's slippers have not decreased absolutely, and that imports of articles like or directly competitive with women's and children's house slippers have not contributed importantly to the total or partial separation of workers as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-12663 Filed 5-2-77;8:45 am]

[TA-W-1568]

CAPITOL FOOTWEAR CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1568: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers engaged in employment related to the production of men's slippers, casual shoes, boots, and sandals at the Capitol Footwear Corporation, Worcester, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5449). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Capitol Footwear Corporation, its customers, the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers employed by Capitol Footwear at the Worcester plant increased six percent from 1975 to 1976. Employment and average weekly hours decreased steadily from the third quarter of 1975 through the first quarter of 1976 and then increased from the second through the fourth quarters of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Unit production of men's slippers, casual shoes, boots, and sandals at the Worchester plant decreased by 12 percent from 1974 to 1975 and by three percent from 1975 to 1976. Production declined steadily from the second quarter of 1975 through the first quarter of 1976 and rose from the second through the fourth quarters of 1976.

INCREASED IMPORTS

Imports of slippers for men, women, and children rose absolutely and relatively in each year from 1971 through 1975. Imports increased from 25.2 million pairs in 1974 to 29.0 million pairs in 1975 and rose from 22.2 million pairs in January–September 1975 to 34.5 million pairs in the like period of 1976. The ratio of imported slippers to domestic slipper production increased from 29.5 percent in 1974 to 41.1 percent in 1975 and rose to 63.4 percent in January–September 1976.

Imports of men's dress and casual footwear with leather and non-leather uppers increased from 1971 through 1973, declined in 1974, and rose in 1975. Imports increased from 44.3 million pairs in 1974 to 47.5 million pairs in 1975 and rose from 35.3 million pairs in January–September 1975 to 44.7 million pairs in the corresponding period of 1976. The ratio of imports to domestic production declined from 53.5 percent in 1974 to 44.9 percent in 1975 and then increased to 52.1 percent in January–September 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that increased price competition with imports of men's slippers and casual shoes has forced Capitol Footwear in recent years to shift its production out of lower priced, non-leather footwear and into higher priced, leather footwear.

Manistee, Incorporated, a subsidiary of Capitol Footwear, markets footwear produced by Capitol as well as footwear purchased from other domestic and foreign sources. Dollar sales of imports by Manistee increased annually from 1974 through 1976. Sales of imported footwear relative to total Manistee sales increased yearly from 1974 through 1976. Other customers indicated that they had reduced purchases of men's footwear from Capitol and had switched to low cost imports of men's slippers and casual shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the men's slippers, casual shoes, boots, and sandals produced at the Worcester plant contributed importantly to the total or partial separation of workers at such plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Capitol Footwear Corporation, Worcester, Massachusetts, who became totally or partially separated from employment on or after December 10, 1975 and on or before April 17, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-12664 Filed 5-2-77;8:45 am]

[TA-W-1556]

DUCHESS GARTER CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1556: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 1, 1977, in response to a worker petition received on January 1, 1977, which was filed by the Corset and Brassiere Workers' Union, Local 32 on behalf of workers and former workers producing garter and shoulder straps at the New York, New York, plant of Duchess Garter Corporation.

The investigation revealed that shoulder straps for brassieres were only produced for a six month period, approximately two to three years ago, and that currently only quarter straps are produced by the company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5450). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duchess Garter Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that there are no known imports of garter straps. Imports of corsets, girdles and garter belts containing straps of the same origin are not considered like or directly competitive with garter straps produced by Duchess Garter Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of garter straps like or directly competitive with those produced at Duchess Garter Company have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12665 Filed 5-2-77;8:45 am]

[TA-W-1322]

FLODAR CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1322: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976, in response to a worker petition received on November 30, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing hydraulic fittings at the Celeveland, Ohio plant of Flodar Corporation, a subsidiary of Alco Standard Corporation, Valley Forge, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55604). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Flodar Corporation, its customers, Alco Standard Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Cleveland plant of Flodar Corporation declined 21 percent in the first eleven months of 1976 compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of hydraulic fittings produced at the Cleveland, Ohio plant of Flodar Corporation declined 23 percent in value in the first eleven months of 1976 compared to the first eleven months of 1975. All sales values were deflated before percentage changes were computed.

Production of hydraulic fittings at the Cleveland, Ohio plant of Flodar Corporation declined 19 percent in value in the first eleven months of 1976 compared to the first eleven months of 1975.

INCREASED IMPORTS

Flodar produces threaded high pressure hydraulic fittings. These fittings are machined in one piece from bar stock. One piece, high pressure, threaded hydraulic fittings are not separately identified in the import statistics. They are included in the various categories of steel pipe fittings. All hydraulic fittings under the various categories of steel pipe fittings are somewhat like or directly competitive with each other. However, hydraulic fittings contained in the category of "forged steel threaded and socket weld fittings and unions" are most like those produced by Flodar. Therefore, import data are presented for both the best available statistics on articles considered competitive with hydraulic fittings and the best available statistics on articles most like those produced at the Flodar plant.

U.S. imports of steel pipe fittings increased from 75.0 million pounds in 1971 to 79.9 million pounds in 1972 and decreased to 64.8 million pounds in 1973. In 1974 imports increased to 114.1 million pounds and in 1975 to 185.9 million pounds. In the first nine months of 1976 imports declined to 88.9 million pounds compared to 147.4 million pounds in the same period one year earlier.

The ratio of imports to domestic production of steel pipe fittings increased from 21.4 percent in 1971 to 24.0 percent in 1972 and decreased to 20.3 percent in 1973. In 1974, the ratio of imports to domestic production increased to 29.2 percent and, in 1975, further increased to 45.3 percent. In the first nine months of 1976, the ratio of imports to domestic production increased to 48.3 percent compared to 45.2 percent in the same period one year earlier.

Imports of forged steel threaded and socket weld fittings and unions increased in each year compared to the preceding year from 4.9 million pounds in 1971 to 19.3 million pounds in 1975. Imports declined from 13.5 million pounds in the first nine months of 1975 to 11.0 million pounds in the first nine months of 1976.

The ratio of imports to domestic production of forged steel threaded and socket weld fittings and unions increased in each year compared to the preceding year from 14.7 percent in 1971 to 32.3 percent in 1975. The ratio of imports to domestic production increased from 28.1 percent in the first nine months of 1975 to 42.0 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Customers of Flodar indicated that they do not purchase any imported high pressure hydraulic fittings. Customers of Flodar stated that reduced orders for construction machinery and machine tools used in automobile production lessened the demand for hydraulic fittings. In addition some customers indicated that they had shifted their business from Flodar to other domestic manufacturers. Some customers reported that imports are inhibited by the fact that U.S. machinery uses SAE threads while most foreign manufacturers produce only metric threaded hydraulic fittings.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the hydraulic fittings produced at the Cleveland, Ohio plant of Flodar Corporation did not contribute importantly to the total or partial separation of workers at that plant as required in Section 222 of the Trade Act of 1974.

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Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12666 Filed 5-2-77;8:45 am]

[TA-W-1377]

FLORSHEIM SHOE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1377: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 7, 1976, in response to a worker petition received on December 7, 1976, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing bottom outsoles, heels, and insoles at the N. Main St., Cape Girardeau, Missouri plant of the Florsheim Shoe Company.

The investigation identified the products correctly as leather outsoles, insoles, heels, bottoms and tops, for use in production of Florsheim's men's shoes.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 880). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Florsheim Shoe Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion number (2) has not been met.

The Cape Girardeau, Missouri plant located at N. Main St. performs part of an integrated operation for the production of men's shoes by Florsheim. The Cape Girardeau plant produces leather bottoms, tops, heels, insoles, and outsoles exclusively for Florsheim.

Total sales of men's shoes by the Florsheim Shoe Company increased 3.1 percent in the fourth quarter of 1975 compared to the same quarter of 1974, and increased 2 percent in quantity from 1975 to 1976. Total production increased 9.8 percent in the fourth quarter of 1975 compared to the same quarter of 1974, and increased 14 percent from 1975 to 1976.

The 8 percent production decline at the Cape Girardeau plant from 1975 to 1976 was due to the Company's shift in production emphasis from shoes made with leather components towards shoes made with non-leather components, such as crepe soles and plastic heel bases. The Cape Girardeau plant is solely engaged in the production of leather components, while other Florsheim facilities produce non-leather parts. All Florsheim plants are located within the United States.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production of men's shoes have not declined and that increased imports of articles like or directly competitive with leather heels, bottoms, tops, outsoles, and insoles produced at the North Main Street, Cape Girardeau, Missouri plant of the Florsheim Shoe Company did not contribute importantly to the total or partial separations of the workers at that plant, as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12667 Filed 5-2-77;8:45 am]

[TA-W- 1240 and 1241]

H. A. SEINSHEIMER CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974, and in accordance with Section 223(a) of such Act, on January 31, 1977, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers at the Cincinnati, Ohio and New Albany, Indiana plants of H. A. Seinsheimer Company (TA-W- 1240 and 1241).

The Notice of Certification was published in the FEDERAL REGISTER (42 FR 8019) February 8, 1977.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at the New York, New York office of H. A. Seinsheimer Company. Further investigation revealed that two workers were engaged in employment related to the production of men's tailored and leisure suits, sportcoats, and trousers and should have been included in the original certification as eligible to apply for adjustment assistance.

The subject workers were not identified in the initial investigation or the original certification because the company maintained separate records and ledgers for field staff in other locations.

CONCLUSION

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers at the Cincinnati, Ohio and New Albany, Indiana plant of H. A. Seinsheimer Company who became totally or partially separated from employment on or after July 1, 1976, including employees at the New York office, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12673 Filed 5-2-77;8:45 am]

[TA-W-1423]

HANNA FURNACE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1423: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing pig iron at the Buffalo, New York plant of the Hanna Furnace Corporation, a subsidiary of the National Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 881). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hanna Furnace Corporation, the U.S. Department of Commerce, the United Steelworkers of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

Evidence developed by the Department's investigation reveals that imports of pig iron have not exceeded 0.7 percent of domestic production from 1971 through October 1976, the latest date of published aggregate import statistics. Imports declined in absolute terms and relative to domestic production in the January to October period of 1976, as compared to the same period of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of pig iron like or directly competitive with pig iron produced at the Buffalo, New York plant of the Hanna Furnace Corporation have not increased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12668 Filed 5-2-77;8:45 am]

[TA-W-1609]

JO-GAL SHOE, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1609: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 27, 1977, in response to a worker petition received on January 27, 1977, which was filed by three workers on behalf of workers and former workers producing children's, infants' and misses' shoes at Jo-Gal Shoe, Incorporated, Lawrence, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on February 15, 1977 (42 FR 9241). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jo-Gal Shoe, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

On September 2, 1976, the Department issued a notice of negative determination for all workers of Jo-Gal Shoe, Inc. in Lawrence, Massachusetts in response to a worker petition received on June 29, 1976 (TA-W-956).

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 9.1 percent from 1973 to 1974, increased 32.9 percent from 1974 to 1975, and increased 5.7 percent from 1975 to 1976. Employment declined 7.7 percent in the last six months of 1976 compared to the same period of 1975.

SALES OF PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production quantities are the same at Jo-Gal, since the company does not produce for inventory. Sales declined 10.4 percent in quantity from 1973 to 1974, increased 50.1 percent in quantity from 1974 to 1975, and declined 3.4 percent in quantity from 1975 to 1976. The quantity of sales declined 24.8 percent in the last six months of 1976 compared to the same period of 1975.

INCREASED IMPORTS

Jo-Gal produces children's, misses' and infants' nonrubber footwear.

Imports of children's nonrubber footwear, except athletic, increased absolutely from 1971 to 1972 and declined each year from 1973 through 1975. Imports increased relative to domestic production from 1973 to 1974 and from 1974 to 1975. Imports increased absolutely and relative to domestic production in the first nine months of 1976 compared to the same period of 1975. The ratio of imports to domestic production increased from 62.7 percent in the first nine months of 1975 to 70.6 percent in the same period of 1976.

Imports of infants' and babies' nonrubber footwear increased absolutely from 1971 to 1972, declined in each year from 1972 to 1974, and then increased from 1974 to 1975. Imports increased absolutely and relative to domestic production in the first nine months of 1976 compared to the same period of 1975. The ratio of imports to domestic production increased from 29.7 percent in the first nine months of 1975 to 38.5 percent in the first nine months of 1976.

Imports of misses' nonrubber footwear, except athletic, increased absolutely from 1971 to 1972, increased relative to domestic production from 1972 to 1973, declined absolutely and relatively from 1973 to 1974, and then increased relatively from 1974 to 1975. Imports increased absolutely and relative to domestic production in the first nine months of 1976 compared to the same period 1975. The ratio of imports to domestic production increased from 45.6 percent in the first nine months of 1975 to 78.9 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

All Jo-Gal's retail customers who were surveyed switched purchases from Jo-Gal shoes to imports, primarily in the second half of 1976 compared to the same period of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with children's, infants' and misses' nonrubber footwear produced by Jo-Gal Shoe, Inc., Lawrence, Massachusetts contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification.

All workers at the Lawrence, Massachusetts plant of Jo-Gal Shoe, Incorporated who became totally or partially separated from employment on or after July 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12669 Filed 5-2-77;8:45 am]

[TA-W-1681]

MAIDENFORM INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1681: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 24, 1977, in response to a worker petition received on February 11, 1976, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing brassieres, girdles and swimsuits

V42N85 MAY 3 77 UMI

at the Perth Amboy, New Jersey plant of Maidenform Inc., Bayonne, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13090). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the International Ladies Garment Workers Union Officials of Maidenform Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from February 7, 1976, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Perth Amboy, New Jersey plant of Maidenform Inc. have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12670 Filed 5-2-77;8:45 am]

[TA-W-1509]

MARATHON STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1509: investigation regarding eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 22, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing concrete reinforcing bars at the Tempe, Arizona plant of the Marathon Steel Company, Phoenix, Arizona, a subsidiary of Marathon Manufacturing Company, Houston, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Marathon Steel Company, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

The Rolling Mill Division, Tempe, Arizona, of the Marathon Steel Company produces concrete reinforcing bars from steel produced at the plant. Marathon Steel, a subsidiary of Marathon Manufacturing Company, also has a manufacturing division in Phoenix, Arizona.

The Department's investigation revealed that production of concrete reinforcing bars at the Tempe plant increased in quantity 12.5 percent in the fourth quarter of 1975 compared to the same quarter in 1974, and 6.0 percent in 1976 compared to 1975.

Sales of concrete reinforcing bars by the Tempe plant increased in quantity 40.3 percent in the fourth quarter of 1975 compared to the fourth quarter of 1974, and increased 0.8 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of concrete reinforcing bars at the Tempe, Arizona plant of the Marathon Steel Company have not decreased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12671 Filed 5-2-77;8:45 am]

[TA-W-1599]

MISS SARAH, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1599: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 26, 1977, in response to a worker petition received on that date which was filed by workers on behalf of workers and former workers producing shrimp at Miss Sarah, Inc., Brownsville, Texas.

The notice of investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8022). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Miss Sarah, Inc., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers aboard shrimp trawlers remain constant as insurance regulations require a minimum crew of three persons to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore, employment data are based on number of fishing trips per boat and gross crew earnings.

The number of trips declined 42.9 percent in 1975 compared to 1974 and increased 66.7 percent in 1976 compared to 1975. Although the number of trips in 1976 increased compared to 1975, the average gross earnings per trip declined. Gross crew earnings declined 20.0 percent in 1975 compared to 1974 and declined 3.6 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOUTELY

Sales of shrimp in terms of quantity declined 39.6 percent in 1975 compared to 1974 and declined 28.4 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of shrimp in terms of quantity decreased 9.3 percent in 1973 compared to 1972 and increased 15.9 percent in 1974 compared to 1973. Imports declined 13.6 percent in 1975 compared to 1974 and increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 111.4 percent in 1975 to 116.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

The only customer of Miss Sarah, Inc., indicated increased purchases of imported shrimp in the last two years. The reasons cited for increased import purchases were due either to inadequate domestic supplies or the required shrimp sizes for their processing needs were not available domestically.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp produced by Miss Sarah, Incorporated, contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Miss Sarah, Inc., located in Brownsville, Texas, who became totally or partially separated from employment on or after October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planing.

[FR Doc.77-12672 Filed 5-2-77;8:45 am]

[TA-W-1425]

SOULE STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1425: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing reinforcing bars and fence post sections at the Soule Steel Company, Carson, California.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 897). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Soule Steel Company, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification if eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, criterion (2) has not been met in regard to the production of fence posts, and criterion (4) has not been met in regard to the production of reinforcing bars.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average quarterly employment of production workers at Soule Steel increased in each quarter of 1976 from the second quarter through the fourth quarter, compared to the previous quarter. Average employment in those quarters increased 2.3 percent, 7.6 percent, and 7.0 percent, respectively. Average employment increased 7.4 percent in July through December 1976 compared to the same period in 1975. Average hours worked increased 2.6 percent from 1975 to 1976.

A decline in average employment was experienced in the first quarter of 1976, when average employment declined 5.8 percent compared to the previous quarter. Labor turnover data indicate that total accessions exceeded total separations in 1976.

SALES OF PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of reinforcing bars declined 3.0 percent from 1975 to 1976 while production declined 5.8 percent from 1975 to 1976.

Sales and production of fence post sections increased 83.0 percent from 1975 to 1976.

Total company sales at Soule Steel increased 6 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of concrete reinforcing bars declined in absolute terms by 70.3 percent from 1974 to 1975. Imports increased 18.2 percent in the first nine months of 1976 compared to the same period in 1975. The ratio of imports to domestic shipments and consumption increased from 4.4 percent and 4.3 percent, respectively, in the first nine months of 1975 to 4.8 percent and 4.6 percent, respectively, in the first nine months of 1976.

Imports of fence gates, posts, and fittings declined in absolute terms by 83.0 percent from 1974 to 1975. Imports increased 250.0 percent in the first nine months of 1976 compared to the same period in 1975—an absolute increase from .6 thousand short tons to 2.1 thousand short tons. The estimated ratio of imports to domestic production increased from .3 percent in the first nine months of 1975 to 1.1 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Consumption and demand for reinforcing bars are closely related to business in the construction industry. Total construction, in constant dollars, from 1974 to 1975 declined 13.0 percent, while nonresidential construction, the primary consumer of reinforcing bars, in the same period, declined 17.1 percent.

The Carson, California plant of Soule Steel experienced a temporary shutdown in the first quarter of 1976. Sales and production declines, as well as employment declines, can be traced to that quarter. Factors influencing these declines include the temporary shutdown because of an excessive rate of inventory buildup and routine plant maintenance and repairs. No workers at Soule are on layoff status at the present time.

Customers who contracted with Soule as a supplier of rebars are construction companies, who subcontract construction jobs, or contractors, who actually perform construction work, both on a competitive bid basis. These customers indicated that all rebars used on their respective construction jobs were purchased domestically and, to the best of their knowledge, all rebars used were produced domestically. Any business declines at Soule can be attributed to general declines in the construction industry. Customers stated that they have not experienced any import influence in the market for reinforcing bars.

After careful review of the facts obtained in the investigation, I conclude that increased imports did not contribute importantly to the total or partial separations, or to the decline in sales or production at Soule Steel Company, Carson, California as required in Section 222 of

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the Trade Act of 1974. The petition is, therefore, denied.

Signed in Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12674 Filed 5-2-77;8:45 am]

[TA-W-1593]

STRUCTURAL FABRICATING PLANT, KAISER STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1593: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 10, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing Fabricated Structural Shapes at the Fontana, California Structural Fabricating plant of Kaiser Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8022). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kaiser Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criteria two (2) and four (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Average production employment at the plant increased 26 percent in 1974 from 1973 and 23 percent in 1975 from 1974. Average employment declined 8 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

All production is to customer order so production equals sales.

Sales at the plant declined 18 percent in value in 1974 from 1973 and increased 82 percent in 1975 from 1974. Sales in the first 11 months of 1976 were 62 percent higher than the same period of 1975.

Sales in net tons, decreased 53 percent in 1974 from 1973, increased 6 percent in 1975 from 1974 and increased 164 percent in the first 11 months of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of fabricated structural shapes into the U.S. decreased absolutely and relative to domestic shipments in 1972, 1973, and 1974 from the previous year. Imports increased 3.6 percent absolutely in 1975 from 1974 and 3.2 percent in the first 9 months of 1976 compared to the same period of 1975. Relative to domestic shipments, imports increased from 1.6 percent in 1974 to 2.0 percent in 1975 and 2.6 percent in the first 9 months of 1976 compared to 2.2 percent in the first 9 months of 1975.

Since 1971, imports of Fabricated Structural Shapes have never been more than 3 percent of domestic shipments.

CONTRIBUTED IMPORTANTLY

Customers of the Structural Fabricating Plant of Kaiser have not shifted purchases from Kaiser to off-shore producers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabricated structural shapes produced at the Fontana, California, Structural Fabricating Plant of Kaiser Steel Corporation did not contribute importantly to the total or partial separation of the workers at that plant. Therefore, workers at the plant are not eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 26th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12675 Filed 5-2-77;8:45 am]

[TA-W- 1156, 1157, 1158, and 1271]

SWEETREE MILLS, INC.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974, and in accordance with Section 223(a) of such Act, on December 30, 1976, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers at the Cherryville and King's Mountain plants of Sweetree Mills, Inc. (TA-W-1156, 1157, 1158, and 1271).

The Notice of Certification was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2383).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at the New York, New York office of Sweetree Mills, Inc. Further investigation revealed that eight employees were engaged in employment related to the production of ladies knit sweaters and knit sportswear and should have been included in the original certification as eligible to apply for adjustment assistance.

The subject workers were not identified in the initial investigation or the original certification because the company maintained separate records and ledgers for field staff in other locations.

CONCLUSION

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers at the Cherryville, and King's Mountain, North Carolina plants of Sweetree Mills Inc., who became totally or partially separated from employment on or after September 30, 1975, including employees at the New York, New York office, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12676 Filed 5-2-77;8:45 am]

[TA-W-1570]

WEYENBERG SHOE MANUFACTURING CO. MILWAUKEE SOLE PLANT

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1570: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1977, in response to a worker petition received on that date which was filed by the Boot and Shoe Worker's Union on behalf of workers and former workers producing men's insoles and outsoles at the Milwaukee Sole plant of the Weyenberg Shoe Manufacturing Company, Milwaukee, Wisconsin.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5457). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Weyenberg Shoe Manufacturing Company, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that criterion (2) and criterion (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Milwaukee Sole Plant of the Weyenberg Shoe Manufacturing Company declined 9 percent in 1975 compared to 1974 and increased 2 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Production at the Milwaukee Sole Plant is a function of sales of domestically produced shoes by Weyenberg. Sales of domestically produced shoes by Weyenberg increased 1 percent in 1975 compared to 1974 and increased 3 percent in 1976 compared to 1975.

Production of insoles and outsoles at the Milwaukee Sole plant increased 15 percent in quantity in 1975 compared to 1974 and increased 19 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of men's dress and casual footwear increased from 47.5 million pairs in 1971 to 56.4 million pairs in 1973. Imports declined to 47.5 million pairs in 1975. Imports increased from 35.3 million pairs in the first three quarters of 1975 to 44.7 million pairs in the first three quarters of 1975.

Imports as a percentage of production declined from 53.5 percent in 1974 to 44.9 percent in 1975 and increased from 46.1 percent in the first three quarters of 1975 to 52.1 percent in the first three quarters of 1976.

CONTRIBUTED IMPORTANTLY

Separations of workers from the Milwaukee Sole Plant in late 1976 were due to the elimination of heel production and certain finishing operations at the plant. Heel production and finishing operations previously performed at the plant are now contracted to domestic firms.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that neither sales nor production decreased absolutely nor did increases of imports of articles like or directly competitive with men's insoles and outsoles produced at the Milwaukee Sole Plant of the Weyenberg Shoe Manufacturing Company did not contribute importantly to the separations of the workers at that plant.

Signed at Washington, D.C., this 21st day of April, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12678 Filed 5-2-77;8:45 am]

[TA-W-1536]

WILTON CORP., TOOL DIVISION

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1536: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 30, 1976, in response to a worker petition received on December 30, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing home and workshop vises, at the Tool Division of the Winchester, Tennessee plant of the Wilton Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3381). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Wilton Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly production workers employed by the Tool Division of the Winchester, Tennessee plant of the Wilton Corporation declined 5.4 percent in 1975 compared to 1974 and 30.0 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of home and workshop vises declined 3.7 percent in 1975 compared to 1974 and then increased 27.7 percent in 1976 compared to 1975.

Sales declined 0.4 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975.

INCREASED IMPORTS

Imports of utility, workshop, and homeshop bench vises increased absolutely and relatively to domestic production in 1973 compared to 1972 and then declined absolutely and relatively in 1974 compared to 1973. Imports declined absolutely, but increased relatively in 1975 compared to 1974. Imports increased 101.3 percent in quantity in 1976 compared to 1975. The ratios of imports to domestic production and consumption increased from 241 percent and 71 percent, respectively, in 1975 to 435 percent and 81 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

The Tool Division of the Winchester, Tennessee plant of the Wilton Corporation continued production and maintained employment throughout most of 1976 in anticipation of an expansion of the home and workshop vise market. Consequently, the company experienced a build-up in its inventory of home and workshop vises. At the end of the second quarter of 1976, the Tool Division's inventory of home and workshop vises had increased 376.9 percent compared to the second quarter of 1975. The company was finally forced to reduce production in an attempt to reduce inventory; consequently, employment declines were experienced in the fourth quarter of 1976.

The Department's investigation revealed that customers of the Wilton Corporation have indicated that they have reduced purchases from the Wilton Corporation and increased purchases of imported home and workshop vises. The price differential between domestic and imported home and workshop vises was the factor cited most frequently as the reason that customers switched from domestic to foreign suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

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that increases of imports like or directly competitive with home and workshop vises produced by the Tool Division at the Winchester, Tennessee plant of the Wilton Corporation contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Tool Division at the Winchester, Tennessee plant of the Wilton Corporation who became totally or partially separated from employment on or after October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12677 Filed 5-2-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

SUBPANEL ON THE ETHICS AND VALUES IN SCIENCE AND TECHNOLOGY PROGRAM (EVIST)

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on the Ethics and Values in Science and Technology Program of the Advisory Panel on Science Education Projects.
Date and time: May 19 and 20, 1977; 9 a.m. to 5:30 p.m.
Place: Room 651, 5225 Wisconsin Ave., Washington D.C. 20550.
Type of meeting: closed.
Contact person: Dr. William A. Blanpied, Program Director, EVIST, room W-666, National Science Foundation, Washington, D.C. 20550; telephone: 202-282-7770.
Purpose of panel: To provide advice and recommendations concerning support for research in the EVIST program.
Agenda: To review and evaluate research proposals as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 28, 1977.

[FR Doc.77-12698 Filed 5-2-77;8:45 am]

WOMEN IN SCIENCE PROGRAM, PROJECT DIRECTORS

Meeting

A project directors' meeting will be held from 5 p.m. to 10 p.m. on Thursday, May 19, 1977, and from 9 a.m. to 5 p.m. on Friday, May 20, 1977, at the Sheraton Park Hotel, 2660 Woodley Rd. NW., Washington, D.C.

The purpose of this meeting is to give project directors of the Science Career Facilitation Projects component of the Women in Science Program an opportunity to exchange information regarding the conduct of Science Career Facilitation Projects and to allow the program staff to set into motion mechanisms for monitoring of projects.

While these project directors' meetings are not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91-463) the conferences are believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as meetings open for public attendance and participation.

The meeting will be chaired by Ms. M. Joan Callanan. Because of space limitation, members of the public who wish to attend should call 202-282-7150 regarding attendance at this meeting.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 28, 1977.

[FR Doc.77-12697 Filed 5-2-77;8:45 am]

AD HOC ADVISORY PANEL FOR THE VERY LARGE ARRAY

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Advisory Panel for the Very Large Array.
Date: May 19, 1977.
Time: 9:30 a.m.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Mr. Claud M. Kellett, Executive Secretary, Ad Hoc Advisory Panel for the Very Large Array, room 618, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7340. Anyone who plans to attend should notify Mr. Kellett prior to the meeting.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of advisory panel: To advise the Director of the National Science Foundation concerning the management and future planning of the Very Large Array (VLA) Project of the National Radio Astronomy Observatory.

SUMMARY AGENDA

9:30 a.m.—Welcome and Introductory Remarks—Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences.
9:40 a.m.—Discussion of General Mode of Operation and Selection of Chairman.
10:30 a.m.—Break
10:45 a.m.—NSF and Contractor Staff Presentations.
Noon—Recess.
1:30 p.m.—Discussion with Staff Members of Presentation Details.
3 p.m.—Break.
3:15 p.m.—Assignment of Study Tasks, Chairman.
4:15 p.m.—Schedule and Arrangements for Future Meetings, Executive Secretary.
4:30 p.m.—Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 28, 1977.

[FR Doc.77-12699 Filed 5-2-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 26, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-45291), or from the reviewer listed.

NEW FORMS

NATIONAL COMMITTEE ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

Registration Form (N.C.), on occasion, participants at State conference, Caywood, D. P., 395-3443.
Nomination Form (Iowa), on occasion, delegates to National conference Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Assessment of Status of Marketing of Educational Materials for the Handicapped, single time, developers of special education materials, Kathy Wallman, 396-6140.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Importer's Premises Visit—Significant Importation Report 213, on occasion, importers, Tracey Cole, 395-5870.

EXTENSIONS

RAILROAD RETIREMENT BOARD

Applicants Statement of Employment and Wages, UI-9, on occasion, applicants for unemployment benefits, Marsha Traynham, 395-4529.
Request for Information Re and Statement of Marital Status, Legal Termination of (Previous Marriage), G-237, G-237A, on occasion, railroad applicant—Employees, Marsha Traynham, 395-4529.
Employees Eligibility for Hospital Insurance Benefits, AA-101, AA-103, on occasion, railroad employees and their wives, Marsha Traynham, 395-4529.
Application for Recomputation of Employee Annuity Under RRA, AA-1B, on occasion, retirement annuitants, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-12741 Filed 5-2-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice 541]

JOINT AIRPORT TO SERVE PINECREEK, MINNESOTA, AND PINEY, MANITOBA, CANADA

Proposed Agreement

The State of Minnesota and the Local Governmental District of Piney, Manitoba, Canada, seek to enter into an agreement establishing a joint airport to serve Pinecreek, Minnesota and Piney, Manitoba. Article One, Section 10 of the U.S. Constitution provides that a State may enter into an agreement with a foreign government only with the consent of Congress. In section 608 of the International Security Assistance and Arms Export Control Act of 1976, Pub. L. 94-329, Congress granted its consent to the joint airport agreement, and provided that the effectiveness of the agreement would be conditioned upon its approval by the Department of State. Pursuant to that mandate, the Department of State invites public comment bearing upon its decision whether to approve the agreement. Comments should be sent to the Assistant Legal Adviser for Economic and Business Affairs, Department of State, Washington, D.C. 20520.

The agreement contemplates the extension of the runway at the existing Pinecreek Airport across the U.S.-Canadian border and the construction of an apron to contain a joint customs facility. The purpose of these modifications is twofold: to bring the existing airport into compliance with Federal Aviation Administration standards, and to facilitate the passage across the U.S.-Canadian border of persons travelling by air. The modifications do not involve the construction of any permanent structures within the 20-foot swath maintained by the International Boundary Commission under the 1925 Treaty in Regard to the Boundary between the United States and Canada, 44 Stat. 2102. It is contemplated that the airport will be used exclusively by propellor-driven aircraft of a maximum gross weight not to exceed 12,500 pounds.

The agreement provides for the creation of a joint airport authority to be governed by a joint board composed of six members, three from each country. Under specified rules of procedure, the joint board is empowered to make necessary rules and regulations concerning the operation of the airport and the maintenance of property under the control of the joint airport authority, subject to the approval of both the Assistant Commissioner of the Minnesota Department of Transportation, Division of Aeronautics and the Local Governmental District of Piney. Such approval is also required: (1) to authorize the joint board to acquire or dispose of any real property, air navigation facility, or air protection privilege; and (2) to finalize the budget of the joint airport authority. Provisions are included to govern renewal, amendment, and termination of the agreement, as well as arbitration of any disputes which may arise between the contracting parties.

Should the Department of State decide to approve the agreement, certain budgetary constraints upon the Division of Aeronautics of the Minnesota Department of Transportation would require that funds to be used for the joint airport project be encumbered by June 30, 1977. For this reason all comments should be received by the Department of State by May 20, 1977.

Copies of the proposed agreement are available for inspection in the Office of the Assistant Legal Adviser for Economic and Business Affairs, and upon request will be mailed to interested parties.

Dated: April 26, 1977.

PHILLIP R. TRIMBLE,
Assistant Legal Adviser for Economic and Business Affairs.

[FR Doc.77-12621 Filed 5-2-77;8:45 am]

[Public Notice CM-7/62]

SHIPPING COORDINATING COMMITTEE, UNITED STATES NATIONAL COMMITTEE FOR THE PREVENTION OF MARINE POLLUTION

Meeting

The working group on segregated ballast in existing tankers of the United States National Committee for the Prevention of Marine Pollution, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Thursday, May 26, 1977, in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

In accordance with the President's initiative on oil spill control, the meeting is called for the purpose of discussing arguments in favor of imposing certain construction requirements for all oil tankers entering U.S. ports, specifically segregated ballast on all tankers and double bottoms on all new tankers.

Requests for further information on the meeting should be directed to Capt. J. R. Kirkland, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2010.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

APRIL 27, 1977.

[FR Doc.77-12506 Filed 5-2-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Intergovernmental Science, Engineering, and Technology Advisory Panel, Human Resources Task Force.

DATE: May 27, 1977.

TIME: 9 a.m. to 3 p.m.

PLACE: Room 3104, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

TYPE OF MEETING: Open.

CONTACT PERSON:

Mr. Louis Blair, Executive Secretary, Intergovernmental Science, Engineering, and Technology Advisory Panel, Office of Science and Technology Policy (202/395-4596). Anyone who plans to attend should contact Mr. Blair by May 23.

PURPOSE OF THE PANEL: The Intergovernmental Science, Engineering, and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify State, regional and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings. The Human Resources Task Force was formed on March 25, 1977. It is responsible for identifying steps that the Federal Government might take to increase the involvement of State and local governments in setting research priorities in the human resources area and to increase the applications of human resources related research and science and technology products and processes in State and local governments.

MINUTES OF THE MEETING: Summary minutes of the meeting will be available from Mr. Blair.

TENTATIVE AGENDA

To discuss structure, objectives and coordinative measures and to develop a charter for the Human Resources Task Force.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

APRIL 26, 1977.

[FR Doc.77-12571 Filed 5-2-77;8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13469; File No. SR-NYSE-77-14]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 18, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED CONSTITUTIONAL AND RULE CHANGES

The text of the proposed amendments is attached as Exhibit I.

PURPOSE OF THE PROPOSED CONSTITUTIONAL AND RULE CHANGES

The proposed changes would accomplish the following:

The primary purpose of the proposed changes is to eliminate unnecessary language from the Exchange Constitution and to organize the various constitutional and rule provisions relating to member organization formation, approval and changes into a cohesive set of requirements. A simplified Constitution would reduce the need for repetitive membership ballots in order to accommodate language changes which are largely housekeeping in nature or are mandated by the law.

While most of the proposed amendments are housekeeping in nature, there are several substantive changes included in this proposal:

(a) Article IX, section 3 is proposed for an amendment to reflect expanded summary proceedings available under the Securities Reform Act of 1975. The Act permits summary suspension in cases of expulsion or suspension by another self-regulatory organization or for financial or operating difficulty (not limited to insolvency) which impairs safety to investors, creditors, other members or the Exchange. The proposed constitutional amendment would grant the Board authority to reinstate a member summarily suspended pursuant to the requirements of the Act which will be included in Exchange rules.

(b) Article IX, section 7(c) is proposed for deletion since the conditions for member corporation approval are contained in proposed Rule 311, due process provisions are contained in Article XIV and definitions are contained in Article I, section 3.

(c) Rule 311(a) is proposed for an amendment to include that portion of Article IX, section 7(a) which applies to member organization approval by the Exchange Board of Directors. The portion of section 7(a) which deals with approval of persons as allied members or approved persons is proposed for inclusion in proposed Rule 304(a). Reference may be made to File No. SR-NYSE-77-13 for discussion of proposed Rule 304.

(d) Proposed Rule 311(f) represents a repositioning of Article IX, section 7(j), and is proposed for an amendment to exclude Canada as a qualifying domicile for member organizations. The purpose of this deletion is to eliminate discrimination among foreign organizations. The U.S. domicile requirement is retained for the purpose of maintaining regulatory control, including the ability to obtain legal service of any member organization. In this connection, in a letter to Chairman Hills dated January 24, 1977, SIPC expressed concern over potential problems which may arise when foreign broker-dealers become NYSE members and thereby become members of SIPC by operation of section 3(a)(2)(B) of the Securities Investors Protection Act of 1970. SIPC believes it would probably be impossible to carry out the purposes of SIPA with respect to customers of foreign broker-dealers should that ever become necessary if these foreign members have no place of business in the United States and do not maintain substantial assets in this country.

Under the proposed rules a member organization could be owned and controlled by foreign interests, but access to the Exchange would be available to them through U.S. subsidiaries. Thus, the protective features of SIPA would be more surely available if foreign members were organized as domestic corporations subject to a federal district court's adjudication that the customers are in need of SIPC protection.

All other changes represent repositioning of various constitutional and rule provisions for the purpose of centralizing member organization formation and approval conditions into Rule 311, changes within member organizations into Rule 312 and allied member and approved person requirements into proposed Rule 304 (see File No. SR-NYSE-77-13). In this repositioning process, Article IX, sections 7 through 13, and Rules 316 and 320 would be deleted.

BASIS UNDER THE ACT

(i) The repositioning of various constitutional and rule provisions into one cohesive set of requirements enhances the Exchange's capacity to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the Act and the rules and regulations thereunder. The expanded summary proceedings available under the Act are reflected in the amendment to Article IX, section 3, in granting Board authority to reinstate members so suspended. Additionally, the U.S. domicile requirement assures enhanced ability for the Exchange to enforce compliance through available legal service.

(ii) The repositioning of various constitutional and rule provisions relating to members and member organizations into one cohesive set of requirements enhances the ability of any registered broker or dealer to be a member or member organization of the Exchange. This repositioning eliminates unnecessary and redundant language from the Constitution and places all membership requirements in one cohesive set of rules.

(iii) Not applicable.

(iv) Not applicable.

(v) The amendment relating to a U.S. domicile requirement protects investors and the public interest by establishing an equal legal basis under which the purposes of the Securities Investors Protection Act may be carried out. The Board's reinstatement authority for members summarily suspended promotes just and equitable principles of trade and removes impediments to the mechanism of a free and open market by conforming this authority to the Act's expanded availability of summary proceedings.

(vi) Not applicable.

(vii) The amendment granting Board authority to reinstate members summarily suspended carries out the purposes of section 6(d) of the Act by conforming this authority with the expanded summary proceeding available in that section.

(viii) Not applicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

Comments were not solicited on this proposal.

BURDEN ON COMPETITION

This proposal will not impose any burden on competition.

On or before June 7, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 24, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 25, 1977.

EXHIBIT I—PROPOSED CONSTITUTIONAL AMENDMENTS

New language *in italics;* Deleted language in [brackets]

ARTICLE IX—MEMBERSHIP, ALLIED MEMBERSHIP, MEMBER FIRMS, MEMBER CORPORATIONS

• • • • • •

ELECTION, REINSTATEMENT, READMITTANCE TO MEMBERSHIP

SEC. 3. The Board of Directors may approve as a member any person eligible for membership or reinstate a member *summarily* suspended [for insolvency] *under the rules of the Exchange* or readmit a person who has been expelled from the Exchange.

• • • • • •

APPROVAL OF PARTNERSHIPS, CORPORATIONS, ALLIED MEMBERS AND APPROVED PERSONS

[SEC. 7. (a) No partnership or corporation shall become or remain a member firm or member corporation and no person shall become or remain an allied member or approved person unless approved by the Board of Directors.] [1]

CONDITIONS OF APPROVAL OF MEMBER CORPORATION

[(b) The Board of Directors shall not approve a corporation as a member corporation unless:

• • • • • •

(4) The board of directors of such corporation shall designate its "principal executive officers" who shall be members or allied members and shall exercise supervision and control over the business of such corporation in such areas as the Board of Directors of the Exchange may from time to time determine; [2]

(5) The primary purpose of such corporation is the transaction of business as a broker or dealer in securities; and [3]

(6) Such corporation complies with such additional requirements as the Board of Directors of the Exchange may from time to time prescribe.] [4]

WITHDRAWAL OF APPROVAL OF MEMBER CORPORATION

[(c) Approval of a member corporation shall be withdrawn if:

(1) In the opinion of the Board of Directors of the Exchange any of the conditions for approval contained in subsection (b) hereof cease to be maintained; or

(2) Such corporation violates any of its, or any member, allied member, or approved person in such corporation violates any of his, agreements with the Exchange; or

(3) Such corporation fails to comply with all the provisions of the Constitution of the Exchange and the rules and requirements of the Board of Directors of the Exchange and practices of the Exchange as the same may be amended from time to time.]

• • • • • •

APPROVAL REVOCABLE

[(e) The approval of a corporation as a member corporation constitutes only a revocable privilege and confers on the corporation no right or interest of any nature whatsoever to continue as a member corporation.] [5]

• • • • • •

CONDITIONS FOR REDEMPTION OR CONVERSION

[(g) Whenever a party who is required to be approved by the Board as a member, allied member or approved person fails or ceases to be so approved, each member corporation shall promptly redeem or convert to a fixed income security such of its outstanding voting stock as may be necessary to reduce such party's ownership of voting stock in the member corporation below that level which enables such party to exercise controlling influence over the management or policies of such member corporation.] [6]

NON-VOTING COMMON STOCK—PROHIBITION

[(h) Without the prior approval of the Board of Directors no member corporation shall issue any publicly held security in the form of non-voting common stock.] [7]

• • • • • •

[(j) Every member firm shall be a partnership and every member corporation shall be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States or Canada or any State or Province thereof.] [8]

• • • • • •

USE OF FACILITIES OF EXCHANGE

SEC. [12] 7. The Exchange shall not be liable for any damages sustained by a member or an allied member or a member firm or a member corporation growing out of the use or enjoyment of such member, allied member, member firm or member corporation of the facilities afforded by the Exchange to members, allied members, member firms and member corporations for the conduct of their business.

DEATH OF SOLE EXCHANGE MEMBER

GENERAL PARTNER

[SEC. 13. (a) The Board of Directors may, on the application of the surviving partners in a member firm whose only general partner who was a member of the Exchange has died, permit, notwithstanding the death of such member, a continuing partnership which otherwise meets Exchange requirements, to have the status of a member firm for such period as the Board of Directors may determine, under such conditions as it may fix. The Board in its discretion may, at any time during such period, withdraw such permission and upon such withdrawal such status shall terminate.] [9]

• • • • • •

PROPOSED RULE AMENDMENTS

New language *in italics;*
deleted language [bracketed]

RULE 311—FORMATION AND APPROVAL OF MEMBER ORGANIZATIONS

Rule 311. (a) Any [party] *person* who proposes to form a member organization or who proposes to become a member or allied member in an organization for which application is made for approval as a member organization and any member organization which proposes to admit therein any:

(1) Member; (2) Allied member; (3) Approved person,

shall notify the Exchange in writing before any such formation or admission, and shall submit such information as may be required by the Exchange. *No such member or member organization shall become or remain a member organization unless all persons required to be approved are so approved and execute such agreements with the Exchange as the Board of Directors may from time to time prescribe.* [1]

(b) The Board of Directors shall not approve a partnership or corporation as a member organization unless: [2]

• • • • • •

(5) the board of directors of such corporation designates its "principal executive officers" who shall be members or allied members and shall exercise supervision and control over the business of such corporation in such areas as the Board of Directors of the Exchange may from time to time determine; and [3]

(6) The primary purpose of such partnership or corporation is the transaction of business as a broker or dealer in securities; and [4]

(7) such partnership or corporation complies with such additional requirements as the Board of Directors of the Exchange may from time to time prescribe. [5]

(c) In the case of existing corporations making application to become member corporations, there shall be submitted to the Exchange:

(1) A certified list of all holders of record of each class of stock, giving the name and address of the holder and the number of shares of each class of such stock held;

(2) A certified list of all persons who are to become members, allied members, directors or approved persons.

(3) A certified list of all persons designated as principal executive officers of the corporation.

[1] Proposed Rules 311(a) and 304(a) (SR-NYSE-77-13).
[2] Proposed Rule 311(b)(5).
[3] Proposed Rule 311(b)(6).
[4] Proposed Rule 311(b)(7).
[5] Proposed Rule 311(d).
[6] Proposed Rule 312(d).
[7] Proposed Rule 311(e).
[8] Proposed Rule 311(f) as amended.
[9] Proposed Rule 312(b)(1).
[1] Article IX, Sec. 7(a)
[2] Article IX, Sec. 7(b) (SR-NYSE-77-13).
[3] Article IX, Sec. 7(b)(4) as amended.
[4] Article IX, Sec. 7(b)(5) as amended.
[5] Article IX, Sec. 7(b)(6) as amended.

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In the case of corporations proposed to be organized, similar information shall be submitted to the Exchange.[6]

(d) The approval of a corporation as a member corporation constitutes only a revocable privilege and confers on the corporation no right or interest of any nature whatsoever to continue as a member corporation.[7]

(e) Without the prior approval of the Board of Directors no member corporation shall issue any publicly held security in the form of non-voting common stock.[8]

(f) Every member firm shall be a partnership and every member corporation shall be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States or any State thereof.

* * * * *

(h) Except as may be otherwise permitted by the Exchange, no member or allied member shall conduct business under a firm name unless he has at least one partner, nor shall any member firm doing business with the public have less than two general partners who are active in the firm's business; provided however, that if by death or otherwise a member or allied member becomes the sole general partner in a firm, he may continue business under the firm name for such period as may be allowed by the Exchange. (See Rule 404 [¶ 2404] re carrying of accounts by individual members.)[9]

* * * Supplementary Material:

* * * * *

.11 Application—The papers required to be submitted prior to approval of the formation or admission of a member organization are as follows:

(1) Letter giving name and address of proposed or existing organization, date of proposed formation or admission, and names of all proposed or present officers and other parties required to be approved by the Exchange under Rules 304 and 311; and

(2) individually executed applications by all parties whose approval by the Exchange is required.

The papers required to be submitted prior to approval of the admission to an existing member organization of any party, other than a member, requiring the approval of the Exchange under Rule 304 and 311, are as follows:

(1) Letter stating name of such proposed party and proposed date of admission to member organization; and

(2) an individually executed application by such proposed party.[10]

* * * * *

.12 Authorization and Statement of Understanding—Each member organization, or proposed member organization, must submit the following authorization and statement of understanding executed by each party requiring the approval of the Exchange under Rule 304.

"In connection with my current application, I authorize the New York Stock Exchange, Inc. and any agent acting on it behalf, to conduct an investigation of my character, general reputation, personal characteristics, mode of living and credit worthiness.

"I authorize and request any and all of my former employers, and any other person to furnish to the New York Stock Exchange, Inc., and any agent acting on its behalf, any information that they may have concerning my character, general reputation, personal characteristics, mode of living and credit worthiness. Moreover, I hereby release each such employer and each such other person from any and all liability of whatsoever nature by reason of furnishing such information to the New York Stock Exchange, Inc. and any agent acting on its behalf.

"Further, I recognize that I will be the subject of an investigative report ordered by the New York Stock Exchange, Inc. and acknowledge that I have been informed of my right to request information from the New York Stock Exchange, Inc., concerning the nature and scope of the investigation requested."[11]

.13 Agreement with the Exchange—Each member corporation and each member, allied member and approved person of the corporation must agree with the Exchange that if any person required to be approved by the Exchange as a member, allied member or approved person fails or ceases to be so approved, the corporation may be deprived by the Exchange of all the privileges of a member corporation unless the corporation redeems or converts the stock held by such person as required under Rule 312.[12]

.14 Partnership agreements—For information regarding the submission of copies of proposed partnership articles, see ¶ 2313.10.[13]

.15 Corporate documents—For information regarding the submission of copies of proposed or existing corporate documents and other agreements, see ¶ 2313.20.[14]

.16 No person shall be appointed an officer of a member corporation without the prior written approval of the Exchange.

Principal executive officers of a member corporation must be members or allied members and must be persons who have been designated by the directors as having senior principal executive responsibility for various areas of the member corporation's business, including: Operations, compliance with rules and regulations of regulatory bodies, finances and credit, sales, underwriting, research and administration. A single individual may have more than one, or all, of such responsibilities.[15]

RULE 312—CHANGES WITHIN MEMBER ORGANIZATION

New language *in italics;* deleted language [bracketed]

Rule 312. (a) Each member organization shall promptly give to the Exchange notice in writing on such form as may be required by the Exchange (1) on Form AD–12, of the death, retirement, or other termination of any party required to be approved by the Exchange [under Rule 311], (2) of the dissolution of the member organization, or (3) of the fact that the primary purpose of such member organization has ceased to be the transaction of business as a broker or dealer in securities.

(b) In addition, in the case of a member corporation, such member corporation shall give written notice (1) of any material change in the stockholdings of any member, allied member or approved person of such member corporation, (2) of any proposed change in the directors or officers, or (3) of any proposed change in the charter, certificate of incorporation, by-laws or other documents on file with the Exchange, or (4) of the *failure to comply with all the conditions of approval specified in Rule 311* [happening of any of the events specified in subdivisions (1), (2) and (3) of sub-paragraph (c) of Section 7 of Article IX of the Constitution [¶1407]].

(c) Each member, allied member and approved person of a member corporation shall promptly notify his member corporation of any material acquisition or disposition of shares of stock such corporation.

(d) Whenever a person who is required to be approved by the Board as a member, allied member or approved person fails or ceases to be so approved, each member corporation shall promptly redeem or convert to a fixed income security such of its outstanding voting stock as may be necessary to reduce such party's ownership of voting stock in the member corporation below that level which enables such party to exercise controlling influence over the management or policies of such member corporation.[1]

* * * * *

(f) (1) The Board of Directors may, on the application of the surviving partners in a member firm whose only general partner who was a member of the Exchange has died, permit, notwithstanding the death of such member, a continuing partnership which otherwise meets Exchange requirements, to have the status of a member firm for such period as the Board of Directors may determine, under such conditions as it may fix. The Board in its discretion may, at any time during such period, withdraw such permission and upon such withdrawal such status shall terminate.[2]

* * * * *

(g) After the completion of a distribution of its securities no member corporation which has any publicly held security outstanding shall effect any transaction (except on an unsolicited basis) for the account of any customer in, or make any recommendation with respect to, any such security issued by such member corporation or make any recommendation of any such security issued by any corporation controlling, controlled by or under common control with such member corporation.

No member corporation which has any publicly held security outstanding shall, without the prior written approval of the Exchange, dispose of any such security for its own account and no member corporation shall acquire any such security for its own account or for the account of any corporation controlling, controlled by or under common control with such member corporation except with the prior written approval of the Exchange or pursuant to the terms and provisions of such security or of any agreement between the member corporation and the holder of such security, which agreement has previously been filed with and approved by the Exchange.[3]

(h) A member corporation shall not without the prior written approval of the Exchange:

(1) Reduce its capital or purchase or redeem any shares of any class of its stock or in any way amend its charter, certificate of incorporation or bylaws, and the Exchange may at any time in its discretion require the corporation to restore or increase capital or surplus, or both.

(2) Issue any bonds, notes or other instruments evidencing funded indebtedness of the corporation except pursuant to the terms and provisions of such security or of any agreement between the member corporation and the holder of such security, which agreement has been previously filed with and approved by the Exchange.

(3) Amend, modify or cancel any agreement made by it or any of its stockholders relating to the management of the corporation or the issue or transfer of securities of the corporation (other than agreements relating to ordinary securities and commodities transaction).[4]

(i) No member corporation subject to Rule 325 shall, without the prior written consent of the Exchange, redeem or repurchase any shares of its stock on less than six months notice given to the Exchange no sooner than six months after the original issuance of such shares (or any predecessor shares). Each member corporation shall promptly notify the Exchange if any redemption or repurchase of any of its stock is postponed because prohibited under the provisions of Securities and Exchange Commission Rule 15c3–1 (see 15c3–1(e)).[5]

(j) The Exchange may require any member organization to file with the Exchange a written report showing the use made by the member organization of the proceeds of any offering of any security issued by such member organization.[6]

(k) No stock shall be issued by a member corporation except for cash or such other consideration as may be approved by the Exchange.[7]

* * * Supplementary Material:

[.10 Constitutional provisions.—Reference should be made to Article IX regarding the method of becoming an allied member and the rights and privileges of allied memberships as well as Rules 311 to 320 inclusive, relating to partnerships or corporations.]

[.16 Application.—The papers required to be submitted prior to approval of the formation or admission of a member organization are as follows:

(1) Letter giving name and address of proposed or existing organization, date of proposed formation or admission, and names of all proposed or present officers and other parties required to be approved by the Exchange under Rule 311; and

(2) Individually executed applications by all parties whose approval by the Exchange is required.

The papers required to be submitted prior to approval of the admission to an existing member organization of any party, other than a member, requiring the approval of the Exchange under Rule 311 are as follows:

(1) Letter stating name of such proposed party and proposed date of admission to member organization:

(2) An individually executed application by such proposed party.] [8]

* * * * *

[.17 Authorization and Statement of Understanding.—

Each member organization, or proposed member organization, must submit the following authorization and statement of understanding executed by each party requiring the approval of the Exchange under Rule 311:

"In connection with my current application I authorize the New York Stock Exchange, Inc. and any agent acting on its behalf, to conduct an investigation of my character, general reputation, personal characteristics, mode of living and credit worthiness."

"I authorize and request any and all of my former employers, and any other person to furnish to the New York Stock Exchange, Inc., and any agent acting on its behalf, any information that they may have concerning my character, general reputation, personal characteristics, mode of living and credit worthiness. Moreover, I hereby release each such employer and each such other person from any and all liability of whatsoever nature by reason of furnishing such information to the New York Stock Exchange, Inc., and any agent acting on its behalf."

"Further, I recognize that I will be the subject of an investigative report ordered by the New York Stock Exchange, Inc., and acknowledge that I have been informed of my right to request information from the New York Stock Exchange, Inc., concerning the nature and scope of the investigation requested."] [9]

* * * * *

[.24 Partnership agreements.—For information regarding the submission of copies of proposed partnership articles, see ¶ 2313.10.] [10]

[.26 Corporate documents.—For information regarding the submission of copies of proposed or existing corporate documents and other agreements, see ¶ 2313.20] [11]

RULE 313—SUBMISSION OF PARTNERSHIP ARTICLES—SUBMISSION OF CORPORATE DOCUMENTS

* * * * *

* * * Supplementary Material:

* * * * *

.18 Sole board member provision.—For information concerning sole board member provisions, see [Sections 13(a) and 13(b) of Article IX of the Constitution [¶ 1413]. See also] ¶ *2312 and* 2314.6.

* * * * *

.21 Provisions concerning disposition of stock.—The certificate of incorporation of a member corporation may contain provisions that the corporation or its stockholders, or both, may have a prior right to purchase the stock of any stockholder upon such terms and conditions as may be specified therein.

The Exchange will expect a member corporation, either through its certificate of incorporation or separate agreements, to be in a position at all times to comply with the provisions of *Rule 312(d)*. [Subsection (g) of Article IX, Section 7 of the Constitution.]

Each stock certificate of a member corporation shall carry on its face a statement of any such provisions or a full summary thereof.

* * * * *

[.24 List of Stockholders.—In the case of existing corporations making application to become member corporations, there shall be submitted to Regulation & Surveillance:

(1) A certified list of all holders of record of each class giving the name and address of the holder and the number of shares of each class of such stock held;

(2) A certified list of all persons who own beneficially 1 percent or more of the corporation's outstanding voting stock showing the percentage of such ownership;

(3) A certified list of all persons who are to become members, allied members, directors or approved persons, giving the name, address and number of shares of each class of stock held indicating the type of holding whether of record or beneficially or both by such persons;

(4) A certified list of all persons designated as principal executive officers of the corporation.

[6] Rule 313.24 as amended.
[7] Article IX, Sec. 7(e).
[8] Article IX, Sec. 7(h).
[9] Rule 316.
[10] Rule 312.16.
[11] Rule 312.17.
[12] Rule 313.25.
[13] Rule 312.24.
[14] Rule 312.26.
[15] Rule 320(b).

[1] Article IX, Sec. 7(g) as amended.
[2] Article IX, Sec. 13(a).
[3] Rule 320(d).
[4] Rule 320(e).
[5] Rule 320(f).
[6] Rule 320(g).
[7] Rule 320(i).
[8] Proposed Rule 311.11.
[9] Proposed Rule 311.12.
[10] Proposed Rule 311.14.
[11] Proposed Rule 311.16.

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In the case of corporations proposed to be organized, similar information shall be submitted to Regulation & Surveillance.][1]

[.25 Agreement with the Exchange.—Each member corporation and each member, allied member and approved person of the corporation must agree with the Exchange that if any person required to be approved by the Exchange as a member, allied member or approved person fails or ceases to be so approved, the corporation may be deprived by the Exchange of all the privileges of a member corporation unless the corporation redeems or converts the stock held by such person as required under Sebsection (g) of Article IX, section 7 of the Constitution.][2]

RULE 316—MINIMUM OF ACTIVE PARTNERS IN FIRMS—USE OF A FIRM NAME

[Rule 316. Except as may be otherwise permitted by the Exchange, no member or allied member shall conduct business under a firm name unless he has at least one partner nor shall any member firm doing business with the public have less than two general partners who are active in the firm's business: *Provided, however,* that if by death or otherwise a member or allied member becomes the sole general partner in a firm, he may continue business under the firm name for such period as may be allowed by the Exchange. (See Rule 404 [¶ 2404] re carrying of accounts by individual members.)][1]

RULE 320—MISCELLANEOUS RESTRICTIONS ON CORPORATE MEMBERS

Directors

[Rule 320. (a) No person shall serve as a director of a member corporation without the prior written approval of the Exchange. All directors of a member corporation must be elected at each annual meeting and may, subject to the certificate of incorporation and by-laws of the member corporation, serve any number of terms as director.

At least a majority of the directors of a member corporation must be members or allied members; and each director who is not a member or allied member must be an approved person.][1]

Officers

[(b) No person shall be appointed an officer of a member corporation without the prior written approval of the Exchange.

Principal executive officers of a member corporation must be members or allied members and must be persons who have been designated by the directors as having senior principal executive responsibility for various areas of the member corporations' business, including: Operations, compliance with rules and regulations of regulatory bodies, finances and credit, sales, underwriting, research and administration. A single individual may have more than one, or all, of such responsibilities.][2]

REDUCTION OF VOTING STOCK

[(c) Whenever a party fails or ceases to be approved by the Exchange as a member, allied member or approved person of a member corporation, such corporation shall redeem or convert to a fixed income security such of its voting stock owned by such party as may be necessary to reduce such party's ownership of voting stock of such corporation below that level which enables such party to exercise controlling influence over the management of policies of such member corporation.][3]

TRANSACTIONS IN CORPORATION'S SECURITIES

[(d) After the completion of a distribution of its securities no member corporation which has any publicly held security outstanding shall effect any transaction (except on an unsolicited basis) for the account of any customer in, or make any recommendation with respect to, any such security issued by such member corporation or make any recommendation of any such security issued by any corporation controlling, controlled by or under common control with such member corporation.

No member corporation which has any publicly held security outstanding shall, without the prior written approval of the Exchange, dispose of any such security for its own account and no member corporation shall acquire any such security for its own account or for the account of any corporation controlling, controlled by or under common control with such member corporation except with the prior written approval of the Exchange or pursuant to the terms and provisions of such security or of any agreement between the member corporation and the holder of such security, which agreement has previously been filed with and approved by the Exchange.][4]

CORPORATE CHANGES TO BE APPROVED BY EXCHANGE

[(e) A member corporation shall not without the prior written approval of the Exchange:

(1) Reduce its capital or purchase or redeem any shares of any class of its stock or in any way amend its charter, certificate of incorporation or by-laws, and the Exchange may at any time in its discretion require the corporation to restore or increase capital or surplus, or both.

(2) Issue any bonds, notes or other instruments evidencing funded indebtedness of the corporation except pursuant to the terms and provisions of such security or of any agreement between the member corporation and the holder of such security, which agreement has been previously filed with and approved by the Exchange.

(3) Amend, modify or cancel any agreement made by it or any of its stockholders relating to the management of the corporation or the issue or transfer of securities of the corporation (other than agreements relating to ordinary securities and commodities transactions).][5]

REDEMPTION OR REPURCHASE OF STOCK

[(f) No member corporation subject to Rule 325 shall, without the prior written consent of the Exchange, redeem or repurchase any shares of its stock on less than six months notice given to the Exchange no sooner than six months after the original issuance of such shares (or any predecessor shares). Each member corporaiton shall promptly notify the Exchange if any redemption or repurchase of any of its stock is postponed because prohibited under the provisions of Securities and Exchange Commission Rule 15c3–1 (see 15c3–1(e)).][6]

USE OF THE PROCEEDS OF OFFERING OF STOCK

[(g) The Exchange may require any member organization to file with the Exchange a written report showing the use made by the member organization of the proceeds of any offering of any security issued by such member organization.][7]

FORMATION OF CORPORATE AFFILIATE OR SUBSIDIARY OR ASSOCIATED PARTNERSHIP

[(h) No member organization may form a corporate affiliate, corporate subsidiary or associated partnership except as provided by the Rules of the Board of Directors.]

CONSIDERATION FOR THE ISSUANCE OF STOCK

[(i) No stock shall be issued by a member corporation except for cash or such other consideration as may be approved by the Exchange.][8]

RULE 404—INDIVIDUAL MEMBERS NOT TO CARRY ACCOUNTS

Rule 404. No member organization shall carry accounts for customers without the approval of the Exchange. No member, doing business as an individual, shall carry accounts for customers, except as provided in Rule *311(h)* [*12311*] [*316*[*12316*]].

[FR Doc.77–12639 Filed 5–2–77;8:45 am]

[1] Proposed Rule 311(c).
[2] Proposed Rule 311.13.
[3] Proposed Rule 311(h).
[4] Redundant with proposed Rule 311 (a) and (b).
[5] Proposed Rule 312.16.
[6] Redundant with proposed Rule 312(d).
[7] Proposed Rule 312(g).
[8] Proposed Rule 312(h).
[9] Proposed Rule 312(i).
[10] Proposed Rule 312(j).
[11] Proposed Rule 312(k).

[Release No. 34–13468; File No. SR–NYSE–77–13]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 18, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

TEXT OF PROPOSED RULE CHANGES—ATTACHED AS EXHIBIT I

PURPOSE OF PROPOSED CONSTITUTIONAL AND RULE CHANGES

The 1975 amendments to the Securities Exchange Act require the Exchange to enforce compliance by its members and persons associated with its members with the Act, the rules thereunder and applicable rules of the Exchange. This general expansion of Exchange regulatory responsibilities was defined in SEC Release No. 34–12994 adopting SEC Rule 19g2–1. Therefore, to discharge its statutory responsibilities, the Exchange has approved the amendments herein.

Specifically, the amendments accomplish the following.

A. Exchange rules currently enable the Exchange to comply and to enforce compliance by its members and certain categories of persons associated with its members with the rules of the Exchange and the provisions of the Act. Associated persons currently regulated are partners, officers, directors, branch office managers and employees.

The proposed amendments would extend Exchange regulatory authority over those persons who, directly or indirectly, control, are controlled by, or are under common control with a member or member organization. To accomplish this, the Exchange had adopted the definitions of "control" set forth in SEC Rule 19g2–1, and "person" as contained in the Act.

The "allied member" definition would be amended to include an employee who is not a member, who controls a member partnership, or a member corporation. Therefore, the requirement that an employee of a member corporation who owns 5 percent of the voting stock must be an allied member would be rescinded. Since a director or a principal executive officer is presumed to control a member organization by virtue of his status, the stock ownership requirement for directors and principal executive officers who are employees would be removed, even though such persons would continue to be allied members. This amendment parallels recently approved amendments (SEC Release 12697) deleting the voting stock ownership requirement for "outside" directors.

The definition of "approved person" would be amended to include those "associated persons" who are not employees of a member or member organization who are in a control relationship. All persons who control a member organization (parents) would be required to be approved by the Exchange as approved persons. The definition of "parent" in Rule 2 would be deleted since the standard of "control" would govern. In addition, persons who are controlled by (subsidiaries) or under common control with (affiliates) a member organization would be required to become approved persons if they are "engaged in a securities or kindred business" (acting as an investment advisor or transacting business generally as a broker or dealer in securities, including, but not limited to, servicing customer accounts or introducing them to another person).

Persons not engaged in a "securities or kindred business" who are controlled by or under common control with a member or member organization would be reported to the Exchange under proposed amendments to Rule 346 (see SR–NYSE–77–11).

B. In adopting SEC Rule 19g2–1, the SEC noted that:

> In carrying out the enforcement obligation which they retain under section 19(g)(1) of the Act, as modified by Rule 19g2–1, exchanges and associations may believe it useful to secure the cooperation of certain associated persons of members by having them enter into appropriate agreements subjecting themselves to (among other things) regulatory oversight inspections and disciplinary proceedings (SEC Release No. 34–12994, footnote 38).

Proposed Rule 304(h) herein requires approved persons to sign an agreement which the Exchange submits is consistent with section 6(c)(3)(C) of the Act.

Approved persons would be required to agree to supply the Exchange with information with respect to such persons relationships and dealings with its associated member or member organization as the Exchange may reasonably require, and to permit examination by the Exchange of its books and records to verify the accuracy of information required to be supplied. These provisions are consistent with section 6(c)(3)(C) in that such information is limited by a standard of reasonableness and restricted to the approved persons dealing with its associated members. It is essential that the Exchange have such a regulatory tool over parents and affiliates and subsidiaries in a securities or kindred business to ensure that it is capable of enforcing its rules as to members and persons associated therewith and its responsibilities under the Act. Approved persons would further agree to report statutory disqualifications as required under the Act; and to abide by such provisions of the Constitution and Rules of the Exchange relating to approved persons as may be adopted.

The provisions in the agreement are intended to establish the jurisdictional basis for the Exchange to perform its obligations, as set forth in section 6(b)(1) of the Act, to enforce compliance with its rules by persons associated with a member. The Exchange intends to adopt in the near future rules which will be applicable to approved persons or categories thereof. Any such rules would be submitted to the scrutiny of the SEC and subject to their approval. Further, such rules will be proposed only after due consideration to the potential burdens imposed as balanced against regulatory need, as well as the standards set forth in SEC Rule 19g2–1 wherein the SEC makes it clear that an exchange or association need not employ routine techniques such as reporting requirements or routine inspections with respect to associated persons who are in a securities related business.

The Exchange submits that it is consistent with the Act's mandate to establish different regulatory requirements for different classes of persons associated with a member or member organization, provided such regulation is developed and administered in a non-discretionary manner. As stated in SEC Release No. 34–12994:

> Exchanges and associations may develop their own rules (subject to Commission review) to apply to particular classes of associated persons; accordingly, it is not necessary for section 19(g)(2) to authorize the Commission to take action with respect to the obligation of exchanges and associations to enforce their own rules. (Footnote 12).

C. It should be noted that while the above definition of approved person is, in certain respects, broader in scope and more limited in depth, than the parameters of "securities persons" set forth in SEC Rule 19g2–1, it merely establishes Exchange jurisdiction to enforce compliance with its rules over those persons associated with a member or member organization. As such, it is an essential initial step and does not purport to extend all Exchange Rules to those persons associated with a member who are defined as approved persons.

The Exchange's initiative in defining those "certain associated persons" who must sign an agreement with the Exchange was undertaken after careful consideration of the potential burden upon these approved persons and of the need for uniform regulation of such associated persons.

Persons controlling a member—The deletion of the requirement that owners of 5 percent of the voting stock be approved persons and the introduction of the standard of "control" is consistent with section 3(a)(121) of the Act and SEC Rule 19g2–1. The Exchange submits that such parents should be regulated to the extent set forth in the proposed agreement for approved persons regardless of their activities or whether they are "securities persons". This non-routine regulatory oversight is essential to ensure the financial and compliance integrity of the member or member organization, and to enable the Exchange to perform its regulatory responsibilities as to this category of associated persons.

Persons controlled by or under common control with a member who are engaged in a securities or kindred business—The Exchange definition of "engaged in a securities or kindred business" goes beyond the "securities person" concept of a registered broker or dealer effecting transactions in securities through the member through use of facilities maintained or supervised by such exchange or association. The Exchange feels that all associated persons engaged in a securities related business should be subject to regulatory oversight because of potential impact on the financial and operation viability of the member with which they are associated

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and for the protection of the member's customers. In addition, non-registered securities entities should be subject to the same regulation extended to registered securities entities because they are generally subject to less regulatory scrutiny than registered broker/dealers creating a greater potential for adverse impact on the member.

The proposed amendments are more limited in regulatory scope in that they exclude from the definition of approved persons whose persons who are general partners, officers, and employees of a securities person (who are also deemed securities persons under SEC Rule 19g-2-1). The processing of applications and administration of qualifying examinations for officers and employees of "securities persons", who are registered brokers or dealers, would in the opinion of the Exchange, place an unnecessary and costly burden upon the person and their affiliated broker/dealers. It would also result in a duplication of effort by self-regulatory organizations as all registered brokers or dealers are subject to registration and examination requirements of a national securities exchange, the NASD or the Commission (SECO). The Exchange believes that obtaining jurisdiction over the entity as an approved person will enable the Exchange to comply with it regulatary responsibilities. Nevertheless, the entity would be required to report all statutory disqualifications of its associated persons. Furthermore, the approved person is, and would continue to be, required to supply information set forth in Rule 304(h) concerning its partners, officers, directors, etc.

D. The voting stock ownership requirement for members associated with a member organization has also been removed. This will further facilitate registered broker/dealers to qualify members of the Exchange. (It is intended that further liberalization in the area of qualification of members and member organizations will be submitted to the SEC.)

E. Certain Constitutional provisions dealing with definitions of and requirements for members and persons associated with members have been removed from the Constitution and placed in new Rule 304. Except as previously discussed these amendments do not alter Exchange requirements, but are intended to consolidate like provisions and eliminate unnecessary language from the Exchange Constitution. Present Rule 304 will be renumbered Rule 304A but has not been amended.

BASIS UNDER THE ACT FOR THE ADOPTION OF THE PROPOSED AMENDMENTS

The proposed constitutional and rule amendments were promulgated by the adoption of Rule 19g2-1 of the Securities Exchange Act of 1934.

(i) The proposed amendments provide a regulatory framework to allow the Exchange to enforce compliance by members and certain persons associated with its members with the provisions of the Act, and certain Rules of the Exchange.

(ii) The proposed amendments provide a mechanism by which persons may become a member or associated with a member or member organization.

(iii) Inapplicable.

(iv) Inapplicable.

(v) The proposed amendments would serve to prevent fraudulent and manipulative acts by members and persons associated with a member in that such persons would be subject to the provisions of the Act and certain rules of the Exchange. In this respect, the amendments would serve to protect investors and the public interest.

(vi) The proposed amendments provide a jurisdictional basis for appropriately disciplining members and certain persons associated with a member for violations of the Act and the Rules of the Exchange by subjecting such persons to Exchange disciplinary rules.

(vii) Inapplicable.

(viii) Inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED AMENDMENTS

One letter of comment was received from a member organization endorsing the removal of the voting stock ownership requirement for allied members, and seeking removal of a similar requirement for members (see Exhibit III). Rescission of the requirement for members was included in the proposals subsequent to membership comment.

BURDEN ON COMPETITION

The proposed changes do not impose any burden on competition.

On or before June 7, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 24, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 25, 1977.

EXHIBIT I

ARTICLE I—TITLES, OBJECTS, DEFINITIONS

New Language *in italics;* deleted language in [brackets]

• • • • •

DEFINITIONS

SEC. 3. Unless the context requires otherwise, the terms defined in this Section shall, for all purposes of the Constitution, have the meanings herein specified:

• • • • •

MEMBER FIRM

(c) The term "member firm" means a firm, transacting business as a broker or a dealer in securities, at least one of whose general partners is a member of the Exchange or which has the status of a member firm by virtue of permission given to it by the Board of Directors pursuant to the [provisions of Section 13(a) of Article IX] *rules of the Exchange.*

ALLIED MEMBER

(d) The term "allied member" means:

(i) A general partner in a member firm, or *an employee who controls such member firm,* who is not a member of the Exchange and who has become an allied member as provided in [Article IX,] *the rules of the Exchange,* or

(ii) An employee of a member corporation [who is actively engaged in its business and devotes the major portion of his time thereto,] who is not a member of the Exchange, who has become an allied member as provided in the *rules of the Exchange* [Article IX,], and who is either:

[(a) A director and holder of record and beneficial owner of voting stock of such corporation, or]

(a) [(b)] A principal executive officer [and a holder of record and beneficial owner of voting stock] of such corporation, or

(b) [(c) A *person* [holder of record and beneficial owner of 5 percent or more of the outstanding voting stock] *who controls* [of] such corporation.

• • • • •

MEMBER CORPORATION

(f) The term "member corporation" means a corporation, transacting business as a broker or dealer in securities, approved by the Board of Directors as a member corporation, having at least one member of the Exchange who is an officer thereof [and a holder of voting stock therein], and having all its other Exchange members officers thereof [and holders of voting stock therein]. A corporation shall cease to be a member corporation if the approval of the Board of Directors is withdrawn or if it shall cease

to transact business as a broker or dealer in securities or to have all its Exchange members officers thereof [and holders of voting stock therein,] unless the corporation has the status of a member corporation by virtue of permission given to it by the Board of Directors pursuant to the [provisions of section 13(b) of Article IX] *rules of the Exchange.*

APPROVED PERSON

(g) The term "approved person" means a [party] *person* who is not [an employee,] a member or an allied member *or an employee* of a member *firm or member* corporation, who has become an approved person as provided in [Article IX] *the rules of the Exchange* and who is [a director of a member corporation, or] *either:*

(i) a person who controls a member, member firm or member corporation, or

(ii) a person engaged in a securities or kindred business who is controlled by or under common control with a member, member firm or member corporation.

[who beneficially owns 5 percent or more of the outstanding voting stock of a member corporation.]

The terms "control", "person" and "engaged in securities or kindred business" as used herein shall be defined in the rules of the Exchange.

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ARTICLE IX—MEMBERSHIP, ALLIED MEMBERSHIP, MEMBER FIRMS, MEMBER CORPORATIONS

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INITIATION FEE

SEC. 4. Each person (hereinafter referred to as a "new member") elected to membership shall pay to the Exchange an initiation fee which shall be determined as follows:

(a) In the event that the new member shall have purchased such membership through a membership auction facility furnished by the Exchange, the initiation fee shall be the lesser of seventy-five hundred dollars or such amount as shall be equal to ten percent of the purchase price paid for the membership;

(b) In the event that:

(i) A member (hereinafter referred to as "outgoing member") whose membership shall have had a contractual obligation to transfer the membership to such person as may be designated by a member organization of which the outgoing member then shall be either a partner or an officer [and holder of voting stock] therein, and

• • • • •

APPROVAL OF PARTNERSHIPS, CORPORATIONS ALLIED MEMBERS AND APPROVED PERSONS

SEC. 7. • • •

• • • • •

CONDITION OF APPROVAL OF MEMBER CORPORATION

(b) The Board of Directors shall not approve a corporation as a member corporation unless:

[(1) At least a majority of the directors of such corporation are members or allied members; and each director of such corporation who is not a member or allied member is an approved person; and] [1]

• • • • •

[(3) Every party who owns beneficially 5% or more of the outstanding voting stock of such corporation is a member, allied member or approval person; and] [2]

• • • • •

[MEMBERS AS LIMITED PARTNERS OR NON-OFFICERS]

[(1) A member who is a limited partner in a firm does not thereby confer any of the privileges of the Exchange on such firm, and a member who is not an officer of a member corporation and a holder of voting stock therein does not confer any of the privileges of the Exchange on such corporation.] [3]

[GENERAL PARTNERS MUST BE MEMBERS OR ALLIED MEMBERS; HOLDERS OF VOTING STOCK MUST BE APPROVED]

[SEC. 8. Unless permitted by the Board of Directors, no member or allied member of the Exchange shall have as a genefal partner in a member firm any person who is not a member or allied member of the Exchange nor shall any member or allied member be the holder of voting stock in a member corporation, unless all the holders of such stock required to be approved by the Board of Directors are so approved.] [4]

[ALLIED MEMBERSHIP]

[SEC. 9. Any person, not a member of the Exchange, shall become an allied member of the Exchange by pledging himself to abide by the Constitution as the same has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution and by either:]

[(a) Becoming a general partner in a member firm, or]

[(b) Becoming a holder of record and beneficial owner of 5 percent or more of the outstanding voting stock of a member corporation, or]

[(c) Becoming a director and a holder of record and beneficial owner of voting stock of a member corporation, or]

[(d) Becoming a principal executive officer and a holder of record and beneficial owner of voting stock of a member corporation.]

[Such pledge to abide by the Constitution and Rules shall be made by written instrument filed with the Exchange in which the signer pledges himself as aforesaid.] [5]

[RIGHTS AND PRIVILEGES]

[SEC. 10. Any person becoming an allied member shall have all the rights and privileges and shall be under all the duties and obligations of an allied member of the Exchange in accordance with the Constitution. Allied members shall have no right to go upon the Floor of the Exchange except as provided in Article II and in Section 14 of this Article.] [6]

[APPROVED PERSON]

[SEC. 11. Any person who is a director of a member corporation but not a member or allied member, and any party who owns beneficially 5 percent or more of the outstanding voting stock of a member corporation but is not a member or allied member shall become an approved person by filing such applications and executing such agreements with the Exchange as the Board of Directors may from time to time prescribe.] [7]

[DEATH OF SOLE EXCHANGE MEMBER]

SEC. 13. • • •

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[DIRECTOR]

[(b) The Board of Directors may, on the application of the directors in a member corporation whose only officer and holder of voting stock who was member of the Exchange has died, permit, notwithstanding the death of such member, such corporation, if it otherwise meets Exchange requirements, to have the status of a member corporation for such period as the Board of Directors may determine, under such conditions as it may fit. The Board in its discretion may, at any time during such period, withdraw such permission and upon such withdrawal such status shall terminate.] [8]

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ALTERNATES ON FLOOR FOR DIRECTORS OR OFFICERS

SEC. [14] *8.* The Board of Directors may, by the affirmative vote of two-thirds of the Directors present at a meeting of the Board, extend to a member who is a Director or who is an officer of one of the affiliated companies of the Exchange, the privilege of designating an alternate who shall have the power to transact in the place and stead of such member the usual business of such member on the Floor of the Exchange, under such conditions and to such extent as the Board may prescribe, but only at such times as such Director or officer is prevented from transacting his usual business on the Floor by the duties imposed upon him by virtue of his acting as such Director or officer. If such member is a general partner in a member

[1] Integrated into Rule 311(b) as amended.
[2] Integrated into Rule 311(b)(3) as amended.
[3] Repositioned to Rule 311(g) and amended.
[4] Integrated into Rules 311(b)(3) and 312(e) as amended.
[5] Integrated into Rule 304(b) as amended.
[6] Repositioned to Rule 304(c) and amended.
[7] Integrated into Rule 304(h) as amended.
[8] Repositioned to Rule 312(f)(2) and amended.

V42N85 MAY 3 77 UMI

firm, he may designate as such alternate one of his general partners, or if no general partner is ready and able to act, he and his partners may designate as such alternate a person approved by the Board. If such member is a limited partner in a member firm or if he has no partner, he may designate as such alternate a person approved by the Board. If such member is [a holder of voting stock] *an officer* in a member corporation, he may designate as such alternate any [allied member] *other officer* in such corporation, or if no such [allied member] *officer* is ready and able to act, he and the directors of such member corporation may designate as such alternate a person approved by the Board. [If such member holds only non-voting stock in a member corporation he may designate as such alternate a person approved by the Board.] Every contract made on the Floor by any alternate shall have the same force and effect as if it had been made by the member for whom he is acting; and a member for whom an alternate is acting shall be liable to the same discipline and penalties for any act or omission of such alternate as for his own personal act or omission.

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ALTERNATES ON FLOOR DURING NATIONAL EMERGENCIES

SEC. [15] *9.* The Board of Directors may, on the request of a member who, in time of national emergency for this country,

(a) Is on active duty in the armed forces of the United States, or

(b) Is on active duty in the armed forces of any nation or State which is then allied or associated with the United States, or

(c) Is engaged in any public service incident to the national defense, authorize a general partner of such member or [a holder of voting stock] *an other officer* in the member corporation in which such member is [a holder of voting stock] *an officer, or if no such person is ready and able to act, another person approved by the Board,* to transact in the place and stead of such member the usual business of such member on the Floor of the Exchange, under such terms and conditions and to such extent as the Board may prescribe. Every contract made on the Floor by an alternate shall have the same force, and effect as if it had been made by the member for whom he is acting; and a member for whom an alternate is acting shall be liable to the same discipline and penalties for any act or omission of such alternate as for his own personal act or omission.

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ARTICLE XI—TRANSFER OF MEMBERSHIP—TERMINATION OF ALLIED MEMBERSHIP

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CONTRACTS ON THE EXCHANGE BY TRANSFERORS

SEC. 2. A member proposing to transfer his membership shall not after the posting of notice thereof make any contract on the Exchange for settlement on or after the date on which such proposed transfer will be considered by the Board, unless such member is a general partner in a member firm which will continue to be a member firm or is [a holder of voting stock] *an officer* in a member corporation which will continue to be a member corporation, notwithstanding the completion of such transfer, in which case such member may make contracts on behalf of any member, member firm or member corporation whose status as such will continue subsequent to the date of the completion of such transfer. If a contract with such member is made after the posting of notice of the proposed transfer for settlement on or after the date on which such proposed transfer will be considered by the Board, it shall not, if such transfer is approved, be the basis of a claim against the proceeds of such transfer under sub-division THIRD of Section 3 of this Article. However, if such member is a general partner in a member firm which will continue to be a member firm or is [a holder of voting stock] *an officer* in a member corporation which will continue to be a member corporation, notwithstanding the completion of such transfer, such a contract may be the basis of a claim under said sub-division THIRD of Section 3 against the proceeds of the subsequent transfer of the membership of any general partner in such firm or of any [holder of voting stock] *officer* in such corporation, including the transferee of such membership provided he is or becomes at the time of such transfer a general partner in such member firm or [holder of voting stock] *an officer* in such member corporation.

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PRIORITIES IN DISPOSITION OF PROCEEDS OF TRANSFER OF MEMBERSHIP

SEC. 3. Upon any transfer of a membership, whether made by a member or his legal representatives or by the Board of Directors pursuant to the provisions of the Constitution, the proceeds thereof shall be applied by the Exchange to the following purposes and in the following order of priority, viz.:

DUE TO EXCHANGE

FIRST. The payment of such sums as the Board of Directors shall determine are or may become due to the Exchange from the member whose membership is transferred, fom a member firm in which such member is a general partner or from a member corporation [any voting stock of which is held by such member] *in which such member is an officer.*

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SURPLUS OF PROCEEDS

Fifth. The surplus, if any, of the proceeds of the transfer of a membership, after provision for the payment of sums payable under subsections First, Second, Third, and Fourth hereof, shall be paid directly to the person whose membership is transferred, or to his legal representatives, upon the execution and delivery to the Exchange by him or them of a release or releases satisfactory to the Board of Directors, unless the Board, in its discretion, determines either: (a) That the protection of the creditors of the member firm or member corporation or former member firm or former member corporation in which such member is or was last a general partner or [a holder of voting stock] *an officer* requires the use of said surplus or any part thereof, or (b) that such surplus should be paid to such firm or corporation, in view of the fact that such member had expressly agreed, in the case of a partnership, in the partnership articles of such firm or, in the case of a corporation, in a writing filed with the Exchange, that such surplus shall be paid either by him or directly by the Exchange to such member firm or member corporation. In the event the Board makes either of such determinations, such surplus shall be paid to such firm or corporation, upon the execution and delivery to the Exchange by such member or such firm, or both, or by such member or such corporation or both, of a release or releases satisfactory to the Board of Directors.

PROMPT STEPS TO PROTECT RIGHTS REQUIRED

No payment of such surplus under the provisions of this subsection Fifth shall be made to a member firm or to a member corporation or former member firm or former member corporation in which such member is or had previously been a general partner or [a holder of voting stock] *an officer,* if such firm or corporation, in the opinion of the Board of Directors, did not take promptly all proper steps to protect and enforce its rights, or if the Board of Directors, in its sole discretion, shall determine that an unreasonable time has elapsed between the date when he ceased to be such a partner in such firm or [the holder of voting stock] *an officer* in such corporation and the date of the transfer.

AGREEMENTS

Except as otherwise specifically provided for by the Constitution, no recognition or effect shall be given by the Exchange to any agreement or to any instrument entered into or executed by a member or his legal representatives which purports to transfer or assign such member's interest in his membership, or in the proceeds or any part thereof, or which purports to create any lien or other right with respect thereto, or which purports in any manner to provide for the disposition of such proceeds to a creditor of such member; nor shall payment of such proceeds be made by the Exchange to any agent or attorney-in-fact of a member except as may be permitted by the Rules of the Board of Directors in those cases in which (a) such agent or attorney-in-fact is acting solely for and on behalf of such member and is neither directly nor indirectly acting in his own behalf or in behalf of any third person or (b) is a general partner of such member or [a holder of voting stock] *an officer* in a member corporation in which such member is [the holder of voting stock.] *an officer.*

DEATH OF SOLE EXCHANGE MEMBER

Section 5.

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DIRECTOR

(b) If, upon the death of a member who, at the time of his death, was an officer [and holder of voting stock] of a member corporation in which no other officer [and holder of voting stock] is a member of the Exchange, the following conditions exist:

(1) The member corporation continues in business, and

(2) The deceased member shall have agreed in a writing filed with the Exchange that such member corporation, if permitted by the Board of Directors to have the status of a member corporation, shall be entitled to have the use of his membership from the date of his death until the termination of such status of such corporation or until a member of the Exchange becomes an officer of [and a holder of voting stock in] such corporation; and that, insofar as may be necessary for the protection of creditors of the corporation, and subject to the Constitution and Rules of the Exchange, the proceeds of his membership shall be an asset of the corporation during such period, and

(3) Such corporation shall be permitted by the Board of Directors to have the status of a member corporation, then upon the transfer of the membership of such deceased member the proceeds thereof shall be applied to the same purposes and in the same order of priority as if such member had continued to be a member of the Exchange and an officer of [and a holder of voting stock in] such corporation until the date of the termination of such status, or until a member of the Exchange becomes an officer of [and a holder of voting stock in] in such corporation, whichever event occurs first.

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[ALLIED MEMBERSHIP NON-TRANSFERABLE]

[SEC. 9. An allied membership shall not be transferable.] [9]

[DEATH OR EXPULSION OF ALLIED MEMBER]

[SEC. 10. When an allied member dies or is expelled, his allied membership shall terminate.] [10]

[ELECTION OF ALLIED MEMBER AS CHAIRMAN OF THE BOARD]

[SEC. 11. When an allied member is elected Chairman of the Board of Directors or is elected to membership in the Exchange, his allied membership shall terminate.] [11]

[CESSATION OF STATUS AS GENERAL PARTNER OR HOLDER OF VOTING STOCK]

[SEC. 12. When an allied member (a) ceases to be a general partner in a member firm and does not forthwith become a general partner in another member firm or a holder of voting stock in a member corporation continuing the business of the first firm, or (b) ceases to be a holder of voting stock in a member corporation and does not forthwith become a holder of such stock in another member corporation or a general partner in a member firm continuing the business of the first corporation, his allied membership shall terminate.] [12]

NON-PAYMENT OF FINES BY ALLIED MEMBER

SEC. *9.* [13]. When the Treasurer shall report to the Chairman of the Board that an allied member has neglected to pay a fine for forty-five days after the same became payable, the allied membership of such allied member shall terminate, unless the Board of Directors shall have granted an extension of time to pay such fine.

ARTICLE XIII—INSOLVENT MEMBERS, SUSPENSION, REINSTATEMENT—NOTICE FROM MEMBER, SUSPENSION

SEC. 1. A member who fails to perform his contracts, or is insolvent, shall immediately inform the Secretary of the Exchange in writing that he is unable to meet his engagements and prompt notice thereof shall be given to the Exchange. Such member shall thereby become suspended from membership until he has been reinstated as provided in section 5 of this Article [¶16051.

SUSPENSION FOR INSOLVENCY ON DECLARATION

A member or allied member who is a general partner in a member firm or a [holder of voting stock] *member or allied member* in a member corporation which firm or corporation fails to perform its contracts, or is insolvent, or is in such financial or operating condition that it cannot be permitted to continue in business with safety to its creditors or the Exchange, shall immediately inform the Secretary of the Exchange in writing of such fact and prompt notice thereof shall be given to the Exchange. Such member firm or member corporation shall thereby become suspended as a member firm or as a member corporation and every member or allied member who is a general partner [or holder of voting stock therein] *in such member firm and every member or allied member in such member corporation* shall thereby become suspended from membership or allied membership, until reinstated as provided in section 5 of this Article.

NOTICE FROM EXCHANGE—SUSPENSION

SEC. 2. Whenever it shall appear to the Chairman of the Board that a member has failed to meet his engagements, or is insolvent, or the Chairman of the Board has been advised by the Board of Directors of the Exchange or by the Board of Directors of Stock Clearing Corporation that such member is in such financial or operating condition that he cannot be permitted to continue in business with safety to his creditors or the Exchange, prompt notice thereof shall be given to the Exchange. Such member shall thereby become suspended from membership until he has been reinstated as provided in section 5 of this Article [¶ 1605].

SUSPENSION BY EXCHANGE FOR INSOLVENCY

Whenever it shall appear to the Chairman of the Board that a member firm or member corporation has failed to meet its engagements, or is insolvent, or the Chairman of the Board has been advised by the Board of Directors of the Exchange or by the Board of Directors of Stock Clearing Corporation that such member firm or member corporation is in such financial or operating condition that it cannot be permitted to continue in business with safety to its creditors or the Exchange, prompt notice thereof shall be given to the Exchange. Such member firm or member corporation shall thereby become suspended as a member firm or as a member corporation and every member or allied member who is a general partner [or holder of voting stock therein] *in such member firm and every member or allied member in such member corporation* shall thereby become suspended from membership or allied membership, until reinstated as provided in section 5 of this Article.

INVESTIGATION OF INSOLVENCY

SEC. 3. Every member and allied member suspended under the provisions of this Article shall at the request of the Board of Directors or any committee authorized thereby submit to the Board or any such committee his books and papers or the books and papers of his firm or of any employee thereof or the books and papers of the member corporation in which he is [a holder of voting stock] *an officer* or of any employee thereof and furnish information to and appear and testify before or cause any such employee to appear and testify before the Board or any such committee.

TIME LIMIT FOR REINSTATEMENT

SEC. 4. If the Board of Directors determines, after not less than 10 days notice to a member suspended under the provisions of this Article, that the protection of the persons, firms, and corporations entitled to make claim against the proceeds of the transfer of the membership under section 3 of Article XI or of the creditors of the member firm or member corporation in which such member is or was last a general partner or [holder of voting stock] *an officer,* requires the transfer of the membership of such member, such membership may be disposed of by the Board of Directors.

In any case, if a member suspended under the provisions of this Article is not reinstated as provided in Section 5 of this Article within one year from the time of his suspension, or within such further time as the Board of Directors may grant his membership shall be disposed of by the Board of Directors.

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[9] Repositioned to Rule 304(d).
[10] Repositioned to Rule 304(e).
[11] Repositioned to Rule 304(f).
[12] Repositioned to Rule 304(g) and amended.

V42N85 MAY 3 77 UMI

ARTICLE XIV—EXPULSION AND SUSPENSION FROM MEMBERSHIP OR FROM ALLIED MEMBERSHIP—DISCIPLINARY PROCEEDINGS

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FAILURE TO TESTIFY OR PRODUCE RECORDS

SEC. 9. Whenever it is adjudged in a proceeding under this Article that a member, allied member or approved person has been required by the Board or any committee, officer or employee of the Exchange authorized thereby to submit his books and papers or the books and papers of his firm or of any employee thereof or the books and papers of the member corporation in which he is a *member, allied member or approved person,* [stockholder,] or of any employee thereof to the Board or any such committee, officer or employee or to furnish information to or to appear and testify before or to cause any such employee to appear and testify before the Board or any such committee, officer or employee and has refused or failed to comply with such requirement, such member or allied member may be suspended or expelled and such approved person may have his approval withdrawn.

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FAILURE TO TESTIFY OR PRODUCE RECORDS BEFORE OTHER EXCHANGES

SEC. 11. If it is adjudged in a proceeding under this Article that the interest and welfare of the Exchange or of the public will be served by facilitating the examination by the authorities of another exchange of any transaction in which a member or allied member of the Exchange has been concerned and that the testimony of such member or allied member, the employees of the firm in which he is a general partner or the employees of the member corporation in which he is a [stockholder] *member or allied member* or his books and papers or the books and papers of his firm or corporation or of any employee thereof are material to such examination and shall direct such member or allied member to appear and testify or to cause any of such persons to appear and testify or to produce such books and papers before the authorities of such other exchange, and such member or allied member shall refuse or fail to comply with such direction, he may be suspended for a period not exceeding five years.

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SUSPENSION OR EXPULSION OF MEMBERS OF SUSPENDED OR EXPELLED ORGANIZATION

SEC. 22. When a member firm or member corporation is suspended or expelled under the provisions of this Article, each member and allied member who is a general partner in such firm [or a holder of voting stock] *and each member and allied member* in such corporation shall thereupon be suspended or expelled, as the case may be, any such suspension to continue during the suspension of such firm or corporation.

FAILURE OF ORGANIZATION TO PAY FINE

Whenever the Treasurer shall report to the Chairman of the Board that a member firm or member corporation has neglected to pay a fine for forty-five days after the same became payable, the allied membership of each allied member who is a general partner in such member firm [or a holder of voting stock] *and each allied member* in such member corporation shall terminate, unless the Board of Directors shall have granted an extension of time to pay such fine, and any member who is a general partner in such member firm or [a holder of voting stock] *and officer* in such member corporation may be suspended by the Board of Directors until payment of such fine is made. Should payment not be made within one year after payment is due, the membership of any such member may be disposed of by the Board, on at least ten days written notice mailed to such member at his address registered with the Exchange.

RULE 2—"MEMBER," "MEMBERSHIP," "MEMBER FIRM," ETC.

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[The "parent" of another party means any party who has the power to exercise controlling influence over the management or policies of such other party unless such power is solely the result of an official position with such other party.]

[Any party who owns beneficially, either directly or indirectly, more than 25 percent of the voting securities of a first corporation or more than 25 percent of the outstanding voting securities of any other corporation which directly or indirectly through one or more subsidiaries owns beneficially more than 25 percent of the outstanding voting securities of the first corporation, shall be presumed to be the first corporation's parent. Any party who does not so own more than 25 percent of the voting securities of a corporation shall be presumed not be such corporation's parent. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Board of Directors.]

The term "control" means the power to direct or cause the direction of the management or policies of a person whether through ownership of securities, by contract or otherwise. A person shall be presumed to control another person if such person, directly or indirectly,

(i) *Has the right to vote 25 percent or more of the voting securities,*

(ii) *Is entitled to receive 25 percent or more of the net profits, or*

(iii) *Is a director, general partner or principal executive officer (or person occupying a similar status or performing similar functions) of such person. Any person who does not so own voting securities, participate in profits or function as a director, general partner or principal executive officer of another person shall be presumed not to control such other person. Any such presumption may be rebutted by evidence, but shall continue until a determination to the contrary has been made by the Exchange.*

The term "person" shall mean a natural person, corporation, partnership, association, joint stock company, trust, fund or any organized group of persons whether incorporated or not.

The term "engaged in a securities or kindred business" shall mean acting as an investment advisor or transacting business generally as a broker or dealer in securities, including but not limited to, servicing customer accounts or introducing them to another person.

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RULE 104A—SPECIALISTS—GENERAL

• • • Supplementary Material:

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.50 Form 81 Reports.— • • •

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Signature on reports.—Each report submitted by a member should bear his signature or that of a person authorized to submit the report for him. Reports submitted by a member organization should be signed by a general partner, or by an officer [who is a holder of voting stock] or other person authorized to sign.

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RULE 123A—MISCELLANEOUS REQUIREMENTS

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.24 Report forms.—Report forms used on the Bond Floor should be imprinted or rubber stamped with a name of the member, the member organization of which he is a general partner or *an officer* [a holder of voting stock], or both the name of the member and such organization. The use of plain paper for the purpose is not permitted.

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RULE 301—PROPOSED TRANSFER OF MEMBERSHIP

An offer or agreement by a member for the transfer of his membership may be made only in writing in such form as may from time to time be prescribed by the Exchange and shall be executed personally by such member or by his legal representatives, except that an attorney-in-fact of such member may execute such documents in his behalf only if the following conditions are complied with, viz.:

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(3) The Exchange is satisfied that the holder of such power of attorney is acting thereunder solely as agent for the member and is neither directly nor indirectly acting in his own behalf or in behalf of any third person and that he is not a creditor of such member and does not directly or indirectly represent any person who is such a creditor, unless:

(A) The holder of such power of attorney is the Secretary of the Exchange acting pursuant to a power executed by the member and approved by the Exchange in connection with an agreement made with respect to the financing of the purchase of the membership; or

(B) The holder of such power of attorney is a general partner or a principal executive officer in a member organization in which such member is a general partner or *an officer* [a holder of voting stock] and has no financial interest in the transfer other than such as may arise by virtue of such attorney's interest in such member organization.

• • • Supplementary Material:

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.34 IV. A–B–C agreement.—Definition.—An a-b-c agreement is a form of arrangement entered into when it is intended that a portion of the risk of fluctuations in the value of a membership owned by a member of the Exchange, who is a general partner in a member firm or [a holder of voting stock] *an* officer of a member corporation, shall rest with the partners of the firm or with the corporation rather than have the entire risk rest with the member individually. It should be noted a membership, even if it is the subject of an a-b-c agreement, remains a personal franchise vested solely in the member.

Terms of agreement.— • • •

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The member must have the unqualified right, at all times, subject only to his making the agreed payment to his member organization, to retain his membership (i.e., to elect option (a)). The choice as to which of the other two options shall be exercised may rest with the member organization in case the member does not choose to keep his membership. Similarly, the member organization may be empowered to make the election of option (b) or option (c), if the member does not declare his election of option (a) within a specified reasonable time. The agreement must provide that the member will have at least 30 days to declare his election of option (a) computed from the date on which notice is specifically given, pursuant to the partnership articles, separate agreement, or otherwise, that the member organization will be dissolved or cease to be a member organization, or the member's status as a partner or [stockholder] *officer* will be terminated on a specified date. In the event of the death or incompetency of the member the period (at least 30 days) shall be deemed to expire ten days after the appointment of the legal representative or committee of the member. Any sums payable under option (a) or (b) must be payable to the member organization so as to be wholly available to its creditors.

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RULE 302—SURPLUS OF PROCEEDS OF MEMBERSHIP TRANSFERRED

Payment of the surplus, if any, of the proceeds of the transfer of a membership shall be made only to the person or persons specified in subsection Fifth of Section 3 of Article XI of the Constitution (¶ 1503), except that payment of such proceeds may be made to an attorney-in-fact of the person whose membership has been transferred only if the following conditions are complied with, viz.:

• • • • •

(3) The Exchange is satisfied that the holder of such power of attorney is acting thereunder solely as agent for the person whose membership has been transferred and is not, directly or indirectly, acting in his own behalf or in behalf of any third person and that he is not a creditor of the person whose membership has been transferred and does not directly or indirectly represent any person who is such a creditor, unless the holder of such power of attorney is, or immediately preceding the transfer was, a general partner or a principal executive officer in a member organization in which such member was a general partner or [a holder of voting stock] *an Officer* and has no financial interest in such proceeds other than such as may arise by virtue of the fact that he is or was such a partner or such [a holder of voting stock] *an officer* in such member organization.

RULE 303—LIMITATION OF ACCESS TO FLOOR

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• • • Supplementary Material:

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.20 Designation of alternates.—A member of the Exchange who, in time of national emergency for this country, is on active duty in the armed forces of the United States or of any nation or State which is then allied or associated with the United States, or who is engaged in any public service incident to the national defense, may make application to the Board of Directors for approval of an employee who is or shall become an allied member in the member organization in which such member is [a holder of voting stock] *an officer* or a general partner to act as his alternate on the Floor of the Exchange or, *if no such person is ready and able to act, another person approved by Board.* [(Art. IX, Sec. 15 [¶1415].)] *(Art. IX, Sec. 9.)* The procedure in submitting an application for approval of an alternate is, in general, the same as that followed by an applicant for membership.

PROPOSED NEW RULE 304—ALLIED MEMBERS AND APPROVED PERSONS

(a) No person shall become or remain an allied member or an approved person unless approved by the Board of Directors.[12]

(b) Any person, not a member of the Exchange, shall become an allied member of the Exchange by pledging himself to abide by the Constitution as the same has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution and by being either

(i) A general partner in a member firm or an employee who controls such member firm; or

(ii) An employee of a member corporation who is:

(a) A person who controls such corporation, or

(b) A principal executive officer of such corporation.

Such pledge to abide by the Constitution and Rules shall be made by written instrument filed with the Exchange in which the signer pledges himself as aforesaid.[14]

(c) Any person becoming an allied member shall have all the rights and privileges and shall be under all duties and obligations of an allied member of the Exchange in accordance with the Constitution. Allied members shall have no right to go upon the Floor of the Exchange except as provided in Articles II and IX.[15]

(d) An allied membership shall not be transferable.[16]

(e) When an allied member dies or is expelled, his allied membership shall terminate.[17]

(f) When an allied member is elected Chairman of the Board of Directors or is elected to membership in the Exchange, his allied membership shall terminate.[18]

(g) When an allied member ceases or fails to be an allied member associated with a particular member organization, and does not forthwith qualify as an allied member associated with another member organization continuing the business of the first member organization, his allied membership shall terminate.[19]

(h) Any person who controls a member of member organization, or who engages in a securities or kindred business and is controlled by or under common control with a member or member organization but is not a member or allied member or an employee of a member organization shall apply for approval by the Exchange as an approved person by furnishing the Exchange with such information with respect to such applicant, its history and business, its equityholders, officers, partners and directors, any person controlling such applicant, and such other information as the Exchange may from time to time require.[20] *Each such applicant shall agree in writing with the Exchange:*

(1) To supply the Exchange with information with respect to such applicant's relationship and dealings with the member or member organization with which it is or is to become associated as the Exchange may reasonably require; and

(2) To supply the Exchange with information relating to the existence of any statutory disqualification to which the applicant or any person associated with the applicant may be subject, as defined in the Securities Exchange Act of 1934; and

(3) To abide by such provisions of the Constitution and rules of the Exchange relating to approved persons as shall from time to time be in effect; and

[12] Repositioned from Article IX, Section 7(a).

[14] Repositioned from Article IX, Section 9 and Rule 312.18.

[15] Repositioned from Article IX, Section 10 and amended.

[16] Repositioned from Article XI, Section 9.

[17] Repositioned from Article XI, Section 10.

[18] Repositioned from Article XI, Section 11.

[19] Repositioned from Article XI, Section 12, and amended.

[20] Repositioned from Article IX, Section 11 and Rule 311(b) and amended.

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(4) To permit examination by the Exchange, or any person designated by it, at any time or from time to time, of its books and records to verify the accuracy of the information required to be supplied herein and by the rules of the Exchange.

* * * Supplementary Material:

.10 Allied member sponsorship.—An applicant for approval as an allied member of the Exchange shall be sponsored by two members or allied members of the Exchange of at least one year's standing, or be proposed for allied membership by two other responsible individuals who have known the applicant sufficiently well and over a long period of time that they can unqualifiedly endorse the character and integrity of the applicant from their personal knowledge of him and of his business connections. A casual social or business acquaintanceship is not sufficient basis to qualify a member, an allied member or other individual to sponsor or propose the applicant. They should, if possible, not be associated with the organization which the applicant proposes to join. They are required to read and sign the proposed allied member's application.

An applicant for allied membership who has been either a member or an allied member of the Exchange within one year of the date of the new application is not required to be sponsored or proposed.[21]

.11 Posting.—An application for approval of admission of any party (other than an application for a member of the Exchange) or for the approval of the formation and admission of a member organization, is ordinarily not acted upon by the Exchange until after the application has been posted on the bulletin board of the Exchange and published in the Weekly Bulletin of the Exchange for a period of not less than two weeks. Such notice is posted upon submission in proper form of all required papers in connection with the application.[22]

Rule 304A—MEMBER AND ALLIED MEMBER EXAMINATION REQUIREMENTS (FORMERLY RULE 304)

(a) Every applicant for membership or allied membership shall pass a basic examination required by the Exchange unless such examination is waived by the Exchange.

(b) Every applicant for membership or allied membership shall agree with the Exchange that, unless the appropriate qualifying examination required by the Exchange is waived, the applicant will, within three months following six months after becoming a member or allied member without having passed such examination, or upon failure to pass such examination after not more than three attempts, whichever occurs first, cease to be a member or allied member, retire as a general partner, principal executive officer, or director and if necessary promptly dispose of sufficient voting stock as may be necessary to reduce ownership below [5% of outstanding voting stock of the member organization.] *that level which enables such applicant to exercise controlling influence over the management or policies of the member organization.*

* * * * *

RULE 311—FORMATION OF OR ADMISSION TO MEMBER ORGANIZATIONS

* * * * *

[(b) Any person who is a director of a member corporation but not a member or allied member, or who controls a member organization but is not an employee or a member or allied member or a person subject to Rule 389 shall apply for approval by the Board of Directors as an approved person of such organization by furnishing the Exchange with such information with respect to such applicant, its history and business, its equityholders, officers, partners and directors, any parent of such applicant, and such other information as the Exchange may from time to time require. Each such applicant shall agree in writing with the Exchange.] [23]

(b) The Board of Directors shall not approve a partnership or corporation as a member organization unless:

(1) At least a majority of the directors of such corporation are members or allied members; and each director of such corporation who is not a member or allied member is an approved person; and [24]

(2) Every person who controls such corporation is a member, allied member or approved person; and [25]

(3) Every person who is a general partner in such partnership is a member or allied member and every person not a general partner who controls such partnership is a member, allied member or approved person; and [26]

(4) Every person who engages in a securities or kindred business and is controlled by or under common control with such partnership or corporation is an approved person; and

* * * * *

(g) A member who is a limited partner in a firm does not thereby confer any of the privileges of the Exchange on such firm, and a member who is not an officer of a member corporation does not confer any of the privileges of the Exchange on such corporation.[27]

* * * * *

* * * Supplementary Material:

* * * * *

.11 Application.— * * *

(Third) *The papers required to be submitted prior to approval of the admission of an Exchange member to an existing member organization are as follows:*

(1) Letter signed either by an Exchange member who is a general partner or an officer in the organization, or by an allied member of the organization and by the Exchange member proposed to be admitted to the member organization giving the proposed date of admission to the member organization and stating whether the member will be a general or limited partner, or an officer;

(2) Application executed by the proposed Exchange member proposed to be admitted to the member organization.[28]

* * * * *

RULE 312—NOTICE OF CHANGES WITHIN MEMBER ORGANIZATION

* * * * *

(e) Unless permitted by the Board of Directors, no person shall be a member or allied member in a member organization unless all persons required to be approved by the Board of Directors are so approved.[29]

(f) (2) *The Board of Directors may, on the application of the director in a member corporation whose only officer who was a member of the Exchange has died, permit, notwithstanding the death of such member, such corporation, if it otherwise meets Exchange requirements, to have the status of a member corporation for such period as the Board of Directors may determine, under such conditions as it may fix. The Board in its discretion may, at any time during such period, withdraw such permission and upon such withdrawal such status shall terminate.*[30]

* * * * *

* * * Supplementary Material:

* * * * *

.16 Application.— * * *

* * * * *

(Third) [The papers required to be submitted prior to approval of the admission of an Exchange member to an existing member organization are as follows:]

[(1) Letter signed either by an Exchange member who is a general partner or a holder of voting stock in the organization, or by an allied member of the organization and by the Exchange member proposed to be admitted to the member organization giving the proposed date of admission to the member organization and stating whether the member will be a general or limited partner, or a holder or voting or non-voting stock;]

[(2) Application executed by the proposed Exchange member proposed to be admitted to the member organization.] [31]

* * * * *

[.18 Allied member pledge.—A proposed allied member must sign a statement in which he pledges himself to abide by the Constitution as from time to time amended and the Rules adopted pursuant thereto. (Art. IX, Sec. 10 (¶ 1410.) This pledge is included in the application to be executed by each proposed allied member.] [32]

[.20 Allied Member sponsorship.—An applicant for approval as an allied member of the Exchange shall be sponsored by two members or allied members of the Exchange of at least one year's standing, or be proposed for allied membership by two other responsible individuals who have known the applicant sufficiently well and over a long period of time that they can unqualifiedly endorse the character and integrity of the applicant from their personal knowledge of him and of his business connections. A casual social or business acquaintanceship is not sufficient basis to qaulify a member, an allied member or other individual to sponsor or propose the applicant. They should, if possible, not be associated with the organization which the applicant proposes to join. They are required to read and sign the proposed allied member's application.]

[An applicant for allied membership who has been either a member or an allied member of the Exchange within one year of the date of the new application is not required to be sponsored or proposed.] [33]

[.22 Posting.—An application for approval of admission of any party (other than an application for a member of the Exchange) or for the approval of the formation and admission of a member organization, is ordinarily not acted upon by the Exchange until after the application has been posted on the bulleting board of the Exchange and published in the Weekly Bulletin of the Exchange for a period of not less than two weeks. Such notice is posted upon submission in proper form of all required papers in connection with the application.] [34]

* * * * *

RULE 314—INTEREST IN BUSINESS

Every member and allied member in a member [organization] *firm* must have a fixed interest in each segment or division of its business, but the interest in each segment or division need not be the same.[35]

* * * Supplementary Material:

* * * * *

INFORMATION COMMON TO PARTNERSHIPS AND CORPORATIONS

.12 Required agreement by member.—Each member who is a general partner or [a holder of voting stock] *an officer* in a member organization shall specifically agree in the firm's partnership articles or in the case of a member corporation, in a document filed with the Exchange, that he contributes the use of his membership to the organization and that, insofar as may be necessary for the protection of creditors of the organization, and subject to the Constitution and Rules of the Exchange, the proceeds of the transfer of his membership shall be an asset of the member organization.

* * * * *

.14 Floor commissions.—All Floor commissions of an Exchange member who is a general partner or [a holder of voting stock] *an officer* in a member organization must be for the account of the [firm] *organization*. Floor commissions earned by a limited partner or a holder of [non-voting] stock who is a member of the Exchange must be retained by him unless such a holder of [non-voting] stock is also [a holder of voting stock] *an Officer* in which event commissions must be for the account of the member corporation.

* * * * *

.15 Specialist trading.—when an Exchange member *who is a* general partner or *an officer* [holder of voting stock] in a member organization is a specialist, his ordinary trading business as a specialist must be for the organization's account, or for the joint account in which his organization is permitted to participate under the provisions of Rule 94(b) -[¶2094].

.16 Death of sole Exchange member partner or officer [and holder of voting stock].—For suggested provisions for inclusion in partnership articles or in the agreement with the Exchange to enable a member organization to apply, in accordance with *the rules of the Exchange* [Sections 13(a) and 13(b) of Article IX of the Constitution (¶1413)], for permission to continue as a member organization following the death of its sole Exchange member partner or officer [and holder of voting stock], organizations should consult with Regulation and Surveillance.

In each case involving the death of a sole Exchange member partner or officer [and holder of voting stock] who, at the time of his death, (1) was in the active military or naval service of the United States, or (2) in time of war in which the United States is a belligerent, was in the active military or naval service of any nation or State which is a belligerent against one or more enemies of the United States, or (3) was occupied in any public service incident to the national defense, the Exchange will, after considering all the circumstances surrounding the particular case, prescribe a definite period during which the organization may have the status of a member organization.

In those cases involving the death of a sole Exchange member partner or officer [and holder of voting stock] who, at the time of his death, was not engaged in war service as defined in (1), (2), and (3) above, the maximum period the Exchange will prescribe during which the organization may have the status of a member organization will not exceed sixty days from the date of the death of the sole Exchange member partner or officer [and holder of voting stock].

RULE 440G—TRANSACTIONS IN STOCKS AND WARRANTS FOR THE ACCOUNTS OF MEMBERS, ALLIED MEMBERS AND MEMBER ORGANIZATIONS

* * * Supplementary Material:

REPORTS ON FORM 121

.10 Requirements for filing.—* * *

* * * * *

(10) Transactions are to be classified into one of the following three categories:

(a) As Specialist. (Box 1) This includes transactions made, while running the book, for the account of regular or relief specialists in the stocks or warrants in which they are registered, as specialists, by them or by a [partner/stockholder of their firm] *partner or an officer of their organization* or by a member with whom they have a joint account.

* * * * *

RULE 440I—NET COMMISSIONS RECEIVED AND RETAINED ON FLOOR TRANSACTIONS

* * * Supplementary Material:

REPORTS ON FORM 600

.10 When and by whom reports are to be submitted.—(1) Each member organization and each individual member who is not a general partner of a member firm or [a holder of voting stock] *an officer* in a member corporation is required to submit to the Controller's Department a report of commissions on business done on the Exchange during the preceding month.

* * * * *

(6) A member who retires as a general partner in a member firm or ceases to be [a holder of voting stock] *an officer* in a member corporation and does not immediately become a general partner in another member firm or [a holder of voting stock] *an officer* in another member corporation is required to file a report for the period commencing the next business day following such event. (The first report and subsequent reports are to be filed in accordance with instruction 3 above.)

(7) An individual member (including special and limited partners in member firms and holders of [non-voting] stock *who are not officers* in member corporations) who would not as a rule have anything to report on Form 600 may obtain permission to submit only an annual report (to be filed on or before December 15 of each year for the period ending November 30) by making a written request to the Controller of the Exchange for such permission, setting forth the reasons therefor.

.20 Contents of Report.—Item (1) on Form 600—Report the total of all commissions received or receivable on business for members, member organizations, non-members, and allied members (including special offerings and odd-lot transactions).

All "brokerage" earned on the Floor of the Exchange by a member who is a general partner of a member firm or [a holder of voting stock] *an officer* in a

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[21] Repositioned from Rule 312.20.
[22] Repositioned from Rule 312.22.
[23] Integrated into Rule 304(h) as amended.
[24] Repositioned from Article IX, Section 7(b)(1) and amended.
[25] Repositioned from Article IX, Section 7(b)(3) and amended.
[26] Repositioned from Article IX, Section 8.
[27] Repositioned from Article IX, Section 7(b)(1).
[28] Repositioned from Rule 312.16.
[29] Repositioned from Article IX, Section 8 and amended.
[30] Repositioned from Article IX, Section 13(b) and amended.
[31] Integrated into Rule 311.11
[32] Integrated into Rule 304(b).
[33] Integrated into the new Rule 304.10.
[34] Integrated into new Rule 304.11.
[35] Text of body of Rule 314 currently pending SEC approval (SR-NYSE-76-26).

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member corporation shall be included in the report rendered by that member firm or member corporation.

. . . . . .

.30 Miscellaneous instructions regarding Form 600.—. . .

. . . . . .

(3) A report submitted by a member organization should bear the individual signature of a general partner in that firm, or an officer [who is a holder of voting stock] in that corporation, and a reprt submitted by an individual member should bear his signature.

. . . . . .

RULE 440J—ODD LOT TRANSACTIONS BY ODD LOT DEALERS

. . . Supplementary Material:

REPORTS ON FORM 600—A

.10 When and by whom reports are to be submitted.—(1) Each member organization and each individual member who is not a general partner of a member firm or (a holder of voting stock) *an officer* in a member corporation who makes transactions on the Floor of the Exchange as an odd lot dealer is required to submit to the Controller's Department a report showing the aggregate share volume of his or its odd lot purchases and sales effected on the Exchange during the preceding month.

. . . . . .

.30 Miscellaneous instructions regarding Form 600–A.—. . .

. . . . . .

(3) A report submitted by a member organization should bear the individual signature of a general partner in that firm, or an officer [who is a holder of voting stock] in that corporation, and a report submitted by an individual member should bear his signature.

. . . . . .

RULE 440L—COLLECTION OF ASSESSMENTS, ETC.

. . . Supplementary Material:

. . . . . .

REPORTS ON FORM 601

.10 When and by whom reports are to be submitted.—(1) Each member organization and each individual member who is not a general partner of a member firm or [a holder of voting stock] *an officer* in a member corporation is required to submit a report on Form 601 to the Controller's Department.

. . . . . .

(4) A member who retires as a general partner in a member firm or ceases to be [a holder of voting stock] *an officer* in another member corporation is required to file a report for the period commencing the next business day following such event. (The first report and subsequent reports are to be filed in accordance with instruction 2 above.)

(5) An individual member (including special and limited partners in member firms and holders of [non-voting] stock *who are not officers* in member corporations) who would not as a rule have anything to report on Form 600 may obtain permission to submit only an annual report on Forms 600 and 601 (to be filed on or before December 15 of each year for the period ending November 30) by making a written request to the Controller of the Exchange for such permission, setting forth the reasons therefor.

.20 Contents of report.—. . .

. . . . . .

Line 5(B) (To be [filed] *filled* in by individual members who are not general partners of member firms or [holders of voting stock] *officers* in member corporations.) Enter the minimum charge of $125 per month.

. . . . . .

Line 5(C) (to be [filed] *filled* in by member organizations.) Enter the minimum charge of $125 per month for each Exchange member who was a general partner or [holder of voting stock] *an officer* on the last day of the month covered by the report.

. . . . . .

.30 Miscellaneous information regarding Form 601.—. . .

. . . . . .

(3) A roport submitted by a member organization should bear the individual signature of a general partner in that firm, or an officer [who is a holder of voting stock] in that corporation, and a report submitted by an individual member should bear his signature.

. . . . . .

RULE 440M—COLLECTION OF ASSESSMENTS, ETC.

. . . Supplementary Material:

. . . . . .

REPORTS ON FORM 601A

.10 When and by whom reports are to be submitted.— (1) Each member organization and each individual member who is not a general partner of a member firm or [a holder of voting stock] *an officer* in a member corporation who makes transactions on the floor of the Exchange as an odd lot dealer is required to submit a report on Form 601A to the Controller's Department.

. . . . . .

.20 Contents of report.—. . .

. . . . . .

Line 5(B) (To be filled in by individual members who are not general partners of member firms or [holders of voting stock] *officers* in member corporations.) Enter the minimum charge of $125 per month.

. . . . . .

Line 5(C) (To be filled in by member organizations.) Enter the minimum charge of $125 per month for each Exchange member who was a general partner or [holder of voting stock] *an officer* on the last day of the month covered by the report.

. . . . . .

.30 Miscellaneous information regarding Form 601A.— . . .

. . . . . .

(2) A report submitted by a member organization should bear the individual signature of a general partner in that firm, or an officer [who is a holder of voting stock] in that corporation, and a report submitted by an individual member should bear his signature.

. . . . . .

RULE 460—SPECIALISTS PARTICIPATING IN CONTESTS

(a) No member who is a specialist, no partner of a member firm in which such member is a partner, no stockholder, *director or officer* in a member corporation in which such mamber is [a stockholder] *an officer*, no such firm or corporation, nor any employee of any of them, shall participate in a proxy contest of a company if such member specializes in the stock of that company.

SPECIALIST DIRECTORS

(b) No member who is a specialist, no partner of a member firm in which such member is a partner, no stockholder, *director or officer* in a member corporation in which such member is [a stockholder] *an officer*, nor any employee of any of them, shall be a director of a company if such member specializes in the stock of that company.

[FR Doc.77–12640 Filed 5–2–77;8:45 am]

[Administrative Proceeding File No. 3–5178; File No. 81–254]

AMERICAN BRANDS OVERSEAS, N.V.

Application and Opportunity for Hearing

APRIL 21, 1977.

Notice is hereby given that American Brands Overseas, N.V. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act"), that Applicant be granted exemption from the provisions of Section 13 of that Act.

Section 13 of the 1934 Act provides that every issuer of a security registered pursuant to section 12 of the 1934 Act, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, such information and documents as the Commission shall require to keep reasonably current the information included in the registration statement, and such annual and quarterly reports as the Commission may prescribe.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the provisions of Section 13, if the Commission finds that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part: (1) Applicant is a Netherlands Antilles corporation and a wholly owned subsidiary of American Brands, Inc.

(2) In 1969, Applicant issued $25,000,000 principal amount of its debentures for offering outside the United States.

(3) The debentures are unconditionally guaranteed by American Brands, Inc.

(4) The debentures are listed on the New York Stock Exchange and registered pursuant to Section 12(b) of the 1934 Act. The securities of American Brands, Inc. are also listed on the New York Stock Exchange.

In the absence of an exemption, Applicant is required to file annual and periodic reports with the Commission pursuant to Section 13 of the 1934 Act.

Applicant contends that the exemptive order requested is appropriate in view of the facts that since the debentures are fully guaranteed by American Brands, Inc., it is the reports of that Company in which investors will be primarily interested; that the expense of reporting is not justified by any United States public interest; and that there has been virtually no trading in the debentures.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 16, 1977, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after that date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–12631 Filed 5–2–77;8:45 am]

[Administrative Proceeding File No. 3–5179; File 81–255]

AMERICAN TOBACCO INTERNATIONAL CORP.

Application and Opportunity for Hearing

APRIL 21, 1977.

Notice is hereby given that American Tobacco International Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act"), that Applicant be granted exemption from the provisions of Section 13 of that Act.

Section 13 of the 1934 Act provides that every issuer of a security registered pursuant to Section 12 of the 1934 Act, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, such information and documents as the Commission shall require to keep reasonably current the information included in the registration statement, and such annual and quarterly reports as the Commission may prescribe.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the provisions of Section 13, if the Commission finds that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant contends that the exemptive order requested is appropriate in view of the facts that since the debentures are fully guaranteed by American Brands, Inc., it is the reports of that Company in which investors will be primarily interested; that the expense of reporting is not justified by any United States public interest; and that there has been no trading in the debentures.

The Applicant contends that there would be no useful purpose secured by the filing of continued reports in view of these facts.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 16, 1977, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after that date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–12632 Filed 5–2–77;8:45 am]

[Rel. No. 9736; 812–3805]

METROPOLITAN LIFE INSURANCE CO. AND METROPOLITAN VARIABLE ACCOUNT B OF METROPOLITAN LIFE INSURANCE COMPANY

Order Granting Exemption

APRIL 26, 1977.

Metropolitan Life Insurance Company ("Metropolitan"), One Madison Avenue, New York, NY, 10010, a New York mutual life insurance company, and Metropolitan Variable Account B of Metropolitan Life Insurance Company ("Account B"), a separate account of Metropolitan registered under the Investment Company Act of 1940 ("Act") as an open-end management investment company (hereinafter collectively referred to as "Applicants"), filed an application on May 9, 1975 and amendments thereto on December 8, 1975, February 22, 1977 and March 30, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas.

On March 31, 1977, the Commission issued a notice (Investment Company Act Release No. 9702) of the filing of an application. The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered. No request for a hearing has been filed and the Commission has not ordered a hearing.

The matter has been considered and it has been found that the granting of the application is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly,

It is ordered, pursuant to section 6(c) of the Act, that the application for exemption from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with certain provisions of the Education Code of the State of Texas as it would apply to variable annuity contracts issued subsequent to the date of this order, be, and hereby is, granted, effective forthwith.

For the commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–12633 Filed 5–2–77;8:45 am]

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[Release No. 34-13452; File No. SR-MSE-77-8]

MIDWEST STOCK EXCHANGE, INC.

Proposed Rule Changed by Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 11, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(*Additions italicized*—[Deletions bracketed])

ARTICLE XXVI—ADVERTISING AND PROMOTION

Filing of Advertisements

Rule 3. Every member organization shall file each advertisement with the Exchange promptly after initial use, except such routine advertisements as:

Business Cards

(a) business cards or so-called tombstone advertisements;

Specific Securities Bought, Sold, or Quoted

(b) Announcements that specific securities are bought, sold or quoted;

Offers To Furnish Literature

(c) Offers to furnish literature concerning a specific security or securities;

Personnel Changes

(d) Announcements of personnel changes;

Inquiry Invitations

(e) Advertisements inviting inquiries about a particular security or securities;

Summaries of Services Offered

(f) Advertisements briefly summarizing services offered;

1933, 1934 Securities Exchange Acts

(g) Advertisements complying with any rule or regulation of the Securities and Exchange Commission under the Securities Act of 1933, or Securities Act of 1934;

Prior Clearance

(h) Any advertisement which has already received clearance from the National Association of Securities Dealers or another stock exchange designated by the Board of Governors as having substantially the same standards as set forth [in this Article.]

Market Letters and Sales Literature

Rule [4] 3. All *advertisements*, market letters and sales literature prepared and issued by a member [firm or corporation] *organization* shall be approved by a partner of the member firm or an officer of the member corporation. Market letters and sales literature which refer to the market or to specific companies, insurance policies, or securities, listed or unlisted, shall be retained for at least three years by the member [firm or member corporation] *organization* which prepared the material. The copies retained shall contain the name of the partner or officer approving its issuance and the name or names of the persons who prepared the material, and shall at all times within the three-year period be readily available for examination by the Exchange.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to eliminate the requirement that member organizations file advertisements with the Exchange promptly after initial use. Such advertisements would require approval of a partner of a member firm or officer of a member corporation, would be required to conform to the Exchange's standards for such material and be subject to review by the Exchange.

This amendment purposely places compliance with advertising standards in the dominion of member organization management which will be responsible for adherence with the standards of the Exchange. Advertising would be reviewed by the Exchange after publication as part of its normal field examination program. This method of surveillance is currently used for market letters and sales literature. Failure to comply with Exchange standards may subject the member organization to enforcement procedures.

The proposed rule change is based on Sections 6(b) (1), (5) and (8) of the Securities Exchange Act of 1934. The Exchange has the staff to review member organizations for compliance with the Exchange's standards for advertising. This will be accompanied by a spot check of advertising material. Failure to comply with the standards may result in enforcement proceedings against the member organization. The proposed rule change continues the requirement of the maintenance of standards of truthfulness and good taste in advertising. Such standards relate to Section 9(a) and 10 (b) of the Act.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before June 7, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of th filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 19; 1977.

[FR Doc.77-12638 Filed 5-2-77;8:45 am]

[Release No. 13467; File No. SR-NESDTCO-77-3]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change

APRIL 25, 1977.

On March 16, 1977, the New England Securities Depository Trust Company ("NESDTC") 53 State Street, Boston, Massachusetts, 02109 submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would provide for the appointment of NESDTC as a depository facility for the Depository Trust Company ("DTC"), the first of three steps planned to establish a full interface between NESDTC and DTC.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 16006, March 24, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13390, March 18, 1977. To date, no letters of comment have been received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-NESDTCO-77-3 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12634 Filed 5-2-77;8:45 am]

[Release No. 13466; File No. SR-NESDTCO-77-4]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change

APRIL 25, 1977.

On March 16, 1977, New England Securities Depository Trust Company ("NESDTC") 53 State Street, Boston, Massachusetts 02109, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change, which would provide for the appointment of NESDTC as a depository facility for the Midwest Securities Trust Companw ("MSTC"), the first step toward a full interface between NESDTC and MSTC.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 16006, March 24, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13389, March 18, 1977. To date, no letters of comment have been received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-NESDTCO-77-4 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12635 Filed 5-2-77;8:45 am]

[Release No. 9733; 811-2014]

PACIFIC MUTUAL FUND, INC.

Filing of Application

APRIL 22, 1977.

Notice is hereby given that Pacific Mutual Fund, Inc. ("Applicant"), 700 Newport Center Drive, Newport Beach, California 92663, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on May 12, 1976, and an amendment thereto on February 14, 1977, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the laws of the State of Delaware on December 22, 1969, registered under the Act on February 2, 1970, and filed a registration statement under the Securities Act of 1933 ("1933 Act") on June 17, 1970, such registration statement having become effective on September 1, 1971. Applicant further states that on January 23, 1976, it had a total of 378,731.2646 shares issued and outstanding, and that, concurrently with the filing of this application, it made a request to deregister its shares now registered under the 1933 Act.

Applicant states that, pursuant to the approval of its directors and shareholders, it transferred all its assets to American Mutual Fund, Inc., an open-end, diversified, management investment company, on January 23, 1976, except for funds of approximately $11,267 for use in winding up its affairs, which funds have been expended for such purpose so that Applicant has no remaining assets. Applicant further states that it received shares of American Mutual Fund, Inc. in consideration of the transfer of such assets and has distributed these shares to its shareholders.

According to the application, Applicant, in order to terminate its corporate existence, filed a Certificate of Dissolution with the Secretary of State of Delaware on March 8, 1976, is not engaged in business of any kind, and is in the process of winding up its affairs.

Section 8(f) of the Act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 16, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may redressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12636 Filed 5-2-77;8:45 am]

[Administrative Proceeding File No. 3-5166; File No. 81-251]

SHERWOOD MEDICAL INDUSTRIES INC.

Application and Opportunity for Hearing

APRIL 21, 1977.

Notice is hereby given that new Sherwood Medical Industries Inc. ("Applicant"), as successor by merger to Sherwood Medical Industries Inc. ("Sherwood"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from filing with respect to Sherwood an annual report on Form 10-K for the year ended December 31, 1976, required to be filed pursuant to Section 15(d) of the 1934 Act.

Section 15(d) of the 1934 Act requires that issuers that have filed a registration statement that has become effective pursuant to the Securities Act of 1933, must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the provisions of Section 15(d) of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or protection of investors.

The Applicant states in part that: (1) Prior to the merger of Sherwood into Applicant, Sherwood was subject to the provisions of Section 15(d) of the 1934 Act and its common stock was registered pursuant to Section 12(b) of the 1934 Act.

(2) A plan to merge Sherwood into Applicant was submitted to the shareholders of Sherwood at a special meeting held on November 30, 1976, and proxy soliciting material containing detailed information, including financial statements, concerning Sherwood and the terms of the merger were filed with the Commission and distributed to shareholders. The merger was consummated on November 30, 1976.

(3) Pursuant to the terms of the merger, all of the outstanding securities of Sherwood were converted into securities of Brunswick Corporation. Applicant is a wholly owned subsidiary of Brunswick.

(4) There is no trading in Sherwood's common stock.

In the absence of an exemption, Applicant is required to file pursuant to Section 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10-K with respect to Sherwood for the year ended December 31, 1976. Applicant believes that its request for an order exempting it from the provisions of Section 15(d) of the 1934 Act is appropriate in view of the fact that there is no public ownership or trading in Sherwood's securities. Appli-

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cant believes that filing an Annual Report on Form 10-K would not be necessary for the protection of investors.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested persons, not later than May 16, 1977, may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the persons submitting such information or requesting the hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. At any time after that date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12637 Filed 5-2-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series—No. 10-77]

7¼ PERCENT TREASURY NOTES OF FEBRUARY 15, 1984, SERIES A-1984

APRIL 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,750,000,000 of United States securities, designated 7¼ percent Treasury Notes of February 15, 1984, Series A-1984 (CUSIP No. 912827 GL 0). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 7¼ percent Treasury Notes of February 15, 1984, Series A-1984 (CUSIP No. 912827 GL 0) issued under Department of the Treasury Circular, Public Debt Series—No. 3-77, dated January 27, 1977, except that interest will accrue from May 16, 1977, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from February 15, 1977. With this exception the securities are as described in the following excerpt from the above circular:

2.1. The securities will be dated February 15, 1977, and will bear interest[1] from that date, payable on a semiannual basis on August 15, 1977, and each 6 months thereafter on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 3, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 2, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 98.50 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price in two decimals of accepted competitive tenders, and competitive tenders at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. PAYMENT AND DELIVERY

5.1 Settlement for allotted securities must be made or completed on or before Monday, May 16, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from February 15 to May 16, 1977, in the amount of $18.02486 per $1,000 of securities allotted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, May 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, May 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-12800 Filed 4-29-77;4:20 pm]

[Department Circular; Public Debt Series—No. 11-77]

7⅝ PERCENT TREASURY BONDS OF 2002-2007

APRIL 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,000,000,000 of United States securities, designated 7⅝ percent Treasury Bonds of 2002-2007 (CUSIP No. 912810 BX 5). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 7⅝ percent Treasury Bonds of 2002-2007 (CUSIP No. 912810 BX 5) issued under Department of the Treasury Circular, Public Debt Series—No. 4-77, dated January 27, 1977, except that interest will accrue from May 16, 1977, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from February 15, 1977. With this exception, the securities are as described in the following excerpt from the above circular:

2.1. The securities will be dated February 15, 1977, and will bear interest[1] from that date, payable on a semiannual basis on August 15, 1977, and each 6 months thereafter on February 15 and August 15 until the principal becomes payable. They will mature on February 15, 2007, but may be redeemed at the option of the United States on and after February 15, 2002, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities will interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 4, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 3, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 92.75 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting

[1] On February 3, 1977, the Secretary of the Treasury announced that the interest rate on the notes would be 7¼ percent per annum.

[1] On February 4, 1977, the Secretary of the Treasury announced that the interest rate on the bonds would be 7⅝ percent per annum.

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demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectable checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price in two decimals of accepted competitive tenders, and competitive tenders at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, May 16, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from February 15 to May 16, 1977, in the amount of $18.95718 per $1,000 of securities allotted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, May 11, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, May 10, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registration or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-12801 Filed 4-29-77;4:20 pm]

INTERSTATE COMMERCE COMMISSION

[Notice No. 381]

ASSIGNMENT OF HEARINGS

APRIL 28, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 9859 (Sub-No. 4), Kane Transfer Co., now assigned June 6, 1977, at Baltimore, Md., is canceled and reassigned for July 11, 1977 (1 week), at Salisbury, Md., in a hearing room to be later designated.

FF 488, Retail Merchants Consolidation & Distribution Center, Inc., now assigned June 6, 1977, at Columbus, Ohio, is postponed indefinitely.

MC 133095 (Sub-No. 114), Texas Continental Express, Inc., now assigned May 4, 1977, at Minneapolis, Minn., is postponed indefinitely.

MC 114552 (Sub-No. 124), Senn Trucking Co., now assigned June 1, 1977 (3 days), at Jacksonville, Fla., instead of (1 day).

MC 113678 (Sub-No. 630), Curtis, Inc., now assigned May 23, 1977, at Omaha, Nebr., has been postponed indefinitely.

MC 123407 (Sub-No. 328), Sawyer Transport, Inc., now assigned June 2, 1977, at Jacksonville, Fla., is being advanced to June 1, 1977 (3 days), at Jacksonville, Fla., in a hearing room to be later designated.

MC 111545 (Sub-No. 230), Home Transportation Co., Inc., now being assigned June 1, 1977 (3 days), at Jacksonville, Fla., in a hearing room to be later designated.

MC 31023 (Sub-No. 4), Moon Carrier, now assigned May 4, 1977, at New York, N.Y. is canceled and application dismissed.

MC 134922 Sub-No. 226, B. J. McAdams, Inc., now being assigned June 6, 1977 (1 day), at San Francisco, Calif., in a hearing room to be later designated.

MC 115557 Sub-No. 13, Charles A. McCauley now assigned May 10, 1977, at Washington, D.C., is now being transfered to Modified Procedure.

MC 125538 Sub-No. 15, George W. Kugler, Inc., now assigned May 16, 1977, at Washington, D.C., is canceled, application dismissed.

MC 138713 (Sub-No. 1), R. & G. Transit Corp., now assigned May 17, 1977, at Springfield, Ill., will be held in the Basement Conference Room 17, U.S. Post Office Building, 600 East Monroe.

MC 59717 (Sub-No. 3), Jacksonville Bus Line Co., now assigned May 23, 1977, at Springfield, Ill., will be held in the Basement Conference Room 17, U.S. Post Office Building, 600 East Monroe.

MC 13250 (Sub-No. 136), J. H. Rose Truck Lines, Inc.; MC 14743 (Sub-No. 28), E. L. Powell & Sons Trucking Co., Inc.; MC 19416 (Sub-No. 14), Dunn Bros., Inc.; MC 43867 (Sub-No. 32), A. Leander McAlister Trucking Co.; MC 60157 (Sub-No. 26), C. A. White Trucking Co.; MC 63792 (Sub-No. 27), Tom Hicks Transfer Co., Inc.; MC 66886 (Sub-No. 53), Belger Cartage Service, Inc.; MC 68100 (Sub-No. 18), D. P. Bonham Transfer, Inc.; MC 99214 (Sub-No. 6), Patterson Truck Line, Inc.; MC 106775 (Sub-No. 42), Atlas Truck Line, Inc.; MC 112304 (Sub-No. 115), Ace Dorah Hauling & Rigging Co.; MC 117674 (Sub-No. 262), Daily Express, Inc.; MC 119176 (Sub-No. 15), The Squaw Trucking Co.; MC 120257 (Sub-No. 33), K. L. Breedon & Sons; MC 120675 (Sub-No. 3), Acme Trcuk Lines, Inc.; MC 120761 (Sub-No. 19), Newman Bros. Trucking Co.; MC 124947 (Sub-No. 57), Machinery Transports, Inc.; MC 138322 (Sub-No. 4), BHY Trucking, Inc., now being assigned May 9, 1977 (2 weeks), at the Whitehall Hotel, 1700 Smith St., Cullen Center, Houston, Tex., and continued to May 23, 1977 (1 week), at the Fairmont Mayo Hotel, 115 West 5th Street, Tulsa, Okla.

MC 113855 Sub-No. 362, International Transport, Inc., now assigned May 12, 1977, at Washington, D.C., is canceled and transferred to modified procedure.

MC 142308, Bob Forman Associates, Inc., now assigned May 3, 1977, at Charlotte, N.C., is canceled and transferred to modified procedure.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12687 Filed 5-2-77;8:45 am]

[AB 6 (Sub-No. 44)]

BURLINGTON NORTHERN INC.

Abandonment of Railroad Services

APRIL 22, 1977

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Burlington Northern, Inc., of its line of railroad between Camdon and West Frankfort, a distance of 3.99 miles, in Franklin County, Ill., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that this line has handled a minimal amount of traffic, which amounted to 16 carloads in 1975. Consequently, abandonment and the subsequent diversion of traffic from rail to motor carrier will have minimal effects on fuel consumption, air quality, and traffic congestion. Although the major industry in this area has been coal mining, the mines have been closed for some time. Abandonment is not expected to have a serious adverse impact on rural and community development because there are no industrial development plans which conflict with the proposed abandonment. There is a fully developed industrial park located along the rail line in West Frankfort. However, none of the industries in this park are dependent on the line for rail service, and the Chicago and Eastern Illinois Railroad could serve this park by construction of a rail spur if the need arises. The line to be abandoned is not considered suitable for other public purposes.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 6, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12694 Filed 5-2-77;8:45 am]

[AB 37 (Sub-No. 6)]

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.

Abandonment and Abandonment of Operation by Union Pacific Railroad Company of "Umatilla Branch" Between Umatilla and Irrigon in Umatilla and Morrow Counties, Oreg.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled Proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq.; (2) a notice setting forth this conclusion was served March 9, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12692 Filed 5-2-77;8:45 am]

[AB 12 (Sub-No. 47)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of its San Bruno Branch Between Daly City and Baden, In San Mateo County, Calif.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 43321, et se.; (2) a notice setting forth this conclusion was served March 9, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the

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Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.12689 Filed 5-2-77;8:45 am]

[AB 12 (Sub-No. 35)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Susanville and Westwood in Lassen County, Calif.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq.; (2) a notice setting forth this conclusion was served March 1, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12690 Filed 5-2-77;8:45 am]

[AB 12 (Sub-No. 49)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Redlands, 2d Street and Crafton in San Bernadino County, Calif.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq.; (2) a notice setting forth this conclusion was served March 9, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12691 Filed 5-2-77;8:45 am]

[AB 33 (Sub-No. 14)]

UNION PACIFIC RAILROAD CO.

Abandonment Portion—Encampment Branch Between Saratoga and Cow Creek in Carbon County, Wyoming

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq.; (2) a notice setting forth this conclusion was served March 9, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12693 Filed 5-2-77; 8:45 am]

[AB 33 (Sub-No. 12]

UNION PACIFIC RAILROAD CO.

Abandonment of "Lyman Branch" Between Hartman and Stegall in Scottsbluff County, Nebr.

APRIL 22, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Eenergy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not contitute a major Federal action significantly affecting the quality of the human environment within the meaning of the Nationay Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4321, et seq.; (2) a notice setting forth this conclusion was served March 1, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12695 Filed 5-2-77;8:45 am]

[Notice No. 162]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 3, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77098. By application filed April 21, 1977, LESLIE A. PARKER, an individual, R.D. No. 2, Eldred, Pa., seeks temporary authority to transfer the operating rights of Floyd E. Hubbard, Jr., an individual, East Main Road, North East, Pa. 16428, under section 210a(b). The transfer to Leslie A. Parker, an individual, of the operating rights of Floyd E. Hubbard, Jr., an individual, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12686 Filed 5-2-77;8:45 am]

[Notice No. 161]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76968 filed April 7, 1977. Transferee: IMPERIAL MOTOR LINES, INC., 136 Allen Boulevard, Farmingdale, New York, 11735. Transferor: Byrnes L.I. Motor Cargo, Inc., 136 Allen Boulevard, Farmingdale, New York, 11735. Transferor's Representative: Arthur Liberstein, 1 Penn Plaza, New York, N.Y. 10001. Transferee's Representative: Harold Sussman, 200 Garden City Plaza, Garden City, N.Y. 11530. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates No. MC-99369, Sub-No. 3) and MC-99369 (Sub-No. 4), issued February 8, 1977, as follows: *General commodities*, with normal exceptions, over irregular routes, between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in New Jersey within 15 miles of Columbus Circle, N.Y.; *General commodities*, with normal exceptions, over irregular routes, Between New York, N.Y., on the one hand, and, on the other, points in New Jersey within 15 miles of Columbus Circle, New York, N.Y. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77061, filed April 12, 1977. Transferee: RALPH HUMPHREYS, Tibbitts Road, Box 736, New Hartford, New York 13413. Transferor: Hollebrand Trucking, Inc., Macedon Rd., P.O. Box 164, Ontario Center, New York 14520. Applicants' representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, New York, 14580. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 112854 (Sub-No. 14), all of the operating rights as set forth in Certificates No. MC 112854 (Sub-No. 21) and MC 112854 (Sub-No. 22), portion of the operating rights as set forth in Certificate No. MC 112854 (Sub-No. 24) and all of operating rights as set forth in Certificate Nos. MC 112854 (Sub-No. 33) and MC 112854 (Sub-No. 35) issued October 9, 1962; March 1, 1965; November 24, 1964; October, 7 1965; November 29, 1973; and August 5, 1976; as follows: *Frozen fruits*, and *fresh produce*, including fresh fruits, fresh vegetables, and fresh berries when moving in the same vehicle with frozen fruits, From points in New York located on and west of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State line, to Miami and Tampa, Fla., and Charlotte, N.C.; *Sauerkraut*, in bags, in vehicles equipped with mechanical refrigeration, From Preble, N.Y., to Atlanta, Ga.; *Sauerkraut*, in bags, in vehicles equipped with mechanical refrigerations, From Preble, N.Y., to points in Florida; *Sauerkraut*, in bags, in vehicles equipped with mechanical refrigeration, From Preble, N.Y., to points in South Carolina, and Georgia (except Atlanta), Restriction: The authority is restricted to the transportation of traffic originating at the plant site of Preble Produce Corporation, at Preble, N.Y.; *Manufactured dairy products*, From La Fargeville and Arkport, N.Y., to Richmond and Norfolk, Va., Charlotte and Raleigh, N.C., Charleston and Columbia, S.C., Quincy, Jacksonville, Miami, and Tampa, Fla., and Atlanta, Statesboro, Thomasville, and Valdosta, Ga.; and *Manufactured dairy products and fresh salads*, From Binghamton, N.Y., to Miami and Jacksonville, Fla. Transferee presently holds no authority from this Commission. Application has not been filed for temorary authority under Section 210a(b).

No. MC-FC-77070 filed April 6, 1977. Transferee: GUARDIAN MOVING AND STORAGE, INC., 1111 S. Franklin, Indianapolis, Indiana 46239. Transferor: Haymaker Van & Storage, Incorporated, 3831 Prospect Street, Indianapolis, Indiana, 46203. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Indiana, 46204. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 125735, issued July 13, 1964, as follows: *Household goods*, as defined by the Commission, Between Indianapolis, Ind., on the one hand, and, on the other, points in Indiana. Transferee presently holds no operating authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77080, filed April 11, 1977. Transferee: THOMPSON TRUCK LINE, INC., 313 South First Street, Osborne, Kansas 67473. Transferor: Leslie K. Gentzler, Portis, Kansas 67474. Applicant's representative: James R. Martin, 115 South First Street, Osborne, Kansas 67473. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 24009, issued December 12, 1955, as follows: Livestock from specified points and counties in Kansas to specified points in Nebraska and from specified counties in Nebraska to points in Osborne and Smith Counties, Nebraska; horses from Norton and Graham Counties, Kansas to Grand Islan, Nebraska; and household goods between points in Osborne and Smith Counties, Kansas on the one hand, and, on the other, points in Colorado and Missouri. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 88613. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77081, filed April 11, 1977. Transferee: GARY DAVIS TRUCKING, INC., 14575 SW. Kingston, Milwaukie, Oregon 97222. Transferor: Edward R. Wolfe, doing business as Wolfe Trucking, 20425 Ahha Lane, Bend, Oregon 97701. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23d Avenue, Portland, Oregon 97210; Philip G. Skofstad, P.O. Box 594, Gresham, Oregon 97030. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 138080 (Sub-No. 2) and MC 138080 (Sub-No. 4) issued March 22, 1974 and February 5, 1975, as follows: Expanded shale rock from points in Washington County, Oreg. to points in Washington and Idaho. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77082, filed April 13, 1977. Transferee: SOLDIER BROS. A B T LINE, INC., 614 Paine Avenue, Toledo, Ohio 43605. Transferor: Eli I. Soldier and James J. Soldier, a partnership, 614 Paine Avenue, Toledo, Ohio 43605. Applicant's representative: Arthur R. Cline, Attorney at Law, 420 Security Building, Toledo, Ohio 43604. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in No. MC 123675, issued October 3, 1961, as follows: Automobile stampings, automobile parts, radiator shells and parts, paint, lumber, glass, empty barrels and boxes, dies, die models, sheet steel, wood blocks, solder, and solder dross between Toledo, Ohio and points within five miles thereof, on the one hand, and, on the other, specified points in Indiana and specified counties in Michigan: automobile and truck bodies and stampings from Cleveland, Ohio to Flint, Mich., and points in Wayne, Macomb, and Oakland Counties, Mich.; empty barrels from Toledo, Ohio to Ligonier, Ind.; steel tanks from East Palestine, Ohio to points in Wayne County, Mich.; formed sheet metal stampings from Toledo, Ohio to specified points in Indiana, Illinois, and the lower peninsula of Michigan. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77086, filed April 14, 1977. Transferee: THE WEST HARTFORD MOVING & STORAGE CO., a corporation, 160 South St., W. Hartford, Conn. 06110. Transferor: Horace N. Garrison, doing business as West Hartford Moving & Storage Co., 160 South St., W. Hartford, Conn. 06110. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 40135, issued October 11, 1954, as follows: Household goods, as defined by the Commission, between Hartford, Conn., and points in Connecticut within ten miles of Hartford, on the one hand, and, on the other, points in Massachusetts, Rhode Island, New Hampshire, Vermont, New York, and New Jersey. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77087, filed April 14, 1977. Transferee: Helen Reagan, doing business as Southeast Trucking Company, 8418 County Highway 18, R.D. No. 6, Ravenna, Ohio 44266. Transferor: Carl W. Reagan, doing business as Southeast Trucking Company, 8418 County Highway 18, R.D. No. 6, Ravenna, Ohio 44266. Applicant's representative: William P. Jackson, Jr., Attorney-at-Law, 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permits Nos. MC 127527, MC 127527 (Sub-No. 1), MC 127527 (Sub-No.

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3), MC 127527 (Sub-No. 5), MC 127527 (Sub-No. 10), MC 127527 (Sub-No. 12), MC 127527 (Sub-No. 14), and MC 127527 (Sub-No. 16), issued by the Commission October 14, 1966, July 1, 1966, January 18, 1967, January 13, 1969, May 27, 1971, December 26, 1972 (as corrected February 2, 1973), December 11, 1972, July 22, 1975, and June 10, 1976, respectively as follows: Concrete sewer pipe, concrete manholes and cones, fittings and related articles and materials used in the installation of such commodities; vitrified clay products, clay, firebrick, fireclay, furnace and kiln lining cements, and high temperature bonding mortar; refractories; dock levelers; reinforcing wire and reinforcing wire fabric; machinery and equipment and attachments and parts therefor used in the manufacture of concrete pipe; concrete pipe, concrete cribbing, and concrete slabs, concrete pipe forms and pre-stressed concrete bridge side forms; pipe (other than steel), and accessories, parts, fittings, and attachments therefor; and iron and steel articles and fabricated, processed, and structural steel, from, to and between points and places in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secreary.

[FR Doc.77-12688 Filed 5-2-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Rights Commission	4
Commodity Futures Trading Commission	10
Consumer Products Safety Commission	9
Federal Communications Commission	13
Federal Election Commission	3
Federal Power Commission	1
Indian Claims Commission	5
Libraries and Information Science National Commission	12
Mississippi River Commission	6, 7, 8
Renegotiation Board	11
Securities and Exchange Commission	2

1

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (Sent to F.R. on April 27, 1977.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 4, 1977, 2:00 p.m.

CHANGE IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman, and Watt: G-16. Docket No. RP76-140, Natural Gas Pipeline Company of America, Docket No. RP77-4, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.; G-17. Docket No. CI74-319, James M. Forgotson, Operator for Gulf Coast Venture; G-18. Docket No. CP77-186, Texas Eastern Transmission Corporation; M-1. Docket No. RM76-17, Research Development and Demonstration Accounting Advance approval of rate treatment; M-2. Emergency supplies of natural gas to pipelines and distributors; M-3. Curtailment Impact next Winter; M-4. Carnegie Natural Gas Company.

KENNETH F. PLUMB,
Secretary.

[S-300-77 Filed 4-28-77;1:43 pm]

2

AGENCY HOLDING MEETING: Securities and Exchange Commission.

ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., April 28, 1977 (42 FR 17580, April 1, 1977, previously changed from 10:00 a.m. same date.)

CHANGES IN THE MEETING: Item 1, respecting H.R. 3222, Item 2, respecting H.R. 3518 and Item 3, relating to the Freedom of Information Act Appeal of Norman F. Dacey have been rescheduled for an open meeting to be held at 10:00 A.M. on Thursday, May 5, 1977. Additional staff consideration of the matters are required.

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to approve the above change.

Dated: April 25, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S-301-77 Filed 4-28-77; 4:00 pm]

3

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Thursday, May 5, 1977, 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. 20463.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: I. Executive Session; A. Compliance Matters.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone 202-523-4065.

MAYEM W. EMMONS,
Secretary to the Commission.

[S-309-77 Filed 4-28-77; 5:04 pm]

4

AGENCY HOLDING THE MEETING: U.S. Commission on Civil Rights.

DATE AND TIME: May 8, 1977, meeting 8:00 p.m.; May 9 (possibly continuing on May 10, 1977) 8:30 a.m. Public Hearing.

PLACE: May 8, Levee Room, Radama Inn Central, 160 Union Street, Memphis, Tennessee. May 9, Room 936, Federal Building, 167 North Main Street, Memphis, Tennessee.

STATUS: May 8, closed to public. May 9, open: limited portions may be closed to public.

MATTERS TO BE CONSIDERED: May 8, enforcement of Commission subpenas. May 9, public hearing on Police-community relations in Memphis, Tennessee.

CONTACT PERSON FOR FURTHER INFORMATION:

Mimi Hartley or Barbara Brooks, Public Affairs Unit, 202-254-6697.

[S-310-77 Filed 4-28-77;5:04 pm]

5

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., May 11, 1977.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open to the Public: Docket 60-A, Makah; Docket 100-B-1, Klamath and Modoc; Docket 182-A, Fort Sill Apache; Docket 272, Creek; Docket 342-G, Seneca.

CONTACT PERSON FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, NW., Washington, D.C. 20006, Telephone 202-653-6184.

[S-311-77 Filed 4-29-77;8:45 am]

6

AGENCY HOLDING THE MEETING: Mississippi River Commission.

TIME AND DATE: 8:30 a.m., 23 May 1977.

PLACE: On board MV MISSISSIPPI at Foot of Eighth Street, Cairo, Illinois.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 205.

AGENCY HOLDING THE MEETING: Mississippi River Commission.

TIME AND DATE: 8:30 a.m., 25 May 1977.

PLACE: On board MV MISSISSIPPI at City Front, Greenville, Mississippi.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 205.

[S-312-77 Filed 4-29-77;8:43 am]

7

AGENCY HOLDING THE MEETING: Mississippi River Commission.

TIME AND DATE: 9:00 A.M., 24 May 1977.

PLACE: On board MV MISSISSIPPI at City Front-Vicinity Beale Street, Memphis, Tennessee.

STATUS: Open to the public.

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MATTERS TO BE CONSIDERED: (1) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (2) Survey Report on feasibility of expanding Memphis Harbor; (3) Survey Report on feasibility of providing flood control on Eight Mile Creek at Paragould, Arkansas. Public observation but not participation of the Commission's deliberations on the Survey Reports is invited.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 205.

[S-313-77 Filed 4-29-77;9:43 am]

8

AGENCY HOLDING THE MEETING: Mississippi River Commission.

TIME AND DATE: 8:30 A.M., 26 May 1977.

PLACE: On board MV MISSISSIPPI at Corps of Engineers Mat Casting Field, Vidalia, Louisiana.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Roger D. Harris, telephone 601/632-1311, extension 205.

AGENCY HOLDING THE MEETING: Mississippi River Commission.

TIME AND DATE: 9:00 A.M., 27 May 1977.

PLACE: On board MV MISSISSIPPI at Foot of Prytania Street, New Orleans, Louisiana

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601/636-1311, extension 205

[S-314-77 Filed 4-29-77;9:43 am]

9

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: 9:30 a.m., May 12, 1977.

LOCATION: 3rd Floor Hearing Room, 1111-18th St. NW., Washington, D.C.

STATUS: Portions are open: one portion is closed.

MATTERS TO BE CONSIDERED: Portion open to the public.

1. *Public Playground Equipment: Recommended Safety Standard.* In May, 1975, the Commission initiated a proceeding to develop safety-related requirements for public playground equipment. These requirements were to be used as a basis for proposed regulations under the Federal Hazardous Substances Act. At this meeting, the Commission will provide guidance to the staff on further development of the standard.

2. *Petition on Airless Paint Spray Guns* (CP 74-4). In September, 1974, the Commission received a petition seeking action on airless paint spray guns. At that time, the Commission directed the staff to take action under the substantial product hazard provisions of section 15 of the Consumer Product Safety Act, and later accepted a consent agreement in the case. At this meeting, the staff has asked the Commission to decide on the petition, and on whether any other action is necessary under section 15.

3. *Amendments to the Electrical Toy Regulation Regarding Instruction Booklets and Power Cords.* The Commission will consider what additional action to take on two amendments to the Federal Hazardous Substances Act regulations for electrically-operated toys and children's articles, which it proposed in January, 1974. The proposed amendments concern cautionary labeling on instruction sheets, and the types of cord to be used for such products as wood-burning tools.

4. *Response to H.R. 3691: Consumer Product Safety Commission Amendments of 1977.* This draft letter, prepared for Commission approval, comments on the bill, which was drafted by the Commission and introduced at its request.

Portion of Meeting closed to the public

5. *Proposal to Seek Consent Agreement and/or Notice of Enforcement: Flammable Fabrics Act Case (carpets); BCMI 16-048.* In this matter, the staff seeks authority to issue a consent agreement and a letter offering the firm an opportunity for settlement, and authority for automatic issuance of a Notice of Enforcement should the firm refuse to enter into the consent agreement. The Commission previously considered this case at its April 14 meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111-18th St. NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-316-77 Filed 4-29-77;11:38 am]

10

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: FR Vol. 42, 21898, April 29, 1977.
PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 A.M., May 2, 1977.

CHANGES IN MEETING: Cancelled.

[S-317-77 Filed 4-29-77;1:45 pm]

11

AGENCY HOLDING THE MEETING: The Renegotiation Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21170.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., May 3, 1977.

CHANGES IN MEETING: The time and date of the meeting are changed to 10:00 a.m., May 10, 1977. In all other respects, the original announcement in 42 FR 13167-8 is unchanged.

Dated April 29, 1977.

GOODWIN CHASE,
Chairman.

[S-318-77 Filed 4-29-77;1:49 pm]

12

AGENCY HOLDING THE MEETING: National Commission on Libraries and Information Science.

Notice is hereby given of the National Commission on Libraries and Information Science (established by Public Law 91-345) holding a meeting of the Task Force on the Role of School Library Media Program in Networking. This meeting of the Task Force will be held on July 11-12, 1977, at the Stouffer's National Center Inn, Arlington, Virginia.

PROPOSED AGENDA

(1) Progress Report;

(2) Discussion on position paper No. 1—"Analysis of the Organizational Structure of School Library Media Programs Presently Participating in Networking;"—Does the information contained in position paper No. 1 alter or substantiate our thinking?—Does the paper uncover any totally new areas?—How to effectively use the information in planning our next steps;

(3) Reports of subcommittees on assigned tasks;

(4) Activities to be accomplished for next meeting.

ALPHONSE F. TREZZA,
Executive Director.

APRIL 28, 1977.

[S-319-77 Filed 4-29-77;3:29 pm]

13

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:00 a.m., Wednesday, May 4, 1977.

PLACE: Room 814, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meetings.

MATTER TO BE CONSIDERED: Information concerning the subject matter of the meeting is withheld pursuant to 47 CFR 603(a).

Issued: April 27, 1977, April 29, 1977 (Amendment).

[S-320-77 Filed 4-29-77;3:29 pm]

V42185 MAY 3 77 UMI

federal register

TUESDAY, MAY 3, 1977

PART II



ENVIRONMENTAL PROTECTION AGENCY

■

LIME MANUFACTURING PLANTS

Standards of Performance and Addition to List of Categories of Stationary Sources

V42185 MAY 3 77 UMI

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 704–1]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Lime Manufacturing Plants

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The proposed standards would limit emissions of particulate matter from new, modified, and reconstructed lime manufacturing plants. The standards implement the Clean Air Act and are based on the Administrator's determination that lime manufacturing plant emissions contribute significantly to air pollution. The intended effect is to require new, modified, and reconstructed lime manufacturing plants to use the best demonstrated system of emission reduction.

DATES: Comments must be received on or before July 5, 1977.

ADDRESS: Comments should be submitted, preferably in triplicate, to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

The Standards Support and Environmental Impact Statement (SSEIS) may be obtained from the Public Information Center (PM–215), U.S. Environmental Protection Agency, Washington, D.C. 20460 (specify "Standards Support and Environmental Impact Statement, Volume 1: Proposed Standards of Performance for Lime Manufacturing Plants").

All public comments received will be available for inspection and copying during normal business hours at EPA's Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number 919–688–8146, extension 271.

SUPPLEMENTARY INFORMATION:

Summary of Environmental and Economic Impacts

The proposed standards could impact an estimated 6.8 teragrams (7.5 million tons) of lime manufacturing capacity by 1982. About one-third of that would be due to replacement of existing facilities and the remainder due to installation of equipment needed for expansion of industry capacity. EPA estimates that approximately 8 to 10 new rotary lime kilns and one new lime hydrator will be built each year for the next five years.

The proposed standards would reduce national particulate emissions from lime manufacturing plants by about 13 gigagrams (about 14,200 tons) through 1982. This reduction would be accomplished with only minimal adverse environmental impacts on water pollution and solid waste handling and disposal. National energy consumption would be decreased slightly by the equivalent of nine cubic meters or about 55 barrels of No. 6 fuel oil per day in 1982.

Total incremental investment costs through 1982 to meet the proposed standards are projected to be about $3 million. The annualized costs in 1982, including depreciation and interest, are estimated to be about $5 million. The potential price increase that would result from implementation of the proposed standards for new or reconstructed kilns has been estimated to be about 80 cents per megagram of lime produced, or an increase of approximately 2.6 percent. The costs for control of particulate emissions from the affected facilities are considered reasonable.

The proposed particulate standard for rotary lime kilns is based on the use of a baghouse or an electrostatic precipitator. Use of either of these systems would result in minimal adverse environmental impacts. A venturi scrubber could also be used to meet the standards. Although venturi scrubbers would result in an additional beneficial environmental impact by reducing SO_2 emissions by about 7 percent, they would also result in adverse impacts on solid waste disposal, water pollution, and energy consumption.

The proposed particulate standard for lime hydrators is based on the use of a scrubber. Since the typical State standard for this facility also requires the use of a scrubber, there would be minimal environmental impacts associated with the proposed standard. The incremental energy required is small, an increase of less than one percent. All of the collected particulate matter could be recycled to the unit along with the scrubbing water. Therefore, there would be no adverse environmental impacts on solid waste disposal or water pollution.

Rationale for the Proposed Standards

The proposed standards would require the best demonstrated technology, considering costs, for the control of particulate matter emissions be installed and properly operated at new, modified, and reconstructed lime manufacturing plants. The proposed standards were developed based on information derived from (1) available technical literature on the lime manufacturing industry and applicable emission control technology, (2) technical studies performed for EPA by independent research organizations, (3) information obtained from the industry during visits to lime plants and meetings with various representatives of the industry, (4) comments and suggestions solicited from experts, and (5) the results of emission measurements conducted by EPA and the industry.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect emission limits achievable with the best demonstrated systems of emission reduction considering the cost of such systems. State implementation plans (SIP's) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. For example, EPA's Interpretative Ruling (41 FR 55524, December 21, 1976) on the construction of a new or modified source in an area that exceeds a NAAQS requires, among other things, that the new source must meet an emission limitation which reflects the "lowest achievable emission rate" for such type of source. At a minimum, the lowest rate achieved in practice would have to be specified unless the applicant can demonstrate that it cannot achieve such a rate. In no event could the rate exceed any applicable standard of performance for new sources.

This stringent requirement reflects EPA's judgment that a new source should be allowed to emit pollutants into an area violating a NAAQS only if its contribution to the violation is reduced to the greatest degree possible. While cost of achievement may be an important factor in determining a standard of performance for new sources applicable to all areas of the country (clean as well as dirty) as a minimum, the cost factor must be accorded far less weight in determining an appropriate emission limitation for a source locating in an area violating statutorily-mandated health and welfare standards. Thus, while there may be technology available for new sources which have been determined not to be appropriate for standards of performance purposes, because of the greater consideration of the cost factor, this technology still should be considered for purposes of determining the "lowest achievable emission rate" for such type of sources. The existence of a standard of performance for new sources should not be viewed as the ultimate in achievable control and should not limit the imposition of a more stringent standard, where appropriate.

In addition, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110, including the emission offset policy requirements outlined here. Thus, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

Selection of the Source Category, Pollutants, and Affected Facilities. Section 111 of the Act directs the Administrator to establish standards of performance

for new and modified stationary sources that may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Lime manufacturing plants have been shown to be a significant source of particulate matter emissions. A study performed for EPA in 1975 by The Research Corporation of New England ranked the lime industry twenty-fifth on a list of 112 stationary source categories which are emitters of particulate matter. Lime plants have also been identified as sources that are capable of contributing to the deterioration of existing air quality (39 FR 42510).

Lime plants have been selected for the development of standards of performance based on the expected growth rate of the industry, the wide range of plant locations across the United States, and the reduction in particulate emissions achievable with application of the best technology for emission control, considering costs. Since 1930, the demond for lime products has been increasing at a growth rate of about five percent per year. This rate is projected to continue through 1982. In 1975, there were 179 lime plants located in 40 states in the United States, producing a total of about 20 teragrams (22 million tons) of lime per year.

Lime plants are sources of emissions of particulate matter, nitrogen oxides (NO_x), carbon monoxide (CO), and sulfur dioxide (SO_2). For the reasons discussed below, at this time standards are proposed only for the control of particulate matter emissions.

NO_x emissions from lime kilns are generally emitted in low concentrations of about 200 ppm. NO_x emission reductions achievable through combustion modification or other control techniques have not been clearly identified for lime kilns. Standards of performance to reduce these emissions are therefore not being proposed.

CO emissions from lime plants are normally in concentrations of about 100 ppm. Emissions of this magnitude would result in an ambient air concentration of less than one percent of the primary ambient air quality standard under adverse meteorological conditions. The most effective control method for CO, incineration of the off-gasses, would create a severe fuel penalty, while producing very little environmental benefit. Consequently, standards of performance for control of CO emissions from lime kilns are not being proposed.

SO_2 emissions from lime kilns are due primarily to the presence of sulfur in the fuel used to fire the kiln. Potential emissions of SO_2 from a 907 Mg (1000 ton) per day lime kiln firing a coal of about 3 percent sulfur would amount to about 295 kg (650 pounds) per hour. Due to the reaction between the lime dust and the SO_2, however, a significant reduction in SO_2 emissions results. When dry particulate control, such as a baghouse or an ESP, is used, SO_2 emissions are reduced by about 85–90 percent. This SO_2 reduction can be increased to about 95 percent if a venturi scrubber is used for particulate control. These efficiencies are based on the results of EPA source tests performed on rotary kilns at several lime manufacturing plants.

Consideration of the potential environmental, economic and energy impacts, however, has convinced EPA to not propose an SO_2 standard which would force the use of venturi scrubbers. First, scrubbers use about six times more energy than do baghouses. (It should be noted, however, that despite the fact that this leads to SO_2 emissions from the power plant used to produce this energy, a net reduction in SO_2 emissions is achieved.)

Second, although scrubbers achieve lower actual SO_2 emissions than baghouses, concentrations of SO_2 in the ambient air may generally not be any lower. This is because the temperature of the stack gases from a scrubber is lower than that from a baghouse resulting in less efficient dispersion of the emissions.

Third, the annual operating costs associated with the use of a scrubber for particulate and SO_2 control is more than twice the costs of using a dry control system such as a baghouse. These costs are directly attributable to the increased power requirements of a scrubber. The beneficial impact of reducing SO_2 emissions that is achieved by using a scrubber, therefore, is attained at a relatively large economic impact.

This economic impact and the associated adverse environmental impact on water pollution, solid waste disposal and increased energy consumption are not considered reasonable in light of the relatively small beneficial impact on air quality. The Administrator has determined, therefore, that a standard of performance for control of SO_2 from lime kilns is not justified and an SO_2 standard is not being proposed.

Particulate matter is emitted from both the lime kiln and the lime hydrator. Potential particulate emissions from uncontrolled facilities would amount to about 15 kilograms per megagram (kg/Mg) of limestone feed from the kiln and about 20 kg/Mg of lime feed from the hydrator. The average State emission limit for both kilns and hydrators is 0.5 kg/Mg of feed. Through application of the best demonstrated emission control technology, the emissions from these facilities could be further reduced to 0.15 kg/Mg from the kiln and 0.075 kg/Mg from the hydrator. These emission rates represent incremental reductions in particulate emissions from rotary lime kilns and lime hydrators controlled to comply with the average State standard of 70 and 85 percent, respectively.

Lime kilns and hydrators account for virtually all of the particulate matter emitted from lime plants. Small amounts of fugitive particulate emissions may occur from various points in the process, but these have not been quantified and applicable control technology has not been investigated. No standards for control of fugitive emissions, therefore, are being proposed.

Rotary Lime Kilns. The lime kiln is the largest source of particulate emissions at a lime manufacturing plant. Although there are several types of kilns in use by the industry, the proposed standards would apply only to rotary kilns. Approximately 90 percent of the lime produced in the U.S. is produced in rotary kilns, and virtually all the new kilns that have been built in the last few years have been of the rotary type. The rotary kiln is the only kiln that can utilize coal for fuel and still maintain acceptable product quality. Since the lime manufacturing industry desires the capability in the future to burn coal, the present trend is to build and operate rotary kilns whenever possible.

The format of the proposed particulate standard for the kiln could be either a concentration standard or a mass-per-unit-of-limestone standard. Concentration standards are normally easier to enforce than mass standards. A concentration standard, however, would penalize the more energy efficient kiln operations. Since reduced fuel consumption results in smaller exhaust gas volumes, a concentration standard would require the most energy efficient kiln operators to achieve a higher degree of control.

The major problem usually associated with mass-per-unit-of-feed standards is determining the feed rate. The feed rate of the limestone into the kiln, however, is measured routinely at lime plants, thereby allowing the emission rate to be calculated directly. Since the mass-per-unit-of-limestone feed format is more equitable for the energy efficient lime producers, this format is used for the proposed standard.

EPA considers the following three devices to be representative of the best systems of emission reduction, considering costs, for particulate matter: (1) fabric filters, (2) electrostatic precipitators (ESP), and (3) venturi scrubbers.

Source tests were conducted on three baghouses, two ESP's and one scrubber. Particulate emissions from the test runs on the lime kilns controlled by baghouses or ESP's ranged from 0.016 to 0.290 kg/Mg of feed (0.033 to 0.580 lb/ton), and averaged 0.10 kg/Mg (0.20 lb/ton). One out of the three baghouses tested did not meet the level of the proposed standard. All three baghouses tested were operating under essentially the same conditions. However, for reasons explained in detail in the SSEIS, it is EPA's judgment that the baghouse that did not meet the level of the proposed standard does not represent the best control technology and the data obtained from that facility are not used in the selection of the proposed standard.

EPA also tested one scrubber for particulate emissions and found an emission rate of about 0.22 kg/Mg at a pressure drop of about 3.7 kilopascals (15 inches w.c.). This scrubber, however, is not considered to represent best technology. As explained in the SSEIS, a venturi scrubber with a higher pressure drop of about 5.4 kilopascals (22 inches w.c.) would meet the level of the proposed standard in EPA's judgment.

The results of the source tests on the four rotary lime kilns that were consid-

V 42 N 85 MAY 3 77 UMI

ered to represent the best control technology (two baghouses and two ESP's) support a particulate standard of 0.15 kg/Mg (0.3 lb/ton). A standard of 0.15 kilogram of particulate matter per megagram of limestone feed, therefore, is being proposed for rotary lime kilns.

Visible emissions data were gathered during particulate tests at six lime plants. All of the 1056 six-minute average opacity values were obtained as specified in EPA Reference Method 9. An analysis of the distribution of the data shows that over two-thirds of the six-minute averages were equal to zero percent opacity and over 99 percent of the readings fall between zero and 10 percent opacity. Based on these data, the proposed standard would limit visible emissions to 10 percent opacity. This would insure that the best system of emission reduction, installed to comply with the particulate standard, is properly operated and maintained.

When a scrubber is used for control of the particulate emissions, it is very difficult to accurately read visible emissions because of the steam plume that is present. Due to enforcement difficulties, an opacity standard would not be effective in this case, and EPA is therefore excluding rotary lime kilns controlled with scrubbers from the proposed opacity standard.

Lime Hydrators. Lime hydrators are also significant sources of particulate matter at lime manufacturing plants. Currently, hydrators are used to treat about 10 percent of the lime produced in the U.S. Both pressure and atmospheric lime hydrators are covered by the proposed standards.

The format of the proposed standard is a mass-per-unit-of-lime feed. A concentration format was not selected because the gas volume from the hydrator scrubber is not proportional to the production rate and therefore it is not possible to prevent dilution by correcting to zero percent oxygen and water. A low particulate concentration, therefore, would not necessarily result in a low mass emission rate. Since the feed rate of the lime into the hydrator can be easily measured, the emission rate can be calculated directly.

Scrubbers are the most widely used method of particulate control on lime hydrators. EPA source tested two scrubbers in use on atmospheric hydrators. The range of the six test runs on the two facilities was 0.032 to 0.087 kg/Mg (0.065 to 0.173 lb/ton). Compliance with the regulations is determined from an average of three test runs on an affected facility [40 CFR 60.8(f)]. The average of the three tests on the first unit was 0.04 kg/Mg (0.08 lb/T) and the average of the three tests on the second unit was 0.06 kg/Mg (0.12 lb/T). Setting the proposed standard at 0.075 kg/Mg (0.15 lb/ton) assures that the owner or operator of the hydrator would be required to install and operate the best control device.

Due to the presence of a steam plume from the scrubber stack, no accurate visible emissions readings could be taken. EPA believes that an opacity standard for this facility would be ineffective due to enforcement difficulties. No standard of performance limiting visible emissions from the hydrator, therefore, is being proposed.

Consideration of Impacts

The proposed standards would reduce the particulate emissions from new lime kilns by 99 percent below the levels that would occur with no control and by 70 percent below the levels required by a typical State standard for existing sources. The proposed standards would also reduce particulate emissions from new lime hydrators by 85 percent compared to the requirements of the average State standard. The maximum 24-hour average ambient air concentration of particulate matter due to emissions from a typical lime kiln controlled to the level required by the proposed standard would be about 2.0 micrograms per cubic meter ($\mu g/m^3$).

The secondary environmental impacts due to the proposed standards would be minor. There would be no impact on water pollution. Solid waste handling and disposal problems would be minimal. All of the particulate collected from the hydrators can be returned to the process. When dry control systems are used on the lime kiln, the additional amount of solid waste generated is estimated to be about 3 percent. A negligible amount of particulate matter, sulfur dioxide, and nitrogen oxides would be discharged into the air by the power plant which supplies the additional electrical power required to meet the proposed standards.

In the absence of standards of performance, the lime manufacturing industry would be expected to follow the current trends in particulate control to meet the applicable State standards. It is estimated that 60 percent of the industry would use a baghouse, 20 percent would use a scrubber, and 20 percent would use an ESP for control. The expected distribution of control techniques to comply with the proposed standards is 80 percent baghouse control and 20 percent ESP control. The difference in energy consumption between these two forecasted distributions in the use of various emission control techniques amounts to an energy savings of about 12.6×10^6 kw-hr/yr in 1982. This is equivalent to approximately 9 m^3 (55 barrels) of oil per day in 1982 and represents a total energy savings of about 0.2 percent for a new lime manufacturing plant.

The control costs that new, modified, and reconstructed lime plants would incur to meet the emission level required by the proposed standards are considered reasonable. The capital costs for typical new lime plants would be increased by about 3.5 percent. The price of the lime product would increase by only about three percent. The proposed standards, therefore, are expected to have minimal impact on the future growth rate of the lime industry.

Testing, Monitoring, and Recordkeeping

Performance tests to determine compliance with the proposed standards would be required. Reference Method 5 (40 CFR Part 60, Appendix A) would be used to measure the amount of particulate emissions. In addition, Method 2 for velocity and volumetric flow rate, Method 3 for gas analysis, and Method 4 for stack gas moisture would be used to determine the necessary emission data.

A measurement of the mass rate of feed would also be required during a performance test, because the units of the proposed standards for the rotary lime kiln and the hydrator are kilograms of particulate per megagram of limestone or lime feed. A measuring device such as a conveyor belt scales would be required to determine the mass rate of feed. This device must be accurate to within ±5 percent over its operating range.

The proposed standards would require continuous monitoring of the opacity of the visible emissions discharged from the lime kiln. When a scrubber is used to control the emissions, entrained water droplets prevent the accurate measurement of opacity; therefore, in this case the proposed standard would require monitoring the pressure drop across the scrubber and the scrubbing fluid supply pressure to the scrubber rather than opacity. The pressure sensor or tap for the monitoring device used on the kiln scrubber should be located close to the scrubber liquid discharge point. The Administrator may be consulted for approval of alternative locations.

No opacity data were obtained for emissions from the lime hydrator, and no opacity standard is being proposed. Monitoring of the operating parameters of the scrubber presents a good indication of scrubber performance. The proposed regulations therefore require monitoring of the water flow rate to the scrubber and of the electric current used by the scrubber rather than opacity.

Excess emissions for the lime kiln are defined as all six-minute periods in which the average opacity of the stack plume exceeds 10 percent. The provisions for the reporting of these excess emissions are contained in § 60.7(c) of Part 60. No definition of excess emissions from lime hydrators is included in the proposed regulations since no opacity standard has been developed.

Records of performance tests and continuous monitoring system measurements would have to be retained for at least two years following the date of the measurements by owners and operators subject to this subpart. This requirement is included under § 60.7(d) of the general provisions of Part 60.

Miscellaneous

As prescribed by section 111 of the Act, this proposal of standards has been preceded by the Administrator's determination that emissions from lime manufacturing plants contribute to air pollution which causes or contributes to the endangerment of public health or welfare, and by his publication of this determination in this issue of the Federal Register. In accordance with section 117 of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

Interested persons are invited to participate in this rulemaking. The administrator will welcome comments on all aspects of the proposed regulations, including the designation of the source category of lime manufacturing plants as a significant contributor to air pollution which causes or contributes to the endangerment of public health or welfare, economic and technological issues, and the proposed test methods.

Economic Impact Analysis. The screening criteria used by EPA to determine if a proposal is a major action under the Economic Impact Statement program are: (1) additional national annualized compliance costs, including capital charges, will total $100 million within any calendar year by the attainment date, if applicable, or within five years of implementation; (2) total additional cost of production is more than five percent of the selling price; and (3) net national energy consumption will be increased by the equivalent of 25,000 barrels of oil a day (ca. 4,000 m^3 per day). EPA has determined that the impacts associated with the proposal of these standards of performance do not exceed these screening criteria. This action, therefore, does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Authority. This notice of proposed rulemaking is issued under the authority of sections 111, 114 and 301(a) of the Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. (42 U.S.C. 1857c-6, 1857c-9, 1857g(a)).

Dated: April 20, 1977.

Douglas M. Costle,
Administrator.

It is proposed to amend Part 60 of Chapter I of Title 40 of the Code of Federal Regulations as follows:

1. By adding subpart HH as follows:

Subpart HH—Standards of Performance for Lime Manufacturing Plants

Sec.
60.340 Applicability and designation of affected facility.
60.341 Definitions.
60.342 Standard for particulate matter.
60.343 Monitoring of emissions and operations.
60.344 Test methods and procedures.

Authority: Secs. 111 and 301(a), Clean Air Act, as amended by sec. 4(a) and sec. 15(c)(2) of Pub. L. 91-604, 84 Stat. 1683, 1713; 81 Stat. 504 (42 U.S.C. 1857c-6, 1857g(a); secs. 60.343 and 60.344 also issued under sec. 114 Clean Air Act, as amended by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1687 (42 U.S.C. 1857c-9).

Subpart HH—Standards of Performance for Lime Manufacturing Plants

§ 60.340 Applicability and designation of affected facility.

The provisons of this subpart are applicable to the following affected facilities used in the manufacture of lime: rotary lime kilns and lime hydrators.

§ 60.341 Definitions.

As used in this subpart, all terms not defined herein shall have the same meaning given them in the Act and in subpart A of this part.

(a) "Lime manufacturing plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.

(b) "Lime product" means the product produced by the calcination process including, but not limited to, calcitic lime, dolomitic lime, and dead-burned dolomite.

(c) "Rotary lime kiln" means a unit with an inclined rotating drum which is used to produce a lime product from limestone by calcination.

(d) "Lime hydrator" means a unit used to produce hydrated lime product.

§ 60.342 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere:

(1) From any rotary lime kiln any gases which: (i) Contain particulate matter in excess of 0.15 kilogram per megagram of limestone feed; (ii) Exhibit 10 percent opacity or greater.

(2) From any lime hydrator any gases which contain particulate matter in excess of 0.075 kilogram per megagram of lime feed.

§ 60.343 Monitoring of emissions and operations.

(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in paragraph (b) of this section, to monitor and record the opacity of the gases discharged into the atmosphere from any rotary lime kiln. The span of this system shall be set at 40 percent opacity.

(b) The owner or operator of any rotary lime kiln using a wet scrubbing emission control devise subject to the provisions of this subpart shall not be required to monitor the opacity of the gases discharged as required in paragraph (a) of this section, but shall install, calibrate, maintain, and operate the following continuous monitoring devices:

(1) A monitoring device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be accurate within ±250 pascals gauge pressure.

(2) A monitoring device for the continuous measurement of the scrubbing liquid supply pressure to the control device. The monitoring device must be accurate within ±5 percent of design scrubbing liquid supply pressure.

(c) The owner or operator of any lime hydrator using a wet scrubbing emission control device subject to the provisions of this subpart shall install, calibrate, maintain, and operate the following continuous monitoring devices:

(1) A monitoring device for the continuous measuring of the scrubbing liquid flow rate. The monitoring device must be accurate within ±5 percent of design scrubbing liquid flow rate.

(2) A monitoring device for the continuous measuring of the electric current, in amperes, used by the scrubber. The monitoring device must be accurate within ±10 percent over its normal operating range.

(d) For the purpose of conducting a performance test under § 60.8, the owner or operator of any lime manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain and operate a device for measuring the mass rate of limestone feed to any affected rotary lime kiln and the mass rate of lime feed to any affected lime hydrator. The measuring device used must be accurate to within ±5 percent of the mass rate over its operating range.

(e) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as all six-minute periods during which the average opacity of the plume from any lime kiln subject to paragraph (a) of this subpart exceeds 10 percent.

§ 60.344 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b) shall be used to determine compliance with § 60.322(a) as follows:

(1) Method 5 for the measurement of particulate matter,

(2) Method 1 for sample and velocity traverses,

(3) Method 2 for velocity and volumetric flow rate,

(4) Method 3 for gas analysis.

(5) Method 4 for stack gas moisture, and

(6) Method 9 for visible emissions.

(b) For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Administrator.

[FR Doc.77-12463 Filed 5-2-77;8:45 am]

V 4285 MAY 3 77 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL 704-2]

AIR POLLUTION PREVENTION AND CONTROL

Addition to the List of Categories of Stationary Sources

Section 111 of the Clean Air Act (42 U.S.C. 1857c-6) directs the Administrator of the Environmental Protection Agency to publish, and from time to time revise, a list of categories of stationary sources which he determines may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Within 120 days after the inclusion of a category of stationary sources in such list, the Administrator is required to propose regulations establishing standards of performance for new and modified sources within such category. At present standards of performance for twenty-four categories have been promulgated.

The Administrator, after evaluating available information, has determined that lime manufacturing plants are an additional category of stationary sources which meets the above requirements. The basis for this determination is discussed in the preamble to the proposed regulation that is published elsewhere in this issue of the FEDERAL REGISTER. Evaluation of other stationary source categories is in progress, and the list will be revised from time to time as the Administrator deems appropriate. Accordingly, notice is given that the Administrator, pursuant to section 111(b)(1)(A) of the Act and after consultation with appropriate advisory committees, experts, and Federal departments and agencies in accordance with section 117(f) of the Act, effective May 3, 1977, amends the list of categories of stationary sources to read as follows:

LIST OF CATEGORIES OF STATIONARY SOURCES AND CORRESPONDING AFFECTED FACILITIES

* * * * * *

Source category	*Affected facilities*
31. Lime Manufacturing	Rotary lime kilns.
Do	Lime hydrators.

Proposed standards of performance applicable to the above source category appear elsewhere in this issue of the FEDERAL REGISTER.

Dated: April 20, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-12464 Filed 5-2-77;8:45 am]

federal register

TUESDAY, MAY 3, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

FEDERAL ELECTION COMMISSION

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ADVISORY OPINION REQUESTS

V42|85 MAY 3 77 UMI

FEDERAL ELECTION COMMISSION

[Notice 1977-27, AOR 1977-20]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-20 has been made public at the Commission. Copies of AOR 1977-20 were made available on April 26, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-20: May the Realtors Political Action Committee utilize a bank escrow agent for the purpose of dividing contributions between itself and State political organizations which are not involved with Federal elections or Federal candidates? Requested by William R. Magel, Assistant Treasurer, Realtors Political Action Committee, Chicago, Illinois.

Dated: April 26, 1977.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

[FR Doc.77-12597 Filed 5-2-77;8:45 am]

V 42 85 MAY 3 77 UMI

federal register

TUESDAY, MAY 3, 1977

PART IV



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

OCCUPATIONAL EXPOSURE TO BENZENE

Emergency Temporary Standards; Hearing

V42|85 MAY 3 77 UMI

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to Benzene; Notice of Hearing

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Emergency Temporary Standard; Notice of Hearing.

SUMMARY: This emergency temporary standard (ETS) is based on the determination that clinical and epidemiological data conclusively establish that employee exposure to benzene presents a leukemia hazard. Therefore, a grave danger currently exists for workers exposed to this cancer hazard and it is necessary to issue an emergency temporary standard to protect them. By this ETS the Occupational Safety and Health Administration (OSHA) limits employee exposure to benzene to 1 part benzene per million parts of air (1 ppm), as an 8 hour time-weighted average concentration, with a ceiling level of 5 ppm for any 15 minute period during the 8 hour day. In addition, the ETS requires the measurement of employee exposure, engineering controls, personal protective equipment and clothing, employee training, medical surveillance, work practices, and recordkeeping. The ETS will be superseded by a permanent standard within six months. A public hearing on the permanent standard will commence July 12, 1977.

EFFECTIVE DATE: May 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Avenue, N.W., Room N-3641, Washington, D.C. 20210 (202-523-8151).

SUPPLEMENTARY INFORMATION:

APPLICABILITY OF EMERGENCY TEMPORARY STANDARD

The accompanying document is an emergency temporary standard issued pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. The new standard, section 1910.1028, applies to all employments in all industries covered by the Act, including "general industry", construction and maritime. For reasons set out below, this standard does not apply to retail automotive service stations or to operations which use liquid mixtures containing 1 percent or less of benzene; however, these exempted operations are still subject to the requirements contained in the benzene standard at 29 CFR 1910.1000.

In addition, pursuant to section 4(b)(2) of the Act, OSHA has determined that this emergency temporary standard is more effective than corresponding standards now applicable to the maritime and construction industries and currently contained in Subpart B of Part 1910, and Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, those corresponding standards are superseded by the new standard in § 1910.1028.

Pursuant to section 6(c)(3) of the Act, OSHA will shortly commence a rulemaking proceeding under section 6(b) of the Act. The emergency temporary standard will serve as a proposed final rule, along with other proposed requirements which will be published in the FEDERAL REGISTER pursuant to 29 CFR 1911.12. OSHA will publish an additional proposal in the very near future, encompassing those areas of occupational safety and health considered appropriate for the agency's permanent regulation of benzene. This document sets a public hearing on the permanent benzene standard to begin July 12, 1977.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(d) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

EVENTS LEADING TO THE EMERGENCY TEMPORARY STANDARD

Benzene has long been recognized as a toxin affecting the hematopoietic (blood forming) system, and a cause and effect relationship between benzene exposure and observed blood abnormalities has been established for man and animals during the last 75 years. The evidence indicating a relationship between benzene exposure and leukemia has been expanding and the international scientific community has increasingly acknowledged that worker exposure to benzene is associated with an increased risk of leukemia. Data made available by the National Institute for Occupational Safety and Health (NIOSH) in the last few weeks on workers exposed to benzene provide conclusive evidence that benzene is a leukemia causing agent and therefore immediate action to protect workers is imperative. (7)

The present OSHA standard for benzene, found in 29 CFR 1910.1000, Table Z-2, was adopted in 1971 under the authority of section 6(a) of the Act from the American National Standards Institute's (ANSI) Z 37.4-1969 standard. That OSHA standard prescribes an 8-hour time-weighted average of 10 ppm with an acceptable ceiling concentration of 25 ppm. In addition, the present standard allows excursions above the ceiling to a maximum peak concentration not to exceed 50 ppm: *Provided*, That such exposure occurs for no more than 10 minutes in any 8-hour work period. Neither the ANSI standard nor the resultant OSHA standard were based on the possible leukemia hazard from exposure to benzene.

In 1974, Aksoy et al. reported that, when contrasted with the general population, shoe workers having prior exposure to benzene had a significant increased incidence of leukemia.

Also in 1974, pursuant to section 22(d) of the Act, the Director of NIOSH submitted to the Secretary of Labor a criteria document concerning occupational exposure to benzene which stated that "the possibility that benzene can induce leukemia cannot be dismissed."(3) However, NIOSH recommended retention of the present permissible exposure limit of 10 ppm and ceiling concentration of 25 ppm as measured over a 10 minute period which recommendation was not based on benzene's potential leukemia hazard.

In a letter to the Secretary of Labor, dated April 23, 1976, the United Rubber, Cork, Linoleum, and Plastic Workers of America urged that an emergency temporary standard regulating occupational exposure to benzene be issued (42). The request was denied on May 18, 1976 by then Secretary of Labor William J. Usery (43).

Less than 1 year ago, the National Academy of Sciences, under contract with the United States Environmental Protection Agency, reviewed the literature concerning health effects of benzene exposure. (4) The Academy concluded that benzene must be considered as a suspect leukemogen.

In August 1976, NIOSH submitted to OSHA an updated criteria document which revised its earlier assessment of 1974. (5) On the basis of a review of old studies and new data, NIOSH concluded that benezene was leukemogenic. This report further pointed out that "it is apparent from the literature that benzene leukemia continues to be reported." NIOSH, therefore, recommended that, since no safe level for benzene exposure could be established "no worker be exposed to benzene in excess of 1 ppm in air". Following publication of the updated criteria document, the Director of NIOSH recommended to the Assistant Secretary of Labor, by letter dated October 27, 1976, that OSHA publish an emergency temporary standard for benzene establishing the exposure level at 1 ppm. (6) Based on the information supplied by NIOSH, OSHA issued on January 4, 1977 voluntary "Guidelines for Control of Occupational Exposure to Benzene," recommending that exposure to benzene in air not exceed an 8-hour time-weighted average of 1 ppm in any 8-hour shift of a 40 hour week. (44)

In January 1977, NIOSH informed OSHA that workplace environments had been found in St. Mary's and Akron, Ohio where a sufficient number of employees had been exposed to benzene for a number of years to facilitate an epidemiological study of health risks. (45) The worksite was a Pliofilm manufacturing plant owned by Goodyear Tire and Rubber Company. The preliminary conclusions of the epidemiological study NIOSH conducted of the pliofilm workers were transmitted to OSHA on April 15, 1977. (7) The NIOSH data demonstrated an incidence of leukemia in workers exposed to benzene that was at least five times the expected incidence. NIOSH concluded that:

The report shows a statistically significant increase in the risk for developing myelogenous leukemia among workers exposed to benzene. We hope this new information will be of assistance to you in reaching a decision on the most appropriate regulatory action.

In his letter of April 15, 1977, transmitting the report on the Goodyear Pliofilm plant, the Director of NIOSH again urged that an emergency standard be issued.

REASONS FOR ISSUANCE OF AN EMERGENCY TEMPORARY STANDARD

The Assistant Secretary finds that exposure to benzene poses a grave danger to humans. Specifically, human exposure to benzene can induce chromosomal aberrations, bone marrow damage and destruction, and other blood dyscrasias. Moreover, the accumulated studies strongly support the conclusion that benzene causes leukemia in humans. The data collected by NIOSH and made available during the past few weeks show that workers exposed to benzene in an Ohio Pliofilm plant have contracted leukemia at a rate at least five times the rate expected in the general population. Because of the conservative statistical approach to evaluating these preliminary data, final results of this study will certainly show that the increased risk of developing leukemia from exposure to benzene is even greater than five times the normal incidence of this disease. This new evidence has been interpreted by NIOSH, and is found by OSHA, to conclusively establish that benzene causes leukemia in humans. This conclusion is supported by the substantial body of clinical and epidemiological evidence previously vailepidemiological evidence previously available which suggested the same casual relationship between benzene exposure and leukemia. In view of the new evidence the relationship can no longer be subject to serious question.

The Assistant Secretary concludes, based on a review of the latest NIOSH study and recommendations together with the epidemiological and clinical studies and other scientific data, that benzene exposure subjects workers to the risk of contracting leukemia, a malignant and irreversible disease. The best available scientific evidence indicates that no safe level for exposure to a carcinogen, including benzene, can be established or assumed to exist. OSHA has considered this question of a safe level in previous rulemaking proceedings (see preambles to carcinogen standards (39 FR 3758), vinyl chloride standard (39 FR 35892), and coke oven emissions standard (41 FR 46742)) and has relied on that considerable body of scientific opinion holding that, when dealing with a carcinogen, no safe level exists for any given population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) states:

No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1)

And NIOSH has taken the position that in regulating cancer-causing substances "• • • it is not possible at present to determine a safe exposure level for carcinogens." (Rev. Arsenic Crit. Doc. 1975.)

Since leukemia is a form of cancer and exposures generally below 25 ppm have already induced leukemia, it is not currently possible to determine whether a safe level of exposure exists for worker populations exposed to benzene. Therefore, the Assistant Secretary has determined that exposure must be reduced to the lowest feasible level.

Furthermore, during the period of time for normal rulemaking, workers would continue to be exposed to levels higher than those that may be achieved by this ETS.

In conclusion, the Assistant Secretary determines that exposure of employees to a cancer-causing substance in the workplace environment is a "grave danger" within the meaning of section 6(c)(1)(A) of the Act. The proposition that cancer, and substances that cause cancer, pose a grave danger to man does not need lengthy discussion. The nature of a cancer hazard differs from other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and, in most cases, fatal consequences. These consequences may be irreversibly set in time. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period. A single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

The existing 10 ppm standard, adopted from the ANSI national consensus standard, was based largely on benzene's general toxicity rather than on the leukemia hazard and, therefore, does not, within the meaning of section 6(b)(8) of the Act, provide the protection now shown to be necessary. The Assistant Secretary finds that this emergency temporary standard better effectuates the purposes of the Act than the National consensus standard.

BACKGROUND AND DISCUSSION OF EARLIER DATA

Benzene (C_6H_6) is a clear, colorless, non-corrosive, highly flammable liquid with a strong, rather pleasant odor. Benzene's low boiling point and high vapor pressure cause it to evaporate rapidly under ordinary atmospheric conditions, giving off vapors nearly three times heavier than air.

Benzene is produced primarily by the petrochemical and petroleum refining industries by the process called catalytic reformation, which converts certain lower octane hydrocarbons into higher octane aromatics. The two industries are responsible for 94 percent of the total U.S. production of benzene. Recovery through catalytic reformation, including the benzene formed from the hydrodealkylation of toluene, accounts for almost 80 percent of the total quantity produced. Recovery of coal-derived benzene, primarily as a by-product of the coking process in steel mills, was once the major source of benzene. Today, however, it accounts for only 6 percent of the total U.S. production.

The production of benzene is rapidly expanding with approximately 11 billion pounds produced in 1976. Only eleven other chemicals and only one other hydrocarbon (ethylene) are produced in greater tonnage in the U.S. Approximately 86 percent of this benzene is used chiefly as an intermediate in the production of other organic chemicals, including styrene, phenol, and cyclohexane. The remaining amount is used primarily in the manufacture of detergents, pesticides, solvents and paint removers. Benzene is also present as a component of motor fuels, averaging less than 2 percent in gasoline.

The first major industrial use of benzene, however, was as a solvent in the rubber industry just preceding World War I. During World War I, benzene production was stimulated greatly by the demand for and resulting production of toluene in the manufacture of explosives. The large quantities of benzene which were produced resulted in its more widespread use as a starting point for the manufacture of various organic compounds. This situation led to greatly increased uses of benzene as a solvent in the artificial leather, rubber goods, and rotogravure industries, and as a starting material in organic synthesis.

Industries and processes currently using benzene include the chemical, printing, lithograph, rubber cements, rubber fabricating, paint, varnish, stain removers, adhesives, and petroleum industries. Benzene is also used extensively in chemical laboratories as a solvent and as a reactant in numerous chemical applications. Where benzene is produced and used in large amounts, it is generally used in enclosed systems, although exposures can occur during liquid transfer operations, from equipment leakage and carryover losses, and in maintenance operations.

A. *Toxic effects.* Benzene has been recognized as a toxic substance capable of causing acute or chronic effects since 1900. Inhalation is the primary route of entry of benzene in the worker. Benzene diffuses rapidly through the lungs and is quickly absorbed into the blood. The rate of absorption is greatest during the first five minutes and thereafter declines significantly. Benzene saturation of the circulating blood may reach as high as 70-80 percent of the air content of benzene within the first 30 minutes. Relatively complete saturation of the blood may not be attained for two to three days.

Though the available literature suggests that benzene is not readily absorbed through the human skin, appreciable

V 42 85 MAY 3 77 UMI

quantities of benzene could be absorbed in the case of injured skin. Moreover, absorption of benzene by the skin may be significantly accelerated when benzene is present in a mixture or as a contaminant in solvents known to be readily absorbed, such as toluene and xylene. (48)

The benzene absorbed by the circulating blood is distributed throughout the body where, because of its liposolubility, it tends to accumulate in various body organs in proportion to their fat content.

Upon removal from benzene exposure, the concentration of benzene in the expired breath follows an exponential decay curve, reflecting removal of benzene from various body compartments. Elimination via this route has been estimated to range from 12 to 50 percent of the total amount of benzene absorbed in humans.

A fraction of the absorbed benzene is eliminated in an unchanged form, primarily in the expired air and, to a minimal extent, in the urine. The remainder of the absorbed benzene is metabolized by enzymes contained in the liver and ultimately to derivatives which are more water soluble thereby facilitating their removal by the kidneys. A first intermediate in the biotransformation of benzene is believed to be benzene epoxide, a highly reactive intermediate and one of several candidates suggested as the active agent responsible for benzene's myelotoxic effects. Phenol, and to a lesser extent, hydroquinone, pyrcatechol, and phenyl-mercapturic acid are the primary metabolites of benzene found in urine.

B. *Acute effects.* Exposures to high concentrations of benzene produce an almost immediate effect upon the central nervous system. Benzene concentrations of about 20,000 ppm are fatal within minutes, with death occurring from acute circulatory failure or coma, with or without convulsions. Milder exposures produce a period of nervous excitation, euphoria, headache and nausea, followed by a period of depression which can result in cardiovascular collapse and/or unconsciousness. The occurrence of nonspecific nervous disturbance as an aftereffect of acute exposures is dependent on duration of unconsciousness and/or severity of circulatory failure. Breathlessness, nervous irritability, and unsteadiness in walking have been observed to persist for a period of several weeks. Inhalation of still lower concentrations (250–500 ppm) yields signs and symptoms of mild poisoning, characterized by vertigo, drowsiness, headache, and nausea. Rapid recovery from these symptoms usually occurs following cessation of exposure.

Direct contact with the liquid may cause erythema and blistering. Prolonged or repeated skin contact, even with small quantities of benzene, has been associated with the development of a dry, scaly dermatitis or with secondary infections.

C. *Chronic effects.* Benzene exerts a primary toxic effect in the bone marrow, the major blood forming organ. Long-term exposures to low concentrations of benzene have been observed to have an initial stimulatory effect on the blood-forming tissues (bone marrow) followed by aplasia (no cell production) and fatty degeneration. Clinically an initial increase, then decrease, in the red blood cells, white blood cells, or platelets, is seen, with progression if exposures are continued, to aplastic anemia (lack of functioning of bone marrow), leucopenia (decrease in leucocytes which are white blood cells), thrombocytopenia (decrease in platelets), or pancytopenia (decrease in all cells in the peripheral blood). Secondary effects of thrombocytopenia include coagulation disturbances, characterized by increased bleeding time, poor clot retraction, and increased susceptibility to hemorrhaging. This clinical picture of chronic benzene poisoning may exist with or without the physical signs or symptoms of fatigue, vertigo, headache or excessive bleeding.

The following studies are representative, although by no means all inclusive, of the published literature on the chronic effects in humans of benzene exposure. These studies do however illustrate the diversity and variability of effects which dominate the literature on chronic benzene exposure.

1. *Blood dyscrasias.* Greenburg and coworkers' investigation in 1939 of 332 pressmen in three rotogravure printing plants was one of the earliest, comprehensive studies of benzene poisoning.(8) In addition to physical examinations, including medical and occupational histories and laboratory tests, workplace air samples and chemical analysis of ink solvents and thinners were performed in an attempt to provide a correlation with medical findings. Air samples (48) revealed benzene concentrations ranging from 11 ppm to 1060 ppm for 3 plants.

Five workers with the most severe benzene poisoning expressed no subjective complaints and physical examination revealed negative findings. The signs of "poisoning" included a reduction in the number of erythrocytes, leucocytes and platelets.

Greenburg stated that: "These findings illustrate the well-known fact that the effects of benzene may be persistent and also suggest that even before blood changes are apparent, processes may have been initiated that will continue to develop even after exposure to benzene has ceased." The authors also reported that individuals varied greatly in susceptibility although data on personal monitoring were not available.

In the same year, Mallory et al. reported post-mortem findings in 19 case studies of workers with a history of chronic exposure to benzene.(9) Exposures varied from 6 months to 12 years, but no exposure levels were available. The authors indicated that significant changes were found regularly throughout the entire hematopoietic system including bone marrow, liver, spleen and lymph nodes. Of the 19 case studies, six exhibited hypoplasia of the bone marrow (decreased bone marrow function), whereas nine cases showed hyperplasia (overactivity of the bone marrow), and two were diagnosed as leukemia. The authors concluded that exposure to benzene under varying conditions produced diverse reactions and that individual variation was of great importance.

In 1948, Hardy and Elkins investigated an artificial leather plant in Massachusetts in which a man who had been employed as a coating machine operator for 12 years died of what was diagnosed as benzene poisoning.(10) The subject had worked as a coating machine operator in other locations for 18 years. Fifty-two workers were still employed in the leather plant. Benzene concentrations ranged from 40 to 80 ppm with an average concentration of 60 ppm. Blood studies, performed upon all 52 employees, showed abnormalities in more than one blood component in sixteen of the employees. Abnormalities were observed in hemoglobin, RBC, and WBC counts. There was a wide variation among subjects as to the particular component affected. Six of the 16 employees with blood abnormalities worked in the same coating room as the deceased man. Despite this evidence of blood abnormalities from the laboratory tests, none of the physical examinations revealed any clinical signs or symptoms of overexposure to benzene.

In an epidemiological investigation, Aksoy et al compared the hematological findings of 100 healthy male subjects (controls) with those of 217 apparently healthy males, 95 percent of whom worked with solvents containing benzene in small shoe shops. (11) The shops were considered unhygienic and poorly ventilated. The concentration of benzene in the working environment ranged from 15 to 30 ppm during non-working hours to 210 ppm when adhesives containing benzene were being used. The duration of employee exposures ranged from 3 months to 17 years. In 51 (23.5 percent) of the 217 employees, hematological abnormalities were found consisting of leucopenia (9.7 percent), thrombocytopenia (1.84 percent), leucopenia associated with thromobocytopenia (4.6 percent) and pancytopenia (2.7 percent). In addition, relative to controls, benzene-exposed workers demonstrated a significant reduction in mean white cell counts and mean platelet counts. The proportion of benzene-exposed workers diagnosed with anemia was increased when compared to controls; however the presence of iron-deficiency anemia could not be ruled out.

In French survey of 45 fatal cases of benzene induced diseases of the blood, covering the years 1947 to 1962, 23 were diagnosed as leukemia and 22 were attributed to aplastic anemia. Of the latter cases, one patient was afflicted after only 2 years exposure to benzene with the remainder having an average exposure of 16 years. (13) The authors also reported that in the cases of aplastic anemia, the evolution of the illness was lengthy. A similar observation was also reported by Vigliani and Forni (1969). (14) Of 32 fatal cases of chronic benzene poisoning seen in the provinces of Milan and Pavia, 18 were due to leukemia and 14 due to aplastic anemia. These authors noted that

aplastic anemia usually occurs in patients while they are still being exposed to high concentrations of benzene. In a later study, Vigliani reported that among 59 surviving workers with benzene-related aplastic anemia, 11 later died from acute leukemia. The author also reported that he had knowledge of at least 150 cases of leukemia attributed to benzene in Italy alone. (49)

Pancytopenia has been equated with aplastic anemia, although strictly defined aplastic anemia is characterized by pancytopenia and accompanied by a fatty displacement of the bone marrow. In 1976, Vigliani and Forni stated:

> In the past two decades, the case records of patients with acute or subacute leukemia, usualy with leukopenia at some state of the illness, have become so numerous that they exceed those of acute pancytopenia. This finding led us to suspect that many cases that were considered as acute pancytopenia in the past, prior to the introduction of bone marrow biopsy, may in fact have been examples of acute hemocytoblastic leukemia leucopenic and aleukemic, or with few microhemocytoblasts in the circulating blood, possibly mistaken for lymphocytes. (15)

Unsuccessful at inducing chronic poisoning through inhalation of vapors, Sellings in 1916 produced leukopenia in rabbits through subcutaneous injections of commercially pure benzol with olive oil. (12) Selling's findings demonstrated a constant, well defined aplasia of the bone marrow, characterized by the complete disappearance of leukocytes in the peripheral blood. He noted that although both the myeloid and lymphoid tissues are vulnerable, that myeloid tissue is injured to a greater extent.

Deichman et al (1963) published results of animal studies which also indicated the great toxicity of benzene vapors for hematopoietic tissue. (16) Eight groups of rats, consisting of 40 animals per group, were exposed to benzene vapors at average concentrations of 831, 65, 61, 47, 44, 31, 29, and 15 ppm respectively. The duration of exposure was for 5 hours per day, 4 days per week, for periods ranging from 5 weeks to 7 months. Exposures to the three highest concentrations resulted in a significant leukopenia after 14 weeks. A moderate, but definite, leukopenia occurred in the rats exposed to 47 and 44 ppm after 5 to 8 weeks of exposure. Exposures to three lowest benzene concentrations for periods of 4, 3, and 7 months, respectively, induced no demonstrable changes in the numbers of leucoytes.

2. *Chromosomal aberrations.* The development of various chromosomal aberrations in peripheral leukocytes and bone marrow cells has also been attributed to benzene exposures. Several investigators characterized these aberrations as both unstable chromosome changes (i.e. including fragments, dicentric, tricentric and ring chromosomes) or stable chromosomal changes (i.e. deletions, translocations, inversions, and trisomies). These types of chromosomal aberrations also occur as the result of exposure to ionizing radiation, which is known to induce leukemia.

Increases in chromosomal aberrations in subjects suffering from benzene hemopathy were investigated by Pollini and Colombi and by Forni and Moreo. (17), (18), (19)

Forni et. al. examined chromosomal changes and their evolution in 25 individuals who had suffered bone marrow impairment of varying severity, 1–18 years previously, as a result of exposure to benzene. (20) Hematologic examinations performed at the time of the cytogenetic study, but subsequent to cessation of exposure and recovery from benzene hemopathy, indicated normal blood values. However, both stable and unstable chromosomal changes were still present. The authors noted that "This finding (persistence of chromosomal aberrations) is similar to that reported in individuals with past exposure to ionizing radiations, both therapeutic and accidental, and suggests that long-lived lymphocytes might maintain chromosome damage even for years".

Chromosomal changes in individuals either no longer exposed to benzene, or exposed intermittently to low levels, and who show no hemotological disorders, have also been investigated. After examination of three groups of factory employees who displayed no toxic symptoms, Tough et al reported that two of these groups exposed on the average of 8 and 15 years, respectively, to similar working environments containing between 25 to 150 ppm benzene, showed a significant increase of structural chromosomal aberrations in lymphocytes over the general population. (21) The third group of workers from a different kind of factory and exposed to approximately 12 ppm for an average of 13 years showed a frequency of chromosome aberrations not significantly different from those found in the general population. Tough et al suggested that their findings may indicate that an interplay between the age of workers and exposure to benzene is responsible for the observed effects.

Induction of chromosomal damage in rabbit lymphocytes by subcutaneous injection of benzene has been reported by Kissling and Speck. (22) During the phase of peripheral pancytopenia the frequency of mitotic figures showing aberrations (mostly gaps and breaks) increased from an initial value of 6 percent to 58 percent after an average of 18 weeks. Two months later, after the discontinuance of benzene treatment, visible chromosomal damage was still observed in 36 percent of the mitotic cells. Also Philip and Jensen in a preliminary report demonstrated that a single subcutaneous injection of benzene (dose: 2.0 ml benzene/kg body weight) administered to rats is capable of increasing the fraction of marrow cells which exhibit chromosomal abnormalities.(23)

3. *Leukemia.* As pointed out, benzene presents a considerable range of health risks to the working population. These include the threat of developing a form of cancer known as leukemia, a fatal and irreversible disease. Robbins defines leukemia by stating:

> Leukemia may best be considered as a neoplasm (cancer) of the white blood cells and is so classified in the "International Lists of Causes of Death." It is characterized chiefly by: the appearance of abnormal, immature white cells in the circulating blood; diffuse and almost total replacement of the bone marrow with the leukemic cells; and widespread infiltrates of the liver, spleen and other tissues, analogous to metastatic dissemination of solid tissue cancer. (24)

The recent epidemiological study of Infante et al., (51) demonstrating a five-fold increased risk of total leukemia and a ten-fold increased risk of mylomonocytic leukemia among Pliofilm workers exposed to benzene, is supported by numerous case reports in the scientific and medical literature over the past several years concerning benzene related leukemia, predominantly of the mylogenous type.

At the outset it should be noted that, prior to the development of the Infante et al. data conclusively showing the linkage between benzene exposure and the development of fatal leukemia in workers, many had argued that any substance capable of inducing bone marrow depression or other blood abnormalities should be treated as a potential leukemogen. For example, Cronkite stated over twenty years ago that:

> The heart of the problem in the induction of leukemia by industrial hazards rests upon quantitation of the agent and the yield of leukemia. Two agents used in industry have been correlated with an increased incidence of leukemia in human beings. The first, ionizing radiation, is unquestionably able to increase the incidence of leukemia. The second agent, benzol, probably can produce an increased incidence of leukemia, but the data are not as good as for the former. First, the finger of suspicion must be pointed at any agent which is able to produce an aplasia of the bone marrow, assuming it will probably be able to produce leukemia also. Second, there is no reason to doubt that any agent which will produce a cancer elsewhere in the body will not be able to produce leukemia if the offending agent is transported to the hemopoietic tissues. (25)

And, as the National Academy of Sciences pointed out in its report of June 1976:

> Benzene fits in the former category because it is well documented that it produces aplasia of the bone marrow.(4)

And as Williams et al. notes:

> Any chemical capable of producing myelotoxicity must be regarded as a potential leukemogen, if the findings in radiation—induced leukemia apply which indicate that cell damage with depression of marrow function may produce alterations leading to the transformation of damaged cells into neoplastic ones. The only chemical which has been clearly identified as one which increases the incidence of myeloid leukemias in man is benzene in rather heavy occupational exposure.(26)

The relationship between benzene exposure and leukemia in humans in the past has resulted in large part from clinical observation and to a lesser degree from epidemiological studies. The clinical evidence of leukemia has been obtained either from a survey of medical records primarily in various European

V 42 85 MAY 3 77 UMI

clinics, or from a canvass of the published literature reporting case histories of individuals diagnosed with leukemia. In lieu of quantitative, individual exposure data, subjective evaluations of intensity of exposure have been utilized. The epidemiological evidence has been derived from either the determination of the frequency of chronic benzene exposure among cases of leukemia or from the determination of frequency of, or mortality from, leukemia among employees of work shops that utilize benzene. In other words, in the first method the leukemia is the constant factor of all case studies and the benzene exposure is the variable; while the second method is the reverse, that is, the benzene exposure is the constant factor while leukemia is the variable.

Vigliani and Saita, in their review of 47 individuals suffering from benzene hemopathy between the period of 1942 and 1963, presented clinical and laboratory accounts of six cases, all of whom were diagnosed as having haemocytoblastic leukemia. (27) The period of exposures of these individuals to either resins, inks, varnishes, or glues containing varying concentrations of benzene ranged up to 19 years. Data on the concentrations of benzene in the workplace environment, with one exception (190–660 ppm) were not available. Although information on previous occupational histories or medical status prior to the final diagnoses were also not available, the authors stated that "attribution of the cases (of leukemia cited) to the exposure cannot be doubted." During the years 1962–1963, when there was sharp rise in the incidence of leukemia among workers exposed to benzene which coincided with an increase in number of benzene poisoning cases for this period, the risk of acute leukemia was estimated to be about 20 times greater than the risk for the general adult population.

Twelve years following the Vigliani and Saita study, Vigliani and Forni observed that in the rotogravure industry, no new cases of aplastic anemia nor of leukemia were found among workers exposed solely to toluene after this solvent was substituted for benzene in 1964. (15) However, these authors noted in 1974 that cases of benzene-induced leukemia with long latency periods may still be occasionally observed. (50) These investigators also observed that workers exposed to toluene did not exhibit chromosomal aberrations, a finding seen in employees who work with benzene.

Sixteen (16) cases of various forms of leukemia developing from long term exposure to benzene were reported by Tareef et al. (28) The duration of exposure ranged between 4 and 27 years. However, no exposure concentrations were reported. In contrast to data previously reported in Italy and Turkey, the authors found evidence of chronic leukemia. Acute leukemia accounted for only 6 of the 16 cases. Three of the six acute leukemias were diagnosed at 2, 4 and 5 years following cessation of benzene exposure. Four of the acute cases underwent a definite period of hematologic shifts ranging from anemia or leucopenia to aplastic anemia and spanning a period of 2 to 10 years. Of the 10 chronic cases reported, none of the patients had hemocytopenic changes prior to the onset of leukemia.

Aksoy et al. reported the deaths, due to leukemia, of four Turkish shoemakers resulting from their exposure to benzene for periods ranging from 6 to 14 years. (29) At the time of the study, air concentrations were found to be between 150–210 ppm of benzene. Previous occupational exposure data was not provided. Two of the four patients developed acute leukemia approximately two and three years after the occurrence of aplastic anemia although the other two did not.

Adding 8 new cases of leukemia associated with exposure to benzene to 26 previously found, between the years 1967 and 1973, Aksoy et al. observed that with the exception of one case of chronic myeloid leukemia, all had various forms of acute leukemia. (30) A preceding period of pancytopenia was reported present in almost 25 percent of the cases, and the interval between the pancytopenic period and the onset of leukemia varied from 6 months to 6 years. Often the clinical findings and blood picture improved considerably before leukemia was diagnosed. During an 8 year period of observation, the incidence of leukemia among shoe-workers chronically exposed to benzene was calculated to be more than twice that experienced by the general population (13.5/100,000 vs. 6/100,000).

Browning tabulated from published studies 61 cases of leukemia among workers exposed to benzene at various concentrations. (31) The majority of cases were of the myeloid series. Browning noted that "benezene leukemia is frequently superimposed on a condition of aplastic anemia, but can develop without a preceding peripheral blood picture characteristic of bone marrow aplasia." She also noted that the transition from aplastic anemia to leukemia was not unknown in the ideopathic forms of leukemias.

DeGowin (32) and others (Vigliani & Saita, Tareff, Aksoy etc.) observed that the development of acute leukemia in some individual cases was preceded by a latency period of up to 15 years following cessation of exposure to benzene. Some of the cases underwent what was considered to be a preleukemic period, which was characterized by leucopenia, anemia, thrombocytopenia, aplastic anemia, pancytopenia or a combination thereof. Other cases developed leukemia without any evidence of anemia. According to Vigliani and Saita, the time delay "does not permit us to attribute the disease to the persistence of benzene in the bone marrow". (27) They suggested, however, that "on the basis of the initiation-promotion theory of the induction of neoplasms, we might regard benzene as an initiator of the leukemia process, but we have no suggestion of a possible promoter."

Based on the hypothesis that the risk of leukemia was higher among workers who were exposed to benzene and medical x-rays, Ishimaru et al. conducted a retrospective epidemiological investigation examining the relationship between occupations and environmental factors, other than A-bomb exposure, and the incidence of leukemia in Nagasaki and Hiroshima between 1945 and 1967. (33) This case control study compared all cases diagnosed as definite or probable leukemias between 1945 and 1967 and residing, at the time of the onset of the disease, in Hiroshima or Nagasaki. Controls were matched for city, sex, date of birth (±30 months), distance from the atomic bomb explosion, and alive and residing in either city at the time of the onset of the disease in the patient. Four hundred ninety-two leukemia cases were identified, but matched controls could only be obtained for 413. Fifteen occupations were selected in which there had been exposure to either medical x-rays or solvents especially benzene and its derivatives. Three hundred and three adult cases with the onset of leukemia at age 15 years or over and their controls were compared. Eleven of the 15 occupations were selected based on whether there had been a history of such occupations by either the leukemia cases or the controls. Considered as a group, the risk of leukemia was found to be significantly higher (about 2.5 times greater) among those with a history of such occupations in which various volatile solvents were used as compared with those without. The relative risk was 1.8 times higher for chronic leukemia and 2.9 times higher for acute. Eighteen of the leukemia cases associated with solvents were located in distant and non-exposed radiation areas and were considered too far from the A-bomb explosion for radiation to have enhanced the increased risk. Accepting the source of error inherent in the method which was used to collect the data, the results of this study nonetheless reinforce the observation that an increase in leukemia existed in that portion of the population exposed to radiation and employed in an occupation where solvents were used, especially benzene or where exposure to medical x-ray occurred.

Thorpe, then Associate Medical Director for the Exxon Corporation, on the other hand, reported that the incidence of leukemia among a population of 38,000 workers exposed to low levels of benzene over a ten year period (1962–1972) was not significantly different when compared with the general population. (34)

This study has been severely criticized by Brown for its relaxed case-finding techniques and the methods of analyses. (35) Thus, the conclusions derived from this study must be viewed in the light of serious methodological problems which were encountered in the collection and treatment of the data. These problems, which were also acknowledged by Thorpe, included: (1) the low incidence of leukemia in the general population; (2) the validity of the diagnoses of leukemia, (3) the quantitative determinations of the extent of exposures, (4) an inadequate follow-up of annuitants and (5) incomplete occupational histories on individuals diagnosed as having leukemia.

Infante et al. recently reported the results of an ongoing epidemiologic study among workers exposed to benzene during the manufacture of Pliofilm, a process unconfounded with mixed solvent exposures. (51) Although follow-up is less than 75% completed, the results already demonstrate a statistically significant excess of leukemia in benzene exposed workers as compared with the expectations based on the U.S. white male population or on a second population employed at an industry in the same state over the same period of time. Among benzene exposed workers, a five-fold excess of total leukemia and a 10-fold excess of myelomonocytic leukemias were demonstrated even under conditions leading to an underestimate of the true leukemia risk. Those conditions were the treatment and the analyses of individuals whose vital status was unknown—they were assumed to be alive until the last day of the study period. Note was made of the consistency of the types of leukemia in this study population (myelogenous and monocytic) with earlier case reports by Vigliani of workers who had died from benzene related leukemia in Italy.

The wide variety of clinical manifestations and hematological disorders observed in humans exposed to benzene, which range from simple anemia and leukopenia to aplastic anemia have been experimentally induced in animals. However, attempts to demonstrate the development of leukemia in animals exposed to benzene has met with less success. To date, a study by Lignac in 1932 is the only animal study known to OSHA in which leukemia has been observed in animals exposed to benzene. (38) Fifty-four mice (28 females, 26 males) were given subcutaneous injections of benzene (0.001 ml in 0.1 ml of olive oil) for 17 to 21 weeks. Nine mice were initially excluded following bacteriological examination and an additional 12 were lost through atrophy of various organs, especially the spleen. Lignac attributed these deaths to the size of the dose of benzene based upon the findings of a preceding experiment. Eight of the remaining 44 mice developed leukemia or Kundrat's lymphosarcoma and died 4 to 11 months after receiving the first injection. The absence of concurrent controls makes interpretation of the results difficult, and uncertainties as to the strain of the mice studied has frustrated efforts to independently confirm the findings.

More recent studies have failed to produce Lignac's results. Amiel in 1960 utilized four inbred strains of mice and subjected them to the same experimental program outlined in Lignac's study. (39) No leukemic or aplastic hemopathies were observed. More recently, Ward et al. administered benzene subcutaneously to a species and strain of mice which is responsive to leukemogenic agents. (40) Although they observed a slight increase in the percentage of granulocytic leukemias in the benzene-treated mice as compared with the controls, the authors viewed the increase as not statistically significant.

SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from benzene exposure until a permanent standard can be promulgated in accordance with sections 6 (b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for benzene and the necessity for including these provisions in the ETS.

A. *Scope and application.* The emergency temporary standard applies to all employers and all establishments in which benzene is present, except for two general groups. The ETS does not apply to retail automotive service stations. It's estimated that there are presently more than 200,000 such service stations in the country. Further, the limited evidence presently available suggests that employee exposures during gas dispensing operations are generally below 1 ppm. In light of these facts, and the relatively short duration of the ETS, it has been determined that exclusion of such service stations from the ETS would be appropriate.

Similarly, the ETS does not cover exposure to liquids containing benzene in amounts of 1 percent or less by volume, or benzene vapor released by these liquids. Benzene is a contaminant as well as an additive in a multitude of industrial substances. OSHA estimates that some 60,000 facilities with over 400,000 employees are engaged in industrial operations utilizing liquid mixtures containing 1 percent or less benzene by volume.

Also based on the presently available evidence in the Arthur D. Little study the exposure of employee working with these mixture is generally less than 1 ppm on an 8 hour average. In view of the foregoing, the ETS excludes users of these mixtures from its coverage.

However, during the proceedings on the proposed permanent standard, it is OSHA's intention to consider the appropriate scope and application of its permanent standards to protect workers from the leukemia hazard of benzene exposure.

Meanwhile, the existing standard in § 1910.1000 which governs benzene exposure will continue to apply to retail automotive service stations and to operations which use liquids containing one percent or less benzene.

Thus, these employers must continue to limit their employees' exposures to benzene to the 10 ppm permissible exposure limit, 25 ppm limit ceiling and 50 ppm excursion limit of that section.

The emergency temporary standard is applicable to "general industry," construction and maritime.

B. *Permissible exposure limit.* The standard has separate permissible limits for airborne exposure and for eye and dermal exposures.

(1) *Airborne exposure limits.* Considerable scientific opinion supports the regulatory policy for carcinogens that no safe level exists for any exposed population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) stated:

> No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1).

Furthermore, NIOSH has stated that, "it is not possible at the present time to establish an exposure level at which benzene may be regarded to be without danger," a position which it has consistently taken with regard to other carcinogens.

This regulatory policy is consistent with previous OSHA actions to control employee exposure to carcinogens; see, e.g. the preambles to the carcinogen standards, 29 CFR 1910.1003 et seq. (39 FR 3758); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892) and the coke oven emissions standard, 29 CFR 1910.1029 (41 FR 46742). Thus, the level of 1 ppm has been chosen, not as a "safe" or "no effect" level, but on the basis of OSHA's belief, for the reasons set forth in the technical feasibility and economic impact study prepared for OSHA by Arthur D. Little Co., that 1 ppm is the lowest level that generally can be achieved at this time.

(2) *Ceiling limit.* In addition to limiting 8-hour time weighted average exposures to 1 ppm, the emergency standard requires that no employee be exposed to benzene in excess of 5 ppm averaged over any 15-minute period. An employee may be exposed to varying concentrations of benzene during the course of the workday with some periods of exposure above 1 ppm and corresponding periods below 1 ppm. OSHA has determined that the peak excursions permitted under the present standard are not appropriate in regulating exposure to benzene—a human leukemia hazard for which no safe level can be determined. For this reason, the 15-minute ceiling limit of 5 ppm is established to limit the magnitude of brief excursions which might otherwise occur even where the 8-hour time weighted average was not exceeded.

(3) *Dermal and eye exposure limits.* The standard prohibits eye and repeated or prolonged skin exposure to liquid benzene. While studies indicate benzene is not readily absorbed through intact skin, direct contact with liquid benzene can cause blistering and breakage of the skin surface. (46), (47) Under these circumstances, or where the skin is otherwise broken, prolonged or repeated skin contact may result in significant absorption of benzene. In addition, benzene absorp-

V 4285 MAY 3 77 UMI

tion through the skin may be enhanced when it occurs in combination with other solvents. (48) Once absorbed, the benzene is distributed throughout the body by the blood.

C. *Notification of use.* The standard requires employers to notify OSHA of the location of workplaces in which benzene is used and to describe the conditions of use and protective measures in effect. This requirement is designed to assure compliance during the effective period of this ETS.

D. *Monitoring of exposure.* The standard requires employers to monitor each workplace where benzene is present to determine employee exposure. Such determinations may be made by monitoring and measurements which are representative of each employee's exposure to benzene over an 8-hour period. Actual measurements of airborne concentrations of benzene are required in order to determine employee exposure to benzene. However, employers do not have to measure the exposure of each individual employee.

Where the initial measurements reveal benzene exposure to be above the permissible exposure limit, monthly monitoring is required. Measurements which reveal levels of exposure to benzene below the permissible exposure limit require quarterly monitoring.

The results of the exposure measurement program determine what further action must be taken by the employer. In addition to monthly monitoring, measurement of exposures above the permissible exposure limit require the employer to institute controls to reduce the exposure to or below the permissible exposure limit. A monitoring requirement is necessary in the ETS to reduce employee exposure.

In establishing the monitoring and measurement requirements of this standard, OSHA has considered the importance of such activities to identifying exposed employees and their levels of exposure so that appropriate protective measures may be taken. OSHA has also considered the question of the feasibility of immediately complying with the monitoring requirements specified.

Performing the required measurements of employee exposure to benzene will generally involve the use of portable battery-powered air sampling pumps worn by the employee during the sampling period, charcoal tubes for absorption of the benzene, and access to appropriate laboratory facilities for subsequent analysis of the charcoal tube samples. The laboratory analysis would usually be performed using gas chromotographs, a technique commonly available in analytical laboratories and utilized for the analysis of a wide range of air contaminants found in samples of the workplace environment and general community. The standard provides that the initial sampling must be conducted and results obtained within 30 days of the effective date of the standard, which would be almost 50 days following publication of the standard. The standard does not require a separate measurement for each affected employee. It requires only that sufficient measurements are obtained to be representative of the exposure of all affected employees.

OSHA notes that the monitoring requirements will arise principally in the industries engaged in benzene production, gasoline production, and related chemical industries. These industries are generally regarded to be at the forefront of all industries with respect to existing industrial hygiene and occupational health programs. Many of the employers in these industries have extensive professional and technical staffs and established employee health programs which include periodic measurement of employee exposure to benzene. Thus these employers are expected to have little difficulty in complying with the monitoring requirements of this standard. Some of these employers have had to acquire much of the apparatus and equipment required for measuring employee exposure to benzene in order to comply with other occupational health standards previously issued by this Agency. For example, those employers engaged in manufacturing or use of vinyl chloride and polyvinyl chloride and employers engaged in the operation of coke ovens—one source of benzene production, will find that much of the effort made earlier in complying with the standards for vinyl chloride and coke oven emissions will be applicable to the requirements under this standard for measuring employee exposure to benzene.

There are approximately eight manufacturers of suitable sampling pumps. While it is not possible to know the total number of pumps immediately available from these manufacturers, one of the major manufacturers has indicated an ability to deliver 200 immediately and 800 within 45 days. That manufacturer estimated that the entire industry is capable of delivering up to 2,000 pumps in no more than 60 days from now. OSHA believes this capacity is adequate to meet the additional needs of employers who do not presently have a sufficient number of these sampling pumps. Moreover, the standard does not require that the employer own the equipment and do this monitoring himself; the utilization of consultants or contractors is another choice available to many employers.

For the above reasons, the Assistant Secretary concludes that the monitoring and measurement requirements of this emergency standard are feasible.

E. *Methods of compliance.* The standard requires employee exposure to benzene to be reduced to 1 ppm by engineering controls, work practices and respiratory protection. The emergency standard reflects a preference for the use of engineering controls, work practices and, where possible, substitution because of the greater reliability of these control techniques. (See, for example, the standards on vinyl chloride, § 1910.1017, and coke oven emissions § 1910.1029, and the reasons given therein.)

Thus, employers are required to institute feasible engineering controls and work practices as soon as possible to reduce employee exposure to or below the permissible exposure limits. In operations where engineering controls and work practices do not completely reduce exposure to the permissible level, they must still be implemented to reduce exposures to the lowest practicable level and supplemented by respirators.

OSHA recognizes that initial compliance may involve the use of respirators in many instances until engineering controls are installed and work practices initiated.

Based on a review of the Arthur D. Little Co. study and data furnished by respirator manufacturers, OSHA has determined that the availability of respirators of the required types, especially the air-purifying respirators and replacement cartridges, is adequate to meet the needs of employers who will require them for compliance with the ETS. For example, there are several manufacturers of air-purifying respirators for use against benzene. One of these manufacturers has indicated that it currently has in stock 100,000 replacement cartridges more than normal order requirements, can deliver more than 250,000 cartridges per month, and is presently increasing production capacity for this type of respirator. Additionally, OSHA is aware that respirators are currently available for use by employees in many job categories in the industries covered by this standard, such as the petroleum refining, petrochemical, chemical, and related industries.

OSHA estimates that approximately 30,000 of the 150,000 employees affected by this standard would have to be furnished respirators for use some of the time during the initial period of compliance with this standard. In view of the current existence of suitable respirators in many workplaces where they would be needed and the ability of the respirator manufacturers and suppliers to supply promptly on receipt of order additional respirators needed to comply, OSHA concludes that the respirator requirements of this standard are feasible.

F. *Medical surveillance.* The standard requires employers to institute a limited program of medical surveillance for all employees exposed to benzene. The purposes of these medical surveillance requirements are to determine the effects of exposure on the blood forming systems of the employees, to detect blood abnormalities, and to ensure that symptoms of overexposure to benzene are recognized as early as possible. The standard provides that this medical testing shall be conducted within 30 days of the effective date of the standard and quarterly thereafter. The medical surveillance requirements are limited to those minimum tests considered necessary for the emergency standard. (41) The standard also requires a medical history to be taken for every employee who may be exposed to benzene.

Facilities for performing such routine blood tests are readily available in all parts of the country and OSHA has concluded that compliance with this limited medical testing requirement is immediately feasible.

Following the medical examination, the employer must obtain a written opinion from the examining physician stating whether the employee has any medical condition that would place him at increased risk to his health from exposure to benzene. The employer must provide a copy of the physician's opinion to the affected employee. Employees are not required by the standard to submit to the medical surveillance offered under this provision.

G. *Employee education and training.* Information and training are important to protect employees from workplace cancer hazards. Appropriate training of employees can result in immediate benefits in terms of reduced exposures. To be effective, an employee education system must fully inform the employee of the specific hazards associated with the work environment. For this reason, the employer is required to inform each employee who is assigned to work in the presence of benzene about the specific operations where benzene exposure may occur and about proper procedures to avoid unnecessary exposure. The required training program must, among other things, advise employees of the signs and symptoms of exposure to benzene, the purpose of the medical tests, and the purpose, proper use, and limitation of respirators.

H. *Signs.* It is important for the protection of employees that appropriate forms of warning, as necessary, be used to inform employees of the hazards to which they are exposed in the course of their employment.

In light of the grave danger posed by exposure to benzene, OSHA believes that signs are necessary in addition to the periodic training program for informing employees of the carcinogenic hazard of benzene exposure.

I. *Recordkeeping.* The standard requires a limited amount of recordkeeping. Employers must maintain exposure measurement records and medical records. Such records must be maintained during the period of the emergency standard. Thereafter, employers will be subject to the long-term recordkeeping requirements included in the final standard promulgated under section 6 (b) of the Act.

J. *Appendixes.* Three appendixes have been attached to the standard for informational purposes. These appendixes do not impose any additional requirements on the employer.

V.—References

The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the emergency standard is based. A complete set of the references is available for inspection and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

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VI. Environmental and Economic Impacts

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued thereunder (29 CFR Part 1999) require that Federal agencies assess their proposed major actions to determine whether a significant impact on the quality of the human environment may result, and if necessary to prepare an environmental impact statement. An environmental impact statement on the regulation of occupational exposure to benzene will be prepared and made available as required during the rulemaking proceedings under section 6(b) of the Act. Because of the emergency nature of this standard, no environmental impact statement can be prepared or is required for the emergency temporary standard. In addition, notice is hereby given that an economic impact analysis under Executive Order 11949 (42 FR 1017) and applicable procedures will be prepared and made available prior to the promulgation

of any permanent standard resulting from this emergency temporary standard. The preliminary economic and technological feasibility study done by Arthur D. Little indicates that the emergency standard is feasible.

VIII—Public Participation—Notice of Hearing

Pursuant to section 6(c)(3) of the Act, this ETS as published also serves as a proposal for a permanent rule. It is OSHA's intention to develop and publish a more comprehensive proposal in the very near future which will contain additional provisions and some modifications of this emergency standard. Since the comprehensive proposal will be based on the emergency standard and since the emergency nature of the proceeding and the requirements of section 6(c) will necessitate expedited treatment throughout the development of the final standard on benzene, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views and arguments with respect to this ETS and the supplementary proposal to be published shortly. These comments must be postmarked on or before June 20, 1977 and submitted in quadruplicate to the Docket Officer, Docket No. H–059, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue therein. The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on July 12, 1977, in the New Department of Labor Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

Notices of Intention To Appear

All persons desiring to participate at the hearing, must file in quadruplicate a notice of intention to appear, postmarked on or before June 20, 1977 with the OSHA Committee Management Office, Docket No. H–059, Room N–3635, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210 (telephone: (202) 523–8024).

The notices of intention to appear, which will be available for inspection and copying at the OSHA Committee Management Office, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony including any documentary evidence to be presented at the hearing, to the OSHA Committee Management Office where it will be available for inspection and copying. This material must be received by July 5, 1977. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

Conduct of Hearings

The hearing will commence at 9:30 a.m. on July 12, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–2315, Washington, D.C. (202–523–9261).

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8–76, and 29 CFR Part 1911, Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new § 1910.1028 as set forth below. In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), the standard in the new § 1910.1028 is determined to be more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards are superseded by the new standard in § 1910.1028. These amendments are effective May 21, 1977.

Signed at Washington, D.C., this 29th day of April 1977.

Eula Bingham,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore amended as follows:

1. A new § 1910.20 is added to 29 CFR Part 1910 to read as follows:

§ 1910.20 Benzene.

Section 1910.1028 shall apply to the exposure of every employee to benzene in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or § 1910.16, in lieu of any different standard on exposure to benzene which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended]

2. Table Z–2 of § 1910.1000 is amended by adding a footnote 1 following the words "Benzene (Z37.4–1969)" and by adding the following below Table Z–2:

Occupational exposures to benzene are subject to the requirements of § 1910.–1028 except as specifically exempted by § 1910.1028(a). Exposures exempted by § 1910.1028(a) are covered by this section.

3. Part 1910 of Title 29 of the Code of Federal Regulations is amended by adding thereto a new § 1910.1028 to read as follows:

§ 1910.1028 Benzene.

(a) *Scope and application.* (1) This section applies to the production, reaction, release, packaging, repackaging, storage, transportation, handling, or use of benzene.

(2) This section does not apply: (i) To retail automotive service stations; or (ii) where the exposure to benzene is only from liquid mixtures containing 1 percent or less of benzene by volume, or the vapors released from these liquids.

(b) *Definitions.* "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, or designee.

"Benzene" (C6H6) (CAS Registry No. 000071432), means benzene, or a mixture of liquids containing benzene, or the benzene vapor released by these liquids.

V 4285 MAY 3 77 UMI

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the employer's establishment is located.

(c) *Exposure limits.*—(1) *Permissible airborne exposure limits.* (i) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 1 part benzene per million parts of air (1 ppm), as an 8-hour time-weighted average.

(ii) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any 15 minute period.

(2) *Dermal and eye exposure limit.* The employer shall assure that no employee is exposed to eye contact or repeated skin contact with benzene.

(d) *Notification of use.* Within 30 days of the effective date of this section, every employer who has a place of employment where benzene is present, shall report the following information to the nearest OSHA area office for each such establishment:

(1) The address and location of each establishment where employee exposure to benzene occurs;

(2) A brief description of each process or operation which may result in employee exposure to benzene;

(3) The number of employees engaged in each process or operation which may result in exposure to benzene and an estimate of the frequency and degree of exposure that results; and

(4) A brief description of the employee safety and health program as it relates to limitation of employee exposure to benzene.

(e) *Exposure monitoring and measurement.*—(1) *Initial monitoring.* (i) Each employer who has a place of employment where benzene is present, shall monitor each such workplace and work operation to determine the airborne concentrations of benzene to which employees may be exposed. This determination shall be made by monitoring and measurements which are representative of each employee's exposure to benzene over an 8-hour period.

(ii) Each employer, who has a place of employment in which benzene is present, shall inspect each workplace and work operation to determine if any employee may be exposed to benzene through eye contact or repeated skin contact.

(2) *Frequency of monitoring.* The monitoring required under paragraph (e) (1) of this section shall be conducted, and the results obtained, within thirty days of the effective date of this section and thereafter repeated quarterly for employees whose exposure is found to be less than 1 ppm, and monthly for those employees whose exposure is found to be in excess of the permissible exposure limit. The employer shall continue monthly measurements until at least two consecutive measurements taken at least seven (7) days apart are below the permissible exposure limit, and thereafter the employer shall measure quarterly.

(3) *Additional monitoring.* Whenever there has been a production, process, or control change which may result in new or additional exposure to benzene, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, additional monitoring which complies with paragraph (e) (1) of this section shall be made.

(4) *Employee notification.* (i) Within 5 working days after the receipt of measurement results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Where the results reveal the employee's exposure to be over the permissible exposure limit, this notification shall also include the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(5) *Accuracy of measurement.* The method of measurement shall have an accuracy, to a confidence level of 95 percent, of not less than plus or minus 25 percent for concentrations of benzene greater than or equal to 1 ppm.

(6) *Employee exposure.* For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(f) *Methods of compliance.* The employer shall control employee exposures to airborne concentrations of benzene to or below the permissible exposure limit, and shall protect against employee exposure to eye or repeated skin contact with benzene, by engineering controls, work practices and personal protective devices and equipment, as follows:

(1) *Engineering controls.* The employer shall develop and implement, as soon as possible, feasible engineering controls to reduce the airborne concentration of benzene to or below the permissible exposure limit.

(2) *Work practices.* The employer shall examine each work area in which benzene is present and shall institute, as soon as possible, work practices to reduce employee exposure to benzene to or below the permissible exposure limit. The work practices shall be described in writing and shall include, among other things, the following:

(i) Limiting access to work areas where benzene is present to authorized personnel only;

(ii) Prohibiting smoking and the consumption of food and beverages in work areas where benzene is present; and

(iii) Establishing good maintenance and housekeeping including the prompt cleanup of spills, repair of leaks, etc.

(3) *Respiratory projection.* Whenever engineering and work practice controls which can be instituted are not sufficient to reduce exposures to or below the permissible exposure limit, they shall be used nontheless to reduce exposurse to the lowest practicable level, and shall be supplemented by the use of respirators in accordance with paragraph (g) of this section.

(g) *Respirators.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to or below the permissible exposure limit, and in emergencies.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide the appropriate respirator from Table I below and shall assure that the employee uses the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

TABLE I

RESPIRATORY PROTECTION FOR BENZENE

Concentration of benzene or condition of use	Respirator type
(a) Less than or equal to 10 ppm	(1) Chemical cartridge respirator with organic vapor cartridges and half mask; or (2) Any supplied air respirator with half mask.
(b) Less than or equal to 50 ppm	(1) Chemical cartridge respirator with organic vapor cartridges and full facepiece; or (2) Any supplied air respirator with full facepiece; or (3) Any organic vapor gas mask; or (4) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 1,000 ppm	(1) Supplied air respirator with half mask in positive pressure mode.
(d) Less than or equal to 2,000 ppm	(1) Supplied air respirator with full facepiece, helmet, or hood, in positive pressure mode.
(e) Less than or equal to 10,000 ppm	(1) Supplied air respirator and auxillary self-contained facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) *Respirator program.* The employer shall institute a respiratory protection program in accordance with § 1910.134 (b), (d), (e) and (f).

(4) Where air-purifying respirators are used (cartridge, canister or gas mask), the air-purifying canisters or cartridges shall be replaced prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first.

(h) *Protective clothing and equipment.* Where eye or repeated skin contact with liquid benzene may occur, employers shall provide and assure that employees wear impermeable protective clothing and appropriate equipment to protect the area of the body likely to come in contact with liquid benzene.

(i) *Medical surveillance.* (1) Each employer shall make available a medical surveillance program for all employees who are or will be exposed to benzene. The medical surveillance program shall consist of:

(i) A history which includes past work exposures to benzene or any other hematologic toxins, a family history of hematological neoplasms, a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements, a history of renal or liver dysfunction, a history of drugs routinely taken, alcoholic intake and systemic infections;

(ii) A complete blood count including a differential white blood cell count; and

(iii) Additional tests shall be conducted where, in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(2) All medical procedures shall be performed by or under the supervision of a licensed physician, and shall be provided by the employer without cost to the employee.

(3) Medical surveillance and testing of each employee shall be conducted within thirty days of the effective date of this section, and quarterly thereafter. If an employee is accidently or otherwise exposed to benzene by ingestion, inhalation, skin or eye contact; or for any reason, an employee develops signs and symptoms commonly associated with exposure to benzene, the employer shall provide appropriate medical examinations and emergency treatment.

(4) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(5) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(a) The results of the medical testing;

(b) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to benzene;

(c) Any recommended limitations upon the employee's exposure to benzene or upon the use of protective clothing and equipment such as respirators; and

(d) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(j) *Employee information and training.*—(1) *Training program.* Within fifteen days of the effective date of this section, the employer shall provide a training program for employees assigned to workplace areas where benzene is present and shall assure that each affected employee is informed of the following:

(i) The information contained in the substance data sheet for benzene which is contained in Appendix A of this section;

(ii) The quantity, location, manner of use, release or storage of benzene and the specific nature of operations which could result in exposure above the permissible exposure limit, as well as necessary protective steps;

(iii) The purpose, proper use, and limitation of respiratory devices as specified in § 1910.134;

(iv) The purpose and a description of the medical testing program required by paragraph (i) of this section and the information contained in Appendix C of this section; and

(v) The contents of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(k) *Signs.* (1) The employer shall post signs to clearly designate all work areas where benzene may be present, bearing the legend:

DANGER
BENZENE
CANCER HAZARD

(2) Where the permissible exposure limit is exceeded, the signs shall also include the legend: Respirator required.

(3) The employer shall assure that no statement appear on or near any required sign which contradicts or detracts from the required information.

(l) *Recordkeeping.*—(1) *Exposure measurements.* The employer shall establish and maintain an accurate record of all measurements required by paragraph (e) of this section.

(i) This record shall include:

(a) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposures;

(b) A description of the sampling and analytical methods used;

(c) Type of respiratory protective devices worn, if any; and

(d) Name, social security number, and job classification of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(ii) This record shall be maintained during the effective period of this section.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (i) of this section.

(i) This record shall include:

(a) A copy of the physician's written opinion;

(b) Any employee medical complaints related to exposure to benzene; and

(c) A copy of the information provided to the physician as required by paragraph (i) (4) of this section;

(ii) This record shall be maintained during the effective period of this section.

(3) *Availability.* (i) All records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) Employee exposure measurement records as required by this section shall be made available for examination and copying to affected employees, and their designated representatives.

(iii) Former employees and the employees' designated representatives shall have access to such records as will indicate their own exposure to benzene.

(iv) Employee medical records required to be maintained by this section shall be made available upon request for examination and copying to a physician designated by the affected employee or former employee.

(m) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any measuring or monitoring of employee exposure to benzene conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) When observation of the measuring or monitoring of employee exposure to benzene requires entry into an area where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective devices required to be worn by employees working in the area, assure the use of such equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

V 4285 MAY 3 77 UMI

(a) Receive an explanation of the measurement procedures;

(b) Observe all steps related to the measurement of airborne concentrations of benzene performed at the place of exposure; and

(c) Record the results obtained.

(n) Effective date: This section shall become effective May 21, 1977.

(o) *Appendixes.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

I. SUBSTANCE IDENTIFICATION

APPENDIX A—SUBSTANCE SAFETY DATA SHEET

BENZENE

A. *Substance.* Benzene.

B. *Permissible Exposure.* Except as to retail gasoline stations and operations which use liquids containing benzene in amounts greater than 1% by volume, or the benzene vapor released by any such liquids.

1. *Airborne.* 1 part of benzene vapor per million parts of air (1 ppm); time-weighted average (TWA) for an 8-hour workday for a 40-hour week, with a ceiling concentration of 5 ppm.

2. *Dermal.* Eye contact and repeated skin contact with liquid benzene shall be prohibited.

C. *Appearance and odor.* Benzene is a clear, colorless liquid with a pleasant, sweet odor. The odor of benzene does not provide adequate warning of its hazard.

II. HEALTH HAZARD DATA

A. *Ways in which the benzene affects your health.* Benzene can affect your health if you inhale it, or if it comes in contact with your skin or eyes. Benzene may also be harmful if you happen to swallow it.

B. *Effects of overexposure.* 1. Short-term (acute) overexposure: If you are overexposed to high concentrations of benzene, well above the levels where its odors are first recognizable, you may feel breathless, irritable, euphoric, or giddy; you may experience irritation in eyes, nose, and respiratory tract. You may develop a headache, feel dizzy, nauseous, or experience unsteadiness in walking. Severe exposures may lead to convulsions.

2. Long-term (chronic) exposure: Repeated and prolonged exposure of benzene may cause headache, fatigue, exhaustion, tendency to bleed, nervousness, sleeplessness, shortness of breath, and serious blood disorders, including leukemia.

III. PROTECTIVE CLOTHING AND EQUIPMENT

A. *Respirators.* Respirators are required for those operations in which engineering controls or work practice controls are not available to reduce exposure to the permissible level. If respirators are worn, they must have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. *Protective Clothing.* You must wear impervious protective clothing (such as boots, gloves, sleeves, aprons, etc.) over any parts of your body that could be repeatedly exposed to liquid benzene.

C. *Eye and Face Protection.* You must wear splash proof safety goggles if it is possible that benzene may get into your eyes. In addition, you should wear a face shield if your face could be splashed with benzene liquid.

IV. EMERGENCY AND FIRST AID PROCEDURES

A. *Eye and face exposure.* If benzene is splashed in your eyes, wash it out immediately with large amounts of water. Call a doctor as soon as possible.

B. *Skin exposure.* If benzene is spilled on your clothing or skin, remove the contaminated clotning and wash the exposed skin with large amounts of water and soap immediately. Wash contaminated clothing before you wear it again.

C. *Breathing.* If you or any other person breathes in large amounts of benzene, get the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call a doctor as soon as possible.

D. *Swallowing.* If benzene has been swallowed and the patient is conscious, do not induce vomiting. Call a doctor immediately.

V. MEDICAL REQUIREMENTS

If you are exposed to benzene your employer is required to provide the following medical procedures within thirty days of the effective date of this standard, consisting of a medical history and laboratory tests. These tests shall be provided without cost to you.

VII. OBSERVATION OF MONITORING

Your employer is required to perform measurements that are representative of your exposure to benzene and you are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also he provided with, and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to see the records of measurements of your exposure to benzene upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer.

IX. PRECAUTIONS FOR SAFE USE, HANDLING AND STORAGE

Benzene liquid is highly flammable. It should be stored in tightly closed containers in a cool, well ventilated area. Benzene vapor may form explosive mixtures in air. All sources of ignition must be controlled. You should use non-sparking tools when opening or closing benzene containers. You must ground or bond metal benzene containers. Fire extinguishers, where provided, must be readily available and you should know where they are located and how to operate them. Smoking is prohibited in areas where benzene is used or stored. Ask your supervisor where benzene is used on your work area and for additional plant safety rules.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES

BENZENE

I. PHYSICAL AND CHEMICAL DATA

A. Substance Identification

1. *Synonyms.* Benzol, benzole, coal naptha, cyclohexatriene, phene, phenyl hydride, pyrobenzol. (Benzin, petroleum benzin, and benzine, do not contain benzene).

2. *Formula.* C6H6 (CAS Registry Number: 000071432)

B. Physical Data

1. Boiling point (760 mm Hg): 80.1 C (176F).

2. Specific Gravity (water=1) :0.879.

3. Vapor Density (air=1) :2.7.

4. Melting Point: 5/5 C (42F).

5. Vapor Pressure at 20 C (68F) :75 mm Hg.

6. Solubility in Water: .06%.

7. Evaporation Rate (ether=1) :2.8.

8. Appearance and Odor: Clear, colorless liquid with a distinctive sweet odor.

II. FIRE, EXPLOSION AND REACTIVITY HAZARD DATA

A. *Fire.* 1. Flash Point (closed cup): —11 C (12F).

2. Autoignition Temperature: 680 C (1076F).

3. Flammable Limits in Air, % by Volume: Lower: 1.3% Upper: 7.1%.

4. Extinguishing Media: Carbon dioxide, dry chemical, or foam.

5. Special Fire-Fighting Procedures: Do not use solid stream of water, since stream will scatter and spread fire. Water spray can be used to keep fire exposed containers cool.

6. Unusual fire and explosion hazards: Benzene is a flammable liquid. Its vapors can form explosive mixtures. All ignition sources must be controlled when benzene is used, handled, or stored. Where liquid or vapor may be released, such areas shall be considered as hazardous locations. Benzene vapors are heavier than air; thus the vapors may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which benzene is handled.

7. Benzene is classified as a 1 B flammable liquid for the purpose of conforming to the requirements of 29 CFR 1910.106. A concentration exceeding 3250 ppm is considered a potential fire or explosion hazard. Locations where benzene may be present in quantities sufficient to produce explosive or ignitable mixtures are considered Class 1 Group D for the purposes of conforming to the requirement of 29 CFR 1910.309.

B. *Reactivity.* 1. Conditions contributing to instability: Heat.

2. Incompatibility: Heat and oxidizing materials.

3. Hazardous decomposition products: Toxic gases and vapors (such as carbon monoxide).

III. SPILL AND LEAK PROCEDURES

A. *Steps to be taken if the material is released or spilled.* Large amounts of water should be used to flush the spills. Do not flush benzene into confined space, such as a sewer, because of explosion danger. Remove all ignition sources. Ventilate enclosed places.

B. *Waste Disposal Method.* Disposal methods must conform to other jurisdictional regulations. If allowed, benzene may be disposed of: (a) By absorbing it in dry sand or earth and disposing in a sanitary land fill; (b) if small quantities, by removing it to a safe location from buildings or other combustible sources, pouring it in dry sand or earth and cautiously igniting it; (c) if large quantities, by atomizing it in a suitable combustion chamber.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Normal Monitoring Program: Measurements taken for the purpose of determining employee exposure are best taken such that the representive average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five (5) measurements is taken in a random manner over the 8-hour work shift. Random sampling means that

any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) work shift is an estimate of an employee's average level of exposure for that work shift. NIOSH recommends that samples be collected at a sampling rate of one liter per minute for a minimum of two hours. Air samples should be taken in the employee's breathing zone (air that would nearly represent that inhaled by the employee). Sampling and analysis should be performed by gas absorption tubes with subsequent chemical analysis, by gas chromatography of those areas most likely to represent the highest airborne concentration of benzene where employees are exposed. Methods meeting the prescribed accuracy and precision requirements are available in the "NIOSH Manual of Analytical Methods."

V. MISCELLANEOUS PRECAUTIONS

A. High Exposures to benzene can occur when transferring the liquid from one container to another. Such operations should be well ventilated and good work practices should be established to avoid spills.

B. Non-sparking tools should be used to open benzene containers which should be effectively grounded and bonded prior to opening and pouring.

C. Employers should advise employees of all plant areas and operations where exposure to benzene could occur. A few of the common operations in which high exposures to benzene may be encountered are: manufacture of styrene, phenol, cyclohexane, pesticides, and detergents.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR BENZENE

I. ROUTE OF ENTRY

Inhalation; possible skin absorption.

II. TOXICOLOGY

Benzene is primarily an inhalation hazard. Systemic absorption cause depression of the hematopoietic system. Inhalation of high concentrations can affect the central nervous system function. Aspiration of small amounts of liquid benzene immediately causes pulmonary edema and hemorrhage of pulmonary tissue. Skin absorption through intact skin is negligible. However, absorption will be accelerated in the case of injured skin, and benzene may be more readily absorbed if it is present in a mixture or as a contaminate in solvents which are readily absorbed. Defatting action of benzene may produce primary irritation upon repeated or prolonged contact with the skin. High concentrations are irritating to the mucous membranes of the eyes, nose, and respiratory tract.

III. SIGNS AND SYMPTOMS

Benzene is poorly absorbed through the skin, however, direct contact may cause erythema or blistering. Repeated or prolonged contact may result in drying, scaling, dermatitis, or precipitate development of secondary skin infections. Local effects of benzene vapor or liquid on the eye are slight. Only at very high concentrations is there any smarting sensation in the eye. Droplet contamination of the eye by benzene causes a moderate burning sensation, but only slight transient injury of the epithelial cell, with the eye recovering rapidly. Inhalation of high concentrations of benzene may have an initial stimulatory effect on the central nervous system characterized by exhilaration, nervous excitation, and/or giddiness, followed by a period of depression, drowsiness, fatigue, or vertigo. There may be sensation of tightness in the chest accompanied by breathlessness and ultimately the victim may lose consciousness. Convulsions and tremors occur frequently, and death may follow from respiratory paralysis or circulatory collapse in a few minutes to several hours following severe exposures. The insidious and often irreversible effect on the blood-forming system of prolonged exposure to small quantities of benzene vapor is of extreme importance. These effects have been noted to occur at concentrations of benzene which may not cause irritation of mucous membranes, or any unpleasant sensory effects. Early signs and symptoms of benzene morbidity are varied and vague, and not specific for benzene exposure. Subjective complaints of headache, dizziness, and loss of appetite may precede or procede clinical symptomology. Bleeding from the nose, gums, or mucous membranes and the development of purpuric spots may occur as the condition progresses. Rapid pulse and low blood pressure in addition to a physical appearance of anemia may accompany a subjective complaint of shortness of breath. Clinical evidence of leucopenia and anemia are the most common abnormalities reported, however, macrocytosis and thrombocytopenia are also frequently present. Bone marrow may appear normal, aplastic, or hyperplastic and may not in all situations correlate with peripheral blood findings indicating hypo-hyper-activity of blood forming tissues. There are great variations in the susceptibility to benzene morbidity which prohibits the identification of "typical" blood picture. The effects of prolonged benzene exposure may appear after several weeks or years after the actual exposure has ceased. Development of leukemia also results from exposure to benzene.

IV. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Flush eyes and wash contaminated skin. Symptoms of non-specific nervous disturbances may persist following severe exposures. Recovery from mild exposures is usually rapid and complete.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. *Other considerations.* Benzene can cause both acute and chronic effects. It is important that the physician become familiar with the operating conditions in which exposure to benzene occurs. Those with skin disease may not tolerate the wearing of protective clothing and those with chronic respiratory disease may not tolerate the wearing of negative pressure respirators.

B. *Surveillance and screening.* Medical histories and laboratory examinations are required for each employee subject to exposure to benzene. The employer must screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. *Liver disease.* The primary site of biotransformation and detoxification of benzene is the liver. Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of benzene. These precautions should be considered before exposing persons with impaired liver function to benzene vapors.

2. *Renal disease.* Although benzene is not known as a kidney toxin the importance of the organ in the elimination of toxic substances and metabolites justifies special consideration in those with possible impairment of renal function.

3. *Skin disease.* Benzene is a defatting agent and can cause dermatitis on prolonged exposure. Persons with preexisting skin disorders may be more susceptible to the effects of benzene.

4. *Blood dyscrasias.* Benzene is a hematopoietic depressant. Persons with existing blood disorders may be more susceptible to the effects of benzene.

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(Secs. 4, 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911.)

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federal register

TUESDAY, MAY 3, 1977
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

INTERSTATE COMMERCE COMMISSION

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CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

System Diagram Map

V42N85 MAY 3 77 UMI

INTERSTATE COMMERCE COMMISSION

[AB 1 (SDM) [1]]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Chicago and North Western Transportation Company, has filed with the Commission its color-coded system diagram map in docket No. AB–1 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 22, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-1 (SDM).

ROBERT L. OSWALD,
Secretary.

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

AB–1

Description of all lines or portions of lines identified on the Chicago and North Western Transportation Company System Diagram Map as falling within Categories 1 thru 3. 49 CFR Section 1121.21.

CATEGORY 1

All lines or portions of lines which the Chicago and North Western Transportation Company anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram, or any amended diagram is filed with the Interstate Commerce Commission. 49 C.F.R. Section 1121.20(b)(1).

ILLINOIS

(a) Rockford to Winnebago (Westerly 6.9 miles of Belvidere Subdivision).
(b) Entire segment is located in Illinois.
(c) Entire segment is located in Winnebago County.
(d) M.P. 93.5 to M.P. 100.4
(e) No agency station located on this segment. Closed station of Winnebago served by central agency at Rockford.

Comment: Proposal does not include any industries located at Rockford.

(a) Sycamore to Byron (Westerly 30.8 miles of Ingalton Subdivision and portion of former C.G.W. Ry. Chicago to Omaha Line).
(b) Entire segment is located in State of Illinois.
(c) Entire segment is located in DeKalb and Ogle Counties.
(d) M.P. 57.5 to M.P. 88.3.
(e) Central agent at Byron responsible for associate station of Esmond and closed stations of Clare, Lindenwood, and Holcomb. Central agent at Sycamore (unaffected) served closed station at Five Points.

Comment: Proposal does not include industries located at Sycamore.

(a) Ringwood, Illinois to Lake Geneva, Wisconsin (Westerly 17.4 miles of Lake Geneva Subdivision).
(b) Segment is located in the States of Illinois and Wisconsin.
(c) The entire segment is located in McHenry County, Illinois and Walworth County, Wisconsin.
(d) M.P. 69.2 to M.P. 86.6.
(e) Agents located at Lake Geneva and Genoa City. Agent at Lake Geneva served closed station of Pell Lake. Agent at McHenry (unaffected) is responsible for associate station of Richmond.

Comment: Proposal does not include industries located at Ringwood.

(a) Elgin to Dundee (3.0 mile portion of Dundee Subdivision).
(b) Entire segment is located in the State of Illinois.
(c) Entire segment is located in Kane County.
(d) M.P. 43.8 to M.P. 46.8.
(e) None.

Comment: Proposal does not include industries located at Elgin and Dundee.

IOWA

(a) Lake View to Holstein (Westerly 41.1 miles of Holstein Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Sac and Ida Counties.
(d) M.P. 4.5 to M.P. 45.6.
(e) Central agent at Wall Lake (unaffected) is responsible for associate stations of Sac City, Early, Schaller, Galva, and Holstein.

Comment: Proposal does not include industries located at Lake View.

(a) Minerva Junction to Zearing (Easterly 19.1 miles of Roland Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Marshall and Story Counties.
(d) M.P. 240.0 to M.P. 259.1.
(e) Central agent at Clemons Grove is responsible for closed stations of St. Anthony, Zearing, and Minerva. Central agent at Marshall town (unaffected) is responsible for closed station of Keller.

(a) Ellsworth to Lawn Hill (Easterly 21.0 miles of Ellsworth Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Hamilton and Hardin Counties.
(d) M.P. 65.4 to M.P. 44.4
(e) Central agent at Jewell (unaffected) is responsible for associate stations of Radcliffe and Hubbard. Central agent at Eldora (unaffected) is responsible for associate station of Lawn Hill.

Comment: Propcsal does not include industries located at Ellsworth.

(a) Hicks to Buckingham (Southern 9.3 miles of Parkersburg Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Blackhawk and Tama Counties.
(d) M.P. 38.1 to M.P. 28.8
(e) Central agent at Reinbeck (unaffected) is responsible for associate station of Buckingham and closed station of Voorhies.

Comment: Proposal does not include industries located at Hicks.

(a) Garwin to Gladbrook (6.4 mile portion of Alden Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Tama County.
(d) 12.1 to M.P. 18.5.
(e) None.

Comment: Proposal does not include industries located at Garwin or Gladbrook.

(a) Marathon to Alton (59.2 mile portion of Sioux Rapids Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Buena Vista, Clay, O'Brien and Sioux Counties.
(d) M.P. 157.3 to M.P. 216.5.
(e) Central agent at Sioux Rapids is responsible for associate stations of Linn Grove and Peterson. Central agent at Alton (unaffected) is responsible for associate stations of Sutherland, Paullina, and Granville.

Comment: Proposal does not include industries located at Marathon or Alton.

(a) Humboldt to LuVerne (13.7 mile portion of Forest City Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Humboldt County.
(d) M.P. 201.5 to M.P. 187.8.
(e) Central agent at LuVerne (unaffected) is responsible for associate station of Livermore and closed station of Arnold.

Comment: Proposal does not include industries at Humboldt or LuVerne.

(a) Corwith to Lake Mills (Northerly 38.7 miles of Forest City Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Hancock and Winnebago Counties.
(d) M.P. 178.0 to M.P. 139.3.
(e) Central agent at Forest City is responsible for associate station of Leland. Central agent located at Britt.

Comment: Proposal does not include industries located at Corwith and Lake Mills.

(a) Oelwein to Dubuque (69.3 mile portion of Dubuque Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Fayette, Buchanan, Delaware and Dubuque Counties.
(d) M.P. 245.0 to M.P. 175.7.
(e) Central agent at Dubuque (unaffected) is responsible for associate station of Dyersville and closed stations of Durango, Graf, Farley, Petersburg, and Almoral. Central agent at Oelwein (unaffected) is responsible for associate station of Aurora and closed stations of Thorpe, Dundee, Lamont, and Stanley.

Comment: Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Clinton, Iowa and Dubuque. Proposal does not include industries located at Dubuque or Oelwein.

(a) Grand Junction to Minburn (Northerly 21.6 miles of Perry Subdivision) .
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Greene, Boone and Dallas Counties.
(d) M.P. 260.8 to M.P. 282.4.
(e) Central agency at Grand Junction (unaffected) is responsible for associate stations of Rippey and Perry and closed station of Augus.

Comments: Proposal does not include industries at Grand Junction or Minburn. Proposal is contingent on C.R.I.&P. abandoning operations over this trackage.

(a) Ayrshire to Terril (Northerly 34.0 miles of Tara subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Palo Alto, Clay, and Dickinson Counties.

[1] AB 1 (SDM) includes Des Moines and Central Iowa Railway Company and Central Iowa Railway Company and Fort Dodge, Des Moines & Southern Railway Company.

(d) M.P. 217.3 to M.P. 182.5.
(e) Central agent at Spencer is responsible for associate station of Terril and closed stations of Ruthven and Langdon.

Comment: Proposal does not include industries located at Ayrshire.

(a) Gypsum to Flugstad (Westerly 11.9 miles of Flugstad Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Webster and Hamilton Counties.
(d) M.P. 1.8 to M.P. 13.7.
(e) Central agent at Ford Dodge (unaffected) is responsible for closed stations of Evanston, Brushy, and Flugstad.

Comment: Proposal does not include industries at Gypsum.

(a) Jewell to Stratford (Easterly 14.6 miles of Dayton Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Hamilton and Webster Counties.
(d) M.P. 69.4 to M.P. 84.0.
(e) Central agent at Gowrie (unaffected) is responsible for associate stations of Stanhope and Stratford.

Comment: Proposal does not include industries located at Jewell.

(a) Harcourt to Dayton (Westerly 5.1 miles of Dayton Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Webster County.
(d) M.P. 96.0 to M.P. 92.9.
(e) Central agent at Gowrie (unaffected) is responsible for associate station of Dayton.

Comment: Proposal does not include industries at Harcourt.

(a) Trimount, Minnesota to Estherville, Iowa (southerly 26.5 miles of Estherville Subdivision).
(b) Entire segment is located in the States of Minnesota and Iowa.
(c) Entire segment is located in Martin County, Minnesota and Emmet County, Iowa.
(d) M.P. 142.4 to M.P. 168.9.
(e) Central agent at Spencer (unaffected) is responsible for associate stations of Dunnell, Estherville and closed station of Huntington. Central Agent at St. James (unaffected) is responsible for associate station of Sherburn.

Comment: Proposal does not include industries located at Trimount.

(a) Camp Dodge to Granger (northerly 7.2 miles of Des Moines and Central Iowa Railway).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Dallas and Polk Counties.
(d) M.P. 11.4 to M.P. 18.6.
(e) Central agent at Des Moines (unaffected) is responsible for associate stations of Granger and Herrold.

Comment: Proposal does not include industries at Camp Dodge.

MICHIGAN

(a) Ishpeming to Martin's Landing (Westerly 15.1 miles of Martin's Landing Spur).
(b) Entire segemnt is located in the State of Michigan.
(c) Entire segemnt is located in Marquette County.
(d) M.P. 74.5 (L.S.&I. RR.) to M.P. 196.6.
(e) Central agent at Ishpeming (unaffected) is responsible for closed stations of Clowry, Martin's Landing, and Blueberry Mine.

Comments: Proposal does not include industries located at Ishpeming. Proposal is for discontinuance of operations only.

MINNESOTA

(a) Lake Crystal to Winnebago (24.6 miles—entire Winnebago Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Blue Earth and Faribault Counties.
(d) M.P. 0.0 to M.P. 24.6.
(e) Central agent at Mankato (unaffected) is responsible for associate stations of Garden City, Vernon Center, Amboy, and Winnebago.

Comment: Proposal does not include industries located at Lake Crystal.

(a) Heron Lake to Lake Wilson (36.6 miles—entire Slayton Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Jackson, Nobles, and Murray Counties.
(d) M.P. 0.0 to M.P. 36.6.
(e) Central agent at Worthington (unaffected) is responsible for associate stations of Dundee, Lime Creek, Avoca, Slayton, Hadley, and Lake Wilson.

Comment: Proposal does not include industries located at Heron Lake.

(a) Bingham Lake to Currie (38.6 miles—entire Currie Subdivision).
(b) Entire segment located in the State of Minnesota.
(c) Entire segment located in Cottonwood and Murray Counties.
(d) M.P. 0.0 to M.P. 38.3.
(e) Central agent at Windom (unaffected) is responsible for associate stations of Delft, Jeffers, Storden, Westbrook, Dovray, and Currie.

Comment: Proposal does not include industries located at Bingham Lake.

(a) St. James to Hanska (Northerly 13.4 miles of Hanska Spur).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Watonwan and Brown Counties.
(d) M.P. 125.2 to M.P. 111.8.
(e) Central agent at St. James (unaffected) is responsible for associate stations of LaSalle and Hanska.

Comment: Proposal does not include industries located at St. James.

(a) Trimount to Ormsby (Northerly 4.7 miles of Estherville Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Martin and Watonwan Counties.
(d) M.P. 140.7 to M.P. 136.0.
(e) Central agent at St. James (unaffected) is responsible for associate station of Ormsby.

Comment: Proposal does not include industries located at Trimount.

(a) Trimount, Minnesota to Estherville, Iowa. Line description is on Page 11 (Iowa).
(a) Rochester to Stewartville (12.6 mile portion of Rochester Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Olmsted County.
(d) M.P. 146.0 to M.P. 158.6.
(e) Central agent at Rochester (unaffected) is responsible for associate stations of Simpson and Stewartville.

Comment: Proposal does not include industries located at Rochester.

(a) Hopkins to Norwood (Easterly 31.4 miles of Morton Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Hennepin and Carver Counties.
(d) M.P. 19.6 to M.P. 51.3.
(e) Central agent at Hopkins (unaffected) is responsible for associate stations of Deephaven, Excelsior, Manitou, Victoria, Waconia, and Young America.

Comments: Proposal does not include industries located at Hopkins or Norwood. Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Minneapolis and Norwood.

(a) Northfield to Faribault (12.3 mile portion of Red Wing Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Rice County.
(d) M.P. 58.1 to M.P. 45.8.
(e) Central agent at Randolph (unaffected) is responsible for associate station of Dundas and closed station of Bridgewater.

Comments: Proposal does not include industries located at Northfield or Faribault. Proposal is contingent on agreement with C.M.St.P.&P. R.R. for trackage rights between Northfield to Faribault.

NEBRASKA

(a) Blair to Tekamah (Southerly 17.4 miles of Lyons Subdivision).
(b) Entire segment is located in the State of Nebr ska.
(c) Entire segment is located in Washington and Burt Counties.
(d) M.P. 98.1 to M.P. 80.7.
(e) Central agent at Blair (unaffected) is responsible for associate stations of Herman and Tekamah, and closed station of Ranch Spur.

Comment: Proposal does not include industries located at Blair.

(a) Fremont to Lincoln (48.3 mile portion of Lincoln Subdivision).
(b) Entire segment is located in the State of Nebraska.
(c) Entire segment is located in Dodge, Saunders, and Lancaster Counties.
(d) M.P. 39.2 (UP RR) to M.P. 46.5.
(e) Central agent at Fremont (unaffected) is responsible for associate station of Cedar Bluffs. Central agent at Lincoln (unaffected) is responsible for associate stations of Wahoo and Ceresco, and closed stations of Colon and Davey.

Comments: Proposal is contingent on agreements with U.P. RR. and M.P. RR. for trackage rights between Fremont and Lincoln. Proposal does not include industries located at Fremont or Lincoln.

(a) Elkhorn Jct. to Blair (22.4 mile portion of Sioux City Subdivision).
(b) Entire segment is located in the State of Nebraska.
(c) Entire segment is located in Douglas and Washington Counties.
(d) M.P. 121.6 to M.P. 99.2.
(e) Central agent at Omaha (unaffected) is responsible for associate station of Florence and closed station of Ft. Calhoun.

Comment: Proposal does not include industries located at Blair or Omaha (Elkhorn Jct. is a junction point in Omaha).

SOUTH DAKOTA

(a) Jolly to Jolly Dump (3.7 miles—entire Jolly Dump Spur).
(b) Entire segment is located in the State of South Dakota.
(c) Entire segment is located in Butte County.
(d) M.P. 0.0 to M.P. 3.7.
(e) Central agent at Belle Fourche (unaffected) is responsible for associate station of Jolly Dump.
(a) Redfield to Frankfort (Easterly 9.7 miles of Frankfort Spur).
(b) Entire segment is located in the State of South Dakota.

V42185 MAY 3 77 UMI

(c) Entire segment is located in Spink County.
(d) M.P. 388.9 to M.P. 379.2.
(e) Central agent at Redfield (unaffected) is responsible for associate station of Frankfort.
Comment: Proposal does not include industries located at Redfield.
(a) James Valley Jct. to Redfield (Easterly 33.8 miles of Oakes Subdivision).
(b) Entire segment is located in the State of South Dakota.
(c) Entire segment is located in Beadle and Spink Counties.
(d) M.P. 4.0 to M.P. 37.8.
(e) Central agent at Huron (unaffected) is responsible for associate station of Hitchcock.
Comments: Proposal is contingent on agreement with C.M.St.P.&P.RR. for trackage rights between Wolsey, South Dakota and Redfield. Proposal does not include industries located at James Valley Junction or Redfield.

WISCONSIN

(a) Ripon to Bancroft (Westerly 58.9 miles of Marshline Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Fond du Lac, Green Lake, Marquette, Waushara and Portage Counties.
(d) M.P. 20.5 to M.P. 124.4.
(e) Central agent at Ripon (unaffected) is responsible for associate stations of Green Lake, Chief St. Marie Sand Co. Pit, Princeton, and Neshkoro. Central agent at Almond is responsible for associate stations of Bannerman, Wautoma, Wild Rose and closed station of Bancroft.
Comment: Proposal does not include industries located at Ripon.
(a) Merrillan to Marshfield (Westerly 37.5 miles of Merrillan Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Jackson, Clark, and Wood Counties.
(d) M.P. 0.0 to M.P. 37.5.
(e) Central agent at Merrillan (unaffected) is responsible for associate stations of Neillsville, Granton, Chili, and closed station of Kurth.
Comment: Proposal does not include industries located at Merrillan or Marshfield.
(a) Edgar to Marshfield (22.0 mile portion of Marshfield Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Marathon and Wood Counties.
(d) M.P. 40.8 to M.P. 62.8.
(e) Central agent at Wausau (unaffected) is responsible for associate station of Stratford and closed stations of Fenwood and Opal.
Comment: Proposal does not include industries located at Edgar or Marshfield.
(a) Conover to Phelps (9.2 miles entire Phelps Spur).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Vilas County.
(d) M.P. 0.0 to M.P. 9.2
(e) Central agent at Watersmeet (unaffected) is responsible for associate station of Phelps.
Comment: Proposal does not include industries located at Conover.
(a) Beloit to Evansville (23.0 mile portion of Beloit and Footville Subdivisions).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Rock County.
(d) M.P. 92.5 to M.P. 115.5.
(e) Central agent at Beloit (unaffected) is responsible for closed station of Afton. Central agent at Madison (unaffected) is responsible for associate station of Footville and closed station of Magnolia.
Comment: Proposal does not include industries located at Beloit or Evansville.
(a) Ringwood, Illinois to Lake Geneva, Wisconsin.
Line description is on Pages 2 and 3 (Illinois).
(a) Medary Jct. to Galesville (23.2 miles—a portion of the Adams Subdivision and the entire Galesville Spur).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in La Crosse and Trempealeau Counties.
(d) M.P. 268.3 to M.P. 284.5 and M.P. 284.0 to M.P. 291.0.
(e) Central agent as LaCrosse (unaffected) is responsible for associate stations of Onalaska, Midway, Trempealeau, Galesville and closed station of Lytles.
Comment: Proposal does not include industries located at Medary.
(a) Shawano to Eland (Westerly 29.3 miles of Shawano Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Shawano County.
(d) M.P. 38.7 to M.P. 68.0.
(e) Central agent at Shawano (unaffected) is responsible for associate station of Bowler and closed station of Thornton.
Comment: Proposal does not include industries located at Shawano or Eland.

CATEGORY 2

All lines or portions of line potentially subject to abandonment which the Chicago and North Western Transportation Company has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenue. 49 CFR Section 1121.20 (b)(2).

IOWA

(a) Burt to Bancroft (3.0 mile portion of Burt Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Kossuth County.
(d) M.P. 145.5 to M.P. 148.5.
(e) Central agent at Burt (unaffected) is responsible for associate station of Bancroft.
Comment: Proposal does not include industries located at Burt.
(a) LuVerne to Corwith (8.6 mile portion of Forest City Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Kossuth and Hancock Counties.
(d) M.P. 186.6 to M.P. 178.0.
(e) Central agent at Britt (unaffected) is responsible for associate station of Corwith and closed station of Hanna.
Comment: Proposal does not include industries located at LuVerne.
(a) Rolfe to Ayrshire (22.2 mile portion of Tara Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located Pocahontas and Palo Alto Counties.
(d) M.P. 239.5 to M.P. 217.3.
(e) Central agent at Rolfe (unaffected) is responsible for associate stations of Curlew and Ayrshire, and closed stations of Plover and Mallard.
Comment: Proposal does not involve industries located at Rolfe.
(a) Carroll to Harlan (Southerly 40.2 miles of Harlan Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Carroll, Crawford, and Shelby Counties.
(d) M.P. 421.7 to M.P. 461.9.
(e) Agent located at Harland and central agent located at Carroll (unaffected) is responsible for associate stations of Manning and Irwin, and closed station of Halbur.
Comment: Proposal does not include industries located at Carroll.
(a) Belmond to Alexander (Easterly 7.7 miles of Belmond Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Wright and Franklin Counties.
(d) M.P. 206.3 to M.P. 198.6.
(e) Central agent at Belmond (unaffected) is responsible for associate station of Alexander.
Comment: Proposal does not include industries located at Belmond.
(a) Mason City to Kesley (Northerly 34.8 miles of Parkersburg Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Cerro Gordo, Franklin, and Butler Counties.
(d) M.P. 104.3 to M.P. 68.7 excluding M.P. 75.9 to M.P. 75.1 at Dumont.
(e) Central agent at Mason City (unaffected) is responsible for associate stations of Dougherty and Aredale and closed stations of Cartersville and Kesley
Comment: Proposal does not include industries located at Mason City or Dumont.
(a) Manly, Iowa to Austin, Minnesota (30.5 mile portion of Mason City Subdivision).
(b) Entire segment is located in the States of Iowa and Minnesota.
(c) Entire segment is located in Worth and Mitchell Counties, Iowa and Mower County, Minnesota.
(d) M. P. 48.0 to M.P. 17.5.
(e) Central agent at Austin (unaffected) is responsible for associate station of Lyle and closed stations of Bolan and Meltonville.
Comments: Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Mason City, Iowa and Austin, Minnesota. Proposal does not include industries located at Manly or Austin.

MINNESOTA

(a) Tracy, Minnesota to Gary, South Dakota (Northerly 57.3 miles of Marshall Subdivision).
(b) Entire segment is located in the States of Minnesota and South Dakota.
(c) Entire segment is located in Lyon, Lincoln, and Yellow Medicine Counties, Minnesota and Deuel County, South Dakota.
(d) M.P. 227.6 to M.P. 284.9.
(e) Central agent at Marshall is responsible for associate stations of Amiret, Ghent, Minnesota, Taunton, Porter, Camby, Burr and Gary.
Comment: Proposal does not include industries located at Tracy.
(a) Cannon Falls to Red Wing (16.8 mile portion of Red Wing Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Goodhue County.
(d) M.P. 74.3 to M.P. 91.1.
(e) Agent at Red Wing (unaffected) is responsible for closed station of Welch.
Comments: Proposal is contingent on agreements with C.M.St.P.&P. RR. and B.N. for trackage rights between St. Paul, Minnesota and Red Wing, Minnesota. Proposal does not include industries located at Cannon Falls or Red Wing.
(a) Manly, Iowa to Austin, Minnesota.
Line description is on Pages 28 and 29 (Iowa).

NEBRASKA

(a) Oakdale to Elgin (10.4 miles entire Elgin Spur).
(b) Entire segment is located in the State of Nebraska.
(c) Entire segment is located in Antelope County.
(d) M.P. 115.0 to M.P. 104.6.
(e) Central agent at Neligh (unaffected) is responsible for associate station of Elgin.
Comment: Proposal does not include industries located at Oakdale.

SOUTH DAKOTA

(a) Ellis to Mitchell (Westerly 65.2 miles of Sioux Falls Subdivision).
(b) Entire segment is located in the State of South Dakota.
(c) Entire segment is located in Minnehaha, McCook, Hanson and Davison Counties.
(d) M.P. 65.5 to M.P. 130.7.
(e) Central agent at Salem is responsible for associate stations of Hartford, Humboldt, Montrose, Spencer, and Farmer. Central agent at Mitchell is responsible for associate station of Fulton and closed station of Riverside.
Comment: Proposal does not include industries located at Ellis.
(a) Tracy, Minnesota to Gary, South Dakota. Line description is on page 29 (Minnesota).

WISCONSIN

(a) Pulaski to Gillett (Easterly 16.2 miles of Laona Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located on Oconto and Shawano Counties.
(d) M.P. 17.1 to M.P. 33.3.
(e) Central agent at Green Bay (unaffected) is responsible for closed station of Krakow. Central agent at Oconto Falls (unaffected) is responsible for associate stations of Green Valley and Gillett.
Comment: Proposal does not include industries located at Pulaski.

CATEGORY 3

All lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission on the date upon which the diagram, or any amended diagram, is filed with the Interstate Commerce Commission. 49 CFR Section 1121.20(b)(3).

IOWA

(a) Zearing to Roland (Westerly 10.5 miles of Roland Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Story County.
(d) M.P. 259.1 to M.P. 269.6.
(e) Central agent at Clemons Grove (unaffected) is responsible for associate station of Roland and Closed station fo McCallsburg.
burg.
Comment: Docket Number AB–1 (Sub. No. 45). Proposal does not include industries located at Zearing.
(a) Somers to Carroll (30.9 mile portion of Harlan Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Calhoun and Carroll Counties.
(d) M.P. 389.1 to M.P. 420.0.

(e) Central agent at Somers (unaffected) is responsible for associate station of Lanesboro and closed stations of Rinard, Lohrville, Wightman and Lidderdale.
Comments: Docket Number AB–1 (Sub. No. 27). Proposal does not include industries located at Somers or Carroll.
(a) Bancroft to Ledyard (Northerly 9.4 miles of Burt Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Kossuth County.
(d) M.P. 148.5 to M.P. 157.9.
(e) Central agent at Burt (unaffected) is responsible for associate station of Ledyard.
Comments: Docket Number AB–1 (Sub. No. 53). Proposal does not include industries located at Bancroft.
(a) Wren, Iowa to Iroquois, South Dakota (155.7 miles of Hawarden Subdivision).
(b) Entire segment is located in the States of Iowa and South Dakota.
(c) Entire segment is located in Plymouth and Sioux Counties, Iowa and Union, Lincoln, Turner, McCook, Miner and Kingsbury Counties, South Dakota.
(d) M.P. 0.0. to M.P. 126.0.
(e) Central agent at Sioux City (unaffected) is responsible for associate station of Craig and closed stations of Merrill and Brunsville. Agent at Hawarden is responsible for closed station of McNally. Central agent at Beresford is responsible for associate stations of Alcester, Centerville, Hurley, Parker, and Monroe. Central agent at Salem (unaffected) is responsible for associate stations of Canistota and Canova, and closed station of Unityville. Central agent at Huron (unaffected) is responsible for associate station of Carthage and closed stations of Vilas, Argonne and Esmond.
Comments: Docket Number AB–1 (Sub. No. 9). Proposal does not include industries located at Wren, Salem or Iroquois.
(a) Stewartville, Minnesota to McIntire, Iowa (33.7 mile portion of Rochester Subdivision).
(b) Entire segment is located in the States of Minnesota and Iowa.
(c) Entire segment is located in Olmsted, Mower and Fillmore Counties, Minnesota and Howard and Mitchell Counties, Iowa.
(d) M.P. 158.6 to M.P. 192.3.
(e) Central agent at Rochester (unaffected) is responsible for associate stations of Racine, Spring Valley, Ostrander, and LeRoy.
Comments: Docket Number AB–1 (Sub. No. 19). Proposal does not include industries located at Stewartville or McIntire.
(a) Stratford to Dayton (8.9 miles of Dayton Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Webster County.
(d) M.P. 84.0 to M.P. 92.9.
(e) None.
Comments: Docket Number AB–1 (Sub-No. 46). Proposal does not include industries located at Stratford or Dayton.

MICHIGAN

(a) Gillett, Wisconsin to Scott Lake, Michigan (Westerly 89.4 miles of Laona Subdivision).
(b) Entire segment is located in the States of Wisconsin and Michigan.
(c) Entire segment is located in Oconto, Forest and Florence Counties, Wisconsin and Iron County, Michigan.
(d) M.P. 33.3 to M.P. 122.7.
(e) Central agent at Oconto Falls (unaffected) is responsible for associate station of Suring. Central agent at Laona is responsible for associate stations of Wabeno and Newald, and closed stations of Breed, Mountain, Lakewood, Townsend, Long Lake, and Tipler.
Comments: Docket Number AB–1 (Sub. No. 40). Proposal does not include industries located at Gillett or Scott Lake.

MINNESOTA

(a) Sanborn to Wanda (Westerly 8.2 miles of Wanda Spur).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Redwood County.
(d) M.P. 0.6 to M.P. 8.8.
(e) Central agent at Tracy (unaffected) is responsible for closed station of Wanda.
Comments: Docket Number AB–1 (Sub. No. 48). Proposal does not include industries located at Sanborn.
(a) Sleepy Eye to Redwood Falls (24.8 miles—entire Redwood Falls Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Brown and Redwood Counties.
(d) M.P. 1.4 to M.P. 26.2.
(e) Central agent at Sleepy Eye (unaffected) is responsible for associate stations of Evan, Morgan, Gilfillan, and Redwood Falls.
Comments: Docket Number AB–1 (Sub. No. 50). Proposal does not include industries located at Sleepy Eye.
(a) Marshall Jct. to Wabasso and Wabasso to Vesta (37.3 miles—entire Wabasso Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Lyon and Redwood Counties.
(d) M.P. 54.2 to M.P. 28.8 and M.P. 14.5 to M.P. 26.4.
(e) Central agent at Marshall (unaffected) is responsible for associate stations of Dudley, Milroy, Lucan, Wabasso, Seaforth, and Vesta.
Comment: Docket Number AB–1 (Sub. No. 56).
(a) Stewartville, Minnesota to McIntire, Iowa. Line description is on Pages 35 and 36 (Iowa).
(a) Tunnel City, Wisconsin to Medary Jct., Wisconsin and Trempealeau, Wisconsin to Winona, Minnesota (41.3 mile portion of Adams Subdivision).
(b) Entire segment is located in the States of Wisconsin and Minnesota.
(c) Entire segment is located in Monroe, LaCrosse and Trempealeau Counties, Wisconsin and Winona County, Minnesota.
(d) M.P. 163.2 to M.P. 267.8 (excluding M.P. 168.0 to 169.5 at Camp McCoy, M.P. 176.0 to M.P. 248.0 at Sparta and M.P. 260.0 to M.P. 261.9 at West Salem) and M.P. 284.5 to M.P. 296.6.
(e) Central agent at LaCrosse (unaffected) is responsible for associate station of Bangor and closed stations of Rockland and Pine Creek.
Comments: Docket Number AB–1 (Sub. No. 54). Proposal does not include industries located at Tunnel City, Camp McCoy, Sparta, West Salem, Medary, Trempealeau and Winona.

NEBRASKA

(a) Norfolk, Nebraska to Winner, South Dakota (Westerly 172.4 miles of Winner Subdivision).
(b) Entire segment is located in the States of Nebraska and South Dakota.
(c) Entire segment is located in Madison, Pierce, Antelope, Knox and Boyd Counties, Nebraska and Gregory, Tripp, and Mellette Counties, South Dakota.

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(d) M.P. 2.9 to M.P. 175.3.

(e) Central agent at Norfolk (unaffected) is responsible for closed station of Hadar. Central agent at Creighton is responsible for associate stations of Pierce, Foster, Plainview, Winnetoon, Verdigre, Niobrara, Lynch, Bristow, Spencer, Anoka, and closed stations of Verdel and Menowi. Central agent at Winner is responsible for associate stations of Fairfax, Bonesteel, Herrick, Burke, Gregory, Dallas, Colome, and closed station of St. Charles.

Comments: Docket Number AB–1 (Sub. No. 34). Proposal does not include industries located at Norfolk.

(a) Elkhorn Jct. to Irvington (5.3 mile portion of Omaha Subdivision).

(b) Entire segment is located in the State of Nebraska.

(c) Entire segment is located in Douglas County.

(d) M.P. 1.7 to M.P. 7.0.

(e) None.

Comment: Docket Number AB–1 (Sub. No. 49).

SOUTH DAKOTA

(a) Watertown to Stratford (Northerly 71.4 miles of Stratford Subdivision).

(b) Entire segment is located in the State of South Dakota.

(c) Entire segment is located in Codington, Clark, Day, Spink, and Brown Counties.

(d) M.P. 234.9 to M.P. 306.3.

(e) Central agent at Watertown (unaffected) is responsible for associate stations of Florence, Wallace, Bradley, and closed station of Crocker. Central agent at Aberdeen (unaffected) is responsible for associate stations of Conde and Stratford, and closed stations of Crandall and Randolph.

Comments: Docket Number AB–1 (Sub. No. 33). Proposal does not include industries located at Watertown.

(a) Watertown to Doland (Westerly 48.2 miles of Watertown Subdivision).

(b) Entire segment is located in the State of South Dakota.

(c) Entire segment is located in Codington, Clark and Spink Counties.

(d) M.P. 321.5 to M.P. 369.7.

(e) Central agent at Watertown (unaffected) is responsible for associate stations of Henry and Clark, and closed stations of Kampeska and Elrod. Central agent at Redfield (unaffected) is responsible for associate stations of Raymond and Doland.

Comments: Docket Number AB–1 (Sub. No. 32). Proposal does not include industries located at Watertown.

(a) Wren, Iowa to Iroquois, South Dakota. Line description is on Pages 34 and 35 (Iowa).

(a) Norfolk, Nebraska to Winner, South Dakota. Line description is on Pages 40 and 41 (Nebraska).

WISCONSIN

(a) Gillett, Wisconsin to Scott Lake, Michigan. Line description is on page 37 (Michigan).

(a) Tunnel City, Wisconsin to Medary Jct., Wisconsin and Trempealeau, Wisconsin to Winona, Minnesota. Line description is on Pages 39 and 40 (Minnesota).

(a) Hortonville to Larsen (10.1 miles entire Larsen spur).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Outagamie and Winnebago Counties.

(d) M.P. 0.2 to M.P. 10.3.

(e) Central agent at New London (unaffected) is responsible for associate station of Larsen and closed station of Medina.

Comments: Docket Number AB–1 (Sub. No. 21). Proposal does not include industries located at Hortonville.

(a) Rosemere to Forest Junction (Westerly 26.3 miles of Brillion Subdivision).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Manitowoc and Calumet Counties.

(d) M.P. 78.9 to M.P. 105.2.

(e) Central agent at Manitowoc (unaffected) is responsible for associate stations of Reedsville, Brillion, Forest Junction, and closed stations of Branch, Whitelaw, and Cato.

Comments: Docket Number AB–1 (Sub. No. 52). Proposal does not include industries located at Manitowoc (Rosemere is a junction point near the station of Manitowoc).

(a) Klevenville to Fennimore including Lancaster Jct. to Lancaster, Montfort Jct. to Cuba City and Ipswich to Platteville (101.2 miles, Westerly portion of Lancaster Subdivision including the Fennimore Spur and entire Platteville Sudivision including the Platteville Spur).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Dane, Iowa, Grant and Lafayette Counties.

(d) M.P. 101.5 to M.P. 158.4 including M. P. 155.8 to M.P. 167.8, M.P. 145.0 to M.P. 173.5 and M.P.165.9 to M.P. 169.7.

(e) Central agent at Madison (unaffected) is responsible for associate station of Mt. Horeb and closed station of Blue Mounds. Central agent at Dodgeville is responsible for associate stations of Barneveld, Ridgeway, Cobb, Montfort, Fennimore, Stitzer, Lancaster, Livington, Platteville, Cuba City and closed stations of Edmund, Preston, Liberty, Rewey, and Ipswich.

Comments: Docket Number AB–1 (Sub. No. 41). Proposal does not include industries located at Klevenville.

(a) Hayward to Bayfield and Ashland Jct. to Ashland (Westerly 77.3 miles of Ashland Subdivision including Westerly portion of Ashland Spur).

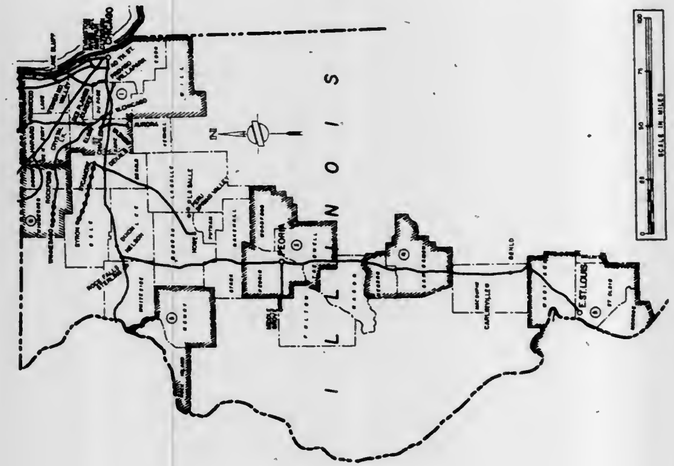
(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Sawyer, Bayfield, and Ashland Counties.

(d) M.P. 104.0 to M.P. 178.3 and M.P. 0.0 to M.P. 3.0.

(e) Central agent at Hayward (unaffected) is responsible for closed station of Seeley. Central agent at Cable is responsible for associate stations of Drummond, Granview, Mason and closed station of Benoit. Agent at Ashland (unaffected) is responsible for closed station of Ashland Jct. Central agent at Washburn is responsible for associate station of Bayfield and closed stations of Barksdale, Sioux, and Purealr.

Comments: Docket Number AB–1 (Sub. No. 29). Proposal does not include industries located at Hayward or Ashland.



CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

AB–1

SYSTEM DIAGRAM MAP

49–C F R SEC. 1121.20 DATE APRIL 6, 1977

STANDARD METROPOLITAN STATISTICAL AREAS

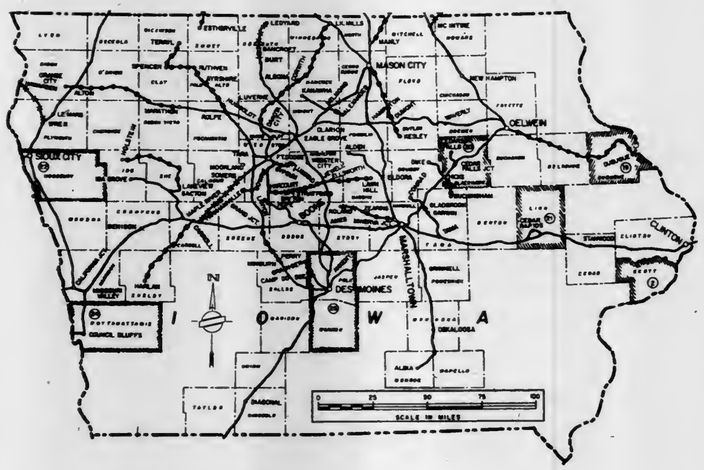
1	CHICAGO	9 DULUTH–SUPERIOR
2	DAVENPORT–ROCK ISLAND	10 MINNEAPOLIS–ST. PAUL
3	PEORIA	11 ROCHESTER
4	SPRINGFIELD	12 SIOUX FALLS
5	ST. LOUIS	13 DUBUQUE
6	ROCKFORD	14 WATERLOO–CEDAR FALLS
7	KENOSHA	15 CEDAR RAPIDS
8	RACINE	16 SIOUX CITY
9	MILWAUKEE	17 LINCOLN
10	MADISON	18 OMAHA
11	LA CROSSE	19 DES MOINES
12	GREEN BAY	20 ST. JOSEPH
13	APPLETON	21 KANSAS CITY
14	EAU CLAIRE	

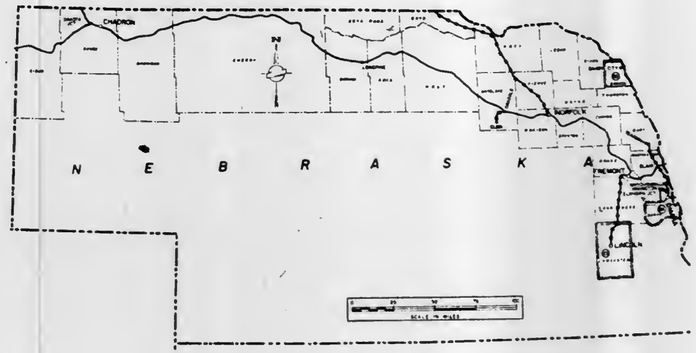
LEGEND

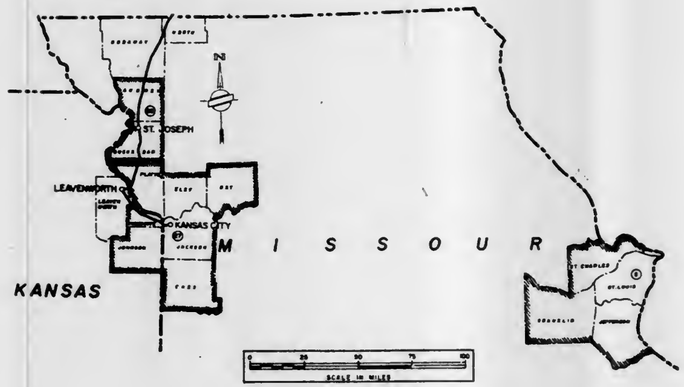
RED	●–●–●	CATEGORY 1: ANTICIPATED SUBJECT OF ABANDONMENT APPLICATION WITHIN 5 YEARS 49 C F R SEC. 1121.20 (b)(1)
GREEN	●–●–●	CATEGORY 2: POTENTIALLY SUBJECT TO ABANDONMENT, 49 C F R SEC. 1121.20 (b)(2)
YELLOW	●–●–●	CATEGORY 3: SUBJECT TO ABANDONMENT PENDING BEFORE COMMISSION, 49 C F R SEC. 1121.20 (b)(3)
BROWN	– – –	CATEGORY 4: OPERATED UNDER SUBSIDY 49 USC SEC. 1(49)(a)
		49 C F R SEC. 1121.20 (b)(4)
BLACK	———	CATEGORY 5: OTHER LINES OWNED OPERATED, 49 C F R SEC. 1121.20 (b)(5)
BLACK	———	STATE BOUNDARY LINES
BLACK	———	COUNTY BOUNDARY LINES
BLACK	———	2000 BOUNDARY LINES

V 42 85 MAY 3 77 UMI

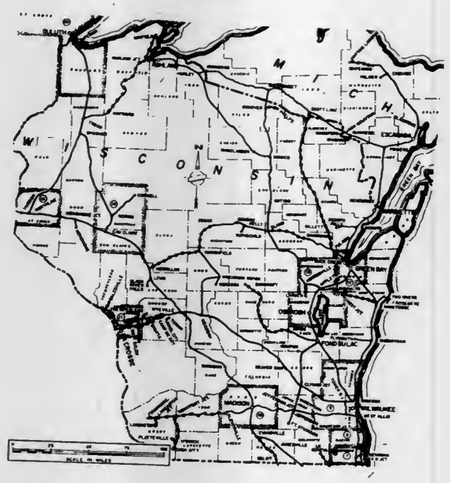


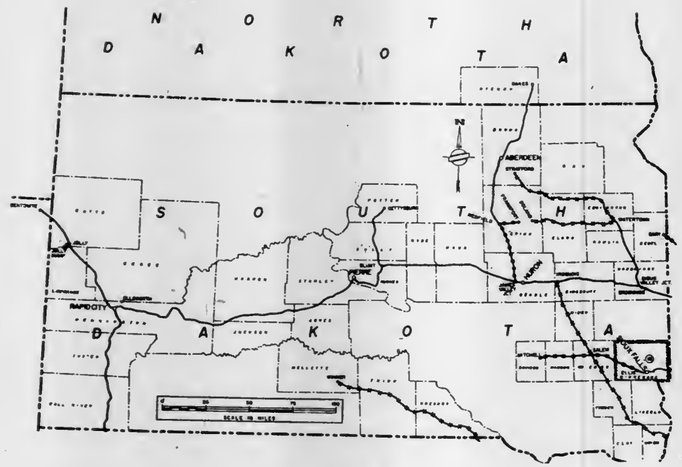


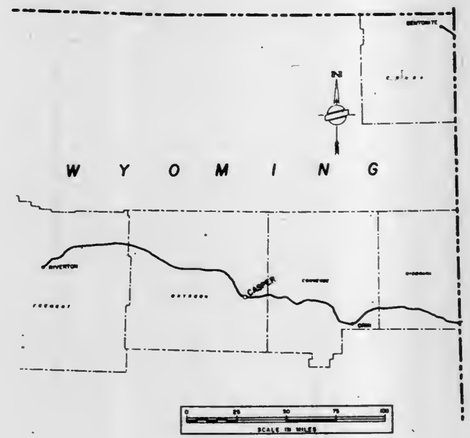




V 42 N 85 MAY 3 77 7 UMI







[FR Doc.77-12377 Filed 5-2-77;8:45 am]

V42N85 MAY 3 77 UMI

federal register

TUESDAY, MAY 3, 1977

PART VI



DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off Coasts of U.S.

V42 85 MAY 3 77 UMI

DEPARTMENT OF STATE

[Public Notice 537]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Additional Applications for fishing beginning March 1, 1977, have been received from the Government of Japan and the Federal Republic of Germany, and are published herewith.

Dated: April 25, 1977.

KATHRYN CLARK-BOURNE,
Acting Director, Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 964

Permit Period Applied For: May 1, 1977 December 31, 1977 — Application No. JA-77-0864 For Use of Issuing Office

State: Japan

1. Name of Vessel HOYO MARU No 65
2. Vessel No.: Nat'l No. (SNAIL 115) Registration No. HOI-755
3. Name and Address of Owner / Name and Address of Charterer
   Name HOTOSUISAN KABUSHIKI KAISHA
   Address 1-2-17 Sakuna Machi
   Kesennuma city Miyagi-ken Japan — SEE ATTACHED I
   Cable Address
4. Homeport and State of Registry: Kesennuma, Japan
5. Type of Vessel FOT VESSEL (SWA SNAIL) INJECTION
6. Tonnage (Gross) 349.87 MT (Net)
7. Length 47.51 M. B. Breadth 8.90 M. 9. Draft 3.75 M.
10. Horsepower 1,110 ehp. 11. Maximum Speed 12 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built SEPT, 1968
14. Number and Nationality of Personnel 21, Japan
    Officers 7 Crew 14 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy (X).
    Other
    International Radio Call Sign JJ3J
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 2075 KHZ
    Schedule WATCH TIME (G.M.T.) 08:00-08:30 20:00-20:30

JA-77-0864

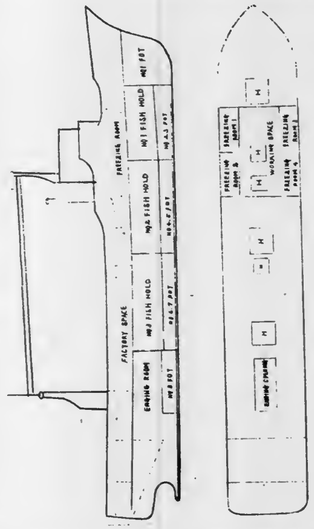
16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ),
    Decca ( ), Hevcat ( ), Radar (X), Fathometer (X),
    Other
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	1. 2. 3. 4.
Fresh Fish		Dry Hold	
Frozen Fish	230 MT	Tanks	SEE ATTACHED I
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    FREEZER 4 SETS, 10 MT/DAY (COMBINED)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
SEE ATTACHED I				

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    SEE ATTACHED N



ATTACHED I

JA-77-0864

FISHERIES FOR WHICH PERMIT IS REQUESTED

OCEAN AREA : BERING SEA AND ALEUTIAN
PERIOD : MAY-DECEMBER
SPECIES : SNAIL
CONTEMPLATED CATCH : THIS VESSEL APPLIES FOR FISHING A PORTION OF THE ALLOCATION OF 2,700 METRIC TONS (EDIBLE MEAT)

GEAR TO BE USED : SNAIL POT.

ATTACHED I — NAME AND ADDRESS OF CHARTERER

JA-77-0864

1. NAME : HOTOSUISAN KABUSHIKI KAISHA
   ADDRESS : 1-2-17 Sakana machi
   Kesennuma city Miyagi ken Japan
2. NAME : OFUNATO ZOSEN , TEKKO KABUSHIKI KAISHA
   ADDRESS : 1-1 Monoda Ofunato cho
   Ofunato city Iwate ken Japan

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: — Application No. GE-77-0015 For Use of Issuing Office

State:

1. Name of Vessel "MOND"
2. Vessel No.: Nat'l No. BX 745 Registration No. SSR 756
3. Name and Address of Owner / Name and Address of Charterer
   Name Hochseefischerei
   Address NORDSTERN AG
   2850 Bremerhaven - F.
   Cable Address NORDSTERN Bremerhaven — Tx.: 236756 nateg-d
4. Homeport and State of Registry: Bremerhaven/W.Germany
5. Type of Vessel Sterntrawler
6. Tonnage (Gross) 3.183 (Net) 1.368
7. Length 86,87 M. 8. Breadth 15,02 M. 9. Draft 5,40 M.
10. Horsepower 3.000 ehp. 11. Maximum Speed 15,5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1973
14. Number and Nationality of Personnel 35 Germans/30 Portuguesse
    Officers 8 Crew 57 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X),
    Other SW WARC GENF 1974
    International Radio Call Sign DEOL
    Radio Frequencies Monitored Channel 16/2182 KC/500 KC
    Other Working Frequencies VHF Channel 8/8/9/1o/13/67/72/73/77 2386/3187/3282/3383/512/480/468
    Schedule no fixed schedule

ATTACHED N

JA-77-0864

NAME AND ADDRESS OF AGENT APPOINTED TO RECEIVE ANY LEGAL PROCESS ISSUED IN THE UNITED STATES:

(NAME) MIZUHO OHNO
PRESIDENT,
TAIYO FISHERY CO., LTD.
(ADDRESS)
277 PARK AVE. NEW YORK, N.Y. 10017
(TEL. 212-421-4120)
(HOME ADDRESS)
429 EAST 52ND ST. APT. 28E,
RIVERCOURT NEW YORK, N.Y. 10022
(TEL. 212-751-8216)

GE-77-0015

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ),
    Decca (X), Hevcat ( ), Radar (X), Fathometer (X),
    Other LOG, GIRO, DIRECTION-FINDER / AUTO-PILOT / SONAR
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish		Freezer	1 frozen hold
Fresh Fish		Dry Hold	1 fishmeal
Frozen Fish	appr. 850	Tanks	4 fishoil
Fish Meal	appr. 250	Other	- -
Other OIL	appr. 60		

19. Processing Equipment (Indicate daily capacity,MT)
    see encl.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z 6	15.August/ 3o.Sept.	HERRING	822	MIDWATER-TRAWL
	1.Oct./ 31.Dec.	MACKEREL	191	MIDWATER-TRAWL
	1.Nov./31.Dec.) 1.Aug./15.Sept.)	LOLIGO ILLEX	183 out of others	BOTTOM-TRAWL/Midw.Trawl BOTTOM-TRAWL/Midw.Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    ELLIOTT SHIPPING COMP., GLOUCESTER/ MASS.
    Phone: 281-7700
    Telex: 94o727 (W.U.)

Bremerhaven, den 16. 3. 1977 — Hochseefischerei Nordstern A.G.

[FR Doc.77-12314 Filed 5-2-77;8:45 am]

V 4 2 8 5 M A Y 3 7 7 UMI

[Public Notice 536]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Additional Applications for fishing beginning March 1, 1977, have been received from the Union of Soviet Socialist Republics, and are published herewith.

Dated: April 25, 1977.

KATHRYN CLARK-BOURNE,
Acting Director, Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: I-XII,1977 — Application No.: UR-77-0416 — For Use of Issuing Office

State: USSR

1. Name of Vessel: SOVRÉMENNIY
2. Vessel No.: Hull No. RCMP-0067 — Registration No. 973
3. Name and Address of Owner — Name and Address of Charterer
   Name: Kaliningradskaya Basa Ekspeditsionnogo Flota
   Address: Pl.Pobedi, 1 — Kaliningrad,USSR
   Cable Address:
4. Homeport and State of Registry: Kaliningrad,USSR
5. Type of Vessel: Patrol and support
6. Tonnage (Gross) 843.7 (Net) 239
7. Length 63.59 M. 8. Breadth 9.5 M. 9. Draft: 3.90 M.
10. Horsepower 4000 shp. 11. Maximum Speed 17.5 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric (x).
    Other
13. Date Built: 1961
14. Number and Nationality of Personnel: 32, USSR
    Officers 16 Crew 16 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ).
    Other
    International Radio Call Sign: USOS
    Radio Frequencies Monitored: 500 kHz, 2182 kHz, 156.8 MHz
    Other Working Frequencies: According to licenses of ship station
    Schedule: H-16

UR-77-0416

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navcat ( ), Radar ( ), Fathometer ( ),
    Other: Depth Sounder, Gyrocompass, Direction Finder
17. Cargo Capacity (MT) — 18. Cargo Space: Number — Name
    Salted Fish: — Freezer
    Fresh Fish: — Dry Hold
    Frozen Fish: — Tanks
    Fish Meal: — Other
    Other:
19. Processing Equipment (indicate daily capacity,MT)
    No equipment
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5,6	I-XII	Patrol and support		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For:
Application No: UR-77-0490
For Use of Issuing Office:
State:

1. Name of Vessel: "PIONER LAPOLANYA"
2. Vessel No: Hull No: HR-0352 — Registration No: M-2256)
3. Name and Address of Owner
   Name: Leningrad Production Association of Fishing Industry "Lenrybprom"
   Address: 198096 Leningrad, Elevatornaya pl.10, "Lenrybprom"
   Name and Address of Charterer:
4. Homeport and State of Registry: Leningrad,USSR
5. Type of Vessel: stern trawler
6. Tonnage (Gross) 3170 — Net 1225
7. Length 84,70 m — 8. Breadth 14,0 m — 9. Draught 5,55 m
10. Horsepower 2000 shp 11. Maximum Speed 12,0 kt
12. Propulsion: Diesel (1) Steam (-) Diesel/electric (-)
    Other: no
13. Date Built: 1961
14. Number and Nationality of Personnel: 94 , USSR
    Officers 24 Crew 70 Other (Specify) -

UR-77-0490

15. Communications: VHF-MF (+), AM/SSB, Voice (+)
    Telegraphy (+) Other: no
    International Radio Call Sign: USUP
    Radio Frequencies Monitored: 500 KHz,2182 KHz, 156.8 MHz
    Other Working Frequencies: 2575 KHz
    Schedule: ~~all kinds~~ H-16
16. Navigation Equipment: Loran C (-) Loran A (1)
    Omega (-) Decca (-) Navcat (-)
    Radar (2) Fathometer (-)
    Other: autopilot -1 ,bidrolocator -1,radio direction finder -1
17. Cargo Capacity (MT)
    Salted Fish: - — Fresh Fish: -
    Frozen Fish: 500 mt — Fish Meal: 40 mt
    Other: -
18. Cargo Space
    Number: — Name:
    Dry Hold: 3
    Tanks: 2
    Other: tin hold - 1 ,fish flower hold - 1

UR-77-0490

19. Processing Equipment (indicate daily capacity, MT)
    refrigerator apparatus - 2(15 tons a day)
    fish flower equipment -1 (30 tones stuff a day)
    cod-liver oil boilers -2(400 kg a day-)
    autoclave D 600 -2(350 cans)
    hand rolling semi-automat - 1(10 cans / minute)
20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	26.04-30 06	silver hake	1300	bottom type, of various depth type
5 Ze		red hake	500	"
5 + 6		additional catch other finfish	4I	"

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

ШПКТВ ГУ "Замрыба" 989 200

UR-77-0491

15. Communications: VHF-MF (+), AM/SSB, Voice (+)
    Telegraphy (+) Other
    International Radio Call Sign: RVRV
    Radio Frequencies Monitored: 500,2182 kHz,156,8 MHz
    Other Working Frequencies: 2575 kHz
    Schedule: H-16
16. Navigation Equipment: Loran C (+) Loran A (+)
    Omega (-) Decca (-) Navsat (-)
    Radar (2) Fathometer ( )
    Other: Autopilot 1
    Radio direction finder 1
    Sonar 1
17. Cargo Capacity (MT)
    Salted Fish: — Fresh Fish:
    Frozen Fish: 600 — Fish Meal: 120
    Other:
18. Cargo Space
    Number: — Name:
    Dry Hold: 3
    Tanks:
    Other: 1 canned fish hold
    1 fish meal hold

UR-77-0491

19. Processing Equipment (indicate daily capacity, MT)
    Freezers: 35 t/24h
    Fish meal plant: 30t/24h (raw materia
    Fat melters: 500kg/24h
    2 Autoclaves: 350 cans
    Semiautomatic can closing machine: 10 cans/min.
20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	26.04-30.06.77	hake	1615	BT,MWT
5 Ze	-"-	Burbot	1635	BT,MWT
5 Ze	-"-	other species	958	BT,MWT

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

ШПКТВ ГУ "Замрыба" 989 200

V 42 85 MAY 3 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For
Application No UR-77-0492
For Use of Issuing Office
State USSR

1. Name of Vessel APHANASIY NIKITIN
2. Vessel No: Hull No KB-0394 Registration No 3196
3. Name and Address of Owner
Name Rizhskaya Baza tralovogo flota
Address Riga
Lashu str.,52
Name and Address of Charterer
4. Someport and State of Registry Riga,USSR
5. Type of Vessel Large Distant Stern Freezer Trawler
6. Tonnage (Gross) 3178 Net 1225
7. Length 84,7 8. Breadth 14,0 9. Draught 5,5
10. Horsepower 2000 shp 11. Maximum Speed 12,0 kt
12. Propulsion: Diesel (+) Steam (-) Diesel/electric (-)
Other
13. Date Built 1964
14. Number and Nationality of Personnel 92, USSR
Officers 22 Crew 69 Other (Specify) 1 doctor

UR-77-0492

15. Communications: VHF-MF (+), AM/SSB, Voice (+)
Telegraphy (+) Other -
International Radio Call Sign USSG
Radio Frequencies Monitored 500, 2182 kHz, channel 16
Other Working Frequencies
Schedule ~~A-1;A-2;A-3;A;A-3;B;F-4;B-5;A-2-H~~ H-8
16. Navigation Equipment: Loran C (+) Loran A (+)
Omega (-) Decca (+) Navsat (-)
Radar (+) Fathometer (-)
Other Radio direction finder CRP-5
Sonar 1
17. Cargo Capacity (MT)
Salted Fish - Fresh Fish ~~3660/471~~ -
Frozen Fish 600 Fish Meal 98
Other fish oil - 27 t
18. Cargo Space
Number Name
Dry Hold 123 m³
Tanks fish oil - 33,7 m³
Other -

UR-77-0492

19. Processing Equipment (indicate daily capacity, MT)

2 Tunnel freezers	30 t
Vacuum drum drier meal plant	20t/24h(raw material)
2 Fat melters IZK	0,5t
2 Autocleves ⌀ 600	0,4t
Can closing machines I9-O5KM	0,4t

20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	24.04-30.06.77	hake	2100	Bt,MWT
5Ze	-"-	burbot	440	BT
5 Ze	-"-	other species	260	BT,MWT

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

ШПКТБ ГУ "Заря" 988 200

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For
Application No UR-77-0493
For Use of Issuing Office
State USSR

1. Name of Vessel GUBERTAS BORISA
2. Vessel No: Hull No LB-0233 Registration No M-27381
3. Name and Address of Owner
Name Klaipedskaya Baza tralovogo flota
Address 235806,Nemunostr.32
Klaipeda ,USSR
Name and Address of Charterer
4. Someport and State of Registry Klaipeda,USSR
5. Type of Vessel Large Distant Stern Freezer Trawler
6. Tonnage (Gross) 3162 Net 1307
7. Length 84,70 8. Breadth 14,02 9. Draught 5,7
10. Horsepower 2000 shp 11. Maximum Speed 10 kt
12. Propulsion: Diesel (1) Steam (-) Diesel/electric (-)
Other
13. Date Built 1965
14. Number and Nationality of Personnel 92,USSR
Officers 23 Crew 69 Other (Specify)

UR-77-0493

15. Communications: VHF-MF (+), AM/SSB, Voice (+)
Telegraphy (+) Other
International Radio Call Sign UBSP
Radio Frequencies Monitored 500,2182 kHz,156,8MHz
Other Working Frequencies 2575 kHz
Schedule H-8
16. Navigation Equipment: Loran C (1) Loran A (1)
Omega (-) Decca (+) Navsat (-)
Radar (2) Fathometer (-)
Other Autopilot 1
Radio direction finder 1
Sonar 1
17. Cargo Capacity (MT)
Salted Fish Fresh Fish
Frozen Fish 610 Fish Meal 80
Other
18. Cargo Space
Number Name
Dry Hold 3
Tanks 2
Other canned fish hold 1
fish meal hold 1

UR-77-0493

19. Processing Equipment (indicate daily capacity, MT)

2 Freezers	15t/24h
Fish meal plant	30t/24h (raw material)
2 Fat melters	400-500 kg/24h
2 Autoclaves ⌀ 600	350 cans
Semiautomatic can closing machine	10 cans /min

20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	10.04-10.06.77	Hake	1026	BT,MWT
5 Ze	-"-	Burbot	1064	BT,MWT
5 Ze	-"-	other species	968	BT,MWT

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States

ШПКТБ ГУ "Заря" 988 200

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For
Application No UR-77-0494
For Use of Issuing Office
State USSR

1. Name of Vessel YUHAN LIIV
2. Vessel No: Hull No KB-0489 Registration No M-29904
3. Name and Address of Owner
Name Estonian Production Association of Fishing Industry
Address 200025
Paljassaare str.28, Tallinn,USSR
Name and Address of Charterer
4. Someport and State of Registry Tallinn,USSR
5. Type of Vessel stern trawler
6. Tonnage (Gross) 2690 Net 925,58
7. Length 75,0m 8. Breadth 14,02m 9. Draught 5,6m
10. Horsepower 2000hp shp 11. Maximum Speed 12 kt
12. Propulsion: Diesel (1) Steam (-) Diesel/electric (-)
Other
13. Date Built 1968
14. Number and Nationality of Personnel 94 men USSR
Officers 24 Crew 70 Other (Specify)

UR-77-0494

15. Communications: VHF-MF (+), AM/SSB, Voice (+)
Telegraphy (+) Other
International Radio Call Sign E S B T
Radio Frequencies Monitored 500 KHZ,2182 KHZ,156,8 MHZ
Other Working Frequencies 2575 KHZ
Schedule H- 16
16. Navigation Equipment: Loran C (1) Loran A (1)
Omega (-) Decca (-) Navsat (-)
Radar (2) Fathometer (2)
Other Autopilot 1
radio direction finder 1
hydrolocator 1
17. Cargo Capacity (MT)
Salted Fish Fresh Fish
Frozen Fish 610 Fish Meal 80
Other
18. Cargo Space
Number Name
Dry Hold 3
Tanks 2
Other tin hold 1
fish flower hold 1

V 42 85 MAY 3 77 UMI

UR-77-0494

19. Processing Equipment (indicate daily capacity, MT)

Refrigerator apparatus	2 (15 tons a day)
Fish flower equipment	1 (30 tons stuff a day)
Cod-liver oil boilers	2 (400-500 kg a day)
Autoclave Ø 600	2 (capacity is 350 cans)
Bend rolling semi-automat	1 (10cans a minute)

20. Fisheries for which Permit is Requested

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
5 Ze	20.04-30.06	silver hake	1850	bottom type, of various depth type
5 Ze		red hake	500	-"-
5 + 6		additional catch	250	-"-
		other finfish		-"-

21. Name and Address of Agent Appointed to Receive Any Legal Proces Issued in the United States

ШКТБ ГУ "Загрузка" 989 200

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)
ФОРМА ПО ПРЕДОСТАВЛЕНИЮ ЭКСПЛУАТАЦИОННО-ТЕХНИЧЕСКИХ ДАННЫХ РЫБОЛОВНОГО СУДНА

Permit Period Applied For: Период, на который запрашивается разрешение:

Application No. UR-77-0495
Заявка №
For Use of Issuing Office Для использования управлением, выдавшим разрешение

State: Страна USSR

1. Name of Vessel Название судна "PYATIGORSK"
2. Vessel No.: Hull No. FV-7139 Registration No. 127
№ судна № корпуса регистрационный №
3. Name and Address of Owner Имя и адрес судовладельца
Name Имя SOJRP"Atlantika"
Address Адрес Pravda street,10 Sevastopol, USSR
Cable Address USSR Телеграфный адрес
Sevastopol, Trawl 156
Name and Address of Charterer имя и адрес фрахтователя
not freighted
4. Homeport and State of Registry: Порт и страна приписки Sevastopol, USSR
5. Type of Vessel Тип судна Stern trawler
6. Tonnage (Gross) Тоннаж (брутто) 2177,3 (Net) (нетто) 746,25 r.t.
7. Length Длина 81,99 8. Breadth Ширина 13,6 M. 9. Draft Осадка 4,55

UR-77-0495

10. Horsepower Мощность двигателей на валу 2320 shp. 11. Maximum Speed Максимальная скорость 13 kn.
11. Propulsion: Diesel (2), Steam ( ), Diesel/Electric ( ), Двигательная установка дизельная паровая дизель-электрическая Other Прочая
13. Date Built Дата постройки 1968
14. Number and Nationality of Personnel Количество и национальность персонала 80, USSR
Officers Командный состав 20 Crew Команда 60 Other (Specify) Другие лица (указать)
15. Communications: VHF-FM (1), A/ SSB, Voice (1), Связь Радиотелефон
Telegraphy (1), Телеграфия Other прочее facsimile, letter printing
International Radio Call Sign Международный радиопозывной UHEM
Radio Frequencies Monitored Контролируемые радиочастоты 156,8 2182 500
Other Working Frequencies Другие рабочие частоты 156 ; 162 2400 ;2575 ;425 468 ;454; 480; 512.
Schedule Режим работы H-16. ~~Two radiooperators keep watch according to the international time-table №16~~
16. Navigation Equipment: Loran C (1), Loran A (1), Навигационное оборудование Лоран С Лоран А
Omega ( ), Decca ( ), Navsat ( ), Radar (2), Омега Декка Навсат Радар
Fathometer (1), Other прочее hydro-compass, echo depth sounder, radio direction finder, log Эхолот

UR-77-0495

17. Cargo Capacity (MT) Грузоподъемность (mt)
18. Cargo Space Грузовые емкости
Number количество / Name название

Number	Name
Salted Fish Соленая рыба not	Freezer Морозильная камера 2 rotor
Fresh Fish Свежая рыба not	Dry Hold Сухой трюм refrigerating 3 1 fish meal
Frozen Fish Мороженая рыба 500	Tanks Танки 35 with total volume 710 m³
Fish Meal Рыбная мука 60	Other Прочее 2 processing equipments
Other Прочее	

19. Processing Equipment (Indicate daily capacity, MT)
Технологическое оборудование (указать суточную производительность в мегр.тоннах)

Freezing conveyor LBH-22,5	-2
2 x 22,5 t/d	
Fish meal plant VF/MO-2	-1
6 t/d	

20. Fisheries for which Permit is Requested:

UR-77-0495

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
Ocean Area B	16/5-30/6	Hake	895	pelagic and bottom trawls
Ocean Area B	16/5-30/6	Red hake	345	pelagic and bottom trawls
Ocean Area 2	16/5-30/7	Squid illex	26	pelagic and bottom trawls
Ocean Area 5	16/5-30/7	Squid illex	80	pelagic and bottom trawls
Ocean Area 2	16/5-30/7	Squid loligo	9	pelagic and bottom trawls
Ocean Area 5	16/5-30/7	Squid loligo	20	pelagic and bottom trawls
Ocean Area B	16/5-30/7	Other fin fish	145	pelagic and bottom trawls

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)
ФОРМА ПО ПРЕДОСТАВЛЕНИЮ ЭКСПЛУАТАЦИОННО-ТЕХНИЧЕСКИХ ДАННЫХ РЫБОЛОВНОГО СУДНА

Permit Period Applied For: Период, на который запрашивается разрешение: 20/5-15/7

Application No. UR-77-0496
Заявка №
For Use of Issuing Office Для использования управлением, выдавшим разрешение

State: Страна USSR

1. Name of Vessel Название судна "AYU-DAG"
2. Vessel No.: Hull No. FV-7105 Registration No. 100
№ судна № корпуса регистрационный №
3. Name and Address of Owner Имя и адрес судовладельца
Name Имя SFORP"Atlantika"
Address Адрес Pravdy street,10, Sevastopol,USSR
Cable Address USSR Телеграфный адрес
Sevastopol, Trawl 156
Name and Address of Charterer имя и адрес фрахтователя
not freighted
4. Homeport and State of Registry: Порт и страна приписки Sevastopol,USSR
5. Type of Vessel Тип судна Stern trawler
6. Tonnage (Gross) Тоннаж (брутто) 2177,3 (Net) (нетто) 746,25 r.t.
7. Length Длина 81,99 8. Breadth Ширина 13,6 M. 9. Draft Осадка 4,55

UR-77-0496

10. Horsepower Мощность двигателей 2320 shp. 11. Maximum Speed Максимальная скорость 13 kn.
11. Propulsion: Diesel (2), Steam ( ), Diesel/Electric ( ), Двигательная установка дизельная паровая дизель-электрическая Other Прочая
13. Date Built Дата постройки 1967
14. Number and Nationality of Personnel Количество и национальность персонала 80 USSR
Officers Командный состав 20 Crew Команда 60 Other (Specify) Другие лица (указать)
15. Communications: VHF-FM (1), A/ SSB, Voice (1), Связь Радиотелефон
Telegraphy (1), Телеграфия Other прочее facsimile, letter printing
International Radio Call Sign Международный радиопозывной ENGQ
Radio Frequencies Monitored Контролируемые радиочастоты 500; 2182
Other Working Frequencies Другие рабочие частоты as per ship's licance N
Schedule Режим работы H-16. ~~Two radiooperators keep watch according to the int~~ ~~national time-table №16~~
16. Navigation Equipment: Loran C (1), Loran A (1), Навигационное оборудование Лоран С Лоран А
Omega ( ), Decca ( ), Navsat ( ), Radar (2), Омега Декка Навсат Радар
Fathometer (3), Other прочее hydro-compass, echo depth sounder, radio direction finder, log Эхолот

UR-77-0496

17. Cargo Capacity (MT) Грузоподъемность (mt)
18. Cargo Space Грузовые емкости
Number количество / Name название

Number	Name
Salted Fish Соленая рыба no	Freezer Морозильная камера 2 rotor
Fresh Fish Свежая рыба no	Dry Hold Сухой трюм refrigereting 3 fish meal 1
Frozen Fish Мороженая рыба 500	Tanks Танки 35 with total volume 710 t.
Fish Meal Рыбная мука 60	Other Прочее processing equipment 2
Other Прочее	

19. Processing Equipment (Indicate daily capacity, MT)
Технологическое оборудование (указать суточную производительность в мегр.тоннах)

Freezing conveyor BM-22,5	2	2 X 22,5 t/24 hours
Fish meal plant	1	6 t/24 hours

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20. Fisheries for which Permit is Requested:

UR-77-0496

Ocean Area	Period (from-to)	Species	Contemplated Catch (MT)	Gear to be Used
Ocean Area B	21/5-30/6	Hake	772	pelagic and bottom trawls
Ocean Area B	21/5-30/6	Red hake	260	pelagic and bottom trawls
Ocean Area 2	21/5-30/7	Squid illex	37	pelagic and bottom trawls
Ocean Area 5	21/5-30/7	Squid illex	60	pelagic and bottom trawls
Ocean Area 2	21/5-30/7	Squid loligo	5	pelagic and bottom trawls
Ocean Area 5	21/5-30/7	Squid loligo	15	pelagic and bottom trawls
Ocean Area B	21/5-30/7	Other fin fish	124	pelagic and bottom trawls

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

[FR Doc.77-12315 Filed 5-2-77;8:45 am]

[Public Notice 539]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Republic of Korea, and are published herewith. It is noted that these applications relate to activities involving the processing of fish purchased at sea from vessels of the United States.

Dated: April 26, 1977.

KATHRYN CLARK-BOURNE,
Acting Director,
Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 — Application No. KS-77-0077 For Use of Issuing Office

State: Republic of Korea

1. Name of Vessel: GAECHUK HO(EX. YUSIN HO)
2. Vessel No.: Hull No. 743 — Registration No. BF 36140
3. Name and Address of Owner: Korea Wonyang Fisheries Co., Ltd. Address: 175-87, Ankuk-dong Chongro-ku, Seoul, Korea. Cable Address: KOREA TUNA P.O. Box 6581
   Name and Address of Charterer: Korea Marine Industry Development Corporation 55-4, Seosomun-dong, Chung-ku, Seoul, Korea. Cable : KMIDC SEOUL Telex : KMICD K27268
4. Homeport and State of Registry: Busan, Korea
5. Type of Vessel: Factory Ship(Processing)
6. Tonnage (Gross) 23,795.57 (Net) 15,188.37
7. Length 193 M. 8. Breadth 26.2 M. 9. Draft 10.70 M.
10. Horsepower 10,500 shp. 11. Maximum Speed 14.5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1955
14. Number and Nationality of Personnel: 450 men, Korea — Officers 30 Crew 420 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X). Other Life Transceiver
    International Radio Call Sign 6 MTO
    Radio Frequencies Monitored MF(A1 A2) 500 MF(A1) 4160,VHF(F3) 156.80
    Other Working Frequencies MF(A1 A2) 410,425 MF(A1) 4,194.5 VHF(F3) 156.30
    Schedule 8 hours daily
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navaid ( ), Radar (X), Fathometer (X). Other Direction Finder — KS-77-0077
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	Freezer	3	1-3
Fresh Fish	Dry Hold	10	7 ABCD 6BC 9BC 10BC
Freeze Fish 3,800	Tanks	F/O 12,244 M	
Fish Meal 5,300	Other	Fish Oil 4	1 ABCD
Other Fish Oil 1,900			

19. Processing Equipment (Indicate daily capacity,MT)
    Contactor Freezer : 36 set 250 M/T
    Fish Meal Plant 250 M/T
    Fillet M/C Baader 181 16 set 50 M/T
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Gulf of Alaska	1977	Processing	None	To engage processing of fishies in Gulf of Alaska supplied by the Alaskan Fishermen

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Mr. William C. Foster, Patton, Boggs and Blow
    1200 Seventeenth Street, N.W., Washington, D.C. 20036
    Tel.(202) 223-4040, ITT Telex: 440324, WU Telex: 89-452
    Mr. Robert C. Ely- Attorney
    910 L Street, ANCHORAGE, ALASKA 99501
    Tel.(907) 276-5121, Cable: NORTHACRE, Telex:(090) 25-282

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 — Application No. KS-77-0078 For Use of Issuing Office

State: Republic of Korea

1. Name of Vessel: Soo Gong 51
2. Vessel No.: Hull No. — Registration No. BF 36235
3. Name and Address of Owner: Korea Marine Industry Development Corporation 55-4, Seosomun-dong, Chung-ku, Seoul, Korea. Cable Address: KMIDC SEOUL Telex: KMIDC K27268
   Name and Address of Charterer: Korea Marine Industry Development Corporation
4. Homeport and State of Registry: Busan, Korea
5. Type of Vessel: Factory Ship(Processing) (Hold permits of Trawler Fishery in Gulf of Alaska 45-77-0042-A)
6. Tonnage (Gross) 5,510.74 (Net) 2,762.00
7. Length 101.00 M. 8. Breadth 18 M. 9. Draft 11.00 M.
10. Horsepower 4,900 shp. 11. Maximum Speed 15 kt.
11. Propulsion: Diesel (X, Steam ( ), Diesel/Electric ( ), Other
13. Date Built Oct. 1974
14. Number and Nationality of Personnel: 145 men, Korea — Officers 16 Crew 129 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X). Other
    International Radio Call Sign 6 MES
    Radio Frequencies Monitored MF: 4186, 6279 C: 8389
    Other Working Frequencies 4199.5KHz, 6299.25KHz, 22300KHz
    Schedule
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navaid ( ), Radar (X), Fathometer (X), Other — KS-77-0078
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	Freezer	3	1-3
Fresh Fish	Dry Hold	2	
Freeze Fish 2,312	Tanks	9	
Fish Meal	Other		
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    Fish Meal Plant : 25
    Fillet Plant : 40
    Minced Meat Plant : 30
    Freezing Capacity : 135
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Gulf of Alaska	1977	Processing	None	To engage processing of fishies in Gulf of Alaska supplied bythe Alaskan Fishermen

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Mr. William C. Foster, Patton, Boggs and Blow
    1200 Seventeenth Street, N.W., Washington, D.C. 20036
    Tel. (202) 223-4040, ITT Telex: 440324, WU Telex: 89-452
    Mr. Robert C. Ely - Attorney
    910 L Street, ANCHORAGE, ALASKA 99501
    Tel.(907) 276-5121, Cable: NORTHACRE, Telex: (090) 25-282

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 Application No. KS-77-0079 For Use of Issuing Office

State: Republic of Korea

1. Name of Vessel BOOK MYUNG
2. Vessel No.: Hull No. _____ Registration No. BF 36130
3. Name and Address of Owner: Korea Marine Industry Development Corporation, 55-4, Seosomun-dong, Chung-ku, Seoul, Korea
   Name and Address of Charterer: _____
   Cable Address: KMIDC SEOUL
   Telex: KMIDC K27288
4. Homeport and State of Registry: Busan, Korea
5. Type of Vessel: Factory ship(processing)
6. Tonnage (Gross): 8,600.81 (Net): 5,983.65
7. Length: 130.00 M. 8. Breadth: 18.00 M. 9. Draft: 11.60 M.
10. Horsepower: 5,500 shp. 11. Maximum Speed: 14 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built: Nov. 1956
14. Number and Nationality of Personnel: 150 men, Korea
    Officers: 16 Crew: 134 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other _____
    International Radio Call Sign _____
    Radio Frequencies Monitored: SORT WAVE 11WX1 MID WAVE 250WX1
    Other Working Frequencies: AUX 40WX1 VHF 25WX2
    Schedule _____

KS-77-0079

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other: Fish Finder, Auto Pilote, Gyro, Direction Finder
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer: 3	
Fresh Fish		Dry Hold: 4	
Frozen Fish	5,876	Tanks: 7	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    Fillet 45 T/D
    Freezing Capacity 135 M/T/Day
    Fish Meal Plant 100 M/T
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Gulf of Alaska	1977	Processing	None	To engage processing of fishies in Gulf of Alaska supplied by the Alaskan fishermen

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Mr. William C. Foster, Patton, Boggs and Blow
    1200 Seventeenth Street, N.W., Washington, D.C. 20036
    Tel.(202) 223-4040, ITT Telex: 440324, WU Telex: 89-452
    Mr. Robert C. Ely - Attorney
    510 L Street, Anchorage, Alaska 99501
    Tel.(907) 276-5121, Cable: NORTHACRE, Telex: (090) 25-292

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 Application No. KS-77-0080 For Use of Issuing Office

State: Republic of Korea

1. Name of Vessel Tae Yang 11
2. Vessel No.: Hull No. _____ Registration No. BF 21875
3. Name and Address of Owner: Korea Marine Industry Development Corporation, 55-4, Seosomun-dong, Chung-ku, Seoul, Korea
   Name and Address of Charterer: _____
   Cable Address: KMIDC SEOUL
   Telex No.: KMIDC K27288
4. Homeport and State of Registry: Busan, Korea
5. Type of Vessel: Transport
6. Tonnage (Gross): 7,073 (Net): 4,220
7. Length: 147.35 M. 8. Breadth: 19.26 M. 9. Draft: 8.00 M.
10. Horsepower: 8,350 shp. 11. Maximum Speed: 14.0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built: Nov. 1946
14. Number and Nationality of Personnel: 150 men, Korea
    Officers: 16 Crew: 134 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other _____
    International Radio Call Sign: 6 LBH
    Radio Frequencies Monitored: 4199.5KHz, 6299.25 KHz, 22300KHz
    Other Working Frequencies: 4199.5KHz, 6299.25 KHz, 22300KHz
    Schedule _____

KS-77-0080

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer: 3	Fish Hold
Fresh Fish		Dry Hold: 22	1-3
Frozen Fish	4,500	Tanks: 13	4-22
Fish Meal	500	Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    a. Canning Factory : 7
    b. Fish Meal Plant :35
    c. Freezing Capacity: 300
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea & Aleutian Area, and Gulf of Alaska	1977	Transport	None	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Mr. William C. Foster, Patton, Boggs and Blow
    1200 Seventeenth Street, N.W., Washington, D.C. 20036
    Tel. (202) 223-4040, ITT Telex : 440324, WU Telex : 89-452
    Mr. Robert C. Ely - Attorney
    510 L Street, Anchorage, Alaska 99501
    Tel. (907) 276-5121, Cable : NORTHACRE, Telex: (090) 25-292

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 Application No. KS-77-0081 For Use of Issuing Office

State: Republic of Korea

1. Name of Vessel Tae Yang 12
2. Vessel No.: Hull No. _____ Registration No. BF 21575
3. Name and Address of Owner: Korea Marine Industry Development Corporation, 55-4, Seosomun-dong, Chung-ku, Seoul, Korea
   Name and Address of Charterer: _____
   Cable Address: KMIDC SEOUL
   Telex : KMIDC K27288
4. Homeport and State of Registry: Busan, Korea
5. Type of Vessel: Transport
6. Tonnage (Gross): 1,232 (Net): 827
7. Length: 78.66 M. 8. Breadth: 10.80 M. 9. Draft: 5.70 M.
10. Horsepower: 2,000 shp. 11. Maximum Speed: 12.3 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built: Jan. 1961
14. Number and Nationality of Personnel: 36 men, Korea
    Officers: 8 Crew: 28 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other _____
    International Radio Call Sign: 6 LBB
    Radio Frequencies Monitored: M: 4185, 8370 C: 4195, 6294
    Other Working Frequencies: 4199.5KHz, 6299.25KHz, 22399KHz
    Schedule _____

KS-77-0081

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer: 2	1-3
Fresh Fish		Dry Hold: 2	
Frozen Fish	1,200	Tanks: 17	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea & Aleutian Area, and Gulf of Alaska	1977	Transport	None	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Mr. William C. Foster, Patton, Boggs and Blow
    1200 Seventeenth Street, N.W., Washington, D.C. 20036
    Tel.(202) 223-4040, ITT Telex: 440324, WU Telex : 89-452
    Mr. Robert C. Ely - Attorney
    510 L Street, Anchorage, Alaska 99501
    Tel.(907) 276-5121, Cable: NORTHACRE, Telex: (090) 25-292

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1977 Application No. KS-77-0082 For Use of Issuing Office

State: Republic of Korea

1. Name of Vessel Tae Yang 15
2. Vessel No.: Hull No. _____ Registration No. BF 21558
3. Name and Address of Owner: Korea Marine Industry Development Corporation, 55-4, Seosomun-dong, Chung-ku, Seoul, Korea
   Name and Address of Charterer: _____
   Cable Address: KMIDC SEOUL
   Telex: KMIDC K27288
4. Homeport and State of Registry: Busan, Korea
5. Type of Vessel: Transport
6. Tonnage (Gross): 957 (Net): 505
7. Length: 60.00 M. 8. Breadth: 10.50 M. 9. Draft: 5.00 M.
10. Horsepower: 1,800 shp. 11. Maximum Speed: 11.0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built: Oct. 1956
14. Number and Nationality of Personnel: 36 men, Korea
    Officers: 8 Crew: 28 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other _____
    International Radio Call Sign: 6 KYV
    Radio Frequencies Monitored: M: 4185, 8370 C: 4196, 6294
    Other Working Frequencies: 4195.5KHz, 6299.25KHz, 223000KHz
    Schedule _____

KS-77-0082

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer: 4	1-4
Fresh Fish		Dry Hold	
Frozen Fish	600	Tanks: 8	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea & Aleutian Area, and Gulf of Alaska	1977	Transport	None	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Mr. William C. Foster, Patton, Boggs and Blow
    1200 Seventeenth Street, N.W., Washington, D.C. 20036
    Tel.(202) 223-4040, ITT Telex: 440324, WU Telex: 89-452
    Mr. Robert C. Ely - Attorney
    510 L Street, Anchorage, Alaska 99501
    Tel.(907) 276-5121, Cable: NORTHACRE, Telex: (090) 25-292

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

KS-77-0083

Permit Period Applied For: 1977 Application No. For Use of Issuing Office KS-77-0083

State: Republic of Korea

1. Name of Vessel Jinan No. 305
2. Vessel Nat. Hull No. Hull No. _____ Registration No. BP 35887
3. Name and Address of Owner / Name and Address of Charterer

Name Korea Marine Industry Development Corp.
Address 55-4, Seosomun-dong,
Chung-ku, Seoul, Korea
Cable Address KMIDC SEOUL
Telex No. KMIDC K27288

4. Homeport and State of Registry: Busan, Korea (replacement of Soo Gong 51)
5. Type of Vessel Stern trawler (KS-77-0042-A)
6. Tonnage (Gross) 1,015.49 (Net) 540.38
7. Length 60.74 M. 8. Breadth 11.20 M. 9. Draft 7.30 M.
10. Horsepower 2,500 shp. 11. Maximum Speed 13 kt.
12. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
Other _____
13. Date Built: June 1972
14. Number and Nationality of Personnel 45 Men, Korean
Officers 10 Crew 35 Other (Specify) 4
15. Communications: VHF-FM (x), AM/SSB, Voice (x), Telegraphy (x).
Other _____
International Radio Call Sign 6 MLK
Radio Frequencies Monitored _____
Other Working Frequencies 4199, 5MHZ, 6299, 25KHZ, 22300KHZ
Schedule _____

15. Navigation Equipment: Loran C (xx), Loran A (x), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer ( ),
Other _____

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	_____	Freezer	2 1-2
Fresh Fish	_____	Dry Hold	3 3-5
Frozen Fish	550	Tanks	24
Fish Meal	_____	Other	
Other	_____		

19. Processing Equipment (Indicate daily capacity,MT)
Freezing capacity 58

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Bering Sea & Aleutian Area, and Gulf of Alaska	1977	Alaska Pollock	21,912	Trawler Net
		Yellow sole	2,300	
		Tanner Crabs	522	
		Herring	460	
		Other flounders	690	
		Sundry	3,690	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
Mr. William C. Foster, Patton, Boggs & Blow
1200 Seventeenth St., N.W., Washington, D.C. 20036
Tel. (202) 223-4040 ITT Telex: 440324

[FR Doc.77-12316 Filed 5-2-77;8:45 am]

V 4 2 8 5 MAY 3 7 7 UMI

Vol.42—No.86
5-4-77
PAGES
22557–22858

federal register

WEDNESDAY, MAY 4, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for June are being accepted for the free weekly workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202–523–5282.
OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED
Denver, Colo., 5–19, 5–20.
(Details: 42 FR 20208, 4–18–77.)
For reservations call: Ida Martinez or Velita Bonney at 303–234–2216.

SUNSHINE ACT MEETINGS 22633

REHABILITATION ACT OF 1973
HEW/Secy ensures that federally assisted programs and activities are operated without discrimination on the basis of handicap; effective 6–3–77 (Part IV of this issue) 22675

ONSHORE OIL AND GAS OPERATIONS
EPA extends comment period to 6–3–77 on proposed and interim regulations establishing effluent limitations and guidelines and new source performance standards.. 22558
Interior/GS finalizes methods for determining the value of natural gas for royalty computation purposes; effective 6–1–77 22610

GEOTHERMAL ENERGY
ERDA requests expression of interest by 6–20–77 for a geothermal demonstration power plant 22576

INDUSTRIAL ENERGY CONSERVATION
FEA proposes to issue an efficiency reporting form; comments by 5–17–77; hearing 5–17–77 22581

FAIR MARKET RENTS
HUD/FHC proposes schedules under Low Income Housing Programs for Existing Housing; comments by 5–18–77 (Part V of this issue) 22703

CONTINUED INSIDE

86

V 42 86 MAY 4 77 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

HOMEBUYERS MINIMUM DOWNPAYMENT
HUD/FHC reduces the minimum downpayment required of home purchasers under the National Housing Act; effective 5–4–77 22557

MATCHBOOKS
CPSC adopts safety standards; effective 5–4–78 (Part II of this issue) 22656

MARINE MAMMALS
Commerce/NOAA adopts enforcement policy on the taking of certain dolphins in yellowfin tuna purse seine operations 22575
Commerce/NOAA adopts methodology for estimating porpoise mortality and determining date for prohibition of encircling certain stocks with purse seines to comply with quota limits 22573

PACIFIC FISHERY MANAGEMENT COUNCIL
Commerce/NOAA publishes statement of organization, practices, and procedures (Part III of this issue) 22671

FEDERAL PROPERTY MANAGEMENT
GSA revises reporting requirements for agencies that submit supply activity reports; effective 5–4–77 22558

BUDGET DEFERRAL
OMB reports deferrals for the Departments of Treasury and Commerce (Part VI of this issue) 22851

PRIVACY ACT
FEA adds system of records 22588
Justice/Attorney General proposes to add routine use to systems of records; comments by 5–17–77 22612
PS proposes systems of records; comments by 6–6–77 22614

MEETINGS—
ERDA: Geothermal Energy Advisory Committee, Geopressure Subcommittee, 5–19–77 22575
GSA: Architectural and Engineering Services, Regional Public Advisory Panel, 5–24 and 5–25–77 22608
Interior/NPS: Ozark National Scenic Riverways Advisory Commission, 5–26–77 22611
NASA: Research and Technology Advisory Council, Research Panel, 5–25 and 5–26–77 22612
NFAH/NEA: Federal Graphics Evaluation Advisory Panel; 5–20–77 22612
Music Advisory Panel; 5–25 thru 5–27–77 22613

SEPARATE PARTS OF THIS ISSUE
Part II, CPSC 22655
Part III, Commerce/NOAA 22671
Part IV, HEW/Secy 22675
Part V, HUD 22703
Part VI, OMB 22851

V 42 86 MAY 4 77 UMI

contents

AGRICULTURE DEPARTMENT

See Farmers Home Administration; Forest Service; Soil Conservation Service.

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
- Federal Graphics Evaluation Advisory Panel ---- 22612
- Music Advisory Panel ---- 22613

BONNEVILLE POWER ADMINISTRATION

Notices

Procurement:
- Protests against award ---- 22608

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- Air-India ---- 22563
- Deutsches Reisebüro Gmbh ---- 22564
- International Air Transport Association (2 documents) ---- 22568, 22569
- Pan American World Airways, Inc. et al ---- 22564

COMMERCE DEPARTMENT

See Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Matchbooks; safety standards ---- 22656

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
- Emory University ---- 22571
- Georgia Institute of Technology ---- 22571
- National Institutes of Health ---- 22571
- Purdue University ---- 22572
- Vanderbilt University (2 documents) ---- 22572

EMERGENCY NATURAL GAS ACT OF 1977, ADMINISTRATOR

Notices

Emergency orders, etc.:
- Pennsylvania Gas and Water Co ---- 22652

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Geothermal energy; demonstration powerplant; inquiry ---- 22576

Meetings:
- Geothermal Energy Advisory Committee, Geopressure Subcommittee ---- 22575

ENVIRONMENTAL PROTECTION AGENCY

Rules

Water pollution; effluent guidelines for certain point source categories:
- Oil and gas extraction, onshore segment; extension of time ---- 22558

Proposed Rules

Water pollution; effluent guidelines for certain point source categories:
- Oil and gas extraction, onshore segment; extension of time ---- 22560

FARMERS HOME ADMINISTRATION

Notices

Disaster and emergency areas:
- South Carolina ---- 22652

FEDERAL COMMUNICATIONS COMMISSION

Rules

Experimental and radio broadcast services:
- Table Mountain Receiving Zone, protection; contact address ---- 22558

Proposed Rules

Television broadcast stations; table of assignments:
- Wisconsin ---- 22560

Notices

Canada-U.S. FM agreement (1947); Table A amendment (2 documents) ---- 22577

Canada-U.S. television agreement (1952); Table A amendment ---- 22577

Mexican standard broadcast stations; notification list ---- 22578

Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies ---- 22579

Hearings, etc.:
- Leivas, Gilbert ---- 22579
- Thomas, Benjamin F., et al ---- 22580

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Federal assistance to drought stricken areas and related determinations; memorandum of agreement between members of Interagency Drought Emergency Coordinating Committee of 1977; correction ---- 22608

FEDERAL ENERGY ADMINISTRATION

Notices

Industrial energy conservation; efficiency reporting form; hearing and inquiry ---- 22581

Privacy Act; systems of records ---- 22588

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING

Rules

Mortgage and loan insurance programs:
- Home ownership and project rehabilitation; downpayment requirements ---- 22557

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc.:
- Flota Mercante Grancolombiana, S.A., et al ---- 22589
- Galveston Wharves Board of Trustees et al ---- 22588

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Arizona Public Service Co ---- 22589
- Bettis, Boyle and Stovall ---- 22589
- Columbia Gas Transmission Corp ---- 22590
- Columbia Gulf Transmission Co. et al ---- 22595
- Consolidated Gas Supply Corp ---- 22590
- El Paso Natural Gas Co ---- 22595
- Florida Gas Transmission Co ---- 22595
- Florida Power & Light Co ---- 22596
- Karis Oil Co., Inc ---- 22591
- Lone Star Gas Co ---- 22591
- Monongahela Power Co. et al ---- 22596
- Natural Gas Pipeline Co. of America et al ---- 22597
- Northern Illinois Gas Co ---- 22597
- Northern Natural Gas Co ---- 22592
- Public Service Co. of Oklahoma ---- 22598
- Southern Natural Gas Co ---- 22598
- Tennessee Gas Pipeline Co ---- 22592
- Texas Gas Transmission Corp ---- 22600
- Transcontinental Gas Pipe Line Corp. (2 documents) ---- 22593, 22599
- United Gas Pipe Line Co. et al ---- 22593
- Wisconsin Michigan Power Co ---- 22594

FEDERAL RESERVE SYSTEM

Proposed Rules

Bank holding companies:
- Management consulting advice ---- 22560

FISCAL SERVICE

Notices

Surety companies acceptable on Federal bonds:
- AIU Insurance Co.; name change ---- 22614

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
- Aroostook County et al., cooperative spruce budworm suppression project, Maine ---- 22563
- Tongass National Forest, Sandy Bay and Hidden Falls Lake, Alaska ---- 22563

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc ---- 22607

GENERAL SERVICES ADMINISTRATION

Rules

Property management:
- Federal; supply activity report ---- 22558

Notices

Meetings:
- Architectural and Engineering Services Regional Public Advisory Panel ---- 22608

Property management regulations, temporary:
- Authority delegation to Defense Department Secretary et al ---- 22608

Public utilities, hearings, etc.:
- Georgia Power Co ---- 22607
- Mountain States Telephone & Telegraph Co ---- 22608
- Southwestern Bell Telephone Co ---- 22608

GEOLOGICAL SURVEY

Notices

Coal land classifications:
- North Dakota ---- 22609

Oil and gas operations:
- Royalty computation; onshore leases; natural gas ---- 22610

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Rules

Nondiscrimination:
- Handicapped in federally-assisted programs ---- 22676

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Disaster Assistance Administration; Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Proposed Rules

Low-income housing:
- Housing assistance payments; fair market rents; existing housing ---- 22704

INTERIOR DEPARTMENT

See Bonneville Power Administration; Geological Survey; Land Management Bureau; National Park Service.

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
- Swimming pools, above-ground; termination ---- 22612

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief ---- 22615

Hearing assignments ---- 22615

Motor carriers:
- Irregular route property carriers; gateway elimination ---- 22616
- Operating rights application ---- 22632
- Temporary authority applications ---- 22629

JUSTICE DEPARTMENT

Rules

Organization, functions, and authority delegations:
- Deputy Attorney General Office ---- 22557

Notices

Privacy Act; systems of records ---- 22612

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
- Wyoming ---- 22609

Outer Continental Shelf:
- Official protraction diagrams; availability, etc ---- 22609

MANAGEMENT AND BUDGET OFFICE

Notices

Budget rescissions and deferrals ---- 22852

Clearance of reports, list of requests (2 documents) ---- 22613

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Meetings:
- Research and Technology Advisory Council, Research Panel ---- 22612

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
- Foreign fishing; vessels engaging in crab fishery, etc.; correction ---- 22559

Notices

Marine mammals:
- Incidental taking; commercial fishing operations for yellowfin tuna ---- 22575
- Porpoises, mortality estimation; methodology ---- 22573

Organization and functions:
- Pacific Fishery Management Council ---- 22672

Satellite data services; environmental and earth resources satellite imagery products; price list ---- 22573

NATIONAL PARK SERVICE

Rules

Snowmobile routes designation:
- Mount Ranier National Park, Wash.; correction ---- 22557

Notices

Meetings:
- Ozark National Scenic Riverways Advisory Commission ---- 22611

POSTAL SERVICE

Notices

Privacy Act; systems of records ---- 22614

REVENUE SHARING OFFICE

Notices

Entitlement data:
- Population estimate revisions ---- 22615

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
- Bishop Creek, Ga ---- 22563

STATE DEPARTMENT

Notices

Art objects, importation:
- Culturally significant objects from Bulgaria ---- 22614

TREASURY DEPARTMENT

See Fiscal Service; Revenue Sharing Office.

V 42 86 MAY 4 77 UMI

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

12 CFR

PROPOSED RULES:
225 ... 22560

16 CFR

1202 ... 22656

24 CFR

235 ... 22557

PROPOSED RULES:
803 ... 22704
888 ... 22704

28 CFR

0 ... 22557

36 CFR

7 ... 22557

40 CFR

435 ... 22558

PROPOSED RULES:
435 ... 22560

41 CFR

101–25 ... 22558

45 CFR

84 ... 22676

47 CFR

73 ... 22558
74 ... 22558

PROPOSED RULES:
73 ... 22560

50 CFR

611 ... 22560

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR

Ch. I ... 22125

5 CFR

213 ... 22355, 22356

7 CFR

52 ... 22356
271 ... 22356
701 ... 22358
910 ... 22359
959 ... 22125
1068 ... 22360
1421 ... 22126
1430 ... 22126

8 CFR

PROPOSED RULES:
103 ... 22148
244 ... 22148
299 ... 22149

9 CFR

78 ... 22370
301 ... 22373
307 ... 22373
308 ... 22373
310 ... 22373
318 ... 22373
320 ... 22373
325 ... 22373
327 ... 22373
331 ... 22373
350 ... 22373
354 ... 22373
355 ... 22373
362 ... 22373
381 ... 22373
390 ... 22373
391 ... 22373

PROPOSED RULES:
1 ... 22374
2 ... 22374
3 ... 22374

10 CFR

2 ... 22128
212 ... 22131

PROPOSED RULES:
2 ... 22168
170 ... 22149
212 ... 22374

12 CFR

226 ... 22360
329 ... 22362

PROPOSED RULES:
225 ... 22560
329 ... 22378

13 CFR

500 ... 22135
520 ... 22135

13 CFR—Continued

551 ... 22135
552 ... 22136
553 ... 22137
554 ... 22137
555 ... 22137
560 ... 22137

14 CFR

39 ... 22137
71 ... 22138
91 ... 22139

PROPOSED RULES:
39 ... 22172
71 ... 22172, 22173

15 CFR

50 ... 22362

16 CFR

1202 ... 22656

17 CFR

231 ... 22139
239 ... 22139

18 CFR

1000 ... 22146

20 CFR

PROPOSED RULES:
655 ... 22378

21 CFR

561 ... 22363

23 CFR

PROPOSED RULES:
640 ... 22173
642 ... 22173

24 CFR

235 ... 22557
888 ... 22363

PROPOSED RULES:
803 ... 22704
888 ... 22704

25 CFR

219 ... 22141

26 CFR

301 ... 22143

27 CFR

178 ... 22144
181 ... 22144

28 CFR

0 ... 22557

29 CFR

9 ... 22364
40 ... 22364
1910 ... 22516

31 CFR

PROPOSED RULES:
215 ... 22174

36 CFR

7 ... 22557

37 CFR

PROPOSED RULES:
4 ... 22378

39 CFR

PROPOSED RULES:
111 ... 22176

40 CFR

33 ... 22144
180 ... 22364
228 ... 22144
435 ... 22558

PROPOSED RULES:
51 ... 22177
60 ... 22506
250 ... 22332
435 ... 22560

41 CFR

15–3 ... 22145
101–25 ... 22558

43 CFR

PUBLIC LAND ORDERS:
5617 ... 22365

45 CFR

4 ... 22145
84 ... 22676
1067 ... 22365
1068 ... 22145

PROPOSED RULES:
166 ... 22336

46 CFR

148 ... 22145

PROPOSED RULES:
50 ... 22296
54 ... 22296
56 ... 22296
58 ... 22296
61 ... 22296
107 ... 22296
108 ... 22296
109 ... 22296
502 ... 22383

V42N86 MAY 4 77 UMI

47 CFR

73 22558
74 22558

PROPOSED RULES:

73 ..... 22183, 22560

49 CFR

1 22366
172 22366
175 22366

49 CFR—Continued

1033 ..... 22367, 22368
1041 22369
1320 22369
1322 22369

PROPOSED RULES:

Ch. II 22184

50 CFR

611 22559

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date
22125–22354	May 2
22355–22556	3
22557–22858	4

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

EPA—Delaware State implementation plans; approval of revision..... 17876; 4–4–77

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Handling of Irish potatoes grown in the southeastern states; comments by 5–13–77..... 21111; 4–25–77
Irish potatoes grown in Southeastern states, expenses and rate of assessment; comments by 5–13–77. 20825; 4–22–77
Milk in New York-New Jersey marketing area; recommended decision; comments by 5–11–77.... 18950; 4–11–77
Commodity Credit Corporation—
Cooperative Marketing Associations; eligibility requirements for price supports (2 documents); comments by 5–12–77.....19149; 4–12–77

CIVIL AERONAUTICS BOARD
Air carriers and foreign air carriers; filing of tariff justifications; comments by 5–13–77..... 19355; 4–13–77
One-stop-inclusive tour charters, inclusion of rental cars in tour package; comments by 5–9–77..... 16158; 3–25–77
Standardized method of costing proposed changes in authorized operations of local service carriers; comments by 5–9–77.... 15916; 3–24–77

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
Financial aid program procedures for surf clam fishery; comments by 5–11–77..... 8389; 2–10–77

DEFENSE DEPARTMENT
Army Department—
Personal records; privacy and rights of individuals; comments by 5–11–77..... 18863; 4–11–77
Office of the Secretary—
Public information and right to privacy; availability of information; comments by 5–13–77..... 19356; 4–13–77

ENVIRONMENTAL PROTECTION AGENCY
Limitations on sulfur in fuel emissions from the Haverhill Paperboard Corp.; comments by 5–13–77..... 19359; 4–13–77
Toxic substances control, general provisions and inventory reporting requirements; comments by 5–9–77.. 13130; 3–9–77

FARM CREDIT ADMINISTRATION
Association charters, funding and fiscal affairs; comments by 5–13–77. 19887; 4–15–77

FEDERAL COMMUNICATIONS COMMISSION
Availability of land mobile channels in 470–512 MHz band in thirteen urbanized areas of the United States; comments by 5–9–77.... 13309; 3–10–77 [First published at 42 FR 8157, 2–9–77]
Maritime services; implementation of intergovernmental consultative organization resolution regarding safety of Life at Sea Convention; reply comments by 5–11–77.... 8674; 2–11–77
Means of connection of telephone equipment to lamp and/or annunciator functions of systems; comments by 5–10–77..... 20315; 4–19–77

FEDERAL DEPOSIT INSURANCE CORPORATION
Disclosure of information; comments by 5–13–77..... 19351; 4–13–77

FEDERAL ENERGY ADMINISTRATION
Adjustments to base period volumes for motor gasoline; comments by 5–13–77..... 20826; 4–22–77
Energy audit procedures: comments by 5–13–77..... 20012; 4–15–77
Energy conservation program for appliances; test procedures for dishwashers; comments by 5–9–77.... 15423; 3–22–77

FEDERAL HOME LOAN BANK BOARD
Limitation of authority to pay announced rate of return on savings accounts following reduction in prescribed maximum rate; comments by 5–9–77. 18404; 4–7–77

FEDERAL POWER COMMISSION
Amendments and changes in certain report forms, uniform systems of accounts; public utilities and licensees; comments by 5–13–77..... 20303; 4–19–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
Domestic mining and mineral fuel conservation fellowships; comments by 5–12–77..... 16448; 3–28–77
Higher education; student assistance programs; limitation, suspension, or termination of institutional eligibility; comments by 5–10–77. 18743; 4–8–77
Libraries and learning resources, education innovation and support program; comments by 5–9–77. 16159; 3–25–77
National direct student loan, college work study, supplemental and basic educational opportunity grant programs; comments by 5–10–77 18738; 4–8–77
State administered programs; student financial assistance training programs, incentive grants; comments by 5–10–77..... 18750; 4–8–77
State student incentive grant program; allotment and application procedures for FY 1977; comments by 5–9–77..... 18407; 4–7–77
Student consumer information services; comments by 5–10–77. 18747; 4–8–77
Vocational education, State programs and Commissioner's discretionary programs; comments by 5–9–77. 18542; 4–7–77
Food and Drug Administration—
Milk, stabilizers and emulsifiers in lowfat and skim milk; comments by 5–11–77..... 21295; 4–26–77
Safe use of dodecyl benezenesulfonic acid as a curing catalyst for Urea-formaldehyde and triazine-formaldehyde resins as basic polymers in coatings intended for food contact use; comments by 5–9–77. 18610; 4–8–77
Safe use of heat-sealing coating on film intended for sealing polyester pouches holding beverages; comments by 5–9–77.. 18611; 4–8–77
Social Security Administration—
Exclusion of housing assistance payments from countable income or resources; comments by 5–12–77. 16380; 3–28–77
Exclusion from countable income of earned income tax credit refunds; comments by 5–12–77..... 16445; 3–28–77

INTERIOR DEPARTMENT
Fish and Wildlife Service—
Black toad; threatened status and critical habitat; comments by 5–13–77..... 13567; 3–11–77
Geological Survey—
Coal mining operating regulations; Montana; comments by 5–9–77. 18862; 4–11–77
Office of the Secretary—
Employees' interest in lands and resources; acquisition of wild horses and burros; comments by 5–13–77..... 16641; 3–29–77

NUCLEAR REGULATORY COMMISSION
Plutonium-238 powered cardiac pacemakers; exemptions and continued regulatory authority in agreement States; comments by 5–13–77. 13837; 3–14–77
Special nuclear material; general license for routine use; plutonium-238 powered cardiac pacemakers; comments by 5–13–77..... 13834; 3–14–77

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
Airworthiness directive, Canadair aircraft; comments by 5–9–77. 18405; 4–7–77

V 42 86 MAY 4 77 UMI

Beech model 278 propellers; airworthiness directive; comments by 5–13–77..... 13837; 3–14–77
Fulton, Mo.; designation of transition area; comments by 5–11–77. 18861; 4–11–77
Transition area, designation of Marion, Va.; comments by 5–9–77. 18406; 4–7–77
Materials Transportation Bureau—
Transportation of liquids by pipeline, conversion of existing pipeline to liquid service; comments by 5–13–77..... 18412; 4–7–77

Next Week's Meetings

ACTUARIES, JOINT BOARD FOR ENROLLMENT
Joint Board Actuarial Examinations Advisory Committee, Washington, D.C. (open and closed), 5–9–77.. 20863; 4–22–77

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
Agency Organization and Personnel Committee, Washington, D.C. (open with restrictions), 5–10–77.. 21634; 4–28–77

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Flue-cured Tobacco Advisory Committee, Raleigh, N.C. (open), 5–12–77. 20839; 4–22–77
Forest Service—
Deschutes National Forest Advisory Committee, Bend, Oreg. (open), 5–12–77..... 19500; 4–14–77
Timpas Unit Grazing Advisory Board, La Junta, Colo. (open), 5–11–77. 15940; 3–24–77
Office of the Secretary—
Poultry Health Advisory Committee, Hyattsville, Md. (open), 5–12 and 5–13–77..... 21828; 4–29–77

ARTS AND HUMANITIES, NATIONAL FOUNDATION
National Council on the Arts; Washington, D.C. (partially open), 5–13 and 5–14–77..... 21337; 4–26–77
National Council on the Humanities Advisory Committee; Washington, D.C. (partially open), 5–12 and 5–13–77. 21337; 4–26–77

CIVIL RIGHTS COMMISSION
Illinois Advisory Committee, Chicago, Ill. (open with restrictions), (2 documents) 5–9–77..... 20324; 4–19–77 20841; 4–22–77
Iowa Advisory Committee, Des Moines, Iowa (open), 5–12–77..... 17507; 4–1–77
New York Advisory Committee, Rochester, N.Y. (open with restrictions), 5–11–77..... 20325; 4–19–77
Ohio Advisory Committee, Cleveland, Ohio, (open with restrictions), 5–13 and 5–14–77..... 20325; 4–19–77

CIVIL SERVICE COMMISSION
Administrative Law Judges Advisory Committee, Washington, D.C. (open), 5–13–77..... 20841; 4–22–77

COMMERCE DEPARTMENT
Census Bureau—
American Marketing Association Census Advisory Committee, Suitland, Md. (open), 5–10–77..... 19166; 4–12–77
Domestic and International Business Administration—
Computer Systems Technical Advisory Committee, Hardware Subcommittee; Washington, D.C. (partially open), 5–11–77.. 21305; 4–26–77
Computer Systems Technical Advisory Committee, Technology Transfer Subcommittee; Washington, D.C. (partially open), 5–11–77.. 21305; 4–26–77
Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (open with restrictions), 5–10–77..... 21131; 4–25–77
Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee, Washington, D.C. (open with restrictions), 5–10–77..... 20650; 4–21–77
National Oceanic and Atmospheric Administration—
Gulf of Mexico Fishery Management Council, Scientific and Statistical Committee, Kenner, La. (open), 5–9 and 5–10–77..... 20168; 4–18–77
Mid-Atlantic Fishery Management Council, Cape May, NJ (open), 5–11 and 5–12–77..... 20168; 4–18–77
Mid-Atlantic Fishery Management Council, Scientific and Statistical Committee, Cape May, NJ (open), 5–9 and 5–10–77..... 20169; 4–18–77
Pacific Fishery Management Council and Scientific and Statistical Committee, Los Angeles, Calif. (open), 5–12 and 5–13–77..... 20649; 4–21–77

DEFENSE DEPARTMENT
Air Force Department—
Community College of the Air Force Advisory Committee, San Antonio, Tex. (open), 5–10–77..... 19504; 4–14–77
JANAF Interagency Propulsion Committee Workshop, Salt Lake City, Utah (closed), 5–10– and 5–11–77..... 19172; 4–12–77
Military Airlift Committee, Little Rock, Ark. (open with restrictions), 5–11 and 5–12–77.... 20326; 4–19–77
Office of the Secretary—
Defense Science Board Task Force on Nuclear Proliferation, Arlington, Va. (closed), 5–11–77..... 20848; 4–22–77
Defense Science Board, Arlington, Va. (closed), 5–12 and 5–13–77. 20848; 4–22–77

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL
Meeting, Washington, D.C. (open), 5–13–77..... 18906; 4–11–77

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Geothermal Energy Advisory Committee, Energy Resource Subcommittee, San Diego, Calif. (open), 5–12–77. 21508; 4–27–77
Geothermal Energy; Legal and Institutional Subcommittee, Advisory Committee, San Francisco, Calif. (open), 5–13–77..... 21639; 4–28–77
Model Code for energy conservation in new building construction; Arlington, Va. (open), 5–12–77..... 21638; 4–28–77

ENVIRONMENTAL PROTECTION AGENCY
Science Advisory Board Executive Committee, Washington, D.C. (open), 5–12 and 5–13–77.... 20652; 4–21–77
State-Federal FIFRA Implementation Advisory Committee Working Group on Certification, Denver, Colo. (open with restrictions), 5–11 and 5–12–77..... 20494; 4–20–77

FEDERAL ENERGY ADMINISTRATION
Advisory Committee, Washington, DC (open), 5–13–77.... 21509; 4–27–77
East Coast Natural Gas Distribution Industry, Washington, D.C. (open), 5–10–77..... 21134; 4–25–77
Electric Utilities Advisory Committee, Solar Electric Generation Subcommittee, Washington, DC (open), 5–9–77. 20185; 4–18–77
Energy audit procedures; San Francisco, Calif. (open), 5–13–77..... 20012; 4–15–77

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Meeting, Washington, D.C. (closed), 5–12–77..... 20345; 4–19–77

GENERAL SERVICES ADMINISTRATION
Architectural and Engineering Services Regional Advisory Panel, Washington, D.C. (open), 5–10 and 5–11–77. 21115; 4–25–77
Archives Advisory Council, Washington, D.C., 5–12 thru 5–14–77..... 21843; 4–29–77
Regional Public Advisory Panel on Architectural and Engineering Services, Auburn, Wash. (open), 5–13–77. 21843; 4–29–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
Women's Educational Programs National Advisory Council, Scottsdale, Ariz. (open), 5–9–77..... 20673; 4–21–77
Food and Drug Administration—
Drug Abuse Research Advisory Committee; Rockville, Md. (open), 5–12–77..... 19917; 4–15–77
Gastrointestinal Drugs Advisory Committee, Hepatotoxicity Subcommittee; Rockville, Md. (open), 5–9 and 5–10–77..... 19917; 4–15–77
Toxicology Advisory Committee; Rockville, Md. (open), 5–12 and 5–13–77..... 19917; 4–15–77

Health Resources Administration—
Task Force on Cost-Sharing (Cooperative Health Statistics Advisory Committee), Rockville, Md. (open), 5–9 through 5–11–77..... 16858; 3–30–77
National Institutes of Health—
Commission for Control of Huntington's Disease and Its Consequences; Wichita, Kans. (open); 5–10–77..... 15140; 3–18–77
Committee on Cancer Immunotherapy, Bethesda, Md. (open and closed), 5–12–77..... 19400; 4–13–77
National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, Bethesda, Md. (partially closed), 5–13–77..... 15971; 3–24–77
National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee Research Subcommittee, Bethesda, Md. (open and closed), 5–12 through 5–14–77. 16858; 3–30–77
Office of the Secretary—
Protection of Human Subjects of Biomedical and Behavioral Research National Commission, Bethesda, Md. (open with restrictions), 5–13 and 5–14–77..... 20675; 4–21–77

JUSTICE DEPARTMENT
Attorney General—
Southern Ninth Circuit of United States Circuit Judge Nominating Commission, Los Angeles, Calif. (closed), 5–9–77..... 21670; 4–28–77
Federal Bureau of Investigation—
National Crime Information Center Advisory Policy Board, Miami, Fla. (open), 5–12 and 5–13–77. 17923; 4–4–77

LABOR DEPARTMENT
Labor Statistics Bureau—
Business Research Advisory Council Committee on Occupational Safety and Health Statistics, Washington, D.C. (open), 5–11–77..... 19175; 4–12–77
Labor Research Advisory Council Committees, Washington, D.C. (open), 5–10 through 5–12–77. 20863; 4–22–77
Occupational Safety and Health Administration—
Revision of Standards on Machinery and Machine Guarding, Chicago, Ill., Dallas, Tex., and Denver, Colo., (open), 5–10 thru 5–12–77. 10018; 2–18–77

LEGAL SERVICES CORPORATION
Board of Directors, Window Rock, Ariz. (open), 5–13 and 5–14–77.... 21862; 4–29–77

MANAGEMENT AND BUDGET OFFICE
Labor Advisory Committee on Statistics, Washington, D.C. (open), 5–10–77. 18166; 4–5–77

NATIONAL CAPITAL PLANNING COMMISSION
Washington, D.C. (open), 5–12–77. 20365; 4–22–77

NATIONAL SCIENCE FOUNDATION
Earth Sciences Advisory Panel, Chicago, Ill. (closed), 5–9 through 5–11–77. 20866; 4–22–77
Human Cell Biology Advisory Panel, Washington, D.C. (open), 5–12 and 5–13–77..... 20866; 4–22–77
Physics Advisory Panel, Washington, D.C. (open), 5–12 through 5–14–77. 20866; 4–22–77

SMALL BUSINESS ADMINISTRATION
Albuquerque District Advisory Council, Albuquerque, N. Mex. (open), 5–9–77..... 19538; 4–14–77
Baltimore District Advisory Council, Oakland, Md. (open), 5–13 and 5–14–77. 9246; 2–15–77
National Advisory Council; Hot Spring, Va., 5–9 through 5–11–77. 18471; 4–7–77

STATE DEPARTMENT
Harmonization talks report, Washington, D.C. (open with restrictions), 5–13–77..... 21887; 4–29–77
Shipping Coordinating Committee; Washington, D.C. (open), 5–12–77. 21341; 4–26–77
Office of the Secretary—
Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 5–10–77..... 20357; 4–19–77

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
Radio Technical Commission for Aeronautics, Executive Committee; Arlington, Va. (open), 5–13–77. 18471; 4–7–77
Radio Technical Commission for Aeronautics, Separation Study Review Group; Washington, D.C. (open), 5–10 through 5–11–77..... 18472; 4–7–77

Next Week's Public Hearings

FEDERAL ENERGY ADMINISTRATION
Energy audit procedures; Washington, D.C. (open), 5–10 and 5–11–77. 20012; 4–15–77
Energy audit procedures; Kansas City, Mo. (open), 5–12–77..... 20012; 4–15–77
Energy Conservation program for appliances; test procedures for dishwashers; Washington, D.C. (open), 5–9–77..... 15423; 3–22–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
Phenformin; health hazards; Rockville, Md. (open with restrictions), 5–13–77..... 21845; 4–29–77

INTERIOR DEPARTMENT
National Park Service—
Indiana Dunes National Lakeshore; Chesterton, Ind. (open), 5–10–77. 18669; 4–8–77
Indiana Dunes National Lakeshore; Beverly Shores, Ind. (open), 5–9–77..... 18669; 4–8–77

LABOR DEPARTMENT
Employment Training Administration—
Temporary employment of aliens working in agriculture, Martinsburg, W. Va. (open), 5–12 and 5–13–77. 20314; 4–19–77

VETERANS ADMINISTRATION
Station Committee on Educational Allowances, Waco, Tex. (open), 5–10–77. 19542; 4–14–77

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

PUBLIC LAW 95–23
To authorize supplemental military assistance to Portugal for the fiscal year 1977, and for other purposes. (April 30, 1977; 91 Stat. 54). Price: $.35.

PUBLIC LAW 95–24
"Supplemental Housing Authorization Act of 1977". (April 30, 1977; 91 Stat. 55). Price $.35.

V 42 86 MAY 4 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–420]

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Reduction in Minimum Downpayment

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule reduces the minimum downpayment required of home purchasers under Section 235 of the National Housing Act. The result will be to make participation in the 235 program possible for eligible families which cannot meet the current downpayment requirements, and is intended to increase the availability of the program to families of more limited income.

EFFECTIVE DATE: May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William A. Rolfe, Director, Single Family Mortgage Insurance Division, Office of Insured and Direct Loan Origination, Housing, Department of Housing and Urban Development, Washington, D.C. 20410 (202–426–8914).

SUPPLEMENTARY INFORMATION: By Interim rule published September 30, 1976, (41 FR 43140) the Secretary amended Part 235 so as to reduce the minimum downpayment required of homebuyers assisted pursuant to Section 235 of the National Housing Act.

Comments were invited through November 1, 1976. None have been received, and the interim regulations are adopted without change.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 was made in connection with the proposed rule and is applicable to this final rule. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C.

NOTE.—It is hereby certified that the economic and inflationary effects of this final rule have been carefully evaluated in accordance with Executive Order No. 11821.

In consideration of the foregoing, 24 CFR Chapter II is amended as follows:

1. In § 235.2, paragraph (d) is revised to read as follows:

§ 235.2 Basic program outline.

* * * * *

(d) The mortgagor must have paid in cash or its equivalent at least 3 percent of the first $25,000 of acquisition cost plus 10 percent of the acquisition cost in excess of $25,000.

* * * * *

2. Section 235.35 is amended as follows: Paragraph (a) is deleted and reserved, and paragraph (b) is revised.

§ 235.35 Mortgagor's investment.

(a) [Reserved]

(b) The mortgagor shall have paid, at the time the mortgage is insured, on account of the property, in cash or its equivalent, at least 3 percent of the first $25,000 of the Secretary's estimate of the cost of acquisition plus 10 percent of such estimate in excess of $25,000.

* * * * *

(Sec. 221(a)(6), Pub. L. 93–383, 88 Stat. 633, (12 U.S.C. 1715z); sec. 101(c)(4), Pub. L. 90–448, 82 Stat. 476, 484 (12 U.S.C. 1707–1715y); sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., on April 12, 1977.

MORTON A. BARUCH,
Acting Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77–12782 Filed 5–3–77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 713–77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart C—Office of the Deputy Attorney General

GENERAL SUPERVISION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Law Enforcement Assistance Administration is established in the Department of Justice "under the general authority, policy direction, and general control of the Attorney General" (42 U.S.C. 3711, as amended). This order assigns to the Deputy Attorney General the function of assisting the Attorney General in overseeing the operations of LEAA.

EFFECTIVE DATE: April 25, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202–739–2041).

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 510, and Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3711, numbered subparagraph (5) of § 0.15(b) is redesignated subparagraph (10) and a new subparagraph (5) is inserted, to read as follows:

§ 0.15 Deputy Attorney General.

* * * * *

(b) * * *

(5) Assist the Attorney General in exercising general authority, policy direction, and general control over the Law Enforcement Assistance Administration (42 U.S.C. 3711).

* * * * *

Dated: April 25, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77–12802 Filed 5–3–77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Mount Rainier National Park, Wash.; Snowmobile Routes; Correction

AGENCY: National Park Service, Interior.

ACTION: Correction.

SUMMARY: This document is being published to correct a paragraph designation in a final rule published in the FEDERAL REGISTER August 9, 1976.

EFFECTIVE DATE: May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Carl Christensen (202–343–5607).

SUPPLEMENTARY INFORMATION: Paragraph (c) of § 7.5, as contained in the proposal published at page 8496 in the FEDERAL REGISTER of February 27, 1976, and in the final rule published at page 33263 in the FEDERAL REGISTER of August 9, 1976, was incorrectly identified in these notices. This paragraph, whose subject heading is *Snowmobile use*, should have been identified as

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paragraph (d). The correct paragraph (c) of this section was published as a final rule at page 31938 in the FEDERAL REGISTER of July 30, 1975, and is headed *Backcountry camping*.

WILLIAM J. BRIGGLE,
Acting Director,
National Park Service.

[FR Doc.77-12809 Filed 5-3-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT LIMITATIONS AND GUIDELINES

[FRL 723-4]

PART 435—ONSHORE SEGMENT OF THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

Interim Final Rulemaking; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This action extends the deadline for the receipt of comments on the interim final rulemaking establishing effluent limitations and guidelines for the onshore segment of the oil and gas extraction industry, based on the use of best practicable control technology currently available. The extension is for a period of thirty days from the date of publication of this notice (June 3, 1977).

EFFECTIVE DATE: March 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: On October 13, 1976, the Agency published a notice of interim final rulemaking (41 FR 44942) establishing effluent limitations and guidelines for the onshore segment of the oil and gas extraction point source category, based upon the use of the best practicable control technology currently available. The due date for comments provided in the notice was December 13, 1976. The due date has subsequently been extended to March 25, 1977.

The American Petroleum Institute and others have filed a petition for review of the interim final regulations in the United States Court of Appeals for the Fifth Circuit. The Agency has agreed with the litigants in a stipulation filed with the Fifth Circuit to postpone immediate action on this suit in anticipation of promulgation of final regulations shortly after the close of the comment period for the interim final regulations. The Agency also agreed to extend the comment period an additional thirty days after the March 25, 1977 deadline. Accordingly the deadline for the submission of comments is hereby extended to June 3, 1977.

Dated: April 15, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-12718 Filed 5-3-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-207]

PART 101-25—GENERAL

Supply Activity Report

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation revises the reporting requirements for agencies that submit supply activity reports to GSA. Some agencies have not been submitting reports because the former regulations implied that reports were not required under certain circumstances. This regulation is intended to correct the misconception by clarifying the reporting requirements.

EFFECTIVE DATE: May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Procedures Management Division, Office of Customer Service and Support, Federal Supply Service, General Services Administration, Washington, D.C. 20406. (703-557-1914).

Subpart 101-25.48—Reports

Section 101-25.4801(c) is revised as follows:

§ 101-25.4801 Supply Activity Report.

• • • • • •

(c) Agencies are not required to submit the data specified in part I of GSA Form 1473 when any of the conditions listed below apply; however, the data in parts II through V shall be submitted by agencies to the extent that they are applicable to agency operations.

• • • • • •

Subpart 101-25.49—Illustrations of Forms

Section 101-25.4902-1473-1(d) is revised to provide updated instructions as follows:

§ 101-25.4902-1473-1 Instructions for preparation of GSA Form 1473, Supply Activity Report.

NOTE.—The instructions in § 101-25.4902-1473-1 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 11, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-12714 Filed 5-3-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Editorial Amendments Correcting the Contact Address Concerning the Protection of the Table Mountain Receiving Zone

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: These amendments are being made at the request of the Department of Commerce. They change the address and telephone number of the Radio Frequency Management Coordinator, Table Mountain Receiving Zone, as carried in the FCC Rules and Regulations for Broadcast Stations.

EFFECTIVE DATE: May 4, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau. (202-632-9660.)

SUPPLEMENTARY INFORMATION:

Adopted: April 11, 1977.

Released: April 14, 1977.

In the matter of amendments of Parts 73 and 74 of the Commission's Rules and Regulations to correct the contact address concerning the protection of the Table Mountain Receiving Zone.

ORDER

1. In a letter to the Commission, dated March 24, 1977, the U.S. Department of Commerce requested that changes be made in the mailing address and telephone number shown in the Rules and Regulations for contacting the Department concerning protection of the Table Mountain Receiving Zone from radio frequency interference from proposed installation of certain transmitting stations. The attachment set forth below contains amendments to subparagraph (c)(2) of §§ 73.18, 73.215, 73.515, 73.624, 73.711, and 74.12 of the rules for the broadcast and broadcast auxiliary and program distribution services to modify the contact address as requested by the Department of Commerce, to read as follows:

Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, Colo. 80302. Telephone: 303-499-1000, extension 5648 or 5649.

2. Concluding that the adoption of these amendments will serve the public interest, the prior notice of rule making, effective date provisions, and public procedure are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. Therefore, *it is ordered*, That pursuant to sections 4(i), 303(r), and 5(a)(1) of the Communications Act of 1934, as amended, and § 0.231 of the Commission's Rules, Parts 73 and 74 of the Commission's Rules and Regulations are amended as set forth below, effective April 26, 1977.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

§ 73.18 [Amended]

§ 73.215 [Amended]

§ 73.515 [Amended]

§ 73.624 [Amended]

§ 73.711 [Amended]

§ 74.12 [Amended]

In sections 73.18, 73.215, 73.515, 73.624, 73.711, and 74.12, subparagraph (c)(2) is amended to read identically as follows:

(c) • • •

(1) • • •

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, Colorado 80302, Telephone: 303-499-1000, extension 5648 or 5649, in advance of filing their applications with the Commission.

• • • • • •

[FR Doc.77-12746 Filed 5-3-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Foreign Fishing Regulations, Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction.

SUMMARY: This document is being published to correct certain parts of §§ 611.90 and 611.92 (originally published at 42 FR 8813, February 11, 1977) in which conflicts with existing regulations and inconsistencies with requirements implementing an observer program have been brought to the attention of the National Marine Fisheries Service. The change in § 611.90 would allow authorized fishing vessels to engage in the crab fishery, require daily reporting by such vessels, and prohibit such vessels from departing the area until crabs onboard each vessel are checked by a U.S. observer. The change in § 611.92 corrects an error in the regulations as to the beginning date for foreign fishing in the Bering Sea and Aleutian Islands between 169° and 170° West longitude.

EFFECTIVE DATE: May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7454.

SUPPLEMENTARY INFORMATION: The changes in § 611.90 do not modify the tanner crab allocation of 12,500 metric tons provided to Japan for 1977. These changes authorize those Japanese vessels other than factory ships, that take and process crabs, to engage in the crab fishery. This authorization is based on implementation of an observer program, agreed to by the Japanese government, to verify the catch of crabs taken by those vessels. The changes set forth in § 611.90 involve a foreign affairs function of the United States, and are excepted from the rulemaking procedures of the Administrative Procedures Act. Formal notice of proposed rulemaking is therefore not required.

At 42 FR 8841, § 611.90(g)(2) and (4), are corrected and new (5) and (6) are added as follows:

§ 611.90 Crabs.

• • • • • •

(g) • • •

(2) Process crabs except on factory ships or fishing vessels specifically authorized by permit to engage in the crab fishery.

• • • • • •

(4) Take crabs aboard factory ships or off load or transfer crabs from any fishing vessel specifically authorized by permit to engage in the crab fishery in a manner in which an observer cannot verify the total weight of crabs.

(5) In the case of a vessel specifically authorized by permit to engage in the crab fishery, other than a factory ship, fail to report daily to the Regional Director its (i) position, (ii) daily catch, and (iii) cumulative catch.

(6) In the case of a vessel specifically authorized by permit to engage in the crab fishery, other than a factory ship, depart the fishing area until its catch of crabs onboard is checked by an observer.

• • • • • •

At 42 FR 8843, § 611.92(c)(2)(i) should read as follows:

§ 611.92 Bering Sea and Aleutian Islands trawl and herring gillnet fishery.

• • • • • •

(c) • • •
(2) • • •

(i) Between 169° and 170° West longitude, trawl fishing from June 1, 1977 to November 30, 1977, inclusive, and longline fishing from March 1, 1977 to December 31, 1977 inclusive.

• • • • • •

Dated: May 2, 1977.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77-12881 Filed 5-3-77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

[12 CFR Part 225]

[Reg. Y; Docket No. R-0051]

BANK HOLDING COMPANIES

Proposed Rulemaking Relating to Providing Management Consulting Advice

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Deferral of rulemaking proposal.

SUMMARY: On August 2, 1976, the Board of Governors proposed an amendment to its Regulation Y in connection with an application by a bank holding company to engage in offering management consulting advice to nonaffiliated savings banks. The proposed amendment would add the activity of providing management consulting advice to nonaffiliated savings banks and to other nonaffiliated, depository-type financial institutions to the list of activities that the Board has previously determined to be permissible for bank holding companies. In light of the fact that the application to engage in the proposed new activity has been withdrawn, the Board is deferring action on the proposed amendment.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Assistant General Counsel, 202-452-3274 or Julius L. Loeser, Senior Attorney, 202-452-3236, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors on August 2, 1976, proposed an amendment to its Regulation Y (12 CFR 225) that would add the activities of providing management consulting advice to nonaffiliated savings banks and possibly to other nonaffiliated, depository-type financial institutions to the list of activities that the Board has previously determined to be permissible for bank holding companies, as specified in § 225.4(a) of Regulation Y. Notice of the proposed amendment was published in the FEDERAL REGISTER on August 9, 1976 (41 FR 33306 (1976)). The amendments were proposed in connection with an application by Worcester Bancorp, Inc., Worcester, Massachusetts, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4 of the Board's Regulation Y (12 CFR 225.4), for prior approval to engage de novo in providing management consulting advice to nonaffiliated savings banks.

By letter of March 3, 1977, to the Federal Reserve Bank of Boston, Worcester Bancorp, Inc., has withdrawn its application to engage in providing management consulting advice to nonaffiliated savings banks. In accord with its general policy, the Board, in the absence of a specific bank holding company proposal, has determined to defer further consideration of the proposed activity, and hereby suspends the rulemaking proceeding initiated on August 2, 1976.

Board of Governors of the Federal Reserve System, effective April 27, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-12804 Filed 5-3-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 435]

[FRL 723-3]

ONSHORE SEGMENT OF THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

Effluent Limitations and Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources; Extension of Time

AGENCY: Environmental Protection Agency.

ACTION: Extension of Comment Period.

SUMMARY: This action extends the deadline for the receipt of comments on the proposed rulemaking establishing effluent limitations and guidelines and new source performance standards for the onshore segment of the oil and gas extraction point source category based upon the use of best available and best demonstrated technology. The extension is for a period of thirty days from the date of publication of this notice (June 3, 1977).

EFFECTIVE DATE: March 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: On October 13, 1976 the Agency published a notice of proposed rulemaking (41 FR 44949) establishing effluent limitations and guidelines and new source performance standards for the onshore segment of the oil and gas extraction point source category based upon the use of best available technology economically achievable and best available demonstrated technology. The due date has subsequently been extended to March 25, 1977.

Simultaneously with this notice a notice is appearing extending for thirty days the comment period for interim final regulations for the same industry based upon best practicable control technology currently available. Because of the interrelationship between these regulations and the fact that many parties are making combined comments to these regulations it seems appropriate to also extend the comment period for the proposed regulations.

Accordingly the deadline for the submission of comments is hereby extended to June 3, 1977.

Dated: April 15, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-12719 Filed 5-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21210; RM-2701]

TELEVISION STATIONS IN CHILTON AND OSHKOSH, WIS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to assign television Channel 22 to Chilton, Wis., and to substitute Channel 68 for existing Channel 22 assignment in Oshkosh, Wis. This action was initiated by petition for rulemaking filed by Calumet County Broadcasting Company. The proposed assignment would provide the first local television broadcast service in Calumet County, Wis.

DATES: Comments must be received on or before June 6, 1977, and reply comments on or before June 27, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Gordon W. Godfrey, Broadcast Bureau. (202-632-9660.)

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1977.

Released: April 28, 1977.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Chilton and Oshkosh, Wis.). Docket No. 21210, RM-2701.

1. The Commission has under consideration a petition for rule making filed by Calumet County Broadcasting Company ("Calumet"). The petition seeks admendment of § 73.606(b) of the Commission's Rules and Regulations, the Television Table of Assignments, by the assignment of Channel 22 to Chilton, Wis., and the substitution of Channel 68 for the presently unoccupied and unapplied for Channel 22 assignment in Oshkosh, Wis.

2. Chilton (pop. 3,030), seat of Calumet County (pop. 27,604), is located in east central Wisconsin, approximately 55 kilometers (35 miles) south of Green Bay. Oshkosh (pop. 53,082), seat of Winnebago County (pop. 129,946) is located about 32 kilometers (20 miles) west of Chilton.[1]

3. Petitioner indicates that Calumet County is an agricultural area, dominated by the dairy industry. Additionally, it is stated that Calumet County is one of the fastest growing industrial areas in the State of Wisconsin. Calumet expresses its desire to utilize this channel to provide a first local broadcast service in Calumet County. Petitioner indicates that it has ready access to the equipment necessary for it to operate on Channel 22, and that it would not be economically feasible for it to operate on any other channel.

4. The proposed assignment of Channel 22 to Chilton requires the deletion of the existing Channel 22 assignment in Oshkosh, Wis. Channel 68 is available for assignment to Oshkosh. With the deletion of the Channel 22 assignment in Oshkosh, the proposed assignments of Channel 22 to Chilton and Channel 68 to Oshkosh meet the Commission's separation requirements and other technical criteria. The existing Channel 22 assignment in Oshkosh is unoccupied and unapplied for. No other changes in the Television Table of Assignments are required. Canadian concurrence must be sought, however, since the proposed location at Chilton is within 250 miles of the United States-Canadian border.

5. The Commission is persuaded that a rulemaking proceeding should be instituted to obtain comments on the Calumet proposal. Therefore, we propose to consider the following revisions in the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
Chilton, Wis.		22+
Oshkosh, Wis.	22+	68-

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the Appendix below and are incorporated by reference herein.

7. Interested parties may file comments on or before June 6, 1977, and reply comments on or before June 27, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rule, It is proposed to amend the Television Table of Assignments Section 73.606(b) of the Commission's rules and regulations, as set forth in this Notice of Proposed Rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponents will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-12740 Filed 5-3-77;8:45 am]

[1] All population figures are taken from the 1970 U.S. Census.

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-99]

PENNSYLVANIA GAS & WATER CO.

Emergency Order

On April 25, 1977, Pennsylvania Gas and Water Company (PG&W) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application to make certain emergency purchases of natural gas from Mellon Creek Operating Company (Mellon Creek). PG&W also requests permission to have this gas transported. For the reasons set forth below, I authorize the purchase and transportation requested.

By contract dated April 20, 1977, PG&W agreed to purchase approximately 3,000 Mcf per day of natural gas from Mellon Creek at the Burke No. 1 Well, the Barkley No. 1 Well and the Barkley No. 1-B Well, Mellon Field, Matagorda County, Texas. PG&W also agreed to purchase up to 1,000 Mcf per day of natural gas from each additional well which may be developed within a radius of three miles from the existing wells. The contract between PG&W and Mellon Creek is to begin on or about May 1, 1977 and terminate on July 31, 1977.

PG&W will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2. All other expenses prior to delivery to Florida Gas Transmission Company (Florida) including construction of field delivery facilities will be borne by Mellon Creek.

PG&W advises that a series of arrangements have been made for the transportation of the subject gas. The subject gas to be sold will be transported from the wellhead to PG&W by means of field delivery facilities to be built by Mellon Creek which connect to the interstate pipeline facilities of Florida and Transcontinental Gas Pipe Line Corporation (Transco). Florida will charge a transportation rate of $0.03 per Mcf; Transco will charge $0.494 per dekatherm. Both rates will be increased by compression fuel and line loss requirements. This rate is to be collected subject to refund pursuant to order issued in Docket No. E77-83 (April 4, 1977).

PG&W advises and I find that the gas made available by Mellon Creek will result in a commingling of interstate natural gas with Mellon Creek's normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Mellon Creek and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which PG&W seeks approval may result in some commingling of interstate natural gas with Mellon Creek's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. This order also applies to the future commingling of gas purchased from those additional wells which may be developed within a three mile radius of the existing wells.

Under the provisions of section 9(b), (c) of Pub. L. 95-2 (91 Stat. 4, 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Mellon Creek or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Mellon Creek is selling, delivering and transporting gas for PG&W pursuant to Section 6(a) of that Act. Mellon Creek and any third person whose gas is commingled with PG&W's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

PG&W advises that it is not serving any uses set forth in 18 CFR 2.78(a)(1)(iv)-(ix) and that the sale complies with Order No. 6. The approval of this sale is conditioned upon the submission of a sworn statement by PG&W that the subject purchase complies with Order No. 6.

PG&W shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Mellon Creek to sell to PG&W up to 3.000 Mcf per day of natural gas from the three wells located in the Mellon Field Area, Matagorda County, Texas, as well as up to 1.000 Mcf per day of natural gas from each additional well which may be developed within a three mile radius of the existing wells, on the terms and conditions set forth in PG&W's filing in this proceeding. Pursuant to Section 6(c)(1) of the Act, I hereby authorize and order Florida and Transco to transport gas for PG&W. Since the parties have agreed upon the transportation charges, I find no basis for prescribing other charges.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon PG&W, Mellon Creek, Florida and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

APRIL 28, 1977.

[FR Doc.77-12785 Filed 5-3-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A474]

SOUTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Lexington County, South Carolina, as a result of excessive rainfall May 8 through June 30, 1976, and November 15 through December 31, 1976; drought July 5 to August 15, 1976; early frost and/or freeze. October 27 through November 3, 1976; and severe cold weather November 1, 1976, through February 8, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor James B. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than June 20, 1977, for physical losses and January 19, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 27th day of April, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-12744 Filed 5-3-77;8:45 am]

Forest Service

FINAL ENVIRONMENTAL STATEMENT COOPERATIVE SPRUCE BUDWORM SUPPRESSION; PROJECT—MAINE 1977

Availability of Final Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service has prepared a Final Environmental Statement for the 1977 Cooperative Spruce Budworm Suppression Project in Maine, USDA-FS-NA (Adm.) NA-77-01.

The Final Statement concerns a proposed cooperative aerial spray project on a maximum of 930,000 acres of state and private woodlands in Aroostook, Franklin, Piscataquis, Penobscot, Oxford, Somerset, and Washington Counties, Maine, to protect forest resources from unacceptable damage caused by the spruce budworm. Registered dosage rates of the insecticides carbaryl (Sevin 4 Oil), trichlorfon (Dylox 4), and acephate (Orthene Forest Spray) will be applied by aircraft to reduce spruce budworm larval populations and to preserve foliage. About 817,000 acres will be sprayed with carbaryl (Sevin 4 Oil), 53,000 acres with trichlorfon (Dylox 4); and 60,000 acres with acephate (Orthene Forest Spray).

This Final Statement was filed with CEQ on April 28, 1977.

Copies of the Final Environmental Statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Dated: April 27, 1977.

WENDELL M. DOTY,
Acting Area Director, Northeastern Area, State, and Private Forestry.

[FR Doc.77-12773 Filed 5-3-77;8:45 am]

SANDY BAY AND HIDDEN FALLS LAKE AQUACULTURE FACILITIES

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, The Forest Service, Department of Agriculture, has prepared a final environmental statement for proposed acquaculture facilities at Sandy Bay and Hidden Falls Lake, Tongass National Forest, Alaska, USDA-FS-R10-FES (Adm)-77-06.

This statement was initiated by two special use permit applications to use National Forest lands for salmon hatchery building sites. Both sites are located on Baranof Island and are within inventoried roadless areas. The hatcheries are expected to contribute to the rebuilding of Southeast Alaska salmon stocks by an increase of 5 to 10 percent in the present salmon harvest.

This final environmental statement was transmitted to CEQ on April 27, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Building, Room 3231, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

U.S. Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska, 99802.

Forest Supervisor, Chatham Area, Tongass National Forest, Federal Building, Sitka, Alaska 99835.

Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.

Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Room 313, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to the Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 1980, Sitka, Alaska 99835.

Copies of the environmental statement have been sent to various Federal, State and Local agencies as outlined in the CEQ guidelines.

CARL W. SWANSON,
Environmental Coordinator, Alaska Region.

APRIL 27, 1977.

[FR Doc.77-12772 Filed 5-3-77;8:45 am]

Soil Conservation Service

BISHOP CREEK WATERSHED PROJECT, GA.

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the remaining measures to be installed in the Bishop Creek Watershed project. Appling and Jeff Davis Counties, Georgia.

The environmental assessment of this federal action indicates that these measures will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project contains a plan for watershed protection and flood prevention. the planned works of improvement, as described in the negative declaration include conservation land treatment and 6.3 miles of channel work located in the northwest portion of the project on the southeast side of the town of Hazlehurst, Georgia.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 206 Federal Building, 355 East Hancock Avenue, Athens, Georgia 30603. A limited number of copies is available from the same address to fill single copy requests.

No administrative action on implementation of the proposal will be taken on or before May 19, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, USC 1001-1008.)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, Department of Agriculture.

Dated: April 22, 1977.

[FR Doc.77-12734 Filed 5-3-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-4-151; Docket 30692]

AIR-INDIA

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of April 1977.

Tariff revision filed by Air-India to increase level of 14/120-day excursion fare between India and the United States.

By tariff revision[1] filed on April 1, 1977 for effectiveness May 1, 1977, Air-India has proposed, pursuant to an order of the Government of India, increases in the level of its 14/120-day excursion fare between India and the United States. The tariff filing would increase roundtrip fares from $798 to $854 (New York-Bombay/Delhi), and from $835 to $894 (New York-Calcutta/Madras).

On April 5, 1977, a complaint was filed by India Travel Service, Ltd. and William Becker Travel Bureau, Inc. (the complainants) requesting the Board to reject or suspend Air-India's tariff filing. In support of their complaint, the complainants allege that Air-India has long been in violation of certain provisions of the Act by paying excessively high commissions to select agents which in turn enables these agents to sell tickets to the public at less than published tariff fares, and that Air-India has continued this practice despite an injunction issued by the Federal District Court for the Eastern District of New York which enjoined Air-India from engaging in any activities which would enable passengers to obtain air transportation at prices other than those in tariffs on file with the Board. The complainants further state that, accordingly, Air-India cannot now claim that it needs additional revenue in the form of fare increases—all it need do for increased revenues is pay reasonable commissions and stop rebating. Board allowance of the proposed increases, they maintain, would be tantamount to rewarding Air-India for the alleged violations. The complainants therefore urge the Board to adopt a policy whereby those carriers which continue to deplete their revenues by selling air transporta-

[1] Section 63 on 1st Revised Page 285 to Passenger Fares Tariffs No. 4, C.T.C.(A) 19, C.A.B. No. 22, issued by John M. Sampson, Agent.

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tion at less than fares on file with the Board, or by offering high commissions to agents who then rebate to travellers, are denied all fare increases until the rebating practices cease. The complainants state that Air-India cannot hide behind an order of the Indian Government in attempting to justify a fare increase which, if unreasonable, must be rejected or suspended to protect the integrity of the Board's tariff processes. Finally, the exhibits attached to the complaint include a copy of a resolution passed by the Society of Indian Travel Agents (S.I.T.A.) which indicates concern with the possible traffic impact of the proposed increase, and a willingness to accept lower commissions in order to keep the fare at present levels.

In its answer to the complaint, Air-India supports the proposed increase by stating that the increase is economically justified by the fare's low yield of 5.38 cents per mile over even Air-India's least circuitous route (New York-London-Bombay); that the seven-percent increase contemplated is not out-of-line with recent increases in North Atlantic fares as approved by the Board;[2] and that Pan American, Air-India's principal U.S.-flag competitor, has complained on at least two occasions that the fare in question is too low.[3] Air-India maintains that it is not engaged in rebating; that its commission structure is reasonable when compared with those of other major North Atlantic carriers since the advent of open commission rates; and that, rather than doing business with agents who sell tickets at less than published fares, it has taken various actions to bring such violations to the attention of both the Board and the U.S. Attorney's office. The carrier also points out that S.I.T.A. consists of almost exclusively non-IATA agents, with whom Air-India does not do business. Additionally, Air-India construes the complaint as the personal vendetta of Mr. Gopal Raju, owner of both complainant travel agencies. Air-India notes that it commenced litigation on October 13, 1975 against Mr. Raju individually as well as the two travel agencies, after repeated unsuccessful attempts to collect substantial sums due it, and that this litigation will shortly come to trial.

In their repv,[5] the complainants state that Air-India's answer consists of nothing more than an attack on the complainants and Mr. Raju, whose business has been ruined by the complainants' refusal to issue any tickets at less than the fare on file with the Board in spite of the pressure of competitors' violations. It is also alleged that the complainants owe Air-India no money, since the amounts due are offset by amounts owed to the complainants by the carrier as a result of a ticket rebating scheme imposed on them by the carrier. The complainants further assert that Air-India has mischaracterized the membership of S.I.T.A.; that, in fact, there is a large number of appointed agents among its members and that the S.I.T.A. statement is therefore relevant to the matter. Finally, the complainants maintain that the commission rates of other carriers cited by Air-India in its answer have no bearing on the Indian market.

Upon full consideration of the petition, the response and reply thereto, and other relevant matters, the Board has decided to dismiss the complaint.

The seven-percent increase contemplated by Air-India's tariff filing is, indeed, comparable with other increases in North Atlantic fares found to be justified and recently approved by the Board. On these grounds, the increase cannot be found to be unreasonable. Nor would we expect any significant adverse impact on traffic to result from such an increase in this low level fare. The 14/120-day excursion fare is, by a substantial margin, the lowest-priced individual fare in scheduled service between India and the United States and the proposed increase comports with the Board's long-term objective of reducing the spread between full economy fares and promotional fares. Finally, we do not regard the matters raised about tariff violations and excessive agent commissions as germane to an otherwise justified fare increase. These matters will, however, be referred to the Board's Bureau of Enforcement for such action as may be appropriate.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The complaint of India Travel Service, Ltd. and William Becker Travel Bureau, Inc. in Docket 30692 is hereby dismissed; and

2. The motion by India Travel Service, Ltd. and William Becker Travel Bureau, Inc. for leave to file an otherwise unauthorized document is hereby granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12819 Filed 5-3-77;8:45 am]

[Docket 30565]

DEUTSCHES REISEBURO GmbH (GERMANY)

Foreign Air Carrier Permit; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Ave. NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on April 13, 1977, and other documents[4] which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 27, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-12818 Filed 5-3-77;8:45 am]

[Order 77-4-153; Dockets 29952, 30067, 30068]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Applications for Fill-Up Authority Between Domestic Coterminals on Flights Operated in Foreign or Overseas Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of April 1977.

Applications have been filed by Pan American World Airways, Northwest Airlines, and Braniff Airways for authority to transport persons, property, and mail in interstate air transportation between domestic points which are served on flights operated in foreign or overseas transportation. Braniff's certificate for Route 153, Northwest's certificate for Route 129, and Pan American's certificates for Routes 130, 132, and 133 currently limit the carriers' operations to either overseas and foreign, or foreign air transportation. While Pan American's certificate for Route 136 is not so limited by the use of the words "foreign air transportation," Condition (8) of that certificate prohibits Pan American from carrying traffic which originates at any of the domestic coterminal points and terminates at another domestic coterminal point. A similar condition applies to Segment 8 of Braniff's Route 9, prohibiting the carrier from carrying any traffic other than traffic having a point of origin, destination, stopover or transit in the State of Hawaii.

Pan American also filed a motion for hearing on its application, and Braniff and Northwest filed motions to consolidate their applications for hearing and decision with Pan American's application. Many pleadings have been filed in response to the applications and motions. We have listed all pleadings in Appendix A, attached hereto, but our discussion herein will be limited to the most significant filings and arguments.

First, United Air Lines has moved to dismiss all three applications on the grounds that the applicants have not complied with the provisions of § 201.4 (c)(3) of the Board's Regulations. This section requires that each application contain "an adequate identification of each route for which a certificate is desired." United argues, therefore, that it is impossible to determine with any degree of certainty the scope of the relief, with respect to route structure, which each applicant seeks.

[2] Order 77-3-54, March 9, 1977.

[3] Complaints of Pan American, Docket 25300, March 9, 1973, and Docket 26976, August 21, 1974.

[4] *Air India* v. *Wm. Becker Travel Bureau, Inc., India Travel Service, Ltd. and Gopal Raju*, No. 18160/75, Supreme Court of New York, New York County.

[5] The complainants' reply was filed with a motion for leave to file an otherwise unauthorized document, which will be granted.

In moving for a hearing on its application, Pan American argues that the prohibition against carrying local "fill-up" traffic between domestic points served on international flights is an archaic, wasteful and unnecessary restriction. The International Air Transportation Policy of the United States, authored by an interagency task force and endorsed by former President Ford, and the Board's opinion in the *Detroit-Boston Nonstop Route Proceeding*, Order 76-9-168, September 30, 1976, are cited in support of this argument. The carrier also states that domestic fill-up rights would bolster the viability of its international services, permit it to provide new services to domestic coterminals, and greatly assist its efforts to return to profitability, without diverting any significant volumes of traffic from incumbent carriers in the markets involved. Finally, Pan American asserts that each day it is denied fill-up rights results in an unjustified economic penalty, an unnecessary waste of available resources, and a denial of available capacity to the traveling and shipping public.

Pan American's motion for hearing is supported by Braniff, Seaboard World Airlines, the Departments of Commerce, Justice, and Transportation, the Council on Wage and Price Stability, the Fairfax County Economic Development Authority, the Puget Sound Traffic Association, the Commonwealth of Virginia, and civic parties from the following cities: Chicago, Dallas/Ft. Worth, Miami, New York, Philadelphia, Portland, and Tampa. These answers basically reiterate arguments previously advanced by Pan American. In addition, some answers urge that the Board consider the issue of fill-up rights for all international carriers, not just for Pan American.

Answers in opposition to Pan American's motion were filed by ten air carriers (see Appendix A), many of whom make the same basic arguments. It is argued that reliance by Pan American on the *Detroit-Boston Nonstop Route Proceeding* is misplaced, since the Board's holding there was specifically limited to the facts of that case; that the Board is governed by the Federal Aviation Act, not the statement entitled International Air Transportation Policy of the United States; that Pan American has not supplied the information required in a motion for hearing under Rule 18 (a-2) of the Board's rules of practice, and that, if it had, the information would demonstrate the lack of public need for the authority requested, the pure diversion from other carriers which would result, and the exaggeration of the alleged economies which would accrue to Pan American since it operates few flights between domestic points. It is also asserted that the processing of Pan American's application would be extremely time-consuming, requiring a substantial commitment of the Board's resources, out of proportion to the benefits which would result.

Pan American filed a consolidated reply to the opposing answers, and Braniff and Northwest responded to the reply, disputing Pan American's assertion that the *Ashbacker* doctrine does not compel consolidation of the applications of Braniff and Northwest with that of Pan American.[1]

After carefully considering the arguments in all pleadings received on the subject of "fill-up" rights, we have concluded that it would be inappropriate to institute a proceeding to consider blanket "fill-up" authority. Rather, we will examine, on an individual basis, the markets in which such authority is requested. For now, we propose, through show-cause procedures, to grant "fill-up" rights to Braniff in the New York-Washington, San Francisco-Los Angeles, and Houston-New Orleans markets, to Northwest in the San Francisco-Los Angeles market, and to Pan American in the New York-Washington/Baltimore, New York-Philadelphia, Miami-Tampa, San Francisco-Los Angeles, and Seattle-Portland markets.

As a threshold matter, we agree with United that, technically the applications of Braniff, Northwest, and Pan American may not satisfy the requirements of § 201.4(c)(3) of the Board's regulations. More important, however, are the deficiencies in Pan American's motion for hearing, as pointed out by several carriers. Rule 18(a-2) of the Board's rules of practice requires that motions for hearing include "at least the following economic and operating data on an annual basis: (i) Present and proposed scheduled by type of aircraft; (ii) Number of departures, plane miles, passengers and passenger-miles; (iii) Estimate of self-diversion or diversion from other carriers, if applicable; (iv) Anticipated operating revenues; and (v) Estimate of impact of proposal on operating expenses * * *." Despite Pan American's assertions that the unique character of its application makes it impossible to comply with Rule 18(a-2) it is apparent that the carrier could have complied with those requirements at least with respect to the domestic flight sectors it already operates. Moreover, there is no justification for making assertions that "fill-up" authority would have no meaningful impact on other carriers without undertaking any analysis directed to that issue. Because of the important policy questions raised by the "fill-up" application, however, we will deal with the issue on a substantive basis rather than dismiss the applications or deny the motion for hearing on procedural grounds.

In order to understand our disposition of the three applications for "fill-up" authority, it is necessary to review the nature of the "restrictions" against carrying fill-up traffic. We use the latter quotation marks because the relevant prohibitions against carrying domestic traffic did not result from affirmative restrictions imposed by the Board to protect incumbent carriers or to preclude certain issues from being considered in a proceeding, as is generally the case when restrictions are imposed. Rather, domestic coterminals were added to certificates authorizing foreign air transportation in order to afford carriers the flexibility to provide alternate direct services. Some domestic coterminals have been combined on the same flights, however, so that Pan American, Braniff, and Northwest now argue that "fill-up" authority is needed to afford these carriers necessary flexibility.

Even more important to an understanding of the "fill-up" question is the fact that, contrary to the statements made by Pan American and the Department of Justice, the lack of "fill-up" authority does not force U.S.-flag carriers to operate domestic flight sectors which are uneconomic and under-utilized. Instead of operating international flights which serve more than one domestic point, the U.S.-flag carriers are free to operate nonstop international service from each domestic point.[2] The ability to combine these domestic points on one flight already provides enormous flexibility to the U.S.-flag carriers. (Note that the service obligations of a particular carrier would be satisfied even if all coterminals on one segment were served on the same flight.) Thus, to speak in terms of "restrictions" with respect to the operations of U.S.-flag carriers between domestic points clearly ignores the true nature of their authority.

We recognize that "fill-up" authority would provide U.S.-flag carriers with additional revenues. We also recognize that such domestic rights could result in harmful diversion from other carriers in some markets.

Moreover, we do not agree with Pan American that the proceeding it requests would not be complicated and time-consuming. With the already crowded condition of the Board's hearing program, we cannot afford to devote such a substantial amount of resources to a proceeding aimed primarily at benefitting one carrier. These drawbacks, along with the fact that no carrier has demonstrated any need for "fill-up" authority in domestic markets where flights are not currently scheduled, lead us to reject, at the outset, any consideration of blanket "fill-up" rights.

Looking, then, only at the domestic flights currently operated by the three applicant carriers, we will also defer any consideration of "fill-up" authority in markets where the sole operation consists of all-cargo service. The value of nonstop or one-stop service in all-cargo operations is considerably less than with passenger flights, and no showing has been made that the existing domestic all-cargo flight sectors having low load factors and not be restructured to include more domestic stops and thus improve

[1] In the interest of receiving complete information on the important question of fill-up authority, we will grant the motions for leave to file otherwise unauthorized documents of all three carriers.

[2] Although New York and Boston on Pan American's Route 133 are not coterminals but are terminal and intermediate points, respectively, this discussion also applies with respect to them.

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operating results. If any urgent need for "fill-up" rights exists, we believe it is limited to the area of passenger operations. Moreover, Pan American, in particular, operates all-cargo service over several domestic flight segments where no passenger flights are scheduled. "Fill-up" rights not limited to cargo operations in such markets could encourage Pan American to institute new service unrelated to the needs of its international cargo traffic, but designed primarily for the purpose of carrying domestic traffic.

Because we believe our consideration herein of "fill-up" rights should be limited to markets where a need by the carrier has at least arguably been demonstrated, at this time we will consider only those markets in which the applicants have provided service for a sustained period of time. While we are not foreclosing consideration of "fill-up" authority for domestic flight sectors over which service may be instituted in the future, we caution the carriers that the Board will consider such authority only upon the assurance that the affected flights are operated primarily to serve the needs of international traffic.[3]

After eliminating certain markets, as discussed above, in which "fill-up" authority is sought, we are left with the following for our consideration at this time:

Pan American: Los Angeles-San Francisco; Seattle-San Francisco; Seattle-Portland; Miami-Tampa; New York-Washington/Baltimore; New York-Philadelphia.

Braniff: Los Angeles-San Francisco; Houston-New Orleans; Washington-Miami; New York-Miami; New York-Washington.

Northwest: Los Angeles-San Francisco; Chicago-Washington.

[3] We note that, while Pan American currently operates over the New York-San Francisco domestic sector, this market is under consideration in connection with another proceeding (Transcontinental Low-Fare Route Proceeding, Docket 30356) and, therefore, has not been considered herein.

A total of ten different markets are included in the above list. In six of these markets (New York-Washington/Baltimore, New York-Philadelphia, Houston-New Orleans, San Francisco-Los Angeles, Seattle-Portland and Miami-Tampa), we have tentatively concluded that the grant of "fill-up" authority cannot justifiably be challenged.[4] Pan American, Northwest, and Braniff currently operate the following round trip service over these domestic flight segments,[5] and their 1975 seat factors were as shown:

[4] We have not included Newark as a hyphenated point with New York because we are not aware of any Newark operations by Pan American or Braniff in connection with international flights. However, Pan American has operated in the New York-Baltimore market within the last 3 years, so we have included Baltimore for Pan American.

[5] May 1977, O.A.G., International Edition for all but MIA-TPA, for which the North American Edition was used.

	Pan American					Braniff			Northwest
Market	SFO-LAX	NY-WAS	NY-PHL	SEA-PDX	MIA-TPA	NY-WAS	SFO-LAX	IAH-MSY	SFO-LAX
Service (round trips)	13/week	12/week	3/week	1/d	1/d	2½/week	5/week	1/week	1/d.
1975 seat factor (percent)	14.6	25	10.9	17.8	22.8	19.5	17.41	24.4	8.13.

Moreover, there are numerous carriers providing substantial nonstop service in all six of these markets (May 1, 1977, O.A.G., North American Edition):

Market	NY-WAS/BAL	NY-PHL	SEA-PDX	MIA-TPA	IAH-MSY	LAX-SFO
Number of nonstop carriers	11	7	7	7	5	7
Daily nonstop round trips	65	21	33	16	19	92
1975 true O. & D. plus interline connecting	1,974,420	118,730	306,110	234,390	368,220	[1] 1,070,290

[1] This figure does not include traffic carried by the 2 intrastate carriers operating in the market.

We tentatively conclude that these facts require the same findings with respect to these markets as were made in the *Detroit-Boston Nonstop Route Proceeding*, i.e., that Pan American, Northwest, and Braniff are presently operating with a high percentage of their capacity unfilled over these flight sectors, and that the grant of "fill-up" authority will benefit the carriers and the public without imposing any substantial burden on the incumbents. These are short-haul markets receiving extensive service by a number of carriers, and it is evident that any operations by Pan American, Northwest, or Braniff would not be provided for the purpose of carrying local traffic.[6] The amount of diversion from other carriers as a result of "fill-up" rights is therefore likely to be small.

Consequently, we tentatively conclude that the public convenience and necessity require that Braniff, in the New York-Washington, San Francisco-Los Angeles, and Houston-New Orleans markets, Northwest, in the San Francisco-Los Angeles market, and Pan American, in the New York-Washington/Baltimore, New York-Philadelphia, Seattle-Portland, San Francisco-Los Angeles, and Miami-Tampa markets, be authorized to transport persons, property, and mail in interstate air transportation on flights operated to overseas or foreign points pursuant to currently effective certificates.[7]

With respect to the remaining four presently-operated markets set forth above (Seattle-San Francisco, Washington-Miami, New York-Miami, and Chicago-Washington), we do not have sufficient information available to us, at this time to justify proposing "fill-up" rights by show-cause procedures. We will be receptive, however, to requests for further show-cause orders or, if necessary, evidentiary hearings, to consider "fill-up" authority in specific markets or groups of markets upon a reasonable prima facie showing of a specific need for the strengthening of international services in situations where such strengthening can be achieved without serious injury to other carriers. Since we may conclude that evidentiary hearings are required, the carriers should also indicate which flight sectors should be considered first, and over which flight sectors "fill-up" authority would be of greatest benefit to them.[8] Despite our willingness to give further consideration to "fill-up" rights in specific markets upon appropriate motions for hearing or show-cause procedures as indicated above, as a matter of administrative convenience we are

[6] This is particularly true with respect to the New York-Washington and New York-Philadelphia markets, since Braniff's and Pan American's New York services are operated at Kennedy Airport and the Washington services at Dulles Airport. The amount of local traffic which will be diverted by such services will undoubtedly be very small. In the San Francisco-Los Angeles market, where the turnaround services of the intrastate carriers dominate and local fares are exceptionally low, it is doubtful that "fill-up" rights for international carriers will have any significant impact on the state of competition in the local market.

[7] We further find that Braniff, Northwest, and Pan American are citizens of the United States within the meaning of the Act, and are fit, willing, and able to properly perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[8] We recognize that some of these domestic sectors, as well as some of those we are handling through show-cause procedures, occur on more than one of Pan American's certificates, while the carrier may not operate the particular sector over each such certificate. As a result, it may or may not be appropriate to restrict the carriage of "fill-up" traffic to those flights operated pursuant to certificates currently used by Pan American to operate such domestic flight sectors. While we are expressing no view on such restrictions at this time, we would expect Pan American to address this issue in any motion for hearing it may file pursuant to this order. We have tentatively concluded that no such restrictions should be imposed with respect to the flight sectors handled herein through show-cause procedures since we do not anticipate any major impact on other carriers from the award of "fill-up" rights in those markets.

dismissing the applications of Pan American, Northwest, and Braniff to the extent they are not dealt with through the show-cause procedures employed herein.

We are directing Braniff, Northwest, and Pan American to file environmental evaluations with respect to the routes proposed herein to be handled by show-cause procedures. We recognize that the carriers are already conducting operations in these markets, and that no changes in the current operations may be proposed. If that is the case, the carriers need only respond to the requests contained in § 312.12(c) of the Board's Regulations and specify any such requests which are inapplicable. It is possible, however, that an increase in operations, change of aircraft, or modification of flight times will be contemplated, and therefore we do not consider a waiver of the requirements of Part 312 to be appropriate. Braniff, Northwest, and Pan American will be given 30 days following service of this order to file their environmental submissions.

Finally, on January 25, 1977, the Department of Justice (DOJ) filed a motion to consolidate Pan American's application for "fill-up" authority with the *Transatlantic Route Proceeding*, Docket 25908. The major portion of DOJ's motion is devoted to arguments for granting "fill-up" authority to Pan American. Relevant to the consolidation issue, however, DOJ argues that the *Transatlantic Route Proceeding* focuses on U.S. domestic and international route structure and the economic viability of U.S. international carriers, and that Pan American's "fill-up" application is merely a specialized issue within the framework of that investigation. DOJ also states that "fill-up" authority is expressly favored in the statement entitled International Air Transportation Policy of the United States, which was referred to as a guideline for the Board when the Board's Transatlantic decision was returned by the President. Finally, with no supporting explanation, DOJ asserts that the ends of justice can only be served by considering Pan American's interests in the context of the *Transatlantic Route Proceeding*, and that such consideration would not unduly delay that proceeding. The motion is opposed by American, Delta, Flying Tiger, Northwest Pan American, TWA, and United and conditionally supported by Seaboard. Braniff takes no position either for or against the motion, asking only that the question of "fill-up" rights be resolved expeditiously.

DOJ's motion must be denied. We see no necessary connection between the question of "fill-up" authority and the issues in the *Transatlantic* case. Significantly, not one of the three applicants for "fill-up" rights supports DOJ's motion. Moreover, we disagree with those arguments which require the assumption that Pan American's needs should be considered to the exclusion of all other carriers seeking similar domestic authority.

Interested persons will be given 60 days following adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

During the same period prescribed above, we will expect Braniff, Northwest, and Pan American to file with the Board an estimate, with supporting data, of the annual gross transport revenue increase for the first full year of operations to result from the award proposed herein. This data is necessary for the purpose of computing the license fee pursuant to § 389.24(a)(2) of the Board's regulations.

Accordingly, *it is ordered*, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and authorizing Braniff Airways, Inc., in the New York-Washington, San Francisco-Los Angeles, and Houston-New Orleans markets, Northwest Airlines, Inc., in the San Francisco-Los Angeles market, and Pan American World Airways, Inc., in the New York-Washington/Baltimore, New York - Philadelphia, Seattle - Portland, San Francisco-Los Angeles, and Miami-Tampa markets to transport persons, property, and mail in interstate air transportation on flights operated in foreign and/or overseas air transportation pursuant to currently effective certificates;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 60 days after the date of adoption of this order, file with the Board and serve upon all persons listed in Appendix A attached hereto, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers may be filed 21 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [9]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. The applications of Braniff Airways, Inc., in Docket 30068, Northwest Airlines, Inc., in Docket 30067, and Pan American World Airways, Inc., in Docket 29952, to the extent not discussed in paragraph 1 above, be and they hereby are dismissed; [10]

6. The motions of Pan American World Airways, Inc., Braniff Airways, Inc., and Northwest Airlines, Inc., for leave to file otherwise unauthorized documents be and they hereby are granted;

7. The petition of the Fairfax County Economic Development Authority for leave to intervene in Docket 29952 and the petitions of Hughes Airwest for leave to intervene in Dockets 29952, 30067, and 30068 be and they hereby are dismissed as moot; [11]

8. The motions of United Air Lines, Inc., to dismiss the applications in Dockets 29952, 30067, and 30068 be and they hereby are denied;

9. To the extent not considered in paragraph 1 above, the motion of Pan American World Airways, Inc., for hearing on its application in Docket 29952 be and it hereby is denied;

10. The motions of Braniff Airways, Inc., and Northwest Airlines, Inc., to consolidate their applications in Dockets 30068 and 30067, respectively, with the application in Docket 29952, to the extent not granted in paragraph 1 above, be and they hereby are dismissed as moot;

11. The motion of the Department of Justice to consolidate the application in Docket 29952 with the *Transatlantic Route Proceeding*, Docket 25908, be and it hereby is denied;

12. Braniff Airways, Inc., Northwest Airlines, Inc., and Pan American World Airways, Inc., be and they hereby are directed to file environmental evaluations and estimates of gross transport revenue increases in accordance with this order within 30 days of the date of service of this order; and

13. A copy of this order shall be served upon all persons listed in Appendix A attached hereto as well as all other certificated air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A

DOCKET 29952—APPLICATION OF PAN AMERICAN WORLD AIRWAYS

Motion of United Air Lines to dismiss.

Motion of Pan American World Airways for hearing.

Answers in support: Braniff Airways; Seaboard World Airlines; Council on Wage and

[9] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[10] However, we are not dismissing that portion of Pan American's application that seeks "fill-up" authority in the New York-Dallas/Ft. Worth market. That aspect of the carrier's application will be dealt with in an order that will be issued shortly.

[11] Although we are dismissing their petitions for leave to intervene since we are not instituting an evidentiary proceeding, Fairfax and Airwest will, of course, be entitled to respond to this show-cause order.

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Price Stability; United States Department of Commerce; United States Department of Justice; United States Department of Transportation; City of Dallas, City of Fort Worth, Dallas Chamber of Commerce, Fort Worth Area Chamber of Commerce, North Texas Commission; Fairfax County Economic Development Authority; Greater Miami Traffic Association; City of Philadelphia and the Greater Philadelphia Chamber of Commerce; City of Portland, Portland Chamber of Commerce, Portland Freight Traffic Association, Port of Portland; Tampa Bay Area Parties; and Commonwealth of Virginia.

Letters in support: Chicago Association of Commerce and Industry; City of New York; Puget Sound Traffic Association; and Greater San Francisco Chamber of Commerce.

Answers in opposition: Allegheny Airlines; American Airlines; Continental Air Lines; Delta Air Lines; Eastern Air Lines; National Airlines (consolidated answer to application and motion of Pan American World Airways); Texas International Airlines; Trans World Airlines; United Air Lines; and Western Air Lines.

Answer neither in support nor in opposition: Northwest Airlines.

Motion for leave to file an otherwise unauthorized document and reply of Pan American World Airways to answers in opposition.

Motion for leave to file an otherwise unauthorized document and response of Braniff Airways to reply of Pan American World Airways.

Motion for leave to file an otherwise unauthorized document and response of Northwest Airlines to reply of Pan American World Airways.

Petitions for leave to intervene: Fairfax County Economic Development Authority; and Hughes Airwest.

Motion of United States Department of Justice to consolidate application of Pan American World Airways in Docket 20052 with the *Transatlantic Route Proceeding*, Docket 25908.

Answers: American Airlines; Braniff Airways; Delta Air Lines; Flying Tiger Line; Northwest Airlines; Pan American World Airways; Seaboard World Airlines; Trans World Airlines; and United Air Lines.

DOCKET 30067—APPLICATION OF NORTHWEST AIRLINES

Motion of United Air Lines to dismiss.

Answer of Delta Air Lines in support of motion of United Air Lines.

Motion of Northwest Airlines to consolidate its application in Docket 30067 with the application of Pan American World Airways in Docket 29952.

Answers in opposition: Trans World Airlines; and United Air Lines.

Petition for leave to intervene: Hughes Airwest.

DOCKET 30068—APPLICATION OF BRANIFF AIRWAYS

Motion of United Air Lines to dismiss.

Answer of Delta Air Lines in support of motion of United Air Lines.

Motion of Braniff Airways to consolidate its application in Docket 30068 with the application of Pan American World Airways in Docket 29952.

Answers in opposition: National Airlines (consolidated answer to application and motion of Braniff Airways); Trans World Airlines; and United Air Lines.

Petition for leave to intervene: Hughes Airwest.

[FR Doc.77-12820 Filed 5-3-77;8:45 am]

[Docket No. 27573; Agreement CAB 26550; Order 77-4-136]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority April 27, 1977.

An agreement has been filed with the Board pursuant to section 412 (a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA). The agreement was adopted at the 17th Meeting of the TC3 Specific Commodity Rates Board held in Geneva on March 7, 1977.

The agreement would add and cancel certain specific commodity rates to/from Guam as well as make various changes to specific commodity descriptions as shown in the Attachment and establish specific commodity rates for several items to apply between various world markets outside of air transportation. We will approve the new rates to/from Guam and the descriptions which have general application within air transportation as defined by the Act but will disclaim jurisdiction with respect to the new rates which involve points solely outside of air transportation.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the specific commodity rates listed in the Attachment, as well as the new specific commodity descriptions incorporated in Agreement CAB 26550, which have general application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act.

2. It is not found that the specific commodity rates incorporated in Agreement CAB 26550 which involve transportation solely between foreign points affect air transportation within the meaning of the Act.

Accordingly, it is ordered, That: 1. Those portions of Agreement CAB 26550 set forth in the Attachment which have general application in air transportation as defined by the Act, be and hereby are approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level; and

2. Jurisdiction be and hereby is disclaimed with respect to that portion of Agreement CAB 26550 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

ATTACHMENT.—*Agreement CAB 26550*

IATA commodity item No.[1]	Specific commodity rate[2] Cents per kilogram	Minimum weight in kilograms	Market
RATES ADDED UNDER EXISTING COMMODITY DESCRIPTIONS			
0006	156	500	Bangkok to Guam.
	51	500	Guam to Okinawa.
	100	500	Hong Kong to Guam.
	56	500	Manila to Guam.
	88	500	Okinawa to Guam.
	114	250	Osaka to Guam.
	55	500	
	187	100	Taipei to Guam.
	111	250	
	60	500	
	114	250	Tokyo to Guam.
	55	500	
1020	416	100	Sydney to Guam.
RATES CANCELED UNDER EXISTING COMMODITY DESCRIPTIONS			
			DESCRIPTIONS
0003		250	Osaka to Guam.
		100	Taipei to Guam.
		250	
		250	Tokyo to Guam.
0006		500	Bangkok to Guam.
		500	Guam to Okinawa.
		500	Hong Kong to Guam.
		500	Manila to Guam.
		500	Okinawa to Guam.
		500	Osaka to Guam.
		500	Taipei to Guam.
		500	Tokyo to Guam.

[1] See applicable tariffs for complete commodity descriptions.
[2] Subject to applicable currency conversion factors as shown in tariffs.

Item No.	Description
003	Foodstuffs.[1]
0006	Foodstuffs, spices and beverages.[3]
0381	Prawns.[3]
0385	Turtles.[3]
1020	Dogs.[1]
1405	Refrigerators, freezers, clothes driers, washing machines, and stoves.[2][3]
6103	Vitamins and antibiotics.[3]
6982	Agarbathis.[3]
8275	Phonograph records.[3]
8282	Do.[3]
9078	Empty metal cans.[4]
9081	Animal identification ear tags and marking dyes.[4]
9910	Furniture and furniture parts.[3]
9810	Furniture.[3]

[1] Deleted.
[2] Area of application changed.
[3] Description changed.
[4] New rate.

[FR Doc.77-12702 Filed 5-3-77;8:45 am]

[Docket No. 27573; Agreement C.A.B. 26558; Order 77-4-135]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Issued under delegated authority April 27, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the 23d meeting of the Joint Specific Commodity Rates Board held in Geneva, Switzerland, on March 8–11, 1977, has been assigned the above C.A.B. agreement number.

With respect to air transportation as defined by the Act, the agreement proposes revisions to the specific commodity rates structures applicable on the North Atlantic, North/Central Pacific, and South Pacific market areas. These revisions are outlined in the attachments hereto, and reflect reductions from otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

Agreement 26558 is approved: *Provided*, That: (a) Approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

ATTACHMENT I, II, AND III.—*Agreement CAB 26558*

IATA commodity item No.[1]	Specific commodity rate[2] Cents per kilogram	Minimum weight in kilograms	Market
North Atlantic			
RATES ADDED UNDER EXISTING COMMODITY DESCRIPTIONS			
0008	[3] 232	200	Johannesburg to New York.
	[3] 222	500	
0007	[3] 190	500	Do.
0326	[4] 93	500	Lisbon to New York.
1024	[4] 320	100	Lusaka to New York.
1026	111	1,000	New York to Amsterdam.
	111	1,000	New York to Brussels.
	114	1,000	New York to Frankfurt.
	114	1,000	New York to Hamburg.
	108	1,000	New York to London.
	111	1,000	New York to Madrid.
	114	1,000	New York to Milan.
	111	1,000	New York to Paris.
	117	1,000	New York to Rome.
	114	1,000	New York to Zurich.
1102	[3] 115	1,000	Athens to New York.
1192	[4] 146	500	Beirut to New York.
	[4] 146	500	Tel Aviv to New York.
1204	121	500	Beirut to New York.
	217	200	Damascus to New York.
	104	1,000	New York to Malta.
1231	110	500	Beirut to New York.
1251	[4] 310	500	Johannesburg to Los Angeles.
	[4] 290	1,000	
	[4] 270	500	Johannesburg to New York.
	[4] 250	1,000	
	[4] 310	500	Johannesburg to San Francisco.
	[4] 290	1,000	
1407	[4] 153	200	Copenhagen to New York.
2206	[4] 310	500	New York to Lagos.
3341	[4] 165	500	Tel Aviv to New York.
	[4] 160	500	
4204	145	100	New York to Budapest.
	107	200	
7124	[3] 87	1,000	New York to Copenhagen.
8166	[4] 102	500	Copenhagen to New York.
	[4] 112	500	
9009	[3] 146	500	Tel Aviv to New York.
9078	84	500	New York to Lisbon.
9616	[4] 220	1,000	Addis Ababa to New York.
	[4] 190	300	Beirut to New York.
9569	[4] 163	200	Tel Aviv to New York.
	[4] 153	300	
9995	[4] 277	45	Beirut to New York.
RATES CHANGED UNDER EXISTING COMMODITY DESCRIPTIONS			
0007	[4] 88	500	Palma, Majorca, to New York.
0602	[3] 87	1,000	New York to Barcelona.
1407	164	100	Copenhagen to New York.
2102	[4] 135	1,000	Beirut to New York.
2206	[4] 310	500	New York to Lagos.
3405	[4] 106	500	Lyons to New York.
	[4] 101	1,000	
	[4] 104	500	Paris to New York.
	[4] 99	1,000	
3969	[4] 145	500	Tel Aviv to New York.
4479	[4] 190	500	Do.
9215	[4] 115	500	Copenhagen to New York.
9993	[3] 305	100	Abu Dhabi to New York.
	[3] 250	500	
	[3] 270	100	Baghdad to New York.
	[3] 300	100	Bahrain to New York.
	[3] 245	500	
	[3] 300	100	Dhahran to New York.
	[3] 245	500	
	[3] 300	100	Doha to New York.
	[3] 245	500	
	[3] 305	100	Dubai to New York.
	[3] 250	500	
	[3] 295	100	Jeddah to New York.
	[3] 240	500	
	[3] 296	100	Kuwait to New York.
	[3] 310	100	Muscat to New York.
	[3] 255	500	
RATES CANCELED UNDER EXISTING COMMODITY DESCRIPTIONS			
0007		500	Amsterdam to New York.
		100	Beira to New York.
		200	
		500	Belfast to New York.
		500	Belgrade to New York.
		500	Berlin to New York.
		500	Bremen to New York.
		500	Bristol to New York.
		500	Brussels to New York.
		500	Budapest to New York.
		500	Cardiff to New York.
		500	Copenhagen to New York.
		500	Edinburgh to New York.
		500	Frankfurt to New York.
		500	Glasgow to New York.
		500	Hamburg to New York.
		500	Hanover to New York.
		500	Innsbruck to New York.
		200	Johannesburg to New York.
		500	Leeds to New York.
		500	Linz to New York.
		500	Luxembourg to New York.
		500	Manchester to New York.
		500	Munich to New York.
		500	Newcastle to New York.
		500	Nuremberg to New York.
		500	Prague to New York.
		500	Salzburg to New York.
		500	Stuttgart to New York.
		500	Vienna to New York.
0602		1,000	New York to Belfast.
		1,000	New York to Bergen.
		1,000	New York to Dublin.
		1,000	New York to Gothenburg.
		1,000	New York to Helsinki.
		1,000	New York to Innsbruck.
		1,000	New York to Kristiansand.
		1,000	New York to Linz.
		1,000	New York to Luxembourg.
		1,000	New York to Lyons.
		1,000	New York to Malmo.
		1,000	New York to Prague.

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IATA commodity item No.[1]	Specific commodity rate[2] Cents per kilogram	Minimum weight in kilograms	Market
		1,000	New York to Salzburg.
		1,000	New York to Shannon.
		1,000	New York to Tripoli.
		1,000	New York to Tunis.
2202		500	Barcelona to New York.
3075		1,000	Amsterdam to/from New York.
		1,000	Belfast to/from New York.
		1,000	Belgrade to/from New York.
		1,000	Brussels to/from New York.
		1,000	Cardiff to/from New York.
		1,000	Edinburgh to/from New York.
		1,000	Glasgow to/from New York.
		1,000	Leeds to/from New York.
		1,000	Lyons to/from New York.
		1,000	Manchester to/from York.
		1,000	Munich to/from New York.
		1,000	Newcastle to/from New York.
4201		100	New York to Salisbury.
		200	
		500	
4416		500	Bulawayo to New York.
		1,000	
		500	Salisbury to New York.
		1,000	
4609		300	New York to Belgrade.
		300	New York to Bristol.
		300	New York to Glasgow.
4700		100	New York to Salisbury.
4814		1,000	New York to Amsterdam.
		1,000	New York to Belfast.
		1,000	New York to Belgrade.
		1,000	New York to Bergen.
		1,000	New York to Cardiff.
		1,000	New York to Dublin.
		1,000	New York to Edinburgh.
		1,000	New York, to Glasgow.
		1,000	New York to Kristiansand.
		1,000	New York to Leeds.
		1,000	New York to London.
		1,000	New York to Luxembourg.
		1,000	New York to Manchester.
		1,000	New York to Newcastle.
		1,000	New York to Prague.
		1,000	New York to Shannon.
		1,000	New York to Stavanger.
4951		2,000	New York to Belgrade.
		2,000	New York to Berlin.
		2,000	New York to Bremen.
		2,000	New York to Copenhagen.
		2,000	New York to Hanover.
		2,000	New York to Luxembourg.
		2,000	New York to Manchester.
		2,000	New York to Munich.
		2,000	New York to Nuremberg.
		2,000	New York to Stuttgart.
6500		100	New York to Kuwait.
7113		100	New York to/from Salisbury.
9516		100	Addis Ababa to New York.

North and Central Pacific

RATES ADDED UNDER EXISTING COMMODITY DESCRIPTIONS

1403	[4] 200	200	Miami to Tokyo.
	187	500	
1421	[7] 111	1,000	Honolulu to Osaka.
	[7] 106	1,000	Honolulu to Tokyo.
1470	[3] 150	1,000	Los Angeles to Tokyo.
4120	375	100	New York to Bangalore.
	330	100	New York to Bombay.
	[7] 308	500	
	338	100	New York to Calcutta.
	330	100	New York to Delhi.
	[7] 308	500	
	338	100	New York to Madras.
	[7] 316	500	
4326	[8] 167	2,000	Los Angeles to Tokyo.
	[4] 199	2,000	New York to Tokyo.
4416	[4] 280	100	Bombay to Los Angeles.
	[4] 280	100	Bombay to New York.
	[4] 280	100	Delhi to Los Angeles.
	[4] 280	100	Delhi to New York.
4505	[4] 280	100	Bombay to Los Angeles.
	[4] 280	100	Bombay to New York.
	[4] 280	100	Delhi to Los Angeles.
	[4] 280	100	Delhi to New York.
4702	[3] 248	500	Los Angeles to Kuala Lampur.
	[3] 225	500	
	[3] 210	1,000	
	[3] 235	1,000	
	[6] 225	500	New York to Kuala Lampur.
	[3] 248	500	
	[3] 210	1,000	
	[3] 235	1,000	
8001	[3] 320	500	Bombay to Los Angeles.
	286	500	Bombay to New York.
8207	276	100	Delhi to New York.
	227	200	
9202	205	500	Bombay to New York.
	205	500	Delhi to New York.

RATES CHANGED UNDER EXISTING COMMODITY DESCRIPTIONS

2502	[3] 147	2,000	Manila to Los Angeles.
	[3] 184	2,000	Manila to New York.
4204	[3] 234	200	Manila to Los Angeles.
	[3] 270	200	Manila to New York.
7110	[3] 204	100	Manila to Los Angeles.
	[3] 244	100	Manila to New York.
9202	[3] 260	100	Manila to Los Angeles.
	[3] 297	100	Manila to New York.

RATES CANCELED UNDER EXISTING COMMODITY DESCRIPTIONS

1024		200	Singapore to Los Angeles.
1025		500	Singapore to New York.
		1,000	
		1,500	
4120		45	New York to Bangalore.
		45	New York to Bombay.
		45	New York to Calcutta.
		45	New York to Delhi.
4302		300	Bombay to New York.
4427		300	Bombay to Los Angeles.
		300	Bombay to New York.
		300	Delhi to Los Angeles.
		300	Delhi to New York.
7062		100	Bombay to New York.
8001		100	Delhi to New York.
8207		200	Bombay to New York.
9207		500	Bombay to New York.
		500	Delhi to New York.
9601		500	Bombay to New York.

South Pacific

RATES ADDED UNDER EXISTING COMMODITY DESCRIPTIONS

0300	[3] 111	2,500	Perth, West Australia, to Honolulu.
	[3] 133	2,500	Perth, West Australia, to Los Angeles.
0326	[3] 75	1,000	Papeete to Honolulu.
	[3] 83	1,000	Papeete to Los Angeles.
1100	[7] 172	1,000	Melbourne to New York.
1400	125	1,000	Auckland to Los Angeles.
4375	[4] 275	1,000	Sydney to New York.
7047	177	1,000	Melbourne to New York.
7067	125	1,000	Auckland to Los Angeles.

RATES CHANGED UNDER EXISTING COMMODITY DESCRIPTIONS

1402	[8] 125	1,000	Auckland to Los Angeles.
9512	112	100	Nandi to Honolulu.

[1] See applicable tariffs for commodity descriptions.
[2] Expires Mar. 31, 1978.
[3] Expires Dec. 31, 1977.
[4] Expires June 30, 1978.
[5] Expires Sept. 30, 1977.
[6] Expires May 31, 1977.
[7] Expires Dec. 31, 1978.
[8] Expires Sept. 29, 1977.

NOTES.—Rates are subject to applicable currency conversion factors as shown in tariffs.

ATTACHMENT IV.—*Agreement CAB 26558, specific commodity descriptions*

IATA commodity item No.	Description
0716	Chocolate and chocolate manufactures.[1]
0300	Fish and seafood.[1]
0300	Fish and seafood—excluding fish, live, inedible.[1]
0326	Fish.[2]
0326	Fish—excluding live, inedible.[1]
0356	Fish, crabs, and/or shrimps.[2]
0356	Fish, crabs, and/or shrimps—excluding fish, live, inedible.[1]
1192	Sheep skins.[1]
1238	Leather manufactures, namely: Bags, balls, belts, billfolds, handbags, suitcases, attaché cases, pochettes, purses, wallets, harness, and saddlery.[1]
1251	Sheepskin/hide car seat covers and rugs.[1]
1403	Cut flowers, foliage, cuttings.[1]
1478	Potted plants.[1 2]
3129	Safety razors and blades.[4]
4108	Aircraft parts, excluding aircraft engines.[1 3]
4304	Office machinery, office equipment, and supplies appertaining thereto.[1]
4326	Electronic data storage.[4]
4409	Electrodes.[1]

IATA commodity item No.	Description
4413	Radios, televisions, record players, tape recorders/players, loudspeakers, amplifiers, and accessories thereof.[4]
4504	Semiconductors.[1]
4737	Petrol dispensing pumps.[1 3]
6208	Xanthophyll concentrate.[1]
6211	Datura extract.[1]
7047	Transfers (decalcomania).[1]
7122	Technical and textbooks.[1 3]
7124	Instruction manuals and catalogs—excluding magnetic tapes.[4]
8166	Plastic bags for medical use, namely: colostomy bags.[1]
8275	Phonograph records.[3]
8282	Do.[1]
8369	Spectacles.[4]
8370	Lenses, frames, and sunglasses.[1]
8370	Spectacles.[3]
9078	Freezing packs.[4]
9215	Building bricks (toys), made of plastic.[1]
9245	Golfing equipment.[1]
9369	Plastic and wood articles, consisting of rocks, boxes, and flasks.[1 3]
9910	Furniture and furniture parts.[3]
9910	Furniture.[1]
9971	Building materials and tools, including fixtures and fittings.[1]
9975	Pipes, rubber fenders, rubber hose, and industrial gloves.[1 3]
9993	Removal of household goods and personal effects—(A) Household goods, used, not for resale; (B) Personal effects, consisting of wearing apparel, cosmetics, toilet articles, and articles worn by an individual, used, not for resale, when in mixed shipments with the commodities in (A) above.[1]

[1] Area of application changed.
[2] Delete.
[3] Changed description.
[4] New description.

[FR Doc.77-12703 Filed 5-3-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EMORY UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00063. Applicant: Emory University, Chemistry Department, 1515 Pierce Ave., Atlanta, Ga. 30322. Article: NMR Coherent Pulse Spectrometer, CPS-2 Manufacturer: Spin Lock Ltd., Canada. Intended use of article: The article is intended to be used to measure water proton relaxation times (T_1, $T_{1\rho}$, and T_2) of suspensions of red and white blood cells for the purpose of more fully characterizing disease processes in blood (particularly sickle cell anemia, hereditary spherocytosis, leukemia and drug resistant cell lines). Measurements of water proton exchange across the membranes of blood cells can be made by utilizing these relaxation parameters.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (October 25, 1976.

Reasons: The foreign article provides the capability to measure the parameter $T_{1\rho}$ (T_1 in the rotating frame). The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 22, 1977 that (1) the capability described above is pertinent to the purposes for which the article is intended to be used and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-12776 Filed 5-3-77;8:45 am]

GEORGIA INSTITUTE OF TECHNOLOGY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00051. Applicant: Georgia Institute of Technology, 225 North Avenue, NW., Atlanta, Georgia 30332. Article: One (1) each Solar Pilot Plant. Manufacturer: Societa Generale Electro Ansaldo Meccanica SPA, Italy. Intended use of article: The article is intended to be used for studies of direct solar radiation as an energy source. Experiments to be conducted are expected to include steam generation, heliostat characterization, air cycle demonstration, sodium loop application helium cycles, oil cooling, etc. Additional research areas applicable to this facility include thermal storage, high temperature metals, coatings and ceramic technology, etc. The primary objectives of investigation are in the general class of the advancement of technology in central receiver solar energy systems and high temperature materials behavior.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a direct solar radiation energy source capable of generating superheated steam. The National Bureau of Standards (NBS) advises in its memorandum dated April 7, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-12777 Filed 5-3-77;8:45 am]

NATIONAL INSTITUTES OF HEALTH, BETHESDA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00096. Applicant: National Institutes of Health, National Eye Institute, Bldg. 6, Rm. 213, 9000 Rockville Pike, Bethesda, MD 20014. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of eye tissues of the human in both normal and pathological conditions. The experiments on the visual system under way include: (1) Fine structural study of the photosensitive lamellar membranes of the photoreceptor cells following light exposure in various conditions; (2) phagocytic activity of the pigment epthelium of the retina; (3) fine structural study of the retina and cornea of vitamin A deficient animals; (4) cytologic study of the cataractous lenses; and (5) experimentally induced eye diseases in animals. The objectives of the research are to further basic knowledge on cell and tissue ultrastructure and to elu-

V 42 86 MAY 4 77 UMI

cidate pathogenesis of various eye diseases of the human.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a cutting speed range of 0.1 to 20 millimeters/second (mm/sec) and unlimited specimen orientation. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. The National Bureau of Standards (NBS) advises in its memorandum of April 7, 1977 that cutting speeds in the excess of 4mm/sec. are pertinent to the applicant's research studies.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-12778 Filed 5-3-77;8:45 am]

PURDUE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00052. Applicant: Purdue University, ADMS Building, West Lafayette, Ind. 47907. Article: Ion Production and Delivery System, Model 30kv. Manufacturer: Danfysik A/S, Denmark. Intended use of article: The article is intended to be used in the preparation of surfaces, for use as potential catalytic analogues by deposition of ionic species on or very near the surface (e.g., 1-3 atomic layers) of catalyst support materials (e.g., silica or aluminium). The experiments will involve the production of ion beams of platinum, palladium, iridium and similar materials from Group VIII elements in the Periodic Table. Other experiments will deal with ion/surface interactions.

Specifically, the experiments will deal with (a) changes in oxidation state caused by ion interactions with surface species; (b) compositional changes caused by differential sputtering; and (c) interactions between ions and the lattice materials. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 76-00395 which was denied without prejudice to resubmission on September 1, 1976 for informational deficiencies. The foreign article provides (1) a dispersion of 5.6 millimeters at mass 100 for an ion of four kiloelectron volts (kev), (2) a sensitivity of 100 microamperes (μa) for argon, and 30 μa for gold, (3) an Ion source capable of operation to 1700 degrees centigrade, and (4) variable ion energy from 3 to 30 kev. The National Bureau of Standards (NBS) advises in its memorandum dated April 12, 1977 that (1) the specifications of the article described above are pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-12779 Filed 5-3-77;8:45 am]

VANDERBILT UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230

Docket Number: 77-00062. Applicant: Vanderbilt University, Department of Molecular Biology, P.O. Box 1820, Station B, Nashville, Tennessee. Article: High Vacuum Freeze Etch Unit. Manufacturer: Balzers Liechtenstein, Germany. Intended use of article: the article is intended to be used for fundamental studies on membrane arrangement by reconstituting membrane in the test tube with different proteins and lipids and looking at the freeze-fracture ultrastructures, arrangements, and density of particles in fracture faces and on freeze-etch surface. A variety of biological membranes will be studied especially from liver and muscle spermatozoans and protozoans. The article will also be used in the following courses: Molecular Biology 390, Molecular Biology 369, and Molecular Biology Ph.D. Dissertation Research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is capable of yielding the best special resolution through prompt metal shadowing of the specimen's fracture with an electron beam. The article also provides temperature control of the knife (approximately 180 degrees centigrade (°C) with hot air heating when necessary) and a specimen temperature control to ±0.1° C based on the temperature controls of the specimen table. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 22, 1977 that the characteristics of the article described above are pertinent to the applicant's intended uses. HEW also advises that domestic instruments do not provide the pertinent features of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of duty-free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-12780 Filed 5-3-77;8:45 am]

VANDERBILT UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230. Docket Number: 77-00053. Applicant: Vanderbilt University, Department of Molecular Biology, P.O. Box 1820, Station B. Nashville, Tennessee 37235. Article: Rapid Pressure Filtration Apparatus with automtic electronic timing device; mechanical component and electrical component. Manufacturer: Werkstatt fur Feinmechanik und Elektronik, West Germany. Intended use of article: The article is intended to be used for rapid filtration (time in seconds) so that kinetic studies can be carried out for enzyme reactions and for biological transport studies.

The objectives of the experiments are to define the mechanism of active transport in natural biological membranes and to learn how to make membranes in the test tube with similar and new properties. The article will also be used to teach students to carry out research in molecular biology in the courses, Molecular Biology 390 (Special Topics and Advanced Techniques) and 399 (Ph. D. Dissertation Research).

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 21, 1977 that the article is capable of measuring the kinetics of radioactive calcium uptake. HEW further advises that (1) this capability is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-12781 Filed 5-3-77;8:45 am]

National Oceanic and Atmospheric Administration

ENVIRONMENTAL DATA SERVICE

The price list for satellite imagery products that follows is effective immediately and supersedes previously listed prices. Orders should be sent to the Satellite Data Services Branch, Room 606, World Weather Building, Washington, D.C. 20233. Remittances should be made payable to Commerce Department—NOAA.

T. P. GLEITER,
Assistant Administrator for Administration.

NATIONAL CLIMATIC CENTER

SATELLITE DATA SERVICES BRANCH

Environmental and Earth resources satellite imagery products price list—fiscal year 1977

Description:	New unit price
Black and white products:	
70mm contact paper print	$3.25
8 by 10 in contact paper print	3.25
10 by 10 in contact paper print [1]	3.25
9½ by 9½ in paper print enlargement	5.00
10 by 10 in paper print enlargement [1]	5.00
20 by 20 in paper print enlargement (from 70mm negative)	10.00
20 by 20 in paper print enlargement [1]	6.50
24 by 30 in paper print enlargement [1]	8.00
30 by 30 in paper print enlargement (from 70mm negative)	18.00
30 by 40 in paper print enlargement [1]	10.00
40 by 60 in paper print enlargement	14.00
70mm positive transparency	3.75
70mm duplicate negative	5.00
9½ by 9½ in positive transparency (from 70mm negative)	6.00
9½ by 9½ in duplicate negative (from 70mm negative)	8.50
10 by 10 in contact duplicate negative from positive [1]	4.50
10 by 10 in contact positive transparency from negative [1]	4.50
10 by 10 in contact negative from negative [1]	6.75
5 by 5 in negative from Skylab transparency	9.00
Glass-mounted lantern slide of 70mm positive transparency	4.75
Duplicate 35mm mounted slide from 35mm slide	2.50
3¼ by 4¼ in glass-mounted lantern slide from 10 by 10 in negative	6.25
35mm slide from transparency, print or art	3.75
35mm slide from negative	6.25
16mm 100 ft roll (browse file duplicate)	12.00
Construct original 16mm operational movie loop (3 h)	20.00
Construct original 16mm operational movie loop (6 h)	30.00
Construct original 16mm operational movie loop (12 h)	40.00
Construct original 16mm operational movie loop (24 h)	80.00
Duplicate of 16mm TV movie, 50 ft strip (positive or negative)	7.00
Duplicate of operational "Winds" loops (positive to positive)	12.00
Duplicate of 100 ft roll 35mm positive microfilm	12.00
Duplicate of 100 ft roll 35mm negative microfilm	12.00
Color products:	
9½ by 9½ in paper print from color composite negative	8.50
20 by 20 in paper print enlargement	24.00
30 by 30 in paper print enlargement	44.00
24 by 30 in paper print enlargement	40.00
30 by 40 in paper print enlargement	50.00
40 by 60 in paper print enlargement	64.00
11 by 14 in paper print enlargement	17.00
16 by 20 in paper print enlargement	26.00
9½ by 9½ in transparency (positive)	17.00
8 by 8 in color composite negative [2]	50.00
5 by 5 in intermediate negative [3]	10.00
Duplicate of 35mm mounted slide	3.75
70mm 3¼ by 4 in glass-mounted lantern slide	6.75
35mm slide from transparency, print or art	3.75
35mm slide from negative	6.75
3¼ by 4 in glass-mounted lantern slide from a negative	6.75

NOTE.—For all products, please specify matte or glossy for print finish.

[1] 25¢/scene should be added to items requiring gridding.

[2] This is a 1-time setup or service charge that is added to the price of a color product whenever this color negative has not previously been produced. It is required to cover the cost of producing this intermediate working master.

[3] This is a 1-time charge required for a Skylab product when this intermediate negative has not previously been made.

[FR Doc.77-12735 Filed 5-3-77;8:45 am]

TAKING AND IMPORTING OF MARINE MAMMALS

Methodology for Monitoring Porpoise Mortality Quotas

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Final Notice.

SUMMARY: Adoption of revision to the methodology published at 41 FR 43726.

EFFECTIVE DATE: Immediate.

FOR FURTHER INFORMATION CONTACT:

W. P. Jensen, 202-634-7461.

SUPPLEMENTARY INFORMATION: On March 11, 1977, the National Marine Fisheries Service published in the FEDERAL REGISTER (42 FR 13574) proposed revisions to the methodology by which NMFS will determine the date for prohibiting encircling certain species/stocks of porpoises with purse seines if this becomes necessary to comply with quota limits. Comments were received from one

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respondent regarding the proposed revisions which suggested several minor changes or modifications. After due consideration, the methodology has been modified where necessary and is hereby adopted by the National Marine Fisheries Service.

METHODOLOGY FOR ESTIMATION OF PORPOISE MORTALITY AND PROJECTION OF THE DATE WHEN PORPOISE STOCK QUOTAS WILL BE REACHED

I. Definitions.—The following definitions are for terminology used in the methodology.

Area Under Consideration.—The estimate is to be based on porpoise kill by stock in the course of tuna fishing only in the area bounded by 40° N latitude, 40° S latitude, 160° W longitude and the coastline of the North and South American continents.

Days at Sea.—Days at sea are defined as the sum of the day of departure (or January 1 if departure occurred prior to that date), day of return and days in between, minus any days spent in foreign ports due to seizure by a foreign country. In the case of a vessel that is forced to spend time in a foreign port, the day the vessel was brought into port and the day that it left are counted as days at sea.

Vessel Trips.—A vessel trip is a trip by a U.S. flag purse seiner carrying a holder of a valid Certificate of Inclusion which at any time during the trip transverses the area under consideration.

Open Trip.—(1) Open season trip: A U.S. vessel is on an open season trip if it departs prior to the closure of the open season as defined by the IATTC; (2) Last free trip: A U.S. vessel is on a last free trip if it was in port prior to the closure of the open season and left port within 30 days of closure.

Regulated Trip.—(1) Regulated inside trip: A U.S. vessel is on a regulated inside trip if it is fishing inside the IATTC regulatory area (CYRA) after the closure of the open season and does not qualify for a last free trip; (2) Regulated outside trip: A U.S. vessel is on a regulated outside trip if it is fishing west of the CYRA after the closure of the open season.

Week.—A week starts on or after Monday and extends through the following Sunday.

II. Data Sources.—Data on number of trips and days at sea for the U.S. purse-seine fleet will be compiled from the records maintained by the Southwest Regional Office of the National Marine Fisheries Service.

Data on porpoise kill-per-day-at-sea will be obtained from NMFS observer reports for completed trips. Data from trips at sea will be obtained through radio reporting from vessels with observers abroad.

Porpoises of "unknown" status will be prorated on a species basis to the categories of live, dead, and injured based on the proportions of these categories among animals of known status for completed trips in 1977. For trips still at sea in 1977, only data involving known dead will be obtained by radio. A proration factor will be determined by the ratio-of-averages method from data of completed trips in 1977 and applied to data from trips at sea in 1977.

III. Allocation of the Observed Vessels.—The observer program for the 1977 yellowfin tuna fishing season requires each of the vessels (400 tons carrying capacity or greater built after 1960) to carry an observer on at least one trip. Observers will be placed less frequently abroad all other vessels. The allocation of the number of observed vessels on a monthly basis was determined based on the distribution of vessel trips and the variation of the kill through the year 1976. For each month, a predetermined number of vessels will be randomly selected from the vessels in port. A minimum of 130 observer trips are planned beginning when fishing for yellowfin tuna associated with porpoise commences under the 1977 permit.

The allocation by month may be modified as the season progresses, depending on the seasonal distribution of the fishing effort.

IV. Statistical Methodology.—The statistical methodology is used to estimate the porpoise mortality by stock on a real-time basis. The 1977 regulations require purse seiners to be equipped with 1¼" mesh porpoise safety panels. Because not all the vessels will receive the 1¼" mesh webbing in time, some vessels will still use the conventional (2" mesh) gear. The vessels with fine mesh systems are expected to have lower kill rates. Thus the whole fleet will be classified into vessels with conventional gear and fine mesh gear. In each of these two gear categories, each of the vessels will be classified in one of the vessel classes: Class I: vessels with capacity ≤400 tons, Class II: vessels with carrying capacity >400 tons built before 1961, and Class III: vessels with carrying capacity >400 tons built after 1960. The porpoise mortality rate for each of the vessel classes is different. The kill contributed by Class I has decreased from 26% in 1972 to 0.03% in 1976 of the total bill. Class II vessels are more variable with 28% in 1975 and 0.97% in 1976. Class III contributed about 99% of the total mortality in 1976.

In addition, the Class III vessel trips will be stratified according to the time of fishing and the locality of fishing (i.e., inside or outside the CYRA).

Trip 1: The trips with days at sea on or after January 1 through the end of the week containing the closure date set by IATTC.

Trip 2: The trips with days at sea on or after the first week following Trip 1 through approximately July 3.

Trip 3: Trips with days at sea on or after approximately July 4 through the rest of the year.

Within each trip type, the Class III vessels will be further stratified as open trips or regulated trips (Table 1).

Table 1

The layout of the strata for vessel trips [within gear category] for 1977

Trip 1	Trip 2	Trip 3
Jan. 1 through the end of week containing the closure date by IATTC	The first week following Trip 1 to approximately July 3rd*	From July 4th* to approximately December 31
Class I (1)		
Class II (2)		
Class III		
Open (3)	Open (4) / Regulated (5)	Open (6) / Regulated (7)

( ): Stratum Number

* Historical division date between open and regulated trips and is expected to change for 1977.

If a stratum has data missing, then strata will be pooled within vessel size class.

The mortality of each stock will be estimated by gear-type for each stratum using kill-per-day statistics from the observed vessels, multiplied by the total days at sea for all U.S. vessels with certificate holders aboard at the end of each week: For the ith stratum, $i=1,\ldots,14$,

let B_i = total number of vessel trips (completed or still at sea)

n_i = number of observed trips

D_i = total number of days at sea for all U.S. vessels with certificate holders aboard

X_{ijk} = the total kill for the jth stock by the kth observed vessel

$d_{i\cdot k}$ = the number of days at sea for the kth observed vessel $k=1,2,\ldots,n_i$,

Y_{ij} = the sample kill-per-day for the jth stock

$\hat{T}_{ij}$ = the estimated total kill for the jth stock

$\hat{T}_{\cdot j}$ = the estimated total kill for the jth stock for the whole fleet.

We have:

$$Y_{ij} = \frac{\sum_{k=1}^{n_i} X_{ijk}}{\sum_{k=1}^{n_i} d_{i\cdot k}}$$

With variance

$$s^2_{\hat{T}_{ij}} = \frac{n_i(n_i-n_i)}{n_i}\,\frac{s^2_{X_{ij}}}{n_i}\left(\frac{s^2_{X_{ij}}}{\bar{X}^2_{ij}} + \frac{s^2_{d_{i\cdot}}}{\bar{d}^2_{i\cdot}} - 2\,\frac{\mathrm{cov}\,(X_{ij}, d_{i\cdot})}{\bar{X}_{ij}\,\bar{d}_{i\cdot}}\right)$$

where

$$\bar{X}_{ij} = \frac{\sum_{k=1}^{n_i} X_{ijk}}{n_i}$$

$$\bar{d}_{i\cdot} = \frac{\sum_{k=1}^{n_i} d_{i\cdot k}}{n_i}$$

$$s^2_{X_{ij}} = \frac{\sum_k (X_{ijk} - \bar{X}_{ij})^2}{n_i - 1}$$

$$s^2_{d_{i\cdot}} = \frac{\sum_k (d_{i\cdot k} - \bar{d}_{i\cdot})^2}{n_i - 1}$$

and $\mathrm{cov}\,(X_{ij}, d_{i\cdot}) = \frac{\sum_k (X_{ijk}\bar{X}_{i\cdot})\,(d_{i\cdot k} - \bar{d}_{i\cdot})}{n_i - 1}$

$$\hat{T}_{ij\cdot} = D_i\,Y_{ij}$$

With variance

$$s^2_{\hat{T}_{ij\cdot}} = D^2_i\,s^2_{Y_{ij}}$$

and $\hat{T}_{\cdot j\cdot} = \sum_{i=1}^{14} \hat{T}_{ij\cdot}$

With variance

$$s^2_{\hat{T}_{\cdot j\cdot}} = \sum_{i=1}^{14} s^2_{\hat{T}_{ij\cdot}}$$

The total mortality will be estimated weekly or by some other period depending on the amount of fishing on porpoise or on the number of porpoise killed relative to the level of the quota. At the end of each calculation period, the date on which the quota for each species or stock will be reached will be projected.

It is intended that this methodology will be utilized to monitor the kill of porpoises for 1977. However, the methodology may be modified without further notice in whole or in part if unforeseen circumstances arise and it is deemed necessary to modify the methodology.

Results of each calculation will be available to the public in the latter part of the following week. The effective date when fishing on porpoise of certain stocks will be prohibited will be published in the FEDERAL REGISTER not less than 7 days prior to that date.

Dated: April 27, 1977.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.77-12541 Filed 5-3-77;8:45 am]

TAKING OF EASTERN SPINNER DOLPHINS IN THE COURSE OF YELLOWFIN TUNA PURSE SEINE OPERATIONS

Enforcement Policy

On March 1, 1977, National Marine Fisheries Service (NMFS) published in the FEDERAL REGISTER its final decision (42 FR 12015) and regulations (42 FR 12010) concerning the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean. This decision and the regulations implementing it (50 CFR 216.-24) authorized the issuance of a permit to allow the taking of limited numbers of certain species of porpoises in the course of tuna purse seining, and were based on evidence received at a formal hearing.

One of the decisions made by NMFS as a result of the hearing was that the population of one of the porpoise stocks encountered in the tuna purse seine fishery, that of the eastern spinner dolphin, was "depleted" within the meaning of section 3(1) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1362(1). Under the Act, there can be no taking of a depleted stock of marine mammals.

During the hearing, testimony was presented on the difficulty of identifying the different species and stocks, and on the degree of error in attempting identification. After the close of testimony both the Environmental Defense Fund and the Marine Mammal Commission recommended to the National Marine Fisheries Service that an accidental take of up to 6500 eastern spinners be permitted. This level of mortality would allow the population of this stock to increase with virtual certainty.

At the hearing it was established that there are circumstances where an unintentional and accidental mortality would occur. Moreover, there is evidence that once a set involving porpoise has begun, aborting the set is extremely difficult, if not impossible, and there may be more harm done to porpoises by attempting to abort the set than by continuing it. Accordingly, the Administrator of NOAA stated that he would follow a policy of reasonable enforcement of the regulations and not punish accidental takings of eastern spinner porpoises by those who in good faith complied with the regulations.

Based on these recommendations and considerations, and the discretion given to the Secretary of Commerce in imposing penalties for violations of the Act under section 105(a) of the MMPA, the National Marine Fisheries Service is adopting the following reasonable enforcement policy on the accidental taking of eastern spinner dolphins in the tuna purse seine fishery:

If at the time the net skiff is released from the vessel attached to the net at the start of a set, no eastern spinners are observed in the herd of porpoise upon which the set is being made, the fact that eastern spinners are subsequently encircled or killed in the course of completing that set will not be cause for issuance of a notice of violation or assessment of penalty, provided that all procedures required by the applicable regulations have been followed.

The numbers of eastern spinners encircled or killed will be recorded and this policy will be reviewed periodically in light of its effect on the eastern spinner population.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

APRIL 29, 1977.

[FR Doc.77-12823 Filed 5-3-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ADVISORY COMMITTEE ON GEOTHERMAL ENERGY, GEOPRESSURE SUBCOMMITTEE

Meeting

APRIL 28, 1977.

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Geopressure Subcommittee of the Advisory Committee on Geothermal Energy will hold its first meeting on Thursday, May 19, 1977, from 10 a.m. to 3 p.m., VIP Room, Thompson Conference Center, University of Texas, Austin, Texas. This meeting will be open to the public. The purpose of this meeting is: to review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; in particular, to discuss and to provide advice on programs and approaches to effective government-industry cooperation with respect to geothermal geopressure problems in the development of geothermal energy.

The tentative agenda for the meeting is as follows:

10 a.m.—Introductory Remarks—Mr. R. C. Repper, Chairman.
10:30 a.m.—Progress and Activities Report on the Texas Geopressure Project—Dr. M. H. Dorfman and others.
12 noon.—Lunch.
1 p.m.—Review of ERDA Geopressure Plans—J. K. Westhusing
2 p.m.—Subcommittee Discussion.
3 p.m.—Adjourn.

Practical considerations may dictate alterations in the above agenda. This will be a working meeting and the Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than May 12, 1977, to the Director, Division of Geothermal Energy U.S. Energy Research and Development Administration, 20 Massachusetts Avenue, NW., Washington, D.C. 20545. Comment shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on May 16, 1977, to the Division of Geothermal Energy, Energy Research and Development Administration, Helen Krupovich on 202-376-4904 between 8:30 a.m. and 5 p.m., e.s.t.

(c) Questions at the meeting may be propounded only by members of the Subcommittee and ERDA officials assigned to participate with the Subcommittee in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during the recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, NW., Washington, D.C. 20545.

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upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-12747 Filed 5-3-77;8:45 am]

GEOTHERMAL ENERGY

Request for Expression of Interest for a Geothermal Demonstration Power Plant

INTRODUCTION AND PURPOSE

The Energy Research and Development Administration (ERDA) is requesting an expression of interest (REI) from organizations desiring to participate in a demonstration project for the utilization of geothermal energy for electric power generation. The demonstration will be a commercial-size plant constructed and operated under realistic industrial conditions. The intent is to demonstrate to industry that electric energy can be generated economically from liquid-dominated geothermal resources in an environmentally and socially acceptable manner. Successful demonstration will reduce the uncertainties that attend the utilization of geothermal resources for power production and will thereby advance the realization of geothermal energy as an option for meeting national energy needs. The expression of interest is intended to obtain information about who is interested in geothermal exploitation and their capabilities for conducting a demonstration project.

INTENDED DEMONSTRATION PROJECT

ERDA plans to initiate a commercial-scale (50 megawatts electrical or greater) demonstration project in Fiscal Year 1978. Joint industry and government funding of construction and operation of the project is anticipated. The project will be located at a site where reservoir development work is already underway in order to accelerate geothermal development in the near term.

The plant is intended to demonstrate commercial generation of electric power using a high-temperature, low-to-moderate salinity resource with a binary fluid, flashed-steam or a fossil-geothermal hybrid conversion cycle. Target date for power-on-line is 1982 or earlier.

FUTURE DEMONSTRATION PROJECTS

The ultimate objective of the demonstration program is to accelerate the pace of commercial application of geothermal energy. In order to accomplish this objective, it is likely that future demonstration projects, in addition to the one mentioned above, will be considered for other resource types (e.g., geopressured) in other regions of the nation with large promise for geothermal development. The magnitude of the demonstration program that would be needed will be determined in large part by the results of several current Federal policy and planning studies. The information ERDA gathers from this request for an expression of interest is expected to exert substantial influence on these studies. Therefore, respondents are encouraged to submit any additional information that will assist ERDA in formulating Federal plans for future demonstration projects. For example, if respondents are unable to fulfill the criteria provided for the first planned demonstration plant, ERDA would like to know what additional activities are planned by the respondent which would meet the criteria by a later date.

INSTRUCTIONS

Responses to this REI are requested on or before June 20, 1977. This request for an expression of interest is not a request for proposal and does not commit the Government to contract with any party or to pay any costs incurred in connection with preparing and submitting any response.

A suggested format for an expression of interest is presented as an Appendix to this publication. Respondents that are unable to address all of the information of interest in the Appendix are nevertheless encouraged to provide that information which is readily available. Nor is it necessary to reformat information which currently exists in corporate format. Information which is not readily available is not expected to be created for this expression of interest.

Respondents may mark trade secrets and commercial or financial information "Company Confidential." Information so marked will be accorded the treatment provided in ERDA PR 9-3.150 for proprietary data and priviledged business information contained in proposals, except that information will be reviewed for planning purposes instead of evaluation purposes. Accordingly, data marked "Company Confidential" will be disclosed only to designated Government personnel and a limited number of non-Government personnel under the circumstances specified in ERDA PR 9-150-5. Submissions will be returned after review if requested.

Expressions of interest should reference this request and be submitted to:

Dr. James C. Bresee, Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

Inquiries relative to this request for expressions of interest should be directed to A. G. Follett, Mission Team Leader, Saline Hydrothermal, telephone 202-376-1690.

GENERAL CRITERIA FOR SUCCESSFUL DEMONSTRATION

Analysis of Government involvement in past demonstrations of all kinds indicates that three general criteria must be observed to ensure success.

1. A clear rationale for Federal involvement must be presented. It must be evident that exploitation by private enterprise alone is not likely, or that it will be slow in coming. In any case, Federal involvement must materially add to the likelihood of success of the demonstration and the rate of exploitation of geothermal resources. It should be noted that ERDA cannot participate in a project which would be eligible for loan guaranty under Pub. L. 93-410.

2. A demonstration is warranted only if lesser or partial measures, such as pilot plants or test beds, will be inadequate to produce the desired results. It should be evident that other Federal activities, such as reduction of institutional roadblocks, will not in themselves adequately accelerate geothermal energy development unless accompanied by a commercial-scale demonstration.

3. The third criterion includes a number of factors that directly influence the commercialization of the project; for example,

The technology for the demonstration should already be established. It is unwise to mix R&D with a commercial demonstration.

Participants in the eventual commercial process—field developers, utilities, and the financial community—should be involved in the planning and execution of the project.

Clear arrangements must be made at the outset for commercial acquisition and Federal withdrawal at the project's conclusion.

The development schedule should be realistic in the light of construction and drilling time and technical complexity.

SPECIFIC CRITERIA FOR GEOTHERMAL DEMONSTRATION PROJECT

Beyond the general criteria discussed above, several specific criteria are essential to the success of a geothermal demonstration:

The demonstration project must offer timely acceleration of the exploitation of a specific geothermal resource type with significant national development potential.

The demonstration must be conducted under realistic conditions.

The project must exploit a reservoir of demonstrated commercial production potential beyond that represented by the demonstration plant by at least an additional 150 MW.

The project planning should include a schedule for commercial expansion.

The objectives of the demonstration must be clearly defined.

The project planning should include appropriate environmental safeguards and water resource evaluation.

State and local attitudes should be favorable to the demonstration.

Inasmuch as the intent of the demonstration program is to accelerate the pace of geothermal exploitation by U.S. industry, consideration of responses for eventual Government costsharing will be limited to U.S. participants.

The planned schedule for a Demonstration Plant would require a proven reservoir and technology that is well in hand.

DONALD A. BEATTIE,
Acting Assistant Administrator for Solar, Geothermal, and Advanced Energy System.

APPENDIX

RESPONSE FORMAT

The type of information desired, if available is outlined below. Any proprietary information submitted should be specifically identified.

SECTION I. General information concerning the following: Participating organizations; Organization and management; Experience and competence in electric power generation; Experience and competence in reservoir development and fluid production.

SECTION II. Project information relating to: Location; Geology; Reservoir type and characteristics; Reservoir reserves; Seismological stability; Accessibility; Cooling water availability and requirements; Zoning and land use restrictions; Project scale; Energy conversion process, description; Means for disposal of spent geothermal fluid; Environmental control technology.

SECTION III. Planned schedule for the following: Reservoir definition and capacity; Design; Permitting; Construction; Operation; Expansion.

SECTION IV. Business arrangements considered appropriate concerning: Cost and risk sharing, including patent arrangements; Federal Government and private sector participation.

SECTION V. Information on other factors such as: 1. Local, state, and public acceptance and participation; 2 Environmental considerations; 3. Plans for collecting, processing, and transferring to the public sector design, construction, and operation data and experience; 4. Restriction on technology transfer due to proprietary information; 5. Actual or anticipated impediments.

[FR Doc.77-12810 Filed 5-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CANADIAN FM BROADCAST STATIONS

Table of Channel Assignments and Allocations

APRIL 27, 1977.

Amendment of Table A of The Canada-U.S.A. FM Broadcasting Agreement of 1947, Supplement No. 1; (to the Table of Canadian FM broadcasting channel assignments and allocations within 250 miles of the Canada-U.S.A. border, dated April 22, 1977, as revised April 12, 1977).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. FM Broadcasting Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

The allocations below have been deleted from Table A.

Location	*Channel No.*
Amherst, Nova Scotia	244C
New Castle, New Brunswick	257C
Antigonish, Nova Scotia	256C
Dalhousie, New Brunswick	289C

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone (202) 452-1422.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

FM engineering data base listing, Federal Communications Commission, Broadcast Bureau

[Unofficial secondary source. Use primary sources for official information]

Canmore, Alberta	250 A	51-05-00.0	United States of America	770421
	97.9	115-21-00.0		
Exshaw, Alberta	264 A	51-03-00.0	do	770421
	100.7	115-09-00.0		
Lethbridge, Alberta	282 B	49-42-00.0	do	770421
	104.3	112-50-00.0		
Pincher Creek, Alberta	248 A	49-29-00.0	do	770421
	97.5	113-57-00.0		
Dalhousie, New Brunswick	278 B	48-03-54.0	do	770421
	103.5	66-22-37.0		
New Castle, New Brunswick	289 B	47-00-04.0	do	770421
	105.7	65-34-01.0		
Amherst, Nova Scotia	257 B	45-49-44.0	do	770421
	99.3	64-12-25.0		
Antigonish, Nova Scotia	295 C	45-37-26.0	do	770421
	106.9	61-59-35.0		
Church Point, Nova Scotia	240 A	44-20-10.0	do	770421
	95.9	66-07-00.0		
Dryden, Ontario	265 C	49-45-49.0	do	770421
	100.9	92-40-52.0		
Do	274 B	49-45-49.0	do	770421
	102.7	92-40-52.0		
Osnaburgh, Ontario	283 A	51-13-35.0	do	770421
	104.5	90-13-41.0		
Pickle Lake, Ontario	286 A	51-28-41.0	do	770421
	105.1	90-11-00.0		
Savant Lake, Ontario	285 A	50-15-30.0	do	770421
	104.9	90-42-00.0		
Sioux Narrows, Ontario	239 A	49-25-43.0	do	770421
	95.7	94-03-44.0		
Charlottetown, Prince Edward Island	245 C	46-14-17.0	do	770421
	96.9	63-07-37.0		

[FR Doc.77-12544 Filed 5-3-77;8:45 am]

CANADIAN FM BROADCAST STATIONS

Table of Channel Allocations

APRIL 18, 1977.

Amendment of Table A of the 1963 working arrangement for allocations of FM broadcast stations under the Canada-U.S.A. FM Agreement of 1947, Supplement No. 3; (to the Table of Canadian FM broadcasting channel allocations within 250 miles of the Canada-U.S.A. border, dated May 16, 1973, as revised to April 1, 1973).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the FM Working Arrangement has been amended as follows:

Location	Channel No. Delete	Channel No. Add
Canmore, Alberta		250A
Exshaw, Alberta		264A
Lethbridge, Alberta		282B
Pincher Creek, Alberta		248A
Albert Bay, British Columbia		286A
Burns Lake, British Columbia		256B
Camp Woss, British Columbia		225B
Fort Fraser, British Columbia		275B
Hope, British Columbia	236A	269A
Lytton, British Columbia		272B
Oliver, British Columbia	260B	263B
Dalhousie, New Brunswick	289C	278B
New Castle, New Brunswick	257C	289B
Amherst, Nova Scotia	244C	257B
Antigonish, Nova Scotia	256C	295C
Church Point, Nova Scotia		240A
Dryden, Ontario		265C, 274B
Orillia, Ontario	245A	
Osnaburgh, Ontario		283A
Penetanguishene, Ontario		243B
Pickle Lake, Ontario		286A
Savant Lake, Ontario		285A
Sioux Narrows, Ontario		239A
Charlottetown, Prince Edward Island		245C
Montreal, Quebec	257A [1]	
Sept-Iles, Quebec		245C
Ste. Adele, Quebec		258B
St. Agathe des Monts, Quebec	258A	

[1] Special negotiated short-spaced allocation.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20006, telephone (202) 452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.77-12545 Filed 5-3-77;8:45 am]

CANADIAN TELEVISION BROADCAST STATIONS

Table of Channel Allocations

APRIL 18, 1977.

Amendment of Table A of The Canada-U.S.A. TV Agreement of 1952 (TIAS-2594), Supplement No. 4 (to the Table of Canadian television channel allocations within 250 miles of the Canada-U.S.A. border, dated December 6, 1974, as revised to September 12, 1974).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. Television Agreement has been amended as follows:

Location	Channel No. Delete	Channel No. Add
Etsikon, Alberta: 49°33'59" N., 111°07'52" W.		12+L(1)
Burns Lake, British Columbia: 54°15'25" N., 125°40'36" W.		4+
Houston, British Columbia: 54°26'35" N., 126°39'30" W.		2+L(2)
Smithers, British Columbia: 54°44'28" N., 126°58'59" W.		5+
Dryden, Ontario: 49°45'49" N., 92°40'52" W.		6
Hearst, Ontario	7	7L(3)

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Location	Channel No. Delete	Add
Kenora, Ontario: 49°46'13" N., 94°30'19" W.		2+
Sioux Lookout, Ontario: 50°04'31" N., 92°01'40" W.		12+L(4)
Mont Climont, Quebec	11L(5)	13+L(6)
Mt. Louis en Haut, Quebec		19
Rimouski, Quebec		11−L(7)
Sept-Iles, Quebec	11−	11+L(8)
Shawinigan, Quebec	43	
Ste Anne des Monts, Quebec		8−L(9)
Trois Rivieres, Quebec		28

L(1)—Limitation to protect CFCN–TV–1, Drumheller, Alberta, and a cochannel allocation at Swift Current, Saskatchewan.
L(2)—Limitation to protect CKPG–TV, Prince George, British Columbia.
L(3)—Limitation to protect CFCL–TV–6, Chapleau, Ontario.
L(4)—Limitation to protect a cochannel allocation at Thunder Bay, Ontario.
L(5)—Limitation to 1.250 dbk EHAAT of 732 ft with specified pattern.
L(6)—Limitation to protect CBST, Sept-Iles, Quebec, a cochannnel allocation at Gaspe, Quebec, and CJBR–TV–1, Edmonston, New Brunswick.
L(7)—Limitation to protect CBVT, Quebec, Quebec.
L(8)—Limitation to protect Rimouski, Quebec.
L(9)—Limitation of 100 kW ERP and 1,500 ft EHAAT at site 49°06'06" north latitude, 66°20'12" west longitude, to protect WAGM–TV, Presques Isle, Maine.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone (202) 452–1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.77–12546 Filed 5–3–77;8:45 am]

MEXICAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Mexican list No. 279, Mar. 3, 1977

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		540 kHz							
XEWA	Monterrey, N.L., N. 25°40'15", W. 100°18'30".	0.500D/0.500N.	ND–U–175	U	II	118	120	455	Immediately.
		670 kHz							
XE	Juchitan Salina, Oax., N. 16°25'56", W. 95°01'31".	5.000	ND–D–190	D	II	367	120	367	Aug. 30, 1977.
		680 kHz							
XELG	Leon, Gto., N. 21°07'28", W. 101°41'01".	10.000D/ 5.000N.	ND–D–190 DA–N	U	II	*362*	*120*	*362*	Immediately.
XETN	Moroleon, Gto., N. *20°07'54", W. 101°11'36".*	.250	ND–D–*190*	D	II	*352*	*120*	*352*	Aug. 30, 1977.
		760 kHz							
XE	Monterrey, N.L. N. 25°41'00", W. 100°18'25".	5.000	DA–D	D	II				Do.
		770 kHz							
XEGK	Tamazunchale, SLP., N. *21°16'00", W. 98°47'18".*	1.000	ND–D–*190*	D	II	*322*	*120*	*322*	Do.
		810 kHz							
XEFW	Tampico, Tam., N. 22°13'05", W. 97°51'07".	50.000D/ 50.000N	ND–D–*184* DA–N	U	II	*295*	*90*	*295*	Immediately.
		830 kHz							
XEUA	Zacatecas, Zac., N. *22°46'30", W. 102°0'48".*	1.000	ND–D–190	D	II	296	120	296	Aug. 30, 1977.
		840 kHz							
XEFG	Celaya, Gto., N. 20°30'53", W. *100°46'15".*	1.000	ND–D–176	D	II	246	120	246	Immediately.
		850 kHz							
XETQ	Orizaba, Ver., N. 18°50'40", W. 97°05'57" (PO 10.000 kWU, ND–D–225, DA–N).	100.000D/ 50.000N	ND–D–*190* DA–N	U	I–B	*285*	*120*	*285*	Aug. 30, 1977.
		860 kHz							
XERPN	Cd. Juarez, Chih., N. 31°42'43", W. 106°23'38".	1.000D/0.500N.	ND–D–190 DA–N	U	II	*286*	*120*	*286*	Do.
		860 kHz							
XENL	Monterrey, N.L., N. 25°40'11", W. 100°18'26".	5.000D/2.000N.	ND–D–190 DA–N	U	II	*289*	*120*	*289*	Immediately.
		870 kHz							
XEACC	Pto. Escondido, Oax., N. 15°50'29", W. 97°05'19".	.250	ND–D–*190*	D	II	283	120	283	Aug. 30, 1977.
		880 kHz							
XEPNK	Los Mochis, Sin., N. *25°48'19", W. 108°52'12".*	5.000	ND–D–*190*	D	II	*280*	*120*	*280*	Do.
		960 kHz							
XE	Culiacan, Sin., N. 24°48'06", W. 107°24'01".	.500	ND–D–190	D	III	256	120	256	Do.
		980 kHz							
XEOT	S Pedro De L C, Coah. N., *25°45'24", W. 102°59'01".*	0.500D/0.500N.	ND–U–*184*	U	III	*246*	*90*	*262*	Do.
		980 kHz							
XEQG	Queretaro, Qro., N. 20°27'00", W. 100°24'00".	1.000D/.150N.	DA–D ND–N–190	U	III	*249*	*120*	*249*	Immediately.
		1000 kHz							
XE	Rio Bravo, Tam., N. 25°58'00", W. 98°06'45".	.250	ND–D–*175*	D	II	*194*	*90*	*256*	August 30, 1977.
		1020 kHz							
XEBR	Macuspana, Tab., N. *17°45'00", W. 92°35'00".*	1.000D/.100N.	ND–U–*195*	U	II	*295*	*120*	*295*	Do.
		1030 kHz							
XEVR	Ixtlan Del Rio, Nay., N. *21°02'09", W. 104°22'16".*	.250	ND–D–*195*	D	II	*295*	*120*	*295*	Do.
		1040 kHz							
XE	Tlaxiaco, Oax., N. 17°15'39", W. 97°40'58".	1.500	ND–D–*190*	D	II	237	*120*	237	Do.
		1080 kHz							
XE	Itacuaro, Mich., N. 19°26'21", W. 100°20'20".	.500D/.150N.	ND–U–190	U	II	228	120	228	Do.
		1140 kHz							

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
XETE	Tehuacan, Pue., N. *18°27'51". W. 97°23'30".*	1.000	ND–D–175	D	II	194	90	194	Immediately.
		1370 kHz							
XERPL	Leon, Gto., N. 21°04'39", W. 101°46'44".	1.000D/.150N.	DA–D ND–N–*190*	U	III	197	*120*	197	Do.
		1390 kHz							
XE8X	Tuxtla Gtz, Chis., N. *16°45'50", W. 93°07'04".*	5.000	ND–D–190	D	III	177	120	177	Aug. 30, 1977.
		1400 kHz							
XENAY	Ahuacatlan, Nay., N. *21°02'08", W. 104°29'07".*	0.250D/0.300N.	ND–U–*170*	U	IV	*151*	90	*151*	Immediately.
XEPG	Veracruz, Ver., N. *19°12'08", W. 96°08'15".*	*1400 kHz* .250D/.250N.	ND–U–*184*	U	IV	*177*	*90*	*177*	Aug. 30, 1977.
		1430 kHz							
XETI	Temposi, Ver., N. 21°31'00", W. 98°22'00" (PO 0.500 kWD).	*1.000*	ND–D–184	D	III	172	90	172	Do.
		1460 kHz							
XELX	Zitnacuaro, Mich., N. 19°26'21", W. 100°20'20".	10.000D/ 10.000N.	ND–D–*184* DA–N	U	III	*171*	90	*180*	Immediately.
XEKI	Villa De Seris, Son., N. 29°03'30", W. 110°57'30".	*1510 kHz* .250	ND–D–*190*	D	II	*164*	*120*	*164*	Aug. 30, 1977.
		1510 kHz							
XEYQ	Fresnillo, Zac., N. *23°10'35", W. 102°52'39".*	1.000	ND–D–184	D	II	*157*	*90*	*157*	Do.
		1560 kHz							
XEOEC	Panzacola, Tlax., N. 19°06'30", W. 98°12'00".	1.000	DA–D	D	II				Do.
		1600 kHz							
XELZ	Torreon, Coah., N. 25°32'18", W. 103°27'55".	1.000	ND–D–*184*	D	III	157	90	157	Do.

[FR Doc.77–12548 Filed 5–3–77;8:45 am]

APRIL 27, 1977.

SPARTAN BROADCASTING CO.

Petitions for Reconsideration of Actions in Rulemaking Proceedings and Other Proceedings Filed

Docket or RM No.	Rule No.	Subject	Date received
	Sec. 76.92(d)	Amendment of pt. 76, subpt. F of the Commission's rules and regulations concerning the network program nonduplication protection requirements of sec. 76.92. Filed by Michael S. Horne, attorney for Spartan Radiocasting Co.	Apr. 21, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before May 19, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–12547 Filed 5–3–77;8:45 am]

[Docket No. 21227, File No. BPH–9711;
Docket No. 21228, File No. BPH–9839]

GILBERT LEIVAS AND O.M. BROADCASTING INC.

Construction Permit Applications

Adopted: April 26, 1977.

Released: April 29, 1977.

In re applications of Gilbert Leivas, d/b/a B.I.N.A. Broadcasting Co., Parker, Arizona, requests: 99.3 MHz, Channel No. 257; 3 kW (H), 2.950(V);-121 feet (H),-141 feet (V); and O.M. Broadcasting, Inc., Parker, Arizona, Requests: 99.3 MHz, Channel No. 257; 200 W (H&V); 960 feet (H & V).

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications of Gilbert Leivas, d/b/a B.I.N.A. Broadcasting Co. (hereinafter "Leivas"), and O.M. Broadcasting, Inc. (hereinafter "O.M."), for a new FM broadcast station at Parker, Arizona.

2. Analysis of O.M.'s financial data reveals that $60,223 will be required to construct and operate the proposed station for one year, without reliance upon revenues, itemized as follows:

Downpayment on equipment	$ 4,555
First-year payment on equipment with interest	6,104
Interest on bank loan	7,800
Miscellaneous	12,750
Working capital (first year)	29,014
Total	60,223

O.M. plans to finance construction and operation of the proposed station with existing capital and a bank loan. However, the necessary funds do not appear to be available. First, O.M.'s balance sheet, dated October 31, 1976, shows current liabilities well in excess of current liquid assets. Second, as evidence of the availability of the bank loan, O.M. has submitted a letter of commitment from The State Bank, Parker, Arizona, which states that the bank will lend $65,000 in the event it is called upon to execute the loan. However, the letter of commitment does not contain all of the information required by Section III, page 3, paragraph 4 (E) of the application (FCC Form 301. Particularly, while the letter indicates that appropriate documents, security, and signatures will be requested, it does not state what these documents, security, or signatures will be, making it impossible for O.M. to demonstrate that it will be able to meet the bank's terms and secure the necessary funds. Thus, since O.M. has not shown the availability of any existing funds to meet the $60,223 requirement, and has also not shown that it may rely upon a bank loan for the necessary amount, a financial issue will be specified.

3. Data submitted by the applicant indicates that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and population which would receive FM service of 1 mV/m or greater intensity together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purposes of determining whether a comparative preference should accrue to either of the applicants.

4. Finally, Leivas has requested waiver of § 73.210(a)(2) of the Commission's Rules to permit its main studio to be located outside the city limits of Parker at a point other than its transmitter site. The proposed main studio will be located

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

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at the Old Tribal Jail Building on the Colorado River Indian Reservation approximately one quarter mile outside the Parker municipal boundary. In support of its request for waiver, Leivas asserts that all of Parker is within the Colorado River Indian Reservation, and that it is important to the applicant's concept of providing a broadcast service to the Indian Community that the station be located on tribal land. In addition, Leivas states that its studio site is being made available by the Tribe and that its availability relieves the applicant of the financial burden of leasing another site. Finally, Leivas notes that the proposed site is easily accessible to all residents of Parker. Specifically, it states that one quarter mile is a short distance, that the proposed site is accessible to Parker by a main road, and that there exist no gates or other security measures which would limit accessibility to the proposed studio. Under these circumstances, we believe that adequate justification has been provided for waiver if the Leivas application is granted.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Because they are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, *it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether O.M. Broadcasting, Inc. has available the funds required for construction and first-year operation of its proposed station without reliance on revenues to thus demonstrate its financial qualifications to be a Commission licensee.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

7. *It is further ordered*, That if the Leivas application is granted, the permit shall specify that the provisions of § 73.210(a)(2) of the Commission's Rules are waived to permit the establishment of the main studio outside the city limits of Parker, Arizona.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-12774 Filed 5-3-77;8:45 am]

[Docket No. 21185, File No. BPH-9755; Docket No. 21186, File No. BPH-9910]

BENJAMIN F. THOMAS, ET AL.

Construction Permit Applications

Adopted: April 21, 1977.

Released: April 27, 1977.

In re applications of Benjamin F. Thomas, Katherine L. Brown, and Jean Roby, d/b/a Berryville Broadcasting Co., Berryville, Virginia, Requests: 105.5 MHz, Channel 228; 3kW (H&V); 300 feet (H&V); and Joseph T. Kulpinski, Jr., Brian L. Leiter, and Kenneth F. Smith, d/b/a Berryville Media Group, Berryville Virginia, requests: 105.5 MHz, Channel 288; 3kW (H&V); 300 feet (H&V).

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications of Benjamin F. Thomas, Katherine L. Brown, and Jean Roby, d/b/a Berryville Broadcasting Co., and Joseph T. Kulpinski, Jr., Brian L. Leiter, and Kenneth F. Smith, d/b/a Berryville Media Group for a construction permit for a new FM broadcast station at Berryville, Virginia.

2. As amended February 7, 1977, Berryville Broadcasting's ascertainment of community needs and problems fails to comply with the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), in two respects. First, the applicant interviewed no leaders of the elderly in its proposed city of license, although this group is identified as a significant one in the community. Second, though Berryville Broadcasting indicates that interviews were held with three women who represent organizations of or for women, it fails to clearly identify the leadership position that these women hold in their organizations. (See Question and Answer 20 of the Primer.) Accordingly, a limited ascertainment issue will be specified.

3. Similarly, Berryville Media has failed to identify the leadership positions held by individuals that it states represent organizations of or for labor, women, and the elderly. Accordingly, a limited ascertainment issue will be specified against it as well.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and population which would receive FM service of 1 mV/m or greater intensity together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Berryville Broadcasting has requested waiver of § 73.210(a)(2) of the Commission's Rules to permit the main studio to be located outside the city limits of Berryville at its proposed transmitter site. In support of its waiver request, the applicant states, first of all, that combining the studio with the transmitter at the same site will significantly lessen operating expenses. Secondly, Berryville Broadcasting explains that land for the main studio is virtually unavailable within the Berryville city limits, and even if land were available it would be unaffordable. Finally, the applicant states that the proposed site is less than three miles from Berryville and is of easy access to people from the city and the surrounding rural community. Under these circumstances, we believe that adequate justification has been provided for waiver of the main studio rule if the application of Berryville Broadcasting is granted.

6. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they they must be designated for hearing in a consolidated proceeding.

7. Accordingly, *it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the efforts of Berryville Broadcasting Co. to ascertain the community problems of Berryville, Virginia, whether the applicant consulted with leaders of women and the elderly.

2. To determine with respect to the efforts of Berryville Media Group to ascertain the community problems of Berryville, Virginia, whether the applicant consulted with leaders of labor, women and the elderly.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

8. It is further ordered, That if the application of Berryville Broadcasting is granted, the permit shall specify that the provisions of § 73.210(a)(2) of the Commission's Rules are waived to permit the establishment of the main studio outside the city limits of Berryville, Virginia.

9. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this Order.

10. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-12775 Filed 5-3-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

INDUSTRIAL ENERGY CONSERVATION

Proposed Industrial Energy Efficiency Reporting Form and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice.

SUMMARY: To implement the direct reporting requirement in section 375(a) of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, the Federal Energy Administration (FEA), in accordance with section 375(b) of EPCA, hereby proposes to issue Form FEA-U524-P-O, Industrial Energy Conservation and Consumption Report, and invites the oral and written presentation of data, views, and arguments thereon by interested persons. When adopted, this form will be published in the FEDERAL REGISTER and will be furnished to certain corporations identified by FEA under section 373 of EPCA to enable them to comply with the direct mandatory reporting requirement of FEA's Industrial Energy Conservation Program.

DATES: Comments by May 17, 1977, 4:30 p.m.; requests to speak by May 10, 1977, 4:30 p.m.; statements by May 16, 1977, 4:30 p.m.; hearing to be held on May 17, 1977, at 9:30 a.m. In the event that substantial interest is expressed in proposed Form FEA-U524-P-D, the written comment period will be further extended.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3309, Federal Energy Administration, Box MF, Washington, D.C. 20461; statements to Regulations Management, Federal Energy Administration, Room 2214, 2000 M Street, NW., Washington, D.C. 20461. Hearing held at:

Federal Energy Administration,
Room 2105,
2000 M Street, N. W.,
Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Al Hayes, Federal Energy Administration, Conservation and Environment, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-3563.

SUPPLEMENTARY INFORMATION:

I. THE INDUSTRIAL ENERGY CONSERVATION PROGRAM

BACKGROUND

Part D. 42 U.S.C. 6341-6346, of Title III of EPCA requires that FEA implement, in consultation with the Department of Commerce (DOC) and the Energy Research and Development Administration (ERDA), a program to promote increased energy efficiency by American industry and to set voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive industries in the Nation. The program established by FEA includes the formulation of these targets and the semi-annual reporting by the chief executive officer (or other designated corporate officer) of identified energy-consumptive corporations of progress that each such corporation has made in improving its energy efficiency. This reporting must provide information to enable FEA to measure progress toward meeting the energy efficiency improvement target set for the industry of which the corporation is a part.

The mandatory reporting requirement that EPCA places on identified corporations is satisfied through one of two mechanisms: the indirect reporting to FEA of energy efficiency information through an "adequate voluntary reporting program" under the auspices, generally, of an industry trade association, or the reporting of such information directly to FEA via the form being proposed by this notice.

FEA does not require the filing of a direct report if an identified corporation participates in an adequate voluntary reporting program and applies for and is granted an exemption from the direct reporting requirement in accordance with section 376(g) of EPCA. The proposed list of corporations exempt from the direct reporting requirement was published in the FEDERAL REGISTER on March 23, 1977 (42 FR 15731). An adequate voluntary reporting program is one that provides information to measure progress toward the energy efficiency improvement target set for the industry of such program, in accordance with criteria specified in the November 24, 1976 FEDERAL REGISTER notice (41 FR 51866).

To establish the industrial energy conservation program authorized by EPCA, FEA has undertaken a number of actions. Under section 373 of EPCA, FEA is required to identify and rank in order of energy consumption each major energy-consuming industry in the United States. In a FEDERAL REGISTER notice published on March 26, 1976 (41 FR 12766), FEA ranked and identified the 10 most energy-consumptive industries (herein "identified industry" or "identified industries")[1]. These industries are defined in accordance with a two-digit classification within the manufacturing divison of economic activity set forth in the 1972 Standard Industrial Classification (SIC) Manual published by the Office of Management and Budget (OMB).

Ranking	Industry	SIC No.
1	Chemical and allied products	28
2	Primary metal industries	33
3	Petroleum and coal products	29
4	Stone, clay and glass products	32
5	Paper and allied products	26
6	Food and kindred products	20
7	Fabricated metal products	34
8	Transportation equipment	37
9	Machinery, except electrical	35
10	Textile mill products	22

Section 373 of EPCA also requires FEA to identify corporations that consume at least one trillion British thermal units (Btu's) of energy within the United States per year and are among the 50 most energy-consumptive corporations in each identified industry. To implement that requirement, FEA first requested that, at the ultimate parent level, each corporation consuming at least one trillion Btu's per year within the United States in any identified industry submit a report indicating its energy consumption in that identified industry for calendar year 1975 (41 FR 36828, September 1, 1976, clarified in 41 FR 47285, October 28, 1976). After an evaluation of the information submitted, FEA identified the 50 most energy-consumptive corporations within each of the identified industries (41 FR 54977, December 16, 1976) (herein "reporting corporation" or "reporting corporations").

Section 374 of EPCA directs FEA to establish industrial energy efficiency improvement targets for each of the identified industries. The target must represent the maximum feasible improvement in energy efficiency that each identified industry can achieve by January 1, 1980. Targets for each identified industry were proposed in the FEDERAL REGISTER on November 2, 1976 (41 FR 48169), with public hearings held during the period November 22 through December 10, 1976. As required by section 374 (a) of EPCA and after consultation with the Secretary of DOC and the Administrator of ERDA, each target, along with its basis and justification, shall be published in the FEDERAL REGISTER.

B. DIRECT REPORTING REQUIREMENT

As previously described, unless exempted from direct reporting, the chief executive officer of each reporting corporation is required to report to FEA on the progress which such corporation has made in improving its energy efficiency. Section 375(b) of EPCA requires that the form to be utilized for this purpose be "a simple form • • • designed in such a way as to avoid imposing an undue burden on any corporation • • •." The form FEA is proposing in satisfaction of section 375(b) is included in the Appendix to this notice.

[1] The ranking is based on the order of total energy consumption:

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The information submitted by exempted reporting corporations participating in an adequate voluntary reporting program must, when aggregated by associations or other third persons, be compatible with the information being submitted directly to FEA by nonexempt reporting corporations. The proposed reporting form, therefore, is designed to satisfy that objective.

II. Discussion of Proposed Reporting Form

The instructions to the proposed form describe how the form would be completed and the information required by the form. The discussion that follows summarizes the information that would be entered on the form and highlights important aspects of either the reporting requirement, the form, the form's instructions, or related matters on which FEA is especially interested in receiving public comment. The discussion, except with respect to "definitions" and certain other matters, adheres to the organization of the form's proposed instructions.

A. DEFINITIONS

Terms such as "product" and "manufacturing" are defined to be consistent with the use of those terms in the 1972 SIC Manual. The term "product" as defined in the instructions refers to items described by a four-digit SIC code. This permits the utilization of commonly used designations of products or grouping of these products and should reduce the reporting burden, since the energy data reported by four-digit SIC codes for the Census of Manufactures required by DOC can be used for this report. For purposes of the form, a "product" may be an individual unit or grouping of units (commonly referred in industry as "product line"), to the extent that such grouping can be represented by a single unit of output.

"Manufacturing" energy boundaries encompass all energy directly associated with the manufacture of a specified product. The term is more fully discussed below.

B. PART I—IDENTIFICATION INFORMATION

This section of the proposed form would request the reporting company's name, address and employer identification number, specification of the reporting period, the energy contact person, and an indication whether the filing is a revised report or there has been a corporate relocation.

C. PART II—CERTIFICATION

The name and signature block must be filled in by an individual who is a corporate officer duly authorized for this purpose. A signature other than that of the chief executive officer requires a letter of authorization from the chief executive officer to be filed with FEA.

D. PART III—ACTUAL ENERGY CONSUMPTION DATA

Entries in this section of the form would require the presentation of energy consumption data in billions of Btu's per fuel type that is attributable to manufacturing in each identified industry in which a report is being submitted. Because most of the fuel used by an energy-intensive corporation is consumed by its manufacturing activity, the data in this section will enable FEA to observe energy conservation trends and usage patterns within an industry by fuel type, and will also aid in identifying potential fuel supply problems.

What constitutes energy used in the manufacturing division of industry is crucial to the determination of the energy consumption by fuel type for purposes of completing this section of the form, as well as Part IV. The determination of what energy consumption is related to the reporting company's manufacturing output would be made on the basis of manufacturing energy boundaries defined herein. FEA proposes to include or exclude in "actual energy consumption" the Btu content of all energy sources, including by-product fuels and purchased steam, consumed or present in the following activities, uses, and items:

Energy to Include

Direct manufacturing operations.

Self-generation of all electricity, both thermal and hydro.

Heating, ventilating and air conditioning of manufacturing buildings and plant offices plus maufacturing services such as shops, cafeteria, other plant personnel services, and plant chemical and analytical laboratories.

In-plant transportation, such as lift trucks, conveyors, cranes, and railroads.

Transportation on producer's property between mining operations and manufacturing facilities. (The transportation could be by conveyors, trucks or by rail. Mineral preparation such as crushing, screening and concentrating of ores is not to be included, per SIC definitions.)

Raw material storage.

By-product fuels sold and shipped or stored for sale.

Services for finished product warehouses within a plant fence if directly related to manufacturing operations.

Energy to Exclude

Feedstocks.

All uses of electricity self-generated by thermal means. (Btu content of energy sources for thermal generation of electricity is already counted, above.)

Services for corporate and divisional offices.

Services for basic research.

Services for regional distribution centers.

Fuel for corporate aircraft, salesmen's cars and over-the-highway trucks.

Transport of intermediate product to another producer for finishing within the same two-digit industry.

Fuels received for storage for later disposition.

Allocation of energy usage for captive or shared operations is based on the percentage output of the operation applied to the product being considered. This proportioning method entails (1) assigning all the energy of a captive operation to the two-digit SIC code in which the four-digit product is contained if all of the output of the operation serves as input for the manufacture of that product, or (2) assigning a percentage of the energy of a shared operation to the two-digit SIC code in which the four-digit product is contained on the basis of the percentage of the output of the operation which is applied to the manufacture of the product.

E. PART IV—ENERGY EFFICIENCY DATA

Data to be entered in Part IV of the proposed form would require computations in accordance with the form's instructions, which describe an "Energy Efficiency Algorithm." The computations required by the Energy Efficiency Algorithm must be made for each product or group of products produced by the reporting corpoation within an identified industry. The computations necessary for the Algorithm show the reporting corporation's total energy consumption within an identified industry in terms of (i) current production at 1972 energy efficiency levels, and (ii) current production at current energy efficiency levels, taking into account certain "operational changes" that will be further discussed below. By subtracting the current adjusted energy consumption from the current energy consumption adjusted to 1972 efficiency, and then dividing that result by the current consumption adjusted to 1972 efficiency, and multiplying by 100, the reporting corporation's percentage change in manufacturing energy efficiency since 1972 can be determined.

A separate entry is provided to account for operational adjustments due to nondiscretionary changes in energy consumption, such as those that may result from environmental protection and occupational safety and health regulations or fuel switches. This computation requires that the energy used for such regulated changes be expressed as a percentage of all operational changes. As proposed, column (6) of the Energy Efficiency Algorithm would provide the means by which the reporting corporation would take into account operational changes that otherwise would prevent a fair comparison between the energy consumed in current production adjusted to the 1972 energy efficiency level and the current actual energy consumption. In addition to operational adjustments that can result from Government regulations, another example would be a conversion from natural gas as an energy source to coal. With coal as the fuel, an increase in Btu's will likely be required to fuel a process previously operated using natural gas. The increase in Btu's, however, would negatively impact the reporting corporation's progress toward attainment of an energy efficiency target. Since it is in the Nation's interest to foster the conversion from natural gas and petroleum products to coal and other less scarce sources of energy, these conversions are to be encouraged. The operational change mechanism neutralizes the negative effect of any increase in energy consumption. (Under the Energy Supply and Environmental Coordination Act of 1974, FEA, after making certain findings, is authorized to order conversions from natural gas and petroleum products to coal.)

Adjustment is also allowable for a change in capacity utilization between the base year and the current reporting period. Since capacity utilization affects the efficiency of an operation, changes in this factor will distort the measurement of actual energy efficiency improvement. A method is provided to neutralize the impact of apparent efficiency variation due to capacity utilization.

Operational changes, however, are not proposed to include variations in heating and cooling degree days, operating hours, number of employees, or floor area.

F. DATA SUPPLEMENTS

Narrative addenda for specific conservation measures and operational changes are requested in order to establish a framework for energy efficiency measurement and to augment qualitatively and/or corroborate the level of real change. However, FEA recognizes that the extent to which the energy impacts of operational changes can be specifically identified and treated may be more easily achievable for some industries than others. The request for enumeration of applied specific conservation measures is considered appropriate for all industries.

G. CONVERSION FACTORS

Where the actual Btu content of a fuel is known, that content must be employed in all calculations and identified. In all other circumstances, the conversion factors listed in the instructions to the form must be used. The conversion factor used is to be entered in the appriate box on the form.

H. SPECIFIC ITEMS FOR COMMENT

FEA invites comments on all aspects of its implementation of the reporting requirements stated in section 375(a) of EPCA and the reporting form it is proposing in satisfaction of the requirements of section 375(b). With respect to the proposed form, however, the agency is specially interested in comments on the following items:

1. Format.
2. Ease of understanding the instructions, particularly the definitions and "Energy Efficiency Algorithm."
3. Administrative burden (time and resources) needed to complete form.
4. Manufacturing output or activity. As drafted, the proposed form requires that manufacturing output or activity be treated only in terms of physical units of output (tons, square feet, etc.) for a given four-digit SIC code unit.
5. Energy boundary definition.
6. Treatment and type of operational changes considered appropriate.
7. Content of the narrative supplements.
8. Handling of conversion factors.
9. Debit/credit fuel conversion. Concern was expressed during the public hearings regarding certain proposed energy efficiency targets that the industrial energy conservation program presently is not structured specifically to encourage the conservation of petroleum products and natural gas. Neither the proposed direct reporting form nor the proposed targets specifically credit the conservation of natural gas or petroleum products. The proposed targets and form only neutralize any increase in Btu's necessary to perform a particular task, which increase is associated with switching to abundant energy sources, such as coal or byproduct fuels, and thereby, conserves natural gas or petroleum products. Furthermore, it is conceivable that a target could be attained by switching to the more energy efficient natural gas and petroleum products because the target credits only a reduction in total energy consumed. The direct reporting form could incorporate a mechanism that would credit progress toward a target, e.g., through a conversion from natural gas or petroleum products and, conversely, debit conversions to these fuels. FEA requests comments regarding both the need to credit or debit such fuel conversions and the procedures (formulas) by which these debits and credits could be reflected in the direct mandatory reporting form.

III. Written Comments and Public Hearings

A. WRITTEN COMMENT

In accordance with section 376(c), interested persons are invited to submit data, views, or arguments with respect to FEA's implementation of the direct reporting requirements of section 375 of EPCA to Executive Communications, Room 3309, Federal Energy Administration, Box MF, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to Executive Communications, FEA, with the designation "MIRP—Form FEA–U 524–P–O." Fifteen copies should be submitted. All comments received by 4:30 p.m., May 17, 1977, and all other relevant information will be considered by FEA prior to finalization of the direct reporting requirement.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, two copies only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Request procedure.* Pursuant to section 376(c) of EPCA, a public hearing to receive oral presentation of data, views and arguments from interested persons regarding FEA's implementation of the reporting requirements in section 375 of EPCA and the proposed direct reporting form will be held at the time and place indicated earlier in this notice.

Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to the address indicated earlier in this notice, and must be received before 4:30 p.m., May 10, 1977. Such a request may be hand delivered to Executive Communications, Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "MIRP-Form FEA U524–P–O."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of the group or class of persons which has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted through May 16, 1977.

Each person selected to be heard will be so notified by FEA before 4:30 p.m., May 11, 1977, and must submit 100 copies of his or her statement to the address and by the date given earlier in this notice. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at 202–254–3345.

2. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. Each presentation may be limited based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on

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all information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, Room 3309, Federal Energy Administration, Washington, D.C. 20461, before 4:30 p.m. on the day prior to the hearing. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection in the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., April 26, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

FEDERAL ENERGY ADMINISTRATION
CODE XX
WASHINGTON, D. C. 20461

INDUSTRIAL ENERGY CONSERVATION AND CONSUMPTION REPORT

This Report is Mandatory Under Public Laws 94-163 and 93-275

PART I--IDENTIFICATION INFORMATION — FEA Use Only

1.1 Parent Corporation Name and Address:

Zip code

1.2 EIN No.

1.3 Period covered: to

1.4 Energy Contact Person and Title

Phone No.

1.5 ☐ Check if this is a revised report

1.6 ☐ Check if the name and/or address of the corporation has changed since last report

PART II--CERTIFICATION

I certify that the information provided herein and appended hereto is true, accurate, and complete to the best of my knowledge.

NAME	TITLE
SIGNATURE	DATE

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

22

PART III--ACTUAL ENERGY CONSUMPTION DATA-(Billion Btu)

Energy Source	Two Digit SIC Code ( ) A	( ) B	( ) C	( ) D	Conversion Factor
3.1 Coal					
3.2 Coal Coke					
3.3 Distillate Fuel Oil					
3.4 LPG					
3.5 Natural Gas					
3.6 Purchased Electricity					
3.7 Purchased Steam					
3.8 Residual Fuel Oil					
3.9 Self-generated Hydro					
3.10 Other (Specify).					
3.11 Other (Specify)					
3.12 Other (Specify)					
3.13 Other (Specify)					
3.14 Other (Specify)					
3.15 TOTAL					
PART IV--ENERGY EFFICIENCY DATA					
4.1 Current Consumption Adjusted to 1972 Energy Base (Billion Btu) Enter from Step 4					
4.2 Current Actual Consumption Adjusted to Current Operations (Billion Btu) Enter from Step 7					
4.3 Percent Operational Change Due to EPA/ OSHA					

INSTRUCTIONS

A. PURPOSE

Form FEA–U524–P–O is designed pursuant to section 375(b) of EPCA (42 U.S.C. 6345 (b)) which requires that FEA devise a simple form for energy consumption reporting by corporations specified in paragraph B, below, to measure each reporting corporation's progress in improving its energy efficiency. This information will be aggregated with data from corporations participating in adequate voluntary reporting programs to measure progress toward attainment of the energy efficiency improvement target established by FEA for each identified 2-digit Standard Industrial Classification code industry.

B. WHO MUST SUBMIT

Any corporation which has been identified by FEA under section 373 of EPCA (42 U.S.C. 6343) and which is in an identified industry for which FEA has set an industrial energy efficiency improvement target under section 374 of EPCA (42 U.S.C. 6344) is required to submit this report to FEA, unless exempted in accordance with section 376(g) of EPCA (42 U.S.C. 6346(g)) because it fully participates in an adequate voluntary reporting program.

C. TO WHOM

Form FEA–U524–P–O should be submitted to:

Federal Energy Administration, Office of Industrial Reporting Programs, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461.

Additional copies of the reporting form may be obtained from the above address. Indicate the number of copies needed and the address to which they should be sent.

D. WHEN

The initial submission of Form FEA–U524–P–O covering calendar year 1976 must be received by FEA no later than 4 weeks after notice in the FEDERAL REGISTER that the form is final and that a report must be submitted. Thereafter, unless otherwise required, the form must be received by FEA by March 15 and September 15 of each year covering the preceding half calendar year (e.g., March 15, 1978, for the period July through December 1977). Submission of a revised report must be made within 30 days of the scheduled date.

E. DEFINITIONS

For the purposes of this form:

"Actual energy consumption" means the sum of the Btu content of all energy sources (not used as feedstocks) consumed within the United States in an identified industry by the reporting corporation during the covered reporting period.

"Btu" means British thermal unit.

"Commercial quality production" means the manufacture of products suitable in quality for shipment and/or sale.

"Energy efficiency ratio" means the amount of energy in Btu's consumed per unit of production output.

"EPA" means the Environmental Protection Agency.

"EPCA" means the Energy Policy and Conservation Act (Pub. L. 94–163).

"Identified industry" means an industry identified by FEA under section 373 of EPCA.

"Manufacturing" means the mechanical or chemical transformation of materials or substances into new products, as described at page 57 of the Office of Management and Budget Standard Industrial Classification Manual (1972).

"Operational change" means an identifiable variation in manufacturing subsequent to 1972, such as decreases or increases in production capacity utilization, product mix changes, and fuel conversions from oil or gas, that (i) is required by statute, rule, regulation or ordinance, (ii) results from policies designed to use waste materials and abundant energy sources, or (iii) is due to changing quality of raw material.

"OSHA" means the Occupational Safety and Health Administration.

"Product" means an item or grouping of items that is the output of a manufacturing corporation and is classified and described by a 4-digit SIC code.

"Production" means the quantity of the reporting corporation's product output (or raw material input in the case of the petroleum industry).

"Reporting corporation" means any corporation required to submit this report to FEA, pursuant to paragraph B, above.

"SIC" means the standard industrial classification system described in the Office of Management and Budget, Standard Industrial Classification Manual (1972).

"United States" means the 50 states, the District of Columbia, Puerto Rico, and all territories and possessions of the United States, including the Outer Shelf, as defined in 43 U.S.C. 1331.

F. INSTRUCTIONS FOR COMPLETE INDUSTRIAL ENERGY CONSERVATION AND CONSUMPTION REPORT

Part I.—*Identification Information*

Item 1.1: *Name and Address.* Enter the name and the complete address of the reporting corporation. Enter the state abbreviation and zip code (use the official U.S. Postal Service state abbreviations).

Item 1.2 *Employer Identification Number (EIN).* Enter the reporting corporation's Internal Revenue Service Employer Identification Number.

Item 1.3: *Period Covered.* Enter the reporting period covered by this report, specifying the year and portion of year that applies, as indicated by paragraph D, above (e.g., January 1, 1977 = 01 01 77 to June 30, 1977 = 06 30 77).

Item 1.4: *Energy Contact Person.* Enter the name, title, and telephone number of the individual, who may be contacted regarding this report.

Item 1.5: *Revised Report.* Check if this is a revised report.

Item 1.6 *Change of Address.* Check if there has been any change since the previous report.

Part II: *Certification*

This part must be completed each time the Form FEA-U524–P–O is submitted. Type or print in block letters the name and title of the individual who has signed the certification and the date of the signature in the spaces provided on the form. The individual

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who signs and certifies this Form FEA–U524–P–O must be the chief executive officer of the reporting corporation or such other corporate officer authorized by the chief executive officer to sign for him for this purpose. In the latter case, the reporting corporation must file with FEA a letter of authorization (see Attachment to these instructions) signed by the chief executive officer which identifies other officials authorized to certify Form FEA–U524–P–O for the corporation.

Part III. *Actual Energy Consumption Data*

Actual Energy Consumption Data. Enter the applicable 2-digit SIC code in the ( ) above the column for each identified industry in which the reporting corporation is required to report, pursuant to paragraph B, above. Enter the actual energy consumption data for the reporting period, by energy source and 2-digit SIC code. In the actual energy consumption data, include actual energy consumption for every corporation, company, association, firm, partnership, society, trust, joint venture and joint stock company of which the reporting corporation is the ultimate parent, whether by direct or indirect control. Report the energy content of all fuels consumed in billions of Btu's, expressed as a decimal with three places to the right of the decimal point (e.g., .001 one million) and state the conversion factor of the fuel, as explained below, in the appropriate row of the last column.

Where actual energy consumption of any energy source did not occur totally within the identified industry in which the corporation is reporting, allocate in a reasonable manner to such identified industry the appropriate potrion of such consumption. Do not report in actual energy consumption the Btu content of thermally self-generated electricity.

In the "Other" categories, include actual energy consumption, by energy source, for energy sources not otherwise designated.

Use the actual Btu content of any energy source except electricity as the conversion factor of that energy source where the energy source was purchased according to or with knowledge of its actual Btu content. Where the energy source was not purchased according to or with knowledge of its actual Btu content and in the case of electricity (purchased or self-generated hydropower), use the appropriate conversion factor as follows:

Energy type	*Conversion factor (Btu's/energy unit)*
Bituminous coal	23,650 000/short t.
Anthracite	25,400,000/short t.
Coke	24,800,000/short t.
Ethane	3,082,000/bbl.
Propane	3,847,806/bbl.
LPG	4,011,000/bbl.
Natural gasoline	4,620,000/bbl.
Gasoline (including aviation).	5,248,000/bbl.
Special naptha	5,248,000/bbl.
Kerosene	5,670,000/bbl.
Distillate fuel oil (including diesel).	5,825,000/bbl.
Still gas	6,000,000/bbl.
Petroleum coke	6,024,000/bbl.
Residual fuel oil	6,287,000/bbl.
Crude oil	5,800,000/bbl.
Natural gas, dry	1,031/bbl.
Electricity (purchased and self-generated hydropower).	3,412/kWh.
Other energy types (hogged fuel, bark, black liquor, off-gas, etc.)	Determined by corporation using standard calorimetric methods in current use within the industry.

Application of conversion factors requires that quantification of the fuels be compatible with conversion factor dimensions e.g., tons of solids, U.S. gallons for liquids (42 gal/barrels) and standard cubic feet for gases.

Supply actual energy consumption totals for each 2-digit SIC code.

Part IV: *Energy Efficiency Data*

Item 4.1: *Current Consumption Adjusted to 1972 Energy Base.* Enter under the appropriate 2-digit SIC code column the total energy in billions of Btu's (expressed as a decimal with three places to the right of the decimal point) developed in accordance with procedures applicable to column 4 of the Energy Efficiency Algorithm described in paragraph G of these instructions.

Item 4.2: *Current Actual Consumption Adjusted to Current Operations* Enter under the appropriate 2-digit SIC code column the total energy in billions of Btu's developed in accordance with procedures applicable to column 7 of the Energy Efficiency Algorithm tabulation described in paragraph G of these instructions.

Item 4.3: Enter under Item 4.3 the percentage of operational changes required by OSHA and EPA regulations developed in accordance with step 8 of paragraph G of these instructions.

G. ENERGY EFFICIENCY ALGORITHM AND DIRECTIONS FOR USE ENERGY EFFICIENCY ALGORITHM

An Energy Efficiency Algorithm must be applied for each identified industry in which a corporation is reporting. The Algorithm must be applied according to the following format, which contains quantities presented for purposes of illustration only:

1 Products	2 1972 Energy efficiency ratio (Btu's/unit)	3 Current reporting period production (Unit)	4 Current consumption adjusted to 1972 Btu's (Col. 2 X Col. 3)	5 Current actual consumption (Btu's)	6 Consumption due to operation changes since 1972 (±Btu's)	7 Current actual consumption adjusted to current operations (Col. 5 adjusted by Col. 6)
#1	600,000 (Btu's/Ton)	1,600,000 (Tons)	960 Billion	900 Billion	-21 Billion	879 Billion
#2	100,000 (Btu's/Ton)	1,000,000 (Tons)	100 Billion	90 Billion	-7 Billion	83 Billion
#3	15,000 (Btu's/Ft^3)	3,000,000 (Ft^3)	45 Billion	36 Billion	+3 Billion	39 Billion
All other	200,000 (Btu's/Bbl)	200,000 (Bbl)	40 Billion	35 Billion	-2 Billion	33 Billion
TOTAL			1.145 Trillion	1.061 Trillion	-27 Billion	1.034 Trillion

To derive the entries for the Energy Efficiency Algorithm, perform the following steps:

Step 1. *Products.* Each reporting corporation should list in column 1 at the 4-digit level of detail the products that currently comprise its 2-digit SIC code production.

Step 2. *1972 Energy-Efficiency Ratio (Btu's/Unit).* List the energy-efficiency ratio for each product in column 2. The energy-efficiency ratio, as defined in paragraph E, is determined by the reporting corporation for each product based on the energy in Btu's required to manufacture a physical unit of output of that product in calendar year 1972. The description of and rationale for the selection of the particular unit(s) of output of the product must be provided in writing by that corporation as a part of that corporation's first report and as a part of any subsequent reports covering periods in which a new product is added. The rationale is to be provided as an attached narrative statement.

If the commercial quality production of any product began after 1972, list the energy-efficiency ratio as though that product was manufactured in 1972. Once the commercial quality production energy-efficiency ratio has been determined for a product this initial ratio must remain constant throughout the life of this reporting system to assure measurement on a constant basis. When any product is phased out after 1972, delete the contribution made by that product to the 1972 energy base.

Step 3. *Current Reporting Period Production.* List the totals of current production of each product in column 3 using units that are consistent with the units selected for each energy-efficiency ratio calculation in column 2.

Step 4. *Current Energy Consumption Adjusted to 1972 Efficiency.* Calculate the energy (in Btu's) that would have been required for the production of each product during the applicable reporting period in terms of 1972 energy consumption by multiplying the production of each product in physical units as entered in column 3 by the corresponding energy-efficiency ratio of each product entered in column 2, and record the numbers in column 4. Add the numbers in column 4 and provide FEA with the total of column 4 by entering the total in 4.1 of Part IV of Form FEA–U524–P–O.

Step 5. *Current Actual Consumption in Btu's.* Enter the energy (in Btu's) required to produce each product during the applicable reporting period on column 5. Add the numbers in column 5 and compare the total as a check against the corresponding total in the applicable 2-digit SIC code column in

Part III, line 3.15. The totals should be the same.

Step 6. Consumption Due to Operational Changes Since 1972 (plus or minus Btu's). Operational changes may alter the amount of energy consumed and the apparent efficiency of manufacturing processes. Determine the increase or decrease in energy required for the manufacturing of each product during the applicable reporting period as a result of operational changes since 1972 as described below. This increase or decrease is determined by comparing base year consumption for all fuels to current year consumption for all fuels.

Select an applicable operational change for treatment. Determine the portion of the change in energy required for each product due to such operational change and if the operation change has caused an increase or decrease in energy consumption; and quantify the change in energy consumption as Btu's.

If the change represents an increase in consumption, make a record of the Btu's for subsequent combination with other identified increases in energy consumption due to other operational changes.

If the change represents a decrease in consumption make a record of the Btu's for subsequent combination with other identified decreases in energy consumption due to other operational changes.

After identifying all operational changes, sum all quantities (Btu's) representing increases in energy consumption to yield the total in Btu's for all such increases; and sum all quantities (Btu's) representing decreases in energy consumption to yield the total in Btu's for all such decreases.

Subtract the total Btu's for all increases in energy consumption from the total Btu's for all decreases in energy consumption to obtain the net change (difference) in energy consumption for all operational changes.

If the total Btu's for all increases in energy consumption due to operational changes is numerically greater than the total Btu's for all decrease in energy consumption due to operational changes, assign a minus (−) sign to the number representing the net change or difference; conversely, if the total Btu's for all decreases in energy consumption due to operational changes is numerically greater, assign a plus or positive (+) sign to the number representing the net change or difference. Enter this number with its sign in the appropriate row in column 6.

In order to adjust for variations in energy consumption due to changes in capacity utilization, a corporation must determine the relationship between its energy use and production level for the product being considered. The difference in energy consumption between the base year 1972 production capacity utilization level and the current production capacity utilization level is determined based on this relationship. The increases or decreases in energy consumption are combined with energy consumption increments for other operational changes as previously described.

If a product entered in any row in column 1 represents several discrete products of a classification less than the 4-digit SIC code level, then adjustments for any variation in energy consumption due to variations in the manufacturing or production level (or product mix) in such products represented by this entry to the mix of such products in the base year 1972 must be made. An increase or decrease in energy consumption due to a product mix change is combined as previously described with energy consumption increments for other operational changes.

Increases or decreases in energy consumption due to EPA and OSHA regulatory requirements are combined with energy consumption increments for other operational changes as previously described. (The total change in energy consumption due to EPA and OSHA for all products within all reported SIC codes will be treated in step 8.) Examples of regulatory requirements include pollution control (e.g., baghouse operation, electrostatic precipitator and scrubber use, etc.) and/or occupational and safety requirements such as dust control units.

The operational change that results from a conversion (between 1972 and the current reporting period) from a higher efficiency fuel system to a lower efficiency fuel system (e.g., natural gas to coal) is calculated by determining the difference in energy consumption required by the two systems to produce the same level of energy output. For example, a switch from the use of natural gas to the use of coal in a boiler for steam generation may be treated by subtracting the energy consumption in Btu's input for the natural gas-fired system from the energy consumption in Btu's input for the coal-fired system for the same quantity of steam generated at a given temperature and pressure. Increases or decreases in energy consumption due to fuel conversion are combined with energy consumption increments for other operational changes as previously described.

Waste energy sources used in manufacturing a product during the current reporting period that were not used in 1972 also represents an operational change (fuel conversion) and must be compared with the fuel used to produce the same product in 1972. Increases or decreases in energy consumption due to utilization of waste energy sources are combined with energy consumption increments for other operational changes as previously described.

Each operational adjustment contributing to the entry in column 6 must be identified in writing. The written narrative or list of operational adjustments must be submitted as an attachment to the report.

Step 7. Current Actual Consumption Adjusted to Current Operations (Column 5 Adjusted by Column 6). Adjust the energy required by the manufacturing of each product during the current reporting period by algebraically combining the numbers in column 6 with the numbers in column 5.

List the adjusted energy numbers for each product in column 7. If an adjustment is not required, record the same number in column 7 that is recorded in column 5. Add the numbers in column 7 and provide the total of column 7 to FEA by entering the total in item 4.2 of Part IV of Form FEA–U524–P–O.

Step 8. Percentage Change in Energy Consumption Due to EPA/OSHA Requirements. Sum all increments in energy consumption dut to EPA/OSHA regulatory requirements (generally all the changes in energy consumption will be increases). Divide this sum by the algebraic total (last row of column 6) of all energy consumption due to all operational changes. Multiply this expression by 100 to form the percentage value. Enter this number in the appropriate 2-digit SIC code column item 4.3 in Part IV of Form FEA–U524–P–O.

H. ENERGY EFFICIENCY NARRATIVE

Each reporting corporation must provide FEA with a written text not longer than two typewritten, single-spaced pages on specific measures that the corporation has implemented to improve its energy efficiency during the reporting period. This document should be attached to the corporation's report.

I. RETENTION OF DATA

All data are to be retained by the reporting corporation for a minimum period of 2 years.

J. CONFIDENTIALITY OF INFORMATION

Any reporting corporation which believes that any information provided to FEA in Form FEA–U524–P–O is a trade secret, or commercial or financial information that is privileged or confidential, and that disclosure of this information may cause significant competitive damage to it must inform FEA of this conclusion. Specifically, the reporting corporation must: (1) file, together with the Form FEA–U524–P–O a second copy of such form on which the information which if released the corporation believes would cause significant competitive damage is clearly indicated, (2) indicate on the original form that it contains confidential information, and (3) file a concise statement which exolains, item by item, the exact nature of the significant competitive damage which would result from the release of such item, and whether that item is customarily treated as confidential by the reporting corporation and the industry. A detailed explanation of the competitive damage resulting from public disclosure—rather than general statements that an item is confidential—is needed by FEA to determine whether the item may be released. FEA retains the right to make its own determination regarding any claim of confidentiality. Prior to disclosing any information contained in Form FEA–U524–P–O which the Administrator determines is information described in 5 U.S.C. 552(b)(4), the Administrator will afford, pursuant to section 376(e) of the Energy Policy and Conservation Act (15 U.S.C. 956(e)), the person who provided the information an opportunity to comment on the proposed disclosure.

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DELEGATION OF AUTHORITY TO SIGN AND CERTIFY

_____
(Date of Signing)

_____
(Name of Reporting Corporation)

I, _____, hereby
(Name of Chief Executive Officer)

certify that I am the _____ of the
(Title)

above-named corporation and that, as such, I am authorized to sign documents and to certify, on behalf of said corporation, the accuracy and completeness of all documents required to be submitted to the U.S. Government. Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person(s) listed below, who is(are) corporate officers of the above-named corporation. This delegation is effective until it is revoked in writing and teh Federal Energy Administration is so notified.

_____
(Signature)

AUTHORIZED INDIVIDUALS

Name and Title	Extent of Authorization

[FR Doc.77-12529 Filed 5-3-77;8:45 am]

PRIVACY ACT OF 1974

System of Records

Notice is hereby given that the Federal Energy Administration (FEA) intends to operate a system of records designated as "FEA-21, Electric Rate Demonstration Data Base." FEA has previously published a notice of a proposal to this effect (42 FR 13584) and as provided by Section 3(e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(11)), interested persons were invited to submit written data, views or arguments related to this proposal. One comment was received, from the Los Angeles Department of Water and Power, suggesting that the Privacy Act is inapplicable to the Electric Rate Demonstration Program, and therefore, with respect to that program, no system of records is being maintained by a Federal agency. However, since (i) there is a chain of funds which links the FEA and the utilities participating in this program, (ii) the cooperative agreements between FEA and the sponsoring local agencies provide that the provisions of the Privacy Act of 1974 will apply, (iii) the FEA has provided by contract that the sponsoring local agencies and their subcontracting utilities not use the information gathered in the conduct of the projects for any purpose other than those explicitly stated in the project plans (i.e., the analysis of non-traditional rate forms and load management techniques), and (iv) other safeguards against unauthorized access to information generated in the course of the projects are imposed by agreements to which the FEA is a party, FEA considers the Privacy Act to be properly applied to the records generated by the program and the Agency does not deem it necessary to modify or withdraw the proposed system of records. Accordingly, FEA adopts FEA-21 as originally proposed.

(Privacy Act of 1974 (5 U.S.C. 552a); Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185, June 27, 1974).)

Issued in Washington, D.C., April 28, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-12752 Filed 5-3-77;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF TRUSTEES OF THE GALVESTON WHARVES AND FARMERS EXPORT CO.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 24, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Carl S. Parker, Jr., Traffic Manager, Board of Trustees of the Galveston Wharves, 802 Rosenberg, P.O. Box 328, Galveston, Texas 77553.

Agreement No. T-3463, which is between the Board of Trustees of the Galveston Wharves (Port) and Farmers Export Co. (FEC), provides for FEC's lease of a 16.021 acre agricultural bulk commodities facility, including the exclusive use of 1,000 linear feet of both space at Piers 30, 32, and a small portion of Pier 33; and the preferential use of the apron lying between these piers and the adjacent transit sheds. This facility is to be operated by FEC as a public elevator terminal and materials handling facility on a first-come, first-serve, nonexclusive basis; serving the general public for the warehousing, storing, marketing, conditioning and shipping of bulk commodities, including dry agricultural products. The term of the agreement commences upon its approval by this Commission and terminates on the scheduled maturity date of the last maturing City of Galveston, Texas, Special Contract Revenue Bonds, Series 1977 (Bonds) issued for payment of the acquisition of the facility and the payment of any remaining costs of constructing the facility. The lease has four successive five-year renewal options. FEC is to publish tariffs setting forth the rates, charges, rules and regulations governing the facility's operation, which are subject to the Port's approval prior to publication. However, the Port will collect and retain dockage and wharfage on all cargo other than bulk commodities handled at the facility in accordance with its tariffs. As compensation, the Port is to receive: (1) basic rental in an amount equal to the total principal, interest and premium, if any, and paying agent fees the Port is obliged to pay on the Bonds, less any amounts which are on deposit in the Bond's Interest and Redemption Fund; and (2) other rental, consisting of (a) $200,000 annually for the exclusive use of the berth space granted under the agreement and the right to receive certain dockage fees, (b) $80,105 annually as ground rental for the facility, and (c) seventy-five percent (75 percent) of the dockage fees received by FEC.

Agreement No. T-3464 is also between the Port and FEC and is intended to take effect only in the event that the proceeds of the Bonds are unavailable on or before May 31, 1977, the date upon which the leasehold obligations of Cook Terminal Company, Inc., under FMC Agreements Nos. T-2814, T-2814-A and T-2814-B, as amended, terminate and FEC becomes the Port's tenant. This agreement is identical to Agreement No. T-3463, above, except that references to the bonds and related subjects, and the basic rental intended to repay the Bonds have been removed. The term of this agreement—in the event it is implemented—is thirty years, with seven successive five-year renewal options.

By order of the Federal Maritime Commission.

Dated: April 29, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12822 Filed 5-3-77;8:45 am]

FLOTA MERCANTE GRAACOLUMBIANA, S.A. AND MARITIMA TRANSLIGRA, S.A.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Renato C. Giallorenzi, Esquire, Giallorenzi and Stiles, 67 Broad Street, New York, New York 10004.

Agreement No. 10295, between Flota Mercante Grancolombiana, S.A. (Flota) and Maritima Transligra, S.A. (Transligra), would provide for the establishment of a space chartering arrangement for the transportation of bulk liquid cargo in the trade between U.S. Gulf ports and West Coast ports of Colombia, whereby Transligra will provide Flota with the necessary space on vessels owned or operated by Transligra pursuant to the terms and conditions set forth in the Agreement.

By order of the Federal Maritime Commission.

Dated: April 29, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12821 Filed 5-3-77; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-530]

ARIZONA PUBLIC SERVICE CO.

Order Granting Petition to Intervene Out of Time

APRIL 28, 1977.

On February 26, 1976, Arizona Public Service Company (APS) tendered for filing a rate increase pursuant to Section 205 of the Federal Power Act which would increase revenues from jurisdictional sales and service by $3,627,560, based on the 12-month period ending March 31, 1976.

Public notice of said filing was issued on March 2, 1976, with protests or petitions to intervene due on or before March 19, 1976.

By order issued March 31, 1976, the Commission accepted in part and rejected in part the proposed rate schedule for filing, instituted a Section 206 investigation, and suspended the proposed increases until May 1, 1976, to become effective thereafter subject to refund.

On March 22, 1977, Wellton-Mohawk Irrigation and Drainage District filed an untimely petition to intervene. Our review indicates that Wellton-Mohawk has a sufficient interest in this proceeding so as to warrant intervention because it purchases electric power at wholesale under APS's Rate Schedule No. 58.

The Commission finds: (1) Since participation by Wellton-Mohawk will not delay the instant proceeding upon the conditions attached herein, good cause exists for accepting its late petition to intervene.

(2) Participation by Wellton-Mohawk may be in the public interest.

(3) Waiver of § 1.8(d) of the Commission's Rules of Practice and Procedure should be granted.

The Commission orders: (A) The timely filing requirement of § 1.8(d) of the Commission's Rules of Practice and Procedure is hereby waived and the out-of-time petition to intervene of Mohowk-Wellton Irrigation & Drainage District is hereby granted.

(B) Wellton-Mohawk is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12795 Filed 5-3-77;8:45 am]

[Docket No. RI77-21]

BETTIS, BOYLE & STOVALL (OPERATOR), ET AL.

Order Granting Petition for Special Relief and Permitting Intervention

APRIL 26, 1977.

On December 29, 1976, Bettis, Boyle and Stovall, (Operator), et al. (Bettis, Boyle and Stovall) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) for the sale of natural gas to Cities Service Gas Company (Cities Service) from seven leases

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in the Northwest Knowles Field, Beaver County, Oklahoma.

Bettis, Boyle and Stovall is an independent small producer which was issued a small producer certificate in Docket No. CS71-127 on January 18, 1971. Holding a 100 percent interest in the leases, Bettis, Boyle and Stovall is selling natural gas to Cities Service at a rate of 40 cents per Mcf at 14.65 psia pursuant to a contract dated October 5, 1960.

In contemplation of price increases sufficient to recover the costs including a reasonable return, Bettis, Boyle and Stovall undertook extensive rework of the wells and the gathering systems. However, Bettis, Boyle and Stovall states that the rate allowed small producers under Opinion No. 742-A and Order No. 553 is insufficient to recover costs and a reasonable return. To avoid premature abandonment, Bettis, Boyle and Stovall requests that the Commission authorize it to collect $1.10 per Mcf at 14.65 psia. A December 16, 1976 amendment to a prior gas purchase contract signed by Bettis, Boyle and Stovall and by Cities Service authorized the increase of the rate to $1.10 per Mcf or that found by the Federal Power Commission to be just and reasonable.

Notice of Bettis, Boyle and Stovall's petition for special relief was issued on January 17, 1977 and was published in the FEDERAL REGISTER. Cities Service filed a timely petition to intervene.

Based on an analysis of data submitted by Bettis, Boyle and Stovall, Staff estimates that 751,000 Mcf remain to be produced over a period of seven years, and concludes that the requested special relief is warranted on a cost basis.[1]

After reviewing the costs incurred and the reserves to be recovered, the Commission determines that Bettis, Boyle and Stovall's petition for special relief is warranted and that it is in the public interest to grant this petition.

The Commission finds:

The petition for special relief filed by Bettis, Boyle and Stovall meets the criteria set forth in § 2.76 of the Commission's General Policy and Interpretations.

The Commission orders: (A) The petition for special relief of Bettis, Boyle and Stovall is hereby granted.

(B) Effective upon the date of issuance of this order, Bettis, Boyle and Stovall is authorized to collect $1.10 per Mcf at 14.65 psia for natural gas sold to Cities Service from seven leases in the Northwest Knowles Field, Beaver County, Oklahoma under its October 5, 1960 contract, as amended.

(C) Cities Service is permitted to intervene in the above-entitled proceeding, subject to Rules and Regulations of the Commission; provided however, that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and provided further, that the admission of Cities Service in the manner provided shall not be construed as recognition by the Commission that Cities Service might be aggrieved because of any order or orders entered in this proceeding, and that Cities Service agrees to accept the record as it now stands.

(D) Within thirty days of the date of issuance of this order, Bettis, Boyle and Stovall must file a statement signed by Cities Service that the work has been completed to their satisfaction.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12787 Filed 5-3-77;8:45 am]

[1] See Appendix.

[Docket No. CP77-341]

COLUMBIA GAS TRANSMISSION CORP.

Application

APRIL 25, 1977.

Take notice that on April 14, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314 filed in Docket No. CP77-341 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 8.5 miles of 20-inch transmission pipeline replacing a like amount and size of pipeline located in Rockbridge and Augusta Counties, Virginia. Applicant states that the proposed replacement will be in four separate sections as follows:

Section No. 1 consists of approximately 1.9 miles of pipeline near Lexington, Rockbridge County, Virginia;

Section No. 2 consists of approximately 4.5 miles of pipeline near Fairfield, Rockbridge County, Virginia;

Section No. 3 consists of approximately 0.9 mile of pipeline near Steeles Tavern, Augusta County, Virginia; and

Section No. 4 consists of approximately 1.2 miles of pipeline near Lofton, Augusta County, Virginia.

Applicant states that the segments of pipeline to be replaced are mainly bare coupled pipe installed in 1931 without protection against corrosion, and that because of their age and deteriorating condition, Applicant has determined that these four sections of pipeline must be replaced with cathodically protected pipe in order to assure continued and reliable service. The proposed replacements are said to be compatible with those segments of this pipeline Applicant has previously replaced. Applicant states that the proposed construction cost is estimated to be $2,635,000 which cost would be financed with funds generated from internal sources. Applicant asserts that the proposed replacement should result in a de minimis decrease in annual operating and maintenance expense.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12788 Filed 5-3-77;8:45 am]

[Docket No. CP77-336]

CONSOLIDATED GAS SUPPLY CORP.

Application

APRIL 25, 1977.

Take notice that on April 12, 1977, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP77-336 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain field compression and transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a new 1,200 horsepower field compressor station and related facilities near Pepper, Barbour County, West Virginia, and to reclassify an existing gathering pipeline to transmission service, in order to increase the gas supplies available to it from an existing production area located in Barbour County.

Applicant states that the proposed compressor station and related facilities will be located near an existing production area from which natural gas is produced by Applicant and purchased by it from local independent producers, and that these natural gas supplies are gathered through an extensive system of small-diameter gathering lines prior to their introduction into Applicant's interstate transmission system at its Bridgeport Compressor Station, in Harrison County, West Virginia.

It is stated that at the present the line pressures prevailing throughout the gathering system are too high to allow maximum rates of production from the wells producing into the system, and Applicant anticipates extensive future drilling activity in the Barbour County area, both by itself and by local independent producers. Applicant states that this increased drilling activity would not only increase the prevailing pressure in the gathering system but may also result in inadequate capacity at the Bridgeport Station. Applicant further states that Pepper Station, which would be located in the southern terminus on Applicant's Line No. TL-373, is designed to pump gas from the gathering system into Line No. TL-373, thereby reducing the pressures in the gathering system and permitting increased production from present and future wells in the Barbour County area. The proposed compressor facility would increase deliverability from the Barbour County production by approximately 3,000 Mcf of natural gas per day, it is said.

Applicant states that the estimated cost of the proposed facilities is $1,117,225 and would be financed from funds on hand and from funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

It is stated that previously the TL-373 line fed into the suction side of the Bridgeport Station, which raised the natural gas gathered in the Barbour County gathering system to transmission pressure and injected it into Applicant's main transmission system. Applicant states that the proposed Pepper Station would perform this function, and Bridgeport Station can be bypassed, and that it believes that its Line No. TS-373 should be classified and operated as a transmission pipeline.

Applicant asserts that the proposed field compression facility is required to ameliorate the effects of the gas shortage on Applicant and its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-12791 Filed 5-3-77;8:45 am]

[Docket No. RI77-30]

KARIS OIL CO., INC.

Amended Petition for Special Relief

APRIL 25, 1977.

Take notice that on April 11, 1977, Karis Oil Company, Inc. (Karis), 6607 Orchid Lane, Dallas, Texas 75230, submitted an amendment to its December 20, 1976, petition for special relief filed pursuant to § 2.76 of the Commission's General Policy and Interpretations in the above-captioned docket. By this amendment Karis seeks a rate of $1.10 per Mcf for its sale of gas to Northwest Pipeline Company from the Government No. 1 Well located in Rio Blanco, Colorado. Karis had previously sought a rate of $1.80 per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12793 Filed 5-3-77;8:45 am]

[Docket No. CP77-338]

LONE STAR GAS CO., DIVISION OF ENSERCH CORP.

Application

APRIL 25, 1977.

Take notice that on April 13, 1977, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77-338 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 1,000 Mcf of natural gas per day between Applicant and Arkansas Louisiana Gas Company (Arkla), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a gas exchange agreement dated November 1, 1975, with Arkla to exchange natural gas for a period of 15 years in order to enable Arkla to obtain, by displacement, natural gas for resale to customers served by its Kingston, Oklahoma, distribution system. Applicant further states that under the agreement it is obligated to deliver such volumes of gas to Arkla as may be available to meet the requirements of Arkla's customers in Kingston, Oklahoma and its environs, up to a maximum of 1,000 Mcf of natural gas per day and Arkla is obligated to redeliver to Applicant equal volumes of gas delivered to it by Applicant.

Applicant and Arkla propose to deliver and receive the gas, as the case may be, to be exchanged at the following points.

1. *Point of delivery.* The point of delivery to Arkla shall be at a mutually agreeable point on Applicant's Line E-5-A-8 in Marshall County, Oklahoma.

2. *Point of redelivery.* The point of redelivery to Applicant shall be at a point where the pipeline facilities of the two companies interconnect in McClain County, Oklahoma.

It is stated that some of the gas that Arkla returns to Applicant would be gas produced outside the state of Oklahoma.

The facilities by means of which Arkla would return gas to Applicant involve the use of an existing tap at a point where the pipeline systems of the two companies interconnect, it is said. Applicant states that Arkla would install, operate and maintain at its own risk and expense, pipeline and other equipment including stand-by regulating and metering facilities, necessary to receive gas at the point of Delivery. Applicant proposes to install, operate and maintain at its own risk and expense gas exchange facilities in order to receive gas from Arkla in McClain County, Oklahoma.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act

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(18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12789 Filed 5-3-77;8:45 am]

[Docket No. RP77-56]

NORTHERN NATURAL GAS CO.

Proposed Rate Increase

APRIL 28, 1977.

Take Notice that Northern Natural Gas Company on April 21, 1977, tendered for filing proposed changes in its F.P.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. The proposed changes would increase revenues from jurisdictional sales by $109,339,593 annually, based on sales volumes and costs for the twelve months ended December 31, 1976, as adjusted for the Test Period. Northern states the principal reasons for the proposed rate increase are: (1) Increased costs of obtaining new gas supplies, (2) Increased costs associated with a growing need for additional storage capacity required to maintain peak day and winter period deliveries to high priority customers, (3) The loss of revenues due primarily to declining gas supplies and resultant reductions in sales to low priority end use customers, (4) The need to provide a return of 11.125 percent on its utility investment, (5) Increased annual depreciation expense, (6) Increased income taxes and (7) Increased costs of operations. The proposed effective date is May 27, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12796 Filed 5-3-77;8:45 am]

[Docket No. CP77-342]

TENNESSEE GAS PIPELINE CO.; DIVISION OF TENNECO INC.

Application

APRIL 25, 1977.

Take notice that on April 15, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), Tenneco Building, Houston, Texas 77002, filed in Docket No. CP77-342 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of 12,000 Mcf of natural gas per day with Arkansas Louisiana Gas Company (Arkla), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive daily volumes of natural gas for Arkla's account in Desoto Parish, Louisiana, and to exchange such volumes, up to 12,000 Mcf per day, with Arkla on an Mcf for Mcf basis at the outlet of the Champlin-Carthage Plant in Panola County, Texas.

It is stated that Applicant and Arkla have contracted, under separate contracts to buy natural gas from ENERCO Exploration & Management Co. (ENERCO) from properties in the Chemard Lake Area, Desoto Parish, Louisiana, in the proportions 75 percent by Arkla and 25 percent by Applicant. Applicant states that in order to minimize the additional pipeline construction necessary to receive their proportionate shares of the ENERCO gas into their respective systems, Applicant and Arkla have entered into a contractual arrangement substantially as follows:

(a) Arkla would construct, operate, and maintain for the joint account of both parties a pipeline and related measurement and other facilities (all herein referred to as the Lateral Pipeline) necessary to receive gas from ENERCO under the contracts at the specified delivery point in Desoto Parish, Louisiana, and to transport said gas approximately 3 miles to a point of connection on Applicant's 20 inch O.D. Carthage Line in Desoto Parish, Louisiana, for delivery to Tennessee.

(b) Applicant would receive into its Carthage line from the Lateral Pipeline all of the gas purchased by Applicant and Arkla from ENERCO under their contracts.

(c) As contemporaneously as practicable, Applicant would deliver to Arkla at the outlet of the Champlin-Carthage Plant in Panola County, Texas (to which both Applicant and Arkla are connected) a volume equal to Arkla's proportionate part[1] of the ENERCO gas pursuant to the Gas Exchange and Transportation Agreement dated February 16, 1977.

Applicant asserts that the proposed exchange of gas with Arkla would allow Arkla to receive needed supplies of natural gas without the duplication of facilities, and that it would serve to augment Arkla's total gas supply available to its customers.

Applicant indicates that pursuant to the Gas Exchange and Transportation Agreement dated February 16, 1977, between Arkla and Applicant, it would reimburse Arkla for 25 percent of the cost of the Lateral Pipeline upon completion of the Lateral Pipeline; that Applicant would reimburse Arkla for 25 percent of the direct cost of operating and maintaining the Lateral Pipeline, and that the Lateral Pipeline would be owned jointly by Arkla and Applicant, 75 percent by Arkla and 25 percent by Applicant.

Applicant states that it will initially finance its cost of the proposed facilities from general funds of the company and/or borrowings under the Applicant's revolving credit agreements, and/or cause such costs to be financed in the event a person other than Applicant participate as owner of any of the facilities.

It is stated that on February 12, 1977, Applicant was authorized to transport up to 850 Mcf of natural gas per day for 2 years for Briggs Corporation (Briggs) from ENERCO, and pursuant to this authorization ENERCO constructed temporary delivery facilities to Applicant's Carthage Line in Desoto Parish, Louisiana in order to commence the delivery of the gas to Applicant for the account of Briggs. Applicant states that its right to purchase 25 percent of the gas during the 2 year duration of the Briggs transportation service is subject to Briggs' prior right to 850 Mcf of natural gas per day of ENERCO's production, which volumes would otherwise be delivered to Applicant under a contract between Applicant and ENERCO dated January 6, 1977.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12794 Filed 5-3-77;8:45 am]

[Docket No. CP77-340]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

APRIL 25, 1977.

Take notice that on April 14, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-340 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 15,000 Mcf of natural gas per day at 14.73 psia on an interruptible basis for Elizabethtown Gas Company (Elizabethtown), an existing distribution customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport a total of 1,500,000 Mcf (14.73 psia) of natural gas in daily volumes not to exceed 15,000 Mcf during the period April 1, 1977 through March 31, 1978 for Elizabethtown pursuant to an agreement dated February 15, 1977, among Applicant, Elizabethtown and National Fuel Gas Supply Corporation (Supply). Applicant states that Elizabethtown has contracted with Supply for limited-term storage service of the subject gas, and has requested Applicant to transport storage quantities to Supply during the 1977 injection period (April 1 through October 31) and to return such quantities to Elizabethtown during the 1977-78 withdrawal period (November 1 through March 31).

Injection quantities would be delivered to Supply through existing facilities at the Wharton Storage Field in Pennsylvania, and withdrawal quantities would be delivered to Applicant at that point and in turn delivered to Elizabethtown at existing points of delivery to that customer in New Jersey, it is said. Applicant indicates that it would retain 3 percent of the quantities of gas transported during injection and 4 percent of the quantities of gas transported during withdrawal for compressor fuel and line loss makeup, subject to change as operating conditions warrant. Applicant states that Elizabethtown would pay an initial rate of 9.55 cents per dekatherm for all quantities transported and delivered.

Applicant states that no facilities are required to render the proposed service. Applicant asserts that the proposed service is needed to assist Elizabethtown in minimizing curtailments to its high priority markets during the 1977-78 heating season, and such storage service would assist in offsetting the uncertainties of weather-related demand and lessening the adverse impact of winter curtailments by Elizabethtown's pipeline supplier.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-12790 Filed 5-3-77;8:45 am]

[Docket No. CP76-413]

UNITED GAS PIPE LINE CO. AND TENNESSEE GAS PIPELINE CO.

Application To Amend

APRIL 26, 1977.

On April 20, 1977, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP76-413 an application to amend the Commission's order, issued October 5, 1976, pursuant to Section 7(c) of the Natural Gas Act by authorizing an extension to March 31, 1978, subject to a 20-day extension for balancing if required, of an exchange arrangement and related service and for the continued storage service of volumes (approximately 400,000 Mcf) which because of operating conditions remained in Northern Illinois Gas Company's (NI-Gas) facilities on April 1, 1977,[1] all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

The order of October 5, 1976, authorized a similar service for the period ending March 31, 1977, subject to a 20-day extension. It is stated that during early 1976, United projected that it would be 25,000,000 Mcf of gas short of meeting the high priority needs of its customers and thus in an effort to ameliorate this situation, it entered into a Limited Term Exchange Agreement, dated June 18, 1976, with Tennessee whereby United was able to translate volumes of gas which it was able to obtain during the 1976 summer into winter quantities during the 1976-77 winter season. United anticipates that its gas supply available for sale during the 1977-78 winter season would again be insufficient to meet the high priority needs of its customers assuming normal weather conditions and United and Tennessee have agreed to amend the Limited Term Exchange Agreement so as to provide for the exchange of gas and related service with Tennessee as set forth above.

It is indicated that in furtherance of such arrangements, Tennessee, midwestern Gas Transmission Company (Midwestern), and NI-Gas have amended their triparty Rescheduling Agreement, dated June 18, 1976, to allow Tennessee to reschedule deliveries to Midwestern and Midwestern would then increase deliveries to NI-Gas, its customer, by an amount equivalent to that provided for under the exchange agreement, as amended. Applicants state that the volumes made available to Tennessee for United's account would be so delivered or caused to be so delivered at Crowley,

[1] It is stated that such remaining original volumes would be returned to United in the manner prescribed in the Rescheduling Agreement, as amended.

[1] Applicant is receiving an average 33,000 Mcf of natural gas per day at the outlet of the Carthage Plant pursuant to Gas Purchase and Sales Agreements between applicant and a number of producers. Thus, Applicant has the capability to deliver up to 12,000 Mcf of natural gas per day to Arkla at such point, it is asserted.

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Acadia Parish, Louisiana, and/or at other mutually agreeable delivery points between United and Tennessee, but that the rescheduling agreement, as amended, further acknowledges that United may enter into short-term emergency transportation or sales agreements with others for delivery of gas to NI-Gas for the account of Midwestern and Tennessee as rescheduled volumes.

It is stated that gas delivered or caused to be delivered by United to Tennessee during the May to November period[2] would be returned or caused to be returned to United by Tennessee during the period November 1, 1977, through March 31, 1978, and that based on the reduced winter takes of NI-Gas and Midwestern pursuant to the rescheduling agreement, as amended, NI-Gas would reduce its takes from Midwestern by an aggregate amount equal to the rescheduled volumes delivered to it during the May 1 through November 1 period and Midwestern would in turn reduce its takes from Tennessee. It is asserted that the volumes thus made available to Tennessee would enable Tennessee to deliver equivalent volumes to United at Bayou Sale, St. Mary Parish, Louisiana, and/or at other mutually agreeable existing points of interconnection of United's and Tennessee's systems and should Midwestern determine that due to operating conditions it is unable to so reduce its takes from Tennessee, then Tennessee would complete the return of the total aggregate volume delivered to NI-Gas as rescheduled volumes.

The application shows that in accordance with the provisions of the rescheduling agreement, as amended, Tennessee would pay NI-Gas the current unit rate per Mcf of gas as a rescheduling charge and Tennessee would also pay Midwestern an amount equal to the product of the total volumes of rescheduled gas delivered to NI-Gas times 7.24 cents. It is further shown that United would pay to Tennessee rates computed as follows: (1) For those volumes delivered to Tennessee for United's account at Crowley, 29.2 cents per Mcf times the volumes received by NI-Gas as rescheduled volumes as defined in the rescheduling agreement; (2) in the event delivery point or points other than Crowley are used the rate to be charged United would be computed by adding the aforementioned 7.2 cents per Mcf to the product of the volumes so delivered to Tennessee times (a) the distance in miles between point of receipt of such gas by Tennessee and the point of delivery to Midwestern and (b) Tennessee's system average transportation cost per mile per Mcf (0.0368 cent per Mcf per miles; (3) for rescheduled volumes which are delivered to NI-Gas for the account of Midwestern and Tennessee pursuant to short-term emergency transportation or sales arrangements with others as provided for in the rescheduling agreement, as amended, United would pay to Tennessee 23.2 cents per Mcf times such volumes received by NI-Gas. Further, it is stated that in addition to these payments, United would pay to Tennessee the payments which Tennessee is required to pay NI-Gas pursuant to the rescheduling agreement, as amended.

It is asserted that the exchange agreement with Tennessee, as amended, together with the rescheduling agreement among Tennessee, Midwestern and NI-Gas, as amended, would enable United to utilize better its available gas supply in meeting the high priority requirements of its customers and that in order to accomplish this objective, it is essential that United be permitted to recover the jurisdictional portion of the associated costs. In connection therewith, United proposes that such costs be recovered through a special surcharge to be applied to deliveries made by United during the months of November 1977 through March 1978. It is stated that United was authorized by the order of October 5, 1976, to recover the jurisdictional portion of costs incurred under the exchange agreement during the initial term thereof by means of such a special surcharge. Specific Commission approval is requested for the exact procedure by which United proposes to recover its costs and also for the derivation of Tennessee's aforesaid charge of 29.2 cents per Mcf as provided for in the exchange agreement, as amended.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before May 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12786 Filed 5-3-77;8:45 am]

[Project No. 1759]

WISCONSIN MICHIGAN POWER CO.

Application for Amendment of License

APRIL 25, 1977.

Public notice is hereby given that an application was filed on December 3, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Wisconsin Michigan Power Company (Applicant) (Correspondence to: Mr. Jermond L. Ellefson, Assistant Vice President and General Manager, Wisconsin Michigan Power Company, 807 South Oneida Street, Appleton, Wisconsin 54911) for an amendment of the license for Project No. 1759, known as the Michigamme Project. Project No. 1759 is located on the Michigamme and Menominee Rivers in Iron and Dickinson Counties, Michigan and Florence County, Wisconsin.

Applicant seeks amendment of its license to raise the normal headwater elevation of the Michigamme Reservoir and and Way Plant one foot from 1374 to 1375 m.s.l. The Way Dam, which impounds the Michigamme Reservoir, is located on the Michigamme River in Iron and Dickinson Counties, Michigan. The raising of the elevation of the reservoir by one foot would provide an additional 255 million cubic feet of water to be stored in the reservoir. The additional storage would be utilized to generate an estimated 2.2 million kilowatt-hours of electricity annually. No structural modifications to the project works would be necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 18, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. Sections 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), as amended by Order No. 518, a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12792 Filed 5-3-77;8:45 am]

[Docket No. CP77-348]

COLUMBIA GULF TRANSMISSION CO. ET AL.

Application

APRIL 27, 1977.

Take notice that on April 19, 1977, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027; Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), hereinafter jointly referred to as "Applicants", filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 1.6 miles of 12-inch pipeline from a producer platform in Block 609, West Cameron Area, Offshore Louisiana to an existing underwater tap in Block 617 to attach and transport gas from reserves in Block 609, to shore through existing facilities from Block 617 to the Blue Water Project and through the Blue Water Project to shore, in which facilities some or all of Applicants have an interest.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 19, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12761 Filed 5-3-77;8:45 am]

[Docket No. CP74-126]

EL PASO NATURAL GAS CO.

Petition To Amend

APRIL 27, 1977.

Take notice that on April 14, 1977, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74-126 a petition to amend the Commission's order of February 14, 1977, issued in the instant docket (57 FPC ------) pursuant to Section 7 (c) of the Natural Gas Act so as to permit Petitioner's participation in the facilities necessary to connect the MRT Exploration-Kirtley well Unit No. 1 (Kirtley Well) to Natural Gas Pipeline Company of America's (Natural) gathering system in Beckham County, Oklahoma, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission's order dated February 14, 1977, issued in the instant docket and Docket No. CP74-162, Petitioner and Natural were granted authorization to construct and operate certain facilities and to increase the quantities of gas to be exchanged between Petitioner and Natural. It is said that pursuant to such authorization Petitioner proposed to construct and operate, inter alia, facilities necessary to connect the Kirtley well to one of Natural's existing 8–5 inch O.D. gathering system pipelines so as to deliver, on an exchange basis, Petitioner's share of the gas produced from such well to Petitioner at a point on Petitioner's system identified as the Beckham No. 2 Exchange Point, in Beckham County, Oklahoma. The subject facilities consisted of approximately 1.13 miles of 6⅝ inch O.D. pipeline, a 4½ inch O.D. meter run and a 5,000 Mcf per day dehydration unit, all at an estimated direct cost of $73,000, it is said.

Petitioner states that since the filing of its initial application, it has entered into a letter agreement dated January 13, 1977, with Mississippi River Transmission Corporation (MRT) and Panhandle Eastern Pipeline Company (Panhandle) relating to the construction, ownership, maintenance and operation of the well-tie and gathering facilities necessary to attach the Kirtley well to Natural's gathering system. Pursuant to this agreement, MRT will construct and operate, on its own behalf and on behalf of all other interest owners in production from the Kirtley well, the gathering facilities necessary to connect the well to Natural's gathering system, and such facilities are estimated to have a cost of approximately $79,700. It is stated that based upon the approximate 23 percent interest owned by Petitioner in the Kirtley well production, Petitioner would pay to MRT 23 percent of the actual cost incurred by MRT in such construction and would own an equivalent interest in the facilities, and normal operations would be provided by MRT at no charge to participants, it is said. Petitioner states that as a consequence of the Letter Agreement dated January 13, 1977, it no longer proposes to construct or operate any facilities relating to the attachment of production from Kirtley well to Natural's gathering system pipeline.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12764 Filed 5-3-77;8:45 am]

[Docket No. CP77-349]

FLORIDA GAS TRANSMISSION CO.

Application

APRIL 27, 1977.

Take notice that on April 19, 1977, Florida Gas Transmission Company (Florida Gas), filed in Docket No. CP77-349, an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7 of the Commission's Regulations thereunder (18 CFR 157.7) for a certificate of public convenience and necessity authorizing the construction and operation of a compressor station and related facilities at or near the interconnection of Transcontinental Gas Pipe Line Corporation's (Transco's) and Florida Gas' facilities in Vermilion Parish, Louisiana, and further the transportation of natural gas for the account of Southern Natural Gas Company (Southern) from said interconnection to the authorized existing interconnection of Florida Gas' and Southern's systems in Washington Parish, Louisiana, or any other authorized point of interconnection which may be mutually agreeable to Florida Gas and Southern.

Florida Gas and Southern have entered into a transportation agreement dated March 15, 1977, pursuant to which Southern will deliver or cause to be delivered up to 100,000 MMBtu per day at the Transco-Florida Gas interconnection identified above, for ultimate redelivery to Southern at the existing Southern-Florida Gas Exchange point near Frank-

[2] It is indicated that United would deliver to Tennessee up to an aggregate volume of 10,000,000 Mcf of gas during the period May 1 to November 1, 1977, and that the parties have agreed to use their best efforts to accommodate the delivery of the total aggregate volume and to increase such volume to 20,000,000 Mcf if possible. Further, it is indicated that deliveries to Tennessee by United may, by agreement of the parties, continue through November 30, 1977, but that the return phase of the exchange agreement, as amended, would begin no later than November 30, 1977, and continue through March 31, 1978.

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linton Washington Parish, Louisiana or at any other authorized point of interconnection which may be mutually agreeable to Florida Gas and Southern from time to time. Florida Gas proposes to charge Southern 11.1 cents per MMBtu for each MMBtu redelivered at the point of redelivery. Said rate is composed of a facility charge (8.6 cents per MMBtu) and a service charge (2.5 cents per MMBtu). The rate is subject to increase or decrease pursuant to any order issued by the Commission or any successor governmental body having jurisdiction.

Additionally, Florida Gas indicates that in order to deliver the anticipated quantities of natural gas to Southern it will be necessary to install a 2,500 horsepower compressor at or near the aforementioned Vermilion Parish interconnection. Southern shall reimburse Florida Gas for all costs so incurred by Florida Gas.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 23, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12765 Filed 5-3-77;8:45 am]

[Docket No. ER76-211]

FLORIDA POWER & LIGHT CO.

Electric Rates, Order Approving Settlement

APRIL 28, 1977.

On February 4, 1977, Florida Power & Light Company (FP&L) filed a Motion for Approval of Settlement Agreement (Agreement). For the reasons set forth herein, the Commission approves the Agreement which effectively terminates this proceeding.

Proceedings were initiated in this docket on October 31, 1975, when FP&L tendered for filing a proposed rate increase (SR-1) in FFC Electric Tariff, Original Volume No. 1, amounting to $6,740,000 for certain cooperatives and $462,000 for certain municipal customers on a period II calendar 1976 test period basis.

By order issued December 31, 1975 the Commission suspended the proposed increase for three months to allow it to go into effect April 1, 1976 subject to refund. By order issued March 29, 1976 the Commission deferred action on Staff's motion for summary disposition of the tax normalization issue, pending the final resolution of Order No. 530-A.

Formal settlement conferences were held on August 5, 1976 and September 10, 1976. On February 4, 1977, as mentioned above, FP&L submitted a Motion for Approval of Settlement Agreement. Notice of the proposed settlement was issued February 16, 1977. Staff filed comments in support of the settlement on February 24, 1977. Additional supporting comments were filed by parties to the settlement.

In summary the agreement provides (1) for a reduction in the proposed increase to $4,000,000 for the cooperatives and $269,000 for the municipals; (2) for a reduction in the proposed filed rate demand ratchet for the full-requirement customers from 75 percent to 70 percent of the highest metered demand during the preceding eleven months; (3) for refunds to be made with 9 percent interest per annum; (4) for a phase out of the 23kv service to Homestead and New Symrna by June 30, 1977, subsequent interconnection services then to be rendered at higher voltage. No concession is made with respect to any rate-making principle or law.

The settlement revenue level generates a 9.67 percent overall rate of return including 13.0 percent return on common equity. This is the rate of return on common equity utilized by the Staff in the preparation of the top sheets that form the basis of settlement in this case. The common stock equity ratio utilized in the rate of return determination was 35.7 percent. A 13 percent rate of return on common stock equity at an equity ratio of 35.7 percent is consistent with rates of return on common stock equity that we have authorized in recent proceedings and appears reasonable in this case. Inter-period tax normalization as claimed by the company, is in accordance with Order 530-B. A test period revenue comparison is presented below:

	Cooperatives	Municipals	Total	Percentage increase
Prior rates	$34,498,000	$2,364,000	$36,862,000	
Originally proposed increase	6,740,000	462,000	7,202,000	19.5
Settlement increase	4,000,000	269,000	4,269,000	11.6

Based on our review of the Settlement Agreement record in these proceedings, we conclude that the agreement represents a reasonable resolution of the issues in the proceeding in the public interest, and that the settlement should be approved accordingly.

The Commission finds: The Settlement Agreement filed in this docket on February 4, 1977, should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The Settlement Agreement filed with the Commission in this proceeding on February 4, 1977 is incorporated herein by reference, accepted and approved.

(B) Within 30 days of the date of issuance of this order, FP&L shall file revised tariff sheets to effectuate the provisions of the Agreement and upon acceptance by the Commission of the filing of the revised tariff sheets, FP&L shall make refunds to the affected customers of all amounts collected in excess of the settlement rates provided for in the Agreement and approved herein. Said refunds shall be made in accordance with the terms of the Agreement and shall bear interest at the rate of 9 percent annum.

(C) Within 15 days after refunds are made, FP&L shall file a refund report with the Commission, shall serve a copy thereof upon all affected customers, and shall furnish a copy to the State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail. Such report shall show monthly billing determinants and revenues under prior, present and settlement rates; the monthly settlement rate increase; the monthly refund; and the monthly interest computation together with a summary of such information for the total refund period.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against FP&L or any other person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12756 Filed 5-3-77;8:45 am]

[Docket No. ER77-309]

MONONGAHELA POWER CO. AND WEST PENN POWER CO.

Changes in Rates and Charges

APRIL 28, 1977.

Take notice that Allegheny Power Service Corporation (APSC) on April 18, 1977 tendered for filing on behalf of Monongahela Power Company (Monongahela) and West Penn Power Company (West Penn), two of the electric utilities which make up the integrated Allegheny Power System, Amendment No. 5 dated April 14, 1977 to the Interchange Agreement dated October 17, 1968 between Monongahela, West Penn and the Ohio Edison Company and Pennsylvania Power Company designated Monongahela Rate Schedule FPC No. 29 and West Penn Rate Schedule FPC No. 27.

APSC indicates that Amendment No. 5 provides for an increase in the demand charge for short-term power from $0.50 to $0.60 per kilowatt week and an increase in the charge for short-term power obtained by the supplying party from another system from $0.125 to $0.15 to become effective May 23, 1977. APSC states that since short-term power transactions are scheduled from time to time as load capacity conditions on the systems of the parties dictate, it is impossible to estimate the increase in revenues which would result from Amendment No. 5.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protest should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12762 Filed 5-3-77;8:45 am]

[Docket No. CP77-346]

NATURAL GAS PIPELINE CO. OF AMERICA, ET AL.

Application

APRIL 27, 1977.

Take notice that on April 13, 1977, Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois, 60603, Trunkline Gas Company, 3000 Bissonnet Avenue, Houston, Texas, 77005, and Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas, 77027 (Applicants), filed in Docket No. CP77-346 a joint application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related facilities necessary to connect gas supplies located in High Island Area Block A-343, A-342 and A-337, Offshore, Texas, to a point of interconnection with High Island Offshore System (HIOS) facilities on a platform owned by HIOS also located in Block A-343, all as more fully set forth in the application which is on file with the Commission.

The application states that the facilities necessary to attach the gas from the producers' platform in Block A-343 to the HIOS platform in Block A-343 are 1.24 miles of 20-inch gathering line and other appurtenant facilities. Applicants estimate that the total cost of such facilities will be approximately $2,889,600. The application further states that the facilities necessary to attach the gas from the producers' platform in Block A-342 to the producers' platform in Block A-343 are 2.19 miles of 12-inch gathering line and other appurtenant facilities. Applicants estimate the total cost of such facilities will be approximately $3,627,600.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 25, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12760 Filed 5-3-77;8:45 am]

[Docket No. G-10632]

NORTHERN ILLINOIS GAS CO.

Petition to Amend

APRIL 27, 1977.

Take notice that on April 20, 1977, Northern Illinois Gas Company (NI-Gas), P.O. Box 190, Aurora, Illinois 60507, filed in Docket No. G-10632 a petition to amend the Commission's order issued October 5, 1976, in said docket pursuant to section 1(c) of the Natural Gas Act by authorizing an additional declaration of continued applicability of NI-Gas' existing exemption from the provisions of the Natural Gas Act pursuant to Section 1(c) thereof, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is asserted that NI-Gas is engaged in the business of selling and distributing gas to more than 1,300,000 customers in the State of Illinois, including most of the Chicago suburban area and that it is a public utility subject to the jurisdiction of the Illinois Commerce Commission. NI-Gas states that it has been exemot from the provisions of the Natural Gas Act under section 1(c) thereof by order issued July 26, 1956, in Docket No. G-10632.

NI-Gas states that United Gas Pipe Line Company (United), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and Midwestern Gas Transmission Company (Midwestern) are filing in Docket Nos. CP76-413 and CP76-414 1977 amendatory agreements to the Limited Term Exchange Agreement between United and Tennessee and to the Rescheduling Agreement among Tennessee, Midwestern, and NI-Gas together with a request for a one-year extension of the authorization granted by the order issued October 5, 1976, in those dockets and in the instant docket. It is said that the amended agreements provide for a rescheduling of gas deliveries from Tennessee to Midwestern and from Midwestern to NI-Gas and an exchange of up to 20,000,000 Mcf of natural gas during the period May 1, 1977, through March 31, 1978, similar to that authorized by the order of October 5, 1976.

NI-Gas states that it is advised that the amended exchange agreement between United and Tennessee is necessary in order to aid United in meeting peak day requirements of its high priority customers, and that in order to permit Tennessee to enter into the amended agreement, NI-Gas and Midwestern have agreed to reschedule deliveries under the amended rescheduling agreement. NI-Gas asserts that since the deliveries of rescheduled gas during the period beginning May 1, 1977, through October 31, 1977, would replace volumes normally delivered to Midwestern and NI-Gas during the period beginning November 1, 1977, through March 31, 1978, there would be not net increase in deliveries by Tennessee to Midwestern or by Midwestern to NI-Gas due to the proposed rescheduling.

NI-Gas states that the amended rescheduling agreement is for a limited term ending March 31, 1978, and is intended only as a temporary arrangement to assist Tennessee in meeting its obligations to United under the amended exchange agreement. NI-Gas asserts that all of the natural gas delivered to it would be received within the State of Illinois and would be ultimately con-

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sumed within said state and that no gas received by NI-Gas would leave the State of Illinois or be redelivered in any way to Midwestern, Tennessee, or United.

Accordingly, NI-Gas requests that the Commission issue an order declaring that the existing exemption of NI-Gas under section 1(c) of the Natural gas Act is not affected by its participation in the extension of the rescheduling of deliveries contemplated under the amended agreements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 18, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH E. PLUMB,
Secretary.

[FR Doc.77-12757 Filed 5-3-77;8:45 am]

[Docket No. ER76-820]

PUBLIC SERVICE CO. OF OKLAHOMA

Electric Rates: Rehearing; Order Denying Motion for Reconsideration and Granting Motion for Extension of Time

APRIL 27, 1977.

On March 28, 1977, the Public Service Company of Oklahoma (PSCO), complainant in the above captioned docket against the Grand River Dam Authority (GRDA), filed a petition for rehearing of our order issued March 7, 1977.[1] In that order, we, inter alia, set the matter of PSCO's FPC Rate Schedule No. 162 with GRDA for investigation pursuant to Section 206(a) of the Federal Power Act and subject to the burden of persuasion for fixed rate contracts enunciated in *FPC vs. Sierra Pacific Power Company* 350 U.S. 348 (1956). Specifically, PSCO in its present motion seeks reconsideration and clarification, or modification, of our ordering paragraph (D) of the March 7 order which requires PSCO to update its filed cost of service study in the present docket to reflect additional revenues that would be generated by the annual energy cost rate change to GRDA accepted by us in Docket No. ER77-170, effective January 1, 1977.

In support of its motion PSCO states that the amendment of the subject cost of service study to reflect revenues received in 1977 pursuant to the energy rates approved in Docket No. ER77-170 would make no sense. PSCO asserts that the filed Period I (1975) and Period II (1976) already reflect the application of the energy adjustment clause, and thus, the imputing of 1977 revenues on the 1976 Period II results in an inapplicable double counting of the energy clause in one year.

PSCO also filed on March 31, a motion for a stay or for a 30-day extension of time to amend its filing in compliance with our ordering paragraph (D) in the order of March 7, if its misnamed petition for rehearing is denied.

Full consideration of PSCO's motion for reconsideration in relation to its filing leads the Commission to the conclusion that the large amount of additional revenues generated through the energy adjustment clause accepted in Docket No. ER77-170 is material to a consideration of the fixed rate contract rates in the present docket, particularly in light of the *Sierra* burden placed on PSCO. PSCO should supplement its filing, without prejudice to its case in chief, pursuant to ordering paragraph (D). In other words, in addition to filing in compliance with paragraph (D), PSCO may make any further showing it deems germane to the issues at bar. Further the Commission considers it reasonable to grant PSCO's motion for extension of time to amend its filing.

The Commission finds: (1) Good cause exists to deny PSCO's motion requesting reconsideration of our ordering paragraph (D) in our order of March 7, 1977 in this proceeding.

(2) Good cause exists to extend the time to supplement PSCO's filing in accordance with ordering paragraph[a] (D) in our March 7, 1977, order.

The Commission orders: (A) PSCO's application for rehearing treated as a motion for reconsideration is hereby denied.

(B) PSCO's request for an extension of time is hereby granted and, within 30 days of the issuance of this order. PSCO shall supplement, without prejudice, its cost of service study filed with us in the present docket to reflect additional revenues that would be generated by the annual energy rate change to GRDA approved in Docket No. ER77-170, effective as of January 1, 1977.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12758 Filed 5-3-77;8:45 am]

[Docket No. CP77-345]

SOUTHERN NATURAL GAS CO.

Application

APRIL 27, 1977.

Take Notice that on April 18, 1977, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama, 35202, filed in Docket No. CP77-345, an application pursuant to Section 7(b) of the Natural Gas Act for an order authorizing the abandonment of facilities. In this application Southern also requests an order pursuant to Section 1.7(c) of the Commission's Regulations under the Natural Gas Act approving the permanent relocation of the facilities to be abandoned and the retention of their value and the inclusion of the costs incurred in their relocation in its rate base.

Specifically, Southern seeks authority to abandon and relocate one 2,500 horsepower compressor and related equipment from its Lacombe Compressor Station located in St. Tammany Parish, Louisiana. These facilities will be installed at an existing point of interconnection of the pipeline systems of Transcontinental Gas Pipe Line Corporation and Florida Gas Transmission Company (Florida Gas) pursuant to a transportation agreement between Southern and Florida Gas. The facilities sought to be abandoned were installed in the Lacombe Compressor Station pursuant to temporary and permanent certificates of public convenience and necessity issued in Docket No. CP64-314 on April 13, 1965, and June 8, 1966, respectively.

Southern states that these facilities are no longer necessary for the operation of the Lacombe Compressor Station and have been idle for the past four years.

The proposal is more fully described in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 24, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12763 Filed 5-3-77;8:45 am]

[Docket No. CP77-344]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

APRIL 27, 1977.

Take notice that on April 18, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston Texas 77001, filed in Docket No. CP 77-344 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 dekatherms (dt) of natural gas per day on an interruptible basis for Carolina Pipeline Company; NCNG Exploration Corporation, representative of North Carolina Natural Gas Corporation; Philadelphia Electric Company; Piedmont Exploration Company, Inc., representative of Piedmont Natural Gas Company, Inc.; Rockingham Exploration Company, representative of North Carolina Gas Service Division of Pennsylvania & Southern Gas Company; Tar Heel Energy Corporation, representative of Public Service Company of North Carolina, Inc.; United Cities Gas Company, North and South Carolina Division; Owens-Corning Fiberglas Corporation; Burlington Industries, Inc.;[1] Devco Enterprises, Inc., representative of Cherokee Brick Company of North Carolina, Inc., deliveries to be made to Public Service Company of North Carolina, Inc.; (Customers) all of which are existing customers of Applicant direct and indirect, who have working interests entitling them to a share in the production from successful gas wells discovered under a joint venture exploration and development program to which these customers made substantial financial commitments, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in 1975, in another effort to increase the gas supplies available to its system, it took the initiative in establishing a joint venture drilling program, the Transmac Exploration and Development Program (Transmac) under the management and operation of McMoRan Exploration Co. It is said that Transco Exploration Company (TXC), Applicant's exploration and production affiliate, became a substantial participant in the program and several of Applicant's existing distribution customers, certain industrial customers served by the distributors and a direct industrial customer also joined the program as contributing participants. Applicant indicates that the Transmac drilling fund was to be a 3-year program with a total budget of $36 million, and that the program is in the process of being revised and expanded with a proposed annual budget of $20 million beginning in September 1977, increasing to $22.5 million and $25 million annually in the next two succeeding years.

The Transmac fund is limited strictly to exploring onshore drilling prospects, or offshore prospects in state waters, in the Gulf Coast area, principally in the States of Louisiana, Mississippi and Texas, it is said. Applicant states that all of the participants have the right to take in kind the production attributable to their working interests in any successful wells developed under the program, and that the working interest attributable to TXC's participation would be sold to Applicant, unless prior dedications prevent such a sale, or unless the location and the size of the discovery would make delivery into Applicant's system economically infeasible. Applicant further states that its customers joined the Transmac program and made substantial financial commitments to the drilling fund with the expectation that gas attributable to their working interest could be taken in kind and transported to their respective market areas or to their plants and Applicant committed itself to undertake to arrange the transportation of the customers' gas. Several of Applicant's customers participating in the Transmac drilling program elected to be represented in the joint venture through subsidiaries or affiliates, and the representatives of the distribution companies are expected to qualify as "small producers", it is said. Applicant states that where the principal is represented in the program through an affiliate or subsidiary, the transportation service would be rendered for the representative in some cases and for the principal in some cases, with deliveries being made to the principal at existing delivery points on Applicant's system, and that deliveries to indirect customers who have participated would be made at existing delivery points to the Applicant distributors serving such customers.

The following are said to be participants in the successful drilling prospects developed to date under the Transmac program for which transportation service is proposed indicating, where appropriate, the relationships explained above:

1. RESALE CUSTOMERS

Carolina Pipeline Company.
NCNG Exploration Corporation, representative of North Carolina Natural Gas Corporation.
Philadelphia Electric Company.
Piedmont Exploration Company, Inc., representative of Piedmont Natural Gas Company, Inc.
Rockingham Exploration Company, representative of North Carolina Gas Service Division of Pennsylvania & Southern Gas Company.
Tar Heel Energy Corporation, representative of Public Service Company of North Carolina, Inc.
United Cities Gas Company, North and South Carolina Division.

2. DIRECT SALE CUSTOMER

Owens-Corning Fiberglas Corporation.

3. INDIRECT CUSTOMERS

Burlington Industries, Inc.
Devco Enterprises, Inc., representative of Cherokee Brick Company of North Carolina, Inc., deliveries to be made to Public Service Company of North Carolina, Inc.

Applicant indicates that the proposed transportation customers undertake to have their gas delivered to Applicant's system at no expense to Applicant, and it is understood that no facilities are to be constructed to effectuate deliveries to them.

Applicant indicates that the rates it proposes to charge for the proposed transportation service depend upon location of the delivery point on Applicant's system. Applicant states that the current rates for the transportation service are: Zone 1 deliveries, 42.8 cents per dt; Zone 2 deliveries, 45.8 cents per dt; and Zone 3 deliveries, 49.9 cents per dt. Applicant further states that these are the rates applicable to all long-haul interruptible transportation services rendered under agreements in which Applicant has the right to change its rates for such services. Applicant states that it would retain a percentage of the gas delivered to its system by the proposed transportation customers for compressor fuel and line loss make-up, such percentages to be the same as Applicant retains for other interruptible transportion deliveries in the same zone where delivery is made under the proposed transportation service.

Applicant states that under the proposed transportation agreements, it is provided, in the case of distributors who would receive the transportation gas, that the quantity transported (less the quantities retained for compressor fuel and line loss make-up), when combined with the quantities the distributor is scheduling under Applicant's Contract Demand (CD) Rate Schedule, other transportation agreements with Applicant, and any quantities being scheduled for transportation by industrial and commercial customers of the distributor, shall not exceed the distributor's authorized daily entitlement under its CD Rate Schedule, and that similar limitations apply to the transportation deliveries to the direct and indirect industrial customers.

Applicant asserts that the gas proposed to be transported would be utilized by the principals who have participated in the drilling programs to moderate the impact on their high-priority end uses of Applicant's curtailments of gas deliveries under CD service agreements and its one direct sales contract. None of the transportation gas would be utilized for boiler fuel purposes, it is said.

[1] Burlington Industries owns facilities which are served by the following distribution customers of Applicant: Carolina Pipeline Company, North Carolina Gas Corporation, Piedmont Natural Gas Company, Inc., Public Service Company of North Carolina, Inc., Public Service Electric and Gas Company, Virginia Pipeline Company. Transportation deliveries for Burlington Industries' account would be made to the distributors serving Burlington's facilities.

[a] Rehearing of an interlocutory order such as the March 7 order is not permitted by the Federal Power Act or our Rules. The petition is, therefore, being treated as a motion for reconsideration.

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It is stated that drilling under the Transmac program in three fields has resulted in successful wells located in the Loisel Field, Iberia Parish and the West Mermentau Area, Acadia Parish, Louisiana and in the Kawitt Area, Karnes and DeWitt Counties, Texas, and that one successful well has been discovered in each field, but additional drilling on acreage held by the Transmac program is probable in the West Mermentau Area and in the Kawitt Area; as additional production is available from these fields, it would be transported for the account of the proposed transportation customers.

Applicant states that transportation gas from the Loisel Field would be delivered to its system through a transportation arrangement with Southern Natural Gas Company (Southern) which Applicant, acting as agent, has negotiated with Southern, and that transportation gas from the Kawitt Area would be delivered into Applicant's system on its McMullen Lateral, in Goliad County, Texas, near Applicant's Station 05 through arrangements which the participants in the well have worked out with Intrastate Gathering Corporation and National Gas Gathering Company, two gathering operators. Gas produced in the West Mermentau Area would be delivered into Applicant's system for the account of the transportation customers through a transportation or exchange arrangement between Applicant and Michigan Wisconsin Pipe Line Company, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for lease to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12759 Filed 5-3-77;8:45 am]

[Docket No. CP77-333]

TEXAS GAS TRANSMISSION CORP. Application

APRIL 22, 1977.

Take notice that on April 6, 1977, Texas Gas Transmission Corporation (Applicant) P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP77-333, an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of up to 895 Mcf of natural gas per day at 14.73 psia, on an interruptible basis for Associated Dry Goods Corporation, Peerless Pottery, Inc.; Indian Summer, Inc.; Zeidler Flora Company; Hahn, Inc.; Windsor Plastics, Inc.; Thin Twin Potato Chip Corporation; Babcock and Wilcox Company; White Swann Cleaners and Launderers of Evansville, Inc.; Indian Industries, Inc.; Hartford Bakery, Inc.; K & S Green Houses, Inc.; George Kock Sons, Inc.; American Dairy of Evansville, Inc.; and Modern Maid Food Products, Inc. (15 customers of Southern Indiana Gas and Electric Company (SIGECO), an existing resale customer of Applicant), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 895 Mcf of natural gas per day at 14.73 psia, on an interruptible basis, for 2 years for 15 customers of SIGECO pursuant to a Transportation Agreement, dated February 12, 1977, between Applicant and Customers. Applicant states that these 15 customers, through their duly authorized agent, Southwestern Indiana Intrastate Gas Co-Operative, Inc., have entered into a contract with Ergon, Inc. (Ergon), for the purchase of volumes of natural gas to be produced from certain wells presently owned by Ergon in the Monroe Gas Field, Union Parish, Louisiana. It is stated that Ergon would sell the proposed volumes of gas to these 15 customers at a price of $2.25 per Mcf for gas having a gross heating value of 1,000 Btu's per cubic foot, and if it delivers gas gross heating value of more or less less than 1,000 Btu's per cubic foot, the price shall be adjusted by multiplying such price by a fraction, the numerator of which shall be the actual Btu content of the gas at the point of delivery and the denominator of which shall be 1,000.

Applicant states that the gas proposed to be transported would be delivered to it at an existing meter station operated by Applicant on Applicant's 26-inch mainline system in Union Parish, Louisiana, and Applicant would simultaneously redeliver the gas to its existing point or points of delivery with SIGECO for the account of the proposed 15 customers. In no event shall Applicant be obligated to deliver on any day an aggregate amount of more than the contract demand of 104,043 Mcf of natural gas through all points of delivery of Applicant to SIGECO, it is said. It is stated that SIGECO would accept volumes of natural gas up to 895 Mcf per day to be transported and delivered by Applicant to SIGECO for the account of the 15 proposed customers.

Applicant states that it would retain a volume equal to 7.0 percent above the delivered volume as makeup for compressor fuel loss and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Applicant would be made, i.e., Zone 3. Applicant further states that it would collect an initial charge of 14.64 cents per Mcf (at 14.73 psia) for all quantities of gas transported and delivered to SIGECO for the account of the 15 customers. The proposed interruptible transportation rate is computed in the same manner, exclusive of the cost of compressor station fuel, as that rate charged for comparable long-haul interruptible transportation service by Applicant, it is said.

Applicant indicates that it would use its existing facilities to render the proposed transportation service. Applicant states that Ergon has gas purchase contracts with Reynolds Metals Company (Reynolds) and H. H. Robertson Company (Robertson) and only such gas as Ergon's Wells may produce in excess of the quantities delivered to Reynolds and Robertson, shall be dedicated to the contract between Ergon and the 15 proposed customers. Applicant indicates that the subject gas is new gas from which no previous sales have been made and that, in the event this gas is not sold to the 15 customers, it would be sold to local intrastate systems or to other high priority consumers.

Each of the 15 proposed customers has indicated that for each month of the proposed transport period the proposed end use of such natural gas is classified Priority II for process and plant protection gas. The curtailment schedules for each of the 15 proposed customers and the allocations of the gas proposed to be transported for each is as follows:

Associated Dry Good Corporation,
dba Stewart's Dry Good Company (Stewart)

Table I (Curtailment)

Period	Priority II
4/46 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

*(Estimated by Stewart's)

Based upon the above curtailments, SIGECO has informed Stewart's that it would receive the following allocations of gas:

Table II (Figures Given In Mcf)

Period	Priority II Requirements	SIGECO Allocation	Short Fall	Short Fall Percentage of Priority II Requirements
4/76 - 10/76	1575	1259	316	20%
11/76 - 3/77	6222	2489	3733	60%
4/77 - 10/77	1575	1259	316	20%
11/77 - 3/78	6222	2489	3733	60%
4/78 - 10/78	1575	1259	316	20%

Peerless Pottery Co., Inc.
(Peerless)

TABLE I
(curtailment)

Period	Priority 3	Priority 2
11-76/3-77	100%	60%

Based on the above curtailments SIGECO has informed Peerless it would receive the following allocation of gas for the period of November 1, 1976 through March 31, 1977:

TABLE II
(figures given in Mcf)

Period	Priority 2 requirements	S I G & E Co. allocation	Peerless shortfall	Shortfall % of Priority 2 requirements
11-76/3-77	62,950	25,180	37,770	60 %
4-77/10-77	87,707	70,166	17,541	20 %
11-77/3-78	62,950	25,180	37,770	60 %
4-78/10-78	87,707	70,166	17,541	20 %
Total	301,314	190,692	110,622	

Peerless Plastic Co., Inc.

TABLE I
(curtailment)

Period	Priority 3	Priority 2
11-76/3-77	100%	60%

Based on the above curtailments SIGECO has informed Peerless it would receive the following allocation of gas for the period 11-76/3-77.

V 42 86 MAY 4 77 UMI

TABLE II
(Figures given in Mcf)

Period	Priority 2 Requirements	S I G & E Co. Allocation	Peerless Shortfall	Shortfall % of priority 2 Requirements
11-76/3-77	2,214	886	1,328	60 %
4-77/10-77	625	500	125	20 %
11-77/3-78	2,214	886	1,328	60 %
4-78/10-78	625	500	125	20 %
Total	5,678	2,772	2,906	

Peerless Pottery Co., Inc.

TABLE I
(curtailment)

Period	Priority 3	Priority 2
11-76/3-77	100%	60%

For Peerless Pottery Co., SIGECO has announced that it would receive the following allocation of gas for the period November 1, 1976 through March 31, 1977;

TABLE II
(figures given in Mcf)

Period	Priority 2 Requirements	S I G & E Co. Allocation	Peerless Shortfall	Shortfall % of priority 2 requirements
11-76/3-77	6,796	2,719	4,077	60 %
2-77/10-77	7*	6*	1*	20 %
11-77/3-78	6,796	2,719	4,077	60 %
4-78/10-78	7*	6*	1*	20 %
Total	13,606	5,450	8,156	

* Note:
It is stated that Peerless Pottery Co., Inc., purchased this plant in 1972. Prior to this time this plant is said to have been empty and no gas was used in the first part of the base year. This leaves Peerless without an allocation ample to heat the plant in the early months and the late summer period, it is said. It is indicated that the above volumes pertain to the actual gas usage at the plant.

Indian Summer, Inc.

TABLE I (Curtailment)

Period	Priority II
04/76 - 10/76	20%
11/76 - 03/77	60%
04/77 - 10/77	20%*
11/77 - 03/78	60%*
04/78 - 10/78	20%*

* (Estimated by Indian Summer)

Based on the above curtailments, SIGECO has informed Indian Summer that it would receive the following allocations of gas:

TABLE II

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	3366	1009	2357	3366	2019
4/77 - 10/77	2504	1752	752	2504	500
11/77 - 3/78	3366	1009	2357	3366	2019
4/78 - 10/78	2504	1752	752	2504	500

Windsor Plastics, Inc.
(Windsor)

Table I (Curtailment)

Period	Priority II
4/76 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

*(Estimated by WINDSOR)

Based on the above curtailments, SIGECO has informed WINDSOR that it would receive the following allocations of natural gas:

Table II

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	16472	12952	3520	16472	9883
4/77 - 10/77	8570	8570	--	8570	1714
11/78 - 3/78	16472	12952	3520	16472	9883
4/78 - 10/78	8570	8570	--	8570	1714

Thin Twin Potato Chip Corporation
(Thin Twin)

Table I (Curtailment)

Period	Priority II
04/76-10/76	20%
11/76-03/77	60%
04/77-10/77	20%*
11/77-03/78	60%*
04/78-10/78	20%*

*(Estimated by Thin Twins)

Based upon the above curtailments, SIGECO has informed Thin Twins that it would receive the following allocations of gas:

Table II

Period	Total Priority II Requirements	Total Process and Plant Protection	Amount of 533 Gas Applied For
11/76-03/77	3452	3452	1500
04/77-10/77	7502	7502	-0-
11/77-03/78	3452	3452	1500
04/78-10/78	7502	7502	-0-

Zeidler Floral Company (Zeidler)

TABLE I (Curtailment)

Period	Priority II
04/76 - 10/76	20%
11/76 - 03/77	60%
04/77 - 10/77	20%*
11/77 - 03/78	60%*
04/78 10/78	20%*

* (Estimated by Zeidler)

Based on the above curtailment schedule, SIGECO has informed Zeidler that it would receive the following allocations of natural gas:

TABLE II (figures Given in Mcf)

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76-03/77	16809	-	16809	16809	10085
04/77-10/77	5485	-	5485	5485	1097
11/77-03/78	16809	-	16809	16809	10085
04/78-10/78	5485	-	5485	5485	1097

Hahn, Inc.

TABLE I (Curtailment)

Period	Priority II
04/76 - 10/76	20%
11/76 - 03/77	60%
04/77 - 10/77	20%*
11/77 - 03/78	60%*
04/78 - 10/78	20%*

* (Estimated by Hahn)

Based on the above curtailments, SIGECO has informed Hahn that it would receive the following allocations of gas:

TABLE II

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	24927	--	24927	24927	14956
4/77 - 10/78	186	--	186	186	37
11/77 - 3/78	24927	--	24927	24927	14956
4/78 - 10/78	186	--	186	186	37

V42|86 MAY 4 77 UMI

Indian Industries, Inc.
(Indian)

Table I (Curtailment)

Period	Priority II
4/76 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

*. (Estimated by Indian)

Based on the above, Indian petitions for such amounts of gas under Order 533 as is equivalent to the amounts it has been curtailed as set out below:

Table II

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76 3/77	17094	747	4067	4814	2888
4/77 - 10/77	3607	981	49	1030	206
11/77 - 3/78	17094	747	4067	4814	2888
4/78 - 10/78	3607	981	49	1030	206

Hartford Bakery, Inc.
(Hartford)

Table I (Curtailment)

Period	Priority II
4/76 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

*(Estimated by HARTFORD)

Based on the above curtailments, SIGECO has informed HARTFORD that it would receive the following allocations of gas:

Table II

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	15999	14719	1280	15999	9601
4/77 - 10/77	17135	16796	339	17135	3427
11/77 - 3/78	15999	14719	1280	15999	9601
4/78 - 10/78	17135	16796	339	17135	3427

Babcock & Wilcox Company
(B & W)

TABLE I (Curtailment)

Period	Priority II
04/76 - 10/76	20%
11/76 - 03/77	60%
04/77 - 10/77	20%*
11/77 - 03/78	60%*
04/78 10/78	20%*

* (Estimated by B & W)

Based on the above curtailments, SIGECO has informed B & W that it would receive the following allocations of gas:

TABLE II

Period	Total Priority II Requirements	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	88899	88899	53341
4/77 - 10/77	75668	75668	15133
11/77 - 3/78	88899	88899	53341
4/78 - 10/78	75668	75668	15133

White Swan Cleaners of Evansville, Inc.
(White Swan)

Table I (Curtailment)

Period	Priority II
4/46 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

*(Estimated by White Swan)

Based upon the above curtailments, SIGECO has informed White Swan that it would receive the following allocations of gas:

Table II (Figures Given in Mcf)

Period	Total Priority II Requirements	Process	Plant Protection	Total Process And Plant Protection	Amount Curtailed
11/76 - 3/77	11653	9905	1748	11653	6991
4/77 - 10/77	13727	13727	--	13727	2745
11/77 - 3/78	11653	9905	1748	11653	6991
4/78 - 10/78	13727	13727	--	13727	2745

K & S Greenhouse, Inc.
(K & S)

TABLE I (Curtailment)

Period	Priority II
4/76 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

* (Estimated by Whirlpool)

Based on the above curtailments, SIGECO has informed K & S that it would receive the following allocations of gas:

TABLE II

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	10171	--	10171	10171	6103
4/77 - 10/77	2471	--	2471	2471	494
11/77 - 3/78	10171	--	10171	10171	6103
4/78 - 10/78	2471	--	2471	2471	494

George Koch Sons, Inc.
(GKS)

Table I (Curtailment)

Period	Priority II
4/76 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

*(Estimated by GKS)

Based on the above curtailments, SIGECO has informed GKS that it would receive the following allocations of natural gas:

Table II

(Figures given in Mcf)

Period	Total Priority II Requirements	Process	Plant Protection	Total Process and Plant Protection	Amount Curtailed
		Plant 1			
11/76 - 3/77	5668	520	3861	4381	2628
4/77 - 10/77	906	728	134	862	172
11/77 - 3/78	5668	520	3861	4381	2628
4/78 - 10/78	906	728	134	862	172

Volumes of 533 gas to be purchased under the proposed gas purchase contract:

(a) Peak day
4.3 Mcf Summer
90 Mcf Winter

V42N86 MAY 4 1977 UMI

Vine Street Plant

Period	Total Priority II Requirements	Total Process and Plant Protection	Amount Curtailed
11/76 - 3/77	536	536	322
4/77 - 10/77	205	205	40
11/77 - 3/78	536	536	322
4/78 - 10/78	205	205	40

(a) Average day Summer: 0.2 Mcf
(b) Average day Winter: 2.1 Mcf
(c) Peak day Summer: 0.25 Mcf
(d) Peak day Winter: 2.5 Mcf
(e) Annually: 382 Mcf

Modern Maid Food Products, Inc.
(Modern Maid)

Table I (Curtailment)

Period	Priority II
4/46 - 10/76	20%
11/76 - 3/77	60%
4/77 - 10/77	20%*
11/77 - 3/78	60%*
4/78 - 10/78	20%*

Based upon the above curtailments, SIGECO has informed Modern Maid that it would receive the following allocations of gas:

Table II (Figures Given In Mcf)

Period	Total Priority II Requirements	Total Process and Plant Protection	Amount Curtailed
11/76-3/77	11915	11915	7149
4/77-10/77	10787	10787	2157
11/77-3/78	11915	11915	7149
4/78-10/78	10787	10787	2157

American Dairy of Evansville, Inc.
(American Dairy)

TABLE I (Curtailment)

Period	Priority II
04/76 - 10/76	20%
11/76 - 03/77	60%
04/77 - 10/77	20%*
11/77 - 33/78	60%*
04/78 - 10/78	20%*

* (Estimated by American Dairy)

Based on the above curtailments, SIGECO has informed American Dairy that it would receive the following allocations of gas:

TABLE II (Figures Given In Mcf)

Missouri Street Plant

Period	Total Priority II Requirements	Total Process and Plant Protection.	Amount Curtailed
11/76 - 3/77	12353	12353	7412
4/77 - 10/77	16283	16283	3257
11/77 - 3/78	12353	12353	7412
4/78 - 10/78	16283	16283	3257

(a) Average day Summer: 15.2 Mcf
(b) Average day Winter: 49 Mcf
(c) Peak day Summer: 18.2 Mcf
(d) Peak day Winter: 59 Mcf
(e) Annually: 10669 Mcf

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this appliction if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12508 Filed 5-3-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on April 26, 1977 (NRC), April 27, 1977 (NRC) and April 28, 1977 (CAB). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC and CAB requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before May 23, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review, Staff 202–275–3532.

NUCLEAR REGULATORY COMMISSION

NRC requests an extension no change clearance of 10 CFR 35.14, Specific licenses for certain groups of medical uses of byproduct material. In accordance with § 35.14(a), and subject to specified limitations, an application for a specific license pursuant to §§ 35.11, 35.12, or 35.13 for any medical use specified in one or more of Groups I to VI of § 35.100 will be approved for all of the uses within the group or groups which include the use specified in the application. Section 35.14 also includes recordkeeping requirements showing results of leak tests of sealed sources, and reporting requirements for leak tests of sealed sources or devices which reveal the presence of specified quantities of removable contamination. NRC estimates potential respondents are approximately 1500 licensees holding specific licenses for certain groups of medical uses of byproduct material. NRC estimates that there is no additional burden to licensees imposed by § 35.14(a), and that the respondent burden for reports of leaking or contaminated sources is a total of 5 hours and the respondent burden for maintaining records of leak test results and making quarterly inventories of sealed sources is a total of 999 hours.

NCR requests an extension no change clearance of 10 CFR Part 71, Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions. Section 71.12 provides that the general licensee, prior to his first use of the package, shall submit to NRC his name and license number, the name and license number of the specific licensee, and the model number of the packaging. Sections 71.21 through 71.24 specify the information required in a license application under Part 71 for each proposed packaging design and method of transport. Section 71.61 requires a licensee to report any instance in which there is a substantial reduction in the effectiveness of any authorized packaging during use. Section 71.62 requires the licensee to maintain records of certain shipments. NRC estimates approximately 100 licensees are potential respondents and that the total annual respondent burden under 10 CFR Part 71 is approximately 43,000 hours.

NRC requests an extension no change clearance of 10 CFR Part 73, Physical Protection of Plants and Materials. Part 73 prescribes requirements for physical protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used, for the purpose of protection against acts of industrial sabotage and protection of special nuclear material against theft by establishment and maintenance of a physical protection system. Reporting and recordkeeping requirements are set out in §§ 73.70(f), 73.31(b), 73.33(a), 73.36(e), 73.36(f), 73.7, 703.71(a), 73,71 (b), 73.72. NRC estimates approximately 30 NRC licensees holding licenses for special nuclear material will file reports and maintain records pursuant to 10 CFR Part 73. The total respondent burden is estimated by NRC to be 5,035 hours annually.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of Form 183, Report of Extension of Credit to Political Candidates. This form requires certificated air carriers to file special data with respect to credit extended to political candidates for air transportation services, pursuant to Section 401 of the Federal Election Campaign Act of 1971, when transportation furnished to a candidate for Federal office or a person acting in his behalf exceeds $5,000 on the last day of a month during the six months before an election or nomination. The reporting requirement, once activated, continues until the candidate's aggregate indebtedness balance drops to $5,000 or less. Potential respondents are 42 certificated air carriers and the reporting burden is estimated to be approximately two hours per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-12826 Filed 5-3-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 28]

GEORGIA POWER CO.

Proposed Intervention in Electric Rate Increase Proceeding; Georgia Public Service Commission

The General Services Administration seeks to intervene in a proceeding before the Georgia Public Service Commission concerning a request filed by the Georgia Power Company for an increase in electric revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of electric services.

The Georgia Power Company has requested authority to increase total electric revenues by $197.5 million, or 18.8 percent. The proposed increase would have an impact on the Federal Government of approximately $2 million annually.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202–566–0750, on or before June 3, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

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(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)).)

Dated: April 19, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-12738 Filed 5-3-77;8:45 am]

[Intervention Notice No. 27; Docket No. 1108]

MOUNTAIN STATES TELEPHONE & TELEGRAPH CO.

Proposed Intervention in Telephone Rate Increase Proceeding; Colorado Public Utilities Commission

The General Services Administration seeks to intervene in a proceeding before the Colorado Public Utilities Commission concerning the tariff changes filed by the Mountain States Telephone & Telegraph Company designed to increase intrastate revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of telecommunications services.

The Mountain States Telephone & Telegraph Company filed tariffs with the Commission which would increase their annual intrastate revenues by $50.2 million. The proposed increase would have an impact on the Federal Government of approximately $1.6 million annually.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before June 3, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)).)

Dated: April 15, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-12739 Filed 5-3-77;8:45 am]

[Intervention Notice No. 29; Cause No. 25971]

OKLAHOMA CORPORATION COMMISSION

Proposed Intervention in Telephone Rate Increase Proceeding; Southwestern Bell Telephone Co.

The General Services Administration seeks to intervene in a proceeding before the Oklahoma Corporation Commission concerning the application of the Southwestern Bell Telephone Company for an increase in annual revenues. The GSA represents the interests of the executive agencies of the United States Government, as users of telecommunications services.

The Southwestern Bell Telephone Company has proposed increases in intrastate rates which would yield an estimated $35 million in increased annual revenues. This would have an impact on the Federal Government of about $864,000 annually, an 18 percent increase over present Government costs.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before June 3, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: April 25, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-12787 Filed 5-3-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

APRIL 19, 1977.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, May 24 and 25, 1977, from 9 a.m. to 4 p.m., Room 5651, GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following proposed projects: (a) Renovations to the Heating, Ventilating and Airconditioning Systems, Federal Building No. 6, Washington, D.C., (b) Renovations to the Heating Ventilation and Airconditioning Systems, Electrical System, and architectural and structural improvements, Federal Trade Commission Building, Washington, D.C. The meeting will be open to the public.

BEN SCHIFFMAN,
Acting Regional Administrator.

[FR Doc.77-12736 Filed 5-3-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-423]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electrical rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the North Carolina Utilities Commission (Docket No. E-2, Sub 297) involving a petition filed by the Carolina Power & Light Company requesting an increase in electric rates.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised concurrently with the responsible officers, officials, and employees thereof.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

APRIL 15, 1977.

[FR Doc.77-12733 Filed 5-3-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. N-77-746]

FEDERAL ASSISTANCE TO DROUGHT STRICKEN AREAS AND RELATED DETERMINATIONS

Memorandum of Agreement

Correction

In FR Doc. 77-12528 appearing at page 21855 in the issue for Friday, April 29, 1977 the headings should have read as set forth above. Also, the title under the signature of A. Vernon Weaves appearing in the third column should have read "Administrator, Small Business Administration".

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

BONNEVILLE POWER PROCUREMENT INSTRUCTIONS

Supplement to Federal Procurement Regulations

The Comptroller General of the United States, in Decision No. B-114858, has stated that in view of Bonneville Power Administration's authority to settle its claims with finality, his office will discontinue reviews of bid protests and mistakes in bids involving BPA procurements and contracts. The Deputy Assistant Secretary—Administration and Management reviewed and approved, for use on a trial basis for the period ending March 31, 1978, procedures for handling BPA bid protests and mistakes in bid cases. After that time a decision will

be made as to whether the procedures should continue on a permanent basis.

In view of Decision B-114858, matters involving mistakes in bids and protests against awards will be reviewed and decided as final and conclusive by BPA. The following clause will be incorporated in all BPA solicitations:

Protests against award. Pursuant to Decision B-114858, dated July 13, 1976, from the General Accounting Office, bid protests against award by the Bonneville Power Administration will no longer be reviewed by that Office for compliance with applicable laws and regulations. Therefore, offerors who are unable to resolve disagreements on contract awards informally with the contracting officer shall send a written notice of protest to the Contracts Manager, P.O. Box 3621, Portland, Oregon 97208. The protest shall contain: (1) the name and address of the protester, (2) identity of the contracting officer and the solicitation or contract involved, (3) a statement of the grounds for the protest, and (4) a request for a ruling by EPA.

Protesters must file a request for a ruling within 10 working days of the date on which they had actual or constructive notice of the alleged adverse procurement action. Protests not filed within this time limitation will not be considered. Protests based upon alleged adverse action in any type of solicitation which are apparent prior to the opening of bids or the closing date for the receipt of proposals must be filed before those dates.

Late protests will not be considered unless they were sent by express, certified, or registered mail not later than the fifth working day after the cause for the protest was known. Only postmarked U.S. Potal Receipts will be considered acceptable evidence of mailing.

Decisions issued by the Administrator shall be final and conclusive.

Any questions regarding the above procedures should be directed to the Contracts Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; or telephone 503-234-3361, Extension 4763.

DONALD PAUL HODEL,
Administrator.

APRIL 22, 1977.

[FR Doc.77-12803 Filed 5-3-77;8:45 am]

Bureau of Land Management

PACIFIC OUTER CONTINENTAL SHELF

Availability of Official Protraction Diagram

AGENCY: Department of the Interior, Bureau of Land Management, Pacific Outer Continental Shelf.

ACTION: Availability of Official Protraction Diagram.

ADDRESS: 300 No. Los Angeles St., Los Angeles, CA 90012.

FOR FURTHER INFORMATION CONTACT:

William E. Grant (213-688-7234).

Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram approved on the date indicated, is available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, CA. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic area it represents.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAM

DESCRIPTION AND APPROVAL DATE

NL 10-10, Cape Foulweather, revised March 7, 1977.

Copies of this diagram are for sale at two dollars ($2.00) per copy by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 No. Los Angeles St., Rm. 7127, Los Angeles, CA. 90012. Checks or money orders should be made payable to the Bureau of Land Management.

WILLIAM E. GRANT,
Manager, Pacific Outer Continental Shelf Office.

[FR Doc.77-12742 Filed 5-3-77;8:45 am]

[Wyoming 59126]

WYOMING

Application

APRIL 25, 1977.

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½" O.D. pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 26 N., R. 113 W., Sec. 3, NW¼SE¼, NE¼SW¼.

The pipeline is a proposed addition to a gathering system transporting natural gas from a well in the NE¼SW¼, section 3 into an existing pipeline in the NW¼SE¼, section 3, T.26 N., R. 113 W. in Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12769 Filed 5-3-77;8:45 am]

Geological Survey

[Coal Land Classification Order North Dakota No. 67]

NORTH DAKOTA

Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

COAL LANDS

T. 135 N., R. 93 W.,
Secs. 1 to 18, inclusive;
Sec. 19, lot 1, N½NE¼ and NE¼NW¼;
Sec. 20, N½N½;
Sec. 21, N½N½;
Sec. 22, N½N½;
Sec. 23, N½N½;
Sec. 24, N½N½.
T. 135 N., R. 94 W.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 9, E½ and E½W½;
Secs. 10 to 15, inclusive;
Sec. 16, E½ and E½W½;
Sec. 21, N½NE¼ and NE¼NW¼;
Sec. 22, N½N½;
Sec. 23, N½N½;
Sec. 24, N½N½.
T. 136 N., R. 93 W.
T. 136 N., R. 94 W.,
Secs. 1, 2, and 3;
Sec. 4, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 9, E½ and E½W½;
Secs. 10 to 15, inclusive.
Sec. 16, E½ and E½W½;
Sec. 21, E½ and E½W½;
Secs. 22 to 27, inclusive;
Sec. 28, E½ and E½W½;
Sec. 33, E½ and E½W½;
Secs. 34, 35, and 36.
T. 137 N., R. 92 W.
T. 137 N., R. 93 W.
T. 137 N., R. 94 W.,
Sec. 1;
Sec. 2, lot 1, SE¼NE¼ and E½SE¼;
Sec. 11, E½E½;
Secs. 12 and 13;
Sec. 14, E½E½;
Sec. 23, E½E½;
Secs. 24 and 25;
Sec. 26, E½E½;
Sec. 35, E½E½;
Sec. 36.
T. 138 N., R. 92 W.,
Sec. 19, lot 4, SE¼SW¼ and S½SE¼;
Sec. 20, S½S½;
Sec. 21, S½S½;
Sec. 22, S½S½;
Sec. 23, S½S½;
Sec. 24, S½S½;
Secs. 25 to 36, inclusive.
T. 138 N., R. 93 W.,
Sec. 19, lot 4, SE¼SW¼ and S½SE¼;
Sec. 20, S½S½;
Sec. 21, S½S½;
Sec. 22, S½S½;
Sec. 23, S½S½;
Sec. 24, S½S½;
Secs. 25 to 36, inclusive.
T. 138 N., R. 94 W.,
Sec. 23, SE¼SE¼;
Sec. 24, S½S½;
Sec. 25;
Sec. 26, E½E½;
Sec. 35, E½E½;
Sec. 36.

The area described aggregates about 126,957 acres.

Dated: March 31, 1977.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-12743 Filed 5-3-77;8:45 am]

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[NTL–5]

NATURAL GAS

Procedures for Determining Value for Royalty Purposes

AGENCY: Geological Survey.

ACTION: Final notice to lessees and operators.

SUMMARY: The Geological Survey has finalized its procedures for determining the value for royalty computation purposes of natural gas produced from, or for the benefit of, onshore Federal and Indian oil and gas leases, except those on the Osage Indian Reservation.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie R. Wyatt, Conservation Division, U.S. Geological Survey, National Center (620), Reston, Virginia 22092 (703–860–7535).

SUPPLEMENTARY INFORMATION: In recognition of the increasing value of natural gas, greater acceptance of the Btu method for gas settlement, and the need to assure the receipt of the fair market value for gas produced from leases under its jurisdiction, the Geological Survey concluded it was necessary to modify its policies and procedures for determining the value of natural gas for royalty computation purposes.

On November 21, 1975, the Geological Survey published, in the FEDERAL REGISTER (Vol. 40, No. 226, pp. 54268–54270), a proposed Notice, NTL–5, for public comment. Subsequently, the comment period on the proposed Notice was extended from February 1 to March 1, 1976, by a Notice which appeared in the FEDERAL REGISTER on January 30, 1976 (Vol. 41, No. 21, pg. 4609). Written comments and suggestions received are on file with the Geological Survey and have been carefully considered in the preparation of the final Notice. A substantial number of the comments and suggestions have been incorporated or essentially satisfied, and the Geological Survey has made other changes on its own motion. The principal changes are discussed below:

FORMAT

The organization of NTL–5, as proposed, was restructured so that "interstate" and "intrastate" gas are discussed fully in separate sections. Effective dates and procedures for establishing initial and redetermined base values of natural gas production have been modified.

EXISTING CONTRACTS

The proposed NTL–5 was modified to permit the base value of gas produced from wells commenced prior to June 1, 1977, and which are committed to existing arm's-length contracts entered into prior to that date to be determined in accordance with the price provisions of said contracts, provided, however, that said base value will be adjusted for the Btu content of the gas with an established minimum value of 18 cents/MCF.

LOST GAS

As all gas production on which royalty or compensation is due is subject to NTL–5, references to NTL–4 and NTL–4A have been eliminated.

ESTABLISHMENT OF MARKET

The section in the proposed NTL–5 relating to the establishment of market for royalty valuation purposes has been deleted.

REDUCTION OF ROYALTY RATE

This section of the proposed NTL–5 was also eliminated in the final notice.

ESTABLISHMENT OF ROYALTY VALUES

A new section was added relating to the requirements of NTL–1 and NTL–1A that lessees and operators submit Application for the Establishment of Royalty Values (Form 9–1926) for all leasehold production.

ANNUAL ESCALATION

The provision relating to a minimum annual escalation of 1¢/MCF on intrastate gas was eliminated.

The Geological Survey has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

V. E. MCKELVEY,
Director.

NOTICE TO LESSEES AND OPERATORS OF FEDERAL AND INDIAN ONSHORE OIL AND GAS LEASES (NTL–5)

VALUE OF NATURAL GAS FOR ROYALTY PURPOSES

This Notice is issued pursuant to the authority prescribed in the Oil and Gas Operating Regulations, 30 CFR 221, which provide in part:

"The value of production, for the purpose of computing royalty, shall be the estimated reasonable value of the product as determined by the Supervisor, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price per barrel, thousand cubic feet, or gallon paid or offered at the time of production in a fair and open market for the major portion of like-quality oil, gas, or other products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value."

In accordance with the regulations and the terms of the various oil and gas leases issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181–287), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351–359), the implied authority of the Executive Branch as defined in the Attorney General's Opinion of April 2, 1941 (Vol. 40 Op. Atty. Gen. 41), the Allotted Indian Land Leasing Act of March 3, 1909, as amended (25 U.S.C. 398), and the Unallotted Indian Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a), the Area Oil and Gas Supervisor (Supervisor) has the authority to establish royalty values for gas produced from Federal and Indian leases, except those on the Osage Indian Reservation. This authority will be exercised to insure that royalties are computed on the reasonable value of gas produced from, or for the benefit of, such leases.

I. INTERSTATE SALES SUBJECT TO THE PRICE JURISDICTION OF THE FEDERAL POWER COMMISSION (FPC)

A. ESTABLISHMENT OF ROYALTY VALUES

1. For sales from wells commenced prior to June 1, 1977, and which are subject to an arm's-length contract entered into prior to that date, the base value for royalty purposes shall be established as the higher of:

a. The price received by the lessee or operator in accordance with the provisions of the applicable sales contract, or

b. A minimum value of not less than 18 cents per MCF at 14.73 psia and 60°F.

2. For sales from wells commenced on or after June 1, 1977, and which are subject to an arm's-length contract executed prior to, on, or after that date; for sales made pursuant to an arm's-length contract renegotiated on or after June 1, 1977; and for all sales not involving an arm's-length contract, the base value for royalty purposes shall be established as the higher of:

a. The price received by the lessee or operator in accordance with the provisions of the applicable sales contract, or

b. The highest applicable ceiling rate then established by the FPC for the same vintage gas.

B. REDETERMINATION OF ROYALTY VALUES

The base value established for royalty purposes shall be redetermined by the Supervisor whenever necessary to conform with any subsequent FPC ceiling or minimum rate which may be prescribed for the same vintage gas. Provided, however, that for sales from wells commenced prior to June 1, 1977, and which are subject to an arm's-length contract entered into prior to that date, the readjustment of the base value will consider the extent to which the lessee or operator is entitled to collect a higher rate under the terms of the applicable contract or FPC ruling.

C. EFFECTIVE DATES

All initial base values established will be effective as of the date of first production or June 1, 1977, whichever is later. All redetermined base values will be effective as of the date the FPC prescribes or permits a revised price.

D. ADJUSTMENTS

All base values will be adjusted for the Btu content of the gas as provided in section IV of this Notice. All gathering, tax reimbursement, adjustments authorized by FPC, and other factors, as described by section V of this Notice, will also be considered by the Supervisor in determining the value used for royalty computation purposes.

E. SMALL PRODUCERS

As used in this Notice, the term ceiling rate or national rate does not mean the rate applicable to small producers as defined by FPC. The base value for small producers will be determined by the Supervisor in accordance with the provisions of this Notice and FPC regulations. Provided, however, for sales from wells commenced prior to June 1, 1977, and which are subject to an arm's-length contract entered into prior to that date, the Supervisor will consider the extent to which the small producer is entitled to collect such higher rate under the applicable contract of FPC ruling.

II. INTRASTATE AND OTHER SALES OR DISPOSITIONS NOT SUBJECT TO PRICE JURISDICTION OF THE FPC

A. ESTABLISHMENT OF ROYALTY VALUES

1. For sales from wells commenced prior to June 1, 1977, and which are subject to an arm's-length contract entered into prior to that date, the base value for royalty purposes shall be established as the higher of:

a. The price received by the lessee or operator in accordance with the provisions of the applicable sales contract, or

b. A minimum value of not less than 18 cents per MCF at 14.73 psia and 60°F.

2. For sales from wells commenced on or after June 1, 1977, and which are subject to an arm's-length contract entered into prior to, on, or after that date; for sales made pursuant to an arm's-length contract renegotiated on or after that date; and for all sales or other dispositions not involving an arm's-length contract, the base value for royalty purposes shall be established as the higher of:

a. The price received by the lessee or operator in accordance with the provisions of the applicable sales contract, or

b. The highest price paid or offered for a majority of like quality gas produced in the field or area. *Provided, however,* That if such information is not readily available, or the highest price paid or offered for said majority of like quality productions does not reflect the reasonable value of the gas, the Supervisor may determine the base value as the highest applicable national rate then currently established by FPC for the same vintage gas.

B. REDETERMINATION OF ROYALTY VALUES

The base value established for royalty purposes shall be redetermined by the Supervisor whenever necessary to reflect market conditions. When the base value is redetermined, it will be based on the higher of:

1. The escalated price received or receivable by the lessee or operator under the provisions of the applicable sales contract, or

2. The highest price paid or offered for a majority of like quality gas produced in the field or area. Provided, however, that if such information is not readily available or the highest price paid or offered for said majority of like quality production does not reflect the reasonable value of the gas, the Supervisor may redetermine the base value as the highest applicable national rate then currently established by the FPC for the same vintage gas.

Any readjusted base value for sales from wells commenced prior to June 1, 1977, and which are subject to an arm's-length contract made pursuant to contract entered into prior to that date, will consider the extent to which the lessee or operator is entitled to collect a higher rate pursuant to the provisions of the applicable contract.

C. EFFECTIVE DATES

1. All initial base values established will be effective as of the date of first production or June 1, 1977, whichever is later.

2. Those redetermined base values established in accordance with escalation provisions of a gas sales contract will become effective on the date specified in the contract. For redeterminations of base values made pursuant to section II.B.2. above, the effective date will be the first day of the month next following the month in which changing market conditions warrant a redetermination under this provision.

D. ADJUSTMENTS

All base values will be adjusted for the Btu content of the gas as provided in section IV of this Notice. Other factors, described by section V of this Notice, will also be considered in determining the value used for royalty computation purposes.

III. ESTABLISHMENT OF ROYALTY VALUES

In accordance with the regulations contained in 30 CFR 221 and Notices to Lessees and Operators, NTL–1 and NTL–1A, a copy of each agreement or contract for the disposal of leasehold products shall be furnished to the Supervisor. In addition, lessees and operators are required by NTL–1 and NTL–1A to submit a properly completed Application for the Establishment of Royalty Values (Form 9–1926) for all production from, or for the benefit of, onshore Federal and Indian oil and gas leases. Once the Supervisor has established the initial base value, any subsequent adjustments or amendments affecting said base value must be reported promptly to the Supervisor by the lessee or operator.

Where the royalty value for gas is based on the extent to which a new, revised, or redetermined rate or price can be collected under the terms of an existing arm's-length sales contract, the Supervisor may request evidence showing the efforts of the lessee or operator to obtain such higher price.

QUALITY ADJUSTMENT

The base value established or redetermined pursuant to sections I and II hereof will be based on gas at 60° F, a pressure base of 14.73 psia, and a heating value of 1,000 Btu's per cubic foot. Such base value will be adjusted upward or downward in proportion to the actual heating value of the gas. However, where the established or redetermined base value of the gas, as adjusted for its Btu content, does not properly reflect the value of its entrained liquids, a further adjustment to compensate for that variance may be made by the Supervisor.

The heating value of the gas will be the weighted average Btu content of all gas produced from, or for the benefit of, the lease, communitized area, or unit participating area during the month. Where multiple purchasers are involved, the weighted average Btu content may be reported separately for the gas sold to each purchaser. Provided, however, that slight differences (±1 percent) between Btu measurements of a lessee or operator and its purchaser or between different purchasers shall not require adjustment.

The heating value of natural gas shall be determined as the number of British thermal units (Btu's) produced by the combustion, at constant pressure, of the amount of gas which would occupy a volume of 1 cubic foot at a temperature of 60°F saturated with water vapor and under a pressure equivalent to that of 30 inches of mercury at 32°F and standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure, when the products of combustion are cooled to the initial temperature of the gas and air, and the water formed by the combustion is condensed to the liquid state.

The Btu content will be determined at least semiannually, unless otherwise required by the Supervisor, by means of (1) a recording calorimeter, (2) calculations based on a complete compositional analysis of the gas and the heating value of each constituent, or (3) such other methods as may be approved by the Supervisor. The Supervisor shall be apprised of the method used for each such determination and shall be furnished with such analytical data or other documentation as the Supervisor may require. The Btu content most recently determined and used by the lessee or opeartor for royalty computation purposes shall be reported monthly to the Supervisor on the Monthly Report of Operations (Form 9–329).

When approved by the Supervisor, mass measurement, based on dekatherms per pound, may be used for quality adjustments in lieu of volumetric measurements based on the Btu content per cubic foot.

V. OTHER FACTORS IN COMPUTING ROYALTY VALUES

A. GROSS PROCEEDS

Under no circumstances will royalty be computed on less than the gross proceeds accruing to the lessee or operator from the sale of leasehold production. Gross proceeds include, but are not limited to, tax reimbursements and payments to the lessee or operator for the performance of certain services such as measuring, field gathering, compressing, sweetening, and dehydrating which are necessary to place the gas into marketable condition and which the lessee or operator is obligated to perform at no cost to the lessor. Likewise, no deductions will be allowed for the uncompensated cost of placing the gas into marketable condition.

B. MEASUREMENT STANDARDS

All gas measurements shall be adjusted to 60°F and 14.73 psia, regardless of the base conditions at which the measurement was actually made.

C. POINT OF ROYALTY COMPUTATION

Royalty generally will be computed on the volume and value of marketable production at the lease, communitized area, or unit participating area boundary. When appropriate, volume and/or value may be determined at a central gathering point in the field or at such other point in the field as may be prescribed by the Supervisor.

VI. PRODUCTION DISPOSED OF WITHOUT SALE

The base value for gas disposed of without sale and for which royalty or other compensation is due will be calculated in the same manner as the Supervisor calculates the value of other gas sold from the lease, communitized area, or unit participating area in accordance with the provisions of this Notice. Provided, however, where no contract exists for the lease, communitized area, or unit participating area, the base value for royalty purposes will be calculated at the current national rate for new gas as established by FPC.

Dated: _____

_____
Oil and Gas Supervisor.

_____
Area.

Approved: _____

RUSSELL G. WAYLAND,
Acting Chief,
Conservation Division.

[FR Doc.77–12808 Filed 5–3–77;8:45 am]

National Park Service

OZARK NATIONAL SCENIC RIVERWAYS ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 99–463 that a meeting of the Ozark National Scenic Riverways Advisory Commission will be held on

V 4286 MAY 77 UMI

Thursday, May 26, 1977 at 1:00 p.m. (CDT) at the Riverways' Headquarters on U.S. Highway 60 in Van Buren, Missouri.

The Commission was established by Public Law 88-429 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Ozark National Scenic Riverways.

The members of the Commission are:

Dr. Oscar Hawksley, Warrensburg, Missouri (Chairman).
Mr. Kirby Hart, Houston, Missouri.
Mr. James A. Roark, Hunter, Missouri.
Mr. Carlton E. Bay, Salem, Missouri.
Mr. Edward Hodge, Eminence, Missouri.
Lt. Col. William Moore, USAR Ret., Ellington, Missouri.
Mr. James Grassham, Van Buren, Missouri.

Matters to be discussed at this meeting include:

1. Comments received on the Statement for Management pertaining to the Riverways.
2. Special concerns of the Advisory Commission Members regarding the Riverways.
3. Research findings and some possible alternatives in river use.
4. Wilderness planning and land ownership.

The meeting will be open to the public. It is expected that 25 persons in addition to the members of the Commission will be able to attend this meeting. Interested persons may file written statements with the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Arthur L. Sullivan, Superintendent, Ozark National Scenic Riverways, P.O. Box 490, Van Buren, Missouri 63965, telephone 314-323-4236. Minutes of the meeting will be available four weeks after the meeting at Ozark National Scenic Riverways headquarters in Van Buren, Missouri.

Dated: April 25, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-12770 Filed 5-3-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-25]

ABOVE-GROUND SWIMMING POOLS

Notice and Order Concerning Commission Determination

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission hereby orders the termination of investigation No. 337-TA-25, Certain Above-Ground Swimming Pools, on the basis of a determination that no violation of section 337 of the Tariff Act of 1930, as amended, exists.

Copies of the Commission Memorandum Opinion in support of the Commission action are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Notice of the institution of the investigation was published in the FEDERAL REGISTER on April 29, 1976 (41 FR 17975).

Issued: April 29, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-12825 Filed 5-3-77;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 715-77]

PRIVACY ACT OF 1974

System-Wide Routine Use

Notice is hereby given that pursuant to Section 3(e) (4) and (11) of the Privacy Act of 1974, 5 U.S.C. 552a(e) (4) and (11), the Department of Justice proposes to add the routine use reprinted below to all systems of records maintained by the Department. This proposed routine use would permit the routine disclosure of information to the National Archives and Records Service in connection with records management inspections authorized by the "Federal Records Management Amendments of 1976," Pub. L. No. 94-575, 90 Stat. 2723 (October 21, 1976).

Inquiries or comments may be submitted in writing to Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Room 1121, Department of Justice, Washington, D.C. 20503. All comments must be received on or before June 3, 1977. No oral hearings are contemplated.

Dated: April 25, 1977.

GRIFFIN B. BELL,
Attorney General.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

[FR Doc.77-12768 Filed 5-3-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-29)]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL; PANEL ON RESEARCH

Meeting

The NASA Research and Technology Advisory Council Panel on Research will meet on May 25 and 26, 1977, at the NASA Lewis Research Center, Cleveland, Ohio 44135. The meeting will be held in Room 215, Administration Building. The purpose of this meeting is to gain first-hand knowledge of the research work and the management of university sponsored research at Lewis Research Center. The OAST Research Council will meet concurrently with the Panel on Research. The meeting is open to the public on a first-come, first-served basis, limited by the seating capacity of the meeting room which holds 60 persons. All visitors must sign in prior to attending the meeting.

The Panel on Research of the Research and Technology Advisory Council serves in an advisory capacity only. There are 13 members. The Panel makes recommendations to the Council and to the Director, Research Division, and the OAST Research Council on program goals, trends, content, scope and technical balance for OAST basic research as related to OAST aeronautics and space missions. The chairman is Professor A. Hertzberg. The following list sets forth the approved agenda and schedule for the meeting of this Panel on Research on May 25 and 26, 1977. For additional information, please contact Mr. F. C. Schwenk, Area Code 202, 755-2488, at NASA Headquarters, Washington, D.C., or Mr. W. E. Moeckel, Area Code 216, 433-6200, at the Lewis Research Center, Cleveland, OH.

MAY 25, 1977

TIME AND TOPIC

8 a.m.—Introduction. (Purpose: Welcome by Lewis officials and remarks by the Chairman on the conduct of the review.)

8:15 a.m.—Review of (1) Aircraft Engines and Components, (2) Propulsion Aerodynamics and Controls, and (3) Aeroacoustics and Aeroelasticity. (Purpose: Review of the in-rouse and university sponsored research in the areas listed.)

1:15 p.m.—Review of (1) Materials, and (2) Plasmadynamics and Energy Conversion. (Purpose: Review of the in-house and university sponsored research in the areas listed.)

MAY 26, 1977

8 a.m.—Review of (1) Space Propulsion, Power and Communications, and (2) Physics and Fluid Mechanics. (Review of the in-house and university research in the areas listed.)

1:30 p.m.—Executive Session. (Purpose: To discuss the overall review and to make recommendations.)

2:30 p.m.—Meeting with Center Director. (Purpose: To inform Center Director of the findings and recommendations.)

3:30 p.m.—Review of OAST 5-Year Plan. (Purpose: To inform the Panel of current OAST plans.)

4:30 p.m.—Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.77-12722 Filed 5-3-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Council on the Arts will be held on May 20, 1977, from 9:30 a.m. to 4:30 p.m., in Room 1125, Columbia Plaza Building, 2401 E. Street NW., Washington, D.C.

A portion of this meeting will be open to the public on May 20, from 9:30 a.m. to 11:30 a.m. and 2:30 p.m. to 4:30 p.m. on a space available basis. The agenda will include discussions of graphics and related materials of the Headquarters, Department of Defense. Interested persons may submit written statements with the committee.

The remaining sessions of this meeting on May 20, from 1:30 p.m. to 2:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on Federal Graphics under the National Foundation on the Arts and the Humanities Act of 1965, as amended in accordance with the President's Directives of May 16, 1972, August 23, 1974, and June 26, 1975, on Improvement of Federal Graphics. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsection (c), (6) and 9(B) of section 552B of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

APRIL 29, 1977.

[FR Doc.77-12805 Filed 5-3-77;8:45 am]

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Planning Section) to the National Council on the Arts will be held on May 25-27, 1977, from 8:45 a.m. to 5:00 p.m. each day, at the Holiday Inn of Charleston Downtown, Meeting Street at Calhoun Street, Charleston, South Carolina.

A portion of this meeting will be open to the public on May 25, from 11:10 a.m. to 5:00 p.m.; May 26, from 8:45 a.m. to 5:00 p.m.; and May 27, from 10:45 a.m. to 5:00 p.m. on a space available basis. The agenda for these sessions will include long-range planning discussions.

The remaining sessions of this meeting on May 25, from 8:45 a.m. to 11:10 a.m., and May 27, from 8:45 a.m. to 10:45 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

APRIL 29, 1977.

[FR Doc.77-12808 Filed 5-3-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 28, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the names of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis:
Benchmark Survey of U.S. Direct Investment Abroad—1976, single-time, foreign investors, C. Louis Kincannon, 395-3211.
Industry Classification Questionnaire, BE-507, on occasion, foreign investors, C. Louis Kincannon, 395-3211.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Air Pollutant Emissions Report, On occasion, industrial plants, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Statistical Reporting Service, Environment and Corn Yield Study (Missouri), single time, sample of corn farmers, Gaylord Worden, 395-4730.
Bureau of Economic Analysis:
Direct Transactions of U.S. Reporter With Unincorporated Foreign Banking Affiliate, BE 578B, quarterly, foreign investors, C. Louis Kincannon, 395-3211.
Direct Transactions of U.S. Reporter With Unincorporated Foreign Affiliate, Except a Bank, BE 578, quarterly, foreign investors, C. Louis Kincannon, 395-3211.
U.S. Reporter's Directly-Owner Foreign Affiliate's Share in Net Income Indirectly-owned Foreign Affiliates, BE-577S, annually, foreign investors, C. Louis Kincannon, 395-3211.
Direct Transaction of U.S. Reporter With Foreign Affiliate Incorporated Abroad, BE-577, quarterly, foreign investors, C. Louis Kincannon, 395-3211.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Application for Disaster Credit—Farms, ASCS-574, on occasion, farms, Warren Topelius, 395-5872.
Foreign Agricultural Service, Application for Clearance of Labels on Export Food Products, FAS-633, on occasion, food processors and exporters, Warren Topelius, 395-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration:
Request for Partial Payment, HUD 489.1, on occasion, State and local governments in disaster areas, Housing, Veterans, and Labor Division, 395-3532.
Request for Advance of Funds, HUD 489, on occasion, State and local governments in disaster areas, Housing, Veterans, and Labor Division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-12922 Filed 5-3-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 27, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Evaluation of Neuropsychologic Function in Children with Asymptomatic Lead Burdens: Teacher and parent, questionnaire, single time, teachers and parents of first and second graders, Richard Eisinger, 395-6140.

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DEPARTMENT OF AGRICULTURE

Soil Conservation Service, Great Lakes pollution survey, single time, farmers from Great Lakes basin, Ellett, C.A., 395–5867.

Economic Research Service, supply and price data for cotton gin motes, single time, cotton gins, Gaylord Worden, 395–4730.

DEPARTMENT OF COMMERCE

Bureau of Census, Oakland public information campaign evaluation survey, Oakland, Calif., DH–60, single time, sample of households in Oakland census, George Hall, 395–6140.

Economic Development Administration, quarterly financial report: Title III Technical Assistance Grants, ED–325, quarterly, nonprofit/nongovernment grantees, Warren Topelius, 395–5872.

REVISIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, application for voluntary reimbursable inspection service, MP–225, on occasion, meat, poultry and rabbit establishments, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, record of acquisition, disposition, or transfer of animals other than dogs and cats, VS 18–20, other (see SF–83), animal dealers research facilities, Warren Topelius, 395–5872.

Statistical Reporting Service, growers, brewers and dealers hop stocks report, semiannually, brewers and hop dealers, Gaylord Worden, 395–4730.

Animal and Plant Health Inspection Service, U.S. origin health certificate (to accompany animals intended for exportation to a foreign country), vs 17–40, on occasion, livestock exporters, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, request for authorization to distribute U.S. origin commodities stocked abroad to approved customers, DIB–624P, on occasion, commercial exporters and distributors, Warren Topelius, 395–5872.

Domestic and International Business Administration, notification of delivery verification requirement, DIB–648P, on occasion, commercial exporters, Warren Topelius, 395–5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), transfer of mobile home loans to GNMA pool, FH–16, on occasion, lending institutions, Housing, Veterans and Labor Division, 395–3532.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–12923 Filed 5–3–77;8:45 am]

POSTAL SERVICE

PRIVACY OF INFORMATION

Routine Uses of Systems of Records

AGENCY: Postal Service.

ACTION: Advance Notice of Proposed Routine Use of Systems of Records.

SUMMARY: This document proposes an additional routine use for several Postal Service systems of records, permitting certain information to be disclosed to the Civil Service Commission with regard to the investigation of discrimination complaints.

DATES: Comments must be received on or before: June 6, 1977.

ADDRESSES:
Records Officer, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:
Mr. John E. Finlay, 202–245–4142.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to establish an additional routine use for each of the Postal Service systems of records listed below by USPS identification number:

010.030	120.038
010.040	120.040
010.080	120.050
030.010	120.070
030.020	120.080
050.005	120.090
050.010	120.100
050.020	120.110
050.040	120.120
080.010	120.130
080.030	120.150
100.010	120.170
110.010	120.180
120.030	120.190
120.035	120.210
120.036	170.010

A complete statement of the existence and character of each of these systems appeared in the FEDERAL REGISTER on October 14, 1976 (41 FR 45132). The proposed routine use would apply to the extent that it is relevant to the particular records maintained in these systems, and would permit the release to the United States Civil Service Commission of certain information related to the investigation of discrimination complaints against the Postal Service. The proposed new routine use is necessary to assure that Postal Service application of the Privacy Act of 1974, Pub. L. No. 93–579, is accommodated with the obligations of the Postal Service under the Equal Employment Opportunity Act of 1972, Pub. L. No. 92–261.

As required by 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposed new routine use. Final notice regarding the proposed use will be given after the time for public comment has elapsed. The proposed use follows:

POSTAL SERVICE SYSTEMS OF RECORDS—NEW ROUTINE USE

Add the following text as the last use to the routine use section of each system notice for the above listed systems:

Use—Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77–12771 Filed 5–3–77;8:45 am]

DEPARTMENT OF STATE

[Public Notice 542]

CULTURALLY SIGNIFICANT OBJECTS FROM THE PEOPLE'S REPUBLIC OF BULGARIA

Notice of Determination

Notice is hereby given of the following determination:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and delegation of authority number 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that (1) the 541 objects described in the list[1] filed as a part of this determination imported from the People's Republic of Bulgaria pursuant to a loan agreement of October 13, 1976, by the Committee for Art and Culture of the People's Republic of Bulgaria with Dr. Thomas Hoving, Director of the Metropolitan Museum of Art, for temporary exhibition without profit within the United States are of cultural significance and that (2) the temporary exhibition or display of such objects entitled "Thracian Treasures from Bulgaria" at the Metropolitan Museum of Art, New York, New York, beginning on or about June 11, 1977 to on or about September 4, 1977, is in the national interest.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

JOSEPH D. DUFFEY,
Assistant Secretary for Educational and Cultural Affairs

APRIL 27, 1977.

[FR Doc.77–12767 Filed 5–3–77;8:45 am]

[1] Itemized List of Objects included in the Exhibition Thracian Treasures. List filed as part of the original document.

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1976 Rev., Supp. No. 14]

AIU INSURANCE CO.; CHANGE OF NAME

Surety Companies Acceptable on Federal Bonds

American International Insurance Company, a New York corporation, has formally changed its name to AIU Insurance Company, effective October 26, 1976. Documents evidencing the change of name are on file in the Treasury.

A new certificate of authority as an acceptable surety on Federal bonds, dated October 26, 1976, has been issued by the Treasury to AIU Insurance Company under sections 6 to 13 of Title 6 of the United States Code, to replace the certificate issued July 1, 1976 (41 FR 28240, July 8, 1976) to the company under its former name, American International Insurance Company. The underwriting limitation of $356,000 previously established for the company remains unchanged.

The change in name of American International Insurance Company does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the certificate of authority issued by the Treasury.

Certificates of authority expire on June 30 each year, unless sooner revoked and new certificates are issued on July 1, as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Deartment Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: April 28, 1977.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.77–12755 Filed 5–3–77;8:45 am]

Office of Revenue Sharing

ENTITLEMENT PERIOD NINE DATA

Use of Estimate for General Revenue Sharing Purposes

Pursuant to § 51.20(b)(3) of the revenue sharing regulations (31 CFR 51.20 (b)(3) and the authority of the Secretary of the Treasury under § 109(a)(7)(B) of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228(a)(7)(B)), notice is hereby given that the Secretary has used additional data and estimates which have necessitated upward revisions to the populations of certain counties and states for purposes of the intrastate allocations for Entitlement Period Nine (October 1, 1977 to September 30, 1978). Such revisions are contained in the accompanying table which shows original and revised 1975 population estimates.

Section 51.20(a) of the regulations (31 CFR 51.20(a) provides that the data used in the determination of allocations and adjustments will be the latest and most complete data supplied by the Bureau of the Census or such sources of data as in the judgment of the Secretary will provide for equitable allocations. Section 51.20(b)(3) of the regulations (31 CFR 51.20(b)(3)) requires that where the Secretary determines that the data provided by the Bureau of the Census or the Department of Commerce are not current enough, not comprehensive enough, or are otherwise inadequate to provide for equitable allocations the Secretary may use other data, including estimates. The Secretary's determination shall be final.

These revisions are a direct consequence of data verifications initiated by the Navajo, Oglala Sioux, and Osage Indian tribes for Entitlement Periods Five and Six. Documentary evidence presented by the tribes, and estimates developed by the Bureau of Indian Affairs, indicated higher population totals for those tribes than the Census-based estimates had provided for those entitlement periods. The documentary evidence and estimates necessitated upward revisions in the 1970 Census of population and the 1973 Census-based estimates of population of those counties and states in the accompanying table, for purposes of equitably determining the intrastate allocations for Entitlement Periods Five and Six. Such revisions were published in the FEDERAL REGISTER on July 3, 1975 (40 FR 28106). The revised 1973 estimates of population were also used for Entitlement Periods Seven and Eight.

Since the 1975 Census-based estimates of population (as denoted by the column designated "Original") do not reflect the earlier documentation and Bureau of Indian Affairs estimates of population, it has been necessary to adjust comparably the 1975 population estimates of these same affected counties and states in the intrastate allocations for Entitlement Period Nine.

Dated: April 27, 1977.

BERNADINE DENNING,
Director, Office of Revenue Sharing.

State and county	1975 population (entitlement period 9)	
	Original	Revised [1]
Arizona	2,219,731	2,243,716
Apache County	40,372	45,865
Coconino County	67,866	77,449
Navajo County	59,649	68,558
New Mexico	1,143,827	1,154,741
Bernalillo County	362,067	363,118
McKinley County	51,081	55,874
Sandoval County	22,576	22,972
San Juan County	64,719	69,379
Socorro County	9,809	10,090
Rio Arriba County	27,896	28,216
Valencia County	46,141	46,178
Utah	1,202,672	1,204,109
San Juan County	11,964	13,401
South Dakota	682,744	686,127
Bennett County	3,207	4,316
Shannon County	9,224	11,214
Washabaugh County	1,594	1,988
Oklahoma	2,711,263	2,714,036
Osage County	31,300	34,163

[1] For general revenue sharing purposes.

[FR Doc.77–12603 Filed 4–28–77;12:38 pm]

INTERSTATE COMMERCE COMMISSION

[Notice No. 382]

ASSIGNMENT OF HEARINGS

APRIL 29, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139923 (Sub-No. 24), Miller Trucking Co., Inc., now assigned June 7, 1977, at San Francisco, Calif. is canceled and application dismissed.

MC 139495 (Sub-180), National Carriers, Inc., now being assigned June 6, 1977 (1 day) at Columbus, Ohio, in a hearing room to be later designated.

MC 117416 (Sub-53), Newman and Pemberton Corporation, now being assigned June 7, 1977 (1 day) at Columbus, Ohio, in a hearing room to be later designated.

MC–F–13044, Consolidated Freightways Corp. of Delaware—Purchase (Portion)—Point Express, Inc., now being assigned June 8, 1977 (3 days) at Columbus, Ohio, in a hearing room to be later designated.

MC 118989 Sub 145, Container Transit, Inc., now assigned May 9, 1977 at Chicago, Illinois is postponed indefinitely.

MC–F 12978, Navajo Freight Lines, Inc.—Purchase—Utica Transfer Inc. now being assigned July 11, 1977 (1 week) at Omaha, Nebraska in a hearing room to be later designated.

MC 142463, Specialized Hauling, Inc. now being assigned July 6, 1977 (3 days) at Omaha, Nebraska in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–12816 Filed 5–3–77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 29, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43356—*Anhydrous Ammonia from Woodward, Oklahoma.* Filed by Southwestern Freight Bureau, Agent, (No. B–667), for interested rail carriers. Rates on anhydrous ammonia, in tank-car loads, as described in the application, from Woodward, Oklahoma, to points in southwestern and western trunk-line territories.

Grounds for relief—Market competition.

Tariff—Supplement 83 to Southwestern Freight Bureau, Agent, tariff 273–G, I.C.C. No. 5188. Rates are published to become effective on June 1, 1977.

FSA No. 43357—*Joint Rail-Water Container Rates—Seaspeed Services.* Filed by Seaspeed Services, (No. 1), for itself and interested rail carriers. Rates on general commodities, from railroad terminals at U.S. Gulf Coast ports, to ports in the Middle East.

Grounds for relief—Water competition.

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Tariff—Seaspeed Services joint rail-water freight tariff No. 1, I.C.C. No. 1, F.M.C. No. 2. Rates are published to become effective on May 27, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12814 Filed 5-3-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER-NOTICES

Notice

APRIL 29, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 16, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 113855 (Sub-No. E418), filed July 6, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE, Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles* (a) between points in Wyoming, on the one hand, and, on the other, points in Maryland (except Garrett and Allegany Counties), and the District of Columbia; (b) between points in Wyoming (except Crook, Weston, Campbell, Niobrara, Converse, Albany, Platte, Goshen, and Laramie Counties), on the one hand, and, on the other, points in Garrett and Allegany Counties, Md.; (c) between points in Wyoming, on the one hand, and, on the other, points in Virginia in, east, and north of Rockingham, Albamarle, Fluvanna, Goochland, Powhattan, Chesterfield, Dinwiddie, and Greensville Counties; (d) between points in Goshen, Platte, Laramie, Albany, and Carbon Counties, Wyo., on the one hand, and, on the other, points in and east of Caswell, Alamance, Orange, Wake, Johnson, Sampson, Pender, and Brunswick, N.C.; (e) between points in Goshen, Platte, Laramie, Albany, and Carbon Counties, Wyo., on the one hand, and, on the other, points in North Carolina in and east of Carteret, Jones, Lenoir, Greene, Wilson, Nash, Halifax, and North Hampton Counties; and (f) between points in Wyoming, on the one hand, and, on the other, points in New York (except points in Niagara, Orleans, Genesee, Wyoming, Erie, Chautauqua, and Cattaraugus Counties). The purpose of this filing is to eliminate the gateways of South Dakota east of the Missouri River, and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15, thence along unnumbered highway through Clear Spring, Pa. to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.).

No. MC 113855 (Sub-No. E419), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC. 2450 Marion Road, S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal* and *metal articles* (a) between points in Colorado, on the one hand, and, on the other, points in Iowa (except points located in Harrison, Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair, Mills, Montgomery, Adams, Union, Fremont, Page, Taylor, and Ringgold Counties); and (b) between points in Colorado (except points located in Logan, Washington, Lincoln, Crowley, Otera, Sedgwick, Philips, Yuma, Kit Carson, Cheyenne, Kiowa, Bent, Prowers, and Baca Counties, on the one hand, and, on the other, points in Harrison, Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair, Mills, Montgomery, Adams, Union, Fremont, Page, Taylor, and Ringgold Counties, Iowa. The purpose of this filing is to eliminate the gateway of South Dakota.

No. MC 113855 (Sub-No. E436), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, Minn. 44901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, (a) between points in Montana, on the one hand, and, on the other, points in West Virginia and Kentucky (points in South Dakota east of the Missouri River and Elgin, Ill.)*;

(b) Between points in Montana and Wyoming, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, Delaware, New Jersey, and the District of Columbia (points in South Dakota east of the Missouri River, and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway to junction Business U.S. Highway 15, near Fairplay to junction U.S. Highway 15, to junction unnumbered highway through Clear Spring to junction U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East-Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.)*; and

(c) Between points in Wyoming, on the one hand, and, on the other, points in West Virginia and Kentucky (points in South Dakota east of the Missouri River or east of South Dakota Highway 73, and Elgin, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E437), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles* between points in North Dakota, on the one hand, and, on the other, (A) points in Iowa, (points in Minnesota within 50 miles of Sioux Falls, S.D., or points in South Dakota east of South Dakota Highway 73)*

(B) Points in Kansas, Missouri, Illinois, Indiana, Ohio, Pennsylvania and Wisconsin. (South Dakota)* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E438), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) between points in South Dakota, on the one hand, and, on the other, points in Idaho south of Lehmi, Valley and Idaho Counties, on the one hand, and, on the other, points in South Dakota, (Utah)*

(b) Between points in Idaho, on the one hand, and, on the other, points in South Dakota east of the Missouri River. (Montana or Wyoming)*

(c) (i) Between points in Idaho, on the one hand, and, on the other, points in Nebraska (except Sheridan, Box, Butte, Dawes, and Sioux Counties), (ii) Between points in Idaho (except Benewah, Shoshone, Kastenai, Bonner and Boundary Counties, on the one hand, and, on the other, points in Nebraska, Utah, Montana, or Wyoming; and points in South Dakota east of the Missouri River)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub.-No. E439), filed July 19, 1976, Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) between points in Wyoming, on the one hand, and, on the other, points in North Dakota (except points in Divide, William, McKenzie, Dunn, Golden Valley, Billings, Stark, Slope, Hettinger, Bowman, and Adams Counties); (b) between points in Weston, Crook, Campbell, Sheridan,. Johnson, Big Horn, Washakie, Hot Springs, Park, Yellowstone, and Teton Counties, Wyo., on the one hand, and, on the other, points in Nebraska on and east of U.S. Highway 281; (c) between points in Niobrara, Converse, Natrona, Fremont, and Sublette Counties, Wyo., on the one hand, and, on the other, points in Washington, Douglas, Sarpy, Dodge, Saunders, Lancaster, Cass, and Otoe Counties, Nebr.; (d) between points in Wyoming in and north of Teton, Park, Hot Springs, Washakie, Johnson, Campbell, and Weston Counties, on the one hand, and, on the other, points in Kansas on and east of U.S. Highway 81; (e) between points in Sublette, Fremont, Natrona, Converse, and Niobrara Counties, Wyo., on the one hand, and, on the other, points in Kansas on and east of U.S. Highway 75; (f) between points in Wyoming (except Laramie County), on the one hand, and, on the other, points in Missouri; and (g) between points in Laramie County, Wyo., on the one hand, and, on the other, points in Missouri on and east of U.S. Highway 65. The purpose of this filing is to eliminate the gateways of South Dakota east of the Missouri River.

No. MC 113855 (Sub-No. E440), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) between points in South Dakota, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, Delaware, New Jersey, and the District of Columbia (points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15 near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15 to Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.)*;

(c) Between points in Nebraska, on the one hand, and, on the other, points in New Jersey, Delaware, Connecticut, Massachusetts, Rhode Island, and the District of Columbia (points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway to Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River at Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa., and points in South Dakota)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E443), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn., 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (A) (1) Between points in Cheyene County, Kans,. on the one hand, and, on the other, points in Kentucky on and east of a line beginning at the Kentucky-Indiana State line extending along U.S. Highway 421 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Kentucky Highway 15, thence along Kentucky Highway 15 to junction U.S. Highway 119, thence along U.S. Highway 119 to the Kentucky-Virginia State line; (2) between points in Kansas on, west and north of a line beginning at the Kansas-Nebraska State line extending along U.S. Highway 281 to junction Kansas Highway 61, thence along Kansas Highway 61 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Oklahoma State line, on the one hand, and, on the other points in Indiana on and north of U.S. Highway 30; (3) between points in Kansas, on west and north of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 183 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line, on the one hand, and, on the other, points in West Virginia; (4) between points in Kansas on, west and north of a line beginning at the Nebras-

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ka-Kansas State line extending along U.S. Highway 281 to junction U.S. Highway 56 thence along U.S. Highway 56 to junction U.S. Highway 183, thence along U.S. Highway 54 thence along U.S. Highway 54 to the Kansas-Oklahoma State line (except points described in (3) above, on the one hand, and, on the other, points in West Virginia on and north of U.S. Highway 33 and on and west of U.S. Highway 250.

(B) (1) Between points in Kansas on and west of U.S. Highway 77, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island and New Jersey; (2) between points in Kansas east of U.S. Highway 77 and on and north of U.S. Highway 24, on the one hand, and, on the other, points in Massachusetts on and east of Interstate Highway 93; (3) between points in Kansas on and west of a line beginning at the Kansas-Nebraska State line extending along U.S. Highway 81 to junction Kansas Highway 61, thence along Kansas Highway 61 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Delaware; (4) between points in Kansas on and west of U.S. Highway 281, on the the one hand, and, on the other, points in New York in, east and south of Cayuga Tompkins, and Tioga Counties; (5) between points in Kansas on and west of U.S. Highway 81, on the one hand, and, on the other, points in New York on and south of Interstate Highway 84. The purpose of this filing is to eliminate the gateways of South Dakota, Davenport, Iowa, and Elgin, Ill., in (A) above; and South Dakota and points in Pennsylvania on and east of a line beginning at the Pennsylvaia-Maryland State line extending along unnumbered highway to junction Business U.S. Highway 15 near Fairplay, thence to junction U.S. Highway 15, thence along unnumbered highway through Clear Spring to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa., in (B) above.

No. MC 113855 (Sub-No. E445), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) between points in Wisconsin, on the one hand, and, on the other, points in Indiana, Kentucky, Ohio and Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Pospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 997, and thence along Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified; (b) between points in Wisconsin, on the one hand, and, on the other, points in New York on and east of Interstate Highway 81; (c) between points in Wisconsin, on the one hand, and, on the other, points in Massachusetts, Connecticut and Rhode Island;

(d) Between points in Wisconsin, on the one hand, and, on the other, points in Hyde, Washington, Tyrrell, Dare, Chowan, Gates, Ferquimans, Pasquotank, Camden, and Corrituck Counties, NC.; (e) between points in Wisconsin, on the one hand, and, on the other, points in and east of Southhampton, Sussex, Prince George, Charles City, James City, Gloucester, and Middlesex Counties, Va.; and (f) between points in Wisconsin on and west of U.S. Highway 51, on the one hand, and, on the other, points in the District of Columbia and Virginia on and east of Interstate Highway 95. The purpose of this filing is to eliminate the gateways of Elgin, Ill., in (a) Elgin, Ill., and Scranton, Pa. in (b), Elgin, Ill. and Scranton, Pa., in (c) above; and Elgin, Ill., and Allentown, Pa., in (d), (e), and (f).

No. MC 113855 (Sub-No. E447), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles* between points in Montana, on the one hand, and, on the other, (a) points in Wisconsin (points in South Dakota east of the Missouri River)*; (b) points in Illinois, Michigan and Missouri (points in South Dakota east of the Missouri River or east of South Dakota Highway 73)*; (c) points in Indiana, (points in South Dakota east of the Missouri River or east of South Dakota Highway 73; or points in South Dakota east of the Missouri River, Davenport, Iowa and Elgin, Ill)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E448), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles* between points in Wyoming, on the one hand, and, on the other, (a) points in Wisconsin, Illinois, Indiana, and Michigan (points in South Dakota east of the Missouri River or South Dakota Highway 73)* (b) points in Minnesota (points in South Dakota east of the Missouri River)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E449), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles* (a) between points in California, on the one hand, and, on the other, (1) points in South Dakota (Nebraska)* and (2) points in Minnesota (Iowa or Nebraska, and points in Minnesota within 50 miles of Sioux Falls, S. Dak.)*; (b) between points in Utah, on the one hand, and, on the other, points in North Dakota and Minnesota (South Dakota)*; and (c) between points in Montana, on the one hand, and, on the other, points in Iowa, Ohio, and Pennsylvania (points in South Dakota east of the Missouri River)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E451), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., S.E., Rochester, Minn. 55109. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Fldg., Fargo, N. Dak, 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) between points in Montana, on the one hand, and, on the other, (1) points in Nebraska on and east of U.S. Highway 81, on the one hand, and, on the other, North Dakota south of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to Lakota, thence along North Dakota Highway 1 to the United States-Canada Boundary line, not including points on the indicated portions of the highways specified other than Minot, and

(d) Between points in Nebraska west of U.S. Highway 81, on the one hand, and, on the other, points in North Dakota on and east of a line beginning at the North Dakota-South Dakota State line, thence northerly along North Dakota Highway 18 to junction Interstate Highway 94, thence westerly along Interstate Highway 94 to junction North Dakota Highway 1, thence northerly along North Dakota Highway 1 to the United States-Canada Boundary line (except points on North Dakota Highway 1 lying on or north of U.S. Highway 2). The purpose of this filing is to eliminate the gateways of points in South Dakota in (a) and (b) and points in Minnesota within 50 miles of Sioux Falls, S. Dak. in (c) and (d).

No. MC 113855 (Sub-No. E452), filed July 15, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, (a) between points in Colorado, on the one hand, and, on the other, points in North Dakota, Ohio and Pennsylvania (South Dakota)*.

(b) Between points in Colorado, on the one hand, and, on the other, points in Minnesota (South Dakota, and points in Minnesota on or south of U.S. Highway 12 and on or west of a line beginning at the Wisconsin-Minnesota State line and extending along U.S. Highway 65, to junction Minnesota Highway 50, to junction Minnesota Highway 3, to junction U.S. Highway 65, to junction Minnesota Highway 30, to junction unnumbered highway near Ellendale, to junction U.S. Highway 65, to the Minnesota-Iowa State line, or Minot, N. Dak., or points in North Dakota south of a line beginning at the North Dakota-Montana State line and extending along North Dakota Highway 1 to junction North Dakota Highway 2, to the United States-Canada International Bounday line)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E454), filed July 15, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, (A) between points in Box Elder, Toole, Cache, Rich, Weber, Davis, Morgan, Summit, Salt Lake, Utah, Wasatch Counties, Utah, on the one hand, and, on the other, points in Kansas on and east of U.S. Highway 281. (South Dakota*).

(B) (i) Between points in Montana west and south of Phillips, Garfield, Prairie and Wibaux Counties, on the one hand, and on the other, points in North Dakota on and south of North Dakota Highway 200 and on and east of North Dakota Highway 3; (ii) between points in Montana on and south of a line begining at the Montana/North Dakota State line and extending along U.S. Highway 12, to junction U.S. Highway 10, to the Montana-Idaho State line, on the one hand, and, on the other, points in North Dakota north of North Dakota Highway 200 and east of North Dakota Highway 3; (iii) between points in Montana on and south of U.S. Highway 10 and on and west of U.S. Highway 89, on the one hand, and on the other, points in North Dakota on and east of U.S. Highway 83 and west of North Dakota Highway 3; (iv) between points in Montana (except Carter, Fallon, Custer, Powder River, Rosebud, Treasure, Big Horn, Carbon, Stillwater, Sweetgrass, Wheatland, Golden Valley, Musselshell and Yellowstone Counties, Mont., on the one hand, and, on the other, points in Nebraska on and east of U.S. Highway 83; (v) between points in Carter, Fallon, Custer, Powder River, Rosebud, Treasure, Big Horn, Carbon, Stillwater, Sweetgrass, Wheatland, Golden Valley, Musselshell, and Yellowstone Counties, Montana, on the one hand, and, on the other, points in Nebraska on and east of U.S. Highway 281; (vi) between points in Montana, on the one hand, and, on the other, points in Kansas on and east of Kansas Highway 25; (points in South Dakota east of the Missouri River)*.

(C) Between points in Montana (except Richland, Sheridan, Roosevelt, Daniels, Valley, Phillips Counties), on the one hand, and, on the other, points in Minnesota; (points in South Dakota east of the Missouri River, and; points in North Dakota south of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to junction North Dakota Highway 1 to the United States-Canada International Bounday line; or points in Minnesota on or south of U.S. Highway 12 and on or west of a line beginning at the Wisconsin-Minnesota State line and extending U.S. Highway 65 to junction Minnesota Highway 50 to junction Minnesota Highway 3, thence along Minnesota Highway 3 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction unnumbered highway east of Ellendale to junction U.S. Highway 65 via Albert Lea to the Minnesota-Iowa State line)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 115554 (Sub-No. E3) (Partial correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 30, 1974, and republished, as corrected, this issue. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1136, Cedar Rapids, Iowa 52406. Applicant's representative: James R. Madler, Room 718, 120 West Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerators, refrigeration* and *electrical equipment, appliances*, and *parts, materials*, and *supplies* used in the manufacture, repair, and distribution of such commodities, between points in Nebraska, on the one hand, and, on the other, points in the District of Columbia, The purpose of this filing is to eliminate the gateway of Amana, Iowa.

NOTE.—The purpose of this partial correction is to include the District of Columbia as a destination point. The remainder of this letter-notice remains as previously published.

No. MC 115554 (Sub-No. E6) (Partial correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 30, 1974, and republished, as corrected, this issue. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1136, Cedar Rapids, Iowa 52406. Applicant's representative: James R. Madler, Room 718, 120 West Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerators, refrigeration* and *electrical equipment, appliances*, and *parts, materials*, and *supplies* used in the manufacture, repair, and distribution of such commodities, between points in Iowa, on the one hand, and, on the other, points in the District of Columbia. The purpose of this filing is to eliminate the gateway of Amana, Iowa.

NOTE.—The purpose of this partial correction is to include the District of Columbia as a destination point. The remainder of this letter-notice remains as previously published.

MC 116014 (Sub-No. E12), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 52101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Georgia to points in Minnesota, Iowa, Wisconsin, Michigan, Ohio, West Virginia and points in that part of Indiana on and west of U.S. Highway 150 and points in that part of Illinois on and north of U.S. Highway 136. The purpose of this filing is to eliminate the gateways of Winchester, Ky., and points in Clark, Barren, Pulaski Counties, Ky. and points in Kentucky on and east of U.S. Highway 31–E.

No. MC 116014 (Sub–No. E13), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes,

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transporting: *Lumber* from points in that part of Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania State line, thence along Interstate Highway 70 to its intersection with U.S. Highway 522, thence along Highway 522 to its intersection with U.S. Highway 11, thence along U.S. Highway 11 to its intersection with Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, to points in Georgia.

The purpose of this filing is to eliminate the gateway of Powell County, Kentucky points in Kentucky on and east of U.S. Higway 31–E Clark County, Kentucky.

MC 116014 (Sub-No. E14), filed June 16, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *lumber*, from points in Tennessee to points in Michigan and points in Ohio on and west of a line beginning at the Kentucky-Ohio State line, thence along U.S. Highway 62 to junction Ohio Highway 45, thence along Ohio Highway 45 to Lake Erie. The purpose of this filing is to eliminate the gateway of Winchester, Ky.

No. MC 116014 (Sub-No. E15), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *wooden pallets, skids, bases, boxes, crating, veneer, baskets, staves, nails* and *metal banding*, from points in Illinois, Indiana and Ohio to points in North Carolina. The purpose of this filing is to eliminate the gateway of points in Powell County, Kentucky, points in Adair County, Kentucky, points in Kentucky on and East of U.S. Highway 31–E, and points in Bath County, Kentucky.

No. MC 116014 (Sub-No. E16), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *lumber*, from points in West Virginia to points in Minnesota, Iowa, Missouri, Wisconsin, Illinois and points in that part of Indiana on and west of U.S. Highway 52. The purpose of this filing is to eliminate the gateway of Winchester, Ky.

No. MC 116014 (Sub-No. E18), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53. Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101fl Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *wooden pallets, skids, bases, boxes, crating, veneer, baskets, staves, nails*, and *metal banding*, from points in Illinois and Gary, Evansville, and Terre Haute, Indiana to points in that part of South Carolina on and west of Interstate Highway 26. The purpose of this filing is to eliminate the gateway of points in Powell County, Kentucky, points in Adair County, Kentucky, and points in Kentucky on and East of U.S. Highway 31–E.

No. MC 117574 (Sub-No. E117), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies* and *parts* of such commodities when their transportation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts*, and *supplies* moving in connection therewith, restricted to self-propelled articles transported on trailers;

(a) Between points in Elkhart County, Ind., on the one hand, and on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at the Kentucky/Indiana State line, thence along U.S. Highway 421, thence along U.S. Highway 421 to its junction with Indiana Highway 3, thence along Indiana Highway 3 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to the Indiana/Ohio State line; Kentucky on and east of a line commencing at the Kentucky/Tennessee State line, thence along U.S. Highway 31, thence along U.S. Highway 31 to its junction with Kentucky Highway 55, thence along Kentucky Highway 55 to the Kentucky/Indiana State line;

(b) Between points in Porter County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at the Indiana/Kentucky State line, thence along Indiana Highway 56 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with Indiana Highway 1, thence along Indiana Highway 1 to its junction with Indiana Highway 101, thence along Indiana Highway 101 to its junction with U.S. Highway 27, thence along U.S. 27 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Indiana/Ohio State line; Kentucky on and east of a line commencing at the Tennessee/Kentucky State line, thence along Kentucky Highway 61 to its junction with Kentucky Highway 55, thence along Kentucky Highway 55 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with U.S. Highway 127, thence along U.S. Highway 127 to its junction with Kentucky Highway 14, thence along Kentucky Highway 14 to the Indiana/Kentucky State line;

(c) Between points in Lake County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Richmond, Ind., Kentucky on and east of a line commencing at Albany, thence along U.S. Highway 127 to its junction with Kentucky Highway 78, thence along Kentucky Highway 78 to its junction with U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky/Ohio State line;

(d) Between points in Laporte County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of U.S. Highway 121;

(e) Between points in Jasper and Newton Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at Ohio/Indiana State line along Ohio State line thence along U.S. Highway 50 to Indiana Highway 101, thence along Indiana Highway 101 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to Indiana/Ohio State line; Kentucky on and east of a line along U.S. Highway 127; Michigan on and east of a line commencing at Michigan/Ohio State line, thence along U.S. Highway 23, to Michigan Highway 21, thence along Michigan Highway 21 to its junction with Michigan Highway 53, thence along Michigan Highway 53 to Bad Axe;

(f) Between points in Marshall and Starke Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at the Kentucky/Indiana State line, thence along U.S. Highway 421, thence along U.S. 421 to its junction with Indiana Highway 3, thence along Indiana Highway 3 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to the Indiana/Ohio State line; Kentucky on and east of a line commencing at the Kentucky/Illinois State line, thence along U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 421, thence along U.S. Highway 421 to the Kentucky/Indiana State line; Michigan on and east of Interstate Highway 94;

(g) Between points in Carroll and Clinton Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Richmond, Ind.; points in Kentucky on and east of a line commencing at Tennessee/Kentucky State line, thence along U.S. Highway 127 to Interstate Highway 71, thence along Highway 71 to Kentucky/Ohio State line; Michigan on and east of a line commencing at Ohio/Michigan State line thence along U.S. Highway 23 to Interstate Highway 75, thence along Interstate Highway 75 to Bay City,

(h) Between points in Grant County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of a line commencing at the Tennessee/Kentucky State line, thence along U.S. Highway 31W to its junction with Kentucky Highway 88, thence along Kentucky Highway 88 to its junction with Kentucky Highway 70 thence along Kentucky Highway 70 to its junction with Kentucky Highway 55, thence along Kentucky Highway 55 to its junction with U.S. Highway 68, thence along U.S. Highway 68 to its junction with U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky/Ohio State line; Michigan on and east of a line commencing at the Michigan/Ohio State line, thence along U.S. Highway 23 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with Michigan Highway 247, thence along Michigan Highway 247 to Saginaw Bay;

(i) Between points in Howard and Tipton Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of a line commencing at Tennessee/Kentucky State line, thence along U.S. Highway 127 to Interstate Highway 71, thence along Interstate Highway 71 to Ohio/Kentucky State line; Michigan on and east of a line commencing at Ohio/Michigan State line, thence along U.S. Highway 23 to Interstate Highway 75, thence along Interstate Highway 75 to Bay City;

(j) Between points Blackford County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of U.S. Highway 127, Michigan on and east of Interstate Highway 75;

(k) Between points in Montgomery, Parke, and Vermillion Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of a line commencing at Kentucky/Tennessee State line, thence along U.S. Highway 27 to U.S. Highway 68, thence along U.S. Highway 68 to Kentucky/Ohio State line; Michigan on and east of a line commencing at Michigan/Ohio State line, thence along U.S. Highway 127 to U.S. Highway 27, thence along U.S. Highway 27 to its junction with Interstate Highway 75 to Sault Saint Marie;

(l) Between points in Hancock and Marion Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of U.S. Highway 127, Michigan on and east of a line commencing at the Michigan/Ohio State line, thence along U.S. Highway 127 to its junction with Michigan Highway 36, thence along Michigan Highway 36 to its junction with U.S. Highway 27, thence along U.S. Highway 27 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with Michigan Highway 37, thence along Michigan Highway 37 to Grand Traverse Bay;

(m) Between points in Henry County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of U.S. Highway 127; Michigan on and east of a line commencing at Detroit, thence along Interstate Highway 96, to its junction with U.S. Highway 27 thence along Michigan 115 to Lake Michigan;

(n) Between points in Fayette County, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of U.S. Highway 127; points in Michigan on and east of a line commencing at Detroit, thence along Interstate Highway 96 to its junction with U.S. Highway 27, thence U.S. Highway 27 to its junction with Michigan 115, thence along Michigan Highway 115 to Lake Michigan;

(o) Between points in Union County, Ind., on the one hand, and, on the other, points in Kentucky, Pennsylvania, West Virginia, Indiana on and south of U.S. Highway 460; Michigan on, north, and east of a line commencing at the Michigan/Ohio State line, thence along U.S. Highway 127 to its junction with Interstate Highway 96, thence along Interstate Highway 96 to Lake Michigan;

(p) Between points in Morgan and Putnam Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of a line commencing at Kentucky/Tennessee State line, thence along U.S. Highway 25E to Interstate Highway 75, thence along Interstate Highway 75 to Kentucky/Ohio State line; Michigan on and east of a line commencing at Ohio/Michigan State line, thence U.S. Highway 127 to U.S. Highway 27, thence along U.S. Highway 27 to its junction with Interstate Highay 75, thence along Interstate Highay 75 to Sault Saint Marie;

(q) Between points in Monroe and Owen Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of a line commencing at Kentucky/Virginia State line, thence along U.S. Highway 23 to its junction with Kentucky Highway 201, thence along Kentucky Highway 201 to its junction with Kentucky Highway 32, thence along Kentucky Highway 32 to its junction with Kentucky Highway 11, thence along Kentucky Highway 11 to the Kentucky/Ohio State line; Michigan on and north and east of a line commencing at the Michigan/Indiana State line, thence along U.S. Highway 27 to its junction with Michigan Highway 115, thence along Michigan Highway 115 to its junction with Michigan Highway 37, thence along Michigan Highway 37 to Grand Traverse Bay;

(r) Between points in Green and Sullivan Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky on and east of U.S. Highway 25; Michigan on and east of a line commencing at Detroit, thence along Interstate Highway 96, to its junction with U.S. Highway 27, thence along U.S. Highway 27 to its junction with Michigan Highway 115, thence along Michigan Highway 115 to Lake Michigan;

(s) Between points in Dearborn County, Ind., on the one hand, and, on the other, points in Michigan, Pennsylvania, West Virginia, Indiana on and north of a line commencing at Gary, thence along Indiana Highway 53 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with U.S. Highway 35, thence along U.S. Highway 35 to its junction with Indiana Highway 10, thence along Indiana Highway 10 to its junction with U.S. Highway 31, thence along U.S. Highway 31 to its junction with Indiana Highway 114, thence along Indiana Highway 114 to its junction with Indiana Highway 15, thence along Indiana Highway 15 to its junction with Indiana Highway 18, thence along Indiana Highway 18 to its junction with Indiana Highway 67, thence along Indiana Highway 67 to the Indiana/Ohio State line; Kentucky on and east of U.S. Highway 23;

(t) Between points in Clark and Scott Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on, north, and east of a line commencing at the Indiana/Ohio State line, thence along U.S. Highway 20 to its junction with Indiana Highway 9, thence along Indiana Highway 9 to the Indiana/Michigan State line; Kentucky on and east of a line commencing at the Kentucky/Virginia State line, thence along U.S. Highway 460 to its junction with Kentucky Highway 201, thence along Kentucky Highway 201 to its junction with Kentucky Highway 1, thence along Kentucky Highway 1 to its junction with U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky/Ohio State line; Michigan on, north and west of a line commencing at the Michigan/Indiana State line, thence along Michigan Highway 66 to its junction with Michigan Highway 79, thence along Michigan Highway 79 to its junction with Michigan Highway 37, thence along Michigan Highway 37 to its junction with Interstate Highway 96, thence along Interstate Highway 96 to Lake Michigan;

(u) Between points in Ohio and Switzerland Counties, Ind., on the one hand, and, on the other, points in Michigan, Pennsylvania, West Virginia, Indiana on, north, and east of a line commencing at the Indiana/Ohio State line, thence along Indiana Highway 67 to its junction with Indiana Highway 18, thence along Indiana Highway 18 to its junction with Indiana Highway 15, thence along Indiana Highway 15 to its junction with Indiana Highway 114, thence along Indiana Highway 114 to its junction with U.S. Highway 31, thence along U.S. Highway 31 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to Lake Michigan; Kentucky on and east of a line commencing at the Kentucky/Virginia State line, thence along U.S. Highway 23 to its junction with Kentucky Highway 201, thence along Kentucky Highway 201 to its junction with Kentucky Highway 1, thence along Kentucky Highway 1 to its junction with Kentucky Highway 7, thence along Kentucky Highway 7 to the Kentucky/Ohio State line; (v) between points in Floyd and Harrison Counties, Ind., on the one hand, and, on the other, points in Pennsylvania Indiana on, north, and east of a line commencing at the Michigan/Indiana State line, thence along Indiana Highway 9 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with Indiana Highway 3, thence along Indiana Highway 3 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Indiana/Ohio State line; Michigan on, north, and east of a line commencing at

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the Michigan/Indiana State line, thence along Michigan Highway 66 to its junction with Michigan Highway 79, thence along Michigan Highway 79 to its junction with Michigan Highway 37, thence along Michigan Highway 37 to its junction with Interstate Highway 96, thence along Interstate Highway 96 to Lake Michigan; West Virginia on and east of a line commencing at the West Virginia/Virginia State line, thence along West Virginia Highway 83 to its junction with West Virginia Highway 80, thence along West Virginia Highway 80 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to its junction with U.S. Highway 119, thence along U.S. Highway 119 to its junction with West Virginia Highway 10, thence along West Virginia Highway 10 to the West Virginia/Ohio State line;

(w) Between points in Gilson and Pike Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at Richmond, thence along U.S. Highway 27 to its junction with U.S. Highway 33, thence along U.S. Highway 33 to its junction with Indiana Highway 9, thence along Indiana Highway 9 to the Indiana/Michigan State line; Ashland, Ky., Michigan on and east of a line commencing at the Indiana/Michigan State line, thence along U.S. Highway 12, to its junction with U.S. Highway 131, thence along U.S. Highway 131 to its junction with Michigan Highway 37, thence along Michigan Highway 37, to its junction with U.S. Highway 10, thence along U.S. Highway 10 to Ludington; (x) between points in Spence and Warrick Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at Richmond, thence along U.S. Highway 27 to its junction with U.S. Highway 33, thence along U.S. Highway 33 to its junction with Indiana Highway 9, thence along Indiana Highway 9 to the Indiana/Michigan State line; Ashland, Ky., Michigan on and east of a line commencing at the Indian/Michigan State line, thence along U.S. Highway 12 to its junction with U.S. Highway 131, thence along U.S. Highway 131 to its junction with Michigan Highway 37, thence along Michigan Highway 37 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to Ludington; (y) between points in Crawford and Perry Counties, Ind., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Indiana on and east of a line commencing at Richmond, thence along U.S. Highway 27 to its junction with U.S. Highway 33, thence along U.S. Highway 33 to its junction with Indiana Highway 9, thence along Indiana Highway 9 to the Indiana/Michigan State line; Ashland, Ky.; Michigan on and east of a line commencing at the Indiana/Michigan State line, thence along U.S. Highway 12 to its junction with U.S. Highway 131, thence along U.S. Highway 131 to its junction with Interstate Highway 96, thence along Interstate Highway 96 to Muskegon; Gateway to be eliminated in (a) through (y): Columbus, Ohio and points within 80 miles thereof.

No. MC 117815 (Sub-No. E65), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Des Moines and Perry, Iowa to points in that part of Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E66), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, and *packing house products*, from Perry and Marshalltown, Iowa, to points in that part of Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E67), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Kansas City, Kansas, and Kansas City, Missouri, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line west of Eno, Indiana, thence east to Enos, Indiana, thence east over Indiana Highway 14 to Winamac, Indiana, thence south over U.S. Highway 35 to Royal Center, Indiana, thence east over Indiana Highway 16 to junction of U.S. Highway 31, thence south over U.S. Highway 31 to junction of U.S. Highway 24, thence east over U.S. Highway 24 to Peru, Indiana, thence east over Indiana Highway 124 to junction Indiana Highway 5, thence south over Indiana Highway 5 to junction of Indiana Highway 218, thence east over Indiana Highway 218 to Berne, Indiana, thence south over U.S. Highway 27 to Bryant, Indiana and thence east over Indiana Highway 67 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa and Chicago, Illinois.

No. MC 117815 (Sub-No. E68), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from St. Joseph and South St. Joseph, Missouri, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line west of Enos, Indiana, thence east to Enos, Indiana, thence over Indiana Highway 14 to junction of U.S. Highway 421, thence south over U.S. Highway 421 to junction of Indiana Highway 16, thence east over Indiana Highway 16 to Royal Center, Indiana, thence south over U.S. Highway 35 to junction of U.S. Highway 24, thence east over U.S. Highway 24 to Peru, Indiana, thence east over Indiana Highway 124 to junction of Indiana Highway 15, thence south over Indiana Highway 15 to junction of Indiana Highway 18, thence east over Indiana Highway 18 to Bryant, Indiana, and thence east over Indiana Highway 67 to Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa and Chicago, Illinois.

No. MC 117815 (Sub-No. E69), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products* and *articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in Descriptions in *Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and except commodities in bulk, in tank vehicles), from the plant site of Spencer Packing Company, at Schuyler, Nebraska, to Chicago, Illinois, restricted to traffic originating at the plant site of Spencer Packing Company at Schuyler, Nebraska, and to movements from, to or between wholesale and retail grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Aurora, Illinois.

No. MC 117815 (Sub-No. E70), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packing house products*, from Cedar Rapids, Iowa, to points in that part of Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E71), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa

50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; (b) *Canned goods* and *canned pet food*, and (c) *Frozen food*, from Omaha and Plattsmouth, Nebraska, to points in that part of Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa and Joliet, Illinois.

No. MC 117815 (Sub-No. E72), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th St., Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese packaging supplies*, from Hutchinson and New Ulm, Minnesota, to points in that part of Indiana north of U.S. Highway 40, and to points in Illinois within the territory bounded by a line beginning at Warren, Illinois and extending south on Illinois Highway 78 to junction U.S. Highway 20, thence west over U.S. Highway 20 to junction Illinois Highway 84, thence south over Illinois Highway 84 to Savanna, Illinois, thence along a line extending south to Galesburg, Illinois, thence in a southeasterly direction to Peoria, Ill., thence east to Onarga, Illinois, thence in a northeasterly direction to the Illinois-Indiana border, thence north along the Illinois-Indiana border to the shore of Lake Michigan, thence along the shore of Lake Michigan to Winthrop Harbor, Illinois, thence west through South Beloit, Illinois, to point of beginning, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateways of Clinton, Iowa and Chicago, Ill.

No. MC 117815 (Sub-No. 73), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Omaha and South Omaha, Nebraska, to points in that part of Indiana north of U.S. Highway 40 and to points in Illinois on, north and east of a line beginning at the Illinois-Indiana border and extending north along the shore of Lake Michigan to Winthrop Harbor, Illinois, thence west to Illinois Highway 47, thence south over Illinois Highway 47 to junction Illinois Highway 17, thence east over Illinois Highway 17 to junction unnumbered road 6 miles east of Dwight, Illinois, to junction of U.S. Highway 24, thence east over U.S. Highway 24 to Watseko, Illinois, thence along a line northeast to the Illinois-Indiana border, and thence north along the Illinois-Indiana border, to point of beginning, restricted to movement from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, Gary, Indiana and Munster, Indiana.

No. MC 117815 (Sub-No. E74), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products*, and *commodities distributed by meat packing houses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (a) from Iowa Falls, Iowa to Chicago, Illinois, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets; and (b) from Iowa Falls, Iowa to points in Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateways of Aurora, Illinois and Chicago, Illinois.

No. MC 117815 (Sub-No. E75), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products*, and *articles* distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Des Moines, and Perry, Iowa, to points in that part of Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retain outlets. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 117815 (Sub-No. E76), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packing house products*, from Davenport, Iowa, to points in Indiana on, north and east of a line commencing at the Illinois-Indiana state line at Effner, Indiana, thence east and south over U.S. Highway 52 to Atkinson, Indiana, thence south and east over Indiana Highway 55 to junction of Indiana Highway 341, thence south over Indiana Highway 341 to junction of Indiana Highway 234, thence east over Indiana Highway 234 to junction of U.S. Highway 231, thence south over U.S. Highway 231 to junction of U.S. Highway 40, thence east over U.S. Highway 40 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses and their retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E77), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, restricted to movements from, to or between wholesale grocery houses, from Kansas City, Kansas, and Kansas City, St. Joseph, and South St. Joseph, Missouri, to points in Illinois on, north and east of a line commencing at the Illinois-Indiana state line and extending north along the shore of Lake Michigan to Winthrop Harbor, Illinois, thence west along the Illinois-Wisconsin state line to Illinois Highway 31, thence south over Illinois Highway 31 to junction of U.S. Highway 30, thence south over U.S. Highway 30 to Plainfield, Illinois, thence southeast over U.S. Highway 52 to junction of unnumbered road 2 miles west of Monteno, Illinois, thence east over unnumbered road to junction of Illinois Highway 1, thence south over Illinois Highway 1 to junction of Illinois Highway 17, thence east over Illinois Highway 17 to the Illinois-Indiana state line, and thence north along the Illinois-Indiana state line to the point of beginning; and the points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line on Indiana Highway 10, thence east over Indiana Highway 10 to junction of Indiana Highway 110, thence east over Indiana Highway 110 to junction of U.S. Highway 231, thence south over U.S. Highway 231 to junction of Indiana Highway 14, thence east over Indiana Highway 14 to junction of U.S. Highway 421, thence south over U.S. Highway 421 to junction of Indiana Highway 16, thence east over Indiana Highway 16 to junction of U.S. Highway 35, thence southeast over U.S. Highway 35 to junction of U.S. Highway 24, thence east over Indiana Highway 24 to junction of Indiana Highway 124, thence east

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over Indiana Highway 124 to junction of Indiana Highway 15, thence south over Indiana Highway 15 to junction of Indiana Highway 18, thence east over Indiana Highway 18 to Bryant, Indiana, and thence east over Indiana Highway 67 to the Ohio-Indiana state line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa and Munster, Indiana.

No. MC 117815 (Sub-No. E78), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry, eggs, fresh meats, canned foods,* and *packing houses products*, from Des Moines, Grinnell, and Marengo, Iowa, to points in that part of Indiana north of U.S. Highway 40, restricted to movements from, to or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E79), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry* and *dairy products*, from Ottumwa, Iowa, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line west of Morocoo, Indiana, thence east over Indiana Highway 114 to Rensselaer, Indiana, thence south over U.S. Highway 231 to Montmorenci, Indiana, thence south over U.S. Highway 52 to junction U.S. Highway 40, and thence over U.S. Highway 40 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub No. E80), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Muscatine, Iowa, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line on U.S. Highway 36, thence east over U.S. Highway 36 to junction of U.S. Highway 231, thence south over U.S. Highway 231 to junction of U.S. Highway 40, and thence east over U.S. Highway 40 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E81), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority south to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry* and *dairy products*, from Clarinda and Creston, Iowa, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line on Indiana Highway 26, thence east over Indiana Highway 26 to Pine Village, Indiana, thence south over Indiana Highway 55 to junction of U.S. Highway 136, thence south over U.S. Highway 136, to Crawfordsville, Indiana, thence south over U.S. Highway 231 to junction of U.S. Highway 40, and thence east over U.S. Highway 40 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E82), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Keokuk, Iowa, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line on Indiana Highway 2, thence east over Indiana Highway 2 to junction of U.S. Highway 41, thence south over U.S. Highway 41 to junction of unnumbered highway south of Schneider, Indiana, thence east over unnumbered highway to junction of Indiana Highway 55, thence south over Indiana Highway 55 to junction of Indiana Highway 110, thence east over Indiana Highway 110 to junction of Indiana Highway 143, thence east over Indiana Highway 143 to junction of U.S. Hihgway 35, thence south over U.S. Highway 35 to Winamac, Indiana, thence east over Indiana Highway 14 to Akron, Indiana, thence east over Indiana Highway 114 to junction of Indiana Highway 15, thence south over Indiana Highway 15 to junction of Indiana Highway 218, thence east over Indiana Highway 218 to junction of Indiana Highway 116, thence south over Indiana Highway 116 to Geneva, Indiana, thence south over U.S. Highway 27 to Bryant, Indiana, and thence east over Indiana Highway 67 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E83), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, Inc., 405 SE 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor carrier, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale grocery and food business houses*, and in connection therewith, *materials* and *supplies used in the conduct of such business*, when moving to or from such business houses or other facilities thereof, between Des Moines, Iowa, on the one hand, and, on the other, points in that part of Illinois on, east and north of a line commencing at Oneco, Illinois, thence south over Illinois Highway 26 to junction U.S. Highway 52, thence southeast over U.S. Highway 52 to junction unnumbered road at Sublette, Illinois, thence south over unnumbered road to LaMoille, Illinois, thence south over Illinois Highway 89, to Spring Valley, Illinois, thence east over U.S. Highway 6 to Peru, Illinois, thence south over U.S. Highway 52 to junction U.S. Highway 24, thence east over U.S. Highway 24 to junction U.S. Highway 45, thence south over U.S. Highway 45 to Onarga, Illinois, thence along a line in a northeasterly direction to the Illinois-Indiana state line. The purpose of this filing is to eliminate the gateway of Rochelle, Illinois.

No. MC 117815 (Sub-No. E84), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities utilized by Banquet Foods Corporation at Carrollton and Marshall, Missouri, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line, thence east over Indiana Highway 114, to Monon, Indiana, thence south over U.S. Highway 421 to junction Indiana Highway 18, thence east over Indiana Highway 16 to Royal Center, Indiana, thence south over U.S. Highway 35 to junction Indiana Highway 22 (including Kokomo, Indiana), thence east over Indiana Highway 22 to unnumbered highway at Jonesboro, Indiana, thence southeast over unnumbered highway to junction Indiana Highway 28 at Albany, Indiana, and thence east over Indiana Highway 28 to the Indiana-Ohio state line, restricted to traffic originating at the named facilities and to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E85), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale grocery* and *food business houses*, and in connection therewith, *equipment, materials* and *supplies used in the conduct of such business*, when moving to or from such business houses or other facilities thereof, between Des Moines, Iowa, on the one hand, and, on the other, points in that part of Indiana bounded by a line commencing at the Illinois-Indiana state line at unnumbered highway approximately four miles north of Effner, Indiana, and extending in a northeasterly direction (through Brook, Collegeville, Francesville, and Winamac, Indiana), to Warsaw, Indiana, thence north over Indiana Highway 15 to Goshen, Indiana, and thence in a northwesterly direction to the Indiana-Michigan state line near Granger, Indiana. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E86), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities utilized by Banquet Foods Corporation at Macon and Moberly, Missouri, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line west of Enos, Indiana, thence east to Enos, Indiana, thence east over Indiana Highway 14 to junction of U.S. Highway 421, thence south over U.S. Highway 421 to junction of Indiana Highway 16, thence east over Indiana Highway 16 to Royal Center, Indiana, thence southeast over U.S. Highway 35 to Walton, Indiana, thence east over Indiana Highway 218 to junction of Indiana Highway 21, thence south over Indiana Highway 21, thence south over Indiana Highway 18, thence east over Indiana Highway 18 to junction of Indiana Highway 3, thence south over Indiana Highway 3 to junction of Indiana Highway 26, and thence east over Indiana Highway 26 to the Indiana-Ohio state line, restricted to traffic originating at the named facilities and to movements, from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E87), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry* and *dairy products*, from Centerville, Iowa, to points in that part of Indiana on and north of a line commencing at the Illinois-Indiana state line on Indiana Highway 114 west of Moroco, Indiana, thence east over Indiana Highway 114 to Rensselaer, Indiana, thence south over U.S. Highway 231 to junction of Indiana Highway 18, thence east over Indiana Highway 18 to junction of Indiana Highway 29, thence south over Indiana Highway 29 to Middlefork, Indiana, thence east over Indiana Highway 26 to junction of U.S. Highway 31, thence south over U.S. Highway 31 to junction of Indiana Highway 28, thence east over Indiana Highway 28 to junction of Indiana Highway 9, thence south over Indiana Highway 9 to Anderson, Indiana, thence east over Indiana Highway 32 to junction of Indiana Highway 67, thence east over Indiana Highway 67 to junction of Indiana Highway 3, thence south over Indiana Highway 3 to junction of U.S. Highway 36, thence east over U.S. Highway 36 to junction of U.S. Highway 35, thence south over U.S. Highway 35 to junction of unnumbered highway at Williamsburg, Indiana, thence south over unnumbered highway to junction of U.S. Highway 40, and thence east over U.S. Highway 40 to the Indiana-Ohio state line, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E88), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned vegetables*, from the plantsites of the Green Giant Company at Beaver Dam and Fox Lake, Wisconsin, to points in Illinois within the territory bounded by a line beginning at Galena, Illinois, and extending in a southeasterly direction to Savanna, Illinois, thence south to Galesburg, Illinois, thence in a southeasterly direction to Peoria, Illinois, thence northeast over Illinois Highway 116 to Metamora, Illinois, thence north over Illinois Highway 89 to Spring Valley, Illinois, thence east over U.S. Highway 6 to junction Illinois Highway 23, thence north over Illinois Highway 23 to Genoa, Illinois, thence northwest over unnumbered road to Belvidere, Illinois, thence west over U.S. Highway 20 to Rockford, Illinois, thence north over Illinois Highway 2 to South Beloit, Illinois, and thence west along a line through Warren, Illinois, to Galena, Illinois, restricted to traffic originating at the plantsites of Green Giant Company and to movements from, to or between wholesale and retail grocery houses, their warehouses and retail outlets and to traffic originating at the named, plantsites. The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC 117815 (Sub-No. E90), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Condiments* and *canned goods*, from points in that part of Indiana bounded by a line commencing at the Illinois-Indiana state line at unnumbered highway approximately four miles north of Effner, Indiana, and extending in a northeasterly direction (through Brook, Collegeville, Francesville, and Winamac, Indiana), to Warsaw, Indiana, thence north over Indiana Highway 15 to Goshen, Indiana, and thence in a northwesterly direction to the Indiana-Michigan state line near Granger, Indiana, to points in that part of Iowa on and north of a line beginning at the Iowa-Illinois state line and extending along U.S. Highway 6 to junction unnumbered highway, west of Ladora, Iowa, thence along unnumbered highway via Victor, Camforth and Brooklyn, Iowa, to junction U.S. Highway 6, and thence along U.S. Highway 6 to junction U.S. Highway 69, and on and east of U.S. Highway 69 from junction U.S. Highway 6 to the Iowa-Minnesota state line, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E91), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(Poultry, eggs, dairy products, fresh meats, canned foods,* and *packing house*

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products, supplies and *equipment*, from points in that part of Indiana bounded by a line commencing at the Illinois-Indiana state line at unnumbered highway approximately four miles north of Effner, Indiana, and extending in a northeasterly direction (through Brook, Collegeville, Francesville, and Winamac, Indiana) to Warsaw, Indiana, thence north over Indiana Highway 15 to Goshen, Indiana, and thence in a northwesterly direction to the Indiana-Michigan state line near Granger, Indiana, to points in Iowa on and east of U.S. Highway 69, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E92), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Illinois 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Illinois 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except animal and poultry feed), from points in that part of Indiana bounded by a line commencing at the Illinois-Indiana state line at unnumbered highway approximately four miles north of Effner, Indiana, and extending in a northeasterly direction (through Brook, Collegeville, Francesville, and Winamac, Indiana) to Warsaw, Indiana, thence north over Indiana Highway 15 to Goshen, Indiana, and thence in a northwesterly direction to the Indiana-Michigan state line near Granger, Indiana, to Adel, Cedar Rapids, Clarion, Creston, Fort Dodge, Guthrie Center, Jefferson, Mason City, Mount Ayr, Muscatine, Perry, and Winterset, Iowa, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 117815 (Sub-No. E93), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in that part of Indiana bounded by a line commencing at the Illinois-Indiana state line at unnumbered highway approximately four miles north of Effner, Indiana, and extending in a northeasterly direction (through Brook, Collegeville, Francesville, and Winamac, Indiana), to Warsaw, Indiana, thence north over Indiana Highway 15 to Goshen, Indiana, and then in a northwesterly direction to the Indiana-Michigan state line near Granger, Indiana, to Adel, Cedar Rapids, Clarion, Creston, Fort Dodge, Guthrie Center, Jefferson, Mason City, Mount Ayr, Muscatine, Perry and Winterset, Iowa, restricted to movements from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

No. MC 118831 (Sub-No. E93), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from points in that part of North Carolina in and east of the counties of Transylvania, Henderson, Buncombe, and Madison to points in Georgia, restricted against the transportation of caustic soda from Acme, N.C. and points within 5 miles thereof to points in Georgia. The purpose of this filing is to eliminate the gateway of points in South Carolina.

No. MC 118831 (Sub-No. E94), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except fertilizer and vegetable oils), in bulk, in tank vehicles, from points in Calhoun, Chester, Chesterfield, Clarendon, Darlington, Dillon, Fairfield, Florence, Georgetown, Horry, Kershaw, Lancaster, Lee, Marion, Marlboro, Richland, Sumter, Williamsburg, and York Counties, S.C., to points in Alabama. The purpose of this filing is to eliminate the gateway of Charlotte, N.C., Lanett, Ala., and points in that part of Georgia in the Lanett, Ala., commercial zone.

No. MC 118831 (Sub-No. E95), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals* (except fertilizer and vegetable oils), in bulk, in tank vehicles, from points in South Carolina (except Charleston) to points in Mississippi. The purpose of this filing is to eliminate the gateway of Lanett, Ala. and points in its commercial zone.

No. MC 118831 (Sub-No. E102), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid petrochemicals*, in bulk, from points in Richmond County, Ga., to points in Georgia except those points in Georgia beginning at the intersection of U.S. Highway 378 and the Georgia-South Carolina boundary, thence, in a westerly direction through Washington, to Covington, Ga.; thence, in a southerly direction to Monticello; Ga.; thence, in a southerly direction to Roberta, Ga., thence, in an easterly direction through Hawkinsville, McRae, and Springfield, Ga., to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateway of points in South Carolina.

No. MC 118831 (Sub-No. E103), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D. C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl Terephthalate*, molten, in bulk, from Gibbstown, New Jersey to points in that part of Mississippi on and south of U.S. Highway 82. The purpose of this filing is to eliminate the gateway of plant site of the E. I. Dupont Company at Graingers, N.C., Spartanburg, S.C., and Robertson County, Tenn.

No. MC 118831 (Sub-No. E104), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid petrochemicals*, in bulk, from points in Calhoun, Chester, Chesterfield, Clarendon, Darlington, Dillon, Fairfield, Florence, Georgetown, Horry, Kershaw, Lancaster, Lee, Marion, Marlboro, Richland, Sumter, Williamsburg, and York Counties, S.C., to points in Alabama. The purpose of this filing is to eliminate the gateway of Charlotte, N.C., Lanett, Ala., and points in that part of Georgia in the Lanett, Ala., commercial zone.

No. MC 118831 (Sub-No. E105), filed November 10, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, Highpoint, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid petrochemicals* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank or hopper-type vehicles, from the plant site of Howerton-Gowen Company, Inc., at Chesapeake, Virginia, to points in South Carolina and to points in that part of Virginia on and west of a line beginning with U.S. Highway 301 at the North Carolina-Virginia State line and proceeding north to Emporia; thence, over U.S. Highway 58 to Lawrenceville, Va.; thence, over Virginia Highway 46 to Blackstone, Va.; thence, over U.S. Highway 460 to Farmville, thence, over U.S. Highway 15 to a point two miles north of Sprouses Corner, Va.; thence, over Virginia Highway No. 20 to Charlottesville, Va.; thence, over U.S. Highway 29 to Culpepper; thence, over U.S. Highway 522 to Winchester; thence, over U.S. Highway 11 to the West Virginia State line. The purpose of this filing is to eliminate the gateway of points in North Carolina on and east of U.S. 21 and on and north of U.S. 74 and points in South Carolina.

No. MC 118831 (Sub-No. E106), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank or *hopper-type vehicles, from the plant* site of Howerton-Cowen Company in Chesapeake, Virginia (in the Norfolk Commercial Zone) to points in Georgia. The purpose of this filing is to eliminate the gateway of points in North Carolina on and east of U.S. 21 and on and north of U.S. 74 and points in South Carolina.

No MC 118831 (Sub-No. E107), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from points in that part of North Carolina (except Charlotte) on and east of U.S. Highway 25 to points in that part of Florida on and south of Sarasota, Fla., and proceeding along Florida Highway 72 to Arcadia, Fla.; thence, over Florida Highway 70 to Okeechobee, Florida; thence, over Florida Highway 710 to West Palm Beach, Fla. The purpose of this filing is to eliminate the gateway of points in South Carolina within the Charlotte Commercial Zone.

No. MC 118831 (Sub-No. E108), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), from points in North Carolina on and west of a line beginning at the Atlantic Ocean and running along U.S. Highway 74 to Charlotte, N.C.; thence, northward along N.C. Highway 115 to Mooresville, N.C.; thence, westward along N.C. Highway 150 to N.C. Highway 16; thence, northward along N.C. Highway 16 to Conover, N.C.; thence, westward along Interstate Highway 40 to Hickory, N.C.; thence, northward along U.S. Highway 321 to the Tennessee State line. The purpose of this filing is to eliminate the gateways of points in North Carolina on and east of U.S. 21 and on the north of U.S. 74 and points in South Carolina.

No. MC 118831 (Sub-No. E109), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, (except anhydrous ammonia fertilizer, and fertilizer materials), from points in North Carolina bounded as follows: Beginning at the North Carolina-South Carolina State Line on U.S. 321 and proceeding northward to N.C. 275; thence, over N.C. 275 to N.C. 16; thence, north over N.C. 16 to N.C. 150; thence eastward over N.C. 150 to U.S. 29 and 70; thence, northeastward over U.S. 29 and 70 to Greensboro; thence, eastward over U.S. 70 to Hillsboro; thence, eastward over Interstate Highway 85 to U.S. 15 near Oxford, N.C.; thence, over U.S. 15 to Oxford; thence, over U.S. 158 to Interstate 85; thence, over Interstate 85 to Manson; thence, over U.S. 1 to Norline; thence, over U.S. 401 to Warrenton; thence, over N.C. 58 to Nashville; thence, over U.S. 64 to Rocky Mount; thence, over N.C. 97 to Hobgood; thence, over N.C. 125 to Williamston; thence, over U.S. 17 to Washington; thence, over U.S. 264 to the Atlantic Ocean; thence, running with the Atlantic Coast to the North Carolina-South Carolina State Line and westward with the North Carolina-South Carolina State Line to point of beginning, including all points on said boundary (except not applicable on caustic soda from Acme, N.C., and points within 5 miles thereof); to points in Missouri (except points in the St. Louis, Missouri Commercial Zone), points in Illinois (except points in the East St. Louis, Illinois Commercial Zone), points in Wisconsin, and points in the states of Tennessee, Kentucky, Ohio, Indiana, and Michigan on and west of a line described as follows:

Beginning at the North Carolina-Tennessee State Line on Tennessee Highway 123 to Tennessee Highway 68 to U.S. 411 to Tennessee Highway 33 to Interstate Highway 75 to Tennessee 61 to U.S. 441 to U.S. 25–W to Interstate 75 to Careyville; thence, Tennessee Highway 63 to U.S. Highway 27; U.S. Highway 27 to Somerset, Kentucky; thence, Kentucky Highway 80 to Kentucky Highway 461 to U.S. Highway 25 to Richmond, Kentucky; thence, Kentucky Highway 388 to Winchester, Kentucky; thence, Kentucky Highway 227 to Paris, Kentucky; thence, U.S. Highway 27 to Cincinnati, Ohio; thence, via Ohio Highway 4 to Hamilton, Ohio; Ohio Highway 177 to Indiana Highway 227 to U.S. 35 to Indiana Highway 3 to Indiana Highway 28 to Indiana Highway 15 to Indiana Highway 9 to Indiana Highway 105 to Indiana Highway 205 to Indiana Highway 327 to the Michigan State Line; thence, over unnumbered Michigan Highway to Bronson, Michigan; thence, over U.S. Highway 12 to Interstate Highway 69; thence, over Michigan Highway No. 60 to Jackson, Michigan; thence, over Interstate Highway 94 to Detroit. The purpose of this filing is to eliminate the gateway of points in South Carolina and Charlotte, N.C.

No. MC 118831 (Sub-No. E110), filed November 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, N.C. 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, (except anhydrous ammonia, fertilizer, and fertilizer materials), from points in North Carolina bounded as follows (including points on said boundary): Beginning on the North Carolina-South Carolina State Line on U.S. 321; thence, northward to Interstate 85; thence, eastward to N.C. 73; thence, eastward to N.C. 24; thence, eastward to N.C. 50; thence, southeastward to the Atlantic Ocean; thence, southward and westward along the Atlantic Coast to the North Carolina-South Carolina State Line; thence, westward along the North Carolina-South Carolina State Line to point of beginning (except not applicable on Caustic Soda from Acme, N.C., and points within five miles) to points in the states of Illinois (except points in East St. Louis, Illinois Commercial Zone), Indiana, Michigan, Missouri (except points in the St. Louis, Missouri Commercial Zone), Tennessee, Wisconsin, and points in Kentucky and Ohio on, north, and west of a line described as follows: Beginning on Kentucky Highway 80 at Elkhorn City; thence, northward to U.S. 460; thence, to U.S. 23 to Kentucky Highway 201 to Kentucky Highway 1 to U.S. 23; U.S. 23 to Portsmouth, Ohio; Ohio Highway 139 to Ohio Highway 124 to Ohio Highway 346 to Athens, Ohio; thence, over U.S. Highway 50 to Belpre, Ohio. The purpose of this filing is to eliminate the

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gateway of points in South Carolina, and Charlotte, N.C.

No. MC 123407 (Sub-No. E252), filed November 30, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway—6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel pipe and conduit* (except oilfield commodities as described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from the plantsite and warehouse facilities of Allied Tube & Conduit Corporation at Harvey, Ill., to points in Florida (except points in Nassau County), points in Alabama in and south of the counties of Sumter, Greene, Hale, Perry, Dallas, Lowndes, Montgomery, Bullock, and Barbour, and points in Georgia in and south of the counties of Quitman, Randolph, Terrell, Lee, Worth, Tift, Berrien, Atkinson, and Clinch. The purpose of this filing is to eliminate the gateway of the plantsite and warehouse facilities of Henderson Steel Corporation located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E258), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway—6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irreguluar routes, transporting: *Such iron and steel articles as are roofing, building, or paving materials* (except commodities in bulk, and commodities which because of their size or weight require the use of special equipment), from Brookville, Ind., to points in Alabama, Arkansas, Georgia, Mississippi, South Carolina, Texas, Wisconsin, and Louisiana, North Carolina in the counties in and east of Henderson, Rutherford, McDowell, Burke, Caldwell, Wilkes, Yadkin, Forsyth, Bullford, Alamance, Orange, Durham and Granville. The purpose of this filing is to eliminate the gateway of New Castle, Ind.

No. MC 123407 (Sub-No. E259), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are building materials, from Coatesville, Brackenridge, West Leechburg, and Bagdad, Pa., to points in Minnesota, South Dakota, Nebraska, Kansas, and the Upper Peninsula of Michigan in the counties of Gogebic, Ontonagon, Houghton, Keweenaw, Baraga, and Iron. The purpose of this filing is to eliminate the gateway of those points in the Warren, Ill., commercial zone located in Wisconsin.

No. MC 123407 (Sub-No. E261), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are roofing materials, from Chicago, Ill., to points in Alabama, Georgia, North Carolina, South Carolina, Texas, Louisiana, Arkansas in and south of the counties of Sevier, Howard, Pike, Nevada, Ouachita, Calhoun, Bradley, Lincoln, Drew, and Chicot, and Mississippi in and south of the counties of Issaquena, Sharkey, Yazoo, Madison, Leake, Winston, Oktibbeha, and Lowndes. The purpose of this filing is to eliminate the gateway of New Castle, Ind.

No. MC 123407 (Sub-No. E262), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated steel*, from New Castle, Ind., to points in Florida in the counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Wakulla, Pinellas, Hillsborough, Manatee, Hardee, Highlands, Okeechobee, St. Lucie, Sarasota, DeSoto, Martin, Charlotte, Glades, Lee, Hendry, Palm Beach, Collier, Broward, Monroe, and Dade. The purpose of this filing is to eliminate the gateway of the plantsite and warehouse facilities of Henderson Steel Corporation, located in Lauderdale County, Miss.

No. MC 123407 (Sub-No. E266), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are building materials*, from International Falls, Minn., to points in Alabama, Georgia, Mississippi, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E267), filed March 30, 1976. Applicant: SAWYER TRANSPORT INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles* as are roofing materials, from Chicago, Ill., to points in Alabama, Georgia, North Carolina, South Carolina, Texas, Louisiana, Arkansas in and south of the counties of Sevier, Howard, Pike, Nevada, Ouachita, Calhoun, Bradley, Lincoln, Drew, and Chicot, and Mississippi in and south of the counties of Issaquena, Sharkey, Yazoo, Madison, Leake, Winston, Oktibbeha, and Lowndes. The purpose of this filing is to eliminate the gateway of New Castle, Ind.

No. MC 123407 (Sub-No. E268), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are building materials*, from Coatesville, Brackenridge, West Leechburg, and Bagdad, Pa., to points in North Dakota (except in the counties of Emmons, Logan, McIntosh, and Cass). The purpose of this filing is to eliminate the gateways of those points in the Warren, Ill. commercial zone located in Wisconsin and L'Anse, Mich.

No. MC 123407 (Sub-No. E270), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel windows and doors*, restricted against the transportation of commodities, which, because of their size or weight, require the use of special equipment or special handling, from Columbus, Ohio, to points in North Carolina in and east of the counties of Vance, Franklin, Nash, Wilson, Greene, Lenoir, Jones and Onslow. The purpose of this filing is to eliminate the gateway of West Leechburg, Pa.

No. MC 123407 (Sub-No. E271), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are building materials*, from Clinton, Iowa, to points in North Carolina, South Carolina, Alabama in the counties of Barbour, Dale, Henry and Houston, and Georgia (except in the counties of Floyd, Polk, Haralson, and Carroll). The purpose of this filing is to eliminate the gateways of Warren, Ill., and New Castle, Ind.

No. MC 123407 (Sub-No. E272), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel used construction forms*, from New Castle, Ind., Coatesville, Brackenridge, West Leechburg, and Bagdad, Pa., to points in Florida. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 123407 (Sub-No. E274), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel used construction forms*, from Coatesville, Brackenridge, West Leechburg, and Bagdad, Pa., to points in Minnesota, North Dakota, South Dakota, Nebraska, Wyoming, and Iowa. The purpose of this filing is to eliminate the gateway of Beloit, Wis.

No. MC 123407 (Sub-No. E275), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are building materials* (except commodities in bulk), from Port Clinton, Ohio, to points in Arkansas, Georgia, Mississippi, Texas, Louisiana, Alabama, North Carolina in and west of the counties of Watauga, Caldwell, Catawba, Lincoln, and Gaston, and South Carolina in and west of the counties of Lancaster, Kershaw, Lee, Sumter, Clarendon, Orangeburg, Dorchester, and Charleston. The purpose of this filing is to eliminate the gateway of New Castle, Ind.

No. MC 123407 (Sub-No. E276), filed March 30, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel used construction forms*, from New Castle, Ind., to points in Illinois in the counties of Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Lake, Carroll, Ogle, Whiteside, Lee, and Cook. The purpose of this filing is to eliminate the gateway of Wilmot, Wis.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12815 Filed 5-3-77;8:45 am]

[Notice No. 56]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 3, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 69397 (Sub-No. 25TA), filed April 8, 1977. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, U.S. Route 13, Pocomoke City, Md. 21851. Applicant's representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood, and wood products*, from points in Accomac and Northampton Counties, Va., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, for 180 days. Supporting shipper(s): Lewis Lumber and Piling, Accomac, Va., Eastern Shore Lumber Industries, Inc., Wenona, Md., Palmer Lumber Co., Nassawadox, Va. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue, NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 89684 (Sub-No. 98TA), filed April 1, 1977. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West, Salt Lake City, Utah 84110. Applicant's representative: Harry D. Pugsley, Suite 1200, 310 South Main Street, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value), classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment. (Restricted to packages each weighing not more than 100 pounds and against the transportation of more than 200 pounds in the aggregate, from one consignor at one location to one consignee at one location during a single day.) (a) Between Elko, Nev., and the Nevada-California border serving all intermediate points and their commercial zones via U.S. Highway I-80, U.S. 40 and U.S. 95 and serving the following off-route points and their commercial zones: Black Springs, Verdi, Hazen, Fallon, Schurz, Yerington, Weed Heights, Wabuska, Weeks, Silver Springs, Fernley, Dayton, Carson City, Glenbrook, Lake Tahoe, Crystal Bay, Franktown, Steamboat, Sparks, Virginia City, Minden, Gardnerville, Stateline, Genoa, Zephyr Cove, Silver City, Goldhill, Incline Village, Washoe, Huffaker, Vista, Appian, Lux, Lawton, Mogul, Wadsworth, Lamoille and Carlin, Nev. (b) Between Wendover and Ely, Nev., serving all intermediate points via U.S. Highways Alternate 50 and U.S. 93 zones: Ruth, Keystone Lane, Copper Flat, Reipetown, Kimberly and East Ely, Nev., for 180 days.

NOTE.—Applicant requests authority for tacking at Elko and Wendover, Nev.

Supporting Shipper(s): There are approximately 66 statements of support attached to the applicant which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 108207 (Sub-No. 460TA), filed April 11, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic or rubber sheets or sheeting, NOI, and solvents*, from Akron, Ohio to Dallas and Amarillo, Tex.; Tulsa, Okla.; Wichita, Kans.; and Los Angeles, Calif. Restricted to traffic moving in vehicles, equipped with mechanical refrigeration, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The B. F. Goodrich Company, 500 S. Main Street, Akron, Ohio 44318. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 110525 (Sub-No. 1188TA), filed April 8, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemical coatings* (other than petroleum), in bulk, in tank vehicles, from Garland, Tex. (Dallas commercial zone); to Fairfield, Ala.; Tampa, Fla.; Evansville, Ind.; Louisville, Ky.; New Orleans, La. and Norman, Okla., for 180 days. Supporting shipper(s): DeSoto, Inc., 1700 S. Mt. Prospect Road, Des Plaines, Ill. 60018. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 110563 (Sub-No. 200TA), filed April 13, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747,

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113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: John L. Maurer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except in bulk), in vehicles equipped with mechanical refrigeration, from: The storage facilities utilized by M&M/MARS, located at or near Hapden Township, Cumberland County, Pa., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of Operating authority. Supporting shipper(s): M&M/MARS, a division of Mars, Incorporated, High Street, Hackettstown, N.J. 07840. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations—Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 115311 (Sub-No. 217TA), filed April 11, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Edward L. Fox, P.O. Box 488, Milledgeville, Ga. 31061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of East Highlands Company, Forest Products Division at Albertville, Ala., to points in Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia and those points in Louisiana east of the Mississippi River, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): East Highlands Company, P.O. Box 746, Albertsville, Ala. 35950. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 117416 (Sub-No. 55TA), filed April 8, 1977. Applicant: NEWMAN & PEMBERTON CORP., 2007 University Avenue N.W., Knoxville, Tenn. 37921. Applicant's representative: Herbert Alan Dubin, 1819 H Street N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and processed foodstuffs*, other than in bulk or frozen, from Hoopeston and Princeville, Ill., to all points in the United States of Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee, for 180 days. Supporting shipper(s): Joan of Arc Company, 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protest to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A–422 U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 123255 (Sub-No. 99TA), filed April 14, 1977. Applicant: B & L MOTOR FREIGHT, Inc., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglas materials and fiberglas products, fibrous glass textile materials, fibrous glass textile products, plastic materials, and plastic products*, from the plantsite and warehouse facilities of Owen-Corning Fiberglas Corporation at or near Newark, Ohio, to points in the states of Arkansas, Louisiana, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owen-Corning Fiberglass Corporation, Case Avenue, Newark, Ohio 43055. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commision, 220 Federal Bldg. & United States Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 123316 (Sub-No. 6TA), filed April 8, 1977. Applicant: MILAN TRUCKING CO., INC., 233 South Gladstone Avenue, Columbus, Ind., 42741. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles). From Columbus, Ind., to Madison and Miami, Fla.; Raleigh, Charlotte, and Franklin, N.C.; Suffolk, Ivor, and Smithfield, Va.; Elizabeth and Passaic, N.J.; Syracuse, New York City, and Buffalo, N.Y.; Hartford, Conn.; Landover and Baltimore, Md.; and Washington, D.C. Restrictions: (1) Restricted to traffic originating at the plantsite or storage facilities of Stadler Packing Company, Inc. at Columbus, Ind. (22) Restricted to movements under a continuing contract, or contracts, with Stadler Packing Company, Inc., of Columbus, Ind., and (3) Restricted to traffic moving in refrigerated vehicles, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stadler Packing Company, Inc., 600 Belmont Street, Columbus, Ind. 47201. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MS 124887 (Sub-No. 30TA), filed April 11, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, dry, from Sneads, Fla., to points in Alabama and Georgia, for 180 days. Supporting shippers(s): Mississippi Chemical Corp., P.O. Box 388, Yazoo, Miss. 39194. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 135874 (Sub-No. 79TA), filed April 6, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from points in Iowa and Ohio, and Sioux Falls, Rapid City, Watertown and Madison, S. Dak., and Jamestown, N. Dak., to the ports of entry on the United States-Canada boundary line at Buffalo, N.Y., and Detroit, Mich., on traffic destined to Toronto, Ontario, Canada, for 180 days. Supporting shipper(s): Canada Packers Ltd., 2200 St. Clair Ave. W., Toronto, Ontario, Canada M6N 1K4. Send protests: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139618 (Sub-No. 5TA), filed April 12, 1977. Applicant: ASBURY WRIGHT d/b/a, WRIGHT TRUCKING CO., Box 67, Pinehurst, Ga. 31070. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, lime and land plaster, dry and liquid*, in bulk, in bags and in containers. From points in Alabama, Florida and Tennessee, to points in Crisp, Dooly and Houston Counties, Ga.; from Albany, Ga., to points in Florida (on and north of Florida Highway 50); and from Eufaula, Ala., to Albany, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCay & Payne Farm Service, Box 748, Cordele, Ga. 31015, Dooly Farm Service, Inc., P.O. Box 177, Unadilla, Ga. 31091. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street Jacksonville, Fla. 32202.

No. MC 136363 (Sub-No. 15TA), filed April 7, 1977. Applicant: J & P PROPERTIES, INC., 1st and Washington Streets, P.O. Drawer 1146, Apopka, Fla. 32703. Applicant's representative: James E. Wharton, Suite 811, Metcalf Building, 100 S. Orange Avenue, Orlando, Fla. 32801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpetings, floor covers, carpet padding and materials, supplies and equipment* used in the installation of said commodities: (a) From the plant sites of Magee Carpet Co., Perry, Ga., and Bloomsburg, Pa., to points in Florida. (b) Between the plant sites of Magee Carpet Co. at Perry, Ga., and Bloomsburg, Pa. (c) From Columbus, Ga., to points in Florida. (2) *Carpet padding and materials, supplies and equipment* used in the installation of said commodity: (a) From the plant site of Calhoun Padding Co., Inc., Highway 41, North, Calhoun, Ga., to points in Florida. (b) From Russelville, Ky., Greensboro, N.C., Cornelius, N.C., and Norfolk, Va., to Calhoun, Ga. and points in Florida. (3) *Carpet tacking strips*: From New York, N.Y.; Philadelphia, Pa., and Conyers, Ga., to Calhoun, Ga., and points in Florida. (4) *Raw rubber and synthetic rubber on pallets*, from points in Texas to Calhoun, Ga., for 180 days. Supporting Shipper(s): Calhoun Chemical & Coating Co., Calhoun Padding Co., Inc., Highway 41 North, Calhoun, Ga. 30701, Magee Carpet Co., P.O. Box 1269, Perry, Ga. 31069. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 135797 (Sub-No. 71TA), filed April 8, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, Ark. 72745. Applicant's representative: L. C. Cypert, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastice or rubber articles, fittings, compounds, cement and accessories* used in the installation of such products, (a) From Mascon City, Iowa, to all points in the United States, except Alaska, Hawaii and Iowa, and (b) From Siloam Springs, Ark., to all points in the states of Arizona, California, Delaware, Idaho, Maine, Massachusetts, Montana, Nevada, New Hampshire, New York, Oregon, Rhode Island, Utah, Vermont, Washington and the District of Columbia. (2) *Plastic or rubber articles, compounds, cement and accessories* used in the installation of pastic pipe, plastic or rubber articles, fittings, compounds and cement, from Siloam Springs, Ark., to all points in the State of Alabama, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin and Wyoming. (3) *Machinery, materials*, equipment, and supplies used in the manufacture, distribution, or application of the commodities named in (1) above, between Mascon City, Iowa, and Siloam Springs, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Jet Stream Plastics, Division of Winrock Enterprises, Inc., P.O. Box 190, Siloam Springs, Ark. 72761. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 141652 (Sub-No. 14TA), filed April 11, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic rubber-liquid, synthetic rubber-crude, plasticizers, and synthetic rubber-resins* (restricted against the transportation of commodities in bulk) from Moss Point, Mississippi to points in Arizona, Utah and California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thiokol Corporation, Chemical Division, P.O. Box 1296, Trenton, N.J. 08607. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 141804 (Sub-No. 51TA), filed April 15, 1977. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Conover, N.C., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Washington, for 180 days. Supporting shipper(s): DeSota, Inc., 1700 S. Mt. Prospect Road, Des Plaines, Ill. 60018. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A–422—United States Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141849 (Sub-No. 4TA), filed April 13, 1977. Applicant: RAY LOCKRIDGE TRUCKING, INC., 95 Lawrenceville Industrial Park Circle NE., Lawrenceville, Ga. 30245. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Adhesive cement, advertising materials, racks, stands, nails, rims or strips, and tools*, from the facilities of Taylor Industries at or near Conyers, Ga., to points in the United States on and east of U.S. Highway 85, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Taylor Industries, 900 Rockdale Industrial Blvd., Conyers, Ga. 30207. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 141867 (Sub-No. 3TA), April 11, 1977. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 1523 18th NE., Puyallup, Wash. 98371. Applicant's representative: Ron Brader, 2301 Milwaukee Way, Tacoma, Wash. 98421. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles or jars, cartons in mixed shipments* with bottles and jars, returned pallets and dunnage, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pepsi Cola—7 Up Bottling Co., Division of Alpac Corp., 2300 26th Ave. So., Seattle, Wash. 98114. Domglas Ltd., 6850 20th Avenue, Burnaby, British Columbia, Canada. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 143145TA, filed April 7, 1977. Applicant: SUPER SPEED AIR FREIGHT SERVICE, INC., a Washington corporation, 3415 "G" Street, Vancouver, Wash. 98663. Applicant's representative: Ron R. Fundingsland, 421 S. W. Sixth, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value), classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, restricted to the transportation of shipments having an immediately prior or subsequent movement by air, between Portland International Airport on the one hand, and, Washougal, Woodland, Kelso, Longview (Washington) and Astoria, Clatskanie, Rainier, Gobel, St. Helens (Oregon) on the other, for 180 days. Supporting shipper(s): There are approximately ten (10) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 143155TA, filed April 13, 1977. Applicant: RICHARD's HAULING, 508 Clinton Avenue, Wyckoff, N.J. 07481. Applicant's representative: Mr. Ralph August, 222 Greenridge Road, Franklin Lakes, N.J. 07417. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cut and uncut rolls and cartons of fabrics*, between Fairview, N.J., and Lawrenceville, Ga., under a continuing contract, or contracts, with August Fabrics Inc., for 180 days. Supporting shipper(s): August Fabrics Inc., 37 Industrial Avenue, Fairview, N.J. 07022. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143156TA, filed April 12, 1977. Applicant: LARRY G. MAUGER, d.b.a. LARRY'S TRANSPORT, 26575 Saturn Way, Hemet, Calif. 92343. Applicant's representative: Larry Gene Mauger (same address as applicant). Authority

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sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles* (travel trailers), non owned, from manufacturer to dealerships designated by Skyline Corporation, in a tow-away service, from the plant site of Skyline Corporation located at or near Hemet, Calif., to points in Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming, for 180 days. Supporting shipper(s): Skyline Corporation, 2520 By Pass Road, Elkhart, Ind. 46514. Send protests to: Irene Carlos, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12813 Filed 5-3-77;8:45 am]

MOTOR CARRIER OPERATING RIGHTS APPLICATION

Special Notice

MAY 2, 1977.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 102181 (Sub-No. 8), filed March 24, 1977. Applicant: O. H. & F. INC., a Delaware Corporation, P.O. Box 129, Grayville, Ill. 62844. Applicant's representative: George M. Catlett, 708 McClure Building Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *machinery, equipment, materials*, and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, servicing maintenance and dismantling of pipe lines, including the stringing and picking up thereof, *earth drilling machinery and equipment*, and *machinery, equipment materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in Alabama, Arkansas, Illinois, Indiana, Kansas Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and West Virginia. Hearing: May 9, 1977, at 9:30 am Local Time, at the Whitehall Hotel, 1700 Smith Street, Cullen Center, Houston, Tex., before Administrative Law Judge Robert E. Joyner.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12924 Filed 5-3-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Reserve System	1
Indian Claims Commission	2
Postal Rate Commission	3
Securities and Exchange Commission	4, 5

1

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Monday, May 9, 1977, at 10 a.m., a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following item(s) of official Board business:

1. Request by State of New York Banking Department for a determination that the proposed amendments to its loan disclosure regulation (Supervisory Procedure G-107) satisfy the stated conditions in the Board's Order of December 8, 1976 exempting certain New York State depository institutions from disclosure requirements of Regulation C (Home Mortgage Disclosure). (Proposed earlier for public comment; docket no. R-0047).

2. A possible Board interpretation of Regulation B (Equal Credit Opportunity) to clarify the meaning of § 202.8, Special Purpose Credit Programs, by defining the phrase "expressly authorized by law".

3. A request for the Board's consent under Regulation L (Interlocking Bank Relationships under the Clayton Act) to a proposed interlocking director relationship between Mechanics & Farmers Bank, Durham, North Carolina, and the Wachovia Corporation and Wachovia Bank and Trust Company, N.A., Winston-Salem, North Carolina.

4. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Elkton Banking and Trust Company of Maryland, Elkton, Maryland, with The Citizens National Bank of Havre de Grace, Havre de Grace, Maryland.

5. Any agenda items carried forward from a previously announced open meeting.

This meeting will be open to public observation. Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-324-77 Filed 5-2-77;11:06 am]

2

AGENCY HOLDING THE MEETING: Indian Claims Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21344, April 26, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:15 a.m., May 4, 1977.

CHANGE OF MEETING SUBJECT MATTER: The following closed item is added to the Commission meeting of May 4, 1977:

Personnel

APRIL 29, 1977.

[S-325-77 Filed 5-2-77;2:42 pm]

3

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: 9:30 a.m., Tuesday, May 3, 1977.

PLACE: Conference Room, Room 500, 2000 L St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. MC76-1.
2. Pending Commission litigation.

(Authority to conduct closed meeting: 5 U.S.C. 552b(c)(10).)

The Commission has determined by recorded vote that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time. A copy of the vote is on file in the Office of the Secretary to the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-315-77 Filed 4-29-77;10:50 am]

4

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

TIME AND DATE: 2 p.m., Thursday, April 28, 1977.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed to the Public.

The Commission will consider an offer of settlement of litigation.

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to close this meeting.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission has certified that the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)A and 10.

Requests for information concerning the meeting(s) should be directed to Ed Horahan 202-376-8072.

Dated: April 28, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S-321-77 Filed 5-2-77;9:17 am]

5

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

FEDERAL REGISTER CITATIONS OF PREVIOUS ANNOUNCEMENTS: 42 FR 17580, April 1, 1977, and Notices Dated April 25, 1977 and April 26, 1977.

CHANGES IN THE MEETINGS AND AMENDMENT TO NOTICE dated April 26, 1977.

1. April 28—Delete Item 7 of the Notice published April 1, relating to amendment of § 240.12a-6 (17 CFR 204.12a-6) on extension of exemption from registration, to certain underlying securities which are traded solely in the over-the-counter market. Additional review of this matter is required.

2. May 4—Delete Item 7 of the Notice dated April 26, 1977 relating to opinions regarding options trading proposals. Additional review of this matter is required.

3. May 5—Items respecting HR 3222 and HR 3518 are deleted to allow additional review of these matters.

Chairman Williams, Commissioners Loomis, Evans and Pollack, have determined that Commission business requires the above changes and that no earlier announcement of the changes was possible.

The Notice of Meetings, dated April 26, 1977 concerning meetings to be held during the week of May 3, 1977 is amended as follows.

CONTACT PERSONS FOR MORE INFORMATION:

Angela M. Desmond, 202-755-1173; Ted Scallet, 202-376-8025.

Dated: April 28, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S-322-77 Filed 5-2-77;9:17 am]

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federal register

WEDNESDAY, MAY 4, 1977

PART II



CONSUMER PRODUCT SAFETY COMMISSION

■

MATCHBOOKS

Establishment of Safety Standard

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Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1202—SAFETY STANDARD FOR MATCHBOOKS

Establishment of Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Final Regulation.

SUMMARY: The purpose of this document is for the Consumer Product Safety Commission (Commission) to issue a consumer product safety standard for matchbooks. The requirements are designed to reduce or eliminate certain unreasonable risks of injury from accidents associated with matchbooks.

EFFECTIVE DATE: May 4, 1978.

ADDRESS: Copies of all documents relating to the development of this standard are available through the Office of the Secretary, Consumer Product Safety Commission, 1118 18th Street NW., Washington, D.C. 20207, 202–634–7700.

FOR FURTHER INFORMATION CONTACT:

James M. McNamara, Office of Standards Coordination and Appraisal, 5401 Westbard Avenue, Bethesda, Maryland 20207. (301–492–6470).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 4, 1974 (39 FR 32050), the Commission began a proceeding under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) (Act) for the development of a consumer product safety standard applicable to matchbooks. On October 24, 1974, the Commission accepted the offer of the American Society for Testing and Materials (ASTM) to develop a recommended standard. The Commission's acceptance of the offer from ASTM was formalized on December 30, 1974, and was announced in the FEDERAL REGISTER of January 7, 1975 (40 FR 1298). On January 31, 1975, ASTM submitted to the Commission a recommended standard.

Section 7(f) of the Act (prior to its amendment on May 11, 1976) provided that within 210 days after the publication in the FEDERAL REGISTER of a notice of proceeding to develop a consumer product safety standard (here published September 4, 1974), the Commission must either publish a proposed standard or withdraw the notice of proceeding. The Commission could extend the 210-day period for good cause by publishing a notice of extension in the FEDERAL REGISTER. Several extensions were taken for good cause.

On April 1, 1976, the Commission proposed for comment in the FEDERAL REGISTER (41 FR 14112) a consumer product safety standard for matchbooks. The standard as proposed was similar to the recommended standard submitted by ASTM with the exception of the addition of child-resistant requirements for the matchbook cover as developed by the Commission's staff.

The background of the development of the proposed standard and its consideration by the Commission are more fully detailed in the preamble to the proposal of April 1, 1976 (41 FR 14112). A discussion of the Commission's preliminary determination that there are unreasonable risks of injury associated with matchbooks and a reference to the technical rationale which formed the basis for the Commission's proposal of the standard are also found in that preamble.

The Commission received approximately 226 written comments on the proposed standard and, additionally, interested parties made oral presentations concerning the proposal on May 20–21, 1976. On September 14, 1976, following a preliminary review and assessment by the Commission of the written comments and the oral presentations, the Commission announced in the FEDERAL REGISTER that it had decided to extend from July 31, 1976 until May 1, 1977 the period in which the Commission must publish a final standard. The Commission also announced its decision not to include in the final standard the provisions of the proposal requiring a child-resistant matchbook cover, requiring identification on the matchbook cover of the manufacturer by zip code, and restricting the use of coupon advertising. The Commission also announced that it was considering extending the effective date of the final standard for those provisions on limited burn time/distance. The basis for these decisions is discussed below.

Before proceeding with this discussion it should be noted that the terms "matchbook" and "bookmatch" both appear throughout but are not interchangeable. The term "bookmatch" refers to the single ignition device that is contained within a matchbook. The term "matchbook" refers to the entire article.

RESPONSE TO PROPOSAL OF APRIL 1, 1976

As mentioned above, the Commission's matchbook proposal of April 1, 1976 elicited 231 written comments and several oral presentations of comments from a broad spectrum of interested parties. The parties include: individual consumers; consumer groups; matchbook manufacturers; paperboard suppliers; a manufacturer of matchbook machinery; inventors submitting alternative designs or methods, patented devices and the like; a Federal agency; private health and safety specialists; employees of matchbook manufacturers; and, an official of a labor union. The principal issues raised by the comments and the Commission's decisions thereon are set forth below.

I. SCOPE

Part 1202, as proposed, was intended to prescribe safety requirements for the performance of all matchbooks manufactured in or imported into the U.S. after the effective date. By definition, "matchbook" did not include wooden matches packaged in boxes, survival matches, or "strike anywhere" wooden kitchen matches.

1. A large number of commenters question the Commission's action in proposing this Standard for matchbooks without also proposing regulation of other related and "more hazardous products" such as wooden matches and disposable butane lighters.

In issuing this standard the Commission is in no way trying to minimize the hazards associated with either wooden matches or lighters, including the disposable butane type. The Commission's data are inconclusive as to whether wooden matches are more hazardous than bookmatches. Further, the latest estimated number of injuries related to lighters which were treated in hospital emergency rooms in the U.S. is significantly lower than that related to all matches over the same period. (For the reasons discussed below in number 3 of the risk of injury section the Commission is unable to break down its estimate of match-related injuries by wooden and bookmatches, and therefore a direct comparison between the estimated number of accidents involving disposable butane lighters and bookmatches is not possible.) The Commission will continue to monitor injury data on these and all other consumer products under its jurisdiction and, when or if it is deemed appropriate, exercise its administrative discretion in taking the necessary corrective action.

2. One commentor argues that by regulating matchbooks and not also regulating wood matches the Commission is denying matchbook manufacturers equal protection of the law as guaranteed by the Fifth and Fourteenth Amendments of the U.S. Constitution. It is further argued that since wood matches present "at least as great a risk to the public as bookmatches, the Commission's action below is "manifestly unreasonable."

The Commission finds no merit in this argument. The Commission was created by Congress to, among other things, protect the public against unreasonable risks of injury associated with consumer products. Implicit in this power is the power of the Commission to exercise its best discretion in ordering its own priorities. It is a practical impossibility for the Commission to simultaneously promulgate multiple safety standards so as to eliminate all unreasonable risks of injury associated with consumer products. Absent a showing that the Commission acted "arbitrarily and capriciously" and thereby abused its discretionary power to order priorities, this argument must be rejected. In this instance the Commission's decision to deal at this time with the risks associated with matchbooks is clearly a proper exercise of discretion.

3. Several commentors express concern about the adverse economic effects which they claim this standard will have by decreasing the functionality and utility of matchbooks and thereby greatly increasing the cost to the consumer. The results of this, they claim, will be an increased consumer demand for substitute

light sources such as wooden matches and inexpensive, disposable butane lighters, many of which are imported, to the competitive disadvantage and detriment of the domestic paper matchbook industry and its many employees.

These comments correctly point out that potentially adverse economic effects may result if directly competing products not subject to the proposed standard are substituted for the products which are subject to that standard. Substitution effects, however, are likely to be significant only if there are substantial changes in the relative prices of matchbooks vis-a-vis prices of the competing products, or if there are substantial decreases in the acceptability or utility of matchbooks. Potentially substantial changes of these types may have occurred if the final standard had included the more costly provisions for a child-resistant cover and limited burn time/distance. However, since these provisions which appeared in the proposal, are not included in the final standard issued below, it is no longer likely that any significant substitution effects will occur. In fact, the standard, as issued, may increase acceptability and utility because of the lessened risk of injury associated with these matchbooks.

II. RISK OF INJURY

In the preamble to its proposal of Part 1202 on April 1, 1976, the Commission estimated that during fiscal year 1975, approximately 9,500 people throughout the U.S. required hospital emergency room treatment for match-related injuries. This estimate was based on 368 emergency room reports from 119 statistically selected hospitals transmitting data to the Commission's National Electronic Injury Surveillance System (NEISS). Additional data from the Commission's Death Certificate Program, the National Fire Protection Association (NFPA), and the Flammable Fabrics Accident Case and Testing System (FFACTS) further expanded the data from which the Commission identified the nature of the risk of injury associated with bookmatches.

On the basis of these data the Commission proposed a standard for matchbooks which was designed to reduce or eliminate the following risks of death or serious injury:

1. Burn injuries sustained by children and others, including mentally or physically impaired persons, who play with or otherwise improperly use matchbooks.

2. Burn injuries sustained by persons who use bookmatches that spark or have delayed ignition.

3. Eye injuries sustained by persons who use bookmatches that fragment and cause particles from such matches to lodge in a person's eye.

4. Burn injuries sustained by persons who use bookmatches that, when struck, ignite the remaining matches in the matchbook.

5. Burn injuries sustained by persons, including children, using bookmatches that after ignition have dropped on exposed parts of the body or that have been dropped on and have ignited clothing because such bookmatches have failed to extinguish in time to avoid such injuries.[1]

6. Burn injuries sustained by persons from fires that have resulted from unexpected ignition of bookmatches with no deliberate action by the user.

7. Burn injuries that have been sustained by persons from fires that have been set by the afterglow of what appears to be extinguished bookmatches.

The Commission received numerous comments questioning reliance on the NEISS data as a determinant of risk of injury and other comments related to the application of the NEISS in the regulatory development process.

1. One comment received from a U.S. Senator stated the opinion that the NEISS lacks clarity and specificity and therefore its usefulness in the regulatory development process is questionable. Specifically, he says that because of the lack of specificity "it is difficult to conclude that all of the matchbook standards being considered will reduce burn accidents." He suggests modifying the NEISS data gathering so as to better pinpoint the element or elements of a product which caused the problem.

The Commission is continually working to upgrade and improve the data gathering capabilities of the NEISS. However, the NEISS is the only statistical data collection system available designed to gather product-related injury data from a probability sample of hospital emergency rooms throughout the contiguous United States. This system is designed to measure the incidence of accidental injuries seen in hospital emergency rooms. The data received from the hospitals do not include etiological information since it is not feasible to expect an injured victim awaiting emergency treatment to supply answers to the types of complex questions that are necessary to understand the causal factors leading to the injury.

The statistics derived through NEISS provide a measure of the magnitude of the hospital emergency room treated injury problem associated with specific products which are then used to set priorities and provide important clues for further investigation. However, no action is ever taken by the Commission based solely on the information generated through this emergency room reporting system. To determine the causal factors which are related to the injury, trained investigators selectively interview injury victims and witnesses and complete an in-depth investigation report. This report contains detailed information about the product involved and its role in the accident, the accident sequence, and the characteristics of the victim and his or her environment. Other available data sources (such as Death Certificates, NFPA data, FFACTS, etc.) are used to supplement the NEISS and the in-depth investigative reports.

Data on match-related injuries occurring in the United States have been compiled using the best data sources available at this time. Each of these data sources was designed to meet specific needs but none was designed specifically for the collection of information on match-related injuries. For these reasons, none of the data sources alone adequately or accurately measures the full magnitude of the match-related injuries occurring in this country. However, collectively, the data sources presented in the Hazard Analysis of Match-Related Injuries (on file with the Commission) do typify the match characteristics and experiences known to exist.

2. Some commentors question the significance of the estimated 9,500 match-related injuries for FY 1975 cited by the Commission when compared with the number of matches distributed and/or used annually. According to several of these commentors, using the above comparison the "risk of injury in using a match is one in fifty million."

Another group of commentors make a related comment and compare the 9,500 match-related injury figure to the population of the U.S. They state that match-related injuries requiring hospital treatment occur to "less than one half of one hundredth of 1 percent of our population!!"

Match-related injuries are known to be underrepresented in the NEISS data because the NEISS estimated number of injuries is only an estimate of the number of people in the United States who for a year's time received hospital emergency room treatment primarily for injuries received from direct contact with a match. This estimate does not include match-related injuries treated by private physicians, specialized burn facilities, or clinics and hospitals which do not have an emeregncy room nor does it include injuries sustained by victims who accidentally dropped a lit match on clothing or other fabric items causing serious burn injuries which required extensive medical treatment and prolonged hospitalizaton. It also does not include match-related injuries sustained in conflagrations due to the extreme difficulty the surviving victims often have in identifying the ignition source.

The NEISS estimate is further limited by the fact that coders can report only one product per injury treated in the hospital emergency room although several products may have been involved. If one of the products involved is a fabric item, then the coder is instructed to report the fabric item as the involved product to the exclusion of any other. Thus, in cases where garment or fabric ignition contributed to the victim's injuries, the injuries are "credited" to garment or fabrics rather than to the original ignition source.

By candidly setting out the limitations in its NEISS data collection system, the

[1] Because the provisions for limited burn time/distance are being deleted in the final regulation (as discussed below), this risk of injury which appeared in the proposal and was to be primarily addressed in the final regulation by those provisions, has been deleted and will not be addressed in the final standard issued below.

V 42 86 MAY 4 77 UMI

Commission is trying to show that its figure of 9,500 match related injuries for FY 1975 is a minimum estimate but at the same time is an important element in fulfilling the Commission's legal responsibility to gather and present all injury data relevant to match-related injuries occurring in the U.S. It is conceded that none of the data sources used either alone or collectively measure the true magnitude of the match-related injuries occurring in this country annually. Collectively, however, they best identify the many factors which combine to contribute to match-related injuries.

In conclusion, it should also be noted that the Commission totally disagrees with the notion that it is required to have actual injury data associated with a product (take a body count), before deciding to move to regulate a consumer product. Action is often taken on the basis of the potential for injury posed by a particular consumer product.

3. Some commentors expressed concern over the fact that the NEISS product category #1704 for "Matches" (and thus the estimated number of injuries), includes both wooden and bookmatches. They believe that the estimate unfairly reflects the estimated number of injuries while the regulation only addresses bookmatches.

The commentors are rightfully concerned over the fact that the NEISS product code for "Matches" does not differentiate between wooden and bookmatches. This shortcoming is inherent within the reporting system because: (a) the contact with the victim and the initial report is made by hospital emergency room staff whose primary mission is, and should be, to efficiently and expeditiously treat the victim/patient and not to fill out overly detailed reports, and; (b) the victim/patient is often unable or in no condition to provide the necessary details of the accident. The amount of detailed information in the surveillance data concerning the product will, by design, always be limited by these factors. However, it is hoped that the problem can be somewhat rectified by utilizing the NEISS data in concert with the detailed description of the product and the accident scenario contained in the in-depth investigation which often follow.

The hazard analysis of injuries associated with a product includes all components and functions of the product and all variations or types of the product. Therefore, all types of matches were considered in the hazard analysis. Generally, it was possible to distinguish the various types of matches involved in the in-depth investigation reports.

4. Certain commentors criticized the Commission's in-depth investigations for not being statistically representative of the match-related injuries. One commentor characterized them as comprised of "haphazardly chosen (and unduly severe) incidents."

Although criticizing the in-depths as not being statistically representative of match-related injuries, some of these commentors then proceeded to treat them as a statistical sample and projected the proportions of different types of matches and match injuries found in the in-depths to the NEISS estimate of match-related injuries. Using this erroneous approach, they were then able to conclude that the "low" NEISS estimate could be reduced even further.

The choice of accidents that will be the subject of an in-depth investigation is determined on a case-by-case basis and is further based on injury severity and on the Commission's needs and priorities. In-depth investigation reports used in the Commission's hazard analysis of match-related injuries are not intended nor represented to be a statistical sample of the data collection procedures employed by CPSC. Only the NEISS gathers product-related injury data from a statistical sample. As discussed above, this system is designed to measure accidental, emergency room treated, injuries which involve consumer products. The data received from the hospitals do not include etiological information since it is not feasible to expect an injury victim awaiting emergency treatment to supply answers to the complex questions that are required to understand the causal factors leading to the injury.

To determine these causal factors, follow-up in-depth investigations are conducted. Information is obtained about the brand and model of product(s) involved, the role of the product(s) in the accident, the accident sequence, and characteristics of the victim and his or her environment which related to the accident. While only some injuries reported through NEISS are investigated, the Commission also does in-depth investigations of reports of injuries from other sources, including consumer complaints, newspaper accounts, and information from other government agencies. In general, products which appear to be involved frequently in injuries or to cause severe injuries, are given priority for in-depth investigation. Although the in-depth investigations are used to identify hazard patterns, they cannot be and are not used to make projections to the NEISS Surveillance estimate because they are not stastistically representative.

5. Several commentors state that some types of match-related injuries have been assigned an unreasonably high severity rating on the Severity Index and as a result have presented a seriously distorted picture of the risks of matchbooks in relation to other consumer products.

The Severity Index is a management tool which was devised for assessing the severity of product-related injuries reported through NEISS. This Index, which is based on medical opinion, combines the information on injury diagnosis, body parts affected, and disposition of victim to establish a severity ranking for the products reported through NEISS.

The Index is currently comprised of seven categories ranging in severity from minor injuries (Category 1) to injuries resulting in death (Category 7). Each injury, as described by a combination of diagnosis, body part affected, and disposition, is categorized by the Commission for presumptive severity. Category 6 is used for the most severe combination short of death. If the victim is hospitalized, the category number normally assigned is raised one number.

Each category has a crude severity number, arbitrarily selected, but mathematically derived, by increasing each successive numerical level by the geometric proportions of the preceding level. As an example, for category 1, the severity number is 10 and for Category 7 the number is 2516. The mean severity for a given product is calculated by summing the product of the number of injuries in each severity category and the severity value assigned to each category and dividing the summation by the total number of injuries.

For Fiscal Year 1975, the mean severity of all NEISS reported match-related injuries was 153. In terms of the seven severity categories in the Severity Index, match-related injuries fell between Category 5 and Category 6. The two largest severity categories for these match-related injuries were Categories 2 and 6 and involved eye injuries primarily. There were slightly more injuries assigned to Category 6 than Category 2 by coders in the NEISS hospitals. Eye injuries assigned to Category 2 were reported on the hospital emergency room records as being either contusion/abrasion or dermatitis. For comparison, other types of injuries which fall into Category 2 include dislocation of a limb; burn to an ear, finger or toe; and laceration to a limb or ear. Eye injuries assigned to Category 6 were reported as being burns. Other types of injuries which fall into Category 6 include burns to 25 percent or more of the body surface area and limb amputation.

Eye injuries involving burns are ranked high on the Severity Index due to the potential for permanent damage and disability. As stated above, the Severity Index is a management tool which, like the Hazard Index described below, is used in setting Commission priorities. However, it was not designed, nor is it ever used, to determine whether or not a product was at fault.

The Commission wishes to stress that a product's ranking on the Severity Index is helpful as a management tool in setting priorities and providing important areas in need of further investigation, but is never the sole basis for regulatory action by the Commission.

6. Citing what they characterized as the relatively "low" ranking of matches in the Hazard Index, several commentors question the need for matchbook regulation at this time.

The Hazard Index is a management tool in which the frequency of product-related injuries and their severity are aggregated to determine the ranking of the product on the Index.

In Fiscal Year 1975, matches ranked 44 in a list of some 367 product categories. This would put matches in the top 13 percent on the Index. This is

hardly a "low" ranking as was the claim of these commentors.

Finally, as in the case of the Severity Index, the Commission points out that the Hazard Index is never the sole basis for regulatory action.

7. Certain commentors made the assumption that an overly large proportion of the NEISS estimated 9,500 match-related injuries involved infants, toddlers, and children. Based on this assumption they questioned whether it was fair for the Commission to regulate the safety of matches without considering the problem of parental negligence and misuse.

The Commission disagrees with the contention that an overly large proportion of infants, toddlers, and children were involved in the 9,500 estimate. Of the estimated 9,500 people throughout the contiguous United States who sought hospital emergency room treatment for match-related injuries, the majority are estimated to be youths and adults in the 13–45 age range who were injured much more frequently than would be expected based on their representation in the U.S. population. In comparison, it is estimated that infants, toddlers, and children (ages 0–12 years) are not injured nearly as frequently as would be expected based on their representation in the population.

The majority of the injuries sustained by victims seeking hospital emergency room treatment were reported as thermal burns, affecting primarily the eye. It is assumed, based on surveillance data and the in-depth investigations, that most of these injuries occurred as the result of a defective, lit matchhead breaking off or fragmenting when struck and subsequently hitting the victim in the eye. It is unlikely that these could be attributed to misuse or negligence by the children or their parents.

8. In reviewing the NEISS sample of match-related injuries over a three-year period, several commentors concluded that those injuries have been steadily decreasing as evidenced by the decline from 442 cases in 1973 to 368 cases in 1975.

In evaluating the Commission injury data from 1973–1975, the commentors were using the NEISS sample instead of the NEISS estimate. The NEISS sample or "actual number" of match-related injuries for each year is not meaningful. The 119 hospitals participating in NEISS represent a probability sample of all hospital emergency rooms within the contiguous United States. An inflation factor or weight is assigned to each participating hospital and is based on the inverse of the probability that the hospital would be selected for the sample. Injuries reported in this sample are inflated to obtain a meaningful estimate of all product-related injuries treated only in hospital emergency rooms within the contiguous United States.

Neither the sample nor the estimate derived from the sample can be compared from year to year due primarily to reporting fluctuations and sampling errors. A standard error is calculated for each estimate. A standard error is a measure of sampling variability, that is, the variations that might occur by chance because only a sample of hospital emergency rooms in the U.S. is surveyed. The chances are about 68 out of 100 that an estimate from the samples will differ from a survey of all hospitals by less than the standard error. The chances are 95 out of 100 that the differences would be less than twice the standard error. When the standard error for these estimates was considered, no significant change has been noted by the Commission in the estimated number of match-related injuries derived from the NEISS during the time the system has been in operation.

9. Some commentors question the seriousness of those match-related eye injuries resulting from fragmenting or broken matchheads where the victims are treated and released after initial emergency room treatment. In their view these injuries are minor.

The disposition "treated and released" does not imply that further medical attention was unnecessary nor is it in any way indicative of the seriousness of the injury. Due to the potential for permanent damage or disability, injuries affecting the eyes may not require hospitalization but may frequently necessitate return visits to the hospital as an outpatient, or to a physician or clinic.

Recently, the Commission learned of an incident relevant to this discussion. The incident involved a person who was struck in the eye by a fragment of a matchhead from a match being used to light a cigarette. The victim was treated by a physician in his office (thereby not being recorded in the NEISS) for a corneal abrasion which caused a pin-head size hole in the cornea. The victim was required to wear a patch and was under the physician's care for three days during which time she suffered extreme pain and discomfort, both physical and mental.

The injury in this instance did not permanently impair the victim's vision. Even if the abrasion occurred in the more critical portion of the eye where the line of vision would have been affected it is doubtful whether this type of injury would have necessitated immediate hospitalization, and the patient would likely have been "treated and released."

10. Numerous commentors state that the NEISS estimate of 9,500 match-related injuries resulted primarily from the ignition of other intermediate combustible substances and not as a direct result of the ignition source.

Of the estimated 9,500 match-related injuries treated in hospital emergency rooms throughout the U.S., most did not involve ignition of intermediate combustibles or conflagrations. It is estimated that approximately 6,346 of these injuries were from burns. It is further estimated that approximately 3,513 of these burn injuries were localized thermal burns affecting the eye and not the extensive types which are commonly associated with fabric ignition (the most common intermediate combustibles). As discussed in number 2 above, NEISS is designed for the reporting of only one product per injury. If the injury involves ignition of a combustible item, then match coders are instructed to report the injury under the code for the particular combustible item.

The Commission is studying the problem of both ignition sources and intermediate combustibles which relate to burn injuries. Because of the severity of burn injuries and the complexity of the burn problem, efforts to reduce the incidence of burn injuries require a multi-faceted approach with no single resolution expected.

11. Our Commentor objects to the Commission's use of the NEISS estimate because the data include injuries such as ingestions, lacerations, and chemical burns which are not being addressed by the proposed standard.

An estimate based on NEISS data is a measure of the number of all emergency room treated injuries associated with a certain product. The estimate is not intended or used to imply that a product is at fault in every injury, but merely that the product was involved.

The Commission reiterates that the estimates derived through NEISS provide a measure of the magnitude of a problem associated with specific products which are then used as one of several management tools by the Commission to set priorities and provide important clues for further investigation. However, these estimates are never the sole basis for regulatory action taken by the Commission and therefore, the concerns expressed by this commentor are not relevant.

12. Another commentor suggests that the proposed matchbook standard be expanded to address what it claims is a hazard to small children from the ingestion of bookmatches.

The Commission has considered this comment and finds no basis for any such action. According to the "Handbook on Poisoning," by Robert H. Driesback, the ingestion of matches poses no known danger to small children from toxicity or poisoning. The Commission has no other evidence to the contrary.

III. EFFECTIVE DATE

Part 1202, as proposed, set the effective date to be 365 days after publication of the final standard in the FEDERAL REGISTER.

Almost all of the comments received concerning the proposed effective date dealt with the problems of complying with the child-resistant cover and limited burn time/distance provisions contained in the proposed standard within the time proposed. Since those provisions have been dropped from the final standard as issued below, it is the Commission's view that no response to those comments is necessary.

Of the remaining comments on the effective date received by the Commission, one group of commentors asked for a longer lead time because of the reverse friction provision, and others because of

V 42 86 MAY 4 77 UMI

the uncertainty of the presently unproposed certification rule under section 14 of the Act.

1. One commentor notes that, although converting to reverse friction requires only simple mechanical revisions on printing, scoring, and slitting machines, remaking all art designs and printing plates to comply with the requirement for reverse friction, proposed § 1202.5(a) will cost the commentor or his customers an estimated $15,000 and take approximately 24 months to complete. He also contends that split-shipment orders already produced for regularly scheduled shipment to customers would have to be scrapped and re-run at a cost additional to the estimated conversion costs. He claims that a 365 day effective date is not in the public interest and urges the Commission to allow a period of from 2 to 3 years within which to convert to reverse friction.

Other commentors state that any economic burden of conversion to reverse friction can be lessened if an effective date for this requirement is set to coincide with the average contract duration of about two years.

Well over two years ago, the manufacturers of matchbooks undertook a voluntary effort to convert all of their accounts and all matchbook production to reverse friction. According to the Commission's latest information, some companies have completed the conversion while other companies have converted a majority of their accounts and are approaching complete conversion. One of the methods employed by these companies to reduce the costs of conversion has been to insist on reverse friction in contracts at a time coincident with art work or design changes otherwise necessitating printing plate changes. As more time passes since the initial undertaking of the voluntary effort by the industry, there are fewer outstanding contracts specifying front friction.

Although the Commission recognizes that there may be some matchbook accounts which do not need or want art or design changes and are resistant to plate changes at the time of contract renewal, it is the Commission's view that the additional 365 days from now to the standard's effective date affords the industry ample time in which to complete conversion at minimal cost, especially in light of the voluntary conversion already undertaken. Moreover, there will be no need to scrap and re-run orders already produced and on hand for shipment at the effective date of the standard because the standard applies only to matchbooks manufactured in or imported into the United States after its effective date.

2. Another commentor states that the Commission is required to issue a certification regulation containing a sampling plan either as part of the Matchbook Standard or for comment at the same time as the standard.

The Commission disagrees with this position. Section 7(a) of the CPSA as amended by Section 6 of the Consumer Product Safety Improvements Act of 1976 expressly provides that:

> No consumer product safety standard promulgated under this section [section 7 of CPSA] shall require, incorporate, or reference any sampling plan • • •.

Thus, the Commission is expressly forbidden from including a sampling plan as part of the Matchbook Standard.

Further, section 14(a) of the Act requires that manufacturers and private labelers certify that their products conform to a consumer product safety standard, based either on a reasonable testing program or on a test of each product.

Finally, the following language of section 14(b) using the word "may" clearly gives the Commission the discretion to either issue a certification rule embodying a reasonable testing plan, with or without a sampling plan, or to issue no rule at all thereby allowing manufacturers and private labelers to develop their own plans:

> The Commission *may* by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a) [of section 14] • • •. (emphasis added)

Thus, the Commission, though not prohibited from incorporating a sampling plan in a section 14 rule, is not required by the Act to incorporate such a plan in any reasonable testing program.

In the case of the Matchbook Standard issued below, the Commission intends, as soon as possible, to propose for public comment a certification rule without a required testing program, but including parameters to guide manufacturers in formulating such a program and, to issue a final certification rule for matchbooks before the Matchbook Standard becomes effective.

IV. TECHNICAL REQUIREMENTS

The technical requirements contained in the Commissions proposal of April 1, 1976 included requirements for a child-resistant matchbook cover, a limited burn time/distance feature, fragmentation, delayed ignition, reverse friction, afterglow, and certain other less prominent performance requirements. These requirements, and comments regarding them, are discussed in the following section.

A. *Child-resistant matchbook cover.* As proposed, those provisions of Part 1202 dealing with this subject required that, among other things, all matchbooks manufactured in or imported into the U.S. after the effective date resist an opening force of 22.2N (5.0 lbf) in any direction and be capable of being relatched by a single motion requiring less than 4.45N (1.0 lbf) of force. These provisions were proposed with the intent of reducing "the likelihood of young children gaining access to or igniting a bookmatch."

As explained above in the "Supplementary Information" section, on September 14, 1976 the Commission conducted a review and assessment of all the public comments received and of the oral presentations of May 20–21, 1976. Approximately 89 comments addressed the child-resistant cover provisions and most were in opposition. Some of the reasons given by the commentors in opposition included: the possible creation of additional safety hazards (frustrated adult users would tear off the entire child-resistant cover); the lack of economic feasibility; and, the absence of testing and research necessary to support the effectiveness of the latching-cover concept that was proposed or any other acceptable concept.

The Commission has considered all of the above, as well as the data on child-resistant covers that existed in the record prior to the proposal, and a report[2] that was prepared under contract from the Commission and included in the record by the Commission after the proposal. The Commission concludes that to require a child-resistant cover would not be in the public interest because the proposed child-resistant cover is of questionable effectiveness, would impose severe economic burdens without offsetting injury reduction, and could actually increase risks of injury if frustrated users chose to defeat the requirements.

Therefore, on the basis of all of this the final standard issued below will not include any of the provisions dealing with the child-resistant matchbook cover. Specifically, §§ 1202.4 and 1202.7 as proposed on April 1, 1976 and any other reference contained elsewhere in that proposal have been removed. The numbering of the various remaining sections has been adjusted to reflect the deletions.

B. *Limited burn time/distance provisions.* As proposed, § 1202.6(b) provides that a bookmatch "be constructed so that, when tested in accordance with § 1202.8, the flame goes out within 12.7 mm (0.5 in) down from the top of the splint and within a 15-second burn time." As noted previously, the provisions dealing with this subject were included in the Commission's proposal in order to address the risk of injury resulting from lit matches being accidentally dropped on exposed parts of the body and/or clothing, which then ignite.

Also, as part of the September 14, 1976 Commission review and assessment of all the public comment received on its proposal of April 1, 1976, the issue of whether to include limited burn time/distance in the final regulation was considered and the Commission announced that it was considering an extended effective date on these provisions.

Due to the many questions related to this problem which are still unanswered the Commission has reconsidered its former position on this issue. Some of these unanswered questions are:

1. Whether a limit on burn time/distance as a means to reduce injury is efficacious? Two manufacturers who did testing with limited burn matches concluded that a limited burn time/distance

[2] "Economic Impact of Proposed Matchbook Standard—Phase II," Dr. W. E. Riddle and A. R. Buhr, Battelle Columbus Laboratories.

match dropped relatively soon after ignition offers no substantial increase in safety over a regular bookmatch;

2. If limited burn time/distance were found to be efficacious, it has not been determined what is a reasonable burn time/distance; and

3. The technical and economic feasibility of such a requirement, including the impact that limited burn time/distance will have on the utility of the product and an assessment of the effects that a substitution of other ignition sources might have.

The Commission now believes that because these questions are unanswered it cannot include these provisions in the final standard even with an extended effective date and therefore is issuing its Matchbook Standard below without the provisions for limited burn time/distance.

C. *Definitions.* One commentor objected to the definition of "Fragments" in § 1202.3(i), as proposed. The objection was based on the small size of cold particles or fragments specified (greater than 0.76 mm (0.030 in)). The commentor believes that this size limitation is unreasonable and believes that it should be increased.

The recommended standard submitted to the Commission by the offeror provided that only fragments which either scorched or burned holes in white bond paper constituted dangerous fragments. However, the Commission's injury data showed that, in addition to the risk of thermal eye burns dealt with by the offeror's recommended standard, contusion/abrasion, dermafitis/conjunctivitis, and foreign object injuries were also frequently reported and needed to be addressed in the Standard.

In addressing the hazard from cold particles, the Commission's Office of the Medical Director (OMD) stated that the maximum size of inert particles which they would find acceptable was 1 mm (.039 in). This figure was based on information obtained from the "Merck Manual of Diagnosis and Therapy," Merck, Sharp, Dohme Research Laboratories, Rahway, New Jersey, Twelfth Edition, 1972, page 997.

The reduction in particle size from .039 to .030 inches was made by the Commission in its proposal for the following reasons:

1. As an allowance or safety factor for any particles breaking as a result of hitting the striking enclosure or being consumed in the process of burning.

2. Laboratory data indicated that .030 inch fragments can also cause scorch marks on bond paper which was one of the offeror's criteria for fragmentation.

3. Data from observations made by the Commission and NBS indicated that many persons strike matches as close as 6 inches from the face and that particles .030 inches and larger are also capable of propelling themselves in excess of 6 inches.

Although there is engineering judgment and medical opinion favoring the .030 inches fragment size, no hard medical or engineering evidence was presented or is otherwise available to support the smaller fragment size. Therefore, the Commission has changed the definition of "fragments" contained in § 1202.3(i) as proposed, to "• • • particles • • • that measure more than 1.0 mm (.039 in) in the maximum dimension • • •", as it appears below. Also, it should be noted that since the definition "[c]hild-resistant matchbook cover," which was proposed as § 1202.3(f), has been deleted, all subsequent definitions were moved up one letter in the final standard issued below.

D. *Matchbook general requirements.* Section 1202.5, as proposed, contains eight general requirements for the acceptable construction of a matchbook. Based on the deletions discussed previously, this section which appeared as § 1202.5, when proposed, will appear as § 1202.4 as issued below.

1. *Staple requirement.* Section 1202.5 (h), as proposed, restricted the use of any staples or assembly or latching devices with sharp edges or points which are exposed to the user. This requirement prompted two comments.

(a) One commentor points out that this requirement was included in the offeror's proposal because it was believed that if, during striking, the match encountered the sharp staple, the probability of fragmentation would increase. The commentor observed that, since proposed § 1202.5(g) prohibits any part of the staple from being within the friction area, the sharp staple requirement becomes superfluous in addressing fragmentations.

The offeror's proposed wording on the sharp staple requirement was that "[t]he staple shall be fully clinched and shall not have any sharp edges exposed." A staple not fully clinched or with edges exposed could cause fragmentation if struck by a match even though it was not inside or touching the friction. Therefore, the Commission believes that this requirement is necessary in addition to those prescribed in § 1202.5(g).

Th "fully clinched" phrase was not included in the Commission's proposed standard because a staple that was used as part of a child-resistant latching cover device might not function properly if fully clinched. Since the requirement for the child-resistant matchbook cover has been dropped, the requirement addressing the staple has been changed in § 1202.4(h) below as follows:

> A staple used as an assembly device shall be fully clinched so that the ends are flattened or turned into the cover.

(b) The other commenter suggested that the manufacturer should be required to insert the staple from the back of the matchbook so as to prevent loose staple points from injuring fingers contacted during the striking process.

In view of the change set out immediately above requiring staples to be fully clinched, the risk of injury to fingers will no longer be a factor. Therefore, the Commission finds this suggestion to be unnecessary.

E. *Matchbook performance requirements.* Section 1202.6, as proposed, sets out several performance requirements dealing with delayed ignition and afterglow of bookmatches, separating splints, matchheads that fragment or fall off, and frictions that burn or produce fragments. This section, which appeared as § 1202.6 when proposed, has been moved up one section and will appear as § 1202.5 as issued below.

1. *Delayed ignition.* Section 1202.6(a) (1), as proposed, states as follows:

> A bookmatch is defective if it has, when tested in accordance with • • • (1) [d]elayed ignition exceeding 2 seconds.

A commenter wrote in support of the two second limitation, but stated that the standard made no mention of when the delay time was to begin. The commenter suggests that delayed ignition should be measured as the elapsed time between the first appearance of a glow in the matchhead and the development of a flame.

This commentor may be technically correct with his suggestion, however, in practicality it is extremely difficult to determine exactly when the ignition of a match begins without aid of a very expensive high speed motion analysis.

It is the Commission's opinion that the two-second period for delayed ignition is a reasonable time to detect matches exhibiting this defect whether the delay starts at the beginning of the striking motion or when the matchhead first begins to glow. Therefore, in order to simplify the timing procedure the Commission will measure the 2-second delay from the time the striking motion is initiated to the development of a visible flame. This clarification will be reflected in § 1202.6(d) (2) (i) (B) as issued below.

F. *Test procedures for general and performance requirements.* Section 1202.8, as proposed, sets out the test procedures to be used by the Commission to determine compliance with the standard. This section, which appeared as § 1202.8 when proposed, has been moved up two sections and will appear as § 1202.6 as issued below.

1. *General.* One commentor complained that the test procedures described in § 1202.8, as proposed, are not consistently reproducible, and are unnecessary, burdensome, and incomplete. Further, this commentor states that fragmentation, (which it believes to be the major single cause of match-related injuries) is only casually dealt with.

After reviewing the standard submitted by the offeror, the Commission determined that there were a number of inadequacies in the recommended standard. The major inadequacies in the test procedures were:

> Inadequately defined match striking test instrument.
> Improper conditioning requirements.
> Inadequate method of fragmentation detection.

These inadequacies were addressed in the Commission's proposal of April 1, 1976, in the following manner:

V 4 2 8 6 MAY 4 7 7 UMI

(a) The inadequately defined match striking test instrument was replaced with an easily repeatable hand striking procedure. The striking force prescribed in the proposed standard is based on striking tests with human subjects.

(b) The offeror's recommended conditioning procedures were changed to assure that the matches are adequately preconditioned in an oven and then exposed to an acceptable conditioning environment prior to testing.

(c) Test data developed by the Commission indicated that the fragmentation detection method proposed by the offeror was inadequate as a means of detecting matches which fragment. This method was only capable of detecting hot fragments which landed in a very small area under the matchbook. The method proposed by the Commission was designed to detect both hot and cold fragments regardless of the fragment trajectory.

Therefore, it is the opinion of the Commission that, contrary to those views expressed by this commentor, the test procedures in the proposed standard are both complete and necessary. Further, the Commission disagrees with the commentor's statement that fragmentation is only casually dealt with in the proposed standard. With the elimination of the burn control requirements, it should be noted that the primary emphasis of the test method is now on the detection of fragments and other performance malfunctions. Also, in light of other comments received on the proposed standard, certain of the procedures discussed below have been revised to be more efficient and still be consistent with the objectives of the tests.

2. *Preconditioning and conditioning.* Section 1202.8(b), as proposed, specifies the preconditioning and conditioning to which bookmatch samples must be subjected before being tested.

(a) One commentor complained of the extended time or lag period required to complete the testing provided in the proposed standard. The commentor noted that almost 75 percent of the testing lag period was taken up by the preconditioning and conditioning requirements of the proposed standard and stated that by cutting down this period of time the Commission could lessen the "unreasonable burdens" that these requirements place on the manufacturer.

The Commission notes that the conditioning times contained in the proposed standard were based upon specifying a single procedure for both performance testing and burn control testing. Conditioning for burn control requires a longer total time than for other performance requirements because a higher preconditioning temperature, which would be satisfactory for other requirements, could melt the paraffin on the bookmatch and thereby alter its burn time/burn distance characteristics. Since the burn control requirement is not being included in the Standard, the Commission is able to shorten the preconditioning and conditioning times to those required for the remaining performance tests and to reduce the lag time between the start of testing and final results.

Section 1202.8(b) (1) and (2) issued below as § 1202.6(b) (1) and (2), has been revised to reflect these shorter times. Specifically, the standard now requires that the matchbook be preconditioned for 45 minutes at 120° F followed by a minimum conditioning period of 15 minutes in the conditioning chamber or test room.

(b) Another commentor also raises the 3½ hour conditioning requirements for samples, claiming that it creates storage problems and unreasonable additional costs for handling. This commentor describes his previous experience of rapidly drying matches at 120° F in 10 to 15 minutes and then testing matches for all their functioning characteristics after a five minute cooling period and is concerned about the Commission's rejection of this shorter time interval.

The Commission's matchbook tests do not substantiate the 15-minute drying time for assembled matchbooks. Engineering data show that assembled matchbooks at 10 percent moisture by weight could not be dried in 10 to 15 minutes as recommended by the commentor or by ASTM in their recommended standard. The data also show that 45-minute drying time is required to precondition the complete matchbook from the 10 percent moisture condition. Test data indicate, however, that bookmatches tested without covers, with 10 percent moisture can be preconditioned within a 15-minute period at 120° F in a circulating air oven. Since the test procedures in the standard are based on testing the assembled matchbook, the longer preconditioning time is required.

(c) A third commentor recommends changing the upper humidity range specified in § 1202.8(b) (2), as proposed from 30 percent–50 percent to 30 percent–52 percent to be consistent with TAPPI (Technical Association of Pulp and Paper Industry) conditions.

The TAPPI conditions referred to are 50 percent ±2 percent relative humidity and appear in SATM D685–73 entitled, "Standard Method of Conditioning Paper and Paper Products for Testing." The Commission concurs with this recommendation and has made the change in § 1202.6(b) (2) issued below.

3. *Inspection for general requirements.* One commentor questions the need for the preconditioning and conditioning steps to be performed on matches prior to their being inspected for general requirements (§ 1202.8(c), as proposed).

The Commission did not intend to require that the matchbook be conditioned prior to inspection for general requirements, since matchbooks only need to be visually inspected for these requirements. As suggested by the commentor, the visual inspection could be performed prior to conditioning, thereby shortening the response time between testing and correction of a general requirement defect.

Therefore, the Commission is switching the order of §§ 1202.8(b) and (c), as proposed, so that as issued below the inspection requirement (§ 1202.6(b)) precedes the conditioning requirements (§ 1202.6(c)).

4. *Test device and fragment collection box.* Section 1202.8(d) (1) (i), as proposed, describes the devices to be used to test bookmatches for fragmentation.

Three persons made related comments on the proposed test device and collection box. Two of the three commentors addressed the need for a "human-engineered" test box. One stated that the proposed front hinged access door is cumbersome to handle and that it is impossible for an average-sized person to strike a match while at the same time observing the force gage in the box. Two of the three commentors also cited the need for a ventilated box in order to purge the test environment of combustion products from the match and to protect the operator from smoke and fumes. One of these further commented that the prolonged exposure to these gases would have a corrosive effect on the inner workings of the force gage test device.

The Commission concurs with the need for adequate ventilation and improved human engineering of the test box. The test box has been redesigned and the following design changes have been made:

Improved ventilation.
Force gage attachment altered from top to side.
Operator position moved from top to side to facilitate striking and viewing of force gage.
Size changed to decrease paper cost.

The redesigned box (see Figure 1 of the Standard) is well ventilated, to permit natural convection of exhaust fumes to the outside. Baffle plates cover the intake and exhaust holes to reduce the draft near the center of the box. The box can be opaque with the exception of a transparent viewing window for observing the striking of a match and for convenient viewing of the force gage dial. The force gage is suspended from the side, thus allowing clearance for inserting a full sheet of collection paper. The lower portion of the front is a door hinged at the base and contains a hand hole for striking the match. After striking the test match, the door is opened and the base can be slid out for examination of fragments. The base of the fragmentation test box is raised to support the 16 lb. bond paper. This permits transferring the paper to the lowered door during the fragmentation inspection period without having to touch or disturb the paper itself.

5. *Conditioning chamber.* Section 1202.8(d) (1) (iv), as proposed, describes the environmental conditions which must be maintained in the conditioning chamber used in the test procedure.

A commentor states that the requirements of the proposed standard place a humidity limitation on preconditioning and, therefore, both preconditioning and conditioning chambers will require humidity control. The commentor also states that the standard would require separate preconditioning and conditioning chambers, each approximately 5'x5'x7' high in order to allow for reasonable storage and access to the materials being conditioned. The commentor's engineering department estimated that each chamber would cost about $10,000.

The commentor also points out that under "worst case" humidity conditions which may exist in the manufacturing plant the preconditioning temperature of 102° F might not adequately dry the matchbook. Although one way to avoid this problem is to place a humidity limitation on preconditioning, another method is to perform the preconditioning in a circulating air oven in a humidity controlled environment.

With deletion of the cover requirement to the burn time/distance requirement, the preconditioning and conditioning chamber requirements as specified in the proposed standard are no longer applicable. The preconditioning requirements have been changed to 45 minutes at 120° F in a circulating air oven and the conditioning requirements changed to 15 minutes at 70–77° F at 30–52 percent relative humidity. Under these conditions, humidity control would not be needed to achieve proper preconditioning.

The Commission, in responding to this comment, would like to point out that using a test room maintained at the prescribed conditioning environment would eliminate some of the problems associated with performance testing.

Commission data[1] show that the cost of such a test room would be significantly less than the $10,000 estimated by the commentor for conditioning chambers. The preconditioning circulating air oven would be contained in the test room and there would be no need for a time limit on how long a match or matchbook was exposed to the test room environment before conducting the performance tests.

The test room need not be larger than 10'x10'x8' to allow for freedom of movement for at least two testers. It must contain a hot air circulating oven, storage racks for samples to be tested, a table on which a collection box is placed and an area for afterglow testing. Afterglow testing can be done with the room lights out, within a darkened area of the room or in an opaque box with a viewing window. The Commission estimates that such a room could be erected in existing space and fully equipped for less than $5,000.

One or more smaller conditioning chambers may be used instead of a conditioning room. If the conditioning chamber(s) is used, the conditioned matchbooks must be tested within 10 minutes after removal from the conditioning chamber(s).

6. *Collection sheet.* Section 1202.8(d) (1) (v), as proposed, specifies that a 16 pound white bond paper be utilized to cover the base of the collection box so as to collect, for examination, the fragments which occur as a result of the testing.

A commentor states that white bond paper is not commercially available in a 2' x 2' size to fit the bottom of the proposed collection box. The closest available sizes to 2' x 2' are legal size at 8½'' x 14'' and a larger size at 24'' x 38''. If forced to use the larger size, the commentor estimates a yearly cost of $23,750 for test paper based on using 125,000 sheets per year (250 days×500 sheets per day) at a cost of $.037 per sheet, plus an estimated $.15 per sheet for cutting and fitting the paper to the collecting box size.

The Commission concurs that the paper requirement as proposed is a nonstandard size and consequently the cost may be higher than necessary. Therefore, the dimensions of the collection box as specified in § 1202.8(d) (1) (i), as proposed, was reduced in § 1202.6(d) (1) (i) as issued below to accommodate a sheet 12'' x 19'' which is one-fourth of a standard 24'' x 38'' mill size sheet.

Based on the cost data collected by the Commission[1] and using the 125,000 sheets per year estimated by the commentor, the Commission's estimate of cost is $1,762.50/year. By redesigning the size of the collection box, the Commission has eliminated the need for individual cutting and fitting of the collection paper and has thereby reduced the total cost to 1/23 of that estimated by the commentor. The above cost figure is dependent on the number of tests that need to be conducted and whether the paper is reused or not. This figure can be further reduced by buying in large quantities.

7. *Conditioned matchbook container.* Section 1202.8(d) (1) (vi), as proposed, specifies a desiccator containing anhydrous silica gel as a holding chamber for conditioned matchbooks awaiting testing.

One commentor points out that it is possible for matches stored in the conditioned matchbook container (dessicator) to be dried out below the acceptable test humidity and, therefore, a time limit should be placed on the use of the conditioned matchbook container. The commentor also points out that preconditioned matches could be stored in the conditioning chamber specified in § 1202.6(d) (1) (iv) below until they are needed for testing rather than in the conditioned matchbook container.

The Commission concurs with the commentor regarding the use of a conditioned matchbook container. Prolonged storage in a desiccator would dry the samples out and offers no control on the matchbook condition. It is the Commission's opinion that conditioned matches should not be stored in a desiccator and therefore, this provision has been eliminated from the final standard issued below, thereby allowing the storage of the matches in a conditioning chamber until needed for testing.

8. *Required strike force.* Section 1202.8 (d) (2) (i), as proposed, sets out the striking force required in testing samples of matchbooks and bookmatches for the various performance defects listed in § 1202.5 issued below.

(a) One commentor undertook two experiments to determine if the 1.0–1.5 lbf striking force specified in proposed § 1202.8(d) (2) (i) was typical of the match-consuming public. The first experiment involved members of the commentor's quality control staff, while the second test involved persons who were not experienced match testers. The results of these experiments showed that many persons strike at a force level lower than that specified in the proposed Standard. This data leads the commentor to recommend that the minimum force should be lowered to 0.5 lb. making the total range 0.5 to 1.5 lbs. The Commentor points out that sensitive matches, which require less force to ignite, should not be penalized by requiring a typically high force: whereas, the harder striking match could still be subjected to the upper test range.

The values in the proposed standard are based on limited striking tests performed by the Commission. In order to evaluate this commentor's data, the Commission performed additional striking tests using males and females and both smokers and non-smokers.[2]

The striking test consisted of placing the matchbook on an instrumented load cell and recording the output. The subjects were told to strike the matches in their normal uninhibited manner.

The tests showed the average striking force of the subjects to be 0.83 lbf. The test data also show that at least 20 percent of the subjects struck with a force of 1.25 lbf or more, and 71 percent of them struck with less than 1.0 lbf. Therefore, in order to provide a margin of protection for those persons that strike with more than average force the Commission is of the opinion that the selected striking force of 1.0 to 1.50 lbf is an acceptable force range.

The Commission rejects the commentor's request to reduce the minimum striking force to 0.5 lbf. The data show that people tend to strike matches with a higher average force than this and also they tend to use similar force regardless of the matchbook sensitivity or manufacture. Since the Commission's data do not indicate that strikers differentiate between matches, allowing some manufacturers to test with a lower striking force could possibly allow potentially-dangerous matches to be certified.

(b) Another commentor stated that using the Commission's proposed procedure resulted in a striking force variation of between 1.05 and 1.9 lbf even though the intial pressure exerted on the striker strip is between 1–1.5 lbf. The commentor further stated that the procedures provide no means of controlling the pressure, velocity or acceleration while striking the match. Therefore, this commentor has recommended that the striking force and velocity should be accurately controlled and that instrumentation should be developed for this purpose.

Since the data referred to by the commentor was not included in the package reviewed, the Commission set up an independent testing program to assess the validity of this comment.

[1] Commission's Bureau of Engineering Sciences responses to public comments and evaluation of supportive test data, on file with and available through the Commission's Office of the Secretary, Washington, D.C. 20207.

V 4286 MAY 4 77 UMI

Ten persons struck a total of 90 matches and the initial force and the force achieved during striking were recorded. The strikers were told to initially apply 1.0 lbf to the match. One out of the 90 strikes reached a value of 1.6 lbf. Three out of the 90 were 1.3 lbf, however, 86 (or 95 percent) of the strikes were between 0.95 and 1.25 lbf. Since matches which are initially subjected to the maximum 1.5 lbf could exceed the prescribed upper limit, the Commission has modified the striking procedures set out in proposed §§ 1202.8(d)(2)(i)(A) in 1202.6(d)(2)(i)(A) as issued below, to state that the initial force should be 1.0–1.1 lbf and that striking force should be maintained between 1.0–1.5 lbf during the striking motion. The previously specified range (1.0–1.5 lbf) remains the same, however, but the new procedures should reduce the possibility of exceeding the maximum striking force.

As to the second part of this comment, the Commission concedes that a match-striking instrument, if designed properly, could provide a uniform striking procedure. It should be pointed out that the offeror's recommended standard required a test instrument for match striking, however, no instrument had been designed nor specifications provided for building such a device. This provision was later changed by the offeror to allow a hand-striking procedure. It is the opinion of the Commission that the procedures as outlined in § 1202.6(d)(2)(i)(A) of the standard, which specify initial force and striking distance, provide reasonably consistent procedures for igniting matches so as to determine performance defects. It is not the intention of the Commission to inhibit or stifle progress in improving testing procedures. Therefore, if an instrument is developed which will give identical performance results and which will be compatible with the collection box and match striking parameters set in the Standard, the industry is free to utilize it, subject only to applicable certification requirements.

9. *Test procedures for afterglow.* Tests for afterglow under § 1202.8(d)(2)(ii), as proposed, were to be conducted in conjunction with the burn time/distance test. The afterglow time was to be determined by measuring the time from self-extinguishment of the visible flame until the disappearance of the visible afterglow.

One commentor objects to being required to use the same collection box for both fragmentation and afterglow testing as proposed in § 1202.8(d)(2)(ii). Since different "fixturing" (apparatus) and levels of illumination are required for each test, the commentor feels that a single box does not allow efficient bookmatch testing and, therefore, recommends using two separate test boxes.

Since the burn time/distance provision is not included in the standard as issued below, it is no longer required that afterglow testing be performed in a test box. Section 1202.6(d)(2)(ii)(A) as issued below, now requires that afterglow testing be performed within an area which can be darkened to 0.3 ft-candles. A vent or hood may be needed for this area.

Additionally, because the burn time/distance provision is not included in the final standard, the Commission has modified the test procedures so that the afterglow testing can be conducted with a non self-extinguishing match. During experimentation, the Commission staff observed that, after a match had burned for approximately ½ inch, the paraffin would be consumed and the splint would show visible signs of charring. Therefore, it was determined that a suitable test for afterglow would be to allow the match to burn for at least ½ inch and then to extinguish the match. The procedure for timing the afterglow would then be the same as in the proposed standard. These changes are reflected in § 1202.6(d)(2)(ii) as issued below.

10. *Report of test result.* Section 1202.8(e), as proposed, requires that a written report be kept recording all test results obtained and documenting that the bookmatches were tested in accordance with this section.

The Commission believes that this provision is unnecessary because of the Commission's intention to issue a certification rule for matchbooks which will include the necessary recordkeeping requirements.

11. *Miscellaneous*—(a) *Advance testing for cover/comb requirements.* One commentor was disturbed by the possibility of large quantities of noncomplying matchbooks being produced during the period between the completion of the manufacturing process and completion of testing. This commentor suggested that comb and/or cover tests could be conducted during the manufacturing process prior to their assembly into finished matchbooks.

In response to this the Commission first wants to point out that the elimination of the child-resistant cover requirements and the shortening of the preconditioning and conditioning times should greatly alleviate this commentor's concern.

With regards to the commentor's suggestion about the comb and/or cover tests, the Commission believes that in determining compliance with its product safety standards, it is generally considered better to sample and test finished products. Therefore, any compliance testing performed by the Commission on matchbooks will be performed on the finished, assembled matchbook according to the test methods outlined in the standard.

The certification rule, which will subsequently be proposed by the Commission for comment, will establish the parameters of a reasonable testing program. A manufacturer would be required to certify that his product complies with the standard, based on such a program. It may be that a reasonable testing program will include test procedures which are different from those set out in the standard, but the Commission will test for compliance by using the procedures in the standard. For example, a program could include "in process" testing procedures if they were found to be appropriate for the conditions. The manufacturer would design a testing program and perform whatever quality control testing was necessary to insure that the requirements of the standard are met.

(b) *Additional suggested requirements.* There are a number of comments which relate generally to matchbook safety but not directly to any of the requirements contained in the proposed Standard.

A number of persons comment that certain "design" type requirements should have been included in the Matchbook Standard. The comments addressed the following areas:

Minimum splint dimension or strength requirement.
Matchhead and friction requirements.
Uniform striking characteristics.

The commentors feel that such requirements would further enhance matchbook safety.

Three commentors specifically comment on match splint requirements as related to dropped matches. One states that, although it is primarily concerned with preventing injuries from fragmentation which causes in excess of 60 percent of all match-related injuries, it is also concerned with the strength of the match splint which it believes would significantly reduce the problem of dropped matches. Another commenter states that matches with stronger splints will not have to be held so close to the matchhead and, thus, will reduce the likelihood of fingers being burned and matches being dropped. Another commentor feels that the greatest hazard is that of the match stems used in some matches are being made from poor, flexible material that make it difficult to strike without getting burned.

On the matter of matchhead and friction requirements, one commentor feels that there should be specifications for raw materials, compositions, production methods, and drying techniques for both matchheads and friction.

Another commentor states that all matches should have uniform striking characteristics and this could be achieved by having standard formulas for head and friction compositions. This commentor's concern is that presently some matches are more sensitive (i.e., easier to light) than others, and a person not knowing the difference might use excessive pressure on a sensitive match, resulting in fragmentation of that match.

The Commission is limited by the Consumer Product Safety Act to issuing safety regulations which are reasonably necessary to prevent or reduce only those risks of injury associated with a consumer product that are found to be unreasonable. Although the Commission is aware of differences in match sensitivities, head hardness, splint strength and in the force required to ignite various matches, the Commission is unaware of any injury data or any other reasons which indicate that, except as they interface with those provisions of the standard issued below, the various additional requirements suggested by these commentors are related to an unreasonable risk of injury associated with matchbooks.

Since the Commission can take action only where an unreasonable risk of injury associated with matchbooks is shown to exist and not when it is simply felt that a better or more efficient matchbook can be designed, it wishes to state that it appreciates the concern expressed by these commentors but is unable to act on any of these suggestions.

(c) *Availability of test equipment.* One commentor states that the proposed procedures involve test equipment not normally used in the industry and this poses additional problems to manufacturers.

The Commission concurs that some of the equipment in the proposed standard, such as the test device and collection box, is not normally used in the industry. However, as discussed above, since each manufacturer will develop its own reasonable testing program, use of these devices by the manufacturer is not mandatory. Notwithstanding this fact, these are relatively inexpensive items to purchase, and in the case of the collection box, to build. The most costly items will be the conditioning test room chamber and attendant conditioning equipment. Some items, however, such as the circulating air oven, timers, detection paper and even the test area, have been observed as part of existing facilities at some manufacturers.

V. MARKING

The marking and advertising provisions of § 1202.10 in the Commission's proposal deals with various requirements for identifying the manufacturer, limitation on the use of the matchbook cover as an advertising medium, and with the storage warning marking.

A. *Manufacturer's name and city.* One commentor urges the Commission to change its proposed requirement regarding identification by means of the manufacturer's name and city. He notes that for his firm, an important part of its total sales is in sales to jobbers (or private labelers as they are referred to in section 3 of the Act) who in turn sell the matchbooks. Such a private labeler places on the matchbook cover its name, city, and state for its own advertising purposes. The commentor contends that to require a product stocked and sold by a middleman to carry a manufacturer's name would be to compete directly with the jobbers business and its own use of advertising space. The commentor also states that the requirement is an infringement on the manufacturer's ability to sell its product and may substantially reduce its sales.

The Commission agrees that § 1202.10(a), as proposed, is unfair to the manufacturer in the situation outlined by the commentor. Accordingly, revisions have been made to § 1202.8 as issued below which will allow for the use of a private labeler's name and city or its identifying symbol to appear on the matchbook in lieu of the manufacturer, provided that the private labeler can identify the manufacturer if requested to do so.

B. *Manufacturer's zip code.* Several commentors oppose the requirement for identification by zip code stating that it has no relevance to risk reduction, is not necessary for identification, and takes up space which is costly since it can otherwise be used for design and advertising purposes.

One commentor points out that, for its firm, one-time cost of approximately $75,000 would be required to make changes to existing artwork and printing plates. This cost would follow directly a $150,000 cost, recently absorbed, to make art and plate changes to accommodate reverse friction. Another respondent notes that a zip code necessitates a renovation of each plate from which the matchbook cover is printed at an estimated cost of $35 per plate per customer for his firm.

A third respondent points out that, because his firm has sales offices throughout the country, the requirement to print zip codes for each of these and to change codes when offices are relocated would impose unreasonable expense. He states that the firm has in excess of 10,000 active accounts, and estimates that the total cost of changing all its plates to accommodate the proposed zip code would exceed $400,000.

The Commission recognizes that several manufacturers and importers of matchbooks would have to remake all printing plates to comply with the proposed requirement for zip code identification since it cannot be added to existing plates. Although the Commission has not estimated the total number of plates affected, it has received estimates from manufacturers of more than 60 percent of the matchbooks manufactured in the United States placing the cost for conversion at between $35 and $47 per plate. The Commission has also estimated that substantial inventory losses would be incurred in scrapping all previously printed cover stock that did not include a zip code. The Commission has also been apprised that, with some exceptions, the Postal Service does not consider a zip code without a street address as a sufficient address. Further, the Commission is aware of the fact that most manufacturers maintain listings of the street address and telephone number in city directories.

The Commission has considered all these factors and has concluded that the costs associated with requiring a zip code identification are unreasonably high when compared to the marginal effect that inclusion of the proposed zip code requirement could have on protecting the public against unreasonable risks of injury associated with matchbooks. Accordingly, the zip code requirement has been deleted from § 1202.8 as issued below.

C. *Coupon advertising.* Section 1202.10(b) and (c), as proposed, would prohibit the use of coupons printed on matchbook covers which require the cover, or any portion of it, to be torn off in order to take advantage of the coupon offer, unless the cover is designed so that the friction must also be removed with or so that the coupon contains a message instructing the user to discard the balance of the bookmatches.

Several commenters express concern about the economic burden of complying with the requirements on coupons, and point out that the additional costs are especially unnecessary because there is no identifiable link between the coupon restrictions and increased safety.

One commentor states that the proposed coupon requirements were unnecessarily restrictive because of the absence of any information linking a matchbook coupon with an injury or accident. The commentor feels that since the requirements are economically burdensome, restrictive, and without benefit to safety, they should not be included in the standard.

Another commentor points out that since 75 percent of his firm's general advertising sales, or a total of 37.5 percent of its total sales, are in coupon matchbooks, the proposed coupon requirements will cause a material reduction in revenues and will seriously affect the firm's profitability. He also states that considerable expense is involved in complying with the requirements since either changes in printing layout or a reduction in the space available for the coupon is required. He notes that coupon advertisers can hardly be expected to pay the same amount for less space, or for the same space, part of which has reduced visibility.

The Commission agrees that there is no evidence of injury sustained as a result of events linked with matchbook coupons. The Commission does, however, have documentation of a number of cases where injury was sustained when a bookmatch being ignited with the matchbook cover open, ignited the remaining bookmatches. The Commission therefore believes that injuries related to removing coupons from matchbooks could occur. After analyzing the estimated costs associated with the proposed coupon requirements and their potential differential impacts on the four manufacturers presently producing matchbooks with coupons, the Commission concludes that the additional cost burden cannot readily be justified nor supported on the basis of reducing risk of injury. The requirements relating to coupons have, therefore, been deleted from § 1202.8 as issued below.

D. *Storage warning.* Section 1202.10(d), as proposed, sets out the requirement that any box or carton in which two or more caddies of matchbooks are shipped be marked, "For safety, store in a cool, dry place."

One commentor requests that the Commission change the wording of this proposed requirement to permit the use of the alternate wording being presently used by him, "store in a cool, dry place," until the dies used to manufacture the shipping containers come up for regular modification and remake. The commen-

V 4 2 8 6 MAY 4 7 7 UMI

tor points out that, although sufficient time is available in which to use existing container inventory and in which to remake all dies, an across-the-board change to all dies, most of which would otherwise not require modification at this time, would require an outlay by the firm of $2,000 in addition to administration costs involved. On the other hand, he states that a gradual change over several years would not add any additional costs to carton manufacturers and would still provide the existing message "store in a cool, dry place".

Although the Commission recognizes that the additional words, "For safety * * * " may appear to the commentor to be insignificant in light of the estimated costs for conversion, the language is intended to point up the importance of specifying that the storage instructions, to "store in a cool, dry place" are also directly related to the safety of the product, in that improper storage of matchbooks could cause changes in the properties of the bookmatch relating to their safety. Further, the Commission is of the opinion that the costs of providing the specific wording may be reduced if instead of a one-time, across-the-board remake of all dies, manufacturers use a combination of die changes at regular die-modification plus adhesive labels, rubber-stamped, or other means of adding the words "For safety."

VI. PROHIBITED STOCKPILING

The prohibited stockpiling provisions of § 1202.11 in the Commission's proposal specifies that manufacturers and importers shall not manufacture or import matchbooks that do not comply with the requirements of this Part 1202 at a rate greater than the rate of production of importation during the "base period" plus 15 percent of that rate between its date of issuance and its effective date.

Section 1202.11(c), as proposed, contained a provision requiring manufacturers and importers to maintain appropriate documentation to prove compliance with this section. Although not raised in the comments received, the Commission notes that no period of time was specified for which this documentation was to be maintained. In issuing its proposal of this section, the Commission assumed that the retention period for these records would be for a reasonable time. In retrospect, the Commission sees the practical need to set a time period and has selected six (6) months. Section 1202.9, as issued below, has been revised accordingly.

ECONOMIC CONSIDERATIONS

1. Several commentors express general doubt about the cost-effectiveness of the proposed standard for matchbooks and urge the Commission to consider fully the potential costs and benefits before reaching a final decision on a standard. One commentor urges the Commission to improve its cost analysis, to evaluate each component of the proposed standard in terms of cost-benefit or cost-effectiveness analysis, and to consider the impact of the proposed standard on the viability and competitiveness of the matchbook industry.

The requests made by these commentors parallel certain of the requirements of Section 9(c)(1) of the Act. This section requires that the Commission consider and make findings (which are to be included in the rule) with respect to (1) the probable effect of its rules upon the utility, cost, or availability of products subject to the consumer product safety rule, and (2) any means of achieving the objective of such a rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety. To support the findings required, the Commission (in its proposal of April 1, 1976) solicited comments, data, and information on the potential cost effects of the proposed standard and undertook special studies of the potential economic impact of the proposal, including those provisions being deleted from the final regulation. A chief purpose and result of these studies was to improve the Commission's cost data and analyses. The required findings and supporting information are set out and discussed in § 1202.2 issued below.

2. Two commentors state that, in proposing this standard, the Commission failed to comply with the requirements of Section 9(c) of the Act.

One contends that the proposed standard has been arbitrarily and unreasonably determined and is discriminatory. It further contends that there is no evidence that the Commission considered the probable effect of such rules upon the utility, cost or availability of such consumer products or, that the Commission even considered effects on competition or disruption or dislocation of manufacturers, and that the Commission certainly could not have considered the adverse effects of the proposed standard with respect to these factors.

A commentor notes that the Act requires that the Commission study alternative methods of reducing the identified risk and review the impact of these alternative methods on commercial practices and economics, and contends that the briefing package on the proposed standards and other staff materials failed to do this at all. The commentor states that the rationale accompanying the proposed standard does not contain any economic data relative to the cost of implementation or the effect in the marketplace, and objects because an economic analysis of the proposed standard, underway at the time of proposal, was not available for public comment prior to the end of the comment period.

Section 9(a)(2) of the Act (15 U.S.C. 2058(a)(2)) requires the Commission to comply with 5 U.S.C. 553 (the Administrative Procedure Act) in issuing rules such as this, proposed under Section 7(f) of the Act, 5 U.S.C. 553(b)(3) requires an agency to publish in the FEDERAL REGISTER a general notice of proposed rulemaking setting forth "either the terms or substance of the proposed rule or a description of the subjects and issues involved."

Once a proposed rule is published for comment, 5 U.S.C. 553 requires agencies to allow the public to submit written data, views, or arguments on the proposal. In addition, Section 9(a)(2) the Act specifically requires the Commission to provide an opportunity for the oral presentation of data, views, or arguments. These requirements were fully complied with by the Commission.

The comment correctly points out that Section 9(c)(1) of the Act, as well as the legislative history of that section, requires the Commission, prior to promulgating a standard, to consider and make appropriate findings concerning certain of its economic effects for inclusion in the final standard. The legislative history of the Act, however, also indicated that to allow comments on the Commission's findings under Section 9(c)(1) would be unwise and unnecessary. As noted in the comments section of the Senate Commerce Committee Report:

> To require the Agency to announce its findings before receipt of comment on its specific proposal would seem both unwise—because they would not reflect the data and views submitted during that stage of the proceedings devoted to the solicitation and evaluation of comment upon the proposed standard—and unnecessary—since the findings in question are not intended as a basis for comment but as a way of insuring that the grounds for the ultimate decision are made a matter of record. (S. Rept. 740, 92d Cong. 2d Sess., p. 81 (1972)).

It is the Commission's view that all persons were afforded an adequate opportunity to present data, views or arguments concerning the proposed standard, including its economic impact. All such comments were considered by the Commission prior to issuing a final standard.

Moreover, research reports prepared for the Commission by Battelle Columbus Laboratories on the potential economic effects of the proposed standard, entitled "Analysis of the Bookmatch Industry and the Potential Impact of a Proposed Standard on Bookmatches: Phase I—Industry Information and Analysis" (March 18, 1975), and "Important Economic Issues Related to Matchbook Standard" (August, 1975), were included in the staff's briefing package to the Commission of November 17, 1975, were available for comment and were extensively commented upon in several responses to the proposal.

OTHER CONSIDERATIONS

I. INFORMATION AND EDUCATION PROGRAMS

Throughout the comments received, commentors question the extent of the Commission's efforts to deal with the unreasonable risks of injury associated with matchbooks through information and education programs.

At the present time, there are two major Commission information and education programs which address, among other things, the hazards of matchbooks.

The first of these programs is the Burn Injury Education Demonstration Project which is a four-year program designed to test, in a scientific way, approaches to providing education on burn hazards and injuries. Injury data have been collected in a test and control site in the Boston, Massachusetts area. Three types of educational programs will be implemented at the test site, while the control site will receive no special treatment. Following the intervention stage (scheduled for FY '78), changes in knowledge and awareness levels of consumers in the test site will be compared with any change in the control site. In addition, reductions in injury rates in the test site will be compared with injury rates in the control site. The program itself will consist of educational materials, media materials and educational strategies aimed at school systems and the adult community. The hazards of matches as an ignition source will be one part of the program and will include such things as scald burns, general information regarding burn hazards, information on how to prevent burns from specific products, and proper treatment of burns.

The other program is the Flammable Products and Ignition Sources program which is a national information and education program focusing on the hazards associated with eight products within the Commission's jurisdiction. These products are: flammable liquids, matches, ovens, lighters, space heaters, flammable fabrics, extension cords, and fireplaces. The materials used in the program will consist of an activities guide for use in schools and organizations, as well as a catalogue of hazards to look for. These materials should be ready for public distribution in mid-1977. In addition, the Commission has prepared and distributed to more than 660 television stations, four TV spots on fire/burn hazards, one of which involved children playing with matches, and one which addressed the hazard of cigarette ignition of upholstered furniture.

The Commission views the education about fires and burns to be a high priority, and has expended more than $700,000 over the past two years for the development, testing, printing, and dissemination of information and education materials on these subjects.

II. ENVIRONMENTAL EFFECTS

Prior to publishing the proposed standard on April 1, 1976, the Commission considered the environmental effects of its action and determined that, with the possible exception of the burn time/distance provision, the proposed standard would not cause significant effects on the environment. The factors leading to the original determination were set forth in an environmental assessment of the proposed standard which is on file with and available from the Commission's Office of the Secretary.

With the deletion of the burn time/distance provision by the Commission from the final Matchbook Standard issued below, the Commission now concludes that the final standard will have no significant effects on the environment and that no environmental impact statement is necessary.

III. ADVERSE AFFECT ON THE ELDERLY AND HANDICAPPED

Section 9(b) of the Act as amended, requires the Commission to consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by Part 1202 as issued below.

After review of all the materials in the public record for this proceeding, the Commission anticipates no increased risk of injury to the elderly or handicapped by use of a complying matchbook nor increased inconvenience to these persons. Therefore, the Commission finds that the special needs of the elderly or handicapped will not be adversely affected by the issuance below of Part 1202.

IV. REQUIRED SECTION 9(C) FINDINGS

Section 9(c) of the Act (15 U.S.C. 2058(c)) requires that prior to promulgating a consumer product safety rule the Commission shall consider and shall make appropriate findings for inclusion in the rule as to: (1) The degree and nature of the risk of injury the rule is designed to eliminate or reduce; (2) the approximate number of consumer products, or types or classes thereof, subject to the rule; (3) the need of the public for the consumer products subject to the rule, and the probable effect of the rule upon the utility, cost or availability of such products to meet that need; (4) any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety; (5) the necessity of the rule to eliminate or reduce an unreasonable risk associated with such product; and (6) the fact that the promulgation of the rule is in the public interest.

The findings required by Section 9(c) have been made by the Commission and are contained in § 1202.2 below.

CONCLUSION AND PROMULGATION

Having considered the offeror's submission, the published proposal, the oral and written responses to the proposal, and other relevant material, the Commission issues the safety standard for matchbooks as set forth below.

Therefore, pursuant to provisions of the Consumer Product Safety Act (Sec. 9(a), Pub. L. 92-573, 86 Stat. 1215; 15 U.S.C. 2058(a)), a new Part 1202 is added to Title 16 Chapter II, Subchapter 13, as follows:

Subpart A—The Standard

Sec.
1202.1 Scope and effective date.
1202.2 Findings.
1202.3 Definitions.
1202.4 Matchbook general requirements.
1202.5 Matchbook performance requirements.
1202.6 Test procedures for general and performance requirements.
1202.7 Certification.
1202.8 Marking.
1202.9 Prohibited stockpiling.

AUTHORITY: Secs. 2, 3, 7, 9, 14, 16, and 19, Pub. L. 92-573, 86 Stat. 1212-17; 15 U.S.C. 2051, 2052, 2056, 2058, 2063, 2065, and 2068.

§ 1202.1 Scope and effective date.

(a) *Scope.* This Part 1202, a consumer product safety standard, prescribes the safety requirements, including labeling and performance requirements, for the matchbook. This Part 1202 applies to all matchbooks manufactured in or imported into the United States after its effective date.

(b) *Effective date.* The effective date shall be May 4, 1978.

§ 1202.2 Findings.

(a) *Risk of injury.* The Commission finds that unreasonable risks of injury from accidents are associated with matchbooks. These unreasonable risks, which this Part 1202 is intended to reduce or eliminate, are:

(1) Burn injuries, sustained by children and others, including mentally or physically impaired persons, who play with or otherwise improperly use bookmatches.

(2) Burn injuries sustained by persons who use bookmatches that fragment or have delayed ignition.

(3) Eye injuries sustained by persons who use bookmatches that fragment and cause particles from such matches to lodge in a person's eye.

(4) Burn injuries sustained by persons who use bookmatches that, when struck, ignite the remaining matches in the matchbook.

(5) Burn injuries sustained by persons from fires that have resulted from unexpected ignition of bookmatches with no deliberate action by the user.

(6) Burn injuries that have been sustained by persons from fires that have been set by the afterglow of extinguished bookmatches.

(b) *Products subject to this standard.* (1) The products subject to this standard are those kinds of manufactured ignition devices known as matchbooks. The matchbook consists of a group of bookmatches joined together and fastened within a cover. Although matchbooks are commonly referred to as paper matches or paper-stem matches to distinguish them from individual stick matches such as wooden stem matches packaged in boxes, all matchbooks, regardless of the materials of manufacture of the covers or of the bookmatches fastened within, are subject to this Standard.

(2) Matchbooks subject to this standard can be divided into two basic categories: Resale matchbooks and special reproduction matchbooks. Resale matchbooks can be subdivided into advertising and non-advertising matchbooks. Non-advertising matchbooks are generally sold by large chain stores, and constitute a small portion of the total resale matchbook volume. Resale matchbooks with advertising are generally given away by tobacco shops, drug stores, vending firms and other mass distribution outlets. Spe-

V 4286 MAY 4 77 UMI

cial reproduction matchbooks, characterized by their distinctive and unique cover designs, are purchased and distributed for promotional purposes by hotels, restaurants, financial institutions and other business enterprises, and are given free to users.

(3) The Commission estimates that resale matchbooks accounted for almost 75 percent of the volume of matchbooks in 1975, or about 15 billion matchbooks, while special reproduction matchbooks accounted for just over 25 percent, or about 5.5 billion matchbooks.

(c) *Effects on utility, cost, and availability.* (1) The Commission finds that the public need for ignition devices which are small, portable, and can be used to provide a source of fire, is substantial since such products meet basic requirements for a source of fire to ignite tobacco products, fires, candles or other products, and are also used for miscellaneous other purposes such as providing short term illumination. Three types of products: matchbooks, individual stick matches, and lighters, predominately supply the source of fire to meet these requirements.

(i) The Commission estimates that in 1976 U.S. consumers required approximately 645 billion such fire sources or "lights," as they are known, with almost 98 percent of this total required for tobacco products. In the aggregate, the requirements by U.S. consumers for a source of fire has been growing at an annual rate of approximately 3 percent. Matchbooks, the products regulated in this standard, are estimated to have supplied about 65 percent of the source of lights, lighters accounted for about 25 percent, and individual stick matches (primarily wooden-stem type) accounted for the remainder.

(ii) The Commission also finds that matchbooks fulfill a need by institutions and business enterprises for a particular form of specialty advertising that is both relatively inexpensive and effective in reaching a specified audience or population segment with the advertiser's message. Various studies of matchbooks as a form of advertising have found that readership can average 3 to 15 times higher than average readership, listenership, and viewership figures from competing media such as magazines, newspapers, radio, and television, and that readership retention of the matchbook advertising message was extremely high, about 45 percent. In addition, matchbooks tend to be considerably less expensive than other forms of specialty advertising, including those competing advertising items such as address books, key cases, litterbags and the like, which are themselves relatively inexpensive.

(2) The Commission finds that the standard will have no adverse effects on the utility that consumers derive from matchbooks. To the extent that injuries and property damage associated with the use of matchbooks is reduced or eliminated as a result of this standard, the utility of matchbooks as a source of fire will be increased.

(3) The Commission estimates that manufacturing cost increases as a direct or indirect effect of this standard will be modest for the industry as a whole. Such increases will tend to be concentrated in one-time costs to complete change-over to reverse friction, and in costs to establish and implement testing programs and certification procedures.

(i) Because some 80–90 percent of the matchbooks produced annually are given free to consumers, there is not likely to be any direct cost impact on the consumer as a result of the standard. Some proportion of increased manufacturing costs will be passed on to the institutions and business enterprises that purchase matchbooks for promotional purposes. To the extent that increases in advertising and promotional costs may be reflected in higher prices for goods and services sold by these businesses, there may be indirect cost effects on consumers. If so, such impacts would likely be small, if not imperceptible.

(ii) For the 10–20 percent of matchbooks that are purchased at retail by consumers, some proportion of any manufacturing cost increases may be passed on to the consumer. A resulting increase in retail prices for such matchbooks will be small, no more than a few cents per box of 50 matchbooks.

(4) The Commission finds that the standard will not have impacts of significant magnitude on the availability of matchbooks. Although some institutions and business enterprises may reduce their matchbooks purchases or eliminate them in response to any increased price of matchbooks, the large number of such purchasers, and the large volume purchased annually, are such that curtailment of purchases by some businesses is likely to have very small effects on the total number of matchbooks available to U.S. consumers.

(d) *Alternatives.* (1) The Commission has considered other means of achieving the objective of the standard throughout the course of its development. Certain other more elaborate test requirements were considered and were shown to have the potential for severe adverse effects on competition and estimated to result in disruptions and dislocations of manufacturing and commercial practices. Therefore, having considered and rejected such other means of achieving the objective of the standard, the Commission has found none that would cause less disruption or dislocation of manufacturing and other commercial practices, consistent with the public health and safety than this standard.

(2) Because of competition from substitute products such as inexpensive disposable butane lighters and because of other prevailing business and economic conditions, the industry manufacturing matchbooks has been in a state of contraction in recent years. This contraction, marked by the exit of some firms and by plant closings or consolidations, is likely to continue in the future; but this will neither be the result of, nor significantly accelerated by, effects of the standard. Currently, aggressive price and service competition prevails among firms vying for customer accounts. It is anticipated that this competition for sales may increase as an indirect effect of the standard. To the extent that this occurs, there may be some disruption or dislocation of manufacturing, sales, or distribution practices in certain matchbook product categories and market segments. Marginal firms and firms producing limited product categories or for limited market segments may be affected to a greater degree than multi-product category or multi-market firms.

(e) *Conclusion.* The Commission finds that this standard, including its effective date, is reasonably necessary to eliminate or reduce the unreasonable risks of injury associated with matchbooks and that the issuance of the standard is in the public interest.

§ 1202.3 Definitions.

In addition to the definitions given in Section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), the following definitions apply for the purpose of this standard.

(a) "Afterglow" means a visible glow in the splint after all the visible flame has been extinguished.

(b) "Bookmatch" means a single splint, with a matchhead attached, that comes from a matchbook.

(c) "Bridge" means the matchhead material held in common by two or more splints.

(d) "Broken bridge" means a bridge that has become separated.

(e) "Caddy" means a package of 2 or more matchbooks wrapped or boxed together at a production plant.

(f) "Comb" means a piece of wood, paper, or other suitable material that has been formed into splints, that remain joined at their base, and that are designed to have matchheads attached to their tips.

(g) "Cover" means the paperboard or other suitable material that is wrapped around and fastened to the comb(s).

(h) "Fragments" means particles of the matchhead or friction material that results from the ignition of a bookmatch on the friction surface and that measure more than 1.0 mm (.039 inch) in the maximum dimension or particles that leave scorch or burn marks on the detection paper when tested in accordance with § 1202.6.

(i) "Friction" means the dried chemical mixture on the matchbook cover used to ignite the bookmatch.

(j) "Match" means a single splint with matchhead attached.

(k) "Matchbook" means one or more combs with matchheads attached and a cover that is wrapped around and fastened to those combs.

(l) "Matchhead" means the dried chemical mixture on the end of a splint.

(m) "Splint" means the support for the matchhead or that portion normally held when using the bookmatch.

§ 1202.4 Matchbook general requirements.

A matchbook shall meet the following general requirements and shall be tested for these requirements as prescribed in § 1202.6(b):

(a) The friction shall be located on the outside back cover near the bottom of the matchbook.

(b) The cover shall remain closed without external force.

(c) No friction material shall be located on the inside of the cover where possible contact with the matchheads may occur during ordinary use.

(d) There shall be no bridge(s) or broken bridge(s).

(e) No matchhead in the matchbook shall be split, chipped, cracked, or crumbled.

(f) No portion of any matchhead shall be outside the matchbook cover when the cover is closed.

(g) No part of a staple or other assembly device for securing the cover and combs shall be within or touching the friction area.

(h) A staple used as an assembly device for securing the cover and combs shall be fully clinched so that the ends are flattened or turned into the cover.

§ 1202.5 Matchbook performance requirements.

A matchbook is defective and therefore does not meet the requirements of this standard if it has, when tested in accordance with § 1202.6, any of the following performance defects:

(a) Delayed ignition exceeding 2 seconds.

(b) A splint that separates into two or more pieces.

(c) A matchhead that produces fragments as defined in § 1202.3(h).

(d) A matchhead that falls off.

(e) Friction that burns or produces fragments as defined in § 1202.3(h).

(f) Afterglow exceeding 5 seconds or the reappearance of a visible flame after the first extinction of the original flame.

§ 1202.6 Test procedures for general and performance requirements.

(a) *Safety precautions.* (1) When striking the bookmatch, keep the matchbook cover closed to avoid possible ignition of the remaining test bookmatches. Perform test bookmatch ignitions in the collection box with the matchbook affixed in its holder. (See Figure 1 and § 1202.6(d)(1)(i)).

(2) After performance testing, place the used bookmatches in a disposal container. Safety glasses should be worn by the tester.

(b) *Inspection for general requirements.* Inspect the matchbooks under test for the general requirements listed in § 1202.4.

(c) *Conditioning.* (1) Before testing for performance requirements, precondition the specimen matchbooks at 49° ±2° C (120°±3.6° F) for 45 minutes in the circulating air oven in a manner that will permit free circulation of air through the combs of the matchbooks to be conditioned. Open the matchbook covers, separate each comb so that the matchheads have a minimum separation of 1.6 mm (1/16 in) and place the matchbooks in the oven so that air flow through the combs is allowed.

(2) After preconditioning and prior to testing, place the specimens in a conditioning room or chamber for a period of not less than 15 minutes at 23±2° C (73.4±3.6° F) and at a relative humidity within the range of 30–52 percent.

(3) Samples shall be tested within 10 minutes of removing from the conditioning chamber. If testing is to be performed in a conditioned room, as defined in § 1202.6(d)(1)(iv), the 10 minute time limitation does not apply.

(d) *Test for performance requirements.* These methods will test for the performance defects stated in § 1202.5:

(1) *Apparatus and materials*—(i) *Test device and fragment collection box.* A device shall be provided that is capable of indicating a force and of holding the matchbook above the base of the collection box. The device shall hold the matchbook with the long dimension of the friction in a vertical position to permit ignition of the bookmatch by striking in a path perpendicular to the base. The friction surface of the matchbook shall be perpendicular to the collection box front panel. The device shall be contained in a collection box with interior dimensions of 48.3 cm x 30.5 cm x 61 cm (19 in L x 12 in W x 24 in H±.4 in). (See Figure 1). This box is for the purpose of collecting fragmentation debris. The matchbook shall be centered between the four vertical sides of the box with the top of the matchbook 28.6±1 cm (11.3±.4 in) above the collection base. The collection box shall have a hinged access panel on the front vertical face to permit access to the collecting paper. The access panel shall have a handhole no larger than 12.7 cm x 12.7 cm (5 in x 5 in) to facilitate striking of matches. The side of the box toward the operator should be transparent to observe the loading and striking of the match.

(ii) *Fragment measuring instrument.* A device, such as an optical comparator with reticle, that is capable of measuring particle size of 1.0±.05 mm (0.039±0.002 in) shall be used.

(iii) *Preconditioning chamber.* A circulating air oven of adequate size to precondition the specimen matchbooks at 49°±2° C (120±3.6° F) shall be used.

(iv) *Conditioning room or chamber.* A conditioning room or chamber that can be controlled to a temperature of 23.0°± 2.0° C (73.4°±3.6° F) and a relative humidity within the range of 30–52 percent shall be used.

(v) *Collection sheet.* The fragment collection sheet of 7.26 kg (16 lb) white bond paper is placed on the base of the collection box and may be removed for examination for fragments and scorch marks.

(vi) *Timer.* A timing device with an accuracy of ±0.2 second shall be used.

(2) (i) *Procedures.* (A) Position the fragment collection sheet in the collection box on the base panel. Attach the force measuring and matchbook holding fixture within the box so that the matchbook friction surface is centered within 2.5 cm (1 in) of the four vertical sides of the box. Remove one randomly selected bookmatch from the matchbook. Place the matchbook in the holding fixture with the plane of the friction surface perpendicular to the collection sheet and the friction surface oriented for a vertical striking mode. Hold the splint's wide surface parallel to the striking direction and perpendicular to the friction surface. Press the matchhead against the strip 6.4 mm (1/4 in) from the top of the friction pad with an initial force of 4.5–0+.04 N (1.0–0+.1 lbf). Strike the match with a rapid downward motion. The contact between the matchhead and the friction should be maintained for at least a distance of 1.3 cm (0.5 in), but should not exceed 3.8 cm (1.5 in) during the striking motion (see Figure 2). The striking force must not exceed 6.7 N (1.5 lbf) during the striking motion. The striking stroke should be terminated within 7.6 cm (3 in) after leaving the bottom edge of the friction.

(B) Strike the matchbook as in paragraph (d)(2)(i)(A) of this section and measure the time lapsed from the start of the striking motion to the appearance of a visible flame. Note any delayed ignition exceeding two seconds. Observe and note if the performance defect in § 1202.5 (b) occurred.

(C) After the bookmatch has been struck, observe any burning of the friction and measure any debris on the collection sheet for fragments and note the presence of any scorch marks on the collection sheet.

(ii) *Afterglow test.* (A) Assure that the illumination in the area where the match is being struck does not exceed 0.3 ft-candles. Hold the bookmatch hozizontally in a clamping device with the wide dimension of the bookmatch in a vertical position. The clamping device shall be at least 1.3 cm (0.5 in) from the bottom of the matchhead. Ignite the test bookmatch and allow it to burn until the flame is extinguished. Measure the elapsed time from extinguishment until all afterglow disappears. Disregard any afterglow under the head. Observe and note any afterglow exceeding five seconds or any reappearance of a visible flame after first extinction of the visible flame.

(B) Observe and note if the performance defect in § 1202.5(d) occurred.

§ 1202.7 Certification.

Certification shall be in accordance with section 14(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(1)) and regulations issued under section 14.

V 42 86 MAY 4 77 UMI

§ 1202.8 Marking.

(a) The manufacturer's or private labeler's name and city or a symbol which will identify the name and city shall appear on the matchbook. In addition, every private labeler must label the matchbook with a code which enables it to identify, if requested, the manufacturer of the product.

(b) Boxes or cartons in which two or more caddies are shipped shall be marked "For safety, store in a cool, dry place."

§ 1202.9 Prohibited stockpiling.

Section 9(d)(2) of the CPSA authorizes the Commission to prohibit manufacturers and importers from stockpiling a product subject to a consumer product safety standard between its date of issuance and its effective date. A manufacturer or importer is in violation of § 9(d)(2) of the CPSA and of this § 1202.9 if it fails to comply with the following:

(a) *Definitions.* (1) "Base period" means, at the option of the manufacturer or importer concerned, any period of 365 consecutive days beginning on or after January 1, 1973, and ending on or before December 31, 1975.

(2) "Rate of production (or importation)" means the total number of matchbooks manufactured (or imported) during a stated time period. In determining whether a matchbook was manufactured during a stated time period, the date on which the cover and combs were assembled to form a matchbook shall be used. In the event that a manufacturer currently operates a matchbook manufacturing plant that it did not operate during the base period, or that it did not operate for an entire base period, that manufacturer shall use, as the rate of production during the base period for that plant, either (i) the average daily rate of production (including nonproduction days such as Sundays, holidays, and vacations) for the part of the base period he did operate that plant, multiplied by 365 or (ii) the rate of production during the base period of his most nearly similar matchbook manufacturing plant.

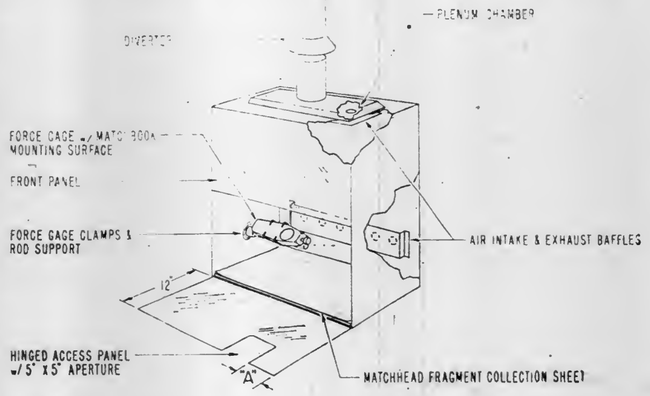
(b) *Prohibited act.* Manufacturers and importers of matchbooks, as these products are defined in § 1202.3(k), shall not manufacture or import matchbooks that do not comply with the requirements of this Part 1202 between the date that this Part 1202 is issued and the date that it becomes effective at a rate that is greater than the rate of production or importation during the base period plus 15 percent of that rate.

(c) *Documentation.* Manufacturers and importers shall maintain, for a period of six (6) months after the effective date specified in § 1202.1(b), appropriate documentation to be able to substantiate to the Commission that they are in compliance with the provisions of this section.

(Sec. 9(a), Pub. L. 92-573, 86 Stat. 1215; 15 U.S.C. 2058(a).)

Dated: April 28, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.



"A"-Optional

FIG 1-MATCHBOOK DATA COLLECTION BOX(12x19x24h)ASSY.

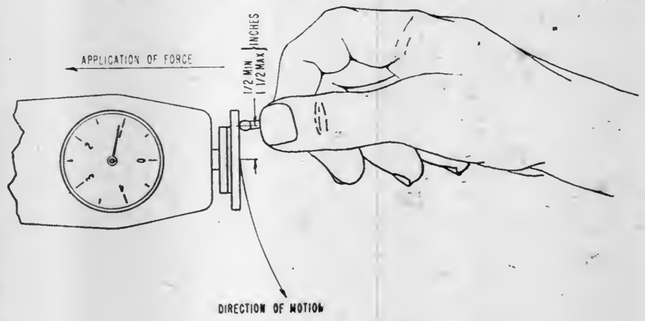


FIG 2-STRIKING MODE FOR PERFORMANCE TESTS

[FR Doc.77-12618 Filed 5-3-77;8:45 am]

federal register

WEDNESDAY, MAY 4, 1977
PART III



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

PACIFIC FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

V42N86 MAY 4 77 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

Pursuant to section 302(f)(6) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the Pacific Fishery Management Council has prepared and is hereby publishing its Statement of Organization, Practices, and Procedures.

Dated: April 28, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PACIFIC FISHERY MANAGEMENT COUNCIL

STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

The Pacific Fishery Management Council, created by section 302(a)(7) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), hereby publishes a Statement of Organization, Practices, and Procedures, as required by section 302(f)(6) of the Act. This Statement of Organization, Practices, and Procedures for carrying out the Council's functions under the Act, was adopted by the Council during its public meeting held on January 12-13, 1977 in San Diego, California. Copies may be obtained by writing the Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201.

PURPOSE

The Council shall:

A. Prepare and submit to the Secretary of Commerce a fishery management plan with respect to each fishery within its geographical area of authority and, from time to time, such amendments to each such plan as are necessary;

B. Prepare comments on any application for foreign fishing transmitted to it by the Secretary of State, and any fishery management plan or amendment transmitted to it by the Secretary of Commerce;

C. Conduct public hearings, at appropriate times and in appropriate locations in the geographic area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act;

D. Submit to the Secretary of Commerce:

1. A report, before February 1 of each year, on the Council's activities during the immediately preceding calendar year.

2. Such periodic reports as the Council deems appropriate, and

3. Any other relevant report which may be requested by the Secretary of Commerce;

E. Review on a continuing basis, and revise as appropriate, the assessments and specifications made with respect to the optimum yield from, and the total allowable level of foreign fishing in, each fishery within its geographic area of authority; and

F. Conduct any other activities which are necessary and appropriate to the foregoing functions.

COUNCIL COMPOSITION

The Pacific Fishery Management Council shall consist of representatives of the States of California, Oregon, Washington, and Idaho, and shall have authority over the fisheries in the Pacific Ocean seaward of such coastal states. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary, at least one of whom shall be appointed from each such state.

The voting members of the Council shall be:

A. The principal state official with marine fishery management responsibility in the States of Washington, Oregon, Idaho, and California, or the designee of such official;

B. The Regional Director of the Northwest Region of the National Marine Fisheries Service, or his designee; and

C. Eight appointed members from the states represented on the Council.

The non-voting members of the Council shall be:

A. The Regional Director of the U.S. Fish and Wildlife Service Northwest Region, or his designee;

B. The Commander, Pacific Area of the U.S. Coast Guard, or his designee;

C. The Executive Director of the Pacific Marine Fisheries Commission, or his designee;

D. A representative of the U.S. Department of State, or his designee;

E. A representative of the State of Alaska.

OFFICERS AND TERMS OF OFFICE

The Council officers shall be a Chairman and a Vice-Chairman, with a term of office of one year each.

STAFF

A. Composition: The staff of the Council shall comprise an Executive Director, Administration Officer, Executive Secretary, and such other staff as are necessary to carry out Council activities.

B. Function: The staff is responsible for administration and execution of Council operations. Functions include budget preparation, financial management, procurement, coordination of planning efforts, liaison between Council committees or advisory panels and fishery planning teams, maintenance of Council records, correspondence, preparation of required Council reports, and other administrative activities.

C. Employment Practices: The Council is an equal opportunity employer in full compliance with all requirements of the nondiscrimination clause attached to this Statement. Council staff positions are filled solely on the basis of merit, fitness, competence, and qualifications.

1. In setting rates of pay for Council staff, the principle of equal pay for substantially equal work shall be followed. Variations in basic rates of pay should be in proportion to substantial differences in the difficulty and responsibilities of the work performed.

2. Employees of the Council shall be granted paid leave for holidays, vacations or exigencies, sickness, and civic duties (jury, military reserve obligations) as determined by the Council. Paid annual leave shall not exceed 20 days per year, and sick leave shall not exceed 13 days per year.

3. The Council shall provide its employees the opportunity to participate in group medical insurance, life insurance, and retirement plans and pay a reasonable proportion of the cost of such plans.

4. The Councils are responsible for maintaining high standards of ethical conduct among themselves and their staffs. These standards include the following principles:

a. No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of influencing or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

b. No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his or her political affiliation.

c. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.

d. No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

e. No Council member or employee of the Council shall use or allow the use of, for other than official purposes, information obtained through or in connection with his or her Council employment which has not been made available to the general public.

f. No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral, or disgraceful conduct prejudicial to the Council.

No Council member or employee of the Council shall use Council property on other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

STANDING COMMITTEES OF COUNCIL MEMBERS

The Pacific Council has no standing committees of Council members. In the event such a committee is established in the future, the Council shall file an amendment to this Statement with the required information.

MEETINGS

A. Frequency: The Council shall meet as often as is necessary to discharge its duties, but shall meet at least once in each quarter of the fiscal year.

B. Duration: Council meetings shall vary in duration, except that every meeting shall last at least one full day.

C. Location: Council meetings shall occur throughout the area of concern of the Council. Criteria for selection of meeting locations shall include ease of transportation for both Council members and the public. The Council shall endeavor to meet in the area in which persons reside who might be immediately affected by actions taken by the Council at that particular meeting.

D. Agenda or Orders of Business: Notice of Council meetings with agenda will be published in the FEDERAL REGISTER at least 20 days prior to the meeting. The Council will also issue Press Releases and use other media to announce time, location, and agenda for each meeting.

E. Minutes: Detailed minutes will be kept of all Council meetings. Summary minutes will be prepared for all open portions of Council meetings and will be made available to the public through both public and private groups and organizations; for example, Sea Grant institutions, Marine Advisory Program Offices of Sea Grant, environmental groups, trade associations, and libraries.

F. General Rules of Procedure: Councils will meet at the call of the Chairman or upon request of a majority of the voting members. Meetings shall be conducted in a manner to permit the greatest possible participation by all members of the Council and the public. Decisions by concensus are permitted except where the issue is Council approval or amendment of a Fishery Management Plan (including any proposed regulations), or comments for the Secretary on foreign fishing applications or Secretarially-prepared management plans. In these cases, a vote is required.

1. A majority of the voting members of any Council shall constitute a quorum for Council meetings, but one or more such members designated by the Council may hold hearings.

2. When there is a vote, the majority of the voting members present and voting shall rule. The use of proxy is not permitted.

3. The Council shall conduct all meetings and hearings within its geographic area of concern, except when interregional resources are concerned.

4. Voting members of the Council who dissent on any issue to be submitted to the Secretary are permitted to submit a statement of their reasons for dissent to the Secretary.

G. Authority of the Chair: The Chairman, or in his absence the Vice-Chairman, shall convene and preside over Council meetings. The Chairman may designate Council members to serve on such subcommittees of Council members as are established. The Chairman may also designate Council members to officiate at public hearings. The Chairman will retain full voting rights.

HEARINGS

The Council shall hold public hearings in order to provide the opportunity for all interested persons to be heard in the development of Fishery Management Plans, amendments thereto, and with respect to the administration and implementation of the Act. The Council may use its judgment regarding when and where such hearings should be held, provided they are held in the particular geographic area concerned.

A. Conduct: When it is determined that a hearing is appropriate, the Chairman of the Council will designate at least one voting member of the Council to officiate. Conduct of the hearing, beyond the stipulation that all points of view be given a chance for expression, is within the discretion of the hearing official under whatever instructions the Council may wish to provide.

B. Notice of hearings will be published in the FEDERAL REGISTER at least 20 days prior to the hearing. Advance notice also should be given in the local media where the hearing is to take place. Publicity should be sufficient to assure that all interested parties are aware of the opportunity to make their views known.

C. Record: An accurate record of the participants and their views, obtained by use of either a court reporter or detailed minutes, must be reported back to the Council and maintained as a part of the Council's official records.

SCIENTIFIC AND STATISTICAL COMMITTEE

The Pacific Council shall have a Scientific and Statistical Committee made up of scientists of national reputation from State and Federal agencies, academic institutions, and other sources. Members shall represent a wide range of disciplines required for preparation and review of management plans. The Committee shall meet at the call of the Council or with the approval of the Chairman. The Committee shall:

A. Identify scientific resources required for the development of management plans and recommend and/or designate resources for management plan teams.

B. Provide a multidisciplinary, blue-ribbon committee to review alternative management plans and advise the Council on their scientific content.

C. Assist the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's activities.

ADVISORY PANELS

The Pacific Council shall establish and select the members of an advisory panel for each fishery management unit for which a plan will be developed. Advisory panels are accountable to and report to the Council, and shall meet with the approval of the Council Chairman.

Advisory panels shall have representation from the several groups and interests concerned with management of the fishery resources in the area of the Pacific Council. The functions of panels shall be to advise the Council as to fishery management problems, to provide inputs to fishery management planning efforts, to advise the Council on the content and effects of management plans, and, through the Executive Director, to advise the Scientific and Statistical Committee as to potential participants on fishery management planning teams.

ORGANIZATION OF MANAGEMENT PLAN DEVELOPMENT TEAMS

A. Organization: Management plan development teams shall be working teams of State, Federal, and nongovernment specialists. A planning team shall be established for each management unit which will be the subject of a planning effort. The planning teams will report to the Council through the Executive Director.

B. Practices and Procedures: Planning teams will be established by the Council. The Scientific and Statistical Committee will recommend to the Council persons who should serve or agencies which should be represented on each planning team. Each team shall have a team leader or chairman. The team will meet or consult as needed with the appropriate advisory panel and the Scientific and Statistical Committee, with coordination being provided by the Executive Director. The Council will be informed of progress periodically. The team shall develop draft fishery management plans (FMP) considering all management alternatives and shall thoroughly evaluate the effects of such alternatives in terms of objectives or criteria determined by the Council. The planning team shall conduct its planning and evaluation effort in such a way as to satisfy the Fishery Conservation and Management Act requirements as well as National Environmental Policy Act (NEPA) requirements. Concurrently, each team shall prepare a draft environmental impact statement (DEIS). On completion of each DEIS/FMP, they will be transmitted to the Council through the Executive Director. Copies will be transmitted to the Scientific and Statistical Committee and the appropriate advisory panel for review and comment. Comments will be made to the Council. The Council will evaluate these comments and, if necessary, refer the DEIS/FMP back to the planning team for further work. The revised DEIS/FMP will be submitted to the Council. When the Council is satisfied with the DEIS/FMP, it will transmit the DEIS/FMP through the National Marine Fisheries Service (NMFS) Regional Director to the Department of Commerce so that a notice of availability may be published according to NEPA requirements. Following notification of the publishing of the notice of availability of the DEIS, the Council shall sponsor public hearings to solicit inputs and comments from those groups or individuals who might be affected by future regulatory action. Prior to holding public hearings on the DEIS/FMP, the Council will distribute copies widely so that all interests have an opportunity to review and consider the proposed action. After consideration of public comments, the planning team shall make such revision of the DEIS/FMP as the Council deems necessary and may draft proposed regulations. Upon final adoption of the fishery management plan, the Council shall transmit the final EIS/FMP through the NMFS Regional Director to the Secretary of Commerce for final approval and promulgation of implementing regulations. If the Council determines that emergency actions are needed, this procedure may be modified accordingly. Public hearings may be held prior to promulgation of regulations to implement a plan. Additional hearings may be held as deemed necessary during the development of fishery management plans.

BALANCE AMONG CRITERIA

A. Financial Responsibility: The organization structure of the Council clearly relates the decision making responsibility of the Council; the advisory nature of planning teams, advisory panels, and the Scientific and Statistical Committee; and the coordination responsibilities of the Executive Director.

B. Administrative Simplicity: The organization of the major units of the Council is along major functional lines, with clear lines of authority between and within individual units.

C. Flexibility: There is sufficient flexibility in the structure to allow for variations within separate units to accommodate changes in priorities or conditions. Separate fishery-related advisory panels are deemed more desirable than a single, multifishery advisory panel because the former can be established and terminated in accordance with shifts in priorities and representation can be more selective.

D. Independence and Relevance of Science: The Scientific and Statistical Committee is a separate unit in the Council's organizational structure, and Committee members have been selected on the basis of scientific expertise in several disciplines. This will assure that the Council receives independent and objective scientific advice on alternative management plans and consequences of these plans. Further, management planning teams will comprise representatives of diverse disciplines and interests, and these teams will present plan alternatives and evaluation for Council considerations. In this manner, planning teams will not make judgments as to whether a particular plan is "right" or "wrong", and evaluations should be complete and objective.

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E. Quality of Scientific and Technical Information: The Council has insured the integrity and independence of science through the organizational structure chosen. Selection of individuals to serve on the Scientific and Statistical Committee and the planning teams will be based on expertise and skills, thus assuring that the Council will receive high quality information.

F. Minimum Cost: The organizational structure of the Council is the most cost-effective means to carry out its functions. Fishery planning teams and advisory panels are temporary units which will function until a plan for the specific fishery has been developed and implemented. This approach provides resources for the planning effort without creating large and permanent planning teams or advisory panels. Resources can be assigned in accordance with shifts in priorities. Specialized resources can be obtained readily when necessary rather than being permanently retained at high cost.

FINANCIAL MANAGEMENT SYSTEM

Office of Management and Budget Circular No. A-110 provides uniform administrative requirements applicable to the Pacific Fishery Management Council, including standards for financial management, financial reporting, property management, and procurement. The Council will operate in full compliance with these standards.

A. Procurement/Property Management System: Management of this system will be a direct responsibility of the Staff Administrative Officer.

1. Contracts: Negotiated and advertised contracts will be administered under the same principles of equality and integrity outlined under the section "Employment Practices," and will generally follow the specifications normally characteristic of contracts with public entities (e.g., public announcement, emphasis on competition, change orders, etc.).

2. Purchases: Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Typical suspense systems will be maintained for any partial and undelivered procurements. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council Staff office.

3. Property: An accountability system of all durable or capitalized personal property will be maintained by means of an inventory system.

4. Real Property: The leasing, renting, and acquisition of real property and space will be effected in a manner consistent with customary practices related to contracts with public entities. Real property files will be maintained on all transactions, including litigation, connected therewith.

B. Fiscal Management System: The finance and budget control systems will be maintained in compliance with all Department of Commerce requirements, pursuant to the Act, Treasury Department (IRS) regulations, as well as any applicable local requirements (state, municipal, etc.).

1. Financial control will be effected by means of a basic document-oriented accrual accounting system, which will include provisions for at least the following: Direct labor (salary), indirect labor (employer contributions for FICA, life and health insurance, retirement, and unemployment taxes), travel expenses (transportation and subsistence), transportation of things, rent, and utilities, taxes (nonemployment), printing, communications, supplies, equipment, contracts, and any appropriate contra-accounts (depreciation, contract accruals, etc.)

2. As a minimum, a Cash Receipts and Disbursements Journal will be maintained and will be used to prepare periodic reports for review by the Executive Director, the Council, or Department of Commerce representatives. A complete financial status report will be completed on a monthly basis. The financial management system will be coordinated with the budget process so that current and projected fund usage can be determined at any time.

3. A separate payroll register, indicating all applicable expenses, will be maintained on each member of the Council and the Council staff.

4. All financial records will be kept until audited and/or approved for disposal by the appropriate Department of Commerce representative.

5. Specific details related to implementing the above will, in general, correspond to the NMPS 1976 model accounting system for Regional Councils.

RELATIONSHIP TO UNIFORM STANDARDS FOR COUNCIL ORGANIZATION

This Statement of Organization, Practices, and Procedures is intended to carry out and be in compliance with the requirement of the Interim Regulations published in the FEDERAL REGISTER on September 15, 1976, as Volume 41, No. 180, pages 39436-39445.

ATTACHMENT

NON-DISCRIMINATION CLAUSE

(a) The Pacific Fishery Management Council (the "Council" hereinafter) will not participate directly or indirectly (through contractual or other arrangements)

(1) in excluding any person in the United States, on the ground of race, color or national origin, from participating in, in denying the benefits of, or otherwise subjecting to discrimination under, the program to which this clause applies.

(2) in any act or course of conduct which on the ground of race, color or national origin:

(i) Denies to a person any service, financial aid, or other benefit provided under the program;

(ii) Provides any service, financial aid, or other benefit, to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subjects a person to segregation or separate treatment in any matter related to his receipt of any such service, financial aid, property, or other benefit under the program;

(iv) Restricts the person in any way in the enjoyment of services, facilities, or any other advantage, privilege, property, or benefit provided to others under the program;

(v) Treats a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vii) Denies a person an opportunity to participate in the program through the provision of property or services or otherwise, or affords him an opportunity to do so which is different from that afforded others under the program; and

(vii) Denies to the person the same opportunity or consideration given others to be selected or retained or otherwise to participate as a contractor or subcontractor when a program is applicable thereto.

(3) in utilizing criteria or methods of administration in determining the types of services, financial aid, or other benefits, or facilities which will be provided or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided, or the class of persons to be afforded an opportunity to participate in, the program to which this clause applies, which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect any persons of a particular race, color, or national origin.

(b) The Council agrees to secure the compliance or to cooperate actively with the Department of Commerce to secure the compliance by others with this non-discrimination clause. In the event that the Council becomes involved in litigation with a noncomplying party as a result of such action, the Council may request the Department to enter into such litigation to protect the interests of the United States.

(c) The Council shall not take action that is calculated to bring about indirectly what this clause forbids it to accomplish directly.

(d) The Council gives the United States a right to seek Judicial enforcement of the provisions under this clause.

(e) This clause shall be in effect for the duration of the period during which Federal financial assistance is extended to the Council.

(f) The Council will include the provisions of paragraphs 1 through 4 in every subgrant, contract, subcontract or lease so that such provisions will be binding upon such subgrantee, contractor, subcontractor or lessee directly or indirectly receives reimbursement or payment from the Federal financial assistance provided under this specific program or non-Federal funds, property, facilities, or other resources provided to meet the conditions under which such Federal financial assistance will be received, but this requirement excludes contracts, subcontracts, or leases (including purchase orders) for commercial equipment, supplies or services (including utilities), the price for which is based on established catalog or market prices for such items or services sold in substantial quantities to the general public or is set by law or regulation.

(g) In addition to the explicit and implicit statements in this section affecting discrimination for reasons of race, creed or national origin, discrimination against persons for reasons of sex are prohibited.

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federal register

WEDNESDAY, MAY 4, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NONDISCRIMINATION ON BASIS OF HANDICAP

Programs and Activities Receiving or Benefiting from Federal Financial Assistance

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Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 84—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: This regulation implements section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, with regard to federal financial assistance administered by the Department of Health, Education, and Welfare. Section 504 provides that "no otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." The regulation, which applies to all recipients of federal assistance from HEW, is intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap. The regulation defines and forbids acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from the Department. As employers, recipients must make reasonable accommodation to the handicaps of applicants and employees unless the accommodation would cause the employer undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, to ensure that new facilities are constructed so as to be readily accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

EFFECTIVE DATE: June 3, 1977.

FOR FURTHER INFORMATION, CONTACT:

John Wodatch, Director, Office of New Programs, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202–245–1821.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of the Rehabilitation Act of 1973 (Public Law 93–112) Congress enacted section 504, which provides that "no otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financal assistance." In the same statute, Congress defined the term "handicapped individual" solely with relationship to employment; section 7(6) of the 1973 Act defined the term "handicapped individual" as "any individual who (a) has a physical or mental disability which for such individual constitutes or results in substantial handicap to employment and (b) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services * * *." However, the following year, in section 111(a) of the Rehabilitation Act Amendments of 1974 (Public Law 93–516), Congress amended the definition of "handicapped individual" for purposes of section 504 and the other provisions of titles IV and V of the Rehabilitation Act so that the definition is no longer limited to the dimension of employability. For purposes of section 504 of the Act, a "handicapped individual" is defined as "any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment." With this amended definition, it became clear that section 504 was intended to forbid discrimination against all handicapped individuals, regardless of their need for or ability to benefit from vocational rehabilitation services.

Section 504 thus represents the first Federal civil rights law protecting the rights of handicapped persons and reflects a national commitment to end discrimination on the basis of handicap. The language of section 504 is almost identical to the comparable nondiscrimination provisions of title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 (applying to racial discrimination and to discrimination in education on the basis of sex). It establishes a mandate to end discrimination and to bring handicapped persons into the mainstream of American life. The Secretary intends vigorously to implement and enforce that mandate.

THE PROBLEM OF DISCRIMINATION

From the outset, the Department has recognized that the problem of ending discrimination on the basis of handicap presents considerations that are extremely complex. The diversity of types of handicaps, as well as the wide variety of settings in which programs financed by the Department are offered, make the task of prescribing general rules of nondiscriminatory treatment a difficult one.

There is overwhelming evidence that in the past many handicapped persons have been excluded from programs entirely or denied equal treatment, simply because they are handicapped. But eliminating such gross exclusions and denials of equal treatment is not sufficient to assure genuine equal opportunity. In drafting a regulation to prohibit exclusion and discrimination, it became clear that different or special treatment of handicapped persons, because of their handicaps, may be necessary in a number of contexts in order to ensure equal opportunity. Thus, for example, it is meaningless to "admit" a handicapped person in a wheelchair to a program if the program is offered only on the third floor of a walk-up building. Nor is one providing equal educational opportunity to a deaf child by admitting him or her to a classroom but providing no means for the child to understand the teacher or receive instruction.

These problems have been compounded by the fact that ending discriminatory practices and providing equal access to programs may involve major burdens on some recipients. Those burdens and costs, to be sure, provide no basis for exemption from section 504 or this regulation: Congress' mandate to end discrimination is clear. But it is also clear that factors of burden and cost had to be taken into account in the regulation in prescribing the actions necessary to end discrimination and to bring handicapped persons into full participation in federally financed programs and activities.

The very general language of section 504 itself and the scant legislative history surrounding its enactment provide little guidance as to how these complex issues should be resolved. The rulemaking process in which the Department has engaged has, however, provided a basis for an initial resolution of those issues. The Secretary believes the resulting regulation offers genuine promise of providing an effective and workable program for ending discrimination against handicapped persons.

RULEMAKING HISTORY

On May 17, 1976, the Department published a Notice of Intent to Issue Proposed Rules, seeking public comment on fifteen identified critical issues. 41 FR 20296. A draft proposed rule was attached to the Notice of Intent, as was a statement of the estimated economic and inflationary impact of the draft proposal, prepared in accordance with the requirements of Executive Order 11821.

Over three hundred written comments were received in response to the Notice of Intent. The written comments were supplemented by a series of ten meetings conducted by the Office for Civil Rights at various locations across the country.

On July 16, 1976, the Department published a Notice of Proposed Rulemaking analyzing comments received on the critical issues identified in the Notice of Intent and setting forth a revised proposed regulation for public comment. 41 FR 29548. The initial 60-day comment period was extended in response to numerous requests until October 14, 1976. Additional comments received since that date have also been considered to the extent feasible. A total of more than 700 comments were received in response to the July 16 Notice of Proposed Rulemaking; they have been analyzed along with approximately 150 comments sent in response to May 17 Notice that were received too late to be analyzed during the first comment period. Finally, an additional twenty-two public meetings were held after publication of the July 16 Notice, again designed to inform interested persons and organizations of the proposed regulation and to solicit their comments and recommendations. Transcripts of all these meetings were made and analyzed along with the written comments. Copies of these transcripts, as well as the written comments, are available for public inspection in Room 5400, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The Secretary believes that both the written comments and the views expressed at the public meetings have illuminated the complex issues involved in implementing section 504 in an effective and workable fashion. The Secretary's response to the comments of interested parties, and the explanation for changes in the proposed regulation, are set forth in the section-by-section analysis of each subpart of the regulation, which appears as Appendix A to the regulation. As that analysis explains, a number of provisions in the proposed regulation have been eliminated as duplicative or unnecessary; others have been shortened or clarified. The goal throughout has been to design a regulation that preserves the essential elements of a strong and effective program for ending discrimination, while avoiding the imposition of unnecessary or counterproductive administrative obligations on recipients.

OVERVIEW OF REGULATION

The regulation is divided into seven subparts. Subpart A (General Provisions) defines the important terms that are used throughout the regulation and states in general terms the discriminatory acts that are prohibited. It also sets forth what the Secretary believes is a simple, workable system of administration: assurances of compliance, self-evaluation by recipients, establishment of grievance procedures, and notification of employes and beneficiaries of the recipient's policy of nondiscrimination on the basis of handicap. The regulation covers all types of physical and mental impairments, including drug addition and alcoholism.

Subpart B, dealing with employment practices, bars discrimination by recipients of HEW assistance in recruitment, hiring, compensation, job assignment and classification, and fringe benefits. It also requires employers to make reasonable accommodation to qualified handicapped applicants or employees unless it can be demonstrated that the accommodation would impose an undue hardship on the employer.

Subpart C sets forth the central requirement of the regulation—program accessibility. All new facilities are required to be constructed so as to be readily accessible to and usable by handicapped persons. Every existing facility need not be made physically accessible, but all recipients must ensure that programs conducted in those facilities are made accessible. While flexibility is allowed in choosing methods that in fact make programs in existing facilities accessible, structural changes in such facilities must be undertaken if no other means of assuring program accessibility is available.

Subparts A, B, and C of the regulation, as well as subpart G—which incorporates by reference the Department's procedures under title VI of the Civil Rights Act of 1964—apply to all recipients of financial assistance from the Department. The remaining subparts of the regulation contain more specific requirements applicable to three major classes of recipients.

Subpart D is concerned with preschool, elementary, and secondary education. Its provisions have been closely coordinated with those of the Education for All Handicapped Children Act of 1975 (Pub. L. 94–142). They require, basically, that recipients operating public education programs provide a free appropriate education to each qualified handicapped child in the most normal setting appropriate. The regulation also sets forth evaluation requirements designed to ensure the proper classification and placement of handicapped children, and due process procedures for resolving disputes over placement of students. While the Department does not intend to review individual placement decisions, it does intend to ensure that testing and evaluation procedures required by the regulation are carried out, and that school systems provide an adequate opportunity for parents to challenge and seek review of these critical decisions. And the Department will place a high priority on pursuing cases in which a pattern or practice of discriminatory placements may be involved.

Subpart E deals with postsecondary education. It proscribes discrimination against handicapped persons in recruitment, admission and treatment after admission. Colleges and universities are required to make reasonable adjustments to permit handicapped persons to fulfill academic requirements, and to ensure that they are not effectively excluded from programs because of the absence of auxiliary aids. Groups of colleges may not establish consortia exclusively for handicapped students.

Finally, Subpart F deals with health, welfare and other social service programs. It forbids discrimination in providing such services and requires larger recipients to provide auxiliary aids to handicapped individuals where necessary. Specific provisions require hospitals not to discriminate against addicts or alcoholics who need medical services and to establish emergency room procedures for communication with persons with impaired hearing. Under Subpart C, health and social service providers may satisfy their program accessibility obligations with respect to existing facilities by arranging to meet beneficiaries in accessible locations. In addition, small providers may refer patients or other beneficiaries to accessible providers as a "last resort" alternative to making significant structural changes.

EXECUTIVE ORDER 11914

Under Executive Order 11914 (41 FR 17871, April 28, 1976), the Department is required to issue general standards for other departments and agencies of the Federal government to follow in promulgating regulations implementing Section 504. This responsibility will be fulfilled promptly and independently from this regulation. The Department does, however, expect to incorporate the definition of handicapped person adopted in § 84.3 (j) of this regulation in the standards for determining what persons are covered by the Act. The Secretary also anticipates that the relevant provisions of Subparts A, B and C of the regulation will be the basis for guidelines, pursuant to the Executive Order, as to what are discriminatory practices.

ECONOMIC IMPACT

The Department has previously certified, in issuing the Notice of Intent and the Notice of Proposed Rulemaking, that the economic and inflationary impact of the proposed regulation had been carefully evaluated in accordance with OMB Circular A–107. That analysis, which was printed at 41 FR 20312 (May 17, 1976), has been revised and updated, and is available on request.

SECTION-BY-SECTION ANALYSIS OF REGULATION

Appended to the final regulation is a section-by-section analysis of the regulation, which describes the basis and purpose of each section, discusses significant comments, and explains the basis for any changes made from the proposed regulation published in July 1976.

In consideration of the foregoing, Part 84, to read as set forth below, is hereby ordered to be added to Title 45 of the Code of Federal Regulations.

Dated: April 28, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary, Department of Health, Education, and Welfare.

Subpart A—General Provisions

Sec.
84.1 Purpose.
84.2 Application.
84.3 Definitions.
84.4 Discrimination prohibited.
84.5 Assurances required.
84.6 Remedial action, voluntary action, and self-evaluation.
84.7 Designation of responsible employee and adoption of grievance procedures.
84.8 Notice.
84.9 Administrative requirements for small recipients.
84.10 Effect of state or local law or other requirements and effect of employment opportunities.

Subpart B—Employment Practices

84.11 Discrimination prohibited.
84.12 Reasonable accommodation.
84.13 Employment criteria.
84.14 Preemployment inquiries.
84.15–84.20 [Reserved]

Subpart C—Program Accessibility

84.21 Discrimination prohibited.
84.22 Existing facilities.
84.23 New construction.
84.24–84.30 [Reserved]

Subpart D—Preschool, Elementary, and Secondary Education

84.31 Application of this subpart.
84.32 Location and notification.
84.33 Free appropriate public education.
84.34 Educational setting.
84.35 Evaluation and placement.

V 42 N 86 MAY 4 77 UMI

Sec.
84.36 Procedural safeguards.
84.37 Nonacademic services.
84.38 Preschool and adult education programs.
84.39 Private education programs.
84.40 [Reserved]

Subpart E—Postsecondary Education

84.41 Application of this subpart.
84.42 Admissions and recruitment.
84.43 Treatment of students; general.
84.44 Academic adjustments.
84.45 Housing.
84.46 Financial and employment assistance to students.
84.47 Nonacademic services.
84.48–84.50 [Reserved]

Subpart F—Health, Welfare, and Social Services

84.51 Application of this subpart.
84.52 Health, welfare, and other social services.
84.53 Drug and alcohol addicts.
84.54 Education of institutionalized persons.
84.55–84.60 [Reserved]

Subpart G—Procedures

84.61 Procedures.
84.62–99 [Reserved]

APPENDIX A—ANALYSIS OF FINAL REGULATION

AUTHORITY: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706); sec. 606, Education of the Handicapped Act (20 U.S.C. 1405), as amended by Pub. L. 94–142, 89 Stat 795; sec. 321, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, 84 Stat. 182 (42 U.S.C. 4581), as amended; sec. 407, Drug Abuse Office and Treatment Act of 1972, 86 Stat. 78 (21 U.S.C. 1174), as amended.

Subpart A—General Provisions

§ 84.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 84.2 Application.

This part applies to each recipient of Federal financial assistance from the Department of Health, Education, and Welfare and to each program or activity that receives or benefits from such assistance.

§ 84.3 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93–516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Education of the Handicapped Act" means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94–142, 20 U.S.C. 1401 et seq.

(d) "Department" means the Department of Health, Education, and Welfare.

(e) "Director" means the Director of the Office for Civil Rights of the Department.

(f) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(h) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) "Handicapped person." (1) "Handicapped persons" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (j)(1) of this section, the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life acitivities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool elementary, secondary, or adult educational services, a handicapped person (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) to whom a state is required to provide a free appropriate public education under § 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(l) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

§ 84.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

§ 84.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Director, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Director may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 84.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipients to take remedial action.

(3) The Director may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evalution.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years followed completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) a list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

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§ 84.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§84.8 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 84.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 84.9 Administrative requirements for small recipients.

The Director may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 84.7 and 84.8, in whole or in part, when the Director finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 84.10 Effect of state or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart B—Employment Practices

§ 84.11 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient that receives assistance under the Education of the Handicapped Act shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under that Act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absense, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 84.12 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 84.13 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Director to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 84.14 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 84.6 (a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 84.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided*, That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, *Provided*, That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 84.15—84.20 [Reserved]

Subpart C—Program Accessibility

§ 84.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 84.22 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 84.23, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare, or other social service providers.* If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 84.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1961 (R1971)),[1] which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

[1] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

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§§ 84.24–84.30 [Reserved]

Subpart D—Preschool, Elementary, and Secondary Education

§ 84.31 Application of this subpart.

Subpart D applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from federal financial assistance and to recipients that operate, or that receive or benefit from federal financial assistance for the operation of, such programs or activities.

§ 84.32 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 84.33 Free appropriate public education.

(a) *General.* A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) *Appropriate education.* (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 84.34, 84.35, and 84.36.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education*—(1) *General.* For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on nonhandicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) *Transportation.* If a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the program operated by the recipient.

(3) *Residential placement.* If placement in a public or private residential program is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the program, including nonmedical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) *Placement of handicapped persons by parents.* If a recipient has made available, in conformance with the requirements of this section and § 84.34, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of § 84.36.

(d) *Compliance.* A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than September 1, 1978.

§ 84.34 Educational setting.

(a) *Academic setting.* A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) *Nonacademic settings.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 84.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 84.35 Evaluation and placement.

(a) *Preplacement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.

(b) *Evaluation procedures.* A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 84.34.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 84.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guaradian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 84.37 Nonacademic services.

(a) *General.* (1) A recipient to which this subpart applies shall provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipient, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of § 84.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

§ 84.38 Preschool and adult education programs.

A recipient to which this subpart applies that operates a preschool education or day care program or activity or an adult education program or activity may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

§ 84.39 Private education programs.

(a) A recipient that operates a private elementary or secondary education program may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined in § 84.33(b)(1), within the recipient's program.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

(c) A recipient to which this section applies that operates special education programs shall operate such programs in accordance with the provisions of §§ 84.35 and 84.36. Each recipient to which this section applies is subject to the provisions of §§ 84.34, 84.37, and 84.38.

§ 84.40 [Reserved]

Subpart E—Postsecondary Education

§ 84.41 Application of this subpart.

Subpart E applies to postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from federal financial assistance and to recipients that operate, or that receive or benefit from federal financial assistance for the operation of, such programs or activities.

§ 84.42 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Director to be available;

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 84.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 84.6(b), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped, *Provided,* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct peri-

V 42 86 MAY 4 77 UMI

odic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 84.43 Treatment of students; general.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health, insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 84.44 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 84.45 Housing.

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 84.46 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 84.47 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of §84.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

§§ 84.48—84.50 [Reserved]

Subpart F—Health, Welfare, and Social Services

§ 84.51 Application of this subpart.

Subpart F applies to health, welfare, and other social service programs and activities that receive or benefit from federal financial assistance and to recipients that operate, or that receive or benefit from federal financial assistance for the operation of, such programs or activities.

§ 84.52 Health, welfare, and other social services.

(a) *General.* In providing health, welfare, or other social services or benefits, a recipient may not, on the basis of handicap:

(1) Deny a qualified handicapped person these benefits or services;

(2) Afford a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons;

(3) Provide a qualified handicapped person with benefits or services that are not as effective (as defined in § 84.4(b)) as the benefits or services provided to others;

(4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or

(5) Provide different or separate benefits or services to handicapped persons except where necessary to provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

(b) *Notice.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(c) *Emergency treatment for the hearing impaired.* A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.

(2) The Director may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(3) For the purpose of this paragraph, auxiliary aids may include brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.

§ 84.53 Drug and alcohol addicts.

A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suffering from a medical condition, because of the person's drug or alcohol abuse or alcoholism.

§ 84.54 Education of institutionalized persons.

A recipient to which this subpart applies and that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 84.3(k)(2), in its program or activity is provided an appropriate education, as defined in § 84.33(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Subpart D.

§§ 84.55–84.60 [Reserved]

Subpart G—Procedures

§ 84.61 Procedures.

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register, May 27, 1975. Incorporated documents are on file at the Office of the Federal Register.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 80.6–80.10 and Part 81 of this Title.

§§ 84.62–84.99 [Reserved]

APPENDIX A—ANALYSIS OF FINAL REGULATION

SUBPART A—GENERAL PROVISIONS

Definitions—1. *"Recipient".* Section 84.23 contains definitions used throughout the regulation. Most of the comments concerning § 84.3(f), which contains the definition of "recipient," commended the inclusion of recipients whose sole source of federal financial assistance is Medicaid. The Secretary believes that such Medicaid providers should be regarded as recipients under the statute and the regulation and should be held individually responsible for administering services in a nondiscriminatory fashion. Accordingly, § 84.3(f) has not been changed. Small Medicaid providers, however, are exempt from some of the regulation's administrative provisions (those that apply to recipients with fifteen or more employees). And such recipients will be permitted to refer patients to accessible facilities in certain limited circumstances under revised § 84.22(b). The Secretary recognizes the difficulties involved in federal enforcement of this regulation with respect to thousands of individual Medicaid providers. As in the case of title VI of the Civil Rights Act of 1964, the Office for Civil Rights will concentrate its compliance efforts on the state Medicaid agencies and will look primarily to them to ensure compliance by individual providers.

One other comment requested that the regulation specify that nonpublic elementary and secondary schools that are not otherwise recipients do not become recipients by virtue of the fact their students participate in certain federally funded programs. The Secretary believes it unnecessary to amend the regulation in this regard, because almost identical language in the Department's regulations implementing title VI and title IX of the Education Amendments of 1972 has consistently been interpreted so as not to render such schools recipients. These schools, however, are indirectly subject to the substantive requirements of this regulation through the application of § 84.4(b)(iv), which prohibits recipients from assisting agencies that discriminate on the basis of handicap in providing services to beneficiaries of the recipients' programs.

2. *"Federal financial assistance".* In § 84.3(h), defining federal financial assistance, a clarifying change has been made: procurement contracts are specifically excluded. They are covered, however, by the Department of Labor's regulation under section 503. The Department has never considered such contracts to be contracts of assistance; the explicit exemption has been added only to avoid possible confusion.

The proposed regulation's exemption of contracts of insurance or guaranty has been retained. A number of comments argued for its deletion on the ground that section 504, unlike title VI and title IX, contains no statutory exemption for such contracts. There is no indication, however, in the legislative history of the Rehabilitation Act of 1973 or of the amendments to that Act in 1974, that Congress intended section 504 to have a broader application, in terms of federal financial assistance, than other civil rights statutes. Indeed, Congress directed that section 504 be implemented in the same manner as titles VI and IX. In view of the long established exemption of contracts of insurance or guaranty under title VI, we think it unlikely that Congress intended section 504 to apply to such contracts.

In its May 1976 Notice of Intent, the Department suggested that the arrangement under which individual practitioners, hospitals, and other facilities receive reimbursement for providing services to beneficiaries under Part B of title XVIII of the Social Security Act (Medicare) constitutes a contract of insurance or guaranty and thus falls within the exemption from the regulation. This explanation oversimplified the Department's view of whether Medicare Part B constitutes Federal financial assistance. The Department's position has consistently been that, whether or not Medicare Part B arrangements involve a contract of insurance or guaranty, no Federal financial assistance flows from the Department to the doctor or other practitioner under the program, since Medicare Part B—like other social security programs—is basically a program of payments to direct beneficiaries.

3. *"Handicapped person".* Section 84.3(j), which defines the class of persons protected under the regulation, has not been substantially changed. The definition of handicapped person in paragraph (j)(1) conforms to the statutory definition of handicapped person that is applicable to section 504, as set forth in section 111(a) of the Rehabilitation Act Amendments of 1974, Pub. L. 93–516.

The first of the three parts of the statutory and regulatory definition includes any person who has a physical or mental impairment that substantially limits one or more major life activities. Paragraph (j)(2)(i) further defines physical or mental impairments. The definition does not set forth a list of specific diseases and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of any such list. The term includes, however, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and, as discussed below, drug addiction and alcoholism.

It should be emphasized that a physical or mental impairment does not constitute a handicap for purposes of section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities. Several comments observed the lack of any definition in the proposed regulation of the phrase "substantially limits." The Department does not believe that a definition of this term is possible at this time.

A related issue raised by several comments is whether the definition of handicapped person is unreasonably broad. Comments suggested narrowing the definition in various ways. The most common recommendation was that only "traditional" handicaps be covered. The Department continues to believe, however, that it has no flexibility within the statutory definition to limit the term to persons who have those severe, permanent,

V 42 86 MAY 4 77 UMI

or progressive conditions that are most commonly regarded as handicaps. The Department intends, however, to give particular attention in its enforcement of section 504 to eliminating discrimination against persons with the severe handicaps that were the focus of concern in the Rehabilitation Act of 1973.

The definition of handicapped person also includes specific limitations on what persons are classified as handicapped under the regulation. The first of the three parts of the definition specifies that only physical and mental handicaps are included. Thus, environmental, cultural, and economic disadvantage are not in themselves covered; nor are prison records, age, or homosexuality. Of course, if a person who has any of these characteristics also has a physical or mental handicap, the person is included within the definition of handicapped person.

In paragraph (j)(2)(i), physical or mental impairment is defined to include, among other impairments, specific learning disabilities. The Department will interpret the term as it is used in section 602 of the Education of the Handicapped Act, as amended. Paragraph (15) of section 602 uses the term "specific learning disabilities" to describe such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Paragraph (j)(2)(i) has been shortened, but not substantively changed, by the deletion of clause (C), which made explicit the inclusion of any condition which is mental or physical but whose precise nature is not at present known. Clauses (A) and (B) clearly comprehend such conditions.

The second part of the statutory and regulatory definition of handicapped person includes any person who has a record of a physical or mental impairment that substantially limits a major life activity. Under the definition of "record" in paragraph (j)(2)(iii), persons who have a history of a handicapping condition but no longer have the condition, as well as persons who have been incorrectly classified as having such a condition, are protected from discrimination under section 504. Frequently occurring examples of the first group are persons with histories of mental or emotional illness, heart disease, or cancer; of the second group, persons who have been misclassified as mentally retarded.

The third part of the statutory and regulatory definition of handicapped person includes any person who is regarded as having a physical or mental impairment that substantially limits one or more major life activities. It includes many persons who are ordinarily considered to be handicapped but who do not technically fall within the first two parts of the statutory definition, such as persons with a limp. This part of the definition also includes some persons who might not ordinarily be considered handicapped, such as persons with disfiguring scars, as well as persons who have no physical or mental impairment but are treated by a recipient as if they were handicapped.

4. *Drug addicts and alcoholics.* As was the case during the first comment period, the issue of whether to include drug addicts and alcoholics within the definition of handicapped person was of major concern to many commenters. The arguments presented on each side of the issue were similar during the two comment periods, as was the preference of commenters for exclusion of this group of persons. While some comments reflected misconceptions about the implications of including alcoholics and drug addicts within the scope of the regulation, the Secretary understands the concerns that underlie the comments on this question and recognizes that application of section 504 to active alcoholics and drug addicts presents sensitive and difficult questions that must be taken into account in interpretation and enforcement.

The Secretary has carefully examined the issue and has obtained a legal opinion from the Attorney General. That opinion concludes that drug addiction and alcoholism are "physical or mental impairments" within the meaning of section 7(6) of the Rehabilitation Act of 1973, as amended, and that drug addicts and alcoholics are therefore handicapped for purposes of section 504 if their impairment substantially limits one of their major life activities. The Secretary therefore believes that he is without authority to exclude these conditions from the definition. There is a medical and legal consensus that alcoholism and drug addiction are diseases, although there is disagreement as to whether they are primarily mental or physical. In addition, while Congress did not focus specifically on the problems of drug addiction and alcoholism in enacting section 504, the committees that considered the Rehabilitation Act of 1973 were made aware of the Department's long-standing practice of treating addicts and alcoholics as handicapped individuals eligible for rehabilitation services under the Vocational Rehabilitation Act.

The Secretary wishes to reassure recipients that inclusion of addicts and alcoholics within the scope of the regulation will not lead to the consequences feared by many commenters. It cannot be emphasized too strongly that the statute and the regulation apply only to discrimination against qualified handicapped persons solely by reason of their handicap. The fact that drug addiction and alcoholism may be handicaps does not mean that these conditions must be ignored in determining whether an individual is qualified for services or employment opportunities. On the contrary, a recipient may hold a drug addict or alcoholic to the same standard of performance and behavior to which it holds others, even if any unsatisfactory performance or behavior is related to the person's drug addiction or alcoholism. In other words, while an alcoholic or drug addict may not be denied services or disqualified from employment solely because of his or her condition, the behavioral manifestations of the condition may be taken into account in determining whether he or she is qualified.

With respect to the employment of a drug addict or alcoholic, if it can be shown that the addiction or alcoholism prevents successful performance of the job, the person need not be provided the employment opportunity in question. For example, in making employment decisions, a recipient may judge addicts and alcoholics on the same basis it judges all other applicants and employees. Thus, a recipient may consider—for all applicants including drug addicts and alcoholics—past personnel records, absenteeism, disruptive, abusive, or dangerous behavior, violations of rules and unsatisfactory work performance. Moreover, employers may enforce rules prohibiting the possession or use of alcohol or drugs in the work-place, provided that such rules are enforced against all employees.

With respect to services, there is evidence that drug addicts and alcoholics are often denied treatment at hospitals for conditions unrelated to their addiction or alcoholism. In addition, some addicts and alcoholics have been denied emergency treatment. These practices have been specifically prohibited by section 407 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174) and section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4581), as amended. These statutory provisions are also administered by the Department's Office for Civil Rights and are implemented in § 84.53 of this regulation.

With respect to other services, the implications of coverage of alcoholics and drug addicts are two-fold: first, no person may be excluded from services solely by reason of the presence or history of these conditions; second, to the extent that the manifestations of the condition prevent the person from meeting the basic eligibility requirements of the program or cause substantial interference with the operation of the program, the condition may be taken into consideration. Thus, a college may not exclude an addict or alcoholic as a student, on the basis of addiction or alcoholism, if the person can successfully participate in the education program and complies with the rules of the college and if his or her behavior does not impede the performance of other students.

Of great concern to many commenters was the question of what effect the inclusion of drug addicts and alcoholics as handicapped persons would have on school disciplinary rules prohibiting the use or possession of drugs or alcohol by students. Neither such rules nor their application to drug addicts or alcoholics is prohibited by this regulation, provided that the rules are enforced evenly with respect to all students.

5. *"Qualified handicapped person."* Paragraph (k) of § 84.3 defines the term "qualified handicapped person." Throughout the regulation, this term is used instead of the statutory term "otherwise qualified handicapped person." The Department believes that the omission of the word "otherwise" is necessary in order to comport with the intent of the statute because, read literally, "otherwise" qualified handicapped persons include persons who are qualified except for their handicap, rather than in spite of their handicap. Under such a literal reading, a blind person possessing all the qualifications for driving a bus except sight could be said to be "otherwise qualified" for the job of driving. Clearly, such a result was not intended by Congress. In all other respects, the terms "qualified" and "otherwise qualified" are intended to be interchangeable.

Section 84.3(k)(1) defines a qualified handicapped person with respect to employment as a handicapped person who can, with reasonable accommodation, perform the essential functions of the job in question. The term "essential functions" does not appear in the corresponding provision of the Department of Labor's section 503 regulation, and a few commenters objected to its inclusion on the ground that a handicapped person should be able to perform all job tasks. However, the Department believes that inclusion of the phrase is useful in emphasizing that handicapped persons should not be disqualified simply because they may have difficulty in performing tasks that bear only a marginal relationship to a particular job. Further, we are convinced that inclusion of the phrase is not inconsistent with the Department of Labor's application of its definition.

Certain commenters urged that the definition of qualified handicapped person be amended so as explicitly to place upon the employer the burden of showing that a particular mental or physical characteristic is essential. Because the same result is achieved by the requirement contained in paragraph (a) of § 84.13, which requires an employer to establish that any selection criterion that tends to screen out handicapped persons is job-related, that recommendation has not been followed.

Section 84.3(k)(2) (formerly § 84.3(k)(3)) defines qualified handicapped person, with respect to preschool, elementary, and secondary programs, in terms of age. Several commenters recommended that eligibility for the services be based upon the standard of substantial benefit, rather than age, because of the need of many handicapped children for early or extended services if they are to have an equal opportunity to benefit from education programs. No change has been made in this provision, again because of the extreme difficulties in administration that would result from the choice of the former standard. Under the remedial action provisions of § 84.6(a)(3), however, persons beyond the age limits prescribed in § 84.3(k)(2) may in appropriate cases be required to be provided services that they were formerly denied because of a recipient's violation of section 504.

Section 84.3(k)(2) states that a handicapped person is qualified for preschool, elementary, or secondary services if the person is of an age at which nonhandicapped persons are eligible for such services or at which state law mandates the provision of educational services to handicapped persons. In addition, the extended age ranges for which recipients must provide full educational opportunity to all handicapped persons in order to be eligible for assistance under the Education of the Handicapped Act—generally, 3–18 as of September 1978, and 3–21 as of September 1980 are incorporated by reference in this paragraph.

Section 84.3(k)(3) (formerly § 84.3(k)(2)) defines qualified handicapped person with respect to postsecondary educational programs. As revised, the paragraph means that both academic and technical standards must be met by applicants to these programs. The term "technical standards" refers to all nonacademic admissions criteria that are essential to participation in the program in question.

6. *General prohibitions against discrimination.* Section 84.4 contains general prohibitions against discrimination applicable to all recipients of assistance from this Department.

Paragraph (b)(1)(i) prohibits the exclusion of qualified handicapped persons from aids, benefits, or services, and paragraph (ii) requires that equal opportunity to participate or benefit be provided. Paragraph (iii) requires that services provided to handicapped persons be as effective as those provided to the nonhandicapped. In paragraph (iv), different or separate services are prohibited except when necessary to provide equally effective benefits.

In this context, the term "equally effective," defined in paragraph (b)(2), is intended to encompass the concept of equivalent, as opposed to identical, services and to acknowledge the fact that, in order to meet the individual needs of handicapped persons to the same extent that the corresponding needs of nonhandicapped persons are met, adjustments to regular programs or the provision of different programs may sometimes be necessary. For example, a welfare office that uses the telephone for communicating with its clients must provide alternative modes of communicating with its deaf clients. This standard parallels the one established under title VI of Civil Rights Act of 1964 with respect to the provision of educational services to students whose primary language is not English. See *Lau* v. *Nichols*, 414 U.S. 563 (1974). To be equally effective, however, an aid, benefit, or service need not produce equal results; it merely must afford an equal opportunity to achieve equal results.

It must be emphasized that, although separate services must be required in some instances, the provision of unnecessarily separate or different services is discriminatory. The addition to paragraph (b)(2) of the phrase "in the most integrated setting appropriate to the person's needs" is intended to reinforce this general concept. A new paragraph (b)(3) has also been added to § 84.4, requiring recipients to give qualified handicapped persons the option of participating in regular programs despite the existence of permissibly separate or different programs. The requirement has been reiterated in §§ 84.38 and 84.47 in connection with physical education and athletics programs.

Section 84.4(b)(1)(v) prohibits a recipient from supporting another entity or person that subjects participants or employees in the recipient's program to discrimination on the basis of handicap. This section would, for example, prohibit financial support by a recipient to a community recreational group or to a professional or social organization that discriminates against handicapped persons. Among the criteria to be considered in each case are the substantiality of the relationship between the recipient and the other entity, including financial support by the recipient, and whether the other entity's activities relate so closely to the recipient's program or activity that they fairly should be considered activities of the recipient itself. Paragraph (b)(1)(vi) was added in response to comment in order to make explicit the prohibition against denying qualified handicapped persons the opportunity to serve on planning and advisory boards responsible for guiding federally assisted programs or activities.

Several comments appeared to interpret § 84.4(b)(5), which proscribes discriminatory site selection, to prohibit a recipient that is located on hilly terrain from erecting any new buildings at its present site. That, of course, is not the case. This paragraph is not intended to apply to construction of additional buildings at an existing site. Of course, any such facilities must be made accessible in accordance with the requirements of § 84.23.

7. *Assurances of compliance.* Section 84.5(a) requires a recipient to submit to the Director an assurance that each of its programs and activities receiving or benefiting from federal financial assistance from this Department will be conducted in compliance with this regulation. To facilitate the submission of assurances by thousands of Medicaid providers, the Department will follow the title VI procedures of accepting, in lieu of assurances, certification on Medicaid vouchers. Many commenters also sought relief from the paperwork requirements imposed by the Department's enforcement of its various civil rights responsibilities by requesting the Department to issue one form incorporating title VI, title IX, and section 504 assurances. The Secretary is sympathetic to this request. While it is not feasible to adopt a single civil rights assurance form at this time, the Office for Civil Rights will work toward that goal.

8. *Private rights of action.* Several comments urged that the regulation incorporate provision granting beneficiaries a private right of action against recipients under section 504. To confer such a right is beyond the authority of the executive branch of government. There is, however, case law holding that such a right exists. *Lloyd* v. *Regional Transportation Authority*, 548 F. 2d 1277 (7th Cir. 1977); *see Hairston* v. *Drosick*, Civil No. 75–0691 (S.D. W. Va., Jan. 14, 1976); *Gurmankin* v. *Castanzo*, 411 F. Supp. 982 (E.D. Pa. 1976); *cf. Lau* v. *Nichols*, *supra*.

9. *Remedial action.* Where there has been a finding of discrimination, § 84.6 requires a recipient to take remedial action to overcome the effects of the discrimination. Actions that might be required under paragraph (a)(1) include provision of services to persons previously discriminated against, reinstatement of employees, and development of a remedial action plan. Should a recipient fail to take required remedial action, the ultimate sanctions of court action or termination of federal financial assistance may be imposed.

Paragraph (a)(2) extends the responsibility for taking remedial action to a recipient that exercises control over a noncomplying recipient. Paragraph (a)(3) also makes clear that handicapped persons who are not in the program at the time that remedial action is required to be taken may also be the subject of such remedial action. This paragraph has been revised in response to comments in order to include persons who would have been in the program if discriminatory practices had not existed. Paragraphs (a)(1), (2), and (3) have also been amended in response to comments to make plain that, in appropriate cases, remedial action might be required to redress clear violations of the statute itself that occurred before the effective date of this regulation.

10. *Voluntary action.* In § 84.6(b), the term "voluntary action" has been substituted for the term "affirmative action" because the use of the latter term led to some confusion. We believe the term "voluntary action" more accurately reflects the purpose of the paragraph. This provision allows action, beyond that required by the regulation, to overcome conditions that led to limited participation by handicapped persons, whether or not the limited participation was caused by any discriminatory actions on the part of the recipient. Several commenters urged that paragraphs (a) and (b) be revised to require remedial action to overcome effects of prior discriminatory practices regardless of whether there has been an express finding of discrimination. The self-evaluation requirement in paragraph (c) accomplishes much the same purpose.

11. *Self-evaluation.* Paragraph (c) requires recipients to conduct a self-evaluation in order to determine whether their policies or practices may discriminate against handicapped persons and to take steps to modify any discriminatory policies and practices and their effects. The Department received many comments approving of the addition to paragraph (c) of a requirement that recipients seek the assistance of handicapped persons in the self-evaluation process. This paragraph has been further amended to require consultation with handicapped persons or organizations representing them before recipients undertake the policy modifications and remedial steps prescribed in paragraphs (c)(ii) and (iii).

Paragraph (c)(2), which sets forth the recordkeeping requirements concerning self-evaluation, now applies only to recipients with fifteen or more employees. This change was made as part of an effort to reduce unnecessary or counterproductive administrative obligations on small recipients. For those recipients required to keep records, the requirements have been made more specific; records must include a list of persons consulted and a description of areas examined, problems identified, and corrective steps taken. Moreover, the records must be made available for public inspection.

12. *Grievance procedure.* Section 84.7 (formerly § 84.8) requires recipients with fifteen or more employees to designate an individual responsible for coordinating its compliance efforts and to adopt a grievance procedure. Two changes were made in the section in response to comment. A general requirement that appropriate due process procedures be followed has been added. It was decided that the details of such procedures could not at this time be specified because of the varied nature of the persons and entities who must establish the procedures and of the programs to which they apply. A sentence was also added to make clear that

V 42 86 MAY 4 77 UMI

grievance procedures are not required to be made available to unsuccessful applicants for employment or to applicants for admission to colleges and universities.

The regulation does not require that grievance procedures be exhausted before recourse is sought from the Department. However, the Secretary believes that it is desirable and efficient in many cases for complainants to seek resolution of their complaints and disputes at the local level and therefore encourages them to use available grievance procedures.

A number of comments asked whether compliance with this section or the notice requirements of § 84.8 could be coordinated with comparable action required by the title IX regulation. The Department encourages such efforts.

13. *Notice.* Section 84.8 (formerly § 84.9) sets forth requirements for dissemination of statements of nondiscrimination policy by recipients.

It is important that both handicapped persons and the public at large be aware of the obligations of recipients under section 504. Both the Department and recipients have responsibilities in this regard. Indeed the Department intends to undertake a major public information effort to inform persons of their rights under section 504 and this regulation. In § 84.8 the Department has sought to impose a clear obligation on major recipients to notify beneficiaries and employees of the requirements of section 504, without dictating the precise way in which this notice must be given. At the same time, we have avoided imposing requirements on small recipients (those with fewer than fifteen employees) that would create unnecessary and counterproductive paperwork burdens on them and unduly stretch the enforcement resources of the Department.

Section 84.8(a), as simplified, requires recipients with fifteen or more employees to take appropriate steps to notify beneficiaries and employees of the recipient's obligations under section 504. The last sentence of § 84.8 (a) has been revised to list possible, rather than required, means of notification. Section 84.8(b) requires recipients to include a notification of their policy of nondiscrimination in recruitment and other general information materials.

In response to a number of comments, § 84.8 has been revised to delete the requirements of publication in local newspapers, which has proved to be both troublesome and ineffective. Several commenters suggested that notification on separate forms be allowed until present stocks of publications and forms are depleted. The final regulation explicitly allows this method of compliance. The separate form should, however, be included with each significant publication or form that is distributed.

Former § 84.9(b)(2), which prohibited the use of materials that might give the impression that a recipient excludes qualified handicapped persons from its program, has been deleted. The Department is convinced by the comments that this provision is unnecessary and difficult to apply. The Department encourages recipients, however, to include in their recruitment and other general information materials photographs of handicapped persons and ramps and other features of accessible buildings.

Under new § 84.9 the Director may, under certain circumstances, require recipients with fewer than fifteen employees to comply with one or more of these requirements. Thus, if experience shows a need for imposing notice or other requirements on particular recipients or classes of small recipients, the Department is prepared to expand the coverage of these sections.

14. *Inconsistent State laws.* Section 84.10 (a) states that compliance with the regulation is not excused by state or local laws limiting the eligibility of qualified handicapped persons to receive services or to practice an occupation. The provision thus applies only with respect to state or local laws that unjustifiably differentiate on the basis of handicap.

Paragraph (b) further points out that the presence of limited employment opportunities in a particular profession does not excuse a recipient from complying with the regulation. Thus, a law school could not deny admission to a blind applicant because blind lawyers may find it more difficult to find jobs than do nonhandicapped lawyers.

Subpart B—Employment Practices

Subpart B prescribes requirements for nondiscrimination in the employment practices of recipients of federal financial assistance administered by the Department. This subpart is consistent with the employment provisions of the Department's regulation implementing title IX of the Education Amendments of 1972 (45 CFR Part 86) and the regulation of the Department of Labor under section 503 of the Rehabilitation Act, which requires certain Federal contractors to take affirmative action in the employment and advancement of qualified handicapped persons. All recipients subject to title IX are also subject to this regulation. In addition, many recipients subject to this regulation receive federal procurement contracts in excess of $2500 and are therefore also subject to section 503.

15. *Discriminatory practices.* Section 84.11 sets forth general provisions with respect to discrimination in employment. A new paragraph (a)(2) has been added to clarify the employment obligations of recipients that receive federal funds under Part B of the Education of the Handicapped Act, as amended (EHA). Section 606 of the EHA obligates elementary or secondary school systems that receive EHA funds to take positive steps to employ and advance in employment qualified handicapped persons. This obligation is similar to the nondiscrimination requirement of section 504 but requires recipients to take additional steps to hire and promote handicapped persons. In enacting section 606 Congress chose the words "positive steps" instead of "affirmative action" advisedly and did not intend section 606 to incorporate the types of activities required under Executive Order 11246 (affirmative action on the basis of race, color, sex, or national origin) or under sections 501 and 503 of the Rehabilitation Act of 1973.

Paragraph (b) of § 84.11 sets forth the specific aspects of employment covered by the regulation. Paragraph (c) provides that inconsistent provisions of collective bargaining agreements do not excuse noncompliance.

16. *Reasonable accommodation.* The reasonable accommodation requirement of § 84.12 generated a substantial number of comments. The Department remains convinced that its approach is both fair and effective. Moreover, the Department of Labor reports that it has experienced little difficulty in administering the requirement of reasonable accommodation. The provision therefore remains basically unchanged from the proposed regulation.

Section 84.12 requires a recipient to make reasonable accommodation to the known physical or mental limitations of a handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program. Where a handicapped person is not qualified to perform a particular job, where reasonable accommodation does not overcome the effects of a person's handicap, or where reasonable accommodation causes undue hardship to the employer, failure to hire or promote the handicapped person will not be considered discrimination.

Section 84.12(b) lists some of the actions that constitute reasonable accommodation. The list is neither all-inclusive nor meant to suggest that employers must follow all of the actions listed.

Reasonable accommodation includes modification of work schedules, including part-time employment, and job restructuring. Job restructuring may entail shifting nonessential duties to other employees. In other cases, reasonable accommodation may include physical modifications or relocation of particular offices or jobs so that they are in facilities or parts of facilities that are accessible to and usable by handicapped persons. If such accommodations would cause undue hardship to the employer, they need not be made.

Paragraph (c) of this section sets forth the factors that the Office for Civil Rights will consider in determining whether an accommodation necessary to enable an applicant or employee to perform the duties of a job would impose an undue hardship. The weight given to each of these factors in making the determination as to whether an accommodation constitutes undue hardship will vary depending on the facts of a particular situation. Thus, a small day-care center might not be required to expend more than a nominal sum, such as that necessary to equip a telephone for use by a secretary with impaired hearing, but a large school district might be required to make available a teacher's aide to a blind applicant for a teaching job. Further, it might be considered reasonable to require a state welfare agency to accommodate a deaf employee by providing an interpreter, while it would constitute an undue hardship to impose that requirement on a provider of foster home care services.

The reasonable accommodation standard in § 84.12 is similar to the obligation imposed upon federal contractors in the regulation implementing section 503 of the Rehabilitation Act of 1973, administered by the Department of Labor. Although the wording of the reasonable accommodation provisions of the two regulations is not identical, the obligation that the two regulations impose is the same, and the federal government's policy in implementing the two sections will be uniform. The Department adopted the factors listed in paragraph (c) instead of the "business necessity" standard of the Labor regulation because that term seemed inappropriate to the nature of the programs operated by the majority of institutions subject to this regulation, e.g., public school systems, hospitals, colleges and universities, nursing homes, day-care centers, and welfare offices. The factors listed in paragraph (c) are intended to make the rationale underlying the business necessity standard applicable to and understandable by recipients of HEW funds.

17. *Tests and selection criteria.* Revised § 84.13(a) prohibits employers from using test or other selection criteria that screen out or tend to screen out handicapped persons unless the test or criterion is shown to be job-related and alternative tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Director to be available. This paragraph is an application of the principle established under title VII of the Civil Rights Act of 1964 in *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971).

Under the proposed section, a statistical showing of adverse impact on handicapped persons was required to trigger an employer's obligation to show that employment criteria

and qualifications relating to handicap were necessary. This requirement was changed because the small number of handicapped persons taking tests would make statistical showings of "disproportionate, adverse effect" difficult and burdensome. Under the altered, more workable provision, once it is shown that an employment test substantially limits the opportunities of handicapped persons, the employer must show the test to be job-related. A recipient is no longer limited to using predictive validity studies as the method for demonstrating that a test or other selection criterion is in fact job-related. Nor, in all cases, are predictive validity studies sufficient to demonstrate that a test or criterion is job-related. In addition, § 84.13(a) has been revised to place the burden on the Director, rather than the recipient, to identify alternate tests.

Section 84.13(b) requires that a recipient take into account that some tests and criteria depend upon sensory, manual, or speaking skills that may not themselves be necessary to the job in question but that may make the handicapped person unable to pass the test. The recipient must select and administer tests so as best to ensure that the test will measure the handicapped person's ability to perform on the job rather than the person's ability to see, hear, speak, or perform manual tasks, except, of course, where such skills are the factors that the test purports to measure. For example, a person with a speech impediment may be perfectly qualified for jobs that do not or need not, with reasonable accommodation, require ability to speak clearly. Yet, if given an oral test, the person will be unable to perform in a satisfactory manner. The test results will not, therefore, predict job performance but instead will reflect impaired speech.

18. *Preemployment inquiries.* Section 84.14, concerning preemployment inquiries, generated a large number of comments. Commenters representing handicapped persons strongly favored a ban on preemployment inquiries on the ground that such inquiries are often used to discriminate against handicapped persons and are not necessary to serve any legitimate interests of employers. Some recipients, on the other hand, argued that preemployment inquiries are necessary to determine qualifications of the applicant, safety hazards caused by a particular handicapping condition, and accommodations that might be required.

The Secretary has concluded that a general prohibition of preemployment inquiries is appropriate. However, a sentence has been added to paragraph (a) to make clear that an employer may inquire into an applicant's ability to perform job-related tasks but may not ask if the person has a handicap. For example, an employer may not ask on an employment form if an applicant is visually impaired but may ask if the person has a current driver's license (if that is a necessary qualification for the position in question). Similarly, employers may make inquiries about an applicant's ability to perform a job safely. Thus, an employer may not ask if an applicant is an epileptic but may ask whether the person can perform a particular job without endangering other employees.

Section 84.14(b) allows preemployment inquiries only if they are made in conjunction with required remedial action to correct past discrimination, with voluntary action to overcome past conditions that have limited the participation of handicapped persons, or with obligations under section 503 of the rehabilitation Act of 1973. In these instances, paragraph (b) specifies certain safeguards that must be followed by the employer.

Finally, the revised provision allows an employer to condition offers of employment to handicapped persons on the results of medical examinations, so long as the examinations are administered to all employees in a nondiscriminatory manner and the results are treated on a confidential basis.

19. *Specific acts of Discrimination.* Sections 84.15 (recruitment), 84.16 (compensation), 84.17 (job classification and structure) and 84.18 (fringe benefits) have been deleted from the regulation as unnecessarily duplicative of § 84.11 (discrimination prohibited). The deletion of these sections in no way changes the substantive obligations of employers subject to this regulation from those set forth in the July 16 proposed regulation. These deletions bring the regulation closer in form to the Department of Labor's section 503 regulation.

Proposed § 84.18, concerning fringe benefits, had allowed for differences in benefits or contributions between handicapped and nonhandicapped persons in situations only where such differences could be justified on an actuarial basis. Section 84.11 simply bars discrimination in providing fringe benefits and does not address the issue of actuarial differences. The Department believes that currently available data and experience do not demonstrate a basis for promulgating a regulation specifically allowing for differences in benefits or contributions.

Subpart C—Program Accessibility

In general, Subpart C prohibits the exclusion of qualified handicapped persons from federally assisted programs or activities because a recipient's facilities are inaccessible or unusable.

20. *Existing facilities.* Section 84.22 maintains the same standard for nondiscrimination in regard to existing facilities as was included in the proposed regulation. The section states that a recipient's program or activity, when viewed in its entirety, must be readily accessible to and usable by handicapped persons. Paragraphs (a) and (b) make clear that a recipient is not required to make each of its existing facilities accessible to handicapped persons if its program as a whole is accessible. Accessibility to the recipient's program or activity may be achieved by a number of means, including redesign of equipment, reassignment of classes or other services to accessible buildings, and making aides available to beneficiaries. In choosing among methods of compliance, recipients are required to give priority consideration to methods that will be consistent with provision of services in the most appropriate integrated setting. Structural changes in existing facilities are required only where there is no other feasible way to make the recipient's program accessible.

Under § 84.22, a university does not have to make all of its existing classroom buildings accessible to handicapped students if some of its buildings are already accessible and if it is possible to reschedule or relocate enough classes so as to offer all required courses and a reasonable selection of elective courses in accessible facilities. If sufficient relocation of classes is not possible using existing facilities, enough alterations to ensure program accessibility are required. A university may not exclude a handicapped student from a specifically requested course offering because it is not offered in an accessible location, but it need not make every section of that course accessible.

Commenters representing several institutions of higher education have suggested that it would be appropriate for one postsecondary institution in a geographical area to be made accessible to handicapped persons and for other colleges and universities in that area to participate in that school's program, thereby developing an educational consortium for the postsecondary education of handicapped students. The Department believes that such a consortium, when developed and applied only to handicapped persons, would not constitute compliance with § 84.22, but would discriminate against qualified handicapped persons by restricting their choice in selecting institutions of higher education and would, therefore, be inconsistent with the basic objectives of the statute.

Nothing in this regulation, however, should be read as prohibiting institutions from forming consortia for the benefit of all students. Thus, if three colleges decide that it would be cost-efficient for one college to offer biology, the second physics, and the third chemistry to all students at the three colleges, the arrangement would not violate section 504. On the other hand, it would violate the regulation if the same institutions set up a consortium under which one college undertook to make its biology lab accessible, another its physics lab, and a third its chemistry lab, and under which mobility-impaired handicapped students (but not other students) were required to attend the particular college that is accessible for the desired courses.

Similarly, while a public school district need not make each of its buildings completely accessible, it may not make only one facility or part of a facility accessible if the result is to segregate handicapped students in a single setting.

All recipients that provide health, welfare, or other social services may also comply with § 84.22 by delivering services at alternate accessible sites or making home visits. Thus, for example, a pharmacist might arrange to make home deliveries of drugs. Under revised § 84.22(c), small providers of health, welfare, and social services (those with fewer than fifteen employees) may refer a beneficiary to an accessible provider of the desired service, but only if no means of meeting the program accessibility requirement other than a significant alteration in existing facilities is available. The referring recipient has the responsibility of determining that the other provider is in fact accessible and willing to provide the service. The Secretary believes this "last resort" referral provision is appropriate to avoid imposition of additional costs in the health care area, to encourage providers to remain in the Medicaid program, and to avoid imposing significant costs on small, low-budget providers such as day-care centers or foster homes.

A recent change in the tax law may assist some recipients in meeting their obligations under this section. Under section 2122 of the Tax Reform Act of 1976, recipients that pay federal income tax are eligible to claim a tax deduction of up to $25,000 for architectural and transportation modifications made to improve accessibility for handicapped persons. Many physicians and dentists, among others, may be eligible for this tax deduction. See 42 FR 17870 (April 4, 1977), adopting 26 CFR 7.190.

Several commenters expressed concern about the feasibility of compliance with the program accessibility standard. The Secretary believes that the standard is flexible enough to permit recipients to devise ways to make their programs accessible short of extremely expensive or impractical physical changes in facilities. Accordingly, the section does not allow for waivers. The Department is ready at all times to provide technical assistance to recipients in meeting their program accessibility responsibilities. For this purpose, the Department is establishing a special technical assistance unit. Recipients are encouraged to call upon the unit

V 42 86 MAY 4 77 UMI

staff for advice and guidance both on structural modifications and on other ways of meeting the program accessibility requirement.

Paragraph (d) has been amended to require recipients to make all nonstructural adjustments necessary for meeting the program accessibility standard within sixty days. Only where structural changes in facilities are necessary will a recipient be permitted up to three years to accomplish program accessibility. It should be emphasized that the three-year time period is not a waiting period and that all changes must be accomplished as expeditiously as possible. Further, it is the Department's belief, after consultation with experts in the field, that outside ramps to buildings can be constructed quickly and at relatively low cost. Therefore, it will be expected that such structural additions will be made promptly to comply with § 84.22(d).

The regulation continues to provide, as did the proposed version, that a recipient planning to achieve program accessibility by making structural changes must develop a transition plan for such changes within six months of the effective date of the regulation. A number of commenters suggested extending that period to one year. The Secretary believes that such an extension is unnecessary and unwise. Planning for any necessary structural changes should be undertaken promptly to ensure that they can be completed within the three-year period. The elements of the transition plan as required by the regulation remain virtually unchanged from the proposal but § 84.22(d) now includes a requirement that the recipient make the plan available for public inspection.

Several commenters expressed expressed concern that the program accessibility standard would result in the segregation of handicapped persons in educational institutions. The regulation will not be applied to permit such a result. See § 84.4(c)(2)(iv), prohibiting unnecessarily separate treatment; § 84.35, requiring that students in elementary and secondary schools be educated in the most integrated setting appropriate to their needs; and new § 84.43(d), applying the same standard to postsecondary education.

We have received some comments from organizations of handicapped persons on the subject of requiring, over an extended period of time, a barrier-free environment—that is, requiring the removal of all architectural barriers in existing facilities. The Department has considered these comments but has decided to take no further action at this time concerning these suggestions, believing that such action should only be considered in light of experience in implementing the program accessibility standard.

21. *New construction.* Section 84.23 requires that all new facilities, as well as alterations that could affect access to and use of existing facilities, be designed and constructed in a manner so as to make the facility accessible to and usable by handicapped persons. Section 84.23(a) has been amended so that it applies to each newly constructed facility if the construction was commenced after the effective date of the regulation. The words "if construction has commenced" will be considered to mean "if groundbreaking has taken place." Thus, a recipient will not be required to alter the design of a facility that has progressed beyond groundbreaking prior to the effective date of the regulation.

Paragraph (b) requires certain alterations to conform to the requirement of physical accessibility in paragraph (a). If an alteration is undertaken to a portion of a building the accessibility of which could be improved by the manner in which the alteration is carried out, the alteration must be made in that manner. Thus, if a doorway or wall is being altered, the door or other wall opening must be made wide enough to accommodate wheelchairs. On the other hand, if the alteration consists of altering ceilings, the provisions of this section are not applicable because this alteration cannot be done in a way that affects the accessibility of that portion of the building. The phrase "to the maximum extent feasible" has been added to allow for the occasional case in which the nature of an existing facility is such as to make it impractical or prohibitively expensive to renovate the building in a manner that results in its being entirely barrier-free. In all such cases, however, the alteration should provide the maximum amount of physical accessibility feasible.

As proposed, § 84.23(c) required compliance with the American National Standards Institute (ANSI) standard on building accessibility as the minimum necessary for compliance with the accessibility requirement of §§ 84.23 (a) and (b). The reference to the ANSI standard created some ambiguity, since the standard itself provides for waivers where other methods are equally effective in providing accessibility to the facility. Moreover, the Secretary does not wish to discourage innovation in barrier-free construction by requiring absolute adherence to a rigid design standard. Accordingly, § 84.23(c) has been revised to permit departures from particular requirements of the ANSI standard where the recipient can demonstrate that equivalent access to the facility is provided.

Section 84.23(d) of the proposed regulation, providing for a limited deferral of action concerning facilities that are subject to section 502 as well as section 504 of the Act, has been deleted. The Secretary believes that the provision is unnecessary and inappropriate to this regulation. The Department will, however, seek to coordinate enforcement activities under this regulation with those of the Architectural and Transportation Barriers Compliance Board.

Subpart D—Preschool, Elementary, and Secondary Education

Subpart D sets forth requirements for nondiscrimination in preschool, elementary, secondary, and adult education programs and activities, including secondary vocational education programs. In this context, the term "adult education" refers only to those educational programs and activities for adults that are operated by elementary and secondary schools.

The provisions of Subpart D apply to state and local educational agencies. Although the subpart applies, in general, to both public and private education programs and activities that are federally assisted, §§ 84.32 and 84.33 apply only to public programs and § 84.39 applies only to private programs; §§ 84.35 and 84.36 apply both to public programs and to those private programs that include special services for handicapped students.

Subpart B generally conforms to the standards established for the education of handicapped persons in *Mills* v. *Board of Education of the District of Columbia*, 348 F. Supp. 866 (D.D.C. 1972), *Pennsylvania Association for Retarded Children* v. *Commonwealth of Pennsylvania*, 334 F. Supp. 1257 (E.D. 1971), 343 F. Supp. 279 (E.D.Pa. 1972), and *Lebanks* v. *Spears*, 60, F.R.D. 135 (E.D. La. 1973), as well as in the Education of the Handicapped Act, as amended by Public Law 94-142 (the EHA).

The basic requirements common to those cases, to the EHA, and to this regulation are (1) that handicapped persons, regardless of the nature or severity of their handicap, be provided a free appropriate public education, (2) that handicapped students be educated with nonhandicapped students to the maximum extent appropriate to their needs, (3) that educational agencies undertake to identify and locate all unserved handicapped children, (4) that evaluation procedures be improved in order to avoid the inappropriate education that results from the misclassification of students, and (5) that procedural safeguard be established to enable parents and guardians to influence decisions regarding the evaluation and placement of their children. These requirements are designed to ensure that no handicapped child is excluded from school on the basis of handicap and, if a recipient demonstrates that placement in a regular educational setting cannot be achieved satisfactorily, that the student is provided with adequate alternative services suited to the student's needs without additional cost to the student's parents or guardian. Thus, a recipient that operates a public school system must either educate handicapped children in its regular program or provide such children with an appropriate alternative education at public expense.

It is not the intention of the Department, except in extraordinary circumstances, to review the result of individual placement and other educational decisions, so long as the school district complies with the "process" requirements of this subpart (concerning identification and location, evaluation, and due process procedures). However, the Department will place a high priority on investigating cases which may involve exclusion of a child from the education system or a pattern or practice of discriminatory placements or education.

22. *Location and notification.* Section 84.32 requires public schools to take steps annually to identify and locate handicapped children who are not receiving an education and to publicize to handicapped children and their parents the rights and duties established by section 504 and this regulation. This section has been shortened without substantive change.

23. *Free appropriate public education.* Former §§ 84.34 ("Free education") and 84.36(a) ("Suitable education") have been consolidated and revised in new § 84.33. Under § 84.34(a), a recipient is responsible for providing a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction. The word "in" encompasses the concepts of both domicile and actual residence. If a recipient places a child in a program other than its own, it remains financially responsible for the child, whether or not the other program is operated by another recipient or educational agency. Moreover, a recipient may not place a child in a program that is inappropriate or that otherwise violates the requirements of Subpart D. And in no case may a recipient refuse to provide services to a handicapped child in its jurisdiction because of another person's or entity's failure to assume financial responsibility.

Section 84.33(b) concerns the provision of appropriate educational services to handicapped children. To be appropriate, such services must be designed to meet handicapped children's individual educational needs to the same extent that those of nonhandicapped children are met. An appropriate education could consist of education in regular classes, education in regular classes with the use of supplementary services, or special education and related services. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions and may be accompanied by such related services as developmental, corrective, and other supportive services (including psychological, counseling, and medical diagnostic services). The placement of the child must however, be consistent with the requirements of § 84.34 and be suited to his or her educational needs.

The quality of the educational services provided to handicapped students must equal that of the services provided to nonhandicapped students; thus, handicapped student's teachers must be trained in the instruction of persons with the handicap in question and appropriate materials and equipment must be available. The Department is aware that the supply of adequately trained teachers may, at least at the outset of the imposition of this requirement, be insufficient to meet the demand of all recipients. This factor will be considered in determining the appropriateness of the remedy for noncompliance with this section. A new § 84.33(b)(2) has been added, which allows this requirements to be met through the full implementation of an individualized education program developed in accordance with the standards of the EHA.

Paragraph (c) of § 84.33 sets forth the specific financial obligations of a recipient. If a recipient does not itself provide handicapped persons with the requisite services, it must assume the cost of any alternate placement. If, however, a recipient offers adequate services and if alternate placement is chosen by a student's parent or guardian, the recipient need not assume the cost of the outside services. (If the parent or guardian believes that his or her child cannot be suitably educated in the recipient's program, he or she may make use of the procedures established in § 84.36.) Under this paragraph, a recipient's obligation extends beyond the provision of tuition payments in the case of placement outside the regular program. Adequate transportation must also be provided. Recipients must also pay for psychological services and those medical services necessary for diagnostic and evaluative purposes.

If the recipient places a student, because of his or her handicap, in a program that necessitates his or her being away from home, the payments must also cover room and board and nonmedical care (including custodial and supervisory care). When residential care is necessitated not by the student's handicap but by factors such as the student's home conditions, the recipient is not required to pay the cost of room and board.

Two new sentences have been added to paragraph (c)(1) to make clear that a recipient's financial obligations need not be met solely through its own funds. Recipients may rely on funds from any public or private source including insurers and similar third parties.

The EHA requires a free appropriate education to be provided to handicapped children "no later than September 1, 1978," but section 504 contains no authority for delaying enforcement. To resolve this problem, a new paragraph (d) has been added to § 84.33. Section 84.33(d) requires recipients to achieve full compliance with the free appropriate public education requirements of § 84.33 as expeditiously as possible, but in no event later than September 1, 1978. The provision also makes clear that, as of the effective date of this regulation, no recipient may exclude a qualified handicapped child from its educational program. This provision against exclusion is consistent with the order of providing services set forth in section 612(3) of the EHA, which places the highest priority on providing services to handicapped children who are not receiving an education.

24. *Educational setting.* Section 84.34 prescribes standards for educating handicapped persons with nonhandicapped persons to the maximum extent appropriate to the needs of the handicapped person in question. A handicapped student may be removed from the regular educational setting only where the recipient can show that the needs of the student would, on balance, be served by placement in another setting.

Although under § 84.34, the needs of the handicapped person are determinative as to proper placement, it should be stressed that, where a handicapped student is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore, regular placement would not be appropriate to his or her needs and would not be required by § 84.34.

Among the factors to be considered in placing a child is the need to place the child as close to home as possible. A new sentence has been added to paragraph (a) requiring recipients to take this factor into account. As pointed out in several comments, the parents' right under § 84.36 to challenge the placement of their child extends not only to placement in special classes or separate schools but also to placement in a distant school and, in particular, to residential placement. An equally appropriate educational program may exist closer to home; this issue may be raised by the parent or guardian under §§ 84.34 and 84.36.

New paragraph (b) specifies that handicapped children must also be provided nonacademic services in as integrated a setting as possible. This requirement is especially important for children whose educational needs necessitate their being solely with other handicapped children during most of each day. To the maximum extent appropriate, children in residential settings are also to be provided opportunities for participation with other children.

Section 84.34(c) (formerly § 84.38) requires that any facilities that are identifiable as being for handicapped students be comparable in quality to other facilities of the recipient. A number of comments objected to this section on the basis that it encourages the creation and maintenance of such facilities. This is not the intent of the provision. A separate facility violates section 504 unless it is indeed necessary to the provision of an appropriate education to certain handicapped students. In those instances in which such facilities are necessary (as might be the case, for example, for severely retarded persons), this provision requires that the educational services provided be comparable to those provided in the facilities of the recipient that are not identifiable as being for handicapped persons.

25. *Evaluation and placement.* Because the failure to provide handicapped persons with an appropriate education is so frequently the result of misclassification or misplacement, section 84.33(b)(1) makes compliance with its provisions contingent upon adherence to certain procedures designed to ensure appropriate classification and placement. These procedures, delineated in §§ 84.35 and 84.36, are concerned with testing and other evaluation methods and with procedural due process rights.

Section 84.35(a) requires that an individual evaluation be conducted before any action is taken with respect either to the initial placement of a handicapped child in a regular or special education program or to any subsequent significant change in that placement. Thus, a full reevaluation is not required every time an adjustment in placement is made. "Any action" includes denials of placement.

Paragraphs (b) and (c) of § 84.35 establishes procedures designed to ensure that children are not misclassified, unnecessarily labeled as being handicapped, or incorrectly placed because of inappropriate selection, administration, or interpretation of evaluation materials. This problem has been extensively documented in "Issues in the Classification of Children," a report by the Project on Classification of Exceptional Children, in which the HEW Interagency Task Force participated. The provisions of these paragraphs are aimed primarily at abuses in the placement process that result from misuse of, or undue or misplaced reliance on, standardized scholastic aptitude tests.

Paragraph (b) has been shortened but not substantively changed. The requirement in former subparagraph (1) that recipients provide and administer evaluation materials in the native language of the student has been deleted as unnecessary, since the same requirement already exists under title VI and is more appropriately covered under that statute. Subparagraphs (1) and (2) are, in general, intended to prevent misinterpretation and similar misuse of test scores and, in particular, to avoid undue reliance on general intelligence tests. Subparagraph (3) requires a recipient to administer tests to a student with impaired sensory, manual, or speaking skills in whatever manner is necessary to avoid distortion of the test results by the impairment. Former subparagraph (4) has been deleted as unnecessarily repetitive of the other provisions of this paragraph.

Paragraph (c) requires a recipient to draw upon a variety of sources in the evaluation process so that the possibility of error in classification is minimized. In particular, it requires that all significant factors relating to the learning process, including adaptive behavior, be considered. (Adaptive behavior is the effectiveness with which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group.) Information from all sources must be documented and considered by a group of persons, and the procedure must ensure that the child is placed in the most integrated setting appropriate.

The proposed regulation would have required a complete individual reevaluation of the student each year. The Department has concluded that it is inappropriate in the section 504 regulation to require full reevaluations on such a rigid schedule. Accordingly, § 84.35(c) requires periodic reevaluations and specifies that reevaluations in accordance with the EHA will constitute compliance. The proposed regulation implementing the EHA allows reevaluation at three-year intervals except under certain specified circumstances.

Under § 84.36, a recipient must establish a system of due process procedures to be afforded to parents or guardians before the recipient takes any action regarding the identification, evaluation, or educational placement of a person who, because of handicap, needs or is believed to need special education or related services. This section has been revised. Because the due process procedures of the EHA, incorporated by reference in the proposed section 504 regulation, are inappropriate for some recipients not subject to that Act, the section now specifies minimum necessary procedures: notice, a right to inspect records, an impartial hearing with a right to representation by counsel, and a review procedure. The EHA procedures remain one means of meeting the regulation's due process requirements, however, and are recommended to recipients as a model.

26. *Nonacademic services.* Section 84.37 requires a recipient to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation. Because these services and activities are part of a recipient's education program, they must, in accordance with the

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provisions of § 84.34, be provided in the most integrated setting appropriate.

Revised paragraph (c)(2) does permit separation or differentiation with respect to the provision of physical education and athletics activities, but only if qualified handicapped students are also allowed the opportunity to compete for regular teams or participate in regular activities. Most handicapped students are able to participate in one or more regular physical education and athletics activities. For example, a student in a wheelchair can participate in regular archery course, as can a deaf student in a wrestling course.

Finally, the one-year transition period provided in former § 84.37(a)(3) was deleted in response to the almost unanimous objection of commenters to that provision.

27. *Preschool and adult education.* Section 84.38 prohibits discrimination on the basis of handicap in preschool and adult education programs. Former paragraph (b), which emphasized that compensatory programs for disadvantaged children are subject to section 504, has been deleted as unnecessary, since it is comprehended by paragraph (a).

28. *Private education.* Section 84.39 sets forth the requirements applicable to recipients that operate private education programs and activities. The obligations of these recipients have been changed in two significant respects: first, private schools are subject to the evaluation and due process provisions of the subpart only if they operate special education programs; second, under § 84.39(b), they may charge more for providing services to handicapped students than to nonhandicapped students to the extent that additional charges can be justified by increased costs.

Paragraph (a) of § 84.39 is intended to make clear that recipients that operate private education programs and activities are not required to provide an appropriate education to handicapped students with special educational needs if the recipient does not offer programs designed to meet those needs. Thus, a private school that has no program for mentally retarded persons is neither required to admit such a person into its program nor to arrange or pay for the provision of the person's education in another program. A private recipient without a special program for blind students, however, would not be permitted to exclude, on the basis of blindness, a blind applicant who is able to participate in the regular program with minor adjustments in the manner in which the program is normally offered.

SUBPART E—POSTSECONDARY EDUCATION

Subpart E prescribes requirements for nondiscrimination in recruitment, admission, and treatment of students in postsecondary education programs and activities, including vocational education.

29. *Admission and recruitment.* In addition to a general prohibition of discrimination on the basis of handicap in § 84.42(a), the regulation delineates, in § 84.42(b), specific prohibitions concerning the establishment of limitations on admission of handicapped students, the use of tests or selection criteria, and preadmission inquiry. Several changes have been made in this provision.

Section 84.42(b) provides that postsecondary educational institutions may not use any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons unless it has been validated as a predictor of academic success and alternate tests or criteria with a less disproportionate, adverse effect are shown by the Department to be available. There are two significant changes in this approach from the July 16 proposed regulation.

First, many commenters expressed concern that § 84.42(b)(2)(ii) could be interpreted to require a "global search" for alternate tests that do not have a disproportionate, adverse impact on handicapped persons. This was not the intent of the provision and, therefore, it has been amended to place the burden on the Director of the Office for Civil Rights, rather than on the recipient, to identify alternate tests.

Second, a new paragraph (d), concerning validity studies, has been added. Under the proposed regulation, overall success in an education program, not just first-year grades, was the criterion against which admissions tests were to be validated. This approach has been changed to reflect the comment of professional testing services that use of first-year grades would be less disruptive of present practice and that periodic validity studies against overall success in the education program would be sufficient check on the reliability of first-year grades.

Section 84.42(b)(3) also requires a recipient to assure itself that admissions tests are selected and administered to applicants with impaired sensory, manual, or speaking skills in such manner as is necessary to avoid unfair distortion of test results. Methods have been developed for testing the aptitude and achievement of persons who are not able to take written tests or even to make the marks required for mechanically scored objective tests; in addition, methods for testing persons with visual or hearing impairments are available. A recipient, under this paragraph, must assure itself that such methods are used with respect to the selection and administration of any admissions tests that it uses.

Section 84.42(b)(3)(iii) has been amended to require that admissions tests be administered in facilities that, on the whole, are accessible. In this context, "on the whole" means that not all of the facilities need be accessible so long as a sufficient number of facilities are available to handicapped persons.

Revised § 84.42(b)(4) generally prohibits preadmission inquiries as to whether an applicant has a handicap. The considerations that led to this revision are similar to those underlying the comparable revision of § 84.14 on preemployment inquiries. The regulation does, however, allow inquiries to be made, after admission but before enrollment, as to handicaps that may require accommodation.

New paragraph (c) parallels the section on preemployment inquiries and allows postsecondary institutions to inquire about applicants' handicaps before admission, subject to certain safeguards, if the purpose of the inquiry is to take remedial action to correct past discrimination or to take voluntary action to overcome the limited participation of handicapped persons in postsecondary educational institutions.

Proposed § 84.42(c), which would have allowed different admissions criteria in certain cases for handicapped persons, was widely misinterpreted in comments from both handicapped persons and recipients. We have concluded that the section is unnecessary, and it has been deleted.

30. *Treatment of students.* Section 84.43 contains general provisions prohibiting the discriminatory treatment of qualified handicapped applicants. Paragraph (b) requires recipients to ensure that equal opportunities are provided to its handicapped students in education programs and activities that are not operated by the recipient. The recipient must be satisfied that the outside education program or activity as a whole is nondiscriminatory. For example, a college must ensure that discrimination on the basis of handicap does not occur in connection with teaching assignments of student teachers in elementary or secondary schools not operated by the college. Under the "as a whole" wording, the college could continue to use elementary or secondary school systems that discriminate if, and only if, the college's student teaching program, when viewed in its entirety, offered handicapped student teachers the same range and quality of choice in student teaching assignments afforded nonhandicapped students.

Paragraph (c) of this section prohibits a recipient from excluding qualified handicapped students from any course, course of study, or other part of its education program or activity. This paragraph is designed to eliminate the practice of excluding handicapped persons from specific courses and from areas of concentration because of factors such as ambulatory difficulties of the student or assumptions by the recipient that no job would be available in the area in question for a person with that handicap.

New paragraph (d) requires postsecondary institutions to operate their programs and activities so that handicapped students are provided services in the most integrated setting appropriate. Thus, if a college had several elementary physics classes and had moved one such class to the first floor of the science building to accommodate students in wheelchairs, it would be a violation of this paragraph for the college to concentrate handicapped students with no mobility impairments in the same class.

31. *Academic adjustments.* Paragraph (a) of § 84.44 requires that a recipient make certain adjustments to academic requirements and practices that discriminate or have the effect of discriminating on the basis of handicap. This requirement, like its predecessor in the proposed regulation, does not obligate an institution to waive course or other academic requirements. But such institutions must accommodate those requirements to the needs of individual handicapped students. For example, an institution might permit an otherwise qualified handicapped student who is deaf to substitute an art appreciation or music history course for a required course in music appreciation or could modify the manner in which the music appreciation course is conducted for the deaf student. It should be stressed that academic requirements that can be demonstrated by the recipient to be essential to its program of instruction or to particular degrees need not be changed.

Paragraph (b) provides that postsecondary institutions may not impose rules that have the effect of limiting the participation of handicapped students in the education program. Such rules include prohibition of tape recorders or braillers in classrooms and dog guides in campus buildings. Several recipients expressed concern about allowing students to tape record lectures because the professor may later want to copyright the lectures. This problem may be solved by requiring students to sign agreements that they will not release the tape recording or transcription or otherwise hinder the professor's ability to obtain a copyright.

Paragraph (c) of this section, concerning the administration of course examinations to students with impaired sensory, manual, or speaking skills, parallels the regulation's provisions on admissions testing (§ 84.42(b)) and will be similarly interpreted.

Under § 84.44(d), a recipient must ensure that no handicapped student is subject to discrimination in the recipient's program because of the absence of necessary auxiliary educational aids. Colleges and universities expressed concern about the costs of compliance with this provision.

The Department emphasizes that recipients can usually meet this obligation by assisting students in using existing resources for auxiliary aids such as state vocational rehabilitation agencies and private charitable organizations. Indeed, the Department anticipates that the bulk of auxiliary aids will be paid for by state and private agencies, not by colleges or universities. In those circumstances where the recipient institution must provide the educational auxiliary aid, the institution has flexibility in choosing the methods by which the aids will be supplied. For example, some universities have used students to work with the institution's handicapped students. Other institutions have used existing private agencies that tape texts for handicapped students free of charge in order to reduce the number of readers needed for visually impaired students.

As long as no handicapped person is excluded from a program because of the lack of an appropriate aid, the recipient need not have all such aids on hand at all times. Thus, readers need not be available in the recipient's library at all times so long as the schedule of times when a reader is available is established, is adhered to, and is sufficient. Of course, recipients are not required to maintain a complete braille library.

32. *Housing.* Section 84.45(a) requires postsecondary institutions to provide housing to handicapped students at the same cost as they provide it to other students and in a convenient, accessible, and comparable manner. Commenters, particularly blind persons, pointed out that some handicapped persons can live in any college housing and need not wait to the end of the transition period in Subpart C to be offered the same variety and scope of housing accommodations given to nonhandicapped persons. The Department concurs with this position and will interpret this section accordingly.

A number of colleges and universities reacted negatively to paragraph (b) of this section. It provides that, if a recipient assists in making off-campus housing available to its students, it should develop and implement procedures to assure itself that off-campus housing, as a whole, is available to handicapped students. Since postsecondary institutions are presently required to assure themselves that off-campus housing is provided in a manner that does not discriminate on the basis of sex (§ 86.32 of the title IX regulation), they may use the procedures developed under title IX in order to comply with § 84.45(b). It should be emphasized that not every off-campus living accommodation need be made accessible to handicapped persons.

33. *Health and insurance.* Section 84.46 of the proposed regulation, providing that recipients may not discriminate on the basis of handicap in the provision of health and related services, has been deleted as duplicative of the general provisions of section 84.43. This deletion represents no change in the obligation of recipients to provide nondiscriminatory health and insurance plans. The Department will continue to require that nondiscriminatory health services be provided to handicapped students. Recipients are not required, however, to provide specialized services and aids to handicapped persons in health programs. If, for example, a college infirmary treats only simple disorders such as cuts, bruises, and colds, its obligation to handicapped persons is to treat such disorders for them.

34. *Financial assistance.* Section 84.46(a) (formerly § 84.47), prohibiting discrimination in providing financial assistance, remains substantively the same. It provides that recipients may not provide less assistance to or limit the eligibility of qualified handicapped persons for such assistance, whether the assistance is provided directly by the recipient or by another entity through the recipient's sponsorship. Awards that are made under wills, trusts, or similar legal instruments in a discriminatory manner are permissible, but only if the overall effect of the recipient's provision of financial assistance is not discriminatory on the basis of handicap.

It will not be considered discriminatory to deny, on the basis of handicap, an athletic scholarship to a handicapped person if the handicap renders the person unable to qualify for the award. For example, a student who has a neurological disorder might be denied a varsity football scholarship on the basis of his inability to play football, but a deaf person could not, on the basis of handicap, be denied a scholarship for the school's diving team. The deaf person could, however, be denied a scholarship on the basis of comparative diving ability.

Commenters on § 84.46(b), which applies to assistance in obtaining outside employment for students, expressed similar concerns to those raised under § 84.43(b), concerning cooperative programs. This paragraph has been changed in the same manner as § 84.43(b), to include the "as a whole" concept and will be interpreted in the same manner as § 84.43(b).

35. *Nonacademic services.* Section 84.47 (formerly § 84.48) establishes nondiscrimination standards for physical education and athletics counseling and placement services, and social organizations. This section sets the same standards as does § 84.38 of Subpart D, discussed above, and will be interpreted in a similar fashion.

SUBPART F—HEALTH, WELFARE, AND SOCIAL SERVICES

Subpart F applies to recipients that operate health, welfare, and social service programs. The Department received fewer comments on this subpart than on others.

Although many commented that Subpart F lacked specificity, these commenters provided neither concrete suggestions nor additions. Nevertheless, some changes have been made, pursuant to comment, to clarify the obligations of recipients in specific areas. In addition, in an effort to reduce duplication in the regulation, the section governing recipients providing health services (proposed § 84.52) has been consolidated with the section regulating providers of welfare and social services (proposed §84.53). Since the separate provisions that appeared in the proposed regulation were almost identical, no substantive change should be inferred from their consolidation.

Several commenters asked whether Subpart F applies to vocational rehabilitation agencies whose purpose is to assist in the rehabilitation of handicapped persons. To the extent that such agencies receive financial assistance from the Department, they are covered by Subpart F and all other relevant subparts of the regulation. Nothing in this regulation, however, precludes such agencies from servicing only handicapped persons. Indeed, § 84.4(c) permits recipients to offer services or benefits that are limited by federal law to handicapped persons or classes of handicapped persons.

Many comments suggested requiring state health, welfare, and social service agencies to take an active role in the enforcement of section 504 with regard to local health and social service providers. The Department believes that the possibility for federal-state cooperation in the administration and enforcement of section 504 warrants further consideration. Moreover, the Department will rely largely on state Medicaid agencies, as it has under title VI, for monitoring compliance by individual Medicaid providers.

A number of comments also discussed whether section 504 should be read to require payment of compensation to institutionalized handicapped patients who perform services for the institution in which they reside. The Department of Labor has recently issued a proposed regulation under the Fair Labor Standards Act (FLSA) that covers the question of compensation for institutionalized persons. 42 FR 15234 (March 18, 1977). This Department will seek information and comment from the Department of Labor concerning that agency's experience administering the FLSA regulation.

36. *Health, welfare, and other social service providers.* As already noted, § 84.53 has been combined with proposed § 84.52 into a single section covering health, welfare, and other social services. Section 84.52(a) has been expanded in several respects. The addition of new paragraph (a)(2) is intended to make clear the basic requirement of equal opportunity to receive benefits or services in the health, welfare, and social service areas. The paragraph parallels §§ 84.4(b)(ii) and 84.43(b). New paragraph (a)(3) requires the provision of effective benefits or services, as defined in § 84.4(b)(2) (i.e., benefits or services which "afford handicapped persons equal opportunity to obtain the same result (or) to gain the same benefit * * *").

Section 84.52(a) also includes provisions concerning the limitation of benefits or services to handicapped persons and the subjection of handicapped persons to different eligibility standards. (These provisions were previously included in the welfare recipient section (§ 84.53(a)).) One common misconception about the regulation is that it would require specialized hospitals and other health care providers to treat all handicapped persons. The regulation makes no such requirement. Thus, a burn treatment center need not provide other types of medical treatment to handicapped persons unless it provides such medical services to nonhandicapped persons. It could not, however, refuse to treat the burns of a deaf person because of his or her deafness.

Commenters had raised the question of whether the prohibition against different standards of eligibility might preclude recipients from providing special services to handicapped persons or classes of handicapped persons. The regulation will not be so interpreted, and the specific section in question has been eliminated. Section 84.4(c) makes clear that special programs for handicapped persons are permitted.

A new paragraph (a)(5) concerning the provision of different or separate services or benefits has been added. This provision prohibits such treatment unless necessary to provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

Section 84.52(a)(2) of the proposed regulation has been omitted as duplicative of revised § 84.22 (b) and (c) in Subpart C. As discussed above, these sections permit health care providers to arrange to meet patients in accessible facilities and to make referrals in carefully limited circumstances.

Section 84.52(a)(3) of the proposed regulation has been redesignated § 84.52(b) and has been amended to cover written material concerning waivers of rights or consent to treatment as well as general notices concerning health benefits or services. The section requires the recipient to ensure that qualified handicapped persons are not denied effective notice because of their handicap. For example, recipients could use several different types of notice in order to reach persons with impaired vision or hearing, such as brailled messages, radio spots, and tactile devices on cards or envelopes to inform blind persons of the need to call the recipient for further information.

Sections 84.52(a)(4), 84.52(a)(5), and 84.52(b) have been omitted from the regula-

V 4286 MAY 4 77 UMI

tion as unnecessary. They are clearly comprehended by the more general sections banning discrimination.

Section 84.52(c) is a new section requiring recipient hospitals to establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care. Although it would be appropriate for a hospital to fulfill its responsibilities under this section by having a full-time interpreter for the deaf on staff, there may be other means of accomplishing the desired result of assuring that some means of communication is immediately available for deaf persons needing emergency treatment.

Section 84.52(d), also a new provision, requires recipients with fifteen or more employees to provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills. Further, the Director may require a small provider to furnish auxiliary aids where the provision of aids would not adversely affect the ability of the recipient to provide its health benefits or services. Thus, although a small nonprofit neighborhood clinic might not be obligated to have available an interpreter for deaf persons, the Director may require provision of such aids as may be reasonably available to ensure that qualified handicapped persons are not denied appropriate benefits or services because of their handicaps.

37. *Treatment of Drug Addicts and Alcoholics.* Section 84.53 is a new section that prohibits discrimination in the treatment and admission of drug and alcohol addicts to hospitals and outpatient facilities. This section is included pursuant to section 407, Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174), as amended, and section 321, Public Law 91-616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4581), as amended, and section 321, Public Law 93-282. Section 504 itself also prohibits such discriminatory treatment and, in addition, prohibits similar discriminatory treatment by other types of health providers. Section 84.53 prohibits discrimination against drug abusers by operators of outpatient facilities, despite the fact that section 407 pertains only to hospitals, because of the broader application of section 504. This provision does not mean that all hospitals and outpatient facilities must treat drug addiction and alcoholism. It simply means, for example, that a cancer clinic may not refuse to treat cancer patients simply because they are also alcoholics.

38. *Education of institutionalized persons.* The regulation retains § 84.54 of the proposed regulation that requires that an appropriate education be provided to qualified handicapped persons who are confined to residential institutions or day care centers.

SUBPART G—PROCEDURES

In § 84.61, the Secretary has adopted the title VI complaint and enforcement procedures for use in implementing section 504 until such time as they are superseded by the issuance of a consolidated procedural regulation applicable to all of the civil rights statutes and executive orders administered by the Department.

APPENDIX B—ENFORCEMENT PROCEDURES

Sections 80.6–80.10 and Part 81 of Title 45 of the Code of Federal Regulations are reprinted here without change for the convenience of the reader:

§ 80.6 Compliance information.

(a) *Cooperation and assistance.* The responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. For example, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally-assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this Part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this regulation and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this regulation. (Sec. 602, 603, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1) [29 FR 16298, Dec. 4, 1964, as amended at 32 FR 14555, Oct. 19, 1967; 35 FR 17981, 17982, July 8, 1970]

§ 80.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

(c) *Investigations.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 80.8.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1) [29 FR 16298, Dec. 4, 1964, as amended at 35 FR 17981, 17982, July 8, 1970]

§ 80.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 80.4.* If an applicant fails or refuses to furnish an assurance required under § 80.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible De-

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partment official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

(Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1. Sec. 182, 80 Stat. 1209; 42 U.S.C. 2000d–3) [29 FR 16298, Dec. 4, 1964, as amended at 32 FR 14556, Oct. 19, 1967; 38 FR 17982, July 5, 1973]

§ 80.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 80.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 80.8(c) of this regulation and consent to the making of a decision on the basis of such information as may be filed as the record.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing. Any person (other than a Government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a hearing provided for by this part, may be reimbursed for his travel and actual expenses of attendance in an amount not to exceed the amount payable under the standardized travel regulations to a Government employee traveling on official business.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or Joint Hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this regulation with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the responsible Department official may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with § 80.10.

(Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1) [29 FR 16298, Dec. 4, 1964, as amended at 32 FR 14555, Oct. 19, 1967; 38 FR 17981, 17982, July 5, 1973]

§ 80.10 Decisions and notices.

(a) *Decisions by hearing examiners.* After a hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the reviewing authority for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this paragraph or in paragraph (c) of this section is made by the hearing examiner, the applicant or recipient or the counsel for the Department may, within the period provided for in the rules of procedure issued by the responsible Department official, file with the reviewing authority exceptions to the initial decision, with his reasons therefor. Upon the filing of such exceptions the reviewing authority shall review the initial decision and issue its own decision thereof including the reasons therefor. In the absence of exceptions the initial decision shall constitute the final decision, subject to the provisions of paragraph (e) of this section.

(b) *Decisions on record or review by the reviewing authority.* Whenever a record is certified to the reviewing authority for decision or it reviews the decision of a hearing examiner pursuant to paragraph (a) or (c) of this section, the applicant or recipient shall be given reasonable opportunity to file with it briefs or other written statements of its contentions, and a copy of the final decision of the reviewing authority shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 80.9(a) the reviewing authority shall make its final decision on the record or refer the matter to a hearing examiner for an initial decision to be made on the record. A copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing examiner or reviewing authority shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Review in certain cases by the Secretary.* If the Secretary has not personally made the final decision referred to in paragraphs (a), (b), or (c) of this section, a recipient or applicant or the counsel for the Department may request the Secretary to review a decision of the Reviewing Authority in accordance with rules of procedure issued by the responsible Department official. Such review is not a matter of right and shall be granted only where the Secretary determines there are special and important reasons therefor. The Secretary may grant or deny such request, in whole or in part. He may also review such a decision upon his own motion in accordance with rules of procedure issued by the responsible Department official. In the absence of a review under this paragraph, a final decision referred to in paragraphs (a), (b), (c) of this section shall become the final decision of the Department when the Secretary transmits it as such to Congressional committees with the report required under section 602 of the Act. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this regulation, including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this regulation, or to have otherwise failed to comply with this regulation unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this regulation.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 80.3 shall be restored to full eligibility to receive Federal financial assistance, if it files a court order or a plan for desegregation which meets the requirements of § 80.4(c), and provides reasonable assurance that it will comply with the court order or plan.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Department official. The applicant or recipient will be restored to such eligibility if it proves at such hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

(Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1) [29 FR 16298, Dec. 4, 1964, as amended at 32 FR 14555, Oct. 19, 1967; 38 FR 17981, 17982, July 5, 1973]

PART 81—PRACTICE AND PROCEDURE FOR HEARINGS UNDER PART 80 OF THIS TITLE

Subpart A—General Information

Sec.
81.1 Scope of rules.
81.2 Records to be public.
81.3 Use of gender and number.
81.4 Suspension of rules.

Subpart B—Appearance and Practice

81.11 Appearance.
81.12 Authority for representation.
81.13 Restriction from hearing for misconduct.

Subpart C—Parties

81.21 Parties; General Counsel deemed a party.
81.22 Amici curiae.
81.23 Complainants not parties.

Subpart D—Form, Execution, Service and Filing of Documents

81.31 Form of documents to be filed.
81.32 Signature of documents.
81.33 Filing and service.
81.34 Service—how made.
81.35 Date of service.
81.36 Certificate of service.

Subpart E—Time

81.41 Computation.
81.42 Extension of time or postponement.
81.43 Reduction of time to file documents.

Subpart F—Proceedings Prior to Hearing

81.51 Notice of hearing or opportunity for hearing.
81.52 Answer to notice.
81.53 Amendment of notice or answer.
81.54 Request for hearing.
81.55 Consolidation.
81.56 Motions.
81.57 Responses to motions and petitions.
81.58 Disposition of motions and petitions.

Subpart G—Responsibilities and Duties of Presiding Officer

81.61 Who presides.
81.62 Designation of hearing examiner.
81.63 Authority of presiding officer.

Subpart H—Hearing Procedure

81.71 Statement of position and trial briefs.
81.72 Evidentiary purposes.
81.73 Testimony.
81.74 Exhibits.
81.75 Affidavits.
81.76 Depositions.
81.77 Admissions as to facts and documents.
81.78 Evidence.
81.79 Cross-examination.
81.80 Unsponsored written material.
81.81 Objections.
81.82 Exceptions to rulings of presiding officer unnecessary.

Sec.
81.83 Official notice.
81.84 Public document items.
81.85 Offer of proof.
81.86 Appeals from ruling of presiding officer.

Subpart I—The Record

81.91 Official transcript.
81.92 Record for decision.

Subpart J—Posthearing Procedures, Decisions

81.101 Posthearing briefs; proposed findings and conclusions.
81.102 Decisions following hearing.
81.103 Exceptions to initial or recommended decisions.
81.104 Final decisions.
81.105 Oral argument to the reviewing authority.
81.106 Review by the Secretary.
81.107 Service on amici curiae.

Subpart K—Judicial Standards of Practice

81.111 Conduct.
81.112 Improper conduct.
81.113 Ex parte communications.
81.114 Expeditious treatment.
81.115 Matters not prohibited.
81.116 Filing of ex parte communications.

Subpart L—Posttermination Proceedings

81.121 Posttermination proceedings.

Subpart M—Definitions

81.131 Definitions.

AUTHORITY: The provisions of this Part 81 are issued under 5 U.S.C. 301 and 45 CFR 80.9(d).

SOURCE: The provisions of this Part 81 appear at 32 F.R. 16154, Nov. 3, 1967, unless otherwise noted.

Subpart A—General Information

§ 81.1 Scope of rules.

The rules of procedure in this part supplement §§ 80.9 and 80.10 of this subtitle and govern the practice for hearings, decisions, and administrative review conducted by the Department of Health, Education, and Welfare, pursuant to Title VI of the Civil Rights Act of 1964 (sec. 602, 78 Stat. 252) and Part 80 of this subtitle.

§ 81.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights hearing clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

§ 81.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 81.4 Suspension of rules.

Upon notice to all parties, the reviewing authority or the presiding officer, with respect to matters pending before them, may modify or waive any rule in this part upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

Subpart B—Appearance and Practice

§ 81.11 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or a corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the bar of a State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 81.12 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

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§ 81.18 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

Subpart C—Parties

§ 81.21 Parties; General Counsel deemed a party.

(a) The term party shall include an applicant or recipient or other person to whom a notice of hearing or opportunity for hearing has been mailed naming him as respondent.

(b) The General Counsel of the Department of Health, Education, and Welfare shall be deemed a party to all proceedings.

§ 81.22 Amici curiae.

(a) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome, and may contribute materially to the proper disposition thereof. An amicus curiae is not a party and may not introduce evidence at a hearing.

(b) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. His brief shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(c) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

§ 81.23 Complainants not parties.

A person submitting a complaint pursuant to § 80.7(b) of this title is not a party to the proceedings governed by this part, but may petition, after proceedings are initiated, to become an amicus curiae.

Subpart D—Form, Execution, Service and Filing of Documents

§ 81.31 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

§ 81.32 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 81.33 Filing and service.

All notices by a Department official, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to a Department official from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see § 81.107.

§ 81.34 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed, and should be air mailed if the addressee is more than 300 miles distant.

§ 81.35 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

§ 81.36 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Subpart E—Time

§ 81.41 Computation.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 81.42 Extension of time or postponement.

Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his decision such requests should be addressed to him. Answers to such requests are permitted, if made promptly.

§ 81.43 Reduction of time to file documents.

For good cause, the reviewing authority or the presiding officer, with respect to matters pending before them, may reduce any time limit prescribed by the rules in this part, except as provided by law or in Part 80 of this title.

Subpart F—Proceedings Prior to Hearing

§ 81.51 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to § 80.9 of this title.

§ 81.52 Answer to notice.

The respondent, applicant or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted.

Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

§ 81.53 Amendment of notice or answer.

The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the presiding officer. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.

§ 81.54 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing the respondent, either in his answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute his consent to the making of a decision on the basis of such information as is available.

§ 81.55 Consolidation.

The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 81.56 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 81.57 Responses to motions and petitions.

Within 8 days after a written motion or petition is served, or such other period as the reviewing authority or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 81.58 Disposition of motions and petitions.

The reviewing authority or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however*, That prehearing conferences, hearings and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the reviewing authority or the presiding officer, respectively, and not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral arguments shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

Subpart G—Responsibilities and Duties of Presiding Officer

§ 81.61 Who presides.

A hearing examiner assigned under 5 U.S.C. 3105 or 3344 (formerly sec. 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

§ 81.62 Designation of hearing examiner.

The designation of the hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record including his recommended findings and proposed decision to the reviewing authority, and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his place.

§ 81.63 Authority of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue initial or recommended decisions.

(k) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

Subpart H—Hearing Procedures

§ 81.71 Statement of position and trial briefs.

The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing. The presiding officer may also requre the parties to submit trial briefs.

§ 81.72 Evidentiary purpose.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Part 80 of this title. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the reviewing authority or presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 81.101. Thereafter the proceedings shall go to conclusion in accordance with Subpart J of this part. The presiding officer may allow an appeal from such order in accordance with § 81.86.

§ 81.73 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 81.75 and 81.76, witnesses shall be available at the hearing for cross-examination.

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§ 81.74 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 81.75 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and not less than 7 days prior to hearing a party may file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 81.76 Depositions.

Upon such terms as may be just, for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

§ 81.77 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer or the reviewing authority if no presiding officer has yet been designated may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 81.78 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 81.79 Cross-examination.

A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

§ 81.80 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 81.81 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon.

§ 81.82 Exceptions to rulings of presiding officer unnecessary.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the rulins of the presiding officer is sought, makes known the action which he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 81.83 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 81.84 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 81.85 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 81.86 Appeals from ruling of presiding officer.

Rulings of the presiding officer may not be appealed to the reviewing authority prior to his consideration of the entire proceeding except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the reviewing authority within such period as the presiding officer directs. No oral argument will be heard unless the reviewing authority directs otherwise. At any time prior to submission of the proceeding to it for decision, the reviewing authority may direct the presiding officer to certify any question or the entire record to it for decision. Where the entire record is so certified, the presiding officer shall recommend a decision.

Subpart I—The Record

§ 81.91 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 81.92 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

Subpart J—Posthearing Procedures, Decisions

§ 81.101 Posthearing briefs; proposed findings and conclusions.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

(b) Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

§ 81.102 Decisions following hearing.

When the time for submission of posthearing briefs has expired, the presiding officer shall certify the entire record, including his recommended findings and proposed decision, to the responsible Department official; or if so authorized he shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and amici, if any.

§ 81.103 Exceptions to initial or recommended decisions.

Within 20 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the reviewing authority. Any other party may file a response thereto within 30 days after the mailing of the decision. Upon the filing of such exceptions, the reviewing authority shall review the decision and issue its own decision thereon.

§ 81.104 Final decisions.

(a) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto are filed within the 20-day period specified in § 81.103, such decision shall become the final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of § 81.106.

(b) Where the hearing is conducted by a hearing examiner who makes a recommended decision, or upon the filing of exceptions to a hearing examiner's initial decision, the reviewing authority shall review the recommended or initial decision and shall issue its own decision thereon, which shall become the final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of § 81.106.

(c) All final decisions shall be promptly served on all parties, and amici, if any.

§ 81.105 Oral argument to the reviewing authority.

(a) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, he shall make such request in writing. The reviewing authority may grant or deny such requests in its discretion. If granted, it will serve notice of oral argument on all parties. The notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Department hearing clerk not later than 7 days before the date set for oral argument.

(b) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their arguments to points of controlling importance and to points upon which exceptions have been filed. Consolidations of appearances at oral argument by parties taking the same side will permit the parties' interests to be presented more effectively in the time allotted.

(c) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Department hearing clerk at least 7 days before the argument.

§ 81.106 Review by the Secretary.

Within 20 days after an initial decision becomes a final decision pursuant to § 81.104(a) or within 20 days of the mailing of a final decision referred to in § 81.104(b), as the case may be, a party may request the Secretary to review the final decision. The Secretary may grant or deny such request, in whole or in part, or serve notice of his intent to review the decision in whole or in part upon his own motion. If the Secretary grants the requested review, or if he serves notice of intent to review upon his own motion, each party to the decision shall have 20 days following notice of the Secretary's proposed action within which to file exceptions to the decision and supporting briefs and memoranda, or briefs and memoranda in support of the decision. Failure of a party to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

§ 81.107 Service on amici curiae.

All briefs, exceptions, memoranda, requests, and decisions referred to in this subpart J shall be served upon amici curiae at the same times and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 81.71 shall be served on amici.

Subpart K—Judicial Standards of Practice

§ 81.111 Conduct.

Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his best efforts to restrain his client from improprieties in connection with a proceeding.

§ 81.112 Improper conduct.

With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the reviewing authority by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper for any person to solicit communications to any such officer, or his decisional staff, other than proper communications by parties or amici curiae.

§ 81.113 Ex parte communications.

Only persons employed by or assigned to work with the reviewing authority who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the reviewing authority, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The reviewing authority, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

§ 81.114 Expeditious treatment.

Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

§ 81.115 Matters not prohibited.

A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights hearing clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by § 81.113. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Department official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of Part 80 of this title are not prohibited.

§ 81.116 Filing of ex parte communications.

A prohibited communication in writing received by the Secretary, the reviewing authority, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

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Subpart L—Posttermination Proceedings

§ 81.121 Posttermination proceedings.

(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that since entry of the order, it has brought its program or activity into compliance with the requirements of the Act, and with the Regulation thereunder, and shall set forth specifically, and in detail, the steps which it has taken to achieve such compliance. If the responsible Department official denies such request the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies why it believes the responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to subparagraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

Subpart M—Definitions

§ 81.131 Definitions.

The definitions contained in § 80.13 of this subtitle apply to this part, unless the context otherwise requires, and the term "reviewing authority" as used herein includes the Secretary of Health, Education, and Welfare, with respect to action by that official under § 81.106.

Transition provisions: (a) The amendments herein shall become effective upon publication in the FEDERAL REGISTER.

(b) These rules shall apply to any proceeding or part thereof to which Part 80 of this title as amended effective October 19, 1967 (published in the FEDERAL REGISTER for Oct. 19, 1967), and as the same may be hereafter amended, applies. In the case of any proceeding or part thereof governed by the provisions of Part 80 as that part existed prior to such amendment, the rules in this Part 81 shall apply as if these amendments were not in effect.

[FR Doc.77-12620 Filed 4-28-77;4:35 pm]

federal register

WEDNESDAY, MAY 4, 1977

PART V



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

■

FAIR MARKET RENTS FOR SECTION 23 AND SECTION 8 EXISTING HOUSING PROGRAMS

Proposed Amendment of Schedule B—Section 8 Existing Housing and Section 23 Existing Housing

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Parts 803, 888]

[Docket No. R-77-311]

FAIR MARKET RENTS FOR SECTION 23 AND 8 EXISTING HOUSING PROGRAMS

Proposed Amendment of Schedule B—Section 8 Existing Housing and Section 23 Existing Housing

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department is proposing to amend the schedules that set forth Fair Market Rent Revisions under the "Section 23" and "Section 8" Low Income Housing Programs for Existing Housing. The last nationwide revision of these levels, required on an annual basis by law, was published in the FEDERAL REGISTER on March 30, 1976 (41 FR 13042). On the basis of current data submitted by the public and by HUD field offices, new levels are now being proposed in order to meet specific local housing market or submarket conditions. In addition, there is included a new method of computing levels for five or six bedroom units, which had not been previously treated. The intent of all these changes is to provide more current and adequate rents for each of the classes of housing decribed in the schedules.

DATES: Deadline for submission of written comments and suggestions: May 18, 1977.

ADDRESSES: All materials which persons wish to submit should be sent to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. A copy of each comment will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Bernard Horn, Acting Director, Office of Economic and Market Analysis, PD&R, HUD Washington, D.C. 20410. (202-755-5816).

SUPPLEMENTARY INFORMATION: The Department has been concerned about the adequacy of the Fair Market Rents for large size units because of field studies and program experience indicating problems in lensing such units. However, based upon housing data in the 1970 Census updated by the Department of Commerce Annual Housing Survey, which is sponsored by HUD, we do not have sufficient statistical evidence to increase the differential used in calculating Fair Market Rents for three and four bedroom units nationwide. Public Housing Agencies and other interested parties are therefore encouraged to comment on these proposed Fair Market Rents incorporating market data on rental levels of such units. Such data may be provided on the suggested format in the Section 8 Existing Housing Handbook or in another suitable format.

The Fair Market Rents Schedule set forth below will provide Fair Market Rents to be calculated for five and six bedroom units as follows:

Five bedrooms—150 percent of two bedroom Fair Market Rent.

Six bedrooms—175 percent of two bedroom Fair Market Rent.

Because it is necessary to the operation of the section 8 and 23 programs that Fair Market Rents remain as current as possible, and because interested parties are encouraged at all times to submit information and data on those rents which will be considered in initiating revisions as needed, it has been determined that it is impracticable and unnecessary to provide a 30-day period for comments on these proposed revisions and that a 15-day period is reasonable and in the public interest.

By nature, Fair Market Rent schedules are subject to periodic revisions where data and information indicate change is needed. Accordingly, Schedule B Fair Market Rents will contine to be amended in the future in those local housing market or submarket areas where changes are deemed appropriate on the basis of available data and information.

Interested persons are invited to participate in the making of these proposed rules by submitting to the address set forth above such written comments or suggestions as they may desire. Communications should identify the subject matter by the above title, docket number, and date of publication. All relevant material received on or before the date specified above will be considered before adoption of revised Fair Market Rents.

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of human environment. Accordingly, a finding of inapplicability of environment impact has been prepared and is available for public inspection during regular business hours at the office of the Rules Docket Clerk, at the address specified above. It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

It is therefore proposed that Title 24, Part 888, Schedule B and Part 803, Schedule B be revised as set forth below.

This notice of proposed rulemaking is issued under the authority of sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued in Washington, D.C., on April 27, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BANGOR,MAINE INSURING OFFICE						
SMSA: LEWISTON-AUBURN, ME						
SMSA PART:ANDROSCOGGIN	NON-ELEVATOR:	143	162	192	221	240
STATE:ME	ELEVATOR:	157	179	212	243	264
SMSA: PORTLAND, ME						
SMSA PART:CUMBERLAND	NON-ELEVATOR:	143	162	192	221	240
STATE:ME	ELEVATOR:	157	179	212	243	264
SMSA PART:YORK	NON-ELEVATOR:	143	162	192	221	240
STATE:ME	ELEVATOR:	157	179	212	243	264
NON SMSA						
NONSMSA PART:ANDROSCOGGIN	NON-ELEVATOR:	143	162	192	221	240
STATE:ME	ELEVATOR:	157	179	212	243	264
COUNTY:AROOSTOOK	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
NONSMSA PART:CUMBERLAND	NON-ELEVATOR:	143	162	192	221	240
STATE:ME	ELEVATOR:	157	179	212	243	264
COUNTY:FRANKLIN	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
COUNTY:HANCOCK	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
COUNTY:KENNEBEC	NON-ELEVATOR:	143	162	192	212	230
STATE:ME	ELEVATOR:	157	179	212	232	254
COUNTY:KNOX	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
COUNTY:LINCOLN	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
COUNTY:OXFORD	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BANGOR,MAINE INSURING OFFICE						
NON SMSA						
COUNTY:PENOBSCOT	NON-ELEVATOR:	143	162	192	212	230
STATE:ME	ELEVATOR:	157	179	212	232	254
COUNTY:PISCATAQUIS	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
COUNTY:SAGADAHOC	NON-ELEVATOR:	143	162	192	212	230
STATE ME	ELEVATOR:	157	179	212	232	254
COUNTY:SOMERSET	NON-ELEVATOR:	134	153	180	199	217
STATE ME	ELEVATOR:	147	168	199	218	239
COUNTY:WALDO	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
COUNTY:WASHINGTON	NON-ELEVATOR:	134	153	180	199	217
STATE:ME	ELEVATOR:	147	168	199	218	239
NONSMSA PART:YORK	NON-ELEVATOR:	143	162	192	221	240
STATE:ME	ELEVATOR:	157	179	212	243	264

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOSTON,MASSACHUSETTS AREA OFFICE						
SMSA: BOSTON, MA						
SMSA PART:ESSEX	NON-ELEVATOR:	222	251	298	343	388
STATE:MA	ELEVATOR:	245	277	327	378	427
SMSA PART:MIDDLESEX	NON-ELEVATOR:	222	251	298	343	388
STATE:MA	ELEVATOR:	245	277	327	378	427
SMSA PART:NORFOLK	NON-ELEVATOR:	222	251	298	343	388
STATE:MA	ELEVATOR:	245	277	327	378	427
SMSA PART:PLYMOUTH	NON-ELEVATOR:	222	251	298	343	388
STATE:MA	ELEVATOR:	245	277	327	378	427
COUNTY:SUFFOLK	NON-ELEVATOR:	222	251	298	343	388
STATE:MA	ELEVATOR	245	277	327	378	427
SMSA: BROCKTON, MA						
SMSA PART:BRISTOL	NON-ELEVATOR:	173	199	237	276	313
STATE:MA	ELEVATOR:	190	219	262	302	345
SMSA PART:NORFOLK	NON-ELEVATOR:	173	199	237	276	313
STATE:MA	ELEVATOR:	190	219	262	302	345
SMSA PART:PLYMOUTH	NON-ELEVATOR:	173	199	237	276	313
STATE:MA	ELEVATOR:	190	219	262	302	345
SMSA: FALL RIVER, MA-RI						
SMSA PART:BRISTOL	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
SMSA: FITCHBURG-LEOMINSTER, MA						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
SMSA PART:WORCESTER	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
SMSA: LAWRENCE-HAVERHILL, MA-NH						
SMSA PART:ESSEX	NON-ELEVATOR:	173	199	237	276	313
STATE:MA	ELEVATOR:	190	219	262	302	345

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOSTON,MASSACHUSETTS AREA OFFICE						
SMSA: LOWELL, MA NH						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	205	233	274	316	344
STATE:MA	ELEVATOR:	225	256	302	348	378
SMSA: NEW BEDFORD, MA						
SMSA PART:BRISTOL	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	172	195	230	265	289
SMSA PART:PLYMOUTH	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	172	195	230	265	289
SMSA: PITTSFIELD, MA						
SMSA PART:BERKSHIRE	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	172	195	230	265	289
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA						
SMSA PART:BRISTOL	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
SMSA PART:NORFOLK	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
SMSA PART:WORCESTER	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT						
SMSA PART:HAMPDEN	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	172	195	230	265	289
SMSA PART:HAMPSHIRE	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	172	195	230	265	289
SMSA PART:WORCESTER	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	172	195	230	265	289
SMSA: WORCESTER, MA						
SMSA PART:WORCESTER	NON-ELEVATOR:	188	214	250	288	314
STATE:MA	ELEVATOR:	207	235	275	317	346

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOSTON,MASSACHUSETTS AREA OFFICE						
NON SMSA						
COUNTY:BARNSTABLE	NON-ELEVATOR:	208	232	279	314	348
STATE:MA	ELEVATOR:	228	254	306	344	382
NONSMSA PART:BERKSHIRE	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
NONSMSA PART:BRISTOL	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
COUNTY:DUKES	NON-ELEVATOR:	208	232	279	314	348
STATE:MA	ELEVATOR:	228	254	306	344	382
NONSMSA PART:ESSEX	NON-ELEVATOR:	173	199	237	276	313
STATE:MA	ELEVATOR:	190	219	262	302	345
COUNTY:FRANKLIN	NON-ELEVATOR:	163	186	220	243	265
STATE:MA	ELEVATOR:	180	205	243	267	293
NONSMSA PART:HAMPDEN	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
NONSMSA PART:HAMPSHIRE	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	265	289
NONSMSA PART:MIDDLESEX	NON-ELEVATOR:	171	194	229	263	286
STATE:MA	ELEVATOR:	188	213	251	288	315
COUNTY:NANTUCKET	NON-ELEVATOR:	152	174	207	229	252
STATE:MA	ELEVATOR:	168	192	227	252	276
NONSMSA PART:NORFOLK	NON-ELEVATOR:	171	194	229	263	286
STATE:MA	ELEVATOR:	188	213	251	288	315
NONSMSA PART:PLYMOUTH	NON-ELEVATOR:	158	182	216	251	285
STATE:MA	ELEVATOR:	174	200	238	276	314
NONSMSA PART:WORCESTER	NON-ELEVATOR:	156	178	209	241	262
STATE:MA	ELEVATOR:	171	195	230	268	289

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BURLINGTON,VERMONT INSURING OFFICE						
NON SMSA						
COUNTY:ADDISON	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:BENNINGTON	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:CALEDONIA	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:CHITTENDEN	NON-ELEVATOR:	152	172	203	224	244
STATE:VT	ELEVATOR:	167	188	223	246	268
COUNTY:ESSEX	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:FRANKLIN	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:GRAND ISLE	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:LAMOILLE	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:ORANGE	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:ORLEANS	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:RUTLAND	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:WASHINGTON	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246
COUNTY:WINDHAM	NON-ELEVATOR:	158	181	215	238	262
STATE:VT	ELEVATOR:	174	199	237	263	288

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V42I86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BURLINGTON,VERMONT INSURING OFFICE						
NON SMSA						
COUNTY:WINDSOR	NON-ELEVATOR:	138	158	185	205	224
STATE:VT	ELEVATOR:	152	172	204	226	246

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HARTFORD,CONNECTICUT AREA OFFICE						
SMSA: BRIDGEPORT, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	175	201	238	278	300
STATE:CT	ELEVATOR:	193	221	263	304	331
SMSA PART:NEW HAVEN	NON-ELEVATOR:	175	201	238	276	300
STATE:CT	ELEVATOR:	193	221	263	304	331
SMSA: BRISTOL, CT						
SMSA PART:HARTFORD	NON-ELEVATOR:	168	192	227	262	286
STATE:CT	ELEVATOR:	184	210	250	288	316
SMSA PART:LITCHFIELD	NON-ELEVATOR:	168	192	227	262	286
STATE:CT	ELEVATOR:	184	210	250	288	316
SMSA: DANBURY, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	160	183	217	251	274
STATE:CT	ELEVATOR:	176	202	239	277	301
SMSA PART:LITCHFIELD	NON-ELEVATOR:	160	183	217	251	274
STATE:CT	ELEVATOR:	176	202	239	277	301
SMSA: HARTFORD, CT						
SMSA PART:HARTFORD	NON-ELEVATOR:	176	201	238	275	301
STATE:CT	ELEVATOR:	194	221	263	302	331
SMSA PART:LITCHFIELD	NON-ELEVATOR:	176	201	238	275	301
STATE:CT	ELEVATOR:	194	221	263	302	331
SMSA PART:MIDDLESEX	NON-ELEVATOR:	176	201	238	275	301
STATE:CT	ELEVATOR:	194	221	263	302	331
SMSA PART:NEW LONDON	NON-ELEVATOR:	176	201	238	275	301
STATE:CT	ELEVATOR:	194	221	263	302	331
SMSA PART:TOLLAND	NON-ELEVATOR:	176	201	238	275	301
STATE:CT	ELEVATOR:	194	221	263	302	331
SMSA: MERIDEN, CT						
SMSA PART:NEW HAVEN	NON-ELEVATOR:	158	181	215	249	273
STATE:CT	ELEVATOR:	174	199	237	273	299

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HARTFORD,CONNECTICUT AREA OFFICE						
SMSA: NEW BRITAIN, CT						
SMSA PART:HARTFORD	NON-ELEVATOR:	168	192	227	262	286
STATE:CT	ELEVATOR:	184	210	250	288	316
SMSA: NEW HAVEN-WEST HAVEN, CT						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	174	199	226	262	300
STATE:CT	ELEVATOR:	192	219	248	288	330
SMSA PART:NEW HAVEN	NON-ELEVATOR:	174	199	226	262	300
STATE:CT	ELEVATOR:	192	219	248	288	330
SMSA: NEW LONDON-NORWICH, CT-RI						
SMSA PART:MIDDLESEX	NON-ELEVATOR:	152	174	207	239	261
STATE:CT	ELEVATOR:	168	192	227	263	288
SMSA PART:NEW LONDON	NON-ELEVATOR:	152	174	207	239	261
STATE:CT	ELEVATOR:	168	192	227	263	288
SMSA: NORWALK, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	175	201	238	278	300
STATE:CT	ELEVATOR:	193	221	263	304	331
SMSA: SPRINGFIELD-CHICOPEE-HOLYOKE, MA-CT						
SMSA PART:TOLLAND	NON-ELEVATOR:	156	178	209	241	262
STATE:CT	ELEVATOR:	172	195	230	265	289
SMSA: STAMFORD, CT						
SMSA PART:FAIRFIELD	NON-ELEVATOR:	210	241	286	331	361
STATE:CT	ELEVATOR:	212	243	289	335	364
SMSA: WATERBURY, CT						
SMSA PART:LITCHFIELD	NON-ELEVATOR:	158	181	215	249	273
STATE:CT	ELEVATOR:	174	199	237	273	299
SMSA PART:NEW HAVEN	NON-ELEVATOR:	158	181	215	249	273
STATE:CT	ELEVATOR:	174	199	237	273	299
NON SMSA						
NONSMSA PART:FAIRFIELD	NON-ELEVATOR:	160	183	217	251	285
STATE:CT	ELEVATOR:	176	202	239	277	301

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HARTFORD,CONNECTICUT AREA OFFICE						
NON SMSA						
NONSMSA PART:HARTFORD	NON-ELEVATOR:	168	192	227	262	286
STATE:CT	ELEVATOR:	184	210	250	288	316
NONSMSA PART:LITCHFIELD	NON-ELEVATOR:	148	169	201	223	244
STATE:CT	ELEVATOR:	162	185	220	246	270
NONSMSA PART:MIDDLESEX	NON-ELEVATOR:	148	169	201	223	244
STATE:CT	ELEVATOR:	162	185	220	246	270
NONSMSA PART:NEW HAVEN	NON-ELEVATOR:	158	181	215	249	273
STATE:CT	ELEVATOR:	174	199	237	273	299
NONSMSA PART:NEW LONDON	NON-ELEVATOR:	152	174	207	239	261
STATE:CT	ELEVATOR:	168	192	227	263	288
NONSMSA PART:TOLLAND	NON-ELEVATOR:	152	174	207	239	261
STATE:CT	ELEVATOR:	168	192	227	263	288
COUNTY:WINDHAM	NON-ELEVATOR:	152	174	207	239	261
STATE:CT	ELEVATOR:	168	192	227	263	288

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MANCHESTER, NEW HAMPSHIRE AREA OFFICE						
SMSA: LAWRENCE-HAVERHILL, MA-NH						
SMSA PART:ROCKINGHAM	NON-ELEVATOR:	173	199	237	276	313
STATE:NH	ELEVATOR:	190	219	262	302	345
SMSA: LOWELL, MA NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	205	233	274	316	344
STATE:NH	ELEVATOR:	225	256	302	349	378
SMSA: MANCHESTER, NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
SMSA PART:MERRIMACK	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
SMSA PART:ROCKINGHAM	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
SMSA: NASHUA, NH						
SMSA PART:HILLSBOROUGH	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
NON SMSA						
COUNTY:BELKNAP	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
COUNTY:CARROLL	NON-ELEVATOR:	137	157	185	215	237
STATE:NH	ELEVATOR:	150	172	204	237	260
COUNTY:CHESHIRE	NON-ELEVATOR:	158	181	215	239	262
STATE:NH	ELEVATOR:	174	199	237	263	288
COUNTY:COOS	NON-ELEVATOR:	138	158	185	205	224
STATE:NH	ELEVATOR:	152	174	204	226	246
COUNTY:GRAFTON	NON-ELEVATOR:	138	158	185	205	224
STATE:NH	ELEVATOR:	152	174	204	226	246
NONSMSA PART:HILLSBOROUGH	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MANCHESTER, NEW HAMPSHIRE AREA OFFICE						
NON SMSA						
NONSMSA PART:MERRIMACK	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
NONSMSA PART:ROCKINGHAM	NON-ELEVATOR:	151	171	203	234	255
STATE:NH	ELEVATOR:	166	189	225	258	281
COUNTY:STRAFFORD	NON-ELEVATOR:	151	171	203	225	244
STATE:NH	ELEVATOR:	166	189	225	247	270
COUNTY:SULLIVAN	NON-ELEVATOR:	151	171	203	225	244
STATE:NH	ELEVATOR:	166	189	225	247	270

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PROVIDENCE, RHODE ISLAND INSURING OFFICE						
SMSA: FALL RIVER, MA-RI						
SMSA PART:NEWPORT	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
SMSA: NEW LONDON-NORWICH, CT-RI						
SMSA PART:WASHINGTON	NON-ELEVATOR:	152	174	207	239	261
STATE:RI	ELEVATOR:	168	192	227	263	288
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA						
SMSA PART:BRISTOL	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
SMSA PART:KENT	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
SMSA PART:NEWPORT	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
SMSA PART:PROVIDENCE	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
SMSA PART:WASHINGTON	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
NON SMSA						
NONSMSA PART:KENT	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
NONSMSA PART:NEWPORT	NON-ELEVATOR:	152	174	207	229	252
STATE:RI	ELEVATOR:	168	192	227	252	276
NONSMSA PART:PROVIDENCE	NON-ELEVATOR:	156	178	209	241	262
STATE:RI	ELEVATOR:	171	195	230	265	289
NONSMSA PART:WASHINGTON	NON-ELEVATOR:	152	174	207	229	252
STATE:RI	ELEVATOR:	168	192	227	252	276

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ALBANY,NEW YORK INSURING OFFICE						
SMSA: ALBANY-SCHENECTADY-TROY, NY						
COUNTY: ALBANY	NON-ELEVATOR:	159	183	216	260	299
STATE: NY	ELEVATOR:	175	201	237	297	330
COUNTY: MONTGOMERY	NON-ELEVATOR:	159	183	216	260	299
STATE: NY	ELEVATOR:	175	201	237	297	330
COUNTY: RENSSELAER	NON-ELEVATOR:	159	183	216	260	299
STATE: NY	ELEVATOR:	175	201	237	297	330
COUNTY: SARATOGA	NON-ELEVATOR:	159	183	216	260	299
STATE: NY	ELEVATOR:	175	201	237	297	330
COUNTY: SCHENECTADY	NON-ELEVATOR:	159	183	216	260	299
STATE: NY	ELEVATOR:	175	201	237	297	330
SMSA: BINGHAMTON, NY-PA						
COUNTY: BROOME	NON-ELEVATOR:	142	164	194	233	268
STATE: NY	ELEVATOR:	156	180	213	257	309
COUNTY: TIOGA	NON-ELEVATOR:	142	164	194	233	268
STATE: NY	ELEVATOR:	156	180	213	257	309
SMSA: POUGHKEEPSIE, NY						
COUNTY: DUTCHESS	NON-ELEVATOR:	165	189	225	248	273
STATE: NY	ELEVATOR:	181	207	247	273	299
SMSA: SYRACUSE, NY						
COUNTY: MADISON	NON-ELEVATOR:	150	171	203	236	258
STATE: NY	ELEVATOR:	165	189	225	260	283
COUNTY: ONONDAGA	NON-ELEVATOR:	150	171	203	236	258
STATE: NY	ELEVATOR:	165	189	225	260	283
COUNTY: OSWEGO	NON-ELEVATOR:	150	171	203	236	258
STATE: NY	ELEVATOR:	165	189	225	260	283
SMSA: UTICA-ROME, NY						
COUNTY: HERKIMER	NON-ELEVATOR:	143	163	193	230	264
STATE: NY	ELEVATOR:	158	179	212	253	291

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ALBANY,NEW YORK INSURING OFFICE						
SMSA: UTICA-ROME, NY						
COUNTY: ONEIDA	NON-ELEVATOR:	143	163	193	230	264
STATE: NY	ELEVATOR:	158	179	212	253	291
NON SMSA						
COUNTY: CAYUGA	NON-ELEVATOR:	144	166	196	217	239
STATE: NY	ELEVATOR:	159	182	216	240	263
COUNTY: CHENANGO	NON-ELEVATOR:	122	139	166	185	203
STATE: NY	ELEVATOR:	134	153	182	203	223
COUNTY: CLINTON	NON-ELEVATOR:	115	132	157	174	192
STATE: NY	ELEVATOR:	126	145	173	192	212
COUNTY: COLUMBIA	NON-ELEVATOR:	117	134	160	178	195
STATE: NY	ELEVATOR:	129	148	177	195	216
COUNTY: CORTLAND	NON-ELEVATOR:	144	166	196	217	239
STATE: NY	ELEVATOR:	159	182	216	240	263
COUNTY: DELAWARE	NON-ELEVATOR:	122	139	166	185	203
STATE: NY	ELEVATOR:	134	153	182	203	223
COUNTY: ESSEX	NON-ELEVATOR:	115	132	157	174	192
STATE: NY	ELEVATOR:	126	145	173	192	212
COUNTY: FRANKLIN	NON-ELEVATOR:	106	123	146	161	178
STATE: NY	ELEVATOR:	117	134	160	178	195
COUNTY: FULTON	NON-ELEVATOR:	115	132	157	174	192
STATE: NY	ELEVATOR:	126	145	173	192	212
COUNTY: GREENE	NON-ELEVATOR:	117	134	160	178	195
STATE: NY	ELEVATOR:	129	148	177	195	216
COUNTY: HAMILTON	NON-ELEVATOR:	115	132	157	174	192
STATE: NY	ELEVATOR:	126	145	173	192	212
COUNTY: JEFFERSON	NON-ELEVATOR:	106	123	146	161	178
STATE: NY	ELEVATOR:	117	134	160	178	195

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ALBANY,NEW YORK INSURING OFFICE						
NON SMSA						
COUNTY: LEWIS	NON-ELEVATOR:	106	123	146	161	178
STATE: NY	ELEVATOR:	117	134	160	178	195
COUNTY: OTSEGO	NON-ELEVATOR:	122	139	166	185	203
STATE: NY	ELEVATOR:	134	153	182	203	223
COUNTY: ST LAWRENCE	NON-ELEVATOR:	106	123	146	161	178
STATE: NY	ELEVATOR:	117	134	160	178	195
COUNTY: SCHOHARIE	NON-ELEVATOR:	115	132	157	174	192
STATE: NY	ELEVATOR:	126	145	173	192	212
COUNTY: SULLIVAN	NON-ELEVATOR:	157	180	214	237	260
STATE: NY	ELEVATOR:	173	198	236	261	285
COUNTY: TOMPKINS	NON-ELEVATOR:	144	165	196	217	239
STATE: NY	ELEVATOR:	159	182	216	240	263
COUNTY: ULSTER	NON-ELEVATOR:	157	180	214	237	260
STATE: NY	ELEVATOR:	173	198	236	261	285
COUNTY: WARREN	NON-ELEVATOR:	121	153	178	197	214
STATE: NY	ELEVATOR:	134	168	196	217	236
COUNTY: WASHINGTON	NON-ELEVATOR:	115	132	157	174	192
STATE: NY	ELEVATOR:	126	145	173	192	212

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BUFFALO,NEW YORK AREA OFFICE						
SMSA: BUFFALO, NY						
COUNTY: ERIE	NON-ELEVATOR:	150	172	204	237	259
STATE: NY	ELEVATOR:	166	190	225	260	285
COUNTY: NIAGARA	NON-ELEVATOR:	150	172	204	237	259
STATE: NY	ELEVATOR:	166	190	225	260	285
SMSA: ELMIRA, NY						
COUNTY: CHEMUNG	NON-ELEVATOR:	122	139	166	185	203
STATE: NY	ELEVATOR:	134	153	182	203	223
SMSA: ROCHESTER, NY						
COUNTY: LIVINGSTON	NON-ELEVATOR:	163	188	222	269	307
STATE: NY	ELEVATOR:	180	206	246	306	336
COUNTY: MONROE	NON-ELEVATOR:	163	188	222	269	307
STATE: NY	ELEVATOR:	180	206	246	306	336
COUNTY: ONTARIO	NON-ELEVATOR:	163	188	222	269	307
STATE: NY	ELEVATOR:	180	206	246	306	336
COUNTY: ORLEANS	NON-ELEVATOR:	163	188	222	269	307
STATE: NY	ELEVATOR:	180	206	246	306	336
COUNTY: WAYNE	NON-ELEVATOR:	163	188	222	269	307
STATE: NY	ELEVATOR:	180	206	246	306	336
NON SMSA						
COUNTY: ALLEGANY	NON-ELEVATOR:	106	123	146	161	178
STATE: NY	ELEVATOR:	117	134	160	178	195
COUNTY: CATTARAUGUS	NON-ELEVATOR:	106	132	159	175	181
STATE: NY	ELEVATOR:	117	146	175	193	210
COUNTY: CHAUTAUQUA	NON-ELEVATOR:	132	159	175	196	239
STATE: NY	ELEVATOR:	145	175	193	216	263
COUNTY: GENESEE	NON-ELEVATOR:	106	123	146	161	178
STATE: NY	ELEVATOR:	117	134	160	178	195

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BUFFALO,NEW YORK AREA OFFICE						
NON SMSA						
COUNTY:SCHUYLER	NON-ELEVATOR:	122	139	166	185	203
STATE:NY	ELEVATOR:	134	153	182	203	223
COUNTY:SENECA	NON-ELEVATOR:	144	166	196	217	239
STATE:NY	ELEVATOR:	159	182	216	240	263
COUNTY:STEUBEN	NON-ELEVATOR:	122	139	166	185	203
STATE:NY	ELEVATOR:	134	153	182	203	223
COUNTY:WYOMING	NON-ELEVATOR:	106	123	146	161	178
STATE:NY	ELEVATOR:	117	134	160	178	195
COUNTY:YATES	NON-ELEVATOR:	144	166	196	217	239
STATE:NY	ELEVATOR:	159	182	216	240	263

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CAMDEN,NEW JERSEY AREA OFFICE						
SMSA: ATLANTIC CITY, NJ						
COUNTY:ATLANTIC	NON-ELEVATOR:	127	147	174	203	221
STATE:NJ	ELEVATOR:	140	161	192	223	243
SMSA: PHILADELPHIA, PA-NJ						
COUNTY:BURLINGTON	NON-ELEVATOR:	184	208	247	287	325
STATE:NJ	ELEVATOR:	202	229	272	316	358
COUNTY:CAMDEN	NON-ELEVATOR:	184	208	247	287	325
STATE:NJ	ELEVATOR:	202	229	272	316	358
COUNTY:GLOUCESTER	NON-ELEVATOR:	184	208	247	287	325
STATE:NJ	ELEVATOR:	202	229	272	316	358
SMSA: TRENTON, NJ						
COUNTY:MERCER	NON-ELEVATOR:	145	167	197	229	250
STATE:NJ	ELEVATOR:	160	183	217	252	275
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ						
COUNTY:CUMBERLAND	NON-ELEVATOR:	151	170	201	233	254
STATE:NJ	ELEVATOR:	165	187	221	257	279
SMSA: WILMINGTON, DE-NJ-MD						
COUNTY:SALEM	NON-ELEVATOR:	163	185	219	252	285
STATE:NJ	ELEVATOR:	180	204	240	278	313
NON SMSA						
COUNTY:CAPE MAY	NON-ELEVATOR:	153	175	208	230	253
STATE:NJ	ELEVATOR:	169	193	229	253	278
COUNTY:OCEAN	NON-ELEVATOR:	178	201	238	265	291
STATE:NJ	ELEVATOR:	194	221	263	291	319

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NEW YORK,NEW YORK AREA OFFICE						
SMSA: NASSAU, NY						
COUNTY:NASSAU	NON-ELEVATOR:	227	286	334	392	451
STATE:NY	ELEVATOR:	249	314	366	431	495
COUNTY:SUFFOLK	NON-ELEVATOR:	227	286	334	392	451
STATE:NY	ELEVATOR:	249	314	366	431	495
SMSA: NEW YORK CITY, NY-NJ						
COUNTY:BRONX	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
COUNTY:KINGS	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
COUNTY:NEW YORK	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
COUNTY:PUTNAM	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
COUNTY:QUEENS	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
COUNTY:RICHMOND	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
COUNTY:ROCKLAND	NON-ELEVATOR:	210	238	281	323	366
STATE:NY	ELEVATOR:	231	262	308	355	403
COUNTY:WESTCHESTER	NON-ELEVATOR:	192	218	256	296	335
STATE:NY	ELEVATOR:	212	240	283	325	369
NON SMSA						
COUNTY:ORANGE	NON-ELEVATOR:	157	180	214	247	280
STATE:NY	ELEVATOR:	173	198	235	271	285

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NEWARK,NEW JERSEY AREA OFFICE						
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ						
COUNTY:WARREN	NON-ELEVATOR:	170	196	231	257	281
STATE:NJ	ELEVATOR:	187	216	254	282	310
SMSA: JERSEY CITY, NJ						
COUNTY:HUDSON	NON-ELEVATOR:	151	171	190	219	240
STATE:NJ	ELEVATOR:	166	188	209	242	267
SMSA: LONG BRANCH-ASBURY PARK, NJ						
COUNTY:MONMOUTH	NON-ELEVATOR:	169	193	228	252	277
STATE:NJ	ELEVATOR:	185	211	251	278	306
SMSA: NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ						
COUNTY:MIDDLESEX	NON-ELEVATOR:	179	204	243	269	295
STATE:NJ	ELEVATOR:	196	225	267	296	324
SMSA: NEW YORK CITY, NY-NJ						
COUNTY:BERGEN	NON-ELEVATOR:	192	218	256	296	335
STATE:NJ	ELEVATOR:	212	240	283	325	369
SMSA: NEWARK, NJ						
COUNTY:ESSEX	NON-ELEVATOR:	180	206	246	271	297
STATE:NJ	ELEVATOR:	198	228	270	298	327
COUNTY:MORRIS	NON-ELEVATOR:	180	206	246	271	297
STATE:NJ	ELEVATOR:	198	228	270	298	327
COUNTY:SOMERSET	NON-ELEVATOR:	180	206	246	271	297
STATE:NJ	ELEVATOR:	198	228	270	298	327
COUNTY:UNION	NON-ELEVATOR:	180	206	246	271	297
STATE:NJ	ELEVATOR:	198	228	270	298	327
SMSA: PATERSON-CLIFTON-PASSAIC, NJ						
COUNTY:PASSAIC	NON-ELEVATOR:	176	202	239	277	314
STATE:NJ	ELEVATOR:	194	222	264	305	346
NON SMSA						
COUNTY:HUNTERDON	NON-ELEVATOR:	188	216	255	294	311
STATE:NJ	ELEVATOR:	207	237	281	313	342

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NEWARK,NEW JERSEY AREA OFFICE						
NON SMSA						
COUNTY:SUSSEX	NON-ELEVATOR:	171	196	232	258	283
STATE:NJ	ELEVATOR:	188	216	255	284	311

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN JUAN, P. R. AREA OFFICE						
SMSA: CAGUAS						
MUNICIPIO:ALL	NON-ELEVATOR:	137	157	184	204	223
STATE:PR	ELEVATOR:	151	172	203	225	244
SMSA: MAYAGUEZ						
MUNICIPIO:ALL	NON-ELEVATOR:	172	195	230	254	278
STATE:PR	ELEVATOR:	189	214	253	280	303
SMSA: PONCE						
MUNICIPIO:ALL	NON-ELEVATOR:	211	241	285	313	342
STATE:PR	ELEVATOR:	232	266	313	344	375
SMSA: SAN JUAN						
MUNICIPIO:ALL	NON-ELEVATOR:	210	239	282	324	354
STATE:PR	ELEVATOR:	231	264	310	357	389
NON SMSA						
MUNICIPIO:ALL OTHER	NON-ELEVATOR:	130	147	175	193	211
STATE:PR	ELEVATOR:	141	162	192	213	231
:ST. CROIX	NON-ELEVATOR:	156	198	256	281	294
STATE:VI	ELEVATOR:	0	0	0	0	0
:ST. THOMAS	NON-ELEVATOR:	169	228	293	322	336
STATE:VI	ELEVATOR:	0	0	0	0	0
:CHAR.AMALIE	NON-ELEVATOR:	181	244	316	347	362
STATE:VI	ELEVATOR:	0	0	0	0	0

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BALTIMORE,MARYLAND AREA OFFICE						
SMSA: BALTIMORE, MD						
COUNTY:ANNE ARUNDEL	NON-ELEVATOR:	157	178	213	246	279
STATE:MD	ELEVATOR:	172	195	234	270	307
COUNTY:BALTIMORE	NON-ELEVATOR:	157	178	213	246	279
STATE:MD	ELEVATOR:	172	195	234	270	307
COUNTY:CARROLL	NON-ELEVATOR:	157	178	213	246	279
STATE:MD	ELEVATOR:	172	195	234	270	307
COUNTY:HARFORD	NON-ELEVATOR:	157	178	213	246	279
STATE:MD	ELEVATOR:	172	195	234	270	307
COUNTY:HOWARD	NON-ELEVATOR:	157	178	213	246	279
STATE:MD	ELEVATOR:	172	195	234	270	307
:COLUMBIA(U)	NON-ELEVATOR:	174	208	244	279	313
STATE:MD	ELEVATOR:	192	230	269	308	345
INDEP. CITY:BALTIMORE	NON-ELEVATOR:	157	178	213	246	279
STATE:MD	ELEVATOR:	172	195	234	270	307
SMSA: WASHINGTON, DC-MD-VA						
COUNTY:CHARLES	NON-ELEVATOR:	183	218	256	292	328
STATE:MD	ELEVATOR:	201	241	281	321	361
SMSA: WILMINGTON, DE-NJ-MD						
COUNTY:CECIL	NON-ELEVATOR:	163	185	219	252	285
STATE:MD	ELEVATOR:	180	204	240	278	313
NON SMSA						
COUNTY:ALLEGANY	NON-ELEVATOR:	85	108	129	158	173
STATE:MD	ELEVATOR:	95	118	142	174	190
COUNTY:CALVERT	NON-ELEVATOR:	113	129	154	171	189
STATE:MD	ELEVATOR:	123	141	168	189	207
COUNTY:CAROLINE	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BALTIMORE,MARYLAND AREA OFFICE						
NON SMSA						
COUNTY:DORCHESTER	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257
COUNTY:FREDERICK	NON-ELEVATOR:	113	129	154	171	189
STATE:MD	ELEVATOR:	123	141	168	189	207
COUNTY:GARRETT	NON-ELEVATOR:	85	99	118	132	145
STATE:MD	ELEVATOR:	95	109	129	145	159
COUNTY:KENT	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257
COUNTY:QUEEN ANNES	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257
COUNTY:ST MARYS	NON-ELEVATOR:	129	148	177	197	217
STATE:MD	ELEVATOR:	142	162	195	216	239
COUNTY:SOMERSET	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257
COUNTY:TALBOT	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257
COUNTY:WASHINGTON	NON-ELEVATOR:	136	155	185	205	226
STATE:MD	ELEVATOR:	149	171	204	225	248
COUNTY:WICOMICO	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257
COUNTY:WORCESTER	NON-ELEVATOR:	139	159	190	213	234
STATE:MD	ELEVATOR:	152	175	209	234	257

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHARLESTON, WEST VIRGINIA INSURING OFFICE						
SMSA: CHARLESTON, WV						
COUNTY: KANAWHA	NON-ELEVATOR:	122	149	186	225	258
STATE: WV	ELEVATOR:	143	179	211	246	289
COUNTY: PUTNAM	NON-ELEVATOR:	122	149	186	225	258
STATE: WV	ELEVATOR:	143	179	211	248	289
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH						
COUNTY: CABELL	NON-ELEVATOR:	132	151	177	210	233
STATE: WV	ELEVATOR:	146	166	195	231	256
COUNTY: WAYNE	NON-ELEVATOR:	132	151	177	210	233
STATE: WV	ELEVATOR:	146	166	195	231	256
SMSA: PARKERSBURG-MARIETTA, WV-OH						
COUNTY: WIRT	NON-ELEVATOR:	107	124	148	166	182
STATE: WV	ELEVATOR:	118	135	163	182	200
COUNTY: WOOD	NON-ELEVATOR:	107	124	148	166	182
STATE: WV	ELEVATOR:	118	135	163	182	200
SMSA: STEUBENVILLE-WEIRTON, OH-WV						
COUNTY: BROOKE	NON-ELEVATOR:	95	109	130	153	167
STATE: WV	ELEVATOR:	104	119	143	167	183
COUNTY: HANCOCK	NON-ELEVATOR:	95	109	130	153	167
STATE: WV	ELEVATOR:	104	119	143	167	183
SMSA: WHEELING, WV-OH						
COUNTY: MARSHALL	NON-ELEVATOR:	95	109	130	153	167
STATE: WV	ELEVATOR:	104	119	143	167	183
COUNTY: OHIO	NON-ELEVATOR:	95	109	130	153	167
STATE: WV	ELEVATOR:	104	119	143	167	183
NON SMSA						
COUNTY: BARBOUR	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHARLESTON, WEST VIRGINIA INSURING OFFICE						
NON SMSA						
COUNTY: BERKELEY	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: BOONE	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: BRAXTON	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: CALHOUN	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: CLAY	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: DODDRIDGE	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: FAYETTE	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: GILMER	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: GRANT	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: GREENBRIER	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: HAMPSHIRE	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: HARDY	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: HARRISON	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHARLESTON, WEST VIRGINIA INSURING OFFICE						
NON SMSA						
COUNTY: JACKSON	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: JEFFERSON	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: LEWIS	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: LINCOLN	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: LOGAN	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: MCDOWELL	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: MARION	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: MASON	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: MERCER	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: MINERAL	NON-ELEVATOR:	85	99	118	132	145
STATE: WV	ELEVATOR:	95	109	129	145	159
COUNTY: MINGO	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: MONONGALIA	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: MONROE	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHARLESTON, WEST VIRGINIA INSURING OFFICE						
NON SMSA						
COUNTY: MORGAN	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY NICHOLAS	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: PENDLETON	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: PLEASANTS	NON-ELEVATOR:	105	122	144	161	178
STATE: WV	ELEVATOR:	116	132	159	178	195
COUNTY: POCAHONTAS	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: PRESTON	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: RALEIGH	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: RANDOLPH	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: RITCHIE	NON-ELEVATOR:	105	122	144	161	178
STATE: WV	ELEVATOR:	116	132	159	178	195
COUNTY: ROANE	NON-ELEVATOR:	77	89	107	120	132
STATE: WV	ELEVATOR:	85	99	118	132	146
COUNTY: SUMMERS	NON-ELEVATOR:	106	119	142	159	172
STATE: WV	ELEVATOR:	116	133	158	174	190
COUNTY: TAYLOR	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182
COUNTY: TUCKER	NON-ELEVATOR:	99	113	135	151	167
STATE: WV	ELEVATOR:	107	125	148	166	182

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHARLESTON,WEST VIRGINIA INSURING OFFICE						
NON SMSA						
COUNTY:TYLER	NON-ELEVATOR:	85	99	118	132	145
STATE:WV	ELEVATOR:	95	109	129	146	159
COUNTY:UPSHUR	NON-ELEVATOR:	99	113	135	151	167
STATE:WV	ELEVATOR:	107	129	148	168	182
COUNTY:WEBSTER	NON-ELEVATOR:	77	89	107	120	132
STATE:W/	ELEVATOR:	85	99	118	132	146
COUNTY:WETZEL	NON-ELEVATOR:	85	99	119	132	145
STATE:WV	ELEVATOR:	95	109	129	146	159
COUNTY:WYOMING	NON-ELEVATOR:	106	119	142	159	172
STATE:WV	ELEVATOR:	118	133	158	174	190

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PHILADELPHIA,PENNSYLVANIA AREA OFFICE						
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ						
COUNTY:CARBON	NON-ELEVATOR:	170	196	231	257	281
STATE:PA	ELEVATOR:	187	216	254	282	310
COUNTY:LEHIGH	NON-ELEVATOR:	170	196	231	257	281
STATE:PA	ELEVATOR:	187	216	254	282	310
COUNTY:NORTHAMPTON	NON-ELEVATOR:	170	196	231	257	281
STATE:PA	ELEVATOR:	187	216	254	282	310
SMSA: BINGHAMTON, NY-PA						
COUNTY:SUSQUEHANNA	NON-ELEVATOR:	142	164	194	233	268
STATE:PA	ELEVATOR:	156	180	213	257	309
SMSA: HARRISBURG, PA						
COUNTY:CUMBERLAND	NON-ELEVATOR:	154	176	210	243	265
STATE:PA	ELEVATOR:	170	194	231	267	292
COUNTY:DAUPHIN	NON-ELEVATOR:	154	176	210	243	265
STATE:PA	ELEVATOR:	170	194	231	267	292
COUNTY:PERRY	NON-ELEVATOR:	154	176	210	243	265
STATE:PA	ELEVATOR:	170	194	231	267	292
SMSA: LANCASTER, PA						
COUNTY:LANCASTER	NON-ELEVATOR:	116	133	159	183	202
STATE:PA	ELEVATOR:	127	147	174	203	221
SMSA: NORTHEAST, PA						
COUNTY:LACKAWANNA	NON-ELEVATOR:	116	134	160	178	194
STATE:PA	ELEVATOR:	129	147	175	195	213
COUNTY:LUZERNE	NON-ELEVATOR:	116	134	160	178	194
STATE:PA	ELEVATOR:	129	147	175	195	213
COUNTY:MONROE	NON-ELEVATOR:	116	134	160	178	194
STATE:PA	ELEVATOR:	129	147	175	195	213
SMSA: PHILADELPHIA, PA-NJ						
COUNTY:BUCKS	NON-ELEVATOR:	184	208	247	287	325
STATE:PA	ELEVATOR:	202	229	272	316	358

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PHILADELPHIA,PENNSYLVANIA AREA OFFICE						
SMSA: PHILADELPHIA, PA-NJ						
COUNTY:CHESTER	NON-ELEVATOR:	184	208	247	287	325
STATE:PA	ELEVATOR:	202	229	272	316	358
COUNTY:DELAWARE	NON-ELEVATOR:	184	208	247	287	325
STATE:PA	ELEVATOR:	202	229	272	316	358
COUNTY:MONTGOMERY	NON-ELEVATOR:	184	208	247	287	325
STATE:PA	ELEVATOR:	202	229	272	316	358
COUNTY:PHILADELPHIA	NON-ELEVATOR:	184	208	247	287	325
STATE:PA	ELEVATOR:	202	229	272	316	358
SMSA: READING, PA						
COUNTY:BERKS	NON-ELEVATOR:	125	145	172	199	218
STATE:PA	ELEVATOR:	138	159	190	218	240
SMSA: WILLIAMSPORT, PA						
COUNTY:LYCOMING	NON-ELEVATOR:	114	131	156	173	191
STATE:PA	ELEVATOR:	125	144	172	191	209
SMSA: YORK, PA						
COUNTY:ADAMS	NON-ELEVATOR:	131	149	178	206	225
STATE:PA	ELEVATOR:	143	165	195	227	248
COUNTY:YORK	NON-ELEVATOR:	131	149	178	206	225
STATE:PA	ELEVATOR:	143	165	195	227	248
NON SMSA						
COUNTY:BRADFORD	NON-ELEVATOR:	122	139	166	185	203
STATE:PA	ELEVATOR:	134	153	182	203	223
COUNTY:CENTRE	NON-ELEVATOR:	114	131	156	173	191
STATE:PA	ELEVATOR:	125	144	172	191	209
COUNTY:CLINTON	NON-ELEVATOR:	114	131	156	173	191
STATE:PA	ELEVATOR:	125	144	172	191	209
COUNTY:COLUMBIA	NON-ELEVATOR:	106	123	146	161	178
STATE:PA	ELEVATOR:	117	134	160	178	195

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PHILADELPHIA,PENNSYLVANIA AREA OFFICE						
NON SMSA						
COUNTY:FRANKLIN	NON-ELEVATOR:	101	115	138	160	176
STATE:PA	ELEVATOR:	112	127	153	177	193
COUNTY:JUNIATA	NON-ELEVATOR:	90	106	125	139	154
STATE:PA	ELEVATOR:	100	115	138	154	169
COUNTY:LEBANON	NON-ELEVATOR:	117	134	160	186	204
STATE:PA	ELEVATOR:	129	148	177	205	224
COUNTY:MIFFLIN	NON-ELEVATOR:	90	106	125	139	154
STATE:PA	ELEVATOR:	100	115	138	154	169
COUNTY:MONTOUR	NON-ELEVATOR:	90	106	125	139	154
STATE:PA	ELEVATOR:	100	115	138	154	169
COUNTY:NORTHUMBRLND	NON-ELEVATOR:	114	132	157	174	192
STATE:PA	ELEVATOR:	125	144	172	192	211
COUNTY:PIKE	NON-ELEVATOR:	106	123	146	161	178
STATE:PA	ELEVATOR:	117	134	160	178	195
COUNTY:SCHUYLKILL	NON-ELEVATOR:	119	136	164	182	201
STATE:PA	ELEVATOR:	130	151	181	200	222
COUNTY:SNYDER	NON-ELEVATOR:	90	106	125	139	154
STATE:PA	ELEVATOR:	100	115	138	154	169
COUNTY:SULLIVAN	NON-ELEVATOR:	114	131	156	173	191
STATE:PA	ELEVATOR:	125	144	172	191	209
COUNTY:TIOGA	NON-ELEVATOR:	122	139	166	185	203
STATE:PA	ELEVATOR:	134	153	182	203	223
COUNTY:UNION	NON-ELEVATOR:	90	106	125	139	154
STATE:PA	ELEVATOR:	100	115	138	154	169
COUNTY:WAYNE	NON-ELEVATOR:	106	123	146	161	178
STATE:PA	ELEVATOR:	117	134	160	178	195

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PHILADELPHIA,PENNSYLVANIA AREA OFFICE						
NON SMSA						
COUNTY: WYOMING	NON-ELEVATOR:	127	147	175	226	249
STATE: PA	ELEVATOR:	140	161	192	249	274

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PITTSBURGH,PENNSYLVANIA AREA OFFICE						
SMSA: ALTOONA, PA						
COUNTY: BLAIR	NON-ELEVATOR:	127	143	182	209	230
STATE: PA	ELEVATOR:	138	154	198	225	246
SMSA: ERIE, PA						
COUNTY: ERIE	NON-ELEVATOR:	123	142	168	195	213
STATE: PA	ELEVATOR:	135	156	184	214	235
SMSA: JOHNSTOWN, PA						
COUNTY: CAMBRIA	NON-ELEVATOR:	90	106	125	145	159
STATE: PA	ELEVATOR:	100	115	138	160	176
COUNTY: SOMERSET	NON-ELEVATOR:	90	106	125	145	159
STATE: PA	ELEVATOR:	100	115	138	160	176
SMSA: PITTSBURGH, PA						
COUNTY: ALLEGHANY	NON-ELEVATOR:	138	159	187	218	247
STATE: PA	ELEVATOR:	152	175	205	239	271
COUNTY: BEAVER	NON-ELEVATOR:	138	159	187	218	247
STATE: PA	ELEVATOR:	152	175	205	239	271
COUNTY: WASHINGTON	NON-ELEVATOR:	138	159	187	218	247
STATE: PA	ELEVATOR:	152	175	205	239	271
COUNTY: WESTMORELAND	NON-ELEVATOR:	138	159	187	218	247
STATE: PA	ELEVATOR:	152	175	205	239	271
NON SMSA						
COUNTY: ARMSTRONG	NON-ELEVATOR:	104	121	143	159	174
STATE: PA	ELEVATOR:	115	132	157	174	192
COUNTY: BEDFORD	NON-ELEVATOR:	101	115	138	160	176
STATE: PA	ELEVATOR:	112	127	153	177	193
COUNTY: BUTLER	NON-ELEVATOR:	104	121	143	159	174
STATE: PA	ELEVATOR:	115	132	157	174	192
COUNTY: CAMERON	NON-ELEVATOR:	114	131	156	173	191
STATE: PA	ELEVATOR:	125	144	172	191	209

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PITTSBURGH,PENNSYLVANIA AREA OFFICE						
NON SMSA						
COUNTY: CLARION	NON-ELEVATOR:	104	121	143	159	174
STATE: PA	ELEVATOR:	115	132	157	174	192
COUNTY: CLEARFIELD	NON-ELEVATOR:	114	131	156	173	191
STATE: PA	ELEVATOR:	125	144	172	191	209
COUNTY: CRAWFORD	NON-ELEVATOR:	108	125	148	165	182
STATE: PA	ELEVATOR:	120	138	164	181	201
COUNTY: ELK	NON-ELEVATOR:	114	131	156	173	191
STATE: PA	ELEVATOR:	125	144	172	191	209
COUNTY: FAYETTE	NON-ELEVATOR:	91	107	126	142	156
STATE: PA	ELEVATOR:	101	117	139	156	171
COUNTY: FOREST	NON-ELEVATOR:	108	125	148	165	182
STATE: PA	ELEVATOR:	120	138	164	181	201
COUNTY: FULTON	NON-ELEVATOR:	101	115	138	160	176
STATE: PA	ELEVATOR:	112	127	153	177	193
COUNTY: GREENE	NON-ELEVATOR:	91	107	126	142	156
STATE: PA	ELEVATOR:	101	117	139	156	171
COUNTY: HUNTINGDON	NON-ELEVATOR:	101	115	138	160	176
STATE: PA	ELEVATOR:	112	127	153	177	193
COUNTY: INDIANA	NON-ELEVATOR:	104	121	143	159	174
STATE: PA	ELEVATOR:	115	132	157	174	192
COUNTY: JEFFERSON	NON-ELEVATOR:	114	131	156	173	191
STATE: PA	ELEVATOR:	125	144	172	191	209
COUNTY: LAWRENCE	NON-ELEVATOR:	108	125	148	165	182
STATE: PA	ELEVATOR:	120	138	164	181	201
COUNTY: MCKEAN	NON-ELEVATOR:	106	123	146	161	178
STATE: PA	ELEVATOR:	117	134	160	178	195

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PITTSBURGH,PENNSYLVANIA AREA OFFICE						
NON SMSA						
COUNTY: MERCER	NON-ELEVATOR:	108	125	148	165	182
STATE: PA	ELEVATOR:	120	138	164	181	201
COUNTY: POTTER	NON-ELEVATOR:	106	123	146	161	178
STATE: PA	ELEVATOR:	117	134	160	178	195
COUNTY: VENANGO	NON-ELEVATOR:	108	125	148	165	182
STATE: PA	ELEVATOR:	120	138	164	181	201
COUNTY: WARREN	NON-ELEVATOR:	108	125	148	165	182
STATE: PA	ELEVATOR:	120	138	164	181	201

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA						
COUNTY:SCOTT	NON-ELEVATOR:	109	127	152	169	188
STATE:VA	ELEVATOR:	121	138	167	187	205
COUNTY:WASHINGTON	NON-ELEVATOR:	109	127	152	169	188
STATE:VA	ELEVATOR:	121	138	167	187	205
INDEP. CITY:BRISTOL	NON-ELEVATOR:	109	127	152	169	188
STATE:VA	ELEVATOR:	121	138	167	187	205
SMSA: LYNCHBURG, VA						
COUNTY:AMHERST	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
COUNTY:APPOMATTOX	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
COUNTY:CAMPBELL	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
INDEP. CITY:LYNCHBURG	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
SMSA: NEWPORT NEWS-HAMPTON, VA						
COUNTY:GLOUCESTER	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251
COUNTY:JAMES CITY	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251
COUNTY:YORK	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251
INDEP. CITY:HAMPTON	NON-ELEVATOR	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251
INDEP. CITY:NEWPORT NEWS	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: NEWPORT NEWS-HAMPTON, VA						
INDEP. CITY:POQUOSON	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251
INDEP. CITY:WILLIAMSBURG	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	174	205	229	251
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC						
INDEP. CITY:CHESAPEAKE	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	173	206	229	251
INDEP. CITY:NORFOLK	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	173	206	229	251
INDEP. CITY:PORTSMOUTH	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	173	206	229	251
INDEP. CITY:SUFFOLK	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	173	206	229	251
INDEP. CITY:VIRGINIA BEA	NON-ELEVATOR:	138	158	187	209	229
STATE:VA	ELEVATOR:	151	173	206	229	251
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA						
COUNTY:DINWIDDIE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	165	198	231	252
COUNTY:PRINCEGEORGE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
INDEP. CITY:COLONIAL HEI	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
INDEP. CITY:HOPEWELL	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
INDEP. CITY:PETERSBURG	NON-ELEVATOR:	131	151	181	210	229
STATE.VA	ELEVATOR:	144	166	198	231	252

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
SMSA: RICHMOND, VA						
COUNTY:CHARLES CITY	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
COUNTY:CHESTERFIELD	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
COUNTY:GOOCHLAND	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
COUNTY:HANOVER	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
COUNTY:HENRICO	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
COUNTY:POWHATAN	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
INDEP. CITY:RICHMOND	NON-ELEVATOR:	144	170	199	231	254
STATE:VA	ELEVATOR:	158	186	219	253	279
SMSA: ROANOKE, VA						
COUNTY:BOTETOURT	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:CRAIG	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:ROANOKE	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
INDEP. CITY:ROANOKE	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
INDEP. CITY:SALEM	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
NON SMSA						
COUNTY:ACCOMACK	NON-ELEVATOR:	116	133	159	178	195
STATE:VA	ELEVATOR:	127	146	175	196	215

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:ALBEMARLE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:ALLEGHANY	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:AMELIA	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:AUGUSTA	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:BATH	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:BEDFORD	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
COUNTY:BLAND	NON-ELEVATOR:	82	94	111	125	138
STATE:VA	ELEVATOR:	90	103	123	138	153
COUNTY:BRUNSWICK	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:BUCHANAN	NON-ELEVATOR:	82	94	111	125	138
STATE:VA	ELEVATOR:	90	103	123	138	153
COUNTY:BUCKINGHAM	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:CAROLINE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:CARROLL	NON-ELEVATOR:	91	105	124	139	154
STATE:VA	ELEVATOR:	100	114	137	154	169
COUNTY:CHARLOTTE	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:CLARKE	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:CULPEPER	NON-ELEVATOR:	113	129	154	171	189
STATE:VA	ELEVATOR:	123	141	169	189	207
COUNTY:CUMBERLAND	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:DICKENSON	NON-ELEVATOR:	82	94	111	125	138
STATE:VA	ELEVATOR:	90	103	123	138	153
COUNTY:ESSEX	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:FAUQUIER	NON-ELEVATOR:	113	129	154	171	189
STATE:VA	ELEVATOR:	123	141	169	189	207
COUNTY:FLOYD	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:FLUVANNA	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:FRANKLIN	NON-ELEVATOR:	89	102	122	136	150
STATE:VA	ELEVATOR:	98	112	133	149	166
COUNTY:FREDERICK	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:GILES	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:GRAYSON	NON-ELEVATOR:	91	105	124	139	154
STATE:VA	ELEVATOR:	100	114	137	154	169
COUNTY:GREENE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:GREENSVILLE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:HALIFAX	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
COUNTY:HENRY	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:HIGHLAND	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:ISLE OF WIGHT	NON-ELEVATOR:	89	102	122	136	150
STATE:VA	ELEVATOR:	98	112	133	149	166
COUNTY:KING + QUEEN	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:KING GEORGE	NON-ELEVATOR:	113	129	154	171	189
STATE:VA	ELEVATOR:	123	141	169	189	207
COUNTY:KING WILLIAM	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:LANCASTER	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:LEE	NON-ELEVATOR:	82	94	111	125	138
STATE:VA	ELEVATOR:	90	103	123	138	153
COUNTY:LOUISA	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:LUNENBURG	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:MADISON	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:MATHEWS	NON-ELEVATOR:	89	102	122	136	150
STATE:VA	ELEVATOR:	98	112	133	149	166
COUNTY:MECKLENBURG	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:MIDDLESEX	NON-ELEVATOR:	89	102	122	136	150
STATE:VA	ELEVATOR:	98	112	133	149	166
COUNTY:MONTGOMERY	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:NELSON	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227
COUNTY:NEW KENT	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:NORTHAMPTON	NON-ELEVATOR:	116	133	159	178	195
STATE:VA	ELEVATOR:	127	146	175	195	215
COUNTY:NORTHUMBERLD	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:NOTTOWAY	NON-ELEVATOR:	131	151	131	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:ORANGE	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:PAGE	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:PATRICK	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:PITTSYLVANIA	NON-ELEVATOR:	123	141	169	188	206
STATE:VA	ELEVATOR:	135	154	185	207	227

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:PRINCEEDWARD	NON-ELEVATOR:	131	151	181	210	229
STATE:VA	ELEVATOR:	144	166	198	231	252
COUNTY:PULASKI	NON-ELEVATOR:	113	129	154	180	196
STATE:VA	ELEVATOR:	123	141	169	197	216
COUNTY:RAPPAHANNOCK	NON-ELEVATOR:	113	129	154	171	189
STATE:VA	ELEVATOR:	123	141	169	189	207
COUNTY:RICHMOND	NON-ELEVATOR:	129	164	195	226	249
STATE:VA	ELEVATOR:	143	181	214	248	274
COUNTY:ROCKBRIDGE	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:ROCKINGHAM	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:RUSSELL	NON-ELEVATOR:	82	94	111	125	138
STATE:VA	ELEVATOR:	90	103	123	138	153
COUNTY:SHENANDOAH	NON-ELEVATOR:	99	113	135	151	167
STATE:VA	ELEVATOR:	107	125	148	166	182
COUNTY:SMYTH	NON-ELEVATOR:	82	94	111	125	138
STATE:VA	ELEVATOR:	90	103	123	138	153
COUNTY:SOUTHAMPTON	NON-ELEVATOR:	89	102	122	136	150
STATE:VA	ELEVATOR:	98	112	133	149	166
COUNTY:SPOTSLYVANIA	NON-ELEVATOR:	113	129	154	171	189
STATE:VA	ELEVATOR:	123	141	169	189	207
COUNTY:STAFFORD	NON-ELEVATOR:	113	129	154	171	189
STATE:VA	ELEVATOR:	123	141	169	189	207
COUNTY:SURRY	NON-ELEVATOR:	89	102	122	136	150
STATE:VA	ELEVATOR:	98	112	133	149	166

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
COUNTY:SUSSEX STATE:VA	NON-ELEVATOR:	131	151	181	210	229
	ELEVATOR:	144	166	198	231	252
COUNTY:TAZEWELL STATE:VA	NON-ELEVATOR:	82	94	111	125	138
	ELEVATOR:	90	103	123	138	153
COUNTY:WARREN STATE:VA	NON-ELEVATOR:	98	113	136	151	167
	ELEVATOR:	107	125	148	166	182
COUNTY:WESTMORELAND STATE:VA	NON-ELEVATOR:	131	151	181	210	229
	ELEVATOR:	144	166	198	231	252
COUNTY:WISE STATE:VA	NON-ELEVATOR:	82	94	111	125	138
	ELEVATOR:	90	103	123	138	153
COUNTY:WYTHE STATE:VA	NON-ELEVATOR:	113	129	154	180	196
	ELEVATOR:	123	141	169	197	216
INDEP. CITY:BEDFORD STATE:VA	NON-ELEVATOR:	123	141	169	188	206
	ELEVATOR:	135	154	185	207	227
INDEP. CITY:BUENA VISTA STATE:VA	NON-ELEVATOR:	98	113	135	151	167
	ELEVATOR:	107	125	148	168	182
INDEP. CITY:CHARLOTTESVI STATE:VA	NON-ELEVATOR:	131	151	181	210	229
	ELEVATOR:	144	166	198	231	252
INDEP. CITY:CLIFTON FORG STATE:VA	NON-ELEVATOR:	113	129	154	180	196
	ELEVATOR:	123	141	169	197	216
INDEP. CITY:COVINGTON STATE:VA	NON-ELEVATOR:	113	129	154	180	196
	ELEVATOR:	123	141	169	197	216
INDEP. CITY:DANVILLE STATE:VA	NON-ELEVATOR:	123	141	169	188	206
	ELEVATOR:	135	154	185	207	227
INDEP. CITY:EMPORIA STATE:VA	NON-ELEVATOR:	131	151	181	210	229
	ELEVATOR:	144	166	198	231	252

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RICHMOND,VIRGINIA AREA OFFICE						
NON SMSA						
INDEP. CITY:FRANKLIN STATE:VA	NON-ELEVATOR:	113	129	154	180	196
	ELEVATOR:	123	141	169	197	216
INDEP. CITY:FREDERICKBUR STATE:VA	NON-ELEVATOR:	113	129	154	171	189
	ELEVATOR:	123	141	169	188	207
INDEP. CITY:GALAX STATE:VA	NON-ELEVATOR:	91	105	124	139	154
	ELEVATOR:	100	114	137	154	169
INDEP. CITY:HARRISONBURG STATE:VA	NON-ELEVATOR:	99	113	135	151	167
	ELEVATOR:	107	125	148	166	182
INDEP. CITY:LEXINGTON STATE:VA	NON-ELEVATOR:	99	113	135	151	167
	ELEVATOR:	107	125	148	166	182
INDEP. CITY:MARTINSVILLE STATE:VA	NON-ELEVATOR:	113	129	154	180	196
	ELEVATOR:	123	141	169	197	216
INDEP. CITY:NORTON STATE:VA	NON-ELEVATOR:	82	94	111	125	138
	ELEVATOR:	90	103	123	138	153
INDEP. CITY:RADFORD STATE:VA	NON-ELEVATOR:	113	129	154	180	196
	ELEVATOR:	123	141	169	197	216
INDEP. CITY:SOUTH BOSTON STATE:VA	NON-ELEVATOR:	123	141	169	188	206
	ELEVATOR:	135	154	185	207	227
INDEP. CITY:STAUNTON STATE:VA	NON-ELEVATOR:	99	113	135	151	167
	ELEVATOR:	107	125	148	166	182
INDEP. CITY:WAYNESBORO STATE:VA	NON-ELEVATOR:	99	113	135	151	167
	ELEVATOR:	107	125	148	166	182
INDEP. CITY:WINCHESTER STATE:VA	NON-ELEVATOR:	99	113	135	151	167
	ELEVATOR:	107	125	148	166	182

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
WASHINGTON,D.C. AREA OFFICE						
SMSA: WASHINGTON, DC-MD-VA						
COUNTY:MONTGOMERY STATE:MD	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
COUNTY:PRINCE GEORG STATE:MD	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
COUNTY:WASHINGTON STATE:DC	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
COUNTY:ARLINGTON STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
COUNTY:FAIRFAX STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
COUNTY:LOUDOUN STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
COUNTY:PRINCEWILLIA STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
INDEP. CITY:ALEXANDRIA STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
INDEP. CITY:FAIRFAX STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
INDEP. CITY:FALLS CHURCH STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
INDEP. CITY:MANASSAS STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361
INDEP. CITY:MANASSAS PRK STATE:VA	NON-ELEVATOR:	183	218	256	292	328
	ELEVATOR:	201	241	281	321	361

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
WILMINGTON,DELAWARE INSURING OFFICE						
SMSA: WILMINGTON, DE-NJ-MD						
COUNTY:NEW CASTLE STATE:DE	NON-ELEVATOR:	163	185	219	252	285
	ELEVATOR:	180	204	240	278	313
NON SMSA						
COUNTY:KENT STATE:DE	NON-ELEVATOR:	116	133	159	178	195
	ELEVATOR:	127	146	175	196	215
COUNTY:SUSSEX STATE:DE	NON-ELEVATOR:	116	133	159	178	195
	ELEVATOR:	127	146	175	196	215

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
SMSA: ALBANY, GA						
COUNTY: DOUGHERTY	NON-ELEVATOR:	127	146	174	193	215
STATE: GA	ELEVATOR:	140	160	191	214	235
COUNTY: LEE	NON-ELEVATOR:	127	146	174	193	215
STATE: GA	ELEVATOR:	140	160	191	214	235
SMSA: ATLANTA, GA						
COUNTY: BUTTS	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: CHEROKEE	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: CLAYTON	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: COBB	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: DE KALB	NON-ELEVATOR:	161	184	219	255	288
STATE: GA	ELEVATOR:	177	202	242	279	316
COUNTY: DOUGLAS	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: FAYETTE	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: FORSYTH	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: FULTON	NON-ELEVATOR:	161	184	219	255	288
STATE: GA	ELEVATOR:	177	202	242	279	316
COUNTY: GWINNETT	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: HENRY	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
SMSA: ATLANTA, GA						
COUNTY: NEWTON	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: PAULDING	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: ROCKDALE	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
COUNTY: WALTON	NON-ELEVATOR:	140	162	195	225	256
STATE: GA	ELEVATOR:	155	178	213	247	281
SMSA: AUGUSTA, GA-SC						
COUNTY: COLUMBIA	NON-ELEVATOR:	164	191	229	265	291
STATE: GA	ELEVATOR:	182	207	249	291	317
COUNTY: RICHMOND	NON-ELEVATOR:	164	191	229	265	291
STATE: GA	ELEVATOR:	182	207	249	291	317
SMSA: CHATTANOOGA, TN-GA						
COUNTY: CATOOSA	NON-ELEVATOR:	113	129	154	180	198
STATE: GA	ELEVATOR:	123	141	169	199	216
COUNTY: DADE	NON-ELEVATOR:	113	129	154	180	198
STATE: GA	ELEVATOR:	123	141	169	199	216
COUNTY: WALKER	NON-ELEVATOR:	113	129	154	180	198
STATE: GA	ELEVATOR:	123	141	169	199	216
SMSA: COLUMBUS, GA-AL						
COUNTY: CHATTAHOOCHE	NON-ELEVATOR:	121	138	164	182	200
STATE: GA	ELEVATOR:	132	152	180	200	219
COUNTY: COLUMBUS	NON-ELEVATOR:	121	138	164	182	200
STATE: GA	ELEVATOR:	132	152	180	200	219
SMSA: MACON, GA						
COUNTY: BIBB	NON-ELEVATOR:	107	123	147	169	187
STATE: GA	ELEVATOR:	118	134	162	186	204

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
SMSA: MACON, GA						
COUNTY: HOUSTON	NON-ELEVATOR:	107	123	147	169	187
STATE: GA	ELEVATOR:	118	134	162	186	204
COUNTY: JONES	NON-ELEVATOR:	107	123	147	169	187
STATE: GA	ELEVATOR:	118	134	162	186	204
COUNTY: TWIGGS	NON-ELEVATOR:	107	123	147	169	187
STATE: GA	ELEVATOR:	118	134	162	186	204
SMSA: SAVANNAH, GA						
COUNTY: BRYAN	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: CHATHAM	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: EFFINGHAM	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
NON SMSA						
COUNTY: APPLING	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: ATKINSON	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: BACON	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: BAKER	NON-ELEVATOR:	89	102	122	136	150
STATE: GA	ELEVATOR:	98	112	133	149	166
COUNTY: BALDWIN	NON-ELEVATOR:	89	102	122	142	156
STATE: GA	ELEVATOR:	98	112	133	157	171
COUNTY: BANKS	NON-ELEVATOR:	101	116	140	156	171
STATE: GA	ELEVATOR:	111	128	153	170	189

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY: BARROW	NON-ELEVATOR:	101	116	140	156	171
STATE: GA	ELEVATOR:	111	128	153	170	189
COUNTY: BARTOW	NON-ELEVATOR:	83	96	115	130	143
STATE: GA	ELEVATOR:	92	106	126	142	156
COUNTY: BEN HILL	NON-ELEVATOR:	89	102	122	136	150
STATE: GA	ELEVATOR:	98	112	133	149	166
COUNTY: BERRIEN	NON-ELEVATOR:	89	102	122	136	150
STATE: GA	ELEVATOR:	98	112	133	149	166
COUNTY: BLECKLEY	NON-ELEVATOR:	89	102	122	142	156
STATE: GA	ELEVATOR:	98	112	133	157	171
COUNTY: BRANTLEY	NON-ELEVATOR:	98	112	133	149	165
STATE: GA	ELEVATOR:	106	124	147	165	180
COUNTY: BROOKS	NON-ELEVATOR:	89	102	122	136	150
STATE: GA	ELEVATOR:	98	112	133	149	166
COUNTY: BULLOCH	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: BURKE	NON-ELEVATOR:	102	117	141	157	172
STATE: GA	ELEVATOR:	113	129	154	172	190
COUNTY: CALHOUN	NON-ELEVATOR:	89	102	122	136	150
STATE: GA	ELEVATOR:	98	112	133	149	166
COUNTY: CAMDEN	NON-ELEVATOR:	98	112	133	149	165
STATE: GA	ELEVATOR:	106	124	147	165	180
COUNTY: CANDLER	NON-ELEVATOR:	91	105	124	145	159
STATE: GA	ELEVATOR:	100	114	137	159	174
COUNTY: CARROLL	NON-ELEVATOR:	104	122	144	161	178
STATE: GA	ELEVATOR:	115	132	159	178	194

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:CHARLTON	NON-ELEVATOR:	98	112	133	149	165
STATE:GA	ELEVATOR:	106	124	147	165	180
COUNTY:CHATTOOGA	NON-ELEVATOR:	87	101	120	135	148
STATE:GA	ELEVATOR:	97	111	132	148	162
COUNTY:CLARKE	NON-ELEVATOR:	111	128	153	170	189
STATE:GA	ELEVATOR:	122	140	168	188	206
COUNTY:CLAY	NON-ELEVATOR:	89	102	122	136	150
STATE GA	ELEVATOR:	98	112	133	149	166
COUNTY:CLINCH	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:COFFEE	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:COLQUITT	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:COOK	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:COWETA	NON-ELEVATOR:	96	110	131	146	161
STATE:GA	ELEVATOR:	104	119	144	161	177
COUNTY:CRAWFORD	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:CRISP	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:DAWSON	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:DECATUR	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:DODGE	NON-ELEVATOR:	89	102	122	142	158
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:DOOLY	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:EARLY	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:ECHOLS	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:ELBERT	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:EMANUEL	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:EVANS	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:FANNIN	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:FLOYD	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:FRANKLIN	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:GILMER	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:GLASCOCK	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:GLYNN	NON-ELEVATOR:	107	124	147	165	180
STATE:GA	ELEVATOR:	117	135	163	181	199

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:GORDON	NON-ELEVATOR:	87	101	120	135	148
STATE:GA	ELEVATOR:	97	111	132	148	162
COUNTY:GRADY	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:GREENE	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:HABERSHAM	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:HALL	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:HANCOCK	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:HARALSON	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:HARRIS	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:HART	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:HEARD	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:IRWIN	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:JACKSON	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	163	170	189
COUNTY:JASPER	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:JEFF DAVIS	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:JEFFERSON	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:JENKINS	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:JOHNSON	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:LAMAR	NON-ELEVATOR:	96	110	131	146	161
STATE:GA	ELEVATOR:	104	119	144	161	177
COUNTY:LANIER	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:LAURENS	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:LIBERTY	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:LINCOLN	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:LONG	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:LOWNDES	NON-ELEVATOR:	98	112	135	149	166
STATE:GA	ELEVATOR:	107	124	147	165	181
COUNTY:LUMPKIN	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:MCDUFFIE	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	164	172	190

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:MCINTOSH	NON-ELEVATOR:	98	112	133	148	165
STATE:GA	ELEVATOR:	106	124	147	165	180
COUNTY:MACON	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:MADISON	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:MARION	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:MERIWETHER	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:MILLER	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:MITCHELL	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:MONROE	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:MONTGOMERY	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:MORGAN	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:MURRAY	NON-ELEVATOR:	87	101	120	135	148
STATE:GA	ELEVATOR:	97	111	132	148	162
COUNTY:OCONEE	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:OGLETHORPE	NON-ELEVATOR:	101	116	140	158	171
STATE:GA	ELEVATOR:	111	128	153	170	189

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:PEACH	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:PICKENS	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:PIERCE	NON-ELEVATOR:	98	112	133	149	165
STATE:GA	ELEVATOR:	106	124	147	165	180
COUNTY:PIKE	NON-ELEVATOR:	96	110	131	148	161
STATE:GA	ELEVATOR:	104	119	144	161	177
COUNTY:POLK	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:PULASKI	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:PUTNAM	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:QUITMAN	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:RABUN	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:RANDOLPH	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:SCHLEY	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:SCREVEN	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:SEMINOLE	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:SPALDING	NON-ELEVATOR:	104	122	144	161	178
STATE:GA	ELEVATOR:	115	132	159	178	194
COUNTY:STEPHENS	NON-ELEVATOR:	101	116	140	156	171
STATE:GA	ELEVATOR:	111	128	153	170	189
COUNTY:STEWART	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:SUMTER	NON-ELEVATOR:	131	151	180	201	220
STATE:GA	ELSVATOR:	144	164	197	222	243
COUNTY:TALBOT	NON-ELEVATOR:	100	114	136	152	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:TALIAFERRO	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:TATTNALL	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:TAYLOR	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:TELFAIR	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:TERRELL	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:THOMAS	NON-ELEVATOR:	98	112	135	149	166
STATE:GA	ELEVATOR:	107	124	147	165	181
COUNTY:TIFT	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:TOOMBS	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:TOWNS	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:TREUTLEN	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:TROUP	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:TURNER	NON-ELEVATOR:	89	102	122	136	150
STATE:GA	ELEVATOR:	98	112	133	149	166
COUNTY:UNION	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156
COUNTY:UPSON	NON-ELEVATOR:	96	110	131	148	161
STATE:GA	ELEVATOR:	104	119	144	161	177
COUNTY:WARE	NON-ELEVATOR:	98	112	133	149	165
STATE:GA	ELEVATOR:	106	124	147	165	180
COUNTY:WARREN	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:WASHINGTON	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:WAYNE	NON-ELEVATOR:	91	105	124	145	159
STATE:GA	ELEVATOR:	100	114	137	159	174
COUNTY:WEBSTER	NON-ELEVATOR:	100	114	136	153	168
STATE:GA	ELEVATOR:	108	126	149	168	184
COUNTY:WHEELER	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:WHITE	NON-ELEVATOR:	83	96	115	130	143
STATE:GA	ELEVATOR:	92	106	126	142	156

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ATLANTA,GEORGIA AREA OFFICE						
NON SMSA						
COUNTY:WHITFIELD	NON-ELEVATOR:	87	101	120	135	148
STATE:GA	ELEVATOR:	97	111	132	148	162
COUNTY:WILCOX	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:WILKES	NON-ELEVATOR:	102	117	141	157	172
STATE:GA	ELEVATOR:	113	129	154	172	190
COUNTY:WILKINSON	NON-ELEVATOR:	89	102	122	142	156
STATE:GA	ELEVATOR:	98	112	133	157	171
COUNTY:WORTH	NON-ELEVATOR:	89	102	122	138	150
STATE:GA	ELEVATOR:	98	112	133	149	166

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BIRMINGHAM,ALABAMA AREA OFFICE						
SMSA: ANNISTON, AL						
COUNTY:CALHOUN	NON-ELEVATOR:	77	89	107	120	132
STATE:AL	ELEVATOR:	85	99	118	132	146
SMSA: BIRMINGHAM, AL						
COUNTY:JEFFERSON	NON-ELEVATOR:	113	163	183	197	216
STATE:AL	ELEVATOR:	123	179	201	218	237
COUNTY:ST CLAIR	NON-ELEVATOR:	113	163	183	197	216
STATE:AL	ELEVATOR:	123	179	201	216	237
COUNTY:SHELBY	NON-ELEVATOR:	113	163	183	197	216
STATE:AL	ELEVATOR:	123	179	201	216	237
COUNTY:WALKER	NON-ELEVATOR:	113	163	183	197	216
STATE:AL	ELEVATOR:	123	179	201	216	237
SMSA: COLUMBUS, GA-AL						
COUNTY:RUSSELL	NON-ELEVATOR:	121	138	164	182	200
STATE:AL	ELEVATOR:	132	152	180	200	219
SMSA: FLORENCE, AL						
COUNTY:COLBERT	NON-ELEVATOR:	107	124	147	171	189
STATE:AL	ELEVATOR:	118	136	162	188	207
COUNTY:LAUDERDALE	NON-ELEVATOR:	107	124	147	171	189
STATE:AL	ELEVATOR:	118	136	162	188	207
SMSA: GADSDEN, AL						
COUNTY:ETOWAH	NON-ELEVATOR:	77	89	107	120	132
STATE:AL	ELEVATOR:	85	99	118	132	146
SMSA: HUNTSVILLE, AL						
COUNTY:LIMESTONE	NON-ELEVATOR:	107	136	155	168	192
STATE:AL	ELEVATOR:	119	150	171	185	212
COUNTY:MADISON	NON-ELEVATOR:	107	136	155	168	192
STATE:AL	ELEVATOR:	119	150	171	185	212

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BIRMINGHAM,ALABAMA AREA OFFICE						
SMSA: HUNTSVILLE, AL						
COUNTY:MARSHALL	NON-ELEVATOR:	107	136	155	168	192
STATE:AL	ELEVATOR:	119	150	171	185	212
SMSA: MOBILE, AL						
COUNTY:BALDWIN	NON-ELEVATOR:	131	157	176	191	213
STATE:AL	ELEVATOR:	145	173	193	210	235
COUNTY:MOBILE	NON-ELEVATOR:	131	157	176	191	213
STATE:AL	ELEVATOR:	145	173	193	210	235
SMSA: MONTGOMERY, AL						
COUNTY:AUTAUGA	NON-ELEVATOR:	107	126	144	164	185
STATE:AL	ELEVATOR:	119	137	159	180	204
COUNTY:ELMORE	NON-ELEVATOR:	107	126	144	164	185
STATE:AL	ELEVATOR:	119	137	159	180	204
COUNTY:MONTGOMERY	NON-ELEVATOR:	107	126	144	164	185
STATE:AL	ELEVATOR:	119	137	159	180	204
SMSA: TUSCALOOSA, AL						
COUNTY:TUSCALOOSA	NON-ELEVATOR:	101	116	140	156	171
STATE:AL	ELEVATOR:	111	128	153	170	189
NON SMSA						
COUNTY:BARBOUR	NON-ELEVATOR:	107	123	146	163	179
STATE:AL	ELEVATOR:	117	135	161	180	197
COUNTY:BIBB	NON-ELEVATOR:	101	116	140	156	171
STATE:AL	ELEVATOR:	111	128	153	170	189
COUNTY:BLOUNT	NON-ELEVATOR:	78	89	107	120	132
STATE:AL	ELEVATOR:	85	99	118	132	146
COUNTY:BULLOCK	NON-ELEVATOR:	85	99	118	137	150
STATE:AL	ELEVATOR:	95	109	129	151	168
COUNTY:BUTLER	NON-ELEVATOR:	98	112	133	149	165
STATE:AL	ELEVATOR:	106	124	147	165	180

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BIRMINGHAM,ALABAMA AREA OFFICE						
NON SMSA						
COUNTY:CHAMBERS	NON-ELEVATOR:	100	114	136	153	168
STATE:AL	ELEVATOR:	108	126	149	168	184
COUNTY:CHEROKEE	NON-ELEVATOR:	77	89	107	120	132
STATE:AL	ELEVATOR:	85	99	118	132	146
COUNTY:CHILTON	NON-ELEVATOR:	101	116	140	156	171
STATE:AL	ELEVATOR:	111	128	153	170	189
COUNTY:CHOCTAW	NON-ELEVATOR:	100	114	136	153	168
STATE:AL	ELEVATOR:	108	126	149	168	184
COUNTY:CLARKE	NON-ELEVATOR:	93	108	128	149	165
STATE:AL	ELEVATOR:	102	117	142	165	180
COUNTY:CLAY	NON-ELEVATOR:	77	89	107	120	132
STATE:AL	ELEVATOR:	85	99	118	132	146
COUNTY:CLEBURNE	NON-ELEVATOR:	83	96	115	130	143
STATE:AL	ELEVATOR:	92	106	126	142	158
COUNTY:COFFEE	NON-ELEVATOR:	98	112	133	149	165
STATE:AL	ELEVATOR:	106	124	147	165	180
COUNTY:CONECUH	NON-ELEVATOR:	93	108	128	149	165
STATE:AL	ELEVATOR:	102	117	142	165	180
COUNTY:COOSA	NON-ELEVATOR:	85	99	118	137	150
STATE:AL	ELEVATOR:	95	109	129	151	166
COUNTY:COVINGTON	NON-ELEVATOR:	98	112	133	149	165
STATE:AL	ELEVATOR:	106	124	147	165	180
COUNTY:CRENSHAW	NON-ELEVATOR:	98	112	133	149	165
STATE:AL	ELEVATOR:	106	124	147	165	180
COUNTY:CULLMAN	NON-ELEVATOR:	77	89	107	120	132
STATE:AL	ELEVATOR:	85	99	118	132	146

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE						
NON SMSA						
COUNTY: DALE	NON-ELEVATOR:	98	112	133	149	165
STATE: AL	ELEVATOR:	108	124	147	165	180
COUNTY: DALLAS	NON-ELEVATOR:	85	99	118	137	150
STATE: AL	ELEVATOR:	95	109	129	151	166
COUNTY: DE KALB	NON-ELEVATOR:	87	101	120	135	148
STATE: AL	ELEVATOR:	97	111	132	148	162
COUNTY: ESCAMBIA	NON-ELEVATOR:	114	130	155	181	197
STATE: AL	ELEVATOR:	124	142	170	200	217
COUNTY: FAYETTE	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189
COUNTY: FRANKLIN	NON-ELEVATOR:	84	97	117	131	144
STATE: AL	ELEVATOR:	93	107	128	143	157
COUNTY: GENEVA	NON-ELEVATOR:	98	112	133	149	165
STATE: AL	ELEVATOR:	108	124	147	165	180
COUNTY: GREENE	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189
COUNTY: HALE	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189
COUNTY: HENRY	NON-ELEVATOR:	98	112	133	149	165
STATE: AL	ELEVATOR:	108	124	147	165	180
COUNTY: HOUSTON	NON-ELEVATOR:	98	112	133	149	165
STATE: AL	ELEVATOR:	106	124	147	165	180
COUNTY: JACKSON	NON-ELEVATOR:	87	101	120	135	148
STATE: AL	ELEVATOR:	97	111	132	148	162
COUNTY: LAMAR	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE						
NON SMSA						
COUNTY: LAWRENCE	NON-ELEVATOR:	84	97	117	131	144
STATE: AL	ELEVATOR:	93	107	128	143	157
COUNTY: LEE	NON-ELEVATOR:	100	114	136	153	168
STATE: AL	ELEVATOR:	108	126	149	168	184
COUNTY: LOWNDES	NON-ELEVATOR:	85	99	118	137	150
STATE: AL	ELEVATOR:	95	109	129	151	166
COUNTY: MACON	NON-ELEVATOR:	85	99	118	137	150
STATE: AL	ELEVATOR:	95	109	129	151	166
COUNTY: MARENGO	NON-ELEVATOR:	100	114	136	153	168
STATE: AL	ELEVATOR:	108	126	149	168	184
COUNTY: MARION	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189
COUNTY: MONROE	NON-ELEVATOR:	93	108	128	149	165
STATE: AL	ELEVATOR:	102	117	142	165	180
COUNTY: MORGAN	NON-ELEVATOR:	107	124	147	171	189
STATE: AL	ELEVATOR:	118	135	163	189	206
COUNTY: PERRY	NON-ELEVATOR:	85	99	118	137	150
STATE: AL	ELEVATOR:	95	109	129	151	166
COUNTY: PICKENS	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189
COUNTY: PIKE	NON-ELEVATOR:	98	112	133	149	165
STATE: AL	ELEVATOR:	108	124	147	165	180
COUNTY: RANDOLPH	NON-ELEVATOR:	100	114	136	153	168
STATE: AL	ELEVATOR:	108	126	149	168	184
COUNTY: SUMTER	NON-ELEVATOR:	100	114	136	153	168
STATE: AL	ELEVATOR:	108	126	149	168	184

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE						
NON SMSA						
COUNTY: TALLADEGA	NON-ELEVATOR:	77	89	107	120	132
STATE: AL	ELEVATOR:	85	99	118	132	146
COUNTY: TALLAPOOSA	NON-ELEVATOR:	85	99	118	137	150
STATE: AL	ELEVATOR:	95	109	129	151	166
COUNTY: WASHINGTON	NON-ELEVATOR:	93	108	128	149	165
STATE: AL	ELEVATOR:	102	117	142	165	180
COUNTY: WILCOX	NON-ELEVATOR:	93	108	128	149	165
STATE: AL	ELEVATOR:	102	117	142	165	180
COUNTY: WINSTON	NON-ELEVATOR:	101	116	140	156	171
STATE: AL	ELEVATOR:	111	128	153	170	189

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CORAL GABLES, FLORIDA INSURING OFFICE						
SMSA: FORT LAUDERDALE-HOLLYWOOD, FL						
COUNTY: BROWARD	NON-ELEVATOR:	181	206	248	287	315
STATE: FL	ELEVATOR:	198	227	271	314	345
SMSA: FORT MYERS, FL						
COUNTY: LEE	NON-ELEVATOR:	151	173	205	228	249
STATE: FL	ELEVATOR:	166	190	225	250	274
SMSA: MIAMI, FL						
COUNTY: DADE	NON-ELEVATOR:	180	205	246	288	325
STATE: FL	ELEVATOR:	197	226	270	313	356
SMSA: WEST PALM BEACH-BOCA RATON, FL						
COUNTY: PALM BEACH	NON-ELEVATOR:	152	174	208	242	265
STATE: FL	ELEVATOR:	166	191	229	266	291
NON SMSA						
COUNTY: CHARLOTTE	NON-ELEVATOR:	137	156	187	208	228
STATE: FL	ELEVATOR:	150	171	205	229	251
COUNTY: COLLIER	NON-ELEVATOR:	107	125	148	166	182
STATE: FL	ELEVATOR:	119	136	164	182	200
COUNTY: GLADES	NON-ELEVATOR:	107	125	148	166	182
STATE: FL	ELEVATOR:	119	136	164	182	200
COUNTY: HENDRY	NON-ELEVATOR:	107	125	148	166	182
STATE: FL	ELEVATOR:	119	136	164	182	200
COUNTY: MARTIN	NON-ELEVATOR:	107	125	148	166	182
STATE: FL	ELEVATOR:	119	136	164	182	200
COUNTY: MONROE	NON-ELEVATOR:	107	125	148	166	182
STATE: FL	ELEVATOR:	119	136	164	182	200

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBIA,SOUTH CAROLINA AREA OFFICE						
SMSA: AUGUSTA, GA-SC						
COUNTY:AIKEN	NON-ELEVATOR:	164	191	229	265	291
STATE:SC	ELEVATOR:	182	207	249	291	317
SMSA: CHARLESTON, SC						
COUNTY BERKELEY	NON-ELEVATOR:	127	164	187	219	296
STATE:SC	ELEVATOR:	135	153	182	211	232
COUNTY:CHARLESTON	NON-ELEVATOR:	127	164	187	219	296
STATE:SC	ELEVATOR:	135	153	182	211	232
COUNTY:DORCHESTER	NON-ELEVATOR:	127	164	187	219	296
STATE:SC	ELEVATOR:	135	153	182	211	232
SMSA: COLUMBIA, SC						
COUNTY:LEXINGTON	NON-ELEVATOR:	146	178	199	232	295
STATE:SC	ELEVATOR:	128	209	257	274	337
COUNTY:RICHLAND	NON-ELEVATOR:	146	178	199	232	295
STATE:SC	ELEVATOR:	128	209	257	274	337
SMSA: GREENVILLE-SPARTANBURG, SC						
COUNTY:GREENVILLE	NON-ELEVATOR:	120	136	158	211	243
STATE:SC	ELEVATOR:	109	126	149	174	190
COUNTY:PICKENS	NON-ELEVATOR:	120	136	158	211	243
STATE:SC	ELEVATOR:	109	126	149	174	190
COUNTY:SPARTANBURG	NON-ELEVATOR:	120	136	158	211	243
STATE:SC	ELEVATOR:	109	126	149	174	190
NON SMSA						
COUNTY:ABBEVILLE	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159
COUNTY:ALLENDALE	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:ANDERSON	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBIA,SOUTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:BAMBERG	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:BARNWELL	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:BEAUFORT	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:CALHOUN	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:CHEROKEE	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159
COUNTY:CHESTER	NON-ELEVATOR:	93	108	128	149	165
STATE:SC	ELEVATOR:	102	117	142	165	180
COUNTY:CHESTERFIELD	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:CLARENDON	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:COLLETON	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:DARLINGTON	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:DILLON	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:EDGEFIELD	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:FAIRFIELD	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBIA,SOUTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:FLORENCE	NON-ELEVATOR:	104	131	152	208	269
STATE:SC	ELEVATOR:	141	194	273	0	0
COUNTY:GEORGETOWN	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:GREENWOOD	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159
COUNTY:HAMPTON	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:HORRY	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:JASPER	NON-ELEVATOR:	91	105	124	145	159
STATE;SC	ELEVATOR:	100	114	137	159	174
COUNTY:KERSHAW	NON-ELEVATOR:	92	107	128	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:LANCASTER	NON-ELEVATOR:	93	108	128	149	165
STATE:SC	ELEVATOR:	102	117	142	165	180
COUNTY:LAURENS	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159
COUNTY:LEE	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:MCCORMICK	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:MARION	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:MARLBORO	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBIA,SOUTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:NEWBERRY	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:OCONEE	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159
COUNTY:ORANGEBURG	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:SALUDA	NON-ELEVATOR:	102	117	141	157	172
STATE:SC	ELEVATOR:	113	129	154	172	190
COUNTY:SUMTER	NON-ELEVATOR:	92	107	126	142	156
STATE:SC	ELEVATOR:	101	116	140	157	172
COUNTY:UNION	NON-ELEVATOR:	85	99	118	132	145
STATE:SC	ELEVATOR:	95	109	129	145	159
COUNTY:WILLIAMSBURG	NON-ELEVATOR:	91	106	125	141	155
STATE:SC	ELEVATOR:	101	115	138	155	170
COUNTY:YORK	NON-ELEVATOR:	112	132	155	218	241
STATE:SC	ELEVATOR:	102	117	142	165	180

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V 42 86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
SMSA: ASHEVILLE, NC						
COUNTY:BUNCOMBE	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:MADISON	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
SMSA: BURLINGTON, NC						
COUNTY:ALAMANCE	NON-ELEVATOR:	106	123	148	162	179
STATE:NC	ELEVATOR:	117	133	160	179	196
SMSA: CHARLOTTE-GASTONIA, NC						
COUNTY:GASTON	NON-ELEVATOR:	141	162	195	225	247
STATE:NC	ELEVATOR:	156	179	214	248	271
COUNTY:MECKLENBURG	NON-ELEVATOR:	141	162	195	225	247
STATE:NC	ELEVATOR:	156	179	214	248	271
COUNTY:UNION	NON-ELEVATOR:	141	162	195	225	247
STATE:NC	ELEVATOR:	156	179	214	248	271
SMSA: FAYETTEVILLE, NC						
COUNTY:CUMBERLAND	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC						
COUNTY:DAVIDSON	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
COUNTY:FORSYTH	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
COUNTY:GUILFORD	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
COUNTY:RANDOLPH	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
COUNTY:STOKES	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC						
COUNTY:YADKIN	NON-ELEVATOR:	126	145	172	193	211
STATE:NC	ELEVATOR:	138	158	189	211	233
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC						
COUNTY:CURRITUCK	NON-ELEVATOR:	138	158	187	209	229
STATE:NC	ELEVATOR:	151	173	206	229	251
SMSA: RALEIGH-DURHAM, NC						
COUNTY:DURHAM	NON-ELEVATOR:	141	162	194	226	247
STATE:NC	ELEVATOR:	156	178	213	247	271
COUNTY:ORANGE	NON-ELEVATOR:	141	162	194	226	247
STATE:NC	ELEVATOR:	156	178	213	247	271
COUNTY:WAKE	NON-ELEVATOR:	141	162	194	226	247
STATE:NC	ELEVATOR:	156	178	213	247	271
SMSA: WILMINGTON, NC						
COUNTY:BRUNSWICK	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:NEW HANOVER	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
NON SMSA						
COUNTY:ALEXANDER	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:ALLEGHANY	NON-ELEVATOR:	100	115	137	153	169
STATE:NC	ELEVATOR:	111	126	150	168	185
COUNTY:ANSON	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	148	160
COUNTY:ASHE	NON-ELEVATOR:	100	115	137	153	169
STATE:NC	ELEVATOR:	111	126	150	168	185
COUNTY:AVERY	NON-ELEVATOR:	101	117	139	156	172
STATE:NC	ELEVATOR:	112	128	153	172	189

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:BEAUFORT	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:BERTIE	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:BLADEN	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:BURKE	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:CABARRUS	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	148	160
COUNTY:CALDWELL	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:CAMDEN	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:CARTERET	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:CASWELL	NON-ELEVATOR:	123	141	169	188	206
STATE:NC	ELEVATOR:	135	154	185	207	227
COUNTY:CATAWBA	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:CHATHAM	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:CHEROKEE	NON-ELEVATOR:	87	101	120	135	148
STATE:NC	ELEVATOR:	97	111	132	148	162
COUNTY:CHOWAN	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:CLAY	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:CLEVELAND	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:COLUMBUS	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:CRAVEN	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:DARE	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:DAVIE	NON-ELEVATOR:	106	123	146	162	179
STATE:NC	ELEVATOR:	117	133	160	179	196
COUNTY:DUPLIN	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:EDGECOMBE	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	168
COUNTY:FRANKLIN	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:GATES	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:GRAHAM	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:GRANVILLE	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	168
COUNTY:GREENE	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:HALIFAX	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:HARNETT	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:HAYWOOD	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:HENDERSON	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:HERTFORD	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:HOKE	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:HYDE	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:IREDELL	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	146	160
COUNTY:JACKSON	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:JOHNSTON	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:JONES	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:LEE	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:LENOIR	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:LINCOLN	NON-ELEVATOR:	93	108	128	149	165
STATE:NC	ELEVATOR:	102	117	142	165	180
COUNTY:MCDOWELL	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:MACON	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:MARTIN	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:MITCHELL	NON-ELEVATOR:	101	117	139	156	172
STATE:NC	ELEVATOR:	112	128	153	172	189
COUNTY:MONTGOMERY	NON-ELEVATOR:	106	123	146	162	179
STATE:NC	ELEVATOR:	117	133	160	179	196
COUNTY:MOORE	NON-ELEVATOR:	106	123	146	162	179
STATE:NC	ELEVATOR:	117	133	160	179	196
COUNTY:NASH	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:NORTHAMPTON	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:ONSLOW	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:PAMLICO	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184
COUNTY:PASQUOTANK	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:PENDER	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	108	126	149	168	184

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:PERQUIMANS	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:PERSON	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:PITT	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:POLK	NON-ELEVATOR:	85	99	118	132	145
STATE:NC	ELEVATOR:	95	109	129	145	159
COUNTY:RICHMOND	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	146	160
COUNTY:ROBESON	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:ROCKINGHAM	NON-ELEVATOR:	100	114	136	153	168
STATE:NC	ELEVATOR:	109	125	148	167	183
COUNTY:ROWAN	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	146	160
COUNTY:RUTHERFORD	NON-ELEVATOR:	97	111	132	148	162
STATE:NC	ELEVATOR:	105	123	145	162	179
COUNTY:SAMPSON	NON-ELEVATOR:	118	135	163	189	206
STATE:NC	ELEVATOR:	129	149	178	207	226
COUNTY:SCOTLAND	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	148	160
COUNTY:STANLY	NON-ELEVATOR:	86	100	119	134	147
STATE:NC	ELEVATOR:	96	110	131	146	160
COUNTY:SURRY	NON-ELEVATOR:	91	105	124	139	154
STATE:NC	ELEVATOR:	100	114	137	154	169

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GREENSBORO,NORTH CAROLINA AREA OFFICE						
NON SMSA						
COUNTY:SWAIN	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:TRANSYLVANIA	NON-ELEVATOR:	92	107	126	142	156
STATE:NC	ELEVATOR:	101	116	140	157	172
COUNTY:TYRRELL	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:VANCE	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:WARREN	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:WASHINGTON	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:WATAUGA	NON-ELEVATOR:	106	123	146	163	178
STATE:NC	ELEVATOR:	116	135	160	178	197
COUNTY:WAYNE	NON-ELEVATOR:	115	131	156	176	192
STATE:NC	ELEVATOR:	125	144	172	192	212
COUNTY:WILKES	NON-ELEVATOR:	100	115	137	153	169
STATE:NC	ELEVATOR:	111	126	150	168	185
COUNTY:WILSON	NON-ELEVATOR:	89	102	122	136	150
STATE:NC	ELEVATOR:	98	112	133	149	166
COUNTY:YANCEY	NON-ELEVATOR:	106	122	145	163	178
STATE:NC	ELEVATOR:	117	134	159	178	196

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
SMSA: BILOXI-GULFPORT, MS						
COUNTY:HANCOCK	NON-ELEVATOR:	120	138	163	190	209
STATE:MS	ELEVATOR:	132	152	180	209	229
COUNTY:HARRISON	NON-ELEVATOR:	120	138	163	190	209
STATE:MS	ELEVATOR:	132	152	180	209	229
COUNTY:STONE	NON-ELEVATOR:	120	138	163	190	209
STATE:MS	ELEVATOR:	132	152	180	209	229
SMSA: JACKSON, MS						
COUNTY:HINDS	NON-ELEVATOR:	132	153	181	210	230
STATE:MS	ELEVATOR:	146	169	198	231	254
COUNTY:RANKIN	NON-ELEVATOR:	132	153	181	210	230
STATE:MS	ELEVATOR:	146	169	198	231	254
SMSA: MEMPHIS, TN-AR-MS						
COUNTY:DE SOTO	NON-ELEVATOR:	136	154	186	215	237
STATE:MS	ELEVATOR:	147	170	203	236	259
SMSA: PASCAGOULA-MOSS POINT, MS						
COUNTY:JACKSON	NON-ELEVATOR:	120	138	163	190	209
STATE:MS	ELEVATOR:	132	152	180	209	229
NON SMSA						
COUNTY:ADAMS	NON-ELEVATOR:	79	91	109	123	135
STATE:MS	ELEVATOR:	87	101	121	135	149
COUNTY:ALCORN	NON-ELEVATOR:	84	97	117	131	144
STATE:MS	ELEVATOR:	93	107	128	143	157
COUNTY:AMITE	NON-ELEVATOR:	79	91	109	123	135
STATE:MS	ELEVATOR:	87	101	121	135	149
COUNTY:ATTALA	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:BENTON	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
NON SMSA						
COUNTY:BOLIVAR	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:CALHOUN	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:GARROLL	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:CHICKASAW	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:CHOCTAW	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:CLAIBORNE	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:CLARKE	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:CLAY	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:COAHOMA	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:COPIAH	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:COVINGTON	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:FORREST	NON-ELEVATOR:	109	126	148	167	183
STATE:MS	ELEVATOR:	121	137	165	183	202
COUNTY:FRANKLIN	NON-ELEVATOR:	79	91	109	123	135
STATE:MS	ELEVATOR:	87	101	121	135	149

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
NON SMSA						
COUNTY:GEORGE	NON-ELEVATOR:	93	108	128	149	165
STATE:MS	ELEVATOR:	102	117	142	165	180
COUNTY:GREENE	NON-ELEVATOR:	93	108	128	149	165
STATE:MS	ELEVATOR:	102	117	142	165	180
COUNTY:GRENADA	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:HOLMES	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:HUMPHREYS	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:ISSAQUENA	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:ITAWAMBA	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:JASPER	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:JEFFERSON	NON-ELEVATOR:	79	91	109	123	135
STATE:MS	ELEVATOR:	87	101	121	135	149
COUNTY:JEFFERSON DA	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:JONES	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:KEMPER	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:LAFAYETTE	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
NON SMSA						
COUNTY:LAMAR	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:LAUDERDALE	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:LAWRENCE	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:LEAKE	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:LEE	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:LEFLORE	NON-ELEVATOR:	104	122	144	161	178
STATE:MS	ELEVATOR:	115	133	159	178	195
COUNTY:LINCOLN	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:LOWNDES	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:MADISON	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:MARION	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:MARSHALL	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:MONROE	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:MONTGOMERY	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
NON SMSA						
COUNTY:NESHOBA	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:NEWTON	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:NOXUBEE	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:OKTIBBEHA	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:PANOLA	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:PEARL RIVER	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:PERRY	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:PIKE	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:PONTOTOC	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:PRENTISS	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:QUITMAN	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:SCOTT	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:SHARKEY	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
NON SMSA						
COUNTY:SIMPSON	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:SMITH	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:SUNFLOWER	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:TALLAHATCHIE	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:TATE	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:TIPPAH	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:TISHOMIGO	NON-ELEVATOR:	84	97	117	131	144
STATE:MS	ELEVATOR:	93	107	128	143	157
COUNTY:TUNICA	NON-ELEVATOR:	92	107	126	142	156
STATE:MS	ELEVATOR:	101	116	140	157	172
COUNTY:UNION	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:WALTHALL	NON-ELEVATOR:	74	85	101	114	126
STATE:MS	ELEVATOR:	81	93	111	125	137
COUNTY:WARREN	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:WASHINGTON	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:WAYNE	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSON,MISSISSIPPI AREA OFFICE						
NON SMSA						
COUNTY:WEBSTER	NON-ELEVATOR:	85	99	118	132	145
STATE:MS	ELEVATOR:	95	109	129	145	159
COUNTY:WILKINSON	NON-ELEVATOR:	79	91	109	123	135
STATE:MS	ELEVATOR:	87	101	121	135	149
COUNTY:WINSTON	NON-ELEVATOR:	100	114	136	153	168
STATE:MS	ELEVATOR:	108	126	149	168	184
COUNTY:YALOBUSHA	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147
COUNTY:YAZOO	NON-ELEVATOR:	78	90	108	121	134
STATE:MS	ELEVATOR:	86	100	119	134	147

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSONVILLE,FLORIDA AREA OFFICE						
SMSA: GAINESVILLE, FL						
COUNTY:ALACHUA	NON-ELEVATOR:	142	163	193	216	238
STATE:FL	ELEVATOR:	158	180	214	237	261
SMSA: JACKSONVILLE, FL						
COUNTY:BAKER	NON-ELEVATOR:	150	171	201	233	254
STATE:FL	ELEVATOR:	165	189	221	255	279
COUNTY:CLAY	NON-ELEVATOR:	150	171	201	233	254
STATE:FL	ELEVATOR:	165	189	221	255	279
COUNTY:DUVAL	NON-ELEVATOR:	150	171	201	233	254
STATE:FL	ELEVATOR:	165	189	221	255	279
COUNTY:NASSAU	NON-ELEVATOR:	150	171	201	233	254
STATE:FL	ELEVATOR:	165	189	221	255	279
COUNTY:ST JOHNS	NON-ELEVATOR:	150	171	201	233	254
STATE:FL	ELEVATOR:	165	189	221	255	279
SMSA: PENSACOLA, FL						
COUNTY:ESCAMBIA	NON-ELEVATOR:	124	142	171	200	217
STATE:FL	ELEVATOR:	137	156	188	219	239
COUNTY:SANTA ROSA	NON-ELEVATOR:	124	142	171	200	217
STATE:FL	ELEVATOR:	137	156	188	219	239
SMSA: TALLAHASSEE, FL						
COUNTY:LEON	NON-ELEVATOR:	119	136	164	182	201
STATE:FL	ELEVATOR:	131	150	180	201	220
COUNTY:WAKULLA	NON-ELEVATOR:	119	136	164	182	201
STATE:FL	ELEVATOR:	131	150	180	201	220
NON SMSA						
COUNTY:BAY	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:BRADFORD	NON-ELEVATOR:	98	112	133	149	165
STATE:FL	ELEVATOR:	106	124	147	165	180

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSONVILLE,FLORIDA AREA OFFICE						
NON SMSA						
COUNTY:CALHOUN	NON-ELEVATOR:	107	125	148	168	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:COLUMBIA	NON-ELEVATOR:	98	112	133	149	165
STATE:FL	ELEVATOR:	108	124	147	165	180
COUNTY:DIXIE	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:FLAGLER	NON-ELEVATOR:	103	118	142	159	174
STATE:FL	ELEVATOR:	114	130	155	174	192
COUNTY:FRANKLIN	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:GADSDEN	NON-ELEVATOR:	107	125	148	168	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:GILCHRIST	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:GULF	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:HAMILTON	NON-ELEVATOR:	98	112	133	149	165
STATE:FL	ELEVATOR:	106	124	147	165	180
COUNTY:HOLMES	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:JACKSON	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:JEFFERSON	NON-ELEVATOR:	107	125	148	168	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:LAFAYETTE	NON-ELEVATOR:	98	112	133	149	165
STATE:FL	ELEVATOR:	106	124	147	165	180

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
JACKSONVILLE,FLORIDA AREA OFFICE						
NON SMSA						
COUNTY:LEVY	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:LIBERTY	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:MADISON	NON-ELEVATOR:	107	125	148	168	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:MARION	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:OKALOOSA	NON-ELEVATOR:	125	142	170	198	216
STATE:FL	ELEVATOR:	138	158	187	218	237
COUNTY:PUTNAM	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:SUWANNEE	NON-ELEVATOR:	98	112	133	149	165
STATE:FL	ELEVATOR:	106	124	147	165	180
COUNTY:TAYLOR	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:UNION	NON-ELEVATOR:	98	112	133	149	165
STATE:FL	ELEVATOR:	106	124	147	165	180
COUNTY:WALTON	NON-ELEVATOR:	114	130	155	181	197
STATE:FL	ELEVATOR:	124	142	170	200	217
COUNTY:WASHINGTON	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
SMSA: CINCINNATI, OH-KY-IN						
COUNTY:BOONE	NON-ELEVATOR:	142	162	192	223	254
STATE:KY	ELEVATOR:	170	194	231	267	305
COUNTY:CAMPBELL	NON-ELEVATOR:	142	162	192	223	254
STATE:KY	ELEVATOR:	170	194	231	267	305
COUNTY:KENTON	NON-ELEVATOR:	142	162	192	223	254
STATE:KY	ELEVATOR:	170	194	231	267	305
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY						
COUNTY:CHRISTIAN	NON-ELEVATOR:	146	168	199	232	264
STATE:KY	ELEVATOR:	161	184	219	255	290
SMSA: EVANSVILLE, IN-KY						
COUNTY:HENDERSON	NON-ELEVATOR:	130	159	188	203	220
STATE:KY	ELEVATOR:	144	175	207	223	242
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH						
COUNTY:BOYD	NON-ELEVATOR:	132	151	177	210	233
STATE:KY	ELEVATOR:	146	166	195	231	256
COUNTY:GREENUP	NON-ELEVATOR:	132	151	177	210	233
STATE:KY	ELEVATOR:	146	166	195	231	256
SMSA: LEXINGTON-FAYETTE , KY						
COUNTY:BOURBON	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	221	267	292
COUNTY:CLARK	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	221	267	292
COUNTY:FAYETTE	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	221	267	292
COUNTY:JESSAMINE	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	221	267	292
COUNTY:SCOTT	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	221	267	292

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
SMSA: LEXINGTON-FAYETTE , KY						
COUNTY:WOODFORD	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	221	267	292
SMSA: LOUISVILLE, KY-IN						
COUNTY:BULLITT	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	231	267	292
COUNTY:JEFFERSON	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	231	267	292
COUNTY:OLDHAM	NON-ELEVATOR:	156	171	201	243	266
STATE:KY	ELEVATOR:	164	187	231	267	292
SMSA: OWENSBORO, KY						
COUNTY:DAVIESS	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
NON SMSA						
COUNTY:ADAIR	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:ALLEN	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:ANDERSON	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR:	120	137	165	192	211
COUNTY:BALLARD	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:BARREN	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:BATH	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR:	120	137	165	192	211
COUNTY:BELL	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:BOYLE	NON-ELEVATOR:	125	150	174	202	220
STATE:KY	ELEVATOR:	125	150	174	202	220
COUNTY.BRACKEN	NON-ELEVATOR:	116	132	158	184	201
STATE.KY	ELEVATOR:	126	145	174	202	222
COUNTY.BREATHITT	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:BRECKINRIDGE	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:BUTLER	NON-ELEVATOR.	76	88	108	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:CALDWELL	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:CALLOWAY	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:CARLISLE	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:CARROLL	NON-ELEVATOR:	116	132	158	184	201
STATE:KY.	ELEVATOR:	126	145	174	202	222
COUNTY.CARTER	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:CASEY	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:CLAY	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:CLINTON	NON-ELEVATOR:	76	88	108	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:CRITTENDON	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:CUMBERLAND	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:EDMONSON	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:ELLIOTT	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:ESTILL	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR.	120	137	165	192	211
COUNTY:FLEMING	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:FLOYD	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:FRANKLIN	NON-ELEVATOR:	131	152	181	210	228
STATE:KY	ELEVATOR:	144	168	197	230	251
COUNTY:FULTON	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:GALLATIN	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:GARRARD	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:GRANT	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:GRAVES	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:GRAYSON	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:GREEN	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:HANCOCK	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:HARDIN	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:HARLAN	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:HARRISON	NON-ELEVATOR:	108	126	149	176	191
STATE.KY	ELEVATOR:	120	137	165	192	211
COUNTY:HART	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:HENRY	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:HICKMAN	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:HOPKINS	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:JACKSON	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:JOHNSON	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:KNOTT	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:KNOX	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:LARUE	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:LAUREL	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:LAWRENCE	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:LEE	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:LESLIE	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:LETCHER	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:LEWIS	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:LINCOLN	NON-ELEVATOR:	70	80	98	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:LIVINGSTON	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:LOGAN	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:LYON	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY MCCRACKEN	NON-ELEVATOR:	114	130	154	175	192
STATE:KY	ELEVATOR:	125	142	170	191	211

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:MCCREARY	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:MCLEAN	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:MADISON	NON-ELEVATOR:	144	166	196	229	248
STATE:KY	ELEVATOR:	158	182	215	252	272
COUNTY:MAGOFFIN	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:MARION	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:MARSHALL	NON-ELEVATOR:	86	100	119	134	147
STATE:KY	ELEVATOR:	96	110	131	146	160
COUNTY:MARTIN	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:MASON	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:MEADE	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:MENIFEE	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:MERCER	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR:	120	137	165	192	211
COUNTY:METCALFE	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:MONROE	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:MONTGOMERY	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR:	120	137	165	192	211
COUNTY:MORGAN	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:MUHLENBERG	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:NELSON	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:NICHOLAS	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR:	120	137	165	192	211
COUNTY:OHIO	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:OWEN	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:OWSLEY	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:PENDLETON	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:PERRY	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:PIKE	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:POWELL	NON-ELEVATOR:	108	126	149	176	191
STATE:KY	ELEVATOR:	120	137	165	192	211
COUNTY:PULASKI	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:ROBERTSON	NON-ELEVATOR:	116	132	158	184	201
STATE:KY	ELEVATOR:	126	145	174	202	222
COUNTY:ROCKCASTLE	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:ROWAN	NON-ELEVATOR:	77	89	107	120	132
STATE:KY	ELEVATOR:	85	99	118	132	146
COUNTY:RUSSELL	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:SHELBY	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:SIMPSON	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144
COUNTY:SPENCER	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:TAYLOR	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131
COUNTY:TODD	NON-ELEVATOR:	102	117	141	157	172
STATE:KY	ELEVATOR:	113	129	154	172	190
COUNTY:TRIGG	NON-ELEVATOR:	102	117	141	157	172
STATE:KY	ELEVATOR:	113	129	154	172	190
COUNTY:TRIMBLE	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:UNION	NON-ELEVATOR:	90	103	123	138	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:WARREN	NON-ELEVATOR:	76	88	106	119	131
STATE:KY	ELEVATOR:	84	97	117	131	144

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOUISVILLE,KENTUCKY AREA OFFICE						
NON SMSA						
COUNTY:WASHINGTON	NON-ELEVATOR:	111	128	153	170	188
STATE:KY	ELEVATOR:	122	140	168	188	205
COUNTY:WAYNE	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:WEBSTER	NON-ELEVATOR:	90	103	123	139	151
STATE:KY	ELEVATOR:	99	113	135	151	167
COUNTY:WHITLEY	NON-ELEVATOR:	121	142	163	188	201
STATE:KY	ELEVATOR:	121	142	163	188	201
COUNTY:WOLFE	NON-ELEVATOR:	70	80	96	109	120
STATE:KY	ELEVATOR:	76	88	106	119	131

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KNOXVILLE,TENNESSEE AREA OFFICE						
SMSA: CHATTANOOGA, TN-GA						
COUNTY: HAMILTON	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216
COUNTY: MARION	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216
COUNTY: SEQUATCHIE	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA						
COUNTY: CARTER	NON-ELEVATOR:	109	127	152	169	188
STATE: TN	ELEVATOR:	121	138	167	187	205
COUNTY: HAWKINS	NON-ELEVATOR:	109	127	152	169	188
STATE: TN	ELEVATOR:	121	138	167	187	205
COUNTY: SULLIVAN	NON-ELEVATOR:	109	127	152	169	188
STATE: TN	ELEVATOR:	121	138	167	187	205
COUNTY: UNICOI	NON-ELEVATOR:	109	127	152	169	188
STATE: TN	ELEVATOR:	121	138	167	187	205
COUNTY: WASHINGTON	NON-ELEVATOR:	109	127	152	169	188
STATE: TN	ELEVATOR:	121	138	167	187	205
SMSA: KNOXVILLE, TN						
COUNTY: ANDERSON	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216
COUNTY: BLOUNT	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216
COUNTY: KNOX	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216
COUNTY: UNION	NON-ELEVATOR:	113	129	154	180	196
STATE: TN	ELEVATOR:	123	141	169	199	216

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KNOXVILLE,TENNESSEE AREA OFFICE						
NON SMSA						
COUNTY: BLEDSOE	NON-ELEVATOR:	87	101	120	135	148
STATE: TN	ELEVATOR:	97	111	132	148	162
COUNTY: BRADLEY	NON-ELEVATOR:	97	111	131	148	162
STATE: TN	ELEVATOR:	106	123	144	164	179
COUNTY: CAMPBELL	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: CLAIBORNE	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: COCKE	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: CUMBERLAND	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: FENTRESS	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: GRAINGER	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: GREENE	NON-ELEVATOR:	100	115	138	155	170
STATE: TN	ELEVATOR:	109	127	152	169	185
COUNTY: GRUNDY	NON-ELEVATOR:	87	101	120	135	148
STATE: TN	ELEVATOR:	97	111	132	148	162
COUNTY: HAMBLEN	NON-ELEVATOR:	90	103	123	138	153
STATE: TN	ELEVATOR:	99	113	136	153	168
COUNTY: HANCOCK	NON-ELEVATOR:	100	115	138	155	170
STATE: TN	ELEVATOR:	109	127	152	169	185
COUNTY: JEFFERSON	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KNOXVILLE,TENNESSEE AREA OFFICE						
NON SMSA						
COUNTY: JOHNSON	NON-ELEVATOR:	100	115	138	155	170
STATE: TN	ELEVATOR:	109	127	152	169	185
COUNTY: LOUDON	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: MCMINN	NON-ELEVATOR:	97	111	131	148	162
STATE: TN	ELEVATOR:	106	123	144	164	179
COUNTY: MEIGS	NON-ELEVATOR:	87	101	120	135	148
STATE: TN	ELEVATOR:	97	111	132	148	162
COUNTY: MONROE	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: MORGAN	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: PERRY	NON-ELEVATOR:	76	86	106	119	131
STATE: TN	ELEVATOR:	84	97	117	131	144
COUNTY: PICKETT	NON-ELEVATOR:	76	88	106	119	131
STATE: TN	ELEVATOR:	84	97	117	131	144
COUNTY: POLK	NON-ELEVATOR:	87	101	120	135	148
STATE: TN	ELEVATOR:	97	111	132	148	162
COUNTY: RHEA	NON-ELEVATOR:	87	101	120	135	148
STATE: TN	ELEVATOR:	97	111	132	148	162
COUNTY: ROANE	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: SCOTT	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153
COUNTY: SEVIER	NON-ELEVATOR:	82	94	111	125	138
STATE: TN	ELEVATOR:	90	103	123	138	153

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MEMPHIS,TENNESSEE INSURING OFFICE						
SMSA: MEMPHIS, TN-AR-MS						
COUNTY: SHELBY	NON-ELEVATOR:	136	154	186	215	237
STATE: TN	ELEVATOR:	147	170	203	236	259
COUNTY: TIPTON	NON-ELEVATOR:	136	154	186	215	237
STATE: TN	ELEVATOR:	147	170	203	236	259
NON SMSA						
COUNTY: BENTON	NON-ELEVATOR:	102	117	141	157	172
STATE: TN	ELEVATOR:	113	129	154	172	190
COUNTY: CARROLL	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156
COUNTY: CHESTER	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156
COUNTY: CROCKETT	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156
COUNTY: DECATUR	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156
COUNTY: DYER	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156
COUNTY: FAYETTE	NON-ELEVATOR:	92	107	126	142	156
STATE: TN	ELEVATOR:	101	116	140	157	172
COUNTY: GIBSON	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156
COUNTY: HARDEMAN	NON-ELEVATOR:	92	107	126	142	156
STATE: TN	ELEVATOR:	101	116	140	157	172
COUNTY: HARDIN	NON-ELEVATOR:	84	97	117	131	144
STATE: TN	ELEVATOR:	93	107	128	143	157
COUNTY: HAYWOOD	NON-ELEVATOR:	83	96	115	130	143
STATE: TN	ELEVATOR:	92	106	126	142	156

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MEMPHIS,TENNESSEE INSURING OFFICE						
NON SMSA						
COUNTY:HENDERSON	NON-ELEVATOR:	83	96	115	130	143
STATE:TN	ELEVATOR:	92	106	126	142	156
COUNTY:HENRY	NON-ELEVATOR:	83	98	115	130	143
STATE:TN	ELEVATOR:	92	108	126	142	156
COUNTY:LAKE	NON-ELEVATOR:	86	100	119	134	147
STATE:TN	ELEVATOR:	96	110	131	146	160
COUNTY:LAUDERDALE	NON-ELEVATOR:	83	96	115	130	143
STATE:TN	ELEVATOR:	92	106	126	142	156
COUNTY:MCNAIRY	NON-ELEVATOR:	84	97	117	131	144
STATE:TN	ELEVATOR:	93	107	128	143	157
COUNTY:MADISON	NON-ELEVATOR:	91	106	126	142	156
STATE:TN	ELEVATOR:	101	115	141	156	171
COUNTY:OBION	NON-ELEVATOR:	88	100	119	134	147
STATE:TN	ELEVATOR:	96	110	131	146	160
COUNTY:WEAKLEY	NON-ELEVATOR:	83	96	115	130	143
STATE:TN	ELEVATOR:	92	106	126	142	156

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NASHVILLE,TENNESSEE INSURING OFFICE						
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY						
COUNTY:MONTGOMERY	NON-ELEVATOR:	146	168	199	232	264
STATE:TN	ELEVATOR:	161	184	219	255	290
SMSA: NASHVILLE-DAVIDSON, TN						
COUNTY:CHEATHAM	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:DAVIDSON	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:DICKSON	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:ROBERTSON	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:RUTHERFORD	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:SUMNER	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:WILLIAMSON	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
COUNTY:WILSON	NON-ELEVATOR:	136	154	186	215	237
STATE:TN	ELEVATOR:	147	170	203	236	259
NON SMSA						
COUNTY:BEDFORD	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:CANNON	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:CLAY	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NASHVILLE,TENNESSEE INSURING OFFICE						
NON SMSA						
COUNTY:COFFEE	NON-ELEVATOR:	96	111	131	147	161
STATE:TN	ELEVATOR:	106	122	145	163	178
COUNTY:DE KALB	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:FRANKLIN	NON-ELEVATOR:	107	124	147	171	189
STATE:TN	ELEVATOR:	118	135	163	189	206
COUNTY:GILES	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:HICKMAN	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:HOUSTON	NON-ELEVATOR:	102	117	141	157	172
STATE:TN	ELEVATOR:	113	129	154	172	190
COUNTY:HUMPHREYS	NON-ELEVATOR:	102	117	141	157	172
STATE:TN	ELEVATOR:	113	129	154	172	190
COUNTY:JACKSON	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:LAWRENCE	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:LEWIS	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:LINCOLN	NON-ELEVATOR:	107	124	147	171	189
STATE:TN	ELEVATOR:	118	135	163	189	206
COUNTY:MACON	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:MARSHALL	NON-ELEVATOR:	96	111	131	147	161
STATE:TN	ELEVATOR:	106	122	145	163	178

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NASHVILLE,TENNESSEE INSURING OFFICE						
NON SMSA						
COUNTY:MAURY	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:MOORE	NON-ELEVATOR:	87	101	120	135	148
STATE:TN	ELEVATOR:	97	111	132	148	162
COUNTY:OVERTON	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:PUTNAM	NON-ELEVATOR:	84	97	117	131	144
STATE:TN	ELEVATOR:	92	108	128	143	157
COUNTY:SMITH	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:STEWART	NON-ELEVATOR:	102	117	141	157	172
STATE:TN	ELEVATOR:	113	129	154	172	190
COUNTY:TROUSDALE	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:VAN BUREN	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144
COUNTY:WARREN	NON-ELEVATOR:	84	97	117	131	144
STATE:TN	ELEVATOR:	92	108	128	143	157
COUNTY:WAYNE	NON-ELEVATOR:	84	97	117	131	144
STATE:TN	ELEVATOR:	93	107	128	143	157
COUNTY:WHITE	NON-ELEVATOR:	76	88	106	119	131
STATE:TN	ELEVATOR:	84	97	117	131	144

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TAMPA,FLORIDA INSURING OFFICE						
SMSA: DAYTONA BEACH, FL						
COUNTY:VOLUSIA	NON-ELEVATOR:	115	131	156	176	193
STATE:FL	ELEVATOR:	126	145	172	193	212
SMSA: LAKELAND-WINTER HAVEN, FL						
COUNTY:POLK	NON-ELEVATOR:	113	129	154	171	189
STATE:FL	ELEVATOR:	123	141	169	189	207
SMSA: MELBOURN-TITUSVILLE-COCOA, FL						
COUNTY:BREVARD	NON-ELEVATOR:	135	154	185	206	226
STATE:FL	ELEVATOR:	147	169	203	227	248
SMSA: ORLANDO, FL						
COUNTY:ORANGE	NON-ELEVATOR:	153	177	212	245	269
STATE:FL	ELEVATOR:	169	195	233	270	295
COUNTY:OSCEOLA	NON-ELEVATOR:	153	177	212	245	269
STATE:FL	ELEVATOR:	169	195	233	270	295
COUNTY:SEMINOLE	NON-ELEVATOR:	153	177	212	245	269
STATE:FL	ELEVATOR:	169	195	233	270	295
SMSA: SARASOTA, FL						
COUNTY:SARASOTA	NON-ELEVATOR:	137	156	187	208	228
STATE:FL	ELEVATOR:	150	171	205	229	251
SMSA: TAMPA-ST PETERSBURG, FL						
COUNTY:HILLSBOROUGH	NON-ELEVATOR:	125	142	170	199	217
STATE:FL	ELEVATOR:	138	157	187	217	238
COUNTY:PASCO	NON-ELEVATOR:	125	142	170	199	217
STATE:FL	ELEVATOR:	138	157	187	217	238
COUNTY:PINELLAS	NON-ELEVATOR:	125	142	170	199	217
STATE:FL	ELEVATOR:	138	157	187	217	238
NON SMSA						
COUNTY:CITRUS	NON-ELEVATOR:	113	129	154	171	189
STATE:FL	ELEVATOR:	123	141	169	189	207

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TAMPA,FLORIDA INSURING OFFICE						
NON SMSA						
COUNTY:DE SOTO	NON-ELEVATOR:	137	156	187	208	228
STATE:FL	ELEVATOR:	150	171	205	229	251
COUNTY:HARDEE	NON-ELEVATOR:	137	156	187	208	228
STATE:FL	ELEVATOR:	150	171	205	229	251
COUNTY:HERNANDO	NON-ELEVATOR:	113	129	154	171	189
STATE:FL	ELEVATOR:	123	141	169	189	207
COUNTY:HIGHLANDS	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:INDIAN RIVER	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:LAKE	NON-ELEVATOR:	103	118	142	159	174
STATE:FL	ELEVATOR:	114	130	155	174	192
COUNTY:MANATEE	NON-ELEVATOR:	137	156	187	208	228
STATE:FL	ELEVATOR:	150	171	205	229	251
COUNTY:OKEECHOBEE	NON-ELEVATOR:	107	125	148	166	182
STATE:FL	ELEVATOR:	119	136	164	182	200
COUNTY:ST LUCIE	NON-ELEVATOR:	148	170	201	224	246
STATE:FL	ELEVATOR:	163	186	221	248	270
COUNTY:SUMTER	NON-ELEVATOR:	103	118	142	159	174
STATE:FL	ELEVATOR:	114	130	155	174	192

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHICAGO,ILLINOIS AREA OFFICE						
SMSA: CHICAGO, IL						
COUNTY:COOK	NON-ELEVATOR:	205	233	275	316	358
STATE:IL	ELEVATOR:	226	256	302	347	394
COUNTY:DU PAGE	NON-ELEVATOR:	205	233	275	316	358
STATE:IL	ELEVATOR:	226	256	302	347	394
COUNTY:KANE	NON-ELEVATOR:	205	233	275	316	358
STATE:IL	ELEVATOR:	226	256	302	347	394
COUNTY:LAKE	NON-ELEVATOR:	205	233	275	316	358
STATE:IL	ELEVATOR:	226	256	302	347	394
COUNTY:MCHENRY	NON-ELEVATOR:	205	233	275	316	358
STATE:IL	ELEVATOR:	226	256	302	347	394
COUNTY:WILL	NON-ELEVATOR:	205	233	275	316	358
STATE:IL	ELEVATOR:	226	256	302	347	394
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL						
COUNTY:ROCK ISLAND	NON-ELEVATOR:	154	175	230	273	296
STATE:IL	ELEVATOR:	169	192	253	301	325
SMSA: KANKAKEE, ILLINOIS						
COUNTY:KANKAKEE	NON-ELEVATOR:	157	181	214	238	262
STATE:IL	ELEVATOR:	172	196	234	262	289
SMSA: ROCKFORD, IL						
COUNTY:BOONE	NON-ELEVATOR:	159	184	218	255	278
STATE:IL	ELEVATOR:	175	202	239	280	305
COUNTY:WINNEBAGO	NON-ELEVATOR:	159	184	218	255	278
STATE:IL	ELEVATOR:	175	202	239	280	305
NON SMSA						
COUNTY:CARROLL	NON-ELEVATOR:	120	139	165	183	203
STATE:IL	ELEVATOR:	132	151	181	202	222
COUNTY:DE KALB	NON-ELEVATOR:	136	156	187	207	229
STATE:IL	ELEVATOR:	150	172	205	228	251

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CHICAGO,ILLINOIS AREA OFFICE						
NON SMSA						
COUNTY:GRUNDY	NON-ELEVATOR:	136	156	187	207	229
STATE:IL	ELEVATOR:	150	172	205	228	251
COUNTY:JO DAVIESS	NON-ELEVATOR:	108	124	149	166	183
STATE:IL	ELEVATOR:	118	135	163	182	200
COUNTY:KENDALL	NON-ELEVATOR:	136	156	187	207	229
STATE:IL	ELEVATOR:	150	172	205	228	251
COUNTY:LEE	NON-ELEVATOR:	123	143	171	191	208
STATE:IL	ELEVATOR:	136	156	188	208	229
COUNTY:OGLE	NON-ELEVATOR:	123	143	171	191	208
STATE:IL	ELEVATOR:	136	156	188	208	229
COUNTY:STEPHENSON	NON-ELEVATOR:	123	143	171	191	208
STATE:IL	ELEVATOR:	136	156	188	208	229
COUNTY:WHITESIDE	NON-ELEVATOR:	120	139	165	183	203
STATE:IL	ELEVATOR:	132	151	181	202	222

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CINCINNATI,OHIO INSURING OFFICE						
SMSA: CINCINNATI, OH-KY-IN						
COUNTY:CLERMONT	NON-ELEVATOR:	142	162	192	223	254
STATE:OH	ELEVATOR:	170	194	231	267	305
COUNTY HAMILTON	NON-ELEVATOR:	142	162	192	223	254
STATE:OH	ELEVATOR:	170	194	231	267	305
COUNTY:WARREN	NON-ELEVATOR:	142	162	192	223	254
STATE:OH	ELEVATOR:	170	194	231	267	305
SMSA: DAYTON, OH						
COUNTY:GREENE	NON-ELEVATOR:	150	172	205	239	261
STATE:OH	ELEVATOR:	164	189	225	263	286
COUNTY:MONTGOMERY	NON-ELEVATOR:	150	172	205	239	261
STATE:OH	ELEVATOR:	164	189	225	263	286
COUNTY:PREBLE	NON-ELEVATOR:	150	172	205	239	261
STATE:OH	ELEVATOR:	164	189	225	263	286
SMSA: HAMILTON-MIDDLETOWN, OH						
COUNTY:BUTLER	NON-ELEVATOR:	118	135	163	190	207
STATE:OH	ELEVATOR:	130	148	179	207	227
NON SMSA						
COUNTY:ADAMS	NON-ELEVATOR:	118	135	163	190	207
STATE:OH	ELEVATOR:	130	148	179	207	227
COUNTY:BROWN	NON-ELEVATOR:	118	135	163	190	207
STATE:OH	ELEVATOR:	130	148	179	207	227
COUNTY:CLINTON	NON-ELEVATOR:	118	135	163	190	207
STATE:OH	ELEVATOR:	130	148	179	207	227
COUNTY:HIGHLAND	NON-ELEVATOR:	118	135	163	190	207
STATE:OH	ELEVATOR:	130	148	179	207	227

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CLEVELAND,OHIO INSURING OFFICE						
SMSA: AKRON, OH						
COUNTY:PORTAGE	NON-ELEVATOR:	155	177	212	247	271
STATE:OH	ELEVATOR:	169	194	233	272	296
COUNTY:SUMMIT	NON-ELEVATOR:	155	177	212	247	271
STATE:OH	ELEVATOR:	169	194	233	272	296
SMSA: CANTON, OH						
COUNTY:CARROLL	NON-ELEVATOR:	121	139	166	193	211
STATE:OH	ELEVATOR:	132	152	182	212	231
COUNTY:STARK	NON-ELEVATOR:	121	139	166	193	211
STATE:OH	ELEVATOR:	132	152	182	212	231
SMSA: CLEVELAND, OH						
COUNTY:CUYAHOGA	NON-ELEVATOR:	148	171	205	240	273
STATE:OH	ELEVATOR:	164	189	225	263	299
COUNTY:GEAUGA	NON-ELEVATOR:	148	171	205	240	273
STATE:OH	ELEVATOR:	164	189	225	263	299
COUNTY:LAKE	NON-ELEVATOR:	148	171	205	240	273
STATE:OH	ELEVATOR:	164	189	225	263	299
COUNTY:MEDINA	NON-ELEVATOR:	148	171	205	240	273
STATE:OH	ELEVATOR:	164	189	225	263	299
SMSA: LIMA, OH						
COUNTY:PUTNAM	NON-ELEVATOR:	108	124	149	173	190
STATE:OH	ELEVATOR:	118	135	163	191	208
SMSA: LORAIN-ELYRIA, OH						
COUNTY:LORAIN	NON-ELEVATOR:	151	173	206	240	262
STATE:OH	ELEVATOR	165	190	227	264	289
SMSA: MANSFIELD, OH						
COUNTY:RICHLAND	NON-ELEVATOR:	139	157	190	219	240
STATE:OH	ELEVATOR:	152	174	210	241	264

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CLEVELAND,OHIO INSURING OFFICE						
SMSA: STEUBENVILLE-WEIRTON, OH-WV						
COUNTY:JEFFERSON	NON-ELEVATOR:	95	109	130	153	167
STATE:OH	ELEVATOR:	104	119	143	167	183
SMSA: TOLEDO, OH-MI						
COUNTY:FULTON	NON-ELEVATOR:	138	159	188	218	238
STATE:OH	ELEVATOR:	152	174	206	239	261
COUNTY:LUCAS	NON-ELEVATOR:	138	159	188	218	238
STATE:OH	ELEVATOR:	152	174	206	239	261
COUNTY:OTTAWA	NON-ELEVATOR:	138	159	188	218	238
STATE:OH	ELEVATOR:	152	174	206	239	261
COUNTY:WOOD	NON-ELEVATOR:	138	159	188	218	238
STATE:OH	ELEVATOR:	152	174	206	239	261
SMSA: YOUNGSTOWN-WARREN, OH						
COUNTY:MAHONING	NON-ELEVATOR:	132	152	181	209	230
STATE:OH	ELEVATOR:	144	166	199	230	252
COUNTY:TRUMBULL	NON-ELEVATOR:	132	152	181	209	230
STATE:OH	ELEVATOR:	144	166	199	230	252
NON SMSA						
COUNTY:ASHLAND	NON-ELEVATOR:	112	129	157	173	191
STATE:OH	ELEVATOR:	123	143	171	191	209
COUNTY:ASHTABULA	NON-ELEVATOR:	112	129	157	173	191
STATE:OH	ELEVATOR:	123	143	171	191	209
COUNTY:COLUMBIANA	NON-ELEVATOR:	100	114	138	154	169
STATE:OH	ELEVATOR:	110	126	152	169	186
COUNTY:CRAWFORD	NON-ELEVATOR:	115	131	159	183	202
STATE:OH	ELEVATOR:	125	145	175	202	220
COUNTY:DEFIANCE	NON-ELEVATOR:	108	124	149	166	183
STATE:OH	ELEVATOR:	118	135	163	182	200

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CLEVELAND,OHIO INSURING OFFICE						
NON SMSA						
COUNTY:ERIE	NON-ELEVATOR:	123	142	171	188	208
STATE:OH	ELEVATOR:	136	157	187	207	229
COUNTY:HANCOCK	NON-ELEVATOR:	112	129	157	173	191
STATE:OH	ELEVATOR:	123	143	171	191	209
COUNTY:HARRISON	NON-ELEVATOR:	88	101	122	135	149
STATE:OH	ELEVATOR:	96	111	134	149	165
COUNTY:HENRY	NON-ELEVATOR:	112	129	157	173	191
STATE:OH	ELEVATOR:	123	143	171	191	209
COUNTY:HOLMES	NON-ELEVATOR:	100	114	138	154	169
STATE:OH	ELEVATOR:	110	126	152	169	186
COUNTY:HURON	NON-ELEVATOR:	122	142	171	190	210
STATE:OH	ELEVATOR:	135	156	188	209	229
COUNTY:PAULDING	NON-ELEVATOR:	108	124	149	166	183
STATE:OH	ELEVATOR:	118	135	163	182	200
COUNTY:SANDUSKY	NON-ELEVATOR:	112	129	157	173	191
STATE:OH	ELEVATOR:	123	143	171	191	209
COUNTY:SENECA	NON-ELEVATOR:	112	129	157	173	191
STATE:OH	ELEVATOR:	123	143	171	191	209
COUNTY:TUSCARAWAS	NON-ELEVATOR:	100	114	138	154	169
STATE:OH	ELEVATOR:	110	126	152	169	186
COUNTY:WAYNE	NON-ELEVATOR:	122	142	171	190	210
STATE:OH	ELEVATOR:	135	156	188	209	229
COUNTY:WILLIAMS	NON-ELEVATOR:	108	124	149	166	183
STATE:OH	ELEVATOR:	118	135	163	182	200
COUNTY:WYANDOT	NON-ELEVATOR:	115	131	159	182	202
STATE:OH	ELEVATOR:	125	145	175	202	220

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBUS,OHIO AREA OFFICE						
SMSA: COLUMBUS, OH						
COUNTY: DELAWARE	NON-ELEVATOR:	126	146	175	203	222
STATE: OH	ELEVATOR:	139	160	191	223	243
COUNTY: FAIRFIELD	NON-ELEVATOR:	126	146	175	203	222
STATE: OH	ELEVATOR:	139	160	191	223	243
COUNTY: FRANKLIN	NON-ELEVATOR:	126	146	175	203	222
STATE: OH	ELEVATOR:	139	160	191	223	243
COUNTY: MADISON	NON-ELEVATOR:	126	146	175	203	222
STATE: OH	ELEVATOR:	139	160	191	223	243
COUNTY: PICKAWAY	NON-ELEVATOR:	126	146	175	203	222
STATE: OH	ELEVATOR:	139	160	191	223	243
SMSA: DAYTON, OH						
COUNTY: MIAMI	NON-ELEVATOR:	150	172	205	239	281
STATE: OH	ELEVATOR:	164	189	225	263	286
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH						
COUNTY: LAWRENCE	NON-ELEVATOR:	132	151	177	210	233
STATE: OH	ELEVATOR:	146	166	195	231	256
SMSA: LIMA, OH						
COUNTY: ALLEN	NON-ELEVATOR:	108	124	149	173	190
STATE: OH	ELEVATOR:	118	135	163	191	208
COUNTY: AUGLAIZE	NON-ELEVATOR:	108	124	149	173	190
STATE: OH	ELEVATOR:	118	135	163	191	208
COUNTY: VAN WERT	NON-ELEVATOR:	108	124	149	173	190
STATE: OH	ELEVATOR:	118	135	163	191	208
SMSA: PARKERSBURG-MARIETTA, WV-OH						
COUNTY: WASHINGTON	NON-ELEVATOR:	107	124	148	166	182
STATE: OH	ELEVATOR:	118	135	163	182	200
SMSA: SPRINGFIELD, OH						
COUNTY: CHAMPAIGN	NON-ELEVATOR:	105	121	146	170	186
STATE: OH	ELEVATOR:	116	133	161	187	205

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBUS,OHIO AREA OFFICE						
SMSA: SPRINGFIELD, OH						
COUNTY: CLARK	NON-ELEVATOR:	105	121	146	170	186
STATE: OH	ELEVATOR:	116	133	161	187	205
SMSA: WHEELING, WV-OH						
COUNTY: BELMONT	NON-ELEVATOR:	95	109	130	153	167
STATE: OH	ELEVATOR:	104	119	143	167	183
NON SMSA						
COUNTY: ATHENS	NON-ELEVATOR:	108	124	149	166	183
STATE: OH	ELEVATOR:	118	135	163	182	200
COUNTY: COSHOCTON	NON-ELEVATOR:	100	114	138	154	169
STATE: OH	ELEVATOR:	110	126	152	169	186
COUNTY: DARKE	NON-ELEVATOR:	105	121	146	170	188
STATE: OH	ELEVATOR:	116	133	161	187	205
COUNTY: FAYETTE	NON-ELEVATOR:	95	110	133	148	162
STATE: OH	ELEVATOR:	105	121	146	162	178
COUNTY: GALLIA	NON-ELEVATOR:	79	91	111	123	135
STATE: OH	ELEVATOR:	88	101	122	135	149
COUNTY: GUERNSEY	NON-ELEVATOR:	104	120	145	161	177
STATE: OH	ELEVATOR:	116	132	160	178	194
COUNTY: HARDIN	NON-ELEVATOR:	108	124	149	173	190
STATE: OH	ELEVATOR:	118	135	163	191	208
COUNTY: HOCKING	NON-ELEVATOR:	108	124	149	166	183
STATE: OH	ELEVATOR:	118	135	163	182	200
COUNTY: JACKSON	NON-ELEVATOR:	95	110	133	148	162
STATE: OH	ELEVATOR:	105	121	146	162	178
COUNTY: KNOX	NON-ELEVATOR:	115	131	159	183	202
STATE: OH	ELEVATOR:	125	145	175	202	220

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBUS,OHIO AREA OFFICE						
NON SMSA						
COUNTY: LICKING	NON-ELEVATOR:	104	120	145	161	177
STATE: OH	ELEVATOR:	116	132	160	178	194
COUNTY: LOGAN	NON-ELEVATOR:	106	121	146	178	196
STATE: OH	ELEVATOR:	118	133	161	187	206
COUNTY: MARION	NON-ELEVATOR:	96	110	133	148	162
STATE: OH	ELEVATOR:	106	121	146	162	178
COUNTY: MEIGS	NON-ELEVATOR:	79	91	111	123	135
STATE: OH	ELEVATOR:	88	101	122	135	149
COUNTY: MERCER	NON-ELEVATOR:	106	124	149	173	190
STATE: OH	ELEVATOR:	118	136	163	191	208
COUNTY: MONROE	NON-ELEVATOR:	88	101	122	135	148
STATE: OH	ELEVATOR:	96	111	134	149	166
COUNTY: MORGAN	NON-ELEVATOR:	106	124	149	166	183
STATE: OH	ELEVATOR:	118	136	163	182	200
COUNTY: MORROW	NON-ELEVATOR:	115	131	158	183	202
STATE: OH	ELEVATOR:	125	145	175	202	220
COUNTY: MUSKINGUM	NON-ELEVATOR:	104	120	145	161	177
STATE: OH	ELEVATOR:	118	132	160	178	194
COUNTY: NOBLE	NON-ELEVATOR:	106	124	149	166	183
STATE: OH	ELEVATOR:	118	135	163	182	200
COUNTY: PERRY	NON-ELEVATOR:	104	120	145	161	177
STATE: OH	ELEVATOR:	116	132	160	178	194
COUNTY: PIKE	NON-ELEVATOR:	95	110	133	148	162
STATE: OH	ELEVATOR:	106	121	146	162	178
COUNTY: ROSS	NON-ELEVATOR:	95	110	133	148	162
STATE: OH	ELEVATOR:	106	121	146	162	178

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
COLUMBUS,OHIO AREA OFFICE						
NON SMSA						
COUNTY: SCIOTO	NON-ELEVATOR:	79	91	111	123	135
STATE: OH	ELEVATOR:	88	101	123	135	149
COUNTY: SHELBY	NON-ELEVATOR:	106	121	146	170	186
STATE: OH	ELEVATOR:	116	133	161	187	205
COUNTY: UNION	NON-ELEVATOR:	95	110	133	148	162
STATE: OH	ELEVATOR:	105	121	146	162	178
COUNTY: VINTON	NON-ELEVATOR:	95	110	133	148	162
STATE: OH	ELEVATOR:	105	121	146	162	178

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DETROIT,MICHIGAN AREA OFFICE						
SMSA: ANN ARBOR, MI						
COUNTY:WASHTENAW	NON-ELEVATOR:	176	200	240	279	304
STATE:MI	ELEVATOR:	194	220	264	305	333
SMSA: BAY CITY, MI						
COUNTY:BAY	NON-ELEVATOR:	138	159	189	220	241
STATE:MI	ELEVATOR:	152	174	208	242	264
SMSA: DETROIT, MI						
COUNTY:LAPEER	NON-ELEVATOR:	165	189	224	259	293
STATE:MI	ELEVATOR:	182	208	247	284	323
COUNTY:LIVINGSTON	NON-ELEVATOR:	165	189	224	259	293
STATE:MI	ELEVATOR:	182	208	247	284	323
COUNTY:MACOMB	NON-ELEVATOR:	165	189	224	259	293
STATE:MI	ELEVATOR:	182	208	247	284	323
COUNTY:OAKLAND	NON-ELEVATOR:	165	189	224	259	293
STATE:MI	ELEVATOR:	182	208	247	284	323
COUNTY:ST CLAIR	NON-ELEVATOR:	165	189	224	259	293
STATE:MI	ELEVATOR:	182	208	247	284	323
COUNTY:WAYNE	NON-ELEVATOR:	165	189	224	259	293
STATE:MI	ELEVATOR:	182	208	247	284	323
SMSA: FLINT, MI						
COUNTY:GENESEE	NON-ELEVATOR:	144	165	199	229	251
STATE:MI	ELEVATOR:	158	181	218	253	276
COUNTY:SHIAWASSEE	NON-ELEVATOR:	144	165	199	229	251
STATE:MI	ELEVATOR:	158	181	218	253	276
SMSA: SAGINAW, MI						
COUNTY:SAGINAW	NON-ELEVATOR:	138	159	189	220	241
STATE:MI	ELEVATOR:	152	174	208	242	264
SMSA: TOLEDO, OH-MI						
COUNTY:MONROE	NON-ELEVATOR:	138	159	188	218	238
STATE:MI	ELEVATOR:	152	174	208	239	261

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DETROIT,MICHIGAN AREA OFFICE						
NON SMSA						
COUNTY:ALCONA	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:ALPENA	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:ARENAC	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:GLADWIN	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:HURON	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:IOSCO	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:LENAWEE	NON-ELEVATOR:	112	129	157	173	191
STATE:MI	ELEVATOR:	123	143	171	191	209
COUNTY:MIDLAND	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:MONTMORENCY	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:OGEMAW	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:OSCODA	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:PRESQUE ISLE	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:SANILAC	NON-ELEVATOR:	176	200	240	279	304
STATE:MI	ELEVATOR:	194	220	264	305	333

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DETROIT,MICHIGAN AREA OFFICE						
NON SMSA						
COUNTY:TUSCOLA	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
SMSA: BATTLE CREEK, MI						
COUNTY:BARRY	NON-ELEVATOR:	124	143	170	189	207
STATE:MI	ELEVATOR:	137	157	187	206	228
COUNTY:CALHOUN	NON-ELEVATOR:	124	143	170	189	207
STATE:MI	ELEVATOR:	137	157	187	206	228
SMSA: GRAND RAPIDS, MI						
COUNTY:KENT	NON-ELEVATOR:	141	165	190	215	243
STATE:MI	ELEVATOR:	156	184	209	237	268
COUNTY:OTTAWA	NON-ELEVATOR:	141	165	190	215	243
STATE:MI	ELEVATOR:	156	184	209	237	268
SMSA: JACKSON, MI						
COUNTY:JACKSON	NON-ELEVATOR:	135	160	187	208	238
STATE:MI	ELEVATOR:	148	175	205	229	262
SMSA: KALAMAZOO-PORTAGE , MI						
COUNTY:KALAMAZOO	NON-ELEVATOR:	148	170	203	237	258
STATE:MI	ELEVATOR:	163	187	223	259	283
COUNTY:VAN BUREN	NON-ELEVATOR:	148	170	203	237	258
STATE:MI	ELEVATOR:	163	187	223	259	283
SMSA: LANSING-EAST LANSING , MI						
COUNTY:CLINTON	NON-ELEVATOR:	157	179	215	250	274
STATE:MI	ELEVATOR:	173	197	236	275	299
COUNTY:EATON	NON-ELEVATOR:	157	179	215	250	274
STATE:MI	ELEVATOR:	173	197	236	275	299
COUNTY:INGHAM	NON-ELEVATOR:	157	179	215	250	274
STATE:MI	ELEVATOR:	173	197	236	275	299
COUNTY:IONIA	NON-ELEVATOR:	157	179	215	250	274
STATE:MI	ELEVATOR:	173	197	236	275	299
SMSA: MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI						
COUNTY:MUSKEGON	NON-ELEVATOR:	125	145	175	203	221
STATE:MI	ELEVATOR:	138	160	192	223	242

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
SMSA: MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI						
COUNTY:OCEANA	NON-ELEVATOR:	125	145	175	203	221
STATE:MI	ELEVATOR:	138	160	192	223	243
NON SMSA						
COUNTY:ALGER	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	168	185	204
COUNTY:ALLEGAN	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:ANTRIM	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:BARAGA	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:BENZIE	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:BERRIEN	NON-ELEVATOR:	125	145	173	193	212
STATE:MI	ELEVATOR:	138	159	190	213	234
COUNTY:BRANCH	NON-ELEVATOR:	122	142	170	189	207
STATE:MI	ELEVATOR:	135	155	186	207	228
COUNTY:CASS	NON-ELEVATOR:	125	145	173	193	212
STATE:MI	ELEVATOR:	138	159	190	213	234
COUNTY:CHARLEVOIX	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:CHEBOYGAN	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:CHIPPEWA	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:CLARE	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
NON SMSA						
COUNTY:CRAWFORD	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:DELTA	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:DICKINSON	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:EMMET	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:GOGEBIC	NON-ELEVATOR:	100	114	138	154	169
STATE:MI	ELEVATOR:	110	126	152	169	186
COUNTY:GRD TRAVERSE	NON-ELEVATOR:	121	139	166	185	204
STATE:MI	ELEVATOR:	134	151	182	204	225
COUNTY:GRATIOT	NON-ELEVATOR:	97	111	135	150	164
STATE:MI	ELEVATOR:	108	123	147	163	181
COUNTY:HILLSDALE	NON-ELEVATOR:	122	142	170	189	207
STATE:MI	ELEVATOR:	135	155	186	207	228
COUNTY:HOUGHTON	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:IRON	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:ISABELLA	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:KALKASKA	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:KEWEENAW	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
NON SMSA						
COUNTY:LAKE	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:LEELANAU	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:LUCE	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:MACKINAC	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:MANISTEE	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MARQUETTE	NON-ELEVATOR:	121	139	166	185	204
STATE:MI	ELEVATOR:	134	151	182	204	225
COUNTY:MASON	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MECOSTA	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MENOMINEE	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:MISSAUKEE	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:MONTCALM	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:NEWAYGO	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:ONTONAGON	NON-ELEVATOR:	100	114	138	154	169
STATE:MI	ELEVATOR:	110	126	152	168	186

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
GRAND RAPIDS,MICHIGAN INSURING OFFICE						
NON SMSA						
COUNTY:OSCEOLA	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212
COUNTY:OTSEGO	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:ROSCOMMON	NON-ELEVATOR:	123	143	171	191	208
STATE:MI	ELEVATOR:	136	156	188	208	229
COUNTY:ST JOSEPH	NON-ELEVATOR:	125	145	173	193	212
STATE:MI	ELEVATOR:	138	159	190	213	234
COUNTY:SCHOOLCRAFT	NON-ELEVATOR:	110	126	152	169	185
STATE:MI	ELEVATOR:	120	139	166	185	204
COUNTY:WEXFORD	NON-ELEVATOR:	110	126	152	177	193
STATE:MI	ELEVATOR:	120	139	166	194	212

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS,INDIANA AREA OFFICE						
SMSA: ANDERSON, IN						
COUNTY:MADISON	NON-ELEVATOR:	119	138	164	191	208
STATE:IN	ELEVATOR:	131	150	180	208	229
SMSA: BLOOMINGTON, IN						
COUNTY:MONROE	NON-ELEVATOR:	130	148	178	197	217
STATE:IN	ELEVATOR:	141	163	194	217	238
SMSA: CINCINNATI, OH-KY-IN						
COUNTY:DEARBORN	NON-ELEVATOR:	142	162	192	223	254
STATE:IN	ELEVATOR:	170	194	231	267	305
SMSA: EVANSVILLE, IN-KY						
COUNTY:GIBSON	NON-ELEVATOR:	130	159	188	203	220
STATE:IN	ELEVATOR:	144	175	207	223	242
COUNTY:POSEY	NON-ELEVATOR:	130	159	188	203	220
STATE:IN	ELEVATOR:	144	175	207	223	242
COUNTY:VANDERBURGH	NON-ELEVATOR:	130	159	188	203	220
STATE:IN	ELEVATOR:	144	175	207	223	242
COUNTY:WARRICK	NON-ELEVATOR:	130	159	188	203	220
STATE:IN	ELEVATOR:	144	175	207	223	242
SMSA: FORT WAYNE, IN						
COUNTY:ADAMS	NON-ELEVATOR:	139	160	191	222	242
STATE:IN	ELEVATOR:	153	175	209	244	267
COUNTY:ALLEN	NON-ELEVATOR:	139	160	191	222	242
STATE:IN	ELEVATOR:	153	175	209	244	267
COUNTY:DE KALB	NON-ELEVATOR:	139	160	191	222	242
STATE:IN	ELEVATOR:	153	175	209	244	267
COUNTY:WELLS	NON-ELEVATOR:	139	160	191	222	242
STATE:IN	ELEVATOR:	153	175	209	244	267
SMSA: GARY-HAMMOND-EAST CHICAGO, IN						
COUNTY:LAKE	NON-ELEVATOR:	131	149	179	207	228
STATE:IN	ELEVATOR:	142	164	195	228	250

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS,INDIANA AREA OFFICE						
SMSA: GARY-HAMMOND-EAST CHICAGO, IN						
COUNTY:PORTER	NON-ELEVATOR:	131	149	179	207	228
STATE:IN	ELEVATOR:	142	164	195	228	250
SMSA: INDIANAPOLIS, IN						
COUNTY:BOONE	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:HAMILTON	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:HANCOCK	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:HENDRICKS	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:JOHNSON	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:MARION	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:MORGAN	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
COUNTY:SHELBY	NON-ELEVATOR:	138	159	189	220	250
STATE:IN	ELEVATOR:	152	174	208	242	275
SMSA: LAFAYETTE-WEST LAFAYETTE, IN						
COUNTY:TIPPECANOE	NON-ELEVATOR:	136	156	187	207	229
STATE:IN	ELEVATOR:	150	172	205	228	251
SMSA: LOUISVILLE, KY-IN						
COUNTY:CLARK	NON-ELEVATOR:	156	171	201	243	266
STATE:IN	ELEVATOR:	164	187	231	267	292
COUNTY:FLOYD	NON-ELEVATOR:	156	171	201	243	266
STATE:IN	ELEVATOR:	164	187	231	267	292

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS,INDIANA AREA OFFICE						
SMSA: MUNCIE, IN						
COUNTY:DELAWARE	NON-ELEVATOR:	119	138	164	191	208
STATE:IN	ELEVATOR:	131	150	180	208	229
SMSA: SOUTH BEND, IN						
COUNTY:MARSHALL	NON-ELEVATOR:	136	156	187	217	238
STATE:IN	ELEVATOR:	150	172	205	239	261
COUNTY:ST JOSEPH	NON-ELEVATOR:	136	156	187	217	238
STATE:IN	ELEVATOR:	150	172	205	239	261
SMSA: TERRE HAUTE, IN						
COUNTY:CLAY	NON-ELEVATOR:	123	143	171	199	217
STATE:IN	ELEVATOR:	136	156	188	218	238
COUNTY:SULLIVAN	NON-ELEVATOR:	123	143	171	199	217
STATE:IN	ELEVATOR:	136	156	188	218	238
COUNTY:VERMILLION	NON-ELEVATOR:	123	143	171	199	217
STATE:IN	ELEVATOR:	136	156	188	218	238
COUNTY:VIGO	NON-ELEVATOR:	123	143	171	199	217
STATE:IN	ELEVATOR:	136	156	188	218	238
NON SMSA						
COUNTY:BARTHOLOMEW	NON-ELEVATOR:	130	148	178	197	217
STATE:IN	ELEVATOR:	141	163	194	217	238
COUNTY:BENTON	NON-ELEVATOR:	136	156	187	207	229
STATE:IN	ELEVATOR:	150	172	205	228	251
COUNTY:BLACKFORD	NON-ELEVATOR:	119	138	164	191	208
STATE:IN	ELEVATOR:	131	150	180	208	229
COUNTY:BROWN	NON-ELEVATOR:	130	148	178	197	217
STATE:IN	ELEVATOR:	141	163	194	217	238
COUNTY:CARROLL	NON-ELEVATOR:	136	156	187	207	229
STATE:IN	ELEVATOR:	150	172	205	228	251

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS,INDIANA AREA OFFICE						
NON SMSA						
COUNTY:CASS	NON-ELEVATOR:	130	148	178	197	217
STATE:IN	ELEVATOR:	141	163	194	217	238
COUNTY:CLINTON	NON-ELEVATOR:	136	156	187	207	229
STATE:IN	ELEVATOR:	150	172	205	228	251
COUNTY:CRAWFORD	NON-ELEVATOR:	114	130	158	176	192
STATE:IN	ELEVATOR:	124	144	172	193	212
COUNTY:DAVIESS	NON-ELEVATOR:	92	105	126	142	156
STATE:IN	ELEVATOR:	101	116	139	156	171
COUNTY:DECATUR	NON-ELEVATOR:	130	148	178	197	217
STATE:IN	ELEVATOR:	141	163	194	217	238
COUNTY:DUBOIS	NON-ELEVATOR:	92	105	126	142	156
STATE:IN	ELEVATOR:	101	116	139	156	171
COUNTY:ELKHART	NON-ELEVATOR:	125	145	173	193	212
STATE:IN	ELEVATOR:	138	159	190	213	234
COUNTY:FAYETTE	NON-ELEVATOR:	118	135	163	190	207
STATE:IN	ELEVATOR:	130	148	179	207	227
COUNTY:FOUNTAIN	NON-ELEVATOR:	136	156	187	207	229
STATE:IN	ELEVATOR:	150	172	205	228	251
COUNTY:FRANKLIN	NON-ELEVATOR:	118	135	163	190	207
STATE:IN	ELEVATOR:	130	148	179	207	227
COUNTY:FULTON	NON-ELEVATOR:	125	145	173	193	212
STATE:IN	ELEVATOR:	138	159	190	213	234
COUNTY:GRANT	NON-ELEVATOR:	119	138	164	191	208
STATE:IN	ELEVATOR:	131	150	180	208	229
COUNTY:GREENE	NON-ELEVATOR:	123	143	171	199	217
STATE:IN	ELEVATOR:	136	156	188	218	238

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY: HARRISON	NON-ELEVATOR:	114	130	158	176	192
STATE: IN	ELEVATOR:	124	144	172	193	212
COUNTY: HENRY	NON-ELEVATOR:	119	138	164	191	208
STATE: IN	ELEVATOR:	131	150	180	208	229
COUNTY: HOWARD	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: HUNTINGTON	NON-ELEVATOR:	108	124	149	166	183
STATE: IN	ELEVATOR:	118	135	163	182	200
COUNTY: JACKSON	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: JASPER	NON-ELEVATOR:	120	139	165	183	203
STATE: IN	ELEVATOR:	132	151	181	202	222
COUNTY: JAY	NON-ELEVATOR:	119	138	164	191	208
STATE: IN	ELEVATOR:	131	150	180	208	229
COUNTY: JEFFERSON	NON-ELEVATOR:	114	130	158	176	192
STATE: IN	ELEVATOR:	124	144	172	193	212
COUNTY: JENNINGS	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: KNOX	NON-ELEVATOR:	92	105	126	142	158
STATE: IN	ELEVATOR:	101	116	139	156	171
COUNTY: KOSCIUSKO	NON-ELEVATOR:	125	145	173	193	212
STATE: IN	ELEVATOR:	138	159	190	213	234
COUNTY: LAGRANGE	NON-ELEVATOR:	125	145	173	193	212
STATE: IN	ELEVATOR:	138	159	190	213	234
COUNTY: LA PORTE	NON-ELEVATOR:	120	139	165	183	203
STATE: IN	ELEVATOR:	132	151	181	202	222

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY: LAWRENCE	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: MARTIN	NON-ELEVATOR:	92	105	126	142	156
STATE: IN	ELEVATOR:	101	116	139	156	171
COUNTY: MIAMI	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: MONTGOMERY	NON-ELEVATOR:	136	156	187	207	229
STATE: IN	ELEVATOR:	150	172	205	228	251
COUNTY: NEWTON	NON-ELEVATOR:	120	139	165	183	203
STATE: IN	ELEVATOR:	132	151	181	202	222
COUNTY: NOBLE	NON-ELEVATOR:	108	124	149	166	183
STATE: IN	ELEVATOR:	118	135	163	182	200
COUNTY: OHIO	NON-ELEVATOR:	118	135	163	190	207
STATE: IN	ELEVATOR:	130	148	179	207	227
COUNTY: ORANGE	NON-ELEVATOR:	114	130	158	176	192
STATE: IN	ELEVATOR:	124	144	172	193	212
COUNTY: OWEN	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: PARKE	NON-ELEVATOR:	123	143	171	199	217
STATE: IN	ELEVATOR:	136	156	188	218	238
COUNTY: PERRY	NON-ELEVATOR:	92	105	126	142	156
STATE: IN	ELEVATOR:	101	116	139	156	171
COUNTY: PIKE	NON-ELEVATOR:	92	105	126	142	156
STATE: IN	ELEVATOR:	101	116	139	156	171
COUNTY: PULASKI	NON-ELEVATOR:	120	139	165	183	203
STATE: IN	ELEVATOR:	132	151	181	202	222

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY: PUTNAM	NON-ELEVATOR:	130	148	179	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: RANDOLPH	NON-ELEVATOR:	119	138	164	181	208
STATE: IN	ELEVATOR:	131	150	180	208	229
COUNTY: RIPLEY	NON-ELEVATOR:	118	136	163	190	207
STATE: IN	ELEVATOR:	130	148	179	207	227
COUNTY: RUSH	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: SCOTT	NON-ELEVATOR:	114	130	158	176	192
STATE: IN	ELEVATOR:	124	144	172	193	212
COUNTY: SPENCER	NON-ELEVATOR:	93	105	126	142	156
STATE: IN	ELEVATOR:	101	116	139	156	171
COUNTY: STARKE	NON-ELEVATOR:	120	139	165	183	203
STATE: IN	ELEVATOR:	132	151	181	202	222
COUNTY: STEUBEN	NON-ELEVATOR:	108	124	149	166	183
STATE: IN	ELEVATOR:	118	135	163	182	200
COUNTY: SWITZERLAND	NON-ELEVATOR:	118	135	133	190	207
STATE: IN	ELEVATOR:	130	148	179	207	227
COUNTY: TIPTON	NON-ELEVATOR:	130	148	178	197	217
STATE: IN	ELEVATOR:	141	163	194	217	238
COUNTY: UNION	NON-ELEVATOR:	118	135	163	190	207
STATE: IN	ELEVATOR:	130	148	179	207	227
COUNTY: WABASH	NON-ELEVATOR:	108	124	149	166	183
STATE: IN	ELEVATOR:	118	135	163	182	200
COUNTY: WARREN	NON-ELEVATOR:	136	156	187	207	229
STATE: IN	ELEVATOR:	150	172	205	228	251

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE						
NON SMSA						
COUNTY: WASHINGTON	NON-ELEVATOR:	114	130	158	176	192
STATE: IN	ELEVATOR:	124	144	172	193	212
COUNTY: WAYNE	NON-ELEVATOR:	119	138	164	191	208
STATE: IN	ELEVATOR:	131	150	180	208	229
COUNTY: WHITE	NON-ELEVATOR:	136	156	187	207	229
STATE: IN	ELEVATOR:	150	172	205	228	251
COUNTY: WHITLEY	NON-ELEVATOR:	108	124	149	166	183
STATE: IN	ELEVATOR:	118	135	163	182	200

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
SMSA: APPLETON-OSHKOSH, WI						
COUNTY: CALUMET	NON-ELEVATOR:	132	150	180	208	229
STATE: WI	ELEVATOR:	144	165	199	229	252
COUNTY: OUTAGAMIE	NON-ELEVATOR:	132	150	180	208	229
STATE: WI	ELEVATOR:	144	165	199	229	252
COUNTY: WINNEBAGO	NON-ELEVATOR:	132	150	180	208	229
STATE: WI	ELEVATOR:	144	165	199	229	252
SMSA: DULUTH-SUPERIOR, MN-WI						
COUNTY: DOUGLAS	NON-ELEVATOR:	145	166	200	222	243
STATE: WI	ELEVATOR:	160	184	219	243	268
SMSA: EAU CLAIRE, WI						
COUNTY: CHIPPEWA	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: EAU CLAIRE	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
SMSA: GREEN BAY, WI						
COUNTY: BROWN	NON-ELEVATOR:	119	138	164	191	208
STATE: WI	ELEVATOR:	131	150	180	208	229
SMSA: KENOSHA, WI						
COUNTY: KENOSHA	NON-ELEVATOR:	151	171	203	223	243
STATE: WI	ELEVATOR:	165	188	223	245	268
SMSA: LA CROSSE, WI						
COUNTY: LA CROSSE	NON-ELEVATOR:	109	125	150	168	184
STATE: WI	ELEVATOR:	119	138	165	183	203
SMSA: MADISON, WI						
COUNTY: DANE	NON-ELEVATOR:	165	189	224	258	281
STATE: WI	ELEVATOR:	182	208	247	283	309
SMSA: MILWAUKEE, WI						
COUNTY: MILWAUKEE	NON-ELEVATOR:	166	190	225	261	295
STATE: WI	ELEVATOR:	183	209	248	287	326

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
SMSA: MILWAUKEE, WI						
COUNTY: OZAUKEE	NON-ELEVATOR:	166	190	225	261	296
STATE: WI	ELEVATOR:	183	209	248	287	326
COUNTY: WASHINGTON	NON-ELEVATOR:	166	190	225	261	296
STATE: WI	ELEVATOR:	183	209	248	287	326
COUNTY: WAUKESHA	NON-ELEVATOR:	166	190	225	261	296
STATE: WI	ELEVATOR:	183	209	248	287	326
SMSA: MINNEAPOLIS-ST PAUL, MN						
COUNTY: ST CROIX	NON-ELEVATOR:	164	186	222	258	293
STATE: WI	ELEVATOR:	181	206	245	284	322
SMSA: RACINE, WI						
COUNTY: RACINE	NON-ELEVATOR:	151	171	203	225	246
STATE: WI	ELEVATOR:	165	188	223	247	269
NON SMSA						
COUNTY: ADAMS	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: ASHLAND	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: BARRON	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: BAYFIELD	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: BUFFALO	NON-ELEVATOR:	109	125	150	168	184
STATE: WI	ELEVATOR:	119	138	165	183	203
COUNTY: BURNETT	NON-ELEVATOR:	116	133	160	178	195
STATE: WI	ELEVATOR:	126	146	176	196	215
COUNTY: CLARK	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
NON SMSA						
COUNTY: COLUMBIA	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: CRAWFORD	NON-ELEVATOR:	108	124	149	166	183
STATE: WI	ELEVATOR:	118	135	163	182	200
COUNTY: DODGE	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: DOOR	NON-ELEVATOR:	132	151	180	207	227
STATE: WI	ELEVATOR:	144	166	198	228	250
COUNTY: DUNN	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: FLORENCE	NON-ELEVATOR:	110	126	152	169	185
STATE: WI	ELEVATOR:	120	139	168	185	204
COUNTY: FOND DU LAC	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: FOREST	NON-ELEVATOR:	110	126	152	168	185
STATE: WI	ELEVATOR:	120	139	168	185	204
COUNTY: GRANT	NON-ELEVATOR:	108	124	149	166	183
STATE: WI	ELEVATOR:	118	135	163	182	200
COUNTY: GREEN	NON-ELEVATOR:	123	143	171	191	208
STATE: WI	ELEVATOR:	136	156	188	208	229
COUNTY: GREEN LAKE	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: IOWA	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: IRON	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
NON SMSA						
COUNTY: JACKSON	NON-ELEVATOR:	109	125	150	168	184
STATE: WI	ELEVATOR:	119	138	165	183	203
COUNTY: JEFFERSON	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: JUNEAU	NON-ELEVATOR:	109	125	150	168	184
STATE: WI	ELEVATOR:	119	138	165	183	203
COUNTY: KEWAUNEE	NON-ELEVATOR:	119	138	164	191	208
STATE: WI	ELEVATOR:	131	150	180	208	229
COUNTY: LAFAYETTE	NON-ELEVATOR:	108	124	148	166	183
STATE: WI	ELEVATOR:	118	135	163	182	200
COUNTY: LANGLADE	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: LINCOLN	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: MANITOWOC	NON-ELEVATOR:	119	138	164	191	208
STATE: WI	ELEVATOR:	131	150	180	208	229
COUNTY: MARATHON	NON-ELEVATOR:	134	154	184	205	226
STATE: WI	ELEVATOR:	147	170	202	225	248
COUNTY: MARINETTE	NON-ELEVATOR:	110	126	152	169	185
STATE: WI	ELEVATOR:	120	139	168	185	204
COUNTY: MARQUETTE	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: MENOMINEE	NON-ELEVATOR:	110	126	152	169	185
STATE: WI	ELEVATOR:	120	139	168	185	204
COUNTY: MONROE	NON-ELEVATOR:	109	125	150	168	184
STATE: WI	ELEVATOR:	119	138	165	183	203

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
NON SMSA						
COUNTY: OCONTO	NON-ELEVATOR:	110	126	152	169	185
STATE: WI	ELEVATOR:	120	139	166	185	204
COUNTY: ONEIDA	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: PEPIN	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: PIERCE	NON-ELEVATOR:	116	133	160	178	195
STATE: WI	ELEVATOR:	126	146	176	196	215
COUNTY: POLK	NON-ELEVATOR:	116	133	160	178	195
STATE: WI	ELEVATOR:	126	146	176	196	215
COUNTY: PORTAGE	NON-ELEVATOR:	123	142	168	187	206
STATE: WI	ELEVATOR:	135	155	184	205	226
COUNTY: PRICE	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: RICHLAND	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: ROCK	NON-ELEVATOR:	125	145	172	191	209
STATE: WI	ELEVATOR:	138	160	189	209	230
COUNTY: RUSK	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: SAUK	NON-ELEVATOR:	126	145	175	195	213
STATE: WI	ELEVATOR:	139	160	192	214	234
COUNTY: SAWYER	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: SHAWANO	NON-ELEVATOR:	110	126	152	169	185
STATE: WI	ELEVATOR:	120	139	166	185	204

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE						
NON SMSA						
COUNTY: SHEBOYGAN	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: TAYLOR	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: TREMPEALEAU	NON-ELEVATOR:	117	132	158	174	191
STATE: WI	ELEVATOR:	129	146	173	192	209
COUNTY: VERNON	NON-ELEVATOR:	109	125	150	168	184
STATE: WI	ELEVATOR:	119	138	165	183	203
COUNTY: VILAS	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226
COUNTY: WALWORTH	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: WASHBURN	NON-ELEVATOR:	100	114	138	154	169
STATE: WI	ELEVATOR:	110	126	152	169	186
COUNTY: WAUPACA	NON-ELEVATOR:	110	126	152	169	185
STATE: WI	ELEVATOR:	120	139	166	185	204
COUNTY: WAUSHARA	NON-ELEVATOR:	115	131	159	177	194
STATE: WI	ELEVATOR:	125	145	175	194	213
COUNTY: WOOD	NON-ELEVATOR:	122	141	168	187	206
STATE: WI	ELEVATOR:	134	154	185	205	226

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL, MINNESOTA AREA OFFICE						
SMSA: DULUTH-SUPERIOR, MN-WI						
COUNTY: ST LOUIS	NON-ELEVATOR:	145	166	200	222	243
STATE: MN	ELEVATOR:	160	184	219	243	268
SMSA: FARGO-MOORHEAD, ND-MN						
COUNTY: CLAY	NON-ELEVATOR:	134	153	183	202	222
STATE: MN	ELEVATOR:	147	169	201	222	245
SMSA: MINNEAPOLIS-ST PAUL, MN						
COUNTY: ANOKA	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: CARVER	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: CHISAGO	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: DAKOTA	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: HENNEPIN	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: RAMSEY	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: SCOTT	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: WASHINGTON	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
COUNTY: WRIGHT	NON-ELEVATOR:	164	186	222	258	293
STATE: MN	ELEVATOR:	181	206	245	284	322
SMSA: ROCHESTER, MN						
COUNTY: OLMSTED	NON-ELEVATOR:	138	159	189	212	232
STATE: MN	ELEVATOR:	152	174	208	232	255

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL, MINNESOTA AREA OFFICE						
SMSA: ST CLOUD, MN						
COUNTY: BENTON	NON-ELEVATOR:	145	166	200	222	243
STATE: MN	ELEVATOR:	160	184	219	243	268
COUNTY: SHERBURNE	NON-ELEVATOR:	145	166	200	222	243
STATE: MN	ELEVATOR:	160	184	219	243	268
COUNTY: STEARNS	NON-ELEVATOR:	145	166	200	222	243
STATE: MN	ELEVATOR:	160	184	219	243	268
NON SMSA						
COUNTY: AITKIN	NON-ELEVATOR:	101	118	142	157	172
STATE: MN	ELEVATOR:	112	129	156	173	189
COUNTY: BECKER	NON-ELEVATOR:	119	135	161	178	195
STATE: MN	ELEVATOR:	131	149	177	196	215
COUNTY: BELTRAMI	NON-ELEVATOR:	101	118	142	157	172
STATE: MN	ELEVATOR:	112	129	156	173	189
COUNTY: BIG STONE	NON-ELEVATOR:	101	118	142	157	172
STATE: MN	ELEVATOR:	112	129	156	173	189
COUNTY: BLUE EARTH	NON-ELEVATOR:	150	170	201	222	243
STATE: MN	ELEVATOR:	164	187	221	243	269
COUNTY: BROWN	NON-ELEVATOR:	145	166	200	222	243
STATE: MN	ELEVATOR:	160	184	219	243	268
COUNTY: CARLTON	NON-ELEVATOR:	116	133	160	178	195
STATE: MN	ELEVATOR:	127	147	176	196	214
COUNTY: CASS	NON-ELEVATOR:	101	118	142	157	172
STATE: MN	ELEVATOR:	112	129	156	173	189
COUNTY: CHIPPEWA	NON-ELEVATOR:	101	118	142	157	172
STATE: MN	ELEVATOR:	112	129	156	173	189
COUNTY: CLEARWATER	NON-ELEVATOR:	119	135	161	178	195
STATE: MN	ELEVATOR:	131	149	177	196	215

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V4286 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:COOK	NON-ELEVATOR:	116	133	160	178	195
STATE:MN	ELEVATOR:	127	147	178	196	214
COUNTY:COTTONWOOD	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:CROW WING	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:DODGE	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:DOUGLAS	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:FARIBAULT	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:FILLMORE	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:FREEBORN	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:GOODHUE	NON-ELEVATOR:	117	134	160	178	195
STATE:MN	ELEVATOR:	129	148	176	196	214
COUNTY:GRANT	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:HOUSTON	NON-ELEVATOR:	110	125	151	168	184
STATE:MN	ELEVATOR:	121	138	166	184	202
COUNTY:HUBBARD	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:ISANTI	NON-ELEVATOR:	117	134	160	178	195
STATE:MN	ELEVATOR:	129	148	176	196	214

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:ITASCA	NON-ELEVATOR:	116	133	160	178	195
STATE:MN	ELEVATOR:	127	147	176	196	214
COUNTY:JACKSON	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:KANABEC	NON-ELEVATOR:	117	134	160	178	195
STATE:MN	ELEVATOR:	129	148	176	198	214
COUNTY:KANDIYOHI	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:KITTSON	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:KOOCHICHING	NON-ELEVATOR:	116	133	160	178	195
STATE:MN	ELEVATOR:	127	147	176	196	214
COUNTY:LAC OUI PARL	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:LAKE	NON-ELEVATOR:	116	133	160	178	195
STATE:MN	ELEVATOR:	127	147	176	196	214
COUNTY:LAKE OF WOOD	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:LE SUEUR	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:LINCOLN	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:LYON	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:MCLEOD	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:MAHNOMEN	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:MARSHALL	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:MARTIN	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:MEEKER	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:MILLE LACS	NON-ELEVATOR:	117	134	160	178	195
STATE:MN	ELEVATOR:	129	148	176	196	214
COUNTY:MORRISON	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:MOWER	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:MURRAY	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:NICOLLET	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:NOBLES	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:NORMAN	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:OTTER TAIL	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:PENNINGTON	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:PINE	NON-ELEVATOR:	117	134	160	178	195
STATE:MN	ELEVATOR:	129	148	176	196	214
COUNTY:PIPESTONE	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:POLK	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:POPE	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:RED LAKE	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:REDWOOD	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:RENVILLE	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:RICE	NON-ELEVATOR:	117	134	160	178	195
STATE:MN	ELEVATOR:	129	148	176	196	214
COUNTY:ROCK	NON-ELEVATOR:	118	135	163	181	199
STATE:MN	ELEVATOR:	130	148	179	199	218
COUNTY:ROSEAU	NON-ELEVATOR:	118	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:SIBLEY	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:STEELE	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:STEVENS	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION S		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
MINNEAPOLIS-ST.PAUL,MINNESOTA AREA OFFICE						
NON SMSA						
COUNTY:SWIFT	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:TODD	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:TRAVERSE	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:WABASHA	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:WADENA	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189
COUNTY:WASECA	NON-ELEVATOR:	138	159	189	212	232
STATE:MN	ELEVATOR:	152	174	208	232	255
COUNTY:WATONWAN	NON-ELEVATOR:	145	166	200	222	243
STATE:MN	ELEVATOR:	160	184	219	243	268
COUNTY:WILKIN	NON-ELEVATOR:	119	135	161	178	195
STATE:MN	ELEVATOR:	131	149	177	196	215
COUNTY:WINONA	NON-ELEVATOR:	110	125	151	168	184
STATE:MN	ELEVATOR:	121	138	166	184	202
COUNTY:YELLOW MEDIC	NON-ELEVATOR:	101	118	142	157	172
STATE:MN	ELEVATOR:	112	129	156	173	189

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION S		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
SMSA: BLOOMINGTON-NORMAL, IL						
COUNTY:MCLEAN	NON-ELEVATOR:	146	168	211	233	254
STATE:IL	ELEVATOR:	161	185	232	256	279
SMSA: CHAMPAIGN-URBANA-RANTOUL, IL						
COUNTY:CHAMPAIGN	NON-ELEVATOR:	173	199	232	275	317
STATE:IL	ELEVATOR:	189	218	253	301	348
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL						
COUNTY:HENRY	NON-ELEVATOR:	154	175	230	273	296
STATE:IL	ELEVATOR:	169	192	253	301	325
SMSA: DECATUR, IL						
COUNTY:MACON	NON-ELEVATOR:	143	164	195	227	250
STATE:IL	ELEVATOR:	156	179	214	250	274
SMSA: PEORIA, IL						
COUNTY:PEORIA	NON-ELEVATOR:	158	181	215	249	273
STATE:IL	ELEVATOR:	174	198	236	275	299
COUNTY:TAZEWELL	NON-ELEVATOR:	158	181	215	249	273
STATE:IL	ELEVATOR:	174	198	236	275	299
COUNTY:WOODFORD	NON-ELEVATOR:	158	181	215	249	273
STATE:IL	ELEVATOR:	174	198	236	275	299
SMSA: ST LOUIS, MO-IL						
COUNTY:CLINTON	NON-ELEVATOR:	146	170	203	234	266
STATE:IL	ELEVATOR:	161	185	221	257	292
COUNTY:MADISON	NON-ELEVATOR:	146	170	203	234	268
STATE:IL	ELEVATOR:	161	185	221	257	292
COUNTY:MONROE	NON-ELEVATOR:	146	170	203	234	266
STATE:IL	ELEVATOR:	161	185	221	257	292
COUNTY:ST CLAIR	NON-ELEVATOR:	146	170	203	234	266
STATE:IL	ELEVATOR:	161	185	221	257	292

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION S		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
SMSA: SPRINGFIELD, IL						
COUNTY:MENARD	NON-ELEVATOR:	131	149	179	207	228
STATE:IL	ELEVATOR:	142	164	195	228	250
COUNTY:SANGAMON	NON-ELEVATOR:	131	149	179	207	228
STATE:IL	ELEVATOR:	142	164	195	228	250
NON SMSA						
COUNTY:ADAMS	NON-ELEVATOR:	109	125	150	168	184
STATE:IL	ELEVATOR:	119	138	165	183	203
COUNTY:ALEXANDER	NON-ELEVATOR:	89	102	123	137	150
STATE:IL	ELEVATOR:	98	112	135	150	166
COUNTY:BOND	NON-ELEVATOR:	99	113	137	153	168
STATE:IL	ELEVATOR:	109	125	150	168	184
COUNTY:BROWN	NON-ELEVATOR:	109	125	150	168	184
STATE:IL	ELEVATOR:	119	138	165	183	203
COUNTY:BUREAU	NON-ELEVATOR:	120	139	165	183	203
STATE:IL	ELEVATOR:	132	151	181	202	222
COUNTY:CALHOUN	NON-ELEVATOR:	99	113	137	153	168
STATE:IL	ELEVATOR:	109	125	150	168	184
COUNTY:CASS	NON-ELEVATOR:	131	149	179	207	228
STATE:IL	ELEVATOR:	142	164	195	228	250
COUNTY:CHRISTIAN	NON-ELEVATOR:	131	149	179	207	228
STATE:IL	ELEVATOR:	142	164	195	228	250
COUNTY:CLARK	NON-ELEVATOR:	123	143	171	199	217
STATE:IL	ELEVATOR:	136	156	188	218	238
COUNTY:CLAY	NON-ELEVATOR:	99	113	137	153	168
STATE:IL	ELEVATOR:	109	125	150	168	184
COUNTY:COLES	NON-ELEVATOR:	138	159	189	220	241
STATE:IL	ELEVATOR:	152	174	208	242	264

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION S		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
NON SMSA						
COUNTY:CRANFORD	NON-ELEVATOR:	123	143	171	199	217
STATE:IL	ELEVATOR:	136	156	188	218	238
COUNTY:CUMBERLAND	NON-ELEVATOR:	138	159	189	220	241
STATE:IL	ELEVATOR:	152	174	208	242	264
COUNTY:DE WITT	NON-ELEVATOR:	131	149	179	207	228
STATE:IL	ELEVATOR:	142	164	195	228	250
COUNTY:DOUGLAS	NON-ELEVATOR:	138	159	189	220	241
STATE:IL	ELEVATOR:	152	174	208	242	264
COUNTY:EDGAR	NON-ELEVATOR:	138	159	189	220	241
STATE:IL	ELEVATOR:	152	174	208	242	264
COUNTY:EDWARDS	NON-ELEVATOR:	92	105	126	142	158
STATE:IL	ELEVATOR:	101	116	139	156	171
COUNTY:EFFINGHAM	NON-ELEVATOR:	99	113	137	153	168
STATE:IL	ELEVATOR:	109	125	150	168	184
COUNTY:FAYETTE	NON-ELEVATOR:	99	113	137	153	168
STATE:IL	ELEVATOR:	109	125	150	168	184
COUNTY:FORD	NON-ELEVATOR:	138	159	189	220	241
STATE:IL	ELEVATOR:	152	174	208	242	264
COUNTY:FRANKLIN	NON-ELEVATOR:	102	118	143	158	173
STATE:IL	ELEVATOR:	114	130	157	174	191
COUNTY:FULTON	NON-ELEVATOR:	125	144	171	197	215
STATE:IL	ELEVATOR:	138	159	188	217	237
COUNTY:GALLATIN	NON-ELEVATOR:	92	105	126	142	156
STATE:IL	ELEVATOR:	101	116	139	156	171
COUNTY:GREENE	NON-ELEVATOR:	99	113	137	153	168
STATE:IL	ELEVATOR:	109	125	150	168	184

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
NON SMSA						
COUNTY:HAMILTON STATE:IL	NON-ELEVATOR:	92	105	126	142	156
	ELEVATOR:	101	116	139	156	171
COUNTY:HANCOCK STATE:IL	NON-ELEVATOR:	109	125	150	168	184
	ELEVATOR:	119	138	165	183	203
COUNTY:HARDIN STATE:IL	NON-ELEVATOR:	89	102	123	137	150
	ELEVATOR:	98	112	135	150	166
COUNTY:HENDERSON STATE:IL	NON-ELEVATOR:	109	125	150	168	184
	ELEVATOR:	119	138	165	183	203
COUNTY:IROQUOIS STATE:IL	NON-ELEVATOR:	120	139	165	183	203
	ELEVATOR:	132	151	181	202	222
COUNTY:JACKSON STATE:IL	NON-ELEVATOR:	102	118	143	158	173
	ELEVATOR:	114	130	157	174	191
COUNTY:JASPER STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:JEFFERSON STATE:IL	NON-ELEVATOR:	102	118	143	158	173
	ELEVATOR:	114	130	157	174	191
COUNTY:JERSEY STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:JOHNSON STATE:IL	NON-ELEVATOR:	89	102	123	137	150
	ELEVATOR:	98	112	135	150	166
COUNTY:KNOX STATE:IL	NON-ELEVATOR:	123	143	171	191	208
	ELEVATOR:	136	156	188	208	229
COUNTY:LA SALLE STATE:IL	NON-ELEVATOR:	136	156	187	207	229
	ELEVATOR:	150	172	205	228	251
COUNTY:LAWRENCE STATE:IL	NON-ELEVATOR:	92	105	126	142	156
	ELEVATOR:	101	116	139	156	171

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
NON SMSA						
COUNTY:LIVINGSTON STATE:IL	NON-ELEVATOR:	136	156	187	207	229
	ELEVATOR:	150	172	205	228	251
COUNTY:LOGAN STATE:IL	NON-ELEVATOR:	131	149	179	207	228
	ELEVATOR:	142	164	195	228	250
COUNTY:MCDONOUGH STATE:IL	NON-ELEVATOR:	123	143	171	191	208
	ELEVATOR:	136	156	188	208	229
COUNTY:MACOUPIN STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:MARION STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:MARSHALL STATE:IL	NON-ELEVATOR:	123	143	171	191	208
	ELEVATOR:	136	156	188	208	229
COUNTY:MASON STATE:IL	NON-ELEVATOR:	131	149	179	207	228
	ELEVATOR:	142	164	195	228	250
COUNTY:MASSAC STATE:IL	NON-ELEVATOR:	89	102	123	137	150
	ELEVATOR:	98	112	135	150	166
COUNTY:MERCER STATE:IL	NON-ELEVATOR:	120	139	165	183	203
	ELEVATOR:	132	151	181	202	222
COUNTY:MONTGOMERY STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:MORGAN STATE:IL	NON-ELEVATOR:	131	149	179	207	228
	ELEVATOR:	142	164	195	228	250
COUNTY:MOULTRIE STATE:IL	NON-ELEVATOR:	131	149	179	207	228
	ELEVATOR:	142	164	195	228	250
COUNTY:PERRY STATE:IL	NON-ELEVATOR:	102	118	143	158	173
	ELEVATOR:	114	130	157	174	191

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
NON SMSA						
COUNTY:PIATT STATE:IL	NON-ELEVATOR:	138	159	189	220	241
	ELEVATOR:	152	174	208	242	264
COUNTY:PIKE STATE:IL	NON-ELEVATOR:	109	125	150	168	184
	ELEVATOR:	119	138	165	183	203
COUNTY:POPE STATE:IL	NON-ELEVATOR:	89	102	123	137	150
	ELEVATOR:	98	112	135	150	166
COUNTY:PULASKI STATE:IL	NON-ELEVATOR:	89	102	123	137	150
	ELEVATOR:	98	112	135	150	166
COUNTY:PUTNAM STATE:IL	NON-ELEVATOR:	136	156	187	207	229
	ELEVATOR:	150	172	205	228	251
COUNTY:RANDOLPH STATE:IL	NON-ELEVATOR:	102	118	143	158	173
	ELEVATOR:	114	130	157	174	191
COUNTY:RICHLAND STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:SALINE STATE:IL	NON-ELEVATOR:	92	105	126	142	156
	ELEVATOR:	101	116	139	156	171
COUNTY:SCHUYLER STATE:IL	NON-ELEVATOR:	109	125	150	168	184
	ELEVATOR:	119	138	165	183	203
COUNTY:SCOTT STATE:IL	NON-ELEVATOR:	131	149	179	207	228
	ELEVATOR:	142	164	195	228	250
COUNTY:SHELBY STATE:IL	NON-ELEVATOR:	131	149	179	207	228
	ELEVATOR:	142	164	195	228	250
COUNTY:STARK STATE:IL	NON-ELEVATOR:	123	143	171	191	208
	ELEVATOR:	136	156	188	208	229
COUNTY:UNION STATE:IL	NON-ELEVATOR:	89	102	123	137	150
	ELEVATOR:	98	112	135	150	166

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPRINGFIELD,ILLINOIS INSURING OFFICE						
NON SMSA						
COUNTY:VERMILION STATE:IL	NON-ELEVATOR:	138	159	189	220	241
	ELEVATOR:	152	174	208	242	264
COUNTY:WABASH STATE:IL	NON-ELEVATOR:	92	105	126	142	156
	ELEVATOR:	101	116	139	156	171
COUNTY:WARREN STATE:IL	NON-ELEVATOR:	123	143	171	191	208
	ELEVATOR:	136	156	188	208	229
COUNTY:WASHINGTON STATE:IL	NON-ELEVATOR:	102	118	143	158	173
	ELEVATOR:	114	130	157	174	191
COUNTY:WAYNE STATE:IL	NON-ELEVATOR:	99	113	137	153	168
	ELEVATOR:	109	125	150	168	184
COUNTY:WHITE STATE:IL	NON-ELEVATOR:	92	105	126	142	156
	ELEVATOR:	101	116	139	156	171
COUNTY:WILLIAMSON STATE:IL	NON-ELEVATOR:	102	118	143	158	173
	ELEVATOR:	114	130	157	174	191

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V4286 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ALBUQUERQUE,NEW MEXICO INSURING OFFICE						
SMSA: ALBUQUERQUE, NM						
COUNTY BERNALILLO	NON-ELEVATOR:	125	141	169	194	212
STATE NM	ELEVATOR:	136	156	185	212	233
COUNTY SANDOVAL	NON-ELEVATOR:	125	141	169	194	212
STATE:NM	ELEVATOR:	136	156	185	212	233
NON SMSA						
COUNTY:CATRON	NON-ELEVATOR:	97	109	132	145	159
STATE:NM	ELEVATOR:	106	121	144	159	174
COUNTY:CHAVES	NON-ELEVATOR:	116	133	157	173	189
STATE:NM	ELEVATOR:	128	146	173	190	208
COUNTY:COLFAX	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY:CURRY	NON-ELEVATOR:	108	122	146	160	174
STATE:NM	ELEVATOR:	119	135	161	178	192
COUNTY:DE BACA	NON-ELEVATOR:	92	105	125	145	158
STATE:NM	ELEVATOR:	101	115	138	159	174
COUNTY:DONA ANA	NON-ELEVATOR:	116	133	157	173	189
STATE:NM	ELEVATOR:	128	146	173	190	208
COUNTY EDDY	NON-ELEVATOR:	116	133	157	173	189
STATE:NM	ELEVATOR:	128	148	173	190	208
COUNTY.GRANT	NON-ELEVATOR:	105	118	142	158	172
STATE:NM	ELEVATOR:	116	131	157	173	189
COUNTY:GUADALUPE	NON-ELEVATOR:	92	105	125	145	158
STATE:NM	ELEVATOR:	101	115	138	159	174
COUNTY:HARDING	NON-ELEVATOR:	92	105	125	145	158
STATE NM	ELEVATOR:	101	115	138	159	174
COUNTY.HIDALGO	NON-ELEVATOR:	97	109	132	145	159
STATE:NM	ELEVATOR:	106	121	144	159	174

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ALBUQUERQUE,NEW MEXICO INSURING OFFICE						
NON SMSA						
COUNTY:LEA	NON-ELEVATOR:	116	133	157	173	189
STATE:NM	ELEVATOR:	128	146	173	190	208
COUNTY:LINCOLN	NON-ELEVATOR:	97	101	132	145	159
STATE:NM	ELEVATOR:	106	121	144	159	174
COUNTY:LOS ALAMOS	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY LUNA	NON-ELEVATOR:	115	131	157	173	190
STATE NM	ELEVATOR:	127	145	172	190	208
COUNTY:MCKINLEY	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY:MORA	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY.OTERO	NON-ELEVATOR:	116	133	157	173	189
STATE:NM	ELEVATOR:	128	146	173	190	208
COUNTY:QUAY	NON-ELEVATOR:	92	105	125	145	158
STATE NM	ELEVATOR:	101	115	138	159	174
COUNTY.RIO ARRIBA	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY:ROOSEVELT	NON-ELEVATOR:	92	105	125	145	158
STATE NM	ELEVATOR:	101	115	138	159	174
COUNTY.SAN JUAN	NON-ELEVATOR:	116	133	157	173	189
STATE:NM	ELEVATOR:	128	146	173	190	208
COUNTY:SAN MIGUEL	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY:SANTE FE	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ALBUQUERQUE,NEW MEXICO INSURING OFFICE						
NON SMSA						
COUNTY:SIERRA	NON-ELEVATOR:	97	109	132	145	159
STATE:NM	ELEVATOR:	106	121	144	159	174
COUNTY:SOCORRO	NON-ELEVATOR:	97	109	132	145	159
STATE:NM	ELEVATOR:	106	121	144	159	174
COUNTY:TAOS	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY:TORRANCE	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208
COUNTY:UNION	NON-ELEVATOR:	92	105	125	145	158
STATE:NM	ELEVATOR:	101	115	138	159	174
COUNTY:VALENCIA	NON-ELEVATOR:	115	131	157	173	190
STATE:NM	ELEVATOR:	127	145	172	190	208

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DALLAS,TEXAS AREA OFFICE						
SMSA: DALLAS-FORT WORTH , TX						
COUNTY:COLLIN	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:DALLAS	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:DENTON	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:ELLIS	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:KAUFMAN	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:ROCKWALL	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
SMSA: KILLEEN-TEMPLE, TX						
COUNTY:BELL	NON-ELEVATOR:	104	119	143	160	178
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:CORYELL	NON-ELEVATOR:	104	119	143	160	178
STATE:TX	ELEVATOR:	115	131	158	177	193
SMSA: LONGVIEW, TX						
COUNTY:GREGG	NON-ELEVATOR:	109	125	147	164	178
STATE:TX	ELEVATOR:	120	136	162	178	194
SMSA: SHERMAN-DENISON, TX						
COUNTY:GRAYSON	NON-ELEVATOR:	111	126	149	168	181
STATE:TX	ELEVATOR:	122	137	165	182	200
SMSA: TYLER, TX						
COUNTY:SMITH	NON-ELEVATOR:	102	118	138	154	168
STATE:TX	ELEVATOR:	113	128	152	168	183
SMSA: WACO, TX						
COUNTY:MCLENNAN	NON-ELEVATOR:	104	119	143	160	178
STATE:TX	ELEVATOR:	115	131	158	177	193

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DALLAS,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:ANDERSON	NON-ELEVATOR:	95	108	128	142	155
STATE:TX	ELEVATOR:	103	117	141	158	170
COUNTY:CAMP	NON-ELEVATOR:	74	85	101	114	126
STATE:TX	ELEVATOR:	81	93	111	125	137
COUNTY:CHEROKEE	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157
COUNTY:COOKE	NON-ELEVATOR:	101	114	138	151	166
STATE:TX	ELEVATOR:	111	126	149	166	181
COUNTY:DELTA	NON-ELEVATOR:	91	105	123	137	149
STATE:TX	ELEVATOR:	100	114	136	151	165
COUNTY:FALLS	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:FANNIN	NON-ELEVATOR:	90	103	123	138	151
STATE:TX	ELEVATOR:	99	113	135	151	167
COUNTY:FRANKLIN	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157
COUNTY:FREESTONE	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:HENDERSON	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157
COUNTY:HILL	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:HOPKINS	NON-ELEVATOR:	101	114	138	151	166
STATE:TX	ELEVATOR:	111	126	149	166	181
COUNTY:HUNT	NON-ELEVATOR:	101	114	138	151	166
STATE:TX	ELEVATOR:	111	128	149	166	181

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DALLAS,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:LAMAR	NON-ELEVATOR:	91	105	123	137	149
STATE:TX	ELEVATOR:	100	114	136	151	165
COUNTY:LIMESTONE	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:MILAM	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:NAVARRO	NON-ELEVATOR:	90	103	123	138	151
STATE:TX	ELEVATOR:	99	113	135	151	167
COUNTY:RAINS	NON-ELEVATOR:	90	103	123	138	151
STATE:TX	ELEVATOR:	99	113	135	151	167
COUNTY:RED RIVER	NON-ELEVATOR:	74	85	101	114	126
STATE:TX	ELEVATOR:	81	93	111	125	137
COUNTY:RUSK	NON-ELEVATOR:	95	108	128	142	155
STATE:TX	ELEVATOR:	103	117	141	158	169
COUNTY:TITUS	NON-ELEVATOR:	74	85	101	114	126
STATE:TX	ELEVATOR:	81	93	111	125	137
COUNTY:UPSHUR	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157
COUNTY:VAN ZANDT	NON-ELEVATOR:	90	103	123	138	151
STATE:TX	ELEVATOR:	99	113	135	151	167
COUNTY:WOOD	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
SMSA: ABILENE, TX						
COUNTY:CALLAHAN	NON-ELEVATOR:	104	118	141	158	170
STATE:TX	ELEVATOR:	115	130	154	170	188
COUNTY:JONES	NON-ELEVATOR:	104	118	141	158	170
STATE:TX	ELEVATOR:	115	130	154	170	188
COUNTY:TAYLOR	NON-ELEVATOR:	104	118	141	158	170
STATE:TX	ELEVATOR:	115	130	154	170	188
SMSA: DALLAS-FORT WORTH , TX						
COUNTY:HOOD	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	165	179	212	245	280
COUNTY:JOHNSON	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	165	179	212	245	280
COUNTY:PARKER	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:TARRANT	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
COUNTY:WISE	NON-ELEVATOR:	141	163	193	224	254
STATE:TX	ELEVATOR:	155	179	212	245	280
SMSA: SAN ANGELO, TX						
COUNTY:TOM GREEN	NON-ELEVATOR:	108	125	147	164	179
STATE:TX	ELEVATOR:	120	136	163	179	196
SMSA: WICHITA FALLS, TX						
COUNTY:CLAY	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
COUNTY:WICHITA	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
NON SMSA						
COUNTY:ARCHER	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:BAYLOR	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
COUNTY:BOSQUE	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:BROWN	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:COKE	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:COLEMAN	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:COMANCHE	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:CONCHO	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:CROCKETT	NON-ELEVATOR:	99	113	135	158	172
STATE:TX	ELEVATOR:	107	125	148	172	190
COUNTY:EASTLAND	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:ERATH	NON-ELEVATOR:	101	114	136	151	166
STATE:TX	ELEVATOR:	111	126	149	166	181
COUNTY:FOARD	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
COUNTY:HAMILTON	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:HARDEMAN	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:HASKELL	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:IRION	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:JACK	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
COUNTY:KIMBLE	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:KNOX	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:LAMPASAS	NON-ELEVATOR:	104	119	143	160	176
STATE:TX	ELEVATOR:	115	131	158	177	193
COUNTY:MCCULLOCH	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:MASON	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:MENARD	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:MILLS	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:MONTAGUE	NON-ELEVATOR:	101	114	136	151	166
STATE:TX	ELEVATOR:	111	126	149	166	181
COUNTY:PALO PINTO	NON-ELEVATOR:	111	126	149	166	181
STATE:TX	ELEVATOR:	122	137	165	182	200
COUNTY:REAGAN	NON-ELEVATOR:	98	113	126	158	172
STATE:TX	ELEVATOR:	107	125	148	172	190

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FORT WORTH,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:RUNNELS	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:SAN SABA	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:SCHLEICHER	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:SHACKLEFORD	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:SOMERVELL	NON-ELEVATOR:	90	103	123	138	151
STATE:TX	ELEVATOR:	99	113	135	151	167
COUNTY:STEPHENS	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:STERLING	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:SUTTON	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:THROCKMORTON	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
COUNTY:WILBARGER	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197
COUNTY:YOUNG	NON-ELEVATOR:	102	117	141	164	179
STATE:TX	ELEVATOR:	113	129	154	180	197

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HOUSTON,TEXAS INSURING OFFICE						
SMSA: BEAUMONT-PORT ARTHUR-ORANGE, TX						
COUNTY:HARDIN	NON-ELEVATOR:	98	112	133	156	171
STATE:TX	ELEVATOR:	106	124	147	171	189
COUNTY:JEFFERSON	NON-ELEVATOR:	98	112	133	156	171
STATE:TX	ELEVATOR:	106	124	147	171	189
COUNTY:ORANGE	NON-ELEVATOR:	98	112	133	156	171
STATE:TX	ELEVATOR:	106	124	147	171	189
SMSA: BRYAN-COLLEGE STATION, TX						
COUNTY:BRAZOS	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
SMSA: GALVESTON-TEXAS CITY, TX						
COUNTY:GALVESTON	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
SMSA: HOUSTON, TX						
COUNTY:BRAZORIA	NON-ELEVATOR:	156	174	202	232	272
STATE:TX	ELEVATOR:	171	191	222	257	298
COUNTY:FORT BEND	NON-ELEVATOR:	156	174	202	232	272
STATE:TX	ELEVATOR:	171	191	222	257	298
COUNTY:HARRIS	NON-ELEVATOR:	156	174	202	232	272
STATE:TX	ELEVATOR:	171	191	222	257	298
COUNTY:LIBERTY	NON-ELEVATOR:	156	174	202	232	272
STATE:TX	ELEVATOR:	171	191	222	257	298
COUNTY:MONTGOMERY	NON-ELEVATOR:	156	174	202	232	272
STATE:TX	ELEVATOR:	171	191	222	257	298
COUNTY:WALLER	NON-ELEVATOR:	156	174	202	232	272
STATE:TX	ELEVATOR:	171	191	222	257	298
NON SMSA						
COUNTY:ANGELINA	NON-ELEVATOR:	95	108	128	142	155
STATE:TX	ELEVATOR:	103	117	141	156	169

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HOUSTON,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:AUSTIN	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:BURLESON	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:CHAMBERS	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:COLORADO	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:GRIMES	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:HOUSTON	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157
COUNTY:JASPER	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:LEON	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:MADISON	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:MATAGORDA	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:NACOGDOCHES	NON-ELEVATOR:	95	108	128	142	155
STATE:TX	ELEVATOR:	103	117	141	156	169
COUNTY:NEWTON	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:POLK	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HOUSTON,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:ROBERTSON	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:SABINE	NON-ELEVATOR:	78	90	108	121	134
STATE:TX	ELEVATOR:	86	100	119	134	147
COUNTY:SAN AUGUSTIN	NON-ELEVATOR:	78	90	108	121	134
STATE:TX	ELEVATOR:	86	100	119	134	147
COUNTY:SAN JACINTO	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:SHELBY	NON-ELEVATOR:	78	90	108	121	134
STATE:TX	ELEVATOR:	86	100	119	134	147
COUNTY:TRINITY	NON-ELEVATOR:	84	97	117	131	144
STATE:TX	ELEVATOR:	93	107	128	143	157
COUNTY:TYLER	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:WALKER	NON-ELEVATOR:	98	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:WASHINGTON	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	182
COUNTY:WHARTON	NON-ELEVATOR:	98	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
SMSA: FAYETTEVILLE-SPRINGDALE, AR						
COUNTY:BENTON	NON-ELEVATOR:	100	113	135	151	167
STATE:AR	ELEVATOR:	109	124	147	168	182
COUNTY:WASHINGTON	NON-ELEVATOR:	100	113	135	151	167
STATE:AR	ELEVATOR:	109	124	147	168	182
SMSA: FORT SMITH, AR-OK						
COUNTY:CRAWFORD	NON-ELEVATOR:	95	107	126	148	162
STATE:AR	ELEVATOR:	103	116	140	162	179
COUNTY:SEBASTIAN	NON-ELEVATOR:	95	107	126	148	162
STATE:AR	ELEVATOR:	103	116	140	162	179
SMSA: LITTLE ROCK-NORTH LITTLE ROCK, AR						
COUNTY:PULASKI	NON-ELEVATOR:	107	124	147	171	189
STATE:AR	ELEVATOR:	118	135	163	189	206
COUNTY:SALINE	NON-ELEVATOR:	107	124	147	171	189
STATE:AR	ELEVATOR:	118	135	163	189	206
SMSA: MEMPHIS, TN-AR-MS						
COUNTY:CRITTENDEN	NON-ELEVATOR:	136	154	186	215	237
STATE:AR	ELEVATOR:	147	170	203	236	259
SMSA: PINE BLUFF, AR						
COUNTY:JEFFERSON	NON-ELEVATOR:	98	110	131	147	161
STATE:AR	ELEVATOR:	107	122	144	162	179
SMSA: TEXARKANA, TX-AR						
COUNTY:LITTLE RIVER	NON-ELEVATOR:	104	117	139	164	178
STATE:AR	ELEVATOR:	115	129	153	179	197
COUNTY:MILLER	NON-ELEVATOR:	104	117	139	164	178
STATE:AR	ELEVATOR:	115	129	153	179	197
COUNTY:BOWIE	NON-ELEVATOR:	104	117	139	164	178
STATE:TX	ELEVATOR:	115	129	153	179	197

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:ARKANSAS	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:ASHLEY	NON-ELEVATOR:	79	91	108	121	135
STATE:AR	ELEVATOR:	87	101	119	135	148
COUNTY:BAXTER	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	162	179
COUNTY:BOONE	NON-ELEVATOR:	104	122	143	168	184
STATE:AR	ELEVATOR:	115	132	159	184	203
COUNTY:BRADLEY	NON-ELEVATOR:	79	91	108	121	135
STATE:AR	ELEVATOR:	87	101	119	135	148
COUNTY:CALHOUN	NON-ELEVATOR:	78	90	108	121	134
STATE:AR	ELEVATOR:	86	100	119	134	147
COUNTY:CARROLL	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	162	179
COUNTY:CHICOT	NON-ELEVATOR:	87	101	119	135	148
STATE:AR	ELEVATOR:	96	111	130	148	162
COUNTY:CLARK	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:CLAY	NON-ELEVATOR:	86	100	119	134	147
STATE:AR	ELEVATOR:	96	110	131	146	160
COUNTY:CLEBURNE	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:CLEVELAND	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:COLUMBIA	NON-ELEVATOR:	78	90	108	121	134
STATE:AR	ELEVATOR:	86	100	119	134	147

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:CONWAY	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:CRAIGHEAD	NON-ELEVATOR:	97	110	130	147	161
STATE:AR	ELEVATOR:	106	122	143	162	178
COUNTY:CROSS	NON-ELEVATOR:	86	100	119	134	147
STATE:AR	ELEVATOR:	95	110	131	146	160
COUNTY:DALLAS	NON-ELEVATOR:	78	90	108	121	134
STATE:AR	ELEVATOR:	86	100	119	134	147
COUNTY:DESHA	NON-ELEVATOR:	79	91	108	121	135
STATE:AR	ELEVATOR:	87	101	119	135	148
COUNTY:DREW	NON-ELEVATOR:	87	101	119	133	149
STATE:AR	ELEVATOR:	96	111	130	148	162
COUNTY:FAULKNER	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	162	179
COUNTY:FRANKLIN	NON-ELEVATOR:	77	89	107	124	137
STATE:AR	ELEVATOR:	85	99	118	137	150
COUNTY:FULTON	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:GARLAND	NON-ELEVATOR:	98	111	131	148	162
STATE:AR	ELEVATOR:	107	123	146	163	178
COUNTY:GRANT	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:GREENE	NON-ELEVATOR:	87	101	119	135	148
STATE:AR	ELEVATOR:	96	111	131	147	161
COUNTY:HEMPSTEAD	NON-ELEVATOR:	74	85	101	114	126
STATE:AR	ELEVATOR:	81	93	111	125	137

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:HOTSPRING	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:HOWARD	NON-ELEVATOR:	74	85	101	114	126
STATE:AR	ELEVATOR:	81	93	111	125	137
COUNTY:INDEPENDENCE	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:IZARD	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:JACKSON	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:JOHNSON	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:LAFAYETTE	NON-ELEVATOR:	74	85	101	114	126
STATE:AR	ELEVATOR:	81	93	111	125	137
COUNTY:LAWRENCE	NON-ELEVATOR:	86	100	119	134	147
STATE:AR	ELEVATOR:	95	110	131	146	160
COUNTY:LEE	NON-ELEVATOR:	86	100	119	134	147
STATE:AR	ELEVATOR:	96	110	131	146	160
COUNTY:LINCOLN	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:LOGAN	NON-ELEVATOR:	77	89	107	124	137
STATE:AR	ELEVATOR:	85	99	118	137	150
COUNTY:LONOKE	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:MADISON	NON-ELEVATOR:	90	103	123	138	151
STATE:AR	ELEVATOR:	99	113	135	151	167

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:MARION	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	163	179
COUNTY:MISSISSIPPI	NON-ELEVATOR:	97	110	130	147	161
STATE:AR	ELEVATOR:	108	122	143	162	178
COUNTY:MONROE	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:MONTGOMERY	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:NEVADA	NON-ELEVATOR:	74	85	101	114	126
STATE:AR	ELEVATOR:	81	93	111	125	137
COUNTY:NEWTON	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	162	179
COUNTY:OUACHITA	NON-ELEVATOR:	78	90	108	121	134
STATE:AR	ELEVATOR:	86	100	119	134	147
COUNTY:PERRY	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:PHILLIPS	NON-ELEVATOR:	86	100	119	134	147
STATE:AR	ELEVATOR:	96	110	131	146	160
COUNTY:PIKE	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:POINSETT	NON-ELEVATOR:	97	110	130	147	161
STATE:AR	ELEVATOR:	106	122	143	162	178
COUNTY:POLK	NON-ELEVATOR:	77	89	107	124	137
STATE:AR	ELEVATOR:	85	99	118	137	150
COUNTY:POPE	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	162	179

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LITTLE ROCK,ARKANSAS AREA OFFICE						
NON SMSA						
COUNTY:PRAIRIE	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:RANDOLPH	NON-ELEVATOR:	86	100	119	134	147
STATE:AR	ELEVATOR:	96	110	131	146	160
COUNTY:ST FRANCIS	NON-ELEVATOR:	97	110	130	147	161
STATE:AR	ELEVATOR:	106	122	143	162	178
COUNTY:SCOTT	NON-ELEVATOR:	77	89	107	124	137
STATE:AR	ELEVATOR:	85	99	118	137	150
COUNTY:SEARCY	NON-ELEVATOR:	92	107	126	148	162
STATE:AR	ELEVATOR:	101	116	140	162	179
COUNTY:SEVIER	NON-ELEVATOR:	74	85	101	114	126
STATE:AR	ELEVATOR:	81	93	111	125	137
COUNTY:SHARP	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:STONE	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:UNION	NON-ELEVATOR:	78	90	108	121	134
STATE:AR	ELEVATOR:	86	100	119	134	147
COUNTY:VAN BUREN	NON-ELEVATOR:	76	88	106	119	131
STATE:AR	ELEVATOR:	84	97	117	131	144
COUNTY:WHITE	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:WOODRUFF	NON-ELEVATOR:	87	101	120	135	148
STATE:AR	ELEVATOR:	97	111	132	148	162
COUNTY:YELL	NON-ELEVATOR:	77	89	107	124	137
STATE:AR	ELEVATOR:	85	99	118	137	150

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
SMSA: AMARILLO, TX						
COUNTY:POTTER	NON-ELEVATOR:	104	118	141	156	170
STATE:TX	ELEVATOR:	115	130	154	170	188
COUNTY:RANDALL	NON-ELEVATOR:	104	118	141	156	170
STATE:TX	ELEVATOR:	115	130	154	170	188
SMSA: EL PASO, TX						
COUNTY:EL PASO	NON-ELEVATOR:	120	137	165	191	211
STATE:TX	ELEVATOR:	132	151	181	211	230
SMSA: LUBBOCK, TX						
COUNTY:LUBBOCK	NON-ELEVATOR:	115	131	155	172	185
STATE:TX	ELEVATOR:	125	145	171	190	207
SMSA: MIDLAND, TX						
COUNTY:MIDLAND	NON-ELEVATOR:	111	126	149	166	181
STATE:TX	ELEVATOR:	122	137	165	182	200
SMSA: ODESSA, TX						
COUNTY:ECTOR	NON-ELEVATOR:	111	126	149	166	181
STATE:TX	ELEVATOR:	122	137	165	182	200
NON SMSA						
COUNTY:ANDREWS	NON-ELEVATOR:	99	113	135	158	172
STATE:TX	ELEVATOR:	107	125	148	172	190
COUNTY:ARMSTRONG	NON-ELEVATOR:	89	102	122	142	156
STATE:TX	ELEVATOR:	98	112	133	157	171
COUNTY:BAILEY	NON-ELEVATOR:	93	108	128	149	165
STATE:TX	ELEVATOR:	102	117	142	165	180
COUNTY:BORDEN	NON-ELEVATOR:	99	113	135	158	172
STATE:TX	ELEVATOR:	107	125	148	172	190
COUNTY:BREWSTER	NON-ELEVATOR:	99	113	135	158	172
STATE:TX	ELEVATOR:	107	125	148	172	190

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:BRISCOE STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:CARSON STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:CASTRO STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:CHILDRESS STATE:TX	NON-ELEVATOR:	102	117	141	164	179
	ELEVATOR:	113	129	154	180	197
COUNTY:COCHRAN STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:COLLINGSWORT STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:COTTLE STATE:TX	NON-ELEVATOR:	102	117	141	164	179
	ELEVATOR:	113	129	154	180	197
COUNTY:CRANE STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:CROSBY STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:CULBERSON STATE:TX	NON-ELEVATOR:	92	107	126	142	156
	ELEVATOR:	101	116	140	157	172
COUNTY:DALLAM STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:DAWSON STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:DEAF SMITH STATE:TX	NON-ELEVATOR:	104	118	141	156	170
	ELEVATOR:	115	130	154	170	188

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:DICKENS STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:DONLEY STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:FISHER STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:FLOYD STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:GAINES STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:GARZA STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:GLASSCOCK STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:GRAY STATE:TX	NON-ELEVATOR:	101	114	136	151	166
	ELEVATOR:	111	126	149	166	181
COUNTY:HALE STATE:TX	NON-ELEVATOR:	101	114	136	151	166
	ELEVATOR:	111	126	149	166	181
COUNTY:HALL STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:HANSFORD STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:HARTLEY STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:HEMPHILL STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:HOCKLEY STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:HOWARD STATE:TX	NON-ELEVATOR:	111	126	149	166	181
	ELEVATOR:	122	137	165	182	200
COUNTY:HUDSPETH STATE:TX	NON-ELEVATOR:	92	107	126	142	156
	ELEVATOR:	101	116	140	157	172
COUNTY:HUTCHINSON STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:JEFF DAVIS STATE:TX	NON-ELEVATOR:	92	107	126	142	156
	ELEVATOR:	101	116	140	157	172
COUNTY:KENT STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:KING STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:LAMB STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:LIPSCOMB STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:LOVING STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:LYNN STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:MARTIN STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:MITCHELL STATE:TX	NON-ELEVATOR:	86	100	119	139	153
	ELEVATOR:	96	110	131	154	168

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LUBBOCK,TEXAS INSURING OFFICE						
NON SMSA						
COUNTY:MOORE STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:MOTLEY STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:NOLAN STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:OCHILTREE STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:OLDHAM STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:PARMER STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:PECOS STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:PRESIDIO STATE:TX	NON-ELEVATOR:	92	107	126	142	156
	ELEVATOR:	101	116	140	157	172
COUNTY:REEVES STATE:TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY:ROBERTS STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:SCURRY STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180
COUNTY:SHERMAN STATE:TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY:STONEWALL STATE:TX	NON-ELEVATOR:	93	108	128	149	165
	ELEVATOR:	102	117	142	165	180

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LUBBOCK, TEXAS INSURING OFFICE						
NON SMSA						
COUNTY: SWISHER STATE: TX	NON-ELEVATOR:	89	102	122	142	158
	ELEVATOR:	98	112	133	157	171
COUNTY: TERRELL STATE: TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	172	190
COUNTY: TERRY STATE: TX	NON-ELEVATOR:	93	108	128	148	165
	ELEVATOR:	102	117	143	165	180
COUNTY: UPTON STATE: TX	NON-ELEVATOR:	99	113	135	158	172
	ELEVATOR:	107	125	148	173	190
COUNTY: WARD STATE: TX	NON-ELEVATOR:	99	113	135	158	173
	ELEVATOR:	107	125	148	173	190
COUNTY: WHEELER STATE: TX	NON-ELEVATOR:	89	102	122	142	156
	ELEVATOR:	98	112	133	157	171
COUNTY: WINKLER STATE: TX	NON-ELEVATOR:	98	113	135	158	173
	ELEVATOR:	107	125	148	172	190
COUNTY: YOAKUM STATE: TX	NON-ELEVATOR:	93	106	128	149	165
	ELEVATOR:	102	117	143	165	180

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE						
SMSA: BATON ROUGE, LA						
PARISH: ASCENSION STATE: LA	NON-ELEVATOR:	132	152	182	212	232
	ELEVATOR:	145	167	199	232	255
PARISH: E BATON ROUG STATE: LA	NON-ELEVATOR:	132	152	182	212	232
	ELEVATOR:	145	167	199	232	255
PARISH: LIVINGSTON STATE: LA	NON-ELEVATOR:	132	152	182	212	232
	ELEVATOR:	145	167	199	232	255
PARISH: W BATON ROUG STATE: LA	NON-ELEVATOR:	132	152	182	212	232
	ELEVATOR:	145	167	199	232	255
SMSA: LAFAYETTE, LA						
PARISH: LAFAYETTE STATE: LA	NON-ELEVATOR:	117	134	161	187	213
	ELEVATOR:	128	148	176	206	234
SMSA: LAKE CHARLES, LA						
PARISH: CALCASIEU STATE: LA	NON-ELEVATOR:	117	134	161	187	213
	ELEVATOR:	128	148	176	206	234
SMSA: NEW ORLEANS, LA						
PARISH: JEFFERSON STATE: LA	NON-ELEVATOR:	117	134	161	187	213
	ELEVATOR:	128	148	176	205	234
PARISH: ORLEANS STATE: LA	NON-ELEVATOR:	117	134	161	187	213
	ELEVATOR:	128	148	176	205	234
PARISH: ST BERNARD STATE: LA	NON-ELEVATOR:	117	134	161	187	213
	ELEVATOR:	128	148	176	205	234
PARISH: ST TAMMANY STATE: LA	NON-ELEVATOR:	117	134	161	187	213
	ELEVATOR:	128	148	176	205	234
NON SMSA						
PARISH: ACADIA STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: ALLEN STATE: LA	NON-ELEVATOR:	100	115	138	160	178
	ELEVATOR:	109	127	152	177	193

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE						
NON SMSA						
PARISH: ASSUMPTION STATE: LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166
PARISH: BEAUREGARD STATE: LA	NON-ELEVATOR:	100	115	138	160	178
	ELEVATOR:	109	127	152	177	193
PARISH: CAMERON STATE: LA	NON-ELEVATOR:	100	115	138	160	178
	ELEVATOR:	109	127	152	177	193
PARISH: E FELICIANA STATE: LA	NON-ELEVATOR:	79	91	109	123	135
	ELEVATOR:	87	101	121	135	149
PARISH: EVANGELINE STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: IBERIA STATE: LA	NON-ELEVATOR:	100	115	138	160	178
	ELEVATOR:	109	127	152	177	193
PARISH: IBEPUILLE STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: JEFFERSON DA STATE: LA	NON-ELEVATOR:	100	115	138	160	178
	ELEVATOR:	109	127	152	177	193
PARISH: LAFOURCHE STATE: LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH: PLAQUEMINES STATE: LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166
PARISH: POINTE COUPE STATE: LA	NON-ELEVATOR:	79	91	109	123	135
	ELEVATOR:	87	101	121	135	149
PARISH: ST CHARLES STATE: LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH: ST HELENA STATE: LA	NON-ELEVATOR:	79	91	109	123	135
	ELEVATOR:	87	101	121	135	149

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE						
NON SMSA						
PARISH: ST JAMES STATE: LA	NON-ELEVATOR:	89	102	122	136	150
	ELEVATOR:	98	112	133	149	166
PARISH: ST JOHN THE STATE: LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH: ST LANDRY STATE: LA	NON-ELEVATOR:	100	115	138	160	178
	ELEVATOR:	109	127	152	177	193
PARISH: ST MARTIN STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: ST MARY STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: TANGIPAHOA STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: TERREBONNE STATE: LA	NON-ELEVATOR:	98	112	133	149	166
	ELEVATOR:	107	124	147	164	182
PARISH: VERMILION STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: WASHINGTON STATE: LA	NON-ELEVATOR:	87	101	121	135	149
	ELEVATOR:	96	111	133	148	164
PARISH: W FELICIANA STATE: LA	NON-ELEVATOR:	79	91	109	123	135
	ELEVATOR:	87	101	121	135	149

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OKLAHOMA CITY,OKLAHOMA AREA OFFICE						
SMSA: LAWTON, OK						
COUNTY:COMANCHE	NON-ELEVATOR:	123	138	167	193	212
STATE:OK	ELEVATOR:	136	153	183	212	232
SMSA: OKLAHOMA CITY, OK						
COUNTY:CANADIAN	NON-ELEVATOR:	117	134	161	187	204
STATE:OK	ELEVATOR:	128	148	176	205	225
COUNTY:CLEVELAND	NON-ELEVATOR:	117	134	161	187	204
STATE:OK	ELEVATOR:	128	148	176	205	225
COUNTY:MCCLAIN	NON-ELEVATOR:	117	134	161	187	204
STATE:OK	ELEVATOR:	128	148	176	205	225
COUNTY:OKLAHOMA	NON-ELEVATOR:	117	134	161	187	204
STATE:OK	ELEVATOR:	128	148	176	205	225
COUNTY:POTTAWATOMIE	NON-ELEVATOR:	117	134	161	187	204
STATE:OK	ELEVATOR:	128	148	178	205	225
NON SMSA						
COUNTY:ALFALFA	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:BEAVER	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:BECKHAM	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:BLAINE	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:CADDO	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:CARTER	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OKLAHOMA CITY,OKLAHOMA AREA OFFICE						
NON SMSA						
COUNTY:CIMARRON	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:COTTON	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:CUSTER	NON-ELEVATOR:	104	117	141	164	179
STATE:OK	ELEVATOR:	115	129	154	180	197
COUNTY:DEWEY	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:ELLIS	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:GARFIELD	NON-ELEVATOR:	105	128	151	177	192
STATE:OK	ELEVATOR:	116	140	166	194	211
COUNTY:GARVIN	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:GRADY	NON-ELEVATOR:	104	117	141	164	179
STATE:OK	ELEVATOR:	115	129	154	180	197
COUNTY:GRANT	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:GREER	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:HARMON	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:HARPER	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:JACKSON	NON-ELEVATOR:	105	128	151	177	192
STATE:OK	ELEVATOR:	116	140	166	194	211

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OKLAHOMA CITY,OKLAHOMA AREA OFFICE						
NON SMSA						
COUNTY:JEFFERSON	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:JOHNSTON	NON-ELEVATOR:	90	107	123	144	156
STATE:OK	ELEVATOR:	99	117	136	159	172
COUNTY:KAY	NON-ELEVATOR:	105	128	151	177	192
STATE:OK	ELEVATOR:	116	140	166	194	211
COUNTY:KINGFISHER	NON-ELEVATOR:	96	109	129	149	162
STATE:OK	ELEVATOR:	104	119	142	165	179
COUNTY:KIOWA	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:LINCOLN	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:LOGAN	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:LOVE	NON-ELEVATOR:	90	107	123	144	156
STATE:OK	ELEVATOR:	99	117	136	159	172
COUNTY:MAJOR	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:MARSHALL	NON-ELEVATOR:	90	107	123	144	156
STATE:OK	ELEVATOR:	99	117	136	159	172
COUNTY:MURRAY	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:NOBLE	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:PAYNE	NON-ELEVATOR:	121	137	166	193	212
STATE:OK	ELEVATOR:	134	151	183	212	233

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OKLAHOMA CITY,OKLAHOMA AREA OFFICE						
NON SMSA						
COUNTY:PONTOTOC	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:ROGER MILLS	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:SEMINOLE	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:STEPHENS	NON-ELEVATOR:	111	127	152	177	194
STATE:OK	ELEVATOR:	122	139	167	194	213
COUNTY:TEXAS	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:TILLMAN	NON-ELEVATOR:	102	117	141	164	179
STATE:OK	ELEVATOR:	113	129	154	180	197
COUNTY:WASHITA	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:WOODS	NON-ELEVATOR:	90	107	126	148	160
STATE:OK	ELEVATOR:	99	117	139	163	176
COUNTY:WOODWARD	NON-ELEVATOR:	105	128	151	177	192
STATE:OK	ELEVATOR:	116	140	166	194	211

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
SMSA: AUSTIN, TX						
COUNTY:HAYS	NON-ELEVATOR:	146	168	200	233	255
STATE:TX	ELEVATOR:	161	183	219	255	281
COUNTY:TRAVIS	NON-ELEVATOR:	146	168	200	233	255
STATE:TX	ELEVATOR:	161	183	219	255	281
SMSA: BROWNSVILLE-HARLINGEN-SAN BENITO, TX						
COUNTY:CAMERON	NON-ELEVATOR:	118	134	161	188	206
STATE:TX	ELEVATOR:	128	147	177	207	226
SMSA: CORPUS CHRISTI, TX						
COUNTY:NUECES	NON-ELEVATOR:	129	149	178	206	228
STATE:TX	ELEVATOR:	143	163	196	229	251
COUNTY:SAN PATRICIO	NON-ELEVATOR:	129	149	178	206	228
STATE:TX	ELEVATOR:	143	163	196	229	251
SMSA: LAREDO, TX						
COUNTY:WEBB	NON-ELEVATOR:	129	149	176	205	226
STATE:TX	ELEVATOR:	141	162	194	226	248
SMSA: MC ALLEN-PHARR-EDINBURG, TX						
COUNTY:HIDALGO	NON-ELEVATOR:	118	134	161	188	206
STATE:TX	ELEVATOR:	128	147	177	207	226
SMSA: SAN ANTONIO, TX						
COUNTY:BEXAR	NON-ELEVATOR:	129	149	178	206	228
STATE:TX	ELEVATOR:	143	163	196	229	251
COUNTY:COMAL	NON-ELEVATOR:	129	149	178	206	228
STATE:TX	ELEVATOR:	143	163	196	229	251
COUNTY:GUADALUPE	NON-ELEVATOR:	129	149	178	206	228
STATE:TX	ELEVATOR:	143	163	196	229	251
NON SMSA						
COUNTY:ARANSAS	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:ATASCOSA	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:BANDERA	NON-ELEVATOR:	103	118	142	165	181
STATE:TX	ELEVATOR:	114	130	155	182	199
COUNTY:BASTROP	NON-ELEVATOR:	98	112	133	149	164
STATE:TX	ELEVATOR:	106	124	146	163	179
COUNTY:BEE	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:BLANCO	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:BROOKS	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:BURNET	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:CALDWELL	NON-ELEVATOR:	127	141	168	196	214
STATE:TX	ELEVATOR:	138	156	184	213	236
COUNTY:CALHOUN	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:DE WITT	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:DIMMIT	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:DUVAL	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:EDWARDS	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:FAYETTE	NON-ELEVATOR:	96	110	131	154	168
STATE:TX	ELEVATOR:	104	119	144	168	183
COUNTY:FRIO	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:GILLESPIE	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:GOLIAD	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:GONZALES	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:JACKSON	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:JIM HOGG	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:JIM WELLS	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:KARNES	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:KENDALL	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:KENEDY	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:KERR	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:KINNEY	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY:KLEBERG	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:LA SALLE	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:LAVACA	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:LEE	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:LIVE OAK	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:LLANO	NON-ELEVATOR:	97	111	132	148	162
STATE:TX	ELEVATOR:	105	123	145	162	179
COUNTY:MCMULLEN	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:MAVERICK	NON-ELEVATOR:	111	126	150	167	184
STATE:TX	ELEVATOR:	122	137	165	185	202
COUNTY:MEDINA	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:REAL	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169
COUNTY:REFUGIO	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:STARR	NON-ELEVATOR:	114	130	155	172	191
STATE:TX	ELEVATOR:	124	142	170	190	209
COUNTY:UVALDE	NON-ELEVATOR:	91	105	124	139	154
STATE:TX	ELEVATOR:	100	114	137	154	169

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN ANTONIO,TEXAS AREA OFFICE						
NON SMSA						
COUNTY: VAL VERDE	NON-ELEVATOR:	111	126	150	167	184
STATE: TX	ELEVATOR:	122	137	165	185	202
COUNTY: VICTORIA	NON-ELEVATOR:	114	130	155	172	191
STATE: TX	ELEVATOR:	124	142	170	190	209
COUNTY: WILLACY	NON-ELEVATOR:	114	130	155	172	191
STATE: TX	ELEVATOR:	124	142	170	190	209
COUNTY: WILLIAMSON	NON-ELEVATOR:	97	111	132	148	164
STATE: TX	ELEVATOR:	106	122	145	163	179
COUNTY: WILSON	NON-ELEVATOR:	91	105	124	139	154
STATE: TX	ELEVATOR:	100	114	137	154	169
COUNTY: ZAPATA	NON-ELEVATOR:	114	130	155	172	191
STATE: TX	ELEVATOR:	124	142	170	190	209
COUNTY: ZAVALA	NON-ELEVATOR:	91	104	124	139	154
STATE: TX	ELEVATOR:	99	114	137	154	169

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SHREVEPORT,LOUISIANA INSURING OFFICE						
SMSA: ALEXANDRIA, LA						
PARISH: GRANT	NON-ELEVATOR:	104	119	143	167	182
STATE: LA	ELEVATOR:	115	131	158	183	201
PARISH: RAPIDES	NON-ELEVATOR:	104	119	143	167	182
STATE: LA	ELEVATOR:	115	131	158	183	201
SMSA: LONGVIEW, TX						
COUNTY: HARRISON	NON-ELEVATOR:	109	125	147	164	178
STATE: TX	ELEVATOR:	120	136	162	178	194
SMSA: MONROE, LA						
PARISH: OUACHITA	NON-ELEVATOR:	104	119	143	167	182
STATE: LA	ELEVATOR:	115	131	158	183	201
SMSA: SHREVEPORT-SIOUX CITY, LA						
PARISH: BOSSIER	NON-ELEVATOR:	104	119	143	167	182
STATE: LA	ELEVATOR:	115	131	158	183	201
PARISH: CADDO	NON-ELEVATOR:	104	119	143	167	182
STATE: LA	ELEVATOR:	115	131	158	183	201
PARISH: WEBSTER	NON-ELEVATOR:	104	119	143	167	182
STATE: LA	ELEVATOR:	115	131	158	183	201
NON SMSA						
PARISH: AVOYELLES	NON-ELEVATOR:	84	97	117	138	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: BIENVILLE	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: CALDWELL	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: CATAHOULA	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: CLAIBORNE	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SHREVEPORT,LOUISIANA INSURING OFFICE						
NON SMSA						
PARISH: CONCORDIA	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: DE SOTO	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: EAST CARROLL	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: FRANKLIN	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: JACKSON	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: LA SALLE	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: LINCOLN	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: MADISON	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: MOREHOUSE	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: NATCHITOCHES	NON-ELEVATOR:	100	115	138	160	176
STATE: LA	ELEVATOR:	111	127	151	176	194
PARISH: RED RIVER	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: RICHLAND	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: SABINE	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SHREVEPORT,LOUISIANA INSURING OFFICE						
NON SMSA						
PARISH: TENSAS	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: UNION	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: VERNON	NON-ELEVATOR:	100	115	138	160	176
STATE: LA	ELEVATOR:	109	127	152	177	193
PARISH: WEST CARROLL	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
PARISH: WINN	NON-ELEVATOR:	84	97	117	136	149
STATE: LA	ELEVATOR:	93	107	128	149	165
COUNTY: CASS	NON-ELEVATOR:	74	85	101	114	126
STATE: TX	ELEVATOR:	81	93	111	125	137
COUNTY: MARION	NON-ELEVATOR:	78	90	108	121	134
STATE: TX	ELEVATOR:	86	100	119	134	147
COUNTY: MORRIS	NON-ELEVATOR:	74	85	101	114	126
STATE: TX	ELEVATOR:	81	93	111	125	137
COUNTY: PANOLA	NON-ELEVATOR:	78	90	108	121	134
STATE: TX	ELEVATOR:	86	100	119	134	147

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TULSA,OKLAHOMA INSURING OFFICE						
SMSA: FORT SMITH, AR-OK						
COUNTY: LE FLORE	NON-ELEVATOR:	95	107	126	148	162
STATE: OK	ELEVATOR:	103	116	140	162	179
COUNTY: SEQUOYAH	NON-ELEVATOR:	95	107	126	148	162
STATE: OK	ELEVATOR:	103	116	140	162	179
SMSA: TULSA, OK						
COUNTY: CREEK	NON-ELEVATOR:	123	138	167	193	212
STATE: OK	ELEVATOR:	136	153	183	212	232
COUNTY: MAYES	NON-ELEVATOR:	123	138	167	193	212
STATE: OK	ELEVATOR:	136	153	183	212	232
COUNTY: OSAGE	NON-ELEVATOR:	123	138	167	193	212
STATE: OK	ELEVATOR:	136	153	183	212	232
COUNTY: ROGERS	NON-ELEVATOR:	123	138	167	193	212
STATE: OK	ELEVATOR:	136	153	183	212	232
COUNTY: TULSA	NON-ELEVATOR:	123	138	167	193	212
STATE: OK	ELEVATOR:	136	153	183	212	232
COUNTY: WAGONER	NON-ELEVATOR:	123	138	167	193	212
STATE: OK	ELEVATOR:	136	153	183	212	232
NON SMSA						
COUNTY: ADAIR	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: ATOKA	NON-ELEVATOR:	90	107	123	144	156
STATE: OK	ELEVATOR:	99	117	136	159	172
COUNTY: BRYAN	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: CHEROKEE	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TULSA,OKLAHOMA INSURING OFFICE						
NON SMSA						
COUNTY: CHOCTAW	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: COAL	NON-ELEVATOR:	90	107	123	144	156
STATE: OK	ELEVATOR:	99	117	136	159	172
COUNTY: CRAIG	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: DELAWARE	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: HASKELL	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: HUGHES	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: LATIMER	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: MCCURTAIN	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: MCINTOSH	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: MUSKOGEE	NON-ELEVATOR:	102	117	141	164	179
STATE: OK	ELEVATOR:	113	129	154	180	197
COUNTY: NOWATA	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: OKFUSKEE	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: OKMULGEE	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TULSA,OKLAHOMA INSURING OFFICE						
NON SMSA						
COUNTY: OTTAWA	NON-ELEVATOR:	102	117	141	164	179
STATE: OK	ELEVATOR:	113	129	154	180	197
COUNTY: PAWNEE	NON-ELEVATOR:	90	107	126	148	160
STATE: OK	ELEVATOR:	99	117	139	163	176
COUNTY: PITTSBURG	NON-ELEVATOR:	87	99	118	132	145
STATE: OK	ELEVATOR:	97	109	129	145	159
COUNTY: PUSHMATAHA	NON-ELEVATOR:	90	107	123	144	156
STATE: OK	ELEVATOR:	99	117	136	159	172
COUNTY: WASHINGTON	NON-ELEVATOR:	105	128	151	177	192
STATE: OK	ELEVATOR.	116	140	166	194	211

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
SMSA: CEDAR RAPIDS, IA						
COUNTY:LINN	NON-ELEVATOR:	143	165	195	227	253
STATE:IA	ELEVATOR:	158	181	215	249	278
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL						
COUNTY:SCOTT	NON-ELEVATOR:	154	175	230	273	296
STATE:IA	ELEVATOR:	169	192	253	301	325
SMSA: DES MOINES, IA						
COUNTY:POLK	NON-ELEVATOR:	151	172	208	240	261
STATE:IA	ELEVATOR:	165	189	226	263	286
COUNTY:WARREN	NON-ELEVATOR:	151	172	206	240	261
STATE:IA	ELEVATOR:	165	189	226	263	286
SMSA: DUBUQUE, IA						
COUNTY:DUBUQUE	NON-ELEVATOR:	121	140	169	187	206
STATE:IA	ELEVATOR:	134	153	188	205	227
SMSA: OMAHA, NE-IA						
COUNTY:POTTAWATTAMI	NON-ELEVATOR:	147	169	202	238	256
STATE:IA	ELEVATOR:	162	186	222	258	281
SMSA: SIOUX CITY, IA-NE						
COUNTY:WOODBURY	NON-ELEVATOR:	129	147	178	202	230
STATE:IA	ELEVATOR:	141	162	192	223	253
SMSA: WATERLOO-CEDAR FALLS, IA						
COUNTY:BLACK HAWK	NON-ELEVATOR:	130	149	179	207	228
STATE:IA	ELEVATOR:	141	164	197	228	251
NON SMSA						
COUNTY:ADAIR	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:ADAMS	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:ALLAMAKEE	NON-ELEVATOR:	108	124	149	166	183
STATE:IA	ELEVATOR:	118	135	163	182	200

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:APPANOOSE	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:AUDUBON	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:BENTON	NON-ELEVATOR:	141	163	194	227	248
STATE:IA	ELEVATOR:	156	178	214	249	272
COUNTY:BOONE	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:BREMER	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:BUCHANAN	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:BUENA VISTA	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:BUTLER	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:CALHOUN	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:CARROLL	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:CASS	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:CEDAR	NON-ELEVATOR:	141	163	194	227	248
STATE:IA	ELEVATOR:	156	178	214	249	272
COUNTY:CERRO GORDO	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:CHEROKEE	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199
COUNTY:CHICKASAW	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:CLARKE	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:CLAY	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:CLAYTON	NON-ELEVATOR:	108	124	149	166	183
STATE:IA	ELEVATOR:	118	135	163	182	200
COUNTY:CLINTON	NON-ELEVATOR:	144	159	195	217	245
STATE:IA	ELEVATOR:	159	174	215	239	269
COUNTY:CRAWFORD	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199
COUNTY:DALLAS	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:DAVIS	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:DECATUR	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:DELAWARE	NON-ELEVATOR:	108	124	149	166	183
STATE:IA	ELEVATOR:	118	135	163	182	200
COUNTY:DES MOINES	NON-ELEVATOR:	120	138	165	183	203
STATE:IA	ELEVATOR:	133	150	181	202	222
COUNTY:DICKINSON	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196

PREPARED BY HUD - EMAD (CG), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:EMMET	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:FAYETTE	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:FLOYD	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:FRANKLIN	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:FREMONT	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:GREENE	NON-ELEVATOR:	108	121	146	162	179
STATE:IA	ELEVATOR:	118	133	161	179	196
COUNTY:GRUNDY	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:GUTHRIE	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:HAMILTON	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:HANCOCK	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:HARDIN	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:HARRISON	NON-ELEVATOR:	105	121	148	182	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:HENRY	NON-ELEVATOR:	109	125	150	168	184
STATE:IA	ELEVATOR:	119	138	165	183	203

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:HOWARD	NON-ELEVATOR:	108	124	149	166	183
STATE:IA	ELEVATOR:	118	135	163	182	200
COUNTY:HUMBOLDT	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:IDA	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199
COUNTY:IOWA	NON-ELEVATOR:	141	163	194	227	248
STATE:IA	ELEVATOR:	156	178	214	249	272
COUNTY:JACKSON	NON-ELEVATOR:	108	124	149	166	183
STATE:IA	ELEVATOR:	118	135	163	182	200
COUNTY:JASPER	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:JEFFERSON	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:JOHNSON	NON-ELEVATOR:	152	178	210	243	263
STATE:IA	ELEVATOR:	166	196	230	267	289
COUNTY:JONES	NON-ELEVATOR:	141	163	194	227	248
STATE:IA	ELEVATOR:	156	178	214	249	272
COUNTY:KEOKUK	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:KOSSUTH	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:LEE	NON-ELEVATOR:	117	133	161	179	196
STATE:IA	ELEVATOR:	129	147	177	196	216
COUNTY:LOUISA	NON-ELEVATOR:	120	139	165	183	203
STATE:IA	ELEVATOR:	132	151	181	202	222

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:LUCAS	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:LYON	NON-ELEVATOR:	118	135	163	181	199
STATE:IA	ELEVATOR:	130	148	179	199	218
COUNTY:MADISON	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:MAHASKA	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:MARION	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR.	121	141	168	187	206
COUNTY:MARSHALL	NON-ELEVATOR:	119	135	164	183	202
STATE:IA	ELEVATOR:	132	149	180	202	220
COUNTY:MILLS	NON-ELEVATOR:	105	121	148	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:MITCHELL	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:MONONA	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199
COUNTY:MONROE	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:MONTGOMERY	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:MUSCATINE	NON-ELEVATOR:	141	163	198	229	248
STATE:IA	ELEVATOR:	156	179	218	253	272
COUNTY:O BRIEN	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:OSCEOLA	NON-ELEVATOR:	118	135	163	181	199
STATE:IA	ELEVATOR:	130	148	179	198	218
COUNTY:PAGE	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:PALO ALTO	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:PLYMOUTH	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199
COUNTY:POCAHONTAS	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:POWESHIEK	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:RINGGOLD	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:SAC	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:SHELBY	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196
COUNTY:SIOUX	NON-ELEVATOR:	107	123	147	164	181
STATE:IA	ELEVATOR:	117	134	162	181	199
COUNTY:STORY	NON-ELEVATOR:	122	140	168	189	208
STATE:IA	ELEVATOR:	135	153	185	206	227
COUNTY:TAMA	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:TAYLOR	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DES MOINES,IOWA INSURING OFFICE						
NON SMSA						
COUNTY:UNION	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:VAN BUREN	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:WAPELLO	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:WASHINGTON	NON-ELEVATOR:	120	139	165	183	203
STATE:IA	ELEVATOR:	132	151	181	202	222
COUNTY:WAYNE	NON-ELEVATOR:	111	127	154	171	188
STATE:IA	ELEVATOR:	121	141	168	187	206
COUNTY:WEBSTER	NON-ELEVATOR:	141	163	208	221	242
STATE:IA	ELEVATOR:	156	179	230	243	267
COUNTY:WINNEBAGO	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:WINNESHIEK	NON-ELEVATOR:	108	124	149	166	183
STATE:IA	ELEVATOR:	118	135	163	182	200
COUNTY:WORTH	NON-ELEVATOR:	118	135	163	190	207
STATE:IA	ELEVATOR:	130	148	179	207	227
COUNTY:WRIGHT	NON-ELEVATOR:	105	121	146	162	179
STATE:IA	ELEVATOR:	116	133	161	179	196

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KANSAS CITY,KANSAS AREA OFFICE						
SMSA: KANSAS CITY, MO-KS						
COUNTY:CASS	NON-ELEVATOR:	136	156	187	215	246
STATE:MO	ELEVATOR:	150	172	204	237	270
COUNTY:CLAY	NON-ELEVATOR:	136	156	187	215	246
STATE:MO	ELEVATOR:	150	172	204	237	270
COUNTY:JACKSON	NON-ELEVATOR:	136	156	187	215	246
STATE:MO	ELEVATOR:	150	172	204	237	270
COUNTY:PLATTE	NON-ELEVATOR:	136	156	187	215	246
STATE:MO	ELEVATOR:	150	172	204	237	270
COUNTY:RAY	NON-ELEVATOR:	136	156	187	215	246
STATE:MO	ELEVATOR:	150	172	204	237	270
COUNTY:JOHNSON	NON-ELEVATOR:	136	156	187	215	246
STATE:KS	ELEVATOR:	150	172	204	237	270
COUNTY:WYANDOTTE	NON-ELEVATOR:	136	156	187	215	246
STATE:KS	ELEVATOR:	150	172	204	237	270
SMSA: ST JOSEPH, MO						
COUNTY:ANDREW	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:BUCHANEN	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
SMSA: SPRINGFIELD, MO						
COUNTY:CHRISTIAN	NON-ELEVATOR:	109	126	152	177	193
STATE:MO	ELEVATOR:	121	140	168	194	213
COUNTY:GREENE	NON-ELEVATOR:	109	126	152	177	193
STATE:MO	ELEVATOR:	121	140	168	194	213
NON SMSA						
COUNTY:ATCHISON	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KANSAS CITY,KANSAS AREA OFFICE						
NON SMSA						
COUNTY:BARRY	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:BARTON	NON-ELEVATOR:	83	96	115	128	142
STATE:MO	ELEVATOR:	91	104	126	141	155
COUNTY:BATES	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:BENTON	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:CALDWELL	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:CAMDEN	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:CARROLL	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:CEDAR	NON-ELEVATOR:	83	96	115	128	142
STATE:MO	ELEVATOR:	91	104	126	141	155
COUNTY:CHARITON	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:CLINTON	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:DADE	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:DALLAS	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:DAVIESS	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KANSAS CITY,KANSAS AREA OFFICE						
NON SMSA						
COUNTY:DE KALB	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:GENTRY	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:GRUNDY	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:HARRISON	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:HENRY	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:HICKORY	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:HOLT	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:JASPER	NON-ELEVATOR:	91	104	125	140	154
STATE:MO	ELEVATOR:	99	113	138	154	169
COUNTY:JOHNSON	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:LACLEDE	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:LAFAYETTE	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:LAWRENCE	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:LINN	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KANSAS CITY,KANSAS AREA OFFICE						
NON SMSA						
COUNTY:LIVINGSTON	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:MCDONALD	NON-ELEVATOR:	83	96	115	128	142
STATE:MO	ELEVATOR:	91	104	126	141	155
COUNTY:MERCER	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:MILLER	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:MORGAN	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:NEWTON	NON-ELEVATOR:	91	104	125	140	154
STATE:MO	ELEVATOR:	99	113	138	154	169
COUNTY:NODAWAY	NON-ELEVATOR:	105	122	146	162	179
STATE:MO	ELEVATOR:	117	134	161	179	197
COUNTY:PETTIS	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181
COUNTY:POLK	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:PULASKI	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:PUTNAM	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:ST CLAIR	NON-ELEVATOR:	83	96	115	128	142
STATE:MO	ELEVATOR:	91	104	126	141	155
COUNTY:SALINE	NON-ELEVATOR:	96	111	134	149	165
STATE:MO	ELEVATOR:	107	123	147	164	181

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
KANSAS CITY, KANSAS AREA OFFICE						
NON SMSA						
COUNTY: STONE	NON-ELEVATOR:	94	109	132	153	167
STATE: MO	ELEVATOR:	104	120	144	168	184
COUNTY: SULLIVAN	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: TANEY	NON-ELEVATOR:	94	109	132	153	167
STATE: MO	ELEVATOR:	104	120	144	168	184
COUNTY: VERNON	NON-ELEVATOR:	83	96	115	126	142
STATE: MO	ELEVATOR:	91	104	126	141	155
COUNTY: WEBSTER	NON-ELEVATOR:	94	109	132	153	167
STATE: MO	ELEVATOR:	104	120	144	168	184
COUNTY: WORTH	NON-ELEVATOR:	96	111	134	149	165
STATE: MO	ELEVATOR:	107	123	147	164	181

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA, NEBRASKA AREA OFFICE						
SMSA: LINCOLN, NE						
COUNTY: LANCASTER	NON-ELEVATOR:	134	154	185	215	236
STATE: NE	ELEVATOR:	147	170	203	237	259
SMSA: OMAHA, NE-IA						
COUNTY: POTTAWATTAMI	NON-ELEVATOR:	147	169	202	236	256
STATE: IA	ELEVATOR:	162	186	222	258	281
COUNTY: DOUGLAS	NON-ELEVATOR:	147	169	202	236	256
STATE: NE	ELEVATOR:	162	186	222	258	281
COUNTY: SARPY	NON-ELEVATOR:	147	169	202	236	256
STATE: NE	ELEVATOR:	162	186	222	258	281
SMSA: SIOUX CITY, IA-NE						
COUNTY: DAKOTA	NON-ELEVATOR:	129	147	178	202	230
STATE: NE	ELEVATOR:	141	162	192	223	253
NON SMSA						
COUNTY: ADAMS	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: ANTELOPE	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: ARTHUR	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: BANNER	NON-ELEVATOR:	100	114	138	154	169
STATE: NE	ELEVATOR:	110	126	152	169	186
COUNTY: BLAINE	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: BOONE	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: BOX BUTTE	NON-ELEVATOR:	100	114	138	154	169
STATE: NE	ELEVATOR:	110	126	152	169	186

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA, NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY: BOYD	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: BROWN	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: BUFFALO	NON-ELEVATOR:	113	128	155	173	190
STATE: NE	ELEVATOR:	123	141	169	191	208
COUNTY: BURT	NON-ELEVATOR:	105	121	146	162	179
STATE: NE	ELEVATOR:	116	133	161	179	196
COUNTY: BUTLER	NON-ELEVATOR:	105	121	146	170	186
STATE: NE	ELEVATOR:	116	133	161	187	205
COUNTY: CASS	NON-ELEVATOR:	105	121	146	162	179
STATE: NE	ELEVATOR:	116	133	161	179	196
COUNTY: CEDAR	NON-ELEVATOR:	107	123	147	164	181
STATE: NE	ELEVATOR:	117	134	162	181	199
COUNTY: CHASE	NON-ELEVATOR:	116	133	160	178	195
STATE: NE	ELEVATOR:	126	146	176	196	215
COUNTY: CHERRY	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: CHEYENNE	NON-ELEVATOR:	100	114	138	154	169
STATE: NE	ELEVATOR:	110	126	152	169	186
COUNTY: CLAY	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: COLFAX	NON-ELEVATOR:	105	121	146	162	179
STATE: NE	ELEVATOR:	116	133	161	179	196
COUNTY: CUMING	NON-ELEVATOR:	107	123	147	164	181
STATE: NE	ELEVATOR:	117	134	162	181	199

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA, NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY: CUSTER	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: DAWES	NON-ELEVATOR:	100	114	138	154	169
STATE: NE	ELEVATOR:	110	126	152	169	186
COUNTY: DAWSON	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: DEUEL	NON-ELEVATOR:	100	114	138	154	169
STATE: NE	ELEVATOR:	110	126	152	169	186
COUNTY: DIXON	NON-ELEVATOR:	107	123	147	164	181
STATE: NE	ELEVATOR:	117	134	162	181	199
COUNTY: DODGE	NON-ELEVATOR:	105	121	146	162	179
STATE: NE	ELEVATOR:	116	133	161	179	196
COUNTY: DUNDY	NON-ELEVATOR:	116	133	160	178	195
STATE: NE	ELEVATOR:	126	146	176	196	215
COUNTY: FILLMORE	NON-ELEVATOR:	105	121	146	170	186
STATE: NE	ELEVATOR:	116	133	161	187	205
COUNTY: FRANKLIN	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: FRONTIER	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: FURNAS	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: GAGE	NON-ELEVATOR:	105	121	146	170	186
STATE: NE	ELEVATOR:	116	133	161	187	205
COUNTY: GARDEN	NON-ELEVATOR:	100	114	138	154	169
STATE: NE	ELEVATOR:	110	126	152	169	186

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA,NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY:GARFIELD	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:GOSPER	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:GRANT	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:GREELEY	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:HALL	NON-ELEVATOR:	112	128	155	173	190
STATE:NE	ELEVATOR:	123	141	169	191	208
COUNTY:HAMILTON	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:HARLAN	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:HAYES	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:HITCHCOCK	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:HOLT	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:HOOKER	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:HOWARD	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:JEFFERSON	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	115	133	161	187	205

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA,NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY:JOHNSON	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:KEARNEY	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:KEITH	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:KEYA PAHA	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:KIMBALL	NON-ELEVATOR:	100	114	138	154	169
STATE:NE	ELEVATOR:	110	126	152	169	186
COUNTY:KNOX	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:LINCOLN	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:LOGAN	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:LOUP	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:MCPHERSON	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:MADISON	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:MERRICK	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:MORRILL	NON-ELEVATOR:	100	114	138	154	169
STATE:NE	ELEVATOR:	110	126	152	169	186

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA,NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY:NANCE	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:NEMAHA	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:NUCKOLLS	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:OTOE	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:PAWNEE	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:PERKINS	NON-ELEVATOR:	116	133	160	178	195
STATE:NE	ELEVATOR:	126	146	176	196	215
COUNTY:PHELPS	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:PIERCE	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:PLATTE	NON-ELEVATOR:	105	121	146	162	179
STATE:NE	ELEVATOR:	116	133	161	179	196
COUNTY:POLK	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:RED WILLOW	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:RICHARDSON	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:ROCK	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA,NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY:SALINE	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:SAUNDERS	NON-ELEVATOR:	105	121	146	162	179
STATE:NE	ELEVATOR:	116	133	161	179	196
COUNTY:SCOTTS BLUFF	NON-ELEVATOR:	100	114	138	154	169
STATE:NE	ELEVATOR:	110	126	152	169	186
COUNTY:SEWARD	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:SHERIDAN	NON-ELEVATOR:	100	114	138	154	169
STATE:NE	ELEVATOR:	110	126	152	169	186
COUNTY:SHERMAN	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:SIOUX	NON-ELEVATOR:	100	114	138	154	169
STATE:NE	ELEVATOR:	110	126	152	169	186
COUNTY:STANTON	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:THAYER	NON-ELEVATOR:	105	121	146	170	186
STATE:NE	ELEVATOR:	116	133	161	187	205
COUNTY:THOMAS	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:THURSTON	NON-ELEVATOR:	107	123	147	164	181
STATE:NE	ELEVATOR:	117	134	162	181	199
COUNTY:VALLEY	NON-ELEVATOR:	102	117	141	157	172
STATE:NE	ELEVATOR:	112	129	156	172	190
COUNTY:WASHINGTON	NON-ELEVATOR:	105	121	146	162	179
STATE:NE	ELEVATOR:	116	133	161	179	196

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
OMAHA, NEBRASKA AREA OFFICE						
NON SMSA						
COUNTY: WAYNE	NON-ELEVATOR:	107	123	147	164	181
STATE: NE	ELEVATOR:	117	134	162	181	199
COUNTY: WEBSTER	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: WHEELER	NON-ELEVATOR:	102	117	141	157	172
STATE: NE	ELEVATOR:	112	129	156	172	190
COUNTY: YORK	NON-ELEVATOR:	105	121	146	170	186
STATE: NE	ELEVATOR:	118	133	161	187	205

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ST.LOUIS, MISSOURI AREA OFFICE						
SMSA: COLUMBIA, MO						
COUNTY: BOONE	NON-ELEVATOR:	137	157	188	212	230
STATE: MO	ELEVATOR:	151	173	206	232	253
SMSA: ST LOUIS, MO-IL						
COUNTY: FRANKLIN	NON-ELEVATOR:	148	170	203	234	266
STATE: MO	ELEVATOR:	161	185	221	257	292
COUNTY: JEFFERSON	NON-ELEVATOR:	146	170	203	234	266
STATE: MO	ELEVATOR:	161	185	221	257	292
COUNTY: ST CHARLES	NON-ELEVATOR:	146	170	203	234	266
STATE: MO	ELEVATOR:	161	185	221	257	292
COUNTY: ST LOUIS	NON-ELEVATOR:	146	170	203	234	266
STATE: MO	ELEVATOR:	161	185	221	257	292
INDEP. CITY: ST. LOUIS	NON-ELEVATOR:	146	170	203	234	266
STATE: MO	ELEVATOR:	161	185	221	257	292
NON SMSA						
COUNTY: ADAIR	NON-ELEVATOR:	132	150	179	199	216
STATE: MO	ELEVATOR:	145	165	197	218	238
COUNTY: AUDRAIN	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: BOLLINGER	NON-ELEVATOR:	92	105	126	142	156
STATE: MO	ELEVATOR:	101	116	139	156	171
COUNTY: BUTLER	NON-ELEVATOR:	92	105	126	142	156
STATE: MO	ELEVATOR:	101	116	139	156	171
COUNTY: CALLAWAY	NON-ELEVATOR:	132	150	179	199	216
STATE: MO	ELEVATOR:	145	165	197	218	238
COUNTY: CAPE GIRARDE	NON-ELEVATOR:	111	127	150	166	182
STATE: MO	ELEVATOR:	122	140	165	182	200

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ST.LOUIS, MISSOURI AREA OFFICE						
NON SMSA						
COUNTY: CARTER	NON-ELEVATOR:	92	105	126	142	156
STATE: MO	ELEVATOR:	101	116	139	156	171
COUNTY: CLARK	NON-ELEVATOR:	109	125	150	168	184
STATE: MO	ELEVATOR:	119	138	165	183	203
COUNTY: COLE	NON-ELEVATOR:	129	148	178	197	214
STATE: MO	ELEVATOR:	141	163	192	216	235
COUNTY: COOPER	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: CRAWFORD	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: DENT	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: DOUGLAS	NON-ELEVATOR:	94	109	132	153	167
STATE: MO	ELEVATOR:	104	120	144	168	184
COUNTY: DUNKLIN	NON-ELEVATOR:	92	105	126	142	156
STATE: MO	ELEVATOR:	101	116	139	156	171
COUNTY: GASCONADE	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: HOWARD	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: HOWELL	NON-ELEVATOR:	94	109	122	153	167
STATE: MO	ELEVATOR:	104	120	144	168	184
COUNTY: IRON	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: KNOX	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ST.LOUIS, MISSOURI AREA OFFICE						
NON SMSA						
COUNTY: LEWIS	NON-ELEVATOR:	109	125	150	168	184
STATE: MO	ELEVATOR:	119	138	165	183	203
COUNTY: LINCOLN	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: MACON	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: MADISON	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: MARIES	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: MARION	NON-ELEVATOR:	109	125	150	168	184
STATE: MO	ELEVATOR:	119	138	165	183	203
COUNTY: MISSISSIPPI	NON-ELEVATOR:	92	105	126	142	156
STATE: MO	ELEVATOR:	101	116	139	156	171
COUNTY: MONITEAU	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: MONROE	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216
COUNTY: MONTGOMERY	NON-ELEVATOR:	102	116	143	158	173
STATE: MO	ELEVATOR:	114	130	157	174	191
COUNTY: NEW MADRID	NON-ELEVATOR:	92	105	126	142	156
STATE: MO	ELEVATOR:	101	116	139	156	171
COUNTY: OREGON	NON-ELEVATOR:	94	109	132	153	167
STATE: MO	ELEVATOR:	104	120	144	166	184
COUNTY: OSAGE	NON-ELEVATOR:	117	134	161	180	196
STATE: MO	ELEVATOR:	129	147	177	197	216

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ST.LOUIS,MISSOURI AREA OFFICE						
NON SMSA						
COUNTY:OZARK	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:PEMISCOT	NON-ELEVATOR:	92	105	126	142	158
STATE:MO	ELEVATOR:	101	116	139	156	171
COUNTY:PERRY	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:PHELPS	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:PIKE	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:RALLS	NON-ELEVATOR:	109	125	150	168	184
STATE:MO	ELEVATOR:	119	138	165	183	203
COUNTY:RANDOLPH	NON-ELEVATOR:	117	134	161	180	198
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:REYNOLDS	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:RIPLEY	NON-ELEVATOR:	92	105	126	142	158
STATE:MO	ELEVATOR:	101	116	139	156	171
COUNTY:ST FRANCOIS	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:STE.GENEVIEV	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:SCHUYLER	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	218
COUNTY:SCOTLAND	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ST.LOUIS,MISSOURI AREA OFFICE						
NON SMSA						
COUNTY:SCOTT	NON-ELEVATOR:	111	127	150	168	182
STATE:MO	ELEVATOR:	122	140	165	182	200
COUNTY:SHANNON	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184
COUNTY:SHELBY	NON-ELEVATOR:	117	134	161	180	196
STATE:MO	ELEVATOR:	129	147	177	197	216
COUNTY:STODDARD	NON-ELEVATOR:	92	105	126	142	156
STATE:MO	ELEVATOR:	101	116	139	156	171
COUNTY:TEXAS	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:WARREN	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:WASHINGTON	NON-ELEVATOR:	102	118	143	158	173
STATE:MO	ELEVATOR:	114	130	157	174	191
COUNTY:WAYNE	NON-ELEVATOR:	92	105	126	142	156
STATE:MO	ELEVATOR:	101	116	139	156	171
COUNTY:WRIGHT	NON-ELEVATOR:	94	109	132	153	167
STATE:MO	ELEVATOR:	104	120	144	168	184

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
SMSA: TOPEKA, KS						
COUNTY:JEFFERSON	NON-ELEVATOR:	124	144	172	200	218
STATE:KS	ELEVATOR:	137	157	189	219	240
COUNTY:OSAGE	NON-ELEVATOR:	124	144	172	200	218
STATE:KS	ELEVATOR:	137	157	189	219	240
COUNTY:SHAWNEE	NON-ELEVATOR:	124	144	172	200	218
STATE:KS	ELEVATOR:	137	157	189	219	240
SMSA: WICHITA, KS						
COUNTY:BUTLER	NON-ELEVATOR:	116	133	160	185	204
STATE:KS	ELEVATOR:	126	146	176	204	224
COUNTY:SEDGWICK	NON-ELEVATOR:	116	133	160	185	204
STATE:KS	ELEVATOR:	126	146	176	204	224
NON SMSA						
COUNTY:ALLEN	NON-ELEVATOR:	83	96	115	128	142
STATE:KS	ELEVATOR:	91	104	126	141	155
COUNTY:ANDERSON	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188
COUNTY:ATCHISON	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188
COUNTY:BARBER	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:BARTON	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:BOURBON	NON-ELEVATOR:	83	96	115	128	142
STATE:KS	ELEVATOR:	91	104	126	141	155
COUNTY:BROWN	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY:CHASE	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:CHAUTAUQUA	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:CHEROKEE	NON-ELEVATOR:	83	96	115	128	142
STATE:KS	ELEVATOR:	91	104	126	141	155
COUNTY:CHEYENNE	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:CLARK	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:CLAY	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:CLOUD	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:COFFEY	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188
COUNTY:COMANCHE	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:COWLEY	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:CRAWFORD	NON-ELEVATOR:	83	96	115	128	142
STATE:KS	ELEVATOR:	91	104	126	141	155
COUNTY:DECATUR	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:DICKINSON	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY: DONIPHAN	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: DOUGLAS	NON-ELEVATOR:	124	144	172	200	218
STATE: KS	ELEVATOR:	137	157	189	219	240
COUNTY: EDWARDS	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: ELK	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: ELLIS	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: ELLSWORTH	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: FINNEY	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: FORD	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: FRANKLIN	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: GEARY	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: GOVE	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: GRAHAM	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: GRANT	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY: GRAY	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: GREELEY	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: GREENWOOD	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: HAMILTON	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: HARPER	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: HARVEY	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: HASKELL	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: HODGEMAN	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: JACKSON	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: JEWELL	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: KEARNY	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: KINGMAN	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: KIOWA	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY: LABETTE	NON-ELEVATOR:	83	96	115	126	142
STATE: KS	ELEVATOR:	91	104	126	141	155
COUNTY: LANE	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: LEAVENWORTH	NON-ELEVATOR:	124	144	172	200	218
STATE: KS	ELEVATOR:	137	157	189	219	240
COUNTY: LINCOLN	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: LINN	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: LOGAN	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: LYON	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: MCPHERSON	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: MARION	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: MARSHALL	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: MEADE	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: MIAMI	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: MITCHELL	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY: MONTGOMERY	NON-ELEVATOR:	83	96	115	126	142
STATE: KS	ELEVATOR:	91	104	126	141	155
COUNTY: MORRIS	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: MORTON	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: NEMAHA	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: NEOSHO	NON-ELEVATOR:	83	96	115	126	142
STATE: KS	ELEVATOR:	91	104	126	141	155
COUNTY: NESS	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: NORTON	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: OSBORNE	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: OTTAWA	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: PAWNEE	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166
COUNTY: PHILLIPS	NON-ELEVATOR:	95	110	133	148	162
STATE: KS	ELEVATOR:	105	121	146	162	178
COUNTY: POTTAWATOMIE	NON-ELEVATOR:	101	116	139	155	171
STATE: KS	ELEVATOR:	111	127	154	171	188
COUNTY: PRATT	NON-ELEVATOR:	89	102	123	137	150
STATE: KS	ELEVATOR:	98	112	135	150	166

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY:RAWLINS	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:RENO	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:REPUBLIC	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:RICE	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:RILEY	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188
COUNTY:ROOKS	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:RUSH	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:RUSSELL	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:SALINE	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:SCOTT	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:SEWARD	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:SHERIDAN	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:SHERMAN	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
TOPEKA,KANSAS INSURING OFFICE						
NON SMSA						
COUNTY:SMITH	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:STAFFORD	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:STANTON	NON-ELEVATOR:	88	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:STEVENS	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:SUMNER	NON-ELEVATOR:	89	102	123	137	150
STATE:KS	ELEVATOR:	98	112	135	150	166
COUNTY:THOMAS	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:TREGO	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:WABAUNSEE	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188
COUNTY:WALLACE	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:WASHINGTON	NON-ELEVATOR:	101	116	139	155	171
STATE:KS	ELEVATOR:	111	127	154	171	188
COUNTY:WICHITA	NON-ELEVATOR:	95	110	133	148	162
STATE:KS	ELEVATOR:	105	121	146	162	178
COUNTY:WILSON	NON-ELEVATOR:	83	96	115	128	142
STATE:KS	ELEVATOR:	91	104	126	141	155
COUNTY:WOODSON	NON-ELEVATOR:	83	96	115	128	142
STATE:KS	ELEVATOR:	91	104	126	141	155

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CASPER,WYOMING INSURING OFFICE						
NON SMSA						
COUNTY:ALBANY	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:BIG HORN	NON-ELEVATOR:	106	121	144	166	181
STATE:WY	ELEVATOR:	116	133	158	182	199
COUNTY:CAMPBELL	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:CARBON	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:CONVERSE	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:CROOK	NON-ELEVATOR:	106	121	144	159	174
STATE:WY	ELEVATOR:	116	133	158	175	192
COUNTY:FREMONT	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:GOSHEN	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:HOT SPRINGS	NON-ELEVATOR:	106	121	144	166	181
STATE:WY	ELEVATOR:	116	133	158	182	199
COUNTY:JOHNSON	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:LARAMIE	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:LINCOLN	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:NATRONA	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
CASPER,WYOMING INSURING OFFICE						
NON SMSA						
COUNTY:NIOBRARA	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:PARK	NON-ELEVATOR:	106	121	144	166	181
STATE:WY	ELEVATOR:	116	133	158	182	199
COUNTY:PLATTE	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:SHERIDAN	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:SUBLETTE	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:SWEETWATER	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:TETON,	NON-ELEVATOR:	140	158	188	208	227
STATE:WY	ELEVATOR:	153	174	207	227	251
COUNTY:UINTA	NON-ELEVATOR:	101	116	138	152	167
STATE:WY	ELEVATOR:	112	128	153	168	183
COUNTY:WASHAKIE	NON-ELEVATOR:	106	121	144	166	181
STATE:WY	ELEVATOR:	116	133	158	182	199
COUNTY:WESTON	NON-ELEVATOR:	106	121	144	159	174
STATE:WY	ELEVATOR:	116	133	158	175	192

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V 42 86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DENVER,COLORADO INSURING OFFICE						
SMSA: COLORADO SPRINGS, CO						
COUNTY: EL PASO	NON-ELEVATOR:	116	130	170	195	213
STATE: CO	ELEVATOR:	127	144	187	214	235
COUNTY: TELLER	NON-ELEVATOR:	116	130	170	195	213
STATE: CO	ELEVATOR:	127	144	187	214	235
SMSA: DENVER-BOULDER , CO						
COUNTY: ADAMS	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	166	188	223	245	268
COUNTY: ARAPAHOE	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	166	188	223	245	268
COUNTY: BOULDER	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	168	188	223	245	268
COUNTY: DENVER	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	166	188	223	245	268
COUNTY: DOUGLAS	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	166	188	223	245	268
COUNTY: GILPIN	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	166	188	223	245	268
COUNTY: JEFFERSON	NON-ELEVATOR:	151	171	202	223	243
STATE: CO	ELEVATOR:	166	188	223	245	268
SMSA: FORT COLLINS, CO						
COUNTY: LARIMER	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
SMSA: GREELEY, CO						
COUNTY: WELD	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
SMSA: PUEBLO, CO						
COUNTY: PUEBLO	NON-ELEVATOR:	137	156	187	214	235
STATE: CO	ELEVATOR:	151	172	205	236	258

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DENVER,COLORADO INSURING OFFICE						
NON SMSA						
COUNTY: ALAMOSA	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: ARCHULETA	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: BACA	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: BENT	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: CHAFFEE	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: CHEYENNE	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: CLEAR CREEK	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: CONEJOS	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: COSTILLA	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: CROWLEY	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: CUSTER	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: DELTA	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: DELORES	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DENVER,COLORADO INSURING OFFICE						
NON SMSA						
COUNTY: EAGLE	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: ELBERT	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: FREMONT	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: GARFIELD	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: GRAND	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: GUNNISON	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: HINSDALE	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: HUERFANO	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: JACKSON	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: KIOWA	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: KIT CARSON	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: LAKE	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: LA PLATA	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DENVER,COLORADO INSURING OFFICE						
NON SMSA						
COUNTY: LAS ANIMAS	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: LINCOLN	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: LOGAN	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: MESA	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: MINERAL	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: MOFFAT	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: MONTEZUMA	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: MONTROSE	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: MORGAN	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: OTERO	NON-ELEVATOR:	126	142	170	195	213
STATE: CO	ELEVATOR:	137	157	186	214	236
COUNTY: OURAY	NON-ELEVATOR:	101	116	138	152	167
STATE: CO	ELEVATOR:	112	128	153	168	183
COUNTY: PARK	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214
COUNTY: PHILLIPS	NON-ELEVATOR:	119	135	162	177	194
STATE: CO	ELEVATOR:	130	149	177	195	214

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
DENVER, COLORADO INSURING OFFICE						
NON SMSA						
COUNTY: PITKIN STATE: CO	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY: PROWERS STATE: CO	NON-ELEVATOR:	126	142	170	195	213
	ELEVATOR:	137	157	188	214	236
COUNTY: RIO BLANCO STATE: CO	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY: RIO GRANDE STATE: CO	NON-ELEVATOR:	126	142	170	195	213
	ELEVATOR:	137	157	186	214	236
COUNTY: ROUTT STATE: CO	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY: SAGUACHE STATE: CO	NON-ELEVATOR:	126	142	170	195	213
	ELEVATOR:	137	157	188	214	236
COUNTY: SAN JUAN STATE: CO	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY: SAN MIGUEL STATE: CO	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY: SEDGWICK STATE: CO	NON-ELEVATOR:	119	135	162	177	194
	ELEVATOR:	130	149	177	195	214
COUNTY: SUMMIT STATE: CO	NON-ELEVATOR:	119	135	162	177	194
	ELEVATOR:	130	149	177	195	214
COUNTY: WASHINGTON STATE: CO	NON-ELEVATOR:	119	135	162	177	194
	ELEVATOR:	130	149	177	195	214
COUNTY: YUMA STATE: CO	NON-ELEVATOR:	118	135	162	177	194
	ELEVATOR:	130	149	177	195	214

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FARGO, NORTH DAKOTA INSURING OFFICE						
SMSA: FARGO-MOORHEAD, ND-MN						
COUNTY: CASS STATE: ND	NON-ELEVATOR:	134	153	183	202	222
	ELEVATOR:	147	169	201	222	245
NON SMSA						
COUNTY: ADAMS STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: BARNES STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: BENSON STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: BILLINGS STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: BOTTINEAU STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: BOWMAN STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: BURKE STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: BURLEIGH STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: CAVALIER STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: DICKEY STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: DIVIDE STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: DUNN STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FARGO, NORTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY: EDDY STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: EMMONS STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: FOSTER STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: GOLDEN VALLY STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: GRAND FORKS STATE: ND	NON-ELEVATOR:	116	133	175	194	213
	ELEVATOR:	126	146	193	214	235
COUNTY: GRANT STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: GRIGGS STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: HETTINGER STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: KIDDER STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: LA MOORE STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	226
COUNTY: LOGAN STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: MCHENRY STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: MCINTOSH STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FARGO, NORTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY: MCKENZIE STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: MCLEAN STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: MERCER STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: MORTON STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: MOUNTRAIL STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: NELSON STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: OLIVER STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: PEMBINA STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: PIERCE STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: RAMSEY STATE: ND	NON-ELEVATOR:	116	133	175	194	213
	ELEVATOR:	126	146	192	214	235
COUNTY: RANSOM STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236
COUNTY: RENVILLE STATE: ND	NON-ELEVATOR:	111	127	169	187	207
	ELEVATOR:	121	141	185	206	226
COUNTY: RICHLAND STATE: ND	NON-ELEVATOR:	116	133	176	196	214
	ELEVATOR:	126	146	193	216	236

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FARGO,NORTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:ROLETTE	NON-ELEVATOR:	111	127	169	187	207
STATE:ND	ELEVATOR:	121	141	185	206	226
COUNTY:SARGENT	NON-ELEVATOR:	116	133	176	196	214
STATE:ND	ELEVATOR:	126	146	193	216	236
COUNTY:SHERIDAN	NON-ELEVATOR:	111	127	169	187	207
STATE:ND	ELEVATOR:	121	141	185	206	226
COUNTY:SIOUX	NON-ELEVATOR:	111	127	169	187	207
STATE:ND	ELEVATOR:	121	141	185	206	226
COUNTY:SLOPE	NON-ELEVATOR:	111	127	169	187	207
STATE:ND	ELEVATOR.	121	141	185	206	226
COUNTY:STARK	NON-ELEVATOR:	111	127	169	187	207
STATE:ND	ELEVATOR:	121	141	185	206	226
COUNTY:STEELE	NON-ELEVATOR:	116	133	176	196	214
STATE:ND	ELEVATOR:	126	146	193	216	236
COUNTY:STUTSMAN	NON-ELEVATOR:	116	133	176	196	214
STATE:ND	ELEVATOR:	126	146	193	216	236
COUNTY:TOWNER	NON-ELEVATOR:	116	133	176	196	214
STATE:ND	ELEVATOR:	126	146	193	216	236
COUNTY:TRAILL	NON-ELEVATOR:	116	133	178	196	214
STATE:ND	ELEVATOR:	126	146	193	216	236
COUNTY:WALSH	NON-ELEVATOR:	116	133	175	194	213
STATE:ND	ELEVATOR:	126	146	192	214	235
COUNTY:WARD	NON-ELEVATOR:	111	127	167	186	205
STATE:ND	ELEVATOR:	121	141	184	204	225
COUNTY:WELLS	NON-ELEVATOR:	111	127	169	187	207
STATE:ND	ELEVATOR:	121	141	185	206	226

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
FARGO,NORTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:WILLIAMS	NON-ELEVATOR:	111	127	167	186	205
STATE:ND	ELEVATOR:	121	141	184	204	225

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HELENA,MONTANA INSURING OFFICE						
SMSA: BILLINGS, MT						
COUNTY:YELLOWSTONE	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
SMSA: GREAT FALLS, MT						
COUNTY:CASCADE	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
NON SMSA						
COUNTY:BEAVERHEAD	NON-ELEVATOR:	113	128	153	168	185
STATE:MT	ELEVATOR:	123	141	168	184	203
COUNTY:BIG HORN	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:BLAINE	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:BROADWATER	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:CARBON	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:CARTER	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:CHOUTEAU	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:CUSTER	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:DANIELS	NON-ELEVATOR:	114	129	154	169	186
STATE:MT	ELEVATOR:	125	142	170	186	205
COUNTY:DAWSON	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HELENA,MONTANA INSURING OFFICE						
NON SMSA						
COUNTY:DEER LODGE	NON-ELEVATOR:	113	128	153	168	185
STATE:MT	ELEVATOR:	123	141	168	184	203
COUNTY:FALLON	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:FERGUS	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:FLATHEAD	NON-ELEVATOR:	113	128	153	168	185
STATE:MT	ELEVATOR:	123	141	168	184	203
COUNTY:GALLATIN	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:GARFIELD	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:GLACIER	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:GOLDEN VALLE	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:GRANITE	NON-ELEVATOR:	113	128	153	168	185
STATE:MT	ELEVATOR:	123	141	168	184	203
COUNTY:HILL	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:JEFFERSON	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:JUDITH BASIN	NON-ELEVATOR:	106	121	144	166	181
STATE:MT	ELEVATOR:	116	133	158	182	199
COUNTY:LAKE	NON-ELEVATOR:	113	128	153	168	185
STATE:MT	ELEVATOR:	123	141	168	184	203

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HELENA,MONTANA INSURING OFFICE						
NON SMSA						
COUNTY:LEWIS+ CLARK STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:LIBERTY STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:LINCOLN STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:MCCONE STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:MADISON STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:MEAGHER STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:MINERAL STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:MISSOULA STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:MUSSELSHELL STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:PARK STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:PETROLEUM STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:PHILLIPS STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:PONDERA STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HELENA,MONTANA INSURING OFFICE						
NON SMSA						
COUNTY:PONDER RIVER STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:POWELL STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:PRAIRIE STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:RAVALLI STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:RICHLAND STATE:MT	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:ROOSEVELT STATE:MT	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:ROSEBUD STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:SANDERS STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:SHERIDAN STATE:MT	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:SILVER BOW STATE:MT	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:STILLWATER STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:SWEET GRASS STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:TETON STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HELENA,MONTANA INSURING OFFICE						
NON SMSA						
COUNTY:TOOLE STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:TREASURE STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:VALLEY STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:WHEATLAND STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199
COUNTY:WIBAUX STATE:MT	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR.	125	142	170	186	205
COUNTY:YL-ST-NT-PK STATE:MT	NON-ELEVATOR:	106	121	144	166	181
	ELEVATOR:	116	133	158	182	199

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SALT LAKE CITY,UTAH INSURING OFFICE						
SMSA: PROVO-OREM, UT						
COUNTY:UTAH STATE:UT	NON-ELEVATOR:	143	161	192	210	229
	ELEVATOR:	157	177	211	231	253
SMSA: SALT LAKE CITY-OGDEN, UT						
COUNTY:DAVIS STATE:UT	NON-ELEVATOR:	158	177	214	245	267
	ELEVATOR:	174	196	235	270	294
COUNTY:SALT LAKE STATE:UT	NON-ELEVATOR:	158	177	214	245	267
	ELEVATOR:	174	196	235	270	294
COUNTY:TOOELE STATE:UT	NON-ELEVATOR:	158	177	214	245	267
	ELEVATOR:	174	196	235	270	294
COUNTY:WEBER STATE:UT	NON-ELEVATOR:	158	177	214	245	267
	ELEVATOR:	174	196	235	270	294
NON SMSA						
COUNTY:BEAVER STATE:UT	NON-ELEVATOR:	161	183	216	238	263
	ELEVATOR:	177	201	239	261	287
COUNTY:BOX ELDER STATE:UT	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY:CACHE STATE:UT	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY:CARBON STATE:UT	NON-ELEVATOR:	101	123	196	229	252
	ELEVATOR:	112	135	215	252	277
COUNTY:DAGGETT STATE:UT	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY:DUCHESNE STATE:UT	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY:EMERY STATE:UT	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SALT LAKE CITY,UTAH INSURING OFFICE						
NON SMSA						
COUNTY:GARFIELD	NON-ELEVATOR:	161	183	216	238	263
STATE:UT	ELEVATOR:	177	201	239	261	287
COUNTY:GRAND	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:IRON	NON-ELEVATOR:	161	183	216	238	263
STATE:UT	ELEVATOR:	177	201	239	261	287
COUNTY:JUAB	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:KANE	NON-ELEVATOR:	161	183	216	238	263
STATE:UT	ELEVATOR:	177	201	239	261	287
COUNTY:MILLARD	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:MORGAN	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:PIUTE	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:RICH	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:SAN JUAN	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:SANPETE	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:SEVIER	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:SUMMIT	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SALT LAKE CITY,UTAH INSURING OFFICE						
NON SMSA						
COUNTY:UINTAH	NON-ELEVATOR:	112	128	153	167	183
STATE:UT	ELEVATOR:	123	141	168	185	203
COUNTY:WASATCH	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183
COUNTY:WASHINGTON	NON-ELEVATOR:	161	183	216	238	263
STATE:UT	ELEVATOR:	177	201	239	261	287
COUNTY:WAYNE	NON-ELEVATOR:	101	116	138	152	167
STATE:UT	ELEVATOR:	112	128	153	168	183

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SIOUX FALLS,SOUTH DAKOTA INSURING OFFICE						
SMSA: SIOUX FALLS, SD						
COUNTY:MINNEHAHA	NON-ELEVATOR:	148	170	202	223	243
STATE:SD	ELEVATOR:	163	187	222	244	268
NON SMSA						
COUNTY:AURORA	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:BEADLE	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:BENNETT	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:BON HOMME	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:BROOKINGS	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:BROWN	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:BRULE	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:BUFFALO	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:BUTTE	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:CAMPBELL	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:CHARLES MIX	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:CLARK	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SIOUX FALLS,SOUTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:CLAY	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:CODINGTON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:CORSON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:CUSTER	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:DAVISON	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:DAY	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:DEUEL	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:DEWEY	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:DOUGLAS	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:EDMUNDS	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:FALL RIVER	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:FAULK	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:GRANT	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SIOUX FALLS,SOUTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:GREGORY	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:HAAKON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:HAMLIN	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:HAND	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:HANSON	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:HARDING	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:HUGHES	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:HUTCHINSON	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:HYDE	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:JACKSON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:JERAULD	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:JONES	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:KINGSBURY	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SIOUX FALLS,SOUTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:LAKE	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:LAWRENCE	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:LINCOLN	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:LYMAN	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:MCCOOK	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:MCPHERSON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:MARSHALL	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:MEADE	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:MELLETTE	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:MINER	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:MOODY	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:PENNINGTON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:PERKINS	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SIOUX FALLS,SOUTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:POTTER	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:ROBERTS	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:SANBORN	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:SHANNON	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:SPINK	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:STANLEY	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:SULLY	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:TODD	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:TRIPP	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:TURNER	NON-ELEVATOR:	118	135	163	181	199
STATE:SD	ELEVATOR:	130	148	179	199	218
COUNTY:UNION	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:WALWORTH	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193
COUNTY:WASHABAUGH	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SIOUX FALLS,SOUTH DAKOTA INSURING OFFICE						
NON SMSA						
COUNTY:YANKTON	NON-ELEVATOR:	107	123	147	164	181
STATE:SD	ELEVATOR:	117	134	162	181	199
COUNTY:ZIEBACH	NON-ELEVATOR:	103	119	144	159	176
STATE:SD	ELEVATOR:	115	131	158	176	193

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
HONOLULU,HAWAII AREA OFFICE						
SMSA: HONOLULU, HI						
COUNTY:HONOLULU	NON-ELEVATOR:	228	262	327	438	473
STATE:HI	ELEVATOR:	240	285	326	0	0
NON SMSA						
COUNTY:HAWAII	NON-ELEVATOR:	202	231	273	356	388
STATE:HI	ELEVATOR:	223	255	301	0	0
COUNTY:KAUAI	NON-ELEVATOR:	202	231	268	301	326
STATE:HI	ELEVATOR:	0	0	0	0	0
COUNTY:MAUI	NON-ELEVATOR:	232	262	310	358	388
STATE:HI	ELEVATOR:	0	0	0	0	0
COUNTY:GUAM	NON-ELEVATOR:	238	269	319	382	432
STATE:	ELEVATOR:	0	0	0	0	0

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
LOS ANGELES,CALIFORNIA AREA OFFICE						
SMSA: BAKERSFIELD, CA						
COUNTY:KERN	NON-ELEVATOR:	127	161	186	214	233
STATE:CA	ELEVATOR:	140	177	204	237	256
SMSA: LOS ANGELES-LONG BEACH, CA						
COUNTY:LOS ANGELES	NON-ELEVATOR:	160	181	215	248	281
STATE:CA	ELEVATOR:	177	200	237	273	310
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA						
COUNTY:VENTURA	NON-ELEVATOR:	184	209	245	282	318
STATE:CA	ELEVATOR:	203	230	270	311	350
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA						
COUNTY:SANTA BARBAR	NON-ELEVATOR:	163	185	219	252	277
STATE:CA	ELEVATOR:	179	203	241	276	302
NON SMSA						
COUNTY:SAN LUIS OBI	NON-ELEVATOR:	133	167	203	231	263
STATE:CA	ELEVATOR:	147	185	225	255	288

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PHOENIX,ARIZONA INSURING OFFICE						
SMSA: PHOENIX, AZ						
COUNTY:MARICOPA	NON-ELEVATOR:	167	191	227	260	284
STATE:AZ	ELEVATOR:	184	210	248	286	312
SMSA: TUCSON, AZ						
COUNTY:PIMA	NON-ELEVATOR:	150	173	210	231	263
STATE:AZ	ELEVATOR:	165	190	230	255	288
NON SMSA						
COUNTY:APACHE	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:COCHISE	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:COCONINO	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:GILA	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:GRAHAM	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:GREENLEE	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:MOHAVE	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:NAVAJO	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:PINAL	NON-ELEVATOR:	123	140	166	182	198
STATE:AZ	ELEVATOR:	135	154	182	200	219
COUNTY:SANTA CRUZ	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PHOENIX,ARIZONA INSURING OFFICE						
NON SMSA						
COUNTY:YAVAPAI	NON-ELEVATOR:	112	127	151	167	182
STATE:AZ	ELEVATOR:	122	140	166	183	202
COUNTY:YUMA	NON-ELEVATOR:	123	140	166	182	199
STATE:AZ	ELEVATOR:	135	154	182	200	219

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V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RENO,NEVADA INSURING OFFICE						
SMSA: LAS VEGAS, NV						
COUNTY:CLARK	NON-ELEVATOR:	180	204	243	280	307
STATE:NV	ELEVATOR:	198	226	268	307	337
SMSA: RENO, NV						
COUNTY:WASHOE	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
NON SMSA						
COUNTY:CHURCHILL	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:DOUGLAS	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:ELKO	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:ESMERALDA	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:EUREKA	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:HUMBOLDT	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:LANDER	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:LINCOLN	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:LYON	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:MINERAL	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
RENO,NEVADA INSURING OFFICE						
NON SMSA						
COUNTY:NYE	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:ORMSLEY	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:PERSHING	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:STOREY	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
COUNTY:WHITE PINE	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287
INDEP. CITY:CARSON CITY	NON-ELEVATOR:	161	183	216	238	263
STATE:NV	ELEVATOR:	177	201	239	261	287

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SACRAMENTO,CALIFORNIA INSURING OFFICE						
SMSA: SACRAMENTO, CA						
COUNTY:PLACER	NON-ELEVATOR:	148	167	200	229	251
STATE:CA	ELEVATOR:	163	185	218	252	277
COUNTY:SACRAMENTO	NON-ELEVATOR:	148	167	200	229	251
STATE:CA	ELEVATOR:	163	185	219	252	277
COUNTY:YOLO	NON-ELEVATOR:	148	167	200	229	251
STATE:CA	ELEVATOR:	163	185	219	252	277
SMSA: STOCKTON, CA						
COUNTY:SAN JOAQUIN	NON-ELEVATOR:	133	151	179	206	224
STATE:CA	ELEVATOR:	147	167	196	226	248
NON SMSA						
COUNTY:ALPINE	NON-ELEVATOR:	122	138	165	190	208
STATE:CA	ELEVATOR:	134	152	182	209	229
COUNTY:AMADOR	NON-ELEVATOR:	122	138	165	190	208
STATE:CA	ELEVATOR:	134	152	182	209	229
COUNTY:BUTTE	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232
COUNTY:CALAVERAS	NON-ELEVATOR:	122	138	165	190	208
STATE:CA	ELEVATOR:	134	152	182	209	229
COUNTY:COLUSA	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232
COUNTY:EL DORADO	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232
COUNTY:GLENN	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232
COUNTY:LASSEN	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	186	205

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SACRAMENTO,CALIFORNIA INSURING OFFICE						
NON SMSA						
COUNTY:MODOC	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	186	205
COUNTY:NEVADA	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232
COUNTY:PLUMAS	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	186	205
COUNTY:SHASTA	NON-ELEVATOR:	151	171	202	238	266
STATE:CA	ELEVATOR:	166	188	223	264	293
COUNTY:SIERRA	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	186	205
COUNTY:SISKIYOU	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	186	205
COUNTY:SUTTER	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232
COUNTY:TEHAMA	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	186	205
COUNTY:TRINITY	NON-ELEVATOR:	114	129	154	169	186
STATE:CA	ELEVATOR:	125	142	170	188	205
COUNTY:TUOLUMNE	NON-ELEVATOR:	122	138	165	190	208
STATE:CA	ELEVATOR:	134	152	182	209	229
COUNTY:YUBA	NON-ELEVATOR:	128	146	174	191	211
STATE:CA	ELEVATOR:	141	160	190	211	232

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V 4286 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN DIEGO,CALIFORNIA INSURING OFFICE						
SMSA: SAN DIEGO, CA						
COUNTY:SAN DIEGO	NON-ELEVATOR:	158	180	212	246	278
STATE:CA	ELEVATOR:	174	198	234	270	306
NON SMSA						
COUNTY:IMPERIAL	NON-ELEVATOR:	115	131	157	173	190
STATE:CA	ELEVATOR:	127	145	172	190	208

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN FRANCISCO,CALIFORNIA AREA OFFICE						
SMSA: FRESNO, CA						
COUNTY:FRESNO	NON-ELEVATOR:	144	162	192	223	243
STATE:CA	ELEVATOR:	158	179	211	245	267
SMSA: MODESTO, CA						
COUNTY:STANISLAUS	NON-ELEVATOR:	147	158	192	220	244
STATE:CA	ELEVATOR:	162	174	212	242	269
SMSA: SALINAS-SEASIDE-MONTEREY, CA						
COUNTY:MONTEREY	NON-ELEVATOR:	183	206	245	346	373
STATE:CA	ELEVATOR:	199	222	264	378	405
SMSA: SAN FRANCISCO-OAKLAND, CA						
COUNTY:ALAMEDA	NON-ELEVATOR:	178	203	240	278	315
STATE:CA	ELEVATOR:	196	223	265	304	347
COUNTY:CONTRA COSTA	NON-ELEVATOR:	178	203	240	278	315
STATE:CA	ELEVATOR:	196	223	265	304	347
COUNTY:MARIN	NON-ELEVATOR:	178	203	240	278	315
STATE:CA	ELEVATOR:	196	223	265	304	347
COUNTY:SAN FRANCISC	NON-ELEVATOR:	178	203	240	278	315
STATE:CA	ELEVATOR:	196	223	265	304	347
COUNTY:SAN MATEO	NON-ELEVATOR:	178	203	240	278	315
STATE:CA	ELEVATOR:	196	223	265	304	347
SMSA: SAN JOSE, CA						
COUNTY:SANTA CLARA	NON-ELEVATOR:	182	207	246	283	322
STATE:CA	ELEVATOR:	201	229	271	312	354
SMSA: SANTA CRUZ, CA						
COUNTY:SANTA CRUZ	NON-ELEVATOR:	161	181	215	246	289
STATE:CA	ELEVATOR:	177	200	235	271	296
SMSA: SANTA ROSA, CA						
COUNTY:SONOMA	NON-ELEVATOR:	166	188	223	258	280
STATE:CA	ELEVATOR:	182	206	245	282	308

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SAN FRANCISCO,CALIFORNIA AREA OFFICE						
SMSA: VALLEJO-FAIRFIELD-NAPA, CA						
COUNTY:NAPA	NON-ELEVATOR:	144	164	196	225	248
STATE:CA	ELEVATOR:	159	180	215	246	270
COUNTY:SOLANO	NON-ELEVATOR:	144	164	196	225	246
STATE:CA	ELEVATOR:	159	180	215	246	270
NON SMSA						
COUNTY:DEL NORTE	NON-ELEVATOR:	114	129	154	189	186
STATE:CA	ELEVATOR:	125	142	170	186	205
COUNTY:HUMBOLDT	NON-ELEVATOR:	151	171	202	239	266
STATE:CA	ELEVATOR:	166	188	223	264	293
COUNTY:KINGS	NON-ELEVATOR:	115	131	157	173	190
STATE:CA	ELEVATOR:	127	145	172	190	208
COUNTY:LAKE	NON-ELEVATOR:	144	164	196	225	248
STATE:CA	ELEVATOR:	159	180	215	246	270
COUNTY:MADERA	NON-ELEVATOR:	117	133	158	189	207
STATE:CA	ELEVATOR:	129	146	173	207	227
COUNTY:MARIPOSA	NON-ELEVATOR:	122	138	165	190	208
STATE:CA	ELEVATOR:	134	152	182	209	229
COUNTY:MENDOCINO	NON-ELEVATOR:	133	151	179	206	226
STATE:CA	ELEVATOR:	147	166	198	227	249
COUNTY:MERCED	NON-ELEVATOR:	149	168	199	250	272
STATE:CA	ELEVATOR:	164	184	218	274	299
COUNTY:SAN BENITO	NON-ELEVATOR:	133	151	179	206	226
STATE:CA	ELEVATOR:	147	166	198	227	249
COUNTY:TULARE	NON-ELEVATOR:	128	144	172	189	207
STATE:CA	ELEVATOR:	141	158	189	207	227

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SANTA ANA,CALIFORNIA INSURING OFFICE						
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA						
COUNTY:ORANGE	NON-ELEVATOR:	193	218	258	297	337
STATE:CA	ELEVATOR:	212	240	284	328	370
SMSA: RIVERSIDE-SAN BERNARDINA-ONTARIO, CA						
COUNTY:RIVERSIDE	NON-ELEVATOR:	148	167	200	229	251
STATE:CA	ELEVATOR:	163	184	220	253	277
COUNTY:SAN BERNADIN	NON-ELEVATOR:	148	167	200	229	251
STATE:CA	ELEVATOR:	163	184	220	253	277
NON SMSA						
COUNTY:INYO	NON-ELEVATOR:	115	131	157	173	190
STATE:CA	ELEVATOR:	127	145	172	190	208
COUNTY:MONO	NON-ELEVATOR:	115	131	157	173	190
STATE:CA	ELEVATOR:	127	145	172	190	208

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

V42N86 MAY 4 77 UMI

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ANCHORAGE,ALASKA INSURING OFFICE						
SMSA: ANCHORAGE, AK						
DISTRICT:ANCHORAGE	NON-ELEVATOR:	281	334	412	454	498
STATE:AK	ELEVATOR:	309	367	454	499	546
NON SMSA						
DISTRICT:ALEUTIAN I.	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:ANGOON	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:BARROW	NON-ELEVATOR:	513	566	641	715	780
STATE:AK	ELEVATOR:	0	0	0	0	0
DISTRICT:BETHEL	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:BRISTOL B.B.	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:BRISTOL BAY	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:CORDOVA-MCCA	NON-ELEVATOR:	259	294	347	381	418
STATE:AK	ELEVATOR:	285	323	382	420	460
DISTRICT:FAIRBANKS	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:HAINES	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:JUNEAU	NON-ELEVATOR:	312	353	416	458	501
STATE:AK	ELEVATOR:	342	388	459	504	552
DISTRICT:KENAI-COOK	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:KETCHIKAN	NON-ELEVATOR:	259	294	347	381	418
STATE:AK	ELEVATOR:	285	323	382	420	460

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ANCHORAGE,ALASKA INSURING OFFICE						
NON SMSA						
DISTRICT:KOBUK	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:KODIAK	NON-ELEVATOR:	259	294	347	381	418
STATE:AK	ELEVATOR:	285	323	382	420	460
DISTRICT:KUSKOKWIM	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:MATANUSKA-SU	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:NOME	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:OUTER KETCHK	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:PR. OF WALES	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:SEWARD	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:SITKA	NON-ELEVATOR:	259	294	347	381	418
STATE:AK	ELEVATOR:	285	323	382	420	460
DISTRICT:SKGWY-YKTT	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:SE FAIRBANKS	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:UPPER YUKON	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:VLDZ-CHTN-WN	NON-ELEVATOR:	259	294	347	381	418
STATE:AK	ELEVATOR:	285	323	382	420	460

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
ANCHORAGE,ALASKA INSURING OFFICE						
NON SMSA						
DISTRICT:WADE HAMPTON	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455
DISTRICT:WRNGLL-PTRBR	NON-ELEVATOR:	259	294	347	381	418
STATE:AK	ELEVATOR:	285	323	382	420	460
DISTRICT:YKN-KOYKK	NON-ELEVATOR:	255	290	344	378	415
STATE:AK	ELEVATOR:	281	319	378	416	455

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOISE,IDAHO INSURING OFFICE						
SMSA: BOISE CITY, ID						
COUNTY:ADA	NON-ELEVATOR:	153	174	217	239	262
STATE:ID	ELEVATOR:	168	191	238	261	288
NON SMSA						
COUNTY:ADAMS	NON-ELEVATOR:	126	142	170	186	205
STATE:ID	ELEVATOR:	137	157	186	205	226
COUNTY:BANNOCK	NON-ELEVATOR:	153	174	207	228	250
STATE:ID	ELEVATOR:	168	191	227	250	276
COUNTY:BEAR LAKE	NON-ELEVATOR:	101	116	138	152	167
STATE:ID	ELEVATOR:	112	128	153	168	183
COUNTY:BENEWAH	NON-ELEVATOR:	113	128	153	168	185
STATE:ID	ELEVATOR:	123	141	168	184	203
COUNTY:BINGHAM	NON-ELEVATOR:	153	173	216	239	262
STATE:ID	ELEVATOR:	168	191	238	264	288
COUNTY:BLAINE	NON-ELEVATOR:	140	158	188	208	227
STATE:ID	ELEVATOR:	153	174	207	227	251
COUNTY:BOISE	NON-ELEVATOR:	126	142	170	186	205
STATE:ID	ELEVATOR:	137	157	186	205	226
COUNTY:BONNER	NON-ELEVATOR:	113	128	153	168	185
STATE:ID	ELEVATOR:	123	141	168	184	203
COUNTY:BONNEVILLE	NON-ELEVATOR:	153	173	213	239	262
STATE:ID	ELEVATOR:	168	191	238	264	288
COUNTY:BOUNDARY	NON-ELEVATOR:	113	128	153	168	185
STATE:ID	ELEVATOR:	123	141	168	184	203
COUNTY:BUTTE	NON-ELEVATOR:	140	158	188	208	227
STATE:ID	ELEVATOR:	153	174	207	227	251
COUNTY:CAMAS	NON-ELEVATOR:	140	158	188	208	227
STATE:ID	ELEVATOR:	153	174	207	227	251

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOISE,IDAHO INSURING OFFICE						
NON SMSA						
COUNTY:CANYON STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:CARIBOU STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:CASSIA STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:CLARK STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:CLEARWATER STATE:ID	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:CUSTER STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:ELMORE STATE:ID	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	188	205	226
COUNTY:FRANKLIN STATE:ID	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY:FREMONT STATE:ID	NON-ELEVATOR:	140	158	198	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:GEM STATE:ID	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226
COUNTY:GOODING STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:IDAHO STATE:ID	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:JEFFERSON STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOISE,IDAHO INSURING OFFICE						
NON SMSA						
COUNTY:JEROME STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:KOOTENAI STATE:ID	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:LATAH STATE:ID	NON-ELEVATOR:	123	141	175	193	212
	ELEVATOR:	135	155	193	212	233
COUNTY:LEMHI STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:LEWIS STATE:ID	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR.	123	141	168	184	203
COUNTY:LINCOLN STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:MADISON STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:MINIDOKA STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:NEZ PERCE STATE:ID	NON-ELEVATOR:	123	141	175	193	212
	ELEVATOR:	135	155	193	212	233
COUNTY:ONEIDA STATE:ID	NON-ELEVATOR:	101	116	138	152	167
	ELEVATOR:	112	128	153	168	183
COUNTY:OWYHEE STATE:ID	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226
COUNTY:PAYETTE STATE:ID	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226
COUNTY:POWER STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
BOISE,IDAHO INSURING OFFICE						
NON SMSA						
COUNTY:SHOSHONE STATE:ID	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:TETON STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:TWIN FALLS STATE:ID	NON-ELEVATOR:	140	158	188	208	227
	ELEVATOR:	153	174	207	227	251
COUNTY:VALLEY STATE:ID	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226
COUNTY:WASHINGTON STATE:ID	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226

PREPARED BY HUD - EMAD (CO), MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PORTLAND,OREGON AREA OFFICE						
SMSA: EUGENE , OR						
COUNTY:LANE STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
SMSA: PORTLAND, OR-WA						
COUNTY:CLARK STATE:WA	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
COUNTY:CLACKAMAS STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
COUNTY:MULTNOMAH STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
COUNTY:WASHINGTON STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
SMSA: SALEM, OR						
COUNTY:MARION STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
COUNTY:POLK STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
NON SMSA						
COUNTY:BAKER STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:KLICKITAT STATE:WA	NON-ELEVATOR:	138	154	170	204	228
	ELEVATOR:	152	170	187	228	252
COUNTY:SKAMANIA STATE:WA	NON-ELEVATOR:	138	154	170	204	228
	ELEVATOR:	152	170	187	228	252
COUNTY:BENTON STATE:OR	NON-ELEVATOR:	160	182	217	273	297
	ELEVATOR:	176	200	239	301	327
COUNTY:CLATSOP STATE:OR	NON-ELEVATOR:	114	129	154	189	186
	ELEVATOR:	125	142	170	186	205

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PORTLAND,OREGON AREA OFFICE						
NON SMSA						
COUNTY:COLUMBIA STATE:OR	NON-ELEVATOR:	144	164	194	224	243
	ELEVATOR:	158	180	213	246	268
COUNTY:COOS STATE:OR	NON-ELEVATOR:	119	135	162	185	203
	ELEVATOR:	130	149	177	204	224
COUNTY:CROOK STATE:OR	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:CURRY STATE:OR	NON-ELEVATOR:	119	135	162	185	203
	ELEVATOR:	130	149	177	204	224
COUNTY:DESCHUTES STATE:OR	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:DOUGLAS STATE:OR	NON-ELEVATOR:	119	135	162	185	203
	ELEVATOR:	130	149	177	204	224
COUNTY:GILLIAM STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:GRANT STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:HARNEY STATE:OR	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226
COUNTY:HOOD RIVER STATE:OR	NON-ELEVATOR:	138	154	170	204	228
	ELEVATOR:	152	170	187	228	252
COUNTY:JACKSON STATE:OR	NON-ELEVATOR:	144	164	194	224	243
	ELEVATOR:	158	180	213	246	268
COUNTY:JEFFERSON STATE:OR	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:JOSEPHINE STATE:OR	NON-ELEVATOR:	144	164	194	224	243
	ELEVATOR:	158	180	213	246	268

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PORTLAND,OREGON AREA OFFICE						
NON SMSA						
COUNTY:KLAMATH STATE:OR	NON-ELEVATOR:	144	164	194	224	243
	ELEVATOR:	158	180	213	246	268
COUNTY:LAKE STATE:OR	NON-ELEVATOR:	119	135	162	185	203
	ELEVATOR:	130	149	177	204	224
COUNTY:LINCOLN STATE:OR	NON-ELEVATOR:	145	165	197	226	247
	ELEVATOR:	161	183	216	247	272
COUNTY:LINN STATE:OR	NON-ELEVATOR:	145	165	197	226	247
	ELEVATOR:	161	183	216	247	272
COUNTY:MALHEUR STATE:OR	NON-ELEVATOR:	126	142	170	186	205
	ELEVATOR:	137	157	186	205	226
COUNTY:MORROW STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:SHERMAN STATE:OR	NON-ELEVATOR:	138	154	170	204	228
	ELEVATOR:	152	170	187	228	252
COUNTY:TILLAMOOK STATE:OR	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205
COUNTY:UMATILLA STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:UNION STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:WALLOWA STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
COUNTY:WASCO STATE:OR	NON-ELEVATOR:	138	154	170	204	228
	ELEVATOR:	152	170	187	228	252
COUNTY:WHEELER STATE:OR	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
PORTLAND,OREGON AREA OFFICE						
NON SMSA						
COUNTY:YAMHILL STATE:OR	NON-ELEVATOR:	114	129	154	169	186
	ELEVATOR:	125	142	170	186	205

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE 8- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SEATTLE,WASHINGTON AREA OFFICE						
SMSA: SEATTLE-EVERETT, WA						
COUNTY:KING STATE:WA	NON-ELEVATOR:	163	186	219	263	307
	ELEVATOR:	179	204	242	290	338
COUNTY:SNOHOMISH STATE:WA	NON-ELEVATOR:	163	186	219	263	307
	ELEVATOR:	179	204	242	290	338
SMSA: TACOMA, WA						
COUNTY:PIERCE STATE:WA	NON-ELEVATOR:	149	170	215	255	283
	ELEVATOR:	164	187	237	281	311
SMSA: YAKIMA, WA						
COUNTY:YAKIMA STATE:WA	NON-ELEVATOR:	105	120	143	158	172
	ELEVATOR:	115	131	157	173	190
NON SMSA						
COUNTY:CHELAN STATE:WA	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:CLALLAM STATE:WA	NON-ELEVATOR:	128	146	174	191	211
	ELEVATOR:	141	160	190	211	232
COUNTY:COWLITZ STATE:WA	NON-ELEVATOR:	142	186	208	288	311
	ELEVATOR:	156	205	229	317	342
COUNTY:DOUGLAS STATE:WA	NON-ELEVATOR:	113	128	153	168	185
	ELEVATOR:	123	141	168	184	203
COUNTY:GRAYS HARBOR STATE:WA	NON-ELEVATOR:	128	146	174	191	211
	ELEVATOR:	141	160	190	211	232
COUNTY:ISLAND STATE:WA	NON-ELEVATOR:	128	146	174	191	211
	ELEVATOR:	141	160	190	211	232
COUNTY:JEFFERSON STATE:WA	NON-ELEVATOR:	128	146	174	191	211
	ELEVATOR:	141	160	190	211	232
COUNTY:KITSAP STATE:WA	NON-ELEVATOR:	142	161	192	210	231
	ELEVATOR:	156	177	211	230	253

PREPARED BY HUD - EMAD (CO). MARCH 23, 1977

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SEATTLE,WASHINGTON AREA OFFICE						
NON SMSA						
COUNTY:KITTITAS	NON-ELEVATOR:	105	120	143	158	172
STATE:WA	ELEVATOR:	115	131	157	173	190
COUNTY:LEWIS	NON-ELEVATOR:	128	146	174	191	211
STATE:WA	ELEVATOR:	141	160	190	211	232
COUNTY:MASON	NON-ELEVATOR:	128	146	174	191	211
STATE:WA	ELEVATOR:	141	160	190	211	232
COUNTY:OKANOGAN	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:PACIFIC	NON-ELEVATOR:	128	146	174	191	211
STATE:WA	ELEVATOR:	141	160	190	211	232
COUNTY:SAN JUAN	NON-ELEVATOR:	128	146	174	191	211
STATE:WA	ELEVATOR:	141	160	190	211	232
COUNTY:SKAGIT	NON-ELEVATOR:	128	146	174	191	211
STATE:WA	ELEVATOR:	141	160	190	211	232
COUNTY:THURSTON	NON-ELEVATOR:	138	156	186	202	221
STATE:WA	ELEVATOR:	152	172	204	224	243
COUNTY:WAHKIAKUM	NON-ELEVATOR:	114	129	154	169	186
STATE:WA	ELEVATOR:	125	142	170	186	205
COUNTY:WHATCOM	NON-ELEVATOR:	147	168	200	220	242
STATE:WA	ELEVATOR:	161	184	219	241	266

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPOKANE,WASHINGTON INSURING OFFICE						
SMSA: RICHLAND-KENNEWICK, WA						
COUNTY:BENTON	NON-ELEVATOR:	105	120	143	158	172
STATE:WA	ELEVATOR:	115	131	157	173	190
COUNTY:FRANKLIN	NON-ELEVATOR:	105	120	143	158	172
STATE:WA	ELEVATOR:	115	131	157	173	190
SMSA: SPOKANE, WA						
COUNTY:SPOKANE	NON-ELEVATOR:	152	173	222	270	312
STATE:WA	ELEVATOR:	167	190	244	297	332
NON SMSA						
COUNTY:ADAMS	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:ASOTIN	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:COLUMBIA	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:FERRY	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:GARFIELD	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:GRANT	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:LINCOLN	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:PEND OREILLE	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203
COUNTY:STEVENS	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
SPOKANE,WASHINGTON INSURING OFFICE						
NON SMSA						
COUNTY:WALLA WALLA	NON-ELEVATOR:	105	120	143	158	172
STATE:WA	ELEVATOR:	115	131	157	173	190
COUNTY:WHITMAN	NON-ELEVATOR:	113	128	153	168	185
STATE:WA	ELEVATOR:	123	141	168	184	203

PREPARED BY HUD - EMAD (CO). MARCH 23. 1977

@ERS
FURPUR 27R1 RL72-8 03/25/77 03:10:06
END ERS.

@XQT
MAP28R1 RL71-3 03/25/77 02:53:43

ADDRESS LIMITS 001000 011662 4531 IBANK WORDS DECIMAL
040000 166364 44277 DBANK WORDS DECIMAL
STARTING ADDRESS 010736

SEGMENT $MAIN$		001000 011662		040000 166364
NSWTC$/FOR69	$(1)	001000 001024		
NRBLK$/FOR-E2	$(1)	001025 001047		
NRWND$/FOR-E2	$(1)	001050 001133	$(2)	040000 040011
NWEF$/FOR-E2	$(1)	001134 001341	$(2)	040012 040031
NBDCV$/FOR64	$(1)	001342 001467	$(2)	040032 040074
NFTCH$/FOR-E2	$(1)	001470 001752	$(2)	040075 040110
NFTV$/FOR-E2	$(1)	001753 001775		
NCNVT$/FOR6B	$(1)	001776 002217	$(2)	040111 040205
NCLOS$/FOR-E2	$(1)	002220 002452	$(2)	040206 040233
NWBLK$/FOR6B	$(1)	002453 002564		
NBSBL$/FOR6B	$(1)	002565 002625		
NUPDA$/FOR6B	$(1)	002626 002661		
NBFOO$/FOR-E2			$(2)	040234 042435
NOTIN$/FOR6B	$(1)	002662 003156	$(2)	042436 042441
NOUT$/FOR-E2C	$(1)	003157 004333	$(2)	042442 042500
NIOER$/FOR-E2	$(1)	004334 004525	$(2)	042501 042646
NININ$/FOR6B	$(1)	004526 004716	$(2)	042647 042652
NINPT$/FOR-E2C	$(1)	004717 006070	$(2)	042653 042707
NFMT$/FOR-E2C	$(1)	006071 006753	$(2)	042710 042764
NFCHK$/FOR-E2C	$(1)	006754 007740	$(2)	042765 043135
	$(3)	007741 007741	$(4)	043136 043207
NTAB$/FOR-HUD			$(2)	043210 043250
ERU$/SYS72-8				
NERR$/FOR-E2	$(1)	007742 010365	$(2)	043251 043455
NSTOP$/FOR69	$(1)	010366 010412	$(2)	043456 043465
NOBUF$/FOR6B	$(1)	010413 010453		
NIER$/FOR-E2	$(1)	010454 010632	$(2)	043466 043604
NIBUF$/FOR-E2	$(1)	010633 010672	$(2)	043605 043605
NINTR$/FOR-E2A	$(1)	010673 010735	$(2)	043606 043625
SMSANA(COMMONBLOCK)				043626 051255
INSJUR(COMMONBLOCK)				051256 052671
BLANK$COMMON(COMMONBLOCK)				
FMRUPDATE/FOUR	$(1)	010736 011662	$(0)	052672 166362
	$(3)	INSJUR	$(2)	BLANK$COMMON
			$(4)	SMSANA
BOSMSANA	$(3)	SMSANA	$(0)	166363 166363
			$(2)	BLANK$COMMON
BDINSJUR	$(3)	INSJUR	$(0)	166364 166364
			$(2)	BLANK$COMMON

SYSS*RLIBS. LEVEL 72-8
END MAP

[FR Doc.77-12602 Filed 5-3-77;8:45 am]

V 4286 MAY 4 77 UMI

federal register

WEDNESDAY, MAY 4, 1977

PART VI



OFFICE OF MANAGEMENT AND BUDGET

■

DEPARTMENTS OF COMMERCE AND THE TREASURY

Budget Rescission and Deferral

V 42 86 MAY 4 77
UMI

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENTS OF COMMERCE AND THE TREASURY

Budget Rescission and Deferral

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report one new deferral of budget authority amounting to $6.0 million for the antirecession financial assistance fund of the Department of the Treasury. In addition, I am reporting a revision in the basis for and a reduction in the amount of a previously transmitted Department of Commerce deferral.

The details of each deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, April 28, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Commerce:	
	National Oceanic and Atmospheric Administration	
D77-46A	Operations, research, and facilities	6,300
	Treasury:	
	Office of the Secretary	
D77-57	Antirecession financial assistance fund	6,030
	Total, deferrals	12,330

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977

(in thousands of dollars)

	Rescissions	Deferrals
Eleventh special message:		
New items	---	6,030
Changes to amounts previously submitted	---	-1,200
Effect of the eleventh special message	---	4,830
Previous special messages	1,040,378	7,215,588
Total amount proposed in special messages	1,040,378 (in 13 rescission proposals)	7,220,418 (in 57 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

V 42 86 MAY 4 77 UMI

D77-46A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D77-46 transmitted to the Congress on January 17, 1977, and printed as House Document No. 94-48 and Senate Document No. 95-19.

This revision reflects a decrease in the amount deferred in fiscal year 1977 for the operations, research, and facilities appropriation of the National Oceanic and Atmospheric Administration from $7,500,000 to $6,300,000. The decrease of $1,200,000 in the amount deferred will permit funds to be made available for additional operating requirements of the eight regional fishery management councils, provide administrative support to the 29 states and territories represented on the councils, and implement an observer program on foreign fishing vessels. Use of the funds for these purposes is consistent with an approved reprogramming which recognizes that construction of one rather than two fishery research vessels is now required. The remaining funds will be deferred for the entire year for use in fiscal year 1978.

Deferral No: D77-46A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 94-362): $566,215,000 1/
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 62,781,270
Appropriation title & symbol: Operations, Research, and Facilities (Ship Construction) 13X1450	Total budgetary resources: 628,996,270
	Amount to be deferred: Part of year: $ ____
	Entire year: 6,300,000*
OMB identification code: 13-1450-0-1-306	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

*Justification

This deferral of $6.3 million will delay funding until 1978 for the construction of one new (Class IV) fishery research vessel, and provide funding in 1978 for eight regional fishery councils, administrative support for the 29 states and territories represented on the fishery councils, and an observer program on foreign fishing vessels. The funds being deferred were provided in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1977 (P.L. 94-362).

Expanded fisheries resources conservation, assessment, and management efforts are authorized by section 304 of the United States Fisheries Management and Conservation Act of 1976 (P.L. 94-265). The National Oceanic and Atmospheric Administration (NOAA) had originally planned to use these funds to further fisheries resources efforts by construction of two fishery research vessels. It was subsequently determined, however, that mission requirements for additional ship-days could be met in the near future with existing NOAA vessels and in the longer term by constructing one vessel for service on the east coast and using charter vessels on the west coast.

The deferral will permit efficient use of the funds by assuring (1) that the new vessel is not ready for service before it can be most effectively used and (2) that the portion of the deferred funds related to other fisheries resources efforts in 1978 is reserved until it is actually needed.

*Revised from previous report.

1/ Does not include $55,000 transfer to General Administration, Department of Commerce, for water resources planning activity.

V 4 286 6 MAY 4 77 7 UMI

D77-46A

-2-

* Estimated Effects

The construction delay should have no adverse impact on the fisheries resources program. Adequate ship time is available and satisfactory substitute charter vessels are available on the west coast to achieve research missions for the next several years.

* Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:	
1. Budget outlay estimate for 1977	$572.9
2. Outlay savings, if any, included in the budget outlay estimate	3.8
Current Outlay Estimates for 1977:	
3. Without deferral	576.7
4. With deferral	574.8
5. Current outlay savings (line 3 minus line 4)	1.9
Outlay Savings for 1978	-0-
Outlay Savings for 1979	-1.9

*Revised from previous report

Deferral No: D77-57

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 94-447): $ 937,500,000
Bureau: Office of the Secretary	Other budgetary resources: 312,500,000
Appropriation title & symbol: Antirecession Financial Assistance Fund 207/80108	Total budgetary resources: 1,250,000,000
	Amount to be deferred: Part of year: $ ____
	Entire year: 6,030,000
CMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program: [x] Yes [ ] No	[x] Other P.L. 94-369
Type of account or fund: [ ] Annual; [x] Multiple-year September 30, 1978 (expiration date); [ ] No-year	Type of budget authority: [x] Appropriation; [ ] Contract authority; [ ] Other ____

Justification

The Secretary of the Treasury must hold a portion of this account in reserve to meet valid claims from State and local governments that past antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,000 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for the transition quarter and FY 1977.

This cumulative unobligated reserve, totaling $6.0 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution.

Estimated Effect

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

V 42 86 MAY 4 77 UMI

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:

1. Budget outlay estimate for FY 1977	$1,250.0
2. Outlay savings, if any, included in the budget outlay estimate	-0-

Current Outlay Estimates for FY 1977:

3. Without deferral	1,250.0
4. With deferral	1,244.0
5. Current outlay savings (line 3 - line 4)	+6.0
	-6.0
Outlay savings for FY 1978	-0-
Outlay savings for FY 1979	

[FR Doc.77-12861 Filed 5-2-77;11:53 am]

V 42 86 MAY 4 77 UMI

Supplement 3

PRINCIPAL EXECUTIVE BRANCH OFFICIALS OF THE ADMINISTRATION OF JIMMY CARTER

Appointed January 20–April 30, 1977

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- **Supplements the 1976/77 edition of the U.S. Government Manual**

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V 42 86 MAY 4 77 UMI

87

Vol.42—No.87
5–5–77
PAGES
22859–23125

federal register

THURSDAY, MAY 5, 1977

highlights

SUNSHINE ACT MEETINGS 23027

COMMITTEE ON SELECTION OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION
Executive order 22859

TRIS AND FABRIC, YARN OR FIBER CONTAINING TRIS
CPSC issues additional interpretation on banned hazardous substances; effective 5–5–77 22878

CRUDE OIL
FEA proposes amendments regarding pricing of oil from Alaska's North slope; comments by 5–19–77 22889

MIXED OXIDE FUEL
NRC assesses impact of President's 4–7–77 statement on "Nuclear Power Policy" on the Commission's 11–11–75 policy statement; comments by 6–3–77 22964

FUEL RATE SCHEDULES
FPC terminates rulemaking proceedings regarding protection against abuse in administration of adjustment clauses; effective 4–26–77 22897

POWER LAWN MOWERS
CPSC proposes safety standards; comments by 7–5–77 (Part II of this issue) 23051

CONSUMER DISPUTES
FTC proposes to protect the identity of complainants in certain proceedings; comments by 6–6–77 22897

FEDERAL CRIME INSURANCE PROGRAM
HUD/FIA proposes amendments to existing protective device requirements as condition of coverage; comments by 6–6–77 22900

VETERANS BENEFITS
VA amends regulations regarding eligibility for educational assistance benefits for persons entering the armed forces after 1–1–77; effective 1–1–77 22868

BROKERS AND DEALERS
FRS establishes uniform margin requirements for writing options; effective 6–1–77 22862

FISHERY MANAGEMENT AND CONSERVATION
State publishes applications for permits to fish off U.S. Coast (Part III of this issue) 23073

CONTINUED INSIDE

V42 87 MAY 5 77
UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Standard instrument approach procedures; changes and additions. 20117; 4–18–77

Standard instrument approach procedures; changes and additions.. 17106; 3–31–77

Standard instrument approach procedures; operations established, amended, suspended or revoked at certain airports in Connecticut and Minnesota..... 18391; 4–7–77

FCC—Radio broadcast services; FM assignment, Plymouth, Ohio.... 16625; 3–29–77

HEW/FDA: Cepha antibiotic drugs, sterile cefazolin sodium; revision of pH values and increase in samples submitted for certification..... 18058; 4–5–77

Oligosaccharide antibiotic drugs, sterile neomycin sulfate and polymyxin B sulfate solution; revised pH limit. 18059; 4–5–77

Submissions of data and reports; dealer and distributor records; certification and identification labels..... 18061; 4–5–77

International Women's Year National Commission on Observance: Alaska Women, 5–6 and 5–8–77.....
Georgia Women, 5–6 and 5–7–77.....

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk.....	523–5215
Finding Aids.....	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)..	523–5266
Finding Aids.....	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents....	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers.....	523–5237
Slip Laws.....	523–5237
U.S. Statutes at Large.....	523–5237
Index	523–5237
U.S. Government Manual.....	523–5230
Automation	523–5240
Special Projects.....	523–5240

HIGHLIGHTS—Continued

RAIL LINES IN PENNSYLVANIA
ICC publishes results of evaluation of six light-density rail lines (Part IV of this issue)..... 23077

PRIVACY ACT
Justice adopts routine uses for certain systems of records 22953
CPSC amends regulations; effective 5–5–77..... 22878
CPSC announces elimination of a system of records; effective 5–5–77..... 22922

MEETINGS—
DOD/AF: USAF Scientific Advisory Board (2 documents), 6–8, 6–9, 6–28 and 6–29–77..... 22922
Armed Forces Institute of Pathology Scientific Advisory Board, 5–25 and 5–26–77..... 22922
EPA: Subcommittee For Automotive Catalytic Converter Exhaust Studies, 5–23–77..... 22909
HEW/HRA: Nursing Research and Education Advisory Committee, 6–21 thru 6–24–77..... 22937
NSF: Anthropology Advisory Panel, 5–24 and 5–25–77 22962
Population Biology Advisory Panel, 5–23 and 5–24–77 22962
NRC: ACRS Reactor Fuel Subcommittee, 5–20–77..... 22965
ACRS Electrical Systems, Control, and Instrumentation Subcommittee, 5–20–77..... 22965
OTP: U.S. INMARSAT Preparatory Committee Working Group, 5–26–77..... 22966
State: International Intellectual Property Advisory Committee, 6–1–77..... 22967
Overseas School Advisory Council, 6–1–77..... 22967
DOT/CG: National Boating Safety Advisory Council, Visual Distress Signal Subcommittee, 5–23–77..... 22968
VA: Cooperative Studies Evaluation Committee, 6–6 thru 6–8–77..... 22969

CANCELLED MEETINGS—
DOT/CG: National Boating Safety Advisory Council, 5–24 and 5–25–77..... 22968

RESCHEDULED MEETING—
DOT/OPSO: Technical Pipeline Safety Standards Committee, 6–7 and 6–8–77..... 22968

SEPARATE PARTS OF THIS ISSUE
Part II, CPSC..... 23051
Part III, State..... 23073
Part IV, ICC..... 23077

V 42 87 MAY 5 77 UMI

contents

THE PRESIDENT

Executive Orders

Committee on Selection of the Director of the Federal Bureau of Investigation ---------- 22859

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Authority delegations:
- Administrator; order of succession ---------- 22966
- Bahamas, Bolivia, Brazil, et al., principal officers; operational program grants ---------- 22967
- Egypt, Mission Director; loan agreements, etc.; correction ---------- 22967

AGRICULTURAL MARKETING SERVICE

Rules

Oranges, navel, grown in Ariz. and Calif ---------- 22874

Pears, plums and peaches grown in Calif ---------- 22875

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Federal Grain Inspection Service; Forest Service.

Rules

Import quotas and fees; cheese, certain, price determination ---------- 22874

AIR FORCE DEPARTMENT

Notices

Meetings:
- Scientific Advisory Board, Aerospace Vehicles Panel Committee ---------- 22922
- Scientific Advisory Board, Foreign Technology Division Advisory Group ---------- 22922

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Notices

Authority delegations:
- Regional Regulatory Administrators; trade name information disclosure ---------- 22968
- Regional Regulatory Administrators et al.; compromise of tax liabilities ---------- 22968

ANTITRUST DIVISION, JUSTICE DEPARTMENT

Notices

Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
- Foremost-McKesson, Inc ---------- 22951

ARMY DEPARTMENT

Notices

Meetings:
- Armed Forces Institute of Pathology Scientific Advisory Board ---------- 22922

CANADA AND UNITED STATES, INTERNATIONAL JOINT COMMISSION

Notices

Pollution problems, Lake Huron and Lake Superior; hearings ---------- 22949

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- Air New England, Inc ---------- 22919
- Air Wisconsin, Inc ---------- 22920
- British Airways ---------- 22918
- Deutsche Lufthansa Aktiengesellschaft ---------- 22919
- International Air Transport Association ---------- 22915
- Trans World Airlines, Inc ---------- 22921

COAST GUARD

Rules

Claims other than contract claims; amendments to settlement procedures ---------- 22879

Proposed Rules

Dangerous cargoes; handling, transfer, and transportation; qualifications of personnel; correction ---------- 22903

Notices

Meetings:
- Boating Safety National Advisory Council, Capacity Label Subcommittee; cancelled ---------- 22968
- Boating Safety National Advisory Committee, Visual Distress Signal Subcommittee ---------- 22968

COMMERCE DEPARTMENT

See also Economic Development Administration.

Notices

Committees; establishment, renewals, etc.:
- South Atlantic Fishery Management Council Advisory Panel ---------- 22921

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY

Notices

Cartographic information program, basic; interagency agreement with Geological Survey; cross reference ---------- 22937

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Privacy Act; implementation ---------- 22878

TRIS; additional interpretations ---------- 22878

Proposed Rules

Lawn mowers, power; safety standards ---------- 23051

Notices

Privacy Act; systems of records ---------- 22922

DEFENSE DEPARTMENT

See Air Force Department; Army Department.

DELAWARE RIVER BASIN COMMISSION

Notices

Environmental statements; availability, etc.:
- New York City reservoirs ---------- 22922

DRUG ENFORCEMENT ADMINISTRATION

Notices

Registration applications, etc.; controlled substances:
- Noell, John S., M.D ---------- 22950
- Sigma Chemical Co ---------- 22950
- U.S. Pharmacopeial Convention, Inc ---------- 22951

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
- Daco Manufacturing, Inc ---------- 22921

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
- Alabama ---------- 22869

Proposed Rules

Air quality implementation plans; various States, etc.:
- Iowa ---------- 22902

Notices

Air pollution; standards of performance for new stationary sources:
- Alabama, authority delegation ---------- 22905

Air quality implementation plans; various States, etc.:
- Colorado, required revisions ---------- 22908

Meetings:
- Environmental Measurements Advisory Committee; Automotive Catalytic Converter Exhaust Studies Subcommittee ---------- 22909

Pesticide registration:
- Applications ---------- 22906

Pesticides; specific exemptions and experimental use permits:
- Freers Elm Arrester et al ---------- 22905
- Stauffer Chemical Co. et al ---------- 22909

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
- Boeing ---------- 22863
- Boeing; correction ---------- 22862
- Dowty Rotol ---------- 22862

Standard instrument approach procedures ---------- 22863

Proposed Rules

Airport aid program; nondiscrimination; extension of time ---------- 22896

Airworthiness directives:
- Societe Nationale Industrielle Aerospatiale ---------- 22896

FEDERAL COMMUNICATIONS COMMISSION

Rules

Maritime services, land and shipboard stations:
- Ship and coast stations, frequencies for radiotelephony service (2 documents) ---------- 22869–22872

FEDERAL ENERGY ADMINISTRATION

Rules

Petroleum price regulations, mandatory:
- Gasoline, leaded and unleaded ---------- 22881

Proposed Rules

Petroleum allocation and price regulations, mandatory:
- Alaska North Slope crude oil pricing and entitlements treatment ---------- 22889

Notices

Environmental statements; availability, etc.:
- Wisconsin Public Service Corp., Weston Generating Sta., Powerplant 2 ---------- 22922

Information and computer requirements, State and local governments; computer support contract clause; inquiry ---------- 22923

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
- Indiana ---------- 22909

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood Insurance Program, National:
- Communities eligible for sale of insurance (3 documents) ---------- 22865–22867

Proposed Rules

Crime insurance program, Federal:
- Protective device requirements; condition of coverage ---------- 22900

FEDERAL MARITIME COMMISSION

Notices

Inactive tariffs; independent carriers in foreign commerce ---------- 22923

FEDERAL PAPERWORK COMMISSION

Notices

Hearings; cancelled ---------- 22922

FEDERAL POWER COMMISSION

Proposed Rules

Electric utilities:
- Rate schedules filings; fuel adjustment clauses; withdrawn ---------- 22897

Notices

Hearings, etc.:
- Algonquin Gas Transmission Co ---------- 22925
- Ft. Pierce Utility Authority, et al ---------- 22928
- Gillring Oil Co ---------- 22928
- Gruy Management Service Co ---------- 22927
- Gulf States Utilities Co ---------- 22929
- Kentucky Ohio Gas Co ---------- 22926
- Public Service Co. of Indiana, Inc ---------- 22929
- Wisconsin Electric Power Co. and Wisconsin Michigan Power Co ---------- 22931

FEDERAL RESERVE SYSTEM

Rules

Credit by brokers and dealers:
- Uniform margin requirements for writing options ---------- 22862

Equal credit opportunity:
- Interpretations ---------- 22861

Proposed Rules

Credit by brokers and dealers:
- Options exchange specialists, credit ---------- 22894

Notices

Applications, etc.:
- Farmbanc Co ---------- 22935
- First International Bancshares, Inc ---------- 22935
- North Fork Corp ---------- 22935
- Texas Commerce Bancshares, Inc ---------- 22935
- Winters National Corp ---------- 22936

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
- General Electric Co ---------- 22876
- National Service Industries, Inc ---------- 22876
- Sears, Roebuck & Co ---------- 22876

Proposed Rules

Procedures and practice rules:
- Nonadjudicative procedures; complainants names; disclosure ---------- 22897

FISH AND WILDLIFE SERVICE

Rules

Fishing:
- Tewaukon National Wildlife Refuge, N. Dak ---------- 22874

Proposed Rules

Hunting:
- Hatchie National Wildlife Refuge, Tenn ---------- 22903

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
- Idaho Panhandle National Forest; Boulder Planning Unit, Idaho ---------- 22915

Environmental statements under preparation as of March 15, 1977 ---------- 22909

GEOLOGICAL SURVEY

Notices

Cartographic information program, basic; interagency agreement with HUD/CP&D ---------- 22940

Coal mining plans:
- Utah ---------- 22940

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Health Resources Administration.

Rules

Nondiscrimination:
- Handicapped in federally-assisted programs; correction ---------- 22888

HEALTH RESOURCES ADMINISTRATION

Notices

Meetings:
- Advisory Committees; June ---------- 22937

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Community Planning and Development, Office of Assistant Secretary; Federal Insurance Administration.

INDIAN AFFAIRS BUREAU

Proposed Rules

Irrigation projects, operation and maintenance charges:
- San Carlos, Ariz ---------- 22902

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau; National Park Service.

INTERNATIONAL WOMEN'S YEAR OBSERVANCE, NATIONAL COMMISSION

Notices

Meetings:
- Alaska Women's Coordinating Committee ---------- 22961
- Georgia Women's Coordinating Committee ---------- 22961

INTERSTATE COMMERCE COMMISSION

Rules

Railroad car service orders; various companies:
- Chicago, Milwaukee, St. Paul & Pacific Railroad Co ---------- 22880

Notices

Abandonment of railroad services, etc.:
- Clarendon & Pittsford Railroad Co ---------- 22976
- Illinois Central Gulf Railroad Co ---------- 22981
- Illinois Terminal Railroad Co ---------- 22973
- Southern Railway Co ---------- 23103

Car service rules, mandatory; exemptions (2 documents) ---------- 22978

Fourth section applications for relief ---------- 22970

Hearing assignments ---------- 22970

Motor carriers:
- Transfer proceedings (2 documents) ---------- 22970

Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications ---------- 22997

Rail transportation:
- Pennsylvania, light-density rail lines; evaluation ---------- 23077

Rerouting of traffic:
- Birmingham Southern Railroad, et al ---------- 22978

V42N87 MAY 5 77 UMI

JUSTICE DEPARTMENT

See also Antitrust Division, Justice Department; Drug Enforcement Administration.

Notices

Privacy Act; systems of records... 22953

AND MANAGEMENT BUREAU

Notices

Airport leases:
Alaska ... 22940
Arizona ... 22940
Applications, etc.:
New Mexico (2 documents) ... 22938, 22939
Washington, et al ... 22937
Outer Continental Shelf:
Oil and gas lease sales; restricted joint bidders, list ... 22939
Recreation management, access, etc.:
Rouge National Wild and Scenic River, Oreg ... 22937
Withdrawal and reservation of lands, proposed, etc.:
California; corrections (2 documents) ... 22938

MATERIALS TRANSPORTATION BUREAU

See also Pipeline Safety Operations Office.

Rules

Radioactive materials, low-level; air transportation of limited quantities; exemption renewal ... 22880

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Notices

Breath alcohol measuring devices; qualified products list; correction ... 22968

NATIONAL PARK SERVICE

Notices

Boundary descriptions:
National Historic Landmarks Program ... 22941

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Anthropology Advisory Panel ... 22962
Population Biology Advisory Panel ... 22962

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc ... 22962

NUCLEAR REGULATORY COMMISSION

Rules

Early site reviews and limited work authorizations; rules of practice ... 22882

Notices

Meetings:
Reactor Safeguards Advisory Committee (2 documents) ... 22965
Mixed oxide fuel; order ... 22964
Applications, etc.:
Alabama Power Co ... 22966
Consumers Power Co ... 22966

PIPELINE SAFETY OPERATIONS OFFICE

Notices

Meetings:
Technical Pipeline Safety Standards Committee ... 22968

RAILROAD RETIREMENT BOARD

Rules

Sunshine Act; implementation ... 22865

STATE DEPARTMENT

See also Agency for International Development.

Notices

Fishing permits, applications:
Union of Soviet Socialist Republics ... 23073
Meetings:
International Intellectual Property Advisory Committee ... 22967
Overseas Schools Advisory Council ... 22967

TELECOMMUNICATIONS POLICY OFFICE

Notices

Meetings:
INMARSAT Preparatory Committee Working Group ... 22966

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Materials Transportation Bureau; National Highway Traffic Safety Administration; Pipeline Safety Operations Office.

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau.

VETERANS ADMINISTRATION

Rules

Adjudication; pensions, compensation, dependency, etc.:
Educational assistance benefits; eligibility ... 22868

Notices

Meetings:
Cooperative Studies Evaluation Committee ... 22969

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
11971 (Amended by EO 11982) ... 22859
11982 ... 22859

7 CFR

6 ... 22874
907 ... 22874
917 ... 22875

10 CFR

50 ... 22882
212 ... 22881

PROPOSED RULES:
211 ... 22889
212 ... 22889

12 CFR

202 ... 22861
220 ... 22862

PROPOSED RULES:
220 ... 22894

14 CFR

393 (3 documents) ... 22862, 22863
97 ... 22863

PROPOSED RULES:
39 ... 22896
152 ... 22896

16 CFR

13 (3 documents) ... 22876
1014 ... 22878
1500 ... 22878

PROPOSED RULES:
2 ... 22897
1205 ... 23052

18 CFR

PROPOSED RULES:
35 ... 22897

20 CFR

200 ... 22865

24 CFR

1914 (3 documents) ... 22865–22867

PROPOSED RULES:
1932 ... 22900

25 CFR

PROPOSED RULES:
221 ... 22902

33 CFR

25 ... 22879

38 CFR

3 ... 22868

40 CFR

52 ... 22869

PROPOSED RULES:
52 ... 22902

45 CFR

84 ... 22888

46 CFR

PROPOSED RULES:
10 ... 22903
12 ... 22903
151 ... 22903

47 CFR

81 (2 documents) ... 22869–22872
83 (2 documents) ... 22869–22872

49 CFR

172 ... 22880
175 ... 22880
1033 ... 22880

50 CFR

33 ... 22874

PROPOSED RULES:
32 ... 22903

V42N87 MAY 5 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR
Ch. I 22125

3 CFR
EXECUTIVE ORDERS:
11971 (Amended by EO 11982) 22859
11982 22859

5 CFR
213 ..... 22355, 22356

7 CFR
6 22874
52 22356
271 22356
701 22358
907 22874
910 22359
917 22875
959 22125
1068 22360
1421 22126
1430 22126

8 CFR
PROPOSED RULES:
103 22148
244 22148
299 22149

9 CFR
78 22370
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373
390 22373
391 22373
PROPOSED RULES:
1 22374
2 22374
3 22374

10 CFR
2 22128
50 22882
212 ..... 22131, 22881
PROPOSED RULES:
2 22168
170 22149
211 22889
212 ..... 22374, 22889

12 CFR
202 22861
220 22862
226 22360
329 22362
PROPOSED RULES:
220 22894
225 22560
329 22378

13 CFR
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137

14 CFR
39 ..... 22137, 22862, 22863
71 22138
91 22139
97 22863
PROPOSED RULES:
39 ..... 22172, 22896
71 ..... 22172, 22173
152 22896

15 CFR
50 22362

16 CFR
13 22876
1014 22878
1202 22656
1500 22878
PROPOSED RULES:
2 22897
1205 23052

17 CFR
231 22139
239 22139

18 CFR
1000 22146
PROPOSED RULES:
35 22897

20 CFR
200 22865
PROPOSED RULES:
655 22378

21 CFR
561 22363

23 CFR
PROPOSED RULES:
640 22173
642 22173

24 CFR
235 22557
888 22363
1914 22865–22867
PROPOSED RULES:
803 22704
888 22704
1932 22900

25 CFR
219 22141
PROPOSED RULES:
221 22902

26 CFR
301 22143

27 CFR
178 22144
181 22144

28 CFR
0 22557

29 CFR
9 22364
40 22364
1910 22516

31 CFR
PROPOSED RULES:
215 22174

33 CFR
25 22879

36 CFR
7 22557

37 CFR
PROPOSED RULES:
4 22378

38 CFR
3 22868

39 CFR
PROPOSED RULES:
111 22176

40 CFR
33 22144
52 22869
180 22364
228 22144
435 22558
PROPOSED RULES:
51 22177
52 22902
60 22506
250 22332
435 22560

41 CFR
15–3 22145
101–25 22558

43 CFR
PUBLIC LAND ORDERS:
5617 22365

45 CFR
4 22145
84 ..... 22676, 22888
1067 22365
1068 22145
PROPOSED RULES:
186 22336

46 CFR
148 22145

46 CFR—Continued
PROPOSED RULES:
10 22903
12 22903
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296
151 22903
502 22383

47 CFR
73 22558
74 22558
81 22869–22872
83 22869–22872
PROPOSED RULES:
73 ..... 22183, 22560

49 CFR
1 22366
172 ..... 22366, 22880
175 ..... 22366, 22880
1033 ..... 22367, 22368, 22880

49 CFR—Continued
1041 22369
1320 22369
1322 22369
PROPOSED RULES:
Ch. II 22184

50 CFR
33 22874
611 22559
PROPOSED RULES:
32 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date	Pages	Date
22125–22354	May 2	22557–22858	4
22355–22556	3	22859–23125	5

V42N87 MAY 5 77 UMI

Title 3—The President

Executive Order 11982 • April 29, 1977

Committee on Selection of the Director of the Federal Bureau of Investigation

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to extend for 30 days the reporting time for the Committee on Selection of the Director of the Federal Bureau of Investigation, Section 3(a) of Executive Order No. 11971 of February 11, 1977, is hereby amended to read as follows:

"The Committee shall submit to the President and to the Attorney General, no later than June 11, 1977, a report listing the names of the five persons whom the Committee considers best qualified to serve as the Director and setting forth such other information as the President or the Attorney General may require.".

Jimmy Carter

THE WHITE HOUSE,
April 29, 1977.

[FR Doc.77-13116 Filed 5-4-77;11:15 am]

V42N87 MAY 5 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B; Docket No. R–0097]

PART 202—EQUAL CREDIT OPPORTUNITY

Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretations.

SUMMARY: In response to a request to determine whether two California laws are inconsistent with the Equal Credit Opportunity Act and Regulation B, and therefore preempted, the Board has issued two interpretations of its Regulation B, Equal Credit Opportunity. The Board has determined that the California law requiring the delivery of a disclosure to credit applicants explaining the obligation undertaken by co-signers and the California law requiring translation of all notifications and loan documents into Spanish are not inconsistent with the Act and regulation.

EFFECTIVE DATE: April 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Ann J. Geary, Acting Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3946)

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 705(f) of the Equal Credit Opportunity Act to determine whether State laws are inconsistent with the Act and Regulation B, the Board has issued the following interpretations of Regulation B. which implements the Act.

Therefore, §§ 202.1101 and 202.1102 are added to Part 202 to read as follows:

§ 202.1101 California law requiring delivery of notices to unmarried co-signers is not consistent with Equal Credit Opportunity Act.

(a) The Board has been asked to determine whether certain provisions of the California Civil Code are inconsistent with the Federal Equal Credit Opportunity Act (the ECOA) and Regulation B. The ECOA preempts those State laws that are inconsistent with it, unless the State law provides greater protection to the applicant. Section 202.11(b)(1) of Regulation B further defines the statutory preemption standard by listing five types of State law that are deemed inconsistent and less protective of an applicant. The Board has determined, as more fully discussed below, that the notification and Spanish-language translation requirements of §§ 1799.90–1799.96 and 1632 of the California Civil Code are not inconsistent with the Act and Regulation B.

(b) California Civil Code §§ 1799.90–1799.96 require that whenever more than one person signs a consumer credit contract, each signer must receive a notice explaining the obligations imposed by the contract as well as a copy of all documents affecting the obligations to be undertaken. If the signers are married to each other, however, no notice need be delivered.

(c) Section 202.11(b)(1)(i) of Regulation B provides that if a State law "* * * requires or permits a practice or act prohibited by the Act or (Regulation B)," it is preempted. In order to determine whether favoring unmarried applicants over married applicants when delivering notices is a practice intended to be prohibited by the ECOA, the scope and purpose of the Act must be identified.

(d) The Act forbids discrimination in the granting of credit on several bases, but marital status is the only prohibited basis relevant to this discussion. The purpose of the Act as stated in section 502 is:

> * * * to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to * * * marital status.

(e) Although the State law in question clearly discriminates on the basis of marital status by requiring protections for unmarried co-signers not required for married ones, the Board has determined that the discrimination is not the type prohibited by the Act because the State law does not inhibit the equal availability of credit to all creditworthy customers. The Board believes that a law requiring the delivery of a notice affects neither the availability of credit nor the creditworthiness of the applicant to the extent that would render it inconsistent with the Act and Regulation B, unless:

(1) The notice conveys information that is inconsistent with the intent of the Act or Regulation B; or

(2) The State law prohibits delivery of a notice required by the Act or Regulation B.

(f) Accordingly, the Board has determined that §§ 1799.90–1799.96 of the California Civil Code requiring notifications for co-signers are not inconsistent with Regulation B. Creditors will not violate the Equal Credit Opportunity Act or Regulation B by complying with this State law.

§ 202.1102 California law requiring Spanish translation of credit documents is not inconsistent with Equal Credit Opportunity Act.

(a) California Civil Code § 1632 generally requires that any person who negotiates primarily in the Spanish language orally or in writing in the course of entering into certain transactions, including some consumer credit contracts, must display a Spanish-language notice advising customers that they may request an unexecuted Spanish-language contract or agreement. Section 1799.91 requires that where the notice to cosigners, discussed above, is required, a Spanish translation of the notice must also be provided.

(b) The Board has been asked to determine whether the State law, by requiring creditors to give preferential treatment to Spanish-speaking credit applicants, requires discrimination against other credit applicants on the basis of their national origin, and, therefore is preempted by § 202.11(b)(1)(i) of Regulation B.

(c) The judgment must be made whether a translation requirement benefitting only one national group frustrates the intent of the Federal Act and regulation; that is, whether affording special protection to one group adversely affects the creditworthiness of other groups or makes credit less available to them. The Board has determined that in the case or §§ 1632 and 1799.91 of the California Civil Code, it does not.

(d) The right to obtain a translation of documents relating to a consumer credit transaction does not affect an applicant's credit-worthiness nor does it make credit more readily available. It aids consumers in understanding the obligation they are about to incur. The Federal Equal Credit Opportunity Act requires that creditors apply their standards of creditworthiness uniformly without regard to national origin. A State requirement that contract terms be made more easily understandable for one group is therefore not inconsistent with the Act and Regulation B. Creditors may comply with the notification and translation requirements imposed by sections 1632 and 1799.91 of the California Civil Code without violating Regulation B.

(e) This interpretation should not be construed to condone a refusal to negotiate with certain groups or the discouraging of their applications because they are afforded special protection by State law. Such a practice may violate the Act and regulation.

By order of the Board of Governors, effective April 27, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–12858 Filed 5–4–77;8:45 am]

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[Reg. T; Docket No. R-0004]

PART 220—CREDIT BY BROKERS AND DEALERS

Uniform Margin Requirements for Writing Options

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment (1) relaxes the rule to permit a put and a call on the same underlying security but with different exercise prices and different expiration dates to be combined for special margin treatment in the same manner as a "straddle" (a put and a call with identical terms) and (2) deletes reference in the existing "straddle" rule to the special bond account and the special convertible debt security account as it is impractical to use these accounts for the described transaction.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Laura Homer, Chief Attorney, Securities Credit Regulation, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202–452–2782.

SUPPLEMENTARY INFORMATION: Comments received on the Board's proposal to establish a uniform margin for the writing of options which appeared in the FEDERAL REGISTER of August 20, 1975 (40 FR 36390) suggested that the proposed rule covering special margin for straddles be enlarged to cover combinations of puts and calls with different terms. At the time the Board adopted the proposed rule (FEDERAL REGISTER of October 5, 1976, 41 FR 43895) put trading on exchanges had not been authorized by the Securities and Exchange Commission. In a letter dated March 4, 1977, however, the Commission indicated its approval of the exchange trading of puts if certain conditions were met. The Board believes it is appropriate to relax the rule in this area and to remove the references to accounts other than the general account so as to have the amendment effective when put trading begins on or after June 1, 1977. The Board finds that notice and public procedure thereon are unnecessary because the amendment is in response to comments which were received on this specific subject in connection with the proposed general rule and failure to put this amendment into effect before put trading begins on exchanges would be disruptive to customer education and industry operations.

Accordingly, pursuant to sections 7 and 23 of the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78 g and w) the Board amends 12 CFR part 220 as follows:

§ 220.3 General account.

* * * * *

(i) *Options* * * *

(4) When both a put and a call are issued, endorsed or guaranteed in a general account on the same number of shares of the same underlying security, the amount of margin required shall be the margin on either the put or the call, whichever is greater, plus any unrealized loss on the other option.

By order of the Board of Governors, April 27, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–12854 Filed 5–4–77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77–NW–8–AD; Amdt. 39–2881]

PART 39—AIRWORTHINESS DIRECTIVE

ADS Supply Co. and Air Spares International, Inc.; Unapproved Appliances Installed in Boeing Model Airplanes

Correction

In FR Doc. 77–12118 appearing at page 21607 in the issue for Thursday, April 28, 1977, the bracketed material should have read as set forth above.

[Docket No. 15773; Amdt. 39–2890]

PART 39—AIRWORTHINESS DIRECTIVES

Dowty Rotol Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection and rework, if necessary, of certain Dowty Rotol propellers to preclude possible hub failures resulting from cracks.

DATES: Effective date: May 19, 1977. Compliance required at the next propeller overhaul or within the next 4,700 hours propeller time in service after the effective date of this AD, whichever occurs first, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Dowty Rotol Inc., Staverton West, Sully Road, P.O. Box 5000, Sterling, Virginia, 22170, telephone 703–450–5930. A copy of the service bulletin is contained in the rules docket Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection and rework, if necessary, of certain Dowty Rotol Type (c) R175/4–30–4/13E and (c) R212/4–30–4/22 propellers was published in the FEDERAL REGISTER at 41 FR 23420. The proposal was prompted by reports of propeller hub cracks.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are Mr. R. E. Follensbee, Europe, Africa, and Middle East Region, Mr. F. H. Kelley, Flight Standards Service, and Mr. S. Podberesky, Office of the Chief Counsel.

Accordingly, and pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

DOWTY ROTOL: Applies to Dowty Rotol Type (c) R175/4–30–4/13E and (c) R212/4–30–4/22 propellers having hub and driving center, N/N 601023166, 601023223, or 601023227 modified to Dowty Rotol Mod. No. (c) VP2381 standard. These propellers are installed on, but not necessarily limited to, Fokker Model F–27 Mks. 100, 300, and 700 Series and Hawker Siddeley Model 748 Series 2A airplanes.

Compliance is required at the next propeller overhaul or within the next 4,700 hours propeller time in service after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent cracking and possible failure of the hub driving center due to improper machining, accomplish the following:

(a) For Type (c) R175/4–30–4/13E propellers, that incorporate the following hub and driving center assemblies, rework the hub driving center to salvage scheme No. 640144020 in accordance with Paragraph 2A of Dowty Rotol Service Bulletin 61–857, dated February 3, 1975, or an equivalent approved in accordance with paragraph (c) of this AD:

HUB AND DRIVING CENTER ASSEMBLY SERIAL NUMBERS

175/58/67	175/58/146
175/58/72	175/59/184
175/58/91	

(b) For Type (c) R175/4–30–4/13E propellers that incorporate hub and driving center assemblies having serial numbers not listed in paragraph (a) of this AD and Type (c) R212/4–30–4/22 propellers—

(1) Inspect the hub driving center to verify correct machining in accordance with Paragraph 2B of Dowty Roto Service Bulletin 61–857 dated February 3, 1975, or an equivalent approved in accordance with paragraph (c) of this AD; and

(2) If the hub driving center is found to have been incorrectly machined, rework it to salvage scheme No. 640144020 in accordance with Paragraph 2A of Dowty Roto Service Bulletin 61–857, dated February 3, 1975, or an equivalent approved in accordance with paragraph (c) of this AD.

(c) The equivalent means of compliance specified in paragraphs (a) and (b) of this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region c/o American Embassy, APO New York, N.Y. 09667.

This amendment becomes effective May 19, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington D.C. on April 27, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77–12947 Filed 5–4–77;8:45am]

[Docket No. 77–NW–11–AD (Amdt. 39–2888)]

PART 39—AIRWORTHINESS DIRECTIVE

Boeing Model 707/720 Series Airplanes Inboard Engine Nacelle Attach Structure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule airworthiness directives (AD).

SUMMARY: This AD is being issued to require inspections of the inboard engine nacelle strut attach structure on Boeing Model 707/720 series airplanes, to detect and repair cracks which may exist. Similar cracks have resulted, in one instance, in separation of an engine from the airframe of a 707–100B airplane in normal flight. These cracks are likely to occur on the other 707/720 airplanes. Approximately 815 Boeing 707/720 series airplanes are to be inspected and repaired as necessary.

DATES: Effective date: May 5, 1977. Initial compliance required within 100 hours of operating time.

ADDRESSES: Federal Aviation Administration, Northwest Region, Engineering and Manufacturing Branch, 9010 E. Marginal Way South, Seattle, Washington 98124.

FOR FURTHER INFORMATION CONTACT:

Maurice P. Cook, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone 206–767–2516.

SUPPLEMENTARY INFORMATION: Cracks have been found in the inboard engine nacelle attachment structure on 707/720 series airplanes. Structural analysis of the inboard engine nacelle strut attachment fittings with a failed inboard mid-spar support fitting shows that the structure is still fail-safe. However, the redistribution of loads creates a severe fatigue environment for the remaining attach fittings. Since this condition is likely to occur in other 707/720 series airplanes, an Airworthiness Directive is being issued which will require inspections of (1) the inboard nacelle strut, inboard and outboard mid-spar support fittings and if damage is found, (2) the inboard nacelle strut upper support fittings.

This rule was coordinated with the Boeing Company and the operators through the Air Transport Association (ATA) prior to issuance.

Accordingly, 14 CFR 39, Section 39.13 of the Federal Aviation Regulations is amended effective May 5, 1977, by adding the following new Airworthiness Directive.

BOEING: Applies to all Boeing 707/720 series airplanes with more than 12,000 hours time-in-service, certificated in all categories listed in Boeing Service Bulletin No. 3183. Compliance required as indicated unless already accomplished.

A. Within the next 100 hours time-in-service, visually inspect the inboard nacelles for droop. Inspect fairing straps, access panels and fairings between strut and wing for buckles, wrinkles, cracks, elongated holes and loose or broken fasteners in accordance with Boeing Telegraphic Message No. M–7010–2807 or Boeing Service Bulletin No. 3183, Revision 1, or later approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If noticeable nacelle droop, unusual gap conditions or flexure damage to sheet metal is observed, inspect in accordance with paragraph B below prior to further flight.

B. Within the next 500 hours time-in-service after the effective date of this AD, unless accomplished within the last 1,000 hours, and thereafter at intervals not to exceed 1,500 hours time-in-service, conduct a close visual inspection with a mirror of the inboard nacelle strut, inboard and outboard midspar support fittings, while manually shaking the nose cowl. Inspections are to be made in accordance with Boeing Telegraphic Message No. M–7010–2807 or detail 1 and 2 of Figure 1 of Boeing Service Bulletin No. 3183, Revision 1, or later approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If cracks are found, inspect in accordance with paragraph C below and repair in accordance with paragraph D.

C. If cracks are found in the mid-spar support fittings, remove the fairings over the inboard nacelle strut upper support fittings and conduct an eddy current inspection of the fittings and the upper wing skin at the two most forward fastener holes on the inboard flange of the fittings common to the fittings, the front spar upper chord and the upper wing skin in accordance with Boeing NDT Document D6–7170 or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If cracks are found, repair in accordance with paragraph D.

D. Terminating action for this AD is replacement or repair of the inboard nacelle strut inboard and outboard mid-spar support fittings in accordance with Boeing Service Bulletin No. 3183, Revision 1, and if damaged, replacement or repair of the inboard nacelle strut upper support fittings in accordance with Boeing Service Bulletin No. 3173 or later FAA approved revisions of these bulletins or modifications approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

E. Airplanes with no more than one tang of one inboard nacelle strut mid-spar support fitting failed may be flown in accordance with FAR 21.197 to a base where repairs can be performed.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 5, 1977.

NOTE.—An evaluation of the anticipated impacts has been made, and it is expected that the final regulation is neither costly nor controversial. The preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107 is not required.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington on April 26, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document was approved by the Director of the Federal Register on June 19, 1967. The principal author of this document are Mr. M. P. Cook, Engineering and Manufacturing Branch, and Mr. R. Salwen, Office of the Regional Counsel, Northwest Region.

[FR Doc.77–12855 Filed 5–4–77;8:45 am]

[Docket No. 16763; Amdt. No. 1071]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

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FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal author of this document is Rudolph L. Fioretti, Flight Standards Service.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * effective June 16, 1977.

Ozark, AL—Blackwell Field, VOR Rwy 30, Amdt. 3
Cartersville, GA—Cartersville, VOR/DME-A, Amdt. 1
Cedartown, GA—Cornelius-Moore Field, VOR-A, Amdt. 8
Muncie, IN—Delaware County-Johnson Field, VOR Rwy 14, Amdt. 10
Muncie, IN—Delaware County-Johnson Field, VOR Rwy 20, Amdt. 7
Muncie, IN—Delaware County-Johnson Field, VOR Rwy 32, Amdt. 8
Flint, MI—Bishop, VOR Rwy 9, Amdt. 16
Flint, MI—Bishop, VOR Rwy 18, Amdt. 9
Flint, MI—Bishop, VOR Rwy 27, Amdt. 12
Flint, MI—Bishop, VOR Rwy 36, Amdt. 5
Fairmont, MN—Fairmont Muni, VOR Rwy 13, Amdt. 2
Fairmont, MN—Fairmont Muni, VOR Rwy 31, Amdt. 5
Kaunakakai, Molokai, Molokai, VOR-A (TAC), Amdt. 5
Omaha, NE—Eppley Airfield, VOR Rwy 32L, Amdt. 5
Barnesville, OH—Barnesville-Bradfield, VOR Rwy 27, Amdt. 4
Lima, OH—Allen County, VOR Rwy 27, Amdt. 9
Sandusky, OH—Griffing Sandusky, VOR Rwy 27, Amdt. 1
Klamath Falls, OR—Kingsley Field, VOR-B, Amdt. 1
Klamath Falls, OR—Kingsley Field, VORTAC Rwy 14, Amdt. 4, cancelled
Klamath Falls, OR—Kingsley Field, VORTAC Rwy 32, Amdt. 2, cancelled
Klamath Falls, OR—Kingsley Field, VOR/DME Rwy 14 (TAC), Orig
Klamath Falls, OR—Kingsley Field, VOR/DME Rwy 32 (TAC), Orig
Chester, SC—Chester Muni, VOR/DME Rwy 23, Amdt. 1
Nacogdoches, TX—East Texas Regional, VOR/DME Rwy 33, Amdt. 3
Gloucester, VA—Gloucester, VOR-A, Amdt. 4
Spokane, WA—Spokane Int'l, VOR Rwy 3, Amdt. 11

* * * effective June 2, 1977.

Bangor, ME—Bangor International, VOR Rwy 15, Amdt. 5, cancelled
Bangor, ME—Bangor International, VOR-A, Original
Bangor, ME—Bangor International, VOR/DME Rwy 15, Original
Bangor, ME—Bangor International, VOR/DME Rwy 33, Amdt. 2

* * * effective April 20, 1977.

Gainesville, FL—Gainesville Muni., VOR-A, Amdt. 7
Gainesville, FL—Gainesville Muni., VOR/DME Rwy 24, Amdt. 4

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * effective June 16, 1977.

Flint, MI—Bishop, LOC BC Rwy 27, Amdt. 9
Klamath Falls, OR—Kingsley Field, LOC/DME Rwy 32, Amdt. 3
Spokane, WA—Spokane Int'l., LOC Rwy 3, Amdt. 1

* * * effective June 2, 1977.

Bar Harbor, ME—Bar Harbor, LOC. Rwy 22, Amdt. 2

* * * effective May 19, 1977.

Carlsbad, CA—Palomar, LOC Rwy 24, Amdt. 2, cancelled

* * * effective April 27, 1977.

New Orleans, LA—New Orleans International (Moisant Field) LOC(BC) Rwy 28, Amdt. 9

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * effective June 16, 1977.

Spirit Lake, IA—Spirit Lake Muni, NDB Rwy 16, Amdt. 1
Portland, ME—Portland Int'l Jetport, NDB Rwy 11, Amdt. 12
Worcester, MA—Worcester Muni., NDB Rwy 11, Amdt. 8
Worcester, MA—Worcester Muni., NDB Rwy 29, Amdt. 2
Omaha, NE—Eppley Airfield, NDB Rwy 14R, Amdt. 19
Wilkesboro, NC—Wilkes County, NDB Rwy 24, Amdt. 1
Lima, OH—Allen County, NDB-A, Original, Klamath Falls, OR—Kingsley Field, NDB-A, Amdt. 4

* * * effective June 2, 1977.

Bangor, ME—Bangor International, NDB Rwy 33, Amdt. 3
Bar Harbor, ME—Bar Harbor, NDB-A, Amdt. 2
Flint, MI—Bishop, NDB Rwy 9, Amdt. 17

* * * effective April 20, 1977.

Gainesville, FL—Gainesville Muni, NDB Rwy. 28, Amdt. 5

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * effective June 16, 1977.

Portland, ME—Portland Int'l Jetport, ILS Rwy 11, Amdt. 15
Worcester, MA—Worcester Muni., ILS Rwy 11, Amdt. 8
Omaha, NE—Eppley Airfield, ILS Rwy 14R,9 Amdt. 19
Klamath Falls, OR—Kingsley Field, ILS Rwy 32, Amdt. 16

* * * effective June 2, 1977.

Bangor, ME—Bangor International, ILS Rwy 33, Amdt. 7
Flint, MI—Bishop, ILS Rwy 9, Amdt. 10

* * * effective May 25, 1977.

Glens Falls, NY—Warren County, ILS Rwy 1, Amdt. 1

* * * effective May 19, 1977.

Carlsbad, CA—Palomar, ILS Rwy 24, Original
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, ILS Rwy 25, Amdt. 4

* * * effective April 21, 1977.

LaCrosse, WI—LaCrosse Muni., ILS Rwy 18, Amdt. 5

* * * effective April 20, 1977.

Gainesville, FL—Gainesville Muni., ILS Rwy 28, Amdt. 3

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * effective June 16, 1977.

Flint, MI—Bishop, RADAR-1, Amdt. 1

* * * effective June 2, 1977.

Bangor, ME—Bangor International, RADAR-1, Original
Old Town, ME—Dewitt Fld, Old Town Muni., RADAR-1, Original

* * * effective April 21, 1977.

Enid, OK—Enid Woodring Muni., RADAR-1, Amdt. 1, cancelled

6. By amending Section 97.33 RNAV SIAPs identified as follows:

* * * effective June 16, 1977.

Omaha, NE—Eppley Airfield, RNAV Rwy 32L, Amdt. 2

* * * effective April 20, 1977.

Gainesville, FL—Gainesville Muni., RNAV Rwy 28, Amdt. 4

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on April 29, 1977.

AMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-12857 Filed 5-4-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

PART 200—PROCEDURES AND FORMS

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: This action is necessary to permit the handling of certain Board business by sequential circulation and notational voting and was prompted by the comments received from various sources suggesting such an action. It is contemplated that these amendments will provide a workable method by which the Board may expeditiously handle routine business matters without jeopardizing the rights of the general public as granted by the Government in the Sunshine Act.

EFFECTIVE DATE: April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 (312-751-4920).

Section 200.5 (20 CFR 200.5 (a) (1) and (b)) is amended to read as follows:

§ 200.5 Open meetings.

(a) *Definitions*—(1) *Meeting.* For purposes of this section, the term "meeting" shall mean the deliberations of at least two of the three members of the Railroad Retirement Board, which deliberations determine or result in the joint conduct or disposition of official agency business. The term "meeting" shall not include:

(i) Deliberations of the Board members concerning the closure of a meeting, the withholding of any information with respect to a meeting, the scheduling of a meeting, the establishment of the agenda of a meeting, or any change in the scheduling, agenda, or the open or closed status of a meeting; or

(ii) Consideration by the Board members of agency business circulated to them individually in writing for disposition by notation.

* * * * * *

(b) (1) The members of the Board shall not jointly conduct or dispose of agency business except in accordance with the procedures and requirements established by this section. *Provided, however,* That nothing in this section shall be construed so as to prohibit the Board from disposing of routine or administrative matters by sequential, notational voting.

(2) Where agency business is disposed of by notational voting as provided in paragraph (b)(1) of this section, the minutes of the next succeeding Board meeting shall reflect such action.

(3) Every portion of every meeting of the Board at which agency business is conducted or disposed of shall be open to public observation, except as provided in paragraph (c) of this section.

By authority of the Board.

Dated: April 22, 1977.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77-12848 Filed 5-4-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2878]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance

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can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
New York	Wyoming	Perry, town of	Apr. 18, 1977. Emergency	June 28, 1974 and May 7, 1976.	360946-A
Ohio	Hocking	Unincorporated areas	do		390272
New York	Cattaraugus	Napoli, town of	Apr. 20, 1977. Emergency	June 14, 1974 and Jan. 2, 1976 and Feb. 25, 1977.	360086B
Michigan	Van Buren	Paw Paw, village of	Apr. 21, 1977. Emergency	Oct. 10, 1975	260598
Oklahoma	Lincoln	Prague, city of	do	Apr. 9, 1976	400435
Indiana	Randolph	Farmland, town of	Apr. 22, 1977. Emergency	Feb. 21, 1975	180390

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 15, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-12749 Filed 5-4-77;8:45 am]

[Docket No. FI-2879]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by Section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Iowa	Madison	East Peru, city of	Apr. 25, 1977. Emergency	July 2, 1976	190450
Kentucky	Floyd	Allen, town of	Apr. 14, 1977. Emergency	Jan. 23, 1974 and Feb. 27, 1976.	210070-A
Do	Pike	Coal Run, village of	do	Jan. 10, 1975	210263
Do	Floyd	Martin, city of	do	May 24, 1974 and Feb. 27, 1976.	210071-A
Do	Martin	Unincorporated areas	do	Dec. 13, 1974	210166
Maine	Aroostook	Limeus, town of	Apr. 25, 1977. Emergency	Feb. 21, 1975	230427
New York	Otsego	Laureus, town of	do	Jan. 3, 1975	361419
Do	do	Morris, village of	do	Nov. 15, 1974 and May 28, 1976.	361353-A
Pennsylvania	Huntingdon	Clay, township of	do	Dec. 13, 1974	421687
Do	Cambria	Dean, township of	do	Nov. 8, 1974	421440
Do	do	Middle Taylor, township of	do	Nov. 22, 1974	421443
Do	Indiana	North Mahoning, township of	do	Jan. 10, 1975	422438
Do	Cumberland	South Newton, township of	do	Dec. 27, 1974	421586
Virginia		Norton, independent city	Mar. 17, 1972, Emergency; Feb. 16, 1977, Regular; Mar. 1, 1977, Suspension; Apr. 14, 1977, Reinstated.	June 15, 1973	510108-A
Oklahoma	McClain	Byars, town of	Apr. 26, 1977. Emergency	Aug. 13, 1976	400267
Pennsylvania	Huntingdon	Coalmont, borough of	do	Mar. 28, 1975	420484
Do	do	Saltillo, borough of	do	Jan. 31, 1975	420492
Kansas	Jewell	Mankato, city of	Apr. 27, 1977. Emergency	Aug. 6, 1976	200521
New York	Jefferson	Lyme, town of	do	Nov. 5, 1976	360343-A
North Carolina	Alleghany	Sparta, town of	do	Feb. 15, 1974 and July 2, 1976.	370005-A
Connecticut	New London	Groton, town of	April 15, 1977. Suspension withdrawal	Feb. 21, 1975	090097
Maryland	Dorchester and Caroline	Federalsburg, town of	do	Jan. 30, 1976	240013
New Jersey	Camden	Haddonfield, borough of	do	Nov. 30, 1973 and Feb. 6, 1976.	340510A
Do	do	Pennsauken, township of	do	Jan. 16, 1974 and Mar. 19, 1976.	340142A
Do	Burlington	Riverton, borough of	do	Dec. 28, 1973 and Dec. 27, 1974.	340114A
North Carolina	Brunswick	Southport, city of	do	May 24, 1974	370028A
South Carolina	Beaufort	Port Royal, town of	do	June 14, 1974 and Oct. 10, 1975.	450028A
Texas	Hardin	Rose Hill Acres, city of	do	Sept. 13, 1974 and Mar. 5, 1976.	480846A
Kentucky	Breathitt	Unincorporated areas	April 20, 1977. Emergency	Jan. 3, 1975	210023
Do	Perry	Vicco, city of	do	May 10, 1974 and Mar. 5, 1976.	210192-A
Ohio	Ottawa	Oak Harbor, village of	April 28, 1977. Emergency	Mar. 1, 1974 and Apr. 16, 1976.	390433-A

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 22, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-12750 Filed 5-4-77;8:45 am]

[Docket No. FI 2880]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list communities where the sale of flood insurance as authorized under the National Flood Insurance Program will be suspended because of noncompliance with the program regulations.

DATES: The last date that appears in the fourth column is the effective date of the suspension of the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community.

The entry reads as follows:

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§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
California	Marin	Belvedere, city of	Apr. 28, 1972, Emergency; May 16, 1977, Regular; June 1, 1977, Suspension.	June 7, 1974 and Apr. 23, 1976.	060429-A
Do	do	Tiburon, city of	Sept. 1, 1972, Emergency; May 16, 1977, Regular; June 1, 1977, Suspension.	June 7, 1974	060430
Connecticut	New London	New London, city of	Mar. 24, 1974, Emergency; May 16, 1977, Regular; May 16, 1977, Suspension.	June 28, 1974	090100
Delaware	Kent	Clayton, town of	Dec. 26, 1974, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	May 17, 1974 and Oct. 24, 1975.	100005
Do	do	Harrington, city of	May 17, 1974, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	May 17, 1974 and Dec. 19, 1975.	100010
Do	Kent and Sussex	Milford, city of	June 5, 1974, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	May 24, 1974	100042
Do	Kent	Smyrna, town of	June 13, 1974, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	May 10, 1974 and Sept. 26, 1975.	100017
Florida	Santa Rosa	Milton, city of	July 30, 1971, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	May 24, 1974	120276
Do	Volusia	Port Orange, city of	July 19, 1974, Emergency; May 16, 1977, Regular; June 1, 1977, Suspension.	July 19, 1974	120313-A
Michigan	Muskegon	Muskegon, city of	May 25, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	June 7, 1974	260161-A
Do	do	North Muskegon, city of	December 11, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	May 31, 1974	260164
Do	Leelanau	Suttons Bay, village of	September 17, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	June 28, 1974 and June 11, 1976.	260164-A
Do	Tuscola	Vassar, city of	December 19, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	June 14, 1974	260206-A
Minnesota	Sherburne	Elk River, city of	February 19, 1974, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	Mar. 8, 1974 and June 11, 1976.	270436
Missouri	St. Louis	Brentwood, city of	September 7, 1973, Emergency; May 16, 1977, Regular; June 1, 1977, Suspension.	Dec. 28, 1973	290338
Do	do	Cool Valley, village of	December 11, 1973, Emergency; May 16, 1977, Regular; June 1, 1977, Suspension.	May 3, 1974 and Dec. 19, 1975.	290342-A
Do	Marion	Unincorporated areas	June 28, 1973, Emergency; May 16, 1977, Regular; June 1, 1977, Suspension.	May 16, 1977	290222
South Dakota	Butte	Belle Fourche, city of	May 3, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	Nov. 2, 1973 and Oct. 3, 1975.	460012-A
Do	Meade	Sturgis, city of	February 9, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	Nov. 16, 1973 and Oct. 18, 1974.	460055-B
Texas	Bexar	Leon Valley, city of	June 25, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	Oct. 12, 1973	480042-A
Wisconsin	Pepin	Durand, city of	April 13, 1973, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	Oct. 12, 1973 and Apr. 2, 1976.	550320
Do	Eau Claire and Chippewa.	Eau Claire, city of	March 19, 1971, Emergency; June 1, 1977, Regular; June 1, 1977, Suspension.	Sept 20, 1974 and Sept. 24, 1976.	550128-A

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-12751 Filed 4-5-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

ELIGIBILITY FOR EDUCATIONAL ASSISTANCE BENEFITS

AGENCY: Veterans Administration.

ACTION: Final Rule.

SUMMARY: This amended regulation provides authority and guidelines for making disability discharge determinations needed to determine entitlement to educational assistance payable for persons entering the Armed Forces on or after January 1, 1977.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. H. Spindle, Chief, Regulations Staff, Compensation and Pension Service, Veterans Administration, Washington, D.C. 20420 (202-389-3005).

SUPPLEMENTARY INFORMATION: On page 10319 of the FEDERAL REGISTER of February 22, 1977, there was published a notice of proposed regulatory development to amend § 3.315(c) to provide that its provisions applicable to determinations needed to determine entitlement to educational assistance payable under Chapter 34, Title 38, United States Code are also applicable to determinations under Chapter 32, Title 38, United States Code, as added by Pub. L. 94-502 (90 Stat. 2383). To be eligible for benefits under Chapter 32 a veteran must have served on active duty for more than 180 days. A veteran who served less than 181 days on active duty is eligible if discharged or released from service because of a service-connected disability (or had at time of separation from service a service-connected disability which would have warranted a disability discharge).

Interested persons were given 30 days in which to submit comments, suggestions, objections regarding the proposed regulation. No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved: April 27, 1977.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

In § 3.315, paragraph (c) is revised to read as follows:

§ 3.315 Basic eligibility determinations; dependents, loans, education.

* * * * *

(c) *Veterans' educational assistance.* A determination is required as to whether a veteran was discharged or released from service because of a service-connected disability (or that the official service department records show that the veteran had at time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability) whenever a veteran applies for educational benefits under 38 U.S.C. ch. 32 or ch. 34 and is eligible for such benefits except for the 181 days active duty requirement. This determination is subject to the presumptions of incurrence under § 3.304(b) and aggravation under § 3.306 (a) and (c), based on service rendered on or after February 1, 1955 and before August 5, 1964, or after May 7, 1975, and under § 3.306(b) based on service rendered during the Vietnam era. (38 U.S.C. 1602(1)(A); 1652(a).)

[FR Doc.77-12906 Filed 5-4-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 724-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Prevention of Significant Deterioration of Air Quality; Delegation of Authority to the State of Alabama

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The amendment below institutes address changes for the implementation of the technical and administrative portions of the Prevention of Significant Deterioration of Air Quality (PSD) program. The notice announcing the delegation of authority is pubished elsewhere in this issue of the FEDERAL REGISTER.

EFFECTIVE DATE: February 17, 1977.

ADDRESSES: This amendment provides that all reports, requests, applications, submittals, and communications required for the delegated review will now be sent to the following address instead of to EPA's Region IV: Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36103.

FOR FURTHER INFORMATION CONTACT:

Eliot Cooper, Air Programs Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia, 30308, 404/881-3286.

SUPPLEMENTARY INFORMATION: The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective February 17, 1977, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations. This rulemaking is effective immediately and is issued under authority of sections 101, 110, and 301 of the Clean Air Act (42 U.S.C. 1857, 1857c-5, and 1857g). Accordingly, 40 CFR Part 52 is amended by adding a new paragraph to § 52.60, as follows:

Subpart B—Alabama

§ 52.60 Significant deterioration of air quality.

* * * * *

(c) All applications and other information required pursuant to § 52.21 from sources located in the State of Alabama shall be submitted to the Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36103, rather than to EPA's Region IV Office.

Dated: April 25, 1977.

JOHN A. LITTLE,
Acting Deputy Regional Administrator.

[FR Doc.77-12827 Filed 5-4-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20449; RM-2078; RM-2225; RM-2245; FCC 77-267]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA PUBLIC-FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Providing for Use of Certain Frequencies in the Maritime Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission's rules are amended to allocate certain frequencies between 4 MHz and 25 MHz for use in the maritime services to Mobile, Alabama; New York, N.Y.; Miami, Florida and San Francisco, California. The action is taken following a notice of proposed rulemaking adopted in response to petitions for rulemakings filed by Mobile Marine Radio, Inc., and AT&T. It is intended to provide for an equitable distribution of operating frequencies among competing Class I radiotelephony carriers.

EFFECTIVE DATE: June 3, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Lucian L. Arnone, International Programs Staff, Common Carrier Bureau, 202-632-3214; or James L. Ball, Tariff Proceedings Branch, Common Carrier Bureau, 202-632-7164.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—
PROCEEDING TERMINATED

Adopted: April 14, 1977.

Released: April 22, 1977.

In the matter of Amendment of Parts 81 and 83 to provide for the use of certain radiotelephone frequencies between 5 and 25 MHz at Mobile, Alabama; cross-licensing of radiotelephone frequencies at Miami, Florida, New York, New York, and San Francisco, California; and additional frequencies at Miami, Florida, Docket No. 20449, RM-2078, RM-2225, RM-2245.

1. We have before us comments and reply comments filed in response to our notice of proposed rulemaking in the above-captioned matter released on May 1, 1975 (52 FCC 2d 865) and published in the FEDERAL REGISTER on May 7, 1975 (40 FR 19838). Our notice of Proposed Rulemaking was adopted upon consideration of petitions for rulemakings filed by Mobile Marine Radio, Inc., (MMR) and American Telephone and Telegraph Company (AT&T). The dates for filing comments and reply comments thereto have passed.

2. Comments were filed by:

American Institute of Merchant Shipping (AIMS); Central Committee on Telecommunications of the American Petroleum Institute (API); Gulf Radiotelephone & Electronics, Inc. (GULF); St. Phillip Towing and Transportation Co. (ST. P); Mobile Marine Radio, Inc. (MMR); American Telephone and Telegraph Company (AT&T).

Reply comments were filed by:

AT&T; MMR.

3. AT&T is the licensee of public coast class I stations in Miami, Florida; New York, New York; and San Francisco, California, and MMR is the licensee of a class I station in Mobile, Alabama. This proceeding essentially seeks to determine the assignment of certain public coast radiotelephone frequencies in the high frequency (HF) bands 4 to 27.5 MHz for use by these stations. In addition to our proposed assignment of HF band frequencies, our notice of proposed rule making requested comments on the following:

V42N87 MAY 5 77 UMI

a. Any radiotelephone requirements to support direct-printing transmissions; [1]

b. The requirement for an additional radiotelephone station to provide service in a more efficient manner; and

c. Whether shared use of the frequencies between different licensees is possible or whether different frequency assignments must be made to stations of different licensees.

4. We believe that the comments we have received indicate a need for an additional class I station providing HF telephony services. MMR contends that, since it already provides HF radiotelegraphy and direct-printing services, it is in a position to offer a full complement of HF services to particularly the industrial user. API states that the three HF stations operated by AT&T "• • • are often too busy to meet traffic demands • • •" and that "• • • there is a clear requirement for the provision of additional HF radiotelephone services from a station independent of the AT&T organization". In addition, GULF and ST. P support the establishment of another HF radiotelephone service to meet their needs. We will therefore allot, to the extent possible, sufficient frequencies to Mobile to be used in providing HF telephony services.

5. Contrary to our proposal in the Notice of Proposed Rule Making, none of the commenters, including MMR and AT&T, support in principle, the sharing of frequencies. MMR opposes requiring competing carriers with overlapping service contours to share frequencies. AT&T contends that sharing "• • • severely limits the actual time that is available for use by each of the sharing stations • • •" and states that "• • • it is particularly undesirable for frequencies to be shared by stations in proximity to each other and serving the same geographical region which are not under common coordination and operational control". We agree that sharing is undesirable and will amend our rules to specify discrete allocations to the extent allowed by the limited availability of frequencies.[2] In doing so, we note that, since AT&T has requested cross-licensing of frequencies assigned its three class I stations, each of these stations will be able to use any frequency cross-licensed when it is not in use by another station. This type of sharing arrangement is desirable because it affords AT&T flexibility in serving the public; however, it necessarily limits the frequencies involved to use by only AT&T stations.

6. On October 26, 1973, the Commission granted waivers to both MMR and AT&T to permit utilization of the frequencies which are subject to this proceeding. The waivers granted to MMR temporary use of five of the frequencies between 5 and 25 MHz now under consideration. Of these only one was to be used exclusively by MMR while the other four were to be shared with the three AT&T stations. In addition to these four shared frequencies, the waivers granted to the three AT&T stations temporary exclusive use of the four remaining frequencies between 5 and 25 MHz now under consideration. Thus, since the waivers, AT&T's three stations have had the exclusive use of a total of 31 frequencies between 5 and 25 MHz for the provision of class I service while MMR has had the exclusive use of one and the shared use of four others. We recognize that it is inimical to the rendering of fast and efficient common carrier service to require a competing public coast station (MMR) to share its only frequency assignments with AT&T stations in three out of four frequency bands between 5 and 25 MHz. Continuation of this arrangement by assignment of frequencies as proposed in our notice of proposed rule making could seriously undermine MMR's competitive standing and economic viability with regard to provision of HF radiotelephony service, to the detriment of the using public.[3] Therefore, we will depart from our notice of proposed rulemaking and allot to Mobile for assignment to MMR one HF frequency for MMR's exclusive use in each of the 8 MHz, 13 MHz and 17 MHz bands and two in the 22 MHz band. In doing so, we emphasize that no frequency now used exclusively by AT&T stations will be affected. Only those four frequencies originally proposed to be shared by MMR and AT&T will be assigned for MMR's exclusive use. This arrangement is consistent with past Commission action in which one channel in each of the 8 MHz, 13 MHz and 17 MHz bands was assigned to Hawaii for the exclusive use by the independent class I station operating there. Moreover, AT&T will continue to have a total of 31 frequency assignments between the 5 and 25 MHz bands for the exclusive use by its stations. It will thereby be assured of at least two channels in each band for the exclusive use of each station if it so chooses to utilize its assignments.

7. *Accordingly, it is ordered,* Effective June 3, 1977, that Parts 81 and 83 of the Commission's rules and regulations are amended, as set forth below. Authority for these amendments is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(a)) and 303(r)).

8. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; U.S.C. 154(a) and 303(r)).

FEDERAL COMMUNICATIONS COMMISSION,[4]
VINCENT J. MULLINS,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 81, Stations on Land in the Maritime Services and Alaska-Public Fixed Stations, is amended as follows:

1. In § 81.304, the table in paragraph (a) is amended as follows:

§ 81.304 Frequencies available.

(a) • • •

Carrier frequency (kilohertz)	Conditions of use	
	Section	Limitations
•	•	•
8796.0	81.306(a)	11, 47
8805.6	81.306(a)	3, 5, 27, 47
8808.8	81.306(a)	11, 12, 47
12370.0	81.306(c)	3, 5, 27, 47
13137.0	81.306(a)	12, 47
13140.5	81.306(a)	11, 47
13151.0	81.306(a)	12, 47
13154.5	81.306(a)	11, 47
13158.0	81.306(c)	3, 5, 27, 57
13161.5	81.306(a)	11, 47
13172.0	81.306(a)	12, 47
13175.5	81.306(a)	11, 47
13186.0	81.306(a)	11, 12, 47
13193.0	81.306(a)	12, 47
16488.0	81.306(c)	3, 5, 27, 47
17269.0	81.306(a)	12, 47
17272.5	81.306(a)	11, 47
17283.0	81.306(c)	3, 5, 27, 47
17286.5	81.306(a)	11, 47
17304.0	81.306(a)	12, 47
17307.5	81.306(a)	11, 47
17318.0	81.306(a)	12, 47
17321.5	81.306(a)	11, 47
17325.0	81.306(a)	12, 47
17339.0	81.306(a)	11, 12, 47
22625.5	81.306(a)	11, 47
22653.5	81.306(a)	12, 47
22657.0	81.306(a)	11, 47
22667.5	81.306(a)	12, 47
22671.0	81.306(a)	11, 47
22688.5	81.306(a)	12, 47
22692.0	81.306(a)	11, 47
22706.0	81.306(a)	12, 47
22713.0	81.306(a)	12, 47
•	•	•

2. In § 81.306, the table in paragraph (a) is amended as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) • • •

(1) Working frequencies below 5000 kHz.

Coast station transmitting carrier frequency (kilohertz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kilohertz)
2506.0	San Francisco, Calif.	2406.0
2530.0	Hawaii	2134.0
2590.0	New York, N.Y.	2198.0
4371.0	San Francisco, Calif.[1]	4072.4
4371.0	New York, N.Y.	4072.4
4371.0	Miami, Fla.	4072.4
4390.2	New York, N.Y.[1]	4091.6
4390.2	San Francisco, Calif.	4091.6
4390.2	Miami, Fla.	4091.6
4399.8	New York, N.Y.	4101.2
4399.8	San Francisco, Calif.[1]	4101.2
4399.8	Miami, Fla.	4101.2
4403.0	New York, N.Y.	4101.4
4403.0	San Francisco, Calif.[1]	4101.4
4403.0	Miami, Fla.	4101.4
4415.8	Hawaii[1]	4117.2
4415.8	Miami, Fla.	4117.2
4419.0	New York, N.Y.	4120.4
4422.2	Miami, Fla.[1]	4123.6
4422.2	New York, N.Y.	4123.6
4422.2	San Francisco, Calif.	4123.6
[2] 4425.4	Miami, Fla.	[2] 4126.8
[2] 4425.4	New York, N.Y.	4126.8
4425.4	San Francisco, Calif.	4126.8
[2] 4428.6	New York, N.Y.	4130.0
4428.6	San Francisco, Calif.[3]	4130.0
4428.6	Miami, Fla.	4130.0

[1] Station of primary allotment.
[2] Subject to noninterference to use at locations set forth in pars. (b) and (c) of this section.
[3] Available for use annually at New York, N.Y., during period Dec. 15 to Mar. 15.

(2) Working frequencies between 5000 kHz and 27.5 MHz:

Coast station transmitting carrier frequency (kilohertz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kilohertz)
8735.2	San Francisco, Calif.	8201.2
8735.2	New York, N.Y.[1]	8201.2
8735.2	Miami, Fla.	8201.2
8738.4	San Francisco, Calif.[1]	8204.4
8738.4	New York, N.Y.	8204.4
8738.4	Miami, Fla.	8204.4
8748.0	....do	8214.0
8748.0	New York, N.Y.	8214.0
8748.0	San Francisco, Calif.[1]	8214.0
8751.2	Hawaii[1]	8217.2
8754.4	New York, N.Y.	8220.4
8754.4	San Francisco, Calif.	8220.4
8754.4	Miami, Fla.[1]	8220.4
8757.6	New York, N.Y.[1]	8223.6
8757.6	San Francisco, Calif.	8223.6
8757.6	Miami, Fla.	8223.6
[3] 8773.6	....do	8239.6
[3] 8773.6	San Francisco, Calif.	8239.6
[3] 8773.6	New York, N.Y.[1]	8239.6
[3] 8776.8	Miami, Fla.[1]	8242.8
[3] 8776.8	San Francisco, Calif.	8242.8
[3] 8776.8	New York, N.Y.	8242.8
8792.8	....do	8258.8
8792.8	San Francisco, Calif.[1]	8258.8
8792.8	Miami, Fla.	8258.8
8796.0	New York, N.Y.[1]	8262.0
8796.0	San Francisco, Calif.[1]	8262.0
8796.0	Miami, Fla.	8262.0
8805.6	....do	8271.6
8808.8	Mobile, Ala.	8274.8
13,137.0	New York, N.Y.	12,358.0
13,137.0	San Francisco, Calif.	12,358.0
13,137.0	Miami, Fla.[1]	12,358.0
13,140.5	New York, N.Y.[1]	12,361.5
13,140.5	San Francisco, Calif.	12,361.5
13,140.5	Miami, Fla.	12,361.5
13,151.0	....do	12,372.0
13,151.0	New York, N.Y.	12,372.0
13,151.0	San Francisco, Calif.[1]	12,372.0
13,154.5	Hawaii[1]	12,375.5
13,161.5	San Francisco, Calif.[1]	12,382.5
13,161.5	New York, N.Y.	12,382.5
13,161.5	Miami, Fla.	12,382.5
13,172.0	New York, N.Y.	12,393.0
13,172.0	Miami, Fla.[1]	12,393.0
13,172.0	San Francisco, Calif.	12,393.0
13,175.5	New York, N.Y.[1]	12,396.5
13,175.5	Miami, Fla.	12,396.5
13,186.0	Mobile, Ala.	12,407.0
13,193.0	Miami, Fla.	12,414.0
13,193.0	New York, N.Y.	12,414.0
13,193.0	San Francisco, Calif.	12,414.0
17,269.0	Miami, Fla.	16,474.0

[1] Station of primary allotment.
[2] Available for communication with ship stations in the Gulf of Mexico and the Caribbean area only. Use of the frequency is upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused.

• • • • • •

3. In § 83.351, the table in paragraph (a) is amended as follows:

§ 83.351 Frequencies available.

(a) • • •

Carrier frequency (kilohertz)	Conditions of use	
	Section	Limitations
•	•	•
8204.4	83.355	14, 18
8207.6	83.354	3, 21, 64
8210.8	83.354	3, 15, 21, 25
8214.0	83.355	18, 27
8217.2	83.355	14, 18
8220.4	83.355	18, 27
8223.6	83.355	14, 18
8239.6	83.355	18, 27
8242.8	83.355	14, 18
8246.0	83.344	3, 21, 60
8249.2	83.355	14, 20
8258.8	83.355	18, 27
8262.0	83.355	14, 18, 27
8271.6	83.355	18, 27
8274.8	83.355	14, 18, 27
8281.2	83.360	13, 16
8284.4	83.360	13, 16
8780.0	83.354	3, 21, 66
12,358.0	83.355	18, 27
12,361.5	83.355	14, 18
12,372.0	83.355	18, 27
12,375.5	83.355	14, 18
12,379.0	83.354	3, 21, 66
12,382.5	83.355	14, 18
12,393.0	83.355	18, 27
12,396.5	83.355	14, 18
12,407.0	83.355	14, 18, 27
12,414.0	83.355	14, 18, 27
12,421.0	83.360	13, 16
12,424.5	83.260	13, 16
12,428.0	83.360	13, 16
13,158.0	83.354	3, 21, 66
16,474.0	83.355	18, 27
16,477.5	83.355	14, 18
16,488.0	83.354	3, 21, 66

Carrier frequency (kilohertz)	Conditions of use	
	Section	Limitations
16,491.5	83.355	14, 18
16,509.0	83.355	18, 27
16,512.5	83.355	14, 18
16,523.0	83.355	18, 27
16,526.5	83.355	14, 18
16,530.0	83.355	14, 18, 27
16,544.0	83.355	14, 18, 27
16,565.0	83.360	13, 16
16,568.5	83.360	13, 16
16,572.0	83.360	13, 16
17,263.0	83.354	3, 21, 66
22,000.0	83.355	14, 18
22,028.0	83.355	18, 27
22,031.5	83.355	14, 18
22,042.0	83.355	18, 27
22,045.5	83.355	14, 18
22,063.0	83.355	18, 27
22,066.5	83.355	14, 18
22,080.5	83.355	18, 27
22,087.5	83.355	14, 18, 27
22,094.5	83.360	13, 16
22,098.0	83.360	13, 16
22,101.5	83.360	13, 16
22,105.0	83.360	13, 16
22,108.5	83.360	13, 16
•	•	•

4. In § 83.354, the table in paragraph (b) is amended as follows:

§ 83.354 Frequencies below 5000 kHz for public correspondence.

• • • • • •

(b) • • •

Coast stations located in the vicinity of—	Mobile station transmitting carrier frequency (kilohertz)[1]		Associated coast station receiving carrier frequency (kilohertz)[1]	
	Note 1	Conditions of use, note 2	Note 1	Conditions of use, note 2
(1)	(2)	(3)	(4)	(5)
Miami, Fla.	2406.0	9	2442.0	9
	2031.5	None	2490.0	8
	2118.0	10	2514.0	5, 11
	2158.0	12	2590.0	13
	4072.4	33	4371.0	31, 32
	4104.4	33	4403.0	29, 32
	4123.6	33	4422.0	30, 32
	4126.8	33	4425.4	30, 32

• • • • • •

5. In § 83.355, the table in paragraph (a) is amended as follows:

§ 83.355 Frequencies from 5000 kHz to 27.5 MHz for public correspondence.

(a) • • •

(1) • • •

Ship station transmitting carrier frequency (kilohertz)	Coast station located in the vicinity of—	Ship station receiving carrier frequency (kilohertz)
8201.2	San Francisco, Calif.	8735.2
8201.2	New York, N.Y.[1]	8735.2
8201.2	Miami, Fla.	8735.2
8204.4	San Francisco, Calif.[1]	8738.4
8204.4	New York, N.Y.	8738.4
8204.4	Miami, Fla.	8738.4
8214.0	....do	8748.0
8214.0	New York, N.Y.	8748.0
8214.0	San Francisco, Calif.[1]	8748.0
8217.2	Hawaii[1]	8751.2
8220.4	New York, N.Y.	8754.4
8220.4	San Francisco, Calif.	8754.4
8220.4	Miami, Fla.[1]	8754.4
8223.6	New York, N.Y.[1]	8757.6
8223.6	San Francisco, Calif.	8757.6
8223.6	Miami, Fla.	8757.6
8239.6	....do	8773.6
8239.6	San Francisco, Calif.	8773.6
8239.6	New York, N.Y.[1]	8773.6
8242.8	San Francisco, Calif.	8776.8
8242.8	New York, N.Y.	8776.8
8258.8	....do	8792.8
8258.8	San Francisco, Calif.[1]	8792.8
8258.8	Miami, Fla.	8792.8

[4] Commissioner Washburn absent.

[1] The matter raised by MMR in its rule making petition regarding the use of radiotelephony for setup and backup of radioteleprinter was previously considered and dismissed as premature in the notice of proposed rulemaking. However, we requested therein information concerning radioteleprinter operation in order to assist us in formulating international standards and procedures for radioteleprinter operation. We expect to consider this matter in future Commission proceedings.

[2] The radiotelephone allotment plan contained in Appendix 25, Mar 2 to the Radio Regulations adopted at the World Maritime Administrative Radio Conference, Geneva, 1974 (WARC, 1974) increases the number of frequencies available for assignment. In implementing this plan, we will propose to make discrete assignments, to the extent possible, to all public coast stations considered in this matter. Nevertheless, because of international sharing difficulties and assignment plans for these frequencies, the net effect may be a reduction in usable frequencies for U.S. stations.

[3] If the proposed assignments become effective, there would be 10 frequency assignments in the 8 MHz band for the exclusive use of AT&T licensed class I stations. MMR's only frequency assignment in that band would be shared with the three AT&T stations. In the 13 MHz band, there would be seven frequency assignments for the exclusive use of the AT&T stations. MMR's only frequency assignment in that band would be shared with the three AT&T stations. In the 17 MHz band, there would likewise be seven frequency assignments for the exclusive use of the AT&T stations. MMR's only frequency assignment in that band would also be shared with the three AT&T stations. Finally, there would be seven frequency assignments in the 22 MHZ band for the exclusive use of the AT&T stations, while NMR would have only one frequency assignment in that band for its exclusive use and would share one other with the three AT&T stations.

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Ship station transmitting carrier frequency (kilohertz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kilohertz)
8262.0	New York, N.Y.[1]	8796.0
8262.0	San Francisco, Calif.	8796.0
8262.0	Miami, Fla.	8796.0
8271.6	do.	8805.6
8274.8	Mobile, Ala.	8808.8
12,358.0	New York, N.Y.	13,137.0
12,358.0	San Francisco, Calif.	13,137.0
12,358.0	Miami, Fla.[1]	13,137.0
12,361.5	New York, N.Y.[1]	13,140.5
12,361.5	San Francisco, Calif.	13,140.5
12,361.5	Miami, Fla.	13,140.5
12,372.0	do.	13,151.0
12,372.0	New York, N.Y.	13,151.0
12,372.0	San Francisco, Calif.[1]	13,151.0
12,375.5	Hawaii [1]	13,154.5
12,382.5	San Francisco, Calif.[1]	13,161.5
12,382.5	New York, N.Y.	13,161.5
12,382.5	Miami, Fla.	13,161.5
12,393.0	New York, N.Y.	13,172.0
12,393.0	Miami, Fla.[1]	13,172.0
12,393.0	San Francisco, Calif.	13,172.0
12,396.5	New York, N.Y.[1]	13,175.5
12,396.5	Miami, Fla.	13,175.5
12,407.0	Mobile, Ala.	13,186.0
12,414.0	Miami, Fla.[1]	12,193.0
12,414.0	New York, N.Y.	13,193.0
12,414.0	San Francisco, Calif.	13,193.0
16,474.0	Miami, Fla.	17,269.0
16,474.0	New York, N.Y.	17,269.0
16,474.0	San Francisco, Calif.[1]	17,269.0
16,477.5	Hawaii [1]	17,272.5
16,491.5	New York, N.Y.[1]	17,286.5
16,491.5	San Francisco, Calif.	17,286.5
16,491.5	Miami, Fla.	17,286.5
16,509.0	San Francisco, Calif.	17,304.0
16,509.0	New York, N.Y.	17,304.0
16,509.0	Miami, Fla.[1]	17,304.0
16,512.5	San Francisco, Calif.[1]	17,307.5
16,512.5	New York, N.Y.	17,307.5
16,512.5	Miami, Fla.	17,307.5
16,523.0	New York, N.Y.	17,318.0
16,523.0	Miami, Fla.[1]	17,318.0
16,523.0	San Francisco, Calif.	17,318.0
16,526.5	New York, N.Y.[1]	17,321.5
16,526.5	Miami, Fla.	17,321.5
16,530.0	do.[1]	17,325.0
16,530.0	New York, N.Y.	17,325.0
16,530.0	San Francisco, Calif.	17,325.0
16,544.0	Mobile, Ala.	17,339.0
22,000.0	do.	22,625.5
22,028.0	New York, N.Y.	22,653.5
22,028.0	Miami, Fla.[1]	22,653.5
22,028.0	San Francisco, Calif.	22,653.5
22,031.5	New York, N.Y.[1]	22,657.0
22,031.5	Miami, Fla.	22,657.0
22,042.0	San Francisco, Calif.	22,667.5
22,042.0	New York, N.Y.[1]	22,667.5
22,042.0	Miami, Fla.	22,667.5
22,045.5	San Francisco, Calif.[1]	22,671.0
22,045.5	New York, N.Y.	22,671.0
22,045.5	Miami, Fla.	22,671.0
22,063.0	New York, N.Y.	22,688.5
22,063.0	San Francisco, Calif.[1]	22,688.5
22,063.0	Miami, Fla.	22,688.5
22,066.5	New York, N.Y.[1]	22,692.0
22,066.5	San Francisco, Calif.	22,692.0
22,066.5	Miami, Fla.	22,692.0
22,080.5	do.	22,706.0
22,080.5	San Francisco, Calif.	22,706.0
22,087.5	Mobile, Ala.	22,713.0

[1] Station of primary allotment.

[FR Doc.77-12549 Filed 5-4-77;8:45 am]

[Docket No. 20906; RM-2568; FCC 77-266]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA PUBLIC-FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Providing for Use of Certain Frequencies in the Maritime Services

AGENCY: Federal Communications Commision.

ACTION: Final rule.

SUMMARY: The Commission's rules are amended to allocate a 4 MHz frequency for use in the maritime services to Mobile, Alabama. The action is taken following a notice of proposed rulemaking adopted in response to a petition for rulemaking filed by Mobile Marine Radio, Inc. It is intended to give Mobile Marine Radio, Inc., an additional 4 MHz frequency for use in Class II radiotelephony service and thereby allow that licensee to more efficiently handle its traffic load in that service.

EFFECTIVE DATE: June 3, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Lucian L. Arnone, International Programs Staff, Common Carrier Bureau, 202-632-3214; or James L. Ball, Tariff Proceedings Branch, Common Carrier Bureau, 202-632-7164.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: April 14, 1977.

Released: April 22, 1977.

In the matter of amendment of §§ 81.306(b) and 83.354(b) of the Commission's rules to provide for the use of an additional 4 MHz frequency at Mobile, Alabama, Docket No. 20906; RM-2568.

1. We have before us comments, reply comments and supplementary comments filed in response to our notice of proposed rulemaking in the above-captioned matter released on September 15, 1976 (61 FCC 2d 270) and published in the FEDERAL REGISTER on September 20, 1976 (41 FR 40470). Our notice of proposed rulemaking was adopted upon consideration of a petition for rulemaking filed by Mobile Marine Radio, Inc. (MMR). The dates for filing comments and reply comments thereto have passed. We also have before us for consideration a petition filed by MMR for reconsideration of the Chief, Safety and Special Radio Services Bureau's denial of its request for special temporary authority to utilize the frequency 4425.4 kHz requested in its petition for rulemaking to be reallocated to Mobile, Alabama.

2. Comments were filed by:

American Telephone and Telegraph Company (AT&T)
SGC, Inc. (SGC)
Gulf Radiotelephone & Electronics, Inc. (Gulf)

Reply comments were filed by: Mobile Marine Radio, Inc. (MMR).

Supplemental comments were filed by: AT&T.

3. MMR is the licensee of marine public coast station WLO in Mobile, Alabama which offers all three types of maritime service: class I high seas service to ships at sea up to several thousand miles; class II regional coastal harbor service; and class III local VHF service. MMR requested in its petition for rulemaking that the frequency 4425.4 kHz be reallocated to Mobile for use by MMR in providing class II telephony service. In support, it stated that the shared use of the frequency, 4412.6 kHz in the class II service with another station and the necessity for additional maritime communications service in the Gulf of Mexico and the Carribean area generates the requirement for allocation of an additional 4 MHz channel for discrete assignment to station WLO. The 4425.4 kHz frequency requested is primarily assigned to Corpus Christi and Galveston, Texas for class II usage[1] and to San Francisco for class I usage. The frequency is also secondarily assigned to AT&T in New York for class I usage subject to non-interference to use in the Gulf by class II stations at the time MMR filed its petition. It is also being used by AT&T's Miami class I station pursuant to special temporary authority pending the outcome in Docket No. 20449 (52 FCC 2d 865 (1975)).[2] In our Notice of proposed rulemaking, we stated that shared use of 4425.4 kHz between AT&T's Miami class I station and MMR would not be feasible since both stations would be using the same frequency at the same time and serving vessels in the same geographical area. We therefore proposed to allocate to Mobile for class I usage by MMR the frequency 4399.8 kHz now allocated to Alaska[3] and San Francisco[4] on a primary basis and to New York and Miami on a secondary basis also for class I service.

4. AT&T filed comments agreeing to share 4399.8 kHz in the class I service equally between its New York and Miami stations and Mobile so long as the frequency remained primarily assigned to its San Francisco class I station for priority usage in cases of interference. MMR replied correctly pointing out that it had sought a frequency in the 4 MHz band for relief to its class II service and not its class I service. MMR also contended that assignment of a frequency in the 4 MHz band for class I usage rather than class II usage would violate sections 201 and 202 of the Communications Act.[5] MMR stated that its class II radio-telephone service is offered on the shared 4412.6 kHz channel at $1.85 per three minute minimum pursuant to AT&T Tariff F.C.C. No. 263 while its class I radiotelephone service is offered on 8 MHz, 13 MHz, 17 MHz and 22 MHz channels at $13.50 per three minute minimum as prescribed by the tariff.[6] Thus, MMR submitted that "• • • it would be in contravention of the Act for it to charge $1.85 for traffic handled on 4412.6 kHz and $13.50 for traffic handled on 4399.8 kHz or 4425.4 kHz • • • using the same facilities and essentially entailing the same common carrier radio communications service". MMR therefore requested that we adopt the frequency assignment proposal as set forth in its petition for rule making. AT&T filed supplemental comments repeating that it would share 4399.8 kHz with MMR subject to those conditions specified in its previous comments. It suggested, however, that a 2 MHz band be assigned to MMR for use in class II service.

5. We will not allocate the frequency 4425.4 kHz to Mobile for MMR's use since it has been allocated to AT&T at Miami in Docket No. 20449. However, we recognize that essentially the same radiotelephone service is involved in MMR's present provision of class II service over 4412.6 kHz as would be involved in MMR's rendering class I service over 4399.8 kHz as proposed by our notice of proposed rulemaking. Since essentially the same geographical area would be covered by use of these frequencies by MMR, the same customers would be served. We believe that for a carrier to charge $13.50 for radiotelephone service offered over one 4 MHz channel while charging $1.85 for the same service to the same customers over another 4 MHz channel would contravene sections 201 (b) and 202(a) of the Act. Therefore, we will allocate the frequency 4399.8 kHz to Mobile for use by MMR in class II service recognizing that the public interest requires in this instance that service by MMR be rendered at the cheaper rate.[7] The frequency will remain allocated to New York and Miami, but subject to non-interference to its use at Mobile. We believe this is reasonable since 4425.4 kHz and 4415.8 kHz have been permanently allocated to Miami in Docket No. 20449 for class I usage. In addition, AT&T's New York and Miami stations have six additional 4 MHz frequencies between them for class I usage. As concerns the assignment of frequency 4399.8 kHz for primary use at both San Francisco class I station and Mobile, Alabama class II station, we believe the frequency can be used at both stations for the respective service to be rendered without harmful interference to either service.

6. *Accordingly, it is ordered,* Effective June 3, 1977, that Parts 81 and 83 of the Commission's rules and regulations are amended, as set forth below. Authority for these amendments is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(a) and 303(r)).

7. *It is further ordered,* That MMR's petition for reconsideration is denied.

8. *It is further ordered,* That AT&T's motion for acceptance of supplemental comments is granted.

9. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[8]
VINCENT J. MULLINS,
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 81, Stations on Land in the Maritime Service and Alaska Public Fixed Stations, is amended as follows:

1. In § 81.306, the table in paragraph (a) is amended and a new footnote 4 is added to the table, and the table in paragraph (b) is amended and new footnotes 37 and 38 are added to read as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) • • •

(1) Working frequencies below 5000 kHz.

Coast station transmitting carrier frequency (kilohertz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kilohertz)
2506.0	San Francisco, Calif.	2406.0
2530.0	Hawaii	2134.0
2590.0	New York, N.Y.	2198.0
4371.0	San Francisco, Calif.[1]	4072.4
4371.0	New York, N.Y.	4072.4
4371.0	Miami, Fla.	4072.4
4390.2	New York, N.Y.[1]	4091.6
4390.2	San Francisco, Calif.	4091.6
4390.2	Miami, Fla.	4091.6
4399.8	New York, N.Y.[1]	4101.2
4399.8	San Francisco, Calif.[1]	4101.2
4399.8	Miami, Fla.[1]	4101.2
4403.0	New York, N.Y.	4104.4
4403.0	San Francisco, Calif.[1]	4104.4
4403.0	Miami, Fla.	4104.4
4415.8	Hawaii [1]	4117.2
4419.0	Miami, Fla.[1]	4120.4
4419.0	New York, N.Y.	4120.4
4422.2	Miami, Fla.[1]	4123.6
4422.2	New York, N.Y.	4123.6
4422.2	San Francisco, Calif.	4123.6
4425.4	New York, N.Y.[1]	4126.8
4425.4	San Francisco, Calif.	4126.8
4428.6	New York, N.Y.[4]	4130.0
4428.6	San Francisco, Calif.[1]	4130.0
4428.6	Miami, Fla.	4130.0

[1] Station of primary allotment.
[3] Subject to noninterference to use at location set forth in par. (b) and (c) of this section.
[3] Station of primary allotment serving the Pacific Ocean area.
[4] Available for use annually at New York, N.Y., during period December to Mar. 15.

• • • • • •

(b) • • •

Coast stations located in the vicinity of—	Coast station transmitting carrier frequency (kilohertz)[1]		Associated coast station receiving carrier frequency (kilohertz)[1]	
	Note 1	Conditions of use, note 2	Note 1	Conditions of use, note 2
(1)	(2)	(3)	(4)	(5)
Mobile, Ala.	2572.0	None	2430.0	None
	4412.6	32,35	4114.0	33
	4399.8	37	4101.2	37
•	•	•	•	•
San Francisco-Eureka, Calif.	2450.0	24	2003.0	23
	2506.0	None	2406.0	None
	4371.0	31,32	4072.4	33
	4390.2	29,32	4091.6	33
	4399.8	32,38	4101.2	33
•	•	•	•	•

37. Mobile, Ala., is the station of primary assignment in the Gulf of Mexico. Frequency shared with San Francisco, Calif., New York, N.Y., and Miami, Fla.

38. San Francisco, Calif., is the station of primary assignment in the Pacific Ocean area. Frequency shared with Miami, Fla., Mobile, Ala., and New York, N.Y.

• • • • • •

B. Part 83—Stations on Shipboard in the Maritime Services, is amended as follows:

1. In § 83.354, the table in paragraph (b) is amended and new footnotes 37 and 38 are added to read as follows:

§ 83.354 Frequencies below 5000 kHz for public correspondence.

• • • • • •

(b) • • •

[1] Southwestern Bell Telephone Company, the licensee of public class IIB coast station KCC at Corpus Christi and KQP at Galveston, Texas, has never activated the frequency, 4425.4 kHz for use in the class II service.

[2] Docket No. 20449 was instituted, in part, to consider whether the Commission's rules should be amended to allocate the frequency 4425.4 kHz to Miami for class I use. By Report and Order issued today, we are so amending the rules.

[3] The frequency, 4399.8 kHz is used for non-common carrier purposes in Alaska.

[4] The frequency, 4399.8 kHz is also assigned to San Francisco for class II service, however, Pacific Telephone and Telegraph Company, the licensee of public class IIB coast station KLH has never activated the frequency.

[5] Section 201(b) states, in part: All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful • • •

Section 202(a) states, in part: It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

[6] Under the terms of traffic agreements between MMR and South Central Bell Telephone Company, MMR must concur in the radio link charges specified in Tariff F.C.C. No. 263.

[7] The fact that our rules currently provide for different classes of public coast stations and allows for the assignment and use of the same frequency band in different classes of stations creates the problems that this proceeding has served to bring to the forefront. We believe that means must be explored to correct this situation and we will in the near future institute a proceeding to address necessary changes in the rules

[8] Commissioner Washburn absent.

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Coast stations located in the vicinity of—	Mobile station transmitting carrier frequency (kilohertz)[1]		Associated coast station transmitting carrier frequency (kilohertz)[1]	
	Note 1	Conditions of use, note 2	Note 1	Conditions of use, note 2
(1)	(2)	(3)	(4)	(5)
Mobile, Ala..	2430.0	None	2572.0	None
	4101.2	33	4399.8	32,37
	4114.0	33	4412.6	32,35
San Francisco-Eureka, Calif.	2003.0	23	2450.0	24
	2406.0	None	2506.0	None
	4072.4	33	4371.0	31,32
	4091.6	33	4390.2	29,32
	4101.2	33	4399.8	32,38

37. Mobile, Ala., is the station of primary assignment in the Gulf of Mexico. Frequency shared with San Francisco, Calif., New York, N.Y., and Miami, Fla.

38. San Francisco, Calif. is the station of primary assignment in the Pacific Ocean area. Frequency shared with Miami, Fla., Mobile, Ala., and New York, N.Y.

[FR Doc.77-12550 Filed 5-4-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Tewaukon National Wildlife Refuge, N. Dak.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: Summer fishing season on Tewaukon National Wildlife Refuge will begin on May 7, 1977 and end on November 20, 1977. This fishing will permit utilization of surplus fish populations.

DATES: Comments will be received up to May 7, 1977. Effective date: May 7, 1977.

ADDRESSES: Sammy J. Waldstein, Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, ND 58013.

FOR FURTHER INFORMATION CONTACT:

Area Manager, U.S. Fish and Wildlife Service, Box 1897, Bismarck, ND 58501.

SUPPLEMENTARY INFORMATION: The following special regulation is issued and is effective May 5, 1977.

§ 33.5 Special Regulations: sport fishing, for individual wildlife refuge areas.

NORTH DAKOTA

TEWAUKON NATIONAL WILDLIFE REFUGE

Sport fishing on the Tewaukon National Wildlife Refuge, Cayuga, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas are Lake Tewaukon, Mann Lake and Sprague Lake, comprising 1,440 acres, and are shown on maps available at refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Box 1897, Bismarck, North Dakota 58501. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on Sprague Lake and Mann Lake extends from May 7, 1977 through September 30, 1977, daylight hours only.

(2) The open season for sport fishing on Lake Tewaukon extends from May 7, 1977 through November 20, 1977, daylight hours only.

(3) Access to Lake Tewaukon will be limited to certain designated shoreline areas from October 1, 1977 through November 20, 1977.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through November 20, 1977.

SAMMY J. WALDSTEIN,
Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, North Dakota.

MARCH 7, 1977.

[FR Doc.77-12853 Filed 5-4-77;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 6—IMPORT QUOTAS AND FEES

Subpart—Section 22 Import Quotas

PRICE DETERMINATION FOR CERTAIN CHEESE

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The subpart, Section 22 Import Quotas, is amended to change the price, determined by the Secretary of Agriculture, which is used as a basis for establishing import restrictions under Section 22 on certain cheese. The change from $1.00 to $1.05 per pound is required since one of the factors used in determining such price (the Commodity Credit Corporation purchase price for Cheddar cheese under the milk support program) has been increased.

EFFECTIVE DATE: May 5, 1977. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

Bryant H. Wadsworth, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, FCA, Foreign Agricultural Service, 6621 S. Agricultural Building, United States Department of Agriculture, Washington, D.C. 20250 (202-447-5270).

SUPPLEMENTARY INFORMATION: Since the action taken herewith involves foreign affairs functions of the United States, this amendment falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553. (Sec. 3, 62 Stat. 1248, as amended, 7 U.S.C. 624; Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202.)

EFFECTIVE DATE

In accordance with headnote 3(a)(v) of Part 3 of the Appendix to the Tariff Schedules of the United States, the change in price effected by this amendment would not make the import restrictions contained in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules of the United States applicable to cheese having a purchase price of $1.00 or more per pound if such cheese had been exported to the United States on a through bill of lading or had been placed in bonded warehouse on or before May 5, 1977.

The subpart, Section 22 Import Quotas, of Part 6, Subtitle A of Title 7, is amended as follows:

1. Section 6.16, under the heading "Price Determination for Certain Quotas," is amended to read as follows:

§ 6.16 Price determination.

The price referred to in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules, determined by the Secretary of Agriculture in Accordance with headnote 3(a)(v) of said Part 3, is $1.05 per pound. This price shall continue in effect until changed by amendment of this section.

2. Group V of Appendix 1, under the heading "Licensing Regulation," is amended by changing the description appearing immediately below "Group V" to read as follows:

Cheese described below, if shipped otherwise than in pursuance to a purchase, or if having a purchase price under $1.05 per pound,

Issued at Washington, D.C., this 2nd day of May 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-12941 Filed 5-4-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 412]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to fresh market during the weekly regulation period May 6-12, 1977. This regulation is needed to provide for orderly marketing of fresh navel oranges for the regulation period because of the production and marketing situation confronting the navel orange industry.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such navel oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of navel oranges that may be marketed during the specified week stems from the production and marketing situation confronting the navel orange industry.

(i) The committee has submitted its recommendation for the quantity of navel oranges it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for navel oranges continues fairly strong for first grade fruit in the medium size ranges, while it is fair for choice grade fruit and fruit in the other size ranges. Average f.o.b. price was $3.68 per carton on a reported sales volume of 1,028 carlots last week, compared to $3.77 per carton on sales of 1,009 carlots a week earlier. Track and rolling supplies at 446 cars were down 97 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of navel oranges which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for navel oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of navel oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 3, 1977.

§ 907.712 Navel Orange Regulation 412.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period May 6, 1977, through May 12, 1977, are hereby fixed as follows: (i) District 1: 1,050,000 cartons; (ii) District 2: Unlimited Movement; (iii) District 3: Unlimited Movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 4, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13030 Filed 5-4-77;11:55 am]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Exemption

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This document exempts the handling of fresh pears, plums, and peaches at Certified Farmers Markets in the State of California from certain marketing order requirements. This is intended to permit direct marketing of these fruits from producer to consumer and at the same time insure that the fruits is of acceptable quality.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: Marketing Order No. 917 (7 CFR Part 917) regulates the handling of fresh pears, plums, and peaches grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "act." This exemption was recommended under § 917.43 of the order by the respective Commodity Committees (i.e., Pear, Plum, and Peach) which are established under the order to administer its terms and provisions.

Under the order, the term handle means to sell, consign, deliver, or transport these fruits or to cause such fruits to be sold, consigned, delivered, or transported between the production area (i.e., the State of California) and any point outside the area or within the area. Section 917.143 (41 FR 22071, 28508) of the Subpart—Rules and Regulation (7 CFR Part 917.100 et seq.) permits handling of specified quantities of fresh pears, plums, and peaches exempt from certain order requirements (§ 917.37 Assessments, § 917.41 Issuance of Regulations, § 917.42 Modification, suspension, or termination of regulations, § 917.45 Inspection and certification, and § 917.50 Reports). The exemptions are currently applicable to sales of fruits at producers' premises or at packinghouses or retail stands owned and operated by producers. This action would amend § 917.143 to make the exemption permitted by that section applicable to fruit handled in Certified Farmers Markets. A California Department of Food and Agriculture regulation which becomes effective on April 29, 1977, authorizes direct marketing to consumers of fruits (among other commodities) exempt from State requirements relative to size, standard pack, containers, and certain labeling, at Certified Farmers Markets. These markets are defined as "A location approved by the county agricultural commissioner of that county where products may be sold by certified producers directly to consumers. A Certified Farmers Market may be operated by one or more certified producers, by a nonprofit organization, or by a local government agency which, prior to adoption of this Article, authorized and operated a farmers market in which producers sold their products to consumers."

It is hereby found it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure in that: (1) This action is a relaxation of restrictions on certain handling of fresh pears, plums, and peaches; and (2) the exemption should be made effective May 9, 1977, in order that it will be available in time for the beginning of shipments of any fruit produced in the 1977 season.

It is hereby further found that the amendment of the Subpart—Rules and Regulations, as hereinafter set forth, is in accordance with the order and will tend to carry out the declared policy of the act. Therefore, § 917.143(b) is amended to read as follows:

§ 917.143 Exemption.

• • • • • •

(b) • • •

(5) Such pears, plums, and peaches are handled by the person who produced them; and the handling takes place (i) on the premises where grown, (ii) at a packinghouse or retail stand nearby which is operated by said handler, or (iii) at a Certified Farmers Market in

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compliance with Section 1392 of the regulations of the California Department of Food and Agriculture.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated May 2, 1977, to become effective May 9, 1977.

CHARLES R. BRADER,
Deputy Director Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc.77-12917 Filed 5-4-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2876]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

National Service Industries, Inc., Trading as Certified Leasing Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires an Atlanta, Georgia, furniture leasing company, among other things to cease failing to maintain adequate records and follow prescribed procedures for locating qualified customers and making proper refunds to them. Further, the order requires the firm to furnish lessees with detailed written notices of pertinent information and prohibits the use of any of the above notices in the collection of delinquent debts.

DATES: The Complaint and order issued April 7, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Director, Washington, D.C. Regional Office, Room 600–C, Gelman Building, 2120 "L" Street NW., Washington, D.C. 20017; (202) 254–7700.

SUPPLEMENTARY INFORMATION: On Thursday, January 27, 1977, there was published in the FEDERAL REGISTER (42 FR 5136) a proposed consent agreement with analysis In the Matter of National Service Industries, Inc., a corporation doing business as Certified Leasing Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–50 Maintain means of communication; 13.533–55 Refunds, rebates and/or credits. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records; 13.1051–20 Adequate. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-12835 Filed 5-4-77;8:45 am]

[Docket 9049]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

General Electric Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This is a consent order requiring a Fairfield, Conn., manufacturer of television sets and other electrical household appliances, among other things to cease misrepresenting the comparative superiority, special features and reliability of their products through use of unsubstantiated advertising claims.

DATES: Complaint, July 29, 1975; decision, April 7, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Richard B. Herzog, Assistant Director for National Advertising, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580 (202–724–1499).

SUPPLEMENTARY INFORMATION: On Wednesday, February 9, 1977, there was published in the FEDERAL REGISTER (42 FR 8215) a proposed consent agreement with analysis in the matter of General Electric Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Advertising Falsely or Misleadingly § 13.10 Advertising falsely or misleadingly; § 13.20 Comparative data or merits; 13.20–20 Competitors' products; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.265 Tests and investigations; § 13.280 Unique nature or advantages; Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1710 Qualities or properties; §13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.70 Unique nature or advantages. Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-12849 Filed 5-4-77;8:45 am]

[Docket 8993]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Sears, Roebuck and Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires a Chicago, Ill., merchandising organization, among other things, to cease using bait and switch tactics and other unfair or deceptive strategies in the advertising and sale of major home appliances. The order further requires the firm to conspicuously post copies of advertisements in the proper departments of stores, and to have sufficient quantities of the advertised items available to meet reasonably anticipated demand.

DATES: Complaint issued Sept. 17, 1974, decision issued April 11, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Stephanie W. Kanwit, Director, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill., 60603, (312–353–4423).

SUPPLEMENTARY INFORMATION: In the matter of Sears, Roebuck and Co., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–1 Availability of merchandise and/or facilities; § 13.20 Comparative data or merits; § 13.155 Prices; 13.155–10 Bait; § 13.160 Promotional sales plans; § 13.175 Quality of product or service; § 13.180 Quantity; 13.180–35 Offered; § 13.205 Scientific or other relevant facts. Subpart—Corrective actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–45 Maintain records. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Disparaging Products, Merchandise, Services, etc.: § 13.1042 Disparaging products, merchandise, services, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1575 Comparative data or merits; § 13.1715 Quality; § 13.1720 Quantity; § 13.1740 Scientific or other relevant facts. Prices: § 13.1779 Bait. Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, to make Material Disclosure: § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.2013 Offers deceptively made and evaded; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

ORDER

I

For purposes of this Consent Order, the following definitions shall apply:

A. The term "major home appliance" includes (but is not limited to) home appliances within the following product lines sold by respondent: automatic laundry (washers and dryers); sewing machines; vacuum cleaners and sweepers; refrigeration products (refrigerators and chest or upright freezers); stoves, ranges and ovens; room air conditioners; humidifiers and dehumidifiers; televisions; dishwashers; floor polishers; and home audio electronic equipment.

ORDER

II

It is ordered, That respondent Sears, Roebuck and Co., a corporation, its successors and assigns, and respondent's employees, agents, representatives, including sales representatives, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale and distribution of sewing machines, washers and dryers and other major home appliances, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making representations directly or indirectly, orally or in writing, that any major home appliances are offered for sale when such representation is not a bona fide offer to sell such major home appliances.

2. Offering for sale any major home appliance when such offer is not a bona fide offer to sell such major home appliance.

3. Disparaging, in any manner, any major home appliance which is advertised or offered for sale.

4. Utilizing demonstrations or displays of any advertised major home appliance in which said appliance is made to appear defective for the purpose of discouraging its purchase.

5. Making, directly or by implication, orally or in writing, any false, misleading or deceptive comparisons between the advertised major home appliances and other home appliances of the same product line.

6. Failing to have available at each store to which the advertisement applies, or at a warehouse facility serving each such store, quantities of advertised major home appliances sufficient to meet reasonably anticipated demands for such appliances, or failing to take orders for such reasonably anticipated demands from customers desiring to purchase advertised major home appliances or failing to deliver such ordered merchandise within a reasonable period of time after purchase by customers.

It is further ordered, That respondent maintain and produce for inspection and copying by a representative of the Federal Trade Commission for a period of three years following the date of publication of any local advertisement of sewing machines, washers and dryers and other major home appliances adequate records to document for the entire period during which each advertisement was run:

(a) The total volume of sales in units of advertised major home appliances at the advertised price by each store to which the advertisement applies;

(b) Monthly inventory statements for each store to which the advertisement applies of the units of major home appliances featured in each advertisement;

(c) The total volume of sales in units of major home appliances by stock or model number within the advertised product line by each store to which the advertisement applies.

The recordkeeping provision of this Order shall be limited to major home appliances which have two or more models in the product line with a retail cost of $100.00 or more, *Provided, however*, No records need be created or maintained for any major home appliances sold at a retail price of $35.00 or less each.

It is further ordered, That respondent shall forthwith cease and desist from disseminating, or causing the dissemination of any printed advertisement which represents that major home appliances are available for sale at a stated price at any of its stores, unless respondent clearly and conspicuously sets forth in each such advertisement:

Each of these advertised items is readily available for sale as advertised.

It is further ordered, That respondent shall post a copy of such advertisement, including a copy of the notice referred to in the previous paragraph, at a conspicuous place in the major home appliance department or departments of each store to which such advertisement applies, throughout the period to which the advertisement applies.

It is further ordered, If the respondent advertises by radio and television and does not advertise in print advertisements during any given period, that major home appliances are available for sale at a stated price at any of its stores, respondent shall post at a conspicuous place in the major home appliance department or departments of each store to which such advertisement applies, throughout the period to which the advertisement applies, a sign not less than 11" by 14", which shall include the full text of said advertisement, together with the legend:

Each of these advertised items is readily available for sale as advertised.

It is further ordered, That respondent after showing a customer, responding to an advertisement, the advertised model in a reasonable manner and making a bona fide offer to take an order for such advertised major home appliance, may offer to, and if the customer so desires, may show the customer other models of major home appliances within the same product line. This paragraph shall not be construed or interpreted to limit or modify any other paragraph of this Order.

It is further ordered, That respondent shall deliver a copy of this Order to all present and future managerial personnel and salespersons engaged in the sale of major home appliances or in any aspect of the preparation, creation, or placing of advertisements of such products and secure from each such person a signed statement acknowledging receipt of said Order.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

It is further ordered, That the respondent shall within sixty (60) days after the service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-12850 Filed 5-4-77;8:45 am]

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

[1] Copies of the complaint and the decision and order filed with the original document.

[1] Copies of the complaint, and the decision and order, including a separate statement by Chairman Engman concurred in by Commissioner Hanford and a dissenting statement by Commissioner Thompson, filed with the original document.

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CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1014—POLICIES AND PROCEDURES IMPLEMENTING THE PRIVACY ACT OF 1974

AGENCY: Consumer Product Safety Commission.

ACTION. Final amendment of rules.

SUMMARY: This rule amends the Consumer Product Safety Commission's rules implementing the Privacy Act of 1974 by reassigning the responsibilities of Commission officials under the Privacy Act. The responsibility for deciding requests for correction or amendment of a record formerly assigned to the system manager, is reassigned to the Executive Director. The responsibility for deciding appeals of initial denials of a request for access to correct or amend a record, formerly assigned to the Executive Director, will be assumed by the Chairman. Statements of disagreement with denial of a request for correction or amendment, formerly directed to the Executive Director, will be directed to the Chairman. By vesting responsibility for important functions under the Privacy Act at the highest levels of Commission management, these amendments will ensure that the Privacy Act is implemented effectively and consistently throughout the Commission.

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

David Melnick, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207 (202–634–7770).

SUPPLEMENTARY INFORMATION: The Commission has determined that since this amendment reassigns among Commission officials responsibility for implementing the Privacy Act of 1974 and does not affect the procedural or substantive rights of any individual under the Act, the notice and public procedure provisions of 5 U.S.C. 553 are impracticable and unnecessary. Accordingly, good cause exists to dispense with the notice and public procedure on this amendment and further, to make this amendment effective immediately.

Accordingly, Part 1014 of Title 16, Chapter II, Subchapter A of the Code of Federal Regulations is amended as follows:

§ 1014.6 [Amended]

1. In § 1014.6(a) delete "Commission official who furnished the record" and insert in lieu thereof "Executive Director".

§ 1014.8 [Amended]

2. In § 1014.8, make the following changes:

In paragraph (a), delete "Executive Director" and insert in lieu thereof "Chairman".

In paragraph (c), line 3, delete "Executive Director" and insert in lieu thereof "Chairman".

In paragraph (c), lines 6 and 7, delete "of the Commission".

In paragraph (d), line 2, delete "Executive Director" and insert in lieu thereof "Chairman".

In paragraph (d)(3), line 2, delete "Executive Director" and insert in lieu thereof "Chairman".

In paragraph (d)(3), line 10, delete "Executive Director" and insert in lieu thereof "system manager".

Dated: May 2, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77–12908 Filed 5–4–77;8:45 am]

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES ADMINISTRATION AND ENFORCEMENT REGULATIONS

TRIS and Fabric, Yarn, or Fiber Containing TRIS; Additional Interpretations as Banned Hazardous Substances

AGENCY: Consumer Product Safety Commission.

ACTION: Additional banning interpretations of a statutory provision.

SUMMARY: On April 8, 1977 the Commission banned certain children's wearing apparel containing the chemical flame retardant TRIS and certain uncut fabric containing TRIS which is intended for sale to consumers for use in children's wearing apparel. A federal district court judge ruled on May 3, 1977 that the Commission must also ban certain fabric, yarn, and fiber containing TRIS and TRIS itself which is used in or intended for use in children's wearing apparel. In this document the Commission is complying with that court order.

DATES: The new banning interpretations are effective on May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Poth, Bureau of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207. (301–492–6400).

SUPPLEMENTARY INFORMATION: On April 8, 1977, the Commission published in the FEDERAL REGISTER (42 FR 18850–54, corrected at 42 FR 20479–80, April 20, 1977, and 42 FR 21274, April 26, 1977) a statutory interpretation that the following are "banned hazardous substances" under section 2(q)(1)(A) of the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261(q)(1)(A)):

(1) Children's wearing apparel made from fabric which contains TRIS (2,3-dibromopropyl) phosphate and which is in interstate commerce on April 8, 1977 or which is introduced into interstate commerce after that date or which has not yet been washed (even if it has been sold before that date); and

(2) Uncut fabric, intended for sale to consumers for use in children's wearing apparel, which contains TRIS (2,3-dibromopropyl) phosphate and which is in interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date or which has not yet been washed (even if it has been sold before that date).

The Commission considered the carcinogenicity and mutagenicity hazards presented by these products, as well as other factors, before issuing its banning order. The bans, issued as amendments to 16 CFR 1500.18, and the underlying data are discussed in full in the April 8 FEDERAL REGISTER publication.

As a result of litigation relating to the Commission's bans of TRIS-treated products, U.S. District Judge George L. Hart, Jr. issued the following order on May 3, 1977:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Civil Action No. 77–682]

AMERICAN APPAREL MANUFACTURERS ASSOCIATION, PLAINTIFF, V. CONSUMER PRODUCT SAFETY COMMISSION, ET AL., DEFENDANTS

Order

This matter having come on for hearing on the motion of American Apparel Manufacturers Association for a preliminary injunction and upon consideration of the points and authorities and affidavits in support and opposition thereto filed by the parties and intervenors herein and of the argument of counsel in open court and the entire record herein;

And it appearing that the Court has jurisdiction for the purposes of this motion over the subject matter in this action and the parties thereto;

And it appearing that the United States Consumer Product Safety Commission ("Commission") acted arbitrarily and capriciously in too narrowly defining the "banned hazardous substances" in its April 8, 1977 ban on the sale of certain TRIS-treated wearing apparel and fabric in such a way as to unfairly place virtually the entire economic burden resulting from the ban upon manufacturers of children's wearing apparel;

And it further appearing that section 2(q)(1)(A) of the Federal Hazardous Substances Act, 15 U.S.C. 1261(q)(1)(A), does not limit the jurisdiction of the Commission to finished products in the form sold at retail; and that the Commission has the authority and duty to redefine "banned hazardous substance" to include TRIS, and fabric, yarn, or fiber containing TRIS, which is used or intended for use in children's wearing apparel, whether the fabric, yarn, or fiber is cut, uncut, or already incorporated in children's wearing apparel; it is by the Court this 3d day of May 1977.

Ordered: that, consistent with the foregoing, the Commission add to its April 8, 1977, order within 10 days from the date of this Order by including two additional categories of banned hazardous substances:

(3) All fabric, yarn or fiber which contains TRIS (2,3-dibromopropyl) phosphate and which is used or intended for use in children's wearing apparel (whether the fabric, yarn, or fiber is cut, uncut, or already incorporated in children's wearing apparel) and which is in interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date, or which has not yet been washed (even if it has been sold before that date);

(4) All TRIS (2,3-dibromopropyl) phosphate which is used or intended to be used in children's wearing apparel and which is in interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date or which is in such apparel which is unwashed and is in the hands of consumers.

If any provision of the April 8, 1977, order or this addition, or the application of such provision to any person or circumstance, shall be held invalid, no other provision of the April 8, 1977, order, or this addition thereto, shall be affected thereby; and

It is further ordered: That, the Commission enforce section 15 of the Federal Hazardous Substances Act, 15 U.S.C. 1274, in accordance with the above revised definition of "banned hazardous substance" and in accordance with the intent of section 15 that the duty of each party in the distributive chain to repurchase the banned hazardous substance is limited to the making of a refund of the purchase price actually paid to that party by its immediate customer (together with reimbursement of certain expenses incurred in returning the product, as provided in section 15); and

It is further ordered, That unless the Commission acts within 10 days from the date of this Order to revise its order of April 8, 1977, consistent with this Order, further enforcement of the repurchase provisions of the Federal Hazardous Substances Act, 15 U.S.C. 1274, with respect to the April 8, 1977 order of the Commission will be and hereby is enjoined until the Commission complies with the findings of this Court.

GEORGE L. HART, Jr.,
United States District Judge.

Accordingly, pursuant to the above Court order and pursuant to provisions of the Federal Hazardous Substances Act (sections 2(f)(1)(A), (g), (q)(1)(A) and 10(a), 74 Stat. 372, 374, as amended 80 Stat. 1305; 15 U.S.C. 1261(f)(1)(A), (g), (q)(1)(A), 1269(a)) and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (section 30(a), 86 State. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1500.18(d) by adding the following:

§ 1500.18 Banned toys and other banned articles intended for use by children.

• • • • • •

(c) [Reserved].

(d) *Toys and other children's articles presenting toxicity hazards.* Under the authority of sections 2(f)(1)(A), 2(g), 2(q)(1)(A), and 10(a) of the act, the Commission has declared that the following articles are banned hazardous substances because they are toys or other articles intended for use by children that are hazardous substances, or bear or contain hazardous substances in such manner as to be susceptible of access by a child to whom they are entrusted, based on the fact that they may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children, because of their toxicity:

• • • • • •

(3) All fabric, yarn or fiber which contains TRIS (2,3-dibromopropyl) phosphate and which is used or intended for use in children's wearing apparel (whether the fabric, yarn, or fiber is cut, uncut, or already incorporated in children's wearing apparel) and which is in interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date, or which has not yet been washed (even if it has been sold before that date);

(4) All TRIS (2,3-dibromopropyl) phosphate which is used or intended to be used in children's wearing apparel, which is in interstate commerce on April 8, 1977, or which is introduced into interstate commerce after that date or which is in such apparel which is unwashed and is in the hands of consumers.

Dated: May 3, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77–13036 Filed 5–3–77;3:26 pm]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD77–70]

PART 25—CLAIMS

Miscellaneous Amendments

AGENCY: Coast Guard.

ACTION: Final rule.

SUMMARY: The Coast Guard is making miscellaneous changes to its administrative procedures for the settlement of claims, other than contract claims, by and against the Coast Guard. These amendments are being made to correct typographical errors and to clarify existing regulations. In addition, settlement authority has been delegated to certain field units to allow the more efficient adjudication of claims. The requirement that Coast Guard Auxiliarists present claims against their private insurance carriers as a prerequisite to the payment of claims made against the Coast Guard has been removed as it did not accomplish the purpose for which it was intended.

EFFECTIVE DATE: This amendment is effective on May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C., 20590 (202–426–1477). The principal persons involved in drafting this rule are: Lieutenant Commander Jonathan Collom, Project Manager, and Lieutenant Edward Gill, Project Attorney.

SUPPLEMENTARY INFORMATION: These revisions to the claims regulations correct a typographical omission regarding the enumerated unusual occurrences for which claims may be payable for losses occurring in quarters and other authorized places under the Military Personnel & Civilian Employees Claims Act. They clarify the application of a standard table of limitations, exclusions and depreciation to all claims settled under the Military Personnel & Civilian Employees Claims Act. They correct a typographical error regarding claims not payable under the Military Personnel & Civilian Employees Claims Act. They increase the settlement authority of Commanding Officers of certain Headquarters units under the Military Personnel & Civilian Employees Claims Act. They remove the prohibition against payment of Coast Guard Auxiliary claims which can be the subject of a claim against a private insurer. They delegate authority to settle property damage claims on behalf of the Coast Guard to certain Headquarters units. Since this amendment relates to agency procedure, it is exempted from notice of proposed rule making and public procedure thereon by 5 U.S.C. 553(b), and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER, because 5 U.S.C. 553(d) does not apply.

Accordingly Part 25 of Title 33, Code of Federal Regulations is amended as follows:

1. By revising § 25.703(a)(1) to read as follows:

§ 25.703 Claims payable.

• • • • • •

(a) • • •

(1) Damage to or loss of personal property, other than motor vehicles and their contents, by fire, flood, hurricane, theft, or other unusual occurrence, while located at:

• • • • • •

§ 25.703 [Amended]

2. By deleting § 25.703(b)(2).

3. By revising § 25.705(g) to read as follows:

§ 25.705 Claims not payable.

• • • • • •

(g) Damage to or loss of property for which recovery has been, or can be, obtained from an insurer, carrier, or contractor, except under the concurrent claims procedure of § 25.709(c).

• • • • • •

4. By revising § 25.713 to read as follows:

§ 25.713 Delegation of authority.

• • • • • •

(e) The following officers may deny claims not exceeding $1,000 and may settle and authorize payment of claims in which the payment does not exceed $1,000:

(1) The Commander of any Coast Guard District.

(2) The Superintendent, U.S. Coast Guard Academy.

(3) The Commanding Officer of each Headquarters unit having a permanent legal officer billet.

(f) The officers to whom authority is delegated in paragraphs (a), (b), (c), (d), and (e) of this section, and any commanding officer in the grade of Lieutenant Commander or above may settle claims of military personnel for re-

V42N87 MAY 5 77 UMI

placement in kind arising under this subpart.

5. By adding a new § 25.717 to read as follows:

§ 25.717 Limitations, exclusions, and depreciation.

Claims for damage to or loss of personal property settled under this subpart are subject to the limitations, exclusions, and depreciation contained in Appendix 1, Department of Transportation Order 2770.9.

6. By revising § 25.805(d) to read as follows:

§ 25.805 Claims not payable.

• • • • • •

(d) Has been the subject of a claim by the Auxiliarist against his insurer to the extent the Auxiliarist has been reimbursed by his insurer;

• • • • • •

7. By adding a new § 25.1409(d) to read as follows:

§ 25.1409 Delegation of authority.

• • • • • •

(d) The Superintendent, U.S. Coast Guard Academy, and the Commanding Officer of each Headquarters unit having a permanent legal officer billet may collect, compromise, and settle claims on behalf of the United States for damage to or destruction of property, other than aids to navigation and other related property, belonging to the Coast Guard which is to be repaired or replaced, where the amount of the claim does not exceed $15,000.

(14 U.S.C. 633; 10 U.S.C. 2733; 10 U.S.C. 2734; 31 U.S.C. 241; 49 U.S.C. 1655(b); 49 CFR 1.45 (a) and 1.46(b).)

Dated: April 29, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-13097 Filed 5-4-77;9:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-149; Amdt. Nos. 172-35, 175-4]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATION REGULATIONS

PART 175—CARRIAGE BY AIRCRAFT

Air Transportation of Limited Quantities of Low-Level Radioactive Materials; Exemption Renewal

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: The Materials Transportation Bureau (MTB) is renewing for two years the limited quantity exception for air transportation of materials exhibiting very low levels of radiation. These materials do not present a significant hazard to passengers and crew of an aircraft. The intended effect of this action is to permit continued transportation by passenger aircraft of these materials under existing restrictions.

DATE: This amendment is effective May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. C. Hugh Thompson, Director, Office of Hazardous Materials Operations, 2100 Second Street, SW., Washington, D.C. 20590. Phone: 202-426-0656.

SUPPLEMENTARY INFORMATION: By notice (42 FR 16459, March 28, 1977) the MTB proposed to renew the expiring exemption found at 49 CFR 175.10 (a)(6). Twelve comments were received which may be grouped as follows:

(1) Objection to imposition of the proposed shipping paper requirements for § 173.391(a) materials, and request for a public hearing on that subject.

(2) Objection to continuation of surface shipping paper requirements for § 173.391 (b) and (c) materials in light of the proposed continuance of air shipping paper exceptions for § 173.391 (b) and (c) materials;

(3) Request for amendment of § 172.203(d)(1)(iii) to allow alternative use of a statement of maximum permitted activity in place of the actual activity per package;

(4) Request for a permanent regulation instead of an exemption renewal;

(5) General support for the March 28 proposals.

There were not received any objections to basic continuation of the exemption. Given the public interest in matters related to the exemption, such as shipping paper requirements for surface transportation as well as for transportation by air, the MTB has decided to limit final action under this docket to the exemption itself and to consider the question of shipping paper requirements and the request for a public hearing as separate matters under a new docket. A notice of proposed rulemaking for that purpose will appear in a subsequent issue of the FEDERAL REGISTER.

The exemption itself is authorized by § 107(a) of the Hazardous Materials Transportation Act of 1974 (Title I of Pub. L. 93-633; 49 U.S.C. 1806(a)) and necessitated by § 108(b) of that Act (49 U.S.C. 1807(b)). It is predicated on the very limited hazards posed by those materials meeting the criteria of § 173.391 (a), (b), and (c). Because the existing exemption, which relieves a restriction stated in the Act and in § 175.700(d), will expire on May 3, 1977, an effective date of less than 30 days following this publication is necessary to avoid disrupting exempted shipments. Continuation of the exemption will have a negligible environmental impact and will not impose any additional costs on shippers, carriers or consumers.

Primary drafters of this document are Douglas A. Crockett and Alfred W. Grella.

In consideration of the foregoing, Parts 172 and 175, Title 49, Code of Federal Regulations, are amended as follows:

§ 172.204 [Amended]

1. In § 172.204, paragraph (c)(4) is amended by changing the last sentence to read "• • • Prior to May 3, 1979, this provision does not apply to materials meeting the requirements of § 173.391 (a), (b) or (c) of this subchapter in effect on May 3, 1977."

2. In § 175.10, paragraph (a)(6) is revised to read as follows:

§ 175.10 Exceptions.

(a) • • •

(6) Prior to May 3, 1979, radioactive materials which meet the requirements of § 173.391 (a), (b) or (c) of this subchapter in effect on May 3, 1977.

• • • • • •

3. In § 175.700, paragraph (d) is amended to read as follows:

§ 175.700 Special requirements for radioactive materials.

• • • • • •

(d) Except as provided in this paragraph, no person may carry aboard a passenger-carrying aircraft any radioactive material other than a radioactive material intended for use in, or incident to, research or medical diagnosis or treatment. Prior to May 3, 1979, this prohibition does not apply to materials which meet the requirements of § 173.391 (a), (b) or (c) of this subchapter in effect on May 3, 1977.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on April 28, 1977.

NOTE.—In order to meet day-of-the-week publication requirements, this document is republished from 42 FR 22366, Tuesday, May 3, 1977.

JAMES T. CURTIS, Jr.,
Director, Materials, Transportation Bureau.

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1263; Amdt. No. 1]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of Emergency Order (Amendment No. 1 to Service Order No. 1263).

SUMMARY: This amendment extends until October 31, 1977, an emergency order issued March 31, 1977, which authorized the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) between Culver, Iowa, and Polo, Missouri, and between Eldon, Iowa, and Ottumwa, Iowa. The line of the MILW between Culver and Polo, passing through Ottumwa, has deteriorated and is no longer suitable for heavy, through-freight-train service. Operation over the parallel line of the RI enables the MILW to continue to provide through-freight-train services to shippers using its line. An application seeking authority for permanent operation by the MILW over tracks of the RI between Culver and Polo has been submitted to the Commission and has been assigned Finance Docket No. 28437.

DATES: Effective 11:59 p.m., April 30, 1977; expires 11:59 p.m., October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, TLX 89 2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a general session of the Interstate Commerce Commission, held in Washington, D.C., on the 27th day of April 1977.

Upon further consideration of Service Order No. 1263 (42 FR 18081), and good cause appearing therefor:

It is ordered, That: § 1033.1263 Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Service Order No. 1263 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1263 Service Order No. 1263.

• • • • • •

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., April 30, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Commissioner MacFarland not participating.

ROBERT L. OSWALD,
Secretary.

APPENDIX

COMMISSIONER MURPHY (CONCURRING IN PART)

I would extend Service Order No. 1263 until May 31, 1977. Furthermore, there is some question in my mind as to whether the entire segment, over 230 miles, should be included therein in light of the several intersecting points between applicants.

[FR Doc.77-12939 Filed 5-4-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Corrective Amendment

AGENCY: Federal Energy Administration.

ACTION: Corrective Amendment.

SUMMARY: The Federal Energy Administration hereby amends § 212.83(h) to correct an inadvertent error in the regulations. This amendment merely replaces a provision inadvertently omitted from § 212.83(c)(2)(iii)(B) when that section was amended (42 FR 5030, January 27, 1977). The provision (previously found in the definition of "d_1") permits a refiner to add three cents more of increased costs to the prices of gasoline sold at retail by employees of the refiner than that refiner adds to the prices of gasoline sold at other levels of distribution.

EFFECTIVE DATE: February 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Andy Drance (Program Office), 2000 M Street NW., Room 5126, Washington, D.C. 20461, 202-254-8580.

Susan Pearce (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2085.

SUPPLEMENTARY INFORMATION: The provision, which was omitted from the definition of "d_1" and is reinserted in the regulations by this amendment, permits a refiner to disproportionately allocate the increased costs of gasoline to the prices of those volumes of gasoline sold at retail through outlets operated by employees of the refiner. A refiner may choose to allocate to the prices of gasoline sold at retail up to three cents per gallon more increased costs than it allocates to the prices of gasoline sold at other levels of distribution. However, this reduces the remaining total increased costs available for recovery through sales of gasoline by an amount equal to the amount actually disproportionately allocated to the prices of gasoline sold at retail multiplied by the volumes of gasoline estimated to be sold at retail during the current month. This provision puts refiners on a par with retailers who are permitted to increase their prices above the amount otherwise permitted to be charged by up to three cents per gallon to reflect increases in non-product costs.

This amendment makes explicit the requirement that the equal application rule continues to apply to sales of gasoline at retail by a refiner, that is, that recovery of increased costs by refiners is computed as though the greatest amount of increased costs included in the selling price to any class of purchaser that purchases gasoline at retail from a refiner had been included in the selling price to all such classes of purchaser. This requirement was implicit in the earlier definition of "d_1" and does not represent a change from the earlier provision.

The provision discussed above is being reinserted in § 212.83(h) rather than § 212.83(c)(2)(iii)(B) because the amendment to the latter section makes its reinsertion there awkward and because it more appropriately appertains to the topic of § 212.83(h). However, no substantive change is involved or intended by this change in placement.

Because this amendment is only to correct an inadvertent omission in the regulations, the Federal Energy Administration finds that good cause exists to issue this amendment immediately, without notice, opportunity for comment, or economic impact valuation. This corrective amendment is effective as of the effective date of the amendment which omitted this provision. As this amendment merely restores the regulations to their previous status and is not intended to change their effect, it will not affect the quality of the environment. Therefore it is also not necessary to submit this amendment to the Administrator of the Environmental Protection Agency for comments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 CFR 23185.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective February 1, 1977.

Issued in Washington, D.C., April 30, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

V42N87 MAY 5 77 7 UMI

1. Section 212.83(h) is amended by adding a new paragraph (h)(2)(iv) to read as follows:

§ 212.83 Price rule.

* * * * * *

(h) *Equal application among classes of purchaser.* * * *

(2) *Special rules.* * * *

(iv) *Retail sales of gasoline by refiners.* When a refiner calculates the amount of increased costs not recouped that may be added to May 15, 1973, selling prices of gasoline to compute maximum allowable prices in a subsequent month, it may, notwithstanding the general rule in paragraph (b)(1) of this section, compute revenues as though (A) the greatest amount of increased costs actually added to any May 15, 1973, selling price of gasoline and included in the price charged to any class of purchaser that purchases gasoline at retail from a refiner at any service station operated by employees of the refiner had been added to the May 15, 1973, selling prices of that product and included in the price charged to each class of purchaser that purchases gasoline at retail from a refiner at any service station operated by employees of the refiner and, (B) the greatest amount of increased costs actually added to the May 15, 1973, selling price of gasoline and included in the price charged to any class of purchaser that purchases gasoline at retail from a refiner at any service station operated by employees of the refiner had been added, in the same amount (less any actual differential or three cents per gallon, whichever is less) to the May 15, 1973 selling prices of gasoline and included in the price charged to all other classes of purchaser.

[FR Doc.77-12870 Filed 5-2-77;1:35 pm]

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Early Site Reviews and Limited Work Authorizations

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The rule which follows establishes procedures for the early review of site suitability issues both separate from and in conjunction with the initiation of proceedings for the issuance of permits authorizing the construction of nuclear power and test reactors. These procedures would permit an applicant for a construction permit to obtain resolution of important site-related issues which may prove dispositive of an application to construct a facility at a particular site well in advance of any substantial commitment of resources. By permitting early review and providing a measure of certainty in this important area, these procedures are expected to increase the effectiveness of the licensing process in resolving legitimate public concerns and to enhance the effectiveness of the nuclear facility planning process.

EFFECTIVE DATE: June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Martin G. Malsch, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-7203 and Mr. Malcolm L. Ernst, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-8016.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 22, 1976, the U.S. Nuclear Regulatory Commission published in the FEDERAL REGISTER (41 FR 16835-16839) for public comment proposed amendments to its regulations in 10 CFR Parts 2 and 50 which would provide procedures designed to encourage and facilitate early consideration of site suitability issues associated with nuclear power reactors and other large utilization and production facilities and would extend the so-called "limited work authorization" concept to include production facilities such as commercial isotopic enrichment plants, fuel reprocessing plants and testing reactors. Interested persons were invited to submit written comments for consideration in connection with the proposed amendments by July 15, 1976 (41 FR 27805, July 1, 1976). Upon consideration of the comments received and other factors involved, the Commission has adopted the proposed amendments with certain modifications as set forth below.

CHANGES FROM THE PROPOSED RULE

The effective rules follow the basic approach suggested in the proposed regulations and establish procedures for the early review of issues of site suitability both separate from and in conjunction with the initiation of proceedings for the issuance of permits authorizing the construction of certain utilization facilities. These procedures are in accord with the Commission's present statutory authority. They permit any person, including States and other entities, to request a review of site suitability issues, but do not provide for issuance of a partial decision by an atomic safety and licensing board on those issues unless the request for review was made in the context of a construction permit proceeding initiated by a person proposing to construct a nuclear facility. The significant changes from the proposed rule are:

(1) The facilities covered by the effective rule include utilization facilities for which an environmental impact statement must be prepared prior to issuance of a construction permit and which are of the type specified in 10 CFR § 50.21(b)(2) or (3) or 50.22 (nuclear power reactors) or are testing facilities. After consideration, the Commission decided not to extend the effective rule on early review of site suitability issues or extend the limited work authorization concept to production facilities such as nuclear fuel reprocessing plants or other facilities of the type specified in § 50.21 because this would be premature and unnecessary.

(2) The proposed rule has been modified to provide that an early partial decision on site suitability issues may only be reopened based on significant new information. The provision in the proposed rule that such an early decision could also be reopened for "good cause" has been deleted as duplicative and unnecessary.

(3) To eliminate needless argument on such matters as the content of a "full" site approval and the relation between site and design issues, the effective rule eliminates the references to and attempts to distinguish between full and partial site approvals in the proposed rule. Related to this, the final sentence in § 2.604(b) of the proposed rule which would have provided that a partial decision on all site suitability issues shall serve as the decision on general site suitability issues required by § 50.10(e)(2)(ii) has been deleted. Whether an early partial decision would serve as the decision on general site suitability issues would depend on the nature and scope of the decision and would be decided during the limited work authorization review and decision process.

(4) The provisions in paragraph 4 of Appendix Q of the proposed rule relating to the binding effect of staff site approvals on later staff reviews have been revised to more clearly reflect the intent of the proposed rule that the staff's testimony on site suitability issues before an Atomic Safety and Licensing Board need not coincide with a previous review under Appendix Q where there is good reason for the difference in light of the provisions that the staff review under Appendix Q does not in any way limit the authority of the Atomic Safety and Licensing Board, Atomic Safety and Licensing Appeal Board, or the Commission.

(5) In order to provide added assurance that early reviews of site suitability issues will yield useful results proportionate to the resources that must be expended in the review, the proposed rule has been revised (§ 2.605 and paragraph 7. of Appendix Q) to include several additional grounds on which the Commission, upon its own initiative or on motion of a party, may decide not to initiate an early review. These criteria reflect the present Commission practice regarding initiation of separate hearings on site suitability issues (See Potomac Electric Power Company (Douglas Point Nuclear Generating Station, Units 1 and 2) ALAB-277, 1 NRC 539 at 547 (1975)). The criteria include such public interest considerations as the degree of likelihood that early findings on site suitability issues will retain their validity in later reviews and the possible effect on the public interest and interested parties of early, but not necessarily conclusive, resolution of site suitability issues. In addition, the criterion in the proposed rule designed to avoid prejudicing later NEPA reviews has been retained, and a new criterion has been added to accommodate possible objections to the early review of site suitability issues by cognizant state or local government agencies in particular cases. Finally, the effective rule provides that only one review of site suitability issues could be conducted prior to the full NEPA construction permit review.

(6) A provision has been added for soliciting the views of NEPA commenting agencies on the initiation of an early review of site suitability issues.

(7) Other minor or clarifying changes were made to:

Define more exactly the period of time during which a partial decision on site suitability matters is effective;

Provide more specific guidance concerning the time for filing and content of the respective parts of a construction permit application;

Obtain information concerning alternative sites, the applicant's site selection process and the applicant's plans for ultimate development of the site;

Clarify that no limited work authorization or construction permit can be issued without completion of the full NEPA review.

These changes are described more fully below in the detailed explanation of the effective rules.

EXPLANATION OF THE EFFECTIVE RULES

Under the amendments to 10 CFR Part 2, applicants for construction permits may request early review, hearing and partial decision on specific site suitability issues as much as five years in advance of the submittal of the remaining portions of their construction permit applications. The effective regulations contain a schedule which specifies when the several parts of a construction permit application are to be filed and the procedures governing acceptance review and formal docketing of these submittals. Absent a finding by the Commission, the Atomic Safety and Licensing Appeal Board, or the Atomic Safety and Licensing Board that there exists significant new information that substantially affects the conclusions of the partial decision on site suitability issues and necessitates reopening the hearing record, the regulations provide that a partial decision on site suitability issues shall remain in effect either for a period of five years or, where the applicant has made timely submittal of the remainder of his application, until the conclusion of the pending construction permit proceeding. The effective rule provides that the Commission may, upon good cause shown, extend the five year period during which a partial decision shall remain in effect for an additional reasonable period of time, not to exceed one year. The effective rule also provides that any partial decision on a site suitability issue or issues shall be incorporated in the decision regarding issuance of a construction permit to the extent that it serves as a basis for the decision on a specific site suitability issue or issues.

Within the last year or so, a number of utilities have found it necessary, for various economic and financial reasons, to cancel or postpone plans for the construction of nuclear power plants. It is the Commission's intent that the procedures for early review, hearing and partial decision of site suitability issues provided in these regulations for construction permit applicants shall be available to all qualified construction permit applicants, including applicants who did not request early review of site suitability issues at the time of their initial application but who later decide, following postponement of the target date for actual construction of the facility, that this procedure would be advantageous. All such requests must be accompanied by the information prescribed in the effective rule, and will be subject to the same acceptance review. The requirements in the effective rule for filing the remaining parts of the construction permit application must also be followed.

Persons who do not seek a permit to construct a facility may use the procedures in new Appendix Q to 10 CFR Part 50. Under these procedures, interested persons, including States, may request a Commission staff review of site suitability issues at any time. This review, which does not involve a public hearing, culminates in the issuance of a staff site report which identifies the location of the site, states the site suitability issues reviewed, explains the nature and scope of the review and states the conclusions of the staff regarding the issues reviewed and the reasons for those conclusions. The procedures in Appendix Q require the Commission staff to publish a notice of availability of its report in the FEDERAL REGISTER and to place copies of the report in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in local public document rooms located near the site identified in the report. The Commission staff is also required to send a copy of the report to the Governor or other appropriate official of the State in which the site is located, and to the chief executive of the municipality in which the site is located, or if the site is not located in a municipality, to the chief executive of the county.

Although Appendix Q explicitly states that issuance of a staff site report does not constitute a commitment on the part of the Commission to issue a permit or a license or to permit site work to go forward pursuant to a limited work authorization (10 CFR § 50.10(e)) and does not affect in any way the authority of the Commission, appeal board, or licensing boards in any proceedings conducted pursuant to 10 CFR Part 2, Subparts F[1] and G, Appendix Q permits applicants for construction permits to reference previously issued Staff Site Reports in their applications. Consistent with Subpart F, the staff would reexamine the conclusions of its early review of site suitability issues, contained in the Staff Site Report, under Appendix Q after five years. Before that time, the conclusions of the Report would only be reexamined if there were good reason for doing so.

The regulations contain certain requirements which the Commission considers essential in order to assure that the procedures for early review of site suitability issues contribute effectively to and are meaningfully integrated into the licensing process. These requirements provide mechanisms which should enable the Commission (1) to reach a viable accommodation between the need to make licensing decisions on the most up-to-date information available and the need to curtail repetitive consideration of previously decided issues, (2) to avoid prejudicing the conclusions of any later review of NEPA (National Environmental Policy Act of 1969) issues regarding alternative siting, (3) to assure that early review of site suitability issues will yield results proportionate to the resources that must be expended in the review, and will not undermine the ability of interested citizens groups and other persons to participate effectively in the site review process, and (4) to consider the views of cognizant state and local agencies with regulatory authority over the proposed site and plant.

These requirements, which are applicable to all requests for early review of site suitability issues, whether submitted by applicants for construction permits or others, prescribe the kind of information which must be supplied in order for the Commission to consider a request for early review of site suitability issues, and specify criteria on which the Commission may base its refusal to perform such a review.

For example, applicants for construction permits who seek early review of site suitability issues are required by § 2.101(a-1)(1) to submit proposed findings, together with a supporting statement, on the issues of site suitability submitted for review, and to provide information on a range of postulated facility design and operation parameters sufficient to enable the Commission to perform the requested review. Applicants for construction permits are also required by §§ 2.101(a-1)(1) and 2.603(b)(1) to submit descriptions of their site selection process which explain the extent to which that process involves the consideration of alternative sites and the relationship between that process and the application for early review of site suitability issues. Applicants are also required to provide a brief description of their long-range plans for ultimate development of the site. Section 2.605 of the regulations provides that the Commission, on its own intiative or on motion of any party to the proceeding, may decline to initiate an early hearing or render an early partial decision on any issue or issues of site suitability in connection with a construction permit application in cases where no partial decision on the relative merits

[1] Subpart F provides for early review of site suitability issues in connection with construction permit applications.

V42N87 MAY 5 77 UMI

under Part 51 of the proposed site and alternative sites is requested, upon determination that there is a reasonable likelihood that further review would identify one or more preferable alternative sites and the partial decision on one or more site suitability issues would lead to an irreversible and irretrievable commitment of resources prior to the submittal of the remainder of the required information that would prejudice the later review and decision on such alternative sites. By requiring applicants to furnish information concerning their site selection process as part of their request for early review and by providing for the findings described above, the Commission expects to avoid significant premature commitments of resources to sites which may prove unacceptable when compared with alternative sites.

Section 2.605 of the regulations also provides that the Commission may decline to initiate an early review or render an early partial decision in cases where an early partial decision on any issue or issues of site suitability would not be in the public interest considering (a) the degree of likelihood that any early findings on those issues would retain their validity in later reviews, (b) the objections, if any, of cognizant state or local government agencies to the conduct of an early review on those issues, and (c) the possible effect on the public interest and the parties of having an early, if not necessarily conclusive, resolution of those issues. In this regard, the views of appropriate Federal, State, and local agencies would be considered in connection with the initiation of any early site review. Finally only one review of site suitability issues (either under Subpart F of 10 CFR Part 2 or Appendix Q to 10 CFR Part 50) could be conducted with regard to a particular site prior to the full NEPA construction permit review.

The Commission staff will follow criteria similar to those in § 2.605 in deciding whether to prepare and issue a Staff Site Report in response to a request submitted pursuant to Appendix Q.

Many of the comments favoring adoption of the rule considered its capacity to yield final dispositive decisions crucial to its success. Several commentors suggested that approved sites be "grandfathered" to insulate them from new regulatory requirements imposed during the period the approval is effective. The Commission recognizes the importance of finality in its decisions and has endeavored to assure this in substantial measure by providing that partial decisions on site suitability issues will remain effective for five years or until the conclusion of the construction permit proceeding, by specifying criteria for reopening site suitability decisions, and by providing that partial decisions and Staff Site Reports be as detailed and explicit as possible. The statute of a partial decision on site suitability issues is emphasized in the effective rule by providing that the partial decision shall be incorporated in the decision regarding issuance of a construction permit to the extent that the partial decision serves as the basis for deciding a specific site suitability issue or issues.

Moreover, at the same time, the Commission also recognizes the need to assure that up-to-date information of significance in both the health and safety and the environmental areas is appropriately factored into the Commission's licensing decisions. Consequently, the effective rule does not automatically immunize previously reviewed sites from new regulatory requirements. Whether later adopted regulatory requirements will be imposed on a previously reviewed site (i.e., constitute significant new information that substantially affects the prior conclusions) will be decided based on the content of the new requirements.

Several commentors suggested the adoption of more stringent standards for reopening decisions, such as, for example, the showing of a need to provide substantial additional protection for the public health and safety or the common defense and security, the finding required in 10 CFR § 50.109 to justify backfitting requirements. The Commission believes that the standard enunciated in the proposed rule and largely retained in the effective rule will prove effective both in bringing significant new information to the attention of the Commission and in preserving, to the fullest extent possible, the advantages, from the standpoint of certainty, which are expected to result from early review, hearing and partial decision on site suitability issues.

The effective rule eliminates references to and attempts to distinguish between full and partial site approvals to eliminate needless argument regarding the content of a "full" site approval and the relation between site and design issues. Any effective partial decision on one or more site suitability issues could still serve as the finding of general site suitability called for by 10 CFR 50.10 (e) (2) (ii) depending on the nature and scope of the decision. While the effective rule would allow completion of all or part of the National Environmental Policy Act of 1969 (NEPA) environmental impact statement at an earlier point in time than would be the case if no early site review were conducted, in no case could a limited work authorization or construction permit be granted without a full NEPA environmental impact statement. The rule does not permit any "gaps" in the environmental impact statement.

It is anticipated that environmental concerns will play an important role in the consideration and resolution of site suitability issues. Applicants for construction permits who request early review of environmental site suitability issues will be expected to furnish information concerning the issues addressed, and the Commission staff will conduct its own assessment and review following procedures that are consistent with the review procedures prescribed in NEPA for environmental impact statements. The effective regulation permits a similar procedure to be followed in connection with an Appendix Q review. Since the scope of the NEPA review will depend in any given instance on the nature and scope of the site suitability issues submitted for review, the effective rule does not delineate general requirements for environmental review. The Commission expects that the details of this review will be handled on a case-by-case basis. With respect to its responsibilities under the National Historic Preservation Act of 1966, as amended (16 U.S.C.A. 470 et seq.) and the Archaeological and Historic Preservation Act of 1974 (Pub. L. 93-291, 16 U.S.C.A. 469-469c), the Commission expects that any concerns relating to the preservation of historical, archaeological, architectural or cultural resources which may arise during early review of site suitability issues will be handled in a similar manner.

One of the comments suggested that the rule explicitly provide for joint hearings and increased coordination with the states. The Commission believes that duplicative environmental assessments should be avoided to the extent practicable and that the coordination of federal and state facility siting and environmental reviews should be encouraged.

At the same time, the Commission is of the opinion that, at least in the immediate future, this objective can best be achieved on a case-by-case basis. Accordingly, no specific provisions respecting joint hearings have been included in the effective rule.

The proposed rule would have amended 10 CFR 50.10(e) to extend the Commission's authority to issue limited work authorizations to applicants seeking permits to construct production facilities such as commercial isotopic enrichment plants and reprocessing plants, and testing reactors. After further consideration of this matter, this provision has been eliminated in the effective rule as premature and unnecessary.

In order to provide additional guidance to persons who seek early review of site suitability issues in accordance with the provisions of the effective rule, the Commission staff is simultaneously issuing a report entitled "Early Site Reviews for Nuclear Power Facilities" (NUREG-0180) which describes procedures to be followed by construction permit applicants and others and delineates the nature and scope of some of the more significant areas of technical review. Copies of NUREG-0180 are available for inspection by the public at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C., and at the NRC's Local Public Document Rooms. Copies of NUREG-0180 may also be purchased from The National Technical Information Service, Springfield, Virginia 22161.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following

amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 2 and 50 are published as a document subject to codification.

§ 2.101 [Amended]

1. In § 2.101 of 10 CFR Part 2, paragraph (a) is amended by substituting the words "utilization facility which is subject to § 51.5(a) of this chapter and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility" for the words "nuclear power reactor subject to § 51.5(a) of this chapter" wherever they appear, and paragraph (a)(3) is amended by deleting the language "as provided in paragraph (a)(5) of this section" and substituting therefor the language "as provided in paragraphs (a)(5) or (a-1) of this section."

2. A new paragraph (a-1) is added immediately after § 2.101(a)(5) of 10 CFR Part 2 to read as follows:

§ 2.101 Filing of application.

* * * * *

(a-1) *Early consideration of site suitability issues.* An applicant for a construction permit for a utilization facility which is subject to § 51.5(a) of this chapter and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility, may request that the Commission conduct an early review and hearing and render an early partial decision in accordance with Subpart F on issues of site suitability within the purview of the applicable provisions of Parts 50, 51 and 100 of this chapter. In such cases, the applicant for the construction permit may submit the information required of applicants by the provisions of this chapter in three or (in the case of nuclear power reactors) four parts:

(1) Part one shall include or be accompanied by any information required by §§ 50.34(a) (1) and 50.30(f) of this chapter which relates to the issue(s) of site suitability for which an early review, hearing and partial decision are sought, except that information with respect to operation of the facility at the projected initial power level need not be supplied, and shall include the information required by §§ 50.33(a)-(e) and 50.37 of this chapter. The information submitted shall also include (i) proposed findings on the issues of site suitability on which the applicant has requested review and a statement of the bases or the reasons for those findings, (ii) a range of postulated facility design and operation parameters that is sufficient to enable the Commission to perform the requested review of site suitability issues under the applicable provisions of Parts 50, 51 and 100, and (iii) information concerning the applicant's site selection process and long-range plans for ultimate development of the site required by § 2.603(b) (1).

(2) Part two shall include or be accompanied by the remaining information required by §§ 50.30(f), 50.33 and 50.34 (a) (1) of this chapter.

(3) Part three shall include the remaining information required by §§ 50.34 (a) and (in the case of a nuclear power reactor) 50.34a of this chapter.

(4) The information required for part two or part three shall be submitted during the period the partial decision on part one is effective. Submittal of the information required for part three may precede by no more than six months or follow by no more than six months the submittal of the information required for part two.

(5) Part four,[3] which is only required when the application is for a construction permit for a nuclear power reactor, shall include any information required by § 50.33a of this chapter and shall be filed in accordance with the time periods specified in § 50.33a.

3. In § 2.110 the section heading is revised, paragraph (a) is redesignated as paragraph (a)(1), new paragraph (a)(2) is added, and paragraphs (b) and (c) are revised to read as follows:

§ 2.110 Filing and administrative action on submittals for design review or early review of site suitability issues.

(a)(1) * * *

(2) Except as specifically provided otherwise by the provisions of Appendix Q to Part 50 of this chapter, a submittal pursuant to Appendix Q shall be subject to § 2.101 (a)(2)-(a)(4) to the same extent as if it were an application for a permit or license.

(b) Upon initiation of review by the staff of a submittal of a type described in paragraph (a)(1) of this section, the Director of Nuclear Reactor Regulation shall publish in the FEDERAL REGISTER a notice of receipt of the submittal, inviting comments from interested persons within 60 days of publication or such other time as may be specified, for consideration by the staff and ACRS in their review.

(c) Upon completion of review by the staff and the ACRS of a submittal of the type described in paragraph (a)(1) of this section, the Director of Nuclear Reactor Regulation shall publish in the FEDERAL REGISTER a determination as to whether or not the design is acceptable, subject to such conditions as may be appropriate, and place in the Public Document Room an analysis of the design in the form of a report.

4. A new Subpart F is added to 10 CFR Part 2 to read as follows:

Subpart F—Additional Procedures Applicable to Early Partial Decisions on Site Suitability Issues in Connection With an Application For a Permit to Construct Certain Utilization Facilities

Sec.
2.600 Scope of subpart.
2.601 Applicability of other sections.
2.602 Filing fees.
2.603 Acceptance and docketing of application for early review of site suitability issues.
2.604 Notice of hearing on application for early review of site suitability issues.
2.605 Additional considerations.
2.606 Partial decisions on site suitability issues.

AUTHORITY: Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); Sec. 201, as amended, Pub. L. 93-438, 83 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841).

Subpart F—Additional Procedures Applicable to Early Partial Decisions on Site Suitability Issues in Connection With an Application for a Permit To Construct Certain Utilization Facilities

§ 2.600 Scope of subpart.

This subpart prescribes procedures applicable to licensing proceedings which involve an early submittal of site suitability information in accordance with § 2.101(-1), and a hearing and early partial decision on issues of site suitability, in connection with an application for a permit to construct a utilization facility which is subject to § 51.5(a) of this chapter and is of the type specified in § 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility.

§ 2.601 Applicability of other sections.

The provisions of Subparts A and G relating to applications for construction permits and proceedings thereon apply, respectively, to applications and proceedings in accordance with this subpart, except as specifically provided otherwise by the provisions of this subpart.

§ 2.602 Filing fees.

Each application which contains a request for early review of site suitability issues under the procedures of this subpart shall be accompanied by any fee required by § 50.30(e) and Part 170 of this chapter.

§ 2.603 Acceptance and docketing of application for early review of site suitability issues.

(a) Each part of an application submitted in accordance with § 2.101(a-1) of this part will be initially treated as a tendered application. If it is determined that any one of the parts as described in § 2.101(a-1) is incomplete and not acceptable for processing, the Director of Nuclear Reactor Regulation will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of thirty (30) days.

(b)(1) The Director of Nuclear Reactor Regulation will accept for docketing an application for a construction permit for a utilization facility which is subject to § 51.5(a) of this chapter and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 or is a testing facility where part one of the application as described in § 2.101(a-1) is complete. Part one of an application will not be considered complete unless it contains proposed findings as required by § 2.101 (a-1)(1)(i) and unless it describes the applicant's site selection process, specifies the extent to which that process involves the consideration of alternative sites, explains the relationship between

[3] For a construction permit application in four parts, part four shall be filed second in time since it must precede both parts two and three by a period of from 9 months to 3 years.

V42187 MAY 5 77 UMI

that process and the application for early review of site suitability issues, and briefly describes the applicant's long-range plans for ultimate development of the site. Upon assignment of a docket number, the procedures in § 2.101(a)(3) and (a)(4) relating to formal docketing and the submission and distribution of additional copies of the application shall be followed.

(b)(2) Additional parts of the application will be docketed upon a determination by the Director of Nuclear Reactor Regulation that they are complete.

(c) If part one of the application is docketed, the Director of Nuclear Reactor Regulation will cause to be published in the FEDERAL REGISTER and send to the Governor or other appropriate official of the State in which the site is located, a notice of docketing of the application which states the purpose of the application, states the location of the proposed site, states that a notice of hearing will be published, requests comments within 120 days or such other time as may be specified on the initiation or outcome of an early site review from Federal, State, and local agencies and interested persons, and in the case of applications filed under section 103 of the Act, states that a person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views in accordance with a subsequent notice that will be published in the FEDERAL REGISTER. In the case of a nuclear power reactor, such subsequent notice will be published following submission of the information required by § 50.33a.

§ 2.604 Notice of hearing on application for early review of site suitability issues.

(a) Where an applicant for a construction permit for a utilization facility subject to this subpart requests an early review and hearing and an early partial decision on issues of site suitability pursuant to § 2.101(a–1), the provisions in the notice of hearing setting forth the matters of fact and law to be considered, as required by § 2.104, shall be modified so as to relate only to the site suitability issue or issues under review.

(b) After docketing of part two of the application, as provided in §§ 2.101(a–1) and 2.603, a supplementary notice of hearing will be published pursuant to § 2.104 with respect to the remaining unresolved issues in the proceeding within the scope of § 2.104. Such supplementary notice of hearing will provide that any person whose interest may be affected by the proceeding and who desires to participate as a party in the resolution of the remaining issues shall file a petition for leave to intervene pursuant to § 2.714 within the time prescribed in the notice. Such supplementary notice will also provide appropriate opportunities for participation by a representative of an interested state under § 2.715(c) and for limited appearances pursuant to § 2.715(a).

(c) Any person who was permitted to intervene as a party pursuant to the initial notice of hearing on site suitability issues and who was not dismissed or did not withdraw as a party may continue to participate as a party to the proceeding with respect to the remaining unresolved issues, provided that within the time prescribed for filing of petitions for leave to intervene in the supplementary notice of hearing, he files a notice of his intent to continue as a party, along with a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to continue to participate as a party, and setting forth with particularity the basis for his contentions with regard to each such aspect or aspects. A party who files a nontimely notice of intent to continue as a party may be dismissed from the proceeding, absent a determination that the party has made a substantial showing of good cause for failure to file on time, and with particular reference to the factors specified in §§ 2.714(a)(1)–(4) and 2.714(d). The notice will be ruled upon by the Commission or atomic safety and licensing board designated to rule on petitions for leave to intervene.

(d) To the maximum extent practicable, the membership of the atomic safety and licensing board designated to preside in the proceeding on the remaining unresolved issues pursuant to the supplemental notice of hearing will be the same as the membership designated to preside in the initial notice of hearing on site suitability issues.

§ 2.605 Additional considerations.

(a) The Commission will not conduct more than one review of site suitability issues with regard to a particular site prior to filing and review of part two of the application described in § 2.101(a–1) of this part.

(b) The Commission, upon its own initiative, or upon the motion of any party to the proceeding filed at least sixty (60) days prior to the date of the commencement of the evidentiary hearing on site suitability issues, may decline to initiate an early hearing or render an early partial decision on any issue or issues of site suitability:

(1) In cases where no partial decision on the relative merits of the proposed site and alternative sites under Part 51 is requested, upon determination that there is a reasonable likelihood that further review would identify one or more preferable alternative sites and the partial decision on one or more site suitability issues would lead to an irreversible and irretrievable commitment of resources prior to the submittal of the remainder of the information required by § 50.30(f) of this chapter that would prejudice the later review and decision on such alternative sites; or

(2) In cases where it appears that an early partial decision on any issue or issues of site suitability would not be in the public interest considering (1) the degree of likelihood that any early findings on those issues would retain their validity in later reviews, (2) the objections, if any, of cognizant state or local government agencies to the conduct of an early review on those issues, and (3) the possible effect on the public interest and the parties of having an early, if not necessarily conclusive, resolution of those issues.

§ 2.606 Partial decisions on site suitability issues.

(a) The provisions of §§ 2.754, 2.755, 2.760, 2.761, 2.762, 2.763, and 2.764(a) shall apply to any partial initial decision rendered in accordance with this subpart. Paragraph 2.764(b) shall not apply to any partial initial decision rendered in accordance with this subpart. No limited work authorization may be issued pursuant to § 50.10(e) of Part 50 of this chapter and no construction permit may be issued without completion of the full review required by section 102(2) of the National Environmental Policy Act of 1969, as amended, and Part 51 of this chapter. The authority of the Commission and/or Appeal Board to review such a partial initial decision sua sponte, or to raise sua sponte an issue that has not been raised by the parties, will be exercised within the same time period as in the case of a full decision relating to the issuance of a construction permit.

(b)(1) A partial decision on one or more site suitability issues pursuant to the applicable provisions of Parts 50, 51, and 100 of this chapter issued in accordance with this subpart shall (i) clearly identify the site to which the partial decision applies and (ii) indicate to what extent additional information may be needed and additional review may be required to enable the Commission to determine in accordance with the provisions of the Act and the applicable provisions of the regulations in this chapter whether a construction permit for a facility to be located on the site identified in the partial decision should be issued or denied.

(2) Following completion of Commission or Atomic Safety and Licensing Appeal Board review, as appropriate, of the partial initial decision of the Atomic Safety and Licensing Board, after hearing, on the site suitability issues, the partial decision shall remain in effect either for a period of five years or, where the applicant for the construction permit has made timely submittal of the information required to support the application as provided in § 2.101(a–1), until the proceeding for a permit to construct a facility on the site identified in the partial decision has been concluded,[2] unless the Commission, Atomic Safety and Licensing Appeal Board, or Atomic Safety and Licensing Board, upon its own initiative or upon motion by a party to the proceeding, finds that there exists significant new information that substantially affects the earlier conclusions and reopens the hearing record on site suitability issues. Upon good cause shown, the Commission may extend the five year period during which a partial decision shall remain in effect for a reasonable period of time not to exceed one year.

[2] The partial decision on site suitability issues shall be incorporated in the decision regarding issuance of a construction permit to the extent that it serves as a basis for the decision on a specific site issue(s).

§ 2.761a [Amended]

5. Section 2.761a of 10 CFR Part 2 is amended by substituting the words "utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility," for the words "nuclear power reactor subject to § 51.5(a) of this chapter."

6. Paragraph I(c) of Appendix A to Part 2 is revised to read as follows:

APPENDIX A—STATEMENT OF GENERAL POLICY AND PROCEDURE; CONDUCT OF PROCEEDINGS FOR THE ISSUANCE OF CONSTRUCTION PERMITS AND OPERATING LICENSES FOR PRODUCTION AND UTILIZATION FACILITIES FOR WHICH A HEARING IS REQUIRED UNDER SECTION 189a. OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

* * * * *

I. PRELIMINARY MATTERS

* * * * *

(c)(1) The Commission or the Atomic Safety and Licensing Board may consider on their own initiative, or a party may request the Commission or the board to consider, a particular issue or issues separately from, and prior to, other issues relating to the effect of the construction and/or operation of the facility upon the public health and safety, the common defense and security, and the environment or in regard to antitrust considerations. If the Commission or the board determines that a separate hearing should be held, the notice of hearing or other appropriate notice will state the time and place of the separate hearing on such issue or issues. The board designated to conduct the hearing will issue an initial decision, if deemed appropriate, which will be dispositive of the issue(s) considered at the hearing, in the absence of an appeal or Commission or Appeal Board review pursuant to §§ 2.760 and 2.762, before the hearing on, and consideration of, the remaining issues in the proceeding.

(2) In a proceeding relating to the issuance of a construction permit for a facility which is subject to the environmental impact statement requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 and Part 51 of this chapter and which is a utilization facility for industrial or commercial purposes or is a testing facility, separate hearings may be held and decisions may be issued on National Environmental Policy Act and site suitability issues and other specified issues as provided by Subpart F and § 2.761a.

§ 50.10 [Amended]

7. Paragraph (e) of § 50.10 of 10 CFR Part 50 is amended by substituting the words "utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 or is a testing facility," for the words "nuclear power reactor subject to the provisions of § 51.5(a) of this chapter" wherever they appear; by substituting the words "do not prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public" for the words "are not subject to the provisions of Appendix B" in paragraph (e)(1); by substituting the word "reactor" for the words "nuclear power reactor" in paragraph (e)(2); and by substituting the words "prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public" for the words "are subject to the provisions of Appendix B" in paragraph (e)(3)(i).

8. In § 50.33a of 10 CFR Part 50, the phrase "Any person" in paragraph (b) is changed to the phrase "Except as provided in paragraph (d), any person" and a new paragraph (d) is added to read as follows:

§ 50.33a Information required for antitrust review.

* * * * *

(d) Any person who applies for a class 103 construction permit for a nuclear power reactor pursuant to the provisions of § 2.101(a–1) and Subpart F of Part 2 of this chapter shall submit the document title "Information Requested by the Attorney General for Antitrust Review" at least nine (9) months but not more than thirty-six months prior to the filing of part two or part three of the application, whichever part is filed first, as specified in § 2.101(a–1) of this chapter.

9. In § 50.55a of 10 CFR Part 50, paragraphs (c)(3), (d)(3), (e)(3), and (f)(3), and (h) are amended by changing the phrase "the formal docket date of the application for construction permit" to "the formal docket date.[3] of the application for a construction permit" wherever it appears, and adding a new footnote 8 to read as follows:

§ 50.55a Codes and standards.

* * * * *

10. A new Appendix Q is added to 10 CFR Part 50 to read as follows:

APPENDIX Q—PRE-APPLICATION EARLY REVIEW OF SITE SUITABILITY ISSUES

This appendix sets out procedures for the filing, Staff review, and referral to the Advisory Committee on Reactor Safeguards of requests for early review of one or more site suitability issues relating to the construction and operation of certain utilization facilities separately from and prior to the submittal of applications for construction permits for the facilities. This appendix also sets out procedures for the preparation and issuance of Staff Site Reports and for their incorporation by reference in applications for the construction and operation of certain utilization facilities. The utilization facilities are those which are subject to § 51.5(a) of this chapter and are of the type specified in § 50.21(b) (2) or (3) or § 50.22 or are testing facilities. This appendix does not apply to proceedings conducted pursuant to Subpart F of Part 2 of this chapter.

1. Any person may submit information regarding one or more site suitability issues to the Commission's Staff for its review separately from and prior to an application for a construction permit for a facility. Such a submittal shall be accompanied by any fee required by Part 170 of this chapter and shall consist of the portion of the information required of applicants for construction permits by §§ 50.33(a)–(c) and (e), and, insofar as it relates to the issue(s) of site suitability for which early review is sought, by §§ 50.34(a)(1) and 50.30(f), except that information with respect to operation of the facility at the projected initial power level need not be supplied.

2. The submittal for early review of site suitability issue(s) shall be made in the same manner and in the same number of copies as provided in § 50.30(a), (c)(1) and (c)(3) for license applications. The submittal shall include sufficient information concerning a range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal shall contain suggested conclusions on the issues of site suitability submitted for review and shall be accompanied by a statement of the bases or the reasons for those conclusions. The submittal shall also list, to the extent possible, any long-range objectives for ultimate development of the site, state whether any site selection process was used in preparing the submittal, describe any site selection process used, and explain what consideration, if any, was given to alternative sites.

3. The Staff shall publish a notice of docketing of the submittal in the FEDERAL REGISTER, and shall send a copy of the notice of docketing to the Governor or other appropriate official of the State in which the site is located. This notice shall identify the location of the site, briefly describe the site suitability issue(s) under review, and invite comments from Federal, State, and local agencies and interested persons within 120 days of publication or such other time as may be specified, for consideration by the staff in connection with the initiation or outcome of the review and, if appropriate by the ACRS, in connection with the outcome of their review. The person requesting review shall serve a copy of the submittal on the Governor or other appropriate official of the State in which the site is located, and on the chief executive of the municipality in which the site is located or, if the site is not located in a municipality, on the chief executive of the county. The portion of the submittal containing information required of applicants for construction permits by §§ 50.33(a)–(c) and (e) and 50.34(a)(1) will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for a review and report. There will be no referral to the ACRS unless early review of the site safety issues under § 50.34(a)(1) is requested.

4. Upon completion of review by the staff and, if appropriate by the ACRS, of a submittal under this appendix, the staff shall prepare a Staff Site Report which shall identify the location of the site, state the site suitability issues reviewed, explain the nature and scope of the review, state the conclusions of the staff regarding the issues reviewed and state the reasons for those conclusions. Upon issuance of a Staff Site Report, the Staff shall publish a notice of the availability of the report in the FEDERAL REGISTER and shall place copies of the report in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and in a local Public Document Room(s) located near the site identified in the Staff Site Report. The Staff shall also send a copy

[3] Where an application for a construction permit is submitted in four parts pursuant to the provisions of § 2.101(a–1) and Subpart F of Part 2 of this chapter, "the formal docket date of the application for a construction permit" for purposes of this section shall be the date of docketing of the information required by § 2.101(a–1) (2) or (3), whichever is later.

V 42187 MAY 5 77 UMI

of the report to the Governor or other appropriate official of the State in which the site is located, and to the chief executive of the municipality in which the site is located or, if the site is not located in a municipality, to the chief executive of the county.

5. Any Staff Site Report prepared and issued in accordance with this appendix may be incorporated by reference, as appropriate, in an application for a construction permit for a utilization facility which is subject to § 51.5(a) of this chapter and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility. The conclusions of the Staff Site Report will be reexamined by the staff where five years or more have elapsed between the issuance of the Staff Site Report and its incorporation by reference in a construction permit application.

6. Issuance of a Staff Site Report shall not constitute a commitment to issue a permit or license, to permit on-site work under § 50.10(e), or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards, and other presiding officers in any proceeding under Subpart F and/or G of Part 2 of this chapter.

7. The staff will not conduct more than one review of site suitability issues with regard to a particular site prior to the full construction permit review required by Part 51. The staff may decline to prepare and issue a Staff Site Report in response to a submittal under this Appendix where it appears that. (a) in cases where no review of the relative merits of the submitted site and alternative sites under Part 51 is requested, there is a reasonable likelihood that further Staff review would identify one or more preferable alternative sites and the Staff review of one or more site suitability issues would lead to an irreversible and irretrievable commitment of resources prior to the submittal of the analysis of alternative sites in the Environmental Report that would prejudice the later review and decision on alternative sites under Subpart F and/or G of Part 2 and Part 51 of this chapter; or (b) in cases where, in the judgment of the Staff, early review of any site suitability issue or issues would not be in the public interest, considering (1) the degree of likelihood that any early findings on those issues would retain their validity in later reviews, (2) the objections, if any, of cognizant state or local government agencies to the conduct of an early review on those issues, and (3) the possible effect on the public interest of having an early, if not necessarily conclusive, resolution of those issues.

Effective date: These amendments become effective June 6, 1977.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); Sec. 201, as amended, Pub. L. 93-438, 83 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5341).)

Dated at Washington, D.C., this 29th day of April 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-13106 Filed 5-4-77;10:22 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 84—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Correction

In FR Doc. 12620, appearing at page 22676, in the issue of Wednesday, May 4, 1977, in the middle column on page 22685, the Incorporation by Reference note, now appearing under the heading § 84.61 *Procedures*, should be transferred down below the heading §§ 84.62—84.99 [*Reserved*].

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

ALASKA NORTH SLOPE CRUDE OIL PRICING AND ENTITLEMENTS TREATMENT

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend its regulations to the extent necessary in anticipation of production of crude oil from the Alaska North Slope (ANS). With respect to pricing, FEA proposes to make conforming changes in its price regulations to the extent necessary to apply the upper tier price ceiling to the first sale (wellhead) price. With respect to the entitlements program, FEA proposes to treat all ANS production as imported crude oil without regard to its ultimate U.S. refinery destination. Because of the changes in the crude oil pricing regulations proposed by the President's recent energy message, any need to exclude ANS wellhead prices from the composite price calculations may be obviated, and therefore no action on this issue is proposed at this time.

DATES: Comments by Thursday, May 19, 1977, 4:30 p.m. Requests to speak by Monday, May 16, 1977, 4:30 p.m. Hearing dates: Washington Hearing, Wednesday, May 25, 1977, 9:30 a.m.; San Francisco Hearing, Thursday, May 26, 1977, 9:30 a.m.; Anchorage Hearing, Friday, May 27, 1977, 9:30 a.m.

ADDRESSES: All comments to Executive Communications, Room 3317, Federal Energy Administration, Box MG, Washington, D.C. 20461. Requests to speak: Washington Hearing, attention Executive Communications, 12th and Pennsylvania Avenue NW., Room 3317, Box MG, Washington, D.C. 20461; San Francisco Hearing, Federal Energy Administration, FEA Regional Administrator, attention R. Laffel, External Affairs Division, 111 Pine Street, San Francisco, California 94111; Anchorage Hearing, Federal Energy Administration, Sub-Regional Office G-11, Federal Office Building, 605 West 4th Avenue, Anchorage, Alaska 99501. Hearing locations: Washington Hearing, Room 2105, 2000 M Street NW., Washington, D.C. 20461; San Francisco Hearing, Federal Court House, Court Room No. 15, 7th and Mission Streets, San Francisco, California 94111; Anchorage Hearing, Federal Court House Building, Conference Room 284, 605 West 4th Avenue, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Chuck Boehl (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Richard S. Greene (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTARY INFORMATION:

A. Background:
1. Notice of Inquiry
2. Summary of Crude Oil Price and Entitlements Regulations
3. ANS Production Data
B. Proposals:
1. Pricing: Application of Upper Tier Ceiling to ANS First Sales
2. Entitlements: Treatment of ANS Production as Imported Crude Oil
3. Composite Price: Exclusion of ANS First Sales From Composite Price Calculations
C. Proposed Regulation Amendments
D. Comment Procedures
E. Other Matters

A. BACKGROUND

1. *Notice of Inquiry.* On March 7, 1977, FEA issued a Notice of Inquiry (Advance Notice of Proposed Rulemaking) in this matter in order to obtain preliminary comments from the public (42 FR 13116, March 9, 1977). Initial public comment in advance of formal proposed rulemaking procedures was particularly sought in view of the requirement under section 8(g) of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA") to submit a report to the Congress on April 15, 1977, concerning the effects of price and allocation regulations on ANS and other domestic crude oil production, and with respect to the question of exclusion or inclusion of ANS production under the national composite crude oil price established by section 8 of the EPAA.[1]

A total of 24 written comments were received in response to FEA's Notice of Inquiry in this matter, including 11 late comments. In addition, 11 oral presentations were made at the Washington hearing (March 21, 1977), 7 at the San Francisco hearing (March 22) and 13 at the Anchorage hearing (March 23). All of these comments and presentations were considered by FEA in formulating the proposals issued today. Reference to the substance of some of the comment received in response to the Notice of Inquiry is made in Section B, below.

2. *FEA Crude Oil Price and Entitlements Regulations.* The landed cost for imported crude oil (i.e., the cost of acquisition plus transportation to the United States) ranges from about $13.00 per barrel to over $15.00 per barrel, depending upon country or origin, grade and quality of crude oil, and location of the U.S. port. These prices represent a more than four-fold increase in the cost of imports since early 1973. Congress has determined that U.S. domestic crude oil prices should not generally be allowed to rise to the import (world market) level, but should be held at levels which minimize undue inflationary or other harmful effects on the U.S. economy while at the same time provide sufficient incentives to producers to achieve maximum production of domestic crude oil.

Under the EPAA amendments enacted in 1975 by the Energy Policy and Conservation Act, Congress provided FEA with flexibility to control domestic crude oil prices as long as the national weighed average first sale price (actual composite price) did not exceed $7.66 per barrel applicable to crude oil produced and sold in February, 1976 (statutory composite price). Beginning in March, 1976, FEA was authorized to increase the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at the rate of 10 percent annually.

Under FEA price regulations adopted to implement the statutory composite price restrictions, domestic crude oil is classified as lower tier (about 50 percent of total production), upper tier (about 36 percent) and stripper well (about 14 percent).

Stripper well crude oil, which is production from properties which have declined to a level of 10 barrels per day per well or less for a 12-month period, is permitted by statutory authority to be sold at market price levels, so as to en-

[1] The April 15, 1977 report to Congress on ANS production indicated that the first sale (wellhead) price of ANS crude oil would be below the adjusted statutory composite price (excluding ANS production) intially and would probably remain below that price level until at least June, 1978. However, a decision concerning exclusion or inclusion of ANS production under the statutory composite price was deferred pending further study in the context of this rulemaking proceeding. Copies of the April 15 report are available as indicated in Section B.3, below.

V42187 MAY 5 77 UMI

courage continued production from such marginal properties for as long as possible. For purposes of the stautory composite price computation, stripper well crude oil is given an imputed value which approximates the average upper tier price (Section 121 of the Energy Conservation and Production Act, enacted August 14, 1976.).

Upper tier crude oil generally includes production from properties which first began producing after 1972 (except those which qualify as stripper well properties), plus incremental production from older properties which exceeds a certain base production level. The upper tier price (an average of $11.64 per barrel at the end of 1976, or roughly $2 below the landed cost of imported crude oil) is generally designed to stimulate additional production from older properties and to encourage further exploration and development of domestic crude oil resources.

The lower tier price, which averaged about $5.17 nationally at the end of 1976, applies to all U.S. production which is not exempt or which does not qualify as upper tier crude oil.

Effective July 1, 1976, FEA halted further monthly increases in crude oil price ceilings in order to compensate for actual composite prices in excess of adjusted statutory composite price levels. FEA took further corrective action to achieve compliance with statutory composite price restrictions by reducing upper tier prices by 20 cents per barrel effective January 1, 1977, and an additional 45 cents per barrel effective March 1, 1977. These actions are expected to eliminate all excess receipts by July 1, 1977 (see 42 FR 13013, March 8, 1977).

On March 15, 1977, FEA submitted Energy Action No. 11 to the Congress, pursuant to section 8(f) of the EPAA, to continue in effect that portion of the 10% annual increase in the statutory composite price relating to the production incentive. This action, having undergone legislative review without disapproval by either house of Congress, permits FEA to continue to adjust the statutory composite price at the full 10% annual rate.

While an actual composite price for domestic crude oil can be easily determined by weight-averaging the first sale prices (or imputed first sale prices) of crude oil under the three price classifications, it is more difficult to achieve an actual marketplace result in which each refiner pays approximately the equivalent of a national average price for all domestic and imported crude oil purchases. Each refiner generally has a different "mix" of lower tier, upper tier, and exempt or imported crude oil, due to historical purchasing patterns and refinery location. Thus, without some kind of compensating or equalizing device, a refiner with access to an above-average proportion of lower tier crude oil, with its lower price, would have a competitive advantage over another refiner that could obtain only higher-priced imported or upper tier crude oil.

The FEA domestic crude oil allocation (entitlements) program is designed to achieve approximate equalization of the cost of crude oil purchases among U.S. refiners. Essentially, the entitlements program, by requiring transfers of cash through purchases and sales of entitlements among refiners, achieves the same result, (subject to certain qualifications) as if FEA had directly allocated to each refiner a "mix" of lower tier, upper tier, and exempt or imported crude oil that reflected the national supply ratios for each of these pricing categories of crude oil.

Stated another way, the entitlements program operates so that lower tier crude oil, upper tier crude oil, and exempt or imported crude oil all have relatively equivalent effective acquisition costs to the refiner. Because entitlement benefits and obligations are determined on the basis of average acquisition costs for the category of crude oil concerned, domestic crude oil which has a cost (due to higher than average transportation charges) to the refinery which significantly exceeds the average cost for crude oil of the same tier classification and quality, may not be competitive with imported crude oil of similar quality even though the landed cost of the imported crude oil is significantly higher.

3. *ANS Production Data.* ANS production is scheduled to begin flowing into the northern end of the Trans-Alaska Pipeline System ("TAPS") on or about July 1, 1977. However, outflow at the southern terminus (Valdez, Alaska) is not expected to occur until August, with the deliveries at West Coast ports anticipated to commence in September, 1977.

It is planned that the initial flow will be at a level of 600,000 barrels per day. A flow rate of 1.2 million barrels per day is expected to be achieved in December, 1977. ANS production is expected to continue at this level through May, 1979, when current crude oil price authority becomes discretionary rather than mandatory under the EPAA. Depending upon further pipeline improvements and additional pumping capacity, a flow of up to 1.6 million barrels per day could be achieved in the early 1980's. A level of up to two million barrels per day might be attained in the mid-1980's, depending upon further exploration and field development in northern Alaska.

Substantial flow volumes, although at declining rates, are expected to be achieved over a period of approximately 25 years. Total recoverable reserves (Prudhoe Bay Field) are currently estimated at between 10–12 billion barrels.

Based on domestic crude oil production in 1976 of approximately 8.1 million barrels per day and a continuation of the current rate of decline of "lower 48" production, the ANS 1978 flow rate of 1.2 million barrels per day would represent about 12–13 percent of total domestic production.

B. PROPOSALS

1. *Pricing: Application of Upper Tier Price Ceiling to ANS First Sales.* A number of comments were received in response to FEA's notice of inquiry proposing that ANS production be exempted from price controls, quite apart from the question of exclusion or inclusion of ANS production under the composite price limitation. Inasmuch as the wellhead price of ANS production will be determined largely by market forces rather than constrained by the upper tier ceiling, due to the substantial pipeline and other transportation costs which must be added to the wellhead price before ANS crude oil reaches domestic markets, these proposals for price exemption were based on somewhat general considerations relating to long-term encouragement of production in frontier areas and ultimate total decontrol.

The FEA does not believe that such treatment for the main Prudoe Bay pool would be appropriate in view of the crude oil pricing policy recently announced in the President's energy message. Since the Prudoe Bay pool has been largely developed, it for all practical purposes falls into the same price category as all other upper tier crude oil flowing from existing wells on April 20, 1977 and should therefore be subject to the same price rule. That is particularly so in view of the fact that upper tier wellhead prices would more than adequately compensate ANS producers for their costs of developing the North Slope. Moreover, because of the high transportation costs associated with ANS crude oil, there is very little likelihood that the upper tier ceiling price rule will be an effective constraint on ANS wellhead prices for several years, if ever. The upper tier ceiling price will, however, provide the U.S. consumer with some measure of protection against inordinate OPEC price increases, which furthers the policy expressed by Congress when it enacted Section 8 of the EPAA.

It should be noted, however, that the pricing rule proposed here applies only to ANS production that meets the upper tier oil definition proposed in the President's message. New oil finds on the Alaska North Slope would receive the higher wellhead ceiling prices proposed in the message (i.e., the current world market price adjusted for inflation), which should provide adequate incentives for further exploration and development on the North Slope.

In addition to comment proposing exemption of ANS first sales from price controls, FEA received comment suggesting that the ANS wellhead price should be made subject to the lower tier price ceiling (currently averaging $5.17 per barrel). This was based on the view that the decision to develop ANS production commercially was made at a time (prior to 1973) when domestic crude oil prices averaged about $3.50 per barrel and the cost of transporting ANS crude oil to domestic refineries was estimated at $1.50 per barrel.

As noted in FEA's notice of inquiry in this matter, however, the classification of a particular oil as upper or lower tier is not tied to the actual costs of production for that particular oil. To put it another way, FEA pricing regulation is

not utility-type regulation based on a fair rate of return on specific costs. The decision to permit production commencing after 1972 to be priced at the upper tier ceiling level was based on the national production incentives which the higher upper tier price affords as well as the generally higher costs of new production. Since ANS crude falls into that category, just as does new crude production in the lower 48 states that is identical in every way to ANS production except that it does not have the same high development and transportation costs associated with it, it would be inequitable under the existing regulatory program not to give ANS production from the Prudhoe Bay pool the same pricing treatment.

In addition, FEA believes that Congress intended that other than the lower tier ceiling price would be applied to first sales of ANS production. Although the EPAA did not expressly adopt FEA's two-tier pricing rules, Congress implicitly recognized upper-tier status for ANS first sales by establishing a statutory composite price based on a weighted average under FEA's two-tier system (which was in turn, based partly on date of production start-up as a tier determinant) and by permitting adjustments to the statutory composite price, in part, as a further "production incentive to encourage the development of high cost, high risk properties, including * * * properties located * * * North of the Arctic Circle."[2]

In view of all the foregoing considerations, FEA proposes no change in its regulations which would alter applicability of the upper tier ceiling price to first sales (wellhead price) of ANS production.

However, in order to apply upper tier price rules fully to ANS production, a decision must be made concerning the appropriate September 30, 1975, posted price to be used in determining the upper tier ceiling price for ANS first sales.

Under § 212.74(b) of FEA regulations—

> The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel.[3]

FEA understands that development of ANS crude oil is being undertaken, at least initially, on the basis of a single grade of crude oil from a single field. In addition, FEA understands that the producers of ANS crude oil view their production as flowing from a single "property," under FEA's definition of this term. Therefore, it appears that the only question arising under § 212.74(b) is how to determine which domestic field's September 30, 1975, highest posted price should be used to calculate the upper tier ceiling price applicable to ANS production generally.

FEA proposes to review this matter as follows. The first step would be to determine which fields—presumably elsewhere in Alaska or Petroleum Administration for Defense District No. V ("PAD V")—produce crude oil generally similar in kind and quality to ANS crude oil. The next step would be to select from among these fields those whose production is most similar in kind and quality to ANS production. Then these fields would be ranked according to their geographical nearness to ANS. If there were actual postings in the closest field geographically on September 30, 1975, the highest posted price would be determined and used to calculate the ceiling price applicable to ANS production pursuant to §§ 212.74(b) and 212.77. If there were no postings in this field on September 30, 1975, and a "related" highest posted price was consequently used pursuant to § 212.74(b), FEA would determine whether that "related" posted price or the actual highest posted price in the second closest field (as determined above) more accurately reflects the intent of § 212.74(b). FEA hopes by this procedure to minimize conflicts in choice such as between a field which is nearer geographically but not of the most similar quality and a field which is closer in quality but farther away.

FEA requests comment on this methodology as well as specific information on crude oil quality characteristics and field location. Specific recommendations with respect to this issue are also invited. FEA also requests comment on the proposal as explained in this section to retain upper tier status for ANS first sales.

2. *Entitlements: Treatment of ANS Production as Imported and Other Untrolled Crude Oil.* In its notice of inquiry, FEA pointed out that the substantial cost of transporting ANS crude oil to the West Coast via TAPS and tanker will mean that the wellhead price of ANS crude oil must drop substantially below the average upper tier ceiling price if the price of ANS crude oil delivered to U.S. refineries is to be competitive with (and thus displace) imported crude oil. Thus, using a West Coast market price of $13.74 per barrel for Saudi Arabian crude oil (including transportation and import fees) for purposes of illustration, FEA subtracted estimated ANS transportation costs of $5.76 per barrel (estimated TAPS tariffs of $5.00 plus coastwise shipping costs estimated at $.76 per barrel) to derive a "netback" wellhead price of about $8.00 per barrel for ANS production.

FEA also noted however, that this wellhead price could not be maintained if ANS production is accorded upper tier classification for purposes of the entitlements program, since imported crude oil is afforded a significantly higher entitlement value (about $1.50 to $2.00 more) than upper tier crude oil (see Section A, above). Thus, if no change is made with respect to treatment of ANS production under the entitlements program, the illustrative wellhead price of about $8.00 per barrel would have to be reduced to about $6.00 to $6.50 per barrel if ANS production is to be equivalent in price to imported crude oil delivered to West Coast markets.

FEA further pointed out that, with respect to ANS production which will be in excess of West Coast (PAD V) needs—an estimated 35–50 percent in 1978—additional transportation costs from the West Coast to mid-continent refineries could reduce the wellhead price to as low as $4.00 to $4.75 per barrel without special entitlement adjustments and to perhaps $6.00 to $6.75 per barrel with ANS production treated as imported crude oil for entitlements purposes.

In view of these considerations, FEA's notice of inquiry requested comment on an initial proposal to afford imported crude oil treatment to ANS production for purposes of the entitlements program in order to permit a wellhead price range for ANS production of about $6.00 to $8.00 per barrel instead of the range of about $4.00 to $6.00 which apparently would result under upper tier entitlements treatment for ANS production.

FEA also called for comment on an initial proposal to afford imported crude oil status under the entitlements program to ANS production destined for mid-continent markets and upper tier entitlement status for ANS production refined in PAD V.

Based on comment received to date and further consideration of the factors relating to this issue, FEA now proposes to treat all ANS production as imported crude oil for purposes of the entitlements program. Further comment is requested on this proposal and on the reasons for this proposal as outlined below.

All of the comment received on the alternative of affording imported crude oil entitlements treatment only for ANS production in excess of PAD V needs was negative. This position was based partly on the substantially increased complexity and perhaps inequities this alternative would add to an already complex entitlements program. Doubt was expressed concerning whether such a proposal would be administratively feasible, in view of uncertainties concerning future PAD V demand and questions relating to how ANS production could be segregated according to ultimate destination and tracked through exchange agreements and complex transportation arrangements to mid-continent refineries. It was pointed out that the basis for this alternative—the similarity between the extra shipping costs to mid-continent markets and the difference between the average foreign crude oil price (less 21 cents) and the average price of upper tier crude oil—was merely coincidental and there was no reason to suppose that these costs and differentials would remain roughly equivalent. Finally, the proposal was characterized as prema-

[2] Conf. Rep. No. 94–516, 94th Cong., 1st Sess. 191 (1975).

[3] Under § 212.77, FEA may increase or decrease the amount specified in § 212.74(b)(2) in applying the rules applicable to adjustments to ceiling prices to reflect adjustments to the statutory composite price.

V 42187 MAY 5 77 UMI

ture, at best, and one which could be reexamined in 1978 or later when actual PAD V surpluses occur and it becomes clear whether competitive conditions will in fact cause prices for on-shore California heavy crude production to be unduly depressed.

The general negative reaction to this alternative was also based on the fact that its implementation would not provide any wellhead price relief with respect to the greater share of ANS production which is expected to be refined in PAD V. Accordingly, a substantial majority of the comments received on the question of entitlements treatment favored extending imported crude oil entitlements treatment to all ANS production purchased for refining in the contiguous United States.

Several firms stressed that imposing upper tier entitlements treatment on ANS production would produce anomalous and artificial pricing results. The entitlements value placed on upper tier crude oil under the allocation regulations presupposes that upper tier crude oil will be sold at or near the average upper tier ceiling price. Where this is not the case, the entitlements program could have an unintended and unfair impact on crude oil prices. The entitlements program was designed to equalize refinery crude oil costs, not to control wellhead prices.

Expressing similar views, other firms argued that since the wellhead price will be determined by market forces (as noted above), FEA should eliminate as much as possible any unnecessary regulatory impediment to the efficiency of the marketplace in this respect.

Comment was also presented indicating that the depressing impact of upper tier entitlements treatment on ANS wellhead prices would, over the long run, exceed the current range of $1.50 to $2.00 per barrel employed by FEA in the notice of inquiry. According to this analysis, an upper tier entitlement value of about $3.00 per barrel appears inevitable. This is because ANS crude, which is below average in quality vis-a-vis other domestic crude, will have the effect of reducing the average upper tier oil price relative to the price of imports.

If this entitlement burden were removed from ANS production by treating it as imported crude oil under the entitlements program, one of the major North Slope producers estimates that the average ANS wellhead price would be approximately $7.20 per barrel. This producer stated that this price, adjusted to keep pace with inflation, would provide a "viable return" on investment in the discovery and development of the main Prudhoe Bay Field but that further development of the smaller Kuparuk and Lisburne formation might be uneconomic at that price level. On the other hand, a wellhead price of $4.20 per barrel would severely affect the existing development program and probably preclude further North Slope development and exploration efforts, according to this producer's testimony.

In proposing treatment of ANS production as imported crude oil for purposes of the entitlements program, FEA has considered the relationship between estimated ANS wellhead prices and the price ceilings afforded under existing two-tier pricing system as well as the desirability of further development of ANS crude oil resources under national energy goals. As noted in Section A.2, above, monthly increases in lower tier crude oil price ceilings have been deferred and upper tier crude oil price ceilings have been reduced temporarily in order to compensate for excess revenues resulting from actual composite price levels in excess of statutory composite price limits. If this corrective action is completed by June 30, 1977, as expected, and if FEA restores the full inflation-adjusted value of these ceiling levels after June 30 in gradual steps as proposed in 42 FR 13013, March 15, 1977 (e.g., restoration limited to the February, 1976, values of $5.05 and $11.28 per barrel for lower and upper tier crude oil, respectively, in real dollar terms) an average lower tier price of about $5.50 per barrel and an average upper tier price of about $12.25 per barrel would result in October, 1977, shortly after ANS production begins reaching domestic refineries. At the same time, the statutory composite price will reach a level of $8.92 per barrel.

It can be seen that the estimated ANS wellhead price of $7.20 per barrel supplied by producers—i.e., the estimated price after an amendment to extend foreign crude oil entitlements treatment to ANS production—would be approximately $5.00 below the average upper tier price in October, 1977 (as projected under the assumptions indicated above), and even about $1.70 below the national weighted average or composite price level. As pointed out in Section B.1 above, FEA's existing regulatory program provides built-in production incentives by permitting production commencing after 1972 to be priced at the upper tier level, without any requirement for cost justification or rate of return analysis in individual cases. It therefore appears appropriate to remove unnecessary regulatory impediments which might contribute significantly to failure to achieve the pricing levels to which other, similarly situated producers are entitled (to the extent market conditions permit) under FEA's existing production incentive policies.

However, FEA also believes it is appropriate to defer a final decision in this matter until uncertainties concerning TAPS tariffs are clarified. The TAPS tariff is, of course, the largest single variable in determining what the wellhead price will be. FEA is currently using an estimate of $5.10 per barrel as the initial charge for movement of ANS crude oil via pipeline from the wellhead to Valdez, Alaska, but firmer estimates must await the filing of tariff charges with the Interstate Commerce Commission by the several firms which own TAPS.

Under ICC rules, tariffs for services over newly laid pipelines need not be filed more than 10 days prior to commencement of such services. However, due to the complexity of facts and issues concerning TAPS tariffs, the ICC has requested that initial TAPS tariffs be filed on not less than 30 days notice.

FEA understands that certain of the TAPS owners have agreed to comply with the ICC request. Other owners have made no response to date. FEA urges all TAPS owners to comply with these 30-day notice procedures to permit FEA to issue final regulations in this matter on a timely basis. FEA does not propose to issue final regulations until it has had an opportunity to examine the initial tariff filings of the TAPS owners and the effect thereof on the analysis supporting proposed FEA regulations amendments.

FEA also received comment from certain California producers in which special issues were raised concerning the effect of ANS production on California crude oil price and production levels. California producers generally expressed concern that ANS production in amounts in excess of PAD V demand may force reduction of California crude oil price levels and adversely affect California production. These issues are of considerable complexity and are further complicated by variables both within and outside the scope of this rulemaking. FEA suggests that affected California producers and other interested parties readdress these issues in light of (1) the specific proposals set forth in this notice, assuming their adoption, (2) FEA's proposals to reduce entitlements obligations for lower tier crude oil produced in California and Alaska, issued March 7, 1977 (42 FR 15419, March 22, 1977) and (3) that portion of the Administration's energy program announced April 20, 1977, proposing legislation to limit production from Elk Hills Naval Petroleum Reserve to a ready reserve level, at least until West-to-East transportation systems for moving ANS crude oil surplus are in place or until California refiners have completed a major refinery retrofit program to enable more Alaskan oil to be used in California.

3. *Composite price: exclusion of ANS first sales from composite price calculations.* In its notice of inquiry, FEA noted that section 8(g) of the EPAA requires the submission of a report to Congress on April 15, 1977, as to whether the FEA price and allocation regulations "will provide positive price incentives for the development of" ANS production "without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States." Because the statutory composite price limitation applies to nearly all domestic production, the inclusion of ANS production at the upper tier level—or at any other level above the adjusted statutory composite price—would require an offsetting reduction in prices applicable to other controlled domestic production.

Section 8(g) goes on to provide that if the finding of the report is that the then-current maximum weighted average price is not adequate to provide such positive price incentive for domestic production, a proposed regulation amendment may be submitted with the April 15 report (or at a later date) which would exclude from the statutory composite price limitation up to two million barrels per day of crude oil flowing through TAPS. Any such proposed amendment must include a regulation specifying a ceiling price or prices for such excluded Alaska production, accompanied by findings justifying the level of the proposed ceiling(s), and the average of the proposed ceiling(s) cannot exceed "the highest actual weighted first sale price permitted under [FEA regulations] for significant volumes of any other classification of domestic crude oil." Such a proposed amendment is subject to disapproval by either house of Congress during a period of 15 sessional days.

In its report of April 15 to the Congress, FEA estimated that the ANS wellhead price would remain below the adjusted statutory composite until at least June, 1978 (assuming adoption of the entitlements amendment proposed herein) but that it would likely rise to levels above the adjusted statutory composite price thereafter, depending upon the transportation options that are chosen to deal with the West Coast surplus and on the rate at which world oil prices increase. FEA did not include with the April 15 report a proposed regulation amendment concerning exclusion of ANS first sales from the statutory composite price. (Interested persons may obtain a copy of this report, entitled "President's April 15, 1977, Report to Congress on the Pricing of ANS Crude Oil," at the FEA Press Room, Room 3138, 1200 Pennsylvania Avenue NW., Washington, or by writing to FEA, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies will also be available at FEA regional offices in San Francisco and Anchorage.)

FEA has decided not to take any action at this time on whether to exclude ANS wellhead prices from the composite price calculation, although it in general is of the view that certainty should be introduced into future crude oil pricing levels to the extent that this is possible. Under the energy policy proposed by the President on April 20, 1977, such certainly would be introduced by allowing ceiling prices for various categories of domestic crude oil to rise at specified rates notwithstanding the composite average. Until that program is developed and implemented, it is not likely, as pointed out in the April 15 report, that ANS wellhead prices will exceed the composite price and therefore introduced disruption in production incentives for other domestic production.

C. Proposed Regulation Amendments

FEA proposes to add a definition of "Alaska North Slope (ANS) crude oil" to 10 CFR § 211.62, which makes it clear that, for purposes of 10 CFR Part 211, Subpart C, ANS crude oil is to be a separate category of crude oil for purposes of the entitlements program and is not to be considered as upper tier crude oil.

FEA proposes to amend the monthly reporting requirement contained in § 211.66(h)(5), so that, for purposes of calculation of the entitlement price, it will be provided with the information as to the costs to refiners of ANS crude oil.

An amendment is also proposed to § 211.67(b)(2) to provide that calculation of the fractional equivalent of a barrel of deemed old oil to which a barrel of upper tier crude oil is equal takes into account the weighted average cost per barrel to refiners of ANS crude oil.

The provisions of § 211.67(g)(2) as to certification by a refiner of the volumes of crude oil sold by it to another firm following an exchange or matching purchase and sale transaction are proposed to be amended to conform this subparagraph to reflect the pricing categories of crude oil established by the Energy Production and Conservation Act of 1976.

An amendment is proposed to § 211.67(i)(4), to provide that the formula for calculation of the entitlement price will consider the costs to refiners of ANS crude oil in the same manner as imports and other exempt domestic crude oils.

It is also proposed to amend § 211.67(l) to provide that non-refiners delivering crude oil to refiners for processing under a processing agreement shall separately identify the volume of ANS crude oil so delivered. This will provide refiners with the information needed as to volumes to be reported to FEA under § 211.66(h).

No amendments to Part 212 (pricing regulations) appear necessary to reflect the proposals outlined in Section B, above.

Comment is requested whether the foregoing proposed amendments are adequate to implement today's proposals and whether additional conforming amendments may be necessary or appropriate.

D. Comment Procedures

1. *Written Comments.* Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Alaska North Slope Crude Oil; Proposed Regulation Amendments," Box MG. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public hearings.* (a) *Request procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to described the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., Tuesday, May 17, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C., before 4:30 p.m., e.d.t., on Tuesday, May 24, 1977.

(b) *Conduct of the hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings, which will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings. Such questions must be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m., e.d.t., Thursday, May 19, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

V42187 MAY 5 77 UMI

A transcript of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

E. OTHER MATTERS

The FEA has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107. An Inflation Impact Statement is in preparation and will be available shortly.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790; 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., April 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 211.62 is amended by adding a new definition of "Alaska North Slope (ANS) crude oil" in appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

* * * * *

"Alaska North Slope (ANS) crude oil" means crude oil produced and sold from properties located on the northern slope of the State of Alaska and, for purposes of this subpart, such crude oil shall not be considered as upper tier crude oil, as that term is hereinafter defined.

* * * * *

2. Section 211.66 is amended by revising subparagraph (h)(5) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(h) *Monthly report.* * * *

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph shall be derived from the landed costs set forth in such reports.

* * * * *

3. Section 211.67 is amended by revising subparagraph (b)(2), subparagraph (g)(2), subparagraph (i)(4) and paragraph (l) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(b) *Required purchase of entitlements by refiners.* * * *

(2) To calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the definition of national domestic crude oil supply ratio in § 211.62 of this subpart, paragraph (b)(1) of this section and paragraph (c) of this section, each barrel of old oil shall be equal to one barrel of deemed old oil and each of upper tier crude oil shall constitute that fraction of a barrel of deemed old oil the numerator of which is equal to the reported weighted average cost per barrel to refiners of ANS crude oil, imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter) and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less the sum of 21 cents and such weighted average cost per barrel to refiners of upper tier crude oil, and the denominator of which is the entitlement price for that month.

* * * * *

(g) *Exchanges of crude oil.* * * *

(2) Subject to the provisions of paragraph (g)(3) below, volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g)(1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), or any other domestic crude oil the first sale of which is exempt from the provisions of Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transaction is sold to another firm.

* * * * *

(i) *Issuance and transfer of entitlements.* * * *

(4) The price at which entitlements shall be sold and purchased shall be fixed by the FEA for each month and shall be the exact differential between the weighted average cost per barrel to refiners of old oil and such weighted average cost of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter) and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, less 21 cents, such costs to be equivalent to the delivered costs to the refinery.

* * * * *

(l) *Certification by non-refiners.* Within twenty-eight (28) days following each month, commencing with the month of September 1976, each firm other than a refiner that has delivered crude oil to a refiner for processing for the account of such firm pursuant to a processing agreement in that month shall certify to that refiner the respective volumes of and that firm's costs for old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils the first sale of which is exempt from Part 212 of this chapter, and imported crude oil contained in the crude oil so delivered to that refiner.

* * * * *

[FR Doc.77–13006 Filed 5–3–77;1:23 pm]

FEDERAL RESERVE SYSTEM

[12 CFR Part 220]

[Reg. T; Docket No. R–0054]

CREDIT TO EXCHANGE SPECIALISTS

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: This revision of a proposed amendment to the rule governing credit to exchange specialists, which was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55552), contains changes based upon comments received on the December 21, 1976 proposal. As revised, the proposal will permit options specialists to both purchase and sell short stock underlying the options in which they specialize, with a 25 percent margin requirement. No maintenance requirement is imposed in this revision unless the account, if sold out, would have an unsecured debit balance. The proposed amendment also recognizes new exchange rules approved by the Securities and Exchange Commission which allow trading in puts and calls by specialists on their specialty stock and provides comparable relief for such hedging activities.

DATE: Comments must be received on or before May 31, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should be in writing and should include the docket number R–0054.

FOR FURTHER INFORMATION CONTACT:

Laura Homer, Chief Attorney, Securities Credit Regulation, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2782).

SUPPLEMENTARY INFORMATION: The December 21, 1976 proposal was intended to assist option specialists in performing their market making functions by permitting them, in certain circumstances, to purchase or sell short, on preferential credit terms, the securities underlying the options in which they specialize. The revised proposal would broaden the scope of permitted offset transactions and extend comparable relief to non-option specialists by permitting them to purchase or write options, on special credit terms, as a hedge for their specialty positions. The addition relating to non-option specialists was made in response to comments which noted that the Securities and Exchange Commission had recently approved rule changes of some regional securities exchanges which, for the first time, will permit equity specialists on those exchanges to take positions in related options.

The revised proposal eliminates references to the general account and thereby simplifies the calculations the carrying broker must make. Net short or long positions in the specialty security may be margined on a good faith basis.

The original proposal required that additional margin must be provided on any day when a security position established as a permitted offset transaction no longer served that function. The revised proposal allows a five day period for the specialist to either establish a new position to utilize the permitted offset transaction, liquidate the position, or margin it in accordance with current margin requirements of a general account. The original proposal established a daily maintenance requirement in certain circumstances. No maintenance requirements are established in the revision of the proposed rule; however, on any day when an unsecured debit balance would remain if all positions in the account were liquidated, the proposal requires that a margin call must be made and met on the next business day.

To aid in the consideration of this material by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 31, 1977. All material submitted should include the docket number R–0054. Such information will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Pursuant to sections 7 and 23 of the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78 g and w) the Board proposes to amend 12 CFR Part 220 as follows:

§ 220.4 Special accounts.

* * * * *

(g) *Specialist's account.* (1) In a specialist's account, a creditor may effect and finance for any member of a reporting national securities exchange who is registered and acts as a specialist in securities on the exchange, such member's transactions as a specialist in such securities, or effect and finance for any joint venture in which the creditor participates, transactions in securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as specialists. (Such transactions are referred to in this paragraph as "specialist transactions.") Specialist transactions may be financed on terms mutually agreeable to the creditor and the specialist: *Provided,* That the securities in which the specialist is registered while serving as collateral in the account may be valued at no more than 100 percent of their current market value and the debit required for short positions in such securities held in the account shall be not less than 100 percent of the current market value of either the securities sold short or the options written.

(2) In this account a specialist in options on a national securities exchange is permitted to establish a long or short position in the securities underlying the options in which such member is registered and acts as a specialist, and a specialist in securities on a national securities exchange is permitted to purchase or write options overlying the securities in which such member is registered and acts as a specialist only under one or more of the following conditions (such transactions are referred to in this paragraph as "permitted offet transactions"):

(i) The account holds short positions in options in which the member is registered and acts as a specialist which are "in or at the money" but only to the extent the positions are not offset in the account by long or short positions in options for an equal or greater number of shares of the same underlying securities which are "in or at the money";

(ii) The account holds long positions in options in which the member is registered and acts as a specialist which are "in or at the money" but only to the extent the positions are not offset in the account by short or long positions in options for an equal or greater number of shares of the same underlying securities which are "in or at the money";

(iii) The account held a short position in an option against which an exercise notice was tendered;

(iv) The account held a long position in an option which was exercised;

(v) The account holds net long positions in securities (other than options) in which the member is registered and acts as a specialist; or

(vi) The account holds net short positions in securities (other than options) in which the member is registered and acts as a specialist.

(3) The maximum loan value of margin securities in such account including any wholly owned margin securities deposited as additional collateral in the account shall be:

(i) Such maximum loan value as the Board shall prescribe from time to time in § 220.8 (the Supplement to Regulation T) where (A) the security is identified as held for investment pursuant to a rule of the Commissioner of Internal Revenue (Regs. section 1–1236–7(d)), or (B) the security is an underlying security or an overlying option, no longer serving as a permitted offset, on which a deposit has been required pursuant to paragraph (g)(6) of this section.

(ii) 75 percent of the current market value of an underlying security or an overlying option that is purchased and held in the account under the terms of paragraph (g)(2) of this section and for five full business days thereafter.

(iii) The maximum loan value as determined by the creditor in good faith for all other margin securities held in the account.

(4) The amount to be included in the adjusted debit balance of the account shall be:

(i) A good faith deposit for short positions qualifying as specialist transactions.

(ii) 125 pecent of the current market value of the security sold short or the option written and held in the account under the terms of paragraph (g)(2) of this section and for five full business days thereafter.

(iii) The current market value of the security sold short or the option written plus such amount as the Board shall prescribe from time to time in § 220.8 (the Supplement to Regulation T) when the security is an underlying security or an overlying option, no longer serving as a permitted offset, on which a deposit has been required pursuant to paragraph (g)(6) of this section.

(5) Except as required by paragraph (g)(7), on any day when additional margin is required as a result of transactions in the account, the creditor shall issue a call for an additional deposit of cash or margin securities and allow the specialist a maximum of five full business days to make a deposit sufficient to meet the call.

(6) On any day when the account of an option specialist no longer holds an option position against which the underlying security permitted to be purchased

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or sold short in the account under the terms of paragraph (g)(2) of this section can be offset, or when the account of a security specialist no longer holds security positions against which the overlying option permitted to be purchased or written in the account under the terms of paragraph (g)(2) of this section can be offset, the creditor shall have five full business days to either liquidate the position or obtain a deposit into the account of cash or securities equal to the deposit that would be required to establish such a position in the general account, reduced by a sum equal to 25 percent of the current market value of the security. The liquidation or deposit requirement need not be met if a new offsetting position is established in the interim.

(7) Any credit initially extended in conformity with this paragraph may be maintained on a basis mutually agreeable to the creditor and the specialist, except that on any day when the account would liquidate to a deficit, the creditor shall not extend any further credit in the account, and shall issue a call for additional collateral which shall be met by noon of the following business day. In the event sufficient collateral is not deposited in the account the creditor shall take steps to liquidate promptly existing positions in the account.

(8) For the purpose of this paragraph: (i) A "reporting national securities exchange" is a national securities exchange which submits to the Board of Governors of the Federal Reserve System reports suitable for supplying current information regarding specialists' use of credit pursuant to this paragraph (g).

(ii) The term "joint venture" does not include any account which, by written agreement with a creditor, permits the commingling of the security positions of a specialist or a specialist unit with those of other specialists or specialist units unless such agreement provides for a sharing of profits and losses from the account on some predetermined ratio;

(iii) The term "underlying security" means the security which will be delivered upon exercise of the option;

(iv) The term "overlying option" means (*a*) a put option purchased or a call option written against an existing long position in the specialist's account, or (*b*) a call option purchased or a put option written against an existing short position in the specialist's account;

(v) The term "in or at the money" means, with respect to a call option, that the current market price of the underlying security is not more than 5 per cent below the exercise price of the option, and, with respect to a put option, the current market price of the underlying security is not more than 5 per cent above the exercise price of the option.

By order of the Board of Governors, April 27, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-12856 Filed 5-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 16746]

AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale (S.N.I.A.S.) Model SA341G "Gazelle" Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an Airworthiness Directive that would require inspection of landing gear members for corrosion, additional corrosion protection measures, and replacement of the members, as necessary, on Societe Nationale Industrielle Aerospatiale (S.N.A.I.S.) Model SA 341G "Gazelle" helicopters to preclude possible failure of the landing gear.

DATES: Comments must be received on or before: June 20, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Aerospatiale Helicopter Corporation, 1701 W. Marshall Drive, Grand Prairie, Texas 75050, 214-264-3421.

FOR FURTHER INFORMATION CONTACT:

M. E. Gaydos, Aircraft Certification Staff, AEU-100, Europe-Africa and Middle East Region, Federal Aviation Administration c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Corrosion has been found in the crossbeams and arches of certain skid-type landing gear installed on S.N.I.A.S. Model SA 341G helicopters which could result in failure of the gear and serious damage to the helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, the proposed airworthiness directive would require inspection of landing gear members for corrosion, replacement of landing gear members, as necessary, and additional corrosion-protection measures for the landing gear.

The principal authors of this document are Mr. M. E. Gaydos, Europe, Africa, and Middle East Region, Mr. F. H. Kelley, Flight Standards Service, and Mr. S. Podberesky, Office of the Chief Counsel.

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (S.N.I.A.S.).

Applies to Model SA341G "Gazelle" helicopters, certificated in all categories, equipped with any of the following landing gear:

LOW-SKID, LOW-FREQUENCY LANDING GEAR

P/Ns 341A.41.5200.00 to .04 not incorporating Mod. AMS 07.1349-S. 371. P/Ns 341A.41.5200.05 to .11 incorporating Mod. AMS 07.1349 but not incorporating Mod. AMS 07.1578-S.440.

HIGH-SKID, LOW-FREQUENCY LANDING GEAR

P/N 341A.41.5300.00 not incorporating Mod. AMS 07.1350, P/Ns 341A.41.5300.01 to .11 incorporating Mod. AMS 07.1350 but not incorporating Mod. AMS 07.1579.

Compliance is required within the next 500 hours time in service after the effective date of this AD, but not later than January 31, 1978.

To prevent possible excessive corrosion remove the landing gear, inspect for corrosion, and if corrosion is found, replace, or turn 180° and thereafter replace, the landing gear members, as necessary and reinstall all in accordance with Paragraph C of "Gazelle" Service Bulletin No. 01.10 dated September 12, 1975, and the Model SA 341 "Gazelle" Repair Manual or an FAA approved equivalent.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington D.C. on April 25, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-12946 Filed 5-4-77;8:45 am]

[14 CFR Part 152]

[Docket No. 16419; Notice No. 77-1]

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976: CIVIL RIGHTS

Reopening of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice reopening comment period.

SUMMARY: This notice reopens the period for submission of comments in response to Notice 77-1. Reopening the comment period will allow additional persons and organizations to submit their comments to the docket. This action was requested by several interested persons and organizations needing additional time to prepare and submit their comments.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 16419, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Peter T. Gourdouros, Program Requirements Branch (AAP-650), Development Programs Division, Office of Airports Programs, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 202-426-3857.

SUPPLEMENTARY INFORMATION: Notice 77-1 was published in the FEDERAL REGISTER on January 13, 1977 (42 FR 2850). The notice invited interested persons to comment on a proposal to amend Part 152 of the Federal Aviation Regulations. The proposal would implement section 30 of the Airport and Airway Development Act (49 U.S.C. 1730) to assure that no person is excluded on the grounds of race, creed, color, national origin, or sex from participating in any project for airport development, airport master planning, or airport system planning conducted with funds received from a grant made under Part 152. The proposal also would require sponsors of projects for airport development to take affirmative action to ensure that minorities and minority businesses have a fair opportunity to participate in employment, in leasing opportunities, and in contractual opportunities which arise in connection with those projects.

By letter dated April 8, 1977, Mr. Jackie H. Stephenson of the Brunswick Co. Airport Commission, Southport, N.C., requested an extension of the comment period for Notice 77-1 through May 20, 1977. This additional time is needed to permit members of the commission to assemble, discuss the proposal, and submit their comments to Docket 16419.

In addition, by telegram dated April 14, 1977, and by letter dated April 14, 1977, the American Association of Airport Executives (AAAE) and the Raleigh-Durham, North Carolina, Airport Authority requested that the comment period for Notice 77-1 be extended for a period of not less than 30 days after conclusion of an AAAE conference to be held on May 1-4, 1977. This extension would permit AAAE members to discuss the proposal at the conference and to submit their comments to the docket.

In light of these requests and in recognition of the complexity of Notice 77-1, the FAA concludes that reopening the comment period would be appropriate. However, since one extension of the comment period already has been granted, the FAA believes that it would be inappropriate to grant an extension beyond May 20, 1977. Therefore, the period for submission of comments is hereby reopened and will close on May 20, 1977. All comments received after January 13, 1977, and on or before May 20, 1977, will be considered by the Administrator before taking action on the proposed rule.

The principal authors of this document are Peter T. Gourdouros, Office of Airports Programs, and Danvers E. Long, Office of the Chief Counsel.

(Sec. 30, Airport and Airway Development Act of 1970 (49 U.S.C. 1730); Sec. 1.47(f)(1), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1)); Sec. 11.45, Federal Aviation Regulations (14 CFR 11.45))

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 2, 1977.

JOSEPH A. FOSTER,
Assistant Administrator,
Office of Airports Programs.

[FR Doc.77-12909 Filed 5-4-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 2]

NONADJUDICATIVE PROCEDURES

Disclosure of Names of Complainants

AGENCY: Federal Trade Commission.

ACTIONS: Proposed rule.

SUMMARY: This proposed rule would protect the identity of those persons who communicate to the Commission in confidence about suspected violations of law while permitting the Commission to refer certain complaints to other government agencies, including state and local agencies, and to the company complained about. The Commission thereby hopes to encourage the just settlement of consumer disputes while protecting the identity of those complainants, particularly non-consumer complainants, where indications exist that confidentiality is expected.

DATES: Comments must be received on or before June 6, 1977.

ADDRESSES: Comments should be addressed as follows: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3865.

Accordingly, it is proposed that 16 CFR 2.2(d) be amended to read as follows:

§ 2.2 Request for Commission action.

* * * * *

(d) In order to permit the public to advise the Commission of suspected law violations without fear of private sanction, it is the general Commission policy not to publish or divulge the name of an applicant or complaining party, except as required by law or by the Commission's rules: *Provided, however,* That where a complaint by a consumer or consumer representative concerns a specific consumer product or service, the Commission, in the course of a referral of the complaint or of an investigation, may disclose the identity of the complainant or complainants to other government officials or to producers or sellers of the products or services. In determining whether to make such disclosure in a specific case, the Commission will take into account any circumstantial or direct indications of an expectation of confidentiality on the complainant's part. In referring any such consumer complaint, the Commission specifically retains its right to take such action as it deems appropriate in the public interest and under any of the statutes which it administers.

(15 U.S.C. 46(g).)

By direction of the Commission dated April 20, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-12836 Filed 5-4-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 35]

[Docket No. RM75-29]

FILING OF RATE SCHEDULES

Fuel Adjustment Provisions

APRIL 26, 1977.

AGENCY: Federal Power Commission.

ACTION: Termination of Rulemaking Proposal.

SUMMARY: On June 17, 1975, the Commission issued a proposed rulemaking to amend the Commission's Regulations for the purpose of affording additional protection against possible abuse in the administration of fuel adjustment clauses in FPC rate schedules. As field audits conducted by the Commission's staff following the issuance of the notice of the proposed rulemaking did not reveal any substantial overcharges and in view of the conspicuous absence of specific allegations by respondents of abuses in the administration of the fuel adjustment clause, the Commission decided to terminate the rulemaking and to continue to monitor for abuse in the procurement of fuel and in the administration of fuel adjustment clauses through investigative procedures by the Commission staff.

EFFECTIVE DATE: April 26, 1977.

V42N87 MAY 5 77 UMI

FOR FURTHER INFORMATION CONTACT:

Lilo Schifter, Office of General Counsel, 275–4275.

SUPPLEMENTARY INFORMATION: The Commission on June 17, 1975, issued notice of a proposal to amend § 35.14 of its Regulations under the Federal Power Act. The notice was published in the FEDERAL REGISTER on June 25, 1975 (40 FR 26617). Generally stated, the changes would require, as a condition to including a fuel adjustment clause in an FPC rate schedule, that a utility agree that all amounts collected under its fuel clause would be subject to refund. The utilities subject to the requirements of the proposed rule would also be required to file semi-annual reports with the Commission containing detailed computations which clearly show the derivation of the fuel adjustment factor to be applied to each affected wholesale customer for each month of the six month period. The proposed revisions to the Regulations incorporate an existing fuel clause requirement and require the submission of all contracts related to fossil and nuclear fuel procurements, electric power purchase agreements not otherwise on file with the Commission, as well as detailed additional data and information relative to fuel procurement and fuel usage practices that would enable the Commission to evaluate the propriety of any proposed change under the fuel clause. For the reasons stated herein, the Commission will terminate the rulemaking proposed in Docket No. RM75–29.

There were 68 responses to the Notice of Proposed Rulemaking,[1] including responses from 49 investor-owned utilities, three investor-owned service companies, the Edison Electric Institute, the City of Cuyahoga Falls, two law firms,[2] one engineering company,[3] the American Public Power Association, two accounting firms, the Council on Wage and Price Stability, and seven fuel suppliers. In general, the 49 investor-owned utilities, the three investor-owned service companies, Edison Electric Institute, the two accounting firms, and the seven fuel suppliers opposed the proposed change, while the City of Cuyahoga Falls, the two law firms, the engineering company, the American Public Power Association, and the Council on Wage and Price Stability were in favor of the proposal.

I. Summary of Comments in Opposition to the Proposal

The comments of most of the respondents opposed to the rulemaking proposal may be categorized under the following five objections:

1. Most of the information to be supplied pursuant to the rulemaking is already available to the Commission. The Commission's present monitoring, auditing and investigative techniques are adequate to assure that fuel costs are prudently incurred and that fuel adjustment clauses are properly administered.

2. The cost, time, and effort necessary to fulfill the reporting requirements of the proposal are objectionable, and the burdens of compliance will far exceed any benefits which may be realized.

3. Decisions relating to fuel use patterns are best made by the technical experts charged with the responsibility for making such judgments on a minute-to-minute basis. Therefore, decisions relative to fuel procurement practices may only be judged on the facts known and existing at the time decisions are made, and not on hindsight.

4. Fuel procurement contracts are of a confidential or proprietary nature, and public disclosure of such contracts and material related thereto will reduce or eliminate competition and thus result in higher fuel costs.

5. The refund provision of the rulemaking will further deteriorate the integrity of utilities' earnings and will restrict their ability to raise additional capital, including long term debt, preferred stock, and common equity, and might precipitate a downgrading of utility bonds.

II. Description of Comments in Opposition to the Proposal

Most of the respondents raising the first objection, supra, stated that the submittal of the requested data would not provide any additional protection to the public. They argued that a reasonable audit or evaluation cannot be made of the records proposed to be filed with the Commission, because they will have been separated from the context of interrelated detailed accounting and auditing records which a company keeps. Moreover, they noted that the data in question is already available to Commission auditors in a format which does allow an inspection of these records to be made in conjunction with a review of a company's full records. The respondent utilities pointed out that the information to be supplied pursuant to the proposal is already supplied in Forms 4, 5, 12E1, 23 and 423 (monthly reports); Form 23A (quarterly report; and Forms 1, 12, 12F and 67 (annual reports.) The utilities also referred to the information required by Section 35.14 as amended by Order No. 517. They argued that the data thus supplied, if used in conjunction with the five monitoring techniques cited in the proposed rulemaking, should be sufficient to ensure that customers are not charged more than actual fuel costs which are prudently incurred.

Most of the respondents raising the second objection, supra, argued that the man-hours and sheer mass of paper necessary to fulfill the proposed reporting requirements would render compliance costly and onerous. The comments of one utility[4] are typical. The utility observed that the issuance of Order No. 517[5] removes any question that conforming fuel adjustment clauses are proper to jurisdictional customers. It would appear, then, that the only subjects of review are proper administration and prudently incurred costs. The utility concluded, "It is our judgment that the proposed regulations will not answer either of those questions, but will simply add another voluminous reporting requirement which would be unduly burdensome and would result in a substantial increase in the cost of administrative, general, and regulatory expenses."

Nearly every respondent utility objected to submitting the data in question to customers and state commissions, citing the questionable legality of the requirement as well as raising doubts about these parties' interest in the data or even their capacity to evaluate them.

The respondents subscribing to the third objection, supra, pointed out that the type and quality of fuel which may be burned during any period (and which must therefore be kept on hand to assure system reliability) is dependent upon a number of factors beyond the control or prediction of a utility. Such factors included weather, forced outages, energy from hydro-electric generation, availability of economy purchases, and natural gas curtailment levels. Moreover, the respondents averred, factors other than price (e.g., quality and ability of a supplier to deliver) enter into a purchase decision.

In light of the difficulty of obtaining accurate forecasts of fuel use patterns, the respondents argued that after-the-fact judgments on the prudence of fuel purchases cannot be entirely fair, or even very pertinent.

One filing requirement in the proposed rulemaking is designed to discover whether a utility has used the most efficient methods in loading generating units so as to produce energy at the lowest possible cost. The respondents rejected the inference therein that utilities have neither the incentive nor the desire to implement the most efficient methods in the loading process. They pointed out that generating units and plants are loaded in the most efficient manner on an hour-by-hour basis by a highly complex and sophisticated procedure. The loading procedure is based on the availabilities of units, fuel, and economy energy, on operating costs, load requirements, and many other factors. They therefore argued that any monthly statistical information on energy generated and on the cost of fuel therefor would carry no meaning in a after-the-fact evaluation of loading efficiency.

Protests against public disclosure of fuel procurement contracts (fourth objection, supra) raised a number of issues. Several fuel suppliers questioned the legality of such a requirement. One fuel supplier[6] wrote that the information contained in fuel procurement contracts represents extremely sensitive commercial information and comes within the "trade secrets" exemption of the Freedom of Information Act. Under the theory, any required filing of such information without stringent proprietary protection "may well constitute a taking without due process of law or just compensation."

Some fuel suppliers argued that the requirement to make the information available to jurisdictional customers exceeds the Commission's statutory authority, because the requirement could result in indirect, de facto regulation of industries not otherwise subject to Commission jurisdiction. In addition, there was general concern that making fuel procurement contracts and related matters available to customers and state commissions might result in the release of information about pricing practices, the exposure of which, while perhaps not in violation of the letter of the law, would appear inconsistent with antitrust policies.

While some of the respondent utilities also questioned the Commission's authority to require the submittal of fuel procurement data, the utilities' most prevalent objection concerned the alleged reduction or elimination of competition resulting from public disclosure of such data. The utilities argued that the ability of a utility to maintain the confidentiality of the details of its negotiations with individual vendors is the principal method by which the company can take advantage of the competition which exists between vendors. The utilities alleged that making fuel procurement documents public would virtually eliminate competitive bidding on the open market and would cause the price of fuel to increase and be "fixed" at the highest possible level. The result would be an increase in the cost of fuel for both retail and wholesale customers. One utility[7] quoted the court in *Alabama Power Company* v. *FPC*, 511 F. 2d 383. 391 (1974):

> In markets characterized by few sellers, secret shading of announced prices may provide the only form of price competition; publicizing transaction prices will chill price competition by foreclosing any opportunity for a seller to lower his price without fear of detection and retaliation by rivals. The chilling effect flows from publicity itself and does not depend upon who collects or disseminates the information • • •

The arguments of respondents raising the fifth objection, supra, were based on opposition to the refund provision of the proposed rulemaking.

Many of the respondents expressed doubt that the revenue billed subject to refund could be included for bond indenture and preferred stock coverage calculations. They stated that at the very least a footnote disclosing all revenues subject to refund would be required on any financial statement issued after January 1, 1976. Many of the utilities' responses included data for prior six month periods showing the amount of revenue that would have been subject to refund under the proposal and stating that such amounts would have precluded them from issuing any long-term debt. The utilities indicated that any footnote to financial statements would also jeopardize their chances of raising capital through the issuance of additional common stock.

The two accounting firms responding to the proposed rulemaking expressed the opinion that in some situations revenues collected subject to refund cannot be included in calculating fixed charge coverage under some mortgages. The accounting firms also echoed the responses of many of the utilities that a refund provision would produce results contrary to one of the stated purposes of a fuel adjustment clause, which is to "• • • ensure appropriate and timely cash flow to electric utilities by eliminating regulatory lag • • •"

One utility[8] argued that the requirement that amounts collected under a fuel clause be subject to refund is "beyond the jurisdiction of the Commission as it is contrary to the provisions of the Federal Power Act and the decisions of the Commission thereunder." The utility drew the distinction between the fuel clause formula and the fuel clause factor which derives from the formula. The utility stated that the Commission has long held that Section 205(d) of the Act does not require a filing each time a change in fuel costs triggers a change in revenue under a fuel adjustment clause. The utility therefore argued that, if it is a change in the formula that triggers the filing requirements of Section 205(d), it can only be that same filing which triggers the Commission's ability to suspend the operation of a rate schedule and to order refunds under Section 205(e). Since the automatic operation of a fuel clause is not a change for purposes of Section 205(d), then it cannot possibly be a change for purposes of Section 205(e). The company also questioned the Commission's jurisdiction to require refunds of "such increased rates" without definitively stating from what point the increase is to be measured. The Company also cited the Commission's Opinion in *New England Power Company*[9] (which found that the fuel adjustment clause is a legitimate rate form), arguing that the suspension of a legitimate rate form for more than five months exceeds the authority conferred by the Act.

III. Responses in Favor of the Proposal

As indicated previously, the City of Cuyahoga Falls, two law firms, one engineering company, the American Public Power Association, and the Council on Wage and Price Stability submitted comments supporting the proposed rulemaking. The comments were brief and general in nature. These respondents supported adoption of the proposed amendments as "• • • constituting a step forward in the public interest and as protection to the users of electricity against the abuses which have come to light recently in the fuel procurement practices and the administration of fuel adjustment clauses • • •" They argued that the proposed amendments are necessary because utilities with fuel adjustment clauses have little or no incentive to bargain for better fuel prices or to enforce existing low cost fuel contracts. Almost without exception these respondents said they believed the refund provision to be the most important element of the proposed amendments. One law firm[10] representing a group of consumer owned systems requested that the Commission require utilities to provide a detailed breakdown of the items charged to Account 151 during the reporting period.

IV. Discussion

Having reviewed the responses to the proposed rulemaking, the Commission is of the opinion that the Regulations should not be amended as proposed. While some benefit may be realized from certain additional information regarding the effect on the cost of electricity of fuel adjustment clauses developed under the Regulations as amended by Order No. 517, the responses itemized above have persuaded us that the reporting requirements of the proposed rulemaking are too complex, burdensome, and costly in view of the benefits which might be realized. Responses supporting the proposal contained only one specific allegation of abuse in connection with a fuel adjustment clause.

Following the issuance of the notice of the proposal to amend § 35.14 of the Commission's Regulations under Docket No. RM75–29 the Commission's staff has completed special field audits of 14 selected electric utilities for the purpose of ascertaining the manner in which the clauses filed with the Commission were being administered, including a review of the adequacy of procurement policies and procedures for assuring that fuel costs were prudently incurred. Most of the audits disclosed no overcharges to customers and in those instances where overcharges were found, the amounts were relatively minor in relation to the total charges billed under the clauses. Reviews of procurement policies and procedures disclosed they were adequate to assure that fuel costs were prudently incurred. Audit procedures for review of the administration of fuel adjustment clauses filed with the Commission are now incorporated in the staff's ongoing program filed examinations to determine compliance with the Commission's Uniform System of Accounts prescribed for Public Utilities and Licensees.

The purpose of the proposed regulation was to afford additional protection against possible abuse in the procurement of fuel and in the administration of fuel adjustment clauses. As the Commission's audit program has not revealed

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[1] See Attachment A for a complete list of parties submitting written comments.

[2] Spiegel and McDiarmid representing 176 municipally and cooperatively owned systems and Duncan, Allen and Mitchell representing 151 municipally owned systems.

[3] Southern Engineering Company representing 17 rural electric cooperative organizations.

[4] Arkansas Power and Light Company.

[5] Fuel Adjustment Clauses in Wholesale Rate Schedules, Docket No. R–479, Order No. 517 issued November 13, 1974.

[6] Allied-General Nuclear Services.

[7] Virginia Electric and Power Company.

[8] Virginia Electric and Power Company.

[9] 48 FPC 899 (1972).

[10] Spiegel and McDiarmid.

V42N87 MAY 5 77 UMI

any substantial overcharges and in view of the conspicuous dearth of specific allegations by respondents of abuses in the administration of fuel adjustment clauses, it appears that the submittal of the large amount of information required by the proposed rulemaking would involve a good deal of unproductive and wasted time and effort on the part of the Commission staff and the utilities.

Moreover, it is our conclusion that the more appropriate method of monitoring for abuse in the procurement of fuel and in the administration of fuel adjustment clauses is to continue to employ the Commission's audit staff and investigative procedures.

The Commission finds: (1) The notice and opportunity to participate in this rulemaking by the submission in writing of data, views, and comments in the manner described above are in accordance with the procedural requirements of Section 553 of Title 5 of the United States Code.

(2) Good cause exists to reject amendment of § 35.14 of the Commission's Regulations as herein proposed.

(3) Good cause exists to terminate the proposed rulemaking in this docket.

The Commission orders: (A) The proposed amendment of § 35.14 of the Commission's Regulations is hereby rejected.

(B) The proposed rulemaking in Docket No. RM75-29 is hereby terminated.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

PARTIES SUBMITTING COMMENTS IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING DOCKET NO. RM75-29

1. Florida Power & Light Company
2. Oklahoma Gas & Electric Company
3. Southern Engineering Company
4. Haskins & Sells
5. Council on Wage and Price Stability
6. The National Coal Association
7. Florida Power Corporation
8. Alabama Power Company
9. Virginia Electric and Power Company
10. Rochester Gas & Electric Company
11. Arkansas Power & Light Company
12. Philadelphia Electric Company
13. Minnesota Power & Light Company
14. South Carolina Electric & Gas Company
15. Duke Power Company
16. Mississippi Power & Light Company
17. Pacific Power & Light Company
18. Consumer Owned Systems represented by Spiegel & McDiarmid.
19. Montaup Electric Company
20. West Texas Utilities Company
21. Gulf Power Company
22. Union Electric Company
23. Southern California Edison Company
24. Edison Electric Institute
25. Mississippi Power Company
26. Middle South Services, Inc.
27. Arthur Andersen & Company
28. Arizona Public Service Company
29. Boston Edison Company
30. Pennsylvania Power & Light Company
31. Toledo Edison Company
32. New England Power Company
33. Northern States Power Company (Minnesota and Wisconsin)
34. Detroit Edison Company
35. Public Service Company of New Mexico
36. Cincinnati Gas & Electric Co. and Union Light, Heat & Power
37. Georgia Power Company
38. Louisiana Power & Light Company
39. Consumers Power Company
40. Southern Services Inc.
41. Iowa Public Service Company
42. Commonwealth Edison Company
43. Municipal Group represented by Duncan, Allen & Mitchell
44. Babcock & Wilcox
45. Columbus & Southern Ohio Electric Company
46. Nevada Power Company
47. Dayton Power & Light Company
48. Public Service Electric & Gas Company
49. Edison Sault Electric Company
50. Kansas City Power & Light Company
51. Carolina Power & Light Company
52. Public Service Company of Oklahoma
53. Illinois Power Company
54. Wisconsin Public Service Corporation
55. Public Service Company of Indiana
56. Ohio Edison Company
57. American Electric Power Service Corporation
58. Niagara Mohawk Power Corporation
59. Indianapolis Power & Light Company
60. Cleveland Electric Illuminating Company
61. Wisconsin Power & Light Company
62. City of Cuyahoga Falls, Ohio
63. American Public Power Association
64. General Electric
65. Allied-General Nuclear Services
66. Island Creek Coal Sales Company
67. Westinghouse Electric Corporation
68. General Atomic Company

[FR Doc.77-12874 Filed 5-4-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1932]

[Docket No. R-77-109]

PROTECTIVE DEVICE REQUIREMENTS

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Secretary proposes to amend existing requirements for protective devices to be installed as a condition of coverage under the Federal Crime Insurance Program. The Comptroller General of the United States in his report of April 11, 1975, entitled "The Federal Crime Insurance Program: How It Can Be Made More Effective" (RED-75-333), suggested a reevaluation of the Program's protective device requirements with respect to the type and number of protective devices, with a view toward reducing their costs, particularly for small businessmen, so that the Program's objectives could be better achieved. Reasonable protective devices are required by statute.

DATES: Comments must be received on or before June 6, 1977.

ADDRESS: Comments should be submitted to the Rules Docket Clerk, Department of Housing and Urban Development, Room 10141, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator, Office of Urban Property Insurance—Riot and Crime, Room 5248, 451 Seventh Street SW., Washington, D.C. 20410, telephone number 755-6555.

SUPPLEMENTARY INFORMATION: The GAO report stated on page 42 that "Agents and Brokers and some potential policy holders have indicated that the high cost, the number, and the inflexibility of the protective device requirements deter policy sales. If changes were made to the type and number of requirements, resulting in lower cost to the policyholder, more policies might be sold." Consequently, the report concluded that Congress should consider requiring HUD to, "Reevaluate its protective device requirements with respect to the type and number of protective devices, with a view toward reducing their costs, particularly for the small businessmen, so that the program's objectives can be better achieved."

The General Accounting Office report noted that HUD agreed "that it should reevaluate the protective device requirements." In view of the GAO recommendation and in response to the Congress, the Administration has reviewed the protective device requirements and has indepedently substantiated the need for changes. Revisions can be best effectuated by rescinding 24 CFR 1932.3a, which is entitled "Mandatory preinspection of commercial properties." Paragraph (b) states that, "Coverage under a commercial crime insurance policy indemnifying burglary losses shall not commence unless it is determined that the premises sought to be insured complies with all applicable protective device requirements." It is proposed that new § 1932.5 be added incorporating the following changes.

The first change responds to the current inflexibility of the commercial protective device requirements which fail to permit an applicant to choose alternative methods of reasonable protection. Current requirements compel applicants, who may have already incurred substantial cost in installing reasonable protective devices, to install additional devices which, while not undesirable from a protective standpoint, impose disproportionate and costly redundency of protection which affects the affordability of the insurance.

Thus, under the first change, commercial applicants with silent alarm systems which protect doors, windows, and other accessible openings will not have imposed upon them additional requirements with respect to physical barriers and metal reinforcements. The significant feature of the silent alarm is that it must signal at a remote location (although, at the option of the insured, it may be coupled with a local alarm which signals at the insured premises).

There are currently some premises which, as a practical matter, cannot be equipped with physical barriers or

which, for valid business reasons, should not be. Service stations and repair facilities which use overhead doors have been unable to be insured because doors which are light enough to roll up and down are frequently not thick enough to meet present requirements without costly modifications to their mechanisms or complete replacement. Alarm systems provide the operators of such establishments with a reasonable alternative.

The revision thus provides greater flexibility, enables more applicants to obtain coverage, and benefits insureds in low as well as high gross receipts brackets, and at the same time maintains the requirement of reasonable loss prevention measures.

The second revision applies only to applicants in the under $300,000 gross receipts bracket. For such applicants the advantages of the first revision discussed above will be available upon the installation of a local alarm. Such an alarm is less costly than the silent alarm because it does not require the equipment necessary for transmitting a signal to a remote location. This revision responds directly to the issue of affordability for small businesses.

The Administrator may waive one or more protective device requirements with respect to any policy when he determines that compliance would be impractical and would impose a cost not reasonably commensurate with the protection derived, and may withdraw such waiver in the event of a loss contributed to in whole or in part by the absence of a protective device arising out of such waiver. In addition, if the Administrator finds that a particular insured is sustaining losses with such frequency and with such severity as to indicate there there is a need for one or more of the protective devices which the program provides for but which under these regulations were not required of the insured, the Administrator may, as a condition of renewing a policy, require the installation of one or more such protective devices.

The third change involving a revision of 24 CFR 1932.4, pertains to residential crime insurance policies. No inspection is conducted of residential premises prior to the issuance of policies. This revision, therefore, provides for an inspection upon the investigation of a first loss under the policy and for the payment of any covered claim arising out of a first loss resulting from forcible entry which leaves visible marks of forcible entry at the point of entry. Such evidence of the need for force to accomplish entry will substantiate that the insured took reasonable protective measures to prevent loss. Insureds will be advised of any protective device deficiencies detected in said inspection and be given thirty days in which to make necessary corrections.

A Finding of Inapplicability respecting the National Environmental Act of 1969 has been made in accordance with HUD Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 10141, 451 Seventh Street SW., Washington, D.C. 20410.

NOTE.—It is also certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, Subchapter C of Chapter X of Title 24 is proposed to be amended as follows:

PART 1932—PROTECTIVE DEVICE REQUIREMENTS

§§ 1932.3a–1932.3c [Deleted]

1. Present §§ 1932.3a, 1932.3b, and 1932.3c are deleted and § 1932.5 is added to read as follows:

"§ 1932.5 Inspection of commercial premises.

(a) All premises for which an application for commercial crime insurance against burglary losses is submitted shall be inspected by the servicing company to determine whether the premises comply with the applicable protective device requirements.

(b) Coverage under a commercial crime insurance policy indemnifying against burglary losses shall not commence unless it is determined that the premises sought to be insured comply with all applicable protective device requirements. Nonetheless all commercial premises (including those which have particularly high risk inventories of merchandise and are therefore specifically required by the provisions of paragraph (f) (1) and (2) of § 1932.31 to protect doors, windows (including storefront display windows and unbarred skylights) or other accessible openings by the utilization of central station, suservised service alarm systems and silent alarm system (as defined in paragraphs (b) and (h) of § 1932.1)), which are found to be protected by such alarm systems, shall not be required to comply with the provisions of paragraphs (c) and (e) of § 1932.31 pertaining to the protection of accessible openings by such devices as bars, grillwork and other physical barriers. However, the installation of only a local alarm system (as defined in paragraph (g) of § 1932.1 and referred to in paragraph (f)(3) of § 1932.31), which signals only at the premises, shall not relieve any applicant from the requirement of complying with the provisions of paragraph (c) and (e) of § 1932.31, except as provided in paragraph (c) of this section, which pertains to applicants with annual gross receipts under $300,000.

(c) Commercial premises with annual gross receipt under $300,000 and with particularly high risk inventories of merchandise which are listed in paragraph (f) (1) and (2) of § 1932.31, pertaining to the requirement for the installation of central station supervised alarm systems and silent alarm systems, shall not be required to be equipped with such systems if the premises are equipped instead with a local alarm system, defined in paragraph (g) of § 1932.1, which is designed to signal loudly at the premises.

(d) If upon any renewal of any policy the insured's statement of annual gross receipts shows that the annual gross receipts have risen above $299,999, the insured will be notified that his premises must be brought into complete compliance with all applicable protective device requirements no later than the expiration of that renewal term. Prior to the issuance of any subsequent renewal policy, the Administrator shall cause an inspection to be made, at a time agreed upon with the insured, within thirty days following receipt of the insured's renewal premium.

(e) The Administrator may in his discretion waive one or more protective device requirements with respect to any policy where he determines that compliance would be impractical and would impose a cost not reasonably commensurate with the protection derived. However, in the event of any loss contributed to in whole or in part by any such waiver, the Administrator may withdraw such waiver upon mailing to the insured thirty days written notice of withdrawal. Any loss occurring after thirty days from the day of the mailing of said notice shall not be paid unless the insured's premises shall be in compliance with the preivously waived protective device requirement at the time of such loss. The Administrator may also in his discretion determine that the frequency and/or sevreity of occurrences of loss experienced under any policy issued under the provisions of paragraphs (b) and (c) of this section, requires that as a condition of renewal of such policy, the premises insured thereunder be protected by one or more of the protective devices described in paragraphs (a), (b), (c), (d), (e), and (f)(1), and (f)(2), and (f)(3) of § 1932.31.

(f) If, during the course of adjusting a claim submitted by an insured, an adjuster or other investigator discovers a protective device deficiency, not previously discovered and noted by an investigator, with respect to a device, described in any of paragraphs (a), (b), (c), (d), (e), and (f) of § 1932.31, which the insured was required to have installed as a condition of eligibility for insurance coverage, the deficiency shall be made known to the insured who will be given thirty days after his receipt of such written notice within which to remedy the deficiency. During that thirty day period, burglary losses covered by the terms of the policy will be paid irrespective of the deficiency. Burglary losses occurring more than thirty days after the date on which an insured is notified of the deficiency will be paid only if it is determined that the deficiency was corrected prior to the loss. However, no loss shall be payable at any time if caused in whole or in part by a protective device deficiency with respect to any device which the insured was required to have installed as a condition of eligibility, and which device was found to be present at the time of a previous investigation, if the deficiency resulted from the inoperability, alteration, re-

V42187 MAY 5 77 UMI

moval or disconnection of said required protective device by or with the knowledge of the insured, subsequent to the previous inspection of the premises.

(h) An insured who has knowledge of an inoperability or other malfunction of a protective device which the insured was required to have installed as a condition of eligibility for insurance coverage shall immediately notify the Administrator of such deficiency in writing, or by use of the servicing company's toll-free telephone number 800-638-8780. If the insured complies with such emergency protective measures as the Administrator may specify following receipt of such notice, and if the deficiency is corrected within the time specified by the Administrator, no loss of coverage will result during the period of inoperability or malfunction.

2. Section 1932.4 is revised to read as follows:

§ 1932.4 Inspection of residential premises following losses.

(a) Each residential applicant applying for Federal Crime Insurance shall be responsible for meeting the protective device requirements applicable to his premises. Any person who is doubtful as to whether the protective devices existing on his premises at the time of application meet such requirements should examine the descriptive materials and illustrations available from the servicing company and direct any specific questions to the servicing company.

(b) In addition, insurance agents and brokers are expected to assist and advise prospective insureds concerning the protective device requirements for residential premises. However, no agent or broker shall be authorized to approve or disapprove on behalf of the insurer the adequacy of any required protective devices, and any representation to the contrary is false and shall be void.

(c) Upon receiving any notice of loss from an insured, the Administrator shall cause an inspection of the insured residential premises to be made in the course of the adjustment of the claim in order to determine whether the premises meets the protective device requirements of the program. If no inspection of the premises has previously been made and if the first such inspection reveals that the insured premises do not comply with the applicable protective device requirements, any first loss covered by the terms of the insurance policy, involving robbery or a burglary evidenced by visible marks of forcible entry, will be paid irrespective of any deficiencies in the insured's compliance with the protective device requirements. However, the insured will be given thirty days from the date on which he is notified in writing of any deficiencies to correct such deficiencies. During that thirty day period, robbery or burglary losses covered by the terms of the insurance policy will continue to be paid irrespective of any deficiencies in the insured's compliance with the protective device requirements. Losses occurring more than thirty days after the date on which the insured has been notified in writing of the results of the inspection will be paid only if it is determined that a loss, covered by the terms of the insurance policy, did not result in whole or in part from a protective device deficiency of which the insured was previously place on written notice.

(Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 1103, 82 Stat. 566 (12 U.S.C. 1749bbb-17).)

Issue date: April 15, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-12882 Filed 5-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

SAN CARLOS IRRIGATION PROJECT, ARIZONA

Proposed Revisions

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: Proposed revisions.

SUMMARY: The Bureau of Indian Affairs is proposing to change the assessment against irrigable lands of the San Carlos Irrigation Project, Arizona. Due to changes in the power rate for pumping irrigation wells, the assessment rate against irrigable lands is being changed. This is a correction to properly reflect the cost of operation and maintenance of the irrigation system.

DATES: Comments must be received on or before May 15, 1977.

ADDRESSES: Comments to: John Artichoker, Jr., Phoenix Area Director, Bureau of Indian Affairs, 3030 North Central P.O. 7007, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Parks, San Carlos Irrigation Project, Coolidge, Arizona, phone: 602-723-5439.

SUPPLEMENTARY INFORMATION: It is proposed to modify § 221.63 Assessment, Joint Works of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessments against the irrigable lands of the San Carlos Irrigation Project, Arizona, by decreasing the basic assessment from $1,185,000 to $853,000 per annum which changes the annual per acre assessment rate from $11.85 to $8.53 for each acre of irrigable land and establishing an assessment of $150,000 for the transition quarter, July 1, 1977 to September 30, 1977, made necessary by the change of the fiscal year to start on October 1 instead of July 1. The transition quarter assessment is based upon the annual rate of $6.00 per acre of irrigable land established for fiscal year 1977 beginning July 1, 1976.

The regulations are proposed under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The revised section will read as follows:

§ 221.63 Assessment, joint works.

(a) Pursuant to the Act of Congress approved June 7, 1924 (43 Stat. 476), and supplementary acts, the repayment contract of June 8, 1931, as amended, between the United States and the San Carlos Irrigation and Drainage District, and in accordance with applicable provisions of the order of the Secretary of the Interior of June 15, 1938 (§§ 221.69a–221.69m), the cost of operation and maintenance of the Joint Works of the San Carlos Irrigation Project for fiscal year 1978 is estimated to be $853,000 and the annual rate of assessment for said fiscal year and subsequent fiscal years until further order is hereby fixed at $8.53 for each acre of land. The cost of operation and maintenance of the Joint Works of the San Carlos Irrigation Project for the transition quarter, July 1, 1977, to September 30, 1977, is estimated to be $150,000 based upon the annual rate of $6.00 for each acre of land established for fiscal year 1977 and will be a one time assessment in addition to the fiscal year 1978 assessment.

Dated: April 15, 1977.

CHARLES D. WORTHMAN,
Assistant Area Director.

[FR Doc.77-12859 Filed 5-4-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 723-7]

IOWA

Proposed Revision to Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revised State air pollution control regulations as part of the Iowa State Implementation Plan (SIP). Approval means that the regulations will be enforceable against individual sources of air pollution by the federal government as well as by the State government. This proposal is published to advise the public of the receipt of these proposed revisions and to request comment on the proposals.

DATES: Comments must be received before June 6, 1977.

ADDRESS: Comments should be sent to Mr. Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, Region VII, 1735 Baltimore, Kansas City, Missouri 64108.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel J. Wheeler, 816-374-3791.

SUPPLEMENTARY INFORMATION: On February 28, 1977, the Iowa Department of Environmental Quality (DEQ) submitted proposed revisions to the Iowa SIP. The revisions were presented at a public hearing in Des Moines, Iowa, on October 14, 1976, and were formally adopted by the Iowa Air Quality Commission on November 18, 1976, December 16, 1976, and January 13, 1977.

Regulation 1.2, "Definitions," is amended by adding a definition of "urban area" as "any Iowa city of 100,000 or more population and all adjacent cities."

Regultion 4.1, "Emission Standards," has been amended to include, by reference, 11 additional categories of federally promulgated New Source Performance Standards (NSPS). These categories are: primary copper smelters, primary zinc smelters, primary lead smelters, primary aluminum reduction plants, coal preparation plants, ferroalloy production facilities and; in the phosphate fertilizer industry: wet process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants and granular triple superphosphate storage facilities. The State has also adopted, by reference, changes in previously adopted NSPS through June 30, 1976.

Regulation 4.2, "Open-Buring," has been amended to allow, with certain restrictions, the burning of up to 50 pounds-per-day of paper or plastic pesticide containers and seed corn bags.

Regulation 4.2 is also revised to prohibit open-burning of residential waste in Cedar Rapids, Council Bluffs, Des Moines, and all contiguous cities after July 1, 1977.

Regulation 4.3, "Specific Contaminants," amends the particulate emission limits for fuel-burning sources to minimize the effects of stack-height and multiple stack provisions. This change has the effect of fixing the emission limits for fuel-burning sources to those currently in effect, even if the source should make changes that would otherwise allow greater emissions under Regulation 4.3. In addition, sources which had been modified under the former rule will be limited to the emissions allowable under the EPA tall stack policy, as published February 18, 1976 (41 FR 7450).

Regulation 4.4, "Specific Processes," is amended by adding a paragraph on painting and surface coating operations. Such operations will be limited to .01 grains of particulate matter per-cubic-foot of exhaust gas.

Regulation 9.3, pertaining to local air pollution control programs, is revised to prevent local authorities from granting variances from open-burning restrictions which would prevent the attainment or maintenance of ambient air quality standards for particulate matter or carbon monoxide.

The revision to Regulation 4.2, which prohibits open-burning in three specific cities, has been objected to as arbitrary and capricious by the Administrative Rules Review Committee of the State Legislature. Under the Iowa Administrative Procedures Act, the Committee, or the State Attorney General, may object to a rule on the grounds that it is unreasonable, arbitrary, capricious or otherwise beyond the authority of the agency that issued it. If the agency attempts to enforce the rule, it must both establish a violation and prove that the rule is not unreasonable, arbitrary, capricious, or otherwise beyond the authority delegated to the agency.

The decision to approve or disapprove these revisions will be based on whether or not they meet the requirements of section 110(a)(2)(A) through (H) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption, and Submittal of State Implementation Plans."

Copies of the proposal and supporting documents are available for public inspection at the office of EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; Public Information Reference Unit, Library Systems Branch (PM-213), Environmental Protection Agency, Washington, D.C. 20460; and the Iowa Department of Environmental Quality, P.O. Box 3326, Des Moines, Iowa 50316.

(42 U.S.C. 1857c-5.)

Dated: April 26, 1977.

CHARLES V. WRIGHT,
Acting Regional Administrator.

[FR Doc.77-12829 Filed 5-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 10, 12, 151]

[CGD 74-44]

TANKERMAN REQUIREMENTS

Correction

In FR Doc. 77-11871 appearing at page 21190 in the issue for Monday, April 25, 1977, the following corrections should be made:

(1) On page 21193, in the middle column, § 10.11-11 (a)(2)(ii), the third line now reading "sidered to be the person in charge." should have read "sidered qualified to be the person in charge."

(2) On page 21197, in the first column, the first line of § 12.20-9 (c) now reading "Pass the medical examination and" should have read "Pass the medical examination for".

(3) Also on page 21197, middle column, in the second line of § 12.20-11 (g)(1), "§ 12.2013 (f)" should have read "§ 12.20-13 (f)".

(4) On page 21199, third column, in the part heading for Part 151, the word "Bridges" should be changed to "Barges".

(5) On page 21199, third column, the section designated "§ 151.30-53 Tankerman." should have read "§ 151.03-53 Tankerman."

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

Hatchie National Wildlife Refuge, Tenn.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Hunting of big game (deer) is proposed on Hatchie National Wildlife Refuge, Tennessee. The Director has determined that the opening to big game hunting on the Hatchie is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATE: Comments must be received on or before May 30, 1977.

ADDRESS: Comments to: Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone: 202-343-2374.

SUPPLEMENTARY INFORMATION: Notice is hereby given that it is proposed that 50 CFR Part 32 be amended by the addition of the Hatchie National Wildlife Refuge, Tennessee, to the list(s) of refuge areas open for the hunting of big game, which is published at 50 CFR 32.31.

Pursuant to the authority of 16 U.S.C. 668dd(d), as redelegated to the Director of the United States Fish and Wildlife Service at DM 242.1.1, the Director may open refuge areas to public hunting upon a determination that it would be in accordance with provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such use is compatible with the major purposes for which such areas were established. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulations. It is the purpose of this rulemaking to allow the hunting of big game on Hatchie National Wildlife Refuge, which is presently prohibited.

Furthermore, pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared on this proposal which will help determine whether this rulemaking constitutes a major federal action significantly affecting the human environment. A copy of this assessment is available at the address below.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Therefore, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20242, on or before June 6, 1977. All relevant comments received will be con-

V42N87 MAY 5 77 UMI

sidered by the Director prior to the issuance of final rulemaking.

Accordingly, it is proposed to amend § 32.31 in Title 50 of the Code of Federal Regulations as set forth below:

§ 32.31 List of open areas; big game.

TENNESSEE

HATCHIE NATIONAL WILDLIFE REFUGE

This proposed rule was prepared by Ralph H. Town, Division of National Wildlife Refuges.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

APRIL 22, 1977.

[FR Doc.77-12834 Filed 5-4-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 724-3; OPP-50293]

FREERS ELM ARRESTER ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 7452-EUP-4. Freers Elm Arrester, Muscatine, Iowa 52701. This experimental use permit allows the use of 11.25 pounds of the fungicide mercuric chloride and methyl alcohol on trees to evaluate control of Dutch elm disease. A total of 900 trees will be treated; the program is authorized only in the States of Minnesota, North Carolina, and Wisconsin. The experimental use permit is effective from April 1, 1977, to April 1, 1978.

No. 5857-EUP-2. Phostoxin Sales, Inc., Alhambra, California 91802. This experimental use permit allows the use of 252 pounds of the insecticide aluminum phosphide on various insects on stored grain. The total amount of grain is approximately 360,000 bushels; the program is authorized only in the States of Alabama, California, Connecticut, Delaware, Florida, Georgia, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Wisconsin. The experimental use permit is effective from April 1, 1977, to April 1, 1978. Permanent tolerances for residues of the active ingredient in or on various raw agricultural commodities have been established (40 CFR 180.225).

No. 100-EUP-54. CIBA-GEIGY Corporation, Greensboro, North Carolina 27409. This experimental use permit allows the use of 3,000 pounds of the herbicide 2-Chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl) on sorghum to evaluate control of annual grasses and broadleaf weeds. A total of 1,500 acres is involved; the program is authorized only in the State of Texas. The experimental use permit is effective from April 1, 1977, to April 1, 1978. This permit is being issued with the restriction that all treated sorghum will be grown for seed only; no part of the treated crop will be used for food or feed purposes.

No. 524-EUP-30. Monsanto Agricultural Products Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 3,225 pounds of the herbicide butachlor in a mixture on rice to evaluate control of annual grasses and broadleaf weeds. A total of 1,020 acres is involved; the program is authorized only in the States of Arkansas, Mississippi, Louisiana, and Texas. The experimental use permit is effective from April 1, 1977, to April 1, 1978. Temporary tolerance for residues of the active ingredient in or on rice and rice straw and a food additive regulation for residues of the active ingredient in rice hulls and bran have been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq)).)

Dated: April 26, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-12830 Filed 5-4-77;8:45 am]

[FRL 723-8]

PREVENTION OF SIGNIFICANT DETERIORATION

Delegation of Authority to the State of Alabama

The amendment below institutes authority for implementation of the technical and administrative portions of the Prevention of Significant Deterioration (PSD) program. EPA has delegated to the State of Alabama authority to review new and modified sources under 40 CFR 52.21 for the prevention of significant deterioration.

On December 5, 1974 (39 FR 42510), and June 12, 1975 (40 FR 25004) and September 10, 1975 (40 FR 42011), pursuant to section 110 of the Clean Air Act, as amended, the Administrator promulgated regulations for the prevention of significant air quality deterioration (PSD). Section 301 in conjunction with sections 101 and 110 authorizes the Administrator to delegate his authority to implement and enforce PSD to any State which has submitted adequate implementation and enforcement procedures.

On August 31, 1976, James W. Cooper, Director, Division of Air Pollution Control, Alabama Air Pollution Control Commission, submitted to the EPA Regional Office a request for Delegation of Authority.

After a thorough review of the request and information submitted, the Regional Administrator has determined that for the categories set forth in the following official letter to the Director of the Alabama Air Pollution Control Commission, delegation is appropriate, subject to the conditions set forth in detail in this letter:

U.S. ENVIRONMENTAL
PROTECTION AGENCY
Atlanta, Ga., February 17, 1977.

MR. JAMES W. COOPER, Director,
Division of Air Pollution Control,
Alabama Air Pollution Control Commission,
645 South McDonough Street,
Montgomery, Alabama 36103.

DEAR MR. COOPER: This is in response to your letter of August 31, 1976, requesting responsibility for implementation of the technical and administrative portions of the Prevention of Significant Air Quality Deterioration (PSD) program.

We have reviewed the procedures for new source review of the State of Alabama and have determined that they provide an adequate and effective procedure for the implementation of the technical and administrative portions of the PSD program by the State of Alabama. Therefore, pursuant to 40 CFR 52.01 and 52.21 (1975) and 40 FR 42012 (September 10, 1975) amending 40 CFR 52.21, and hereinafter referred to as 40 CFR 52.01 and 52.21, we hereby delegate our authority for the technical and administrative portions of the federal PSD program, as described in 40 CFR 52.01 and 52.21(d) and (e), to the State of Alabama as follows:

A. EPA delegates its authority for all sources located or to be located in the State of Alabama subject to review under the federal regulations for the prevention of significant air quality deterioration promulgated in 40 CFR 52.21(d). The categories of new sources covered by the delegation are: Fossil-fuel steam electric plants of more than 1000 million BTU per hour heat input; coal cleaning plants; kraft pulp mills; Portland cement plants; primary zinc smelters; iron and steel mills; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per 24-hour day; sulfuric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; by-product coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; and ferroalloy production facilities.

B. EPA delegates to the State of Alabama its authority and procedures for public participation promulgated in 40 CFR 52.21(e), but not its authority under 40 CFR 52.21(e)(1)(v) to take final action on an application, nor its authority to take enforcement action under 40 CFR 52.21(e)(2).

C. For purposes of and in accordance with paragraph B above, the State of Alabama shall follow the procedures in 40 CFR 52.21(e), except that the word "State" shall be substituted for the word "Administrator." A copy of the State's preliminary determination, a copy of all materials submitted by the owner or operator, a copy or summary of other materials (if any) considered by the State in making its preliminary determination, and a copy of the notice pursuant to 40 CFR 52.21(e)(ii)(b) and (c) shall be sent to the EPA regional office within 30 days after receipt of a complete application. Within

V42N87 MAY 5 77 UMI

30 days after the close of the public comment period, the States shall forward a copy of the final analysis, the EPA regional office. Upon receipt of the State's final analysis, the EPA regional office shall take final action on an application pursuant to 40 CFR 52.21(e)(1)(v).

D. This delegation is based upon the following conditions:

1. Quarterly reports containing pertinent information relating to the Status of sources subject to 40 CFR 52.21 (or other reports as required by the Regional Administrator) will be submitted to EPA by the State of Alabama as part of the existing quarterly reports normally submitted to EPA through program plan reporting.

2. Upon approval of the Regional Administrator of Regicn IV, the Director of the Division of Air Pollution Control may subdelegate his authority to implement the technical and administrative portions of PSD to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

3. This technical and administrative authority delegated to the State of Alabama does not include the authority to implement PSD for sources owned or operated by the United States, which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR 52.21.

4. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR 52.01 and 52.21), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to implement a Federal regulation that is more stringent than the applicable State regulation, the pertinent portion of the delegation may be revoked.

5. If the Regional Administrator determines that the State procedure for implementing the technical and administrative portions of PSD is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Division of Air Pollution Control.

6. Acceptance of this delegation of presently promulgated PSD regulations does not commit the State of Alabama to request or accept technical and administrative review authority of future standards and requirements. A new request for authority will be required for any standards not included in Paragraph A above.

The State and EPA will develop a system of communication sufficient to guarantee a program that includes the items described below:

a. Each agency is informed of the current compliance status of subject sources in the State of Alabama;

b. Prior EPA concurrence is obtained on any matter involving interpretation of 40 CFR 52.01 and 52.21 (including unique questions of applicability of the standards);

c. PSD reviews (including requests for information and enforcement actions based thereon) already initiated by EPA prior to this delegation, shall be completed by EPA;

d. The State is informed of the date of receipt by EPA, of any and all completed applications for PSD review affecting a source owned or operated by the United States, and located or to be located in the State, and of the results of each such PSD review conducted; and EPA is informed of any State PSD reviews and progress that might affect the PSD review conducted by EPA.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The notice will state, among other things, that, effective immediately, all reports required pursuant to PSD by sources located or to be located in the State of Alabama should be submitted to the Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130. Any such reports which have been or may be received by EPA, Region IV, will be promptly transmitted to the State agency.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

JACK E. RAVAN,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified the Director of the Alabama Division of Air Pollution Control on February 17, 1977, that authority to implement the technical and administrative portions of the Prevention of Significant Deterioration (PSD) was delegated to the State of Alabama.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region IV Office, 345 Courtland Street NE., Atlanta, Georgia 30308.

Effective immediately, all reports required pursuant to the delegated Prevention of Significant Deterioration (PSD) should not be submitted to the EPA Region IV Office, but instead should be submitted to the State agency at the following address: Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36103.

Applications for PSD review in process at the time of this delegation shall be processed through to completion by the EPA Region IV Office.

This notice is issued under the authority of section 101, 110, and 301 of the Clean Air Act, as amended, 42 U.S.C. 1857, 1857c–5 and 1857g.

Dated: April 25, 1977.

JOHN A. LITTLE,
Acting Deputy Regional Administrator.

[FR Doc.77–12828 Filed 5–4–77;8:45 am]

[FRL 724–4; OPP—33000/500]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94–140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755–9315
PM 21 and 22—202/426–2454
PM 24—202/755–2196
PM 31—202/426–2635

PM 33—202/755–9041
PM 15, 16, and 17—202/426–9425
PM 23—202/755–1397
PM 25—202/755–2632
PM 32—202/426–9486
PM 34—202/426–9490

The Interim Policy Statement requires that claims for compensation be filed on or before July 5, 1977. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made by June 6, 1977.

Dated: April 26, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—33000/500)

EPA Reg. No. 538–58. O. M. Scott and Sons, Marysville OH 43040. 25–3–3. Active Ingredients: S-(O,O-Diisopropyl phosphorodithioate) ester of N-(2-Mercapotoethyl) benzenesulfonamide 4.59%. Method of Support: Application proceeds under 2(a) of interim policy. 40 CFR 162.21(a)(1) provides that "fertilizer-pesticide combinations, in which the amount of fertilizer to be applied or percentage of fertilizer components varies and the application rate of the pesticide remains constant, may be registered as a single pesticide provided that the range proposed would not require modification in the precautionary labeling." PM25

EPA Reg. No. 538–58. O. M. Scott and Sons, Marysville OH 43040. 25–3–3. Active Ingredients: S-(O,O-Diisoproply phosprorodithioate) ester of N-(2-Mercaptoethyl) benzenesulfonamide 6.37%. Method of Support: Application proceeds under 2(a) of interim policy. 40 CFR 162.21(a)(1) provides that "fertilizer-pesticide combinations, in which the amount of fertilizer to be applied or percentage of fertilizer components varies and the application rate of the pesticide remains constant, may be registered as a single pesticide provided that the range proposed would not require modification in the precautionary labeling." PM25

EPA Reg. No. 1080727. Aero Mist, Inc., 990 Industrial Pk. Dr., Marietta GA 30062. Misty Mizer. Active Ingredients: Pyrethrins 1.00%; Piperonyl Butoxide Technical 2.00%; N-octyl Bicycloheptene dicarboximide 3.34%; Petroleum Hydrocarbons 13.66%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 10807–44. Aero Mist, Inc., Misty Mizer Economy Insecticide. Active Ingredients: Pyrethrins 1.00%; Piperonyl Butoxide Technical 2.00%; N-octyle Bicycloheptene dicarboximide 3.34%; Petroleum Hydrocarbons 13.66%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 11265–15. Seymour Chemical Assoc., Inc., 1609 Arbor, Highland Park IL 60035. CU–8–10 WP. Active Ingredients: Copper 8 Quinolinolate 10%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM22

EPA Reg. No. 11273–2. Sandoz, Inc., Crop Protection, PO Box 1489 Homestead FL 33030. Thuricide-HPC High Potency Aqueous Concentrate. Active Ingredients: Bacillus-thuringiensis Berliner, potency of 4,000 International Units (at least 6 million viable spores) per milligram 0.8%; Petroleum hydrocarbon solvent 3.0%. Method of Support: Application proceeds under 2(a) of interim policy. Amendment with data. PM17

EPA Reg. No. 11273–3. Sandoz, Inc. Thuricide-HP Spray Concentrate (Wettable Powder). Active Ingredients: Bacillus thuringiensis Berliner, potency of 16,000 International Units (at least 30 million viable spores) per milligram 3.2%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. Amendment with data. PM17

EPA Reg. No. 11273–8. Sandoz, Inc. Thuricide-HP. Active Ingredients: Bacillus thuringiensis Berliner, potency of 320 International Units (at least 600 thousand viable spores) per milligram 0.064%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 11743–A. Guardian-Ipco, Inc., PO Box 54, Birmingham AL 35201. Guardian-Ipco No. 87 Algaecide. Active Ingredients: Disodium cyanodithimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. Republished; New Application. PM33

EPA File Symbol 12310–RT. Misco International Chemicals, Inc., Wheeling IL 60090. CD 112–46A Disinfectant-Sanitizer Fungicide Deodorizer. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12477–T. Economy Service & Sales Co., 3511 N. 9th St., Philadelphia PA 19140. C–901. Active Ingredients: Bis (tributyltin) Oxide 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 14453–R. Sharp Industrial Chemical, Inc., 307 N. Weatherford St., Midland TX 79701. Insecticide 50. Active Ingredients: Pyrethrins 0.50%; Piperonyl butoxide, technical 1.00%; N-octyl bicycloheptene dicarboximide 1.67%; Petroleum distillate 96.83%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 14453–E. Sharp Industrial Chemical, Inc. Insecticide 150. Active Ingredients: Pyrethrins 1.50%; Piperonyl Butoxide, technical 3.00%; N-octyl bicycloheptene dicarboximide 5.50%; Petroleum Distillates 90.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 16037–1. Chemco Products Co., Inc., Appleton WI 54911. Chemco 333. Active Ingredients: n-Alkyl (50% C_{14}, 40% C_{12}, 10% C_{16}) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished; Revised offer to pay statement submitted. PM31

EPA Reg. No. 21337–3. Old Hickory Medicine Co., 5813–1–(rear) Lee Highway, Chattanooga TN 37421. Old Hickory Dog Mange Remedy. Active Ingredients: Benzyl Benzoate 30%; Isopropol Alcohol 70%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 32741–U. Custom Chemical Co., 119 E. Palatine Rd., Palatine IL 60067. Formula 010 CD. Active Ingredients: n-Alkyl (60% C_{14}, 30% C_{16}, 5% C_{18}) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 32741–T. Custom Chemical Co. Formula 012.5NP. Active Ingredients: n-Alkyl (60% C_{14}, 30% C_{16}, 5% C_{18}) dimethyl benzyl ammonium chlorides 6.25%; n-Alkyl (68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 6.25%; Tetrasodium ethylenediamine tetraacetate 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 32741–A. Custom Chemical Co. Formula 04.5NP. Active Ingredients: n-Alkyl (60% C_{14}, 30% C_{16}, 5% C_{18}) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 34164–A. American Refining & Mfg. Inc., PO Box 332, Miami FL 33147. Aqua-Kleer Low Foam Swimming Pool Algaecide. Active Ingredients: Dioctyl dimethyl ammonium chloride 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 34973–R. Down East Chemical Corp., 233 Oxford St., Portland ME 04111. D. E. Food Plant Cleaner. Active Ingredients: n-Alkyl (60% C_{14}, 30% C_{16}, 5% C_{12}, 5% C_{18}) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 35571–RT. Chem Pro Laboratory, Inc., 941 W. 190th St., Gardena CA 90248. Chem Pro Biocide No. 289. Active Ingredients: Disodium cyanodithiomidocarbonate 14.7%, Potassium N-methyldithiocarbamate 20.3%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New Application. PM33

EPA File Symbol 35637–R. Household Brands, 24 Vanderelinde Rd., Wayne NJ 07470. Pure Deodorizing Cleaner Disinfectant. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; tetrasodium ethylenediamine tetraacetate 2.0%; sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 35900–L. Ionics, Inc., PO Box 99, Bridgeville PA 15017. Replacement Cartridge for General Ionics Model HY–2 Bacteriostatic Water Filter. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 35900–A. Ionics, Inc. Hygene Mark II. Active Ingredients: Metallic Silver 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 35920–T. Water Purification Systems, Inc. 6502 NW 16th St., Plantation FL 33313. System 1 Water Processor—Model SY5–23 Replacement Cannister. Active Ingredients: Silver 1%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 25930–3. Jude Chemical Specialties, PO Box 5212, Lenexa KS 66215. JCS 10 Disinfectant-Sanitizer-Deodorizer. Active Ingredients: n-Alkyl (60% C_{14}, 30%

V42187 MAY 5 77 UMI

C_{12}, 5% C_{12}, 5% C_{18}) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 36306–E. Hadco East Chemical, 35 Ralph Ave., Copiague NY 11726. Quat Amo Algaecide. Active Ingredients: n-Alkyl (60% C_{14}, 30% C_{16}, 5% C_{12}, 5% C_{18}) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New application. PM31

EPA File Symbol 36306–A. Hadco East Chemical. Quat Amo. Active Ingredients: n-Alkyl (60% C_{14}, 30% C_{16}, 5% C_{12}, 5% C_{18}) dimethyl benzyl ammonium chlorides 5%; n-Alkyl 68% C_{12}, 32% C_{14}) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 37299–3. Risdon Q-Mist Corp., Box 4599, Columbia SC 29340. Q-Mist Insecticide Industrial Type. Active Ingredients: Pyrethrins 1.60%; Piperonyl Butoxide, technical 15.00%; Petroleum Distillates 3.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 38723–G. Walter Louis Chemicals, 5305 Fifth St., Quincy IL 62301. Industrial Microbiocide AM–43. Active Ingredients: 1-Hydroxyethyl - 1 - Benzyl-2-Alkyl -(as in fatty acids derived from coconut oil) Imidazo-linium Chloride 50%; Isopropyl Alcohol 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 39445–R. American Carbonyl, Inc., 120 De Vriese Ct., Tenafly NJ 07670. Diuron Technical. Active Ingredients: Diuron 3-(3,4-dichlorophenyl) -1,1-dimethylurea 97%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 39924–R. Universal Chemicals, Inc., 55 Jacobson Ave., South Kearny NJ 07032. Universal Chemicals Sodium Hypochlorite Solution. Active Ingredients: Sodium Hypochlorite 12.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

[FR Doc.77–12838 Filed 5–4–77;8:45 am]

[FRL 724–5]

STATE IMPLEMENTATION PLANS

Required Revision to the Colorado State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent.

SUMMARY: The Environmental Protection Agency Regional Administrator for Region VIII has determined that the Colorado State Implementation Plan (SIP) is substantially inadequate to provide for the attainment and maintenance of the national ambient 8-hour air quality standard for carbon monoxide. This notice requests that the Governor of the State of Colorado prepare and submit SIP revisions on a prescribed scheduled to eliminate this inadequacy.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning and Operations Section, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Suite 900, Denver, Colorado 80295, 303–837–3711.

SUPPLEMENTARY INFORMATION: On July 8, 1976 (41 FR 28002), the EPA Regional Administrator for Region VIII indicated that the Colorado SIP was inadequate to provide for attainment and maintenance of the national ambient air quality standards in several areas of the State of Colorado. The basis for this determination was an analysis performed pursuant to the requirements of 40 CFR Part 51.12, which provides for certain actions to be performed by the State in Air Quality Maintenance Areas (AQMA's) identified on June 2, 1975 (40 FR 23746), 40 CFR Part 52 (§ 52.341).

In the July 8, 1976 FEDERAL REGISTER notice, the Regional Administrator indicated that the analysis for carbon monoxide (CO) in the Colorado Springs AQMA was incomplete and that upon the completion of this analysis final action would be taken. After an examination of the analysis performed, the Regional Administrator finds that the Colorado SIP is substantially inadequate to attain and maintain the eight-hour national ambient air quality standard for CO in the Colorado Springs AQMA, and that the SIP should be revised.

The Colorado Springs AQMA encompasses El Paso County and was designated for both total suspended particulates (TSP) and CO. The Regional Administrator has previously determined (July 8, 1976) the need for a SIP revision for the attainment and maintenance of the TSP standards. A CO analysis has recently been completed for the State by a consultant. This analysis, El Paso County AQMA Analysis for Carbon Monoxide, focused upon existing and projected CO concentrations in the Colorado Springs metropolitan area. The analysis results indicate that violations of the eight-hour CO standard occur at numerous locations throughout the study area. Furthermore, the analysis concludes that "• • • it appears that the current levels above the eight-hour CO air quality standard will persist well beyond 1980 in spite of emission reductions resulting from the Federal Motor Vehicle Control Program."

Because the present Colorado SIP does not address attainment and maintenance of the CO standard in Colorado Springs, the Regional Administrator finds the SIP substantially inadequate in this regard and hereby requests that revisions be submitted as follows:

1. The State shall prepare and submit by January 1, 1978, a plan revision containing—

a. All achievable emission limitations that are needed to provide for the attainment and maintenance of the national ambient (eight-hour) standard for carbon monoxide for the Colorado Springs AQMA.

b. A demonstration of the effect on air quality concentrations of such measures.

2. If additional controls such as transportation and land use measures are needed for attainment and maintenance of the CO standard, the State shall prepare and submit by January 1, 1979—

a. Such measures for attainment and maintenance of the CO standard in the Colorado Springs AQMA.

b. A demonstration that the control strategy will attain and maintain the national standard.

3. The completed plan must demonstrate that the national standard for CO will be maintained in the Colorado Springs AQMA for a period compatible with locally developed long term plans.

This notice requires the State to submit to the EPA Regional Administrator for Region VIII, on or before August 3, 1977, a letter identifying the steps the State will take to develop the revisions to its SIP and the designated agencies responsible for the development of a control strategy, in accordance with the time schedule listed above.

All of the applicable Colorado SIP remains in effect until the plan revision is submitted by the State to EPA and is approved by EPA or until EPA promulgates substitute or additional regulations.

This notice is not subject to rulemaking procedures. The need for a plan revision is based upon a technical finding by the Regional Administrator which indicates that the Colorado SIP is substantially inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the Regional Administrator's determination of plan inadequacy will be provided during the public hearing that the State is required to hold on the plan revision before submission to EPA. If EPA must propose and promulgate its own regulations, EPA will provide opportunity for written comments and, if the State held no public hearings on the revisions, will provide opportunity for a public hearing. Authority: Section 110(a)(2)(H) of the Clean Air Act, as amended, 42 U.S.C. 1857c–5(a)(2)(H) and section 110(c) of the Clean Air Act, as amended, 42 U.S.C. 1857c–5(c).

Although no formal public comment period is required, the Regional Administrator strongly feels that the technical basis for his determination should be made available to the public. Therefore, the El Paso County AQMA Analysis for Carbon Monoxide is available for public copying and inspection at the EPA Region VIII offices, 1860 Lincoln Street, Denver, Colorado 80295 and at the Colorado Department of Health offices in Denver, Colorado 80220.

Dated: April 22, 1977.

JOHN A. GREER,
Regional Administrator,
Environmental Protection Agency.

[FR Doc.77–12831 Filed 5–4–77;8:45 am]

[FRL 724–2; OPP–50292]

STAUFFER CHEMICAL CO. AND MONSANTO AGRICULTURAL PRODUCTS CO.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 476–EUP–73. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 2,080 pounds of the insecticide N-(Mercaptomethyl) phthalimide S-(0,0-dimethyl phosphorodithioate) and petroleum oil on forest acres to evaluate control of spruce budworm. A total of 3,620 acres is involved; the program is authorized only in the States of Idaho, Montana, New Mexico, and Washington. The experimental use permit is effective from April 1, 1977, to April 1, 1978.

No. 524–EUP–25. Monsanto Agricultural Products Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 2,076 pounds of the herbicides alachlor and atrazine on corn to evaluate control of various annual grasses and broadleaf weeds. A total of 620 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. The experimental use permit is effective from April 1, 1977, to April 1, 1978. Permanent tolerance for residues of the active ingredients in or on corn have been established (40 CFR 180.220 and 40 CFR 180.249).

No. 524–EUP–22. Monsanto Agricultural Products Company, St. Louis, Missouri 63166. This experimental use permit allows the use of the remaining supply of 1,680 pounds of the herbicide isopropylamine salt of Glyphosate authorized in a previous experimental use permit; the pesticide will be used on grapes to evaluate control of various perennial and annual weeds. A total of 1,120 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, and Washington. The experimental use permit is effective from March 31, 1977, to March 31, 1978. A temporary tolerance for residues of the active ingredient in or on grapes has been established.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202–755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.).)

Dated: April 25, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77–12837 Filed 5–4–77;8:45 am]

[FRL 723–6]

SUBCOMMITTEE FOR AUTOMOTIVE CATALYTIC CONVERTER EXHAUST STUDIES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that the first meeting of the Subcommittee for Automotive Catalytic Converter Exhaust Studies will be held beginning at 9:00 a.m., May 23, 1977, in room 1112 A, Building 2, Crystal Mall, 1921 S. Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be to brief members of the Subcommittee on the current EPA Catalyst Research Program and to plan future activities of the Subcommittee.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Executive Secretary, Environmental Measurements Advisory Committee, (703) 557–7720 by close of business May 20, 1977.

LLOYD T. TAYLOR,
Acting Staff Director,
Science Advisory Board.

APRIL 29, 1977.

[FR Doc.77–12833 Filed 5–4–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Indiana Grain Inspection Point

On July 12, 1976, as a result of alleged violations of the U.S. Grain Standards Act as amended, and regulations thereunder, Administrative proceedings were initiated against William F. Christen proposing revocation of Christen's grain inspector's license No. 1145 and revocation of his designation to operate as an official agency at Decatur, Indiana.

William F. Christen and William F. Christen Grain Inspection voluntarily entered into a consent agreement with the Federal Grain Inspection Service April 28, 1977, wherein they neither admit nor deny the allegations set forth against them, but do agree to a two month suspension of his inspector's license and official agency designation under the U.S. Grain Standards Act. As a result of this agreement, William F. Christen's license No. 1145 and the designation of the William F. Christen Grain Inspection, Decatur, Indiana, is hereby temporarily suspended effective May 1, 1977, through midnight, June 30, 1977.

In order to provide an orderly continuation of needed official grain inspection services, the Schneider Inspection Service, Inc., Cedar Lake, Indiana, is hereby interimly designated to provide official grain inspection services from May 1, 1977 through midnight, June 30, 1977, to the area normally serviced by William F. Christens Grain Inspection.

(Sec. 7, (Pub. L. 94–582) 90 Stat. 2870 (7 U.S.C. 79), 7 CFR 26.99, 7 CFR 26.101.)

Effective date: This notice shall become effective May 1, 1977.

Done in Washington, D.C. on April 29, 1977.

WILLIAM T. MANLEY,
Interim Administrator.

[FR Doc.77–12893 Filed 5–4–77;8:45 am]

Forest Service

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1977

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of March 15, 1977. Persons interested in a particular action and environmental statement should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organizational units proposing the action. Statements marked with an asterisk indicate, in total or in part, land management planning, developments, or activities within inventoried roadless areas. National Forest inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wilderness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

R. MAX PETERSON,
Deputy Chief, Forest Service.

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Forest Service environmental statements under preparation as of Mar. 15, 1977

[Forest Service addresses at end of table]

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Washington Office:					
Pere Marquette National Scenic River.	Manistee National Forest, Mich	Legislation	Chief	February 1974	April 1977.
Land Exchange with Lake Forest Enterprises.	Superior National Forest, Minn	Land exchange	do	July 1976	July 1977.
Au Sable Wild and Scenic River Study.	Huron National Forest, Mich	Legislation	do	August 1977	September 1978.
Manistee Wild and Scenic River Study.	Manistee National Forest, Mich	do	do	February 1978	Do.
Round Lake Wilderness Study Area	Chequamegon National Forest, Wis	do	do	December 1977	October 1978.
Flynn Lake Wilderness Study Area	do	do	do	do	Do.
Cranberry Wilderness Study Area	Monongahela National Forest, W.Va	do	do	October 1978	May 1979.
Flaming Gorge National Recreation Area.	Ashley National Forest, Utah-Wyo	Management plan	do	September 1976	August 1977.
Salmon River Wild and Scenic River.	Idaho	Legislation	do	June 1975	June 1977.
*Teton Corridor Wilderness Study-Proposal.	Bridger-Teton National Forest, Wyo	do	do	September 1976	Do.
Snow Mountain	Mendocino National Forest, Calif	Wilderness study	do	January 1978	July 1978.
Tuolumne Wild and Scenic River	Stanislaus National Forest, Calif	Wild and Scenic	do	October 1977	April 1978.
North Fork American River Wild and Scenic.	Tahoe National Forest, Calif	Legislation	do	December 1977	December 1978.
North Fork American River Wilderness Study Area.	do	Wilderness study	do		
*Great Bear Wilderness Study	Flathead, Lewis and Clark National Forests, Mont.	do	do	July 1977	
*St. Vrain Wilderness Study	Arapaho and Roosevelt National Forests, Colo.	do	do	November 1976	April 1977.
*DuNoir Special Management Unit	Shoshone National Forest, Wyo	Land use plan	do	May 1977	September 1977.
*Cougar Lakes	Gifford Pinchot and Wenatchee National Forests, Wash.	Wilderness study	do	do	July 1978.
*Skagit Wild and Scenic	Mount Baker-Snoqualmie National Forest, Wash.	Legislative	do	June 1975	May 1977.
*Illinois River Study	Siskiyou National Forest, Oreg	do	do	June 1977	March 1978.
Lower Minam	Wallowa-Whitman National Forest, Oreg.	Wilderness study	do	April 1977	June 1978.
Cooperative Gypsy Moth Suppression and Regulatory Program—1977 Activities.	Northeastern United States	Insect control	do	January 1977	April 1977.
Phelps Dodge (Copper Basin)	Prescott National Forest, Ariz	Land exchange	do	March 1976	June 1977.
*Granite Timber Sale	Tongass National Forest, Alaska	Timber sale	do	May 1977	December 1977.
*Alaska Lumber and Pulp, 1981-1986 Operating Period.	do	do	do	September 1978	May 1979.
*Ketchikan Pulp Co., 1979-1984 Operating Period.	do	do	do	December 1977	July 1978.
Sopchoppy Wilderness Study	Apalachicola National Forest, Fla	Resource study	do	June 1977	November 1977.
Northern region: region 1:					
*Beaverhead National Forest	Beaverhead National Forest, Mont	Land use plan	Forest supervisor	February 1977	August 1977.
Sapphires	Bitterroot National Forest, Mont	do	do	May 1977	December 1977.
*Bertie Lord-Meadow-Cameron	do	do	do	do	Do.
Timber Management	do	Resource plan	Regional forester	July 1977	Do.
A Proposal to Reconstruct Big Creek Dam Using Mechanized Equipment.	Bitterroot National Forest (Selway-Bitterroot Wilderness), Mont.	Dam reconstruction	do	March 1977	July 1977.
Elk River	Clearwater National Forest, Idaho	Land use plan	Forest supervisor	March 1976	April 1977.
Lowell	do	do	do	December 1976	June 1977.
Clearwater Working Circle Timber Management Plan.	do	Revised timber management plan.	Regional forester	September 1977	March 1978.
Clearwater-St. Joe Divide	Clearwater, Panhandle National Forests, Idaho.	Land use plan	Forest supervisors	do	February 1978.
Big Game Habitat Improvement	Clearwater, Nezperce, Panhandle National Forests, Idaho.	Burning serial brush fields in northern Idaho.	do	January 1977	March 1977.
Silvicultural Use of Herbicides in Northern Idaho.	do	Herbicide use	Regional forester	April 1977	July 1977.
Pryor Mountain Complex	Custer National Forest, Mont	Land use plan	Forest supervisor		
Ashland	do	do	do	do	September 1977.
Beartooth Face	Custer, Gallatin National Forests, Mont.	do	Forest supervisors	May 1977	November 1977.
Beartooth Plateau	Custer, Gallatin, Shoshone National Forests, Mont. and Wyo.	do	do	July 1976	April 1977.
Coeur d'Alene	St. Joe National Forest, Idaho	do	Forest supervisor	April 1977	
Smith Creek	Kaniksu National Forest, Idaho	do	do	July 1975	June 1975.
Upper Priest	do	do	do	June 1977	
Boulder	do	do	do	August 1976	April 1977.
Upper Rock Creek	Deerlodge National Forest, Mont	do	do	February 1977	August 1977.
Little Boulder-Whitetail	do	do	do	August 1977	December 1977.
Eastside-Lockhart-Browns Gulch	do	do	do	December 1977	June 1978.
Highlands	do	do	do	November 1978	March 1979.
Anaconda/Hamilton Transmission Line.	Deerlodge, Bitterroot, Lolo National Forests, Mont.	Powerline	Forest supervisors	March 1978	July 1978.
Anaconda	Deerlodge National Forest, Mont	Land use plan	Forest supervisor	May 1978	September 1978.
Island	Flathead National Forest, Mont	do	do	June 1977	December 1977.
Logan	do	do	do	April 1977	October 1977.
East Shore, Flathead Lake	do	do	do	do	Do.
*Hungry Horse West	do	do	do	August 1977	February 1978.
Mount Hebgen (Ski Yellowstone)	Gallatin National Forest, Mont	Winter sports	do	September 1976	May 1977.
West Half Yellowstone	do	Land use plan	do	August 1977	December 1977.
Hilgard-Taylor	do	do	do	January 1978	May 1978.
Buck Creek-Yellow Mule	do	Road construction	do	September 1976	May 1977.
Ophir-Dog-MacDonald Pass	Helena National Forest, Mont	Land use plan	do	July 1976	March 1977.
Mike Horse	do	do	do	August 1977	
Magpie Confederate	do	do	do	July 1976	June 1977.
Colorado-Unionville-Travis	do	do	do	November 1976	December 1977.
East Belt	do	do	do	May 1977	March 1978.
Nevada-Stemple-Little Prickly Pear.	do	do	do	February 1978	
*Keeler	Kootenai National Forest, Mont	do	do	July 1977	December 1977.
*Hornet	do	do	do	March 1977	September 1977.
Pinkham-Alkali-Fortine	do	do	do	do	August 1977.

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*Vermilion-Beaver-Marten	do	do	do	July 1977	January 1978.
*Lick Mountain-Rock Candy	do	do	do	June 1977	December 1977.
*Star	do	do	do	do	Do.
Ziegler	do	do	do	October 1977	
Rocky Mountain Front	Lewis and Clark National Forest, Mont	do	do	April 1977	September 1977.
Smith River and Logging Pilgrim	do	do	do	August 1977	January 1978.
Yogo-Bear and Dry Wolf	do	do	do	January 1978	June 1978.
*Placid-Blanchard	Lolo National Forest, Mont	do	do	February 1977	August 1977.
*Ninemile-Mill	do	do	do	July 1976	April 1977.
*Big Hole	do	do	do	May 1976	July 1977.
*Prospect Creek	do	do	do	August 1976	April 1977.
*West End	do	do	do	June 1977	December 1977.
*Lower Rock Creek	do	do	do	September 1977	March 1978.
*Sacajawea-Cutoff	do	do	do	August 1977	January 1978.
West Nezperce	Nezperce National Forest, Idaho	do	do	October 1978	February 1979.
Blue Ridge	do	do	do	June 1977	December 1977.
Crooked Creek Orogrande	do	do	do	August 1977	February 1978.
Meadow Creek	do	do	do	October 1977	Do.
Hot Point	do	do	do	May 1977	September 1977.
Timber Management Plan	do	do	Regional forester	June 1977	October 1977.
Western Spruce Budworm Management.	Northern region: Montana, Idaho, North and South Dakota.	Management of Spruce Budworm.	do	March 1977	May 1977.
Rocky Mountain region, region 2:					
*Boulder Grand Divide	Arapaho and Roosevelt National Forests, Colo.	Land use plan	Forest supervisor	November 1976	July 1977.
*East Grand County	Arapaho National Forest, Colo	do	do	June 1977	November 1977.
Norbeck Wildlife Preserve	Black Hills National Forest, S. Dak. and Wyo.	do	do	do	December 1977.
*East River	Gunnison National Forest, Colo	do	do	December 1975	September 1977.
*Grand Mesa-Muddy Creek	Gunnison and Grand Mesa National Forests, Colo.	do	do	July 1978	December 1978.
*Kennady Peak	Medicine Bow National Forest, Wyo	do	do	June 1977	December 1977.
*Huston Park Area (Proposed Cheyenne Water Diversion Project).	do	Water diversion	do	December 1976	May 1977.
Bear Creek Uranium Project	do	Mineral development	Regional Forester, USGS, NRC.	do	March 1977.
Management of Prairie Dogs	All lands administered as a part of the Nebraska National Forest, S. Dak. and Nebr.	Management of Prairie Dogs.	Forest supervisor	April 1977	October 1977.
*Southern San Juan	Rio Grande and San Juan National Forests, Colo.; Carson National Forest, N. Mex.	Land use plan	do	September 1977	July 1978.
*South Fork	Rio Grande National Forest, Colo	do	do	May 1977	September 1977.
Timber Management Supplement	do	Resource plan	Regional Forester	do	
Timber Management	Roosevelt National Forest, Colo	do	do	June 1977	November 1977.
*Bears Ears Unit	Routt National Forest, Colo	Land use plan	Forest Supervisor	June 1976	April 1977.
*Williams Fork	do	do	do	October 1977	July 1978.
*Arkansas Planning Unit	San Isabel National Forest, Colo	do	do	June 1977	September 1977.
*Dolores	San Juan National Forest, Colo	do	do	September 1976	Do.
*Pagosa Springs	do	do	do	June 1977	December 1977.
*South Animas	do	do	do	do	Do.
*Piedra	do	do	do	January 1978	July 1978.
*Beartooth Plateau Unit (with region 1).	Shoshone, Gallatin, and Custer National Forests, Mont. and Wyo.	do	do	July 1976	June 1977.
*Thompson Creek Unit	White River National Forest, Colo	do	do	August 1976	April 1977.
*Upper Eagle Unit	do	do	do	April 1977	August 1977.
Timber Management	do	Resource plan	Regional forester	February 1976	April 1977.
*Eagle-Aspen	do	Land use plan	Forest supervisor	March 1977	July 1977.
Upper Crystal	do	do	do	December 1975	April 1977.
Southwestern region, region 3:					
Barometer	Apache-Sitgreaves National Forest, Ariz	do	do	April 1977	September 1977.
Sitgreaves TM	do	Resource plan	Regional forester	June 1977	January 1978.
Red River Ski Area Expansion	Carson National Forest	Winter sports	do	March 1977	May 1977.
*Manzano Mountain	Cibola National Forest, N. Mex	Land use plan	Forest supervisor	June 1977	December 1977.
Cinder Hills	Coconino National Forest, Ariz	do	do	March 1978	October 1978.
Oak Creek	do	do	do	January 1979	June 1978.
Huachuca	Coronado National Forest, Ariz	do	do	June 1977	October 1977.
Rosemont	do	Land exchange	do	do	Do.
*Gila TM Plan	Gila National Forest, N. Mex	Resource plan	Regional forester	July 1977	March 1978.
Gillita Unit	do	Land use plan	Forest supervisor	April 1977	November 1977.
Algaecide Treatment	do	Weed control	do	December 1976	April 1977.
Geothermal Leasing	do	Mineral leasing	do	June 1977	December 1977.
Williams Unit	Kaibab National Forest, Ariz	Land use plan	Regional forester	October 1977	April 1978.
South Kaibab TM Plan	do	Resource plan	do	June 1977	October 1977.
Eagle Creek Dam & Reservoir	Lincoln National Forest, N. Mex	City water storage	Forest supervisor	do	Do.
*Ruidoso Unit	do	Wilderness addition	do	October 1977	January 1978.
Cloudcroft Unit	do	Land use plan	do	July 1979	November 1979.
Gordon Canyon Pipeline	do	City water supply	do	April 1978	August 1978.
*Thumb Butte Unit	Prescott National Forest, Ariz	Land use plan	do	June 1978	September 1978.
*Santa Fe Unit	Santa Fe National Forest, N. Mex	do	do	September 1977	December 1977.
*Pecos Unit	do	do	do	July 1977	October 1977.
Gallina Unit	Santa Fe National Forest, N. Mex	do	do	July 1976	May 1977.
Western Spruce Budworm Suppression and Evaluation.	do	do	Regional forester	January 1977	Do.
Upper Salt Unit	Tonto National Forest, Ariz	do	Forest supervisor	June 1978	November 1978.
Intermountain region, region 4:					
Timber Management Plan	Ashley National Forest, Utah	Resource plan	Regional forester	March 1977	September 1977.
*High Uintas South Slope	do	Land management plan	Forest supervisor	May 1977	December 1977.
Timber Management Plan	Boise National Forest, Idaho	Resource plan	Regional forester	May 1976	June 1977.
*South Fk. Salmon River	Boise-Payette National Forest's, Idaho	Land management plan	do	January 1977	April 1977.
*Landmark Planning Unit (amended)	Boise National Forest, Idaho	do	do	May 1977	May 1977.
*Union Pass Planning Unit	Bridger-Teton National Forest, Wyo	do	Forest supervisor	January 1977	August 1977.
*Oreys-Salt River Planning Unit	do	do	do	April 1977	November 1977.
*Timber Management Plan	do	Resource plan	Regional forester	do	September 1977.
*Diamond Creek Planning Unit	Caribou National Forest, Idaho	Land management plan	Forest supervisor	May 1976	June 1977.
*Bear River Planning Unit	do	do	do	April 1977	August 1977.
*Challis-Squaw Creek Planning Unit	Challis National Forest, Idaho	do	do	September 1977	March 1978.
*Markagunt Plateau Planning Unit	Dixie National Forest, Utah	do	do	October 1976	March 1977.
*Paunsaugunt-Sevier Planning Unit	do	do	do	July 1977	December 1977.
*Fremont Planning Unit	Fishlake National Forest	do	do	June 1977	Do.
*Tushar Mtns. Planning Unit	do	do	do	May 1978	November 1978.
*Mt. Moriah Planning Unit	Humboldt National Forest, Nev	do	do	September 1977	June 1978.

V 42187 MAY 5 77 UMI

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*Moab Planning Unit	Manti-LaSal National Forest, Colo.-Utah.	do	do	January 1978	April 1978.
*Ferron-Price Planning Unit	Manti-LaSal National Forest, Utah	do	do	do	July 1978.
*Warren Planning Unit	Payette National Forest, Idaho	do	do	March 1977	June 1977.
*McCall Planning Unit	do	do	do	August 1977	November 1977.
*Timber Management Plan	Salmon National Forest, Idaho	Resource plan	Regional forester	June 1978	December 1978.
*Leesburg Planning Unit	do	Laud management plan	Forest supervisor	March 1977	September 1977.
*Leadore Planning Unit	do	do	do	April 1977	Do.
*Divide Planning Unit	do	do	do	January 1978	June 1978.
*Albion Planning Unit	Sawtooth National Forest, Idaho	do	do	April 1977	October 1977.
*Island Park Planning Unit	Targhee National Forest, Idaho	do	do	do	Do.
*Big Hole Mountains Planning Unit	do	do	do	September 1977	January 1978.
*Timber Management Plan	do	Resource plan	Regional forester	November 1977	April 1978.
Island Park Geothermal Leasing	do	do	Forest supervisor	April 1978	September 1978.
*Alpine Planning Unit	Toiyabe National Forest, Nev.-Calif.	Land management plan	do	June 1976	August 1977.
*Hobble-Diamond Planning Unit	Uinta National Forest, Utah	do	do	July 1977	December 1977.
Strawberry Mountain Planning Unit.	do	do	do	do	September 1977.
Strawberry Mountain Planning Unit.	Uinta National Forest, Utah	do	do	do	September 1977.
*North Slope Planning Unit	Wasatch National Forest, Utah	do	do	March 1976	Do.
*Salt Lake Land Management Plan	do	do	do	May 1977	October 1977.
California region, region 5:					
*San Gabriel	Angeles National Forest, Calif.	Land use plan	do	April 1977	Do.
Bouquet Canyon	do	Recreation plan	Regional forester	June 1977	September 1977.
*Trabuco	Cleveland National Forest, Calif.	Land use plan	Forest supervisor	March 1977	January 1978.
*Descanso	do	do	do	June 1979	June 1980.
Volcanoville	Eldorado National Forest, Calif.	do	do	June 1976	March 1977.
Timber Management Plan	do	Resource plan	Regional forester	March 1977	June 1977.
Sierra Ski Ranch	do	Winter sports	Forest supervisor	do	Do.
*Mammoth	Inyo National Forest, Calif.	Land use plan	do	July 1977	October 1977.
Mono Basin	do	do	do	December 1977	March 1978.
Bishop Creek	do	do	do	April 1977	October 1977.
Long Valley KGRA	Inyo National Forest and associated national resource lands.	Geothermal leasing, exploration and development.	Forest supervisor Inyo National Forest, and Bakersfield District Manager, BLM.	October 1977	March 1978.
*King	Klamath National Forest, Calif.	Land use plan	Forest supervisor	March 1976	May 1977.
*Grider	do	do	do	April 1977	November 1977.
*Almanor	Lassen National Forest, Calif.	do	do	May 1977	August 1977.
Big Sur Coastal	Los Padres National Forest, Calif.	do	do	December 1976	June 1977.
*Mt. Pinos	do	do	do	December 1977	June 1978.
*Middle Eel	Mendocino National Forest, Calif.	do	do	April 1977	October 1977.
Timber Management Plan	do	do	do	June 1977	December 1977.
*Medicine Lake	Modoc National Forest, Calif.	do	Regional forester	Forest supervisor	September 1977.
Warner Mountain	do	do	do	December 1977	May 1978.
*Mohawk	Plumas National Forest, Calif.	do	do	July 1976	July 1977.
Feather River	do	do	do	March 1978	December 1978.
Twina Valley	do	do	do	October 1979	July 1980.
Eastern Plumas	do	do	do	November 1979	June 1981.
Timber Management Plan	Angeles, Cleveland, Los Padres and San Bernardino National Forests Calif.	Resource plan	Regional forester	May 1977	August 1977.
Big Rear Basin	San Bernardino National Forest, Calif.	Land Use plan	Forest supervisor	do	December 1977.
Little Kern	Sequoia National Forest, Calif.	do	do	December 1976	April 1977.
Plateau	do	do	do	February 1978	July 1978.
Hume	do	do	do	August 1978	January 1979.
Tule	do	do	do	August 1979	February 1980.
South Fork Mountain	Shasta-Trinity National Forest, Calif.	do	do	April 1977	July 1977.
Girard-McCloud	do	do	do	May 1977	September 1977.
Flume-Bohemotosh	do	do	do	September 1978	December 1978.
Timber Management Plan	Tahoe National Forest, Calif.	Resource plan	Regional forester	July 1977	November 1977.
Foresthill-Hell Hole	Tahoe and Eldorado National Forests, Calif.	Land use plan	Forest supervisor	October 1978	May 1979.
Nevada City	Tahoe National Forest, Calif.	do	do	October 1979	May 1980.
Downieville	do	do	do	October 1980	May 1981.
Rancheria	Sierra National Forest, Calif.	do	do	September 1976	April 1977.
*Kings River	do	do	do	August 1977	February 1978.
*Pineridge-Kaiser	do	do	do	do	Do.
*Chiquito-Bass Lake	do	do	do	do	Do.
*Mariposa	do	do	do	do	Do.
*Upper San Joaquin	do	do	do	do	Do.
Timber Management Plan	do	do	do	do	Do.
Fox Supplement	Six Rivers National Forest, Calif.	Resource plan	Regional forester	October 1977	January 1978.
Chimney Rock Section of G-O Road.	do	Land use plan	Forest supervisor	August 1977	December 1977.
Washo Nation Cultural Center	Lake Tahoe Basin Management Unit	Educational-recreation	LTBMU administrator	do	November 1977.
*Unit Plan for National Forest lands in Tahoe Basin.	do	Land use plan	do	October 1978	July 1979.
Pacific Northwest region, region 6:					
*Colville-East	Colville National Forest, Washington	do	Forest supervisor	August 1977	March 1978.
*Harvey Creek	do	do	do	May 1977	September 1977.
*Kettle Range	do	do	do	October 1976	June 1977.
*Sullivan-Salmo	do	do	do	April 1977	November 1977.
Tonasket	Colville and Okanogan National Forests, Wash.	do	Regional forester	June 1977	April 1978.
*10-Year Timber Management Plan	Colville National Forest, Wash	Resource plan	do	October 1977	June 1978.
*Deschutes	Deschutes National Forest, Oreg.	Land use plan	Forest supervisor	August 1977	December 1977.
*Fremont	Fremont National Forest, Oreg	do	do	October 1977	April 1978.
*10-Year Timber	do	Resource plan	Regional forester	July 1977	October 1977.
*10-Year Timber Management Plan	Klamath Basin W.C., Fremont and Winema National Forests Oreg.	do	do	do	Do.
*Bear Creek	Gifford Pinchot National Forest, Wash	Land use plan	Forest supervisor	May 1977	December 1977.
*Cowlitz	do	do	do	August 1977	February 1978.
Trapper-Siouxon	do	do	do	April 1976	April 1977.
Upper Cispus	do	do	do	April 1977	November 1977.
*Naches-Tieton-White River	Gifford Pinchot, Mt. Baker-Snoq. and Wenatchee National Forests Wash.	do	Regional forester	May 1977	July 1978.
*Desolation	Malheur, Umatilla and Wallowa-Whitman National Forests, Oreg.	do	do	February 1978	August 1978.
*John Day	Malheur and Umatilla National Forests, Oreg.	do	do	February 1976	July 1977.
*Silvies-Malheur	Malheur, Ochoco and Wallowa-Whitman National Forest's, Oreg.	do	do	June 1977	December 1977.

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*South Fork	Malheur and Ochoco National Forests, Oreg.	do	do	May 1976	August 1977.
*10-Year Timber Management Plan	Malheur, Umatilla and Wallowa-Whitman National Forests, Oreg.	Resource plan	do	June 1977	December 1977.
Bren Mac Mines	Mount Baker-Snoq. National Forests, Wash.	Access road and mining	Forest supervisor	do	March. 1978.
Green River	do	Watershed management Plan.	do	February 1979	November 1979.
*Mt. Baker	do	Land use plan	do	August 1977	February 1978.
*Skykomish	Mount Baker-Snoq. and Wenatchee National Forests, Wash.	do	Regional forester	September 1977	June 1978.
*Badger-Jordan	Mount Hood National Forest, Oreg	do	Forest supervisor	December 1976	July 1977.
*Bull Run	do	do	do	August 1976	April 1977.
*Clackamas	do	do	do	June 1978	November 1978.
*Mt. Hood Interagency	do	do	do	March 1976	June 1977.
Mt. Hood Meadows	do	Ski Area Development	do	May 1977	October 1977.
*10-Year Timber Management Plan	do	Resource plan	Regional forester	August 1976	May 1977.
Grassland	Ochoco National Forest, Oreg	Land use plan	Forest supervisor	August 1978	January, 1979.
*Ochoco-Crooked River	do	do	do	September 1977	March 1978.
*10-Year Timber Management Plan	do	Resource plan	Regional forester	May 1977	November 1977
*North Central Washington Spruce Budworm Project.	Okanogan and Wenatchee National Forests, Wash.	Infestation evaluation	do	February 1977	August 1977.
*Canal Front	Olympic National Forest, Wash.	Land use plan	Forest supervisor	July 1977	November 1977.
*10-Year Timber Management Plan	Shelton Sus. Yield Unit, Olympic National Forest, Wash.	Resource plan	Regional forester	do	December 1977.
Do	Olympic W. C., Olympic National Forest, Wash.	do	do	November 1977	May 1978.
Do	Rogue River National Forest, Oreg	do	do	May 1977	October 1977.
*McLoughlin-Klamath	Rogue River and Winema National Forest's Oreg.	Land use plan	do	April 1977	September 1977.
*North Siskiyou	Rogue River and Siskiyou National Forests, Oreg.; Klamath National Forest, Calif.	do	(4)	March 1978	December 1978.
Upper Rogue	Rogue River and Umpqua National Forest, Oreg.	do	Regional forester	May 1977	December 1977.
*Chetco-Greyback	Siskiyou National Forest, Oreg	do	Forest supervisor	July 1977	Do.
Coquille	do	do	do	January 1978	December 1978.
*Rogue-Illinois	do	do	do	September 1976	July 1977.
*10-yr Timber Management Plan	do	Resource plan	Regional forester	September 1977	March 1978.
*Alsea	Siuslaw National Forest, Oreg	Land use plan	Forest supervisor	November 1977	April 1978.
*Hebo	do	do	do	July 1977	October 1977.
Siuslaw	do	do	do	November 1978	April 1979.
*10-yr Timber Management Plan	do	Resource plan	Regional forester	March 1977	December 1977.
*Elgin	Umatilla National Forest, Oreg	Land use plan	Forest supervisor	November 1977	May 1978.
*Oregon Butte	do	do	do	June 1976	April 1977.
*Grande Ronde	Umatilla and Wallowa-Whitman National Forests, Oreg.	do	Regional forester	August 1976	May 1977.
*Umpqua	Umpqua National Forest, Oreg	do	Forest supervisor	June 1977	November 1977.
Applegate Creek Water Impoundment.	do	Resource plan	do	July 1977	December 1977.
*10-yr Timber Management Plan	do	do	Regional forester	March 1977	October 1977.
*Burnt Powder	Wallowa-Whitman National Forest, Oreg.	Land use plan	Forest supervisor	June 1977	November 1977.
Mt. Howard	do	Recreation development plan.	do	September 1977	January 1978.
Kittitas	Wenatchee National Forest, Wash	Land use plan	do	November 1977	May 1978.
*Wenatchee ORV Plan	do	Off-road vehicle regulations.	do	May 1976	March 1977.
*Bellnap Springs	Willamette National Forest, Oreg	Geothermal development.	Regional forester	September 1977	April 1978.
Breitenbush	do	do	do	October 1976	July 1977.
*Willamette LU/TM Plan	do	Land use plan and resource plan.	do	July 1975	April 1977.
Southern region, region 8:					
Conecuh Unit Plan and Timber Management Plan.	Conecuh National Forest, Ala	Land management and resource plan.	Forest supervisor and regional forester.	November 1976	May 1977.
Lake Russell Unit	Chattahoochee National Forest, Ga	Land management plan	Forest supervisor	September 1977	August 1978.
South Slope	do	do	do	September 1976	November 1977.
Oconee	Oconee National Forest	do	do	December 1977	December 1978.
Timber Management Plan	Chattahoochee National Forest, Ga	Resource plan	Regional forester	June 1977	April 1978.
Wakulla Unit	Apalachicola National Forest, Fla	Land management plan	Forest Supervisor	August 1977	January 1978.
Francis Marion National Forest Unit	Francis Marion National Forest, S. C	do	do	November 1977	August 1978.
Massanutten Unit	George Washington National Forest, Va	do	do	July 1976	May 1977.
Forest Land management plan	do	do	do	December 1977	September 1978.
Cave Mountain Lake Unit Plan	Jefferson National Forest, Va	do	do	February 1974	June 1977.
Mt. Rogers National Recreation Area	do	do	Regional Forester	May 1977	January 1978.
High Knob Unit	do	do	do	August 1977	December 1977.
Revised 10-yr Timber Management Plan.	do	Resource plan	do	June 1977	September 1977.
Vernon Planning Unit	Kisatchie National Forest, La	Land management plan	Forest supervisor	September 1976	July 1977.
Kisatchie Unit	do	do	do	August 1977	March 1978.
Timber Management Plan	Ozark National Forest, Ark	Resource plan	Regional forester	May 1977	December 1977.
St. Francis Unit and Timber Management Plan.	St. Francis National Forest, Ark	Land management and resource plan.	Forest supervisor and regional forester.	April 1976	June 1977
Wedington Unit	Ozark National Forest, Ark	Land management plan	Forest supervisor	August 1977	March 1978.
Lee Creek Unit	do	do	do	July 1977	December 1977.
Mulberry Unit	do	do	do	August 1977	March 1978.
Sabine Unit	Sabine National Forest, Tex	do	do	November 1976	September 1977.
Sam Houston Unit Plan	Sam Houston National Forest, Tex	do	do	September 1977	May 1978.
Timber Management Plan	Angelina National Forest, Tex	Resource plan	Regional forester	June 1977	December 1977.
Davy Crockett TM Plan	do	do	do	July 1977	Do.
Caribbean Unit	Caribbean National Forest, P.R	Land management plan	Forest supervisor	do	March 1978.
Holly Springs—Tombigbee Timber Management Plan.	Holly Springs and Tombigbee National Forests, Miss.	Resource plan	Regional forester	May 1977	December 1977.
Black Creek Unit	DeSoto National Forest, Miss	Land management plan	Forest supervisor	September 1977	January 1978.
DeSoto National Forest Timber Management Plan.	do	Resource plan	Regional forester	July 1977	December 1977.
Timber Management Plan	Croatan National Forest, N.C	do	do	May 1977	November 1977.
South Fourche Unit	Ouachita National Forest, Ark	Land management plan	Forest supervisor	August 1976	July 1977.
Fourche la Fave Plan	do	do	do	November 1977	May 1978.
Maumelle-Saline Unit	do	do	do	August 1977	February 1978.
Tiak Unit	do	do	do	December 1976	October 1977.
Tallimena Unit Plan	do	do	do	November 1977	June 1978.
Timber Management Plan	do	Resource plan	Regional forester	December 1977	Do.
Unaka Unit	Cherokee National Forest, Tenn	Land management plan	Forest supervisor	June 1977	October 1977.
French Broad Unit	do	do	do	September 1977	May 1978.

V 42187 MAY 5 77 UMI

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Management of Laurel River Unit	Daniel Boone National Forest, Ky	do	do	February 1976	August 1977.
Management Licking River Unit	do	do	do	May 1977	October 1977.
Management of Cumberland River Unit.	do	do	do	September 1977	March 1978.
Greenwood Land & Mining Co. Beaver Creek Wilderness.	do	Prospecting	Regional forester	February 1977	October 1977.
Ocala TM Plan	Ocala National Forest, Fla	Resource plan	do	August 1977	November 1977.
Eastern region, region 9:					
Buzzard Swamp Unit	Allegheny National Forest, Pa	Land use plan	Forest supervisor	October 1976	April 1977.
Mill Creek Unit	do	do	do	December 1977	June 1978.
Timber Management Plan	do	Resource plan	Regional forester	November 1976	March 1977.
Off-Road Vehicle Use	do	Regulations	Forest supervisor	April 1976	Do.
Timber Management Plan	Chequamegon National Forest, Wis	Resource plan	Regional forester	October 1976	June 1977.
Deerfield River Area	Green Mountain National Forest, Vt	Land use plan	do	January 1976	April 1977.
Timber Management Plan	do	Resource plan	do	December 1976	June 1977.
Do.	Huron-Manistee National Forest, Mich	do	do	July 1978	December 1978.
Do.	Mark Twain National Forest, Mo	do	do	October 1978	February 1979.
Willow Springs Unit	do	Land use plan	Forest supervisor	September 1976	June 1977.
Fredericktown Unit	do	do	do	September 1977	March 1978.
Monongahela National Forest Land Use Plan.	Monongahela National Forest, W. Va	do	Regional forester	February 1977	September 1977.
Spruce Knob Lakes Recreation Complex.	do	Recreation area	do	April 1977	Do.
Shavers Fork Unit	do	Land use plan	Forest supervisor	July 1977	December 1977.
Fluorspar Activities in Lusk Creek	Shawnee National Forest Ill	Mining related	do	March 1977	Do.
Timber Management Plan	Superior National Forest, Minn	Resource plan	Regional forester	November 1977	June 1978.
Waterville Unit	White Mountain National Forest, N.H	Land use plan	Forest supervisor	April 1977	September 1977.
Presidential Unit	do	do	do	September 1977	February 1978.
Wild River Unit	do	do	do	March 1978	September 1978.
Northeastern area, S. & P.F.: Cooperative Spruce, Budworm Suppression Project—Maine 1977.	Maine	Insect control	Area director	January 31	April 15.
Alaska region, region 10:					
1976-86 Chugach National Forest Timber Management Plan Revision.	Chugach National Forest, Alaska	Program plan	Forest supervisor	June 1977	December 1977.
*Cannery Creek	do	Timber sale	do	January 1977	August 1977.
*Phase II Upper Prince William Sound.	do	Land use plan	do	May 1977	November 1977.
*Valley Timber Sale	do	Timber sale	do	September 1976	July 1977.
Naked Island	do	do	do	March 1977	October 1977.
Siwash Bay	do	do	do	May 1977	Do.
Chugach Moose-Fire Management Program.	do	Prescribed Burning	do	March 1977	June 1977.
Copper River	do	Land use plan	do	March 1978	July 1978.
*Seal Creek	Tongass National Forest, Chatham Area.	Timber sale	do	April 1977	January 1979.
*Hidden Falls Lake-Sandy Bay	do	Aquaculture facilities	do	February 1977	May 1977.
Cowee Creek	do	Timber sale	do	May 1977	January 1979.
*Karta	Tongass National Forest, Ketchikan Area.	Land use plan	do	August 1976	(5).
*U.S. Borax Mineral Development	do	Road construction for prospecting.	do	January 1977	April 1977.
*Dall Island	do	Land use plan	do	September 1978	February 1979
*North Irish Creek	Tongass National Forest, Stikine area	Timber sale	Regional forester	September 1976	March 1977.
*Todahl	do	do	do	June 1977	October 1977.
*Patterson River	do	do	Forest supervisor	do	December 1977.
*Deer Island	do	Land use plan	do	September 1976	April 1977.
*Rocky Pass	do	do	do	July 1977	December 1977.
Tongass National Forest Land Management Plan.	Tongass National Forest, all areas	do	Regional forester	December 1978	June 1979.
Tongass National Forest Area Guide.	do	Area guide	do	April 1977	November 1977.
Herbicide Use in National Forests of Alaska, current year 1977.	Regionwide	Herbicides program EIS addendum.	do	February 1977	May 1977.

[1] Custer National Forest is the lead forest.
[2] Shoshone National Forest, R-2 is lead forest, originally the Beartooth Highway Planning Unit.
[3] Amended March 1977.
[4] Decision as to who is responsible official has not been made as yet.
[5] Postponed.

NOTE.—Forest Service addresses: Washington office, USDA, Forest Service, P.O. Box 2417, Washington, D.C. 20013. Northern region, USDA, Forest Service, Federal Bldg., Missoula, Mont. 59807. Rocky Mountain region, USDA, Forest Service, 11177 West 8th Ave., P.O. Box 25127, Denver, Colo. 80225. Southwestern region, USDA, Forest Service, 517 Gold Ave. SW., Albuquerque, N. Mex. 87102. Intermountain region, USDA, Forest Service, 324 25th St., Ogden, Utah 84401. California region, USDA, Forest Service, 630 Sansome St., San Francisco, Calif. 94111. Pacific Northwest region, USDA, Forest Service, 319 Southwest Pine St., Portland, Oreg. 97208. Southern region, USDA, Forest Service, 1720 Peachtree Rd. NW., Atlanta, Ga. 30309. Eastern region, USDA, Forest Service, 633 West Wisconsin Ave., Milwaukee, Wis. 53203. Northeastern area, S. & P.F., USDA, Forest Service, 6816 Market St., Upper Darby, Pa. 19082. Alaska region, USDA, Forest Service, P.O. Box 1628, Juneau, Alaska 99802.

FOREST SERVICE

Chief, Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

Region 1, Northern Region.—Montana, NE Washington, N. Idaho, North Dakota and NW South Dakota.

Regional Forester, Northern Region, U.S. Forest Service, Federal Building, Missoula, Montana 59801.

Region 2, Rocky Mountain Region.—Colorado, Kansas, Nebraska, South Dakota and Wyoming.

Regional Forester, Rocky Mountain Region, U.S. Forest Service, 11177 W. 8th Ave., Box 25127, Lakewood, Colorado 80225.

Region 3, Southwestern Region.—Arizona and New Mexico.

Regional Forester, Southwestern Region, U.S. Forest Service, Federal Building, 517 Gold Ave. SW., Albuquerque, New Mexico 87101.

Region 4, Intermountain Region.—Utah, S. Idaho, W. Wyoming and Nevada.

Regional Forester, Intermountain Region, U.S. Forest Service, Federal Building, 324 25th Street, Ogden, Utah 84401.

Region 5, California Region.—California and Hawaii.

Regional Forester, California Region, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

Region 6, Pacific Northwest Region.—Washington and Oregon.

Regional Forester, Pacific Northwest Region, U.S. Forest Service, 319 SW. Pine Street, P.O. Box 3623, Portland, Oregon 97208.

Region 8, Southern Region.—Alabama Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

Regional Forester, Southern Region, U.S. Forest Service, 1720 Peachtree Road NW., Atlanta, Georgia 30309.

Region 9, Eastern Region.—Connecticut, Delaware, Illinois, Iowa, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin.

Regional Forester, Eastern Region, U.S. Forest Service, 633 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203.

Region 10, Alaska Region.—Alaska.

Regional Forester, Alaska Region, U.S. Forest Service, Federal Office Building, Box 1628, Juneau Alaska 99801.

STATE AND PRIVATE FORESTRY AREAS

NOTE.—State and Private Forestry offices are located in the Regional Headquarters with the exception of the following Areas:

Northeastern Area State and Private Forestry.—Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermon, West Virginia and Wisconsin.

Director, Northeastern Area, S&PF, U.S. Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

Southeastern Area State and Private Forestry.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia.

Director, Southeastern Area, S&PF, U.S. Forest Service, 1720 Peachtree Road NW., Atlanta, Georgia 30309.

FOREST AND RANGE EXPERIMENT STATIONS

INSTITUTE OF TROPICAL FORESTRY (AND CARIBBEAN NATIONAL FOREST)

Director, Institute of Tropical Forestry, U.S. Forest Service, P.O. Box AQ, Rio Piedras, Puerto Rico 00928.

Director, Intermountain Experiment Station, U.S. Forest Service, 507 25th Street, Ogden, Utah 84401.

Director, Rocky Mountain Experiment Station, U.S. Forest Service, 240 West Prospect Street, Fort Collins, Colorado 80521.

Director, North Central Experiment Station, U.S. Forest Service, Folwell Avenue, St. Paul, Minnesota 55101.

Director, Northeastern Experiment Station, U.S. Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

Director, Southern Experiment Station, U.S. Forest Service, Federal Building, T-10210, 701 Loyola Avenue, New Orleans, Louisiana 70113.

Director, Southeastern Experiment Station, U.S. Forest Service, Post Office Building, P.O. Box 2570, Asheville, North Carolina 28802.

FOREST PRODUCTS LABORATORY

Director, Forest Products Laboratory, U.S. Forest Service, North Walnut Street, P.O. Box 5130, Madison, Wisconsin 53705.

[FR Doc.77-12599 Filed 5-4-77;8:45 am]

LAND MANAGEMENT PLAN BOULDER PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Boulder Planning Unit, Forest Service Report Number USDA-FS-R1(04)-FES-Adm-76-22.

The environmental statement concerns a proposed land management plan for Boulder Planning Unit, Boundary and Bonner Counties, Idaho. The unit contains 58,000 acres of which 55,640 acres are National Forest lands. The plan allocates resources and specifies land management prescriptions for National Forest land only; however, resource information for lands in other ownership is also included for owners/managers to use as they wish.

The selected plan for the unit emphasizes timber management on slightly less than half the National Forest acres and primitive recreation on most of the remainder. In addition, big game summer range is also emphasized on over half the unit. Grizzly bear habitat in the unit would receive emphasis where it has been identified.

Sizeable undeveloped areas exit within and contiguous to the Boulder unit. The planning process for this unit included a wilderness evaluation of this total undeveloped acreage. Under the selected plan for Boulder, no portion of the undeveloped areas within the unit would be studied for possible inclusion in the National Wilderness Preservation System. However, 24,120 acres of undeveloped area would remain in an essentially undeveloped state.

This final environmental statement was transmitted to CEQ on April 29, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA, Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d'Alene, ID 83814.
USDA, Forest Service, Bonners Ferry Ranger District, Route 1, Box 390, Bonners Ferry, ID 83805.

A limited number of single copies are available upon request from:

USDA, Forest Service, Sandpoint Zone Planning, P.O. Box 490, Sandpoint, ID 83864.

Copies of this final environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

RALPH D. KIZER,
Forest Supervisor, Idaho Panhandle National Forests, Northern Region, Forest Service.

APRIL 29, 1977.

[FR Doc.77-12911 Filed 5-4-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29123, Agreement C.A.B. 26425, R-1 through R-11, Order 77-4-132]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

United States-Mexico Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of April, 1977.

By Order 77-2-110, February 23, 1977, the Board directed the U.S. carrier members of the International Air Transport Association (IATA) to submit justification in support of Agreement C.A.B 26425 which would establish United States-Mexico passenger fares for effect from May 1, 1977, through March 31, 1978.

The agreement proposes a six-percent increase in most normal economy fares, except to/from New York where the increase would be eight percent. First-class fares would be set at 135 percent of the proposed normal economy fare up to a maximum increase of 12 percent. Most promotional fares would be increased by the same dollar amount as proposed in round-trip normal economy fares. Certain fares introduced during the "open" fare period, such as the group-40 inclusive-tour (GIT) and advance-booking fares, would be made part of the IATA agreement. In addition, increases are proposed in the minimum tour price for both GIT and individual inclusive-tour fares. (See Appendix A for a comparison of present and proposed fares.)

Justification with supporting financial data has been submitted by American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), Eastern Airlines, Inc. (Eastern), and Pan American World Airways, Inc. (Pan American), all members of IATA, as well as by Western Air Lines, Inc. (Western), which is not a member.

The carriers point out that an "open" fare situation has existed in the United States-Mexico market since May 31, 1975 and that the last fare increase they were permitted to implement was a 6-percent fuel-related increase in January 1975.[1]

The carriers allege that their costs have risen significantly since the last fare increase and that approval of the pending agreement is therefore warranted. The following table summarizes the carriers' statements of load factor (LF) and return on investment (ROI) during the historical and forecast periods:

[1] Western states that the last increase it received in its west coast-Mexico markets was in January 1974.

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Carrier	Year ended Dec. 31, 1976 (percent)		Year ending Apr. 30, 1978 [1] (percent)			
			Present fares		Proposed fares	
	Return on investment	Load factor	Return on investment	Load factor	Return on investment	Load factor
American	1.3	55.3	4.0	57.4	10.3	57.4
Braniff	(5.8)	44.1	(3.7)	44.6	1.4	44.6
Eastern	3.2	45.6	6.0	51.6	10.4	51.6
Pan American	(13.9)	58.6	(19.3)	50.3	(15.9)	55.8
Western	9.5	61.0	5.2	61.6	9.6	61.6

[1] Braniff and Western base their forecast on the year ending Mar. 31, 1978.

Upon full consideration of the agreement and the carriers' justifications, the Board has, with one exception, determined to approve the agreement. The proposed increases in fares between the west coast and Mexico will be disapproved since they would place Western, the only U.S. carrier serving this market, in a substantial excess-earnings position. On the other hand, continuation of present fares in this market will enable Western to earn an adequate return on its investment for the forecast period.

As indicated, Western earned a 9.5-percent return in this market for the year ended December 1976. However, in its justification, Western projects a drop in its return to 5.2 percent during the forecast period if present fares are continued, despite the fact that, with the exception of fuel, it forecasts unit costs at the same level experienced in 1976. The forecast decline in return is the direct result of a forecast doubling of its investment base (from 13.4 to 27.4 million), which the carrier supports on the ground that it has capitalized the value of its long-term leases as is permitted by a recent Board directive.[2] This directive, however, relates solely to options made available to the carriers with respect to reporting requirements with the Board, and is wholly unrelated to the method of computing investment for ratemaking purposes. The Board's policy with respect to the treatment of leased aircraft for ratemaking purposes is contained in Part 399 of the Economic Regulations. There is, therefore, no basis for accepting the substantial increase in investment projected by Western in the context of evaluating the agreement before us. Accordingly, we have recalculated the forecast investment to reflect the historical base-year data provided by Western, adjusted for a smal increase in capacity which it projects.[3] The resulting return which Western would realize is 9.8 percent under present fares, and would increase to 18.2 percent under those proposed. On this basis, the proposed fare increase in the west coast-Mexico market cannot be said to be justified.

With this exception, the adjusted composite return of the remaining four U.S. carriers serving Mexico indicates that the proposed fare increase is warranted.[4] As previously indicated, the carriers have not increased fares in U.S.-Mexico markets for more than two years, during which time an "open" fares situation has existed. The adjusted composite results indicate that, if present fares were continued into the forecast period, the four U.S. carriers would earn a composite return of 4.1 percent, as adjusted.

The Board has made the customary adjustments in the data submitted by the carriers in arriving at the composite return expected in the forecast year. Pan American's factor used to reflect future demand elasticity has been eliminated.[5] In addition, all four carriers have forecast increases in fuel cost over those experienced during the historical period, which exceed the increases reflected in their latest reports to the Board (February 1977) on Form P-12a. The overstatements in fuel expense amount to $256,000, $326,000, $69,000 and $214,000 for American, Braniff, Eastern and Pan American, respectively. For present purposes, each forecast has been adjusted accordingly, although the adjustment does not alter our disposition of the agreement.

Braniff indicates that it achieved a 44.1-percent load factor in the Mexico market during the year ended December 1976, and that this is expected to improve slightly to 44.6 percent in the forecast period. Despite its extremely low historical load factor, Braniff plans to increase its capacity by approximately 9.5 percent during the forecast period, in response to an approximate 10.7 percent increase in traffic which it expects. Were there no increase in Braniff's future capacity, its load factor would reach approximately 49 percent. On the other hand, Eastern, which shows a similarly low load factor during the historical period (45.6 percent), plans to reduce capacity by 10 percent and forecasts an improvement in its load factor to 51.6 percent. While this level continued to fall somewhat short of that which the Board considers reasonably attainable, it nevertheless represents a significant step in the right direction. Under the circumstances, we are concerned that Braniff's capacity is moving in the opposite direction. The Board is not prepared to permit a fare increase to cover the cost of such a significant degree of excess capacity and, for this reason, we have adjusted Braniff's forecast load factor to the composite level of 57.3 percent forecast by the other U.S. carriers.

With the adjustments enumerated above, and the $6.4 million in additional revenue anticipated under the agreement, the composite return forecast for the four carriers would be 8.9 percent, well within the 12-percent ROI benchmark. It should be noted that the Board has expressed its concern that normal economy fares in other markets are substantially in excess of the cost of providing that service and that, as a result, economy-class passengers are bearing the burden of supporting the carriage of below-cost discount-fare traffic. This is not the case in the United States-Mexico market where the proposed normal economy fare level is roughly equivalent to full cost, as adjusted, computed at the composite industry load factor of 55.5 percent, excluding Western.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, the Board makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 26425 as indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[2] On February 9, 1977 the Bureau of Accounts and Statistics issued a directive permitting the carriers to adopt new standards of accounting for lease transactions in their CAB Form 41 schedules. Western also states that part of this increase is due to the seven new B-727 aircraft it will receive during 1977. However, since Western does not forecast any B-727 operations for Mexico, these additional aricraft should not affect the investment base allocable to Mexico service.

[3] Despite Western's statement concerning the treatment of its leased aircraft, its forecast flying operations, amortization and interest expenses do not appear to reflect this change.

[4] A summary of the carriers' justifications and adjustments made by the Board is contained in Appendices B and C. Appendices B and C filed as part of the original.

[5] Order 77-2-32, February 4, 1977. Pan American's petition for reconsideration of that order will be dealt with subsequently by separate order.

Agreement CAB	IATA No.	Title	Application
R-1	001b	TCI Special Effectiveness Resolution	1
R-2	002	Standard Readoption Resolution	1
R-3	014a	Construction Rule for Passenger Fares	1

2. It is not found that the following resolutions, to the extent they would establish fares other than between Los Angeles, San Diego, Portland, and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which are incorporated in Agreement C.A.B. 26425 as indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
26425:			
R-4	051a	TCI 1st Class Fares	1
R-5	061a	TCI Economy Class Fares	1
R-6	070aa	TCI Excursion Fares U.S.A./Canada-Mexico	1
R-7	075w	TCI Advance Booking Group Fares U.S.A.-Mexico	1
R-8	080s	TCI 21 Day Individual Inclusive Tour Fares U.S.A.-Mexico	1
R-9	084ee	TCI Group Inclusive Tour Fares U.S.A./Canada-Mexico	1
R-10	084nn	TCI 40 Passenger Group Inclusive Tour Fares U.S.A.-Mexico	1

3. It is not found that the following resolution, to the extent it would establish fares other than between Los Angeles, San Diego, Portland, and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which is incorporated in Agreement C.A.B. 26425 as indicated, is adverse to the public interest or in violation of the Act provided that approval is subject to the conditions hereinafter stated:

Agreement CAB	IATA No.	Title	Application
26425:			
R-8	076a	TCI Affinity and/or Own Use Group Fares U.S.A.-Mexico	1

Provided, That:

1. The provisions imposing numerical limitation and/or population standards on affinity groups from which the passengers may be drawn shall not be applicable.

2. The provision which at departure time would permit a lesser number of passengers than that prescribed by the Resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group, and the balance of the group may travel at no added cost.

3. In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid shall be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin. Similar credit toward the purchase of transportation at applicable fares shall be made for other members of the fare group who belong to the immediate family of such passenger.

4. The amount of the forfeiture to be imposed in the event of cancellation by the group or members of the group prior to or at departure time for any reason shall not exceed 25 percent of the fare paid and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group-fare ticket over the cost of normal fare transportation from the point of origin to the point of cancellation.

5. Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel.

6. Full refund of the group fares paid shall be made in the event of cancellation of travel arrangements by a carrier on the ground that the group or any members of the group are ineligible for the group fares.

4. It is found that the following resolutions, to the extent they would establish fares between Los Angeles, San Diego, Portland, and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which are incorporated in Agreement C.A.B. 26425 as indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26425:			
R-4	051a	TCI 1st Class Fares	1
R-5	061a	TCI Economy Class Fares	1
R-6	070aa	TCI Excursion Fares U.S.A./Canada-Mexico	1
R-7	075w	TCI Advance Booking Group Fares U.S.A.-Mexico	1
R-8	076aa	TCI Affinity and/or Own Use Group Fares U.S.A.-Mexico	1
R-9	080s	TCI 21 Day Individual Inclusive Tour Fares U.S.A.-Mexico	1
R-10	084ee	TCI Group Inclusive Tour Fares U.S.A./Canada-Mexico	1
R-11	084nn	TCI 40 Passenger Group Inclusive Tour Fares U.S.A.-Mexico	1

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Accordingly, *It is ordered*, That:

1. Those portions of Agreement C.A.B. 26425 set forth in finding paragraphs 1 and 2 above, be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. That portion of Agreement C.A.B. 26425 set forth in finding paragraph 3 above, be and hereby is approved subject to conditions stated therein;

3. That portion of Agreement C.A.B. 26425 set forth in finding paragraph 4 above, be and hereby is disapproved;

4. The carriers are hereby authorized to file tariffs implementing the approved IATA resolutions on not less than one day's notice for effectiveness not earlier than May 1, 1977. The authority granted in this paragraph shall expire May 30, 1977;

5. Tariffs implementing the approvals contained in the above finding paragraphs shall be marked to expire March 31, 1978; and

6. Copies of this order shall be served on all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Appendix A

Present vs Proposed Round-Trip Fares—United States-Mexico [1]

	Chicago-Mexico City			Dallas-Mexico City			Los Angeles-Mexico City			Miami-Mexico City			New York-Mexico City		
	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase
First class	$368	$412	12	$236	$264	4.9	$302	$332	10	$278	$312	12	$452	$498	10
Economy	290	308	6	184	196	6.5	232	246	6	232	246	6	352	380	8
Excursion:															
Midweek	225	243	8	158	170	7.6	189	[3] 200	6	NA	NA	------	330	345	5
Weekend	246	264	7	158	180	13.9	199	[3] 211	6	NA	NA	------	330	355	8
5/21-day individual inclusive tour:															
Midweek	208	226	9	150	162	8	165	157	6	NA	[2] 169	------	259	280	8
Weekend	230	248	8	168	180	7.1	166	178	6	NA	[2] 206	------	270	290	7
Affinity group:															
Midweek	180	163	−9	NA	NA	------	144	142	−1	NA	NA	------	219	190	−13
Weekend	180	187	4	NA	NA	------	144	165	15	NA	NA	------	219	209	−5
Advance booking group and group inclusive tour:															
Midweek	145	163	12	97	109	12.4	134	142	6	109	124	14	[4] 190	190	0
Weekend	162	187	11	103	115	11.7	156	165	6	127	127	0	[4] 200	209	0

[1] Fares may vary depending on routing.
[2] No minimum-stay requirement.
[3] Minimum tour price is $15 per day in contrast to other points where the price is 60 for the minimum stay (5 days) plus $10 per day thereafter.
[4] No Advance Booking Group available under present fares.
NOTE.—NA=Not available.

[FR Doc.77-12704 Filed 5-4-77;8:45 am]

[Docket 30752; Order 77-4-157]

BRITISH AIRWAYS

Free Baggage Allowances and Excess Baggage Charge; Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of April 1977.

By tariff revisions filed April 1, 1977, for effectiveness May 1, 1977, British Airways proposes new free baggage allowances and excess baggage charge for travel between the United States and the United Kingdom.[1] The free allowance, which includes both checked and unchecked baggage, would be set at 35 kilograms (77 pounds) and 25 kilograms (55 pounds) for first-class and economy-class travel, respectively. The per-kilogram charge for baggage exceeding those weights would be equal to the applicable under-45 kilogram general commodity rate (GCR) plus 10 percent.

British Airways contends that its proposed free baggage allowance attempts to strike a balance between the Board's preference for dimensionally-based free allowances and its own belief that the international market requires an approach associated with weight.[2] The carrier contends that a strict piece system is not appropriate in international transportation since passenger baggage must be weighed in any event to comply with certain requirements of the Warsaw Convention; and that a piece system would merely add additional procedures at check-in time, thus delaying passengers. British Airways contends that the proposed free allowance will facilitate present check-in procedures, permit consistency with procedures on its other route systems, facilitate compliance with the requirements of the Warsaw Convention with respect to liability limitation, and accommodate those passengers having normal baggage requirements.

The carrier alleges that its proposed excess-baggage charge is reasonable and well below its present charge which is based upon one percent of the applicable first-class fare. Contending that setting the excess-baggage charge in relationship to cargo rates is necessary, British Airways argues that baggage and cargo both compete for the same available space and that, with the increase in the free allowance, space available for cargo will decrease and, on those routes which are weight-restricted, aircraft payload will also decrease. The ten-percent surcharge over the under-45 kilogram GCR is justified, the carrier contends, by the added value of service to the passenger from the priority his baggage receives over other goods shipped as cargo, and by the variation in demand for space or weight for excess baggage as compared with the more steady demand for cargo space.

Upon consideration of the filing and all other relevant matters, the Board finds that the proposed free allowances and excess-baggage charge may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further finds that the proposed allowances and charge should be suspended, pending investigation.

British Airways' proposal seeks to perpetuate a system for handling baggage which is based solely upon weight. The Board fully explored the merits of a weight-based system in its investigation into baggage rules and charges in Docket 24869,[3] and concluded that weight may not properly be the sole determinant of the amount of baggage a passenger may carry without additional charge. This conclusion was drawn from evidence which clearly demonstrated that a weight-based approach was a holdover from the days when weight was the primary limitation on aircraft payload. To the contrary, the evidence indicated that weight was no longer a predominant limiting factor and, accordingly, there was no justification for continuing a free allowance defined solely in terms of weight. British Airways, which was a party to that investigation and offered its own testimony, has presented no evidence here which, in our opinion, is sufficiently persuasive to alter that conclusion. Moreover, the difficulty of implementing a piece-related system in the face of the requirements of the Warsaw Convention was an issue fully aired in the course of the investigation. The Board was not then persuaded that any difficulty which might arise as a result of piece-related baggage systems would be significant, and noted that in certain important world markets a piece system was, in fact, in effect and did not appear to bar carriers from satisfying their obligation under the Warsaw Convention.

The Board also considered the level of charges for excess baggage in its formal investigation, and found that a charge of one percent of the first-class fare was unreasonably high in relation to the actual cost to the carriers. On the basis of the factual record developed, the Board determined that a charge of 0.7 percent of the normal economy fare was reasonable, and stated that it would accept tariff filings reflecting this charge with no further economic justification. Under British Airways' proposal, the charge for a New York-London passenger would be $4.07 per kilogram ($1.85 per pound). Although somewhat below the charge based upon the first-class fare, it would be almost 180 percent of the per-kilogram charge derived from application of the Board's formula to the approved New York-London basic-season normal economy fare, and 150 percent when applied to the peak-season fare. While the Board's formula did not foreclose filings proposing a different charge, it emphasized that those which deviated from the 0.7 percent level be accompanied by thorough and detailed economic justification. British Airways has supplied no economic justification in support of its proposal, which is significantly out of line with the Board's findings.

To the contrary, British Airways seeks to justify its charge on the basis of the relationship between baggage and air freight, and the respective value of each service. The Board considered this line of argument in its decision, and concluded that no persuasive showing had been made that the difference in value of service was sufficient to warrant an excess-baggage charge in excess of cost and that freight service and baggage service involved distinctly different transportation needs. On this basis, the Board concluded that neither the level of freight rates nor the value of baggage service constituted an appropriate frame of reference for ascertaining excess-baggage charges.

Accordingly, *It is ordered*, That:

1. An investigation be and hereby is instituted to determine whether the rates and provisions in Rule 9(Q) and 9(R) on 15th Revised Page 20-A in International Passenger Rules Tariff No. 1, C.A.B. No. 1, issued by John M. Sampson, Agent, and rules, regulations, or practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in Paragraph 1, above are suspended and their use deferred from May 1, 1977, to and including April 30, 1978, unless otherwise ordered by the Board, and no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President [4] and shall become effective on May 1, 1977;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariff and be served upon British Airways Board, carrying on business under the firm name and style of British Airways.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12942 Filed 5-4-77;8:45 am]

[1] John M. Sampson, Agent, Tariff C.A.B. No. 1, Rule 9.
[2] See *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, Docket 24869, Order 76-3-81, decided February 25, 1976 and served March 12, 1976.
[3] See footnote 2 supra.

[Docket 29442; Order 77-5-2]

DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT

Order Dismissing Complaint

In the matter of tariff revision filed to eliminate affinity requirement for German-originating group fares.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2nd day of May 1977.

By tariff revision [1] which became effective July 16, 1976, Deutsche Lufthansa Aktiengesellschaft (Lufthansa) proposed pursuant to an order of the German Government, removal of the affinity requirement on affinity group fares with respect to groups whose transportation originates in the Federal Republic of Germany.

On June 22, 1976, a complaint was filed by Trans World Airlines, Inc. (TWA) requesting suspension of Lufthansa's tariff filing or, at the very least, a clear indication by the Board that it would tolerate non-affinity group fares in the German-U.S. market only if they remain limited to German-originating transportation. In support of its complaint, TWA expressed concern with the possible proliferation of non-affinity fares throughout the transatlantic market. It did not, however, take exception to the tariff's directional feature. By answer filed June 25, 1976, Pan American World Airways, Inc. (Pan American) expressed its support for TWA's complaint.

Despite the fact that nine months have elapsed since Lufthansa removed the affinity requirement for group travel outbound from Germany, there has been no spread of similar action to Europe-United States markets. Nor did the recent IATA North Atlantic fare package contemplate such a fare. For these reasons, we have decided to dismiss TWA's complaint. However, we take the opportunity to reiterate the Board's preference for promotional fares which are offered on an individual basis and again urge the carriers to consider moving in that direction.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That the complaint of Trans World Airlines, Inc. in Docket 29442 is hereby dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12943 Filed 5-4-77;8:45 am]

[Order 77-4-161; Docket 27436]

AIR NEW ENGLAND, INC.

Petition for Establishment of Subsidy Mail Rates; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of April 1977.

Petition of Air New England, Inc., for establishment of subsidy mail rates pursuant to section 406 of the Federal Aviation Act of 1958, as amended.

The Board having considered all of the information and data set forth or specifically referred to in the Statement of Provisional Findings and Conclusions [1] (hereinafter referred to as the "Statement"), which is attached hereto and incorporated herein, and having on the basis thereof made the provisional findings and conclusions and determined the subsidy rate set forth in the Statement,

It is ordered, That: [2]

1. Air New England, Inc. is directed to show cause why the Board should not fix, determine, and publish the aforesaid rate as the fair and reasonable final rate of compensation to be paid Air New England, Inc. for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over that part of the carriers' system which is eligible for sub-

[1] This order was submitted to the President on April 19, 1977.
[1] Exception to Rule 85(c) on 24th Revised Page 31 to Passenger Fares Tariffs No. PF-4, C.T.C. (A) 2634, C.A.B. No. 44, issued by Air Tariffs Corporation, Agent.
[1] All forms, reports, schedules, and tariffs filed by Air New England with the Board, to the date of the Board's final decision, and the official mileage record of the Board, are incorporated into the record of this proceeding.
[2] This order is not intended to disturb the service mail rates established pursuant to other orders of the Board.

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sidy for annual periods commencing July 1, 196;[3]

2. Further procedures with respect to the final rate proposed herein shall be in accordance with the Board's Rules of Practice, particularly rule 302, et seq., and if there is any objection to the rate specified herein, notice thereof must be filed within 10 days, and, if notice is filed, written answer and supporting documents must be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or, if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the final subsidy rate specified herein;

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR, § 302.307; and

5. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12936 Filed 5-4-77;8:45 am]

[Order—77-4-160, Dockets 29788, 30823]

AIR WISCONSIN, INC.

Application for a Certificate of Public Convenience and Necessity; Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of April 1977.

On November 22, 1976, Air Wisconsin filed a motion for hearing on its application in Docket 29788. The applicant is seeking a certificate of public convenience and necessity to operate over the routes which it currently serves as a commuter air carrier pursuant to Part 298 of the Board's Economic Regulations.

The authority sought is between the terminal point Lincoln, Nebraska; the intermediate points Minneapolis/St. Paul, Minnesota; Appleton, Wisconsin; Chicago, Illinois; Lafayette, Elkhart, and Fort Wayne, Indiana; Battle Creek, Michigan; and the terminal point Detroit, Michigan. In addition, the applicant stipulates that it would accept a prohibition on the operation of nonstop service between the following pairs of points: Minneapolis/St. Paul-Chicago; Minneapolis/St. Paul-Detroit; Lincoln-Chicago; Lincoln-Detroit; and Chicago-Detroit.

The applicant indicates its intention to use only small aircraft and states that it would require no subsidy for the routes in question.

In support of its motion for hearing, Air Wisconsin sets forth, inter alia, the following benefits that would accrue to the public and itself as a result of an affirmative decision in this case: guaranteed service to the communities which Air Wisconsin serves; community eligibility for a greater proportion of federal ADAP funds; recognition that Air Wisconsin is a stable, permanent and reliable member of the U.S. air transportation system; correction of Air Wisconsin's cargo flow imbalance attributable to a secondary listing in Squire's ATP, Inc. tariff publications; carrier access to national financing sources and the aircraft loan guarantee program for financing new equipment; access to decent terminal facilities, including check-in counters, baggage handling facilities and improved airport listings and signs; access to the joint fare system available to certificated carriers under phases 4 and 9 of the DPFI; and eligibility for Air Wisconsin to obtain federal operating subsidies.

Answers in support of Air Wisconsin's motion were filed by the Greater Lafayette Chamber of Commerce; County of Outagamie; City of Lafayette; Purdue University; Greater Elkhart Chamber of Commerce; Elkhart City Council and Board of Aviation Commissioners; James P. Sutherland, Mayor of Appleton; Battle Creek Chamber of Commerce; Minneapolis-St. Paul Metropolitan Airports Commission; Chicago Association of Commerce and Industry; Wayne County Board of Road Commissioners and Greater Detroit Chamber of Commerce; City of Lincoln and Airport Authority of Lincoln; Fort Wayne Board of Aviation Commissioners and Chamber of Commerce; Fox Cities Chamber of Commerce; Lincoln Chamber of Commerce; City of Battle Creek, and State of Wisconsin.

North Central Airlines filed an answer in opposition to Air Wisconsin's motion. North Central argues: (1) That commuter certification has been undertaken only under special circumstances such as the need for subsidy or the ned to operate large aircraft; (2) Air Wisconsin has overestimated the benefits of certification and underestimated the costs; and (3) Air Wisconsin's application does not qualify for hearing priority since no new service would result. A reply to North Central's answer was filed by Air Wisconsin.[1]

In addition, an answer was filed by Trans World Airlines on February 9, 1977, accompanied by a motion for leave to file an otherwise unauthorized document.[2] TWA expresses its concern about the impact that the certification of Air Wisconsin could have on the slot situation at O'Hare Airport. The carrier urges the Board to either deny the motion or place the slot problem directly into issue if a hearing is held. Both Delta Air Lines and Air Wisconsin filed replies accompanied by motions for leave to file otherwise unauthorized documents.[3] Delta supports TWA's answer. Air Wisconsin replies that TWA's motion to file late should be denied and that the slot allocation problem is not a real issue.

Upon consideration of the pleadings and all the relevant facts, the Board has decided to set the application of Air Wisconsin for hearing. Since the applicant has specifically stated that no subsidy would be required for the routes in issue, any authority granted in this proceeding will be ineligible for subsidy.

Accordingly, it is ordered, that:

1. A proceeding to be known as the Air Wisconsin Certification Proceeding, Docket 30823, be and it hereby is instituted and shall be set down for hearing at a time and place hereinafter designated, as the orderly administration of the Board's docket permits;[4]

2. The application of Air Wisconsin in Docket 29788 be and it hereby is consolidated into the proceeding instituted by paragraph 1;

3. Any authority granted in this proceeding will be ineligible for subsidy;

4. The motions of Air Wisconsin, Delta Air Lines, Trans World Airlines, City of Battle Creek, and State of Wisconsin for leave to file otherwise unauthorized documents be and they hereby are granted;

5. The motions of the Board of County Road Commissioners of Wayne County and the Greater Detroit Chamber of Commerce, the City of Lincoln and Lincoln Airport Authority, and the City of Elkhart for leave to file late documents be and they hereby are granted;

6. The petitions for leave to intervene filed by the City of Fort Wayne Board of Aviation Commissioners and Chamber of Commerce of Fort Wayne, the Illinois Department of Transportation, the Nebraska Department of Aeronautics, the County of Outagamie, the Greater Elkhart Chamber of Commerce, Purdue University, Elkhart City Council and Board of Aviation Commissioners, and the State of Wisconsin and Wisconsin Department of Transportation be and they hereby are granted;

7. In addition to those parties listed in paragraph 6 above, the Greater Lafayette Chamber of Commerce, the City of Lafayette, James P. Sutherland, Mayor of Appleton, the Battle Creek Chamber of Commerce, the Minneapolis-St. Paul Metropolitan Airports Commission, the Chicago Association of Commerce and Industry, the Wayne County Board of Road Commissioners and Greater Detroit Chamber of Commerce, the City of Lincoln and Airport Authority of Lincoln, the Fox Cities Chamber of Commerce, the Lincoln Chamber of Commerce, the City of Battle Creek, North Central Airlines, Trans World Airlines, and Delta Air Lines be and they hereby are made parties to the proceeding instituted by paragraph 1 above;

8. Applications, motions for consolidation, and petitions for reconsideration of this order shall be filed within 20 days from the date of service of this order and answers thereto shall be filed within 10 days thereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12937 Filed 5-4-77;8:45 am]

[Order 77-4-154; Dockets 30648, 30653]

TRANS WORLD AIRLINES, INC.

Transatlantic Specific Commodity Container Charges; Order Dismissing Complaints

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of April 1977.

By tariff revisions[1] scheduled to become effective May 15, 1977, Trans World Airlines, Inc. (TWA) proposes to establish specific commodity container flat charges on internal combustion engine parts (Item 4617), grinding machines (Item 4766), cosmetics and toilet preparations (Item 6018), plastic film and sheets (Item 6113), and clocks (Item 8920), from London to New York. The proposed charges result in reductions between 17 and 42 percent below the currently applicable general commodity container charges based upon the estimated density of this traffic and are subject to an expiry date of April 15, 1978.

Complaints requesting suspension and investigation of these rates have been filed by Seaboard World Airlines, Inc. (Seaboard) and Pan American World Airways, Inc. (Pan American). The complainants assert, inter alia, that the proposed levels fail to cover revenue-ton-mile (RTM) costs; are uneconomic and can only lead to an even more disastrous situation than already exists on the North Atlantic; that under no circumstances does the density of any of these commodities justify the introduction of rates significantly below TWA's own RTM costs; that the developmental rationale relied upon by the proponent fails to refer to any surface rates or surface-air differential that would exist; and that TWA has overstated the revenue it would realize from the proposal since this traffic is not as dense as alleged, and, consequently, the proposed rate reductions are not as great as assumed and will not result in the magnitude of traffic generation expected.

In support of its proposal and in answer to the complaints, TWA asserts, inter alia, that the purpose of this filing is to generate an estimated 1.3 million pounds of new traffic annually to be diverted from surface modes into unused westbound space which currently earns no revenue for the carrier; that the proposed levels return fully allocated ground handling costs and make a substantial contribution to capacity costs; that these commodities have been chosen because air carriers presently have only small penetration in this traffic; that the descriptions proposed are narrowly described commodities and differ materially from the typical IATA specific commodity rates; that by offering these rates for containerized traffic, the ground-handling expenses are minimized; that the proposed rates contain a density provision through the application of a minimum weight and flat charge per container; that the densities used for determination of dilution are based upon the loaded or stowed densities of the containers; and that TWA did not make a dilution adjustment since a very limited amount of this traffic is currently moving and the total participation of all air carriers in the market is only about 60,000 pounds per month.

Upon full consideration of the tariff filing, the carrier's justification, the complaints, the answer, and all other relevant factors, the Board has determined to dismiss the complaints and permit the filing to become effective.

The proposal has, according to the carrier, the capability of attracting additional volumes of new traffic that have traditionally moved via the surface mode with a minimal possibility for diverting existing traffic. It is noted that the complainants do not allege that the proposed rates will result in any diversion from existing air traffic, and TWA indicates no meaningful dilution of current revenues will result since air carriers presently have only a limited penetration of this traffic. In addition, the carrier has submitted data which indicate that the proposed container rates would be well in excess of the noncapacity costs associated with such traffic. We believe the proposed rates have the potential for generating new traffic to air transport and for filling what TWA contends is a considerable amount of unused capacity in the westbound direction. Also, the establishment of an expiry date will permit the generative ability of these rates to be assessed in case TWA desires to extend their effectiveness.

Accordingly, it is ordered, that:

The complaints of Seaboard World Airlines, Inc. in Docket 30648 and Pan American World Airways, Inc. in Docket 30653, be and hereby are dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-12938 Filed 5-4-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

DACO MANUFACTURING, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Daco Manufacturing, Inc., 274 Belleville Avenue, New Bedford, Massachusetts 02746, a producer of men's and boy's trousers, was accepted for filing on April 27, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of May 16, 1977.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-12840 Filed 5-4-77;8:45 am]

Office of the Secretary

ADVISORY PANEL FOR THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. APP. I (Supp. V, 1975)) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Department of Commerce has determined that the establishment of the Advisory Panel for the South Atlantic Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1852).

The Panel will provide the parent Council with pragmatic advice and counsel of the people most affected by the Council's management activities on matters of fishery management policy,

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[1] The reply was accompanied by a motion for leave to file an otherwise unauthorized document The motion will be granted. In addition, several of the answers were accompanied by motions for leave to file late or unauthorized documents. All of these motions will be granted.

[2] The motion will be granted.

[3] The motion will be granted.

[4] Pursuant to sections 204 and 401 of the Federal Aviation Act of 1958, as amended; the issues shall include the duration of any authority awarded, whether such authority should be permissive, and what other terms, conditions, limitations or restrictions should be imposed. Further, we will not expect the Chief Administrative Law Judge to issue his Notice of Prehearing Conference until some time in June. Legislation currently pending before Congress could affect the development of this case and this slight delay will allow all parties to be aware of any legislative action.

[1] Revisions to Tariff C.A.B. No. 314 issued by Trans World Airlines, Inc.

[3] The compensation provided herein shall be in lieu of, and not in addition to, the compensation heretofore received by Air New England for mail transported over its subsidy-eligible routes since July 1, 1976.

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on the preparation of fishery management plans, on their review prior to submission to the Secretary, and on their effectiveness in operation.

The Panel will consist of a maximum of sixteen members, who are either actually engaged in the harvest, processing or consumption of, or who are knowledgeable and interested in the conservation and management of fishery resouces. Members of the Panel will be appointed by the Council.

The Panel will function solely as advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Panel's charter will be filed under the Act with the concerned Congressional committees. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852.

Dated: April 26, 1977.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.77-12894 Filed 5-4-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

CANCELLATION OF DATE FOR PUBLIC HEARINGS

On April 22, 1977 there was published in the FEDERAL REGISTER (42 FR 20844) a notice announcing the public hearings of the Commission on Federal Paperwork on May 5 and 6, 1977, at the Sheraton-Fort Worth Hotel, Fort Worth, Texas.

The purpose of this notice is to announce that these hearings have been cancelled. The hearings are expected to be rescheduled at a later date.

FRANK HORTON,
Chairman.

[FR Doc.77-12839 Filed 5-4-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

PRIVACY ACT OF 1974

System of Records; Elimination

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of elimination of system of records under the Privacy Act of 1974.

SUMMARY: This notice announces that the Consumer Product Safety Commission has eliminated the system of records designated Upward Mobility Program Training Records, CPSC-17, notice of which was published in the FEDERAL REGISTER of September 2, 1976 (41 FR 37298). The information formerly contained in this system of records duplicated information on employee training contained in other systems of records and it was determined that maintenance of a separate system was no longer necessary in order to administer the Commission's employee training program.

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

David Melnick, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. (202-634-7770).

Dated: May 2, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-12899 Filed 5-4-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 27, 1977.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group, Air Force Systems Command, will hold meetings on June 28 and 29, 1977 from 8:00 a.m. to 5:00 p.m. both days at Wright-Patterson Air Force Base, Ohio in Room 276, Building 828.

The Group will receive classified briefings and participate in classified discussions relative to the Foreign Technology Division's intelligence data handling program.

The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-12846 Filed 5-4-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 26, 1977.

The USAF Scientific Advisory Board Aerospace Vehicles Panel Committee on B-1 Aerodynamics will hold a meeting on June 8 and 8, 1977, in the Rockwell International facilities, Los Angeles, California from 8:30 a.m. to 5:00 p.m. both days.

The Committee will receive classified informational briefings on the aerodynamic aspects of the B-1 aircraft development program.

The meeting concerns matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-12847 Filed 5-4-77;8:45 am]

Department of the Army

ARMED FORCES INSTITUTE OF PATHOLOGY SCIENTIFIC ADVISORY BOARD

Open Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, May 25-26, 1977, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, D.C. 20306. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education, and research. The Executive Secretary from whom substantive program information may be obtained is Colonel William H. Godfrey, Executive Officer, Armed Forces Institute of Pathology, Washington, D.C. 20306, telephone 576-2900.

Dated: April 29, 1977.

HAROLD W. DRAYTON,
ILT, MSC, USA, Adjutant.

[FR Doc.77-12845 Filed 5-4-77;8:45 am]

DELAWARE RIVER BASIN COMMISSION

[Docket No. D-77-20 CP]

NEW YORK CITY RESERVOIRS

Negative Declaration

Pursuant to Section 2-4.5 of the Rules of Practice and Procedure of the Delaware River Basin Commission, a Notice of Intent having been duly published on April 11, 1977, the Executive Director hereby finds and determines that action on a proposal to undertake a temporary modification of the present procedures for releasing compensating water from each of the three New York City Reservoirs in the Upper Delaware River Basin would not have a significant environmental impact and would not constitute a major action significantly affecting the quality of the human environment in the Delaware River Basin. This determination is based upon an environmental assessment dated April 1977.

This Negative Declaration is issued pursuant to Article 4 of the Commission's Rules of Practice and Procedure this 27th day of April, 1977.

JAMES F. WRIGHT,
Executive Director.

[FR Doc. 77-12915 Filed 5-4-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact—Wisconsin Public Service Corporation's Weston Generating Station (Powerplant 2)

Pursuant to 10 C.F.R. §§ 208.4 and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Wisconsin Public Service Corporation, Weston Generating Station, Powerplant 2.

On June 30, 1975, the FEA issued a prohibition order to the above-listed powerplant which prohibited the powerplant from burning natural gas or petroleum products as its primary energy source. The prohibition order provided, however, that in accordance with the requirements of 10 C.F.R. Parts 303 and 305, the order would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that a particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under Section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that a particular powerplant will be able to comply with all applicable air pollution requirements under Section 119 of that Act; and, until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 C.F.R. § 305.9, and has served the powerplant the Notice of Effectiveness, as provided in 10 C.F.R. §§ 303.10(b), 303.37(b), and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined it is clear that issuance of a Notice of Effectiveness for the prohibition order to the above-listed powerplant is not a "major Federal action significantly affecting the quality of the human environment." National Environmental Policy Act, at 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 C.F.R. § 208.4(c), FEA concludes that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the FEA National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of the Notice of Effectiveness and the associated negative determination and environmental assessment to Executive Communications, Box LP, Room 2309, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to Wisconsin Public Service Corporation's Weston Generating Station, Powerplant 2." Fifteen copies should be submitted on or before May 25, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Signed in Washington, D.C. on May 1, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77-12873 Filed 5-2-77;1:35 pm]

INFORMATION AND COMPUTER REQUIREMENTS PLACED UPON STATE AND LOCAL GOVERNMENTS

Procedures Regarding Computer Support Clause in Contract

AGENCY: Federal Energy Administration ("FEA").

ACTION: Notice of Proposed Revision to Computer Support Clause in Contracts Involving Data Collection or Processing.

SUMMARY: The purpose of this notice is to publish a proposed revision to FEA procedures, in response to OMB Circular A-90, Transmittal Memorandum No. 1, regarding information and computer requirements placed upon State and local governments by the Federal Government.

FEA policy in the past has been to avoid imposing undue restrictions on State and local government units in the use of Automatic Data Processing resources.

In order to emphasize this policy, and to ensure that it continues to be observed, it is proposed that the Government-furnished computer support clause, which is incorporated in all FEA contracts involving data collection or data processing services, be amended to include the following statement:

Consistent with the provisions of OMB Circular No. A-90, nothing in this clause is intended to restrict the latitude of any State or local government unit in the selection and use of computer systems.

DATES: Comments on or before June 6, 1977.

ADDRESSES: Comments to: Executive Communications, Room 3309, Federal Energy Administration Box LE, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Albert H. Linden, Jr. (Program Office), 2000 M Street NW., Room 7202, Washington, D.C. 20461, 202-254-3910.

SUPPLEMENTARY INFORMATION: Public comments are invited regarding the above proposed amendment. Interested parties should submit their comments in writing to Executive Communications, Federal Energy Administration, Box LE, Washington, D.C. 20461. Handcarried comments may be delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except on legal public holidays.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Computer Support Clause/State and Local Governments." All comments received on or before June 6, 1977, and all other relevant information, will be considered by FEA before the new amendment is adopted.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one additional copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 1, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-12869 Filed 5-2-77;1:35 pm]

FEDERAL MARITIME COMMISSION

[Docket No. 76-62]

INACTIVE TARIFFS BY INDEPENDENT CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Order

This proceeding began with the issuance of an Order to Show Cause directed to 38 nonconference, nonvessel operating common carriers by water in the foreign commerce of the United States (Respondents). These carriers were directed to demonstate that the tariffs they had filed with the Commission in fact described an active, bona fide offering of transportation services to the public, or suffer the cancellation of these tariffs.

Thirty (30) of the Respondents did not reply to the Show Cause Order and the Commission's invitation to submit supporting affidavits of fact and memoranda of law, contained therein.

Eight Respondents did file information of some type, but none of these even alleged that they were actively soliciting or providing common carrier servies.

Imperial Van Lines, Wilson Container Co., Inc. and IASL Corporation have canceled the tariffs alleged to describe an essentially fictitious or suspended service, thereby mooting any controversy pertaining to said tariffs.

Transocean Container Service Co., Ltd., has stated that it wishes its tariff to be canceled. This request shall be accommodated by the instant Order.

Requests for noncancellation were received from Trans-Globe Shipping Co. (Trans-Globe); Specialized Transportation Sales, Inc. (STS); Posey International, Inc. (Posey); and W. R. Zanes

V42N87 MAY 5 77 UMI

and Co. of Louisiana, Inc. (Zanes). A reply to these requests was filed by the Commission's Bureau of Hearing Counsel which favored cancellation of all but Zanes' tariff.

The Commission is of the view that neither Trans-Globe, STS, Posey nor Zanes are performing as common carriers by water in the trades listed in the tariffs now under examination. It is misleading to the public, potentially unfair to competing carriers, and an administrative burden upon our staff, for "paper" tariffs to be kept on file, available for possible use if it should suit the narrow purposes of the persons issuing them to quickly enter the trade, but otherwise describing a nonexistent service. We construe such a situation as contravening the implicit requirements of Shipping Act section 18(b), subsections (1) through (3), which necessitate the prompt submission of accurate information concerning the services offered by a common carrier, including the suspension of all or any part of the operations described by its published tariffs. See Embargo on Cargo, North Atlantic and Gulf Ports, 2 U.S.M.C. 464, 465 (1940); Intercoastal Schedules of Hammond Shipping Co., Ltd.; 1 U.S.S.B. 606, 607 (1939); Carriers Transporting Sugar from Virgin Islands to the United States; 1 U.S.M.C. 695, 699–700 (1938); Intercoastal Investigation, 1935, 1 U.S.S.B. 400, 449 (1935).

Trans-Globe has, without explanation, amended its tariff to include Japan and South Korea in the range of ports served and substitute NOS rates for several specific commodity rates. Mere physical changes in a tariff cannot substitute for the performance of common carrier service. Until Trans-Globe intends to actively engage in such service, it should not maintain a tariff on file with the Commission. Ghezzi Trucking, Inc.—Cancellation of Inactive Tariffs, 13 F.M.C. 253, 255 (1970).

Posey states that it has been inactive as a common carrier because local ocean carriers do not publish Freight All Kinds (FAK) rates, but that one such carrier might begin accepting FAK cargo shortly. Until such time as Posey is actually able to perform as a common carrier, it too should not be permitted to maintain an inaccurate and incomplete tariff on file with the Commission. When and if the local ocean carriers publish a FAK rate, Posey can readily submit a current tariff.

STS states that it has been "quoting" from its tariff and is "in the process" of increasing some of its published rates. In the absence of evidence describing the exact nature and extent of this "quoting," we have no basis for concluding that STS is actively soliciting, what is more, offering common carrier services, and shall cancel its tariffs.

Zanes admits it is not an active common carrier, but states that it has been prevented from obtaining business by the International Longshoremen's Association's 50-mile container stuffing rule. Now that this rule has been overturned by the National Labor Relations Board, Zanes is "seriously considering" the activation of a common carrier service. As in the case of Posey, once Zanes is prepared to actually commence common carrier service, it may readily file a tariff describing the service and rates it will be offering at that time.

Wherefore, it is ordered, That the tariffs of the thirty-five carriers listed in the attached Appendix are hereby canceled, provided that this cancellation shall be without prejudice to said carriers filing new tariffs when they are prepared to begin bona fide operations as common carriers in the foreign commerce of the United States.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX

Arabian Mediterranean Line, c/o Aqua Steamship Agency, Inc., 509 Petroleum Building, Houston, Texas 77002.

FMC 1—From U.S. Gulf and South Atlantic to all ports (except Spanish Mediterranean and Israeli ports) served on the Med. Sea from Gibraltar to Port Said, etc.

Dai Jin Shipping Co., Ltd., C. R. Nickerson, Agent, 9 First Street, San Francisco, California 94105.

FMC 1—Gulf and Pacific/Japan, Hong Kong, Korea, Taiwan and Vietnam.

D. L. Haynes, Inc., 4757 E. Slauson Avenue, Maywood, California 90270.

FMC 1—From Los Angeles, to Australia, New Zealand and South Sea Islands.

Foursom Shipping Corp., Ocean Services Agency, Inc., 886 United Nations Plaza, New York, New York 10017.

FMC 1—Atlantic, Gulf, Great Lakes and Pacific/Japan S. Korea, Taiwan, Hong Kong, Vietnam, Philippines, Malaysia, Thailand, Indonesia, East Pakistan and East Coast India.

Glen Enterprises Limited, c/o T. A. De Witt, Agent, 17 Battery Place, New York, New York 10004.

FMC 1—Between U.S. Atlantic and Gulf and ports in Europe and ports in Africa on the Mediterranean Sea.

Global Container Service, Inc., c/o Global Terminal & Container Services, Inc., 26 Broadway, Room 2800, New York, New York 10004.

FMC 1—From Continental European ports (Hamburg/Lisbon range) to U.S. Atlantic ports (Boston/Miami range).

FMC 2—From U.S. Atlantic ports (Boston/Miami range) to Continental European ports (Hamburg/Lisbon range).

Gulf Ports Shipping Company, c/o Elton Tillery, P.O. Box 8621, Houston, Texas 77009.

FMC 1—Between U.S. Gulf ports and worldwide ports.

Intermodal Freight Forwarding, Inc., 116 Nassau Street, New York, New York.

FMC 1—From Japan, Taiwan, Hong Kong, Singapore to Norfolk, Hampton Roads, and New York.

International Storage and Distribution Co., Inc., 9 First Street, San Francisco, California 94105.

FMC 2—Between Atlantic, Pacific and Great Lakes ports and worldwide destinations.

Iranian Shipping Lines, S.A. (Stateside address), c/o Keyship Agency, Inc., General Agents, 17 Battery Place, New York, New York 10004.

Iranian Shipping Lines, S.A. (Foreign address), 168 Saadi Avenue, P.O. Box 1693, Teheran, Iran.

FMC 1—From U.S. Atlantic and Gulf ports to Red Sea and Gulf of Aden.

FMC 2—From U.S. Gulf of Mexico and Atlantic ports to Persian/Arabian Gulf ports.

FMC 4—From Persian Gulf ports to U.S. Gulf of Mexico and Atlantic ports.

FMC 5—From Red Sea and Gulf of Aden to U.S. Gulf of Mexico and Atlantic ports.

Lebay International, P.O. Box 52170, Houston, Texas 66052.

FMC 1—From U.S. ports to worldwide ports.

Micronesia Line, Inc., 28 Hillside Avenue, San Anselmo, California 94960.

FMC 1—From U.S. Pacific to Trust Territory of the Pacific Islands.

Overocean Transport Corp., 139 Harvard Avenue, Stamford, Connecticut.

FMC 1—From New York, Elizabeth, New Jersey, Chicago and Bridegport, Connecticut, to worldwide destinations.

Posey International, P.O. Box 53299, Houston, Texas 77028.

FMC 1—Between U.S. ports and worldwide ports.

Serviocean International, c/o Marine Overseas Services, Inc., 4849 Honestead Road, Suite 232, Houston, Texas 77028.

FMC 1—Between Atlantic and Gulf/Asia, Africa, Middle East.

Specialized Transportation Sales, Inc., 220 Park Road North, Wyomissing, Pa. 19610.

FMC 1—From U.S. Atlantic, Gulf, Pacific and Great Lakes ports to worldwide ports.

Seaboard Mercantile Trading Co., Inc., c/o Global Maritime Agencies, Inc., 52 Broadway, New York, New York 10004.

FMC 4—From Bulgarian ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 5—From Turkish ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 6—From Moroccan ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 7—From Yugoslavian ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 8—From Tunisian ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 9—From Portuguese ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 10—From Lebanese ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 11—From Spanish ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 12—From Greek ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

FMC 13—From Italian ports to U.S. East Coast, Gulf Coast, Great Lakes and West Coast ports.

Tancorp Shipping Ltd., Room 313, Windsor House, Hong Kong, B.C.C.

FMC 1—Taiwan/Atlantic, Gulf and Pacific.

FMC 2—Japan/Atlantic, Gulf and Pacific.

Tise Philpoe Lines, Union Bank Tower 990, 21515 Hawthorne Blvd., Torrance, California 90503.

FMC 1—Taiwan/Pacific.

FMC 2—Hong Kong/Pacific.

FMC 3—Korea/Pacific.

Torrence Navigation Company, c/o T. A. Dewitt, Agent, 17 Battery Place, New York, New York 10004.

FMC 2—Between Atlantic and Gulf/Red Sea and Persian Gulf.

FMC 4—Between Atlantic and Gulf/West and South Africa.

FMC 3—Atlantic and Gulf/New Zealand and Australia.

Trans-Asia Shipping Co., Ltd., 32–36 Des Voeux Road West, Room 904 Man Cheong Bldg., Hong Kong, B.C.C.

FMC 1—Between Guam, Formosa, Philippines Thiland/Trust Territories.

Trans-Atlantic Steel Carriers, Inc., 62 Wall Street, New York, New York 10005.

FMC 2—Great Lakes, Atlantic and Gulf/Far East.

Transcontinental Consolidators, Inc., 19 Iron Way, Little Falls, New Jersey 07643.

FMC 1—From U.S. North Atlantic to worldwide ports.

Trans-Globe Shipping Co., Ltd., No. 7, 3-Chome, Nihanbashitori, Chuo-Ku, Tokyo, Japan.

FMC 1—Taiwan, Hong Kong/U.S.

Trans Royal International Pacific Co., Trust Territories of the Pacific Islands, Saipan, Mariana Islands.

FMC 1—Pacific/Malaysia, Cambodia and Singapore.

Union Sincerety Corporation, 3rd Floor 185 Shin Yi Rd., Sec. 2 Taipei, Taiwan.

FMC 1—Between Guam, Formosa, Hong Kong, Philippines, Thiland and Trust Territories.

United Enterprises and Shipping (PTE) Ltd., of Singapore, No. 6 Cecil Street, 5th Floor, Box 3125, Singapore 1.

FMC 2—Far East/Atlantic and Gulf.

FMC 3—Taiwan/Pacific.

FMC 4—Hong Kong, Thailand/Pacific.

FMC 5—Malaysia, Singapore/Pacific.

FMC 6—Great Lakes, Atlantic, Gulf, Pacific/Far East.

FMC 8—Malaysia, Hong Kong, Singapore, Taiwan/Great Lakes.

Venus International Line, c/o Benus Ling and Co., Inc., 80 Broad Street, New York, New York.

FMC 1—Taiwan, Hong Kong, Thailand, Singapore/Atlantic and Gulf.

FMC 2—Japan/Atlantic and Gulf.

Wan Hai Steamship, P.O. Box 22437, 42, Tai Yuan Road, Taipli, Taiwan.

FMC 1—Between Guam, Trust Territories/Hong Kong.

World Transport Limited, c/o Global Maritime Agencies, Inc., 52 Broadway, New York, New York 10004.

FMC 1—From U.S. Great Lakes, East Coast, Gulf and West Coast ports to all ports in the Mediterranean.

FMC 4—From U.S. Great Lakes, East Coast, Gulf and West Coast ports to European ports on the Baltic, North Sea and Atlantic Coast.

FMC 7—From Bulgarian ports to U.S. East Coast, Gulf Coast and West Coast ports.

FMC 8—From Moroccan ports to U.S. East Coast, Gulf Coast and West Coast ports.

FMC 9—From Greek ports to U.S. East Coast, Gulf Coast and West Coast ports.

FMC 10—From Yugoslavian ports to U.S. East Coast, Gulf Coast and West Coast ports.

FMC 11—From Tunisian ports to U.S. East Coast, Gulf and West Coast ports.

FMC 12—From Turkish ports to U.S. East Coast, Gulf and West Coast ports.

FMC 13—From Spanish ports to U.S. East Coast, Gulf and West Coast ports.

FMC 14—From Italian ports to U.S. East Coast, Gulf and West Coast ports.

FMC 15—From Lebanese ports to U.S. East Coast, Gulf and West Coast ports.

FMC 16—From Portuguese ports to U.S. East Coast, Gulf and West Coast ports.

Worldwide Carriers, c/o Astoria Steamship Agency, Inc., 2 John Street, New York, New York 10038.

FMC 2—Pacific/Far East.

FMC 5—Philippines/Great Lakes.

FMC 6—Taiwan/Great Lakes.

FMC 7—Far East/Atlantic, Gulf, Pacific.

FMC 8—Straits/Great Lakes.

FMC 9—Thailand/Great Lakes.

FMC 10—Indonesia/Great Lakes.

FMC 15—Great Lakes, Gulf/Far East.

FMC 18—Korea, Japan/Great Lakes.

Worldwide Carriers, Ltd., c/o Astoria Steamship Agency, Inc., 52 Broadway, New York, New York 10004.

FMC 4—From U.S. East Coast and Gulf ports to all ports in the Mediterranean, including Casablanca to Port Said, (Including Adriatic and Black Sea ports).

FMC 19—From U.S. Great Lakes ports to all ports in the Mediterranean.

FMC 11—From all ports served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic and Black Sea ports, and from Casablanca to Port Said inclusive to U.S. Great Lakes ports.

FMC 23—From all ports served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic and Black Sea ports, and from Casablanca to Port Said inclusive to U.S. East Coast and Gulf ports.

W. R. Zanes & Co., Louisiana Inc., P.O. Box 2330, New Orleans, La. 70130.

FMC 1—Between U.S. Ports and Worldwide ports.

W. W. Lynch, Inc., 1600 W. 8th Street, Long Beach, California 90813.

FMC 1—Between Japan, Korea and U.S. Pacific Coast ports.

[FR Doc.77-12934 Filed 5-4-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-337]

ALGONQUIN GAS TRANSMISSION CO.

Application

APRIL 25, 1977.

Take notice that on April 12, 1977, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts, filed in Docket No. CP77-337 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render a storage service for its customers under a storage service arrangement with Texas Eastern Transmission Corporation (Texas Eastern), which service Texas Eastern is making available from arrangements with Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive gas from its customers and store such gas under a storage service arrangement dated March 21, 1977 with Texas Eastern for a period of three years. Applicant also requests authorization to permit its customers to "carryover" certain quantities of gas presently being stored in an expiring arrangement with Consolidated, rather than being compelled to withdraw such gas out of storage for use at the present time and backing off on gas under Applicant's Rate Schedule F-1 and then, if still available, inject the backed-off F-1 gas into the same storage later in the summer.

Applicant indicates that the storage arrangement proposed here relates to the continuation in substance of storage arrangements in Consolidated, et al., Docket No. CP73-206 and Applicant in Docket No. CP75-332. Applicant states that the proposed service by Texas Eastern would be under its Rate Schedule ISS. Applicant asserts that it proposes to render and continue basically the same type of storage service to its customers as it has done in the past two years with Consolidated. Applicant states that the quantity being stored would be 7,228,000 million Btu's as against 4,386,830 million Btu's being stored in the prior arrangement with Consolidated.

It is stated that with the transition of storage service from Consolidated to Texas Eastern, Applicant and its customers are faced with a "carryover" problem, and at the present time, as Consolidated's service was scheduled to terminate on March 31, 1977, Applicant's customers could be called upon to physically remove all gas remaining in storage for their account. Applicant proposes that the same "carryover" provision effective in prior years be extended to the transition year from service based upon that provided by Consolidated to the successor service based upon service to be provided by Texas Eastern. This carryover provision as contained in the previous years S–T service by Applicant would be included in the revised S–T service in years prior to the last years. it is said. Applicant asserts that such storage gas is not needed at the present time but would be sorely needed during the 1977–78 winter period.

It is stated that Applicant and other East Coast companies have previously entered into three-year agreements with Consolidated providing for the storage of gas by Consolidated for Applicant and the return of such gas to Applicant for its customers who participated in such storage program, and Texas Eastern would not provide, substantially the same type of storage and transportation service for a 3-year period commencing April 16, 1977 and terminating April 15, 1980, for fourteen named resale customers including Applicant.

Applicant states that it proposes to render substantially the same type of service to the same customers as it did in Docket No. CP75–332, that certain of its customers would be receiving increased storage service, and that the service has been modified to conform to the proposed Texas Eastern ISS service.

Applicant states that no new facilities are required to render the proposed services, since the gas would be delivered primarily within the contract demand set forth under Rate Schedule F–1, WS–1 and SNG–1, i.e., delivered with the capacity available due to the curtailments by Texas Eastern of 700,000 Mcf of natural gas per day.

It is indicated that Applicant proposes to charge its authorized S–T service charge of $1.15 per million Btu's for the basic storage service and $1.00 for its supplemental storage service.

Applicant proposes to render the proposed services to its customers as follows:

V42187 MAY 5 77 UMI

[In million Btu's]

Name of customers	Base storage	
	Capacity	Demand
Bay State Gas Co.	91,617	1,499
Boston Gas Co.	336,808	5,511
Cape Cod Gas Co.	30,985	507
Commonwealth Gas Co.	139,183	2,277
Connecticut Gas Co., The	125,396	2,052
Connecticut Natural Gas Corp.	104,933	1,717
Fall River Gas Co.	39,576	648
Hartford Electric Light Co., the	9,011	147
Middleborough, Massachusetts, town of	2,064	34
North Attleboro Gas Co.	2,137	35
Norwich, Connecticut, city of	11,499	188
Orange and Rockland Utilities, Inc.	12,647	207
Providence Gas Co.	151,346	2,477
Southern Connecticut Gas Co., the	81,858	1,336

	Supplemental storage	
	Capacity	Demand
Bay State Gas Co.	585,343	3,877
Boston Gas Co.	1,890,643	12,521
Cape Cod Gas Co.	679,545	4,501
Commonwealth Gas Co.	666,517	4,417
Connecticut Gas Co., the	659,624	4,369
Connecticut Natural Gas Corp.	301,067	1,994
Fall River Gas Co.	100,000	663
Hartford Electric Light Co., the	20,000	133
North Attleboro Gas Co.	8,642	58
Norwich, Connecticut, city of	25,722	171
Orange and Rockland Utilities, Inc.	171,271	1,135
Providence Gas Co.	456,154	3,021
Southern Connecticut Gas Co., the	524,342	3,473

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12797 Filed 5-4-77;8:45 am]

[Docket No. RI77-9]

KENTUCKY OHIO GAS CO.

Order Granting Petition for Special Relief and Permitting Intervention

APRIL 26, 1977.

On November 8, 1976, Kentucky Ohio Gas Company (Kentucky Ohio) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) for the sale of natural gas to Kentucky West Virginia Gas Company (Kentucky West) from eight leases in the Brushy and Prater Fork Field, Brush Creek, Floyd County, Kentucky under its FPC Gas Rate Schedule No. 4. Subsequently, Kentucky Ohio filed an amended petition for special relief on January 10, 1977.

Kentucky Ohio is an independent small producer which was issued a small producer certificate by Order No. 411 on October 2, 1970. Holding a 100 percent working interest in the leases, Kentucky Ohio is presently selling natural gas to Kentucky West at a rate of 29¢ per Mcf at 15.325 psia pursuant to a contract dated November 1, 1929.

In order to increase production to an economically viable level and to preclude premature abandonment, Kentucky Ohio states that it will be necessary to rework two wells which are presently non-producers and repair its gathering system. Therefore, Kentucky Ohio requests that the Commission authorize it to collect 58.3 cents per Mcf for the sale with provision for a 1¢ per Mcf annual increase. In a March 11, 1977 letter, Kentucky West formally expressed its willingness to amend the contract to that price found by the Commission to be just and reasonable under Order No. 481.

Notice of Kentucky Ohio's petition for special relief was issued on November 18, 1976 and was published in the Federal Register. Notice of the amended petition for special relief was issued on February 11, 1977. Kentucky West filed a timely petition to intervene.

Based on an analysis of data submitted by Kentucky Ohio, staff estimates that 161,760 Mcf remain to be produced over a period of nine years and concludes that the requested special relief is warranted.[1] After reviewing the costs to be incurred and the reserves to be recovered, we determine that Kentucky Ohio's petition for special relief is warranted and that it is in the public interest to grant this petition.

The Commission finds. The petition for special relief filed by Kentucky Ohio meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations.

The Commission orders. (A) As amended, the petition for special relief of Kentucky Ohio is hereby granted.

(B) Kentucky Ohio is authorized to collect 58.3 cents per Mcf at 15.325 psia with provision for a 1 cent per Mcf annual increase to take effect on the annual anniversary date of this increase for natural gas from eight leases at Brushy and Prater Fork Field, Brush Creek, Floyd County, Kentucky under its FPC Gas Rate Schedule No. 4, effective upon either the date of issuance of this order or the date the remedial work is completed, whichever is later.

(C) The authorization is subject to the following conditions: (1) Kentucky Ohio must file within 30 days of the date of issuance of this order, the appropriate rate change filings in accordance with Section 154.94 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.94), accompanied by an executed copy of the amended contract agreement providing for the rate increase. (2) Within 30 days of the effective date provided in Ordering Paragraph (A) above for the rate authorized herein, Kentucky Ohio must file a statement signed by Kentucky West in Docket No. RI77-9 setting forth the date on which the remedial work was completed.

(D) Kentucky Ohio must file a notice of rate change pursuant to the requirements of § 154.94 of the Commission's Regulations and Section 4(d) of the Natural Gas Act for each of the 1 cent per Mcf annual escalations permitted under Ordering Paragraph (A) above.

(E) Kentucky West is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided however*, That its participation shall be limited to matters affecting asserted rights and interests specificaly set forth in its petition for leave to intervene: *And provided further*, That the admission of Kentucky West in the manner provided shall not be construed as recognition by the Commission that Kentucky West might be aggrieved because of any order or orders entered in this proceeding, and that Kentucky West agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] See Appendix A, attached hereto.

APPENDIX A

[Docket No. RI77-9]

Kentucky Ohio Gas Co.—Brushy and Prater Fork Field Leases, Brush Creek Floyd County, Ky.

CALCULATION OF UNIT COST OF GAS

Line No.	Description	Volume	Total cost
	(a)	(b)	(c)
1	*Volumes (N.W.1.):*		
2	Gas, 1,000 ft³ at 15.325 psia	133,958	
3	Liquids, bbl	0	
4	*Average rate base:*		
5	Average net investment		$4,423
6	Average working capital allowance.		1,207
7	Average rate base		5,630
8	*Cost of production:*		
9	Return on rate base		7,601
10	Production expense		86,922
11	DD&A expense		9,660
12	Total cost of production		104,183
13	*Unit cost of gas:*		
14	Cost of production (per 1,000 ft³).		.78
15	Production tax		0
16	Total cost of gas per 1,000 ft³.		.78

NOTE.—The above cost is based on representations of the applicant contained in his filing. The volumes are based on staff's recoverable reserves of 161,760 1,000 ft³ of gas. The production curve on sheet three (3) is expected. Line 2=82.8125 pct x 161,760. Line 5=from sheet 2, line 5. Line 6=line 9 sheet 2×12.5 pct÷9 yr. production life ($86,922×12.5 pct)÷9=$1,207. Line 9=line 7×15 pct×9 yr production life. Line 10=from sheet 2, line 9. Line 11=from sheet 2, line 4. Line 14=line 12 divided by line 2. Line 15=there is no production tax in Kentucky.

Summary of applicant's filed data

Line No.	Description	Total cost
	(a)	(b)
1	Investment (Kentucky Ohio's N.W.1.):	
2	Present net book value	$4,444
3	Proposed new investment	5,216
4	Total project investment	9,660
5	Kentucky's average project investment	4,423
6	Production cost (Kentucky's N.W.1.):	
7	Operating and maintenance expense	86,789
8	Regulatory expense	133
9	Total	86,922

Note.—Line 5=From line 11, Sheet 3. Line 7=Based on future operating expense of $7,956 1 yr times a 5 pct inflation factor compounded for the first 5 years plus $10,186 for the remaining 4 years=$86,789. The expenses were: Production $8,441; Maintenance $133; Insurance $1,106; Administrative $189; Indirect $846; and taxes $242. Line 8=Regulatory expense as accepted in Opinion No. 749 at $.001/Mcf x 133,968.

Average annual investment

Line No.	Year No.	Estimated production (1,000 ft³)	Percent reserve remaining at mid year	Middle of year depreciated investment
	(a)	(b)	(c)	(d)
1	1	16,894	93.69	$9,050
2	2	16,148	80.11	7,739
3	3	15,701	66.97	6,469
4	4	15,105	55.47	5,358
5	5	14,708	44.35	4,284
6	6	14,409	33.48	3,234
7	7	13,913	22.91	2,213
8	8	13,654	12.61	1,218
9	9	13,416	02.51	242
10		133,958		39,807
11	Kentucky Ohio net average project investment.			4,423

NOTE.—Estimated Production is from staff's reserves estimate. Total project investment is $9,660. Depreciable investment is line 4 sheet 2. No salvage value is assumed due to the life of the project. Column (d) equals column (c) times $9,660. Line 10=summation of lines 1 to 9. Line 11=line 10÷9 yr life.

[FR Doc. 77-12799 Filed 5-4-77;8:45 am]

[Docket No. RI77-11]

GRUY MANAGEMENT SERVICE CO., OPERATOR FOR V. A. HUGHES, ET AL.

Order Granting Petition For Special Relief

APRIL 26, 1977.

On November 9, 1976, Gruy Management Service Co., as operator for V. A. Hughes, et al. (Gruy), filed in Docket No. RI77-11 a petition for special relief pursuant to Order Nos. 481 and 551 and § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) with respect to a sale of natural gas to United Gas Pipe Line Company (United) from the Roscoe Robinson No. 1 Well located in the Carthage Field, Panola County, Texas.

Gruy was issued a small producer certificate on June 19, 1972, in Docket No. CS72-806. Pursuant to a gas sales agreement dated June 21, 1956, Gruy is currently collecting a base rate of 35 cents per Mcf for the sale to United Gruy states that the single-stage compressor used to deliver the gas produced from the subject well is in need of repair in order to continue production from the well. Gruy further states that the well is currently shut-in, and that without special relief the remaining reserves will not be recovered. In order to resume production from the subject well, Gruy and United entered into an amendment to their gas sales agreement on December 20, 1976, whereby United agreed to pay Gruy a base rate of 61.25 cents per Mcf for gas produced from the well in consideration for Gruy's performing the necessary repairs on the compression facilities.

Notice of Gruy's petition for special relief was issued on November 24, 1976, and appeared in the FEDERAL REGISTER on December 3, 1976, at 41 FR 53106. United filed a petition to intervene.

Based on its analysis of data submitted by Gruy, Staff estimates that 41,600 Mcf remain to be produced over a period of three years, and concludes that the requested special relief is warranted.[1] After a careful review of the costs to be incurred and the reserves to be recovered, we conclude that it is in the public interest to grant Gruy special relief.

The Commission orders. (A) The petition for special relief of Gruy is hereby granted.

(B) Gruy is authorized to collect 61.25 cents per Mcf, plus tax reimbursement, at 14.65 psia for gas sold to United from the Roscoe Robinson No. 1 Well located in the Carthage Field, Panola County, Texas, effective on the date of issuance of this order or on the date of completion of the proposed compressor repair, whichever is later. This authorization is contingent upon Gruy's filing within 30 days of the date of completion of the proposed repair work a statement, signed by United, that the proposed repair work has been performed to United's satisfaction.

(C) United is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene: *And Provided, further*, That the admission of United in the manner provided shall not be construed as recognition by the Commission that United might be aggrieved because of any order or orders entered in this proceeding, and that United agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] See Appendix A attached hereto.

V42187 MAY 5 77 UMI

APPENDIX A

[Docket No. RI77-41, Roscoe Robinson Well No. 1]

Gruy Management Service Co.—Carthage Field, Panola County, Tex.

Line No.	Description (a)	Volume (b)	Total cost (c)
1	Volumes (N.W.I.):		
2	Gas, Mcf at 14.65 psia	36,289	
3	Liquids, bbl	106	
4	Average rate base:		
5	Average net investment		$4,763
6	Average working capital allowance		965
7	Average rate base		5,728
8	Cost of production:		
9	Return on rate base		2,578
10	Production expense		23,168
11	DD&A expense		8,000
12	Total cost of production		33,746
13	Unit cost of gas:		
14	Cost of production (per 1,000 ft³)		90.88¢
15	Production tax at 7.5 pct total		7.37
16	Total cost of gas (per 1,000 ft³)		98.25¢

NOTE.—The above costs are based on representations of the applicant contained in his filing. The volumes are based on Gruy's recoverable reserve estimate of 41,600 Mcf of gas and 122 bbl of liquids (at 14.65 psia). The production curve shown on sheet 3 is expected. Line 1=gross working interest is 87.23342 pct. Line 5=from sheet 2, line 5. Line 6=(sheet 2, line 10×12.5 pct) divided by 3 yr production life. Line 9=(line 7×15 pct) times 3 yr production life. Line 10=from sheet 2, line 10. Line 11=from sheet 2, line 4 minus $1,000 expected salvage value. Line 14=Line 12 divided by the modified Btu equivalent of Lines 2 and 3. This involves converting the liquids into Btu equivalent 1,000 ft³ of gas in a modified Btu basis as described in FPC Opinion No. 749 (issued Dec. 31, 1975). Modified Btu equivalent of lines 2 and 3 on this basis is 37,131 Mcf of 1029 Btu/ft³ gas.

[Docket No. RI77-11, Roscoe Robinson Well No. 1]

Gruy Management Service Co.—Carthage Field, Panola County, Tex.

SUMMARY OF APPLICANT'S FILED DATA

Line No.	Description (a)	Total cost (b)
1	Investment (Gruy's N.W.I.):	
2	Present net book value	
3	Proposed new investment	$9,000
4	Total project investment	9,000
5	Gruy's average net project investment	4,763
6	Production costs (Gruy's N.W.I.):	
7	Lease operating maintenance expense	21,015
8	Compression expense	2,080
9	Regulatory expense	73
10	Total production expense	23,168

NOTE.—Line 5=from sheet 3, line 5. Line 9=regulatory expense as adopted in Opinion No. 770 at 0.2¢/Mcf×36,289 Mcfs

DEPRECIATION SCHEDULE

Line No.	Year (a)	Estimated production (1,000 ft³) (b)	Percent reserves remaining at mid year (c)	Middle of year average depreciable investment (d)	Salvage value (e)	Middle of year average investment (f)
1	1	13,608	81.25	$6,500	$1,000	$7,500
2	2	12,300	45.55	3,644	1,000	4,644
3	3	10,381	14.30	1,144	1,000	2,144
4	Total	36,289				14,288
5. Gruy's average project investment						4,763

NOTE.—Estimated production is from Gruy's reserve estimate. Total project investment is $9,000. Since salvage value is $1,000, depreciable investment is $9,000 to $1,000=$8,000. Column (d) equals Column (c) times $8,000. Column (f) equals Column (d) plus Column (e) Line 4=summation of lines 1 through 3. Line 5=line 4 divided by 3.

[FR Doc.77-12798 Filed 5-4-77;8:45 am]

[Docket No. RP76-144 and Docket No. CP74-192]

FT. PIERCE UTILITY AUTHORITY, ET AL.

Extension of Time

APRIL 22, 1977.

Ft. Pierce Utility Authority, et al., Complainants v. Florida Gas Transmission Company, Respondent Florida Gas Transmission Company.

On April 22, 1977, Florida Gas Transmission Company filed a motion to extend the time for responding to the "Request of Florida Cities for Oral Argument," filed April 8, 1977. Pursuant to § 1.12 of the Commission's Rules of Practice and Procedure, responses to the April 8 filing must be submitted on or before April 25, 1977.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 10, 1977, within which time responses to the request of Florida Cities shall be filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12901 Filed 5-4-77;8:45 am]

[Docket No. RI77-66]

GILLRING OIL CO.

Petition for Declaratory Order

APRIL 28, 1977.

Take notice that on April 13, 1977, Gillring Oil Company, First State Bank Building, Mission, Texas, 78572 (Gillring) filed a Petition For Declaratory Order pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure wherein it seeks an order declaring that its agreement of March 1, 1975, with Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) qualifies as a replacement contract pursuant to Section 2.56a(a)(5) of the Commission's Statements of General Policy and Interpretations. Gillring, who was issued a small producer's certificate on September 17, 1971, in Docket No. CS71-683, also requests that the Commission declare that the appropriate rate for the subject sales of natural gas is 130 percent of 53 cents per Mcf at 14.65 psia plus adjustments.

Gillring states that it is successor in interest to a twenty year contract with Tennessee dated July 22, 1948, for the sale of natural gas from leases in the Agua Dulce Field, Nueces County, Texas. On March 1, 1971, with the primary term of the base contract having previously expired, Gillring and Tennessee entered into a contract that, inter alia, provided that the 1948 contract would remain in full force and effect for twelve years from January 1, 1971. On March 1, 1975, Gillring and Tennessee entered into the subject agreement increasing the price to 51.12090 cents per Mcf at 14.65 psia plus annual escalations for all production. Included in the 1975 agreement's price provision was an "area rate" clause. Gillring avers that when the Commission issued Opinion No. 742-A, on July 27, 1976, Tennessee concluded that production from wells drilled prior to January 1, 1973, was entitled to no more than 35 cents per Mcf plus adjustments. Gillring avers, however, that the March 1, 1975, agreement qualifies the subject sales for a rate of 130 percent of 53 cents per Mcf plus adjustments pursuant to 18 CFR 2.56a(a)(5).

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12902 Filed 5-4-77;8:45 am]

[Docket No. ER76-816]

GULF STATES UTILITIES CO.

Order Denying Rehearing

APRIL 29, 1977.

On April 1, 1977, Gulf States Utilities Company (Gulf States) filed an application for rehearing of the Commission's order issued on March 9, 1977 in this docket which rejected Gulf States' February 7, 1977 attempt to file a document entitled "Supplement to Application by Gulf States Utilities Company for Change in Rate Schedules." The rate schedules referred to were those accepted for filing by the Commission, subject to suspension and hearing, in its order of August 31, 1976.[1] The Commission rejected the Supplement as a rate schedule filing since it did not conform to the requirements of Section 35.1(c) of the Commission's Regulations Under the Federal Power Act (18 CFR 35.1(c)).

According to Gulf States, the purpose of the Supplement was to clarify its position as to what period was intended to be used in determining the "minimum billing demand" provision contained in the wholesale contracts. The minimum demand provision in the contracts provided for the determination of the ratchet as "not less than 15 kilowatts nor less than 75% of the greatest maximum load . . . established during any month hereunder." Gulf States interpreted the term "hereunder" as the time covered by all prior service to each customer.[2] The Commission found in its March 9 order that "hereunder" referred to the periods under which the subject rates were effective, i.e., commencing September 2, 1976 for the WSC rates and December 1, 1976 for the WSM rates. In its application for rehearing, Gulf States has requested that the Commission change its interpretation to accept the Company's position or accept the February 7 Supplement or its April 1 Application for Rehearing as a filing for change in rate schedules, granting such waivers as necessary or appropriate to make the change effective as requested.

Gulf States' Application for Rehearing presents no new factual or legal evidence upon which the Commission should modify its March 9 order as to the interpretation of the minimum demand provisions of the contracts which were filed with the Commission on July 29, 1976. As to the July 29 filings, the ratchet should continue to be computed from September 2, 1976 and December 1, 1976, the effective dates of the rates.

But Gulf States has attached to its application for rehearing copies of its Rate Schedules WSC and WSM with the actual language in the respective ratchet clauses changed so that the word "hereunder" is deleted and substituted therefor is the clause "beginning with the billing month of January, 1976." These documents, together with all of the statements, lists, descriptions, schedules, and other information previously filed by the Company which Gulf States incorporated by reference, pursuant to Section 35.19 of the Commission's Regulations (18 CFR 35.19) constitute, in themselves, an application for a rate schedule change under Section 35.1(c) and 35.13 of the Regulations which the Commission will consider in separate proceedings. Gulf States is being notified by letter from the Secretary of the Commission of some deficiences in this filing. As soon as the filing is complete, it will be noticed in the FEDERAL REGISTER pursuant to the Commission's Regulations.

The Commission finds: (1) Gulf States' April 1 application for rehearing presents no factual or legal reasons for the Commission to modify its order of March 9, 1977.

The Commission orders: (A) Gulf States' Application for Rehearing of the Commission's order issued on March 9, 1977 in this docket is hereby denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12905 Filed 5-4-77;8:45 am]

[1] The August 31 order suspended the effectiveness of Gulf States' proposed rates to its municipal customers (Rates WSM) until December 1, 1976 and suspended the effectiveness of Gulf States' proposed rates to its cooperative customers (Rates WSC) until September 2, 1976.

[2] As a practical matter, for the rachet clause, Gulf States only considered its service since January 1, 1976, since the greatest monthly demand for each customer served under these rates had been experienced since that date.

[Docket Nos. ER76-149 and E-9537]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Order Denying Without Prejudice Motion for Summary Dismissal and Requiring Limited Reopening of the Record

APRIL 29, 1977.

On March 2, 1977, the Commission Staff (Staff) filed a motion for summary dismissal of that portion of Public Service Company of Indiana Inc.'s (PSI's) proposed rate of return of 9.75% which Staff claims allows PSI to earn a return on construction work in progress.

In support of its motion, Staff argues that PSI's proposed rate of return provides a return on CWIP by increasing the rate of return above the level justified by PSI's cost of capital evidence. Staff avers that this increase is due to factoring a return of CWIP into the rate of return component, and quotes the following testimony of Dr. Langum, PSI's rate of return witness (Tr. 6:953):

Q. And since I believe you stated in answer to some questions by Mr. Wise the difference between the total capital and net original cost rate base is essentially the construction work in progress, what you have done is adjusted the rate of return to provide a return on CWIP?

A. (By Dr. Langum) To make sure a return is provided on the capital invested in construction work in progress, yes.

Staff notes that providing a return on CWIP contravenes the Commission's stated policy of excluding utilities from earning a return on CWIP. E.g., Western Power Division, Docket No. ER76-92, order issued February 20, 1976 (and cases cited therein). Staff also cites the Commission rulemaking, Order No. 555 (issued November 8, 1976), which prohibits a utility from earning a return on CWIP, except for certain pollution control devices or where the utility is in "severe financial distress." Staff avers that no showing has been made that either circumstance exists for PSI.[1]

On March 17, 1977, PSI filed a motion for an extension of time to reply to Staff's motion. By notice issued March 28, 1977, the Commission Secretary extended the deadline for responses until April 4, 1977. On that date responses in support of Staff's motion were filed by the Intervenor Cooperatives and by the Intervenor IMEA Cities. Also submitted on April 4 was PSI's Answer to Staff's motion. On April 20, 1977, the Commission Secretary issued a Notice of Intention to Act.

In its Answer PSI states that it put no CWIP in its rate base. The Company also contends that there is no Commission policy restricting the rate of return determination to a single method. For this reason it argues that the merits of PSI's rate of return method should not be decided summarily but rather upon the

[1] The Commission notes that PSI filed Docket No. ER76-149 on September 23, 1975. Order No. 555 was issued on November 8, 1976. Order No. 555-A (Order Denying Rehearing), issued January 6, 1977, states that relief under the "severe financial distress" exception will be prospective only (Slip Opinion at 5).

V42187 MAY 5 77 UMI

basis of the record developed in the hearings in this case.

PSI points out that its rate of return witness, Dr. Langum, determines a fair rate of return on the total capital and calculates the return therefrom. PSI then computes the rate of return which, when multiplied by what the Company terms the "net original cost rate base," will produce the same dollars of return as would the rate of return on the total capital. Dr. Langum explains his approach in his direct testimony, as quoted in PSI's Answer:

> My judgment is that the fair rate of return on net original cost which Public Service Indiana should be afforded the opportunity to earn in its wholesale electric business is 9.75 percent. This gives effect to my judgment that the fair rate of return on total capital is 9.35 percent and to the extent that net original cost is less than the corresponding total capital involved. (Tr. 327)
>
> • • • • •
>
> The fair rate of return on total capital is 9.35 percent. The fair return is the number of dollars resulting from multiplication of the fair rate of return on total capital times total capital. *It follows from elementary arithmetic that to produce that same fair return the fair rate of return applied to net original cost rate base must be somewhat more than 9.35 percent. That is 9.75 percent* in my judgment, if net original cost is less than the corresponding total capital invested. (Tr. 327) (Emphasis added in PSI's Answer.)

Consistent with PSI's theory for determining a rate of return, the Company argues that Staff's motion, if granted, would reduce PSI's return below the amount of cash earnings the Company claims it needs to pay interest and dividends in Period II. Under PSI's approach, the return allowed by this Commission should be adequate to pay the interest and dividends associated with the Company's total capital.

Assuming, arguendo, that some of PSI's rate of return relates to CWIP, the Company asserts that the difference between the Company's total capital at the end of Period II (June 30, 1976) and its "net original cost of electric plant" was $62,088,000, but its CWIP at the end of Period II was $132,493,000.[2] PSI therefore contends that the $62,088,000 "is not CWIP" and that therefore PSI has not increased its rate of return based on CWIP.

PSI offers the following "analysis" of the $62,088,000:

Construction work in progress	$132,493,000
Deferred taxes—liberalized depreciation [3]	(76,676,000)
Unamortized investment tax credit [4]	(29,285,000)
Temporary cash investments [5]	29,400,000
Net change in other balance sheet accounts [6]	6,156,000
Total	62,088,000

Finally, PSI objects that Staff's motion was filed some 18 months after the rate case was filed and some months after the hearing has been completed. The Company argues, moreover, that if refunds are ordered now, PSI's wholesale customers in this proceeding will have to apply to the Public Service Commission of Indiana for a reduction of rates pursuant to the wholesale power tracking order of the Indiana Commission. In the case of the smaller customers, PSI avers that refunds under the tracking order will be more costly than the amount of the refunds they will receive from PSI. The Company argues that no real harm will come to the wholesale customers if any refunds which may be required are postponed until the Commission has reached a final decision on the merits of this case.

The Commission finds that the timing of Staff's motion does not unfairly prejudice any party. Moreover, since both wholesale customer Intervenor groups support Staff's motion, these customers are clearly prepared to bear whatever burden the receipt of refunds in this proceeding might impose on them.

No one has alleged that PSI has placed CWIP in the rate base or that the Company has applied the 9.75% rate of return to any CWIP. Rather, Staff alleges that the Company's rate of return was increased from 9.25%[7] to 9.75% to, in effect, provide a return on CWIP.

The validity of PSI's method of determining a just and reasonable rate of return, and of the supporting testimony and exhibits supplied by PSI, is not the subject of the motion before us. As PSI correctly noted, the Company's method and underlying numbers have been the subject of a hearing and will be ruled on initially by the Presiding Administrative Law Judge. Accordingly, it is also beyond the scope of the motion to address PSI's assertion that Staff's motion, if granted, would reduce the Company's return below the amount of cash earnings it claims it needs to pay interest and dividends. This is because PSI's argument on this point is based on its interpretation, as reflected in its rate of return methodology, of what cash needs should be recoverable through the return component of its wholesale rates.

Recent Commission decisions have consistently held that utilities will not be allowed to base rates upon the inclusion of CWIP in rate base. See, e.g., Iowa Power and Light Company, Docket Nos. ER76-404 and ER76-658, issued July 15, 1976, and cases cited therein, slip opinion at 5. This basic policy was reconfirmed in Order No. 555, although an exception was made for CWIP associated with pollution control equipment and conversions and for extraordinary financial difficulty.[8] The Commission stated (slip opinion at 13):

> We cannot emphasize too strongly, however, that we will not consider any inclusion of CWIP in rate base (apart from the exceptions noted above) absent a clear showing of severe financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to consumers.

It is indicated by Company Witness Dr. Langum's testimony (quoted, supra at page 2) and from the formula by which he derived PSI's ultimate rate of return of 9.75%, that a portion of PSI's rate of return may relate to CWIP. However, the information provided by PSI in response to Staff's motion, as well as the data in the record, is insufficient for a proper determination of the amount of CWIP which may be associated with its overall rate of return. We shall therefore require the Presiding Administrative Law Judge to reopen the record of the proceedings for the limited purpose of receiving evidence and conducting an investigation to determine how much, if any, CWIP is related to PSI's overall rate of return. Upon the close of the record the Administrative Law Judge shall certify the record related to this issue to the Commission for its review and for such disposition as may be required.

The Commission finds: (1) The motion for summary dismissal of CWIP in the rate of return, filed by Staff on March 2, 1977, should be denied, without prejudice to such ruling as the Commission may make on the merits of the issue.

(2) PSI should be required to file testimony and exhibits containing the figures, computations, and accompanying explanations which will demonstrate exactly how much CWIP, if any, is related to PSI's overall rate of return of 9.75%.

(3) The Presiding Administrative Law Judge should be required to reopen the record of the proceedings for the limited purpose of receiving evidence and conducting an investigation to determine how much, if any, CWIP is related to PSI's overall rate of return of 9.75%. Upon close of the record, the Administrative Law Judge should certify the record related to this issue to the Commission for its review and for such disposition as may be required.

The Commission orders: (A) The motion for summary dismissal filed by Staff is hereby denied, but without prejudice to such ruling as the Commission may make on the merits of this issue.

(B) PSI is hereby required to file testimony and exhibits containing the information set forth in finding paragraph (2), supra.

(C) The Presiding Administrative Law Judge is hereby required to reopen the record for the limited purpose set forth in the finding paragraph (3), supra. Upon close of the record, the Administrative Law Judge shall certify the record related to this issue to the Commission for its review and for such disposition as may be required.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12904 Filed 5-4-77;8:45 am]

[2] Exhibit 93, page 24.
[3] Ibid., page 25.
[4] Ibid.
[5] Ibid., page 24.
[6] Ibid., pages 24–25.

[7] PSI revised its rate of return from 9.35% to 9.25% to reflect the pro forma planned issue of $40,000,000 of preferred stock in August 1976. See Exhibit 46, pages 44, 49, 50.

[8] Relief under the "severe financial distress" exception is prospective only. See footnote 1, supra.

[Docket Nos. ER76-303 and ER76-399]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order on Reconsideration

APRIL 29, 1977.

The Town of Florence, the City of New London and the City of Shawano, all of Wisconsin ("the Cities") filed on July 14, 1976, a Motion For Reconsideration of that portion of the Commission's Order Granting Timely Petition to Intervene and Denying Motion for Five Month Suspension, issued February 9, 1976, which excluded Mobile-Sierra[1] issues from the proceedings in the above-captioned dockets. A Notice of Intention to Act was issued by the Commission Secretary on October 8, 1976. For the reasons set forth herein, the Commission shall deny the Cities' motion to reject the filing of Wisconsin Electric Power Company and Wisconsin Michigan Power Company in Docket No. ER76-303 with respect to the Cities but shall grant appropriate relief to remedy the filing's surpassing of the contract limit as to amount.

I. PROCEDURAL BACKGROUND

Wisconsin Electric Power Company and its wholly owned subsidiary, Wisconsin Michigan Power Company ("Wisconsin Michigan" or "the Company") tendered for filing a proposed rate increase in Docket No. ER76-303 on November 28, 1975, to 20 wholesale customers of their combined electric system. By order issued December 31, 1975, the Commission accepted for filing and suspended the Companies' proposed rate schedules for two months, to become effective on March 1, 1976, subject to refund.

On December 18, 1975, a timely petition to intervene was filed jointly by 17 wholesale customers (Joint Petitioners), including the Town of Florence (Florence), the City of New London (New London), and the City of Shawano (Shawano).[2] A timely petition to intervene was also filed on December 23, 1975, by the Upper Peninsula Power Company. By order issued February 9, 1976, in Docket No. ER76-303, the Commission granted all the above petitions to intervene. The February 9 order also ruled on, inter alia, Joint Petitioners' statement that "Petitioners reserve the right to question whether the municipal contracts fall within the protection of the Mobile Sierra doctrine" (Pleading at 2). The February 9 order stated (at 3):

> We shall, also, limit this proceeding so as to exclude consideration of the Mobile-Sierra issue. This issue was decided by us in our April 19, 1974, order in Docket No. E-8619, regarding a previous application for a rate increase by the Companies (footnote omitted). We stated, "Our review of the Companies' (Wisconsin Electric Power Company and Wisconsin Michigan Power Company) contracts with (their) jurisdictional customers indicates that they all provide for unilateral rate increase filings by (the) Companies with the Federal Power Commission as provided in the Memphis (footnote omitted) case."

Joint Petitioners applied on March 1, 1976, for rehearing of the Commission's February 9 order. This application addressed itself to the length of the suspension period and the exclusion of the "price squeeze" issue but did not contest the exclusion from the hearing of the Mobile-Sierra issue. The Commission's order of March 22, 1976, denied rehearing of the appealed matters and consolidated Docket No. ER76-303 with the Companies' rate filing in Docket No. ER76-399.[3]

The Motion for Reconsideration which is the subject of this order was filed on July 14, 1976, by three of the Joint Petitioners: Florence, New London, and Shawano ("the Cities"). The Motion requests reconsideration of that portion of the order of February 9, 1976 which excluded Mobile-Sierra issues from the hearing.

II. ARGUMENT OF THE CITIES

The Cities argue that the Commission's finding in Docket No. E-8619 (quoted in the Commission's February 9, 1976 order in Docket No. ER76-303) that the contracts of the Companies' customers allow for "unilateral increases" does not preclude the reconsideration requested. The Cities do not contest that the Companies may unilaterally file for rate increases. Their argument is that the amount of any unilateral increase which Wisconsin Michigan may file affecting the Cities is limited by the terms of their contracts.

The Cities argue: "This issue of contractual limitation may not have been pursued in the previous docket (E-8619) because the limitation involved did not come into play. Settlement in that docket expressly preserved all outstanding issues, including Intervenor's claim that their contracts in some manner fall within the scope of the protection afforded by the Mobile-Sierra doctrine" (Pleading at 2).

The Cities' pleading goes on to state (at 2):

> The movants believe that their contracts with Wisconsin Michigan provide for a wholesale rate which is the same as the company's general rate for service to large industrial customers on file with the Wisconsin Public Service Commission (WPSC) and prohibit any change in the wholesale rate until a corresponding change in the retail rate has been approved by the WPSC. Thus, the movants believe that while they do not have fixed rate contracts in the traditional Mobile-Sierra sense, their contracts limit supplier's ability to initiate unilateral increases by tying the wholesale rate to the supplier's large industrial retail rate. See, *Richmond Power & Light of the City of Richmond, Indiana* v. *Federal Power Commission*, 481 F.2nd 490, 496 (D.C. Cir. 1973).

In addition to the pertinent sections of the contracts themselves (Article III, Section 2 of each contract), the Cities' argument relies on a letter dated January 19, 1962, from Wisconsin Michigan to Florence notifying Florence of a proposed change in rates (filed in Docket No. E-7026) and interpreting Florence's contract to provide that "in the event any change in the latter rate (the general rate for service to large retail customers which is on file with the WPSC) is approved by the Wisconsin Commission, the Town shall accept the same change in contract rate." The Cities argue that by this letter the Company acknowledged that Florence's contract allows unilateral rate increases only up to the currently approved retail rate for large industrial customers.

In support of their position regarding the rate increase limitation written into their contracts, the Cities cite Commission Opinion No. 432 in Wisconsin Michigan Power Company, Docket No. E-7026 (31 FPC 1445 (1964)), together with the Initial Decision in the proceeding, issued January 7, 1964, by the Hearing Examiner 31 FPC 1466 (1964)). The findings in Opinion No. 432 and the Initial Decision will be examined in our Discussion, infra.

Cities also note that, despite the findings in Opinion No. 432, Wisconsin Michigan has not cancelled the Cities' contracts, despite the opportunity to do so.[4] By contrast, the Cities allege that Wisconsin Electric, the parent of Wisconsin Michigan, issued new standard contracts to its municipal customers in 1965 which contain no language requiring the Company's wholesale rate filing before the FPC to maintain parity with the Company's rates to large retail users.

Finally, the Cities point to Order No. 541-A, issued June 29, 1976 in Docket No. RM74-15, as demonstrating that the Commission recognizes that wholesale customers might seek exactly the kind of protection of their competitive position as is provided by the Cities' contracts.

III. ANSWER OF WISCONSIN MICHIGAN

Wisconsin Michigan filed on July 29, 1976, an Answer to Cities' Motion for Reconsideration. The Company argues that the Commission's order of February 9, 1976 correctly determined that the Cities' contracts provide for unilateral rate increase filings. More specifically, the Company alleges that the Company's and the Cities' actions before the FPC and the WPSC subsequent to the forma-

[1] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra-Pacific Power Co.*, 350 U.S. 348 (1956).

[2] The other Joint Petitioners: the Cities and Villages of Clintonville, Oconto Falls, Cedarburg, Deerfield, Elkhorn, Hartford, Jefferson, Kiel, Lake Mills, Oconomowoc and Waterloo, Wisconsin; Oconto Electric Cooperative, Alger Delta Cooperative Electric Association, and Ontonagon County Rural Electrification Association.

[3] The application in Docket No. ER76-399, filed December 29, 1975, proposed revised rates for service to the Cities of Kaukauna and Menasha, Wisconsin.

[4] By its terms, each of the pertinent contracts remains in effect for succeeding ten year periods, where proper notice of cancellation has not been given.

V 42187 MAY 5 77 UMI

tion of their contracts but prior to the instant filing "demonstrate that the parties in at least the last ten years have understood their agreement to be modified to remove the Cities from the large industrial rate and to place them on the wholesale rate."

In support of its position the Company cites:

• • • the rule of *Sam Rayburn Dam Electric Cooperative* v. *F.P.C.*, 515 F.2d 998, 1007 & 1009 (D.C. Cir. 1975), *cert. denied sub nom., Gulf States Utilities Co.* v. *F.P.C.*, 96 S. Ct. 2229 (1976). There the District of Columbia Circuit observed, in a Sierra-Mobile context, that parties to a contract "may evidence a modification of the original terms of a contract by their subsequent conduct • • •" and "may vary its terms by a subsequent course of conduct" (footnotes omitted) (Id.). The Court held that there was "no reason that the recognized law governing contracts (as to modification through subsequent course of conduct) should be ignored merely because the subject matter of a contract falls under the jurisdiction of the FPC" (515 F.2d at 1009). See also *Appalachian Power Co.* v. *F.P.C.*, 529 F. 2d 342, 350 at note 60 (D.C. Cir. 1976); *Gulf States Utilities Co.* v. *F.P.C.*, 518 F.2d 450, 455–56 (D.C. Cir. 1975) (Footnote omitted.)

The Company maintains that, when Opinion No. 432 "rejected the Cities' argument as to the retail large industrial rate," it relieved the Cities by operation of law under the Federal Power Act of their contractual obligation to receive and adopt retail rate changes. The Company continues:

That obligation on the Cities' part was clearly the consideration for the Company's obligation to extend the retail rate under the original service contracts. Opinion No. 432 therefore resulted in a failure of consideration discharging the Company from any duty to extend a retail large industrial rate. (Footnote omitted.) The Company no longer is obligated to extend the retail rate because the Cities no longer have to accept it. The void created by this failure of consideration on the Cities' part by operation of law was filled by the parties' subsequent dealings.

The Company's Answer proceeds to describe the parties' dealings subsequent to Opinion No. 432. These dealings will be reviewed in our Discussion, infra.

IV. Discussion

A. *Opinion No. 432.* The proceeding in Docket No. E–7026 concerned rate increases to nine customers, including six cities to which service at rates equal to the large-user retail rates had been continuous for at least 20 to 40 years (31 FPC 1469). In a decision issued May 29, 1951, in Docket No. E-6268, the Commission ruled that Wisconsin Michigan's sales to the cities and certain other customers were at wholesale and in interstate commerce and must be made only at the rates effectively on file with the Commission, as required by the Federal Power Act.[6] This ruling was affirmed by the Court of Appeals for the Seventh Circuit,[7] and certiorari was denied by the Supreme Court on April 13, 1953.[8]

[6] Wisconsin Michigan Power Co., 10 FPC 170 (1951).

[7] 197 F.2d 472 (1952).

[8] 345 U.S. 934 (1953).

In his Initial Decision in Docket No. E–7026, the Examiner wrote:

The concept is important that the company has consistently maintained a policy of the same rates for its large users and for its wholesale customers; that the large users' retail rates were increased in 1960 and 1961; and that the corresponding increases for nine of their ten or more wholesale customers is the subject of this proceeding. (31 FPC 1470.)

The contracts for the three Cities vary somewhat in wording but effectuate the same result. Article III, Section 2 of the contract between the Company and New London, signed on June 21, 1949, states: [9]

It is hereby agreed and understood that should there be any revision and/or change in said Rate VII approved by the Wisconsin Public Service Commission, at any time during the life of this contract, then the Distributor shall under this contract automatically receive and accept such revised rates.

In Opinion No. 432 the Commission stated:

We are in accord with the Examiner's view that these agreements are not fixed rate contracts, since they plainly contemplate an escalating arrangement to maintain parity between the rates of the large retail users and the wholesale rates. Moreover we agree with the Examiner that the triggering event for the increase is not an invalid or prohibited State commission regulation of interstate wholesale rates but rather a validly approved rate for retail service. The contracts as we construe them thus provide for an automatic contractual acceptance of a rate change, subject to the requirements of filing under Section 205 with FPC. (31 FPC 1449.)

The Examiner's Initial Decision contains a detailed analysis of the disputed Article III, Section 2 language in a number of contracts between the Company and its customers, including the three Cities which filed the subject motion (31 FPC 1471–1483). The Examiner set forth as follows the issue before him:

The question at this point is not what increases the cities must pay . . . the only immediate question is whether the company by its contract has, to quote the Supreme Court cases cited, abrogated or bargained away its right under the Federal Law to file for the increases and seek the Power Commission's approval effectively to collect them. (31 FPC 1475.)

In reaching a decision on this issue the Examiner recognized that:

• • • the State Commission action here is not at all the controlling force which makes the just and reasonable increases payable; the only effect in this immediate connection of the state's action upon the retail rates is to counter and overrule the thought that the company by its contract has disenabled itself, or abrogated its right, to file increases, justify and charge them *up to the level* (as a ceiling) of the newly effective state rates for the corresponding retail sales. (Emphasis added.) (31 FPC 1474–1475.)

• • • • •

Regardless of the state rates and regardless of the state commission action on the state rates, the increase in the interstate wholesale rates becomes finally effective only if found just and reasonable by the Federal Power Commission under the Federal Power Act, as every one in this case well understands by their participation in it and as the company recognized by withholding the effective date of the increases for the five months suspension period provided in the Federal law. (31 FPC 1475.)

The Examiner (and ultimately the Commission in Opinion No. 432, 31 FPC 1449) thus concluded that, under the terms of the subject contracts, state approval of the Company's large retail user rate is the triggering event for the filing of a corresponding wholesale rate. But although such wholesale filing obtains the automatic contractual acceptance of the customer, the filed wholesale rate must be found to be just and reasonable by the Federal Power Commission.

The effect of the Examiner's and the Commission's interpretation of the contract language was to preserve the course of dealing which had existed between the Company and some of the Cities for at least 20 to 40 years.

In its Answer to Motion for Reconsideration the Company states that in Opinion No. 432 the Commission made clear that the wholesale rate to the Cities was to be developed under the Commission's ratemaking principles "without reference to the level of the retail large industrial rate" (p. 4). This is not entirely accurate, since the Opinion noted that the contracts contemplate an escalation arrangement to maintain parity between the two rate classes. Similarly, the Initial Decision, with which the Commission voiced accord, stated in at least three places that the level of the most recently effective retail large industrial rate establishes a ceiling for proposed wholesale rate increases to the Cities (31 FPC 1473, 1476, 1477).[10]

[9] Article III, Section 2 of the contract between the Company and Florence, signed on October 11, 1949, states:

It is hereby agreed and understood that should there be any revision and/or change in the above rate as applied to other customers receiving the same class of service approved by requisite governmental authorities, at any time during the life of this contract, then the Customer shall under this contract automatically receive and accept such revised rates. The rate structure utilized in this contract, although approved by the Public Service Commission of Wisconsin on December 18, 1948 (supplemented by order of December 23, 1948) has been questioned by the Federal Power Commission. Each commission has claimed jurisdiction over the matter. Should a withdrawal, correction or modification of such rate result and the effect thereof be to lessen the amount of the charge resulting from this contract, the customer will be given an appropriate refund consonant with the facts.

Article III, Section 2 of the contract between the Company and Shawano, signed on September 4, 1934, states:

It is hereby agreed and understood that should any revision of rates be made at any time during the life of this contract to other customers of the Power Company of the same class as the Distributors herein named, then the Distributor shall under this contract automatically receive and accept such revised rates.

[10] The Commission has the authority to order a proceeding under Section 206(a) of the Federal Power Act to determine whether the contract rate is "unjust, unreasonable, unduly discriminatory or preferential • • •." Under *F.P.C.* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1955), a rate fixed by contract may be altered if it is demonstrated that the contract rate is so low as to be adverse to the public interest.

In its Answer the Company maintains that, when the Commission in Opinion No. 432 "rejected the Cities' argument as to the retail large industrial rate," it relieved the Cities of their contractual obligation to accept retail rate changes, thereby in turn discharging the Company from any duty to extend this retail rate to the Cities. This assertion invites a closer look at the Cities' argument and the Examiner's response.

One of the Cities' chief arguments in Docket No. E–7026 (in which docket Opinion No. 432 was issued) had been that the debated contract language "purports to impose automatically whatever rates are determined by the Wisconsin Commission for the comparable retail customers," and that this constituted "an invalid, indirect imposition of state regulation on these interstate sales" (31 FPC 1475).

To this assertion the Examiner responded:

The cities • • • confuse the issue by claiming that the Town of Florence should not be regarded as "bound automatically by rates set by the Wisconsin Commission." Of course that is not the question, nor is it the case. The purpose and effect of the quoted Section 2 are not to bind the town to anything but to unbind the company; what the town is bound by is Section 205 of the Federal Power Act, the rates filed by the company under authority of that Act, and the decision of the Federal Power Commission on the validity of those rates. (31 FPC 1477.)

In summary, the concept of parity between the large retail users' rates and the Cities' rates is retained. The only thing changed is that the Cities are now bound to rates approved under Section 205 of the Federal Power Act instead of under the rules of the state regulatory commission.

B. *Conduct of the Parties After the Issuance of Opinion No. 432.* Opinion No. 432 was issued on June 9, 1964.[11] It was the Commission's final decision in Docket No. E–7026, which had been initiated by the Company's rate filing of January 19, 1962. On the same date the Company wrote to Florence informing the town of the filing and referring to the retail rate-tracking provision in their contract.[12] In their instant Motion the Cities argue that "by the company's own admission Florence's contract limits the company's ability to effect unilateral rate increases by allowing for increases only up to the currently approved retail rate for large industries" (Motion at 2).

The existence of the Company's January 19, 1962 letter to Florence does not aid the Cities' cause in the current proceeding, however. For one thing, in 1962 the Company's "admission" was in fact its position in the hearing in Docket No. E–7026.[13] In that proceeding, the Cities argued that the contracts contained fixed rates, thus barring any unilateral filing, regardless of amount.[14]

What is more important, the heart of Wisconsin Michigan's Answer to the Cities' Motion for Reconsideration is that the course of conduct of the parties to the contracts during the last ten years evidences a modification of the original contracts which permits the rate levels in the Company's filing in Docket No. ER 76–303.

In *Sam Rayburn Dam Electric Cooperative* v. *F.P.C.*, (supra at p. 5) the D.C. Circuit Court of Appeals affirmed that the Federal Power Commission has the duty to ascertain whether or not a proposed rate increase conflicts with any existing contractual arrangements between a company and its customers. The court held that such inquiry would necessarily include an evaluation of a party's claim that the parties' mutual course of dealing served to effect a modification of the terms of the written contract on file with this Commission (515 F. 2d 1009). It is for this Commission therefore to make the initial determination of whether such a modification did in fact occur.

The Commission has stated that such an evaluation must include an examination to determine whether the parties had been acting in the belief that the original contract terms had been abrogated.[15]

The Company asserts that in the years following the issuance of Opinion No. 432 the Cities and the Company "have treated the Company's large industrial rate as affecting only its retail business and its wholesale rate as the sole rate for application to the Cities" (Answer at 5). The Company goes on to list its filings in the last ten years affecting its large industrial rate. According to the Company, it reduced the rate in 1966 by $56,600; increased the rate in 1969 by $692,408; reduced the fuel adjustment clause revenues in 1969; raised the rate in 1970 by $345,932; reduced fuel clause revenues in 1971; increased the rate in 1973 (as finalized in 1974) by $282,634; and obtained an interim increase in 1975 of $1,022,204.

In the past ten years the Company has made four wholesale rate filings. In November 1966 the Company filed for a rate reduction of $83,170. In September 1970 (in Docket No. E–7555) it filed for a rate increase of $273,000 to eight of its wholesale customers, including the three Cities which filed the Motion for Reconsideration in the instant docket. In February 1974 (in Docket No. E–8619) Wisconsin Michigan and Wisconsin Electric Power Company jointly filed for a rate increase of $3,053,000.

The Company now asserts that none of the changes in the large user retail rates were extended to the wholesale customers, nor did the latter request them. In addition, the Company refers to letters from the three Cities acknowledging acceptance of the 1966 rate reduction which state: "We understand this acceptance to preclude neither the supplier nor the wholesale customers from proposing further changes." [16] The Company concludes that, "Quite evidently, the Company and the Cities no longer considered that it was the Cities' contractual obligation to 'automatically receive and accept,' to use the contractual language, changes in the large industrial rate" (Answer at 5).

As has been noted, the contract language "automatically receive and accept" was already in Docket No. E–7026 not a strictly accurate description. Since the imposition of the Federal Power Commission's jurisdiction over the Company's wholesale rates, those rates, to be effective, must be found to be just and reasonable by the Commission. In Docket No. E–7026 the Company filed the proposed wholesale rate changes about eight months after the large industrial user retail rate had been approved by the Public Service Commission of Wisconsin.[17] At that point the Company noted that, until its filing in Docket No. E–7026, the Company had not reflected in its wholesale rates the increases in its retail rates granted by the Wisconsin Commission in 1949 and 1961.[18]

We are not persuaded by the Company's argument that the somewhat ambiguous language in the Cities' letters accepting the 1966 rate reduction demonstrates acknowledgement that the contract limitations have been abrogated. The letters refer to the parties' right to "propose" a new rate. Presumably either party to the contract may propose a new rate and the other party has the right to accept it, by waiving its contractual rights, if necessary. But an agreement thus met does not permanently abrogate the underlying contract terms (see discussion, infra at 16).

Wisconsin Michigan argues that, since some time after the issuance in 1964 of Opinion No. 432, its wholesale rate filings have not "tracked" the retail rate filings to its industrial large users. The Company apparently deleted any reference to the retail rate in cover letters to its wholesale filings and claims that it did not attempt to maintain parity between the two rate classes. In the Com-

[11] No petition for rehearing was filed.

[12] The letter is attached as Appendix D to the Cities' Motion for Reconsideration.

[13] The Examiner summarized the Company's position on this issue as follows: The company's position is put very simply that they certainly did not intend to bind themselves for a long term of years to charge to the wholesale customers only the large user's retail rate in effect at the time of the contract signing, but that Section 2 was inserted for the express purpose of changing the wholesale rate agreed upon to accord with and equate any changes, up or down, which the state commission might approve and make effective for the large-user retail customers subject to its jurisdiction. (31 FPC 1472.)

[14] See the Examiner's discussion, 31 FPC 1471–1483.

[15] Order on Petitions for Rehearing in *Potomac Edison Company*, Docket No. ER76–221; issued June 1, 1976, slip opinion at 6; Order on Petition for Rehearing in *Potomac Edison Company*, Docket No. ER76–788, issued November 16, 1976, slip opinion at 3. See also 17A CJS Contracts § 374.

[16] The letters are attached as Appendix A to the Company's Answer to Motion for Reconsideration.

[17] The large industrial user retail rate was approved on May 26, 1961. See letter from the Company to Florence dated January 19, 1962, which is attached as Appendix D to the Cities' Motion for Reconsideration.

[18] Id., page 2 of letter.

V 42 87 MAY 5 77 UMI

pany's view, the Cities' acquiescence in this course of dealing signals a modification to their contracts.

But a modification to a contract requires all the parties to be acting in the belief that the original contract terms have been abrogated. It must therefore be determined whether there is cause to infer that the Cities' actions or nonactions reflect the intention and belief that the contract terms have been modified in the manner alleged by the Company.

Although the Company dropped any reference to comparable retail rates in its wholesale filings, nevertheless its wholesale rate changes were filed in the same years in which changes in the industrial retail rates were approved: both were decreased in 1966 and increased in 1970, 1974, and 1975. Two other retail filings in 1969 and 1971 adjusted downward the revenues collected by the Company under the retail fuel adjustment clause. The dollar amounts of these adjustments have not veen supplied, so we do not know to what extent the adjustments reduced the overall rate level.

The precise timetable of wholesale filings in relation to retail filings is not set forth in the Company's Answer, though it is known that on four major occasions approval of the industrial retail rate and the filing of a wholesale rate change occurred in the same year. But even if we find persuasive the Company's assertion that it no longer looks to state approval of its industrial retail rate as the event which triggers an equivalent wholesale filing, the Company has not proven enough.

In Opinion No. 432 the Commission stated that the contracts in question "plainly contemplate an escalation arrangement to maintain parity between the rates of the large retail users and the wholesale rates" (31 FPC 1449). The underlying Initial Decision in Docket No. E–7026 clearly preserved the parties' historical agreement of parity between the Company's industrial retail and wholesale rates by specifying (thrice, as cited, supra at 9) that the Company could file wholesale rates up to the ceiling of the newly effective state rates for the corresponding retail sales.

Therefore, even if the Company ceased to view the industrial retail rate level and the wholesale rate level as being in lock step, nevertheless it was bound by its contract to set the wholesale rates no higher than the industrial retail rate level. The practical effect of this limitation is most likely that a proposed increase in wholesale rates must await an approved increase in the industrial rates.

What is certain is that the Company, not the customers, controls the level of wholesale rates which are filed with this Commission. If the Company does not choose to exercise its right to file wholesale rates up to the allowable ceiling set by the comparable retail rates, it cannot then turn around and argue that the contracts are modified because the Cities are no longer paying a rate comparable to the industrial retail rate. It is unconvincing to argue that the Cities should have lodged some sort of objection to rates which fell somewhere below the allowable ceiling or to argue that the Cities' failure to object evinced a willingness to abrogate the filing restrictions in their contracts.

Moreover, on the two occasions that the Company filed wholesale rates at levels which surpassed [17] the comparable retail rate level, the Cities did object to the filings.[18] In Docket No. E–8619 the affected wholesale customers, including the three Cities involved herein, protested the filing on the basis of the Mobile-Sierra doctrine. While the petitioners in Docket No. E–8619 did not articulate the correct basis for objection, nevertheless the fact that they protested belies the Company's interpretation that the Cities regard all filing limitations in their contract as abrogated.

The situation was not greatly clarified by the Commission's order, issued April 19, 1974, in Docket No. E–8619, which accepted and suspended the filing and held that the customers' contracts provide for unilateral rate filings. The Commission's conclusion was accurate but incomplete, as it made no reference to the rate ceiling affirmed in Opinion No. 432.

The fact that Docket No. E–8619 was ultimately settled does not erode the Cities' rights under their contracts. In Mobile the Supreme Court recognized that a contract rate may be changed by the mutual agreement of the parties without changing the fixed rate nature of the contract (350 U.S. 343). Similarly, even if the settlement concluded in Docket No. E–8619 contained rates above the allowed level, it would not serve to modify the contract by removal of the rate ceiling, absent specific terms to that effect.

Again in Docket No. ER76–303 the Company filed wholesale rates which, at least for New London and Shawano, were above the level of the applicable large industrial retail rate. Again the Cities protested the filing on the general grounds of the Mobile–Sierra doctrine, thereby continuing to abjure unrestricted unilateral filings, though with no more specificity than in the previous docket.

Based on the foregoing discussion, this Commission is not persuaded by the Company's claim that the parties' course of conduct has modified the contracts in the manner alleged by the Company. Although the actions and non-actions of both the Cities and the Company occasionally raised questions concerning just what they understood their agreement to be, it is not sufficient to show an ambiguous course of dealing from which one party might reasonably infer that the original contract was still in force, and the other that it had been modified.[19] We do not find that the conduct of the Cities in the last ten years demonstrates an intention or belief that the contract limitation on the level of the Company's wholesale filings has been abrogated.

The Company argues that, regardless of whether or not the contentions of Florence and New London are accepted, Shawano's contentions should be rejected, because its contract is not governed by the same considerations as the other Cities' contracts. The Company argues that Shawano's contract is worded differently than the Florence and New London contracts [20] and does not refer to the large user (industrial) rate by name or entitle the City to automatically receive and accept changes in that rate.

The Company's contract with Shawano was entered into in 1934, years before sales thereunder came within this Commission's jurisdiction. For many years the Company consistently charged the same rate levels for its large user retail customers and for its wholesale customers. The rates charged to Shawano clearly came under this policy, and for years it was obvious that "other customers * * * of the same class" referred to the large user retail customers, whose rates were approved by the state commission. In fact, the Company's contract with Florence says as much. It refers to revisions in the rate as applied to "other customers receiving the same class of service," and the context of the provision makes clear that these other customers are the large user retail customers.[21] In any event, even if the Company's assertion were accurate, the rates to the Company's wholesale class of customers are still limited by the rate level applicable to the large user retail customers.

Wisconsin Michigan argues that, for failing to apply for rehearing, the Cities are bound by the Commission's holdings on the Mobile–Sierra issue in its orders issued April 19, 1974, in Docket No. E–8619 and February 9, 1976, in Docket No. ER76–303. As has been discussed (supra at 2, 15), in these orders the Commission held that the Company's contracts with their wholesale customers provide for unilateral rate filings with this Commission. This conclusion was accurate but incomplete, as it made no reference to the rate ceiling affirmed in Opinion No. 432. Not until the Cities filed their Motion for Reconsideration in this proceeding was the holding of Opinion No. 432 adverted to.

To be sure, the Cities have been tardy in articulating the proper objection to

[17] In Docket No. ER76–303 the filed wholesale rate levels for New London and Shawano surpassed the comparable retail rate level; the rate for Florence did not.

[18] The filing in Docket No. E–7555 apparently did not surpass the comparable retail rate level. There was no need, therefore, for the Cities to raise the contention that the wholesale rates were contractually limited by the retail rate level.

[19] 17A C.J.S. Contracts § 374.

[20] The relevant language in the contracts of all three Cities is quoted, supra at 7.

[21] The relevant language of Florence's contract is quoted, supra at 7; footnote 8. "The above rate" referred to therein is described, in Article I, Section 1 of the contract, as the Company's Large Users' Power Service Rate VII on file and approved by the Wisconsin Public Service Commission.

the Company's filed rates. As we have seen, none of the pleadings on which the orders ruled made any mention of the rate ceiling affirmed in Opinion No. 432. But the fact remains that, regardless of the cause therefor, the Commission's two previous orders dealing with this issue did not discuss in full all of the parties' rights under the contracts. We therefore deem it appropriate and in the public interest to resolve completely and thoroughly in this Order on Reconsideration the arguments raised by the Cities' Motion and the Company's Answer. We note that the power of an administrative agency to reconsider its own findings or orders has no relation to, and is not affected by, the doctrine of res judicata.[22]

The Commission does not believe that rejection of the Company's filing in Docket No. ER76–303 with respect to the three Cities is the appropriate remedy in this proceeding. The claim made by the Cities and sustained in this order is that the amount of the increase in Docket No. ER76–303 is limited by the level of the Company's large industrial retail rate. The proper remedy therefore is to require the Company to refund to the affected petitioning Cities that portion of the rate which is above the level of the large industrial rate. The refunds (at 9 per cent per annum interest) shall apply to amounts over the allowed level collected after March 1, 1976, the effective date of the rates filed in Docket No. ER76–303. Since the rates to the City of Florence are not above the level of the large industrial rate, no refunds to it will be required in this proceeding.

The Commission finds: (1) Good cause exists to deny the Cities' motion to reject the filing of the Companies in Docket No. ER76–303 with respect to the Cities.

(2) It is proper and appropriate in the public interest that Wisconsin Michigan Power Company be directed to eliminate from the rates which became effective March 1, 1976, in Docket No. ER76–303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's most recently approved large industrial retail rate on file with the Public Service Commission of Wisconsin.

The Commission orders: (A) The Cities' motion to reject the filing of the Companies in Docket No. ER76–303 is hereby denied.

(B) Within 60 days of the date of issuance of this order, Wisconsin Michigan Power Company shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 percent per annum interest of any amounts collected after March 1, 1976, which are above the level of Wisconsin Michigan's most recently approved large industrial retail rate on file with the Public Service Commission of Wisconsin.

[22] See C.J.S. Contracts § 606.

(C) Wisconsin Michigan Power Company shall file a report with this Commission attesting to its compliance with the refund obligations imposed in ordering paragraph (B), supra.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–12903 Filed 5–4–77;8:45 am]

FEDERAL RESERVE SYSTEM

FARMBANC CO.

Formation of Bank Holding Company

Farmbanc Company, Chattanooga, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company through acquisition of 95.7 percent of the voting shares of Farmers National Bank, Winchester, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 27, 1977.

Board of Governors of the Federal Reserve System, April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–12875 Filed 5–4–77;8:45 am]

FIRST INTERNATIONAL BANCSHARES, INC.

Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent, less directors' qualifying shares, of the voting shares of Peoples State Bank, Baytown, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 27, 1977.

Board of Governors of the Federal Reserve System, April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–12876 Filed 5–4–77;8:45 am]

NORTH FORK CORP.

Formation of Bank Holding Company

North Fork Corporation, Paonia, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of Paonia, Paonia, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 25, 1977.

Board of Governors of the Federal Reserve System, April 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–12877 Filed 5–4–77;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Denying Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bexar County National Bank of San Antonio, San Antonio, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the United States Department of Justice, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Texas, controls 32 banks with aggregate deposits of approximately $3.7 billion, representing 7.6 percent of the total commercial bank deposits in the State.[1] Acquisition of Bank ($126.7 million in deposits) would increase Applicant's share of Statewide deposits by 0.2 percent and would not result in a significant increase in the concentration of banking resources in Texas.

Bank is the fourth largest of 44 banking organizations operating in the San Antonio banking market, controlling 4.8

[1] Unless otherwise noted, all banking data are as of September 30, 1976, and reflect bank holding company formations and acquisitions approved through April 15, 1977.

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percent of market deposits.[2] Applicant operates two banks in the San Antonio market and is the eighth largest commercial banking organization therein, controlling 4.1 percent of market deposits. Thus, consummation of the proposal would significantly increase Applicant's market share, to 8.9 percent. Furthermore, the facts of record show that one of Applicant's San Antonio banking subsidiaries is located only 3.3 miles southeast of Bank and that approval would eliminate significant existing competition between Bank and Applicant's banking subsidiaries in the market.[3]

Bank ranks among the top 5 percent of all Texas banks in deposit size [4] and is the largest independent bank in the San Antonio banking market, more than twice the size of the largest remaining independent bank in downtown San Antonio; thus, approval of the proposal would remove an attractive entry vehicle for a Texas bank holding company not currently represented in the growing San Antonio market.[5] Approval would also lessen the possibility of future market deconcentration through the entry of another banking organization into the market. On the basis of the foregoing and other facts of record, the Board concludes that approval of the application would have significantly adverse competitive effects.

In acting upon this application, the Board has considered the comments of the Department of Justice and Applicant's responses thereto. The Justice Department indicated that, in its opinion, the proposed acquisition would have an adverse competitive effect since it would eliminate existing competition to a significant degree, eliminate the potential for increased competition between Applicant and Bank, and lead to a significant increase in the concentration of commercial banking in the San Antonio area, and, more specifically, within Bexar County. Applicant responded that existing competition between Applicant and Bank was de minimis since Applicant's closest banking subsidiary, Highland Park State Bank, is a suburban retail bank while Bank is a downtown commercial bank. Applicant further contended that the concentration ratio of the four largest banks in the San Antonio commercial banking market is the lowest in any principal city in Texas; that no significant increase in concentration will result from consummation of the proposal; and, moreover, the concentration ratio has decreased by 3.4 percentage points since 1970. Finally, Applicant indicated that consummation of the proposal would not eliminate the potential for increased competition by foreclosing the possibility that Applicant would establish a de novo bank or that Bank would form a holding company, since Applicant, as a matter of management policy, has never formed a de novo bank outside the area of metropolitan Houston, and Bank's management had considered and rejected the possibility of forming its own bank holding company or becoming affiliated with a smaller regional bank holding company.

It is the Board's opinion, however, based on the foregoing and other facts of record, that competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are clearly outweighed by benefits to the public in meeting the convenience and needs of the communities to be served.

The financial and managerial resources and prospects of Applicant, its subsidiary banks, and Bank are generally satisfactory. Thus, banking factors are consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served lend little, if any, weight toward approval. Applicant contends that by affiliation it would provide Bank with the capability of offering full-line wholesale banking services, consumer-sized certificates of deposit, and an extension of Bank's operating hours; however, the banking needs of the area are currently being met and an array of such services is already available in the San Antonio market. The Board finds that neither the considerations relating to banking factors, nor to convenience and needs, are sufficient to outweigh the significantly adverse competitive effects of Applicant's proposal.

Based upon the foregoing and other considerations reflected in the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application should be, and hereby is, denied for the reasons summarized above.

By order of the Board of Governors,[6] effective April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12878 Filed 5-4-77;8:45 am]

[2] The relevant banking market for analyzing the competitive effects of the subject proposal is the San Antonio banking market which is approximated by the San Antonio SMSA (Standard Metropolitan Statistical Area), comprised of Bexar, Comal, and Guadalupe Counties. All market data are as of December 31, 1975.

[3] Bank derives 8.9 percent of its deposits and 16.2 percent of its loans from the service areas of Applicant's two market subsidiaries, Highland Park State Bank and The First National Bank of New Braunfels.

[4] Bank ranks 34th out of the 1,144 banking organizations in Texas as of December 31, 1975.

[5] Between 1970 and 1975 the population of the San Antonio SMSA increased 10.7 percent while the population of Texas increased 8.8 percent over the same time period.

[6] Voting for this action: Chairman Burns, and Governors Jackson, Partee and Lilly. Abstaining: Governor Coldwell. Absent and not voting: Vice Chairman Gardner and Governor Wallich.

WINTERS NATIONAL CORP.

Proposed Acquisition of Mead Financial Services, Inc.

Winters National Corporation, Dayton, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire all of the outstanding voting shares of Mead Financial Services, Inc., Dayton, Ohio, through its wholly-owned subsidiary, Winters National Leasing Corporation, Dayton, Ohio. Notice of the application was published on April 3, 1977, in the "Dayton Daily News," a newspaper circulated in Dayton, Ohio.

Applicant states that the proposed subsidiary would engage in the activities of leasing real and personal property or acting as agent, broker, or advisor in leasing such property, where at the inception of the initial lease the expectation is that the effect of the transaction and reasonable anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 26, 1977.

Board of Governors of the Federal Reserve System, April 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-12879 Filed 5-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

NURSING RESEARCH AND EDUCATION ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1977:

Name: Nursing Research and Education Advisory Committee.
Date and time: June 21-24, 1977, 8:30 a.m.
Place: Federal Center Building No. 2, 3700 East West Highway, Hyattsville, Maryland 20782. Open June 21, 8:30 a.m.—9 a.m. Closed remainder of meeting.

Purposes. The Committee is charged with the initial scientific review of research grant and research training applications related to the diagnosis, treatment, and prevention of health problems. Included are programs of research grants to expand the scientific base in all areas of nursing practice, education, and administration, and programs of research fellowships in these and related fields to train nurse scientists.

Agenda. The open portion of the meeting will cover administrative and staff reports. The remainder of the meeting will be closed to the public for the review of research grant applications for Federal assistance, including National Research Service Awards submitted for predoctoral and postdoctoral research training in nursing and related biomedical and behavorial fields, in accordance with the provisions set forth in section 552b(c)(6), and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Doris Bloch, Bureau of Health Manpower, Room 3-50, Federal Center Building No. 2, 3700 East West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6204.

Agenda items are subject to change as priorities dictate.

Dated: April 28, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-12841 Filed 5-4-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

BASIC CARTOGRAPHIC INFORMATION

Interagency Agreement

CROSS REFERENCE: For a document regarding an interagency agreement on the Basic Cartographic Information Program implemented by the Geological Survey and the Department of Housing and Urban Development, see FR Doc. 77-12887 appearing in the Notices section of this issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 36936]

NORTHERN TIER PIPELINE CO.

Application

APRIL 26, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Tier Pipeline Company filed an application for a right-of-way to construct a 40"/42" pipeline for the purpose of transporting crude oil across National Resource Lands and other Federal lands.

The pipeline will transport crude oil from Port Angeles, Washington, to Clearbrook, Minnesota, crossing the States of Washington, Idaho, Montana, North Dakota, and Minnesota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their names and addresses and send them to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.77-12852 Filed 5-4-77;8:45 am]

OREGON

Establishment of Recreation Use Controls Within Boundaries of Wild River Area of Rogue River Component of National Wild and Scenic Rivers System

Public notice is hereby given by authority of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.); Federal Land Policy and Management Act of 1976 (90 Stat. 2473; 43 U.S.C. 1701 et seq.); Land and Water Conservation Fund Act (78 Stat. 899), as amended (16 U.S.C. 4601-6a); 43 U.S.C. 1181a; 43 U.S.C. 1201; 43 U.S.C. 1374; 16 U.S.C. 670 g-n; 16 U.S.C. 1241 et seq.; 43 CFR Part 18; 43 CFR Subpart 6223; Notice of Revised Development and Management Plans for the Rogue National Wild and Scenic River, Oregon (37 FR 13408, July 7, 1972); 30 Stat. 35, as amended (16 U.S.C. 551); 33 Stat. 628 (16 U.S.C. 472); 36 CFR 211.1; 36 CFR 251.1 through 251.3; 36 CFR 261.50; and 36 CFR 261.58.

The Federal lands described in 34 FR 15571, October 7, 1969, and 37 FR 13415, July 7, 1972, which are located between the mouth of Grave Creek and the mouth of Watson Creek, the regulated area, are hereby open to non-commercial boaters and to authorized outfitters and guides, when engaged in commercial operations, who meet the qualifications set forth below and are in compliance with the provisions herein stated. The State of Oregon, acting by and through the Marine Board in cooperation with the Federal agencies and Oregon Scenic Waterways System by authority of ORS 488.600 (3), has promulgated regulations for use of State waters located in the area described above.

Therefore, in accordance with the intent of Congress, commercial and noncommercial use of the previously described Wild River Area will be permitted under the following limitations and conditions.

PERMIT REQUIREMENTS

No boating party will be authorized to operate in the Rogue Wild River Area without obtaining a valid permit and complying with the stipulations contained therein.

Commercial permits, approved by the Bureau of Land Management, the Forest Service, and the Oregon State Marine Board, may be applied for by contacting the BLM District Office, 310 W. Sixth Street, Medford, Oregon 97501, phone 503-779-2351, ext. 341, or the Siskiyou Forest Headquarters, 1504 N.W. Sixth Street, Grants Pass, Oregon 97526. During the period of June 15 to September 30, inquiries pertaining to permit requirements will be received at the Rand Site Headquarters, 14333 Galice Road, Merlin, Oregon, phone 503-476-3744.

All boating parties, before entering the regulated area, must stop and register at Grave Creek. Commercial outfitters must be scheduled on a daily launch schedule approved in advance by representatives of the Oregon State Marine Board, the Oregon State Department of Transportation, the Bureau of Land Management, and the U.S. Forest Service. During 1977, permits will be issued to non-commercial boating parties without restricting their numbers.

The public is hereby advised that during the 1978 regulated season, use of the regulated area by non-commercial private boaters and customers of authorized commercial outfitters together will be restricted to no more than 120 persons per day. At least one-half of this use opportunity will be allocated to non-commercial private boaters. By January 1, 1978, a reservation system will be established for this purpose.

COMMERCIAL OPERATIONS

Effective Period: The provisions of this notice are effective January 1 to December 31, 1977, except as otherwise noted.

Commercial operations on the Rogue River must be understood as being a privilege, not a right. Any transfers of authorized use in conjunction with the sale of a business must be approved by the managing agencies prior to such a transfer. Approval will be contingent on the qualifications of the proposed transferee, the ability of the river and land resources to sustain the use, or for other just cause.

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Definitions: For the purposes of this notice: (a) "Commercial use" is recreational use of the public lands for business or financial gain. When any permittee, employee or agent of a permittee, operator, or participant makes or attempts to make a profit, salary, increase his capital worth, advance or promote his business or financial standing, or supports, in any part, other programs or activities from amounts received from or for services rendered to customers or participants in the permitted activity, as a result of having the special recreation permit, the use will be considered commercial. The collection by a permittee or his agent of any fee, charge, or other compensation which is not strictly a sharing of, or is in excess of, actual costs or expenses incurred for the purposes of the activity or use shall make the activity or use commercial. Recreation use by educational and therapeutic institutions is considered commercial when the above criteria are met. Profit making organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profit making. Nonprofit status of any group or organization under the Internal Revenue or Postal Laws or regulations does not in itself determine whether an event or activity arranged by such a group or organization is noncommercial. Any person, group, or organization seeking to qualify as noncommercial shall have the burden of establishing to the satisfaction of the authorized officer that no financial or business gain will be derived from the proposed use.

(b) "Actual costs or expenses" are costs or expenses necessarily incurred for the permitted activity or use. These terms include, but are not limited to, the actual costs of such items as expendable equipment and supplies. Actual costs or expenses will not include any salaries, profit, increase of capital worth, allowances, or subsidies of any other activities of the permittee or sponsor, the purchase or amortization of nonexpendable supplies or equipment, any allowance for undersubscribed events, or any monetary compensation for sponsors or participants.

Seasonal Restrictions: Summer Season—During the regulated period in 1977, scheduling of authorized commercial trips entering the regulated area each day shall not exceed the following:

1. From May 27 to July 31, three large parties (not larger than 24 persons total, including crew members) and one small party (1–12 persons total, including crew members).

2. From August 1 to September 5, Tuesday and Wednesday: two large parties (not larger than 24 persons total, including crew members) and three small parties (1–12 persons total, including crew members). Thursday through Monday: three large parties (not larger than 24 persons total, including crew members) and one small party (1–12 persons total, including crew members).

During the portion of the regulated period following June 30, unassigned trips, as indicated on the November 5, 1976, preliminary schedule, will not be allocated. However, recognizing that circumstances beyond an outfitter's reasonable control may occasionally require carrying passengers or crew members not planned for and in excess of stipulated party sizes, the following provision is made:

Twenty (20) percent of an outfitter's trips, according to the approved schedule for the regulated period, may carry as many as two (2) persons beyond the stipulated party size if the party is scheduled as Small (1–12 persons, total) or, if the party is scheduled as Large (not larger than 24 persons, total), as many as three (3) persons beyond the stipulated party size. In calculating the number of trips on which such additional persons may be carried, results shall be rounded to the nearest whole number, but shall in no case be fewer than one (1). The number of such trips for each authorized outfitter will be determined by the scheduling agency before the regulated period begins and each outfitter will be advised of the figure. Trip registration at the Grave Creek entry point to the regulated area shall state the total numbers of persons in each party.

Overall commercial use patterns or changes will be reviewed throughout 1977 and, if necessary, adjusted accordingly. Outfitters are advised not to plan increases in their business on the basis of the 1977 authorization.

The agencies will attempt to approve the outfitter's requested schedule as closely as possible. If conflicts arise, the agencies will adjust the schedules. Commercial trips which remain unused for two consecutive years may be forfeited.

Fall trips, established in 1973, may not be transferred to the summer season.

NON-COMMERCIAL USE

Effective Period: From the Friday preceding Memorial Day through Labor Day.

A non-commercial party shall not be larger than 24 persons.

Non-commercial boaters must obtain a permit at Grave Creek as they enter the regulated area, where information about campsites, safety, river orientation, and individual responsibilities will be provided. The number of such parties entering the regulated area will not be restricted.

This notice shall become effective May 6, 1977, and shall continue in effect until December 31, 1977, unless previously revoked. Use levels and conditions of use in future years will depend on analysis of 1977 use patterns.

MURL W. STORMS,
Oregon State Director,
Bureau of Land Management.

D. H. MORTON,
Acting Regional Forester,
Forest Service.

APRIL 29, 1977.

[FR Doc.77-12865 Filed 5-4-77;8:45 am]

[SAC 079677]

CALIFORNIA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

Correction

In FR Doc. 77-5913 appearing on page 11283 of the issue for Monday, February 28, 1977, make the following changes in the land descriptions in the middle column, page 11283:

1. The thirteenth line X of the middle column, reading "T. 13 N., R. 10 E.", should read "T. 13 N., R. 11 E.".

2. The third line under "T. 15 N., R. 10 E.,", reading "Sec. 23, S½NW¼ and SW¼;", should read "Sec. 24, S½NW¼ and SW¼;".

[CA 2376]

MOUNT DIABLO MERIDIAN

Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 77-10759 appearing at page 19406 of the issue for Wednesday, April 13, 1977, in the second paragraph following the land description, first column, page 19407, the comment date, now reading "May 13, 1977", should read "May 16, 1977".

[NM 30335 and 30405]

NEW MEXICO

Application

APRIL 26, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 26, NW¼SW¼;
Sec. 27, SE¼NE¼ and NE¼SE¼.
T. 31 N., R. 9 W.,
Sec. 7, lot 10.

These pipelines will convey natural gas across 0.597 of a mile of national resource lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12884 Filed 5-4-77;8:45 am]

[NM 30257]

NEW MEXICO

Application

APRIL 26, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Agua, Inc., has applied for one 2-inch water pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 22 S., R. 37 E.,
Sec. 6, lot 7.

This pipeline will convey water across 0.137 of a mile of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12885 Filed 5-4-77;8:45 am]

QUALIFIED JOINT BIDDERS

List of Statement of Production

As a convenience to the public, and pursuant to his authority under 43 CFR Part 3300, the Director of the Bureau of Land Management hereby publishes a list of all persons who have timely filed a Statement of Production in accordance with 43 CFR 3302.3–2(a) which has qualified them to bid jointly during the bidding period May 1, 1977, through October 31, 1977. This publication is not required by law or regulations and may in some respects be incomplete.

The following companies have filed sworn Statements of Production as required by 43 CFR 3302.3–2(a) attesting to average daily production not in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products during the production period of July 1, 1976, through December 31, 1976:

Al-Aquitaine Exploration, Ltd.
Alaskco U.S.A., Ltd.
Allied Chemical Corporation
Alminex U.S.A., Inc.
AMAX Petroleum Corporation
Amerada Hess Corporation
American Natural Gas Production Company
American Petrofina Company of Texas
American Petrofina Exploration Company
Arrowhead Propane Corporation
Ashland Exploration, Inc.
Ashland Oil, Inc.
Atlantic Distributors Exploration Co.
Atlantic Richfield Company
Austral Oil Company Incorporated
Berkshire Gas Company (The)
Bethlehem Steel Corporation
Brooklyn Union Gas Company
Cabot Corporation
Canadian Occidental of California, Inc.
Canadian Superior Oil (U.S.) Ltd.
CanDel Oil (U.S.) Inc.
Caroline Hunt Trust Estate
Case-Pomeroy Oil Corporation
Central Hudson Gas & Electric Corporation
Challenger Oil and Gas Company
Champlin Petroleum Company
Chansior-Western Oil And Development Company
CIGOL Petroleum Inc.
Cities Service Company
C & K Marine Production Company
C & K Offshore Company
C & K Petroleum, Inc.
CNG Producing Company
Columbia Gas Development Corporation
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Continental Group, Inc. (The)
Continental Oil Company
Corning Natural Gas Corporation
CRA Oil Exploration Company
Crown Central Petroleum Corporation
Davis Oil Company
Dcalta International Corporation
DEPCO, Inc.
Diamond Shamrock Corporation
Dover Exploration Company
Dow Chemical Company (The)
Eastern Exploration Corporation
Ecee, Inc.
El Paso Natural Gas Company
Energy Development Corporation
Energy Reserves Group, Inc.
Energy Resources Corporation
Era North America, Inc.
Exchange Oil & Gas Corporation
Farmland Industries, Inc.
Farmland International Energy Company
Felmont Oil Corporation
Florida Gas Exploration Company
Fluor Oil and Gas Corporation
Flying Diamond Oil Corporation
Forest Oil Corporation
Four M Properties, Ltd.
Freeport Minerals Company
Freeport Oil Company
Furth Oil Co.
General American Oil Company of Texas
General Crude Oil Company
Getty Oil Company
Golden Eagle Refining Company, Inc.
Great Basins Petroleum Co.
Greenbrier Operating Co.
H. C. Price Co.
H. W. Bass & Sons, Inc.
Hamilton Brothers Exploration Company
Hamilton Brothers Oil and Gas Corporation
Hamilton Brothers Oil Company
Hassle Hunt Exploration Company
Hassle Hunt, Incorporated
Hematite Petroleum (U.S.A.), Inc.
Highland Resources, Inc.
Home Petroleum Corporation
Houston Oil & Minerals Corporation
Hunt Energy Corporation
Hunt Industries
Hunt Investment Corporation
Hunt Oil Company
Hunt Petroleum Corporation
Husky Oil Company of Delaware
ICI Delaware Inc.
Idemitsu Alaska Oil Development Corporation
Jenney Oil Company
Kerr-McGee Corporation
Kirby Exploration Company
Knob Hill Oil & Gas Company, Inc.
Koch Industries, Inc.
Ladd Petroleum Corporation
Lamar Hunt Trust Estate
Long Island Lighting Company
Louisiana Land and Exploration Company (The)
Louisiana Land Offshore Exploration Company, Inc.
MAPCO Inc.
Marathon Oil Company
Margaret Hunt Trust Estate
Maruzen Oil of Alaska, Inc.
McCulloch Oil Corporation
McMoRan Exploration Co.
Merrimack Valley Exploration Company
Mesa Petroleum Co.
Mitchell Energy Offshore Corporation
Mono Power Company
Monsanto Company
Murphy Oil Corporation
National Cooperative Refinery Association
National Fuel Gas Distribution Corporation
Natomas Exploration, Inc.
Natomas of Texas, Inc.
NATRESCO INCORPORATED
Natural Gas Corporation of California
Nelson Bunker Hunt Trust Estate
Nepco Exploration Corporation
New England Energy Incorporated
Newmont Oil Company
New York State Electric & Gas Corporation
NICOR Exploration Company
Norse Petroleum USA, Inc.
Northern Michigan Exploration Company
Northern Natural Gas Company
North Oil Inc.
Ocean Oil & Gas Company
Ocean Production Company
ODECO Drilling Inc.
Ogle Petroleum Inc.
Oil Development Company of Texas
Orange & Rockland Utilities, Inc.
Oxy Petroleum, Inc.
PanCanadian Petroleum Company
Pavilion Natural Gas Company (The)
Pelto Oil Company
Pennzoil Company
Pennzoil Louisiana and Texas Offshore, Inc.
Pennzoil Offshore Gas Operators, Inc.
Pennzoil Producing Company
Phillips Petroleum Company
Pinto, Inc.
Pioneer Production Corporation
Placid Oil Company
Quintana Offshore, Inc.
Reading & Bates Oil and Gas Co.
Reserve Oil, Inc.
Resource Production Incorporated
Rhode Island Development and Exploration Company
Rochester Gas and Electric Corporation
Rowan Petroleum, Inc.
Sabine Production Company
Samedan Offshore Corporation
Samedan Oil Corporation
Santa Fe Minerals Co. U.S.
Siboney Corporation
Siebens Oil & Minerals, Inc.
Sohio Petroleum Company
SONAT Exploration Company
South Coast Corporation (The)
Southern Natural Gas Company
St. Joe Petroleum (U.S.) Corporation
Sun Oil Company (Delaware)
Superior Oil Company (The)
Syracuse Suburban Gas Company, Inc.
Tenneco Exploration, Ltd.
Tenneco Exploration II, Ltd.
Tenneco OCS Company, Inc.
Tenneco OCS Limited Partnership
Tenneco Offshore Company, Inc.
Tenneco Oil Company
Terra Resources, Inc.
Tesoro Petroleum Corporation
Texas Eastern Exploration Co.
Texas Eastern Transmission Corporation
Texas Gas Exploration Corporation
Texasgulf Inc.
Texas Pacific Oil Company, Inc.
Texas Production Company
Thermal Power Company
Total Petroleum, Inc.
Transco Exploration Company
TransOcean Oil, Inc.
Union Oil Company of California
United Energy Resources, Inc.
United Gas Pipe Line Company
United States Steel Corporation
Vsea, Inc.

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W. R. Grace & Co.
Weeks Petroleum Corporation
Wewoka Exploration Company
William Herbert Hunt Trust Estate
Williams Exploration Company

In addition, Statements of Production have been received from nine companies who produced a daily average of 1.6 million or more barrels of crude oil, natural gas and liquefied petroleum products during the previously mentioned production period, and are therefore restricted from bidding jointly with each other during the bidding period of May 1, 1977, through October 31, 1977. This list appeared in 42 FR 18905, published Monday, April 11, 1977.

CURT BERKLUND,
Director, Bureau of Land Management.

APRIL 29, 1977.

[FR Doc.77-12886 Filed 5-4-77;8:45 am]

[A 9553]

ARIZONA

Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the Board of Supervisors, Mohave County, Arizona, has applied for an airport lease for the following lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 41 N., R. 7 W.,
Sec. 14, SE¼SE¼NE¼, E½SW¼, SE¼,
Sec. 23, N½N½NE¼, N½S½N½NE¼, N½-NE¼NW¼, and N½S½NE¼NW¼.
containing 340 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 250, St. George, Utah 84770.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-12910 Filed 5-4-77;8:45 am]

ALASKA

Segregation of Lands

Notice is hereby given that pursuant to the act of May 24, 1928 (49 U.S.C. 211-214), the State of Alaska, Department of Public Works, Division of Aviation, has applied for an airport least for the following land:

EXHIBIT A

Commencing at B.L.M. Geodetic Station monumented with an aluminum capped post marked GEO STA No. 60018 1974 at latitude 61°21'26.536" N. and longitude 155°26'36.502" W. proceed S. 76°17'58" E. a distance of 315.62 feet to a point monumented with an ADA aluminum capped 5.8 inch rebar marked ADA "Lemon";

Thence S. 87°03'30" E. a distance of 1,445.11 feet to a point monumented with an ADA aluminum capped ⅝ inch rebar marked ADA "Lime";

Thence N. 48°19'50" E. a distance of 300.65 feet to a point being STA 10+00 of the ADA Survey baseline and monumented with an ADA aluminum capped ⅝ inch rebar;

Thence S. 59°20'46" E. a distance of 100.00 feet to a point being STA 9+00 of the ADA Survey baseline, the True Point of Beginning;

Thence N. 30°39'14" E. a distance of 50.00 feet to the point of intersection with the South bank of Stony River;

Thence following the shoreline along the South bank of Stony River the following courses and distances:

N. 31°05'17" W. a distance of 454.12 feet;
N. 43°58'12" W. a distance of 207.42 feet;
N. 46°12'44" W. a distance of 308.06 feet;
N. 70°39'22" W. a distance of 203.96 feet;
N. 49°25'12" W. a distance of 406.08 feet;
N. 59°20'46" W. a distance of 400.00 feet;
N. 76°02'43" W. a distance of 417.61 feet;
N. 59°20'46" W. a distance of 200.00 feet;
S. 64°20'38" W. a distance of 360.56 feet;
Thence S. 30°39'14" W. a distance of 300.00 feet to a point;
Thence S. 61°28'02" E. a distance of 2,701.85 feet to a point;
Thence N. 30°39'14" E. a distance of 200.00 feet to the True Point of Beginning.
This tract having an area of approximately 35.19 acres, more or less

(The parcel described above is depicted as Tract I on the Lime Village Airport property plan dated January 17, 1977, as prepared by the State of Alaska, Department of Public Works, Division of Aviation.)

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the State Director, Alaska State Office, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.77-12914 Filed 5-4-77;8:45 am]

Geological Survey

COAL MINING PLAN—UTAH

Availability of Proposed Decision for Mine Plan Submitted for Approval

In accordance with the requirements of 30 CFR 211.5(c)(2), notice is hereby given that Trail Mountain Coal Company, P.O. Box 356, Orangeville, Emery County, Utah 84537, has submitted a mining plan to mine coal by underground mining methods on Federal lease No. U-082996 comprising 40 acres in Emery County, Utah, T. 17 S., R. 6 E., Sec. 25, SW¼SE¼, S.L.M. The mining plan was initially received for review by the Area Mining Supervisor on September 10, 1976.

The Trail Mountain Mine is an ongoing underground mine on private coal adjoining the Federal lease. The mining plan proposes extending the ongoing operations into the Federal lease. The existing portal and surface facilities on the private lands would be used in removing the Federal coal. The Federal lease contains approximately 28 acres of coal from which 245,000 tons of coal will be removed. The operation will require one year.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plan. Any person having an interest, which is or may be adversely affected, may request a public meeting in writing. Requests for a public meeting should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, 8426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. All requests should be made on or before May 25, 1977. No decision on the mining plan will be made prior to May 25, 1977.

A preliminary public meeting on the proposed mine was held at the Emery County Court House on October 5, 1976, to solicit public comments and suggestions on related environmental and resource aspects of the proposed mine.

Dated: April 29, 1977.

V. E. MCKELVEY,
Director.

[FR Doc.77-12888 Filed 5-4-77;8:45 am]

BASIC CARTOGRAPHIC INFORMATION

Interagency Agreement

A great deal of Federal, State, and local money is spent each year collecting basic data and producing cartographic products to support numerous programs such as community development, flood insurance, and comprehensive planning. These data are also of considerable value to other Federal and local users but have not always been readily available. The Office of Management and Budget Federal Mapping Task Force recommended improvements in coordination and cooperation in meeting specific needs for these programs.

The Department of Housing and Urban Development recommended that direction be provided in developing a common Federal mapping methodology which could be used uniformly by all Federal agencies and A-95 clearinghouses that serve the Nation's communities and Federal agencies and other map users. The USGS, in cooperation with HUD and other agencies, is undertaking activities to implement these recommendations.

Progress toward improved coordination in this area can be initiated by identifying cartographic requirements, recommending technical standards, where applicable, and by establishing interagency agreements among Federal agencies whose programs produce or have need for cartographic data. This is one such agreement. Some of the other Federal agencies operating in uran areas whose programs provide and require mapping support include the Department of Transportation, Department of

Commerce, the Corps of Engineers, and the Environmental Protection Agency.

V. E. MCKELVEY,
Director.

INTERAGENCY AGREEMENT: BASIC CARTOGRAPHIC INFORMATION

Objective. The objective of this agreement is to establish a mechanism to insure that HUD grantees and contractors are cognizant of basic cartographic data available from existing sources and that information on data collected by HUD funded activities is available to other users, and to define the pertinent responsibilities of the U.S. Geological Survey (USGS) and the U.S. Department of Housing and Urban Development (HUD). The purpose is to improve the cost effectiveness, coordination, and technical efficiency with which HUD grantees and contractors collect and produce base maps and aerial photography through technical advice and assistance provided by USGS. It is also intended that this document will establish guidance that will foster a common Federal mapping methodology that will better serve the Nation's communities and metropolitan areas and in so doing meet the mapping requirements of other Federal agencies.

Background. A great deal of Federal, State, and local money is spent each year collecting basic data and producing cartographic products to support numerous programs such as community development, flood insurance, and comprehensive planning. These data are also of considerable value to other Federal and local users but have not always been readily available. The Office of Management and Budget Federal Mapping Task Force recommended improvements in coordination and cooperation in meeting specific needs for these programs.

The Department of Housing and Urban Development comment to the Task Force embodied in a December 26, 1972, memorandum from the Assistant Secretary for Community Planning and Development to OMB, recommended that direction be provided in developing a common Federal mapping methodology which could be used uniformly by all Federal agencies and A-95 clearinghouses that serve the Nation's communities and metropolitan areas, and simultaneously meet the needs of other Federal agencies and other map users. The USGS, in cooperation with HUD and other agencies, is undertaking activities to implement these recommendations.

Progress toward improved coordination in this area can be initiated by reactivating and establishing interagency committees to identify cartographic requirements, by recommending technical standards, where applicable, and by establishing interagency agreements among Federal agencies whose programs produce or have a need for cartographic data. This is one such agreement. Some of the other Federal agencies operating in urban areas whose programs provide and require mapping support include the Department of Transportation, the Department of Commerce, the Corps of Engineers, and the Environmental Protection Agency.

Definitions—Base map. A map showing selected fundamental information for multipurpose use.

National Mapping Program. A program of the Department of the Interior, delegated to the Geological Survey, that includes those activities necessary to make available basic map data and a family of general-purpose maps covering the United States and its outlying areas.

Cartographic data. Multipurpose maps and charts, aerial and space imagery, geodetic control, and base map data. The base map data consist of those data that are normally shown by general-purpose maps. These data either digital or graphic in form, can be available as individual features such as roads, streams, contours, etc., or in combinations.

Organizational mission. The U.S. Geological Survey, as the principal U.S. national mapping agency, has ongoing programs to produce maps that may be supportive of HUD and its program users and the responsibility to be responsive to the needs of map users and other beneficiaries of different mapping programs. USGS has also established the National Cartographic Information Center to act as a clearinghouse for cartographic information.

The Department of Housing and Urban Development has a role of leadership in housing and urban development affairs and consequently is in a position to promote economical and quality approaches for dealing with base mapping activities of its clients and of other Federal agencies.

Policy and responsibilities. The parties to this agreement will establish a coordination system that will assure the HUD grantee or contractor access to the best available cartographic data and technical advice and agree to the following procedures as a means of achieving the desired goals:

1. Grant recipients or contractors that use HUD funds to produce base mapping and/or aerial photography will submit in writing to the USGS a description of the product needs and project requirements in order to determine whether these can be supplied from available material. USGS will provide, within 30 days after receipt of such communication, a written reply to the HUD grant recipient or contractor describing appropriate cartographic data for which NCIC has records;

2. Grant recipients or contractors will then, in addition to making use of data identified by NCIC, conduct a local search to determine whether other cartographic data are available locally;

3. USGS will provide technical assistance to the grant recipients or contractors in the form of handbooks, guidelines and specifications and assist in the preparation of needed criteria, standards, methods and cost estimates. USGS will also, if requested by the HUD grantee or contractor, act in an advisory capacity for contract preparation, proposal evaluation, and product inspection where cartographic data are involved;

4. HUD will require that applicants who receive HUD assistance that may support the production of base mapping and aerial photography provide evidence of interface with USGS, i.e., a letter of reply from USGS to the HUD applicant as well as the latter's comment on or disposition of the USGS reply. Secondary allocation of funds to substate grantees or contractors will require a similar interface procedure whenever cartographic activity is to be undertaken;

5. Recipients of HUD assistance will forward to USGS final description of the base maps and aerial photography produced in part or completely with HUD financial assistance or discovered as a result of a local search. The descriptions will be in the format defined by USGS and the HUD Program Office so that USGS can maintain a data file on all cartographic data. New topographic data which may be prepared for or by a community that is participating in the National Flood Insurance Program for its flood-prone areas will be furnished to USGS to be deposited for use by FIA-HUD and others. If requested by USGS, copies of base maps, aerial photography, survey control data, and map data produced by the HUD grantees or contractors will be delivered to USGS at no uncompensated expense to the grantees or contractors;

6. USGS will catalog and index into the National Cartographic Information Center system the base maps and aerial photography produced and reported by the HUD recipient or contractor;

7. HUD will require that the close-out reports on projects contain evidence that the grant recipient or contractor has forwarded final product description on the USGS form directly to the USGS.

General provisions. Following the signing of this agreement, USGS and HUD will prepare specific rules and regulations for appropriate HUD programs, including Comprehensive Planning Assistance, Community Development Block Grant, Flood Insurance, and programs under the Federal Disaster Assistance Administration, New Communities Administration, Office of Housing, and the Office of Policy Development and Research. The Director of the USGS or the HUD Assistant Secretary for Community Planning and Development will bring to the attention of the other, significant policy issues which appear to require additional departmental guidance regarding the above matters.

The procedures to implement this agreement will be developed and phased in so as to avoid undue impact on the grant recipients or contractors.

This agreement becomes effective on the date the last signature is affixed. It can be terminated by either party on sixty days notice.

Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development.

Director, U.S. Geological Survey, Department of the Interior.

[FR Doc.77-12887 Filed 5-4-77;8:45 am]

National Park Service

NATIONAL HISTORIC LANDMARKS PROGRAM

Boundary Establishment

The Historic Sites Act of 1935, 49 Stat. 666, (16 U.S.C. 461) authorizes the Secretary of the Interior to conduct a survey of historic and archeological sites, buildings, and objects to determine those that possess exceptional value as commemorating or illustrating the history of the United States, and, generally, to promote their recognition and preservation. This Act has been implemented since 1960 in part by the National Historic Landmarks Program whereby the Secretary designates nationally significant historical resources as national historic landmarks.

The National Historic Preservation Act of 1966, 80 Stat. 915, as amended, authorized the establishment by the Secretary of a National Register of Historic Places to recognize districts, sites, buildings, structures and objects significant in American history, architecture, archeology and culture. Among other historic places, all national historic landmarks have been placed on the National Register. However, prior to 1970, the Secretary designated national historic landmarks with only general boundary descriptions, contrary to other National Register properties which are established with specific boundaries. Accordingly, this notice is to advise interested persons that specific boundaries are being established

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for the following national historic landmarks and to give interested persons an opportunity to comment upon the delineation of such boundaries. The boundaries will generally reflect the minimum amount of property considered necessary and appropriate to encompass and protect the historic resources of the landmark.

In addition to this notice, owners of national historic landmarks have or will be individually notified of the proposed boundary establishments and will be given an opportunity to comment. For national historic landmarks which are historic districts or when landmarks cover large land areas, the State Historic Presevation Officer, local authorities and interested individuals, to the extent practicable, have or will be individually notified and given an opportunity to comment.

Written comments on the proposed boundary establishments for the national historic landmarks described below should be made within thirty (30) days of the date of this notice and addressed to the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240. Any individuals wishing to know the specific boundaries of the following national historic landmarks may write to the above address. Final boundaries will be established by subsequent publication in the FEDERAL REGISTER.

National historic landmarks for which specific boundaries are being established are:

ALABAMA

Apalachicola Fort, 1.5 miles east of Holy Trinity on Chattahoochee River, Russell County.

Curry, J. L. M., Home, 3 miles northeast of Talladega on Ala. 21, Talladega County.

First Confederate Capitol (Alabama State Capitol), Goat Hill, east end of Dexter Avenue, Montgomery, Montgomery County.

Fort Morgan, western terminus of Ala. 180, Gasque vicinity, Baldwin County.

Fort Toulouse, 4 miles southwest of Wetumpka at confluence of the Coosa and Tallapoosa River, Elmore County.

Moundville Site, 1 mile west of Moundville on County Route 21, Hale County.

Wilson Dam, Tennessee River on U.S. 72, Florence vicinity, Colbert and Lauderdale Counties.

ALASKA

American Flag Raising Site, Castle Hill, Sitka, Southeastern District.

Anvil Creek Gold Discovery Site, 4.26 miles north of Nome on Seward Peninsula at Anvil Creek, Northwestern District.

Birnirk Site, 5 miles northeast of Barrow, Northwestern District.

Chaluka Site, Nikolski vicinity, Umnak Island, Aleutian Islands, Southcentral District.

Erskine House, Main and Mission Streets, Kodiak, Kodiak Island, Southcentral District.

Fur Seal Rookeries, St. Paul Island, Pribilof Islands, Southcentral District.

Gambell Sites, Northwest Cape, St. Lawrence Island, Northwestern District.

Ipiutak Site, tip of Point Hope, Point Hope Peninsula, Northwestern District.

Palugvik Site, 3.75 miles east of Rip Rock on Prince William Sound, Hawkins Island, Southcentral District.

St. Michael's Cathedral, Lincoln and Maksoutoff Streets, Sitka, Southeastern District.

Skagway Historic District and White Pass, Skagway and vicinity, head of Taiya Inlet on Lynn Canal, Southeastern District.

Yukon Island Main Site, Kachemak Bay, Cook Inlet, Yukon Island, Southcentral District.

ARIZONA

Awatovi Ruins, 6 miles south of Keams Canyon on Hopi Indian Reservation, Navajo County.

Casa Malpais Site, 2 miles north Springerville, Apache County.

Desert Laboratory, west of Tucson off West Anklam Road on Tumamoc Hill, Pima County.

Gatlin Site, 3 miles north of Gila Bend, Maricopa County.

Hohokam-Pima Irrigation Sites, Park of the Four Waters, Phoenix, Maricopa County.

Jerome Historic District, Jerome, Yavapai County.

Kinishba Ruins, 15 miles west of Whiteriver via Arizona 73 and secondary road, Gila County.

Lehner Mammoth-Kill Site, 10 miles west of Bisbee, Cochise County.

Lowell Observatory, 1 mile west of Flagstaff on Mars Hill, Coconino County.

Merriam, C. Hart, Base Camp Site, 20 miles northwest of Flagstaff, at Little Springs, a private enclave in Coconino National Forest, Coconino County.

Old Oraibi, 3 miles west of Oraibi on Ariz. 264, Hopi Indian Reservation, Navajo County.

Point of Pines Sites, 30 miles northwest of Morenci, San Carlos Indian Reservation, Graham County.

Pueblo Grande Ruin, Washington Avenue, Pueblo Grande City Park, Phoenix, Maricopa County.

Roosevelt Dam, Salt River, 31 miles northwest of Globe on Ariz. 88, Gila and Maricopa Counties.

San Bernardino Ranch, 17 miles east of Douglas on the international boundary, Cochise County.

San Xavier Del Bac, 9 miles south of Tucson via Mission Road, Pima County.

Sierra Bonita Ranch, southwest of Bonita, Graham County.

Tombstone Historic District, Tombstone, Cochise County.

Ventana Cave, 11 miles west of Santa Rosa, Papago Indian Reservations, Pima County.

Winona Site, 5 miles northeast of Winona on U.S. 66, Coconino National Forest, Coconino County.

Yuma Crossing and Associated Sites, banks of the Colorado River, Yuma, Yuma County.

ARKANSAS

Nodena Site, south edge of Wilson, Mississippi County.

Parkin Indian Mound, north edge of Parkin, Cross County.

CALIFORNIA

Anza House (Juan de Anza House), 3rd and Franklin Streets, San Juan Bautista, San Benito County.

Bancroft, Hubert H., Ranch House, Bancroft Drive off Calif. 94, Spring Valley, San Diego County.

Big and Little Petroglyph Canyons, China Lake vicinity, China Lake Naval Ordnance Test Station, Inyo County.

Bodie Historic District, 7 miles south of Bridgeport on U.S. 395, 12 miles east on secondary road, Mono County.

Burbank, Luther, House and Garden, 200 block of Santa Rosa Avenue, Santa Rosa, Sonoma County.

Carmel Mission, Rio Road, Carmel, Monterey County.

Castro, Jose, House, south side of the Plaza, San Juan Bautista, San Benito County.

C. A. Thayer, San Francisco Maritime State Historic Park, San Francisco, San Francisco County.

Coloma, 7 miles northwest of Placerville on Calif. 49, El Dorado County.

Columbia Historic District, 4 miles northwest of Sonora on Calif. 49, Tuolumne County.

Donner Camp, 2.6 miles west of Truckee on U.S. 40, Nevada County.

Estudillo House, 4000 Mason Street, San Diego, San Diego County.

First Pacific Coast Salmon Cannery Site, on Sacramento River, opposite the foot of K Street, Broderick, Yolo County.

Flood, James C., Mansion, northwest corner of California and Mason Streets, San Francisco, San Francisco County.

Fort Ross, north of Fort Ross on Calif. 1, Fort Ross State Historical Monument, Sonoma County.

Gonzales House, 835 Laguna Street, Santa Barbara, Santa Barbara County.

Gunther Island Site 67 (Tolowot), northeast end of Gunther Island in Humboldt Bay north of Eureka, Humboldt County.

Lake Merritt Wild Duck Refuge, Lakeside Park, Grand Avenue, Oakland, Alameda County.

La Purisima Mission, 4 miles east of Lompoc, near the intersection of Calif. 1 and 150, Santa Barbara County.

Larkin House, 464 Calle Principal, Monterey, Monterey County.

Las Flores Adobe, west side of Stuart Mesa Road about 7 miles north of Vandegrift Boulevard junction, Camp Joseph H. Pendleton, San Diego County.

London, Jack, Ranch, 0.4 mile west of Glen Ellen, Jack London Historical State Park, Sonoma County.

Lower Klamath National Wildlife Refuge, lower Klamath Lake, east of Dorris, Siskiyou County.

Miller, Joaquin, House (The Abbey), Joaquin Miller Road and Sanborn Drive, Oakland, Alameda County.

Monterey Old Town Historic District, Monterey, Monterey County. Two districts, northern and southern; southern district bounded on the west by Dutra Street, on the east by Madison Street, on the south by Polk Street, and on the north by Jefferson Street; northern district bounded by Pacific Street on the west, Scott Street on the south, Alvarado Street on the east, and Decatur Street on the north.

New Almaden, 14 miles south of San Jose on County Route G8, Santa Clara County.

Norris, Frank, Cabin, 10 miles west of Gilroy via Calif. 152 and secondary roads, Santa Clara County.

Oak Grove Butterfield Stage Station, 13 miles northwest of Warner Springs on Calif. 79, San Diego County.

Old Customhouse (U.S. Customhouse), Calle Principal at Decatur Street, Monterey, Monterey County.

Old Mission Dam, north side of Mission Street-Gorge Road, San Diego, San Diego County.

Old Sacramento Historic District, junctions of U.S. 40, 50, 99, and Calif. 16 and 24, Sacramento, Sacramento County.

Old United States Mint, 5th and Mission Streets, San Francisco, San Francisco County.

Pony Express Terminal (B.F. Hastings Building), 1006 2nd Street, Sacramento, Sacramento County.

Presidio, The, northern tip of San Francisco Peninsula on U.S. 101 and Int. 480, San Francisco, San Francisco County.

Ralston, William C., House, College of Notre Dame campus, Belmont, San Mateo County.

Room 307, Gilman Hall, University of California, University of California campus, Berkeley, Alameda County.

Royal Presidio Chapel, 550 Church Street, Monterey County.

San Diego Presidio, Presidio Park, San Diego, San Diego County.

San Francisco Bay Discovery Site, 4 miles west of San Bruno via Skyline Drive and Sneath Lane, San Mateo County.

San Francisco Cable Cars, San Francisco, San Francisco County.

San Juan Bautista Plaza Historic District, San Bautista, San Benito County, Beginning at the intersection of Washington and 2nd Streets, northwest along 2nd to Mariposa Street, northeast on Mariposa to 1st Street, southeast on 1st to Washington Street, southwest on Washington to 2nd Street.

San Luis Rey Mission Church, 4 miles east of Oceanside on Calif. 76, San Diego County.

Sonoma Plaza, center of Sonoma, Sonoma County.

Star of India, San Diego Embarcadero, San Diego, San Diego County.

Sutter's Fort, 2701 L Street, Sacramento, Sacramento County.

Walker Pass, 60 miles northeast of Bakersfield on Calif. 178, Kern County.

Warner's Ranch, 4 miles south of Warner Springs on secondary road, San Diego County.

Well No. 4, Pico Canyon Oil Field, 9.6 miles north of San Fernando and west of U.S. 99, Los Angeles County.

COLORADO

Central City Historic District, Central City, Gilpin County.

Cripple Creek Historic District, Cripple Creek, Teller County.

Durango-Silverton Narrow-Gauge Railroad, right-of-way between Durango and Silverton, La Plata and San Juan Counties.

Georgetown-Silver Plume Historic District, Georgetown-Silver Plume vicinity, Clear Creek County.

Leadville Historic District, Leadville, Lake County.

Lindenmeier Site, 28 miles north of Fort Collins, 1.75 miles south of Wyoming State line, Larimer County.

Lowry Ruin, 30 miles northwest of Cortez via U.S. 160 and secondary road, Pleasant View vicinity, Montezuma County.

Pikes Peak, 15 miles of Colorado Springs, Pike National Forest, El Paso County.

Pike's Stockade, 4 miles east of Sanford on Colo. 136, Conejos County.

Raton Pass, U.S. 85-87, Colorado-New Mexico border, Raton vicinity, Las Animas County.

Silverton Historic District, Silverton, San Juan County.

Telluride Historic District, Telluride, San Miguel County.

CONNECTICUT

Armsmear (Samuel Colt Home), 80 Wethersfield Avenue, Hartford, Hartford County.

Barnard, Henry, House, 118 Main Street, Hartford, Hartford County.

Buttolph-Williams House, 249 Broad Street, Wethersfield, Hartford County.

Charles W. Morgan, Mystic Seaport, Mystic, New London County.

Connecticut Agricultural Experiment Station, 123 Huntington Street, New Haven, New Haven County.

Connecticut Hall, Yale University, bounded by High, Chapel, Elm, and College Streets, New Haven, New Haven County.

Dana, James Dwight, House, 24 Hillhouse Avenue, New Haven, New Haven County.

Litchfield Historic District, east and west sides of North and South Streets, to the rear property lines, from Prospect Street on the north to Gallows Lane on the south, the Village Green between East and West Streets, and structures fronting on the northeast side of the Green, Litchfield, Litchfield County.

Marsh, Othniel C., House, 360 Prospect Street, New Haven, New Haven County.

Mather, Stephen Tyng, Home, Stephen Mather Road, Darien, Fairfield County.

Old Statehouse, Main Street at Central Row, Hartford, Hartford County.

Reeve, Tapping, House and Law School, South Street, Litchfield, Litchfield County.

Remington, Frederick, House, Ridgefield, Fairfield County.

Rogers, John, Studio, 10 Cherry Street, New Canaan, Fairfield County.

Stanley-Whitman House, 37 High Street, Farmington, Hartford County.

Trumbull, John, Birthplace (Governor Jonathan Trumbull House), The Common, Lebanon, New London County.

Twain, Mark, Home, 351 Farmington Avenue, Hartford, Hartford County.

Webb, Joseph, House, 211 Main Street, Wethersfield, Hartford County.

Webster, Noah, Birthplace, 227 S. Main Street, West Hartford, Hartford County.

DELAWARE

Aspendale, 1 mile west of Kenton on Del. 300, Kent County.

Corbit-Sharp House, southwest corner of Main and 2nd Streets, Odessa, New Castle County.

Dickinson, John, House, 5 miles southeast of Dover and 0.3 mile east of U.S. 113 on Kitts Hummock Road, Kent County.

Eleutherian Mills, north of Wilmington on Del. 141 at Brandywine Creek Bridge, New Castle County.

Fort Christina, E. 7th Street and the Christina River, Fort Christina State Park, Wilmington, New Castle County.

Holy Trinity (Old Swedes) Church, 7th and Church Streets, Wilmington, New Castle County.

New Castle Historic District, bordered by Harmony Street, The Strand, Third and Delaware Streets, New Castle, New Castle County.

DISTRICT OF COLUMBIA

Administration Building, Carnegie Institution of Washington, 1530 P Street NW., Washington.

Army Medical Museum and Library, 6825 16th Street NW., Washington.

Chapel Hall, Gallaudet College, Florida Avenue and 7th Street NE., Washington.

City Hall (District Courthouse), 14th and E Streets NW., Washington.

Decatur House, 748 Jackson Place NW., Washington.

Library of Congress, 1st Street and Independence Avenue SE., Washington.

Octagon House, 1799 New York Avenue NW., Washington.

Red Cross (American National) Headquarters, 17th and D Streets NW., Washington.

Richards, Zalmon, House, 1301 Corcoran Street NW., Washington.

St. John's Church, 16th and H Streets NW., Washington.

Wilson, Woodrow, House, 2340 S Street NW., Washington.

FLORIDA

Cathedral of St. Augustine, Cathedral Street between Charlotte and St. George Streets, St. Augustine, St. Johns County.

Fort San Marcos de Apalache, 18 miles south of Tallahassee on U.S. 319 and Fla. 366, St. Marks, Wakulla County.

Fort Walton Mound, US. S 98, Fort Walton Beach, Okaloosa County.

Gonzalez-Alvarez House (Oldest House), 14 St. Francis Street, St. Augustine, St. Johns County.

Hemingway, Ernest, House, 907 Whitehead Street, Key West, Monroe County.

Llambias House (Fernandez-Llambias House), 31 St. Francis Street, St. Johns County.

Okeechobee Battlefield, 4 miles southeast of Okeechobee on U.S. 441, Okeechobee County.

Pelican Island National Wildlife Refuge, east of Sebastian in the Indian River, Indian River County.

Plaza Ferdinand VII, Palafox Street between Government and Zaragossa Streets, Pensacola, Escambia County.

Safety Harbor Site, Philippe Park, 1 mile northeast of Safety Harbor, Pinellas County.

San Luis de Apalache, 2 miles west of Tallahassee on U.S. 90, Leon County.

GEORGIA

Etowah Mounds, 3 miles south of Cartersville on Ga. 61, Bartow County.

Harris, Joel Chandler, House, 1050 Gordon Street SW., Atlanta, Fulton County.

Kolomoki Mounds, 8 miles north of Blakely on U.S. 27, Kolomoki Mounds State Park, Early County.

Low, Juliette Gordon, Birthplace, 10 Oglethorpe Avenue, Savannah, Chatham County.

St. Catherine's Island, 10 miles off the Georgia coast between St. Catherine's Sound and Sapelo Sound, South Newport vicinity, Liberty County.

Savannah Historic District, bounded by E. Broad, Gwinnett, W. Broad Streets and the Savannah River, Chatham County.

Stallings Island, 8 miles northwest of Augusta in the Savannah River, Columbia County.

Traveler's Rest, 6 miles east of Toccoa on U.S. 123, Stephens County.

HAWAII

Cook Landing Site, 2 miles southwest of Hawaii 50, Waimea, Island of Kauai, Kauai County.

Honokohau Settlement, Honokohau Bay, just north of Kailua-Kona, Island of Hawaii, Hawaii County.

Huilua Fishpond, on Kahana Bay, 13 miles north of Kaneohe on Hawaii 83 adjacent to Kahana Bay State Park, Island of Oahu, Honolulu County.

Iolani Palace, 364 S. King Street, Honolulu, Island of Oahu, Honolulu County.

Kamakahonu, on the northwest edge of Kailua Bay, north and west of Kailua wharf, Kailua-Kona, Island of Hawaii, Hawaii County.

Kaunolu Village Site, on Kaunolu Bay, on the southwest cape of the Island of Lanai, Lanai city vicinity, Maui County.

Kawaiahao Church and Mission Houses, 957 Punchbowl Street; 553 S. King Street, Honolulu, Island of Oahu, Honolulu County.

Keauhou Holua Slide, east of Hawaii 18, Keauhou, Island of Hawaii, Hawaii County.

Lahaina Historic District, west side of Maui on Hawaii 30, Lahaina, Island of Maui, Maui County.

Loaloa Heiau, southeast coast of Maui on Hawaii 31, about 0.25 mile north of Kaupo, Island of Maui, Maui County.

Mauna Kea Adz Quarry, 25 miles northwest of Hilo via mountain trail, Hilo vicinity, Island of Hawaii, Hawaii County.

Mookini Heiau, northern tip of Hawaii, 1 mile west of Upolu Point Airport, Hawi vicinity, Island of Hawaii, Hawaii County.

Old Sugar Mill of Koloa, Koloa, Island of Kauai, Kauai County.

Piilanihale Heiau, 4 miles north of Hana, at the mouth of Honomaele Gulch near Kalahu Point, Island of Maui, Maui County.

Puu O Mahuka Heiau, 4 miles northeast of Haleiwa on Hawaii 83, overlooking Waimea Bay, Island of Oahu, Honolulu County.

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Russian Fort, on Hawaii 50, 200 yards southwest of the bridge over the Waimea River, Island of Kauai, Kauai County.

South Point Complex, South Cape, southern tip of Hawaii, Kau District, Naalehu vicinity, Island of Hawaii, Hawaii County.

U.S. Naval Base, Pearl Harbor, 3 miles south of Pearl City on Hawaii 73, Island of Oahu, Honolulu County.

Wailua Complex of Heiaus, east coast of Kauai at the mouth of the Wailua River, Lihue District, Failua vicinity, Island of Kauai, Kauai County.

IDAHO

Assay Office, 210 Main Street, Boise, Ada County.

Cataldo Mission, off U.S. 10, Cataldo, Kootenai County.

City of Rocks, City of Rocks State Park, Almo vicinity, Cassia County.

Experimental Breeder Reactor No. 1, National Reactor Testing Station, Arco vicinity, Butte County.

Fort Hall, 11 miles west of town of Fort Hall, Fort Hall Indian Reservation, Bannock County.

Lemhi Pass, 12 miles east of Tendoy off Idaho 28, Lemhi County.

Lolo Trail, Clearwater and Idaho Counties, Idaho, and Missoula County, Montana. Extends 155-165 miles in a northeast-southwest direction. The eastern terminus is the confluence of Lolo Creek with the Bitterroot River near the village of Lolo, Montana; the western terminus is Weippe Prairie, in Idaho.

ILLINOIS

Cahokia Mounds, 7850 Collinsville Road, Cahokia Mounds State Park, Collinsville vicinity, St. Clair County.

Deere, John, Home and Shop, R.R. No. 3, Grand Detour, Dixon Ogle County.

Fort de Chartres, terminus of Ill. 155 west of Prairie du Rocher, Fort Chartres State Park, Randolph County.

Grant, Ulysses S., Home, 511 Bouthillier Street, Galena, Jo Daviess County.

Hull House, 800 S. Halsted Street, Chicago, Cook County.

Illinois and Michigan Canal (Locks and Towpath), 7 miles southwest of Joliet on U.S. 6, Channahon State Park, Will County.

Kincaid Site, southeast of Brookport on the Ohio River, Massac and Pope Counties.

Lincoln Tomb, Oak Ridge Cemetery, Springfield, Sangamon County.

Modoc Rockshelter, 2 miles north of Modoc, Randolph County.

Morrow Plots, University of Illinois, Gregory Drive at Matthews Avenue, Urbana, Champaign County.

Nauvoo Historic District, Nauvoo, Hancock County.

Old Kaskaskia Village, 4 miles west of Ottawa on U.S. 6, La Salle County.

Old Main, Knox College, Knox College campus, Galesburg, Knox County.

Robie, Frederick C., House, 5757 S. Woodlawn Avenue, Chicago, Cook County.

Room 405, George Herbert Jones Laboratory, the University of Chicago, S. Ellis Avenue between E. 57th and 58th Streets, Chicago, Cook County.

Site of First Self-Sustaining Nuclear Reaction, S. Ellis Avenue between E. 56th and 57th Streets, Chicago, Cook County.

Starved Rock, 6 miles from Ottawa on Ill. 71, Starved Rock State Park, La Salle County.

Taft, Lorado, Midway Studios, 6016 S. Ingleside Avenue, Chicago, Cook County.

Wayside, the (Henry Demarest Lloyd Home), 830 Sheridan Road, Winnetka, Cook County.

Willard, Frances, House, 1730 Chicago Avenue, Evanston, Cook County.

INDIANA

Angel Mounds, 8 miles southeast of Evansville, Angel Mounds State Memorial, Vanderburgh County.

Coffin, Levi, House, 115 N. Main Street, Fountain City, Wayne County.

Debs, Eugene V., Home, 451 N. 8th Street, Terre Haute, Vigo County.

Grouseland (William Henry Harrison, Home), 3 W. Scott Street, Vincennes, Knox County.

Harrison, Benjamin, Home, 1204 N. Delaware Street, Indianapolis, Marion County.

New Harmony Historic District, Main Street between Granary and Church Streets, New Harmony, Posey County.

Riley, James Whitcomb, House, 528 Lockerbie Street, Indianapolis, Marion County.

Tippecanoe Battlefield, 7 miles northeast of Lafayette on Ind. 225, Tippecanoe vicinity.

IOWA

Amana Villages, Middle Amana, northeastern Iowa County.

Blood Run Site, south of Sioux Falls at the junction of Blood Run Creek and the Big Sioux River, Lyon County.

Dodge, Grenville M., House, 605 S. 3rd Street, Council Bluffs, Pottawattamie County.

Farm House, the (Knapp-Wilson House), Iowa State University campus, Ames, Story County.

Indian Village Site (Wittrock Area), 3 miles east of Sutherland, O'Brien County.

Phipps Site, 3 miles north of Cherokee, Cherokee, County.

Sergeant Floyd Monument, Glenn Avenue and Lewis Road, Sioux City, Woodbury County.

Toolesboro Mound Group, north of Toolesboro, Louisa County.

KANSAS

El Cuartelejo, 12 miles north of Scott City, Scott County State Park, Scott County.

Fort Leavenworth, Leavenworth, Leavenworth County.

Haskell Institute, Lawrence, Douglas County.

Hollenberg (Cottonwood) Pony Express Station, 1.5 miles east of Hanover on a secondary road, Washington County.

Santa Fe Trail Remains, 9 miles west of Dodge City on U.S. 50, Ford County.

Shawnee Mission, 53rd Street at Mission Road, Fairway, Johnson County.

Tobias-Thompson Complex, 4 miles southeast of Geneseo, Rice County.

Wagon Bed Springs, 12 miles south of Ulysses on U.S. 270, Grant County.

Whiteford (Price) Site, 3 miles east of Salina, Salina County.

KENTUCKY

Ashland (Henry Clay Home), 2 miles southeast of Lexington on Richmond Road, Fayette County.

Beard, Daniel Carter, Boyhood Home, 322 E. 3rd Street, Covington, Kenton County.

Jacobs Hall, Kentucky School for the Deaf, S. 3rd Street, Danville, Boyle County.

McDowell, Dr. Ephraim, House, 125–127 S. 2nd Street, Danville, Boyle County.

Old Morrison, Transylvania College, W. 3rd Street between Upper Street and Broadway, Lexington, Fayette Coun.

Perryville Battlefield, west of Perryville on U.S. 150, Boyle County.

Springfield (Zachary Taylor House), 5608 Apache Road, Louisville, Jefferson County.

LOUISIANA

Cabildo, The, Jackson Square, Chartres and St. Peter Streets, New Orleans, Orleans Parish.

Cable, George Washington, House, 1313 8th Street, New Orleans, Orleans Parish.

Fort de la Boulaye, near Phoenix on the Mississippi River, near La. 50, Plaquemines Parish.

Fort Jackson, 2.5 miles southeast of Triumph on La. 23, on the west bank of the Mississippi River, Plaquemines Parish.

Fort Jesup, 7 miles northeast of Many on La. 6, Fort Jesup State Monument, Sabine Parish.

Fort St. Philip, 2.5 miles southeast of Triumph on La. 23, on the east bank of the Mississippi River Plaquemines Parish.

Homeplace Plantation House, La. 18, 0.5 miles south of Hahnville, St. Charles Parish.

Jackson Square (Place d'Armes), bounded by Decatur, St. Peter, St. Ann, and Chartres Streets, New Orleans, Orleans Parish.

Lafitte's Blacksmith Shop, 941 Bourbon Street, New Orleans, Orleans Parish.

Madame John's Legacy, 632 Dumaine Street, New Orleans, Orleans Parish.

Marksville Prehistoric Indian Site, Marksville Prehistoric Indian Park, Marksville vicinity, Avoyelles Parish.

Mayor Girod House, 500 Chartres Street, New Orleans, Orleans Parish.

Parlange Plantation House, junction of La. 1 and 78, Mix vicinity, Pointe Coupee Parish.

Poverty Point, 12 miles north of Delhi on Bayou Macon, West Carroll Parish.

Presbytere, the, 713 Chartres Street, New Orleans, Orleans Parish.

Ursuline Convent, 1114 Chartres Street, New Orleans, Orleans Parish.

Vieux Carre Historic District, bounded by the Mississippi River, Rampart Street, Canal Street, and Esplanade Avenue, New Orleans, Orleans Parish.

MAINE

Blaine, James G., House, Capitol and State Streets, Augusta, Kennebec County.

Fort Halifax, on U.S. 201 at Winslow, Kennebec County.

Gilman, Daniel Coit, Summer Home (Over Edge), Northeast Harbor, Hancock County.

Harpswell Meetinghouse, Harpswell Center on Me. 123, 9 miles south of Brunswick, Cumberland County.

Homer, Winslow, Studio, Winslow Homer Road, Prout's Neck, Scarborough, Cumberland County.

Lady Pepperrell House, Me. 103, Kittery Point, York County.

McIntire Garrison House, on Me. 91 about 5 miles west of York, York County.

Old York Gaol, 4 Lindsay Road, York, York County.

Stowe, Harriet Beecher, House, 63 Federal Street, Brunswick, Cumberland County.

Wadsworth-Longfellow House, 487 Congress Street, Portland, Cumberland County.

MARYLAND

Accokeek Creek Site, opposite Mount Vernon on the Potomac River, west of Piscataway Park, Accokeek vicinity, Prince Georges County.

Baltimore and Ohio Transportation Museum and Mount Clare Station, Pratt and Poppleton Streets, Baltimore City.

Brice House, 42 East Street, Annapolis, Anne Arundel County.

Casselman's Bridge, National Road, east of Grantsville on U.S. 40, Garrett County.

Chase-Lloyd House, 22 Maryland Avenue, Annapolis, Anne Arundel County.

Colonial Annapolis Historic District, district boundaries approximate the city boundaries surveyed in 1695, Annapolis, Anne Arundel County.

Ellicott City Station, just south of the Patapsco River Bridge, Ellicott City, Howard County.

Hammond-Harwood House, Maryland Avenue and King George Street, Annapolis, Anne Arundel County.

London Town Publik House, northeast of Woodland Beach at the end of Londontown Road, Anne Arundel County.

Maryland Statehouse, State Circle, Annapolis, Anne Arundel County.

Old Lock Pump House, Chesapeake and Delaware Canal, U.S. 213, Chesapeake City, Cecil County.

Peale's Baltimore Museum, 225 N. Holliday Street, Baltimore City.

Poe, Edgar Allan, House, 203 Amity Street, Baltimore City.

Resurrection Manor, 4 miles east of Hollywood, St. Marys County.

St. Marys City Historic District, bounded by St. Marys River, St. Inigoes Creek, Broome Creek, and Chancellor's Creek, St. Marys County.

Star Spangled Banner Flag House, 844 E. Pratt Street, Baltimore City.

Thomas Viaduct, Baltimore and Ohio Railroad, over the Patapsco River between Relay and Elkridge, Baltimore and Howard Counties.

Tulip Hill, 2.5 miles west of Galesville on Owensville Road, Anne Arundel County.

United States Naval Academy, Maryland Avenue and Hanover Street, Annapolis, Anne Arundel County.

U.S.S. Constellation, Pier 1, Pratt Street, Baltimore City.

Whitehall, off St. Margaret's Road, Annapolis, Anne Arundel County.

MASSACHUSETTS

Adams, John, Birthplace, 133 Franklin Street, Quincy, Norfolk County.

Adams, John Quincy, Birthplace, 141 Franklin Street, Quincy, Norfolk County.

American Antiquarian Society, 185 Salisbury Street, Worcester, Worcester County.

Arnold Arboretum, 22 Divinity Avenue, Boston, Suffolk County.

Arrowhead (Herman Melville House), Holmes Road, Pittsfield, Berkshire County.

Beacon Hill Historic District, bounded by Beacon Street on the south, the Charles River Embankment on the west, Pinckney and Revere Streets on the north, and Hancock Street on the east, Boston, Suffolk County.

Boardman House, Howard Street, Saugus, Essex County.

Boston Athenaeum, 10½ Beacon Street, Boston, Suffolk County.

Boston Light, Little Brewster Island, Boston Harbor, Boston, Suffolk County.

Bowditch, Nathaniel, Home, North Street, Salem, Essex County.

Brook Farm, 670 Baker Street, West Roxbury, Suffolk County.

Bryant, William Cullen, Homestead, 2 miles from Cummington on side road, Hampshire County.

Buckman Tavern, Hancock Street, on the east side of Lexington Green, Lexington, Middlesex County.

Capen (Parson) House, Howlett Street, Topsfield, Essex County.

Christ Church, Garden Street, Cambridge, Middlesex County.

Coffin, Jethro, House, Sunset Hill, Nantucket, Nantucket County.

Cole's Hill, Carver Street, Plymouth, Plymouth County.

Derby Summerhouse, Glen Magna Estate, Ingersoll Street, Danvers, Essex County.

Dickinson, Emily, Home, 280 Main Street, Amherst, Hampshire County.

Elmwood (James Russell Lowell Home), Elmwood Avenue, Cambridge, Middlesex County.

Emerson, Ralph Waldo, Home, Lexington Road and Cambridge Turnpike, Concord, Middlesex County.

Ether Dome, Massachusetts General Hospital, Fruit Street, Boston, Suffolk County.

Fairbanks House, Eastern Avenue and East Street, Dedham, Norfolk County.

Faneuil Hall, Dock Square, Boston, Suffolk County.

Forbes, Capt. R. B., House, 215 Adams Street, Milton, Norfolk County.

French, Daniel Chester, Home and Studio (Chesterwood), 2 miles west of Stockbridge, Berkshire County.

Garrison, William Lloyd, House, 125 Highland Street, Roxbury, Suffolk County.

Goddard Rocket Launching Site, (Pakachoag Hill), 9th Fairway, Pakachoag Golf Course, Pakachoag Road, Auburn vicinity, Worcester County.

Gray, Asa, House, 88 Garden Street, Cambridge, Middlesex County.

Hancock Shaker Village, U.S. 20, Hancock Turnpike, 5 miles south of Pittsfield, Berkshire County.

Harding, Chester, House, 16 Beacon Street, Boston, Suffolk County.

Headquarters House, 55 Beacon Street, Boston, Suffolk County.

King's Chapel, Tremont and School Streets, Boston, Suffolk County.

Lee, Jeremiah, House, Washington Street, Marblehead, Essex County.

Lexington Green, Massachusetts and Hancock Streets, Lexington, Middlesex County.

Long Wharf and Customhouse Block, foot of State Street, Boston, Suffolk County.

Massachusetts Hall, Harvard University, Harvard University Yard, Cambridge, Middlesex County.

Massachusetts Historical Society, 1154 Boylston Street, Boston, Suffolk County.

Massachusetts Statehouse, Beacon Hill, Boston, Suffolk County.

Mission House, Main Street, Stockbridge, Berkshire County.

Nantucket Historic District, Nantucket Island, Nantucket County.

New Bedford Historic District, bounded by the waterfront, Elm Street, Acushnet Avenue, and Commercial Street, New Bedford, Bristol County.

Old Deerfield Historic District, Deerfield, Franklin County.

Old Manse, Monument Street, Concord, Middlesex County.

Old Ship Meetinghouse, Main Street, Hingham, Plymouth County.

Olmsted, Fredrick Law, House, 99 Warren Street, Brookline, Norfolk County.

Orchard House, Lexington Road, Concord, Middlesex County.

Parkman, Francis, House, 50 Chestnut Street, Boston, Suffolk County.

Peirce-Nichols House, 80 Federal Street, Salem, Essex County.

Pierce-Hichborn House, 29 North Square, Boston, Suffolk County.

Quincy Market, South Market Street, Boston, Suffolk County.

Royall, Isaac, House, 15 George Street, Medford, Middlesex County.

Shirley-Eustis House, 31–37 Shirley Street, Roxbury, Suffolk County.

Spencer-Pierce-Little House, at end of Little's Lane, on the east side of U.S. 1A, Newbury, Essex County.

Tremont Street Subway, beneath Tremont, Boylston, and Washington Streets, Boston, Suffolk County.

Tufts, Peter, House 350 Riverside Avenue, Medford, Middlesex County.

U.S.S. Constitution, Boston Naval Shipyard, Charlestown, Suffolk County.

Walden, Pond, 1.5 miles south of Concord, Middlesex County.

Ward, John, House 132 Essex Street, Salem, Essex County.

Whipple, John, House 53 S. Main Street, Ipswich, Essex County.

Whittier, John Greenleaf, Home, 86 Friend Street, Amesbury, Essex County.

Wright's Tavern, Lexington Road, opposite the Burying Ground, Concord, Middlesex County.

MICHIGAN

Fair Lane (Henry Ford Estate), 4901 Evergreen Road, Dearborn, Wayne County.

Fort Michilimackinac, near Mackinac Bridge, at the terminus of U.S. 31, Mackinaw City, Cheboygan County.

Mackinac Island, northeast across the Straits of Mackinac from Mackinaw City, Mackinac County.

Norton Mound Group, 2 miles south of Grand Rapids on Indian Mound Drive, Kent County.

St. Ignace Mission, State and Marquette Streets, Marquette Park, St. Ignace, Mackinac County.

St. Mary's Falls Canal, St. Mary's River, Sault Ste. Marie, Chippewa County.

Windemere (Ernest Hemingway Cottage), between the north shore of Walloon Lake and Lake Grove Road, Emmet County.

MINNESOTA

Fort Snelling, bounded by Minnehaha Park, Mississippi River, the airport, and Bloomington Road, St. Paul vicinity, Hennepin and Dakota Counties.

Hill, James J., House, 240 Summit Avenue, St. Paul, Ramsey County.

Hull-Rust-Mahoning open pit iron mine, 3rd Avenue East, Hibbing vicinity, St. Louis County.

Kathio site, U.S. 169, Mille Lacs-Kathio State Park, Vineland, Mille Lacs County.

Kelley, Oliver H., Homestead, 2 miles southeast of Elk River on U.S. 10, Sherburne County.

Mayo Clinic Buildings (1914 and 1928), 110 and 115 2nd Avenue, Rochester, Olmsted County.

Mountain Iron Mine, north of the village of Mountain Iron, St. Louis County.

Pillsbury, A Mill, Main Street and 3rd Avenue, S.E., Minneapolis, Hennepin County.

Rolvaag, O. E., House, 311 Manitou Street, Northfield, Rice County.

St. Croix Boom Site, 3 miles north of Stillwater on St. Croix River, Washington County.

Soudan Iron Mine, Tower-Soudan State Park, Tower vicinity, St. Louis County.

MISSISSIPPI

Fatherland Plantation Site, 3 miles southeast of Natchez, Adams County.

Holly Bluff Site, about 2 miles from Holly Bluff on secondary road, Yazoo County.

Longwood, 1.5 miles southeast of Natchez, Adams County.

Old Courthouse, Court Square, Vicksburg, Warren County.

Rowan Oak (William Faulkner House), Old Taylor Road, Oxford, Lafayette County.

MISSOURI

Anheuser-Busch Brewery, 721 Pestalozzi Street, St. Louis City.

Arrow Rock, Arrow Rock State Park, Arrow Rock, Saline County.

Bingham, George Caleb, House, Arrow Rock State Park, Arrow Rock, Saline County.

Bolduc, Louis, House, 123 South Main Street, Ste. Genevieve, Ste. Genevieve County.

Carrington Osage Village Site, north of Nevada, on west edge of Green Valley Prairie, Vernon County.

Eads Bridge, spanning the Mississippi River at Washington Street, St. Louis City.

Fort Osage, north edge of Sibley on the Missouri River, Jackson County.

Goldenrod Showboat, 400 N. Wharf Street, St. Louis City.

Graham Cave, 0.5 mile north of Mineola, Montgomery County.

Patee, John, House, 12th and Penn Streets, St. Joseph, Buchanan County.

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Research Cave, Portland vicinity, Callaway County.
Sainte Genevieve Historic District, Ste. Genevieve, Ste. Genevieve County.
Sanborn Field and Soil Erosion Plots, University of Missouri campus, Columbia, Boone County.
Twain, Mark, Boyhood Home, 206–208 Hill Street, Hannibal, Marion County.
Utz Site, 12 miles north of Marshall, adjoining Van Meter State Park, Saline County.
Watkins Mill, 6 miles northwest of Excelsior, Clay County.
Westminster College Gymnasium, Westminster College campus, Fulton, Callaway County.

MONTANA

Bannack Historic District, 22 miles from Dillon on secondary road off Mont. 278, Beaverhead County.
Butte Historic District, Butte, Silver Bow County.
Camp Disappointment, 12 miles northeast of Browning on the Blackfeet Reservation, Glacier County.
Fort Benton, Fort Benton, Chouteau County.
Great Falls Portage, southeast of Great Falls at junction of U.S. 87, 89, and 91, Cascade County.
Hagen Site, 5 miles southeast of Glendive on secondary road, Dawson County.
Lemhi Pass, 12 miles east of Tendoy off Idaho 28, Beaverhead County.
Lolo Trail, parallel to U.S. 12 on ridges of Bitterroot Mountains, from Lolo Pass to Weippe, Lolo Hot Springs vicinity, Missoula County.
Pictograph Cave, 7 miles southeast of Billings via U.S. 87 and secondary road, Indian Cave Park, Yellowstone County.
Pompey's Pillar, west of Pompey's Pillar on U.S. 10, Yellowstone County.
Russell, Charles M., House and Studio, 1217–1219 4th Avenue, North, Great Falls, Cascade County.
Three Forks of the Missouri, northwest of Three Forks on the Missouri River, Missouri Headquarters State Monument, Gallatin County.
Traveler's Rest, 1 mile south of Lolo near U.S. 93, Missoula County.
Virginia City Historic District, Wallace Street, Virginia City, Madison County.

NEBRASKA

Ash Hollow Cave, 2 miles south of Lewellen, Garden County.
Bryan, William Jennings, House (Fairview), 4900 Sumner Street, Lincoln, Lancaster County.
Coufal Site, 6 miles northwest of Cotesfield on Davis Creek, Howard County.
Fort Atkinson, 1 mile east of Fort Calhoun, Washington County.
Fort Robinson and Red Cloud Agency, 2 miles west of Crawford on U.S. 20, Dawes and Sioux Counties.
Gilmore, Walker, Site (Sterns Creek Site), 5 miles southeast of Murray, Cass County.
Leary Site, 4 miles southeast of Rulo on Nebr. 7, Richardson County.
Norris, Senator George William, House, 706 Norris Avenue, McCook, Red Willow County.
Palmer Site, 4 miles north and 1 mile west of Palmer on Loup River, Howard County.
Pike Pawnee Village Site (Hill Site), 4 miles southwest of Guide Rock, Webster County.
Robidoux Pass, 9 miles west of Gering, Scotts Bluff County.
Signal Butte, 13 miles west of Gering, Scotts Bluff County.

NEVADA

Fort Churchill, U.S. 95A, 8 miles south of U.S. 50, Weeks vicinity, Lyon County.
Fort Ruby, near Hobson on a secondary road, west side of Ruby Lake, White Pine County.
Leonard Rockshelter, 12 miles south of Lovelock off Nev. 59, Pershing County.
Newlands, Senator Francis G., Home, 7 Elm Court, Reno, Washoe County.
Virginia City Historic District, Virginia City, Storey County.

NEW HAMPSHIRE

Bartlett, Josiah, House, Main Street, Kingston, Rockingham County.
Frost, Robert, Homestead, 2 miles southeast of Derry on N.H. 28, Rockingham County.
Jackson, Richard, House, northwest Street, Portsmouth, Rockingham County.
MacDowell Colony, west of U.S. 202, Peterborough, Hillsboro County.
MacPheadris-Warner House, Chapel and Daniel Streets, Portsmouth, Rockingham County.
Pierce, Franklin, Homestead, 3 miles west of Hillsboro on N.H. 31, Hillsboro County.
Wentworth-Coolidge Mansion, at the foot of Little Harbor Road, off U.S. 1A, 2 miles south of Portsmouth, Rockingham County.
Wentworth-Gardner House, 140 Mechanic Street, Portsmouth, Rockingham County.

NEW JERSEY

Cleveland, Grover, Home (Westland), 15 Hodge Road, Princeton, Mercer County.
Hangar No. 1, Lakehurst Naval Air Station, north of Lakehurst on County Route 547, Ocean County.
Henry, Joseph, House, Princeton University campus, Princeton, Mercer County.
Monmouth Battlefield, northwest of Freehold on N.J. 522, Monmouth, County.
Nassau Hall, Princeton University campus, Princeton, Mercer County.
Princeton Battlefield, Princeton Battlefield State Park, Princeton, Mercer County.
Ringwood Manor, 3 miles east of Hewitt, Ringwood Manor State Park, Passaic County.
Sandy Hook Light, Sandy Hook, Monmouth County.
Trent, William, House, 539 S. Warren Street, Trenton, Mercer County.
Washington Crossing State Park, between Yardley and New Hope, on the Delaware River, Yardley vicinity, Mercer County.
Whitman, Walt, House, 330 Mickle Street, Camden, Camden County.

NEW MEXICO

Abo, 3 miles west of Abo on U.S. 60 and secondary road, Torrance County.
Acoma, 13 miles south of Casa Blanca on N.M. 23, Valencia County.
Barrio De Analco Historic District, bounded by De Vargas and College Streets, St. Michaels' Dormitory, San Miguel Chapel, State Parks Building, and Santa Fe River, Santa Fe, Santa Fe County.
Big Bead Mesa, west of Casa Salazar on secondary roads, Cibola National Forest, Sandoval County.
Blumenschein, Ernest L., House, Ledoux Street, Taos, Taos County.
Carlsbad Reclamation Project, north of Carlsbad, Eddy County.
Carson, Kit, House, Kit Carson Avenue, Taos, Taos County.
Folsom Site, 8 miles west of Folsom on the banks of Dead Horse Gulch, Union County.
Hawikuh, 12 miles southwest of Zuni, Zuni Indian Reservation, Valencia County.
Las Trampas Historic District, Las Trampas, Taos County.
Lincoln Historic District, U.S. 380, Lincoln, Lincoln County.
Los Alamos Scientific Laboratory, Central Avenue, Los Alamos, Los Alamos County.
Manuelito Complex, 6 miles south of Manuelito on secondary roads, McKinley County.
Mesilla Plaza, 2 miles south of Las Cruces on N.M. 28, Dona Ana County.
Palace of the Governors, The Plaza, Santa Fe, Santa Fe County.
Puye Ruins, 14 miles west of Espanola on N.M. 5 and 30, Santa Clara Indian Reservation, Rio Arriba County.
Quarai, 1 mile south of Punta de Agua on secondary road, Torrance County.
Rabbit Ears (Clayton Complex), north and west of Clayton, Union County.
Sandia Cave, 11 miles east of Bernalillo on N.M. 44, Cibola National Forest, Sandoval County.
San Gabriel De Yungue-Ouinge, 4 miles north of Espanola via U.S. 64 and secondary roads, Rio Arriba County.
San Lazaro, 25 miles south of Santa Fe via N.M. 10 and secondary road, Santa Fe County.
Santa Fe Plaza, Santa Fe, Santa Fe County.
Seton Village, 6 miles south of Santa Fe off U.S. 84–85 and secondary road, Santa Fe County.
Taos Pueblo, 3 miles north of Taos, Taos County.
Trinity Site, 25 miles south of U.S. 380 on White Sands Missile Range, Bingham vicinity, Socorro County.
Wagon Mound, east of Wagon Mound on U.S. 85, Mora County.
Watrous (La Junta), U.S. 85, Watrous, Mora County.

NEW YORK

Adirondack Forest Preserve, northeastern New York State, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, St. Lawrence, Warren Counties.
Anthony, Susan B., House, 17 Madison Street, Rochester, Monroe County.
Arden (E. H. Harriman Estate), N.Y. 17, Harriman, Orange County.
Arthur, Chester A., House, 123 Lexington Avenue, New York, New York County.
Bennington Battlefield, N.Y. 67, on Vermont line, Walloomsac vicinity, Rensselaer County.
Boughton Hill, 1.25 miles south of Victor, Ontario County.
Bronck House, 2 miles west of Coxsackie on the west side of U.S. 9W, Green County.
Brooklyn Bridge, connecting the boroughs of Manhattan and Brooklyn across the East River, Brooklyn, Kings County.
Brooklyn Heights Historic District, Borough of Brooklyn, bounded by Atlantic Avenue, Court and Fulton Streets, and the East River, Kings County.
Burroughs, John, Cabin (Slabsides), just west of West Park, Ulster County.
Burroughs, John, Home (Woodchuck Lodge), 2 miles from Roxbury, Delaware County.
Burroughs, John, Riverby Study, between N.Y. 9W and the Hudson River, West Park, Ulster County.
Carnegie, Andrew, Mansion, 2 E. 91st Street, New York, New York County.
Carnegie Hall, 7th Avenue, 56th to 57th Streets, New York, New York County.
Central Park, bounded by Central Park South, 5th Avenue, Central Park West, and 110th Street, New York, New York County.
Church, Frederic E., House (Olana), Church Hill, east end of Rip Van Winkle Bridge, Columbia County.
Cole, Thomas, House, 218 Spring Street, Catskill, Greene County.
Conference House, Hylan Boulevard, Tottenville, Staten Island, Richmond County.
Cooper Union, Cooper Square, 7th Street and 4th Avenue, New York, New York County.
De Wint House, Livingston Avenue and Oak Tree Road, Tappan, Rockland County.
Dutch Reformed (Sleepy Hollow) Church, north edge of Tarrytown on U.S. 9, Westchester County.

Dyckman House, 4881 Broadway, New York, New York County.
Eastman, George, House, 900 Avenue, Rochester, Monroe County.
Erie Canal, 6 miles west of Amsterdam on N.Y. 5S, Montgomery County.
Fort Crailo, south of Columbia Street on Riverside Street, Rensselaer, Rensselaer County.
Fort Crown Point, Crown Point Reservation, west of the south end of the Lake Champlain Bridge and N.Y. 8, Crown Point vicinity, Essex County.
Fort St. Frederic, junction of N.Y. 8 and 9N, Crown Point, Essex County.
Fort Ticonderoga, 2.5 miles south of Ticonderoga on N.Y. 22, Essex County.
Gould, Jay, Estate (Lyndhurst), 635 S. Broadway, Tarrytown, Westchester County.
Hasbrouck, Jean, House, Huguenot Street, opposite junction with North Street, New Paltz, Ulster County.
Historic Track, Main Street, Goshen, Orange County.
Holland Land Office, W. Main Street, Batavia, Genesee County.
Hough, Franklin B., House, Collins Street, Lowville, Lewis County.
Huguenot Street Historic District, Huguenot Street, New Paltz, Ulster County.
Hurley Historic District, Hurley Street, Hurley Mountain Road, and Schoonmaker Lane, Hurley, Ulster County.
Johnson Hall, Hall Street, Johnstown, Fulton County.
Lamoka, 2 miles west of Tyrone at northern edge of Lamoka Lake, Schuyler County.
Locust Grove (Samuel F. B. Morse House), 370 South Street, Poughkeepsie, Dutchess County.
Miller, Lewis, Cottage, Chautauqua Institution, N.Y. 17, Chautauqua, Chautauqua County.
Moran, Thomas, House, Main Street, East Hampton, Long Island, Suffolk County.
Morgan, Pierpont, Library, 33 E. 36th Street, New York, New York County.
Morrill Hall, Cornell University campus, Ithaca, Tompkins County.
Old Blenheim Bridge, N.Y. 30 over Schoharie Creek, North Blenheim, Schoharie County.
Old House, The, N.Y. 25, Cutchogue, Suffolk County.
Old Merchant's House, 29 E. 4th Street, New York, New York County.
Old Quaker Meetinghouse, south side of Northern Boulevard, Flushing, Queens County.
Oneida Community Mansion House, Sherrill Road, Oneida, Madison County.
Oriskany Battlefield, 5 miles east of Rome on N.Y. 69, Oneida County.
Palisades Interstate Park, on the west bank of the Hudson River, Orange and Rockland Counties.
Philipsburg Manor, 381 Bellwood Avenue, Upper Mills, Westchester County.
Philipse Manor Hall, Warburton Avenue and Dock Street, Yonkers, Westchester County.
Plattsburgh Bay, Cumberland Bay, east of Plattsburgh, Clinton County.
Players, The, 16 Gramercy Park, New York County.
Plymouth Church of the Pilgrims, 75 Hicks Street, Brooklyn, Kings County.
Pupin Physics Laboratories, Columbia University, Broadway and 120th Street, New York, New York County.
St. Paul's Chapel, Broadway, between Fulton and Vesey Streets, New York, New York County.
Seward, William H., House, 33 South Street, Auburn, Cayuga County.
Sousa, John Philip, House, 14 Hicks Lane, Sands Point, Port Washington, Nassau County.
Springside (Matthew Vassar House), Academy and Livingston Streets, Poughkeepsie, Dutchess County.
Stanton, Elizabeth Cady, House, 32 Washington Street, Seneca Falls, Seneca County.
Stony Point Battlefield, north of Stony Point on U.S. 9W and 202, Rockland County.
Sunnyside (Washington Irving House), Sunnyside Lane, Tarrytown vicinity, Westchester County.
United States Military Academy, N.Y. 218, West Point, Orange County.
Valcour Bay, 7 miles south of Plattsburgh on the west shore of Lake Champlain, Clinton County.
Van Cortlandt House, Van Cortlandt Park at 242nd Street, The Bronx, Bronx County.
Van Cortlandt Manor, U.S. 9, north of intersection with U.S. 9A, Croton-on-Hudson, Westchester County.
Vooriezer's House, The, Arthur Kill Road, opposite Center Street, Staten Island, Richmond County.
Washington's Headquarters, Liberty and Washington Streets, Newburgh, Orange County.
Watervliet Arsenal, S. Broadway, Watervliet, Albany County.
Watson, Elkanah, House, 3 miles east of U.S. 9, Port Kent, Essex County.
Wood, Jethro, House, N.Y. 34B, Poplar Ridge, Cayuga County.
Woolworth Building, 233 Broadway, New York, New York County.
Wyckoff House, 5902 Canarsie Lane, Brooklyn, Kings County.

NORTH CAROLINA

Biltmore Estate, Biltmore Plaza, Asheville, Buncombe County.
Chowan County Courthouse, E. King Street, Edenton, Chowan County.
Cupioa House, 408 S. Broad Street, Edenton, Chowan County.
Duke Homestead and Tobacco Factory, 0.5 mile north of Durham on Guess Road and east on N.C. 1025, Durham County.
Fort Fisher, 18 miles south of Wilmington on U.S. 421, New Hanover County.
Old East, University of North Carolina campus, Chapel Hill, Orange County.
Old Salem Historic District, Salem College campus and area near Salem Square, Winston-Salem, Forsyth County.
Palmer-Marsh House, Main Street, south of N.C. 92, Bath, Beaufort County.
Reed Gold Mine, 11 miles southeast of Concord on U.S. 601 and N.C. 200, Cabarrus County.
Salem Tavern, 800 S. Main Street, Winston-Salem, Forsyth County.
Single Brothers' House, S. Main and Academy Streets, Winston-Salem, Forsyth County.
Town Creek Indian Mound, 4.5 miles southeast of Mount Gilead on N.C. 73, Montgomery County.

NORTH DAKOTA

Menoken Indian Village Site, 1.25 miles north of Menoken, Verendrye State Park, Burleigh County.

OHIO

Beginning Point of the U.S. Public Land Survey, on the Ohio-Pennsylvania boundary, East Liverpool, Columbiana County.
Cooke, Jay, Home, Put-in-Bay, Lake Erie, Gibraltar Island, Ottawa County.
Dunbar, Paul Lawrence, House, 219 N. Summit Street, Dayton, Montgomery County.
Edison, Thomas Alva, Birthplace, Milan, Erie County.
Fallen Timbers Battlefield, 2 miles west of Maumee on U.S. 24, Lucas County.
Fort Ancient, 7 miles southeast of Lebanon on Ohio 350, Fort Ancient State Memorial, Warren County.
Fort Meigs, 1.3 miles southwest of Perrysburg, Wood County.
Garfield, James A., Home (Lawnfield), 1059 Mentor Avenue, Mentor, Lake County.
Harding, Warren G., Home, 380 Mount Vernon Avenue, Marion, Marion County.
Hopeton Earthworks, near Mound City Group National Monument on U.S. 23, Hopeton vicinity, Ross County.
McGuffey, William H., Boyhood Home Site, McGuffey Road near Ohio 616, Coitsville Township, Mahoning County.
McGuffey, William H., House, 401 E. Spring Street, Oxford, Butler County.
Manasseh Cutler Hall, Ohio University, Ohio University campus, Athens, Athens County.
Miami and Erie Canal (Deep Cut), 2 miles south of Spencerville on Ohio 66, Allen County.
Newark Earthworks, Mound Builders State Memorial, Newark, Licking County.
Oberlin College, Tappan Square, Oberlin, Lorain County.
Ohio and Erie Canal, Ohio 631, Valley View Village, Cuyahoga County.
Pendleton, George Hunt, House, 559 E. Liberty Street, Cincinnati, Hamilton County.
S Bridge, National Road, 4 miles east of Old Washington on U.S. 40, Guernsey County.
Serpent Mound, 5 miles northwest of Locust Grove on Ohio 73, Adams County.
Sherman, John, Birthplace, 137 E. Main Street, Lancaster, Fairfield County.
Spiegel Grove (Hayes, Rutherford B., Home), Hayes and Buckland Avenues, Fremont, Sandusky County.

OKLAHOMA

Camp Nichols, 3 miles northeast of Wheeless on Ranch Road, Cimarron County.
Cherokee National Capitol, Tahlequah, Cherokee County.
Creek National Capitol, Okmulgee, Okmulgee County.
Deer Creek Site, 6 miles northeast of Newkirk, Kay County.
Fort Gibson, Fort Gibson, Muskogee County.
Fort Sill, north of Lawton, Comanche County.
Fort Washita, southwest of Nida on Okla. 199, Bryan County.
McLemore Site, 4 miles southeast of Colony on Okla. 69, Washita County.
Sequoyah's Cabin, Okla. 101, Sequoyah's Cabin State Park, Akins vicinity, Sequoyah County.
Stamper Site, 2.5 miles south of Optima on the south bank of the North Canadian River, Texas County.
Washita Battlefield, northwest of Cheyenne on U.S. 283, Roger Mills County.
Wheelock Academy, east of Millerton off U.S. 70, McCurtain County.

OREGON

Elmore, Samuel, Cannery, on the waterfront at the foot of Flaval Street, Astoria, Clatsop County.
Fort Astoria, 15th and Exchange Streets, Astoria, Clatsop County.
Fort Rock Cave, Fort Rock vicinity, Lake County.
Lower Klamath National Wildlife Refuge, lower Klamath Lake, Klamath County.

PENNSYLVANIA

Academy of Music, Broad and Locust Streets, Philadelphia, Philadelphia County.
American Philosophical Society Hall, Independence Square, Philadelphia, Philadelphia County.
Andalusia (Nicholas Biddle Estate), 1.4 miles north of Philadelphia on State Road, Bucks County.
Augustus Lutheran Church, 7th Avenue East and Main Street, Trappe, Montgomery County.

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Bartram, John, House, 54th Street and Eastwick Avenue, Philadelphia, Philadelphia County.

Brandywine Battlefield, Brandywine Battlefield Park, Chadds Ford, Delaware County.

Bushy Run Battlefield, 2 miles east of Harrison City on Pa. 993, Westmoreland County.

Carlisle Indian School, east edge of Carlisle on U.S. 11, Cumberland County.

Carpenters' Hall, 320 Chestnut Street, Philadelphia, Philadelphia County.

Chew House (Cliveden), Germantown Avenue, between Johnson and Cliveden Streets, Philadelphia, Philadelphia County.

Christ Church, 2nd Street, between Market and Filbert Streets, Philadelphia, Philadelphia County.

Colonial Germantown Historic District, Germantown Avenue, between Windrim Avenue and Upsal Street, Philadelphia, Philadelphia County.

Cornwall Iron Furnace, Cornwall, Lebanon County.

Delaware and Hudson Canal, Wayne County.

Drape Oil Well, 3 miles southeast of Titusville on Pa. 36, Drake Well Memorial Park, Venango County.

Eakins, Thomas, House, 1729 Mount Vernon Place, Philadelphia, Philadelphia County.

East Broad Top Railroad, U.S. 522, Rockhill Furnace, Huntingdon County.

Eastern State Penitentiary, 21st Street and Fairmount Avenue, Philadelphia, Philadelphia County.

Ephrata Cloister, Ephrata, Lancaster County.

Forks of the Ohio, Point Park, Pittsburgh, Allegheny County.

Founder's Hall, Girard College, Corinthian and Girard Avenues, Philadelphia, Philadelphia County.

Fulton Opera House, 12–14 N. Prince Street, Lancaster, Lancaster County.

Fulton, Robert, Birthplace, 8 miles south of Quarryville on U.S. 222, Lancaster County.

Gallatin, Albert, House (Friendship Hill), 3 miles north of Point Marion on Pa. 166, Fayette County.

Graeme Park, Keith Valley Road, Horsham vicinity, Montgomery County.

Horseshoe Curve, 5 miles west of Altoona on Pa. 193, Blair County.

Institute of the Pennsylvania Hospital, 111 N. 49th Street, Philadelphia, Philadelphia County.

Logan, James, Home (Stenton), 18th and Courtland Streets, Philadelphia, Philadelphia County.

Mount Pleasant, Fairmount Park, Philadelphia, Philadelphia County.

New Market, South 2nd Street, between Pine and Lombard Streets, Philadelphia, Philadelphia County.

Old Economy, Pa. 65, Ambridge, Beaver County.

Old West, Dickinson College, Dickinson College campus, Carlisle, Cumberland County.

Peale, Charles Willson, House (Belfield), 2100 Clarkson Avenue, Philadelphia, Philadelphia County.

Pennsylvania Hospital, The, 8th and Spruce Streets, Philadelphia, Philadelphia County.

Poe, Edgar Allan, House, 530 N. 7th Street, Philadelphia, Philadelphia County.

Powderly, Terence V., House, 614 N. Main Street, Scranton, Lackawanna County.

Priestley, Joseph, House, Priestley Avenue, Northumberland, Northumberland County.

Printzhof, The, Taylor Avenue and 2nd Street, Essington, Delaware County.

Reynolds-Morris House, 225 South 8th Street, Philadelphia, Philadelphia County.

Searights Tollhouse, National Road, west of Uniontown near U.S. 40, Fayette County.

1704 House, Dilworthtown vicinity, Delaware County.

Stiegel-Coleman House, Pa. 501 and U.S. 322, Brickerville, Lancaster County.

Sully, Thomas, Residence, 530 Spruce Street, Philadelphia, Philadelphia County.

U.S.S. Olympia, Pier 40, at the foot of Chestnut Street, Philadelphia, Philadelphia County.

Valley Forge, Valley Forge State Park, Norristown vicinity, Chester and Montgomery Counties.

Walnut Street Theatre, 9th and Walnut Streets, Philadelphia, Philadelphia County.

Weiser, Conrad, House, 2 miles east of Womelsdorf on U.S. 422, Berks County.

West, Benjamin, Birthplace, Swarthmore College campus, Swarthmore, Delaware County.

Wheatland (Buchanan, James, House), 1120 Marietta Avenue, Lancaster, Lancaster County.

Woodford, East Fairmount Park, Philadelphia, Philadelphia County.

Woodlands, The, 40th Street and Woodland Avenue, Philadelphia, Philadelphia County.

Rhode Island

Arnold, Eleazer, House, Great Road, Lincoln, Providence County.

Brick Market, Thames Street and Washington Square, Newport, Newport County.

Brown, John, House, 52 Power Street, Providence, Providence County.

First Baptist Meetinghouse, N. Main Street, between Thomas and Waterman Streets, Providence, Providence County.

Hunter House, 54 Washington Street, Newport, Newport County.

Newport Historic District, bounded by Van Zandt, Farewell, Sherman, High, Thomas, Golden Hills, Thames, Marsh, and Washington Streets, Newport, Newport County.

Old Slater Mill, Roosevelt Avenue, Pawtucket, Providence County.

Old Statehouse, Washington Square, Newport, Newport County.

Original United States Naval War College, Coaster's Harbor Island, Newport, Newport County.

Redwood Library, 50 Bellevue Avenue, Newport, Newport County.

Stuart, Gilbert, Birthplace, Gilbert Stuart Road, Saunderstown, Washington County.

Trinity Church, 141 Spring Street, Newport, Newport County.

University Hall, Brown University campus, Providence, Providence County.

Vernon House, 46 Clarke Street, Newport, Newport County.

Wanton-Lyman-Hazard House, 17 Broadway, Newport, Newport County.

South Carolina

Aiken, William, House and Associated Railroad Structures, 456 King Street, Charleston, Charleston County.

Brewton, Miles, House, 27 King Street, Charleston, Charleston County.

Brewton, Robert, House, 71 Church Street, Charleston, Charleston County.

Brick House Ruin, south of Edisto Island, Charleston County.

Camden Battlefield, 5 miles north of Camden on U.S. 521 and 601, Kershaw County.

Charleston Historic District, includes the Old and Historic District, Charleston, Charleston County.

Coker Experimental Farms, west of Hartsville on S.C. 151, Darlington County.

Drayton Hall, 12 miles west of Charleston on S.C. 61, Charleston County.

Fort Hill (John C. Calhoun House), Clemson University campus, Clemson, Pickens County.

Gibbes, William, House, 64 South Battery, Charleston, Charleston County.

Hampton Plantation, 8 miles north of McClellanville, Charleston County.

Heyward-Washington, House, 87 Church Street, Brickerville, Charleston County.

Middleburg Plantation, about 2 miles southwest of Huger, on East Branch of the Cooper River, Berkeley County.

Mills, Clark, Studio, 51 Broad Street, Charleston, Charleston County.

Mulberry Plantation, off U.S. 52 on the Cooper River, Moncks Corner, Berkeley County.

St. James', Goose Creek, south of Goose Creek, Berkeley County.

St. Michael's Episcopal Church, 80 Meeting Street, Charleston, Charleston County.

South Dakota

Arzberger Site, 7.5 miles east of Pierre on the Missouri River, Hughes County.

Bloom Site, east of Bloom on the James River, Hanson County.

Crow Creek Site, 15 miles north of Chamberlain on the east side of Missouri River near S.D. 47, Buffalo County.

Deadwood Historic District, Deadwood, Lawrence County.

Fort Thompson Mounds, near Fort Thompson on S.D. 50, Crow Creek Indian Reservation, Buffalo County.

Langdeau Site, north of Lower Brule on S.D. 47W, Lyman, County.

Mitchell Site, municipal golf course, Mitchell, Davison County.

Molstad Village, 18 miles south of Mobridge, overlooking the Oahe Reservation, Dewey County.

Tennessee

Beale Street Historic District, Beale Street, from Main to 4th Streets, Memphis, Shelby County.

Blount Mansion, 200 West Hill Avenue, Knoxville, Knox County.

Fort Loudoun, U.S. 411, Vonore vicinity, Monroe County.

Franklin Battlefield, south of Franklin on U.S. 31, Williamson County.

George Peabody College for Teachers, 21st Avenue South and Edgehill Avenue, Nashville, Davidson County.

Hermitage, The, 12 miles east of Nashville on U.S. 70N, Davidson County.

Long Island of the Holston, south fork of Holston River, Kingsport vicinity, Sullivan County.

Pinson Mounds, 3 miles east of Pinson on secondary road, Madison County.

Polk, James K., House, West 7th and South High Streets, Columbia, Maury County.

Sycamore Shoals, 2 miles west of Elizabethton on the Watauga River, Carter County.

X–10 Reactor, Oak Ridge National Laboratory, Oak Ridge, Anderson County.

Texas

Alamo, Alamo Plaza, San Antonio, Bexar County.

Espada Aqueduct, Espada Road, just east of U.S. 281S, San Antonio, Bexar County.

Fort Belknap, 1 mile south of junction of Tex. 24 and 251, Newcastle vicinity, Young County.

Fort Brown, Brownsville, Cameron County.

Fort Concho, south edge of San Angelo, Tom Green County.

Fort Richardson, south of Jacksboro on U.S. 281, Jack County.

J A Ranch, Palo Duro Canyon, Palo Duro vicinity, Armstrong County.

King Ranch, Kenedy, Kleberg, Nueces and Willacy Counties.

Lucas Gusher, Spindletop Oil Field, 3 miles south of Beaumont on Spindletop Avenue, Jefferson County.

Palo Alto Battlefield, 6.3 miles north of Brownsville, Farm Road 511, Cameron County.

Porter Farm, 2 miles north of Terrell on Farm Road 986, Kaufman County.

Presidio Nuestra Senora de Loreto de la Bahia, 1 mile south of Goliad State Park on U.S. 183, Goliad County.

Resaca de la Palma Battlefield, north edge of Brownsville on Parades Line Road, Cameron County.

San Jacinto Battlefield, 22 miles east of Houston on Tex. 134, Harris County.

Spanish Governor's Palace, 105 Military Plaza, San Antonio, Bexar County.

Utah

Alkali Ridge, 25 miles southeast of Monticello on secondary road, 10 miles east of Recapture Creek on Utah 47, San Juan County.

Bingham Canyon Open Pit Copper Mine, 16 miles southwest of Salt Lake City on Utah 48, Salt Lake County.

Danger Cave, 1 mile east of Wendover on U.S. 40, Tooele County.

Emigration Canyon, east edge of Salt Lake City on Utah 65, Salt Lake County.

Temple Square, Salt Lake City, Salt Lake County.

Young, Brigham, House (Lion House), 63 South Temple Street, Salt Lake City, Salt Lake County.

Vermont

Coolidge, Calvin, Homestead, off Vt. 100A, Plymouth Notch, Windsor County.

Frost, Robert, Farm (Homer Noble Farm), 1 mile north of Vt. 124, 3 miles east of Ripton, Addison County.

Frost, Robert, Farm (The Gully), 0.25 mile east of U.S. 7 on Buck Hill Road, South Shaftsbury, Bennington County.

Marsh, George Perkins, Boyhood Home, 54 Elm Street, Woodstock, Windsor County.

Morrill, Justin, Homestead, south of the Common, Strafford, Orange County.

Robbins and Lawrence Armory and Machine Shop, South Main Street, Windsor, Windsor County.

Ticonderoga, The, Shelburne Museum, Shelburne, Chittenden County.

Willard, Emma, House, Middlebury College Campus, Middebury, Addision County.

Virginia

Alexandria Historic District, includes the heart of the colonial seaport area of Old Town Alexandria, Alexandria City.

Bacon's Castle, Bacon's Castle, Surry County.

Brandon, west bank of James River at the end of Route 611, Brandon vicinity, Prince George County.

Bruton Parish Church, Duke of Gloucester Street, Williamsburg City.

Cape Henry Lighthouse, Atlantic Avenue at U.S. 60, Virginia Beach City.

Carter's Grove, 0.2 mile southeast of intersection of Routes 60 and 667, Williamsburg vicinity, James City County.

Cedar Creek Battlefield and Belle Grove, on Int. 81 between Middletown and Strasburg, Frederick and Warren Counties.

Christ Church, 3 miles south of Kilmarnock on Va. 3, Lancaster County.

Confederate Capitol (Virginia State Capitol), Capitol Square, Richmond City.

Five Forks Battlefield, 12 miles west of Petersburg on County Route 627 at Church Road, Dinwiddie County.

Fort Monroe, Old Point Comfort, Hampton City.

Gadsby's Tavern, 128 N. Royal Street, Alexandria City.

Greenway Court, 1 mile south of White Post on Va. 277, Clarke County.

Gunston Hall, 15 miles south of Alexandria on Va. 242, Fairfax County.

Jackson's, Stonewall, Headquarters, 415 N. Braddock Street, Winchester City.

Kenmore, 1201 Washington Avenue, Fredericksburg City.

Lee Chapel, Washington and Lee University, Washington and Lee University campus, Lexington City.

Marlbourne (Edmund Ruffin Plantation), 11 miles northeast of Richmond on U.S. 360, Hanover County.

Marshall, John, House, 9th and Marshall Streets, Richmond City.

McCormick, Cyrus, Farm and Workshop, 18 miles south of Staunton on U.S. 11 and County Route 606 at Walnut Grove, Rockbridge County.

Melchers, Gari, Home (Belmont), Falmouth, Stafford County.

Monroe, James, Law Office, 908 Charles Street, Fredericksburg City.

Montpelier (James Madison House), 4 miles west of Orange on Va. 20, Orange County.

Mount Airy, 1 mile west of Warsaw on U.S. 360, Richmond County.

Mount Vernon, 7 miles south of Alexandria on George Washington Memorial Parkway, Fairfax County.

Oak Hill (James Monroe House), 8 miles south of Leesburg on U.S. 15, Loudoun County.

Randolph, Peyton, House, intersection of Nicholson and north England Streets, Williamsburg City.

Rising Sun Tavern, 1306 Caroline Street, Fredericksburg City.

Rotunda, University of Virginia, University of Virginia campus, Charlottesville City.

St. John's Episcopal Church, East Broad Street between 24th and 25th Streets, Richmond City.

St. Luke's Church, Benn's Church, Isle of Wight County.

Scotchtown (Patrick Henry House), 10 miles northwest of Ashland on Va. 685, Hanover County.

Semple, James, House, south side of Francis Street between Blair and Walker Streets, Williamsburg City.

Sherwood Forest (John Tyler House), 4 miles east of Charles City Court House on Va. 5, Charles City County.

Stratford Hall, 3 miles north of Lerty on Va. 214, Westmoreland County.

Thoroughgood, Adam, House, 4 miles east of Norfolk on Lynnhaven River, Virginia Beach City.

Tuckahoe, on the James River southeast of Manakin via secondary roads, Goochland County.

Westover, 7 miles west of Charles City on Va. 5, Charles City County.

White House of the Confederacy, Clay and 12th Streets, Richmond City.

Williamsburg Historic District, bounded by Francis, Waller, Nicholson, New England, Lafayette, and Nassau Streets, Williamsburg City.

Wilson, Woodrow, Birthplace, North Coalter Street, between Beverly and Frederick Streets, Staunton City.

Wren Building, College of William and Mary campus, Williamsburg City.

Wythe House, west side of the Palace Green, Williamsburg City.

Washington

Chinook Point, 5 miles southeast of Fort Columbia Historical State Park on U.S. 101, Chinook vicinity, Pacific County.

Marmes Rockshelter, 1 mile north of Lyons Ferry on west side of Palouse River, Franklin County.

Port Gamble Historic District, Port Gamble, Kitsap County.

West Virginia

Grave Creek Mound, Tomlinson and 9th Streets, Moundsville, Marshall County.

Traveller's Rest, 3.3 miles northeast of Leetown on W. Va. 48, Kearneysville, Jefferson County.

Wade, Alexander, House, 256 Prairie Street, Morgantown, Monongalia County.

Wisconsin

Astor Fur Warehouse, Water Street, St. Feriole Island, Prairie du Chien, Crawford County.

Aztalan, near Lake Mills on Wis. 89, Aztalan State Park, Jefferson County.

Brisbois, House, Water Street, St. Feriole Island, Prairie du Chien, Crawford County.

Dousman Hotel, Water Street, St. Feriole Island, Prairie du Chien, Crawford County.

La Follette, Robert M., Home, 733 Lakewood Boulevard, Maple Bluff, Dane County.

North Hall, University of Wisconsin campus, Madison, Dane County.

Oconto Site, Copper Culture State Park, Oconto, Oconto County.

Second Fort Crawford, bank of the Mississippi River, Prairie du Chien, Crawford County.

Villa Louis, St. Feriole Island, Prairie du Chien, Crawford County.

Wyoming

Expedition Island, Green River, Sweetwater County.

Fort Phil Kearny and Associated Sites, on secondary road west of U.S. 87, Story vicinity, Johnson County.

Horner Site, 4 miles northeast of Cody on U.S. 20, Park County.

Independence Rock, 60 miles southwest of Casper on Wyo. 220, Natrona County.

Medicine Wheel, north of U.S. 14A, 15 miles north of Kane, Big Horn County.

Oregon Trail Ruts, south side of North Platte River, 0.5 mile south of Guernsey, Platte County.

Sheridan Inn, Broadway and 5th Street, Sheridan, Sheridan County.

South Pass, 10 miles southwest of South Pass City on Wyo. 28, Fremont County.

Sun, Tom, Ranch, 6 miles west of Independence Rock on Wyo. 220, Carbon and Natrona Counties.

Swan Land and Cattle Company Headquarters, east side of Chugwater, Platte County.

Upper Green River Rendezvous Site, on Green River above and below Daniel, Sublette County.

Wapiti Ranger Station, Shoshone National Forest, Wapiti vicinity, Park County.

Dated: April 28, 1977.

JERRY L. ROGERS.
Chief, Office of Archeology and Historic Preservation.

[FR Doc.77-12871 Filed 5-4-77;8:45 am]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

POLLUTION PROBLEMS OF LAKE HURON AND LAKE SUPERIOR

Public Hearings

The International Joint Commission, a permanent Canada and United States body established under the Boundary Waters Treaty of 1909, will hold hearings on the main report of the Upper Lakes Reference Group entitled: "The Waters of Lake Huron and Lake Superior" dated October, 1976.

The Commission's inquiry, requested by the Governments by a Reference appended to the 1972 Agreement between the United States of America and Canada on Great Lakes Water Quality, has entered its final phase with the receipt of the Report of the International Ref-

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erence Group. The purpose of these hearings is to obtain the views and comments of the public on the Reference Group's report as an essential step in the preparation of its own report to the two Governments. The Commission's hearings are international in nature and citizens of both countries are invited to attend and participate at any of the hearings.

Opportunity will be given to anyone, either on his own behalf or in a representative capacity, to offer pertinent information which may assist the Commission in its inquiry. The Commission may limit the time allotted to each witness. If a written statement takes more than ten (10) minutes to present, it is suggested the witness present a summary statement, submitting his full statement for the record. While not mandatory, written statements are desirable to supplement oral testimony and to ensure accuracy of copies should be provided if possible for distribution to the news media and for Commission purposes.

Copies of Volume I of the report are available on request from the Commission's Great Lakes Regional Office, 100 Ouellette Avenue, Windsor, Ontario, N9A 6T3, Attention: Ms. Pat Bonner.

Volumes II and III of the report provide detailed technical information on Lake Huron and Lake Superior respectively. These volumes are also available at the above address, however they are in limited supply.

Copies of Volume I are also available for inspection at major libraries in Lakes Superior and Huron basins.

TIMES AND PLACES OF HEARINGS

Monday, June 20, 1977, 7:30 p.m., Holiday Inn, U.S. Highway No. 2.

Tuesday, June 21, 1977, 10:00 a.m. Superior Wisconsin.

Wednesday, June 22, 1977, 10:00 a.m., City Hall Auditorium, 500 Donald Street, Thunder Bay, Ontario.

Thursday, June 23, 1977, 2:00 p.m., Ballroom, Memorial Union, Michigan Technological University, Houghton, Michigan.

Tuesday, July 12, 1977, 9:30 a.m., Algoma Boardroom, Civic Centre, Sault Ste. Marie, Ontario.

Wednesday, July 13, 1977, 2:00 p.m., Holiday Inn, Highway 26, Collingwood, Ontario.

Thursday, July 14, 1977, 3:00 p.m., Holiday Inn, 3325 Davenport, Saginaw, Michigan.

W. A. BULLARD,
Secretary, United States Section, International Joint Commission, 1717 H Street, Room 203, Washington, D.C. 20440, Stop 86.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, 151 Slater Street, 8th Floor, Ottawa, Ontario, K1P 5H3.

APRIL 28, 1977.

[FR Doc.77-12851 Filed 5-4-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTERS OF CONTROLLED SUBSTANCES

Registration

By Notice dated February 28, 1977, and published in the FEDERAL REGISTER on March 7, 1977; (42 FR 12934), Sigma Chemical Co., 3500 DeKalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug:	Schedule
Ibogaine	I
Bufotenine	I
Dimethyltryptamine	I

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substances listed. The substances, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C. 952(a)(2)(B) and 21 CFR 1311.42, and pursuant to section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic class of controlled substances listed above.

Dated: April 29, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-12898 Filed 5-4-77;8:45 am]

Drug Enforcement Administration

[Docket No. 76-23]

JOHN S. NOELL, M.D.

Revocation of Registration

On May 12, 1976, the Administrator of the Drug Enforcement Administration (DEA) directed to John S. Noell, M.D., of Metairie, Louisiana, an Order to Show Cause proposing to revoke Dr. Noell's DEA Certificate of Registration (AN3396389) for reason that on January 21, 1976, in the United States District Court for the Eastern District of Louisiana, Dr. Noell was convicted of sixteen counts of violating Title 21, United States Code, section 841(a)(1), and Title 18, United States Code, section 2, felonies relating to the distribution of controlled substances.

On June 7, 1976, Dr. Noell (hereinafter, "Respondent") requested a hearing on the issues raised by the Order to Show Cause. Following the completion of pre-hearing proceedings, the hearing was held on October 19 and 20, 1976, in New Orleans, Louisiana, the Honorable Francis L. Young, Administrative Law Judge, presiding. On March 8, 1977, pursuant to 21 CFR 1316.65, Judge Young certified to the Administrator the record of these proceedings, including his Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and a recommended decision.

Now pursuant to 21 CFR 1316.66, the Administrator publishes his Final Order in this matter, based upon the findings of fact and conclusions of law as set forth below.

The Administrative Law Judge found that on various dates between March 3, 1975 and June 5, 1975, the Respondent prescribed controlled substances in Schedules II, III, and IV for two DEA agents. On July 10, 1975, a Federal Grand Jury issued an indictment charging the Respondent with sixteen counts of "knowingly and intentionally (and) unlawfully dispens(ing) and distribut(ing) and caus(ing) to be dispensed and distributed to an ultimate user, • • • quantities of controlled substances, • • • not in the course of professional practice (and) not for a legitimate medical purpose; • • • All in violation of Title 21, United States Code, section 841(a)(1) and Title 18, United States Code, Section 2." Judge Young further found that on January 21, 1976, the Honorable Lansing L. Mitchell, United States District Judge, upon Respondent's plea of Nolo Contendere, found Respondent guilty as to all counts and entered judgment of conviction as charged in the indictment.

Additionally, the Administrative Law Judge found that the Respondent had commenced the practice of medicine in the New Orleans area in 1959; that in June, 1962, he surrendered his narcotic drug license for failure to comply with Federal narcotic laws and that at the time of such surrender, he agreed not to re-register under the Federal narcotic laws for a period of five years; that in August, 1968, the Louisiana State Board of Medical Examiners suspended Respondent's license to practice medicine and surgery for a period of one year; and that in February 1971, the Federal Bureau of Narcotics and Dangerous Drugs conducted an accountability investigation of controlled substances acquired by the Respondent, said investigation disclosing severe shortages which the Respondent was unable to explain.

Citing an earlier case under this statute, *Sokoloff* v. *Saxbe*, 501 F.2d 571 (2nd Cir. 1974), Judge Young concluded that since 21 U.S.C. 824(a)(2) permits revocation of a registration upon a finding that the registrant "has been convicted," that the plea entered in the criminal proceeding is irrelevant and that the judgment, or outcome of the criminal proceeding, is determinative. Hence, the Administrative Law Judge concluded that there is a lawful basis for revoking the Respondent's registration and, considering the Respondent's "history of mishandling • • • controlled substances, and prescriptions for them, from time to time over a period of approximately 13 years," Judge Young recommended that the Respondent's registration be revoked.

Having reviewed the record of these proceedings in its entirety, the Administrator adopts the Administrative Law Judge's findings of fact, concurs in his conclusion that the subject registration may lawfully be revoked, and agrees that under all of the facts and circumstances of this case, the Respondent's registration should be revoked.

Having found that the Respondent has been convicted of felony offenses relating to controlled substances; having concluded that there is a lawful basis under 21 U.S.C. 824(a)(2) for revoking the Respondent's registration; and having found that under all of the facts and circumstances of this case, that said registration should be revoked, it is the Administrator's decision that the full revocation of the Respondent's controlled substances registration is required to preclude further mishandling of controlled substances by this practitioner.

Therefore, under the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Certificate of Registration of John S. Noell, M.D. (DEA Registration AN3396389) be, and it hereby is, revoked. Pursuant to the provisions of 21 CFR 1316.66, the revocation of DEA Registration AN3396389 shall be effective June 6, 1977.

Dated: April 29, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-12921 Filed 5-4-77;8:45 am]

U.S. PHARMACOPEIAL CONVENTION, INC.

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 7, 1977, U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below, which, if imported, will be supplied exclusively for authorized research or as chemical analysis standards:

Drugs:	Schedule
Tetrahydrocannabinols	I
4 - methyl-2,5-dimethoxyamphetamine	I
3,4-methylenedioxy amphetamine	I
Psilocyn	I
Psilocybin	I

As to the basic class of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than June 6, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: April 29, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-12920 Filed 5-4-77;8:45 am]

Antitrust Division

UNITED STATES v. FOREMOST-McKESSON, INC.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the District of Nevada in Civil Action No. LV-76-183, "United States v. Foremost-McKesson." The complaint in this case alleges that the proposed acquisition of DeLuca Importing Co., Inc. and its subsidiary, Nevada Beverage Co. (both called "DeLuca" hereinafter) by Foremost-McKesson, Inc. ("Foremost") would tend substantially to lessen competition in liquor and wine wholesaling in the greater Las Vegas, Nevada market. The proposed judgment bans Foremost from merging with or acquiring any stock of, or assets from, DeLuca and enjoins Foremost from acquiring any other liquor or wine wholesaler in Nevada for ten years without Government or court approval. Public comment is invited on or before June 27, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Written comments should be directed to Dwight B. Moore, Chief, Los Angeles Field Office, Antitrust Division, Room 1444, 312 North Spring Street, Los Angeles, California 90012.

Dated: April 27, 1977.

DONALD I. BAKER,
Assistant Attorney General, Antitrust Division.

UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

United States of America, Plaintiff v. *Foremost-McKesson, Inc.; DeLuca Importing Co., Inc., Nevada Beverage Co., and DeLuca Realty Corp., Inc.*, Defendants.

Civil No. CIV-LV-76-183 BRT.

STIPULATION

Filed: April 27, 1977.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings: *Provided*, That plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

Dated: April 27, 1977.

For Plaintiff,
Donald I. Baker, *Assistant Attorney General*, William E. Swopes, Dwight B. Moore, Raymond P. Hernacki, Joseph J. Tabacco, Ronald M. Griffith; *Attorneys, Department of Justice.*

For Defendants, Melvin R. Goldman, *Esquire, Counsel for Foremost-Mckesson, Inc.*, William Morse, *Counsel for DeLuca Importing Co., Inc., Nevada Beverage Co., and DeLuca Realty Corp., Inc.*

UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

United States of America, Plaintiff v. *Foremost-McKesson, Inc.; DeLuca Importing Co., Inc.; Nevada Beverage Co.; and DeLuca Realty Corp., Inc.*, Defendants.

Civil No. CIV-LV-76-183 BRT.

APRIL 27, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint hereon on September 27, 1976, and defendant Foremost-McKesson, Inc. having filed its answer thereto and plaintiff and defendants by their respective attorneys having consented to the entry of this Final Judgment:

Now therefore, before the taking of any testimony and without trial or adjudication

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of any issue of fact or law herein and without this Final Judgment Constituting any evidence or admission by any party hereto with respect to any such issue and upon consent of the said parties hereto, it is hereby *ordered, adjudged,* and *decreed* as follows:

I

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states on its face a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act (15 U.S.C. 18).

II

As used in this Final Judgment:

(A) "Foremost" shall mean Foremost-McKesson, Inc.;

(B) "DeLuca" shall mean DeLuca Importing Co., Inc., Nevada Beverage Co., and DeLuca Realty Corp., Inc.;

(C) "Person" shall mean an individual, partnership, firm, corporation, or any other business or legal entity;

(D) "Wholesaler" shall mean a person who engages in the purchase of any alcoholic beverage for resale in its original packaging to retailers;

(E) "Supplier" shall mean a manufacturer, distiller, rectifier, wine maker, packager, or distributor who engages in the sale of any alcoholic beverage to wholesalers;

(F) "Liquor" shall mean any alcoholic beverage having greater than 22 percent alcoholic content by volume;

(G) "Wine" shall mean any alcoholic beverage, containing up to 22 percent alcohol by volume, obtained by the fermentation of the natural content of fruits and other agricultural products containing sugar;

(H) "Assets" shall mean any tangible or intangible thing of value, personalty or realty owned or controlled by any wholesaler and shall include, without limitation, the willingness of a supplier to sell a particular brand of alcoholic beverage for resale, whether expressed orally or in writing.

III

The provisions of this Final Judgment applicable to defendants shall apply to each of their directors, officers, employees, agents, affiliates, successors and assigns, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

VI

(A) Foremost is permanently enjoined and restrained from merging with, or consolidating with, or acquiring any of the shares of stock of, or any assets from, DeLuca.

(B) Foremost is enjoined and restrained for a period of ten (10) years from the date of the entry of this Final Judgment from merging with, or consolidating with, or acquiring any of the shares of stock of, or any assets from, a wholesaler of liquor or wine in the State of Nevada without the consent of plaintiff or, if such consent is not given after 45 days' notice to plaintiff, without the approval of the Court.

(C) Nothing in this Final Judgment shall preclude Foremost from purchasing equipment, products or supplies from any person in the normal course of that person's business.

V

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access, during the office hours of such defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

(B) Defendant, upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then 10 days notice shall be given by the plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

The Court having entered an order on November 12, 1976, enjoining and restraining the defendants from engaging in certain activities, and the Court and the plaintiff having intended the Order to continue only until the entry of a Final Judgment in this action, including a Final Judgment upon consent of the parties, the Order is hereby dissolved.

VI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

VII

Entry of this Final Judgment is in the public interest.

Dated:

UNITED STATES DISTRICT JUDGE.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America, Plaintiff v. *Foremost-McKesson, Inc.; DeLuca Importing Co., Inc., Nevada Beverage Co.; and DeLuca Realty Corp., Inc.,* Defendants.

Civil No. CIV-LV 76-183 BRT.

PROPOSED CONSENT DECREE

APRIL 27, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2 (b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

THE NATURE AND PURPOSE OF THE PROCEEDING

On September 27, 1976, the Department of Justice filed a civil antitrust suit under section 15 of the Clayton Act in order to prevent and restrain the proposed acquisition, alleged to be in violation of section 7 of the Clayton Act, of assets of DeLuca Importing Co., Inc. and its subsidiary, Nevada Beverage Co., by Foremost-McKesson, Inc. ("Foremost"). All three firms are major wholesalers of liquor and wine and are located in Las Vegas, Nevada. DeLuca Realty Corp., Inc., also a subsidiary of DeLuca Importing Co., Inc., leases real estate to the parent company. (Hereafter DeLuca Importing Co., Inc., Nevada Beverage Co. and DeLuca Realty Corp., Inc. will be referred to as "DeLuca.")

Foremost, a Maryland corporation with general offices in San Francisco, California, is a diversified operating company engaged in land development and in the manufacturing and wholesale distribution of drugs and health care products, foods, chemicals and liquor and wines. Foremost's liquor and wine operations are handled through its division known as McKesson Wine & Spirits Co. ("McKesson"). McKesson is the leading liquor and wine wholesaler in the United States and a major liquor and wine wholesaler in Las Vegas.

The complaint alleged that the acquisition would (1) lessen actual and potential competition generally in liquor and wine wholesaling in the greater Las Vegas, Nevada market, (2) eliminate actual and potential competition between Foremost and DeLuca, and (3) increase concentration significantly in liquor and wine wholesaling in the Las Vegas market. The relief sought was an adjudication that the proposed acquisition violated section 7 of the Clayton Act; that the defendants be permanently enjoined from carrying out the proposed acquisition; that a preliminary injunction be issued preventing the defendants from carrying out the proposed acquisition pending a trial on the merits.

II

EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

All liquor and wine sold within the greater Las Vegas market is imported from outside the state of Nevada by wholesalers located in Las Vegas. Las Vegas wholesalers generally hold exclusive franchises from their suppliers for the liquors and wines which they sell. These franchises constitute the major asset of a wholesaler's business. Franchises for some of the better-Known brands of liquor or wine are important to the success of a wholesaler; however, because, in part, of a state law prohibiting termination of a franchise agreement without good cause, it is very difficult to obtain a brand which is already franchised to another wholesaler. In a few instances, a manufacturer will award a split franchise and give two or more wholesalers the right to sell the same product.

Total annual sales of liquor in the greater Las Vegas market exceed $35 million, of which Deluca accounts for about 52.5 percent, and Foremost 11.3 percent. The top three liquor wholesalers account for approximately 73 percent of total sales in the market.

Total annual sales of wine in the greater Las Vegas market exceed $10 million, of which DeLuca accounts for about 25.7 percent, and Foremost 3.2 percent. The top three wine wholesalers account for approximately 69.5 percent of total sales in the market.

On or about September 17, 1976, Foremost and DeLuca entered into agreements whereby Foremost would acquire on or about October 1, 1976, substantially all the liquor and wine wholesaling business of DeLuca in Las Vegas. The agreement provided that Foremost would acquire the liquor and wine inventories of DeLuca valued at approximately $4 million, a lease of DeLuca's offices and warehouse with an option to purchase for about $1.35 million, and that Foremost would enter into three-year employment contracts with the two principal owners of DeLuca for a total salary of $325,000 each. These agreements between Foremost and DeLuca were contingent upon Foremost's satisfying itself that it would receive at least 90 percent of the liquor and wine wholesaling franchises held by DeLuca.

III

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The District Court, after a hearing and submission of memoranda by all counsel, found that the Government had demonstrated a reasonable probability that it would prevail on the merits in its claim that the proposed acquisition would tend to lessen competition substantially. The Court therefore issued a preliminary injunction which barred the defendants from entering into any lease or use agreement relating to DeLuca warehouse space, barred Foremost from acquiring, directly or indirectly, any assets of DeLuca or entering into any agreement with respect to such an acquisition in the future, and barred Foremost from negotiating or entering into any franchise agreement with any supplier of any liquor, wine, or beer product presently sold or represented by DeLuca; however, the Court subsequently modified the latter provision on March 11, 1976 to permit Foremost to acquire a limited amount of such agreements.

Upon final entry, the proposed Consent Judgment filed by the Government would supersede the provisions of the preliminary injunction set forth above. Under the terms of the proposed Judgment, Foremost would be permanently prohibited from merging with or acquiring any stock of, or assets from, DeLuca. Additionally, Foremost would be prohibited for a period of 10 years from acquiring, directly or indirectly, the whole or any part of the stock of, or assets from, any other liquor or wine wholesaler in Nevada without prior Government consent. If the Government does not consent within 45 days, Foremost may then seek approval of the Court for the proposed acquisition. Said prohibition would not bar Foremost's purchases of equipment, products or supplies in the normal course of the seller's business.

Finally, the proposed Judgment provides (1) that it applies to the defendants and their successors, (2) that representatives of the Department of Justice shall have access to defendant's offices and personnel and may require written reports from the defendants to determine or secure compliance with the Judgment, and (3) that the Court retain jurisdiction to modify or enforce the Judgment as required.

IV

EFFECTS OF THE PROPOSED JUDGMENT ON COMPETITION

It is anticipated that the major provisions of the proposed Judgment will eliminate the adverse effects on competition alleged in the complaint. First, Foremost is permanently enjoined from acquiring DeLuca. Each wholesaler, therefore, will remain as a separate business entity and each will continue to compete against the other. This provision, therefore, insures that the actual competition between Foremost and DeLuca will remain a factor in the liquor and wine wholesale business in Las Vegas. It likewise insures that the degree of concentration of the top 3 firms in this market will not increase from the present 73 percent of liquor sales and 69.5 percent of wine sales to the projected levels of 96 percent and 82 percent respectively.

Further, it is anticipated that prohibiting Foremost from acquiring any other liquor and wine wholesaler in Nevada without the approval of the Government or the Court will encourage competition generally in the wholesaling business. This provision promotes the continued independent existence of current wholesalers as opposed to their consolidation with Foremost.

V

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent decree not entered. However, this Judgment may not be used as *prima facie* evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

VI

DESCRIPTION OF THE PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed Final Judgment until the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for retention of jurisdiction of this action in order, among other things, to permit the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may for a 60-day period submit written comments to Dwight B. Moore, Chief, Antitrust Division Field Office, Room 1444, 312 North Spring Street, Los Angeles, California 90012. The Department of Justice will file with the Court and publish in the FEDERAL REGISTER such comments and its response to such comments and will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

VII

DESCRIPTION AND EVALUATION OF ALTERNATIVES TO THE PROPOSAL ACTUALLY CONSIDERED BY THE UNITED STATES

In formulating the proposed Judgment, the United States considered two alternative provisions. One was a permanent ban on Foremost's acquiring any liquor and wine wholesaler in Nevada. The other was a 10-year ban on Foremost's acquiring any liquor and wine wholesaler in the United States without 60-day notice to the Government.

A permanent ban on Nevada acquisitions was rejected in favor of a 10-year ban on such acquisitions unless Government or Court approval is first obtained. The concept of a permanent ban does not allow for possible market changes in the future; it freezes the current competitive situation for years hence. Since, in the future, not all mergers may adversely affect competition, a permanent ban is unduly restrictive. By requiring notice of any proposed acquisition, the Government may for a ten-year period review each proposal on a case by case basis to determine what the effect on competition is likely to be. If the effect is adverse, the Government will withhold its approval of the proposed acquisition.

The second alternative considered but not adopted was a nationwide ban on the acquisition of any wholesaler without notice. This provision was rejected by Foremost, which noted that the provision was outside the scope of the Government's complaint and that many of these acquisitions would be covered by the pre-merger notification provisions of the Antitrust Improvements Act of 1976. When the notification provisions of this Act become effective, if a corporation with $100,000,000 in sales acquires a corporation with assets of $10,000,000 in a non-manufacturing industry, it must notify the Department of Justice and the Federal Trade Commission in advance. Pursuant to said Act, Foremost, with net sales in excess of $2 billion, will be required to disclose in advance to federal antitrust enforcement authorities, plans to acquire any firm in the liquor or wine wholesaling business with assets of at least $10 million. In the event that Foremost seeks to acquire a wholesaler with less than $10 million in assets, the Division will rely on its traditional sources of information such as newspaper reports, trade journals, and citizen complaints to ascertain whether action is warranted.

It was determined that, in view of the substantial relief being offered at this time, it was not in the public's interest to expend resources pursuing a Final Judgment containing the alternative provisions. It is anticipated that the Consent Judgment will restore the competitive status quo to the Las Vegas market and possibly reduce the degree of concentration that currently exists.

VIII

OTHER MATERIALS CONSIDERED

There are no materials or documents which the Government considered determinative in formulating this proposed Final Judgment. Therefore, no such materials are being filed along with this Competitive Impact Statement.

Dated: April 27, 1977.

Raymond P. Hernacki, Joseph J. Tabacco, Ronald M. Griffith, *Attorneys, Department of Justice.*

[FR Doc.77-12889 Filed 5-4-77;8:45 am]

Office of the Attorney General

[Order No. 714-77]

PRIVACY ACT OF 1974

Adoption of Routine Uses for Systems of Records

On January 6 and 27, 1977, there were published in the FEDERAL REGISTER in accordance with Section 3(e) (4) and (11)

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of the Privacy Act, 5 U.S.C. 552a(e) (4) and (11), notices of proposed routine uses (42 FR 1311–1317 and 5144–5146) with the notices of systems of records reprinted in their entirety. The routine uses related to the following systems of records: JUSTICE/LEAA–012, Public Safety Officers' Benefits System; JUSTICE/ATR–009, Consumer Inquiry Index; JUSTICE/FBI–002, FBI Central Records System; JUSTICE/OPA–001, Executive Clemency Files; JUSTICE/USA–007, Criminal Case Files; JUSTICE/USA–015, Pre-Trial Diversion Program Files; and JUSTICE/DEA–027, DEA Employee Profile System.

No comments were received with respect to these proposed routine uses. The system name and number for JUSTICE/ATR–009, Consumer Inquiry Index was omitted from the January 6, 1977, system notice (42 FR 1311) and is now included.

Pursuant to the authority vested in me by 5 U.S.C. 552a, these routine uses are hereby adopted.

Dated: April 25, 1977.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/LEAA–012

System name:

Public Safety Officers' Benefits System.

System location:

Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531.

Categories of individuals covered by the system:

Public Safety Officers who died while in the line of duty and their surviving beneficiaries.

Categories of records in the system:

This system contains an index by claimant and deceased Public Safety Officers; case files of eligibility documentation; and benefit payment records.

Authority for maintenance of the system:

Authority for maintaining this system exists under 42 U.S.C. 3701, et seq., Pub. L. No. 94–430 (Sept. 29, 1976) and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

(1) State and local agencies to verify and certify eligibility for benefits; (2) educational institutions where beneficiary is full-time student to verify eligibility status; (3) appropriate Federal agencies to coordinate benefits paid under similar programs; and (4) members of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is a party in interest.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information in this system is maintained on a master index, in folders and on computer magnetic tape.

Retrievability:

Information is retrievable by name of claimant, name of deceased Public Safety Officer, and case file number.

Safeguards:

Computerized information is safeguarded and protected by computer password key and limited access. Non-computerized data is safeguarded in locked cabinets. All files are maintained in a guarded building.

Retention and disposal:

Files are retained, retired to Federal records centers and disposed of in accordance with General Services Administration disposal schedules.

System manager(s) and address:

PSOB Program Officer, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

Notification procedure:

Same as above.

Record access procedure:

Request for access to a record from this system should be made in writing with the envelope and the letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above and state clearly and concisely what information is being contested, the reason for contesting it and the proposed amendment to the information sought.

Record source categories:

Public agencies including employing agency, beneficiaries, educational institutions, physicians, hospitals, official State and Federal documents.

System exempted from certain provisions of the act:

None.

JUSTICE/ATR–009

System name:

Consumer Inquiry Index.

System location:

U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Categories of individuals covered by the system:

Individuals making inquiries relating to consumer matters.

Categories of records in the system:

System contains an index record to inquiries made directly to the Consumer Affairs Section, Antitrust Division and those referred to the Section both from within the Department and from outside sources.

Authority for maintenance of the system:

44 U.S.C. 3101; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The system is maintained as a record of inquiries and referrals to the Consumer Affairs Section relating to consumer matters. Information provided by consumers and the identity of individuals making the inquiry are occasionally disclosed to outside parties and other governmental agencies in an effort to resolve a matter brought to the attention of the Section through the incoming correspondence.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information in this system is maintained on index cards, which identify incoming letters of inquiry and outgoing letters of response. To a limited extent information may be retrieved by using the name of the inquiring party.

Safeguards:

Information contained in the system is unclassified. During working hours access to the system is controlled and monitored by Antitrust Division personnel in the area where the system is maintained. Access to the building during non-working hours is limited to Department of Justice personnel.

Retention and disposal:

Indefinite.

System manager(s) and address:

Chief, Consumer Affairs Section, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Notification procedure:

Address inquires to the Assistant Attorney General, Antitrust Division, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

Record access procedures:

Request for access for a record from this system shall be written and clearly identified as a "Privacy Access Request." The request should include the name of the party making the consumer inquiry and the date of the inquiry. Requester should indicate a return address.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should state clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Source of information maintained in the system are those records (e.g., consumers' correspondence) reflecting direct inquiries or referrals by other offices or organizations.

Systems exempted from certain provisions of the act:

None.

JUSTICE/FBI–002

System name:

The FBI Central Records System containing investigative, personnel, administrative, applicant, and general files.

System location:

a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. 14 Legal Attaches (see Appendix).

Categories of individuals covered by the system:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

Categories of records in the system:

The FBI Central Records System—The FBI utilizes a 'central records system' of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

Files kept in FBI Field Offices—Field offices maintain certain records that are not contained at FBIHQ that include files, index cards, and related material pertaining to cases in which there was no prosecutive action undertaken; perpetrators of violations not developed during investigation; or investigation revealed allegations were unsubstantiated or not within the investigative jurisdiction of the Bureau. These investigations closed in field offices and correspondence not forwarded to FBI Headquarters. Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operations. Some of the information contained in the main files has also been extracted and placed on computer to enable various divisions to retrieve information more rapidly by avoiding the need for a manual search for information maintained in the main files. Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

Authority for maintenance of the system:

Federal Records Act of 1950, The Constitution of the United States, various provisions of U.S. Code, Executive Orders and Presidential directives.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The records contained in this system are utilized by the FBI in support of its mission to conduct investigations within its jurisdiction and for various administrative purposes. Information from these files is disseminated to appropriate Federal, State, local, and foreign agencies where the right and need to have access to this information exists—For example, to assist in the general crime prevention and detection efforts of the recipient agency. Information is also disseminated to these agencies and to individuals and organizations, where such dissemination is necessary to elicit information from such agencies and individuals. Information from this system is also disseminated during appropriate legal proceedings. For example, witness interviews are made available to defendants pursuant to the Jencks Act during Federal criminal trials. In the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, this issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. For example, in discharging its obligations under Exective Order 10450, this agency would disseminate record information as a direct result of a name check request submitted by another government agency. A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such title. Background and descriptive information on Federal fugitives is disseminated to the general public and the news media in an effort to bring about the apprehension of these wanted individuals. News releases are also disseminated to the public and the news media concerning apprehensions of FBI fugitives and other notable accomplishments. Additionally, public source information is distributed on a continuing basis, upon request, to the general public and representatives of the media. Upon specific approval of the Director, information may be disseminated from this system to individuals in the private sector in extenuating circumstances in order to protect life or property. Information which relates to foreign counter-intelligence matters may be disseminated to individuals in the private sector with the specific authority of the Attorney General where he deems it necessary in order for the Federal Bureau of Investigation (FBI) to fulfill its statutory responsibilities to investigate espionage in the United States. The FBI has received inquiries from private citizens and Congressional offices in behalf of constituents seeking assistance in locating such individuals as missing children or heirs to estates. Where the need is acute and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the inquiring individual. Information will be provided only in those instances where it can be determined from the information at hand that the individual being sought would want the information to be furnished, e.g. an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority. The decision to make any dissemination under these circumstances can be made only by the Director, and this authority cannot be delegated.

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Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Files are maintained in hardcopy form, computer tape, and microfilm.

Retrievability:

The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. The index cards are on all manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted are indexed in order to facilitate the proper administrative handling of a large volume of material. The FBI is in the process of automating its 'Central Records Systems' and, therefore, the retrieval of certain data will be accomplished by utilizing certain computer peripheral equipment such as CRT (Cathode Ray Tube) video screens, and printers. This will basically involve certain personnel information, general index information, and the abstracting system. Automation in no way changes the "Central Records System": it only facilitates access more effectively and efficiently.

Safeguards:

Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a 10,000 dollar fine or 10 years' inprisonment or both. Employees that resign or retire are also cautioned about divulging information acquired in the job.

Retention and disposal:

The Bureau, by its investigative mandate, collects and maintains information from a wide variety of sources. The records support the Bureau's investigative and administrative needs and its obligations to act as a clearinghouse under Executive Order 10450 regarding the security of Government employees. An active destruction program includes microfilming of certain files over 10 years old and researching files to determine whether they contain sufficient historical, research, investigative, or intelligence value to warrant their retention. The Code of Federal Regulations, Title 41, and Title 44 of the U.S. Code set forth Records Management procedures to be followed by Government agencies in relation to their records. All agencies are required to retain any material made or received during the course of public business which has been preserved or is appropriate for preservation. Accordingly, disposition of record material must be in acordance with established regulations. Subsequent destruction is accomplished through authority granted by National Archieves and Records Service, GSA, utilizing either the General Records Schedules or a specific request for record destruction which is approved by the Archivist. Records are also destroyed or returned to source as a result of Court Order. Subsequent to January 27, 1975, a Congressional moratorium on all destruction, and a later decision rendered on further retention of security and intelligence material, has substantially reduced the tangible effects of the destruction program.

System manager(s) and address:

Director; Federal Bureau of Investigation; Washington, D.C. 20535.

Notification procedure:

Same as above.

Record access procedures:

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests will be directed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Records source categories:

The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e), (1), (2) and (3), (e), (4) (G) and (H), (e) (5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/OPA–001

The following Notice is published for the benefit of the public. Executive Clemency Files, while maintained in the Office of the Pardon Attorney, U.S. Department of Justice, are files of the President of the United States compiled and maintained to provide for the exercise of his constitutional responsibilities, pursuant to Article II, section 2, and are not subject to the provisions of the Privacy Act of 1974, Pub. L. No. 93–579.

System name:

Executive Clemency Files.

System location:

Office of the Pardon Attorney; U.S. Department of Justice; HOLC Building; 320 First Street NW., Washington, D.C. 20534.

Categories of individuals covered by the system:

Applicants for Executive clemency.

Categories of records in the system:

The system contains the individual petitions for Executive clemency (OPA–6 or 6–15) submitted by the applicants and accompanying oath and character affidavits (DOJ–1973–06), investigatory material, evaluative reports, interagency and intra-agency correspondence and memoranda relating to individual petitions for clemency. The system includes Presidential Clemency Board files transferred to the Office of the Pardon Attorney upon termination of the Board's existence on Sept. 15, 1975.

Authority for maintenance of the system:

The system is established and maintained in accordance with the United States Constitution, Article II, Section 2, Executive Order of the President dated June 16, 1893, Order No. 288–62, 27 FR 11002, November 10, 1962, as codified in 28 CFR 1.1 through 1.9 and E.O. 11878 dated Sept. 10, 1975.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Executive clemency files are used to (a) enable the Attorney General to investigate each petition for Executive clemency to review each petition and information developed by his investigation thereof and to advise the President whether, in his judgment, the request for clemency is of sufficient merit to warrant favorable action by the President; (b) prepare notices to the public of the name of each grantee of clemency, date of Presidential action, nature of clemency granted, nature of grantee's offense, date and place of sentencing, description of sentence imposed, and names of character affiants and interested members of Congress; (c) prepare bound and indexed volumes containing photocopies of the official warrant of clemency granted each recipient of clemency as a public and official record of Presidential action; (d) upon request of the President and members of his staff, to make available to them individual clemency files; (e) upon specific request by an individual, to advise the requester whether a named person has applied for, been granted or denied clemency, the date thereof and the nature of the clemency granted or denied; and (f) upon specific request, to make closed files available for historical research purposes when in the public interest and in conformity with Department of Justice policy.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information maintained in the system is stored in the Office of the Pardon Attorney and in Archives.

Retrievability:

Information is retrieved by reference to the file number assigned to the name of each applicant for clemency.

Safeguards:

Information contained in the system is safeguarded and protected in accordance with Department of Justice rules governing petitions for Executive clemency, specifically, 28 CFR 1.6. Executive clemency files are maintained in the Office of the Pardon Attorney and are not commingled with Department of Justice records.

Retention and disposal:

Records are stored in the Office of the Pardon Attorney as long as space requirements permit and are then transferred to Archives. These records are not destroyed.

System manager(s) and address:

Pardon Attorney, Office of the Pardon Attorney, Department of Justice, 654 HOLC Building, 320 First Street NW., Washington, D.C. 20530.

Notification procedure:

Address inquiries to the Pardon Attorney, Department of Justice, Washington, D.C. 20530.

Record access procedures:

While the Attorney General has exempted Executive Clemency files from the access provisions of the Privacy Act, requests for discretionary releases of records contained in the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document and the name of the clemency applicant in whose file it is contained. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures:

While the Attorney General has exempted Executive Clemency files from the correction (contest and amendment) provisions of the Privacy Act, requests for the discretionary correction (contest or amendment) of records contained in this system should be directed to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories:

Sources of information contained in this system are the individual applicants for clemency, Federal Bureau of Investigation or other official investigatory reports, Bureau of Prison records, Selective Service System and Armed Forces Reports, probation or parole reports and reports from individuals or non-Federal organizations, both solicited and unsolicited.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/USA–007

System name:

Criminal Case Files.

System location:

Ninety-four United States Attorneys' Offices (See attached Appendix.)

Categories of individuals covered by the system:

(a) Individuals charged with violations; (b) Individuals being investigated for violations; (c) Defense Counsel(s); (d) Information Sources; (e) Individuals relevant to development of Criminal Cases; (f) Individuals investigated, but prosecution declined; (g) Individuals referred to in potential or actual cases and matters of concern to a U.S. Attorney's Office.

Categories of records in the system:

(a) All case files (USA–33); (b) Docket Cards (USA–115); (c) Criminal Debtor Cards (USA–117a); (d) Criminal Case Activity Card (USA–163); (e) Criminal Debtor Activity Card (USA–164); (f) 3'×5' Index Cards; (g) Caseload Printouts; (h) Attorney Assignment Sheets; (i) General Correspondence re: Criminal Cases; (j) Reading Files re: Criminal Cases; (k) Grand Jury Proceedings; (l) Miscellaneous Investigative Reports; (m) Information Source Files; (n) Parole Recommendations; (o) Immunity Requests; (p) Witness Protection Files; (q) Wiretap Authorizations; (r) Search Warrants; (s) telephone records; (t) Criminal Complaints; (u) Sealed Indictment Records; (v) Files unique to a District; (w) Criminal Miscellaneous Correspondence File; (x) Prosecution Declined Reports.

Authority for maintenance of the system:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, State, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

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(d) A record relating to a case or matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60;

(n) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices by means of catho-ray tube terminals (CRT's).

Safeguards

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See system designated Justice/CRM-999).

Notification procedures:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See system designated JUSTICE/CRM-999).

Record access procedures:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j) (2), (k) (1) and/or (k) (2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (see system designated JUSTICE/CRM-999).

Contesting record procedures

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j) (2), (k) (1) and/or (k) (2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See system designated JUSTICE/CRM-999) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories

Sources of information contained in this system include, but are not limited to investigative reports of Federal, State and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

System exempted from certain provisions of the act

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8) (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j) (2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/USA 015

System name:

Pre-Trial Diversion Program Files

System location:

Ninety-four United States Attorneys' Offices (See attached Appendix)

Categories of individuals covered by the system:

Individuals referred to in potential or actual pre-trial diversion cases.

Categories of records in the system:

(a) USA Form 184—Referral letter to Probation Service; (b) USA Form 185—Letter to defendant; (c) USA Form 186—Agreement for Pre-Trial Diversion; (d) USA Form 187—Pre-Trial Diversion Report Form; (e) USA Form 188—Certification of Completion of Programs; (f) USA Form 189—Defendant Application Form; (g) Telephone Records; (h) Miscellaneous Correspondence; and, (i) Files Unique to a District.

Authority for maintenance of the system:

This system is established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governng such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case pr matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trail, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability:

Information is retrieved by the name of the person, case number or complaint number.

Safeguards:

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards.

Retention and disposal:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached Appendix.)

Notification procedure:

Address inquiries to the System Manager for the judicial district in which the diversion application or approval was made. (See attached appendix.)

Record access procedures:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j) (2), (k) (1) and/or (k) (2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly

V 4287 MAY 5 77 UMI

marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester shall also provide a return address for transmitting the information. Access requests will be directed to the system manager. (See attached Appendix.)

Contesting record procedures:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j) (2), (k) (1) and/or (k) (2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories:

Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) (2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/DEA 027

System name:

DEA Employee Profile System (DEPS)

System location:

Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

Categories of individuals covered by the system:

DEA employees.

Categories of records in the system:

The following eight categories of information will be maintained in the system:
(1) Personal identification.
(2) Work experience.
(3) Language and geographical areas.
(4) Formal education.
(5) Special skills.
(6) Record of training.
(7) Consideration for vacancies.
(8) Awards.

Authority for maintenance of the system:

This system is maintained to effectively place and assign employees to positions to further the mandates of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Categories of users and the purposes of such uses:

The records will be used principally by the Personnel Management Division. Selected data will be forwarded by this personnel section to the Career Development Board and operational units throughout DEA for the purpose of:
(1) Identifying employees with particular skills or qualifications for assignment to special projects.
(2) Identification of candidates for overseas assignments who have specific language skills.
(3) Insuring that the Career Development Board will be reviewing the entirety of an applicant's background.
(4) Calculating DEA's human resources on hand and to project more accurately future resource needs and capabilities.

Information from this system will not be disseminated outside of DEA.

Storage:

These records will be maintained on magnetic tape and a disk storage device.

Retrievability:

The information in this system can be retrieved by the individual's name, special skills information, special knowledge information or by some combination of the above information.

Safeguards:

The records of the system will be maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those transacting business within the building who are escorted by DEA employees. In addition, the area where the tapes and disks are stored is a secured area and access is restricted to those employees who have business in the area and those non-DEA people who are transacting business within the area and escorted by a DEA employee. Inquiries to the system are only made by the written request of the Chief, Personnel Management Division.

Retention:

Records in this system are retained as long as the individual is employed by DEA.

System manager(s) and address:

Chief, Computer Services Division, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

Notification procedure:

Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

Record access procedures:

Same as *Notification procedure*.

Contesting record procedures:

Same as *Notification procedure*.

Record sources categories:

(1) DEA employee, (2) Servicing personnel office, and (3) The Justice Uniform Personnel System (Juniper).

Systems exempted from certain provisions of the act:

None.

JUSTICE/BOP 006

NOTE.—The JUSTICE/BOP 006 system is partially reprinted to reflect a change in the equipment configuration.

System name:

Inmate Commissary Accounts Record System.

Categories of records in the system:

(1) Financial data; (2) identification data. Both categories of records will be automated; the Bureau facilities will have responsibility for their maintenance. The records will be accessible by the telecommunications means of BOP facilities, Regional Offices and the Central Office.

Storage:

Information maintained in the system will be stored electronically on the Department of Justice Computer System separate from the BOP Central Office.

Retrievability:

Information on the automated system will be indexed by name and/or register number.

Safeguards:

The Inmate Commissary Accounts Record System will be protected by both physical security methods and dissemination and access controls. Access to this information will be limited to those persons with a demonstrated and lawful need to know, in order to perform assigned functions.

Protection of the automated system will be provided by physical, procedural and electronic means. The files will reside on the Department of Justice Computer System which is physically attended or guarded on a full-time basis. For retrieval purposes, access to active telecommunications terminals will be limited to those persons with a demonstrated need to know. For update purposes, access to the files will be limited to BOP facilities employees, as required in the performance of their assigned duties. Surreptitious access to an unattended terminal will be precluded by a complex authentication procedure. The procedure will be provided only to authorized BOP employees.

An automated log of queries will be maintained for each terminal. Improper procedure will result in no access, and under certain conditions complete lockout of the terminal, pending restoration by the master controller at the BOP Central Office after appropriate verification has been received. Unattended terminals, after normal office hours, will be electronically disconnected by the master controller at the BOP Central Office. All terminals will have key locks and will be located in lockable facilities.

Retention:

Records in this system will be retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means.

[FR Doc.77-12754 Filed 5-4-77;8:45 am]

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

ALASKA COORDINATING COMMITTEE

Alaska Women's Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1), announcement is made of the Alaska Women's Meeting to be held on May 6-8, 1977, in Anchorage at The University of Alaska.

The purposes of the meeting are to:
(1) Recognize the contributions of women to the development of our country;
(2) Assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;
(3) Assess the role of women in economic, social, cultural, and political development;
(4) Assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to strengthening of world peace;
(5) Identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations for means by which such barriers can be removed;
(6) Make nominations for and elect 12 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:
(a) Representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and
(b) Members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

The meeting is scheduled to begin at 6 p.m. on May 6, 1977, and end at 1 p.m. on May 8, 1977.

Workshops and other discussions have been scheduled for:

9 a.m. to 11:45 a.m., Saturday, May 7, 1977 and
2 p.m. to 5 p.m., Saturday, May 7, 1977.

Topics to be discussed during these periods include a variety of issues concerning women in the areas of education, health and welfare, economics and employment and legal concerns.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations will be presented between 1:15 and 2 p.m., Saturday, May 7, 1977. The balloting for delegates will take place between 11:30 a.m. and noon on May 8, 1977.

This Meeting is open to the public. All persons 16 years old or over who are residents of the State or enrolees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 2 p.m., Saturday, May 7, 1977.

All communications regarding this Meeting should be addressed to Tay Thomas, Chairperson, in care of Sharon Macklin, International Women's Year Coordinating Committee, 429 D Street, Anchorage, Alaska, 99501 or call 907-278-4593.

General notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

Dated: May 3, 1977.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-13066 Filed 5-4-77;8:45 am]

GEORGIA COORDINATING COMMITTEE

Georgia Women's Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C. App. 1), announcement is made of the Georgia Women's Meeting to be held on May 6-7, 1977, in Atlanta at the Sheraton Biltmore Hotel.

The Purposes of the meeting are to:
(1) Recognize the contributions of women to the development of our country;
(2) Assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;
(3) Assess the role of women in economic, social, cultural, and political development;
(4) Assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;
(5) Identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations for means by which such barriers can be removed;
(6) Make nominations for and elect thirty representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:
(a) Representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and
(b) Members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

The meeting is scheduled to begin at 9 a.m. on May 6, 1977 and end at 7 p.m. on May 7, 1977.

Workshops and other discussions have been scheduled 10.30 a.m. to 12 noon, and from 1:30 p.m. to 3 p.m. on Friday, May 6, 1977, and from 9 a.m. to 12:15 p.m. and 1:45 p.m. to 3:15 p.m. on Saturday, May 7, 1977.

Topics to be discussed during these periods include a variety of issues of concern to women in the areas of employment, health and welfare, education, child care, legislation, and the concerns of older women, younger women and minority women.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations: 8 p.m. to 8:30 p.m., May 6, 1977.
Election of delegates: 8 a.m. to 12 noon, May 7, 1977.

This Meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 8:30 p.m., May 6, 1977.

All communications regarding this Meeting should be addressed to Kathleen Crouch, Chairperson, International Women's Year Coordinating Committee,

V 42 87 MAY 5 77 UMI

1027 Columbia Avenue, Atlanta, Georgia 30309 or call (404) 892–6161.

General notice of this meeting has been publicized in the media and the time available for organizing the details at the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

Dated: May 3, 1977.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-13067 Filed 5-4-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ANTHROPOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Anthropology.

DATE AND TIME: May 24 and 25, 1977—9:00 a.m.–5:00 p.m. each day.

PLACE: National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, Room 511.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Nancie L. Gonzalez, Program Director for Anthropology, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202–632–4208.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in Anthropology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 2, 1977.

[FR Doc.77-12945 Filed 5-4-77;8:45 am]

ADVISORY PANEL FOR POPULATION BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Population Biology and Physiological Ecology.

DATE AND TIME: May 23 and 24, 1977—8:30 a.m. to 5:00 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Part open—May 23, 1977, 4:00 to 5:00 p.m.; Part Closed—May 23, 1977, 8:30 a.m. to 4:00 p.m.; May 24, 1977, 8:30 a.m. to 5:00 p.m.

CONTACT PERSON: John W. Wright, Acting Program Director, Population Biology, Program Room 336, National Science Foundation, Washington, D.C. 20550, telephone 202–632–7317.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in population biology.

AGENDA: Closed—To review and evaluate research proposals and projects as part of the selection process for awards. Open—To discuss program overview and potentials for future development of the Population Biology/Physiological Ecology Program.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552B(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 2, 1977.

[FR Doc.77-12944 Filed 5-4-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 77–18]

SPECIAL STUDY; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aviation Special Study.—The National Transportation Safety Board announces the availability of its 10-year study, "U.S. Air Carrier Accidents Involving Fire, 1965 through 1974, and Factors Affecting the Statistics." The study, Report No. NTSB–AAS–77–1 released April 22, compares statistics from the 1965–74 period with data contained in the Civil Aeronautics Board's Bureau of Safety Pamphlet 7–6–3, which treats the same subject for the years 1955 through 1964.

The Safety Board study shows there were 141 certificated route air carrier accidents in 1965–74 which involved fire. Among 7,043 persons aboard the aircraft, there were 1,848 fatalities. Some 292 of the deaths in 11 accidents were attributed to fire. The CAB study showed that in the previous decade, 153 U.S. air carrier accidents involved fire; 1,955 persons among 4,559 aboard were killed; 297 occupants died as the result of fire.

The Safety Board study concludes that there have been significant improvements in occupant survivability. While fire still occurs in about 20 percent of the accidents in scheduled passenger operations, the ratio of fatalities from all causes to exposed occupants has declined 65 percent in this study period, and the ratio of fatalities from the effects of fire and smoke to exposed occupants has declined 37 percent. The almost exclusive use in this study period of turbojet-powered aircraft, their improved reliability, and the use of kerosene-type fuel are factors influencing the statistics, the Safety Board stated. The anticipated upgrading of the Federal Aviation Regulations and the expected effects of the recently implemented requirements of 14 CFR Part 139 are expected to improve even further occupant survivability of accidents involving fire.

Since the major areas that appear to warrant further improvement already are being addressed by the Federal Aviation Administration and other organizations, the Safety Board concludes that this study does not support additional safety recommendations. However, to afford the reader the benefit of experience in this aspect of air carrier safety, some of the significant fire safety recommendations previously issued by the Safety Board are provided in the study, as follows:

Lightning Strike Protection.—Following the Pan American Boeing 707 accident in Elkton, Maryland, December 8, 1963, the Safety Board recommended that:

• • • static discharge wicks be installed on all turbine-powered aircraft not so equipped.

• • • FAA reevaluate problems associated with the incorporation of flame arrestors in fuel tank vent outlets.

• • • the mixture being emitted from the vent outlet be rendered nonignitable by the introduction of air into the vent tube.

• • • an inner wall to the surge tank be provided instead of utilizing the wing skin as part of the surge tank walls.

• • • consideration be given to limiting fuel for commercial use to Jet A only.

• • • every effort be expanded to practically eliminate flammable air/vapor mixtures

from the fuel tanks, either by introduction of an inert gas in space above fuel or sufficient air circulation into tanks to maintain too lean a mixture for combustion.

Fuel System Explosions Following Exposure to Ground Fire.—Following the Trans World Boeing 707 accident in Rome, Italy, November 23, 1964, the Safety Board recommended that:

• • • expansion of the scope of the Technical Committee on Lightning Protection to undertake a broader review of the overall fuel system and explosion protection problem (to include consideration of all likely ignition sources).

• • • the FAA expedite approval of surge tank detection and suppression systems and issue an early mandatory installation requirement on all B–707 type aircraft.

Internal Fire Following Landing Gear Failure.—Following the United Boeing 727 accident at Salt Lake City, Utah, November 11, 1965, the Safety Board recommended that:

• • • B–727 fuel lines be rerouted to near the centerline of the aircraft.

• • • fuel lines and shrouds be stainless steel.

• • • the generator leads be rerouted, each in its own strong and flexible, separate plastic conduit, so there is maximum separation between these leads and the fuel lines.

• • • if the FAA cabin materials fire tests do not include testing of the toxicity of fire by-products when various combinations of materials and fuels are burned together, that the tests be expanded to include same.

• • • Federal Aviation Regulations be updated to require newly certificated airplanes be fitted with newer, less flammable materials and that carriers be encouraged to utilize same when refurnishing.

Cabin Interior Fire following Unsuccessful Takeoff Attempt.—Following the Capitol International DC–8 accident at Anchorage, Alaska, November 27, 1970, the Safety Board recommended that:

• • • FAA initiate action to incorporate in its airworthiness requirements a provision for fuel system fire safety devices which will be effective in the prevention and control of both in-flight and postcrash fuel system fires and explosions.

• • • FAA, in cooperation with aircraft manufacturers and NASA, utilize extensive research and accident investigation data to develop and implement major improvements in the design of transport aircraft interiors (including the flammability of cabin interior materials).

Fuel Fire and Rapid Propagation of Fire by Explosion.—Following the Allegheny CV–580 accident at New Haven, Connecticut, June 7, 1971, the Safety Board recommended that:

• • • FAA initiate action to incorporate in its airworthiness requirements a provision for fuel system fire safety devices which will be effective in the prevention and control of both in-flight and postcrash fuel system fires and explosions.

• • • the rulemaking action (called for in the above recommendation) specifically apply to future passenger-carrying aircraft in transport category, and consideration be given to an adaption of all other passenger-carrying aircraft now in service.

In-Flight Cabin Interior Fire.—Following the Varig Boeing 707 accident in Paris, France, July 11, 1973, the Safety Board recommended that:

• • • FAA require a means for early detection of lavatory fires on all turbine-powered, transport-category aircraft operated under FAR Part 121.

• • • full-face smoke masks be required on emergency oxygen bottles for each cabin attendant on turbine-powered transport aircraft to permit attendents to combat lavatory and cabin fires.

• • • FAA reevaluate certification compliance with § 4b.381(d), CAR, on Boeing 707 series aircraft.

• • • FAA organize a government/industry task force on aircraft fire prevention to review design criteria and formulate specific modifications for improvements with respect to fire potential of enclosed areas, such as lavatories, in turbine-powered aircraft operating under Part 121 of FAR.

Highway Safety Recommendations H–77–4, H–77–5, and I–77–1.—The Safety Board on April 25 issued three recommendations seeking action by the Federal Highway Administration, U.S. Department of Transportation, to produce bridge railings which can contain trucks and other heavy vehicles and to prevent the sideways surging of liquid cargoes in partially loaded truck tanks. The recommendations were made following investigation of the May 11, 1976, accident involving a Transport Company of Texas tractor-semitrailer (tank), transporting 7,509 gallons of anhydrous ammonia, which struck a bridge rail on a ramp connecting I–610 with the Southwest Freeway (U.S. 59) in Houston, Texas. The tractor and trailer, after penetrating the rail, struck a support column of an overpass and fell onto the Southwest Freeway, some 15 feet below. The anhydrous ammonia was released from the damaged tank semitrailer. Six persons died as a result of the crash, 78 persons were hospitalized, and 100 more were treated for less serious injuries caused by ammonia inhalation.

The Safety Board noted that if the vehicle had been transporting a solid load of equal weight and the same center of gravity height, it could have negotiated the curve at a speed of 69 mph without overturning. The vehicle in this accident was loaded to only 71.8 percent of its capacity and overturned at approximately 53.6 mph, suggesting that a lateral surge of liquid cargo combined with the normal centrifugal force at that speed to supply the necessary force to overturn the vehicle.

According to the Broad, the bridge barrier rail at the site was of an outdated design; like bridge rails in use in Texas and other states, it was designed to prevent only penetration by automobiles. This accident demonstrates the need for periodic reassessment of designated hazardous materials routes. However, suitable guidelines for selection or review of hazardous materials routes are not available. Accordingly, the Board recommended that the Federal Highway Administration:

Expedite past recommendations of the Safety Board regarding the adoption of standards for bridge barrier systems that require new installations to comply with performance standards. (H–77–4)

In consultation with State and local governments, establish highway design criteria for the selection, location, and placement of traffic barrier systems that will redirect and prevent penetration when struck by heavy vehicles. The criteria for preventing vehicle penetration should consider the human exposure to injury and the effects of hazardous cargo that could result from barrier penetration. (H–77–5)

Develop guidelines for local and State agencies to use in designating and periodically reviewing routes for the transportation of hazardous materials as a means of reducing injury and damage from accidents involving hazardous materials in their jurisdictions. (I–77–1)

As a result of its investigation of the Houston accident, the Safety Board reiterated the following recommendations made after previous investigations:

—to the Federal Highway Administration:

The Bureau of Motor Carrier Safety (FHWA) in cooperation with affected industries, as represented by the Tank Truck Technical Council, conduct an investigation designed to resolve the overturn stability problems created by liquid surging of partially loaded tank-truck combinations. The ultimate objective of such a research program should be the promulgation of Federal regulations to limit the effects of surge to a specific degree. Such regulations might be based on acceptable liquid cargo outage and/or dampening requirements, consistent with safe tank-truck operations. (H–72–45)

—to the U.S. Department of Transportation:

Initiate a research program to identify new approaches to reduce the injuries and damages caused by the dangerous behavior of pressurized, liquefied flammable gases released from breached tanks on bulk transport vehicles. (I–76–5)

SAFETY RECOMMENDATION RESPONSES

Aviation Safety Recommendation A–77–11, issued to the Federal Aviation Administration.—FAA, by letter dated April 15, informs the Safety Board of the expected issuance of a notice of proposed rulemaking (airworthiness directive) within 10 days. This proposal would require compliance with Boeing Service Bulletin No. 727–53–134, revision 3, dated February 18, 1977. This action was recommended by the Board last March 3 following investigation of the sudden decompression of an Eastern Air Lines Boeing 727–100 while en route last November 2 from Raleigh-Durham, North Carolina, to Philadelphia, Pennsylvania. (See 42 FR 13370, March 10, 1977.)

Marine Safety Recommendations M–69–41 through M–69–43 issued to the U.S. Coast Guard. Coast Guard's letter of April 13 updates response to recommendations issued as a result of the Safety Board's special study, "Recreational Boat Accidents, Boating Safety Programs, and Preventive Recommendations." The recommendations were based on the Board's analysis of Coast Guard boating accident reports and asked Coast Guard for safety standards promulgated under recreational boating safety legislation that would include requirements for design and construction of fuel tanks, and piping, carburetor backfire arrestors, and ventilation of engine and fuel tank spaces (M–69–41); requirements for electrical wiring and equipment in closed spaces containing flammable liquids or vapors (M–69–42); and requirements for minimum visibility requirements from the operator's location (M–69–43).

In answer to M–69–41 and M–69–42, Coast Guard states that final rules for

V 42 87 MAY 5 77 UMI

boat fuel and electrical systems were published in the FEDERAL REGISTER last January 31 (42 FR 5940). A copy of the final rule is attached to Coast Guard's letter.

Re M–69–43, Coast Guard states that visibility from the helm has been identified by the operator as a major contributor in 20 percent of the collision accidents studied in depth during 1975. Coast Guard reports, "The control station design guideline and collision education projects which are currently in progress will include recommendations for reducing interference with visibility. The in-depth studies of collision accidents are being continued in order to improve the data base for further decisions in this area."

Pipeline Safety Recommendations P–76–76 and P–76–77, issued to the Jackson Parish Police Jury, Jonesboro, Louisiana.—The Police Jury letter of April 12 is in response to a recent Safety Board request for written data regarding implementation of these recommendations. The recommendations resulted from investigation of the Cartwright, Louisiana, pipeline accident last August 9 involving the rupture of a 20-inch natural gas line, struck by a Police Jury road grader used for cleaning ditches. (See 41 FR 48616, November 4, 1976.)

Re P–76–76, which asked the Jury to cease grading operations on its roads until a plan is developed and implemented to notify operators of buried facilities at least 2 working days before excavating near their facilities, the Jury reports that it "immediately ceased all operations around any type of transmission line." All operators were instructed not to operate any equipment on or around any utility lines or transmission lines, according to the Jury letter. Also, each operator was presented with a detailed map showing all transmission lines in the Parish and instructed not to operate around these lines. The Jury further states, "Before any work is performed near any utility line, company officials are notified and an inspection is made by company personnel. Then and only then is any work performed near any utility lines."

Re P–76–77, calling for instruction of operators of excavation equipment in safety precautions that should be taken when working near buried facilities and provision of information as to location and probable depth of such facilities, again the Jury states that it immediately instructed all operators not to work near any utility line. Also, all operators were presented with detailed maps showing all utility lines in the Parish. The Jury states, "When any utility line is encountered, each operator has been instructed to cease all operation until a company representative is on the scene."

Pipeline Safety Recommendation P–76–101, issued jointly to the Secretary, U.S. Department of Transportation, and to the State of Maine Public Utilities Commission.—This recommendation resulted from Safety Board investigation of a flash fire which occurred last August 13 in the basement of a house in Bangor, Maine, after liquefied petroleum gas, admixed with air at 7-inches water-column pressure, escaped from a severely corroded segment of a 1½-inch bare steel service line at the basement wall. (See 42 FR 5158, January 27, 1977.)

Recommendation P–76–101 called for DOT, in conjunction with the Maine Public Utilities Commission, to monitor the compliance actions taken by Maine Utility Gas Company to insure that it has established operations and maintenance records as required by 49 CFR Part 192.

Letter of April 20 from the Public Utilities Commission provides a copy of its decision issued April 19, 1977, following investigation of certain safety practices of the Maine Utility Gas Company of Bangor. The ordering paragraphs of the Commission's decision are that the Maine Utility Gas Company shall—

1. Immediately institute a leakage survey of all active gas services, active meter set assemblies, and available openings in cellar walls near the gas service entrance. This survey is to include sampling of the subsurface atmosphere adjacent to the service pipe, through bar holes, at the main, at the outside of the cellar wall, and at no greater than 5' intervals from the main to the cellar wall along the route of the service pipe. Any indication of gas leakage discovered shall be treated as noted in paragraph 2 of this Order. The survey is to be completed and results submitted to this Commission no later than September 1, 1977.

2. Reline, through insertion of plastic pipe or replace by the relaying of a new, coated, cathodically protected, steel service line, any active gas service requiring attention because of low gas pressure, low gas flow, or indication of gas leakage between the main and the service tee.

3. Have the option of relining with plastic, or replacing any active service where wall-to-wall pavement or other physical location peculiarities would render a leakage surve as required in paragraph 1 to be uneconomic or impractical.

4. Submit to this Commission within 30 days from the date of this Order a program to accomplish the cutting off of all remaining inactive services as soon as possible.

5. Determine through the use of an appriate odor detecting apparatus that the odor intensity of the gas in the extremities of the distribution systems is such as to be readily detectable at a gas-in-air concentration of one-fifth of the lower explosive limit, and periodically sample the intensity at representative locations to insure that such concentration is maintained.

6. Maintain or augment its work force sufficient to carry on the normal operation of the Company concurrent with the programs outlined in paragraphs 1 through 5 of this Order.

7. Immediately bring the Company into compliance with Corrosion Control requirements of 49 CFR Part 192, subpart I.

8. File monthly progress reports of its doings under the provisions of paragraphs 1 through 7, above.

9. File monthly reports showing unaccounted for gas, service cut offs, and number of leaks repaired in a timely and complete manner.

10. Failure to comply with provisions 1 through 9 of this Order will result in the Commission's immediately seeking a contempt citation pursuant to 35 M.R.S.A. 352.

NOTE.—The above consists of summaries of Safety Board documents made available, and safety recommendation responses recieved, during the week preceding publication of this notice in the FEDERAL REGISTER. The aviation special study and the Safety Board recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the special study may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2), 307, Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 2, 1977.

[FR Doc.77–12948 Filed 5–4–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

MIXED OXIDE FUEL

Order

On April 7, 1977, President Carter issued a "Statement on Nuclear Power Policy," a copy of which is attached.[1] The Statement deals in part with subject matter similar to that of the Commission's November 11, 1975 policy statement on mixed oxide fuel, 40 FR 53056, and the related ongoing proceeding on the generic environmental statement on mixed oxide fuel (GESMO). A copy of the November 11 statement is also attached.

The issues raised by the President's statement are sufficiently fundamental that Commission guidance is called for. The Commission therefore intends to assess the impact of the President's statement on the entire November 11, 1975 policy statement. Thus the future course and scope of GESMO, the review of recycle-related license applications, and the matter of interim licensing will all be among the topics subject to Commission scrutiny. Public contribution to this assessment will aid the Commission in the formulation of sound policy. Accordingly, all GESMO participants and other interested persons are invited to submit their views on the impact of the President's statement on the November 11, 1975 policy statement in comments filed by June 3, 1977. Comments are invited on all aspects of this matter including, for example, whether the GESMO proceeding should continue or at what point it might be suspended if suspension were appropriate.

Proper evaluation of the President's statement also requires that the Commission obtain the views of the Executive Branch on matters, such as the conduct of foreign policy, which are the responsibility of the Executive Branch and which may impact on the Commission's statutory obligations. The Commission is inviting the Executive Branch to submit its views in a public filing which the Commission will serve on all GESMO participants and place in the Public Document Room. In addition, the Commission may be briefed by representatives of the Executive Branch in a closed session covering classified national security matters that bear on the November 11 policy statement.

On April 12, 1977, the GESMO Hearing Board postponed the ongoing GESMO hearings until further notice.[2] Such further notice will be issued by the Commission, which intends to perform its assessment of the November 11 policy statement as promptly as possible consistent with reasoned decisionmaking.

Dated at Washington, D.C. this 3rd day of May 1977.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77–13094 Filed 5–4–77;9:45 am]

[1] Attachment filed as part of the original document.

[2] On April 12, 1977, the Public Interest Research Group (PIRG), a GESMO participant, filed a motion with the Hearing Board asking that the GESMO proceeding be terminated because of the President's statement. The motion included a request that, if appropriate, the matter be certified to the Commission. Pursuant to paragraph 4(k) of the GESMO Notice of Hearing, 41 FR 1133, the Commission hereby directs the Board to certify the PIRG motion to the Commission.

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS REACTOR FUEL SUBCOMMITTEE

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Reactor Fuel Subcommittee will hold an open meeting on May 20, 1977 in Room 1046, 1717 H Street, N.W., Washington, DC 20555. The purpose of this meeting is to discuss a variety of subjects pertaining to reactor fuels including, for example, fuel surveillance and effects of fission gas release rates for high burnup levels of fuel.

The agenda for subject meeting shall be as follows:

Friday, May 20, 1977, 8:30 a.m. until the conclusion of business.—The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to exchange opinions and discuss preliminary views and recommendations relating to the above evaluation.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff and their consultants and will hold discussions with them pertinent to its review.

Practical considerations may dictate alterations in the above agenda. The Chairman is empowered to conduct the meeting in a manner that, in his judgement, will facilitate the orderly conduct of business, including provisions to carry over an uncompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than May 13, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on May 19, 1977 to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5:00 p.m. e.d.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after May 27, 1977 and August 22, 1977, respectively, at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: May 2, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77–12991 Filed 5–4–77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON ELECTRICAL SYSTEMS, CONTROL AND INSTRUMENTATION

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 20339, 2232 b.) the ACRS Subcommittee on Electrical Systems, Control and Instrumentation, and any of its consultants who may be present, will meet the representatives of the NRC Staff, Combustion Engineering, Inc. (CE), and the Arkansas Power and Light Company (AP&L) on May 20, 1977 at the Combustion Engineering Facility in Windsor, CT. This meeting will be closed to the public.

The agenda for the meeting shall be as follows:

Friday, May 20, 1977, 8:30 a.m. until the conclusion of business.—The Subcommittee and its consultants will hold a generic discussion with repreesntatives of CE and the NRC Staff regarding proprietary information on the CE Core Protection Calculator System (CPCS). The Subcommittee may also discuss proprietary information with AP&L representatives concerning the application of the CPCS to the Arkansas Nuclear One, Unit 2, Nuclear Power Plant.

Persons with agreements or orders permitting accress to proprietary information may attend portions of the meeting where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the

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designated Federal employee at the beginning of the meeting.

Persons wishing to submit written statements regarding the agenda may do so by sending a readily reproducible copy in time for consideration at this meeting. Comments postmarked no later than May 13, 1977 to Mr. G. R. Quttschreiber, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close this meeting as noted above to protect proprietary information (5 U.S.C. 552b(c)(4)). Separation of factual information and information considered exempt from disclosure under exemption (4) of 5 U.S.C. 552b(c) is not considered practical.

Dated: May 3, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-12990 Filed 5-4-77;8:45 am]

[Docket No. 50-348A, 50-364A]

ALABAMA POWER CO. (JOSEPH M. FARLEY NUCLEAR PLANT, UNITS 1 AND 2)

Resumption of Antitrust Evidentiary Hearings (Remedy Phase, License Conditions)

APRIL 27, 1977.

Take notice that, pursuant to the Board's Initial Decision (Antitrust) entered herein April 8, 1977, finding that the activities under the licenses for the Joseph M. Farley Nuclear Plant, Units 1 and 2, would create or maintain a situation inconsistent with specified antitrust laws and that further proceedings must be promptly held to specify the exact nature of relief regarding license conditions under Section 105c of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2135(c), further evidentiary hearing will be conducted to commence at 10:00 a.m., local time, on Monday, May 9, 1977 at the Moot Courtroom, University of Virginia School of Law, Arlington Boulevard, Room 108, Charlottesville, Virginia 22901.

Dated at Bethesda, Md., this 27th day of April 1977.

It is so ordered.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Acting Chairman.

[FR Doc.77-12992 Filed 5-4-77;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Proposed Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee), for operation of the Palisades Plant (the facility), located in Van Buren County, Michigan.

The amendment would extend the steam generator tube inspection period from 15 to 20 months from the date of initial criticality after March 15, 1976. In effect, the inspection would be delayed from August 1977 to January 1978.

Prior to issuance of the proposed amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By June 6, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject provisional operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by, the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to M. I. Miller, Esquire, Isham, Lincoln & Beale, Suite 4200, One First National Plaza, Chicago, Illinois 60670 and J. L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, the attorneys for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated April 1, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Dated at Bethesda, Md., this 28th day of April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-12993 Filed 5-4-77;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

U.S. INMARSAT PREPARATORY COMMITTEE WORKING GROUP

Meeting

Notice is hereby given that the U.S. INMARSAT Preparatory Committee Working Group will meet at 10 a.m., in Room 642, Office of Telecommunications Policy, 1800 G Street NW., Washington, D.C., on Thursday, May 26, 1977.

The principal agenda items will be: (1) A report on the first session of the INMARSAT Preparatory Committee Technical Panel held in Paris from 9-13 May, 1977; (2) A report on the first session of the INMARSAT Preparatory Committee Economic, Marketing and Financial Panel held in Paris from 9-13 May 1977; (3) Finalization of preparatory work for the first session of the INMARSAT Preparatory Committee Organizational Panel to be held in Oslo from 13-17 June 1977; and (4) other business which might be raised at the meeting.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Working Group before or after the meeting. The names of the members of the Working Group, a copy of the agenda, a summary of the meeting and other information pertaining to the meeting may be obtained from Mr. William T. Adams, Office of Telecommunications Policy, Washington, D.C. 20504. Tel: 202-395-3782.

L. DANIEL O'NEILL,
Advisory Committee Management Officer.

[FR Doc.77-12864 Filed 5-4-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Amdt. to Delegation of Authority No. 98]

DEPUTY ADMINISTRATOR AND ASSISTANT ADMINISTRATORS

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (25 FR 10608) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

(1) Deputy Administrator,
(2) Assistant Administrator, Bureau for Intra-Governmental and International Affairs,
(3) Assistant Administrator for Program and Policy Coordination,
(4) Assistant Administrator for Program and Management Services,
(5) Assistant Administrator, Bureau for Latin America,
(6) Assistant Administrator, Bureau for Near East,
(7) Assistant Administrator, Bureau for Asia,
(8) Assistant Administrator, Bureau for Africa.

This Delegation of Authority amends and supersedes Delegation of Authority No. 98 of November 11, 1975 (40 FR 58869, December 19, 1975).

This Delegation of Authority is effective immediately.

Dated: April 28, 1977.

JOHN J. GILLIGAN,
Administrator.

[FR Doc.77-12912 Filed 5-4-77;8:45 am]

GRANT FUNCTIONS NO. 99.1.82

Redelegation of Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the principal A.I.D. Officer in the Bahamas, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, and ROCAP/Guatemala, authority to execute Operational Program Grants (OPGs), as defined in Appendix 7A, Chapter 7, of Handbook 3, Project Assistance, on the following basis:

1. OPGs up to the present level of grant authority held by the principal A.I.D. Officer under current redelegation from the Director, Office of Contract Management.

2. OPGs up to $250,000, where the services of an Area Contracting Officer, a contracting officer on TDY from A.I.D./Washington, or a Regional Legal Advisor are utilized.

This authority shall be exercised in accordance with the procedures of Chapter 4 of Handbook 13, Grants, and with other regulations, procedures, and policies, now or hereafter established, modified, and promulgated within A.I.D.

The authority herein redelegated may be exercised by the principal A.I.D. Officer's chief deputy, or by duly authorized persons performing the functions of the principal A.I.D. Officer in an acting capacity. The authority may not be further redelegated.

This Redelegation of Authority shall be effective on the date of signature.

Dated: April 27, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-12913 Filed 5-4-77;8:45 am]

Agency for International Development

[Redelegation of Authority No. 162-4]

MISSION DIRECTOR, USAID/EGYPT

Redelegation of Authority; Correction

In FR Doc. 76-33066, appearing at page 49688 in the issue of November 10, 1976, the Redelegation of Authority No., printed as 164-6, should read 162-4, as set forth above.

Dated: April 26, 1977.

LESLIE A. GRANT,
Authorized Representative.

[FR Doc.77-12892 Filed 5-4-77;8:45 am]

Office of the Secretary

[Public Notice CM-7/64]

ADVISORY COMMITTEE ON INTERNATIONAL INTELLECTUAL PROPERTY

Meeting

The International Industrial Property Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on June 1, 1977, at the Department of State in Conference Room 1205 from 9:30 a.m. to 1:00 p.m. Arrangements can be made to continue the meeting after lunch if the Panel so desires.

The Purpose of this open meeting will be to discuss the following topics:

1. The proposed revision of the Paris Industrial Property Convention;
2. The UNCTAD Code of Conduct on transfer of technology;
3. The OECD Working Party 7 on Restrictive Business Practices as they relate to trademarks;
4. The conference on International Economic Cooperation: Industrial Property;
5. The WIPO Diplomatic Conferences: A Microorganisms; B. Revision of the Nice Agreement (for trademark classification).

The public attending may, as time permits and subject to the instructions of the Chairman, participate in the discussions or may submit their views in writing to the Chairman prior to or at the meeting for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation and address to Mr. L. Stuart Allan, Office of Business Practices, Department of State, telephone (202), 632-3491 prior to May 27, 1977. All non-government attendees at the meeting should use the C Street Entrance to the building.

Dated: April 28, 1977.

HARVEY J. WINKER,
Executive Secretary.

[FR Doc.77-12891 Filed 5-4-77;8:45 am]

[Public Notice No. CM-7/63]

OVERSEAS SCHOOLS ADVISORY COUNCIL

Meeting

The Executive Committee of the Overseas Schools Advisory Council, Department of State, will meet Wednesday, June 1, 1977, 9:30 AM in the Twelfth Floor Conference Room at the U.S. Mission to the United Nations, 799 United Nations Plaza, New York, New York 10017.

Agenda items scheduled for discussion are as follows:

I. Welcome to Council Members, Explanation of the Purpose of the Meeting and Report on Advisory Committee Hearing Concerning OSAC on April 8, 1977.

II. Cooperation Extended by U.S. Missions Overseas.

III. Status Report Including Review of Period 1968/1976.

IV. Report Issued and Distributed by /I/D/E/A/.

V. The Second Phase of OSAC's Program of Assistance to the Overseas Schools and the U.S. Business and Foundation Community.

A. Progress Report Relating to Local Fund-Raising Activities Planned by the Schools and Participation of the Regional Associations.

B. Further Discussion of Specific Projects To Be Undertaken by the Council.

C. Letter from Council to 1300 U.S. Business Corporations and Foundations, Enclosing a Directory of American-Sponsored Overseas Schools, and a Sample of Updated Fact Sheet.

D. Fund-Raising Handbook To Be Distributed to Each of the Overseas Schools That Partcipated in the Council's "Fair Share" Program.

E. Other Business.

VI. Selection of Date for Full Council Meeting.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Core 703-235-9600, prior June 1. The public may participate in discussions at the Chairman's instructions.

Dated: April 15, 1977.

ERNEST N. MANNINO,
Executive Secretary, Overseas Schools Advisory Council.

[FR Doc.77-12890 Filed 5-4-77;8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-092]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Cancellation of Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) the Coast Guard published notice in the FEDERAL REGISTER on April 21, 1977 (42 FR 20696) of the meeting of the National Boating Safety Advisory Council to be held on May 24-25, 1977, in Annapolis, Maryland and of the meeting of the National Boating Safety Advisory Council's Capacity Label Subcommittee to be held on May 23, 1977 in Annapolis, Maryland.

These meetings are hereby cancelled. Rescheduling the meetings of the full Council and the Capacity Label Subcommittee will be postponed until late summer.

The Coast Guard will, however, hold a meeting of the Council's Visual Distress Signal Subcommittee in order to continue the work on this important boating safety rulemaking project. Notice of this meeting also appears in this issue of the FEDERAL REGISTER.

Issued in Washington, D.C., on May 2, 1977.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.77-12896 Filed 5-4-77;8:45 am]

[CGD 77-090]

NATIONAL BOATING SAFETY ADVISORY COUNCIL; VISUAL DISTRESS SIGNAL SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Visual Distress Signal Subcommittee to be held on Monday, May 23, 1977, at the Maryland Marine Police Academy, Matapeake, Maryland. The meeting is scheduled at begin at 1 p.m. and adjourn at 5 p.m.

The purpose of this meeting is to review and discuss the Coast Guard draft notice of proposed rulemaking on visual distress signals. Attendance is open to the interested public.

With the approval of the Chairman of the Council, members of the public may present oral statements at this meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Commander M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C. on May 2, 1977.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.77-12897 Filed 5-4-77;8:45 am]

National Highway Traffic Safety Administration

HIGHWAY SAFETY PROGRAM

Amendment of Qualified Products List of Evidential Breath Measurement Devices: Correction

In FR Doc. 77-5725 appearing at page 11303 of the FEDERAL REGISTER of February 28, 1977, the first two sentences of the third paragraph of the preamble read incorrectly. The sentences are hereby corrected to read as follows:

This amendment is needed because of confusion as to the status of the Intoxilyzer Model 4011 Breath Test Device formerly manufactured by Omicron Systems, Inc. Omicron Systems, Inc. was acquired by CMI, Inc., but the Intoxilyzer Model 4011 continued to be entered on the Qualified Products List with the manufacturer being Omicron, Inc.

FRED W. VETTER, Jr.,
Associate Administrator,
Traffic Safety Programs.

[FR Doc.77-12657 Filed 5-4-77;8:45 am]

Office of Pipeline Safety Operations

TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

Revised Date for Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given that a meeting of the Technical Pipeline Safety Standards Committee scheduled to be held May 10 and 11, 1977, at 9:00 a.m., in Conference Room 3201 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. (see 42 FR 21684, April 28, 1977) is rescheduled for June 7 and 8, 1977, at the same time and place. The agenda for this meeting is as follows: (1) Proposed rule changes regarding the design for plastic pipelines (see 42 FR 8386), (2) Establishing new rules for conversion of pipelines to gas service (see 42 FR 15932), (3) Procedures for implementing regulatory reform Policy III (see 41 FR 16200) and for proposing pipeline safety standards; and (4) Establishing rulemaking priorities.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements should notify, not later than 3:00 p.m. June 6, 1977, and information may be obtained from, David A. Watson, Office of Pipeline Safety Operations, 2100 Second Street, S.W., Washington, D.C. 20590, (202) 426-2392. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on May 3, 1977.

CESAR DELEON,
Acting Director, Office
of Pipeline Safety Operations.

[FR Doc.77-12982 Filed 5-4-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77-9; Reference: ATF O 1100.47A]

DISCLOSURE OF TRADE NAME INFORMATION

Delegation Order

1. *Purpose.* This order delegates to regional regulatory administrators the authority to disclose the true identity of companies authorized to use trade names.

2. *Cancellation.* ATF O 1100.47, Delegation Order—Disclosure of Trade Name Information, dated September 11, 1975, is canceled. (40 FR 43235)

3. *Discussion.* Treasury Department Order No. 221, effective July 1, 1972, and 26 CFR 301.9000-1 delegated the Director, Bureau of Alcohol, Tobacco and Firearms the authority to disclose ATF records or information upon request or demand, and to redelegate such authority.

4. *Delegation.* a. Pursuant to the authority delegated to the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, effective July 1, 1972, and 26 CFR 301.-9000-1, all regional regulatory administrators are delegated the authority to disclose, upon request, the true identity (name and address) of companies authorized to use trade names.

b. This authority may be redelegated, but not below the chief, technical services level.

Effective Date: This order becomes effective on April 29, 1977.

Signed: April 29, 1977.

REX D. DAVIS,
Director.

[FR Doc.77-12862 Filed 5-4-77;8:45 am]

[Notice No. 77-10; Reference ATF O 1100.63A]

ACCEPTANCE OR REJECTION OF OFFERS IN COMPROMISE

Delegation Order

1. *Purpose.* This order delegates the authority to accept or reject certain offers in compromise of liabilities incurred under Chapters 51, 52, 53, and 78 of the Internal Revenue Code, and of liabilities incurred under the Federal Alcohol Administration Act.

2. *Cancellation.* ATF O 1100.63, Delegation Order—Acceptance or Rejection of Offers in Compromise, dated June 22, 1976, is canceled. (41 FR 26942).

3. *General.* The authority to accept or reject offers in compromise of liabilities arising under Chapters 51, 52, and 53, and sections 7652 and 7653 (Chapter 78) of Title 26 U.S.C., is vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR Section 301.7122-1. The authority to accept or reject offers in compromise submitted pursuant to the provisions of the Federal Alcohol Administration Act is vested in the Director by Treasury Department Order No. 221, dated June 6, 1972.

4. *Delegation.* Pursuant to the authority vested in the Director of ATF by Treasury Department Order No. 221, subject to the limitations contained in applicable regulations and procedures, there is hereby delegated the following authority relating to offers in compromise of liabilities arising under Chapters 51, 52, 53, and 78 of Title 26 U.S.C., and liabilities arising under the Federal Alcohol Administration Act.

a. *Regional Regulatory Administrators.* (1) Each regional regulatory administrator is authorized to accept or reject offers in compromise of tax liabilities arising from:

(a) Chapter 51, Title 26, U.S.C., as follows:

1 Illegal production of untaxpaid distilled spirits, wines, or beer.

2 Failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, or beer.

(b) Chapter 53, Title 26, U.S.C. (Firearms making, transfer, and occupational taxes).

(2) Each regional regulatory administrator is authorized to accept or reject offers in compromise of criminal liabilities of retail dealers in liquor arising from violations of the Internal Revenue laws relating to liquor, including the refilling or reuse of liquor bottles.

(3) Each regional regulatory administrator is authorized to accept or reject offers in compromise of all civil and criminal liabilities arising under Chapter 52, Title 26, U.S.C. (cigars, cigarettes, and cigarette papers and tubes).

(4) This authority may not be redelegated.

b. *Assistant Director, Regulatory Enforcement.* (1) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise of civil and criminal liabilities arising under Chapters 51, 52, and 53 of the Internal Revenue Code in cases not subject to compromise by regional regulatory administrators (including cases where singular offers are submitted on behalf of proprietors who are located in different regions), and in cases which combine liabilities arising under Chapter 51 and the FAA Act. With respect to civil liability, the authority to accept or reject such offers in compromise is limited to cases in which the liability sought to be compromised (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $100,000. This authority may be redelegated, but not below the division chief level.

(2) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise of all liabilities under sections 7652 and 7653 of the Internal Revenue Code, insofar as those sections relate to the commodities subject to tax under Chapters 51, 52, and 53 of the Internal Revenue Code. This authority may be redelegated, but not below the division chief level.

(3) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise submitted pursuant to the provisions of the Federal Alcohol Administration Act (27 U.S.C. 207). This authority may not be redelegated.

Effective date: This order becomes effective on April 29, 1977.

Signed: April 29, 1977.

REX D. DAVIS,
Director.

[FR Doc.77-12863 Filed 5-4-77;8:45 am]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Burlington Hotel, Vermont Avenue at Thomas Circle NW., Washington, D.C., on June 6, 7, and 8, 1977. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 a.m. to 8:30 a.m., June 6, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, D.C. (202-389-3702) prior to May 27.

The meeting will be closed from 8:30 a.m. to 5 p.m., June 6 and all day June 7 and 8 for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Pub. L. 92-463 and section 552b(c)(6) of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

Dated: April 28, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc.77-12895 Filed 5-4-77;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Notice No. 383]

ASSIGNMENT OF HEARINGS

MAY 2, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142038 Sub 1, Dario Guerra, d.b.a. Dario Guerra Transfer, now assigned May 23, 1977 at Miami, Florida, will be held in Suite 121 Koger Executive Center, 8400 Northwest 52nd Street, instead of Room 228 Federal Building, 51 S.W. First Avenue.

MC 141109 Sub 2, Bingham Trucking Corporation now assigned May 9, 1977 at Tupelo, Mississippi is cancelled, application dismissed.

MC 120477 (Sub 2), International Transport, Inc., now being assigned June 13, 1977 (5 days) at New York, New York, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.12929 Filed 5-4-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 2, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed by May 20, 1977.

FSA No. 43358—*Joint Water-Rail Container Rates—The East Asiatic Company.* Filed by The East Asiatic Company, (No. 101), for itself and interested rail carriers. Rates on general commodities, from ports in Japan and Korea, to rail and water carrier terminals on the U.S. Atlantic and Gulf Seaboard, Grounds for relief—Water competition.

Tariff—Trans-Pacific Freight Conference of Japan/Korea Eastbound Intermodal tariff No. 1, I.C.C. No 1, F.M.C. No. 4.

Rates are published to become effective on May 29, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12926 Filed 5-4-77;8:45 am]

[Notice No. 164]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 5, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77102. By application filed April 28, 1977, LARRY O. CHRISTENSEN, an individual, d.b.a. NORTHERN COURIER SERVICE, P.O. Box 23700, Minneapolis, MN 55423, seeks temporary authority to transfer a portion of the operating rights of Loomis Courier Service, Inc., 390 Fourth Street, San Francisco, CA 94107, under section 210a(b). The transfer to Larry O. Christensen, an individual, d.b.a. Northern Courier Service, of the operating rights of Loomis Courier Service, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12927 Filed 5-4-77;8:45 am]

[Notice No. 163]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76984, filed April 21, 1977. Transferee: COLOR COUNTRY TOURS, INC., 354 West 600 South, Cedar City, Utah, 84720. Transferor: TWA Services, Inc., P.O. Box 400, Cedar City, Utah, 84720. Transferee's representative: John Van Enige, Jr., President, Color Country Tours, Inc., 354 West 600 South, Cedar City, Utah, 84720. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 102793, issued January 21, 1974, as follows: Passengers and their baggage, and express, and newspapers, in the same vehicle with passengers, over regular routes, between Cedar City, Utah and Lund, Utah, serving all intermediate points: From Cedar City over Utah Highway 19 to Lund, and return over the same route. The above-described authority to transport passengers was issued pursuant to an application filed on or before January 1, 1967, and therefore incidental charter operations in interstate or foreign commerce may be conducted under rules and regulations prescribed by the Commission pursuant to section 208(c) of the Interstate Commerce Act, as amended November 10, 1966; and Passengers and their baggage, in charter operations, during the season extending from June 1 to October 1, both inclusive of each year, over irregular routes, From the Kaibab Forest Post Office, Ariz. (located on the north rim of the Grand Canyon), points in the Zion National Park, points in the Cedar Breaks National Monument, and points in the Bryce Canyon National Park, Utah, to points in that part of Colorado on and south of a line beginning at the Colorado-Utah State line and extending along U.S. Highway 50 to junction unnumbered highway (formerly U.S. Highway 50) east of Fruita, Colo., thence along unnumbered highway via Holland and Fruit Ridge, Colo., to Grand Junction, Colo., and thence along U.S. Highway 50 to Montrose, Colo., and west of a line extending from Montrose, Colo., through Durango, Colo., to the Colorado-New Mexico State line; points in that part of New Mexico west of a line extending from the New Mexico-Colorado State line south through Pecos, N. Mex., and north of a line extending west through Isleta, N. Mex., to the New Mexico-Arizona State line; points in that part of Arizona north of a line extending from the Arizona-California State line (east of Needles, Calif.), to the Arizona-New Mexico State line (east of Isleta, N. Mex.), except points on the south rim of the Grand Canyon; points in that part of Nevada on, south and east of U.S. Highway 91; and points in Washington, Kane, Garfield, Iron, Wayne, Grand, San Juan, Sevier, Carbon, and Emery Counties, Utah, and return. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77018, filed March 10, 1977. Transferee: DAVID DAVIS, an individual, doing business as QUICK HAUL OF TEXAS, 1585 Dickinson Rd. (P.O. Box 699), League City, Tex. 77573. Transferor: J. D. Hodges Trucking, Inc., P.O. Box 842, Woodward, Okla. 73801. Applicants' representative: Mike Cotten, Attorney at Law, P.O. Box 1148, Austin, Tex. 78767. Clayte Binion, Attorney at Law, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificates No. MC 105666, MC 105666 (Sub-No. 5), and MC 105666 (Sub-No. 6), issued August 27, 1959, February 14, 1963, and September 9, 1960 respectively, and letter notice 105666 Sub-E1 as published in the FEDERAL REGISTER July 3, 1975 (effective July 18, 1975) in the name of J. A. Robinson Sons, Inc., as follows: Oilfield equipment, between points in those portions of Texas, Oklahoma, and Kansas within the territory bounded on the west by the New Mexico-Texas, New Mexico-Oklahoma, Colorado-Oklahoma and Colorado-Kansas State lines, on the north by U.S. Highways 50 and 50S from the Colorado-Kansas State line to Dodge City to Sayre, Oklahoma, and on the south by U.S. Highway 66 from Sayre to the Texas-New Mexico State line. Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up of pipe, except the stringing or picking up of pipe in connection with main or truck pipelines. Between points in that part of Texas on and north of U.S. Highway 66, on the one hand, and, on the other, points in that part of Oklahoma west of U.S. Highway 283 and north of U.S. Highway 66, and those in that part of Kansas south of U.S. Highway 66, and 50S and west of U.S. Highway 283. Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, dismantling of pipelines, including the stringing and picking up thereof. Between points in Oklahoma, Kansas and Colorado.

Restriction: Restricted against service between points in Kansas, on the one hand, and, on the other, points in Colorado. Machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way. Between points in Oklahoma, Kansas and Texas. Restriction: Restricted against service between points in Kansas, on the one hand, and, on the other, points in Colorado. Machinery, materials, supplies and equipment incidental to, or used in, the construction, development, operation and maintenance of facilities for the discovery, development, and production of natural gas and petroleum. Between points in Oklahoma, Kansas, and Texas. (1) Machinery, materials, supplies and equipment, incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transportation of natural gas, petroleum, their products and by-products, water or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way. Between specified points in Texas on the one hand, and, on the other, specified points in Colorado, and between specified points in Texas on the one hand, and, on the other, points in Colorado on the east of Interstate Highway 25 (U.S. Highways 85 and 87). Tranferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77028, filed March 14, 1977. Transferee: RALPH M. RENSING, Box 70, Trenton, Ill. 62293. Transferor: F. J. Hessler & Sons, Inc., 19 North 13th St., Belleville, Ill. Applicant's representative: David E. Guymon, Attorney at Law, 26 E. Washington St., Belleville, Ill. 62220. Authority sought for purchase by transferee of a portion of the operating rights of tarnsferor, as set forth in Certificates Nos. MC 20032 and MC 20032 (Sub-No. 1), issued December 14, 1940, and July 11, 1949 respectively, as follows: General commodities, except those of unusual value, and except dangerous explosives, household goods (when transported as a separate and distinct service in connection with so-called "household movings"), commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Belleville and Scott Field, Ill., and St. Louis, Mo., as follows: From Belleville over Illinois Highway 13 to East St. Louis, Ill., thence over city streets to St. Louis; From Belleville over Illinois Highway 13 to junction Illinois Highway 157, thence over Illinois Highway 157 to East St. Louis, Ill., thence over city streets to St. Louis; From Belleville over Illinois Highway 15 to junction Kingshighway, thence over Kingshighway to junction U.S. Highway 50, thence over U.S. Highway 50 to St. Louis; From Belleville over Illinois Highway 13 to junction Illinois Highway 157, thence over Illinois Highway 157 to junction Illinois Highway 3, thence over Illinois Highway 3 to East St. Louis, and thence over city streets to St. Louis; From Scott Field over St. Clair County State Aid Route 1 to junction Illinois Highway 161, thence over Illinois Highway 161 to Belleville, and thence to St. Louis as specified above; and return over these routes to Belleville and Scott Field. Service is authorized to and from all intermediate points betwen Belleville and East St. Louis, Ill., those between Scott Field and East St. Louis, Ill., without restriction; East St. Louis, Ill., restricted to traffic moving to or from points other than St. Louis, Mo. Also over irregular routes:

Mining machinery and supplies, from St. Louis, Mo., to points and places in St. Clair County, Ill., with no transportation for compensation on return except as otherwise authorized, and household goods, between St. Louis, Mo., on the one hand, and, on the other, points and places in St. Clair County, Ill. Also general commodities, except those of unusual value, dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household goods, 17 M.C.C. 467, and commodities in bulk, and those requiring special equipment. 1. Service is authorized to and from points in St. Louis County, Mo., within the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone as defined in St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, 1 M.C.C. 656 and 2 M.C.C. 285, as off-route points in connection with said carrier presently authorized regular-route operations between Belleville and Scott Field, Ill., and St. Louis, Mo., 2. all intermediate points on said carriers authorized regular routes between Belleville and East St. Louis, and those between Scott Field, Ill., and East St. Louis without restriction, 3. East St. Louis as an intermediate point restricted to traffic moving to or from points other than St. Louis and points in St. Louis County, Mo. Mining machinery and supplies, over irregular routes, from points and places in St. Louis County, Mo., to points and places in St. Clair County, Ill., with no transportation for compensation on return except as otherwise authorized. Household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, over irregular routes. Between points and places in St. Louis County, Mo., on the one hand, and, on the other, points and places in St. Clair County, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77045, filed April 27, 1977. Transferee: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, Ark. Transferor: Dale's Enterprises, Inc., doing business as Southwest Mobile Home Transport, Route 6, Box 29A, Texarkana, Texas 75501. Transferee's representative: Harold G. Hernly, Jr., Attorney at Law, 118 North St. Asaph Street, Alexandria, VA 22314. Transferor's representative: Thomas F. Sedberry, Attorney at Law, 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 138378, issued

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February 26, 1976, as follows: Trailers designed to be drawn by passenger automobiles, in secondary movements, between points in Bowie and Cass Counties, Tex., and Little River, Hempstead, Sevier, and Miller Counties, Ark., on the one hand, and, on the other, points in Arkansas, Louisiana, Oklahoma, and Texas. Transferee presently holds authority from this Commission under Certificate of Registration No. MC 96938 (Sub-No. 1). Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77060, filed March 31, 1977. Transferee: NEW ENGLAND TRANSPORT, INC., LTD., P.O. Box 441, Springfield, Vt. 05156. Transferor: Savage Trucking Company, Inc., Chester Depot, Vt. 05144. Applicants' representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought for transfer to transferee of a portion of the operating rights of transferor, as set forth in certificate No. MC 127616 (Sub-No. 1), issued December 1, 1972, as follows: Irregular routes: *Lumber*, and *Forest Products*, Between points in Bennington and Windham Counties, Vt., on the one hand, and, on the other, points in Cheshire and Hillsboro Counties, N.H., and those in Massachusetts, Rhode Island, and Connecticut on and north and west of line beginning at Plymouth, Mass., and extending along U.S. Highway 44 to the Massachusetts-Rhode Island State line, thence along the Massachusetts-Rhode Island State line to the Rhode Island Bristol-Newport County line, thence along the Bristol-Newport County line to the Rhode Island Bristol-Kent County line thence along the Bristol-Kent County line to the Rhode Island Kent-Providence County line, thence along the Kent-Providence County line to the Rhode Island-Connecticut State line, thence along the Rhode Island-Connecticut State line to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Alternate U.S. Highway 6, thence along Alternate U.S. Highway 6 through Danielson, Conn., to junction U.S. Rightway 6, thence along U.S. Highway 6 to Hartford, Conn., and thence along U.S. Highway 5 to New Haven, Conn. Between points in Vermont and New York within 30 miles of Fair Haven, Vt., including Fair Haven. Between points in New Hampshire, on the one hand, and, on the other, points in Massachusetts and Vermont.

Logs and *lumber*, except such of those commodities as are materials used in road building, Between points in Grafton, Sullivan, Merrimack, Belknap, Cheshire, Hillsborough, and Carroll Counties, N.H. and Windsor, Orange, Windham, and Caledonia Counties, Vt. From points in Grafton, Sullivan, Merrimack, Belknap, Cheshire, Hillsborough, and Carroll Counties, N.H., and Windsor, Orange, Windham, and Caledonia Counties, Vt., to points in Massachusetts, except lumber from Keene, N.H., to points in that part of Massachusetts on and north of U.S. Highway 20, with no transportation for compensation on return except as otherwise authorized *Lumber* and *logs*, From points in New Hampshire and Vermont, to Cranville, N.Y., with no transportation for compensation on return except as otherwise authorized. *Rough lumber*, From Newcomb and Westport, N.Y., to New York, N.Y., points on the United States-Canada Boundary line at or near Champlain, N.Y., and points in Vermont, Massachusetts, Connecticut, New Hampshire, Rhode Island, and New Jersey, with no transportation for compensation on return except as otherwise authorized. *Lumber*, Between Newcomb, N.Y., on the one hand, and, on the other, points in Massachusetts, points in that part of Vermont on and south of Vermont Highway 9 and those in that part of New Hampshire on and south of New Hampshire Highway 9. Between points in a specified portion of New York on the one hand, and on the other, points in Ohio, North Carolina, South Carolina, Virginia, West Virginia, Delaware, Maryland, Pennsylvania, New Jersey, New York, Connectiut, Rhode Island, the District of Columbia, points in that part of Vermont North of Vermont Highway 9 and those in that part of New Hampshire north of New Hampshire Highway 9. Between points in Vermont, on the one hand, and on the other, points in Ohio, North Carolina, South Carolina, Virginia, West Virginia, Delaware, Maryland, Pennsylvania, New Jersey, New York, and the District of Columbia (except between those points in New York, on the one hand, and those in Vermont on the other as authorized immediately above). *Prefabricated log buildings*, From Hartland, Vt., to points in Maryland, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Virginia, West Virginia, Kentucky, Ohio, Indiana, Illinois, Michigan, and Wisconsin, with no transportation for compensation on return except as otherwise authorized.

Lumber and *sawmill machinery*, Between Keene, N.H., on the one hand, and, on the other, Providence R.I., and points in that part of Massachusetts on and north of U.S. Highway 20: and Refused and rejected shipments of the next above-specified commodities; From the above-specified destination points to Keene, N.H., Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77076, filed April 14, 1977. Transferee: SHIVELY'S SERVICES, INC., R.D. No. 8, Box 392, Allentown, Pennsylvania, 18104. Transferor: Jacob J. Elliott, Jr. and Alvin R. Roth, a partnership, doing business as Shively's, 47 E. Union Blvd., Bethlehem, Pennsylvania 18018. Applicant's representative: David M. Hirshorn, 1110 NW. End Blvd., Quakertown, Pennsylvania 18951. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 34874 (Sub-No. 5), issued February 10, 1972, as follows: *General commodities*, except cement, commodities in bulk, and motor vehicles, between Allentown, Pa., on the one hand, and, on the other, points in Berks, Bucks, Carbon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, and Schuylkill Counties, Pa., and Hunterdon and Warren Counties, N.J. The certificate of public convenience and necessity to expire February 10, 1977 to the extent that authority is granted to transport Classes A and B explosives. The service authorized is subject to the following conditions: The operations authorized are limited to the transportation of traffic which has had or will have a prior or subsequent movement by rail. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77078, filed April 12, 1977. Transferee: C. H. DREDGE & COMPANY, INC., 918 South 2000 West, Syracuse, Utah 84041. Transferor: Goodman Transportation, Inc. (William Thomas Thurman, Trustee in Bankruptcy), c/o William Thomas Thurman, 500 Kennecott Building, Salt Lake City, Utah 84133. Applicants' representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 136915 (Sub-No. 9), issued April 28, 1976, as follows: *Meats, meat products, meat by-products*, and *articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides), from the plant site of Joe Doctorman & Son, Inc., at South Salt Lake City, Utah, to Dallas, Waco, Laredo, Ft. Worth, Houston and San Antonio, Tex., and points in Nevada and California. Restriction: The operations are limited to a transportation service to be performed, under a continuing contract, or contracts with Joe Doctorman & Son, Inc., of Salt Lake City, Utah. Transferee is presently authorized to operate as a contract carrier under Permit No. MC 125872. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77083, filed April 13, 1977. Transferee: JEFF GLENN, P.O. Box 1090, Silver City, N. Mex. 88061. Transferor: Charles J. Cobb, 1205 Bennett St., Silver City, N. Mex. 88061. Applicants' representative: Jeff Glenn, P.O. Box 1090, Silver City, N. Mex. 88061. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 97592 (Sub-No. 1), issued January 7, 1964, as follows: Contractors and mining equipment and supplies except no shipments to be handled weighing less than 10 tons between all points and places in Grant, Hidalgo, Luna, Catron, Sierra and Dona Ana Counties, N. Mex., over irregular routes, under nonscheduled service. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77084, filed April 8, 1977. Transferee: P. J. SERVICES, INC., 618 Cottonwood Drive, Richland, Wash. 99352. Transferor: Glenn A. Hodson and Betty L. Hodson, a partnership, doing business as Tri-City Delivery, 5512 West Yellowstone Ave., Kennewick, Wash. 99336. Applicants' representative: Thomas A. Cowan, Butler, Heye, Cowan & Wolcott, P.O. Box 770, Richland, Wash. 99352. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139022 (Sub-No. 3), issued May 28, 1975, as follows: General commodities (with exceptions) between Pasco and Yakima, Wash., on the one hand, and, on the other, points in Adams, Benton, Columbia, Franklin, Grant, Yakima, and Walla Walla Counties, Wash. Restriction: The operations authorized herein are subject to the following conditions: The operations authorized herein are restricted to the transportation of traffic having a prior or subsequent movement by air. The operations authorized herein are restricted against the transportation of (1) any package or article weighing more than 100 pounds, and (2) packages or articles weighing in the aggregate more than 200 pounds, from one consignor to one consignee on any one day. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77085, filed April 15, 1977. Transferee: JOHN D. ANTONELLI, doing business as Frankie's Towing Service, 240 Old Colony Ave., South Boston, Mass. 02127. Transferor: Frank A. Antonelli, doing business as Frankie's Towing Service, 240 Old Coloney Ave., South Boston, Mass. 02127. Applicant's representative: Frederick T. O'Sullivan, Attorney at Law, P.O. Box 2184, Peabody, Mass. 01960. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 129717, issued September 10, 1969, as follows: *Wrecked or disabled motor vehicles*, by the use of wrecker equipment only, over irregular routes, between Boston, Mass., on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, Rhode Island, and points in that part of New York on and east of Interstate Highway 87. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12928 Filed 5-4-77;8:45 am]

[AB 84 (SDM)]

ILLINOIS TERMINAL RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Illinois Terminal Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 84 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 13, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-84 (SDM).

ROBERT L. OSWALD,
Secretary.

AB84 (SDM)

ILLINOIS TERMINAL RAILROAD COMPANY

The system diagram maps of the Illinois Terminal Railroad Company are attached hereto and are submitted for publication in the FEDERAL REGISTER pursuant to the regulations of the Interstate Commerce Commission as set forth in 49 CFR 1121.22.

ILLINOIS TERMINAL RAILROAD COMPANY

[AB Number 84]

DESCRIPTION OF LINES—STATE OF ILLINOIS

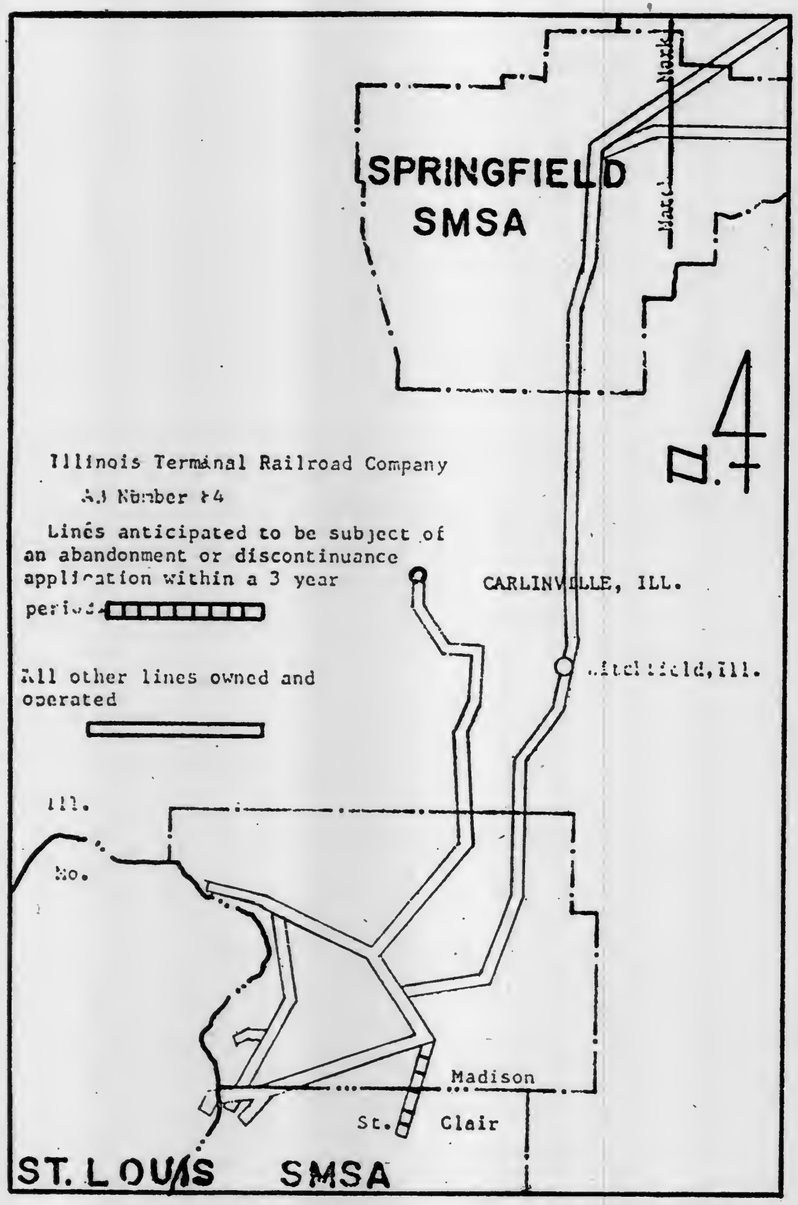
Category. All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3 year period following the date upon which the diagram is filed with the Interstate Commerce Commission.

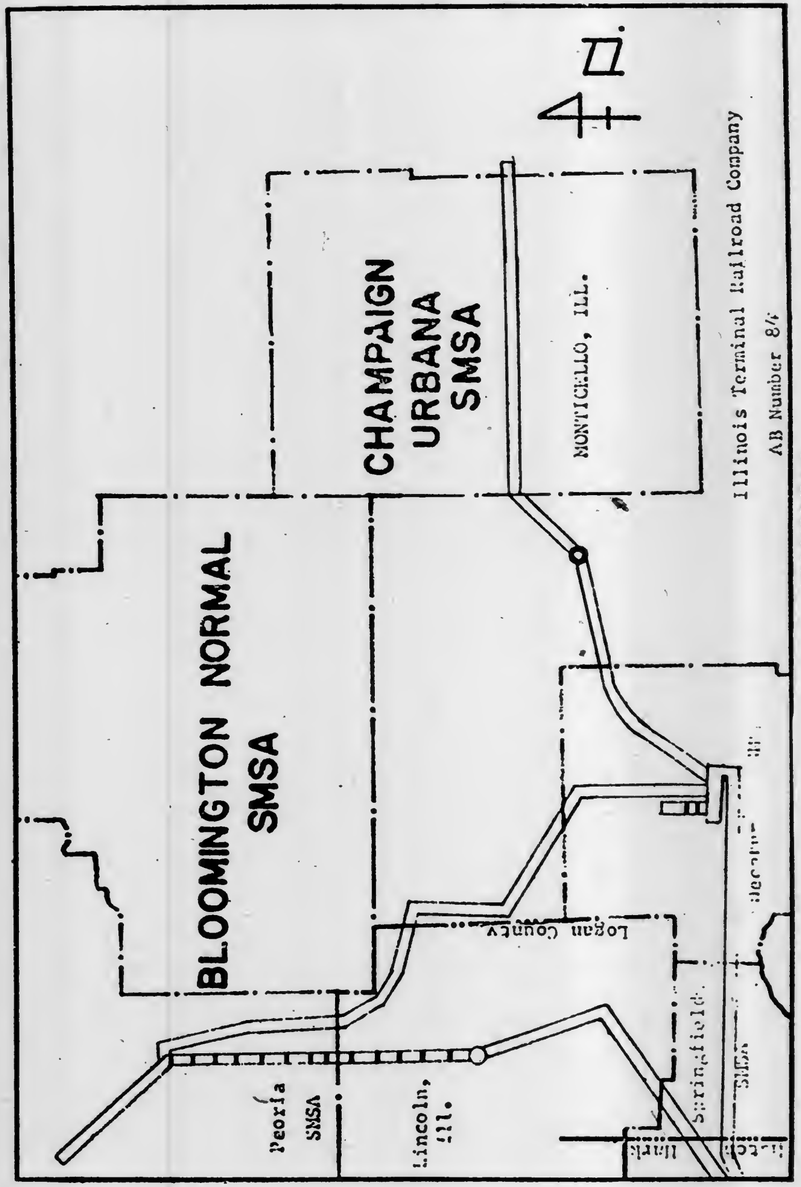
I. (a) O'Fallon Branch.
(b) State of Illinois.
(c) Madison County, Illinois, St. Clair County, Illinois.
(d) Milepost 20.3 to Milepost 30.6.
(e) Agency Station—Troy Junction, Illinois—Milepost 20, Agency Station—O'Fallon, Illinois—Milepost 30.

II. (a) Forsyth Branch.
(b) State of Illinois.
(c) Macon County, Illinois.
nois—Milepost 20 Agency Station—O'Fallon,
(d) Milepost 2.5 to Milepost 7.0.
(e) Agency Station—Forsyth, Illinois—Milepost 7.

III. (a) Lincoln to East Peoria Line.
(b) State of Illinois.
(c) Logan County, Illinois, Tazewell County, Illinois.
(d) Milepost 128.4 to Milepost 155.9.
(e) Terminal Station—Allentown, Illinois—Milepost 156. Agency Station—Lincoln, Illinois—Milepost 128. Agency Station—Union, Illinois—Milepost 137. Agency Station—Mindale, Illinois—Milepost 147.

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[AB114 (SDM)]

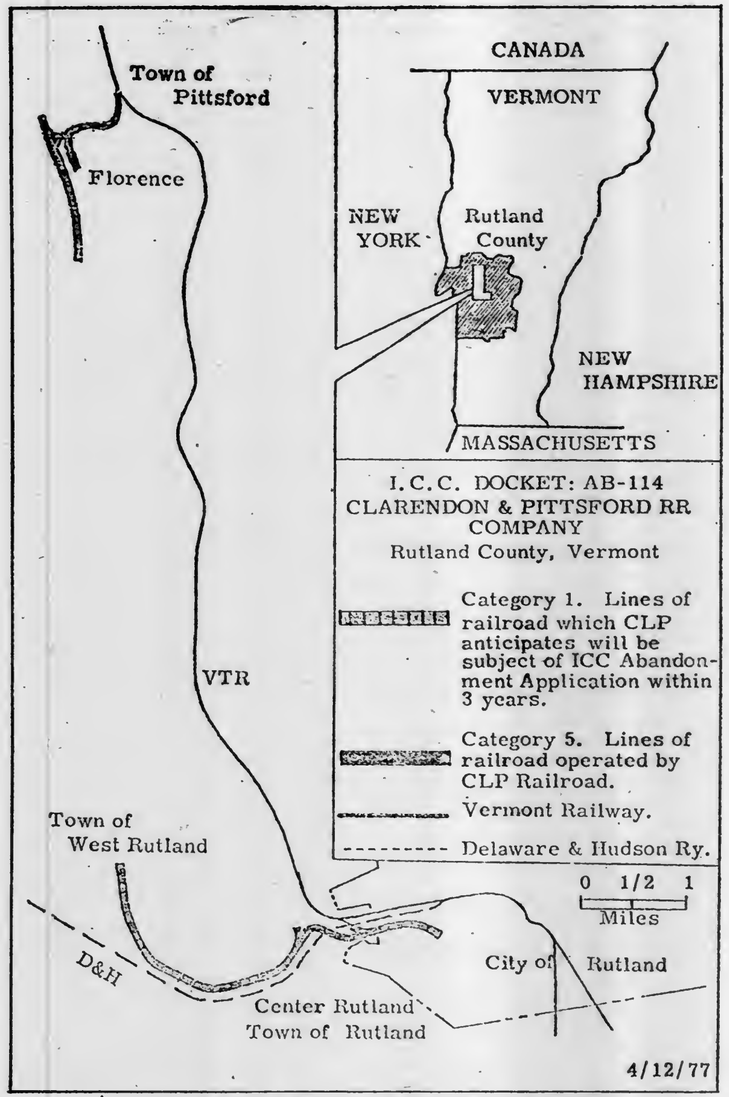
CLARENDON AND PITTSFORD RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Clarendon and Pittsford Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB–114 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or simi-agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–114 (SDM).

ROBERT L. OSWALD,
Secretary.



Certified to be a true copy of original document.

H. T. Filskov

H. T. Filskov, President

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LINE DESCRIPTION OF SYSTEM DIAGRAM MAP

The lines of railroad of Clarendon and Pittsford Railroad Company, listed in Category 1, are:

(a) Carrier's designation for each line:

MAIN TRACKS

West Rutland Main. Extends from Station S260+00 to end of track at Station S404+09.4. Total length 14,409.4 feet (2.729 miles).

Rutland Main. Extends from Station R45+00 to end of track at Station R71+28.7, a distance of 2628.7 feet (0.498 miles).

(b) State or states in which each line is located: Vermont.

(c) County or counties in which each line is located: Rutland County, Vermont

(d) Milepost delineating each line or portion of line: Clarendon and Pittsford Railroad Company does not have milepost designations. See (a) above for full track description.

(e) Agency or terminal station located on each line or portion of line with milepost designations.

There are no separate agency or terminal stations located on lines of Clarendon and Pittsford Railroad Company. Clarendon and Pittsford Railroad Company maintains offices at Vermont Railway, Inc., Freight Office, P.O. Box 487, 53 Park Street, Rutland, Vermont 05701.

[FR Doc.77-12933 Filed 5-4-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 131; Amdt. No. 3]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

To All Railroads:

Upon further consideration of Exemption No. 131 issued February 8, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 131 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire June 30, 1977.

This amendment shall become effective April 30, 1977.

Issued at Washington, D.C., April 29, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 77-12932 Filed 5-4-77;8:45 am]

[Amdt. No. 2, Order No. 1; Under Service Order No. 1252]

BIRMINGHAM SOUTHERN RAILROAD AND LOUISVILLE AND NASHVILLE RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 1 and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 1 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) ***Expiration date.*** This order shall expire at 11:59 p.m., July 31, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., April 30, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 29, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-12931 Filed 5-4-77;8:45 am]

[Second Rev. Exemption 44]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

Car Utilization Map

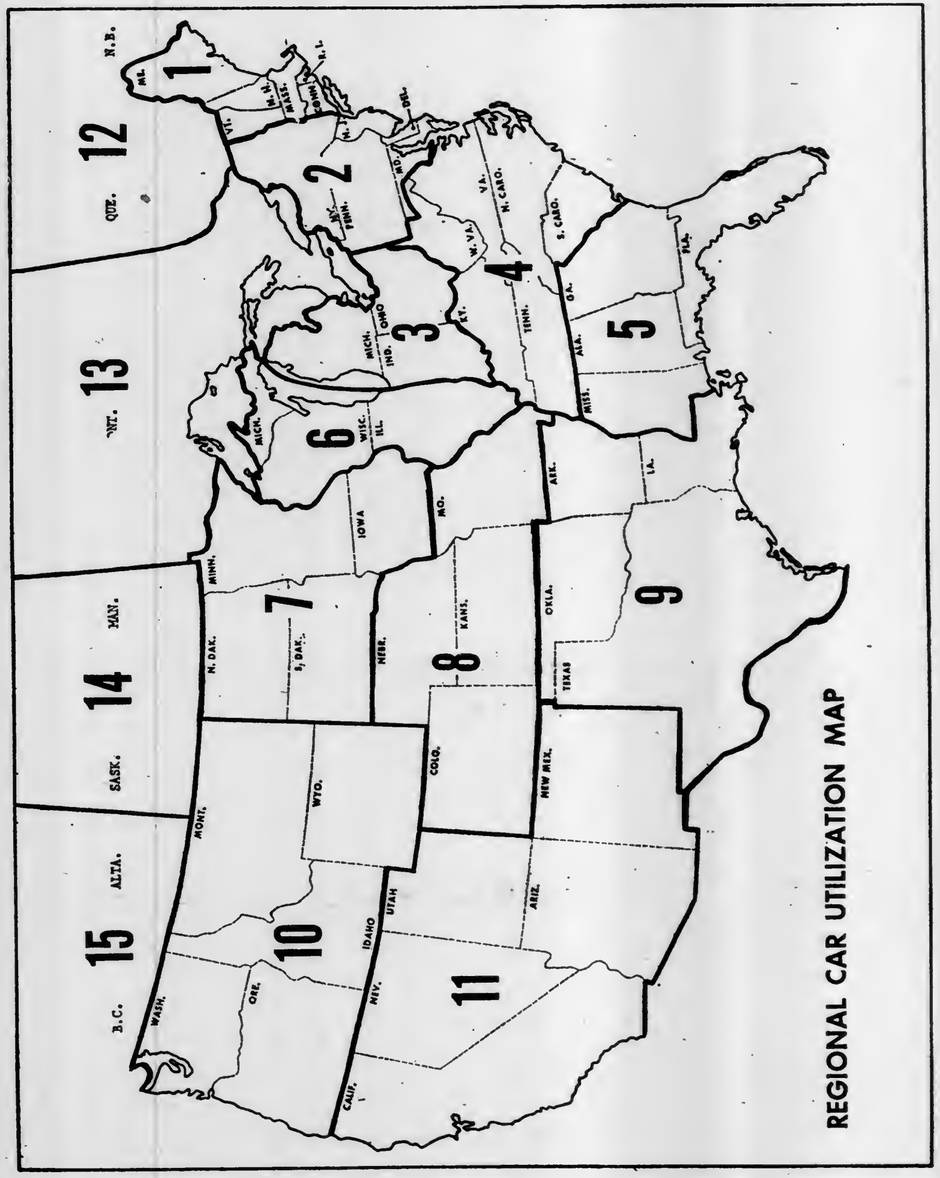
It appearing, That Car Service Rule 2 authorizes the loading of cars owned by indirect connections of the lines having physical possession of the cars to destinations closer to the car owner than is the point of loading; that there is need for a quick reference guide to enable shippers and carriers to make a selection of the proper car for loading to remote destinations; and that the Car Service Division of the Association of American Railroads has prepared a Car Utilization Map which will enable shippers and carriers to determine whether or not such cars owned by indirect connections properly may be used for transporting the traffic available.

It is ordered, That, under authority vested in me by Car Service Rule 19, cars loaded in conformity with the Car Utilization Map issued by the Car Service Division of the Association of American Railroads, dated April 15, 1977, or successive issues thereof, shall be deemed to be in compliance with the provisions of Car Service Rule 2(b).

Effective April 15, 1977.

Issued at Washington, D.C., April 15, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.



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Association of AMERICAN RAILROADS — CAR SERVICE DIVISION — Washington, D. C.

INSTRUCTIONS FOR USE OF REGIONAL CAR UTILIZATION MAP

Unless loading is restricted by an order of the Interstate Commerce Commission or by a directive of the Car Service Division of the Association of American Railroads, foreign general purpose freight cars shall be loaded as follows:

A. Foreign Cars at a Junction with the Home Road
1. Loaded at that junction to or via the home road.
2. Loaded at that junction as authorized by car owner.

B. Foreign Cars at other than a Junction with the Home Road and within a Home Region
1. Loaded to, via or to a junction with the home road.
2. Loaded to a destination closer to the home road.
3. Loaded to a Home Region.

C. Foreign Cars at other than a Junction with the Home Road in other than a Home Region
1. Loaded to, via or to a junction with the home road.
2. Loaded to a destination closer to the home road.

DEFINITIONS

HOME ROAD - The road owning the car. HOME REGION - A region in which an ownership is shown. FOREIGN CAR - A car on a road to which it does not belong.
JUNCTION - A point where two carriers interchange freight.

RAILROAD MARKS CLASSIFIED ACCORDING TO HOME REGIONS AS SHOWN ON MAP

MARK	REGION NO.	MARK	REGION NO.	MARK	REGION NO.
AA	3	CIW	6	GBW	6
AC	13	CLP	1	GF(SOU)	4-5
ACL(SCL)	4-5	CNO(CNW)	6-7-8	GMO(ICG)	4-5
ACY	3	CN	12-13-14-15	GMRC	1
ADN	9	CNA	12-13-14-15	GN(BN)	6-7
AIM	9	CNIS	12-13-14-15	GNWR	2
ANR	9	CNJ(CR)	1-2-3-6	GRR	9
APA	11	CNW	6-7-8	GTW	3
ARR	10	CO	3-4-13	HS	5
ASAB	5	CP	12-13-14-15	IC(ICG)	4-5
ATSF	6-8-9-11	CPAA	12-13-14-15	ICG	4-5
ATW	4	CPI	12-13-14-15	IHB	3-6
AWP(GA)	5	CR	1-2-3-6	INT(SOU)	4-5
BA(CR)	1-2-3-6	CRR	4	ITC	6
BAP	10	CS	8-9	KCS	8-9
BAR	1	CSS	3-6	LA(KCS)	8-9
BCIP(BCOL)	15	CV	1-12	LC	4
BCOL	15	CVC(CV)	1-12	LM(CNW)	6-7
BCK	2	CW	8-10	LN	3-4
BKTY(MKT)	8-9	CWP	6	LNAC	3
BLE	2	DH	2	LOAM	9
BM	1	DIW(CR)	1-2-3-6	LSI	6
BN	6-7-8-10	DM	3	LT	3
BO	2-3-4-6	DMIR	7	IV(CR)	1-2
BS	5	DAGW	8-11	LW	5
BWC(CR)	1-2-3-6	DS	4	MB	5
CAGY	5	DTI	3	MBT	5
CBC	11	DTS	3	MDW	7
CBL	2	DWC(DWP)	7-14-15	MEC	1
CBQ(BN)	6-7-8-10	DWP	7-14-15	MI	6-8
CEI(MP)	6-8-9	EJE	3-6	MILW	6-7
CG(SOU)	4-5	EL(CR)	1-2-3-6	MKC	2
CGW(CNW)	6-7-8	ERIE(CR)	1-2-3-6	MKT	8-9
CI	2	FDDM(CNW)	6-7-8	MNS	7
CIC	7	FEC	5	MON(LN)	3-4
CIM	6	FJG	2	MP	6-8
CIRR	5	FWD(CS)	8-9	MPA	2
		GA	5		

REVISION NO. 3 — EFFECTIVE APRIL 15, 1977

[FR Doc.77-12935 Filed 5-4-77;8:45 am]

[AB 43 (SDM)]

ILLINOIS CENTRAL GULF RAILROAD CO.
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Illinois Central Gulf Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB43 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 28, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB43 (SDM).

ROBERT L. OSWALD,
Secretary.

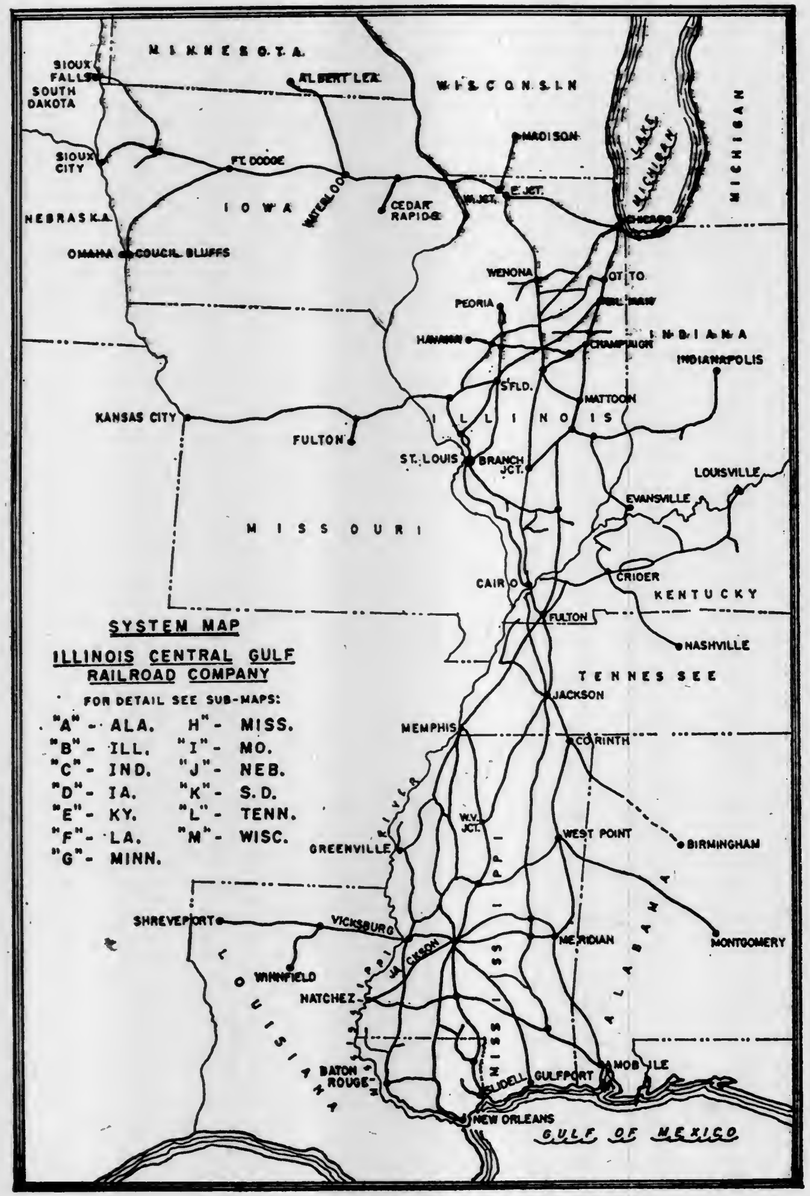
AB-43

ILLINOIS CENTRAL GULF RAILROAD CO.

The system diagram maps of the Illinois Central Gulf Railroad Company are attached hereto and are submitted for publication in the FEDERAL REGISTER pursuant to the regulations of the Interstate Commerce Commission as set forth in 49 CFR 1121.22.

HOWARD D. KOONTZ,
Senior General Solicitor.

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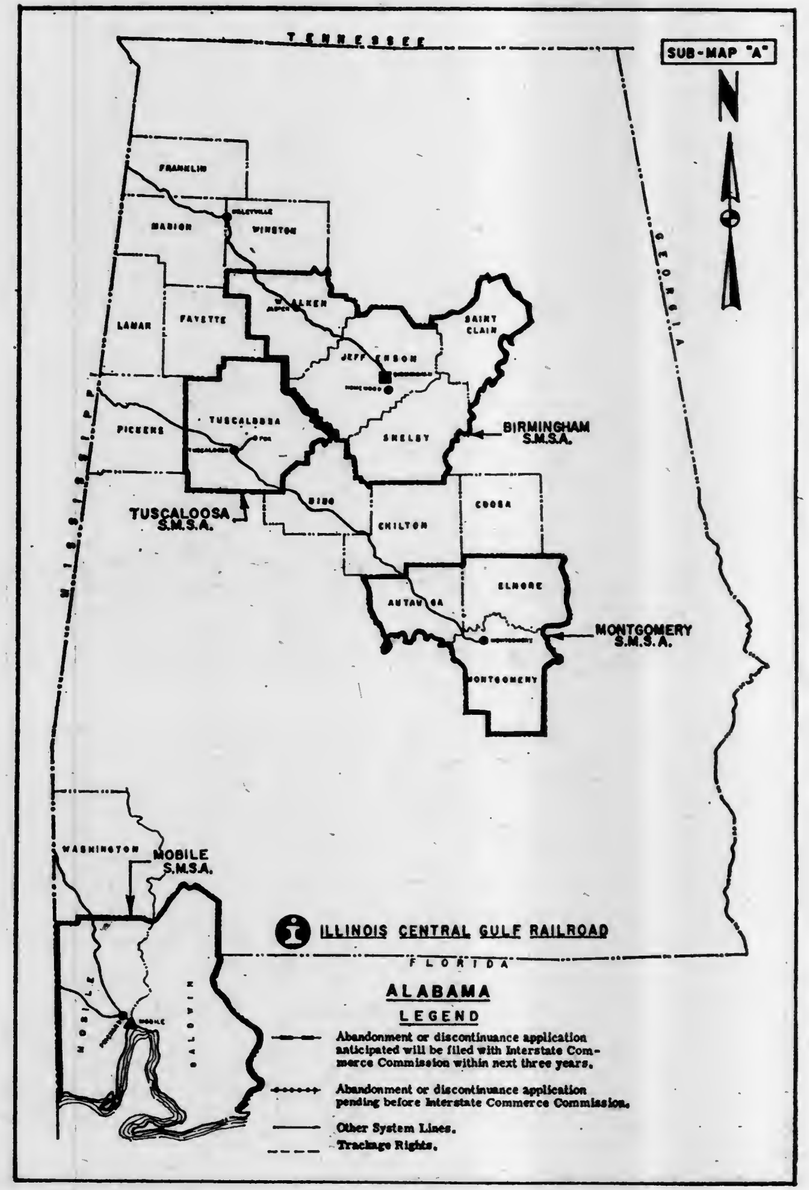


SYSTEM MAP

ILLINOIS CENTRAL GULF RAILROAD COMPANY

FOR DETAIL SEE SUB-MAPS:

"A" - ALA.	"H" - MISS.
"B" - ILL.	"I" - MO.
"C" - IND.	"J" - NEB.
"D" - IA.	"K" - S.D.
"E" - KY.	"L" - TENN.
"F" - LA.	"M" - WISC.
"G" - MINN.	

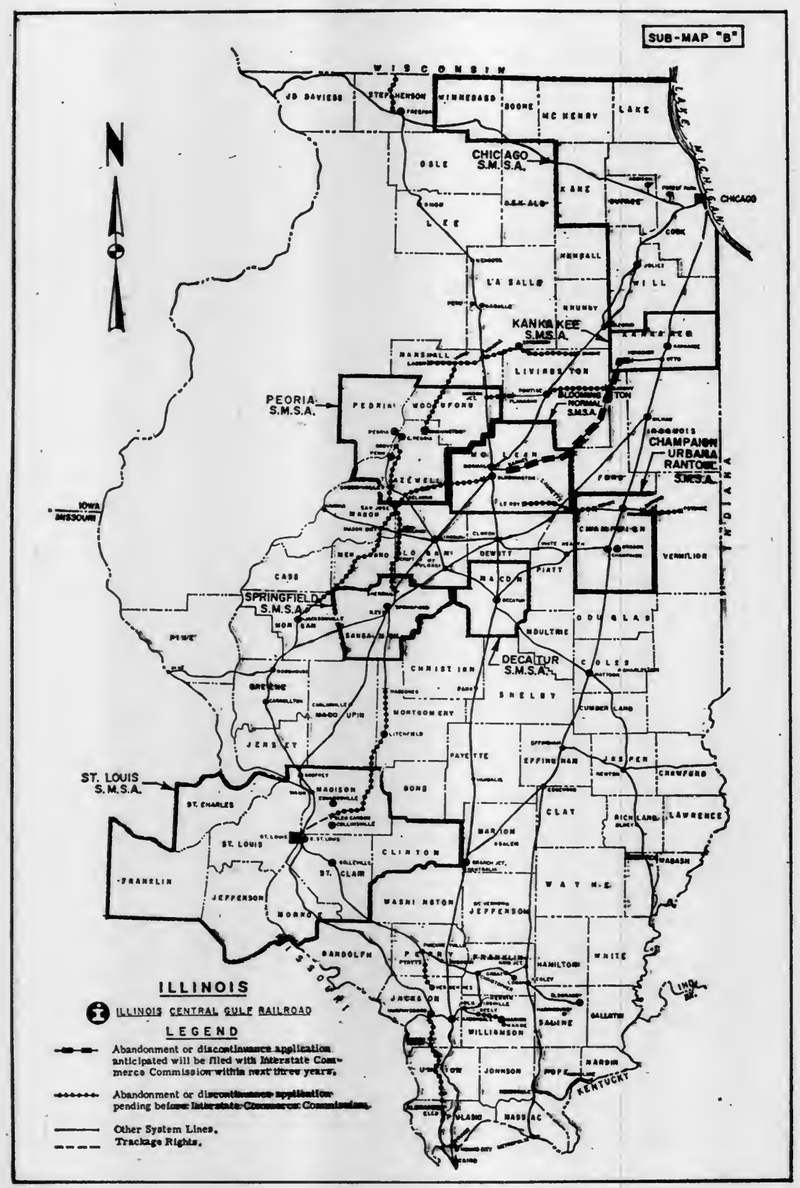


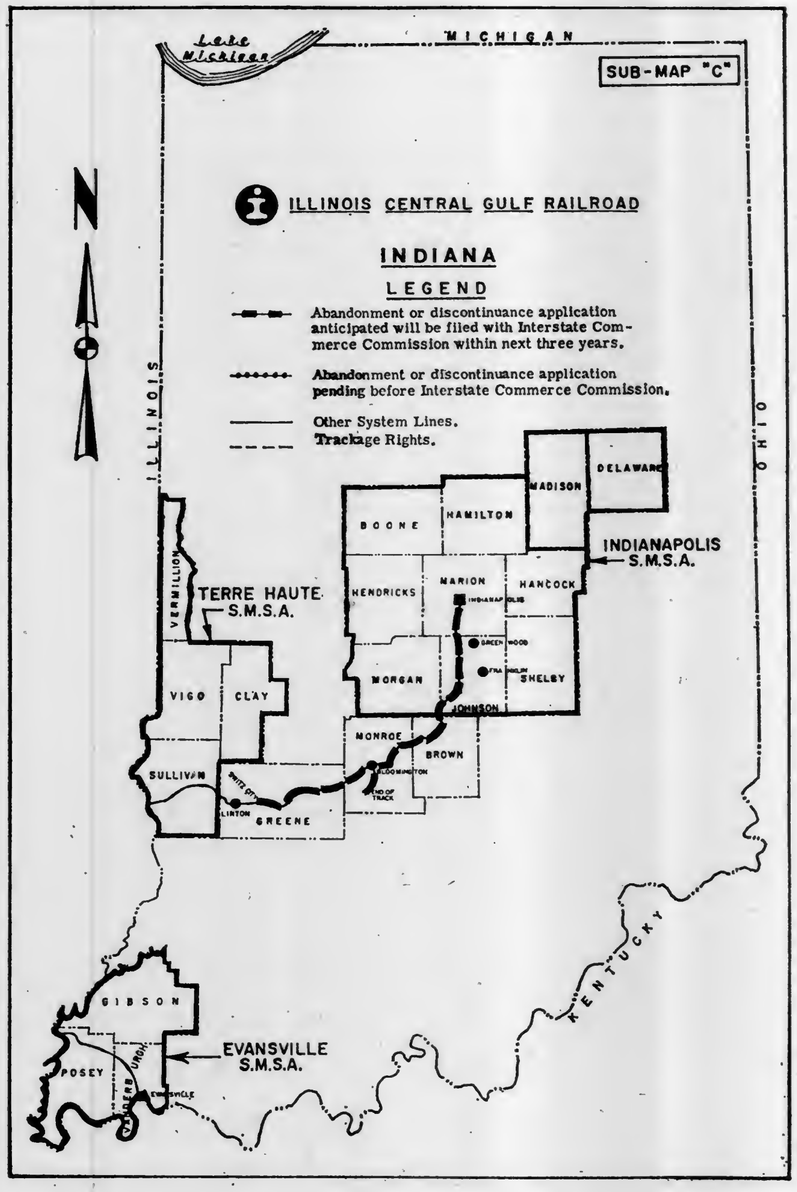
ALABAMA

LEGEND

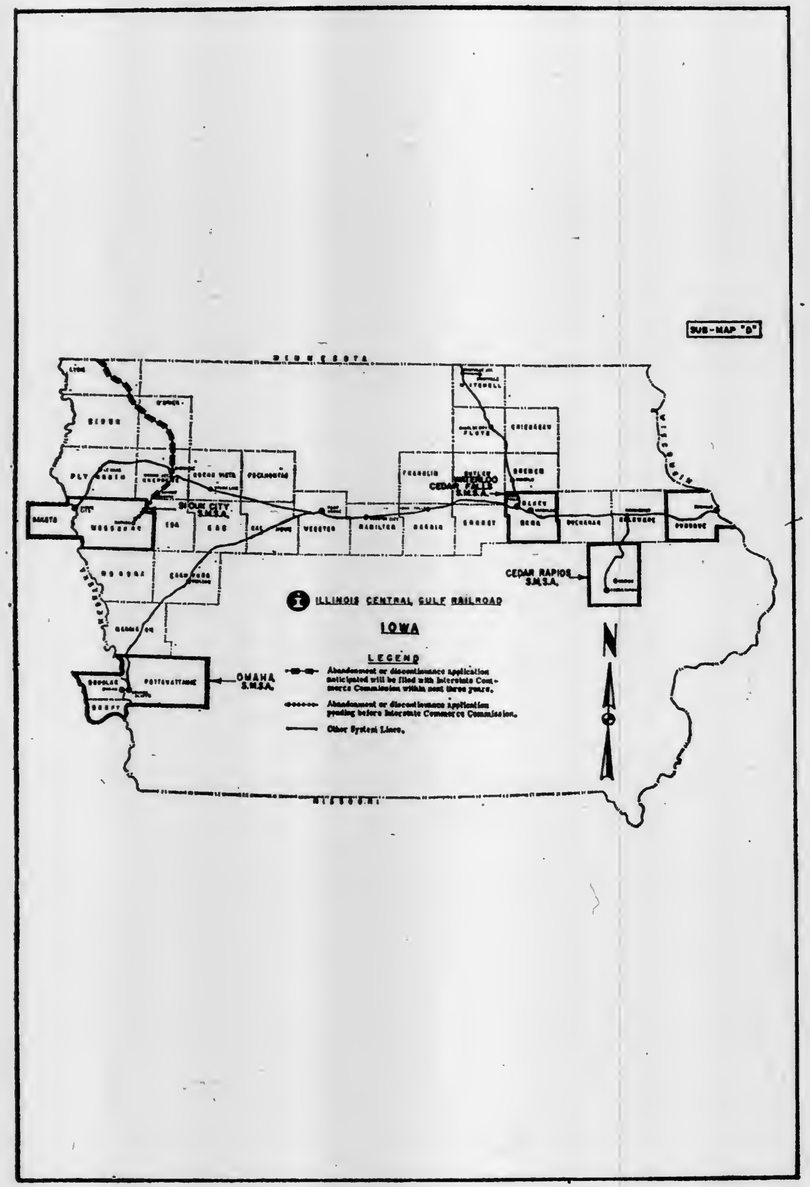
- Abandonment or discontinuance application anticipated will be filed with Interstate Commerce Commission within next three years.
- Abandonment or discontinuance application pending before Interstate Commerce Commission.
- Other System Lines.
- Trackage Rights.

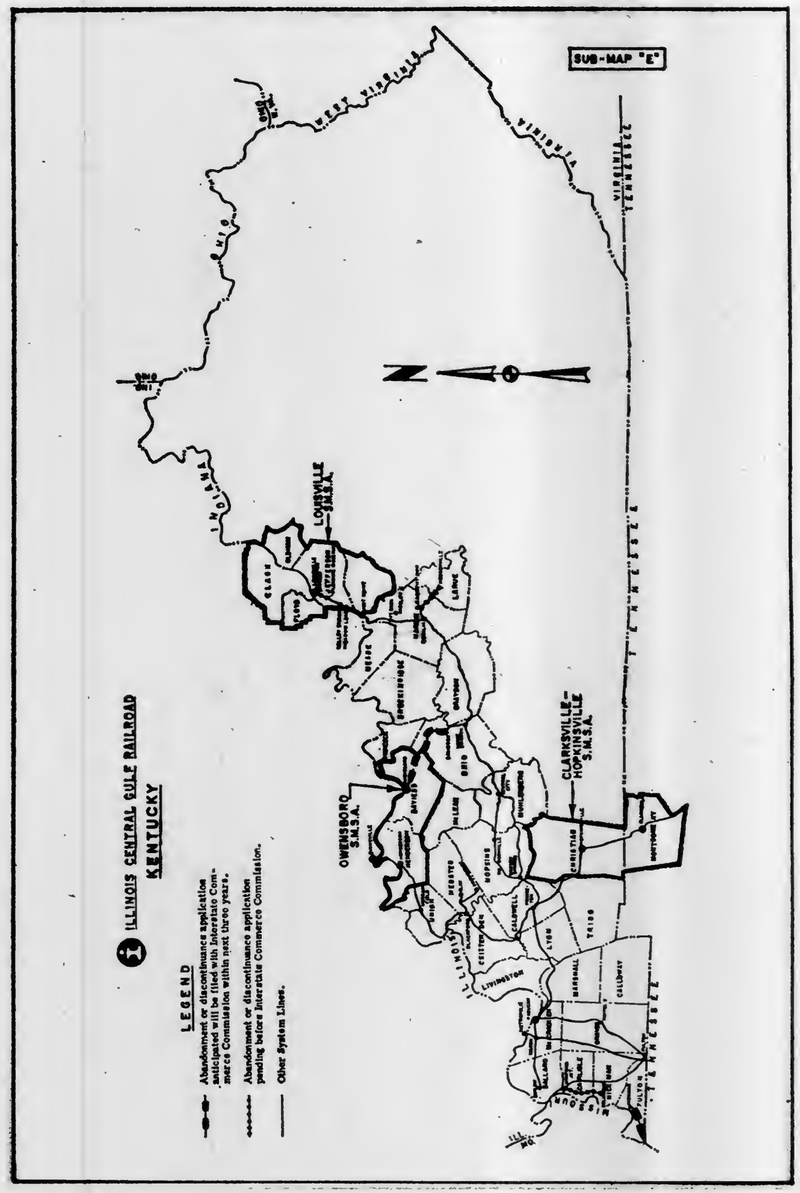
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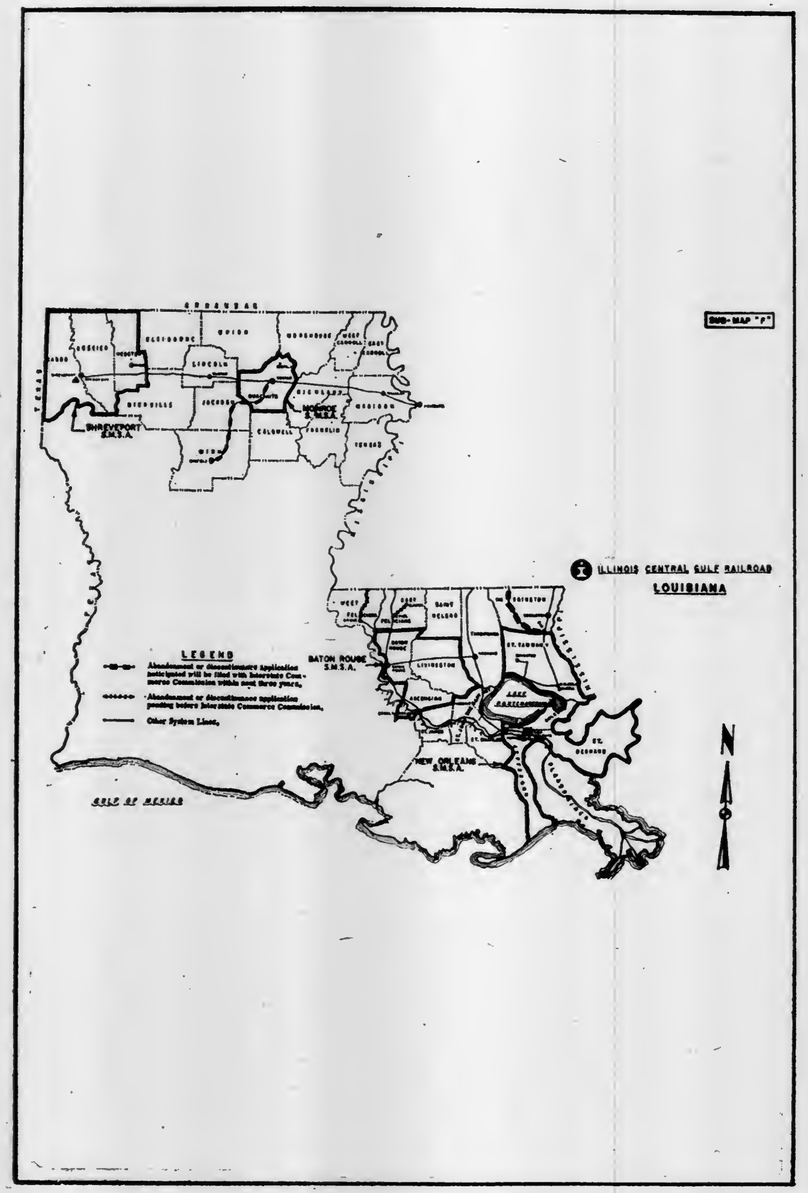


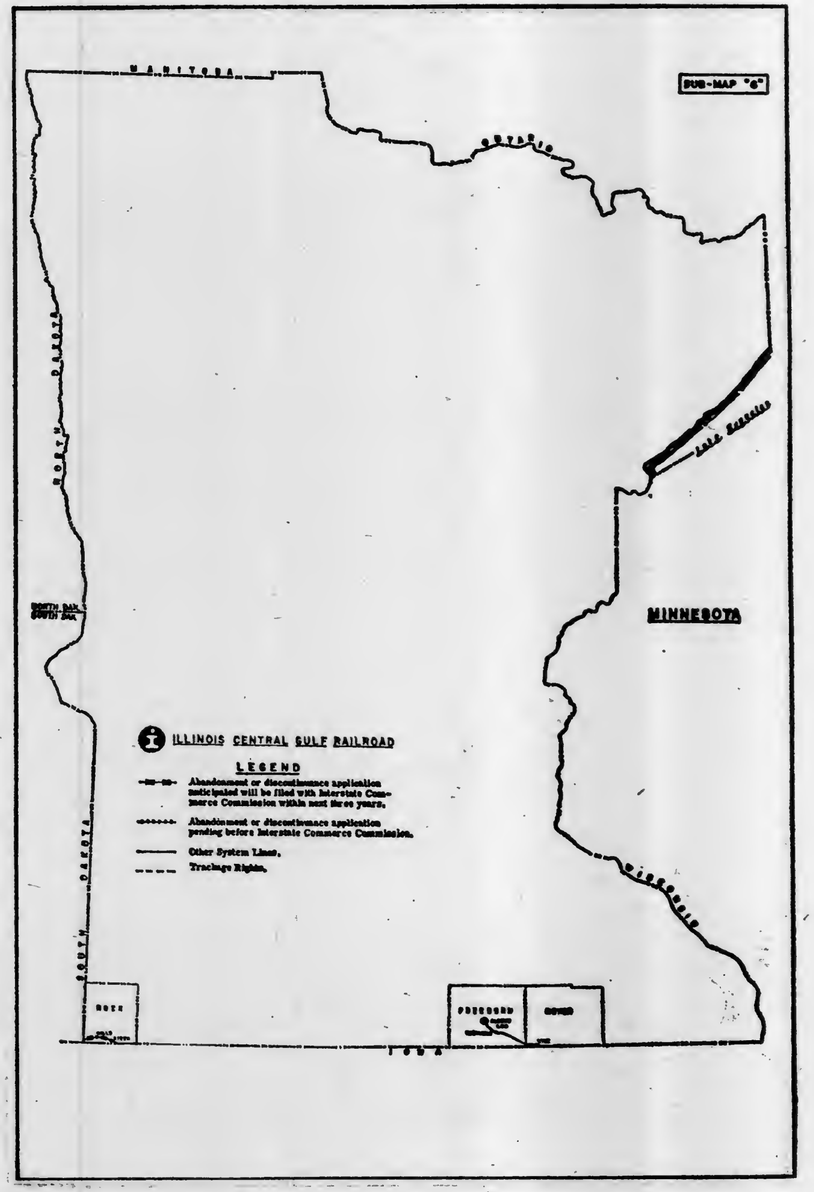
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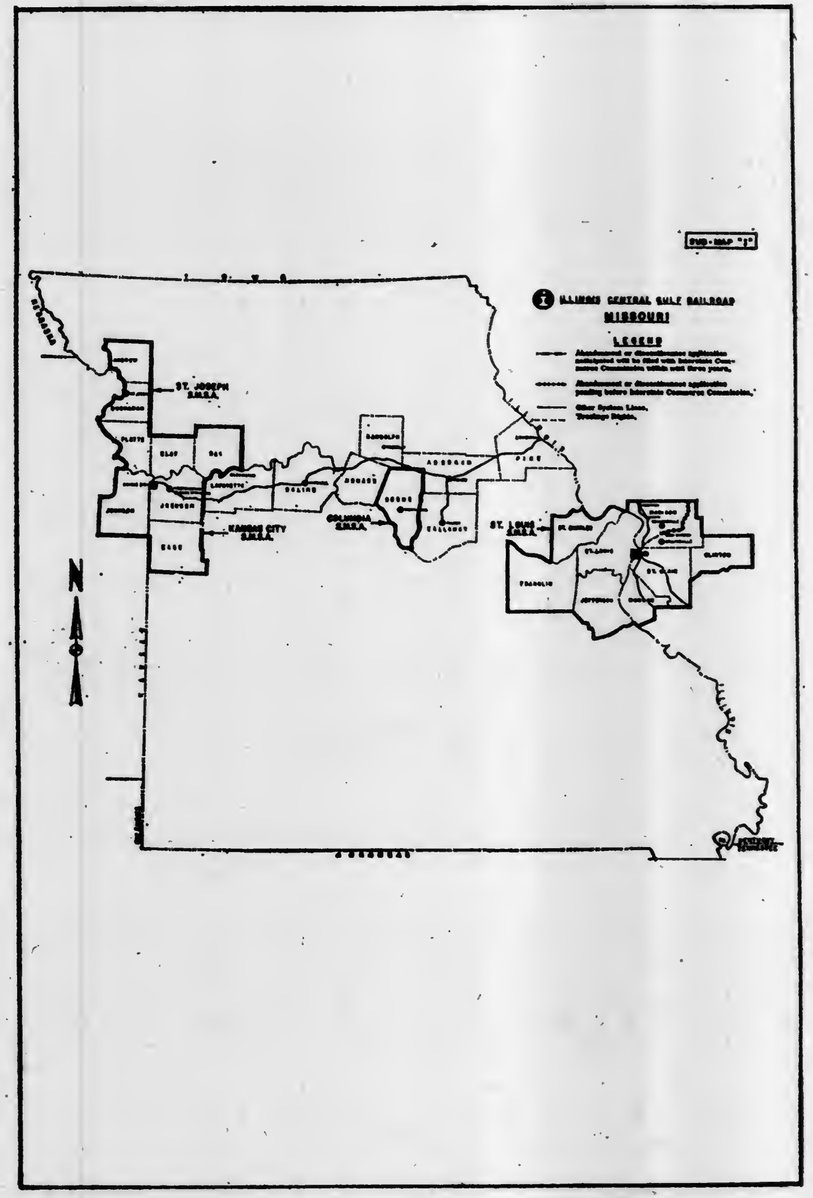
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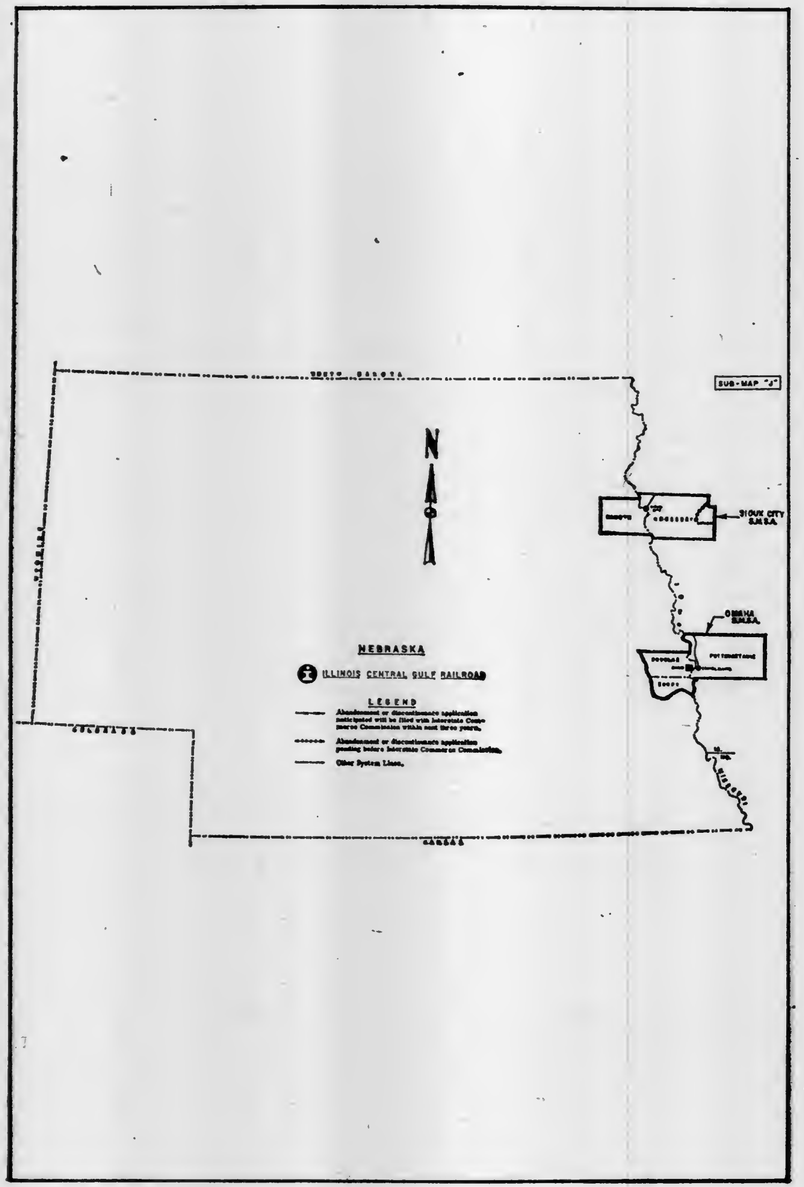


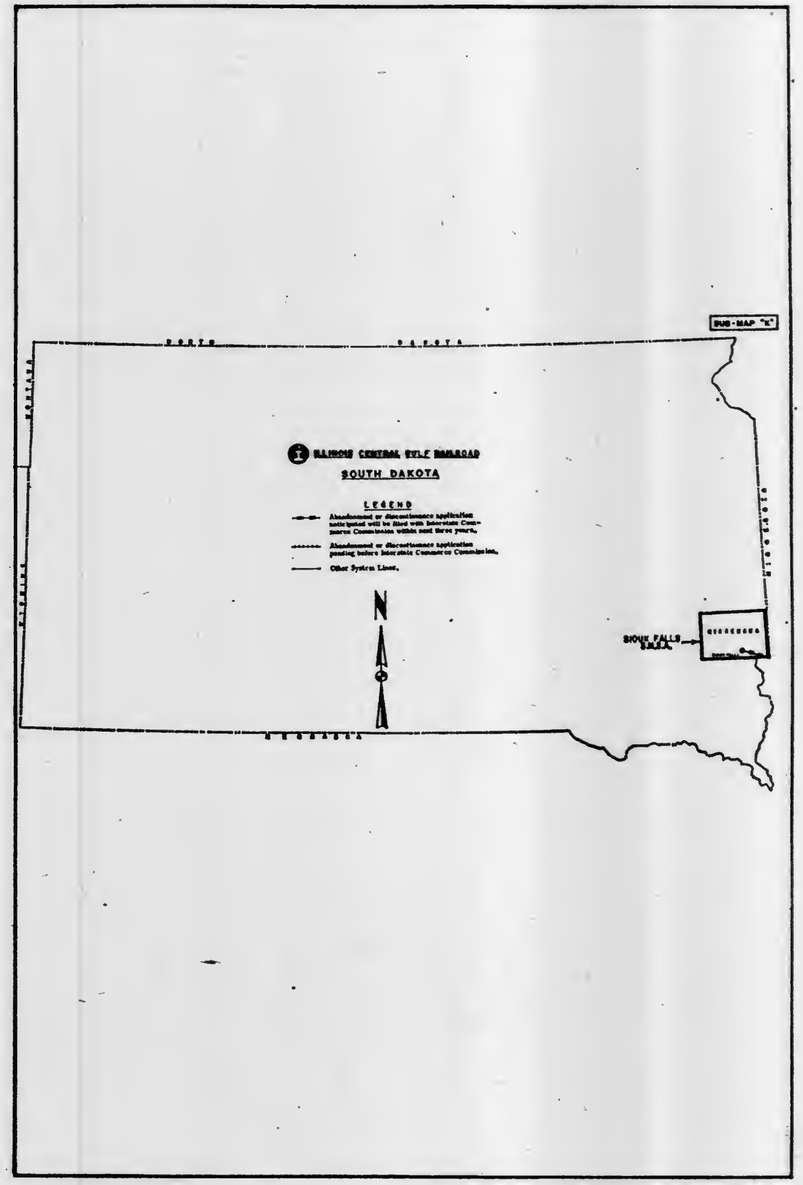
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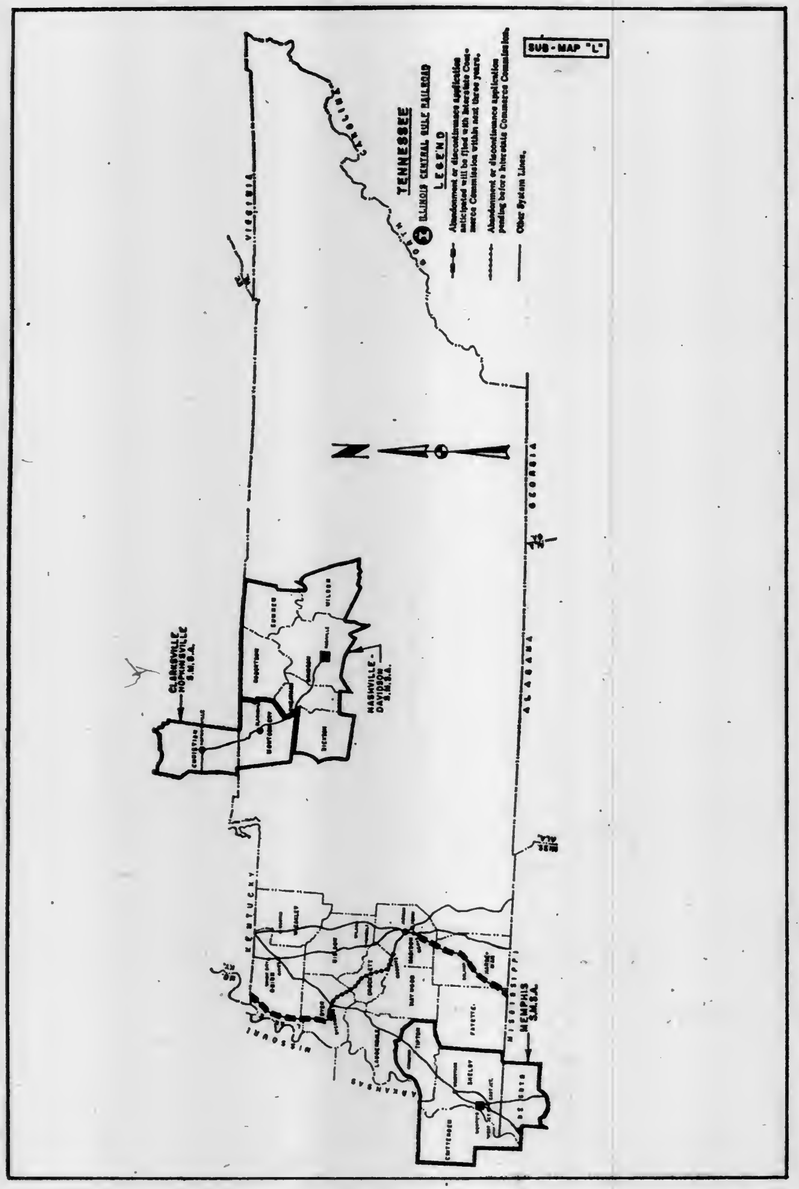


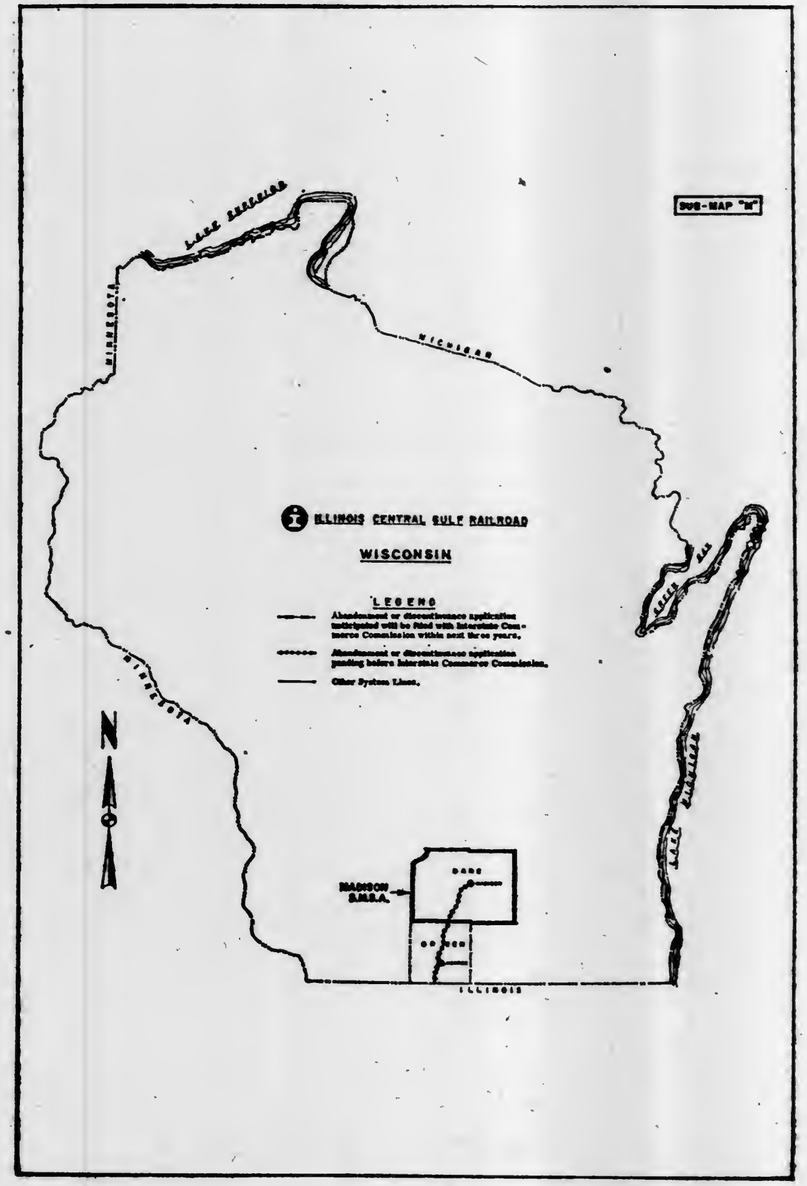
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V 42 87 MAY 5 77 UMI





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ILLINOIS CENTRAL GULF RAILROAD CO.

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.-21), the following is a description of lines of the Illinois Central Gulf Railroad Company as shown on the system diagram map:

I. Lines anticipated to be subject of abandonment applications within three years:

A. Alabama—None.

B. Illinois:

1. (a) Bloomington District (portion).
(b) State of Illinois.
(c) Kankakee, Ford, Livingston, and McLean Counties.
(d) Milepost 72.0 west of Herscher to Milepost 135.0 east of Barnes, Illinois.
(e) There are no agency stations on the line. Terminal stations are Appel Siding, Milepost 73.5 and Merna, Milepost 131.3.

C. Indiana:

1. (a) Indianapolis District (portion).
(b) State of Indiana.
(c) Greene, Monroe, Brown, Johnson, Morgan, and Marion Counties.
(d) Milepost 0.25 at Indianapolis to Milepost 89.0 at Switz City, Indiana.
(e) Indianapolis, Milepost 0.25 and Bloomington, Milepost 55.9 are agency stations. Terminal stations on the line are Indianapolis and Switz City, Milepost 89.0.
2. (a) Bloomington Southern Branch.
(b) State of Indiana.
(c) Monroe County.
(d) Milepost 0.0 at Floyd to Milepost 9.26 at end of track.
(e) There are no agency stations on the line. The only terminal station is Floyd, Milepost 0.0.

D. Iowa:

1. (a) Onawa District (portion).
(b) State of Iowa.
(c) Cherokee County.
(d) Milepost 0.0 at Onawa Junction to Milepost 14.67 near Washta, Iowa.
(e) There are no agency stations on the line. Terminal stations are Quimby, Milepost 8.2 and Washta, Milepost 13.8.
2. (a) Sioux Falls District.
(b) States of Iowa, Minnesota and South Dakota.
(c) Cherokee, O'Brien, Sioux and Lyon Counties, Iowa; Rock County, Minnesota; and Minnehaha County, South Dakota.
(d) Milepost 0 at Cherokee, Iowa to Milepost 96.47 at Sioux Falls, South Dakota.
(e) Sioux Falls, South Dakota, Milepost 96.47, is an agency station. Terminal stations on the line are Cherokee, Iowa, Milepost 0 and Sioux Falls, South Dakota.

E. Kentucky:

1. (a) Owensboro District (portion).
(b) State of Kentucky.
(c) Ohio and Daviess Counties.
(d) Milepost 7.6 near Davidson to Milepost 41.02 at Owensboro, Kentucky.
(e) There are no agency stations on the line. Terminal stations are Davidson, Milepost 8.2 and Owensboro, Milepost 41.02.
2. (a) Hickman District.
(b) States of Kentucky and Tennessee.
(c) Fulton County, Kentucky; and Dyer and Lake Counties, Tennessee.
(d) Milepost 0 at Dyersburg, Tennessee to Milepost 51.69 at Hickman, Kentucky.
(e) Dyersburg, Tennessee, Milepost 0, is an agency station. Terminal stations on the line are Dyersburg, Tennessee and Hickman, Kentucky, Milepost 51.69.

F. Louisiana:

1. (a) Winnfield District.
(b) State of Louisiana.
(c) Winn, Jackson and Ouachita Parishes.
(d) Milepost 0 near West Monroe to Milepost 60.56 at Winnfield, Louisiana.
(e) Winnfield, Milepost 60.56 is an agency station. Terminal stations on the line are Wilds, Milepost 5.5, and Winnfield.
2. (a) Boque Chitto District (portion).
(b) States of Louisiana and Mississippi.
(c) Washington Parish, Louisiana; and Walthall County, Mississippi.
(d) Milepost 64.8 at Rio, Louisiana to Milepost 102.0 near Lexie, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Rio, Louisiana, Milepost 64.8 and Simonds, Mississippi, Milepost 97.4.

G. Minnesota:

1. (a) Sioux Falls District.
(b) States of Minnesota, Iowa, and South Dakota.
(c) Rock County, Minnesota; Cherokee, O'Brien, Sioux, and Lyon Counties, Iowa; and Minnehaha County, South Dakota.
(d) Milepost 0 at Cherokee, Iowa to Milepost 96.47 at Sioux Falls, South Dakota.
(e) Sioux Falls, South Dakota, Milepost 96.47, is an agency station. Terminal stations on the line are Cherokee, Iowa, Milepost 0 and Sioux Falls, South Dakota.

H. Mississippi:

1. (a) Bogue Chitto District (portion).
(b) States of Mississippi and Louisiana.
(c) Walthall County, Mississippi; and Washington Parish, Louisiana.
(d) Milepost 64.8 at Rio, Louisiana to Milepost 102.0 near Lexie, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Rio, Louisiana, Milepost 64.8 and Simonds, Mississippi, Milepost 97.4.
2. (a) Fernwood District (portion).
(b) State of Mississippi.
(c) Walthall and Marion Counties.
(d) Milepost 20.8 east of Tylertown to Milepost 32.0 at Kokomo, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Davo, Milepost 22.3 and Kokomo, Milepost 31.8.
3. (a) Aberdeen District (portion).
(b) State of Mississippi.
(c) Attala, Choctaw and Oktibbeha Counties.
(d) Milepost 20.5 north of Kosciusko to Milepost 67.3 near Longview, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Ethel, Milepost 27.1 and Bradley, Milepost 63 5.
4. (a) Riverside District (portion).
(b) State of Mississippi.
(c) Washington and Bolivar Counties.
(d) Milepost 112.68 at Rosedale to Milepost 145.13 north of Greenville Airport Switch.
(e) There are no agency stations on the line. Terminal stations are Rosedale, Milepost 114.0 and Winterville, Milepost 142.0.
5. (a) Bogalusa District (portion).
(b) State of Mississippi.
(c) Lawrence, Copiah and Hinds Counties.
(d) Milepost 137.6 near Wanilla to Milepost 176.3 at Byram, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Wanilla, Milepost 137.8 and Byram, Milepost 176.3.
6. (a) Pearl River District (portion).
(b) State of Mississippi.
(c) Leake, Scott, and Rankin Counties.
(d) Milepost 22.3 west of Walnut Grove to Milepost 69.1 at Wells, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Tuscola, Milepost 26.9 and Wells, Milepost 69.1.
7. (a) Natchez District (portion).
(b) State of Mississippi.
(c) Claiborne and Jefferson Counties.
(d) Milepost 49.7 southwest of Hermanville to Milepost 70.0 at Harriston, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Pattison, Milepost 55.3 and Harrison, Milepost 70.0.
8. (a) Laurel District (portion.)
(b) State of Mississippi.
(c) Jones County.
(d) Milepost 141.8 at Soso to Milepost 151.1 at Laurel, Mississippi.
(e) Laurel, Milepost 151.1 is an agency station. Terminal stations on the line are Soso, Milepost 141.8, and Laurel.
9. (a) Pearl River District (portion).
(b) State of Mississippi.
(c) Lauderdale and Newton Counties.
(d) Milepost 3.3 at Brockton to Milepost 32.22 at Union, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Brockton, Milepost 3.3 and Union, Milepost 32.22.
10. (a) Jackson District (portion).
(b) States of Mississippi and Tennessee.
(c) Benton and Marshall Counties, Mississippi; and Madison, Hardeman and Fayette Counties, Tennessee.
(d) Milepost 474.0 at Bemis, Tennessee to Milepost 541.1 near Holly Springs, Mississippi.
(e) The are no agency stations on the line. Terminal stations are Bemis, Tennessee, Milepost 474.0, and Hudsonville, Mississippi, Milepost 535.1.

I. Missouri—None.

J. Nebraska—None.

K. South Dakota:

1. (a) Sioux Falls District.
(b) States of South Dakota, Iowa and Minnesota.
(c) Minnehaha County, South Dakota; Cherokee, O'Brien, Sioux and Lyon Counties, Iowa; and Rock County, Minnesota.
(d) Milepost 0 at Cherokee, Iowa to Milepost 96.47 at Sioux Falls, South Dakota.
(e) Sioux Falls, South Dakota, Milepost 96.47, is an agency station. Terminal stations on the line are Cherokee, Iowa, Milepost 0 and Sioux Falls, South Dakota.

L. Tennessee:

1. (a) Hickman District.
(b) States of Tennessee and Kentucky.
(c) Dyer and Lake Counties, Tennessee; and Fulton County, Kentucky.
(d) Milepost 0 at Dyersburg, Tennessee to Milepost 51.69 at Hickman, Kentucky.
(e) Dyersburg, Milepost 0, is an agency station. Terminal stations are Dyersburg, Tennessee and Hickman, Kentucky, Milepost 51.69.
2. (a) Jackson District (portion).
(b) States of Tennessee and Mississippi.
(c) Madison, Hardeman and Fayette Counties, Tennessee; and Benton and Marshall Counties, Mississippi.
(d) Milepost 474.0 at Bemis, Tennessee to Milepost 541.1 near Holly Springs, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Bemis, Tennessee, Milepost 474.0 and Hudsonville, Mississippi, Milepost 535.1.

M. Wisconsin—None.

II. Lines for which abandonment or discontinuance applications are pending before the interstate commerce commission.

A. Alabama—None.

B. Illinois:

1. (a) Rantoul District (portion).
(b) State of Illinois.
(c) Champaign and Vermilion Counties.
(d) Milepost 40.71 near Gifford to Milepost 52.36 at Potomac, Illinois.
(e) There are no agency stations on the line. Terminal stations are Penfield, Milepost 44.3 and Potomac, Milepost 52.2.
2. (a) St. Louis District (portion).
(b) State of Illinois.
(c) Perry and Jackson Counties.
(d) Milepost 66.44 near Pyatts to Milepost 73.84 at Vergennes.
(e) There are no agency stations on the line. Terminal stations are Mathews, Milepost 68.7 and Vergennes, Milepost 73.6.
3. (a) Rantoul District (portion).

(b) State of Illinois.
(c) McLean and Champaign Counties.
(d) Milepost 0.04 at Le Roy, to Milepost 21.00 west of Fisher, Illinois.
(e) There are no agency stations on the line. Terminal stations are Le Roy, Milepost 0.2 and Dickerson, Milepost 19.0.
4. (a) Jacksonville District (portion).
(b) State of Illinois.
(c) Mason, Menard, Cass, Morgan and Sangamon Counties.
(d) Milepost 173.0 near Mason City to Milepost 215.0 near Jacksonville.
(e) There are no agency stations on the line. Terminal stations are Greenview, Milepost 179.9 and Brownton, Milepost 213.3.
5. (a) Springfield District (portion).
(b) State of illinois.
(c) Montgomery, Macoupin and Madison Counties.
(d) Milepost 222.5 near Waggoner to Milepost 276.42 at Glen Carbon, Illinois.
(e) There are no agency stations on the line. Terminal stations are Shop Creek, Milepost 228.7 and Glen Carbon, Milepost 276.1.
6. (a) Mande District (portion).
(b) State of Illinois.
(c) Williamson County.
(d) Milepost 93.5 near Seely to Milepost 108.00 near Mande, Illinois.
(e) There are no agency stations on the line. Terminal stations are Seely, Milepost 93.53 and Mande, Milepost 107.5.
7. (a) Jacksonville District (portion).
(b) State of Illinois.
(c) McLean, Tazewell, Logan and Mason Counties.
(d) Milepost 127.8 near Bloomington to Milepost 171.1 near Mason City, Illinois.
(e) There are no agency stations on the line. Terminal stations are Covel, Milepost 132.8 and Natrona, Milepost 165.6.
8. (a) Pontiac District (portion).
(b) State of Illinois.
(c) Livingston and Woodford Counties.
(d) Milepost 118.8 west of Flanagan to Milepost 127.0 at Minonk Junction, Illinois.
(e) There are no agency stations on the line, Spires, Milepost 123.4, is the only station.
9. (a) Pontiac District (portion).
(b) State of Illinois.
(c) Livingston County.
(d) Milepost 86.0 at Saxony to Milepost 105.5 east of Pontiac, Illinois.
(e) There are no agency stations on the line. Terminal stations are Saxony, Milepost 86.0 and Swygert, Milepost 100.3.
10. (a) P&N District (portion).
(b) State of Illinois.
(c) Tazewell and Mason Counties.
(d) Milepost 159.11 at Grove to Milepost 180.78 near San Jose, Illinois.
(e) There are no agency stations on the line. Terminal stations are Grove, Milepost 159.11 and Winkel, Milepost 178.2.
11. (a) P&N District (portion).
(b) State of Illinois.
(c) Logan and Menard Counties.
(d) Milepost 181.13 near San Jose to Milepost 199.30 at Croft, Illinois.
(e) There are no agency stations on the line. Terminal stations are Harness, Milepost 185.4 and Croft, Milepost 199.30.
12. (a) P&N District (portion).
(b) State of Illinois.
(c) Menard and Sangamon Counties.
(d) Milepost 199.30 at Croft to Milepost 209.77 at Sherman, Illinois.
(e) There are no agency stations on the line. Terminal stations are Croft, Milepost 199.30 and Sherman, Milepost 209.77.
13. (a) Sparta District (portion).
(b) State of Illinois.
(c) Alexander, Union and Jackson Counties.
(d) Milepost 518.0 near Elco to Milepost 554.0 at Murphysboro, Illinois.
(e) There are no agency stations on the line. Terminal stations are Jonesboro, Milepost 528.0 and Murphysboro, Milepost 554.0.
14. (a) Dwight District including Lacon Line.
(b) State of Illinois.
(c) Livingston, La Salle, Marshall, Woodford, and Tazewell Counties.
(d) Milepost 75.424 near Dwight to Milepost 143.837 near Washington, Illinois; and Milepost 118.0 at Varna to Milepost 128.31 at Lacon, Illinois.
(e) There are no agency stations on the line. Terminal stations are Nevada, Milepost 80.3 and Washington, Milepost 143.5; and Varna, Milepost 118.0 and Lacon, Milepost 128.31.
15. (a) Madison District.
(b) States of Illinois and Wisconsin.
(c) Stephenson County, Illinois; and Green and Dane Counties, Wisconsin.
(d) Milepost 2.5 near Freeport, Illinois to Milepost 61.37 at Madison, Wisconsin.
(e) There are no agency stations on the line. Terminal stations are Scioto Mills, Illinois, Milepost 5.6 and Madison, Wisconsin, Milepost 61.37.

C. Indiana—None.

D. Iowa:

1. (a) Onawa District (portion).
(b) State of Iowa.
(c) Ida and Woodbury Counties.
(d) Milepost 14.67 at Washta to Milepost 29.69 at Anthon, Iowa.
(e) There are an agency stations on the line. Terminal stations are Washta, Milepost 14.67 and Anthon, Milepost 29.4.

E. Kentucky:

1. (a) Hodgenville District (portion).
(b) State of Kentucky.
(c) Hardin and LaRue Counties.
(d) Milepost 8.18 near Elizabethtown to Milepost 17.09 at Hodgenville, Kentucky.
(e) There are no agency stations on the line. The only station is Hodgenville, Milepost 16.9.
2. (a) Union City District (portion).
(b) State of Kentucky.
(c) Carlisle and Hickman Counties.
(d) Milepost 470.0 near Columbus to Milepost 485.0 at Winford Junction, Kentucky.
(e) There are no agency stations on the line. Terminal stations are Columbus, Milepost 471.4 and Winford Junction, Milepost 485.0.

F. Louisiana:

1. (a) Clinton District.
(b) State of Louisiana.
(c) East Feliciana Parish.
(d) Milepost 0 at Ethel to Milepost 8.3 at Clinton, Louisiana.
(e) There are no agency stations on the line. Terminal stations are Ethel, Milepost 0 and Clinton, Milepost 8.3.
2. (a) Woodville District (portion).
(b) States of Louisiana and Mississippi.
(c) West Feliciana Parish, Louisiana; and Wilkinson County, Mississippi.
(d) Milepost 19.2 near Hardwood (Argue), Louisiana to Milepost 41.65 at Woodville, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Bains, Louisiana, Milepost 20.6 and Woodville, Mississippi, Milepost 41.5.

G. Minnesota—None.

H. Mississippi:

1. (a) Woodville District (portion).
(b) States of Mississippi and Louisiana.
(c) Wilkinson County, Mississippi; and West Feliciana Parish, Louisiana.
(d) Milepost 19.2 near Hardwood (Argue), Louisiana to Milepost 41.65 at Woodville, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Bains, Louisiana, Milepost 20.6 and Woodville, Mississippi, Milepost 41.5.
2. (a) Columbia District.
(b) State of Mississippi.
(c) Lawrence, Jefferson Davis, and Simpson Counties.
(d) Milepost 120.91 near Silver Creek to Milepost 148.65 at Mendenhall, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Grange, Milepost 125.9 and Mendenhall, Milepost 148.65.
3. (a) Birmingham District (portion).
(b) State of Mississippi.
(c) Tishomingo County.
(d) Milepost 17 near Holts Spur to Milepost 26 near Raden, Mississippi.
(e) There are no agency stations on the line. The only station on the line is Holcut, Milepost 20.2.
4. (a) Tchula District (portion).
(b) State of Mississippi.
(c) Holmes County.
(d) Milepost 12.7 near Lexington to Milepost 24.2 near Gwin, Mississippi.
(e) There are no agency stations on the line. The only station on the line is Howard, Milepost 21.1.
5. (a) Natchcez District (portion).
(b) State of Mississippi.
(c) Jefferson and Adams Counties.
(d) Milepost 74.0 near Fayette to Milepost 91.91 near Foster, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Stampley, Milepost 79.3 and Selma, Milepost 88.9.
6. (a) Sunflower District (portion).
(b) State of Mississippi.
(c) Humphreys and Yazoo Counties.
(d) Mileposts 158.50 at Belzoni to Milepost 179.56 at Yazoo Junction, Mississippi.
(e) There are no agency stations on the line. Terminal stations are Silver City, Milepost 163.5 and Yazoo Junction, Milepost 179.56.

I. Missouri—None.

J. Nebraska—None.

K. South Dakota—None.

L. Tennessee:

1. (a) Dyersburg District (portion).
(b) State of Tennessee.
(c) Madison, Crockett and Dyer Counties.
(d) Milepost 10.62 near Roberts to Milepost 47.50 near Dyersburg, Tennessee.
(e) There are no agency stations on the line. Terminal stations are Roberts, Milepost 11.3 and Parker, Milepost 42.7.

M. Wisconsin:

1. (a) Madison District.
(b) States of Wisconsin and Illinois.
(c) Green and Dane Counties, Wisconsin; and Stephenson County, Illinois.
(d) Milepost 2.5 near Freeport, Illinois to Milepost 61.37 at Madison, Wisconsin.
(e) There are no agency stations on the line. Terminal stations are Scioto Mills, Illinois, Mileposts 5.6 and Madison, Wisconsin, Milepost 61.37.

[FR Doc.77-12812 Filed 5-4-77;8:45 am]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before June 6, 1977. Such protest shall comply with Special Rule

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247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 75320 (Sub-No. 140) (notice of filing of petition to remove a restriction), filed April 4, 1977. Petitioner: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801. Petitioner's representative: John A. Crawford, P.O. Box 22567, Jackson, Miss. 39205. Petitioner's holds motor *common carrier* authority in MC 75320 (Sub-No. 140), issued January 13, 1969, authorizing transportation, over regular routes, of *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between junction U.S. Highways 75 and 266 (also Interstate Highway 40) at or near Dewar, Okla., and junction U.S. Highway 59 and 64 also Interstate Highway 40) at or near Sallisaw, Okla., in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for the purposes of joinder only: From junction U.S. Highways 75 and 266 over U.S. Highway 266 (also Interstate Highway 40) to junction U.S. Highway 64 at or near Warner, Okla., thence over U.S. Highway 64 (also Interstate Highway 40) to junction U.S. Highway 59, and return over the same route, as an alternate route for operating convenience only; and (2) Between junction U.S. Highway 59 and 64 (also Interstate Highway 40) at or near Sallisaw, Okla., and Fort Smith, Ark., in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for the purpose of joinder only: From junction U.S. Highway 59 and 64 (also Interstate Highway 40) over U.S. Highway 64 to Fort Smith, Ark., and return over the same route as an alternate route for operating convenience only, restricted in (1) and (2) above to the transportation of traffic moving between Memphis, Tenn., and Tulsa, Okla. By the instant petition, petitioner seeks to remove the restriction applying to (1) and (2) above.

No. MC 79142 (Sub-No. 4) (notice of filing of petition to modify certificate), filed June 12, 1974. Petitioner: T & T TRUCKING & TRANSPORTATION CO., INC., 43–06 54th Road, Maspeth, N.Y. 11378. Petitioner's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Petitioner holds a motor *common carrier* Certificate in No. MC 79142 (Sub-No. 4) issued March 26, 1975, authorizing transportation over irregular routes, of *Vegetable oil shortening and sugar*, in pallet tanks, from New York, N.Y., to points in Passaic, Bergen, Morris, Essex, Union, Somerset, Middlesex, Monmouth, and Mercer Counties, N.J., and points in Fairfield County, Conn.

By the instant petition, petitioner seeks to modify the above commodity description to read: *Vegetable oil shortening and sugar*, (except in bulk in tank vehicles) in lieu of, in pallet tanks; and to amend the territorial description to read: "Between New York, N.Y., on the one hand, and, on the other points in Passaic, Bergen, Morris, Essex, Union, Somerset, Middlesex, Monmouth and Mercer Counties, N.J., and Fairfield County, Conn.

No. MC 103926 (Sub-No. 40) (notice of filing of petition to modify a certificate), filed April 11, 1977. Petitioner: W. T. MAYFIELD SONS TRUCKING, CO., P.O. Box 947, Mableton, Ga. 30059. Petioner's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Petitioner holds a motor *common carrier* Certificate in MC 103926 (Sub-No. 40), issued March 18, 1977, authorizing transportation, over irregular routes, of *Cooling Towers and parts, accessories, and supplies*, moving in connection with cooling towers, from the facilities of E. D. Goodfellow Company, Inc., located at or near Memphis, Tenn., to points in Georgia, Florida, North Carolina, South Carolina and Virginia. By the instant petition, petitioner seeks to amend the origin point in the above authority so as to read: "from the facilities of E. D. Goodfellow Company, Inc., located at or near Tulsa, Okla.," in lieu of Memphis, Tenn.

No. MC 108651 (notice of filing of petition to modify commodity and territorial description), filed March 22, 1977. Petitioner: ROY B. MOORE, INC., 233 Wilcox Drive, P.O. Box 628, Kingsport, Tenn. 37662. Petitioner's representative: Daniel H. Moore (same address as applicant). Petitioner holds a motor *common carrier* Certificate in No. MC 108651 issued April 15, 1976, authorizing transportation, as pertinent, over irregular routes, of (1) *cotton textiles*, from Ware Shoals, Spartanburg, Greenwood, Buffalo, Greenville, Inman, Enoree, Gaffney, Anderson, Lancaster, Rock Hill, Darlington and Clinton, S.C., and Lumberton, Rockingham, and Winston-Salem, N.C., to Kingsport, Tenn,; and (2) *yarns and staple fibre*, from Kingsport, Tenn., to Greenville, Laurens, Taylor, and Anderson, S.C., and Spindale, Shelby, Cramerton, Caroleen, Red Springs, Drexel, Hildebran, Thomasville, Durham, Hickory, High Point, Greensboro, Burlington and Spray, N.C. By the instant petition, petitioner seeks (a) to modify the above commodity descriptions to read: *"Textiles, and textile mill products and supplies"*; and (b) to change the above territorial descriptions to a "between radial movement" in lieu of the above non-radial movement, moving between points in (1) and (2) above.

No. MC 109821 (Sub-No. 45) (notice of filing of petition to modify commodity description), filed April 14, 1977. Petitioner: H. W. TAYNTON CO., INC., 40 Main Street, Wellsboro, Pa. 16901. Petitioner's representative: Dewey T. Whitford (same address as applicant). Petitioner holds a motor *common carrier* Certificate in No. MC 109821 (Sub-No. 45) issued January 5, 1977, authorizing transportation over irregular routes, of (a) *glass containers*, from Port Allegany, Pa., to points in Delaware, Maryland, and Virginia; and (b) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of glass containers (except commodities in bulk), from points in Delaware, Maryland, and Virginia, to Port Allegany, Pa. By the instant petition, petitioner seeks to modify the above commodity description to read: *"Manufactured glass products and products used in the sale and installation of foam glass and glass blocks,"* in lieu of glass containers in both (a) and (b) above.

No. MC 115093 (notice of filing of petition to modify a restriction), filed March 18, 1977. Petitioner: MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33623. Petitioner's representative: Larry N. Kennedy, P.O. Box 23406, Tampa, Fla. 33623. Petitioner holds a motor *common carrier* certificate in No. MC 115093, issued April 11, 1968, including second revised sheet No. 11, issued January 31, 1975, which authorizes the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) over regular routes (and related off-route authority), serving points in New York on and south of New York Highway 7 and points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, Florida, and the District of Columbia, as intermediate or off-route points in connection with the regular route operations described therein, subject to the following restriction: Restriction: The regular-route operations authorized above are subject to the following conditions: Said operations are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida. By the instant petition, petitioner seeks to modify the above-quoted restriction to read as follows: Restriction: The regular-route operations authorized above are subject to the following conditions: Said operations are restricted to the transportation of traffic moving (1) between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida or (2) between points in Florida.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 115681 (notice of filing of petition to modify commodity description), filed April 19, 1977. Petitioner: RYAN TRUCKING, INC., Route 1, Irwin, Ohio 43029. Petitioner's representative: Alvis Roberts (Same address as petitioner). Petitioner holds a motor *contract carrier* Permit in No. MC 115681, issued July 23, 1965, authorizing transportation over irregular routes, of *road building and road maintenance equipment*, and *parts and accessories therefor* when transported in the same vehicle with such commodities, between Marion, Ohio, on the one hand, and, on the other, points in the United States within 750 miles of Marion. By the instant petition, petitioner seeks to broaden the commodity description above by the addition of the commodity conveyors. The commodity description then will read as follows: "road building, road maintenance equipment, conveyors, and parts and accessories therefor, when transported in the same vehicle with such commodities."

No. MC 116686 (Sub-No. 3) (notice of filing of petition to modify a certificate), issued January 25, 1977. Petitioner: G. S. FURNITURE SERVICES, INC., 1080–B, Route No. 9, North Lindenhurst, N.Y. 11757. Petitioner's representative: Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Petitioner (transferor in MC FC 76481) seeks modification of its Certificate in No. MC 116686 (Sub-No. 3), issued April 16, 1975, to substitute North Lindenhurst, N.Y., as the location of the facility from and to which transferee (Long Island Furniture Express, Inc.) will be conducting operations pursuant to the Commission's conditional corrected order in MC–FC–76481, served November 19, 1976. The Petitioner's pertinent present operating rights are as follows: *New furniture*, between the facilities of G. S. Furniture Services, Inc., located at Central Islip, N.Y., on the one hand, and, on the other, New York N.Y., points in Nassau, Suffolk, Westchester, Putnam, Rockland, and Orange Counties, N.Y., and points in Bergen, Essex, Hudson, Passaic, Union, Middlesex, Somerset and Morris Counties, N.J., restricted to the transportation of shipments having a prior or subsequent movement by rail or motor carriers.

No. MC 126154 (notice of filing of petition to modify territorial description), filed March 14, 1977. Petitioner: NEIL BARGLIND, doing business as BARGLIND TRUCKING COMPANY, P.O. Box 531, Quinnesec, Mich. 49876. Petitioner's representative: Robert W. Hansley, 120 North 6th Street, Escanaba, Mich. 49829. Petitioner acquired authority in No. MC 126154 pursuant to the proceeding in MC FC 76542, approved September 10, 1976, and consummated October 21, 1976. Said authority is a Certificate, authorizing operations as a *common carrier* by motor vehicle, over irregular routes, as pertinent, of (1) *malt beverages*, from Milwaukee, Wis., to points in Dickinson, Iron, Gogebic, Delta, Menominee, and Houghton Counties Mich.; (2) *malt beverages*, from Minneapolis, Minn., to points in Dickinson, Iron, Gogebic, Delta, and Menominee Counties, Mich. By the instant petition, petitioner seeks to have the authority above be modified as follows: (1) *malt beverages*, from Milwaukee, Wis., to points in Dickinson, Iron, Gogebic, Delta, Menominee, and Houghton Counties, Mich., and Aurora, Florence County, Wis., to facilities of Tri-County Distributors, or their successors, and points within two (2) miles thereof; and (2) *malt beverages*, from Minneapolis, Minn., to points in Dickinson, Iron, Gogebic, Delta and Menominee Counties, Mich., and Aurora, Florence County, Wis., to facilities of Tri-County Distributors, or their successors, and points within a two (2) mile radius thereof.

No. MC 134112 (Notice of filing of petition to modify permit), filed March 31, 1977. Petitioner: NATIONAL FREIGHTWAYS, INC., 1923 South 111th Street, Omaha, Nebr. 68144. Petitioner's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Petitioner holds a motor *contract carrier* Permit in No. MC 134112, issued June 17, 1974, authorizing transportation over irregular routes, of (1) *Hides, pelts, skins, switches* or *tails*, and *pieces* thereof, (a) from Denison, Iowa, to the plant site and warehouse facilities of Lackawanna of Omaha, Inc., at Omaha, Nebr.; (b) from the plant site and warehouse facilities of Lackawanna of Omaha, Inc., at Omaha, Nebr., to points in that part of the United States, in, east and north of Michigan, Ohio, West Virginia, and Virginia, and Chicago, Ill., New Orleans, La., San Francisco, Calif., and points in Wisconsin; and (c) from the plant site and warehouse facilities of Lackawanna of Omaha, Inc., at Omaha, Nebr., to points in the United States (except Alaska, Hawaii, Wisconsin, Arizona, Nevada, New Mexico, California, points in that part of the United States, in, east and north of Michigan, Ohio, West Virginia, and Virginia, and Chicago, Ill., New Orleans, La., and San Francisco, Calif.); and (2) *such commodities* as are used or dealt in by processors and distributors of commodities named in (1) above, (a) from points in that part of the United States, in, east and north of Michigan, Ohio, West Virginia, and Virginia, and Chicago, Ill., New Orleans, La., San Francisco, Calif., and points in Wisconsin, to the plant site and warehouse facilities of Lackawanna of Omaha, Inc., at Omaha, Nebr.; (b) from points in the United States (except Alaska, Hawaii, Wisconsin, Arizona, Nevada, New Mexico, California, and that part of the United States, in, east and north of Michigan, Ohio, West Virginia, and Virginia, and Chicago, Ill.; New Orleans, La., and San Francisco, Calif.), to the plant site and warehouse facilities of Lackawanna of Omaha, Inc., at Omaha, Nebr.; and (c) from the plant site or warehouse facilities of Lackawanna of Omaha, Inc., at Omaha, Nebr., to Hackettstown, N.J.; the operations above are under a continuing contract, or contracts, with Lackawanna of Omaha, Inc.

By the instant petition, petitioner seeks to modify the above authority to read as follows: (1) *hides, pelts, skins, switches* or *tails*, and *pieces and products* thereof, (a) from Denison, Iowa, to the plantsite and warehouse facilities of The Lackawanna Leather Company, at Omaha, Nebr.; (b) from the plantsite and warehouse facilities of The Lackawanna Leather Company, at Omaha, Nebr., to points in the United States (except Alaska and Hawaii); and (c) from the plantsite and facilities of The Lackawanna Leather Company, at Long Beach, Calif., to the plantsite and facilities of The Lackawanna Leather Company, at Conover, N.C.; and (2) *such commodities* as are used by or dealt in by processors and distributors of commodities named in (1) above, (a) from points in the United States (except Alaska and Hawaii), to points in Iowa and the plantsite and warehouse facilities of The Lackawanna Leather Company, at Omaha, Nebr.; and (b) from the plantsite or ware house facilities of The Lackawanna Leather Company, at Omaha, Nebr., to Hackettstown, N.J.; the operations above are under a continuing contract, or contracts, with The Lackawanna Leather Company.

No. MC 134599 (Sub-No. 132) (notice of filing of petition for modification of commodity description), filed June 30, 1975. Petitioner: INTERSTATE CONTRACT CARRIER CORPORATION, 265 W. 2700 South, Salt Lake City, Utah 84110. Petitioner's representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Petitioner holds a motor *contract carrier* Permit in No. MC 134599 (Sub-No. 132), issued May 6, 1976, authorizing transportation over irregular routes, of *Sponge rubber carpet cushion, footwear, and chemicals* used in the manufacture and production of rubber products (except in bulk), from Beacon Falls, Naugatuck, Waterbury, and Waterville, Conn., to Chicago, Ill., Dallas, Tex., Denver, Colo., Los Angeles, Calif., Phoenix, Ariz., St. Louis, Mo., Salt Lake City, Utah, San Francisco, Calif., and Seattle, Wash., under a continuing contract or contracts with Uniroyal, Inc., of Middleburg, Conn. By the instant petition, petitioner seeks to modify the above commodity description to include *"sponge rubber dust, sponge rubber blocks, and sponge rubber gaskets"*, in addition to the commodities presently held by said permit.

No. MC 135884 (Sub-Nos. 1, 3, and 8) (notice of filing of petition to modify petitions), filed April 7, 1977. Petitioner: CALDWELL TRUCKING, INC., Holdman Route, Pendleton, Oreg. 97801. Petitioner's reperesentative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, Oreg. 97210. Petitioner holds the right to receive Permits No. MC 135884 (Sub-Nos. 1, 3, and 8), issued June 28, 1972, May 18, 1973 and March 2, 1976, respectively as transferee pursuant to the Commission's order in MC–FC–76748 served November 17, 1976, which authorizes operations over irregular routes: (A) in MC 135884 (Sub-No. 1), *unfinish-*

V42187 MAY 5 77 UMI

ed and primed furniture, furniture parts, furniture hardware, and furniture samples, from points in Umatilla and Washington Counties, Oreg., King and Spokane Counties, Wash., and Sonoma and Santa Cruz Counties, Calif., to points in Minnesota, Colorado, Texas, Illinois, Pennsylvania, Georgia, Massachusetts, California, Wisconsin, New Jersey, Washington, Oregon and Indiana, under continuing contract, or contracts, with Harris Pine Mills, Inc.; (B) in MC 135884 (Sub-No. 3) *furniture, furniture parts and furniture hardware*, between Lincoln, Nebr., on the one hand, and, on the other, points in California, Oregon and Washington, under continuing contract, or contracts, with Harris Pine Mills, Inc.; and (C) in MC 135884 (Sub-No. 8), *furniture parts*, from points in Clark and Walla Walla Counties, Wash., and Linn County, Oreg., to points in Minnesota, Colorado, Texas, Illinois, Pennsylvania, Georgia, Massachusetts, California, Wisconsin, New Jersey, Oregon, Washington and Nebraska, under continuing contract, or contracts, with Harris Pine Mills, Inc. By the instant petition, petitioner seeks to include Huntsville, Ala., as an additional destination point in the above Sub-Nos. 1, 3, and 8 authority.

No. MC 136821 (Sub-No. 3), (Notice of filing of petition to modify a permit), filed April 13, 1977. Petitioner: SMERBER TRANSPORTATION, INC., Space Center Building 504, Mira Loma, Calif. 91752. Petitioner's representative: James Smerber (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC 136821 (Sub-No. 3), issued September 11, 1975, authorizing transportation, over irregular routes, of (1) *Insulating materials;* and (2) *materials and supplies* used in the installation of insulating materials, from the facilities of Johns-Manville Fiberglass, Inc., located at Willows, Calif., to points in Arizona, Nevada, Idaho, Utah, Oregon, and Washington, under a continuing contract, or contracts, with Johns-Manville, Fiberglass, Inc. By the instant petition, petitioner seeks to include the facilities of Johns-Manville Fiberglass, Inc., located at Corona and City of Industry, Calif., as an additional origin point in the above authority.

No. MC 140461 (Sub-No. 1) (notice of filing of petition to add an additional contracting shipper), filed May 30, 1975. Petitioner: ELECTROMATIC, INC., 6110 N.E. Union Avenue, Portland, Oreg. 97221. Petitioner's representative: Thomas E. Maddocks (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC 140461 (Sub-No. 1), issued March 26, 1976, authorizing transportation over irregular routes, of: *Television sets, combination television-radio-phonograph sets, and stereo sets*, (1) from points in Clark County, Wash., to points in Multnomah, Clackamas, Columbia and Washington Counties, Oreg.; and (2) from points in Washington County, Oreg., to points in Cowlitz, Clark and Skamania Counties, Wash., under a continuing contract or contracts with S. S. Kresge Company, doing business as K Mart. By the instant petition, petition seeks to add "Washington Square Magnavox Home Entertainment Center, Inc.", of the above authority as an additional contracting shipper.

No. MC 142145 (notice of filing of petition to add additional origin and destination points), filed March 9, 1976. Petitioner: LINDSAY TRANSPORTATION, INC., P.O. Box 156, Lindsay, Nebr. 68644. Petitioner's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Petitioner holds a motor *contract carrier* Permit in No. MC 142145 issued March 1, 1977, authorizing transportation over irregular routes, of (1) *Irrigation system and parts, equipment, materials, and supplies* used in irrigation systems, their shipments, or their installation, from the facilities used by Lindsay Manufacturing Co., Inc., located at Lindsay, Nebr., to points in the United States (except those in Alaska, Hawaii, and Nebraska); and (2) *equipment, materials, and supplies* utilized in the manufacture of irrigation systems, from points in the United States (except those in Alaska, Hawaii, and Nebraska), to the facilities used by Lindsay Manufacturing Co., Inc., located at Lindsay, Nebr., under a continuing contract or contracts with Lindsay Manufacturing Co., Inc. By the instant petition, petitioner seeks to add Columbus and Newman Grove, Nebr., as additional origin points with respect to part (1) of its Permit, and to add Columbus and Newman Grove, Nebr., as additional destination points with respect to part (2) of its Permit.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission on or before June 6, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 112989 (Sub-No. 45) (Republication), filed November 3, 1975, published in the FEDERAL REGISTER issue of December 11, 1975, and republished this issue. Applicant: WEST COAST TRUCK LINES, INC., Rt. 4, Box 194-R, Eugene, Oreg. 97405. Applicant's representative: John G. McLaughlin, 620 Blue Cross Bldg., 100 SW Market Street, Portland, Oreg. 97201. A decision and order of the Commission, review board number 3, dated April 1, 1977, and served April 14, 1977, modifies and adopts the initial decision of the joint board, and authorizes transportation by applicant as a *common carrier* over irregular routes, of *lumber and lumber products, wood products, and particleboard*, between points in Oregon, Washington, and California, restricted against the transportation of shipments between points in Washington, and further restricted in foreign commerce to movements between the above points, on the one hand, and, on the other, to ports of entry on the international boundary line between the United States and Canada located at or near Blaine, Wash. The purpose of this republication is to indicate applicant's intent to participate in traffic moving to and from Canada.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 514 (Sub-No. 5) filed March 15, 1977. Applicant: UNITED WAREHOUSE & TRANSFER, INC., 400 Ash Street, P.O. Box 27, Johnson City, Tenn. 37601. Applicant's representative: Edwin O. Norris, P.O. Box 3740, Kingsport, Tenn. 37604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B Explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Johnson City (Washington County), Tenn., on the one hand, and, on the other, points in Carter, Greene, Hawkins, Johnson, Sullivan, and Unicoi Counties, Tenn., and points in Scott and Washington Counties, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Kingsport or Johnson City, Tenn.

No. MC 720 (Sub-No. 31), filed March 17, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53963. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, P.O. Box 3004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and equipment, materials and supplies* (except commodities in bulk) used or useful in the manufacture, sale or distribution of canned goods, between Antigo, Cambria, Clintonville, Friesland, Galesville, the Township of Mackford, Green Lake County, Manitowoc, and Theresa, Wis., on the one hand, and, on the other, points in the United States (except points in Arizona, California, Nevada, New Mexico, Oregon, and Washington), restricted to shipments originating at or destined to the above specified points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 11207 (Sub-No. 386), filed March 15, 1977. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, cast iron pipe fittings, meter boxes, stop-cock boxes, valve boxes, and accessories* thereto, and *boat anchors*, from the plantsite and facilities of Opelika Foundry Company located at or near Opelika, Ala., to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Atlanta, Ga.

No. MC 11207 (Sub-No. 388), filed April 12, 1977. Applicant: DEATON, INC., 317 Avenue W., Post Office Box 938, Birmingham, Alabama 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and canned goods*, from the plantsites of Lusianne Blue Plate Foods located at New Orleans, Louisiana to points in Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, Louisiana, or Birmingham, Alabama.

No. MC 11207 (Sub-No. 389), filed April 12, 1977. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Alabama 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel pressure tanks*, from Vicksburg, Mississippi to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Mississippi or New Orleans, Louisiana.

No. MC 13547 (Sub-No. 5), filed March 24, 1977. Applicant: LEONARD BROTHERS TRANSPORT COMPANY, INC., 1701 St. Louis, Kansas City, Mo. 64101. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, Mo. and St. Joseph, Mo., serving no intermediate points: From Kansas City over Interstate Highway 29 to St. Joseph, and return over the same route; (2) between Kansas City, Mo. and Leavenworth, Kans., serving no intermediate points: From Kansas City over U.S. Highway 24 to its intersection with U.S. Highway 73, thence over U.S. Highway 73 to Leavenworth, and return over the same route; and (3) between Kansas City, Mo. and Atchison, Kans., serving no intermediate points: From Kansas City over U.S. Highway 24 to its intersection with U.S. Highway 73, thence over U.S. Highway 73 to Atchison, and return over the same route; (1), (2) and (3) above are alternate routes for operating convenience only.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 12121 (Sub-No. 19), filed March 17, 1977. Applicant: ADVANCE TRANSPORTATION COMPANY, a corporation, 5005 South Sixth Street, Milwaukee, Wis. 53201. Applicant's representative: John Duncan Varda, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Serving Union Grove, Wis., as an off-route point in connection with applicant's presently held regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis., or Chicago, Ill.

No. MC 19227 (Sub-No. 233), filed March 21, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 NW. 20th Street, Miami, Fla. 33152. Applicant's representative: Thomas A. Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Source, special nuclear and by-product materials, radioactive equipment, component parts and associated materials;* and (2) *radioactive contaminated* water, in bulk, in tanker equipment, and in towaway service, between points in Texas, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex. or Washington, D.C.

No. MC 23618 (Sub-No. 24), filed April 7, 1977. Applicant: MCALISTER TRUCKING COMPANY, d.b.a. MATCO, a corporation, P.O. Box 2377, Abilene, Tex. 79604. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and pickup up thereof; and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission

V42187 MAY 5 77 UMI

of commodities resulting from drilling operations at well or hole sites, and (d) the injecting or removal of commodities into or from holes ar wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated hearing with other similar applications at either Houston or Dallas, Tex., or Tulsa, Okla.

No. MC 25798 (Sub-No. 291), filed March 21, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift Fresh Meats Company, located at or near Grand Island, Nebr., to points in Georgia and Florida.

NOTE.—Common control may be involved. If a hearing is deemed necesary, the applicant requests it be held at either Chicago, Ill., or Tampa, Fla.

No. MC 30844 (Sub-No. 581), filed March 10, 1977. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and discount department stores (except foodstuffs and commodities in bulk), with prior transportation by water, from Baltimore, Md., to Dallas and Houston, Tex.; St. Louis, Ballwin and Bridgeton, Mo.; Oklahoma City and Tulsa, Okla.; Omaha, Nebr.; Molin, Ill.; Minneapolis and Duluth, Minn.; Milwaukee, Wis.; Denver and Colorado Springs, Colo., and their respective commercial zones, and points in Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 40494 (Sub-No. 11), filed April 15, 1977. Applicant: HILBURN TRUCKING, INC., 19401 East 39th Street, Independence, Missouri 64057. Applicant's representative: S. Harrison Kahn, Attorney at Law, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to engage in operation, in interstate or foreign commerce, as a motor *common carrier*, via irregular routes in the transportation of new and used combines, knocked down or set up, and parts thereof, between Independence, Missouri, on the one hand, and, on the other, points and places in the states of Nebraska, Kansas, Colorado, Illinois, Wisconsin, Indiana, Ohio and Michigan.

NOTE.—If a hearing is assigned, applicant requests that the hearing be held at Kansas City, Missouri.

No. MC 42011 (Sub-No. 33), filed March 4, 1977. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. 74112. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Off-highway vehicles and parts, attachments and accessories*, and *materials* used in, or for the production and manufacture thereof, between points in Colorado, Louisiana, Oklahoma, Texas, and ports of entry on the International Boundary line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., for further movement to points in the provinces of Ontario and Quebec, Cañada, restricted to shipments originating at or destined to the facilities of Kimco, Inc., Unit Rig & Equipment Co., and Unit Rig & Equipment Co. (Canada) Ltd.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with Wales Transportation, Inc., at either Dallas, Tex., or New York, N.Y.

No. MC 42487 (Sub-No. 860), filed March 18, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives and household goods as defined by the Commission), Serving the plantsite of Reliance Electric Co., located at or near Flowery Branch, Ga., near Gainesville, Ga., as an off-route point in connection with applicant's presently authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 42487 (Sub-No. 861), filed March 18 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the plantsite of Eagle-Picher Industries, Inc., located at or near Seneca, Mo., as an off-route point in connection with applicant's presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Washington, D.C.

No. MC 52704 (Sub-No. 141), filed March 17, 1977. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and glass containers for food and beverages*, from the warehouse facilities utilized by Laurens Glass Company, located at or near Bernice, La., to point in Alabama, Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana; Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 52729 (Sub-No. 24), filed March 21, 1977. Applicant: FIOROT TRUCKING, INC., W. Main Street, P.O. Box 43, Pen Argyl, Pa. 18072. Applicant's representative: Morris Mindlin, 1509 Easton Avenue, Bethlehem, Pa. 18017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, asphalt shingles, and vinyl shingles, vinyl siding, and vinyl panels*, and *materials and supplies* used in the installation of such asbestos, asphalt, and vinyl commodities, when moving therewith from the plantsite and warehouse facilities of Supradur Manufacturing Corporation, located at Wind Gap, Pa., and points within five miles thereof, to points in South Carolina and Tennessee; (2) (a) *materials and supplies* used in the production and manufacture of asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, asphalt shingles, other asbestos and asphalt materials, and vinyl shingles, vinyl siding, and vinyl panels (except commodities in bulk); (b) *materials and supplies* used in the installation of asbestos cement roofing shingles, asbestos cement siding, asbestos cement sheets, asbestos cement pressure pipes, and asphalt shingles, and vinyl shingles, vinyl siding, and vinyl panels (except commodities in bulk), from points in South Carolina and Tennessee, to Wind Gap, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Easton, Allentown, or Philadelphia, Pa.

No. MC 59583 (Sub-No. 160), filed April 12, 1977. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, Post Office Box 969, Kingsport, Tenn. 37662. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *wood boxes, pallets, platforms, and skids*, from the plantsite of Newton Brothers Lumber Company, Inc., located at Moundville Industrial Park, Moundville, Alabama, to points in Wisconsin, Illinois, Pennsylvania, New York, Connecticut, Massachusetts, Delaware, New Jersey, District of Columbia, Maryland, Indiana, Ohio, Kentucky, West Virginia, Virginia, Georgia, Tennessee, North Carolina, South Carolina, and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Alabama or Washington, D.C.

No. MC 59856 (Sub-No. 9), filed March 14, 1977. Applicant: GROSS & HECHT TRUCKING, INC., P.O. Box 514, 35 Brunswick Avenue, Edison, N.J. 08817. Applicant's representative: A. David Millner 167 Fairfield Road, P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses; and (2) *equipment, materials, and supplies* used in the conduct of the business described in (1) above, between points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J., Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and Fairfield County, Conn., under a continuing contract, or contracts, with White Rose Frozen Food Corp., and restricted in (1) and (2) above against the transportation of commodities in bulk.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 70272 (Sub-No. 31), filed March 23, 1977. Applicant: KING VAN LINES, INC., 7707 East Harry, P.O. Box 12208, Wichita, Kans. 67212. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods shipping containers*, set up or knocked down, between points in the United States, including Hawaii, but excluding Alaska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Wichita, Kans.

No. MC 71450 (Sub-No. 63), filed March 16, 1977. Applicant: O.N.C. FREIGHT SYSTEMS, P.O. Box 10280, Palo Alto, Calif. 94303. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Reno, Nev. and Wenatchee, Wash.: From Reno over U.S. Highway 40 to junction U.S. Highway 95, thence over U.S. Highway 95 to junction Oregon Highway 78, thence over Oregon Highway 78 to junction U.S. Highway 395 (also U.S. Highway 20), thence over U.S. Highway 395 to junction Oregon Highway 37, thence over Oregon Highway 37 to junction U.S. Highway 395 (also U.S. Highway 730), thence over U.S. Highway 395 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction Washington Highway 281, thence over Washington Highway 281 to junction Washington Highway 28, thence over Washington Highway 28 to Wenatcher and return over the same route, serving no intermediate points.

NOTE.—The purpose of this application is to request relocation of interchange point, no new service requested. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

No. MC 71459 (Sub-No. 64), filed April 12, 1977. Applicant: O.N.C FREIGHT SYSTEMS, a corporation, P.O Box 10280, Palo Alto, California 94303. Applicant's Representative: Roland Rice, 501 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Alamosa, Colorado and the junction of U.S. Highway 97 and U.S. Interstate 80 N as an alternate route for operating convenience only, serving no intermediate points and serving the junction of U.S. Highway 97 and U.S. Interstate 80 N for the purpose of joinder only. From Alamosa, Colorado over U.S. Highway 160 to the junction of U.S. Highway 666, thence over U.S. Highway 666 to the junction of U.S. Highway 163, thence over U.S. Highway 163 to the junction of U.S. Highway 50, thence over U.S. Highway to the junction of U.S. Interstate 15, thence over U.S. Interstate 15 to the junction of U.S. Interstate 80 N, thence over U.S. Interstate 80 N to the junction of U.S. Highway 97 and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or San Francisco, California.

No. MC 71642 (Sub-No. 26), filed April 11, 1977. Applicant: CONTRACTUAL CARRIERS, INC., Harmony Industrial Park, Newark, Del. 19711. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting plastic forms, films and shapes, between Milford and Delaware City, Del., on the one hand, and, on the other, Endicott, Johnson City, and New York, N.Y., points in New Jersey, and that part of Pennsylvania on and east of U.S. Highway 11, under a continuing contract with American Hoechst Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 73165 (Sub-No. 402), filed March 18, 1977. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pressure tanks*, from the plantsite and facilities of Masonite Corporation, Tank Division, located at or near Vicksburg, Miss., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Jackson, Miss.

No. MC 78118 (Sub-No. 32), filed April 17, 1977. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, Pennsylvania 17602. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and shipping facilities of Container Corporation of America in Hanover Township, Lehigh County, Pa., to points in that portion of New Jersey on and north of US Highway 40. Restricted to traffic originating at and destined to the above origin and destination territory.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 82492 (Sub-No. 145), filed March 15, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2100 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, sold or distributed by persons engaged in the manufacturing, processing or milling of soybeans, soybean products and grain products and *materials, equipment and supplies* used in the conduct of such business (except commodities in bulk), between points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 82492 (Sub-No. 147), filed March 15, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2100 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor ve-

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hicle, over irregular routes, transporting: *Frozen foods*, from Cleveland and Solon, Ohio to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 82492 (Sub-N. 148) filed March 15, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plantsite and storage facilities of Hygrade Food Products Corporation located at or near Storm Lake and Cherokee, Iowa, to points in Indiana and Ohio, restricted to traffic originating at the named origin points and destined to the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Washington, D.C.

No. MC 82841 (Sub-No. 206), filed March 17, 1977. Applicant: Hunt Transportation, Inc. 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and parts* for irrigation systems and *accessories* from Brownfield, Texas, to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture of irrigation systems and *parts* for irrigation systems and *accessories* from points in Idaho, Pennsylvania, Washington, and Wisconsin to Brownfield, Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Amarillo or Dallas, Tex.

No. MC 82841 (Sub-No. 207), filed April 17, 1977. Applicant: Hunt Transportation, Inc., 10770 "I" Street, Omaha, Nebraska 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebraska, 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Iron and steel and iron and steel articles from Wichita, Kansas, to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Wichita, Kans., or Kansas City, Mo.

No. MC 83835 (Sub-No. 140), filed March 16, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Barrel pumps, pump parts, accessories, equipment, valves, nipples, clamps, and couplings;* and (2) *materials and supplies* used in or in connection with, the transportation, installation, operation, removal, repair, manufacture, and maintenance of the commodities described in (1) above, between Tulsa, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex., or Tulsa, Okla.

No. MC 83850 (Sub-No. 10), filed April 18, 1977. Applicant: JOHNSONS TRANSFER, INC., 6951 Norwitch Drive, Philadelphia, Pa. 19153. Applicant's representative: Harold P. Boss, 1100 Seventeenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum* and *gypsum products, paint* and *paint products, mineral fiber* and *mineral fiber products, adhesives, lime*, and such *materials* and *supplies* as are used in the manufacture, installation and distribution of such commodities (except liquid commodities, in bulk), between the plant sites, warehouses, and facilities of the United States Gypsum Company at Baltimore, Md., Oakfield and Stony Point, N.Y., and Woodbridge Township, N.J., on the one hand, and, on the other, points in the District of Columbia, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

(NOTE.—Applicant states that it now serves the supporting shipper between its plant facilities at Baltimore, Md., on the one hand, and, on the other, points in the District of Columbia and each of the States sought herein, *except* those in Maine, North Carolina, and Ohio. Applicant further states that it does not seek any duplicating authority, and that the purposes of this application briefly are to obtain authority (1) to serve applicant's presently-authorized territory from and to shipper's facilities at Oakfield and Stony Point, N.Y., and at Woodbridge Township, N.J., (2) to serve points in Maine, North Carolina, and Ohio, from and to shipper's facilities named in "(1)" above and also from and to the shipper's facilities at Baltimore, Md., and (3) to broaden somewhat applicant's present commodity authorization from and to shipper's facilities at Baltimore, Md.) D. J. McNichol Co., an affiliated company, holds contract carrier authority under No. MC 2135 and Subs thereunder, therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 85465 (Sub-No. 61), filed March 16, 1977. Applicant: WEST NEBRASKA EXPRESS, INC., P.O. Box 1150, St. Joseph, Mo. 64502. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Omaha, Nebr. and Eugene, Oreg.: From Omaha over U.S. Highway 275 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction Nebraska Highway 19, thence over Nebraska Highway 19 to the Nebraska-Colorado State Boundary line, thence over Colorado Highway 113 to junction U.S. Highway 138, thence over U.S. Highway 138 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 50, thence over U.S. Highways 6 and 50 to junction U.S. Highway 89, thence over U.S. Highway 89 (Interstate 15) to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 95, thence over U.S. Highway 95 to junction Nevada Highway 140, thence over Nevada Highway 140 to junction U.S. Highway 97, thence over U.S. Highway 97 to junction Oregon Highway 58, thence over Oregon Highway 58 to Eugene and return over the same route, serving no intermediate points.

NOTE.—The purpose of this application is to relocate interchange point. No new service requested. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

No. MC–85934 (Sub-No. 73), filed April 18, 1977. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming Avenue, P.O. Box 248, Dearborn, Michigan 48121. Applicant's Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Michigan 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Spent sulphuric acid*, in bulk, in tank vehicles, from Midland, Michigan to Oregon, Ohio with return of recovered sulphuric acid.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Chicago, Illinois.

No. MC 87730 (Sub-No. 27), filed March 15, 1977. Applicant: P. W. BOZEL TRANSFER, INC., 4500 Hollins Ferry Road, Baltimore, Md. 21227. Applicant's representative: Donald E. Cross, 700 World Center Building, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and food, foodstuffs, and animal food, in vehicles equipped with mechanical refrigeration, from Baltimore, Md., points in Baltimore, Howard, Prince George's, and Anne Arundel Counties, Md. and the District of Columbia, to points in West Virginia and Virginia (except Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Warren Counties, Va.).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Baltimore, Md.

No. MC 90760 (Sub-No. 15), filed March 21, 1977. Applicant: CLIFTON A. SCHULTZ, doing business as ILLINOIS MIDWEST EXPRESS, 1012 East William Street, Danville, Ill. 61832. Applicant's representative: Frank M. Coyne, 25 West Main Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Danville, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, and Wisconsin, under a continuing contract, or contracts, with Robintech, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 94201 (Sub-No. 147) (Amendment), filed January 31, 1977. Published in the FEDERAL REGISTER issue of April 7, 1977, republished as amended this issue. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Mobile, Ala. and Memphis, Tenn., with service at Jackson, Miss. for purposes of joinder only: From Mobile, Ala., over U.S. Highway 98 to its junction with U.S. Highway 49 at or near Hattiesburg, Miss., thence over U.S. Highway 49 to Jackson, Miss., thence over Interstate Highway 55 or U.S. Highway 51 to Memphis, Tenn., and return over the same route, as an alternate route for operating convenience only.

NOTE.—The purpose of this republication is to amend the territorial description. If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Washington, D.C.

No. MC 94350 (Sub-No. 381), filed March 10, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Kearney County, Nebr., to points in the United States west of the Mississippi River, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 104683 (Sub-No. 43), filed April 14, 1977. Applicant: Transport, Inc., P.O. Box 1524, Hattiesburg, Miss. 39401. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Escambia County, Ala. to Petal, Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss.

No. MC 105984 (Sub No. 17), filed April 5, 1977. Applicant: JOHN B. BARBOUR TRUCKING COMPANY, a corporation, P.O. Box 577, Iowa Park, Texas 76361. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex., 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injecting or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated hearing with other similar appliactions at either Houston, Tex., or Tulsa, Okla.

No. MC 107002 (Sub No. 503), filed April 11, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils and blends thereof*, in bulk, in tank vehicles, from Jackson, Miss., to points in Georgia and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Mississippi.

No. MC 107403 (Sub No. 1005), filed March 18, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide*, dry, in bulk, in tank vehicles, from Baltimore, Md., to Selkirk, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107403 (Sub-No. 1006), filed March 23, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank truck vehicles, from the plantsite of Merichem Company and Storage facilities of Merichem Company, located at Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 107460 (Sub-No. 63), filed March 17, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum articles, aluminum foil, aluminum cable and fabricated metal products* (except commodities in bulk), from the plantsites and warehouse facilities of the Kaiser Aluminum and Chemical Corporation, located at or near Los Angeles, LaMirada, Permanente, San Leandro, Newark, and San Francisco, Calif., to points in Arkansas, Illinois, Indiana, Kansas, Louisiana, Michigan, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia and Wisconsin; and (2) *empty aluminum and iron and steel gas shipping cylinders*, from the plantsites and warehouse facilities of the Kaiser Aluminum and Chemical Corporation, located at or near Los Angeles, LaMirada, Permanente, San Leandro, Newark and San Francisco, Calif., to the plantsite of the Kaiser Aluminum and Chemical Corporation located at or near Gramercy, La., under a continuing contract, or contracts, with Kaiser Aluminum and Chemical Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or San Francisco, Calif.

No. MC 107544 (Sub-No. 134), filed March 21, 1977. Applicant: LEMMON

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TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, Va. 24354. Applicant's representative: E. Stephen Theisley 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except petrochemicals), in bulk, in tank vehicles, from Knoxville, Tenn., to points in Kentucky.

NOTE.—Applicant holds contract carrier authority in MC 113959 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Roanoke, Va. or Washington, D.C.

No. MC 107993 (Sub-No. 53), filed April 14, 1977. Applicant: J. J. WILLIS TRUCKING COMPANY, 2608 Electronic, P.O. Box 5328, Dallas, Texas 75222. Applicants representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-Cut log buildings, materials* and *components*, therefor, used in or incidental to the erection thereof, from Englewood, Colorado to points in the States of Arizona, California, New Mexico, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo., or Washington, D.C.

No. MC 108207 (Sub-No. 457), filed March 16, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Webster City, Iowa, to points in the Minneapolis-St. Paul, Minn. commercial zone, and points in Kansas, Missouri and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Dallas, Tex.

No. MC 108676 (Sub-No. 104) (partial correction), filed February 22, 1977, published in the FEDERAL REGISTER issue of April 7, 1977, as No. MC 108676 (Sub-No. 101), and republished in part as corrected this issue. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, Tenn. 37916. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. The purpose of this republication is to indicate the correct docket number assigned to this proceeding as No. MC 108676 (Sub-No. 104) in lieu of No. MC 108676 (Sub-No. 101) as previously published in error. The rest of the publication remains the same.

No. MC 108397 (Sub-No. 359), filed March 17, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive waste materials*, in containers, from points in the United States (except Alaska and Hawaii) to the facilities of Todd Shipyard located at or near Galveston, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109433 (Sub-No. 25), filed March 18, 1977. Applicant: SEABOARD TANK LINES, INC., Monahan Ave., Dunmore, Pa. 18512. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Litharge*, dry, in bulk, from Dunmore, Pa., to points in Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109533 (Sub-No. 85), filed March 16, 1977. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: E. T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Norfolk, Virginia and Elkton, Maryland: From Norfolk over U.S. Highway 13 to junction U.S. Highway 40, thence over U.S. Highway 40 to Elkton and return over same route, serving all intermediate points. (2) Between Salisbury, Maryland and Cambridge, Maryland: From Salisbury over U.S. Highway 50 to Cambridge and return over same route, serving all intermediate points. (3) Between Dover, Delaware and Goldsboro, Maryland: From Dover over Delaware Highway 8 to Delaware-Maryland State line, thence over Maryland Highway 311 to Goldsboro and return over the same route, serving all intermediate points. (4) Between Bridgeville, Delaware and Federalsburg, Maryland: From Bridgeville over unnumbered highway to junction of Delaware Highway 18, thence over Delaware 18 to Delaware-Maryland State Line, thence over Maryland Highway 318 to Federalsburg, and return over same route, serving all intermediate points. In connection with Routes 1, 2, 3 and 4 above, service is authorized to points in New Castle, Kent and Sussex Counties, Delaware; Dorchester, Wicomico, Worchester and Somerset Counties, Maryland; and Accomack and Northampton Counties, Virginia as off-route points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant request it be held at Washington, D.C.

No. MC 109692 (Sub-No. 45), filed April 14, 1977. Applicant: GRAIN BELT TRANSPORTATION COMPANY, a corporation, 340 North James Street, Kansas City, Kans. 66118. Applicant's representative: Warren H. Sapp, 4420 Madison, Kansas City, Mo. 64111. Authority sought to conduct operations as a *common carrier* by motor vehicle in interstate and foreign commerce, over irregular routes, transporting: (1) Irrigation systems and parts and accessories therefor, pipe, tubing, light poles, mast arms, brackets, bases and transmission poles, and equipment and supplies used in the installation thereof, (except commodities in bulk), From the plantsite of Valmont, Industries, Inc., located at or near Valley, Nebraska, to points in Kansas, Minnesota, Missouri, North Dakota, Oklahoma, and South Dakota. (2) Equipment, materials and supplies used in the manufacture of the commodities named in paragraph No. 1 above, From points in Kansas, Minnesota, Missouri, North Dakota, Oklahoma, and South Dakota, and points in the Chicago, East St. Louis and Hennepin, Illinois Commercial Zones, to the plantsite of Valmont, Industries, Inc., located at or near Valley, Nebraska. (3) Used irrigation systems, and parts and accessories therefor, and new and used equipment, materials and supplies used in the installation of used irrigation systems, restricted to traffic moving for the account

of Valmont Industries, Inc., Between points in Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr., Kansas City, Mo., or Washington, D.C.

No. MC 110683 (Sub-No. 112) (partial correction), filed December 7, 1976, published in the FEDERAL REGISTER issue of January 13, 1977, and republished as corrected this issue. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: Francis W. McInerny, 1000–16th Street, Washington, D.C. 20036. NOTE.—The purpose of this partial correction is to indicate the correct territory sought in Part II to read: (A) Between Cincinnati, Ohio, and Jellico, Ky.: From Cincinnati, Ohio, over U.S. Highway 25 to junction U.S. Highway 25W (at or near Corbin, Ky.), thence over U.S. Highway 25W to Jellico, Ky., and return over the same route, serving all intermediate points and off-route points in Boone, Bourbon, Campbell, Clark, Clay, Fayette, Garrard, Grant, Harrison, Jackson, Jessamine, Kenton, Knox, Laurel, Lincoln, Madison, McCreary, Owen, Pendleton, Pulaski, Rockcastle, Scott, and Whitley, Counties, Ky., (B) Between Lexington, Ky., and Huntington, W.Va.: From Lexington, Ky., over U.S. Highway 60 to Huntington, W.Va., and return over the same route, serving all intermediate points and off-route points in Bath, Boyd, Bourbon, Carter, Clark, Elliott, Fayette, Fleming, Greenup, Lewis, Menifee, Montgomery, Rowan, Counties, Ky. (C) Between Lexington, and Jenkins, Ky.: From Lexington, Ky., over U.S. Highway 60 to junction Kentucky Highway 15 (at or near Winchester, Ky.), thence over Kentucky Highway 15 to junction U.S. Highway 119, thence over U.S. Highway 119 to Jenkins, Ky., and return over the same route, serving all intermediate points and off-route points in Breathitt, Clark, Estill, Fayette, Knott, Lee, Leslie, Letcher, Menifee, Perry, Powell, and Wolfe Counties, Ky.,

(D) Between Huntington, W. Va., and East Bernstadt, Ky.: From Huntington, W. Va., over U.S. Highway 60 to junction U.S. Highway 23, thence over U.S. Highway 23 to junction U.S. Highway 460 (at or near Paintsville, Ky.), thence over U.S. Highway 460 to junction Kentucky Highway 30 (at or near Salyersville, Ky.), thence over Kentucky Highway 30 to East Bernstadt, Ky., and return over the same route, serving all intermediate points and off-route points in Boyd, Breathitt, Clay, Floyd, Jackson, Johnson, Laurel, Lawrence, Lee, Magoffin, Martin, Morgan, and Owsley, Counties, Ky., (E) Between Lexington and Maysville, Ky.: From Lexington, Ky., over U.S. Highway 68 to Maysville, Ky., and return over the same route, serving all intermediate points and off-route points in Bourbon, Bracken, Fayette, Fleming, Harrison, Lewis, Mason, Nicholas, and Robertson Counties, Ky.; and (F) Between Williamson, W. Va., and Jellico, Ky.: From Williamson, W. Va., over U.S. Highway 119 to junction U.S. Highway 25E, thence over U.S. Highway 25E to junction Kentucky Highway 74, thence over Kentucky Highway 74 to junction Tennessee Highway 90, thence over Tennessee Highway 90 to junction U.S. Highway 25W, thence over U.S. Highway 25W to Jellico, Ky., and return over the same route, serving all intermediate points and off-route points in Bell, Floyd, Harlan, Knott, Knox, Leslie, Letcher, Martin, Perry, Pike, and Whitley, Counties, Ky., the rest remains the same.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lexington or Louisville, Ky., or Washington, D.C.

No. MC 111309 (Sub-No. 9), filed March 15, 1977. Applicant: NEWPORT TRUCKING CORP., 4600 Fifth Street, Long Island City, N.Y. 11101. Applicant's representative: A. David Millner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flavoring syrup and compounds* (except in bulk), from Long Island City, N.Y., to points in Bristol, Fairfield, Windsor, Conn.; Wilmington, Del.; Annapolis, Baltimore, Cheverly, Havre DeGrace, Salisbury, Md.; Allston, Ayer, Cambridge, Mass.; Asbury Park, Atlantic City, Pennsauken, Teterboro, N.J.; Batavia, Buffalo, Cicero, Geneva, Memands, (Albany), Newburgh, North Tonowanda, Rochester, Schenectady, Syracuse, N.Y.; Charlotte, Durham, Elkins, Fayetteville, Greensboro, Greenville, Hickory, Lumberton, New Bern, Raleigh, Rocky Mount, Wilmington, Winston Salem, Goldsboro, Kinston, Littleton, Roxboro, Selma, N.C.; Geistown, Mt. Pleasant, McKees Rock, Newville, Philadelphia, Pa.; Charleston, Cheraw, Columbia, Conway, Florence, Greenville, Spartanburg, S.C.; and Charlottesville, Danville, Hollins, Lynchburg, Marion, Petersburg, Newport News, Norfolk, Va., under a continuing contract or contracts with Pepsi Cola Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 111375 (Sub-No. 85), filed March 7, 1977. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (2) *pharmaceutical materials, supplies and products*, (3) *chemicals*, (4) *Alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, (7) *such commodities as are dealt in by distribution or consolidation warehouses* for the commodities described in (1) through (6) above; and (8) *exempt commodities* when moving with regulated commodities, (a) from Denver Colo., to points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota and Missouri; and (b) from points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota and Missouri, to Denver, Colo., restricted in (1), through (7) above against the transportation of commodities in bulk.

NOTE.—Applicant states that it intends to tack the requested authority in (a) and (b) above at Denver, Colo. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Washington, D.C.

No. MC 111375 (Sub-No. 87), filed March 21, 1977. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Burley, Idaho, to points in Illinois, Indiana, Minnesota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho, or Washington, D.C.

No. MC 111594 (Sub-No. 74), filed March 18, 1977. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wis. 54494. Applicant's representative: Carl L. Steiner, 39 So. LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Home laundry washers and dryers, refrigerators, freezers, ranges, ovens, range hoods, dishwashers, garbage disposers, waste compactors, room air conditioners, cooking surface units and other household appliances* and *parts and accessories* for household appliances, from Appliance Park and Louisville, Ky., to points in Wisconsin, restricted to traffic originating at the plantsite and storage facilities of the General Electric Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Louisville, Ky.

No. MC 112184 (Sub-No. 52), filed March 21, 1977. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, a corporation, 11250 Kinsman Road, Newbury, Ohio 44065. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Hydrofluoric acid* in bulk, from Cleveland, Ohio, to points in Minnesota, Wisconsin, and Alabama, under a continuing contract, or contracts, with Harshaw Chemical Company.

NOTE.—Applicant holds common carrier authority in No. MC 128302 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Columbus, Ohio, or Washington, D.C.

No. MC 112989 (Sub-No. 46), filed March 18, 1977. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Oreg. 97405. Applicant's representative: Jerry R. Woods, 200 Market Bldg., Suite 1440, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

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ing: *Lumber, lumber mill products, wood products and particleboard,* from points in Oregon and Washington, to points in Arizona, and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 112989 (Sub-No. 47), filed March 18, 1977. Applicant: WEST COAST TRUCK LINES, INC., 35647 Highway 99 South, Eugene, Oreg. 97405. Applicant's representative: Jerry R. Woods, 200 Market Building, Suite 1440, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, wood products and particleboard,* between points in Oregon and Washington, on the one hand, and, on the other, points in Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 113362 (Sub-No. 308), filed March 15, 1977. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., Box 429, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk tank vehicles), from the plantsites and warehouses of Sterling Colorado Beef Packers, located at or near Sterling, Colo., to points in Connecticut, the District of Columbia, Illinois, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, restricted to the transportation of traffic originating at the named plantsites and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Des Moines, Iowa.

No. MC 113678 (Sub-No. 665), filed March 23, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except in bulk), from the plantsite and warehouse facilities utilized by Y&S Candy, Inc., located at or near East Hempfield, Pa., to points in Illinois.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 114045 (Sub-No. 462), filed March 17, 1977. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plant site and storage facilities of Iowa Beef Processors, Inc., located at or near Amarillo, Tex., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Chicago, Ill.

No. MC 114312 (Sub-No. 30), filed March 18, 1977. Applicant: ABBOTT TRUCKING, INC., Route 3, Delta, Ohio 43515. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer, fertilizer materials, and fertilizer ingredients*, from Grand Rapids, Ohio, to points in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, New York, the District of Columbia, and (2) *fungicides, herbicides, insecticides and pesticides* in mixed truckloads, with *dry fertilizer and fertilizer ingredients*, from Maumee, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 114533 (Sub-No. 355), filed March 15, 1977. Applicant: BANKERS DISPATCH CORPORATION, 1106 West 35th St., Chicago, Ill. 60609. Applicant's representative: Ed Wallin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory specimens and reports*, Between Columbus, Ohio, on the one hand, and, on the other, points in Indiana.

NOTE.—Applicant holds contract carrier authority in MC 128616 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC 114533 (Sub-No. 356), filed March 15, 1977. Applicant: BANKERS DISPATCH CORPORATION, 1106 West 35th St., Chicago, Ill. 60609. Applicant's representative: Warren W. Wallin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Biological and laboratory samples, specimens, cultures, supplies, and business reports*, (1) between points in Kansas, on the one hand, and, on the other, points in North Platte, Nebr.; and (2) between Johnson and Sedgwick Counties, Kans., on the one hand, and, on the other, points in (A) Benton, Washington, Carroll, Boone, Baxter, Madison, Marion, and Pulaski Counties, Ark., and (B) Alfalfa, Canadian, Craig, Creek, Delaware, Ellis, Garfield, Grant, Kay, McClain, Muskogee, Nowata, Oklahoma, Osage, Ottawa, Pawnee, Tulsa, Washington, Woods, and Woodard Counties, Okla.

NOTE.—Applicant holds contract carrier authority in MC 128616 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 115651 (Sub-No. 29), filed March 18, 1977. Applicant: KANEY TRANSPORTATION INC., 7222 Cunningham Road, Rockford, Ill. 61102. Applicant's representative.: R. D. Higgins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane gas*, in bulk, in tank trucks, (1) from points in Illinois, to points in Wisconsin; (2) from points in Kansas, to points in Wisconsin; (3) from points in Kansas, to points in Georgia and New Jersey; and (4) from points in Kansas, to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 115654 (Sub-No. 63), filed March 16, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, Tenn. 37202. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Campbell Soup Co., Napoleon, Ohio, to points in Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio, or Washington, D.C.

No. MC 115730 (Sub-No. 31), filed March 23, 1977. Applicant: THE MICKOW CORP., 531 S.W. Sixth Street, Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tubing*, from Shelby, Ohio, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus or Cleveland, Ohio, or Washington, D.C.

No. MC 115793 (Sub-No. 23), filed March 15, 1977. Applicant: CALDWELL FREIGHT LINES, INC., U.S. Highway 321 South, P.O. Box 620, Lenoir, N.C. 28645. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, and materials and supplies*, used in the manufacture of furniture and furniture parts, from Alton, Ill., to the plantsite of Flex-o-Lator, Inc., located at or near High Point, N.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C.

No. MC 116254 (Sub-No. 178), filed April 18, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Alabama 35630. Applicant's representative: Hampton M. Mills, P.O. Box 339, Florence, Alabama 35630. Authority sought: to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Peanut Meal*, in bulk, in hopper-type vehicles, from: (1) Enterprise, Ala., to Lafayette, and Clinton, Ind. (2) Graceville, Fla., to Lafayette, and Clinton, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Ind., or Washington, D.C.

No. MC 116519 (Sub-No. 40), filed March 14, 1977. Applicant: FREDERICK TRANSPORT LIMITED, a corporation, R.R. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingedients, corn and corn products, beans and bean products, and grain and grain products*, between ports of entry on the International Boundary line between the United States and Canada, located at points in Maine, Michigan, New York and Vermont, on the one hand, and, on the other, points in the United States (except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming); and (2) *animal litter*, from points in Florida and Tennessee, to ports of entry on the International Boundary line between the United States and Canada, located at points in Maine, Michigan, New York and Vermont, restricted in (1) and (2) above against the transportation of commodities in tank vehicles, and further restricted to traffic in foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 117058 (Sub-No. 12), filed April 17, 1977. Applicant: CAPITAL MESSENGERS, INC., 11407 Frederick Avenue, Beltsville, Md. 20705. Applicant's representative: Nancy Pyeatt, 815 15th Street, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Lancaster, Pa., to points in Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia under a continuing contract, or contracts, with Maxwell Paper Products, Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Lancaster, Pa.

No. MC 117068 (Sub-No. 79), filed April 11, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *tractors with or without attachments* (except tractors used for pulling highway trailers), *lift trucks, excavators, motor graders, scrapers, engines, generators, generators and engines combined, road rollers, pipe layers, dump trucks with or without bodies* designed for off-highway use, and (2) *parts, attachments, and accessories* for the above from the plant sites and facilities of Caterpillar Tractor Co., located in Scott County, Iowa, to points in Montana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Billings, Montana.

No. MC 117119 (Sub-No. 619), filed March 21, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Foodstuffs and baby supplies (except commodities in bulk), when loaded in temperature controlled equipment, from the facilities of Gerber Products Co. at Fort Smith, Ark., to points in Iowa, Nebraska, South Dakota, restricted to traffic originating at the named points and destined to points in the states named.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 117119 (Sub-No. 620), filed March 21, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Nuts, edible, shelled (except commodities in bulk), from Sacramento, California to the facilities of Ludens, Inc. at Reading, Pennsylvania.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Sacramento, Calif., or Washington, D.C.

No. MC 117574 (Sub-No. 283), filed March 14, 1977. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1078 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (except truck tractors); (2) *attachments, parts and equipment* designed for use with tractors, when moving in mixed loads with tractors, from points in Harrison County, Miss., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (3) *materails, equipment and supplies* used in the assembly and distribution of, and *equipment* designed for use with the articles described in (1) and (2) above, from points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, to Harrison County, Miss., restricted in (3) above, to traffic destined to the facilities utilized by International Harvester Company located in Harrison County, Miss.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 117686 (Sub-No. 168), filed March 18, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar*, in containers, from Gramercy, La., to points in North Dakota, South Dakota, Minnesota and Nebraska.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 118202 (Sub-No. 73), filed March 21, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Thomas J. Beener, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical conduit pipe, wire, cable*, and *electrical supplies*, from Maspeth and Hicksville, N.Y.; Baltimore, Md.; Linden, New Brunswick, and Edison, N.J.; Pawtucket, R.I.; Moundsville, W. Va.; Wheatland, Pa.; Bellevue and Cleveland, Ohio, and Plano, Tex., to points in Wisconsin, Minnesota, and Watertown, S. Dak.; (2) *plumbing fixtures* and *supplies*, from Perrysville, Ohio and Kohler, Wis., to ponts in Wisconsin, Minnesota, and Watertown, S. Dak.; (3) *kitchen cabinets*, from Louisville, Ky., to points in Wisconsin, Minnesota, and Watertown, S. Dak.; and (4) *water heaters*, from Chattanooga, Tenn., to points in Wisconsin, Minnesota, and Watertown, S. Dak.; and (5) *heating* and *air conditioning units*, and *parts therefor*, from Norman, Okla., to points in Wisconsin, Minnesota, and Watertown, S. Dak., restricted in (1) through (5) above to shipments destined to the warehouses and job sites of J. H. Larson Electrcial Company located in Wisconsin, Minnesota, and Watertown, S. Dak.

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NOTE.—Applicant holds motor contract carrier authority in No. MC 134631 and sub numbers thereunder, therefore dual operations may be involved. Applicant states an application is now pending to convert this contract carrier authority to common carrier authority in MC 118202 (Sub-No. 60). If a hearing is deemed necessary, the applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 118263 (Sub-No. 67), filed March 17, 1977. Applicant: COLDWAY CARRIERS, INC., P.O. Box 38, Clarksville, Ind. 47130. Applicant's representative: William P. Whitney, Jr., Suite 708, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Kraft Inc., located at Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania (except Sharon), Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origin points and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 119489 (Sub-No. 45), filed March 15, 1977. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, P.O. Box 708, Norfolk, Nebr. 68701. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the pipeline terminals of Gulf Central Pipeline Company located at or near Spencer and Holstein, Iowa; and David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 119531 (Sub-No. 163), filed March 21, 1977. Applicant: SUN EXPRESS, INC., P.O. Box 808, Warren, Ohio 44484. Applicant's representative: Paul F. Beery, 275 E. State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from West Chicago, Ill., to points in Colorado, Connecticut, Delaware, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Texas, West Virginia and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 119789 (Sub-No. 343), filed April 14, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant.) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting Foodstuffs (except commodities in bulk) and plastic and rubber articles when moving in mixed shipments with Foodstuffs (except commodities in bulk), from the plantsite and storage facilities of or utilized by Ross Laboratories, Division of Abbott Laboratories, located at or near Sturgis, Michigan, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming, restricted to the transportation of traffic originating at the above named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Columbus or Cleveland, Ohio.

No. MC 119792 (Sub-No. 61), filed April 18, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, a corporation, 3600 South Western Avenue, Chicago, Illinois 60609. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Illinois 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, Meat Products, Meat Byproducts, and Packinghouse Products* (except Hides and Commodities in bulk). From St. Louis, Missouri, East St. Louis and National Stockyards, Illinois to points in Arkansas, Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Missouri, or Chicago, Illinois.

No. MC 119988 (Sub-No. 108), filed March 8, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires and rubber products, and materials, equipment and supplies*, utilized in the manufacture and distribution thereof (except commodities in bulk and commodities which by reason of size or weight require the use of special equipment), between points in Oklahoma County, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 140271 and Sub 2 thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 123165 (Sub-No. 3), filed March 7, 1977. Applicant: ROBERTS TRADING CORP., 116 Buffalo Street, Canandaigua, N.Y. 14424. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wines*, from the facilities of Bisceglia Brothers Wine, Co., located at Madera, Calif.; Canadaigua Wine Company, Inc., located At Canandaigua, N.Y.; Hammondsport Wine Co., Inc., located at Hammondsport, N.Y.; Richard's Wine Cellers, Inc., located at Petersburg, Va., and Tenner Brothers, Inc., located at Patrick, S.C., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used in the manufacture, sale or distribution of wines, from points in the United States (except Alaska and Hawaii), to the origin points named in (1) above, under a continuing contract, or contracts, in (1) and (2) above with Bisceglia Brothers Wine Co.; Canadaigua Wine Company, Inc.; Tenner Brothers, Inc.; Richard's Wine Cellars, Inc., and Hammondsport Wine Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Rochester, N.Y., or Buffalo, N.Y.

No. MC 123233 (Sub-No 69), filed March 18, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d' Anjou, P.Q., Canada H1J 1C4. Applicant's representative: J. P. Vermette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from ports of entry on the International Bounary Line between the United States and Canada, located at points in Vermont and Maine, to points in Maine, restricted to the transportation of traffic having an immediately prior movement in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 123392 (Sub-No. 72), filed March 18, 1977. Applicant: JACK B. KELLEY, INC., Rt. No. 1, Box 400, Amarillo, Tex. 79106. Applicant's representative: Austin L. Hatchell, Perry-Brooks Building, Suite 1022, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Helium*, in bulk, from the facilities of Union Carbide Corporation, located at or near Bushton, Kans., to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Amarillo, Tex., Oklahoma City, Okla., or Dallas, Tex.

No. MC 123407 (Sub-No. 365), filed April 13, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from the ports of entry on the international boundary line between the United States and Canada, Province of Ontario, to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois.

No. MC 123407 (Sub-No. 367), filed April 13, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals* (except commodities in bulk and in tank vehicles), from and to the suppliers, customers, and facilities of Eisenman Chemical Company located in the United States (except Alaska and Hawaii) for the account of Eisenman Chemical Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colorado.

No. MC 123744 (Sub-No. 28), filed April 17, 1977. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from Summerville, Pa., to points in New Jersey and New York, Connecticut, Massachusetts, Rhode Island, Virginia, North Carolina, Maryland, Delaware, New Hampshire, Vermont, Maine, West Virginia, Indiana and Illinois, restricted to traffic originating at and destined to the origin and destinations above specified.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 124078 (Sub-No. 720), filed March 10, 1977. Applicant: SCHWERMAN TRUCKING CO. a corporation, 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica products*, from Norwich and South Windsor, Conn., to points in Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Virginia.

NOTE.—Applicant holds contract carrier authority in MC 113832 (Sub-No. 68), therefore dual operation may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 124078 (Sub-No. 723), filed April 15, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Bristol, Wisconsin, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Missouri and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Milwaukee, Wis. Common control may be involved.

No. MC 124078 (Sub No. 724), filed April 17, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aplite*, in bulk, from Montpelier, Va., to points in New Jersey, New York, North Carolina, and Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga. Common control may be involved.

No. MC 124111 (Sub-No. 54), filed February 24, 1977. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Ave., P.O. Box 2297, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Norfolk and Newport News, Va., to points in Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Misouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio, or Washington, D.C.

No. MC 124211 (Sub-No. 289), filed April 12, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Applicant seeks authority to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting as follows: (1) *Cellular products and fiberglass products*, and (2) *such commodities* as are used in the production, distribution, and sale of those products described in (1) above: (a) Between points in Grant County, Indiana, and Ionia and Oakland Counties, Mich., on the one hand, and, on the other, points in the United States, except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; and, (b) between points in Union County, S. Dak., on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—If oral hearing is deemed necessary, applicant requests it be held at Omaha, Nebr. Common control may be involved.

No. MC 124230 (Sub-No. 31), filed March 16, 1977. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, Colo. 81321. Applicant's representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from East Helena, Mont., to points in Colorado, Idaho, Minnesota, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or San Francisco, Calif.

No. MC 124947 (Sub-No. 55), filed April 11, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Rd., Stroud, Okla. 74079. Applicant's representative: Michael J. Norton, Suite 404, Boston Bldg., P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cooling rooms*, knocked down flat from Dallas, Tex., and its commercial zone, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah, or Dallas, Tex.

No. MC 125018 (Sub-No. 4), filed March 9, 1977. Applicant: TENNESSEE TRUCK LINES, INC., Route No. 4, Dandridge, Tenn., 37725. Applicant's representative: Martin R. Martino, 207 C St. SE., Washington, D.C. 20003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods and animal foods*, between Chestnut Hill and Clinton, Tenn., and points in Missouri, New York, Oklahoma, and Texas; (2) *canned goods, materials, equipment, and supplies* used in canning, packaging, and distributing canned goods, and materials for the production of cans, between points in Iowa, Mississippi, New York, Oklahoma, Pennsylvania, South Carolina, Texas, and West Virginia and Chestnut Hill and Clinton, Tenn.; (3) *materials* used in the production of shipping containers for canned goods and animal foods, between Fernadina Beach, Fla., and Knoxville, Tenn.; (4) *materials* used in the production of shipping containers for canned goods, between Port St. Joe, Fla., and Memphis, Tenn.; (5) *canned goods and animal foods*, between Blytheville, Ark., and points in California, Colorado, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, Ohio, Oklahoma, Pennsylvania, New York, and Maryland; (6) *canned goods, materials, equipment, and supplies* used in canning,

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packaging, and distributing canned goods and materials used in the production of cans, between points in Alabama, California, Colorado, Florida, Indiana, Iowa, Kansas, Minnesota, Mississippi, Missouri, New York, Ohio, Oklahoma, Pennsylvania, and Virginia and Blytheville, Ark.; (7) *canned goods and animal foods*, between Augusta, Wis., and points in Colorado, Indiana, Kansas, Kentucky, Maryland, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, and Tennessee.

(8) *Canned goods, materials, equipment, and supplies* used in canning, packaging, and distributing canned goods, and materials used in the production of cans between points in Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Nebraska, North Dakota, Ohio, Oklahoma and Pennsylvania and Augusta, Wis.; (9) *canned goods*, between Shiocton, Wis., and points in California, Colorado, Kentucky, Missouri, North Dakota, and Texas; (10) *canned goods, materials, equipment, and supplies* used in canning, packaging, and distributing canned goods, between points in Michigan, Illinois, Tennessee, and Ohio and Shiocton, Wis.; (11) *canned goods*, between New Era, Mich., and points in Kentucky, Maryland, New Jersey, and Pennsylvania; (12) *canned goods, materials, equipment, and supplies* used in canning, packaging, and distributing canned goods, between points in New York, Tennessee and Wisconsin and New Era, Mich.; (13) *canned goods and animal foods*, between Muskogee, Okla., and points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Louisiana, Kansas, Michigan, Mississippi, Missouri, Tennessee, Texas, and Wisconsin; (14) *canned goods, animal foods, materials, equipment, and supplies* used in canning, packaging, and distributing canned goods, between points in Arkansas, Georgia, Illinois, Kansas, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Tennessee, Texas, Virginia and Wisconsin and Muskogee, Okla.; (15) *canned goods*, between Cecilia and Ville Platte, La., and points in Alabama, Arkansas, Florida, Georgia, Kentucky, Minnesota, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin; and (16) *canned goods, materials, equipment, and supplies* used in canning, packaging, and distributing canned goods, between points in Arkansas, Mississippi, Iowa, Ohio and Tennessee and Cecilia and Ville Platte, La., restricted in (1) through (16) above to commodities in bulk, in tank vehicles and refrigerated vehicles, under a continuing contract or contracts with Bush Brothers & Co. and subsidiaries and affiliated companies.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Knoxville, Tenn.

No. MC 125368 (Sub-No. 17), filed April 15, 1977. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, N.C. 28445. Applicant representative: C. W. Fletcher (same address). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Section A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from plant site and storage facilities of Swift Fresh Meats Co. plant at or near Cactus, Tex., to points in Alabama, Georgia, North Carolina, South Carolina, Tennessee (except Memphis) and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Chicago, Ill.

No. MC 126539 (Sub-No. 28), filed March 15, 1977. Applicant: KATUIN BROS., INC., 102 Terminal St., P.O. Box 1127, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Hygrade Food Products Corp., located at or near Storm Lake and Cherokee, Iowa, to points in Indiana and Ohio, restricted to traffic originating at the named origin points, and destined to the named destination states.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129135 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or Chicago, Ill.

No. MC 127539 (Sub-No. 56), filed March 24, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave., East, Tacoma, Wash. 98424. Applicant's representative: Michael D. Duppenthaler, 607 3rd Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Rogers Walla Walla, Inc., located at Walla Walla, Wash., and Milton-Freewater, Oreg., to points in California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 128246 (Sub-No. 18), filed March 17, 1977. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box A.D. Watsonville, Calif. 95076. Applicant's representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, Va. 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts* and articles *distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Wichita, Kans., to Alpine, El Paso, Fort Stockton, Marfa, Midland, Odessa, and Pecos, Tex., and points in New Mexico, restricted to a transportation service to be performed under continuing contract or contracts with Safeway Stores, Inc. of Oakland, Calif.

NOTE.—Applicant states the authority sought involves only the territorial expansion of the present contract carrier service being provided by applicant under continuing contracts with Safeway Stores Inc. at Oakland, Calif. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 128246 (Sub-No. 19), filed April 11, 1977. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box A.D., Watsonville, Calif. 95076. Applicant's representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, Va. 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), from the plantsite and warehouse facilities of Payton Packing Co. at or El Paso, Tex., the plantsite and warehouse facilities of Glover Packing Co. at or near Roswell, N. Mex., the plantsite and warehouse facilities of Swift & Co. at or near Clovis, N. Mex.; and the plantsite and warehouse facilities of Schwartzman Packing Co. at or near Albuquerque, N. Mex., to the plantsite and warehouse facilities of the Safeway Stores, Inc. Meat Processing Plant at or near Wichita, Kans., restricted to the transportation service to be performed under a continuing contract or contracts with Safeway Stores, Inc. of Oakland, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128879 (Sub-No. 24), filed March 15, 1977. Applicant: C–B TRUCK LINES, INC., P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Roland Rice, Suite 501, Perpetual Bldg., 1111 E St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Amarillo, Tex., and Klamath Falls, Oreg.: From Amarillo over U.S. Highway 66 to junction U.S. Highway 85, thence over U.S. Highway 85 to junction New Mexico Highway 44, thence over New Mexico Highway 44 to junction U.S. Highway 550, thence over U.S. Highway 550 to junction U.S. Highway 160, thence over U.S. Highway 160 to junction U.S. Highway 666, thence over U.S. Highway 666 to junction U.S. Highway 163, thence over U.S. Highway 163 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 89, thence over U.S. Highway 89 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 95, thence over U.S. Highway 95 to junction Nevada Highway 140, thence over Nevada Highway 140 to junction Oregon Highway 140, thence over Oregon Highway 140 to Klamath Falls and return over the same route.

NOTE.—The purpose of this application is to substitute Klamath Falls, Oreg., in lieu of El Paso, Tex., as an interchange point. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

No. MC 129032 (Sub-No. 36), filed April 14, 1977. Applicant: TOM INMAN TRUCKING, INC., P.O. Box 9667, Tulsa, Oklahoma 74107. Applicant's representative: John Paul Fischer, 256 Montgomery Street, 5th Floor, San Francisco, California 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chicoite*, NMFC Item 48115, a natural noncolloidal earth product having value for its absorptive properties, containing not less than 73 percent silica and not more than 10 percent alumina, in bags or boxes (except in bulk), from the plant sites and facilities of Excel-Mineral Company located at Taft, California, and approximately 16.9 miles north of McKittrick, California, to all points in the states of Wyoming, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Tennessee, Mississippi, and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, California. Common control may be involved.

No. MC 133119 (Sub-No. 118), filed March 18, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed meats*, from Booneville, Miss., to ports of entry on the International Boundary line between the United States and Canada located at or near Blaine, Wash., Sweetgrass and Raymond, Mont., Portal and Pembina, N. Dak., and Noyes, Minn., restricted to traffic moving to Provinces of British Columbia, Alberta, Saskatchewan and Manitoba, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Memphis, Tenn.

No. MC–133541 Sub No. 4, filed March 21, 1977. Applicant: McKIBBEN MOTOR SERVICE, INC., Smalley Road and Big 4 Railroad, Cincinnati, Ohio 45215. Applicant's representative: Richard Brandon, 220 West Bridge Street, Post Office Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes transporting fibreboard containers and metal containers from the facilities of Astro Container Corporation at or near Cincinnati, Ohio to Indiana, Pennsylvania, Tennessee, and West Virginia, and materials used in manufacture of fibreboard containers and metal containers from points in Indiana, Tennessee, Pennsylvania and West Virginia to the facilities of Astro Container Corporated at or near Cincinnati, Ohio, under a continuing contract, or contracts, with Astro Container Corporation.

NOTE.—If a hearing is required applicant gives Columbus, Ohio, as its preference.

No. MC 133566 (Sub-No. 79), filed March 18, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 1573, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft, Inc., located at Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to traffic originating at the above named origin and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or New York City, N.Y.

No. MC 133591 (Sub-No. 35), filed March 21, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foods, foodstuffs, food treating compounds, chemicals and additives, advertising paraphernalia*, and *materials, equipment and supplies* used in the manufacture, preparation, sale and distribution of spices, extracts, convenience foods, confectionery products, food products, salad dressing, and foodstuffs; and (2) *those commodities*, the transportation of which is exempt or partially exempt from regulation under the provisions of Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, from points in California (except from the facilities of Castle & Cooke Foods, located at San Francisco and San Jose, Calif., and from the facilities of Tillie Lewis Foods, Inc., located at or near Antioch, Modesto, Pittsburg and Stockton, Calif.), to points in Arkansas, Illinois, Kansas and Missouri.

NOTE.—Applicant holds contract carrier authority in MC 134494 (Sub-Nos. 1, 3, and 6), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or St. Louis, Mo.

No. MC 133689 (Sub-No. 117), filed March 23, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lamps, electric*, from Versailles, Ky.; Salem and Danvers, Mass.; and St. Mary's Pa., to Dearborn, Mich.; Cleveland, Ohio; Elk Grove Village, Ill.; Charlotte, N.C., and Atlanta, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133689 (Sub-No. 118), filed March 24, 1977. Applicant: OVERLAND EXPRESS, Inc., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Kraft, Inc., located at New Ulm, Minn., to Atlanta, Ga. and its commercial zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134068 (Sub-No. 35), filed March 15, 1977. Applicant: KODIAK REFRIGERATED LINES, INC., 3336 East Fruitland Avenue, P.O. Box 58327, Vernon, Calif. 90058. Applicant's representative: Joseph W. Harvey, P.O. Box 1018, Denver, Colo. 80201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel siding and accessories*, from Minneapolis, Minn., to points in California, Colorado, Idaho, New Mexico, Oregon, Texas and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134300 (Sub-No. 15), filed April 7, 1977. TRIPLE R EXPRESS, INC., P.O. Box 12866, 498 First Street Northwest, New Brighton, Minnesota 55112. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minnesota 55104. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting frozen foods, from the plant site and/or storage facilities utilized by Seabrook Foods, Inc., at Seabrook, New Jersey, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania (west of Highway 219), and Wisconsin.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minnesota.

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No. MC 134387 (Sub No. 45), filed March 18, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers*, from points in Los Angeles County, Calif., to points in Washoe County, Nev.

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at Los Angeles County, Calif.

No. MC 134755 (Sub-No. 103), filed April 15, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) Earthenware, from Dundee, Monmouth, and Morton, Ill., East Liverpool and Wellsville, Ohio, York, Pa., and Clarksburg, W. Va., to Hannibal, Kansas City, Sedalia, and Sweet Springs, Mo.;

(2) Coil steel and sheet steel, from Portage, Ind., Warren, Yorkville and Youngtown, Ohio, Bakerstown and Pittsburgh, Pa., and Weirton, W. Va., to Hannibal, Kansas City, Sedalia, and Sweet Springs, Mo.;

(3) Earthenware, from Aspers, Pa., to Hannibal, Kansas City, Sedalia, and Sweet Springs, Mo.;

(4) Earthenware, from York, Aspers, and Canonsburg, Pa., East Liverpool and Wellsville, Ohio, Chester and Clarksburg, W. Va., and Dundee, Monmouth, and Morton, Ill., to Albany, Mo.;

(5) Earthenware, from Cannonsburg, Pa., and Chester, W. Va., to Hannibal, Sweet Springs, Sedalia, and Kansas City, Mo.;

(6) Coil steel and sheet steel, from Warren and Yorkville, Ohio, Bakerstown and Pittsburgh, Pa., Weirton, W. Va., Portage and Gary, Ind., and Chicago and Joliet, Ill., to Albany, Mo.;

(7) Coil steel and sheet steel, from Gary, Ind., and Chicago and Joliet, Ill., to Hannibal, Sweet Springs, Sedalia, and Kansas City, Mo.;

(8) Electrical cords, electrical switches, circuit breakers, and lead wires, from Bridgeport, Conn., and Pawtucket and Providence, R.I., to Clinton, Sweet Springs, Sedalia, Hannibal, and Albany, Mo.;

(9) Materials and supplies (except in bulk) used in the manufacture of crockpots and small kitchen appliances, from points in Ohio, Pennsylvania, and West Virginia, to Albany, Sedalia, Clinton, and Sweet Springs, Missouri;

(10) Earthenware and small kitchen appliances, from the plantsite and storage facilities utilized by Rival Manufacturing Company at or near Jackson, Mississippi, to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, South Dakota, Wyoming, Missouri, Minnesota, Nebraska, Iowa, Florida, Georgia, Massachusetts, New York, North Carolina, Pennsylvania, South Carolina, Virginia, West Virginia, Louisiana, Arkansas, Kentucky, Tennessee, and Alabama. Restriction: The operations authorized in (1) through (10) are restricted to traffic originating at the named origins and destined to the facilities of Rival Manufacturing Company.

(11) (a) Small kitchen appliances and (b) equipment, material, and supplies (except in bulk), used in the sale, distribution, and manufacture of the commodities in (a) above, between Jackson, Miss., on the one hand, and, on the other, points in Missouri (except Kansas City and St. Louis and their commercial zones as defined by the Commission), restricted to traffic originating at or destined to the facilities of Rival Manufacturing Company.

NOTE.—The purpose of paragraphs (1) thru (8) and paragraph (11) of this application is to convert permits and MC-138398 (Sub Nos. 2, 5, 9, 11 and 16; paragraph 9 is to convert unopposed pending application MC-138398 (Sub 19); paragraph (10) is to convert permits Charter was authorized to acquire in MC-F-12570 and change the commodity description from ceramic tile to earthenware and small kitchen appliances (such as crockpots, can openers, and ice crushers).

NOTE.—Applicant holds motor contract carrier authority in MC-138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Missouri or St. Louis, Missouri.

No. MC 135082 (Sub-No. 45), filed April 11, 1977. Applicant: BURSCH TRUCKING, INC. doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road N.E., Albuquerque, New Mexico 87125. Applicant's representative: DON F. JONES (same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, lumber products, wood products and millwork* (except commodities in bulk moving in tank vehicles), (a) Between points in Arizona, Colorado and New Mexico. (b) From points in Arizona, Colorado and New Mexico, to points in the United States (except Alaska and Hawaii. (c) From points in Arkansas, Kansas, Louisiana, Missouri, Mississippi, Oklahoma, Texas and Wyoming, to points in Arizona, Colorado, New Mexico and Utah. (d) From points in California, Idaho, Montana, Nevada, Oregon, Washington, Utah and Wyoming, to points in Arizona, Colorado, New Mexico, Arkansas, Oklahoma, Missouri, Arkansas, Louisiana and Texas; (2) *Resin and wax emulsion, in shipper-owned containers*, between points in New Mexico on the one hand, and, on the other, points in Texas and Arkansas; and (3) *Machinery, equipment and supplies destined to sawmill, lumber products and wood products mill locations* (except commodities in bulk moving in tank vehicles), from points in the United States (except Alaska and Hawaii), to points in Arizona, Colorado, New Mexico and Utah.

NOTE.—Applicant intends to tack the separate authorities herein sought under paragraphs (a), (b), (c), and(d) at points in the common gateway states of Arizona, Colorado and New Mexico in order to provide a through service from the origin states specified in paragraphs (c) and (d) to the destination states specified in paragraph (b), and authority to so tack and provide said through service is hereby sought and requested in this application. Applicant holds contract carrier authority in No. MC 115524 (Sub-No. 2) and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Albuquerque, N. Mex.; Portland, Oreg.; Dallas, Tex.; or Phoenix, Ariz.

No. MC 135684 (Sub-No. 30), filed March 15, 1977. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Ronald L. Knorowski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets and granules*, and *powder* in bulk, in tank vehicles. From Edison, N.J., to points in Delaware, Maine, Maryland, New Hampshire, Vermont, and those in Pennsylvania west of a line beginning at the Pennsylvania-Maryland State Line and extending along unnumbered highway (formerly portion U.S. Highway 111), through Shrewsbury and Jacobus, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through York, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction Pennsylvania Highway 295, thence along Pennsylvania Highway 295 through Zions View and Strinestown, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through Lemoyne, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction U.S. Highway 15 near Harrisburg, Pa. and thence along Highway 15 to the Pennsylvania-New York State line.

NOTE.—Applicant holds contract carrier authority in various subs under MC 87720, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York or Washington, D.C.

No. MC 136086 (Sub-No. 6) (Partial Correction), filed February, 22, 1977, published in the FEDERAL REGISTER issue of April 7, 1977, and republished in part as corrected this issue. Applicant: BACIL GUILEY, doing business as GUILEY TRUCKING, 8615 Pecan Avenue, Fontana, Calif. 92335. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, Calif. 90010. The purpose of this partial republication is to indicate the correct request of authority in (1) should read as follows: "*Dies and die molds* used in the manufacture and processing of steel roofing, siding and floor decking in mixed shipments with steel roofing, siding and floor decking, between the plantsites of Verco Manufacturing, Inc., located at Phoenix, Ariz., Fontana, Calif., and Everett, Wash." The rest of the publication remains the same.

No. MC 136168 (Sub-No. 14), filed April 15, 1977. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, Missouri 65340. Applicant's Representative: Donald L. Stern, 530 Univac Building, 7100 W. Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and warehouse facilities utilized by Fischer Packing Co., a subsidiary of Wilson Foods Corporation, at Louisville, Kentucky, to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia; (2) Returned shipments, and materials, supplies and equipment (except commodities in bulk and those shipments requiring special equipment) utilized in the manufacture, sale and distribution of the commodities specified in (1) above, from points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia to the facilities specified as origins in (1) above; restricted (a) to traffic originating or terminating at the plant site and warehouse facilities utilized by Fischer Packing Co., a subsidiary of Wilson Foods Corporation at Louisville, Kentucky; and (b) limited to a transportation service to be performed under a continuing contract with Fischer Packing Co., a subsidiary of Wilson Foods Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Texas, or Kansas City, Missouri. Dual operations may be involved.

No. MC 136601 (Sub-No. 5), filed March 17, 1977. Applicant: WILLIAM L. MAYS AND RAYMOND F. MAYS, doing business as RAYMOND F. MAYS & SON, P.O. Box 190-B, Amherst, Va. 24521. Applicant's representative: R. Cameron Rollins, 321 E. Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete burial vaults and crypts*, from the plantsite of Everlast Precast Products, a division of Everlast Burial Vaults, Inc., successor to Precast Products, Inc., located at Lynchburg, Va., to those points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada, under a continuing contract, or contracts, with Everlast Precast Products, a division of Everlast Burial Vaults, Inc., successor to Precast Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Nashville, Tenn.

No. MC 136786 Sub-No. 112), filed March 11, 1977. Applicant: ROBCO TRANSPORTATION, INC., 309 5th Avenue Northwest, New Brighton, Minn. 55112. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C to Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corporation, located at Albert Lea, Minn., to points in Virginia, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Kansas City, Mo.

No. MC 136916 (Sub-No. 16), filed April 5, 1977. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, N.J. 07848. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hard Ferrites*, in bulk, in dump vehicles, from Edgewater, N.J., to Saugerties, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 138065 (Sub-No. 6), filed April 13, 1977. Applicant: LOU BOLE CARPET CARRIERS, INC., 34-19 24th Street, L.I.C., N.Y. 11106. Applicant's representative: Michael R. Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and materials, supplies and equipment used in the installation of floor covering* (except commodities in bulk), between carrier's terminal facilities in Belleville, N.J., on the one hand, and, on the other, New York, N.Y., Nassau, Rockland, Suffolk, and Westchester Counties, N.Y.; Fairfield County, Conn.; Bergen, Passaic, Hudson, Essex, Union, Middlesex, Somerset, Morris, Monmouth, Sussex, Warren, and Hunterdon Counties, N.J.; those points in Mercer County, N.J. on and north of a line beginning at junction New Jersey-Pennsylvania State line and Interstate Highway 195 and extending along Interstate Highway 195 to the Mercer-Monmouth County line; and those points in Ocean County, N.J. on and north of a line beginning at junction Monmouth-Ocean County line and Interstate Highway 195 and extending along Interstate Highway 195 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction New Jersey Highway 549, thence along New Jersey Highway 549 to the Atlantic Ocean.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 138157 (Sub-No. 34), filed April 18, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tennessee 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Flexible ductwork and air conditioning registers, from the facilities of Goodman Manufacturing Corp. at or near Houston, Texas to points in the United States. Restricted to traffic originating at the facilities of Goodman Manufacturing Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Texas. Applicant holds contract carrier authority in MC-134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved.

No. MC 138304 (Sub-No. 13), filed March 21, 1977. NATIONAL PACKERS EXPRESS, INC., 3445 Patterson Plank Road, North Bergen, N.J. 07047. Applicant's representative: Craig B. Sherman, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, Fla. 33154. Authority sought as a *common carrier*, over irregular routes, transporting: *Breadcrumbs and syrups* (except commodities in bulk) from Evansville, Ind. to points in Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts and New Hampshire.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Miami, Fla., Washington, D.C., or Chicago, Ill.

No. MC 138308 (Sub-No. 20), filed March 15, 1977. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, Miss. 39205. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed glass*, from Cleveland, Ohio, to points in Texas.

NOTE.—Applicant holds contract carrier authority in MC 128592, therefore dual operations may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 138345 (Sub-No. 7), filed March 17, 1977. Applicant: BASIL B. GORDAN, doing business as VALLEY SPREADER COMPANY, 260 North 9th

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Street, P.O. Box 673, Brawley, Calif. 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, from Brea, San Diego, and points in Imperial County, Calif., to points in Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Yuma, Ariz., or Los Angeles, Calif.

No. MC 138875 (Sub-No. 53), filed March 21, 1977. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and potato products* other than frozen (except products in bulk, meats, meat products, packinghouse products as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from points in Idaho, Oregon, and Washington, to points in Arkansas, Louisiana, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho, or Portland, Oreg.

No. MC 138875 (Sub-No. 55), filed April 18, 1977. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID. 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Rd., Boise, ID. 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such products as are dealt in by tile, floor ceiling wall and counter covering distributors, from The facilities of Color Tile Super Marts, Inc. at Compton, Ca., to the facilities of Color Tile Super Marts, Inc. located at Boise and Idaho Falls, Id., and Great Falls, Mt.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Houston, Tex., or Washington, D.C.

No. MC 139391 (Sub-No. 6), filed March 18, 1977. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, Ark. 72394. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal printing press rollers*, between the facilities of Acrata Graphics, located at Depew, N.Y., on the one hand, and, on the other, the facilities of S & M Rotogravur Service, Incorporated, located at New Berlin, Wis., under a continuing contract, or contracts, with Arcata Graphics.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, N.Y., or Washington, D.C.

No. MC 139495 (Sub-No. 230), filed April 6, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *diagnostic products, medicines, drugs, sunglasses, and dental supplies and materials*, in vehicles equipped with mechanical refrigeration, from the facilities used by Warner-Lambert Company at or near Morris Plains, N.J. to Grand Rapids, Mich.

NOTE.—Applicant holds contract carrier authority in MC–133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139577 (Sub-No. 3) (amendment), filed March 4, 1977, published in the FEDERAL REGISTER issue of April 21, 1977, and republished as amended this issue. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, Wis. 53935. Applicant's representative: Delbert D. Young (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and materials, equipment and supplies* (except commodities in bulk) used or useful in the manufacture, sale or distribution of canned goods, between Antigo, Cambria, Clintonville, Friesland, Galesville, Markesan, Theresa, and the Township of Mackford, Green Lake County, Wis., on the one hand, and, on the other, points in the United States (except Alaska, Arizona, California, Hawaii, Nevada, New Mexico, Oregon and Washington), restricted to shipments originating at or destined to the above specified points.

NOTE.—The purpose of this republication is to indicate the addition of the Township of Mackford, Green Lake County, Wis. as an additional base point. If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis., or Chicago, Ill.

No. MC 139973 (Sub-No. 24) (partial correction), filed March 10, 1977, published in the FEDERAL REGISTER issue of April 21, 1977 as No. MC 138873 (Sub-No. 24), and republished in part as corrected this issue. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. The purpose of this republication in part is to indicate the correct docket number assigned to this proceeding as No. MC 139973 (Sub-No. 24) in lieu of No. MC 138873 (Sub-No. 24) as previously published in error. The rest of the publication remains the same.

No. MC 140389 (Sub-No. 14), filed March 17, 1977. Applicant: OSBORN TRANSPORTATION, INC., Highway 77, P.O. Box 1830, Gadsden, Ala. 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of or used by Packers Cold Storage located at or near Laramie and Cheyenne, Wyo., to Alabama, California, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Mississippi, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Utah, Washington, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Washington, D.C.

No. MC 140539 (Sub-No. 2), filed March 17, 1977. Applicant: TENNESSEE EXPRESS, INC., 22 Stanley Street, Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and telephone equipment, materials and supplies), between the facilities of the Tennessee Valley Authority Nuclear Generator Plant located at or near Hartsville, Tenn., on the one hand, and, on the other, points in Davidson County, Tenn.

NOTE.—Applicant holds contract carrier authority in MC 136714 (Sub-No. 1), therefore dual operation may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chattanooga or Nashville, Tenn.

No. MC 140581 (Sub-No. 8), filed April 15, 1977. Applicant: TOMMY HAGWOOD, d.b.a. HAGWOOD ENTERPRISES, Route 1, Box 222–A, Trafford, Alabama 35172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Virginia 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Motor vehicles, in truckaway service, Between Port Hueneme, Calif., on the one hand, and, on the other, points in Louisiana, Mississippi, Alabama, Georgia, Tennessee, Florida, South Carolina, North Carolina, Virginia, Maryland, Delaware, the District of Columbia, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, Texas, New Hampshire, and Maine. Restriction: Restricted against the transportation of trailers, semi-trailers, and trailer chassis (other than those designed to be drawn by passenger automobiles), in initial or secondary movements, in truckaway service; new self-propelled passenger or property-carrying electric motor vehicles weighing less than 1,000 lbs.; self-propelled passenger or property-carrying golf buggies, or commercial adaptations thereof; three wheeled motor vehicles and trailers; and motocycles and motor scooters.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif.

No. MC 140612 (Sub-No. 15), filed March 18, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, 521 South 14th St., Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Terminal Ice and Cold Storage Co., located at or near Bettendorf, Iowa, to points in Kentucky and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 138003 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Bettendorf, Iowa.

No. MC 140829 (Sub-No. 43), filed March 11, 1977. Applicant: CARGO CONTRACT CARRIER, CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities utilized by Farmland Foods, Inc., located at or near Crete, Nebr.; Denison, Carroll and Iowa Falls, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in various subs under MC 136408, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Omaha, Nebr.

No. MC 140846 (Sub-No. 4), filed April 11, 1977. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, Massachusetts 02119. Applicant's representative: Jeremy Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *microfiche, microfilm*, and *computer printout tapes*, between Boston, Massachusetts and Nashua, New Hampshire, under a continuing contract or contracts with Graphic Microfilm, Inc., Boston, Massachusetts, restricted against the transportation of shipments weighing in the aggregate more than 50 pounds from one consignor at one location to one consignee at one location on any one day.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Massachusetts.

No. MC 140855 (Sub-No. 4), filed March 17, 1977. Applicant: TAB TRUCKING, INC., E. 3628 Syndicate Blvd., Spokane, Wash. 98202. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Recycled garnet, magnesium and zinc oxide*, in sacks and in bins, from Spokane County, Wash., on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii, under a continuing contract or contracts with Inland Zinc Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Spokane, Wash.

No. MC 14092 (Sub-No. 1), filed March 17, 1977. Applicant: CLOVERDALE TRANSPORTATION COMPANY, a corporation, 103 Fourth Avenue NW., Mandan, N. Dak. 58554. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr., 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood and particleboard*, from points in Idaho, Montana, Oregon and Washington to points in Minnesota and North Dakota, under a continuing contract or contracts with Emmer Brothers Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 141033 (Sub-No. 21), filed March 17, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Domestic air coolers, heat exchangers, equalizers, air conditioning equipment, electric warm air furnaces, evaporator coils* and *associated equipment*, from Dallas, Tex., to points in the United States (except Alaska and Hawaii); and (2) *returned shipments* and *materials* and *supplies* used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Dallas, Tex.

NOTE.—Applicant holds contract carrier authority in MC 124796 Sub-No. 11 and other subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex., or Washington, D.C.

No. MC 14107 (Sub-No. 9), filed March 21, 1977. Applicant: LARANETA TRUCKING COMPANY, INC., 870 West 9th Street, San Pedro, Calif. 90731. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plant sites and storage facilities of Heinz U.S.A., Division of H. J. Heinz Company, located at or near Tracy and Stockton, Calif., to points in Idaho, Oregon, Utah and Washington, under a continuing contract, or contracts, with Heinz U.S.A., Division of H. J. Heinz Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif.

No. MC 141426 (Sub-No. 4), filed March 10, 1977. Applicant: WHEATON CARTAGE CO., a corporation, Millville, N.J. 08332. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., 805 McLachlen Bank Building, Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic; feldspar; talc*, and *clay articles and products; gift items; molds and machinery; bottle coating systems;* and *parts and accessories* for the above-mentioned commodities; and *materials, equipment and supplies* used or useful in the production, fabrication, sale, distribution, assembly, finishing, coating, pressing and molding of the above-mentioned commodities, between the plant site of and warehouse facilities utilized by Flat River Glass Company located at or near Flat River, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Flat River Glass Company.

NOTE.—Applicant states it already holds contract carrier authority under Docket No. MC 141426 and Subs to perform contract carrier services for Wheaton Industries and its affiliated companies, Dorchester Industries, Inc., and Decora, Inc. Flat River Glass Company is also an affiliated company with Wheaton Industries. Applicant is a commonly-controlled contract carrier, that is common ownership between carrier and shipper, and applicant further states that it is only seeking here to expand its contract carrier operations for Wheaton Industries and its affiliated companies. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141570 (Sub-No. 5), filed March 21, 1977. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Avenue North, P.O. Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines*, and *parts, materials and supplies* used in the manufacture, installation and sale of such commodities, between Atlanta, Ga., and points in its commercial zone, on the one hand, and, on the other, points in Alabama, Louisiana and Mississippi, under a continuing contract, or contracts, with Xerox Corporation.

NOTE.—Applicant holds common carrier authority in MC 136269 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 141776 (Sub-No. 9), filed March 16, 1977. Applicant: FOODTRAIN, INC., Spring and South Center

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Streets, Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Suite 407, Walker Building, 734 15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft Inc. located at or near Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Philadelphia, Pa.

No. MC 142129 (Sub-No. 3), filed April 18, 1977. Applicant: VALLEY PARCEL SERVICE, INC., P.O. Box 11486, Fresno, California 93773. Applicant's representative: Rodney D. Heintz, P.O. Box 11486, Fresno, California 93773. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over irregular routes, between Fresno Airport on the one hand, and, on the other, points in Fresno, Kings, Tulare, Madera and Merced Counties, California. Restricted to transportation of traffic having a prior or subsequent out-of-State movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fresno, California, or San Francisco, California.

No. MC 142213 (Sub-No. 1), filed March 23, 1977. Applicant: COUNTY MOVING & STORAGE, CO., INC., Access Highway, Route 89, P.O. Box 91, Caribou, Maine 04736. Applicant's representative: Linda C. Harper (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Bangor or Presque Isle, Maine.

No. MC 142258 (Sub-No. 2), filed March 18, 1977. Applicant: DALE BLAND TRUCKING, INC., R.R. 1, Switz City, Ind. 47465. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Kentucky, to points in Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.; Chicago, Ill.; or Indianapolis, Ind.

No. MC 142606 (Sub-No. 1), filed April 10, 1977. Applicant: WESCO TRANSPORTATION, INC., 2222 W. Garvey, Suite L, West Covina, Calif. 91790. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., Suite 106, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *furniture parts* from Leitchfield, Ky., to Vernon, Calif., under a continuing contract or contracts with Universal-Seng Company, subsidiary of Hoover Ball and Bearing Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 142611 (Sub-No. 2), filed March 16, 1977. Applicant: HERMAN WILLIAMS TRUCKING CO., a corporation, 2301 Columbus-Manchester Expressway, Columbus, Ga. 31904. Applicant's representative: Herman Williams (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from Greenville, Ga., to Mahrt, Ala., under a continuing contract, or contracts, with Georgia Kraft Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus or Atlanta, Ga.

No. MC 142672 (Sub-No. 2), filed March 11, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Box 232, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, from Fort Smith and Van Buren, Ark., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tulsa, Okla., or Little Rock, Ark.

No. MC 142725 (Sub-No. 2), filed February 22, 1977. Applicant: NEVADA WESTERN CONCRETE, INC., 2600 Akron Way, Carson City, Nev. 89701. Applicant's representative: Lee Fanter (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Natural, crushed gypsum*, in bulk, in end dump type equipment, from the minesite of Western Gypsum Co., and/or Art Wilson Co., located in Lyon County, Nev., to points in California north of Fresno, points in Oregon south of U.S. Highway 20, and points in Ada, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Butte, Camas, Canyon, Caribou, Cassia, Elmore, Franklin, Gem, Jefferson, Jerome, Gooding, Lincoln, Madison, Oneida, Owyhee, Payette, Power, Teton, and Twin Falls Counties, Idaho, under a continuing contract or contracts with Western States Gypsum Co., and/or Art Wilson Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Carson City or Reno, Nev.

No. MC 142970 (Sub-No. 2), filed March 16, 1977. Applicant: BAILEY & WHITAKER TRUCKING, INC., P.O. Box 4011, Columbus, Ga. 31904. Applicant's representative: J. Michael May, Suite 400, 1447 Peachtree Street, N.E., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed granite*, from Columbus and LaGrange, Ga., to points in Barbour, Bullock, Chambers, Coffee, Covington, Dale, Geneva, Henry, Houston, Lee, Macon, Pike, Randolph, Russell and Tallapoosa Counties, Ala., under a continuing contract or contracts with Vulcan Materials Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 143024 (Sub-No. 1) (Correction), filed February 18, 1977, published in the FEDERAL REGISTER issue of April 7, 1977 as 129830 Sub-No. 10, republished as corrected this issue. Applicant: JACOBSMA TRANSPORTATION COMPANY, a corporation, 2600 Highway 75 North, Sioux City, Iowa 51105. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Oyens (Plymouth County), Iowa, to points in Minnesota, Nebraska and South Dakota, restricted to traffic originating at Oyens, Iowa, and destined to points in the named destination states.

NOTE.—The purpose of this republication is indicate the correct docket number MC 143024 Sub-1 in lieu of MC 129830 Sub-No. 10 which was previously published in error. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 143036 (Sub-No. 1), filed March 17, 1977. Applicant: JOHN L. KOOP, doing business as, CUSTOM TOWING, 4020 Steele Street, Denver, CO 80216. Applicant's representative: Arthur R. Hauver, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CQ 80264. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled and replacement motor vehicles*, in wrecker service, by the use of wrecker equipment only, between points in Colorado, on the one hand, and, on the other, points in Kansas, Nebraska, Wyoming, New Mexico, Utah, Oklahoma, Montana, South Dakota, Iowa, Missouri, Arizona, Nevada, California, Idaho, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colorado.

No. MC 143047 (Sub-No. 1), filed March 18, 1977. Applicant: C. W. MITCHELL, INC., doing business as, MITCHELL TRANSPORT, 4401 N. Westshore Blvd., Tampa, Fla. 33614. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, packaged, from East St. Louis, Ill.; Louisville, Ky., and points in Iowa, Missouri, Nebraska, Tennessee and Texas, to Tampa and Miami, Fla., under contract with Peninsular Meat Company.

NOTE.—Applicant holds common carrier authority in MC 140852, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla.

No. MC 143058 (Sub-No. 1), filed March 17, 1977. Applicant: TRANS WEST CARRIERS, INC., 1231 North Blue Gum Street, Anaheim, Calif. 92806. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, 6th floor, Beverly Hills, Calif. 90210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic articles*, from Wenatchee, Wash., to points in California, under a continuing contract or contracts with Dolco Packaging Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Burbank or Los Angeles, Calif.

No. MC 143068 (Sub-No. 1), filed March 21, 1977. Applicant: R.F. TRUCKING, INC., P.O. Box 648, Rocky Ford, Colo. 81067. Applicant's representative: F. Owen Kendrick, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities as are manufactured by, distributed by, dealt in by, and manufacturing materials and supplies utilized by, iron and steel manufacturers*, between Rocky Ford, Colorado, on the one hand, and on the other, points in the United States (except Alaska and Hawaii), restricted to service provided pursuant to a continuing contract or contracts with Double H Steel & Wire Co., Inc.

NOTES—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 143070 (Sub-No. 1), filed March 18, 1977. Applicant: SPRINGFIELD TRUCKERS, INC., P.O. Box 250, Ozark, Mo. 65671. Applicant's representative: Harry Ross, Jr., 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Rogers, Craig, and Ottawa Counties, Okla., to Springfield, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Kansas City or St. Louis, Mo.

No. MC 143081 (Sub-No. 1), filed April 8, 1977. Applicant: W. R. LALEVEE TRUCKING CO., INC., R.D. 1, Flemington, New Jersey 08822. Applicant's representative: John T. Hildemann, P.O. Box D, Newark, New Jersey 07105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Artificial kidneys, dialysate solution, dialysis treatment machines, and equipment, materials and supplies used or useful in the performance of dialysis treatment*, from Cinnamission and Delran Townships, New Jersey to dialysis clinics, hospitals and home treatment facilities in the states of Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, under continuing contract or contracts with Erika, Inc., located at Rockleigh, New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Newark, New Jersey, or New York, New York.

No. MC 143111, filed March 17, 1977. Applicant: HELLEN PARN, doing business as EAST-WEST ENTERPRISES, 463 McRoberts Avenue, Toronto, Ontario, Canada. Applicant's representative: Hellen Parn, (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Nails, staples*, and *equipment and supplies* used in the production of nails and staples, from the ports of entry on the International Boundary line between the United States and Canada, located on the Detroit and St. Clair Rivers, Mich.; to Des Plaines, Ill. and (2) *staples, hot tape, pneumatic nailers, pneumatic staplers* and *equipment and supplies*, used in the production, manufacture, and sales of nails, pneumatic nailers and pneumatic staplers, from Des Plaines, Ill., to the ports of entry on the International Boundary line between the United States and Canada, located on Detroit and St. Clair Rivers, Mich., under a continuing contract, or contracts, with Paslode Canada Reg'd, restricted to foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Buffalo, N.Y., or Detroit, Mich.

No. MC 143114, filed March 21, 1977. Applicant: STANDARD TRANSPORTATION CO., INC., Intersection of U.S. Highways 31 and 82, P.O. Box 102, Prattville, Ala. 36067. Applicant's representative: Ronald L. Stichweh, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Trailer axles, and parts, suspensions, landing gears, fifth wheels, hitches, and parts thereof, and mechanical refrigeration units, from points located in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana to points in states located west thereof, excluding Hawaii and Alaska, under a continuing contract or contracts with Standard Parts & Equipment Co., located at Portland, Oregon.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Birmingham, Ala.

No. MC 143124, filed April 5, 1977. Applicant: WARNER TRANSPORTATION COMPANY, a Corporation, 1721 Arch Street, Philadelphia, Pa. 19103. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, limestone products, concrete mix, sand mix, and mortar mix*, (except liquid commodities in bulk), from points in Tredyffrin, Charleston, and East Whiteland Townships, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Vermont, and Virginia, under a continuing contract, or contracts, with Warner Company.

NOTE.—The purpose of this application is to convert Applicant's certificate of public convenience and necessity into a permit. Applicant holds identical commodity and territorial authority as a common carrier in No. MC 135043. If a hearing is deemed necessary the applicant requests it be held at Washington, D.C. Applicant has submitted evidence of support with its application.

No. MC 143129, filed March 14, 1977. Applicant: B.J.T. TRANSPORT, INC., P.O. Box 4485, East Providence, R.I. 02915. Applicant's representative: Robert T. Amiss, 47 Timberland Drive, Riverside, R.I. 02915. Authority sought to operate as a *comomn carrier*, by motor vehicle, over irregular routes, transporting: *Heavy, specialized commodities*, which because of size, shape, and weight, require special handling, (except commodities in bulk, in tank vehicles), between points in Connecticut, Delaware, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 143173, filed March 18, 1977. Applicant: DEPENDABLE DELIVERY SERVICE, INC., 522 Twin Oaks Drive, Havertown, Pa. 19083. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by retail stores and mail order houses, from the facilities of Dependable Delivery Service, Inc., located at Philadelphia, Pa., to points in Delaware, Maryland, those points in New Jersey in and south of Hunterdon, Somerset, Middlesex, and Monmouth Counties, and points in Berks, Bucks, Chester, Cumberland, Delaware, Dauphin, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, and York Counties, Pa.; and (2) *returned shipments*, of the above described commodities, from the destination points named in (1) above, to the facilities of Dependable Delivery Service, Inc., located at Philadelphia, Pa.

NOTE.—Applicant seeks by this application to convert its permit in MC 127721 (Sub-No. 2), into a certificate of public convenience and necessity. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

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PASSENGER APPLICATIONS

No. MC 1515 (Sub-No. 223), filed March 16, 1977. Applicant: GREYHOUND LINES, INC., Suite 1602, Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers* in the same vehicle with passengers: (1) Between Boston, Mass., and Interchange No. 21A of the New York State Thruway (Interstate Highway 87): From Boston over the Massachusetts Turnpike (Interstate Highway 90) to junction with the New York State Thruway (Berkshire Section), thence over the New York State Thruway (Berkshire Section) to junction with the New York State Thruway (Interstate Highway 87) at Interchange No. 21A and return over the same route for the purpose of joinder only, serving no intermediate points but serving Interchange Nos. 14, 13, 12, 11, 10, 9, 6, 5, 4, and 2 of the Massachusetts Turnpike and Interchange No. B1 of the New York State Thruway (Berkshire Section); (2) between Framingham, Mass., and Interchange No. 13 of the Massachusetts Turnpike: From Framingham over Massachusetts Highway 30 to junction with access highway to the Massachusetts Turnpike, thence over said access highway to junction with the Massachusetts Turnpike at Interchange No. 13 and return over the same route serving all intermediate points; (3) between Worcester, Mass., and Interchange No. 11 of the Massachusetts Turnpike: From Worcester, Mass., over Massachusetts Highway 122 to junction with access highway to the Massachusetts Turnpike, thence over access highway to junction with the Massachusetts Turnpike at Interchange No. 11 and return over the same route serving all intermediate points; (4) between Worcester, Mass., and Interchange No. 10 of the Massachusetts Turnpike: From Worcester over Interstate Highway 290 to junction with the Massachusetts Turnpike at Interchange No. 10 and return over the same route serving all intermediate points.

(5) Between the junction of Massachusetts Highway 15 (Interstate Highway 86) and U.S. Highway 20 and Interchange No. 9 of the Massachusetts Turnpike: From the junction of Massachusetts Highway 15 and U.S. Highway 20 over Massachusetts Highway 15 to junction with the Massachusetts Turnpike at Interchange No. 9 and return over the same route serving no intermediate points; (6) between Springfield, Mass., and Interchange No. 6 of the Massachusetts Turnpike: From Springfield over Interstate Highway 291 to junction with the Massachusetts Turnpike at Interchange No. 6 and return over the same route serving all intermediate points; and (7) between Chicopee, Mass., and Interchange No. 5 of the Massachusetts Turnpike: From Chicopee over access highway to junction with the Massachusetts Turnpike at Interchange No. 5 and return over the same route serving all intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Boston or Springfield, Mass., or Albany, N.Y.

No. MC 67340 (Sub-No. 11), filed March 17, 1977. Applicant: RESORT BUS LINES, INC., 1010 Nepperhan Ave., Yonkers, N.Y. 10703. Applicant's representative: Samuel B. Zinder, 98 Cuttermill Rd., Great Neck, N.Y. 11021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at points in Westchester County, N.Y., and extending to Atlantic City, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 143052, filed March 11, 1977. Applicant: SAFARI TRAVEL SERVICES, INC., Route 10 at Hillside Ave., Succasunna, N.J. 07876. Applicant's representative: Carl F. Wronko (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle as passengers, in prearranged charter operations, from points in Morris County, N.J., to John F. Kennedy Airport and LaGuardia Airport, located at or near New York, N.Y., and to Piers, located in New York, N.Y., and return.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Morristown or Newark, N.J.

No. MC 143130, filed March 21, 1977. Applicant: RITCHIE BUS LINES, INC., 4 Meadow Rd., Northboro, Mass. 01532. Applicant's representative: Thomas N. Willess, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and baggage of passengers* in the same vehicle with passengers, in charter operations, by motor carrier, beginning and ending at Auburn, Berlin, Boylston, Clinton, Shrewsbury, Hudson, Marlboro, Northboro, Southboro, Westboro, and Worcester, Mass., and extending to points in Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Washington, D.C.

FREIGHT FORWARDER APPLICATION

No. FF-495, filed April 19, 1977. Applicant: PYRAMID INTERNATIONAL FORWARDING, INC., 479 South Airport Blvd., South San Francisco, Calif. 94080. Applicant's representative: Dan J. Lutkenhouse (same address as applicant). Authority sought to engage in operation, in interstate and foreign commerce, as a *freight forwarder*, through the use of the facilities of common carriers by rail, motor, water and express, in the transportation of *used household goods, unaccompanied baggage, and used automobiles*, between points in the United States (including Hawaii but excluding Alaska) restricted to the transportation of export-import traffic.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif. Common control may be involved.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before June 6, 1977. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13197. Authority sought for control by JACK C. ROBINSON, A SOLE PROPRIETOR, doing business as ROBINSON FREIGHT LINES, 3600 Papermill Road, P.O. Box 10234, Knoxville, TN 37919 of CUMBERLAND EXPRESS, INC., Box 38, Cornelia, GA 30531, and for acquisition by JACK C. ROBINSON, also of the Knoxville, TN., 37919 address of control of CUMBERLAND EXPRESS, INC., through the acquisition by JACK C. ROBINSON. Applicants' attorney: Warren A. Goff, 2008 Clark Tower, Memphis, TN 38137. Operating rights sought to be controlled: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment as a *common carrier* over regular routes, between Tompkinsville, Ky., and Whitley City, Ky., serving all intermediate points; Between junction U.S. Highway 127 and Kentucky Highway 90 and Albany, Ky., serving all intermediate points; Between Whitley City, Ky., and Atlanta, Ga., serving no intermediate points, but serving Chattanooga, Tenn., and junction U.S. Highway 27 and Interstate Highway 40 for purposes of joinder only; Between junction U.S. Highway 27 and Interstate Highway 40, near Harriman, Tenn., Tompkinsville, Ky., serving no intermediate points, but serving junction U.S. Highway 27 and Interstate Highway 40 and Tennessee Highway 53 and Interstate Highway 40 for purposes of joinder only; Between Chattanooga, Tenn., and junction Tennessee Highway 53 and Interstate Highway 40, serving no intermediate points and serving Chattanooga and junction Tennessee Highway 53 and Interstate Highway 40 for purposes of joinder only. JACK C. ROBINSON, a sole proprietor, d/b/a ROBINSON FREIGHT LINES, is authorized to operate as a common carrier in Georgia, Tennessee, Kentucky, Arkansas and Mississippi. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13198. Authority sought for purchase by BARON MOTOR CARRIERS, INC., 137-155 Blanchard Street, Newark, N.J. 07105, of a portion of the operating rights of WILMAR TRUCKING, INC., AS ASSIGNEE OF GEORGE MINISH, RECEIVER IN BANKRUPTCY, dba KIRBY & KIRBY, INC., c/o GEORGE MINISH, RECEIVER, 239 Main Street, West Orange, N.J. 07052, and for acquisition by ALBERT W. BARON, 137-155 Blanchard St., Newark, N.J. 07105, of control of such rights through the purchase. Applicants' attorney and representative: Morton E. Kiel, Practitioner, Suite 6193, 5 World Trade Center, New York, N.Y. 10048 and John P. Tynan and A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Trenton, N.J., and Philadelphia, Pa., serving all intermediate points: From Trenton, N.J., over U.S. Highway 206 to junction U.S. Highway 130, thence over U.S. Highway 130 to Camden, N.J., and thence across the Delaware River to Philadelphia, and return over the same route. Vendee is authorized to operate as a common carrier in New Jersey, and New York. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-F-13188 and MC-F-13189 are directly related.

No. MC-F-13199. Authority sought for control and merger by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, VA., 94025, of EASTERN MOTOR LINES, INC., Box 2686, Station A, Spartanburg, S.C. 29302, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., 601 California Street, San Francisco, CA. 94108, of control of such rights through the transaction. Applicants' attorneys: Eugene T. Liipfert, 1660 L Street, N.W., Washington, D.C. 20036, and Thomas A. Evins, 205 Magnolia Street, P.O. Box 451, Spartanburg, S.C. 29305. Operating rights sought to be controlled and merged: General commodities, as a common carrier over irregular routes between Spartanburg, S.C., on the one hand, and on the other Enorse, Laurens, Clinton, Whitmire, Buffalo, Union, Lockhart and Cherokee Falls, S.C., and those in South Carolina outside of Spartanburg County within 20 miles of Spartanburg, S.C.; and under a certificate of registration in Docket No. MC-101591 (Sub-No. 7), covering the transportation of General commodities as a common carrier, in interstate Commerce, within the State of South Carolina. Vendee is authorized to operate as a common carrier in all the states in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-42487 (Sub-No. 863) is a directly related matter.

No. MC-F-13201. Authority sought for purchase by W. J. CASEY TRUCKING & RIGGING CO., INC., 1200 Springfield Road, Union, N.J. 07083, of a portion of the operating rights of CHARLES W. YOUNG, JR., an individual, dba C. W. YOUNG & COMPANY, Route 559, Mays Landing, N.J. 08330, and for acquisition by NICHOLAS J. BIONDI, 81 Glenside Avenue, Scotch Plains, N.J. 07076 and JAMES P. BIONDI, 2625 Far View Drive, Scotch Plains, N.J. 07076, of control of such rights through the purchase. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Operating rights sought to be transferred: Industrial heating tanks, industrial dust collectors, scrubber tanks, all of which because of size or weight require the use of special equipment or handling, and parts thereof, as a common carrier over irregular routes from Keyport and Belford, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, with restrictions. Vendee is authorized to operate as a common carrier in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13202. Authority sought for joint control by RONALD REAGAN, 797 North Main Street, Akron, OH. 44310, and CARL W. REAGAN, 8418 Tallmadge Road, R.D., No. 6, Ravenna, OH. 44266, of (B) THE SERVICE TRANSPORT CO., 797 North Main Street, Akron, OH. 44310, and (BB) CHARTER EXPRESS, INC., 8418 County Highway 18, Ravenna, OH. 44266, of control of such rights through the transaction. Applicants' attorney: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, VA. 22210. Operating rights sought to be controlled: (B) General commodities, with certain specified exceptions, and numerous other specified commodities, as a common carrier, over regular and irregular routes, from, to, and between specified points in the States of Ohio, Michigan, Pennsylvania, New York, New Jersey, West Virginia, Maryland, and Illinois, with certain restrictions, serving various intermediate and off-route points, over alternate route for operating convenience only, as more specifically described in Docket No. MC-106373 and Sub numbers thereunder. (BB) Plastic, rubber, plastic and rubber products, and supplies and machinery used in the manufacture of such commodities as a common carrier over irregular routes between Fremont, Ohio, on the one hand, and, on the other, points in Massachusetts, New Jersey, New York, and Pennsylvania, with restrictions: such commodities as are manufactured, processed and/or dealt in by rubber manufacturers and steel products manufacturers, and equipment, materials, and supplies used in the conduct of such businesses, from Akron, Ohio, to points in Rhode Island, Massachusetts, and Connecticut, that part of New York east of a line beginning at Port Jervis, N.Y., and extending along U.S. Highway 209 to Kingston, N.Y., thence along U.S. Highway 9W to Albany, N.Y., thence along U.S. Highway 20 to Lafayette, N.Y., thence along U.S. Highway 11 to Watertown, N.Y., thence along New York N.Y., points on Long Island, N.Y., and points in that part of New Jersey north of New Jersey Highway 33, including points on the indicated portions of the highways specified; chemicals, from Naugatuck, Conn., to Akron, Ohio; scrap tires and tubes, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, Mass., Hartford Conn., Newark, N.J., and Albany and New York, N.Y., and points on Long Island, N.Y., to Akron, Ohio, with restrictions.

Plastic flakes, granules, lumpgs, paste, pellets, and powder, in containers, from Bellevue, Ohio, to Bridgeport, Middletown, and Wallingford, Conn., Wilmington, Del., Stoughton, Mass., Garwood, Hamburg, Hoboken, Mountain View, New Brunswick, and Paterson, N.J., Amsterdam, Hicksville, New York, and Smithtown, N.Y., and Nazareth and Philadelphia, Pa.; plastic scrap (except bulk shipments moving in tank vehicles), from Naugatuck, Conn., Boston, Fall River, Lawrence, and Springfield, Mass., Elizabeth, Garwood, Newark, and Trenton, N.J., Buffalo, Chester, Middleport, and New York, N.Y., and Economy, Jeannette, Philadelphia, Port Alleghany, Pottstown, and Rochester, Pa., to Bellevue, Ohio. This notice does not purport to be a complete description of all of the operating rights of the carriers involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of these carriers operating rights, without stating, in full, the entirety thereof. RONALD REAGEN holds no authority from this Commission. However it owns 100% of the stocks of Ron's Service Co., which in turn owns 100% of the stock of THE SERVICE TRANSPORT CO., a motor common carrier holding authority from the Interstate Commerce Commission in Docket No. MC-106373 and Subs thereto.

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CARL W. REAGAN holds authority from the Interstate Commerce Commission as an individual dba SOUTHEAST TRUCKING COMPANY, Docket No. MC–127527 and Subs thereto. A transfer of this authority is presently contemplated. CARL W. REAGAN also owns 100% of the stock of CHARTER EXPRESS, INC., a motor common carrier under Docket No. MC–123279 and Subs thereto. Application has been filed for temporary authority under section 210a (b).

NOTE.—The applicant proposes that the following restriction be imposed if the application is granted:

Restrictions: So long as Charter Express, Inc., and The Service Transport Co. are held under common control, the authority of Charter Express, Inc., which duplicates the authority of the Service Transport Co., shall not be severable by sale or otherwise from the authority of the Service Transport Co.

No. MC–F–13204: Authority sought for purchase by SYSTEM 99, 8201 Edgewater Drive, Oakland, CA. 94621, of a portion of the operating rights of BEST-WAY TRANSPORTATION, 5150 North 16th Street, Suite 232, Phoenix, AZ. 85016, and for acquisition by M. D. GILARDY, L. A. DORE', JR., and E. R. PRESTON, all of 8201 Edgewater Drive, Oakland, CA. 94621, of control of such rights through the purchase. Applicants' attorneys: Martin Rosen & Michael Stecher, 256 Montgomery Street, San Francisco, CA. 94104 and Phil B. Hammond, 111 West Monroe, 10th Fl., Phoenix, AZ. 85003. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier over regular routes between junction Interstate Highway 10 and U.S. Highway 60, and Phoenix, Ariz., serving all intermediate points: from junction Interstate Highway 10 and U.S. Highway 60 over U.S. Highway 60 via Hope, Aguila and Wickenburg, Ariz., to Phoenix and return over the same route; between Kingman, Ariz., and Hope, Ariz., serving all intermediate points: from Kingman, Ariz., to junction Arizona Highway 95, thence over Arizona Highway 95 via Lake Havasu City and Parker, Ariz., to junction Arizona Highway 72, and thence over Arizona Highway 72 to Hope, and return over the same route; between Kingman, Ariz., and Chloride, Ariz., serving all intermediate points: from Kingman over U.S. Highway 93 to junction Arizona Highway 62, and thence over Arizona Highway 62 to Chloride, and return over the same route; between Kingman, Ariz., and Wickenburg, Ariz., serving all intermediate points: from Kingman over U.S. Highway 93 to Wickenburg, and return over the same route; between Chandler, Ariz., and Casa Grande, Ariz., serving all intermediate points: from Chandler over unnumbered county road to Maricopa, Ariz., and thence over unnumbered county road to Casa Grande, and return over the same route; between Kingman, Ariz., and Davis Dam, Ariz., serving all intermediate points: from Kingman over Arizona Highway 68 to Davis Dam, and return over the same route. Vendee is authorized to operate as a common carrier in Arizona, Indiana, Nevada, California, Oregon, Utah, and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13206. Authority sought for purchase by ANDING TRANSIT, INC., Box 112, Arena, WI. 53503, of a portion of the operating rights of JOHNSRUD TRANSPORT, INC., Highway 9 West, P.O. Box 447, Crescoe, IA. 52136, and for acquisition by LARRY J. ANDING, also of Arena, WI. 53503, of control of such rights through the purchase. Applicants' attorney: Patrick E. Quinn, P.O. Box 82028, Lincoln, NB. 68501. Operating rights sought to be transferred: Cheese, as a common carrier over irregular routes from points in that part of Iowa on and east of U.S. Highway 218 from the Minnesota-Iowa State line to junction U.S. Highway 20 at or near Waterloo, Iowa, and on and north of U.S. Highway 20 from junction U.S. Highways 218 and 20 to the Iowa-Illinois-Wisconsin State line at or near Dubuque, Iowa (except Luana and Westgate, Iowa), to Plymouth and Boscobel, Wis., with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Wisconsin, Illinois, Iowa, Minnesota, Indiana, Ohio, Michigan, North Dakota, South Dakota and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13207. Authority sought for control by MOON CARRIER, 291 River Road, Clifton, N.J. 07014, of SHAWMUT TRANSPORTATION CO., INC., Charlam Drive, Braintree, Ma. 02184, and for acquisition by CALTRAN SYSTEMS, INC., 291 River Road, Clifton, N.J 07014, and WILLIAM C. M. KIVLAN, 115 72nd St., New York, N.Y. 10021, of control of SHAWMUT TRANSPORTATION CO., INC., through the acquisition by CALTRAN SYSTEMS, INC., and WILLIAM C. M. KIVLAN. Applicants' attorneys and representative: George A. Olsen, Regis. Prac., 69 Tonnele Ave., Jersey City, N.J. 07306, John L. Milling, Attorney, 921 Bergen Ave., Jersey City, N.J. 07306 and Edward M. Alfano, Attorney, 550 Mamroneck Ave., Harrison, N.Y. 10528. Operating rights sought to be controlled: General commodities, with exceptions as a common carrier over regular routes between Boston, Mass., and New York, N.Y.; Service is authorized to and from the intermediate points of Pawtucket and Providence, R.I., and Worcester, Mass., and off-route points within 20 miles of Boston, and those in New York and New Jersey within 25 miles of Columbus Circle, New York, N.Y., between New Bedford, Mass., and New York, N.Y., service is authorized to and from the intermediate point of Providence, R.I., and all off-route points within ten miles of New Bedford, and those in New York and New Jersey within 25 miles of Columbus Circle, New York, N.Y.; general commodities, with exceptions as a common carrier over alternate regular routes for operating convenience only, between junction U.S. Highway 20 and Massachusetts Highway 15, and East Hartford, Conn., between East Hartford, Conn., and Wethersfield, Conn., between Boston, Mass., and New Bedford, Mass., as follows: from Boston over Massachusetts Highway 138 to Taunton, Mass., thence over Massachusetts Highway 140 to New Bedford. From Boston over Massachusetts Highway 28 to junction Massachusetts Highway 18, thence over Massachusetts Highway 18 to junction Massachusetts Highway 140, and thence over Massachusetts Highway 140 to New Bedford. Return over these routes. Service is not authorized to or from intermediate points; general commodities, with exceptions, as a common carrier over regular routes serving Lawrence, Mass., (excluding points in the commercial zone thereof other than Lawrence, Mass.), as an off-route point, in connection with carrier's presently authorized regular route operations between Boston, Mass., and New York, N.Y.

General commodities, with exceptions as a common carrier over regular routes serving all points in Massachusetts as off-route points in connection with carrier's authorized regular-route operations in Massachusetts; between Boston, Mass., and New Bedford, Mass., serving the intermediate points of Taunton and Fall River, Mass., and the off-route point of Fairhaven, Mass.; between New Bedford, Mass., and Providence, R.I., serving no intermediate points; Copper, brass, bronze, and scrap materials thereof, and copper, brass, and bronze tubing, fittings, pipe, rods, and lining, as a common carrier over irregular routes, between New Bedford and Taunton, Mass., on the one hand, and, on the other, points in Rhode Island, and those in that part of Massachusetts on and east of a line beginning at the New Hampshire-Massachusetts State line and extending along U.S. Highway 202 to junction Massachusetts Highway 32, and thence along Massachusetts Highway 32 to the Massachusetts-Connecticut State line. Vendee is authorized to operate as a common carrier in New York, Connecticut, Delaware, Massachusetts, New Jersey, Pennsylvania, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

NOTICE

THE STATE OF VERMONT AND VERMONT NORTHERN RAILROAD COMPANY, State of Vermont, Montpelier, Vermont, 05602, represented by Mr. James E. Hirsch, Counsel, State of Vermont, Agency of Transportation, Department of Bus, Rail, Water & Motor Carrier Service, Montpelier, Vermont 05602, hereby give notice that it filed with the Interstate Commerce Commission at Washington, D.C., a joint application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the operation of a line of railroad owned by the State of Vermont and formerly operated by the St. Johnsbury & Lamoille County Railroad between St. Johnsbury, Vermont, and Swanton, Vermont, in Caledonia, Washington, Lamoille and Franklin Counties, Vermont, a distance of approximately 98.2 miles, which application is assigned Finance Docket No. 28320.

The State of Vermont through the Vermont Transportation Authority (Vermont Transportation Board is the successor to the Vermont Transportation Authority) leased the railroad right-of-way to the Lamoille County Railroad, Inc. (name changed to St. Johnsbury and Lamoille County Railroad, Inc. in 1974) on September 18, 1973, which stated to have expired according to its terms on September 18, 1976.

Day to Day railroad operations were conducted by the St. Johnsbury and Lamoille County Railroad, Inc. from September 19, 1976, to October 4, 1976, when the Maintenance-of-Way Union, representing approximately thirty (30) employees of the St. Johnsbury and Lamoille County Railroad Inc. struck the railroad.

On or about October 5, 1976, the St. Johnsbury and Lamoille County Railroad, Inc. through its president, Bruno A. Loati informed the State of Vermont, through Robert A. Gensburg, Chairman of the Vermont Transportation Board, that it was no longer going to continue operating the railroad.

On or about October 5, 1976, the State of Vermont notified Mr. Loati, President of the St. Johnsbury and Lamoille County Railroad, Inc. that it accepted the termination of the operating arrangement between the State of Vermont and the St. Johnsbury and Lamoille County Railroad, Inc.

This application is made contingent upon the issuance of an appropriate certificate of public convenience and necessity by the Commission in Docket No. AB–134 of the State of Vermont, through its Agency of Transportation, Department of Bus, Rail, Water & Motor Carrier Service, to abandon its operation over a line of railroad extending from railroad milepost 0.0 near St. Johnsbury, Vermont, in a northwesterly direction to end of line near Lamoille, Vermont, a distance of 98.2 miles, in Caledonia, Washington, Lamoille and Franklin Counties, Vermont.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the state shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (B)(1)–(5), 340 I.C.C. 431, 461.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

THE STATE OF VERMONT AND VERMONT NORTHERN RAILROAD COMPANY

No. MC–141076 (Sub-No. 5). (Supplemental) (ROGERS MOTOR LINES, INC.-GATEWAY ELIMINATION), published in the March 3, 1976, issue of the FEDERAL REGISTER. This supplemental notice reflects the amendment to the application authorized in the order of the Commission, Review Board Number 5, dated December 16, 1976. The authority sought in No. MC–141076 (Sub-No. 5), as amended, is as follows:

Irregular routes: Foodstuffs (except in bulk), in vehicles equipped with mechanical refrigeration, From points in Hudson, Essex, Passaic, Union, Bergen, and Middlesex Counties, N.J. to points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia. This proceeding is directly related to the finance proceeding in No. MC–F–12734, Rogers Motor Lines, Inc.-Purchase (Portion)-Donald Sunshine (Trustee), Gene Adams Refrigerated Trucking Service, Inc.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission on or before June 6, 1977. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 70832 (Sub-No. 18), filed March 24, 1977. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebannon, Pa. 17402. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in that part of Pennsylvania within the area bounded by a line beginning at Lock Haven, Pa., thence north over Pennsylvania Highway 120 to its intersection with unnumbered Highway at Hyner, Pa., thence northeast over unnumbered highway to its intersection with Pennsylvania Highway 44, thence south and east along Pennsylvania Highway 44 to its intersection with Pennsylvania Highway 414, thence north and east along Pennsylvania Highway 414 to its intersection with Pennsylvania Highway 154, thence south and east along Pennsylvania Highway 154 to its intersection with U.S. Highway 220, thence south along U.S. Highway 220 to its intersection with Pennsylvania Highway 42, thence south along Pennsylvania Highway 42 to its intersection with Pennsylvania Highway 254, thence south and west along Pennsylvania Highway 254 to its intersection with Pennsylvania Highway 642, thence south along Pennsylvania Highway 642 to its intersection with Pennsylvania Highway 54, thence south along Pennsylvania Highway 54 to its intersection with U.S. Highway 11, thence south and west along U.S. Highway 11 to its intersection with U.S. Highway 15.

Thence north and west along U.S. Highway 15 to its intersection with Pennsylvania Highway 304, thence west along Pennsylvania Highway 304 to its intersection with Pennsylvania Highway 45, thence west along Pennsylvania Highway 45 to its intersection with Pennsylvania Highway 477, thence north along Pennsylvania Highway 477 to its intersection with Pennsylvania Highway 192, thence west along Pennsylvania Highway 192 to its intersection with Highway 445, thence north along Pennsylvania 445 to its intersection with Pennsylvania Highway 64, thence north along Pennsylvania Highway 64 to Lock Haven, Pa., including points on the above designated highways.

NOTE.—The purpose of this application is to tack at any point in the above-defined area within 60 miles of Harrisburg, Pa., with applicant's irregular route authority embraced in Certificate No. MC–70832, permitting the transportation of General commodities, with exceptions, between Harrisburg, Pa., and points within 10 miles thereof, on the one hand, and, on the other, points within the above defined-area. This matter is directly related to a section 5(2) finance

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proceeding in No. MC–F–13057, published in the FEDERAL REGISTER issue of January 18, 1977. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 78276 (Sub-No. 6), filed March 11, 1977. Applicant: MAZZEO & SONS EXPRESS, a Corporation, 311 South River St., Hackensack, N.J. 07601. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Such commodities* as are used in the manufacture and sale of wearing apparel, from points in that portion of the New York, N.Y., Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Act (the "exempt zone"), and points in Bergen, Middlesex, Passaic, Essex, Morris, and Union Counties, N.J., and Rockland County, N.Y., to points in Dade County, Fla., (2) *damaged, defective or returned shipments* of the commodities named in (1) above, from points in Dade County, Fla., to the destination territory described in (1) above; and (3) *wearing apparel*, from points in Dade County, Fla., to points in the New York, N.Y., Commercial Zone as described in (1) and points or municipalities in New Jersey any part of which is within 5 miles of New York, N.Y., and points in Essex, Morris, Union, Bergen, Middlesex, and Passaci Counties, N.J.

NOTE.—The purpose of this application is to tack at New York, N.Y., Hackensack, N.J., and points in Hudson County, N.J. the vendor's authority with that of the vendee. This matter is directly related to a section 5(2) finance proceeding in MC–F–13155, published in the FEDERAL REGISTER issue of March 31, 1977. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y., or Miami, Fla.

No. MC 112070 (Sub-No. 14), filed March 10, 1977. Applicant: GRAY MOVING & STORAGE, INC. 1290 South Pearl Street, P.O. Box 10096, Denver, Colo. 80210. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming and the District of Columbia and points in that part of Idaho east of the western boundary of Lemhi County, Idaho and south of the southern boundary of Idaho County, Idaho, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, and the District of Columbia.

NOTE.—The purpose of this application is to eliminate the gateways at Arkansas, Connecticut, Delaware, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, and the District of Columbia. This is a matter Directly Related to a section 5(2) finance proceeding in MC–F–13020 published in the FEDERAL REGISTER of December 9, 1976. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers on or before June 6, 1977, unless the instructions set forth in the notices are followed.

[Docket No. AB–77 (Sub-No. 1)]

BANGOR AND AROOSTOOK RAILROAD COMPANY ABANDONMENT—BETWEEN—SOUTH LAGRANGE AND PACKARD IN PENOBSCOT AND PISCATAQUIS COUNTIES, MAINE

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 11, 1977, a finding, which is administratively final, was made by the Commission, Commissioner MacFarland, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Bangor and Aroostook Railroad Company of the line of railroad extending from railroad milepost M–0.00 near South Lagrange, Maine, in a northerly direction to milepost M–27.96 near Packard, Maine, a distance of 27.96 miles in Penobscot and Piscataquis Counties. (known locally as the Medford Cut-Off). A certificate of abandonment will be issued to the Bangor and Aroostook Railroad Company based on the above-described finding of abandonment, on or before June 6, 1977, unless on or before June 6, 1977, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–2 (Sub-No. 12)]

LOUISVILLE AND NASHVILLE RAILROAD COMPANY ABANDONMENT BETWEEN OTTER CREEK JUNCTION AND BRAZIL, IN VIGO AND CLAY COUNTIES, INDIANA

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 11, 1977, a finding, which is administratively final, was made by the Commission, Commissioner MacFarland, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Company of its main track at Valuation Station 8182+10 (equals Valuation Station 8157+72 on Brazil Branch) and runs southeastwardly through Vigo and Clay Counties for a distance of 12.66 miles ending at Brazil, Indiana (Valuation Station 8826+42). A certificate of abandonment will be issued to the Louisville and Nashville Railroad Company based on the above-described finding of abondonment, on or before June 6, 1977, unless on or before June 6, 1977, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form

of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line, together with a reasonable return of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A57077, filed February 14, 1977. Applicant: INTER-AMERICAN PUBLIC DISTRIBUTION CORPORATION, 6277 East Slauson Avenue, Los Angeles, Calif. 90040. Applicant's representative: Michael J. Stecher 256 Montgomery St., San Francisco, Calif. 94104. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (A) *General commodities*, with exceptions hereinafter noted between all points and places in the Los Angeles Basin Territory, excluding Hemet, as described in Note A hereof and between all points and places in said Los Angeles Basin Territory, on the one hand, and, on the other, the city of San Diego, serving no intermediate points (except that pursuant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff B–4; (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: barrows, boars, bulls, butcher hogs calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; (4) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; and (8) Dangerous explosives).

NOTE.—These restrictions do not apply to transportation performed between Los Angeles, Wilmington and San Pedro.

(B) *General commodities*, with exceptions hereinafter noted, between Los Angeles and Long Beach Harbors, and points and places in the Los Angeles Metropolitan Zones Area, as described in Note B hereof. (except that pursuant to the authority herein granted, carrier shall not transport any shipments of the commodities hereinabove described in paragraph A, subparagraphs 1–8.) (C) Restriction: Carrier shall not tack or join the authorities granted in Paragraphs A and B above.

NOTE A.—Los Angeles Basin Territory excluding Hemet. Los Angeles Basin Territory, excluding Hemet, includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County Boundary Line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway 118, approximately two miles west of Chatsworth; easterly along State Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary of the City of San Fernando to Maclay Avenue; northeasterly along Maclay and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest Boundary to Mill Creek Road (State Highway 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to U.S. Highway 395 (Interstate Highway 15); southerly along U.S. Highway 395 to State Highway 91; southwesterly along State Highway 91 to State Highway 55; southerly and southwesterly along State Highway 55 and its prolongation to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to the point of beginning.

NOTE B.—Los Angeles Metropolitan Zones area Beginning at the intersection of State Highway 1 and State Highway 27; thence northwesterly along State Highway 27 to Mulholland Drive in Woodland Hills; northwesterly and along the city limits of Los Angeles to a westerly prolongation of Van Owen Street near Canoga Park; northerly along the city limits of Los Angeles to the prolongation of an imaginary line due west of the intersection of Rinaldi Street and Zelzah Avenue; easterly along such imaginary line to Balboa Boulevard; northerly along Balboa Boulevard to San Fernando Road; northwesterly along San Fernando Road to the intersection of San Fernando Road and the city limits of Los Angeles near Sylmar; northeasterly and along the city limits of Los Angeles to the boundary of the Angeles National Forest; easterly and southerly along the boundary of the Angeles National Forest to the San Bernardino County Line, southwesterly and southerly along the San Bernardino County Line to Carbon Canyon Road southwesterly along Carbon Canyon Road to Olinda Drive; southerly along an imaginary line to the intersection of Ohio Street and Oriente Drive; southerly along Ohio Street to Mountain View Avenue; southeasterly along Mountain View Avenue to Orchard Drive; southerly along Orchard Drive and Kellogg Drive to Orangethorpe Avenue; easterly along Orangethorpe Avenue to State Highway 90; southerly along State Highway 90 to State Highway 91; easterly along State Highway 91 to Mohler Drive; southerly along an imaginary line to the intersection of Santiago Canyon Road and Chapman Avenue southeasterly along Santiago Canyon Road to Peters Canyon Road; southerly along Peters Canyon Road to Irvine Boulevard southeasterly along Irvine Boulevard to Sand Canyon Avenue; southwesterly along Sand Canyon Avenue to Interstate Highway 5; southeasterly along Interstate Highway 5 to State Highway 133; southerly along State Highway 133 to Laguna Canyon Road; southwesterly along an imaginary line to the intersection of Muddy Canyon and the shoreline of the Pacific Ocean between the cities of Newport Beach and Laguna Beach; northwesterly, westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of State Highway 1 and State Highway 27; northerly along an imaginary line to point of beginning. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

California Docket No. A57166, filed March 23, 1977. Applicant: BILL RACKLEY TRUCKING, INCORPORATED,

V42187 MAY 5 77 UMI

3755 Munford Avenue, Stockton, Calif. 95206. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* as follows: (A) Between all points and places in the San Francisco Territory as described in Note A. (B) Between all points and places on or within 20 miles laterally of the following routes: (1) Interstate Highway 80 between Sacramento and its junction with State Highway 17, near Albany, (2) State Highway 17 between its junction with Interstate Highway 80, via the Richmond-San Rafael Bridge, and its junction with U.S. Highway 101. (3) U.S. Highway 101 from Novato to San Francisco. (4) State Highway 337 between its junctions with U.S. Highway 101, near Ignacio, and with Interstate Highway 80. (5) State Highway 21 between its junction with Interstate Highway 80, near Cordelia, and with Interstate Highway 680, near Benicia. (6) State Highway 12 between its junctions with Interstate Highway 80, near Fairfield and with State Highway 99, near Lodi. (7) Interstate Highway 680 between its junctions with Interstate Highway 80, near Vallejo, and with Calavaras Road, near Milpitas. (8) State Highway 24 between its junctions with Interstate Highway 680, near Walnut Creek, and Interstate Highway 80. (9) State Highway 4 between its junctions with Interstate Highway 680, near Concord, and with State Highway 99, near Stockton. (10) Interstate Highway 580 between its junctions with State Highway 17, near Emeryville, and with Interstate Highway 5, near the San Joaquin-Stanislaus County Line.

(11) Interstate Highway 205 between its junctions with Interstate Highway 580, near Mountain House, and with Interstate Highway 5, near Banta. (12) State Highway 84 between its junctions with Interstate Highway 580, near Springtown, and with Interstate Highway 680 at Scotts Corner. (13) State Highway 99 between Sacramento and Fresno. (14) State Highway 33 between its junctions with Interstate Highway 5, at Lehman Road near the Defense Depot, Tracy, and Interstate Highway 5, near the San Luis Reservoir, and between its junctions with State Highway 152, near Los Banos, and with State Highway 198, at Oil Fields. (15) State Highway 132 between its junctions with Interstate Highway 580, and with State Highway 99, near Modesto. (16) Interstate Highway 5 between Stockton and its junction with State Highway 41, near Kettleman City. (17) State Highway 140 between its junctions with State Highway 99, near Merced, and State Highway 33, at Gustine. (18) State Highway 152 between its junctions with State Highway 99, near Califa, and Interstate Highway 5, near the San Luis Reservoir. (19) State Highway 145 between its junctions with State Highway 99, near Madera, and State Highway 180, near Kerman. (20) State Highway 180 between its junctions with State Highway 33, near Mendota, and State Highway 99, near Fresno; and (21) State Highway 41 between its junctions with State Highway 99, at Fresno, and Interstate Highway 5, near Kettleman City.

NOTE A.—San Francisco Territory: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco–San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell–Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose–Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13), northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94202 and should not be directed to the Interstate Commerce Commission.

Kansas Docket No. 87, 469 M Route 8435 (Amendment), filed March 31, 1977, published in the FEDERAL REGISTER issue of April 14, 1977, and republished as corrected this issue. Applicant: **GOLDEN PLAINS EXPRESS, INC., 3615 South West Street, P.O. Box 17106, Wichita, Kans. 67217. Applicant's representative: W. Boyd Evans, 900 O. W. Garvey Building, Wichita, Kans. 67202. Certificate of Public Convenience and Necessity sought to operate a freight service as a *common carrier* as follows: Transportation of *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between those points in Kansas bounded on the west by the Kansas-Colorado line, on the north by Interstate Highway 70 and on the east by Interstate Highway 135 and the Kansas Turnpike from Wichita, Kans. to the Oklahoma Boundary line and points on and along Interstate Highway 135 and 70, and the Kansas Turnpike.**

NOTE.—The purpose of this republication is to indicate the corrected authority. Intrastate and interstate and foreign commerce authority sought. Hearing: Date, time and place set for June 6th, 7th and 8th, 1977, commencing at 10 a.m. on June 6, 1977, at the Wheat Lands Motor Inn, 1311 East Fulton, Garden City, Kans. Requests for procedural information should be addressed to the Kansas State Corporation Commission, State Office Building, Topeka, Kans. 66612 and should not be directed to the Interstate Commerce Commission.

Nebraska Docket No. M–11467 (Sub-No. 1), filed April 13, 1977. Applicant: VALORUS MILLS, doing business as MILLS FILM TRANSFER, 1234 South Ninth Street, Lincoln Nebr. 68502. Applicant's representative: Bradford E. Kistler, Box 82028, Lincoln, Nebr. 68501. Certificate of Public Convenience and Necessity sought to operate a freight service over irregular routes as follows: Transportation of *Commodities generally* (except commodities in bulk, household goods as defined by the Interstate Commerce Commission in practices of motor common carriers of household goods, 17 M.C.C. 467 (1939), or commodities requiring special equipment), between Omaha and Lincoln, Nebr. over U.S. Highway 6, serving no intermediate points, and serving points in the commercial zones, as defined by the Interstate Commerce Commission of Omaha and Lincoln, Nebr. as off-route points in connection with carrier's regular route operations. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place to be determined later. Requests for procedural information should be addressed to the Nebraska Public Service Commission, 301 Centennial Mall South P.O. Box 94927, Lincoln, Nebr. and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–12817 Filed 4–4–77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Power Commission	2
National Transportation Safety Board	3, 4
Nuclear Regulatory Commission	5, 6, 7

1

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: April 21, 1977, 4:00 p.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS CONSIDERED: The Commission met to discuss CPSC's testimony on S. 825, the Voluntary Standards and Certification Act scheduled to be presented on April 25. In voting to hold this meeting, the Commission determined that Agency business required that the meeting be held without the normal seven days advance notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone 202–634–7700.

[S–323–77 Filed 5–2–77;2:15 pm]

2

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (Sent to FR on 4–26–77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 3, 1977 2:00 p.m.

CHANGES IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman and Watt. P–9 Docket No. ER76–285 (Phase II), Public Service Company of New Hampshire; P–10 Project No. 2683, Crown Zellerbach Corporation; P–11 Docket Nos. ER76–495 and E–8884 (Phase 1), (AFUDC Issue) Carolina Power and Light Company.

KENNETH F. PLUMB,
Secretary.

[S–331–77 Filed 5–3–77;1:40 pm]

3

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 9:30 a.m., Thursday, May 12, 1977 (NM–77–9).

PLACE: Conference Rooms 8A, B, and C, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. *Marine Casualty Report. SS KEYTRADER–SS BAUNE*, Collision and Fire With Loss of Life, Lower Mississippi River, January 18, 1974. 2. *Annual Report to Congress*, Calendar Year 1976. 3. *Discussion* re Occupant Crash Protection Testimony—U.S. Department of Transportation Hearings, April 27, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–326–77 Filed 5–3–77;8:46 am]

4

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 2:30 p.m., Thursday, May 12, 1977 (NM–77–10).

PLACE: Conference Rooms 8A, B, and C, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. *Opinion and Order. Administrator* v. *Rice*, Docket SE–3202 Disposition of Administrator's Appeal. 2. *Order. Commandant* v. *Nelson*, Docket ME–56; Disposition of Appellant's Petition for Reconsideration.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–327–77 Filed 5–3–77;8:46 am]

5

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43 No. 82, page 21723.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Monday, May 2, 3:30 p.m.

CHANGES IN THE MEETING: Meeting titled "Action Plan for Implementation of State Liaison Office (SLO) Concept" is cancelled. Affirmation of "Publication in Effective Form of 10 CFR Part 1: Statement of Organization and General Information", and "NRC and International Physical Protection Standards" are cancelled. All four items will be rescheduled in the near future.

Dated: May 2, 1977.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S–328–77 Filed 5–3–77;12:18 pm]

6

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43 No. 82, page 21723.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Monday, May 2, 2:30 p.m. and 3:30 p.m., and Tuesday, May 3, 10:55 a.m.

CHANGES IN THE MEETING: Meeting titled "Discussion of Commission Legislative Program" (Closed Meeting) is cancelled. Meeting titled "Action Plan for Implementation of State Liaison Office (SLO) Concept" is cancelled. Affirmation of "Publication in Effective Form of 10 CFR Part 1: Statement of Organization and General Information", and "NRC and International Physical Protection Standards" are cancelled. All four items will be rescheduled in the near future.

Dated: May 2, 1977.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S–329–77 Filed 5–3–77;12:18 pm]

7

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

TIME AND DATE: 2:30 p.m., Monday, May 2, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of Pending Export License (Exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202–634–1410.

Dated: May 2, 1977.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S–330–77 Filed 5–3–77;12:18 pm]

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federal register

THURSDAY, MAY 5, 1977

PART II



CONSUMER PRODUCT SAFETY COMMISSION

■

POWER LAWN MOWERS

Proposed Safety Standard and Extension of Time

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CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1205]

POWER LAWN MOWERS

Proposed Safety Standard and Extension of Time

APRIL 25, 1977.

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule and extension of time.

SUMMARY: The Consumer Product Safety Commission proposes a consumer product safety standard applicable to power lawn mowers, pursuant to section 7(f) of the Consumer Product Safety Act (15 U.S.C. 2056(f)). The proposed rule is designed to eliminate or reduce unreasonable risks of injury that the Commission has preliminarily determined are asociated with power lawn mowers. Also, the period during which the Commission must either promulgate a consumer product safety rule or withdraw the notice of proceeding is extended to October 3, 1977.

DATES: The proposed effective date is 2 years after the final standard is issued by the Commission. However, more stringent blade stop times become effective 4 years after the final standard is issued.

Written comments should be submitted on or before July 5, 1977.

Interested persons will have an opportunity to make an oral presentation of data, views, or arguments on June 13, 1977.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Opportunity for oral presentation: 1111 18th Street NW., Washington, D.C. 2020. All material which the Commission has that is relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, 3rd Floor, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Dr. Alan M. Ehrlich, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6470).

A. PRODUCT DEFINITION

The requirements set forth in proposed 16 CFR Part 1205 apply to power lawn mowers, which, for the purposes of this regulation, are defined as grass-cutting machines with a minimum cutting width of 304 mm. (11.96 in.) that employ an engine or a motor as a power source and are consumer products as defined in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)). This definition of power lawn mowers includes both rotary and reel-type mowers and applies to both riding and walk-behind mowers. Mowers powered by internal combustion engines or electric motors are included. However, an individual section within Part 1205 may apply to only some of the types of mowers included within the definition of "power lawn mowers" (for example, only to rotary mowers or only to walk-behind mowers), and, where this is the case, the section will state the types of mowers to which it applies.

B. BACKGROUND

On August 15, 1973, the Outdoor Power Equipment Institute (OPEI) petitioned the Consumer Product Safety Commission, pursuant to section 10 of the Consumer Product Safety Act (also referred to as "the act") (15 U.S.C. 2059), to commence a proceeding for the development of a consumer product safety standard for power lawn mowers. In its petition, OPEI also requested the Commission to publish a voluntary standard, ANSI B 71.1-1972, "Safety Specifications for Power Lawn Mowers, Lawn and Garden Tractors, and Lawn Tractors," with amendments and a compliance program, as a proposed consumer product safety standard. (ANSI standards are approved by, published by, and available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.)

After consideration of the available information concerning injuries and injury potential associated with power mowers, the Commission preliminarily determined that the following hazards were associated with power lawn mowers and presented unreasonable risks of death or injury to consumers:

1. Lacerations, amputations, avulsions, and other injuries resulting from contact with the rotating mower blade.
2. Lacerations, punctures, and other injuries caused by objects propelled by the mower blade.
3. Lacerations, contusions, abrasions, and other injuries resulting from the rolling, slipping, or overturning of power lawn mowers or by failure of power lawn mower brakes or steering mechanisms.
4. Burns and other injuries resulting from direct contact with exposed heated surfaces of power mowers or from fires caused by ignition of liquids used as fuel for power mowers.
5. Injuries caused by electric shock from power sources of electrically powered lawn mowers or electrical systems of nonelectrically powered lawn mowers.
6. Hearing loss and nonauditory trauma from exposure to excessive noise.

Accordingly, on November 16, 1973, the Commission granted the portion of the OPEI petition which requested that the Commission commence a proceeding to develop a consumer product safety standard for power lawn mowers. The Commission, however, denied the OPEI request to publish ANSI B 71.1-1972, with amendments, as a proposed consumer product safety standard. This portion of the petition was denied because the Commission believed it should solicit offers to develop a standard and allow interested persons or organizations to submit previously issued or adopted standards as a recommended consumer product safety standard (section 7(b) of the act, 15 U.S.C. 2056(b)).

The Commission commenced the proceeding to develop a consumer product safety standard applicable to power lawn equipment by publishing a notice in the FEDERAL REGISTER of July 22, 1974 (39 FR 26662). Interested persons were invited to submit an existing standard as a proposed consumer product safety standard or to submit an offer to develop a recommended safety standard. The notice of proceeding contains a more detailed discussion of the information about injurics associated with power mowers that indicates a need for remedial action and discusses the provisions and adequacy of existing standards as they relate to the unreasonable risks of death or injury that the Commission has preliminarily determined are associated with power lawn mowers. In response to the notice of proceeding, the Commission received one existing standard and an Invitation for Bid, issued by the General Services Administration, which was referred to as an existing standard, for consideration as proposed consumer product safety standards. The Commission also received four offers to develop a standard applicable to power lawn mowers.

The Commission subsequently accepted the offer of Consumers Union of United States, Inc. (CU), 256 Washington Street, Mount Vernon, New York 10550, to develop a consumer product safety standard applicable to power lawn mowers (39 FR 37803, October 24, 1974).

The time by which CU was to submit a recommended consumer product safety standard to the Commission was extended from December 19, 1974, until July 17, 1975 (40 FR 10228, March 5, 1975; 40 FR 30863, July 23, 1975). After consideration of the recommended standard submitted by CU, the Commission extended until April 30, 1977, the date by which it must either publish a proposed consumer product safety standard applicable to power lawn equipment or withdraw the notice of proceeding (40 FR 45220, October 1, 1975; 41 FR 9914, March 4. 1976; 41 FR 27997, July 8, 1976).

The materials submitted to the Commission by CU consist of the following reports: (1) CU's Proposed Lawn Mower Safety Standard, (2) a Rationale for Proposed Safety Standard for Power Lawn Mowers, (3) copies of standards referenced in CU's Proposed Lawn Mower Safety Standard, (4) an analysis of the economic impact of CU's Proposed Lawn Mower Safety Standard, (5) an Environmental Impact Assessment Report, and (6) the record of CU's proceeding (minutes of meetings, etc.).

By a letter dated August 15, 1975, CU also provided the Commission with some corrections and clarifications to the standard. In addition, the Commission has received comments on the provisions of the standard from individual members of CU's Power Lawn Mower Standard Development Committee and its subcommittees and from other interested individuals. Also, the Commission staff met with OPEI in a series of three public meetings, at which OPEI presented its views on CU's recommended standard to the staff. In addition, the Commission's staff held a public meeting with consumers and private inventors concerning CU's recommended standard.

The Commission's staff conducted an extensive evaluation of the standard which CU recommended. Many of the provisions were controversial in terms of their cost and their effect upon the utility of power mowers. It was necessary to conduct additional tests to determine the feasibility and effectiveness of some of the recommended provisions. The Commission also obtained the opinion of independent experts on various questions which were raised during the evaluation. In addition, the Commission consulted with groups of consumers in order to obtain information concerning the desirability of certain provisions of the standard and used the information obtained from these groups in its evaluation.

Copies of all materials which the Commission has considered during this proceeding may be obtained from, or inspected in, the Office of the Secretary, 3rd Floor, 1111 18th Street NW., Washington, D.C. 20207.

As a result of its consideration and evaluation of the recommended standard submitted by CU and the comments that it has received, the Commission has determined that some changes were required in the tests and requirements recommended by CU in order to further reduce the risks which the standard addresses or in order to lessen the adverse effect of certain provisions on the cost, utility, or availability of power lawn mowers. Certain provisions of the CU standard were deleted because the Commission determined that the particular risk that they addressed was not sufficient to support the inclusion of the provision in a mandatory standard or because the requirements are already generally complied with and there is no apparent reason to think that they will not continue to be complied with. In addition, the recommended standard has been rewritten in order to increase the technical clarity of the requirements and to put the standard in a form suitable for publication in the Code of Federal Regulations.

Where a provision of the proposal set forth below differs substantively from the standard recommended by CU, an explanation is given in section C or D of this preamble.

In the proceedings prior to the publication of this notice, the product to be regulated by proposed Part 1205 was referred to as "power lawn equipment." In proposed Part 1205, the designation of the product has been changed to "power lawn mowers." The change was made because the term "power lawn equipment" may include products other than those intended to be covered by this proposed standard. The original notice of proceeding (39 FR 26662) indicated that the Commission intended the standard to cover only that equipment included within the definition of "power lawn mowers" in Part 1205.

C. THE PROPOSED STANDARD

The standard which is proposed below is designed to reduce or eliminate the unreasonable risks of injury that the Consumer Product Safety Commission has preliminary determined are associated with power lawn mowers.

The standard itself will be Subpart A of Part 1205. Additional regulations which the Commission may issue concerning power lawn mowers that are not a part of a consumer product safety standard will be included within a Subpart B to be issued subsequently. These could include certification and labeling regulations under section 14 of the act (15 U.S.C. 2063). If the Commission issues any statements of policy or interpretation concerning power lawn mowers, they could be set forth in a Subpart C. Since only Subpart A of Part 1205 has been proposed, however, any reference to Part 1205 in this preamble refers only to Subpart A and not to possible future actions of the Commission.

For the provisions of the standard recommended by CU which the Commission has proposed in Part 1205, the Commission adopts the rationale for these provisions that is contained in the Rationale for a Proposed Safety Standard for Power Lawn Mowers that was submitted to the Commisison by CU. The rationale for the changed and additional provisions of the proposal, together with a brief description of the CU rationale where necessary, is given below in the discussion of the requirements of each section of the standard.

The proposed standard consists of fourteen sections covering the following subject matter:

Sec.	
1205.1	Scope, application, background, and effective date.
1205.2	Definitions.
1205.3	Walk-behind mower protective devices.
1205.4	Thrown objects test for rotary mowers.
1205.5	Walk-behind mower controls.
1205.6	Fuel ignition hazards.
1205.7	Electrically-powered mowers.
1205.8	Riding mower stability and shield requirements.
1205.9	Riding mower steering requirements.
1205.10	Riding mower brakes.
1205.11	Riding mower controls.
1205.12	Warning labels.
1205.13	Prohibited stockpiling.
1205.14	Findings.

An explanation of the standard is given below.

Scope and application (Section 1205.1). The definition of "power lawn mower" as used in proposed Part 1205 is given in section A of this preamble (also see § 1205.1(a)(1) of the standard).

This Part 1205 will apply to all power lawn mowers that are produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. This Part does not apply to power lawn mowers that are not customarily produced or distributed for sale to, use or consumption by, or enjoyment of a consumer.

Power lawn mowers subject to this Part 1205 that are manufactured after the effective date of this standard must meet its requirements if the mower is manufactured for sale, offered for sale, or distributed in commerce within the United States or if the mower is imported into the United States.

Effective date (Section 1205.1). The effective date proposed for Part 1205 is two years after promulgation of Part 1205 in the FEDERAL REGISTER. This date was chosen by the Commission because the presently available information indicates that most mower manufacturers will need that long to accomplish the design and production changes that will be necessary in order to comply with the standard. Also, as discussed below, the provisions for blade stopping times become more stringent 4 years after promulgation of Part 1205.

The Commission has preliminarily determined that a period of 24 months from the date of publication of the final standard to its effective date is in the public interest for the following reasons. The increase in manufacturing cost and retail prices that will be caused by the standard are inversely related to the length of time that manufacturers are allowed for bringing their products into compliance with the requirements of the standard. The process of modifying existing mowers to comply with the standard consists of such stages as redesign, prototype construction and testing, retooling, and manufacture and testing of new production. A delay of two years in the effective date of the standard will allow the necessary modifications to mowers without major market disruptions such as higher costs and prices or an insufficient number of products available to meet consumer demand.

The Commission wishes to point out, however, that it is interested in implementing this standard in the shortest period of time that will not create such major market disruptions. If additional data show that it is in the public interest, the effective date of the standard could be shorter than two years (perhaps as little as one year, which was the period recommended by CU). In addition, the Commission is considering specifying shorter effective dates for those provisions of the standard that most presently available mowers can meet or that can be implemented relatively quickly (e.g., labeling). The Commission encourages the submission of data concerning what effective date would be most appropriate for each requirement of the standard.

The factors that led to the Commission's preliminary conclusion that a two year period is appropriate for the effective date are discussed in a draft economic impact analysis (dated Febru-

V42187 MAY 5 77 UMI

ary, 1977) which is available from the Office of the Secretary.

In the parts of the standard which require the blade to stop within certain times (§§ 1205.5(b) and 1205.11(b)), the requirements are implemented in two stages. At the effective date of the standard (proposed to be 2 years after promulgation), the blade of a walk-behind mower would have to stop within 5 seconds of release of the deadman, while the blade of a riding mower would have to stop within 6 seconds. Two years after that (4 years after promulgation), the permissible stopping time would be reduced to 3 seconds for both types of mowers.

The interim 5 and 6 second requirements can be achieved by most currently-marketed mowers and are intended to increase safety by eliminating mowers with longer than usual stopping times.

However, from the information presently available to the Commission, it appears that a major redesign and retooling effort will be necessary in order to modify existing mowers to comply with the 3 second requirements. The Commission's preliminary determination is that the four year period is appropriate and in the public interest in order that the modifications made necessary by these more stringent provisions may be accomplished without major market disruptions such as higher costs and prices or an insufficient number of products to meet consumer demand. However, the Commission especially solicits comments on whether the delay of two additional years for the shorter blade stopping times is appropriate in view of the fact that CU's recommendation for the effective date for blade stopping time was "not less than one year."

Further discussion of blade stopping times is given below in this section C of this preamble.

Walk-behind mower protective devices (Section 1205.3). Section 1205.3 is one of several sections designed to prevent injuries caused by contact with the mower blade. This section contains certain requirements for mower handles and shields and several tests involving a foot probe which are designed to determine if the mower blade can contact the operator's foot during some commonly occurring conditions associated with mower use.

The foot probe. The foot probe specified in the proposed standard is shown in Fig. 3 and is identical to the foot probe used in British Standard BS 5107, "Specification for Powered Lawn Mowers," April, 1974, (the UK probe). (British Standards are approved and published by the British Standards Institution and are available for purchase from the American National Standards Institute, Inc., referenced above.) This probe differs from the one recommended to the Commission by CU, which is essentially the probe prescribed by UL 82, "Standard for Electric Gardening Appliances," Second Edition (February 14, 1974), a voluntary standard developed by and available from Underwriters Laboratories Inc., 207 E. Ohio Street, Chicago, Illinois 60611. A third probe known to the Commission is that used in ANSI B71.1–1972 and B71.1a–1974. In evaluating these probes, however, the Commission's staff conducted tests which showed that the UK probe more closely simulates the action of the human foot than the other probes and also provides a more stringent test for blade contact than the other probes. Accordingly, the Commission is proposing the use of the UK foot probe in these tests since it appears to be a more effective means of achieving the safety objective of this test. The test procedures, however, are similar to those recommended by CU.

Foot probe test. The first test utilizing the foot probe (the foot probe test, § 1205.3(a)(2)(i)) is to insert the foot probe as far as possible under all points of the bottom edge of the blade housing and shields and then pivot the toe of the foot probe upward around the heel as much as possible as the probe is withdrawn. The shields (including the housing) must prevent the foot probe from either entering the path of the blade or causing any part of the mower to enter the path of the blade.

The test proposed by the Commission is similar to the test recommended by CU in that the probe is inserted at all points around the bottom periphery of the mower. OPEI has commented that since the mower blade will stop when the operator leaves the operating position, the danger of inadvertent contracting a moving blade with the operator's foot exists only from the rear. OPEI therefore argues that the foot probe need only be inserted under the rear periphery of the mower. The Commission has not had time to fully evaluate this comment, but comments from other interested persons on this issue are requested. If the OPEI comment is found to have merit, the Commission can change the proposed test when the final standard is promulgated.

Terrace test. The next test is designed to determine if the mower protects against foot contact with the blade when the mower is pushed across a transition from a horizontal surface to a lower inclined surface, as in beginning to mow downhill (the terrace test, § 1205.3(a)(2)(ii)). In this test, the foot probe is inserted at the rear of the mower as the mower is passed over a test surface consisting of a horizontal surface connected to a surface inclined 30 degrees below the horizontal by a curved surface having a radius of 500 mm. (19.68 in.).

Obstruction test. An obstruction test (§ 1205.3(a)(2)(iii)) is also provided which consists of passing the mower back and forth over (1) a depression 25 mm. (.99 in.) deep with a 150 mm. (5.9 in.) radius of curvature and (2) a raised obstacle 232 mm. (0.6 in.) square, each extending the full width of the mower. The test requires that not more than one of the mower's wheels at a time may be lifted from the test surface. This requirement is designed to insure that the protective shields are not raised excessively during these conditions, which would allow the operator's foot to contact the blade.

This test also requires that the raised obstacle not stop the mower by interfering with the shields. This is to insure that users of the equipment are not tempted to remove such shields in order to eliminate the inconvenience that would occur if the mower were to catch on such obstacles, especially when the mower is pulled backward.

The obstruction test proposed by the Commission is the one recommended by CU, except that CU specified that portions of the test fixture could be cut away if they interfered with the blade housing. The Commission proposal would require that the housing, in addition to the other shields, meet the requirements. The Commission believes that cutting away the test fixture so that it does not interfere with the mower housing could reduce the stringency of the test with respect to other shields. The requirement that not more than one wheel at a time shall lift from the fixture surface is intended to prevent the housing or shields being lifted sufficiently so that the foot could contact the blade. This hazard would exist whether the lifting is caused by the housing or by another shield.

Shield strength test. A shield strength test (§ 1205.3(a)(1)(ii)) is provided so that each of the front, back and both sides of the mower are subjected, in turn, to a 225 newton (51 lb.) force to determine whether the shields are adequately strong.

Handle tests. Mower handles are required to be provided with an upstop to prevent the rearmost part of the handle from moving closer than 430 mm. (16.93 in.) to the vertical line through the nearest point on the blade tip circle (§ 1205.-3(b)(2)). This restraint will prevent the handle from riding up over the mower, which would allow the operator to get too close to the blade. However, it is permissible to provide a means to temporarily disable the upstop (as when storing the mower, for example).

Handle strength tests are also provided to insure that the handle will be strong enough to serve as a reliable means for the operator to use to keep away from the blade. One of these tests (the handle upstop test, § 1205.3(b)(4)(ii)) was recommended by CU and consists of applying a 270 newton (60 lb.) force to press the handle upward against the handle upstop. The other test was added by the Commission's staff and consists of applying a torque to the handle in each intended use position until one side of the mower lifts and then in the opposite direction until the other side lifts (§ 1205.3(b)(4)(i)). The Commission believes that the handle is an important protection against the possibility of blade contact and, therefore, that the test should also include an indication of the handle's ability to withstand torsional stresses. Accordingly, the test recommended by CU has been supplemented by adding the handle twisting requirement described above.

Thrown objects (Section 1205.4). Each year, rotary lawn mowers cause a large number of injuries as a result of objects

such as rocks, sticks, wire, and nails being hit by the mower blade and ejected at high speeds through the discharge chute or under the shields. A thrown objects test for rotary mowers is provided in § 1205.4 of the proposed standard to determine the extent to which a mower will (1) eject objects struck by the rotating blade and (2) limit the ejection of such objects to areas where injuries are less likely to occur.

The test which is proposed in § 1205.4 differs from the test that was recommended by CU and also differs from the other widely known tests that have been developed for existing voluntary standards (ANSI, UL, and the International Standards Organization (ISO)). Each of these other tests appear to have advantages and disadvantages, and there were differing opinions among the Commission's staff concerning which of these tests would be most suitable for the Commission to propose as part of the mandatory standard. As a result, the Commission contracted with the Research Triangle Institute (RTI), Research Triangle Park, North Carolina 27709, to evaluate all of these tests against each other and under conditions of actual grass mowing to determine which of the tests or whether an alternative test, best detected the hazard. RTI recommended a fifth test which they developed (hereafter referred to as the RTI test) that is similar to the ISO test but which also incorporates aspects of all the other tests. A discussion of RTI's test methodology and results in contained in RTI's "Final Report: Thrown Objects Test Comparison" dated January, 1977, which is available from the Office of the Secretary. The Commission believes that the test recommended by RTI is more representative of the conditions that would be encountered in actual mowing and has therefore proposed it instead of the CU test.

The test apparatus consists of an octagonal target enclosure surrounding an artificial turf surface which supports the mower to be tested. Sixpenny nails are injected from three positions into the blade of the mower while it is operating, and the number and location of the hits of the nails that are propelled against the walls of the enclosure are recorded. The pass/fail criteria for the number and location of the hits were established by the Commission and are given in § 1205.4 (c). The criteria for walk-behind mowers allow fewer hits in the rear quadrant of the target (compared to riding mowers and to the other quadrants) in order to protect the operator. More hits are allowed in the area facing the usual location of the discharge chute for both riding and walk-behind mowers since the danger to bystanders is more apparent in this direction. A report from the Commission's Bureau of Engineering Sciences which explains why these criteria were selected will be available from the Office of the Secretary during the comment period.

Construction plans furnished by RTI for a suitable test apparatus are available from the Office of the Secretary.

Riding mowers have an additional target consisting of a circle of cardboard that is placed over the seat to detect hits that might endanger the operator. Although the test recommended by RTI did not include an operator target for riding mowers, there was a cylindrical target in the test recommended by CU. The Commission's staff deemed the proposed circular operator target to be easier to mount and more effective in registering hits than a cylindrical one.

Walk-behind mower controls (Section 1205.5). Many injuries in volving walk-behind power lawn mowers occur when the hands of the operator come into contact with the blade when the operator intentionally approaches the bladge area to perform a task such as attempting to clear a clogged discharge chute, adjust the wheels, or empty a grass catcher. In order to reduce these injuries, the Commission is proposing to require a blade control system for all walk-behind mowers. The blade control system would (1) prevent operation of the blade unless the control is actuated by the operator, (2) require that the operator be in continuous contact with the control in order for the blade to continue to be driven, and (3) cause the blade to stop within specified times (discussed below) upon release of the control by the operator. For a walk-behind mower with manual starting controls, this control would stop the blade without stopping the power source, unless the mower can pass the "easy restart" test discussed below. Walk-behind mowers are also required to have a second control which must be actuated before a stopped blade can be restarted. The significance of these requirements in preventing injuries caused by blade contact with the hands is explained below.

Except for the "easy restart" test and the particular blade stopping times, the requirements for this control system were recommended by CU. CU determined that in order to prevent injuries to an operator who had left the operating position (unless the blade was found "harmless" by CU's blade harmless test), it was necessary for the blade to either (1) stop moving or (2) be rendered harmless (the blade harmless test) by the time the operator could leave the operating position and reach the area where a hand could come into contact with the blade. CU therefore recommended that a control be required which would have to be continuously touched ("continuously actuated") by the operator in order for the blade to operate. When the operator released this control (which CU called the "deadman control"), the blade was required to come to a stop or become "harmless" within certain time limits. To prevent the unintentional starting of the blade when the "deadman control" was contacted accidentally, CU recommended that it be necessary to operate at least one other control in addition to the deadman control in order to restart the blade.

Easy restart test (Section 1205.5(d)). CU recognized that one way to accomplish the required stopping of the blade, especially on less expensive mowers, was to provide that the power source will stop when the deadman control is released. This method of stopping the blade has the advantage of allowing the operator to hear when a gasoline engine (and therefore the blade) has stopped. However, it has the disadvantage of requiring that the power source be restarted before blade operation may resume. Where power start capability is provided, CU believed this not to be a significant inconvenience. However, where the mower must be manually restarted, CU believed that the operator may be tempted to disable the deadman control in order to avoid the necessity for restarting the engine after releasing the deadman control (for example, by tying or taping the control in the actuated position). In order to discourage disabling of the deadman control, CU recommended two requirements applicable only to walk-behind mowers. First, the power source shutoff control must be inoperative unless the deadman control is released by the operator. This would discourage a relatively permanent disabling of the deadman control since the deadman control would have to be released in order to turn off the engine. CU also recommended that a means be provided to prevent operation of the blade if the wire or linkage to the deadman control were cut or disconnected. These two additional protective requirements to discourage disabling of the deadman control are referred to below as "interlocks."

The Commission, however, believes that as a practical matter it would be very difficult and quite possibly expensive to design interlocks to discourage disabling of the deadman control that could not also be disabled by a user who was determined to do so. The Commission believes that a more effective approach would be to reduce the motivation for users to disable the deadman control by requiring that mowers with manual starting controls be "easy" to restart if the power source stops when the deadman control is released. Accordingly, the Commission conducted human factors research to determine starting effort levels which most consumers will consider to be "easy" and has developed a test (§ 1205.5(d)(2)) to determine if a mower exceeds this level. The test consists of seeing if the mower can be started by a 23 kg. (50 lb.) weight dropping 61 cm (24 in.). The problems associated with restarting the mower can, of course, be avoided if the power source does not stop when the blade stops or if a power restart capability is provided. The former result can be achieved by using a clutch to disconnect the blade from the power source when the deadman control is released. The alternatives allowed by the standard as proposed, therefore, are (1) power restart capability, (2) manual start where the power source does not stop when the deadman control is released (i.e., a clutch device), and (3) manual start that passes the easy restart test.

V42N87 MAY 5 77 UMI

The Commission wishes to point out that it is not fully convinced that its "easy-restart" test is adequately indicative of an ease of restart that would not unduly tempt consumers to disable the deadman control. However, the Commission is reluctant at this time to foreclose the possibility of an "easy-restart" mower as a satisfactory solution to the blade stop requirement in the proposed standard and therefore an "easy-restart" option is incorporated in the proposal. The Commission particularly seeks comments on the provision for easy restart. In addition, the Commission urges those manufacturers most interested in "easy-restart" to share their "easy-restart" technology with the Commission when commenting on the proposed standard. Unless the Commission is thereby convinced that an "easy-restart" feature is effective and technically feasible, it is possible that the "easy-restart" requirement will be modified or deleted when the final standard is issued. If this easy restart requirement were deleted, the remainder of the standard as proposed would require that either the blade stop by means other than stopping the engine when the deadman control is released (i.e., a clutch device) or that a power restart capability be provided. From the discussion above, it can be seen that the question of the degree to which the Commission should issue requirements intended to reduce the possibility of users disabling the deadman control has not been fully resolved. Comments on this issue are therefore sought by the Commission. Some alternatives which have been recommended to the Commission, and upon which comment is therefore specifically solicited, are:

1. No requirements to protect against the possibility of users disabling the deadman control.

2. Use of "interlocks" to make disabling more difficult.

3. East of restart test similar to the one proposed to reduce the inconvenience of restarting manual start mowers.

4. Prohibiting manual start mowers that stop the blade by stopping the power source. This would require mowers to have either a power start capability or a clutch to disconnect the blade when the deadman control is released.

Blade harmless test. Concerning the concept of a "blade harmless test," the Commission has been unable to find a repeatable test that can sufficiently indicate the point at which an individual is likely to be injured by a moving blade. This includes the "blade harmless test" recommended by CU, which consists of inserting a vinyl-wrapped dowel into the path of the blade. (If the tape was not cut, CU deemed the risk of injury to the operator to be acceptable.) Accordingly, the blade harmless test recommended by CU has not been proposed.

The Commission, however, believes that it would be desirable to have a test that would identify a blade that is reasonably safe if inadvertently contacted by the operator. The inclusion of such a test would encourage the development of safer blades, which might ultimately be the most effective means of reducing injuries caused by contact with the blade. Accordingly, the Commission would welcome comments suggesting a suitable test for this purpose.

Blade stopping times (Sections 1205.5 (b) and 1205.11(b)). In order for the "deadman control" to be effective, it is necessary that the blade stop before the operator's hand can come into contact with it after leaving the operating position. Accordingly, the Commission has proposed a stopping time of 3 seconds for all mowers, to be effective two years after the effective date of the remainder of Subpart A or Part 1205 (four years after the standard is issued). The Commission based its decision to propose a 3 second stopping time on the following data:

(a) A National Bureau of Standards analysis of films of blade access time tests taken by the University of Iowa (Memorandum from NBS to CPSC's Jon Shelton dated March 21, 1975, "Time to Blade Contact Data").

(b) Blade access time tests conducted at Eckerd College by a task group of CU's Power Lawn Mower Standard Development Committee (Document 76, CU's Blade Contact Subcommittee, "Time to Blade Access Test Report").

(c) A limited blade access time study conducted by the Commission's Office of the Medical Director (Videotape, December 1975: Methodology for Evaluating the Proposed Lawn Mower Standard).

(d) The preliminary analysis of a time to blade access study conducted for the Commission by the National Bureau of Standards (NBS) (Memorandum from NBS to CPSC's Dale Scott dated February 24, 1977, "Lawn Mower Foot Probe Study (Project 138) and Time-to-Blade Access Study (Project 139)). A draft of NBS' complete reports should be available from the Office of the Secretary early in the comment period.

The data are also discussed in an evaluation of blade stopping time by the Commission's Office of the Medical Director, dated December 7, 1976. These studies all show that an operator's hand may reach the blade contact area by the most direct route from the operating position in less than 3 seconds. Three seconds should provide a reasonable degree of protection, however, since the operator will usually expend some time in beginning to perform the task (clearing the discharge chute, for example) and since manufacturers are likely to design to a shorter time than 3 seconds to insure that all of their mowers will meet the requirement.

For the period between the time Part 1205 becomes effective and the time the 3 second blade stopping time goes into effect, the Commission proposes stopping times of 5 seconds for walk-behind mowers and 6 seconds for riding mowers. These times are one second longer than the times which were recommended by CU but are consistent with the recommendations of the majority of CU's blade contact subcommittee. The Commission, however, believes that a slightly longer time is justified on an interim basis for the following reason. As mentioned in the preceding paragraph, the 3 second time which the Commission believes is appropriate as an eventual requirement will probably require design changes to currently available mowers. Some changes would also probably be necessary in order to enable manufacturers to comply with the 4 and 5 second times recommended by CU. The Commission does not believe that it is reasonable to require two design efforts within a two year period in order to gain a one second margin of safety on a temporary basis. From the information available to the Commission, it appears that the proposed interim 5 to 6 second stopping times can be achieved by most currently-marketed mowers. The effect of the interim requirements, therefore, would be to increase safety since it will eliminate those currently marketed mowers with longer than usual stopping times.

The Commission's reasons for selecting the effective date of the shorter blade stopping times are discussed above under § 1205.1.

An additional requirement (§ 1205.5 (c)) to ensure that the operator does not come into contact with a rotating blade is that walk-behind mowers with blades that commence operation when the power source starts shall have their starting controls located within the operating control zone (defined in § 1205.2(a) (17)).

It is also required that all mowers be provided with a shutoff control to stop the operation of the power source (§ 1205.5(e)). This control shall require a manual operation before the power source can be restarted.

Fuel ignition hazards (Section 1205.6). The hazard of fuel ignition has been addressed by requirements designed to reduce the amount of spilled or leaked fuel and to control the ignition sources of sparks and exhaust heat.

The proposal includes a requirement (§ 1205.6(a)(1)) that high tension cables on mowers be fully insulated. A test is also provided to determine that the spark plug connector will not spark against grounded metal if the operator attempts to start the mower while the connector is disconnected (§ 1205.6(a)(1)(ii)). In addition, grounding switches are not permitted in the high tension (secondary) part of the ignition system (§ 1205.6(a)(2)).

Leakage from the fuel system during any reasonably foreseeable condition of use is prohibited (§ 1205.6(c)). In addition, a test (§ 1205.6(b)) is provided to insure that fuel will not contact certain parts of the mower and that not more than 0.95 gm. (.033 fl. oz.) of fuel will collect in any single pool when the fuel tank is overfilled.

Electrically-powered mowers (Section 1250.7). In order to reduce the hazard of electric shock associated with electrically-powered mowers, the following requirements are included in the proposed standard. A performance test is provided to insure that the parts of the electrically-powered lawn mower which are normally contacted by the operator are covered with insulation having a resistance of a least 250,000 ohms (§ 1205.7(a)).

A requirement is included that folding or pivoting handles on electrically-powered mowers shall not entrap electrical cords which connect parts of the mower (§ 1205.7(b)).

A plug blade shielding test is also provided to insure that the plug blades for electrically-powered lawn mowers are shielded so that they cannot be contacted by a probe while they are still energized by the extension cord (§ 1205.7(c)). A further discussion of this test is given in section D of this preamble.

A switch that disconnects both sides of the power supply to the mower when it is in the OFF position is also required (§ 1205.7(d)).

Riding mower stability and shield requirements (Section 1205.8). In order to reduce injuries caused by the turning over of a riding mower, static stability requirements are included which specify that the mower's upper wheels shall not lift when it rests on a slope inclined 30° from the horizontal when the mower is facing uphill or downhill or on a slope inclined 20° from the horizontal when the mower is facing in either direction across the slope (§ 1205.8(a)).

Shields are also required (§ 1205.8(c)) for riding mowers to prevent the foot probe of Fig. 3 from entering the blade path or contacting any moving mower part driven by the power source that is within 125 cm. (49.2 in.) of the seat reference point of the mower (defined in § 1205.2(a)(23)).

Riding mower steering requirements (Section 1205.9) This section (§ 1205.9 (a)(3)) does not permit tiller bar steering to be utilized in riding mowers, since a tiller bar requires the operator's body to be in an unstable position during sharp turns. If a mower is steered by dual hand-lever controls, to turn a forward-traveling vehicle to the right, the left control shall move in a forward direction relative to the right control or the right control shall move rearward relative to the left control and vice versa (§ 1205.9(a)(2)). All other types of steering controls shall move to the right, or in a clockwise direction, to turn a forward-traveling mower to the right, and vice versa (§ 1205.9(a)(1)).

A structural integrity test of the steering system is also included (§ 1205.9(b)). The system is required to withstand a force of 222 newtons (50 lb.) applied to the steering mechanism while the steerable wheels are held in each of three positions.

Riding mower brakes (Section 1205.10). The proposed standard includes requirements (§ 1205.10(a)(1)(i)) for attainable stopping distances for riding mowers in both the forward and backward directions. In order that the operator shall be able to control the mower, a test is provided (§ 1205.10(a)(1)(iii)) to ensure that the service brake is capable of holding the mower stationary on a slope that is inclined at an angle of 17° when a 222 newton (50 lb.) force is applied to the brake control. The service braking system shall function independently of the position of the transmission or clutch controls or engine operation § 1205.10(a)(1)(ii)).

A structural integrity test for braking controls (§ 1205.10(b)) is provided which requires foot brakes to be able to withstand a force of 1,670 newtons (375.5 lb.) and hand brakes to be able to withstand a force of 710 newtons (159.7 lb.).

A test for parking brakes (§ 1205.10 (c)) is provided to insure that they will limit the amount of roll when the mower is parked on an inclined surface.

In order to further reduce the potential hazard of a runaway mower, the parking brake requirement recommended by CU has been supplemented in the proposal by specifying that these requirements shall also apply when the power source is running (§ 1205.10(c)(2)(i)(C)).

A leg probe (Fig. 9) (§ 1205.10(d)(1)) is proposed to determine that the brake pedal is located close enough to the seat that smaller operators can apply the necessary force to the pedal.

In order that brakes be reliable to use, brake pedals are required to have slip resistant contact surfaces (§ 1205.10(d)(2)), and a barrier is required § 1205.10(d)(2)) to prevent the foot from sliding off a right-side control surface toward the right and from sliding off a left-side control surface toward the left.

Riding mower controls (Section 1205.11). A riding mower is required (§ 1205.11(a)) to have a blade control system (CU's "deadman control") which will present operation of the blade unless a control is actuated by the operator and require that the operator be in continuous contact with the control in order for the blade to continue to be driven. The mower shall also have a second control which must be actuated before a stopped blade can be restarted. The significance of this control system is explained above in the discussion of walk-behind mower controls under § 1205.5. The second control which must be actuated before the stopped blade can be restarted must require a force of at least 110 newtons (24.8 lb.) in order to be actuated. This is to prevent inadvertent engagement of the blade control.

In order to reduce injuries connected with backover accidents, the blade of a riding mower must come to a stop when the transmission or traction drive is positioned for reverse travel (§ 1205.11(a)(3)).

Riding mowers are also required to have a control so that the blade may be rendered inoperative while the mower is traveling forward (§ 1205.11(a)(4)). This enables the operator to reduce the hazard from a moving blade when it is not needed for mowing and also to reduce the hazard of thrown objects when the mower is driven across an area covered with gravel or debris.

Two years after the effective date of Part 1205 (four years after the standard is issued), the blade of a riding mower must come to a complete stop within 3 seconds after the blade control "deadman" is released or after the transmission or traction drive is positioned for reverse travel (§ 1205.11(b)). For mowers manufactured before that date but after the effective date of the standard, the blade is required to stop within 6 seconds. See the discussion above under § 1205.5 for the reasons the Commission selected these particular blade stopping times and this effective date.

In order to prevent blade motion except when the operator requires it, and to prevent inadvertent blade motion when the mower power source is started, a riding mower is required to have a means to prevent the engine from being started by its normal starting means unless the blade drive is disengaged and the traction drive is disengaged or in neutral (§ 1205.11(c)(1)).

In order that the power source may be conveniently stopped and not inadvertently restarted, all riding mowers are required to have a shutoff control to stop the operation of the power source (§ 1205.11(c)(2)). This control shall require a manual operation before the power source can be restarted.

The traction drive of a riding mower is also required to have a "deadman" type control so that the power source must be stopped or the traction drive disconnected if the operator leaves the operating position or otherwise releases the control without first disengaging the traction drive (§ 1205.11(d)(1)). This will stop the movement of the mower if the operator falls or is thrown from the operating position.

A neutral position is required between any forward position and any reverse position of a riding mower transmission (§ 1205.11(d)(2)) in order to reduce the possibility of causing mower instability if the transmission went immediately from forward drive to reverse drive.

To prevent inadvertent shifting of the transmission, the transmission or traction drive control is also required to have a lockout or other means to prevent moving from forward to reverse or vice versa without an intentional manipulation of the control (§ 1205.11(d)(3)).

Warning labels (Section 1205.12). The warning label shown in Fig. 10 is required to be applied to the blade housing or other shielding of all lawn mowers subject to this standard. This issue is discussed below in section D. IV. 12 of this preamble.

Prohibited stockpiling (Section 1205.13). Section 9(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(d)(2)) authorizes the Commission to prohibit stockpiling of consumer products that are the subject of a consumer product safety rule. Stockpiling means manufacturing or importing such a product between the date of issuance of the rule and its effective date at a rate that is significantly greater than the rate at which such product was produced or imported during a base period specified by the Commission.

An anti-stockpiling provision is included as part of the proposed standard (§ 1205.14) to insure that the purposes of the standard, if promulgated, will not be circumvented. The proposed anti-

V 42 N 87 MAY 5 77 UMI

stockpiling rule specifies that power lawn mowers that do not comply with the standard shall not be manufactured or imported between the date of promulgation of the final standard and the date the standard becomes effective at a rate that is more than 20 percent greater than the rate at which power lawn mowers were produced or imported during the base period. The proposed base period is, at the option of the manufacturer or importer concerned, any period of 365 consecutive days beginning on or after September 1, 1971, and ending on or before August 31, 1976.

Since the requirements for 3 second blade stopping times after release of the "deadman control" become effective two years after the effective date of the remainder of the standard, mowers which do not comply with these provisions shall not be manufactured or imported between the date of promulgation of Part 1205 and the date these provisions become effective at a rate that is more than 20 percent greater than the rate at which power lawn mowers were produced or imported during the base period.

Findings (Section 1205.14). At the time a final rule is promulgated, this section will contain the Commission's findings on the topics outlined in the OTHER CONSIDERATIONS section (E) of this preamble.

D. PROVISIONS OF CU'S RECOMMENDED STANDARD THAT ARE NOT INCLUDED IN CPSC'S PROPOSED STANDARD

I. A number of the provisions that were in the standard that CU recommended to the Commission have not been included in the standard that the Commission is proposing. In some cases, the provisions were not proposed because the Commission's analysis of the particular risk of injury that the provision was intended to address did not show that the particular risk was sufficient to support the need for inclusion of the provision in a mandatory standard.

The following requirements that were recommended by CU have not been proposed by the Commission as part of the mandatory standard for the above reason:

1. *Electrical terminals.* That electrical terminals be protected against short circuiting by metal fuel containers or tools.

2. *Battery chargers.* Requirements for on-board battery charging systems.

3. *Fuel system.* Requirements for integrity of the fuel system. The proposal substitutes a general requirement that the fuel system not leak under any reasonably foreseeable condition of use.)

4. *Fuel tank venting.* Requirement for fuel tank venting.

5. *Key lock.* Requirement for a key lock for power start mowers.

6. *Control movement.* Requirements for the movement of traction drive clutch and/or neutral return controls, brakes, parking controls, speed controls, and steering controls.

7. *Parking brake interlock or alarm.* That a riding mower have a means to prevent ground travel when the parking brake is engaged, unless the service braking system and parking braking system are separate and independent or unless an alarm is provided to indicate when the parking brake is engaged.

8. *Instructions.* That instructions setting forth certain safety-related matters be provided.

II. A number of CU's other recommended requirements were not proposed because the Commission concluded that (1) the requirements were features of a voluntary standard that is complied with by at least the vast majority of mower manufacturers or is otherwise a generally followed manufacturing practice and (2) there is no apparent reason to believe that the requirements will not continue to be so. However, if manufacturers should begin to produce mowers which do not conform to these practices, the Commission will reconsider whether additional requirements should be included in the mandatory standard. The following requirements have not been proposed for this reason.

1. *Electrical.* That electrically-powered mowers be either of double-insulated construction or grounded.

2. *Electrical.* Requirements for (1) grounding conductors, (2) a leakage current test for non-double-insulated mowers, and (3) power supply cord strain relief.

3. *Battery powered mowers.* That battery powered mowers with nominal power supply potentials exceeding 30 volts contain certain protective features. Currently marketed mowers that exceed 36 volts contain these protective features, and the Commission believes that this level of protection is adequate.

4. *Battery started mowers.* Requirement for similar protective features in battery started internal combustion engine powered mowers.

5. *High tension cables.* Requirements for high tension cables.

6. *Structural integrity.* Requirements for general structural integrity of rotary mowers.

7. *Blades.* CU's blade attachment security test, blade impact test, and mower unbalance test.

III. The following CU requirements have not been proposed for both of the categories of reasons given above.

1. *Electrical.* Requirements that electrically-live parts and certain dead metal parts be so located or enclosed that they may not come into contact with uninsulated live parts.

2. *Electrical cords.* Requirements concerning electrical cords for electrically powered mowers.

3. *UL 82.* Requirement that would have incorporated certain provisions of UL 82, "Standard for Electric Gardening Appliances," Second Edition (February 14, 1974), by reference.

4. *Control location.* That certain controls be located within the operating zone.

5. *Required operating controls.*—Requirements for the presence of certain operating controls and that there be independent traction and blade controls.

6. *Labels.* Requirements for warning labels and for label durability and placement (except for the proposed blade housing label).

IV. A discussion of the reasons that particular other CU requirements were not proposed is given below.

1. *Sound levels.* CU recommended that, after the effective date of the standard, the allowable sound levels produced by power lawn mowers should be limited to 92 dbA for walk-behind mowers and 95 dbA for riding mowers. They also recommended that sound levels should be further reduced to 90 dbA for all mowers two years after the effective date of the standard. The Commission has not proposed these recommendations.

The rationale for sound level requirements is that long-term exposure to high sound levels can cause a loss of hearing. As noted by CU, it is also possible that noise can mask shouted warnings of potentially dangerous situations. The Commission does not believe that the difference between the sound levels for currently available mowers and the 90 dbA level is significant in permitting better communication of shouted warnings at the distances that are likely to be involved. However, data are available from which the Commission could conclude that exposure to noise can, over a period of years, produce a hearing loss. Any such loss would be the result of the cumulative effect of the noise from power lawn mowers and other noise sources to which the consumer might be exposed.

Under the Noise Control Act of 1972 (Sec. 4(c), Pub. L. 92–574, 86 Stat. 1235, 42 U.S.C. 4903(c)), the Administrator of the Environmental Protection Agency (EPA) has the responsibility of coordinating the programs of all Federal agencies relating to noise control and of establishing regulations to protect the public health and welfare from major sources of noise. On January 12, 1977, EPA published a FEDERAL REGISTER notice (42 FR 2525) identifying power lawn mowers as a major source of noise. This is the first step toward promulgation by EPA of a noise standard for power lawn mowers. This EPA standard could be effective at about the same time as the Consumer Product Safety Commission's Safety Standard for Power Lawn Mowers. Since the question of injury to hearing caused by lower levels of noise produced by power lawn mowers requires consideration of the cumulative effect of other noise sources, it appears that any action taken by the Commission to regulate the sound levels of power lawn mowers would unnecessarily duplicate functions that are specifically assigned to EPA by the Noise Control Act of 1972. Furthermore, EPA's authority to protect the public health and welfare apparently extends to the establishment of standards to protect against annoyance caused by noise as well as against the risk of hearing loss, so that EPA could possibly set more stringent requirements than would be possible under the Consumer Product Safety Act.

Requirements for 92 dba for walk-behind mowers and 95 dba for riding mowers are in the present voluntary standards and can be met by most currently-marketed mowers.

For the reasons given above, the Commission has decided to defer further consideration of sound level requirements for power lawn mowers until EPA has had a reasonable opportunity to issue regulations in this area.

2. *Electrically-powered mowers.* a. The requirements for electrically-powered mowers that were recommended by CU allowed the outer surface of the handles and controls to be made of electrically conductive material if this material were isolated from the electrical system by sufficient insulation. The Commission, however, believes that under conditions that may be encountered in use, electrically conductive paths could be formed across such insulation, thereby energizing the whole handle and control assembly. Accordingly, the Commission has changed this requirement so that the outer surfaces of these parts must be of or covered with an insulating material (§ 1205.7(a)).

b. The test recommended by CU to determine the sufficiency of the insulation has also been changed. CU recommended that a high voltage be applied across the insulation to metallic foil that was wrapped around it. This method of testing would not detect pin point holes and cracks in the insulation that are not large enough to allow the foil to enter but which could fill with conductive material (e.g., perspiration) under conditions of actual use. Accordingly, the Commission has proposed a test method whereby the insulated handle or control is submerged in a conductive solution that can enter tiny holes and cracks in the insulation, and the resistance of the entire insulated area is measured between the conductive solution and the nearest conductive part of the mower (§ 1205.7(a)(2)).

c. The plug blade shielding test recommended by CU called for the use of a representative range of commercially available extension cords. The recommended CU requirement could result in a plug passing the test with some extension cords and failing with others. Also, to the extent that different sets of cords could be selected for use in this test, the test might not yield repeatable results. In order to eliminate these difficulties, the Commission proposal substitutes a specified gage for the extension cords (§ 1205.7(c)). The gage consists of the suitable plug from UL 498, "Attachment Plugs and Receptacles," October 29, 1976, connected as shown in Fig. 8.

CU's plug shielding test involved contacting the plug blade with a test probe and then inserting the plug into the extension cord receptacle to see if the blade could contact the extension cord contact while the test probe remains in contact with the plug blade. In the proposal, the Commission has reversed this procedure so that the plug is fully inserted into the gage and then withdrawn to the point that the test probe can be inserted to make contact with the plug blades. The Commission believes that since the hazard exists in the situation where the plug blade is touching the extension cord contacts, the test should begin in this mode. Also, the hazard is more likely to cause injury during withdrawal of the plug than during insertion since the hand would be more likely to be lower on the plug when trying to pull it out.

3. *Fuel tank filling.* CU's requirement that fuel tanks not overflow while being filled has not been proposed. This test is not sufficiently repeatable, and the hazard is also addressed by the overflow protection test, which has been retained (§ 1205.6(b)).

4. *Exhaust system surface temperatures.* CU's requirement that exhaust sytem surfaces that are above the blade housing and that reach temperatures above 150° C. (302° F.) shall be inaccessible or shielded has not been proposed. Injuries can occur even at the limit suggested by CU, and the Commission believes that additional research is required in order to determine if a practical temperature limit exists which would significantly reduce the generally minor injuries that do occur from this hazard.

5. *Traction disengagement control.* CU's requirement for a traction disengagement control for walk-behind mowers has not been proposed because the blade deadman control largely eliminates any hazard that might be caused by the lack of this feature.

6. *Braking modulation.* The test recommended by CU to determine the ability of the brake system to modulate its braking between zero and maximum braking force has not been proposed because the results are too dependent on operator skill and the test can be dangerous to perform.

7. *Dynamic stability.* CU's recommended requirements for testing the dynamic stability of riding mowers have not been proposed because they are too dependent upon operator skill and can be dangerous to perform.

8. *Housing strength test.* The housing strength test recommended by CU has not been proposed since the Commission believes that the thrown objects test will also adequately test for housing strength. If the mower housing were weak enough to be penertated during the thrown objects test, the housing would not shield against the thrown objects, and that test would be failed. Furthermore, the test is a feature of the voluntary standard that is complied with by the vast majority of presently available mowers. Accordingly, an additional test to see if the housing can be penetrated is not necessary.

9. *Certification label.* CU's requirement for a label stating that the mower "meets U.S. Consumer Product Safety Commission safety regulations for power lawn mowers" has not been proposed. The Commission intends to address this topic in a separate certification regulation that the Commission will develop under § 14 of the Consumer Product Safety Act (15 U.S.C. 2063). The Commission will propose that regulation for public comment and intends that it will become effective on the effective date of Part 1205. A more detailed discussion of issues associated with certification requirements is given in section E of this notice, "Other Considerations."

10. *Starting stability.* CU recommended a starting stability test for manually started mowers that were not provided with a slip-resistant area which would enable the operator to stabilize the mower while starting. The Commission, however, has proposed a requirement that any mower whose blade can begin movement when it is started is required to have its starting controls in the operating control zone, where it would be relatively easy to stabilize the mower against a manual starting force. For other mowers, the starting stability is not a safety-related feature since the blade will not move when the mower is started.

11. *Blade harmless test and interlocks.* As explained in section C of this preamble under § 1205.5, CU's requirements for a blade harmless test as an alternative to blade stopping and for interlocks to discourage disabling of the "deadman" have not been included in the proposal.

12. *Warning label.* The label for the mower housing that was recommended by CU depicts a hand with severed fingers and dripping blood. Some people object to this label as being offensive to the sensibilities of the consumer because of its gory nature. Others believe that these features of the label are justified since they impress the user with a realization of severe hazard associated with contacting an operating blade. After considering the objections which had been raised to the CU label and considering a number of alternative labels, the Commission decided to propose the label shown in Fig. 10, which was devised by the Commission's Office of the Medical Director (OMD). The Commission believes that the OMD label will be as effective as the CU label in warning the consumer of the danger of contact with the blade without unnecessarily subjecting the consumer to the features of the CU label which were the source of some objections.

E. OTHER CONSIDERATIONS

Findings. Section 9(c) of the act requires that prior to promulgating a consumer product safety rule the Commission shall consider and make appropriate findings as to:

(1) The degree and nature of the risk of injury the rule is designed to eliminate or reduce;

(2) The approximate number of consumer products, or types or classes thereof, subject to such rule;

(3) The need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need;

(4) Any means of achieving the effect of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

(5) That the rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk

V 4 2 8 7 MAY 5 7 7 UMI

of injury associated with power lawn mowers; and

(6) That promulgation of the rule is in the public interest (15 U.S.C. 2058 (b) and (c)).

The Commission must also include these findings in the final standard.

Section 9(b) of the act (15 U.S.C. 2058 (b)) requires that in promulgating a consumer product safety rule, the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by the rule.

The Commission welcomes comments from interested parties relating to all aspects of the subject matter of these findings.

Economic analysis. As required by section 9(c) of the act (15 U.S.C. 2058(c)), the Commission has taken into account in its consideration of the proposed standard the need of the public for power lawn mowers and the probable effects of the standard upon the utility, cost, and availability of the product to meet such need. These are among the factors the Commission weighed in estimating the economic impact of the proposed standard on consumers, manufacturers of power lawn mowers or their components, persons involved in the distribution and sale of this product, and other areas of the general economy. A draft economic impact analysis is available for inspection or copying in the Office of the Secretary. The Commission welcomes comments on the analysis and on the possible economic effects of the proposed standard.

Environmental impact. After due deliberation, the Commission has determined that there are no significant potentially adverse environmental effects associated with this standard. The factors considered in making this determination are contained in an environmental impact assessment that may be seen in, or obtained from, the Office of the Secretary.

Preemption. Section 26(a) of the act (15 U.S.C. 2075(a)) provides that whenever a consumer product safety standard issued under the act is in effect, no state or political subdivision of a state shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such products if the requirements are designed to deal with the same risks of injury associated with such consumer product that are dealt with by the consumer product safety standard, unless the state or local requirements are identical to the requirements of the standard promulgated under the act. This means that state or local requirements, to the extent they address the described types of requirements and the same risks as any Federal standard that is ultimately issued, will be preempted by the Federal standard upon its effective date unless they are identical to the final Federal standard.

However, section 26(c) of the act (15 U.S.C. 2075(c)) provides that upon application of a state or political subdivision thereof, the Commission may, by rule and after notice and opportunity for oral presentation of views, exempt a proposed safety standard or regulation described in the application from the preemption provisions of section 26(a) (under such conditions as the Commission may impose). In such cases, the Commission must find that the proposed state or local standard or regulation (1) imposes a higher level of performance than the standard promulgated under the act and (2) does not unduly burden interstate commerce.

Section 26(a) does not, however, prevent the Federal Government or the government of any state or political subdivision of a state from establishing a safety requirement applicable to a consumer product for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

Certification and labeling. Manufacturers and private labelers of power lawn mowers will be required to comply with the certification provisions of section 14(a)(1) of the act (15 U.S.C. 2063(a)(1)) after the effective date of the power lawn mower safety standard. Section 14(a)(1) requires manufacturers (and private labelers, if the product bears a private label) to issue a certificate which states that the product conforms to all applicable consumer product safety standards and specifies any applicable standard. The certificate shall be based on a test of each product or upon a reasonable testing program and must state the name of the manufacturer or private labeler issuing the certificate and include the date and place of manufacture.

In addition, section 14 (b) and (c) of the act allows, but does not require, the Commission to issue regulations which would (1) prescribe a reasonable testing program, (2) specify which manufacturer shall issue the certificate when a product has more than one "manufacturer," and (3) require labeling of products subject to consumer product safety standards. Specific certification and labeling requirements of the type authorized by section 14 (b) and (c) of the Consumer Product Safety Act are not included in the standard, but the Commission anticipates that they will be addressed in a separate rule to be developed under that section. The rule on certification and labeling will be separately proposed for public comment in accordance with the requirements of the Administrative Procedure Act (5 U.S.C. 553). It is intended that the final rule on certification and labeling will be issued prior to the effective date of the power lawn mower safety standard and will become effective at the same time as that standard.

Section 16 of the act (15 U.S.C. 2065) requires that manufacturers, importers, and private labelers of a consumer product shall establish and maintain such records and make such reports as the Commission may reasonably require for the purposes of implementing the act or to determine compliance with rules or orders prescribed under the act. Requirements under this section could be included in a certification regulation in order to insure that adequate records of a testing program are kept.

Although the Commission does not intend to issue a certification regulation as part of the standard that is being proposed in this notice, the Commission believes that it would be helpful to solicit comments on issues related to this subject so that these comments can be considered in drafting a proposed certification regulation. The following questions are among those that will be considered in the process of issuing a certification regulation:

1. Concerning the requirement for a "reasonable" testing program:

(a) Should the Commission issue no regulation in this area? In this event, each manufacturer would have to formulate its own reasonable testing program.

(b) Should the Commission prescribe the outer limits or parameters of what it considers a reasonable testing program, but issue no specific requirements for sampling and testing?

(c) Should the Commission prescribe specific requirements for sampling and testing?

2. Who should be required to certify? To what extent shoud component manufacturers be required to certify their components? To what extent should manufacturers be allowed to rely upon the certification of component manufacturers?

3. What would be the most appropriate and effective testing program? Would it be model qualification, production quality control, sampling and testing, some combination of these techniques, or some other method to meet the certification requirement of the statute?

4. Should manufacturers be required to retain the samples that are tested? If so, for how long?

5. What records should be kept of the manufacturer's testing programs, the tests performed, and the test results? How long should such records be maintained?

6. Section 14 of the act (15 U.S.C. 2053(c)) sets forth information which the Commission may require on labels on the product. Which of this information would be useful to the consumer?

In addressing these questions, commenters should keep in mind the nature of the power lawn mower industry and the cost and effects of any contemplated testing program. (It has been estimated that it will require approximately 10 days to test a mower to see if it complies with all the provisions of the proposed standard.)

Comments that solely concern certification issues will not be addressed in the preamble to any final consumer product safety standard for power lawn mowers that may be issued by the Commission. Rather, these comments will be considered by the Commission prior to proposing a certification regulation. The substantive comments that are received on that proposal will be addressed in the preamble to the final certification regulation when it is issued.

Metric units. The proposed Part 1205 will be enforced on the metric units for dimensions, weights, etc. that are given in the Part. However, for convenience, the English equivalents are also given.

F. Extension of Time

Section 9(a)(1) of the act (15 U.S.C. 2058(a)(1)) requires that within 60 days after the publication of a proposed consumer product safety rule, the Commission shall either (1) promulgate a rule respecting the risk of injury associated with such product, or (2) withdraw the applicable notice of proceeding, unless the Commission extends the 60 day period for good cause shown and publishes its reasons in the Federal Register. The process of promulgating a consumer product safety rule or withdrawing the applicable notice of proceeding requires the Commission to consider the substantive comments that are received on the proposal, decide if any changes to the proposed rule are required, make the findings required by section 9 of the act, and prepare an appropriate Federal Register notice. In the case of the proposed power lawn mower standard, the Commission believes that these actions will require at least 90 days. Since 60 days are being allowed for the public to comment on the proposed rule, a total of at least 150 days from the date of publication of this notice will be required for the Commission to promulgate a rule (or withdraw the notice of proceeding). Accordingly, the Commission hereby extends until October 3, 1977, the date by which it must either publish a consumer product safety rule respecting the risk of injury associated with power lawn mowers or withdraw by rule the applicable notice of proceeding. This period may be further extended for good cause shown.

G. Conclusion and Proposal

Having considered CU's recommended safety standard for power lawn mowers and the supporting material submitted therewith, together with other relevant information, the Commission concludes that the recommended standard, changed as described above and with additional editorial changes, should be proposed as a consumer product safety standard.

Therefore, pursuant to provisions of the Consumer Product Safety Act (7(f), Pub. L. 92-573, 86 Stat. 1215, 15 U.S.C. 2056(f)), the Commission proposes that Title 16, Chapter II of the Code of Federal Regulations be amended by adding to Subchapter B a new Part 1205 as follows:

PART 1205—SAFETY STANDARD FOR POWER LAWN MOWERS

Subpart A—The Standard

Sec.
1205.1 Scope, application, background, and effective date.
1205.2 Definitions.
1205.3 Walk-behind mower protective devices.
1205.4 Thrown objects test for rotary mowers.
1205.5 Walk-behind mower controls.
1205.6 Fuel ignition hazards.
1205.7 Electrically-powered mowers.
1205.8 Riding mower stability and shield requirements.
1205.9 Riding mower steering requirements.
1205.10 Riding mower brakes.
1205.11 Riding mower controls.
1205.12 Warning labels.
1205.13 Prohibited stockpiling.
1205.14 Findings.

Authority: Sec. 2, 3, 7, 9, 14, 19, Pub. L. 92-573, 86 Stat. 1207, 1208, 1212-17, 1220, 1224; 15 U.S.C. 2051, 2052, 2056, 2058, 2063, 2068.

§ 1205.1 Scope, application, background, and effective date.

(a) *Scope.* (1) This Subpart A of Part 1205, a consumer product safety standard, prescribes safety requirements for power lawn mowers, which, for the purposes of this Part, are defined as grass-cutting machines with a minimum cutting width of 304 mm. (11.96 in.) that employ an engine or a motor as a power source and are consumer products as defined in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)). This definition includes both rotary and reel-type mowers and applies to both riding and walk-behind mowers. Mowers powered by internal combustion engines or electric motors are included. Where an individual section within this Subpart A of Part 1205 applies only to certain types of the mowers included within "power lawn mowers," the section will state the types to which it applies. The requirements of this standard are designed to reduce or eliminate the unreasonable risks of death or injury associated with power lawn mowers.

(2) Section 1205.14 sets forth the findings which the Consumer Product Safety Commission is required to make by section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) in issuing this standard.

(3) *Other standards.* (i) Portions of the following standards are incorporated by reference into this standard:

(A) ANSI/ASTM D 484-71 (R 1976), "Standard Specification for Hydrocarbon Dry Cleaning Solvents"—Table 1 (Type I solvent) (See § 1205.6(b)(2)).

(B) Federal Specification FF-N-105B (3), "Nails, Brads, Staples and Spikes: Wire, Cut and Wrought" (4 Oct 74) (See § 1205.4(b)(2)(v)).

(ii) ANSI standards are approved by, published by, and available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. ASTM standards are approved by, published by, and available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. Federal Specifications are available for reference at General Services Administration Regional Business Service Centers and at some Federal Government Depository Libraries (librarians will be able to help locate the nearest copy).

(iii) The requirements that have been incorporated by reference from these standards are those set forth in the particular revision or edition of the standard that is specified above. Any subsequent revisions of the relevant portions of the standards are not thereby incorporated into this Part 1205.

(b) *Application.* (1) This Part 1205 shall apply to all power lawn mowers that are produced or distributed for sale to or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. This Part does not apply to power lawn mowers that are not customarily produced or distributed for sale to, use or consumption by, or enjoyment of a consumer.

(2) Power lawn mowers manufactured after the effective date of this standard must meet the requirements of this standard if the mower is manufactured for sale, offered for sale, or distributed in commerce within the United States or if the mower is imported into the United States.

(3) The requirements of Subpart A of this Part 1205 are based on the metric units for weights, dimensions, etc., that are given in the Part. However, for convenience, the English equivalents are also given. Only English units are given for plywood thicknesses, since this is not a dimension but rather a designation of a commercially available size. There is no current equivalent metric designation.

(c) *Background.* (1) On August 15, 1973, the Outdoor Power Equipment Institute (OPEI) petitioned the Consumer Product Safety Commission pursuant to section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) to commence a proceeding for the development of a consumer product safety standard for power lawn mowers. In its petition, OPEI also requested that the Commission publish a standard of the American National Standards Institute, ANSI B71.1-1972, "Safety Specifications for Power Lawn Mowers, Lawn and Garden Tractors, and Lawn Tractors," with amendments and a compliance program, as a proposed consumer product safety standard.

(2) After consideration of the available information concerning injuries associated with power mowers, the Commission preliminarily determined that power lawn mowers present unreasonable risks of death or injury to consumers. Accordingly, on November 16, 1973, the Commission granted the portion of the OPEI petition which requested that the Commission commence a proceeding to develop a consumer product safety standards for power lawn mowers. The Commission began the development of the standard by publishing a notice of proceeding in the Federal Register of July 22, 1974 (39 FR 26662), inviting interested persons to submit an existing standard as a proposed consumer product safety standard or to submit offers to develop a recommended safety standard.

V 42 87 MAY 5 77 UMI

(3) In response to this invitation, the Commission received one existing standard and an Invitation for Bid, issued by the General Services Administration, that was referred to as an existing standard, for consideration as a proposed consumer product safety standard, and also received four offers to develop a standard applicable to power lawn mowers. The Commission subsequently accepted the offer of Consumers Union of United States, Inc., (CU) to develop a consumer product safety standard applicable to power lawn mowers.

(4) The requirements of this Part 1205 have resulted from the standard which was recommended by CU and from certain additions, deletions, modifications, and editorial changes which were made by the Commission after an extensive evaluation of CU's recommended standard. All material which was considered by the Commission during this proceeding is available from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207. During its evaluation, the Commission obtained the opinion of independent experts and groups of consumers on various questions which were raised during the evaluation.

(5) A more detailed account of the background of this Part can be found at 42 FR 23062.

(c) *Effective date.* Except where stated otherwise, Subpart A of this Part 1205 shall become effective 2 years after promulgation of Part 1205. In § 1205.4(b) and § 1205.11(b)(2) (relating to blade stopping times), a more stringent requirement becomes effective on 4 years after promulgation of Part 1205).

§ 1205.2 Definitions.

(a) As used in this Part 1205:

(1) "Battery powered mowers" means mowers that utilize storage batteries as a source of power.

(2) "Blade" means any device, mechanism, or means that is intended to cut grass during mowing operations and includes all blades of a multibladed mower.

(3) "Blade tip circle" means the path described by the outermost point of the blade edge as it moves about its axis.

(4) "Brake pedal" means the portion of a foot operated brake that is intended to be contacted by the foot.

(5) "Cutting width" means the blade tip circle diameter or, for a multi-bladed mower, the width, measured perpendicular to the forward direction, of a composite of all blade tip circles.

(6) "Electrically-powered mower" means those mowers utilizing the continuously-supplied residential voltage commonly available in the U.S. at receptacles installed in homes (nominally 120 volts A.C.).

(7) "Engine" means a power producing device which converts thermal energy from a fuel into mechanical energy.

(8) "Equivalent test weight" means a weight used to simulate a standard test operator in some tests of riding power lawn mowers. Its weight is 95±5 kg. (209±11 lb.). The center of gravity of the weight is 230 cm. (9.1 in.) above the lowest point of the operator-support surface of the seat, and 250 cm. (9.8 in.) forward of the seat reference point.

(9) "Fuel system" means an arrangement of components designed to deliver combustible matter to an engine.

(10) "Grass catcher" means a part or parts attached to the mower that provide a means for collecting grass clippings or debris discharged by the mower.

(11) "Horizontal plane of blade" means the plane of the blade tip circle.

(12) "Manual starting" means starting the mower engine with power obtained from the physical efforts of the operator.

(13) "Maximum operating speed" means the maximum rpm obtainable by the engine or motor under the conditions of the particular test where the term is used.

(14) "Motor" means a power producing device that converts electrical energy into mechanical energy.

(15) "Mulching mower" means a power rotary mower without a discharge opening (designed to leave clippings on the ground).

(16) "Normal starting means" means the primary mechanism intended to be actuated by the operator to start a mower's engine or motor (e.g., the cord machnism of a manual start engine, the switch of an electric motor, or a power start machanism).

(17) "Operating control zone" means,

(i) for a walk-behind mower, the space enclosed by a cylinder with a radius of 380 mm. (14.9 in.) having a horizontal axis that is (1) perpendicular to the fore-aft centerline of the mower and (2) tangent to the rearmost part of the mower handle, extending 100 mm. (3.9 in.) beyond the outermost portion of each side of the handle. See Fig. 1.

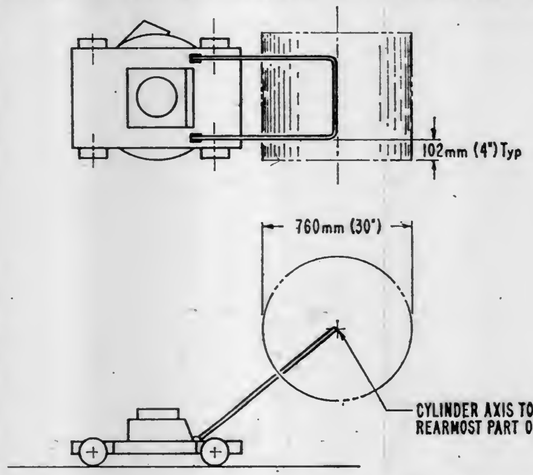


FIG 1-OPERATING CONTROL ZONE (Walk Behind)

(ii) for a riding mower, the space enclosed by a vertical cylinder having a radius of 510 mm. (20 in.) that is located so that the rearmost part of the cylinder passes through the seat reference point when the seat, if adjustable, is in its most forward position. See Fig. 2.

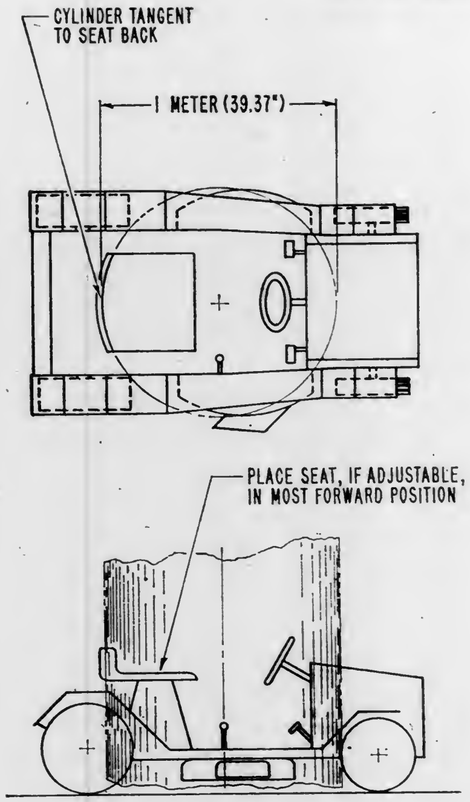


FIG 2-OPERATING CONTROL ZONE (Riding Mower)

(18) "Operating position" means the location and position occupied by a power lawn mower operator while mowing a lawn. For a walk-behind mower, the operator is directly behind the mower with his or her hands on the mower handle(s) and feet on the ground. For a riding mower, the operator is in the seat, with his or her hands on the steering control(s) and feet either on controls or in the areas of the mower intended for foot placement.

(19) "Power lawn mower" means a grass cutting machine with a minimum cutting width of 304 mm. (11.96 in.) that employs an engine or a motor as a power source and is a consumer product as defined in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)). See § 1205.1(a)(1).

(20) "Power source" means an engine or motor.

(21) "Riding mower" means a self-propelled mower on which an operator rides while mowing. The cutting mechanism may be either an integral part of the mower or an attachment. Garden tractors and lawn and garden tractors with a mowing attachment are considered riding mowers.

(22) "Rotary mower" means a power lawn mower in which one or more cutting blades rotate about at least one vertical axis.

(23) "Seat reference point" means the point defined by the intersection of (i) a horizontal plane passing through the lowest point of the seating surface of a riding mower and (ii) a vertical line passing through the rearmost point of the seat backrest surface, or seating surface if there is no backrest, that is on the fore-and-aft centerline of the seat.

(24) "Shield" means a part or an assembly which restricts access to a hazardous area. For the purposes of this Part 1205, the blade housing is considered a shield.

(25) "Standard test operator" means a person weighing 95 ± 5 kg. (209 ± 10 lbs.) and with a height of 188 ± 5 cm. (74.02±1.90 in.).

(26) "Tiller bar steering" means a steering system in which the operator uses a single moment arm to create an uncoupled force that applies steering torque in the manner that a boat's tiller applies torque to the rudder post.

(27) "Traction drive" means the mechanism which transmits power from a power source of a mower to the drive wheels to propel the motor across the ground.

(28) "Walk-behind mower" means a power lawn mower, either pushed or self-propelled, normally controlled by an operator walking behind the mower.

(b) The definitions given in the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1205.

§ 1205.3 Walk-behind mower protective devices.

(a) *Shields.* (1) *General requirements.* Shields on walk-behind mowers (including the housing) shall meet the following requirements:

(i) During the foot probe test and terrace test of paragraphs (a)(2)(i) and (a)(2)(ii) of this section, respectively, the shields shall prevent the foot probe of Fig. 3 from entering the path of the blade or causing any part of the mower to enter the path of the blade.

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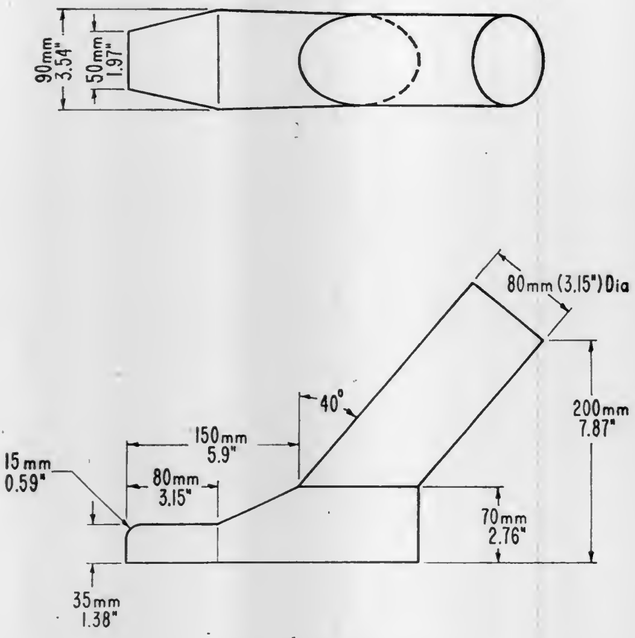


FIG 3-FOOT PROBE

(ii) The shields shall not permanently separate, crack, or deform in a manner that prevents the mower from meeting the requirements of this standard when each of the front, back, and both sides of the mower are, in turn, subjected to a 222 newton (50 lb.) force, uniformly distributed over not less than half the length of the shield on that side of the mower. The force shall be applied in the direction which produces the maximum deformation of the shield.

(iii) During the obstruction test of paragraph (a)(2)(iii) of this section, shields shall not (A) stop the mower as a result of contact with the raised obstacle, (B) enter the path of the blade, or (C) cause more than one wheel at a time to be lifted from the fixture surface.

(2) *Shield tests—general.* (i) *Foot probe test.* (A) The following test conditions shall be observed:

(*1*) The test shall be performed on a level surface.

(2) Pneumatic tires, when present, shall be inflated to the cold pressures recommended by the mower manufacturer.

(3) The test shall be performed with the mower housing at its highest setting relative to the ground.

(*4*) The blade shall be adjusted to its lowest position relative to the blade housing.

(*5*) The mower shall be secured so that the mower may not move horizontally but is free to move vertically.

(*6*) If a grass catcher is provided or sold by the mower manufacturer for use with the mower, the test shall be performed both with and without the grass catcher in place. A grass catcher is not considered a shield except for the purposes of this foot probe test.

(B) *Procedure.* The foot probe of Fig. 3 shall be inserted under all points of the bottom edge of the blade housing and shields with the "sole" of the probe in contact with the supporting surface until the applied horizontal force reaches 18 newtons (4.1 lbs.) or the blade housing lifts, whichever occurs first. As the foot probe is withdrawn after each insertion, the "toe" shall be pivoted upward around the "heel" as much as possible without lifting the mower.

(ii) *Terrace test.* (A) Conditions (2), (3), and (*4*) of the foot probe test of paragraph (a)(2)(i)(A) of this section shall also apply to this test.

(B) The test shall be performed on the fixture shown in Fig. 4, which has a horizontal surface connected to a surface inclined 30° from the horizontal by a curved surface having a radius of curvature of 500 mm. (19.68 in.).

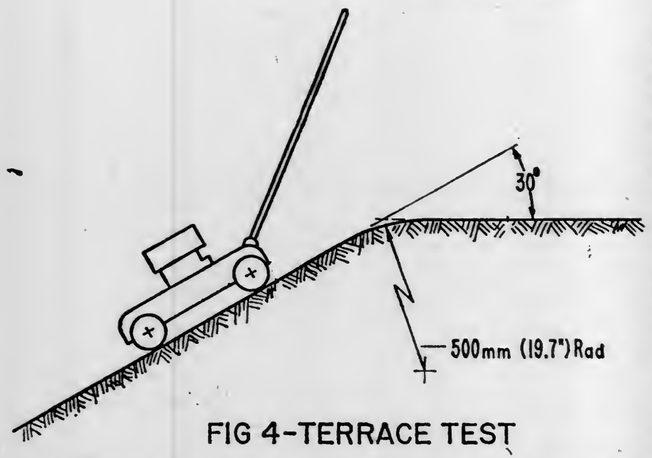


FIG 4-TERRACE TEST

(C) The mower shall be moved over the working length of the test fixture (see Fig. 4), attempting to keep at least three of the mower's wheels, including both rear wheels, in contact with the fixture surface. The working length shall begin at the point where the front wheels first contact the curved surface and end when the rear wheels have left the curved surface.

(D) At each position on the fixture, the mower shields shall not allow the foot probe of Fig. 3 to enter the path of the blade or cause any part of the mower to enter the path of the blade when the probe is inserted and withdrawn in the following manner at all points on the bottom edge of the rear of the blade housing and shields that are located between the rear wheels or the spread of the handles, whichever is wider. During each insertion, a portion of the "sole" of the probe shall be in contact with the test fixture surface and the probe shall be inserted as far as possible until the applied force parallel to the "sole" of the foot probe reaches 18 newtons (4.1 lbs.) or the blade housing lifts, whichever occurs first. As the foot probe is withdrawn after each insertion, the "toe" shall be pivoted upward around the "sole" as much as possible without lifting the mower. In a mower with a swing-over handle, both the front and rear of the mower shall be probed.

(iii) *Obstruction test.* (A) Conditions (2) and (3) of the foot probe test of paragraph (a)(2)((i)(A) of this section shall also apply to this test.

(B) The test shall be performed on the fixture of Fig. 5, which consists of a level surface having (*1*) a 25 mm. (.99 in.) deep depression with a 150 mm. (5.90 in.) radius of curvature and (2) a raised obstacle 15 mm. (0.60 in.) square, each extending the full width of the fixture. The depression shall be lined with a material having a surface equivalent to a 16- to 36-grit abrasive. The depression and the obstacle shall be located a sufficient distance apart so that the mower contacts only one at a time.

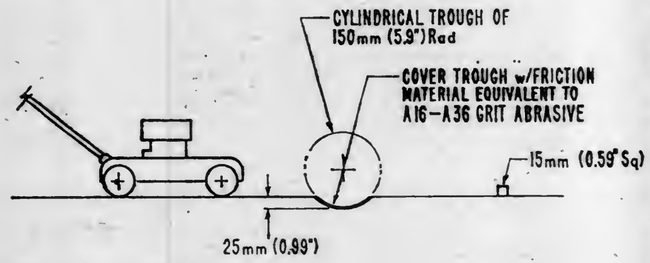


FIG 5-OBSTRUCTION TEST FIXTURE

(C) The test fixture may be relieved to prevent interference with any blade retaining device.

(D) The mower shall be pushed forward and pulled rearward perpendicularly across the depression and the raised obstacle on the fixture. The mower shall be pulled and pushed without lifting with a horizontal force sufficient to transit the obstruction fixture at a speed not to exceed 0.7 meters/sec. (2.2 feet/sec.).

(E) As required by § 1205.3(a)(1)(iii), mower shields must not cause more than one wheel at a time to be lifted from the fixture surface and no shield shall stop the mower as a result of contact with the raised obstacle.

(3) *Movable shields.* In addition to the general shield requirements of paragraph (a)(1) of this section, movable shields must meet the following requirements:

(i) Shields which are movable for the purpose of attaching auxiliary equipment shall return automatically to a position that meets the requirements of Subpart A of this Part 1205 when the attached equipment is removed.

(ii) Shields shall not be removable without the use of tools. For the purposes of this requirement, a coin shall not be considered a tool.

(b) *Handles.* Power mower handles must meet the following requirements.

(1) *Removal.* In order to prevent the unintentional separation of the handle from the mower, the removal of a handle from a power lawn mower shall require the removal or unlatching of at least one other part.

(2) *Upstop.* A restraining means shall be provided to prevent the rearmost part of the handle from moving closer than 430 mm. (16.93 in.) to the vertical line through the nearest point on the blade tip circle. A means to deliberately and temporarily disengage the handle restraining means is permitted.

(3) *Folding or pivoting handles.* A mower that has an electric cord integral to the mower for connection to an external power source (e.g., to supply an integral battery charger) and that has a folding or pivoting handle shall be constructed so that the integral electric cord cannot be entrapped by the folding or pivoting action of the handle.

(4) *Handle strength tests.* During the tests set forth below, the rearmost part of the handle shall not move closer than 430 mm. (16.93 in.) to the vertical line through the nearest point on the blade tip circle and no visible cracks or permanent deformation shall occur in the handle assembly, mounting area, or restraining means.

(i) *Handle structure test.* While the mower is on a horizontal surface, the handle shall be tested in all intended use positions by (A) applying a torque to the handle about its center axis in a clockwise direction until the left wheels are lifted from the supporting surface and (B) by then applying a torque to the handle about its center axis in a counterclockwise direction until the right wheels lift. Repeat 50 times and inspect.

V42N87 MAY 5 77 UMI

(ii) *Handle upstop test.* A 270 newton (60 lb.) force shall be applied to the handle at the place and in the direction that will produce the maximum stress against the handle restraint (upstop). This test shall be conducted after the handle structure test of paragraph (b) (4) (i) of this section.

§ 1205.4 Thrown objects test for rotary mowers.

(a) *Requirement.* Rotary power lawn mowers shall have a means to control and limit the ejection of objects struck by the rotating blade so that the criteria of paragraph (c) of this section will be met when the mower is subjected to the thrown objects test of paragraph (b) of this section.

(b) *Thrown objects test.* (1) *General description.* A test surface covered with artificial turf is surrounded by a target in the shape of an actagonal wall. While the mower is operating, 100 nails are injected upward into the blade from each of 3 injection points. The number and location of the nails that are propelled into the target determine whether the mower is adequately safe.

(2) *Test fixture.* The thrown objects test shall utilize the test fixture of Fig. 6.

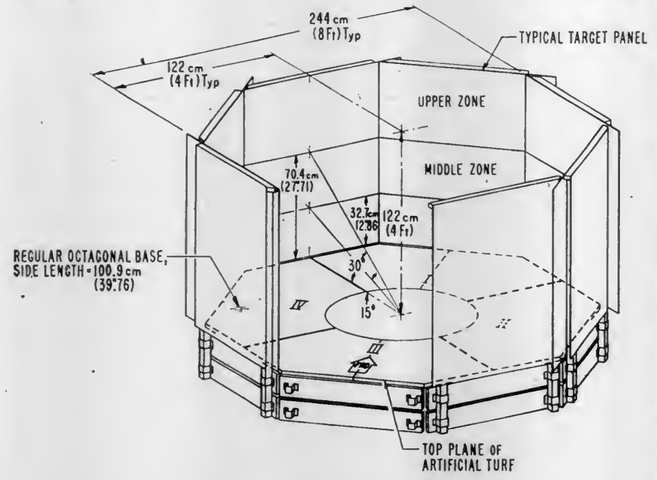


FIG 6-THROWN OBJECTS TESTER

(i) *Target.* (A) A target is provided to register the hits of any projectiles that are ejected from the mower housing during the test. The target consists of 8 panels, each 122 cm. (4.00 ft.) high and 100.9 cm. (39.76 in.) wide, arranged perpendicular to the base of the test fixture so as to form a regular octagon having an inscribed circular diameter of 2.44 m. (8.00 ft.). The panels shall consist of 350-lb. test corrugated board, double wall construction.

(B) The target shall be divided into 4 quadrants located to the front, rear, and both sides of the mower as shown in Fig. 6. The target shall be further divided into 3 elevation zones by two horizontal lines located at 32.7 cm. (12.86 in.) and 70.4 cm. (27.71 in.) above the top plane of the artificial turf on the test surface. These lines approximate the intersection of the closest portions of the target with angles of 15 degrees and 30 degrees extended from the center of the test surface and are referred to in this manner in the pass/fail criteria set forth in paragraph (c) of this section.

(C) Riding mowers shall be provided with an additional target (the "operator target") consisting of a circle of 350-lb. test corrugated board, double wall construction, 1 m. (39.37 in.) in diameter. This target shall be mounted horizontally 38.1 cm. (15 in.) above and centered over the point that is 15.25 cm. (6.0 in.) ahead of the heat reference point when the seat is in its most rearward position. The target may be relieved as necessary to clear the seat back, controls, or other parts of the mower.

(ii) *Test surface.* The surface over which the test is conducted shall be an artificial turf carpet (new Monsanto S-21 or equivalent) glued to a base of ¾ inch plywood. The surface of each quadrant of the test fixture shall be carpeted separately, with the nap of the artificial turf aligned away form the center of the test surface.

(iii) *Injection points.* (A) *Location.* Each blade of the mower is tested separately by being placed with its axis over the center of the test fixture and by having the projectiles injected one at a time into the rotating blade from 3 injection points, each located 2.54 cm. (1.00 in.) inside the blade tip circle and flush with the test surface. The injection points are located in the following angular positions.

(*1*) *Mowers with discharge openings.* When mowers with discharge openings are tested, the injection points shall be located as follows.

(*i*) Point 1: At the 12 o'clock position (center forward).

(*ii*) Point 2: At the position obtained by a line passing through the blade axis which is 45 degrees in the direction opposite the direction of rotation of the blade from a line between the blade axis and the center point of the discharge opening. However, if this position is within 15 degrees of point 1, then point 2 shall be 45 degrees from point 1 in the direction opposite to the direction of rotation of the blade.

(*iii*) Point 3: 180 degrees from Point 2.

(*2*) *Mulching mowers.* When testing mulching mowers, the injection points shall be located as follows:

(*i*) Point 1: The 12 o'clock position.

(*ii*) Point 2: 120 degrees from point 1.

(*iii*) Point 3: 240 degrees from point 1.

(*iv*) *Injection means.* (A) The injection means shall consist of a suitable piece of tubing having an inside diameter of 5/16 inch arranged perpendicular to the plane of the blade and having sufficient straight length to insure that the nails are injected vertically.

(B) The injection means shall inject the projectiles with a force that would, without a mower present, cause the projectiles to rise between 164 mm. (6.02 in.) and 305 mm. (12.01 in.) above the base of the artificial turf.

(v) *Projectiles.* The projectiles shall be sixpenny steel common nails as described in Federal Specification FF-N-105B(3) Oct. 4, 1974, (Para. 3.6.11.2, Type II, style 10—Common nails, bright, size 6d).

(3) *Test Conditions.* (i) The mower shall be placed on the test surface with its fore-and-aft axis aligned parallel to the arrow in Fig. 6.

(ii) The mower shall be operated at maximum operating speed with the blade engaged.

(iii) The mower shall be adjusted to its maximum cutting height.

(iv) The mower's shields shall be in place. If the mower is designed to be used with a grass catcher the mower shall be tested both with and without the grass catcher in place.

(4) *Test procedure.* (i) Each blade of the mower shall be tested separately.

(ii) The axis of the mower blade under test shall be over the center of the test surface.

(iii) One hundred projectiles shall be injected at each injection point for a total of 300 projectiles. Projectiles shall be injected one at a time with the head first.

(iv) Any indentation or perforation of the corrugated board target caused by a projectile shall be recorded as a hit in the appropriate target window.

(c) *Pass/fail criteria.* A mower passes the thrown objects test if all of the following occur:

(1) Not more than 149 of the injected objects hit anywhere on the target.

(2) Not more than 49 of the injected objects hit the target above the 15 degree line and not more than 14 of those hits are above the 30 degree line.

(3) Not more than 104 hits are in the right quadrant.

(4) Not more than 74 hits are in each of the front, left, and rear quadrants, except that for walk-behind mowers, no hits are allowed in the rear quadrant above the 30 degree line and not more than 1 hit is allowed in the rear quadrant below the 30 degree line.

(5) For riding mowers, not more than 1 hit is in the operator target.

§ 1205.5 Walk-behind mower controls.

(a) *Blade control systems*—(1) *Requirements for blade control.* A walk-behind power mower shall have a blade control system that will perform the following functions:

(i) Prevent operation of the blade unless the control is actuated by the operator.

(ii) Require continuous contact with the operator in order for the blade to continue to be driven.

(iii) Upon release of the control by the operator, cause the blade to stop within a time that meets the requirements of paragraph (b) of this section. For a mower with manual starting controls, this control shall stop the blade without stopping the power source, unless the mower meets the "easy restart" criteria of paragraph (d) of this section.

(2) A separate blade control system is not required for a self-propelled walk-behind power mower that has a traction drive control that also satisfies the requirements of paragraph (a) (1) of this section with respect to blade operation.

(3) All walk-behind power mowers shall have, in addition to any blade control required by paragraph (a) (1) of this section, another control which must be manually actuated before a stopped blade can be restarted.

(b) *Blade stopping times*—(1) *Requirements.* After release of the blade control required by paragraph (a) (1) of this section, the blade of a walk-behind power mower shall come to a complete stop within whichever of the following times is applicable:

(i) For mowers manufactured after the overall effective date of the standard but before two years after the overall effective date of the standard, the blade shall stop within 5.0 seconds of the release of the blade control.

(ii) For mowers manufactured on or after two years after the overall effective date of the standard, the blade shall stop within 3.0 seconds of the release of the blade control.

(2) *Test.* (i) *General.* Any test method that will measure the time between the release of the blade control and the coming to rest of the blade to the nearest 0.1 second may be utilized. The times may be determined by visual observation, such as by manual operation of a stopwatch. In this case, blade movement may be observed by placing the mower over a reflective surface or by placing the mower over a transparent surface so that it may be observed from below.

(ii) *Conditions.* (A) The mower shall be operated at maximum operating speed for at least 6 minutes immediately prior to the test.

(B) The blade must be at maximum operating speed when the blade control is released.

(c) *Starting controls location.* Walk-behind mowers with blades that commence operation when the power source starts shall have their starting controls located within the operating control zone.

(d) *Easy restart.* (1) *Requirement.* Walk-behind mowers with manual starting controls and a power source that stops when the blade control of paragraph (a) (1) of this section is released must be capable of being started by no more than three applications of the starting procedure outlined in paragraph (d) (2) (ii) of this section.

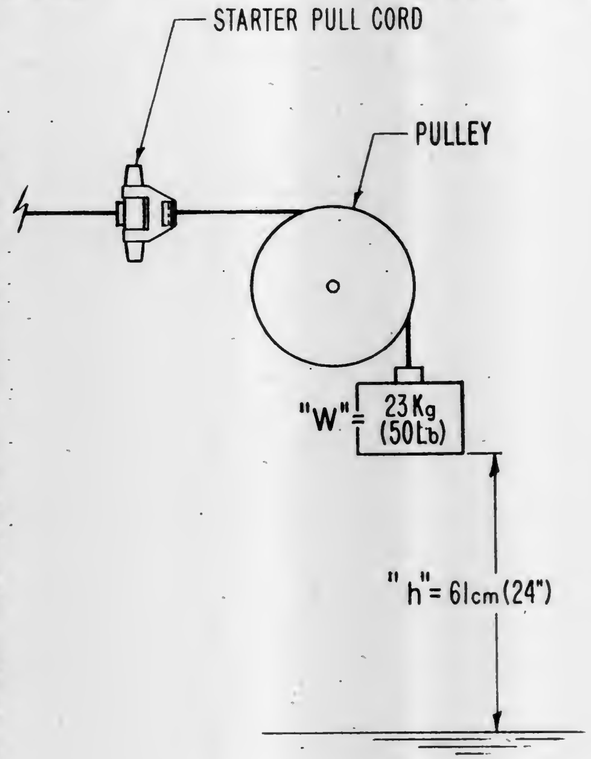


FIG 7-RESTART TEST SETUP

(2) *Test.* (i) *Equipment.* The test apparatus shown in Fig. 7 shall be utilized. The apparatus shall be connected to the starting control so that the control will be pulled in the direction specified in the manufacturer's instructions when the weight *W* is released, or in the horizontal direction if no other direction is specified. The weight *W* shall not exceed 23 kg. (50 lb.). The distance *h* through which the weight *W* may fall shall not exceed 610 mm. (24.0 in.). All slack shall be removed from the cable that is attached to the starting control. The mower shall be secured so that the mower will not move when the starting force is applied.

(ii) *Procedure.* The mower shall be warmed up by being run at maximum operating speed for at least 6 minutes. It shall then be turned off and prepared for restart according to the manufac-

V42N87 MAY 5 77 UMI

turer's instructions. The weight W is then released so that it may fall through the distance h. The restart attempts shall be timed so that three attempts can be made between 30 seconds after shutoff and 4 minutes after shutoff. If the mower restarts on the first or second attempt, the subsequent attempt(s) need not be made.

(e) *Shut-off control.* All mowers shall be provided with a shut-off control, the actuation of which will stop the operation of the power source. This control shall require a manual operation before the power source can be restarted.

§ 1205.6 Fuel ignition hazards.

(a) *Spark suppression.* Power lawn mowers that ignite a fuel by an electric spark are subject to the following requirements.

(1) *High tension cables*—(i) *Requirements.* (A) High tension (e.g., spark plug) cables, including the portion of the connector to the spark plug that is not covered by a boot shall be fully insulated.

(B) The connector shall be recessed in a non-conductive boot to a depth such that a spark will not jump from the connector to grounded metal during the test of paragraph (a) (1) (ii) of this section.

(ii) *Spark plug connector test.* Each spark plug cable shall be disconnected from its spark plug. The engine controls shall then be adjusted to the starting position and the engine cranked in the normal starting manner while holding each spark plug connector boot, in turn, first with the open end, then with the side, lightly against a grounded metal part of the mower.

(2) *Grounding switches.* No grounding switch shall be permitted in the high tension (secondary) part of the ignition system.

(b) *Control of overflowing fuel.* Power lawn mowers that use liquid fuels are subject to the following requirements.

(1) *Requirements.* When the mower is subjected to the spilled fuel control test of paragraph (b) (2) of this section,

(i) no Stoddard Solvent shall come in contact with the exhaust system, high tension cables, or non-insulated electrical components, and

(ii) no more than 1.0 ml. (0.033 fl. oz.) of Stoddard Solvent shall collect in any single pool in any of the following locations:

(A) On the engine.

(B) Where it can be directly impinged on by the exhaust.

(C) Within 250 mm. (9.9 in.) of any part of the ignition system.

(2) *Spilled fuel control test.* (i) Clean and dry the exterior of the mower.

(ii) Place the mower on a level surface and completely fill the fuel tank and filler opening with Type I solvent as defined in ANSI/ASTM D 484–71 (R 1976), "Standard Specification for Hydrocarbon Dry Cleaning Solvents," Table 1 (Stoddard Solvent) of known specific gravity.

(iii) Weigh and record the dry weight of at least three circles of filter paper that are at least 11 cm. (4.33 in.) in diameter.

(iv) Overfill the fuel tank with 100 ml. ±10 ml. (3.38 fl. oz. ±0.33 fl. oz.) Stoddard Solvent within six seconds.

(v) Fold the previously weighed filter paper and insert enough of the paper into each accumulation of Stoddard Solvent that has collected on the mower to completely absorb the accumulation. The paper(s) used for each accumulation shall be kept separate from the paper(s) used for any other accumulations.

(vi) Weigh the filter paper and the absorbed solvent from each accumulation within 2 minutes. Deduct the weight of the dry filter paper in order to determine the weight of each accumulation of spilled solvent. From the specific gravity, calculate the volume of the spilled solvent in milliliters.

(c) *Fuel leaks.* There shall be no leakage from the fuel system of a mower during any reasonably foreseeable condition of use. For the purposes of this section only, tipping of the mower at angles greater than 30 degrees shall not be considered reasonably foreseeable.

(d) *Exhaust.* The engine's exhaust shall not be so directed or located as to directly heat any part of the fuel system during normal operation.

§ 1205.7 Electrically-powered mowers.

(a) *Insulation of control surfaces and handles.* (1) Those parts of a electrically-powered lawn mower which are normally contacted by the operator during starting, mowing, and stopping shall be of, or covered with, an electrical insulating material. The insulating material shall have sufficient insulating qualities that the ohmmeter reading at all times during the insulation resistance test of paragraph (a) (2) of this section shall exceed 250,000 ohms.

(2) *Insulation Resistance Test.* (i) The handle shall be conditioned in a circulating-air oven for 7 hours at a temperature of 73±3° C. (158±5° F.).

(ii) After conditioning, the handle shall be permitted to cool and shall then be reassembled on the mower and subjected to two impacts applied by dropping a steel sphere 51 mm. (2.0 in.) in diameter and weighing 0.54 kg. (1.18 lb.) through a vertical distance of 130 cm. (51.2 in.). Impact points shall be on insulated areas of the handle where impact may occur in use.

(iii) A conductive solution consisting of approximately 1 percent (by weight) of table salt dissolved in tap water shall be placed in a container shaped so that as much as possible of the insulated portion of each control surface and handle can be submerged in the solution without submersion of any electrically-conductive part of the mower.

(iv) An ohmmeter which will read the resistance of the salt solution is then connected between the salt solution and the electrically-conductive part of the lawn mower to which the insulation under test is attached. As much as possible of the insulated part shall be dipped into the salt solution, taking care not to wet the conductive part of the mower. The ohmmeter reading shall be monitored until the insulation has soaked in the salt solution for at least 5 minutes and the reading has stabilized.

(b) *Movable handles. Electrically*-powered lawn mowers that have folding or pivoting handles shall be constructed so that any wire or cable that connects electrical components of the mower cannot be entrapped by the folding or pivoting action of the handle.

(c) *Plug blade shielding.* (1) *Requirement.* Except for the grounding blade of a three blade plug, the plug blades of an electrically-powered lawn mower shall be shielded so that, when subjected to the plug shielding test of paragraph (c) (2) of this section, the test probe will be prevented by the shielding from contacting the blades until the plug has been withdrawn from the extension cord gage of Fig. 8 a distance that is sufficient to separate both blades from the gage contacts.

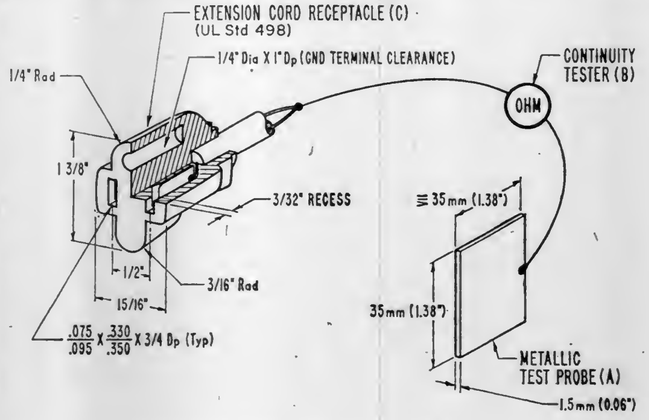


FIG 8–PLUG BLADE SHIELDING GAGE
(Excluding Mower's Integrol Plug Connector)

(2) *Plug shielding test.* (i) The following equipment is required for this test:

(A) An electrically-conductive (metallic) test probe that has a rectangular cross section of 1.5 mm. (0.059 in.) by 35 mm. (1.38 in.) and is at least 35 mm. (1.38 in) long.

(B) A continuity tester (e.g., ohmmeter).

(C) An extension cord gage as shown in Fig. 8. The wire from the contacts is connected to one lead or terminal of the continuity tester and the test probe is connected to the other lead or terminal.

(ii) The blades of the mower's supply cord or integral connector shall be inserted into the gage to the fullest extent possible. The plug shall then be withdrawn from the gage the minimum distance required for the test probe to contact a plug blade when the probe is inserted between the gage and the plug body with an insertion force of not more than 18 newtons (4.1 lbs.). This procedure is repeated so that the probe contacts the other plug blade. If the plug blades are withdrawn sufficiently from the gage contacts when they are contacted by the probe, the continuity tester will not indicate continuity between the gage contacts and either plug blade.

(d) *Disconnect switch.* (1) An electrically-powered lawn mower shall have a switch that disconnects both sides of the power supply to the motor when in the "off" position.

(2) *Test.* One lead of a continuity tester shall be connected to a terminal on the mower side of the switch or to a terminal on the mower motor. The other lead shall be connected to one blade of the power cord. With the switch in the "on" position the meter shall indicate continuity, and with the switch in the "off" position, the meter shall indicate an open circuit. The test shall be repeated with the lead connected to the other plug blade.

§ 1205.8 Riding mower stability and shield requirements.

(a) *Static stability.* (1) *Requirement.* The upper wheels of a stationary riding mower shall not lift under the following conditions during the static stability test of paragraph (a) (2) of this section:

(i) On a slope inclined 30 degrees from the horizontal, the upper wheels shall not lift when the mower is facing uphill or when it is facing downhill.

(ii) On a slope inclined 20 degrees from the horizontal, the upper wheels shall not lift when the mower is facing left across the slope or when it is facing right across the slope.

(2) *Static Stability Test.* (i) *Conditions.* The following conditions shall apply to this test.

(A) The mower shall be able to pass the static stability test in every combination of track-width settings, tire sizes, blade heights, or seat heights provided for the mower by the manufacturer.

(B) Pneumatic tires shall be inflated to the cold pressures recommended by the mower manufacturer.

(C) Steerable wheels shall be held in the straight ahead position. The wheels shall be locked to prevent rotation about the axle.

(D) An equivalent test weight shall be secured on the seat. If the seat is adjustable, it shall be positioned in the most forward position when checking stability facing downhill and in the most rearward position when checking stability facing uphill.

(E) If a grass catcher is provided or sold by the mower manufacturer for use with the mower, the test shall be conducted both with and without the grass catcher mounted on the mower. When the mower is tested with the grass catcher in place, the grass catcher shall be uniformly filled with a material having a density of 105±5 kg. per cubic meter (6.55±0.30 lb. per cubic foot). The total fill weight shall equal the capacity of the catcher multiplied by the fill material density.

(F) If the mower manufacturer states that ballast should be used with a grass catcher that is provided or sold by the manufacturer for the mower, the static stability test with the grass catcher in place shall be performed with this ballast attached to the mower according to the manufacturer's instructions, both with the grass catcher and empty. No additional ballast shall be used.

(ii) *Procedure.* The surface on which the static stability test is conducted shall have a static coefficient of friction with respect to the mower tires sufficient to prevent sliding of the mower at the test angles specified in paragraph (a) (1) of this section. The test angles may be produced by placing the mower on a surface that is inclined at the appropriate angle or that has a variable slope (e.g., a tilt table). Lifting of a wheel shall be deemed to have occurred when a strip of 20 gauge steel 50 mm. (2.0 in.) wide can be pulled from under the tire with a force of 9 newtons (2.0 lbs.) or less. This force shall be applied normal to the plane of the wheel.

(b) *Ballast.* If the mower manufacturer states that ballast should be used with a grass catcher that is provided or sold by the manufacturer for the mower, the manufacturer shall provide suitable ballast and instructions for its safe use with the grass catcher attachment.

(c) *Shields.* If located within 125 cm. (49.2 in.) of the seat reference point of a riding mower, any portion of the blade path and any moving mower part driven by the power source shall be shielded so that the foot probe of Fig. 3 may not enter the blade path or contact the part.

§ 1205.9 Riding mower steering requirements.

(a) *Steering control.* (1) Except as provided in paragraph (a) (2) of this section, the steering control shall move in a clockwise direction, or to the right, to turn a forward-traveling mower to the right, and in a counterclockwise direction, or to the left, to turn a forward-traveling mower to the left.

(2) If a mower is steered by dual hand-lever controls, the left control shall move forward relative to the right control, or the right control shall move rearward relative to the left control, to turn a forward-traveling vehicle to the right, and the left control shall move in a rearward direction relative to the right control, or the right control shall move forward relative to the left control, to turn a forward-traveling vehicle to the left.

(3) Tiller bar steering is not permitted.

(b) *Structural integrity.* (1) *Requirement.* When subjected to the following steering structural integrity test, no component of the steering mechanism shall separate or crack nor shall it deform so as to change the manner in which the steering mechanism operated prior to the test.

(2) *Steering structural integrity test.*

(i) The mower shall be on a substantially level surface.

(ii) The mower's seat shall be occupied by a standard test operator or an equivalent test weight.

(iii) The test shall be performed with the steerable wheels restrained by blocks, clamps, or other suitable means, in each of three positions:

(A) In the full right-turn position and restrained to prevent movement in the left-turn direction.

(B) In the full left-turn position and restrained to prevent movement in the right-turn direction.

(C) In the straight ahead position and restrained to prevent movement to the right and to the left.

(iv) A force of 222 newtons (50 lb.) shall be applied to the steering mechanism in both steering directions in each of the three test positions in the following manner:

(A) If a steering wheel is provided, the force shall be applied tangent to the rim. If the wheel is a shape other than round, the force shall be applied at the point that produces the maximum torque around the steering wheel axis.

(B) If the steering control is other than a wheel, the force shall be applied at the point on the control and in the direction that will produce the maximum force on the steerable wheels.

§ 1205.10 Riding mower brakes.

(a) *Stopping distance.* (1) *Requirements.* A riding mower shall be equipped with a service braking system capable of performing the following functions:

(i) Under the test conditions of paragraph (a) (2) of this section, the service braking system shall be capable of stopping the mower from the maximum attainable speed in both the forward and backward directions of mower travel within the greater of the following distances:

(A) 500 mm. (20.0 in.) or

(B) The distance obtained from the formula $S = 0.0147\ V^2$

where S is the stopping distance in meters and V is the maximum attainable speed in the direction of travel being tested in kilometers per hour. (or, $S = 0.125\ V^2$, where S is the stopping distance in feet and V is the speed in miles per hour.)

V 42 87 MAY 5 77 UMI

(ii) The service braking system shall function independently of the position of transmission or clutch controls or engine operation. This requirement does not prohibit the braking control from simultaneously disengaging the clutch or shifting the transmission.

(iii) The service brake of a riding mower shall be capable of holding the mower stationary in both the forward and rearward directions for as long as a force of 222 newtons (49.9 lb.) is applied to the brake control when the mower is supported by a surface that is inclined at an angle of 17 degrees.

(2) *Stopping distance test.* (i) *Conditions.* The following conditions shall apply to this test:

(A) The test shall be conducted on a level surface ±1 percent slope) that has a sliding coefficient of friction relative to the mower's tires of 0.8 or less.

(B) A standard test operator shall be seated on the mower, or an equivalent test weight shall be placed on the seat of the vehicle during the test.

(C) Pneumatic tires shall be inflated to the cold pressures recommended by the mower manufacturer.

(D) If a grass catcher is provided or sold by the mower manufacturer for use with the mower, the test shall be conducted solely with the filled grass catcher attachment mounted on the mower. The grass catcher shall be filled with a material having a density of 105 ± 5 kg. per cubic meter (6.55 ± 0.30 lb. per cubic foot). The total fill weight shall equal the capacity of the catcher multiplied by the specified material density.

(E) If the manufacturer states that ballast is required when the grass catcher is used, ballast shall be attached to the mower according to the manufacturer's instructions. No other ballast shall be added.

(F) If separate pedals are provided for different braked wheels, the pedals shall be locked together for this test.

(G) The maximum force to be applied to a foot-operated service brake pedal during this test shall be 222 newtons (49.9 lb.).

(H) The braking shall be conducted with the motor operating. No shifting of the transmission is permitted during braking unless the shifting occurs automatically as a result of the braking process. When testing a riding mower with separate brake and traction-drive clutch or neutral return controls, the clutch shall be disengaged or the neutral return control actuated simultaneously with brake engagement.

(ii) *Procedure.* In both the forward and backward directions, the brakes shall be applied while the mower is being operated at the maximum attainable speed. For each direction, the velocity at brake application and the distance travelled between the initial brake application and stopping of the mower shall be measured.

(b) *Structural integrity.* Braking controls shall be able to withstand whichever of the following forces is applicable without separation or permanent deformation of any component.

(1) *Foot brakes.* A foot-operated braking control shall be able to withstand a sustained force of 1670 newtons (375.5 lbs.) applied at the center of the foot pedal in the direction intended to operate the brakes.

(2) *Hand brakes.* A hand-operated braking control shall be able to withstand a sustained force of 710 newtons (159.7 lbs.). The force shall be applied at the center of the hand contact area in the direction intended to operate the brakes.

(3) If separate brake controls are provided for different wheels, each control shall be tested separately.

(c) *Parking brakes.* (1) *Requirement.* A riding mower shall have a parking brake which, without continued operator effort, can prevent any wheel from rolling more than 250 mm. (9.8 in.) in 15 minutes when subjected to the test of paragraph (c) (2) of this section.

(2) *Parking brake test.* (i) *Conditions.* (A) The conditions set forth in § 1205.8 (a) (2) (i) (A, B, E, and F) for the riding mower static stability test shall apply to this test.

(B) Steerable wheels shall be held in the straight ahead position.

(C) The test will be conducted both with the power source running and with the power source shut off. An equivalent test weight shall be placed in the seat. However, when the mower is tested with the power source shut off, if a mounting step is provided, the equivalent test weight shall instead be placed on the mounting step.

(D) The test shall be conducted on a surface inclined 17 degrees from the horizontal that has a sufficient static coefficient of friction with respect to the tires so that the mower will not slide while supported on its wheels.

(E) If separate parking brake controls are provided for different wheels, the test shall be performed with the controls locked together.

(ii) *Procedure.* (A) If the parking brake control is hand operated, it shall be set with a force of not more than 200 newtons (44.9 lb.).

(B) If the parking brake control is foot operated, it shall be set with a force of not more than 432 newtons (97 lb.).

(C) With the power source running, the mower will be placed on the surface inclined 17 degrees from the horizontal, so that it faces directly uphill for 15 minutes and faces directly downhill for 15 minutes. The test shall also be performed with the power source shut off.

(d) *Foot brake pedals.* (1) *Location.* The brake pedal shall be located so that the center of the pedal can be contacted by the leg probe of Fig. 9 under the following conditions:

(i) The brake pedal shall be held in the position to which it would be depressed by a force of 222 newtons (50.0 lbs.).

(ii) The seat, if adjustable, shall be in the most forward position.

(iii) Part A of the leg probe of Fig. 9 shall be placed on the seat with the rounded edge of part A down and towards the rear and with the rearmost face of part A against the seatback, where provided, or even with the rear of the seat, if a seatback is not provided.

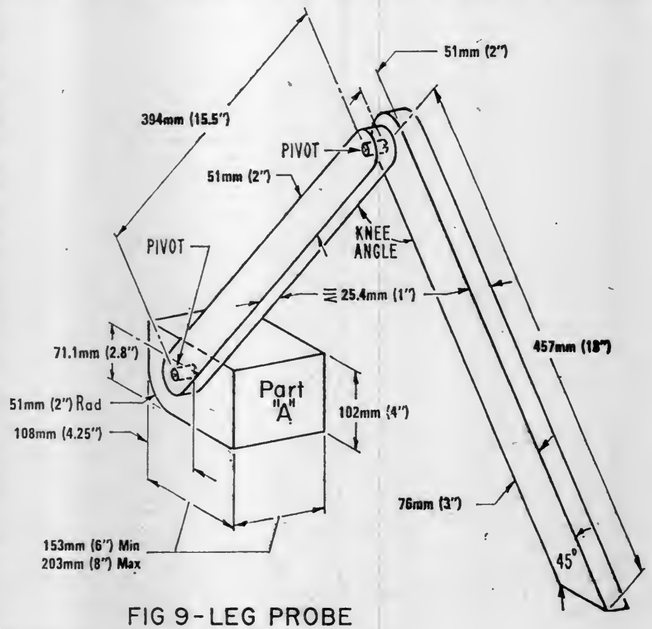


FIG 9-LEG PROBE

(2) Brake pedals shall have a slip resistant contact surface.

(3) A barrier shall be provided adjacent to the contact surface of a brake pedal to prevent the foot from sliding off a right-side control surface towards the right and from sliding off a left-side control surface toward the left.

§ 1205.11 **Riding mower controls.**

(a) *Blade control systems.* (1) *Blade control.* A riding mower shall have a blade control system that will perform the following functions:

(i) Prevent operation of the blade unless the control is actuated by the operator.

(ii) Require continuous contact with the operator in order for the blade to continue to be driven.

(iii) Upon release of the control by the operator, cause the blade to stop within a time that meets the requirements of paragraph (b) of this section.

(2) All riding mowers shall have, in addition to any blade control required by paragraph (a) (1) of this section, another control which must be manually actuated before a stopped blade can be restarted. A force of at least 110 newtons (24.8 lbs.) shall be required in order to actuate this second control.

(3) The blade of a riding mower shall be inoperative while the transmission or traction drive is positioned for reverse travel.

(4) Riding mowers shall have a control so that the blade may be inoperative while the transmission or traction drive is positioned for forward travel.

(b) *Blade stopping times.* After release of the balde control required by paragraph (a) (1) of this section or after the transmission or traction drive is positioned for reverse travel, the blade of a riding mower shall come to a complete stop within whichever of the following times is applicable, measured in accordance with § 1205.5(b) (2):

(1) For mowers manufactured after the overall effective date of the standard but before two years after the overall effective date of the standard, the blade shall stop within 6.0 seconds.

(2) For mowers manufactured on or after two years after the overall effective date of the standard, the blade shall stop within 3.0 seconds.

(c) *Engine controls.* (1) A riding mower shall have a means to prevent the engine from being started by its normal starting means unless all of the following conditions are met:

(i) The blade drive is disengaged.

(ii) The traction drive is disengaged or in neutral.

(2) All riding mowers shall be provided with a shutoff control, the actuation of which will stop the operation of the power source. This control shall require a manual operation before the power source can be restarted.

(d) *Traction controls.* (1) Riding mowers shall be provided with a traction drive control that will stop the power source or disconnect the traction drive if the operator leaves the operating position or otherwise releases the control without first disengaging the traction drive.

(2) The transmission or traction drive control shall have a neutral position between any control position for forward travel and any control position for reverse travel.

(3) The transmission or traction drive control shall have a lockout or other means which will prevent motion of the control from a forward to a reverse position or from a reverse to a forward position when a force of 222 newtons (50 lbs.), is applied to the center of the operator contact area of the control at any angle within 30 degrees of either side of the direction of motion that will cause the control to enter the neutral position.

§ 1205.12 **Warning labels.**

(a) Power lawn mowers shall be labeled on the blade housing(s) or, in the absence of a blade housing, on other blade shielding or on an adjacent supporting structure or assembly, with the warning label shown in Fig. 10. The label shall be at least 82.5 mm. (3.25 in.) high and 100 mm. (4 in.) wide, and the lettering and symbol shall retain the same size relation to each other and to the label as shown in Fig. 10.



FIGURE 10

(b) Rotary mowers shall have one label located as close as possible to any discharge opening. Rotary mowers shall be labeled on both sides of the blade housing with at least one label visible to a standard test operator standing in the operating position.

(c) Walk-behind non-rotary mowers and riding mowers with front-mounted non-rotary mowing units shall be labeled as close to the center of the cutting width of the blade as possible, with the label legible from in front of the mowing unit. Riding mowers with rear-mounted non-rotary mowing units shall be labeled as close to the center of the cutting width of the blade as possible, with the label visible from behind the mowing unit. Riding mowers with non-rotary mowing units mounted under the vehicle shal be labeled on both sides of the mowing unit with the label visible from each side.

§ 1205.13 **Prohibited stockpiling.**

(a) *Stockpiling.* "Stockpiling" means manufacturing or importing a product which is the subject of a consumer product safety rule between the date of issuance of the rule and its effective date at a rate that is significantly greater than the rate at which such product was produced or imported during a base period prescribed by the Consumer Product Safety Commission.

(b) *Prohibited acts.* (1) Stockpiling of power lawn mowers that do not comply with this Subpart A of Part 1205 at a rate that exceeds 20 percent of the rate at which the product was produced or imported during the base period described in paragraph (c) of this section is prohibited.

(2) In §§ 1205.5(b) (1) (ii) and 1205.11 (b) (2), a more stringent requirement becomes effective two years after the effective date of the remainder of Subpart A of Part 1205. Stockpiling mowers that do not comply with these more stringent requirements between the date of promulgation of Part 1205 and the effective date of §§ 1205.5(b) (1) (ii) and 1205.11(b) (2) at a rate that exceeds 20 percent of the rate at which the product was produced or imported during the base period precribed in paragraph (c) of this section is prohibited.

(c) *Base period.* The base period for power lawn mowers is, at the option of each manufacturer or importer, any period of 365 consecutive days beginning on or after September 1, 1971, and ending on or before August 31, 1976.

V 42 87 MAY 5 77 UMI

§ 1205.14 Findings.

(a) (The Commission's findings concerning the topics outlined in the OTHER CONSIDERATIONS section of the preamble to this proposal will be located here when the final rule is promulgated.)

Interested persons are invited to submit written data, views, or arguments regarding any aspect of the proposed standard on or before June 6, 1977. Comments submitted after this date will be considered to the extent practicable. Commenters are requested to cite the specific sections of Part 1205 being commented upon and to identify the specific portions of other documents to which they refer.

The Commission is interested in receiving comment on the technical aspects of the standard as well as comments on the need of the public for the consumer products subject to the standard and the probable effects of the standard upon the utility, cost, or availability of the products to meet the need. In this connection, the Commission's draft economic analysis is available for review in the Office of the Secretary. Comments should be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's proposed interim regulations under that Act (39 FR 30298), and the provisions of section 6(a)(2) of the CPSA (15 U.S.C. 2055(a)(2)).

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief.

Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments on any aspect of the proposed standard on June 13, 1977 ,at 10 a.m. in the 3rd floor hearing room, 1111 18th Street NW., Washington, D.C. 20207. The *Procedural Regulations for Oral Presentations Concerning Proposed Consumer Product Safety Rules* (16 CFR Part 1109) shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, 202–634–7700, no later than the close of business May 31, 1977, for scheduling purposes. A summary or outline of each oral presentation should be filed with the Office of the Secretary at least 48 hours before the oral presentation.

Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3rd floor, 1111 18th Street, NW., Washington, D.C. 20207.

Dated: April 28, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register, May 2, 1977, and copies of the incorporated material are on file in the Federal Register Library.

[FR Doc.77-12721 Filed 5-4-77;8:45 am]

federal register

THURSDAY, MAY 5, 1977

PART III

DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off Coasts of U.S.

V42 87 MAY 5 77 UMI

DEPARTMENT OF STATE

[Public Notice 543]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Union of Soviet Socialist Republics, and are published herewith. It is noted that these applications relate to activities involving the processing of fish purchased at sea from vessels of the United States.

Dated: April 27, 1977.

KATHRYN CLARK-BOURNE,
Acting Director, Office of Fisheries Affairs.

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

DATE _____ APPLICATION NO. UR-77-0238
for use of issuing Officer

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1382), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on _____, date

the government (or competent authority) of _____

hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (Use additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted 22 febrary 1977
Date

Signature of Authorized Official

Manager
Title

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For From July 1 to Dec 31 Application No. UR-77-0238 For Use of Issuing Office

State: USSR

1. Name of Vessel SULAK п/б CYJAK
2. Vessel No.: Hull No. III - 0868 Registration No. 708
3. Name and Address of Owner Baza Tralovogo i
   Name Refrizheratornogo Flota
   Address 243, Kalinina st.
   Vladivostok, USSR
   Cable Address Vladivostok Baza Tralovogo i Refrizheratornogo Flota
   Name and Address of Charterer
4. Homeport and State of Registry: Vladivostok, USSR
5. Type of Vessel Fish Prosessing Base
6. Tonnage (Gross) 18011.0 (Net) 11076.0
7. Length 174.31 M. 8. Breadth 24.0 M. 9. Draft 7.32M.
10. Horsepower 5500 shp. 11. Maximum Speed 14.3 kt.
12. Propulsion: Diesel (1), Steam (-), Diesel/Electric (-),
    Other nil
13. Date Built 1966
14. Number and Nationality of Personnel 286 USSR
    Officers 47 Crew 236 Other (Specify) 3 Flag Officers
15. Communications: VHF-FM (2), AM/SSB, Voice (2), Telegraphy (4),
    Other nil
    International Radio Call Sign U P T O
    Radio Frequencies Monitored 500 kcs 156.8 mcs
    Other Working Frequencies 454, 480, 2115, 3023.5, 4200, 6321 kcs 156.3 mcs
    Schedule H = 24

V 42 87 MAY 5 77 UMI

OR-77-0238

16. Navigation Equipment: Loran C (1), Loran A (1), Omega (-), Decca (1), Navsat (-), Radar (2), Fathometer (2).
Other 1 Direction Finder , 1 Gyrocompass

17. Cargo Capacity (MT)

Salted Fish	nil
Fresh Fish	nil
Frozen Fish	6630
Fish Meal	913
Other	312 Fish Oil

18. Cargo Space

Number	Name
Freezer	4 Refrigerated Holds 12598.0 m^3
Dry Hold	1826.0 m^3
Tanks	2 Fish Oil 345.0 m^3
Other	nil

19. Processing Equipment (Indicate daily capacity, MT)

Air-BlastFreezer	4 pcs	100 MT
Presserve Line	1 pc	50 MT
Fish Meal and Oil Plant ATLAS	1 pc	20 MT
Fish Dressing Line	1 pc	50 MT
Fillet Line	1 pc	40 MT

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
Washington-California area	July 1	Hake	Prosessing of Fish delivered by USA fish catchers	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

[FR Doc.77-12807 Filed 5-4-77;8:45 am]

federal register

THURSDAY, MAY 5, 1977

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

INTERSTATE COMMERCE COMMISSION

EVALUATION OF SIX LIGHT-DENSITY RAIL LINES IN PENNSYLVANIA

V42N87 MAY 5 77 UMI

INTERSTATE COMMERCE COMMISSION

EVALUATION OF SIX LIGHT-DENSITY RAIL LINES IN PENNSYLVANIA

The Rail Services Planning Office of the Interstate Commerce Commission is publishing herewith the results of evaluations of six light-density rail lines in Pennsylvania. These evaluations were performed at the request of the Commonwealth of Pennsylvania, which was made pursuant to section 205(e)(2) of the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 701.

ROBERT L. OSWALD,
Secretary.

PREFACE

On May 4, 1976, the Commonwealth of Pennsylvania exercised its right under section 205(e)(2) of the Regional Rail Reorganization Act of 1973, as amended, to request that the Rail Services Planning Office of the Interstate Commerce Commission evaluate the economic viability of six light-density lines within the Commonwealth of Pennsylvania. These lines were excluded from the restructured rail system which resulted from the implementation of the Final System Plan of the United States Railway Association. Since the Commonwealth of Pennsylvania made its request, the Office has conducted a comprehensive study of each of the six lines. The findings which have resulted from that study are contained in this report.

Many individuals and organizations went to considerable trouble to develop relevant facts and estimates necessary for the completion of this work. We are grateful to them all and wish that we could mention every one by name. We do want to express special appreciation to E. L. Tennyson, David Barber, and Elaine King of the Pennsylvania Department of Transportation. The various Federal agencies and departments involved in the restructuring process also supplied useful information and technical assistance to the study. Finally, a word of appreciation is in order to the hundreds of Pennsylvania rail patrons and business leaders who gave generously of their time and whose patience and understanding during the field investigations by the RSPO Project Teams helped to make this report possible.

None of the individuals or organizations which assisted in the course of the study shares any of the responsibility for the findings here reported; however, it should be noted that a large amount of the material on which our findings are based was furnished to us by various individuals and organizations. We expect that there might be honest differences of opinion as to the correctness of our approach, our methodology, our data and our recommendations. In spite of these differences, we believe that our report will be useful to the Commonwealth of Pennsylvania and its rail patrons.

It should also be noted that this is a staff report of the Rail Services Planning Office. It has not been officially adopted by the Interstate Commerce Commission and does not necessarily represent the Commission's viewpoint.

ALAN M. FITZWATER,
Director,
Rail Services Planning Office.

INTRODUCTION

The issuance of the Final System Plan by the United States Railway Association in July, 1975, represented the final step in the planning process to restructure the bankrupt railroads of the Northeast-Midwest region into a profitable new system. Of all the issues raised during the restructuring process, none aroused more widespread public interest and debate than the issue of light-density lines. It is not surprising that this issue generated such controversy, since the economic future of many of the communities and businesses served by such lines was in jeopardy. Close to 500 light-density lines were classified in the Final System Plan as not recommended for inclusion in Conrail;[1] in other words, unless provision was made for the operation of these lines pursuant to a subsidy agreement, rail service over them was to cease April 1, 1976. Many of the excluded lines are presently being operated under subsidy; others are no longer in operation.

Throughout the planning period leading up to the adoption of the Final System Plan, there was consistent public opposition to the exclusion of light-density lines from the restructured system. The public response to both the Preliminary and Final System Plans was highly critical of the method by which USRA determined which light-density lines were to be included in the restructured system. The primary criticisms were: that the approach of USRA was too negative; that its methodology was too dependent upon hypothetical conditions and statistical application of incomplete data;[2] that it placed too much reliance on an inaccurate and/or inadequate data base; that it failed to conduct onsite examination of local rail service operations; and that it used profit as a measure of viability almost to the exclusion of other Congressional goals.[3]

In response to the widespread public criticism of USRA's methodology, Congress enacted a provision whereby any State in the Northeast-Midwest region could request the RSPO to evaluate the economic viability of any light-density line in that State excluded from the restructured system. That provision, section 205(e)(2) of the Regional Rail Reorganization Act of 1973, as amended, gives RSPO the following duty:

> Upon the request of a State in the region, within 90 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall prepare and publish an evaluation of the economic viability of any or all light-density lines within such State which are not designated for inclusion in the final system plan. Such an evaluation shall include an analysis of the actions which may be necessary to make the operation of rail service over any such line economical. The results of each such evaluation shall be transmitted to the requesting State and published in the FEDERAL REGISTER, not later than 1 year after the date such request is received by the Office.[4]

The States of Indiana, Maryland, New Jersey and Pennsylvania filed requests pursuant to this provision. This report summarizes the results of the evaluations which were performed on those lines included in the request of the Commonwealth of Pennsylvania (See Appendix A).

EXCLUDED LIGHT-DENSITY LINE STUDY PROCEDURE

Study process and data. After considering the various alternative approaches, the Office decided to conduct an analysis based on a survey of the excluded branch lines and affected communities. The case study approach, including extensive field research, was selected because the Office concluded that such a technique would provide a better understanding and appreciation of economic viability.[5] The approach also makes possible discovery of various available alternatives through

[1] The following abbreviations are used throughout this report: "Conrail" refers to the Consolidated Rail Corporation; "Final System Plan" or "FSP" refers to the Final System Plan of USRA; "ICC" or "the Commission" refers to the Interstate Commerce Commission; "Preliminary System Plan" or "PSP" refers to the Preliminary System Plan of USRA; "RRR Act" or "Act" refers to the Regional Rail Reoraganization Act of 1973, as amended; "RRRR Act" or "4R Act" refers to the Railroad Revitalization and Regulatory Reform Act of 1976; "RSPO" or "the Office" refers to the Rail Service Planning Office of the Interstate Commerce Commission; "SMSA" refers to Standard Metropolitan Statistical Area; and "USRA" or "the Association" refers to the United States Railway Association.

[2] It should be noted that factual evidence to support the validity of claims about light-density lines is not readily available and is often fragmented, contradictory and unreliable, making it difficult to validate any model or statistic.

[3] Rail Services Planning Office, *Evaluation of the U.S. Railway Association's Preliminary System Plan* (Washington: Interstate Commerce Commission, April 28, 1975), pp. 14–16.

[4] 90 Stat. 57 (1976).

[5] The advantages of performing the analysis of light-density lines through extensive field research include: (1) the data are of a higher degree of accuracy; (2) the analyst has the opportunity to insure that information is in balance and internally consistent, i.e., he is able to avoid imputing magnitudes and forcing or stretching the data by a variety of techniques normally necessary when using a "selected" sample. The use of quantitative methods, far from being incompatible with the case-study method, is occasionally essential to it. Nevertheless, it is true that many fundamental phases of a case study are nonquantitative—phases such as the analyses of the rail infrastructure, for example. In these the data must be assembled and analyzed, the relationships discovered and described, and the conclusions presented, in non-statistical form. No attempt has been made to cloak this study in quantitative model mysticism. A straight forward analytical approach has been used, based on the best data made available to RSPO.

on-site inspection of railroad properties and operations. Extensive and in-depth personal interviews, with those parties most affected by the problems resulting from exclusion of branch lines, allow for thorough examination of the concerns and objections that have been voiced on the light-density line issue.

The study of the RSPO was divided into three phases: data collection and literature search; extensive field research and analysis of data; and drafting of the final report, including development of recommendations.

The research was divided into the following five categories:

(1) An extensive literature search was undertaken, including a review of the USRA's light-density line analysis approach; numerous interviews were conducted with civic associations and business and Government officials to gather pertinent information.

(2) Business and Government entities were asked to offer their comments and views.

(3) Frequent staff meetings were held with State agencies and officials connected with the project.

(4) An excluded rail line questionnaire was developed and field tested for the collection of information concerning each line's characteristics: operational, physical, patron and traffic.

(5) On-site inspections and in-depth interviews were conducted by multi-discipline research teams; these teams consisted of a cost analyst, an economic/marketing analyst and a railroad operations analyst.

Limitations. Certain limitations must be recognized as inherent in the very nature of this type of an undertaking.[6] The scope of the project is defined by statute, and certain examinations by other governmental agencies have already preceded this study. Therefore, the purpose of the study is not to redefine problems or reestablish issues but to perform the mandatory evaluation and to produce recommendations as to what is necessary to make operation of rail services over the studied lines economical.

There are a number of reasons the development of information for the different lines was uneven, and, therefore, the individual studies of the lines themselves will vary considerably in depth and length. Moreover, it was not possible in generating line data to develop cause and effect relationships among such things as service declines, deferred maintenance, increased cost and rate levels, individual economic and distribution changes and traffic losses. In addition, it was extremely difficult to estimate future traffic levels because of prevailing conditions and the inability to conduct an individual industry analysis.[7] Consequently, estimates of both future traffic and cost levels for individual excluded lines were developed largely from both empirical evidence and extrapolations. Unfortunately, historical cost data on these particular lines are not an accurate measure of future avoidable costs.

An attempt to develop reasonably accurate estimates of the economic viability of immediate areas served by excluded lines was thwarted somewhat by the aggregation levels of statistical data. Thus, the bulk of the information dealing with the economic structure of the areas served by the individual lines is based upon county and regional data. While the data contains much that is relevant and useful, the reader is well advised to consider that the application of such macro-data to individual line segments could possibly produce inaccurate conclusions.

Even after the most comprehensive and exhaustive examination, some significant factors may still remain undiscovered. This means that somewhat less than absolute validity must be attached to the "facts" assembled in such a fluid atmosphere. The implication as to the need for caution in interpreting the assembled data is clear.

USRA LIGHT-DENSITY LINE ANALYSIS

Essential to a basic understanding of this report is a familiarity with the general approach adopted by the USRA in the selection of those light-density lines of the bankrupt railroads which were to be included in the restructured system. USRA stated its approach to branch line viability in the following manner in its Final System Plan:

> First, lines were isolated which, by the volume of traffic originated or terminated, appeared to be submarginal (see PSP, p. 336). The initial screening process, due to the magnitude of the analytical task, was relatively broad. The definition of what constituted a "line" for study was also imprecise, often following historical definitions which later proved related neither to present economic nor operational boundaries.
>
> Second, the latest data were collected on traffic volumes and revenue levels, future traffic possibilities, current condition of the tracks and facilities, cost of rehabilitation, service characteristics and identification of shippers on each line. Data and information from the hearings conducted by RSPO were identified by line segment, as was information about specific operating problems and shipper concerns which was gained informally during the last one and one-half years (see PSP, p. 336). During the review process a number of lines were subsegmented. Each subsection was further analyzed to determine if the subsection might be self-sustaining even if it appeared that the entire line would not be or if a portion of the line was cross subsidizing the remainder.
>
> Third, each line was analyzed to determine whether revenues generated in 1973 by traffic originating on or destined to the line were sufficient to cover the variable costs directly attributable to that traffic in that year.[8]
>
> Fourth, if a line did cover its variable costs, including adequate maintenance and required upgrading for that year, it was included in the restructured system.
>
> Fifth, if the branch line failed this test, an analysis was conducted to determine if [it could cover its variable costs] either by a modest rate increase (10 percent or less) or with an expected immediate traffic increase. If this was found to be the case, the line was included in the restructured system.
>
> Sixth, if the line did not cover such costs, even with reasonable rate increases and expected traffic growth, a review was conducted to determine whether the line had connections to other carriers. Where such potential exist[ed], the connecting carrier was provided the data and information necessary to assess the line's potental viability.

[6] It was not possible, within the scope of the present study, to make a complete analysis of the total environment in which the light-density lines operate because there was not enough time; some of the data needed is unavailable; the cost of data collection greatly exceeded the benefit; and there were certain legal restraints. It was necessary, therefore, to limit the scope of the study and to leave other issues for later study and appraisal by the individual States. For example, the RSPO did not attempt to make any assessment of adverse community impacts nor to undertake a detailed study of those individual industries which are located on the excluded light-density lines. Further study would be needed, at a much greater degree of specificity than was possible in the current study, to estimate service and price elasticities of demand for rail transportation by commodity class or by changes in intermodal competitive attitudes. The present study is designed to develop relevant facts and make recommendations that ultimately must be transformed into actions by those most vitally concerned with their execution. This Report does not make recommendations as to whether an individual light-density line should or should not be subsidized. It does make a series of recommendations which provide the information necessary to make operation of rail service over the studied lines economical.

[7] The RSPO Staff concluded that no single econometric model could be utilized to accurately reproduce the unique conditions on the individual light-density lines requested for study. Not only would the development of such a model be extremely time consuming and expensive, even assuming the needed data were available, but many of the relationships would necessarily remain judgmental, impressionistic or arbitrary. Also, a series of "single" situations would not lend themselves to experimental procedures. Several approaches were examined, for example, establishment of control conditions which could be used to test the viability of one light-density line against another. Comparison of particular aspects of other light-density lines now in existence and profitable was examined, but because of the multiplicity of variant factors—size; geographic distribution; historical development; industry characteristics and mix; time variance; traffic and distribution flow patterns, etc.—this approach was found insufficient for use in this analysis. There appears to be no abstract standard of composition or structure of size or functional efficiency by which a light-density line's viability may be measured; moreover, comparative standards have not been developed with any degree of accuracy which would permit comparison to the unique situations presented by the studied lines.

[8] The USRA based its light-density line economic viability analysis on the carriers' 1973 traffic, revenue and unit costs and assumed efficient operations. The basic steps were as follows:

1. Establish total branch line-generated revenue.

2. Then subtract in the following order these cost items: a. on-branch operating costs; b. on-branch maintenance costs; c. on-branch return on net salvage value; d. on-branch overhead costs; e. off-branch operating costs; and f. up-grading costs.

See: United States Railway Association, Preliminary System Plan: Volume II (Washington: United States Railway Association, February 26, 1975), p. 337.

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Seventh, if a line met none of the first five criteria, it was recommended as a candidate either for abandonment or subsidy * * *.[9]

Accordingly for a line to be included in the restructured system, it had to be one that:

[Was] capable of generating sufficient revenue to cover approximately 90 percent of the costs incurred on the light-density line itself as well as the variable costs of moving that branch-line-generated traffic over other lines to its destination and interchange with another rail carrier;

While not currently self-sustaining, (could) be made viable by reasonable rate adjustments (10 percent or less); or

While not currently self-sustaining, (would) be made so because of identifiable traffic growth in the near future.[10]

In making its individual determination of branch line self-sufficiency, the USRA stated that the key questions were:

What are the costs of continuing service? Will there be sufficient line-generated revenue to cover these costs? What is the near-term traffic growth potential of the lines? Are there recoverable fossil fuel deposits on the line?[11]

Of these key questions, the most important, from an economic viability viewpoint—future prospects for traffic growth—was by far the most difficult to ascertain. The 1973 traffic data used by the USRA in its light-density line analysis represented a single point in time under unique circumstances. Obviously, time changes the circumstances and hence the results. Future projections based upon past trends are only as accurate as the relationship of past trends are to the future circumstances. This relationship was almost impossible for the USRA to predict, especially in light of the structural changes expected to result from implementation of the FSP and the unpredictable reaction of industry and other modes of transportation to those changes. RSPO concluded that the only way to overcome this particular dilemma was to conduct on-site examinations and to consult with local rail patrons and other interested parties, including State agencies, officials, etc., and local governments and former rail patrons. We also concluded that our approach should emphasize local variations and individual situations. These conclusions formed the basis for the procedures adopted by RSPO in conduct of its investigation of excluded light-density rail lines.

Pennsylvania's Approach to the Analysis of Light-Density Lines

Following enactment of the Regional Rail Reorganization Act of 1973, Governor Milton J. Shapp designated the Pennsylvania Department of Transportation (Penn DOT) as the official state agency responsible for the development of a state rail plan. The urgency of developing a comprehensive state rail plan was pointed out by Penn DOT itself.

Since passage of the Regional Rail Reorganization Act of 1973 (RRRA), Pennsylvania Department of Transportation (Penn DOT) has engaged in railroad planning activity paralleling that of the United States Railway Association (USRA). Because all except one (Ann Arbor) of the bankrupt railroads subject to reorganization within the framework of the Act operate in or immediately adjacent to Pennsylvania, the decline to their present condition has been felt more in Pennsylvania than in other states. Almost all of the decreased railroad competition which would attend the creation of Conrail as proposed by United States Railway Association in the Preliminary System Plan (PSP) would occur at points in eastern Pennsylvania. All of the important flows of rail traffic between the Northeast and the rest of the country cross Pennsylvania, except those across Canada. For these reasons the plight of the bankrupt railroads is of special concern to Pennsylvania, as is the question of how they should be reorganized.[12]

The swift action of the Pennsylvania Department of Transportation, and various other Commonwealth Departments and officials, resulted in an extensive series of reports relating to the Commonwealth's state rail plans as lited below:

A United States Rail Trust Fund: Prescription For Modern Rail Transportation, September 20, 1974.

Pennsylvania's Response to U.S. Department of Transportation's Report on "Rail Service in the Midwest and Northeast Region" March 28, 1974.

Pennsylvania's Plan for a Balanced Eastern Rail System, February 13, 1975.

Interim Review of United States Railway Association Preliminary System Plan, April 7, 1975.

Review of United States Railway Association Preliminary System Plan, April 26, 1975.

Review of United States Railway Association Preliminary System Plan: Branch Line Evaluation, Appendix, Volume I, April 26, 1975.

Pennsylvania Statewide Rail Plan Phase I Submission to the Federal Railroad Administration, May 15, 1975.

Pennsylvania Statewide Rail Plan Phase II Submission to the Federal Railroad Administration, December 9, 1975.

Pennsylvania Statewide Rail Plan Phase II Submission to the Federal Railroad Administration: Supplement, March 1, 1976.

Update to Pennsylvania Statewide Rail Plan, August 3, 1976.

From the very first, a firm position was taken with respect to the restructuring of the Commonwealth's rail system. The tone is clearly evident in the March 28, 1974 Report:

This analysis and comment on the Secretary of Transportation's report, "Rail Service in the Midwest and Northeast Region" reflects a portion of the commitment of the Commonwealth of Pennsylvania to improved rail service. The message of this Pennsylvania Report about the Department of Transportation Report is that it is unacceptable.

* * * * *

(Moreover), the first general recommendation to USRA is "stay off the backs of the branch lines!"

Many knowledgeable people know that if the 1,450 miles of branch lines shown as "potentially excess" in Pennsylvania were abandoned tomorrow, there would be no impact on railroads' profitability. Branch lines are a red herring that simply divert attention from the serious problems railroads face in their yards and in maintenance of track and equipment from long years of neglect. The branch lines are equally affected by these conditions but are insignificant as causes of financial drain. Indeed, the Penn Central asserted to the ICC in 1973 that it would realize a "net annual benefit" of $20 million if allowed to abandon 5,000 miles of track. Penn Central lost $24 million in February of 1974 alone.[13]

In its April 26, 1975 Report, the Commonwealth stated its goals regarding the problem of light-density (branch) lines in the following manner:

Encouragement of economic development. The Commonwealth's concern for economic development has been one of its dominant policies for years. Efficient, low-cost transportation is important to the achievement of this goal.

Encouragement of desirable State land development patterns. The Commonwealth wants to provide a high degree of accessibility to all parts of the State so that a balanced land development pattern can emerge.

Access to coal fields. Maintenance of access to this vital energy resource is a prime goal.

Minimization of community impact. Loss of branch line service can impose severe burdens on local communities. This must be avoided.

Maintain transportation options. In the long run, it is extremely desirable to maintain the option of rail transportation—to allow for technical and management innovations that will increase usage of this energy-efficient system.

Reduce environmental impacts. The Commonwealth is strongly opposed to environmental degradation.

Energy conservation. This is a national as well as a State policy, which will probably be of increasing concern in future years.[14]

The Commonwealth further stated that:

The achievement of these goals is a dominating concern of Pennsylvania. The Commonwealth recognizes that it is essential to have viable railroad corporations operating throughout its territory. But this should not be at the sacrifice of goals that are important to the prosperity of the State, to the well-being of its population, to the expansion of its local economics, or to the conservation of essential resources.

To achieve the foregoing policy, the Commonwealth, through its Department of Transportation personnel and its consultants, engaged in extensive and very detailed studies of light density lines throughout the State. These studies have taken two forms:

a. Examination of the economics of branch lines from the viewpoint of the railroad (carrier).

b. Study of the economic, environmental, and energy impacts of branch line closings.

These studies were in substantial detail, and included line-by-line analyses that were based upon field surveys [during November-December, 1974 and January, 1975] of all plants along each branch line. Thus the data base is much more complete than was available to the USRA.[15]

Drawing upon the goals prescribed by the Regional Rail Reorganization Act of 1973, and prior Commonwealth goal statements, a series of goals for guiding the formulation of the policies and programs of the Commonwealth with respect to rail transportation was prepared by the Subcommittee on Goals of the Penn DOT Statewide Rail Advisory Committee. The statement of goals incorporated within the Commonwealth's May 15, 1975 Report was as follows:

(1) Promote the use of rail service to meet those transportation needs for which it is most appropriate, considering the capabilities of all modes relative to the requirements of shippers and travelers.

(2) Create a financially viable system, considering revenues from users as well as possible governmental aid, and both short term as well as long term (e.g., capital stock replacement) costs.

(3) Maintain a railroad system which is flexible and responsive to changing shipper and traveler requirements, and to new development opportunities, through competition, regulation, preservation of existing rights of way, and other means as appropriate.

(4) Maximize the positive effects and minimize the negative effects of changes in the rail system on communities, industry and labor.

(5) Insure that the system will be operated and maintained in a manner that is efficient, safe, and reliable, meeting any applicable standards, such as for safety and environmental impacts.

(6) Rely upon private enterprise to the extent possible. Any actions should accord equitable treatment to carrier creditors and owners.

(7) Create a system which is operationally compatible with the other portions of the North American railroad network.

(8) Encourage the adoption of fair and equitable systems of carrier taxation.[16]

The Commonwealth further commented on these goals:

The goals are necessarily to some extent in conflict with one another, in the sense that any particular plan of action which furthers the achievement of one goal may diminish the achievement of another. For example, the abandonment of a branch line may increase the financial viability of the railroad, decrease rail employment but increase employment in other modes, and threaten communities along the branch line with loss or contraction of industries dependent upon the rail service. To continue the rail service may reduce the viability of the rail carrier, or perhaps require a subsidy, but will preserve rail employment and the competitive position of industries in the communities. To rationally choose among alternatives with such consequences, it is necessary to predict what those consequences will be, so that an alternative which is balanced in its achievement of the various goals can be selected. Thus, these goals impose a very strong requirement on the information about the consequences of alternatives which is to be developed in the planning process. Also, they require that alternatives be sought which tend to achieve all the goals. In the example discussed above, an obvious alternative, in addition to that of simply retaining or abandoning rail service, is that of integrated rail-truck service, which might permit reduction of the total cost of transport service while in effect retaining rail service to the communities. Such alternatives can raise difficult questions of institutional and regulatory constraints, and problems of transition. But they must be explored if the best plan of action is to be identified.[17]

Having formulated its goals, the Commonwealth then proceeded to establish policies for determining the procedures the Commonwealth would employ in giving assistance to branch lines. These policies were stated in Phase I of the Pennsylvania rail plan as follows:

(1) Any line that is profitable to its carrier by using a methodology that accurately calculates avoidable costs, according to the Rail Reorganization Act, should be included in Conrail.

(2) A branch line that shows overall profitability to the rail industry, even though segments of it may be unprofitable, should be retained by a restructured or solvent railroad without government assistance.

(3) Where freight rates have been adequate to cover operating cost and normal maintenance, but where maintenance has been deferred, the restructured or solvent carrier should bear the responsibility for rehabilitation. If they don't, the line would be acquired and rehabilitated using a combination of 70% Federal, 20% State, and 10% local shares with local contributions consisting of local public funds, shipper contributions or a combination thereof. The level of track rehabilitation shall be determined through negotiation with shippers and local government and as cost effective analysis. Where required, negotiated surcharges, and modified levels of service, work rules and increased traffic should cover operating deficits insofar as possible. The surcharges should be imposed to the level where truck transportation costs or relocation become as attractive as continued rail service or the point where industrial operation ceases to be price competitive. Various State programs, including the Pennsylvania Industrial Development Authority, shall be used insofar as possible to generate greater usage of the rail line and thus preclude the continued need for other strategies.

(4) To the extent of a local government's willingness to participate in a purchase of service program, insofar as required above and beyond acquisition modernization and negotiated surcharges and operating changes to cover avoidable costs and rental payments, the Commonwealth will provide an equal matching share of the program. However, the Commonwealth will only participate where the resulting community impacts from loss of rail service will provide greater losses than the cost necessary to continue the service.

(5) There shall be no Federal and State financial participation either in acquisition and modernization or in purchase of service for lines excluded from Conrail and unprofitable even with rehabilitation and where economic loss is less than the needed assistance. However, the State shall lend its expertise in negotiating surcharges and service standard changes and to arrive at a satisfactory preservation of rail service where local and shipper contributions are available and sufficient to preserve service. Where rail service abandonment results, the State shall provide technical assistance for relocation, conversion to truck transportation, and would acquire the line for other transportation purposes where warranted.

(6) The Commonwealth will initially allocate available Federal and State rail assistance funds among regions on the basis of total needs to preserve service on all worthy lines and economic conditions in the region. Actual allocation among individual lines in each region will be determined on the basis of regional priorities, essentiality of service preservation, and detailed negotiations as to service changes, surcharges, and local public contribution.

(7) The Commonwealth will continue to subsidize up to two-thirds of the losses of rail passenger commuter lines not covered by Federal assistance from the funds under Section 402 of the Reorganization Act and applied uniformly to preserve passenger as well as essential freight service.

(8) With passage of enabling legislation, the Commonwealth will provide matching funds under Section 403(b) of the Rail Passenger Service Act of 1970 to support intercity passenger rail service in corridors consistent with the State Rail Plan.[18]

In its December 9, 1975 Report, the Commonwealth identified its long-term strategy with respect to the rail restructuring in the following way:

The provision of safe, adequate, and dependable rail transportation is vital for the continued growth of Pennsylvania's economy. The Commonwealth through its Department of Transportation and Public Utility Commission will proceed in its efforts to preserve, promote, and improve the rail network in order to meet the needs of Pennsylvania's residents and industry.

Pennsylvania will seek to preserve rail service beyond the two year subsidy period for branch lines for which local and State interest dictates the long term retention of service. There are three ways in which this may be done. The preferred solution in most cases is for Conrail or another carrier to assume ownership and operation of the property. In general, this is unrealistic unless Congress requires USRA/Conrail to alter their branch line viability methodology to correctly measure avoidable costs. Unless the means of measuring off-branch costs is corrected, it is unlikely that any line will generate an increase in traffic sufficient to satisfy the USRA methodology. In addition, even if a line generated enough traffic during the two year subsidy period to be considered viable, there is no assurance that Conrail would purchase the line.

The second alternative would be for State and local interests to purchase and rehabilitate the lines under the Title IV provisions of the Act. The State would attempt to have service provided on a contractual basis with Conrail or any other carrier whose trackage is contiguous to the branch.

We conceive of the service being financed by the shippers on a prepaid basis whereby the shippers guarantee a certain level of profitability to the railroad in return for a certain level of service. Incentives are to be included for improved service and increased traffic density such that Conrail assumes normal, noncontractual service.

The third, the generally least preferred option is to operate the branch as a short-line railroad. Successful short-line operation requires a reasonable division of revenues, capital outlays for equipment, technical knowledge, and the enthusiasm and industriousness of local shippers and government. While none of these requirements are insurmountable most communities see this option as a fallback position.

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[9] United States Railway Association, Final System Plan: Volume II (Washington: United States Railway Association, July 26, 1975), p. 5.

[10] Ibid.

[11] Preliminary System Plan: Volume I, op. cit., p. 103.

[12] Office of State Planning and Development, Review of United States Railway Association Preliminary System Plan (Harrisburg: Pennsylvania Department of Transportation, April 26, 1975), p. 1.

[13] Pennsylvania's Response to U.S. Department of Transportation's Report on "Rail Service In The Midwest and Northeast Region", op. cit., pp. 1–2.

[14] Review of United States Railway Association Preliminary System Plan, op. cit., pp. 87–88.

[15] Ibid.

[16] Pennsylvania Statewide Rail Plan Phase I Submission to the Federal Railroad Administration, op. cit., pp. II–5/II–6.

[17] Ibid., pp. II–4/II–5.

[18] Ibid., pp. III–1/III–2.

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It should be noted that if Congress increases the length of the subsidy period, then the subsidy option may become "long-term" in nature. An expanded subsidy period might make the subsidy option more attractive vis-a-vis the purchase and modernization option. Certainly the shippers on a line expecting a significant increase in traffic may choose to subsidize in hope that profitability may be achieved in the longer run. A longer subsidy period also makes a planned phase out of rail service more realistic.

Phase II of the State Railroad Plan is based upon the Regional Rail Reorganization Act as currently written. Any amendments may necessitate revisions to the Phase II document, and the Commonwealth reserves the right to revise the Plan accordingly.[19]

The Commonwealth further commented in its December 9, 1975 Report on the conditions and requirements of services to be acquired:

Options selected by the interested parties on branch lines depend on the satisfactory solution of existing problems relating to deficiency judgments, purchase price, insurance and service guarantees. The acquisition estimates were based on net salvage value on the assumption that the bankrupt estates will sell at or near the net salvage value.

Regardless of the option chosen, the Commonwealth will oversee the purchase, rehabilitation and/or subsidization of the lines for which service is necessary. Penn DOT personnel will negotiate the purchase and contracted service on behalf of local shipper interests. Similarly, Penn DOT will devise mechanisms for monitoring the service provided under the contractual agreements.

FRA Class I standard is the minimum upon which service can be provided safely. The Commonwealth will contract for the rehabilitation of any subsidized or purchased line that fails to meet Class I standards. An open competitive bid process will be followed for contracting rehabilitation work unless the railroad servicing the track can be induced to perform the work. USRA estimates of rehabilitation costs wil be utilized in the Commonwealth's analysis until such time as the specifications for the work can be calculated. Lines utilized for overhead or passenger service may be upgraded above Class I standards.

Rolling stock requirements lay within the domain of the railroad that provides the subsidized service unless a short-line railroad is formed. If short-lines are formed the rolling stock and equipment necessary for operation will be supplied in compliance with I.C.C. regulations.[20]

The Commonwealth's View of the Subsidy Program

From the beginning of the rail reorganization process, the Commonwealth expressed serious doubts about the usefulness of the subsidy program. Their fundamental position was that for a number of reasons the subsidy program would lead to eventual discontinuance of rail service on lines being subsidized.[21] But, nonetheless, Pennsylvania would utilize the subsidy program in order to maintain service on selected lines.

[19] Pennsylvania Statewide Rail Plan Phase II Submission to the Federal Railroad Administration, op. cit., p. 403.

[20] Ibid., p. 404.

[21] Milton J. Shapp, Pennsylvania's Plan For A Balanced Eastern Rail System, (Harrisburg: Pennsylvania Department of Transportation, 1975), p. 50.

Pennsylvania's lack of enthusiasm for the subsidy program was premised upon five points:

First is the fact that there is neither a mechanism nor an incentive for rehabilitation and subsidizing a line under the Act. While loans can be made for acquisition and rehabilitation of lines left out of the Final System Plan, these lines cannot then be subsidized.

. . . . . .

Although the Federal legislation authorizes appropriations for only two years, various Federal officials believe that, once established, it will be a continuing program. To a businessman, however, an industrial location on a subsidized line excluded from the Final System Plan is bound to be less attractive than a site on one included in the Plan. Subsidized lines will have a harder time attracting new industry, and in the long run will probably lose the rail-dependent industry they presently have. For certain, no new industrial parks will develop along a line threatened with abandonment. Clearly, then, no matter what the intent of the Congress or the Association, the subsidy provision as now constituted may be little more than a de facto phase-out of rail service.

Third, work to date on developing a formula for calculating avoidable costs and revenue attributable to a branch line has been complicated by the fact that railroads must provide the necessary documentation. This makes it impossible to calculate the amount of subsidy that might be required. Even so, officials at the ICC's Rail Services Planning Office (RSCO) believe that required subsidies will be much less than the deficit computed on USRA's line analysis.

Fourth, a subsidy by its very nature offers no incentive for cost control. Rather, it will lead to a cost-plus operation of branch line. (The RSPO formula does provide for a negotiation between railroads and shippers initially so that questions such as minimum traffic guarantees or changes in service which might lower or eliminate the need for subsidy altogether can be discussed.)

Finally, the subsidy formula is bound to yield different results than the USRA viability formula, and this can lead to the following absurdity: a line analyzed by the USRA will prove non-viable and thus will be excluded from the Final System Plan; however, subsidy calculations will indicate no deficit of avoidable costs over revenues, making the subsidy payment the minimum—$1.00. In other words, the Association will find the line not profitable and exclude it from the Plan, but Conrail will be forced to operate it anyway without subsidy because the subsidy formula shows it has no deficit. While both the Association and the Rail Services Planning Office recognize—and expect—this eventuality, USRA has shown no willingness to work out a single formula and thereby resolve this issue. For USRA to exclude from the Final System Plan branches that do not require a subsidy is preposterous.[22]

Lines to be subsidized. The Pennsylvania Department of Transportation, the designated State agency for railroad planning, completed the first attempt to prepare a plan to assure the continuation of essential local rail service with the issuance on March 28, 1974 of its Report, Pennsylvania's Response to U.S. Department of Transportation Report on "Rail Service In The Midwest and Northeast Region." The Report, which was co-authored by the Office of State Planning and Development and contained a potpourri of information and statements, examined all the endangered Pennsylvania branch lines for which data was available. After identifying the individual endangered line, the Report then simply provided a series of general comments varying in depth and length relating to the line. The Report made some individual line segment recommendations.

With regard to the six lines which are the subject of this Report, the Pennsylvania Department of Transportation in its March 28, 1974 Report made the following initial comments.[23]

(1) *USRA Line No. 145: Northern Central Branch.* The Penn Central line extending from York south through New Freedom and the Stewartstown Railroad line extending from New Freedom east to Stewartstown will be discussed together as the Stewartstown Railroad cannot function without the Penn Central line. Following the occurrence of Hurricane Agnes in June 1972, the Penn Central stopped operations over the section of track from York through New Freedom. This de factor abandonment has incapacitated the Stewartstown Railroad totally from continuing to function. The six mile track of the Stewartstown Railroad alone received 212 cars at the New Fredom Interchange between January and June 22, 1972.[24] The shippers liated . . . represent those located along the Penn Central and Stewartstown Railroad lines currently marked "potentially excess." Presently, a few of these businesses are shipping by utilitizing piggyback service, [and] the remaining firms have expressed great inteerst in restored rail service. The firms surveyed estimated 800 carloads would be shipped and received annually if service was available. Five lumber companies are located along these lines. They have indicated that piggyback service is not a viable alternative for the shipment of lumber. For example, two piggyback trailers loaded with 80,000 lbs. of lumber would cost $5,400 to ship from the West Coast to New Freedom as compared to $1,650 if shipped by direct rail service. The additional cost incurred is clearly prohibitive.

Additionally, rail business along these lines should continue to expand. Two plants have recently delayed plans to expand because of the uncertainty of the rail situation. An industrial park of 145 acres is located adjacent to the Stewartstown Railroad waiting to be developed. A York County resident stresses that "the Penn Central line from York through New Freedom is not a branch line per se, but a connecting link

[22] Ibid., pp. 50 and 53.

[23] In addition to the line-by-line analysis by the Office of State Planning and Development, there were also a number of statements incorporated within the March 28, 1974 Report, by various Commonwealth Departments and officials, which at times, made reference to the six lines studied by the RSPO. Due to the fact that this is an executive summary by the RSPO, these additional statements and positions will be covered in-depth within the individual line reports, to be issued at a later date. It should be noted, however, that some of these statements are occasionally at odds with the information supplied by the Pennsylvania Department of Transportation.

[24] The March 28, 1974 Report stated that, "If rail service is continued there is projected traffic of 500 carloads on the Stewartstown Railroad." The Report also recommended that USRA Line No. 145 be electrified and designated an intercity passenger line.

between Washington and the Harrisburg interchange. Each day that discontinuance of railroad service persists is causing severe and mounting economic injury to the shippers, businesses, and communities in southern York County and northern Maryland."

(2) *USRA Line No. 252: Emporium Secondary Track.*[25] The Penn Central line from Ludlow southeast to Rolfe has six businesses which ship and receive 2,515 carloads of freight per year. In addition to the direct rail service provided to these establishments, this track section is also an important link in the main line extending from Erie southeast to Philadelphia.[26] Abandonment of the rail line from Ludlow to Rolfe would produce effects adverse to firms located along the line and would also disrupt rail service to places to the northwest, such as Warren, Pennsylvania.

One example is an oil refinery in Warren which has annual carloadings exceeding 2,800. If through rail service is terminated, the firm will be forced to discontinue supplying petroleum products to customers in many areas now served from its rail terminals at a time of growing energy shortage.

A long established papermill in Erie is dependent upon improved rail service over the same Penn Central line to ship 128 carloadings of pulp monthly from Erie to Lock Haven, and 224 carloadings monthly of pulpwood and woodchips from Lock Haven, Clearfield, Karthaus, Driftwood, Reynoldsville, and Port Allegany to Erie. Due to the unsatisfactory condition of portions of the roadbed between Erie and Emporium, which includes the Ludlow-Rolfe section, the unit train is forced to travel the circuitous route from Erie to Lock Haven through Buffalo. This entails 120 additional miles for each round trip and approximately 8 hours additional turn around time.

As for the Borough of Kane itself, the effect of the abandonment of rail service would be an immediate capital loss to the present rail shippers of $815,000, with an estimated capital loss within five years of from three to five million dollars. At least 263 persons would become immediately unemployed. This figure represents 15 percent of the total labor force in the Borough of Kane. The immediate loss in annual wages earned by those who would become unemployed exceeds $2,450,000.

(3) *USRA Line No. 907/939: Wilmington and Northern Branch.* This section of track, from Elverson south past Chaddsford (including the St. Peters spur) is part of the Reading's Wilmington and Northern line which forms a link in the best competitive route, mileagewise, between Washington and Buffalo. There is a through use of this line, such as delivery of automobiles to the Wilmington market from Detroit via Buffalo, and U.S. DOT agrees that competition is essential between these two points. Leaving the Penn Central as the only carrier serving the Coatesville area means longer routing through Philadelphia where serious problems develop such as a single track interchange in a tunnel and heavy passenger service use as well as more mileage and yard delays.

A great deal of the rail activity in the Coatesville area revolves around the Lukens Steel Co. whose employment is over 5,000. Eighty Reading Railroad crews are used seven days per week to service Lukens and seven other companies who either provide scrap to Lukens or are their customers. Besides providing the considerable inbound and outbound functions, the Reading also performs the intra and inter plant switching for Lukens and its affiliated neighbors and last year handled over 40,000 cars. This traffic alone is enough to satisfy any criteria for the entire 42 mile line. Although an east-west Penn Central line runs within close proximity to the Lukens plant, it sits on a viaduct 75 feet above the ground and the nearest PC loading dock is several miles away. Abandonment of this line would cut off Lukens from the Chessie System and eliminate the present direct routes to Southern markets via Wilmington.

Luria Brothers, who feed recycled steel to Lukens, have two plants. One is in Modena, the other in South Coatesville and employment is over 200. Neither of these could continue to operate without rail service. At the Modena plant the principal work is the dismantling of obsolete railroad cars and locomotives. Approximately 1,800 units moving into the plant on their own wheels are processed each year. Seven hundred additional cars of scrap are received each year for preparation work before being shipped to Lukens Steel. At Luria's South Coatesville plant about 800 carloads of unprepared steel scrap are received yearly and sorted, cleaned and cut to be suitable for resmelting. Service for all of Luria's operations is provided by the Penn Central's east-west mainline and the Reading's Wilmington and Northern line. Of the two, the Reading line is considered more important, since it provides a Southern link with the Chessie System over which a large portion of the cars for dismantling and recycling originate. The northern section of the line through Elverson links Luria to large amounts of demolition scrap from the Pennsylvania coal regions.

While continuance of the Reading's W&M line is vital to Lukens, Luria Brothers and other feeder companies, it is critical to the survival of the Lenape Forge Division of Gulf-Western. This firm would lose its only rail service if the W&M line were abandoned. Nearly all of the company's products are directly or indirectly related to the energy market; oil producing equipment, steam and power generating equipment, turbine wheels and shafts as well as design nozzles and forgings for nuclear reactor units, a field in which Lenape Forge is the proprietary supplier. Lenape is currently expanding their plant with expected completion in mid 1974, at which time their railroad car needs will be over 300 a year.

Other firms using the W&M line are C.O. Carlson manufacturers of nickel and titanium plates whose size and weight eliminate any mode of shipping other than rail. Fabricated Metals of Modena depends 100 percent on rail service and presently have 100 CCKX-62 foot flat cars in service throughout the United States. These cars are periodically returned to Modena to be serviced and modified, transforming them into container cars.

(4) *USRA Line No. 912: Gettysburg and Harrisburg Branch.*[27] The Reading line from Carlisle Junction south to Adams County and from Peach Glen in Adams County South to, but not including, Biglerville has ten businesses which ship and receive 187 carloads monthly. If rail service is discontinued, six businesses would be forced to shut down. Three firms indicated they would have to curtail production and lay off employees, as increased freight rates would be too high to enable them to remain competitive in their respective markets.

One firm located along this Reading line has recently completed construction of a large addition to their warehouse area with additional side trackage and rail loading docks. If rail service were discontinued, they would be forced to truck their raw materials from Gettysburg. They indicate that "to load or unload rail cars at this distance would be physically impossible and simply not feasible in any respect."

Another firm has recently finished construction of a 1.3 million dollar warehouse with plans presently being formulated for a new rail siding.

A pottery manufacturer has just begun operations along this line. Presently, they are completing negotiations for another plant in the same area. Together the two locations will ship and receive 240 carloads annually, and employ 200 people. As they are dependent on rail for the delivery of raw materials, the availability of rail was of prime importance in the selection of their present and proposed plants.

In addition, this line functions as a high-wide detour route for Western Maryland Railway's Jacks Mountain tunnel.

(5) *USRA Line No. 935: Stony Creek Branch.* This twenty mile line is used for both freight and passenger operation. Six hundred passengers daily ride commuter trains between Lansdale and Doylestown, and the Southeastern Pennsylvania Transportation Authority is seriously considering reactivating electrified passenger service between Norristown and Lansdale.[28] Freight needs have been growing in recent years and at least two firms have expansion projects under way, one in the growing electronics industry, which ship TOFC. This will further increase rail demand. One major pharmaceutical company, Merck, located along this line, receives chemicals by tank cars and one of its raw materials, glucose, is presently accessible to the East Coast only by rail.

(6) *USRA Line No. 1009: Nesquehoning Valley Branch.*[29] This line is the western most extremity of the Nesquehoning Branch of the Lehigh Valley Railroad, which was abandoned by the Central Railroad of New Jersey in 1972, and taken over by the Lehigh Valley. At that time the interchange at Haucks with the Reading Catawissa Branch was also abandoned. In the last two years this section of track, especially the 3.5 miles from Haucks to Hometown has been extensively developed for industry. Now there are two large volume, highly technical companies using 540 carloads a year and increasing, and a 224 acre industrial park north of Hometown with 4,117 feet of frontage along the Nesquehoning Branch. Over $1.2 million have been spent on the infrastructure of this park, and all the companies being solicited are heavy rail users.

The present volume alone is enough to justify this segment of track. The entire Nesquehoning Branch must be examined, though, because it is one entity; and the only outlet for Haucks and Hometown is at Jim Thorpe. A large rail user is now locating at the Hauto Industrial Park near Nesquehoning, with an expected 65 carloads monthly, or 780 annually by 1975. In 1975,

[25] That portion of the Warren-Kane line between Ludlow and Warren (Zone 75) was not analyzed in the February 1, 1974 Report issued by the U.S. Department of Transportation "• • • due to the complex nature of the zone."

[26] The March 28, 1974 Report recommended that USRA Line No. 252 be designated an intercity "rural" passenger line.

[27] Only that portion of the Carlisle Junction-Gettysburg line between Biglerville and Carlisle Junction (Zones 81 and 83) was declared a "potentially excess rail line" in the February 1, 1974, U.S. DOT Report.

[28] The March 28, 1974 Report recommended that the small portion of USRA Line No. 935 between Norristown and Hartranft be electrified and designated an intercity passenger line.

[29] USRA Line No. 1009 was not shown to be a "potentially excess rail line" (Zones 70 and 82) in the February 1, 1974 Report issued by the U.S. Department of Transportation.

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Pennsylvania Power and Light will be dismantling its electric generating plant and will be generating 600 additional carloads of scrap. The Kovatch Truck Center also generates 19 carloads a year. In 1975, there would be 149 cars per mile, and after that at least 113. The entire Nesquehoning line is clearly financially viable.

In its two April 26, 1975 Reports, the Commonwealth again made an individual line-by-line analysis of endangered lines in Pennsylvania, including the six lines studied by the RSPO. In comparison to its March 28, 1974 Report, the Commonwealth's revised line-by-line analysis was much more comprehensive; data was broken down and categorized in the following ways:

General background.
Traffic and operating information.
Line evaluation by USRA and PennDOT methods.
Shippers and receivers along branch line (active branch lines only).
Economic impact.
Environmental impact; energy consumption (active branch lines only).
Summary.[30]

The extensiveness of the Commonwealth Report precludes reporting here all of the data and information provided by the Penn DOT. Therefore, only the summary section for each line studied by the RSPO is shown below:

(1) USRA LINE NO. 145: NORTHERN CENTRAL BRANCH

E. *Summary.*—1. *Financial self-sufficiency* (Railroad Economics). Criteria adopted by USRA for branch line inclusion in Conrail requires that the line be capable of generating sufficient revenue to cover costs incurred on the line itself and in serving branch line generated traffic off branch. USRA did not, however, compute the viability of this line since it was out-of-service in 1973.

The viability of this line has been computed for both 1973 and 1975 using the Penn DOT method. Such computations indicate that the line, if operated today, would show a small net contribution to the owning railroad and a large net contribution to the U.S. rail system as a whole.

2. *Increase in economic activity.* Reinstitution of rail service would result in a large gain in economic activity of approximately $1.5 million, including an increase of 100 jobs in the local labor market. This gain would be in addition to the net contribution to the owning railroad and the U.S. rail system.

(2) USRA LINE NO. 252: EMPORIUM SECONDARY TRACK

F. *Summary*—1. *Financial Self-Sufficiency* (Railroad Economics). Criteria adopted by USRA for branch line inclusion in Conrail requires that the line be capable of generating sufficient revenue to cover costs incurred on the line itself and in serving branch line generated traffic off-branch. USRA computations indicate that this branch line incurred a large net loss in 1973.

The USRA viability formula considers only revenues and cost of the owning railroad. Had the analysis been based on the premise of profitability to the U.S. rail system as a whole, the branch line would show a moderately large net loss.

[30] This section was, in turn, subdivided by Penn DOT into three additional categories: Financial Self-Sufficiency; Economic Impact on Adjacent Areas; and Environmental Impact, Energy Consumption.

The viability of this branch line has also been computed using the Penn DOT method, which adjusts the USRA computations to eliminate unavoidable cost items and, in several places, uses more realistic unit costs. Using Penn DOT traffic, the line would show a moderate net loss to the owning railroad and a moderate net loss to the rail system as a whole.

2. *Economic impact on adjacent areas.* Termination of rail service would result in an extremely large locally-incurred economy of approximately $12.5 million, including a reduction in employment of 1,115 jobs. Considering the size of the local labor force and the prevailing unemployment rate within the associated labor market areas, these losses would have an extremely large impact upon the local economy.

The above estimate is highly sensitive to the ultimate relocation or closure decision of one firm. In this case, the individual impact accounts for 60 percent of these losses. Independent transport cost estimates support the impact assessment indicated by the affected shipper.

3. *Environmental impact; energy consumption.* Termination of rail service would result in a small but noticeable increase in truck volumes on two highways in the vicinity of Coatesville. Associated with this would be increased yearly highway maintenance costs. The increase would have a negligible impact on air quality, noise and vehicular safety, however.

Ton-miles generated by plants presently located along the branch line are projected to decrease from 309 to 262 million. This would result in a small decrease in the overall amount of energy consumed locally. The efficiency of energy use remains about the same, however.

(4) USRA LINE NO. 912: GETTYSBURG AND HARRISBURG BRANCH

F. *Summary*—1. *Financial Self-Sufficiency* (Railroad Economics). Criteria adopted by USRA for branch line inclusion in Conrail requires that the line be capable of generating sufficient revenue to cover costs incurred on the line itself and in serving branch line generated traffic off-branch. USRA computations indicate that this branch line incurred a large net loss in 1973. Had the more correct Penn DOT traffic figures been used instead, the net loss would have been reduced slightly.

Considering normal 1973 traffic possible additional carloads had the service been better in 1973, and the near-term traffic growth potential (1974–1980), comparison was made to determine whether the line might be viable under USRA methodology. The additional carloads, while improving the situation, are still not likely to ensure self-sufficiency.

The USRA viability formula considers only revenues and cost of the owning railroad. Had the analysis been based on the premise of profitability to the U.S. rail system as a whole, the branch line would show a very large net contribution.

The viability of this branch line has also been computed using the Penn DOT method, which adjusts the USRA computations to eliminate unavoidable cost items and, in several places, uses more realistic unit costs. Using Penn DOT traffic, the line would show a moderately small net loss to the owning railroad and a very large net contribution to the rail system as a whole.

2. *Economic impact on adjacent areas.* Termination of rail service would result in a very large locally-incurred economic loss of approximately $6.3 million, including a reduction in employment of 700 jobs. Considering the size of the local labor force and the prevailing unemployment rate within the associated labor market areas, these losses would have a very large impact upon the local economy.

The above estimate is highly sensitive to the ultimate relocation or closure decision of two firms. In this case, the individual impact accounts for 50 percent of these losses. Should this viewpoint change or should altered non-railroad factors enter into the plant viability decision, the above economic impact would have to be reassessed.

The ratio of community to railroad economic loss would be on the order of 30 to one.

3. *Environmental impact; energy consumption.* Termination of rail service would result in a slight increase in truck volumes on route PA 234 and a significant increase in volumes on LR A5260 which will cause a yearly paving cost increase of $1,500 for this route. These increases would have a negligible impact on air quality, noise and vehicular safety.

It is projected that ton-miles generated by plants presently located along the branch line would decrease from 118.0 to 107.1 million. There would be a large increase in the over-all amount of energy consumed because the energy savings resulting from plant closings or relocations would not offset the reduction in the efficient use of energy caused by the switch from rail to truck.

4. *Other considerations.* USRA made no reference in the Preliminary System Plan to

the fact that this route handles "high and wide" traffic. The Allis Chalmers plant at York ships hydraulic turbine parts over this line to the Northeast. Additionally, while not all "high and wide" traffic, 188,512 carloads of overhead traffic moved over this line in 1973. This represents 516 carloads per day.

(5) USRA LINE NO. 935: STONY CREEK BRANCH

F. *Summary*—1. *Financial Self-Sufficiency* (Railroad Economics). Criteria adopted by USRA for branch line inclusion in Conrail requires that the line be capable of generating sufficient revenue to cover costs incurred on the line itself and in serving branch line generated traffic off-branch. USRA computations indicate that this branch line incurred a moderately small net loss in 1973.

Considering normal 1973 traffic, possible additional carloads had the service been better in 1973, and the near-term traffic growth potential (1974–1980), a comparison was made to determine whether the line might be viable under USRA methodology. The additional carloads should be enough to ensure self-sufficiency.

The USRA viability formula considers only revenues and costs of the owning railroad. Had the analysis been based on the premise of profitability to the U.S. rail system as a whole, the branch line would show a very large net contribution.

The viability of this branch line has also been computed using the Penn DOT method, which adjusts the USRA computations to eliminate unavoidable cost items and, in several places, uses more realistic unit costs. Using Penn DOT traffic, the line would show a small net contribution to the owning railroad and a very large net contribution to the rail system as a whole.

2. *Economic impact on adjacent areas.* Termination of rail service would apparently not result in any significant locally-incurred economic loss to firms currently using rail service. Penn DOT shippers survey responses indicate that the two affected firms could utilize alternate transport modes without significantly affecting plant viability.

However, the line has a far greater economic potential. The reopening of the Philco-Ford plant (traffic estimated at 600 carloads per year), the completion of the 5.2 area industrial park presently being developed, plus the interest by several other firms in locating along the line, were service to be continued, all argue for its retention from the standpoint of its "positive" regional economic growth and development potential.

The line also handles some bridge traffic. It also serves as a bypass of the Philadelphia area to avoid conflicts with commuter rail service operated for SEPTA.

3. *Environmental impact; energy consumption.* Termination of rail service would not result in any significant increase in truck traffic on local highways or associated environmental impact (air quality, noise, vehicular safety).

Ton-miles generated by plants presently located along the branch line are projected to decrease from 4.4 to 4.3 million. This would result in a slight increase in the overall amount of energy consumed locally.

4. *Other considerations.* SEPTA has expressed an interest in instituting passenger service on this line.

(6) USRA LINE NO. 1009: NESQUEHONING VALLEY BRANCH

F. *Summary.*—1. *Financial Self-Sufficiency* (Railroad Economics). Criteria adopted by USRA for branch line inclusion in Conrail requires that the line be capable of generating sufficient revenue to cover costs incurred on the line itself and in serving branch line generated traffic offbranch. USRA computations indicate that this branch line incurred a moderately small net loss in 1973. Had the more correct Penn DOT traffic figures been used instead, the net loss would have been reduced slightly.

Considering normal 1973 traffic possible additional carloads had the service been better in 1973, and the near-term traffic growth potential (1974–1980), comparison was made to determine whether the line might be viable under USRA methodology. The additional carloads would be likely to result in marginal self-sufficiency for the line.

The USRA viability formula considers only revenues and cost of the owning railroad. Had the analysis been based on the premise of profitability to the U.S. rail system as a whole, the branch line would show a moderate net contribution.

The viability of this branch line has also been computed using the Penn DOT method, which adjusts the USRA computations to eliminate unavoidable cost items and, in several places, uses more realistic unit costs. Using Penn DOT traffic, the line would show a small net contribution to the owning railroad and a large net contribution to the rail system as a whole.

2. *Economic impact on adjacent areas.* Termination of rail service would result in a large locally-incurred economic loss of approximately $1.4 million, including a reduction in employment of 104 jobs. Considering the size of the local labor force and the prevailing unemployment rate within the associated labor market areas, these losses would have a large impact upon the local economy.

The above estimate is highly sensitive to the ultimate relocation or closure of one firm. In this case, the individual impact accounts for 100% of these losses. Should this viewpoint change or should altered non-railroad factors enter into the plant viability decision, the above economic impact would have to be reassessed.

Independent transport cost estimates support the impact assessment indicated by the affected shipper.

3. *Environmental impact; energy consumption.* Termination of rail service would result in an increase in truck volumes on route Pa. 54. Yearly costs could be expected to increase by about $800 on the critical section of this road near Hometown. This increase would have a negligible impact on air quality, noise and vehicular safety.

While the April 7, 1975 Report prepared by the Penn DOT reflected its initial reaction to the USRA Preliminary System Plan, it also included an individual line-by-line analysis of those six lines studied by the RSPO. Information for each branch line was aggregated and the results incorporated on a Summary Sheet. The individual analysis covered the following subject areas: traffic data differences; impacts with continued (or restored) rail service; impacts with abandoned (or restored) rail service; and coal potential. The last section shown on the Summary Sheet contained any pertinent remarks that would support retention of the branch line. Since three of the aforementioned sections contained only quantitative data, which will be incorporated within the individual line reports to be issued at a latter date, only the comments within the latter two sections (i.e., coal potential and remarks) are shown below:

(1) USRA LINE NO. 145: NORTHERN CENTRAL BRANCH

No specific remarks regarding this line were included in the Report.

(2) USRA LINE NO. 252: EMPORIUM SECONDARY TRACK

This section of track is very important for its overhead traffic. Total local overhead traffic amounts to over 3,000 cars. USRA viability formula requires 2,208 carloads per mile-per year, this is excessive.

(3) USRA LINE NO. 907/939: WILMINGTON AND NORTHERN BRANCH

Traffic for Delaware is not included but Coatesville-Modena traffic is included because handling all this traffic via Penn Central probably is not feasible due to topography and track layout. The 2.7% grade from Penn Central to Coatesville is restrictive and possibly unsafe. In addition, the Penn Central connection to Coatesville uses the westbound freight and passenger tracks to get to the Thorndale yards. This would interfere with several thru freight trains and 13 daily westbound passenger trains. Lukens Steel Co. indicated that it produces excessive dimension loads which cannot be shipped via Penn Central. In addition, 31,000 cars are moved between Modena and Coatesville each year for local operations. Bridge traffic amounts to approximately 6,300 carloads in 1973 between Wilmington, Delware and Reading, Pa. A coal shipper is building port facilities in Wilmington and plans to ship several hundred thousand tons of coal to Wilmington from the Pottsville area via the Wilmington and Northern Branch. If this branch is abandoned, this coal traffic plus the existing bridge traffic would be added to the congested Northeast Corridor through Philadelphia adding time and cost to the shippers and the railroad. It has already been indicated by USRA that there is an excessive amount of freight and passenger traffic in the Northeast Corridor and the abandonment of the Wilmington and Northern branch would certainly aggravate this situation. In 1974, three shippers received 1035 more carloads than in the previous year. Although this increase was off-set somewhat by a reduction in carloads by other shippers due to the economy, there was still a net increase of 382 cars for the year. One shipper anticipates receiving 180 carloads in 1975 compared to 12 in 1974 and has already received 36 cars this year. No expenditures are required to meet FRA Class I standards.

(4) USRA LINE NO. 912: GETTYSBURG AND HARRISBURG BRANCH

USRA viability formula requires 234 carloads/mile/year. This is excessive.

(5) USRA LINE NO. 935: STONY CREEK BRANCH

In addition to the many shippers which were not previously identified, the Zenith Corporation has purchased the Philco-Ford plant and intends to begin production as soon as the economic situation improves. Zenith estimates 600 carloads will be shipped and received each year when production begins. The Altemose Construction Company is developing a 5.2 acre industrial park on the line and several new firms are interested in the location provided that rail service continues to be available. The Reading R.R. currently operates a thru train between Lansdale and Norristown each night, making about 325 trips per year with 65 to 108 carloads per trip. This amounts to 28,275 carloads of "bridge traffic" per year. The Reading has indicated that moving this freight via Philadelphia would cost over $100,000 additional per year.

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Other thru freight trains are required to use this line at times when the Reading to Bethlehem line is blocked or when trains are diverted from the Philadelphia to Lansdale line due to conflicts with passenger trains. SEPTA now operates 70 trains daily between Lansdale and Glenside Monday thru Friday and 76 trains on weekends. Between Glenside and Wayne Junction SEPTA operates 175 trains daily Monday thru Friday and 160 trains on weekends. The operation of these commuter trains sometimes necessitates diverting ore trains between Philadelphia and Bethlehem to the Stoney Creek Branch. Increases in passenger service in the future may require more freight traffic to be diverted to the Stoney Creek Branch. No expenditures are necessary to meet FRA Class I standards.

(6) USRA LINE NO. 1009: NESQUEHONING VALLEY BRANCH

Coal Potential. Coal mined in the nearby Panther Valley has traditionally been prepared, stored and shipped from the Hauto Valley along this branch. Large refuse banks remain here which are owned by the Northeast Land Co. and the Kovatch Bros. Seaboard Industries leases two banks at Nesquehoning with 20 million tons, of which one-third is recoverable.

The Marsden Coal Co. leases a bank at Hauto with 7 million tons of fly ash which is about 20 percent recoverable. Both of these operations will be producing coal for industrial consumers dependent on rail, and they plan to ship directly on this branch.

The Greenwood Collieries at Lansford had routed most of their coal on this branch through the Hauto Tunnel interchange between the Lehigh and New England Railroad and the Lehigh Valley Railroad. Bethlehem Steel recently purchased the Greenwood Co. along with its estimated 250 tons of recoverable coal in the Panther Valley and plan a doubling of production to 800,000 tons a year in the near future. At least half of this would have to be routed again over the Nesquehoning due to its large volume which cannot be handled by the L&NE alone, and the fact that this branch allows a direct access to Bethlehem's steel plants served by the Lehigh Valley.

Manbeck Dredging Co. leases a refuse bank from Greenwood Coal Co. in the Panther Valley with over 300,000 tons of recoverable coal which they expect to ship to long-distance industrial consumers from a suitable tipple at Hauto at the rate of 100,000 tons a year. Other banks are available for them to lease nearby to expand the life span of this operation to at least 10 years.

Remarks. Industrial Parks located along this line include Green Acres East and West and Tidewood East and West. Ametek located in Green Acres East expects 288 carloads in 1976 * * *. They anticipate 432 carloads in 1977 and 50 carloads per month when full production is reached. Tonolli, located in Green Acres West, will also require rail service. Several new plants can be accommodated in Green Acres West making rail service imperative. At present there are no shippers at Tidewood East but continued rail service would attract new users. Air Products and Chemicals requires rail service for its clearance loads—loads which require special handling and routing due to extreme size and weight. They expect shipments to increase to 75 carloads per year by 1976.

The Commonwealth, in its May 15, 1975 Report, set forth the various policies and criteria that were to be used in setting priorities for selecting those branch line rail services to be considered for assistance. Those policies were as follows:

(1) Any line that is profitable to its carrier by using a methodology that accurately calculates avoidable costs, according to the Rail Reorganization Act, should be included in Conrail.

(2) A branch line that shows overall profitability to the rail industry, even though segments of it may be unprofitable, should be retained by a restructured or solvent railroad without government assistance.

(3) Where freight rates have been adequate to cover operating costs and normal maintenance, but where maintenance has been deferred, the restructured or solvent carrier should bear the responsibility for rehabilitation. If they don't, the line would be acquired and rehabilitated using a combination of 70% federal, 20% state, and 10% local shares with local contributions consisting of local public funds, shipper contributions or a combination thereof. The level of track rehabilitation shall be determined through negotiation with shippers and local government and as cost effective analysis. Where required, negotiated surcharges, and modified levels of service, work rules and increased traffic should cover operating deficits insofar as possible. The surcharges should be imposed to the level where truck transportation costs or relocation become as attractive as continued rail service or the point where industrial operation ceases to be price competitive. Various state programs, including the Pennsylvania Industrial Development Authority, shall be used insofar as possible to generate greater usage of the rail line and thus preclude the continued need for other strategies.

(4) To the extent of a local government's willingness to participate in a purchase of service program, insofar as required above and beyond acquisition modernization and negotiated surcharges and operating changes to cover avoidable costs and rental payments, the Commonwealth will provide an equal matching share of the program. However, the Commonwealth will only participate where the resulting community impacts from loss of rail service will provide greater losses than the cost necessary to continue the service.

(5) There shall be no federal and State financial participation either in acquisition and modernization or in purchase of service for lines excluded from Conrail and unprofitable even with rehabilitation and where economic loss is less than the needed assistance. However, the State shall lend its expertise in negotiating surcharges and service standard changes and to arrive at a satisfactory preservation of rail service where local and shipper contributions are available and sufficient to preserve service. Where rail service abandonment results, the State shall provide technical assistance for relocation, conversion to truck transportation, and would acquire the line for other transportation purposes where warranted.

(6) The Commonwealth will initially allocate available Federal and State rail assistance funds among regions on the basis of total needs to preserve service on all worthy lines and economic conditions in the region. Actual allocation among individual lines in each region will be determined on the basis of regional priorities, essentiality of service preservation, and detailed negotiations as to service changes, surcharges and local public contribution.

(7) The Commonwealth will continue to subsidize up to two-thirds of the losses of rail passenger commuter lines not covered by Federal assistance from the funds under Section 402 of the Reorganization Act and applied uniformly to preserve passenger as well as essential freight service.

(8) With passage of enabling legislation, the Commonwealth will provide matching funds under Section 403(b) of the Rail Passenger Service Act of 1970 to support intercity passenger rail service in corridors consistent with the State Rail Plan.[21]

As required by the U.S. Department of Transportation, Federal Railroad Administration Regulations (49 CFR Part 255) and mandated in Section 402(e)(1) of the RRR Act, the Penn DOT completed Phase II of its State Rail Plan with the issuance of its December 9, 1975 Report. Contained within the Report was a priority list of 93 lines to receive rail service continuation subsidies (see Table 1). Penn DOT developed a screening methodology to determine roughly what branch lines qualified for subsidies. Lines were initially categorized by Penn DOT in the following manner:

TABLE 1.—*Rail services for which the State wishes to receive assistance ranked in descending priority order*

	USRA No.	Description
1	273	Dimeling to Wynn.
2	326	Black Lick Junction, Ind.
3	328	Youngwood to Terminus.
4	184	Millersburg to Elizabethville.
5	303	Price Run Industrial Track near Dixonville (MP 0.0 to 0.3).
6	196	Hamburg to Schuylkill Haven (MP 84.5 to 86.0).
7	327	Homer City to Terminus.
8	648	Red Bank to Schenley (MP 53.5 to 63.5).
9	341	Cokeburg Branch near Cokeburg.
10	1009	Nesquehoning Junction to Tamamend.
11	1238	Lackawaxen to Honesdale.
12	921	St. Clair to Bear Run Junction (MP 0.0 to 2.9 plus 8.7 to 9.9).
13	330	Hunter Run Branch near Yukon.
14	925	Tremont to Pine Grove.
15	185/186	Paxtonville to Selinsgrove Junction.
16	1004	Towanda to Dushore (MP 234.0 to 249.0).
17	345B	Westland Industrial Track.
18	217	Cumberland, Md. to Bedford, Pa. (MP 46.5 to 84.0).
19	348A	Cherry Valley Industrial Track at Burgettstown.
20	206	Marion to Mercersburg.
21	230	Southport, N.Y. to Hepburnville, Pa. (MP 23.5 to 36.0).
22	339	Vance Mill Branch near Bute.
23	651	Falls Creek to Brockway (MP 19.0 to 22.5).
24	344	Bridgeville to Sygan.
25	288	Viaduct to Grass Flat.
26	651	Falls Creek to Brockway (MP 22.5 to 27.3).
27	335	Coal Lick Run near Uniontown (MP 0.0 to 0.2).
28	905	Lansdale to Doylestown.
29	1252	Howard to Crenshaw (MP 0.0 to 2.7).
30	143	West Chester Branch at West Chester (MP 29.5 to 29.9).
31	906	Oaks to Emmaus Junction (MP 24.0 to 26.6).
32	1012	Franklin Branch to Franklin Breaker.
33	904	Cheltenham Junction to Newtown.
34	352	Shippingport to Kobuta.
35	903	Chestnut Hill to Wayne Junction (MP 5.1 to 6.0).
36	1007	Laurel Junction to Rock (157.5 to 158.2).
37	923	Rippert to Haucks (MP 105.4 to 122.0).
38	1256	Farrell to New Castle (MP 4.4 to 19.3).
39	242A	Mill Hall, Ind. at McElhatten.
40	260A	North Warren to Warren.
41	1228	Kingston to Northumberland (MP 171.0 to 177.0).
42	912	Gettysburg to Carlisle Junction.
43	223	East Vintondale to Terminus.
44	910	Kutztown to Topton.
45	1008	Delano to Raven Run (MP 164.1 to 165.1).
46	177	Pomeroy to Doe Run (MP 0.0 to 3.7).
47	197B	Hamburg to Reading.
48	1228	Kingston to Northumberland (MP 153.9 to 171.0).
49	142	Colora, Md. to Wawa, Pa. (MP 27.0 to 50.7).

[21] Pennsylvania Statewide Rail Plan Phase I Submission to the Federal Railroad Administration, op. cit., pp. III–1/III–2.

	USRA No.	Description
50	135	Allen Lane to East Lane.
51	198	North of Frederick, Md. to Spring Grove, Pa. (MP 33.0 to 38.0).
52	203	Mechanicsburg to Dillsburg.
53	143	Colora, Md. to Wawa, Pa. (MP 18.0 to 27.0).
54	907/939	Elsmere Junction, Del. to Elverson, Pa. (MP 15.7 to 30.2).
55	257	Brookville Track at Brookville (MP 0.0 to 1.0).
56	915	Suedburg to Lebanon (MP 0.0 to 9.0).
57	331	Hempfield Junction to Hermitie.
58	252	Warren to Ridgway (MP 66.5 to 92.5).
59	1004	Towanda to Dushore (MP 249.0 to 253.2).
60	1007	Laurel Junction to Rock (MP 158.2 to 167.1).
61	145	Cockeysville, Md. to Hyde, Pa. (MP 33.8 to 54.6).
62	1006	Pink Ash Junction to Freeland.
63	1229	Old Line Junction to Nicholson.
64	915	Suedburg to Lebanon (MP 9.0 to 18.5).
65	909	Eshback to Pottstown (MP 0.0 to 11.0).
66	225	Watsontown Section Track at Berwick
67	208	Yeagertown to Reedsville.
68	906	Oaks-Emmaus Junction (MP 18.0 to 24.0).
69	663	Fairchance to Connellsville.
70	180	Cornwall to Lebanon (MP 21.4).
71	177	Pomoroy to Doe Run (MP 3.7 to 5.6).
72	239/1245	Lawreneeville to Bloesburg.
73	916	Manheim to White Oak (MP 0.0 to 0.7).
74	916	Manheim to White Oak (MP 0.7 to 4.5).
75	171	Commerce St. Branch at Philadelphia (STA 0 to 11 plus 43) plus (20 plus 56 to 36 plus 96).
76	913	Hummelstown to Middletown.
77	250	Corry to Titusville.
78	917	Columbia to Lancaster Junction (MP 38.7 to 39.7).
79	924	Rupert to Milton (MP 166.0 to 169.0).
80	920A	Lititz to Sinking Springs (MP 15.0 to 20.0).
81	647	Red Bank to Elmerton (MP 64.6 to 88.9).
82	140	Wawa to Upland (MP 5.8 to 6.1).
83	941	Preston Branch.
84	942	Girard Mammouth Colliery Branch.
85	230	Southport, N.Y. to Hepburnville, Pa. (MP 36.0 to 46.3).
86	1005	Montrose to Tunkhannock.
87	911	Carlisle Junction to Gettysburg Junction (MP 4.5 to 6.3).
88	659A	Thompson to Mount Carmel (MP 18.2 to 19.2).
89	360	Jamestown to Linesville (MP 90.5 to 97.6).
90	1225	Rock Junction to Jessup (MP 2.7 to 6.7).
91	356	New Castle to Mercer.
92	357	Wilmington Junction to New Wilmington.
93	935	Norristown to Lansdale.

SOURCE: Pennsylvania Statewide Rail Plan Phase II Submission To The Federal Railroad Administration, op. cit., pp. 34–36.

(1) *Highest priority.* If the specific branch line had 18 or more carloads/mile/year, it was automatically included in the "Preserve-Highest Priority" category * * *.

(2) *Medium priority.* Even though motor carriers would be more economically efficient below the 18 carload figure, branch lines with slightly less than 18 carloads/mile/year have been classified as Medium Priority.

In special cases, branch lines were considered for factors other than the carload criterion. Such factors as proposed industrial parks, guaranteed future traffic and movements of special materials (nuclear waste, for example) were of importance even though the line was below the 18 carload standard.

In addition, all lines with coal deposits were studied further to determine the economic potential and desirability for local or State participation in acquisition and "land banking".

(3) *Lowest priority.* All other lines are designated as "Lowest Priority". No analysis was done on out-of-service lines unless local representatives reported or furnished documented data.[22]

[22] Pennsylvania Statewide Rail Plan Phase II Submission to the Federal Railroad Administration, op. cit., pp. 8–12.

With regard to the six lines which are the subject of this Report, the following initial and subsequent priority rankings were assigned:

USRA line No.	Priority ranking: Penn DOT report, Dec. 9, 1975	Priority ranking: Penn DOT report, Mar. 1, 1976
145	61	28
252	58	1
907/939	54	38
912	42	15
935	93	51
1009	10	7

Again, the Commonwealth made an individual line-by-line analysis of those six lines studied by the RSPO. The individual analysis covered the following subject areas: Federal funds required, line description, financial and traffic data, impacts due to rail service termination, preservation and abandonment costs, and preservation strategies. Only those two sections, "Recommended Solutions For The Continuation or Preservation of Rail Service" and "Additional Comments" are shown below:

(1) USRA LINE NO. 145: NORTHERN CENTRAL BRANCH

The Commonwealth will acquire the line using State flood funds for the non-Federal share.

* * * * * *

The Commonwealth will request Amtrak to provide passenger service over this line under Section 403(b) of Pub. L. 91–518 when the State has enabling legislation to subsidize any losses.

(2) USRA LINE NO. 252: EMPORIUM SECONDARY TRACK

This line will be acquired by the Commonwealth using local funds for the non-Federal share.

* * * * * *

The Commonwealth will acquire this line only if Conrail will use it for through routing.

The Commonwealth will request Amtrak to provide passenger service over this line under Section 403(b) of Pub. L. 91–518 when the State has enabling legislation to subsidize any losses.

(3) USRA LINE NO. 907/939: WILMINGTON AND NORTHERN BRANCH

This line is to be acquired by the Chessie System.

Should the Chessie acquisition not take place the line will be acquired by the Commonwealth using local funds for the non-Federal share.

(4) USRA LINE NO. 912: GETTYSBURG AND HARRISBURG BRANCH

This line should be acquired and operated by the Chessie System. This line will be subsidized.

(5) USRA LINE NO. 935: STONY CREEK BRANCH

This line is to be acquired by the Chessie System.

Should this acquisition not take place the line will be acquired by the Commonwealth using local funds for the non-Federal share.

(6) USRA LINE NO. 1009: NESQUEHONING VALLEY BRANCH

This line will be subsidized.

* * * * * *

Coal operations if implemented as planned would produce additional net revenues of $70,000, in 1976, this is not reflected in the above table under funds required.

On March 1, 1976, the Commonwealth revised the priority ranking of its 93 lines in order to give further consideration to regional preferences, overhead traffic, high-and-wide traffic and important connecting-line traffic; a total of 63 lines were ranked (See: Pennsylvania Statewide Rail Plan Phase II Submission to the Federal Railroad Administration: Supplement). The Commonwealth described its methodology for determining priorities in the following manner:

The priorities for our State Rail Plan were based on the total carloads and density (carloads per mile) for each line plus the benefit/cost ratio of abandonment cost to preservation cost. All lines were ranked and indexed by total carloads and carloads per mile. The lines were then merged by multiplying indices and ranking the resultant value.

Benefit/costs for each line were determined by dividing the abandonment cost * * * for each line by the annual preservation cost * * *. All the lines were ranked according to the benefit/cost ratio. By taking the average of the two rankings by benefit/cost and carload data for each line a priority list was developed.[23]

With respect to the future status of subsidized branch lines the Commonwealth declared:

It is not possible at this time to predict the future of each individual branch line in Pennsylvania. Our intent is to establish a program whereby we can reevaluate all of our subsidized branch lines each year as a basis for determining a plan of action for each line.

During the last quarter of each year there will be a reevaluation of the demand and use of rail freight services on each line included in the subsidy program. Where traffic is substantially greater or less than expectations upon which the subsidy program was established, there will be examination to determine if a higher or lower priority should be given because of the change.

The Commonwealth's policy of sharing in the local share of subsidy required to continue branch line rail service is dependent upon appropriations from the General Assembly. Penn DOT has recommended that the State share be one-half of the amount required of local subsidizers to maintain service. If there are insufficient State funds to provide this portion of the match, a priority scheme will be developed that takes into account the number of jobs protected by continuing rail services to rail users, the personal income protected by the service, the number of cars and revenue that would be lost to railroad traffic and other economic, social and environmental factors that are important.

Such a rating scheme will be developed consistent with the Governor's announced policy of seeking to preserve needed rail service to businesses and communities in Pennsylvania where it is economically and socially beneficial.[24]

[23] Pennsylvania Statewide Rail Plan Phase II Submission to the Federal Railroad Administration: Supplement, op. cit., p. 13.

[24] Ibid., p. 10.

V 42 87 MAY 5 77 UMI

In a March 23, 1976 letter from David Barber, of the Penn DOT, to Garold Thomas, of the U.S. Department of Transportation, the long-term disposition of those six lines studied by the RSPO was stated in the following manner:

(1) USRA LINE NO. 145: NORTHERN CENTRAL BRANCH

This line is to be purchased by the Commonwealth with service provided without subsidy by an independent operator.

(2) USRA LINE NO. 252: EMPORIUM SECONDARY TRACK

The Commonwealth will purchase this line with any remaining operating deficits paid by the Commonwealth and/or shippers.

(3) USRA LINE NO. 907/939: WILMINGTON AND NORTHERN BRANCH

The Commonwealth intends to purchase this line with freight service provided by an independent operator.

(4) USRA LINE NO. 912: GETTYSBURG AND HARRISBURG BRANCH

The Commonwealth intends to purchase this line with non-subsidized service to be provided by an independent operator.

(5) USRA LINE NO. 935: STONY CREEK BRANCH

This line is to be purchased by SEPTA with continuing local freight deficits paid by the shippers.

(6) USRA LINE NO. 1009: NESQUEHONING VALLEY BRANCH

Conrail owns this line. Continuing operating deficits are to be paid by the shippers.

On August 3, 1976, the Commonwealth updated its rail plan once again. This revision also included statements of the Commonwealth's intentions for the long-term disposition of each line included in the State Rail Plan. With regard to the six lines which are the subject of this Report, the Pennsylvania Department of Transportation stated the following:

(1) USRA LINE NO. 145: NORTHERN CENTRAL BRANCH

The Commonwealth intends to designate an operator for this line once rehabilitation work is completed. Initially, local freight service will be provided between York and New Freedom. In the longer term, the line will be restored to Cockeysville, Md., with the cooperation of Maryland DOT so that through freight and passenger service can be provided between York and Baltimore.

(2) USRA LINE NO. 252: EMPORIUM SECONDARY TRACK

The Commonwealth has purchased this line (from Warren to Kane). Operating deficits will be paid by Commonwealth and/or rail users. The Commonwealth intends to make this line available for through freight and passenger service (Conrail is the designated carrier).

(3) USRA LINE NOS. 907/939: WILMINGTON AND NORTHERN BRANCH

The Commonwealth intends to purchase this line and to have Rail Development, Inc., operate this line in conjunction with USRA Line No. 142.

(4) USRA LINE NO. 912: GETTYSBURG AND HARRISBURG BRANCH

The Commonwealth intends to purchase this line with service provided by an independent operator.

(5) USRA LINE NO. 935: STONY CREEK BRANCH

SEPTA has purchased this line. Continuing local freight operating deficits will be paid by rail users.

(6) USRA LINE NO. 1009: NESQUEHONING VALLEY BRANCH

Conrail holds a long term lease to the property and will eventually own it outright. Continuing operating deficits are to be paid by the rail users.

RESULTS OF THE RSPO EVALUATIONS

The remainder of this summary consists of a discussion of the results of RSPO's in-depth evaluations of the six Pennsylvania lines. Full evaluations of the individual lines will be published separately at a later date. Included in the present discussion are summaries of the evaluations of each of the lines and of the actions which may be necessary to make the lines economical. The Office has found that there are many actions which could be applied to all of the lines; therefore, this discussion will first analyze those actions capable of general application. It will then briefly discuss the lines on an individual basis, identifying the lines, some of their specific problems, and the actions best-suited to dealing with those problems.

ACTIONS WHICH MAY BE NECESSARY FOR ALL LINES STUDIED

For purposes of this report, the courses of action which may be pursued in attempting to make the operation of the six lines economical have been divided into five categories: subsidization by the public sector; increased railroad revenue and/or traffic; decreased railroad costs; acquisition by other railroads and/or government entities; and economic development programs. Each of the alternatives has certain advantages and disadvantages, and it must be recognized that there is no single "magic" formula for success. Obviously, these strategies are not mutually exclusive, and the particular combination which will prove most successful can best be determined only after an extensive examination of the many factors affecting traffic and market potentials. The ultimate choice among starategies may vary with the line segment and may be determined by political imperatives as well as the demands of economic efficiency.

Subsidization by the public sector. Direct subsidization by the public sector is often advanced as the single best alternative to abandonment of light-density lines. Proponents of this viewpoint cite the provisions of the RRR Act which imply that, if it is in the public interest to continue rail services that are not financially viable in the private sector, the public must be willing to assume at least partial financial responsibility for the losses incurred.

Section 402(a)(1) of the RRR Act provides financial assistance "• • • in the provision of rail service continuation payments, the acquisition or modernization of rail properties, including the preservation of rights-of-way for future rail service, the construction or improvement of facilities necessary to accommodate the transportation of freight previously moved by rail service, and the cost of operating and maintaining rail service facilities such as yards, shops, docks or other facilities useful in facilitating and maintaining main line or local rail service." [35] The RRR Act provides a detailed procedure for the determination of rail service continuation payments; however, from the language of section 402 and from the funding provisions of the RRR Act, as amended by the RRRR Act, it is clear that a service continuation subsidy is to be viewed as a short-term transitional measure and not as a permanent solution to the problem of a light-density line.

There are numerous alternatives to rail service continuation payments which could be employed by the State of Pennsylvania. However, before examining these alternatives, it is necessary to discuss the question of rehabilitation of the lines. The Office has concluded from its study that, for almost all line segments examined, unless the individual lines are rehabilitated to at least FRA Class I standards, implementation of any other courses of action will not prove sufficient to make the lines economical. In some cases, lines which could ordinarily be served easily in one day require two days because the trains must literally creep across the tracks. It is doubtful that any combination of incentives will serve to increase traffic over such lines as long as their condition and, consequently, their service continues to deteriorate. Conversely, the rehabilitation of these lines will contribute to an immediate reduction in operating costs, and the improved service over the line should, hopefully, produce an increase in shipments. Furthermore, once a line is rehabiliated it will be more attractive to potential rail patrons and, in some instances, to railroads, which at present are not interested in either acquiring or operating it.

Among the alternatives to rail service continuation payments would be a direct payment of an operating subsidy to cover some specific portion of the branch line costs, e.g., maintenance or operating costs. Another form would be a general subsidy based on factors such as anticipated traffic volume. Such a subsidy could be variable, e.g., the amount of the subsidy could vary with the volume of traffic, or the profit, or any specified condition. One major problem is that with existing branch line data problems, it would be very difficult to determine the exact amount of subsidy needed. A reliable technique for estimating future demands for market conditions for each firm on the line is mandatory.

An indirect form of subsidy which could be employed is a user tax applied to other modes serving the area, with the resultant revenues either helping the branch line or being used for other economic stimulus in the area. The main problem with this form of subsidy is that the basic costs of transportation to area firms might effectively eliminate them from more distant markets and, in effect, cause a downturn in their overall business.

[35] 45 U.S.C. 762.

Another form of subsidy to be considered is a payment by the State or local authority to rail users for increased rail use, which would be the same as a rate reduction to shippers and consignees. The amount of the subsidy could be determined by how responsive the demand for rail services was to the reduction in rates. If the subsidy were paid for terminating as well as originating traffic, it would provide a direct incentive to induce consignees as well as shippers to use rail. A word of caution, however, is warranted. An incentive to compensate for any imbalances found between inbound and outbound traffic would have to be devised to insure the success of a subsidy program.

It should be stressed that a complete understanding of traffic flows, rates, and comparative system costs is necessary prior to the implementation of any of the subsidy alternatives discussed in this Report. Rail patron responses provide little basis for judging the likely success (or cost) of different subsidy alternatives. Information must be obtained through a detailed review of the transportation requirements and market potential for each of the firms on the line to be subsidized.

Many shippers or consignees will not use rail service unless the service is improved over its current levels of operation, which means an increase in costs, both in operations and maintenance. The State or local authority could grant a subsidy either to a carrier or to the firms using the rail service, with the necessary revenues provided by the users as a supplemental charge which would cover both operating and capital losses of the branch line. This form of exchange would avoid any subsidy and place the burden of maintaining the service on the beneficiaries. In effect, the objections of an indirect charge from other modes would be eliminated; however, the result might well be the same, an eventual loss of business and rail traffic to other modes because of the higher effective costs of using rail service.

Another alternative to direct payment of a specific subsidy would be some form of tax forgiveness by the State and/or local communities and counties; most branch line deficits appear to be substantially greater than the revenues derived from taxes generated on the branch lines under study. Tax forgiveness for rail patrons on the basis of rail usage is a possibility which also might be considered. Tax relief programs used in conjunction with other techniques would further reduce the apparent cost of supporting rail operations, e.g., tax relief could reduce the reported breakeven operating cost and thereby reduce any subsidy payments. A rate increase, in conjunction with tax relief, could also be employed. Another combination would be to increase traffic volume in conjunction with tax relief so that the breakeven point could be reached. However, it must be pointed out that the difference between tax relief and explicit subsidy is more illusory than real. If county taxes are forgiven, either the burden must be borne by other businesses and residents in the county or county services will have to be reduced. Essentially, this is also true on the State level.

The local or State government could assist branch line operations with a variety of other capital subsidy programs used separately or together with operating subsidies or tax relief. Such programs could involve grants for line rehabilitation and repair; the purchase of equipment; interest rate subsidies; or loan guarantees. The latter two types of support are longer range in nature and might be expected to have little immediate effects on branch line continuance; however, if offered in cooperation with other types of State aid, they might prove attractive.

Increased railroad revenue and/or traffic. All possibilities which might result in increasing the revenues generated by the lines should be explored. The adoption of one or more of the following actions on each line could help to accomplish this objective:

(1) A restructuring of freight rates on traffic on the branches is necessary.[36] Based upon the ability of users and consumers to stand the burden, freight rates need to be increased. An examination of the users surveyed by the RSPO Project Teams found that on many of the lines the increased costs to the users which would result from a rate increase on most traffic was small, i.e., transportation costs do not comprise a large share of the total costs of products shipped.

(2) The effects of reducing rates should also be explored. In some instances, such a reduction might result in more revenues through increased traffic than would an increase in rates, which could have the effect of reducing traffic.

(3) A surcharge could be placed on all shipments, either on a per-unit basis or on the basis of an absolute charge per rail patron.

(4) Rail patrons and the railroad could engage in cooperative activities designed to increase business.

(5) Users of a line could agree to guarantee to generate a specific amount of tonnage per year. Agreements for such "loyalty" shipments should include a scale to adjust for future cost changes.

(6) The State should explore the possibility of taking an active role in rate negotiations, either through trying to help a branch line obtain a larger share of existing revenues or through encouraging shipper routings that would result in the operating carrier receiving a longer haul.

(7) Local industries should be encouraged to use the branch line, even if it means shifting tonnage from a preferred mode.

(8) An industrial development program designed to bring about a greater diversification of traffic on the lines should be pursued.

(9) The use of team tracks should also be encouraged.

Reductions in railroad costs. All possibilities for reducing costs of operations on the lines should be explored. The following actions should be considered:

(1) Meetings should be held with the operating railroads, organized labor, and other interested parties to examine whether special labor agreements may be negotiated which might result in lower operating costs and greater productivity in the service of the branch lines. Among the things to be considered would be: crew size reductions; local operating/work rule modifications; and crew assignments on main-line and yard terminal operations. The parties should also explore ways in which costs could be reduced by such actions as sharing clerical responsibilities.

(2) The State could assume responsibility for vegetation control programs near highway crossings; maintenance of highway grade crossings; installation of highway crossing protection; and other high maintenance cost items. Individual communities, with or without State assistance, could assume shared responsibility for such programs. The State could also arrange for a reduction of highway grade crossings.

(3) The State, the operating railroads and interested parties should also seek to arrange for those levels of service over a line which would encourage rail usage.

Acquisitions by other Railroads and/or Government Entities. Besides subsidizing light-density lines, whether directly or indirectly, the State should consider purchasing some of the lines in order to continue needed rail service. The concept of State-owned railroads is neither a new nor novel approach. The States of Georgia, North Carolina and Vermont have owned and leased rail lines for many years.[37] Many individuals expect more States to adopt this course in the future; however, the long-term financial commitments involved in this approach may not be universally appealing.

[36] Railroad rates are set in a complex way with many factors given consideration that frequently result in charges for particular shipments having little relationship to the cost of transporting the commodities moved. In addition, once negotiated, the rate levels, as well as the specific rate, are difficult to change. It is imperative that a systems approach be utilized in examination of the reasonableness of the level of rates for the specific branch lines. In many cases, the crosssubsidization of rates by previous rail carrier managements may have been utilized to accomplish a completely different set of goals, with a different operating configuration, than those of the present rail operations.

[37] William R. Black and James F. Runke, The State and Rural Rail Preservation: Alternative Strategies, (Lexington: The Council of State Governments, October, 1975), pp. 61–62.

V42N87 MAY 5 77 UMI

In considering whether to purchase a line, the State must consider the purchase price and the rent to be paid to the State for use of the line. The salvage value of the line, assuming abandonment, should be the upper limit of its purchase price; rent should be based on the traffic volume generated. Any difference between the rental costs and the cost of maintaining the line and the return the State could have earned on the funds (through other projects), in effect would represent the subsidy for the operation of the branch line.

After purchasing a line, the State could lease the line to a rail carrier for a specified level of service. This procedure would assure service in instances where the railroad was uncertain about the duration of operating assistance from a State or had failed to adequately forecast future traffic levels. The State may wish to take an equity position in the case of several branch lines to improve its bargaining position in negotiations with rail carrier management with respect to service levels on other branch lines. It is important to recognize that unless a State purchase/lease-back or purchase/contract for services allows a savings on the maintenance or rehabilitation costs of a line, there is little to recommend it. In other words, a truly uneconomic line will not change its performance as a result of a change in ownership.

If a State purchased a line and contracted for services, it would be in the transportation business and have a direct role in the determination of freight rates over its portion of the lines. Such an arrangement could be handled in two ways: the State could contract with Conrail or another carrier for a specified level of service on the branch line and in turn, sell that service to users; or the State could publish a set of tariffs and negotiate the division of revenue as well as the price that Conrail or another carrier could charge for providing service over the branch line.

Another alternative to maintain rail service would be ownership by groups of local shippers, employees, or other rail carriers. Under such an arrangement, the owners might lease the line to Conrail or some other carrier and contract for desired service levels. The local group might also decide to operate the branch line as a shortline railroad; however, it must be recognized that the assumption behind all such proposals is that the new owners can operate the line at lower cost or generate more traffic revenues than the prior rail management. In these types of proposals, lower costs are expected to result from "improved" labor conditions and the use of different techniques for maintenance and operation. Same shortlines have operated with less restrictive labor rules, but unless better service levels result, it cannot be assumed that local businesses, even with a financial interest in the railroad, will assure greater freight revenues and profits. Shortline revenues, to a large extent, depend upon the rate divisions or freight absorption worked out with the main line carriers, and the feasibility of such ownership proposals must be examined with care. There is an advantage in placing the responsibility and control in the charge of those who benefit most directly from the preservation of the service. However, it must be realized that in many cases these are small businesses and their managements simply may not be capable of running their business and a railroad at the same time. It is suggested that the State might have to play a significant role in freight rate negotiations and be ready with subsidy if the operation failed. Such failure would obviously reflect on the financial viability of the owners of the branch line and could result in the failure of the firms involved and economic catastrophe for the entire region.

It should be noted that a State may use Federal funds under the RRR Act, as amended, to purchase the lines or to provide for their operation and rehabilitation to FRA Class I standards through accelerated maintenance. The State cannot do both. In other words, once a State uses the funds to purchase a line, it can no longer receive Federal funds for the operation or the rehabilitation of that line. Therefore, it would be to the State's advantage, whenever it decides that it wants to acquire a line, to postpone acquisition until the line has been rehabilitated.

It should also be noted that in some cases, it may prove cheaper in the long run for a State to rehabilitate the line and actually give that line to a profitable railroad, than for the State to continue to participate in paying for subsidized operations over that line.

One other alternative that should be considered by the State is the preservation of rights-of-way. If a decision is made with regard to a particular line that no combination of actions can reasonably be expected to make operation of the line economical, the State must consider whether the line should be preserved for the future. A State may have quite distinct interests in the preservation of a right-of-way and the preservation of operations over it. Even if a right-of-way has little present potential, its dismantling could have a serious future impact on the area in which it is located. Furthermore, as energy costs increase in the future, motor carriers may lose their competitive advantage in serving industries located on some of the light-density lines, and many of the costs and service disadvantages of these lines may decline.

Economic development programs to attract rail-dependent industries. Every possible effort should be expended to attract rail-dependent industries to light-density lines. Essential to the achievement of such a goal is the rehabilitation of the lines, since new industries will not even consider locating on a line which is not up to at least FRA Class I standards. Even when a line is in good condition, however, the competition to attract industries is extreme.[35] As David Richmond, the Economic Development Director of the Columbus Area Chamber of Commerce (Indiana) pointed out, "While some 3,500 new industrial plants are built each year, 16,000 development groups are at work trying to lure them".[36] It should also be recognized that while available rail transportation is an important criterion in site selection, it is only one of many and in a number of cases is actually the least important. In discussing the U.S. Steel Corporation's decision to locate a major steel mill in Conneaut, Ohio, Eliot Janeway made the following observation:

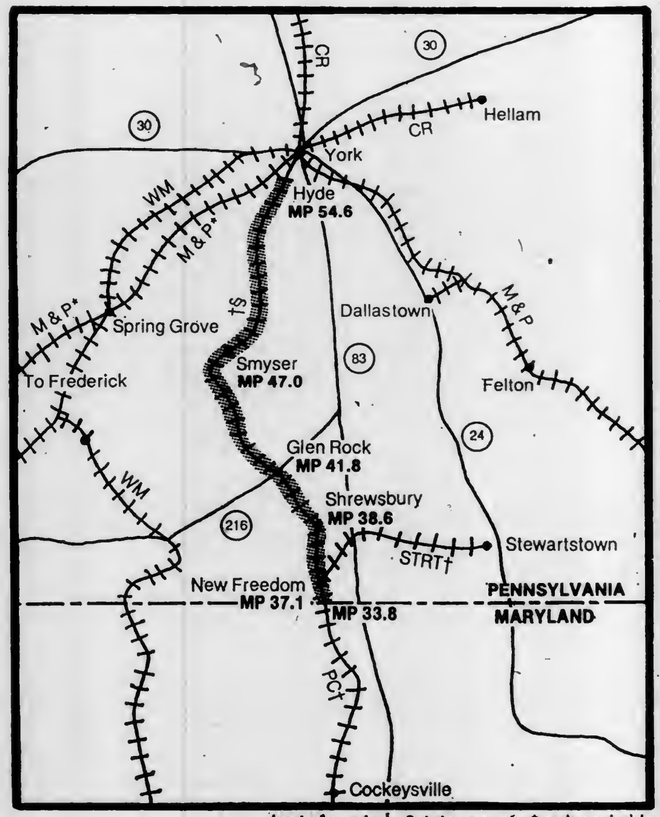
> • • • The consideration that stamps Conneaut, Ohio as a growth center of the future is neither accidental nor whimsical.
>
> Conneaut will be a major steel mill center because it already is a minor water shipping point. The day has long since passed when cheap rail transportation costs invited major industrial facilities to locate inland.
>
> Nowadays the pressure to cut the cost of handling basic bulk materials dictates the choice of coastal sites for major industrial facilities.[36]

It should be further noted that some of the methods listed earlier that could be employed to keep an excluded line in service, such as a rail patron surcharge, may actually discourage new industries from locating on that line. All other factors being equal, a decision by a prospective rail user to locate on a rail line excluded from Conrail generally involves a much higher risk than a similar decision to locate on a profitable railroad.

Line-By-Line Analysis

USRA Line No. 145: Northern Central Branch. The Northern Central Branch, formerly part of the Pennsylvania Railroad, extends directly north from Baltimore, Maryland (milepost 1.0) across the Maryland-Pennsylvania State Border (milepost 35.6) through New Freedom (milepost 37.1), Shrewsbury (milepost 38.6), Seitzland (milepost 41.0), Glen Rock (milepost 41.8), Seitzville (milepost 44.9), Smyser (milepost 47.0) and Hyde (milepost 54.6) to York (milepost 57.2), a distance of 56.2 miles. The RSPO analyzed only that portion of the Northern Central Branch from York (milepost 57.2) to the Pennsylvania-Maryland State Border (milepost 35.6), a distance of 21.6 miles. York traffic is not included in this line analysis since it is being served by Conrail. The line connects at York with Conrail's Harrisburg line, Conrail's Frederick line, and the Western Maryland's (Chessie System) line to Hanover. At New Freedom the line also connects with the inactive Stewartstown Railroad. That portion of the line which is located in Pennsylvania serves portions of York County. USRA Line No. 145 has not been operated in Pennsylvania since June, 1972, due to washouts occasioned by Hurricane Agnes; passenger service ceased on May 1, 1970. The Commonwealth has expressed an interest in preserving the right-of-way for possible restoration of rail service between Baltimore and Harrisburg, as a "back-up route" for the freight and passenger traffic now being carried over the Northeast Corridor. As a result of this interest, Pennsylvania has acquired the portion of the line between Hyde and the Maryland State Border.

Figure 1: USRA Line No. 145



†out of service §state owned *under subsidy

The Northern Central Branch serves an area of the State which is characterized by a mixed agricultural and industrial economy. While the termini, Baltimore and New York, are substantial industrial and urbanized areas, the remaining towns within York County, around the branch line, serve primarily as trade and distribution centers for the surrounding agricultural areas. Farming in York County is generalized in nature, with both field and truck crops and cattle raising contributing importantly to the County economy. Tobacco is grown to a certain extent along the Susquehanna. Dairying also is of significance. The branch line is located in a relatively hilly area on the edge of the Piedmont Plateau, an area which nevertheless is well suited to both industrial and agricultural activity.

According to the 1960 and 1970 Census of Population, population in York County increased significantly over the past two decades. Between 1950 and 1960, population rose by 17.6 percent, including 3.4 percent net in-migration from nearby urban centers. During the succeeding decade, population rose once more by 14.4 percent, again including 4.5 percent net in-migration. By 1970, York County had a total population of 272,603 persons. Although agricultural activity is significant in the County, 56.3 percent of the population was classified as urban in 1970.

The 1970 labor force in York County was 119,195 persons, of whom 2.2 percent were unemployed. Analysis of employment distribution showed that 43.2 percent of all jobs in York County were generated by the manufacturing sector, while wholesale and retail trade contributed another 18.8 percent. Government jobs amounted to only 9.2 percent of the total, while the service sector accounted for only 5.1 percent. The construction industry provided jobs for 6.2 percent of all workers, a reflection of the rapid rate of growth in the County over the past two decades. The picture thus painted by both the Census and County Business Pattern data is that of a highly developed nonagricultural sector in York County, with a well balanced manufacturing structure, dominated by machinery and fabricated metals.

According to Census data, the rural nonfarm population in York County in 1970 was 107,560 persons. The farm population was a healthy 11,523 persons, a figure which represented a 29.3 percent decline from the 1960 level. York County reported 2,978 farms in 1970, averaging 109 acres in size. Average farm revenue was $21,418 at that time. Revenue sources were relatively balanced, with field and truck crops contributing 27 percent of all farm revenue, livestock contributing 27.8 percent, and dairying contributing 25.7 percent. Poultry and poultry products also contributed 19.3 percent. 39.1 percent of all County farms showed sales between $10,000 and $40,000 per year.

Census data indicate that value added by manufacturing in York County in 1967 was $594.5 million, a 52.9 percent increase over the 1963 level. These figures

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will go to secure industries. The reported initial package of incentives offered Volkswagen included the following:

The company would be exempted from franchise and realty transfer taxes.

The Pennsylvania Industrial Development Authority would grant a $40 million loan to buy an unused Chrysler Corporation plant for the auto firm to lease.

The State would spend $30 million on highway and rail links to the plant.

The State would waive 95 percent of local taxes, the first two years and 50 percent the following two years.

The State would arrange for employee training.

The State would provide a $135 million tooling loan (Volkswagen decided later to do its own financing on this proposal when negotiations with Pennsylvania became snagged).

Source: "Rabbits In The Cabbage Patch," The Wall Street Journal, Vol. CLXXXVIII, No. 6, August 17, 1976, p. 18; "GOP Study Queries VW Plant Figures," The Washington Star, No. 275, October 1, 1976, p. C-6; Terry P. Brown, "VW Delays Start-Up Date At Its Facility in New Stanton; Parts Problems Develop," The Wall Street Journal, Vol. CLXXXVIII, No. 68, October 6, 1976, p. 2.

[35] David Richmond, "Americans Battle For Industry," The Republic, June 18, 1976, p. A-1.

[36] Eliot Janeway, "U.S. Steel Bets Against Inflation," The Washington Star, July 7, 1978, p. A-19.

[35] The recent establishment of a Volkswagen "Rabbit" assembly plant at New Stanton, Pennsylvania, is a classic example of the lengths to which development groups

V 42 87 MAY 5 77 UMI

indicate strong manufacturing growth over that period.

Of the towns in and around the branch line in Pennsylvania, only York is fully analyzed in the 1970 Census. At that time the town had 50,335 inhabitants.

Census data show that York County has experienced strong and diversified growth over the period since 1960. Both agriculture and industry have expanded, in a mutually reinforcing growth pattern. This strong growth can be expected to continue in York County over the near future.

The Commonwealth of Pennsylvania, local rail patrons, the Stewartstown Railroad, and information received from the Penn Central during the railroad restructuring in 1974 provided the RSPO Project Team with a list of 29 firms that were alleged to have used the Northern Central Branch. Of these 29 firms, one firm was listed twice and local officials and rail patrons had no knowledge of the existence of a second firm. The remaining 27 firms were judged capable of generating carload business and were interviewed by the RSPO Project Team. The other businesses in these towns are almost exclusively small commercial and retail establishments that rely entirely on motor carriers to handle their predominantly small shipments.

Of the 27 firms interviewed, one firm stated that it had never used the railroad and had no intention of using it in the future; two firms, which only moved to the area after railroad service was discontinued in 1972, advised that they could possibly use it in the future; nine firms indicated that they have used the line in the past (between 1952 and 1972) but have no intentions of using it in the future. The remaining 15 firms could be considered as potential rail patrons if service on the line were restored. Eleven of the 15 potential rail patrons either are located in Stewartstown or could be expected to use the Stewartstown Railroad. Only four firms are actually located along USRA Line No. 145.

Of the 15 potential rail patrons, seven state that they were not contemplating any future expansion of their operations; five claimed that, although they did not contemplate any future plant expansion, sales were expected to rise; one recently added a showroom and doubled the size of its store; one expected to increase its storage facilities; and one is planning to build a new 200,000 square foot distribution center if rail service is restored.

Twenty-three former rail patrons presented the RSPO Project Team with information concerning their alternate shipping arrangements. Fifteen of the firms have shifted traffic to other railheads in the general area, using motor carriage either for the first or last segment of the journey. Three firms have totally abandoned rail service, and five firms are currently not using rail but may use it again in the future.

Field investigations by the RSPO Project Team revealed the following basic facts about this line: (1) The line has a limited number of potential rail patrons and commodities; (2) most of the potential rail patrons are located in and around Stewartstown; (3) the line generates primarily terminating traffic; (4) with but few exceptions, appreciable business expansion by potential rail users is not projected for the immediate future; (5) a number of firms have already successfully shifted traffic to other modes or railheads; (6) the area lacks any major rail-oriented industries; (7) there is no evidence of any industrial planning or development along the entire line from York to the Pennsylvania-Maryland State Border; however, there is some industrial development along the Stewartstown Railroad; (8) sewage treatment plants in the area have restrictions on the kinds of industrial waste they will handle and these restrictions serve as an impediment to the location of large industrial plants; (9) future rail-oriented industrial development along this line would also be difficult because of the terrain and flooding problems; (10) the railroad plant is deteriorated; (11) current potential rail users would simply be unable to support a viable railroad operation; (12) a number of former users of this line have either gone out of business or relocated since the closure of the line in 1972; (13) future traffic projections by various individuals were neither realistic nor substantiated; (14) currently, the line cannot become economically viable without the inclusion of overhead traffic which is, of course, non-captive to this line; and (15) because of certain rail operation difficulties (curvatures; grades; susceptibility to flooding and washouts; and track configurations in the Baltimore area) along the line, it is doubtful whether USRA Line No. 145 can handle large volumes of traffic economically.

Conclusions

At this time, and under the present conditions, USRA Line No. 145 does not have sufficient available or potential rail users in its vicinity to economically justify the resumption of service on the line. However, retention of the right-of-way may be desirable in view of the interest expressed by the Commonwealth of Pennsylvania for its retention as a "back-up" route for the Northeast Corridor. Moreover, the line from New Freedom to Stewartstown is not totally without economic viability. The following actions might be pursued to enhance the prospects for resumption of service over the Pennsylvania portion of the line:

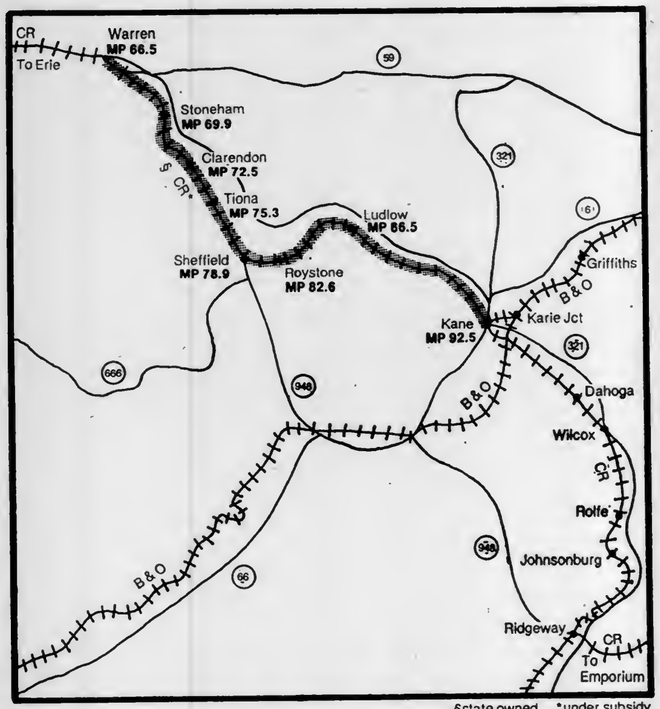
The option of operating this line as a short line railroad owned by an independent and/or rail patron operator should be considered. It should be determined whether the new operator could attempt to renegotiate rates based on the cars being terminated at York and could assess patrons on the line a flat charge for handling their traffic between York and their siding or the nearest team track. However, due to extensive damages inflicted by Hurricane Agnes in 1972, the line is presently inoperable, and before this approach could be implemented, the line would have to be rehabilitated to at least FRA Class I track standards.

The future viability of the line, after rehabilitation might be improved by upgrading team track facilities along the line and promoting their use.

USRA Line No. 252: Emporium Secondary Track. The Emporium Secondary Track, formerly part of the Pennsylvania Railroad, extends eastward from Erie (milepost 0.0) through Warren (milepost 66.5), Stoneham (milepost 69.9), Clarendon (milepost 72.5), Tiona (milepost 75.3), Sheffield (milepost 78.9), Roystone (milepost 82.6), Ludlow (milepost 85.5), Kane (milepost 94.7) and Ridgeway (milepost 117.9) to Emporium (milepost 150.0), a distance of 150.0 miles. The RSPO analyzed only that portion of the line from Warren (milepost 66.5) to Kane (milepost 92.5), a distance of 26.0 miles. This portion of the Emporium Secondary Track is being operated under subsidy by Conrail. At Kane the line connects with the Chessie System.

The Commonwealth has purchased the Warren to Kane section of the Emporium Secondary Track and is interested in its use by Conrail as a portion of a through route between Erie and the Warren oil fields and Eastern Pennsylvania.

Figure 2: USRA Line No. 252



§state owned *under subsidy

The Warren to Kane segment serves portions of both McKean and Warren Counties.

The Emporium Secondary Track serves an area of the State which is extremely mountainous and is characterized by a mixed economy of agriculture and industry. Extensive petroleum deposits are found in this portion of the State, and some industry has developed around that resource. Such farming as takes place is either specialized dairy farming or general farming emphasizing truck crops. Because of the topography, there is not extensive urbanization in any of the Counties served by the branch line.

The 1960 and 1970 Census of Population indicate that neither of the Counties experienced significant population growth over the past two decades. Indeed, McKean County experienced a decline. Warren County saw population increase by 6.8 percent between 1950 and 1960, strongly influenced by net out-migration of 4.5 percent. Between 1960 and 1970, population increased by only 4.6 percent, again partly because of out-migration. The 1970 population was 47,682 persons for the County; only 27.3 percent were classified as urban. McKean County, in contrast, showed a decline of 3.7 percent in population between 1950 and 1960, largely because of net out-migration of 14.9 percent. Because of the same phenomenon, between 1960 and 1970, population declined by 4.8 percent. The 1970 population was 51,915 persons; 39.5 percent were classified as urban.

According to the 1970 Census, Warren County had a labor force of 18,064 persons, with an unemployment rate at that time of 3.4 percent. Analysis of employment distribution showed 39.1 percent of County workers in manufacturing, 19.8 percent in trade, and 16.8 percent in government activities. Data from County Business Patterns: 1974 provide a better view of Warren County employment. In 1974, 229 workers in the County were employed in the construction sector. A total of 6,144 were employed in manufacturing, mostly in primary metals, fabricated metals, and petroleum and coal. Machinery and electric equipment also supported a significant number of workers. Lumbering employed 262. Wholesale and retail trade in the county employed slightly more than 3,300 workers, and the service sector gave jobs to 1,560.

McKean County had a 1970 labor force of 20,665 persons with an unemployment rate of 5.5 percent. Analysis of job distribution showed 41.0 percent of workers in manufacturing, 16.9 percent in trade, 11.1 percent in government, and 5.9 percent in services. Data in County Business Patterns: 1974 provide a more detailed picture of employment. At that time, 582 persons were employed in mining, and 348 in construction. Manufacturing provided jobs for 8,250 persons mostly in petroleum and coal mining, fabricated metal production, electrical equipment manufacture, and stone, clay, and glass manufacturing. Food and food products and lumbering also provided significant employment. In the non-manufacturing sectors, wholesale and retail trade employed 2,481 workers, and the service sector employed 1,927.

The overall picture presented by the Census and County Business Patterns data is that of a somewhat diversified non-agricultural economy in the area, dominated by heavy industry. The electrical equipment industry and industries related to petroleum, coal, and iron ore loom large in the employment picture.

Of the towns in and around the branch line, only Warren was analyzed in the 1970 Census. Warren had a population of 12,998 persons in 1970 and an unemployment rate of 3.3 percent. Slightly more than one-third of its workers were employed in manufacturing, while 47.9 percent of all workers were classified as white collar.

Census data thus shows the area around the branch line to have experienced limited growth over the past two decades or to have suffered declines in important economic indicators. The dominance of heavy industry in the manufacturing sector, particularly industry susceptible to cyclical influences, suggests that the area will not experience a stable growth pattern over the near future.

The Commonwealth of Pennsylvania, local rail patrons, and information received from the Penn Central during the railroad restructuring in 1974 provided the RSPO Project Team with a list of 26 firms that were alleged to have used the Warren-Kane line. Of these 26 firms, local officials and rail patrons had no knowledge of the existence of two firms, and 14 firms were served by the non-subsidized Conrail portion of the Emporium Secondary Track. However, two of these 14 firms used USRA Line No. 252 for their overhead traffic shipments. The remaining ten firms were judged capable of generating carload business and were interviewed by the RSPO Project Team. The other businesses in these

V42187 MAY 5 77 UMI

towns are almost exclusively small commercial and retail establishments that rely on motor carriers to handle their predominantly small shipments.

Of the ten firms interviewed, one firm stated that it had never used the railroad and had no intention of using it in the future; two firms indicated that they had used the line in the past (between 1948 and 1976) but have no intention of using it in the future. The remaining seven rail patrons are active users of the line. Only one of the seven active users planned any expansion (construction of a new warehouse and tripling the size of their business).

Field investigations by the RSPO Project Team revealed the following basic facts about this line: (1) the largest amount of traffic that moves over the line is primarily overhead traffic; (2) the line provides the most direct route for the overhead traffic of two rail patrons, Hammermill Paper Company of Erie and United Refining Company of Warren; (3) the line has a limited number of rail patrons and commodities; (4) the line generates primarily originating traffic; (5) traffic volume has declined; (6) in 1973, Penn Central received 80 percent of the total revenue generated by the line; (7) the line segment between milepost 66.5 and milepost 92.5 lacks any major rail-oriented industries; (8) nine of the firms interviewed directly have no appreciable business expansion plans; (9) current potential rail users between milepost 66.5 and milepost 92.5 would simply be unable to support a viable railroad operation; (10) currently, the line cannot become economically viable without the inclusion of overhead traffic which is, of course, non-captive to this line; (11) future rail-oriented industrial development along this line would be difficult because of the terrain; (12) there was no evidence of any industrial planning or development along the line between milepost 66.5 and milepost 92.5; (13) a certain amount of traffic generated by this segment is short-haul business; and (14) certain unusual rail maintenance and operational costs are possible because of the segment's susceptibility to rock slides, flooding and washouts.

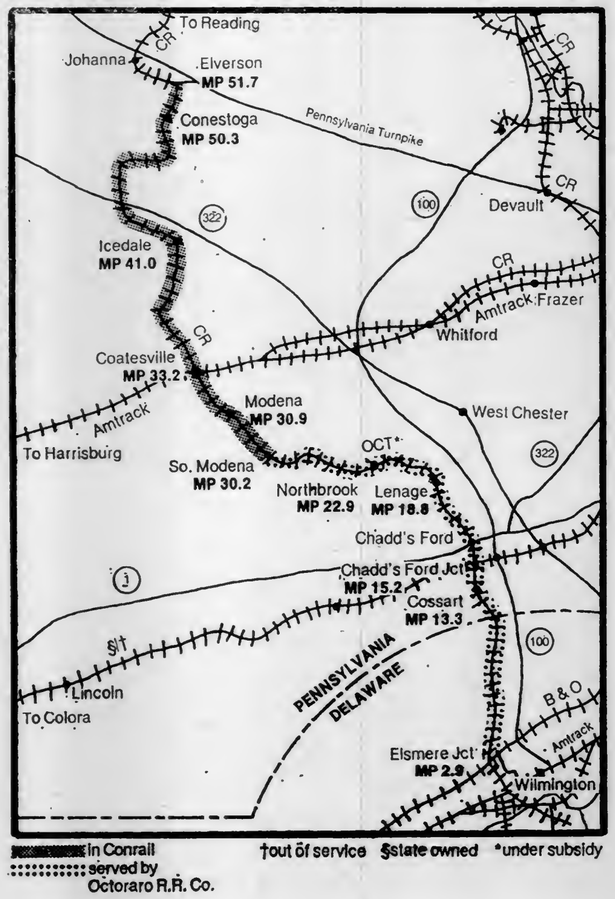
For the period May through November, 1976, actual train operations over this portion of the line generated a net positive contribution of $12,082, caused primarily as a result of the substantial volume of overhead traffic. For eleven months of operation (April, 1976 through February, 1977) the line generated 108 carloads of traffic; on and annualized basis this indicates that traffic levels have fallen to 40.0 percent of 1973 levels.

CONCLUSIONS

At this time, under present conditions, USRA Line No. 252 between Warren and Kane does not appear to be a likely candidate for non-subsidized operation. However, the line is not totally without economic viability because of the overhead traffic moved over the entire Emporium Secondary Track. Moreover, rehabilitation of the line would reduce the time that it takes to service it and thus reduce the cost of its operation. In addition, the viability of the line might be improved by upgrading team track facilities and promoting their use.

USRA Line No. 907/939: Wilmington and Northern Branch. The Wilmington and Northern Branch, formerly part of the Reading Company system extends northwestward from Wilmington, Delaware (milepost 0.0) through Chadds Ford (milepost 15.2), Pocopson (milepost 18.0), Lenape (milepost 18.8), Wawaset (milepost 20.8), Northbrook (milepost 22.9), Embreeville (milepost 25.9) and South Modena (milepost 30.2) to W&N Junction (milepost 64.7), a distance of 64.7 miles. The RSPO analyzed only that portion of the Wilmington and Northern Branch from the Pennsylvania-Delaware State Border (milepost 12.7) to South Modena (milepost 30.2), a distance of 17.5 miles. This portion the Wilmington and Northern Branch is being operated under subsidy by the Octoraro Railroad. The line connects at Souht Modena with Conrail and at Elsmere Junction, near Wilmington, with the Chessie System. The line crosses the Octoraro Branch, USRA Line No. 142, at Chadds Ford, where a connection is planned between the two lines. The line is located in Chester County. The Commonwealth of Pennsylvania has expressed an interest in preserving this line as a "high and wide" route.

Figure 3: USRA Line No. 907/939



The Wilmington and Northern Branch serves an area of the State which has experienced considerable urban growth during the past two decades. Its economy exhibits a balanced mixture of maufacturing, services, and agriculture. Chester County is located in the extreme western portion of the Philadelphia SMSA and abuts the Reading SMSA. It is benefited from economic expansion taking place in Reading, Philadelphia, and Wilmington.

The 1960 and 1970 Census of Population indicate that Chester County has experienced significant population growth during the past two decades. Between 1950 and 1960, population in the County increased by 32.3 percent, aided by net in-migration of 16.4 percent, largely from nearby urban areas. During the succeeding 1960–1970 decade, population grew by 31.9 percent, with a 20 percent net in-migration. The total 1970 population was reported to be 278,-311 persons. A reflection of the increasing urabnization of the County was the fact that 45 percent of the 1970 population was classified as urban.

The 1970 labor force in Chester County was reported to be 113,043 persons, of whom 2.1 percent were then unemployed. Analysis of job distribution shows that 35.1 percent of County workers were employed in manufacturing, 16.7 percent were employed in trade, 12.9 percent in government, and 6.1 percent in services. Only 4.9 percent were employed in the construction industry.

Census data indicate that the rural nonfarm population in Chester County in 1970 was 144,539 persons. Farm population was only 8,637, a 30.9 percent decline since 1960. There were 2,016 farms in the County in 1970, averaging 118 acres in size. Average farm revenue in Chester County was $41,027, as compared with a State average of only $24,-062. A total of 44.6 percent of all County Farms had sales annually between $10,-000 and $40,000. These data strongly indicate a thriving agricultural sector with a high average farm income. Overstrong economic growth around the all, the data for the County indicate branch line over the past two decades. Both manufacturing activity and agricultural activity have expanded significantly, while service and other support have grown concomitantly. This pattern of strong, balanced growth can be expected to continue into the near future.

Geographically, USRA Line No. 907/939 is located on the edge of the Piedmont Plateau, and is characterized by hilly to slightly mountainous topography.

The Commonwealth of Pennsylvania, local rail patrons and information received from the Reading Company during the restructuring in 1974 provided the RSPO Project Team with a list of eight firms that were alleged to have used the Wilmington and Northern Branch. Local rail patrons and officials had no knowledge of the existence of one of these firms. Two other firms were not interviewed because of the size and nature of their businesses. The remaining five firms were judged capable of generating carload business and were interviewed. The other businesses in these towns are almost exclusively small commercial and retail establishments that rely on motor carriers to handle their predominantly small shipments.

Of the five firms interviewed, three stated that they had last used the railroad prior to 1970 and had no intention of using it in the future. One firm stated that they were an active rail user until 1973 but had no intention of using the line in the future; this firm was trying to sell its business. The single remaining firm is an active rail patron and indicated that it was undergoing an expansion.

Field investigations by the RSPO Project Team revealed the following basic facts about this line: (1) The area lacks any major rail-oriented industries; (2) industrial development along the line is severely restricted by the high cost of land and the lack of suitable building sites because of possible flooding problems; (3) there is no evidence of industrial planning or development along the entire line; (4) currently the line cannot become economically viable without the inclusion of overhead traffic which is, of course, non-captive to this line; (5) the current potential rail users would simply be unable to support a viable railroad operation; (6) a number of firms have already successfully shifted traffic to other modes or railheads; (7) the line presently generates primarily originating traffic; and (8) the line has a limited number of rail patrons and commodities.

Conrail operated this line under subsidy until January 15, 1977. For the period May through November, 1976, actual train operations over the Wilmington and Northern Branch resulted in an operating deficit of $2,506. For nine months of operation (April through December) the line generated 10 carloads of freight. On an annualized basis this indicated that traffic levels have increased 33 percent over their 1973 level. Cost and revenue data is not currently available for the actual operation of the line by the Octoraro Railroad for the period since January 15, 1977.

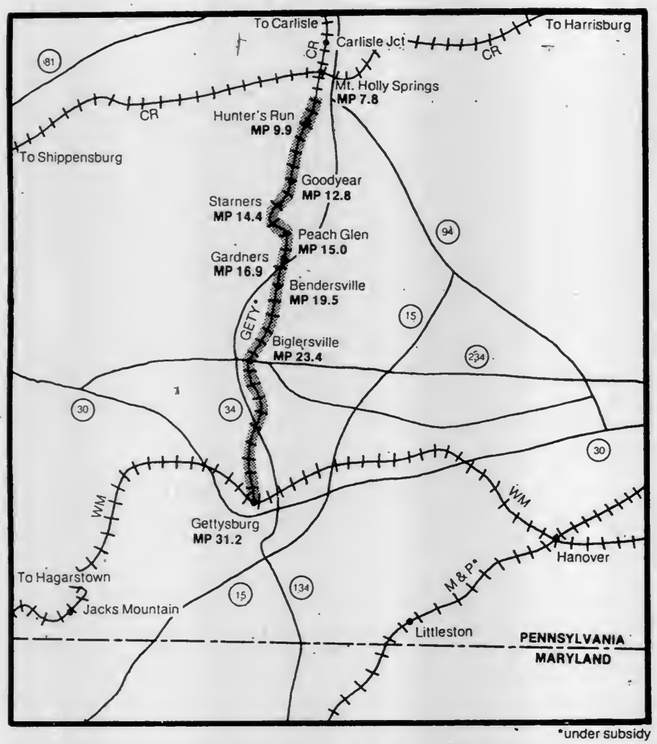
CONCLUSIONS

At this time, and under the present conditions, USRA Line No. 907/939 does not appear to be a likely candidate for nonsubsidized operation. However, once a planned connection is established with USRA Line No. 142 at Chadds Ford Junction, and if the Octoraro Railroad is able to open an interchange of rail cars with the Chessie System at Elsmere Junction, the cost/revenue relationship may improve considerably. Continued service by the Octoraro Railroad appears to be the most cost-efficient method of operation presently available. However, the viability of the line could probably be improved by upgrading team track facilities and promoting their use.

USRA Line No. 912: Gettysburg and Harrisburg Branch. The Gettysburg and Harrisburg Branch, formerly part of the Reading Company system, extends southward from Gettysburg Junction (mile-post 0.0), through Mt. Holly Springs (milepost 7.84), Hunters Run (milepost 9.9), Goodyear (milepost 12.8), Starners (milepost 14.4), Peach Glen (milepost 15.0), Gardners (milepost 16.9), Bendersville (milepost 19.5) and Biglerville (milepost 23.4) to Gettysburg (milepost 31.2), a distance of 31.2 miles. The RSPO analyzed that portion of the line from Mt. Holly Springs (milepost 7.4) to Gettysburg (milepost 32.2), a distance of 23.36 miles. This portion of the Gettysburg Branch is being operated under subsidy by the Gettysburg Railroad. The line is located in both Adams and Cumberland Counties. It connects with Conrail at Mt. Holly Springs and with Western Maryland's Hagerstown to Baltimore line at Gettysburg.

V42187 MAY 5 77 UMI

Figure 4: USRA Line No. 912



*under subsidy

The Gettysburg and Harrisburg Branch serves an area of the State which has experienced significant urbanization over the past two decades. Adams County is in the western section of the York economic area. It abuts Cumberland County to the north, which is located in the Harrisburg SMSA. Both Counties have towns and cities of significant size and many small towns servicing surrounding agricultural and forest areas. In those parts of both Counties where agriculture is possible, general farming and dairy farming are the rule. In Adams County, particularly in the more mountainous reaches of the County, fruit growing is common.

The 1960 and 1970 Census of Population show that both Adams County and Cumberland County experienced significant population growth over the past two decades. Between 1950 and 1960, population in Adams County increased by 17.4 percent, aided by 1.7 percent net in-migration. Growth during the succeeding decade was 9.7 percent, with net outmigration of 1.4 percent. The 1970 population in Adams County was 56,937 persons, of whom 23 percent were classified as urban. In Cumberland County, population increased between 1950 and 1960 by 32.1 percent, including 15.7 percent net in-migration. During the 1960–1970 decade, population growth was 26.7 percent, again including 15.8 percent in-migration. The 1970 population for the County was 158,177 persons, of whom 66.2 percent were classified as urban.

Adams County had a 1970 labor force of 23,555 of whom 3.1 percent were then unemployed. Analysis of job distribution showed that manufacturing provided 36.0 percent of jobs in the County, while trade provided jobs for another 17.1 percent of County workers. The service sector employed only 5.6 percent of workers, while construction, reflecting the heavy population growth, employed 6.8 percent. Government employees amounted to 10.7 percent of the whole.

Cumberland County had a 1970 labor force of 68,223 persons, of whom 2.1 percent were then unemployed. Government was the largest employer in the County, employing 22.0 percent of all workers. Manufacturing employed 20.4 percent, while trade employed 20.8 percent. The service sector accounted for only 5.9 percent of all workers.

Overall the Census data show a pattern of growth over the past two decades in both Counties. Agricultural activity was strong, despite a declining farm population. Manufacturing showed solid if modest increase and is not dominated by a single industry. This balanced modest growth can be expected to continue over the near future.

Geographically, the branch line traverses the southern mountain portion of the Piedmont Plateau which is a relatively hilly or mountainous region with forests occupying a significant part of the land area.

The Commonwealth of Pennsylvania, the Gettysburg Area Chamber of Commerce, local rail patrons, and information received from the Reading Company during the railroad restructuring process provided the RSPO Project Team with a list of 47 firms that were alleged to have used that portion of the Gettysburg and Harrisburg Branch under study by the RSPO. Of these 47 firms, five were located on a non-subsidized Conrail line, five were listed twice, three firms were no longer in business and two firms were unknown to local officials and rail patrons.

The remaining 32 firms were judged capable of generating carload business and were interviewed. The other businesses in these towns are almost exclusively small commercial and retail establishments that rely entirely on motor carriers to handle their predominantly small shipments.

Of the 32 firms interviewed, two firms stated that they had never used rail service and had no intention of using it in the future. Five firms indicated that although they had used rail service in the past, they had no intention of using it in the future. Two other firms indicated that they had used the line previously but were uncertain of any future use. Three firms were found to be users of the Western Maryland Railroad. The remaining 20 rail patrons are active users of the line.

Of these 20 firms, 16 indicated that they received or shipped full carloads of freight. The other four firms indicated

that on occasion they would share a carload of freight between themselves. Nine of the firms indicated that some form of business expansion was currently underway or contemplated. The remaining 11 firms expressed no expansion plans.

Field investigations by the RSPO Project Team revealed the following basic facts about this line: (1) The line generates primarily terminating traffic; (2) there are relatively few patrons that generate the majority of the traffic; (3) traffic volume has increased from the 1973 levels; (4) a number of rail patrons are planning expansions of their facilities; (5) overhead traffic is currently moving over the line; (6) there is no evidence of any industrial planning or development along the line; (7) future rail-oriented industrial development along portions of this line would be difficult because of the terrain; (8) the line has certain rail operation difficulties, e.g., grades, susceptibility to flooding and washouts; and (9) the line has a limited number of rail patrons.

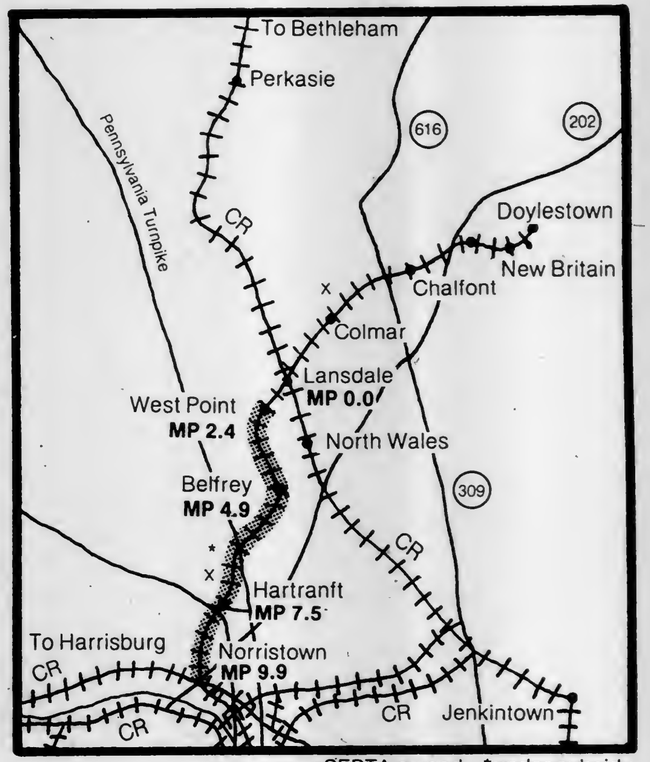
Conrail's operation of this line between May and September, 1976, resulted in an operating deficit of 429,222. For six months of operation (April through September), the line generated 912 carloads of freight; on an annualized basis this indicates that traffic levels have increased to 114.7 percent of their 1973 levels. The Gettysburg Railroad, which has operated the line since October 15, 1976, estimates that after one year of operation the line will generate a net positive contribution of $99,240. Overhead traffic moving over the line between Mt. Holly Springs and Gettysburg is included in the estimated revenue figure.

Conclusions

At this time, and under the present conditions, USRA Line No. 912 appears to be a possible candidate for non-subsidized operation. Continued service by the Gettysburg Railroad appears to be the most cost-efficient method of operation currently available. However, the viability of the line could be further enhanced by upgrading the team track facilities at Gardners, Bendersville, Biglerville and Gettysburg, and promoting their use.

USRA Line No. 935: Stony Creek Branch. The Stony Creek Branch, formerly part of the Reading Company system, extends southwesterly from Lansdale (milepost 0.0) through West Point (milepost 2.4), Belfry (milepost 4.9) and Hartranft (milepost 7.5) to Norristown (milepost 9.9), a distance of 9.9 miles. The line is owned by the Southeastern Pennsylvania Transportation Authority (SEPTA) and is operated under subsidy by Conrail. RSPO analyzed that portion of the line that extends from slightly south of Lansdale (milepost 1.5) to slightly north of Norristown (milepost 9.0), a distance of 7.5 miles. The line is located in Montgomry County. The Commonwealth of Pennsylvania has expressed an interest in preserving this line as a "high and wide" route.

Figure 5: USRA Line No. 935



xSEPTA owned *under subsidy

The Stony Creek Branch serves a portion of the State which is predominantly urban in character, although there is some agricultural activity. Montgomery County is situated in the northwestern portion of the Philadelphia SMSA, and is contiguous to the Reading SMSA to the north. The County has several towns of significant size, including the termini of the line, Norristown and Lansdale, which were of sufficient size to be analyzed in the 1970 Census of Population. Most towns in the County serve as modest-size trade and distribution centers for surrounding agricultural areas. Generalized farming is the rule in Montgomery County, although dairying and vegetable production produce significant amounts of farm revenue. The County is located on the eastern edge of the Piedmont Plateau, and is distinguished by gently rolling to hilly topography.

Data from the 1960 and 1970 Census of Population emphasize the increasingly urbanized nature of Montgomery County. Over the past two decades, the County has experienced significant

V42187 MAY 5 77 UMI

growth. Between 1950 and 1960, population in Montgomery County grew by 46.3 percent, including 31.0 percent net in-migration. During the 1960–1970 decade, population grew again by 20.8 percent, aided by net in-migration of 11.6 percent. The total 1970 population for the County was 623,799 persons, of whom 81.4 percent were clasified as urban.

The 1970 labor force in Montgomery County was 263,318, of whom only 2.4 percent were unemployed at the time. The County's location in the Philadelphia SMSA is evident in the fact that 34.2 percent of county workers were employed in manufacturing. Another 20.1 percent were employed in wholesale and retail trade, 6.7 percent in services, and 10.1 percent in government activities. Construction provided jobs for another 5.0 percent. Overall, the Census and related data show a pattern of strong and balanced growth for Montgomery County, and for the region in and around the branch line. In spite of the County's proximity to Philadelphia, its agricultural sector remains strong as its manufacturing and service activities increase in size.

The Commonwealth of Pennsylvania, The Lansdale Chamber of Commerce, the Norristown Chamber of Commerce, local rail patrons and information received from the Reading Company during the rail restructuring in 1974 provided the RSPO Project Team with a list of 21 firms which were alleged to have used the Stony Creek Branch. Of these 21 firms, five were not interviewed because of their size, type of business or type of service rendered and two could not be located. The remaining 14 firms were judged capable of generating carload business and were interviewed by the RSPO Project Team. The other businesses in the service area are almost exclusively small commercial and retail establishments that rely entirely on motor carriers to handle their predominantly small shipments.

Of the 14 firms interviewed, four stated that although they had utilized rail service previously, they had no intention of using it again in the future. Three firms indicated that although they had not utilized rail service previously they might use it in the future. One firm that had occasionally used the line previously indicated that any future use would be on an emergency basis only and one firm was using the line only as a convenient storage site for a specialized rail car. The remaining five firms were active rail users.

Field investigation by the RSPO Project Team revealed the following basic facts about this line: (1) the line generates primarily terminating traffic; (2) the Reading Company received only 18.5 percent of the total line revenue in 1973; (3) carload traffic has declined since 1973; (4) four commodities constitute more than 70 percent of the total traffic; (5) only one current user expressed expansion plans that might result in increased use of rail service; (6) currently planned industrial development is limited to a single limited area and no construction date has been established; (7) development of the remaining available area along the right-of-way is restricted by the existence of numerous residential areas, by the existence of a flood plain and by lack of existing or near-term extension of sewer service; (8) the line had previously carried a substantial volume of overhead traffic including high and wide shipments; a limited number of high and wide carloads are still being moved over the branch; (9) a number of farms have already successfully shifted traffic to other modes or railheads; and (10) the line has a limited number of rail patrons.

For the period May through November, 1976, actual train operations by Conrail over the Stony Creek Branch resulted in an operating deficit of $1,234. For eleven months of operation (April through February) the line generated 129 carloads of freight; on an annualized basis this indicated that traffic has declined to 90 percent of the 1973 levels.

Conclusions

At this time, and under the present conditions, USRA Line No. 935 does not appear to be a likely candidate for immediate non-subsidized operation. However, the line is not totally without economic viability, and a number of actions could be pursued to enhance the prospects for its continued operation and to improve its viability. The following courses of action should be considered:

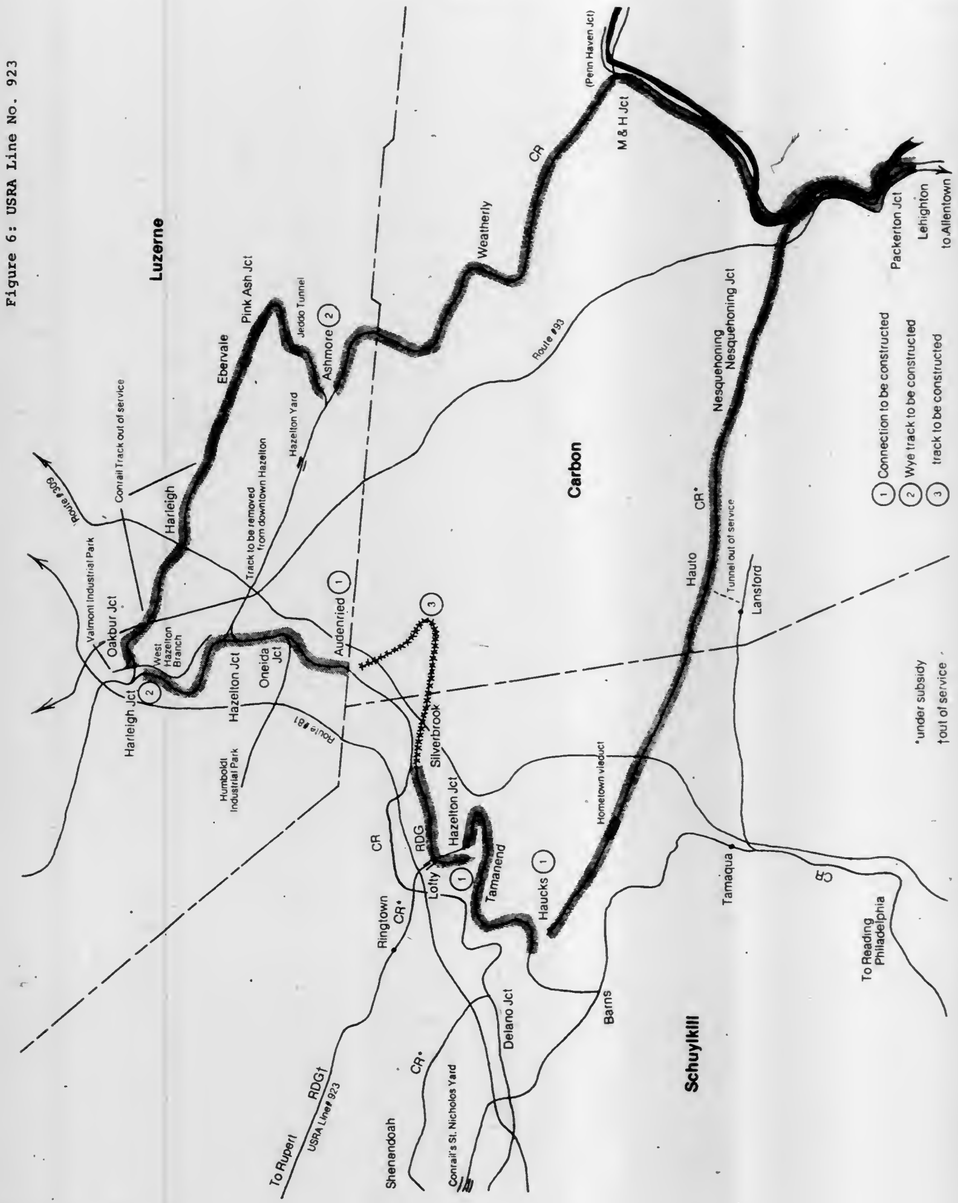
(1) The viability of the line might be improved by upgrading and promoting the use of team track facilities along the line. This might attract more traffic to the line.

(2) The Commonwealth should consider the resumption of coal deliveries by rail to the Norristown State Hospital. Information received by the RSPO Project Team indicates that this could increase traffic on the line by 250–300 carloads annually.

USRA Line No. 923: Catawissa Branch and USRA Line No. 1009: Nesquehoning Valley Branch. The Catawissa Branch, formerly part of the Reading Company System extends northwest from Barns, Pennsylvania (milepost 103.0) through Lofty (milepost 110.5), and Rupert (milepost 147.1) to Newberry Junction, Pennsylvania (milepost 202.8). The RSPO analyzed only that portion of the Catawissa Branch that extends from the vicinity of Haucks to the vicinity of Lofty, a distance of approximately 5.0 miles. Although there are no actual rail patrons on this portion of the Catawissa Branch, the Commonwealth included this line in its request to the RSPO since the line would form part of the proposed "Anthracite Through-Rail Loop," which will be discussed in detail later in this report. USRA Line No. 923 is currently being served by Conrail under the subsidy program.

The Nesquehoning Valley Branch, formerly part of the Lehigh Valley Railroad, extends westward from Packerton Junction, Pennsylvania (milepost 0.0) through Nesquehoning (milepost 5.9), Hauto (milepost 10.0), Hometown (near milepost 16.0), and Haucks (milepost 18.0) to Tamanend, Pennsylvania (milepost 19.2). The line between milepost 18.0 (near Haucks) and milepost 19.2 (Tamanend) is now out of service. The RSPO analyzed the entire Nesquehoning Valley Branch, which is currently being operated under subsidy by Conrail. USRA Line Numbers 923 and 1009 are located solely in Carbon and Schuylkill Counties; however, the proposed "Anthracite Through-Rail Loop" line would be located in Carbon, Schuylkill and Luzerne County.

Figure 6: USRA Line No. 923



V42N87 MAY 5 77 UMI

Although the RSPO, under section 205 (e) (2) of the Regional Rail Reorganization Act of 1973, as amended, is only directed to "* * * prepare and publish an evaluation of the economic viability of * * * light-density lines within [a] * * * State *which are not* designated for inclusion in the Final System Plan," the Commonwealth of Pennsylvania also requested the RSPO to examine the Pennsylvania Department of Transportation's proposal for serving Hazleton, Pennsylvania, via portions of the Catawissa Branch and the Nesquehoning Valley Branch.

Anthracite through-rail loop. In an effort to remove the railroad tracks from the streets in downtown Hazleton and to insure continued rail service to patrons on the Nesquehoning Branch and in the Hazleton area, Pennsylvania's Office of State Planning and Development, the Pennsylvania Department of Transportation, the Greater Hazleton Chamber of Commerce, and others, recommended development of a so-called "Anthracite Through-Rail Loop." Under this concept Conrail would operate trains from and to Allentown, Pennsylvania in a looping continuous rail traffic flow pattern (see Figure 6). Trains out of Allentown would enter the "loop" at Packerton Junction, travel west along the Nesquehoning Branch (USRA Line No. 1009) to Haucks in Schuykill County and continue north on a portion of the Catawissa Branch (USRA Line No. 923) to the Lofty area. The train would continue northeast from Lofty to Silver Brook Junction, where it would move over new tracks to be placed on the former Central Railroad Company of New Jersey road bed, and thence to Audenried. From Audenried the train would continue north through both Oneida and Hazleton Junctions to Harleigh Junction. From Harleigh Junction the train would then move east through Ebervale, Pink Ash Junction and the Jeddo Tunnel and then south to Ashmore Junction. From Ashmore Junction the train would descend the Weatherly grade southeast to M&H Junction (Penn Haven Junction), and return to Allentown.

In order to complete the proposed loop, the following actions would have to be undertaken (see Figure 6):

(1) USRA Line No. 1009 should be rehabilitated to FRA Class II track standards.

(2) The high Hometown Viaduct, built over 40 years ago, should undergo a complete inspection by qualified bridge engineers to determine the condition of the steel work and footings. According to the Pennsylvania Public Utility Commission, 600 bridge ties will also have to be renewed within 5 years.

(3) A connection should be built in the area around Haucks to join USRA Line Nos. 923 and 1009.

(4) Set-off and pick-up tracks should be constructed in the Haucks area for Tamaqua traffic.

(5) The connection should be restored at Hazelton Junction (RDG) to join USRA Line No. 923 and the Old Tamaqua, Hazelton and Northern Railroad.

(6) About 16,000 feet of track between Hazleton Junction and Silver Brook must be rehabilitated to FRA Class II track standards.

(7) The right-of-way must be acquired from Silver Brook to Audenried (the roadbed of the former Central Railroad Company of New Jersey) and approximately 30,670 feet of track must be constructed over it.

(8) A connection must be built at Audenried to join the proposed "loop" track with Conrail's line.

(9) Set-off and pick-up tracks should be constructed in the Humbolt and Valmont Industrial Park area.

(10) A connecting "wye" track must be built at Harleigh Junction.

(11) Set-off and pick-up track should be constructed in the Ebervale area.

(12) The Jeddo Tunnel must be modified to accomodate the passage of high cube rail cars.

(13) A connecting "wye" track must be built at Ashmore.

(14) Conrail's main line between Audenried and Ashmore should be rehabilitated to FRA Class II standards.

(15) Land for right-of-way must be acquired for all new construction.

(16) Automatic flasher and/or gate protections must be provided at numerous public vehicular crossings at grade.

(17) Labor agreements must be negotiated to cover proposed changes.

CONCLUSIONS

At this time, under present conditions, it does not appear that implementation of the proposed "Anthracite Through-Rail Loop" concept will improve or reduce the costs of rail operations; nor does it represent the only alternative rail operational pattern available. While the actual cost figures for completing the proposed "loop" are somewhat elusive, it has been estimated that it will cost at least $3 million. One of the stated objectives of the "loop" concept was to remove the railroad tracks from the streets of downtown Hazleton. An alternative approach could also accomplish this objective with a substantially lower rehabilitation cost while at the same time continuing rail service to patrons in the Valmont and Humbodlt Industrial Parks via the Jeddo Tunnel route. This alternative would require the following actions:

(1) The Jeddo Tunnel must be modified to accomodate the passage of high cube rail cars.

(2) A connecting "wye" track should be built at Harleigh Junction.

(3) The entire line between Conrail's Hazleton shop area and the Humboldt Industrial Park should be rehabilitated to FRA Class II track standards.

It should be noted either alternative will increase the operating expenses of Conrail over the present operation.

Nesquehoning Valley Branch. The Nesquehoning Valley Branch serves a portion of the State which lies in the midst of the Appalachian Mountain chain. It exhibits a mixed industrial and agricultural economy with generalized farming predominating in those areas where farming is possible. A major portion of industrial activity is closely related to iron, petroleum, and coal. Neither of the Counties through which the branch line runs is located in an urbanized region, although both abut at least one of the SMSA's in the area.

According to the 1960 and 1970 Census of Population, both of the Counties served by the branch line experienced population decline over the past two decades. Carbon County showed a decline of 8.1 percent in population between 1950 and 1960, caused primarily by net outmigration of 15.3 percent. During the 1960–1970 decade, the County lost 4.4 percent of its population, again largely because of high out-migration. The 1970 population in the County was 50,573, with a median age of 35.6. This latter figure is considerably above the state median age of 31 years, a fact reflected by the 13 percent of County population age 65 or more. At the time of the 1970 Census, 63.8 percent of Carbon County population was classified as urban. Schuylkill County experienced an even more significant decline in population over the past two decades. Between 1950 and 1960, County population dropped by 13.7 percent, largely because of net out-migration of 19.23 percent. During the 1960–1970 decade, population dropped by another 7.5 percent, again mainly because of out-migration. The 1970 population in Schuylkill County was 160,089 persons, with a high median age of 37.4 years. Not surprisingly, 13.1 percent of County residents were age 65 or more. At the time of the census, 51.9 percent of Schuylkill County residents were classified as urban. Population data thus show a relatively urbanized area, suffering from population decline.

The 1970 labor force in Carbon County was 20,827, with an unemployment rate of 2.7 percent. Manufacturing accounted for the largest segment of jobs in the County, providing 51.9 percent. Trade generated another 12.1 percent, while services occupied only 4.2 percent of the labor force. Government provided jobs for 10.3 percent. The employment picture of Carbon County is thus one of a relatively concentrated economy, dominated by a single manufacturing sector, with relatively weak service and trade areas.

The 1970 labor force in Schuylkill County was 64,290 persons, with unemployment then at 3.8 percent of the labor force. Manufacturing provided jobs for the bulk of County workers, generating 45.5 percent of all employment. Another 14.7 percent were employed in trade, 4.5 percent in services, and 7.1 percent in construction. Like Carbon County, Schuylkill County showed a relatively concentrated economy, dominated by a single manufacturing industry, although its trade and services sector was somewhat more diversified.

Data from the 1970 Census reveals that both Carbon and Schuylkill Counties were relatively poor, as measured by median family income.

Of the two Counties, only Schuylkill County showed significant growth in manufacturing over the 1963–1967 period.

Of the towns on the branch line, only Mahanoy City and Jim Thorpe were of sufficient size in 1970 to merit an analysis in the Census of Population.

Census data depict an economic area which is relatively weak, which is highly dependent on one or two major manufacturing sectors, and which has experienced little or no economic growth over the past two decades.

The Commonwealth of Pennsylvania, the Nesquehoning Branch Line Committee, the Tamaqua Area Chamber of Commerce, local rail patrons and information received from the Penn Central during the railroad restructuring in 1974 provided the RSPO Project Team with a list of ten firms that were alleged to have used the Nesquehoning Valley Branch. Of these ten firms, one firm was found to be located on another rail line, one firm was no longer in business, and local officials and rail patrons had no knowledge of the existence of another firm. The remaining seven firms were judged capable of generating carload business and were interviewed. The other businesses in the area are almost exclusively small commercial and retail establishments that rely entirely on motor carriers to handle their predominantly small shipments.

One of the seven firms interviewed stated that it never used the railroad and has no intention of using it in the future; the other six firms are active users of the line.

Field investigations by the RSPO Project Team revealed the following basic facts about this line: (1) certain future traffic projections were neither realistic nor substantiated, e.g., the dismantling of the Pennsylvania Power & Light Electric generating plant was expected to generate 600 carloads of scrap; (2) the railroad plant is badly deteriorated; (3) although there are several industrial sites adjacent to the line, no industrial development was in evidence; (4) the line has a limited number of rail patrons and commodities; (5) traffic volume has declined; (6) the line presently generates primarily terminating traffic; (7) certain unusual rail maintenance and operational costs are possible in the future as a result of the high Hometown Viaduct over the Little Schuylkill River; (8) there are no rail patrons from the Kovatch Truck Center facility (milepost 5.9) to Packerton Junction (milepost 0.0); and (9) there is recoverable coal in refuse banks adjacent to the line.

For the period May through November, 1976, actual train operations over USRA Line No. 1009 generated a net positive contribution of $23,309. However, this amount does not reflect any payment to the bankrupt estate for the return on the valuation of the property. For eleven months of operation (April–February) USRA Line No. 1009 generated 294 carloads of freight; on an annualized basis this indicates that traffic levels have fallen to 55.6 percent of 1973 levels.

CONCLUSIONS

At this time, and under the present conditions, USRA Line No. 1009 appears to be an economically marginal operation. However, the line is not totally without economic viability, and a number of actions could be pursued to enhance the prospects for its continued operation and to improve its viability. The following possible courses of action should be considered:

The possibility of a Tamaqua Conrail crew entering the line at Haucks and serving rail patrons on the Nesquehoning Valley Branch should be considered. This would permit the abandonment of approximately 5.9 miles of track between the Kovatch Truck Center facility and Packerton Junction thus reducing the costs of the line's operation. There are no rail patrons between these points. It is anticipated that it would be necessary to negotiate labor agreements as a result of the proposed operational alternative. Furthermore, it would be necessary to construct a connection at Haucks to join USRA Line No. 1009 with the Catawissa Branch (USRA Line No. 923).

Rehabilitation of this line would reduce the time that it takes to service it and thus reduce the costs of its operation.

The viability of the line could be improved by upgrading and promoting the use of team track facilities along the line.

Another option which might be considered is the option of operating the line as a short line railroad owned by an independent and/or rail patron operator. It should be determined whether it would be possible for such an operator to renegotiate rates with Conrail, based on the cars being terminated at Packerton Junction and to assess patrons on the line a flat charge for handling their traffic between Packerton Junction and their siding or the nearest team track.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Harrisburg, Pa., May 4, 1976.

Mr. ALAN FITZWATER,
Director, Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C.

DEAR ALAN: In accordance with Section 205(c)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976, the Commonwealth requests that the Rail Services Planning Office evaluate the economic viability of certain light density lines not designated for inclusion in ConRail.

We believe that, given proper evaluation or certain operational changes, these lines are viable.

We shall discuss each of these lines briefly below instead of supplying backup data at this time. Any support information at our disposal shall be made available, of course, as you proceed with the examination of the lines.

Line 252 Warren to Kane. This line is a portion of a through route between Erie and the Warren oil fields and eastern Pennsylvania. Thousands of cars and a twice weekly unit train of wood products desire to move over this section. Elimination of the route results in extreme circuity via Buffalo.

Upon our request USRA examined the line with the overhead traffic in mind. Their results demonstrated that it was cheaper to operate over line 252 than routing all overhead traffic through Buffalo. ConRail concurred but refused to show us their statistical analysis.

The Commonwealth has purchased the line and plans to rehabilitate it. Because of the traffic volume, the line should be operated without subsidy. Because of irrational thinking, ConRail may continue to route the traffic through Buffalo. We were unable to negotiate a solution with them. We need an impartial analysis to demonstrate the cost savings to ConRail in using Warren to Kane as a through route and as a catalyst to a finding the means of sharing these savings.

Line 145 Northern Central Branch. This branch used to be a through route between Harrisburg and Washington. The Delaware and Hudson has expressed interest in using this short route for reaching Pot Yard. The Commonwealth has purchased the portion from York to the Maryland line. North of York was transferred to ConRail. The portion from the Maryland line south to Cockeysville was not picked up.

What is needed here is an examination of the need for the D&H to reach Pot Yard in their quest to remain solvent in the face of Big ConRail. Local traffic and a 403 Amtrak route would contribute to revenue. There is good local passenger service potential on this line.

Lines 912, 935, 907/939 High and Wide Routes. Insufficient consideration was given by USRA for the protection of high/wide routings. The Commonwealth has preserved these routes thus far, but in future years, as local shippers bear an increasing financial burden in preserving routes that do not pertain to their businesses, the routes will be in jeopardy. RSPO must locate the endangered high/wide routes and determine the cost to business and society if they close.

Lines 1009 and 923 Hazleton Connection. The City of Hazleton is currently served via the old Lehigh Valley line from Penn Haven Jct. over a grade in excess of 2%. In order to serve west Hazleton industrial parks, the trains must operate through either Hazleton's downtown streets or a switchback at Valmont that is totally restrictive for through trains.

Hazleton wants the tracks removed from its streets in order for urban renewal projects to proceed. The excessive grade and Valmont switchback make the northern loop route unfeasible.

PennDOT proposed that Hazleton be served via the Nesquehoning Valley branch (1009) and Catawissa Branch (923). This can be accomplished by replacing the switch at Tamanend and building a short connection to the Lehigh Valley (ConRail) line at the Lofty tunnel. This route is shorter and less steep with cost savings both to ConRail and the subsidized lines. Hazleton's urban renewal problems, also, will be resolved.

RSPO should examine this attempt to rationalize the system to impartially calculate the cost savings involved.

We believe all of these situations represent attempts on our part to offer constructive improvements to the eastern railroads and savings to society. RSPO is in the position to provide great assistance to both shippers and the carriers in matters of this sort. We look forward to working with you in exploring these problems.

Respectfully yours,

E. L. TENNYSON,
Deputy Secretary,
Local and Area Transportation.

[FR Doc.77-12824 Filed 5-4-77;8:45 am]

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federal register

THURSDAY, MAY 5, 1977
PART V



INTERSTATE COMMERCE COMMISSION

■

SOUTHERN RAILWAY CO.

System Diagram Map

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INTERSTATE COMMERCE COMMISSION

[AB 26 (SDM)[1]]

SOUTHERN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Southern Railway Company and its consolidated subsidiaries, has filed with the Commission its color-coded system diagram map in docket No. AB 26 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 5, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 26 (SDM).

ROBERT L. OSWALD,
Secretary.

[1] AB 26 (SDM) includes its consolidated subsidiaries: AB–27 (SDM), The Alabama Great Southern Railroad Company; AB–28 (SDM), Central of Georgia Railroad Company; AB–29 (SDM), The Cincinnati, New Orleans and Texas Pacific Railway Company; AB–30 (SDM), Georgia Southern and Florida Railway Company; AB–64 (SDM), Chattanooga Station Company; AB–118 (SDM), Albany Passenger Terminal Company; and AB–125 (SDM), Norfolk Southern Railway Company.

MAP OF

Southern Railway Company & Consolidated Subsidiaries*

AB-26, AB-27, AB-28, AB-29, AB-30, AB-64 AB-118, AB-125.

SYSTEM DIAGRAM MAP

49 C.F.R. 1121.20
APRIL 1, 1977

SCALE: 25 0 25 50 75 100 MILES

LEGEND

Designation of Carriers and AB Numbers:	
AB-26	(Southern Railway Company (SOU)
AB-27	The Alabama Great Southern Railroad Company (AGS)
AB-28	Central of Georgia Railroad Company (C of G)
AB-29	The Cincinnati, New Orleans and Texas Pacific Railway Company (CNO&TP)
AB-30	Georgia Southern and Florida Railway Company (GS&F)
AB-64	Chattanooga Station Company (CHT. Sta.)
AB-118	Albany Passenger Terminal Company (APT)
AB-125	Norfolk Southern Railway Company (NS)

*APT is an affiliated company owned jointly by C of G and SCL RR.

- Category 1: Lines likely to be the subject of an ICC abandonment or discontinuance application within three years.
- Category 2: Lines which are under study and may be the subject of a future ICC abandonment or discontinuance application.
- Category 3: Lines for which abandonment or discontinuance applications are pending before the ICC.
- Category 4: (None at this time) Lines operated under rail service continuation assistance provisions of 49 USC 10 et. seq. None in this category at this time.)
- Category 5: All other lines, owned and operated.
- Lines (Categories 1–4) too short to designate clearly at this scale.
- Standard Metropolitan Statistical Area (SMSA). (County or counties with at least one city of 50,000 inhabitants. Those shown here are within 5 air miles of a rail line.)
- Cities. (Showing those with 5,000 population or greater located within 5 air miles of a rail line but outside of an SMSA, in addition to other selected points on the line.)
- State boundaries.
- County boundaries. Only counties in which a line in Category 1,2,3 or 4 is located are named.)

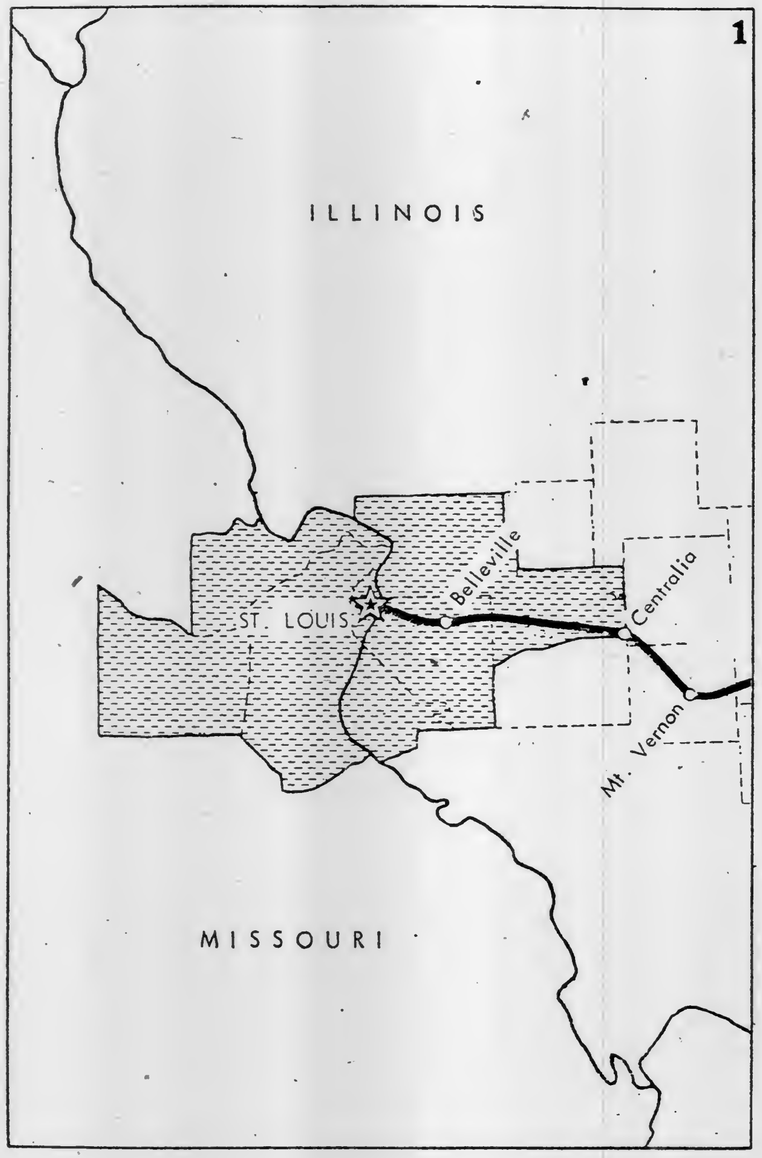
The System Diagram Map is segmented as follows:

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Segmented System Diagram Map certified to be a true copy of the original document.

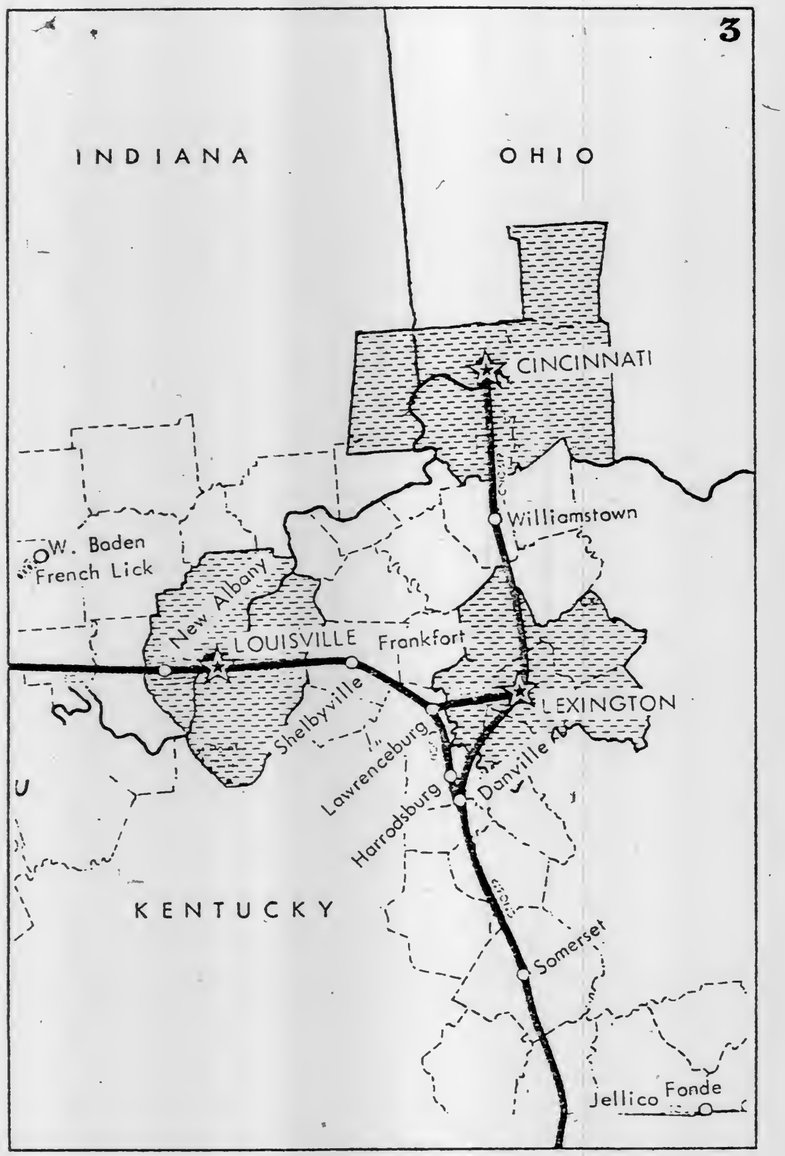
E.G. Kreyling, Jr.
Vice President - Marketing
Southern Railway Company

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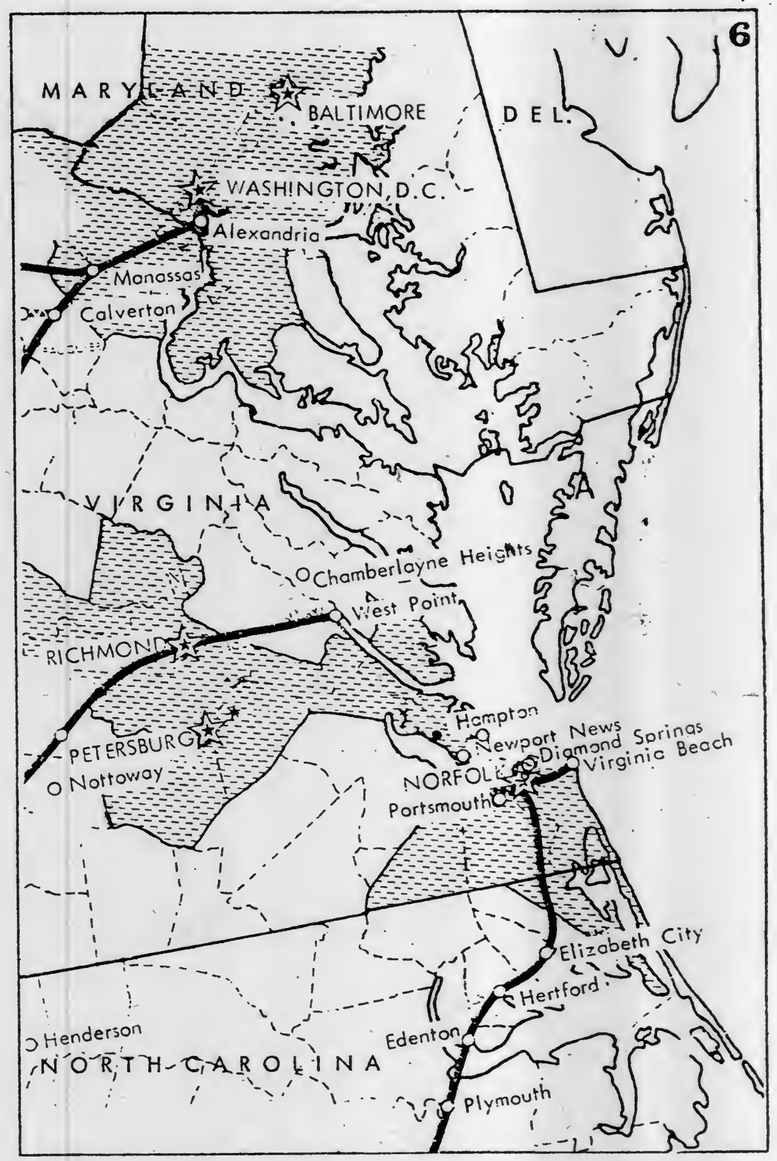
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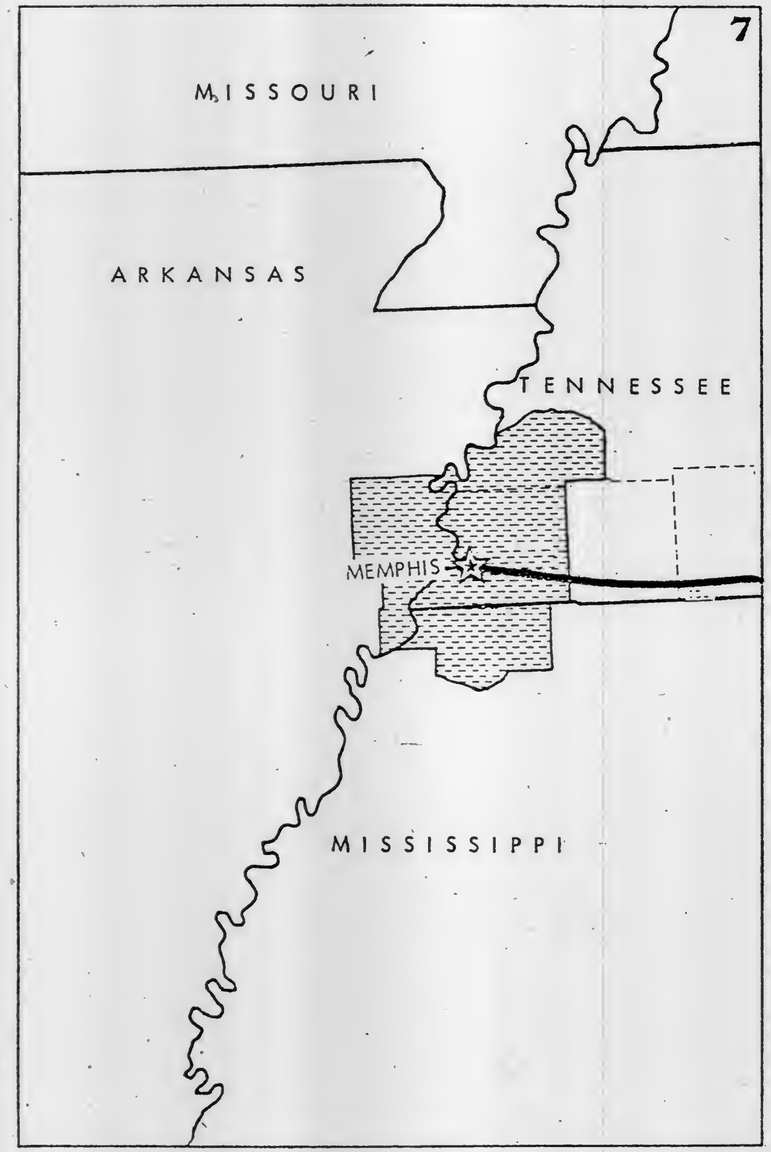


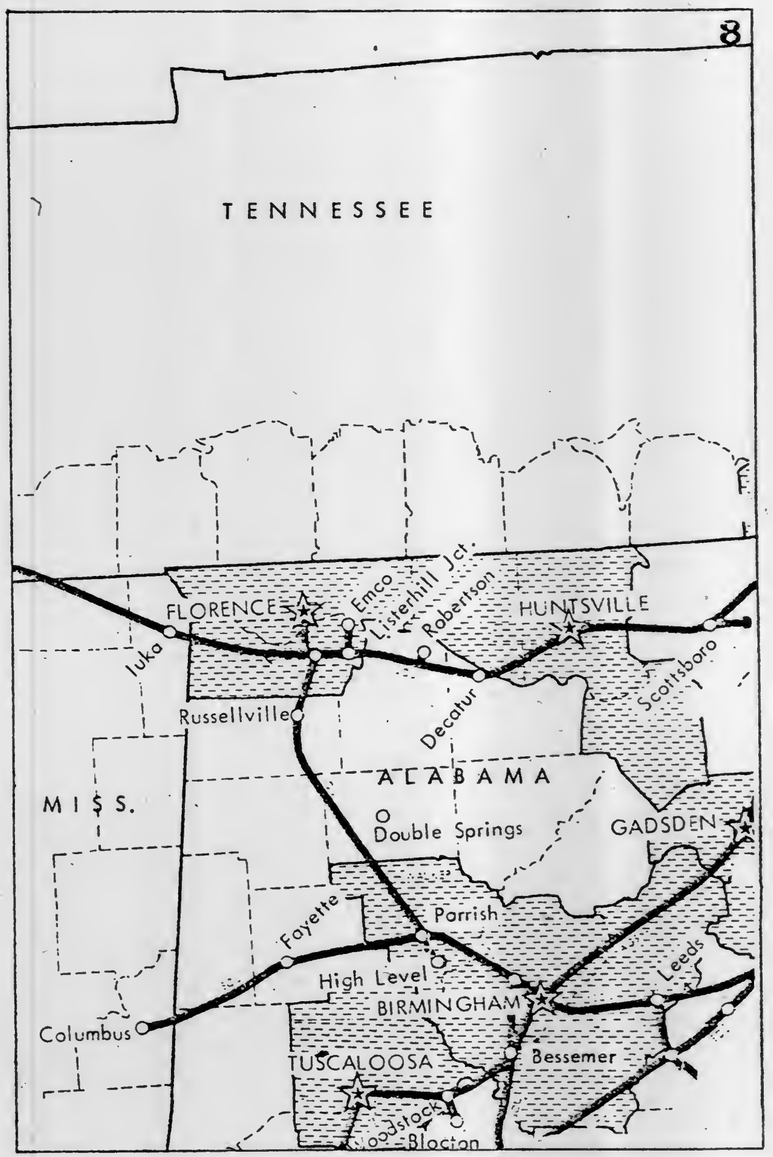
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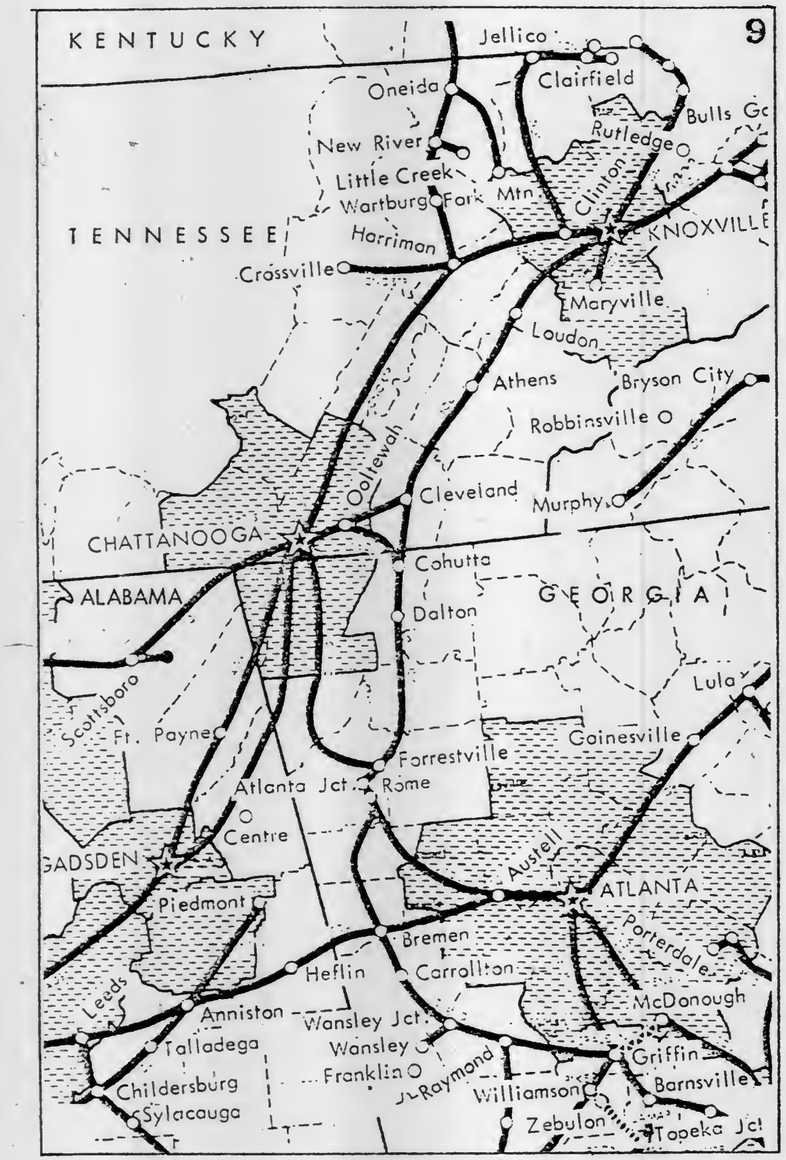


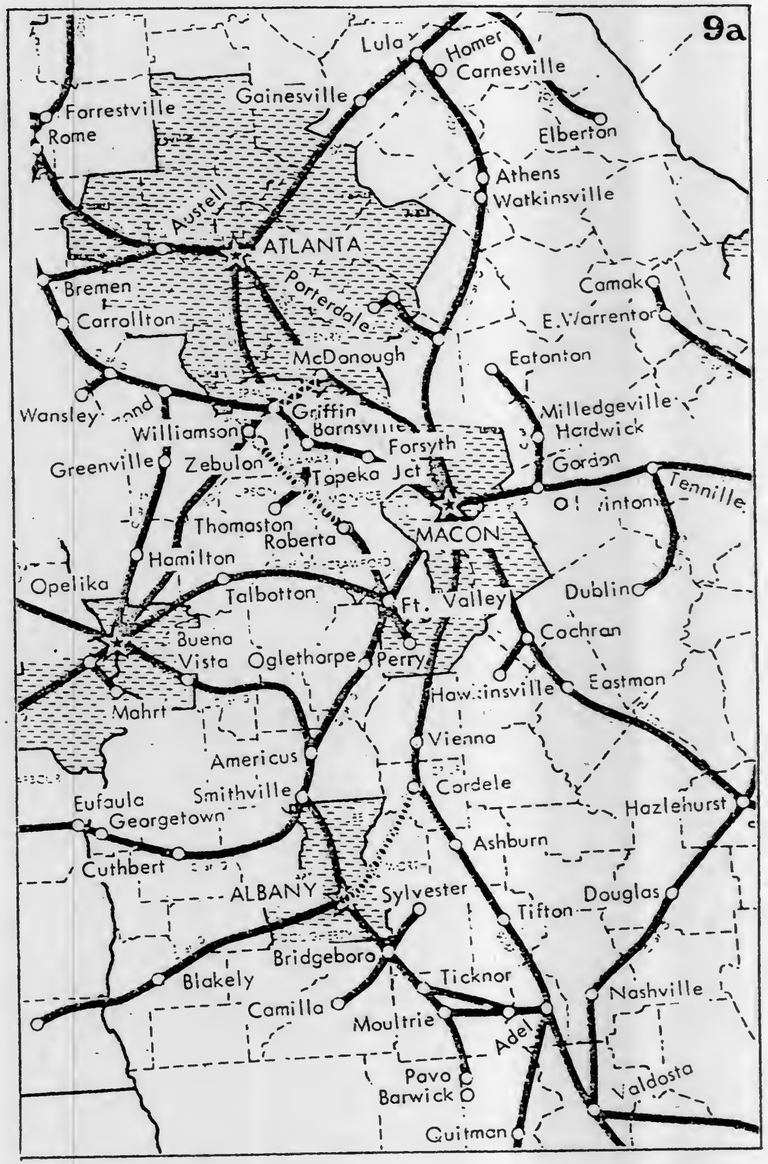
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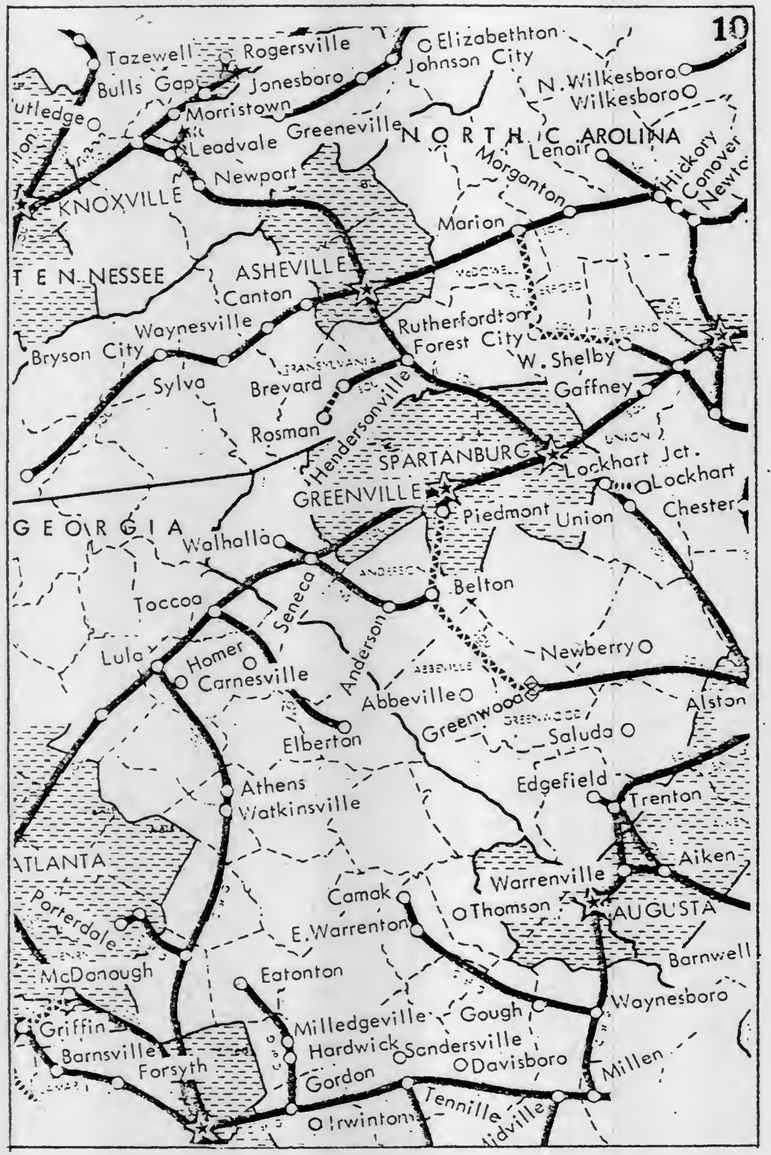


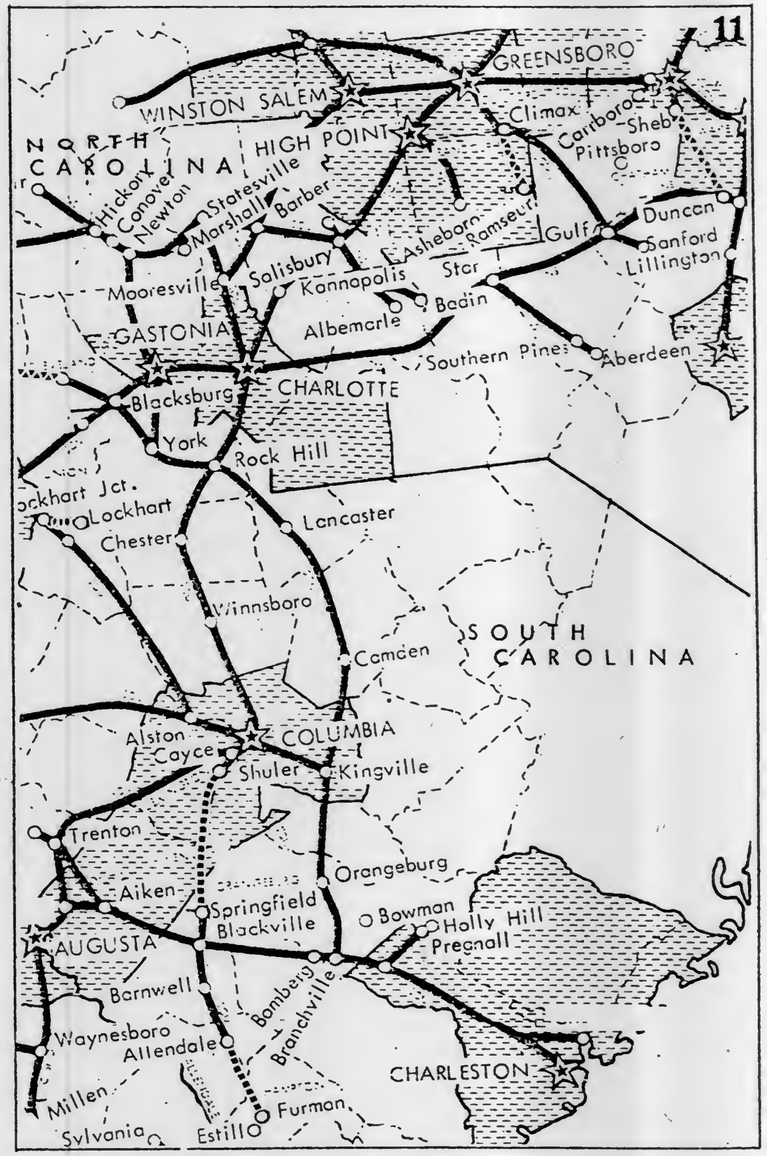
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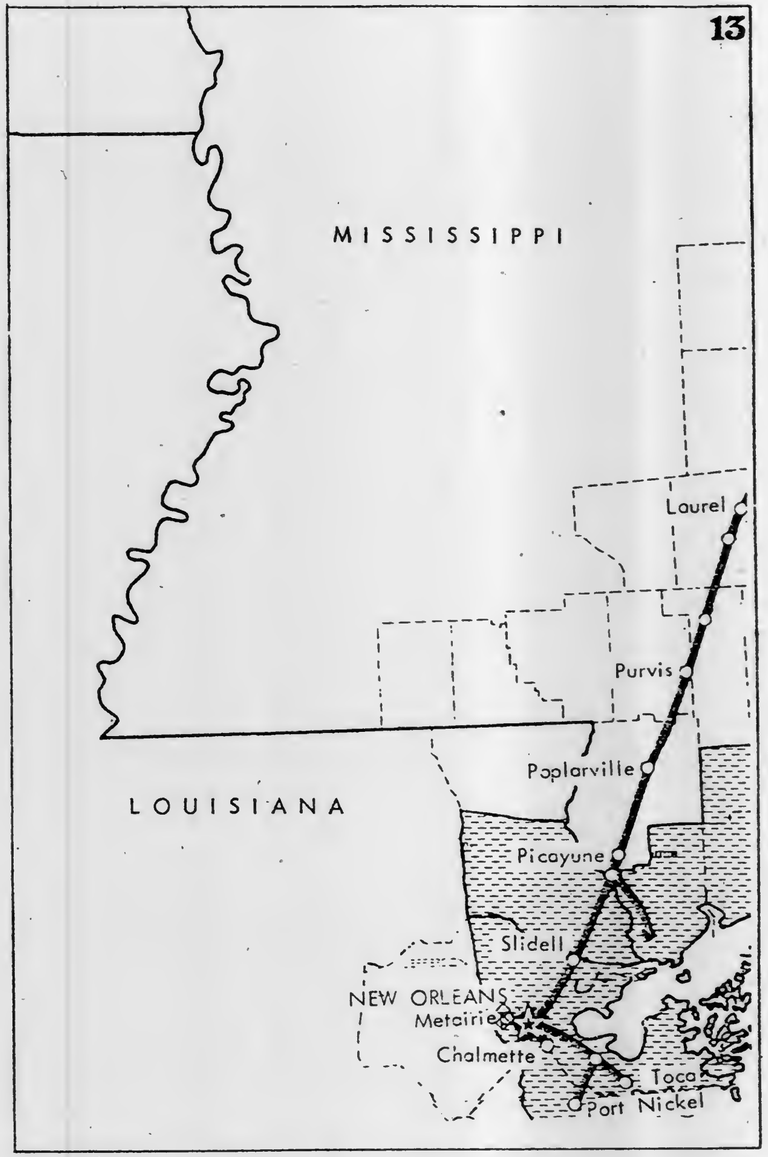
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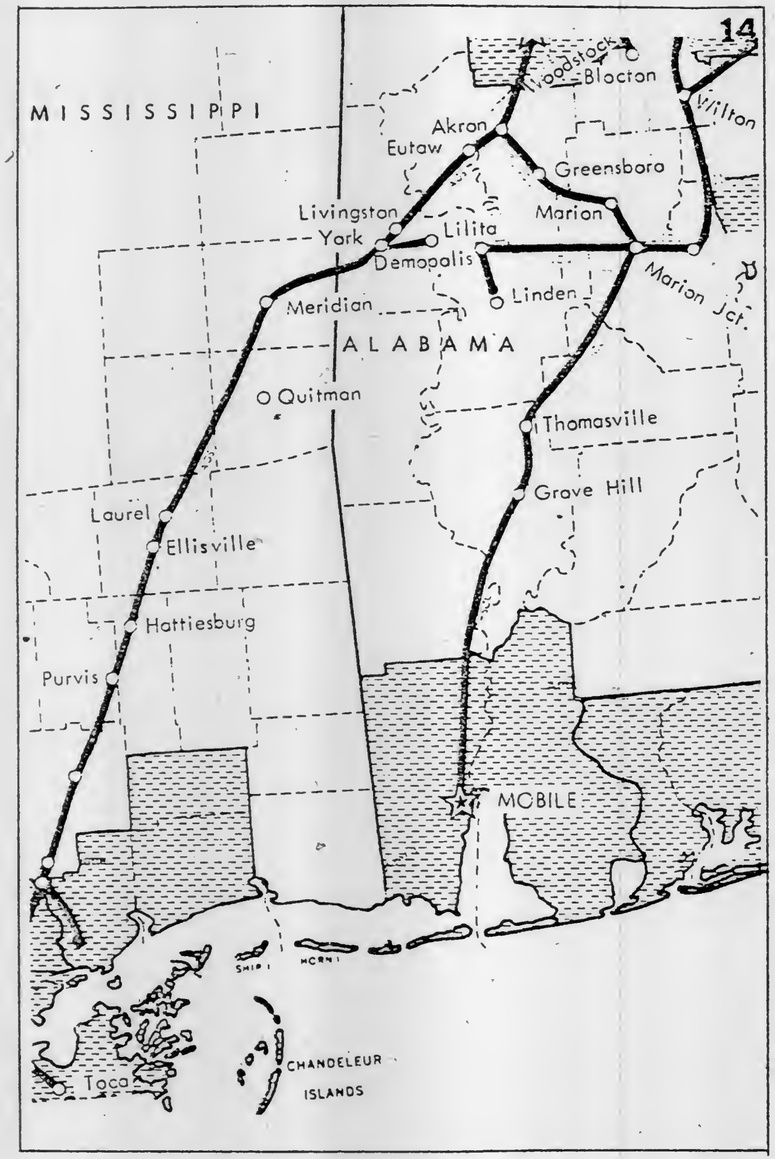


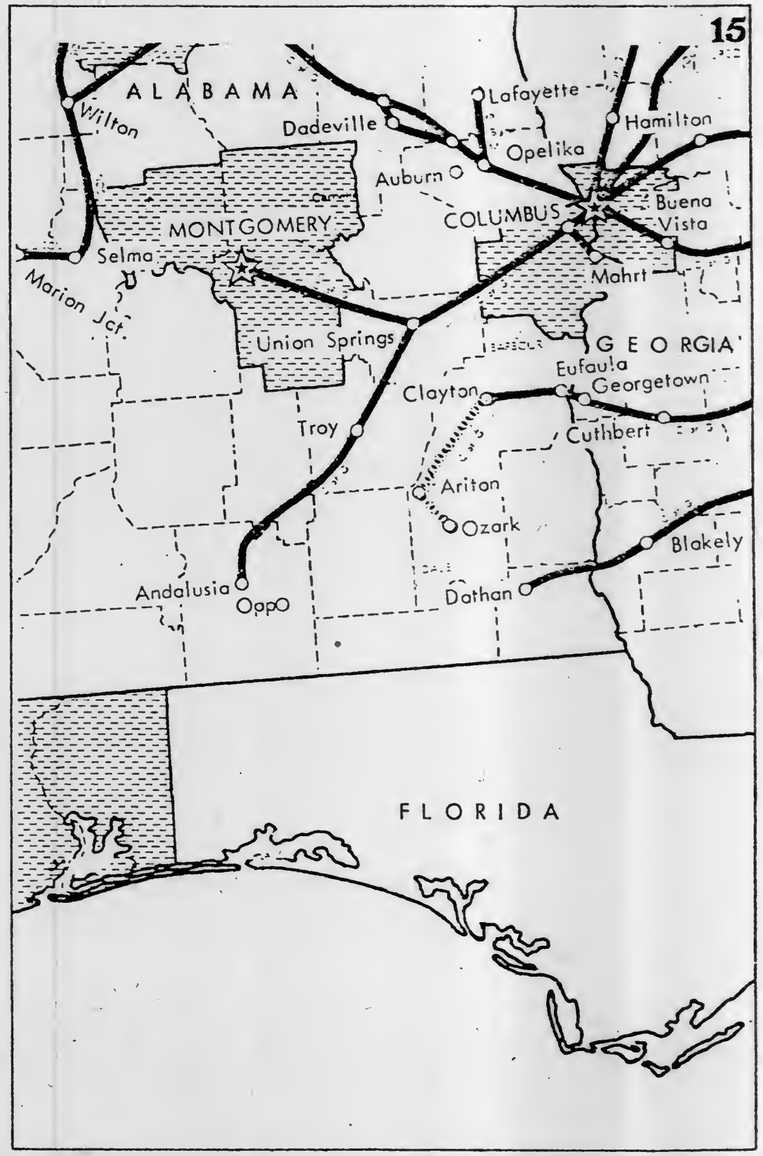
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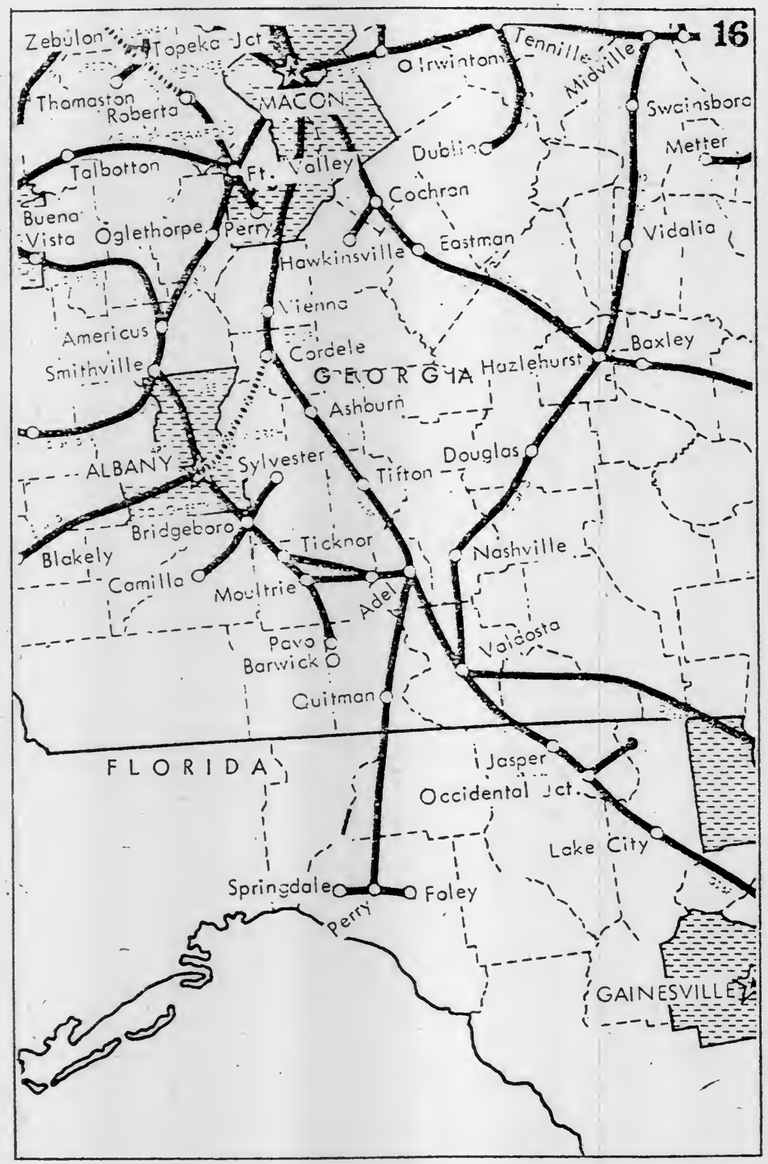


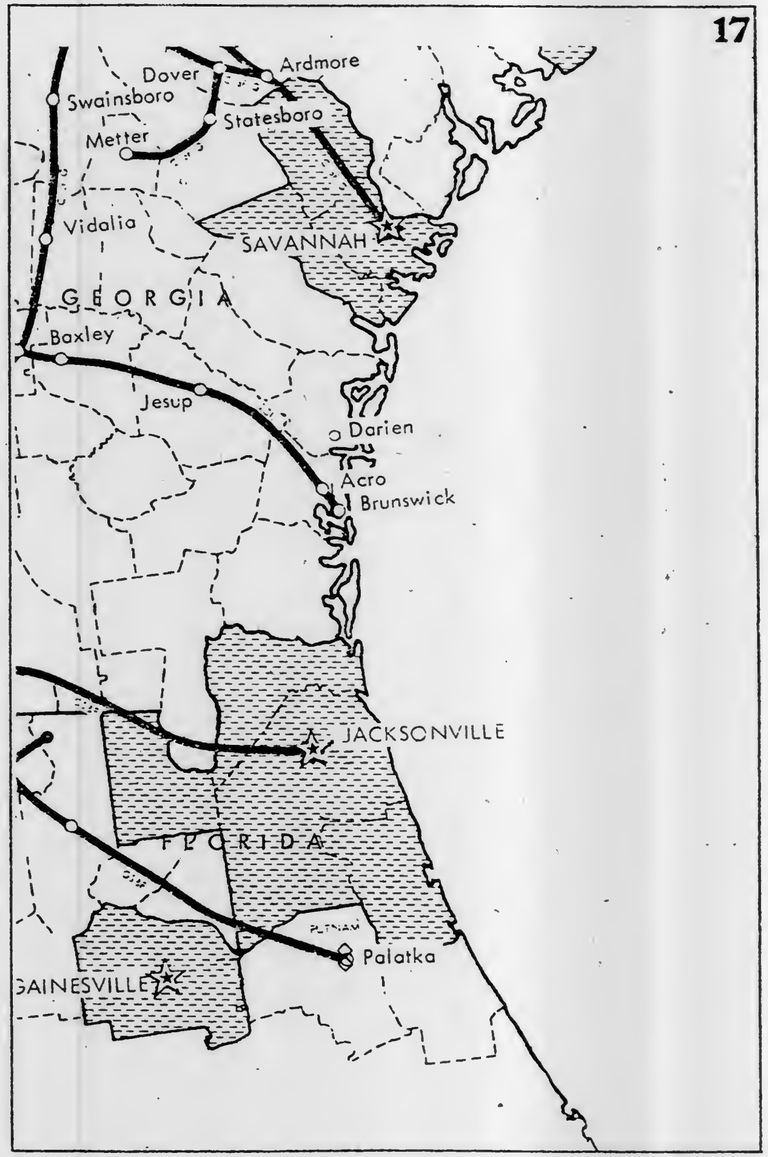
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SOUTHERN RAILWAY COMPANY AND CONSOLIDATED SUBSIDIARIES

LINE DESCRIPTIONS TO ACCOMPANY SYSTEM DIAGRAM MAP

APRIL 5, 1977.

Category No. 1—Lines likely to be the subject of an ICC abandonment or discontinuance application within three (3) years.

Allendale-Furman, S.C.

(a) Carrier's Designation—Southern Railway Company's Allendale-Furman line on former Columbia-Savannah Line, Piedmont Division.
(b) State—South Carolina.
(c) Counties—Allendale, Hampton.
(d) Mileposts—M.P. C–186.8 to M.P. C–211.0.
(e) Agency or Terminal Station—none on line; traffic on line received and forwarded through Blackville—M.P. C–161.2.

Brevard-Rosman, N.C.

(a) Carrier's Designation—Transylvania Railroad Company and Southern Railway Company's Rosman Branch, Carolina Division.
(b) State—North Carolina.
(c) County—Transylvania.
(d) Mileposts—M.P. TR–21.8 to M.P. TR–32.3.
(e) Agency or Terminal Stations—none on line; traffic on line received and forwarded through Brevard—M.P. TR–21.6.

Greenwood, S.C.

(a) Carrier's Designation—Southern Railway Company's Greenwood line on Columbia-Belton-Greenville Line, Piedmont Division.
(b) State—South Carolina.
(c) County—Greenwood.
(d) Mileposts—M.P. V–80 to M.P. V–89.
(e) Agency or Terminal Stations—Greenwood—M.P. 82.4.

Metarie, La.

(a) Carrier's Designation—New Orleans Terminal Company's Long Siding.
(b) State—Louisiana.
(c) County—Jefferson Parish.
(d) Mileposts—M.P. 0.85A to M.P. 1.80A.
(e) Agency or Terminal Stations—none on siding; traffic over siding received and forwarded through Oliver Yard—M.P. NO–195.6.

Palatka, Fla.

(a) Carrier's Designation—Georgia Southern and Florida Railway Company's Palatka stub end, Coastal Division.
(b) State—Florida.
(c) County—Putnam.
(d) Mileposts—M.P. 285–B minus 800' to M.P. 285–B plus 1600'.
(e) Agency or Terminal Stations—none on line; traffic over line would be received and forwarded through Palatka—M.P. GA 285.0.

Shuler-Springfield, S.C.

(a) Carrier's Designation—Southern Railway Company's Shuler-Springfield line on former Columbia-Savannah Line, Piedmont Division.
(b) State—South Carolina.
(c) Counties—Lexington, Aiken, Orangeburg.
(d) Mileposts—M.P. C–120.5 to M.P. C–150.2.
(e) Agency or Terminal Stations—none on line; traffic on line received and forwarded through Columbia—M.P. R–108.3 and Blackville—M.P. C–161.2.

Category No. 2—Lines which are under study and may be the subject of a future ICC abandonment or discontinuance application.

Bristol-Moccasin Gap, Va.

(a) Carrier's Designation—Virginia and Southwestern Railway Company and Southern Railway Company's Bristol-Moccasin Gap line on Bristol-St. Charles Line, Tennessee Division.
(b) State—Virginia.
(c) Counties—Washington, Scott.
(d) Mileposts—M.P. 69.9T to M.P. 39.9T.
(e) Agency or Terminal Stations—Bristol—M.P. 69.9T; Moccasin Gap—M.P. 39.9T.

Calverton-Warrenton, Va.

(a) Carrier's Designation—Southern Railway Company's Warrenton Branch, Eastern Division.
(b) State—Virginia.
(c) County—Fauquier.
(d) Mileposts—M.P. CW–0.0 to M.P. CW–8.9.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Culpeper—M.P. 67.4.

Climax-Ramseur, N.C.

(a) Carrier's Designation—Southern Railway Company's Ramseur Branch, Carolina Division.
(b) State—North Carolina.
(c) Counties—Guilford, Randolph.
(d) Mileposts—M.P. CR–0.0 to M.P. CR–18.7
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Liberty—M.P. CF–97.2.

Duncan-Sheb, N.C.

(a) Carrier's Designation—Norfolk Southern Railway Company's Durham Branch, Eastern Division.
(b) State—North Carolina.
(c) Counties—Wake, Chatham.
(d) Mileposts—M.P. DD–10.2 to M.P. DD–36.0.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Varina—M.P. VF–0.0 and Durham—M.P. DD–40.3.

Greenwood-Piedmont, S.C.

(a) Carrier's Designation—Southern Railway Company's Greenwood-Piedmont line on Columbia-Belton-Greenville Line, Piedmont Division.
(b) State—South Carolina.
(c) Counties—Greenwood, Abbeville, Anderson.
(d) Mileposts—M.P. V–85 to V–132.
(e) Agency or Terminal Stations—Greenwood—M.P. V–82.4.

Marion-West Shelby, N.C.

(a) Carrier's Designation—Southern Railway Company's Marion-West Shelby line on Camden-Marion Line, Carolina Division.
(b) State—North Carolina.
(c) Counties—McDowell, Rutherford, Cleveland.
(d) Mileposts—M.P. SB–205.5 to M.P. SB–153.5
(e) Agency or Terminal Stations—Spindale—M.P. SB–181.3; Marion—M.P. S–99.9.

McDonough-Griffin, Ga.

(a) Carrier's Designation—Southern Railway Company's McDonough-Griffin line on McDonough-Columbus Line, Georgia Division.
(b) State—Georgia.
(c) Counties—Henry, Spaulding.
(d) Mileposts—M.P. 3.0M to M.P. 15.0M.
(e) Agency or Terminal Stations—McDonough—M.P. 181.0H; Griffin (Spaulding Co.)—M.P. 18.5M.

Parrish-High Level, Ala.

(a) Carriers' Designation—Southern Railway Company's Ensley Southern Branch, Alabama Division.
(b) State—Alabama.
(c) County—Walker.
(d) Mileposts—M.P. 0.0ES to M.P. 6.4ES.
(e) Agency or Terminal Stations—Parrish—M.P. 839.5.

Category No. 3—Lines for which abandonment or discontinuance applications are pending before the ICC.

Albany-Cordele, Ga. (Docket No. AB–26 (Sub-No. 5))

(a) Carrier's Designation—The Georgia Northern Railway Company and Southern Railway Company's former Albany and Northern Railroad Line, Coastal Division.
(b) State—Georgia.
(c) Counties—Crisp, Worth, Lee, Dougherty.
(d) Mileposts—M.P. 1.6AN to M.P. 34.4AN.
(e) Agency or Terminal Stations—Cordele—M.P. 1.6AN; Albany—M.P. 34.4AN.

Albany Passenger Terminal Company (Docket No. AB–118)

(a) Carrier's Designation—Albany Passenger Terminal Company's entire line.
(b) State—Georgia.
(c) County—Dougherty.
(d) Mileposts—none—all in yard.
(e) Agency or Terminal Station—Albany Passenger Terminal Company, station—M.P. J–297.1.

Clayton-Ozark, Ala. (Docket No. AB–28 (Sub No. 1)

(a) Carrier's Designation—Central of Georgia Railroad Company's Clayton-Ozark line on Eufaula-Ozark Line, Alabama Division.
(b) State—Alabama.
(c) Counties—Barbour, Dale.
(d) Mileposts—M.P. L–355.1 to M.P. L–394.1.
(e) Agency or Terminal Stations—Clayton—M.P. L–355.1.

Diamond Springs—Shelton, Va. (Docket No. AB–125 (Sub No. 1))

(a) Carrier's Designation—Norfolk Southern Railway Company's Diamond Springs-Shelton line, Virginia Beach District—North Route.
(b) State—Virginia.
(c) County—City of Virginia Beach.
(d) Mileposts—M.P. 7.2SN to M.P. 8.6SN.
(e) Agency or Terminal Stations—none on line; traffic on line would be received and forwarded through Norfolk—M.P. 0.0SN.

Dickerson Spur—Bayboro, N.C. (Docket No. AB–125)

(a) Carrier's Designation—Norfolk Southern Railway Company's Bayboro Branch, Eastern Division.
(b) State—North Carolina.
(c) Counties—Craven, Pamlico.
(d) Mileposts—M.P. BB–3.0 to M.P. BB–17.0.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through New Bern, M.P. NB–31.1.

Dubois—French Lick—West Baden, Ind. (Docket No. AB–26 (Sub No. 10))

(a) Carrier's Designation—Southern Railway Company's Jasper-French Lick Branch, Western Division, and trackage rights over Louisville and Nashville Railroad Company.
(b) State—Indiana.
(c) Counties—Dubois, Orange.

(d) Mileposts—M.P. 63.0EB to M.P. 79.0EB; trackage rights—1 mile beyond M.P. 79.0EB.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Jasper—M.P. 53.8EB.

Lockhart—Lockhart Junction, S.C. (Docket No. AB–26 (Sub No. 7))

(a) Carrier's Designation—Southern Railway Company's Lockhart Branch, Piedmont Division.
(b) State—South Carolina.
(c) County—Union.
(d) Mileposts—M.P. LB–0.0 to M.P. LB–13.6.
(e) Agency or Terminal Stations—none on Branch; traffic on Branch received and forwarded through Union—M.P. W–95.7.

Williamson—Roberta, Ga. (Docket No. AB–26 (Sub No. 4))

(Docket No. AB–26 (Sub No. 4))
(a) Carrier's Designation—Southern Railway Company's Fort Valley Branch, Georgia Division.
(b) State—Georgia.
(c) Counties—Pike, Upson, Crawford, Monroe, Lamar.
(e) Agency or Terminal Stations—Zebulon—M.P. 51.0FV; Roberta—M.P. 86.0FV.

[FR Doc.77–12685 Filed 5–4–77;8:45 am]

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V 42 87 MAY 5 77 UMI

Vol.42—No.88
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PAGES
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federal register

FRIDAY, MAY 6, 1977

highlights

SUNSHINE ACT MEETINGS 23222

EXECUTIVE SCHEDULE
Executive order placing certain positions in levels IV and V 23127

PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD
Executive order abolishing Board 23129

COMBUSTOR'S PRIMARY ENERGY SOURCE
FEA revises regulations to allow for the prohibition of burning natural gas and petroleum products and to require coal burning of new combustors in the early planning process; effective 5-6-77 23132

PUBLIC SAFETY OFFICERS' BENEFITS
Justice/LEAA provides payments to certain survivors of State and local officers who have died of an injury sustained in the line of duty; effective 5-6-77 (Part II of this issue) 23251

CHILD NUTRITION PROGRAMS
USDA/FNS reapportions nonfood assistance funds among States requesting additional funds; effective 5-3-77 23155

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH
Labor/ETA announces allocation of funds to Indian and Native American prime sponsors for summer jobs 23214

OCEAN DUMPING
EPA considers relocating dumping sites for disposal of municipal sewage; comments by 6-17-77, hearing 5-31 and 6-1-77 23163

BEVERAGES IN GLASS AND PLASTIC CONTAINERS
HEW/FDA extends compliance date to 1-1-78 for certain label statements 23168

FOOD ADDITIVES
HEW/FDA approves use of 5 new synthetic flavoring substances (tomato) in food; effective 5-6-77; objections by 6-6-77 23148

CONTINUED INSIDE

88

V42I88 MAY 6 77

UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Airworthiness directive for Messerschmitt-Bolkow-Blohm helicopters..... 20617; 4–21–77

HEW/SSA—Federal health insurance for aged and disabled; criteria for determination of reasonable charges.... 18274; 4–6–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

TEBUTHIURON
HEW/FDA permits use in sugarcane syrup, molasses, and bagasse with certain tolerance limitations; effective 5–6–77 23148

LEAD-BASED PAINT
Interior/Secy incorporates new definition and reflect's HUD's responsibility for enforcing prohibitions against use 23150

FEDERAL ELECTIONS
FEC announces availability of advisory opinion request.. 23193

POLITICAL ACTIVITY BY GOVERNMENT EMPLOYEES
CSC proposes to allow Federal and District of Columbia employees to take an active part in D.C. partisan elections; comments by 6–6–77 23160

METRIC MEASUREMENTS
USDA/FSQS solicits comments by 9–5–77 on voluntary use 23182

GENERAL WAGE DETERMINATIONS
Labor/ESA publishes minimum wages for Federal and federall assisted construction; and index as of 4–1–77 (2 documents) (Part III of this issue)..... 23263, 23444

MEETINGS—
Commission of Fine Arts: 5–24–77..... 23191
FEA: Food Industry Advisory Committee, Financial Incentives Subcommittee, 5–26–77..... 23194
Independent Marketers of Refined Petroleum Products, Effects of Regulations on Business, 5–9–77 23195
HEW/OE: Community Education Advisory Council, 5–23 and 5–24–77..... 23179
Equality of Educational Opportunity, National Advisory Council, 5–28 and 5–29–77..... 23178
National Advisory Committee on The Handicapped, 6–8, 6–9, and 6–10–77..... 23178
NIH: Allergy and Immunology Research Committee, 6–13 and 6–14–77..... 23174
Allergy and Infectious Diseases, National Advisory Council, Allergy and Immunology Subcommittee, 5–24–77..... 23177
Cancer Institute, National; Contract Proposals and Grant Applications Review, Various Committees (2 documents)..... 23174, 23176
Research Grants Division, Study Sections for May and June, 1977..... 23176
Transplantation Immunology Committee, 6–20 and 6–21–77..... 23177
Vision Research Program Committee, 6–13 and 6–14–77 23177
Secy: Advisory Committee on National Health Insurance Issues, 5–20 and 5–21–77..... 23179
Justice: Director of the Federal Bureau of Investigation Selection Committee, 5–6, 5–7, 5–12 thru 5–14, 5–19 thru 5–21, and 5–26 thru 5–28–77..... 23212
NSF: Astronomy Advisory Panel, Radio Astronomy Subpanel, 5–23 and 5–24–77..... 23218
Psychoblology Advisory Panel, 5–25 thru 5–27–77.. 23218
Science Information Activities Task Force, Legislation and Regulation Committee, 5–6–77..... 23218

CANCELLED MEETING—
HEW/FDA: Dentifrices and Dental Care Agents Panel, 5–25 and 5–26–77..... 23167

CHANGED MEETINGS—
CRC: Minnesota Advisory Committee, 5–13–77..... 23186
DOD/Secy: Defense Intelligence Agency Scientific Advisory Committee, 5–31–77..... 23190
HEW/NIH: Allergy and Infectious Disease National Advisory Council, 5–25, 5–26, and 5–27–77..... 23177

HEARING—
ITC: Certain Headwear, 5–17 and 5–26–77..... 23212

SEPARATE PARTS OF THIS ISSUE
Part II, Justice/LEAA..... 23251
Part III, Labor/ESA..... 23263

V42I88 MAY 6 77 UMI

contents

THE PRESIDENT

Executive Orders

Executive Schedule; placement of certain positions in levels IV and V ... 23127
Foreign Intelligence Advisory Board, President's abolishment ... 23129

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Ariz. and Calif ... 23156
Nectarines grown in Calif ... 23156
Pears, plums, and peaches (fresh) grown in Calif ... 23157

Proposed Rules

Peaches (fresh) grown in Ga.; correction ... 23160

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Food and Nutrition Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Animal and poultry import restrictions:
Rinderpest and foot-and-mouth disease ... 23131

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1977; additions and deletions (2 documents) ... 23187

CIVIL AERONAUTICS BOARD

Rules

Accounts and reports for certificated air carriers; uniform system:
Form 41 revised; approval by Comptroller General ... 23146

Notices

Hearings, etc.:
Air New England, Inc ... 23184
5 Star Air Freight Corp ... 23185
Frontier Airlines, Inc ... 23185
Mackey certification proceeding, postponement ... 23185
Trans World Airlines, Inc ... 23186

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committees:
Minnesota, date change ... 23186

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Defense Department ... 23131
Pay administration:
Editorial changes ... 23131

Proposed Rules

Political activity of Federal employees; management and campaigning; exception of certain elections ... 23160

COMMERCE DEPARTMENT

See Economic Development Administration; National Oceanic and Atmospheric Administration.

COMMUNITY SERVICES ADMINISTRATION

Rules

Community Action Programs: Poverty guidelines; correction ... 23151

CONSUMER PRODUCT SAFETY COMMISSION

Notices

Architectural glazing materials; advisory opinion; correction ... 23188

CUSTOMS SERVICE

Rules

Liquidation of duties; countervailing duties:
Fasteners from Japan ... 23146

DEFENSE DEPARTMENT

Notices

Meetings:
Defense Intelligence Agency Scientific Advisory Committee ... 23190

DRUG ENFORCEMENT ADMINISTRATION

Notices

Schedules of controlled substances:
Alphaprodine, etc.; 1977 production quotas ... 23212

ECONOMIC DEVELOPMENT ADMINISTRATION

Rules

Financial assistance:
Physically handicapped; buildings designed, constructed, and altered to accommodate; CFR correction ... 23146

Notices

Import determination petitions:
Dawson Industries, Inc ... 23186
Rectilinear Research Corp ... 23186

EDUCATION OFFICE

Notices

Meetings:
Community Education Advisory Council ... 23179
Equality of Educational Opportunity National Advisory Council ... 23178
Handicapped National Advisory Committee ... 23178

EMERGENCY NATURAL GAS ACT OF 1977, ADMINISTRATOR

Notices

Emergency orders, etc.:
Columbia Gas Transmission Corp ... 23182
El Paso Natural Gas Co ... 23206
Texas Gas Transmission Corp ... 23182

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Comprehensive Employment and Training Act programs:
Youth, economically disadvantaged; summer program for; funds allocation ... 23214
Employment transfer and business competition determinations; financial assistance applications ... 23213

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Index to general wage determination decisions and modifications ... 23444
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decision ... 23264

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Air quality implementation plans: various States, etc.:
Ohio ... 23162
Ocean dumping; municipal sewage sludge dumping, relocation; hearing ... 23163

Notices

Environmental statements; availability, etc.:
Sooner Generating Station, Units 1 and 2, Noble and Pawnee Counties, Okla ... 23190
Pesticide chemicals; tolerances, exemptions, etc.; petitions:
Elanco Products Co ... 23190

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements; availability, etc ... 23188

FARMERS HOME ADMINISTRATION

Rules

Drought stricken areas; special assistance ... 23158

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

FM broadcast station; table of assignments:
Washington ... 23165

Notices

Domestic public radio services; applications accepted for filing ... 23191
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies ... 23193
Satellite communications services; applications accepted for filing ... 23193

FEDERAL ELECTION COMMISSION

Notices

Advisory opinion requests ... 23193

FEDERAL ENERGY ADMINISTRATION

Rules

Coal; energy supply and environmental coordination, implementation ... 23132

Notices

Environmental statements; availability, etc.:
Iowa Power and Light Co., Des Moines Generating Station, Powerplants ... 23194
Meetings:
Food Industry Advisory Committee, Financial Incentives Subcommittee ... 23194
Refined petroleum products, independent marketers ... 23195
Powerplants burning natural gas or petroleum products, prohibition orders:
Boston, Mass., hearing change ... 23194

FEDERAL MARITIME COMMISSION

Notices

Freight forwarder licenses:
Caribbean Moving & Storage, Inc ... 23195
Agreements filed, etc.:
American Export Lines, Inc., et al; clarification of comment date ... 23196
Atlantic & Gulf Stevedores, Inc ... 23196
Galveston Wharves Board of Trustees, et al.; correction ... 23196
Modification of order and investigation and hearing ... 23195

FEDERAL POWER COMMISSION

Proposed Rules

Electric utilities:
Application procedures ... 23160

Notices

Natural gas companies:
Annual report of proved domestic gas reserves, confidentiality ... 23199
Hearings, etc.:
Arkansas Power & Light Co ... 23196
Cabot Corp., et al ... 23198
Central Vermont Public Service Corp ... 23199
Consumers Power Co ... 23199
El Paso Eastern Co., et al ... 23200
Iowa-Illinois Gas & Electric Co ... 23200
Minnesota Power & Light Co ... 23200
Mountain Fuel Supply Co ... 23200
Northern Natural Gas Co. (2 documents) ... 23201, 23202
Northwestern Public Service Co ... 23203
Puget Sound Power & Light Co ... 23204
Stingray Pipeline Co ... 23204
Tennessee Gas Pipeline Co., et al ... 23204
Transcontinental Gas Pipe Line Co ... 23205
Transcontinental Gas Pipe Line Corp ... 23205
White Current Corp ... 23206

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
American Bankcorp, Inc ... 23206
Banbogota, Inc., et al ... 23207
Berbanc, Inc ... 23207
Berco, Inc ... 23207
Brogan Bankshares, Inc ... 23207
Panhandle Aviation, Inc ... 23207
Western Michigan Corp ... 23207

FINE ARTS COMMISSION

Notices

Meetings ... 23191

FISH AND WILDLIFE SERVICE

Rules

Public access, entry, use, and recreation:
Back Bay National Wildlife Refuge, Va ... 23151

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Antibiotic drugs; certification and methods of assay ... 23149
Medicated blocks; extension of time ... 23149
Food additives:
Synthetic flavoring substances (tomato) ... 23148
Pesticide tolerances in food; animal drugs, feeds, and related products:
Tebuthiuron ... 23148

Proposed Rules

Human drugs:
Radioactive drugs for research ... 23161

Notices

Animal drugs:
Clinical trials; reporting guideline; availability ... 23167
Beverages in glass and plastic containers; extension of time ... 23168
Biological products:
Limulus amebocyte lysate; laboratory procedures guideline; availability ... 23167
Committees; establishment, renewals, etc.:
Bacterial Vaccines and Toxoids Review Panel ... 23168
Hemorrhoidal Drugs Review Panel ... 23168
Opthalmic Drugs Review Panel ... 23168
Viral Vaccines and Rickettsial Vaccines Review Panel ... 23168
Food additives; petitions filed or withdrawn:
Dow Chemical U.S.A ... 23170
General Foods Corp ... 23170
Kay Chemical Co ... 23170
Yoshitomi Phamaceutical Industries, Ltd ... 23174
Human drugs:
Phenformin hydrochloride; approval withdrawn ... 23170
Meetings:
Dentifrices and Dental Care Agents Panel ... 23167
Radiological health:
X-ray systems, diagnostic and dental panoramic; performance standard variance ... 23169

FOOD AND NUTRITION SERVICE

Rules

Child nutrition; nonfood assistance programs:
Funds, second apportionment for 1977 FY ... 23155
Information, availability:
Address changes ... 23155

FOOD SAFETY AND QUALITY SERVICE

Notices

Metric measurements; use of; inquiry ... 23182

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Idaho Panhandle National Forest, Lamb-Upper West Branch Planning Unit, Idaho ... 23183

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc ... 23208

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; National Institute of Education; National Institutes of Health.

Notices

Information collection and data acquisition activity, description; inquiry ... 23180
Meetings:
National Health Insurance Issues Advisory Committee ... 23179
Organization, functions, and authority delegations:
Health, Assistant Secretary for, et al ... 23179

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Interstate Land Sales Registration Office.

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau.

Rules

Property management; lead-based paint, definition ... 23150

V4288 MAY 6 77 UMI

CONTENTS

INTERNAL REVENUE SERVICE

Notices

Employee benefit plans:
Prohibitions on transactions; exemption proceedings, applications, hearings, etc. 23217, 23220

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Headwear; hearing 23212

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 23221
Hearing assignments 23221
Motor carriers:
Transfer proceedings; correction 23221

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
Alpine Lake 23209
Aspen Hills 23209
Wilderness Streams 23209

JUSTICE DEPARTMENT

See also Drug Enforcement Administration; Employment Standards Administration; Law Enforcement Assistance Administration.

Notices

Meetings:
FBI Director, Selection Committee 23212

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Pension and Welfare Benefit Programs Office.

Notices

Adjustment assistance:
Barrymaid Mills, et al 23215
Excelsior Cloak & Suit Corp. et al 23216
Walter, Jim, Resources, Inc 23217

LAND MANAGEMENT BUREAU

Notices

Withdrawal and reservation of lands, proposed, etc.:
Alaska (2 documents) 23210
Idaho (2 documents) 23211

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Rules

Public safety officers' death benefits 23252

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; lists of requests 23218

NATIONAL INSTITUTE OF EDUCATION

Notices

Research and development utilization program; background information available on microfiche 23178

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Allergy and Immunology Research Committee 23174
Allergy and Infectious Diseases National Advisory Council; Allergy and Immunology Subcommittee 23177
Cancer Institute, National; advisory committees; review of contract proposals and grant applications (2 documents) 23174, 23176
Research Grants Division; study sections 23176
Transplantation Immunology Committee 23177
Vision Research Program Committee 23177

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Marine mammal permit applications, etc.:
Overton Park Zoo 23187

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Astronomy Advisory Panel, Radio Astronomy Subpanel 23218
Psychobiology Advisory Panel 23218
Science Information Activities Task Force, Legislation and Regulatory Committee 23218

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE

Notices

Employee benefit plans:
Prohibitions on transactions; exemption proceedings, applications, hearings, etc. (2 documents) 23217, 23220

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed:
Colorado-Ute Electric Association, Inc 23183
Pacific Northwest Generating Co 23184

SCIENCE AND TECHNOLOGY POLICY OFFICE

Notices

Committees; establishment, renewals, etc.:
Basic Research in Mission Agencies Steering Committee 23219

SMALL BUSINESS ADMINISTRATION

Notices

Disaster areas:
Alabama 23219
Georgia 23220
Idaho 23220
Tennessee 23220
Virginia 23220

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) 23129
11861 (Amended by EO 11983) 23127
11872 (Revoked by EO 11983) 23127
11983 23127
11984 23129

5 CFR

213 23131
550 23131

PROPOSED RULES:
733 23160

7 CFR

230 23155
295 23155
910 23156
916 23156
917 23157
1888 23158

PROPOSED RULES:
918 23160

9 CFR

94 23131

10 CFR

303 23134
305 23140
307 23142
309 23144

13 CFR

309 23146

14 CFR

241 23146

18 CFR

PROPOSED RULES:
1 23160
3 23160
4 23160
5 23160
6 23160
16 23160

19 CFR

159 23146

21 CFR

172 23148
193 23148
510 23149

21 CFR—Continued

540 23149
561 23148

PROPOSED RULES:
361 23161

28 CFR

32 23252

40 CFR

PROPOSED RULES:
52 23162
228 23163

41 CFR

114-25 23150

45 CFR

1060 23151

47 CFR

PROPOSED RULES:
73 23165

50 CFR

26 23151

V42I88 MAY 6 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR
Ch. I ... 22125

3 CFR
EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) ... 23129
11861 (Amended by EO 11983) ... 23127
11872 (Revoked by EO 11983) ... 23127
11971 (Amended by EO 11982) ... 22859
11982 ... 22859
11983 ... 23127
11984 ... 23129

5 CFR
213 ... 22355, 22356, 23131
550 ... 23131
PROPOSED RULES:
733 ... 23160

7 CFR
6 ... 22874
52 ... 22356
230 ... 23155
271 ... 22356
295 ... 23155
701 ... 22358
907 ... 22874
910 ... 22359, 23156
916 ... 23156
917 ... 22875, 23157
959 ... 22125
1068 ... 22360
1421 ... 22126
1430 ... 22126
1888 ...
PROPOSED RULES:
918 ... 23160

8 CFR
PROPOSED RULES:
103 ... 22148
244 ... 22148
299 ... 22149

9 CFR
78 ... 22370
94 ... 23131
301 ... 22373
307 ... 22373
308 ... 22373
310 ... 22373
318 ... 22373
320 ... 22373
325 ... 22373
327 ... 22373
331 ... 22373
350 ... 22373
354 ... 22373
355 ... 22373
362 ... 22373
381 ... 22373
390 ... 22373
391 ... 22373
PROPOSED RULES:
1 ... 22374
2 ... 22374
3 ... 22374

10 CFR
2 ... 22128, 22882
50 ... 22882

10 CFR—Continued
212 ... 22131, 22881
303 ... 23134
305 ... 23140
307 ... 23142
309 ... 23144
PROPOSED RULES:
2 ... 22168
170 ... 22149
211 ... 22889
212 ... 22374, 22889

12 CFR
202 ... 22861
220 ... 22862
226 ... 22360
329 ... 22362
PROPOSED RULES:
220 ... 22894
225 ... 22560
329 ... 22378

13 CFR
309 ... 23146
500 ... 22135
520 ... 22135
551 ... 22135
552 ... 22136
553 ... 22137
554 ... 22137
555 ... 22137
560 ... 22137

14 CFR
39 ... 22137, 22862, 22863
71 ... 22138
91 ... 22139
97 ... 22863
241 ... 23146
PROPOSED RULES:
39 ... 22172, 22896
71 ... 22172, 22173
152 ... 22896

15 CFR
50 ... 22362

16 CFR
13 ... 22876
1014 ... 22878
1202 ... 22656
1500 ... 22878
PROPOSED RULES:
2 ... 22897
1205 ... 23052

17 CFR
231 ... 22139
239 ... 22139

18 CFR
1000 ... 22146
PROPOSED RULES:
1 ... 23160
3 ... 23160
4 ... 23160
5 ... 23160

18 CFR—Continued
PROPOSED RULES—Continued
6 ... 23160
16 ... 23160
35 ... 22897

19 CFR
159 ... 23146

20 CFR
200 ... 22865
PROPOSED RULES:
655 ... 22378

21 CFR
172 ... 23148
193 ... 23148
510 ... 23149
540 ... 23149
561 ... 22363, 23148
PROPOSED RULES:
361 ... 23161

23 CFR
PROPOSED RULES:
640 ... 22173
642 ... 22173

24 CFR
235 ... 22557
888 ... 22363
1914 ... 22865–22867
PROPOSED RULES:
803 ... 22704
888 ... 22704
1932 ... 22900

25 CFR
219 ... 22141
PROPOSED RULES:
221 ... 22902

26 CFR
301 ... 22143

27 CFR
178 ... 22144
181 ... 22144

28 CFR
0 ... 22557
32 ... 23252

29 CFR
9 ... 22364
40 ... 22364
1910 ... 22516

31 CFR
PROPOSED RULES:
215 ... 22174

33 CFR
25 ... 22879

36 CFR
7 ... 22557

37 CFR
PROPOSED RULES:
4 ... 22378

38 CFR
3 ... 22868

39 CFR
PROPOSED RULES:
111 ... 22176

40 CFR
33 ... 22144
52 ... 22869
180 ... 22364
228 ... 22144
435 ... 22558
PROPOSED RULES:
51 ... 22177
52 ... 22902, 23162
60 ... 22506
228 ... 23163
250 ... 22332
435 ... 22560

41 CFR
15–3 ... 22145
101–25 ... 22558
114–25 ... 23150

43 CFR
PUBLIC LAND ORDERS:
5617 ... 22365

45 CFR
4 ... 22145
84 ... 22676, 22888
1060 ... 23151
1067 ... 22365
1068 ... 22145
PROPOSED RULES:
166 ... 22336

46 CFR
148 ... 22145
PROPOSED RULES:
10 ... 22903
12 ... 22903
50 ... 22296
54 ... 22296
56 ... 22296
58 ... 22296
61 ... 22296
107 ... 22296
108 ... 22296
109 ... 22296
151 ... 22903
502 ... 22383

47 CFR
73 ... 22558
74 ... 22558
81 ... 22869–22872
83 ... 22869–22872
PROPOSED RULES:
73 ... 22183, 22569, 23165

49 CFR
1 ... 22366
172 ... 22366, 22880
175 ... 22366, 22880
1033 ... 22367, 22368, 22880
1041 ... 22369
1320 ... 22369
1322 ... 22369
PROPOSED RULES:
Ch. II ... 22184

50 CFR
26 ... 23151
33 ... 22874
611 ... 22559
PROPOSED RULES:
32 ... 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date
22125–22354	May 2
22355–22556	3
22557–22858	4
22859–23125	5
23127–23497	6

V42I88 MAY 6 77 UMI

presidential documents

Title 3—The President

Executive Order 11983 • **May 4, 1977**

Relating to Certain Positions in Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by Section 5317 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11861, as amended, placing certain positions in level IV of the Executive Schedule, is further amended as follows:

(a) By deleting "Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare." in subsection (1) and inserting in lieu thereof "Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare.".

(b) By deleting "(11) Special Prosecutor, Department of Justice." and "(14) Executive Vice President, Export-Import Bank.".

(c) By revising subsection (15) to read "(15) Director, Office of Congressional and Public Affairs, Department of Agriculture.".

SEC. 2. Executive Order No. 11872 of July 21, 1975, which placed the position of Executive Vice President, Export-Import Bank, in level IV of the Executive Schedule, is hereby revoked.

Jimmy Carter

THE WHITE HOUSE,
May 4, 1977.

[FR Doc.77-13193 Filed 5-4-77;5:13 pm]

V 42 88 MAY 6 77 UMI

Executive Order 11984 • May 4, 1977

Abolishing the President's Foreign Intelligence Advisory Board

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to abolish the President's Foreign Intelligence Advisory Board, Executive Order No. 11460 of March 20, 1969, is hereby revoked.

Jimmy Carter

THE WHITE HOUSE,
May 4, 1977.

[FR Doc.77-13200 Filed 5-5-77;11:30 am]

V42|88 MAY 6 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary of Defense (Comptroller) because of the confidential nature of the position.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3306(a)(83) is amended to read as follows:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(83) One Special Assistant to the Assistant Secretary of Defense (Comptroller).

• • • • • •

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–13025 Filed 5–5–77;8:45 am]

PART 550—PAY ADMINISTRATION (GENERAL)

Addition of Reference

AGENCY: Civil Service Commission.

ACTION: Editorial amendment.

SUMMARY: This amendment adds cross references to a section in the Civil Service Commission regulations on Pay Administration (General) pertaining to allotment for dues by employees to foreign affairs agency organizations and professional or other associations. These cross references should have been added when other related sections of the regulations on Pay Administration (General) were published in the FEDERAL REGISTER.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Nathaniel L. Brown, Bureau of Policies and Standards, (Room 3508), Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415, 202–632–6077.

Accordingly 5 CFR 550.371(b)(3) is amended to read as follows:

§ 550.371 Scope.

• • • • • •

(b) • • •

(3) Payment of dues to civic, fraternal, or other organizations except as authorized by §§ 550.321, 550.331, 550.341, and 550.381.

(5 U.S.C. 5527, E.O. 10982; 3 CFR, 1959–1963 Comp., p. 502)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–13026 Filed 5–5–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA; PROHIBITED AND RESTRICTED IMPORTATIONS

Channel Islands Declared To Be Free of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, (USDA).

ACTION: Final Rule.

SUMMARY: The purpose of these amendments is to add the Channel Islands to the list of countries declared to be free of rinderpest and foot-and-mouth disease in § 94.1(a)(2) and to the list of specified countries in § 94.11(a) which are declared to be free of rinderpest and foot-and-mouth disease in § 94.1(a)(2) but which may export meat and animal products into the United States under restrictions only. This action is being taken because data furnished to the Department establishes that the Channel Islands qualifies for such status as to rinderpest and foot-and-mouth disease.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Maryland 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: Veterinary Services has reviewed all the pertinent information and documents submitted by the authorities of the Channel Islands in support of their position that the Channel Islands is free of both rinderpest and foot-and-mouth disease and has concluded that the Channel Islands qualifies for listing as a country declared to be free of rinderpest and foot-and-mouth disease in § 94.1(a)(2) of the regulations (9 CFR 94.1(a)(2)). Accordingly, the regulations are being amended to add the Channel Islands to the list of countries, appearing in § 94.1(a)(2) of the regulations, which are declared to be free of both rinderpest and foot-and-mouth disease.

However, because the Channel Islands supplements its meat supply by importing fresh, chilled or frozen meats from countries affected with rinderpest or foot-and-mouth disease, meat and animal products from the Channel Islands may be imported into the United States only under restrictions specified in the regulations (9 CFR 94.11). Therefore, the regulations are also being amended to add the Channel Islands to the list of countries, appearing in § 94.11(a) of the regulations, from which importations are restricted.

Accordingly, Part 94, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 94.1 [Amended]

1. § 94.1(a)(2) is amended by adding thereto the name of the country of the "Channel Islands" before the reference to "Finland".

§ 94.11 [Amended]

2. § 94.11(a) is amended by adding thereto the name of the country of the "Channel Islands" before the reference to "Finland".

(Sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); 37 FR 28464, 28477; 38 FR 19141.)

Insofar as the amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of rinderpest and foot-and-mouth disease, it must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

V42I88 MAY 6 77 UMI

Done at Washington, D.C. this 29th day of April 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-12883 Filed 5-5-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Notice of Rulemaking

AGENCY: Federal Energy Administration.

ACTION: Final regulations.

SUMMARY: Due to the amendment of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.) by the Energy Policy and Conservation Act (Pub. L. 94-163) FEA has revised its regulations. Under the revised regulations FEA may prohibit the burning of natural gas and petroleum products as a combustor's primary energy source. FEA may also require that new combustors in the early planning process be designed and constructed to be capable of burning coal as their primary energy source. FEA may issue prohibition and construction orders to powerplants and major fuel burning installations. The effect of these regulations will be to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent to the fullest extent practicable with existing national commitments to protect and improve the environment.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph Vanzant, Office of General Counsel, Federal Energy Administration, Room 6144, Washington, D.C. 20461, 202-566-9296.

SUPPLEMENTARY INFORMATION: These final regulations make effective proposed amendments to Chapter II, Subchapter B of Title 10 of the Code of Federal Regulations Parts 303, 305, 307 and 309 published in the FEDERAL REGISTER on March 21, 1977 (42 F.R. 15320). The amendments reflect primarily the modification of section 2 of the Energy Supply and Environmental Coordination Act of 1974 ("ESECA") (15 U.S.C. 791 et seq.) effected by section 101 of the Energy Policy and Conservation Act ("EPCA") (Pub. L. 94-163). The March 21 notice provided a period in which written comments would be received and also provided for a public hearing which was held on April 13, 1977. In addition to one speaker at the public hearing, comments were received from 13 interested persons. The major comments are discussed below.

DISCUSSION OF MAJOR COMMENTS

THERE SHOULD BE A TIME LIMIT IMPOSED BY FEA ON ITS INTERNAL PROCEDURES

FEA received a large number of comments directed toward uncertainty created by FEA's procedures. Specifically, respondents noted that planning and construction schedules can be severely affected if an MFBI remains subject to FEA consideration for an indefinite length of time. FEA agrees that certain time limitations would be of benefit to potential recipients of construction orders.

Therefore FEA will include the following schedule in § 307.6:

(1) FEA will notify an MFBI within 30 days after FEA receives properly filled out Schedules A-1 and A-2 whether a Schedule A-3 must also be submitted.

(2) FEA will notify an MFBI within 60 days of receipt of a properly filled out Schedule A-3 whether an NOI will be issued.

THE PROPOSED DEFINITION OF EARLY PLANNING PROCESS SHOULD BE CHANGED

FEA received several suggested alternative definitions of early planning process for MFBI's. The point at which the early planning process commences was generally accepted as reasonable. The termination point, however, was described as being too late and as unclear. The proposed termination point was originally chosen by FEA as reflecting the conceptual point beyond which Congress did not intend FEA to issue construction orders. The diverse termination points suggested by the respondents exemplified the difficulty FEA confronted in trying to reduce this conceptual point to a single planning or construction event applicable to all MFBI's. Therefore FEA intends to adopt its proposed definition in order to maintain its flexibility to evaluate the facts of each case in deciding whether an installation is within the early planning process. Any planning uncertainties occasioned by this definition should be ameliorated by the time limitations adopted in § 307.6.

THE PROPOSED DEFINITION OF MAJOR FUEL BURNING INSTALLATION SHOULD BE CHANGED

Several respondents suggested exempting from the definition of major fuel burning installation those units engaged in oil or gas production field operations, especially those steam boilers utilized in enhanced oil recovery. Since it was not clear from the comments whether coal use in all boilers involved in field operations is infeasible, the FEA will continue to require the filing of Schedules A-1 and A-2 for such units in order to permit the FEA to evaluate the facts for each planned combustor.

Respondents also suggested that 100 million Btu's/hour (50 million Btu's/hour in some instances) was too small a unit to consider installing coal firing capability. The FEA believes that 100 million Btu's/hour is an appropriate "floor" to retain at this time. Moreover, FEA believes aggregation of units in order to reach this "floor" is a reasonable approach to FEA's implementation of ESECA. Other suggested size limitations such as that size for which the stockpiling of coal is cost effective are too subjective to be of value as a general definition by which MFBI's may identify themselves.

THE PROPOSED MAJOR FUEL BURNING INSTALLATION REPORTING REQUIREMENT SHOULD BE RESTRICTED

One respondent suggested including the exceptions for combined cycle units and combustion gas turbines found under the reporting requirement for powerplants in the reporting requirement for MFBI's. The FEA will add these exceptions to § 307.6(b)(1)(i).

Another respondent suggested restricting the reporting requirement for MFBI's to exclude those installations which are exempted from consideration as order recipients, for example those MFBI's using natural gas or petroleum products in a process for which no alternative fuel exists. The determination of process fuel use will be made by FEA based on the facts and data presented to it. Therefore MFBI's must submit pertinent data to FEA to permit its full consideration of the facts.

THE DEFINITION OF PROCESS FUEL USE SHOULD BE EXPANDED

One respondent suggested expanding the definition of process fuel use to include process furnaces. To the extent process furnaces must burn natural gas or petroleum products, these units have already been considered by the FEA in its proposed amendment of the definition of primary energy source. If the fuels used in the furnace do not qualify under the current definition of process fuel use, these furnaces should remain potential candidates for the issuance of an order.

APPEAL ON THE GROUNDS OF SIGNIFICANTLY CHANGED CIRCUMSTANCES APPEARS TO BE PROHIBITED

The Public Service Commission of the State of New York contends that §§ 303.106 and 303.138 act to prevent an appeal of a prohibition order on the grounds of significantly changed circumstances. The regulations are designed so that if an order recipient wishes to allege that circumstances have significantly changed since the issuance of the order, he may do so only by filing an application for modification or rescission of that order. If this application is denied or the FEA does not either grant or deny the application within 150 days, the applicant may appeal that denial. In effect, the appeal of a denial of an application for modification or rescission seeks reconsideration of the FEA's denial. Denial of an appeal, of course, constitutes exhaustion of FEA's administrative remedies and the applicant may take his case to the courts. Therefore it is inappropriate to say that FEA does not allow an appeal by an order recipient alleging significantly changed circumstances.

TIME PERIODS SHOULD BE ESTABLISHED FOR PUBLIC COMMENT PERIODS

One respondent suggested that §§ 305.5 and 305.8 be amended to reflect a 10-day period within which comments should be submitted to the FEA regarding notices of intention to issue prohibition orders. The FEA has provided a minimum 10-day comment period for public comment on the proposed issuance of prohibition orders and construction orders in Part 303 pursuant to the spirit of the requirement of section 7(i)(1)(B) of the Federal Energy Administration Act, as amended, 15 U.S.C. 761 et seq. This minimum comment period will be added to the appropriate sections of Parts 305 and 307. The FEA may extend such comment periods beyond the minimum 10 days whenever FEA considers it reasonable to do so.

MODIFICATION OR RESCISSION OF ORDERS ABSENT SIGNIFICANTLY CHANGED CIRCUMSTANCES

The Gulf Refining and Marketing Company stated that once a construction order is issued, absent significantly changed circumstances the FEA should not be able to modify the order without the order recipient's agreement. A person aggrieved by an action of the FEA under Part 303, Subpart J may appeal the action under Subpart H. If an order recipient feels aggrieved by an FEA decision to modify or rescind a prohibition or construction order, the order recipient may appeal FEA's decision. Therefore there is no need to make the modification or rescission of a prohibition or construction order contingent upon the concurrence of the order recipient.

AGENCY PROCEDURE FOR CONSIDERING POTENTIAL ENVIRONMENTAL IMPACTS IS INADEQUATE

The New England Electric System Companies (NEES) contend that the FEA's procedures to assure compliance with the National Environmental Policy Act (NEPA) are inadequate. The Council on Environmental Quality (CEQ) Guidelines, 40 CFR Part 1500, require each agency to interpret the provisions of NEPA as a supplement to its statutory authority. Consonant with this requirement, FEA established procedures to implement NEPA in its initial regulations, published in May of 1975. With the exception of a minor technical correction for the sake of internal consistency, these procedures will not change in the current amendments.

In April of 1975, FEA published its first programmatic environmental impact statement covering the potential exercise of FEA's authority to issue prohibition and construction orders to powerplants, and prohibition orders to major fuel burning installations (MFBI's) under the authority of the Energy Supply and Environmental Coordination Act (ESECA).

The FEA has also published a draft revised programmatic environmental impact statement, covering the extended and expanded order-issuing authority granted FEA under the Energy Policy and Conservation Act (EPCA). In addition to the programmatic environmental impact statements, FEA also performs a site specific environmental analysis on each potential recipient of a Notice of Effectiveness.

The implementation of the ordering authority granted to FEA under ESECA and EPCA takes the form of a three stage process. This process commences with the issuance of a Notice of Intention to issue an order and culminates in the agency determination to issue a Notice of Effectiveness. The issuance of the Notice of Effectiveness constitutes the major federal action under NEPA.

The issuance of the Notice of Intention (NOI) is part of the FEA's information gathering process. In its request for comments concerning the NOI, FEA specifically requests information which is utilized in preparing an environmental analysis specific to the combustor referenced in the NOI. The site specific environmental analysis, which will be used by FEA to supplement the programmatic environmental impact statement with views and data peculiar to each potential candidate, begins at this fact gathering phase of FEA's order issuing process, well before the ultimate agency determination to make its orders effective. The period following the receipt of comments on the NOI therefore produces two integrated streams of ongoing analysis, environmental and technical, which later form the basis for FEA's order and subsequent Notice of Effectiveness.

The second phase of the process, building on this initial fact gathering, may result in the issuance of an order. In the case of a prohibition order, FEA refers the order to the Environmental Protection Agency for consideration in accordance with section 119 of the Clean Air Act. In addition, FEA's site specific environmental analysis culminates in the preparation of an environmental impact statement or a negative determination of environmental impact, as each situation warrants.

Only after completion of both the environmental and technical analyses, required by NEPA and FEA's statute, does FEA determine whether a Notice of Effectiveness should be issued and whether the associated environmental impacts should be incurred.

EXPANSION OF CONSIDERATION OF LOSS OF REVENUE IN CONSTRUCTION ORDERS

Several respondents have maintained that loss of revenue resulting from delay associated with issuing a construction order should be considered as a separate item prior to the issuance of a construction order. These respondents contend that in certain cases loss of revenue because of delay could result in significant financial detriment. FEA notes it is not required by statute to consider loss of revenue in FEA's analysis, but that the agency has determined to perform a limited inquiry to the extent such losses are subject to a convincing evidentiary basis. Loss of revenue in the case of MFBI's generally will be considered as part of the recovery of capital analysis in terms of increased or additional costs incurred for goods or services, including power, which must be purchased by an MFBI to replace those goods or services which the MFBI would have produced for itself but for the delay caused by a construction order.

DISCUSSION OF MISCELLANEOUS COMMENTS

FEA does not agree that the proposed regulations would be improved as suggested by some respondents and has rejected the following suggestions:

(1) That time periods for filing of appeals and applications for modification and rescission and for FEA processing of such documents be changed. These time periods are reasonable and will not be changed.

(2) That the FEA should explain the reasons behind its issuance of an order modifying or rescinding a prohibition order. Section 303.134 already requires FEA to describe its proposed action.

(3) That Part 309 should be amended in several small areas. The regulations implementing FEA's authority to allocate coal supply apply to emergency situations and have never been employed. Therefore, FEA believes that modification of these provisions would be unwise and premature at this time, except for certain editorial changes as noted in the notice of proposed rulemaking on March 21.

(4) That the continuing reporting requirement for MFBI's in the early planning process be clarified. The explanation of this reporting requirement in § 307.6(b) makes clear that the reporting requirement is a continuing one in the sense that changes in information already submitted to FEA must also be reported to FEA and that plans for a new MFBI must be reported to the FEA when the preliminary feasibility study is completed.

(5) That FEA make reliability findings for MFBI's as well as for powerplants. ESECA requires only that FEA find that an order to a powerplant will not impair the reliability of service and does not extend this requirement to FEA's consideration of MFBI's.

(6) That with respect to the "practicability" finding FEA is obliged to state with greater specificity the actual standards which will apply in each case. FEA has chosen to consider each candidate for an order on a case-by-case basis and analyze the relevant factors as they apply to each powerplant or installation.

(7) That the definition of "primary energy source" should be changed to permit occasional switching to petroleum and should allow for the firing of a mixture of coal and oil with an oil content of up to 10 percent. FEA has determined that the "primary energy source" definition that would prohibit any use of natural gas or petroleum products by a powerplant receiving a prohibition order, except for certain stated purposes, complies with the intent of ESECA and FEA finds no persuasive reason to modify that determination.

V42188 MAY 6 77 UMI

(8) That the regulations should require hearings in which recipients of NOI's and prohibition orders are given the opportunity to cross-examine government experts on whose information and advice FEA is relying. Such hearings are clearly not contemplated by the legislative history of ESECA, as stated on page 28 of the ESECA Conference Report.

(9) That there should be a provision in the proposed regulations to appeal a compliance schedule enclosed with an NOE. As explained in the preamble of the March 21 proposed rulemaking the compliance schedules are only implementing components of the FEA enforcement authority. FEA does not intend to enforce the incremental dates of progress in the compliance schedule, but will only use such dates for purposes of information gathering and judging the good faith intention of a prohibition order recipient to comply with an order. There is no requirement to permit intra-agency appeal of a compliance schedule so used.

NOTE.—The Federal Energy Administration has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

Issued in Washington, D.C., April 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

In consideration of the foregoing, Chapter II, Subchapter B of Title 10 of the Code of Federal Regulations is amended as set forth below.

PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

10 CFR Part 303 is amended as follows:

1. The Table of Contents for Subpart A of Part 303 is amended by deleting the entry "303.13 Public docket room." and by inserting the words "303.13 Exceptions and Appeals Docket Room/Freedom of Information Reading Room." in lieu thereof.

2. The citation of authority following the Table of Contents to Part 303 is revised to read as follows:

AUTHORITY.—Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).

3. Section 303.2 is amended by deleting the definition of "Temporary suspension", by inserting the definitions of "Dispatching system", "Preliminary feasibility study", "Process fuel use", and "Ultimate coal consumer", and by revising the definitions set forth below to read as follows:

§ 303.2 Definitions.

* * * * *

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 1857c-10, 1857c-5(a)(2)(F)(v) and 1857h-1, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

* * * * *

"Combustion gas turbine" means an electric power generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act (42 U.S.C. 1857c-10(c)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source, except as otherwise provided in section 119(d)(3) of that Act (42 U.S.C. 1857c-10(d)(3)).

* * * * *

"Construction order" means a directive issued by FEA pursuant to section 2(c) of ESECA (15 U.S.C. 792(c)) that requires a powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) to be designed and constructed to be capable of using coal as its primary energy source.

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by FEA, in consultation with the Federal Power Commission, to constitute a power generation system sufficient in scope that FEA may make a reliability finding within the meaning of ESECA.

* * * * *

"Early planning process" (i) in the case of powerplants, commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with final drawings for the main boiler of the powerplant which were approved prior to commencement of such structural event; and (ii) in the case of major fuel burning installations, commences with completion of the preliminary feasibility study and terminates when the major fuel burning installation can no longer be ordered to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments. Typically, such a termination point will coincide with the completion of the major fuel burning installation's foundation, or the equivalent foundation structural event, in accordance with final drawings for the major fuel burning installation which were approved prior to the commencement of such structural event.

* * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163.

* * * * *

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator, as defined in section 14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385.

* * * * *

"Notice of effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * *

"Preliminary feasibility study" means that analysis, formal or otherwise, which concluded that new, additional, or replacement capacity appears to be required and which precedes the managerial decision to initiate the design of a major fuel burning installation.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use, and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c-10), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04: *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

* * * * *

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature control and precise flame characteristics.

"Prohibition order" means a directive issued by FEA pursuant to sections 2(a) and (b) of ESECA (15 U.S.C. 792(a) and (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

* * * * *

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112, or 303 (42 U.S.C. 1857c-10, 1857c-6(b), 1857c-7, and 1857h-1, respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 1857c-5(a)(2)(F)(v)), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

* * * * *

"Supply order" means a directive issued by FEA pursuant to a rule promulgated pursuant to section 2(d) of ESECA (15 U.S.C. 792(d)) requiring that an authorized purchaser (including a powerplant, major fuel burning installation, an ultimate coal consumer, a supplier or other person) be provided coal by a designated supplier (or other person) in accordance with stated terms and conditions.

"Ultimate coal consumer" means any person who obtains coal for its own use and not for resale.

* * * * *

§ 303.4 [Amended]

4. In § 303.4, paragraph (b)(1) is amended by deleting the words "a modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975, or for", and paragraph (b)(3) is amended by deleting "§ 307.107(a)(3)" and inserting "§ 303.-107(a)(3)" in lieu thereof.

5. In § 303.8, the second sentence of paragraph (c) is amended by deleting the word "not", and paragraph (h)(3) is added to read as follows:

§ 303.8 Subpoenas; witness fees.

* * * * *

(h) * * * (3) While the Administrator of FEA or such other designated FEA official specified in paragraph (h)(1) of this section is considering the application to quash or modify the subpoena, a stay of the obligation to comply with the subpoena may be issued in accordance with Subpart I.

* * * * *

6. In § 303.9, the first sentence of paragraph (d)(1) is revised to read as follows; and a new paragraph (f)(3) is added to read as follows:

§ 303.9 General filing requirements.

* * * * *

(d) *Obligation to supply information.* (1) A person who files an application, petition, complaint, appeal or other request for action and other documents relevant thereto, or to whom a prohibition order or a construction order is issued, is under a continuing obligation during the proceeding to provide the FEA with any new or newly discovered information that is relevant to that proceeding. * * *

* * * * *

(f) * * * (3) This paragraph (f) does not apply where information is being submitted on an FEA form which contains its own instructions as to requests for confidential treatment of information provided therein.

* * * * *

7. In § 303.10, the first sentence of paragraph (a) is amended by deleting "(or modification thereof)", and the first sentences of paragraphs (b)(1) and (2) are revised to read as follows:

§ 303.10 Effective date of orders.

* * * * *

(b)(1) A prohibition order shall not become effective before certain action by EPA, actions by FEA as described in § 305.9 of this chapter, and service by FEA upon the affected powerplant or major fuel burning installation of a "Notice of Effectiveness" in accordance with § 305.7 of this chapter. * * *

(2) A construction order shall not become effective before certain actions by FEA described in § 307.7 of this chapter and service by FEA upon the affected powerplant or major fuel burning installation of a "Notice of Effectiveness" in accordance with § 307.5 of this chapter. * * *

8. In § 303.12, paragraph (a)(2) is revised to read as follows, and paragraph (b) is amended by deleting "OFU" and inserting "OCU" in lieu thereof.

§ 303.12 Addresses for filing documents with the FEA.

(a)(1) * * * (2) The FEA National Office has facilities for the receipt of transmissions via TWX and FAX to its offices at 12th and Pennsylvania Avenue, NW., and 2000 M Street, NW., (The FAX machines are 3M full duplex 4 or 6 minute (automatic) and Dex 4100 Graphic Science full duplex 3 or 6 minute (automatic).) For purposes of Parts 303, 305, 307 and 309 of this chapter, all transmissions should be to the machines at 12th and Pennsylvania Avenue, NW., except those to be sent to the Office of Exceptions and Appeals which should be transmitted to the machines at 2000 M Street, N.W.

FAX NUMBERS

(202) 566-9304 (3M) (12th & Penn.)
(202) 566-9854 (Dex) (12th & Penn.)
(202) 254-6175 (3M) (2000 M St.)
(202) 254-6461 (3M) (2000 M St.)
(202) 254-8906 (Dex) (2000 M St.)

TWX NUMBERS

(710) 822-1912 (12th & Penn.)
(710) 822-9454 (2000 M St.)
(710) 822-9459 (2000 M St.)

* * * * *

9. Section 303.13 is revised to read as follows;

§ 303.13 Exceptions and appeals docket room/freedom of information reading room.

(a) There shall be made available at the Exceptions and Appeals Docket Room (2000 M Street, NW., Washington, D.C.) for public inspection and copying:

(1) A list of all persons who have applied for an exception, an exemption, or an appeal, and a digest of each application; and

(2) Each decision and statement setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception or exemption or at the conclusion of an appeal.

(b) There shall be made available at the Freedom of Information Reading Room (Federal Building, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C.) for public inspection and copying:

(1) The written comments received from interested persons in connection with issuance of prohibition orders or construction orders, or the modification or rescission thereof, if applicable, with a verbatim transcript of any oral comments made at a public hearing held prior to issuance of an order;

(2) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing, if such a public hearing was held; and

(3) Any other information required by statute to be made available for public inspection and copying, and any information that the FEA determines should be made available to the public through display in the Freedom of Information Reading Room.

10. In § 303.30, paragraph (a) is revised to read as follows:

§ 303.30 Purpose and scope.

(a) This subpart establishes the procedures for the filing by any powerplant or major fuel burning installation of an application for a prohibition order, which application shall be filed only by a powerplant or major fuel burning installation.

* * * * *

§ 303.33 [Amended]

11. Section 303.33 is amended by deleting "1975" and inserting "1977" in lieu thereof.

12. Section 303.34 is revised to read as follows:

V42188 MAY 6 77 UMI

§ 303.34 Notice.

Prior to issuance of a prohibition order, either in response to an application or on its initiative, FEA shall publish notice of the intention to issue such order in the FEDERAL REGISTER and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. The notice shall describe the proposed action, state the content of the proposed prohibition order and provide a period of no less than 10 days from the date of its publication in which interested persons may file written data, views or arguments, and shall set a date, time and place at which there shall be an opportunity for interested persons to make oral presentation of data, views and arguments in accordance with Subpart N of this part.

13. In § 303.35, paragraph (a)(2) is revised to read as follows:

§ 303.35 Contents.

(a) * * *

(1) * * *

(2) Information regarding the applicant's capability to burn coal as of June 22, 1974 and (i) an identification and description of any plant equipment or facilities necessary to the burning of coal that the applicant would have had to acquire or refurbish to render the powerplant or major fuel burning installation capable of burning coal on June 22, 1974, or (ii) with respect to an applicant that after June 22, 1974 acquires or is designed with the capability and necessary plant equipment to burn coal, an identification and description of (A) any plant equipment or facilities the applicant has acquired since June 22, 1974 (or that have been designed for or by the applicant since that date) that are necessary to the burning of coal and (B) any plant equipment or facilities that, as of the date of the application, the applicant has acquired or refurbished (or intends to acquire or refurbish) to render the powerplant or major fuel burning installation capable of burning coal; or (iii) with respect to an applicant that has been issued a construction order under section 2(c) of ESECA (15 U.S.C. 792(c)), a copy of such order or reference to such order by docket number.

* * * * *

14. Section 303.36 is amended as follows: In the second sentence of paragraph (a)(1), the word "parties" is deleted and the word "persons" is inserted in lieu thereof, and the words "powerplant of major" are deleted and the words "powerplant or major" are inserted in lieu thereof; in the first sentence of paragraph (a)(2), the words "by the applicant" are inserted after the word "submitted" and before the "."; in paragraph (a)(3), "1975" is deleted and "1977" is inserted in lieu thereof; and paragraph (b) is revised.

§ 303.36 FEA evaluation.

* * * * *

(b) *Criteria.* The decision with respect to an application and the decision with respect to an FEA-initiated proceeding shall depend on whether FEA can make the findings stated in §§ 305.3(b) or § 305.4(b) of this chapter, as appropriate, and shall include a consideration of the factors stated in § 305.4(c) of this chapter, as appropriate.

15. In § 303.37, paragraphs (b)(1), (b)(2) and (c) are revised; and in the last sentence of paragraph (d) the phrase "such notice shall be served" is deleted and the phrase "such Notice of Effectiveness shall be served" is inserted in lieu thereof.

§ 303.37 Decision and order.

* * * * *

(b) * * *

(1) The prohibitions stated in prohibition orders shall not become effective (i) until either (A) the Administrator of EPA notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), that the powerplant or major fuel burning installation will be able on and after July 1, 1975 to burn coal and to comply with all applicable air pollution requirements without a compliance date extension, or (B) if no notification is given, the date which the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)) is the earliest date that the powerplant or major fuel burning installation will be able to comply with all applicable requirements of section 119 of that Act (42 U.S.C. 1857c-10), and (ii) until FEA has taken the actions described in § 305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119(d)(3)(B) of that Act (42 U.S.C. 1857c-10(d)(3)(B)).

(2) Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedure described in subparagraph (1) of this paragraph, the FEA may issue a Notice of Effectiveness.

(c) The prohibition order or the order denying an application for a prohibition order shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order is issued, and, when the order is a prohibition order, a recitation of the conclusions regarding the findings to be made by FEA in accordance with § 305.3(b) or § 305.4(b) of this chapter, as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if any person aggrieved thereby files an appeal, such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part; except that an order dismissing the application for a prohibition order filed after June 1, 1977 shall state that it is a final order of which the applicant may seek judicial review. A prohibition order shall provide that the prohibitions stated therein shall become effective on the date stated in the Notice of Effectiveness, which date shall not be earlier than service of such notice, and that it will not be effective for any period certified by the Administrator of EPA pursuant to section 119(d)(3)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(3)(B)). The date stated in the Notice of Effectiveness shall be either (1) the date EPA determines in accordance with section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c-10(d)(1)(B)), or (2) the termination of the period of time that FEA determines is required to acquire or refurbish equipment or facilities necessary for coal burning, other than equipment or facilities necessary to comply with the Clean Air Act, whichever date is later: *Provided,* That for recipients of construction orders the date stated in the Notice of Effectiveness may be that date on which the powerplant or major fuel burning installation is expected to begin operation. The prohibition order shall state that within 90 days after its issuance, the affected powerplant or major fuel burning installation must make application to the EPA for a compliance date extension or, if such powerplant or installation is not eligible for a compliance date extension, it must provide such other information as EPA may by regulation require. Enclosed with the prohibition order may be a schedule of events that should take place by a stated date ("compliance schedule") to insure that the affected powerplant or major fuel burning installation will be able to comply with the prohibitions stated in the prohibition order by the date stated in the Notice of Effectiveness, or such compliance schedule may be enclosed with the Notice of Effectiveness. The compliance schedule may require actions by the affected powerplant or major fuel burning installation at any time subsequent to service of the Notice of Effectiveness.

* * * * *

§ 303.38 [Amended]

16. Section 303.38 is amended as follows: In the first sentence of paragraph (a), the word "my" is deleted and the word "may" is inserted in lieu thereof; and in paragraph (d), "1975" is deleted and "1977" is inserted in lieu thereof.

17. In § 303.40, paragraph (a) is revised to read as follows:

§ 303.40 Purpose and scope.

(a) This subpart establishes the procedures for the filing by any powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or a combined cycle unit) of an application for a construction order, which application shall only be filed by a powerplant or major fuel burning installation.

* * * * *

18. In § 303.41, the first sentence of paragraph (a) is amended by inserting the words "or major fuel burning installation" after the word "powerplant", and paragraph (b) is revised to read as follows:

§ 303.41 What to file.

* * * * *

(b) In the case of a powerplant, application may be made for an individual powerplant or for combinations thereof at a single site, and in the case of a major fuel burning installation, application may be made for an individual fossil-fuel fired boiler, burner or other combustor of fuel, or for combinations thereof at a single site. The applicant should specify the powerplant (or powerplants) or combustor (or combinations of combustors) with respect to which application is being made.

* * * * *

§ 303.43 [Amended]

19. Section 303.43 is amended by deleting "(a)", and by deleting "1975" and inserting "1977" in lieu thereof.

§ 303.44 [Amended]

20. In § 303.44, the first sentence is amended by inserting the words "or major fuel burning installation" after the word "powerplant".

21. Section 303.45 is amended as follows: Paragraphs (a)(1), (2), (3), (4), (5), (6), (7) and (8) are revised to read as follows; and in paragraph (a)(11), the word "office" is deleted and the word "officer" is inserted in lieu thereof.

§ 303.45 Contents.

(a) * * *

(1)(i) *Powerplants.* Description of applicant's proposed powerplant, including, but not limited to, location, electric power and energy output, fuels to be utilized and rate of use thereof, the identification of the electric power dispatching system with which the powerplant will be interconnected and the regional reliability council that would have jurisdiction of the powerplant, projected monthly peak loads for the electric power dispatching system with which the powerplant will be interconnected and the net dependable electrical capacity and energy resources of such system for the three years following the date the powerplant commences the sale or exchange of electric power, and the stage in the early planning process that the powerplant has reached at time of application.

(ii) *Major fuel burning installations.* Description of applicant's fossil-fuel fired boiler, burner or other combustor of fuel, including but not limited to, type of combustor, location, energy output, fuels to be utilized and rate of use thereof, uses to be made of energy output (list Standard Industrial Code classification of products produced using the energy output of the combustor), and the stage of design and construction that the major fuel burning installation has reached at the time of the application.

(2) A description of the modifications to the design and construction of the powerplant or major fuel burning installation, if any, required to render it capable of using coal as its primary energy source, if such capability currently is not planned.

(3) In the case of a powerplant, an analysis of the likelihood that the use of coal would result in the impairment of the powerplant's "reliability or adequacy of service," as such terms are defined in § 307.3(c)(1) of this chapter.

(4) The identification of the type of coal (Btu/lb., percent sulfur, percent ash, percent volatile matter, and ash slagging/sintering characteristics) that is or will be the powerplant's or major fuel burning installation's design specification coal; the source from which the applicant anticipates that it will be able to obtain such coal and the supply's susceptibility to interruption, and the method by which such coal would be transported to the powerplant or major fuel burning installation.

(5) The identification and description of any contractual commitments for the design and/or construction of the powerplant or major fuel burning installation and an analysis of the impact (taking into account the considerations stated in § 307.3(d) of this chapter), if any, of the requirement that the powerplant or major fuel burning installation be designed and constructed to be capable of using coal as its primary energy source.

(6) An analysis of the capability of the powerplant or major fuel burning installation to recover any increase in projected capital investment that might be required as a result of a construction order.

(7) In the case of a powerplant, the identification of any loss of revenue resulting from a delay, if any, in the commencement of the sale or exchange of electric power, to the extent that electric power will have to be purchased from another powerplant, resulting from a construction order. In the case of a major fuel burning installation, any loss of revenue resulting from a delay, if any, in the commencement of operations of the installation resulting from a construction order.

(8) In the case of a powerplant, the identification of any relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by powerplants.

* * * * *

§ 303.46 [Amended]

22. Section 303.46 is amended as follows: In the second sentence of paragraph (a)(1), the words "or major fuel burning installation's" are inserted after the words "affected powerplant's"; and in paragraph (a)(3), "1975" is deleted and "1977" is inserted in lieu thereof.

23. Section 303.47 is amended as follows: In paragraph (b) the words "or major fuel burning installation" are inserted after the word "powerplant"; paragraph (c) is revised; and in paragraph (d) in the first and second sentences the words "or major fuel burning installation" are inserted after the word "powerplant", and in the second sentence the words "such notice shall be served" are deleted and the words "such Notice of Effectiveness shall be served" are inserted in lieu thereof.

§ 303.47 Decision and order.

* * * * *

(c) The construction order, or the order denving an application for a construction order, shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order is issued, and when the order is a construction order, a recitation of the conclusions regarding the findings to be made and factors to be considered by FEA in accordance with § 307.3 (b), (c) and (d) of this chapter, as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if any person aggrieved thereby files an appeal, such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part; except that an order dismissing an application for a construction order filed after June 1, 1977 shall state that it is a final order of which the applicant may seek judicial review. A construction order shall state that it shall be effective on the date stated in the Notice of Effectiveness, which date shall not be earlier than the date of service of such notice. FEA may impose a reporting schedule to enable FEA to determine that the affected powerplant or major fuel burning installation will comply with the requirements of the order. Such reporting schedule may be enclosed with the construction order or the Notice of Effectiveness.

24. Section 303.48 is amended as follows: Paragraph (c) is revised; and in paragraph (d), "1975" is deleted and "1977" is inserted in lieu thereof.

§ 303.48 Appeal.

* * * * *

(c) If a powerplant or major fuel burning installation applies for a modification or rescission of a construction order, in accordance with Subpart J of this part, any appeal of such construction order shall be suspended until 30 days after an order has been issued in accordance with Subpart J of this part or until 30 days from the date on which such powerplant or major fuel burning installation may treat that application as being denied in all respects.

* * * * *

§ 303.50 [Amended]

25. In § 303.50, the first sentence of paragraph (b) is amended by inserting "(42 U.S.C. 1857c-10(j))" after the words "Clean Air Act", and by inserting "(15 U.S.C. 793(a))" after "ESECA".

§ 303.51 [Amended]

26. Section 303.51 is amended by deleting the words "ultimate consumer of coal" and inserting in lieu thereof the words "ultimate coal consumer".

§ 303.52 [Amended]

27. In § 303.52, the first sentence of paragraph (b) is amended by adding a

V42I88 MAY 6 77 UMI

comma after the words "in the case of a powerplant".

§ 303.54 [Amended]

28. In § 303.54, paragraph (a) is amended by deleting the words "applicable after June 30, 1975" after the words "prohibition order".

29. In FR Doc. 75–17544 appearing at page 28420 in the FEDERAL REGISTER of July 3, 1975, paragraph (a) of § 303.55 appearing on page 28423 is corrected in the first line of that paragraph by deleting the word "only" and by inserting "on" in lieu thereof.

§ 303.56 [Amended]

30. In § 303.56, paragraph (a)(3)(i) is amended by deleting the phrase "other combuster of feul (or combinations of combusters" and inserting the phrase "other combustor of fuel (or combinations of combustors)" in lieu thereof.

31. Section 303.57 is amended as follows: In paragraph (b)(1)(ii)(A), "305.7 (b)" is deleted and "305.7" is inserted in lieu thereof; and in the first sentence of paragraph (b)(2), "(42 U.S.C. 1857c–10 (c))" is inserted after the words "Clean Air Act" and before the ",", and "(15 U.S.C. 751), as amended," is inserted after the words "Emergency Petroleum Allocation Act of 1973" and before the ",".

32. In § 303.58, the first sentence of paragraph (b)(2) is amended by deleting the phrase "other ultimate consumer of coal"; and by inserting the phrase, ", other ultimate coal consumer,"; and paragraph (b)(3) is revised to read as follows:

§ 303.58 Decision and order.

* * * * *

(b) * * *

(3) A supply order issued to an ultimate coal consumer located in an area of the United States that has been designated by the Administrator of EPA as an area that requires, to the maximum extent practicable, that available low-sulfur coal be distributed to it on a priority basis to avoid or minimize adverse impact on public health, may state that existing or prospective coal supply contracts between a supplier (or other person) and an ultimate coal consumer located in such area shall be given priority over the supplier's (or other person's) other existing or prospective coal supply contracts.

* * * * *

§ 303.61 [Amended]

33. In § 303.61, the first sentence of paragraph (a)(1) is amended by deleting the phrase "ultimate consumer of coal" and inserting the term "ultimate coal consumer" in lieu thereof; paragraph (a)(2)(ii) is amended by deleting the phrase "ultimate consumers of coal" and inserting the term "ultimate coal consumers" in lieu thereof; the first sentence of paragraph (e)(1) is amended by deleting "§ 309(f)" and inserting "§ 303.9(f)" in lieu thereof; and the second sentence of paragraph (g)(1) is amended by deleting the phrase "relevant third persons submissions." and inserting the phrase "relevant third person submissions." in lieu thereof.

§ 303.73 [Amended]

34. In § 303.73, the third sentence of paragraph (a) is amended by deleting the word "subsection" and inserting the word "paragraph" in lieu thereof.

35. In FR Doc. 75–12195 appearing at page 20462 in the FEDERAL REGISTER of May 9, 1975, §§ 303.85(b), 303.86, 303.87, and 303.88, appearing on page 20475, are corrected to read as follows:

§ 303.85 FEA evaluation.

* * * * *

(b) *Criteria* (1) * * *

(i) The impact that granting the exemption would have on the regulatory scheme and objectives;

(ii) The number of persons who would be exempted; and

(iii) The economic justification for such exemption.

(2) The FEA may summarily deny an application for exemption if:

(i) The exemption sought is not from each or all of Parts 303, 305, 307, or 309, or a subpart thereof, of this chapter;

(ii) The granting of an exemption to the person making the application would not have sufficient national impact, economic or otherwise, to warrant rule-making proceedings for the purpose of considering an amendment to the regulations;

(iii) It is determined that the statutory criteria cannot be met; or

(iv) It is determined that another proceeding provided by this part is more appropriate.

§ 303.86 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a Notice of Proposed Rulemaking regarding the application in the FEDERAL REGISTER.

(b) The order shall include a written statement setting forth the pertinent facts and legal basis upon which the order is issued. The order denying the application shall state that any person aggrieved thereby may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part.

§ 303.87 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 303.88 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart that denies an application for exemption may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken or within 30 days of the date on which the applicant can treat the application as being denied in all respects. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

§ 303.105 [Amended]

36. In § 303.105, the second sentence of paragraph (c) is amended by deleting the words "and service to Notice of Effectiveness," and inserting the words "and service of a Notice of Effectiveness," in lieu thereof.

37. Section 303.106 is amended as follows: The first sentences of paragraphs (a)(2) and (3) are revised to read as follows; and in paragraph (a)(4), the number "(4)" is deleted and the number "(iii)" inserted in lieu thereof.

§ 303.106 Contents.

(a)(1) * * *

(2) An appeal of a prohibition order or of a construction order may not contain an assertion of significantly changed circumstances, as that term is defined in this subpart, and further defined in § 303.136(b)(2). * * *

(3) If the appeal (other than the appeal of a prohibition order or a construction order) includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstances is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. * * *

* * * * *

38. Section 303.107 is amended as follows: In the first sentence of paragraph (a)(3)(iii), the phrase "(b)(1) of this section," is deleted and the phrase "(a)(3)(ii) of this section" is inserted in lieu thereof; paragraph (b)(2)(iii) is revised to read as follows; and paragraph (b)(3) is inserted.

§ 303.107 FEA evaluation.

* * * * *

(b)(1) * * *

(2) * * *

(iii) The FEA's action was arbitrary or capricious.

(3) The denial of an appeal shall be a final order of the FEA of which the appellant may seek judicial review.

§ 303.108 [Amended]

39. In § 303.108, the first and second sentences of paragraph (d) are amended by deleting the words "public docket room" and inserting the words "Freedom of Information Reading Room" in lieu thereof.

40. In FR Doc. 75–12163 appearing at page 20462 in the FEDERAL REGISTER issue of May 9, 1975, the phrase that precedes § 303.109(a) on page 20477 is corrected to read as follows:

§ 303.109 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, *except*: * * *

* * * * *

§ 303.110 [Amended]

41. In § 303.110, the first sentence of paragraph (c) is amended by inserting the word "order" between the words "or construction" and "that is the subject".

42. Section 303.120 is revised to read as follows:

§ 303.120 Purpose and scope.

(a) This subpart establishes the procedures for the application for and granting of a stay by the FEA.

(b) An application for a stay will only be considered:

(1) Incident to or pending an appeal from an order of the FEA;

(2) Incident to an application for an exception from the application of any FEA regulations, rulings or generally applicable requirements when the stay sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought;

(3) Incident to an application for modification or rescission of an issued and effective prohibition order or construction order;

(4) As provided in § 303.8(h), incident to an application to quash or modify an administrative subpoena; or

(5) Pending judicial review.

(c) All FEA orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

43. In §303.122, paragraph (c) is revised to read as follows and paragraph (e) is inserted.

§ 303.122 Where to file.

* * * * *

(c) An application for stay of an issued and effective prohibition order or construction order incident to an application for modification or rescission of such order shall be filed with the FEA National Office at the address provided in § 303.12.

* * * * *

(e) An application for stay of an administrative subpoena pending review by the Administrator of FEA or such other designated FEA official specified in § 303.8(h)(1) of an application to quash or modify the subpoena, shall be filed with such persons, as appropriate, at the address provided in § 303.12.

44. Section 303.133, is revised to read as follows:

§ 303.133 When to file.

(a) An application for modification or rescission of a prohibition order or a construction order based on significantly changed circumstances, which circumstances occurred during the interval between issuance of such orders and service of a Notice of Effectiveness, shall be filed within 30 days of service of such notice.

(b) An application for modification or rescission of a prohibition order or construction order based on significantly changed circumstances other than those stated in paragraph (a) of this section may be filed at any time after the Notice of Effectiveness is served.

45. Section 303.134 is revised to read as follows:

§ 303.134 Notice.

(a) Prior to issuance of an order modifying or rescinding a prohibition order or a construction order, either in response to an application or on its initiative, FEA may publish notice of the intention to take such action in the FEDERAL REGISTER and shall serve a copy of any such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. Any such notice shall describe the proposed action and provide a period of no less than 10 days from the date of publication in which interested persons may file written data, views or arguments.

(b) If FEA on its initiative commences a proceeding for the modification or rescission of a prohibition order or construction order and does not publish in the FEDERAL REGISTER a notice of its intention to take such action, it shall give notice, either by service of a written notice or by verbal communication, which communication shall be promptly confirmed in writing, to each person who was served the order that FEA proposes to modify or rescind. A reasonable period of time shall be given for each person notified to file a written response or give a verbal communication, which communication shall be promptly confirmed in writing.

46. Section 303.135 is amended as follows: The first sentence of paragraph (a)(1) is revised; in the first sentence of paragraph (a)(2), "§ 303.136(b)(2)" is deleted and "§ 303.136(b)" inserted in lieu thereof; paragraph (b) is deleted; and paragraphs (c) and (d) are revised and redesignated.

§ 303.135 Contents.

(a)(1) An application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the FEA action sought. * * *

* * * * *

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding an application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart N of this part, which determination is in FEA's discretion.

(c) The application shall include a discussion of all relevant authorities, including but not limited to, FEA or EPA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the action sought therein.

47. Section 303.136 is amended as follows: Paragraph (b) is revised and paragraph (c) is inserted.

§ 303.136 FEA evaluation.

* * * * *

(b) *Criteria.* FEA's decision with respect to modification or rescission of a prohibition order or a construction order, except as provided in paragraph (c) of this section, shall be based on a determination that there are significantly changed circumstances. For purposes of this paragraph, the term "significantly changed circumstances" shall mean:

(1) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based—in particular, (i) those that would substantially affect the findings made by FEA in accordance with §§ 305.3(b), 305.4(b) or 307.3 (b) and (c) of this chapter, or the factors considered pursuant to §§ 305.4(c) or 307.3(d) of this chapter; and (ii) those developed in connection with FEA's actions taken pursuant to §§ 305.9 and 307.7 of this chapter.

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application or order is based and which, if such had been made known to the FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) There has been a substantial change in the facts or circumstances upon which was based an outstanding and continuing prohibition order or construction order, which change occurred during the interval between issuance of such orders and service of a Notice of Effectiveness, or occurred during the interval after service of a Notice of Effectiveness and prior to the application for modification or rescission of a prohibition order or construction order, and was caused by forces or circumstances beyond the control of the applicant.

(c) FEA's decision with respect to the modification or rescission of a prohibition order or a construction order in a proceeding commenced at FEA's initiative may be based on grounds other than a determination that there are "significantly changed circumstances."

§ 303.137 [Amended]

48. Section 303.137 is amended as follows: Paragraphs (a)(1), (a)(2) and (b)(1) are deleted; in paragraph (b)(2), the words "(2) Other prohibition orders." are deleted and the words "(b) Prohibition orders." are inserted in lieu thereof; and in the third sentence of the new paragraph (b), "(42 U.S.C. 1857c–10(d)(3)(B))" is inserted after the word "Act" and before the ".".

V42188 MAY 6 77 UMI

49. Section 303.138 is revised to read as follows:

§ 303.138 Timeliness.

(a) If the FEA fails to take action on an application for modification or rescission of a prohibition order or a construction order within 90 days of filing, the applicant may treat the application as having been denied in all respects, and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, the applicant may treat the application as having been denied in all respects and may seek appeal therefrom as provided in this subpart if FEA fails to issue an order granting or denying the application within 150 days of the filing of such application.

(c) For purposes of this section, the term "action" includes service of a "Notice of Intention to Modify (or Rescind) Prohibition Order (or Construction Order)" on the applicant.

50. In § 303.139, paragraphs (b) and (c) are revised to read as follows:

§ 303.139 Appeal.

* * * * *

(b) The appeal of an order issued pursuant to this subpart shall be filed within 30 days of service of the order or within 30 days of the date on which the applicant can treat the application as being denied in all respects, except as provided in paragraph (c) of this section.

(c) When an order modifying a prohibition order or construction order is the result of a proceeding initiated by FEA prior to issuance of a Notice of Effectiveness, there shall be no appeal of such order until service of the Notice of Effectiveness; such appeal shall be filed within 30 days after issuance of the Notice of Effectiveness. If an order rescinding a prohibition order is the result of a proceeding initiated by FEA prior to issuance of the Notice of Effectiveness any appeal of such rescission order shall be filed within 30 days of service of the rescission order.

* * * * *

51. In § 303.140, the second sentence of paragraph (a) is revised to read as follows:

§ 303.140 Purpose and scope.

(a) * * * Modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 303.145(b) are satisfied, unless the proceeding is commenced at FEA's initiative as provided in § 303.145(c).

* * * * *

§ 303.145 [Amended]

52. In FR Doc. 75–12195 appearing at page 20462 in the FEDERAL REGISTER of May 9, 1975, the topic heading in §303.145 (a)(3) on page 20482, is corrected by deleting "Failure to satisfy requirements." and inserting "Failure to satisfy requirements." in lieu thereof.

53. Section 303.145 is amended by inserting paragraph (c), to read as follows:

§ 303.145 FEA Evaluation.

* * * * *

(c) FEA's decision with respect to the initiation of a proceeding to modify or rescind an order (other than a prohibition order or a construction order) or interpretation commenced on FEA's initiative shall be in its discretion, and FEA's decision in such proceeding with respect to the modification or rescission of such order or interpretation may be based on grounds other than a determination that there are "significantly changed circumstances."

* * * * *

§ 303.170 [Amended]

54. Section 303.170 is amended by deleting the words "requirements of FEA" and inserting the words "requirements of the FEAA" in lieu thereof.

55. In § 303.173, paragraph (a) is revised to read as follows; and the second sentence in paragraph (g) is amended by deleting the words "public docket room" and inserting the words "Exceptions and Appeals Docket Room or Freedom of Information Reading Room, as appropriate," in lieu thereof.

§ 303.173 Public hearings.

(a) A public hearing shall be convened prior to issuance of a prohibition order.

* * * * *

§ 303.191 [Amended]

56. In § 303.191, paragraph (d) is amended by deleting the words "appeal and exception" and inserting "appeals and applications for exception" in lieu thereof.

57. In § 303.200, the first sentence of paragraph (a) is revised and the second sentence of paragraph (b) is amended by deleting "representaives" and inserting the word "representatives" in lieu thereof.

§ 303.200 Investigations.

(a) *General.* The FEA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by the FEA under the authority of sections 2 and 12 of ESECA (15 U.S.C. 792 and 797, respectively), any decree of court relating thereto, or any other agency action. * * *

* * * * *

§ 303.203 [Amended]

58. In § 303.203, the first sentence is amended by deleting the words "this Part 303, Part 305 or 307" and inserting the words "Parts 303, 305, 307 or 309" in lieu thereof, and the last sentence is amended by inserting "(15 U.S.C. 797)" between "ESECA" and the ".".

PART 305—COAL UTILIZATION

10 CFR Part 305 is amended as follows:

59. The Table of Contents to Part 305 is amended as follows: After the numbers "305.6", the words "Consultation with EPA." are deleted and the word "[Reserved.]" is inserted in lieu thereof.

60. The citation of authority following the Table of Contents to Part 305 is revised to read as follows:

AUTHORITY: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).

§ 305.1 [Amended]

61. In § 305.1, paragraph (b) is amended by inserting "(15 U.S.C. 792)" after "ESECA".

62. Section 305.2 is amended by deleting the definition of "Temporary Suspension", by inserting the definitions of "Dispatching system", "Notice of Effectiveness", and "Process fuel use", and by revising the definitions set forth below to read as follows:

§ 305.2 Definitions.

* * * * *

"Action" means a prohibition order, or modification or rescission of such order, issued by FEA pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792).

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 1857c–10(c), (d), 1857c–5(a)(2)(F)(v) and 1857 h–1, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

* * * * *

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act (42 U.S.C. 1857c–10(c)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to that source, except as otherwise provided in section 119(d)(3) of that Act (42 U.S.C. 1857c–10(d)(3)).

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by FEA, in consultation with the Federal Power Commission, to constitute a power generation system sufficient in scope that FEA may make a reliability finding within the meaning of ESECA

* * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163.

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator as defined in section

14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

* * * * *

"Notice of Effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * *

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use; and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c–10), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04, *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

* * * * *

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

"Prohibition order" means a directive issued by FEA pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792(a), (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112, or 303 (42 U.S.C. 1857c–10, 1857c–6(b), 1857c–7 and 1857h–1, respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 1857c–5(a)(2)(F)(v))), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

* * * * *

63. Section 305.3 is amended as follows: The first two sentences of paragraph (b)(1) are revised and paragraph (d) is deleted.

§ 305.3 Powerplants.

* * * * *

(b) * * * (1) The powerplant (i) on June 22, 1974 had, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal, or (ii) has been issued a construction order pursuant to Parts 303 and 307 of this chapter. For purposes of determining whether a powerplant had on June 22, 1974, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, FEA will evaluate coal and ash handling facilities and appurtenances—internal and external; availability of land for the storage of coal; and other equipment such as a boiler, unloaders, conveyors, crushers, pulverizers, scales, burners, soot blowers, and special coal-burning instrumentation and controls. * * *

* * * * *

64. Section 305.4 is amended as follows: The first two sentences of paragraph (b)(1) are revised; paragraph (d) is deleted; and paragraph (e) is relettered accordingly.

§ 305.4 Major fuel burning installations.

* * * * *

(b) * * * (1) The major fuel burning installation has a design firing rate of 100 million Btu's per hour or greater and (i) on June 22, 1974 had, or thereafter acquires or is designed with, the "capability and necessary plant equipment" to burn coal, or (ii) has been issued a construction order pursuant to Parts 303 and 307 of this chapter. For purposes of determining whether a major fuel burning installation had on June 22, 1974, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, FEA will evaluate coal and ash handling facilities and appurtenances—internal and external; availability of land for the storage of coal; and other equipment such as a boiler, burner or other combustor of fuel, unloaders, conveyors, crushers, pulverizers, scales, burners, soot blowers, and special coal-burning instrumentation and controls. * * *

* * * * *

65. Section 305.5 is revised to read as follows:

§ 305.5 Public participation.

No powerplant or major fuel burning installation shall be issued an order prohibiting that powerplant or installation from burning natural gas or petroleum products as its primary energy source unless prior to issuance of such order there has been published in the FEDERAL REGISTER a notice of FEA's intent to issue a prohibition order. Such notice shall provide a period of no less than 10 days in which interested persons may file written data, views and arguments, and shall set a date, time and place at which there shall be an opportunity for interested persons to make oral presentation of data, views and arguments.

§ 305.6 [Reserved]

66. Section 305.6 is revoked and reserved, to read as set forth above.

67. Section 305.7 is revised to read as follows:

§ 305.7 Effective date of prohibition orders.

The prohibitions stated in a prohibition order issued to a powerplant or major fuel burning installation shall not become effective (a) until either (1) the Administrator of EPA notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)), that the powerplant or installation will be able on and after July 1, 1975 to burn coal and to comply with all applicable air pollution requirements without a compliance date extension, or (2) if no notification is given, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)), is the earliest date that the powerplant or installation will be able to burn coal and to comply with all applicable requirements of section 119 of that Act (42 U.S.C. 1857c–10), and (b) until FEA has taken the actions described in § 305.9 and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.37 (b) of this chapter. Such order shall not be effective during any period certified by the Administrator of EPA under section 119(d)(3)(B) of such Act (42 U.S.C. 1857c–10(d)(3)(B)).

68. Section 305.8 is amended as follows: In the first sentence of paragraph (a), "1978" is deleted and "1984" is inserted in lieu thereof; paragraph (b) is revised; and in paragraph (C), "(42 U.S.C. 1857c–(d)(3)(B))" is inserted after the words "Clean Air Act" and before the ".".

§ 305.8 Modification, rescission and suspension of prohibition orders.

* * * * * *

(b) Notice of intention to modify or rescind any prohibition order may be published in the FEDERAL REGISTER. The notice shall provide interested persons with a period of no less than 10 days in which to make written presentation of data, views and arguments regarding such action.

* * * * *

69. Section 305.9 is revised to read as follows:

§ 305.9 Consideration of environmental impacts.

(a) Prior to issuance of a prohibition order, FEA shall publish a programmatic environmental impact statement in accordance with Section 102(2)(c) of the National Environmental Policy Act

V42I88 MAY 6 77 UMI

of 1969 (42 U.S.C. 4332) and in accordance with Part 208 of this chapter. Such statement shall include a discussion of the environmental impact of and alternatives to the ESECA coal utilization program and a description of the typical environmental impacts expected to result from prohibiting powerplants and major fuel burning installations from burning natural gas or petroleum products as their primary energy source.

(b) Any notice of intention to issue a prohibition order shal provide that interested persons shall be afforded an opportunity to make written and oral presentations of data, views and arguments, in accordance with the procedures set out in the notice, regarding the environmental impact of prohibiting the powerplant or major fuel burning installation identified in the notice of intention from burning natural gas or petroleum products as its primary energy source.

(c) Prior to the issuance of a Notice of Effectiveness to any powerplant or major fuel burning installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that a specific prohibition order or group of prohibition orders will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) preparation of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific prohibition order or group of prohibition orders and that have not been adequately discussed in the programmatic environmental impact statement described in paragraph (a) of this section or in other official documents made publicly available during the FEA proceedings in connection with issuance of a prohibition order or by EPA in the course of its determinations with respect to notification or certification pursuant to section 119 of the Clean Air Act (42 U.S.C. 1857c–10), or otherwise made available to the public. If FEA prepares an environmental impact statement covering significant site-specific impacts from a prohibition order or group of such orders, the statement shall be prepared and published for comment in accordance with section 102 (2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and Part 208 of this chapter and prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to § 303.173 of this chapter to comment on the contents of a draft environmental impact statement published pursuant to this paragraph.

PART 307—NEW POWERPLANTS AND NEW MAJOR FUEL BURNING INSTALLATIONS

10 CFR Part 307 is amended as follows:

70. The heading "Part 307 New Powerplants" is amended by inserting "and New Major Fuel Burning Installations" after the word "Powerplants".

71. The table of contents to Part 307 is amended by deleting the words "307.6 Identification of powerplants in the early planning process." and inserting the words "307.6 Identification of powerplants and major fuel burning installations in the early planning process." in lieu thereof.

72. The citation of authority following the table of contents to Part 307 is revised to read as follows:

AUTHORITY: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).

§ 307.1 [Amended]

73. Section 307.1 is amended as follows: In paragraph (a), insert the words "and major fuel burning installations" after the word "powerplants"; and in paragraph (b), insert "(15 U.S.C. 792)" after "ESECA", and insert the words "or major fuel burning installation" after the word "powerplant".

74. Section 307.2 is amended by inserting the definitions of "Dispatching system", "Major fuel burning installation" "Notice of Effectiveness", "Preliminary feasibility study", and "Process fuel use", and by revising the definitions set forth below to read as follows:

§ 307.2 Definitions.

* * * * * * *

"Action" means a construction order, or modification or rescission of such order, issued by FEA pursuant to section 2(c) of ESECA (15 U.S.C. 792(c)).

* * * * * * *

"Combustion gas turbine" means an electric power generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Construction order" means a directive issued by FEA pursuant to section 2 (c) of ESECA (15 U.S.C. 792(c)) that requires a powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) to be designed and constructed to be capable of using coal as its primary energy source.

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by FEA, in consultation with the Federal Power Commission, to constitute a power generation system sufficient in scope that FEA may make a reliability finding within the meaning of ESECA.

"Early planning process" (i) in the case of powerplants, commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with final drawings for the main boiler of the powerplant which were approved prior to commencement of such structural event; and (ii) in the case of major fuel burning installations commences with completion of the preliminary feasibility study and terminates when the major fuel burning installation can no longer be ordered to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments. Typically, such a termination point will coincide with the completion of the major fuel burning installation's foundation, or the equivalent foundation structural event, in accordance with final drawings for the major fuel burning installation which were approved prior to the commencement of such structural event.

* * * * * * *

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163.

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator as defined in section 14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

* * * * * * *

"Major fuel burning installation" means an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner, or other combustor of fuel or any combination thereof at a single site, and includes any person who owns, leases, operates or controls any such installation or unit.

* * * * * * *

"Notice of Effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein became effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

* * * * * * *

"Preliminary feasibility study" means that analysis, formal or otherwise, which concludes that new, additional or replacement capacity appears to be required and which precedes the managerial decision to initiate the design of a major fuel burning installation.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil fuel, the fuel that is or will be used

for all purposes except the minimum amounts required for start-up, testing, flame stabilization and control, and process fuel use, and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c–10), such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with CFR 55.04: *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA, either on its initiative or in response to an application submitted by a powerplant or major fuel burning installation, that may lead to an action by FEA.

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

* * * * * * *

75. Section 307.3 is revised to read as follows:

§ 307.3 Use of coal as the primary energy source.

(a) Any powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) may be required by FEA to be designed and constructed to be capable of using coal as its primary energy source, by means of the issuance of a construction order to such powerplant or major fuel burning installation, subject to the findings stated in paragraphs (b) and (c) of this section and after consideration of the factors stated in paragraph (d) of this section. FEA may, at its discretion, make these findings and undertake the consideration of these factors for an individual powerplant or major fuel burning installation or for combinations of powerplants or major fuel burning installations at a single site. The requirement that a powerplant or major fuel burning installation be capable of using coal as its primary energy source shall be satisfied if the powerplant or major fuel burning installation is designed and constructed to use only coal as its primary energy source, or to use two or more fuels interchangeably, one of which is coal, as its primary energy source.

(b) A powerplant or major fuel burning installation shall not be required to be designed and constructed to be capable of using coal as its primary energy source unless FEA finds that such powerplant or major fuel burning installation is in the early planning process; and in the case of a major fuel burning installation, also finds that such installation meets the design firing rate requirement in § 307.6(b)(3).

(c) No powerplant or major fuel burning installation in the early planning process shall be required to be designed and constructed to be capable of using coal as its primary energy source if FEA finds that:

(1) In the case of a powerplant, the design and construction of a powerplant with the capability of using coal as its primary energy source is likely to result in an impairment of the reliability or adequacy of service to be provided by such powerplant. For purposes of this finding, whether there is likely to be an impairment of the "reliability or adequacy of service" shall be determined by an analysis of the loads of the electric power dispatching system of which the powerplant would be a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power and energy output, and an evaluation of the effects of a delay, if any, in the commencement of the sale or exchange of electric power that might result if FEA required the powerplant to be designed and constructed to be capable of using coal as its primary energy source. ("Impairment" means a significant increase in the probability of loss of load on the dispatching system of which the powerplant would be part as a result of FEA requiring that such powerplant be designed and constructed to be capable of using coal as its primary energy source, which increase in probability of loss would be sufficient to result in a substantial hazard to commerce or the public health and safety.)

(2) An adequate and reliable supply of coal is not expected to be available. For purposes of this finding, the availability of an adequate and reliable supply of coal shall be determined by evaluating the type of coal that it is anticipated the powerplant or major fuel burning installation will be able to utilize and the location of such coal; evaluating the practicability of coal production, including the possibility that new mines will be opened before the powerplant commences the sale or exchange of electric power or before the start-up of the major fuel burning installation for the commercial or other purpose for which such installation is designed or intended to be used, and anticipated demand; and evaluating any State or local laws or policies limiting the extraction or the utilization of coal. The availability of coal transportation facilities shall also be considered.

(d) In making the evaluation whether a powerplant or major fuel burning installation in the early planning process should be required to be designed and constructed to be capable of using coal as its primary energy source, FEA shall consider, among other factors—

(1) The existence and effects of any contractual commitment for the construction of such powerplant or major fuel burning installation;

(2) The capability of the powerplant or major fuel burning installation to recover any increase in projected capital investment required as a result of a construction order (In evaluating "capability," FEA will include in its analysis the owner of the powerplant or major fuel burning installation.); and

(3) In the case of a powerplant, the relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by powerplants.

(e) A powerplant or major fuel burning installation in the early planning process may be required to be designed and constructed to be capable of using coal as its primary energy source on the basis of FEA action taken on its initiative or at the conclusion of proceedings initiated by an application.

76. In § 307.4, paragraph (a) is revised to read as follows:

§ 307.4 Public participation.

(a) No power plant or major fuel burning installation in the early planning process shall be issued a construction order requiring such powerplant or installation to be designed and constructed to be capable of using coal as its primary energy source unless prior to issuance of the order there has been published in the FEDERAL REGISTER a notice of FEA's intent to issue a construction order, and notice of a period of no less than 10 days in which interested persons may make written presentation of data, views and arguments regarding such action.

* * * * * * *

77. Section 307.5 is revised to read as follows:

§ 307.5 Effective date of construction orders.

A construction order issued to a powerplant or major fuel burning installation in the early planning process shall not be effective until FEA has taken the actions described in § 307.7 and has served such powerplant or installation a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.47(b) of this chapter.

78. Section 307.6 is revised to read as follows:

§ 307.6 Reporting requirement for powerplants and major fuel burning installations.

(a)(1) An "Identification Report, Powerplant in Early Planning Process", FEA Form C–603–S–O, shall be filed by each powerplant (other than a combustion gas turbine or combined cycle unit) that is in the early planning process.

(2) Any powerplant that enters the early planning process at any time in a month shall file such FEA Form C–603–S–O with the FEA at the address provided in § 303.12 of this chapter, by the fifteenth day of the subsequent month.

V42I88 MAY 6 77 UMI

(3) If any information submitted on FEA Form C–603–S–O changes, a revised form should be submitted to the FEA within 30 days of the change.

(b) (1) (i) Any major fuel burning installation which is in the reporting interval as defined in subparagraph (2) (iii) of this paragraph and which meets the design firing rate requirements as defined in subparagraph (3) of this paragraph (other than a combustion gas turbine or combined cycle unit) shall file a "Major Fuel Burning Installation—Early Planning Process Identification Report", FEA Form C–607–S–O.

(ii) FEA Form C–607–S–O is divided into Schedules A–1, A–2, and A–3. One Schedule A–1 must accompany each submission of one or more Schedule A–2's. One Schedule A–2 must be filed at the address provided in § 303.12 of this chapter for each major fuel burning installation which meets the requirements in paragraph (b) (1) (i) of this section. Schedule A–3 need only be filed by those major fuel burning installations which receive a written request to do so by the FEA. Such written request shall be sent by FEA no later than 30 days after receipt by FEA of properly filled out Schedules A–1 and A–2.

(2) (i) A major fuel burning installation which was in the reporting intervale December 27, 1976 and which met the design firing rate requirements on that date shall file FEA Form C–607–S–0 on or before the 30th day after the FEA publishes in the FEDERAL REGISTER notice of this reporting requirement or within 21 days after individual notification by FEA that a Report should be submitted, whichever date comes first.

(ii) A major fuel burning installation which enters the reporting interval after December 27, 1976 and which meets the design firing rate requirements as of the date it enters the reporting interval is required to file FEA Form C–607–S–0 on or before the fifteenth day of the month subsequent to the month in which it enters the reporting interval.

(iii) For the purposes of filing FEA Form C–607–S–0 the "reporting interval" is the period which commences upon completion of a preliminary feasibility study for the major fuel burning installation and ends upon completion of the foundation of the major fuel burning installation. If no preliminary feasibility study can be identified, the reporting interval commences at the earlier of (A) the formation of a contract, express or implied, for design of the combustor, or if such design is not to be performed in accordance with a contract, the date the managerial decision to initiate design work is made, or (B) the approval of construction funds for the major fuel burning installation by responsible officials.

(3) The "design firing rate requirements" referred to in § 307.3(b) and in this paragraph are met for each major fuel burning installation that (i) has a design firing rate of 100 million Btu's per hour or greater, or (ii) has a design firing rate of 50 million Btu's per hour or greater and has a design firing rate of 100 million Btu's per hour or greater when taken in the aggregate with other major fuel burning installations at the same location which have design firing rates of 50 million Btu's per hour or greater and were in the reporting interval as of December 27, 1976 or thereafter entered the reporting interval.

(4) A major fuel burning installation which enters the reporting interval but does not meet the design firing rate requirements on that date is required, if it subsequently meets the design firing rate requirements in accordance with subparagraph (3) (ii) (because additional major fuel burning installations at the same location enter the reporting interval), to file FEA Form C–607–S–O on or before the fifteenth day of the month subsequent to the month in which it meets such requirements.

(5) If any information submitted on FEA Form C–607–S–O Schedules A–1, A–2, A–3 changes, a revised Schedule(s) should be submitted to the FEA within 30 days of the change.

(6) FEA shall notify an MFBI within 60 days of receipt of a properly filled out Schedule A–3 previously requested by FEA whether FEA will issue that MFBI a Notice of Intention to issue a construction order.

79. Section 307.7 is amended as follows: In the first sentence of paragraph (a), insert "(42 U.S.C. 4332), and in accordance with Part 208 of this chapter" after "1969" and before the period; and paragraphs (b), (c) and (d) are revised to read as follows:

§ 307.7 Consideration of environmental impacts.

• • • • • •

(b) A notice of intention to issue a construction order shall provide that interested persons shall be afforded an opportunity to make written presentation of data, views, and arguments, in accordance with the procedures set out in the notice, regarding the environmental impact of ordering a powerplant or major fuel burning installation in the early planning process to be designed and constructed so as to be capable of using coal as its primary energy source.

(c) Prior to the issuance of a Notice of Effectiveness to any powerplant or major fuel burning installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result either in (1) issuance of a declaration that a specific construction order or group of construction orders will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) preparation of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific construction order or group of construction orders and that have not been adequately discussed in the programmatic environmental impact statement described in paragraph (a) of this section, or in other official documents made publicly available during the FEA proceedings in connection with issuance of a construction order, or otherwise made available to the public. If FEA prepares an environmental impact statement covering significant site-specific impacts from a construction order or group of such orders, the statement shall be prepared and published for comment in accordance with section 102 (2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and Part 208 of this chapter and prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to § 303.173 to comment on the contents of a draft environmental impact statement published pursuant to this paragraph.

(d) Any construction order that has been issued to a powerplant or major fuel burning installation in the early planning process for which FEA has prepared a site-specific environmental impact statement, pursuant to paragraph (c) of this section, may be modified or rescinded by FEA on its initiative, based upon the information contained in such statement, prior to issuance of a Notice of Effectiveness.

PART 309—ALLOCATION OF COAL

10 CFR Part 309 is amended as follows:

80. The table of contents to Part 309 is amended by inserting the words "309.5 Procedures." in the appropriate sequence.

81. The citation of authority following the table of contents to Part 309 is revised to read as follows:

AUTHORITY: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).

82. Section 309.1 is revised to read as follows:

§ 309.1 Scope.

(a) *Applicability.* This part applies to—

(1) Any powerplant or major fuel burning installation that has been issued a prohibition order;

(2) Any person designated by the Administrator of EPA as one upon whom fuel exchange requirements should be imposed, as provided in section 119(j) of the Clean Air Act (42 U.S.C. 1857c–10 (j)), to avoid or minimize the adverse impact on public health and welfare of (i) the conversion by any fuel burning source to the burning of coal as its primary energy source, as described in section 119(c) of the Clean Air Act (42 U.S.C. 1857c–10(c)), (ii) an allocation of coal under section 2(d) of ESECA (15 U.S.C. 792(d)), or (iii) an allocation of petroleum products under the authority of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 et seq.), as amended;

(3) Any ultimate coal consumer located in an area of the United States that is designated by the Administrator of EPA as an area that requires that available low-sulfur fuel be distributed to it, to the maximum extent practicable, on a priority basis to avoid or minimize adverse impact on public health, as provided in section 7 of ESECA (15 U.S.C. 793); and

(4) Any supplier (or other person) that provides, or is capable of providing, coal, other than quantities of coal that comprise an ultimate coal consumer's on-site coal inventory, to any person, including itself, whether by sale, exchange or otherwise.

(b) *Purpose.* This part, together with Part 303 of this chapter, establishes the methods and procedures by which FEA will exercise its powers under section 2(d) of ESECA (15 U.S.C. 792(d)) to allocate coal to certain powerplants and major fuel burning installations and to other persons to the extent necessary to carry out the purposes of ESECA.

83. Section 309.2 is amended by adding the definition of "Process fuel use", and by revising the definitions set forth below to read as follows:

§ 309.2 Definitions.

• • • • • •

"Action" means a supply order, or modification or rescission of such order, issued by FEA pursuant to section 2(d) of ESECA (15 U.S.C. 792(d)).

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 1857c–10, 1857c–5(a)(2)(F)(v) and 1857h–1, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

• • • • • •

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act (42 U.S.C. 1857c–10(c)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source, except as otherwise provided in section 119(d)(3) of that Act (42 U.S.C. 1857c–10(d)(3)).

• • • • • •

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163.

"FEA" means the Federal Energy Administration, including the Federal Energy Administrator as defined in section 14(a) of ESECA (15 U.S.C. 798(a)), or his delegate.

• • • • • •

"Notice of effectiveness" means either a written statement issued by FEA to an existing powerplant or major fuel burning installation, subsequent to a certification or notification by EPA pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857c–10(d)(1)(B)), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by FEA to a powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it becomes effective.

• • • • • •

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use; and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued compliance date extensions by EPA in accordance with section 119 of the Clean Air Act (42 U.S.C. 1857c–10), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04: *Provided*, Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA either on its initiative, or in response to the designation by the Administrator of EPA of persons upon whom a fuel exchange requirement is to be imposed, or in response to an application submitted by a powerplant or major fuel burning installation that has been issued a prohibition order or by any ultimate coal consumer located in an area of the United States that has been designated by the Administrator of EPA as an area that requires, to the maximum extent practicable, that available low sulfur fuel be distributed to it on a priority basis to avoid or minimize adverse impact on public health, that may lead to an action by the FEA or by the Administrator of EPA with respect to such ultimate consumer.

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

"Prohibition order" means a directive issued by FEA pursuant to sections 2(a) and (b) of ESECA (15 U.S.C. 792(a), (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

• • • • • •

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112 or 303 (42 U.S.C. 1857c–10, 1857c–6(b), 1857c–7 and 1857h–1, respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 1857c–5(a)(2)(F)(v))), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

• • • • • •

"Supply order" means a directive issued by FEA pursuant to a rule promulgated pursuant to section 2(d) of ESECA (15 U.S.C. 792(d)) requiring that an authorized purchaser (including a powerplant major fuel burning installation, an ultimate coal consumer, a supplier or other person) be provided coal by a designated supplier (or other person) in accordance with stated terms and conditions.

• • • • • •

84. Section 309.3 is amended as follows: The first sentence of paragraph (a)(1) is revised; the first two sentences of paragraph (b) are revised; in the first sentence of paragraph (c), the words "of coal", which follow the term "ultimate coal consumer", are deleted, and "1978" is deleted and "1984" is inserted in lieu thereof; paragraph (c)(1) is revised; in paragraph (c)(2), the phrase "ultimate consumers of coal" is deleted and the term "ultimate coal consumers" is inserted in lieu thereof; in the first sentence of paragraph (d)(2), the word "of" is inserted after the word "issuance"; and paragraph (d)(3) is revised.

§ 309.3 Method of allocation.

(a)(1) Subject to subparagraph (2) of this paragraph, a powerplant or major fuel burning installation that has been issued a prohibition order may be provided specified quantities of coal, upon application or at FEA's initiative, during any specified period prior to December 31, 1984 from a specified supplier (or other person) by means of the issuance of a supply order, provided that such allocation of coal is feasible. * * *

• • • • • •

(b) Any person designated by the Administrator of EPA as one upon whom a fuel exchange requirement should be imposed to avoid or minimize the adverse impact on public health and welfare of the conversion by any fuel burning stationary source to the burning of coal as its primary energy source, as described in section 119(c) of the Clean Air Act (42 U.S.C. 1857c–10), or of an allocation of coal or petroleum products, shall be provided, by exchange, specified quantities of coal during any period prior to December 31, 1984 from a specified supplier (or other person) by means of the issuance of a supply order to such sup-

V42I88 MAY 6 77 UMI

plier (or other person) unless FEA determines (after consultation with the Administrator of EPA) that the costs or consumption of fuel resulting from requiring such exchange will be excessive. For purposes of this paragraph, the determination whether the costs or consumption of fuel resulting from such fuel exchange will be excessive shall include an analysis, with respect to each person upon whom the fuel exchange requirement is to be imposed, * * *

* * * * *

(c) * * *

(1) The type of coal that is required to satisfy the needs of ultimate coal consumers within the designated area, the availability of such coal and the capability of a supplier (or other person) to meet the demand resulting from the imposition of such requirement, the means and availability of transportation of such coal to ultimate coal consumers located within the designated area;

* * * * *

(d) * * *

(3) A supply order that directs a supplier (or other person) to provide coal to an ultimate coal consumer located in an area of the United States designated by the Administrator of EPA as an area requiring, to the maximum extent practicable, available low sulfur fuel to avoid or minimize adverse impact on public health and welfare may require that existing or prospective coal supply contracts between the supplier (or other person) and an ultimate coal consumer located in such area be given priority over the supplier's (or other person's) other existing or prospective coal supply contracts.

§ 309.4 [Amended]

85. In § 309.4, the first sentence is amended by deleting "1978" and inserting "1984" in lieu thereof.

[FR Doc.77-13060 Filed 5-4-77;10:11 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Design, Construction and Alteration of Buildings to Accommodate the Physically Handicapped; Editorial Amendment

AGENCY: Economic Development Administration, Commerce.

ACTION: Final rule.

SUMMARY: This amendment corrects a citation in 13 CFR 309.14(a). The substance of the regulation remains unchanged.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William R. Minning, Staff Assistant U.S. Department of Commerce, Room 7826, Washington, D.C. 20230, 202-377-3701.

SUPPLEMENTARY INFORMATION: Because this rule relates to the EDA grant and loan program, it is exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553).

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR 309.14(a) is amended as follows:

§ 309.14 **Design, construction, and alteration of buildings to accommodate the physically handicapped.**

(a) Any building or facility financed in whole or in part with assistance under the Act must be designed, constructed, or altered so as to insure ready access to, and use of, such building or facility by the physically handicapped, as required by Public Law 90-480 (42 U.S.C. 4151-56) and the regulations promulgated thereunder (41 CFR Subpart 101-19.6).

(Sec. 701, Pub. L. 89-136, 70 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, 40 FR 56702.)

Dated: April 29, 1977.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc.77-12962 Filed 5-5-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-998, Amdt. 27]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment gives notice that the Comptroller General has approved the reporting requirements in Regulation ER-986 and deletes a notice which had indicated that these requirements had been submitted to the General Accounting Office for review.

DATES: Effective: April 29, 1977. Adopted: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: In Regulation ER-986, 42 FR 11826, March 1, 1977 (Docket 27106), the Board issued Amendment No. 26 to Part 241 of its Economic Regulations which contained the following note at the end of the regulation:

NOTE.—The Civil Aeronautics Board has decided to submit this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

This is to serve notice that Regulation ER-986 has been approved by the Comptroller General, under Number B-180226 (R0409), and that its effective date remains unchanged: May 20, 1977.

In light of this approval, the aforesaid note is no longer pertinent to ER-986 and is hereby deleted.

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13062 Filed 5-5-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 77-128]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Certain Fasteners From Japan

AGENCY: Customs Service, Treasury.

ACTION: Imposition of Countervailing Duties.

SUMMARY: This notice is to inform the public that it has been determined that the Government of Japan has given benefits which constitute bounties or grants within the meaning of the Countervailing Duty Law upon the manufacture, production or exportation of certain fasteners. Consequently countervailing duties in the amount of these benefits will be collected in addition to duties normally due on shipments of this merchandise.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John Kugelman, operations officer, Technical Branch, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone, 202-566-5492.

SUPPLEMENTARY INFORMATION: On October 27, 1976, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (41 F.R. 47085). The notice stated that it preliminarily had been determined that benefits had been received by the Japanese manufacturers/exporters of nuts, bolts, and cap screws having shanks or threads over 0.24 inch in diameter, of iron or steel, which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as

amended (19 U.S.C. 1303) (herein referred to as "the Act").

These nuts, bolts and cap screws are provided for in the Tariff Schedules of the United States under item numbers 646.54, 646.56 and 646.63.

The notice stated that the programs under which these benefits were conferred included tax deferrals under the Overseas Market Development Reserve (OMDR), promotional assistance from the Japan External Trade Organization (JETRO), and preferential export financing provided by the Japanese Export-Import Bank. Programs preliminarily determined not to be bounties or grants within the meaning of the Act included:

1. Tax exemptions for expenses incurred in developing new markets.
2. Subsidies for research and development in the form of preferential tax treatment, direct payments, loans and research and development of services provided by the Small Business Promotion institutes and laboratories.
3. Preferential financing and grants for small and medium enterprises provided by the Small Business Promotion Corporation, the Small Business Finance Corportion, the People's Finance Corporation and the Bank for Commerce and Industrial Co-operatives.
4. Tax reductions for small and medium business.
5. Tax exemption for dues of trade associations.
6. Government assistance to employees temporarily laid off.
7. Alleged benefits to the steel industry that provide indirect assistance to the fastener industry.
8. Special depreciation.
9. Regulations governing lending practices to small enterprises.
10. Measures allowing for restrictions by commerce and industrial co-operatives to restrict production and expansion.
11. Fair Trade Act program.
12. The Law on the Prevention of the Deferment of Payment of Subcontractors.
13. Supervision of large department stores.
14. The expensive gift program.
15. The program covering the agreement for large industry to advance into the areas of small and medium enterprises.
16. The law regarding the securing of orders by small and medium enterprises for public sources.
17. Government backed quality control procedures.
18. Risk insurance provided by the Government for exports.

Point No. 2 above was incorrect due to a printing error and should have read as follows:

2. Subsidies for research and development in the form of preferential tax treatment, direct payment, loans and research and development services provided by *government sponsored national* institutes and laboratories (corrected wording italicized).

The practice which preliminarily had been determined not to constitute a bounty or grant on grounds that it is either not applicable to or has never been utilized by the fastener industry is government financing or acquisition or installation cost of machinery and equipment.

The notice provided interested parties 30 days from the date of publication to submit relevant data, views, or arguments, in writing, with respect to the preliminary determination.

After consideration of all information received, and on the basis of information received since the preliminary determination, it is hereby determined that bounties or grants are being paid or bestowed, directly or indirectly on exports of certain fasteners from Japan within the meaning of section 303 of the Act.

Fastener exports receive benefits from programs involving promotional assistance from the Japan External Trade Organization (JETRO) and interest-free loans in the form of tax deferrals under the Overseas Market Development Reserve which result in an aggregate benefit of .20 percent ad valorem. Ordinarily, benefits of this size might be considered de minimis in relation to the value of the merchandise concerned. However, with respect to certain of the fasteners under consideration here, those classifiable under TSUS item numbers 646.54 and 646.56, the benefits bestowed are significant when compared to the ad valorem equivalent of the trade agreement (Column 1) rate of ordinary customs duties. These duties are .2 cent per lb. for 646.54 and .1 cent per lb. for 646.56, which at 1976 unit prices are equal to .75 percent and .25 percent respectively on an ad valorem basis. With regard to these items it is, accordingly, deemed appropriate to consider the benefits as being more than de minimis and therefore constituting bounties or grants. With regard to the remaining fasteners, those imported under TSUS number 646.63, the ordinary customs duty is 9.5 percent ad valorem and the .20 percent benefit is considered to be de minimis in relation to the value of exported fasteners. Accordingly, countervailing duties of .20 percent ad valorem will be limited to Japanese fastener imports under item numbers 646.54 and 646.56 of the Tariff Schedules of the United States.

It further has been determined that the fastener industry of Japan is not receiving benefits in the form of preferential loans from the Export-Import Bank of Japan since that industry does not qualify for such loans.

Further inquiry was made into alleged preferential loans made by the People's Finance Corporation, the Bank for Commerce and Industrial Co-operatives, and the Small Business Finance Corporation based on additional information submitted by petitioner showing that appropriated monies to these government enterprises were substantial enough to look further into their application to the fastener industry. Loans from these agencies are made to industries whose paid in capital does not exceed a specified figure. It is determined that loans at preferential interest rates made by these organizations do not describe a bounty or grant within the meaning of the Act based on the absence of criteria establishing export performance as a precondition to obtaining such loans combined with the fact that no more than 20 percent of Japanese fastener production is exported. The ad valorem benefit realized from these preferential loans by the fastener industry was approximately .08 percent of the value of total production during 1975.

Loans made by the Japan Development Bank for the installation of machinery and equipment from 1964 to 1971 were utilized by the fastener industry during that time. However, in view of the fact that less than 20 percent of fastener production is exported, such loans at preferential rates relating to capital investment would not constitute a bounty or grant within the meaning of the Act.

All other practices noted in the preliminary determination have been found not to constitute a bounty or grant in that they do not on their face describe a bounty or grant or because the allegations are too vague or remote from the fastener industry to warrant further investigation.

Accordingly, notice is hereby given that certain fasteners covered under TSUS numbers 646.54 and 646.56, which are imported directly or indirectly from Japan, if entered or withdrawn from warehouse, for consumption on or after May 6, 1977, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net amount of such bounties or grants has been estimated and declared to be .2 percent of the export price.

Effective May 6, 1977, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable fasteners, covered under TSUS numbers 646.54 and 646.56, imported directly or indirectly from Japan, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandize subject to the term of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such fasteners from Japan.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.46(f)) is amended by inserting after the last entry from Japan the words "Certain fasteners," in the column headed "Commodity," the number of this Treasury Decision in the Column headed "Treasury Decision," and the words "Bounty Declared Rate" in the column headed "Action."

(R.S. 251, as amended, section 303, 624,46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

JOHN H. HARPER,
Acting Assistant Secretary, of the Treasury.

APRIL 29, 1977.

[FR Doc.77-13007 Filed 5-5-77;8:45 am]

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76F-0042]

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Synthetic Flavoring Substances and Adjuvants

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of certain substances as synthetic flavoring (tomato) in food, in response to a food additive petition submitted by Glidden-Durkee Division, SCM Corp.

DATES: Effective May 6, 1977; objections by June 6, 1977.

ADDRESSES: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9583) announced that a petition (FAP 4A2946) had been filed by Glidden-Durkee Division, SCM Corp., 900 Union Commerce Building, Cleveland, OH 44115, proposing that § 172.515 *Synthetic flavoring substances and adjuvants* (21 CFR 172.515, formerly § 121.1164, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the safe use, as synthetic flavoring substances in food, of 2-butanol; 2-isobutylthiazole; 2-methyl-3-buten-2-ol; 6-methyl-3,5-heptadien-2-one; and 6-methyl-5-hepten-2-ol.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 172.515 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), § 172.515 is amended in paragraph (b) by alphabetically adding five new items to the list of substances as follows:

§ 172.515 Synthetic flavoring substances and adjuvants.

* * * * * *

(b) * * *

2-Butanol. * * *
2-Isobutylthiazole. * * *
2-Methyl-3-buten-2-ol. * * *
6-Methyl-3,5-heptadien-2-one. * * *
6-Methyl-5-hepten-2-ol.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 6, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective May 6, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: May 2, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12955 Filed 5-5-77;8:45 am]

[FRL 725-2; FAP 5H5066/T24]

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Tebuthiuron

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR 193.415 and 561.371 by renewing for 2 years the present food and feed additive regulations permitting the use of the herbicide tebuthiuron in sugarcane syrup, molasses, and bagasse with tolerance limitations of 0.3 part per million (ppm).

EFFECTIVE DATE: Effective on May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Libby Zink, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW, Washington, D.C. 20460, 202-755-4851.

SUPPLEMENTARY INFORMATION: On December 3, 1975, the EPA announced (40 FR 56425) that in response to a petition (FAP 5H5068) submitted by Elanco Products Co., Div. of Eli Lilly & Co., PO Box 1750, Indianapolis IN 46206, 21 CFR 193 and 561 were being amended to establish regulations permitting the use of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl) - 1,3,4 - thiadiazol - 2 - yl]-*N,N'*-dimethylurea) on growing sugarcane with tolerance limitations of 0.3 ppm in sugarcane syrup, molasses, and bagasse in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq). This experimental program expired November 26, 1976.

Elanco Products Co. has requested a 2 year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity sugarcane.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit issued under FIFRA. It has further been determined that since residues of the pesticide may result in sugarcane syrup, molasses, and bagasse from the agricultural uses provided for in the experimental use permit, the feed and food additive regulations should be renewed with their tolerance limitations. (A related document concerning the establishment of temporary tolerances for residues of tebuthiuron on the raw agricultural commodities sugarcane and in eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's FEDERAL REGISTER.)

Accordingly, food and feed additive regulations are renewed as set forth below.

Any person adversely affected by this regulation may, on or before June 6, 1977, file written objections with the Hearing Clerk, EPA, Rm. 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on May 6, 1977, 21 CFR 193.415 and 561.371 are amended as set forth below.

Dated: April 28, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

1. Section 193.415 is revised to read as follows:

§ 193.415 Tebuthiuron.

A tolerance of 0.3 part per million is established for residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl) - 1,3,4-thiadiazol-2-yl] - *N,N'* - dimethylurea) in sugarcane syrup and molasses resulting from application of the herbicide to growing sugarcane. Such residues may be present therein only as a result of application of the herbicide in an experimental use program which expires March 11, 1979. Residues not in excess of this tolerance remaining after expiration of this program will not be considered actionable if the herbicide is legally applied during the term and in accordance with the provisions of the experimental use permit/food additive tolerance.

2. Section 561.317 is revised to read as follows:

§ 561.371 Tebuthiuron.

A tolerance of 0.3 part per million is established for residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl) - 1,3,4-thiadiazol-2-yl] - *N,N'* - dimethylurea) in sugarcane syrup, molasses, and bagasse resulting from application of the herbicide to growing sugarcane. Such residues may be present therein only as a result of application of the herbicide in an experimental use program which expires March 11, 1979. Residues not in excess of this tolerance remaining after expiration of this experimental use program will not be considered actionable if the herbicide is legally applied during the term and in accordance with the provisions of the experimental use permit/feed additive tolerance.

[FR Doc.77-12952 Filed 5-5-77;8:45 am]

[Docket No. 75N-0356]

PART 510—NEW ANIMAL DRUGS

Medicated Blocks; Extension of Time To Submit Data on Safety and Effectiveness

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: This document provides for additional time for submitting the results of studies to establish the safety and effectiveness of medicated blocks, as required by regulation. This action is being taken in response to requests by manufacturers of medicated blocks.

DATE: Effective May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Ann B. Holt, Bureau of Veterinary Medicine (HFV-120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: Section 510.455 *New animal drug requirements for medicated blocks* was published in the FEDERAL REGISTER of August 2, 1976 (41 FR 32213). The section requires submission of new animal drug applications (NADA's) to establish that medicated blocks are safe and effective under their labeled conditions of use. A period of 6 months was provided—until March 1, 1977—for the submission of an NADA, including all the pertinent information required by § 514.1. For those firms in compliance with § 510.455, provision was made in the regulation for the continued marketing, on an interim basis, of medicated premixes and medicated blocks subject to § 510.455.

Petitions have been received from seven firms concerned with the manufacture of medicated blocks, stating that compliance with the submission date of March 1, 1977 is unrealistic in view of the scope of studies that must be completed. Each of the firms cited the need for conducting studies involving two growing seasons in order to assure that adequate numbers of test animals could be exposed to representative disease conditions. Generally, the disease conditions for which medicated blocks would be expected to be used are seasonal and occur under pasture or range conditions—these include parasitism, bloat, and insect-borne disease, such as anaplasmosis. The usual conditions of use under which medicated blocks must be tested for this purpose normally, or typically, occur from April through October each year. Additional time is also necessary for collating and analyzing the data and preparing it for submission.

The Commissioner agrees that it is unreasonable to expect that the required safety and effectiveness data can be obtained in less than a full season of exposure to the disease conditions. The Commissioner is therefore extending the deadline for the submission of a complete NADA, including all the pertinent information required by § 514.1, from March 1, 1977 to December 1, 1978 and is granting corresponding extensions of time regarding the interim marketing of premixes intended for the manufacture of medicated blocks from September 1, 1977 to June 1, 1979, and for the interim marketing of medicated blocks from December 1, 1977 to December 1, 1979.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), Part 510 is amended in § 510.455 by revising paragraph (e)(1) through (5) to read as follows:

§ 510.455 New animal drug requirements for medicated blocks.

* * * * * *

(e) * * *

(1) All persons interested in the continued marketing of a medicated block that is not produced from a medicated premix, or in the continued marketing of a medicated premix intended for use in the manufacture of a medicated block, shall submit a complete new animal drug application (NADA) including all of the pertinent information required by § 514.1 of this chapter requesting approval of such use pursuant to section 512(b) of the act on or before December 1, 1978.

(2) Any existing use of a specific animal drug in a specific type of medicated block (not produced from a medicated premix) marketed prior to December 1, 1978 for which a new animal drug application has been filed in accordance with paragraph (e)(1) of this section may continue on an interim basis until December 1, 1979, after which marketing shall be only in accordance with an application approved pursuant to section 512(c) of the act.

(3) Any existing use of a specific animal drug in a premix for use in the manufacture of medicated blocks marketed prior to December 1, 1978 for which a new animal drug application has been filed in accordance with paragraph (e)(1) of this section may continue on an interim basis until June 1, 1979 after which marketing shall be only in accordance with an application approved pursuant to section 512(c) of the act.

(4) Any existing use of a specific animal drug in a specific type of medicated block (manufactured from a premix) marketed prior to December 1, 1978 may continue on an interim basis until December 1, 1979, after which marketing shall be only in accordance with an application approved pursuant to section 512 of the act.

(5) No new medicated block not marketed prior to December 1, 1978 may be introduced into interstate commerce in the absence of an aproved application. No medicated block marketed on an interim basis under paragraph (e) (2) and (3) of this section shall be introduced into interstate commerce unless subject to an application approved pursuant to section 512(c) or 512(m) of the act after December 1, 1979. Medicated blocks, or premixes intended for their manufacture, that are introduced into interstate commerce and are not in compliance with this section will be subject to regulatory action.

Effective date: This regulation becomes effective on May 6, 1977.

(Sec. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)).)

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12720 Filed 5-5-77;8:45 am]

[Docket No. 77N-0012]

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Revocation of Certain Regulations

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is revoking certain regulations that provide for conditions of certification and tests and methods of assay for antibiotic drugs subject to the provisions

V42188 MAY 6 77 UMI

of section 512(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b (n)). This rule covers antibiotic drugs for which no certification has been requested for at least 5 years.

EFFECTIVE DATE: June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Pugliese, Division of Compliance (HFV-234), Bureau of Veterinary Medicine, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md., 20857, 301-443-3460.

SUPPLEMENTARY INFORMATION: A proposal to revoke the subject regulations was published in the FEDERAL REGISTER of February 8, 1977 (42 FR 7966). The regulations were originally promulgated under section 507 of the act (21 U.S.C. 357), before enactment of the Animal Drug Amendments of 1968 (Pub. L. 90-399). The regulations are obsolete because they cover antibiotic drugs for which no certification has been requested for at least 5 years. (No current approvals are in effect under section 512(c) of the act (21 U.S.C. 360b(c)) for these drugs, and none are known to exist under section 108(b)(2) of the Animal Drug Amendments of 1968.) Furthermore, the records and reports requirements of section 512(1) of the act (21 U.S.C. 360b(1)) and §§ 510.300 and 510.310 (21 CFR 510.300 and 510.310) for these drugs have not been satisfied by anyone who may hold such an approval. For these reasons, the Commissioner proposed to revoke the regulations and withdraw any approvals based on them. The proposal provided for 30 days for comment and gave any person who intended to assert or rely on an approval granted by the transitional provision of the Animal Drug Amendments of 1968, 30 days to submit proof of the approval's existence. The proposal stated that failure of any person to submit such proof within the 30-day period constituted a waiver of any right to assert or rely on it. The comment period has expired, and no proof of approval or any other comment on the proposal has been received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512 (1), (n), 701(a), 52 Stat. 1055, 82 Stat. 348, 350-351 (21 U.S.C. 360b (l), (n), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 540 is amended as follows:

§ 540.153 [Revoked]

1. By revoking § 540.153 *Aluminum penicillin tablets.*

§ 540.155 [Revoked]

2. By revoking § 540.155 *Benzathine penicillin G oral suspension, benzathine penicillin G for oral suspension (benzathine penicillin G powder).*

§ 540.163 [Revoked]

3. By revoking § 540.163 *Ephedrine penicillin tablets.*

§ 540.166 [Revoked]

4. By revoking § 540.166 *Hydrabamine penicillin G oral suspension.*

§ 540.174c [Revoked]

5. By revoking § 540.174c *Procaine penicillin in oil capsules.*

§ 540.180 [Revoked]

6. By revoking § 540.180 *Penicillin oral dosage forms.*

§ 540.180a [Revoked]

7. By revoking § 540.180a *Penicillin and novobiocin capsules.*

§ 540.180b [Revoked]

8. By revoking § 540.180b *Penicillin-streptomycin tablets; penicillin-dihydrostreptomycin tablets.*

§ 540.181a [Revoked]

9. By revoking § 540.181a *Crystalline penicillin G oral suspension, crystalline penicillin G sodium oral suspension, potassium penicillin G oral suspension.*

§ 540.250 [Revoked]

10. By revoking § 540.250 *Penicillin-streptomycin; penicillin-dihydrostreptomycin.*

§ 540.253 [Revoked]

11. By revoking § 540.253 *Aluminum penicillin in oil.*

§ 540.255b [Revoked]

12. By revoking § 540.255b *Benzathine penicillin G in oil.*

§ 540.259 [Revoked]

13. By revoking § 540.259 *Chloroprocaine penicillin O aqueous injection.*

§ 540.260 [Revoked]

14. By revoking § 540.260 *Dibenzylamine penicillin and streptomycin in oil; dibenzylamine penicillin and dihydrostreptomycin in oil.*

§ 540.265 [Revoked]

15. By revoking § 540.265 *1-Ephenamine penicillin G implantation and injectable dosage forms.*

§ 540.265a [Revoked]

16. By revoking § 540.265a *1-Ephenamine penicillin G in oil.*

§ 540.265b [Revoked]

17. By revoking § 540.265b *1-Ephenamine penicillin G for aqueous injection.*

§ 540.274e [Revoked]

18. By revoking § 540.274e *Procaine penicillin and streptomycin in oil; procaine penicillin and dihydrostreptomycin in oil.*

§ 540.274f [Revoked]

19. By revoking § 540.274f *Penicillin and dihydrostreptomycin - streptomycin sulfates; procaine penicillin in dihydrostreptomycin-streptomycin sulfates solution.*

§ 540.280 [Revoked]

20. By revoking § 540.280 *Sodium penicillin (penicillin sodium, penicillin sodium salt), calcium penicillin (penicillin calcium, penicillin calcium salt) crystalline penicillin (crystalline penicillin sodium, crystalline penicillin sodium salt, crystalline penicillin potassium, crystalline penicillin potassium salt, crystalline penicillin G sodium, crystalline penicillin G sodium salt, crystalline penicillin G potassium, crystalline penicillin G potassium salt, crystalline penicillin O sodium, crystalline penicillin O sodium salt, crystalline penicillin O potassium, crystalline penicillin O potassium salt).*

§ 540.281a [Revoked]

21. By revoking § 540.281a *Crystalline penicillin and epinephrine in oil.*

§ 540.881 [Revoked]

22. By revoking § 540.881 *Crystalline penicillin-streptomycin-polymyxin-oxytetaracycline-carbomycin powder; crystalline penicillin - dihydrostreptomycin-polymyxin - oxytetracycline - carbomycin powder.*

Effective date: This regulation shall become effective June 6, 1977.

(Secs. 512(1), (n), 701(a), 52 Stat. 1055, 82 Stat. 348, 350, 351 (21 U.S.C. 360b(1), (n), 371(a)).)

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12723 Filed 5-5-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 25—GENERAL

Lead Based Paint In Federal and Federally Assisted Construction, Prohibition Against Use

AGENCY: Office of the Secretary, Department of the Interior

ACTION: Final regulations

SUMMARY: These regulations are revised to incorporate the new definition of lead-based paint and to reflect that the Secretary of Housing and Urban Development is now responsible for enforcing the prohibition against the use of lead-based paint in accordance with Pub. L. 94-317.

DATE: This regulation is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. James O. Wyatt, Chief, Division of Propert Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone number 343-3185.

SUPPLEMENTARY INFORMATION: The National Consumer Health Information and Health Promotion Act of 1976 (Pub. L. 94-317) amended the Lead-Based Paint Poisoning Prevention Act (Pub. L. 91-695) by changing the definition of Lead-Based Paint and transferring enforcement responsibility from the Department of Health, Education and Welfare to the Secretary of Housing and Urban Development.

This amendment reflects these changes as they relate to internal Departmental procedures and the proposed rulemaking procedures are inapplicable.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

APRIL 28, 1977.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

Subpart 114-25.3—Use Standards

Section 114-25.351 is revised to read as follows:

§ 114-25.351 Prohibition against use of lead-based paint in Federal and Federally-assisted construction.

(a) The Lead-Based Paint Poisoning Prevention Act (Pub. L. 91-695, 84 Stat. 2078) prohibits the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form.

(b) As amended by the National Consumer Health Information and Health Promotion Act of 1976 (Pub. L. 94-317, 42 U.S.C. 4801), the responsibility for enforcing the prohibition against the use of lead-based paint was shifted from the Secretary of Health, Education and Welfare to the Secretary of Housing and Urban Development.

(c) The Secretary of Housing and Urban Development published implementing regulations in Part 35 or Title 24, Code of Federal Regulations which are applicable to all Federal agencies.

(d) Lead content is the percentage of lead by weight (calculated as lead metal) in the total non-volatile content of the paint or in the dried film of paint already applied. Currently, lead-based paint means any paint containing more than five-tenths of 1 per centum lead by weight. Any paint manufactured after June 22, 1977, will be lead-based if it contains more than six one-hundredths of 1 per centum lead by weight.

(e) "Residential structure" means any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, day care center, or extended-care facility.

(f) Implementation. (1) All Department of the Interior activities shall comply with the prohibition against the use of lead-based paint in Federal and Federally assisted construction and shall not use, or permit the use of, lead-based paint on applicable surfaces of any residential structure being constructed or rehabilitated. As defined in 24 CFR Part 35, "applicable surfaces" means all interior surfaces and those exterior surfaces which are readily accessible to children under seven years of age.

(2) The head of each bureau and office shall issue regulations and take such other steps as in his/her judgement are necessary to prohibit the use of lead-based paint on applicable surfaces of any residential structures constructed or rehabilitated under any Federal or Federally assisted program under his/her jurisdiction. Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts (pursuant to which such Federal or Federally assisted construction or rehabilitation is to be performed) to prohibit the use of lead-based paint, and shall also provide for enforcement of that prohibition.

[FR Doc.77-13066 Filed 5-5-77; 8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6004-1] (Revised)]

PART 1060—GENERAL CHARACTERISTICS OF COMMUNITY ACTION PROGRAMS

Subpart—CSA Income Poverty Guidelines

Correction

In FR Doc. 77-11747 appearing at page 21108 in the issue for Monday, April 25, 1977, the heading was omitted from the third table following § 1060.2-2. This table, which is undesignated and which follows the "CSA Poverty guidelines for Alaska", should be designated "CSA Poverty Guidelines for Hawaii".

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Back Bay National Wildlife Refuge, Va.

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule establishes special regulations concerning public access, use and recreation for the Back Bay National Wildlife Refuge.

EFFECTIVE DATE: June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts, 02158. (617-965-5100 ext. 200).

SUPPLEMENTARY INFORMATION: On January 26, 1977, there was published in the FEDERAL REGISTER (42 FR 4872-3) a notice of proposed rulemaking for Special Regulations on Public Entry and Use on the Back Bay National Wildlife Refuge. Interested persons were given 30 days in which to submit wirtten comments, suggestions, or objections with respect to the proposed rulemaking. After consideration of all comments, suggestions, and objections, several suggested changes from the proposed rulemaking were adopted.

BACKGROUND

For many years the Back Bay Refuge was open to the public for a number of purposes, and free access to the beach by vehicles was permitted.

In 1961, persons using the refuge for various purposes numbered less than 10,000. During the late 1960's the development of lands south of the refuge for recreational/residential purposes, and the increase in the availability and popularity of off-road recreational vehicles resulted in a sharply accelerated rate of public activities. By 1970 the number of persons using the refuge had increased to 235,000, and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use over the ocean beach portion of the refuge.

By 1969 it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes.

Following careful analysis it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction.

On January 12, 1972, the Fish and Wildlife Service provided notice in the FEDERAL REGISTER that the Back Bay National Wildlife Refuge would be closed to use by unauthorized vehicles. This action was necessary to protect the ecosystem along the refuge beach. Environmental Impact Statement 72-33 was finalized on December 29, 1972. This document fully assessed the impacts of this restriction. Final regulations were published in March 1973 that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued to property owners in the proposed False Cape state Park area, permanent full-time residents of the Outer Banks in North Carolina and their visitors, commercial fishermen, emergency, service and utility vehicles, and school buses. Implementation of the access regulations was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia. A final decision was handed down by Judge John MacKenzie on February 26, 1975, fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay Refuge. In his opinion and order, Judge MacKenzie stated that "* * * continued and rapidly escalating use of the refuge beach as a traffic corridor * * * is inimicable to the use of the property as a wildlife refuge and is a depradation of the purpose of the property as a wildlife refuge." This order was

V42188 MAY 6 77 UMI

ultimately upheld by the 4th Circuit Court of Appeals in a decision issued July 7, 1975.

The matter of regulating beach use at Back Bay National Wildlife Refuge continued to be the subject of considerable discussion and consternation by the many persons denied vehicular access to recreational properties in North Carolina. On July 29, 1976, liberalized regulations were published which provided limited access eligibility to all persons who, as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, North Carolina, to and including the village of Corolla, North Carolina, and not just permanent residents of the area as the previous regulations had provided.

In order to mitigate the increased adverse impact of travel on the beach by these additional permittees, it was necessary to place more restrictions, reduced travel periods and number of round trips per day on the permanent full-time residents living between the south boundary of the refuge and the village of Corolla, North Carolina. Based on the hardships imposed on the permanent full-time residents by the 1976 regulations and permit program management experience gained during 1976, proposed 1977 regulations were developed to provide access only to these permanent full-time residents and to liberalize travel restrictions which created a degree of hardship on them under the 1976 regulations. A proposed rulemaking to this effect was published in the FEDERAL REGISTER on January 26, 1977. In keeping with Departmental policy to afford the public an opportunity to participate in the rulemaking process, written comments on the proposed rulemaking were received until February 25, 1977.

SIGNIFICANT DIFFERENCES BETWEEN THE FINAL RULE AND THE PROPOSED RULE

Several changes were incorporated into these final rules.

Deleted: Proposed rule (b)(2) "Permits may be issued for such period of time as appears justifiable to the refuge manager, taking into account the need for and duration of access required by the applicant."

Change: Proposed rule (b)(3), Final rule (b)(2). Two vehicles to be authorized per permittee.

Wording change: Proposed rule (b)(3) "That vehicle shall be operated on the refuge beach only by the permit holder or a member of his immediate family and household". Final rule (b)(2) "Those vehicles shall be operated on the refuge beach only by the permittee or immediate family residing with the permittee".

Change: Proposed rule (b)(4)(i)(B) Residency cut-off date: December 31, 1975. Final rule (b)(3)(i)(C) December 31, 1976.

Addition: Final rule (b)(3)(i)(B) "To owners as of October 6, 1975, of improved property on the Outer Banks of Currituck County, North Carolina, from the North Carolina line south to and including the village of Corolla, North Carolina, which improved property meets the following criteria: (1) Mobile Homes: A mobile home with minimum dimensions of 8' × 32' located on a lot prior to March 2, 1972, and for which ad valorem property taxes for 1975 had been paid as of December 31, 1975; (2) Dwellings: a habitable abode that was properly listed on the tax rolls of Currituck County, North Carolina, by January 31, 1976, for payment of taxes in excess of those paid on unimproved land. Such property improved prior to 1975 shall have been listed on the tax rolls in 1975 and have had taxes paid by December 31, 1975, in accordance with state law, in order for the owner to qualify for a permit."

Addition: Final rule (b)(3)(i)(C) "* * * documentation. Such permitted vehicles shall be restricted to two round trips per day "except that no more than thirty round trips will be permitted for those persons qualifying under (b)(3)(i)(B) above."

Wording change: Proposed rule (b)(4)(ii)(A) "Commercial fisherman: a commerical fisherman shall be described as one who performs the act of harvesting finfish by gill net or haul seine in the Atlantic Ocean * * *" Final rule (b)(3)(ii)(A) "A commercial fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, * * *"

Wording change: Proposed rule (b)(4)(ii)(B) "For a school bus transporting resident students to and from the False Cape area during the school term." Final rule (b)(3)(ii)(B) "For a school bus transporting students residing in the False Cape State Park acquisition area to and from the False Cape area during the school term."

Deletion: Proposed rule (b)(4)(ii)(D) in its entirety from the Final rule.

Wording change: Proposed rule (b)(6) "Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes and official use by an employee, agent, or designated representative of the Federal, State, or local government in the course of his official duties." Final rule (b)(4) "Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; vehicles used by an employee, agent, or designated representative of the Federal, State, or local government in the course of his official duties, and public utility vehicles on official business. A public utility vehicle is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service."

Addition: Proposed rule section (b)(9) corresponding Final rule section (b)(7) "* * * permit period. Individuals whose vehicle access privileges have been suspended may within 30 days appeal the suspension to the Regional Director."

An appeal of the Regional Director's decision to the Secretary is permitted in accordance with 43 CFR 4.G.

DISCUSSION OF MAJOR COMMENTS

REGULATIONS NEED TO BE PRESENTED IN MORE UNDERSTANDABLE LANGUAGE

We agreed that the regulations were detailed and in several places difficult to comprehend. The final rule has attempted to remove all of the ambiguous or difficult to understand portions.

NONTRANSFERABILITY OF PERMITS REDUCING PROPERTY VALUES

We do not consider this issue to be a valid concern since it has been publicly announce that vehicular travel through the refuge will be permitted only until alternative access is developed or December 31, 1979 whichever occurs first.

TRANSFERABILITY OF VEHICULAR OPERATION

One commenter pointed out that the proposed regulation requiring that the permittees vehicle can be operated by only the permittee or immediate family members residing with the permittee imposed an unnecessary restriction on residents use of personal property. It precluded their being able to borrow another permanent full-time resident's vehicle or loan their vehicle in the event that their or another resident's vehicle became disabled.

This proposed regulation was to reduce the frequency of loaning vehicles owned by permanent full-time residents to others who were not permanent full-time residents and therefore had no legal basis to be driving a vehicle on the refuge beach. The refuge manager has been authorized to grant upon reasonable notification temporary authorization for the loaning of vehicles between permanent full-time residents or the use of repair shop loaner vehicles while the permittee's vehicle is being repaired.

RESTRICTED ACCESS FOR SERVICE VEHICLES ON BUSINESS CALLS

One commenter observed that "26.34(b)(4)(C) is an unnecessary restriction on the access of Service vehicles on business calls. The limitation on hours for business call overlooks the possibility that resident will need emergency services during hours other than 8 AM to 5 PM Monday through Friday".

We have not overlooked the possibility of emergency weekend service needs. We have out of necessity eliminated the potential for a significant number of service calls that could be placed on weekends to facilitate access for those otherwise not allowed. Again the refuge manager upon reasonable notification will be able to authorize trips outside the prescribed time period for emergency situations should they arise.

PUBLIC UTILITY VEHICLE ACCESS RESTRICTIONS

One commenter pointed out that access for public utility vehicles upon written verification of a request by a resident precluded routine maintenance visits of the various public utilities and therefore posed a potentially serious safety problem.

We concurred wholeheartedly with this comment and as a result have stricken the 26.34(b)(4)(d) section of the proposed rule from the final rule and have included utility vehicles on official business within the final rule section 26.34(b)(4) which allows access the same as for military, fire, emergency, and law enforcement vehicles.

NORTH CAROLINA SCHOOL BUS EXEMPTION

One commenter felt that there should be an exemption for a school bus transporting resident students to and from the North Carolina area during the school term.

There is no mention of access requirements for North Carolina students in the regulations since none of the North Carolina school systems having jurisdiction over Outer Banks communities have elected to provide transportation by bus north through the refuge into Virginia and back into North Carolina. If this mode of transportation is opted for by North Carolina School Systems, access will be granted.

PROPOSED REGULATIONS VEST TOO MUCH DISCRETION IN THE REFUGE MANAGER

One commenter remarked that "26.34(b)(8)(i) authorizes the refuge manager to "Prescribe restrictions as to the types of vehicles to be permitted" on the refuge. (b)(8)(i) sets forth specifications for vehicles to be registered. The refuge manager's authority to prescribe is subject to abuse."

The safety and well being of persons traveling the refuge beach is under the responsibility of the refuge manager. Persons who are allowed access to the beach with equipment incapable of safe over-the-sand travel pose a hazard to themselves and to others who would happen by and attempt to assist them. Vehicles that through our many years of experience in managing coastal refuges, have been known to be incapable of negotiating over-sand-travel safely obviously do not qualify for a permit. It is not possible to prescribe in the regulation a list of those vehicles that will not qualify. This is left up to the refuge manager to determine since a particular model vehicle with standard equipment is incapable of over-the-sand travel whereas that same model vehicle with modification and high flotation tires can be operated safely over-the-sand. Inspection of each vehicle on site is necessary to determine this. The refuge manager or his representative is the only one who can discharge this responsibility.

REVOCATION PROVISION

One commenter stated that the revocation provision of 26.34(b)(9) is unclear and denies due process in the revocation of a resident's access permit. Also that there should be provisions for a hearing prior to the revocation of the permit.

26.34(b)(7) of the final rule provides for an appeal within 30 days to the Regional Director for anyone whose access privilege has been suspended by the refuge manager.

An appeal of the Regional Director's decision to the Secretary is permitted in accordance with 43 CFR 4G.

TAXPAYER CITIZENS' ACCESS RIGHTS DENIED

Numerous commenters raised the issue that their civil rights of access to personal property have been denied.

Access to private property is available from the south.

Federal District Court Judge John MacKenzie ruled that the Secretary of the Interior was authorized to control vehicular access across the Back Bay Refuge. This Order was appealed and ultimately upheld by the Fourth Circuit Court of Appeals in 1975. Access of any type for any group of people is a privilege extended by the Secretary of the Interior. No person has a right of vehicular access across the Back Bay Refuge, therefore, no one's access rights or civil rights are being denied.

PERMANENT RESIDENT HOUSEHOLDS HAVE SONS AND DAUGHTERS WHO WORK. NEED MORE THAN ONE VEHICLE PERMIT PER FAMILY.

One commenter raised the issue of permanent resident households who had working age sons and daughters whose hours were not the same as their parents. The Fish and Wildlife Service should consider the issuance of more than one vehicle permit per permanent resident household.

We concurred with this observation and have in the final rule increased the number of vehicle permits from one to two per permanent resident household.

IMPROVED PROPERTY OWNER ACCESS FROM THE SOUTH CAUSES UNWARRANTED WASTE OF FUEL

Numerous seasonal improved property owners commented that termination of access from the north through the refuge would result in additional vehicular travel of approximately 200 miles. At a time when the nation faces serious energy shortages the additional travel distance is causing an unwarranted waste of fuel.

The conservation of fuel is an issue of major concern for each person in the United States. In order to achieve full conservation each one of us will be required to make personal sacrifices and where necessary give up pleasures and luxuries which we have grown accustomed to enjoying. In the instance of seasonal improved property owners this may mean making fewer trips to the weekend beach house than have been made in the past.

PERMANENT FULL-TIME RESIDENCY CUT-OFF DATE

Four commenters stated that the December 31, 1975 residency cut-off date precluded two permanent full-time residents from qualifying. Extension of this date would enable these two families to qualify.

We evaluated the hardships generated for the two families in question, both spouses of which work in the Norfolk area. We determined that only the two families in question would be affected by an extension of the residency cut-off date from December 31, 1975 to December 31, 1976. In the interest of basic fairness the final rule establishes the cut-off date for the residency requirement at December 31, 1976.

Numerous other commenters who were in favor of the proposed regulations and were in favor of regulations that were more restrictive recommended that the residency cut-off date be moved back from December 31, 1975 to January 12, 1972.

CAN PROOF OF DAMAGE TO WILDLIFE OR THE ENVIRONMENT INCURRED BY BEACH VEHICLE TRAVEL BE SHOWN?

Several commenters asked for evidence that vehicles traversing the refuge beach actually damage wildlife and the environment.

A detailed description of the environment impact of vehicular travel on the refuge beach is contained in the Environmental Impact Statement, FES 72-33 dated December 29, 1972, a final environmental assessment dated May 4, 1976, and a supplement to the May 4, 1976 final environmental assessment.

The diverse habitats at Back Bay Refuge are utilized by equally diverse populations of reptiles, amphibians, and many invertebrates of the area. About three miles of ocean beach are presently used for vehicle access for owners of property south of the refuge boundary. The existing complement of wildlife in the beach environment is adversely affected by vehicle traffic, e.g., invertebrate productivity is well below that of similar beaches untravelled by vehicles. Such is evidenced by two indicator animal species: ghost crabs and mole shrimp. Populations of both species are significantly less on the Back Bay travelled beaches than on untravelled or lightly travelled areas. The mole shrimp inhabits the intertidal zone, and the ghost crab inhabits the area above the intertidal zone, including the dune system. Reduced levels of these species in the mid-level of the food chain affects those higher in the food chain by limiting numbers and variety.

An attempt is being made to extend the northward breeding range of the Atlanic loggerhead turtle by egg transplants. The Back Bay Refuge has had four consecutive years of participation in the program. A total of 4,053 eggs was transplanted from Cape Romain Refuge to the closed upper mile of beach on the Back Bay Refuge. Of 3,264 hatched eggs, 3,243 turtles entered the ocean. There has been very little reported sea turtle activity, other than that of transplants, on the Back Bay Refuge beach. Evidence of a sea turtle nesting attempt on the refuge beach was recorded in 1971 and 1972. There has also been some turtle activity on the beach south of the refuge. Although turtle activity occurs at night, ruts left by beach traffic are detrimental to turtles by presenting a barrier to those ocean-bound hatchlings. Vehicle activity on the toe of the frontal dunes during May, June, and July is also detrimental, since nests are located in these areas. If disturbance can be controlled or eliminated, there is high po-

V42188 MAY 6 77 UMI

tential for the success of the loggerhead turtle program at Back Bay, as has been experienced at Chincoteague and Pea Island Refuges where vehicular travel is not permitted. Vehicle intrusions on the biotic community conflict with a major objective of the refuge to provide for optimum natural species diversity.

PROPOSED REGULATIONS DISCRIMINATORY-PERMITTING PERMANENT FULL-TIME RESIDENTS ONLY

Numerous commentators objected to what they termed "discriminatory access privileges extended to permanent full-time residents and not all improved property owners."

Our proposed regulations for 1977 provided for access only to permanent full-time residents of the False Cape acquisition area and the Currituck Outer Banks. The final rule permits access for permanent residents as of December 31, 1976 as well as for improved property owners as of October 6, 1975, whose property was listed on the tax rolls as of January 31, 1976 and have paid necessary ad valorem taxes in accordance with the laws of Currituck County, North Carolina.

MOVE THE RESIDENCY CUT-OFF DATE FROM DECEMBER 31, 1975 BACK TO JANUARY 12, 1972

Several commenters stated that the cut-off date for permanent full-time residents should be moved back to January 12, 1972. The 1972 date stems from the first official public notice in the FEDERAL REGISTER that the Department of the Interior intended to restrict vehicular access through the Back Bay National Wildlife Refuge. Litigation began in the U.S. District Court immediately upon implementation of restrictive regulations in 1973 and was finally concluded favorably for the Government in 1975. The last date which the plaintiffs could further contest the decision of the Fourth Circuit Court of Appeals was on October 6, 1975.

During the period of litigation the Courts did not prohibit anyone from establishing residency on the Outer Banks section of Currituck County, North Carolina. Consequently, several families did in fact become permanent full-time residents and may have a legitimate claim for recognition for vehicular access privileges.

The final regulations, out of basic fairness, will recognize those few families who became permanent full-time residents prior to December 31, 1976, and will also serve notice that there will be no further changes in the cut-off dates.

Accordingly, the revised special regulations are as set forth below and are effective during the period from June 6, 1977 through December 31, 1977.

§ 26.34 Special regulations concerning public access, use and recreation for individual wildlife refuge areas.

VIRGINIA

BACK BAY NATIONAL WILDLIFE REFUGE

(a) General Use. (1) Entry on foot or by motor vehicle on designated travel routes in public use areas is permitted for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling during daylight hours.

(2) Swimming and surfing are permitted only on that portion of the beach lying between the north boundary of the refuge and the dune crossing at field headquarters. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk.

(3) The parking lot at the field headquarters is available on a first come first served basis for persons engaged in surf fishing and nature study. Surf fishing is permitted in accordance with applicable State regulations.

(4) Open fires are not permitted. Portable grills with a contained fuel supply are permitted on the beach north of the field headquarters.

(5) Pets on a leash not exceeding 10 feet in length are permitted on refuge public use areas.

(6) Bicycles and registered motor vehicles are permitted on the paved refuge access road and on the parking area at field headquarters. All other types of motorized vehicles are prohibited except as specifically authorized pursuant to these regulations.

(b) Access Permits. (1) Access to and travel along the refuge beach by motorized vehicles may be allowed between the dune crossing entrance at the field headquarters and the south boundary of the refuge only after a permit has been issued by the refuge manager or his designated representative. No permit will remain in effect beyond December 31 of the year in which it is issued. Permits may be renewed upon the submittal of a proper application.

(2) Permits must be permanently displayed at all times while on refuge property in such a manner as to be readily visible on any motor vehicle. Permits shall be nontransferable. No more than two vehicles owned by the permit holder shall be registered with the refuge manager for use in accordance with these regulations. Those vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee.

(3) Permits may be issued as follows: (i) Residential.

(A) To persons now residing on, owning, or leasing land with permanent habitable dwelling, south of the refuge in the False Cape State Park acquisition area, Virginia.

(B) To owners as of October 6, 1975, of improved property on the Outer Banks of Currituck County, North Carolina, from the North Carolina line south to and including, the village of Corolla, North Carolina, which improved property meets the following criteria:

(1) Mobile Homes: A mobile home with minimum dimensions of 8' x 32' located on a lot prior to March 2, 1972, and for which ad valorem property taxes for 1975 had been paid as of December 31, 1975;

(2) Dwellings: A habitable abode that was properly listed on the tax rolls of Currituck County, North Carolina, by January 31, 1976, for payment of taxes in excess of those paid on unimproved land. Such property improved prior to 1975 shall have been listed on the tax rolls in 1975, and have had taxes paid by December 31, 1975, in accordance with state law, in order for the owner to qualify for a permit.

(C) To permanent, full-time residents who can furnish proof of residency prior to December 31, 1976 on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent, full-time residents. Residence is defined as the dwelling in which the permit applicant lives year round on a full-time basis.

The burden of proof of showing that the prospective permittee meets these criteria shall be on the prospective permittee by presentation of appropriate documentation.

Such permitted vehicles shall be restricted to two round trips per day, except that no more than thirty round trips will be permitted for those persons qualifying under (b)(3)(i)(B) above. Travel is restricted to the designated route of travel between the hours of 5 A.M. to 11 P.M. The refuge manager may make exceptions to access restrictions for qualified permittees who have demonstrated, to the satisfaction of the refuge manager, a need for access relating to health or livelihood.

(ii) Non-residential: (A) to full time commercial fishermen who have verified their dependence for a livelihood since on or before 1972 upon ingress, egress or crossing refuge land. Not more than three (3) special use permits for commercial fishing on the refuge will be in force at one time. Selection of refuge fishing permits will be determined by a lottery when the number of qualified applicants, as described above, exceeds the number of permits available.

A commercial fisherman is described as one who harvest finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(B) For a school bus transporting students residing in the False Cape State Park acquisition area to and from the False Cape area during the school term.

(C) For service vehicles on business calls during the hours of 8 A.M. to 5 P.M., Monday through Friday, upon written verification of a request from a resident as described in (b)(3)(i) above.

Service vehicles. Any vehicle owned or operated by or on behalf of an individual, partnership, or corporation engaged entirely in the business of furnishing construction, maintenance, or repair services, including but not limited to building, plumbing, septic tanks, installation or repair of household appliances, carpentry, painting, landscaping, garbage collection, and delivery services.

(4) Excluded from the restrictions of these regulations are any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; vehicles used by an employee, agent, or designated representative of the Federal, State, or local government in the course of his official duties, and public utility vehicles on official business. A public utility vehicle is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(5) In an emergency, the refuge manager may suspend, for such period or periods as he shall deem advisable, any or all of the foregoing restrictions on vehicular travel, and he may announce such suspension by whatever means are available. In the event of high winds and waves, storms, adverse weather conditions or high tides, the refuge manager may close all or any portion of the refuge to vehicular travel for such period as he shall deem advisable in the interest of public safety, or may adjust the periods of access otherwise prescribed pursuant to (b)(3)(i) above.

(6) (i) The refuge manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

(ii) All vehicles registered with the refuge manager must be equipped with four-wheel drive or oversand tires and carry, at all times on the refuge beach a shovel, jack, tow rope or chain, board or similar support for the jack, low-pressure tire gauge and spare tire.

(7) Violators of these special regulations and all other regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the refuge manager of such permits for the duration of the permit period. Individuals whose vehicle access privileges have been suspended may within 30 days file a written appeal of the suspension to the Regional Director. An appeal may be taken from any final disposition of the Regional Director to the Secretary in accordance with 43 CFR 4G.

(8) All permits issued under (b)(3)(i) will be terminated in the event that alternate access is provided during the permit period.

(9) The provisions of this special regulation are effective through December 31, 1977. They supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50.

The refuge, comprising approximately 4,600 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke #2 Building, Suite 218, Virginia Beach, Virginia 23462, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc.77-13153 Filed 5-6-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 230—NONFOOD ASSISTANCE PROGRAM

Appendix—Second Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, for Fiscal Year 1977

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action reapportions nonfood assistance funds released by States among those States requesting additional funds. The purpose of this action is to effect maximum utilization of such funds.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION:

William G. Boling, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8130.

Pursuant to section 5(e) of the Child Nutrition Act of 1966, Pub. L. 89-642, 80 Stat. 887, as amended, nonfood assistance funds available for the fiscal year ending September 30, 1977, are reapportioned among the States as follows:

Section 5(e)

State	Total reapportionment	State agency	Withheld for private schools
Arizona	$10,000	$10,000	
California	201,157	201,157	
Connecticut	31,258	31,258	
Idaho	3,000	3,000	
Indiana	5,711	5,711	
Iowa	3,967	3,967	
Kansas	5,250	5,250	
Louisiana	13,105	13,105	
Maine	6,788	4,925	$1,863
Michigan	82,269	82,269	
Minnesota	10,613	10,613	
Montana	5,724	5,724	
Mississippi	4,256	4,256	
Nebraska	5,938	5,938	
New Jersey	131,757	131,757	
New York	87,274	87,274	
North Dakota	1,359	1,359	
South Dakota	1,710	1,710	
Virginia	4,496	0	4,496
Virgin Islands	435	435	
West Virginia	3,343	3,343	
Total	619,410	613,051	6,359

This reapportionment is made on the same basis as the initial apportionment, on the number of schools without a food service. Data on schools without the facilities to prepare or receive hot meals will not be available until later in fiscal year 1977 for inclusion in the formula as mandated by Pub. L. 94-105.

(Secs. 2, 5, 6 and 9 through 16, 80 Stat. 885-890, as amended; 42 U.S.C. 1771, 1774, 1778-1785.)

The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A 107.

Dated: April 26, 1977.

P. ROYAL SHIPP,
Acting Administrator.

[FR Doc.77-12925 Filed 5-5-77;6:45 am]

PART 295—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Amendment

AGENCY: Food and Nutrition Service.

ACTION: Final Rule Updated.

SUMMARY: The purpose of this amendment to the regulations governing the availability of information to the public is to reflect changes of street addresses and office locations in Regional and Washington, D.C., offices, and to add addresses of two recently established Regional offices. Such realignment conforms to the standard Federal regional system.

DATE: These changes were effective February 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Rose S. Musumeci, Management Services Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, 202-447-8278.

SUPPLEMENTARY INFORMATION: It is impractical and unnecessary to follow the proposed rule making and public participation procedure because this is a technical amendment that is nonsubstantive in nature. Accordingly, Part 295 is amended as follows:

1. In § 295.3 the last sentence is revised to read as follows:

§ 295.3 Informational and educational publications.

* * * For more information concerning FNS publications and how to obtain them, write the Director, Information Division, Food and Nutrition Service, USDA, GHI Building, Room 764, Washington, D.C. 20250.

2. § 295.7 is revised to read as follows:

§ 295.7 Public inspection and copying.

5 U.S.C. 522(a)(2) requires that certain materials be made available for public inspection and copying. Such materials maintained by FNS may be inspected and copied during regular office hours (currently 8:30 a.m. to 5 p.m.) at the following FNS Washington offices:

(a) Child Nutrition Program materials—Room 3405, Auditors Building, 14th and Independence Ave. SW., Washington, D.C.

(b) Food Distribution Program materials—Room 594, 500 12th St. SW., Washington, D.C.

(c) Food Stamp Program materials—Room 650, 500 12th St. SW., Washington, D.C.

(d) Special Supplemental Food Program materials—Room 4405, Auditors Building, 14th and Independence Ave. SW., Washington, D.C.

(e) All other FNS materials—Inquire at Room 797, 500 12th St. SW., Washington, D.C., for specific locations.

3. § 295.8, paragraphs (b) and (e) are revised to read as follows; and new paragraphs (g) and (h) are added:

§ 295.8 Indexes.

* * * * * *

(b) Director of Administrative Management, Food and Nutrition Service, USDA, 1 Vahlsing Center, Robbinsville, NJ 08691.

* * * * * *

(e) Director of Administrative Management, Food and Nutrition Service, USDA, 1100 Commerce St., Room 5-C-30, Dallas, TX 75242.

* * * * * *

(g) Director of Administrative Management, Food and Nutrition Service, USDA, 34 Third Ave., Burlington, MA 01803.

(h) Director of Administrative Management, Food and Nutrition Service, USDA, 1823 Stout Street, Room 219, Denver, CO 80202.

4. § 295.9, paragraphs (a), (b), and (d) are revised to read as follows:

§ 295.9 Requests.

(a) Child Nutrition Program records—Director, Child Nutrition Division,

V42188 MAY 6 77 UMI

Food and Nutrition Service, USDA, Room 3405, Auditors Building, Washington, D.C. 20250.

(b) Food Distribution Program records—Director, Food Distribution Division, Food and Nutrition Service, USDA, Room 594, GHI Building, Washington, D.C. 20250.

* * * * *

(d) Special Supplemental Food Program records—Director, Special Supplemental Food Division, Food and Nutrition Service, USDA, Room 4405, Auditors Building, Washington, D.C. 20250.

* * * * *

Effective date: This amendment is effective as of February 1, 1977.

P. ROYAL SHIPP,
Acting Administrator.

APRIL 29, 1977.

[FR Doc.77-12916 Filed 5-5-77;8:45 am]

[Lemon Regulation 91]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 8–14, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultual Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons, although slightly easier this week, is still good. Average f.o.b. price was $5.79 per carton the week ended April 30, 1977, compared to $5.57 per carton the previous week. Track and rolling supplies at 130 cars were up 15 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 3, 1977.

§ 910.391 **Lemon Regulation 91.**

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 8, 1977, through May 4, 1977, is established at 270,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 5, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13201 Filed 5-5-77;11:43 am]

PART 916—FRESH NECTARINES GROWN IN CALIFORNIA

Exemption

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document exempts the handling of fresh nectarines at Certified Farmers Markets in the State of California from certain marketing order requirements. This is intended to permit direct marketing of these fruits from producer to consumer and at the same time insure that the fruit is of acceptable quality.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Order No. 916 (7 CFR Part 916), regulates the handling of fresh nectarines grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "act". This exemption was recommended under § 916.54 of the order by the Nectarine Administrative Committee which is established under the order to administer its terms and provisions.

Under the order, the term handle means to sell, consign, deliver, or transport nectarines or to cause nectarines to be sold, consigned, delivered, or transported between the production area (i.e., the State of California) and any point outside the area or within the area. Section 916.110 of the Subpart—Rules and Regulations (7 CFR Part 916.102–916.160) permits handling under specified conditions of 100 pounds or less of fresh nectarines exempt from certain order requirements (§ 916.41 Assessments, § 916.52 Issuance of regulations, § 916.53 Modification, suspension, or termination of regulations § 916.55 Inspection and certification, and § 916.60 Reports). The exemptions are currently applicable to sales of fruits at producers' premises or at packinghouses or retail stands owned and operated by producers. This action would amend § 916.110 to make the exemption permitted by that section applicable to fruit handled in Certified Farmers Markets. A California Department of Food and Agriculture regulation which becomes effective on April 29, 1977, authorizes direct marketing to consumers of fruits (among other commodities) exempt from State requirements relative to size, standard pack, containers, and certain labeling, at Certified Farmers Markets. These markets are defined as "A location approved by the county agricultural commissioner of that county where products may be sold by certified producers directly to consumers. A Certified Farmers Market may be operated by one or more certified producers, by a nonprofit organization, or by a local government agency which, prior to adoption of this Article, authorized and operated a farmers market in which producers sold their products to consumers."

It is hereby found it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure in that: (1) This action is a relaxation of restrictions on certain handling of fresh nectarines and (2) the exemption should be made effective May 9, 1977, in order that it will be available in time for the beginning of shipments of any fruit produced in the 1977 season.

It is hereby further found that the amendment of the Subpart, Rules and Regulations, as hereinafter set forth, is in accordance with the order and will tend to effectuate the declared policy of the act. Therefore, § 916.110(b)(5) is amended to read as follows:

§ 916.110 **Exemptions.**

* * * * *

(b) * * *

(5) Such nectarines are handled by the person who produced them; and the handling takes place (i) on the premises where grown, (ii) at a packinghouse or retail stand nearby which is operated by said handler, or (iii) at a Certified Farmers Market in compliance with section 1392 of the regulations of the California Department of Food and Agriculture.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: May 2, 1977, to become effective May 9, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13000 Filed 5-5-77;8:45 am]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Modification of Container and Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document deletes references to a style of packing fresh California plums which is no longer used by the industry. In addition, slight revisions are made in container marking and pack requirements for plums and peaches for clarity.

EFFECTIVE DATE: June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: The particular reference to a style of packing for fresh California plums which is deleted by this action was referred to in the industry as "face and fill packs". In this type of packing, the top rows of plums in a container were aligned in even rows and the remainder of the container was randomly filled. In addition to the deletion of references to "face and fill packs", for purposes of clarity, minor, non-substantive changes are also made in wording of certain parts of the current container and pack regulation applicable to fresh California plums and peaches.

These amendments were recommended by the Plum Commodity Committee and the Peach Commodity Committee under § 917.42 of the marketing agreement and Order No. 917 (7 CFR Part 917). The order regulates the handling of fresh pears, plums, and peaches grown in California and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedures because these amendments are editorial in nature and impose no new regulation on plum and peach handlers.

It is further found that modification of § 917.419 and § 917.442, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Order. In § 917.419 (Plum Regulation 5; 41 FR 24577) the provisions of paragraphs (a)(4)(ii), (a)(5) and (a)(6) are revised to read as follows:

§ 917.419 **Plum Regulation 5.**

(a) * * *

(4) * * *

(ii) The size of plums loose-filled or tight-filled in standard lug boxes, cartons, or other packages or containers, shall be indicated in accordance with the equivalent size designation for such plums when packed in four basket crates, such at 4x4 size, etc.

* * * * *

(5) Each package or container of loose-filled or tight-filled plums other than bulk bin containers, master containers of consumer packages, and individual consumer packages in master containers shall bear on one outside end, in plain sight and in plain letters, the words "28 pounds net weight".

(6) Each bulk bin container of loose-filled plums shall contain not less than 400 pounds, net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

* * * * *

2. In § 917.442 (Peach Regulation 8; 41 FR 23185, 31180, the provisions of paragraphs (b)(3) and (b)(4) are revised, paragraph (b)(5) is deleted and paragraphs (b)(6), (b)(7) and (b)(8) are redesignated as (b)(5), (b)(6) and (b)(7) respectively, and revised. As revised § 917.442 reads as follows.

§ 917.442 **Peach Regulation 8.**

* * * * *

(b) * * *

(3) * * *

(i) The size of peaches packed in molded forms (tray packs) in No. 22D standard lug boxes, cartons, No. 12B fruit (peach) boxes, or flats and the size of wrapped peaches packed in rows in No. 12B fruit (peach) boxes shall be indicated in accordance with the number of peaches in the container, such as "80 count", "88 count", etc.

(ii) The size of peaches loose-filled or tight-filled in any container shall be indicated according to the number of such peaches when packed in molded forms in the No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size", "88 size", etc.

(4) The variation in diameter between the smallest and largest peach in any individual container shall not exceed ½ inch for size 80 and smaller and ⅜ inch for peaches larger than size 80: *Provided*, That not more than 5 percent, by count, of the peaches in any individual container may fail to meet the diameter requirements of this subparagraph.

(5) Each No. 22D standard lug box of loose-filled peaches shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight".

(6) Each No. 22E standard lug box of loose-filled peaches shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight".

(7) Each bulk bin container of loose-filled peaches shall contain not less than 400 pounds, net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: May 2, 1977, to become effective June 6, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13001 Filed 5-5-77;8:45 am]

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CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide special assistance to communities in rural areas suffering from extreme drought conditions. This amendment is necessitated by the needs of drought-affected areas. FmHA recognizes that many rural areas have suffered substantial losses and hardships due to abnormal drought conditions and that special assistance is needed because of diminished water supplies.

DATES: Effective date: May 6, 1977. Comments must be received on or before June 6, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Dwight O. Calhoun, 202–447–7287.

SUPPLEMENTAL INFORMATION: Part 1888 of Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter G, "Miscellaneous Regulations," is amended. The purpose of this amendment is to provide assistance to communities in rural areas which may have suffered substantial losses and hardships as a result of abnormal drought conditions. Areas of eligibility for financial assistance will be designated by the President, the Secretary of Agriculture, and the FmHA State Director, subject to conditions set forth in § 1888.12. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553. This Amendment however, is not published for proposed rulemaking since the purpose is to provide needed financial assistance to communities in rural areas which may have suffered losses and extreme privation as a result of abnormal drought conditions, and any delay in administering this assistance would be contrary to the public interest. However, comments will be accepted and material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. However, this addition will remain effective until amended in order to permit the public business to proceed expeditiously. As amended, Part 1888 reads as follows.

Sec.

1888.1 Purpose.
1888.2 Policy.
1888.3 [Reserved]
1888.4 Areas of eligibility.
1888.5–1888.11 [Reserved]
1888.12 Emergency loans.
1888.13 Loans and grants to rural communities for water supply assistance.
1888.14–1888.16 [Reserved]
1888.17 Termination provisions.
1888.18–1888.19 [Reserved]
1888.20 Request for obligation of funds.
1888.21–1888.50 [Reserved]

AUTHORITY: 7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

§ 1888.1 Purpose.

This Part prescribes the policies, procedures, and guidelines of the Farmers Home Administration (FmHA) for providing special assistance to farmers, ranchers, and communities in rural areas suffering from extreme drought conditions.

§ 1888.2 Policy.

FmHA recognizes that many rural areas have suffered substantial losses and hardships due to abnormal drought conditions and special assistance is needed because of diminished water supplies. FmHA will utilize existing authorities and regulations to provide the assistance authorized by this Part to meet the needs of these areas.

§ 1888.3 [Reserved]

§ 1888.4 Areas of eligibility.

Loans and grants under this Part are to be made in the following areas:

(a) Areas currently designated by the President, the Secretary of Agriculture, or the FmHA State Director as emergency loan areas because of drought.

(b) Those areas subsequently designated because of drought in accordance with 1832.10 of this chapter.

(c) Those rural communities requesting assistance under these provisions will be determined to be in an eligible area if they are in areas designated by (a) or (b) above, or any other area designated by a Federal Agency administering programs of drought assistance. (This applies to water and waste disposal loan and grant programs only).

§ 1888.5–1888.11 [Reserved]

§ 1888.12 Emergency loans.

(a) *Production losses*—(1) *Drought production losses.* Farmers, ranchers and persons engaged in aquaculture (including private domestic corporations and partnerships) otherwise eligible may be eligible for 5 percent interest rate loss loans under this provision when due to the drought provided:

(i) They are unable to plant all or a portion of their normal crops, including feed crops, or are unable to graze pastures, or

(ii) They will be unable to produce all or a portion of their normal perennial crops already growing such as fruits and nuts, or

(iii) They will be precluded from harvesting all or part of the crops they have planted.

(2) *Decrease in production.* Drought production losses must represent a decrease in production of at least 20 percent below normal in a basic farming enterprise to establish eligibility. See Subpart A of Part 1832 of this chapter.

(3) *Amount of EM loan.* The amount of the drought production loss (which will establish the amount of the 5-percent interest loan) will be calculated by determining normal income in accordance with Subpart A of Part 1832 of this chapter and subtracting therefrom the amount of any income that may be derived from the disaster-affected enterprise(s), plus the costs which will not be incurred because of the drought. Such costs will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists which are based on normal farming conditions in the designated drought area.

(4) *Additional loans for actual production losses.* Additional loans for actual production losses later determined at the end of the crop season will be made at the 5-percent interest rate in accordance with Subpart A Part 1832 of this chapter. The amount of any drought loss loan must be deducted from any additional actual production loss loans made to borrowers based on losses from the same disaster to the same enterprise(s) for which an applicant later qualifies.

(5) *Physical loss loans.* Loans for physical losses may be made at the 5-percent interest rate in accordance with Subpart A, Part 1832 of this chapter.

(b) *Annual operating and major adjustment loans.* Farmers, ranchers, and persons engaged in aquaculture (including private domestic corporations and partnerships) found eligible for loss loans as prescribed in this part may be eligible for major adjustment and operating loans at the prevailing market rate of interest, in accordance with Subpart A Part 1832 of this chapter.

(c) *Procedure for loan making and servicing.* Loans shall be made and serviced in accordance with Subpart A, Part 1832 of this chapter except as modified in this section of this Part.

§ 1888.13 Loans and grants to rural communities for water supply assistance.

Assistance under this paragraph will be limited to those rural communities that have a diminished water supply caused by drought conditions. Applications will be processed in accordance with FmHA Instruction 442.1 for loans and FmHA Instrution 442.13 for grants and the following:

(a) To the extent that this program is presently covered by the requirements of OMB Circular No. A–95, the procedure for drought assistance is as follows: Copies of the application will be sent to the State and areawide clearinghouses at the same time they are submitted to the funding agency. The applicant will also notify the clearing houses that, because of the short time restrictions, any comments will have to be made almost immediately and addressed to the funding agency. If comments or objections from clearinghouses are not received prior to completion of application processing they will not be considered.

(b) Assistance to provide an adequate water supply may be provided to those communities faced with severe problems, including but not limited to a threat to the health and safety of its inhabitants, which are demonstrated to be a result of the drought conditions. The existence of such threats or problems must be fully supported by factual data.

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought-caused problems. Such assistance may include but not be limited to deepening an existing well, developing a new water source by digging a new well, or extending water supply lines to other water sources. Eligibility is limited to those project measures which can be completed by November 30, 1977. Under special circumstances or hardships, an extension of completion time may be granted by the FmHA Administrator.

(d) Loans and grants to rural communities made under this instruction will be serviced in accordance with Subpart F of Part 1861 of this chapter, and applicable portions of Subparts A and P of this chapter.

§ 1888.14–1888.16 [Reserved]

§ 1888.17 Termination provisions.

(a) Any assistance provided under this Part must be for an applicant with an application on file and found eligible on or before September 30, 1977.

(b) Projects should be completed by no later than November 30, 1977. Under special circumstances or hardship situations an extension of completion time may be granted by the FmHA Administrator.

§ 1888.18–1888.19 [Reserved]

§ 1888.20 Request for obligation of funds.

(a) Loans and grants approved under this part will be identified with the appropriate disaster designation number and as special drought loans and grants by typing in "D" between "EM Loans Only" and "24 Disaster Code" in Part II of Form FmHA 440–1, "Request for Obligation of Funds."

(b) The Finance Office will not process Form FmHA 440–1 for loans and grants approved under this part that are not coded with a disaster designation number in Part II of the form.

§ 1888.21–1888.50 [Reserved]

Effective date: This addition is effective on May 6, 1977.

Dated: May 2, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–12866 Filed 5–5–77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL SERVICE COMMISSION

[5 CFR Part 733]

POLITICAL ACTIVITY

Political Management and Political Campaigning; Exception of Certain Elections

AGENCY: Civil Service Commission.

ACTION: Proposed rule.

SUMMARY: The Civil Service Commission proposes to amend its regulations so as to include "District of Columbia" in the list of "Other Municipalities" so that Federal and District of Columbia Government employees may take an active part in District of Columbia partisan elections as, or in support of, independent candidates. This proposal is set forth to comply with the ruling of the United States Court of Appeals for the District of Columbia Circuit in "Joel D. Joseph, et al. v. United States Civil Service Commission," No. 75–1647, January 17, 1977.

DATE: Comments must be received on or before June 6, 1977.

ADDRESS: Submit comments to: General Counsel, United States Civil Service Commission, Room 6H31, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Lynn R. Collins, 202–632–7600.

It is therefore proposed to amend 5 CFR 733.124 by making the following additions under the heading "Other Municipalities":

§ 733.124 **Political management and political campaigning; exception of certain elections.**

* * * * * * *

OTHER MUNICIPALITIES

* * * * * * *

Crane, Ind., (Aug. 3, 1967), District of Columbia (1977), Elmer City, Wash. (Oct. 28, 1947).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–13038 Filed 5–5–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 918]

[Docket No. AO–162–A5]

FRESH PEACHES GROWN IN GEORGIA

Recommended Decision and Opportunity to File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order

Correction

In FR Doc. 77–7214, appearing at page 13557 in the issue for March 11, 1977, insert amendatory language before § 918.19 to read as follows: "15. Section 918.19 is revised to read as follows:".

FEDERAL POWER COMMISSION

[18 CFR Parts 1, 3, 4, 5, 6, and 16]

[Docket No. RM77–18]

CHANGE IN PROCEDURE CONCERNING APPLICATIONS UNDER PART I OF THE FEDERAL POWER ACT

Notice of Proposed Rulemaking

AGENCY: Federal Power Commission.

ACTION: Proposed rule.

SUMMARY: The Commission hereby gives notice that it proposes to amend specific sections of the Rules and Regulations in order to clarify the criteria used to determine when applications filed under Part I of the Federal Power Act should be set for formal, evidentiary hearing. The effect of the proposed rulemaking would be to dispense with the cumbersome and rather confusing shortened procedure now used to process certain Part I applications, and to thereafter allow the Commission to act on these and all other Part I applications after any required public notice has been issued and opportunity for hearing has been afforded.

DATES: Comments must be received on or before May 30, 1977.

ADDRESSES: Send comments to: Federal Power Commission, Washington, D.C. 20426. Comments available for public inspection at Office of Public Information, 825 North Capitol Street, Washington, D.C. 20426, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Don Garber, Office of General Counsel 275–4296.

SUPPLEMENTARY INFORMATION:

Pursuant to 5 U.S.C. 553, Sections 308 and 309 of the Federal Power Act (FPA) (49 Stat. 858, 859; 16 U.S.C. 825g, 825h) the Commission gives notice that it proposes to amend specific sections of the Rules and Regulations in order to clarify the criteria used to determine when applications filed under Part I of the FPA should be set for formal, evidentiary hearing.

Since our previous modification of these sections,[1] it has become evident that applicants are often confused by the criteria established in Order No. 518 for determining when and how the shortened procedures of § 1.32(b)[2] may be invoked. This uncertainty has, in some instances, caused delays in processing applications and has necessitated considerable expenditure of time and effort by Commission staff in advising applicants on this matter. It is proposed herein to rectify this situation by deleting from the Rules and Regulations the requirement that certain applications[3] filed under Part I of the FPA must necessarily be set for hearing unless the applicants request the shortened procedure of § 1.32(b).

The effect of the proposed rulemaking would be to allow the Commission to act on these and all other Part I applications after public notice has been issued and opportunity for hearing has been afforded. Proceedings in which substantial and relevant issues of fact are disputed would continue to involve full hearings before administrative law judges, with attendant cross-examination, briefing, and initial decision. All other proceedings, however, would be decided on the basis of the same type of record currently utilized by the Commission when the shortened procedure of § 1.32(b) has been invoked, i.e., pleadings, submittals and other evidence filed and incorporated in the record. Since the shortened procedure has routinely been granted for those applications not involving disputes respecting substantial and relevant issues of fact, the proposed rulemaking, if adopted, would not actually alter the existing criteria employed by the Commission in determining when formal, evidentiary hearings should be held. It would, however, alleviate the confusion caused by the well-intentioned procedures set forth in Order No. 518.

The effect of the proposed amendments is intended to apply to those applications currently pending before the Commission as well as all applications filed after the effective date of these amendments.

The proposed amendments to the Commission's Rules and Regulations under the Federal Power Act would be issued under the authority granted the Federal Power Commission by the Federal Power Act, as amended, particularly Sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h).

PART 1—RULES OF PRACTICE AND PROCEDURE

It is proposed to amend § 1.32 of Part 1, Subchapter A, Chapter I of Title 18 of the code of Federal Regulations in part as follows:

§ 1.32 **Shortened procedures.**

* * * * * *

(b) *Noncontested proceedings.* In any proceeding required by statute to be set for hearing, the Commission when it appears to be in the public interest and to the interest of the parties to grant the relief or authority requested in the initial pleading, and to omit the intermediate decision procedure, may after a hearing during which no opposition or contest develops, forthwith dispose of the proceedings upon consideration of the pleadings and other evidence filed and incorporated in the record; *Provided,* (1) the applicant or initial pleader requests that the intermediate decision procedure be omitted and waives oral hearing and opportunity for filing exceptions to the decision of the Commission; and (2) no issue of substance is raised by any request to be heard, protest or petition filed subsequent to publication in the FEDERAL REGISTER of the notice of the filing of an initial pleading and notice or order fixing date of hearing, which notice or order shall state that the Commission considers the proceeding a proper one for disposition under the provisions of this section and shall otherwise conform with the requirements of § 1.19. Requests for the procedure provided by this section may be contained in the initial pleading or subsequent request in writing to the Commission. The decision of the Commission in such proceeding after non-contested hearing, will be final, subject to reconsideration by the Commission upon application for rehearing as provided by statute.

[1] Order No. 518, 52 F.P.C. 1386 (1974).

[2] 18 C.F.R. 1.32(b) (1976).

[3] Applications for license authorizing construction of major projects, license for constructed major projects, renewal of licenses for major projects, and substantial alteration to licenses for major projects.

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

It is proposed to amend § 3.114 of Part 3, Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations in part as follows:

§ 3.114 **Licenses.**

* * * * * *

(b) Applications under the Federal Power Act for license authorizing construction of major projects; for license for constructed major projects; and for renewal of licenses for major projects are processed in the manner stated in § 3.113.

* * * * * *

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

It is proposed to amend §4.32 of Part 4, Subchapter B, Chapter I of Title 18 of the Code of Federal Regulations to read as follows:

§ 4.32 **Hearing on application.**

A hearing upon an application may be ordered by the Commission, in its discretion, either upon its own motion or upon the motion of any party in interest. The hearing shall be limited to the issues specified by order or orders of the Commission.

PART 5—APPLICATION FOR AMENDMENT OF LICENSE

It is proposed to amend § 5.1 of Part 5, Subchapter B, Chapter I of Title 18 of the Code of Federal Regulations to read as follows:

§ 5.1 **Amendment of license.**

Where a licensee desires to make a change in the physical features of the project or its boundary, and/or make an addition or betterment and/or abandonment or conversion, of such character as to constitute an alteration of the license, application for an amendment of the license shall be filed with Commission, fully describing the changes licensee desires to make. Furthermore, the provisions of § 2.81(a) of this chapter shall apply to all applications for amendment of license as defined therein. If it is determined that approval of the application for amendment of license would constitute an alteration of license pursuant to Section 6 of the Act, public notice of such application shall be given at least 30 days prior to action upon the application. The application for amendment of license shall be verified, shall conform to § 131.30 of this chapter and shall be filed in accordance with § 4.31 of this chapter.

PART 6—SURRENDER AND TERMINATION OF LICENSE

It is proposed to amend § 6.1 of Part 6, Subchapter B, Chapter I of Title 18 of the Code of Federal Regulations to read as follows:

§ 6.1 **Application for surrender.**

Every application for surrender of a license shall state the reason therefor; and, except in the case of an application for surrender of a license for a minor project, or for a transmission line only, shall be executed by the licensee and filed in the same form and manner as the application for license, and shall be accompanied by the license and all amendments thereof. Public notice of such application shall be given at least 30 days prior to action upon the application.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

§ 16.6 **[Amended]**

It is proposed to amend § 16.6 of Part 16, Subchapter B, Chapter I of Title 18 of the Code of Federal Regulations by deleting paragraph (f) in its entirety.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than May 30, 1977, data, views, comments or suggestions in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, Washington, D.C. 20426 during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, and mailing address of the person to whom communications concerning the proposal should be addressed and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendments. The staff, in its discretion, may grant or deny requests for conferences.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By Direction of the Commission.

Issued: April 29, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13070 Filed 5–5–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 361]

[Docket No. 77N–0060]

RADIOACTIVE DRUGS FOR CERTAIN RESEARCH USES

Amended Reporting Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The agency is proposing less burdensome reporting requirements for certain radioactive drug testing based on the recommendation of the Radiopharmaceuticals Advisory Committee. Current regulations require data for each test subject; the proposal would require representative data.

DATES: Comments by July 5, 1977.

ADDRESSES: Written comments to Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bradley, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 25, 1975 (40 FR 31298), the Commissioner of Food and Drugs established new Part 361 (21 CFR Part 361), which sets forth requirements for certain research uses of drugs generally recognized as safe and effective and not misbranded. Section 361.1 authorizes, under specified conditions, administering radioactive drugs to human subjects in a research project. Such research must be monitored by an FDA-approved Radioactive Drug Research Committee. Each committee is required to report annually to the Food and Drug Administration (FDA) certain information on approved projects under § 361.1(c)(3) (21 CFR 361.1(c)(3)). Items 6.c and 6.d under § 361.1(c)(3) currently require the following information on the radiation absorbed dose for each subject:

Estimated absorbed dose per single administration of radioactive drug, expressed as whole body, actvie blood-forming organs, lens of the eye, gonads, and other organ does.

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If more than one administration of a radioactive drug per subject, cumulative radiation dose and dose commitment, expressed as whole body, active blood-forming organs, lens of the eye, gonads, and other organ doses from the administered radionuclides.

These requirements were included for FDA's use in evaluating the risk to the general public and test subjects and in studying the effects of radioactive drugs on the public. This information is essential to determine whether such research uses of radioactive drugs remain generally recognized as safe and effective.

At its meeting on October 9–10, 1975, the FDA Radiopharmaceuticals Advisory Committee recommended that item 6.c and d of § 361.1(c)(3) be deleted from the reporting requirements because they impose unnecessarily heavy workloads on Radioactive Drug Research Committees by requiring numerous calculations and estimates, while the information necessary to evaluate the total risk to the public health could be acquired by other, less burdensome means.

The Commissioner agrees with this conclusion and herein proposes to implement the recommendations of the advisory committee in the following manner. Section 361.1(c)(3) now requires the reporting of the estimated radiation absorbed doses of radioactive drug for every subject in each project. The Commissioner continues to view that information as desirable. But he now believes that if FDA were provided the radiation absorbed dose information for only one subject in each study or an example representing a typical subject, then it could, on its own, estimate accurately the values for the other subjects if also advised of the following: the subject's approximate weight, age, and sex, and name of each radioactive drug and activity of each radionuclide and amount administered. Of this information, only the subject's approximate weight is not presently required.

In its report, the Radioactive Drug Research Committee would include the references or calculations used to determine conformance with § 361.1(b)(3). The new information, while less troublesome to provide, would still be sufficient for FDA to confirm compliance with the limits on radiation dose specified in § 361.1(b)(3) and to evaluate the total risk to the public health. There would be no need to submit detailed measurements or calculations for each subject or for annual and total dose commitment for subjects who have participated in more than one radioactive drug research study. These can be estimated by FDA from the data submitted in accordance with proposed item 6.a and b for each subject and proposed item 6.c for subjects who have participated in previous studies.

The Commissioner proposes also that an additional radiation dose be specified in the reporting requirements. In paragraph 28 of the preamble to the regulation establishing Part 361 (40 FR 31303), the Commissioner advised that the dose limitations under § 361.1(b)(3) are the total doses attributable to the research study, including the radio active drug and any doses from X-ray procedures that are considered an integral part of the study—that is, the doses would not have occurred except for the study. Because of the variables inherrent in X-ray procedures, the Commissioner now believes that the reporting requirements should identify the X-ray procedures used and the reporting requirements should include the estimated radiation absorbed dose from X-ray procedures performed as part of the study. Therefore, if X-ray procedures were used as part of the study, the report should include the identification of the X-ray procedure(s) used and an example of a typical subject that represents an estimate of the absorbed radiation dose from the X-ray procedure(s). The reference or method used to estimate the absorbed radiation dose should also be included (for example, see "Handbook of Selected Organ Doses for Projections Common in Diagnostic Radiology," HEW Publication FDA–768031. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402).

The Commissioner notes that Part 361 applies only to radioactive drugs that have been determined to be generally recognized as safe and effective and intended for research regarding the metabolism (including kinetics, distribution, and localization) of a radioactively labeled drug or regarding human physiology, pathophysiology, or biochemistry, but not intended for immediate therapeutic, diagnostic, or similar purposes (see § 361.1(a)). These proposed amendments would in no way affect the reporting requirement for radioactive new drugs subject to the reporting requirements specified in 21 CFR Part 312—"New Drugs for Investigational Use."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701 (a), 52 Stat. 1052–1053, as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 361 be amended in § 361.1(c)(3) by revising item 6 in the "Report on Research Use of Radioactive Drugs" therein, to read as follows:

§ 361.1 Radioactive drugs for certain research uses.

* * * * * * *

(c) * * *

(3) * * *

REPORT ON RESEARCH USE OF RADIOACTIVE DRUG

* * * * * * *

6. Radiation absorbed dose. Provide the maximum dose commitment to the whole body and each organ specified in 21 CFR 361.1(b)(3)(i) that was received by a representative subject and the calculations or references that were used to estimate these maximum dose commitments. The report shall include the dose contribution of both the administered radionuclide(s) and any X-ray procedures. If the study elicits data on the uptake or excretion of the radioactive drug pertinent to the estimation of dose commitment, report the mean value and range of values. For each subject provide:

(a) Age, sex, and approximate weight.

(b) Total activity of each radionuclide administered for each radioactive drug used in the study. Report each X-ray procedure used in conjunction with the study.

(c) If the subject has participated in other radioactive drug research studies, report the name of the radioactive drug used in these other studies, the date of administration, and the total activity of each radionuclide administered. If any X-ray procedures were used, identify the X-ray procedure(s) and include an estimate of the absorbed radiation doses.

* * * * *

Interested persons may, on or before July 5, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12844 Filed 5–5–77;8:45 am]

ENVIRONMENTAL PROCTECTION AGENCY

[FRL 722–6]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio; Proposed Rulemaking

AGENCY: Environmental Proection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule is a revision to the Ohio State Implementation Plan submitted by the Governor of Ohio pursuant to section 110 of the Clean Air Act. The revision provides an enforceable strategy for the control of open burning.

DATE: Public comments submitted on or before June 6, 1977 will be considered.

ADDRESSES: Comments to Regional Administrator, Attention: Air Programs Branch, U.S. Environmental Protection Agency, 230 S. Dearborn St., Chicago, Illinois 60604.

Copies of proposal are available for public inspection during normal business hours at the above address and at: U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460; Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT:

Ms. Patricia Springer, Ohio State Specialist, Air Programs Branch, Environmental Protection Agency, Region V, 230 S. Dearborn, Chicago, Illinois 60604, (312–353–2205).

SUPPLEMENTARY INFORMATION: On May 30, 1974, the Governor of Ohio submitted a set of regulations EP–12–01 through –06, inclusive, to the Regional Administrator of the Environmental Protection Agency (EPA) for approval as revisions to the Ohio State Implementation Plan (SIP). These regulations were adopted by the State following public hearing in accordance with 40 CFR 51.4. The 1974 regulations rescinded the originally approved regulation AP–3–08 (39 FR 13539) which prohibited open burning for refuse disposal and salvage operations. On August 10, 1976, the Governor of Ohio submitted revised regulations EP–12–01, –03, and –04, and specifically rescinded EP–12–06, to the Regional Administrator for approval as revisions to the Ohio SIP. These revised regulations were adopted by the State following public hearing in accordance with 40 CFR 51.4 to become effective June 21, 1976.

While the 1974 regulations were received in a request for a SIP revision, they were never published in the FEDERAL REGISTER for proposal as part of the approved SIP. Therefore, the Regional Administrator is proposing the 1974 regulations and the 1976 revisions to these regulations together in this notice.

The 1974 regulations revised the original plan as follows: (1) Defines specific terms used in regulation EP–12; (2) Prohibits open burning during air alerts, warnings or emergencies and prohibits exemption of compliance with the Ohio Revised Code; (3) Specifies restrictions imposed on open burning in restricted areas; (4) Specifies restrictions imposed on open burning in unrestricted areas; (5) Describes open burning permission and notification procedures for individuals; (6) Describes open burning permission procedures for governmental units in restricted areas.

The 1976 regulations revise EP–12 as follows: (1) Broadens the definition of agricultural waste and adds a definition of economic poisons; (2) Restrictions for open burning in restricted areas are made more stringent; (3) Adds a new category of sources allowed to open burn in unrestricted areas; (4) Rescinds EP–12–06.

The decision of the Administrator to approve or disapprove the proposed revisions to the SIP will be based on whether or not they meet the requirements of the Clean Air Act Section 110(a)(2)(A)–(H), and the requirements of 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans. One issue which has caused concern in both the regulation EP–12 and the revisions is the apparent allowance of open burning of hazardous or toxic materials if there is no other means of disposal.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c–5).

Dated: April 19, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator.

[FR Doc.77–13003 Filed 5–5–77;8:45 am]

[FRL 723–5]

[40 CFR Part 228]

OCEAN DUMPING

Intent To Consider Relocation of Municipal Sewage Sludge Dumping and Announcement of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces a public hearing as part of an investigation of the desirability of relocating ocean dumping sites for the disposal of municipal sewage sludge. This action is being taken because of widespread public concern about the impacts of dumping at the present sites. Information collected as a result of this hearing will be used in reaching a decision on relocating sewage sludge disposal sites.

DATES: Comments must be received by June 17, 1977. Public hearing will be held May 31–June 1, 1977.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH–548), Environmental Protection Agency, Washington, D.C. 20460.

LOCATION OF THE HEARING: Fine Arts Building Auditorium, Ocean City College, Toms River, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. T. A. Wastler, (245–3051).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) is considering amending Part 228 of the Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Parts 220–229) to change the locations approved for the dumping of municipal sewage sludge under EPA ocean dumping permits. This action is being taken in response to concern expressed by governmental agencies and member of the general public concerning the present and potential impacts of sewage sludge dumping at the present sites.

It is EPA's policy to encourage the widest possible public participation in its rulemaking activities. All interested persons are, therefore, invited to participate in determiing whether or not relocation of sewage sludge dumping is needed by submitting any written information, data, views, or comments they desire to the address given below or by providing a statement at a two-day public hearing to be held commencing at 9:30 a.m. on Tuesday, May 31 at the Fine Arts Building Auditorium, Ocean County College, Toms River, New Jersey. All comments received by June 17 ,1977, will be considered in making a decision.

Any decision made as a result of this proceeding, other than maintaining sewage sludge dumping at its present locations, will be published as proposed rulemaking in the FEDERAL REGISTER for additional public comment before a final decision is made.

The question of relocating municipal sewage sludge dumping is fraught with complex environmental, social, and economic issues. To assist interested and responsible persons in evaluating these issues and commenting upon them, the following paragraphs discuss the present situation and list the alternative locations presently being considered. This information is not intended to limit the scope of comments or to prevent the identification and discussion of additional issues related to the relocation of ocean dumping sites designated for the ocean dumping of municipal sewage sludge.

It is emphasized, however, that the purpose of this hearing is solely to collect information concerning the relocation of sludge dumping sites. This hearing is not concerned with individual permit actions or with the development of alternatives by any present permittee. Separate hearings are being held by EPA Regions II and III on such permit actions.

At the present time sewage sludge dumping is being done under EPA ocean dumping permits at three sites:

NEW YORK BIGHT SITE (11-MILE SITE)

Total annual volume: 4,012,000 wet tons. Dumpers: New York City; other communities in the New York Metropolitan area. Situation: All dumpers are on implementation plans to phase out ocean dumping by 1981.

Dumping at this site is believed by some persons to be responsible for the beach damage to Long Island and New Jersey beaches and the fish kills in the New York Bight during 1976. Evidence available to EPA at the present time does not support such belief, but EPA is concerned that increase sludge dumping at this site over the next few years may overload the site. Consequently, an alternate site has been selected and surveyed (60-mile site) for possible use for some sludge dumping until 1981. This site has not yet been designated, and no action regarding designation will be taken except as part of an overall EPA action regarding relocation of sludge dumping.

PHILADELPHIA SITE (40-MILE SITE)

Total annual volume: 750,000 wet tons. Dumper: City of Philadelphia. Situation: Philadelphia is on an implementation plan to phase out ocean dumping by 1981.

Philadelphia and Camden were moved to this site in 1973 from a site closer to shore. The former disposal site had been closed to shellfishing, but was reopened two years after sludge disposal at the site was stopped. The present site was closed to shellfishing in 1976. EPA monitoring cruises of the site show some accumulation of constituents of sewage sludge in benthic organisms at and near the site.

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It is anticipated the site could be reopened to shellfishing within a few years after sludge dumping at the site is stopped. There is concern expressed by Delaware and Maryland coastal communities that beaches may be damaged by movement of sludge from this site to the coast; no evidence that this has actually occurred has been presented to EPA at this time.

INDUSTRIAL WASTE SITE (106-MILE SITE)

Total annual volume: 66,000 wet tons. Dumper: Camden, New Jersey. Situation: Camden is building composting facilities and will stop dumping in December, 1977.

The City was moved to this site in January 1977, as a result of litigation. The Camden sludge is undigested and has a high bacterial count. Since the total volume permitted to be dumped was small and the disposal was for a short period of time, EPA has permitted this move without a detailed analysis of the long-range impacts of dumping sludge at the 106-mile site. The strong representations of the Food and Drug Administration concerning the potential for shellfish contamination by continued dumping at the 40-mile site was a key factor in EPA's recommendation of this move to the Court. Other wastes presently dumped at this site are liquid industrial wastes, and this site is presently approved only for the disposal of such wastes.

The EPA Ocean Dumping Regulations and Criteria published January 11, 1977, establish general criteria for the selection of ocean dumping sites (§ 228.5) and list specific factors that will be considered in applying these criteria (§ 228.6).

The criteria of §§ 228.5 and 228.6 will be the basis for the consideration of relocation of municipal sewage sludge ocean disposal sites, in addition to any other necessary or appropriate factors that may be identified as a result of the public hearing.

The general criteria for the selection of ocean dumping sites are (§ 228.5):

(a) The dumping of materials into the ocean will be permitted only at sites or in areas selected to minimize the interference of disposal activities with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation.

(b) Locations and boundaries of disposal sites will be so chosen that temporary perturbations in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within the site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery.

(c) If at anytime during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in §§ 228.5–228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated.

(d) The sizes of ocean disposal sites will be limited in order to localize for identification and control any immediate adverse impacts and permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. The size, configuration, and location of any disposal site will be determined as a part of the disposal site evaluation or designation study.

The specific factors to be used in applying the criteria stated above are (§ 228.6(a)):

(a) In the selection of disposal sites, in addition to other necessary or appropriate factors determined by the Administrator, the following factors will be considered:

(1) Geographical position, depth of water, bottom topography and distance from coast;

(2) Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases;

(3) Location in relation to beaches and other amenity areas;

(4) Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any;

(5) Feasibility of surveillance and monitoring;

(6) Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any;

(7) Existence and effects of current and previous discharges and dumping in the area (including cumulative effects);

(8) Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean;

(9) The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys;

(10) Potentiality for the development or recruitment of nuisance species in the disposal site;

(11) Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

At this time EPA is evaluating four sites in terms of their relative acceptability, according to these criteria, for ocean dumping of sewage sludge until such dumping is terminated. Consideration of other sites is not precluded, however, and recommendations for the use of other sites will be carefully considered. The four sites presently under consideration are:

(1) 11-mile site, presently being used by sludge dumpers in the New York Metropolitan Area. The location of this dump site is approximately 11 nautical miles equidistant from the Long Island (New York) and New Jersey coasts, positioned approximately in a rectangle with coordinates as follows:

40°22'30" N. to 40°25'00" N.
73°41'30" W. to 73°45'00" W.

This sewage sludge dump site currently occupies an area of approximately 6.6 square nautical miles. Water depths within this area average 90 feet. The site was selected in 1924 and was used, with minor changes as to its location, for the disposal of sewage sludges and soluble industrial wastes. This site is used almost exclusively for sludges from sewage treatment plants and domestic septic tanks. Since 1974 EPA has required that soluble industrial wastes be dumped at the chemical waste dump site located approximately 196 kilometers (106 nautical miles) offshore.

The National Oceanic and Atmospheric Administration (NOAA) has made the following statement about continued use of this site for dumping sewage sludge:

The sewage sludge dumpsite should not be relocated. The responsible public health agencies still have no evidence that the existing dumpsite poses a threat to the health and well-being of people using the beaches. There is also no evidence of massive migration of dumped sewage sludge toward the beaches of Long Island or New Jersey. Additionally, moving the dumpsite would not result in any significant overall improvement of the water quality of the Bight apex because the effects of the dumped sewage sludge are masked by the larger mass-emission rates of pollutants from shoreline outfalls, rivers, and embayments.

(2) 60 mile site, one of two sites recommended by NOAA for consideration as an alternative sludge dumping site, has been surveyed and selected as an alternate to the 11-mile site. The alternate sewage sludge dump site is located approximately 33 nautical miles south of Long Island, approximately 60 nautical miles east of New Jersey, and approximately 60 nautical miles southeast of the New York Harbor entrance, positioned approximately in a square with coordinates as follows:

40°10'30" N. to 40°13'30" N.
72°40'30" W. to 72°43'30" W.

The alternate site occupies an area of approximately 9 square nautical miles. Water depths within this area average 180 feet.

This site offers the following advantages over other sites studied in the New York Bight:

1. It is located in a deep section. Thus, because of its greater depth, there will be a low potential for resuspension of bottom sediments due to surface and/or internal waves, and wind-driven currents. In addition, nearby deeper troughs of the Long Island Shelf Valley will act as potential traps for sludge contaminants, inhibiting the bottom transport of contaminants into adjacent areas.

2. It is distant from the Long Island and New Jersey shorelines and from the Hudson Shelf Valley and outside of prevailing coastal currents which influence the Long Island beaches. Thus, it is an optimum location with a very low potential for transport of contaminants to either the coastal areas or the Hudson Shelf Valley.

3. It has no significant potential mineral resources.

4. The biological resources of the site are typical of the North Atlantic Continental Shelf; while the site is in a large area generally used for commercial fishing, it is not anticipated that closure of this site for shellfishing would have a significant adverse economic impact.

5. Oceanographic studies, including those of NOAA and the Raytheon Company, provide a data base for future trend assessments.

(3) 40-mile site, currently being used by the City of Philadelphia; is located 40 nautical miles East of the Delaware-Maryland State Line with average water depths of approximately 120 feet. The site is rectangular in shape with an area of about 40 square miles at these coordinates:

38°20' to 38°25' North Latitude.
74°10' to 74°20' West Longitude.

This site was formerly used for the disposal of industrial salts. Since 1973 it has been used solely for the disposal of municipal sewage sludge by Philadelphia and Camden. This site is closed to shellfishing because of the potential for contamination of shellfish by the dumping of sewage sludge.

(4) 106-mile site, presently used primarily for disposal of liquid industrial wastes, will be used for the disposal of sewage sludge by the City of Camden until December, 1977. This site is off the edge of the Continental Shelf with water depths of approximately 6,000 feet. The site is rectangular with an area of 640 square nautical miles at these coordinates:

38°40' to 39°00' North Latitude.
72°00' to 72°30' West Longitude.

This site is approximately 125 nautical miles east of Cape May, N.J. It is beyond the depth usable for commercial shellfishing, but NOAA baseline surveys of the site show that dumping at this site could impact red crab, flounder, butterfish, lobster, squid, and hake fisheries.

Comments on the relative advantages and disadvantages of these sites are sought, particularly in regard to each of the eleven specific factors mentioned above. EPA is also interested in receiving comment and quantitative information on the following questions:

(1) What are the economic costs associated with dumping at each location?

(2) What are the economic losses in fish and shellfish harvesting associated with the closure of each site?

(3) What damage to the marine environment can be expected at each site as a result of sludge dumping?

(4) To what extent should feasibility of monitoring environmental impacts be a factor in site selection?

(5) How far from each site are the impacts of dumping likely to be detected?

Comments may be presented at the aforementioned public hearing or may be submitted in writing by June 17, 1977, to

T. A. Wastler, Chief, Marine Protection Branch (WH-548), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: May 3, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-13139 Filed 5-5-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21231; RM-2791]

FM BROADCAST STATION IN TACOMA, WASHINGTON

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action is taken proposing the substitution of Class C FM Channel 279 for Channel 280A at Tacoma, Washington. Petitioner, Entertainment Communications, Inc., stated that additional and substantial areas would be served by the proposed assignment and intermixture of channels would be eliminated.

DATES: Comments must be received on or before June 13, 1977, and reply comments must be received on or before July 5, 1977.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1977.

Released: May 4, 1977.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Tacoma, Washington), Docket No. 21231, RM-2791.

1. *Petitioner, Proposal and Comments.* (a) Notice of Proposed Rule Making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's rules and regulations) as concerns Tacoma, Washington.

(b) A petition for rule making[1] was filed on behalf of Entertainment Communications, Inc. ("petitioner"), licensee of FM Station KBRD, Tacoma, Washington, proposing the substitution of Class C Channel 279 for Channel 280A, on which it operates, at Tacoma, Washington. The petitioner has also submitted a supplemental engineering report.

2. *Community Data*—(a) *Location.* Tacoma is located approximately 129 kilometers (80 miles) south of the Canada-U.S. border, and approximately 48 kilometers (30 miles) southwest of Seattle, Washington.

(b) *Population.* Tacoma, 154,581; Pierce County, 411,027.[2]

(c) *Local Broadcast Service.* Tacoma is presently served by three fulltime AM stations, and three FM stations (two Class C and one Class A).

3. *Preclusion Studies.* The preclusion studies supplied by petitioner indicate that preclusion would occur on Channels 276A, 279 and 280A. Preclusion areas for Channels 276A and 279 are relatively small and contain no communities with populations exceeding 1,000. On channel 208A, the precluded area contains three significant communities: Aberdeen (pop. 18,489); Hoquiam (pop. 10,466) and Central Park (pop. 2,720). Aberdeen and Hoquiam each has an FM station and at least one AM station. Central Park has no local broadcast service, but petitioner states that Channels 221A and 257A are available as alternative assignments for Central Park.

4. *Additional Considerations.* Petitioner points out that the proposed Class C station operating with 100 kilowatts and an antenna height of 512 meters (1,680 feet) would not provide either a first or a second nighttime aural broadcast service to any additional area or population. However, petitioner indicates that, if its present Class A station can be upgraded to a Class C station, it would serve 1,990,000 persons in 20,332 square kilometers (7,850 square miles), whereas it presently serves 632,000 persons in a 1,515 square kilometer (585 square mile) area.

5. Petitioner states that the substitution of Channel 279 for Channel 280A at Tacoma would permit Station KBRD to improve its facilities and to place it on a technically competitive footing with other FM stations in the market. It adds that Channel 280A is the only Class A FM channel assigned to Tacoma and that there also are no other Class A operations in the neighboring Seattle-Everett Urbanized Area. Petitioner asserts that the substitution of Channel 279 for 280A in Tacoma would conform to expressed Commission policy by eliminating the current intermixture of channels.

6. Since Tacoma is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment of Channel 279 to Tacoma requires coordination with the Canadian Government.

7. In view of the fact that the proposed assignment would serve additional and substantial areas and that intermixture would be eliminated, we feel that consideration of the proposal described above is warranted.

8. Regarding modification of petitioner's license to Channel 279, if assigned, our policy, as expressed in

[1] Public Notice of the filing of the petition was issued on November 29, 1976 (Rept. No. 1018).

[2] All population figures are taken from the 1970 U.S. Census.

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Cheyenne, Wyoming, 62 F.C.C. 2d 63 (1976), is that the public interest is best served where interested parties are afforded an equal opportunity to apply for such a Class C channel newly assigned to a community. However, since no person has expressed an interest in the proposed assignment of Channel 279 to Tacoma thus far, we are proposing to modify the license of Station KBRD to the Class C channel. Should an opposition to the proposed modification together with a proper expression of interest be submitted in comments, appropriate comparative consideration must be afforded any competing application for the channel, if assigned.

9. An order to show cause to the petitioner will not be necessary since assent of the licensee of the station whose authorization is to be modified is clearly indicated by its request for rule making.

10. In view of the above, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with regard to the city listed below as follows:

City	Channel No.	
	Present	Proposed
Tacoma, Wash.....	247, 280A, 291	247, 279, 291

11. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below.

12. Interested parties may file comments on or before June 13, 1977, and reply comments on or before July 5, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulatoins, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rule making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceednig will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-13023 Filed 5-5-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77D-0067]

BIOLOGICAL PRODUCTS

Availability

AGENCY: Food and Drug Administration:

ACTION: Notice.

SUMMARY: This document announces the availability of a proposed guideline of laboratory procedures to be used to establish the sensitivity of each lot of Limulus Amebocyte Lysate, which is a reagent used by manufacturers for certain in vitro testing. The proposed guideline would be used to precisely establish the true sensitivity of each lot for labeling purposes.

DATE: Interested persons may, on or before June 6, 1977, submit written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposed guideline.

ADDRESS: Requests for a copy of the proposed guideline and comments may be addressed to the Hearing Clerk (HFC-20), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-500), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: Notice is hereby given that a draft of a Proposed Guideline for Determining the Sensitivity of Limulus Amebocyte Lysate is on display at the office of the Hearing Clerk, Food and Drug Administration. Limulus Amebocyte Lysate is used as reagent for in vitro testing to detect bacterial endotoxins in certain biological products. The proposed guideline is intended for use by manufacturers so that they may identify wide variations, if any, in different lots of lysate material when each lot is tested in parallel with a Reference Limulus Amebocyte Lysate obtained from the Bureau of Biologics. The Bureau intends to require that the mean sensitivity of each lot be included on the label of the lysate.

Copies of the proposed guideline are being furnished to persons who are known to be interested in manufacturing Limulus Amebocyte Lysate. Other persons interested in obtaining copies of the proposed guideline may contact the office of the Hearing Clerk, Food and Drug Administration.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-12727 Filed 5-5-77;8:45 am]

DENTIFRICES AND DENTAL CARE AGENTS PANEL

Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting scheduled for May 25 and 26, 1977, of the Dentifrices and Dental Care Agents Panel is cancelled.

FOR FURTHER INFORMATION CONTACT:

Michael D. Kennedy (301-443-4960).

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of April 15, 1977 (42 FR 19917), meetings of advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Dentifrices and Dental Care Agents Panel scheduled for May 25 and 26, 1977, in Conference Rm. A, Parklawn Bldg., Rockville, Md., has been cancelled.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12728 Filed 5-5-77;8:45 am]

[Docket No. 77D-0081]

INVESTIGATIONAL NEW ANIMAL DRUGS

Guideline For Reporting Details of Clinical Trials in Non-Food-Producing Animals

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The agency announces the availability of a guideline developed by the Bureau of Veterinary Medicine for reporting the details of clinical trials using an investigational new animal drug in non-food-producing animals. The guideline will be used as an aid in reporting to FDA information necessary to support an exemption for the investigational use of a new animal drug in non-food-producing animals as part of an investigational new animal drug application (INAD).

FOR FURTHER INFORMATION CONTACT:

James H. Mark, Bureau of Veterinary Medicine (HFV-110), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Section 512(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(j)) provides for the establishment of regulations for obtaining an exemption from the requirement of an approved new animal drug application for the investigational use of a new animal drug.

Section 511.1(b)(4) (21 CFR 511.1(b)(4)) of the new animal drug regulations provides that prior to shipment of a new animal drug for clinical tests in animals, the sponsor must submit to FDA a "Notice of Claimed Investigational Exemption for a New Animal Drug." The notice must include information regarding the identity of the drug, all labeling and other pertinent information supplied to the investigators, the name and address of each investigator, and the approximate number of animals to be treated (or if not available, the amount of new animal drug to be shipped).

The guideline that is the subject of this notice sets forth the format on information required to be submitted by the sponsor regarding each clinical trial in non-food-producing animals.

The guildeline is available for public examination between the hours of 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Written requests for single copies may be sent to the Food and Drug Administration, Bureau of Veterinary Medicine, Industry Information Branch (HFV-226), 5600 Fishers Lane, Rockville, Md. 20857.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12724 Filed 5-5-77;8:45 am]

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PANEL ON REVIEW OF BACTERIAL VACCINES AND TOXOIDS

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Bacterial Vaccines and Toxoids by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond April 16, 1977.

DATE: Authority for this panel will expire on April 16, 1979, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS–20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12729 Filed 5–5–77;8:45 am]

PANEL ON REVIEW OF HEMORRHOIDAL DRUGS

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Hemorrhoidal Drugs by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond April 16, 1977.

DATE: Authority for this panel will expire on April 16, 1979, unless the secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS–20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12730 Filed 5–5–77;8:45 am]

PANEL ON REVIEW OF OPHTHALMIC DRUGS

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Ophthalmic Drugs by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond April 16, 1977.

DATE: Authority for this panel will expire on April 16, 1979, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS–20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12731 Filed 5–5–77;8:45 am]

PANEL ON REVIEW OF VIRAL VACCINES AND RICKETTSIAL VACCINES

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Viral Vaccines and Rickettsial Vaccines by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond April 16, 1977.

DATE: Authority for this panel will expire on April 16, 1979, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS–20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–2765.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12732 Filed 5–5–77;8:45 am]

[Docket No. 76P–0111]

BEVERAGES IN GLASS AND PLASTIC CONTAINERS

Extension of Time for Compliance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is extending to January 1, 1978 the date for compliance with the $\frac{1}{8}$-inch minimum type size requirement for required label statements on closure labels on glass and plastic bottles of milk and other dairy products. This extension ensues from requests by the affected industry.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) has received a letter, dated February 28, 1977, from the Milk Industry Foundation requesting a stay of the April 1, 1977 effective date for compliance with the $\frac{1}{16}$ inch minimum type size requirement (21 CFR 101.2(c), formerly 21 CFR 1.8d(c) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) for required label statements on closure labels on glass and plastic containers of milk and other dairy products. The April 1, 1977 compliance date was announced by the Commissioner in a notice published in the FEDERAL REGISTER of April 5, 1976 (41 FR 14382) that denied the petition submitted on behalf of Dairy Cap Corp. to permit use of $\frac{1}{32}$ inch type. A petition for reconsideration in this matter was subsequently submitted on behalf of Dairy Cap Corp. on May 5, 1976, and the Milk Industry Foundation has requested that the effective date for compliance with the $\frac{1}{16}$ inch minimum type size requirement be stayed pending FDA action on the petition for reconsideration and, in the event that the petition for reconsideration is denied, that a period of at least 1 year following such denial be given for bringing labels into compliance in order to provide industry sufficient time for the purchase of new equipment and labeling materials.

The Milk Industry Foundation also commented on the FDA pending proposal to amend the standards of identity for lowfat and skim milk, published in the FEDERAL REGISTER of October 26, 1976 (41 FR 46873). The Milk Industry Foundation letter states that label changes should not be required until FDA has decided on both the petition for reconsideration and on the proposed amendments to the standards, so that dairies may coordinate label changes.

The Commissioner realizes that many dairies may have delayed changing labels while waiting for the decision on the petition for reconsideration. However, the Commissioner is not convinced that delaying the compliance date beyond January 1, 1978 is warranted at the present time. The issues raised in the petition for reconsideration are being considered by FDA and a decision is expected in the near future; reasonable time for compliance will be provided for any label changes necessitated by amendments to the standards or by other actions.

Therefore, until January 1, 1978 FDA will not take regulatory action against milk and other dairy products solely on the basis that they have been labeled in accordance with the type size exemption proposal—the proposal to amend § 1.8d (c) (subsequently recodified as § 101.2 (c) in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to provide an exemption from the $\frac{1}{8}$-inch type size requirement—that was published in the FEDERAL REGISTER of March 14, 1975 (40 FR 11882). All products initially introduced into interstate commerce on or after January 1, 1978 shall comply with current regulations.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12842 Filed 5–5–77;8:45 am]

[Docket No. 76P–0401]

RITTER CO.

Approval of Variance for Dental Panoramic X-Ray System

AGENCY: Food and Drug Administration.

ACTION: Notice of approval of variance.

SUMMARY: The Director, Bureau of Radiological Health, Food and Drug Administration, has approved a variance from two provisions of the performance standard for diagnostic X-ray systems and their major components for the Panoral dental panoramic X-ray system manufactured by the Ritter Co., Division of Sybron Corp., P.O. Box 848, Rochester, NY 14603. Under the terms of this variance, the Ritter model Panoral dental panoramic X-ray system will deviate from the performance standard requirements in that visual indication of tube current (mA) or the product of tube current and exposure time (mAs) will not be provided; furthermore, a minimum exposure time equal to or less than $\frac{1}{60}$ second or a time interval required to deliver 5 mAs, whichever is greater, will not be provided.

DATES: Effective June 6, 1977; objections and supporting information by June 6, 1977. The variance shall terminate on May 6, 1982.

ADDRESSES: Written objections to: Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John C. Taschner, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3426.

SUPPLEMENTAL INFORMATION: Section 1020.31(a)(1) (21 CFR 1020.31(a)(1)) of the performance standard for diagnostic X-ray systems and their major components requires visual indication, before exposure begins, of technique factors that are not regulated by an automatic exposure control. For the Ritter model Panoral dental panoramic X-ray system, the applicable technique factors, specified in § 1020.30(b)(36)(iii) (21 CFR 1020.30(b)(36)(iii)), are the peak tube potential (kVp), and either the tube current (mA) and exposure time (seconds) or the product of tube current and exposure time (mAs).

The applicant has stated that the Ritter model Panoral dental panoramic X-ray system is designed exclusively for dental panoramic radiography. The X-ray system features an automatic exposure control that senses the X-radiation exposure rate incident on the radiographic film and automatically adjusts the panoramic scan speed (and therefore the total exposure time) to produce a diagnostic quality radiograph of uniform average density. A backup timer is provided which will terminate the exposure if the product of tube current and exposure time exceeds approximately 500 mAs. The tube current is determined by a voltage regulation circuit that adjusts the tube current in response to variations in input power line voltage, to maintain a constant kVp. The operator-selected kVp is indicated on the X-ray console before exposure begins. Exposure time falls within the exception provided for in § 1020.31(a)(1) in that total exposure time is controlled by the automatic exposure control. The Bureau of Radiological Health has determined that tube current, however, is not regulated by the automatic exposure control, and therefore must be visually indicated unless a variance is obtained. Since the Ritter model Panoral dental X-ray system has no visual indication of tube current or the product of tube current and exposure time, it deviates from the standard and will require a variance.

The applicant also stated that the advantage of automatic exposure control and peak tube potential stabilization is that the operator need only set the peak tube potential to produce a radiograph of correct density, thereby eliminating possible operator errors in tube current or exposure time selection and variations in radiographic quality caused by line voltage fluctuations.

Section 1020.31(a)(3)(ii) requires that when an automatic exposure control is provided, the minimum exposure time shall be equal to or less than $\frac{1}{60}$ second or a time interval required to deliver 5 mAs, whichever is greater. It is not appropriate for this requirement to apply to dental panoramic X-ray systems that typically use exposure times of the order of 20 seconds for a full scan at tube currents of 10–15 mA. When the performance standard for diagnostic X-ray systems was issued, there were no dental panoramic X-ray systems commercially available employing automatic exposure controls; therefore, these X-ray systems were not considered when the minimum exposure requirements of § 1020.31(a)(3)(ii) were established. The Ritter model Panoral dental X-ray system will deviate from the standard in that it will not provide a minimum exposure time equal to or less than $\frac{1}{60}$ second or a minimum exposure time interval to deliver 5 mAs, whichever is greater.

The Director, Bureau of Radiological Health, has concluded that the Ritter model Panoral dental panoramic X-ray system to be marketed under the variance utilizes alternate means for providing radiation safety and protection equal to or greater than that provided by products meeting all requirements of the standard and is granting the variance in accordance with the provisions of § 1010.4(a)(1) for a period of 5 years. The applicant has been directed to modify, in accordance with § 1010.4(d), the tags, labels, or other certification required by § 1010.2, which are permanently affixed to or inscribed upon products marketed under this variance, to state the following:

This product complies with Variance No. 77001, effective on June 6, 1977.

The Commissioner of Food and Drugs has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. A copy of the environmental analysis report is on file in the office of the Hearing Clerk, Food and Drug Administration.

In accordance with the provisions of § 1010.4(c)(3) (21 CFR 1010.4(c)(3)) the variance shall become effective June 6, 1977, unless written objections and supporting information are filed with the Hearing Clerk, Food and Drug Administration, on or before June 6, 1977, requesting that the variance be modified or not granted.

The variance shall terminate on May 6, 1982.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, and may be seen Monday through Friday from 9 a.m. to 4 p.m.

Dated: April 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–12843 Filed 5–5–77;8:45 am]

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[Docket No. 77F-0084]

DOW CHEMICAL, U.S.A.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: Dow Chemical, U.S.A., has filed a petition (FAP 7B3265) proposing that the food additive regulations be amended to provide for the safe use of poly[acrylamide-acrylic acid - *N* - (dimethylaminomethyl) acrylamide] resin as a dry strength agent, drainage aid, or retention aid in the manufacture of paper and paperboard for contact with fatty food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3265) has been filed by Dow Chemical, U.S.A., P. O. Box 1706, Midland MI 48640, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170, formerly § 121.2526, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the safe use of poly[acrylamide-acrylic acid-*N*-(dimethyl-aminomethyl) acrylamide] resin as a dry strength agent, drainage aid, or retention aid in the manufacture of paper and paperboard for contact with fatty food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 1977.

HOWARD R. ROBERTS,
Acting Director Bureau of Foods.

[FR Doc.77-12974 Filed 5-5-77;8:45 am]

GENERAL FOODS CORP.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: General Foods Corp. has filed a petition (FAP 7A3280) proposing that the food additive regulations be amended to provide for the safe use of certain emulsifiers in whipped edible oil topping rather than exclusively in whipped vegetable oil topping.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A3280) has been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that § 172.838 Polysorbate 65, § 172.840 Polysorbate 80, § 172.842 Sorbitan monostearate, and § 172.836 Polysorbate 60 (21 CFR 172.838, 172.840, 172.842, and 172.836, respectively, formerly § 121.1008, § 121.1009, § 121.1029, and § 121.1030, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the safe use of polysorbate 65, polysorbate 80, sorbitan monostearate, and polysorbate 60 as emulsifiers in whipped edible oil topping rather than exclusively in whipped vegetable oil topping as currently permitted.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 1977.

HOWARD R. ROBERTS,
Acting Director Bureau of Foods.

[FR Doc.77-12971 Filed 5-5-77;8:45 am]

[Docket No. 77F-0093]

KAY CHEMICAL CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: Kay Chemical Co. has filed a petition (FAP 7H3298) proposing that the food additive regulations be amended to provide for the safe use of a certain aqueous solution as a sanitizing solution on food-processing equipment and utensils and on food-contact surfaces in public eating places.

FOR FURTHER INFORATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348 (b)(5))), notice is given that a petition (FAP 7H3298) has been filed by Kay Chemical Co., 300 Swing Rd., Greensboro, NC 27409, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010, formerly § 121.2547, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended to provide for the safe use of an aqueous solution containing sodium dichloroisocyanurate, dodecylbenzenesulfonic acid, and α-hydro-*omega*-hydroxypolv (oxvethlene)/poly(oxypropylene) (27-31 moles)/poly(oxyethylene) block copolymer, average molecular weight 2,000 as a sanitizing solution of food-processing equipment and utensils and on food-contact surfaces in public eating places.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a signficant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65. 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-12973 Filed 5-5-77;8:45 am]

[Docket No. 77N-0150]

PHENFORMIN HYDROCHLORIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs, FDA, proposes to withdraw approval of the new drug applications described below for drug products for human use that contain phenformin hydrochloride (1-phenethylbiguanide monohydrochloride) (hereinafter referred to as phenformin) under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) (the "act"). This action is being taken on the basis of the clear association demonstrated between the use of phenformin and the occurrence of lactic acidosis in numerous reports submitted to FDA and appearing in the medical literature. No patient population can be identified in whom the possible benefits of phenformin therapy outweigh the risk of lactic acidosis, a complication that is frequently fatal.

NDA 11-624; DBI (phenformin) Tablets; approved March 16, 1959; Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Ardsley, NY 10502.

NDA 12-752; DBI-TD (phenformin) Capsules; approved September 11, 1961; Geigy Pharmaceuticals.

NDA 17-126; Meltrol-25 (phenformin) Tablets; approved October 12, 1972; USV Laboratories, Division of USV Pharmaceutical Corp., Tuckahoe, NY 10707.

NDA 17-127; Meltrol-50 (phenformin) Capsulas; approved October 12, 1972; USV Laboratories.

DATES: Any request for a hearing must be submitted on or before June 6, 1977. In support of any such request, all data and information relied upon to justify a hearing and any other comments from interested persons must be submitted on or before July 5, 1977.

ADDRESSES: Requests, supporting data and information, and other comments shall be submitted, with FDA Docket No. 77N-0150 clearly indicated in the filings, to the FDA Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3650).

SUPPLEMENTAL INFORMATION:

RELATED ACTIONS

A notice was published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21845), announcing that a public hearing will be held on May 13, 1977, on the issue of whether phenformin, as currently labeled, constitutes such a serious hazard that, in light of the delay anticipated in the administrative proceedings to withdraw approval of the new drug applications for the compound, the Secretary of Health, Education, and Welfare should be advised by the Food and Drug Administration to invoke the "imminent hazard" clause of section 505(e) of the Federal Food, Drug, and Cosmetic Act to remove the drug from the market immediately. The outcome of that hearing will not affect the action proposed below.

PHENFORMIN AND LACTIC ACIDOSIS

Phenformin is an oral hypoglycemic drug used in the treatment of patients with non-insulin-dependent adult-onset diabetes. It was first approved for marketing in the United States in March 1959. Not long afterwards reports began to appear in the medical literature suggesting that the use of phenformin might be associated with lactic acidosis, a potentially fatal metabolic acidosis in which abnormal amounts of lactic acid accumulate in the blood. The signs and symptoms may include weakness, lethargy, malaise, and increased respiration; abdominal pain, nausea, and vomiting are also common. With progression of the acidosis, changes in the level of consciousness occur, including stupor and coma. Cardiovascular collapse and death may result. The specific diagnosis of lactic acidosis can be made by measuring lactic acid levels in the blood.

The clinical significance of lactic acidosis was discussed by Huckabee in 1961 (Refs. 1, 2). Its occurrence has been recognized in association with several conditions that result in overproduction or underutilization of lactic acid, or both. (See below.) Lactic acid itself is a normal intermediate of carbohydrate metabolism and is the end product of the anaerobic metabolism of glucose; it can either be further oxidized or be utilized by the liver for the synthesis of glucose. A variety of biochemical events may disturb the individual's normal control over production and utilization of lactic acid, leading to the accumulation of abnormal quantities of lactic acid and to lactic acidosis. The complexities of such events have been detailed recently in an article by Krebs et al. (Ref. 3) and in a book entitled "Clinical and Biochemical Aspects of Lactic Acidosis" by Cohen and Woods (Ref. 4).

In 1970, Oliva reviewed the available medical literature on lactic acidosis (Ref 5). Lactic acidosis was noted to occur frequently in shock. In addition to a spontaneous or idiopathic form of lactic acidosis, other conditions associated with lactic acidosis were diabetes, leukemia, ethanol ingestion, and phenformin therapy. Eighteen cases of clinically severe lactic acidosis occurring in phenformin-treated patients were increased in this review; Oliva concluded, however, that most of these patients were in shock or had other recognized causes of lactate overproduction, thus making it difficult to ascribe a definite causal role to phenforfin in the pathogenesis of the acidosis.

A large number of additional case reports and reviews have been published in the medical literature (Refs. 6-23). The criteria for the diagnosis of lactic acidosis in these publications have not always been the same and therefore individual studies may not be exactly comparable. Selected articles are briefly summarized below.

Bengtsson et al. (Ref. 7) in 1972 reported on 21 patients with lactic acidosis seen between October 1967 and January 1971 in a single hospital in Sweden; all of them had been on phenformin therapy alone or in combination with other agents used in the treatment of diabetes. It is significant that such a sizeable number of cases could have been accumulated over this time period in a single location. Seven of the 21 patients died, a mortality rate of 33 percent.

In 1975, Brach et al (Ref. 12) reviewed 2,647 consecutive deaths over a 19-month period at a large metropolitan hospital. In 10 of the deaths, a presumptive diagnosis of lactic acidosis could be made. Eight of the 10 were diabetic, and all eight were on phenformin alone or in combination with other hypoglycemic agents at the time of their last admission. By contrast, phenformin had been prescribed as part of the therapeutic regimen in only approximately 40 percent of the patients attending their diabetic clinic. As stated by the authors, "The fact that all eight diabetics with lactic acidosis were taking phenformin is alarming."

The apparent disproportionate number of patients taking phenformin among identified cases of lactic acidosis in a diabetic population was noted in a report in 1976 by Conlay and Lowenstein (Ref. 15). Five patients with severe lactic acidosis were admitted to a university teaching hospital during the 17-month period ending in May 1974, and all five were taking phenformin. A sixth patient with relatively mild acidosis who was included in the report was not previously known to be diabetic but was diagnosed as diabetic during hospitalization; she had a history of drinking large amounts of alcohol and was not taking phenformin. During the same 17-month period there were no hospital admissions for lactic acidosis among diabetics being treated with other forms of therapy. Based on a review of patients seen in their diabetic clinic on a randomly chosen day, 55 percent of patients were taking insulin, 37 percent were taking sulfonylurea derivatives, and 8 percent were being treated with diet alone; none was taking phenformin.

In 1976 Fulop and Hoberman (Ref. 16) reported that lactic acidosis can occur in phenformin-treated patients without discernible acute cause. They reviewed the findings in 18 consecutive phenformin-treated diabetic patients with metabolic acidosis admitted to a single medical service over a 25-month period. Lactic acidosis was documented in all. Only eight patients had an identifiable acute illness other than the metabolic acidosis. This rather large number of patients observed in a single setting in slightly over 2 years is notable. The mortality rate in this series was 50 percent.

Wise et al. (Ref. 17) describing their experience from a 2-year observation period, reported on 16 cases of lactic acidosis without evidence of ketoacidosis, (the more common type of metabolic acidosis that occurs in diabetics). The mortality rate was 62 percent. Of the 16 cases, 15 were on phenformin therapy alone or in combination with other agents used in the treatment of diabetes. For comparison, prescribing patterns in the hospitals largely responsible for initiating treatment were reviewed, and phenformin was found to account for only 27 percent of oral hypoglycemic drug use.

When cases of lactic acidosis have been diagnosed in the presence of azotemia (an excess of urea or other nitrogenous bodies in the blood), the point has often been made that these patients should not have received phenformin because the azotemia is evidence of renal disease, a contraindication to use of the

V42|88 MAY 6 77 UMI

drug. Azotemia may, however, be caused by a temporary reduction in renal blood flow due to dehydration, and the nausea and vomiting associated with lactic acidosis frequently lead to dehydration. All patients with lactic acidosis selected from the Wise report were azotemic on admission to the hospital. These authors, however, also evaluated renal function in patients after recovery from the lactic acidosis, and examined the kidneys at autopsy in those patients who had died. The found that 50 percent of these patients did not have evidence of underlying renal disease.

A report by Gale and Tattersall (Ref. 18) in 1976 included eight diabetics who died of lactic acidosis in Nottingham, England, between 1972 and 1975. All were taking phenformin; six patients were on 100 milligrams per day, and two were on 200 milligrams per day. The authors concluded in their summary that, because there are so many contraindications to the use of phenformin, it is doubtful whether patients on the drug can be monitored adequately. The authors suggested that phenformin be withdrawn from general use.

Although the true frequency of the occurrence of lactic acidosis in diabetics using phenformin cannot be determined from the reports in the medical literature, the number of cases being reported from individual treatment centers is a cause for deep concern. The relative frequency of phenformin use being reported in diabetic patients who develop lactic acidosis is considerably higher than that being reported for any other form of treatment for diabetes.

Although the mechanism by which phenformin may predispose to the development of lactic acidosis has not been defined precisely, certain observations reported in the medical literature provide supportive evidence for (but not indisputable proof of) such a mechanism or mechanisms. In a study by Craig et al. (Ref. 24), elevations of blood lactate concentrations were observed in diabetic subjects who were given phenformin. Such elevations were small, but were dose-related in the range of 125 to 175 milligrams per day. That overdoses of phenformin in suicide attempts (Refs. 6, 21–23) can result in lactic acidosis also suggests that phenformin plays a role in the multiplicity of biochemical events involved in lactic acid homeostasis.

A variety of experimental approaches have been employed in an effort to identify a possible site of phenformin action at the cellular level that would predispose to the development of lactic acidosis (Refs. 5, 13, 19). While a number of effects of phenformin on cellular metabolism have been demonstrated, two are worthy of note because of the relatively direct way in which they might contribute to the pathophysiology of lactic acidosis. Phenformin has been reported to inhibit gluconeogenesis and has also been reported to interfere with cellular aerobic metabolism, both of which would interfere with normal disposal of lactic acid. In addition, a compensatory (or primary) increase in glycolysis in the cell would result in an increase in production of lactic acid. The significance of these alterations in metabolic pathways has been questioned on the ground that the effects of phenforim on cellular metabolism in vitro have often been demonstrated at concentrations considerably in excess of those seen therapeutically. Nevertheless, according to Kreisberg (Ref. 19), the experimental observations on cellular activity cannot be dismissed because certain tissues may concentrate phenforim and tissue levels of the drug may be greatly in excess of those expected from plasma concentrations. Furthermore, blood levels of phenforim exceeding the ordinary therapeutic range may occur in patients with impaired renal function because phenformin and its metabolites are excreted primarily by the kidney (Refs. 5, 19).

In an analogous fashion, other clinical conditions which of themselves can contribute to the development of lactic acidosis may play an additive role when they occur in patients already on phenformin therapy. Some of these, such as severe liver impairment, congestive heart failure, and alcoholism, usually are easily diagnosed and, when coexistent with diabetes, constitute a contraindication to phenformin therapy. These conditions, as well as impaired renal function may, however, develop gradually and patients might continue to receive phenformin before these diseases are clincially evident. Other conditions that can result in tissue hypoxia and hence in accumulation of lactic acid occur acutely, and therefore their occurrence cannot be predicted.

Based on these considerations, the Director of the Bureau of Drugs concludes that it is not possible to identify a population of diabetic patients in whom lactic acidosis cannot occur. While the true incidence of lactic acidosis in diabetic patients taking phenformin is unknown, there are sufficient reports to FDA (see below) and in the medical literature to cause serious concern. Futhermore, the mortality rate is such (33 to 62 percent in the summarized series) that the risk to every patient, in the opinion of the Director, outweighs any possible benefit from phenformin therapy.

Chronology

Soon after phenformin was approved for marketing in the United States in 1959, reports of cases of lactic acidosis associated with use of the drug began to appear in the medical literature. A precautionary statment was added to the labeling of the drug in 1964, and physicians were advised not to use the drug in patients with significant kidney impairment or in certain cardiovascular diseases that could result in severe or sustained hypotension. Severe hepatic disease, renal disease with uremia, and cardiovascular collapse were added to the labeling as contraindications.

Because of the growing concern with the accumulation of cases of lactic acidosis in phenformin users, the Bureau of Drugs, in January 1973, reviewed the subject for the first time with its Endocrinology and Metabolism Advisory Committee. At this time about 4 million retail prescriptions per year for phenformin were being dispensed, representing about 20 percent of oral hypoglycemic use. A total of 74 cases of lactic acidosis in patients who had received phenformin had been reported to FDA at that time. Several members of the advisory committee stated that their personal impressions were that phenformin probably was responsible in at least some instances for inducing lactic acidosis; all agreed, however, that available data did not establish drug etiology in the absence of other predisposing factors such as myocardial infarction or renal disease. Additional predisposing factors appeared to be alcohol consumption and cardiovascular collapse. The committee concluded that for patients without such predisposing conditions the benefit/risk ratio of phenformin was adequate to justify continued marketing.

In 1974 the labeling for phenformin was further revised to include an expanded discussion of lactic acidosis in the new "Warnings" section of the package insert. In May 1976 an additional warning was placed in a box at the beginning of the labeling. The boxed warning noted that there have been numerous reports of lactic acidosis in patients receiving phenformin, that lactic acidosis is an often fatal metabolic acidosis, and that the "Warnings" section of the labeling should be read carefully before the drug is prescribed.

Because of further accumulation of case reports of lactic acidosis in association with phenformin therapy, the Bureau of Drugs again presented the subject to the Endocrinology and Metabolism Advisory Committee in October 1976. By October 1976 FDA had reports of a total of 190 cases of lactic acidosis in patients taking phenformin. In 1976 about 3.5 million retail prescriptions were being dispensed, a decline from a peak of about 4.7 million in 1974.

Presentations were made at the advisory committee meeting by FDA staff, by two speakers invited by FDA, and by representatives of Ciba-Geigy Corporation and several consultants to the firm. The advisory committee concluded that there is a clear and unequivocal association between the use of phenformin and lactic acidosis and that there is sufficient evidence to indicate a causal relationship, although the mechanism is as yet unclear.

The committee unanimously recommended removal of the drug from the market on the grounds that phenformin carries a risk of lactic acidosis, a potentially lethal adverse reaction, and in most patients offers no compensating benefit sufficient to justify that risk. They also noted there is evidence that not all patients at risk may be identifiable. The committee stated, however, that in a small population, the benefits from the use of phenformin outweigh the risks, but they concluded that use of the drug could not practicably be confined to this population and therefore recommended that, for the good of the public, the drug be removed from the market.

The Bureau of Drugs reviewed this recommendation and the approaches to its implementation. To clarify the question raised by the committee regarding phenformin use by a limited patient population, the bureau staff asked the members of the advisory committee if they could define a population in which the benefits outweigh the risks. Responses received from committee members in January and February 1977 revealed that they could not specifically define such a population.

In January 1977 the labeling for phenformin was again revised to state that the drug is indicated only for patients with symptomatic diabetes unresponsive to diet (previously the indications for use had included symptomatic and asymptomatic diabetes) and in whom sulfonylureas were ineffective or in whom insulin could not be used. The maximum daily dose recommended in the labeling was reduced by one-half because of evidence of a dose-response effect on blood lactate levels. A "Dear Doctor" letter was sent by the manufacturers to practicing physicians to emphasize these changes. In addition, medical journal advertisements described the new restricted indications for use. Thus, as currently labeled, phenformin is clearly regarded, even by its manufacturers, as a "last resort" drug in symptomatic diabetics who do not have various underlying risk factors that appear to be associated most commonly with lactic acidosis.

The Food and Drug Administration regarded this revised labeling merely as an interim measure until procedures could be instituted to remove phenformin from the market altogether. This position of the agency was affirmed in the recent speechs by the FDA Associate Director for New Drug Evaluation, presented at the Philadelphia Discussion Group of the Academy of Pharmaceutical Sciences, in Philadelphia, Pennsylvania, on December 9, 1976, and at the American Society for Clinical Pharmacology and Therapeutics, in Dallas, Texas, on March 25, 1977.

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Copies of current and previous labeling for phenformin, minutes and transcripts of relevant portions of advisory committee meetings, a letter to and letters from advisory committee members, and the speeches referred to above, as well as literature references listed above, are on public display in the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Maryland 20857.

Opportunity for Hearing

For these reasons, the Director of the Bureau of Drugs concludes that a clear association has been established between the use of phenformin and the occurrence of lactic acidosis. Even though a precise mechanism has not yet been defined, the apparent frequency of the association strongly indicates causality. A patient population cannot be identified that might constitute a no-risk group for phenformin therapy. Because lactic acidosis is a frequently fatal complication, because no patient population exists in whom all risk factors for this complication can always be either identified or predicted, and because of the availability of effective alternative orally administered drug products and other drug and nondrug methods for diabetic therapy, the Director concludes that the risk of phenformin therapy outweighs any possible benefit that can be derived from its use.

Therefore, notice is given to the holders of the new drug applications for phenformin and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)), withdrawing approval of the new drug applications listed above and all amendments and supplements thereto on the ground that evidence of clinical experience, not contained in such applications or not available until after such applications were approved, shows that such drugs are not shown to be safe for use under the conditions of use on the basis of which the applications were approved.

In addition to the holders of the new drug applications specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6(b). It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion regarding the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (HFD–310).

In addition to the specific ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6(b)) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and

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the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 6, 1977, a written notice of appearance and request for hearing, and (2) on or before July 5, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR Part 314.

The failure of an applicant or any other person subject to this notice to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: April 30, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-12970 Filed 5-5-77;8:45 am]

[Docket No. 77F-0108]

YOSHITOMI PHARMACEUTICAL INDUSTRIES, LTD.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Yoshitomi Pharmaceutical Industries, Ltd., has filed a petition (FAP 6B3246) proposing that the food additive regulations concerning antioxidants and/or stabilizers for polymers be amended to revise the melting point for dimyristyl thiodipropionate.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–472–5690).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3246) has been filed by Yoshitomi Pharmaceutical Industries, Ltd., 35-Hiranomachi 3-Chome Higashi-Ku, Osaka 541, Japan, proposing that § 178, 2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178,2010, formerly § 121.2566, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended by revising the melting point specification for dimyristyl thiodipropionate to read 48–52° C.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B–42 or the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.77-12972 Filed 5-5-77;8:45 am]

National Institutes of Health

ALLERGY AND IMMUNOLOGY RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy and Immunology Research Committee, National Institute of Allergy and Infectious Diseases on June 13–14, 1977, at the National Institutes of Health, Building 31C, Conference Room 9, Bethesda, Maryland.

This meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on June 13 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 10:00 a.m. on June 13 to adjournment on June 14 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Luz A. Froehlich, Executive Secretary, Allergy and Immunology Research Committee, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7131, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

APRIL 28, 1977.

[FR Doc.77-12980 Filed 5-5-77;8:45 am]

CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings for Review

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

COMBINED MODALITY COMMITTEE

Date and time: May 31–June 1, 1977; 8:30 a.m.
Place: May 31—Building 31C, Conference Room 6; June 1—Building 37, Room 6B23.
Type of meeting and times: Open—May 31, 8:30 a.m. to 9 a.m. and June 1, 8:30 a.m. to 9 a.m.; Closed—May 31, 9 a.m. to 5 p.m. and June 1, 9 a.m. to adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Harry Handelsmann, Building 37, Room 6D28, National Institutes of Health. Phone: 301–496–1774.

(Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

NATIONAL PROSTATIC CANCER PROJECT WORKING CADRE

Dates: June 1, 1977; 8:30 a.m.
Place: Research Study Center, Roswell Park Memorial Institute, Buffalo, New York.
Type of meeting and times: Open—June 1, 8:30 a.m. to 9 a.m.; closed—June 1, 9 a.m. to adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo, Westwood Building, Room 853, National Institutes of Health. Phone: 301–496–7194.
(Catalog of Federal Domestic Assistance No. 13.393, 13.394, 13.395 National Institutes of Health.)

CANCER CONTROL INTERVENTION PROGRAMS A REVIEW COMMITTEE

Dates: June 2–3, 1977; 8:30 a.m.
Place: Blair Building, Conference Room 110, 8300 Colesville Road, Silver Spring, Maryland 20910.
Type of meeting and times: Open—June 2, 8:30 a.m. to 9 a.m.; June 3, 8:30 a.m. to 9 a.m.
Agenda/Open Portion: General discussion of progress on ongoing contracts.
Closed—June 2, 9 a.m. to 5 p.m.; June 3, 9 a.m. to adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Veronica L. Conley, Blair Building, Room 7A07, National Institutes of Health. Phone 301–427–7941.

(Catalog of Federal Domestic Assistance No. 13.399 National Institutes of Health.)

CANCER CONTROL GRANT REVIEW COMMITTEE

Dates: June 13–14, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting and times: Open—June 13, 8:30 a.m. to 9 a.m.; Closed—June 13, 9 a.m. to 5 p.m. and June 14, 8:30 a.m. to adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. M. Wayne Hurst, Blair Building, Room 7A07, National Institutes of Health. Phone: 301–427–7945.

(Catalog of Federal Domestic Assistance No. 13.399 National Institutes of Health.)

NATIONAL BLADDER CANCER PROJECT WORKING CADRE

Dates: June 14, 1977; 8:30 a.m.
Place: Hilton Inn, Logan International Airport, Suite 312, Boston, Massachusetts.
Type of meeting and times: Open—June 14, 8:30 a.m. to 11 a.m.
Agenda/open portion: To review progress reports. Closed—June 14, 11 a.m., adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. William E. Straile, Westwood Building, Room 853, National Institutes of Health. Phone: 301–496–7104.

(Catalog of Federal Domestic Assistance No. 13.393, 13.934, 13.395, National Institutes of Health.)

JOINT MEETING OF THE CANCER CONTROL COMMUNITY ACTIVITIES REVIEW COMMITTEE AND THE CANCER CONTROL GRANT REVIEW COMMITTEE

Dates: June 15, 1977; 8:30 a.m.
Place: Blair Building, Room 110, 8300 Colesville Road, Silver Spring, Maryland 20910.
Type of meeting and times: Open—June 15, 8:30 a.m. to 9 a.m., Closed—June 15, 9 a.m., adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Robert Browning, Blair Building, Room 7A07, National Institutes of Health. Phone: 301–427–7944.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

CANCER CONTROL COMMUNITY ACTIVITIES REVIEW COMMITTEE

Dates: June 16, 1977; 8:30 a.m.
Place: Blair Building, Room 110, 8300 Colesville Road, Silver Spring, Maryland 20910.
Type of meeting and times: Open—June 16, 8:30 a.m. to 9 a.m.; Closed—June 16, 9 a.m., adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Robert Browning, Blair Building, Room 7A07, National Institutes of Health. Phone: 301–427–7944.
(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

NATIONAL LARGE BOWEL CANCER PROJECT WORKING CADRE

Dates: June 16–17, 1977; 7:30 p.m.
Place: Anderson Mayfair Hotel, 1600 Holcombe Boulevard, Houston, Texas.
Type of meeting and times: Open—June 16, 7:30 p.m. to 8:30 p.m.; Closed—June 16, 8:30 p.m. to 10 p.m.; June 17, 9 a.m., adjustment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo, Westwood Building, Room 853, National Institutes of Health. Phone: 301–496–7194.
(Catalog of Federal Domestic Assistance No. 13.393, 13.394, 13.395, National Institutes of Health.)

CANCER SPECIAL PROGRAM ADVISORY COMMITTEE

Dates: June 20–21, 1977; 9 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Type of meeting and times: Open—June 20, 9 a.m. to 10 a.m.; closed—June 20, 10 a.m. to 5 p.m.; June 21, 8:30 a.m., adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. William R. Sanslone, Westwood Building, Room 805, National Institutes of Health. Phone: 301–496–7565.
(Catalog of Federal Domestic Assistance No. 13.392, National Institutes of Health.)

COMMITTEE ON CANCER IMMUNOBIOLOGY

Dates: June 21, 1977; 2 p.m.
Place: Building 10, Conference Room 4B–14, National Institutes of Health.
Type of meeting and times: Open—June 21, 2 p.m. to 2:30 p.m.; Closed—June 21, 2:30 p.m., adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Mrs. Judith M. Whalen, Building 10, Room 4B17, National Institutes of Health. Phone: 301–496–1791.
(Catalog of Federal Domestic Assistance No. 13.396, National Institutes of Health.)

DEVELOPMENTAL THERAPEUTICS COMMITTEE

Dates: June 23–24, 1977; 9 a.m.
Place: Blair Building, 8300 Colesville Road, Silver Spring, Maryland 20910.
Type of meeting and times: Open—June 23, 9 a.m. to 10 a.m.; Closed—June 23, 10 a.m. to 5 p.m.; June 24, 9 a.m., adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. J. A. R. Mead, Blair Building, Room 5A03A, National Institutes of Health. Phone: 301–427–7363.
Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE A

Dates: June 23–24, 1977; 9 a.m.
Place: Twin Bridges Marriott Hotel, US 1 and I–95, Arlington, Virginia.
Type of meeting and times: Open—June 23, 9 a.m. to 9:30 a.m.; June 24, 9 a.m. to 9:30 a.m.
Agenda/Open portion: Program Information.
Closed—June 23, 9:30 a.m. to 5 p.m.; June 24, 9:30 a.m., adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Carl E. Smith, Landow Building, Room A306, National Institutes of Health. Phone: 301–496–5471.

(Catalog of Federal Domestic Assistance No. 13.393, National Institutes of Health.)

CANCER CLINICAL INVESTIGATION REVIEW COMMITTEE

Dates: June 27–29, 1977; 9 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Type of meeting and times: Open—June 27, 9 a.m. to 10 a.m.; June 28, 8:30 a.m. to 12 m.
Agenda/open portion: June 28—A mini-symposium on the Toxicity of Combined Modality Treatment.
Closed: June 27, 10 a.m., adjournment; June 28, 12, adjournment; June 29, 8:30 a.m., adjournment.
Closure reason: To review research grant applications.
Executive secretary: Mr. C. W. White, Blair Building, Room 123, National Institutes of Health. Phone: 301–427–8086.

(Catalog of Federal Domestic Assistance No. 13.395, National Institutes of Health.)

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COMMITTEE ON CANCER IMMUNODIAGNOSIS

Date: June 28, 1977; 1 p.m.
Place: Building 10, Conference Room 4B14, National Institutes of Health.
Type of meeting and times: Open—June 28, 1 p.m. to 1:30 p.m.; Closed—June 28, 1:30 p.m., adjournment.
Closure reason: To review research contract proposals.
Executive secretary: Mrs. Judith M. Whalen, Building 10, Room 4B17, National Institutes of Health, Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance No. 13.394, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

APRIL 29, 1977.

[FR Doc.77-12977 Filed 5-5-77;8:45 am]

CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings for Review

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

CLINICAL CANCER EDUCATION COMMITTEE

Dates and time: June 1 and 2, 1977; 8:30 a.m.
Place: Linden Hill Hotel, 5400 Pooks Hill Rd. Bethesda, Md. 20014.
Type of meetings and times—Open: June 1, 8:30 a.m. to 9:30 a.m.; Closed: June 1, 9:30 a.m. to 5 p.m., June 2, 8:30 a.m. to adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Margaret H. Edwards, Westwood Bldg., room 10A18, National Institutes of Health. Phone: 301/496-7761.

(Catalog of Federal Domestic Assistance Number 13.398, National Institutes of Health.)

COMMITTEE ON CANCER IMMUNOTHERAPY

Dates and time: June 15 to 17, 1977; 7:30 p.m.
Place: Landow Bldg., room C-418, 7910 Woodmont Ave., Bethesda, Md. 20014.
Times—
Open: June 15, 7:30 p.m. to 8 p.m.; Closed: June 15, 8 p.m. to 11:30 p.m., June 16, 8:30 a.m. to 11:30 p.m., June 17, 8:30 a.m. to 11:30 p.m.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg, building 10, room 4B09, National Institutes of Health. Phone: 301/496-1791.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

APRIL 29, 1977.

[FR Doc.77-12978 Filed 5-5-77;8:45 am]

DIVISION OF RESEARCH GRANTS STUDY SECTIONS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for May and June 1977 and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Richard Turlington, Chief, Grants Inquiries Office of the Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20014, telephone area code 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time.

Study-section	May and June 1977 meetings	Time	Location
Allergy and immunology, Dr. Morton Reitman, room 320, telephone 301-496-7380.	June 9 to 12	8:45	Holiday Inn, Bethesda, Md.
Applied physiology and orthopedics, Mrs. Ileen E. Stewart, room 318, telephone 301-496-7581.	June 23 to 25	9:00	Room 8, building 31, C wing, Bethesda, Md.
Bacteriology and mycology, Dr. Milton Gordon, room 234, telephone 301-496-7340.	June 2 to 4	8:00	Holiday Inn, Bethesda, Md.
Biochemistry, Dr. Adolphus P. Toliver, room 350, telephone 301-496-7516.	June 15 to 18	9:00	DuPont Plaza Hotel, Washington, D.C.
Biophysics and biophysical chemistry A, Dr. Irvin Fuhr, room 236, telephone 301-496-7060.	June 10 to 12	9:00	Holiday Inn, Bethesda, Md.
Biophysics and biophysical chemistry B, Dr. John B. Wolff, room 236, telephone 301-496-7070.	June 2 to 4	8:30	Holiday Inn, Chevy Chase, Md.
Cardiovascular and pulmonary, Dr. Vincent J. Cairoli, room 339, telephone 301-496-7901.	June 14 to 18	8:30	Holiday Inn, Bethesda, Md.
Cardiovascular and renal, Dr. Floyd O. Atchley, room 339, telephone 301-496-7901.	June 8 to 11	8:30	Do.
Cell biology, Dr. Katherine S. Wilson, room 2A-04, telephone 301-496-7020.	June 1 to 4	8:30	Holiday Inn, Chevy Chase, Md.
Communicative sciences Mr. Frederick J. Gutter, room 321, telephone 301-496-7550.	do	8:30	Room 7, building 31 C wing Bethesda, Md.
Computer and biomathematical sciences, Dr. Bernice S. Lipkin, room 310, telephone 301-496-7368.	June 22 to 24	9:00	Holiday Inn, Bethesda, Md.
Developmental behavioral sciences, Dr. Bertie H. R. Woolf, room 232, telephone 301-496-7471.	June 9 to 11	8:30	Mayflower Hotel, Washington, D.C.
Endocrinology, Mr. Morris M. Graff, room 333, telephone 301-496-7346.	June 20 to 23	7 p.m.	Shoreham Americana, Washington, D.C.
Epidemiology and disease control, Mr. Glenn G. Lamson, Jr., room 325, telephone 301-496-7224.	June 11 to 14	8:00	Mayflower Park Hotel, Seattle, Wash.
Experimental psychology, Dr. A. Keith Murray, room 220, telephone 301-496-7004.	June 13 to 16	9:00	Shoreham Americana, Washington, D.C.
Experimental therapeutics, Dr. Anne R. Bourke, room 319, telephone 301-496-7839.	June 8 to 11	Noon	Holiday Inn, Chevy Chase, Md.
Experimental virology, Dr. Eugene Zebovitz, room 206, telephone 301-496-7474.	June 12 to 15	2 p.m.	University of Wisconsin, Madison, Wis.
General medicine A, Dr. Harold M. Davidson, room 354, telephone 301-496-7797.	June 13 to 15	9:00	Room 10, building 31, C wing Bethesda, Md.
General medicine B., Dr. William F. Davis, Jr., room 322, telephone 301-496-7730.	June 5 to 7	2 p.m.	Palmer House Chicago, Ill.
Genetics, Dr. David J. Remondini, room 349, telephone 301-496-7271.	June 9 to 11	9:00	Room 10, building 31, C wing, Bethesda, Md.
Hematology, Dr. Maxcha E. Friedman, room 355, telephone 301-496-7506.	do	9:00	Dupont Plaza Hotel, Washington, D.C.
Human embryology and development, Dr. Samuel Moss, room 221, telephone 301-496-7597.	June 1 to 3	9:00	Linden Hill Hotel, Bethesda, Md.
Immunobiology, Dr. James H. Turner, room 233, telephone 301-496-7780.	June 1 to 3	9:00	Kenwood Country Club, Bethesda, Md.
Immunological sciences, Dr. Lottie Kornfeld, room 233, telephone 301-496-7179.	June 12 to 15	7 p.m.	Holiday Inn, Bethesda, Md.
Medicinal chemistry A, Dr. Asher A. Hyatt, room 222, telephone 301-496-7286.	June 16 to 19		La Jolla Village Inn, La Jolla, Calif.
Medicinal chemistry B, Mr. Richard P. Bratzel, room 222, telephone 301-496-7286.	June 5 to 7	9:00	Watergate Hotel, Washington, D.C.
Metabolism, Dr. Robert M. Leonard, room 218, telephone 301-496-7091.	June 22 to 25	8:30	Room 6, building 31, C wing Bethesda, Md.
Microbial chemistry, Dr. Gustave Silbur, room 357, telephone 301-496-7180.	June 16 to 18	8:30	Room 8, building 31, C wing, Bethesda, Md.

Study-section	May and June 1977 meetings	Time	Location
Molecular biology, Dr. Donald T. Disque, room 328, telephone 301-496-7830.	June 9 to 11	8:30	Shoreham Americana, Washington, D.C.
Molecular Cytology, Dr. Wendell H. Kyle, room 325, telephone 301-496-7149.	June 16 to 18	8:30	Room 7, building 31, C wing, Bethesda, Md.
Neurology A, Dr. William E. Morris, room 326, telephone 301-496-7095.	June 1 to 4	9:00	Room 4, building 31, A wing, Bethesda, Md.
Neurology B, Dr. Willard L. McFarland, room 2A-10, telephone 301-496-7422.	June 8 to 11	8:30	Holiday Inn, Silver Spring, Md.
Nutrition, Dr. John R. Schubert, room 204, telephone 301-496-7178.	June 15 to 17	8:30	Holiday Inn, Chevy Chase, Md.
Oral biology and medicine, Dr. Thomas M. Tarpley, Jr., room 207, telephone 301-496-7818.	May 31 to June 3	9:00	Room 10, building 31, C wing, Bethesda, Md.
Pathobiological chemistry, Dr. Katherine S. Wilson, room 206, telephone 301-496-7432.	June 15 to 18	8:30	Room 9, building 31, C wing, Bethesda, Md.
Pathology A, Dr. William B. Savchuck, room 337, telephone 301-496-7305.	June 1 to 3	8:30	Sheraton Inn, Silver Spring, Md.
Pathology B, Mrs. Barbara S. Bynum, room 352, telephone 301-496-7244.	May 22 to 25	2 p.m.	Denver Hilton, Denver, Colo.
Pharmacology, Dr. Joseph A. Kaiser, room 334, telephone 301-496-7408.	June 13 to 18	8:30	Holiday Inn, Bethesda, Md.
Physiological chemistry, Dr. Robert L. Ingram, room 338, telephone 301-496-7837.	June 9 to 11	9:00	Embassy Row Hotel, Washington, D.C.
Physiology, Dr. Clara E. Hamilton, room 209, telephone 301-496-7878.	June 2 to 4	9:00	Room 9, building 31, C wing, Bethesda, Md.
Population research, Miss Carol A. Campbell, room 210, telephone 301-496-7140.	June 1 to 2	9:00	Mayflower Hotel, Washington, D.C.
Radiation, Dr. Robert L. Straube, room A-10, telephone 301-496-7073.	June 13 to 15	9:00	Kenwood Country Club, Bethesda, Md.
Reproductive biology, Dr. Dharam S. Dhindsa, room 307, telephone 301-496-7318.	June 14 to 17	8:30	Holiday Inn, Bethesda, Md.
Surgery, anesthesiology and trauma, Dr. Keith Kraner, room 336, telephone 301-496-7771.	June 6 to 7	8:30	Holiday Inn, Chevy Chase, Md.
Surgery and bioengineering, Dr. Joe W. Atkinson, room 348, telephone 301-496-7506.	June 9 to 10	8:30	Howard Johnson's Motor Lodge, Arlington, Va.
Toxicology, Dr. Rob S. McCutcheon, room 226, telephone 301-496-7570.	June 1 to 4	8 p.m.	Holiday Inn, Bethesda, Md.
Tropical medicine and parasitology, Dr. Betty June Myers, room 319, telephone 301-496-7494.	June 23 to 26	8:30	Sea Crest Hotel, North Falmouth, Mass.
Virology, Dr. Claire H. Winestock, room 209, telephone 301-496-7128.	June 2 to 4	8:30	Room 8, building 31, C wing, Bethesda, Md.
Visual Sciences A, Dr. Oivil E. A. Bolduan, room 2A-05, telephone 301-496-7180.	June 20 to 23	9:00	Mayflower Hotel, Washington, D.C.
Visual Sciences B, Dr. Luigi Giaccmetti, room 249, telephone 301-496-7251.	June 1 to 4	9:00	Holiday Inn, Georgetown, Washington, D.C.

Dated: April 28, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393-13.396, 13.836-13.844, 13.846-13.871, 13.876, National Institutes of Health, Health, Education, and Welfare.

[FR Doc.77-12976 Filed 5-5-77;8:45 am]

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date and time of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, May 25, 26, and 27, 1977, which was published in the FEDERAL REGISTER on April 13, 1977 (42 FR 10839).

In conjunction with the Council meeting there will be a meeting of the Allergy and Immunology Subcommittee of the NAAIDC on May 24, 1977, in Building 31B, Conference Room 5, National Institutes of Health, Bethesda, Maryland. In accordance with the provisions set forth in sections 552(b)(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, this meeting will be closed to the public from 7:00 p.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications.

Dated: April 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-12975 Filed 5-5-77;8:45 am]

TRANSPLANTATION IMMUNOLOGY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Immunology Committee, National Institute of Allergy and Infectious Diseases on June 20-21, 1977, at the National Institutes of Health, Building 31C, Conference Room 9, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. until recess on June 20 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 9 a.m. to adjournment on June 21 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. John G. Ray, Acting Executive Secretary, Transplantation Immunology Committee, NIAID, NIH, Westwood Building, Room 7A03, will provide substantive program information.

Dated: April 28, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

[FR Doc.77-12981 Filed 5-5-77;8:45 am]

VISION RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, June 13-14, 1977, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on Monday, June 13 from 8:30 a.m. to 10:00 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10 a.m. on June 13 until completion of business on June 14, for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Head, Office of Scientific Reporting, will provide summaries of meetings and rosters of committee members.

Dr. Israel A. Goldberg, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye

V42188 MAY 6 77 UMI

Institute, Building 31, Room 6A–04, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health).

Dated: April 29, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–12979 Filed 5–5–77;8:45 am]

National Institute of Education

RESEARCH AND DEVELOPMENT (R&D) UTILIZATION PROGRAM

Availability of Background Information

The National Institute of Education (NIE) expects to issue a Request For Proposals in June 1977 to conduct the data analysis part of the evaluation of its R&D Utilization Program. Proposals will be due in NIE in early August. In order to provide prospective proposers with appropriate background information about the operational program, and about work which has already been done on the evaluation design and instrumentation by NIE staff, the seven R&D Utilization contractors, and the Far West Laboratory, a set of microfiche has been prepared. Copies of the microfiche are available upon request as long as the supply lasts. In addition, a set of the microfiche and a microfiche reader will be available at the NIE Library for use there. The following program documents are contained on the set of microfiche:

(1) The Scope of Work from the original Request For Proposals of February 1976, which resulted in the seven R&D utilization projects now in operation;

(2) The seven proposals that were funded in June 1976;

(3) Précis of the seven operating projects;

(4) "Supporting Statement For Cross Project Evaluation of the R&D Utilization Program," which contains the basic evaluation design and the initial draft instrumentation for the program.

A set of the microfiche may be obtained only by written request, which should be addressed to:

Thomas S. Israel, Chief, R&D Utilization, Dissemination & Resources Group, National Institute of Education, 1200 19th St., NW., Washington, D.C. 20208.

The seven R&D utilization contractors have been notified not to discuss this data analysis procurement with prospective proposers.

Dated: May 2, 1977.

RICHARD S. WERKSMAN,
Regulations Officer.

[FR Doc.77–13021 Filed 5–5–77;8:45 am]

Office of Education

NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

Meeting

AGENCY: National Advisory Committee on the Handicapped.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Committee on the Handicapped. It also describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: June 8, 9 and 10, 1977, 9 a.m. to 4:30 p.m.

ADDRESS: Old Town Holiday Inn, 480 King Street, Alexandria, Va. 22314.

FOR FURTHER INFORMATION CONTACT:

Mr. Leroy V. Goodman, Executive Secretary, National Advisory Committee on the Handicapped, Bureau of Education for the Handicapped, U.S. Office of Education, Room 4121 Donohoe, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202) 245–2743.

The National Advisory Committee on the Handicapped is established under (20 U.S.C. 1233g) Section 448(b) of the General Education Provisions Act.

The Committee is directed to: (1) Advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commissioner of Education, on programs authorized by the Education of the Handicapped Act, and other provisions of law administered by the Commissioner with respect to handicapped persons, and make recommendations for the improvement of their administration and operation.

(2) Review the administration and operation of the National Technical Institute for the Deaf and the Model Secondary School for the Deaf, and make recommendations for the improvement of their administration and operation.

(3) From time to time make such recommendations as it may deem appropriate to the Commissioner.

(4) Make an annual report of its findings and recommendations to the Commissioner not later than March 31 of each year. The Commissioner shall transmit each such report to the Secretary together with his comments and recommendations, and the Secretary shall transmit such report, comments, and recommendations to the Congress together with any comments or recommendations he may have with respect thereto.

The meeting on June 8, 9 and 10, 1977, will be open to the public beginning at 9 a.m. and ending 5 p.m. each day except on June 9 when the meeting begins at 8:30 a.m. This meeting will be held at the Old Town Holiday Inn, Alexandria, Virginia.

The proposed agenda includes: (1) Executive Secretary's Report; (2) Reports on White House Conference on Handicapped Individuals; (3) Bureau of Education for the Handicapped Plans and Priorities; (4) Discussions with BEH Division heads; and (5) Plans for NACH 1978 Annual Report.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the National Advisory Committee on the Handicapped, Bureau of Education for the Handicapped, U.S. Office of Education, 400 6th Street, S.W., Room 4120 Donohoe Building, Washington, D.C. 20202.

Signed at Washington, D.C. on May 2, 1977.

LEROY V. GOODMAN,
Executive Secretary, National Advisory Committee on the Handicapped

[FR Doc.77–12954 Filed 5–5–77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Evaluation Task Force. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE OF MEETING: May 28 and 29, 1977.

ADDRESS: The Hilton Inn, Coach Room, 2424 Erwin Road, Durham, North Carolina 27705. Phone 919–286–7761.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710, Washington, D.C., 20005. Phone 202–382–7985.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub L. 92–318, Title VII, as amended by Pub. L. 93–380 and Pub. L. 94–482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 10:00 a.m. until 4 p.m. on Saturday, May 28th, and reconvene at 10 a.m. on Sunday, May 29th, until 1 p.m. The meeting will be for the purpose of discussing the Evaluation Task Force operations and project plans for the remainder of this fiscal year. It will include: (1) Discussion about the System Development Corporation's third year evaluation report of the ESAA program; (2) developing plans to review the literature on desegregation and minority group status; (3) outlining the details that will be utilized in preparing a document dealing with the type and size of samples which would be needed to undertake a national evaluation of specific minority groups; (4) developing an operational plan on regional sampling of ESAA grantee reports for funded year 1975–76.

As this is a planned meeting, there is no set time for discussion on each of the particular topics nor will there be any scheduled formal presentations. Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, a written synopsis shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Force will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, NW., Suite 710, Washington, D.C., 20005, and are available for public inspection.

Signed at Washington, D.C., on April 29, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc.77–13027 Filed 5–5–77;8:45 am]

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act, Pub L. 92–634. This document is intended to notify the general pubic of their opportunity to attend.

DATES: May 23 and 24, 1977.

ADDRESS: Cabinet Suite, Quality Inn, Capitol Hill, 415 New Jersey Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul Tremper, Office of Education, Department of Health, Education, and Welfare, Room 5622–ROB–3, 7th and D Streets, S.W., Washington, D.C. 20202. Telephone (202–245–0691).

The Community Education Advisory Council is authorized under Pub. L. 93–380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting will be open to the public.

The meetings on May 23 and 24 will begin at 9 a.m. and end at 5 p.m. During this meeting the Council will make recommendations concerning the future programmatic direction of the Federal Community Education Program. The Council will set aside a half-day on the agenda beginning at 1:30 p.m. on Monday, May 23, for hearings concerning the future direction of the Federal Community Education Program. The public is invited to provide recommendations to the Council on the above mentioned topic at this time. Anyone wishing to be placed on the agenda for a portion of this half-day hearing may do so by addressing their request to: Dr. Martin Essex, Chairman, Community Education Advisory Council, U.S. Office of Education, Room 5622–ROB 3, 7th and D Street, SW., Washington, D.C. 20202, or by calling (202) 245–0691.

One of the major mandated responsibilities of the Council is to create a system of evaluation for the purpose of evaluating the Community Education Program and programs funded under the Community Schools Act. The Council will review progress made to date in fulfilling this responsibility.

The proposed agenda includes: (1) Future Programmatic Directions and Recommendations of the Federal Community Education Program;

(2) Hearings on the Future Programmatic Directions of the Federal Community Education Program;

(3) Review of the Community Education Advisory Council's Annual Report to Congress for Calendar Year 1976;

(4) Update on Evaluation;

(5) Schedule of Future Meetings;

(6) Special Reports;

(7) Status of Advisory Council Special Projects; and

(8) Other Administrative Matters and Related Business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C. on May 3, 1977.

PAUL TREMPER,
Acting Director, Community Education Program.

[FR Doc.77–13037 Filed 5–5–77;8:45 am]

Office of the Secretary

ASSISTANT SECRETARY FOR HEALTH ET AL.

Delegations of Authority

Notice is hereby given that the following delegation and redelegations have been made under Parts E and F, Title VII of the Public Health Service Act, as amended by Pub. L. 94–484 and 94–573, providing for assistance to improve the quality of health professions schools and for grants and contracts for programs and projects concerning health professions schools and training therein:

1. Delegation from the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health, with authority to redelegate subject to section 707 of the Public Health Service Act, of the authority vested in the Secretary, excluding the authority to issue regulations, under:

(a) Part E, Title VII, Public Health Service Act (42 U.S.C. 295f), as amended by Pub. L. 94–484; and

(b) Part, F, Title VII, Public Health Service Act (42 U.S.C. 295g), as amended by Pub. L. 94–484 and 94–573.

Provision was made so that previous redelegations of authority under section 776 of the Public Health Service Act (redesignated by Pub. L. 94–484 as Section 789 under Part F, Title VII, Public Health Service Act) may continue in effect, to the extent consistent with section 707 of the Public Health Service Act, for no more than 90 days from the effective date of this delegation.

2. Redelegation by the Assistant Secretary for Health to the Administrator, Health Resources Administration, with the authority to redelegate subject to section 707 of the Public Health Service Act, of the authorities delegated to the Assistant Secretary for Health under Part E, Title VII, Public Health Service Act (42 U.S.C. 295f), as amended by Pub. L. 94–484.

3. Redelegation by the Assistant Secretary for Health to the Director, Center for Disease Control, with authority to redelegate subject to section 707 of the Public Health Service Act, of the authority delegated to the Assistant Secretary for Health under:

(a) Section 785 of the Public Health Service Act (42 U.S.C. 295g–5 for Occupational Health Training and Education Centers; and

(b) Section 790 of the Public Health Service Act (42 U.S.C. 295g–10), insofar as the general provisions thereunder are applicable to section 785 of the Public Health Service Act.

The above delegation and redelegations are effective on April 12, 1977.

Dated: April 27, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77–13041 Filed 5–5–77;8:45 am]

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice was given of the establishment of the Advisory Committee on National Health Insurance Issues in the April 21, 1977 FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675–20676). Pursuant to Pub. L. 92–463, the purpose of this notice is to announce the first two meetings of the Advisory Committee.

The meetings will be held on May 20 and May 21, 1977 from 9 a.m. to 5:30 p.m. and from 9 a.m. to 12:30 p.m. in the first floor auditorium of the South Portal

V42I88 MAY 6 77 UMI

Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The agenda will consist of a discussion of organizational maters and procedures for the ongoing functioning of the Committee and a review of major national health insurance proposals. The meetings will be open to the public.

Further information on the Committee may be obtained from: Susanne Stoiber, Office of Planning and Evaluation, Room 723E, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201, Telephone: 202–472–3028.

Dated: May 6, 1977.

SUSSANNE STOIBER,
Project Coordinator.

[FR Doc.77–13095 Filed 5–5–77;8:45 am]

Assistant Secretary for Education

COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Comments

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before June 6, 1977, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202–245–1022.

Dated: May 2, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Reports for Cooperative Education Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Postsecondary Education Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE 411 and OE 311–1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 802 (b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Commissioner at such time or times as he may prescribe and shall * * *. (4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provision of this part * * * (5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part;" * * * Public Law 94–482, 20 USC 1133a.

Financial Reporting Requirement: "Each Federal sponsoring agency shall require the recipients to use the standard Financial Status Report to report the status of funds for all non-construction projects or programs"

Performance: "Recipients shall submit a performance report (technical report) for each agreement * * * recipients shall submit the performance or technical reports to Federal sponsoring agencies and the Financial Status Reports covering the same period * * *". (Office of Management and Budget Circular No. A110, FEDERAL REGISTER, Vol. 41, No. 148).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

To monitor program and to report to the Executive and Legislative branches.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: 60 days after the end of the grant period.
c. Frequency: Once a year.

8. RESPONDENTS

a. Type: Institutions of Postsecondary Education.
b. Number: 350.
c. Estimated Average Man-hour per Respondent: 5½.

9. INFORMATION TO BE COLLECTED

Pertains to progress made in terms of the aims and objectives as set forth in the application and approved budget, including such factors as: (1) degree and extent of administration support including financial support both immediate and long range, (2) staff performance & procedure development, (3) faculty's role in developing program and extent of cooperation received, (4) number of student job placements, (5) receptivity of students to the program in terms of complementing their academic programs, and (6) the response of employers in providing meaningful work assignment.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Finanical Status Report for Title II, Elementary and Secondary Education Act.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Elementary and Secondary Education/Office of Libraries and Learning Resources.

3. AGENCY FORM NUMBER

OE 1297.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 203 (a) Any State which desires to receive grants under this title shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which * * * (7) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports." Public Law 89–10, 20 U.S.C. 823.

Section 100b.403 of the General Provisions for Office of Education Programs (38 FR 30689): "Recipients shall use the standard Financial Status Report prescribed by Attachment H of FMC 74–7 to report the status of funds for all non-construction grant programs * * * Financial reports shall be due ninety days after the completion * * * of Federal support.".

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

NDEA Title III Financial Status Reports will be used as completion reports for closeout of the program.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: 90 days after liquidation of all obligations.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: State Education Agencies.
b. Number:
c. Estimated average man-hours per respondent: 1.

9. INFORMATION TO BE COLLECTED

For closing out purpose, only the Administration and the Total columns will be entered. There are only four line items needed for this report. They are:

Line g. Total Federal share of program outlays.
Line l. Total Federal funds authorized.
Line m. Unobligated balance of Federal funds.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status Report for Title III, National Defense Education Act.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Elementary and Secondary Education Office of Libraries and Learning Resources.

3. AGENCY FORM NUMBER

OE 1298

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 1004(a) No State plan submitted under one of the titles of this Act shall be approved by the Commissioner which does not * * * (2) Provide that such commission or agency will make such reports to the Commissioner, in such form and containing such information as may be reasonably necessary to enable the Commissioner to perform his duties under such title or section and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports," P.L. 85–864 as amended. Section 100b.403 of the General Provisions for Office of Education Programs (38 FR 30689): "Recipients shall use the standard Financial Status Report prescribed by Attachment H of FMC 74–7 to report the status of funds for all non-construction grant programs * * * Financial reports shall be due ninety days after the completion * * * of Federal support."

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

NDEA Title III Financial Status Reports will be used as completion reports for closeout of the program.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: 90 days after liquidation of all obligations.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: State Education Agencies.
b. Number: 57.
c. Estimated average man-hours per respondent: 1½ hours.

8. INFORMATION TO BE COLLECTED

For closing out purpose, only the *Administration* and the *Total* columns will be entered. There are only four line items needed for this report. They are:

Line f. Total non-Federal share of program outlays.
Line g. Total Federal share of program outlays.
Line l. Total Federal funds authorized.
Line m. Unobligated balance of Federal funds.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Report on ESEA Title I Comparability Requirements (Under Pub. L. 89–10, as amended by Pub. L. 91–230).

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Elementary and Secondary Education/Division of Education for the Disadvantaged.

3. AGENCY FORM NUMBER

OE 4524.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 141(a)(3)(C) requires as a condition for State approval of a local educational agency's Title I program that: "State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title * * *" Section 142(a) of Title I provides that: Any State desiring to participate under this title * * * shall submit through its State educational agency to the Commissioner an appli ation * * * which provides satisfactory assurance * * * (3) that the State educational agency will make to the Commissioner * * * (B) such other reports as may be reasonably necessary to enable him to perform his duties under this title * * *" (Pub. L. 91–230, 20 U.S.C. 241e).

The ESEA Title I regulations implementing the statutory requirements provide in 45 CFR 116a.26(n) as follows:

"State agency submissions. (1) By January 1 of each year, the State educational agency shall submit to the Commissioner in such form as he shall prescribe, a copy of the comparability report for each local educational agency in the State which the Commissioner has determined to be in a national sample of such agencies for that year * * *—(4) Not later than April 30, the State educational agency shall report to the Commissioner whether any noncomplying local educational agencies have come into compliance, and if so, the State educational agency shall include revised reports for such local educational agencies reflecting such compliance." (45 CFR Part 116a.26).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain and maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

State reports on the status of comparability will be used by the Commissioner to evaluate the effectiveness of State educational agencies in securing the compliances of local educational agencies with the comparability requirements in 45 CFR 116a.26.

7. DATA ACQUISITION PLAN

(a) Method of collection: By mail.
(b) Time of collection: January 1 and April 30.
(c) Frequency: Biannually.

8. RESPONDENTS

(a) Type: State educational agencies.
(b) Number: 56.
(c) Estimated average man-hours per respondent: 3.

9. INFORMATION TO BE COLLECTED

Each State educational agency will report on the comparability status of local educational agencies in its state by providing data on the number of participating local educational agencies, the number of such agencies that were required to submit and that actually submitted detailed reports, and the number of such agencies required to submit revised reports indicating that satisfactory action had been taken to correct the lack of comparability indicated on their original reports. Also reported will be the names of those local educational agencies that submitted satisfactory revised reports and of those whose Title I applications were disapproved because of failure to submit such reports.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

ESEA Title I Comparability Report: General Information and School Data.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Elementary and Secondary Education/Division of Education for the Disadvantaged.

3. AGENCY FORM NUMBER

OE 4524–A; OE 4524–B.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 141(a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish) * * * (3) That (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title * * * (7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information * * * as may be reasonably necessary to enable the State educational agency to perform its duties under this title" * * * (Pub. L. 91–230; 20 U.S.C. 241e). The requirements of the legislation are implemented by Section 116a.26 of the Title I regulations which in part provides as follows:

"(a) State agency action regarding applications. A State educational agency shall not approve an application of a local educational agency for a grant under Section 141(a) of Title I, or make payments of Title I funds under a previously approved application of such agency, unless that local educational agency has demonstrated, in accordance with paragraph (c) of this section, that services provided with State and local funds derived from public sources in Title I project areas are at least comparable to the services being provided with such State and local funds in schools serving attendance areas not designated as Title I project areas." * * * (45 CFR 116a.26).

5. VOLUNTARY OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Program management: Comparability data will be used by State educational agencies to comply with the above cited statutes and regulations and thus to insure that the use of State and local funds in each school serving a Title I project area is comparable to the use of such funds in schools serving non-project areas. A local educational agency must make a timely demonstration of a comparable distribution of State and local resources under actual enrollment and staffing conditions in order to be able to continue to obligate Title I funds.

State educational agencies will submit to the Commissioner comparability reports from local educational agencies in the national sample to enable him to assess the effectiveness of State administration and the impact on those agencies of the regulations governing comparability.

7. DATA ACQUISITION PLAN

(a) Method of collection: By mail.
(b) Time of collection: Fall.
(c) Frequency: Annually.

8. RESPONDENTS

(a) Type: Local educational agencies.
(b) Number: 8,500.
(c) Estimated average number of man-hours per respondent: 9.

9. INFORMATION TO BE COLLECTED

(a) The number of Title I project and non-project schools in each of three basic grade span groups.
(b) Those local educational agencies which have both project and non-project schools in

V42I88 MAY 6 77 UMI

any one of the grade span groups will be required to submit detailed data on Form 4524–B for the schools in each such group. The data for this purpose will consist of the following items:

(1) The number of pupils enrolled in each Title I project school and the average number enrolled in the non-project schools;

(2) The number of staff persons contributing to teaching-learning situations in each Title I project school and the average number of such staff persons assigned to the non-project schools;

(3) The salaries (minus longevity payments) for the reportable staff persons in each Title I project school and the average of such salaries in the non-project schools.

The above data will be used to compute the ratio of students to staff persons and the per pupil expenditure for staff salaries. Comparability will be determined by comparing the computations for each Title I project school to the corresponding averages for the non-project schools.

[FR Doc.77–13005 Filed 5–5–77;8:45 am]

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77–95]

COLUMBIA GAS TRANSMISSION CORP. ET AL.

Supplemental Emergency Order

By order issued April 19, 1977, pursuant to section 6 of the Eemergency Natural Gas Act of 1977, Pub. L. 95–2 (91 Stat. 4 (1977)), I authorized inter alia, Columbia Gas Transmission Corporation (Columbia) to make emergency purchases of natural gas up to 2,000 Mcfd from No. 1 King Well, Payne County, Oklahoma from Ketal Oil Producing Company (Ketal) at $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. Further, I authorized, inter alia, Ketal to transport and deliver the gas in Payne County to Cities Service Gas Company (Cities Service). Cities Service would deliver the gas to Panhandle Eastern Pipeline Company (Panhandle) in Reno County, Kansas. Panhandle would deliver the gas to Columbia near Maumee, Ohio. Columbia agreed to pay the following transportation charges: Cities Service 13.77 cents per Mcf plus 4 percent of the volumes for shrinkage; Panhandle 21.92 cents per Mcf plus 7 percent of the volumes for shrinkage. Columbia agreed to pay Ketal 0.25254 cents per Mcf for transportation.

By supplemental filing received April 26, 1977 Columbia submitted information that the 2,000 Mcfd of natural gas purchased from Ketal is from both No. 1 King Well, Payne County, Oklahoma and from the No. 1 Westfall "A" Well, Payne County, Oklahoma.

Further, Columbia states that the transportation network for gas purchased from both No. 1 King Well and No. 1 Westfall "A" Well is unchanged. The transporation charges agreed to by Columbia remain unchanged except for the transporation charge by Ketal which has been increased to 29.77 cents per Mcf for all gas delivered.[1]

Columbia shall submit weekly reports as required by Order No. 4.

To the extent not inconsistent with this order, the provisions of the April 19, 1977 order remain in full force and effect.

Pursuant to section 6(a) of the Act, I authorize Columbia to purchase up to 2000 Mcfd of gas from Ketal's No. 1 King Well and No. 1 Westfall "A" Well, Payne County, Oklahoma at a price not to exceed $2.25 per MMBtu in accordance with Order No. 2. Pursuant to Section 6(c) of the Act, I authorize Ketal, Cities Service, and Panhandle to transport gas for Columbia as described. Since the parties have agreed upon the transportation charges, I find no basis for prescribing other changes. Columbia shall submit a statement explaining the basis for the transportation charges by Ketal.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Ketal, Panhandle and Cities Service. This order shall also be published in the FEDERAL REGISTER.

This order is subject to the continuing authority of the Administrator under Pub. L. 95–2 and the Rules and Regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

APRIL 29, 1977.

[FR Doc.77–13042 Filed 5–5–77;8:45 am]

[Docket No. E77–100]

TEXAS GAS TRANSMISSION CORP.

Emergency Order

On April 28, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application to make certain emergency purchases of natural gas as an agent for its customers from Daniel Oil Company (Daniel). Texas Gas also requests permission to build those facilities necessary to receive the natural gas purchased and to transport and deliver this gas to its customers. For the reasons set forth below, I authorize the purchase and order the constructon of necessary facilities, and transportation and delivery of the subject gas.

By contract executed April 12, 1977, Texas Gas, as agent, agreed to purchase up to 500 Mcfd of natural gas from Daniel at South Elton Field, Jefferson Davis Parish, Louisiana. The contract between Texas Gas and Daniel is to terminate on July 31, 1977.

Texas Gas, as agent, will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Texas Gas, as agent, will receive delivery of the subject gas from Daniel at Jefferson Davis Parish, Louisiana and transport and deliver such gas to its customers along the Texas Gas pipeline system at existing delivery point.

The rate to be charged by Texas Gas for the transportation service proposed are as follows: Deliveries made in Zone SL—4.67 cents; Zone 1—13.93 cents; Zone 2—17.30 cents; Zone 3—20.38 cents; Zone 4—22.63 cents. Texas Gas will retain a portion of the transported volumes of condensate for compressor fuel, company use, and loss.

Further, Texas Gas advises that it will have to construct and install a meter station, side valve and related equipment at a cost of $9,540 adjacent to its pipeline in Jefferson Davis Parish, Louisiana in order to transport the subject gas to its customers. The cost of said facilities will be paid for on a pro rata basis by those customers of Texas Gas for whom Texas Gas is acting as an agent.

Texas Gas shall submit weekly reports as required by Order No. 4.

Pursuant to section 6(a) of the Act, I hereby authorize Texas Gas as agent to purchase up to 500 Mcfd of natural gas on the terms and conditions set forth in Texas Gas' filing in this proceeding. Pursuant to section 6(c) of the Act, I hereby authorize and order Texas Gas to transport and deliver gas for its customers, and to construct those facilities necessary to receive the subject gas. Since the Texas Gas rates were based upon justified cost data determined in Docket No. RP76–17 and the cost of said facilities will be paid on a pro rata basis by customers receiving subject gas, I find no basis for prescribing other charges.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Daniel. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the Rules and Regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

APRIL 29, 1977.

[FR Doc.77–13043 Filed 5–5–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

METRIC MEASUREMENTS

Solicitation of Information

This notice is to solicit information and opinions on the voluntary use of metric units of measurement for all purposes under the jurisdiction of the Federal Meat and Poultry Inspection Program.

[1] Columbia submitted information that the previously reported charge of 0.25254 cents per Mcf by Ketal was incorrect. The amount should have been reported as 25.254 cents per Mcf in the original petition filed April 13, 1977.

In 1975 Congress enacted the Metric Conversion Act of 1975 (15 U.S.C. 205(a) et seq.) to coordinate the increasing use of the metric system and to establish a board to coordinate the voluntary conversion by U.S. industries to the metric system. Since use of the metric system is voluntary under the terms of this Act, no regulatory action can be taken to require use of the metric system; however, neither should action be taken which inhibits the voluntary conversion by an industry to the metric system. This would seem to be contrary to the intent of the Metric Conversion Act.

The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) requires that any word, statement or other information required by or under authority of the Act to appear on the labeling be conspicuous and in terms that are likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) has the same requirements for labeling poultry products.

Although the metric system is widely used in other countries, it is in common usage in the United States only in the scientific fields. Because of this limited usage, a long period of limited or dual use may be necessary to fully acquaint the general public with the metric system.

The Meat and Poultry Inspection Program (MPI), Food Safety and Quality Service, is requesting information on ways to implement the changes with the meat and poultry industries without disrupting normal marketing procedures and confusing consumers.

There are several actions which MPI can take in reference to the Metric Conversion Act:

(1) Require English weights and measures until a definite conversion date is established and permit voluntary use of metric weights and measures as well (This is current practice; however, manufacturers could be further encouraged to apply dual labels.);

(2) Require use of dual weights and measures; or

(3) Allow individual companies to decide whether to use either English, or metric, or duel declaration whenever they wish to convert.

Labels for many food items, including some meat and poultry products, already have dual weight declarations in which the English weight is followed by the metric equivalent in parenthesis. This method gives consumers the familiar weight as well as its metric equivalent, allowing them to become accustomed to the metric system before complete conversion to it.

In considering this matter, the Department is soliciting public comments on how it should carry out the intent of the Metric Conversion Act, as well as its responsibilities to the consumer for truthful, informative labeling of meat and poultry products.

Any person wishing to submit written data, views, or arguments concerning this matter may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, or if the material is deemed to be confidential, with the Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, by September 5, 1977.

Any person desiring opportunity for oral presentation of views should address such request to the Staff identified in the preceding paragraph, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure would adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on this notice should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C. on May 2, 1977.

F. J. MULHERN,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc.77–12989 Filed 5–5–77;8:45 am]

Forest Service

LAND MANAGEMENT PLAN LAMB-UPPER WEST BRANCH PLANNING UNIT

Amendment to Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared an amendment to the final environmental statement for Lamb-Upper West Branch Planning Unit, Forest Service Report Number USDA–FS–RI(04)–FES–Adm–76–16.

The amendment concerns a review of the land management plan in light of interim Forest Service directions issued to implement the National Forest Management Act of 1976 (Pub. L. 94–588). The plan is consistent with this interim direction.

Single copies of the amendment are available upon request to:

USDA, Forest Service, Sandpoint Zone Planning, P.O. Box 490, Sandpoint, ID 83864.

Copies of the amendment have been sent to various Federal, State, and local agencies as outlined in CEQ guidelines.

RALPH D. KEZER,
Forest Supervisor, Idaho Panhandle National Forests, Northern Region, Forest Service.

APRIL 27, 1977.

[FR Doc.77–12957 Filed 5–5–77;8:45 am]

Rural Electrification Administration

COLORADO-UTE ELECTRIC ASSOCIATION, INC. AND TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing guarantees supported by the full faith and credit of the United States of America for loans in the approximate amount of $29,950,000 to Colorado-Ute Electric Association, Inc., of Montrose, Colorado, and to Tri-State Generation and Transmission Association, Inc., of Thornton, Colorado, in the approximate amount of $25,000,000. These loan funds will be used to supplement $374,497,000 in prior insured and guaranteed loans to complete the "Yampa" project consisting of two 380 MW (net capability) generating units and approximately 127 miles of high voltage transmission line in which Colorado-Ute has a 29 percent interest and Tri-State a 24 percent interest together with 165 miles of 345 kV transmission line known as the Hayden-Ault line and related facilities in which Tri-State has a 36 percent interest.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John Bugas, Manager, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado, 81401, or Mr. William Mickey, Manager, Tri-State Generation and Transmission Association, Inc., 12076 Grant Street, Thornton, Colorado, 80241.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Bugas or Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Colorado-Ute, Tri-State and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from

V42188 MAY 6 77 UMI

the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 28th day of April, 1977.

JOSEPH VELLONE,
Acting Administrator.

[FR Doc.77–12860 Filed 5–5–77;8:45 am]

PACIFIC NORTHWEST GENERATING CO.

Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $69,953,000 to Pacific Northwest Generating Company, of Hermiston, Oregon. These loan funds will be used by Pacific Northwest Generating Company to finance its proposed ten percent participation in the construction of the No. 1 Boardman Coal Plant located near Boardman in eastern Oregon. The other participants are Portland General Electric Company and Idaho Power Company.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Russell N. Dorran, President, Pacific Northwest Generating Company, P.O. Box 48, Hermiston, Oregon, 97838.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Dorran. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Pacific Northwest Generating Company and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 28th day of April, 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77–12868 Filed 5–5–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 29648; Order 77–5–12]

AIR NEW ENGLAND, INC.

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of May, 1977.

On August 13, 1976, Air New England filed an application for an amendment of its certificate to have itself designated as an "Area Air Carrier" or a "New England Air Carrier." The purpose of the amendment is to effect a formal distinction between Air New England and the trunkline and local service carriers.[1] To this end, Air New England also requested that it be reclassified as a Group I, rather than a Group III, air carrier under Part 241 of the Economic Regulations.[2] The application was accompanied by a petition for an order to show cause why the relief should not be granted.

In support of its application, Air New England alleges that it is far smaller than even the smallest local service airline, but that it has been treated by both the Board and the Federal Aviation Administration as a trunk/local service carrier for regulatory purposes. It is contended that a more specific designation, consonant with the nature of Air New England's operation, will ease some regulatory problems and will clarify the carrier's status for the traveling public.[3]

No answers to the application and petition have been received.

Upon consideration of the pleadings and all the relevant facts, the Board tentatively concludes that the public convenience and necessity require an amendment of Air New England's certificate to clarify the type of operation which the airline was certificated to perform. Our orders in the New England Service Investigation make it clear that Air New England was viewed as a specialized regional carrier but the airline was treated as a local service carrier for regulatory purposes at its own request.

Our proposed form of certificate appears as Appendix A. The twofold alteration varies somewhat from the form recommended by Air New England. First, the title has been changed to read as follows: "Certificate of public convenience and necessity for New England regional air service." Second, the following paragraph has been inserted:

The services authorized by this certificate were established pursuant to a policy determination by the Civil Aeronautics Board that, in the discharge of its obligation to encourage and develop air transportation under the Federal Aviation Act of 1958, as amended, it is in the public interest to establish this carrier as an area air carrier which is engaged in local and feeder air transportation within a specific geographical area of the United States, as distinguished from service provided by other carriers.

We tentatively find that those modifications will satisfy the needs of Air New England without producing any adverse impact upon the traveling public or any other air carrier.[4]

Interested persons will be given thirty (30) days following the date of service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. Any objections must be supported with detailed comments setting forth the tentative findings and conclusions to which objection is taken. Each objection must be accompanied by arguments of fact or law and must be supported by detailed economic analysis or legal precedent. If an evidentiary hearing is requested, the objector must state why such a hearing is considered necessary and what relevant and material facts he would expect to establish through a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *It is ordered*, That: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and issuing an amended certificate of public convenience and necessity to Air New England, Inc. for Route 172 in the form attached hereto as Appendix A;

2. Any interested person having objection to the issuance of an order making final the tentative findings and conclusions set forth herein shall, within 30 days after the date of service of this order, file with the Board a statement of objections together with a summary of testimony, statistical data, and other evidence relied upon to support the stated objections;[5]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; and

4. In the event that no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

U.S. CIVIL AERONAUTICS BOARD,
WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR AREA AIR SERVICE (AS AMENDED) FOR ROUTE 172

Air New England, Inc. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in air transportation with respect to persons, property and mail, as follows:

Between the terminal point Burlington, Vt., the intermediate points Montpelier-Barre, Vt., Augusta-Waterville, Lewiston-Auburn, and Portland, Maine, Lebanon, N.H.–White River Junction, Vt., Keene, N.H., and Boston, New Bedford-Fall River, Hyannis, Martha's Vineyard, and Nantucket, Mass., and the terminal point, New York, N.Y.–Newark, N.J.

The service herein authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall render service to and from each of the points named herein, except as temporary suspensions of service may be authorized by the Board, and may begin or terminate, or begin and terminate, trips at points short of terminal points.

(2) The holder may continue to serve regularly any point named herein through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate and may continue to maintain regularly scheduled nonstop service between any two points not consecutively named herein if nonstop service was regularly scheduled by the holder between such points prior to the effective date of this certificate. Upon compliance with such procedure relating thereto as may be prescribed by the Board, the holder may, in addition to the service hereinabove expressly prescribed, regularly serve a point named herein, other than a point required to be served through an airport named herein, through any airport convenient thereto.

(3) The holder may operate unrestricted nonstop service between any two points listed above: *Provided, however*, That the holder's authority in the following citypairs shall be restricted as follows:

MARKET AND STOP RESTRICTIONS

Boston—New York/Newark: Two-stop.
Burlington—New York/Newark: One-stop.

(4) The holder's authority to engage in the transportation of mail on nonstop flights between (a) Portland, Maine and Boston, Mass., (b) Portland, Maine and New York, N.Y.–Newark, N.J., and (c) Burlington, Vt. and Boston, Mass., is limited to the carriage of mail on a non-subsidy basis, i.e. on a service mail rate to be paid entirely by the Postmaster General and the holder shall not be entitled to any subsidy with respect to such operations.

The services authorized by this certificate were established pursuant to a policy determination by the Civil Aeronautics Board that, in the discharge of its obligation to encourage and develop air transportation under the Federal Aviation Act of 1958, as amended, it is in the public interest to establish this carrier as an area air carrier which is engaged in local and feeder air transportation within a specific geographical area of the United States, as distinguished from service provided by other carriers.

The exercise of the privileges granted hereby shall be subject to the terms, conditions, and limitations set forth in Order 74–10–101 dated October 18, 1974, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

The holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with operations specified in paragraph (4), and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

This certificate shall be effective on ----------

In witness whereof, The Civil Aeronautics Board has caused this certificate to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–13061 Filed 5–5–77;8:45 am]

[Docket No. 28090; Order 77–5–7]

FRONTIER AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2nd day of May 1977.

On July 18, 1975, Frontier Airlines filed an application in Docket 28090 for amendment of its certificate for Route 73 so as to redesignate the intermediate point Cortez, Colorado, as a hyphenated point Durango-Cortez, Colorado, to be served through Durango, Colorado. Order 76–1–74, January 21, 1976, authorized Frontier to temporarily suspend service at Cortez, Colorado, for a period of nine months, subject to the condition that replacement service, consisting of at least two round trips, five days per week, between Cortez and Grand Junction, Colorado, be provided by Western Air Stages, Inc. (Westair), or an acceptable Part 298 carrier. We further indicated that prior to the end of the nine months, we intended to issue an order directing all parties to show cause why Frontier's certificate should not be amended so as to delete Cortez therefrom at the termination of the suspension. For the reasons discussed herein, this action would no longer be appropriate.

Westair has not provided the minimum service specified in Order 76–1–74. On September 21, 27, 28, 29 and 30, 1976, Westair provided only one round trip between Cortez and Grand Junction, Colorado. By letter dated October 5, 1976, the City of Cortez informed Frontier of these facts, and requested that Frontier resume its service at Cortez. Frontier complied with this request, and resumed service on November 1, 1976. Regular service has been provided by Frontier since that date. It presently operates two round trips daily between Cortez and Denver, Colorado, with service to Alomosa and Durango, Colorado, and Farmington and Alburquerque, New Mexico, included on these flights.[1]

The temporary suspension authorized by Order 76–1–74 terminated by its own terms fifteen days after Westair ceased or failed to provide regularly the minimum service specified therein. As indicated, Frontier has been providing regular service at Cortez since November 1, 1976. Pursuant to our announced intention in Order 76–1–74 to issue a second order in this matter at the conclusion of the suspension period, we are requesting that Frontier inform the Board whether it desires to further pursue its application to hyphenate Cortez and Durango. We have determined that in the absence of an objection by Frontier, further consideration of its application is not required, and accordingly it should be dismissed as moot. Therefore, unless Frontier within 14 days after issuance of this order files a letter in the Docket Section stating its intention to pursue its hyphenation request, the application in Docket 28090 will be automatically dismissed.

Accordingly, *It is ordered*, That: The application in Docket 28090 be and hereby is dismissed, unless within 14 days after issuance of this order Frontier files a letter in the Docket Section stating its intention to pursue its hyphenation request.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–13078 Filed 5–5–77;8:45 am]

[Dockets 25546/28266]

MACKEY CERTIFICATION PROCEEDING

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on May 17, 1977 at 9:30 (local time), in Room 1003, Hearing Room B, North Universal Building, 1875 Connecticut Avenue, Washington, D.C. 20428 (42 FR 21304, April 26, 1977), will be held on May 31, 1977, at 2 p.m. in Hearing Room C.

Dated at Washington, D.C., April 29, 1977.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc.77–13077 Filed 5–5–77;8:45 am]

[Docket No. 30835; Order 77–5–9]

5 STAR AIR FREIGHT CORP.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of May 1977.

By tariff revisions[1] issued March 30

[1] Air New England's certificate, issued pursuant to Order 74–7–70, is in the format typically issued to trunklines. It does not contain the term "for local or feeder service" nor does it include a paragraph describing the nature of the transportation to be rendered.

[2] Reporting requirements for Group I carriers are considerably less extensive than those for Group III carriers. This portion of the application was granted by the Board in ER–969, adopted September 23, 1976.

[3] Air New England has submitted specific language to be incorporated in its certificate.

[4] We also tentatively conclude (1) that Air New England is a citizen of the United States within the meaning of the Federal Aviation Act and (2) that the proposed certificate amendment does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

[5] All motions and/or petitions for reconsideration shall be filed within the 30-day period and no further motions, requests or petitions for reconsideration of this order will be entertained.

[1] Official Airline Guide, April 15, 1977.

[1] Revisions to 5 Star Air Freight Corporation Tariff C.A.B. No. 7.

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and market to become effective May 5, 1977, 5 Star Air Freight Corporation (5 Star) proposes, inter alia, to refuse acceptance of shipments of art works where the declared value exceeds 50 cents per pound. The forwarder asserts that the claims factor for loss and damage on these items has required an increase in the forwarder's insurance premiums.

In view of all relevant factors, the Board concludes that the proposed rule may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that it should be suspended pending investigation.

The proposed rule would result in a significant reduction in the forwarder's responsibilities to provide service. The Board has traditionally taken the view that such reductions in service should not be permitted without adequate justification which 5 Star has failed to provide.[2] Although the forwarder states that claims costs on art works are excessive, it submits no data to support such assertions.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the provisions in Rule No. 45(E) relating to the nonacceptance of shipments of Art works on 12th Revised Page 6 of 5 Star Air Freight Corporation's C.A.B. No. 7, and rules, regulations or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions in Rule No. 45(E) on 12th Revised Page 6 of 5 Star Air Freight Corporation's C.A.B. No. 7 are suspended and their use deferred to and including August 2, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 30835 be assigned to an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon 5 Star Air Freight Corporation, which is hereby made a party to Docket 30835.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13079 Filed 5-5-77;8:45 am]

[2] See, e.g., Orders 76-3-88, 76-2-112, and 76-2-72.

[Docket No. 26563; Order 77-5-10]

TRANS WORLD AIRLINES, INC.

Order Regarding Establishment of Subsidy Mail Rates for International Operations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of May 1977.

By motion filed on April 1, 1977, Trans World Airlines, Inc., moved to dismiss its petition filed on October 18, 1974, for the establishment of temporary and final subsidy mail rates for its international operations pursuant to section 406 of the Federal Aviation Act of 1958, as amended.

The carrier states that its financial position has improved since the filing of the petition and it no longer wishes to pursue the matter of subsidy for any of its international operations.

No answers have been filed in response to this motion.

Upon consideration of the foregoing and all other relevant matters, we have determined to grant the motion. TWA has received no subsidy payments relative to the petition, and no longer desires to pursue such payments. Thus, no useful purpose would be served by continuing this proceeding.[1]

Accordingly, *It is ordered*, That:

1. The petition filed on October 18, 1974, by Trans World Airlines, Inc., in Docket 26563 requesting the establishment of subsidy mail rates for the international services of Trans World Airlines, Inc., be and it hereby is dismissed.

2. The petition to intervene, filed on October 25, 1974, of the National Air Carrier Association be and it hereby is dismissed.

3. This order shall be served upon Trans World Airlines, Inc., the National Air Carrier Association, the Postmaster General and all parties to this proceeding.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13080 Filed 5-5-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

MINNESOTA ADVISORY COMMITTEE

Amendment to Notice of Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Friday, April 22, 1977, (FR Doc. 77-11683) on page 20841 is hereby amended. The meeting will be held on May 13, 1977 instead of May 31, 1977, the time and place of the meeting will remain the same.

Dated at Washington, D.C., May 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-12950 Filed 5-5-77;8:45 am]

[1] On October 25, 1974, the National Air Carrier Association petitioned the Board for leave to intervene in this proceeding. In view of our action herein, this petition is moot and is dismissed.

DEPARTMENT OF COMMERCE

Economic Development Administration

DAWSON INDUSTRIES, INC.

Petition For a Determination of Eligibility to Apply For Trade Adjustment Assistance

A petition by Dawson Industries, Inc., 112 West 34th Street, New York, New York 10001, a producer of apparel for men, women and children, was accepted for filing on May 2, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firms.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-12964 Filed 5-5-77;8:45 am]

RECTILINEAR RESEARCH CORP.

Petition For a Determination of Eligibility To Apply For Trade Adjustment Assistance

A petition by Rectilinear Research Corporation, 107 Bruckner Boulevard, Bronx, New York 10454, a producer of loudspeakers, was accepted for filing on April 29, 1977, pursuant to section 251 of the Trade Act of 1974 (P.L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-12963 Filed 5-5-77;8:45 am]

National Oceanic and Atmospheric Administration

OVERTON PARK ZOO AND AQUARIUM

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Overton Park Zoo and Aquarium, Memphis, Tennessee 38112, request to take six (6) California sea lions (*Zalophus californianus*) for public display.

The requested animals will be captured by a professional collector on or near Santa Cruz or San Miguel Islands off Santa Barbara, California, with a hoop net on land or with a modified gill net in the water.

The animals will be acclimated at the collector's facility then shipped to the Tennessee facility by commercial aircraft and truck. At the facility the animals will be displayed in a kidney shaped pool 48 feet long by 22 feet wide with a varying depth of 4 to 7 feet. In addition there are two haul-out islands, each 5 feet in diameter, a 100 square foot haul-out area, and an enclosed den 14 feet by 10 feet with saltwater pool.

The sea lions are desired to provide recreational and educational benefits to the estimated 600,000 visitors that visit the facility annually. The facility is a non-profit organization.

The curatorial staff has 15 years working experience with sea lions.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Regional Director, National Marine Fisheries Service Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 6, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 1, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-13022 Filed 5-5-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 9, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 6630

Tube, Bleeding, Polypropylene, 6630-01-NIB-0001.
Micro Bleeder—5 ML, 6630-01-NIB-0002.

Class 7530

Notebook, Stenographer, 7530-00-223-7939.
Increase in quantity produced from 1,720,800 to 2,100,000 annually.

SIC 7538

Automotive Components Rebuilding, General Services Administration, Interagency Motor Pool, Center St., Manhattan, N.Y.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-13008 Filed 5-5-77;8:45 am]

PROCUREMENT LIST 1977

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 6, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: On November 30, 1976 and January 14, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (41 FR 52512) and (42 FR 3012) of proposed additions to procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under 41 U.S.C. 46-48 (c), 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1977:

CLASS 7340

Flatware, Plastic, Heavy Duty: 7340-00-022-1315, 7340-00-022-1316, 7340-00-022-1317, 7340-00-401-8041.

CLASS 8465

Club, Policeman's Black, 8465-00-641-8551.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-13009 Filed 5-5-77;8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

ARCHITECTURAL GLAZING MATERIALS

Advisory Opinion

Correction

In FR Doc. 77-12054 appearing at page 21507 in the issue for Wednesday, April 27, 1977, in the 9th line of the paragraph labeled "Supplementary Information", "Opinions involving controversial or policy * * *" should have read "Opinions. Advisory Opinions involving controversial or policy * * *".

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENT IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from April 25 through April 29, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (June 20, 1977). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Final

1977 Gypsy Moth Suppression and Regulation Program, April 26: The Forest Service and Animal and Plant Health Inspection Service cooperate with responsible state agencies for the suppression and/or regulation of the gypsy moth, Lymantria dispar. In 1977, regulatory activities are proposed in California, Connecticut, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and Wisconsin. Suppression activities are proposed in New Jersey, New York, and Pennsylvania. Comments made by: EPA, USDA, HEW, DOC and interested parties. (ELR Order No. 70521.)

Aquaculture Facilities, Hidden Falls Lake/Sandy Bay, Alaska, April 29: Proposed is the granting of two Special Use Permits that grant permission to use National Forest lands for salmon hatchery building sites. Both sites are located on Baranof Island, a major island in southeast Alaska. The Tlingit and Haida Fisheries Development Corporation has requested to build its hatchery in Sandy Bay; the Alaska Department of Fish and Game has requested the use of Kasnyku Bay. The hatcheries are expected to contribute to the rebuilding of southeast Alaska salmon stocks, thereby increasing harvest by 5 to 10 percent. Comments made by: DOI, EPA, HEW, DOC and HUD. (ELR Order No. 70536.)

Coop Spruce Budworm Suppression—Maine 1977, several counties in Maine, April 28: Proposed is the treatment of about 930,000 acres of land in Aroostook, Penobscot, Washington, Franklin, Piscataquis, Oxford, and Somerset Counties, Maine, for the reduction of the spruce budworm population. The preferred action is the aerial application of the registered insecticides Sevin 4 Oil, Dylox 4, and Orthene Forest Spray. Sevin 4 Oil and Dylox 4 will be applied at ¾ pound/acre, Orthene at ½ pound/acre. These insecticides are not expected to have long-term detrimental effects on non-target organisms. An integrated pest management system that seeks a permanent solution to the chronic spruce budworm problems in Maine is now underway. Comments made by: EPA, DOC, HEW and State and local agencies, interested parties. (ELR Order No. 70527.)

Prospect Unit Plan, Lolo National Forest, Sanders County, Mont., April 25: Proposed is the implementation of a revised Multiple Use Plan for the Prospect Planning Unit, located on the Thompson Falls Ranger District, Lolo National Forest. The plan recommends that 124,920 acres be managed in various combinations for timber, esthetics, recreation, watershed, wildlife, fisheries, and range. An area of 14,080 acres which will remain unroaded will be managed for wildlife, esthetics, recreation, and watershed. The primary adverse effects involve the modification of natural conditions on 62,830 acres that are presently roadless. Comments made by: FPC, USDA, DOI, DOT, EPA and State and local agencies, concerned citizens. (ELR Order No. 70518.)

SOIL CONSERVATION SERVICE

Draft

Middle Creek Watershed Project, Linn, Miami Counties, Kans., April 25: Proposed is a project for watershed protection, flood prevention, water supply, and public recreation in Linn and Miami Counties, Kansas. Plans include conservation land treatment, log jam removal, and construction of floodwater retarding dams and a multipurpose structure for floodwater retardation. Provisions will be made for water supply and public recreation. Average annual flood damage will be reduced 63 percent in the watershed. Adverse impacts include loss of 1,042 acres of agricultural land, inundation of 9.6 miles of streams, and loss of wildlife habitat. (ELR Order No. 70515.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles Sell, Chief, Environmental Office, Department of the Army, Room 1E673, Pentagon Chief of Staff, Washington, D.C. 20310, 202-694-4269.

Final

Operation DTS, Dugway Proving Ground-Tooele Depot, Tooele County, Utah, April 28: Proposed is the movement of approximately 115 tons of chemical munitions and storage containers filled with toxic chemicals in 13 cargo vehicles accompanied by 12 additional escort/support vehicles. This motor convoy will travel the 55 miles from the Carr Facility, Dugway Proving Ground to the Tooele Army Depot, South Area. The primary environmental impact is the removal of all toxic chemicals from storage facilities at Dugway Proving Ground to existing storage facilities at Tooele Army Depot. Comments made by: EPA. (ELR Order No. 70529.)

Operation TNS, North-South Tooele Depot, Tooele County, Utah, April 28: Proposed is the transporting of approximately 770 tons of cargo, of which 175 tons are toxic chemicals. This material will be unloaded onto 16 cars at Tooele Army Depot (North Area) and moved to Tooele Army Depot (South Area) where it will be unloaded and placed in storage. The movement will involve travel of approximately 15 miles on Union Pacific Railroad outside the boundaries of the depot through a sparsely populated area. The primary environmental impact is the removal of all toxic chemicals from storage facilities at Tooele Army Depot, South Area. Comments made by: EPA. (ELR Order No. 70531.)

U.S. ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-6795.

Draft

Nassau Co. Beach Erosion Control, Nassau County, Fla., April 27: Proposed is the implementation of a beach erosion control project for Nassau County, Florida. The action provides for the rebuilding of six existing groins, construction of a training groin at profile 17 along the ocean beach, and placement of 361,350,000 cubic yards of fill along both beaches. About 70,000 cubic yards of initial beach fill would be placed at Fort Clinch. Adverse impacts include destruction of benthic organisms at the borrow site, at regions of discharge along the beach, and at the sites of groin rebuilding or construction. (Jacksonville District) (ELR Order No. 70525.)

Carrabelle Harbor Maintenance Dredging, Franklin County, Fla., April 28: Proposed is the continued maintenance of the Federal navigation channel within the Carrabelle Harbor project in Franklin County, Florida, to authorized dimensions. The project runs from the turning basin to 3.0 miles north of the Highway 98 bridge. The channel would be dredged to GIWW dimensions for the entrance channel and harbor channel through the turning basin. Primary adverse effects include loss of benthos within the disturbed areas, temporary degradation of water quality in the area of the cutterhead and open water disposal site possible temporary mud flows, and degradation of esthetic qualities of previously used diked upland disposal sites. (Mobile District) (ELR Order No. 70530.)

Isle of Hope Marina Expansion, Chatham County, Ga., April 25: The proposed action is the granting of two permits for the expansion of the existing Isle of Hope Marine on Skidaway River, In Georgia. Proposed work includes construction of additional floating docks, dredging, construction of bulkhead with fill, and construction of appurtenant structures. Dredging activities will cause an increase in suspended solids and turbidity, and .431 acre of marsh will be eliminated by the bulkhead and backfill (Savannah District). (ELR Order No. 70514.)

Siuslaw River Jetty Extension (2), several counties, Oreg., April 25: This revised draft EIS proposes improvements to jetties on the Siuslaw River in Florence, Oregon. Plans call for extension of the existing south jetty 2,500 feet beyond its presently authorized length to improve bar conditions, and extension of the existing north jetty 1,400 feet beyond the 600 foot extension presently authorized to provide jetties of approximately equal length. Adverse impacts include altered shoaling conditions at mouth, potential coastal erosion, coverage of 23.8 acres of sandy bottom area, and induced pressure for land use change potentially affecting upstream wetlands near Florence (Portland District). (ELR Order No. 70517.)

Final

Omak Urban Levee Improvements, Okanogan County, Wash., April 28: The proposed action is the improvement of an existing levee system in Okanogan County, Washington. Plans call for a total of 14,100 feet of levee, including 550 feet of flood wall, to be constructed on both banks of the Okanogan River at Omak. The project provides protection from floods having a one percent chance of occurring in any one year. Adverse effects include increased turbidity and total vegetation loss on 19.7 acres (Seattle District). Comments made by: EPA, DOT, HUD, DOI, USDA, DOC and State agencies, concerned citizens. (ELR Order No. 70528.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Sooner Generating Sta., Units 1 and 2, Noble, Pawnee Counties, Okla., April 25: Proposed is the issuance by EPA of a New Source NPDES permit to the Oklahoma Gas and Electric Company for Sooner Generating Station. The proposed receiving waters are Greasy Creek, a tributary of the Arkansas River, in Pawnee County, Oklahoma. The station contains 2 coal-fired generating units and associated facilities that include an area for coal storage and handling, and associated facilities. Adverse effects include soil erosion, impacts to acquatic organisms, and the elimination or alteration of approximately 8090 acres of terrestrial habitat (Region VI). (ELR Order No. 70519.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6308.

Draft

Bunker Hill Elderly Housing Project, Los Angeles County, Calif., April 29: Proposed is the developmept of 1,100 units of housing for low income elderly and handicapped in Los Angeles, California. Development will include a multipurpose service center, retail commercial space, and parking garages for an estimated population of 1500. The project is located in the Central Business District of Los Angeles and within the Bunker Hill Urban Development Project. Increased levels of air pollution from fugitive dust emissions and increased levels of noise may be expected during construction. (ELR Order No. 70538.)

Newington Forest Development, Fairfax County, Va., April 29: Proposed is the residential development of a 734-acre tract of land located in Fairfax County, Virginia, over a 6 to 7 year period. Development will include construction of 917 townhouses, 200 garden apartments, and 791 single family units. The site will be developed in four phases. A total of 170 acres will be conveyed to Fairfax County Park Authority, and 15.6 acres will be conveyed to the County for one and one-half elementary school sites. (ELR Order No. 70535.)

Final

Pine Trails Subdivision, Harris County, Tex., April 27: The proposed action is the acceptance of the 542-acre Pine Trails Subdivision for HUD/FHA mortgage insurance purposes. When completed in approximately six years, the subdivision will contain approximately 1,600 single family homes plus some attached single-family and multifamily housing and shopping and recreational facilities. Adverse effects include the removal of land as open space and an increased demand for fossil fuels through heavy dependence on the automobile for tranpsortation. Comments made by: EPA, COE, USDA, AHP, DOI and State and local agencies, concerned citizens. (ELR Order No. 70523.)

Draft

Eastwood Village Disposition, Hamilton, County, Ohio, April 29: Proposed is the disposition of Secretary owned property of Eastwood Village as prescribed by the Department of HUD regulations. Eastwood Village consists of two sections of property, each having a separate deed. Section one contains 540 units on 39.3 acres and Section two contains 370 units on 46.9 acres. The primary impact as a result of the disposition of Eastwood Village is the demolition of 910 housing units and subsequent redevelopment of the land for different uses. (ELR Order No. 70547.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-443-6965.

Draft

Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Ga., April 29: Proposed is the issuance of an operation license to the Georgia Power Company for the startup and operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2, located on the Altamaha River. The facility will employ a boiling-water reactor to produce a nominal rating of 2436 MWt. A steam turbine-generator will use this heat to provide up to 820 (803 net) MWe of electrical power capacity. The plant will be licensed for operations with a thermal output up to 3550 MWt which corresponds to a gross electrical output of 835 MWe. (ELR Order No. 70540.)

Final

Islote Site, N. Coast Nuclear Plant, Unit 1, Puerto Rico, April 27: The proposed action is the determination of the suitability of the 520-acre Islote site for eventual construction by the Puerto Rico Resource Authority of the North Coast Nuclear Station. This site analysis is based on the assumption that the North Coast Station will employ a pressurized water reactor to produce an output of approximately 1785 MWt. A steam turbine generator will use this heat to provide approximately 600 MWe. Exhaust steam will be cooled by a once-through flow of water obtained from and discharged to the Atlantic Ocean. Adverse effects include the destruction of small aquatic organisms. Comments made by: AHP, USDA, DOC, ERDA, EPA, HEW, HUD, and DOI, commonwealth agencies and interested parties. (ELR Order No. 70526.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Shelbyville Municipal Airport Improvement, Shelby County, Ind., April 27: The proposed action is the improvement of the Shelbyville Municipal Airport in Shelbyville, Indiana. The project entails the acquisition of 254 acres of land and 50 acres of clear zone easement for the construction of 2 new runways and installation of related facilities. The proposed improvements to the airport will result in increased noise and air pollution, loss of agricultural land, relocation of two homesteads, and loss of wildlife. (ELR Order No. 70524.)

Final

San Francisco International Airport, Development, San Francisco County, Calif., April 25: Proposed is a major expansion of San Francisco International Airport, in order to accommodate the current and future air passenger demands of that airport. The expansion consists of the following major elements to be completed over the next ten years: Improvements to the existing terminal building and the addition of the new North Terminal; addition of new boarding areas and modification of existing boarding areas; additions to the existing parking garage; and modifications to the airfield apron and taxiway system. Adverse effects include an increase in energy consumption and short-term construction impacts. Comments made by: DOT, EPA, DOI, FEA, State and local agencies, and concerned citizens. (ELR Order No. 70512.)

Clark Co. Airport, Jeffersonville, Ind., Clark County, Ind., April 29: The statement concerns the acquisition of 519 acres of land and a new airport for Clark County. The project will include the construction of a runway, entrance road and vehicle parking, administration building, airplane hangars and aprons, navigation and landing aids, and site improvements. The statement includes a description of construction in four phases, the last of which will end in 1996. Adverse impacts of the project include the loss of 600 acres to other uses, increased noise pollution, relocation of 6 households and increased air pollution. Comments made by: USDA, DOC, HUD, EPA, DOT, COE, and AHP. (ELR Order No. 70537.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Lakeport Project, Lincoln Way—Gordon Drive, Woodbury County, Iowa, April 27: Proposed is the improvement of a segment of the existing Federal-Aid Urban System (FAUS) in Sioux City, Iowa. The facility, to be know as Lakeport Project, consists of the one way paired South Lakeport Street and South Palmetto Street between Gordon Drive (U.S. Highway 20) and Morningside Avenue, and South Lakeport Street between Morningside Avenue and Freeway No. 520 (Outer Belt Drive). Plans call for widening of lanes, channelization, signalization, and lighting improvements. Many existing trees within the existing and proposed project right-of-way would be removed. (Region 7.) (ELR Order No. 70522.)

I-380, Waterloo—Cedar Falls, Black Hawk County, Iowa, April 28: The proposed action is the extension of I-380 in Black Hawk County, Iowa. The facility would begin at the junction of proposed Freeway 520 and U.S. Highway 218 in the southeast portion of Waterloo, and proceed northwesterly approximately 7.7 miles to the junction of U.S. Highway 20 and proposed Freeway 518 in the vicinity of the Waterloo Metropolitan Airport. All of the alternatives will require urban developed and undeveloped land, and some alternatives will require land from publicly owned parks. Adverse impacts include the relocation of people and businesses and the acquisition of land for right-of-way. (Region 7.) (ELR Order No. 70534.)

Final

Routes 169 and 440, Bayonne Bridge to Bayview Ave., Hudson County, N.J., April 25: The proposed action is the construction of a combination of roadway facilities including a freeway (four lanes) or land service road (four lanes), and feeder arterial sections (two and four lanes) totalling approximately 7.5 miles in length. The improvement would

V42188 MAY 6 77 UMI

run from the Bayonne Bridge north through Bayonne to existing Route 440 with a feeder extension into Jersey City to the vicinity of Bayview Avenue. Adverse impacts of the project include the acquisition of 100 acres for right-of-way, and displacement of some businesses. A 4(f) statement is included for the architecturally historic CCR of NJ West 8th Street Passenger Depot. Comments made by: USDA, DOC, DOI, HUD, EPA, State and regional agencies, and interested parties. (ELR Order No. 70520.)

Wautoma-Waupaca Road (STH 22, FAP 38), Portage, and Waupaca Counties, Wis., April 28: Proposed is the construction of a segment of State Highway 22, between the cities of Wautoma and Waupaca, Wisconsin. The project involves construction and reconstruction of 12.3 miles of S.T.H. 22 in Portage and Waupaca Counties. The facility will be a two-lane, bituminous surface roadway beginning at the Portage-Waushara County line and extending northeasterly to the city of Waupaca. Adverse effects include acquisition of 190 acres of land and the displacement of homes and businesses. A 4(f) statement is included. (Region 5.) Comments made by: DOT, DOI, EPA, USDA, and COE, State and local agencies, and concerned citizens. (ELR Order No. 70532.)

Supplement

I.H. 35E/Timber Creek Construction (S–1), Denton County, Tex., April 28: This statement supplements a final EIS filed with CEQ in June 1972, and concerns the impact of proposed construction at I.H. 35E and Timber Creek in Denton County, Texas. The purpose of the proposed construction will be to provide structures at the Creek which are of sufficient size and number to pass the anticipated design flood without inundating the highway. This supplement contains further refinements of alternative plans originally discussed in the FEIS, namely, revisions and modifications to ramps, ramp tapers, and certain portions of frontage roads; and widening of mainland structures and construction of two frontage road structures at Timber Creek. (ELR Order No. 70533.)

NICHOLAS C. YOST.

[FR Doc.77-12956 Filed 5-5-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. Law 92–463, as amended by Section 5 of Pub. Law 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee previously scheduled for Wednesday, 18 May 1977, Pomponio Plaza, Rosslyn, Va., will be held instead as follows:

Tuesday, 31 May 1977, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0845 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter is to work on a study of specialized intelligence data requirements.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 2, 1977.

[FR Doc.77-13083 Filed 5-5-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PROGRAMS

[FRL 725–1; PP 5G1562/T97]

Renewal of Temporary Tolerances; Tebuthiuron

On December 3, 1975, the Environmental Protection Agency (EPA) gave notice (40 FR 56476) that in response to a pesticide petition (PP 5G1562) submitted to the Agency by Elanco Products Co., Division of Eli Lilly & Co., P.O. Box 1750, Indianapolis IN 46206, temporary tolerances were established for residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl) - 1,3,4 - thiadiazol-2-yl]-*N*,*N*'-dimethylurea) in or on the raw agricultural commodities sugarcane at 0.1 part per million (ppm) and eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 ppm. These temporary tolerances expired November 26, 1976.

Elanco Co. has requested a two-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 (a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a renewal of the temporary tolerances will protect the public health. (A related document concerning the renewal of food and feed additive regulations containing a tolerance limitation for residues of tebuthiuron in sugarcane syrup, molasses, and bagasse appears elsewhere in today's FEDERAL REGISTER.) Therefore, the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm mus also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire March 11, 1979. Residues not in excess of 0.1 ppm remaining in or on sugarcane and 0.02 ppm remaining in eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

Dated: April 21, 1977.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

DOUGLAS D. CAMP,
Acting Director, Registration Division.

[FR Doc.77-12951 Filed 5-5-77;8:45 am]

[FRL 725–6]

SOONER GENERATING STATION, UNITS 1 AND 2

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Sooner Generating Station, Units 1 and 2, Noble and Pawnee Counties, Oklahoma.

The proposed action is the issuance of a New Source NPDES permit to the Oklahoma Gas and Electric Company (OG&E) by the Environmental Protection Agency. The 1030 Mw OG&E Sooner Generating Station will supply power to meet the projected future load requirements for the OG&E system and to provide an adequate reserve margin. The station contains two coal-fired generating units and associated facilities that include an area for coal storage and handling, a 5,400 acre cooling pond, an emergency ash storage pit, a waste system evaporation pond, a railroad spur and switchyard, and electric transmission lines. The Sooner Station is located on a 10,500 acre site adjacent to the Arkansas River in Noble and Pawnee Counties in north-central Oklahoma.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on April 25, 1977. In accordance with CEQ's notice of availability, comments are due on June 13, 1977. Copies of the DEIS are available for review and comment from: Mr. Clinton B. Spotts, Regional EIS Coordinator, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270 or telephone (214) 749–1236.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VI Library, 1201 Elm Street, Dallas, Texas.
Environmental Protection Agency, Public Information Reference Unit, Room 2922 Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036. Please reference ELR No. 70519.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: May 3, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-13092 Filed 5-5-77;8:45 am]

COMMISSION ON FINE ARTS

MEETING

The Commission of Fine Arts will meet in open session on Tuesday, May 24, 1977 at 10 a.m. in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various projects affecting the appearance of Washington, D.C. This confirms the previous notice of meeting, published at 42 FR 2337, January 11, 1977.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., May 2, 1977.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.77-13082 Filed 5-5-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 856]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 2, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21172–CD–P–(?)–77 ARCH, Joint Venture (new), C.P. for developmental authority to construct a multi-channel public correspondence ditigal radiophone system in the Metropolitan Baltimore, Maryland and Washington, D.C. areas on frequencies specifically allocated for cellular systems in the 825–831.25 and 870–876.25 MHz band.

21184–CD–P–77 Drummond Island Telephone Co. (new), C.P. for a new station to operate on 152.57 MHz to be located 1.92 mi. SE of Arbutus Beach, Michigan.

21185–CD–P–(3)–77 Chalfont Communications (new), C.P. for a new station to operate on 152.18 MHz, Base and 75.90 MHz, Repeater at Loc. No. 1: 5 miles north of Indio, Calif.; and 72.70 MHz, Control at Loc. No. 2: 73–680 Highway 111, Palm Desert, California.

21186–CD–P–77 M. L. Green d/b/a Gillette Radiotelephone (new), C.P. for a new 1-way station to operate on 152.24 MHz to be located 2.65 miles S of Gillette, Wyoming.

21187–CD–P–77 Services Unlimited, Inc. (KIY449), C.P. to relocate facilities, change antenna system and replace transmitter; and change frequency from 152.09 MHz to 454.025 MHz at a new Loc. No. 5: 50 Miller Street, Winston-Salem, North Carolina.

21188–CD–P–(2)–77 Aztec Communications, Inc. (KIB388), C.P. to relocate facilities and change antenna system operating on 454.025 and 454.250 MHz to Loc. No. 2: 9117 Hogan Road, Jacksonville, Florida.

21189–CD–P–77 QMC Paging (new), C.P. for a new station to operate on 152.03 MHz to be located at Knox Butte, 2.1 miles East of Albany, Oregon.

21190–CD–P–77 Radio Comm., Inc. (new), C.P. for a new 1-way station to operate on 35.22 MHz to be located at 1621 California Street, Columbus, Indiana.

21191–CD–P–(3)–77 Southwestern Bell Telephone Company (KAD513), C.P. to change antenna system operating on 152.54, 152.66, and 152.78 MHz located 5.5 Miles North, 1 Mile West of Hays, Kansas.

21192–CD–P–(3)–77 Keil Brothers (new), C.P. for a new station to operate on 152.12 MHz, Base, and 459.150 MHz, repeater at Loc. No. 1: Benton Bench, 5.4 miles West of Conrad, Montana; and 454.150 MHz, Control at Loc. No. 2: 415 South Iowa, Conrad, Montana.

21193–CD–P–77 Pat's Mobilephone, Inc. (new), C.P. for a new 1-way station to operate on 158.70 MHz to be located at South Main Street, Scotts Hill, Tennessee.

21194–CD–P–77 Robert J. Whitney d/b a Rapid Answering Service (new), C.P. for a new 1-way station to operate on 152.24 MHz to be located at 1110 Fuller Street, Big Rapids, Michigan.

21195–CD–P–77 Colonial Mobile Telephone and Paging Service, Inc. (KUO607), C.P. for additional facilities to operate on 454.100 MHz at Loc. No. 1: Mt. Tom, Holyoke, Massachusetts.

21196–CD–MP–77 L and L Services, Inc. d/b/a Metro Communication (KIY519), C.P. to relocate facilities and change antenna system operating on 152.15 MHz at Loc. No. 2: Milk Springs, 4 miles South of Tuscumbia, Alabama.

21197–CD–P–77 Park Region Mutual Telephone Company (KUS322), C.P. for additional facilities to operate on 152.81 MHz located 2.5 miles North of Dalton, Minnesota.

21198–CD–P–(4)–77 Delta Valley Radiotelephone Co., Inc. (KMA743), C.P. for additional facilities to operate on 75.46, 75.58, 75.50, and 75.82 MHz, Control at a new Loc. No. 4: 2171 Ralph Avenue, Stockton, California.

CORRECTIONS

21150–CD–P–77 DPRS, Inc. t/a Zip-Call (KCB890), Correct Loc. No. 18 to read: Loc. No. 22. All other particulars are to remain the same as reported on PN No. 855, dated April 25, 1977.

21154–CD–TC–77 Walnut Hill Telephone Company Correct File Number to read: 21155–CD–TC–77. All other particulars are to remain the same as reported on PN No. 855, dated April 25, 1977.

21159–CD–P–(3)–77 Ram Broadcasting of Ohio, Inc. (KWU474), Correct File Number to read: 21159–CD–MP–(3)–77. All other particulars are to remain the same as reported on PN No. 855, dated April 25, 1977.

21160–CD–P–77 Mobilfone Service, Inc (KWU483), Correct File Number to read: 21160–CD–MP–77. All other particulars are to remain the same as reported on PN No. 855, dated April 25, 1977.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reason of economic competition or potential electrical interference.

Associated Answering Services System, Inc., Santa Fe, New Mexico, 22470–CD–P–(3)–76.

Carlton L. Holland and d/b/a Mobaphone of New Mexico, Albuquerque, N.M., KKM582. 22673–CD–P–(1)–76.

RURAL RADIO

60257–CR–P–77 RCA Alaska Communications, Inc. (WGF99), C.P. to delete frequencies operating on 157.95 and 158.01 MHz and for facilities to operate on 157.92 MHz located at Village on East bank of Fish River, 60 miles ENE of Nome, Alaska.

V42188 MAY 6 77 UMI

POINT TO POINT MICROWAVE SERVICE

2184–CF–P–77 Cactus Communications, Inc. (new), San Antonio, 8026 Floyd Curl Drive, San Antonio, Texas. Lat. 29°30'53" N.-Long. 98°34'35" W. C.P. for a new station on 2165.6H MHz toward Devine, Texas on azimuth 220.0 degrees.

2185–CF–P–77 Same (new), Devine, Hwy., 173, 1.3 miles NW of Devine, Texas. Lat. 29°09'12" N.-Long. 98°55'17" W. C.P. for a new station on 2115.6H MHz toward San Antonio, Texas on azimuth 39.8 degrees.

2229–CF–P–77 MCI Telecommunications Corporation (WIU99), Washington, 1150 17th St., N.W., Washington, D.C. Lat. 38°-54'19" N.-Long. 77°02'21" W. C.P. to add freq. 10975.0V and 10895.0V; add antenna to 10735.0V and 11135.0V MHz towards Washington E., D.C.

2230–CF–P–77 Same (WIU86), Washington E., Riggs Road and First Place, N.E., Washington, D.C. Lat. 38°57'18" N.-Long. 77°-00'15" W. C.P. to change polarity from H to V on 6256.5; add 6197.2V, 6315.9V, and 6404.5H MHz toward Jessup; add 11425.0V and 11505.0V MHz towards Washington.

2231–CF–P–77 Same (WIU87), Jessup,. 1.4 miles ESE of Jessup, Maryland. Lat. 39°08'-29" N.-Long. 76°45'08" W. C.P. to change polarity from H to V on 6034.2, add 5974.8V, 6004.5H, and 6093.5V MHz towards Washington E., add 6004.5H, 6034.2V, 6063.8H and modify 5974.8V MHz towards Towson.

2232–CF–P–77 Same (WIU88), Towson, State Route 45 near York Rd., Towson, Maryland. Lat. 39°24'07" N.-Long. 76°36'-07" W. C.P. to add 6286.2V, 6345.5V, 6404.8V and modify 6226.9V MHz towards Jessup; add 6226.9H, 6286.2H, 6345.5H and modify 6404.8H MHz towards Perryman.

2233–CF–P–77 Same (WIU89), Perryman, 2.9 miles NW of Perryman, Maryland. Lat. 39°29'56" N.-Long. 76°14'33" W. C.P. to change polarity from H to V on 6034.2, add 5974.8V, 6004.5H, 6093.5V MHz toward Towson; modify 6063.8H add 5945.2H, 6004.5H and 6123.1H MHz towards North East.

2234–CF–P–77 Same (WIU90), North East, 2.8 miles NE of, North East, Maryland. Lat. 39°37'13" N.-Long. 75°53'37" W. C.P. to add 6226.9H, 6345.5H, 6404.8H and modify 6286.2H MHz toward Perryman; add 6197.2H, 6226.9V, 6315.9H and modify 6256.5H MHz toward Chester.

2235–CF–P–77 Same (WIU91), Chester, 3 miles WNW of Chester, Pennsylvania. Lat. 39°50'51" N.-Long. 75°29'45" W. C.P. to add 5974.8V, 6004.5H, 6063.8H and modify 5945.2H MHz towards North East; add 5945.2H, 6093.5V, 6034.2V and modify 6004.5H MHz towards Roxborough.

2236–CF–P–77 Same (WOG70), Roxborough 8200 Ridge Avenue, Roxborough, Pennsylvania. Lat. 40°03'33" N.-Long. 75°14'20" W. C.P. to add 6345.5H, 6404.8H; modify 6256.5V and 6286.2H MHz towards Chester.

2245–CF–MP–77 United States Transmission Systems, Inc. (WAH492), Manhattan, 20 Exchange Place, New York, New York, Lat. 40°42'19" N., Long. 74°00'36" W. Mod. of C.P. (819–CF–P–77) to change 6004.5V to 5974.8H MHz and increase output power towards Newark, N.J.

2246–CF–MP–77 Same (WAH493), Newark, Gateway 1, New Jersey, Newark, New Jersey, Lat. 40°44'04" N., Long. 74°09'59" W. Mod. of C.P. (820–CF–P–77) to change 6286.2V to 6197.2H MHz towards Manhattan, and increase output power.

2247–CF–MP–77 Same (WAH514), Moore, 1.5 miles nw of Moore, South Carolina, Lat. 34°50'42" N., Long. 82°00'36" W. Mod. of C.P. (1077–CF–P–77) to change 6226.9H to 6286.2H MHz toward Spartanburg.

2248–CF–MP–77 Same (WCF990), Spartanburg, Daniel Morgan Blvd., East of Highway 221, Spartanburg, South Carolina, Lat. 34°57'17" N., Long. 81°56'04" W. Mod. of C.P. (1078–CF–P–77) to change 5945.2H MHz to 6004.5H MHz toward Moore, South Carolina.

2249–CF–P–77 Same (WAH525), Rockford, 3.1 miles East of Rockford, Alabama, Lat. 32°53'45" N., Long. 86°10'13" W. C.P. to add 6197.2H MHz towards a new point of communication at Flagg Mtn., Alabama on azimuth 297.0 degrees.

2250–CF–P–77 Same (new), Flagg Mtn., 3.5 miles Southwest of Woegufica, Alabama, Lat. 32°58'35" N., Long. 86°21'31" W. C.P. for a new station on 5945.2H MHz towards Oak Mtn., on azimuth 328.1 degrees; 5974.8H MHz towards Rockford, Alabama on azimuth 116.8 degrees.

2251–CF–P–77 Same (new), Oak Mtn., 6.0 miles East of Cahaba Heights, Alabama, Lat. 33°23'24" N., Long. 86°39'59" W. C.P. for a new station on 11425.0H towards Birmingham, on azimuth 307.9 degrees; 6226.9H MHz towards Flagg Mtn., Alabama on azimuth 147.9 degrees.

2252–CF–P–77 Same (new), Birmingham, 1.0 miles Southeast of Birmingham Alabama, Lat. 33°29'00" N., Long. 86°48'34" W. C.P. for a new station on 10735.0H MHz towards Oak Mountain, Alabama on azimuth 127.8 degrees.

2194–CF–P–77 New York Telephone Company (KEL60), 20 South Hamilton Ave., Poughkeepsie, New York, Lat. 41°42'04" N., Long. 73°55'25" W. C.P. to add a new point of communication on frequencies 11075V, 11075H, 10835V, 10835H, 11155V MHz toward Illinois Mt., New York on azimuth 288.74 degrees.

2195–CF–P–77 Same (new), Illinois Mt., 1.5 mile West of Highland, New York, Lat. 41°43'10" N., Long. 73°59'45" W. C.P. for a new station on frequencies 11485H, 11485V, 11405H, 11405V, MHz toward Walden, New York, on azimuth 220.09 degrees and 11525V, 11525H, 11285V, 11285H, 11605V MHz toward Poughkeepsie, New York, on azimuth 108.69 degrees.

2196–CF–P–77 Same (new), Route 300 Walden, New York, Lat. 41°35'59" N., Long. 74°07'48" W. C.P. for a new station on frequencies 11155V, 11075H, 10835H MHz toward Ellenville, N.Y. on azimuth 296.34 degrees and 11035H, 11035V, 10955H, 10955V MHz toward Illinois Mt., N.Y., on azimuth 40.00 degrees.

2197–CF–P–77 Same (KYN59), 3 miles SE of Ellenville, New York, Lat. 41°41'01" N., Long. 74°21'24" W. C.P. to add a new point of communication on frequencies 11325V, 11405V, 11245H MHz toward Monticello, New York, on azimuth 263.25 degrees and 11605V, 11525V, 11285H MHz toward Walden, New York, on azimuth 116.19 degrees.

2198–CF–P–77 Same (new), 15 St. John Street, Monticello, New York, Lat. 41°39'-14" N., Long. 74°41'10" W. C.P. for a new station on frequencies 10875V, 10955V, 10795H MHz toward Ellenville, New York, on azimuth 83.03 degrees.

2199–CF–P–77 The Chesapeake and Potomac Telephone Company of Virginia (KJK30), 730 Main Street, Danville, Virginia, Lat. 36°35'08" N., Long. 79°23'47" W. C.P. to replace transmitters on frequencies 11365V, 11605H, MHz toward Blairs, Virginia.

2200–CF–P–77 Same (WHA78), 2.7 miles E of Blairs, Virginia, Lat. 36°40'18" N., Long. 79°19'31" W. C.P. to move antenna and replace transmitters on frequencies 10915V, 11155H MHz toward Danville, Virginia, and 10955H, 6137.9H MHz toward South Boston, Virginia.

2201–CF–P–77 Same (KJK46), Approx. 3 miles West of South Boston, Virginia, Lat. 36°42'08" N., Long. 78°57'17" W. C.P. to increase antenna structure height, change coordinate, replace and move antenna on frequencies 6360.3H, 11405H MHz toward Blairs, Virginia, on azimuth 264.3 degrees and 6390.0H, 11525V MHz toward Clover, Virginia, on azimuth 53.5 degrees and replace transmitter on frequency 11445V MHz toward Clover, Virginia.

2202–CF–P–77 Same (KJK45), St. Rd. #746 and S. Railway, Clover, Virginia, Lat. 36°49'58" N., Long. 78°44'06" W. C.P. to correct coordinate, move and replace antenna on frequencies 6108.3H, 10755V MHz toward South Boston on azimuth 233.6 degrees, 6137.9V, 11115V MHz toward Drakes Branch, Va., on azimuth 30.3 degrees and replace transmitter on frequencies 11075V MHz toward South Boston, 11115V MHz toward Drakes Branch.

2203–CF–P–77 The Chesapeake and Potomac Telephone Company of Virginia (KJK45), 25 miles West of Drakes Branch, Virginia, Lat. 36°59'49" N., Long. 78°36'56" W. C.P. to increase antenna structure height and replace antenna and transmitters on frequencies 6360.3V, 11565V MHz toward Clover, Va., on azimuth 210.3 degrees, 11365V, 11605H MHz toward Keysville, Virginia, on azimuth 66.6 degrees.

2204–CF–P–77 Same (KJK43), 2 miles NE of Keysville, Virginia, Lat. 37°02'47" N., Long. 78°28'23" W. C.P. to correct coordinate, replace antenna and transmitters on frequencies 10915V, 11155H MHz toward Drakes Branch, Va., on azimuth 246.6 degrees and 6137.9H MHz toward Nutbush, Virginia, on azimuth 90.7 degrees and replace antenna on frequency 11115V MHz toward Nutbush, Virginia.

2205–CF–P–77 Same (KJK42), Nutbush 5.0 miles SW. of Virginia, Lat. 37°02'40" N., Long. 78°16'56" W. C.P. to correct coordinate; replace transmitters on frequencies 6360.3H, 11565V MHz toward Keysville, Va., on azimuth 270.8 degrees and 6390.0H, 11605.0H MHz toward Blackstone, Va., on azimuth 78.0 degrees.

2206–CF–P–77 Same (KJK41), 1 mile N. of Blackstone, Virginia, Lat. 37°05'24" N., Long. 78°00'46" W. C.P. to correct coordinate, replace transmitters on frequencies 6108.3H, 11155V MHz toward Nutbush, Va., on azimuth 258.2 degrees and 6137.9V MHz toward Moseley, Virginia, on azimuth 30.2 degrees.

2207–CF–P–77 Same (WHT67), Moseley, 0.7 mile NW. of Skinquarter, Virginia, Lat. 37°24'11" N., Long. 77°47'02" W. C.P. to replace transmitters on frequency 6360.3V MHz toward Blackstone, Virginia.

ADDENDUM

The following application was inadvertently omitted from Public Notice dated 4–25–77:

2244–CF–P–77 American Telephone and Telegraph Company (KYN90), Boone, 9.5 miles NNE of Boone, Iowa, Lat. 42°09'55" N., Long. 93°47'37" W. C.P. to add frequency 3730.0H MHz toward Ames.

MAJOR AMENDMENT

1300–CF–P–77 General Telephone Company of Florida (KGP53), corrected frequency toward Highland City from 6289.2V to 6286.2V. All other particulars are to remain as reported on PN 843 dated January 31, 1977.

CORRECTION

1965–CF–P–77 The Mountain States Telephone and Telegraph Company (KPQ25), 8 miles WNW of Cedar City, Utah, corrected frequency to read 6152.8H. All other particular remain as reported on PN 852 dated 4–4–77.

[FR Doc.77–13029 Filed 5–5–77;8:45 am]

[Report No. I–343]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

MAY 2, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Corrections from Public Notice dated 4–25–77, Report No. I–341.

323–DSE–P–77 Ball State University, Muncie, Ind. Should have read: Ball State University.

325–DSE–P–77 Charlotte-Mecklenburg Board of Education, Charlotte, N.C. Longitude should have read: 80°47'29".

327–DSE–P–77 The State of Alaska, Buckland, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 65°58'-46", Long. 161°07'20". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

328–DSE–P–77 The State of Alaska, Deering, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 66°04'36", Long. 162°43'09". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

330–DSE–P–77 The State of Alaska, Kotlik, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 62°02'00", Long. 163°33'08". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

331–DSE–P–77 The State of Alaska, Selawick, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 66°35'-56", Long. 160°00'40". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

332–DSE–P–77 The State of Alaska, Stoney River, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 61°-47'00", Long. 156°35'17". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 40F9. With a 4.5 meter antenna.

334–DSE–P/L–77 Southern Cablevision, Inc., Fort Myers, Fla. For authority to construct and operate a domestic communications satellite receive-only earth station at this location. Lat. 26°38'33", Long. 81°-51'12". Rec. freq: 3700–4200 MHz. No emission listed. With a 10 meter antenna.

335–DSE–ML–77 Satellite Transmission and Receiving Co., Hayward, Calif. Modification of license to permit the reception of signals of station WTCG–TV, Channel 17, Atlanta, Ga.

336–DSE–P–77 Oneonta Telephone Company, Inc., Oneonta, Ala. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°56'-43", Long. 86°28'37". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 5 meter antenna.

329–DSE–P–77 Board of Regents, New Mexico State University, Las Cruces, N. Mex. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 32°16'56", Long. 106°45'00". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

333–DSE–P–77 South Texas Educational Broadcasting Council, Corpus Christi, Tex. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 27°39"19", Long. 97°33'35". Rec. freq: 3700–4200 MHz. Emission 360000F9. With a 10 meter antenna.

337–DSE–P–77 State of Oregon acting by and through the State Board of Higher Education, Portland, Oreg. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°27'-25", Long. 122°38'29". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

338–DSE–P–77 Sunflower Educational Television Corp., Wichita, Kans. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°45'-47", Long. 97°21'29". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

339–DSE–P–77 WGBH Educational Foundation, Boston, Mass. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°18'35", Long. 71°14'11". Rec. freq: 3700–4200 MHz. Emission 36000F9. With a 10 meter antenna.

340–DSE–ML–77 American Cable Television, Inc. (KD48), Pampa, Tex. Modification of license to permit the reception of signals of Channel 27, Station WYAH–TV, Portsmouth, Va.

[FR Doc.77–13024 Filed 5–5–77;8:45 am]

[Report No. 1042]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

MAY 2, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20548	Secs. 73.35, 73.240, and 73.636.	Amendment of secs. 73.35, 73.240, and 73.636, of the Commission's rules relating to multiple ownership of standard, FM, and television broadcast stations.	
		Filed by Robert M. Booth, Jr., attorney for Town and Country Radio, Inc.	Apr. 20, 1977
		Filed by John P. Bankson, Jr., and Louise A. Sunderland, attorneys for Wilfredo A. Soto, Jesus M. Soto, and Ricardo L. Segarra, d.b.a. Lares Broadcasters.	Apr. 22, 1977
		Filed by Michael H. Rosenbloom, attorney for Suburban Radio Group, Inc.	Apr. 25, 1977
21049		Commercial television network practices and the ability of station licensees to serve the public interest.	
		Filed by J. Carter McKaig, John D. Lane, and Ramsey L. Woodworth, attorneys for Westinghouse Broadcasting Co., Inc.	Apr. 22, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 d after publication of this public notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–13028 Filed 5–5–77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977–28, AOR 1977–21]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977–21 has been made public at the Commission. Copies of AOR 1977–21 were made available on April 28, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

V 42 88 MAY 6 77 UMI

AOR 1977-21: May funds received by the California Real Estate Political Action Committee/Federal as contributions under the Federal Election Campaign Act of 1971, as amended, be transferred without limitation to the Realtors Political Action Committee, an affiliated political committee? Requested by Vigo G. Nielsen Jr., Counsel to the California Real Estate Political Committee/Federal, San Francisco, California.

MAY 2, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.77-12907 Filed 5-5-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Change in Schedule for Public Hearing in Boston, Massachusetts re Notice of Intention to Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Friday, April 29, 1977 (42 FR 21950) that FEA had issued a "Notice of Intention to Issue Prohibition Orders to Certain Powerplants" and would hold a hearing on the notice of intention on May 10, 11, and 12, 1977 in Boston, Massachusetts.

This notice is to inform persons interested in that notice of intention that the hearing on May 12, 1977, will be held in Hartford, Connecticut, Auebach Science Center Auditorium, Hartford College for Women, 1265 Asylum Avenue, beginning at 9:00 a.m.

In addition a final public hearing will be held in Boston, Massachusetts, on May 23, 1977 beginning at 9:00 a.m. in Room 208, J. W. McCormack Post Office and Courthouse Building, Park Square. Consequently the revised schedule for public hearings on the above-mentioned notice of intention is as follows:

May 10, 11—Boston, Massachusetts, Room 436, Park Plaza Hotel, Park Square at 9 a.m.

May 12—Hartford, Connecticut, Auebach Science Center Auditorium, Hartford College for Women, 1265 Asylum Avenue at 9 a.m.

May 23—Boston, Massachusetts, Room 208, J. W. McCormack Post Office, and Courthouse Building, Park Square at 9 a.m.

Issued in Washington, D.C. on May 1, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-12986 Filed 5-3-77;12:19 pm]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT, IOWA POWER AND LIGHT COMPANY'S DES MOINES GENERATING STATION POWERPLANTS 10 AND 11

Negative Determination of Environmental Impact

Pursuant to 10 CFR §§ 208.4 and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Iowa Power and Light Company's Des Moines Generating Station, Powerplants 10 and 11.

On June 30, 1975, the FEA issued a prohibition order to the above-listed powerplants which prohibited the powerplants from burning natural gas or petroleum products as their primary energy source. The prohibition order provided, however, that in accordance with the requirements of 10 CFR Parts 303 and 305, the order would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the particular powerplants will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that the particular powerplants will be able to comply with all applicable air pollution requirements under section 119 of that Act; and, until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR § 305.9, and has served the powerplants the Notice of Effectiveness, as provided in 10 CFR §§ 303.10(b), 303.37(b) and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined it is clear that issuance of a Notice of Effectiveness for the prohibition order to the above listed powerplants is not a "major Federal action significantly affecting the quality of the human environment." National Environmental Policy Act at 42 U.S.C. 4332 (2)(C). Therefore, pursuant to 10 CFR 208.4(c) FEA has determined that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Interested persons are invited to submit data, views, or arguments with respect to the negative determination and the associated environmental assessment to Executive Communications, Box LK, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to Iowa Power and Light Company's Des Moines Generating Station, Powerplants 10 and 11." Fifteen copies should be submitted on or before May 26, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 1, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-12987 Filed 5-3-77;12:19 pm]

FINANCIAL INCENTIVES SUBCOMMITTEE OF THE FOOD INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Financial Incentives Subcommittee of the Food Industry Advisory Committee will meet Thursday, May 26, 1977, at 2 p.m., Room 5041, FEA Headquarters, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The objectives of this Subcommittee are to make recommendations to the parent Committee with respect to matters concerning food industry aspects of FEA policies and programs falling within the interests of this Subcommittee.

The agenda for the meeting is as follows:

1. Status and Assessment of Obligation Guarantee Program.
2. Review of the Tax Credit Recommendation of the Administration's Energy Policy Proposals.
3. Review the List of Energy Conservation and Renewable Resource Measures that the Energy Policy Indicates Will Qualify for a Tax Credit.
4. Review and Make Recommendations Concerning FEA's Proposed Energy Audit Procedures for Use in Qualifying Energy Conservation and Renewable Resource Measures for Tax Credit.
5. Review Utility Rate Proposals and Their Effect on Industry Energy Costs.
6. Review Oil and Gas Pricing Recommendations as They Relate to Industry Energy Costs.
7. Discuss Definition of Appliance for Purposes of Participation in the Obligation Guarantee Program.

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management (202) 566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on May 2, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-12988 Filed 5-3-77;12:20 pm]

MEETING

Notice is hereby given that the FEA will conduct a meeting pursuant to a request by representatives of independent marketers of refined petroleum products, who will speak on the effects of FEA regulations on their businesses. The meeting will consist of presentations of factual information followed by an informal discussion period.

The meeting will be open to the public, is scheduled to be held on May 9, 1977 in Room 3000-B, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., and will begin at 10 a.m.

An FEA official will chair the meeting and may impose such procedures or rules which, in his judgment, will insure an orderly meeting. Any questions concerning the meeting should be directed to Judy Saunders, Executive Assistant to the Acting Deputy Administrator, Room 3208, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. (202-566-9410.)

Dated: May 3, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-13061 Filed 5-3-77;4:39 pm]

FEDERAL MARITIME COMMISSION

[Docket No. 77-5]

AGREEMENT NO. 9973-3 AND AGREEMENT NO. 9863

Modification of Order of Investigation and Hearing

On April 14, 1977, counsel for Proponents in this proceeding petitioned the Commission to modify the Order of Investigation and Hearing in this proceeding so as to change the dates upon which affidavits of fact and memoranda of law are due to be filed with the Commission from May 1 for Proponents and May 31 for other parties to the proceeding, to June 1 and June 30, respectively. The basis for the Petition was counsel's inability to confer with Proponents' primary affiants until mid May. Protestants and Hearing Counsel have no objection to Proponents' request.

Proponents' Petition provides the Commission with an opportunity to correct a potential problem in this proceeding. The Order of Investigation, as presently worded, requires Proponents to file affidavits of fact and memoranda of law on May 1, 1977, while Protestants, Hearing Counsel, and Interveners are required to file affidavits and memoranda of law no later than May 31, 1977. The Commission considers it undesirable to have the parties to this proceeding file memoranda of law prior to the receipt of all the evidence to be adduced in this proceeding, as it would be difficult to effectively argue the applicability of evidence to a proceeding when the evidence is not yet known to counsel. Further, the Order of Investigation, as presently worded, is susceptible to misinterpretation as to the location of the burden of proof in this proceeding. As with all agreements filed with the Commission pursuant to section 15 of the Shipping Act, the burden of proof is upon those persons opposing the approval of those agreements. While the burden of going forward with evidence may shift from time to time during the consideration of the approval of one of those agreements, the burden of proof never departs those opposed to the agreement.

Consequently, the Commission will modify the Order of Investigation and Hearing in this proceeding so as to remedy the problem presented by Proponents in their Petition of April 14, 1977, and so as to remedy the additional problems observed by the Commission. The modification will provide for the filing of affidavits by Protestants and those Interveners opposed to the Agreements, followed by the filing of affidavits by Proponents and those Interveners in favor of the Agreements, and then a last filing of rebuttal affidavits by Protestants and those Interveners opposing the approval of the Agreements.[1] Thereafter, the parties may file their memoranda of law arguing all of the evidence adduced in the proceeding.

The affidavits of those opposed to the approval of the Agreements should contain evidence upon which the Commission may find facts which would support a conclusion that the Agreements are contrary to the standards of approval set forth in section 15 of the Shipping Act. Similarly, the affidavits of those in favor of the Agreements should contain evidence upon which the Commission may find facts supporting a conclusion that the Agreements are not contrary to those standards. The affidavits submitted in this proceeding should be addressed to, among other things, the effects of the Agreements, the necessity for the Agreements, and the alternative methods of accomplishing the purposes of the Agreements.

[1] The Rules of Practice and Procedure of the Commission require an Intervener to State its position at the time it petitions for intervention. (46 CFR 502.72). Hearing Counsel may file affidavits with Protestants or Proponents, or both, as evidence becomes available to Hearing Counsel.

Therefore, it is ordered, That the Order of the Federal Maritime Commission, entitled, Agreement No. 9973-3 and Agreement No. 9863, "Order of Investigation and Hearing and Order of Approval of Agreement No. 9973-3 Pendente Lite", dated March 31, 1977, is modified by deleting the fifth ordering paragraph thereof, and substituting therefore, the following:

It is further ordered. That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies thereto, and oral argument, if requested and/or deemed necessary by the Commission. Any request for a trial-type evidentiary hearing shall be accompanied by a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence to be used to prove those facts, and an explanation of why such proof cannot be submitted through affidavits. Requests for a trial-type evidentiary hearing shall be filed on or before May 20, 1977. Affidavits shall be filed by Protestants and those Interveners opposing the approval of the Agreements on or before May 31, 1977. Affidavits shall be filed by Proponents and those Interveners favoring the approval of the Agreements on or before June 14, 1977. Rebuttal affidavits shall be filed by Protestants and those Interveners opposed to the approval of the Agreements on or before June 21, 1977. Hearing Counsel shall file affidavits, if any, with Protestants or Proponents, or both. All parties to this proceeding shall file opening memoranda of law on or before July 19, 1977. Reply memoranda of law shall be filed on or before August 2, 1977.

It is further ordered, That this Order be published in the FEDERAL REGISTER.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13075 Filed 5-5-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1090]

CARIBBEAN MOVING AND STORAGE, INC., d.b.a. FAST DELIVERY SERVICE

Order of Revocation

By letter dated March 24, 1977, Ms. Aida C. Costa, President, Caribbean Moving and Storage, Inc., d.b.a. Fast Delivery Service, P.O. Box 833, Miami International Airport, Miami, Florida 33148, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1090 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before April 16, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license

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will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file. Caribbean Moving and Storage, Inc., d.b.a. Fast Delivery Service, has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, That independent ocean forwarder license No. 1099 issued to Caribbean Moving and Storage, Inc., d.b.a. Fast Delivery Service, be returned to the Commission for cancellation.

It is further ordered, That independent ocean freight forwarder license No. 1090 be and is hereby revoked effective April 16, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Caribbean Moving and Storage, Inc., d.b.a. Fast Delivery Service.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-13074 Filed 5-5-77;8:45 am]

PORT OF NEW ORLEANS BOARD OF COMMISSIONERS AND ATLANTIC AND GULF STEVEDORES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Martime Commission, Washington, D.C. 20573, on or before May 26, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Joe H. Hamner, Jr., Esquire, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, Louisiana 70160.

Agreement No. T-3098-2, between Board of Commissioners of the Port of New Orleans (Board) and Atlantic and Gulf Stevedores, Inc., (A & G), modifies the parties' basic agreement which provides for the five-year lease to A & G of certain public facilities at New Orleans, Louisiana, to be used in the handling of bulk commodities. The purpose of this modification is to terminate the lease of a five-acre tract of land acquired under Agreement No. T-3098-1 and lease a separate, additional two-acre tract of land. As compensation for the two-acre site, A & G will pay $9,000 per year and Board will give A & G a credit of $1170 against the rent representing the cost of clearing the land.

By order of the Federal Maritime Commission.

Dated: May 3, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13073 Filed 5-5-77;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF TRUSTEES OF THE GALVESTON WHARVES AND FARMERS EXPORT CO.

Agreements Filed; Correction

In the May 4, 1977, issue of the FEDERAL REGISTER (42 FR 22588), the final date for comments on the matter of Agreements Nos. T-3463, between the Board of Trustees of the Galveston Wharves and Farmers Export Co., and T-3464, between the Board of Trustees of the Galveston Wharves and Farmers Export Co., should have read May 16, 1977, instead of May 24, 1977.

By Order of the Federal Maritime Commission.

Dated: May 4, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13159 Filed 5-5-77;8:45 am]

AMERICAN EXPORT LINES, INC., ET AL.

Agreement Filed; Clarification of Comment Date

Due to unexplained irregularities which occurred in the transmission of the Commission's Notice of Filing of Agreement No. 10294 to the FEDERAL REGISTER and the scheduling thereof for publication, the notice mistakenly was published twice. In the notice appearing April 28, 1977 (42 FR 21648), the date for filing comments was listed as May 18, 1977. In the notice appearing May 3, 1977 (42 FR 22394), the date for filing comments was listed as May 23, 1977.

Notice is hereby given that the correct date by which comments on this agreement may be filed is May 18, 1977.

Dated: May 5, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR. Doc.77-13195 Filed 5-5-77;9:56 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-278]

ARKANSAS POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Providing for Hearing and Establishing Procedures

APRIL 29, 1977.

On April 1, 1977, Arkansas Power & Light Company (AP&L) submitted for filing a proposed rate increase for electric service to all its wholesale municipal customers, one private company, three cooperatives and the City of Jonesboro, Arkansas.[1] For the reasons set forth below, the Commission shall accept the tendered rates for filing, suspend their effectiveness for two months, and establish hearing procedures to determine the justness and reasonableness of the proposed rates and charges.

The proposed changes will result in an estimated increase of $4,878,751 (16.29%) for the 12 months succeeding the proposed effective date of May 1, 1977, as follows: $4,512,092 (17.18%) to the municipals, $42,002 (16.82%) to the private company, $269,025 (12.52%) to the cooperatives and $55,631 (4.35%) to the City of Jonesboro.

All the agreements provide that either party may seek changes in the rate, charges, amendments and conditions of the agreement through timely filing with the proper jurisdictional agencies.

AP&L's present agreements with the municipals and the privately owned company are served under Rate Schedule U4. The proposed Rate Schedule WMI will alter only the demand and energy charges and the fuel adjustment clause. The monthly demand and energy charges are as follows:

	Present rate U4	Proposed rate WMI
Demand charge per kilowatt	$3.16	$3.25
First 260 kilowatthours per kilowatt	1.35¢	2.00¢
All additional kilowatthours per kilowatt	1.21¢	1.70¢

[1] AP&L's wholesale municipal customers include the following: the Cities of West Memphis, North Little Rock, Prescott, Hope, and Osceola, The Conway Corporation, and Benton Municipal Light and Water Company. The private company is Citizens Light & Power Company. The subject cooperatives include Farmers Electric Cooperative, Mississippi County Electric Cooperative and North Arkansas Electric Cooperative. See attached Appendix for designations.

Additionally, all rate schedules include various adjustment clauses, i.e., fuel cost adjustment which was increased from 9.677 mill per kWh to 11.423 mill/kWh; a cost of money adjustment which changes the capacity charge by 1¢/kW for each 0.1% increase or decrease in the company's embedded cost of long term debt above or below 7.67%; a tax adjustment which passes on any new or increased taxes and a facilities charge (except Jonesboro) for any company install facilities of 1.5% per month. Any changes in AP&L's rates and charges pursuant to the tax adjustment clause or cost of money adjustment clause will have to be preceded by a full cost of service justification under § 35.13 of our rules (18 CFR § 35.13).

AP&L presently serves the three subject cooperatives under Rate Schedule B4. The proposed Rate Schedule WCI will alter the demand and energy charges and the fuel adjustment clause. The monthly demand and energy charges are as follows:

	Present rate B4	Proposed rate WCI
Demand charge per kilowatt	$2.83	$2.95
First 260 kilowatthours per kilowatt	1.30¢	1.80¢
All additional kilowatthours per kilowatt	1.10¢	1.45¢

AP&L presently serves Jonesboro under Rate Appendix B which provides for a $2.97/kW demand charge and an energy charge of $.0115/kWh. The proposed rate will increase the demand charge to $3.10/kW and the energy charge to $0.014/kWh.

All rate schedules except Jonesboro provide for certain discounts. For transmission delivery at 115 kV or higher, the rate is discounted 20¢/kW of billing demand. In addition, the following noncumulative term discounts are given: 2% for a five year agreement, 5% for a ten year agreement and 10% for a twenty year agreement.

Notice of the proposed increase was issued on April 8, 1977, with comments, protests or petitions to intervene due on April 20, 1977. A petition to intervene was filed by certain wholesale customers [2] of AP&L on April 20, 1977.

Petitioners allege that the wholesale rate increase filed by AP&L in this docket is excessive and is not in accord with the Settlement Agreement approved by the Commission in Docket No. ER76-110 on November 15, 1976. It is maintained by Petitioners that they have a substantial interest in the outcome of these proceedings and that in order to protect their rights under the Settlement Agreement, intervention should be granted and the proposed rate increase suspended.

The Commission's review indicates that the proposed rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, the Commission shall accept for filing the proposed rate schedules, suspend their use for two months, and establish hearing procedures.

The Commission finds: (1) Good cause exists to accept for filing the proposed rate schedule changes filed herein on April 1, 1977, and suspend the use thereof for two months until July 2, 1977, when they shall be permitted to become effective subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of AP&L's rates as proposed to be revised herein.

(3) Good cause exists to grant the petition to intervene of AP&L's wholesale customers.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the justness and reasonableness of the rates and charges included in the subject filing of AP&L.

(B) Pending a hearing and a final decision thereon, AP&L's filing is hereby accepted and suspended for two months, to become effective on July 2, 1977, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before August 1, 1977. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) AP&L shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by § 35.19a of the Commission's regulations, 18 CFR 35.19a.

(F) Petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however*, That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Arkansas Power & Light Co., docket No. ER77-278, Rate Schedule Designations, filed April 1, 1977

Designation	Customer	Description
Supplement No. 9 to rate schedule FPC No. 45 (supersedes supplement No. 8 as supplemented).	Farmers Electric Cooperative Corp.	Rate schedule WCI.
Supplement No. 5 to rate schedule FPC No. 49 (supersedes supplement No. 4 as supplemented).	City of North Little Rock	Rate schedule WMI.
Supplement No. 5 to rate schedule FPC No. 50 (supersedes supplement No. 4 as supplemented).	Hope Water & Light Commission.	Do.
Supplement No. 4 to rate schedule FPC No. 51 (supersedes supplement No. 3 as supplemented).	Citizens Light & Power Co.	Do.
Supplement No. 7 to rate schedule FPC No. 55 (supersedes supplement No. 6 as supplemented).	City of West Memphis	Do.
Supplement No. 4 to rate schedule FPC No. 56 (supersedes supplement No. 3 as supplemented).	City of Prescott	Do.
Supplement No. 6 to rate schedule FPC No. 57 (supersedes supplement No. 5 as supplemented).	Conway Corp	Do.
Supplement No. 5 to rate schedule FPC No. 60 (supersedes supplement No. 4 as supplemented).	Benton Municipal Light & Water Works.	Do.
Supplement No. 5 to rate schedule FPC No. 62 (supersedes supplement No. 4 as supplemented).	North Arkansas Electric Cooperative, Inc.	Rate schedule WCI.
Supplement No. 8 to rate schedule FPC No. 63 (supersedes supplement No. 7 as supplemented).	City of Osceola	Rate schedule WMI.
Supplement No. 7 to rate schedule FPC No. 65 (supersedes supplement No. 6 as supplemented).	Mississippi County Electric Cooperative, Inc.	Rate schedule WCI.
Supplement No. 5 to rate schedule FPC No. 68 (supersedes supplement No. 4 as supplemented).	City of Jonesboro	App. B.

[2] Petitioners consist of the Conway Corporation, Benton Municipal Light and Water Works, Hope Water and Light Commission, City of North Little Rock, City of Osceola, City of Prescott, City of West Memphis, Arkansas, Farmers Electric Cooperative Corporation, and Mississippi County Electric Cooperative, Inc., all of whom purchase power at wholesale from AP&L.

[FR Doc.77-12918 Filed 5-5-77;8:45 am]

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[Docket No. G–5715, et al.]

CABOT CORPORATION, ET AL.

Applications For Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

APRIL 29, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
G–5715 C 11–4–74 [1]	Cabot Corp., P.O. Box 1101, Pampa, Tex. 79065.	Northern Natural Gas Co., Carson Gray and Hutchinson Counties, Tex.		
C166–738 D 4–20–77	Union Oil Co. of California, Union Oil Center, room 904, P.O. Box 7600, Los Angeles, Calif. 90051.	Northern Natural Gas Co., certain leases in Denison Field, Sutton County, Tex.	[2]	
C175–666 C 3–21–77	Midlands Gas Corp.	Kansas-Nebraska Natural Gas Co., Bowdoin Field, Phillips and Valley Counties, north-central Montana.	$1.45	14.73
C176–691 C 3–23–77	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad South Fields, et al., Eddy and Lea Counties, N. Mex.	[3] [4] $1.7691	14.73
C177–281 C 4–7–77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Michigan-Wisconsin Pipe Line Co., Hugoton-Anadarko area (deep gas), Sherman County, Tex.	[3] [5] 145.0¢	14.65
C177–362 A 3–28–77	Stephens Production Co., P.O. Box 248, Fort Smith, Ark. 72902.	Sec. 29, block R.E. Roberts & Edleman survey, Wheeler County, Tex.	$1.45	14.73
C177–390 (C163–574) B 4–4–77	Austral Oil Co., Inc., 2700 Exxon Bldg., Houston, Tex. 77002.	Valley Gas Transmission Co., West Dinero Field, Live Oak County, Tex.	[6]	
C177–380 A 4–4–77	Texaco Inc., P.O. Box 2100, Denver, Colo. 80201.	Northwest Pipeline Corp., Willow Grove Field, Lincoln County, Wyo.	123.4136¢ 190.3720¢	14.73
C177–391 A 4–7–77	Gas Producing Enterprises, Inc., 7 Five Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co., Morane Area, Beaver County, Okla.	[4] $1.7337	14.65
C177–392 (C166–721) B 4–7–77	Coastal States Gas Producing Co., Five Greenway Plaza East, Houston, Tex. 77046.	Lone Star Gas Co., Marlow, Southwest Field, Stephens County, Okla.	[6]	
C177–393 (C167–460) B 4–7–77	do	Lone Star Gas Co., Marlow, Southwest Field, Okla.	[3]	
C177–394 (CS71–236) B 4–8–77	Hawthorne Oil & Gas Corp., P.O. Box 52429, Lafayette, La. 70501.	Shell Oil Co., Iowa Field, Calcasieu Parish, La.	[3]	
C177–395 A 4–8–77	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Transwestern Pipeline Co., Bluitt (Wolfcamp) Field, Roosevelt County, N. Mex.	[3] [10] 156.3742¢	14.65
C177–396 (CS71–240) B 4–8–77	Tesoro Petroleum Corp., 1107 Oil and Gas Bldg., Wichita Falls, Tex. 76301.	Natural Gas Pipeline Company of America, Big Mama Field, Trinity County, Tex.	[11]	
C177–397 A 4–12–77	CNG Producing Co., 445 West Main St., Clarksburg, W. Va. 26301.	United Gas Pipe Line Co., Eugene Island block 110 Field, offshore Louisiana.	[3] [12] 53.0¢	14.73

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
CI77–398 F 4–11–77	Gulf Oil Corp. (successor to NAFCO Oil & Gas, Inc.), P.O. Box 2100, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., Carthage Field, Panola County, Tex.	[12] [13] 13.3419¢	14.65
CI77–399 A 4–11–77	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Texas Eastern Transmission Corp., High Island block 110 Field, offshore Texas.	[4] [14] $1.4818 .9745	14.73
CI77–400 A 4–11–77	Texaco Inc., P.O. Box 52332, Houston, Tex. 77052.	Sea Robin Pipeline Co., Eugene Island block 47 Field, offshore Louisiana.	[14] $.54571	15.025
CI77–401 A 4–12–77	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Myette Point Field, St. Mary Parish, La.	[7] [14] $1.523626	15.025
CI77–402 A 4–12–77	Cities Service Co., P.O. Box 300 Tulsa, Okla. 74102.	Transco Gas Supply Co., blocks 110 and 111, High Island area, offshore Texas.	[3] 175.0¢	14.65
CI77–404 A 4–7–77	Terra Resources, Inc., 5416 South Yale Ave., Tulsa, Okla. 74135.	El Paso Natural Gas Co., No. 1 South Rock Tank, Eddy County, N. Mex.	[3] 94.0¢	14.73
CI77–406 A 4–13–77	McCulloch Oil & Gas Corp., 10880 Wilshire Blvd., suite 1500, Los Angeles, Calif. 90024.	Northern Natural Gas Co., Berryman No. 1–35 well, sec. 35, township 19 north range 23 west, Ellis County, Okla.	[3] [15] $1.44	14.65
CI77–407 (CI Ft–64) B 4–11–77	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Cities Service Gas Co., Locke Field, Roberts County, Tex.	(16)	
CI77–408 B 4–11–77	do	Arkansas Louisiana Gas Co., Numa-West Field, Grant County, Okla.	(16)	
CI77–410 A 4–13–77	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Hartzog Draw Field, Campbell County, Wyo.	[7] [17] $1.44218	14.65
CI77–411 A 4–13–77	Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Natural Gas Pipeline Co., block 214B Field, Vermilion area, offshore Louisiana.	[3] [8] $1.75	
CI77–412 A 4–14–77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla.	United Gas Pipe Line Co., Waveland Field, Hancock County, Miss.	[3] $1.45	14.73
CI77–413 (CS66–107) B 4–14–77	Jake L. Hamon, P.O. Box 663, Dallas, Tex. 75221.	Tennessee Gas Pipeline Co., A. & B. Edith Boudoin Wells, and Joseph G. Boudoin Well, Cameron Parish, La.	(16)	
CI77–414 A 4–14–77	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Phillips Petroleum Co., secs. 122 and 127, block 42, Hemphill County, Tex.	[3] [18] [17] $1.8027027	14.73
CI77–415 A 4–18–77	Transco Exploration Co. [7]	Transcontinental Gas Pipe Line Corp., Bayou Postillion Field, Iberia Parish, La.	[3] [14] $1.523626	15.025
CI77–416 B 4–18–77	Jake L. Hamon	Texas Eastern Transmission Corp., Hostetter Field, McMullen County, Tex.	(16)	
CI77–417 A 4–18–77	Amoco Production Co	Transwestern Pipe Line Co., Empire South Morrow Field, Eddy County, N. Mex.	[19] $1.7986	14.65
CI77–418 A 4–18–77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan-Wisconsin Pipeline Co., Constance Bayou Field, Cameron Parish, La.	[3] $1.44	15.025
CI77–419 A 4–18–77	Transco Exploration Co [7]	Transcontinental Gas Pipe Line Corp., West Mermentau Field, Acadia Parish, La.	[3] [14] $1.523626	15.025

[1] Filing reflects 4 additional delivery points for deliveries of gas by applicant to Northern.
[2] Nonproductive.
[3] Subject to adjustments pursuant to opinion No. 770, as amended.
[4] Includes $1.45 base rate, 0.1225 tax reimbursement and 0.1986 Btu adjustment.
[5] Applicant is willing to accept a permanent certificate in accordance with opinion No. 770, as amended.
[6] Well(s) have been plugged and abandoned.
[7] Applicant and purchaser are affiliated.
[8] Depleted.
[9] Shutdown of Shell's processing plant.
[10] Applicant proposes to collect the national rate in accordance with opinion No. 770, as amended.
[11] Uneconomical.
[12] Includes 100 pct tax reimbursement.
[13] Includes 13.4727¢ base price, 0.3750¢ compression and 0.2442¢ tax reimbursement.
[14] Includes 0.03976 gathering.
[15] Subject to upward and downward Btu adjustment.
[16] Applicant no longer holds any interest in the leases dedicated to the gas purchase contract.
[17] Includes $1.45 base rate, 0.21 Btu adjustment and 0.1352027 tax reimbursement.
[18] The Yost gas unit well has been plugged and abandoned.
[19] Includes $1.4421 base rate, plus 0.1219 tax reimbursement and 0.2346 Btu adjustment.

[FR Doc.77–12919 Filed 5–5–77;8:45 am]

[Docket No. RM74–16]

NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC GAS RESERVES FPC FORM NO. 40

Notice of Intent To Act

MAY 2, 1977.

Gulf Oil Corporation on April 5, 1977, filed a motion requesting that the above docket be expanded to consider the promulgation of specific rules and regulations concerning confidential reserve information which producers may be required to submit to the Commission as a result of the proceedings in this docket. This matter should be considered after review of the record, now certified to the Commission, including the comments filed and the evidence presented at the request of the Commission in its order of February 2, 1977. In order to avoid Gulf's motion being deemed denied by the passage of time under Section 1.12(e) of the Commission's Rules this notice of intent to act is issued.

Likewise a petition filed by Tenneco Oil Company on March 10, 1977, requesting a public conference with regard to the consolidation of reports of natural gas reserves to interested federal agencies should be considered in the light of the record already made, and action on the petition will be taken when the Commission acts upon the record as certified to the Commission.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13040 Filed 5–5–77;8:45 am]

[Docket No. ER76–533]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Supplement to Settlement Proposal

APRIL 29, 1977.

On November 4, 1976, Central Vermont Public Service Corporation (Central Vermont) submitted an amended settlement proposal as part of its "Answer to Staff Supplemental Comments on Settlement Agreement" filed in this proceeding. The settlement agreement proposed in this docket was certified to the Commission by the Presiding Administrative Law Judge on August 11, 1976. The Staff filed comments on September 10, 1976 and supplementary comments on September 30, 1976 in which it objected to the Company's basis for allocation of transmission demand related costs.

In its November 4 Answer, Central Vermont offered for settlement proposes to reduce its rates to its non-affiliated customers by $9,541 annually and stated that such reduction reflects its use of the 70/30 weighted average coincidental peak allocation for both production and transmission demand related costs.

Any person desiring to be heard or to make any protest with reference to this proposal should on or before May 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13050 Filed 5–5–77;8:45 am]

[Docket No. ER76–45]

CONSUMERS POWER CO.

Refund Report

APRIL 29, 1977.

Take notice that on April 21, 1977, Consumers Power Company (Consumers) tendered for filing its report of com-

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pliance with the refund provisions of the March 7, 1977 order issued by the Commission in this docket approving a settlement agreement entered into by the parties to this proceeding.

Consumers states that the refunds were made on March 31, 1977 and included interest through that date. The Company also states that copies of the filing were provided to all parties of record and counsel, to the City of Eaton Rapids (which was not a party to this proceeding) and to the Michigan Public Service Commission.

Any person desiring to be heard or to protest said refund report should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 17, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this report are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13049 Filed 5-5-77;8:45 am]

[Docket Nos. CP73-258, CP73-259, etc.]

EL PASO EASTERN CO., ET AL.

Clarifying Filing Procedures

APRIL 29, 1977.

In the matter of El Paso Eastern Co., Docket Nos. CP73-258, CP73-259; El Paso, Natural Gas Co., Docket No. CP73-260; Southern Energy Co., Docket Nos. CP73-271, CP73-272; Southern Natural Gas Co., Docket No. CP73-273; Consolidated System LNG Co., Docket Nos. CP73-288, CP73-284; El Paso LNG Terminal Co., Docket No. CP77-269; El Paso Eastern Co., Docket No. CP77-270; United Gas Pipe Line Co., Docket No. CP 77-271; United LNG Co., Docket No. CP77-272; El Paso Eastern Co., Docket Nos. CP77-330, CP77-331; El Paso Natural Gas Co., Docket No. CP77-332.

The Commission's order of April 14, 1977, in the above-docketed proceeding terminated certain dockets and established a new consolidated proceeding. Filings made hereafter in this new proceeding should be made in current dockets, without reference to the terminated dockets, as follows:

El Paso Eastern Company, Docket Nos. CP77-330, CP77-331.
El Paso Natural Gas Company, Docket No. CP77-332.
El Paso LNG Terminal Company, Docket No. CP77-269.
El Paso Eastern Company, Docket No. CP77-270.
United Gas Pipe Line Company, Docket No. CP77-271.
United LNG Company, Docket No. CP77-272, DC-B-30.

Attention is also called to ordering paragraphs B, C, and D of the April 14 order, which advise parties that all filings received on and after October 15, 1976, in Docket No. CP73-258 are now assigned new Docket No. CP77-330, and all filings received on and after March 1, 1977, in Docket Nos. CP73-259 and CP73-260 are now assigned new Docket Nos. CP77-331 and CP77-332, respectively.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13046 Filed 5-5-77;8:45 am]

[Docket No. E-7453]

IOWA-ILLINOIS GAS & ELECTRIC CO.

Application

APRIL 29, 1977.

Take notice that on April 19, 1977, Iowa-Illinois Gas & Electric Company (Applicant) of Davenport, Iowa, filed a seventh supplemental application seeking authority pursuant to section 204 of the Federal Power Act to extend to no later than June 30, 1978, the date of issuance and to no later than June 30, 1979, the final maturity date of notes authorized to be issued.

Applicant is incorporated under the laws of the State of Illinois with its principal business office at Davenport, Iowa, and is engaged in the electric and gas utility business within the State of Iowa and the State of Illinois.

The notes are to be issued from time to time to banking institutions and/or sold as commercial paper to direct purchasers or through commercial paper dealers.

Notes to banking institutions will be issued in accordance with various informal lines of credit agreements. The notes are to have maturities of up to one year from their dates and in any event on or before June 30, 1979, and are to have an interest cost to the Company not excluding that charged on prime loans of lending institutions at the time of issuance.

The proceeds from the issuance of notes will be added to working capital for ultimate application toward the cost of gross additions to utility plant.

Any person desiring to be heard or to make any protest with reference to the application should on or before May 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13052 Filed 5-5-77;8:45 am]

[Project No. 2360]

MINNESOTA POWER AND LIGHT CO.

Extension of Time

APRIL 29, 1977.

On April 25, 1977, Minnesota Power and Light Company filed a motion to extend the date for filing Exhibits F and K as required by Article 31 of the Order Accepting Settlement on Prehearing and Modifying Licenses, issued April 26, 1976, and the initial statement of costs required by § 4.20 of the Commission's regulations.

Upon consideration, notice is hereby given that an extension of time is granted to and including September 26, 1977, within which Exhibits F and K and the initial statement of costs shall be filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13044 Filed 5-5-77;8:45 am]

[Docket No. CP73-213]

MOUNTAIN FUEL SUPPLY CO.

Petition to Amend

MAY 2, 1977.

Take notice that on April 15, 1977, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84239, filed in Docket No. CP 73-213 a petition to amend the Commission's order of August 20, 1975 (54 FPC—?—, issued in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to permit the actual expenditures of $5,431,320 for the authorized facilities as installed, all more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that in its initial application it proposed to construct, install and operate approximately 34.2 miles of 20-inch diameter pipeline extending from Petitioner's existing pipeline near Coalville, Utah, to Petitioner's distribution lines in the Great Salt Lake Valley near Farmington, Utah, and that on March 14, 1974, it amended its application to reflect a change in Petitioner's pipeline route so as to be acceptable to the forest service. It is stated that as a consequence of this change, the pipeline was proposed to be approximately 33.2 miles in length having a terminus near Bountiful, Utah, about 6 miles south of the original terminus. On August 20, 1975, Petitioner was granted the requested authorization.

Applicant states that it incurred a significant cost overrun associated with the authorized facilities and that the actual expenditures amounted to $5,431,302, whereas expenditures were estimated to be $3,250,000 even though this latter figure was revised at hearing to a cost of between $4,450,000 and $4,700,000.[1] Applicant further states that the cost overrun based upon the original estimated cost amounts to $2,181,302.

Applicant states that the cost overrun was the result of the following:

A. The initial cost estimate, as filed in the original application was made over two and one-half years before actual construction was permitted to commence. This was a period of intense inflation, which had an effect on every aspect of the construction; for example, contractors' bids for the job were first received by Petitioner in July 1974. By the time construction was commenced in September 1975, the low bidder's bid costs were increased by 15 percent due solely to inflationary pressures of the time.

B. Numerous minor changes in alignment had to be made to satisfy various landowners subsequent to the preparation of the initial estimates. Original alignment staking was completed in 1974; however, by the time actual construction commenced in September 1975, substantially all alignment stakes had been lost, which required that the complete line be resurveyed and restaked.

C. Costs associated with the environmental impact study and the ramifications thereof far exceeded those originally contemplated (the cost of the environmental impact study itself, not including Petitioner's associated and incidental costs relative thereto, was over $30,000).

D. The original cost estimate was based upon the assumption that construction could be completed during the warm, dry summer months. However, due to the late date upon which approval was received (August 20, 1975), and to assure adequate service to its service area during the oncoming winter, construction was commenced immediately, despite the fact that some of the construction would have to be accomplished under harsh winter conditions. The necessity to pursue construction under winter conditions had several adverse cost impacts: (1) Contractor bid costs were increased by 10 percent over and above the 15 percent inflation escalation to cover the increased costs associated with winter construction; (2) It was necessary to utilize mill-wrapped pipe, instead of wrapping the pipe in the field; (3) As access roads became unusable, it was necessary to institute the use of helicopters, which were utilized for such things as moving men and materials to and from the job site, pipe stringing, and generally to facilitate construction supervision and inspection; (4) In an effort to speed construction, and to eliminate as much winter work as possible, multiple construction crews were employed for the pipeline's construction. (At times during the construction period up to four major spreads were employed on the job, a "spread" being a complete unit of pipeline construction equipment with associated workers;) (5) As harsh winter weather set in, it became more and more difficult to retain skilled personnel on the job, with the result that Petitioner had to offer extra compensation to workmen, which was tied to the length of time they spent on the jou, in order to retain skilled services and to facilitate the timely completion of the job.

E. Due to the time of year at which construction was completed, cleanup had to be delayed until the next summer. As a result of this, general inflation increased damage and cleanup costs, but in addition to this, and in an attempt to reduce the environmental impact resulting from the pipeline's construction to the absolute minimum, a rigorous effort was made to restore the right-of-way, both on federal land and adjoining private lands to exacting specifications. This rigorous cleanup and restoration activity resulted in much higher damage and cleanup costs than had been previously anticipated.

F. Much more rock was encountered during construction on the pipeline right-of-way than was orignally anticipated. In total, 13,234 feet of pipeline right-of-way required blasting and an equal length of pipeline required the special handling and padding necessitated by laying the pipeline in rock.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 23, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13058 Filed 5-5-77;8:45 am]

[1] Initial Decision Granting Applications pursuant to section 7(c) of the Natural Gas Act, Docket No. CP73-213, March 27, 1975, p. 2.

[Docket Nos. CP77-83, etc.]

NORTHERN NATURAL GAS CO.

Order Providing Formal Hearing, Consolidating Proceedings, and Granting Interventions

MAY 2, 1977.

On December 9, 1976, Northern Natural Gas Company (Northern) filed an application in Docket No. CP77-83 pursuant to section 7(b) of the Natural Gas Act for authorization of the abandonment of transportation and delivery of natural gas to Eveleth Taconite Company (Eveleth) and to abandon certain pipelines and measuring facilities located in St. Louis, Minnesota. On February 1, 1977, Northern filed in Docket Nos. CP67-47, CP68-57, and CP68-193 a petition to amend the certificates of public convenience and necessity issued thereunder so as to authorize Northern to transport volumes of natural gas in interstate commerce for direct sale to certain consumers on a contract demand basis.

Northern states by the aforementioned certificates it is authorized to transport natural gas in interstate commerce in order to provide, through its Peoples Natural Gas Division (Peoples), contract demand service to the following direct sale industrial customers:

Direct sale industrial customers:	*Presently authorized contract demand (Mcf per day)*
Erie Mining Co	20,000
Hanna Mining Co. (Butler Plant)	11,000
Hanna Mining Co. (National Plant)	11,000
Cleveland Cliffs Iron Co	35,275

Northern states that due to a deepening shortage of nautral gas and Northern's inability to secure sufficient new gas reserves to offset production, Northern is experiencing extreme difficulty in meeting its firm peak day obligations. Northern states that the inability to meet firm peak day obligation is magnified by the fact that the peaking capacity of wells connected to Northern's system is also deteriorating. In an alleged effort to balance its obligations with supplies, Northern proposes that all firm customers listed in the Directory of Consumers Served in its FPC Gas Tariff for which a volume of contract demand of 3,000 Mcf or greater is assigned, with the exception of those consumers who use the contract demand for feedstock purposes, be entitled to receive their presently effective contract demand volumes only during this summer period (March 27 through September 26) and that during the winter period the contract demand would be zero, or reduced to that volume which represents requirements for which there is no technically feasible alternate fuel capability.

Northern states that the implementation of such a program would be made as follows:

(1) In the case of People's mainline consumers, filings would be made proposing to effectuate such changes at the expiration date of the contract between Peoples and such firm mainline consumers.

(2) In the case of consumers of Peoples other than mainline firm consumers, filings would be made proposing to effectuate changes at the expiration date of the CD-1 Rate Schedule Services Agreements listed in the Index of Purchasers in Northern's FPC Gas Tariff for Peoples.

(3) In the case of jurisdictional Gas Utilities' firm consumers, filings would be made proposing to effectuate such changes at the expiration date of the CD-1 Rate Schedule Services Agreements listed in the Index of Purchasers in Northern's FPC Gas Tariff for such gas utilities.

Northern states that in accordance with this program it has transmitted a notice of cancellation to Eveleth, who has refused to execute a new contract. In connection therewith, Northern proposes to abandon and remove 1.0 mile of 6-inch branchline and a sales measuring station and to abandon, cut, and cap for abandonment in place 0.2 mile of 6-inch branchline. Northern estimates the cost of proposed removal, cutting, and capping to be $20,800 to be financed from funds on hand. Northern states that it believes Eveleth is taking steps to meet its energy requirements from alternate fuel capabilities.

Further in accordance with this program, it has executed a new contract, with each of the other aforementioned direct consumers, reflecting the summer period—winter period service, and has been advised that each of the direct consumers either has or would have by the beginning of the 1977-78 heating season sufficient alternate fuel capability to accommodate to the new level of winter time contract demand without loss of production.

Northern states that the direct consumers would retain their presently authorized contract demand during the summer period, and during the winter period, the effective contract demands would be set at a level which represents the minimum amount of firm gas required by each of the named consumers for which there is no alternate fuel capability, as shown by the following:

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	Winter period contract period (Mcf per day)
Direct sale industrial customers:	
Erie Mining Co.	2,850
Hanna Minings Co. (Butler Plant)	2,950
Hanna Mining Co. (National Plant)	2,950
Cleveland Cliffs Iron Co.	2,900

Northern further states that each of the contracts has a primary term extending through March 26, 1980, and each provides for curtailment below contract demand in accord with whatever curtailment plan may be in effect from time to time during the term of the contract.

It is stated that each direct consumer agrees to pay a demand charge of $3.634 per Mcf per month plus a commodity rate of 83.28 cents per Mcf delivered up to and including the contract demand level in effect, and a commodity rate of 90.30 cents per Mcf would be charged for all gas delivered (either authorized or unauthorized) above the contract demand level in effect. Northern further states that each March 27, commencing March 27, 1978, the commodity rates would increase at the rate of 2 cents a year. Northern maintains that as a result of this proposal its firm winter period obligation would be reduced by 65.625 Mcf per day.

The application in Docket No. CP77–83 for authorization to abandon the transportation and delivery of natural gas to Eveleth was noticed on December 30, 1976 (41 FR 56857). The petition to amend the Commission's orders filed in Docket Nos. CP67–47, CP68–57 and CP68–193 were noticed in the FEDERAL REGISTER of February 18, 1977 (42 FR 10033). Timely petitions to intervene in Docket No. CP77–83 were filed by Minnesota Gas Company and Eveleth, who also filed a protest. Late petitions to intervene were filed by Cleveland Cliffs Iron Company and Iowa Power and Light Company. Timely petitions to intervene were filed in Docket Nos. CP67–47, CP68–57 and CP68–193 by Minnesota Gas Company, Wisconsin Gas Company, Hanna Mining Company, Cleveland Cliffs Iron Company, Erie Mining Company, Michigan Power Company, Lloyd V. Crum, Iowa Electric Light and Power Company, Eveleth, Northern States Power Company (Minnesota and Wisconsin), Northern Illinois Gas Company, and the Flambeau Paper Company, with the last two requesting a hearing. Late petitions to intervene were filed by the North Central Public Service Company, Iowa Power and Light Company, St. Croix Valley Natural Gas Company, Iowa-Illinois Gas and Electric Company, Lake Shore District Power Company, and the Metropolitan Utility District of Omaha, who also styled its petition as a notice of intervention.

We find these proceedings should be consolidated and set for a hearing. The protest of Eveleth raises the question of whether the result of the granting of the relief prayed for would be the downgrading of eventual end use, for instance, to boiler fuel, in substantial quantities; whether Eveleth is being afforded arbitrary, discriminatory, or retaliatory treatment, whether the abandonment proceedings herein are more properly subsumed in the curtailment issue in RP74–102; whether any relief granted Northern hereunder should be conditioned; and whether there will result any growth in new load. We believe that the prehearing conference should address itself to the question of whether the proceedings herein would be more properly stayed pending determination of the pertinent issues in the above referenced curtailment proceeding, and the hearing itself should encompass the aforementioned issues as well as the volume of deliveries to the direct industrial consumers of Northern for the past three winters; the impact this program would have on Northern's system reserve and flexibility; and what would be the priority level and end use of the ultimate new recipients of the gas which otherwise wouldn't be delivered to the industrial customers.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings, as hereinbefore described.

(2) The public convenience and necessity warrants the consolidation of Docket Nos. CP77–83, CP67–47, CP68–57 and CP68–193, in pertinent part.

(3) Participation in these proceedings by the aforementioned intervenors may be in the public interest. Permitting the filing of the late petitions to intervene will not delay the proceedings and may be in the public interest.

The Commission orders. (A) The proceedings in Docket Nos. CP77–83 and pertinent parts of Docket Nos. CP67–47, CP68–57 and CP 68–193 are consolidated for hearing and disposition.

(B) Pursuant to the Natural Gas Act, particularly sections 4, 5, and 15 thereof, the Commission's rules of practice and procedure (18 CFR Part 1), the regulations under the Natural Gas Act (18 CFR Chapter I, Subchapter E), and a prehearing conference shall be held on June 29, 1977, commencing at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to discuss procedural issues and the clarification of issues.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the prehearing conference in this proceeding with authority to establish and change all procedural dates, and to rule on all motions (with the sole exceptions of petitions to intervene, motions to consolidate or sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The direct case of Northern including testimony on the issues raised by this order, shall be filed and served on all parties, the Presiding Administrative Law Judge, and the Commission Staff on or before June 8, 1977. All supporting intervenors shall file testimony and exhibits comprising their cases in chief on or before June 13, 1977. Similarly, opposing intervenors and Staff may file their testimony on or before June 20, 1977, and should said filing give rise to the need for Northern or supporting intervenors to file in rebuttal, the same shall be done on or before June 29, 1977.

(E) The aforementioned intervenors are permitted to intervene in the instant proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in the proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13047 Filed 5–5–77;8:45 am]

NORTHERN NATURAL GAS CO., OPERATING AS PEOPLES NATURAL GAS DIVISION

Petition To Amend

MAY 2, 1977.

Take notice that on April 18, 1977, Northern Natural Gas Company, operating as Peoples Natural Gas Division (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76–456 a petition to amend the Commission's order of January 19, 1977 (57 FPC ------), issued in the instant docket so as to establish an additional point for the exchange of natural gas with Colorado Interstate Gas Company (CIG), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

On January 19, 1977, Petitioner was authorized, inter alia, to exchange natural gas with and sell volumes to CIG pursuant to a gas purchase and exchange agreement date April 20, 1976 (Rate Schedule X–61 of Northern's FPC Gas Tariff Original Volume No. 4).

Petitioner states that it purchases gas from 22 wells in the South Field of Kansas, and that such gas is used primarily for irrigation in Stanton County, Kansas. On January 12, 1977, the State Corporation Commission of the State of Kansas issued orders which resulted in 2 of such wells being shut-in and limiting production on thirteen others as a result of overproduction, it is said. Petitioner states that due to this reduced production it anticipates it would not be able to meet approximately 60 percent of the 1977 needs of existing irrigation gas customers in Stanton County, Kansas, which customers are served primarily from Petitioner's South Field gas purchases.

Petitioner indicates that it has entered into an Amendment to the Gas Purchase and Exchange Agreement dated April 20, 1976, with CIG and that this Amendment, dated March 31, 1977, provides for the receipt of exchange gas from CIG which gas would be used to serve the irrigation customers in Stanton County.

By this amendment, Petitioner proposes an additional point of delivery to CIG in Kiowa County, Colorado, and an additional point of receipt from CIG in Texas County, Oklahoma. Petitioner states it would deliver up to 6,000 Mcf of natural gas per day to CIG at a point of interconnection to be located in Kiowa County, Colorado, and the gas delivered to CIG by Petitioner at the point of interconnection of CIG's system (downstream of the McClave North Station) would be gas dedicated to Petitioner in the McClave Field in Kiowa and Bent Counties and in the Beta Field in Power County, all in Colorado. Petitioner states that the proposed additional point of receipt of gas by Petitioner from CIG is at an existing point of interconnection of the facilities of CIG and Panhandle Eastern Pipe Line Company (Panhandle) near Baker, Oklahoma. CIG would deliver up to 7,500 Mcf of gas per day to Panhandle for the account of Petitioner during the period from April 1 through October 15 at the proposed point of receipt (Baker Station), it is said. Petitioner states that Panhandle would transport the volumes received for Petitioner's account at the Baker Station and redeliver such volumes to Applicant at an existing point of interconnection between the parties in Stevens County, Kansas.

Petitioner asserts that the gas is required to assure reliable and adequate service to Applicant's existing irrigation customers and that the irrgation season is upon them.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13057 Filed 5–5–77;8:45 am]

[Docket No. ES77–16]

NORTHWESTERN PUBLIC SERVICE CO.

Application

MAY 2, 1977.

Take notice that on April 19, 1977, Northwestern Public Service Company (Applicant) filed an application with the Federal Power Commission seeking an order pursuant to section 204 of the Federal Power Act authorizing it to issue, in separate transactions, (1) not to exceed 400,000 shares of Common Stock, par value $7 per share, in a negotiated underwritten public offering, (2) $12,000,000 principal amount of First Mortgage Bonds in a negotiated underwritten public offering, and (3) not to exceed an aggregate of 50,000 additional shares of Common Stock, par value $7 per share, to be issued from time to time through 1981 in accordance with Applicant's Employee Stock Ownership Plan (The "ESOP") to the trust (the "Trust") established for the ESOP. Included in such application is a request for exemption from the competitive bidding requirements of § 34.1a (b) and (c) of the Commission's Regulations under the Federal Power Act for each of the separate transactions.

Applicant is incorporated under the laws of the State of Delaware and is qualified to do business in the States of Iowa, Nebraska, North Dakota and South Dakota, with its principal business office being in Huron, South Dakota. Applicant is engaged in generating, transmitting, distributing and selling electric energy in the east central portion of South Dakota where it furnishes electric service in 108 comunities and in distributing and selling natural gas in three Nebraska communities and in 24 communities in South Dakota.

It is proposed that the sales price and underwriting fees and commissions for the 400,000 shares of Common Stock and the sales price, underwriting fees and commission, interest rate, maturity date and certain other terms of the First Mortgage Bonds will be determined by negotiation with underwriters.

The net proceeds from the 400,000 shares of Common Stock (valued at approximately $7,800,000 based on current market prices) and $12,000,000 principal amount of First Mortgage Bonds will be used to refund outstanding short-term bank loans and to pay part of the costs of Applicant's 1977 construction program.

As of March 31, 1977, Applicant had outstanding $17,000,000 principal amount of short-term bank loans which was used in part to finance a portion of Applicant's 1976 construction which totalled approximately $15,250,000. Of that total amount, approximately $8,631,000 were for electric generating facilities, $469,000 for electric transmission lines, $1,197,000 for major electric substations, $2,270,000 for routine extensions and additions to electric systems, $995,000 for miscellaneous extensions and additions to gas distribution systems, and $545,000 for miscellaneous, general and transportation facilities.

Applicant's 1977 construction expenditures are estimated to be $22,478,000, consisting of approximately $14,956,000 for electric generating facilities (being principally for Applicant's share of the construction costs for Neal Electric Generating Unit No. 1 and of Coyote No. 1 Electric Generating Plant), $3,068,000 for transmission lines, $742,000 for major electric substations, $2,284,000 for miscellaneous extensions and additions to electric systems, $737,000 for miscellaneous extensions and additions to gas distribution systems, and $691,000 for miscellaneous, general and transportation facilities. Applicant has an 8.68 percent ownership interest in Neal Electric Generating Unit No. 4 which is being constructed near Sioux City, Iowa with a planned capacity of 576,000 KW and which is scheduled for completion in 1979. Applicant has a 10 percent ownership interest in Coyote No. 1 Electric Generating Plant which is being constructed near Beaulah, North Dakota with a planned capacity of 410,000 KW and which is scheduled for completion in 1981.

With respect to the ESOP, Applicant for each calendar year, will contribute to the Trust cash or shares of Applicant's Common Stock having an aggregate value equal to the additional 1 percent investment tax cerdit to which Applicant will be entitled under federal income tax laws by reason of the ESOP. Cash contributed to the Trust is to be primarily invested in Common Stock of Applicant. In addition, cash dividends on the Common Stock held by the Trust, in excess of certain expenses of the Trust, are to be invested in Common Stock of Applicant.

It is intended that the shares of Common Stock contributed to or purchased by the Trust will be newly issued shares obtained directly from Applicant, valued for purposes of such issuance or sale at their fair market value (determined on the basis of the bid and asked prices for such stock in the over-the-counter market). No underwriting or brokerage fees or commissions will be paid in connection with the contribution or sale of such shares to the Trust. It is anticipated that the operation of the ESOP through 1981 will require the issuance of the 50,000 additional shares of Common Stock covered by the application.

The assets of the Trust (consisting primarily of Common Stock contributed to, or purchased by, the Trust) will be held in trust for the benefit of employees of Applicant who are qualified to participate in the ESOP. Generally, each employee who has been employed at least one year and who is at least 25 years of age automatically participates in the ESOP. Each participant will receive distribution of his other portion of the Trust's assets in the event of separation from service, death, or total and permanent disability, or upon termination of the ESOP.

Applicant proposes to use the proceeds from the issuance of the 50,000 shares of Common Stock to the Trust for the payment of part of the costs of its construction programs and for other corporate purposes.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Com-

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mission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13056 Filed 5-5-77;8:45 am]

[Docket No. E-9591]

PUGET SOUND POWER & LIGHT CO.

Application

MAY 2, 1977.

Take notice that on April 19, 1977, Puget Sound Power & Light Company ("Puget Power") filed an application pursuant to section 203 of the Federal Power Act seeking authorization for the purchase of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company's nominal 115 kV transmission line from Cedar Falls to Taunton, Washington, together with associated rights-of-way and other operating rights.

Puget Power is incorporated under the laws of the Sate of Washington and has its principal business office at Bellevue, Washington.

Puget Power indicates that the transmission line was originally constructed by the Railroad to serve its electrified railway operations which have been discontinued by the Railroad thus making the line surplus to the Railroad's needs. Puget Power further indicates that the Railroad has been permitting Puget Power to use the line and Puget Power will continue to so use the line after the purchase and the purchase will not disrupt service or change power supply to customers of Puget Power.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13053 Filed 5-5-77;8:45 am]

[Docket No. CP77-357]

STINGRAY PIPELINE CO.

Application

MAY 2, 1977.

Take notice that on April 22, 1977, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-357, an application pursuant to section 7(c) of the Natural Gas Act and the regulations thereunder for a Certificate of Public Convenience and Necessity authorizing the construction and operation of certain facilities for the transportation of gas for Natural Gas Pipeline Company of America (Natural) and Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Stingray proposes to construct and operate approximately four and nine-tenths miles of 16-inch O.D. gathering line from Stingray's existing system in West Cameron Block 616, Offshore Louisiana, to West Cameron Block 630, Offshore Louisiana, together with related facilities for the gathering and transmission of gas through Stingray's existing offshore system to the existing onshore delivery point to Natural at the terminus of Stingray's is estimated to be approximately Four Million Seven Hundred Thirty-Five Thousand Dollars ($4,735,000).

Stingray will transport to shore the gas produced from the area for Natural and Trunkline pursuant to an existing tariff. Natural and Trunkline have the right to purchase a portion of such gas from the producer.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 20, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate acton to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time requred herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13054 Filed 5-5-77;8:45 am]

[Docket No. CP76-414]

TENNESSEE GAS PIPELINE CO. AND MIDWESTERN GAS TRANSMISSION CO.

Application To Amend

APRIL 29, 1977.

Take notice that on April 21, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Tenneco Building, Houston, Texas 77002, and Midwestern Gas Transmission Company (Midwestern), 1100 Milam Building, Houston, Texas 77002, filed in Docket No. CP76-414 an application to amend the Commission's order issued October 5, 1976, in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing Tennessee to reschedule deliveries of natural gas to one of its customers, Midwestern, and by authorizing Midwestern to reschedule the delivery of natural gas to one of its customers, Northern Illinois Gas Company (NI-Gas), during the period commencing May 1, 1977, and ending March 31, 1978, subject to a 20-day extension for balancing if required, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

The order of October 5, 1976, authorized, among other things, a similar rescheduling arrangement for the period ending March 31, 1977, subject to a 20-day extension. It is stated that the need for such rescheduling service by Tennessee and Midwestern stemmed from the Limited Term Exchange Agreement between United Gas Pipe Line Company (United) and Tennessee which provided for the delivery by United to Tennessee of natural gas during the period commencing July 1, 1976, and ending November 15, 1976, and the redelivery of equivalent volumes by Tennessee to United during the period commencing in November 1976 and ending March 31, 1977. It is indicated that in view of the beneficial results of such service, United has requested and Tennessee has agreed to amend the exchange agreement to provide for the exchange of gas during the period commencing May 1, 1977, and ending March 31, 1978, subject to a 20-day extension for balancing, if required, and to provide for the continued change of a volume (approximately 400,000 Mcf) of gas which, due to operating conditions in the NI-Gas system, remained in NI-Gas' facilities on April 1, 1977.

In order to effectuate such exchange with United for an additional period, Tennessee, Midwestern, and NI-Gas have amended the rescheduling agreement to provide a comparable rescheduling service for the proposed additional period, it is said. Applicants state that under the provisions of the rescheduling agreement, as amended, gas would continue to be rescheduled in the summer and winter seasons by Tennessee, Midwestern, and NI-Gas in the manner provided therein with the provision that the aforementioned volume of gas which remained in NI-Gas' facilities on April 1, 1977, being considered as rescheduled volumes for the 1977-78 term and all additional volumes delivered to NI-Gas for the account of Midwestern and Tennessee as rescheduled volumes pursuant to other short-term emergency transportation or sales arrangements qualifying as rescheduled volumes. It is stated that NI-Gas and Midwestern would effect the return of the total rescheduled volume of gas previously delivered by Tennessee by reducing their respective takes of gas during the period commencing in November 1977 and ending March 31, 1978, subject to a 20-day extension for balancing, if required. It is further stated that the rescheduling of deliveries of gas would be effectuated at existing delivery points with no additional facilities required.

It is indicated that Tennessee would pay Midwestern, as consideration for the rescheduling of deliveries, a monthly charge computed by multiplying the total volume of rescheduled gas received by NI-Gas during the previous month by Midwestern's system transmission cost of 7.2 cents per Mcf. Further it is indicated that in the event that any of the gas received by NI-Gas for the account of Midwestern and Tennessee as rescheduled volumes pursuant to the short-term emergency transportation or sales arrangements is returned to Tennessee by means other than through Midwestern's reducing its takes of gas from Tennessee and such return is required because of Midwestern's determination that it is unable to so reduce its takes, Midwestern would refund to Tennessee during the month following the month such a reduction is made an amount of dollars equal to the total volume so returned in Mcf multiplied by 7.2 cents per Mcf. Tennessee would pay NI-Gas the current unit rate per Mcf of gas as a rescheduling charge, it is indicated. Additionally, Applicants state that the payments of Midwestern and NI-Gas are included in the payments which United is obligated to pay Tennessee for service rendered under the proposal.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13051 Filed 5-5-77;8:45 am]

[Docket No. CP77-221]

TRANSCONTINENTAL GAS PIPE LINE CO.

Order Amending Findings and Order Issuing Temporary Certificate

APRIL 29, 1977.

On April 4, 1977, Transcontinental Gas Pipe Line Company (Transco) filed in Docket No. CP77-221 an application pursuant to section 7(c) of the Natural Gas Act for an amendment of the certificate of public convenience and necessity issued by the Commission in its order dated February 17, 1977, to authorize a 30-day extension of the 60-day period within which it could inject ethane into its natural gas transmission system, and to transport and deliver the mixture of natural gas and ethane containing equivalent Btu's (less required fuel) to certain of Transco's customers.

Transco was authorized pursuant to the aforementioned order to deliver 538,000 barrels of ethane, or about 9,000 barrels a day, for a 60-day period commencing with the date of first delivery. The facilities required to inject the ethane were constructed at a cost of approximating $72,000.00, however, Transco alleges that said facilities did not enable it to receive the full 9,000 barrels a day into its system, which now accommodates only 6,000 barrels a day. Cities Service Oil Company (Cities) has agreed to extend the delivery period to Transco beyond the 60 days previously authorized. Due to the circumstances in the instant proceeding we find it appropriate to extend the previously granted authorization in order to consummate the transaction.

The Commission finds: (1) Extension of the time within which Transco could inject ethane into its natural gas transmission system and deliver the mixture to certain of its customers, by a period of 30 days, is required by the public convenience and necessity and should be issued as hereinafter ordered.

(2) Prior public notice of the instant petition to amend is impractical, unnecessary, and contrary to the public interest, given the circumstances indicated above.

The Commission orders. (A) The period within which Transco may inject ethane into its natural gas Transmission system and deliver the mixture of ethane and natural gas to certain of its customers shall be extended thirty days, which shall run consecutive to the currently authorized period.

(B) For good cause shown, this order is effective on the date of issuance and the Secretary shall cause this order to be published in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13045 Filed 5-5-77;8:45 am]

[Docket No. CP76-540]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Amendment to Application

May 2, 1977.

Take notice that on April 15, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-540 an amendment to its application filed in said docket pursuant to section 7(c) of the Natural Gas Act so as to authorize a substitute point for delivery of up to 15,000 Mcf of natural gas per day by Applicant to Amoco Production Company (Amoco), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant states that in its initial application it proposed to transport up to 15,000 Mcf of natural gas per day on an interruptible basis for Amoco pursuant to an agreement dated July 12, 1976, between Applicant and Amoco. Applicant indicates that under the proposed arrangement, Amoco would deliver to Applicant the proposed volumes of gas produced in the Jourdanton Field Area, Atascoa County, Texas, and Applicant would transport such quantities to its Tilden Plant, McMullen County, Texas, for processing to remove H_2S and CO_2 and would further transport the residue quantities, less 0.4 percent to be retained by Applicant for compressor fuel and line loss makeup, and deliver or cause the delivery of equivalent quantities to Amoco at the Katy Gas Plant, Waller County, Texas.

Applicant states that pursuant to an agreement dated February 22, 1977, between Applicant and Amoco, the parties have agreed to substitute for the Katy Gas Plant point of delivery from Applicant to Amoco, "a mutually agreeable point on Applicant's 30-inch line south of the Katy Field in Fort Bend County, Texas." Applicant states that this point would be located on its 30-inch main line immediately south of the Katy Gas Plant where Applicant would install a tap valve to effectuate an interconnection with existing pipeline facilities of Amoco or an affiliated company. It is stated that Amoco would reimburse Applicant for the actual cost of such tap valve, the estimated direct cost of which is $7,240.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the

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Commission's rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13055 Filed 5-5-77;8:45 am]

[Project No. 2787]

WHITE CURRENT CORP.

Application for Minor License

MAY 2, 1977.

Public notice is hereby given that an application was filed on January 11, 1977, under the Federal Power Act, 16 U.S.C. sections 791a–825r, by The White Current Corporation (Applicant) (Correspondence to: Mr. R. W. Lamson, President, The White Current Corporation, 66 Doublet Hill Road, Weston, Massachusetts 02193) for a minor license for proposed Project No. 2787 to be located on the Ottauquechee River, in the Town of Hartland, Windsor County, Vermont.

Applicant seeks Commission approval to construct a hydroelectric project at the site of three existing dams on the Ottauquechee River. The total length of the dam is 215 feet with a width of approximately 12 feet. The proposed concrete flume would be 25 feet by 35 feet. The powerhouse would be of wood frame construction, 17 feet high at the peak with 300 square feet of floor space.

The Applicant states that the project will produce power for industrial use by the Applicant and for transmission to the Green Mountain Power Company under an agreement now being negotiated. The Applicant states that no lands of the United States are affected by the proposed project.

Applicant has requested the shortened procedure provided for under § 1.32(b) of the Commission's rules of practice and procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisson's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All such petitions or protests should be filed on or before July 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR 1.32(b)), (1976), a hearing may be held without further notice before the Commission on its application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13048 Filed 5-5-77;8:45 am]

[Docket No. E77–53]

EL PASO NATURAL GAS CO.

Supplemental Emergency Order

By orders issued March 10 and 16, and April 14, 1977, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), the request of El Paso Natural Gas Company (El Paso) to make certain purchases under section 6 was granted in part and denied in part. Among the proposed purchases denied was a proposed sale by Yates Petroleum Corporation and other Yates entities (Yates) from the Hilliard "BF" Federal No. 1–Y well, Eddy County, New Mexico, and twelve other wells located in the same area.

On April 28, 1977, Yates requested reconsideration of the denial of its proposed sale to El Paso. Yates states that it also detrimentally relied upon El Paso's right to make the proposed purchase and that its situation is identical to that of Mahun Oil & Gas Corporation, et al. "See, El Paso Natural Gas Company," Docket No. E77–53 (April 14, 1977).

It is not necessary to consider the merits of Yates' request. Order No. 6 expired by its own terms on April 30, 1977. The order denying the proposed sale by Yates "remain(ed) in effect unless and until Order No. 6 is modified or rescinded." Since Order No. 6 has expired by its own terms, there are no restrictions on El Paso's right to make purchases under section 6 of the Act.[1]

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso, John Yates, Antweil, Yates, Aminoil, Yates, et al., Samedan, Depco, Sabine, Bennett, Inexco, Monstanto, and Mahun, et al. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 2, 1977.

[FR Doc.77-13163 Filed 5-5-77;8:45 am]

[1] The terms and conditions of such purchases shall conform to the orders issued by the Administrator.

FEDERAL RESERVE SYSTEM

AMERICAN BANCORP, INC.

Order Approving Acquisition of Bank

American Bankcorp, Inc., Lansing, Michigan, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Muskegon Bank & Trust Company, Muskegon, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 12th largest banking organization in Michigan, controls 5 banks with aggregate deposits of approximately $474 million, representing 1.5 percent of the total deposits in commercial banks in the State.[1] Acquisition of Bank ($105 million in deposits) would increase Applicant's share of deposits in commercial banks by 0.32 percent and would change Applicant's State-wide ranking to the 10th largest banking organization in Michigan. However, the acquistion would not have a significant effect upon the concentration of banking resources in the State.

Bank is the third largest of 5 banks in the relevant banking market[2] and controls approximately 18.5 percent of the total deposits in commercial banks in the market. Applicant's subsidiary bank closest to Bank is located approximately 95 miles east-southeast of Bank in a separate banking market. Thus, no significant competition currently exists between Bank and any of Applicant's subsidiary banks, and it does not appear likely that consummation of the proposed transaction would foreclose the development of such competition in the future in view of the distances involved and Michigan's restrictive branch banking law. Accordingly, the Board concludes that consummation of the proposal would not have a significant adverse effect on existing or potential competition in any relevant area and that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as satisfactory and consistent with approval of the application, especially in light of Applicant's ability to provide both financial resources and managerial expertise to Bank. Although consummation of this proposal would not result in any immediate changes in the services offered by Bank, convenience and needs considerations are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13102 Filed 5-5-77;8:45 am]

[1] Unless otherwise indicated, all banking data are as of June 30, 1976.

[2] The relevant market is approximated by all of Muskegon County, except for Casnovia Township, and by Grand Haven and Crockery Townships from Ottawa County.

[3] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Jackson.

BANBOGOTA, INC. AND BANCO DE BOGOTA

Formation of Bank Holding Companies

Banbogota, Inc. and Banco de Bogota, New York, New York, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies through directly and indirectly acquiring 100 percent of the voting shares, less directors' qualifying shares, of Banco de Bogota Trust Company, New York, New York. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 30, 1977.

Board of Governors of the Federal Reserve System, May 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13105 Filed 5-5-77;8:45 am]

BERBANC, INC.

Formation of Bank Holding Company

Berbanc, Inc., Salina, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent, less directors' qualifying shares, of the voting shares of The Gypsum Valley National Bank of Gypsum, Gypsum, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 27, 1977.

Board of Governors of the Federal Reserve System, April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13103 Filed 5-5-77;8:45 am]

BERCO, INC.

Acquisition of Bank

Berco, Inc., Bennington, Kansas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) of an action whereby Applicant would acquire a bank through the acquisition of indirect control of 100 percent of the voting shares, less directors' qualifying shares, of The Gypsum Valley National Bank of Gypsum, Gypsum, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 27, 1977.

Board of Governors of the Federal Reserve System, April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR. Doc.77-13104 Filed 5-5-77;8:45 am]

BROGAN BANKSHARES, INC.

Formation of Bank Holding Company

Brogan Bankshares, Inc., Kaukauna, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent of the voting shares of The Bank of Kaukauna, Kaukauna, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 25, 1977.

Board of Governors of the Federal Reserve System, April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13101 Filed 5-5-77;8:45 am]

PANHANDLE AVIATION, INC.

Formation of Bank Holding Company

Panhandle Aviation, Inc., Clarinda, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Citizens State Bank, Clarinda, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 17, 1977.

Board of Governors of the Federal Reserve System, May 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13099 Filed 5-5-77;8:45 am]

WESTERN MICHIGAN CORP.

Order Approving Acquisition of Bank

Western Michigan Corporation, Niles, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Cassopolis, Cassopolis, Michigan ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

By Order dated June 30, 1976, the Board of Governors denied the application of Western Michigan Corporation to acquire Bank (41 FR 28361 (1976); 62 Federal Reserve Bulletin 624 (1976)). Thereafter, Applicant filed a Request for Reconsideration of the Board's Order pursuant to § 262.33(g)(5) of the Board's Rules of Procedure (12 CFR 262.3(g)(5)). By Order dated November 26, 1976 (41 FR 53118 (1976); 62 Federal Reserve Bulletin 1058 (1976)), the Board granted Applicant's request for reconsideration of the application.

Notice of the Board's action granting a reconsideration of the application and affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act (41 FR 53118 (1976)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

V42188 MAY 6 77 UMI

Applicant is the 32nd largest banking organization in Michigan and through its sole subsidiary bank, First National Bank of Southwestern Michigan, Niles, Michigan ("FNB"), holds deposits of approximately $129 million, representing 0.4 percent of the total deposits held by commercial banks in the State.[1] Acquisition of Bank would increase Applicant's share of Statewide deposits by approximately 0.05 percent and would make Applicant the 29th largest banking organization in Michigan; however, consummation of the proposal would not significantly increase the concentration of banking resources in Michigan.

In its earlier denial Order, the Board determined that the relevant banking market for analyzing the competitive effects of the proposal was the Cass County banking market, which was found to be approximated by all of Cass County except the two extreme southwestern townships of Howard and Milton. Based upon such a market definition the Board concluded that acquistion of Bank (second largest of five banking organizations in the market) by Applicant (fourth largest of five in the market) would have significant adverse effects upon concentration in the relevant banking market because Applicant's share of market deposits would increase by 20.1 percentage points to 37.2 percent and the two-firm concentration ratio would become 75.3 percent.[2] The Board also concluded that consummation of the transaction would have adverse effects upon existing competition within that market. In addition, approval of the proposed transaction would have adverse effects upon future competition because there would result a reduction in the number of banking alternatives operating in the market and the elimination of Bank as both a competitor of Applicant and a viable entry vehicle for a Michigan bank holding company not represented in the market. This latter factor was even more significant in light of the fact that the Cass County banking market was regarded by the Board as not being particularly attractive for de novo entry by other banking organizations seeking to gain access thereto. Furthermore, although the Board found that considerations relating to convenience and needs did lend some weight toward approval, the Board concluded that neither of these considerations nor those relating to banking factors were sufficient to outweigh the adverse competitive effects of Applicant's proposal.

In requesting reconsideration, Applicant submitted evidence indicating that the relevant banking market is more appropriately a redefined South Bend/Elkhart, Indiana Ranally Metro Area ("RMA").[3] In the redefined banking market, Applicant would rank as the sixth largest of twenty banking organizations and would control total market deposits of $107.9 million, representing approximately 7.1 percent of the total deposits held by commercial banks in the market. With $17.7 million in deposits, Bank would rank as the thirteenth largest banking organization in the relevant banking market and would control approximately 1.2 percent of total market deposits. Acquisition of Bank by Applicant would increase Applicant's share of total deposits in the relevant banking market to approximately 8.3 percent while Applicant's rank therein would remain unchanged. Thus, consummation of the proposal would not have the significant adverse effects on concentration in the relevant banking market that were of concern to the Board in its original Order.

Consummation of the proposed transaction would continue to eliminate some existing competition because FNB operates its head office and eight branches within the relevant market and FNB's nearest office to Bank is located in Dowagiac, Michigan, 10 miles northwest of Bank. While consummation of the proposal would slightly increase the concentration of banking resources in the relevant market and eliminate Bank as both a competitor and a potential entry vehicle for a Michigan bank holding company not represented in the market, it now appears that any adverse effects upon the market's competitive structure are minimized by the existence of several other independent banking alternatives in the market, including the second largest banking organization in Michigan. In light of the revised definition of the relevant market, the competitive effects of Applicant's proposal are significantly lessened and are not as adverse as they were at the time the Board issued its denial Order. It is the Board's judgment that, on balance, consummation of Applicant's proposal would have only slightly adverse competitive effects.

The financial and managerial resources and future prospects of Applicant, its subsidiary bank, and Bank are regarded as satisfactory and consistent with approval of the application. Acquisition of Bank by Applicant would enhance Bank's ability to compete because Bank currently possesses limited capabilities in terms of the banking services that it is able to offer to the residents of the areas in which it is operating. As the Board previously indicated, affiliation with Applicant would enable Bank to expand its trust department, increase its lending capacity through loan participations, upgrade its agricultural loan services, and create new time deposit services and municipal and corporate savings programs. In the Board's view, these considerations relating to both the convenience and needs of the community to be served and the banking factors lend weight toward approval of the application and are sufficient to outweigh any slightly adverse competitive effects present in this proposal. Therefore, it is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record,[4] the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[5] effective April 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13100 Filed 5-5-77;8:45 am]

[1] Unless otherwise indicated, all banking data are as of June 30, 1976, and reflect bank holding company formations and acquisitions approved through March 4, 1977.

[2] Banking data are as of June 30, 1975.

[3] Board staff undertook a systematic review (township by township) of Cass County to determine the correct market and, as a result of this analysis, the Board has determined that the competitive effects of this proposal are more appropriately analyzed in the Niles, Michigan-South Bend/Elkhart, Indiana banking market, which is approximated by the South Bend/Elkhart, Indiana RMA, Cass County, Michigan, and Niles, Michigan.

[4] Dissenting Statement of Governor Jackson filed as part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of Chicago.

[5] Voting for this action: Governors Wallich, Coldwell, Partee, and Lilly. Voting against this action: Governor Jackson. Absent and not voting: Chairman Burns and Vice Chairman Gardner.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on May 2, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 24, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5033, United States General Accounting Office, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new single time voluntary questionnaire which its Chicago Regional Office will send to all members of the buying club and purchasing service industry operating throughout the United States. This questionnaire was developed to obtain information concerning the organization and operation of the individual industry members and is part of the Commission's non-public investigation of the industry. The purpose of the investigation is to determine whether any buying clubs or purchasing services may have violated Section 5 of the Federal Trade Commission Act by using unfair or deceptive acts or practices in the advertising, offering for sale, sale or distribution of memberships in their organizations. FTC estimates potential respondents to be 500-600 buying clubs and purchasing services and reporting burden to average two hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-13033 Filed 5-5-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-77-750]

ALPINE LAKE

Hearing

In the matter of Alpine Lake, J. W. Ruby, president and Mountaintop Development Company, Respondent; OILSR No. 0-1538-57-7; 77-33-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b), Notice is hereby given that:

1. Alpine Lake, J. W. Ruby, President and Mountaintop Development Company, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448(15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 23, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Alpine Lake Subdivision located in Preston County, West Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 4, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C., on May 23, 1977, at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before April 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1). This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 7, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13010 Filed 5-5-77;8:45 am]

ASPEN HILLS

Hearing

In the matter of Aspen Hills, Aspen Hills Corporation and Bruce Cummings, President and Director, Respondent, OILSR No. 0-3204-52-58(A), 77-30-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Aspen Hills, Aspen Hills Corporation and Bruce Cummings, President and Director, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448)(15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 22, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Aspin Hills, located in Sanpete County, Utah, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 5, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C., on May 23, 1977, at 2 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before April 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 C.F.R. 1710.45(b)(1). This Notice shall be served upon the Respondent forthwith pursuant to 24 C.F.R. 1720.440.

By the Secretary.

Dated: April 7, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13011 Filed 5-5-77;8:45 am]

[Docket No. N-77-751]

WILDERNESS STREAMS UNITS 1 AND 2

Hearing

Wilderness Streams Units 1 and 2, Castle Mountain Company and Donald B. Weixelman, General Partner and Authorized Agent, Respondent, OILSR No. 0-3074-05-350, 77-31-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Wilderness Streams Units 1 and 2, Castle Mountain Company and Donald B. Weixelman, General Partner and Authorized Agent, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 23, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Wilderness Streams Units 1 and 2, located in Gunnison County, Colorado, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 11, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

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3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1796(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, SW., Washington, D.C. on June 2, 1977 at 2 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before May 2, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 14, 1977.

JAMES W. MAST,
Chief,
Administrative Law Judge.

[FR Doc.77-13012 Filed 5-5-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-13962]

ALASKA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

APRIL 28, 1977.

The Department of Treasury, Bureau of Customs, filed application Serial No. F-13962, on June 10, 1971, for a withdrawal in relation to the following described lands:

Beginning at the intersection of the Alaska-Canada International boundary with the center line of road between Boundary, Alaska and Dawson, Yukon, at approximately latitude 64°05.1' N., longitude 141°00' W., thence south 330 feet along the international boundary to corner No. 1; thence at a right angle west 660 feet to corner No. 2; thence at a right angle north 660 feet to corner No. 3; thence at a right angle east 660 feet to corner No. 4; thence at a right angle south 330 feet along the international boundary to the point of beginning.

The area described contains 10 acres, more or less.

The applicant desires that the land be reserved for a customs inspection station.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on August 25, 1971, in volume No. 36, page No. 16699, Document No. 71-12402.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, on or before May 27, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before May 27, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.77-12958 Filed 5-5-77;8:45 am]

[A-060160]

ALASKA

Proposed Withdrawal and Reservation of Lands

APRIL 28, 1977.

The U.S. Army, Corps of Engineers, on February 2, 1976, filed application, Serial No. A-060160, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

A strip of land located within U.S. Survey No. 1762, Juneau Townsite Elimination, First Judicial District, State of Alaska; said strip of land being 300 feet wide, lying 150 feet on each side of the following described centerline;

Commencing at corner No. 3 of U.S. Survey 3269;

Thence South 40°47'33" East along that boundary line lying between corner No. 3 and corner No. 4 of said survey for a distance of 1,723.52 feet to a point of intersection with centerline of an existing 300.00 foot wide transmission line right-of-way;

Thence South 50°38'41" East along said right-of-way centerline, a distance of 2,665.81 feet to tower T56-A;

Thence departing from said existing centerline, South 43°30'27" East to a point on the southerly right-of-way line of said existing transmission line and the True Point of Beginning;

Thence continuing South 43°30'27" East for an overall distance of 5,173.56 feet from tower T56-A to an angle point.

Thence South 43°26'21" East for a distance of 3,345.04 feet to a point of intersection with the southeasterly boundary of said U.S. Survey No. 1762.

The sidelines of said strip of land are to be prolonged or shortened so as to begin on said existing southerly right-of-way line at the point of beginning and terminate on the southeasterly boundary line of U.S. Survey No. 1762.

There is excepted therefrom the following described parcels of land;

PARCEL I

A parcel of land located within U.S. Survey 4675 in protracted sections 10, 11, 14 and 15 of Township 42 South, Range 68 East of the Copper River Meridan, First Judicial District, State of Alaska; said parcel being more particularly described as follows:

Beginning at corner No. 1 of U.S. Survey No. 4675;

Thence North 47°08'10" West along that boundary line lying between corner No. 1 and corner No. 20 of said U.S. Survey No. 4675, a distance of 1,374.17 feet;

Thence South 43°26'21" East, a distance of 1,290.34 feet to a point on the boundary line common with said U.S. Survey No. 4675 and U.S. Survey No. 249;

Thence North 89°18'50" East along said common boundary line, a distance of 120.76 feet to the point of beginning.

Contains 1.31 acres, more or less.

PARCEL II

A parcel of land located within U.S. Survey 249 in protracted sections 10, 11, 14 and 15 of Township 42 South, Range 68 East of the Copper River Meridian, First Judicial District, State of Alaska; said parcel being more particular described as follows:

Beginning at corner No. 2 of U.S. Survey 249, said corner being the most northerly corner of said survey;

Thence South 89°18'50" West along that boundary line lying between corner No. 2 and corner No. 3 of said survey, a distance of 120.76 feet;

Thence South 43°26'21" East, a distance of 177.90 feet to a a point on that boundary line lying between corner No. 1 and corner No. 2 of said U.S. Survey 249;

Thence North 00°41'10" West along said boundary line, a distance of 130.63 feet to said corner No. 2 and the point of beginning.

Contains 0.18 acre, more or less.

Contains 56.98 acres, more or less, which excludes 1.31 acres, more or less, of Parcel I and 0.18 acre, more or less, of Parcel II.

The applicant agency desires that the lands be withdrawn and reserved for the purpose of constructing, operating and maintaining a power transmission line.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before May 30, 1977.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, on or before May 30, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.77-12959 Filed 5-5-77;8:45 am]

[Serial No. I-9940]

IDAHO

Opportunity For Public Hearing and Republication of Notice of Proposed Withdrawal

APRIL 29, 1977.

The Forest Service, Department of Agriculture, filed application Serial No. I-9940, on September 18, 1975, for a withdrawal in relation to the following described land:

BOISE MERIDIAN

KANIKSU NATIONAL FOREST

LONG MOUNTAIN ROAD NO. 2697

T. 55 N., R. 3 W.
Sec. 20: W½NE¼, NE¼SW¼.
A strip of land 66 feet in width, being 33 feet in width on both sides of the center line over and across the above-cited subdivision.

The area described aggregates 5.70 acres, more or less, in Bonner County.

The applicant desires that the land be reserved for protection of a cooperators investment through grant of a right-of-way under the Act of October 13, 1964 and road regulations of the Secretary of Agriculture. The road is part of the Forest Road development system within the Kaniksu National Forest. Construction of the road was financed jointly by the Forest Service and Diamond International Corporation.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 25, 1975, page 54593, Volume No. 40, Document No. 75-31694.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.-16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief,
Branch of L&M Operations.

[FR Doc.77-12960 Filed 5-5-77;8:45 am]

[Serial No. I-8947]

IDAHO

Opportunity For Public Hearing and Republication of Notice of Proposed Withdrawal

The Forest Service, Department of Agriculture, filed application Serial No. I-8947, on October 12, 1974, for a withdrawal in relation to the following described lands:

BOISE MERIDIAN

ST. JOE NATIONAL FOREST

EAST FORK EMERALD CREEK GARNET AREA

T. 42 N., R. 1 W.
Sec. 10: NE¼SW¼SE¼SE¼, S½SW¼SE¼SE¼, N½SE¼SE¼SE¼, SW¼SE¼SE¼SE¼;
Sec. 11: NW¼SE¼SW¼SW¼, NE¼NW¼SE¼SE¼;
Sec. 12: E½W½SW¼NE¼, NE¼SW¼NW¼, NW¼SW¼SE¼NW¼, SE¼SW¼SE¼NW¼, W½NE¼NE¼SW¼, NE¼NW¼NE¼SW¼, SE¼NE¼SW¼, SE¼SE¼NE¼SE¼, E½E½NW¼SE¼, E½NW¼NW¼SE¼, W½SW¼NW¼SE¼, NE¼SE¼SE¼, W½SE¼SE¼SE¼;
Sec. 13: NE¼NE¼NE¼, NE¼SE¼NE¼NE¼, S½SE¼SE¼NE¼, SW¼SE¼SW¼NW¼, SE¼SW¼SE¼SW¼;
Sec. 14: S½SW¼SW¼NE¼, SW¼NE¼NE¼NW¼, NW¼NW¼NE¼NW¼, SE¼SW¼SE¼NW¼, S½SE¼SE¼NW¼;
Sec. 15: NW¼NW¼NE¼NE¼, N½NE¼NW¼NE¼.

The area described aggregates 150 acres in Latah County, Idaho.

The applicant desires that the land be reserved and protected for public recreation purposes for a rockhound garnet collection area.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 10, 1974, page 43095, Volume No. 39, Document No. 74-28673.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042,

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Boise, Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 6, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief,
Branch of L&M Operations.

[FR Doc.77-12961 Filed 5-5-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

CERTAIN HEADWEAR

Time and Place of Public Hearings

Notice is hereby given that the public hearing in this matter scheduled to begin on Tuesday, May 17, 1977, in New York City, will commence at 10 a.m. e.d.t., in the U.S. Custom House, 5th floor, Room 541, 6 World Trade Center, New York, N.Y., and the public hearing scheduled to begin on Thursday, May 26, 1977, in St. Louis, Mo., will commence at 10 a.m. c.d.t., in the Bel Air Hilton Hotel, Gallery Room, (lower level), 333 Washington Avenue, St. Louis, Mo. Requests for appearances should be filed with the Secretary of the United States International Trade Commission, in writing, at his offices in Washington, D.C., not later than noon of the fifth calendar day preceding the hearing at which an appearance is requested.

Notice of the investigation and hearings was published in the FEDERAL REGISTER of February 28, 1977 (42 FR 11288). An amendment to the scope of investigation was published in the FEDERAL REGISTER of March 21, 1977 (42 FR 15375).

By order of the Commission.

Issued: May 3, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-13085 Filed 5-5-77;8:45 am]

DEPARTMENT OF JUSTICE

COMMITTEE ON SELECTION OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

Supplemental Notice of Meeting

MAY 2, 1977.

Prior notice of the meetings of the Committee on Selection of the Director of the Federal Bureau of Investigation scheduled during the month of May advised that the location of meetings would be announced subsequently.

The meetings of May 6, 7, 12, 13, 14, 20, 21, 26, 27 and 28, 1977 will be held at 801 New Hampshire Avenue NW., Washington, D.C. The meeting of May 19, 1977 will be held at 2100 Massachusetts Avenue NW., Washington, D.C. As previously announced, the meetings will be closed to the public.

MARY C. LAWTON,
Staff Director, Committee on Selection of the FBI Director.

[FR Doc.77-12985 Filed 5-5-77;8:45 am]

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULE II

Proposed 1977 Revised Aggregate Production Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to §0.100 of Title 28 of the Code of Federal Regulations.

On November 11, 1976, a notice of the final aggregate production quotas for these substances was published in the FEDERAL REGISTER (41 FR 49873-74). Also noted in this notice was that pursuant to Title 21 Code of Federal Regulations, § 1303.23(c), the Administrator of the Drug Enforcement Administration would in early 1977 adjust individual manufacturing quotas allocated for 1977 based upon a review of 1976 end of year inventory figures and 1976 disposition data as submitted by quota applicants and other information which would be available to DEA at this time.

Based upon consideration of the end of year inventory figures and the actual disposition data submitted by applicants, as well as estimates of the medical needs of the United States submitted to the Drug Enforcement Administration by the Food and Drug Administration, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following changes of the aggregate production quotas for 1977 for the below listed controlled substances expressed in grams in terms of their respective anhydrous acid or base:

Basic class	Previously finalized 1977 aggregate production quota	Proposed revised 1977 aggregate production quota
Alphaprodine	45,000	54,000
Amobarbital	13,142,000	7,877,000
Codeine	48,918,000	57,900,000
Codeine for conversion	1,343,000	2,276,000
Dihydrocodeine	602,000	1,002,000
Ethylmorphine	21,000	25,000
Fentanyl	2,000	3,000
Hydrocodone	711,000	833,000
Meperidine (Pethidine)	12,428,000	13,829,000
Methaqualone	17,914,000	22,361,000
Methylphenidate	1,798,000	1,607,000
Mixed alkaloids of opium	49,000	20,000
Morphine	489,000	661,000
Morphine for conversion	46,597,000	55,771,000
Oxycodone	1,669,000	1,924,000
Pentobarbital	19,144,000	15,428,000
Secobarbital	17,348,000	2,470,000

When establishing the above listed proposed revised 1977 aggregate production quotas, the following factors influenced DEA's determination to propose either raising or lowering the previously finalized quotas for 1977:

(a) Relative to Amobarbital, Secobarbital and Pentobarbital—The general decline of usage of these barbiturates plus the fact that there exists generally high inventory levels in the hands of the bulk manufacturers of Pentobarbital resulted in the decision to propose lowering these quotas.

(b) Relative to Alphaprodine, Codeine, Codeine for Conversion, Dihydrocodeine, Ethylmorphine, Fentanyl, Hydrocodone, Morphine, Morphine for Conversion, Oxycodone and Pethidine—DEA has noted increased usage of these substances for analygesic and antitussive purposes. There appears to be a switch over from the use of non-narcotic analgesics to those containing narcotics. The replacement of inventory levels depleted during 1976, the reduction of which was caused by increased medical demand for these substances plus increased demand projected for 1977, are primarily responsible for the increased quotas for these substances.

(c) Relative to Methaqualone—The increased quota for this substance is to serve as inventory adjustments for both the bulk manufacturer and the dosage form manufacturer of this substance.

(d) Relative to Methylphenidate—The decrease of this quota is to adjust for inventories at the end of 1976, slightly in excess of the 50 percent year inventory allowance given to bulk manufacturers of this substance.

(e) Mixed Alkaloids of Opium—The decrease of this quota is to adjust for excessive year end inventories in the hands of the manufacturer who utilizes this raw material to manufacture dosage forms.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. A person may object or comment on the proposals relating to any one or more of the above mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by June 6, 1977. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

Dated: April 28, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-12900 Filed 5-5-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such finanical or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 3d day of May 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Apr. 29, 1977

Name of applicant	Location of enterprise	Principal product or activity
Fourways, Inc	Waterville Valley, N.H.	Restaurant and lounge.
Arcade Dimension Corp. (tenant of Wyoming County Industrial Development Agency).	Arcade, N.Y	Manufacture of kiln dried dimension lumber.
M. G. Simmon Quarries, Inc	Hillsboro and Linwood, W. Va.	Mining and processing of crushed stone.
L. & R., Inc	White Sulphur Springs, W. Va.	Use of heavy equipment for quarry operations.
Trend Line Furniture Corp. (tenant of town of Conover).	Conover, N.C	Manufacture of upholstered wood furniture.
Rysco Shipyard, Inc	Blountstown, Fla	Construction of steel-hulled vessels.
Piggly-Wiggly Roane, Inc	South Hilliard, Fla	Retail food store, clothing store, and 1 general office.
Litton Business Systems, (tenant of Union County Board of Commissioner).	Union County, N.C	Commercial printing, gravure.
Daro Corp	Griffin, Ga	Manufacture of aerial devices, digger derricks, and truck bodies.
The Crown Jewel Corp	Fletcher, N.C	Manufacture of handcrafted area rugs and braided rugs.
Farmers Peanut Co. of Clio	Clio, Ala	Peanut processing.
CDP Corp	Humboldt, Kans	Production of red clay pottery.
Branchville Lumber Co	Branchville, S.C	Manufacture of timbers and lumber.
Mar-Mac Manufacturing Co., Inc	Mellee, S.C	Manufacture of fabricated wire products.
International Wall Systems, Inc	Soul City, N.C	Manufacture of bookcases.
Patten Insulation (tenant of city of Winnebago).	Winnebago, Minn	Manufacture of insulation.
Electro Craft (tenant of city of Winnebago)	do	Manufacture of motor parts and assemblies.
Ka-Wina-Ha. 109 (tenant of city of Winnebago).	do	Manufacture of rotating electrical equipment.
Farmers Elevator (tenant of city of Winnebago).	do	Storage of grain and fertilizer.
John Brentlinger Dalton	Wilmington, Ohio	Selling of new and used cars and trucks.
Sabina Farmers Exchange, Inc	Sabina, Ohio	Manufacture and sale of agricultural feeds.
Luck Manufacturing Co. (tenant of village of Luck).	Village of Luck, Minn.	Manufacture of wooden bedroom furniture.
Darwin F. Kulzer	Barnesville, Minn	Building an indoor recreation complex.
Avare-Agri Systems, Inc	Macatawa, Mich	Sale of agriculture animal feeding systems.
Victory Food Market Co. d.b.a. Wee's Cardinal Markets (tenant of the village of Danville).	Danville, Ohio	Retail grocery sales.
Pedro Diaz, Jr	Rio Grande City, Tex.	Motel.
Gibson Welding & Construction Co., Inc	Amelia, La	General offshore and offshore pipeline construction.
Larry Hibler and Larry Daniel	San Saba, Tex	Motel service.
Hatter Feed Mills, Inc	McAlester, Okla	Feed mill.
C.I.C., Inc	Angleton, Tex	Construction of processing plants for petrochemicals.
J. & J. Building Supply, Inc	Tecumseh, Okla	Retail cement and sales of building supplies and related material.
Wal-Mart Stores, Inc	Bentonville, Ark	Retail department store.
Ray W. Martilla d.b.a. Ozark Corrugated Boxes.	Humansville, Mo	Manufacture of corrugated boxes and pads.
William Paul Berry	Perry, Mo	Manufacture and repair of dies, jigs, and fixtures.
The Commodore Corp	Lebanon, Oreg	Manufacture of handcrafted area rugs and braided rugs.

[FR Doc.77-13031 Filed 5-5-77;8:45 am]

V 42 88 MAY 6 77 UMI

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the allocation of $11,249,629 to 101 Indian and Native American prime sponsors for summer jobs for youth. The allocation is being made under Title III of the Comprehensive Employment and Training Act.

FOR FURTHER INFORMATION CONTACT:

Pierce A. Quinlan, Administrator, Office of Comprehensive Employment Development, U.S. Department of Labor, 6th and D Streets NW., Washington, D.C. 20213, telephone 202–376–6254.

ALASKA

Mr. Cecil Barnes, President, North Pacific Rim Native Corporation, 433 W. 9th Avenue, Suite 200, Anchorage, Alaska 99501—$18,591.

Ms. Jeanmarie Larson, Executive Director, Cook Inlet Native Association, 670 W. Fireweed Lane, P.O. Box 515, Anchorage, Alaska 99510—$60,567.

Ms. Vera M. Shaflestad, The Aleutian Priciolof Island Association Inc., 430 C Street, Suite 303, Anchorage, Alaska—$33,441.

Mr. Mark Nicholson, President, Yupiktak Bista, Inc., Box 219, Bethel, Alaska 99559—$311,607.

Mr. Hector Ewan, Persident, Cooper River Native Association, Drawer G, Copper Center, Alaska 99573—$6,782.

Mr. Hjalmar Olson, Executive Director, Bristol Bay Native Association, P.O. Box 179, Dillingham, Alaska—$93,307.

Mr. Al Ketzler, President, Tanana Chiefs Conference, Inc., Doyon Building, First and Hall Streets, Fairbanks, Alaska 99701—$143,702.

Mr. Ray Paddock, President, Tlingit and Haida Central Council, 130 Seward Street, Room 412, Juneau, Alaska 99801—$115,289.

Mr. George Miller, Jr., President, Tanaina Corporation, P.O. Box 1210, Kenai, Alaska 99611—$22,684.

Mr. Frank R. Peterson, Executive Director, Kodiak Area Native Association, P.O. Box 172, Kodiak, Alaska 99615—$141.012.

Mr. Dennis J. Tiepelman, President, Maunelluk Association, Inc., P.O. Box 256, Kotzebue, Alaska 99752—$80,679.

Mr. Wallace D. Leask, Mayor, Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926—$22,450.

Mr. Byron Mallot, President, Alaskan Federation of Natives, Inc., Human Resources, 550 W. 8th Avenue and K, Anchorage, Alaska 99501—$263,434.

ARIZONA

Mr. Buck Kitcheyan, Chairman, San Carlos Apache Tribe, P.O. Box 0, San Carlos, Arizona 85550—$163,228.

Mr. Cecil Williams, Chairman, The Papago Tribe of Arizona, P.O. Box 837, Sells, Arizona 86554—$157,499.

Mr. Ronnie Lupe, Chairman, White Mountain Apache Tribe, White River, Arizona 85941—$161,007.

Mr. Abbott Sekaquaptewa, Chairman, Hopi Tribal Council, Box 128, Oraibi, Arizona 86039—$134,348.

Mr. Alexander Lewis, Sr., Governor, Gila River Indian Community, Box 97, Sacaton, Arizona 85247—$145,806.

Mr. Peter MacDonald, Chairman, The Navajo Nation, Window Rock, Arizona 86515—$3,126,943.

Ms. Grace McCullah, Executive Director, Indian Development District of Arizona, 1230 East Camelback Road, Phoenix, Arizona 85014—$68,986.

Mr. Gerald Anton, President, Salt River Pima-Maricopa Indian Community, Route 1, Box 216, Scottsdale, Arizona 85256—$54,955.

Mr. Franklin McCabe, Chairman, Colorado River Indian Tribes, Route I, Box 23–B, Parker, Arizona 85344—$35,195.

CALIFORNIA

Mr. Walter J. Lara, Chairman, Inter-Tribal Council of California, 2969 Fulton Avenue, Sacramento, California 95821—$117,978.

Mr. Banning Taylor, Chairman, California Tribal Chairmen's Association, 2427 Marconi Avenue, Suite No. 5, Sacramento, California 95821—$56,943.

COLORADO

Mr. Robert J. Scott, Acting Director, Colorado Department of Labor and Employment Training Services Section, 770 Grant Street, Denver, Colorado 80203—$51,448.

FLORIDA

Mr. Howard Tommie, Tribal Chairman, Seminole Tribe of Florida, 6073 Stirling Road, Hollywood, Florida 33024—$68,400.

Mr. Buffalo Tiger, Chairman, Miccosukee Tribe of Indians of Florida, P.O. Box 44021, Tamiami Station, Miami, Florida 33144—$7,132.

IDAHO

Mr. Lonnie Racehorse, Executive Director, Idaho Inter-Tribal Policy Board, Inc., Sonna Building, Suite 214, Boise, Idaho 83702—$61,035.

Mr. Richard Halfmoon, Chairman, Nez Perce Tribe Manpower Programs, P.O. Box 305, Lapwai, Idaho 83540—$27,711.

KANSAS

Mr. Charles Morris, Chairman, The United Tribes of Kansas and Southeast Nebraska, Inc., P.O. Box 147, Horton, Kansas 66439—$6,899.

LOUISIANA

Mr. L. M. Burgess, Chairman of the Board, Indian Manpower Service, Inc., P.O. Box 706, Baton Rouge, Louisiana 70821—$13,329.

MAINE

Mr. Francis Nicholas, President, Tribal Governor's Inc., 93 Main Street, Orono, Maine 04473—$26,425.

MICHIGAN

Mr. Frederick Dakota, Chairman, Inter-Tribal Council of Michigan, Inc., 405 East Easterday Avenue, Sault Ste, Marie, Michigan 49783—$32,622.

MINNESOTA

Mr. Delbert Ellis, Chairman, Minneapolis Regional Native American Center, 1530 East Franklin Avenue, Minneapolis, Minnesota 55404—$8,652.

Mr. Hartley White, Chairman, Leech Lake Reservation Business Committee, Box 308, Cass Lake, Minnesota 56633—$63,374.

Mr. William J. Houle, Chairman, Fond Du Lac Reservation Business Committee, P.O. Box F, Colquet, Minnesota 55720—$14,850.

Mr. Gary Donald, Chairman, Bois Forte Reservation Business Council, P.O. Box 696, Nett Lake, Minnesota 55772—$19,644.

Mr. Arthur W. Gahbow, Chairperson, Mille Lacs Reservation Business Committee, Star Route, Onamia, Minnesota 56359—$17,539.

Mr. Roger A. Jourdain, Chairman, Red Lake Tribal Council, Red Lake, Minnesota 56671—$79,400.

Mr. Darrell Wadena, Chairman, White Earth Reservation Business Committee, Box 274, c/o White Earth CAP, White Earth, Minnesota 56591—$45,133.

Mr. William J. Diver, Jr., American Indian Fellowship Association, 2 E. Second Street, Duluth, Minnesota 55802—$4,209.

MISSISSIPPI

Mr. Calvin Isaac, Tribal Chairman, Mississippi Band of Choctaw Indians, Tribal Office Building, Route 7, Box 21, Philadelphia, Mississippi 39350—$56,592.

MONTANA

Mr. Earl Old Person, Chairman, Blackfeet Tribal Business Council, Blackfeet Indian Reservation, Browning, Montana 59417—$233,900.

Mr. Patrick Stands Over Bull, Chairman, Crow Indian Tribe, Crow Tribal Council, P.O. Box 371, Crow Agency, Montana 59022—$127,000.

Mr. John W. Allen, President, Fort Belknap Community Council, Fort Belknap Agency, Harlem, Montana 59526—$103,100.

Mr. Allen Rowland, Chairman, Northern Cheyenne Tribe, Post Office Box 128, Lame Deer, Montana 59042—$104,000.

Mr. Norman Hollow, Chairman, Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, Box 37, Poplar, Montana 59255—$126,900.

Mr. John Windy Boy, Chairman, Chippewa-Cree Tribe, Rocky Boy's Reservation, Rocky Boy Route, Box Elder, Montana 59521—$77,500.

Mr. Harold W. Mitchell, Jr., Chairman, Confederated Salish and Kootenai Tribes, Flathead Sub-Agency, Dixon, Montana 59831—$123,900.

NEBRASKA

Mr. Edward L. Cline, Sr., Chairman, Omaha Tribe of Nebraska, P.O. Box 13, Macy, Nebraska 68039—$35,700.

Mr. Art May, Executive Director, Nebraska Indian Inter-Tribal Development Corporation, P.O. Box 682, Winnebago, Nebraska 68071—$56,358.

Mr. Albert J. Thomas, Santee Sioux Tribe of Nebraska, Route No. 2—Santee, Niobrara, Nebraska 68760—$20,500.

NEVADA

Mr. Larry M. Manning, Chairman, Inter-Tribal Council of Nevada, 1135 Terminal Way, P.O. Box 11367, Reno, Nevada 89502—$134,700.

NEW MEXICO

Mr. Delfin J. Lovato, Chairman, All Indian Pueblo Council, P.O. Box 6507, 1015 Indian School Road NW., Albuquerque, New Mexico 87107—$525,301.

Mr. Edison Laselute, Governor, Pueblo of Zuni, Zuni Tribal Council, Zuni, New Mexico 87327—$139,647.

Mr. Chavez P. Coho, President, Ramah Navajo School Board, Inc., P.O. Box 248, Ramah, New Mexico 87321—$30,619.

NEW YORK

Mr. Calvin Lay, President, Seneca Nation of Indians, Manpower Office, Box No. 344, Salamanca, New York 14779—$158,064.

Mr. Mike Bush, Executive Director, American Indian Community House, Inc., 10 East 38th Street, New York, New York 10016—$9,003.

Mr. Rudolph Hart, Sr., Head Chief, St. Regis Mohawk Tribe, Hogansburg, New York 13655—$39,521.

NORTH CAROLINA

Mr. John A. Crowe, Principal Chief, Eastern Band of Cherokee Indians, P.O. Box 481, Cherokee, North Carolina 28719—$124,904.

Mr. Kenneth R. Maynor, Executive Director, Lumbee Regional Development Association, Inc., P.O. Box 68, Pembroke, North Carolina 28372—$139,600.

NORTH DAKOTA

Mr. Edwin J. Henry, Chairman, Turtle Mountain Tribal Council, Turtle Mountain Band of Chippewa Indians, Belcourt, North Dakota 58316—$137,505.

Mr. Carl McKay, Chairman, Devil's Lake Sioux Tribe, Manpower Programs, Fort Totten, North Dakota 58335—$61,400.

Mr. Pat McLaughlin, Chairman, Standing Rock Sioux Tribe, Fort Yates, North Dakota 58538—$100,800.

Ms. Rose Crow Flies High, Chairperson, Three Affiliated Tribes, Manpower Program, P.O. Box 597, New Town, North Dakota 57863—$85,600.

OKLAHOMA

Mr. James M. Cox, Chairman, Comanche Indian Tribe, Comanche Tribe of Oklahoma, c/o Fort Sill Indian School Bldg. 382, Lawson, Oklahoma 73501—$28,647.

Mr. Edward F. Mouss, Executive Director, Creek Nation, P.O. Box 281, Okmulgee, Oklahoma 74447—$58,463.

Mr. Sylvester J. Tinker, Principal Chief, Osage Tribal Council, P.O. Box 897, Pawhuska, Oklahoma 74056—$69,900.

Mr. Leonard Biggoose, Chairman, Ponca Tribe of Indians, P.O. Box 11, White Eagle, Ponca City, Oklahoma 74601—$25,957.

Mr. Edwin Tanyan, Principal Chief, Seminole National of Oklahoma, 4th and Brown Streets, Wewoka, Oklahoma 74884—$43,613.

Mr. James Wheeler, Chairman, Central Tribe of the Shawnee Area, Inc., 624 North Broadway, P.O. Box 2427, University Station, Shawnee, Oklahoma 74802—$47,939.

Mr. Dana A. Knight, Chairman, North Central Inter-Tribal Council, P.O. Box 68, Red Rock, Oklahoma 74651—$18,591.

Mr. Ross O. Swimmer, Principal Chief, Cherokee Nation of Oklahoma, P.O. Box 119, Tahlequah, Oklahoma 74464—$142,884.

Ms. Juanita Learned, Chairperson, Cheyenne-Arapaho Tribes of Oklahoma, P.O. Box 38, Concho, Oklahoma 73022—$24,554.

Mr. Overton James, Governor, Chickasaw Nation of Oklahoma, P.O. Box 1548, Ada, Oklahoma 74820—$41,626.

Mr. David Gardner, Principal Chief, Choctow Nation of Oklahoma, P.O. Box 59, Durant, Oklahoma 74701—$61,971.

Mr. Pressley Ware, Chairman, Kiowa Tribe of Oklahoma, P.O. Box 1028, Anadarko, Oklahoma 73005—$64,543.

OREGON

Mr. Kenneth Smith, General Manager, Warm Springs Consortium, Confederated Tribe of the Warm Springs Reservation of Oregon, Warm Springs, Oregon 97761—$66,063.

SOUTH DAKOTA

Mr. Wayne Ducheneaux, Chairman, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota 57625—$147,600.

Mrs. Elnita Rank, Chairwoman, Crow Creek Sioux Tribe, P.O. Box 658, Fort Thompson, South Dakota 57339—$56,100.

Mr. Richard P. Thompson, Chairman, Lower Brule Sioux Tribe, Lower Brule, South Dakota 57548—$29,000.

Mr. Al Trimble, President, Oglala Sioux Tribe, Box G, Pine Ridge, South Dakota 57770—$314,647.

Mr. Ed Drivinghawk, Chairman, Rosebud Sioux Tribe, Tribal Office Building, Rosebud, South Dakota 57570—$173,000.

Mr. Gerald Flute, Chairman, Sisseton-Wahpeton Sioux Tribe, 406 Second Avenue, East, Sisseton, South Dakota 57262—$70,857.

Mr. Leo O'Connor, Acting Chairman, Yankton Sioux Tribe, Route 3, Wagner, South Dakota 57380—$27,828.

TEXAS

Mr. Dempsie Henley, Chairman, Indian Employment Training Service, Inc., Box 206, Livingston, Texas 77351—$25,256.

UTAH

Mr. Lester M. Chapoose, Chairman, Ute Indian Tribe, Box 129, Fort Duchesne, Utah 84026—$95,400.

Mr. Regis Clauschee, Chairman of the Board, Utah Native American Consortium, Inc., 120 West 1300 South, Salt Lake City, Utah 84101—$585.

VIRGINIA

Mr. Maurice Rowe, Chairman, Governor's Manpower Services Council, P.O. Box 1358, Room 107, Richmond, Virginia 23211—$2,338.

WASHINGTON

Ms. Linda E. Day, Executive Director, Northwest Intertribal Council, 2731 10th Avenue, Everett, Washington 98201—$68,986.

Mr. Rudolph C. Ryser, Executive Director, Small Tribes Organization of Western Washington, Inc., 520 Pacific Avenue, P.O. Box 578, Sumner, Washington 98390—$49,928.

Mr. Mel White, Chairman, Eastern Washington Indian Consortium, Inc., P.O. Box 223, Wellpinet, Washington 99040—$197,254.

Mr. Joseph DeLaCruz, Tribal Chairman, CHE–HO–QUI–SHO, Box 1228, Quinault Reservation, Taholah, Washington 98587—$35,780.

WISCONSIN

Ms. Shirley Daily, Chairperson, Menominee Restoration Committee, P.O. Box 397, Keshena, Wisconsin 54135—$61,737.

Mr. Peter Christensen, Executive Director, Great Lakes Inter-Tribal Council, Box 5, Lac Du Flambeau, Wisconsin 54538—$93,902.

Mr. Rick Baker, Chairman, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Route 2, Hayward, Wisconsin 54843—$32,380.

Mr. Purcell Powless, Chairman, Oneida Tribe of Indians of Wisconsin, Inc., Route 4, Oneida, Wisconsin 54155—$37,650.

Mr. Mitchell Whiterabbit, Chairman, Wisconsin Winnebago Business Committee, Old Main Room 041A, University of Wisconsin, Stevens Point, Stevens Point, Wisconsin 54481—$17,773.

Mr. Leonard E. Miller, Jr., Tribal Chairman, Stockbridge-Munsee Community, Route 1, Bowler, Wisconsin 54416—$17,809.

Mr. E. W. Taylor, Chairman, St. Croix Tribal Council, Star Route, Webster, Wisconsin 54893—$17,809.

WYOMING

Mr. Arnold Headley, Arapahoe Chairman, Mr. Robert Harris, Shoshone Chairman, Shoshone and Arapahoe, Joint Business Council, Post Office Box 217, Fort Washakie, Wyoming 82514—$144,800.

Signed at Washington, D.C. this 25th day of April 1977.

ALEXANDER S. MACNABB,
Director, Division of Indian and Native American Programs.

[FR Doc.77–13091 Filed 5–5–77;8:45 am]

Office of the Secretary

BARRYMAID MILLS, ET AL.

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 16, 1977.

Interested persons are invited to submit written comments regarding the subject mater of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 16, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington D.C., this 21st day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

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APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Barrymaid Mills (workers).	Lebanon, Pa.	Apr. 19, 1977	Apr. 15, 1977	TA-W-1,990	Girls' dresses and children's sportswear.
Benson Shoe Co., Inc. (workers).	Lynn, Mass.	do.	do.	TA-W-1,991	Ladies' dress shoes.
Cisne Shoes, Inc. (company).	Mayflower, Ark.	do.	Apr. 12, 1977	TA-W-1,992	Soft sole baby shoes.
International Hat Co. (workers).	Dexter, Mo.	do.	Apr. 14, 1977	TA-W-1,993	Beach straw hats.

[FR Doc.77-12679 Filed 5-5-77;8:45 am]

EXCELSIOR CLOAK AND SUIT CORP., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 16, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 16, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Excelsior Cloak & Suit Corp. (workers).	New York, N.Y.	Apr. 21, 1977	Mar. 25, 1977	TA-W-1, 996	Women's winter coats.
Fairfoot Shoe Co. (Boot and Shoe Workers Union).	Martinsburg, Pa.	do.	Apr. 18, 1977	TA-W-1, 997	Ladies' casual shoes.
Highlander Sportswear, Inc. (ACTWU).	Newark, N.J.	do.	do.	TA-W-1, 998	Ladies' and men's leather coats.
Reading Industries, Inc. (USWA).	Reading, Pa.	do.	Apr. 1, 1977	TA-W-1, 999	Copper and brass tubing.
The Torrington Co. (UAW).	Torrington, Conn.	do.	Apr. 6, 1977	TA-W-2, 000	Knitting and sewing machine needles.
Weyenberg Shoe Manufacturing Co. (Boot and Shoe Workers Union).	Portage, Wis.	Apr. 20, 1977	Apr. 5, 1977	TA-W-2, 001	Men's dress cement shoes.

[FR Doc.77-12680 Filed 5-5-77;8:45 am]

[TA-W-1407]

JIM WALTER RESOURCES, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1407: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on that date which was filed by three workers on behalf of workers and former workers producing pig iron, coke and related products at Jim Walter Resources, Inc., Birmingham, Alabama.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 887). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jim Walter Resources, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

In excess of 90 percent of the output of Jim Walter Resources consists of metallurgical coke, pig iron, and related byproducts. Evidence developed during the Department's investigation reveals that imports of metallurgical coke have decreased absolutely and relative to domestic production and consumption in 1975 and 1976. Imports decreased from 3,540 thousand tons in 1974 to 1,819 thousand tons in 1975, and decreased in 1976 to 1,311 thousand tons. The ratios of imports of coke to domestic production and consumption decreased from 3.2 percent and 3.1 percent, respectively, in 1975, to 2.3 percent and 2.3 percent, respectively, in 1976.

Imports of pig iron decreased from 478 thousand tons in 1975 to 415 thousand tons in 1976. The ratios of imports of pig iron to domestic production and consumption both decreased from 0.6 percent in 1975, to 0.5 percent in 1976.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with coke and pig iron produced at Jim Walter Resources, Inc., Birmingham, Alabama have not increased as required for certification under Section 222 of the Trade Act of 1974. Signed at Washington, D.C. this 26th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13065 Filed 5-5-77;8:45 am]

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 77-6]

EMPLOYEE BENEFIT PLANS

Exemption From Prohibitions Respecting Transactions Involving the Teamsters-Rock Products and Ready Mixed Concrete Industries Training and Upgrading Fund

Notice is hereby given of the granting of an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) to allow the Teamsters-Rock Products and Ready Mixed Concrete Industries Training and Upgrading Fund (the Plan) to lease equipment on a short term basis from parties in interest.

BACKGROUND

On December 17, 1976, notice was published in the FEDERAL REGISTER (41 FR 55245) of the pendency before the Department of Labor (the Department) of an exemption from the restrictions of section 406(a) of the Act for a transaction described in an application submitted by the trustees of the Plan. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. One public comment from the National Coordinating Committee for Multiemployer Plans was received. The comment expressed concern that certain of the representations made by the applicant would become criteria for the granting of future exemption requests.

The Department's decision to grant this particular exemption is based on the facts and representations contained in the application. Any decision concerning other exemption requests will likewise be judged on the particular facts and representations involved.

Based upon the application filed by the trustees of the Plan and consideration of the public comment, the Department has decided to grant the requested exemption for the transaction described in the application. It should be noted that as indicated below, the exemption granted herein does not cover transactions prohibited under section 406(b) of the Act nor does it relieve a fiduciary from any of the provisions of section 404 of the Act. Notice of pendency of an exemption was given by publication of the notice of pendency as published in the FEDERAL REGISTER in the Union newspaper, *Southern California Teamster*, published January 12, 1977 and mailed to all members of the Union. A copy of the notice of pendency of an exemption was mailed on January 5, 1977 to the participating employers and January 6, 1977 to all participating Teamster Union Locals.

GENERAL INFORMATION

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the Plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The exemption contained herein does not extend to transactions prohibited under section 406(b) of the Act;

(3) The exemption set forth herein is supplemental to, and not in derogation of, any other provision of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

EXEMPTION

Pursuant to section 408(a) of the Act, and in accordance with the procedure set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and based upon the facts and representations contained in the application for exemption submitted by the trustees of the Plan and the public comment received, the Department finds that it is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan, to grant, and does hereby grant, an exemption, effective this date, so that the restrictions of section 406(a) of the Act shall not prohibit the Plan from leasing equipment on a short term basis from persons who are parties in interest with respect to the Plan solely by reason of being

V42I88 MAY 6 77 UMI

contributing employers to the Plan pursuant to the terms, conditions and representations set forth in the application.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of April 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.77-12867 Filed 5-5-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

LEGISLATION & REGULATION COMMITTEE OF THE NSF SCIENCE INFORMATION ACTIVITIES TASK FORCE

Open Meeting

In accordance with the Federal Advisory Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Legislation & Regulatory Committee of the Science Information Activities Task Force.

Date: May 6, 1977.

Time: 9 a.m. to 3 p.m.

Type of meeting: Open.

Place: Engineers Joint Council (Conf. Room 110, Lobby), 345 East 47th Street, New York, NY 10017.

Contact: Mr. Robert S. Cutler, Executive Officer, Room 1201, National Science Foundation, Washington, DC 20550, Telephone: (202) 632-5826.

Persons planning to attend should notify Mr. Cutler prior to this meeting.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, DC 20550.

Purpose of the task force: To provide advice and recommendations concerning the appropriate roles and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information. This committee, one of four established by the Task Force, will explore the Legislative and Regulatory aspects pertinent to the task force's charge.

AGENDA

9 a.m. Welcome and Introductory Remarks, Chairman.

9:15 a.m. Impact of the new Copyright Law on the flow of scientific and technical information.

10:30 a.m. International aspects of scientific and technical information.

11:15 a.m. Standardization activities relating to scientific and technical information, both national and international standards.

NOON RECESS

1 p.m. Open Public Participation.

2 p.m. Institutional Changes Due to new Technological Developments.

3 p.m. Adjourn.

Reason for Late Notice: At its April 25-26 meeting, the Science Information Activities Task Force scheduled May 13, 1977 as the date by which its sub-committees will submit their draft material for the final task force report. May 6 is the only date the Leg and Reg Committee members could meet. Waiting beyond that date will not provide enough time to complete this task before the required deadline.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 28, 1977.

[FR Doc.77-12953 Filed 5-5-77;8:45 am]

Advisory Panel for Astronomy Subpanel On Radio Astronomy

OPEN MEETING

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Astronomy, Subpanel Meeting on Radio Astronomy.

Date: May 23 and 24, 1977.

Time: 9 a.m. each day.

Place: Suite 231, Marriott Inn, Marina Boulevard, Berkeley, California.

Type of Meeting: Open.

Contact Person: Dr. Peter B. Boyce, National Science Foundation, Division of Astronomical Sciences, Room 618 (202) 632-4187.

Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Panel: To review NSF programs in radio astronomy.

Agenda: Will include the following discussion and presentation:

MAY 23, 1977

9 a.m. to Noon—Discussion and Review of Management Structure for Very Long Baseline Interferometry Network.

1 to 5 p.m.—Review of Equipment Requirements for Future Very Long Baseline Interferometry.

MAY 24, 1977

9 a.m. to Noon—Discussion and Review of Future Needs for Millimeter Wave Astronomy.

1 p.m. to 4 p.m.—Discussion of Priorities for Prospective New Radio Astronomy Observing Facilities.

4 p.m.—Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 3, 1977.

[FR Doc.77-13071 Filed 5-5-77;8:45 am]

ADVISORY PANEL FOR PSYCHOBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.

Date and Time: May 25, 26, and 27, 1977; 9 a.m. to 5 p.m. each day.

Place: National Science Foundation, Room 321, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Part Open.

Contact Person: Dr. Fred Stollnitz, Program Director for Psychobiology, Room 320, National Science Foundation, Washington, D.C. tel: (202) 632-4264.

Summary Minutes (open portion). May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda—Closed, May 25 and 26 all day: To review and evaluate research proposals as part of the selection process for awards. Open, May 27 all day: Trends and opportunities in psychobiological research; role and performance of NSF's Psychobiological Program; Recommendations by Panel; suggestions for new Panel members; other business.

Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 3, 1977.

[FR Doc.77-13072 Filed 5-5-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 3, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

U.S. Fertilizer Port Study, single time, ports handling export or import of fertilizers, Lowry, R. L., 395-3772.

U.S. CIVIL SERVICE COMMISSION

Survey for the Collection of Racial and Ethnic Data of Persons Applying for Federal Employment, CSC 1289, on occasion, selected applicants for Federal employment, housing, veterans, and labor division, Kathy Wallman, 395-3532.

NATIONAL SCIENCE FOUNDATION

Evaluation of Research Productivity, single time, academic department heads, Kathy Wallman, 395-6140.

DEPARTMENT OF COMMERCE

Bureau of Census, sorar financial information, QHS-710a, single-time, individuals and households, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION:

Questionnaires For State Authorizing and/or Regulating Agencies For Postsecondary Institutions, OE-526, single time, State authorizing and/or regulating agencies, Caywood, D. P., 395-3443.

A Study of Library Cooperatives, Networks, and Demonstration Projects, OE-521 thru -11, single time, State library agency project directors, Human Resources Division, Reese, B. F., 395-3532.

National Institutes of Health, survey of foundation support for health research and development, single time, private nonprofit U.S foundations, Richard Eisinger, 395-6140.

REVISIONS

DEPARTMENT OF DEFENSE

Department of the Air Force, candidate personal data and activities record, DD 1867, on occasion, Academy candidates, Lowry, R. L. 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for the Faculty and Doctoral Dissertation Research Abroad Programs, OE-7627, on occasion, graduate students, Caywood, D. P., 395-3443.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Application for Certification of Pollution Facility, EPA3300-1, on occasion, companies which install antipollution facilities, Caywood, D. P., 395-3443.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Radioactive Material Transfer Receipt, MSC 1625, on occasion, NASA personnal and contractors, Marsha Traynham, 395-4529.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Supplier's Certificate and Agreement With the Agency for International Development, AID 282, on occasion, business firms, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Dry Bean Stocks Inquiry, on occasion, farmers growing dry beans, Gaylord Worden, 395-4730.

DEPARTMENT OF COMMERCE

Economic Development Administration, Weekly Payroll Reporting Form, ED-110-X, weekly, Title X grantees and contractors, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Department of the Navy, Application for MSTS Afloat Employment, MSC12310/1, on occasion, merchant seamen, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Lenders Manifest of Federally Insured Student Loans, OE 1151, OE 1151-2, on occasion, financial institutions, Caywood, D.P., 395-3443.

Certification as to use of Federally HEA Assisted Facilities Under Title VII of 1965 OE 1308, other (see SF-83), IHE's, Warren Topelius, 395-5872.

Progress Report, BEOG Program, OE Form 255, on occasion, postsecondary institutions participating in BEOG program, Caywood, D. P., 395-3443.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit:

Application for Sale of Property Under Section 235(j), FHA2013R, on occasion, apartment owners and builders, Housing, Veterans, and Labor Division, 395-3532.

Authority Preliminary Site Report by Indian Housing, HUD 3188, on occasion, Indian Housing Authority, Housing, Veterans, and Labor Division, 395-3532.

Request for Extension of Title I Claim Period, FHA-299, on occasion, banks, savings and loan associations, credit unions, et cetera, Housing, Veterans, and Labor Division, 395-3532.

Contractors Requisition—Project Mortgages, FHA-2448, FHA-2403A, monthly, building contractors, Housing, Veterans, and Labor Division, 395-3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-13151 Filed 5-5-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

STEERING COMMITTEE ON BASIC RESEARCH IN MISSION AGENCIES

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Steering Committee on Basic Research in Mission Agencies is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Science and Technology Policy (OSTP) by the National Science and Technology Policy, Organization, and Priorities Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. *Name of Group.* Steering Committee on Basic Research in Mission Agencies.

2. *Purpose.* The Office of Science and Technology Policy is commencing a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Appropriate policy will depend on the nature of particular missions, the agency organization, and the practices of the research communities that can contribute to the performance of mission. In order to secure the necessary facts, the study will review, in selected mission agencies, the existing and potential role of basic research, the policies that affect the conduct and utilization of basic research by those agencies, and the means to achieve the maximum possible benefit. The work of the OSTP study will be performed by a series of panels.

In conjunction with discussions with appropriate officials of the mission agencies, the Committee will advise the OSTP on the content, goals, and procedures to be followed during the study. The Committee will also assist in the formulation of conclusions and the subsequent development of necessary policy.

3. *Effective date of establishment and duration.* The establishment of the Steering Committee on Basic Research in Mission Agencies is effective upon filing of the charter with the Director, Office of Science and Technology Policy and with the standing committees of Congress having legislative jurisdiction of the Office of Science and Technology Policy. The Steering Committee on Basic Research in Mission Agencies will continue for one calendar year from the effective date.

4. *Membership* The membership of the Steering Committee on Basic Research in Mission Agencies shall be fairly balanced in the terms of the points of view represented and the group's function. Membership of the Steering Committee on Basic Research in Mission Agencies will consist of approximately eight individuals selected primarily from the private sector and having qualifications for providing expert knowledge of science, engineering and administration.

5. *Advisory Group Operation.* The Steering Committee on Basic Research in Mission Agencies will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OSTP policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

FRANK PRESS,
Director.

[FR Doc.77-13032 Filed 5-5-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1317; Amdt. 1]

ALABAMA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 20695), is amended in accordance with the President's declaration of April 9, 1977, to include Blount, Clay, De Kalb, Marshall, Morgan and Talladega Counties, Alabama. The Small Business Ad-

V42188 MAY 6 77 UMI

ministration will accept applications for disaster relief loans from disaster victims within the above named county and adjacent counties within the State, and is extending the filing date for physical damage until the close of business on June 20, 1977, and for economic injury until the close of business on January 23, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 26, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-12965 Filed 5-5-77;8:45 am]

[Declaration of Disaster Loan Area No. 1321]

GEORGIA

Declaration of Disaster Loan Area

The Counties of Cobb, Floyd, Lumpkin, Polk and adjacent counties within the State of Georgia, constitute a disaster area as a result of damage caused by tornadoes, high winds, heavy rains and flooding which occurred on March 29, 1977 through April 8, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 27, 1977, and for economic injury until the close of business on January 30, 1978, at:

Small Business Administration, District Office, 1720 Peachtree Road, N.W.—6th Floor, Atlanta, Georgia 30309.

or other locally announced location.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 28, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-12966 Filed 5-5-77;8:45 am]

[Declaration of Disaster Loan Area No. 1322]

IDAHO

Declaration of Disaster Loan Area

The County of Blaine and adjacent counties within the State of Idaho, constitute a disaster area because of physical damage to wells caused by drought which occurred from October 1, 1976 through April 22, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage as a result of drought until the close of business on June 27, 1977, and for economic injury until the close of business on January 30, 1978, at:

Small Business Administration, District Office, 216 North Eighth Street, Boise, Idaho 83701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 28, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-12967 Filed 5-5-77;8:45 am]

[Declaration of Disaster Loan Area No. 1320]

TENNESSEE

Declaration of Disaster Loan Area

The Counties of Campbell, Cocke, Claiborne, Hancock, Sevier, and Sullivan and adjacent counties within the State of Tennessee, constitute a disaster area as a result of damage caused by thunderstorms, heavy rain and flooding which occurred on April 4, 1977 through April 7, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 1, 1977, and for economic injury until the close of business on January 30, 1978, at:

Small Business Administration, District Office, Parkway Towers—Room 1012, 404 James Robertson Parkway, Nashville, Tennessee 37219.

Small Business Administration, Branch Office, Fidelity Banker Bldg.—Room 307, 502 South Gay Street, Knoxville, Tennessee 37902.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 29, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-12968 Filed 5-5-77;8:45 am]

[Declaration of Disaster Loan Area No. 1312; Amdt. 2]

VIRGINIA

Declaration of Disaster Loan Area

The above number Declaration (See 42 FR 20695 and 42 FR 21887) is further amended by (1) adding Carroll County and adjacent counties within the State of Virginia, and (2) extending the time for filing applications for physical damage to June 20, 1977, and for economic injury until January 23, 1978.

(Catalog of Federal Domestic assistance Program Nos. 59002 and 59008.)

Dated: April 29, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-12969 Filed 5-5-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application No. D-175]

RAGNAR BENSON PROFIT SHARING PLAN AND TRUST

Employee Benefit Plans; Hearing on Exemption Proceeding

Notice of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of a proposed exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code, was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 956) and supplemented by a correction published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2389). The pending exemption was requested in an application filed by Ragnar Benson, Inc. and the Trustee and Plan Committee under the Ragnar Benson Profit Sharing Plan and Trust (the Trust) for a proposed Trust investment in a long-term mortgage loan to a party in interest and disqualified person and for related transactions. Interested persons were invited to submit written comments on the pending exemption, and, by February 15, 1977, to submit their requests, if any, that a public hearing be held on the proposal.

A majority of participants in the Trust have requested a public hearing for the purpose of presenting their view that, instead of a sum of $1 million in long-term financing which is noticed for consideration in the pending exemption, the pending exemption should be expanded so that the afore-referenced restrictions of the Act and the Code shall not apply to the Trustee's proposed investment of $4 million in long-term financing for the third addition to the Bell System Center for Technical Education. Many of the hearing requests represent that the application for exemption filed with the Department and the Service requests approval of such a $4 million loan, and that the Trust currently holds in excess of $4 million in cash and short-term certificates of deposit.

After consideration of the above requests, the Department and the Service have determined that a public hearing regarding the pending exemption will be held on May 27, 1977, beginning at 10 a.m. in the Internal Revenue Service Auditorium, Seventh Floor, 7100 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard shall submit a statement to that effect, and indicate the time he or she wishes to devote. Such statement, and any written comments that such interested person wishes to be considered in conjunction with his or her presentation, should be submitted to the Employee Plans Prohibited Transactions Staff, Internal Revenue Service, Room 6211, Washington, D.C. 20224, Attention: Hearing: Exemption Application D-175, by May 23, 1977. An agenda will then be prepared containing the order of presentation of oral comments. Copies of the agenda will be available at the hearing, and information concerning its contents may be obtained on or after May 25, 1977, by telephoning (202) 566-3045. Ordinarily, 10 minutes will be allowed to each person for making an oral presentation. In addition, persons making oral comments should be prepared to answer questions relating to the pending exemption. At the conclusion of the presentations of comments by persons listed in the agenda, to the extent time permits, other comments will be received. The public hearing will be transcribed.

Signed at Washington, D.C. this 24th day of April 1977.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

J. VERNON BALLARD,
Acting Administrator for Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.77-12880 Filed 5-5-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 152]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Correction

In FR Doc. 77-11224 appearing at page 20213 in the issue for Monday, April 18, 1977, in the third paragraph, the first sentence establishes a closing date of May 30, 1977, for protests and hearing requests. This date should have been listed as May 18, 1977.

[Notice No. 384]

ASSIGNMENT OF HEARINGS

MAY 3, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119428 (Sub-No. 2), Napoleon J. Eno and Paul Eno d.b.a. Nap & Paul's Marine, now assigned May 23, 1977 at Hartford, Connecticut is canceled and the application is dismissed.

MC-F-12871, Golden Gate Van Lines, Inc.—Investigation of Control—Frontier Van Lines, Inc., and Roush Van Lines, Inc., now being assigned July 6, 1977 (3 days) at San Francisco, California, in a hearing room to be later designated.

MC 12991, System 99—Purchase (Portion)—Compton Transfer and Storage Co. and MC 98327 (Sub-No. 22), System 99, now being assigned July 11, 1977 (1 week) at San Francisco, California and continued to July 18, 1977 (1 week) at Boise, Idaho, in hearing rooms to be later designated.

MC 115311 Sub 196, J & M Transportation Co., Inc., now being assigned July 12, 1977 (4 days) at Atlanta, Georgia, in a hearing room to be later designated.

MC 103926 Sub No. 49, W. T. Mayfield Sons Trucking Co. now being assigned July 18, 1977 (1 week) at Savannah, Georgia, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13068 Filed 5-5-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 3, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43359—*Fibreboard, Paperboard and Pulpboard from Columbia Junction, Washington.* Filed by Pacific Southcoast Freight Bureau, Agent, (No. 272), for and on behalf of the Union Pacific Railroad. Rates on fibreboard, paperboard, and pulpboard, in carloads, as described in the application, from Columbia Junction, Washington, to Group 19 (Los Angeles, Ca.) as described in item 1310, PSFB 315-A, ICC 1974.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 44 to Pacific Southcoast Freight Bureau, Agent, tariff 315-A, I.C.C. No. 1974. Rates are published to become effective on May 29, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13069 Filed 5-5-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	9
Commodity Credit Corporation	15
Consumer Product Safety Commission	2
Federal Maritime Commission	10
Federal Power Commission	1, 13
Federal Reserve System	3
Federal Trade Commission	7, 8
Interstate Commerce Commission	6
National Transportation Safety Board	14
Postal Rate Commission	11, 12
Securities and Exchange Commission	4, 5

1

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register, April 27, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 4, 1977, 2 p.m.

CHANGE IN THE MEETING: Addition of M–5, Docket No. RM74–16, Natural Gas Companies Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.

KENNETH F. PLUMB,
Secretary.

[S–340–77 Filed 5–4–77;11:13 am]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: May 11, 1977, 9:30 a.m

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) *Public Playground Equipment* At the request of Theodora Sweeney of Cleveland Heights, Ohio, the Commission will meet with Ms. Sweeney to discuss its proceeding to develop safety requirements for public playground equipment, a matter which the Commission will consider at the May 12 meeting. (2) *Policy on Voluntary Standards* The Commission will consider a draft policy on voluntary safety standards, which was prepared by Commissioner Franklin.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202–634–7700.

[S–341–77 Filed 5–4–77;11:13 am]

3

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, May 11, 1977, at 10:00 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue N.W., Washington, D.C., to consider the following items of official Board business:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting on May 4, 1977.

2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, May 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–342–77 Filed 5–4–77;11:13 am]

4

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

Announced Time and Date of Meeting: 2:30 p.m., May 5, 1977. (Previously changed from 10 a.m. same date.)

Changes in the Meeting:

Item 1, respecting H.R. 3222, Item 2, respecting H.R. 3518 and Item 3, relating to the Freedom of Information Act Appeal of Norman F. Dacey have been deleted from the agenda. Additional staff consideration of the matters are required.

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to approve the above change.

Dated: May 2, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S–343–77 Filed 5–4–77;11:13 am]

5

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

10:00 a.m., Tuesday, May 10, 1977, Wednesday, May 11, 1977 and Thursday, May 12, 1977

Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 10, 1977, Wednesday, May 11, 1977. Open meetings will be held on Thursday, May 12, 1977.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission or his designee, has certified, that in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552 (c)(4)(8)(9)A and (10) and 17 C.F.R. 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 10, 1977 will be:

1. Formal Orders of Investigation
2. Institution of Injunctive actions
3. Settlement of Injunctive actions
4. Other litigation matters
5. Report of Investigation

The subject matter of the closed meeting scheduled for Wednesday, May 11, 1977, will be:

1. Institution of Injunctive actions
2. Other litigation matters
3. Institution of Administrative Proceedings

The subject matter of the open meeting scheduled for Thursday, May 12, 1977 will be:

1. Consideration of Arwood Corporation application pursuant to Section 12 (h) of the Securities Exchange Act of 1934, for an order exempting the company from the provisions of Section 15 (d) of that Act, insofar as such provisions would require Arwood to file quarterly reports for the fiscal quarters ended June 30 and September 30, 1976 and an annual report for the fiscal year ended December 31, 1976.

2. Petition of Baltimore Business Forms, Inc. for review of Divisions denial pursuant to delegated authority, of an extension of time to file Form 10-K annual report for fiscal year ended December 31, 1976, due March 31, 1977, on the grounds that Petitioner has recently experienced significant changes and the extension will permit it to file an adequate report. The Division recommends that its denial be affirmed and the petition denied.

3. Petition Valhi, Inc. for Commission review of staff denial of extension of time for filing 1976 Form 10–K report. The Division recommends the petition be denied.

4. Recommendation that the Commission affirm in part and reverse in part the action of the Freedom of Information Act Officer denying Nicholas B. Waranoff, pursuant to 5 U.S.C. 552 (b)(5) and (b)(7)(C), access to investigatory and litigation files related to a closed Commission injunctive action.

5. Consideration of action which would designate an entity to receive reports and inquiries required to be made with the Commission for a one year pilot period pursuant to Rule 17f–1 under the Exchange Act. Additionally, the creation of an advisory committee is recommended to advise the Commission regarding the Lost and Stolen Securities Program.

6. Consideration of American Stock Exchange proposed alternative criteria for original listing which prescribes higher standards for net worth, aggregate market value, and public distribution of shares but which dispense with an earnings criterion.

7. Consideration of proposed Amendments to Schedule E of the National Association of Securities Dealers' by-laws relating to self underwriting by members and issuers of their own securities or those of an affiliate.

8. Proposed extension of comment period for proposed rules under Section 11(a) of the Exchange Act.

For information contact Lawrence A. Horn (202) 755–1563.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 3, 1977.

[S–344–77 Filed 5–4–77;11:13 am]

6

APRIL 29, 1977.

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

NOTICE OF OPEN SPECIAL CONFERENCE

(Government in the Sunshine)

(Public Law 94–409)

(Ex Parte 333)

PLEASE TAKE NOTICE:

The Interstate Commerce Commission will hold a special open conference on Tuesday, May 10, 1977, at 9:30 a.m., at the Commisison's offices at the northwest corner of 12th Street and Constitution Avenue NW., Washington, D.C. (The room number will be posted in the main foyer on the morning of such meeting.)

The conference will be open in its entirety and its agenda will include the following matter: (1) Fuel Cost Impact on Transportation.

Requests for further information should be directed to Edgar B. Hamilton, Jr., the Commission's Acting Public Information Officer, whose telephone number is (202) 275–7252.

ROBERT L. OSWALD,
Secretary.

[S–339–77 Filed 5–4–77;9:01 am]

7

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Tuesday, May 10, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative Matters:

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meeting of May 3, 1977.

(2) Consideration of (Nonpublic) Part II Matter.

(3) Consideration of resolution directing use of compulsory process in (Nonpublic) Part II Matter.

Adjudicative Matters Under Part 3 of the Rules of Practice:

The Commisison has not yet scheduled any Adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: (202) 523–3830; Recorded Message: (202) 523–3806.

[S–333–77 Filed 5–3–77;4:22 pm]

8

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Wednesday, May 11, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, May 11, 1977, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: (202) 523–3830; Recorded Message: (202) 523–3806.

[S–334–77 Filed 5–3–77;4.22 pm]

9

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

The CAB will meet:

TIME AND DATE: 10 a.m., May 11, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument, Docket 28096, Category Y Fare Investigation.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[S–335–77 Filed 5–3–77;4:22 pm]

10

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10:00 a.m., May 11, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public.The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreements 10107–2, 10107–3, 10108–2: Modifications of "48-hour" Rate Agreements; and Agreement 10251: Discussion Agreement between the parties to Agreements 10107 and 10108.

2. Agreement No. 10284: A Husbanding Agreement between United States Lines, Inc. and Lykes Bros. Steamship Co., Inc.

3. Agreement No.T–2299: Between South Atlantic Marine Terminal Conference and Norfolk Marine Terminal Association; Discussion Agreement.

4. Agreement No.T–3379–A: City of Richmond, California and Matson Terminals, Inc.; Technological Assistance Agreement.

5. Commission Rule Governing the Practice Before the Commission of Former Employees Within One Year of the Termination of the Employees' Service With the Commission 46 CFR § 502.–32(b).

6. Rejection of Sea-Land Service, Inc., Tariff No. 265—FMC–F No. 34; Petition for Reconsideration.

7. Special Docket No. 491—*Munoz Y Cabrero* vs. *Sea-Land Service, Inc.*

8. Special Docket No. 492—*Toei Kogyo Co. Ltd.* vs. *Sea-Land Service, Inc.*

9. Special Docket No. 495—*Universal Nolin UMC Industries, Inc.* vs. *Sea-Land Service, Inc.*

10. Military Sealift Command's Petition for Reconsideration of Commission's Decision Not To Order an Investigation Into Changes and Revisions Made by United States Lines and Matson Navigation Company to Tariffs Applicable to Groceries Moving in the Guam Trade.

11. Referral of Motion to Quash Subpoena—Fact Finding No. 9.

Portions closed to the public:

1. Agreements Nos. 93–14 and 5200–31; modification of the North Europe U.S. Pacific Freight Conference Agreement and the Pacific Coast European Conference Agreement respectively; Inclusion of Minibridge Traffic.

2. Compromise and Consent Settlement in U.S. Miami-Caribbean/Puerto Rican Trades, etc.—F.M.C. Docket 75–46.

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3. Docket 74-12—Agreement 9939-1; Referral of Motion to Discontinue.
4. Request for Waiver to Participate in Docket No. 74-12—Agreement No. 9939-1, Modification and Extension of a Pooling, Sailing and Equal Access to Government Controlled Cargo Agreement.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-336-77 Filed 5-3-77;4:22 pm]

11

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: Following open meeting on Wednesday, May 11, 1977.

PLACE: Conference room, room 500, 2000 L St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Draft Order ATCMU's Motion to Strike. Docket No. MC76-3. 2. Procedural Order regarding issues related to Special Services. Docket Nos. MC76 -1, -2, -3, -4, -5. 3. Draft Order considering OOC's Motion for Reconsideration of PRC Order No. 156, Docket No. RM 77-5. (Authority to conduct closed meeting: 5 U.S.C. 552b (c) (10).)

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-337-77 Filed 5-3-77;4:22 pm]

12

AGENCY HOLDING MEETING: Postal Rate Commission.

TIME AND DATE: 9:30 a.m., Wednesday, May 11, 1977.

PLACE: Conference Room, Room 500, 2000 L St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Draft amendments to PRC rules of practice concerning Sunshine Act implementation: (i) electronic recording devices, (ii) photography, (iii) delegation of certification authority, (iv) copying fees, and (v) administrative review procedure.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-338-77 Filed 5-3-77;4:22 pm]

13

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: May 10, 1977, 2 p.m.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.) *NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA,

7606TH MEETING—MAY 10, 1977,

REGULAR MEETING—PART I (2 P.M.)

P-1—Docket No. ER77-306, Oklahoma Gas & Electric Company.
P-2 — Docket Nos. ER77-216, ER77-217, Central Maine Power Company.
P-3—Docket No. E-7172, U.S. Department of the Interior, Southwestern Power Administration.

MISCELLANEOUS AGENDA,

7592ND MEETING—MAY 10, 1977,

REGULAR MEETING—PART I

M-1—Docket No. RM77-11, corrections, minor revisions, and clarifications to certain sections of title 18 of the Code of Federal Regulations.

POWER AGENDA, 7592ND MEETING—MAY 10, 1977, REGULAR MEETING—PART II

CP-1—Docket No. ER77-297, Public Service Company of New Mexico.
CP-2—Docket No. ER77-242, Indiana & Michigan Electric Company.
CP-3—Docket No. ER77-307, Public Service Company of Indiana and Louisville Gas & Electric Company.
CP-4—Docket No. ES77-5, Iowa Public Service Company.
CP-5—Docket No. ES77-29, Iowa Electric Light and Power Company.
CP-6—Project No. 1989, Wisconsin Public Service Corporation.
CP-7—Project No. 199, South Carolina Public Service Authority.
CP-8—*Papago Tribal Utility Authority, et al., v. FPC*, D.C. Cir. No. 76-1937 (ER76-530).
CP-9—Project No. 2709, Monongahela Power Company, Potomac Edison Company, West Penn Power Company.

KENNETH F. PLUMB,
Secretary.

[S-332-77 Filed 5-3-77;2:36 pm]

14

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21722, April 28, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 5, 1977, 2:30 p.m. (NM-77-8a).

CHANGES IN THE MEETING: The following agenda item has been added: *Discussion.* Reclassification of Positions (Personnel) and Vacancy Announcement No. 77-179.

[S-345-77 Filed 5-4-77;2:32 pm]

15

AGENCY HOLDING THE MEETING: Commodity Credit Corporation, USDA.

TIME AND DATE: 9:30 a.m., May 13, 1977.

PLACE: Room 2-W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: 1. Review of organization and operations of CCC Board. 2. Docket RCZ 252b re: Operating provisions for extended farm stored and warehouse stored loan programs for the 1976 and subsequent crops. 3. Resolution re: Dockets RCP 33a and RCP 137a, Amendment 1, authorizing 3-year extended farm stored and extended warehouse storage loan programs for rice and wheat. 4. Docket SCP 105, Amendment 1 re: 1977 crop soybean loan and purchase rate program. 5. Docket SCP 137a, Amendment 1 re: 1977 crop barley, corn, oats, rye, sorghum and wheat loan and purchase payment program.

CONTACT PERSON FOR MORE INFORMATION:

James E. McMahon, Acting Secretary, Commodity Credit Corporation, Room 218-W, Administration Building, U.S. Department of Agriculture, Washington, D.C., 20250, Telephone 202-447-6803.

[S-349-77 Filed 5-4-77;4:47 pm]

federal register

FRIDAY, MAY 6, 1977

PART II

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Benefit Payments to Certain Survivors

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Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 32—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Benefit Payments to Certain Survivors

AGENCY: Department of Justice/Law Enforcement Assistance Administration (LEAA).

ACTION: Final rule.

SUMMARY: LEAA is adopting rules to implement the Public Safety Officers' Benefits Act of 1976. These rules would provide benefit payments to certain survivors of State and local public safety officers who have died as the direct and proximate result of a personal injury sustained in the line of duty.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT: Thomas J. Madden, General Counsel, LEAA (202) 376-3691.

SUPPLEMENTARY INFORMATION: LEAA is adopting, with amendments, rules proposed on January 6, 1977 (42 FR 1390), to implement the Public Safety Officers' Benefits Act of 1976 (Pub. L. 94-430, 90 Stat. 1346). The regulations are effective immediately upon publication in order to expedite the payment of benefits and fees in those cases ready for an award determination.

SUPPLEMENTARY INFORMATION: In the introduction to the proposed regulations, LEAA specifically invited comment on three issues: Officers Covered; Potential Beneficiaries; and Representation of Claimants. Comments were also received on a number of other issues, particularly the definitions of "personal injury" and "line of duty." Comments were sent by a wide variety of interested parties: national police, fire, and corrections associations; units of State and municipal government; 26 State departments of corrections; 11 fish and game commissions; State criminal justice planning agencies; individual members of a variety of public agencies; and a diverse number of law enforcement, firefighting, and public service agencies. After a thorough and careful analysis of their comments, and further consideration of the Act and its legislative history, LEAA has revised the regulations in a number of places.

An analysis of comments and changes follows. The three issues highlighted for comment are addressed first, followed by a section-by-section analysis of all other comments and amendments.

Officers Covered. In the Introduction to the proposed regulations, LEAA indicated its intent to consider a law enforcement officer within the scope of the Act if he had the authority to be "involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws." Firefighters would be covered if they were "fire service personnel serving a public agency in an official capacity, including an individual serving as an officially-recognized or designated member of a legally organized volunteer fire department." Comment was specifically invited on this approach as well as other suitable criteria that could be used in making a determination of coverage.

The response to our invitation for comment was heavy. Most commenters offered compelling reasons for why the members of their particular agency or association should be covered. Comments were received on behalf of, inter alia, fish and game officers, correctional employees, the National Guard, law enforcement officers of Indian tribes, prosecutors, volunteer police officers, rescue squad members, police reserve officers, campus police, marine resources law enforcement officers, persons treating the criminally insane, airport crash rescue workers, volunteer marine firemen, and fire marshals.

Many commenters based their arguments for inclusion under the Act on the fact that they are frequently exposed to risk while in the line of duty. LEAA is sympathetic to their position. It is clear from the statute itself, however, that Congress chose another common denominator of coverage: the authority to act as a law enforcement officer or firefighter.

Exposure to risk was a factor cited by numerous members of the House and Senate in their remarks supporting the Act, but it was repeatedly cited in the context of risks met in connection with law enforcement or firefighting duties. The remarks of Senator Frank Moss in support of his amendment to expand coverage of the Act to all "line of duty" deaths are typical:

> The public safety officers are the only public service professionals—other than those of the military forces—who are required to risk their life as a part of their job description.
>
> Every law enforcement officer knows that he must face abuse as a part of his job, abuse which may easily turn to violent rage at any moment but he still performs the task of keeping the peace.
>
> Every fireman is keenly aware of the risks of entering a burning building, but each one will go into a critical situation when it is necessary to save life or property. Despite the necessary risks, those men and women who serve as public safety officers do so because of a dedication." Cong. Rec. S 11837 (July 19, 1976, daily ed.).

LEAA therefore believes that its proposed intention to make coverage of law enforcement officers dependent on whether or not the decedent was authorized to be "involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws" best reflects the intent of Congress. LEAA will, accordingly, continue to apply this test under the final regulations. The final regulations do, however, distinguish between those public safety officers whose primary function is crime control or reduction, enforcement of the criminal laws, or suppression of fires, and other officers. PSOB coverage will be extended to those officers who engage in the activities listed above, where such activity is not their primary function, only when they suffer a personal injury in the course of crime control or reduction, enforcement of the criminal laws, or fire suppression. See Section 32.2(c). "Primary function" will be gauged on the basis of both frequency of involvement by persons in the officer's agency in law enforcement or firefighting activities, and an assessment of the activities the officer was authorized to perform under his job description, or the agency's legal authorization. The rationale for this distinction is essentially the same rationale supporting LEAA's decision to make an officer's authority the criterion of coverage in the first place. The legislative history of the Act emphasizes that its purpose was to benefit the survivors of those persons who died as a result of personal injuries suffered while performing law enforcement or firefighting activities. Firefighters, police officers, and the other officials listed in the statutory definitions of "law enforcement officer" and "fireman" perform these activities as a primary function of their jobs; even those officers performing desk assignments are primarily involved, even though indirectly, in crime control or reduction, or firefighting.

The Act was not intended to cover deaths arising from activities unrelated to law enforcement or firefighting. LEAA will, therefore, require that the deaths of officials who are primarily engaged in activities other than law enforcement or firefighting occur as the direct and proximate result of personal injuries sustained in the performance of their law enforcement or firefighting duties, before paying a benefit under the Act.

Section 32.2(c) has been amended, therefore, by the insertion of the phrase "whose primary function is crime control or reduction, enforcement of the criminal laws, or suppression of fires" after "action which an officer," and by the addition of the sentence, "For other officers, 'line of duty' means any action the officer is so obligated or authorized to perform in the course of controlling or reducing crime, enforcing the criminal law, or suppressing fires." A Commentary largely incorporating the above discussion has also been added.

Because LEAA believes the broad concept of making coverage dependent on the officer's authority should be applied to firefighters as well, the proposed definition of "firefighter" has been amended to include "all fire service personnel *authorized to engage in the suppression of fires*, including any individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department" (amendment emphasized). Section 32.2(j).

Law enforcement officers of Indian tribes which have been determined by the Secretary of the Interior to perform law enforcement functions are also covered by the Act. Such a tribe is considered a "unit of general local government" under section 601 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and would, therefore, be a "unit of local government" within the meaning of "public agency" in section 703(6) of the Act. The applicability of the Act to officers of Indian tribes not so designated by the Secretary of Interior will be determined on a case-by-case basis.

The members of National Guard units called to active duty by the Governor of their State for the purpose of performing law enforcement or firefighting functions would also be covered by the Act. While on training or Federal duty, however, Guardsmen are not covered because, in those circumstances, they do not serve a "public agency," as defined in sections 703(6) of the Act and 32.2(q) of the regulations.

The term "person" has been substituted for the term "official" in the second line of the definition of "law enforcement officer" in section 32.2(i), in order to make that definition consistent with the statutory definition.

Potential Beneficiaries. Comment was solicited on the proposed definitions of "spouse" and "stepchild." "Spouse" was defined to mean "the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason." "Stepchild" meant "a child of the officer's spouse. The relationship of stepchild is not terminated by the divorce, remarriage, or death of the stepchild's natural parent."

The only commenter on the definition of "spouse" believed that a spouse who is separated from the decedent for the purpose of seeking a divorce should be precluded. LEAA considered amending the definition to limit benefits to "a surviving husband or wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of desertion by the decedent." This was the definition of "spouse" in the Public Safety Officers' and Firefighters' Benefits bills passed by the House (H.R. 365 and H.R. 366). It is also substantially identical to the definition of "'widow' or 'widower'" in a similar Federal death benefits statute, the Longshoremen's and Harbor Workers' Compensation Act, at 33 U.S.C. 902 (16). The PSOB bill passed by the Senate did not define "spouse." The House definition was dropped by the conferees on the House and Senate PSOB bills in favor of the Senate version, i.e., no definition. The Conference Report (H. Rept. No. 94-1501, 94th Cong., 2d Sess.) is silent on the reason the definition was discarded. Because the definition considered was rejected by the conferees, and the final bill as passed by both Houses contained no limitation of the term "spouse," LEAA believes it must construe the term liberally to include all spouses. Accordingly, the proposed definition has been retained.

The proposed definition of "stepchild" was criticized as too broad by the three commenters who addressed this issue. The general rationale for their comments was that it was inequitable to provide benefits to persons who were not dependent on the officer, or who the officer may not even have known. Because the definition of "stepchild" is different from jurisdiction to jurisdiction, LEAA believes it can qualify this relationship more than it can the relationship of "spouse." In addition, there is no legislative history of the term in either House. In response to the comments received, therefore, and after further consideration, the definition of "stepchild" has been amended to read "a child of the officer's spouse who was living with, dependent for support on, or otherwise in a parent-child relationship, as set forth in Section 32.13(b) of the regulations, with the officer at the time of his death." Section 32.2(l). The termination of the marriage between the stepchild's natural parent and the officer will not affect the stepchild's eligibility if the conditions of the definition are being met at the time of the officer's death.

Section 32.13(d), pertaining to proof of the relationship of stepchild, has accordingly been amended to require a stepchild to demonstrate (1) that he is a child of the officer's spouse; (2) that he meets the definition of stepchild in Section 32.2(l); and (3) that his parent and the officer were married.

In addition, the proposed Commentary on this subsection has been deleted.

Representation of claimants. LEAA asked for comment on its intention to set maximum fees for representatives on the basis of a petition submitted by the representative and an administrative review in accordance with criteria listed in Section 32.22(f) of the proposed regulations. As noted in the Introduction to the proposed rules, LEAA's authority to set maximum fees derives from Section 704 (a) of the Act, which gives the Administration the authority to issue:

> Regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

A number of commenters felt LEAA should set a fixed limit on fees in every case; some suggested a fixed-dollar limit, some a percentage maximum. Another observer believed LEAA only had the authority to set a blanket maximum fee, and not to make a determination in each case.

LEAA believes that a plain reading of the statute gives it the authority to set a maximum fee in each case. Further, a case-by-case review would be required even if a fixed blanket maximum figure was set, in order to determine whether the maximum fee was warranted, or a figure below it. LEAA has decided not to set a fixed-dollar or percentage maximum across the board at this time for two reasons: first, any figure or percentage selected would be arbitrary, especially in light of the second reason, LEAA's inexperience in reviewing and evaluating fee claims. If, at a later date, a rational basis develops for selecting a particular sum or percentage, the regulations may be amended accordingly.

One commenter noted that the regulations should expressly provide the claimant an opportunity to comment on the representative's fee petition. LEAA agrees, and has amended § 32.22 to provide a 20-day period during which LEAA will defer a fee determination pending receipt of the claimant's views. "Claimant" has been substituted for the term "person represented" and the clause "and that the claimant was advised of his opportunity to submit his comments on the petition to LEAA within 20 days" has accordingly been added to § 32.22 (e)(7). New § 32.22(f) states:

> No fee determination will be made by the Administration until 20 days after the date the petition was sent to the claimant. The Administration encourages the claimant to submit comments on the petition to the Administration during the 20-day period.

Proposed § 32.22(f) and (g) have been redesignated (g) and (h), respectively, to accommodate new paragraph (f). In addition, proposed § 32.22(e)(4) has been revised to read:

> The amount of fee requested or charged for services rendered on behalf of the claimant in connection with other claims or causes of action arising from the officer's death before any State or Federal court or agency

in order to clarify that the fees mentioned were not intended to mean fees requested or charged in connection with litigation of determinations made under this Act. With the exception of these changes, proposed § 32.22 is adopted as final.

A number of amendments were also made in response to other comments, or after further consideration by the Administration. A section-by-section analysis follows:

Section 32.2(c). In addition to the amendment discussed, supra, under "Officers Covered," the phrase "or service" has been inserted after "condition of employment" to clarify that the same "line of duty" concept applies to volunteer firemen and other non-employees as applies to persons employed as public safety officers.

Section 32.2(e). To be covered by the Act, an officer's death must be "the direct and proximate result of a personal injury sustained in the line of duty." The terms "direct and proximate result" and "personal injury" are not defined in the Act. The House Judiciary Committee Reports on H.R. 365 (firefighters) and H.R. 366 (public safety officers) noted the Committee's intent that the "direct and proximate result" requirement cover "those cases where the personal injury is a substantial factor in bringing about the officer's death." House Reports No. 94-1031 and 94-1032 (94th Cong., 2d Sess.) at pp. 4 and 5, respectively. "Personal injury" was defined in both reports to include:

> • • • all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by physical impact, as well as diseases which are caused by or result from such injuries, but not diseases which arise merely out of the performance of duty. In other words, deaths from occupational diseases alone are not within the purview of this legislation. House Reports, supra, at pp. 4 and 4-5, respectively.

V42I88 MAY 6 77 UMI

House debate on the issue was confined to a reiteration by Congressman Joshua Eilberg, the bill's sponsor, of the exclusion of "occupational diseases and diseases which arise out of the performance of duties" from the scope of the legislation. Cong. Rec. H 3738 (April 30, 1976, daily ed.).

In the Senate, the bill passed by the Judiciary Committee covered officers who died in the line of duty from "injuries directly and proximately caused by a criminal act or an apparent criminal act * * *" Senator Frank Moss introduced an amendment on the Senate floor, substituting "as the direct and proximate result of a personal injury sustained in the line of duty" for the more limited "criminal act" condition. In expressing his support for the amendment, Senator John McClellan, a sponsor of the bill, noted that the bill "is not health insurance; but it does provide for payment if an officer is killed in the line of duty, either by accident or by willful assault by a criminal." Cong. Rec. S 11837–38, (July 19, 1976, daily ed.). The amendment passed and ultimately became part of the final Act.

The definitions of "direct and proximate" and "personal injury" in the proposed regulations adopted the language of the House Committee Reports. The questions posed by a number of commenters concerning the applicability of the Act to deaths resulting from heart attacks, or occupational diseases indicated a need to address those issues more fully in the final regulations.

LEAA believes that the definition of "personal injury" in the House Judiciary Committee Reports manifests the Committee's intent to limit coverage to deaths caused by traumatic injuries. The Report language is consistent with the following definition of "trauma" in Stedman's Medical Dictionary (W. H. Anderson Company-Jefferson Law Book Company, Fourth Unabridged Lawyers' Edition):

> Traumatism; an injury caused by rough contact with a physical object; accidental or inflicted wound.

The regulations, accordingly, have defined "traumatic injury" to mean "a wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation and bacteria, but excluding stress and strain." Section 32.2(f). Deaths caused by traumatic injuries do not therefore include deaths directly attributable to exertion or stress encountered in the performance of duty, unless that stress resulted in or was caused by a traumatic injury that was a substantial factor in the officer's death.

The Committee expressly excluded occupational diseases from the scope of "personal injury." LEAA has defined "occupational disease" to mean a "disease which routinely constitutes a special hazard in, or is commonly regarded as a concomitant of the officer's occupation." Section 32.2(g). See *Hanna* v. *Workmen's Compensation Appeals Board*, 108 Cal. Rptr. 227, 32 Cal. App. 3d 719 (1973); *Harman* v. *Republic Aviation Corporation*, 298 N.Y. 285, 82 N.E. 785 (1948); and *Chausse* v. *Lowe*, 35 F. Supp. 1011 (E.D. N.Y. 1938).

Virtually all State workmen's compensation laws cover, in some degree, deaths attributable to heart disease. Some, e.g., California, treat a law enforcement officer or firefighter's heart trouble as presumptively arising in the course of employment. California Labor Code, sections 3212 and 3212.5 The definition of personal injury in the legislative history of PSOB, and the exclusion of occupational diseases from the scope of the Act have led LEAA to conclude, however, that deaths resulting from chronic, congenital, or progressive cardiac and pulmonary diseases are not covered by PSOB, unless a traumatic injury was a substantial factor in the death.

Where, for instance, LEAA determines the cause of death to be myocardial infarction resulting from a coronary thrombosis, no benefit will be paid unless the claimant can demonstrate a substantial causal connection between a traumatic injury and the thrombosis. Similarly, where an officer suffering from heart disease, such as arteriosclerosis, has sustained a traumatic injury and died of a "heart attack," a benefit will be paid only if the injury is determined to be a substantial factor in the officer's death. Prior to making this determination, LEAA will submit the claim file to a forensic pathologist for review. If appropriate, the opinions of other pathologists or cardiologists will be solicited. In those cases where LEAA cannot reasonably determine which factor—the heart condition or the personal injury—was the substantial casual contribution to death, it "shall resolve any reasonable doubt arising from the circumstances of the officer's death in favor of payment of the death benefit." Section 32.4 Because an autopsy report will greatly assist LEAA in expediting its review, and making the correct determination, claimants and public agencies are encouraged to request that autopsies be performed.

Accordingly, "personal injury" has been defined to mean "any traumatic injury, as well as diseases which are caused by or result from such an injury, but not occupational diseases." Section 32.2(e).

The definitions of "traumatic injury" and "occupational disease" discussed above are now in §§ 32.2(f) and (g), respectively. Proposed § 32.2(f–p) have been redesignated § 32.2(h–f), respectively, to accommodate the addition of these definitions. In addition, the Commentary essentially restates the preceding discussion of the amendments to this subsection.

Section 32.2(f). A Commentary on how traumatic injuries may be inflicted by "climatic conditions" has been added.

Section 32.5. The phrase "of fact" has been inserted after "evidence and findings" to clarify that LEAA will give substantial weight to State and local agencies' findings of fact, but not necessarily to their medical conclusions or conclusions of law.

Section 32.7. A Commentary on this section has been added more fully explaining the type of intentional misconduct that will preclude coverage under the Act. Section 32.7(b) has been deleted because a determination that an officer had a "reckless disregard" for the consequences of his actions would not necessarily be probative of whether he engaged in intentional misconduct.

Section 32.8. The word "death" has been substituted for the word "suicide" in order to more clearly convey the intent of the provision. In addition, proposed paragraph (b) has been deleted as superfluous; if the officer was insane, regardless of cause, he could not have intended to bring about his own death in any event, and would not, therefore, be excluded from coverage under the Act.

Section 32.9. The following paragraph explaining a limited exception to the "voluntary intoxication" exclusion has been added to the Commentary:

> The situation might arise where an officer is legally intoxicated and is ordered by his superiors to respond to an emergency. If the officer advises his superiors that he believes he is too intoxicated to perform his job, yet is still ordered to respond, benefits will not be denied on the grounds of voluntary intoxication if the officer dies while responding to the emergency.

Section 32.12(b). A new section has been added, clarifying that LEAA will not recognize a claimant as a "common law" spouse unless the State of domicile does.

Section 32.12(c). As one commenter pointed out, the officer's prior marriages may have been terminated by the death of his spouse, rather than divorce. Accordingly, the phrase "or death certificates of the former spouse" has been inserted after "divorce decrees of previous marriages" to require the production of the former spouses' death certificates, where applicable.

Section 32.15. Because dependency has been made a criterion of eligibility for a stepchild, the tests of dependency in Section 32.15 have been made applicable to stepchildren as well as parents.

Section 32.18(a)(1). LEAA has requested the General Accounting Office for advice on how to reduce PSOB benefits by payments made by the Department of Labor under 5 U.S.C. 8191. The problem arises because payments under that law are ordinarily made monthly, for an uncertain period of time. In its request to GAO, LEAA proposed a procedure under which it would make its lump sum payment to the appropriate beneficiaries and the Department of Labor would make entries into a dummy account in the beneficiary's name, not making actual payments until such time as the account exceeded the PSOB benefit paid by LEAA. When a final procedure has been developed, LEAA will publish it in the FEDERAL REGISTER in the form of an amendment to these regulations.

Section 32.18(b). A second paragraph has been added to the Commentary on this section, indicating the view of the Internal Revenue Service that benefits received under the Act are not likely to be subject to Federal income tax.

Section 32.20(a). This subsection has been added to advise all interested parties of the availability of standardized claim forms and to encourage their use. Use of Form 3650/1 will assist LEAA in quickly and accurately making determinations of coverage and eligibility. New subsection (a) states:

> Claimants are encouraged to submit their claims on LEAA Form 3650/1, which can be obtained from: Public Safety Officers' Benefits Program, Law Enforcement Assistance Administration, Washington, D.C. 20531.

Proposed §§ 32.20 (a) and (b) have been redesignated §§ 32.20 (b) and (c), respectively, to accommodate the addition of new subsection (a). "Form 3650/1" has been substituted for "standardized complaint form" in paragraph (b) (proposed paragraph (a)).

Paragraph (c) (proposed paragraph (b)) has been reworded to more clearly convey its intent. It now reads:

> A claim by or on behalf of a survivor of a public safety officer shall be filed within one year after the date of death unless the time for filing is extended by the Administrator for good cause shown. (Amendment emphasized.)

A Commentary on this subsection has been added, giving examples of "good cause" that would warrant a filing extension.

Section 32.24. The hearing and appeal procedure has been substantially revised. A non-adversary review procedure has been established, rather than the proposed informal "Request for Reconsideration" process. Under the final regulations, a claimant who has been denied benefits may request an oral hearing before a representative of the Administration, or may waive the oral hearing, and submit written evidence to support the claim. The hearing will be held in the LEAA Regional Office most convenient to the claimant, or in another mutually agreeable location. The Administration representative will have the authority to issue subpoenas, administer oaths, and examine witnesses. The formal rules of evidence will not apply, but the representative will conduct the hearing "in such manner as to best ascertain the rights of the claimant." Section 32.24(c).

If, after the hearing, the representative decides the claimant is not entitled to benefits, he must advise the claimant of his determination and the findings of fact and conclusions of law supporting it. The claimant may then ask the Administrator to review the file and the representative's determination. After such a review, the Administrator will make the final agency determination.

LEAA believes that the final procedure is a more satisfactory method of hearing and resolving the concerns of dissatisfied claimants than the proposed procedures because the final process (1) minimizes the financial and logistical burden on both the claimant and LEAA; (2) provides a full opportunity for the claimant to introduce evidence supporting his position; and (3) entitles the claimant to three expedited, impartial reviews of his claim by the Administration. The final procedure is similar to the one used by the Department of Labor's Office of Workmens' Compensation Programs to hear claims submitted under the Federal Employees' Compensation Act. See 20 CFR 10.130, et seq.

PART 32—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Subpart A—Scope

Sec.
32.1 Purpose.
32.2 Definitions.

Subpart B—Officers Covered

32.3 Coverage.
32.4 Reasonable doubt of coverage.
32.5 Findings of State and local agencies.
32.6 Conditions on payment.
32.7 Intentional misconduct of the officer.
32.8 Intention to bring about death.
32.9 Voluntary intoxication.

Subpart C—Beneficiaries

32.10 Order of priority.
32.11 Contributing factor to death.
32.12 Determination of relationship of spouse.
32.13 Determination of relationship of child.
32.14 Determination of relationship of parent.
32.15 Determination of dependency.

Subpart D—Interim and Reduced Payments

32.16 Interim payment in general.
32.17 Repayment and waiver of repayment.
32.18 Reduction of payment.

Subpart E—Filing and Processing of Claims

32.19 Persons executing claims.
32.20 Claims.
32.21 Evidence.
32.22 Representation.

Subpart F—Determination and Request for Reconsideration

32.23 Determination.
32.24 Request for reconsideration.

AUTHORITY: Secs. 501 and 704(a) of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, et seq., as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, and Pub. L. 94–503).

Subpart A—Introduction

§ 32.1 Purpose.

The purpose of this regulation is to implement the Public Safety Officers' Benefits Act of 1976 which authorizes the Law Enforcement Assistance Administration to pay a benefit of $50,000 to specified survivors of State and local public safety officers found to have died as the direct and proximate result of a personal injury sustained in the line of duty. The Act is Part J of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, et seq., as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430 and Pub. L. 94–503).

§ 32.2 Definitions.

(a) "The Act" means the Public Safety Officers' Benefits Act of 1976, 42 U.S.C. 3796, et seq., Pub. L. 94–430, 90 Stat. 1346 (September 29, 1976).

(b) "Administration" means the Law Enforcement Assistance Administration.

(c) "Line of duty" means any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulation, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which he is assigned, or for which he is compensated, by the public agency he serves. For other officers, "line of duty" means any action the officer is so obligated or authorized to perform in the course of controlling or reducing crime, enforcing the criminal law, or suppressing fires.

(d) "Direct and proximate" or "proximate" means that the antecedent event is a substantial factor in the result.

(e) "Personal injury" means any traumatic injury, as well as diseases which are caused by or result from such an injury, but not occupational diseases.

(f) "Traumatic injury". means a wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain.

(g) "Occupational disease" means a disease which routinely constitutes a special hazard in, or is commonly regarded as a concomitant of the officer's occupation.

(h) "Public safety officer" means any person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or firefighter.

(i) "Law enforcement officer" means any person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws, including but not limited to police, corrections, probation, parole, and judicial officers, and officials engaged in programs relating to narcotics addiction, such as those responsible for screening arrestees or prisoners for possible diversion into drug treatment programs, who are exposed, on a regular basis, to criminal offenders.

(j) "Firefighter" includes all fire service personnel authorized to engage in the suppression of fires, including any individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department.

(k) "Child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is:

(1) Eighteen years of age or under;

(2) Over eighteen years of age and a student; or

(3) Over eighteen years of age and incapable of self-support because of physical or mental disability.

(l) "Stepchild" means a child of the officer's spouse who was living with, dependent for support on, or otherwise in a parent-child relationship, as set forth in § 32.13(b) of the regulations, with the officer at the time of his death. The relationship of stepchild is not terminated by the divorce, remarriage, or death of the stepchild's natural or adoptive parent.

V42188 MAY 6 77 UMI

(m) "Student" means an individual under 23 years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:

(1) A school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(2) A school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body;

(3) A school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(4) An additional type of educational or training institution as defined by the Secretary of Labor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if he shows to the satisfaction of the Administration that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which, in the judgment of the Administration, he is prevented by factors beyond his control from pursuing his education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period.

(n) "Spouse" means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.

(o) "Dependent" means a person who was substantially reliant for support upon the income of the deceased public safety officer.

(p) "Intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body.

(q) "Public agency" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing.

(r) "Support" means food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for maintenance of the person supported.

Subpart B—Officers Covered

§ 32.3 Coverage.

In any case in which the Administration determines, pursuant to these regulations, that a public safety officer, as defined in § 32.2(b), has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 in the order specified in § 32.10, subject to the conditions set forth in § 32.6.

§ 32.4 Reasonable doubt of coverage.

The Administration shall resolve any reasonable doubt arising from the circumstances of the officer's death in favor of payment of the death benefit.

§ 32.5 Findings of State and local agencies.

The Administration will give substantial weight to the evidence and findings of fact presented by State and local administrative and investigative agencies. The Administration will request additional assistance or conduct its own investigation when it believes that the existing evidence does not provide the Administration a rational basis for a decision on a material element of eligibility.

§ 32.6 Conditions on payment.

(a) No benefit shall be paid: (1) If the death was caused by:

(i) The intentional misconduct of the public safety officer; or

(ii) The officer's intention to bring about his death;

(2) If voluntary intoxication of the public safety officer was the proximate cause of death; or

(3) To any person whose actions were a substantial contributing factor to the death of the officer.

(b) The Act applies only to deaths occurring from injuries sustained on or after September 29, 1976.

§ 32.7 Intentional misconduct of the officer.

The Administration will consider at least the following factors in determining whether death was caused by the intentional misconduct of the officer:

(a) Whether the conduct was in violation of rules and regulations of the employer, or ordinances and laws; and

(1) Whether the officer knew the conduct was prohibited and understood its import;

(2) Whether there was a reasonable excuse for the violation; or

(3) Whether the rule violated is habitually observed and enforced;

(b) Whether the officer had previously engaged in similar misconduct;

(c) Whether the officer's intentional misconduct was a substantial factor in the officer's death; and

(d) The existence of an intervening force which would have independently caused the officer's death and which would not otherwise prohibit payment of a death benefit pursuant to these regulations.

§ 32.8 Intention to bring about death.

The Administration will consider at least the following factors in determining whether the officer intended to bring about his own death:

(a) Whether the death was caused by insanity, through an uncontrollable impulse or without conscious volition to produce death;

(b) Whether the officer had a prior history of attempted suicide;

(c) Whether the officer's intent to bring about his death was a substantial factor in the officer's death; and

(d) The existence of an intervening force or action which would have independently caused the officer's death and which would not otherwise prohibit payment of a death benefit pursuant to these regulations.

§ 32.9 Voluntary intoxication.

The Administration will consider at least the following factors in determining whether voluntary intoxication was the proximate cause of the officer's death:

(a) The evidence of intoxication at the time the injury from which death resulted was sustained;

(b) Whether, and to what extent, the officer had a prior history of voluntary intoxication while in the line of duty;

(c) Whether and to what degree the officer had previously used the intoxicant in question;

(d) Whether the intoxicant was prescribed medically and was taken within the prescribed dosage;

(e) Whether the voluntary intoxication was a substantial factor in the officer's death; and

(f) The existence of an intervening force or action which would have independently caused the officer's death and which would not otherwise prohibit payment of a death benefit pursuant to these regulations.

Subpart C—Beneficiaries

§ 32.10 Order of priority.

(a) When the Administration has determined that a benefit may be paid according to the provisions of Subpart B and § 32.11 of Subpart C, a benefit of $50,000 shall be paid in the following order of precedence:

(1) If there is no surviving child of the deceased officer, to the spouse of such officer;

(2) If there is no spouse, to the child or children, in equal shares;

(3) If there are both a spouse and one or more children, one-half to the spouse and one-half to the child or children, in equal shares; and

(4) If there is no survivor in the above classes, to the dependent parent or parents, in equal shares.

(b) If no one qualifies as provided in paragraph (a), no benefit shall be paid.

§ 32.11 Contributing factor to death.

(a) No benefit shall be paid to any person who would otherwise be entitled to a benefit under this part if such person's intentional actions were a substantial contributing factor to the death of the public safety officer.

(b) When a potential beneficiary is denied benefits under subsection (a), the benefits shall be paid to the remaining eligible survivors, if any, of the officer as if the potential beneficiary denied benefits did not survive the officer.

§ 32.12 Determination of relationship of spouse.

(a) Marriage should be established by one (or more) of the following types of evidence in the following order of preference:

(1) Copy of the public record of marriage, certified or attested, or by an abstract of the public record, containing sufficient data to identify the parties, the date and place of the marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

(2) Official report from a public agency as to a marriage which occurred while the officer was employed with such agency;

(3) The affidavit of the clergyman or magistrate who officiated;

(4) The original certificate of marriage accompanied by proof of its genuineness and the authority of the person to perform the marriage;

(5) The affidavits or sworn statements of two or more eyewitnesses to the ceremony;

(6) In jurisdictions where "common law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, the period of cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife, and whether they were generally accepted as such in the communities in which they lived; or

(7) Any other evidence which would reasonably support a belief by the Administration that a valid marriage actually existed.

(b) LEAA will not recognize a claimant as a "common law" spouse under § 32.12(a)(6) unless the State of domicile recognizes him or her as the spouse of the officer.

(c) If applicable, certified copies of divorce decrees of previous marriages or death certificates of the former spouses of either party must be submitted.

§ 32.13 Determination of relationship of child.

(a) *In general.* A claimant is the child of a public safety officer if his birth certificate shows the officer as his parent.

(b) *Alternative.* If the birth certificate does not show the public safety officer as the claimant's parent, the sufficiency of the evidence will be determined in accordance with the facts of a particular case. Proof of the relationship may consist of—

(1) An acknowledgement in writing signed by the public safety officer; or

(2) Evidence that the officer has been identified as the child's parent by a judicial decree ordering him to contribute to the child's support or for other purposes; or

(3) Any other evidence which reasonably supports a finding of a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record showing that the officer was the informant and was named as the parent of the child; or

(ii) Affidavits or sworn statements of persons who know that the officer accepted the child as his; or

(iii) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with his knowledge the officer was named as the parent of the child.

(c) *Adopted child.* Except as may be provided in subsection (b) of this section, evidence of relationship must be shown by a certified copy of the decree of adoption and such other evidence as may be necessary. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

(d) *Stepchild.* The relationship of a stepchild to the deceased officer shall be demonstrated by—

(1) Evidence of birth to the spouse of the officer as required by paragraphs (a) and (b) above; or

(2) If adopted by the spouse, evidence of adoption as required by paragraph (c) above; or

(3) Other evidence, such as that specified in § 32.13(b), which reasonably supports the existence of a parent-child relationship between the child and the spouse;

(4) Evidence that the stepchild was either—

(i) Living with;

(ii) Dependent for support, as set forth in § 32.15, on; or

(iii) In a parent-child relationship, as set forth in § 32.13(b), with the officer at the time of his death; and

(5) Evidence of the marriage of the officer and the spouse, as required by § 32.12.

§ 32.14 Determination of relationship of parent.

(a) *In general.* A claimant is the parent of a public safety officer if the officer's birth certificate shows the claimant as his parent.

(b) *Alternative.* If the birth certificate does not show the claimant as the officer's parent, proof of the relationship may be shown by—

(1) An acknowledgment in writing signed by the claimant before the officer's death; or

(2) Evidence that the claimant has been identified as the officer's parent by judicial decree ordering him to contribute to the officer's support or for other purposes; or

(3) Any other evidence which reasonably supports a finding of a parent-child relationship, such as:

(i) A certified copy of the public record of birth or a religious record showing that the claimant was the informant and was named as the parent of the officer; or

(ii) Affidavits or sworn statements of persons who know the claimant had accepted the officer as his child, or

(iii) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with his knowledge the claimant had been named as the parent of the child.

(c) *Adoptive Parent.* Except as provided in paragraph (b) of this section, evidence of relationship must be shown by a certified copy of the decree of adoption and such other evidence as may be necessary. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the claimant as the officer's parent will suffice.

(d) *Step-parent.* The relationship of a step-parent to the deceased officer shall be demonstrated by—

(1) (i) Evidence of the officer's birth to the spouse of the step-parent as required by § 32.13 (a) and (b); or

(ii) If adopted by the spouse of the step-parent, proof of adoption as required by § 32.13(c); or

(iii) Other evidence, such as that specified in paragraph (b), which reasonably supports a parent-child relationship between the spouse and the officer; and

(2) Evidence of the marriage of the spouse and the step-parent, as required by § 32.12.

§ 32.15 Determination of dependency.

(a) To be eligible for a death benefit under the Act, a parent or a stepchild not living with the deceased officer at the time of the officer's death shall demonstrate that he or she was substantially reliant for support upon the income of the officer.

(b) The claimant parent or stepchild shall demonstrate that he or she was dependent upon the decedent at either the time of the officer's death or of the personal injury that was a substantial factor in the officer's death.

(c) The claimant parent or stepchild shall demonstrate dependency by submitting a signed statement of dependency within a year of the officer's death. This statement shall include the following information—

(1) A list of all sources of income or support for the twelve months preceding the officer's injury or death;

(2) The amount of income or value of support derived from each source listed; and

(3) The nature of support provided by each source.

(d) Generally, the Administration will consider a parent or stepchild "dependent" if he or she was reliant on the income of the deceased officer for over one-third of his or her support.

V42I88 MAY 6 77 UMI

Subpart D—Interim and Reduced Payments

§ 32.16 Interim payment in general.

Whenever the Administration determines, upon a showing of need and prior to taking final action, that a death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000, to a person entitled to receive a benefit under Subpart C of this part.

§ 32.17 Repayment and waiver of repayment.

Where there is no final benefit paid, the recipient of any interim benefit paid under § 32.16 shall be liable for repayment of such amount. The Administration may waive all or part of such repayment and shall consider for this purpose the hardship which would result from repayment.

§ 32.18 Reduction of payment.

(a) The benefit payable under this part shall be in addition to any other benefits that may be due from any other source, but shall be reduced by—

(1) Payments authorized by section 8191 of Title 5, United States Code, providing compensation for law enforcement officers not employed by the United States killed in connection with the commission of a crime against the United States;

(2) Payments authorized by Section 12(k) of the Act of September 1, 1916, as amended (§ 4–531(1) of the District of Columbia Code); and

(3) The amount of the interim benefit payment made to the claimant pursuant to § 32.16.

(b) No benefit paid under this part shall be subject to execution or attachment.

Subpart E—Filing and Processing of Claims

§ 32.19 Persons executing claims.

(a) The Administration shall determine who is the proper party to execute a claim in accordance with the following rules—

(1) The claim shall be executed by the claimant or his legally designated representative if the claimant is mentally competent and physically able to execute the claim.

(2) If the claimant is mentally incompetent or physically unable to execute the claim and

(i) Has a legally appointed guardian, committee, or other representative, the claim may be executed by such guardian, committee, or other representative, or

(ii) Is in the care of an institution, the claim may be executed by the manager or principal officer of such institution.

(3) For good cause shown, such as the age or prolonged absence of the claimant, the Administration may accept a claim executed by a person other than one described in paragraphs (a) (1) and (2) of this section.

(b) Where the claim is executed by a person other than the claimant, such person shall, at the time of filing the claim or within a reasonable time thereafter, file evidence of his authority to execute the claim on behalf of such claimant in accordance with the following rules—

(1) If the person executing the claim is the legally-appointed guardian, committee, or other legally-designated representative of such claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(2) If the person executing the claim is not such a legally-designated representative, the evidence shall be a statement describing his relationship to the claimant or the extent to which he has the care of such claimant or his position as an officer of the institution of which the claimant is an inmate or patient. The Administration may, at any time, require additional evidence to establish the authority of any such person to file or withdraw a claim.

§ 32.20 Claims.

(a) Claimants are encouraged to submit their claims on LEAA Form 3650/1, which can be obtained from: Public Safety Officers' Benefits Program, Law Enforcement Assistance Administration, Washington, D.C. 20531.

(b) Where an individual files Form 3650/1 or other written statement with the Administration which indicates an intention to claim benefits, the filing of such written statement shall be considered to be the filing of a claim for benefits.

(c) A claim by or on behalf of a survivor of a public safety officer shall be filed within one year after the date of death unless the time for filing is extended by the Administrator for good cause shown.

(d) Except as otherwise provided in this part, the withdrawal of a claim, the cancellation of a request for such withdrawal, or any notice provided for pursuant to the regulations in this part, shall be in writing and shall be signed by the claimant or the person legally designated to execute a claim under § 32.19.

§ 32.21 Evidence.

(a) A claimant for any benefit or fee under the Act and the regulations shall submit such evidence of eligibility or other material facts as is specified by these regulations. The Administration may at any time require additional evidence to be submitted with regard to entitlement, the right to receive payment, the amount to be paid, or any other material issue.

(b) Whenever a claimant for any benefit or fee under the Act and the regulations has submitted no evidence or insufficient evidence of any material issue or fact, the Administration shall inform the claimant what evidence is necessary for a determination as to such issue or fact and shall request him to submit such evidence within a reasonable specified time. The claimant's failure to submit evidence on a material issue or fact, as requested by the Administration, shall be a basis for determining that the claimant fails to satisfy the conditions required to award a benefit or fee or any part thereof.

(c) In cases where a copy of a record, document, or other evidence, or an excerpt of information therefrom, is acceptable as evidence in lieu of the original, such copy or excerpt shall, except as may otherwise clearly be indicated thereon, be certified as a true and exact copy or excerpt by the official custodian of such record, or other public official authorized to certify the copy.

§ 32.22 Representation.

(a) A claimant may be represented in any proceeding before the Administration by an attorney or other person authorized to act on behalf of the claimant pursuant to § 32.19.

(b) No contract for a stipulated fee or for a fee on a contingent basis will be recognized. Any agreement between a representative and a claimant in violation of this subsection is void.

(c) Any individual who desires to charge or receive a fee for services rendered for an individual in any application or proceeding before the Administration must file a written petition therefore in accordance with paragraph (e) of this section. The amount of the fee he may charge or receive, if any, shall be determined by the Administration on the basis of the factors described in paragraphs (e) and (g) of this section.

(d) Written notice of a fee determination made under this section shall be mailed to the representative and the claimant at their last known addresses. Such notice shall inform the parties of the amount of the fee authorized, the basis of the determination, and the fact that the Administration assumes no responsibility for payment.

(e) To obtain approval of a fee for services performed before the Administration, a representative, upon completion of the proceedings in which he rendered services, must file with the Administration a written petition containing the following information—

(1) The dates his services began and ended;

(2) An itemization of services rendered with the amount of time spent in hours, or parts thereof;

(3) The amount of the fee he desires to charge for services performed;

(4) The amount of fee requested or charged for services rendered on behalf of the claimant in connection with other claims or causes of action arising from the officer's death before any State or Federal court or agency;

(5) The amount and itemization of expenses incurred for which reimbursement has been made or is expected;

(6) The special qualifications which enabled him to render valuable services

to the claimant (this requirement does not apply where the representative is an attorney); and

(7) A statement showing that a copy of the petition was sent to the claimant and that the claimant was advised of his opportunity to submit his comments on the petition to LEAA within 20 days.

(f) No fee determination will be made by the Administration until 20 days after the date the petition was sent to the claimant. The Administration encourages the claimant to submit comments on the petition to the Administration during the 20-day period.

(g) In evaluating a request for approval of a fee, the purpose of the public safety officers' benefits program—to provide a measure of economic security for the beneficiaries thereof—will be considered, together with the following factors—

(1) The services performed (including type of service);

(2) The complexity of the case;

(3) The level of skill and competence required in rendition of the services;

(4) The amount of time spent on the case;

(5) The results achieved;

(6) The level of administrative review to which the claim was carried within the Administration and the level of such review at which the representative entered the proceedings;

(7) The amount of the fee requested for services rendered, excluding the amount of any expenses incurred, but including any amount previously authorized or requested;

(8) The customary fee for this kind of service; and

(9) Other awards in similar cases.

(h) In determining the fee, the Administration shall consider and add thereto the amount of reasonable and unreimbursed expenses incurred in establishing the claimant's case. No amount of reimbursement shall be permitted for expenses incurred in obtaining medical or documentary evidence in support of the claim which has previously been obtained by the Administration, and no reimbursement shall be allowed for expenses incurred by him in establishing or pursuing his application for approval of his fee.

Subpart F—Determination, Hearing, and Review

§ 32.23 Finding of eligibility or ineligibility.

Upon making a finding of eligibility, the Administration shall notify each claimant of its disposition of his or her claim. In those cases where the Administration has found the claimant to be ineligible for a death benefit, the Administration shall specify the reasons for the finding. The finding shall set forth the findings of fact, and conclusions of law supporting the decision. A copy of the decision, together with information as to the right to a hearing and review shall be mailed to the claimant at his or her last known address.

§ 32.24 Request for a hearing.

(a) A claimant may, within thirty (30) days after notification of ineligibility by the Administration, request the Administration to reconsider its finding of ineligibility. The Administration shall provide the claimant the opportunity for an oral hearing which shall be held within sixty (60) days of the request for reconsideration. The claimant may waive the oral hearing, and present written evidence to the Administration within sixty (60) days of the request. The request for hearing shall be made to the Director, Public Safety Officers' Benefits Program, Office of the Comptroller, Law Enforcement Assistance Administration, Washington, D.C. 20531.

(b) If requested, the oral hearing shall be conducted in the LEAA Regional Office most convenient to the claimant, or other mutually agreeable location, before a representative of the Administration authorized to conduct the hearing pursuant to 42 U.S.C. 3754.

(c) In conducting the hearing, the Administration representative shall not be bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by Chapter 5 of the Administrative Procedure Act, but must conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose the representative shall receive such relevant evidence as may be introduced by the claimant and shall, in addition, receive such other evidence as such representative may determine to be necessary or useful in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits. The hearing shall be recorded, and the original of the complete transcript shall be made a part of the claims record.

(d) Pursuant to 42 U.S.C. 3754, the Administration representative may, whenever necessary: (1) Sign and issue subpoenas; (2) Administer oaths; (3) Examine witnesses; and (4) Receive evidence at any place in the United States he may designate.

(e) If the representative believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence.

(f) A claimant may withdraw his or her request for a hearing at any time prior to the mailing of the decision by written notice to the Administration representative so stating, or by orally so stating at the hearing. A claimant shall be deemed to have abandoned his or her request for a hearing if he or she fails to appear at the time and place set for the hearing and does not within 10 days after the time set for the hearing, show good cause for such failure to appear.

(g) The representative shall, within thirty (30) days after the hearing, make a determination of eligibility and notify the claimant of his determination. The notice of determination shall set forth the findings of fact and conclusions of law supporting the determination.

(h) A claimant determined ineligible may, within thirty (30) days after notification of the representative's determination, request the Administrator to review the record and the determination made by the Administration representative. The Administrator shall make the final agency determination of eligibility within thirty (30) days after receipt of the request. The notice of final determination shall set forth the findings of fact and conclusions of law supporting the determination.

(i) No payment of any portion of a death benefit shall be made until all hearings and reviews which may affect that payment have been completed.

JAMES M. H. GREGG,
Assistant Administrator,
Office of Planning and Management.

COMMENTARY

§ 32.2(c). An officer is not acting within the line of duty when he is grossly negligent. See the dialogue between Congressmen Brown and Eilberg at Cong. Rec. H 10135–36 (September 15, 1976, daily ed.).

A distinction has been made between those public safety officers whose primary function is crime control or reduction, enforcement of the criminal laws, or suppression of fires, and other officers. PSOB coverage will be extended to those officers who engage in one or all of the above activities, where such activity is not their primary function, only when they suffer a personal injury in the course of crime control or reduction, enforcement of the criminal laws, or fire suppression. "Primary function" will be gauged on the basis of both frequency of involvement by persons in the officer's agency in law enforcement or firefighting activities, and an assessment of the activities the officer was authorized to perform under his job description, or the agency's legal authorization. The rationale for this distinction is essentially the same rational supporting LEAA's decision to make an officer's authority the criterion of coverage in the first place. The legislative history of the Act emphasizes that its purpose was to benefit the survivors of those persons who died as a result of personal injuries suffered while performing law enforcement or firefighting activities. Firefighters, police officers, and the other officials listed in the statutory definition of "law enforcement officer" and "fireman" perform those activities as a primary function of their jobs, even those officers performing desk assignments are primarily involved, even though indirectly, in crime control or reduction, or firefighting.

V42I88 MAY 6 77 UMI

The Act was not intended to cover deaths arising from activities unrelated to law enforcement or firefighting. This would, however, be the certain result of covering all line of duty deaths suffered by officials whose crime control or firefighting responsibilities are significantly limited, in both scope and frequency. LEAA will, therefore, require that the deaths of such officials be substantially related to the law enforcement or firefighting authority they possess, before paying a benefit under the Act.

§ 32.2(d). In determining whether an injury was a substantial factor in the officer's death, LEAA will make no presumptions with respect to the length of time between the injury and death. The claimant has the burden in all cases of showing that the injury was a substantial factor in the officer's death.

§ 32.2(e). To be covered by the Act, an officer's death must be "the direct and proximate result of a personal injury sustained in the line of duty." The terms "direct and proximate result" and "personal injury" are not defined in the Act. The House Judiciary Committee Reports on H.R. 365 (firefighters) and H.R. 366 (public safety officers) noted the Committee's intent that the "direct and proximate result" requirement cover "those cases where the personal injury is a substantial factor in bringing about the officer's death." House Reports No. 94–1031 and 94–1032 (94th Cong., 2d Sess.) at pp. 4 and 5, respectively. "Personal injury" was defined in both reports to include:

> • • • all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by physical impact, as well as diseases which are caused by or result from such injuries, but not diseases which arise merely out of the performance of duty. In other words, deaths from occupational diseases alone are not within the purview of this legislation. House Reports, supra, at pp. 4 and 4–5, respectively.

House debate on the issue was confined to a reiteration by Congressman Joshua Eilberg, the bill's sponsor, of the exclusion of "occupational diseases and diseases which arise out of the performance of duties" from the scope of the legislation. Cong. Rec. H 3738 (April 30, 1976, daily ed.).

In the Senate, the bill passed by the Judiciary Committee covered officers who died in the line of duty from "injuries directly and proximately caused by a criminal act or an apparent criminal acts • • •". Senator Frank Moss introduced an amendment on the Senate floor, substituting "as the direct and proximate result of a personal injury sustained in the line of duty" for the more limited "criminal act" condition. In expressing his support for the amendment, Senator John McClellan noted that the bill "is not health insurance; but it does provide for payment if an officer is killed in the line of duty, either by accident or by willful assault by a criminal." Cong. Rec. S 11837–38, (July 19, 1976, daily ed.). The amendment passed and ultimately became part of the final Act.

LEAA believes that the definition of "personal injury" in the House Judiciary Committee Reports manifests the Committee's intent to limit coverage to deaths caused by traumatic injuries. The Report language is consistent with the following definition of "trauma" in Stedman's Medical Dictionary (W. H. Anderson Company-Jefferson Law Book Company, Fourth Unabridged Lawyers' Edition): "traumatism; an injury caused by rough contact with a physical object; accidental or inflicted wound." The regulations, accordingly, have defined "traumatic injury" to mean "a wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain." Section 32.2(f). Deaths caused by traumatic injuries do not therefore include deaths directly attributable to exertion or stress encountered in the performance of duty, unless that stress resulted in or was caused by a traumatic injury that was a substantial factor in the officer's death.

The Committee expressly excluded occupational diseases from the scope of "personal injury." LEAA has defined "occupational diseases" to mean a "disease which routinely constitutes a special hazard in, or is commonly regarded as a concomitant of the officer's occupation." Section 32.2(g). See *Hanna* v. *Workmen's Compensation Appeals Board*, 108 Cal. Rept. 227, 32 Cal. App. 3d 917 (1973); *Harman* v. *Republic Aviation Corporation*, 298 N.Y. 285, 82 N.E. 785 (1948); and *Chausse* v. *Lowe*, 35 F. Supp. 1011 (E.D. N.Y. 1938).

The definition of "personal injury" in the legislative history of PSOB, and the exclusion of occupational diseases from the scope of the Act have led LEAA to conclude that deaths resulting from chronic, congenital, or progressive cardiac and pulmonary diseases are not covered by PSOB, unless a traumatic injury was a substantial factor in the death.

Where, for instance, LEAA determines the cause of death to be myocardial infarction resulting from a coronary thrombosis, no benefit will be paid unless the claimant can demonstrate a substantial causal connection between a traumatic injury and the thrombosis. Similarly, where an officer suffering from heart disease, such as arteriosclerosis, has sustained a traumatic injury and died of a "heart attack," a benefit will be paid only if the injury is determined to be a substantial factor in the officer's death. Prior to making this determination, LEAA will submit the claim file to a forensic pathologist for review. If appropriate, the opinions of other pathologists or cadiologists will be solicited. In those cases where LEAA cannot reasonably determine which factor—the heart condition or the personal injury—was the substantial causal contribution to death, it "shall resolve any reasonable doubt arising from the circumstances of the officer's death in favor of payment of the death benefit." Section 32.4. Because an autopsy report will greatly assist LEAA in expediting its review, and making the correct determination, claimants and public agencies are encouraged to request that autopsies be performed.

§ 32.2(f). Climatic conditions include atmospheric conditions, such as dense smoke, as well as precipitation and intensely high or low temperatures.

§ 32.2 (i) and (j). Civilians are covered by the Act if they are performing an activity, or in a category of personnel listed in the definitions of "law enforcement officer" or "firefighter," subject to the definition of "line of duty" in § 32.2(c).

Judicial officers include those attorneys involved in enforcement of the criminal law who serve a public agency in an official capacity, e.g., prosecutors and public defenders, as well as those officers of the court engaged in the activities listed in Section 32.2(i).

§ 32.2(m). As directed by the Act, "student" is defined as provided in 5 U.S.C. 8101.

§ 32.2(q). Neither the United States, nor any of its agencies or instrumentalities, are public agencies within the meaning of the Act. Federal public safety officers are not, therefore, covered by the Act.

§ 32.3. In 42 U.S.C. 3796c, LEAA is authorized to "establish such rules, regulations, and procedures as may be necessary to carry out the purposes of (the Act). Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part."

In applying terms such as "direct and proximate result" or "line of duty," or in determining proof of relationship, the applicable State law will be considered, but will not be determinative. LEAA seeks to assure that eligibility will be determined by a uniform set of rules, regardless of where in the country the officer died or his beneficiaries reside. LEAA believes that the establishment of uniform rules and precedents best manifests congressional intent.

§ 32.7. LEAA will not deny coverage under the Act in circumstances where the deceased officer violated a rule that was habitually unenforced by his department or unrelated to the cause of death, or where the officer engaged in conduct that had previously been condoned or endorsed by the department.

§ 32.9. The officer's history of treatment or counseling for alcoholic problems will also be considered in determining whether the voluntary intoxication of the officer was the proximate cause of his death.

The situation might arise where an off-duty officer is legally intoxicated and is ordered by his superiors to respond to an emergency. If the officer advises his superiors that he believes he is too intoxicated to perform his job, yet is still ordered to respond, benefits will not be denied on the grounds of voluntary intoxication if the officer dies while responding to the emergency.

§ 32.18(b). The Anti-Assignment Act, 31 U.S.C. 203, also prohibits transfer or assignment of a claim against the United States prior to the allowance of the claim.

The Internal Revenue Service has advised the House and Senate Judiciary Committees that the benefit "could be regarded as benefits received under a statute which is in the nature of Workmen's Compensation Act and as such would be excludable under section 104(a)(1) of the (Internal Revenue) Code." See H. Rept. No. 94–1132 (94th Cong., 2d Sess.), pp. 5–6, and S. Rept. No. 94–816 (94th Cong., 2d Sess.), at p. 6. The Internal Revenue Service opinion is not dispositive of State income tax questions.

§ 32.20(c). An example of good cause which would clearly warrant an extension of the filing period is a statement from the claimant indicating that he or she was unaware of the existence of the Act or of his or her eligibility for its benefits.

§ 32.24. Because the Act does not require the opportunity for a hearing on the record, the adjudication provisions of the Administrative Procedures Act (APA), 5 U.S.C. 554, do not apply. LEAA has, however, proposed an informal and expedited review process pursuant to which determinations may be reconsidered. The review process is intended to minimize the financial and logistical burden on the claimant, yet provide a fair hearing of his views. A claimant dissatisfied with the Administration's final determination may then proceed to seek such judicial relief as might be available.

[FR Doc.77–13059 Filed 5–5–77;8:45 am]

V42188 MAY 6 77 UMI

federal register

FRIDAY, MAY 6, 1977

PART III



DEPARTMENT OF LABOR

Employment Standards Administration

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MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions; Index

V42|88 MAY 6 77 UMI

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Mississippi	MS77–1054
	MS77–1055
	MS77–1056
	MS77–1057

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

Arkansas:	
AR77–4018	Feb. 4, 1977.
AR77–4061	Mar. 11, 1977.
AR77–4072	Apr. 1, 1977.
AR77–4078; AR77–4082; AR77–4083.	Apr. 8, 1977.
Georgia:	
GA75–1025	Feb. 28, 1975.
GA76–1119	Oct. 15, 1976.
GA77–1005	Jan. 28, 1977.
Illinois:	
IL76–2015	Feb. 27, 1976.
IL76–2078	Aug. 13, 1976.
IL76–2123; IL76–2125	Oct. 8, 1976.
IL76–2128; IL76–2131; IL76–2133.	Oct. 22, 1976.
IL76–2130; IL76–3132	Oct. 29, 1976.
IL76–2142; IL76–2143	Nov. 12, 1976.
IL76–2144	Nov. 26, 1976.
IL76–2030	Mar. 4, 1977.
Kansas:	
KS77–4081	Apr. 8, 1977.
Kentucky:	
KY77–1011	Feb. 11, 1977.
Massachusetts:	
MA76–2098	Aug. 13, 1976.
MA76–2102	Sept. 3, 1976.
Nevada:	
NV77–5022	Mar. 18, 1977.
New Hampshire:	
NH77–2001; NH77–2002	Jan. 21, 1977.
NH77–2003; NH77–2004	Jan. 28, 1977.
Ohio:	
OH77–2063	Apr. 15, 1977.
Oklahoma:	
OK77–4073	Apr. 1, 1977.
Oregon:	
OR77–5033	Mar. 25, 1977.
Pennsylvania:	
PA76–3183	May 7, 1976.
PA76–3208	July 2, 1976.
PA76–3210	July 23, 1976.
PA76–3246	Sept. 17, 1976.
PA76–3251	Sept. 24, 1976.
PA77–3016	Jan. 28, 1977.
PA77–3026	Feb. 4, 1977.
PA77–3029; PA77–3030; PA77–3033.	Feb. 18, 1977.
PA77–3032	Mar. 25, 1977.
PA77–3031; PA77–3039	Apr. 8, 1977.
PA77–3028; PA77–3034	Apr. 15, 1977.
PA77–3049	Apr. 22, 1977.
South Dakota:	
SD77–5027; SD77–5028	Mar. 4, 1977.
Tennessee:	
TN77–1037	Apr. 1, 1977.
Texas:	
TX76–4140	Aug. 6, 1976.
TX76–4171	Oct. 8, 1976.
TX76–4193; TX76–4197	Dec. 28, 1976.
TX77–4006; TX77–4007	Jan. 21, 1977.
TX77–4044; TX77–4045	Feb. 25, 1977.
TX77–4053; TX77–4054; TX77–4055; TX77–4057.	Mar. 4, 1977.
TX77–4070; TX77–4071	Apr. 1, 1977.
Utah:	
UT77–5006	Jan. 28, 1977.
Virginia:	
MD77–3041	Mar. 18, 1977.
Washington:	
WA77–5032	Apr. 1, 1977.
Washington, D.C.:	
DC77–3040	Mar. 18, 1977.
Wisconsin:	
WI77–2042	Apr. 8, 1977.
WI77–2049	Apr. 15, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:		
AL77–1045 (AL77–1088)	Apr. 15, 1977.	
AL77–1045 (AL77–1068)	Apr. 22, 1977.	
California:		
(CA76–5130 (CA77–5041); CA76–5121 (CA77–5043).	Dec. 28, 1976.	
Colorado:		
CO77–5014 (CO77–5047); CO77–5015 (CO77–5048); CO77–5016 (CO77–5049); CO77–5017 (CO77–5050); CO77–5018 (CO77–5051).	Mar. 11, 1977.	
Iowa:		
IA76–4147 (IA77–4091); IA76–4149 (IA77–4092); IA76–4149 (IA77–4093).	Sept. 10, 1976.	
IA76–4150 (IA77–4094)	Sept. 17, 1976.	
IA76–4178 (IA77–4095); IA76–4174 (IA77–4096).	Oct. 15, 1976.	
IA77–4004 (IA77–4090)	Jan. 21, 1977.	
IA77–4099 (IA77–4098)	Apr. 15, 1977.	
Michigan:		
MI76–2135 (MI77–3060); MI76–2196 (MI77–3061); MI76–2197 (MI77–3063).	Oct. 29, 1976.	
MI76–2138 (MI77–3064)	Nov. 5, 1976.	
Minnesota:		
MN76–2001 (MN77–3043)	Jan. 16, 1976.	
MN76–2002 (MN77–3045); MN76–2003 (MN77–3046).	Jan. 28, 1976.	
MN76–2004 (MN77–3044)	May 21, 1976.	
MN76–2184 (MN77–3047)	Oct. 29, 1976.	
Ohio:		
AM–490 (OH77–2067)	Aug. 18, 1971.	
Tennessee:		
TN76–1051 (TN77–1051)	May 16, 1976.	
TN76–1181 (TN77–1047)	Dec. 17, 1976.	
TN76–1072 (TN77–1052)	June 18, 1976.	

NEW DECISION

STATE: Mississippi
DECISION NO.: MS77–1054
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).
COUNTY: De Soto
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pension	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	4.40				
Asbestos workers	8.00	.35	.50		.05
Bricklayers	5.00				
Boilermakers	8.20				
Carpenters	5.50				
Cement masons	7.00				
Electricians	8.00	.35	.40+15		3%
Glaziers	4.00				
Ironworkers, structural & ornamental	8.95				
Ironworkers, reinforcing	4.00				
Laborers	3.875				
Painters, brush	4.23				
Plumbers & pipefitters	5.59				
Roofers	4.65				
Sheet metal workers	6.80				
Soft floor layers	4.88				
Tile setters	7.20				
Truck drivers	3.875				

NEW DECISION

STATE: Mississippi
DECISION NO.: MS77–1055
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).
COUNTY: LaFlore
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pension	Vacation	Education and/or Appr. Tr.
Bricklayers	7.00				
Carpenters	4.50				
Cement masons	4.50				
Electricians	4.75				
Ironworkers, reinforcing	3.00				
Laborers:					
Laborers	2.64				
Mortar mixers	2.75				
Lathers	4.13				
Painters, brush	3.50				
Plasterers	4.44				
Plumbers & pipefitters	5.00				
Sheet metal workers	5.35				
Tile setters	5.20				
Truck drivers	3.00				
POWER EQUIPMENT OPERATORS:					
Bulldozers	3.06				

should utilize the project determination procedure by submitting form SF-308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7 (b) (2), the incorporation of the Decision Number TN76–1010 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 29th day of April 1977.

RAY J. DOLAN,
Assistant Administrator, Wage and Hour Division.

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NEW DECISION

STATE: Mississippi COUNTY: Yalobusha
DECISION NUMBER: MS77-1056 DATE: Date of Publication
DESCRIPTIONOF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	9.50	.75	1.00		.02
Bricklayers	5.00				
Carpenters	5.00				
Cement masons	4.06				
Electricians	4.00				
Form setters	5.50				
Glaziers	3.32				
Ironworkers:					
Structural	3.55				
Reinforcing	4.06				
Laborers	2.50				
Lathers	4.10				
Painters	4.00	.07			
Plasterers	3.815				
Plumbers	4.75				
Roofers	3.68				
Sheet metal workers	3.88				
Sprinkler fitters	10.35	.65	.85		.08
Tile setters	5.00				
Truck drivers	3.22				
POWER EQUIPMENT OPERATORS:					
Backhoe	3.80				
Bulldozer	4.00				

NEW DECISION

STATE: Mississippi COUNTY: Noxubee
DECISION NO.: MS77-1057 DATE: Date of Publication
DESCRIPTION OF WORK: Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters & formsetters	4.50				
Cement masons	3.75				
Electricians	7.16				
Laborers:					
Laborers	2.50				
Pipelayers	3.15				
Truck drivers	3.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.00				
Bulldozer	3.75				
Crane	4.00				
Front end loader	4.00				
Mechanic	5.50				
Motor petrol	4.55				
Oiler-greaser	4.50				
Roller	3.80				
Scraper	4.55				
Trenching machine	5.00				

MODIFICATIONS P. 1

DECISION NO. AR77-4018 - Mod. #4
(42 FR 7040 - February 4, 1977)
Crawford, Sebastian and Washington Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS(Washington Co.)	$10.75	.25	.72		.02
SPRINKLER FITTERS	10.12	.65	.95		.08

DESCRIPTION OF WORK TO READ "Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)"

DECISION NO. AR77-4061 - Mod. #3
(42 FR 13723 - March 11, 1977)
Conway, Cleburne, Faulkner, Van Buren and Perry Counties, Arkansas

CHANGE:					
ASBESTOS WORKERS	$10.05	.45	.50		.02
SPRINKLER FITTERS	10.12	.65	.95		.08
LATHERS	8.85				.02
CARPENTERS:					
Cleburne, Van Buren, Faulkner County and the Eastern half of Conway and Perry Counties:					
Carpenters	8.63	.45	.35		.05
Millwrights & Piledrivermen	9.13	.45	.35		.05
GLAZIERS	7.90		.25		
PLUMBERS & PIPEFITTERS:					
Within 10 miles radius of Pulaski County Courthouse	10.35	.45	.55		.02
Over 10 miles from the Pulaski County Courthouse	10.65	.45	.55		.02

DECISION NO. AR77-4072 - Mod. #1
(42 FR 17754 - April 1, 1977)
Statewide, Arkansas

CHANGE DESCRIPTION OF WORK TO READ "Construction, alteration, and/or repair of streets, highways, runways, and water and sewer utilities, (but does not include building structures on highway rest areas)".

MODIFICATIONS P. 2

DECISION NO. AR77-4078 - Mod. #1
(42 FR 18796 - April 8, 1977)
Pulaski County, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$10.05	.45	.50		.02
SPRINKLER FITTERS	10.12	.65	.95		.08
LATHERS	8.85				.02
CARPENTERS:					
Carpenters	8.63	.45	.35		.05
Millwrights & Piledrivermen	9.13	.45	.35		.05
GLAZIERS	7.90		.25		
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	10.35	.45	.55		.02
Over 10 miles from the Pulaski County Courthouse	10.65	.45	.55		.02

DECISION NO. AR77-4082 - Mod. #1
(42 FR 18798 - April 8, 1977)
Union and Ouachita Counties, Arkansas

CHANGE:					
ASBESTOS WORKERS	$10.05	.45	.50		.02
SPRINKLER FITTERS	10.12	.65	.95		.08
PLUMBERS	9.85	.45	.55		.05

DECISION NO. AR77-4083 - Mod. #1
42 FR 18800 - April 8, 1977)
Garland, Hot Springs and Clark Counties, Arkansas

CHANGE:					
ASBESTOS WORKERS	$10.05	.45	.50		.02
SPRINKLER FITTERS	10.12	.65	.95		.08
LATHERS	8.85				.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA75-1025 - Mod. #6 (40 FR-8691 - February 28, 1975) Hall County, Georgia					
Change:					
Carpenters & Resilient Tile Setters	5.49				
Omit:					
Electricians, Commercial	8.00	8%	8% + 1%		.25%
Electricians, Industrial	9.95	8%	8% + 1%		.25%
Add:					
Electricians	5.68				
DECISION #GA76-1119 - Mod. #3 (41 FR-45800 - October 15, 1976) Richmond County, Georgia					
Change:					
Electricians	9.26	.50	1% + .20		½ of 1%
Sprinkler Fitters	10.35	.65	.95		.09
DECISION #GA77-1005 - Mod. #1 (42 FR-5621 - January 28, 1977) Clayton, DeKalb, and Fulton Counties, Georgia					
Change:					
Bricklayers:					
Bricklayers & Stonemasons	9.10	.55	.50		.05
Marble masons, terrazzo workers, and ceramic tile setters	8.95	.55	.50		
Sprinkler Fitters	10.35	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2015 - Mod. #3 (41 FR 8643 - February 27, 1976) Peoria & Tazewell Counties, Illinois					
CHANGE:					
Painters:					
Brush	$10.30	.55	.30		.03
Structural Steel & Spray	10.80	.55	.30		.03
Plasterers	10.90	.60	.60		.01
Roofers	10.10	.70	.40		.025
Sheet Metal Workers	11.22	.50	.75		.08
DECISION #IL76-2078 - Mod. #3 (41 FR 34493 - August 13, 1976) Madison & St. Clair Counties, Illinois					
CHANGE:					
Painters:					
Residential-Commercial	10.55	.55	.35		
Industrial & Tapers	10.80	.55	.35		
Bridges; Grain Elevators, Water-Radio & TV Towers; Stacks	11.05	.55	.35		
Plumbers & Steamfitters:					
Granite City; Southern ½ of Madison Co., & E. St. Louis & Vic. in St. Clair County	10.75	.65	.70		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2123 - Mod. #6 (41 FR 44612 - October 8, 1976) DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
CHANGE:					
Painters:					
DuPage, Kane, Kendall & McHenry Counties:					
Brush, Spray & Taper	$9.34	.60	.70		.06
DECISION #IL76-2125 - Mod. #3 (41 FR 44620 - October 8, 1976) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Painters:					
Putnam Co; & the vicinity of LaSalle, Mendota, Oglesby, Utica & Peru in LaSalle Co.					
Brush	8.00	.45	.45		
Spray & Taping	9.00	.45	.45		
Vicinity of Ottawa, Streator and Marseilles in LaSalle County:					
Brush & Roller	9.00	.45	.15		
Spray	10.00	.45	.15		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2128 - Mod. #4 (41 FR 46823 - October 22, 1976) Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt & Shelby Counties, Illinois					
CHANGE:					
Cement Masons & Plasterers: Macon Co; Christian Co:(northern Part-south to a line running east & west established north of Humphrey & inlcuding Stonington); Shelby Co; (northern part including Lovington) Piatt Co: (southern portion) DeWitt Co: (southern ½ of county, including Clinton					
Cement Masons	$10.60	.40	.375		
Plasterers	10.82	.40	.375		.01
DECISION #IL76-2130 - Mod. #3 (41 FR 47726 - October 29, 1976) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
CHANGE:					
Cement Masons:					
Rock Island, Mercer & Eastern ½ of Henry County	10.37	.50	.60		
Glaziers:					
Remainder of Counties	9.80	.60	1.00		
Plumbers & Steamfitters:					
Remainder of Counties	11.00	.54	1.24		.17
DECISION #IL76-2131 - Mod. #2 (41 FR 46828 - October 22, 1976) Sangamon County, Illinois					
CHANGE:					
Painters:					
Brush & Roller	$9.70	.55	.15		
Spray	10.20	.55	.15		
Sprinkler Fitters	11.65	.65	.95		.08

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2132 - Mod. #5 (41 FR 47729 - October 29, 1976) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson Counties, Illinois					
CHANGE: Ironworkers: Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Union & Williamson Counties	9.90	.45	.65		.02
DECISION #IL76-2133 - Mod. #4 (41 FR 46831 - October 22, 1976) Boone, Carroll, DeKalb, Jo-Daviess, Lee, Ogle, Stephenson, Whiteside & Winnebago Counties, Illinois					
CHANGE: Carpenters: Remainder of Lee & Ogle Counties: Carpenters & Soft Floor Layers	10.65	.45			
Millwrights & Piledrivermen	11.15	.45			
Cement Masons: Boone & Winnebago Counties	9.93	.40	.45		
Plasterers: Boone & Winnebago Counties	9.58	.30	.50		.01
Painters: Carroll, Lee, Ogle & Whiteside Counties: Brush	9.00				
Spray, Struc. Steel & Sandblasting	9.35				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2142 - Mod. #2 (41 FR 50126 - November 12, 1976) Bureau, Carroll, Henry, Lee, JoDaviess, Ogle, Rock Island, Stephenson, Whiteside & Winnebago Counties, Illinois					
CHANGE: Cement Masons: Eastern ½ of Henry County	$11.24		.20		
Rock Island Co; Western ½ of Henry Co; & Erie & SW thereof in Whiteside County	10.17	.60	.60		
Laborers: Henry County: Unskilled	9.11	.40	.42		.035
Semi-Skilled	9.31	.40	.42		.035
Skilled	9.55	.40	.42		.035
Rock Island County: Unskilled	9.17	.40	.60		.035
Semi-Skilled	9.42	.40	.60		.035
Skilled	9.67	.40	.60		.035

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2143 - Mod. #2 (41 FR 50133 - November 12, 1976) Ford, Grundy, Iroquois, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE: Laborers: Ford, Livingston, Iroquois, Kankakee, Marshall & Woodford Counties: Unskilled	$9.11	.40	.42		.035
Semi-Skilled	9.31	.40	.42		.035
Skilled	9.55	.40	.42		.035
McLean County: Unskilled	9.11	.50	.42		.035
Semi-Skilled	9.31	.50	.42		.035
Skilled	9.55	.50	.42		.035
DECISION #IL76-2144 - Mod. #2 (41 FR 52247 - November 26, 1976) Fulton, Hancock, Henderson, Knox, McDonough, Mercer, Peoria, Stark, Tazewell & Warren Counties, Illinois					
CHANGE: Laborers: Fulton County & the Remainder of Tazewell County: Unskilled	9.80	.40	.40		.035
Semi-Skilled	10.00	.40	.40		.035
Skilled	10.20	.40	.40		.035
Mercer County: Unskilled	9.17	.40	.60		.035
Semi-Skilled	9.42	.40	.60		.035
Skilled	9.67	.40	.60		.035

DECISION #IL76-2144 - Mod. #2 (Cont'd)

ILL-20-LAB-2-3

LABORERS: PEORIA COUNTY & CITY OF EAST PEORIA IN TAZEWELL COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROADS, DRIVEWAYS & ALLEY CONST. Bricklayer tender, Carpenter tender, Cement Mason Tender, Flagman, Concrete Form Dismantler, Piledriver Tender, Surveyor Helper, Tool Cribman, Water carrier, Expansion joint assemblers, all other excavating work & labor, curing all concrete by hand method, Drive stakes, stringlines for all machinery, waterproofing w/cold stuff	$9.78	.40	.42		.035
Stripping Concrete forms with composite crew of carpenters and laborers	9.93	.40	.42		.035
All Power operated tools, Asphalt kettlemen & carriers, Cement men & Sack shakers, Chipping hammermen, Jackhammer & drill operator (open), Powderman Helper, Power form tampere, Power concrete saw, Rigmen, Signalling & spotting rigs & equipment, waterproofing w/hot stuff	9.905	.40	.42		.035
Power Wheelbarrows or Buggies	10.055	.40	.42		.035
Gunnite Pump Man, Puddlers, Vibrator Man, Wire Fabric Placer, Sandblasting pump man, Strike off, Unloading, handling & carrying of any creosoted material concrete burning bars	10.03	.40	.42		.035
Asphalt raker, Bricksetters, Cutting torch, Setting lines to level forms, Form setters, Gunnite nozzleman, Sandblasting Nozzleman, Powderman, Rip-rapping, Cutting Torchman (elec. & acetylene)	10.135	.40	.42		.035

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DECISION #IL76-2144 - Mod. #2 (Cont'd) ILL-20-LAB-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
TUNNEL & SUBWAYS (FREE AIR):					
Top Laborer	$ 9.78	.40	.42		.035
Bell Man (top & bottom), all Laborers in Tunnel	9.905	.40	.42		.035
Drill & Powder Man, Gunnite Operator (Tunnel), Operator Cement Placement	10.155	.40	.42		.035
Muckers	10.155	.40	.42		.035
Tunnel Miners	9.905	.40	.42		.035
COFFERDAMS & CAISSON (FREE AIR):					
Caisson & Cofferdam Top Man Helpers	9.78	.40	.42		.035
Caisson & Cofferdam Top Man	9.905	.40	.42		.035
Caisson & Cofferdam Miners & Muckers	10.255	.40	.42		.035
OPEN SEWER OR TRENCHES:					
Top Man & all other excavating Bottom man who does immediate grading, Batter Board Men, Laser Beam Equipment	9.78	.40	.42		.035
Tile Layer & Caulker	9.905	.40	.42		.035
Gribbing, Jackman & Hydraulic Jackman in Trench	10.155	.40	.42		.035
LEVEE & HEAVY GRADING:	10.255	.40	.42		.035
All other Laborers	9.78	.40	.42		.035
Spotters, Dump Man & Cut Man	9.905	.40	.42		.035
PIPELINE:					
All other Laborers, Rollers, Sealers & Spotters	9.78	.40	.42		.035
Signal Men on Rigs, Rig-men, Kettlemen & Carriers, Men handling hotstuff, Men who do immediate grading for laying of pipe or digging bell holes	9.905	.40	.42		.035

DECISION #IL76-2144 - Mod. #2 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont d)					
Hancock, Henderson, Knox, Stark, McDonough & Warren Counties:					
Unskilled	$9.11	.40	.42		.035
Semi-Skilled	9.31	.40	.42		.035
Skilled	9.55	.40	.42		.035
Power Equipment Operators:					
Remainder of Counties					
Group 1	11.30	.45	.55		.05
Group 2	11.10	.45	.55		.05
Group 3	10.52	.45	.55		.05
Group 4	10.25	.45	.55		.05
Group 5	8.64	.45	.55		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL77-2030 - Mod. #2 (42 FR 12584 - March 4, 1977) Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawerence, Richland, Wabash & Wayne Counties, Illinois					
CHANGE:					
Bricklayers:					
Remainder of Counties	$10.25		.50		
Painters:					
Crawford, Jasper, Effingham, Lawerence, Richland:					
Commercial & Industrial	9.05	.45			
Carpenters:					
Fayette, Clay, Richland & Wabash Cos; the south-eastern part of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	9.36	.50	.50		.03
Millwrights	9.71	.50	.50		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS77-4061 - Mod. #1 (42 FR 18809 - April 8, 1977) Sedgwick County, Kansas					
Change:					
Painters:					
Group 1	$9.47	.10	.30		.01
Group 2	9.82	.10	.30		.01
Group 3	10.07	.10	.30		.01
Group 4	10.22	.10	.30		.01
DECISION #KY77-1011 - Mod. #2 (42 FR 8914 - February 11, 1977) McCracken County, Kentucky					
Change:					
Bricklayers	8.80	.30	.20		
Ironworkers:					
Structural, ornamental, and reinforcing	9.90	.45	.65		.02
Marble masons	8.80	.30	.20		
Sprinkler fitters	11.65	.65	.95		.08
Stone masons	8.80	.30	.20		
Terrazzo workers	8.80	.30	.20		
Tile setters	8.80	.30	.20		

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DECISION NO. MA76-2032- Mod 36 (41 FR 34514- August 13, 1976) Essex County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers	$10.40	.57	.84		.03
Sprinkler fitters	11.62	.65	.95		.03
Add: All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Painters: Lawrence, Methuen, N. Andover, and Andover	9.15	1.05	.72		.04
DECISION NO. MA76-2102- Mod 35 (41 FR 37472- September 3, 1976) Middlesex County, Massachusetts					
Change:					
Sprinkler fitters	11.63	.65	.95		.08
Add: All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Painters: N. Reading	9.15	1.05	.72		.04

DECISION #NV77-5022 - Mod. #3 (42 FR 15273 - March 18, 1977) Clark County (does not include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Zone 1: Area within the city limits of Henderson, Nevada and Boulder City, Nevada; area within a 10-mile radius of Las Vegas, Nevada; in Clark County, the present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base boundad on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$10.36	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors;	10.31	.65	.90	1.00	.10
Power saw operators	10.56	.65	.90	1.00	.10
Piledrivermen	10.96	.65	.90	1.00	.10
Millwrights					
Zone 2: Area outside of Zone 1 and not more than 20 miles from the communities described above:					
Carpenters	10.86	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors;	11.01	.65	.90	1.00	.10
Power saw operators	11.06	.65	.90	1.00	.10
Piledrivermen	11.46	.65	.90	1.00	.10
Millwrights					
Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:					
Carpenters	11.11	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors;	11.26	.65	.90	1.00	.10
Power saw operators	11.31	.65	.90	1.00	.10
Piledrivermen	11.71	.65	.90	1.00	.10
Millwrights					

DECISION #NV77-5022 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Carpenters (Cont'd):					
Zone 4: Area over 40 miles from the communities described above:					
Carpenters	$12.36	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors;	12.51	.65	.90	1.00	.10
Power saw operators	12.56	.65	.90	1.00	.10
Piledrivermen	12.96	.65	.90	1.00	.10
Millwrights					

DECISION NO. NH77-2001- Mod #1 (42 FR 4087- January 21, 1977) Hillsboro County, New Hampshire	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians: Remainder of County	$10.75	.40	1%		.03
Sheet metal workers	9.42	.55	.45		.02
Sprinkler fitters	10.46	.65	.95		.03
DECISION NO. NH77-2002- Mod #1 (42 FR 2050- January 21, 1977) Merrimack County, New Hampshire					
Change:					
Electricians: Hookset	10.75	.40	1%		.03
Sheet metal workers	9.42	.55	.45		.02
Sprinkler fitters	10.46	.65	.95		.03
DECISION NO. NH77-2003- Mod #1 (42 FR 5623- January 28, 1977) Rockingham County, New Hampshire					
Change:					
Electricians: Remainder of County	10.75	.40	1%		.03
Laborers:					
Building, heavy and highway:					
Pneumatic tool ops, drillers, pavement breakers	6.66	.50	.45		.10
Laborers	6.16	.50	.45		.10
Blasters and powdermen	6.66	.50	.45		.10
Plasters' tenders	6.31	.50	.45		.10
Plumbers and steamfitters:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	10.15	1.35	.52		.03
Sheet metal workers	9.42	.55	.45		.02
Sprinkler fitters	10.46	.65	.95		.08
DECISION NO. NH77-2004- Mod #1 (42 FR 5629- January 28, 1977) Strafford County, New Hampshire					
Change:					
Sheet metal workers	9.42	.55	.45		.02
Sprinkler fitters	10.46	.65	.95		.03

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MODIFICATIONS P. 19

DECISION NO. OH77-2063 - Mod. #1
(42 FR 20086 - April 15, 1977)
Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Changes:					
Bricklayers & Stonemasons:					
Allen, Auglaize, Mercer, & Van Wert Cos.	$11.08		.20		
Champaign, Clark, & Logan Cos.	10.60				
Columbiana Co. (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem & Unity), Mahoning Co. (except Smith Twp.)	11.54	.60	.60		.02
Delaware, Franklin, Madison, Pickaway & Union Cos.	10.64	.80	.80		.02
Greene & Montgomery Cos. & the remainder of Preble Co.	10.35	.75	.75		.02
Trumbull Co.	11.84	.40	.50		.02
Carpenters & Piledrivermen:					
Allen, Auglaize, Champaign, Clark, Coshocton, Delaware, Fairfield, Franklin, Guernsey, Hardin, Holmes, Knox, Licking, Logan, Madison, Marion, Mercer, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Putnam, Union, Van Wert, & Wyandot Cos.:					
Carpenters	9.77	.50	.70		.02
Piledrivermen	10.37	.50	.70		.02
Ashland, Crawford, Erie (E. of B & O Rail Road Tracks), Huron, Lorain & Richland Cos.:					
Piledrivermen	11.45	.67	1.15		.03
Athens, Hocking, Vinton & Washington Cos.:					
Carpenters	9.80	.50	.70		.02
Piledrivermen	10.10	.50	.70		.02

MODIFICATIONS P. 20

DECISION NO. OH77-2063 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Belmont & Monroe Cos.:					
Piledrivermen	$10.22	.50	.50		.03
Columbiana, Harrison, & Jefferson Cos.:					
Carpenters	9.45	.87	.65		.02
Piledrivermen	9.52	.40	.50		.01
Darke, Greene, Miami, Montgomery, Preble & Shelby Cos.:					
Carpenters	10.35	.65	1.00		.05
Piledrivermen	10.35	.65	1.00		.05
Electricians:					
Champaign & Clark Cos. & Madison Co. (Twps. of Paint, Pike, Somerford, Stokes & Union)	10.44	.45	1%+.75		.04
Coshocton, Knox (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), Licking, & Tuscarawas (So. ½ incl. Twps. of Auburn, Clay, Rush, York, Jefferson, Oxford, Washington, Salem, Perry, & Bucks Twps.) Cos.	10.30	.28	1%+.60		.03
Lake & Geauga Cos. (All but Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell & Troy Twps.)	11.88	.70	1%+.50		.3%
Mahoning Co. (Excl. Milton & Smith Twps.), Trumbull Co. (Twps. of Hubbard & Liberty) & Columbiana Co. (Twps. of Butler, Fairfield, Perry, Salem & Unity)	12.35	.56	3%		.3%

MODIFICATIONS P. 21

DECISION NO. OH77-2063 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers:					
Columbiana, Mahoning & Trumbull Cos. & the Ravenna Ordnance Depot in Portage Co.	$11.76	.40	1.15		.07
Linemen:					
Ashtabula Co., except Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor	11.70	.65	1%+.75		½%
Fairfield, Licking & Knox (Rem. of Co.)	10.98	.45	1%		½%
Lake Co. & Geauga Co., except Twps. of Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell & Troy	11.63	.70	1%+.50		.5%
Mahoning & Trumbull Cos., Ashtabula Co. (Rem. of Co.), Columbiana Co. (Twps. of Butler, Fairfield, Perry, Salem & Unity), Geauga Co. (Twps. of Auburn, Middlefield, Parkman, & Troy) & Portage Co. (Twps. of Charlestown, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham)	12.37	.45	1%		½%
Monroe, Noble, & Washington Cos.	11.56	.35	1%+.62	1.02	½%
Muskingum & Perry Cos.	10.53	.35	1%		½%
Summit Co. & the rem. of Medina, Portage & Wayne Cos.	11.23	.57	1%+.65		½%
Painters:					
Athens & Hocking Cos.:					
Brush	10.08				
Spray	11.08				
Belmont Co.	7.50	.30	.25		
Champaign, Clark, & Logan Cos.:					
Spray	8.50	.10	.25		

MODIFICATIONS P. 22

DECISION NO. OH77-2063 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clinton, Darke, Greene, Miami, Montgomery & Preble Cos.:					
Brush	$11.05	.40	.40		.02
Structural steel	11.45	.40	.40		.02
Spray	11.55	.40	.40		.02
Cuyahoga, Geauga & Lake Cos., Lorain (NE part) & Portage & Summit Cos. North of the Ohio Turnpike:					
Brush	11.66	.63	.74		.05
Bridges & Open steel; Closed steel over 55 ft.	12.36	.63	.74		.05
Closed steel below 55 ft.; Spray	12.06	.63	.74		.05
Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Brush	9.45	.55	.55		
Structural steel	9.75	.55	.55		
Spray	9.95	.55	.55		
Guernsey Co.:					
Brush	7.00				
Structural steel; Spray	7.50				
Tanks & Bridges	8.75				
Harrison & Jefferson Cos.:					
Brush	7.70	.30	.25		
Spray; Sandblaster	8.10	.30	.25		
Hot stacks	9.30	.30	.25		
Knox, Licking, Muskingum & Perry Cos.:					
Industrial	7.55				
Bridges	7.65				
Ross Co.:					
Brush	9.00				
Spray	9.25				
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DECISION NO. OH77-2063 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Steamfitters:					
Ashtabula, Cuyahoga, Geauga & Lake Cos., Medina Co. N. of Rt. 18 & Smith Rd. & Summit Co. No. of Rt. 303:					
Plumbers	12.28	.75	1.00		.02
Carroll Co. (except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), Stark & Wayne Cos.	11.57	.45	.55	a	.05
Clinton, Darke, Fayette, Miami, Montgomery, Preble, & Shelby Cos. & Greene Co. (Rem. of Co.)	11.81	.55	.80		.03
Columbiana & Mahoning Cos. & Trumbull Co. (Hubbard & Liberty Twps., Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District)	12.31	.75	.50		.03
Laborers:					
Zone 1:					
Group I	8.83	.55	.40		.05
Group II	8.955	.55	.40		.05
Group III	9.03	.55	.40		.05
Group IV	9.18	.55	.40		.05
Group V	9.48	.55	.40		.05
Zone 2:					
Group I	8.15	.55	.40		.05
Group II	8.275	.55	.40		.05
Group III	8.35	.55	.40		.05
Group IV	8.50	.55	.40		.05
Group V	8.80	.55	.40		.05
Zone 3:					
Group I	7.72	.55	.40		.05
Group II	7.845	.55	.40		.05
Group III	7.92	.55	.40		.05
Group IV	8.07	.55	.40		.05
Group V	8.37	.55	.40		.05

DECISION NO. OH77-2063 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Zone I:					
Class I	$12.01	.65	.80		.14
Class II	11.32	.65	.80		.14
Class III	10.68	.65	.80		.14
Class IV	10.27	.65	.80		.14
Class V	10.17	.65	.80		.14
Class VI	12.28	.65	.80		.14
Zone II:					
Class A	11.28	.46	1.00		.11
Class B	11.18	.46	1.00		.11
Class C	10.14	.46	1.00		.11
Class D	9.67	.46	1.00		.11
Class E	8.23	.46	1.00		.11
Zone III:					
Class A	10.34	.46	1.00		.11
Class B	10.42	.46	1.00		.11
Class C	9.38	.46	1.00		.11
Class D	8.95	.46	1.00		.11
Class E	7.34	.46	1.00		.11
Truck drivers:					
Zone II:					
Class I	8.52	$23.00a	$8.00a		.05
Class II	8.57	23.00a	8.00a		.05
Class III	8.62	23.00a	8.00a		.05
Class IV	8.72	23.00a	8.00a		.05
Class V	8.82	23.00a	8.00a		.05
Class VI	8.99	23.00a	8.00a		.05
Add:					
Carpenters & Piledrivermen: Erie (W. of B & O Rail Road Tracks), Ottawa, Sandusky & Seneca Cos. & city of Fostoria in Wood & Hancock Cos.:					
Carpenters:					
Footnote:					
a. 2 paid holidays: Memorial Day & Labor Day					

DECISION NO. OK77-4073 - Mod. #1
(42 FR 17777 - April 1, 1977)
Statewide (except heavy construction within the city of Muskogee), Oklahoma

CHANGE DESCRIPTION OF WORK TO READ "Construction, alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water and sewer utilities (but does not include building structures on highway rest areas".

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OR77-5033 - Mod. #3 (42 FR 16363 - March 25, 1977) Statewide, Oregon					
Change:					
Sprinkler Fitters	$11.65	.65	.95		.08

DECISION #PA76-3163 - Mod. # 5 (41 FR 19020 - May 7, 1976) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS:					
HEAVY CONSTRUCTION					
GROUP 1	$17.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%
HIGHWAY CONSTRUCTION					
GROUP 1	10.69	5.5%	9.5%		1.2%
GROUP 2	9.85	5.5%	9.5%		1.2%
GROUP 3	9.34	5.5%	9.5%		1.2%
GROUP 4	8.90	5.5%	9.5%		1.2%
GROUP 5	8.35	5.5%	9.5%		1.2%
GROUP 6-A	11.19	5.5%	9.5%		1.2%
GROUP 6-B	11.44	5.5%	9.5%		1.2%

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DECISION NO. PA77-3016 - Mod. #4 (42 FR 5632 - January 28, 1977) Bucks, Chester, Delaware, Montgomery, Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Electricians:					
Residential up to and including 4 stories:					
Zone 1	$11.32	6%	5%		2%
Residential up to and including 3 stories:					
Zone 2	10.57	3.4%	1%+2.6%		1.5%
Zone 3	8.725	4.4%	1%+3%		1/2 of 1%
CHANGE:					
Electricians Zone 7:					
Commercial	10.90	.35	1%+.80		.02
Line Construction:					
Linemen	13.76	.40	1%		1%
Groundmen	8.22	.40	1%		1%
Winch truck operator	9.60	.40	1%		1%
Plumbers Zone 1	12.84	.57	1.00		.11
Sheetmetal workers:					
Zone 1 (commercial)	12.61	1.04	.65		.03
Steamfitters Zone 1	12.92	.57	.92		.11
Tile setters	9.47	1.25	.40		.13
Truck drivers:					
Class I	8.32	.6425	.625	a+b	
Class II	8.42	.6425	.625	a+b	
Class II	8.62	.6425	.625	a+b	
Power Equipment Operators:					
Class I	12.60	5.5%	9.5%	a	1.2%
Class II	12.34	5.5%	9.5%	a	1.2%
Class III	11.47	5.5%	9.5%	a	1.2%
Class IV	11.26	5.5%	9.5%	a	1.2%
Class V	10.95	5.5%	9.5%	a	1.2%
Class VI	10.78	5.5%	9.5%	a	1.2%
Class VII	10.27	5.5%	9.5%	a	1.2%
Class VIII	9.53	5.5%	9.5%	a	1.2%

(DECISION #PA77-3016 - Mod. # 4, Cont'd.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
Bricklayers - Zone 1	$ 9.47	.77	.75		
Carpenters	8.77	1.88	1.30		.12
Cement masons - Zone 1	9.00	1.19	1.55		
Dry wall finishers	8.60	.85	.25		.03
Electricians:					
Zone I	11.32	.68	.45		.23
Zone II	10.55	.47	.38		.16
Zone III	10.71	.47	.35		.06
Ironworkers - Zone I	10.67	2.05			.04
Painters - Zone I	8.00	.825	.40		.06
Paperhanger	8.54	.55	.35		
Plasterers - Zone I	8.825	.78			.01
Plumbers - Zone I	10.39	.81	1.30		.14
Roofers - Zone I:					
Composition, damp and waterproofers	8,27	.65	.50		
Slate, tile	8.10	1.00	.50		
Soft floor layers	7.58	1.58	1.30		.12
Tile layers	9.25	1.10	.40		.14
Laborers schedule attached					

(DECISION #PA77-3016 - Mod. # 4, Cont'd.) Page _____

Rehabilitation work on residential structures to include demolition repair, and alteration on any existing structures of not more than four (4) stories which is intended for predominently residential use:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
CLASS I	$6.95	.90	.65		
CLASS II	7.05	.90	.65		
CLASS III	7.10	.90	.65		
CLASS IV	7.25	90	.65		
CLASS V	7.35	.90	.65		
CLASS VI	6.89	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concrete form work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pneumatic tools. building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition .

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard workers

DECISION #PA77-3039 - Mod. # 2 (42 FR 18778 - April 8, 1977) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
Linemen	$10.18	.40	1%		3/8%
Winch truck operator	7.10	.40	1%		3/8%
Groundmen	6.07	.40	1%		3/8%
Plumbers & Steamfitters:					
Zone 3	10.85	.30	.65		.12
Sheet metal workers (Zone 1)	11.12	.73	.40		.02
Power Equipment Operators: (See schedule attached)					
Add:					
Glaziers:					
Centre, Fulton, Huntingdon & Mifflin Counties	9.74	.62	.72	.58	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, matro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (monic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunits machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horisional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3208 - Mod. # 5 (41 FR 27535 - July 2, 1976) Bradford, Tioga, & Union Counties, Pennsylvania					
Change:					
Carpenters	$10.14	.40	.50		.03
Electricians:					
Zone 2	11.70	.30	1%.90		.05
Millwrights	11.29	.40	.50		.03
Sheet metal workers	11.12	.73	.40		.02
Power Equipment Operators (See schedule below)					
DECISION #PA76-3210 - Mod. # 4 (41 FR 30486 - July 23, 1976) Columbia, Montour & Snyder Counties, Pennsylvania					
Change:					
Electricians					
Zone 3	9.91	.41	3%.31		1/4%
Millwrights	11.29	.40	.50		.05
Painters:					
Zone 2					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Sheet metal workers	11.12	.73	.40		.02
Plumbers & steamfitters	10.85	.30	.63		.12
Power Equipment Operators: (See schedule below)					

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MODIFICATIONS P. 35

DECISION #PA77-3026 - Mod. # 4 (42 FR 7066 - February 4, 1977) Lancaster County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	$10.14	.40	.50		.03
Cement masons	9.59	.35	.25		.01
Millwrights	11.29	.40	.50		.03
Plumbers & steamfitters	10.85	.30	.65		.12
Power Equipment Operators: (See schedule below)					
DECISION #PA77-3028 - Mod. # 1 (42 FR 20098 - April 15, 1977) Adams County, Pennsylvania					
Change:					
Carpenters:					
Adams County	10.14	.40	.50		.03
York County	9.69	.39	.40		
Cement masons					
York County	9.59	.35	.25		
Line Construction					
Linemen	10.18	.40	1%		3/8%
Winch truck operator	7.10	.40	1%		3/8%
Groundmen	6.07	.40	1%		3/8%
Millwrights					
Adams County	11.29	.40	.50		.03
Plumbers & Steamfitters	10.85	.30	.65		.12
Soft floor layers					
York County	9.69	.35	.40		
Power Equipment Operators: (See schedule below)					
DECISION #PA77-3029 - Mod. # 3 (42 FR 10243 - February 18, 1977) Berks County, Pennsylvania					
Change:					
Electricians:					
Bernford, Longswamp & Washington Twps. portion of Maxatawney Twp., east of Saconv Creek	10.90	.35	1%+.80		.02
Power Equipment Operators: (See schedule below)					

DECISION #PA77-3030 - Mod. # 2 (42 FR 10766 - February 18, 1977) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	$10.14	.40	.50		.03
Line Construction:					
Linemen	10.18	.40	1%		3/8%
Cable splicers	10.18	.40	1%		3/8%
Groundmen	6.07	.40	1%		3/8%
Winch truck operator	7.10	.40	1%		3/8%
Millwrights	11.29	.40	.50		.03
Plumbers & Steamfitters	10.85	.30	.65		.12
Power Equipment Operators: (See schedule below)					
DECISION #PA77-3031 - Mod. # 2 (42 FR 18839 - April 8, 1977) Lebanon County, Pennsylvania					
Change:					
Carpenters	$10.14	.40	.50		.03
Millwrights	11.29	.40	.50		.03
Plumbers & Steamfitters : West of Route 501	10.85	.30	.65		.12
Power Equipment Operators: (See schedule below)					
DECISION #PA77-3032 - Mod. # 1 (42 FR 16373 - March 25, 1977) Lycoming County, Pennsylvania					
Change:					
Carpenters	$10.14	.40	.50		.03
Millwrights	11.29	.40	.50		.03
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Sheet metal workers	11.12	.73	.40		.02
Power Equipment Operators: (See schedule below)					

DECISION #PA77-3033 - Mod. # 2 (42 FR 10748 - February 18, 1977) Northampton County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	$10.20	.44	.72		.01
Electricians:					
Allen, Hanover, Lehigh, Nath, Freemansburg, Hellertown and Bethlehem	10.90	.35	1%+.80		.02
Millwrights	10.60	.44	.72		
Power Equipment Operators: (See schedule below)					
DECISION #PA77-3034 - Mod. # 2 (42 FR 20100 - April 15, 1977) Schuylkill County, Pennsylvania					
Change:					
Carpenters	10.14	.40	.50		.03
Millwrights	11.29	.40	.50		.03
Sheet metal workers	11.12	.73	.40		.02
Power Equipment Operators: (See schedule below)					
DECISION #PA77-3049 - Mod. # 1 (42 FR 21043 - April 22, 1977) Northumberland County, Pennsylvania					
Change:					
Carpenters	10.14	.40	.50		.03
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Plumbers & steamfitters	10.85	.30	.65		.12
Sheet metal workers	11.12	.73	.40		.02
Power Equipment Operators: (See schedule below)					
Add:					
Millwrights	11.29	.40	.50		.03

DECISIONS #PA76-3208, Mod. # 5, Cont'd.); DECISION #PA76-3210, Mod. # 4, Cont'd.); DEC. #PA77-3026, Mod. # 4, Cont'd.); Dec. #PA77-3028, Mod. # 1, Cont'd.); DEC. #PA77-3029, Mod. # 3, Cont'd.); DEC#PA77-3030, Mod. # 2, Cont'd.); DEC. #PA77-3031, Mod. # 2, Cont'd.); DEC#PA77-3032, Mod. # 1, Cont'd.); DEC. #PA77-3033, Mod. # 2, Cont'd.); DEC. #PA77-3034, Mod. # 2, Cont'd.); DEC. #PA77-3049, Mod. # 1, Cont'd.);

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 27B and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power brooms, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3246 - Mod. # 5					
(41 FR 40405 - September 17, 1976)					
Lawrence & Mercer Counties, Pennsylvania					
Change:					
Bricklayers & stonemasons	10.73	.60	.75		.02
Cement masons:					
Lawrence County	11.44				
Plasterers:					
Lawrence County; Twps., in Mercer County, Shenango, Sandy Lake & Sedonia	11.79				
Plumbers & Steamfitters:					
Lawrence County	11.74	.66	.61		.05
Mercer County	11.75	.50	.80		.05
Sheet metal workers:					
Mercer County	11.21	.60	.70		.01
Power Equipment Operators: (See schedule below)					
DECISION #PA76-3251 - Mod. # 6					
(41 FR 42142 - September 24, 1976)					
Elk, Forest, McKean, & Warren Counties, Pennsylvania					
Change:					
ELECTRICIANS:					
Zone 1	11.35	.35	1¾+.20		.10
Zone 2	10.75	.55	1¾+.35		1%
Power Equipment Operators: (See schedule below)					

(DECISION #PA76-3246, Mod. #5, Cont'd.)

(DECISION #PA76-3251, Mod. # 6, Cont'd.)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod (2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

(DECISION #PA76-3246, Mod. # 5, Cont.d.)

(DECISION #PA76-3251, Mod. # 6, Cont'd.)

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft, or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), buildozer, cable layer, compector with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-luil or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, mucking machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled). pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

(DECISION #PA76-3246, Mod. # 5, Cont.d.)

(DECISION #PA76-3251, Mod. # 6, Cont'd.)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladsvator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. SD77-5027 - Mod. #1 (42 FR 12665 - March 4, 1977) Minnehaha County, South Dakota					
Change:					
Sprinkler fitters	$9.90	.65	.95		.08
DECISION NO. SD77-5028 - Mod. #1 (41 FR 12666 - March 4, 1977) Meade and Pennington Counties, South Dakota					
Change:					
Bricklayers, Stonemasons	9.65		.30		
Sprinkler fitters	9.90	.65	.95		.08
Decision # TN77-1037 - Mod. # 1 (42 FR-17780 - April 1, 1977) Knox and Monroe Counties, Tennessee					
Change:					
Bricklayers & stonemasons	9.92				
Carpenters	8.42		.40		.02
Cement masons	7.74				
Electricians & Line Construction:					
Electricians & linemen	9.05	.40	1%+.40		.5%
Cable splicers	9.45	.40	1%+.40		.5%
Ironworkers:					
Structural & ornamental	8.34	.50	.50		.02
Reinforcing	8.20	.50	.50		.02
Fence erector	8.34	.50	.50		.02
Millwrights	9.06		.40		.02
Piledrivermen	8.67		.40		.02
Plasterers	8.85				
Plumbers & steamfitters	9.15	.40	.70	.30+d	.05
Roofers, composition	7.63		.25		
Roofers, slate & tile	7.63		.25		
Sprinkler fitters	10.35	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4140 - Mod. #6 (41 FR 33184 - August 6, 1976) Bexar County, Texas					
Change:					
Bricklayers-Stonemasons	$ 9.27	.45	.30	.25	.05
Sprinkler fitters	11.15	.65	.95		.08
DECISION #TX76-4171 - Mod. #3 (41 FR 44664 - October 8, 1976) Taylor County, Texas					
Change:					
Asbestos workers	10.03	.40	.76		.025
DECISION #TX76-4193 - Mod. #5 (41 FR 56594 - December 28, 1976) Bee, Klaberg & Nueces Cos., Texas					
Change:					
Carpenters:					
Carpenters	7.59	.46	.30		.04
Cement masons	8.25				
Soft floor layers	7.59	.46	.30		.04
Sprinkler fitters	11.15	.65	.95		.08
DECISION #TX76-4197 - Mod. #4 (41 FR 56602 - December 28, 1976) Lubbock County, Texas					
Change:					
Sprinkler fitters	11.15	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4006 - Mod. #3 (42 FR 4105 - January 21, 1977) Travis County, Texas					
Change:					
Bricklayers & stonemasons	$ 9.64	.50	.40		.04
Carpenters:					
Carpenters	9.86	.43	.40		.04
Millwrights	10.11	.43	.40		.04
Sprinkler fitters	11.15	.65	.95		.08
DECISION #TX77-4007 - Mod. #3 (42 FR 4107 - January 21, 1977) Wichita County, Texas					
Change:					
Asbestos workers Mod. #2 in 42 FR 20053 - April 15, 1977 to Read: 42 FR 4107 - January 21, 1977.	10.03	.40	.76		.025
DECISION #TX77-4044 - Mod. #3 (42 FR 11226 - February 25, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Grey, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Bricklayers & stonemasons	9.70		.30		
Carpenters:					
Zone 1:					
Carpenters	9.60				
Millwrights	9.95				
Laborers:					
Group 1	5.09	.43	.20		
Group 2	5.24	.43	.20		
Marble masons (exterior)	9.70		.30		
Sprinkler fitters	11.15	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4045 - Mod. #3 (42 FR 11229 - February 25, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Grey, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Bricklayers	9.70		.30		
Carpenters	9.60				
Laborers:					
Laborers	5.09	.43	.20		
Mason tenders	5.24	.43	.20		
DECISION #TX77-4053 - Mod. #1 (42 FR 12668 - March 4, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Counties, Texas					
Change:					
Asbestos workers:					
Zone 2	10.03	.40	.76		.025
Sprinkler fitters	11.15	.65	.95		.08
DECISION #TX77-4054 - Mod. #3 (42 FR 12671 - March 4, 1977) Brazos County, Texas					
Change:					
Ironworkers	10.28	.55	1.00		.10

MODIFICATIONS P. 47

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4055 - Mod. #1 (42 FR 12673 - March 4, 1977) Gregg County, Texas					
Change:					
Asbestos workers	$10.03	.40	.76		.025
DECISION #TX77-4057 - Mod. #1 (42 FR 12673 - March 4, 1977) Smith County, Texas					
Change:					
Sprinkler fitters	11.15	.65	.95		.08
DECISION #TX77-4070 - Mod. #1 (42 FR 17785 - April 1, 1977) Bowie County, Texas					
Change:					
Asbestos workers	10.03	.40	.76		.025
Ironworkers	10.20	.45	.50		.04
Sheet metal workers	9.945	3%+.45	.66		.055
Sprinkler fitters	11.15	.65	.95		.08
DECISION #TX77-4071 - Mod. #3 (42 FR 17787 - April 1, 1977) El Paso County, Texas					
Change:					
Sprinkler fitters	11.15	.65	.95		.08

MODIFICATIONS P. 48

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #UT77-5006 - Mod. #3 (42 FR 5668 - January 28, 1977) Statewide Utah					
Change:					
Boilermakers	$11.575	.775	$1.00	.50	.02
Sprinkler Fitters	10.68	.65	.95		.08
DECISION #MD77-3041 - Mod. # 3 (42 FR 15268 - March 18, 1977) Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D. C. Training School, and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia					
Change:					
BUILDING CONSTRUCTION, (INCLUDING WMATA - RRTS)					
Bricklayers	$11.65	.80	.70		.10
Carpenters	10.45	.80	.60		.07
Cement masons:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
Millwrights	10.94	.80	.60		.07
Piledrivermen	10.68	.80	.60		.07
Power Equipment Operators:					
Building Construction; Including WMATA - Rapid Rail Transit System)					
GROUP I	11.80	.55	.55		.12
GROUPIII	11.55	.55	.55		.12
GROUP III	11.40	.55	.55		.12
GROUP IV	11.22	.55	.55		.12
GROUP V	11.17	.55	.55		.12
GROUP VI	11.15	.55	.55		.12
GROUP VII	11.14	.55	.55		.12
GROUP VIII	10.97	.55	.55		.12
GROUP IX	10.95	.55	.55		.12
GROUP X	10.75	.55	.55		.12
GROUP XI	10.27	.55	.55		.12
GROUP XII	10.09	.55	.55		.12

MODIFICATIONS P. 49

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3041, Cont.d; Mod. # 3					
Truck Drivers:					
Building Construction; (Including WMATA)					
Boom trucks	$8.35	.415	.425	a+f	
Small dump, water sprinkler, grease and oil	8.10	.415	.425	a+f	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	8.20	.415	.425	a+f	
Trailers, low boys, tractor pull	8.40	.415	.425	a+f	
Helpers	7.95	.415	.425	a+f	
Carryalls, large euclids, euclids water sprinkler, tunnel work under ground	8.50	.415	.425	a+f	
Mechanics	8.25	.415	.425	a+f	
DECISION NO. WA77-5032 - Mod. #3 (42 FR 17789 - April 1, 1977) Statewide, Washington					
Change:					
Sprinkler Fitters: Remaining Counties	$11.65	.65	.95		.08

MODIFICATIONS P. 50

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #DC77-3040 - Mod. # 3 (42 FR 15293 - March 18, 1977) Washington, D. C.					
Change:					
BUILDING AND HEAVY CONSTRUCTION; INCLUDING WMATA					
Bricklayers	$11.65	.80	.70		.10
Carpenters	10.45	.80	.60		.07
Cement masons:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
Millwrights	10.94	.80	.60		.07
Piledrivermen	10.68	.80	.60		.07
Power Equipment Operators:					
Building & Heavy Construction; Including WMATA - Rapid Rail Transit System)					
GROUP I	11.80	.55	.55		.12
GROUP II	11.55	.55	.55		.12
GROUP III	11.40	.55	.55		.12
GROUP IV	11.22	.55	.55		.12
GROUP V	11.17	.55	.55		.12
GROUP VI	11.15	.55	.55		.12
GROUP VII	11.14	.55	.55		.12
GROUP VIII	10.97	.55	.55		.12
GROUP IX	10.95	.55	.55		.12
GROUP X	10.75	.55	.55		.12
GROUP XI	10.27	.55	.55		.12
GROUP XII	10.09	.55	.55		.12
Building & Heavy Construction; (Including WMATA)					
Truck Drivers:					
Boom trucks	8.35	.415	.425	a+f	
Small dump, water sprinkler, grease and oil	8.10	.415	.425	a+f	
Flat, pick-up hauling materials, small euclids, dump over 8 wheels	8.20	.415	.425	a+f	
Trailers, low boys, tractor pull	8.40	.415	.425	a+f	
Helpers	7.95	.415	.425	a+f	
Carryalls, large euclids, euclid water sprinkler, tunnel work under ground	8.50	.415	.425	a+f	
Mechanics	8.25	.415	.425	a+f	

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MODIFICATIONS P. 51

(DECISION #DC77-3040, Cont.d.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)					
DEMOLITION (excluding Metro (projects)					
Power Equipment Operators:					
Cranes	$11.80	.55	.55		.12
Loaders	11.40	.55	.55		.12
PAVING & INCIDENTAL GRADING: (See schedule below)					

MODIFICATIONS P. 52

(DECISION #DC77-3040, Cont.d.):
Mod. # 3
(EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

PAVING AND INCIDENTAL GRADING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asphalt Shoveler	$7.05	.27	.35		
Asphalt Raker	7.25	.27	.35		
Asphalt Tamper	7.15	.27	.35		
Bricklayers	11.65	.80	.70		.10
Carpenters	10.45	.80	.60		.05
Cement Masons	7.50	.27	.35		
Concrete Saw Operator	7.25	.27	.35		
Concrete Shoveler	7.15	.27	.35		
Form Setter	7.50	.27	.35		
Laborers:					
Laborers	7.00	.27	.35		
Jackhammer	7.20	.27	.35		
Hand Burner Operator	7.15	.27	.35		
Power Equipment Operators:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor, Rubber-tired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	7.25	.27	.35		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	7.45	.27	.45		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	7.50	.27	.35		
Crane Operator, Concrete Paving Operator	7.65	.27	.35		
Shovel Operator	7.75	.27	.35		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Loader Operator Tracks (over 2-½ cu. yds	8.40	.27	.35		
G-1000 Gradall Operator (over 1½ cu. yds.)	8.65	.27	.35		
Power Broom, Oiler	7.15	.27	.35		
Sand Setter	7.45	.27	.35		
Truck Drivers:					
Truck Drivers (standard)	7.00	.27	.35		
Tandem	7.12	.27	.35		
Tractor trailer (capable of moving heavy equipment)	7.50	.27	.35		

MODIFICATIONS P. 53

DECISION WI77-2042 - Mod. #1 (42 FR 18841 - April 8, 1977) Statewide, Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Power Equipment Operators Heavy, Tunnel & Sewer Construction					
Area 1 - Kenosha, Milwaukee, Ozaukee, Racine, Washington & Waukesha Counties					
GROUP 1	$ 10.02	.70	.90		.10
GROUP 2	9.77	.70	.90		.10
GROUP 3	9.47	.70	.90		.10
GROUP 4	9.37	.70	.90		.10
GROUP 5	9.16	.70	.90		.10
GROUP 6	8.92	.70	.90		.10
Area 1 - Remainder of State					
GROUP 1	10.02	.70	.70		.10
GROUP 2	9.77	.70	.70		.10
GROUP 3	9.47	.70	.70		.10
GROUP 4	9.37	.70	.70		.10
GROUP 5	9.16	.70	.70		.10
GROUP 6	8.92	.70	.70		.10

MODIFICATIONS P. 54

DECISION WI77-2049 - Mod. #1 (42 FR - 20104 - April 15, 1977) Statewide, Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Power Equipment Operators Highway Construction					
Area 1 - Kenosha, Millwaukee, Ozaukee, Racine, Washington & Waukesha Counties					
GROUP 1	$ 10.02	.70	.90		.10
GROUP 2	9.77	.70	.90		.10
GROUP 3	9.47	.70	.90		.10
GROUP 4	9.37	.70	.90		.10
GROUP 5	9.16	.70	.90		.10
GROUP 6	8.92	.70	.90		.10
Area 2 - Remainder of State					
GROUP 1	10.02	.70	.70		.10
GROUP 2	9.77	.70	.70		.10
GROUP 3	9.47	.70	.70		.10
GROUP 4	9.37	.70	.70		.10
GROUP 5	9.16	.70	.70		.10
GROUP 6	8.92	.70	.70		.10
Bricklayers: Zone 8: Milwaukee, Ozaukee, Washington & Waukesha	10.80	.97	.70		
Cement Masons: Zone 12: Milwaukee, Ozaukee, Washington & Waukesha	9.34	.90	.70	.51	
Electricians: Zone 16: Milwaukee, Ozaukee, Washington & Waukesha	10.58	.85	14+.20	10%	1.25%

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SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Tuscaloosa
DECISION NO.: AL77-1053 DATE: Date of Publication
Supersedes Decision No.: AL77-1045 dated April 15, 1977 in 42 FR-20055 and AL77-1045 dated April 22, 1977 in 42 FR-20990.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	7.71	.30	.30		.05
Bricklayers, Marble masons, Stonemasons	8.65		.40		.05
Carpenters	6.95				.015
Cement masons	5.175				
Electricians	10.10	.30	10+.40		½ of 1%
Glaziers	6.85	.20	.20		
Ironworkers	8.50	.60	.815		.04
Laborers:					
Laborers	3.15	.15	.10		
Mason tenders	3.15	.15	.10		
Mortar mixers	3.25	.15	.10		
Millwrights	9.15				
Painters, brush	6.65	.50			
Plasterers	5.175				
Plumbers & steamfitters	8.85	.30	.35		.05
Roofers	5.45		.20		.05
Sheet metal workers	9.75	.69	.82		.09
Soft floor layers	5.45				
Tile setters	8.40		.40		.05
Truck drivers	2.50				
POWER EQUIPMENT OPERATORS:					
Tractor, farm	3.50				
Scrapers	4.00				
Bulldozers, Front end loader	5.00				
Pumps	5.64				
Oiler	6.25	.20	.20		
Cranes, lift truck	7.60	.20	.20		

SUPERSEDEAS DECISION

STATE: California COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura
DECISION NUMBER: CA77-5041 DATE: Date of Publication
Supersedes Decision No. CA76-5120 dated December 30, 1976, in 41 FR 56556.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories, heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.10	.80	$ 1.17		.06
BOILERMAKERS	13.175	.775	1.80	.80	.02
BRICKLAYERS; Stonemasons:					
Imperial County	10.87	.83	1.80		.06
Inyo, Kern and Mono Counties	11.60	1.00	1.80		.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach); Orange County	10.80	.98	1.15		.30
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach)	10.80	.95	1.15		.30
Riverside and San Bernardino Counties	10.60	1.03	1.35		.07
Santa Barbara and San Luis Obispo Counties	9.47	1.05	1.20	.85	.01
Ventura County	11.10	.85	1.20		.02
BRICK TENDERS	9.255	.95	1.95	.55	
CARPENTERS:					
Carpenters	9.84	1.30	1.80	.80	.06
Saw Filers	9.62	1.30	1.80	.80	.06
Table Power Saw Operators	9.64	1.30	1.80	.80	.06
Shinglers; Piledrivermen, Bridge or dock Carpenters; Derrick Bargemen; Rock Slinger	9.67	1.30	1.80	.80	.06
Hardwood Floor Layers	9.74	1.30	1.80	.80	.06
Head Rock Slinger	9.77	1.30	1.80	.80	.06
Pneumatic Nailer	9.79	1.30	1.80	.80	.06
Millwrights	10.04	1.30	1.80	.80	.06

DECISION NO. CA77-5041 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Cement Masons	$ 9.41	$1.10	$ 1.75	$ 1.00	.00
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08
DRYWALL INSTALLERS	11.21	1.30	1.80	.80	.07
ELECTRICIANS:					
Imperial County					
Electricians	12.50	.75	10+1.25		
Cable Splicers	12.78	.75	10+1.25		
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	14.82	.70	10+1.48		.15
Cable Splicers	16.30	.70	10+1.48		.15
Kern County (Remainder of Co.)					
Electricians; Technicians	12.32	.70	10+1.48		.15
Cable Splicers	13.55	.70	10+1.48		.15
Los Angeles County					
Electricians	12.29	1.05	10+1.70		.02
Cable Splicers	13.59	1.05	10+1.70		.02
Traffic Signal and Street Lighting:					
Electricians	11.79	1.05	10+1.70		.02
Utility Technician No. 1	8.84	1.05	10+1.70		.02
Utility Technician No. 2	8.25	1.05	10+1.70		.02
Tunnel:					
Electricians	13.52	1.05	10+1.70		.02
Cable Splicers	13.82	1.05	10+1.70		.02
Sound Technicians:					
Sound Technicians (on building construction)	11.07	.50	10		
Sound Technicians (on modification of existing buildings)	8.71	.50	10		
Orange County					
Electricians	12.64	.81	10+1.35		.02
Cable Splicers	13.22	.81	10+1.35		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Riverside County					
Electricians	$ 12.31	.60	18+1.25		.04
Cable Splicers	12.61	.60	18+1.25		.04
Inyo, Mono and San Bernardino Counties					
Electricians	11.80	.96	18+1.65		.04
Cable Splicers	12.10	.96	18+1.65		.04
Tunnel:					
Electricians	12.98	.96	18+1.65		.04
Cable Splicers	13.28	.96	18+1.65		.04
San Luis Obispo County					
Electricians	12.26	1.00	18+1.35		.03
Cable Splicers	13.48	1.00	18+1.35		.03
San Barbara County (Vandenburg AFB)					
Electricians	13.35	.90	18+1.35		.03
Cable Splicers	14.35	.90	18+1.35		.03
Remainder of County					
Electricians	11.85	.90	18+1.35		.03
Cable Splicers	12.85	.90	18+1.35		.03
Ventura County					
Electricians	13.03	.84	18+1.05		.02
Cable Splicers	14.33	.84	18+1.05		.02
ELEVATOR CONSTRUCTORS:					
Imperial, Inyo, Kern (South of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator Constructors	12.93	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Kern County (North of Tehachapi Range)					
Elevator Constructors	13.49	.549	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.549	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Imperial County	$ 10.90	.67	.90		
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Venutra Counties	11.19	.67	1.45		.04
IRONWORKERS:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04
IRRIGATION & LAWN SPRINKLERS:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	9.40	10%	16%	13%	3/4%
LATHERS:					
Inyo, Kern and Mono Counties	9.13	.60	1.30	.70	.05
Los Angeles County (except City of Lancaster)	11.00	.60	.75		.03
Ventura County	9.06	.60	1.10	1.00	.02
San Luis Obispo County	7.72	.87		3.20	
San Barbara County	8.72	.57	1.00	1.50	
LINE CONSTRUCTION:					
Imperial County					
Groundmen	10.00	.75	18+1.25		
Linemen	12.50	.75	18+1.25		
Cable Splicers	12.78	.75	18+1.25		
Kern (China Lake Naval Ordnance Test Station and Edwards AFB)					
Groundmen	11.74	.70	18+1.48		.15
Linemen	14.82	.70	18+1.48		.15
Cable Splicers	16.30	.70	18+1.48		.15
Kern County (Remainder of County)					
Groundman	9.24	.70	18+1.48		.15
Linemen	12.32	.70	18+1.48		.15
Cable Splicers	13.55	.70	18+1.48		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd)					
Orange County					
Groundman, 1st year	$ 10.29	.81	18+1.35		.02
Groundman, after 1st year	10.91	.81	18+1.35		.02
Lineman; Heavy Equipment Operators	12.64	.81	18+1.35		.02
Cable Splicers	13.22	.81	18+1.35		.02
Los Angeles County					
Groundmen	8.83	.71	18		
Linemen	11.77	.71	18		
Cable Splicers	12.07	.71	18		
Inyo, Mono and San Barnardino Counties					
Groundmen	8.87	.96	18+1.65		
Linemen	11.82	.96	18+1.65		
Cable Splicers	12.10	.96	18+1.65		
Riverside County					
Groundmen	9.25	.60	18+1.25		.04
Lineman; Line Equipment Operators	12.33	.60	18+1.25		.04
Cable Splicers	12.63	.60	18+1.25		.04
San Luis Obispo County					
Groundmen	9.66	1.00	18+1.35		.03
Lineman; Line Equipment Operators	12.26	1.00	18+1.35		.03
Cable Splicers	13.48	1.00	18+1.35		.03
Ventura County					
Groundmen	9.24	.70	18+.55		.02
Linemen	10.42	.70	18+.55		.02
Cable Splicers	11.46	.70	18+.55		.02
San Barbara County (Vandenburg AFB)					
Groundmen	10.39	.90	18+1.35		.03
Linemen	13.35	.90	18+1.35		.03
Cable Splicers	14.35	.90	18+1.35		.03
Remainder of County					
Groundmen	8.89	.90	18+1.35		.03
Linemen	11.85	.90	18+1.35		.03
Cable Splicers	12.85	.90	18+1.35		.03
MARBLE SETTERS:					
Inyo and Mono Counties	10.64	1.00	.83	1.03	
Imperial County	11.12	.70	1.17		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion)					
Brush; Paint Burners	10.99	.99	1.18	.75	.07
Paperhangers; Iron, steel and bridge (swing stage); Sheet rock taper	11.49	.99	1.18	.75	.07
Brush (swing stage); Spray	11.24	.99	1.18	.75	.07
Steeplejack	12.39	.99	1.18	.75	.07
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	11.27	.46	.60	.60	.01
Structural steel and bridge; Painter Burner	11.39	.46	.60	.60	.01
Tapers	11.79	.46	.60	.60	.01
Brush Swing Stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.52	.46	.60	.60	.01
Brush swing stage (over 13 stories)	11.64	.46	.60	.60	.01
Structural steel and bridge, swing	11.67	.46	.60	.60	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Spray sandblaster swing stage (13 stories or less); Paste Machine; Special coating Spray	$ 11.77	.46	.60	.60	.01
Steeplejack	12.52	.46	.60	.60	.01
Kern County (Remainder of County)					
Brush	9.87	.45	.61		.03
Brush or Roller, swing stage; Paperhangers; Taping joint sheet rock	10.12	.45	.61		.03
Spray; Sandblasters	10.37	.45	.61		.03
Steeplejack	11.37	.45	.61		.03
San Luis Obispo, Santa Barbara, and Ventura Counties					
Brush	11.51	.75	.60		.03
Iron and Steel; Paperhangers; Paste Machine Operator; Sandblaster	11.76	.75	.60		.03
Spraymen	12.01	.75	.60		.03
Tapers, Sheet rock	12.11	.75	.60		.03
Steeplejack	12.76	.75	.60		.03
Parking Lot Striping Work and/or Highway Markers:					
Inyo and Mono Counties					
Striper	9.97	.50	.35	b	
Striper Helper	8.22	.50	.35	b	
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface; Sandblaster	8.87	.50	.35	b	
Helper (traffic delineating device applicator, wheel stop installer, traffic surface sandblaster)	7.72	.50	.35	b	
Slurry Seal Operation:					
Mixer Operator	8.87	.50	.35	b	
Squeegee Man	8.37	.50	.35	b	
Applicator Operator	7.72	.50	.35	b	
Shuttleman	6.65	.50	.35	b	
Top Man	6.22	.50	.35	b	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Remaining Counties:					
Traffic Delineating Device Applicator	$ 8.87	.50	.35	b	
Striper; Wheel Stop Installer; Surface Sandblaster	8.48	.50	.35	b	
Helper (striper, wheel stop installer, traffic surface sandblaster)	6.83	.50	.35	b	
Slurry Seal Operation:					
Mixer Operator	8.48	.50	.35	b	
Squeegee Man	7.48	.50	.35	b	
Applicator Operator	6.83	.50	.35	b	
Shuttleman	6.65	.50	.35	b	
Top Man	5.83	.50	.35	b	
PLASTERERS:					
Imperial County	11.03				
Los Angeles and Orange Cos.	9.745	.68	1.85	.70	.18
Riverside and San Bernardino Counties	10.675				.01
San Luis Obispo County	12.00				
Santa Barbara County	8.63	.70	1.05		.01
Ventura County	8.625	.55	.50	.50	.02
PLASTERERS TENDERS:					
Imperial, Inyo, Mono, Riverside and San Bernardino Counties	10.18	.95	1.95	.50	
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	11.725	.95	1.95	.55	
Kern County (Remainder of Co.)	9.10	.95	1.95	.55	
Los Angeles and Orange Cos.	10.175	.95	1.95	.80	
San Luis Obispo County	8.35	.95	1.95	.50	
Santa Barbara County (except Santa Maria)	9.53	.95	1.95	.55	
Santa Barbara Co. (Santa Maria)	9.73	.95	1.95	.55	
Ventura County	9.88	.95	1.95	1.05	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	$ 11.66	10%	16%	13%	3/4%
Inyo, Kern (except east of Los Angeles (Aqueduct) and Mono Counties	10.88	.95	1.85	1.45	.17
Kern County (East of Los Angeles Aqueduct)	13.38	.95	1.85	1.45	.17
REFRIGERATION & AIR CONDITIONING:					
Riverside and San Bernardino Counties	9.85	.96	.70	.90	.05
Los Angeles and Orange Counties	11.935	1.53	1.70	1.42	.20
ROOFERS:					
Imperial County	9.99	.50	.75	1.00	
Inyo, Kern and Mono Counties	9.70	.60	.60		
Riverside and San Bernardino Counties	9.90	.80	.65	1.00	
Los Angeles, Orange and Ventura Counties	11.59	.82	.80		.065
San Luis Obispo and Santa Barbara Counties	10.43	.535	.34		.0025
SHEET METAL WORKERS:					
Imperial County	11.96	1.04	2.24		
Kern County (China Lake Naval Ordnance Test Station and Edwards AFB)	13.67	1.04	1.80		.02
Kern County (Remainder of County and all of Inyo and Mono Counties; Los Angeles County (That portion North of a straight line drawn between Gorman and Big Pines)	11.17	1.04	1.80	.02	
Los Angeles County (Remaining portion	11.53	.94	1.50		.02
Orange County	11.62	1.04	2.13		.09
Riverside and San Bernardino Counties	10.10	1.04	1.80		.08
San Luis Obispo, Santa Barbara and Ventura Counties	11.00	.94	1.60		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Imperial County	$ 9.55	.60	$ 1.05		.07
Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino and Ventura Counties	10.32	.70	.82	.60	.06
Kern County, including that portion lying East of the Los Angeles Aqueduct and that portion of Inyo County included within the Inyo-Kern Naval Reservation	9.72	.70	.60	.78	.07
SPRINKLER FITTERS:					
Imperial, Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario, San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)	14.82	.60	.90		.08
Los Angeles (Los Angeles City and Area within 25 miles and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	14.66	.66	.90		.09
TERRAZZO WORKERS:					
Imperial County	10.04	.55	1.17	.75	
TILE SETTERS:					
Imperial County	10.04	.55	1.17	.75	
Los Angeles, Orange and Ventura Counties	11.40	.80	1.00		.08
San Luis Obispo and Santa Barbara Counties	9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties	10.72	1.03	1.35		
TILE SETTERS' HELPERS:					
Los Angeles, Orange and Ventura Counties	8.96	1.11	1.20		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Employer contributes $.22 per hour to Holiday Fund plus $.13 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.33 per hour to Vacation Fund, 5 years but less than 10 years $.43 per hour to Vacation Fund; over 10 years $.53 per hour to Vacation Fund.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling or shee-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab, floor and decks); Mixer-truck chute man (walls, slab decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raiser; Window cleaner	$ 7.65	.95	$ 1.95	.55	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.70	.95	1.95	.55	.10
GUINEA CHASER	7.83	.95	1.95	.55	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.75	.95	1.95	.55	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.77	.95	1.95	.55	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.78	.95	1.95	.55	.10
CHUCK TENDER; Septic tank digger and installer	7.80	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CESSPOOL DIGGER AND INSTALLER	$ 7.83	.95	$ 1.95	.55	.10
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip Rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.84	.95	1.95	.55	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.94	.95	1.95	.55	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pitteburg Chipper and similar type brush shredders; Trenching machine, hand propelled	7.86	.95	1.95	.55	.10
ASPHALT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sander; Concrete saw man, cutting, scoring old or new concrete, impact wrench, multi-plate; Pneumatic, ax, electric tools, vibrating machines and similar mechanical tools not separately classified herein; Tamper, barko wacker and similar type	7.96	.95	1.95	.55	1.0
ROCK SLINGER	7.91	.95	1.95	.55	.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	$ 8.04	.95	$ 1.95	.55	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs and over	8.06	.95	1.95	.55	.10
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, Pot men and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.99	.95	1.95	.55	.10
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER; Pipelayers (non-metallic including Sewer, Drain and Underground Tile); Prefabricated Manhole installer	8.16	.95	1.95	.55	.10
BLASTER POWDERMAN	8.30	.95	1.95	.55	.10
STEEL HEADBOARD MAN AND GUIDE-LINE SETTER	8.07	.95	1.95	.55	.10
SANDBLASTER (nozzleman)	8.10	.95	1.95	.55	.10
DRILLER (Core-Diamond-Wagon)	8.30	.95	1.95	.55	.10
HEAD ROCK SLINGER	8.17	.95	1.95	.55	.10
GUNNITE LABORERS: Nozzlemen and Rodmen	9.37	.95	1.95	.55	.10
Gunmen	8.87	.95	1.95	.55	.10
Reboundmen	7.91	.95	1.95	.55	.10

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LABORERS (Tunnel)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BATCH PLANT LABORERS; Bull Gang Mucker, Trackman; Concrete Crew, including Rodders and Spreaders; Changehouseman; Dumpman, Dumpman (outside); Swamper (Brakeman and Switchman on tunnel work); Tunnel materials handling Man; Tool Man	$ 9.23	.95	$ 1.95	.55	
CABLE TENDER: Chuck tender; Nipper; Steel form raiser and setter's helper; Vibratorman, jackhammer, pneumatic tools (except driller); Loading and unloading agitator cars; Pot tender using mastic or other materials	9.35	.95	1.95	.55	
BLASTER, Driller, Powderman; Chemical grout jetman; Cherry pickerman; Grout gunman; Grout mixerman; Grout pumpman; Jack-leg miner; Jumbo man; Kemper and other pneumatic concrete placer operator; Miner tunnel (hand or machine); Powderman (primer house); Primer Man; Shot-crete Man; Steel Form Raiser and setter; Timberman; Ratimber (wood or steel); Tunnel concrete finisher; Nozzleman; Operating of troweling and/or Grouting Machine; Sandblaster	9.51	.95	1.95	.55	
SHAFT, Raise miner; Diamond driller	9.79	.95	1.95	.55	

POWER EQUIPMENT OPERATORS (DREDGING) (Hydraulic Suction Dredges)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEVERMAN	$11.60	.95	$ 2.00	.50	.04
WATCH ENGINEER; Welder	11.02	.95	2.00	.50	.04
DECKMATE	10.54	.95	2.00	.50	.04
WINCHMAN (Stern winch or dredge)	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	9.93	.95	2.00	.50	.04
(Clamshell Dredges)					
LEVERMAN	11.60	.95	2.00	.50	.04
WATCH ENGINEER	11.02	.95	2.00	.50	.04
DECK MATE	10.54	.95	2.00	.50	.04
BARGE MATE	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler	9.93	.95	2.00	.50	.04

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 9.75	.95	$ 2.00	.50	.04
Group 2:	10.03	.95	2.00	.50	.04
Group 3:	10.32	.95	2.00	.50	.04
Group 4:	10.46	.95	2.00	.50	.04
Group 5:	10.68	.95	2.00	.50	.04
Group 6:	10.79	.95	2.00	.50	.04
Group 7:	10.91	.95	2.00	.50	.04
Group 8:	11.08	.95	2.00	.50	.04
Group 9:	11.21	.95	2.00	.50	.04

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman; Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type, Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driver Jumbo Form Setter; Rose Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (greaser truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-sero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yd.); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oilfield type); Drilling Machine Operator (including water wells); Forklift (under 5-ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanic Berm, Curb or Gutter (concrete or asphalt); Mechanical Finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or Finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-dirven hydraulic lifting device for concrete forms); Skiploader (Crawler and Wheel type over 3/4 yd. and up to and including 14 yds.); Stinger Crane (Austin-Western or similar type); Tractor-bulldozer, Tamper Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist 1 drum; Tunnel Locomotive (over 10 and up to and including 30 tons); Welder-general

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity)(Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtborg and similar types); Loader (Athey, Euclid, Sierre and similar type); Material Hoist; Mucking Machine (1/4 yd. rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Eackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds.struck); Rubber-tired Earth Moving Equipment (multiple engine, up to and including 25 yds. struck); Rubber-tired Scraper (self-loading-paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type-over 1½ yds., up to and including 6½ yds.); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) Bull-dozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. m.r.c.) (Long Boom pay applicable); Self-propelled Curb and Gutter Machine

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (long boom pay applicable); Derrick Barge (Long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel), gas or electric); Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yds. and up to 50 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r.c.)(long boom pay applicable); Tower Crane Repairman; Tractor Loader (crawler and wheel type over 6½ yds.); Welder-certified; Woods Mixer and similar Pugmill Equipment

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable; Hoist-stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber tired self-loading Scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired Scraper - pushing one another w/o Push Cat. Push-pull (500 per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment ($1.00 p/h additional to base rate); Wheel Excavator (over 750 cu. yd.)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 8.72	$ 1.25	.70	$1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.50	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helapr

Group 9: Water Truck, 3 or more axles

Group 10: FB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck including Winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Fireman (500 per hour additional for Fireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Rose Carrier, highway

Group 15: All-off-highway Equipment within Teamsters jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

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SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura

DECISION NUMBER: CA77-5042 DATE: Date of Publication

Supersedes Decision No. CA76-5121 dated December 28, 1976, in 41 FR 56566.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.10	.80	$ 1.17		.06
BOILERMAKERS	13.175	.775	1.00	.50	.02
BRICKLAYERS: Stonemasons:					
Imperial County	10.57	.83	1.06		.06
Kern County	11.60	1.00	1.00		.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach); Orange County	10.80	.95	1.15		.30
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Monrovia and South of Rosecrans Blvd., including Long Beach)	10.80	.95	1.15		.30
Riverside and San Bernardino Counties	10.60	1.03	1.35		.07
Santa Barbara and San Luis Obispo Counties	9.47	1.05	1.20	.85	.01
Ventura County	11.10	.85	1.20		.02
BRICK TENDERS	8.255	.95	1.95	.55	
CARPENTERS:					
Carpenters	9.54	1.30	1.80	.80	.06
Saw Filers	9.62	1.30	1.80	.80	.06
Table Power Saw Operators	9.64	1.30	1.80	.80	.06
Shinglers; Piledrivermen, bridge or dock carpenters; Derrick bargemen; Rock slinger	9.67	1.30	1.80	.80	.06
Hard wood floor layers	9.74	1.30	1.80	.80	.06
Head Rock Slinger	9.77	1.30	1.80	.80	.06
Pneumatic Nailer	9.79	1.30	1.80	.80	.06
Millwrights	10.04	1.30	1.80	.80	.06
CEMENT MASONS:					
Cement Masons	9.41	1.10	1.75	1.00	.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00	.08
DRYWALL INSTALLERS	11.21	1.30	1.80	.80	.07

DECISION NO. CA77-5042 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Imperial County					
Electricians	$ 12.50	.75	1%+1.25		
Cable Splicers	12.78	.75	1%+1.25		
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	14.82	.70	1%+1.48		.15
Cable Splicers	16.30	.70	1%+1.48		.15
Kern County (Remainder of County)					
Electricians; Technicians	12.32	.70	1%+1.48		.15
Cable Splicers	13.55	.70	1%+1.48		.15
Los Angeles County					
Electricians	12.29	1.05	1%+1.70		.02
Cable Splicers	12.59	1.05	1%+1.70		.02
Orange County					
Electricians	12.64	.81	1%+1.35		.02
Cable Splicers	13.22	.81	1%+1.35		.02
Riverside County					
Electricians	12.31	.60	1%+1.25		.04
Cable Splicers	12.61	.60	1%+1.25		.04
San Bernardino County					
Electricians	11.80	.96	1%+1.65		.04
Cable Splicers	12.10	.96	1%+1.65		.04
San Luis Obispo County					
Electricians	12.26	1.00	1%+1.35		.03
Cable Splicers	13.48	1.00	1%+1.35		.03
Santa Barbara County (Vandenburg AFB)					
Electricians	13.35	.90	1%+1.35		.03
Cable Splicers	14.35	.90	1%+1.35		.03
Remainder of County					
Electricians	11.85	.90	1%+1.35		.03
Cable Splicers	12.85	.90	1%+1.35		.03
Ventura County					
Electricians	13.03	.84	1%+1.05		.02
Cable Splicers	14.33	.84	1%+1.05		.02

DECISION NO. CA77-5042 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Imperial, Kern (South of Tehachapi Range), Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties					
Elevator constructors	$ 12.95	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Kern County (North of Tehachapi Range)					
Elevator Constructors	13.49	.545	.35	3%+a	.02
Elevator Constructors' Helpers	70%JR	.545	.35	3%+a	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS:					
Imperial County	10.90	.67	.90		
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	11.19	.67	1.45		.04
IRONWORKERS:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04
IRRIGATION & LAWN SPRINKLERS:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	9.40	10%	16%	13%	3/4%
LATHERS:					
Kern County	9.13	.60	1.30	.70	.05
Los Angeles County (except City of Lancaster)	11.00	.60	.75		.03
Ventura County	9.06	.60	1.10	1.00	.02
San Luis Obispo County	7.72	.87		3.20	
Santa Barbara County	8.72	.57	1.00	1.50	

DECISION NO. CA77-5042 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area); San Bernardino (excluding Western portion)					
Brush; Paint Burners	$ 10.99	.99	$ 1.18	.75	.07
Paperhangers; Iron, steel and bridge (swing stage); Sheet Rock Taper	11.49	.99	1.18	.75	.07
Brush (swing stage); Spray	11.24	.99	1.18	.75	.07
Steeplejack	12.39	.99	1.18	.75	.07
Kern (Lancaster, Mojave, Palmdale, Chine Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (west of a line North of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	11.27	.46	.60	.60	.01
Structural steel and bridge; Painter Burner	11.39	.46	.60	.60	.01
Tapers	11.79	.46	.60	.60	.01
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.52	.46	.60	.60	.01
Brush swing stage (over 13 stories)	11.64	.46	.60	.60	.01
Structural steel and bridge, swing	11.67	.46	.60	.60	.01
Spray sandblaster swing stage (13 stories or less); Paste machine; Special coating spray	11.77	.46	.60	.60	.01
Steeplejack	12.52	.46	.60	.60	.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Kern County (Remainder of County)					
Brush	$ 9.87	.45	.61		.03
Brush or Roller, Swing stage; Paperhangers; Taping Joint Sheet Rock	10.12	.45	.61		.03
Spray; Sandblasters	10.37	.45	.61		.03
San Luis Obispo, Santa Barbara and Ventura Counties					
Brush	11.51	.75	.60		.03
Iron and Steel; Paperhangers; Paste Machine Operator; Sandblaster	11.76	.75	.60		.03
Spraymen	12.01	.75	.60		.03
Tapers, Sheetrock	12.11	.75	.60		.03
Steeplejack	12.76	.75	.60		.03
PLASTERERS:					
Imperial County	11.03				
Los Angeles and Orange Cos.	9.745	.68	1.85	.70	.10
Riverside and San Bernardino Counties	10.675				.01
San Luis Obispo County	12.00				
Santa Barbara County	8.69	.70	1.05		.01
Ventura County	8.625	.55	.50	.50	.02
PLASTERERS' TENDERS:					
Imperial, Riverside and San Bernardino Counties	10.18	.95	1.95	.50	
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	11.725	.95	1.95	.55	
Kern County (Remainder of Co.)	9.10	.95	1.95	.55	
Los Angeles and Orange Cos.	10.175	.95	1.95	.80	
San Luis Obispo County	8.35	.95	1.95	.50	
Santa Barbara County (except Santa Maria)	9.53	.95	1.95	.55	
Santa Barbara County (Santa Maria)	9.73	.95	1.95	.55	
Ventura County	9.88	.95	1.95	1.05	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	$ 11.66	10%	16%	13%	3/4%
Kern (except east of Los Angeles Aqueduct)	10.86	.95	1.85	1.45	.17
Kern (East of Los Angeles Aqueduct)	13.38	.95	1.85	1.45	.17
REFRIGERATION & AIR CONDITIONING:					
Riverside and San Bernardino Counties	9.85	.96	.70	.90	.08
Los Angeles and Orange Cos.	11.935	1.53	1.70	1.42	.02
ROOFERS:					
Imperial County	9.99	.50	.75	1.00	
Kern County	9.70	.60	.60		
Los Angeles, Orange and Ventura Counties	11.59	.82	.80		.065
San Luis Obispo and Santa Barbara Counties	10.43	.535	.34		.0025
Riverside and San Bernardino Counties	9.90	.80	.65	1.00	
SHEET METAL WORKERS:					
Imperial County	11.96	1.04	2.24		
Kern County (China Lake Naval Ordnance Test Station and Edwards AFB)	13.67	1.04	1.80		.02
Kern County (Remainder of County); and Los Angeles County (That portion North of a straight line drawn between Gorman and Big Pines)	11.17	1.04	1.80		.02
Los Angeles County (Remaining portion)	11.53	.96	1.50		.09
Orange County	11.62	1.04	2.13		
Riverside and San Bernardino Counties	10.10	1.04	1.80		.00
San Luis Obispo, Santa Barbara and Ventura Counties	11.00	.94	1.60		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Imperial County	$ 9.35	.60	$ 1.05		.07
Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino and Ventura Counties	10.32	.70	.82	.60	.06
Kern County	9.72	.70	.60	.78	.07
SPRINKLER FITTERS:					
Imperial, Kern, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario), San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)	14.82	.60	.90		.08
Los Angeles (Los Angeles City and Area within 25 miles, and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	14.86	.86	.90		.09
TILE SETTERS:					
Imperial County	10.04	.55	1.17	.75	
Los Angeles, Orange and Ventura Counties	11.40	.80	1.00		.08
San Luis Obispo and Santa Barbara Counties	9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties	10.72	1.03	1.35		
TILE SETTERS' HELPERS:					
Los Angeles, Orange and Ventura Counties	8.96	1.11	1.20		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 8ix Paid Holidays: A through F.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off; Concrete, water curing; Demolition Laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling or shee-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab, floor and decks); Mixer-truck chute man (walls, slab decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$ 7.65	.95	$ 1.95	.55	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.70	.95	1.95	.55	.10
GUNITE CHASER	7.83	.95	1.95	.55	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.75	.95	1.95	.55	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.77	.95	1.95	.55	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.78	.95	1.95	.55	.10
CHUCK TENDER; Septic tank digger and installer	7.80	.95	1.95	.55	.10

DECISION NO. CA77-5042 Page 9

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CESSPOOL DIGGER AND INSTALLER	$ 7.83	.95	$ 1.95	.55	.10
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip Rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.84	.95	1.95	.55	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.94	.95	1.95	.55	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburg Chipper and similar type brush shredderz; Trenching machine, hand propelled	7.86	.95	1.95	.55	.10
ASPHALT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sander; Concrete saw man, cutting, scoring old or new concrete, impact wrench, multi-plate; Pneumatic, ae, electric tools, vibrating machines and similar mechanical tools not separately classified herein; Tamper, barko wacker and similar type	7.96	.95	1.95	.55	1.0
ROCK SLINGER	7.91	.95	1.95	.55	.10

DECISION NO. CA77-5042 Page 10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	$ 8.04	.95	$ 1.95	.55	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs and over	8.06	.95	1.95	.55	.10
GAS AND OIL PIPELINE WRAPPER - (8" and over); Kettlemen, Pot man and man applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.99	.95	1.95	.55	.10
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER; Pipelayers (non-metallic including Sewer, Drain and Underground Tile); Prefabricated Manhole installer	8.16	.95	1.95	.55	.10
BLASTER POWDERMAN	8.30	.95	1.95	.55	.10
STEEL HEADBOARD MAN AND GUIDE-LINE SETTER	8.07	.95	1.95	.55	.10
SANDBLASTER (nozzleman)	8.10	.95	1.95	.55	.10
DRILLER (Core-Diamond-Wagon)	8.30	.95	1.95	.55	.10
HEAD ROCK SLINGER	8.17	.95	1.95	.55	.10
GUNNITE LABORERS: Nozzlemen and Rodmen	9.37	.95	1.95	.55	.10
Gunmen	8.87	.95	1.95	.55	.10
Reboundmen	7.91	.95	1.95	.55	.10

DECISION NO. CA77-5042 Page 11

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 9.75	.95	$ 2.00	.50	.04
Group 2:	10.03	.95	2.00	.50	.04
Group 3:	10.32	.95	2.00	.50	.04
Group 4:	10.46	.95	2.00	.50	.04
Group 5:	10.68	.95	2.00	.50	.04
Group 6:	10.79	.95	2.00	.50	.04
Group 7:	10.91	.95	2.00	.50	.04
Group 8:	11.08	.95	2.00	.50	.04
Group 9:	11.21	.95	2.00	.50	.04

DECISION NO. CA77-5042 Page 12

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.R.M.); Engineer Oiler; Generator; Heavy Duty Repairman; Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type, Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driver Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (greaser truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yd.); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oilfield type); Drilling Machine Operator (including water wells); Forklift (under 5-ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanic Berm, Curb or Gutter (concrete or asphalt); Mechanical Finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or Finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-dirven hydraulic lifting device for concrete forms); Skiploader (Crawler and Wheel type over 3/4 yd. and up to and including 1½ yds.); Stinger Crane (Austin-Western or similar type); Tractor-bulldozer, Tamper Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist 1 drum; Tunnel Locomotive (over 10 and up to and including 30 tons); Welder-general

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity)(Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtborg and similar types); Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment (single engine-Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds.struck); Rubber-tired Earth Moving Equipment (multiple engine, up to and including 25 yds. struck); Rubber-tired Scraper (self-loading-paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type-over 1½ yds., up to and including 6½ yds.); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) Bull-dozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. m.r.c.) (Long Boom pay applicable); Self-propelled Curb and Gutter Machine

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel), gas or electric); Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yds. and up to 50 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r.c.)(long boom pay applicable); Tower Crane Repairman; Tractor Loader (crawler and wheel type over 6½ yds.); Welder-certified; Wooda Mixer and similar Pugmill Equipment

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable; Hoist-stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar type over 50 cu. yds. struck); Rubber tired self-loading Scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired Scraper - pushing one another w/o Push Cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment ($1.00 p/h additional to base rate); Wheel Excavator (over 750 cu. yd.)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$ 8.72	$1.25	.70	$ 1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.50	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fusl Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helepr

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck including Winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50¢ per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All-off-highway Equipment within Teamstere jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

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SUPERSEDEAS DECISIONS

STATE: Colorado
DECISION NUMBER: CO77-5047
COUNTY: Statewide
Date : Date of Publication
Supersedes Decision No. CO77-5014 dated March 11, 1977, in 42 FR 13725
DESCRIPTION OF WORK: Heavy and Highway Construction

HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld and Yuma Counties					
Electricians	$ 10.94	.70	1%+.50		
Cable Splicers	11.19	.70	1%+.50		
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkins, Rio Blanco, Routt, San Juan and San Miguel Counties					
Electricians	11.25	.52	1%+.25		1%
Cable Splicers	11.50	.52	1%+.25		1%
Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Alamosa, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, and Rio Grande Counties					
Zone I (Within 12 miles from Pueblo Main Post Office)					
Electricians	10.70	.52	1%+.65		1%
Cable Splicers	11.77	.52	1%+.65		1%
Zone II (12 to 20 miles from Pueblo Main Post Office)					
Electricians	11.10	.52	1%+.65		1%
Cable Splicers	12.17	.52	1%+.65		1%

HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Zone 3 (30 to 40 miles from Pueblo Main Post Office)					
Electricians	$ 11.45	.52	1%+.65		1%
Cable Splicers	12.52	.52	1%+.65		1%
Zone 4 (40 miles and over from Pueblo Main Post Office)					
Electricians	12.58	.52	1%+.65		1%
Cable Splicers	13.65	.52	1%+.65		1%
Electricians on electrical contracts less than $20,000 in Zones 3 and 4	10.20	.52	1%+.65		1%
Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties					
Electricians	10.95	.42	1%+.50		.015
IRONWORKERS	9.75	.71	1.15		.10
PAINTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties					
Brush	9.76	.65	.70		.07
Spray, Swing Stage	10.36	.65	.70		.07
Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers and Pueblo Cos.					
Brush	7.87	.50			.04
Steel Painters	8.37	.50			.04
Spray Painters	8.87	.50			.04
Steel Spray	9.37	.50			.04

HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray, Park (Northern half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties					
Brush	$ 8.49	.60	.30		.04
Spray	9.24	.60	.30		.04
Steel	8.99	.60	.30		.04
Steel Spray	9.74	.60	.30		.04

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters					
*Zone I	$ 8.74	.78	.85	.65	.07
*Zone II	9.24	.78	.85	.65	.07
Underground Carpenters					
*Zone I	8.94	.78	.85	.65	.07
*Zone II	9.44	.78	.85	.65	.07
Working on Creosoted material, High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 1½ HP saw at jobsite					
*Zone I	9.04	.78	.85	.65	.07
*Zone II	9.54	.78	.85	.65	.07
CEMENT MASONS:					
*Zone I	8.36	.47	1.15	.30	.10
*Zone II	8.86	.47	1.15	.30	.10

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LABORERS (Heavy & Highway Construction)	Basic Hourly Rates Zone 1	Basic Hourly Rates Zone 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.90	$ 7.40	.49	.55		.05
Group 2	7.00	7.50	.49	.55		.05
Group 3	7.30	7.80	.49	.55		.05
Group 4	7.45	7.95	.49	.55		.05
Group 5	7.65	8.15	.49	.55		.05
LABORERS (Tunnels)						
Group 1	6.90	7.40	.49	.55		.05
Group 2	7.80	8.30	.49	.55		.05
Group 3	7.90	8.40	.49	.55		.05
Group 4	7.98	8.48	.49	.55		.05
Group 5	8.05	8.55	.49	.55		.05
Group 6	8.20	8.70	.49	.55		.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	7.90	8.40	.49	.55		.05
Group 2	8.05	8.55	.49	.55		.05
Group 3	8.15	8.65	.49	.55		.05
Group 4	8.33	8.83	.49	.55		.05
Group 5	8.43	8.93	.49	.55		.05
Group 6	8.48	8.98	.49	.55		.05

LABORERS
(Heavy and Highway Construction)

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman directing traffic; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake chaser; Gabion Baskets and Reno Mattresses; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core and Diamond Drill Helpers, Powdermen Helpers; Hot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potman (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical tool operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators of concrete saws on pavement (other than gang saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension or Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Helper; Sand Blaster; Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frostproofing; Any laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal laws); Gunniting and Shotcrete Helpers; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or stringmen on roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphons, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; Wiping of Joint Concrete Pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

LABORERS (Cont'd)
(Heavy and Highway Construction)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon Drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal laws; Plugs and Galleys in Dams

LABORERS
(Tunnels)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck Tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Helpers on Shotcrete, Gunniting and Sand Blasting; Helpers, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Helper, applying or concrete processing materials

Group 6: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasters, Pump Concrete placement Men

LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Helpers in Shotcrete Gunniting and Sand Blasting; Helpers on Core and Diamond Drills; Pot Tenders; Cement Finisher Helpers; Applying of concrete processing material

Group 4: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner Plate Setters; Vibrator Men, internal and external

Group 5: Diamond and Core drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 6: Any employee performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal laws)

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$ 7.90	$ 8.65	.45	.79	.30	.06
Group 2	8.25	9.00	.45	.79	.30	.06
Group 3	8.60	9.35	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.05	9.80	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	8.05	8.80	.45	.79	.30	.06
Group 2	8.40	9.15	.45	.79	.30	.06
Group 3	8.50	9.25	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.30	10.05	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tnnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mins Hoist Operator

Group 6: Mole

Heavy and Highway Construction TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.80	$ 8.30	.50	.35	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.90	8.40	.50	.35	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	8.00	8.50	.50	.35	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	8.05	8.55	.50	.35	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	8.10	8.60	.50	.35	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	8.15	8.65	.50	.35	.30	
MULTI-PURPOSE TRUCK; Specialty and Hoisting	8.20	8.70	.50	.35	.30	

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 8.25	$ 8.75	.50	.35	.30	
TRUCK DRIVER, Snow Plow	8.35	8.85	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	8.40	8.90	.50	.35	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	8.50	9.00	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.65	9.15	.50	.35	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.70	9.20	.50	.35	.30	
MECHANIC	8.80	9.30	.50	.35	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.90	9.40	.50	.35	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	9.00	9.50	.50	.35	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	9.10	9.60	.50	.35	.30	
DUMP TRUCKS, over 104 cu. yds.	9.30	9.80	.50	.35	.30	

HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Cable Splicer	$ 11.73	.45	1%		3/4%
Lineman Cableman	11.00	.45	1%		3/4%
Lineman (Journeyman)	10.93	.45	1%		3/4%
Line Equipment Operator	9.30	.45	1%		3/4%
Line Equipment Maintenance Man	9.30	.45	1%		3/4%
Groundman, Experienced	7.67	.45	1%		3/4%
Groundman, Inexperienced	6.96	.45	1%		3/4%

*ZONE DESCRIPTIONS

Carpenters, Cement Masons, Laborers
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Logan	Rio Grande
Clear Creek	Fremont	Mesa	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

B. Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

C. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert and Las Animas Counties lying west of the Township line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West and all of Montrose County lying Northerly of the North line of Ouray County and said North line extended West of the Township line between R11W and R12W, said part lying East of said Township line of the New Mexico Principal Meridian, and all of Washington County lying North of the 40°00'00" Latitude Base Line.

D. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included with Zone 2, as follows:

All of Adams, Arapahoe, Elbert and Las Animas lying East of the Township line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North line of Ouray County and said North line extended West of said Township line between R11W and R12W, said point being East of said Township line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line.

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SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan Park, Summit, and Weld

DECISION NUMBER: CO77-5048 DATE: Date of Publication

Supersedes Decision No. CO77-5015 dated March 11, 1977, in 42 FR 13733.

DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.76	.38	$ 1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Eagle County	9.70	.85	.95	.50	.05
Boulder and Grand Counties	9.10	.60	.70		.05
Elbert, Lake and Park Counties	9.85	.50	.60		.04
Larimer County	9.85	.60	.70		.05
Remaining Counties	9.70	.85	.95	.50	.05
CARPENTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Grand, Gilpin, Jefferson and Park (Northern Area) Counties					
Area (a) Denver Metropolitan Area including Louisville, Golden, Boulder and Longmont, basing points					
Zone I (0 to 20 miles)	9.485	.78	.85	.65	.07
Zone II (20 to 50 miles)	10.67	.78	.85	.65	.07
Zone III (50 miles and over)	11.86	.78	.85	.65	.07
Morgan and Weld Counties:					
Area (b) Denver Northeastern Area of Colorado including Greeley, Loveland and Fort Morgan basing points					
Zone I (0 to 20 miles)	9.485	.78	.85	.65	.07
Zone II (20 to 50 miles)	10.67	.78	.85	.65	.07
Zone III (50 miles and over)	11.86	.78	.85	.65	.07
Larimer County (S.E. portion within Loveland basing point, Zone 1)	9.485	.78	.85	.65	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Larimer (Remainder of County), Eagle, Lake, Park (South 40 miles) and Summit Counties					
Zone I (0-30 miles from P.O. in Leadville or Fort Collins)	$ 8.69	.78	.85	.65	.07
Zone II (30-60 miles from P.O. in Leadville or Fort Collins)	8.94	.78	.85	.65	.07
Zone III (All work outside of the 60 mile radius from P.O. in Leadville or Fort Collins)	9.19	.78	.85	.65	.07
CEMENT MASONS:					
Cement Masons	8.45	.47	1.15	.60	.09
Working with composition materials and color	8.95	.47	1.15	.60	.09
Working on scaffold, swing stage, or temporary platform over 25'	8.70	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS:					
Electricians (Elbert and Park Counties)	10.95	.42	1%+.50		.015
Electricians (Remaining Cos.)	11.69	.70	1%+.75		.02
Cable Splicers (Remaining Counties)	11.94	.70	1%+.75		.02
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS	10.30	.84	1.25		.12
LATHERS	10.84				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:					
Elbert, Lake and Park Cos.	$ 9.11	.50	.50		
Remaining Counties	9.75	.71	.70		.04
MILLWRIGHTS	9.93	.78	.85		.06
PAINTERS:					
Park County (Southern half)					
Brush, Roller, Taper, hand texture	8.49	.60	.30		.04
Steel and Paperhanger	8.99	.60	.30		.04
Spray	9.24	.60	.30		.04
Steel Spray	9.74	.60	.30		.04
Remaining Counties including N½ of Park County*					
Brush, Roller and Drywall Finisher	9.76	.65	.70		.07
Spray; Swing Stage, Paperhangers	10.36	.65	.70		.07
PLASTERERS	10.84				.01
PLUMBERS; Steamfitters:					
Southern portions of Douglas, Elbert and Park Counties*	9.05	.60	.75	1.17	.08
Boulder County	10.30	.60	.65	.50	.10
Remaining Counties (including Northern portions of Douglas, Elbert and Park Counties)	10.15	.65	.80	.50	.05
ROOFERS:					
Eagle and Southern portions of Lake, Jefferson, Park, Douglas and Elbert Counties**	7.91	.42	.10		
Remaining Counties including Northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	9.41	.70	.25		.08
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS	9.04	.40	.75	.30	.05
SPRINKLER FITTERS	11.65	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$ 9.75	.71	.70		.04
TILE LAYERS:					
Elbert, Lake and Park Cos.	9.11	.50	.50		
Remaining Counties	9.75	.71	.70		.04
TILE, MARBLE & TERRAZZO HELPERS:					
Helpers	7.44	.71	.70	.40	
Floor Grinders	7.59	.71	.70	.40	
Base Grinders	8.14	.71	.70	.40	

*Park County dividing Line:
Line from the S.W. corner of Jefferson County to the S.E. corner of Lake County

**Area South of Lake County to a point 2 miles north of the City of Leadville to a point 1/2 mile north of the City of Limon at the west border of Lincoln County

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1	Zone 2	Zone 3				
AREA A							
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.05
Group 2	7.00	7.45	7.80	.49	.55		.05
Group 3	7.28	7.73	8.18	.49	.55		.05
Group 4	7.50	7.95	8.40	.49	.55		.05
Group 5	7.55	8.00	8.45	.49	.55		.05
Group 6	7.70	8.15	8.60	.49	.55		.05
AREA B							
Group 1	$ 5.50	$5.95	$ 6.40	.49	.55		.05
Group 2	6.90	7.35	7.80	.49	.55		.05
Group 3	7.18	7.63	8.08	.49	.55		.05
Group 4	7.38	7.83	8.28	.49	.55		.05
Group 5	7.22	7.67	8.12	.49	.55		.05
Group 6	7.70	8.15	8.60	.49	.55		.05

LABORERS (Cont'd)

AREA A

Adams, Arapahoe, Boulder, Denver, Lake, Larimer and Summit Counties. Douglas and Jefferson Counties lying north of the south line of Township 7 south; Elbert County lying West of the east line of Range 65 West and North of the south line of Township 7 south. Weld County lying south and west of the following described line: Beginning at the northwest corner of Township 4 North, Range 68 West of the 6th p.m.; thence east along the north line of said Township six (6) miles, more or less, to the east line of said Township; thence south along the east line of said Township three (3) miles, more or less, to the southeast corner of Section 13, Township 4 North, Range 68 West; thence east along the eastwest center line of Township 4 North, Range 67 West, six (6) miles, more or less, to the east line of said Township; thence south along the east line of Range 67 West, being the east lines of Township 4 North, 3 North, 2 North, and 1 North, Range 67 West, sixteen (16) miles to the southeast corner of Section 1, Townehip 1 North, Range 67 West; thence east and parallel to the Base Line twelve (12) miles, more or less, to the southeast corner of Section 1, Township 1 North, Range 65 West; thence south along the east line of Range 65 West, five (5) miles, more or less, to the Base Line being the south line of Weld County.

Zone 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Boulder, Denver, Dillon, Englewood, Fort Collins, Golden, Greeley and Leadville

Zone 2: That area encompassed by 30 to 70 driving miles from the main Post Office of above named Cities

Zone 3: That area encompassed by 70 driving miles and over from the main Post Office of above named Cities.

AREA B

Douglas, Elbert, Jefferson, and Weld Counties lying outside of the area as described in Area A, and all of Clear Creek, Eagle, Gilpin, Grand, Morgan and Park Counties

Zone 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Eagle, Fort Morgan, Golden Grandby, Greeley and Vail.

Zone 2: That area encompassed by 30 to 70 driving miles from main Post Office of above named Cities.

Zone 3: That area encompassed by 70 driving miles and over from the main Post Office in above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Ballers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$ 7.90	$ 8.65	.45	.79	.30	.06
Group 2	8.25	9.00	.45	.79	.30	.06
Group 3	8.60	9.35	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.05	9.80	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	8.05	8.80	.45	.79	.30	.06
Group 2	8.40	9.15	.45	.79	.30	.06
Group 3	8.50	9.25	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.30	10.05	.45	.79	.30	.06

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POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tnnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
TRUCK DRIVERS						
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.80	$ 8.30	.50	.35	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.90	8.40	.50	.35	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	8.00	8.50	.50	.35	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	8.05	8.55	.50	.35	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	8.10	8.60	.50	.35	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	8.15	8.65	.50	.35	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	8.20	8.70	.50	.35	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 8.25	$ 8.75	.50	.35	.30	
TRUCK DRIVER, Snow Plow	8.35	8.85	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	8.40	8.90	.50	.35	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	8.50	9.00	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.65	9.15	.50	.35	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.70	9.20	.50	.35	.30	
MECHANIC	8.80	9.30	.50	.35	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.90	9.40	.50	.35	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	9.00	9.50	.50	.35	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	9.10	9.60	.50	.35	.30	
DUMP TRUCKS, over 104 cu. yds.	9.30	9.80	.50	.35	.30	

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*ZONE DESCRIPTIONS

A. Counties entirely within Zone 1:

Boulder	Douglas	Larimer
Clear Creek	Gilpin	Morgan
Denver	Jefferson	Weld

B. Counties entirely within Zone 2:

Grand Lake Park Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:
All of Adams, Arapahoe, Elbert Counties lying west of the Township line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:
All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NUMBER: C077-5049 DATE: Date of Publication
Supersedes Decision No. C077-5016 dated March 11, 1977, in 42 FR 13740
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.76	.38	1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	9.85	.50	.60		.04
CARPENTERS;					
Zone 1 (0-30 miles from Post Office in Colorado Springs)	8.69	.78	.85	.65	.07
Zone 2 (30 miles and over from Post Office in Colorado Springs)	8.94	.78	.85	.65	.07
CEMENT MASONS:					
Cement Masons	8.25	.47	1.15	.60	.09
Working with Composition materials and color	8.75	.47	1.15	.60	.09
Working on scaffold, swing stage or temporary platform over 25'	8.50	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS	10.95	.42	1%+.50		.015
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS	9.75	.71	1.15		.10
LATHERS	10.29				.01
MARBLE SETTERS	9.11	.50	.50		
MILLWRIGHTS	9.48	.68	.75		.06
PAINTERS:					
Brush and Roller; Tapers, hand texture	8.49	.60	.30		.04
Paperhangers; Steel	8.99	.60	.30		.04
Spray	9.24	.60	.30		.04
Steel Spray	9.74	.60	.30		.04
PLASTERERS	10.84				.01
PLUMBERS; Pipefitters	9.05	.60	.75	2.27	.08
ROOFERS	9.41	.52	.40		
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS	9.04	.40	.75	.30	.05
SPRINKLER FITTERS	11.65	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$ 9.75	.71	.70		.08
TILE SETTERS	9.11	.50	.50		.04
TILE, MARBLE & TERRAZZO HELPERS:					
Helpers	7.44	.71	.70	.40	
Floor Grinders	7.59	.71	.70	.40	
Base Grinders	8.14	.71	.70	.40	

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for over 5 years' service; 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1*	Zone 2*	Zone 3*				
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.05
Group 2	7.00	7.45	7.90	.49	.55		.05
Group 3	7.28	7.73	8.18	.49	.55		.05
Group 4	7.50	7.95	8.40	.49	.55		.05
Group 5	7.55	8.00	8.45	.49	.55		.05
Group 6	7.70	8.15	8.60	.49	.55		.05

ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Pueblo and Trinidad.

ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office in the above named Cities

ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office in the above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.90	.45	.79	.30	.06
Group 2	8.25	.45	.79	.30	.06
Group 3	8.60	.45	.79	.30	.06
Group 4	8.75	.45	.79	.30	.06
Group 5	8.90	.45	.79	.30	.06
Group 6	9.05	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)					
Group 1	8.05	.45	.79	.30	.06
Group 2	8.40	.45	.79	.30	.06
Group 3	8.50	.45	.79	.30	.06
Group 4	8.75	.45	.79	.30	.06
Group 5	8.90	.45	.79	.30	.06
Group 6	9.30	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

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POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tnnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type.

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.80	.50	.35	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.90	.50	.35	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	8.00	.50	.35	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	8.05	.50	.35	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	8.10	.50	.35	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	8.15	.50	.35	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	8.20	.50	.35	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cb operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 8.25	.50	.35	.30	
TRUCK DRIVER, Snow Plow	8.35	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	8.40	.50	.35	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	8.50	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.65	.50	.35	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.70	.50	.35	.30	
MECHANIC	8.80	.50	.35	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.90	.50	.35	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	9.00	.50	.35	.30	
DUMP TRUCKS, over 79 cu. yds. to and including 104 cu. yds.	9.10	.50	.35	.30	
DUMP TRUCKS, over 104 cu. yds.	9.30	.50	.35	.30	

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SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Las Animas, Otero and Pueblo

DECISION NUMBER: CO77-5050

DATE : Date of Publication

Supersedes Decision No. CO77-5017 dated March 11, 1977, in 42 FR 13745

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.76	.38	$ 1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	9.77	.60	.70		.04
CARPENTERS	8.69	.78	.85	.65	.07
CEMENT MASONS:					
Cement Masons	8.20	.47	1.15	.60	.09
Working with composition material and color	8.70	.47	1.15	.60	.09
Working on scaffold, swing stage or temporaty platform over 25'	8.55	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS:					
Zone I (0-12 miles from P. O.)					
Electricians	10.70	.52	1%+.65		1%
Cable Splicers	11.77	.52	1%+.65		1%
Zone II (12-20 miles from P.O.)					
Electricians	11.10	.52	1%+.65		1%
Cable Splicers	12.17	.52	1%+.65		1%
Zone III (20-40 miles from P.O.)					
Electricians	11.45	.52	1%+.65		1%
Cable Splicers	12.52	.52	1%+.65		1%
Zone IV (Over 40 miles from P.O.)					
Electricians	12.58	.52	1%+.65		1%
Cable Splicers	13.65	.52	1%+.65		1%
Electrical contracts under $20,000 in Zones III and IV	10.20	.52	1%+.65		1%
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS:					
Structural; Ornamental and Reinforcing	9.75	.71	1.15		.10
LATHERS	9.56				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE & TILE SETTERS, TERRAZZO WORKERS	$ 9.75	.71	.70		.04
MILLWRIGHTS	9.48	.68	.75		.06
PAINTERS:					
Brush, roller, tapers, hand texture	7.87	.50			.04
Steel; Paperhangers	8.37	.50			.04
Spray, Tapers using Automatic tools	8.87	.50			.04
Spray Steel	9.37	.50			.04
PLASTERERS	10.84				.01
PLUMBERS:					
Zone I (0-15 miles from P.O.)	10.97	.60	.85		.08
Zone II (15-20 miles from P.O.)	11.54	.60	.85		.08
Zone III (20-40 miles from P.O.)	11.97	.60	.85		.08
Zone IV (Over 40 miles from P.O.)	12.995	.60	.85		.08
ROOFERS	9.41	.52	.40		
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS:					
Las Animas and Otero Counties	9.04	.40	.75	.30	.05
Pueblo County	7.70	.40	.65	.30	.05
SPRINKLER FITTERS	11.65	.65	.95		.08
TILE, MARBLE & TERRAZZO					
HELPERS:					
Helpers	7.44	.71	.70	.40	
Floor Grinders	7.59	.71	.70	.40	
Base Grinders	8.14	.71	.70	.40	

a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	/ Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1*	Zone 2*	Zone 3*				
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.05
Group 2	7.00	7.45	7.90	.49	.55		.05
Group 3	7.28	7.73	8.18	.49	.55		.05
Group 4		7.95	8.40	.49	.55		.05
Group 5	7.55	8.00	8.45	.49	.55		.05
Group 6	7.70	8.15	8.60	.49	.55		.05

ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Pueblo and Trinidad.

ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office in the above named Cities

ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office in the above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stammers on Caisson Work.

Group 6: Tender, Mason and Plaster

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POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$ 7.90	$ 8.65	.45	.79	.30	.06
Group 2	8.25	9.00	.45	.79	.30	.06
Group 3	8.60	9.35	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.05	9.80	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	8.05	8.80	.45	.79	.30	.06
Group 2	8.40	9.15	.45	.79	.30	.06
Group 3	8.50	9.25	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.30	10.05	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoe, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tnnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.80	$ 8.30	.50	.35	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.90	8.40	.50	.35	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	8.00	8.50	.50	.35	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	8.05	8.55	.50	.35	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	8.10	8.60	.50	.35	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	8.15	8.65	.50	.35	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	8.20	8.70	.50	.35	.30	

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Elebtric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 8.25	$ 8.75	.50	.35	.30	
TRUCK DRIVER, Snow Plow	8.35	8.85	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	8.40	8.90	.50	.35	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	8.50	9.00	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.65	9.15	.50	.35	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.70	9.20	.50	.35	.30	
MECHANIC	8.80	9.30	.50	.35	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.90	9.40	.50	.35	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	9.00	9.50	.50	.35	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	9.10	9.60	.50	.35	.30	
DUMP TRUCKS, over 104 cu. yds.	9.30	9.80	.50	.35	.30	

*ZONE DESCRIPTIONS
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:
Otero Pueblo

B. Portions of Las Animas County which are included within Zone 1, as follows:
All of Las Animas County lying west of the Township line between R59W and R60W of the 7th 7th Guide Meridian West.

C. Portions of Las Animas County which are included within Zone 2, as follows:
All of Las Animas County lying East of the Township line between R59W and R60W of the 7th Guide Meridian West.

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Delta, Garfield, Gunnison, Mesa, Montrose and Pitkin

DECISION NUMBER: C077-5051

DATE : Date of Publication

Supersedes Decision No. C077-5018 dated March 11, 1977, in 42 FR 13750

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.76	.38	$ 1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Pitkin County	9.70	.60	.70	.25	.05
Remaining Counties	9.60	.60	.70		.05
CARPENTERS:					
Post Office basing points in the Cities of Leadville, Fort Collins, Glenwood Springs, Grand Junction, Gunnison and Montrose					
Zone I (0-30 miles from nearest basing point)	8.69	.78	.85	.65	.07
Zone II (30-60 miles from nearest basing point)	8.94	.78	.85	.65	.07
Zone III (60 miles and over from nearest basing point)	9.19	.78	.85	.65	.07
CEMENT MASONS:					
Cement Masons	8.45	.47	1.15	.60	.09
Working with composition materials and color	8.95	.47	1.15	.60	.09
Working on scaffold, swing stage or temporary platform over 25'	8.70	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS:					
Electricians	11.25	.52	1%+.25		1½%
Cable Splicers	11.50	.52	1%+.25		1½%
ELEVATOR CONSTRUCTORS	10.64	.545	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELEPRS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS:					
Structural, Ornamental and Reinforcing	9.75	.71	1.15		.10
LATHERS	10.84				.01
MARBLE & TILE SETTERS, TERRAZZO WORKERS	9.75	.71	.70		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	$ 9.48	.68	.75		.06
PAINTERS:					
Brush, Roller and Drywall Finishers	9.76	.65	.70		.07
Paperhangers, Spray, Swing Stage	10.36	.65	.70		.07
PLASTERERS	10.14				.01
PLUMBERS	9.50	.60	.85	1.50	.10
ROOFERS	9.41	.52	.40		
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS	9.04	.40	.75	.30	.05
SPRINKLER FITTERS	11.65	.65	.95		.08
TILE, MARBLE & TERRAZZO HELPERS:					
Helpers	7.44	.71	.70	.40	
Floor Grinders	7.59	.71	.70	.40	
Base Grinders	8.14	.71	.70	.40	

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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LABORERS Garfield and Pitkin Cos.	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*	Zone 3*				
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.05
Group 2	6.90	7.35	7.80	.49	.55		.05
Group 3	7.18	7.63	8.08	.49	.55		.05
Group 4	7.38	7.83	8.28	.49	.55		.05
Group 5	7.22	8.67	8.12	.49	.55		.05
Group 6	7.70	8.15	8.60	.49	.55		.05

*ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Aspen, Glenwood, Springs and Rifle.
*ZONE 2: That area encompassed by 20 to 70 driving miles from the main Post Office of above named Cities.
*ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office of above named Cities.

LABORERS Delta, Gunnison, Mesa and Montrose Counties	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1**	Zone 2**	Zone 3**				
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.05
Group 2	7.00	7.45	7.90	.49	.55		.05
Group 3	7.28	7.73	8.18	.49	.55		.05
Group 4	7.50	7.95	8.40	.49	.55		.05
Group 5	7.55	8.00	8.45	.49	.55		.05
Group 6	7.70	8.15	8.60	.49	.55		.05

**ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Grand Junction, Gunnison, Montrose, and Naturita.
**ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office of above named Cities.
**ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office of above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers prepering and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnits Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$ 7.90	$ 8.65	.45	.79	.30	.06
Group 2	8.25	9.00	.45	.79	.30	.06
Group 3	8.60	9.35	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.05	9.80	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	8.05	8.80	.45	.79	.30	.06
Group 2	8.40	9.15	.45	.79	.30	.06
Group 3	8.50	9.25	.45	.79	.30	.06
Group 4	8.75	9.50	.45	.79	.30	.06
Group 5	8.90	9.65	.45	.79	.30	.06
Group 6	9.30	10.05	.45	.79	.30	.06

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POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crushers, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tnnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.80	$ 8.30	.50	.35	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.90	8.40	.50	.35	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Man; Mechanics' Helpers; Meterial Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	8.00	8.50	.50	.35	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	8.05	8.55	.50	.35	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	8.10	8.60	.50	.35	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	8.15	8.65	.50	.35	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	8.20	8.70	.50	.35	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 8.25	$ 8.75	.50	.35	.30	
TRUCK DRIVER, Snow Plow	8.35	8.85	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	8.40	8.90	.50	.35	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	8.50	9.00	.50	.35	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.65	9.15	.50	.35	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.70	9.20	.50	.35	.30	
MECHANIC	8.80	9.30	.50	.35	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.90	9.40	.50	.35	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	9.00	9.50	.50	.35	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	9.10	9.60	.50	.35	.30	
DUMP TRUCKS, over 104 cu. yds.	9.30	9.80	.50	.35	.30	

*ZONE DESCRIPTIONS
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:
Delta Garfield Mesa
B. Counties entirely within Zone 2:
Gunnison Pitkin
C. Legal description of the portion of Montrose County which is included within Zone 1, as follows:
All of Montrose County lying north of the North line of Ouray County and said North Line extended West to the Township line between R11W and R12W, said part lying East of said Township line of the New Mexico Principal Meridian
D. Legal description of the portion of Montrose County which is included within Zone 2, as follows:
All of Montrose County except that part lying north of the North Line of Ouray County and said North Line extended West of said Township line between R11W and R12W, said point being East of said Township line of the New Mexico Principal Meridian

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Black Hawk (City of Waterloo and abutting municipalities)
DECISION NO.: IA77-4089 DATE: Date of Publication
Supersedes Decision No. IA77-4069, dated April 15, 1977, in 42 FR 20056.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.79	.38	.50		
CARPENTERS:					
Carpenters; Piledrivermen	8.08	.38	1.00		
Millwrights	8.48	.38	1.00		
CEMENT MASONS	8.00	.38	.01		
ELECTRICIANS:					
Electricians	10.48	.45	1%		1%
Cable splicers	10.79	.45	1%		1%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.485	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				.02
IRONWORKERS	10.565				
LABORERS:					
GROUP 1 - Common laborers; Carpenters' helpers; moving; wrecking & demolition	7.00	.38	.20		
GROUP 2 - Mason tenders; hod carriers; machine and air tool operators	7.10	.38	.20		
GROUP 3 - Powderman	7.25	.38	.20		
LATHERS	7.24	.31			
LINE CONSTRUCTION:					
GROUP 1- Cable splicers; Lineman; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	4%
GROUP 2 - Groundman; truck driver (without winch); Experienced (not less than 6 months)	6.06	.45	5%	b	4%
GROUP 3 - Groundman; truck driver (with winch)	6.24	.45	5%	b	4%
GROUP 4 - Blaster; special equipment operations (hole digging machines, all tractions, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	7.46	.45	5%	b	4%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	b	4%

DECISION NO. IA77-4089

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, roller	8.08		.20		.03
Tapers	8.18		.20		.03
Spray	8.58		.20		.03
PLASTERERS	9.24	.38			
PLUMBERS & STEAMFITTERS	9.78	.60	.85		.08
ROOFERS	8.50				
SHEET METAL WORKERS	10.02	.50	.22		.02
SOFT FLOOR LAYERS	8.08	.38	1.00		
SPRINKLER FITTERS	11.48	.65	.95		.08
TILE SETTERS	7.01	.31		.25	
TRUCK DRIVERS:					
Up to 6 tons	5.14	.25	.30		
Helpers	4.97	.25	.30		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Six Paid Holidays - A thru F

b. Seven paid holidays - A thru G

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day; G-Friday after Thanksgiving

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DECISION NO. IA77-4089

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnits machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

DECISION NO. IA77-4089

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line or block and tackle; Drill operator of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Formen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4089

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS,	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power shovel, crane, backhoe and dragline; central mix plant operator; dredge engineer; dredge leverman; paver or spreader operator; hoisting engineer (steel erection); motor patrol; piledriver machine; concrete mixer; tow or push boat operator; master mechanic; C.M.I. paver; C.M.I. subgrader (or equivalent); asphalt plant; front end loader; scraper; bulldozer; push cat tractor pulling scraper; sideboom tractor; churn or rotary drill; trenching machine (Cleveland 80 or similar capacity); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self-propelled elevating grader or similar machine; spreader (concrete); Horizontal boring machine; mechanics-welders; group equipment greaser; concrete pump; self-propelled curb machine

GROUP 2 - Concrete curb breaker; concrete widening machine; paving breaker; barber-greene, hales loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller; self-propelled roller (other than asphalt); distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bullfloat; form grader

GROUP 3 - Boiler; mechanical broom; oiler or mechanics helper or Group greaser helper; farm-type tractor (pulling disc, harrow or roller); welding machine; pump operator (other than dredge); boom and winch truck; compressor; tank car heater (combination boiler and booster); pumps on well points and deep wells for dewatering; truck crane combination driver-oiler; concrete curbing machine; safety boat operator; batch plant (dry)

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SUPERSEDEAS DECISION

Page 2

STATE: Iowa
DECISION NO.: IA77-4090
Supersedes Decision No. IA77-4004, dated January 21, 1977, in 42 FR 4082.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

COUNTY: Cerro Gordo (City of Mason City)
DATE: Date of Publication

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.20	.63	.685		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	8.74		.50		
CARPENTERS:					
Carpenters	8.87		.20		.01
Millwrights; Piledrivermen	9.12		.20		.01
CEMENT MASONS	9.25				
ELECTRICIANS	10.45	.45	1%		1%
GLAZIERS	7.75	.50	.25		
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - Construction laborers; Tenders; Power tools, barco operators; Mortar mixers; Concrete saw; Sand point setter	6.89	.30	.30		
GROUP 2 - Caissons, after 6 ft. depth; Dynamite men; Gunniting-nozzle man and backup man; Laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 35 ft. or over	7.14	.30	.30		
GROUP 3 - Laborers working on swinging stage work, wood hoist towers, scaffolds or ladders at a height of 75 ft. or over	7.39	.30	.30		
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welders; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	a	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 months)	6.06	.45	5%	a	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.24	.45	5%	a	1/2%

DECISION NO. IA77-4090

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.46	.45	5%	a	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	a	1/2%
PAINTERS:					
Brush	7.60		.50		
Tapers	7.70		.50		
Spray	8.10		.50		
PLASTERERS	8.50				
PLUMBERS & STEAMFITTERS	9.45	.40	.55		.02
ROOFERS	7.22				
SHEET METAL WORKERS	8.22	.50	.66		.06
SOFT FLOOR LAYERS	8.87		.20		.01
SPRINKLER FITTERS	11.48	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE
a-Seven Paid Holidays - A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

Page 3

DECISION NO. IA77-4090

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes & cherry pickers 12½ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (lavermen)
GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes & cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pumps; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

Page 4

DECISION NO. IA77-4090

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	7.15	.38			
LABORERS:					
Group 1	7.05	.30	.20		
Group 2	6.80	.30	.20		
Group 3	6.55	.30	.20		
Group 4	6.40	.30	.20		
Group 5	6.30	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and blaster; Pipelayer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line or block and tackle; Drill operator of air track, wagon drills and similar drills
GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen (not mechanical); Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons (over 12 ft.); Grade checker and cutting torches on demolition work
GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain-saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete (on or off the job); Powdermen helpers
GROUP 4 - Form tamper; Air, gas and electric tool operator, vibrator, barco hammer, paving breaker, spader, tamper, electric drills, hammer and jack hammer; Tree groundmen; Chuck tender; Drill helpers, tool room men and checkers; Sandblaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work
GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4090

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	6.74	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader(Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: Iowa
COUNTY: Dubuque (City of Dubuque and abutting municipalities)
DECISION NO.: IA77-4091
DATE: Date of Publication
Supersedes Decision No. IA76-4147, dated September 10, 1976, in 41 FR 38716.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.14	.38			
CARPENTERS:					
Carpenters	8.90		.37		
Piledrivermen	9.30		.37		
Millwrights	9.40		.37		
CEMENT MASONS	9.28				
ELECTRICIANS	10.32	.30	17%+.25		1%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.80	.60	1.00		
IRONWORKERS:					
Southeast portion	11.22	.50	.375		.07
Remainder of County	10.565				.02
LABORERS:					
GROUP 1 - Common laborers	7.28	.30	.20		
GROUP 2 - All air operated tools; Bricklayers' helpers & tenders; Caisson workers; Carpenters' helpers; Handling & cleaning of all steel floor pans & wall forms; Mortar mixers; Plasterers' helpers & tenders; Tile setters (4"-6"-8")	7.38	.30	.20		
GROUP 3 - Tile setters (10" and up)	7.63	.30	.20		
LATHERS	9.25				
MARBLE SETTERS	8.84	.38			
PAINTERS:					
Brush or roller epoxy; Paperhanging; Tapers	7.90		.30		
High work and steel; spraying	8.35		.30		
PLASTERERS	9.25				
PLUMBERS & STEAMFITTERS	10.92	.50	.30		.08

DECISION NO. IA77-4091

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 8.39		.20		
SHEET METAL WORKERS	9.95	.45	.40		.10
SPRINKLER FITTERS	11.48	.65	.95		.08
TERRAZZO WORKERS	8.84	.38			
TILE SETTERS	8.84	.38			
TRUCK DRIVERS:					
Single axle	5.24	9.50p/w			
Tandem axle; Tractor trailers; winches	5.39	9.50p/w			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributed 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

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DECISION NO. IA77-4091

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)
GROUP 2 - 1 and 2 drum hoist; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck Cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard and over); Ditching machines (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractor (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

DECISION NO. IA77-4091

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipelayer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operators of air track, wagon drills and similar drills
GROUP 2 - Tree climber; Form setters; Rakers; Roxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work
GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers
GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammers, paving breakers, spaders, tampers, electric drills, hammers and jack hammers; Tree groundman; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work
GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hoe asphalt labor

DECISION NO. IA77-4091

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant: Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine
GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader
GROUP 3 - Boiler, Mechanical Broom; Oiler or Mechanics' Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Hoes and Winch Truck; Compressor; Tank Car Heater; Combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

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SUPERSEDEAS DECISION

STATE: Iowa
COUNTY: Johnson (City of Iowa City and abutting municipalities)
DECISION NO.: IA77-4092
DATE: Date of Publication
Supersedes Decision No. IA76-4148, dated September 10, 1976, in 41 FR 38719.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.55	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.25		.55		
CARPENTERS:					
Carpenters; Soft floor layers	8.905	.45	.45		.08
Piledriverman	9.255	.45	.45		.08
Millwrights	9.305	.45	.45		.08
CEMENT MASONS	9.365	.38			
ELECTRICIANS	10.70	.65	1%		1%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.80	.60	1.00		
IRONWORKERS	10.565				.02
LABORERS:					
GROUP 1 - Common laborers	5.92	.30	.25		
GROUP 2 - Mason mortar mixers	5.92	.30	.25		
GROUP 3 - All jack & chipping hammers; All water & sewer tile layers; Chain saw; Cutting torches; Power buggies; Rock drills; Tampers; Vibrators; Well point work	6.02	.30	.25		
LATHERS	10.06				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	6.06	.45	5%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.24	.45	5%	b	1/2%

DECISION NO. IA77-4092

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.46	.45	5%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	b	1/2%
PAINTERS:					
Brush & rollers	9.18				
Paperhangers	9.43				
Sandblasting; Spray painting	9.83				
PLASTERERS	10.31				
PLUMBERS & STEAMFITTERS	10.50	.45	.55		.10
ROOFERS	7.70				
SHEET METAL WORKERS	10.64		.50		.01
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS	4.63				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES
a - Employee contributed 4% of the basic hourly rate for over 5 years' service and 2% of the basic hourly rate for 6 months to 5 years' of service as Vacation Pay Credit. Six Paid Holidays A thru F
b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

NOTICES

DECISION NO. IA77-4092

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors, caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck cranes and cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Comaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW and over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than Above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

DECISION NO. IA77-4092

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 -Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operator of air track, wagon drills and similar drills
GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work
GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Boring machines; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers
GROUP 4 - Form tamper; Air,gas and electric tool operator, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sandblaster helper; Concrete processing material and monitors; Cement finisher' helpers
GROUP 5 - Fence erectors; Handling and placing of metal mesh; dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hot casphalt labor; Stringman on paving work

NOTICES

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DECISION NO. IA77-4092

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	6.64	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; CMI Paver; CMI Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Linn
DECISION NO.: IA77-4093 DATE: Date of Publication
Supersedes Decision No. IA76-4149, dated September 10, 1976, in 41 FR 38722.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.25		.55		
CARPENTERS:					
Carpenters	8.905	.45	.45		.08
Millwrights	9.305	.45	.45		.08
Piledrivermen	9.255	.45	.45		.08
CEMENT MASONS	9.365	.38			
ELECTRICIANS	10.70	.65	1%		1%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.80	.60	1.00		
IRONWORKERS	10.565				.02
LABORERS:					
GROUP 1 - Common laborers	7.605	.30	.50		
GROUP 2 - All water service, mortar mixers; Sewer tile layers	7.73	.30	.50		
GROUP 3 - Air, electric or gasoline powered jackhammers, chipping hammers; Machine rock drills; Power driven buggies; Tampers; Vibrators; Well point work	7.805	.30	.50		
LATHERS	10.06				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technician; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 months)	6.06	.45	5%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.24	.45	5%	b	1/2%

DECISION NO. IA77-4093

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.46	.45	5%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	b	1/2%
PAINTERS:					
Brush & rollers	9.18				
Paperhangers	9.43				
Sandblasting; Spraying	9.83				
PLASTERERS	10.31				
PLUMBERS & STEAMFITTERS	10.50	.45	.55		.10
ROOFERS	7.70				
SHEET METAL WORKERS	10.66		.50		.01
SOFT FLOOR LAYERS	8.905	.45	.45		.08
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS	5.64				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES
a - Employer contributes 4% of basic hourly rate for over 5 years' service; 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F
b - Paid Holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

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DECISION NO. IA77-4093

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower Cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard & over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

DECISION NO. IA77-4093

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operator of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Roxtenders; Asphalt curb machines; Formen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade Checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sandblaster helper; Concrete processing material and monitors; Cement finishers helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4093

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Levermen; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer, Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Screaner; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barger-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Polk
DECISION NO.: IA77-4094 DATE: Date of Publication
Supersedes Decision No. IA76-4150, dated September 17, 1976, in 41 FR 40393.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.20	.63	.685		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.95	.80	.45		.02
CARPENTERS:					
Carpenters	9.325	.30	.50		.04
Millwrights; Piledrivermen	9.675	.30	.50		.04
CEMENT MASONS	9.93				
ELECTRICIANS	11.02	.40	1%+.60		1%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.81	.45	.25	4.35%	.005
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - General laborers	8.18	.30	.635		
GROUP 2 - Mortar mixers; motor buggies, when pouring concrete; power tool operators (air tools, concrete vibrator, gunnite nozzlemen, electric drills & hammers)	8.28	.30	.635		
GROUP 3 - Plasterers' tenders	8.305	.30	.635		
GROUP 4 - Powdermen	8.33	.30	.635		
GROUP 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	8.38	.30	.635		
GROUP 6 - All tunnel work	8.43	.30	.635		
GROUP 7 - Paving breakers weighing 50 lbs. and over	8.48	.30	.635		
LATHERS	9.975				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	1/2%
GROUP 2 - Groundmen; Truck driver (without winch); Experienced (not less than 6 mos.)	6.06	.45	5%	b	1/2%

DECISION NO. IA77-4094

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
GROUP 3 - Groundman; Truck driver (with winch)	$ 6.24	.45	5%	b	1/2%
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	7.46	.45	5%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	b	1/2%
MARBLE SETTERS	10.185				
PAINTERS:					
GROUP 1 - Brush, roller, drywall finisher	9.61		.20		.03
GROUP 2 - Spray; Structural steel; Sandblasting; Swing stage	10.11		.20		.03
GROUP 3 - Paperhangers	9.86		.20		.03
GROUP 4 - Stack; Tower work over 100 ft.	10.71		.20		.03
PLASTERERS	9.975				
PLUMBERS & STEAMFITTERS	10.65	.55	.75		.10
ROOFERS	8.93		.35		
SHEET METAL WORKERS	10.27	.50	.66		.07
SOFT FLOOR LAYERS	9.035	.30	.50		.04
SPRINKLER FITTERS	11.48	.65	.95		.08
TERRAZZO WORKERS	10.185				
TILE SETTERS	10.185				
TRUCK DRIVERS	5.91				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. IA77-4094

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

FOOTNOTES
a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F
b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA77-4094

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower crane; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (Leverman)
GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull,etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes and cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

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DECISION NO. IA77-4094

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operators of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checkers and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers, electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers helpers; Stringsman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Roqmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4094

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; CMI Paver; CMI Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Hains Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Plexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Story (City of Ames and a abutting municipalities)

DECISION NO.: IA77-4095

DATE: Date of Publication

Supersedes Decision No. IA76-4173, dated October 15, 1976, in 41 FR 45805.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.20	.63	.685		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.04		.20		
CARPENTERS:					
Carpenters; Piledrivermen	8.85		.50		
Millwrights	9.70		.50		
CEMENT MASONS	9.93				
ELECTRICIANS	11.02	.40	1%+.60		1%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.81	.45	.25	4.35%	.005
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - Common laborers	7.21	.30	.05		
GROUP 2 - Mortar, plaster & grout mixers; Jackhammer; Paving breaker; Rock drill; Vibrator operator; Motor buggy operators while pouring concrete	7.36	.30	.05		
GROUP 3 - Plasterers' tenders	7.41	.30	.05		
GROUP 4 - Concrete saw man	7.46	.30	.05		
GROUP 5 - Sandblaster	7.56	.30	.05		
GROUP 6 - Digging of or work within a shaft entering into natural underground cavities or caverns and work within the said shaft or caverns	7.71	.30	.05		
LATHERS	9.975				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 months)	6.06	.45	5%	b	1/2%

DECISION NO. IA77-4095

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 3 - Groundman; Truck driver (with winch)	$ 6.24	.45	5%	b	1/2%
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	7.46	.45	5%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	b	1/2%
PAINTERS:					
GROUP 1 - Brush; Roller; Dry-wall finisher	9.61		.20		.03
GROUP 2 - Paperhangers	9.86		.20		.03
GROUP 3 - Spray; Structural steel; Sandblasting	10.11		.20		.03
GROUP 4 - Work over 100 ft.; Stack	10.71		.20		.03
PLASTERERS	9.975				
PLUMBERS & STEAMFITTERS	10.65	.55	.75		.10
ROOFERS	8.93		.35		
SHEET METAL WORKERS	10.27	.50	.66		.07
SOFT FLOOR LAYERS	9.035	.30	.50		.04
SPRINKLER FITTERS	11.48	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES

a - Employer contributed 4% of the basic hourly rate for 5 years' service and 2% of the basic hourly rate for 6 mos. to 5 years of service as Vacation Pay Credit. Six Paid Holidays A thru F

b - Seven Paid Holidays A thru G

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

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DECISION NO. IA77-4095

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks, Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economibles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes and cherry pickers (under 12½ tons); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pumps; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Conaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machine 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

DECISION NO. IA77-4095

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzlemen; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swing stage, life belt, tag line, or block and tackle; Drill operators of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Box tenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checkers and cutting torches on demolition work

GROUP 3 - Powder buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser of stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammers, paving breakers, spaders, tampers, electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborer; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4095

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paving or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; CMI Paver; CMI Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc; Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Roller; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

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SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Webster (City of Fort Dodge)
DECISION NO.: IA77-4096 DATE: Date of Publication
Supersedes Decision No. IA76-4174, dated October 15, 1976, in 41 FR 45808.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and gardan type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.20	.63	.685		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	8.97		.20		.01
CARPENTERS:					
Carpenters; Piledrivermen	8.60				
Millwrights	8.85				
CEMENT MASONS	6.50				
ELECTRICIANS	10.05	.40	1%		1%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - Common laborers	7.21	.30	.05		
GROUP 2 - Mortar, plaster & grout mixers; Jackhammer; Paving breaker; Rock drill; Vibrator operator; Motor buggy operators while pouring concrete	7.36	.30	.05		
GROUP 3 - Plasterers' tenders	7.41	.30	.05		
GROUP 4 - Concrete saw man	7.46	.30	.05		
GROUP 5 - Sandblaster	7.56	.30	.05		
GROUP 6 - Digging of or work within a shaft entering into natural underground cavities or caverns and work within the said shaft or caverns	7.71	.30	.05		
LATHERS	9.975				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	6.06	.45	5%	b	1/2%

DECISION NO. IA77-4096

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 3 - Groundman; Truck driver (with winch)	$ 6.24	.45	5%	b	1/2%
GROUP 4 - Blaster; Special equipment operators (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	7.46	.45	5%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	5%	b	1/2%
PAINTERS:					
GROUP 1 - Brush; Drywall finishers; Rollers	5.45				
GROUP 2 - Paperhangers	5.70				
GROUP 3 - Spray	5.95				
PLUMBERS & STEAMFITTERS	10.65	.55	.75		.10
ROOFERS	6.05				
SHEET METAL WORKERS	10.27	.50	.66		.07
SPRINKLER FITTERS	11.48	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES
a - Employer contributed 4% of the basic hourly rate for over 5 years service and 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit. Six Paid Holidays A thru F
b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA77-4096

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell; etc.; Tower crane; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (leverman)
GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant Hirers; Farm type Tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes and cherry pickers (under 12½ ton); Concrete mixers (1 yard & over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Comaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloader (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW and over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machines under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

DECISION NO. IA77-4096

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 7.15	.38			
CEMENT MASONS	7.15	.38			
LABORERS:					
Group 1	5.70	.30	.20		
Group 2	5.45	.30	.20		
Group 3	5.20	.30	.20		
Group 4	5.05	.30	.20		
Group 5	4.95	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and blaster; Pipelayer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line or block and tackle; Drill operators of air track, wagon drills and similar drills
GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen (not mechanical); Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work
GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouter; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powdermen helpers
GROUP 4 - Form tamper; Air, gas and electric tool operators; vibrator, barco hammer, paving breaker, spader, tamper, electric drills, hammer and jack hammer; Tree groundmen; Chuck tender; Drill helpers, tool room man and checker; Sandblaster helper; Concrete processing material and monitors; Cement finishers helpers; Stringman on paving work
GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborer; Rodman; Tending to carpenters; Hot asphalt labor

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DECISION NO. IA77-4096

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 8.62	.60	.60		.05
Group 2	8.22	.60	.60		.05
Group 3	7.82	.60	.60		.05
TRUCK DRIVERS	6.64	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paver or Spreader Operator; Hoisting Engineer (Steel Erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push cat; Tractor pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (Concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-propelled Curb Machine

GROUP 2 - Concrete Curb Breaker; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-propelled Sheepsfoot Roller; Self-propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-propelled Vibrator Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper; or Group Greaser Helper; Farm-type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pump on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat Operator; Batch Plant (Dry)

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO. MI77-2050 DATE: Date of Publication
Supersedes Decision No. MI76-2135, dated October 29, 1976 in 41 FR 47766
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge Airport and Sewer) Construction.

COUNTIES: Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$8.92	.72	1.28		.02
BOILERMAKERS	10.90	.80	1.00	1.50	.03
Mason County:					
Bricklayers; Stonemasons; Marble-Tile Workers, Cement Masons & Plasterers	8.60	.65	.25		
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	9.195	.55	.75		
Marble Masons	8.25	.55	.50		
Terrazzo & Tile Workers	8.00	.55	.50		
Plasterers	9.83	.50	.25	.03	
Remaining Counties					
Bricklayers; Stonemasons; Plasterers-Marble-Tile-Terrazzo workers	9.12	.60	.25		
CARPENTERS:					
Mason, Muskegon & Oceana Counties					
Carpenters	9.40	.60	.50		.01
Millwrights	10.60	.60	.50		.01
Piledrivers	9.80	.60	.50		.01
Remaining Counties					
Carpenters & Soft Floor Layers	8.51	.60	.60		.03
Millwrights	9.01	.60	.60		.03
Piledrivers	9.26	.60	.60		.03
CEMENT MASONS:					
Muskegon & Oceana Counties	8.95	.50	.25		.02
Remaining Counties	8.67	.60	.25		.02
ELECTRICIANS:					
Charlevoix, Grand Traverse, Leelanau & Emmet (except Wawatan township) Counties and (Grant, Presoil, and Meade Townships) in Mason County	$10.40	.40	1%+.15		.1of1%

DECISION NO. MI77-2050

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Muskegon, Oceana and the remainder of Mason Counties	10.51	.40	1%+.25		.01
Remaining Counties & (Wawatan Township) in Emmet County:					
Electricial Contractors $13,000 and below	9.15	.40	1%+.15		1/10%
Electrical Contracts in excess of $13,000	10.65	.40	1%+.15		1/10%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle:					
Elevator Constructor	10.42	.495	.32	4%+a+b	.02
Elevator Constructor Helpers	70%JR	.495	.32	4%+a+b	.02
Elevator Constructor Helpers (Prob.)	50%JR				
ELEVATOR CONSTRUCTORS:					
Remainder of Counties:					
Elevator Constructors	9.90	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	70%JR	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	50%JR				
GLAZIERS:					
Emmet & Muskegon Counties	7.95	.35	.30		
Charlevoix, Grand Traverse, Leelanau, Mason, & Oceana Counties	7.70	.35	.30		
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda and Preque Isle Counties:					
Structural and Ornamental	10.43	8%	14%	17%	.09
Reinforcing	9.42	.98+.25	15%	15%	.07
Fence Erectors	9.43	8%	14%	17%	.09
Remaining Counties	10.45	.50	.75		.03
LATHERS	8.85	.64	.10	.50	.01
PAINTERS:					
Alcona and Oscoda Counties Brush	8.50	.42	.60		.02

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DECIISON NO. MI77-2050

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Spray	9.35	.42	.60		.02
Grand Traverse and Leelanau Counties and that portion of Charlevoix County lying South of and straight line drawn from Charlevoix (city) to Elmira					
Brush	7.38	.42			.02
Spray; Tapers	7.98	.42			.02
Mason County	7.25				
Muskegon & Oceana Counties					
Brush, Tapers	$ 7.60				
Paper hangers	7.85				
Spray & Sandblast	8.10				
Remainder of Charlevoix County and Remaining Counties					
Brush	7.00				
Spray	7.78				
PLUMBERS & STEAMFITTERS:					
Alcona and Oscoda Counties	9.94	.65	.50	1.50	
Alpena, Montmorency & Presque Isle Counties	10.80	.35	.35		
Mason, Muskegon & Oceana Counties	10.34	.96	.60		.04
Remaining Counties	10.42	.40	.40		.06
ROOFERS:					
Mason, Muskegon & Oceana Counties:					
Composition	8.85			.25	
Slate-Tile & Asbestos	9.10			.25	
Remainder of Counties:					
Composition, Damp & Waterproofers	8.20				
SHEET METAL WORKERS:					
Charlevoix, Emmet, Grand Traverse and Leelanau Counties	10.39	.40	.33	.95	.05
Mason, Muskegon & Oceana Counties	7.90	.52	.40	.67	
Remaining Counties	10.66	.65	1.00		.03
SPRINKLER FITTERS	11.40	.60	.90		.08

DECISION NO. MI77-2050

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Alcona, Alpena, Montmorency, Oscoda & Oreque Isle Counties					
Regular Truck Driver	7.57	b24.00	b22.00	.26	
8 cu. yds. and over	7.67	b24.00	b22.00	.26	
Euclid	7.87	b24.00	b22.00	.26	
Charlevoix, Emmet, Grand Traverse and Leelanau Counties					
Regular Truck Driver	7.05	19.00b	13.00b	c	
8 cu. yds. and over	7.15	19.00b	13.00b	c	

Welder receive rate prescribed for craft to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years.

b. Per week; Per Employee

c. Paid vacation computed at a 40 hour week at straight time as follows; one year or more - one week; three years or more - two weeks; eight years or more - three weeks; and 7 Paid Holidays provided employee has been in service of employer 20 days or more and worked the full scheduled day prior to and after the holiday - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after Christmas Day.

DECISION NO. MI77-2050

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Mason County					
Group 1	6.70	.55	.35		.04
Group 2	6.85	.55	.35		.04
Group 3	7.15	.55	.35		.04
Group 4	7.05	.55	.35		.04
Group 5	7.10	.55	.35		.04
Group 6	6.95	.55	.35		.04
Muskegon and Oceana Counties					
Group 1	6.76	.55	.35	.55	.04
Group 2	6.91	.55	.35	.55	.04
Group 3	7.01	.55	.35	.55	.04
Group 4	6.88	.55	.35	.55	.04
Group 5	6.98	.55	.35	.55	.04
Group 6	7.08	.55	.35	.55	.04
Group 7	7.26	.55	.35	.55	.04
Remaining Counties					
Group 1	6.55	.55	.35		.04
Group 2	6.70	.55	.35		.04
Group 3	7.15	.55	.35		.04

LABORERS:
Mason County
Group 1: Building and Heavy Construction Laborers
Group 2: Plaster and Mason Tenders; Mortar Mixers; Material Mixers; All power Tools; Vibrator; Cahin Saw; Nozzleman; Green Cut Concrete work
Group 3: Jackhammer; Acetylene Torch; Windlass and Tugger Operators; swing Scaffold Chimneys; Tower, crane Scaffold; Rock Crusher
Group 4: Sewer Men-Open cut work-Caisson workers-Pipelayers
Group 5: Plasterers tenders - Machine pumped
Group 6: Work on scaffold 30' in height or more
Muskegon and Oceana Counties
Group 1: Building and Heavy Construction Laborers
Group 2: Plasterer tender; Material Mixers; Operatore of Portable Mixers; Air, Electric or Gasoline Tools; Mortar Driver Buggies; Swing Scaffold
Group 3: Jackhammer Operator
Group 4: Signalmen
Group 5: Windlass Operator
Group 6: Top men on chimneys or towers over 30' in height
Group 7: Crock or Pipe Layers; classon work

DECISION NO. MI77-2050

LABORERS (CONT'D)
Remaining Counties:
Group 1: Building and Heavy Construction Laborers
Group 2: Mortar Mixers; Material Mixers (hand or machine); Vibrator Operators; Operators of Concrete Mixers; Chipping Hammers; Concrete Breakers (90 lb. hammer or less); Tamping Machine (air, gas or electric); Sand blasters; Operator or Motor Driven Buggies; Plaster Mixer; Plasterers Tenders; Layers of non-metallic pipe
Group 3: Cement Gun Nozzleman; Blasters; Rock Drillers & Buster Operators

LC -ZONE II

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: ZONE 11					
Linemen; Heavy Equipment operator	$ 9.45	.34	1%	a	.5%
Cable Splicer	9.84	.35	1%	a	.5%
Combination Digger operator; Tractor operator Groundman'					
1st 6 months	6.87	.35	1%	a	.5%
Over 6 months	7.41	.35	1%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator;					
1st 6 months	5.98	.35	1%	a	.5%
Over 6 Months	6.51	.35	1%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	5.45	.35	1%	a	.5%
Over 6 months	6.22	.35	1%	a	.5%
Combination Truck Driver Groundman	5.27	.35	1%	a	.5%

FOOTNOTES: —

7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

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DECISION NO. MI77-2050

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS:
BUILDING & HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.90	.80	1.00	10%	.05
CLASS B	11.65	.80	1.00	10%	.05
CLASS C	11.40	.80	1.00	10%	.05
CLASS D	10.85	.80	1.00	10%	.05
CLASS E	10.65	.80	1.00	10%	.05
CLASS F	9.45	.80	1.00	10%	.05
CLASS G	8.75	.80	1.00	10%	

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Opra., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyore

CLASS G - Oiler, Firemen & Heater Operator

DECISION NO. MI77-2050

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION

ALCONA, ALPENA, MONTMORENCY, OSCODA & PRESQUE ISLE COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work atations is 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D Hoisting operator
CLASS E Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION

REMAINING COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.40	.55	.75	10%	.05
CLASS B	11.15	.55	.75	10%	.05
CLASS C	10.90	.55	.75	10%	.05
CLASS D	10.55	.55	.75	10%	.05
CLASS E	9.30	.55	.75	10%	.05
CLASS F	8.25	.55	.75	10%	

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, ganerators-conveyors
CLASS F - Oiler & Fireman

DECISION NO. MI77-2050

MICH-9-PEO-U-2-2

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.51	.60	.85	10%	.05
CLASS II	8.25	.60	.85	10%	.05
CLASS III	7.79	.60	.85	10%	.05
CLASS IV	7.54	.60	.85	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machins), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO: MI77-2051 DATE: Date of Publication
Supersedes Decision No. MI76-2136, dated October 29, 1976 in 41 FR 47771
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

COUNTIES: Alger, Baraga, Chippewa, Dickinson, Gogebic Houghton, Keweenaw, Mackinac, Marquette & Ontonagon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chippewa & Mackinac Counties	$ 8.92	.72	1.28		.02
Gogebic & Ontonagon Counties	10.95	.30			
Remainder of Counties	10.06	.60	.50	.65	.05
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS:					
Alger & Marquette Counties:					
Bricklayers & Stonemasons	9.03	.65	.50		.01
Plasterers	8.98	.65	.50		.01
Marble-Tile-Terrazzo Workers	8.78	.65	.50		.01
Chippewa & Mackinac Counties:					
Bricklayers & Stonemasons	9.39	.60	.50		
Plasterers	9.24	.60	.50		
Tile & Terrazzo Workers	9.19	.60	.50		
Remainder of Counties:					
Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers	9.05	.62	.50		
CARPENTERS:					
Carpenters & Soft Floor Layers	9.34	.60	.50		.01
Millwrights	10.29	.60	.50		.01
Piledrivermen	9.54	.60	.50		.01
CEMENT MASONS:					
Alger & Marquette Counties	8.53	.65	.50		.01
Chippewa & Mackinac Counties	8.82	.60	.50		
Remainder of Counties	8.55	.62	.50		
ELECTRICIANS:					
Dickinson County:					
Contracts $40,000 or more & all Industrial work	10.63	.40	1%		.5%
Contracts Less than $40,000	9.63	.40	1%		.5%
Alger & Marquette Counties:					
Contracts over $25,000	10.80	.45	1%		.1of1%
Contracts $25,000 or less	9.60	.45	1%		.1of1%

DECISION NO.MI77-2051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Chippewa & Mackinac Counties	$ 9.23	.40	1%		½%
Gogebic County	10.15	4%	1%	11%	3%
Remainder of Counties:					
Contracts $30,000 & over	10.45	.40	1%		1%
Contracts up to $30.000	8.25	.40	1%		1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4%+a	.02
Helpers	70%JR	.545	.35	4%+a	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	9.15	.50	1.00	1.40	.04
LATHERS	8.85	.64	1.00	.50	.01
PAINTERS:					
Dickinson County:					
Commercial & Industrial	8.95		.75		
Alger & Marquette Counties					
Brush	8.50				
Glaziers	8.50				
Bridges, Water Tanks, Radio & TV	9.75				
Chippewa & Mackinac Counties:					
Commercial-Industrial & Sign Painter	7.00			1.50	
Taper-Hand	7.45			1.50	
Taper-Machine	7.55			1.50	
Steel	9.50			1.50	
Glaziers	5.80			1.50	
Baraga, Houghton, Keweenaw & the northern portion of Ontonagon County:					
Brush, Paperhangers, Tapers and Glaziers	8.00				
Spray & Sandblasting	8.50				
Gegobic County & the Remainder of Ontonagon County:	6.00				
Brush, Paperhangers	6.00				
Spray	6.50				

DECISION NO. MI77-2051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAM FITTERS	$ 9.13	.45	.50	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	8.88	.50	.55		
SPRINKLER FITTERS	11.40	.60	.90		.08
TRUCK DRIVERS:					
Truck Driver	7.72	b22.00	b16.00		
Heavy Duty, Double Axle & Semi	7.85	b22.00	b16.00		
Euclid	8.08	b22.00	b16.00		

FOOTNOTE:
b. Per Week; Per Employee

DECISION NO. MI77-2051

Welders receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years.

b. Per Week; Per Employee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Class A	$ 7.30	.55	.35		.04
Class B	7.40	.55	.35		.04
Class C	7.70	.55	.35		.04
Class D	7.85	.55	.35		.04

LABORERS

CLASS A: General Construction Laborers

CLASS B: Chipping Hammers; Concrete Mixers; Green Cutting (air, electric or gas); Material Mixers (hand or machine; Motor driven buggies; Mortar Mixers; Sand Blasters; Tamping Machines; Vibrator operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzleman; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work, Tunnels and Shafts - muckers, caisson workers, miners, drillers, blasters.

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DECISION NO. MI77-2050

LC -ZONE II

LINE CONSTRUCTION: ZONE 11	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment operator	$ 9.45	.34	1%	a	.5%
Cable Splicer	9.84	.35	1%	a	.5%
Combination Digger operator; Tractor operator Groundman' lst 6 months	6.87	.35	1%	a	.5%
Over 6 months	7.41	.35	1%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator: lst 6 months	5.98	.35	1%	a	.5%
Over 6 Months	6.51	.35	1%	a	.5%
Combination Winch Truck Driver Groundman: lst 6 months	5.45	.35	1%	a	.5%
Over 6 months	6.22	.35	1%	a	.5%
Combination Truck Driver Groundman	5.27	.35	1%	a	.5%

FOOTNOTES:

7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI77-2051

MICH-7-PEO-1-2-SE-U

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 8.72	.80	1.00	10%	.02
CLASS B	7.99	.90	1.00	10%	.02
CLASS C	7.46	.80	1.00	10%	.02
CLASS D	6.95	.80	1.00	10%	

CLASS A - Regular equipment operator, crane, dozer, front end loader, job mechanic
CLASS B - Air Track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine trencher, winches, well pointsa nd freeze systems
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments) generatOR, guard post driver, mulching pumps under 6" welders
CLASS D - Oiler, fireman, heater operator

POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS 1 - Operator	$ 8.95	.80	1.00	10%	.02
CLASS 2 - Compressor o& Welder	7.95	.80	1.00	10%	.02
CLASS 3 - Oiler & Fireman	7.05	.80	1.00	10%	

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI77-2053
Supersedes Decision NO:MI76-2137, dated October 29, 1976 in 41 FR 47774
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding, Bridge, Airport and Sewer) Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Allegan, Berrien Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien County	$12.83	.50	.21		
Remaining Counties	8.92	.80	1.28		.02
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS & STONEMASONS:					
Allegan County (Casco, Clyde Ganges and Lee Townships) and Berrien County	9.70	.60	.60		
Allegan County (Allegan, Cheshire, Gun Plain, Martin, Otsego, Trowbridge, Valley, and Watson Townships) and Kalamazoo County	10.25	.60	.35		.14
Allegan County (Remainder)	8.80	.35	.25		.04
Calhoun County and Bellevue, Carmel, Kalamo, and Walton Townships in Eaton County	10.30	.55	.35		
Clinton and Ingham (except Onondaga, Leslie, Bunker Hill and Stockbridge townships) Counties and the remainder of Eaton County	11.05	.60			.01
Jackson County and remainder of Ingham County	11.62	.70	.55		
CARPENTERS:					
BERRIEN County (Chickaming, New Buffalo and Three Oaks Townships)	11.33	.50	.57		.05
Clinton, Eaton (except Bellevue, Walton, Kalamo and Vermont-Ville Townships), Ingham & Jackson Counties	10.61	.60	.50		.01
Remaining Counties and the remainder of Berrien and Eaton Counties	9.40	.60	.50		.01

DECISION NO. MI77-2053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Kalamazoo County; Allegan Co., (Twps. of Allegan, Cheshire, Gunn Plain, Martin, Otsego, Trowbridge, Valley & Watson)	9.85	.60	.35		.02
Allegan County (Casco, Ganges & Lee Townships) and Berrien County	8.90	.60	.60		
Remaining Counties and the Remainder of Allegan County	8.95	.50	.25		.02
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Leighton Townships	9.62	.40	1%+.35		.01
Allegan County (Remainder) and Kalamazoo County	10.80	.40	7.5%		.01
Berrien County	10.35	4.8%	5%		.2%
Calhoun County and Sundfild, Vermontville, Kalamo, Bellevue Eaton and Brookfield townahips in Eaton County	10.92	.40	7%		.01
Clinton and Ingham (except Onondaga, Leslie, Stockbridge and Bunker Hill Townships) Counties and the remainder of Eaton County	11.55	.40	1%+.50		.5%
Jackson County and remainder of Ingham County	10.56	.40	1%		
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazoo, and Calhoun Counties:					
Constructor	10.60	.545	.35	4%+a	.02
Helper	70%JR	.545	.35	4%+a	.02
Helper (Prob.)	50%JR				
Berrisn County:					
Constructor	10.29	.545	.35	4%+a	.02
Helper	70%JR	.545	.35	4%+a	.02
Helper (Prob.)	50%JR				

DECISION NO. MI77-2053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Eaton, Ingham & Jackson Counties:					
Constructor	$ 11.32	.495	.32	4%+a	.02
Helper	70%JR	.495	.32	4%+a	.02
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Berrien County	10.40	.65	.80		.01
Clinton, Ingham & Jackson Cos.					
Structural & Ornamental	10.43	8%	14%	17%	.09
Fence Erectors	9.43	8%	14%	17%	.09
Reinforcing	9.42	.98+.25	15%	15%	.07
Remaining Counties	10.45	.50	.75		.03
LATHERS:					
All Counties except Berrien	8.85	.64	.10	.50	.01
MARBLE, TILE & TERRAZZO					
Allegan Co. (Gun Plain Otsego, Trowbridge Valley, Allegan, Cheshire, Martin and Watson townships) and Kalamazoo County	7.70	.35			.05
Remainder of Allegan Co.	8.35	.45	.25		
Clinton, Ingham (except Onondaga, Leslie, Bunker Hill, and Stockbridge townships) and Eaton (except Kalamo, Carmel, Bellevue, and Walton Townships) Counties	10.23		.60		
Calhoun Co. & Bellevue, Carmel, Kalamo & Walton Twps. in Eaton County	10.30	.55	.35		
Jackson County and the Remainder of Ingham County					
Tile & Terrazzo Workers	10.90	.70	.55		
Marble Setters	11.62	.70	.55		
PAINTERS:					
Allegan Co. (Northern portion)					
Brush	7.80	.40	.25		.02
Swing stage; Paper hanging, Wall coverings; Pump fed Taping & Finishing machines	8.05	.40	.25		.02

DECISION NO. MI77-2053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Steamcleaning; Sandblasting; & spray	8.80	.40	.25		.02
Steeple Jack or High Work - 50 falling feet	9.30	.40	.25		.02
Allegan County (S.E.¼) and Kalamazoo County					
Brush; Drywall Taping; Pan Roller	9.55		.20		
Paper and Vinyl Hanger	9.75		.20		
Swing Stage; Structural Steel	10.20		.20		
Steeple Jack	10.40		.20		
Spray	10.45		.20		
Berrien County					
Brush	8.85				
Spray or Sandblasting; Drywall Taping	9.60				
Structural Steel	9.85				
Calhoun County					
Brush; Roller	8.30	.25			
Clinton, Eaton & Ingham Counties					
Brush and Tapers	10.35	.42	.40		.005
Structural Steel	10.75	.42	.40		.005
Spray	11.10	.42	.40		.005
Jackson County					
Brush and Roller	10.27	.43	.20		.03
Spray and Sandblast	11.02	.43	.20		.03
Drywall Taper	10.67	.43	.20		.03
PLASTERERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	9.10	.60	.60		
Remaining Counties and the remainder of Allegan County	8.83	.40	.25		.03
PLUMBERS:					
Allegan County (Northern Tier Townships)	10.64	.55+.15	.60		.05
Allegan County (remainder) and Kalamazoo County	11.05	.60	.86		

DECISION NO. MN77-2053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (CONT'D)					
Berrien County (except city of Niles and vicinity)	11.01	.69	.50		
City of Niles and Vicinity in Berrien County	9.95	.48	.70		.10
Calhoun County and Bellevue, Olivet, Hastings and Charlotte in Eaton County	$ 11.04	.85	.52		
Clinton and Ingham Counties and Sunfeild, Roxand, Oneida, Delta and Windsor townships in Eaton County	11.05	.60	.70		
Jackson County	10.65	.77+.30	.60		.02
ROOFERS:					
Jackson County					
Composition	9.65	.70	.25	1.05	.10
Slate & Tile	10.40	.70	.25	1.05	.10
Allegan County					
Built-Up	6.85	.35	.25	.35	
Slate, Tile & Asbestos	7.10	.35	.25	.35	
Calhoun and Kalamazoo Counties:					
Composition	8.85			.25	
Slate and Tile	9.10			.25	
Clinton, Eaton and Ingham Cos.	8.35			.30	
SHEET METAL WORKERS:					
Berrien County	10.08	.65	.50		
Remaining Counties	9.98	.73	.83	.51	.03
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chickaming, New Buffalo and Three Oaks townships), Calhoun, Kalamazoo Counties and Bellevue, Vermontville, Kalmo and Walton townships in Eaton County	8.20	.60	.50		.01
Clinton and Ingham Counties and the remainder of Eaton County	10.61	.60	.50		.01
Jackson County	10.61	.60	.50		.01
Chickaming, 3 oaks & New Buffalo Twps. in Berrien Co.	11.33	.50	.57		.05

DECISION NO. MN77-2053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.92	.65	.95		.08
TRUCK DRIVERS:					
Allegan, Berrien and Kalamazoo Counties:					
8 cu yds. & under	7.99	a20.00	a17.00		
8 cu yds. & over	8.15	a20.00	a17.00		
Low Boys Semis	8.26	a20.00	a17.00		
Calhoun County					
Less than 8 cu. yds.	7.40	b16.00	b18.00	.15	
8 cu. yds. and over; Semi Tandem	7.50	b16.00	b18.00	.15	
Clinton, Eaton and Ingham Cos.					
8 cu yds. & under	7.63	a24.00	b22.00	d	
Truck Drivers on dump trucks 8 cu. yds. Capacity and over pole trailers	7.73	b24.00	a22.00	d	
Low boys drivers; Double bottom drivers	7.83	b24.00	b22.00	d	
Jackson County	5.95	b24.00	b22.00		
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

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DECXISION NO. MN77-2053

PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years, 4% contribution for more than 5 years.

b. Per week, Per employee

c. Three paid holidays - C,D and E, One week paid Vacation for employees employed one year or more, Two weeks paid vacation for three years or more; Three weeks paid vacation for 10 years or more

d. One year's service, one week vacation; 3 years service, two weeks vacation

e. Paid holidays A through F plus ½ day before Christmas and ½ day before New Years, Paid vacation; employees who have worked for the company for one year and have workad nine moths of the time shall receive vation pay as follows: 1 week - 1 year; 2 weeks - 3 years; 3 weeks 12 years; 4 weeks - 16 years or more.

DECISION NO. MN77-2053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Allegan, Berrien, Calhoun and Kalamazoo Counties					
Group 1	$ 7.05	.55	.35	.55	.04
Group 2	7.20	.55	.35	.55	.04
Group 3	7.30	.55	.35	.55	.0
Group 4	7.17	.55	.35	.55	.04
Group 5	7.27	.55	.35	.55	.04
Group 6	7.37	.55	.35	.55	.04
Group 7	8.10	.55	.35	.55	.04
Clinton, Eaton and Ingham Counties					
Group 1	8.15	.55	.35	.55	.04
Group 2	8.23	.55	.35	.55	.04
Group 3	8.69	.55	.35	.55	.04
Group 4	8.44	.55	.35	.55	.04
Group 5	8.39	.55	.35	.55	.04
Group 6	8.51	.55	.35	.55	.04
Group 7	8.765	.55	.35	.55	.04
Jackson County					
Group 1	7.98	.55	.35	.55	.04
Group 2	8.48	.55	.35	.55	.04

LABORERS:
Allegan,Berrien, Calhoun and Kalamazoo Counties
Group 1: All construction laborers on building and Heavy Construction not specified in Group 2 through 7 below
Group 2: Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds
Group 3: Jackhammer Operators
Group 4: Signal men
Group 5: Windlass Operator
Group 6: Crock Layers (or pipe layers), caisson work
Group 7: Top men on chimneys or towers over 30' in height
Clinton, Eaton and Ingham Counties
Group 1: Building Laborers
Group 2: Mortar Mixers, hand or machine
Group 3: Plasterer Tenders; Portable concrete mixer operator (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; Concrete saw; Signal men and top men
Group 4: Tunnel men; Concrete shovelers; Car pushers, etc.
Group 5: Windlass Operator (on caisson work)
Group 6: Crock layers (or pipe layers); Caisson workers; Tunnel muckers
Group 7: Tunnel Miners
Jackson County
Group 1: General Laborer
Group 2: Jackhammer and Acetylene Torch

DECISION NO. MI77-2053 LC ZONE I

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWN SHIPS IN INGHAM COUNTY					
Linemen - Technician	$12.01	1.00	7%		½%
Cable Splicer	12.53	1.00	7%		½%
Combination Equipment Operator & Groundman	9.68	1.00	7%		½%
Combination Driver-Groundman	9.13	1.00	7%		½%
Groundman	8.42	1.00	7%		½%

DECISION NO. MI77-2050 LC -ZONE II

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: ZONE II REMAINING COS; & THE REMAINDER OF INGHAM CO.					
Linemen; Heavy Equipment operator	$ 9.45	.35	1%	a	.5%
Cable Splicer	9.84	.35	1%	a	.5%
Combination Digger operator; Tractor operator Groundman'					
1st 6 months	6.87	.35	1%	a	.5%
Over 6 months	7.41	.35	1%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	5.98	.35	1%	a	.5%
Over 6 Months	6.51	.35	1%	a	.5%
Combination Winch Truck Driver Groundman;					
1st 6 months	5.45	.35	1%	a	.5%
Over 6 months	6.22	.35	1%	a	.5%
Combination Truck Driver Groundman	5.27	.35	1%	a	.5%

FOOTNOTES:
7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI77-2053 MICH-3-PEO-1-2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION					
CLASS A	$11.90	.80	1.00	10%	.05
CLASS B	11.65	.80	1.00	10%	.05
CLASS C	11.40	.80	1.00	10%	.05
CLASS D	10.85	.80	1.00	10%	.05
CLASS E	10.65	.80	1.00	10%	.05
CLASS F	9.45	.80	1.00	10%	.05
CLASS G	8.75	.80	1.00	10%	

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

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DECISION NO. MI77-2053

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION CLINTON, INGHAM & JACKSON COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations ia 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.40	.55	.75	10%	.05
CLASS B	11.15	.55	.75	10%	.05
CLASS C	10.90	.55	.75	10%	.05
CLASS D	10.55	.55	.75	10%	.05
CLASS E	9.30	.55	.75	10%	.05
CLASS F	8.25	.55	.75	10%	

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

DECISION NO. MI77-2053

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION CALHOUN, CLINTON, EATON, INGHAM & JACKSON COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$9.88	.80	.85	10%	.05
CLASS II	9.77	.80	.85	10%	.05
CLASS III	9.10	.80	.85	10%	.05
CLASS IV	8.58	.80	.85	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1¼ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1¼ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION NO. MI77-2053

MICH-9-PEO-U-2-2

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.51	.80	.85	10%	.05
CLASS II	8.25	.80	.85	10%	.05
CLASS III	7.79	.80	.85	10%	.05
CLASS IV	7.54	.80	.85	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1¼ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1¼ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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SUPERSEDEAS DECISION

State: Michigan — COUNTIES: See Below
DECISION NO: MI77-2054 — DATE: Date of Publication
Supersedes Decision No. MI76-2138, dated November 5, 1976 in 41 FR 48988
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

COUNTIES: Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$11.39	1.24	1.19		
Remainder of Counties	8.92	.72	1.28		.02
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawasee Cos.					
Bricklayers & Stonemasons	11.15	.50	1.00		
Marble-Tile-Terrazzo Workers	9.79	.50	1.00		
St. Clair & Sanilac Counties					
Bricklayers & Stonemasons	11.11	.90	.57		
Marble Setters	11.58	.50	.80		
Terrazzo Workers	10.80	.50	.80		
Tile Setters	11.17	.50	.80		
Remainder of Counties					
Bricklayers & Stonemasons	10.52	.60	.50		
Marble-Tile-Terrazzo Workers	9.95				
CARPENTERS:					
Sanilac (Except the West 5 miles & St. Clair Counties:					
Carpenters & Piledrivermen	10.48	.75	9%	11%	.04
Soft Floor Layers	9.45	.75	9%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac County:					
Carpenters & Piledrivermen	9.84	.60	.50		.01
Soft Floor Layers	8.88	.60	.50		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	10.39	.90	.57		
Lapeer County	9.80	.50	1.00		
Genesee & Shiawassee Counties	9.90	.48	.45		.02
Remainder of Counties					
Cement Masonry on sidewalks, curbs & gutters not related to highway, road and street construction	9.82	.60	.50		

DECISION NO. MI77-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Remainder of Counties	11.34	1.75	1%+1.00		.06
Iosco County; Northern ½ of Co.:					
Contracts over $13,000	10.65	.40	1%+.15		1/10%
Contracts under $13,000	9.15	.40	1%+.15		1/10%
Bay Co; & Southern ½ of Iosco Co.	11.75	.40	1%+.30		
Genesee, Lapeer & Shiawassee Cos.	11.25	.40	1%+.75		.02
Saginaw & Tuscola Counties	11.70		1%+.70		½%
ELEVATOR CONSTRUCTORS:					
Constructors	$ 11.75	.545	.35	4%	.02
Helpers	70%JR	.545	.35	4%	.02
Helpers (Prob.)	70%JR				
Remainder of Counties:					
Constructors	10.42	.495	.32	4%	.02
Helpers	70%JR	.495	.32	4%	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, La Peer & Shiawasse Cos.	9.09	.55	.70		.02
St. Clair Co.	9.77	.55	.65		
Bay, Huron, Iosco, Tuscola & Saginaw Cos.	8.45		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	10.43	8%	14%	17%	.09
Reinforcing	9.42	.98+.25	15%	15%	.07
Fence Erectors	10.43	8%	14%	17%	.09
LABORERS:					
Iosco County; Unskilled	6.55	.55	.35		.04
Mortar & Plaster Mixers, Sewer & Caisson Workers, Plasterer Tenders, Non-Metallic Pipe-Layers	6.70	.55	.35		.04
Cement Gun Nozzlemen, Blasters, Miners & Rock Drillers	7.15	.55	.35		.04

DECISION NO. MI77-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	8.85	.64	.10	.50	.01
PAINTERS:					
Bay & Iosco Cos., Huron (West of M-53) Co., & theTownships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta & Wisner in Tuscola County:					
Commercial	8.50	.42	.60		.02
Industrial	9.05	.42	.60		.02
Spray	9.35	.42	.60		.02
Saginaw Co., & the Remainder of Tuscola County:					
Brush	9.95		.35		.02
Spray	10.70		.35		.02
Genesee, Lapeer,& Shiawassee Cos.	9.40	.50	.60		
Western ½ of Shiawassee County	10.35	.42	.40		.005
Huron, St. Clair & Sanilac Cos.:					
Commercial & Industrial Brush	10.71	.50	.50		.01
Open Steel & Spray	11.21	.50	.50		.01
PLASTERERS:					
Lapeer County	10.05	.50	1.00		
Bay, Huron, Iosco, Saginaw & Tuscola Counties	9.22	.50			
Genesee & Shiawassee Cos.	9.83	.50	.25		.03
St. Clair & Sanilac Counties	10.64	.90	.57		
PLUMBERS AND STEAMFITTERS:					
Bay, Iosco Cos., N. ½ of Tuscola & the NW ¼of Huron (running from Port Autin south to Sanilac County line	9.94	.65	.50	1.50	
Genesee, Lapeer & Shiawasse Cos.	10.74	.80	1.00		
Saginaw & S. ½ of Tuscola (including Carco, Washjamerga and South to the Lapeer County Line Counties	9.83	.66	.85		.01
Remainder of Huron County; St. Clair & Sanilac Counties	10.12	1.48	1.20	1.25	.05

DECISION NO. MI77-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw, Tuscola	10.50	.75	.50		
Genesee, Lapeer & Shiawassee Cos.					
Composition	10.85	.60	.40		
Slate & Tile	11.20	.60	.40		
St. Clair, Sanilac & Huron Cos.	7.20				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	10.66	.65	1.00		
Genesee, Lapeer & Shiawassee Cos.	9.69	.79	1.20	1.00	
St. Clair & Sanilac Counties	10.135	1.60	10%	11%	.11
SPRINKLER FITTERS	11.92	.65	.95		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	7.57	a24.00	a22.00	.26	
8 cubic yards & over	7.67	a24.00	a22.00	.26	
Euclid Type Equipment	7.87	a24.00	a22.00	.26	
Genesee, Lapeer & Shiawassee	8.08	a17.00	a22.00		
Huron, St. Clair & Sanilac					
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	9.44	a20.00	a25.00		
Semi Drivers	9.34	a20.00	a25.00		
All Other Truck Drivers	9.19	a20.00	a25.00		

FOOTNOTE: a-Per Week Per Employee

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

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DECISION NO. MI77-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	$ 8.04	.55	.35		.04
CLASS B	8.16	.55	.35		.04
CLASS C	8.24	.55	.35		.04
CLASS D	8.81	.55	.35		.04
Genesee, Lapeer & Shiawassee Cos:					
CLASS A	8.39	.55	.55		.04
CLASS B	8.49	.55	.55		.04
CLASS C	8.59	.55	.55		.04
CLASS D	8.69	.55	.55		.04
CLASS E	8.94	.55	.55		.04
St. Clair & Sanilac Counties:					
GROUP 1	9.00	.55	.35		.04
GROUP 2	9.12	.55	.35		.04
GROUP 3	9.14	.55	.35		.04
GROUP 4	9.17	.55	.35		.04
GROUP 5	9.35	.55	.35		.04
GROUP 6	9.25	.55	.35		.04
GROUP 7	8.93	.55	.35		.04

LABORERS:

Bay, Huron, Saginaw & Tuscola Counties

CLASS A - All Construction Laborers on Building & Heavy Construction not specified in Classes B,C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator and Mortar Mixer when done by hand.

CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; Vibrators

CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayer; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker.

CLASS D - Drillers & Plasters; Burners

DECISION NO. MI77-2054

LABORERS (CONT'D

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified inClasses B & E below

CLASS B - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top Men (on caisson work; Air, Gasoline or Electric Tools Operaors.

CLASS C - Jackhammer & Air Spade; Tunnel Men; Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Virtified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; All Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric & Gas Tool Operators

GROUP 4 - Crete Gas Buggies; Concrete Saw Operators

GROUP 5 - Signal Men & Top Men on Caisson Construction

GROUP 6 - Tunnel Men; Concrete Shovelers; Car Pushers; Windlass & Tugger Operators on Caisson Work

GROUP 7 - Crock or Pipe Layers; Caisson Workers & Muckers

DECISION NO. MI77-2054

LC-ZONE I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$12.01	1.00	7%		½%
Cable Splicer	12.53	1.00	7%		½%
Combination Equipment Operator & Groundman	9.68	1.00	7%		½%
Combination Driver-Groundman	9.13	1.00	7%		½%
Groundman	8.42	1.00	7%		½%

LC-ZONE II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment operator	$ 9.45	.34	1%	a	.5%
Cable Splicer	9.84	.35	1%	a	.5%
Combination Digger operator; Tractor operator Groundman' 1st 6 months	6.87	.35	1%	a	.5%
Over 6 months	7.41	.35	1%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator: 1st 6 months	5.98	.35	1%	a	.5%
Over 6 Months	6.51	.35	1%	a	.5%
Combination Winch Truck Driver Groundman: 1st 6 months	5.45	.35	1%	a	.5%
Over 6 months	6.22	.35	1%	a	.5%
Combination Truck Driver Groundman	5.27	.35	1%	a	.5%

FOOTNOTES:

7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI77-2054

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.27	.80	.85	10%	.05
CLASS B	11.05	.80	.85	10%	.05
CLASS C	10.82	.80	.85	10%	.05
CLASS D	10.52	.80	.85	10%	.05
CLASS E	9.51	.80	.85	10%	.05
CLASS F	8.75	.80	.85	10%	

CLASS A - Crane with boom & jib or leads 220' or longer

CLASS B - Crane with boom and jib or leads 140' or longer

CLASS C - Regular crane Operator

CLASS D - Regular Engineer

CLASS E - Engineer when operating Compressor (or welding machine)

CLASS F - Fireman or oiler

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer

CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations is 501 Or more above first sub level

CLASS C - Crane operator job mechanic

CLASS D - Hoisting operator

CLASS E - Compressor (or welder) operator

CLASS F - Oiler or fireman

UMI

DECISION NO. MI77-2054

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION — REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.90	.80	1.00	10%	.05
CLASS B	11.65	.80	1.00	10%	.05
CLASS C	11.40	.80	1.00	10%	.05
CLASS D	10.85	.80	1.00	10%	.05
CLASS E	10.65	.80	1.00	10%	.05
CLASS F	9.45	.80	1.00	10%	.05
CLASS G	8.75	.80	1.00	10%	

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

DECISION NO. MI77-2054

MICH-9-PEO-U-2-2

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION — IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.51	.80	.85	10%	.05
CLASS II	8.25	.80	.85	10%	.05
CLASS III	7.79	.80	.85	10%	.05
CLASS IV	7.54	.80	.85	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION NO. MI77-2054

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION — REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.88	.80	.85	10%	.05
CLASS II	9.77	.80	.85	10%	.05
CLASS III	9.10	.80	.85	10%	.05
CLASS IV	8.58	.80	.85	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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SUPERSEDEAS DECISION

STATE: Minnesota — COUNTIES: See Below
DECISION NUMBER: MN77-2043 — DATE: Date of Publication
Supersedes Decision No. MN76-2001, dated January 16, 1976 in 41 FR 2551
DESCRIPTION OF WORK: Building (Including Residential), Construction

COUNTIES: Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.48	.60	.65		.02
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.31	.555	.33	.56	
CARPENTERS:					
Building					
S.W. Portion of Scott Co.	10.30	.40			.02
Remainder of Cos. & Scott Co. Carpenters, Millwrights & Piledrivermen	9.86	.50	.50	.50	.02
Soft Floor Layers	9.70	.51	.34	.45	.02
Site Preparation, Excavation & Incidental Paving					
Carpenters & Piledrivermen	8.21	.40	.30	.50	.02
CEMENT MASONS:					
Building, Site Preparation, Excavation & Incidental Paving	10.33	.50	.50		
ELECTRICIANS:					
Building					
Hennepin & Scott Cos. & Twps. of Anoka & Fridley in Anoka County	10.03	7%	4%	10%	1½%
Remainder of Anoka County & Remaining Counties	10.05	5 3/4%	4%	11½%	1%
Residential					
Carver, Hennepin & Scott cos; Twps. of Anoka, Fridley, Crow & Ramsey in Anoka County; Construction of all new family dwellings up to & including 4-plexes; and to all residential remodeling, rewiring & repairing in apartment buildings up to & including a 400 ampere service. This is limited to 3 floor occupied as living quarters floors, & non-elevator apartment buildings.	6.73	.48	1%	.27	1%

DECISION NO. MN77-2043

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Dakota, Ramsey, Washington Cos. & Remainder of Anoka Co.: Construction of all new family dwellings up to & including 4-plexes, townhouses of 4 or less contiguous units; and to all residential remodeling, rewiring & repairing except that any single apartment project including a change of main service entrance shall not exceed 8 living units or 400 amps.	7.00	.48	1%	.29	¼of1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.345	.545	.35	4%+a	.02
Helpers	70%JR	.545	.35	4%+a	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	11.10	.55	.55		.02
LATHERS:					
Anoka, Carver & Hennepin Cos.	9.08	.45	.35		.01
Washington; Dakota & Ramsey Cos.	8.51	.50	.40	.81	.01
MARBLE SETTERS	10.355	.555	.33		
TERRAZZO WORKERS	8.46	.30	.25		
TILE SETTERS	10.25	.37	.50		
MARBLE & TILE HELPERS	9.35	.37	.50		
PAINTERS:					
Dakota, Ramsey & Washington Cos:					
Brush	9.55	.45	.25		.07
Structural Steel & Spray	10.05	.45	.25		.07
Remaining Counties:					
Brush	9.53	.45	.24		.09
Structural Steel & Spray	10.03	.45	.25		.09
PLASTERERS:					
Dakota, Ramsey & Washington Cos.	8.82	.50	.25	.65	.01
Remaining Counties	9.50	.45	.20	.70	.01

DECISION NO. MN77-2043

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Plumbers, Steamfitters & Pipefitters:					
Dakota, Ramsey & Washington Cos.	8.67	.38	.50	1.52	.06
Plumbers & Steamfitters & P/F Remaining Counties:					
Plumbers	9.64	.38	.50	1.35	.05
Steamfitter & Pipefitters	9.64	.38	.50	1.25	.05
ROOFERS	9.81	.64	.25		.03
SHEET METAL WORKERS:					
Dakota, Ramsey & Washington Cos.	11.51	.59	.65		.02
Remaining Counties	10.97	.52	.51		.06
SPRINKLER FITTERS	10.48	.60	.90		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Employer contributes 4% Basic Hourly Rate for over 5 years service, 2% Basic Hourly Rate for 6 months, to 5 years as Vacation Pay Credit; 6 Paid Holidays A through F.

DECISION NO. MN77-2043 — MINN-27-LAB-1

LABORERS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.30	.45	.45	.40	
CLASS 2	8.35	.45	.45	.40	
CLASS 3	8.40	.45	.45	.40	
CLASS 4	8.45	.45	.45	.40	
CLASS 5	8.55	.45	.45	.40	
CLASS 6	8.60	.45	.45	.40	
CLASS 7	8.65	.45	.45	.40	
CLASS 8	8.70	.45	.45	.40	
CLASS 9	9.005	.45	.45	.40	

CLASS 1 - Common Laborer, Steel hoist handler (erection); Power Buggy Operator, Carpenter Tender, Earth Dumpman, Flagman
CLASS 2 - Reinforced Steel Handler
CLASS 3 - Men handling cement 2 hours per day (Bulk or Sack, excluding Mortar Mixer; Mason Tender; Concrete Joint Saw Operator, Demolition & Wrecking Laborer
CLASS 4 - Hot tar caulker & corker; Laborers on swing stage line scaffold (excl. "patent" scaffolding); Automatic Tamper Operator; chipping Hammer Setter & Driver on Heavy Building, Excavation, Jackhammer Men
CLASS 5 - Underground Work
CLASS 6 - Pipelayer
CLASS 7 - Caisson Work, Underpinning
CLASS 8 - Nozzlemen
CLASS 9 - Dynamite Men, Power for Blasting purposes

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DECISION NO. MN77-2043

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.25	.45	.45	.40	
CLASS 2	8.35	.45	.45	.40	
CLASS 3	8.40	.45	.45	.40	
CLASS 4	8.50	.45	.45	.40	
CLASS 5	8.55	.45	.45	.40	
CLASS 6	8.60	.45	.45	.40	
CLASS 7	8.65	.45	.45	.40	
CLASS 8	8.68	.45	.45	.40	
CLASS 9	8.70	.45	.45	.40	
CLASS 10	8.88	.45	.45	.40	
CLASS 11	8.93	.45	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Oher work more than 8' below level of manual work Open ditch Work

DECISION NO. MN77-2043

LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operatiOn of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2043

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: BUILDING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5- Master Mechanic
CLASS 6 - derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (Inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumporete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rortary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator-up to ½ cu. ys.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION NO. MN77-2043

MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conwey or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Duel Tractor Op., Elevating Grader Op., Pumporete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

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DECISION NO. MN77-2043

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or aimilar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Blue Earth, Fairbaul Freeborn & Mower

DECISION NUMBER: MN77-2044

DATE: Date of Publication

Supersedes Decision No. MN76-2064, Dated May 21, 1976 in 41 FR 2551

DESCRIPTION OF WORK: Building Construction (Including Residential), Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.48	.60	.65		.02
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS:					
Blue earth County					
Bricklayers, Stonemasons & Blocklayers	9.855	.50	.51	.61	
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon & the City of Blooming Prairie:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	10.725	.35	.25		
Fairbault & Remainder of Freeborn County					
Bricklayers, Stonemasons, Truck Pointers & Blocklayers	10.33	.42	.25		
CARPENTERS:					
Building:					
Blue Earth County					
N. W. Portion of County	9.55				
Remainder of County	10.30	.40			.02
Freeborn & Fairbault Counties					
Carpenters, Millwrights & Piledrivermen	10.12				
Mower County					
Carpenters & Piledrivermen	I0.12				
Site Preparation, Excavating & Incidential Paving					
Blue Earth County	7.32	.30			
Fairbault, Freeborn & Mower Cos.	8.48				
CEMENT MASONS & PLASTERERS:					
Building:					
Blue Earth County					
Cement Masons	10.10				
Plasterers	9.40				
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon:					
Cement Masons & Plasterers	9.43	.42	.25		

DECISION NO. MN77-2044

CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault Co., & Remainder of Freeborn No.:					
Cement Masons & Plasterers	9.43	.42	.25		
Site preparation, Excavation & Incidential Paving					
Blue Earth County	10.10				
Fairbault Co., Freeborn Co: (West of a line running North & South from Geneva to Gordonsville)	9.50	.35	.25		
Mower Co. & Remainder of Freeborn County	9.43	.42	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	8.45	7%	4%	10%	1%
Jobs within a 5 mile radius of Mankato $50,000 & over	9.69	7%	4%	10%	1%
Mower County $7,500 or more	8.40	7%	1%	6%	
$7,500 or less	6.70	4%	1%	6%	
Freeborn County					
jobs $4,000 & over	8.40	4%	1%	6%	
Under $4,000	6.70	4%	1%	6%	
ELEVATOR CONSTRUCTORS:					
Blue Earth County					
Constructors	10.345	.545	.35	4%+a	.02
Helpers	70%JR	.545	.35	4%+a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Blue Earth County	9.14	.36	.50	.35	.01
Remainder of Counteis	9.50	.55	.55		.02
IRONWROKERS	11.10	.55	.55		.02
LABORERS: Building					
General Laborers & Carp. Tenders	8.00	.20	.15		
Mason tenders & Vibrator Oprs.	8.10	.20	.15		
Mortar Mixers	8.15	.20	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	10.355	.555	.33		
Terrazzo Workers	8.46	.30	.25		
Tile Setters	10.25	.37	.50		
Marble & Tile Setters' Helpers	9.35	.37	.50		

UMI

DECISION NO. MN77-2044

PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mower County					
Brush	9.50	.37	.25		.08
Spray	10.00	.37	.25		.08
Remainder of Counties					
Brush	8.80	.40	.40		.07
Spray & Structura. Steel	9.30	.40	.10		.07
PLUMBERS & STEAMFITTERS:					
Blue Earth County	11.55				b
Remainder of Counties	9.41	.30	.20		.02
ROOFERS:					
Mower County	9.22		.20		
Remainder of Counties	9.00	.55			
SHEET METAL WORKERS	10.74	.52	.33		
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS	8.00				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer conbtributes 4% BHR for over 5 years service & 2% BHR for 6 months to 5 years service as Vacation Pay. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. $40.00 Per Year

DECISION NO. MN77-2044 MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.55	.20	.15		
CLASS 2	8.65	.20	.15		
CLASS 3	8.70	.20	.15		
CLASS 4	8.80	.20	.15		
CLASS 5	8.90	.20	.15		
CLASS 6	8.95	.20	.15		
CLASS 7	9.00	.20	.15		
CLASS 8	9.05	.20	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & blower Tender; Sod; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler(Paving); Concrete Vibrator; Conduit Layers (w/o wiring); drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work;Cofferdam
CLASS 5 - Leadman
CLASS 6 -Nozzle (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

DECISION NO. MN77-2044 MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: BUILDING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5- Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 druma or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compreasor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rortary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator-up to ½ cu. ys.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Braksmen; Pick Up Sweeper (combuation engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION NO. MN77-2044 MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similer type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

DECISION NO. MN77-2044

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel scrsening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2044

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Fairbault County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2044

MINN-7-TD

TRUCKD RIVERS: SITE PREPARATION, EXCAVATING & INCIDENTIAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2044

MINN-5-TD

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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SUPERSEDEAS DECISION

STATE: Minnesota COUNTY: Olmsted
DECISION NUMBER: MN77-2045 DATE: Date of Publication
Supersedes Decision No. MN76-2002, Dated January 23, 1976 in 41 FR 3607
DESCRIPTION OF WORK: Building (Including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.48	.60	.65		.02
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers; Stonemasons; Cement Blocklayers; Pointers; Caulkers & Cleaners	10.725	.35	.25		
CARPENTERS:					
Building	9.50	.50	.50		
Site Preparation, Excavation & Incidential Paving				4g	
Carpenters & Piledrivermen	7.88	.50	.20		
CEMENT MASONS:					
Building	10.35				
Site Preparation, Excavation & Incidential Paving	10.35				
ELECTRICIANS	8.75	4%	1%	6%	.125%
GLAZIERS	9.56			.30	
IRONWORKERS	11.10	.55	.65		.02
LABORERS:					
General Laborer; Carpenter Tender; Flagman; Power Buggy Operator	8.50	.20	.15		
Mason Tender; Drill Runner; Vibrator Operator; Rebar Laborer	8.60	.20	.15		
Mortar Mixer; Air Acutated Tool	8.65	.20	.15		
Plasterer Tender	8.75	.20	.15		
Nozzleman	8.90	.20	.15		
LATHERS	9.25				
MARBLE SETTERS	10.355	.555	.33		
PAINTERS:					
Brush	9.50	.37	.25		.08
Spray, Swing Stage & High Work	10.00	.37	.25		.08

DECISION NO. MN77-2045

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	8.65				
PLUMBERS & STEAMFITTERS	9.41	.30	.20		.02
ROOFERS	9.40	.42	.33		
SHEET METAL WORKERS	10.74	.52	.33		.02
SPRINKLER FITTERS	11.48	.65	.95		.08
TILE SETTERS	10.72				
TRUCK DRIVERS - Building Const.	8.50				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION MN77-2045

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.55	.20	.15		
CLASS 2	8.65	.20	.15		
CLASS 3	8.70	.20	.15		
CLASS 4	8.80	.20	.15		
CLASS 5	8.90	.20	.15		
CLASS 6	8.95	.20	.15		
CLASS 7	9.00	.20	.15		
CLASS 8	9.05	.20	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & blower Tender; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler(Paving); Concrete Vibrator; Conduit Layers (w/o wiring); drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work;Cofferdam
CLASS 5 - Leadman
CLASS 6 -Nozzle (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

DECISION NO. MN77-2045

MINN-1-PRO-1

POWER EQUIPMENT OPERATORS: BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5 - Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator-up to ½ cu. ys.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

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DECISION NO. MN77-2045

MINN-6-PFO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIALPAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

DECISION NO. MN77-2045

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2045

MINN-55-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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SUPERSEDEAS DECISION

STATE: Minnesota COUNTIES: Benton, Sherburne & Stearns
DECISION NUMBER: MN77-2046 DATE: Date of Publication
Supersedes Decision No. MN76-2003, dated January 23, 1976, in 41 FR 3610
DESCRIPTION OF WORK: Building (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.48	.60	.65		.02
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.35		.25	.35	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co. Carpenters, Millwrights & Piledrivermen	9.51	.50	.50	.50	.02
Soft Floor Layers	9.70	.51	.34	.45	.02
Cities of Little Rock & Skaja in Benton County					
Carpenters	9.35				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	10.08			.75	
Soft Floor Layers	7.50				
Site Preparation, Excavation & Incidental Paving					
Sherburn Co.; Northern Bondary of T-34-N & East of the Western Boundary of R-27-W	8.21	.40	.30	.50	.02
Benton Co., Stearns Co. (East of A North-South Line Drawn from the intersection of Stearns, Todd & Morrison Cos.) & the remainder of Sherburne Co.	7.47	-		.75	
Remainder of Stearns County	7.62				
CEMENT MASONS:					
Building Construction					
Benton & Stearns Counties					
Cement masons & Plasterers	9.55		.25	.35	
Sherburne County					
Cement Masons	10.33	.50	.50		
Plasterers	9.50	.45	.20	.70	.01
Site Prepatation, Excavation & Incidential Paving					
Sherburne County	10.33	.50	.50		
Benton & stearns Counties	9.90			.25	

DECISION NO. MN77-2046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake inSherburne County:					
Jobs under $50,000	8.45	7%	4%	10%	1½%
Jobs over $50,00;	9.63	7%	4%	10%	1½%
Remainder of Sherburne County	10.05	5 3/4%	4%	11½%	1%
GLAZIERS	9.23	.40			
IRONWORKERS	11.10	.55	.55		.02
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	8.30	.20	.15		
Power Buggy Operatora	8.35	.20	.15		
Mortar Mixers; Plasterer Tenders	8.40	.20	.15		
Jackhammer Men	8.45	.20	.15		
Underground; Caisson; Cofferdam & Tunnel work	8.55	.20	.15		
Dynamite Men	8.60	.20	.15		
Sherburne County:					
Common, Carpenter Tender	8.30	.45	.45	.40	
Wrecking & demolition	8.40	.45	.45	.40	
Vibrator Opr; Jackhammermen; Mortar Mixers	8.45	.45	.45	.40	
Underground Work	8.55	.45	.45	.40	
Pipelayers	8.60	.45	.45	.40	
Caisson Work - Underpinning	8.65	.45	.45	.40	
Dynamite Men	9.005	.45	.45	.40	
LATHERS:					
Benton & Stearns Counties	9.08	.45	.35	.01	
MARBLE SETTERS	10.355	.555	.33		

DECISION NO. MN77-2046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	9.53	.45		.25	.09
Spray, Structural Steel & Sandblasting	10.03	.45		.25	.09
Benton, & Stearns Counties & the Remainder of Sherburne County:					
Brush	6.90			3%	.02
Structural Steel	7.40			3%	.02
Spray	7.90			3%	.02
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	9.64	.38	.50	1.35	.05
Steamfitters Eastern ½ of County	9.64	.38	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co:					
Plumbers & Steamfitters	10.35	.48	.50		.08
ROOFERS:					
Roofers	8.50	.64	.25		
Helpers	5.95	.64	.25		
SHEET METAL WORKERS	10.38	.42	.20		.02
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS - Building	8.30				
Welders - receive rate preacribed for craft performing operation to which welding is incidental					

DECISION NO. MN77-2046

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
CLASS 1	$ 8.25	.45	.45	.40	
CLASS 2	8.35	.45	.45	.40	
CLASS 3	8.40	.45	.45	.40	
CLASS 4	8.50	.45	.45	.40	
CLASS 5	8.55	.45	.45	.40	
CLASS 6	8.60	.45	.45	.40	
CLASS 7	8.65	.45	.45	.40	
CLASS 8	8.68	.45	.45	.40	
CLASS 9	8.70	.45	.45	.40	
CLASS 10	8.88	.45	.45	.40	
CLASS 11	8.93	.45	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wracking & Demolition; Bit. Batcherman (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Oher work more than 8' below level of manual work Open ditch Work

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DECISION NO. MN77-2046

LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1¼ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderma.

DECISION NO. MN77-2046

MINN-11-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	7.75	.40	.35	.40	
CLASS 2	7.80	.40	.35	.40	
CLASS 3	7.85	.40	.35	.40	
CLASS 4	7.90	.40	.35	.40	
CLASS 5	8.10	.40	.35	.40	
CLASS 6	8.15	.40	.35	.40	
CLASS 7	8.20	.40	.35	.40	
CLASS 8	8.25	.40	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stone-mason Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municipal Type Curb & Sidewald, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

DECISION NO. MN77-2046

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5 - Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator-up to ¼ cu. ys.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION NO. MN77-2046

MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W					
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up

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DECISION NO. MN77-2046

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2046

MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.: (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1	$ 13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping

DECISION NO. MN77-2046

(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd)

machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas' turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2046

MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Benton & Stearns Cos.					
GROUP 1	$ 13.45	.45	.40		
GROUP 2	9.27	.45	.40		
GROUP 3	9.02	.45	.40		
GROUP 4	8.88	.45	.40		
GROUP 5	8.80	.45	.40		
GROUP 6	8.27	.45	.40		
GROUP 7	7.87	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

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DECISION NO. MN77-2046

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, watar, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete diat. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loadar op., power actuated Augare and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISIN NO. MN77-2046

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
GROUP 1	$ 9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2046

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Sprey (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN77-2047
Supersedes Decision NO. MN76-2134, dated October 29, 1976, in 41 FR 47780
DESCRIPTION OF WORK: Building Construction (Including Residential Construction)

COUNTIES: Carlton, Itasca, Koochiching & St. Louis

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.95	.30			
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons:					
Koochiching County	10.40	.40	.15		
Carlton County & all that part of St. Louis County South of line between townships 54 & 55 to 2 miles north of Cotton	10.92	.30	.25		
Itasca County & the northern half of St. Louis County	10.875	.30			
CARPENTERS:					
Building Construction:					
Koochiching County & Cites of Ashe Lake, Crane Lake, Kabetogama & Kinmount in St. Louis County	9.55	.30			
Cities of Alborn, Arnold, Barlett, Birch, Brookston, Canyon, Clinton, Culver, Duluth, Floodwood, Gowan, Island, Kelsey, Lakewood, Meadowlands, Munger, Palmers, Payne, Praist, Shaw & Taff in St. Louis County:					
Carpenters, Piledrivermen & Soft Floor Layers	9.80	.30	.40	.30	
Millwrights	10.02	.30	.40	.30	
Carlton County:					
Carpenters & Piladrivermen	9.40	.30	.40	.50	
Millwrights	9.54	.30	.40	.50	
Cities of Ball Club, Bass Lake, Big Fork, Blackberry, Bovey, Bowstring, Calument, Cohasset, Colerain, Deer River, Dora, Lake, Dunbar, Effie, Grand Rapids, Inger, Marble, Marcell, Max, Pomroy, Spring Lake, Square Lake, Suomi, Talmoon, Warba & Wirt in Itasca County	9.34	.30	.40	.30	

DECISION NO. MN77-2047

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Building Construction (Cont'd)					
Cities of Allen, Aurora, Babbit, Britt, Biwabik, Buyck, Casco, Central Lakes, Cook, Cusson, Ely, Embarrass, Eveleth, Florenton, Forbes, Forsman, Gilbert, Hoyt Lakes, Idington, Iron Junction, Makinen, McComber, Messba, Mountain, Iron, Ridge, Sax, Sherman Corners, Sherwood, Skibo, Soudan, Tower, Virginia, Wahlsten, Winton & Zim in St. Louis County					
Carpenters, Soft Floor Layers and Tile Setters	9.74	.30		.30	
Cities of Goodland, Keewatin, Nashwauk, Pengilly, Sawan River, Togo & Wawina in Itasca County & Cities of Bengal, Bear Lake Buhl Chisholm, Gheen, Greaney, Hibbing, Kelly, Lake, Nett Lake, Orr, Riley, Side Lake, Silica & Tovola in St. Louis County:					
Carpents & Soft floor Layers	9.74	.30		.30	
Site Preparation, Excavation & Incidential Paving:					
Carlton, Itasca & St. Louis Counties	8.28	.30		.30	
Koochiing County	7.32	.30			
CEMENT MASONS & PLASTERERS:					
Building Construction:					
Koochiching County:					
Cement Masons & Plasterers	10.05	.40	.15		
Itasca Co. and ther Northern portion of St. Louis County, North of White Face River					
Cement Masons	10.05	.30			
Plasterers	10.65	.30			
Carlton County & the city of Duluth in St. Louis County:					
Cement Masons	10.445	.30			
Plasterers	10.20	.30		.45	

DECISION NO. MN77-2047

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Site Preparation, Excavation & Incidential Paving:					
Koochiching County	10.05	.40	.15		
Carlton County & South of T-55-N in St. Louis County	10.73	.30			
Itasca County & North of T-54-N in St. Louis County	10.05	.30			
ELECTRICIANS:					
Carlton County, the southerly 12 Townships of Itasca County including Harris, Fealy, Blackberry, Spang, Goodland, Sago & Wawina & all of the southerly part of County bounded on the north by the line of Kelsey Township extended east & west in St. Louis County	10.16	4%	6%	11%	1.5%
Koochiching County, Itasca County, (except that section south of a line extending east and west of the south line of Grand Rapids & Trout Lake Townships), Northern part of St. Louis County bounded by the South Line of Ellaburg Township extended east and west	10.00	4%	4%	11%	1½%
ELEVATOR CONSTRUCTORS:					
St. Louis:					
Constructors	9.325	.495	.32	4%+a	.02
Helpers	70%JR	.495	.32	4%+a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
St. Louis, Carlton & Koochiching Counties	8.65	.30	.30	b	
IRONWORKERS	11.35	.30	.55		.02
LABORERS:					
Building Construction:					
Carlton County					
Laborers	8.30	.30	.35	.40	
Mason Tenders; Mortar Mixers and Jackhammer Operators	8.40	.30	.35	.40	

DECISION NO. MN77-2047

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Building Construction (Cont'd)					
St. Louis Co. south of T-55-N, including the City of Duluth					
Common Laborers & Flagman	8.35	.30	.35	.40	
Mortar Mixer, Carpenter & Mason Tender, Jackhammer & Vibrator Operator	8.45	.30	.35	.40	
Itasca & Koochiching Counties and north of T-55-N, including Cities of Hibbing, Chisolm & Buhl in St. Louis county					
Common Laborer	8.80	.20	.15		
Carpenter & Mason tender, Mortar mixer, Bricklayer Tender and Jackhammer	8.90	.20	.15		
Pipelayer (non-metallic)	9.15	.20	.15		
LATHERS:					
St. Louis County	10.55	.30			
MARBLE, TILE & TERRAZZO WORKERS:					
St. Louis Co. (City of Duluth)					
Marble & Tile Setters	9.95	.30			
Remainder of Cos. & st. Louis County:					
Marble Setters	10.355	.555	.33		
Tile Setters	10.25	.37	.50		
Marble & tile Setters' Helpers	9.35	.37	.50		
PAINTERS:					
Brush, Tapers & rollers	9.43	.30	.40		.08
Spray, Structural Steel & Paperhangers	9.93	.30	.40		.08
PLUMBERS & STEAMFITTERS:					
Koochiching County	12.30				
Carlton County & south half of St. Louis County	9.51	.30	.75	1.00	.05
Itasca County & Northern St. Louis County	9.90	.56	.59	1.00	.05

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PAGE 5

DECISION NO. MN77-2047

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Carlton County & Southern half of St. Louis County					
Roofers	9.23	.30	.25	1.00	
2nd Roofer	8.98	.30	.25	1.00	
Kettlemen	8.78	.30	.25	1.00	
Helper	7.35	.30	.25	1.00	
Itasca & Koochiching Counties, the Northern half of St. Louis Co.					
1st Roofer	9.08	.42	.60		
2nd Roofer	8.78	.42	.60		
SHEET METAL WORKERS:					
Carlton & Southern half of St. Louis County	9.64	.30	.30	1.00	
Itasca & Koochiching Counties, the Northern half of St. Louis County	10.14	.42	.60	.85	
TRUCK DRIVERS:					
Building Construction:					
Koochiching County	8.80				
Itasca County	8.80				

FOOTNOTES:

a. Employer contributes 4% Basic Houlry Rate for over 5 years service, 2% of Basic Hourly Rate for 6 months to 5 years service as Vacation Pay Credit. Six (60 Paid Holidays, New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. 2 weeks vacation

PAGE 6

DECISION NO. MN77-2047

MINN-10-LAB

LABORERS: Counties of Itaska and St. Louis Counties North of T-55	Basic Hourly Rates	Fringe Bensfits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.63	.20	.15	.25	
CLASS II	8.73	.20	.15	.25	
CLASS III	8.88	.20	.15	.25	
CLASS IV	8.93	.20	.15	.25	
CLASS V	8.98	.20	.15	.25	
CLASS VI	9.03	.20	.15	.25	
CLASS VII	9.13	.20	.15	.25	
CLASS VIII	9.23	.20	.15	.25	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tneder; Stonemasons tender
CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)
CLASS III - Bituminous Tamper, Cofferdam work, Caisson work
CLASS IV - Drill Runner (Heavy, including churn drill)
CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)
CLASS VII - Powderman
CLASS VIII - Tunnel Miner

PAGE 7

DECISION NO. MN77-2047

MINN-13-LAB

LABORERS Site preparation, Excavation & Incidential Paving	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Koochiching County					
CLASS 1	7.35	.20	.15		
CLASS 2	7.45	.20	.15		
CLASS 3	7.60	.20	.15		
CLASS 4	7.70	.20	.15		
CLASS 5	7.75	.20	.15		
CLASS 6	7.80	.20	.15		
CLASS 7	7.85	.20	.15		
CLASS 8	7.50	.20	.15		

CLASS 1 - Skilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason tender
CLASS 2- Bituminous Shoveler, Bottom Man (Sewer, Water or gas trench), Cement Coverman (Batch Trucks); cement handler (Bulk or bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (heavy, incl. Churn Driver Dumper (wagon truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous Or Lead), Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)
CLASS 3 - Form setters (Municipal type curb & Sidewalk) form setter (pavement)
CLASS 4 - Bituminous Tamper, caisson work & cofferdam
CLASS 5 - Bituminous raker, floater & utility man; Leadman
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer, (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

PAGE 8

DECISION NO. MN77-2047

MINN-14-LAB

LABORERS - SIT PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Bensfits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carlton & St. Louis County - South of T-55					
CLASS I	8.18	.30	.35	.40	
CLASS II	8.28	.30	.35	.40	
CLASS III	8.43	.30	.35	.40	
CLASS IV	8.48	.30	.35	.40	
CLASS V	8.53	.30	.35	.40	
CLASS VI	8.58	.30	.35	.40	
CLASS VII	8.68	.30	.35	.40	
CLASS VIII	8.78	.30	.35	.40	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tneder; Stonemasons tender
CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)
CLASS III - Bituminous Tamper, Cofferdam work, Caisson work
CLASS IV - Drill Runner (Heavy, including churn drill)
CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)
CLASS VII - Powderman
CLASS VIII - Tunnel Miner

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DECISION NO. MN77-2047

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5 - Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator-up to ½ cu. ys.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

DECISION NO. MN77-2047

MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING ST. LOUIS COUNTY POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

DECISION NO. MN77-2047

POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2047

MINN-6-PEO

SIT PREPARATION, EXCAVATION & INCIDENTIAL PAVING (JURISDICTION - NEXT PAGE)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

UMI

DECISION NO. MN77-2047

POWER EQUIPMENT OPERATORS (Cont'D) SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING-CARLTON CO; KOOCHICHING CO., EAST OF A NORTH SOUTH LINE FROM THE CANADIAN BORDER TO PELLAND TO BIG FALLS & MINN. HWY. #6; ITASCA COUNTY EAST OF THE WESTERN RIGHT OF WAY OF MINN. HWY. #6.

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2047

MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Itasca & Koochiching					
GROUP 1	13.45	.45	.40		
GROUP 2	9.27	.45	.40		
GROUP 3	9.02	.45	.40		
GROUP 4	8.88	.45	.40		
GROUP 5	8.80	.45	.40		
GROUP 6	8.27	.45	.40		
GROUP 7	7.87	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

DECISION NO. MN77-2047

(POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space hester, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2047

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carlton & St. Louis Counties					
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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DECISION NO. MN77-2047 — MINN-5-TD

TRUCK DRIVERS: BITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Itesca & Koochiching Counties					
GROUP 1	$8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandam Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: OHIO — COUNTIES: *SEE BELOW
DECISION NO.: OH77-2067 — DATE: Date of Publication
Supersedes Decision No. AM-420, dated August 18, 1971 in 36 FR 15963
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Delaware, Fairfield, Franklin, Licking, Madison, & Pickaway

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.00				
CARPENTERS	4.78				
CEMENT MASONS	6.00				
DRY WALL FINISHERS	5.00				
DRY WALL HANGERS	5.00				
ELECTRICIANS	5.63				
LABORERS:					
Laborers	3.50				
Asphalt rakers	4.63				
Mason tenders	4.00				
PAINTERS	4.58				
PLUMBERS	6.72				
ROOFERS	4.05				
SHEET METAL WORKERS	4.55				
SOFT FLOOR LAYERS	4.63				
TILE SETTERS	7.55				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Rollers	5.75				
Graders	5.61				
Bulldozers	5.94				
Crane	6.20				

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SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Shelby
DECISION NUMBER: TN77-1047 DATE: Date of Publication
Supersedes Decision No.: TN76-1131 dated December 17, 1976, in 41 FR-55285
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy, Water, Sewer and Utility Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.20	.45	.50		.02
Boilermakers	9.50	.75	1.00		.02
Bricklayers, stonemasons	9.95	.43	.30		.10
Carpenters, piledrivermen, soft floor layers	9.25	.30	.30		.065
Cement masons:					
Cement masons	8.875	.45	.55		.10
Cement masons machine operator	9.125	.45	.55		.10
Electricians:					
Electricians, linemen	9.88	.75	1%+.40		.5%
Cable splicers	9.98	.75	1%+.40		.5%
Elevator constructors	9.43	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob).	50%JR				
Glaziers	9.00	.65	.40		
Ironworkers	9.30	.65	.70		.125
Lathers	9.30	.25			.01
Leadburners	10.50	.40	.25	c	.01
Line Construction:					
Linemen	9.88	.75	1%+.40		3/8%
Special Equipment operator	7.41	.75	1%+.40		3/8%
Cable splicer	9.98	.75	1%+.40		3/8%
Groundmen:					
1 st year	3.95	.75	1%+.40		3/8%
2 nd year	4.94	.75	1%+.40		3/8%
Marble setters, Terrazzo workers tile setters	8.20	.45	.20		.05
Marble, Tile, Terrazzo Finishers and Shopmen					
Millwrights	9.55	.46	.30		.06
Painters:					
Commercial	8.85	.40	.45		.06
Industrial	9.10	.40	.45		.06
Plasterers	9.65				
Plumbers	10.97	.55	.30		
Roofers:					
Composition	9.10		.25		.03
Slate, tile, asbestos & precast tile	9.35		.25		.03
Sheet metal workers	9.71	3%+.55	.25	.25	.02
Sprinkler fitters	10.35	.65	.95		.08

TN77-1047 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steamfitters, air conditioning mechanics and pipefitters	10.97	.55	.30		
Truck drivers:					
Up to 5 tons	6.10	d			
5 tons & over incl., special equipment	6.50	d			
Welders, riggers, & riveters receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES

a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contribution of $5.00 per week.

TN77-1047 - (Cont'd)

BUILDING CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.125	.25	.30		.05
GROUP B	6.225	.25	.30		.05
GROUP C	6.275	.25	.30		.05
GROUP D	6.475	.25	.30		.05
GROUP E	6.675	.25	.30		.05
GROUP F	6.80	.25	.30		.05

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumber helpers, carpenters tenders, asphalt rakers tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pneumatic tools.

GROUP D: Deep hole man

GROUP E: Powderman, toolroom attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

TN77-1047 - (Cont'd)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.925	.40	.50		
CLASS B	8.495	.40	.50		
CLASS C	7.795	.40	.50		
CLASS D	7.395	.40	.50		

CLASS A: Shovels, backhoes, draglines, cranes, gantrys, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, straddle carriers, core drills (over 3"), tower cranes, hydro cranes, austin western (and similar type cranes), drilling of piling, tugger, earth freezing equipment, 3 drum hoist, s: boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft) helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, tra-xcavators, fork lift, front end loader.

CLASS B: Trenching machines (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator over 10 tons, elevating graders, winches (operated from trucks or tractors without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized-Buffelo-Springfield type)

CLASS C: Locomotive fireman (on boilers 100 h.p. and over), operator, air compress (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less) oilers or gantrys, greasers

CLASS D: Air compressor operator, mechanic helper, locomotive fireman, welding machine operators, deck hand, elevator operators.

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TN77-1047 - (Cont'd)

HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	6.85				
Carpenters or leadsman	5.70				
Cement masons	5.70				
Electricians	6.60				
Ironworkers, reinforcing	5.45				
Ironworkers, structural	6.10				
Laborers:					
Laborers, unskilled, Flagman	3.50				
Chain saw, Concrete rubber,					
Mortar mixer, Pipelayer	3.75				
Air tool operator	3.75				
Fireman	3.80				
Concrete edger	3.90				
Concrete saw operator, fence erector, guard rail erector	4.00				
Asphalt raker	4.10				
Sign erector	4.25				
Form setter, Steel road	4.55				
Powderman	4.85				
Nozzleman or gunman (gunite)	5.70				
Painters or sand blaster	5.70				
Truck driver:					
2 & 3 axles	3.90				
4 & 5 axles or more or heavy duty off-the-road trucks	4.60				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Pump operator, welder helper	3.65				
Ditch paver, mechanic helper	3.80				
Curb machine	3.90				
Motor crane driver, mulcher or seeder, scale operator	4.00				
Tractor, farm	4.05				
Concrete mixer, less than 1 yd, Earth drill	4.10				
Track drill	4.30				
Dozer or loader - stock pile only	4.40				
Oiler, roller, other than finish	4.45				

TN77-1047 - (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributors (bituminous)	4.65				
Tractor, crawler, utility	4.70				
Spreader (self-propelled)	4.80				
Asphalt paver, central mixing (asphalt or concrete), Concrete finishing machine, mechanic, Class II, Motor patrol (rough), Roller (high-type), Soil cement machine	5.00				
Tractor - boom hoist, trenching machine	5.15				
Bulldozer or push dozer, scraper	5.70				
Backhoe, concrete paver, Cranes, end loader, Mechanic, Class I, Motor patrol finish, pile-driver, Shovel	5.70				

TN77-1047 - (Cont'd)

WATER, SEWER & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	3.50				
Carpenters	3.50				
Cement masons	3.00				
Laborers	2.30				
Truck drivers:					
Up to 3 tons	2.32				
Over 3 tons	2.50				
POWER EQUIPMENT OPERATORS:					
Air compressors	2.37				
Backhoe	3.50				
Blade grader	3.50				
Bulldozer	3.45				
Cranes, derricks & draglines	3.85				
Front end loader	3.50				
Mechanics	3.42				
Motor grader	3.50				
Scrapers	3.34				
Shovels	3.50				
Tractors	2.37				
Trenching machines	3.30				

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SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Madison
DECISION NO.: TN77-1051 DATE: Date of Publication
Supersedes Decision No.: TN75-1051 dated May 16, 1975 in 40 FR-21666
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	9.10	.35	.50		.05
Bricklayers	7.75	.30			
Carpenters	7.10				
Cement masons	6.00				
Electricians	8.10	.30	1%		4%
Glaziers	6.80	.30	.20		
Ironworkers, structural, ornamental & reinforcing	7.75	.30	.35		.125
Laborers:					
Laborers	3.05		.10		
Air tool operator (jackhammer, vibrator)	3.25		.10		
Mason tenders	3.15		.10		
Mortar mixers	3.25		.10		
Plasterers tenders	3.15		.10		
Lathers	8.30	.25			.01
Line Construction:					
Linemen	8.10	.30	1%		4%
Cable splicers	8.35	.30	1%		4%
Millwrights	7.30				
Painters, brush	6.20				
Piledrivermen	6.85				
Plasterers	6.00				
Plumbers	8.70		.50		
Roofers	6.75		.20		
Sheet metal workers	7.15	.40	.15	.30	.02
Sprinkler fitters	8.20	.30	.25		
Tile setters	6.65	.30			
Truck driver	3.05		.10		
POWER EQUIPMENT OPERATORS:					
Bulldozer	3.00				
Forklift	3.60				
Front end loader	3.75				
Grader	3.00				
Motor patrol	4.35				
Paving machine	3.00				
Pump operator	3.25				
Roller	3.00				
Tractor	3.40				
Trenching machine	4.00				

SUPERSEDEAS DECISION

STATE: Tennessee COUNTIES: Anderson & Roane
DECISION NO.: TN77-1052 DATE: Date of Publication
Supersedes Decision No.: TN76-1072 dated June 18, 1976, in 41-FR-24874
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION

Oak Ridge, Energy Reasearch Development Administration Only	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	8.73	.45	.20		.01
Boilermakers	7.50	.40	.90		.02
Bricklayers; Marble setters; Stonemasons; Terrazzo workers; Tile setters	9.45				
Carpenters; Soft floor layers	8.42		.40		.02
Cement masons	7.74				
Electricians:					
Electricians; Linemen	9.16	.40	1%+.30		.5%
Cable splicers	9.66	.40	1%+.30		.5%
Elevator constructors	8.625	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (Prob.)	50%JR				
Glaziers	5.75		.25		.005
Ironworkers:					
Fence erectors; Ornamental; Structural	8.34	.50	.50		.02
Reinforcing	8.20	.50	.50		.02
Lathers	8.69		.20		.01
Leadburners	10.50	.40	.25	c	.01
Millwrights	9.06		.40		.02
Painters:					
Commercial	7.70		.35		.03
Industrial	8.05		.35		.03
Piledrivermen	8.67		.40		.02
Plasterers	8.85				
Plumbers & Steamfitters	9.15	.40	.70	.30+d	.05
Roofers:					
Composition	7.63		.25		
Slate; Tile	7.63		.25		
Sheet metal workers	8.91	.35	.50		.02
Sprinkler fitters	10.35	.65	.95		.08
Truck drivers:					
Up to 3 tons & incl. 4 yds., dump truck	5.10	.25	e		
3 to 5 tons & incl. 6 yds., dump truck	5.34	.25	e		
5 tons & over incl. dump trucks over 6 yds.; ready-mix concrete truck, tank trucks; floats and lowboys; winch and semi-trailer trucks	5.56	.25	e		

TN77-1052 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 6 paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve, providing the employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immedately preceeding and following the holiday.

d. $.05 holiday pay

e. $14.00 per week for each employee

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TW77-1052 - (Cont'd)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP A	5.14	.15	.15		.01
GROUP B	5.29	.15	.15		.01
GROUP C	5.29	.15	.15		.01
GROUP D	5.32	.15	.15		.01
GROUP E	5.44	.15	.15		.01
GROUP F	5.94	.15	.15		.01
GROUP G	5.64	.15	.15		.01
Tunnel Construction:					
GROUP H	5.15	.15	.15		.01
GROUP I	5.54	.15	.15		.01
GROUP J	5.69	.15	.15		.01
GROUP K	5.84	.15	.15		.01
GROUP L	5.94	.15	.15		.01

GROUP A - Construction laborers

GROUP B - Mortar mixer, plasterers' tenders

GROUP C - Hod carriers, power buggies, yarner, potman, gradesman, snake man, form setter & strippers, pipelayers, asphalt raker, jackhammer op., air tool op., vibrator op., chain saw op., barco tamp op., all power driven tool ops.

GROUP D - Acetlyene burner

GROUP E - Wagon drill operator

GROUP F - Caisson hole man

GROUP G - Powderman

Tunnel Construction:

GROUP H - Outside laborer

GROUP I - Tunnel laborer

GROUP J - Chuck tender

GROUP K - Concrete gun op., nozzleman

GROUP L - Tunnel miner

TW77-1052 - (Cont'd)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP A	7.79	.30	.20		.02
GROUP B	7.24	.30	.20		.02
GROUP C	6.06	.30	.20		.02
GROUP D	5.57	.30	.20		.02

GROUP A: Backhoes, cableways, ross carrier, clamshells, cranes, derricks, draglines, tournapulle, pans, scrapers, scoops, etc., head tower machines, locomotives (over 20 tons), shovels, mechanics & welders, winch trucks with A-frame, skimmer scoops, locomotives cranes, over-head cranes, pile drivers, skid rigs, side boom tractors, euclid loaders, hoist (any size handling steel or stone), derrick boats, dredge boats, engines used in connection with hoist material with an attached device on tower or engine, mucking machines, hi-lifts or end loaders, finish graders, cherry-pickers, tower cranes, sky-lift & gradall, dosers, earth augers and pole machine operators, core drill & foundation drills.

GROUP B: Tractors, farm type tractors with attachments, central compressor plants, elevators, used for hoisting building material, central mixing plants, hoist, pump crete machines, concrete pumps, trenching machines, backfillers (other than cranes), crushing plant operators, elevating graders, paving machines (black top), fork-lift, paving machines (concrete), boat operator or engineer (30 tons or over), tracmobile, maintainers, blacktop roller, switchman, locomotive under 20 tons.

GROUP C: Asphalt plant operators, barber green type loaders, engine tender other than steam, mixers, (over 2 bags not to include central plants), pumps, (2 not more than 3), scarifiers, spreader box (bituminous), asphalt mixers, portable compressors, (2 not more than 3), rollers, sub-grader machine, tractors, farm type without attachments, cable head tower engineman, dredge booster pump operators, boat operator or engine, under 30 tons, finishing machine, fireman & oiler (combination), motor crane oiler & driver, welding machine (2 not more than 3), heaters, stationary or portable (to 5), compressors (Portable 2 not more than 3), greaser or fuel trucks

GROUP D: Air compressor (1 portable), fireman, portable crushers, welding machine (1) conveyors, pumps (1) , oiler, heater (1).

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise

DECISION NO.: TX77-4097 DATE: Date of Publication

Supersedes Decision No. TX76-4183, dated November 12, 1976, in 41 FR 50191.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories) and also does not include Dallas-Fort Worth Regional Airport. (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.03	.40	.76		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS:					
ZONE 1 - Grayson County	6.80				
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	9.17	.45	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	9.425	.30	.30		.005
Millwrights	9.825	.30	.30		.005
Piledrivermen	9.925	.30	.30		.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
Carpenters	9.81	.30	.30		.03
Millwrights	10.44	.30			.04
CEMENT MASONS:					
ZONE 1 - Grayson County	6.16				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties	9.245	.40	.60		
ZONE 3 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties	9.135	.55	.55		.01
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
Electricians	10.23	.60	5%		7/10%
Cable splicers	10.48	.60	5%		7/10%

DECISION NO. TX77-4097

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D):					
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
AREA A - All work performed in Dallas & Grayson Counties:					
Electricians	$10.43	4%	5%		7/10%
Cable splicers	11.47	4%	5%		7/10%
AREA B - All work performed outside of Dallas County up to a radius of 40 road miles from the City Hall in the City of Dallas:					
Electricians	10.68	4%	5%		7/10%
Cable splicers	11.75	4%	5%		7/10%
AREA C - All work performed outside of Area A & Area B:					
Electricians	10.93	4%	5%		7/10%
Cable splicers	12.02	4%	5%		7/10%
ELEVATOR CONSTRUCTORS	9.33	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	8.94	.40	.55		.025
IRONWORKERS	9.25	.55	1.00		.07
LABORERS:					
ZONE 1 - Grayson County:					
GROUP 1 - Unskilled laborers	6.42	.275	.30		
GROUP 2 - Air tool operator (jackhammer, vibrator), mason tenders & mortar mixers, pipelayers	6.67	.275	.30		
ZONE 2 - Collin, Dallas, Denton, Ellis, Hoodm Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	6.42	.275	.30		.02
GROUP 2	6.57	.275	.30		.02
GROUP 3	6.67	.275	.30		.02
GROUP 4	6.82	.275	.30		.02

DECISION NO. TX77-4097

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - All hand digging dirt work and backfilling; firing of salamanders, loading and unloading of materials to and from hoist or cages; loading and unloading of tools and equipment; wheeling, placing and pouring of concrete; all excavation; handling of lumber, steel, cement; distribution of all materials; miscellaneous job clean-up; wrecking and razing of buildings and all structures; cleaning and clearing of all debris; handling of broken concrete or other damaged or undamaged materials; removing, moving, handling and greasing of forms, wrecking forms; storing materials to storage place; slip form jacks, scaffold builders, checking materials and tools in and out of receiving lots and sheds; tool house men; landscaper; asphalt ironer and raker; waterproofing tender; dumper; spotter; concrete pumpcrete pipe (handling and laying); carpenter tender

GROUP 2 - All power tool and equipment operators (gas, electric or air); cutting torches man; concrete grademan; power buggy operator; wagon drill operator, well driller, drilling rig tender; cement finisher tender; metal pan and steel form men; handling creosoted materials; liquid acids or like materials when injurious to health, eyes, skin or clothes; all newly developed equipment which replaces wheelbarrows or buggies previously used by laborers, scale men on batch plants

GROUP 3 - Concrete and clay pipe (handling & laying); mason handler; scaffold builder; mason tender; hod carriers mortar mixers; lather tenders, plaster tenders; water pump operators up to four inches; cement mason tenders; mortar mixers; hod carriers; dry mixers; tank cleaning; all pipe doping, treating and wrapping, including all men working with dope, mortar and plaster mixing machines, grout machines; pump crete machines, gunite mixing machines, including placing and cleaning of pipe and conduits used in placing of concrete, handling and placing of gunite materials from stockpiles, screening sand, running sand dryer and loading and operating sand blaster, except nozzle, conveying, stocking and handling of all materials for brick masons, lathers, cement finishers, plasterers; ditch work over 6 feet and cleaning out drill piers

GROUP 4 - Sand blaster, blaster powderman; Gunite worker; gunite nozzle man and terrazzo grinder

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$10.38				.04

DECISION NO. TX77-4097

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen; Linemen operators	$11.26		1%		1/2%
Cable splicers	12.39		1%		1/2%
Groundman, 1st 6 months	6.76		1%		1/2%
Groundman, 2nd 6 months	7.32		1%		1/2%
Groundman, 1 year & over	7.88		1%		1/2%
MARBLE, TILE & TERRAZZO WORKERS:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	9.10		.30		
MARBLE & TILE FINISHERS:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	7.40				
PAINTERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Brush	9.325	.35	.40		.04
GROUP 2 - All wall covering work: paper, fabric, sheeting, flexwood, etc.	9.575	.35	.40		.04
GROUP 3 - Ames tools operator	9.45	.35	.40		.04
GROUP 4 - Structural steel, stage work, bosun chair, spray gun, sandblasting & window jacks, fire escapes	9.70	.35	.40		.04
ZONE 2 - Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1	9.895		.20		.02
GROUP 2	10.145		.20		.02
GROUP 3	9.895		.20		.02
GROUP 4	11.145		.20		.02

DECISION NO. TX77-4097

CLASSIFICATION DEFINITIONS

GROUP 1 - Brush

GROUP 2 - Spray; Wallcovering; Pressure roller; Sandblasting; Structural steel; Bosun chair, Window jack & window sill; Stage; Fire escape; Steel storage tanks; Stilts; Mittens; Ames tools; Drywall finishing

GROUP 3 - On jobs requiring less than six 250 feet rolls of joint tape, or less than eight man hours of bedding time the drywall finishing rate will be

GROUP 4 - Steeple jack rate (radio and TV towers, smoke stacks, chimneys and water towers, and similar facilities and flag poles atop buildings located closer to the edge of the building than the height of the pole); Toxic material rate (creosote, coal tar products or similar materials injurious to the skin)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
ZONE 1 - Grayson County	$ 6.05				
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	9.44	.45		.50	.03
ZONE 3 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	10.41				.01
PLUMBERS & STEAMFITTERS	10.23	.43	1.00		.10
ROOFERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Slate & tile	9.215				
GROUP 2 - Composition and built-up roofing, damp proofing & bituminous waterproofing	9.065				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.:					
GROUP 1 - Slate, tile, asbestos roofing & siding	9.165				.05
GROUP 2 - Composition, built-up, damp & water proofing, kettlemen	9.015				.05
SHEET METAL WORKERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties	10.275	.45	.66		.055
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	10.175	.45	.33		.055

DECISION NO. TX77-4097

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS	$ 9.18	.40	.40		.03
SPRINKLER FITTERS	11.15	.65	.95		.08
TRUCK DRIVERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	4.25				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
ZONE 1 - Dallas County:					
GROUP 1	$ 8.065	.40	.70		
GROUP 2	8.85½	.40	.70		
GROUP 3	9.65½	.40	.70		

POWER EQUIPMENT OPERATORS (ZONE 1) CLASSIFICATION DEFINITIONS

GROUP 1 - Oilers

GROUP 2 - Air compressor, water pumps, welding machines (2 to 6 machines) & generators; Blade Grader, towed; Flex plane; Form grader; Concrete mixer, less than 14 cu. ft.; Pulsometer; Wagon drill operator; Conveyor; Hoist, single drum; Scraper, 3 cu. yd. or less; Bob cat with loader; All other equipment of similar nature coming under the light equipment class, when power operated

GROUP 3 - Heavy duty mechanic; Asphalt mixer operator on job; Blade grader, self-propelled; Bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe; Concrete mixers, over 14 cu. ft.; Crusher operator on job; Concrete batch plant operator; Clam shell; Cranes (all types); Truck mounted or crawler requires oiler including groves (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane and derricks booms: .01c per hour, per foot over 90' including jib; draglines; derricks, power operated (all types); DW-10 caterpiller, S-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machine (all); Porklifts, used in handling machinery on construction; Gradeall; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile drivers; Pumpcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yds.; Scoopmobile; Trenching machine, all types; Winch trucks, when pole and winch is used; Water well drilling machines, used on construction; Well point pumps; Welding machines (7 to 13 machines); All other equipment of similar nature coming under heavy equipment class, when power operated

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
ZONE 2 - Collin, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	$7.79	.40	.875		.10
GROUP 2	8.575	.40	.875		.10
GROUP 3	8.975	.40	.875		.10

POWER EQUIPMENT OPERATORS (ZONE 2) CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Pork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated

GROUP 3 - Ford Tractor or like with any attachments (except blade and mower on rear); Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Porklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Jefferson & Orange
DECISION NO.: TX77-4098 DATE: Date of Publication
Supersedes Decision No. TX76-4192, dated December 17, 1976, in 41 FR 55289.
DESCRIPTION OF WORK: Building (including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Jefferson County	$10.00	.70	.70		.06
Orange County	10.345	.475	.90		.04
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	11.005	.38	.30		.04
CARPENTERS:					
Carpenters:					
Commercial	10.615		.30		.05
Residential construction of not more than two units and condonimium townhouses of not more than 6 units, excluding all apartments construction and multiple buildings for rental purposes	9.25		.30		
Millwrights	11.355				
Piledrivermen	10.96		.30		
CEMENT MASONS	10.20				
ELECTRICIANS	11.40	.40	17%+.285		.06
ELEVATOR CONSTRUCTORS	9.76	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Northern half of Jefferson Co.	9.975				
Southern half of Jefferson Co. & all of Orange Co.:					
Commercial	10.25				
Residential	10.10				
IRONWORKERS	9.85	.55	1.00		.10
LABORERS:					
GROUP 1 - Common laborer; asphalt ironer & raker; sand blaster, exclusive of preparation for painters; dumper, spotter & wagon drill; powderman-blaster; well driller	6.25	.28	.40		.02
GROUP 2 - Carpenter tender	6.30	.28	.40		.02
GROUP 3 - Cement masons tender; air tool operator (jackhammer-vibrator)	6.35	.28	.40		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
GROUP 4 - Plaster & lather tender; pipelayers, non-metallic pipe, including handling & laying pumpcrete pipe	$ 6.45	.28	.40		.02
GROUP 5 - Mortar mixers, hod carriers & mason tender	6.50	.28	.40		.02
GROUP 6 - Machine man & nozzleman for gunniting 1½" & over	6.625	.28	.40		.02
LATHERS	9.985	.30			.01
LINE CONSTRUCTION:					
Linemen	11.685	.40	1%		1/2%
Groundmen	8.53	.40	1%		1/2%
PAINTERS:					
Southern half of Jefferson Co. and all of Orange County:					
GROUP 1 - Brush, wood & wall, paperhanger:					
Commercial	10.25				
Residential	10.10				
GROUP 2 - Brush, steel:					
Commercial	10.30				
Residential	10.15				
GROUP 3 - Spray:					
Commercial	10.75				
Residential	10.62				
GROUP 4 - Sandblaster, power cleaning; All time spent rigging:					
Commercial	10.575				
Residential	10.36				
GROUP 5 - Brush, hot paint or creosote:					
Commercial	11.00				
Residential	10.36				
GROUP 6 - Spray, hot paint or creosote:					
Commercial	11.50				
Residential	10.89				
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ladge in all classifications.					

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DECISION NO. TX77-4098

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Northern half of Jefferson Co.:					
GROUP 1 - Brush:					
Commercial	$10.075				
Residential	9.825				
GROUP 2 - Paper & vinyl hanger:					
Commercial	10.325				
Residential	10.075				
GROUP 3 - Brush, steel:					
Commercial	10.25				
GROUP 4 - Spray:					
Commercial	10.50				
Residential	10.25				
Twenty-five cents (25c) per hour above the prevailing wage rate when working on window jacks or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications					
PIPEFITTERS	10.79	.35	.72		.08
PLASTERERS	9.70	.77	.30		.02
PLUMBERS	10.52	.30			.03
ROOFERS	8.89	.20	.25	.25	.03
SHEET METAL WORKERS:					%
Commercial	9.50	3%+.40	.27		.10
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apartment is individually conditioned by a separate & independent unit or system	6.38	3%+.40	.27		.10
SPRINKLER FITTERS	11.15	.65	.95		.08
TILE SETTERS	9.495	.38	.30		.04

DECISION NO. TX77-4098

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons & wash, grease, fireman, fuel pump operators when used on construction	$ 4.40				
GROUP 2 - 1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69				
GROUP 3 - Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards & when used to transport material), floats, hydraulic tail gate lifts	4.85				
GROUP 4 - Euclids (not self-loading)	4.95				
GROUP 5 - Warehousemen-material checker	4.965				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4098

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.585		.25		
GROUP 2	9.05		.25		
GROUP 3	8.43		.25		
GROUP 4	8.24		.25		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grade, Self-propelled; Bull Clam; Back Filler; Derrick - Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power Operated, all types; Elevating Grader, Self-propelled; Hoist - motor driven, two drums or more; Mix mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pumpcrete Machine; Drill Operator - Water Well; DW-10 Euclid; Tournapulls; Asphalt Plants; Crushing Machines and Batch-plants; Scoopmobiles; Pingerlift Operator; Elevator when used to haul men or material on construction work; Well Point Systems & operation of similar dewatering devices
GROUP 2 - Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pump, Pulsometer; Truck Crane Driver; Gasoline or Diesel Driven Welding Machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

UMI

SUPERSEDEAS DECISION

STATE: Virginia COUNTY: Henrico and the independent City of Richmond

DECISION NO.: VA77-3046 DATE: Date of Publication

Supersedes Decision No. VA76-3213 dated July 30, 1976 in 41 FR 32187

DESCRIPTION OF WORK: Building Construction (excluding single family houses and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.03	.65	.40		.01
BOILERMAKERS	9.74	.70	.90		.02
BRICKLAYERS & STONEMASONS	9.00	.55	.30		.01
CARPENTERS & SOFT FLOOR LAYERS	8.60	.35	.30		.01
CEMENT MASONS:					
Cement Masons	7.80				
Machine Men	7.90				
ELECTRICIANS:					
Zone 1 - within a 12 air mile radius of Staples Mill Road & Broad Street in the City of Richmond	9.94	5%	1%		½ of 1%
Zone 2 - remainder of the city of Richmond & Henrico county	10.69	5%	1%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.045	.545	.35	4%+a+b	.02
Helpers	6.33	.545	.35	4%+a+b	.02
Probationary helpers	4.52				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS - Structural, Ornamental & Reinforcing:					
Zone 1 - up to 10 miles from Capital Square	9.75	.55	.50		.05
Zone 2 - from 10 miles to 30 miles radius	10.125	.55	.50		.05
Zone 3 - from 30 miles and beyond	10.375	.55	.50		.05
LABORERS:					
Unskilled	5.15	.10	.15		.05
Tenders, motorized Georgia buggy opers., nozzlemen (gunite or sandblasting), concrete saw opers., air tool & vibrator opers.	5.25	.10	.15		.05
Motor mixers, hod carriers, pipelayers, caulkers & marble tile & terrazzo workers' helpers	5.40	.10	.15		.05
Butuers (wrecking)	5.50	.10	.15		.05
Floor, brae & terrazzo grinders	5.55	.10	.15		.05

DECISION NO. VA77-3046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Wagon drill & air tract & similar drills	5.65	.10	.15		.05
Powdermen	5.90	.10	.15		.05
LATHERS:					
Lathers (plaster finish & drywall finish)	8.99		.20		.01
Sheet rock applicator	7.29		.20		.01
LEAD BURNERS	10.75	.40	.25	c	.01
LINEMEN:					
Zone 1 - within a 12 mile air radius of Staples Mill Road & Broad St., in the city of Richmond:					
Linemen & cable splicers	9.94	5%	1%		½ of 1%
Zone 2 - remainder of the city of Richmond & Henrico County	10.69	5%	1%		½ of 1%
MARBLE, TILE & TERRAZZO WORKERS	7.60				
MILLWRIGHTS	9.45	.30	.30		.01
PAINTERS:					
Brush, paperhangers, tapers & finishers	7.55				
Structural steel, swing, stage & boson chair	7.80				
Scaffold or other hazardous work above 50 ft.	7.80				
Spray	8.05				
Sandblasting, elevated tanks, smoke stacks and all towers	7.40				
PILEDRIVERMEN & DOCK BUILDERS	7.60	.30	.30		
PLASTERERS	9.20				
PLUMBERS & STEAMFITTERS	10.15	.45	.50		.05
ROOFERS:					
Composition	5.70				
Helpers	3.95				
SHEET METAL WORKERS:					
The city of Richmond	10.07	.35	.20		.005
Remainder of County	10.22	.35	.20		.005
SPRINKLER FITTERS	9.48	.65	.95		.08

DECISION NO. VA77-3046

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (where applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of sevice as vacation pay credit.

b. Holidays: A through F.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular schedule work days immediately preceding & following the holiday).

DECISION NO. VA77-3046

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.325	.30		.05
GROUP 2	7.34	.325	.30		.05
GROUP 3	6.06	.325	.30		.05
GROUP 4	5.88	.325	.30		.05
GROUP 5	5.71	.325	.30		.05

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

UMI

SUPERSEDEAS DECISION

STATE: VIRGINIA

LOCATION: The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach

DECISION NO. VA77-3047

DATE: Date of Publication

Supersedes Decision No. VA76-3214 dated July 30, 1976 in 41 FR 32189

DESCRIPTION OF WORK: Building Construction (excluding single family houses and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.20	.30	.25		
BOILERMAKERS	10.15	.40	.80		.02
BRICKLAYERS & STONE MASONS:					
Bricklayers & stone masons	7.89	.60	.20		.02
CARPENTERS & SOFT FLOOR LAYERS	8.60	.35	.30		.01
CEMENT MASONS:					
Cement masons	7.80				
Machines & Scaffold men	7.90				
ELECTRICIANS & CABLE SPLICERS	9.35	8%	6%	d	1%
ELEVATOR CONSTRUCTORS	8.02	.495	.32	a+b+4%	.02
ELEVATOR CONSTRUCTORS' HELPERS	5.61	.495	.32	a+b+4%	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	4.01				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
Structural, ornamental, machinery movers, riggers, fence erectors and reinforcing	9.30	.55	.70		.06
LABORERS:					
Unskilled	5.15	.10	.15		.05
Tenders, motorized Georgia Buggy opers., nozzlemen (gunite or sandblasting), concrete saw opers., air tool & vibrator opers.	5.25	.10	.15		.05
Mortar mixers, hod carriers, pipelayers, caulkers & marble, tile & terrazzo workers helpers	5.40	.10	.15		.05
Burners (wrecking)	5.50	.10	.15		.05
Floor, base & terrazzo grinders	5.55	.10	.15		.05
Wagon drill & air tract	5.65	.10	.15		.05
Powdermen	5.90	.10	.15		.05
LATHERS	9.54		.25		.01
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen & Cable Splicers	9.35	8%	6%		

DECISION NO. VA77-3047

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	7.00	.60	.20		
MILLWRIGHTS	9.45	.30	.30		.01
PAINTERS:					
Brush & roller	7.55		.30		
Structural steel from ground to 74'	8.05		.30		
Spray, paperhangers & glove work	7.90		.30		
Any work over 74' from ground	8.85		.30		
Bituminous coating & hot creosote	9.20		.30		
Swing stage (under 40'), rollers (with handles 6' & over), epoxy (brushed or rolled)	7.80		.30		
Swing stage over 40' up to 74'	8.05		.30		
Sandblasting	8.30		.30		
PILEDRIVERMEN & DOCK BUILDERS	7.60	.20	.20		
PLASTERERS	9.76				
PLUMBERS & STEAMFITTERS	9.15	.40	.45		.06
ROOFERS:					
Composition	5.70				
Helpers	3.95				
SHEET METAL WORKERS	8.65	.45	.45		.005
SPRINKLER FITTERS	9.48	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS	6.60	.60	.20		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. VA77-3047

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years service as vacation pay credit.
b. Holidays: A through F.
c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular schedule work days immediately preceding & following the holiday).
d. Workmen shall be allowed two hours with pay at the start or at the end of the workday on State and National Election Days: Tuesday following the first Monday in November, provided they are qualified and vote.

DECISION NO. VA77-3047

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.15	.325	.30		.05
GROUP 2	7.34	.325	.30		.05
GROUP 3	6.06	.325	.30		.05
GROUP 4	5.88	.325	.30		.05
GROUP 5	5.71	.325	.30		.05

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

UMI

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTY: YORK AND THE INDEPENDENT CITIES OF HAMPTON AND NEWPORT NEWS (including Langley AFB, Fort Eustis and Fort Monroe)

DECISION NO.: VA77-3048 DATE: DATE OF PUBLICATION

Supersedes Decision No. VA76-3215 dated July 30, 1976 in 41 FR 32191

DESCRIPTION OF WORK: Building Construction (excluding single family houses and garden type apartments up to and including 4 stories), Heavy Construction and Sewer & Water Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.80	.30	.25		
BOILERMAKERS	9.74	.70	.90		.02
BRICKLAYERS & STONEMASONS	8.50				
CARPENTERS & SOFT FLOOR LAYERS	8.60	.35	.30		.01
CEMENT MASONS:					
Cement masons	7.80				
Machine & scaffold men	7.90				
ELECTRICIANS:					
Zone 1 - within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
Wiremen	9.60	5%	6%		1%
Cable splicers	9.85	5%	6%		1%
Zone 2 - beyond a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
Wiremen	10.60	5%	6%		1%
Cable Splicers	10.85	5%	6%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	8.02	.495	.32	4%+a+b	.02
Helpers	5.61	.495	.32	4%+a+b	.02
Probationary Helpers	4.01				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
Structural, ornamental, riggers, reinforcing, fence erectors & machinery movers	9.30	.55	.70		.06
LABORERS:					
Unskilled	5.15	.10	.15		.05
Tenders, motorized Georgia Buggy opers., nozzlemen (gunite or sandblasting), concrete saw opers., air tool & vibrator opers.	5.25	.10	.15		.05
Morter mixers, hod carriers, pipelayers, caulkers & marble, tile & terrazzo workers' helpers	5.40	.10	.15		.05

DECISION NUMBER: VA77-3048 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Burners (wracking)	5.50	.10	.15		.05
Floor, base & terrazzo grinders	5.55	.10	.15		.05
Wagon drill & air tract	5.65	.10	.15		.05
Powdermen	5.90	.10	.15		.05
LATHERS	9.54		.25		.01
LINE CONSTRUCTION:					
Zone 1 - within a 16 air mile radius of 7812 Warwick Blvd., Newpprt News:					
Linemen	9.60	5%	6%		½ of 1%
Cable splicers	9.85	5%	6%		½ of 1%
Zone 2 - beyond a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
Linemen	10.60	5%	6%		½ of 1%
Cable splicers	10.85	5%	6%		½ of 1%
MARBLE SETTERS	8.50				
MILLWRIGHTS	9.45	.30	.30		.01
PAINTERS:					
(York Co., from a point on the north shore of Queens Creek at the intersection of York River due west to a point on the eastern shore of James River including all cities therein; the cities of Hampton and Newport News):					
Brush & roller	7.30				
Paperhanger, taper, spray, roller (handle 6' or over), structural steel (to 74' from ground up), swing stage & bosun chair (from ground up), sandblasting	7.65				

DECISION NUMBER: VA77-3048 PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
All work over 74' from ground Bituminous coatings, hot creosote	7.80				
Sign	8.70				
(The remainder of York County):	7.95				
Brush & roller	7.90				
Paperhenger, taper, spray, roller (handle 6' or over), structural steel (69 74' from ground up), swing stage & bosun chair (from ground up), sandblasting	8.25				
All work over 74' from ground Bituminous coatings, hot creosote	8.40				
Sign	9.30				
PILEDRIVERMEN & DOCK BUILDERS	8.55				
PLASTERERS	7.60	.30	.30		
PLUMBERS & STEAMFITTERS	9.76				
ROOFERS:	9.15	.45	.40		.02
Composition	5.70				
Helpers	3.95				
SHEET METAL WORKERS:					
Newport News & Hampton	8.65	.45	.45		.005
York County	9.15	.45	.45		.005
SPRINKLER FITTERS	9.48	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS	8.50				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

Page 4

DECISION NO. VA77-3048

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION					
GROUP 1	9.15	.325	.30		.05
GROUP 2	7.34	.325	.30		.05
GROUP 3	6.06	.325	.30		.05
GROUP 4	5.88	.325	.30		.05
GROUP 5	5.71	.325	.30		.05

CLASSIFICATIONS:

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper end pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger then 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

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DECISION NO. VA77-3048

HEAVY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 5.85	.20	.20		.01
CEMENT MASONS	4.70				
ELECTRICIANS	6.85	.25	1%		.005
IRONWORKERS	6.15	.30	.30		.03
LABORERS:					
Laborers, unskilled	3.50	.10	.10		.03
Air tool operator	3.75	.10	.10		.03
Mortar mixers	3.75	.10	.10		.03
Form setters	4.00				
PILEDRIVERMEN	5.15	.20	.20		
PLUMBERS	6.35	.20	.30		
TRUCK DRIVERS	2.30				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.42				
Oilers	3.80				
Cranes	3.90	.225	.10		.03
Bulldozers	3.53				
Grader	3.30				
Roller	3.13				
Gradall	3.40				
Fireman	3.40				
Mechanics	6.30	.225	.10		.03

DECISION NO. VA77-3048

SEWER AND WATER CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$5.30				
CEMENT MASONS	4.50				
LABORERS:					
LABORER	3.00				
PIPELAYERS	3.24				
TRUCK DRIVERS	3.30				
POWER EQUIPMENT OPERATORS:					
BACKHOE	5.25				
BULLDOZER	4.70				
CRANE	7.30	.325	.30		.03
FORK LIFT OPERATOR	4.20				
FRONT END LOADER	3.75				
LOADER OPERATOR	4.00				
MOTOR GRADER	3.50				
OILER	4.15				
ROLLER	3.00				
SCRAPER	3.63				

SUPERSEDEAS DECISION

STATE: VIRGINIA

LOCATION: RADFORD ARMY AMMUNITION PLANT

DECISION NO.: VA77-3052

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA76-3220 dated August 6, 1976 in 41 FR 33186

DESCRIPTION OF WORK: Building Construction, (excluding single family houses and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 8.68	.60	.55		.01
BOILERMAKERS	10.15	.40	.80		.02
BRICKLAYERS	8.25				
CARPENTERS	7.60	.35	.30		.02
CEMENT MASONS	5.95				
ELECTRICIANS	8.66	.30	1%		to 1%
IRONWORKERS:					
Structural & Reinforcing	9.30	.60	.65		.03
LABORERS:					
Common Laborers	5.15	.25	.25		.03
Mason Tenders	5.25	.25	.25		.03
Air Tool Operators	5.40	.25	.25		.03
LATHERS	8.25				
MILLWRIGHTS	9.35	.35	.30		.02
PAINTERS:					
Brush	6.70	.35	.20		
Spray	7.10	.35	.20		
PLUMBERS & PIPEFITTERS	8.75	.35	.40	.25	.05
SHEET METAL WORKERS	8.60	.25	.40		.04
SPRINKLER FITTERS	9.48	.65	.95		.08
POWER EQUIPMENT OPERATORS:					
Backhoe Operators	7.29				
Bulldozer Operators	9.16	.30	.40		.03
Crane Operators	7.62				
Oilers	4.88				
Roller Operators	6.55	.30	.40		.03
Piledrivers	6.32				

[FR Doc.77-12783 Filed 5-5-77;8:45 am]

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INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF APRIL 1, 1977

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

ABBREVIATIONS

(B)—Building Construction.
(D)—Dredging.
(F)—Flood Control Construction.
(H)—Heavy Construction.
(Hw)—Highway Construction.
(R)—Residential Construction.
Mod.—Modification.
(HE)—Heavy Engineering.
(LE)—Light Engineering.
(U)—Utility.
(W&S)—Water and Sewer.

Signed at Washington, D.C., this 29th day of April 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #AL77-1042 (Hw)(Excluding Airport Construction)
41 FR 17753 - 4/1/77
AUTAUGA COUNTY
(D,Hw) - See Statewide
BALDWIN COUNTY
Decision #AL76-1009 (R)
41 FR 2540 - 1/16/76
(D,Hw) - See Statewide
BARBOUR COUNTY
(D,Hw) - See Statewide
BIBB COUNTY
(D,Hw) - See Statewide
BLOUNT COUNTY
Decision #AL75-1047 (R)
40 FR 17474 - 4/18/75
Mod. #1 - 41 FR 19004 - 5/7/76
Mod. #2 - 41 FR 52175 - 11/26/76
(D,Hw) - See Statewide
BULLOCK COUNTY
(D,Hw) - See Statewide
BUTLER COUNTY
(D,Hw) - See Statewide
CALHOUN COUNTY
Decision #AL76-1125 (B)
41 FR 47713 - 10/29/76
Mod. #1 - 42 FR 8925 - 2/11/77
(D,Hw) - See Statewide
CHAMBERS COUNTY
(D,Hw) - See Statewide
CHEROKEE COUNTY
(D,Hw) - See Statewide
CHILTON COUNTY
(D,Hw) - See Statewide
CHOCTAW COUNTY
(D,Hw) - See Statewide
CLARKE COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd.

CLAY COUNTY
(D,Hw) - See Statewide
CLEBURNE COUNTY
(D,Hw) - See Statewide
COFFEE COUNTY
(D,Hw) - See Statewide
COLBERT COUNTY
Decision #AL75-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL77-1027 (B)
42 FR 15260 - 3/18/77
Mod. #1 - 42 FR 17735 - 4/1/77
(D,Hw) - See Statewide
CONECUH COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
COOSA COUNTY
(D,Hw) - See Statewide
COVINGTON COUNTY
(D,Hw) - See Statewide
CRENSHAW COUNTY
(D,Hw) - See Statewide
CULLMAN COUNTY
(D,Hw) - See Statewide
DALE COUNTY
(D,Hw) - See Statewide
DALLAS COUNTY
(D,Hw)- See Statewide
DE KALB COUNTY
(D,Hw) - See Statewide
ELMORE COUNTY
(D,Hw)- See Statewide
ESCAMBIA COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
ETOWAH COUNTY
(D,Hw)-See Statewide

ALABAMA (Cont'd,

FAYETTE COUNTY
(D,Hw) - See Statewide
FRANKLIN COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
GENEVA COUNTY
(D,Hw) - See Statewide
GREENE COUNTY
(D,Hw) - See Statewide
HALE COUNTY
(D,Hw) - See Statewide
HENRY COUNTY
(D,Hw) - See Statewide
HOUSTON COUNTY
(D,Hw) - See Statewide
JACKSON COUNTY
(D,Hw) - See Statewide
JEFFERSON COUNTY
Decision #AL77-1007 (B)
42 FR 5619 - 1/28/77
Mod. #1 - 42 FR 12563 - 3/4/77
(D) - See Statewide
(R) - See Blount County
(Hw) - See Statewide
LAMAR COUNTY
(D,Hw) - See Statewide
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,Hw) - See Statewide
LAWRENCE COUNTY
Decision #AL77-1025 (B)
42 FR 12577 - 3/4/77
(D,Hw) - See Statewide
(R) - See Colbert County
LEE COUNTY
(D,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide

ALABAMA (cont'd)

LOWNDES COUNTY
(D,Hw) - See Statewide
MACON COUNTY
(D,Hw) - See Statewide
MADISON COUNTY
Decision #AL77-1040 (B)
42 FR 17752 - 4/1/77
(D,Hw) - See Statewide
MARENGO COUNTY
(D,Hw) - See Statewide
MARION COUNTY
(R) - See Colbert County
(D,Hw) - See Statewide
MARSHALL COUNTY
(D,Hw) - See Statewide
MOBILE COUNTY
Decision #AL76-1124 (B)
41 FR 47719 - 10/29/76
Mod. #1 - 41 FR 55260 - 12/17/76
(D,Hw) - See Statewide
(R) - See Baldwin County
MONROE COUNTY
(D,Hw) - See Statewide
MONTGOMERY COUNTY
(D,Hw) - See Statewide
Decision #AL76-1002 (R)
41 FR 1693 - 1/9/76
Mod. #1 - 41 FR 36365 - 8/27/76
Decision #AL76-1138 (B)
41 FR 53241 - 12/3/76
MORGAN COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide
PERRY COUNTY
(D,Hw) - See Statewide
PICKENS COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
RANDOLPH COUNTY
(D,Hw) - See Statewide
RUSSELL COUNTY
(D,Hw) - See Statewide
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
SHELBY COUNTY
(B) - See Jefferson County
(D,Hw) - See Statewide
(R) - See Blount County
SUMTER COUNTY
(D,Hw) - See Statewide
TALLADEGA COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
TUSCALOOSA COUNTY
Decision #AL76-1027 (B)
41 FR 7897 - 2/20/76
Mod. #1 - 41 FR 18263 - 4/30/76
Mod. #2 - 41 FR 33125 - 8/6/76
(D,Hw) - See Statewide
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County

ALASKA

STATEWIDE
Decision #AK77-5009 (B,H,Hw,D,R)
42 FR 4074 - 1/21/77
Mod. #1 - 42 FR 10201 - 2/18/77
Mod. #2 - 42 FR 12563 - 3/4/77
Mod. #3 - 42 FR 17735 - 4/1/77

ARIZONA

STATEWIDE
Decision #AZ76-5109 (B,H,Hw)
41 FR 52189 - 11/26/76
Mod. #1 - 42 FR 10201 - 2/18/77
Mod. #2 - 42 FR 12563 - 3/4/77
Mod. #3 - 42 FR 15248 - 3/18/77
Mod. #4 - 42 FR 17735 - 4/1/77
APACHE COUNTY
Decision #AZ77-5024 (R)
(Navajo and Hopi Indian Reservations in Apache, Coconino, Navajo Cos.)
42 FR 13722 - 3/11/77
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(R) - See Apache County
(B,H,Hw) - See Statewide
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ76-5110 (R)
41 FR 52198 - 11/26/76
Mod. #1 - 42 FR110204 - 2/18/77
Mod. #2 - 42 FR 12563 - 3/4/77
Mod. #3 - 42 FR 15248 - 3/18/77
Mod. #4 - 42 FRR17736 - 4/1/77
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
(R) - See Apache County
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ76-5111 (R)
41 FR 52204 - 11/26/76
Mod. #1 - 42 FR 10205 - 2/18/77
Mod. #2 - 42 FR 12563 - 3/4/77
Mod. #3 - 42 FR 15248 - 3/18/77
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

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GOVERNMENT DOCUMENTS

ARKANSAS

STATEWIDE
Decision #AR77-4072 (Construction Alteration, and/or repair of streets, highways, runways, and water & sewer utilities)
42 FR 17754 - 4/1/77
Decision #AR76-5090 (D)
41 FR 44609 - 10/8/76
ARKANSAS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLARK COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.

CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR77-4061 (B)
42 FR 13723 - 3/11/77
Mod. #1 - 42 FR 16342 - 3/25/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR77-4018 (B)
42 FR 7040 - 2/4/77
Mod. #1 - 42 FR 11183 - 2/25/77
Mod. #2 - 42 FR 13711 - 3/11/77
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR76-4133 (B)
41 FR 30513 - 7/23/76
Mod. #1 - 41 FR 47716 - 10/29/76
Mod. #2 - 41 FR 52176 - 11/19/76
Mod. #3 - 42 FR 7015 - 2/4/77
Mod. #4 - 42 FR 8925 - 2/11/77
Mod. #5 - 42 FR 13711 - 3/11/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F)- See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LONOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR76-4188 (B)
41 FR 51253 - 11/19/76
Mod. #1 - 42 FR 7095 - 2/4/77
Mod. #2 - 42 FR 8925 - 2/11/77
Mod. #3 - 42 FR 12564 - 3/4/77
Mod. #4 - 42 FR 15248 - 3/18/77
Decision #AR77-4034 (R)
42 FR 10223 - 2/18/77
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(B) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
Decision #AR76-4129 (B)
41 FR 30507 - 7/23/76
Mod. #1 - 41 FR 52175 - 11/26/76
Mod. #2 - 42 FR 7015 - 2/4/77
Mod. #3 - 42 FR 13711 - 3/11/77
Mod. #4 - 42 FR 16342 - 3/25/77
(F) - See Arkansas County
(D,H,Hw) - See Statewide
VAN BUREN COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(B) - See Crawford County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

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CALIFORNIA

ALAMEDA COUNTY
Decision #CA76-5101 (B,H,Hw,D)
41 FR 51255 - 11/19/76
Mod. #1 - 42 FR 7016 - 2/4/77
Mod. #2 - 42 FR 13711 - 3/11/77
Mod. #3 - 42 FR 16342 - 3/25/77
Decision #CA76-5102 (R)
41 FR 51272 - 11/19/76
Mod. #1 - 42 FR 7019 - 2/4/77
Mod. #2 - 42 FR 13712 - 3/11/77
Mod. #3 - 42 FR 16343 - 3/25/77
ALPINE COUNTY
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County

CALIFORNIA (Cont'd)

GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA76-5120 (B,D,H,Hw)
41 FR 56556 - 12/28/76
Mod. #1 - 42 FR 4061 - 1/21/77
Mod. #2 - 42 FR 7022 - 2/4/77
Mod. #3 - 42 FR 13713 - 3/11/77
Mod. #4 - 42 FR 16344 - 3/25/77
Decision #CA76-5121 (R)
41 FR 56566 - 12/28/76
Mod. #1 - 42 FR 4061 - 1/21/77
Mod. #2 - 42 FR 7024 - 2/4/77
Mod. #3 - 42 FR 13714 - 3/11/77
Mod. #4 - 42 FR 16344 - 3/25/77
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KINGS COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA76-5116 (B,H,Hw,D)
41 FR 54115 - 12/10/76
Mod. #1 - 42 FR 8926 - 2/11/77
Mod. #2 - 42 FR 13712 - 3/11/77

CALIFORNIA (Cont'd.)

SAN DIEGO COUNTY (Cont'd.)
Decision #CA76-5117 (R)
41 FR 54122 - 12/10/76
Mod. #1 - 42 FR 8929 - 2/11/77
Mod. #2 - 42 FR 13712 - 3/11/77
SAN FRANCISCO COUNTY
(B,D,Hw,H,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,Hw,H,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw) - See Alameda County
SIERRA COUNTY
(B,D,H,Hw) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,Hw,H,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

COLORADO

STATEWIDE
Decision #CO77-5014 (Hw)
42 FR 13725 - 3/11/77
ADAMS COUNTY
Decision #CO77-5015 (B,H)
42 FR 13733 - 3/11/77
Mod. #1 - 42 FR 16344 - 3/25/77
Decision #CO75-5061 (R)
40 FR 22744 - 5/23/75
Mod. #1 - 41 FR 10818 - 3/12/76
(Hw) - See Statewide
ALAMOSA COUNTY
(Hw) - See Statewide
ARAPAHOE COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
ARCHULETA COUNTY
(Hw) - See Statewide
BACA COUNTY
(Hw) - See Statewide
BENT COUNTY
(Hw) - See Statewide
BOULDER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
CHAFFEE COUNTY
(Hw) - See Statewide
CHEYENNE COUNTY
(Hw) - See Statewide
CLEAR CREEK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
CONEJOS COUNTY
(Hw) - See Statewide
COSTILLA COUNTY
(Hw) - See Statewide
CROWLEY COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DELTA COUNTY
Decision #CO77-5018 (B,H)
42 FR 13750 - 3/11/77
(Hw) - See Statewide
DENVER COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
DOLORES COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EAGLE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide

COLORADO (Cont'd.

ELBERT COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EL PASO COUNTY
Decision #CO77-5016 (B,H)
42 FR 13740 - 3/11/77
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GARFIELD COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
GILPIN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GRAND COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GUNNISON COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
HINDSDALE COUNTY
(Hw) - See Statewide
HUERFANO COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
KIOWA COUNTY
(Hw) - See Statewide
KIT CARSON COUNTY
(Hw) - See Statewide
LAKE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LA PLATA COUNTY
(Hw) - See Statewide
LARIMER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #CO77-5017 (B,H)
42 FR 13745 - 3/11/77
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MESA COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MINERAL COUNTY
(Hw) - See Statewide

COLORADO

MOFFAT COUNTY
(Hw) - See Statewide
MONTEZUMA COUNTY
(Hw) - See Statewide
MONTROSE COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MORGAN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
OTERO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
OURAY COUNTY
(Hw) - See Statewide
PARK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
PHILLIPS COUNTY
(Hw) - See Statewide
PITKIN COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
PROWERS COUNTY
(Hw) - See Statewide
PUEBLO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
RIO BLANCO COUNTY
(Hw) - See Statewide
RIO GRANDE COUNTY
(Hw) - See Statewide
ROUTT COUNTY
(Hw) - See Statewide
SAGUACHE COUNTY
(Hw) - See Statewide
SAN JUAN COUNTY
(Hw) - See Statewide
SAN MIGUEL COUNTY
(Hw) - See Statewide
SEDGWICK COUNTY
(Hw) - See Statewide
SUMMIT COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
TELLER COUNTY
(Hw) - See Statewide
WASHINGTON COUNTY
(Hw) - See Statewide
WELD COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
YUMA COUNTY
(Hw) - See Statewide

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CONNECTICUT

FAIRFIELD COUNTY
Decision #CT76-2172 (B,H,Hw,R)
41 FR 56574 - 12/28/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
HARTFORD COUNTY
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
Decision #CT76-2173 (B,H,Hw,R)
41 FR 56581 - 12/28/76
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #CT76-2109 (R)
41 FR 38705 - 9/10/76
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #DE77-3042 (B,H,Hw)
42 FR 17756 - 4/1/77
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #FL77-1028 (B)
42 FR 15262 - 3/18/77
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL76-1059 (B)
41 FR 20130 - 5/14/76
Mod. #1 - 41 FR 23885 - 6/11/76
Mod. #2 - 42 FR 10206 - 2/18/77
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #FL76-1021 (Hw)
41 FR 4749 - 1/30/76
Mod. #1 - 41 FR 23884 - 6/11/76

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Entire County)
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #FL76-1105 (R)
41 FR 40365 - 9/17/76
(Cape Kennedy, Kennedy Space Flight Center and Patrick AFB only)
Decision #FL77-1023 (B,H,Hw)
42 FR 11191 - 2/25/77
Mod. #1 - 42 FR 13715 - 3/11/77
Mod. #2 - 42 FR 15249 - 3/18/77
Mod. #3 - 42 FR 17736 - 4/1/77
(Remainder of County)
Decision #FL76-1108 (B)
41 FR 43555 - 10/1/76
Decision #FL76-1082 (Hw)
41 FR 41360 - 9/5/76
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Decision #FL77-1015 (B,H)
42 FR 10224 - 2/18/77
Mod. #1 - 42 FR 17736 - 4/1/77
(D) - See Brevard County
CALHOUN COUNTY
(Hw) - See Alachua County
CHARLOTTE COUNTY
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Mod. #2 - 41 FR 53229 - 12/3/76
Mod. #3 - 42 FR 12564 - 3/4/77
(D) - See Brevard County
CITRUS COUNTY
Decision #FL75-1104 (R)
40 FR 49949 - 10/24/75
(Hw) - See Alachua County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(Hw) - See Alachua County
(B) - See Alachua County
DADE COUNTY
Decision #FL76-1102 (H)
41 FR 40365 - 9/17/76
Decision #FL77-1029 (B)
42 FR 15264 - 3/18/77
Mod. #1 - 42 FR 17737 - 4/1/77

FLORIDA (Cont'd.)

DADE COUNTY (Cont'd.)
Decision #FL77-1003 (R)
42 FR 4081 - 1/21/77
Decision #FL76-1141 (Hw)
41 FR 56589 - 12/28/76
DESOTO COUNTY
Decision #AR-4065 (R)
39 FR 43468 - 12/13/74
(Hw) - See Charlotte County
DIXIE COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
DUVAL COUNTY
Decision #FL76-1098 (R)
41 FR 37469 - 9/3/76
Decision #FL77-1021 (B)
42 FR 10226 - 2/18/77
Mod. #1 - 42 FR 13715 - 3/11/77
Mod. #2 - 42 FR 17736 - 4/1/77
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL76-1133 (B)
41 FR 52233 - 11/26/76
Mod. #1 - 41 FR 54101 - 12/10/76
Mod. #2 - 42 FR 3133 - 1/14/77
Decision #FL76-1017 (R)
41 FR 3589 - 1/23/76
(D,Hw) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Alachua County
GADSDEN COUNTY
Decision #FL77-1004 (R)
42 FR 3141 - 1/14/77
(Hw) - See Alachua County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(R) - See Citrus County
(Hw) - See Alachua County

FLORIDA (cont'd)

HIGHLANDS COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3587 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76
(Hw) - See Brevard Co. (Remainder of Co.)
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(Hw) - See Alachua County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Alachua County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(Hw) - See Alachua County
LAFAYETTE COUNTY
(H,Hw) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 28332 - 7/3/75
(Hw) - See Alachua County
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #FL76-1135 (B)
41 FR 52234 - 11/26/76
Mod. #1 - 41 FR 55260 - 12/17/76
Mod. #2 - 42 FR 3133 - 1/14/77
(Hw) - See Alachua County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
LIBERTY COUNTY
(Hw) - See Alachua County
MADISON COUNTY
(R) - See Gadsden County
(Hw) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MARION COUNTY
(Hw) - See Alachua County
MARTIN COUNTY
Decision #FL77-1034 (B)
42 FR 17761 - 4/1/77
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)

FLORIDA (cont'd)

MONROE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County
OKALOOSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
Decision #FL76-1016 (R)
41 FR 3589 - 1/23/76
OKEECHOBEE COUNTY
(Hw) - See Charlotte County
ORANGE COUNTY
Decision #FL77-1024 (B)
42 FR 11193 - 2/25/77
Mod. #1 - 42 FR 17737 - 4/1/77
(Hw) - See Brevard Co. (Remainder of Co.
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard Co. (Remainder of Co.
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
(R) - See Citrus County
PINELLAS COUNTY
Decision #FL77-1043 (B)
42 FR 17762 - 4/1/77
(R) - See Citrus County
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
POLK COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See DeSoto County
PUTNAM COUNTY
(Hw) - See Alachua County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co)
SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County

FLORIDA (Cont'd)

SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
SEMINOLE COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(R) - See Citrus County
(Hw) - See Alachua County
SUWANNEE COUNTY
(Hw) - See Alachua County
TAYLOR COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
(Hw) - See Alachua County
VOLUSIA COUNTY
(D) - See Brevard County (Entire County)
(Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Only)
(B,H,Hw) - See Brevard County (Cape Kennedy etc.)
(Remainder of County)
Decision #FL77-1044 (B)
42 FR 17764 - 4/1/77
(Hw) - See Brevard County
(Remainder of County)
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Alachua County
WALTON COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Alachua County

GEORGIA

STATEWIDE
Decision #AR-4038 (Hw)
39 FR 34984 - 9/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/76
Mod. #3 - 41 FR 7888 - 2/20/76
Mod. #4 - 42 FR 7025 - 2/4/77
Mod. #5 - 42 FR 17737 - 4/1/77
APPLING COUNTY
(Hw) - See Statewide
ATKINSON COUNTY
(Hw) - See Statewide
BACON COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

BAKER COUNTY
Decision #GA77-1031 (R)
42 FR 16355 - 3/25/77
(Hw) - See Statewide
BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AQ-4108 (R)
39 FR 14841 - 4/26/74
(Hw) - See Statewide
BARTOW COUNTY
(Hw) - See Statewide
BEN HILL COUNTY
(Hw) - See Statewide
BERRIEN COUNTY
(Hw) - See Statewide
BIBB COUNTY
Decision #GA76-1122 (B)
41 FR 46803 - 10/22/76
(Hw) - See Statewide
BLECKLEY COUNTY
(Hw) - See Statewide
BRANTLEY COUNTY
(Hw) - See Statewide
BROOKS COUNTY
(Hw) - See Statewide
BRYAN COUNTY
(Hw) - See Statewide
Decision #GA76-1050 (R)
41 FR 16362 - 4/16/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
BULLOCH COUNTY
(R) - See Bryan County
(Hw) - See Statewide
BURKE COUNTY
Decision #GA76-1015 (R)
41 FR 3590 - 1/23/76
(Hw) - See Statewide
BUTTS COUNTY
(Hw) - See Statewide
CALHOUN COUNTY
(Hw) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
CANDLER COUNTY
(Hw) - See Statewide
CARROLL COUNTY
(Hw) - See Statewide
CATOOSA COUNTY
(Hw) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide

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GEORGIA (Cont'd.

CHATHAM COUNTY
Decision #GA77-1009 (B)
42 FR 5623 - 1/28/77
Mod. #1 - 42 FR 8932 - 2/11/77
Mod. #2 - 42 FR 11183 - 2/25/77
(Hw) - See Statewide
(R) - See BryandCounty
CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 10818 - 3/12/76
Mod. #4 - 41 FR 15232 - 4/9/76
Mod. #5 - 41 FR 24833 - 6/18/76
Decision #GA76-1035 (R)
41 FR 9758 - 3/5/76
Mod. #1 - 42 FR 15249 - 3/18/77
(Hw) - See Statewide
CHATTOOGA COUNTY
(Hw) - See Statewide
CHEROKEE COUNTY
(Hw) - See Statewide
CLARKE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Statewide
CLAYTON COUNTY
Decision #GA77-1005 (B)
42 FR 5621 - 1/28/77
Mod. #1 - 42 FR 10206 - 2/18/77
Mod. #2 - 42 FR 16344 - 3/25/77
Mod. #3 - 42 FR 17737 - 4/1/77
Decision #GA76-1033 (R)
41 FR 8642 - 2/27/76
Mod. #1 - 41 FR 15232 - 4/9/76
(Hw) - See Statewide
CLINCH COUNTY
(Hw) - See Statewide
COBB COUNTY
(R) - See Clayton County
(Hw) - See Statewide
COFFEE COUNTY
(Hw) - See Statewide
COLQUITT COUNTY
(Hw) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(Hw) - See Statewide
COOK COUNTY
(Hw) - See Statewide
COWETA COUNTY
(Hw) - See Statewide
CRAWFORD COUNTY
(Hw) - See Statewide
CRISP COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.

DECATUR COUNTY
(R) - See Baker County
(Hw) - See Statewide
DEKALB COUNTY
(B,R) - See Clayton County
(Hw) - See Statewide
DODGE COUNTY
(Hw) - See Statewide
DOOLY COUNTY
(Hw) - See Statewide
DOUGHERTY COUNTY
(Hw) - See Statewide
(R) - See BAker County
DOUGLAS COUNTY
(Hw) - See Statewide
EARLY COUNTY
(Hw) - See Statewide
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(R) - See Barrow County
EMANUEL COUNTY
(Hw) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(Hw) - See Statewide
FANNIN COUNTY
(Hw) - See Statewide
FAYETTE COUNTY
(Hw) - See Statewide
FLOYD COUNTY
(Hw) - See Statewide
FORSYTH COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
FULTON COUNTY
(Hw) - See Statewide
(B,R) - See Clayton County
GILMER COUNTY
(Hw) - See Statewide
GLASCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
GORDON COUNTY
(Hw) - See Statewide
GRADY COUNTY
(Hw) - See Statewide
(R) - See Baker County
GREENE COUNTY
(R) - See Barrow County
(Hw) - See Statewide
GWINNETT COUNTY
(R) - See Clayton County
(Hw) - See Statewide
HABERSHAM COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

HALL COUNTY
Decision #GA75-1025 (B)
40 FR 8691 - 2/28/75
Mod. #1 - 40 FR 12003 - 3/14/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 30500 - 7/23/76
Mod. #4 - 42 FR 3313 - 1/14/77
Mod. #5 - 42 FR 11183 - 2/25/77
(Hw) - See Statewide
HANCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Statewide
HARRIS COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(Hw) - See Statewide
HENRY COUNTY
(Hw) - See Statewide
HOUSTON COUNTY
Decision #GA76-1123 (B)
41 FR 46804 - 10/22/76
(Hw) - See Statewide
IRWIN COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(Hw) - See Statewide
JEFF DAVIS COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Statewide
(R) - See Burke County
JOHNSON COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
LAMAR COUNTY
(Hw) - See Statewide
LANIER COUNTY
(Hw) - See Statewide
LAURENS COUNTY
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
Mod. #1 - 41 FR 11722 - 3/19/76

GEORGIA (Cont'd.

LAURENS COUNTY (Cont'd.)
(Hw) - See Statewide
LEE COUNTY
(Hw) - See Statewide
(R) - See Baker County
LIBERTY COUNTY
(D,R) - See Bryan County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
(R) - See Burke County
LONG COUNTY
(Hw) - See Statewide
(R) - See Bryan County
LOWNDES COUNTY
(Hw) - See Statewide
LUMPKIN COUNTY
(Hw) - See Statewide
MCDUFFIE COUNTY
(Hw) - See Statewide
(R) - See Burke County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Statewide
MACON COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MARION COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MERIWETHER COUNTY
(R) - See Chattahoochee County
(Hw) - See Statewide
MILLER COUNTY
(Hw) - See Statewide
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
MONROE COUNTY
(Hw) - See Statewide
MONTGOMERY COUNTY
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(Hw) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(Hw) - See Statewide
NEWTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OCONEE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.

PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
(R) - See Charlton County
PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA76-1119 (B)
41 FR 45800 - 10/15/76
Mod. #1 - 42 FR 5613 - 1/28/77
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(R) - See Bryan County
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Statewide
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County

GEORGIA (Cont'd.)

TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide
TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barron County
WARE COUNTY
Decision #GA75-1113 (B)
40 FR 58034 - 12/12/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #GU77-5026 (B,H,Hw,R)
42 FR 13757 - 3/11/77

HAWAII

STATEWIDE
Decision #HI77-5030 (B,H,Hw,D,R)
42 FR 12579 - 3/4/77
Mod. #1 - 42 FR 16345 - 3/25/77

IDAHO

STATEWIDE
Decision #ID77-5023 (B,H,Hw)
42 FR 11195 - 2/25/77
Mod. #1 - 42 FR 13715 - 3/11/77
Mod. #2 - 42 FR 15249 - 3/18/77
ADA COUNTY
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide

IDAHO

BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

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IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL76-2120 (B)
41 FR 43570 - 10/1/76
Mod. #1 - 42 FR 12565 - 3/4/77
Mod. #3 - 42 FR 17738 - 4/1/77
Decision #IL76-2149 (H,Hw)
41 FR 54128 - 12/10/76
Mod. #1 - 42 FR 3135 - 1/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
Mod. #3 - 42 FR 10210 - 2/18/77
ALEXANDER COUNTY
Decision #IL76-2132 (B)
41 FR 47729 - 10/29/76
Mod. #1 - 41 FR 55262 - 12/17/76
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 12566 - 3/4/77
Mod. #4 - 42 FR 17739 - 4/1/77
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 10210 - 2/18/77
Decision #IL77-5036 (D)
42 FR 13757 - 3/11/77
BOND COUNTY
Decision #IL77-2018 (H,Hw)
42 FR 10228 - 2/18/77
Decision #IL76-2080 (B)
41 FR 34475 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77
BOONE COUNTY
Decision #IL76-2133 (B)
41 FR 46831 - 10/22/76
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 12567 - 3/4/77
Mod. #3 - 42 FR 17739 - 4/1/77
Decision #IL76-2141 (H,Hw)
41 FR 47733 - 10/29/76
Mod. #1 - 42 FR 7027 - 2/4/77
Mod. #2 - 42 FR 10208 - 2/18/77
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
BUREAU COUNTY
Decision #IL76-2125 (B)
41 FR 44620 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 12565 - 3/4/77
Decision #IL76-2142 (H,Hw)
41 FR 50126 - 11/12/76
Mod. #1 - 42 FR 10208 - 2/18/77

ILLINOIS (Cont'd.)

CALHOUN COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
CARROLL COUNTY
(H,Hw) - See Bureau County
CASS COUNTY
Decision #IL76-2129 (B)
41 FR 44625 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
(D) - See Alexander County
CHAMPAIGN COUNTY
Decision #IL76-2121 (B)
41 FR 43573 - 10/1/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 7026 - 2/4/77
Mod. #3 - 42 FR 17738 - 4/1/77
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 4062 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL76-2128 (B)
41 FR 46823 - 10/22/76
Mod. #1 - 42 FR 4063 - 1/21/77
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 17738 - 4/1/77
CLARKE COUNTY
Decision #IL77-2030 (B)
42 FR 12584 - 3/4/77
Mod. #1 - 42 FR 17739 - 4/1/77
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL76-2153 (H,Hw)
41 FR 52253 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 4063 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 12567 - 3/4/77
(B) - See Clarke County
CLINTON COUNTY
(B,H,Hw) - See Bond County
COLES COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL76-2122 (B,H,Hw,R)
41 FR 43576 - 10/1/76
Mod. #1 - 42 FR 987 - 1/4/77
Mod. #2 - 42 FR 5613 - 1/28/77
Mod. #3 - 42 FR 17738 - 4/1/77
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
CRAWFORD COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County

ILLINOIS (Cont'd)

CUMBERLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
DOUGLAS COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL76-2123 (B,R)
41 FR 44612 - 10/8/76
Mod. #1 - 41 FR 51237 - 11/19/76
Mod. #2 - 42 FR 5613 - 1/28/77
Mod. #3 - 42 FR 7026 - 2/4/77
Mod. #4 - 42 FR 12565 - 3/4/77
Mod. #5 - 42 FR 15250 - 3/18/77
EDGAR COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
EDWARDS COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL76-2124 (B)
41 FR 44616 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Decision #IL76-2143 (H,Hw)
41 FR 50133 - 11/12/76
Mod. #1 - 42 FR 10209 - 2/18/77
FRANKLIN COUNTY
(B,H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL77-2029 (B)
42 FR 11206 - 2/25/77
Decision #IL76-2144 (H,Hw)
41 FR 52247 - 11/26/76
Mod. #1 - 42 FR 10209 - 2/18/77
GALLATIN COUNTY
(B,H,Hw) - See Alexander County
(D) - See Alexander County
GREENE COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
HANCOCK COUNTY
(H,Hw) - See Fulton County
HARDIN COUNTY
(B,H,Hw) - See Alexander County
HENDERSON COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
HENRY COUNTY
(B) - See Rock Island County
(H,Hw) - See Bureau County

ILLINOIS (Cont'd)

IROQUOIS COUNTY
(B,H,Hw) - See Ford County
JACKSON COUNTY
(B,D,H,Hw) - See Alexander County
JASPER COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
JEFFERSON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
JERSEY COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
JO DAVIESS COUNTY
(H,Hw) - See Bureau County
JOHNSON COUNTY
(B,H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
Decision #IL76-2126 (B)
41 FR 44630 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
Mc LEAN COUNTY
Decision #IL76-2127 (B)
41 FR 44627 - 10/8/76
Mod. #1 - 41 FR 52178 - 11/26/76
(H,Hw) - See Ford County
MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACOUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL76-2078 (B,R)
41 FR 34492 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77
Mod. #2 - 42 FR 17738 - 4/1/77

ILLINOIS (Cont'd)

MADISON COUNTY (Cont'd.)
(D) - See Alexander County
(H,Hw) - See Bond County
MARION COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MASSAC COUNTY
(B,D,H,Hw) - See Alexander County
MENARD COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MERCER COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
MONROE COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
MONTGOMERY COUNTY
(B,H,Hw) - See Bond County
MORGAN COUNTY
(B) - See Cass County
(H,Hw) - See Adams County
(D) - See Alexander County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL76-2015 (B,D,R)
41 FR 8643 - 2/27/76
Mod. #1 - 41 FR 20120 - 5/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
(H,Hw) - See Fulton County
PERRY COUNTY
(B,H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
POPE COUNTY
(B,D,H,Hw) - See Alexander County
PULASKI COUNTY
(B,D,H,Hw) - See Alexander County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
RANDOLPH COUNTY
(B) - See Bond County
(H,Hw,D) - See Alexander County
RICHLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL76-2130 (B)
41 FR 47724 - 10/29/76
Mod. #1 - 42 FR 7026 - 2/4/77
Mod. #2 - 42 FR 12566 - 3/4/77
(H,Hw) - See Bureau County

ILLINOIS (Cont'd)

SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Alexander County
SALINE COUNTY
(B,H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL76-2131 (B,R)
41 FR 46829 - 10/22/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(B) - See Scott County
(H,Hw) - See Adams County
(D) - See Alexander County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County
TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(B,D,H,Hw) - See Alexander County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WARREN COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(B,H,Hw) - See Bond County
WAYNE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WHITE COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
WHITESIDE COUNTY
(H,Hw) - See Bureau County
WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL76-2048 (B)
41 FR 16369 - 4/16/76
Mod. #1 - 41 FR 20124 - 5/14/76
(B,H,Hw) - See Alexander County
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

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INDIANA

STATEWIDE
Decision #IN76-2148 (H,Hw)
41 FR 47755 - 10/29/76
Mod. #1 - 41 FR 51238 - 11/19/76
Mod. #2 - 41 FR 54104 - 12/10/76
Mod. #3 - 42 FR 7028 - 2/4/77
ADAMS COUNTY
Decision #IN77-2017 (B)
42 FR 8920 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #IN77-2006 (B)
42 FR 7046 - 2/4/77
Mod. #1 - 42 FR 10211 - 2/18/77
Mod. #2 - 42 FR 12568 - 3/4/77
Decision #IN77-2007 (R)
42 FR 8940 - 2/11/77
(H,Hw) - See Statewide
BARTHOLOHEW COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BLACKFORD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
BOONE COUNTY
Decision #IN77-2016 (B)
42 FR 8915 - 2/11/77
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #IN77-5036 (D)
42 FR 13757 - 3/11/77
Decision #IN77-2009 (B)
42 FR 8910 - 2/11/77
(H,Hw) - See Statewide
CLAY COUNTY
Decision #IN77-2020 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
(D) - See Clark County

INDIANA (Cont'd.

DAVIESS COUNTY
Decision #IN77-2021 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
DEARBORN COUNTY
(B) - See Allen County
(D) - See Clarke County
(H,Hw) - See Statewide
DECATUR COUNTY
Decision #IN77-2008 (B)
42 FR 8908 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
(H,Hw) - See Statewide
DEKALB COUNTY
Decision #IN77-2010 (R)
42 FR 8912 - 2/11/77
(H,Hw) - See Statewide
DELAWAREECOUNTY
(B) - See Allen County
(H,Hw) - See Statewide
DUBOIS COUNTY
Decision #IN77-2022 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
ELKHART COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
FOUNTAIN COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(H,Hw) - See Statewide
FULTON COUNTY
(H,Hw) - See Statewide
GIBSON COUNTY
Decision #IN77-2023 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
GREENE COUNTY
Decision #IN77-2024 (R)
42 FR 10198 - 2/11/77
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #IN77-2011 (R)
42 FR 8912 - 2/11/77
(H,Hw) - See Statewide
(B) - See Boone County

INDIANA (Cont'd.

HANCOCK COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
HENDRICKS COUNTY
(H,Hw) - See Statewide
(B) - See Boone County
HENRY COUNTY
(H,Hw) - See Boone County
HOWARD COUNTY
(H,Hw) - See Statewide
HUNTINGTON COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
JACKSON COUNTY
Decision #IN77-2012 (R)
42 FR 8913 - 2/11/77
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JAY COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
JEFFERSON COUNTY
Decision #IN77-2013 (R)
42 FR 8913 - 2/11/77
(D) - See Clark County
(H,Hw) - See Statewide
JENNINGS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
Decision #IN77-2014 (R)
42 FR 8914 - 2/11/77
(H,Hw) - See Statewide
(B) - See Boone County
KNOX COUNTY
(H,Hw) - See Statewide
KOSCIUSKO COUNTY
(H,Hw) - See Statewide
LAGRANGE COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
Decision #IN76-2147 (B,H,Hw)
41 FR 47747 - 10/29/76
Mod. #1 - 41 FR 51238 - 11/19/76
Mod. #2 - 41 FR 54103 - 12/10/76
Mod. #3 - 42 FR 7027 - 2/4/77
Mod. #4 - 42 FR 7027 - 2/4/77
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.

LAWRENCE COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
MARION COUNTY
Decision #IN76-2005 (R)
41 FR 3602 - 1/23/76
Mod. #1 - 41 FR 9720 - 3/5/76
Mod. #2 - 41 FR 21984 - 5/28/76
Mod. #3 - 42 FR 12568 - 3/4/76
(B) - See Allen County
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide
MIAMI COUNTY
Decision #IN77-2025 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOBLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OHIO COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
ORANGE COUNTY
Decision #IN77-2026 (R)
42 FR 10199 - 2/18/77
(H,Hw) - See Statewide
OWEN COUNTY
(H,Hw) - See Statewide
PARKE COUNTY
Decision #IN77-2027 (R)
42 FR 10199 - 2/18/77
(H,Hw) - See Statewide
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.)

POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RIPLEY COUNTY
(H,Hw) - See Statewide
RUSH COUNTY
(H,Hw) - See Statewide
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
STARKE COUNTY
(H,Hw) - See Statewide
STEUBEN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
SWITZERLAND COUNTY
(D) - See Clark County
(H,Hw) - See Statewide

INDIANA (Cont'd)

TIPPECANOE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
TIPTON COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VANDERBURGH COUNTY
Decision #IN76-2046 (R)
41 FR 16302 - 4/16/76
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
VERMILLION COUNTY
Decision #IN77-2028 (R)
42 FR 10200 - 2/18/77
(H,Hw) - See Statewide
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
WABASH COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WARREN COUNTY
(H,Hw) - See Statewide
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
WASHINGTON COUNTY
Decision #IN77-2015 (R)
42 FR 8914 - 2/11/77
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WELLS COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WHITE COUNTY
(H,Hw) - See Statewide
WHITLEY COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

IOWA

ADAIR COUNTY
Decision #IA76-4120 (H,Hw)
41 FR 30481 - 7/23/76
ADAMS COUNTY
(H,Hw) - See Adair County
ALLAMAKEE COUNTY
None
APPANOOSE COUNTY
Decision #IA77-4042 (H,Hw)
42 FR 11211 - 2/25/77
AUDUBON COUNTY
None
BENTON COUNTY
Decision #IA77-4041 (Hw)
42 FR 11210 - 2/25/77
BLACK HAWK COUNTY
Decision #IA76-4092 (B,H,Hw)(City of Waterloo & abutting Municipalities
41 FR 21079 - 5/21/76
Mod. #1 - 41 FR 33127 - 8/6/76
Mod. #2 - 41 FR 38708 - 9/10/76
Mod. #3 - 41 FR 44594 - 10/8/76
Mod. #4 - 41 FR 56549 - 12/28/76
Mod. #5 - 42 FR 8932 - 2/11/77
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
Decision #IA76-4121 (H,Hw)
41 FR 30402 - 7/23/76
BUENA VISTA COUNTY
None
BUTLER COUNTY
Decision #IA76-4122 (H,Hw)
41 FR 30483 - 7/23/76
CALHOUN COUNTY
None
CARROLL COUNTY
Decision #IA76-4053 (H,Hw)
41 FR 7907 - 2/20/76
CASS COUNTY
(H,Hw) - See Adair County
CEDAR COUNTY
(H,Hw) - See Buchanan County
CERRO GORDO COUNTY (MASON CITY)
Decision #IA77-4004 (B,H,Hw)
42 FR 4082 - 1/21/77
Mod. #1 - 42 FR 10211 - 2/18/77
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County

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IOWA (Cont'd)

CLAY COUNTY
(H,Hw) - See Carroll County
CLAYTON COUNTY
None
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #IA77-4064 (B,H,Hw)
42 FR 15266 - 3/18/77
CRAWFORD COUNTY
(H,Hw) - See Carroll County
DALLAS COUNTY
None
DAVIS COUNTY
(H,Hw) - See Appanoose County
DECATUR COUNTY
(H,Hw) - See Adair County
DELAWARE COUNTY
(H,Hw) - See Buchanan County
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordance Plant
Decision #IA76-4146 (B,H,Hw)
41 FR 38713 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 41 FR 51240 - 11/19/76
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA76-4147 (B,H,Hw)
41 FR 38716 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 42 FR 4064 - 1/21/77
Mod. #4 - 42 FR 15250 - 3/18/77
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #IA76-4123 (H,Hw)
41 FR 30484 - 7/23/76
FREMONT COUNTY
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
(H,Hw) - See Adair County
GREENE COUNTY
None
GRUNDY COUNTY
(H,Hw) - See Butler County

IOWA (Cont'd)

GUTHRIE COUNTY
None
HAMILTON COUNTY
(H,Hw) - See Butler County
HANCOCK COUNTY
(H,Hw) - See Butler County
HARDIN COUNTY
(H,Hw) - See Franklin County
HARRISON COUNTY
Decision #IA76-4124 (H,Hw)
41 FR 30485 - 7/23/76
Mod. #1 - 41 FR 51239 - 11/19/76
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
None
HUMBOLDT COUNTY
None
IDA COUNTY
None
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
(H,Hw) - See Buchanan County
JASPER COUNTY
None
JEFFERSON COUNTY
(H,Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA76-4148 (B,H,Hw)
41 FR 38719 - 9/10/76
Mod. #1 - 41 FR 48984 - 11/5/76
Mod. #2 - 42 FR 5615 - 1/28/77
(Hw) - See Benton County
JONES COUNTY
(H,Hw) - See Buchanan County
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
None
LINN COUNTY
Decision #IA76-4149 (B,H,Hw)
41 FR 38722 - 9/10/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 42 FR 5615 - 1/28/77
Mod. #3 - 42 FR 17740 - 4/1/77

IOWA (Cont'd.)

LOUISA COUNTY
None
LUCAS COUNTY
(H,Hw) - See Adair County
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(H,Hw) - See Adair County
(Channel Stab.) - See Freemont Co.
MITCHELL COUNTY
(H,Hw) - See Butler County
MONONA COUNTY
(H,Hw) - See Harrison County
(Channel Stab.) - See Freemont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
(H,Hw) - See Adair County
MUSCATINE COUNTY
None
O'BRIEN COUNTY
(H,hw) - See Carroll County
OSCEOLA COUNTY
(H,Hw) - See Carroll County
PAGE COUNTY
(H,Hw) - See Adair County
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA76-4150 (B,H,Hw)
41 FR 40393 - 9/17/76
Mod. #1 - 42 FR 4064 - 1/21/77
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA76-4185 (B,H,Hw)
41 FR 51285 - 11/19/76
Mod. #1 - 42 FR 4064 - 1/21/77
Mod. #2 - 42 FR 10211 - 2/18/77
Mod. #3 - 42 FR 16346 - 3/25/77
(Chann. Stab.) - See Freemont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Adair County
SAC COUNTY
None
SCOTT COUNTY
Decision #IA76-4172 (B,H,Hw)
41 FR 45802 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 41 FR 51239 - 11/19/76
Mod. #3 - 42 FR 13716 - 3/11/77
SHELBY COUNTY
None
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA76-4173 (B,H,Hw)
41 FR 45805 - 10/15/76
Mod. #1 - 42 FR 4064 - 1/21/77
Mod. #2 - 42 FR 13716 - 3/11/77
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Adair County
UNION COUNTY
(H,Hw) - See Adair County
VAN BUREN COUNTY
(H,Hw) - See Appanoose County
WAPELLO COUNTY
(H,Hw) - See Appannose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA76-4174 (B,H,Hw)
41 FR 45808 - 10/15/76
Mod. #1 - 41 FR 51240 - 11/19/76
Mod. #2 - 42 FR 4064 - 1/21/77
Mod. #3 - 42 FR 15251 - 3/18/77
WINNEBAGO COUNTY
(H,Hw) - See Butler County
WINNESHIEK COUNTY
None

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA76-4175 (B)
41 FR 45811 - 10/15/76
Mod. #1 - 41 FR 56550 - 12/28/76
Mod. #2 - 42 FR 16346 - 3/25/77
(Chann. Stab.) - See Freemont Co.
(H,Hw) - See Harrison County
WORTH COUNTY
(H,Hw) - See Butler County
WRIGHT COUNTY
(H,Hw) - See Butler County

KANSAS

ALLEN COUNTY
Decision #KS77-4025 (Hw, W&S)
42 FR 10235 - 2/18/77
Mod. #1 - 42 FR 15251 - 3/18/77
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #M075-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS77-4024 (Hw, W&S)
42 FR 10234 - 2/18/77
Mod. #1 - 42 FR 17741 - 4/1/77
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - See Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CASS COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS77-4050 (Hw)
42 FR 12589 - 3/4/77
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COUNTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #KS77-4019 (R)
42 FR 7056 - 2/4/77
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #M076-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Mod. #1 - 41 FR 54105 - 12/10/76
Decision #M076-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
Mod. #2 - 42 FR 54104 - 12/10/76
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS77-4049 (B)
42 FR 11219 - 2/25/77
Mod. #1 - 42 FR 15252 - 3/18/77
(D) - See Atchison County
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County
RAY COUNTY
(Hw, W&S) - See Allen County

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KANSAS (Cont'd.)

RENO COUNTY
(Hw, W&S) - See Allen County
REPUBLIC COUNTY
(Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #KS77-4047 (R)
42 FR 11212 - 2/25/77
Decision #KS77-4020 (B)
42 FR 7057 - 2/4/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 15251 - 3/18/77
Mod. #3 - 42 FR 16346 - 3/25/77
Mod. #4 - 42 FR 17740 - 4/1/77
Decision #KS77-4023 (Hw, W&S)
42 FR 10233 - 2/18/77
Mod. #1 - 42 FR 17740 - 4/1/77
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS77-4046 (B)
42 FR 11213 - 2/25/77
Mod. #1 - 42 FR 15252 - 3/18/77
Decision #KS77-4048 (R)
42 FR 11216 - 2/25/77
Mod. #1 - 42 FR 15252 - 3/18/77
(Hw) - See Douglas County

KANSAS (Cont'd.)

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY

ADAIR COUNTY
Decision #KY76-1093 (R)
41 FR 37472 - 9/3/76
Decision #KY76-1112 (H,Hw)
41 FR 43579 - 10/1/76
ALLEN COUNTY
Decision #KY76-1128 (H,Hw)
41 FR 50144 - 11/12/76
Mod. #1 - 41 FR 54106 - 12/10/76
ANDERSON COUNTY
Decision #KY76-1114 (H,Hw)
41 FR 44633 - 10/8/76
BALLARD COUNTY
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #IL77-5036 (D)
42 FR 13757 - 3/11/77
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #KY75-1105 (R)
40 FR 49950 - 10/24/75
BELL COUNTY
(H,Hw) - See Adair County
Decision #AQ-4126 (B)
39 FR 22359 - 6/21/74
BOONE COUNTY
(R) - See Laurel County
Decision #KY76-1092 (R)
41 FR 37471 - 9/3/76
Decision #KY76-1113 (H,Hw)
41 FR 43582 - 10/1/76
Decision #KY76-1086 (B)
41 FR 36384 - 8/27/76
Mod. #1 - 41 FR 45887 - 10/15/76
Mod. #2 - 42 FR 988 - 1/4/77
Mod. #3 - 42 FR 5615 - 1/28/77
Mod. #4 - 42 FR 11185 - 2/25/77
Mod. #5 - 42 FR 15252 - 3/18/77
BOURBON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #KY76-1110 (B)
41 FR 42113 - 9/24/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 48985 - 11/5/76
Mod. #3 - 41 FR 51241 - 11/19/76
Mod. #4 - 42 FR 988 - 1/4/77
Mod. #5 - 42 FR 15252 - 3/18/77
(D) - See Ballard County
(H,Hw) - See Anderson County
BOYLE COUNTY
Decision #KY76-1096 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
BREATHITT COUNTY
(H,Hw) - See Adair County
Decision #KY76-1101 (R)
41 FR 40366 - 9/17/76

KENTUCKY (Cont'd.)

BRECKINRIDGE COUNTY
Decision #KY76-1080 (R)
41 FR 30532 - 7/23/76
Mod. #1 - 41 FR 36709 - 9/10/76
(H,Hw) - See Anderson County
(D) - See Ballard County
BULLITT COUNTY
(D) - See Boone County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Statewide
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
CARTER COUNTY
Decision #KY76-1111 (R)
41 FR 43456 - 10/1/76
(H,Hw) - See Anderson County
CASEY COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CHRISTIAN COUNTY
Decision #KY76-1091 (B)
41 FR 37470 - 9/3/76
Mod. #1 - 41 FR 51241 - 11/19/76
Mod. #2 - 42 FR 5616 - 1/28/77
Mod. #3 - 42 FR 11185 - 2/25/77
Decision #KY76-1118 (R)
41 FR 45001 - 10/15/76
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
Decision #KY76-1097 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Adair County
CLINTON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
CUMBERLAND COUNTY
(H,Hw,R) - See Adair County
DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
Mod. #1 - 41 FR 19008 - 5/7/76
Mod. #2 - 41 FR 21987 - 5/28/76
Mod. #3 - 41 FR 43560 - 10/1/76
Mod. #4 - 42 FR 17741 - 4/1/77

KENTUCKY (Cont'd)

DAVIESS COUNTY (Cont'd.)
Decision #KY76-1136 (R)
41 FR 53260 - 12/3/76
(D) - See Ballard County
(H,Hw) - See Allen County
EDMONSON COUNTY
(H,Hw) - See Allen County
ELLIOTT COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
FAYETTE COUNTY
Decision #KY77-1010 (B)
42 FR 8941 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 17742 - 4/1/77
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #KY76-1132 (B)
41 FR 52260 - 11/26/76
Mod. #1 - 42 FR 988 - 1/4/77
Mod. #2 - 42 FR 7030 - 2/4/77
Mod. #3 - 42 FR 11186 - 2/25/77
Mod. #4 - 42 FR 17742 - 4/1/77
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
R(R) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
GRANT COUNTY
(H,Hw) - See Anderson County
(R) - See Boone County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw,R) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County

KENTUCKY (Cont'd)

HANCOCK COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
HARLAN COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw,R) - See Adair County
HENDERSON COUNTY
Decision #KY76-1078 (B)
41 FR 30527 - 7/23/76
Mod. #1 - 41 FR 43560 - 10/1/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 53230 - 12/3/76
Mod. #4 - 42 FR 11185 - 2/25/77
Mod. #5 - 42 FR 17741 - 4/1/77
(H,Hw) - See Allen County
(D) - See Ballard County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY76-1129 (B)
41 FR 52257 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 41 FR 56550 - 12/28/76
Mod. #3 - 42 FR 10212 - 2/18/77
Mod. #4 - 42 FR 12568 - 3/4/77
Mod. #5 - 42 FR 15253 - 3/18/77
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Boone County
KNOTT COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
KNOX COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
LARUE COUNTY
(R) - See Adair County
(H,Hw) - See Anderson County
LAUREL COUNTY
Decision #KY77-1002 (R)
42 FR 1684 - 1/7/77
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LESLIE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LETCHER COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LEWIS COUNTY
(R) - See Carter County
LINCOLN COUNTY
(R) - See Boyle County
(H,Hw) - See Adair county
LIVINGSTON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY77-1011 (B)
42 FR 8944 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
(D) - See Ballard County
(H,Hw) - See Allen County

KENTUCKY (Cont'd.)

McCREARY COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
MEADE COUNTY
(H,Hw) - See Anderson County
(B) - See Jefferson County
(R) - See Breckinridge County
(D) - See Ballard County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw,R) - See Adair County
MONROE COUNTY
(H,Hw,R) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

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KENTUCKY (Cont'd)

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OWEN COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(R) - See Clay County
(H,Hw) - See Adair County
PENDLETON COUNTY
(B,H,Hw,R) - See Boone County
(D) - See Ballard County
PERRY COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
(R) - See Clay County
ROBERTSON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROWAN COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
RUSSELL COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.)

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(R) - See Adair County
(H,Hw) - See Adair County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
(H,Hw) - See Anderson County
(D) - See Boone County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
WARREN COUNTY
Decision #KY76-1077 (B)
41 FR 30525 - 7/23/76
Mod. #1 - 41 FR 35323 - 8/20/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 55263 - 12/17/76
Mod. #4 - 42 FR 5615 - 1/28/77
Mod. #5 - 42 FR 10212 - 2/18/77
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

LOUISIANA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #LA77-4052 (B,Hw,R)
42 FR 12593 - 3 /4/77
Mod. #1 - 42 FR 15253 - 3/18/77
Mod. #2 - 42 FR 16346 - 3/25/77
Mod. #3 - 42 FR 17742 - 4/1/77
ACADIA PARISH
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(B,D,Hw) - See Statewide
ALLEN PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CADDO PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide

LOUISIANA (Cont'd.)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd.)

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON COUNTY
Decision #LA77-4030 (R)
42 FR 10237 - 2/18/77
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
OUACHITA PARISH
Decision #LA77-4031 (R)
42 FR 10237 - 2/18/77
(B,D,Hw) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd.)

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D) - See Statewide

LOUISIANA (Cont'd.)

ST. TAMMANY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TANGIPAHOA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TENSAS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TERREBONNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
UNION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERMILION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERNON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WASHINGTON PARISH
(F) - See Acadia Parish
(B,Hw,D) - See Statewide
WEBSTER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WINN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
Decision #ME76-2159 (Hw)
41 FR 52173 - 11/26/76
AROOSTOOK COUNTY
Decision #ME76-2156 (Hw)
41 FR 52171 - 11/26/76
CUMBERLAND COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(Hw) - See Aroostook County
FRANKLIN COUNTY
(Hw) - See Androscoggin County
HANCOCK COUNTY
Decision #ME76-2166 (Hw)
41 FR 53227 - 12/3/76
(D) - See Cumberland County
KENNEBEC COUNTY
(Hw) - See Androscoggin County
KNOX COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
LINCOLN COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
OXFORD COUNTY
(Hw) - See Androscoggin County
PENOBSCOT COUNTY
(Hw) - See Aroostook County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostook County
SOMERSET COUNTY
(Hw) - See Androscoggin County
WALDO COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
WASHINGTON COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
YORK COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County

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MARYLAND

ALLEGANY COUNTY
Decision #MD77-3020 (B)
42 FR 3151 - 1/14/77
Mod. #1 - 42 FR 13717 - 3/11/77
Decision #MD77-3021 (H,Hw)
42 FR 3153 - 1/14/77
ANNE ARUNDEL COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #MD77-3019 (B,H)
42 FR 3147 - 1/14/77
Decision #MD76-3151 (Hw)
41 FR 11742 - 3/19/76
BALTIMORE CITY
Decision #MD77-3018 (Hw)
42 FR 3145 - 1/14/77
Mod. #1 - 42 FR 15253 - 3/18/77
Mod. #2 - 42 FR 17742 - 4/1/77
Decision #MD77-3017 (B,H)
42 FR 3142 - 1/14/77
Mod. #1 - 42 FR 10213 - 2/18/77
Mod. #2 - 42 FR 11186 - 2/25/77
Mod. #3 - 42 FR 13716 - 3/11/77
Mod. #4 - 42 FR 16349 - 3/25/77
Mod. #5 - 42 FR 17742 - 4/1/77
(D) - See Anne Arundel County
BALTIMORE COUNTY
Decision #MD76-3153 (Hw)
41 FR 11744 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
Mod. #2 - 42 FR 15253 - 3/18/77
(D) - See Anne Arundel County
(B,H) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CAROLINE COUNTY
Decision #MD76-3152 (Hw)
41 FR 11743 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
(Hw) - See Anne Arundel County
CARROLL COUNTY
(Hw) - See Anne Arundel County
CECIL COUNTY
(Hw) - See Caroline County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #AQ-2076 (R)
39 FR 10069 - 3/15/74
Mod. #1 - 40 FR 15272 - 4/4/75
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
KENT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
MONTGOMERY COUNTY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(Hw) - See Anne Arundel County
WICOMICO COUNTY
Decision #MD77-3036 (R)
42 FR 12613 - 3/4/77
(D) - See Anne Arundel County
(Hw) - See Caroline County
WORCESTER COUNTY
(D) - See Anne Arundel County
(Hw) - See Caroline County
Decision #MD77-3035 (B)
42 FR 12613 - 3/4/77

MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA76-2095 (B,H,Hw, & Marine)
41 FR 34501 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34505 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
Mod. #2 - 42 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA76-2098 (B,H,Hw, & Marine)
41 FR 34514 - 8/13/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 51241 - 11/19/76
Mod. #3 - 41 FR 55266 - 12/17/76
Mod. #4 - 42 FR 7031 - 2/4/77
Mod. #5 - 42 FR 13717 - 3/11/77
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA76-2099 (B,H,Hw)
41 FR 34519 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16347 - 3 /25/77
HAMPDEN COUNTY
Decision #MA76-2100 (B,H,Hw)
41 FR 34522 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
Decision #MA75-2134 (R)
40 FR 59166 - 12/19/75
HAMPSHIRE COUNTY
Decision #MA76-2101 (B,H,Hw)
41 FR 35369 - 8/20/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77

MASSACHUSETTS (Cont'd.)

MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw,R, & Marin
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 13718 - 3/11/77
Mod. #5 - 42 FR 16438 - 3/25/77
(D) - See Barnstable County
NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
Decision #MA76-2103 (B,H,Hw,R)
41 FR 35373 - 8/20/76
Mod. #1 - 41 FR 46814 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR16348 - 3/25/77
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA76-2104 (B,H,Hw,R)
41 FR 37485 - 9/3/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #MA76-2105 (B,H,Hw,D,R, & Marine)
41 FR 35377 - 8/20/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16349 - 3/25/77
(D) - See Barnstable County
WORCESTER COUNTY
Decision #MA76-2106 (B,H,Hw,R)
41 FR 37490 - 9/3/76
Mod. #1 - 41 FR 46816 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 3136 - 1/14/77
Mod. #4 - 42 FR 7032 - 2/4/77
Mod. #5 - 42 FR 16349 - 3/25/77

MICHIGAN

STATEWIDE
Decision #MI76-2140 (Hw, W&S)
41 FR 51310 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 42 FR 1681 - 1/7/77
ALCONA COUNTY
Decision #MI76-2135 (B,H)
41 FR 47766 - 10/29/76
Mod. #1 - 42 FR 8934 - 2/11/77
Mod. #2 - 42 FR 11106 - 2/18/77
Mod. #3 - 42 FR 17743 - 4/1/77
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI76-2136 (B,H)
41 FR 47771 - 10/29/76
Mod. #1 - 42 FR 8935 - 2/11/77
Mod. #2 - 42 FR 11186 - 2/18/77
Mod. #3 - 42 FR 15254 - 3/18/77
Mod. #4 - 42 FR 17739 - 4/1/77
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI76-2137 (B,H)
41 FR 47774 - 10/29/76
Mod. #1 - 42 FR 8935 - 2/11/77
Mod. #2 - 42 FR 10213 - 2/18/77
Mod. #3 - 42 FR 11186 - 2/25/77
Decision #AM-39B (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(D) - See Alcona County
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI76-2138 (B,H)
41 FR 48989 - 11/5/76
Mod. #1 - 42 FR 8935 - 2/11/77
Mod. #2 - 42 FR 11187 - 2/25/77
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

BENZIE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #MI77-2041 (R)
42 FR 16355 - 3/25/77
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #MI76-2107 (R)
41 FR 35381 - 8/20/76
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKERSON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
(B,H) - See Alger County
EATON COUNTY
Decision #MI77-2035 (R)
42 FR 12614 - 3/4/77
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
EMMET COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI77-2019 (R)
42 FR 10238 - 2/18/77
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Allegan County
INGHAM COUNTY
(B,H) - See Allegan County
(R) - See Eaton County
(Hw, W&S) - See Statewide
IONIA COUNTY
(Hw, W&S) - See Statewide
IOSCO COUNTY
(B,H) - See Bay County
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County

MICHIGAN (Cont'd.

ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #MI76-2171 (B,H)
41 FR 56590 - 12/28/76
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(D) - See Alcona County
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(Hw, W&S) - See Statewide
LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(D) - See Alcona County
(B,H) - See Grant Traverse County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI76-2139 (B,H,R)
41 FR 51313 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 1680 - 1/7/77
Mod. #4 - 42 FR 4066 - 1/21/77
Mod. #5 - 42 FR 11187 - 2/25/77
Mod. #6 - 42 FR 12568 - 3/4/77
Mod. #7 - 42 FR 16349 - 3/25/77
Mod. #8 - 42 FR 17743 - 4/1/77
(D) - See Alcona County
(Hw, W&S) - See Statewide

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MICHIGAN (Cont'd.)

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #MI77-2036 (R)
42 FR 12615 - 3/4/77
Mod. #1 - 42 FR 15254 - 3/18/77
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Kent County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY
Decision #MI75-2120 (R)
40 FR 49955 - 10/24/75
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H,R) - See Alcorn County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

OSCEOLA COUNTY
(Hw, W&S) - See Statewide
OSCODA COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

MINNESOTA

AITKIN COUNTY
Decision #MN76-2058 (H,Hw)
41 FR 20131 - 5/14/76
Mod. #1 - 41 FR 43561 - 10/1/76
Mod. #2 - 42 FR 1682 - 1/7/77
Mod. #3 - 42 FR 15254 - 3/18/77
ANOKA COUNTY
Decision #MN76-2001 (B,R)
41 FR 2551 - 1/16/76
Mod. #1 - 41 FR 5521 - 2/6/76
Mod. #2 - 41 FR 6953 - 2/13/76
Mod. #3 - 41 FR 20124 - 5/14/76
Mod. #4 - 41 FR 52178 - 11/26/76
Mod. #5 - 42 FR 11187 - 2/25/77
Mod. #6 - 42 FR 16349 - 3/25/77
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #MN77-2031 (H,Hw)
42 FR 12616 - 3/4/77
BELTRAMI COUNTY
Decision #MN77-2034 (H,Hw)
42 FR 12617 - 3/4/77
BENTON COUNTY
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #MN77-2032 (H,Hw)
42 FR 12616 - 3/4/77
BLUE EARTH COUNTY
Decision #MN76-2064 (B)
41 FR 21025 - 5/21/76
Mod. #1 - 41 FR 52179 - 11/26/76
Mod. #2 - 42 FR 11188 - 2/25/77
Mod. #3 - 42 FR 17743 - 4/1/77
(H,Hw) - See Aitkin County
BROWN COUNTY
Decision #MN77-2040 (H,Hw)
42 FR 16341 - 3/25/77
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #MN77-2033 (H,Hw)
42 FR 12617 - 3/4/77
CROW WING COUNTY
Decision #MN77-2038 (H,Hw)
42 FR 15245 - 3/18/77
Mod. #1 - 42 FR 17743 - 4/1/77
(H,Hw) - See Aitkin County
DAKOTA COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
HOUSTON COUNTY
(H,Hw) - See Aitkin County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltrami County
LE SHUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County
LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County

MINNESOTA

AITKIN COUNTY
Decision #MN76-2058 (H,Hw)
41 FR 20131 - 5/14/76
Mod. #1 - 41 FR 43561 - 10/1/76
Mod. #2 - 42 FR 1682 - 1/7/77
Mod. #3 - 42 FR 15254 - 3/18/77
ANOKA COUNTY
Decision #MN76-2001 (B,R)
41 FR 2551 - 1/16/76
Mod. #1 - 41 FR 5521 - 2/6/76
Mod. #2 - 41 FR 6953 - 2/13/76
Mod. #3 - 41 FR 20124 - 5/14/76
Mod. #4 - 41 FR 52178 - 11/26/76
Mod. #5 - 42 FR 11187 - 2/25/77
Mod. #6 - 42 FR 16349 - 3/25/77
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #MN77-2031 (H,Hw)
42 FR 12616 - 3/4/77
BELTRAMI COUNTY
Decision #MN77-2034 (H,Hw)
42 FR 12617 - 3/4/77
BENTON COUNTY
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #MN77-2032 (H,Hw)
42 FR 12616 - 3/4/77
BLUE EARTH COUNTY
Decision #MN76-2064 (B)
41 FR 21025 - 5/21/76
Mod. #1 - 41 FR 52179 - 11/26/76
Mod. #2 - 42 FR 11188 - 2/25/77
Mod. #3 - 42 FR 17743 - 4/1/77
(H,Hw) - See Aitkin County
BROWN COUNTY
Decision #MN77-2040 (H,Hw)
42 FR 16341 - 3/25/77
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #MN77-2033 (H,Hw)
42 FR 12617 - 3/4/77
CROW WING COUNTY
Decision #MN77-2038 (H,Hw)
42 FR 15245 - 3/18/77
Mod. #1 - 42 FR 17743 - 4/1/77
(H,Hw) - See Aitkin County
DAKOTA COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
HOUSTON COUNTY
(H,Hw) - See Aitkin County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltrami County
LE SHUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County
LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

MAHNOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(H,Hw) - See Aitkin County
MOWER COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN76-2002 (B,R)
41 FR 3607 - 1/23/76
Mod. #1 - 41 FR 20125 - 5/14/76
Mod. #2 - 41 FR 52179 - 11/26/76
Mod. #3 - 42 FR 11187 - 2/25/77
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
Decision #MN77-2039 (H,Hw)
42 FR 16341 - 3/25/77
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN76-2134 (B,R)
41 FR 47780 - 10/29/76
Mod. #1 - 42 FR 8936 - 2/11/77
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN76-2003 (B,R)
41 FR 3610 - 1/23/76
Mod. #1 - 41 FR 20126 - 5/14/76
Mod. #2 - 41 FR 23887 - 6/11/76
Mod. #3 - 41 FR 52179 - 11/26/76
Mod. #4 - 42 FR 11187 - 2/25/77
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Becker County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

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MISSISSIPPI

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #MS76-1137 (HW)
41 FR 55271 - 12/17/76
Mod. #1 - 42 FR 3136 - 1/14/77
Decision #MS76-1139(W&S)
41 FR 55259 - 12/17/76

ADAMS COUNTY
Decision #AR-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D,Hw, W&S) - See Statewide

ALCORN COUNTY
(D,Hw,W&S) - See Statewide
(F) - See Adams County

AMITE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

ATTALA COUNTY
(D,Hw, W&S) - See Statewide

BENTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

BOLIVAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

CALHOUN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

CARROLL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

CHICKASAW COUNTY
(Hw, W&S) - See Statewide
(F) - See Adams County

CHOCTAW COUNTY
(Hw, W&S) - See Statewide

CLAIBORNE COUNTY
Decision #MS76-1099 (R)
41 FR 40368 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County

CLARK COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Statewide

CLAY COUNTY
(Hw, W&S) - See Statewide

COAHOMA COUNTY
Decision #MS76-1004 (R)
41 FR 1695 - 1/9/76
Mod. #1 - 41 FR 40371 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.

COPIAH COUNTY
Decision #MS76-1074 (R)
41 FR 29650 - 7/16/76
(D, Hw, W&S)- See Statewide
(F) - See Adams County

COVINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

DE SOTO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Mod. #1 - 40 FR 55609 - 11/28/75
Decision #MS76-1142 (B)
41 FR 56593 - 12/28/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County

FRANKLIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County

GREENE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

GRENADA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

HANCOCK COUNTY
Decision #MS77-1030 (B,H)
42 FR 16356 - 3/25/77
(D) - See Statewide
(F) - See Adams County
(R) - See George County

HARRISON COUNTY
(B,H) - See Hancock County
(R) - See George County
(D,Hw, W&S) - See Statewide
(F) - See Adams County

HINDS COUNTY
Decision #MS77-1032 (B)
42 FR 16359 - 3/25/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSISSIPPI (Cont'd.

HOLMES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

HUMPHREYS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

ISSAQUENA COUNTY
Decision #MS76-1076 (B)
41 FR 29651 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County

ITAWAMBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

JACKSON COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(R) - See George County

JASPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

JEFFERSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

JEFFERSON DAVIS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

JONES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B,R) - See Forrest County

KEMPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LAFAYETTE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LAMAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LAUDERDALE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LAWRENCE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LEAKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

LEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LEFLORE COUNTY
(F) - See Adams County
(D,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.

LINCOLN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

LOWNDES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MADISON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MARION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MARSHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MONROE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MONTGOMERY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

NESHOBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

NEWTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

NOXUBEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

OKTIBBEHA COUNTY
(D,Hw, W&S) - See Statewide

PANOLA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

PEARL RIVER COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(F) - See Adams County
(R) - See George County

PERRY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

PIKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

PONTOTOC COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

PRENTISS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

QUITMAN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

RANKIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

SCOTT COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

SHARKEY COUNTY
(D,Hw,W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
(B) - See Issaquena County

SIMPSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

SMITH COUNTY
(D,Hw, W&S) - See Statewide
(R) - See Copiah County
(F) - See Adams County

STONE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See George County

SUNFLOWER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County

TALLAHATCHIE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

TATE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

TIPPAH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

TISHOMINGO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

TUNICA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

UNION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

WALTHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.

WARREN COUNTY
Decision #MS77-1033 (B)
42 FR 16361 - 3/25/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County

WASHINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County

WAYNE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

WEBSTER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

WILKINSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

WINSTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

YALOBUSHA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

YAZOO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSOURI

STATEWIDE
Decision #MO77-4051 (H,Hw)
42 FR 12618 - 3/4/77

ADAIR COUNTY
(H,Hw) - See Statewode

ANDREW COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Statewide

ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

AUDRAIN COUNTY
(H,Hw) - See Statewide

BARRY COUNTY
(Hw) - See Statewide

BARTON COUNTY
(H,Hw) - See Statewide

BATES COUNTY
(H,Hw) - See Statewide

BENTON COUNTY
(H,Hw) - See Statewide

BOLLINGER COUNTY
(H,Hw) - See Statewide

BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County

BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

BUTLER COUNTY
(Hw) - See Statewide

CALDWELL COUNTY
(H,Hw) - See Statewide

CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

CAMDEN COUNTY
(H,Hw) - See Statewide

CAPE GIRARDEAU COUNTY
Decision #IL77-5036 (D)
42 FR 13757 - 3/11/77
(H,Hw) - See Statewide

CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

CARTER COUNTY
(Hw) - See Statewide

CASS COUNTY
Decision #MO76-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Decision #MO76-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
(H,Hw) - See Statewide

CEDAR COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

CHRISTIAN COUNTY
(Hw) - See Statewide

CLARK COUNTY
(H,Hw) - See Statewide

CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide

CLINTON COUNTY
(H,Hw) - See Statewide

COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

CRAWFORD COUNTY
(H,Hw) - See Statewide

DADE COUNTY
(H,Hw) - See Statewide

DALLAS COUNTY
(H,Hw) - See Statewide

DAVIESS COUNTY
(H,Hw) - See Statewide

DE KALB COUNTY
(H,Hw) - See Statewide

DENT COUNTY
(Hw) - See Statewide

DOUGLAS COUNTY
(Hw) - See Statewide

DUNKLIN COUNTY
(Hw) - See Statewide

FRANKLIN COUNTY
Decision #MO77-4058 (B)
42 FR 13758 - 3/11/77
Decision #MO77-4059 (R)
42 FR 13762 - 3/11/77
Mod. #1 - 42 FR 16349 - 3/25/77
(D) - See Andrew County
(H,Hw) - See Statewide

GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

GENTRY COUNTY
(H,Hw) - See Statewide

GREENE COUNTY
(H,Hw) - See Statewide

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MISSOURI (Cont'd.

GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
(B,H,Hw) - See Cass County
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
Decision #MO77-4033 (B)
42 FR 10240 - 2/18/77
Mod. #1 - 42 FR 13718 - 3/11/77
JEFFERSON COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide
MC DONALD COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NEW MADRID COUNTY
(Hw) - See Statewide
NEWTON COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See Statewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(B,R) - See Franklin County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(O) - See Andrew County
(H,Hw) - See Statewide
ST. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd.)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(H,Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT77-5021 (B)
42 FR 12631 - 3/4/77
Mod. #1 - 42 FR 15255 - 3/18/77
Mod. #2 - 42 FR 17744 - 4/1/77
Decision #MT77-5034 (H,Hw)
42 FR 13765 - 3/11/77
Mod. #1 - 42 FR 15256 - 3/18/77
Mod. #2 - 42 FR 17744 - 4/1/77
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT76-5100 (R)
41 FR 47798 - 10/29/76
Mod. #1 - 41 FR 51244 - 11/19/76
Mod. #2 - 42 FR 3136 - 11/14/77
Mod. #3 - 42 FR 14719 - 3/11/77
Mod. #4 - 42 FR 15254 - 3/18/77
Mod. #5 - 42 FR 17744 - 4/1/77
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide
GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide

MONTANA (Cont'd.

GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide
RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.

ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVERBOW COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #NE77-4001 (H,Hw)
42 FR 1685 - 1/7/77
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE77-4040 (B)
42 FR 11223 - 2/25/77
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE76-4184 (Channel Stabili
41 FR 53259 - 12/3/76
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE77-4021 (H,Hw)
42 FR 8946 - 2/11/77
CEDAR COUNTY
Decision #NE77-4067 (B)
42 FR 15272 - 3/18/77
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

UMI

NEBRASKA (Cont'd.

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE77-4043 (B,R)
42 FR 11224 - 2/25/77
Mod. #1 - 42 FR 15256 - 3/18/77
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

HALL COUNTY
Decision #NE76-4107 (B)
41 FR 33158 - 8/6/76
(H,Hw) - See Adams County
HAMILTON COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE77-4017 (B)
42 FR 7060 - 2/4/77
Decision #NE76-4178 (R)
41 FR 45813 - 10/15/76
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(B) - See Hall County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

MORRILL COUNTY
(B) - See Banner County
(H,H) - See Adams County
NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #HO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSON COUNTY
(Chann. Stab.) - See Boyd County
(D) - See Nemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SSHERMAN COUNTYH
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
TYAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV77-5029 (B,H,Hw)
42 FR 12647 - 3/4/77
Mod. #1 - 42 FR 16350 - 3/25/77
CARSON COUNTY
(B,H,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV77-5022 (R)(Excluding Nevada Test Site)
42 FR 15273 - 3/18/77
(B,H,Hw) - See Statewide
Decision #NV77-5012 (B,H,Hw)(Nevada Test Site including the Tonopah Test Range)
42 FR 8947 - 2/11/77
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV77-5031 (R)
42 FR 15278 - 3/18/77
(B,H,Hw) - See Statewide
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH77-2001 (B,H,Hw,R)
42 FR 4087 - 1/21/77
MERRIMACK COUNTY
Decision #NH77-2002 (B,H,Hw, & Marine)
42 FR 4090 - 1/21/77
ROCKINGHAM COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #NH77-2003 (B,H,Hw,R, & Marine)
42 FR 5625 - 1/28/77
STRAFFORD COUNTY
Decision #NH77-2004 (B,H,Hw, & Marine)
42 FR 5629 - 1/28/77
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ76-3248 (B,H,Hw)
41 FR 43598 - 10/1/76
Mod. #1 - 41 FR 44599 - 10/8/76
Mod. #2 - 41 FR 52180 - 11/26/76
Mod. #3 - 41 FR 53233 - 12/3/76
Mod. #4 - 42 FR 4067 - 1/21/77
Mod. #5 - 42 FR 7033 - 2/4/77
Mod. #6 - 42 FR 12569 - 3/4/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47827 - 10/29/76
Mod. #1 - 41 FR 52182 - 11/26/76
Mod. #2 - 42 FR 7034 - 2/4/77
Mod. #3 - 42 FR 12570 - 3/4/77
Decision #NJ76-3249 (B,H,Hw)
41 FR 43613 - 10/1/76
Mod. #1 - 41 FR 44599 - 10/8/76
Mod. #2 - 41 FR 52181 - 11/26/76
Mod. #3 - 41 FR 53233 - 12/3/76
Mod. #4 - 42 FR 4067 - 1/21/77
Mod. #5 - 42 FR 7034 - 2/4/77
Mod. #6 - 42 FR 12570 - 3/4/77
(D) - See Atlantic County

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NEW JERSEY (Cont'd.)

BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,D,H,Hw) - See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43414 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County

NEW MEXICO

STATEWIDE
Decision #NM76-4181 (Streets, Highways, Utilities and Light Engineering Construction)
41 FR 50160 - 11/12/76
Mod. #1 - 42 FR 12571 - 3/4/77
Decision #NM77-4022 (Building, including residential in Mckinley, Santa Fe, San Juan, Bernalillo, Rio Arriba, Taos, Sandoval, & Valencia Cos., but not on the Indian Reservation, and Heavy engineering construction.
42 FR 10243 - 2/18/77
Mod. #1 - 42 FR 12571 - 3/4/77
Mod. #2 - 42 FR 15257 - 3/18/77
BERNALILLO COUNTY
(B,H,Hw,R) - See Statewide
CATRON COUNTY
(B,H,Hw) - See Statewide
CHAVES COUNTY
(B,H,Hw) - See Statewide
COLFAX COUNTY
(B,H,Hw) - See Statewide
CURRY COUNTY
(B,H,Hw) - See Statewide
DE BACA COUNTY
(B,H,Hw) - See Statewide
DONA ANA COUNTY
(B,H,Hw) - See Statewide
Decision #NM77-4039 (R)
42 FR 10254 - 2/18/77
EDDY COUNTY
(B,H,Hw) - See Statewide
GRANT COUNTY
(B,H,Hw) - See Statewide
GUADALUPE COUNTY
(B,H,Hw) - See Statewide
HARDING COUNTY
(B,H,Hw) - See Statewide
HIDALGO COUNTY
(B,H,Hw) - See Statewide
LEA COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LOS ALAMOS COUNTY
(B,H,Hw) - See Statewide
LUNA COUNTY
(B,H,Hw) - See Statewide
McKINLEY COUNTY
(R) - See San Juan County
(B,H,Hw,R) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw,R) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw,R) - See Statewide
SAN JUAN COUNTY
Decision #NM77-5025 (R)(Navajo Indian Reservation)
42 FR 13774 - 3/11/77
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw,R) - See Statewide
TORRANCE COUNTY
(B,H,Hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw,R) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY76-3277 (B,H,Hw)
41 FR 51342 - 11/19/76
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #NY76-3256 (B,H,Hw)
41 FR 44645 - 10/8/76
Mod. #1 - 41 FR 50120 - 11/12/76
Decision #NY77-3022 (R)
42 FR 7063 - 2/4/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BROOME COUNTY
Decision #NY76-3240 (B,H,Hw)
41 FR 35439 - 8/20/76
Mod. #1 - 41 FR 44600 - 10/8/76
Mod. #2 - 41 FR 50120 - 11/12/76
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
CHAUTAUQUA COUNTY
Decision #NY76-3259 (B,H,Hw)
41 FR 47840 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
CHEMUNG COUNTY
Decision #NY77-3001 (B)
42 FR 17766 - 4/1/77
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY76-3280 (B,H,Hw)
41 FR 50174 - 11/12/76
(D) - See Bronx County
ERIE COUNTY
Decision #NY77-3015 (B,H,Hw)
42 FR 8973 - 2/11/77
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY77-3009 (B,H,Hw)
42 FR 8956 - 2/11/77
Mod. #1 - 42 FR 11189 - 2/25/77
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY77-3262 (B,H,Hw)
41 FR 47854 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY76-3278 (B,H,Hw)
41 FR 51348 - 11/19/76
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #NY76-3261 (B,H,Hw)
41 FR 47850 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY77-3010 (B,H,Hw)
42 FR 8961 - 2/11/77
ONONDAGA COUNTY
Decision #NY77-3006 (B,H,Hw)
42 FR 8951 - 2/11/77
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY77-3014 (B,H,Hw)
42 FR 8966 - 2/11/77
(D) - See Bronx County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGO COUNTY
None
PUTNAM COUNTY
(D) - See Bronx County
QUEENS COUNTY
(B,D,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
(B,H,Hw) - See Albany County
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
(B,H,Hw) - See Albany County
SCHENECTADY COUNTY
(B,H,Hw) - See Albany County
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY77-3007 (B,H,Hw)
42 FR 17771 - 4/1/77
SUFFOLK COUNTY
(B,H,Hw) - See Nassau County
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

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NEW YORK (Cont'd.)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY76-3267 (B,H,Hw)
41 FR 47884 - 10/29/76
Mod. #1 - 41 FR 50121 - 11/12/76
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY77-3002 (B,H,Hw)
42 FR 13775 - 3/11/77
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC75-1078 (Sewer & Water, H)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #NC76-1095 (R)
41 FR 37507 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
AVERY COUNTY
Decision #NC77-1012 (B)
42 FR 12662 - 3/4/77
Mod. #1 - 42 FR 15257 - 3/18/77
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #NC76-1109 (R)
41 FR 42128 - 9/24/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BERTIE COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
Decision #NC77-1013 (R)
42 FR 7065 - 2/4/77
BUNCOMBE COUNTY
Decision #NC76-1062 (B)
41 FR 21119 - 5/21/76
Mod. #1 - 41 FR 29614 - 7/16/76
Mod. #2 - 41 FR 34486 - 8/13/76
Decision #NC75-1014 (R)
40 FR 6111 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide
BURKE COUNTY
Decision #NC77-1014 (B)
42 FR 7065 - 2/4/77
Decision #NC77-1018 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CAMDEN COUNTY
Decision #NC76-1042 (B)
41 FR 11721 - 3/19/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #NC76-1019 (B)
41 FR 4796 - 1/30/76
Mod. #1 - 41 FR 21995 - 5/28/76
Decision #NC76-1073 (R)
41 FR 28469 - 7/9/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Mod. #1 - 41 FR 20128 - 5/14/76
Decision #NC76-1094 (R)
41 FR 37506 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHOWAN COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
CUMBERLAND COUNTY
Decision #NC76-1024 (B)
41 FR 6945 - 2/13/76
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(B) - See Camden County
DARE COUNTY
(B) - See Camden County
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
Decision #NC76-1085 (R)
41 FR 35317 - 8/20/76
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
Decision #NC76-1046 (B)
41 FR 15231 - 4/9/76
FORSYTH COUNTY
Decision #NC77-1017 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
Decision #NC76-1121 (B)
41 FR 46805 - 10/22/76
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County

NORTH CAROLINA (Cont'd.)

GUILFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY
(Sewer & Water, H,Hw) -See Statewide
HENDERSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Beaufort County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
JONES COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(B,R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
MECKLENBURG COUNTY
Decision #NC75-1115 (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.

MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 40 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B,R) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC76-1044 (B)
41 FR 14294 - 4/2/76
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
Mod. #1 - 42 FR 13719 - 3/11/77
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
Decision #ND77-5022 (B)
42 FR 10255 - 2/18/77
Mod. #1 - 42 FR 12573 - 3/4/77
Mod. #2 - 42 FR 13719 - 3/11/77
Mod. #3 - 42 FR 15257 - 3/18/77
Mod. #4 - 42 FR 17744 - 4/1/77
Decision #ND76-5108 (B)
41 FR 51353 - 11/19/76
(Hw) - See Statewide
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LA MOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MCHENRY COUNTY
(Hw) - See Statewide
MCINTOSH COUNTY
(Hw) - See Statewide
MCKENZIE COUNTY
(Hw) - See Statewide
MCLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

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NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH76-2041 (H,Hw)
41 FR 15300 - 4/9/76
Mod. #1 - 41 FR 32101 - 7/30/76
Mod. #2 - 41 FR 34486 - 8/13/76
Mod. #3 - 41 FR 37477 - 9/3/76
Mod. #4 - 41 FR 52183 - 11/26/76
Mod. #5 - 41 FR 56553 - 12/28/76
ADAMS COUNTY
Decision #IL77-5035 (D)
42 FR 137575- 3/11/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH76-2071 (B)
41 FR 22752 - 6/4/76
(H,Hw) - See Statewide
ASHLAND COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.)

ASHTABULA COUNTY
Decision #OH76-2074 (B,R)
41 FR 23911 - 6/11/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 -5/7/76
(H,Hw) - See Statewide
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
BUTLER COUNTY
Decision #OH76-2062 (B)
41 FR 21120 - 5/21/76
Mod. #1 - 41 FR 47716 - 10/29/76
Decision #OH76-2030 (R)
41 FR 9800 - 3/5/76
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #OH77-2005 (B)
42 FR 4093 - 1/21/77
Mod. #1 - 42 FR 10216 - 2/18/77
Mod. #2 - 42 FR 12572 - 3/4/77
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #OH76-2029 (R)
41 FR 8739 - 2/27/76
Mod. #1 - 42 FR 17744 - 4/1/77
(B) - See Hamilton County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLUMBIANA COUNTY
Decision #OH76-2060 (B)
41 FR 19001 - 5/7/76
(H,Hw) - See Statewide
COSHOCTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
CUYAHOGA COUNTY
Decision #OH77-2037 (B,R)
42 FR 13782 - 3/11/77
(D) - See Ashtabula County
(H,Hw) - See Statewide

OHIO (Cont'd.)

DARKE COUNTY
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #AM-420 (R)
36 FR 15963 - 8/18/71
Mod. #1 - 38 FR 4630 - 2/16/73
(H,Hw) - See Statewide
ERIE COUNTY
Decision #OH76-2075 (B)
41 FR 23913 - 6/11/76
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
(B) - See Lucas County
(H,Hw) - See Statewide
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(B) - See Clarke County
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75
(H,Hw) - See Statewide
GUERNSEY COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #OH76-2110 (B)
41 FR 40402 - 9/17/76
Mod. #1 - 42 FR 17744 - 4/1/77
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide
HANCOCK COUNTY
Decision #OH76-2076 (B)
41 FR 24851 - 6/18/76
Mod. #1 - 41 FR 37477 - 9/3/76
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B,R) - See Cuyahoga County
(D) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
(B)- See Clark County
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(H,Hw) - See Statewide
LORAIN COUNTY
Decision #OH76-2073 (B)
41 FR 22754 - 6/4/76
(D) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
Decision #OH76-2117 (B)
41 FR 43631 - 10/1/76
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
MAHONING COUNTY
Decision #OH76-2085 (B,R)
41 FR 30557 - 7/23/76
(H,Hw) - See Statewide

OHIO (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Greene County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(H,Hw) - See Statewide
MUSKINGUM COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
OTTAWA COUNTY
(R) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
PORTAGE COUNTY
(B,R) - See Cuyahoga County
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
Decision #OH76-2053 (B)
41 FR 16303 - 4/16/76
(H,Hw) - See Statewide
ROSS COUNTY
(B) - See Pike County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Pike County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STARK COUNTY
(B,R) - See Cuyahoga County
(H,Hw) - See Statewide
SUMMITT COUNTY
(B,R) - See Cuyahoga County
(H,Hw) - See Statewide
TRUMBULL COUNTY
Decision #OH76-2092 (B,R)
41 FR 34528 - 8/13/76
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
Decision #OH76-2054 (B)
41 FR 17285 - 4/23/76
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.

WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
Decision #OH76-2055 (B)
41 FR 18261 - 4/30/76
(H,Hw) - See Statewide
WYANDOT COUNTY
(H,Hw) - See Statewide

UMI

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #OK77-4073 (Constr., Alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water, and sewer utilities)
42 FR 17777 - 4/1/77
ADAIR COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide
ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK77-4063 (R)
42 FR 10261 - 2/18/77
Mod. #1 - 42 FR 16351 - 3/25/77
CADDO COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
Decision #OK77-4038 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4063 (B)
42 FR 13790 - 3/11/77
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK77-4060 (R)
42 FR 13786 - 3/11/77
Decision #OK77-4056 (B)
42 FR 12663 - 3/4/77

OKLAHOMA (cont'd)

COTTON COUNTY
(H,Hw) - See Statewide
CRAIG COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK76-4160 (B)
41 FR 43629 - 10/1/76
Mod. #1 - 42 FR 4069 - 1/21/77
Mod. #2 - 42 FR 11189 - 2/25/77
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide

OKLAHOMA (cont'd)

KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide
McCLAIN COUNTY
H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
MCINTOSH COUNTY
Decision #OK77-4065 (B)
42 FR 15287 - 3/18/77
Mod. #1 - 42 FR 17744 - 4/1/77
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK77-4062 (B,H,Hw)
42 FR 13787 - 3/11/77
Mod. #1 - 42 FR 16350 - 3/25/77
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.

PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK77-4066 (B)
42 FR 15289 - 3/18/77
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(H,Hw) - See Statewide
ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Oklahoma County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK77-4037 (R)
42 FR 10262 - 2/18/77
Decision #OK76-4186 (B)
41 FR 51359 - 11/19/76
Mod. #1 - 42 FR 3139 - 1/14/77
Mod. #2 - 42 FR 13720 - 3/11/77
Mod. #3 - 42 FR 15258 - 3/18/77
WAGONER COUNTY
Decision #OK76-4189 (B)
41 FR 52278 - 11/26/76
Mod. #1 - 42 FR 3140 - 1/14/77
Mod. #2 - 42 FR 13720 - 3/11/77
Mod. #3 - 42 FR 15258 - 3/18/77
Mod. #4 - 42 FR 16350 - 3/25/77
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIDE
Decision #OR77-5033 (B,H,Hw,D)
42 FR 16363 - 3/25/77
Mod. #1 - 42 FR 17745 - 4/1/77
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
Mod. #1 - 40 FR 48001 - 10/10/75
Mod. #2 - 40 FR 52244 - 11/7/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(B,H,Hw,D) - See Statewide
JACKSON COUNTY
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
Mod. #1 - 40 FR 52244 - 11/7/75
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County

OREGON (Cont'd.)

MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA76-3163 (H,Hw)
41 FR 19020 - 5/7/76
Mod. #1 - 41 FR 45797 - 10/15/76
Mod. #2 - 41 FR 47717 - 10/29/76
Mod. #3 - 42 FR 5616 - 1/28/77
Mod. #4 - 42 FR 10216 - 2/18/77
Decision #PA76-3204 (B)
41 FR 24870 - 6/18/76
Mod. #1 - 41 FR 28467 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44604 - 10/8/76
Mod. #5 - 42 FR 8937 - 2/11/77
ALLEGHENY COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
Decision #PA75-3070 (R)
40 FR 30433 - 8/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 41 FR 4738 - 1/30/76
Mod. #3 - 41 FR 26428 - 6/25/76
Mod. #4 - 42 FR 8937 - 2/11/77
ARMSTRONG COUNTY
(H,Hw) - See Butler County
Decision #PA76-3206 (B)
41 FR 26529 - 6/25/76
Mod. #1 - 41 FR 42052 - 9/24/76
Mod. #2 - 41 FR 52185 - 11/26/76
Mod. #3 - 42 FR 8937 - 2/11/77
Mod. #4 - 42 FR 12574 - 3/4/77
Mod. #5 - 42 FR 15352 - 3/25/77
BEAVER COUNTY
(H,Hw) - See Armstrong County
(B) - See Butler County
BEDFORD COUNTY
Decision #PA76-3250 (B)
41 FR 42131 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
Mod. #2 - 42 FR 12574 - 3/4/77
Mod. #3 - 42 FR 16353 - 3/25/77
(H,Hw) - See Butler County
BERKS COUNTY
Decision #PA77-3029 (B)
42 FR 10263 - 2/18/77
Mod. #1 - 42 FR 16351 - 3/25/77
(H,Hw) - See Adams County
BLAIR COUNTY
Decision #PA76-3165 (B)
41 FR 18274 - 4/30/76
Mod. #1 - 42 FR 12574 - 3/4/77
(Hw) - See Butler County

PENNSYLVANIA (Cont'd.

BRADFORD COUNTY
Decision #PA76-3208 (B)
41 FR 27535 - 7/2/76
Mod. #1 - 41 FR 43567 - 10/1/76
Mod. #2 - 41 FR 44604 - 10/8/76
Mod. #3 - 42 FR 10217 - 2/18/77
Mod. #4 - 42 FR 16352 - 3/25/77
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA77-3016 (B,R)
42 FR 5632 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Decision #PA76-3169 (H,Hw)
41 FR 21133 - 5/21/76
Mod. #1 - 41 FR 45797 - 6/25/76
Mod. #2 - 41 FR 45797 - 10/15/76
Mod. #3 - 41 FR 53235 - 12/3/76
BUTLER COUNTY
(B) - See Armstrong County
Decision #PA77-3023 (H,Hw)
42 FR 5640 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
(H,Hw) - See Butler County
(B) - See Bedford County
CAMBRIA COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CAMERON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CARBON COUNTY
(H,Hw) - See Adams County
CENTRE COUNTY
(H,Hw) - See Butler County
CHESTER COUNTY
(B,H,Hw,R) - See Bucks County
CLARION COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CLEARFIELD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County

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PENNSYLVANIA (Cont'd.)

CLINTON COUNTY
(H,Hw) - See Butler County
COLUMBIA COUNTY
Decision #PA76-3210 (B)
41 FR 30486 - 7/23/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 42 FR 10218 - 2/18/77
Mod. #3 - 42 FR 16352 - 3/25/77
(H,Hw) - See Adams County
CRAWFORD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CUMBERLAND COUNTY
Decision #PA77-3030 (B)
42 FR 10266 - 2/18/77
(H,Hw) - See Adams County
DAUPHIN COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
DELAWARE COUNTY
(B,H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA76-3251 (B)
41 FR 42143 - 9/24/76
Mod. #1 - 41 FR 44606 - 10/8/76
Mod. #2 - 41 FR 52186 - 11/26/76
Mod. #3 - 42 FR 8939 - 2/11/77
Mod. #4 - 42 FR 12574 - 3/4/77
Mod. #5 - 42 FR 16353 - 3/25/77
(H,Hw) - See Butler County
ERIE COUNTY
Decision #PA76-3177 (B)
41 FR 23916 - 7/9/76
Mod. #1 - 41 FR 26428 - 6/25/76
Mod. #2 - 41 FR 44602 - 10/8/76
Mod. #3 - 42 FR 10217 - 2/18/77
Mod. #4 - 42 FR 16351 - 3/25/77
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Butler County

PENNSYLVANIA (cont'd.)

FAYETTE COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
FOREST COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
FRANKLIN COUNTY
(H,Hw) - See Butler County
FULTON COUNTY
(H,Hw) - See Butler County
GREENE COUNTY
Decision #PA76-3211 (B)
41 FR 32091 - 7/30/76
Mod. #1 - 41 FR 42054 - 9/24/76
Mod. #2 - 41 FR 52185 - 11/26/76
Mod. #3 - 42 FR 8938 - 2/11/77
Mod. #4 - 42 FR 12574 - 3/4/77
Mod. #5 - 42 FR 16352 - 3/25/77
(H,Hw) - See Butler County
HUNTINGDON COUNTY
(H,Hw) - See Butler County
INDIANA COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
JEFFERSON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA76-3179 (B)
41 FR 24855 - 6/18/76
Mod. #1 - 41 FR 28465 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 47717 - 10/29/76
Mod. #4 - 41 FR 54110 - 12/10/76
Mod. #5 - 42 FR 10217 - 2/18/77
(H,Hw) - See Adams County
LANCASTER COUNTY
Decision #PA77-3026 (B)
42 FR 7066 - 2/4/77
Mod. #1 - 42 FR 10218 - 2/18/77
(H,Hw) - See Adams County
LAWRENCE COUNTY
Decision #PA76-3246 (B)
41 FR 40506 - 9/17/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 41 FR 52186 - 11/26/76
Mod. #3 - 42 FR 8938 - 2/11/77
Mod. #4 - 42 FR 16353 - 3/25/77
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.)

LEBANON COUNTY
Decision #PA76-3176 (B)
41 FR 24853 - 6/18/76
Mod. #1 - 41 FR 28464 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 42051 - 9/24/76
Mod. #4 - 41 FR 44602 - 10/8/76
Mod. #5 - 41 FR 53235 - 12/3/76
(H,Hw) - See Adams County
LEHIGH COUNTY
Decision #PA76-3183 (B)
41 FR 24862 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 44603 - 10/8/76
Mod. #4 - 41 FR 52185 - 11/26/76
Mod. #5 - 42 FR 10217 - 2/18/77
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA76-3271 (B)
41 FR 48993 - 11/5/76
Mod. #1 - 41 FR 54110 - 12/10/76
Mod. #2 - 42 FR 16353 - 3/25/77
(H,Hw) - See Adams County
LYCOMING COUNTY
(H,Hw) - See Adams County
Decision #PA77-3032 (B)
42 FR 16373 - 3/25/77
MC KEAN COUNTY
(B) - See Forest County
(H,Hw) - See Butler County
MERCER COUNTY
(B) - See Lawrence County
(H,Hw) - See Butler County
MIFFLIN COUNTY
(H,Hw) - See Butler County
MONROE COUNTY
(H,Hw) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw,R) - See Bucks County
MONTOUR COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.)

NORTHAMPTON COUNTY
(H,Hw) - See Adams County
Decision PA77-3033 (B)
42 FR 10268 - 2/18/77
NORTHUMBERLAND COUNTY
Decision #PA76-3182 (B)
41 FR 24860 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 44603 - 10/8/76
Mod. #4 - 41 FR 53235 - 12/3/76
Mod. #5 - 42 FR 10217 - 2/18/77
(H,Hw) - See Adams County
PERRY COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H,Hw,R) - See Bucks County
PIKE COUNTY
(H,Hw) - See Adams County
POTTER COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SCHYUKILL COUNTY
Decision #PA76-3181 (B)
41 FR 24858 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 38709 - 9/10/76
Mod. #4 - 41 FR 45798 - 10/15/76
Mod. #5 - 41 FR 47717 - 10/29/76
(H,Hw) - See Adams County
SNYDER COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
SOMERSET COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #PA75-3205 (B)
41 FR 24872 - 6/18/76
Mod. #1 - 41 FR 28467 - 7/9/76
Mod. #2 - 41 FR 32106 - 7/30/76
Mod. #3 - 41 FR 44604 - 10/8/65
Mod. #4 - 42 FR 10217 - 2/18/77
Mod.f#5 - 42 FR 16351 - 3/25/77
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.)

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
UNION COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
WARREN COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
WASHINGTON COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WAYNE COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
WESTMORELAND COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WYCOMING COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(B) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)

PUERTO RICO

PUERTO RICO
Decision #PR75-3091 (R)
40 FR 33644 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3090 (B)
40 FR 33643 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3089 (H,Hw)
40 FR 33643 - 8/8/75
Mod. #1 - 42 FR 4069 - 1/21/77

RHODE ISLAND

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BRISTOL COUNTY
Decision #R176-2150 (B,H,Hw,R, & Marine)
41 FR 48996 - 11/5/76
(D) - See Statewide
KENT COUNTY
(B,H,Hw, R, & Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #RI76-2151 (B,H,Hw,R, & Marine)
41 FR 50186 - 11/12/76
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #RI76-2152 (B,H,Hw,R, & Marine)
41 FR 51362 - 11/19/76
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Mod. #2 - 41 FR 10825 - 3/12/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #SC75-1079 (H, W&S)
40 FR 41380 - 9/5/75
ABBEVILLE COUNTY
Decision #SC76-1053 (B)
41 FR 20146 - 5/14/76
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide

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SOUTH CAROLINA

ALLENDALE COUNTY
Decision #SC75-1045 (R)
40 FR 16636 - 4/11/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
Decision #SC76-1115 (R)
41 FR 44657 - 10/8/76
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #SC75-1026 (B)
40 FR 8692 - 2/28/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 40 FR 27417 - 6/27/75
Mod. #3 - 41 FR 18267 - 4/30/76
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
(Sewer & Water, H,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #SC76-1067 (R)
41 FR 22024 - 5/28/76
Mod. #1 - 41 FR 23889 - 6/11/76
Decision #SC75-1055 (B)
40 FR 22785 - 5/23/75
Mod. #1 - 40 FR 25336 - 6/13/75
Mod. #2 - 41 FR 18267 - 4/30/76
Mod. #3 - 41 FR 20129 - 5/14/76
CALHOUN COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(B,R) - See Berkeley County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #SC76-1100 (R)
41 FR 38739 - 9/10/76
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.

CHESTER COUNTY
Decision #SC77-1019 (B)
42 FR 8990 - 2/11/77
Mod. #1 - 42 FR 12574 - 3/4/77
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLARENDON COUNTY
Decision #SC76-1088 (R)
41 FR 36399 - 8/27/76
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
DARLINGTON COUNTY
Decision #SC75-1041 (B)
40 FR 14194 - 3/28/75
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewid
DORCHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Berkeley County
EDGEFIELD COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
GEORGETOWN COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
Decision #SC75-1038 (B)
40 FR 12951 - 3/21/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 41 FR 43422 - 9/19/75
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewid

SOUTH CAROLINA (Cont'd.

LANCASTER COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #SC77-1008 (B)
42 FR 4101 - 1/21/77
Decision #SC76-1126 (R)
41 FR 47907 - 10/29/76
(Sewer & Water, H,Hw) - See Statewide
McCORMICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #SC76-1008 (B)
41 FR 1699 - 1/9/76
Mod. #1 - 41 FR 19013 - 5/7/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County
UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH DAKOTA

STATEWIDE
Decision #SD76-5039 (H,Hw)
41 FR 17300 - 4/23/76
AURORA COUNTY
(H,Hw) - See Statewide
BEADLE COUNTY
(H,Hw) - See Statewide
BENNET COUNTY
(H,Hw) - See Statewide
BON HOMME COUNTY
(H,Hw) - See Statewide
BROOKINGS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BRULE COUNTY
(H,Hw) - See Statewide
BUFFALO COUNTY
(H,Hw) - See Statewide
BUTTE COUNTY
(H,Hw) - See Statewide
CAMPBELL COUNTY
(H,Hw) - See Statewide
CHARLES MIX COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CODINGTON COUNTY
(H,Hw) - See Statewide
CORSON COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DAVISON COUNTY
(H,Hw) - See Statewide
DAY COUNTY
(H,Hw) - See Statewide
DEUEL COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
EDMUNDS COUNTY
(H,Hw) - See Statewide
FALL RIVER COUNTY
(H,Hw) - See Statewide
FAULK COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.

GREGORY COUNTY
(H,Hw) - See Statewide
HAAKON COUNTY
(H,Hw) - See Statewide
HAMLIN COUNTY
(H,Hw) - See Statewide
HAND COUNTY
(H,Hw) - See Statewide
HANSON COUNTY
(H,Hw) - See Statewide
HARDING COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(H,Hw) - See Statewide
HYDE COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JERAULD COUNTY
(H,Hw) - See Statewide
JONES COUNTY
(H,Hw) - See Statewide
KINGSBURY COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(H,Hw) - See Statewide
LAWRENCE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LYMAN COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

MARSHALL COUNTY
(H,Hw) - See Statewide
Mc COOK COUNTY
(H,Hw) - See Statewide
Mc PHERSON COUNTY
(H,Hw) - See Statewide
MEADE COUNTY
Decision #SD77-5028 (B)
42 FR 12666 - 3/4/77
(H,Hw) - See Statewide
MELLETTE COUNTY
(H,Hw) - See Statewide
MINER COUNTY
(H,Hw) - See Statewide
MINNEHAHA COUNTY
Decision #SD77-5027 (B)
42 FR 12665 - 3/4/77
(H,Hw) - See Statewide
Decision #SD77-5019 (R)
42 FR 8990 - 2/11/77
MOODY COUNTY
(H,Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(H,Hw) - See Statewide
PERKINS COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
SANBORN COUNTY
(H,Hw) - See Statewide
SHANNON COUNTY
(H,Hw) - See Statewide
SPINK COUNTY
(H,Hw) - See Statewide
STANLEY COUNTY
(H,Hw) - See Statewide
SULLY COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

TODD COUNTY
(H,Hw) - See Statewide
TRIPP COUNTY
(H,Hw) - See Statewide
TURNER COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
WALWORTH COUNTY
(H,Hw) - See Statewide
WASHABAUGH COUNTY
(H,Hw) - See Statewide
YANKTON COUNTY
(H,Hw) - See Statewide
ZIEBACH COUNTY
(H,Hw) - See Statewide

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TENNESSEE

STATEWIDE
Decision #TN77-1041 (Hw)
42 FR 17784 - 4/1/77
ANDERSON COUNTY
Decision #TN76-1072 (B)(Oak Ridge, Energy Research Development Administration Only)
41 FR 24874 - 6/18/76
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(Hw) - See Statewide
BEDFORD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BENTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BRADLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CAMPBELL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CANNON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARROLL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARTER COUNTY
Decision #TN76-1052 (B)
41 FR 17301 - 4/23/76
Decision #TN75-1098 (R)
40 FR 44476 - 9/26/75
(F) - See Anderson County
(Hw) - See Statewide
CHEATHAM COUNTY
Decision #TN76-1010 (R)
41 FR 2614 - 1/16/76
(F) - See Anderson County
(Hw) - See Statewide
CHESTER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CLAIBORNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D.)

CLAY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COCKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COFFEE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CROCKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CUMBERLAND COUNTY
(Hw) - See Statewide
DAVIDSON COUNTY
Decision #TN77-1036 (B)
42 FR 16375 - 3/25/77
(R) - See Cheatham County
(F) - See Anderson County
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DICKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
DYER COUNTY
Decision #TN76-1140 (R)
42 FR 56593 - 12/28/76
Decision #TN76-1054 (B)
41 FR 21140 - 5/21/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
(F) - See Anderson County
(Hw) - See Statewide
FAYETTE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
FENTRESS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GIBSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(B,R) - See Dyer County

TENNESSEE (Cont'd)

GILES COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRAINGER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GREENE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMBLEN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMILTON COUNTY
Decision #TN77-1038 (B,H)
42 FR 17782 - 4/1/77
(F) - See Anderson County
(Hw) - See Statewide
HANCOCK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDEMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAWKINS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAYWOOD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENDERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HICKMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HOUSTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HUMPHREYS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JACKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D)

JEFFERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JOHNSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
KNOX COUNTY
Decision #TN77-1037 (B)
42 FR 17780 - 4/1/77
Decision #TN76-1055 (R)
41 FR 27648 - 7/2/76
(F) -See Anderson County
(Hw) - See Statewide
LAKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
LAUDERDALE COUNTY
(D,R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
LAWRENCE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
LEWIS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LINCOLN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LOUDON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC MINN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC NAIRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MACON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MADISON COUNTY
Decision #TN75-1051 (B)
40 FR 21666 - 5/16/75
Mod. #1 - 40 FR 57075 - 12/5/75
(F) - See Anderson County
(Hw) - See Statewide
MARION COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
MAURY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
MEIGS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONROE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONTGOMERY COUNTY
Decision #TN77-1026 (B)
42 FR 15246 - 3/18/77
(F) - See Anderson County
(Hw) - See Statewide
MOORE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MORGAN COUNTY
(F) -See Anderson County
(Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PERRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
POLK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
RHEA COUNTY
(Hw) - See Statewide
(F) - See Anderson County
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge Energy Research Development Administration Only)
(F) - See Anderson County
(Hw) - See Statewide
ROBERTSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #TN77-1022 (B)
42 FR 12667 - 3/4/77
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
SCOTT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SHELBY COUNTY
Decision #TN76-1131 (B,H,W&S, & Utili
41 FR 55285 - 12/17/76
Mod. #1 - 42 FR 8939 - 2/11/77

Decision #TN76-1057 (R)
41 FR 20148 - 5/14/76
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Anderson County
(Hw) - See Statewide
STEWART COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #TN76-1061 (B)
41 FR 20148 - 5/14/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
TIPTON COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
TROUSDALE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd.

UNICOI COUNTY
(F) - See Anderson County
(Hw) - See Statewide
UNION COUNTY
(F) - See Anderson County
(Hw) - See Statewide
VAN BUREN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WARREN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WASHINGTON COUNTY
Decision #TN76-1045 (B)
41 FR 14306 - 4/2/76
Mod. #1 - 41 FR 28468 - 7/9/76
(F) - See Anderson County
(Hw) - See Statewide
WAYNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WEAKLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
WHITE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WILLIAMSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
WILSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TEXAS

STATEWIDE (Excluding Dallas-Fort Worth Regional Airport)
Decision #TX77-4008 (H(Excluding tunnels and dams,) Hw
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 5644 - 1/28/77
ANDERSON COUNTY
Decision #TX77-4009 (R)
42 FR 5652 - 1/28/77
ANDREWS COUNTY
(H,Hw) - See Statewide

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TEXAS (Cont'd.)

ANGELINA COUNTY
(H,Hw) - See Statewide
ARANSAS COUNTY
(H,Hw) - See Statewide
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
ARCHER COUNTY
(H,Hw) - See Statewide
ARMSTRONG COUNTY
Decision #TX77-4044 (B)
42 FR 11226 - 2/25/77
Mod. #1 - 42 FR 17746 - 4/1/77
Decision #TX77-4045 (R)
42 FR 11229 - 2/25/77
Mod. #1 - 42 FR 15258 - 3/18/77
Mod. #2 - 42 FR 17746 - 4/1/77
(H,Hw) - See Statewide
ATASCOSA COUNTY
(H,Hw) - See Statewide
AUSTIN COUNTY
(H,Hw) - See Statewide
BAILEY COUNTY
(H,Hw) - See Statewide
Decision #TX77-4068 (R)
42 FR 15291 - 3/18/77
BANDERA COUNTY
(H,Hw) - See Statewide
BASTROP COUNTY
Decision #TX77-4026 (R)
42 FR 10270 - 2/18/77
(H,Hw) - See Statewide
BAYLOR COUNTY
(H,Hw) - See Statewide
BEE COUNTY
Decision #TX76-4193 (B)
41 FR 56594 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
Mod. #2 - 42 FR 12575 - 3/4/77
Mod. #3 - 42 FR 15258 - 3/18/77
Decision #TX76-4030 (R)
41 FR 7008 - 2/13/76
Mod. #1 - 42 FR 11190 - 2/25/77
Mod. #2 - 42 FR 15258 - 3/18/77
(H,Hw) - See Statewide
BELL COUNTY
(H,Hw) - See Statewide
Decision #TX77-4053 (B)
42 FR 12668 - 3/4/77
BEXAR COUNTY
Decision #TX76-4080 (R)
41 FR 19037 - 5/7/76
Decision #TX76-4140 (B)
41 FR 33184 - 8/6/76
Mod. #1 - 41 FR 46607 - 10/8/76
Mod. #2 - 41 FR 49798 - 10/15/76
Mod. #3 - 41 FR 50125 - 11/12/76
Mod. #4 - 42 FR 5617 - 1/28/77
Mod. #5 - 42 FR 7036 - 2/4/77
(H,Hw) - See Statewide

TEXAS (Cont'd)

BLANCO COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Statewide
BOSQUE COUNTY
Decision #TX77-4011 (R)
42 FR 5656 - 1/28/77
(B) - See Bell County
(H,Hw) - See Statewide
BOWIE COUNTY
Decision #TX77-4070 (B)
42 FR 17785 - 4/1/77
(H,Hw) - See Statewide
BRAZORIA COUNTY
(H,Hw) - See Statewide
Decision #TX77-4027 (R)
42 FR 10270 - 2/18/77
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX77-4054 (B)
42 FR 12671 - 3/4/77
Mod. #1 - 42 FR 16354 - 3/25/77
Mod. #2 - 42 FR 17746 - 4/1/77
(H,Hw) - See Statewide
BREWSTER COUNTY
(H,Hw) - See Statewide
BRISCOE COUNTY
(H,Hw) - See Statewide
BROOKS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BURLESON COUNTY
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Statewide
CAMERON COUNTY
Decision #TX76-4126 (B)
41 FR 30665 - 7/23/76
Mod. #1 - 41 FR 42058 - 9/24/76
Mod. #2 - 41 FR 46819 - 10/22/76
Mod. #3 - 41 FR 56554 - 12/28/76

TEXAS (Cont'd)

CAMERON COUNTY (Cont'd.)
Decision #TX76-4162 (R)
41 FR 44669 - 10/8/76
Mod. #1 - 41 FR 46820 - 10/22/76
(H,Hw) - See Statewide
CAMP COUNTY
Decision #TX77-4012 (R)
42 FR 5658 - 1/28/77
(H,Hw) - See Statewide
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CHAMBERS COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CHEROKEE COUNTY
(R) - See Anderson County
(H,Hw) - See Statewide
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
COCHRAN COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
COKE COUNTY
(H,Hw) - See Statewide
COLEMAN COUNTY
(H,Hw) - See Statewide
COLLIN COUNTY
Decision #TX77-4028 (R)
42 FR 10271 - 2/18/77
Decision #TX76-4183 (B-excluding Dallas-Fort Worth Regional Airport)
41 FR 50191 - 11/12/76
Mod. #1 - 41 FR 54112 - 12/10/76
Mod. #2 - 41 FR 56555 - 12/28/76
Mod. #3 - 42 FR 4071 - 1/21/77
Mod. #4 - 42 FR 10219 - 2/18/77
(H,Hw) - See Statewide
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
COLORADO COUNTY
(H,Hw) - See Statewide
COMAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
CONCHO COUNTY
(H,Hw) - See Statewide
COOKE COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

CORYELL COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
COTTLE COUNTY
(H,Hw) - See Statewide
CRANE COUNTY
(H,Hw) - See Statewide
Decision #TX76-4038 (R)
41 FR 7009 - 2/13/76
CROCKETT COUNTY
(H,Hw) - See Statewide
CROSBY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
CULBERSON COUNTY
(H,Hw) - See Statewide
DALLAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
DALLAS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DAWSON COUNTY
(H,Hw) - See Statewide
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DELTA COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DE WITT COUNTY
(H,Hw) - See Statewide
DICKENS COUNTY
(H,Hw) - See Statewide
DIMMIT COUNTY
Decision #TX76-4039 (B,R)
41 FR 7014 - 2/13/76
(H,Hw) - See Statewide
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DUVAL COUNTY
(H,Hw) - See Statewide
EASTLAND COUNTY
(H,Hw) - See Statewide
ECTOR COUNTY
Decision #TX76-4118 (B)
41 FR 29605 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/16/76
Mod. #2 - 41 FR 42058 - 9/24/76
Mod. #3 - 41 FR 56554 - 12/28/76
Mod. #4 - 42 FR 4070 - 1/21/77
Mod. #5 - 42 FR 12575 - 3/4/77
(H,Hw) - See Statewide
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
EL PASO COUNTY
Decision #TX77-4071 (B)
42 FR 17787 - 4/1/77
(H,Hw) - See Statewide

TEXAS (Cont'd.)

ERATH COUNTY
(H,Hw) - See Statewide
FALLS COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
FANNIN COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
FOARD COUNTY
(H,Hw) - See Statewide
FORT BEND COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
FRANKLIN COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
FREESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide
FRIO COUNTY
(H,Hw) - See Statewide
GAINES COUNTY
(H,Hw) - See Statewide
GALVESTON COUNTY
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
Decision #TX76-4195 (B)
41 FR 56598 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
Mod. #2 - 42 FR 8940 - 2/11/77
Mod. #3 - 42 FR 10219 - 2/18/77
Mod. #4 - 42 FR 11190 - 2/25/77
Mod. #5 - 42 FR 16354 - 3/25/77
Mod. #6 - 42 FR 17746 - 4/1/77
GARZA COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
GILLESPIE COUNTY
(H,Hw) - See Statewide
GLASSCOCK COUNTY
(H,Hw) - See Statewide
GOLIAD COUNTY
(H,Hw) - See Statewide
GONZALES COUNTY
(H,Hw) - See Statewide
GRAY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
GRAYSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
GREGG COUNTY
Decision #TX77-4055 (B)
42 FR 12673 - 3/4/77

TEXAS (Cont'd.)

GREGG COUNTY
Decision #TX77-4055 (B)
42 FR 12673 - 3/4/77
Decision #TX77-4013 (R)
42 FR 5660 - 1/28/77
(H,Hw) - See Statewide
GRIMES COUNTY
(H,Hw) - See Statewide
GUADALUPE COUNTY
(H,Hw) - See Statewide
HALE COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HALL COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANSFORD COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HARDEMAN COUNTY
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide
HARRIS COUNTY
(B) - See Galveston County
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
HARRISON COUNTY
Decision #TX76-4196 (B)
41 FR 56601 - 12/28/76
Mod. #1 - 42 FR 12575 - 3/4/77
(H,Hw) - See Statewide
(R) - See Gregg County
HARTLEY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HAYS COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
HEMPHILL COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HENDERSON COUNTY
(R) - See Anderson County
(H,Hw) - See Statewide
HIDALGO COUNTY
(R,B) - See Cameron County
(H,Hw) - See Statewide
HILL COUNTY
(R) - See Bosque County
(B) - See Bell County
(H,Hw) - See Statewide
HOCKLEY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide

TEXAS (Cont'd.)

HOOD COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #TX76-4043 (R)
41 FR 7011 - 2/13/76
HOPKINS COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
HOUSTON COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
Decision #TX77-4014 (B,R)
42 FR 5662 - 1/28/77
(H,Hw) - See Statewide
HUDSPETH COUNTY
(H,Hw) - See Statewide
HUNT COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
IRION COUNTY
(H,Hw) - See Statewide
JACK COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JEFF DAVIS COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
Decision #TX76-4192 (B,R)
41 FR 55289 - 12/17/76
Mod. #1 - 42 FR 7072 - 1/21/77
Mod. #2 - 42 FR 12575 - 3/4/77
Mod. #3 - 42 FR 17745 - 4/1/77
(D) - See Aransas County
(Hw) - See Statewide
JIM HOGG COUNTY
(H,Hw) - See Statewide
(B,R) - See Dimmit County
JIM WELLS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Statewide
KARNES COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
KENDALL COUNTY
(H,Hw) - See Statewide
KENEDY COUNTY
(H,Hw) - See Statewide
(D) - See Arnasas County
KENT COUNTY
(H,Hw) - See Statewide
KERR COUNTY
(H,Hw) - See Statewide
KIMBLE COUNTY
(H,Hw) - See Statewide
KING COUNTY
(H,Hw) - See Statewide
KINNEY COUNTY
(H,Hw) - See Statewide
KLEBERG COUNTY
(B) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Statewide
LAMAR COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
LAMB COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
LAMPASAS COUNTY
(H,Hw) - See Statewide
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
LAVACA COUNTY
(H,Hw) - See Statewide
LEE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County

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TEXAS (Cont'd)

LEON COUNTY
(H,Hw) - See Statewide
LIBERTY COUNTY
(H,Hw) - See Statewide
LIMESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide
LIPSCOMB COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Statewide
LLANO COUNTY
(H,Hw) - See Statewide
LOVING COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
LUBBOCK COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
Decision #TX76-4197 (B)
41 FR 56602 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
Mod. #2 - 42 FR 8940 - 2/11/77
Mod. #3 - 42 FR 12575 - 3/4/77
LYNN COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
McCULLOCH COUNTY
(H,Hw) - See Statewide
McLENNAN COUNTY
(R) - See Bosque County
(B) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Statewide
MATAGORDA COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MENARD COUNTY
(H,Hw) - See Statewide
MIDLAND COUNTY
(B) - See Ector County
(H,Hw) - See Statewide
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Statewide
MILLS COUNTY
(H,Hw) - See Statewide
MITCHELL COUNTY
(H,Hw) - See Statewide
MONTAGUE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
MORRIS COUNTY
(H,Hw) - See Statewide
MOTLEY COUNTY
(H,Hw) - See Statewide
NACOGDOCHES COUNTY
(H,Hw) - See Statewide
NAVARRO COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide

TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Statewide
NOLAN COUNTY
(H,Hw) - See Statewide
NUECES COUNTY
(B) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
OLDHAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Statewide
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Statewide
PARKER COUNTY
(H,Hw) - See Statewide
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Statewide
PECOS COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Statewide
RAINS COUNTY
(H,Hw) - See Statewide
RANDALL COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Statewide
REAL COUNTY
(H,Hw) - See Statewide
RED RIVER COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
REFUGIO COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Statewide
ROCKWALL COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
RUNNELS COUNTY
(H,Hw) - See Statewide
RUSK COUNTY
(R) - See Gregg County
(H,Hw) - See Statewide
SABINE COUNTY
(H,Hw) - See Statewide
SAN AUGUSTINE COUNTY
(H,Hw) - See Statewide
SAN JACINTO COUNTY
(H,Hw) - See Statewide
SAN PATRICIO COUNTY
(R) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
SAN SABA COUNTY
(H,Hw) - See Statewide
SCHLEICHER COUNTY
(H,Hw) - See Statewide
SCURRY COUNTY
(H,Hw) - See Statewide
SHACKELFORD COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SHERMAN COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
SMITH COUNTY
Decision #TX77-4015 (R)
42 FR 5664 - 1/28/77
Decision #TX77-4057 (B)
42 FR 12673 - 3/4/77
(H,Hw) - See Statewide
SOMERVELL COUNTY
(H,Hw) - See Statewide
STARR COUNTY
(H,Hw) - See Statewide
(B)(R) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

STERLING COUNTY
(H,Hw) - See Statewide
STONEWALL COUNTY
(H,Hw) - See Statewide
SUTTON COUNTY
(H,Hw) - See Statewide
SWISHER COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #TX77-4029 (B)
42 FR 10271 - 2/18/77
TAYLOR COUNTY
Decision #TX76-4171 (B)
41 FR 44664 - 10/8/76
Mod. #1 - 41 FR 56555 - 12/20/76
Mod. #2 - 42 FR 4071 - 1/21/77
(H,Hw) - See Statewide
TERRELL COUNTY
(H,Hw) - See Statewide
TERRY COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Statewide
TITUS COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
TOM GREEN COUNTY
Decision #TX76-4049 (B)
41 FR 7921 - 2/20/76
Mod. #1 - 41 FR 12854 - 3/26/76
Mod. #2 - 41 FR 30503 - 7/23/76
Mod. #3 - 41 FR 42058 - 9/24/76
Mod. #4 - 42 FR 4070 - 1/21/77
(H,Hw) - See Statewide
TRAVIS COUNTY
Decision #TX77-4006 (B)
42 FR 4105 - 1/21/77
Mod. #1 - 42 FR 16354 - 3/25/77
(R) - See Bastrop County
(H,Hw) - See Statewide
TRINITY COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide
UPSHUR COUNTY
(R) - See Gregg County
(H,Hw) - See Statewide
UPTON COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
UVALDE COUNTY
(H,Hw) - See Statewide
VAL VERDE COUNTY
(H,Hw) - See Statewide
VAN ZANDT COUNTY
(R) - See Smith County
(H,Hw) - See Statewide

TEXAS (Cont'd.)

VICTORIA COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
WALKER COUNTY
(H,Hw) - See Statewide
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Statewide
WARD COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Statewide
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
WHARTON COUNTY
(H,Hw) - See Statewide
WHEELER COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
WICHITA COUNTY
Decision #TX77-4016 (R)
42 FR 5666 - 1/28/77
Decision #TX77-4007 (B)
42 FR 4107 - 1/21/77
Mod. #1 - 42 FR 11190 - 2/25/77
(H,Hw) - See Statewide
WILBARGER COUNTY
(H,Hw) - See Statewide
WILLACY COUNTY
(R)(B) - See Cameron County
(H,Hw) - See Statewide
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Statewide
WINKLER COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
WOOD COUNTY
(R) - See Smith County
(H,Hw) - See Statewide
YOAKUM COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
YOUNG COUNTY
(H,Hw) - See Statewide
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide

UTAH

STATEWIDE
Decision #UT77-5006 (B,H,Hw)
42 FR 5668 - 1/28/77
Mod. #1 - 42 FR 10220 - 2/18/77
Mod. #2 - 42 FR 17746 - 4/1/77
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #VT76-2170 (Hw)
41 FR 54146 - 12/10/76
Mod. #1 - 42 FR 3140 - 1/14/77
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGIN ISLANDS

ISLAND WIDE
Decision #VI76-3166 (B)
41 FR 19003 - 5/7/76
Decision #VI76-3167 (H,Hw)
41 FR 19003 - 5/7/76

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VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #4 - 41 FR 50122 - 11/12/76
Mod. #5 - 42 FR 4073 - 1/21/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
ALBERMARLE COUNTY
Decision #VA76-3244 (Hw)
41 FR 38784 - 9/10/76
Decision #VA75-3094 ((B)
40 FR 43415 - 9/19/75
Mod. #1 - 40 FR 48847 - 10/17/75
Mod. #2 - 41 FR 11735 - 3/19/76
ALEXANDRIA CITY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
ALLEGHANY COUNTY
Decision #VA76-3245 (Hw)
41 FR 38748 - 9/10/76
Mod. #1 - 41 FR 40374 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 41 FR 50122 - 11/12/76

VIRGINIA (Cont'd.)

BOTETOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Alleghany County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
Mod. #1 - 41 FR 11735 - 3/19/76
Mod. #2 - 41 FR 50123 - 11/12/76
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(B,Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #VA76-3214 (B)
41 FR 32189 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50122 - 11/12/76
Mod. #4 - 42 FR 7038 - 2/4/77
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
Mod. #1 - 40 FR 44446 - 9/26/75
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albermarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albermarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albermarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B,H,W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albermarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44680 - 10/8/76
(B,H,W&S) - See York county
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Allegheny County
HENRICO COUNTY
Decision #VA76-3213 (B)
41 FR 32187 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50123 - 11/12/76
Mod. #4 - 42 FR 7038 - 2/4/77
(Hw) - See Amelia County

VIRGINIA (Cont'd.)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUDOUN COUNTY
(Hw) - (See Albermarle County
LOUISA COUNTY
(Hw) - See AlbermarleeCounty
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(B) - See Campbell County
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Albermarle County
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albermarle County

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(D) - See Accomack County
(B,Hw) - See Chesapeake City
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY (Radford Army Ammunition Plant)
Decision #VA76-3220 (B)
41 FR 33186 - 8/6/76
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
(Hw) - See Albermarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd.)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA76-3215 (B,H,W&S)
41 FR 32191 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50124 - 11/12/76
Mod. #4 - 42 FR 7039 - 2/4/77
Mod. #5 - 42 FR 16354 - 3/25/77
(D,Hw) - See Accomack County

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WASHINGTON

STATEWIDE
Decision #WA77-5032 (B,H,Hw,D)
42 FR 17789 - 4/1/77
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIN COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA76-5119 (R)
41 FR 54148 - 12/10/76
Mod. #1 - 42 FR 13721 - 3/11/77
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R)- See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND OREILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #WA77-5008 (R)
42 FR 4109 - 1/21/77
(B,H,Hw,D) - See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #DC77-3040 (B,Hw, W&S)
42 FR 15293 - 3/18/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #DC76-3171 (R)
41 FR 21027 - 5/21/76

WEST VIRGINIA

STATEWIDE
Decision #WV77-3024 (H,Hw)
42 FR 10272 - 2/18/77
Mod. #1 - 42 FR 13721 - 3/11/77
Mod. #2 - 42 FR 15259 - 3/18/77
Mod. #3 - 42 FR 17750 - 4/1/77
BARBOUR COUNTY
Decision #WV77-3027 (B)
42 FR 10281 - 2/18/77
Mod. #1 - 42 FR 13721 - 3/11/77
Mod. #2 - 42 FR 15259 - 3/18/77
Mod. #3 - 42 FR 17751 - 4/1/77
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BROOKE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CABELL COUNTY
(B) - See Barbour County
Decision #IL77-5035 (D)
42 FR 13757 - 3/11/77
(H,Hw) - See Statewide
CALHOUN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CLAY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(B) - See Barbour County
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FAYETTE COUNTY
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GILMER COUNTY
(B) - See Barbour County
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GRANT COUNTY
(B) - See Barbour County
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GREENBRIER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARRISON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
Decision #AR-2058 (R)
39 FR 35948 - 10/4/74
Mod. #1 - 39 FR 44913 - 12/27/74
(H,Hw) - See Statewide
LEWIS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LINCOLN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LOGAN COUNTY
(B) - See Barbour County
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MC DOWELL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARION COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARSHALL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MASON COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINERAL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINGO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MONOGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

MONROE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
POCAHONTAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(B) - See Barbour County
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RANDOLPH COUNTY
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RITCHIE COUNTY
(H,Hw) - See Statewide
(B) - See Barbour County
ROANE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
SUMMERS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TAYLOR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TUCKER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TYLER COUNTY
(D) - See Cabell County
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.

UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WETZELL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI76-2119 (Hw)
41 FR 44681 - 10/8/76
Decision #WI76-2045 (H, Sewer, Tunnel, & Water)
41 FR 16425 - 4/16/76
Mod. #1 - 41 FR 52188 - 11/26/76
Mod. #2 - 41 FR 53237 - 12/3/76
Mod. #3 - 42 FR 7039 - 2/4/77
ADAMS COUNTY
(H,Hw, W&S) - See Statewide
ASHLAND COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw, W&S) - See Statewide
Decision #WI76-2157 (B,R)
41 FR 55292 - 12/17/76
BARRON COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
BAYFIELD COUNTY
(B,R,D) - See Ashland County
(H,Hw, W&S) - See Statewide
BROWN COUNTY
Decision #WI76-2160 (B)
41 FR 55297 - 12/17/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
BUFFALO COUNTY
(H,Hw, W&S) - See Statewide
BURNETT COUNTY
(H,Hw, W&S) - See Statewide
CALUMET COUNTY
(H,Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw, W&S) - See Statewide
(B,R) - See Eau Clair County
CLARK COUNTY
(H,Hw) - See Statewide
COLUMBIA COUNTY
(H,Hw, W&S) - See Statewide
CRAWFORD COUNTY
(H,Hw, W&S) - See Statewide
DANE COUNTY
(H,Hw, W&S) - See Statewide
Decision #WI76-2161 (B,R)
41 FR 55299 - 12/17/76
DODGE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Con't.d)

DOOR COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
DOUGLAS COUNTY
(B,D,R) - See Ashland County
DUNN COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
EAU CLAIR COUNTY
Decision #WI76-2162 (B,R)
41 FR 54150 - 12/10/76
(H,Hw, W&S) - See Statewide
FLORENCE COUNTY
(H,Hw, W&S) - See Statewide
FOND DU LAC COUNTY
(H,Hw, W&S) - See Statewide
FOREST COUNTY
(H,Hw, W&S) - See Statewide
GRANT COUNTY
(H,Hw, W&S) - See Statewide
GREEN COUNTY
(B) - See Rock County
(H,Hw, W&S) - See Statewide
GREEN LAKE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
IOWA COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
IRON COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
JACKSON COUNTY
(H,Hw, W&S) - See Statewide
JEFFERSON COUNTY
(H,Hw, W&S) - See Statewide
JUNEAU COUNTY
(H,Hw, W&S) - See Statewide
Decision #WI76-2165 (B)
41 FR 53261 - 12/3/76
KENOSHA COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
Decision #WI76-2167 (B,R)
41 FR 55301 - 12/17/76
KEWAUNEE COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
LA CROSSE COUNTY
Decision #WI76-2155 (B,R)
41 FR 52280 - 11/26/76
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.)

LA FAYETTE COUNTY
(H,Hw, W&S) - See Statewide
LANGLADE COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
LINCOLN COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
MANITOWOC COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MARATHON COUNTY
Decision #WI76-2168 (B)
41 FR 55303 - 12/17/76
(H,Hw, W&S) - See Statewide
MARINETTE COUNTY
(D) - See Ashland County
MARQUETTE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
MENOMINEE COUNTY
(H,Hw, W&S) - See Statewide
MILWAUKEE COUNTY
Decision #WI76-2116 (B,R)
41 FR 42155 - 9/24/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MONROE COUNTY
(H,Hw, W&S) - See Statewide
OCONTO COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
ONEIDA COUNTY
(H,Hw, W&S) - See Statewide
OUTAGAMIE COUNTY
(H,Hw, W&S) - See Statewide
OZAUKEE COUNTY
(B,R) - See Milwaukee County
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
PEPIN COUNTY
(B,R) - See Eau Clair County
(H,Hw, W&S) - See Statewide
PIERCE COUNTY
(H,Hw, W&S) - See Statewide
POLK COUNTY
Decision #WI76-2168 (B)
41 FR 55303 - 12/17/76
(H,Hw, W&S) - See Statewide
PORTAGE COUNTY
(H,Hw, W&S) - See Statewide
PRICE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

RACINE COUNTY
Decision #WI76-2169 (B,R)
41 FR 56620 - 12/28/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #WI76-2163 (B)
41 FR 54152 - 12/10/76
(H,Hw, W&S) - See Statewide
RUSK COUNTY
(H,Hw, W&S) - See Statewide
SAINT CROIX COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
SAUK COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
SAWYER COUNTY
(H,Hw, W&S) - See Statewide
SHAWANO COUNTY
(H,Hw, W&S) - See Statewide
SHEBOYGAN COUNTY
(D) - See Ashland County
TAYLOR COUNTY
(H,Hw, W&S) - See Statewide
TREMPEALEAU COUNTY
(H,Hw, W&S) - See Statewide
VERNON COUNTY
(H,Hw, W&S) - See Statewide
VILAS COUNTY
(H,Hw, W&S) - See Statewide
WALWORTH COUNTY
(H,Hw, W&S) - See Statewide
WASHBURN COUNTY
(H,Hw, W&S) - See Statewide
WASHINGTON COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUKESHA COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUPACA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WASHARA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) -See Statewide
WINNEBAGO COUNTY
Decision #WI76-2164 (B)
41 FR 54154 - 12/10/76
(H,Hw, W&S) - See Statewide
WOOD COUNTY
(H,Hw, W&S) - See Statewide

WYOMING

STATEWIDE
Decision #WY76-5029 (Hw)
41 FR 14307 - 4/2/76
ALBANY COUNTY
(Hw) - See Statewide
BIG HORN COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CARBON COUNTY
(Hw) - See Statewide
CONVERSE COUNTY
Decision #WY76-5070 (B,H)
41 FR 33187 - 8/6/76
Mod. #1 - 41 FR 53238 - 12/3/76
Mod. #2 - 42 FR 10222 - 2/10/77
Mod. #3 - 42 FR 13722 - 3/11/77
(Hw) - See Statewide
CROOK COUNTY
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GOSHEN COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
HOT SPRINGS COUNTY
(Hw) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
LARIMIE COUNTY
(B,H) - See Converse County
LINCOLN COUNTY
(Hw) - See Statewide
NATRONA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
NIOBRARA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
PARK COUNTY
(Hw) - See Statewide
PLATTE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SUBLETTE COUNTY
(H(Hw) - See Statewide
SWEETWATER COUNTY
(Hw) - See Statewide
TETON COUNTY
(Hw) - See Statewide
UINTA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide

WYOMING (Cont'd.)

WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK
(Hw) - See Statewide

[FR Doc.77-12784 Filed 5-5-77;8:45 am]

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Advance Orders are now being Accepted for delivery in about 6 weeks

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(Revised as of January 1, 1977)

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V42 8 8 MAY 6 77 UMI

Vol.42—No.89
5-9-77
PAGES
23499–23596

federal register

MONDAY, MAY 9, 1977

highlights

SUNSHINE ACT MEETINGS..... 23579

SUGAR IMPORTS
Presidential memorandum..... 23499

MEAT GRADING
USDA/AMS proposes that applicants may be required to provide metal cabinets or lockers for storage of equipment for Federal meat graders assigned to their plants; comments by 5–30–77..... 23514

CABLE TELEVISION INDUSTRY
FCC proposes uniform financial reporting system; comments by 6–3–77..... 23519

CHEMICAL TANKER STANDARDS
DOT/CG proposes that existing tankers meet standards by 4–12–78; comments by 6–7–77..... 23518

CREDIT TRANSACTIONS
FRS proposes to reduce complexity of disclosures provided to consumers; comments by 6–15–77..... 23516

IMPORTED AVOCADOS
USDA/AMS proposes grade standards comparable to standards for Florida avocados; comments by 5–20–77.. 23514

INDUSTRIAL ENERGY CONSERVATION
FEA issues final determination of adequacy of voluntary reporting programs and specifies corporate exemptions.. 23538

MEDICAID
HEW/HCFA specifies procedures for calculating certain amounts to be denied..... 23508

PRIVACY ACT OF 1974
Justice exempts system of records; effective 4–25–77.... 23506
Justice modifies system of records..... 23558

SECTION 8 HOUSING
HUD broadens classes of persons eligible to occupy low-rent premises (2 documents); effective 5–9–77 (Part II of this issue)..... 23581, 23584

LOW INCOME HOUSING
HUD redefines definition of "family" for purposes of participation in program; effective 5–9–77 (Part II of this issue)..... 23581

CONTINUED INSIDE

V 42 89 MAY 9 77
UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Certification of pilots and flight instructors; second-in-command qualifications..... 18390; 4–7–77

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 385.....Pub. L. 95–25
To name a certain Federal building in Grand Rapids, Michigan, the "Gerald R. Ford Building". (May 4, 1977; 91 Stat. 60). Price $.35

H.R. 4877.....Pub. L. 95–26
"Supplemental Appropriations Act, 1977" (May 4, 1977; 91 Stat. 61). Price $.70

S.J. Res. 44.....Pub. L. 95–27
To authorize the printing and binding of an edition of Senate Procedure and providing the same shall be subject to copyright by the author. (May 4, 1977; 91 Stat. 115) Price $.35

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
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Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

PRIVATE FOUNDATION GRANTS
Treasury/IRS proposes regulation related to failure to obtain advance approval of grant making procedures; comments by 6–23–77 23517

RECORDS AND DOCUMENTS
DOT/CG revises fees and charges for duplication, copying, etc., to conform to Department regulations; effective 6–7–77 23506

STRIPPER WELL PROPERTY EXEMPTION
FEA rules on applicability to properties that produce both crude oil and condensate recovered in non-associated production 23501

RAIL SYSTEMS
ICC publishes system diagram maps for various railroad companies (4 documents) (Part III of this issue) 23588, 23590, 23592, 23594

GONDOLA CARS
ICC establishes incentive per diem charges on year round basis; effective 7–1–77 23511

TANK VESSELS
DOT/CG proposes a requirement for carriage and use of manual of cargo transfer procedures; comments by 6–20–77 23517

MEETINGS—
USDA/FS: Cascade Head Scenic-Research Area Advisory Council; 5–31–77 23533
Commerce/DIBA: Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; 5–24–77 23574
NOAA: Marine Fisheries Advisory Committee, 5–25 and 5–26–77 23575
DOD: Board of Visitors of National Defense University; 6–1 thru 6–2–77 23533
Defense Science Board Task Force on Counter-Communications, Command and Control; 5–24 thru 5–25–77 23533
AF: Scientific Advisory Board; 6–1–77 23533
Navy: Chief of Naval Operations Executive Panel Advisory Committee, Technology Subpanel; 5–24 thru 5–25–77 23533
FPC: Gas Policy Advisory Council; Supply-Technical Advisory Task Force; 6–2–77 23543
HEW/OE: National Advisory Council on Equality of Educational Opportunity, 6–3 and 6–4–77 23548
Justice/Prisons Bureau: National Institute of Corrections Advisory Board; 6–5 thru 6–6–77 23557
NSF: Human Geography and Regional Science Advisory Panel; 5–26 thru 5–27–77 23563
Linguistics Advisory Panel; 5–26 thru 5–27–77 23564
Systematic Biology Advisory Panel; 5–26 thru 5–27–77 23564
NRC: ACRS Subcommittee on Fluid Hydraulic Dynamic Effects; 5–25 and 5–26–77 23566
DOT/CG: Rules of the Road Advisory Committee; 6–8 thru 6–9–77 23572
FAA: Southern Region Air Traffic Control Advisory Committee; 6–7–77 23572

CHANGED MEETINGS—
National Advisory Council on Economic Opportunity; 6–2 thru 6–3–77 23563
DOT/NHTSA: National Highway Safety Advisory Committee; 5–17 thru 5–18–77 23573

CANCELLED MEETINGS—
Commerce/NOAA: Pacific Fishery Management Council, Scientific and Statistical Committee; 5–12 thru 5–13–77 23575

HEARINGS—
President's Commission on Mental Health; 5–24 and 5–25–77 23571

SEPARATE PARTS OF THIS ISSUE
Part II, HUD 23581
Part III, ICC 23587

V 42 89 MAY 9 77
UMI

contents

THE PRESIDENT

Memorandums

Sugar, imports 23499

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Proposed Rules

Avocados; imported 23514
Meat; grading, certification, and standards:
  Metal cabinets or lockers for grading equipment storage 23514

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Federal Grain Inspection Service; Forest Service.

AIR FORCE DEPARTMENT

Notices

Meetings:
  Scientific Advisory Board, Aerospace Vehicles Panel Committee; correction 23533
  Scientific Advisory Board, Tactical Panel 23533

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
  Research Grants Panel; correction 23564

CENSUS BUREAU

Notices

Population censuses, special; results; correction 23574

COAST GUARD

Rules

Records and document copies; exceptions to fees and charges 23506

Proposed Rules

Dangerous cargoes:
  Vessels, self-propelled; chemical tanker safety standards 23518
Tank vessels:
  Cargo transfer procedures manual; operations 23517

Notices

Meetings:
  Rules of the Road Advisory Committee 23572

COMMERCE DEPARTMENT

See Census Bureau; Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration.

CUSTOMS SERVICE

Rules

Liquidation of duties; countervailing duties:
  Sugar-containing articles from Australia 23505

Notices

Countervailing duty petitions and preliminary determinations:
  Cordage, man-made fiber, from Republic of Korea 23573

DEFENSE DEPARTMENT

See also Air Force Department; Navy Department.

Notices

Meetings:
  National Defense University Board of Visitors 23533
  Science Board Task Force on Counter - Communications, Command and Control 23533

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Meetings:
  Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee 23574

DRUG ENFORCEMENT ADMINISTRATION

Notices

Registration applications, etc.; controlled substances:
  Anderson, Donald Hess, M.D. 23568
  Moody, Robert O'Neal 23558

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
  Accent Industries, Inc 23575

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL

Notices

Meetings 23563

EDUCATION OFFICE

Notices

Meeting:
  Equality of Educational Opportunity National Advisory Council 23548

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Rules

Procurement; implementation of Employee Retirement Income Security Act of 1974 23507

ENVIRONMENTAL PROTECTION AGENCY

Notices

Pesticide applicator certification and interim certification; State plans:
  Alaska 23534
Pesticide chemicals; tolerances, exemptions, etc.; petitions:
  Chevron Chemical Co 23533

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
  Detroit Diesel Allison 23504
  Enstrom 23504
  Piper (2 documents) 23502, 23503
Control zones and transition areas; correction 23505

Notices

Meetings:
  Southern Region Air Traffic Control Advisory Committee 23572

FEDERAL COMMUNICATIONS COMMISSION

Rules

Aviation services; frequency allocations and radio treaty matters:
  Frequencies for flight test purposes 23509
Cable television:
  Systems; definition and creation of classes; correction 23510
Maritime services, land and shipboard stations:
  Great Lakes communication system, operation of very high frequency automated, multistation radiocommunications system; correction 23510

Proposed Rules

Cable television:
  Financial report, annual 23519

Notices

Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies 23536
World Administrative Radio Conference, schedule of meetings 23535

FEDERAL ENERGY ADMINISTRATION

Rules

Rulings:
  Stripper well property exemption 23501

Notices

Appeals and applications for exception, etc.; cases filed with Exceptions and Appeals office:
  List of applicants, etc 23536
Industrial energy conservation; voluntary reporting programs and corporate exemptions 23538

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
  Illinois 23532
  Michigan 23532
  Ohio, et al 23532

FEDERAL MARITIME COMMISSION

Rules

Practice and procedure:
  Citation simplification 23509

Notices

Casualty and nonperformance, certificates:
  Black Sea Steamship Co 23541

FEDERAL POWER COMMISSION

Notices

Meetings:
  Gas Policy Advisory Council 23543
Natural gas companies:
  Small producer certificates, applications 23543

Hearings, etc.:
  Colorado Oil & Gas Corp 23541
  Kansas City Power & Light Co 23541
  Long Island Lighting Co 23541
  NEPOOL Executive Committee 23542
  Pennsylvania Electric Co 23542
  TransOcean Oil, Inc 23542
  Utah Power & Light Co 23542

FEDERAL RESERVE SYSTEM

Proposed Rules

Truth-in-lending:
  Credit transactions, disclosure requirements 23516

Notices

Federal Open Market Committee:
  Monetary aggregates; longer run ranges 23543
Applications, etc.:
  First Northern Bancorporation 23543
  KSB, Ltd 23544
  Manufacturers Hanover Corp 23544
  Northwest Bancorporation 23545
  Peoples Banking Corp 23546
  Seafirst Corp 23547

FISH AND WILDLIFE SERVICE

Notices

Emergency exemption endangered species:
  Wolf, eastern timber 23552
Endangered and threatened species permits; applications (6 documents) 23552–23556
Marine mammal applications, etc.:
  California Department of Fish and Game 23557

FOREST SERVICE

Notices

Meetings:
  Cascade Head Scenic-Research Area Advisory Council 23533

GENERAL SERVICES ADMINISTRATION

Rules

Procurement:
  Federal; small business concerns 23507

HEALTH CARE FINANCING ADMINISTRATION

Rules

Medical assistance programs:
  Capital expenditures, limitation on Federal participation 23508

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Health Care Financing Administration; Public Health Service.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Interstate Land Sales Registration Office.

Rules

Low-income housing:
  Families and other terms, definitions; occupancy by single persons 23582
  Income limits for admission and occupation; definitions 23584
  Housing assistance payments; eligible family, definition 23584

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau; Mining Enforcement and Safety Administration.

INTERNAL REVENUE SERVICE

Proposed Rules

Excise taxes:
  Advance approval of grant procedures for private foundations 23517

INTERSTATE COMMERCE COMMISSION

Rules

Rail carriers:
  Gondolas, incentive per diem charges 23511

Notices

Abandonment of railroad services, etc.:
  Montour Railroad Co.; system diagram map 23588
  Municipality of East Troy Railroad; system diagram map 23590
  Pittsburgh & Lake Erie Railroad Co.; system diagram map 23592
  Youngstown & Southern Railway Co.; system diagram map 23594
Hearing assignments 23576
Motor carrier:
  Transfer proceedings 23576

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
  Ohio Meadows et al 23549

JUSTICE DEPARTMENT

See also Drug Enforcement Administration; Prisons Bureau.

Rules

Privacy Act; implementation 23506

Notices

Privacy Act; systems of records 23558

LAND MANAGEMENT BUREAU

Notices

Alaska native selections; applications, etc.:
  Alaska, State of, et al 23549

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 23572

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Notices

Hearings, etc.:
  Kocher Coal Co.; accident at Porter Tunnel Mine, Tower City, Pa 23552

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Notices

Defect proceedings; petitions, etc.:
  American Motors Corp.; defect and noncompliance notification; denied 23572
Meetings:
  Highway Safety National Advisory Committee; correction 23573
Motor vehicle safety standards; exemption petitions, etc.:
  Stutz Motor Car of America, exterior protection 23573

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Meetings:
  Marine Fisheries Advisory Committee 23575
  Pacific Fishery Management Council; cancelled 23575

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
  Human Geography and Regional Science Advisory Panel 23563
  Linguistics Advisory Foundation 23564
  Systematic Biology Advisory Panel 23564

NAVY DEPARTMENT

Notices

Meetings:
  CNO Executive Panel Advisory Committee, Technology Subpanel 23533

NUCLEAR REGULATORY COMMISSION

Rules

Financial protection requirements and indemnity agreements:
  Indemnified licensees requirements; primary layer increase; correction 23501

Notices

Abnormal occurrence reports:
  Improper radioactive source handling procedures 23567
Environmental statements; availability, etc.:
  Westinghouse Nuclear Fuel Fabrication Plant 23566
Meetings:
  Reactor Safeguards Advisory Committee; Fluid/Hydraulic Dynamic Effects Subcommittee 23566
Applications, etc.:
  Consumers Power Co. (3 documents) 23564, 23568
  Florida Power & Light Co 23564
  Long Island Lighting Co 23567
  Maine Yankee Atomic Power Co 23565
  Pacific Gas & Electric Co 23565
  Philadelphia Electric Co. et al 23565
  San Diego Gas & Electric Co. (2 documents) 23569

V 42 89 MAY 9 77 UMI

CONTENTS

Washington Public Power Supply System 23571

PRESIDENT'S COMMISSION ON MENTAL HEALTH

Notices

Public concerns regarding field of mental health; public hearings 23571

PRISONS BUREAU

Notices

Meetings:

National Institute of Corrections Advisory Board 23557

PUBLIC HEALTH SERVICE

Notices

Statement of organization, functions, and authority delegations:

Program Implementation Office 23548

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

MEMORANDUMS:
May 4, 1977 23499

7 CFR

PROPOSED RULES:
53 23514
944 23514

10 CFR

140 23501
205 23501

RULINGS:
1977–6 23501

12 CFR

PROPOSED RULES:
226 23516

14 CFR

39 (4 documents) 23502–23504
71 23505

19 CFR

159 23505

24 CFR

812 23582
860 23584
880 23585
881 23585
882 23585
883 23585
886 23585

26 CFR

PROPOSED RULES:
53 23517

28 CFR

16 23506

33 CFR

1 23506

41 CFR

1–1 23507
1–14 23507
9–7 23507
9–15 23507

45 CFR

250 23508

46 CFR

502 23509

PROPOSED RULES:
35 23517
153 23518

47 CFR

2 23509
76 23510
81 23510
83 23510
87 23509

PROPOSED RULES:
76 23519

49 CFR

1036 23511

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR

Ch. I 22125

3 CFR

EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) 23129
11861 (Amended by EO 11983) 23127
11872 (Revoked by EO 11983) 23127
11971 (Amended by EO 11982) 22859
11932 22859
11983 23127
11984 23129

MEMORANDUMS:
May 4, 1977 23499

5 CFR

213 ..... 22355, 22356, 23131
550 23131

PROPOSED RULES:
733 23160

7 CFR

6 22874
52 22356
230 23155
271 22356
295 23155
701 22358
907 22874
910 ..... 22359, 23156
916 23156
917 ..... 22875, 23157
959 22125
1068 22360
1421 22126
1430 22126
1888

PROPOSED RULES:
53 23514
918 23160
944 23514

8 CFR

PROPOSED RULES:
103 22148
244 22148
299 22149

9 CFR

78 22370
94 23131
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373
390 22373
391 22373

PROPOSED RULES:
1 22374
2 22374
3 22374

10 CFR

2 ..... 22128, 22882
50 22882
140 23501
205 23501
212 ..... 22131, 22881
303 23134
305 23140
307 23142
309 23144

RULINGS:
1977–6 23501

PROPOSED RULES:
2 22168
170 22149
211 22889
212 ..... 22374, 22889

12 CFR

202 22861
220 22862
226 22360
329 22362

PROPOSED RULES:
220 22894
225 22560
226 23516
329 22378

13 CFR

309 23146
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137

14 CFR

39 ..... 22137, 22862, 22863, 23502–23504
71 ..... 22138, 23505
91 22139
97 22863
241 23146

PROPOSED RULES:
39 ..... 22172, 22896
71 ..... 22172, 22173
152 22896

15 CFR

50 22362

16 CFR

13 22876
1014 22878
1202 22656
1500 22878

PROPOSED RULES:
2 22897
1205 23052

17 CFR

231 22139
239 22139

18 CFR

1000 22146

PROPOSED RULES:
1 23160
3 23160
4 23160
5 23160
6 23160
16 23160
35 22897

19 CFR

159 ..... 23146, 23505

20 CFR

200 22865

PROPOSED RULES:
655 22378

21 CFR

172 23148
193 23148
510 23149
540 23149
561 ..... 22363, 23148

PROPOSED RULES:
361 23161

23 CFR

PROPOSED RULES:
640 22173
642 22173

24 CFR

235 22557
812 23582
860 23584
880 23585
881 23585
882 23585
883 23585
886 23585
888 22363
1914 22865–22867

PROPOSED RULES:
803 22704
888 22704
1932 22900

25 CFR

219 22141

PROPOSED RULES:
221 22902

26 CFR

301 22143

PROPOSED RULES:
53 23517

27 CFR

178 22144
181 22144

28 CFR

0 22557
16 23506
32 23252

V42N89 MAY 9 77 UMI

29 CFR

9 22364
40 22364
1910 22516

31 CFR

PROPOSED RULES:
215 22174

33 CFR

1 23506
25 22879

36 CFR

7 22557

37 CFR

PROPOSED RULES:
4 22378

38 CFR

3 22868

39 CFR

PROPOSED RULES:
111 22176

40 CFR

33 22144
52 22869
180 22364
228 22144
435 22558

PROPOSED RULES:
51 22177
52 ..... 22902, 23162
60 22506
228 23163

40 CFR—Continued

PROPOSED RULES—Continued
250 22332
435 22560

41 CFR

1-1 23507
1-14 23507
9-7 23507
9-15 23507
15-3 22145
101-25 22558
114-25 23150

43 CFR

PUBLIC LAND ORDERS:
5617 22365

45 CFR

4 22145
84 ..... 22676, 22888
250 23508
1060 23151
1067 22365
1068 22145

PROPOSED RULES:
166 22336

46 CFR

148 22145
502 23509

PROPOSED RULES:
10 22903
12 22903
35 23517
50 22296
54 22296
56 22296
58 22296
61 22296

46 CFR—Continued

PROPOSED RULES—Continued
107 22296
108 22296
109 22296
151 22903
153 23518
502 22383

47 CFR

2 23509
73 22558
74 22558
76 23510
81 ..... 22869-22872, 23510
83 ..... 22869-22872, 23510
87 23509

PROPOSED RULES:
73 ..... 22183, 22569, 23165
76 23519

49 CFR

1 22366
172 ..... 22366, 22880
175 ..... 22366, 22880
1033 ..... 22367, 22368, 22880
1036 23511
1041 22369
1320 22369
1322 22369

PROPOSED RULES:
Ch. II 22184

50 CFR

26 23151
33 22874
611 22559

PROPOSED RULES:
32 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date	Pages	Date
22125-22354	May 2	22859-23125	5
22355-22556	3	23127-23497	6
22557-22858	4	23499-23596	9

presidential documents

Title 3—The President

Memorandum of May 4, 1977

Decision on Sugar Under Section 202(b) of the Trade Act of 1974

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, May 4, 1977.

Pursuant to Section 202(b) of the Trade Act of 1974 19 U.S.C. 1330, 88 Stat. 2014, I have determined the action that I will take with respect to the report of the U.S. International Trade Commission on the results of its investigation regarding sugar, dated March 17, 1977. This investigation was undertaken at the request of the Senate Finance Committee.

I have determined that import relief for sugar is not in the national economic interest. Import relief, achieved either through quotas or tariff increases, would have an inflationary impact on the economy, raising prices to consumers without the promise of offsetting price stabilization benefits. Import relief would be of questionable benefit to the domestic sugar industry, because it would encourage increased market penetration by substitute sweeteners, particularly high-fructose corn syrup which can be produced at a lower cost than most U.S. sugar. Finally, import relief would adversely affect the export earnings of a large number of developing countries which depend on sugar exports for their economic growth and prosperity.

I firmly believe that it is important to maintain a viable domestic sugar industry in this country. I have therefore requested the Secretary of Agriculture to institute an income support program for sugar producers, effective with the 1977 crop, offering supplemental payments of up to 2 cents per pound, whenever the market price falls beneath 13.5 cents a pound. Such a program will help cover the costs of production of U.S. sugar producers, pending the negotiation of an International Sugar Agreement (ISA).

V42N89 MAY 9 77 UMI

The United States has made a strong commitment to the negotiation of an ISA, which, if successful, will provide some long-term assurance of greater stability of world sugar prices and supplies. The successful negotiation and implementation of an ISA would render unnecessary further consideration of unilateral measures by the United States.

Finally, I am asking you to continue to follow the sugar import situation closely and, in consultation with the Secretary of Agriculture, to advise me with respect to any need for consideration of further actions.

I have also concurred with the determination by the Trade Policy Staff Committee that sugar will remain eligible for duty-free treatment under the Generalized System of Preferences (GSP).

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-13367 Filed 5-6-77;10:48 am]

EDITORIAL NOTE: A White House announcement of May 4, 1977, on the President's decisions on sugar imports and income supports, and the text of the President's letters to the Speaker of the House and to the President of the Senate, dated May 4, 1977, and the accompanying report on his decisions, are printed in the Weekly Compilation of Presidential Documents (vol. 13, no. 19).

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Miscellaneous Amendments; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction of final rule.

SUMMARY: This notice corrects an earlier FEDERAL REGISTER notice published on April 18, 1977, by deleting, modifying and renumbering certain statement numbers.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Ira Dinitz, Antitrust and Indemnity Group, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-443-6961).

SUPPLEMENTARY INFORMATION: On page 20142, second column of the notice published on April 18, 1977, statement numbers 29 and 30 should be deleted and number 31 should be renumbered as 29 to read as follows:

29. Section 140.108, Appendix H, Article II, paragraph 6, is amended by changing the amount "$125,000,000" to "an amount equal to the sum of $140,000,000 and the amount available as secondary financial protection."

Also, number 32 should be renumbered as number 30.

Dated at Washington, D.C., this 5th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-13208 Filed 5-6-77;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Stripper Well Property Exemption

AGENCY: Federal Energy Administration.

ACTION: Ruling.

SUMMARY: The appended Ruling is issued by the FEA Office of General Counsel pursuant to 10 CFR 205.150 to set forth FEA's determination as to certain issues that have arisen with respect to the proper application of the stripper well lease exemption (10 CFR 205.32, from January 1, 1974 to January 31, 1976), the stripper well property rule (10 CFR 212.74, from February 1, 1976 to August 31, 1976), and the stripper well property exemption (10 CFR 212.54, from September 1, 1976 forward). A written comment on or objection to the appended Ruling may be filed at any time with the FEA Office of General Counsel pursuant to the provisions of 10 CFR 205.153.

DATES: Not applicable.

FOR FURTHER INFORMATION CONTACT:

William Carson (Office of Regulatory Programs), 2000 M Street, NW., Room 2310, Washington, D.C. 20461, 202-254-7477.

Everard A. Marseglia, Jr. (Office of General Counsel), 12th & Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

[Ruling 1977-6]

APPLICABILITY OF THE STRIPPER WELL PROPERTY EXEMPTION TO PROPERTIES THAT PRODUCE BOTH CRUDE OIL AND CONDENSATE RECOVERED IN NON-ASSOCIATED PRODUCTION

Facts: Property A consists of five wells. Three of the wells on Property A each produced crude oil and condensate during the preceding 12 months. One well on property A produced condensate in non-associated production (condensate only and no crude oil) during the preceding 12 months. One well on property A produced only natural gas with no crude oil or condensate. All wells on the property have been maintained at the maximum feasible rate of production and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

Issues: A. For purposes of the stripper well property exemption, how does the producer compute the average daily production of property A for the preceding 12 months?

B. How does the producer determine the maximum price permitted under FEA price regulations for the crude oil and condensates produced and sold from property A?

Ruling: The stripper well property exemption is contained in 10 CFR 212.54 (a) which provides,

(a) Prices charged in the first sale of crude oil (*excluding condensate recovered in non-associated production*), produced and sold from any stripper well property are exempt from the provisions of this part. (Emphasis added.)

In § 212.54(c), a "stripper well property" is defined as

A "property" whose average daily production of crude oil (*excluding condensate recovered in non-associated production*) per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972. (Emphasis added.)

"Average daily production" is defined in turn as the qualified maximum total production of crude oil (*excluding condensate recovered in non-associated production*) produced from a property, divided by a number equal to the number of days in the 12-month qualifying period times the number of *wells that produced crude oil* (excluding condensate recovered in non-associated production) from that property in that 12-month period. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout the 12-month qualifying period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production. (Emphasis added.)

Written mathematically, "average daily production" may be expressed as follows:

$$A = \frac{Q}{D \times W}$$

Where:
A = Average daily production of crude oil excluding condensate recovered in non-associated production.
Q = Qualified maximum total production of crude oil, excluding condensate recovered in non-associated production, produced from the property during the measuring 12-month period.
D = Number of days in the measuring 12-month period. (Always either 365 or 366.)
W = Number of wells that produced crude oil, excluding condensate recovered in non-associated production, from the property during the measuring 12-month period.

Accordingly, in calculating a property's average daily production to determine whether the property has qualified as a stripper well property, a producer may not include wells that did not produce crude oil during the measuring 12-month period, i.e., wells that produced only condensate in non-associated production or wells that produced only natural gas. (See FEA Ruling 1974-28, 39 FR 44414, December 24, 1974. See also 40 FR 40818, September 4, 1975.) In FEA Ruling 1977-2 (42 FR 4409, January 25, 1977) FEA addressed the distinction between "associated" and "non-associated" production for purposes of the stripper well property exemption, setting forth objective criteria to be used in determining if a particular well (regardless of its classification by any other governmental authority) produces crude oil.

V42N89 MAY 9 77 UMI

To the extent that a property was comprised during the measuring 12-month period both of wells that produced crude oil and wells that produced only natural gas or that produced only condensate in non-associated production, the first step is to determine the average daily production of only the wells that produced crude oil. That is to say, the qualified maximum total production of only the wells that produced crude oil should be divided only by a number equal to the number of wells that produced crude oil[1] times the number of days in the measuring 12-month period. Ifs uch calculation results in an average daily production of more than 10 barrels per well per day, the property has not qualified as a stripper well property, and production from the entire property is subject to the ceiling price limitations of Subpart D, without regard to whether the production is from wells that produce crude oil or wells that produce only condensate in non-associated production.

If, on the other hand, such calculation results in an average daily production of 10 barrels or less per well per day, the property has qualified as a stripper well property. However, pursuant to § 212.54 (a), prices charged only in the first sale of crude oil, excluding condensate recovered in non-associated production, produced and sold from a stripper well property are exempt from the provisions of Part 212. Therefore, prices charged in the first sale of crude oil and condensate produced only from the wells that currently produce crude oil are exempt. Condensate produced from any well on the property which does not in any month produce crude oil (i.e., condensate recovered in non-associated production), however, is subject to the ceiling price limitations of Subpart D. Therefore, condensate recovered in non-associated production from these wells must be sold pursuant to the lower tier ceiling price rule unless such volumes qualify as new crude oil.

Whether such condensate recovered in non-associated production is properly characterized as new crude oil must be determined with reference to the base production control level for the entire property. However, if crude oil produced and sold from the property is exempt as stripper well crude oil, a recalculation of the BPCL must be done to exclude volumes of crude oil and associated condensate produced and sold from the property's oil wells. If, and only if, current monthly production of non-associated condensate exceeds the property's recalculated BPCL, such condensate may be characterized as "new crude oil." Otherwise, such condensate recovered currently in non-associated production must be sold as "old crude oil" subject to the lower tier ceiling price rule.

FEA recognizes that producers have not in all instances provided sophisticated techniques for the separate measurement of associated and non-associated condensate produced from the same property. Accordingly, it may be necessary—where production of crude oil and associated condensate is commingled with production of non-associated condensate into a common facility—to estimate current or historic production volumes in order to determine which volumes should be included for purposes of the calculations discussed in this Ruling. In this regard, FEA will recognize reasonable estimates made by a producer where such estimates are based upon generally accepted production accounting methods.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APRIL 30, 1977.

[FR Doc.77-13197 Filed 5-5-77;10:35 am]

[1] In accordance with FEA Ruling 1975-12 (40 FR 40828, September 4, 1975), an adjustment to each well will have to be made to the extent that production of crude oil from the well was significantly curtailed or disrupted during the measuring 12-month period.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-100; Amdt. 39-2891]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule requires that holes be drilled in the gas cap of certain Piper Aircraft to allow venting and preclude fuel starvation in certain PA-11, PA-12, PA-14, PA-18, PA-20 and PA-22 airplanes.

EFFECTIVE DATE: May 12, 1977. Compliance is required within 10 hours in service after the effective date.

ADDRESSES: Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT:

P. Perrotta, Propulsion Section, AEA-214, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of fuel tank collapse and fuel starvation because of improper installation of the tank filler neck rubber seal. The directive requires drilling two holes which will insure positive venting even though other vent passages may be blocked.

Since the foregoing affects air safety, notice and public procedure hereon are impractical and good cause exists for making the directive effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are P. Perrotta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 12, 1977, as follows:

PROPOSED ADOPTED RULE AD

PIPER. Applies to all series PA-11, PA-12, PA-14, PA-18, PA-20, and PA-22 type aircraft

Compliance required within 10 hours in service after effective date of this AD unless already accompanied.

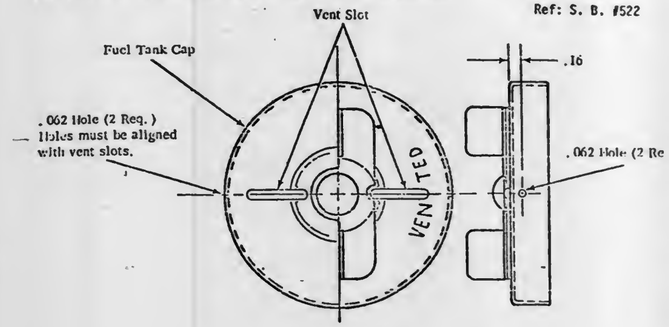
In order to prevent fuel starvation due to obstructed venting around the fuel tank filler cap, accomplished the following:

a. On those aircraft incorporating P/N 15296-02 fuel filler caps which were made available in June 1976, remove each cap from the wing tanks and alter the caps by drilling two .062" diameter holes 180° apart on the outer edge surface .16" down from the top of the cap. Holes must be aligned with vent slots as shown. Accomplish this alteration on all P/N 15296-02 filler caps or replace these caps with original vented caps and gaskets as listed in the appropriate Piper parts catalog.

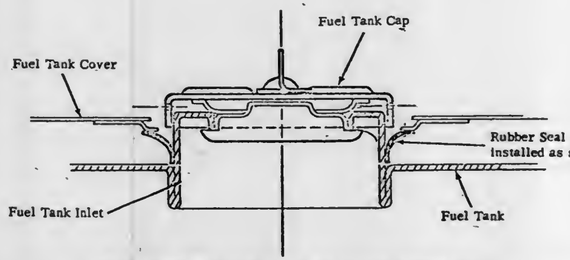
b. Inspect the rubber seal around the fuel tank inlet filler neck to determine if seal was installed inverted or is properly installed as shown. If seal is not installed correctly, remove the fuel tank cover from wing, reposition the seal as shown and reinstall fuel tank cover.

c. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Piper Service Bulletin No. 552 pertains to this subject.)



VIEW OF FUEL TANK CAP - P/N 15296-02



CROSS SECTION OF FUEL TANK INLET AND RUBBER SEAL

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 313(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on April 28, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13034 Filed 5-6-77;8:45 am]

EFFECTIVE DATE: May 12, 1977. Compliance requires the alteration within 100 hours in service.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT:

William J. White, Systems and Equipment Section, AEA-213, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, 212-995-3372.

SUPPLEMENTARY INFORMATION: There had been reports that the electric trim switch tended to hang up and fail to return to the neutral position. It has been determined that the deficiency results from switch springs which contain an excessive number of coils. These springs can become caught between a rocker actuator and the micro-switch body preventing a return to neutral. Since this is a deficiency which exists in similar type design airplanes, an airworthiness directive is being issued which will require alteration of the switch. As this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are William J. White, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

[Docket No. 77-EA-21; Amdt. 39-2892]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires a modification of the electric trim switch so as to preclude it from failing to return to a neutral position, as installed in certain PA-23, PA-24, PA-30, PA-31 and PA-39 airplanes.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 12, 1977, as follows:

PIPER AIRCRAFT CORP. Applies to models:

PA-23-250 (6 place), S/Nos. 27-3837, 27-3944 to 27-4796 inclusive.
PA-24-260, S/Nos. 24-4783, 24-4804 to 24-5047 inclusive.
PA-30, S/Nos. 30-1717, 30-1745 to 30-2000 inclusive.
PA-31 and 31-300, S/Nos. 31-2 to 31-797 inclusive.
PA-31-350, S/Nos. 31-5001 to 31-5004 inclusive.
PA-31P, S/Nos. 31P-1 to 31P-109 inclusive.
PA-39, S/Nos. 39-1 to 39-155 inclusive.

Compliance required within the next 100 hours in service after the effective date of this AD, unless already accomplished.

(a) Modify the electric trim switch in accordance with instruction paragraph of Piper Service Bulletin No. 527, dated November 5, 1976, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

V 4 2 8 9 MAY 9 7 7 UMI

(b) Upon request with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 313(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on April 28, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13035 Filed 5-6-77;8:45 am]

[Docket No. 77-GL-10; Amdt. 39-2889]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) action requires the installation of a strainer assembly on the upstream side of the bleed valve compressor discharge exit nozzle. This strainer prevents blockage of the discharge exit nozzle with particles from a delaminated bleed valve diaphragm. Blockage of the discharge exit nozzle can result in a power reduction below that necessary to sustain flight.

DATE: Effective date: May 11, 1977. Compliance date: Compliance required within the next 30 calendar days after the effective date of this AD.

ADDRESSES: Copies of Detroit Diesel Allison Commercial Engine Bulletin Number 1116/1071 may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT:

William Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500 extension 308.

SUPPLEMENTARY INFORMATION: There recently have been several instances where the compressor bleed valve on 250/C20/C20B engines failed to open when power was reduced. As a result, compressor surge occurred causing a power reduction below that necessary to sustain flight.

Investigations revealed that, in each instance, a small piece of the rubber coating of the valve diaphragm had separated from the base fabric of the diaphragm and lodged in the inner end of the bleed valve exit nozzle. With the exit nozzle plugged, the valve will remain closed under all operating conditions.

Since this condition is likely to exist or develop in other engines of this type design including the 250-B17/B17B engine, an Airworthiness Directive is being issued to install a strainer assembly on the upstream side of the exit nozzle.

The 30 day compliance time for the modification has been established by the agency on the basis of safety considerations. This compliance time provides the lead time for operators to schedule and plan compliance with the AD with a minimum burden. To prescribe the modification required by this AD under the usual notice and public procedures followed by the agency within the time the agency has determined is required in the interest of safety, would necessarily result in a reduction of the compliance time for the modification required by this AD. This could possibly leave the operators insufficient time to schedule airplanes for compliance with the AD. Therefore, accomplishment of the modification required by this AD within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective 30 days after publication in the FEDERAL REGISTER. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

DETROIT DIESEL ALLISON. Applies to 250-C20, C20B, C20C, B17, B17B engines.

Compliance required within the next 30 calendar days after the effective date of this AD, unless already accomplished.

To prevent engine power loss resulting from bleed valve diaphragm failure, accomplish the following:

Clip lockwire and remove the exit nozzle P/N 6874818 from the bleed valve cover. Using a small screwdriver, install strainer assembly P/N 6896347 in the valve cover exit port until it is fully seated. Install the exit nozzle in the bleed valve cover. Tighten to 35-45 lb. in. Caution: Do Not Exceed 45 lb. in.; Overtightening May Damage the Strainer. Approximately 2-3 threads of the exit nozzle will be visible when the strainer assembly is seated fully in the bleed valve. If more than three threads are visible this modification must not be accomplished and bleed valve must be removed for overhaul.

To clear the bleed valve cover passages of burrs and other particles, again remove the exit nozzle and strainer assembly from the valve cover. With the throttle at IDLE CUT OFF, motor the engine in excess of 10 percent rpm.

Using a small screwdriver, reinstall the strainer assembly in the valve cover exit port until it is fully seated. Reinstall the exit nozzle in the bleed valve cover. Tighten to 35-45 lb. in. Caution: Do Not Exceed 45 lb. in.; Overtightening May Damage the Strainer. Approximately 2-3 threads of the exit nozzle will be visible when the strainer is fully seated in the bleed valve. Secure the exit nozzle with lockwire. (Detroit Diesel Allison Commercial Engine Bulletins No. 1116 for the 250-C20 series and No. 1071 for the 250-B17 series engines also pertain to this subject.)

This amendment becomes effective May 11, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

The principal authors of this document are Mr. W. Ashworth, Engineering and Manufacturing Branch, and Mr. J. K. McLaughlin, Office of the Regional Counsel, Great Lakes.

Issued in Des Plaines, Ill., on April 27, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-13184 Filed 5-6-77;8:45 am]

[Docket No. 77-GL-9; Amdt. 39-2884]

PART 39—AIRWORTHINESS DIRECTIVES

Enstrom Model F28 and F28A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) amends AD 72-4-4 to remove the repetitive inspection of the stabilizer spars when the original spars consisting of a .035 inch wall thickness have been replaced with a .049 inch thick spar. Service experience has demonstrated that an increase in spar wall thickness eliminated the previous spar tube cracking problem.

DATE: Effective date: May 10, 1977. Compliance date: Initial compliance required at the next inspection accomplished in accordance with AD 72-4-4.

FOR FURTHER INFORMATION CONTACT:

Joseph Snitkoff, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 424.

SUPPLEMENTARY INFORMATION: AD 72-4-4 requires a 100 hour repetitive inspection of the horizontal stabilizer spar for cracks in the area of the drilled holes. A design change has been made to increase the spar thickness from .035 inch to .049 inch wall thickness to eliminate spar tube cracking. As a result of service experience, the FAA has determined that the increase in spar wall thickness has eliminated the cracking. Therefore, the AD is being amended to provide for relief from the 100 hour repetitive inspection requirements after the .049 inch wall thickness spar has been installed.

Since the amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and this amendment may be made effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

Accordingly, and pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-1395 (37 F.R. 137), AD 72-4-4 is amended by adding the following new paragraphs:

(D) If no cracks are found, measure the wall thickness of horizontal stabilizer spar tube using a tube micrometer. Determine if the spar tube thickness measures .035±.005 inch or .049±.005.

(E) A log book entry shall be made as to the wall thickness of the spar tube.

(F) Spars that measure .049 inch ±.005 inch wall thickness do not require the 100 hour interval repetitive inspection specified by this AD.

(G) The 100 hour repetitive inspection specified in this AD is not required when the spars that measure .035 inch ±.005 inch are replaced with .049 inch ±.005 inch spars of the same part number.

NOTE.—Upon replacement of a horizontal stabilizer spar tube comply with paragraphs D and E.

This amendment becomes effective May 10, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

The principal authors of this document are Mr. Joseph Snitkoff, Flight Standards Division, and Mr. Joseph T. Brennan, Office of the Regional Counsel, Great Lakes Region.

Issued in Des Plaines, Ill., on April 25, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-13158 Filed 5-6-77;8:45 am]

[Airspace Docket No. 77-RM-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Establishment of Transition Area

Correction

In FR Doc. 77-9855, appearing on page 17868 of the issue for Monday, April 4, 1977, the descriptions of the Greenwood Village, Colorado control zone and transition area were omitted, and should read as follows:

In § 71.171 (42 FR 355) amend the description of the Greenwood Village, Colorado, control zone as follows:

That airspace within a 5 mile radius of the Arapahoe County Airport (latitude 39°34'28" N., longitude 104°51'02" W.) and within 2.07 miles each side of the Arapahoe ILS localizer south course extending from the 5 mile radius zone to 6.5 miles south of the airport, excluding that airspace within the Denver, Colorado, control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airmen's Information Manual.

In § 71.181 (42 FR 440) add the following transition area for Greenwood Village, Colorado:

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 4.5 miles west of the Arapahoe ILS south localizer course runway 34R, extending from the Castle LOM (latitude 39°27'08" N., longitude 104°50'43" W.) to 18.5 miles south of the LOM, excluding that portion which overlies the Denver, Colorado, transition area.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T. D. 77-127]

PART 159—LIQUIDATION OF DUTIES

Sugar Content of Certain Articles From Australia

AGENCY: United States Customs Service, Treasury.

ACTION: New amounts of countervailing duty determined.

SUMMARY: This notice is to inform the public of the amounts of countervailing duty which will be assessed on the sugar content of certain articles exported from Australia during the period July 1976 through December 1976. Section 159.47 (f) of the Customs Regulations is being amended to include this notice.

EFFECTIVE DATE: This notice will be effective May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Nyschot, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. (202-566-5492).

SUPPLEMENTARY INFORMATION: The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), on the exportation during the period July 1976 through December 1976, of approved fruit products and other approved products manufactured or produced in Australia are the amounts shown in the following table. The amounts shown are in Australian dollars, per 1,000 kilograms of sugar content.

Month	Approved fruit products	Other approved products
July 1976	Nil.	Nil.
August 1976	Nil.	Nil.
September 1976	Nil.	Nil.
October 1976	Nil.	Nil.
November 1976	Nil.	Aus. $7.50.
December 1976	Nil.	Nil.

The net amounts of bounties or grants on the above-described merchandise are hereby ascertained, determined, or estimated to be the rates stated in the above table. Additional duties on the above-described merchandise, whether imported directly or indirectly from that country, equal to the net amounts of the bounty shown above shall be assessed and collected pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)), under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 75-54, and (2) by adding a reference to this Treasury Decision. As amended, the last four lines of the table under this commodity will read:

Country	Commodity	Treasury decision	Action
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		76-167	New rate.
		76-214	Do.
		77-127	Do.

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

VERNON D. ACREE,
Commissioner of Customs.

Approved:

JOHN H. HARPER,
Acting Assistant Secretary of the Treasury.

APRIL 27, 1977.

[FR Doc.77-13002 Filed 5-6-77;8:45 am]

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Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 716-77]

PART 16—PRODUCTION OR DISCLOSURE OF INFORMATION

Exemption of Systems of Records Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This regulation exempts a system of records maintained by the U.S. Attorneys Offices, the Pre-Trial Diversion Program Files, published as JUSTICE/USA—015, from certain provisions of the Privacy Act. This new system of records contains information on individuals who are diverted from criminal justice process. The system of records can be exempted because the information in it relates to law enforcement activity.

EFFECTIVE DATE: April 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202-739-5361).

SUPPLEMENTARY INFORMATION: On January 27, 1977, the Department of Justice published in the FEDERAL REGISTER a proposed regulation exempting this system of records from certain provisions of the Privacy Act (42 FR 5104-5105). No comments were received on the proposed regulation.

By virtue of the authority vested in me by 5 U.S.C. 552a (j) and (k), the proposed amendment to § 16.81 of Subpart E of Part 16 of Title 28, Code of Federal Regulations, published in the FEDERAL REGISTER on January 27, 1977 (42 FR 5104-5105) is adopted without change as set forth below.

Dated: April 25, 1977.

GRIFFIN B. BELL,
Attorney General.

§ 16.81 Exemption of U.S. Attorneys Systems—Limited access, as indicated.

(a) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h):

* * * * *

(9) Pre-Trial Diversion Program Files (JUSTICE/USA-015)

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k).

(b) Exemption from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting uses published for these systems would permit the subject of a criminal investigation and/or civil case or matter under investigation, litigation, regulatory or administrative review or action, to obtain valuable information concerning the nature of that investigation, case or matter and present a serious impediment to law enforcement or civil legal activities.

(2) From subsection (c)(4) since an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in these systems would inform the subject of criminal investigation and/or civil investigation, matter or case of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, apprehension or legal obligations, and present a serious impediment to law enforcement and other civil remedies.

(4) From subsection (e)(1) because in the course of criminal investigations and/or civil investigations, cases or matters, the United States Attorneys often obtain information concerning the violation of laws or civil obligations other than those relating to an active case or matter. In the interests of effective law enforcement and civil litigation, it is necessary that the United States Attorneys retain this information since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought within the United States Attorneys' offices.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection, apprehension or legal obligations and duties.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4) (G) and (H) because these systems of records are exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the United States Attorneys' ability to issue subpoenas and could reveal investigative techniques and procedures.

(10 From subsection (f) because these systems of records have been exempted from the access provisions of subsection (d).

(11) From subsections (g) and (h) compiled for law enforcement purposes because these systems of records are and have been exempted from the access provisions of subsections (d) and (f).

[FR Doc.77-13142 Filed 5-6-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-124]

PART 1—GENERAL PROVISIONS

Fees and Charges for Certain Records and for Duplicate Documents, Certificates, or Licenses

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations for the performance of service free of charge for making copies or excerpts of records, and for issuing certain duplicate documents, certificates, or licenses. Existing Coast Guard regulations duplicate or are in conflict with Department of Transportation regulations. This regulation eliminates the conflicts and this will eliminate confusion.

EFFECTIVE DATE: This regulation shall become effective on June 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: On September 2, 1976, there was published in the FEDERAL REGISTER (41 FR 37118) a notice of proposed rulemaking concerning this amendment. Interested parties were given the opportunity to submit, not later than October 18, 1976, comments, suggestions or objections regarding the proposed regulations. No comments have been received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Anthony Regalbuto, Project Manager, and Mr. Michael Mervin, Project Attorney.

The proposed regulations are hereby adopted without change as set forth below.

NOTE: The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: April 25, 1977.

O. W. SILER,
Admiral, United States Coast Guard Commandant.

In consideration of the foregoing, Part 1 of Title 33 of the Code of Federal Regulations is amended by revising § 1.25-30(b) to read as follows:

§ 1.25-30 Exceptions.

* * * * *

(b) * * *

(1) A person who donated the original document.

(2) A person who has an official, voluntary or cooperative relationship to the Coast Guard in rendering services promoting safety of life and property.

(3) Any agency, corporation or branch of the Federal Government.

(4) A person found guilty by an administrative law judge receives one copy of the transcript of the hearing if he—

(i) Files a notice of appeal, under 46 CFR 5.30-1; and

(ii) Requests a copy of the transcript.

(5) A person who has been required to furnish personal documents retained by the Coast Guard.

(6) For other exceptions see 49 CFR 7.97.

(5 U.S.C. 552, 14 U.S.C. 632, 633, 31 U.S.C. 483a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

[FR Doc.77-13150 Filed 5-6-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR amdt. 177]

PART 1-1—GENERAL

PART 1-14—INSPECTION AND ACCEPTANCE

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations (FPR) requires the contracting officers of agencies to notify the appropriate regional office of the Small Business Administration (SBA) when it is determined that a small business concern is not responsible for reasons other than deficiencies in capacity or credit. The change involved is based on a decision (B-187168, January 12, 1977) of the Comptroller General.

Prior to this amendment, the FPR permitted the notification to be forwarded either to the regional office of the SBA or to the SBA representative assigned to the Government agency which is concerned with the procurement action.

The Comptroller General's decision involved a case where the required notice was forwarded by the contracting officer to the SBA representative at the agency. In this case, the SBA representative took no action. The regional office of SBA which had jurisdiction over the matter did not become aware of the case until nearly 1 month later and objected to its representative's nonaction. GAO's response to a protest by one of the unsuccessful bidders was that there was no action which it could take. However, the referenced GAO decision recommended that the FPR be amended.

In connection with the development of this amendment, the matter of the notification was discussed with SBA officials. These officials requested that only one notification be forwarded to SBA and that the notification go to the appropriate SBA regional office. This amendment reflects that request. In addition, the amendment provides that a copy of the contracting agency's notification be forwarded to an appropriate official concerned with small business affairs inside the agency in accordance with the agency's procedures.

The amendment prescribes the change in paragraph (a)(5)(i) of § 1-1.708-2 of the FPR. The amendment also includes an address change in § 1-14.103-3(c).

EFFECTIVE DATE: June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

Subpart 1-1.7—Small Business Concerns

Section 1-1.708-2 is amended to revise paragraph (a)(5)(i) as follows:

§ 1-1.708-2 Applicability and procedure.

(a) * * *

(5) * * *

(i) Prior to submission of the contracting officer's determination of nonresponsibility to the head of the procuring activity or his designee for approval, the contracting officer shall transmit a copy of the documentation supporting the determination that a small business concern is not responsible, for reasons other than capacity or credit, to the appropriate SBA Regional Office and to the appropriate agency official concerned with small business affairs in accordance with agency procedures.

* * * * *

Subpart 1-14.1—Inspection

Section 1-14.103-3 is amended to revise paragraph (c) as follows:

§ 1-14.103-3 Inspection services available from Federal agencies.

* * * * *

(c) *Directory of U.S. Government Inspection Services and Testing Laboratories.* The "Directory of U.S. Government Inspection Services and Testing Laboratories," issued by the General Services Administration, contains pertinent information concerning the major inspection offices and testing laboratories of the Federal Government. It should be used by all Federal agencies when requiring inspection services. The Directory will be helpful in determining the facility best equipped, staffed, and geographically located to perform the desired services most economically. Copies of the Directory are available to Federal agencies upon request to the General Services Administration (FMQP), Washington, D.C. 20406. Copies of the Directory may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

Dated: April 20, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-12949 Filed 5-6-77;8:45 am]

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-PR Temp. Reg. No. 30]

PART 9-7—CONTRACT CLAUSES

PART 9-15—CONTRACT COST PRINCIPLES AND PROCEDURES

AGENCY: Energy Research and Development Administration.

ACTION: Temporary Regulation No. 30.

SUMMARY: To implement certain provisions of the Employee Retirement Income Security Act of 1974, parts of the ERDA Procurement Regulations need to be changed. This temporary regulation makes the necessary changes to the cost principles and it applies to those contracts and subcontracts subject to the provisions of the cited regulations.

DATES: Effective date: This regulation becomes effective on May 9, 1977.

ADDRESSES: H. B. Goodwin, Office of the Controller, Rm. D-420, USERDA, Washington, D.C. 20545 (301-353-3147).

FOR FURTHER INFORMATION CONTACT:

H. B. Goodwin (301-353-3147).

SUPPLEMENTARY INFORMATION: Expiration date: This regulation will remain in effect until canceled or until its provisions are incorporated into a permanent ERDA procurement regulation.

(a) Amend Subpart 9-7.50, by renumbering § 9-7.5006-9(d) (14), (15), (16), and (17) to § 9-7.5006-9(d) (15), (16), (17), and (18); adding paragraphs (d)(14) and (e)(29) and revising (d)(13) and (e)(24) in § 9-7.5006-9; adding paragraphs (d)(19) and (e)(26) and revising paragraph (e)(23) in § 9-7.5006-10; renumbering § 9-7.5006-12(e)(24), (25) and (26) to § 9-7.5006-12(e)(25), (26) and (27); and, adding paragraph (d)(21), (e)(24) and revising (e)(21) and (e)(23) in § 9-7.5006-12 as follows:

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Subpart 9–7.50—Use of Standard Clauses

* * * * *

§ 9–7.5006–9 Allowable costs and fixed fee (CPFF operating and construction contracts).

(d) * * *

(13) Utility services, including electricity, gas, water, steam, and sewerage.

(14) Indemnification of the Pension Benefit Guaranty Corporation pursuant to the Employee Retirement Income Security Act of 1974, in accordance with § 9–15.205–6.

The following additional example of items is for use in contracts for the operation of ERDA-owned facilities. Additional items for construction contracts are included under subparagraphs (16), (17) and (18) of this paragraph.

* * * * *

(e) * * *

(24) Taxes, fees, and charges in connection with financing, refinancing, or refunding operations, including the listing of securities on exchanges, taxes which are paid contrary to the clause entitled "State and local taxes," taxes on net income and excess profits, special assessments on land which represent capital improvement, and taxes on accumulated funding deficiencies of, or prohibited transactions involving, employee deferred compensation plans pursuant to Section 4971 or Section 4975 of the Internal Revenue Code of 1954, as amended, respectively.

* * * * *

(29) Late premium payment charges related to employee deferred compensation plan insurance, in accordance with § 9–15.205–16.

§ 9–7.5006–10 Allowable costs and fixed fee (supply contracts and research and development contracts with concerns other than educational institutions).

* * * * *

(d) * * *

(19) Indemnification of the Pension Benefit Guaranty Corporation pursuant to the Employee Retirement Income Security Act of 1974, in accordance with § 9–15.205–6, notwithstanding the provisions of § 9–7.5006–10(e)(15)(i).

* * * * *

(e) * * *

(23) Taxes, fees, and charges in connection with financing, refinancing or refunding operations, including the listing of securities on exchanges; taxes which are paid contrary to the clause entitled "State and local taxes"; Federal taxes on net income and excess profits; special assessments on land which represent capital improvement and taxes on accumulated funding deficiencies of, or prohibited transactions involving, employee deferred compensation plans pursuant to section 4971 or section 4975 of the Internal Revenue Code of 1954, as amended, respectively.

* * * * *

(26) Late premium payment charges related to employee deferred compensation plan insurance, in accordance with § 9–15.205–16.

* * * * *

§ 9–7.5006–12 Allowable costs and fixed fee (architect-engineer contracts).

* * * * *

(d) * * *

(21) Indemnification of the Pension Benefit Guaranty Corporation pursuant to the Employee Retirement Income Security Act of 1974, in accordance with § 9–15.205–6, notwithstanding the provisions of § 9–7.5006–12(e)(15)(i).

* * * * *

(e) * * *

(21) Taxes, fees, and charges in connection with financing, refinancing, or refunding operations, including the listing of securities on exchanges; taxes which are paid contrary to the clause entitled "State and local taxes"; Federal taxes on net income and excess profits; special assessments on land which represent capital improvement; and taxes on accumulated funding deficiencies of, or prohibited transactions involving, employee deferred compensation plans pursuant to Section 4971 or Section 4975 of the Internal Revenue Code of 1954, as amended, respectively.

* * * * *

(23) First-class air travel in excess of the cost of less than first-class air accommodations, except when less than first-class accommodations are not reasonably available to meet necessary mission requirements, such as; where less than first-class accommodations would:

(i) Require circuitous routing,

(ii) Require travel during unreasonable hours,

(iii) Greatly increase the duration of the flight,

(iv) Result in additional costs which would offset the transportation savings,

(v) Offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(24) Late premium payment charges related to employee deferred compensation plan insurance, in accordance with § 9–15.205–16.

NOTE.—The following additional examples of items of unallowable costs are to be used in on-site architect-engineer contracts:

(b) In Subpart 9–15.2, add new §§ 9–15.205–6, 9–15.205–16 and 9–15.205–41 as follows:

Subpart 9–15.2—Contracts With Commercial Organizations

* * * * *

§ 9–15.205–6 Compensation for personal services.

(a)–(e) [Reserved]

(f) Deferred compensation. (1) * * *

(2) * * * (viii) The allowability of the cost of indemnification of the Pension Benefit Guaranty Corporation (PBGC), pursuant to Section 4062 or 4064 of the Employee Retirement Income Security Act of 1974 (ERISA), because of the termination of an employee deferred compensation plan will be considered on a case-by-case basis; providing that if insurance was required by the PBGC pursuant to Section 4023 of ERISA, it was so obtained, and the indemnification payment is not recoverable thereunder. Consideration under the foregoing circumstances will be primarily for the purpose of appraising the extent to which the indemnification payment is allocable to Government work; and if a beneficial or other equitable relationship exists, the Government will participate, provisions of 1–15.205–16(a)(3) and 1–15.205–16(b) notwithstanding, in the indemnification payment to the extent of its fair share.

§ 9–15.205–16 Insurance and indemnification.

(a)–(b) [Reserved]

(c) Late premium payment charges related to employee deferred compensation plan insurance, incurred pursuant to Section 4007 or Section 4023 of the Employee Retirement Income Security Act of 1974, are unallowable.

§ 9–15.205–41 Taxes.

(a)–(c) [Reserved]

(d) The cost of taxes on accumulated funding deficiencies of, or prohibited transactions involving, employee deferred compensation plans pursuant to Section 4971 or Section 4975 of the Internal Revenue Code of 1954, as amended, respectively, is unallowable.

(Sec. 105, Energy Reorganization Act of 1974 (Pub. L. 93–438).)

Dated: April 27, 1977.

M. J. TASHJIAN,
Director of Procurement.

[FR Doc.77–13129 Filed 5–6–77;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Capital Expenditures

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: Under the Medicaid program (medical assistance), title XIX of the Social Security Act, Federal matching of State payments to health facilities will not be made for costs related to unapproved capital expenditures (section 221, Pub. L. 92–603). This rule specifies how amounts to be denied will be calculated for Medicaid facilities paid on some basis other than "cost" or "cost-related."

DATES: The rule is effective for any capital expenditure obligated after the later of: (1) December 31, 1972, or (2) the effective date of an agreement executed between a State and the Secretary under section 1122 of the Social Security Act.

FOR FURTHER INFORMATION CONTACT:

Joseph E. Dougherty, 202–245–0048.

SUPPLEMENTARY INFORMATION: This Notice makes final the interim portion of the rule published on November 5, 1976 (41 FR 48738), which implemented section 221 of the Pub. L. 92–603. Section 221 provides, in part, that where there is an agreement between a State and the Secretary, there will be no Federal financial participation (FFP) under title XIX for reimbursement related to unapproved capital expenditures. The rule published on November 5 (45 CFR 250.210, Limitation on Federal participation for capital expenditures) explained how FFP would be withheld for those expenses related to capital expenditures found inconsistent with Departmental rules on Cost Containment and Quality Control, Limitation on Federal Participation for Capital Expenditures (42 CFR Part 100 Subpart A).

Section 250.210 was published as notice of proposed rulemaking in the FEDERAL REGISTER on September 9, 1974 (39 FR 32562). Comments received were considered in the drafting of the final rule. A new portion, which was not included in the notice of proposed rulemaking was published as interim with provision for public comment. The new portion revised paragraph (b)(2) to clarify how the amount of FFP to be denied will be calculated for facilities paid on other than a reasonable cost or cost-related basis. The clarification is based upon section 1122(d)(1) of the Social Security Act, which provides, in part, for the exclusion, for facilities paid on other than a cost or cost-related basis, of an amount which would have been excluded if payment were made on a cost or cost-related basis. The comment period closed December 20, 1976. No comments were received. The portion that was published as interim is hereby made final.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Assistance Program No. 13,714 Medical Assistance Program.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: March 25, 1977.

DON WORTMAN,
Acting Administrator, Health Care Financing Administration.

Approved: April 27, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77–13144 Filed 5–6–77;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 19]

PART 502—RULES OF PRACTICE AND PROCEDURE

Simplification of Rule Designations

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules of Practice and Procedure are amended to simplify the method of citation and designation of the rules by conforming the FMC rule number to the numbers appearing to the right of the decimal point in the section numbers published in the Code of Federal Regulations. Purpose of the amendment is to eliminate dual system of citation. Effect will be to eliminate confusion and simplify citation.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. (202–523–5725).

SUPPLEMENTARY INFORMATION: The current rules provide for dual designation of each rule, once by reference to the number published in the Code of Federal Regulations and a second time by local reference to a different number usually published in brackets at the end of each rule but also found elsewhere throughout the rules and within their text. This dual system of reference is cumbersome and confusing to parties appearing before the Commission, especially those parties relying upon the Code of Federal Regulations. For example, Commission Rule 1 is also cited as 46 CFR 502.1. However, Rule 2, which is divided into two parts, namely, 2(a) and 2(b), is also cited as 46 CFR §§ 502.21 and 502.22. Rule 10, which is divided into 29 parts, designated as Rule 10(a) through 10(dd), is also referred to as 46 CFR §§ 502.141 through 502.170. In numerous instances, furthermore, the CFR designation to subsections of the rules refers to letters which do not correspond to letters employed in the Commission's local citations. For example, the last paragraph of Rule 6(d) is also referred to as 46 CFR 502.94(b).

To simplify citation of its rules, the Commission is eliminating the confusing and unnecessary reference to its local numbering and lettering system and is providing that its rules shall be designated simply by reference to the numbers following the decimal point in the rule as published in the Code of Federal Regulations. For example, Rule 1 will henceforth be cited as Rule 1; Rule 2 as Rule 21; Rule 6(d) as Rule 94; Rule 10 (dd) as Rule 170, etc.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 841a), Part 502 of Title 46, Code of Federal Regulations, is amended by deleting all local numerical references to the rules contained therein ranging from the numbers 1 through 21 and substituting therefor those numbers which follow the decimal point in the respective section numbers as published in the Code of Federal Regulations.

Because the final rule hereby adopted concerns procedural matters limited to the conduct of formal proceedings before the Commission, its adoption could in no way be considered to result in major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Consequently no environmental impact statement is being issued in this matter.

Effective date: Inasmuch as the expeditious adoption of these rules is desirable and inasmuch as they are procedural in nature, they shall be effective on May 9, 1977 and shall be applicable to all pending and future proceedings.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–13076 Filed 5–6–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS, GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Editorial Amendments Relating to Frequencies Available for Flight Test Purposes

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission is amending its regulations as a result of the expiration of a transition period during which flight test stations could continue to use three frequencies previously available for that service, which have been reassigned for other purposes.

EFFECTIVE DATE: May 13, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

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FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Aviation and Marine Division, Safety and Special Radio Services Bureau (202–632–7197).

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1977.

Released: April 29, 1977.

Order. In the matter of editorial amendment of Parts 2 and 87 of the rules relative to the frequencies available for flight test purposes.

1. In the Report and Order in Docket No. 19647 (38 FR 2907) the Commission amended the rules to provide for 25 kHz spacing in the Aeronautical Mobile (R) VHF band. As part of this rule making the usage of three frequencies, previously available for flight test purposes, was changed. However, flight test stations previously assigned these frequencies were allowed to continue to utilize the frequencies until January 1, 1977. That date has now since passed. Therefore, in order to update the rules, § 87.331(d) which contains the subject "grandfather" provision, is being deleted. In addition, footnote US32 to Section 2.106 is also being amended to reflect the change in usage of the specified frequencies in the band 123.1125–123.5875 MHz.

2. In that the amendments adopted herein are primarily editorial in nature, the prior notice and effective date provisions of 5 U.S.C. 553 are unnecessary.

3. *Accordingly, it is ordered,* That pursuant to the authority contained in § 0.231(d) of the rules, Parts 2 and 87 of the Commission's rules are amended effective May 13, 1977, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Parts 2 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. In Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, in § 2.106, footnote US32 is amended to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

FOOTNOTES

* * * * *

US32—Except for the frequencies 123.3 and 123.5 MHz which are not authorized for Government use, the band 123.1125–123.5875 MHz is available for FAA Communications incident to flight test and inspection activities pertinent to aircraft and facility certification on a secondary non-interference basis.

* * * * *

§ 87.331 [Amended]

B. In Part 87—Aviation Services, § 87.331(d) is deleted and designated [Reserved].

[FR Doc.77–13131 Filed 5–6–77;8:45 am]

[Docket No. 20561]

PART 76—CABLE TELEVISION SERVICES

Definition of a Cable Television System and the Creation of Classes of Cable Systems; Second Correction

AGENCY: Federal Communications Commission.

ACTION: Second correction.

SUMMARY: Correcting typographical errors in 1st Report and Order FCC 77–205 published at 42 FR 19329.

EFFECTIVE DATE: May 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James Hudgens, Cable Television Bureau, 202–632–6468.

SUPPLEMENTARY INFORMATION:

Released: May 4, 1977.

In the matter of amendment of Part 76 of the Commission's rules and regulations with Respect to the Definition of a Cable Television System and the Creation of Classes of Cable Systems, Docket No. 20561.[1]

In the "First Report and Order" in the above entitled matter, FCC 77–205, adopted March 9, 1977, released April 6, 1977, and published in the FEDERAL REGISTER at 42 FR 19329, April 13, 1977, on page 19347, paragraph 14 is corrected to read as follows:

14. The present text of § 76.65 is redesignated paragraph (a), and a new paragraph (b) is added to read as follows:

§ 76.65 Grandfathering provisions.

* * * * *

(b) The provisions of §§ 76.57, 76.59, 76.61 and 76.63 shall not be deemed to require the deletion of any television broadcast or translator signals which a system community unit having fewer than 50 subscribers but constituting all or part of a system having 500 or more subscribers was carrying prior to May 16, 1977, until the community unit has 50 subscribers.

On page 19348, in paragraph 26, the first sentence of § 76.221(d) is corrected to read as follows:

§ 76.221 Sponsorship identification; list retention; related requirements.

* * * * *

(d) The announcement required by this section shall, in addition to stating the fact that the origination cablecasting matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (c) of this section are furnished. * * *

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–13175 Filed 5–6–77;8:45 am]

[1] See 42 FR 20134, April 18, 1977.

[Docket No. 20886, Rm. 2472, 2476]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Operation of a Communications System on the Great Lakes to Provide Very High Frequency (VHF) Regional, and Other Public Correspondence Radiocommunication Service to Vessels; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: In an order released April 7, 1977, providing for the establishment of a Great Lakes very high frequency public correspondence communication system, a footnote was erroneously referred to as a footnote 62 instead of 63. This Errata order initiated by the staff will correct that error.

EFFECTIVE DATE: May 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

S. W. Pratt, Aviation and Marine Division, Safety and Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

Released: May 4, 1977.

In the matter of Amendment of Parts 81 and 83 of the rules to permit the operation of a communications system on the Great Lakes to provide very high frequency (VHF) regional, and other public correspondence radiocommunication service to vessels.

Paragraph 4 of the Appendix to the Report and Order released April 7, 1977, in this Docket (FCC 77–242, 42 FR 20135, April 18, 1977) in the third column of page 20137, reads that a new condition of use designator 62 is added for the shown frequencies. The number 62 for the designator is in error. The change should read in pertinent part as follows:

"In § 81.304(a) a new condition of use designator 63 is added for the frequencies * * *"

The remainder of paragraph 4 remains unchanged.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–13174 Filed 5–6–77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte 252 (Sub-No. 2)]

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS AND GONDOLA CARS

Incentive Per Diem Charges—Gondolas

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: After considering the dramatic decline in the gondola fleet and other factors, such as capacity, age, retirement, utilization, and future requirements of gondolas, the Commission determined that there was an inadequate supply of plain gondolas. For this reason, the Commission is amending its regulations to establish incentive per diem charges on plain gondolas cars on a year round basis. The purpose of the incentive per diem charge is to encourage acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423. (202–275–7693).

SUPPLEMENTARY INFORMATION: Effective May 26, 1966, Public Law 89–430 amended section 1(14)(a) of the Interstate Commerce Act to determine the adequacy and requirements of the national freight car supply and to impose incentive elements upon users of such cars if found necessary. Subsequently incentive per diem charges were imposed upon boxcars and XF cars. A Notice of Proposed Rulemaking and Order served September 12, 1975, by the Interstate Commerce Commission and published on September 30, 1975, in Volume 40 of the FEDERAL REGISTER at page 44851, instituted a proceeding for the purpose of determining whether existing incentive per diem rates on boxcars found in Part 1036, Title 49 of the Code of Federal Regulations should be amended so as to become also applicable on gondola cars (plain and equipped). All common carriers by railroad were made respondents to this proceeding and evidence was submitted for the record.

After considering the dramatic decline in the gondola fleet and other factors, such as capacity, age, retirement, utilization, and future requirements of gondolas, the Commission determined that there was an inadequate supply of plain gondolas. No such finding was made for equipped gondolas.

Pursuant to section 1(14)(a) the Commission ordered an incentive per diem charge on plain gondola cars with the mechanical designation GB while in the possession of nonowning railroads. See § 1036.1.

The amount of the incentive per diem charge to be applied on plain gondola cars was equal to the incentive per diem charges existing on boxcars and XF cars. However, such charges are collectible on boxcars on a six month basis whereas on XF cars and plain gondola cars charges are collectible on a year-round basis. See § 1036.2.

The funds generated on plain gondolas are to be earmarked in a separate bank account in the same manner that boxcars are earmarked. See § 1036.3.

The use of funds generated on gondolas in § 1036.5 differs significantly from the requirments concerning the use of funds generated on boxcars and XF cars in § 1036.4. The use of incentive per diem funds generated on gondola cars is more flexible in that it may be spent for the purchase and leasing of several car types as well as plant and equipment when certain conditions are met. Moreover, there is no requirement of purchasing or leasing cars equal to an investment average for 1964–1968 or matching of the carriers funds with earmarked funds as required in § 1036.4 for box cars and XF cars. The use of funds generated on gondolas is also more liberal in that the earmarked funds must be put to use within 30 months after the end of the calendar year in which the funds are collected versus 18 months for boxcars and XF cars. Furthermore, there is a different penalty for the failure to use the incentive per diem funds between boxcars and gondolas. If earmarked funds generated on boxcars are not used within the 18-month period, without Commission approved relief, the carrier must either voluntarily surrender the funds to "Rail Box" or the Commission will investigate the matter to determine what, if any, corrective action is warranted. As for incentive per diem funds generated on gondola cars § 1036.5 provides that failure to spend 85 percent of the incentive per diem funds within the 30-month time period by a carrier will result in that carrier not being allowed to earn incentive per diem charges on its unequipped gondola cars until such earmarked funds have been expended.

The final major difference between gondola cars and boxcars is that under the new § 1036.6 incentive per diem charges will be guaranteed on new gondola cars for a 15 year period. No such guarantee exists for boxcars and XF cars. Such guarantee is subject to the caveat that for failure of a carrier to spend 85 percent of its incentive per diem funds generated on unequipped gondola cars will result in the suspension of the guarantee until the time such funds are spent.

The effective date of the new regulations is July 1, 1977.

By the Commission, Commissioner Murphy concurring in part, and Commissioner Christian dissenting in part.

ROBERT L. OSWALD,
Secretary.

Part 1036 of Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth below:

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§ 1036.1 Application.

Each common carrier by railroad subject to the Interstate Commerce Act shall pay to the owning railroads, including the owning railroads of Canada, the additional per diem charges set forth in § 1036.2 on all boxcars and gondola cars shown below, while in the possession of nonowning railroads and subject to per diem rules. These charges are in addition to all other per diem charges currently in effect or prescribed. Mexican-owned cars are exempt from the operation of these rules. The rules of this part shall apply regardless of whether the foregoing boxcars and gondola cars are in intrastate, interstate, or foreign commerce.

Mechanical designation:	*Code number*
XM-----	B100–109, B200–209, B300–309
XMI----	B110–119, B210–219, B310–319
XMIH--	B120–129, B220–229, B320–329
XF-----	A120, A220, A320, A420
GB-----	G111, G112, G211, G212 G311, G312, G411, G412 G121, G122, G221, G222 G321, G322, G421, G422 G131, G132, G231, G232 G331, G332, G431, G432 G141, G142, G241, G242 G341, G342, G441, G442

(Plain gondola cars acquired after July 1, 1977, which are "guaranteed" cars and will be subject to incentive per diem payments from the date placed in service for a period of at least 15 years, should bear the letter designation GBI).

§ 1036.2 Amount of incentive charge.

The incentive charges applicable in each cost bracket by age group are set forth below:

Amount of incentive per diem collectible on unequipped boxcars for a 6-mo period from Sept. 1 of each year through Feb. 28 of the following year and a year-round basis for XF cars and unequipped gondola cars

Line No.	Cost bracket	Group A, 0–5 yr	Group B, 6–10 yr	Group C, 11–15 yr	Group D, 16–20 yr	Group E, 21–25 yr	Group F, 26–30 yr	Group G, over 30 yr
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	0 to $1,000	$0.32	$0.27	$0.22	$0.17	$0.11	$0.06	$0.04
2	$1,000 to $3,000	.65	.54	.44	.33	.23	.12	.07
3	$3,000 to $5,000	1.30	1.09	.88	.67	.40	.25	.14
4	$5,000 to $7,000	1.95	1.63	1.32	1.00	.68	.37	.21
5	$7,000 to $9,000	2.60	2.18	1.75	1.33	.91	.49	.28
6	$9,000 to $11,000	3.25	2.72	2.19	1.67	1.14	.61	.35
7	$11,000 to $13,000	3.90	3.26	2.63	2.00	1.37	.74	.42
8	$13,000 to $15,000	4.54	3.81	3.07	2.33	1.60	.86	.49
9	$15,000 to $17,000	5.19	4.35	3.51	2.67	1.82	.98	.56
10	$17,000 to $19,000	5.84	4.89	3.95	3.00	2.95	1.11	.63
11	$19,000 to $21,000	6.49	5.44	4.39	3.33	2.28	1.23	70
12	$21,000 to $23,000	7.14	5.98	4.82	3.67	2.51	1.35	.77
13	$23,000 to $25,000	7.79	6.53	5.26	4.00	2.74	1.47	.84
14	$25,000 to $27,000	8.44	7.07	5.70	4.33	2.96	1.60	.91
15	$27,000 to $29,000	9.09	7.61	6.14	4.67	3.19	1.72	.98
16	$29,000 to $31,000	9.74	8.16	6.58	5.00	3.42	1.84	1.05
17	$31,000 to $33,000	10.39	8.70	7.02	5.33	3.65	1.96	1.19
18	$33,000 to $35,000	11.04	9.24	7.46	5.67	3.88	2.09	1.12
19	$35,000 to $37,000	11.69	9.79	7.89	6.00	4.10	2.21	1.26
20	$37,000 to $39,000	12.33	10.33	8.33	6.33	4.33	2.33	1.33
21	$39,000 to $41,000	12.98	10.88	8.77	6.67	4.56	2.46	1.40

§ 1036.3 Earmarking.

Each common carrier by railroad shall segregate in Account 716, Capital and Other Reserve Funds, and shall transfer from Account 798, Retained Income, Unappropriated to Account 797, Retained Income, Appropriated, an amount equal to the net credit balance resulting from any incentive per diem settlement involving boxcars and gondola cars subject to this part. The carrier shall maintain separate bank accounts for the segregated funds generated on boxcars and gondola cars, respectively. Canadian carriers shall transfer a net balance after taxes to a U.S. designee, which may be either a U.S. class I railroad or a U.S. corporation established solely to purchase, hold title to, and control general service, unequipped boxcars and unequipped gondola cars subject to the Department of Transportation's safety regulations and the Interstate Commerce Commission's rules pertaining to per diem and car service, and to any reporting requirements determined to be applicable by the Commission's Bureau of Accounts. If the designee of Canadian carriers is a U.S. railroad, it shall maintain separate accounts for funds received on Canadian-owned boxcars and gondola cars, respectively. All boxcars or gondola cars purchased or built by such designee or such other corporation with incentive per diem funds earned on Canadian boxcars or gondola cars must be built in the United States. Any U.S. taxes incurred after transfer of a net balance to such designee may be deducted from the transferred amount for the purpose of determining a final net balance for investment. The earmarked funds shall be reduced by the amount of the additional income tax paid as the result of increasing taxable income by inclusion of net incentive per diem earnings. The funds in such accounts shall be used as set forth in § 1036.4 and § 1036.5. Unexpended funds remaining in the accounts of the carriers may be invested in Government bonds or other interest-bearing, temporary securities. The interest earned thereafter shall become part of the earmarked funds.

§ 1036.4 Use of funds on boxcars.

The net credit balances resulting from incentive per diem settlements on boxcars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, purchase, or lease in which a carrier is not acquiring an equity interest, in whole or in part, new unequipped boxcars for general service described in § 1036.1, or rebuild any number of portion of unequipped boxcars for general service described in § 1036.1, provided, the carrier has in the same calendar year built, leased, purchased, nonequity leased, or rebuilt its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. A carrier may, as an alternative to the 1964–68 test period average, draw down earmarked funds in whole or in part, to build, lease, equivalent of purchase, purchase, or nonequity lease new unequipped boxcars for general service or rebuild unequipped boxcars for general service provided, as a minimum, it matches the earmarked funds it will use to obtain these boxcars with an equal amount of its own funds. Where matching funds are to be used to acquire boxcars, such matching funds may not include funds derived from the increases authorized in Ex Parte No. 305 without specific authority from the Commission. Net balances on Canadian-owned cars may be drawn down without regard to prior acquisitions, but where the designee is a class I U.S. carrier such drawdowns shall not affect that carrier's accumulation of arrearages. A carrier using earmarked funds, in whole or in part, to build, rebuild, lease, purchase or nonequity lease general service, unequipped boxcars of the XF designation shall only be required, as a minimum, to match the earmarked funds it will use to obtain these XF boxcars with an equal amount of its own funds. Nonequity leases for unequipped boxcars for general service and XF boxcars must be at least 10 years in duration and, in connection with such leases, earmarked funds must not be used for the cost of maintenance nor on leases entered into prior to January 1, 1975. All earmarked funds that have accrued since the inception of the incentive per diem program must be put to use within 18 months after the end of the calendar year in which the funds are collected and result in a net credit balance for the building, rebuilding, leasing, purchasing or nonequity leasing of general service, unequipped boxcars described in § 1036.1 for addition to such carrier's or designee's fleet in accordance with this part. Upon a showing of good cause an application, including a showing that the parties to the proceeding herein have been notified by the carrier of such application, may be made to the Commission for waiver of the said 18-month period, which may, in the Commission's discretion, be granted after consideration of all views regarding the application. If the earmarked funds are not used within the 18-month period, they may be voluntarily surrendered to Rail Box whose establishment and operation was approved in American Rail Box Car Co.—Pooling, 347 I.C.C. 862. If the carrier fails within the stated period to put to use collected earmarked funds

which result in a net credit balance, has not obtained relief from that requirement, and has not surrendered such funds to Rail Box, the Commission will investigate the matter to determine what, if any, corrective action is warranted. Appropriate corrective action would include section 16(12) remedies among others. Carriers may make temporary investment of unexpended funds in Government bonds or other liquid securities. Such securities must be readily convertible to cash so that funds remain available for boxcar purchases. Interest earned must become part of the earmarked fund. As used in this section and § 1036.5, "build," "rebuild," "lease," or "purchase" refer to a commitment to build, rebuild, lease, or purchase which results in the acquisition of a car on line ready for use within 10 months from the date of commitment, except that in extraordinary cases beyond the control of the carrier or the car supplier, a car that is delivered after 10 months from the date of commitment may qualify if approved by the Bureau of Accounts of this Commission.

§ 1036.5 Use of funds generated on gondola cars.

The net credit balances resulting from incentive per diem settlements generated on general service unequipped gondola cars described in § 1036.1, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier, or designee of a Canadian railroad, to build, lease equivalent to purchase, lease (nonequity), purchase in whole or in part, or rebuild unequipped gondolas, unequipped boxcars and XF cars as described in § 1036.1. The nonequity leases must be entered into after January 1, 1977, be at least 10 years in duration, and in connection with such leases, earmarked funds must not be used for the cost of maintenance. Upon application to the Commission, common carriers by railroad which have either adequate car supplies or good cause for not purchasing additional incentive per diem cars described in § 1036.1 from funds generated by unequipped gondola cars, may apply to the Commission to permit expenditure of such funds on plant and equipment, upon a showing that expenditure of such funds will enhance utilization of any of the car types earning incentive per diem. Earmarked funds must be put to use within 30 months after the end of the calendar year in which the funds are collected. Failure to spend 85 percent of the incentive per diem funds within the 30-month time period by a carrier will result in that carrier not being allowed to earn incentive per diem charges on its unequipped gondola cars until such earmarked funds have been expended.

§ 1036.6 Guarantee of incentive per diem charges on new unequipped gondola cars.

Newly purchased or leased (equity and nonequity) unequipped gondola cars described in § 1036.1 which have been delivered after July 1, 1977, will be guaranteed to earn for 15 years from the date of delivery, as a minimum, such incentive per diem charges so as to maintain an equivalent of the current basic per diem charge as prescribed in I.C.C. Docket No. 33145, effective April 1, 1977, *plus* the applicable incentive per diem charge set forth in 49 CFR 1036.2. Such guarantee will be subject to the caveat that for failure of a carrier to spend 85 percent of its incentive per diem funds generated on unequipped gondola cars will result in the suspension of the guarantee until the time such funds are spent.

§ 1036.7 Effective date.

The rules set forth in § 1036.1 and § 1036.2 shall apply for a 6-month period from September 1 of each year through February 28 of the following year on general service, unequipped boxcars, and on a year-round basis for XF cars. The rules set forth in §§ 1036.1, 1036.2, 1036.3, 1036.5, and 1036.6 shall apply on a year-round basis for gondola cars, effective July 1, 1977.

§ 1036.8 Rules and regulations suspended.

The operation of all rules and regulations, insofar as they conflict with the provisions of this part, is hereby suspended. The charges herein provided shall be paid for each day cars are held, but nothing in this part shall prevent the operation of per diem reclaim agreements customarily employed by and between particular railroads to provide for special situations, or with the use of customary methods of settling balances of per diem accounts.

[FR Doc.77-12983 Filed 5-6-77;1:24 pm]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 53]

OFFICIAL MEAT GRADING EQUIPMENT

Proposed Storage Regulations

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed Rule.

SUMMARY: A change is proposed in the regulations for providing meat grading and/or acceptance service to show that applicants may be required to provide metal cabinets or lockers for the secure storage of official meat grading equipment for Federal meat graders assigned to their plants. This in-plant storage will reduce the travel time for transporting equipment from home to work which was recently determined to be compensable under the Fair Labor Standards Act and will help minimize increases in the fee rate necessary to cover the added travel costs.

DATE: Comments by May 30, 1977.

ADDRESS: Send comments to or view comments at the Office of the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

David K. Hallett, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–2210.

SUPPLEMENTARY INFORMATION: Meat graders presently transport a large quantity of grading equipment between their home and worksite and carry it between their car and duty assignment at the beginning and end of each workday. Under recent interpretations of the Fair Labor Standards Act of 1974, the transporting of such equipment is considered hours worked, and has resulted in a substantial increase in the amount of duty time paid to employees. It is estimated that the increased costs for travel time transporting equipment, and for other travel time allowable under the Act, will be $2 million per year which must be recovered by increasing the hourly fee for services. In-plant facilities for storage of government equipment will significantly reduce the travel time associated with transporting equipment, thereby lessening the amount of the fee rate increase necessitated by the Fair Labor Standards Act.

Accordingly, it is proposed to amend Part 53 of the Meat Grading Regulations (7 CFR Part 53) by adding the following new sentences to § 53.20—Custody of Identification Devices:

§ 53.20 Custody of identification devices.

• • • "Upon request, applicants shall provide metal cabinets or lockers for the secure storage of official meat grading equipment and identification devices for each Federal meat grader assigned to their establishment. Such cabinets or lockers shall be capable of being locked with special, government-owned locks and shall be placed in an easily accessible and reasonably secure location within the applicant's establishment.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal may file two copies with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than May 30, 1977. All written submissions will be available for public inspection at the Office of the Hearing Clerk during regular business hours.

(Agricultural Marketing Act of 1946, sec. 205(b), 60 Stat. 1087, 1090 (7 U.S.C. 1624.)

Done at Washington, D.C., on this 4th day of May 1977.

IRVING W. THOMAS,
Acting Deputy Administrator, Commodity Operations, FSQS.

[FR Doc.77-13172 Filed 5-6-77;8:45 am]

[7 CFR Part 944]

FRUITS; EXPORT REGULATIONS

Proposed Rulemaking with Respect to Issuance of Regulations Governing Imports of Avocados

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Consideration is being given to the following proposal, which would prescribe requirements for the importations of avocados into the United States during the period May 30, 1977, through April 30, 1978. The proposed import regulation would prescribe the same grade requirements for imported avocados as that applicable to avocados grown in south Florida. The proposed regulation would apply the same minimum size or weight requirements to imported avocados of the Pollock, Catalina, and Trapp varieties as are applicable to Florida avocados of the same varieties. All other imported avocados would be required to met minimum size or weight requirements comparable to those effective for similar types grown in Florida as variations in characteristics make application of identical requirements impractical. Weights or diameters and dates when specified varieties of avocados may be imported are indices used to assure that imported avocados are mature and will ripen satisfactorily after purchase by consumers.

DATE: Comments must be received on or before May 20, 1977.

ADDRESSES: Comments may be addressed to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: This import regulation would be effective pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

As proposed, the domestic regulation under the marketing order for Florida avocados would become effective May 30, 1977. To prevent the import of immature avocados, the import regulation would be made effective on the same date. Hence, the time available does not permit preliminary notice beyond that herein provided.

Such proposal reads as follows:

§ 944.17 Avocado Regulation 25.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements: (1) All avocados imported during the period May 30, 1977, through April 30, 1978, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 4, 1977; (ii) from July 4, 1977, through July 17, 1977, unless the individual fruit in each lot of such avocado weighs at least 18 ounces or measures at least 3 11/16 inches in diameter; (iii) from July 18, 1977, through July 31, 1977, unless the individual fruit in each lot of succh avocados weighs atl east 16 ounces

or measures at least 3 7/16 inches in diameter; and (iv) from August 1, 1977, through August 15, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 7/16 inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 12, 1977; (ii) from September 12, 1977, through September 18, 1977, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 19, 1977, through October 3, 1977, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 15, 1977; (ii) from August 15, 1977, through August 28, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 10/16 inches in diameter; and (iii) from August 29, 1977, through September 12, 1977, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 7/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 4, 1977; (ii) from July 4, 1977, through July 31, 1977, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from August 1, 1977, through September 4, 1977, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 5, 1977, through October 3, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided*, That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 19, 1977; (ii) from September 19, 1977, through October 16, 1977, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 17, 1977, through December 19, 1977, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

Ports	Office	Advance notice (days)
All Texas points	Leo M. Denbo, 506 South Nebraska Ave., San Juan, Tex. 78598, phone (512) 787–4091, or Charles E. Farragon, 724 East Overland, El Paso, Tex. 79901, phone (915) 543–7723.	1
All New York points	Carmine J. Cavallo, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone (212) 991–7668 and 7669, or Charles D. Renick, 176 Niagara Frontier Food Terminal, room 8, Buffalo, N.Y. 14206, phone (716) 824–1585.	1
All Arizona points	B. O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621, phone (602) 287–2902	1
All Florida points	Bennie C. Tiner, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone (305) 324–6116, or Cecil Brantley, 550 3d St. NW., Winter Haven, Fla. 33880, phone (813) 294–3511, or Johnnie L. Corbitt, unit 46, 3335 North Edgewood, Jacksonville, Fla. 32205, phone (904) 354–5083.	1
All California points	T. A. Trombatore, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone (213) 672–8756.	3
All Louisiana points	Leonard E. Mizon, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113, phone (504) 589–6741 and 6742.	1
All other points	M. A. Castille, F. & V. Division, AMS–USDA, Washington, D.C. 20250, phone (202) 447–5870.	3

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: 'Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby found that the application of the maturity restrictions being imposed, pursuant to Order No. 915 (7 CFR Part 915), upon avocados grown in South Florida to imported avocados, other than of the Pollock, Catalina, and Trapp varieties, is not practicable because of variations in characteristics between the domestic imported avocadoes; and the maturity restrictions applicable to imported avocados other than of the Pollack, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados, and the maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties, are the same as those being imposed upon the domestic commodity.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade, as used herein, shall have the same meaning as when used in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069). "Diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit. "Importation"

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means release from custody of the United States Bureau of Customs.

Dated: May 2, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13087 Filed 5-6-77;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0098]

AMENDMENTS TO REGULATION Z TO SIMPLIFY DISCLOSURE REQUIREMENTS

Consumers in Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rules.

SUMMARY: These proposed rules would amend several sections of Regulation Z to reduce the complexity of the disclosures provided to consumers in credit transactions. The proposals would eliminate itemization of the components of the finance charge and the downpayment, eliminate the requirement that certain fees imposed equally on cash and credit customers be disclosed in order to be excluded from the finance charge, and simplify the disclosure concerning rebate of finance charges in the event of prepayment in full of a precomputed instalment obligation. These simplifying proposals are intended to eliminate unnecessary information from the Truth in Lending disclosure statement in order to focus attention on the more meaningful and useful cost disclosures as well as to promote creditor compliance with the regulation.

DATE: Comments must be received on or before June 15, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should include the docket number R-0098.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System is publishing for comment several proposed amendments to Regulation Z designed to simplify the disclosure requirements. The provisions affected are ones which are not mandated by the Truth in Lending Act but which were added by the Board under its regulation-writing authority. The Board believes that the information required to be disclosed by the current provisions may not be helpful or meaningful to consumers, while causing substantial difficulty in creditor compliance.

The Board is considering further simplifying amendments to the regulation beyond those proposed herein. Since it recognizes the problems that would be created by a consultant-revised regulation, it will consider giving all of the simplying changes the same effective date, where appropriate.

The proposed amendments are as follows:

Itemization of finance charge. These amendments would eliminate the requirement that the components of the finance charge be itemized. Itemization for component charges is not called for in the Truth in Lending Act, but this requirement in Regulation Z has caused substantial problems in creditor compliance without comparable benefit to consumers. The Board believes that since consumers can most effectively compare credit costs based on the total finance charge, listing of the component charges does not materially assist credit shopping. Furthermore, many of the component charges, such as "time price differential," are not meaningful to consumers. Since one of the purposes of introducing the concept of "finance charge" into the Truth in Lending Act was to eliminate the great variety of differing terminology and encourage uniform terms for purposes of comparison, it is more in keeping with this purpose to require disclosure of only the total finance charge.

Preliminary contacts with the Federal agencies responsible for the regulation's enforcement and with the exempt States indicate that many of them find itemization of the finance charge components to be helpful in their examinations and investigations. However, it appears that such itemization may be more relevant to the question of compliance with State laws than with the Truth in Lending Act.

If a creditor wished to continue itemizing the finnace charge, this would, of course, be permissible as additional information under § 226.6(c).

Rebate of finance charge upon prepayment. This amendment would simplify the disclosures by eliminating the requirement to identify the method used to compute the rebate of finance charges upon prepayment in full of an obligation. Instead, a creditor would simply state whether or not a rebate will be made. It is doubtful, particularly with the typical rebate method, i.e., Rule of 78's, whether identification of the method has been in any way meaningful to consumers, and elaborate explanations of how the various methods work would be far too complex and technical to be readily understood.

If a creditor wished to provide more information regarding rebates upon prepayment, this may be done pursuant to § 226.6(c).

The Board considered elimination of all disclosures concerning rebates since this information is not called for in the Truth in Lending Act. However it appears that the existence of a rebate is an important item of information for consumers, since it has monetary impact and may affect consumer behavior.

The Board also considered an alternative amendment which would have required a statement of whether or not a rebate will be made only in those transactions for which State law does not require rebates to be given (i.e., where giving of rebates is left to the creditor's discretion). It appears that most States require rebates to be made upon full prepayment of various types of obligations and often prescribe what method is to be used to compute the rebate. In such transactions, disclosure of the existence of a rebate would be merely reiterating a State law requirement. This alternative would have required a statement of the creditor's rebate policy only in those situations where it is not determined by State law. The Board decided not to propose this alternative since it appears to be in the consumer's interest to know if there will be a rebate, regardless of whether or not State law requires it (particularly since few consumers are likely to know State law on this subject). Furthermore, since State laws on rebates are not uniform with regard to all types of credit transactions and all types of creditors, it would in many cases be simpler for a creditor to state its policy on provision of rebates for all transactions rather than determine if State law governs a particular transaction.

The Board is interested in having the views of interested persons on this question of rebate disclosures, and would particularly like to solicit comment on:

The extent to which State law governs rebate of finance charges upon prepayment.

The extent to which provisions on rebates are included in credit contracts.

The extent to which consumers are aware of their right to rebate under State law and the importance to them of creditors' practices regarding rebates.

Itemization of license, certificate of title, and registration fees. This amendment would eliminate the need for license, certificate of title, and registration fees to be itemized in order to exclude them from the finance charge. It is the Board's understanding that these types of fees are imposed equally in both cash and credit transactions (generally sales of automobiles) and therefore do not meet the definition of finance charge in § 226.4(a). Nevertheless, their inclusion in § 226.4(b) suggests that they must be itemized and disclosed in order to be kept out of the finance charge. Thus the present regulation creates an anomalous situation by singling out these fees for special treatment, with no apparent consumer benefit.

It should be noted that if these license, certificate of title, and registration fees are financed by the creditor (rather than paid in cash), they must still be itemized and disclosed as part of the amount financed.

Itemization of downpayment. This amendment would eliminate itemization of the components of the downpayment in a credit sale and would drop the required terminology of "cash downpayment," "trade-in," and "total downpayment." While disclosure of the total downpayment is essential, the extra information concerning its components is not particularly necessary to a consumer's understanding of the credit transaction, and does not assist in credit shopping.

If a creditor wished to continue itemizing the downpayment, this would, of course, be permissible as additional information under § 226.6(c).

Pursuant to the authority granted in 15 U.S.C. § 1604 (1970), the Board proposes to amend Regulation Z, 12 CFR Part 226, as follows:

§ 226.4 [Amended]

1. Section 226.4(b) would be amended by deleting § 226.4(b)(4).

2. Section 226.8 would be amended as follows:

§ 226.8 Credit other than open end—specific disclosures.

* * * * *

(b) * * *

(7) With respect to an obligation which includes precomputed finance charges, a statement indicating whether or not any portion of the finance charge will be rebated or credited to the customer in the event of prepayment in full of the obligation.

(c) * * *

(2) The total amount of the downpayment (including any downpayment in money, property or other value).

* * * * *

(8) Except in the case of a sale of a dwelling:

(i) The total amount of the finance charge, using the term "finance charge."

(d) * * *

(3) Except in the case of a loan secured by a first lien or equivalent security interest on a dwelling and made to finance the purchase of that dwelling, the total amount of the "finance charge," using the term "finance charge."

To aid in the consideration of these proposals by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. All such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 15, 1977. All material submitted should include the docket number R-0098. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

This notice is published pursuant to § 553(b) of Title 5 United States Code and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

By order of the Board of Governors, April 27, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-13115 Filed 5-6-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 53]

FAILURE TO OBTAIN ADVANCE APPROVAL OF GRANT MAKING PROCEDURES

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations relating to a failure to obtain advance approval of procedures for making certain grants by a private foundation. Changes to the applicable law were made by the Tax Reform Act of 1969. The regulations would provide private foundations with the guidance needed to comply with that Act and would affect all private foundations who have failed to obtain advance approval of procedures with respect to certain grants.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 23, 1977. Generally, except where otherwise provided, the amendments are proposed to be effective for all taxable years beginning after December 31, 1969.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Katcher of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3828.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Excise Tax Regulations (26 CFR Part 53) under section 4945 of the Internal Revenue Code of 1954. These amendments are proposed in order to provide a special rule where there was a failure to obtain advance approval of certain grant making procedures. These regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

TAXABLE EXPENDITURES

This proposed regulation contains a special rule for correction under section 4945(i)(1) of the Code. In general, correction is required where a private foundation makes a taxable expenditure as defined in section 4945(d) of the Code. The proposed regulation provides a special rule where an expenditure is taxable under section 4945(d)(3) (relating to certain grants to an individual) solely because the grants were made before obtaining advance approval of procedures with respect to such grants.

DRAFTING INFORMATION

The principal author of these proposed regulations was Mr. Robert Katcher of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 53 are as follows:

Section 53.4945-1 is amended by revising the first sentence of paragraph (d)(1) and by adding paragraph (d)(3) to read as follows:

§ 53.4945-1 Taxes on taxable expenditures.

* * * * *

(d) *Correction*—(1) *In general.* Except as provided in paragraph (d)(2) or (3) of this section, correction of a taxable expenditure shall be accomplished by recovering part or all of the expenditure to the extent recovery is possible, and, where full recovery cannot be accomplished, by any additional corrective action which the Commissioner may prescribe. * * *

(3) *Correction for failure to obtain advance approval.* Where an expenditure is taxable under section 4945(d)(3) only because of a failure to obtain advance approval of procedures with respect to grants as required by section 4945(g), correction may be accomplished by obtaining approval of the grant making procedures and establishing to the satisfaction of the Commissioner that:

(i) no grant funds have been diverted to any use not in furtherance of a purpose specified in the grant;

(ii) the grant making procedures instituted would have been approved if advance approval of such procedures had been properly requested; and

(iii) where advance approval of grant making procedures is subsequently required, such approval will be properly requested.

* * * * *

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

[FR Doc.77-13194 Filed 5-6-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 35]

[CGD 75-148]

TANK VESSELS

Manual of Cargo Transfer Procedures

AGENCY: Coast Guard.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering an amendment to the tank vessel regulations to require carriage and use of a manual of cargo transfer procedures

V42N89 MAY 9 77 UMI

on board tank vessels. The amendment is proposed to implement recommendation M–74–31 of the action of the National Transportation Safety Board on the Coast Guard investigation of the *SS William T. Steele* casualty. Recommendation M–74–31 calls for a preventive safety measure requiring tank vessels to carry a current manual of cargo transfer procedures that shows the operation of cargo transfer piping systems during cargo transfer operations.

DATES: Comments must be received on or before: June 20, 1977.

ADDRESSES: Comments should be submitted to and will be available for examination at the Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to comment on this notice of proposed rule making by submitting written data, views, or arguments. Each person submitting comments should include his name and address, identify the notice (CGD 75–148), and give reasons for any recommendations. The proposal may be changed in light of the comments received. No hearing is contemplated but one may be held at a time and place set in a later notice in the FEDERAL REGISTER if requested by an interested person desiring an opportunity to comment orally at a public hearing and raising a genuine issue.

NEED FOR REGULATIONS

Three persons were killed in the *SS William T. Steele* casualty which occurred during a cargo transfer operation on board the vessel. During the transfer operation a cargo of benzene was mistakenly loaded into a tank reserved for xylene. The attempt to blank off the tank after removing the benzene caused a series of events to occur that resulted in the deaths. The National Transportation Safety Board determined that the probable cause of the deaths was prolonged inhalation of benzene vapors.

Mistakes in loading can result in various hazards on a vessel, including the mixing of incompatible cargoes in tanks or the placement of cargo in tanks that are not properly vented to carry the cargo, and can lead to similar mishaps of the kind that occurred in the *SS William T. Steele* casualty. Use of the manual of cargo transfer procedures proposed in this notice can minimize the possibility of these hazards to the vessel and its personnel. The use of the manual is especially important on a vessel that has a constant turnover of personnel who may not be familiar with the operation of the vessel's cargo transfer system when initially reporting aboard.

DISCUSSION OF PROPOSED AMENDMENT

Most of the information required to be in the manual proposed in this notice would also be contained in the oil transfer manual of an oil tanker. (§§ 15.720–155.750 of Title 33, Code of Federal Regulations, require vessels transferring oil to have an oil transfer manual containing the information required by those sections.) An oil tanker that carries incompatible cargoes will comply with the regulations proposed in this notice if it adds procedures for transferring cargo in a manner that prevents mixing of incompatible cargoes to the transfer procedures it already has on board as required by Title 33. An oil tanker that does not carry incompatible cargoes can comply with the regulations proposed in this notice if it adds to the transfer procedures it already has on board a list of cargoes that it carries.

The rules in this notice would not apply to unmanned tank barges that carry only one product and that do not have equipment on board to transfer cargo from one tank to another. The likelihood of occurrence of the hazards that the proposed manual is designed to prevent is minimal in the case of these single product barges.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 46 of the Code of Federal Regulations by adding a new § 35.01–42 to read as follows:

§ 35.01–42 Manual of cargo transfer procedures TB/ALL.

(a) This section applies to all tank vessels, except unmanned barges that carry only one product and that do not have equipment on board to transfer cargo from one tank to another.

(b) No person may operate a cargo transfer system on a tank vessel unless the vessel has a manual of cargo transfer procedures that meets the requirements of this section.

(c) The owner of a tank vessel shall update the manual required by this section whenever necessary to maintain it in current condition on the vessel. The master or person in charge of the vessel shall require the vessel's personnel to use the procedures in the manual in each cargo transfer operation.

(d) The manual required by this section must be:

(1) Legibly printed in a language understood by the crew; and

(2) Permanently posted or available at the vessel's cargo control station or at a place where it can be easily seen and used by vessel personnel who engage in cargo transfer operations.

(e) The manual required by this section must contain: [1]

(1) A list of the products to which the cargo transfer procedures apply;

(2) A description of each cargo transfer system installed on the vessel including:

(i) A line diagram of the vessel's cargo transfer piping showing the location of each valve, pump, control device, vent, and overflow; and

(ii) The location of the shut-off valve or other isolation device that separates any bilge or ballast system from the cargo transfer system;

(3) The number of persons on duty during cargo transfer operations;

(4) The duties by title of each officer, person in charge, tankerman, deckhand, and other person who engages in cargo transfer operations;

(5) Procedures for operating the emergency shutdown means if the vessel has an emergency shutdown means; and

(6) Procedures for transferring cargo in a manner that prevents mixing of incompatible cargoes if the vessel carries incompatible cargoes.[2]

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are Lieutenant Commander Paul K. Anderson, Project Manager, and Mr. William R. Register, Project Attorney.

(46 U.S.C. 391a; 49 U.S.C. 1655(b); 49 CFR 1.46).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: May 2, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77–13030 Filed 5–6–77;8:45 am]

[1] Vessels that carry cargoes of oil are required by 33 CFR 155.720 to have oil transfer procedures that meet the requirements of 33 CFR 155.750. An oil tanker that carries incompatible cargoes complies with paragraph (e) of this section if it adds to its oil transfer procedures the information required in paragraph (e)(6). An oil tanker that does not carry incompatible cargoes complies with paragraph (e) of this section if it adds to its oil transfer procedures the information required by paragraph (e)(1).

[2] Incompatible cargoes are listed in NVC 4–75, available Commandant (G–MHM–3/83), United States Coast Guard, Washington, D.C. 20590, 202–426–2559.

[46 CFR Part 153]

[CGD 73–96a]

APPLICATION OF CHEMICAL TANKER STANDARDS TO EXISTING SHIPS

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard proposed standards for chemical tankers in June 1976 that would require existing tankers to meet the standards within five years after the effective date of the final rules, or about 1982. The Coast Guard is now proposing that these existing chemical tankers meet the standards by April 12, 1978, in order to bring the standards into line with the Imco Chemical Code.

DATES: Comments must be received on or before June 7, 1977.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/81), U.S. Coast Guard, Washington, D.C., 20590. Comments will be available for examination at the Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 73–96a), the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed. All comments received will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal program person and lawyer involved in the drafting of this rulemaking are: Robert M. Query, Project Manager, Lieutenant Edward J. Gill Jr., Project Attorney.

DISCUSSION OF THE PROPOSED REGULATIONS

In the FEDERAL REGISTER of June 24, 1976, the Coast Guard proposed to add a new part 153 to Title 46 of the Code of Federal Regulations that would contain design, equipment, and operating requirements for self-propelled vessels carrying hazardous liquid chemicals. Section 153.7(c) of that proposal contained a series of dates and section numbers describing the schedule an existing ship would be allowed to follow if it were modified to operate under the new part. This schedule extended over a period of approximately five years, so that the ship would meet virtually all the requirements in the proposal by sometime in 1982. A number of people commented on § 153.7(c), mostly related to how quickly a ship would have to meet a particular section or whether it would have to meet a section at all.

However, several commenters noted that the Coast Gaurd was, as a practical matter, changing the effective dates of the IMCO Chemical Code. These people argued that the proposed rules would allow ships not following the Code to continue to operate without modification until 1982, whereas those ships which were complying with the Code would have to be modified by April 12, 1978. This would give an unfair advantage to ships not meeting the Code. The Coast Guard is finding in the Letter of Compliance program that some shipowners are at a disadvantage if they try to follow the Code's recommendations. Furthermore, some shippers are following the Code when it is to their advantage to do so and following the existing U.S. requirements when they happen to be less stringent than the Code. The Coast Guard is concerned that if it continues to allow this shifting between the Code and the U.S. regulations by having a set of effective dates different from the Code, the Coast Guard will undermine both the U.S. regulations and the Chemical Code.

Commenters also pointed out that the Code was published in 1971 so that the marine chemical shipping industry had had ample notice of the Code's timetable for upgrading.

This proposal has been reviewed for economic effects under the Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). When it assessed the economic impact of the original proposal, the Coast Guard reviewed the design of existing chemical ships under U.S. flag and those foreign ships moving in U.S. waters. The Coast Guard determined that most U.S. flag and many foreign flag ships carrying hazardous chemicals either already comply with, or are close to complying with, the requirements in Part 153. The Coast Guard has also found that using effective dates later than those contained in the Chemical Code does give a competitive disadvantage to those ships already complying with the Code, and may unnecessarily delay the objectives of the Code.

The Coast Guard's estimate of the cost of the original proposal, including existing and new, foreign and U.S. flag ships showed that the cost per year for the first years (during the period existing tankers were being converted) would be roughly $3,000,000. If the cost over this five year period were compressed into one year, it would amount to about $15,000,000, ignoring any inflationary increase since the original evaluation in the spring of 1976 and ignoring any cost increases from lost operating time and shipyard scheduling problems.

After considering the various objections to the time schedule in the original proposal and the cost involved in meeting the dates for conversion stated in the Chemical Code, the Coast Guard has determined that modifying the dates in the proposal to meet those in the Chemical Code is appropriate. Therefore, the Coast Guard is now proposing that existing vessels meet the requirements in part 153 by April 1978.

Since some shipowners may not be able to schedule shipyard work immediately or get delivery on parts, the Coast Guard is proposing a provision that would allow it to grant a longer conversion period to a specific ship if it determines that the ship cannot meet the proposed timetable because of these extenuating factors.

In consideration of the foregoing, the Coast Guard proposes to amend 46 CFR Part 153 (proposed on page 26129 of the FEDERAL REGISTER, vol. 41, no. 123, June 24, 1976), as follows:

1. By revising § 153.7(c) to read as follows:

§ 153.7 Existing tankships.

* * * * *

(c) *Requirements for existing tankships.* In addition to the standards required of existing tankships in paragraph (b) of this section, every existing tankship must meet the sections of this part according to the following schedule:

(1) The following sections in this part apply to an existing tankship after the effective date: §§ 153.1, 153.2, 153.5, 153.7, 153.8, 153.9, 153.10, 153.208, 153.214, 153.294, 153.515, 153.520, 153.530, 153.559, and Subpart C of this part.

(2) After April 12, 1978, an existing tankship must meet all the requirements of this part except as described in subparagraphs (3) and (4) of this paragraph.

(3) The Commandant (G–MHM) considers on a case by case basis extending the time an existing tankship may operate before meeting the requirements effective on April 12, 1978.

(4) The Commandant (G–MHM) considers on a case by case basis endorsing the permit of an existing tankship that fails to meet § 153.20, § 153.21, § 153.22, or § 153.234. However, in no case may a type I or type II containment system be less than 76 cm from the bottom shell.

* * * * * *

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

(46 U.S.C. 170 and 391a; 49 U.S.C. 1655(b), 49 C.F.R. 1.46(b))

Dated: May 2, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77–13148 Filed 5–6–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[Docket No. 21202; FCC 77–270]

CABLE TELEVISION SERVICES

Cable Television Annual Financial Report (FCC Form 326)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This proposed rule institutes a uniform financial reporting system for the cable television industry. This action would improve the significance and comparability of the data

V 42 89 MAY 9 77 UMI

supplied by the industry. Accurate financial data is important to the Commission's decision making process.

DATES: Comments must be received on or before June 3, 1977, and Reply Comments must be received on or before June 13, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John S. Whetzell, Research Division, Cable Television Bureau (202–632–9797).

SUPPLEMENTARY INFORMATION:

Adopted: April 14, 1977.

Released: April 25, 1977.

By the Commission: Commissioner Washburn absent; Commissioner Hooks concurring in the result.

In the matter of amendment of Part 76, Subpart F of the Commission's Rules and Regulations with Respect to the Cable Television Annual Financial Report (FCC Form 326),

1. Notice is hereby given of proposed rule making in the above titled matter.

2. In recognition of its need for financial data regarding the cable television industry, the Commission has for the past few years required an annual submission of financial reports (FCC Form 326) by cable television systems. However, the significance and comparability of the collected data has been impaired because of its lack of uniformity. In order to insure that collected financial data is meaningful, the Commission hereby proposes the adoption of a reporting system which includes disclosure of accounting policies for specified accounts.

3. Since Commission actions may affect the growth of cable television and/or impact existing cable television systems, the decision process often includes the use of financial data. In rule makings, for example, it is often essential to determine what constitutes an extraordinary burden on certain cable systems so that exemptions or limitations may be incorporated into the rules, such as the subscriber size exemptions in the non-duplication, exclusivity and cablecasting rules. In special relief requests, where financial showings frequently are used, accurate financial data is required so that normal industry characteristics can be used as a basis for comparison. In the aggregate, financial information is necessary to monitor the effect of Commission rules on the industry as a whole on a year-to-year basis. However, the use of financial data, as currently collected, is severely limited primarily because of the dissimilarity in accounting procedures used by reporting units. A variation in accounting procedures, in only a few accounts, can substantially affect the accuracy of critical indicators upon which many regulatory decisions are partly or wholly based. Therefore, uniform financial information must be obtained to insure fair and efficient regulation.

4. The Commission's needs for uniform financial data are not unrelated to state and local needs, even though there are generally different objectives in the regulation of cable television at each level of government. In developing the proposed reporting system, the account instructions and Form Schedules have been designed to satisfy a large number of state and local reporting needs in carrying out their respective responsibilities. There are two major purposes for this design effort. First, it encourages consistency in regulatory reporting and accounting requirements so that unnecessary burdens on cable operators can be avoided. This would be especially true where operators own cable systems in many different state and local areas. Under consistent reporting requirements, these multiple system operators could provide similar types of financial information to the regulatory bodies in each state and local area without the necessity of keeping separate books and using different accounting procedures. The second purpose is that for regulatory bodies at each level of government, consistent reporting requirements may aid in efficiency and cost reduction. Consistent and uniform financial data, even when displayed in aggregated tables, is extremely useful information in rate making determinations. Furthermore, the administrative costs and manpower of developing and maintaining separate reporting and accounting systems in each state and/or each locality are substantially reduced.

History

5. Annual financial reporting for cable television originated on October 14, 1971, when the Commission issued its Third Report and Order in Docket 18397, FCC 71–1035, 32 FCC 2d 13 (1971). In the cited action, it was indicated that periodic filings by cable operators are necessary to enable the Commission to keep abreast of cable developments, fulfill its regulatory responsibilities in this field, and assist Congress in its consideration of related legislative proposals. The first Financial Form (FCC Form 326) required the respondent to report pre-tax revenue and expense data, original cost and depreciation information on tangible and intangible property, non-recurring telephone company leaseback charges, and employment data.

6. After three years of filings using the original FCC Form 326, it became evident that the information was not sufficient to monitor the financial developments of the industry. Several changes in FCC Form 326 were made in the Commission's Report and Order in Docket 20247, FCC 75–658, 54 FCC 2d 811 (1975), with the purpose of obtaining more complete and reliable financial data and to ease the reporting burden. The changes were as follows:

(a) A restructured format designed to resemble standard business bookkeeping schedules;

(b) A new schedule which contains the basic balance sheet accounts;

(c) A reduction of the restrictions on consolidated reporting and fiscal year reporting;

(d) An addition of clarifying definitions of all terms.

7. During the proceedings for changes in FCC Form 326, it was recognized that an accounting or reporting system should be adopted so that the collected financial data would be uniform. It was recognized that the development of such a system would be of value to all parties concerned: state and local regulatory bodies, the cable television industry, and the Commission. In view of these objectives, the Commission staff met with industry representatives and the accounting committee of the Conference of State Cable Agencies to discuss areas of concern. A uniform schedule of accounts was developed to serve as a guideline for the cable television industry, which was subsequently incorporated into the revised FCC Form 326. Various policy questions discussed at these meetings were, in turn, incorporated into a proposed study for an outside contractor.

8. The contract study, awarded to Price-Waterhouse and Co. in September 1975, had as its purpose the completion of four major tasks: (1) the collection of data concerning the current accounting practices of cable operators; (2) the evaluation of this data in regard to the effect of alternative accounting practices upon FCC information needs; (3) the identification and analysis of critical issues and the benefits or draw backs to both government and industry of alternative solutions; and (4) the development of final recommendations and the preparation of account and line item definitions for Form 326.[1]

Discussion

9. As the Price-Waterhouse Study indicated, there are two primary means of satisfying the need for uniform financial data:

(a) Adoption of a uniform accounting system which includes precise accounting standards.

(b) Adoption of a reporting system which includes disclosure of accounting procedures.

The second alternative, a reporting and disclosure system, is being proposed by the Commission after a thorough review of its needs, comments from various states and industry representatives and the recommendations of the contractor's study. Four major criteria were utilized in examining the efficiency of each alternative:

(a) The Federal Government's regulatory informational needs;

[1] The contractor's study entitled "Study of Accounting Policy Issues and Other Considerations Related to the FCC Cable Bureau's Financial Reporting System for Cable Television Operators" is available for public perusal in the Cable Television Bureau Reference Room, Federal Communications Commission, Washington, D.C.

(b) The impact upon cable operators;

(c) The extent to which state and local regulatory informational needs are satisfied;

(d) The maintenance cost to the Federal Government.

10. Although a uniform system of accounts with precise accounting standards, detailed bookkeeping practices, and an established financial reporting format would satisfy the Commission's informational needs, it would also generate much detailed information not needed by the Commission. The Commission is primarily interested in a level of information which will provide it with the ability to make comparisons based upon basic financial indicators, and this does not require precise uniformity of accounts. Typically, a uniform system of accounts is used only in regulating rates of large public utilities when it is considered that competition cannot be relied on to provide adequate service at a reasonable price. Since the cable television industry is relatively small when its revenues and subscribers are compared with public utilities, and since detailed rate base regulation has rarely been utilized by states and localities, the establishment of a nationwide uniform system of accounts would appear to be overly burdensome and costly to the industry and all levels of government. Furthermore, it is possible that cable television may never be subject to detailed rate base regulation on a large scale because of the existence and continuing development of competing modes of visual home entertainment (i.e., off-the-air broadcast signals, cassette television) which might reduce the economic justification for such regulation.

11. In terms of the impact on cable operators, those types of accounting or reporting systems which would require cable operators to alter or modify bookkeeping practices or change accounting policies have significant greater costs and manpower requirements. For example, requiring a cable operator to recode his entire accounting records and documents and to change accounting policies would necessitate many more man-hours than requiring operators to prepare an additional disclosure schedule. We also ask comment on the need for extensive financial information from very small cable operators, for example, those who own a cable system or a cluster of cable systems which serves approximately 500 or fewer subscribers (or some other level).[2]

12. A third primary area for consideration was the extent to which state and local regulatory needs could be satisfied by a reporting system rather than a mandated uniform accounting system. For states and localities which currently regulate the rates of cable television systems, it was found that the prevailing method in regulating rates is the rate review method. The rate review method is primarily a simplified analysis of a cable operator's actual net income or operating income as a function of total assets, net assets or fixed assets. For state and local bodies using the rate review method, the proposed reporting and disclosure system should provide sufficient data, assuming that the reporting entity for the Commission corresponds to the cable system to be regulated. For the few cases where a rate base method (a utility type regulation) is used, the proposed reporting and disclosure system would have to be expanded to add standardized accounting practices. Because the concept of original cost is included in the definition of this proposed reporting system, many state and local governments may find this provision sufficient for their regulatory methods even if it includes an abbreviated rate base.

13. A final important criterion for evaluating the acceptability of proposed alternatives was the cost impact upon the FCC to operate the system. Such costs would include staff time to issue materials and answer questions regarding forms, instructions, and procedures. Also included would be the costs associated with verifying that all provisions of the system were being adhered to and the costs associated with revising the system as necessary. While both a uniform accounting system and a reporting and disclosure system would involve issuing materials and updating the system, a uniform accounting system would involve setting standard accounting and record-keeping practices. With the variety of circumstances faced by cable operators, many might justifiably request waivers of the specific accounting policies mandated by a uniform accounting system. The man-hours of staff time involved in resolving these questions could result in significant incremental costs to the FCC. Lower costs would be incurred by a reporting system similar to the system presently administered by the FCC Cable Television Bureau.

14. The proposed reporting and disclosure system would include the following changes in the FCC Form 326 (see Attachment A):

(a) Schedule 4, which requires information pertaining to non-recurring telephone company charges, would be deleted.

(b) A new schedule would be added which would disclose accounting procedures used in selected accounts such as Deferred System Development Costs, Franchise Costs, Goodwill, Capitalized Interest on System Construction, Overhead Costs Allocated to System, and Original Cost of Purchased Assets. This schedule would also include disclosure of expenses which represent payments to owners and their relatives.

(c) Schedule 2, which requires income statement information, would include several account changes. The revenue format would be more compact, eliminating the need for separate accounts in the "other revenue" category. An account would be added for the copyright fees paid in compliance with the Copyright Act of 1976, Pub. L. 94–553, 90 Stat. 2541. Also, the account items "Total Profit (or Loss)" and "Total Federal and State Income Taxes" would be deleted.

(d) Only Schedules 2, 3, and 4 would remain confidential. Although the present form is entirely confidential, it is considered that Schedules 1 and 5 contain information regarding communities served, FCC system code, installation fees and subscriber fees. Schedule 5 requires information regarding number of full time and part time employees.

15. It is proposed that Schedule 4 (Non-recurring telephone company charges) be deleted because it no longer applies to most cable television systems. After four years of requesting this information, we have found that these charges have dwindled in importance to the industry as a whole.

16. The proposal for a disclosure schedule is one of the most important issues in this proceeding. The degree of reliability of reported financial data depends largely on the degree of disclosure. However, full disclosure of accounting methodology and flow of funds is nearly as burdensome as, if not more so than, a uniform system of accounts, and it would also elicit much information not needed by the Commission. Although record-keeping practices used among cable television operators vary considerably, only a few practices affect the meaningfulness of the financial data to any significant degree. In this regard the Price Waterhouse contract study identified a few critical accounting practices which can potentially affect the reliability of the financial data (see pages 30–34 of the contract study for a detailed discussion of these practices). By requiring selected details concerning these more critical accounting practices and some flow-of-funds information, the reliability of collected financial data would be significantly improved without an extraordinary burden on the reporting entity.

17. The changes in Schedule 2 are proposed either to reduce filing burden or to add information. The revenue format is proposed to be modified by deleting the distinction between "subscriber" and "non-subscriber" revenues as major categories. It has been our experience that there is no current or short-run future need to separate "other revenues" into

[2] This question was deferred for consideration herein at paragraph 63 of the First Report and Order in Docket 20561, FCC 77——.

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"subscriber" and "non-subscriber" accounts. Since copyright fees for the use of off-the-air broadcast signals are only a very recent expense, resulting from the Copyright Act of 1976, it is important to monitor their impact on the industry. Therefore, an account is proposed to be added in Schedule 2 for such copyright fees. The proposal to delete the "Federal and State Income Tax" account is based largely on the fact that it is not necessary to compute critical financial indicators. Furthermore, this account varies too widely to be meaningful, because of several outside factors such as ownership type, recent ownership transfers, and prior earnings or losses.

18. The reporting and disclosure requirements and instructions would include the following (see Attachment B):

(a) A continuation of the present consolidated reporting, which allows a single reporting entity to include those communities within a 40-mile radius of an owner-designated point, keeping a consolidated set of bookkeeping records, and technologically connected either (private) microwave or by cable.

(b) A continuation of fiscal year reporting in lieu of calendar year reporting.

(c) A revised and more complete set of instructions which provides respondents with a detailed definition for each account and the line item number on Form 326 which corresponds to each account. By providing a means for posting their accounts to the FCC reporting form, these instructions allow reporting units to maintain their accounts in whatever manner is most suitable to them, assuming of course that generally accepted accounting principles are used.

(d) Guidelines are provided for separating cable from non-cable data in consolidated accounts, separating accounts which are consolidated for two or more reporting entries, and allocating corporate overhead costs.

(e) An appendix which simplifies instructions for relatively small privately-owned cable operations having uncomplicated accounting procedures.

19. It is also proposed that small cable operators, who serve 500 or fewer subscribers, be exempted from filing Schedules 3 and 4 (the balance sheet and disclosure schedules). This is proposed primarily because the Commission rarely needs extensive financial data for cable television systems in this size category. Furthermore, the economies of scale for these very small cable television systems are such that the expense and burden of filing these schedules are proportionally higher than for larger operations.

20. The Commission is interested in comments which are directed to the following general issues:

(a) The extent to which more or less reporting and disclosure is necessary to meet the regulatory needs of each level of government;

(b) The limits of a reasonable national reporting burden on the cable television industry given the current and expected future regulatory structure.

21. The Commission encourages comments on specific issues, such as the following:

(a) The reliability of data resulting from the proposed account allocation methods;

(b) The reliability and burden of the proposed definition of "original cost" as used in the plant accounts;

(c) The burden of the proposed reporting system upon small operators, however they may be defined;

(d) A multiple system operator's difficulties in separating balance sheet accounts that are normally consolidated in "cost centers";

(e) The need of state and local regulators to have data reported on a calendar year rather than on a fiscal year;

(f) The difficulties of reporting for a non-profit organization;

(g) Interpretation problem relating to any specific definition;

(h) The burden and reliability of reporting resulting from the proposed structure of the income statement and balance sheet schedules;

(i) Special problems of reporting for partnership and proprietorships;

(j) The necessity to vary reporting requirements in relation to size or type of cable television system.

22. Authority for the proposed rule making and inquiry instituted herein is contained in Sections 4 (i), (j), and (k), 303 and 403 of the Communications Act of 1934, as amended.

23. All interested persons are invited to file written comments on the rule making proposal on or before June 3, 1977, and reply comments on or before June 13, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this matter, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

24. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of their comments, without regard to form, provided only that the Docket Number is specified in the heading. Such informal participants who wish responsible members of the staff to have a personal copy and to have an extra copy available for the Commissioners may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M St. NW.).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

FCC Form 326
July 1975

ATTACHMENT A
Approved
GAO No. B-180227(R0205)

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

(LEAVE BLANK)

CABLE TELEVISION ANNUAL FINANCIAL REPORT

For Period Beginning _____, 19___ and Ending _____ 19___

A separate FCC Form 326 must be filed for each cable television system except where group filings comply with the consolidation provision set forth in the following paragraph. Each separate and distinct community or municipal entity (including unincorporated areas and single, discrete unincorporated areas) served by cable television facilities constitutes a separate cable television system, even if there is a single headend and identical ownership of facilities extending into several communities. An FCC Form 326 shall be filed for a cable television system within 90 days of the close of its latest fiscal year on an annual basis. All information contained in the form shall be stated as of the last day of the fiscal year.

Where cable television systems, as defined above, are under common ownership and managed as a single operating entity a consolidated form may be filed in accordance with the following criteria. A single operating entity involves only those systems within a 40-mile radius of an owner-designated reference point which keep a consolidated set of bookkeeping records, and are technologically connected either by private microwave or by cable. Any intention to provide consolidated data for systems which do not meet the above criteria must receive prior Commission approval. The Commission reserves the right to challenge any consolidations.

Detailed instructions and account definitions are attached to this form.

Schedules 2, 3 & 4 are to be treated as confidential.

- REMOVE ONE OF THE LABELS FROM THE COVER SHEET OF THIS FORM AND PLACE HERE

- IF LABELS HAVE NOT BEEN PROVIDED OR THE INFORMATION IS INCORRECT, INDICATE THE PROPER INFORMATION BELOW .....

SYSTEM CODE | SYSTEM COMMUNITY
LEGAL NAME OF ENTITY DIRECTLY OPERATING LOCAL SYSTEM
LOCAL TRADE NAME (IF USED)
MAILING STREET ADDRESS OR P.O. BOX
MAILING CITY | STATE | ZIP

- INDICATE THE INTERNAL REVENUE SERVICE EMPLOYER IDENT (E.I.) NO. FOR THE LOCAL BUSINESS ENTITY DIRECTLY OPERATING THE LOCAL SYSTEM. IF OPERATOR IS PERSON WITH NO EMPLOYEES AND NO E.I. NO., USE SOCIAL SECURITY NO.....

V4289 MAY 9 77 UMI

FCC Form 326 SCHEDULE 2. CABLE TELEVISION REVENUES AND EXPENSES

Line No.		AMOUNT (OMIT CENTS)
	OPERATING REVENUES	$
1	Installation Income	
2	Regular Subscriber Revenues	
3	Per Program or Per Channel Income (Pay Television)	
4	Advertising Income	
5	Special Service Income	
6	Other Revenues	
7	TOTAL OPERATING REVENUES	
	OPERATING EXPENSES SERVICE COSTS:	
8	Salaries, Wages and Employee Benefits	
9	Pole and Duct Rentals	
10	Private Microwave Service (CARS)	
11	Common Carrier Microwave Service	
12	Total Tariff (Leaseback) Charges (applies only to Systems receiving telephone company channel service)	
13	All Other Service Expenses	
14	ORIGINATION EXPENSES: Salaries, Wages and Employee Benefits	
15	ALL OTHER ORIGINATION EXPENSES	
16	SELLING, GENERAL AND ADMINISTRATIVE EXPENSES: Salaries, Wages and Employee Benefits	
17	Franchise Fees	
18	Copyright Fees	
19	ALL OTHER SELLING, GENERAL AND ADMINISTRATIVE EXPENSE	
20	TOTAL OPERATING EXPENSE	
21	TOTAL OPERATING INCOME	
22	DEPRECIATION AND AMORTIZATION Depreciation	
23	Amortization	
	OTHER INCOME AND EXPENSES OTHER INCOME:	
24	Total Other Income	
25	OTHER EXPENSES: Interest	
26	Miscellaneous	
27	TOTAL OTHER INCOME (OR LOSS)	
28	EXTRAORDINARY ITEMS	
29	TOTAL PROFIT (OR LOSS) BEFORE TAXES	

FCC FORM 326 SCHEDULE 4 SUPPLEMENTAL ACCOUNTING INFORMATION

Part A

	Amortization Term (in years)	Amortization Method Used 1/	Amount Capitalized During Year	Amount Amortized During Year
1. Deferred System Development Costs (ANNUAL)			$	$
2. Franchise Costs (recorded as assets (ANNUAL)			$	$
3. Goodwill (ANNUAL)			$	$

1/ codes: 1 straight line; 2 declining balance; 3 sum-of-the-year's digits; 4 other

Part B

	Total Capitalized	Amount Capitalized During Year	Useful Life(Yrs.)
4. Capitalized Interest on System Construction	$	$	

Part C

	Total Amount of Asset	Amount Not Being Amortized	Amount Being Amortized
5. Deferred System Development Costs	$	$	$
6. Franchise Costs (recorded as assets)	$	$	$
7. Goodwill	$	$	$

Part D

	Total Amount of Allocated Costs	Method Used to Allocate Costs to System 2/
8. Overhead Costs Allocated to System	$	

2/ codes: 1 per number of subscribers
2 per gross revenues
3 per miles of plant
4 other

Part E

	Amount
9. Original Cost of Purchased Assets (Seller's Book Value)	$
10. Portion of Purchase Price Allocated to Seller's Book Value	
11. Recorded Cost of Purchased Assets by Purchaser	$

Part F

	Fixed Asset Classification	Amount	Useful Life(Yrs.)	Fixed Asset Classification	Amount	Useful Life(Yrs.)
12. Estimated Useful Lives of Fixed Assets						

Part G

	Amount	Number of Persons
13. Salaries to Owners	$	
14. Other Direct Payments	Total Amount $	

Check for Type of Payment Included in Total
___ Rent ___ Payments for Services ___ Payments for Equipment
___ Payments for Supplies ___ Travel & Entertainment Expenses
___ Other

15. Expense Payments to Spouse or Relatives — Total Amount $

Check for Type of Payments Included in Total
___ Rent ___ Payments for Services ___ Payments for Equipment
___ Payments for Supplies ___ Travel & Entertainment Expenses
___ Other

V42N89 MAY 9 77 UMI

SCHEDULE 5. EMPLOYMENT	Number of Employees	
Indicate the number of employees for the workweek in which the last day of the Fiscal Year fell.	FULL TIME	PART TIME

CERTIFICATION

This report must be certified by the individual owning the reporting cable television system, if individually owned; by a partner, if a partnership; by an officer of the corporation, if a corporation; or by a representative holding power of attorney in case of physical disability of an individual owner or his absence from the United States.

I certify that I have examined this report, and that all statements of fact contained therein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

Signature *Title* *Date Signed*

Printed name of person signing

ATTACHMENT B

INSTRUCTIONS FOR FILING FCC FORM 326

Section 1—General Instructions

1.1 File one copy of this form with the Federal Communications Commission, Washington, D.C. 20554, Room 6216. Do not return these instructions to the Commission.

1.2 A Form 326 shall be filed for a cable television system on an annual basis within 90 days after the close of its latest fiscal year. All information contained in the form shall be stated as of the last day of the fiscal year.

1.3 Definition of a cable television system: (Section 76.5(a) of the Commission's Rules).

Cable television system

A nonbroadcast facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment, under common ownership and control, that distributes or is designed to distribute to subscribers the signals of one or more television broadcast stations, but such term shall not include (1) any such facility that serves fewer than 50 subscribers, or (2) any such facility that serves or will serve only subscribers in one or more multiple unit dwellings under common ownership, control or management.

1.4 This report must be certified by the individual owning the reporting cable television system, if individually owned; by a partner, if a partnership; by an officer of the corporation, if a corporation; or by a representative holding power of attorney in case of physical disability of an individual owner or his absence from the United States. Willful false statements made on this form are punishable by fine or imprisonment. (U.S. Code, Title 18, Section 1001).

1.5 All pertinent schedules of this form must be completed for every filing. [The only exception to this requirement is for small cable operators who own a single cable television system which serves fewer than 500 subscribers. Cable operators who meet these criteria are exempt from filing schedules 3 and 4 (the balance sheet and disclosure schedule) of FCC Form 326]. Incomplete filings will not be accepted and will be returned to the respondent for completion. Copies of income tax returns should not be sent. Financial statements and other such information will not be acceptable in lieu of a completed Form 326.

1.6 The financial information disclosed in Schedules 2 and 3 must present fairly the respondent cable television system's financial position in conformity with "generally accepted accounting principles" on a consistent basis. The term "generally accepted accounting principles" refers to the issued Opinions of the Accounting Principles Board and the rulings of the Financial Accounting Standards Board. This applies to every account except those affected by the "original cost" definition. It is required that the accrual basis of accounting be used in preparing the financial information for this form.

1.7 A consolidated form is permitted for those communities within a 40-mile radius of an owner-designated reference point, keeping a consolidated set of bookkeeping records, and technologically connected either by private microwave or cable. A cable operator may be allowed to consolidate a filing, with prior Commission approval, for systems that are not technologically connected if these systems are within a 40 mile radius of a designated reference point and operationally integrated.

1.8 There may be financial entities, as defined by a company's bookkeeping practice, which do not conform to the entities allowed for reporting purposes of the Form 326, particularly in the allocation of certain line items in the balance sheet schedule. In cases such as these, the cable operator must use generally accepted cost accounting techniques to estimate the line items, and he must indicate by a footnote which accounts are estimated and what estimating methods are used for each account. Detailed examples on allocating accounts are provided in Section 3 of these instructions.

1.9 If the respondent company includes business activity other than cable television service (such as broadcasting), those accounts which include such activities must be properly separated or allocated so that only cable television service financial information is disclosed in the Form 325. For those respondents who cannot separate cable television service-related financial information from other lines of business because of consolidated bookkeeping records, those affected accounts should be separated by generally accepted accounting techniques and footnotes should be included which indicate the affected accounts and allocation methods used. Detailed guidelines on acceptable methods for separating accounts are provided in Section 3 of these instructions.

1.10 Filings on behalf of small, privately-owned cable television systems should refer to Appendix A for simplified instructions.

1.11 Specific instructions for each schedule in Form 326 are provided in Section 2 of these instructions.

Section 2—Schedule Instructions and Account Definitions

2.1 Schedule 1 Instructions:

2.1.1 Respondents filing Form 326 for the first time must complete Schedule 1 by listing each community included in this financial report.

2.1.2 For each community listed, the system code, installation fee and subscriber fee information must be included.

2.1.3 The system code number is generally assigned by the Cable Television Bureau at the time of certification. It appears on the Certificate of Compliance as the "System Community Indent". If no number has been assigned leave blank.

2.1.4 The installation fee information to be entered in this schedule is the standard fee charged for the initial installation of a single drop for a single television set.

2.1.5 The subscriber fee information to be entered in this schedule is the standard monthly charge for basic cable television service.

2.1.6 After initial filings are on record, Schedule 1 will be pre-printed based on the filings of the preceding year. If any of the communities listed are no longer served by the owner-respondent, draw a line through that community to be deleted. If any additional communities are to be included in a consolidated filing, fill in the space provided for such additions. Installation and subscriber fees must be entered for each community.

2.1.7 Submit as an Exhibit (a rate card is preferred) per program or per channel charges, i.e. pay cable charges, if any.

2.2 Schedule 2 Instructions and Definitions:

2.2.1 The financial information entered in Schedule 2 must apply to only those business activities related to the operation of cable television services.

2.2.2 Accounts must be entered as defined in this section. If allocations or separations of accounts are necessary because bookkeeping records are consolidated, refer to Section 3.

2.2.3 "Proprietor or Partner Withdrawals"—From business operations that are not compensation for work performed must not be reported as an expense nor appear in any account in Schedule 2. Those payments to owners which may be classified as operating expenses directly related to the operation of the cable television system should be reported in Schedule 4, Part G as well as in Schedule 2.

2.2.4 Schedule 2 Definitions:

"Operating Revenues" are all revenues which directly result from the rendering of services connected with the cable television activity.

Line No.

1. "Installation Revenue"—Revenue earned from services rendered to subscribers for connecting subscribers to the cable system (drops), relocating cable connections and installing additional connections.
2. "Regular Subscriber Revenue"—Revenue earned from regular, periodic charges for cable television service. This amount should not include pay cable or other service charges that are in addition to the basic subscriber charges.
3. "Per Program or Per Channel Revenue"—Revenue earned from charges for per program or per channel services (commonly called pay cable services). The services must not be obtainable from regular subscriber charges. Revenue from pay cable related lease agreements, converter rentals and other related revenue from subscribers should be included on this line.
4. "Advertising Income"—Revenue earned from advertisements appearing over cablecasting channels (cable origination).
5. "Special Services Revenue"—Revenue (other than pay cable services) earned from the lease or sale of time or studio and cable facilities.
6. "Other Revenue"—All revenue derived from operation of the cable television system not included in any other revenue accounts.
7. "Total Operating Revenue"—The total amount of revenues as entered on lines one through six of Schedule 2, as defined above.

"Operating Expenses" are all expenses which directly result from the rendering of services connected with the cable television activity. This category does not include expenses directly related to construction in progress, which should be entered on Schedule 3, line 10.

"Service Expenses" are all expenses directly related to receiving and distributing signals to the community(s) served by the cable television system.

Line No.

8. "Salaries, Wages and Employee Benefits"—The expenses for services of all employees of the system engaged in technical activities and maintenance required to receive and distribute signals to the communities listed in Schedule 1. Applicable expenses include: salaries and wages for all hours worked by employees, employer payroll taxes, vacation, bonus, and profit-sharing payments, pension costs and life and hospitalization insurance costs (Does not include salaries, wages and employee benefits that are capitalized in construction accounts).
9. "Pole and Duct Rentals"—The rental cost of pole attachments and duct space. Site rentals are to be included in "All Other Service Expenses".
10. "Private Microwave Service"—The expenses of receiving microwave transmissions from private sources of microwave service (not the cost of receiving micro-

V 42 N 89 MAY 9 77 UMI

wave service from common carriers; see next definition). Costs are included on this line for CARS, or other private microwave services.

11. "Common Carrier Microwave Service"—The cost of receiving microwave transmissions from Common Carrier public microwave relay service including service charges, equipment rental or other related costs.
12. "Total Tariff Charges"—The cost of receiving channel service from a telephone company. If such services are not obtained, leave this line blank.
13. "All Other Service Expenses"—The expenses of receiving and distributing cable signals which have not been included on lines 8 through 12. All expenses entered on this line must directly relate to providing cable services. Such expenses include: the cost of expendable maintenance materials, payments to utilities for heat, light and power, the non-labor expenses related to operation of service vehicles, rent, supplies and telephone services.

"Origination Expenses"—The expenses directly related to program origination including automated and non-automated program origination such as the purchase or production of films, features, local news, weather, sports events or other programming over the cable system(s).

14. "Salaries, Wages and Employee Benefits"—The expenses for services of all employees engaged in the origination of programming. Applicable expenses include: salaries and wages for all hours worked, employer payroll taxes, vacation, bonus and profit-sharing payments, pension costs, and life and hospitalization insurance costs.
15. "Other Origination Expenses"—All other origination expenses not included in Salaries, Wages and Employee Benefits.

"Selling General and Administrative Expenses"—The expenses directly related to selling, general and administrative activities, such as advertising, insurance, property taxes, traveling expenses, utilities and telephone and office supplies.

16. "Salaries, Wages and Employee Benefits"—The expenses of employees engaged in selling, general and administrative activities directly related to the operation of the cable system. Applicable expenses include: Salaries and Wages of employees engaged in promoting and advertising the system as directed towards prospective subscribers and advertisers, system manager's salary, and all other salaries and wages not included as service or origination expenses, employer payroll taxes, vacation, bonus and profit sharing payments, and life and hospitalization insurance costs.
17. "Franchise Fees"—The franchise fees payable under the Company's franchise agreement which are applicable to current operations.
18. "Copyright Fees"—Copyright fees for broadcast signal carriage (as defined by 17 U.S.C. Section 111) "limitations on exclusive rights: secondary transmission". This account should not include the cost of cablecast and film rights which are classified as assets and are recorded in Schedule 3.
19. "All Other Selling, General and Administrative Expenses"—The total of all selling, general and administrative expenses not included in lines 16, 17, and 18 such as, utilities and telephone, local property taxes, accounting and legal fees, bad debts expense, insurance, management fees and corporate overhead allocations.
20. "Total Operating Expenses"—The total of Lines 8 through 19.
21. "Total Operating Income"—The difference of the amount entered on line 7 less the amount entered on line 20 of Schedule 2. This amount is the total operating income (or operating margin) for the system(s) which comprises this report.
22. "Depreciation"—The amount provided annually for allocating the cost of the fixed assets that are entered on Schedule 3, including plant and adjustment and amortization of leasehold improvements. Depreciation expense allocates the cost of fixed assets over their estimated economic life.
23. "Amortization"—The amount provided annually for allocating the cost of the intangible assets entered on Schedule 3 that are normally capitalized. Amortization expense should allocate the cost of intangible assets over the expected periods benefitted.
24. "Other Income"—The revenue earned from sources not directly related to the operation of a cable system such as interest, dividends, gains from the sale or disposal of fixed assets and gains from the sale of marketable securities.
25. "Interest Expense"—The amount of the interest expense of obligations, such as notes, bonds and mortgages payable. This should not include interest charged to construction in-progress or intercompany interest charges for the use of debt or equity capital.
26. "Miscellaneous"—The amount of all other expenses not directly related to the operation of a cable television system, such as corporate overhead, management fees, credits allocated to systems by parent corporations, losses from the sale or disposal of fixed assets, and losses from the sale of marketable securities.
27. "Total Other Income (or Loss)"—Line 24 less lines 25 and 26.
28. "Extraordinary Items"—The amount of income or loss resulting from an event or transaction not reasonably expected to recur in the foreseeable future or an event or transaction that is unusual in nature. Do not include gains or losses from the sale or disposal of fixed assets or from the sale of marketable securities.
29. "Total Profit (or Loss) Before Taxes"—The sum of lines 21, 27 and 28 less lines 22 and 23.

2.3 Schedule 3 Instructions and Definitions:

2.3.1 The financial information entered in Schedule 3 must apply to only those business activities related to the operation of cable television services.

2.3.2 Accounts must be entered as defined in this section. If allocations or separations are necessary because bookkeeping records are consolidated, refer to Section 3 of these instructions.

2.3.3 Schedule 3 Definitions:

"Current Assets"—Those assets which are expected to be converted into cash or consumed in business operations within a short period of time (one year).

Line No.

1. "Cash"—The total amount of cash on hand or on deposit in banks, including interest-bearing certificates of deposit. Do not include amounts resulting from banking arrangements permitting automatic loans by writing overdrafts. These amounts should be classified as loans payable.
2. "Accounts Receivable"—The amounts due from subscribers, advertisers or other trade accounts. Also any amounts due from employees, officers, or any other party. Include only those amounts expected to be collected within one year. Include accrued interest if earned but not yet received. Do not include collections made in advance nor accounts deemed uncollectable.
3. "Other Current Assets"—All other current assets not included in lines 1 or 2, such as: short-term investments, inventory, prepaid expenses, and the current portion of cablecast and film rights.
4. "Total Current Assets"—The total of lines 1 through 3.

"Fixed Assets"—Capital Assets used for operation which have a life expectancy of more than one year. Fixed Asset items must be reported in terms of original cost. Original Cost is defined as the cost of the fixed asset item when it is first put in use for cable television service. If in the process of an ownership transaction, consummated before August 1, 1975, the original cost data has been lost, the respondent may use allocated costs in lieu of original costs providing it is indicated in a footnote. If allocations are necessary, refer to Section 3 of these instructions.

5. "Land and Buildings"—The cost of real property, its acquisition costs, costs of permanent improvements, office buildings and headend shack.
6. "Headend"—The cost of tower, antennae, electronic equipment and all other equipment related to the headend, including time and weather channel equipment. The cost of the head-end building should be included on line 5, not on this line.
7. "Trunk and Distribution System"—The cost of trunk and distribution lines in-use to deliver cable signals to subscribers. This includes the costs of owned poles (including related guys, anchors, messenger cable and pole hardware), trunk and distribution cable (including lashing wire, splices and connectors), amplifiers and power suppliers (including housing and associated hardware and electronic equipment). This also includes rebuilt trunk and distribution plant in-use.
8. "Subscriber Devices"—The costs associated with connecting a subscriber to the system. This includes costs of installing or placing into service taps, blocks, transformers, cable, converters and other subscriber connection devices.
9. "Program Origination Equipment"—The cost of all equipment used for program origination and located at the cable studio or program origination site. Program origination equipment includes cameras, studio equipment, film processing equipment, video recording equipment, editing recorder monitor, and production consoles.
10. "Construction Work in Progress"—The cost of uncompleted construction of buildings, improvements and equipment. Once construction of specific assets is completed to the point of use, the associated costs should be transferred to the appropriate fixed asset account.
11. "Other Fixed Assets"—The cost of all fixed assets utilized for the operation of the cable system and not included in any other fixed asset account. Examples of fixed assets whose costs should be included in the amount entered on this line are: test equipment, automobiles and trucks (vehicles), office equipment, leasehold improvements and capitalized leased property (if any).

Line No.

12. "Plant Adjustment"—If the accounting records of the cable operator are maintained on the basis of the seller's original cost of purchased cable assets, enter on this line the difference between the original cost of the purchased assets and the appraised fair value of these assets at the time of purchase (called plant adjustment). This does not include any amount recorded as goodwill or franchise costs; only the excess of the appraised fair value over the seller's book value of purchased, tangible assets. If in the process of ownership transactions, consumated before August 1, 1975, the original cost data has been lost, the respondent may use allocated costs in lieu of original costs providing it is indicated in a footnote. If allocations are necessary refer to Section 3 of these instructions.
13. "Accumulated Depreciation"—The cumulative portions of the original cost of all tangible, depreciable assets included in Fixed Assets Accounts (which includes Plant Adjustment) in this schedule that have been allocated as an expense for the current year and appropriate preceding years. Common forms of allocating original costs of fixed assets to expenses are: the straight lin method, the sum-of-digits method and the declining balance method.
14. "Total Fixed Assets"—The total of lines 5 through 14.
15. "Total Other Assets"—The total of the costs of all other assets not included on any previous line of Schedule 3. The assets whose costs should be entered on this line include intangible assets such as goodwill, franchise costs, the costs of licenses, permits or other intangible assets, deferred development costs (start-up costs), noncurrent cablecast and film rights, unamortized bond discount, deposits and cash value of life insurance.
16. "Accumulated Amortization"—The cumulative portions of the original cost of all amortizable assets that have been allocated as an expense for the current year and appropriate preceding years.
17. "Total Other Assets"— Line 15 less line 16.
18. "Total Assets"—The total of lines 4, 14 and 17.

"Current Liabilities"—Those obligations to be liquidated by the use of existing current assets within one year.

19. "Loans Payable"—The amount of debt payable within one year under terms of an agreement with a financing institution such as banks and insurance companies. This includes funds received through banking arrangements providing automatic protection of overdrafts.
20. "Accounts Payable"—The amount payable for goods and services received from vendors and suppliers and the amounts accrued as expenses for obligations which are due but have not been paid.
21. "Other Current Liabilities"—The amount of all current liabilities not included on lines 19 and 20. Examples of current liabilities which would be included on this line are: unearned subscriber revenues (subscriber payments for services to be provided in the future), refundable subscriber deposits, income tax liabilities currently payable, amounts payable within one year on cablecast and film rights (contracts), and dividends payable.
22. "Total Current Liabilities"—The total of lines 19, 20 and 21.
23. "Total Deferred Credits"—Revenues that are defefred into a future operating period. This arises upon the receipt of an asset preceding the period in which the asset is considered to be earned, such as investment credit or deferred tax liabilities. This account also includes any other liabilities not included as a current liability (on lines 19, 20 and 21) or long-term debt (on line 24).
24. "Total Long-Term Debt"—The amount payable after one year to all holders of debt securities, notes and agreements and other long-term liabilities for which the cable operator is legally obligated. The amount of liabilities (non-current) arising from capitalized leases and unamortized bond premiums is to be included on this line.
25. "Total Stock Issued"—The amount of par or stated value of common and preferred stock issued, capital in excess of par and all other capital contributions, less the cost of capital stock repurchased and held in the treasury. This line does not apply to proprietorships or partnerships.
26. "Proprietor's Equity"—The amount owned by the proprietor, partners or joint venture members. This amount includes undistributed earnings less the amount of drawings or distributions. This line does not apply to incorporated businesses.
27. "Retained Earnings"—The amount should represent the accumulated balance of earnings in prior years which has not been otherwise classified by action of the directors or declared as payable to stockholders as dividends, whether paid yet or not. This amount is often called Earned Surplus or Re-Invested Income and does not represent any specific asset. This line does not apply to proprietorships or partnerships.
28. "Other Owners Equity"—The amount of all other equity not included on lines 25, 26 or 27. Examples of amounts which should be entered on this line are the fund balances for nonprofit or municipal cable systems.
29. "Total Owners Equity"—The total of lines 25, 26, 27 and 28.
30. "Total Liability and Owners Equity"—The total of lines 22, 23, 24 and 29.
31. "Method of Depreciation Used"—Indicate the depreciation method used by one of the following codes:

Code No.	*Method*
1	Straight line.
2	Declining balance.
3	Sum-of-the-year's digits.
4	Other.

2.4 Schedule 4 Instructions

2.4.1 *General Instructions:* If there has been no system construction or expansion within five years, Parts A, B and C of Schedule 4 should be left blank. If all costs can be identified with the particular reporting system(s) and directly relate to the operation of this reporting entity, Part D should be left blank. If the operator is the original owner of the assets of this reporting entity, Part E should be left blank. All operators must fill out Part F, of Schedule 4. If payments which may be classified as operating expenses are made to system owners or their relatives, Part G must be filled out.

2.4.2 Schedule 4—Explanation of Terms:

Line No.

1. and 5. "Deferred System Development Costs"—include operating, promotional, general and administrative costs, net of incidental revenues, incurred prior to becoming "operational", which are deferred (capitalized) and subsequently amortized over the future periods benefited by these costs (usually five to fifteen years). Deferral of system development costs must be based upon relative certainty that they will be recovered, not deferred solely because an operator is in the development stage.
2. and 6. "Franchise Costs"—represent the costs of obtaining franchises and include legal expenses and other costs associated with franchises.
3. and 7. "Goodwill"—is recorded in the accounting records of cable operators when a cable system is purchased at a price in excess of the fair value of the assets acquired less liabilities assumed and represents that portion of the purchase price that cannot be related to the identifiable assets.
4. "Capitalized Interest on System Construction"—Interest costs that are directly related to system construction may be depreciated much the same as other construction costs.
8. "Overhead Costs Allocated to System"—are costs which cannot be identified with any particular cable system and are accumulated in corporate accounts. These costs include the salaries, wages and employee benefits of the corporation's officers and directors, other corporate selling, general and administrative expenses, management fees and federal and state income taxes payable. Overhead costs must be allocated to individual systems, as described in Section 3 of these instructions.
9. "Original Cost of Purchased Assets"—the costs of the fixed assets when first put in use for cable television service. If in the process of an ownership transaction, consumated before August 1, 1975, the original cost data has been lost, the respondent may use allocated costs in lieu of original costs providing it is indicated in a footnote. If allocations are necessary refer to Section 3 of these instructions.
10. "Portion of Purchase Price Allocated to Seller's Book Value"—is that amount of the purchase price allocated to the original cost less the accumulated depreciation of the owner.
11. "Recorded Cost of Purchased Assets by Purchaser"—is the entire cost of the purchased assets, incurred by the purchaser.
12. "Estimated Useful Life of Fixed Assets"—is the amount, in years, of each asset's estimated economic life.
13. "Owners"—Proprietors, partners or stockholders who own at least 3 percent of the reporting cable television system(s).
14. "Salaries"—The amounts paid to those employed by the reporting cable television system's as remuneration for their services and which are classified as an operating expense.
15. "Relatives"—Son, daughter, son-in-law, daughter-in-law, mother, father of owners.

2.4.3 Schedule 4—Instructions:

Line No.

1. "Deferred System Development Costs" (Annual)—If system development costs are deferred, enter the number of expected periods benefited in the column entitled "Amortization Term". Indicate method of amortization used by entering one of the following codes: (1-straight line, 2-declining balance, 3-sum-of-the-years' digits, 4-other) in the column entitled "Amortization Method Used". Enter the total amount of deferred cost capitalized during the year in the column entitled "Amount Capitalized During Year". Enter the amount of development cost amortization which applies only to the present accounting period in the column entitled "Amount Amortized During Year".
2. "Franchise Costs" (recorded as assets) (Annual)—If the cost of obtaining a franchise is amortized enter the number of expected periods benefited in the column entitled "Amortization Term". Indicate the method of amortization used by entering one of the following codes: (1-straight line, 2-declining balance, 3-sum-of-the-years' digits, 4-other) in the column entitled "Amount Capitalized During Year". Enter the amount of franchise cost amortization which applies only to the present accounting period in the column entitled "Amount Amortized During Year".

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3. "Goodwill" (Annual)—If goodwill is recorded, enter the number of expected periods benefited in the column entitled "Amortization Term". Indicate the method of amortization used by entering one of the following codes: (1-straight line, 2-declining balance, 3-sum-of-the-years' digits, 4-other) in the column entitled "Amortization Method Used". Enter the total amount of goodwill capitalized during the year in the column entitled "Amount Capitalized During Year". Enter the amount of goodwill amortization which applies only to the present accounting period in the column entitled "Amount Amortized During Year".
4. "Capitalized Interest on System Construction"—If interest costs on system construction are capitalized, enter the total amount of interest being capitalized in the column entitled "Total Capitalized". Enter the amount capitalized during the year in the column entitled "Amount Capitalized During Year". Enter the number of expected periods benefited in the column entitled "Useful Life".

Line No.

5. "Deferred System Development Costs"—If system development costs are referred, enter the entire amount of these costs in the column entitled "Total Amount of Asset." Enter the total amount to be capitalized, if any, in the column entitled "Amount Not Being Amortized." Enter the entire amount of system development costs to be amortized in the column entitled "Amount Being Amortized."
6. "Franchise Costs"—If franchise costs are being deferred, enter the entire amount of franchise costs in the column headed "Total Amount of Asset." Enter the total amount to be capitalized, if any, in the column entitled "Amount Not Being Amortized." Enter the entire amount of franchise costs to be amortized in the column entitled "Amount Being Amortized."
7. "Goodwill"—If there is goodwill on the books, enter the entire amount of goodwill in the column entitled "Total Amount of Asset." Enter the total amount to be capitalized, if any, in the column entitled "Amount Not Being Amortized." Enter the entire amount of franchise costs being amortized in the column entitled "Amount Being Amortized."
8. "Overhead Costs Allocated to System"—Enter the entire amount of Allocated Costs, if any, in the column entitled "Total Amount of Allocated Costs." Indicate the method of allocation used by entering one of the following codes: (1-per number of subscribers, 2-per gross revenues, 3-per miles of plant, 4-other) in the column entitled "Method Used to Allocate Costs to System."
9. "Original Cost of Purchased Assets"—Enter the total amount of the original cost of purchased assets in the column entitled "Amount."
10. "Portion of Purchase Price Allocated to Seller's Book Value"—Enter the amount of the purchase price allocated to the seller's book value in the column entitled "Amount."
11. "Recorded Cost of Purchased Assets by Purchaser"—Enter the entire cost of purchased assets in the column entitled "Amount."
12. "Estimated Useful Lives of Fixed Assets"—Enter each asset classification (1 sets"—Enter each asset classification (land and buildings, headend, subscriber devices, trunk and distribution system) in the column entitled "Fixed Asset Classification." Enter each asset's original cost in the column entitled "Amount." Enter the estimated economic life of each asset in the column entitled "Useful Life." When computing the estimated economic life of assets, such as trunk & distribution system & subscriber devices, use a weighted average, if necessary.
13. "Salaries to Owners"—Enter the entire amount of salaries paid to owners of the reporting cable television system(s) in the column entitled "Amount". Enter the number of owners to whom the salaries were paid in the column entitled "Number of Persons".
14. "Other Payments to Owners"—Enter the total amount of any other direct payments, which are classified as operating expenses, to owners of the reporting cable television system(s) in the column entitled "Total Amount". Check the type of payments made in the appropriate space(s).
15. "Expense Payments to Spouse or Relatives"—Enter the total amount of payments, which are classified as operating expenses, to a spouse or relatives of the owners of the reporting cable television system(s) in the column entitled "Total amount". Check the type of payments made in the appropriate space(s).

2.5 Schedule 5 Instructions

2.5.1 Indicate the number of employees for the work week in which the last day of the Fiscal Year fell. If there are no employees, indicate this fact by entering zeros in the spaces provided.

2.5.2 If the number of employees is recorded in books which are consolidated for more than one reporting entity, refer to Section 3.2.3; of these instructions for further details.

Section 3—Allocations and Consolidations

3.1 Part A—Separating Cable from Non-Cable Data

3.1.1 In many instances, cable operators are also involved in other lines of business. If the accounting records of the differing "segments" of the businesses are kept separately, there is no problem in filing FCC Form 326. If, however, the accounting records of the business are consolidated, the need for allocation of costs to each business "segment" arises. In order to facilitate the separation of cable related from non-cable financial information, a step-by-step guideline for the allocation of the cable related financial data is provided herein.

3.1.2 Guideline for Separation of Cable from Non-Cable Financial Data:

Step No.

1. Identify all financial data (balance sheet and income statement data) which directly relate to cable television activities.
2. Enter the amounts of all the accounts identified as directly relating to cable television activities on the appropriate lines of Schedules 2 and 3, as indicated in 2.2.4 and 2.3.3; section 2 of these Instructions.
3. For the remaining revenue accounts, obtain the ratio of cable related gross revenue to total gross revenues (cable gross revenue ÷ total gross revenues). Apply this percentage to all revenues that cannot be identified as directly relating to cable television activities or other business activities. Enter the resulting amount(s) on the appropriate line(s) of Schedule 2, as indicated in 2.2.4; section 2 of these Instructions.
4. For the remaining expense accounts, obtain the ratio of cable related expenses to total expenses (cable expenses ÷ total expenses). Apply this percentage to all expenses that cannot be identified as directly relating to cable television activities. Enter the resulting amount(s) on the appropriate lines of Schedule 2, as indicated in 2.2.4; section 2 of these Instructions.
5. For the remaining asset accounts, obtain the ratio of cable related assets to total assets (cable assets ÷ total assets). Apply this percentage to all assets that cannot be identified as directly relating to cable television activities. Enter the resulting amount(s) on the appropriate lines of Schedule 3, as indicated in 2.3.3; section 2 of these Instructions.

Step No.

6. For the liability and equity accounts, apply the percentage obtained in step 5 to the liability and equity accounts. Enter the resulting amounts on the appropriate lines of schedule 3, as indicated in 2.3.3; section 2 of these Instructions.
7. Attach, in appendix form, an explanatory outline of all calculations and their results.

3.2 Part B—Allocation of Consolidated Data to Particular Systems

3.2.1 In many instances, cable operators consolidate the financial data of several systems into one set of accounts. If the Commission's consolidation requirements are fulfilled in the consolidation, allocation of financial data is not necessary. However, if the Commission's consolidation requirements are not met, the financial data must be separated for reporting as separate financial entities. In order to facilitate separation of the reporting entities, a step-by-step guideline for the allocation of financial data to particular systems is provided herein.

3.2.2. Guidelines for the Allocation of Consolidated Financial Data to Particular Systems:

Step No.

1. Identify all accounts which can be related to each reporting entity and enter the amounts on the appropriate lines of Schedules 2 and 3 as designated in 2.2.4 and 2.3.3; section 2 of these Instructions.
2. Obtain the ratio of subscribers per reporting entity to total subscribers (number of subscribers per entity ÷ total number of subscribers).
3. Apply the percentage obtained in step 2 to all accounts which cannot be identified as relating to each reporting entity. Enter the resulting amounts on the appropriate lines of Schedules 2 and 3, as designated in 2.2.4 and 2.3.3; section 2 of these Instructions.
4. Apply the percentage obtained in step two for determining the number of employees per reporting entity. Enter the resulting figure in the appropriate spaces of Schedule 5.

Step. No.

5. Attach, in appendix form, an explanatory outline of all calculations and their results.

3.3 Part C—Allocation of Overhead Costs

3.3.1 Although the accounting records of individual reporting entities are kept separately, in many instances, there are corporate overhead costs that must be allocated to the reporting entities. In order to facilitate allocation of these costs, examples of accentable allocation methods are provided herein.

3.3.2 Method

1. "Per Number of Subscribers"—Obtain the ratio of subscribers per reporting entity to total subscribers (subscribers per entity ÷ total subscribers). Apply this percentage to each overhead cost and enter the resulting amount on the appropriate lines of Schedule 2, as designated in 2.2.4; section 2 of these Instructions.
2. "Per Gross Revenues"—Obtain the ratio of gross revenues per reporting entity to total gross income (gross revenues per entity ÷ total gross revenues). Apply this percentage to each overhead cost and enter the resulting amount on the appropriate lines of Schedule 2, as designated in 2.2.4; section 2 of these Instructions.
3. "Per Miles of Plant"—Obtain the ratio of miles of plant per entity to total miles of plant (miles of plant per entity ÷ total miles of plant). Apply this percentage to each overhead cost and enter the resulting amount on the appropriate lines of Schedule 2, as designated in 2.2.4; section 2 of these Instructions.
4. Attach, in appendix form, an explanatory outline of all calculations and their results.

APPENDIX A

INSTRUCTIONS FOR SMALL SYSTEM OPERATORS

Small, privately-owned cable television systems do not have the complex ownership relationships experienced by many of the larger systems. It is recognized that operators of these systems may have unique problems in posting their accounts to FCC Form 326. It should be noted that cable operators who own a single cable television system which serves fewer than 500 subscribers, are exempt from filing Schedules 3 and 4 (the balance sheet and disclosure schedule) of FCC Form 326.

To alleviate any problems which may arise in regard to small system accounting and reporting requirements, two steps have been taken:

(1) A discussion of accounting concepts of potential difficulty is included in this Appendix, and

(2) An informational contact point has been established in the Research Division of the Cable Television Bureau to assist operators in their compliance with the revised reporting system and to provide a timely response to their queries.

Schedules 2 and 3 portray basic Income Statement and Balance Sheet Statement information. (These statements are familiar to operators and are, for the most part, self-explanatory.) There are specific instructions for both schedules which define and explain each line item account.

However, to assist operators of small, privately-owned cable systems, a further discussion—with examples—is provided herein regarding several aspects of the reporting system which may be of particular concern to these operators.

Although this appendix is an attempt to identify and respond to potential questions, further assistance will be provided through the informational contact point established in the Research Division of the Cable Television Bureau.

I. *Consolidations and allocations.* (A) Small, privately-owned cable systems—not unlike their corporate counterparts—may be affiliated with other lines of business. If separate bookkeeping records are maintained for each business, the operator should experience no difficulty in reporting only cable related financial information on FCC Form 326. If, however, some or all accounts from each business are commingled, and the operator is unable to determine the specific amounts which are attributable to cable related operations, the instructions provided in Section three, Part A of these Instructions should be followed. For example, the owner of a small cable television system may also own a local television repair shop. If the balance sheet accounts for both businesses are consolidated, the operator must make an estimate of the percentage of cable related assets and apply this percentage to both the liabilities and equity account balances. In the unlikely event that the revenues and expenses of both businesses are also combined, the operator must make an estimate of the amounts related to the cable operation only. Details are provided in Section 3, Part A of these Instructions.

(B) In addition to the consolidation problem regarding common ownership of cable and non-cable businesses, another consolidation problem occurs when a cable operator combines the financial data of several systems into one financial reporting entity when the Commission's consolidation requirements are met as to ownership, geographical and technical restrictions. If, however, the Commission's consolidation requirements are not met (for example, the systems may be located 100 miles from each other) then an operator who has consolidated the financial information from these distant systems must separate the systems for financial reporting purposes. If the operator has no other means to determine an accurate allocation of accounts to each financial reporting entity, a separation based upon a ratio of the relative number of subscribers in each reporting entity should be utilized. The proper procedure for allocation is specified in Section 3, Part B of these Instructions.

II. *Owner's withdrawals from business.* Withdrawals are the amounts that are distributed to partners or proprietors from total profits or equity. Cash withdrawals from the business by owners reduce the assets and proprietor's equity in the business but are not reflected in the income statement (Schedule 2) of FCC Form 326. The amount reported on line 29 (Total Profit or Loss) of Schedule 2 is undistributed net income, i.e. net income prior to any ownership withdrawals. Salaries paid to owners as compensation for work performed are not considered as withdrawals and would be reported on line 16, Schedule 2 and on the appropriate lines of Schedule 4.

III. *Owner's equity section (Schedule 3).* Line 25 (total stock) of Schedule 3 would naturally be left blank for a proprietorship or partnership, as would line 27 (retained earnings) and line 28 (other owner's equity). The entire amount of owner's equity in the business would appear on line 26 (proprietor's equity) and would consist of the owners' personal investment in the business plus all profits (less any losses) retained in the business from previous years' operations. The amount of ownership/partnership withdrawals or capital distributions from the business should be deducted from the amount entered on this line. Since the owner's equity account must equal total assets minus total liabilities, this computation should serve as a check that the owner's equity account is being accurately maintained.

IV. *Plant adjustments.* The fixed assets of a cable television system must be reported in terms of original cost, i.e., the cost of the fixed asset when it was first put in use for cable television service. In the case of ownership transfers, the difference between the original cost of purchased cable assets and the fair value of these assets at the time of purchase is called "plant adjustment". This amount should be recorded on line 12, Schedule 3. It includes only the excess of the fair value over the seller's book value of purchased tangible assets and does not include any amounts recorded as goodwill or franchise costs.

V. *Accrual v. cash accounting.* The proposed financial reporting system requires that Generally Accepted Accounting Principles (GAAP) be applied on a consistent basis. One aspect of GAAP which may require a brief explanation is the concept of accrual accounting. Essentially, accrual accounting differs from cash accounting in that a monetary asset or liability is partially recognized in the accounting records prior to the time there is a legal claim to receive or pay cash. For example, although taxes for one year may not be due until April of the following year, an accountant would record the taxes on the company's books during the year to which they apply. Similarly, if a company holds a note receivable—with interest—which is not due until a subsequent accounting period, an accountant would recognize and record during the current accounting period, that portion of interest earned during the current period.

[FR Doc.77-13004 Filed 5-6-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Michigan Grain Inspection Area

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act of 1976 (7 U.S.C. 71 et seq.), hereinafter the "Act", the Federal Grain Inspection Service is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a state is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

The Federal Grain Inspection Service will assume performance of official inspection and weighing services at such export port locations within 18 months of the November 20, 1976, effective date of the amended Act. Provided that, subject to meeting certain requirements of the Act, existing official agencies may continue to function during such transition period.

Saginaw Board of Trade, Carrollton, Michigan, a designated official agency at the following Michigan counties or portions thereof: Saginaw, Bay, Gratiot, Genesee, Huron, Tuscola, Shiawassee, Isabella, Midland, Montcalm, Arenac and Iosco; ceased providing official inspection services effective midnight January 15, 1977, in accordance with prior notice to the Federal Grain Inspection Service.

Notice is hereby given that, effective January 16, 1977, the designation of Saginaw Board of Trade, Carrollton, Michigan, as an official agency, has been canceled pursuant to the provisions of section 7(g)(2) of the Act (7 U.S.C. 79(g)(2)).

The Federal Grain Inspection Service, effective January 16, 1977, commenced providing official grain inspection services at the area previously serviced by the Saginaw Board of Trade including the following Michigan counties or portions thereof: Saginaw, Bay, Gratiot, Genesee, Huron, Tuscola, Shiawassee, Isabella, Midland, Montcalm, Arenac, and Iosco, in accordance with section 7(e)(1) of the Act (7 U.S.C. 79(e)(1)). The Federal Grain Inspection Service will commence providing official grain weighing services at the area previously serviced by the Saginaw Board of Trade, at a later date, in accordance with section 7A(c)(1) of the Act (7 U.S.C. 79a(c)(1)).

(Sec. 7, (PL-94-582) 90 Stat. 2870 (7 U.S.C. 79); sec. 7A (Pub. L. 94-582) 90 Stat. 2875 (7 U.S.C. 79A).)

Effective date: This notice shall become effective May 9, 1977.

Done in Washington, D.C., on May 3, 1977.

D. R. GALLIART,
Interim Administrator.

[FR Doc.77-13133 Filed 5-6-77;8:45 am]

GRAIN STANDARDS

Ohio and Michigan Grain Inspection Areas

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act of 1976 (7 U.S.C. 71 et seq.), hereinafter the "Act", the Federal Grain Inspection Service is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a state is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

The Federal Grain Inspection Service will assume performance of official inspection and weighing services at such export port locations within 18 months of the November 20, 1976, effective date of the amended Act. Provided that, subject to meeting certain requirements of the Act, existing official agencies may continue to function during such transition period.

Toledo Board of Trade, Toledo, Ohio, a designated official agency at the following Ohio counties or portions thereof: Williams, Defiance, Lucas, Fulton, and Ottawa; and Monroe and Lenawee counties, Michigan, ceased providing official inspection services effective midnight January 15, 1977, in accordance with prior notice to the Federal Grain Inspection Service.

Notice is hereby given that, effective January 16, 1977, the designation of Toledo Board of Trade, Toledo, Ohio, as an official agency, has been canceled pursuant to the provisions of section 7(g)(2) of the Act (7 U.S.C. 79(g)(2)).

The Federal Grain Inspection Service, effective January 16, 1977, commenced providing official grain inspection services at the areas previously serviced by the Toledo Board of Trade including the following Ohio counties or portions thereof; Williams, Defiance, Lucas, Fulton, and Ottawa; and, Monroe and Lenawee Counties, Michigan, in accordance with section 7(e)(1) of the Act (7 U.S.C. 79(e)(1)). The Federal Grain Inspection Service will commence providing official grain weighing services at the area previously serviced by the Toledo Board of Trade at a later date, in accordance with section 7A(c)(1) of the Act (7 U.S.C. 79a(c)(1)).

(Sec. 7, (Pub. L. 94-582) 90 Stat. 2870 (7 U.S.C. 79); Sec. 7A (Pub. L. 94-582) 90 Stat. 2875 (7 U.S.C. 79A).)

Effective date: This notice shall become effective May 9, 1977.

Done in Washington, D.C. on May 3, 1977.

D. R. GALLIART,
Interim Administrator.

[FR Doc.77-13134 Filed 5-6-77;8:45 am]

GRAIN STANDARDS

Illinois Inspection Point

Statement of considerations. On March 11, 1977, there was published in the FEDERAL REGISTER (48 FR 13570) a notice announcing the request of the Galesburg Inspection Agency, that effective May 4, 1977, its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official inspection agency at Galesburg, Illinois, be canceled because it is unable to recover the cost of providing the service due to low volume of inspection. Interested persons were given until April 11, 1977, to make application for designation to operate as an official inspection agency at Galesburg, Illinois, and to submit written views and comments with respect to the proposed cancellation.

No comments were received with respect to the March 11, 1977, notice in the FEDERAL REGISTER. Therefore, the designation of the Galesburg Grain Inspection Department to operate as an official inspection agency at Galesburg, Illinois, is canceled. No person is now designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official inspection agency at Galesburg, Illinois. This notice does not preclude interested persons from making application later for designation to operate as an official inspection agency at Galesburg, Illinois, in accordance with the requirements in § 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act.

(Sec. 7, 39 Stat. 482, as amended 82 Stat. 764; (7 U.S.C. 79(f)); 37 FR 28464 and 28476.)

Effective date: This notice shall become effective May 9, 1977.

Done in Washington, D.C., on May 3, 1977.

D. R. GALLIART,
Interim Administrator.

[FR Doc.77-13135 Filed 5-6-77;8:45 am]

Forest Service

CASCADE HEAD SCENIC-RESEARCH AREA ADVISORY COUNCIL (PACIFIC NORTHWEST REGION

Meeting

The Cascade Head Scenic-Research Area Advisory Council will meet on Tuesday, May 31, 1977, at the International Dunes Resort in Lincoln City, Oregon. The meeting will begin at 9:30 a.m.

The purposes for the meeting are to consider land suitability criteria for building in the Area; to choose an Advisory Council member to the Scientific Review Team; to be brought up to date on the Final Environmental Statement for the Management Plan; and update on landowner negotiations.

The meeting will be open to the public. Persons who wish additional information concerning the meeting should contact Pam McCawley, Hebo Ranger Station, Hebo, Oregon, phone 392-3161, or Dale Dufour, Siuslaw National Forest, at 545 SW. Second Street, Corvallis, Oregon, phone 757-4492.

Dated: APRIL 28, 1977.

LARRY A. FELLOWS,
Forest Supervisor.

[FR Doc.77-13173 Filed 5-6-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 28, 1977.

The USAF Scientific Advisory Board Tactical Panel will hold a meeting on June 1, 1977 from 9:00 a.m. to 5:00 p.m. at Langley Air Force Base, Virginia.

The Panel will review candidate proposals for a classified tactical strike concept of operations.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the USAF Scientific Advisory Board Secretariat at 202-697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-13161 Filed 5-6-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

Correction

In FR Doc. 77-12847 appearing at page 22922 in the issue for Thursday, May 5, 1977, in the 4th line of the first paragraph, the dates given for the meeting now reading "June 8 and 8, 1977" should have read "June 8 and 9, 1977".

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE TECHNOLOGY SUBPANEL

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5.U.S.C. App. I), notice is hereby given that the Technology Subpanel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on May 24-25, 1977, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions will be closed to the public.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order, including a detailed examination of classified antisubmarine warfare techniques and tactics, related intelligence, ocean surveillance and space systems. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander William A. Armbruster, USN, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Blvd., Room 405, Arlington, Virginia 22209. Phone 694-3191.

Dated: May 4, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate General (Administrative Law).

[FR Doc.77-13192 Filed 5-6-77;8:45 am]

Office of the Secretary

MEETING OF THE BOARD OF VISITORS OF THE NATIONAL DEFENSE UNIVERSITY

Meeting

The President of the National Defense University has scheduled a meeting of the Board of Visitors of the National Defense University on Wednesday and Thursday, 1-2 June 1977, from 0830-1145 and 1330-1630 each day. The meetings will be held in the Classified Library of the National War College except for the afternoon sessions of 1 June, in which case subcommittee meetings will be held in both National War College and Industrial College Conference Rooms.

The discussions will include a progress report of the National Defense University and the curricula of both colleges.

The meeting is open to the public, and the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write the National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319, or phone the Assistant to the President for External Programs at 202-693-1074.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 4, 1977.

[FR Doc.77-13118 Filed 5-6-77;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS COMMAND AND CONTROL (C^3)

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (Counter-C^3) will meet in closed session on 24 and 25 May 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the communications, command and control (C^3) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 4, 1977.

[FR Doc. 77-13117 Filed 5-6-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 725-4; PP 6G1821/T103]

CHEVRON CHEMICAL CO.

Establishment of a Temporary Tolerance for Acephate

Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94804, has submitted a pesticide petition (PP 6G1821) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for combined residues of the insecticide acephate (O,S-dimethyl acethylphosphoramidothioate) and its cholinesterase-inhibiting metabolite O,S-dimethyl phosphoramidothioate in or on the raw agri-

V42 89 MAY 9 77 UMI

cultural commodity peanuts at 0.1 part per million (ppm).

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 873, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerance will protect the public health. The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires April 21, 1978. Residues not in excess of 0.1 ppm remaining in or on peanuts after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: April 21, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13096 Filed 5-6-77;8:45 am]

[FRL 725-3; OPP-42046]

STATE OF ALASKA

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and 40 CFR Part 171 (39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Jay S. Hammond, Governor of the State of Alaska, has submitted a State Plan for Certification of Commercial and Private Applicators, of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis, pending enactment of amended legislation and promulgation of implementing regulations which are attached to the Plan. Notice is hereby given of the intention of the Regional Administrator, EPA Region X, to approve this plan on a contingency basis.

A summary of this plan follows: The entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

Alaska Department of Environmental Conservation; 419 6th Street, Room 222, Juneau, Alaska 99811.

Room 11C of the Park Place Building, 1200 Sixth Avenue, EPA Pesticides Branch, Air and Hazardous Materials Division, Seattle, Washington 98101.

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs), EPA.

SUMMARY OF ALASKA STATE PLAN

The Alaska Department of Environmental Conservation (ADEC) has been designated as the State lead agency for the administration of the pesticide applicator certification program, with the Division of Terrestrial Programs responsible for the program's implementation. This includes coordinating a notification effort for prospective restricted use pesticide applicators, licensing of pesticide dealers and pest control consultants, enforcement activities and the coordination of field, laboratory, and office activities relating to pesticide regulation.

The cooperating agencies are the Division of Agriculture of the Alaska Department of Natural Resources, the University of Alaska Cooperative Extension Service and Agricultural Experimental Station of the University of Alaska. Personnel from the Alaska Cooperative Extension Service will assume the lead role in the training of private applicators and commercial applicators in the agricultural categories. ADEC will be responsible for the training of commercial applicators in the non-agricultural categories, and for the certification of all applicators of restricted use pesticides.

Legal authority for the program is contained within Alaska Statutes (AS) 46.-03.320, 46.03.860 and proposed regulations thereto. Additional legislation for the authority to certify private applicators will be sought during Alaska's 1977 legislative session.

The plan indicates that the State lead agency and the cooperating agencies have or will have sufficient qualified personnel and funds necessary to carry out the proposed programs. Federal funding to ADEC in support of this program for the fiscal year 1977 is approximately $37,500. During fiscal year 1978, ADEC will request that the funding be derived from State funds. Federal funding to the Alaska Cooperative Extension Service for fiscal year 1977 is approximately $11,760.

The state estimates that approximately 150 commercial and 150 private applicators will need to be certified. Wallet sized identification certificates containing all necessary information will be furnished to all applicators, and presented to dealers at the time of restricted use pesticide purchase.

The State lead agency will submit an annual report to EPA on or before March 1 each year to cover the previous year's activities.

Alaska will adopt nine of the ten commercial applicator categories listed in 40 CFR 171.3. These are as follow:

(1) Agricultural pest control: (a) Plant subcategory; (b) Animal subcategory;
(2) Forest pest control;
(3) Ornamental and turf pest control;
(4) Seed treatment;
(5) Aquatic pest control;
(6) Right-of-way pest control;
(7) Industrial, institutional, structural and health related pest control;
(8) Public health pest control;
(9) Regulatory pest control.

Alaska will adopt two new commercial applicator categories. These are:

(10) Mosquito and biting fly pest control; and
(11) Aerial pest control.

The decision to make Mosquito and Biting Fly Pest Control a new category rather than a subcategory of Public Health Pest Control was based on the fact that mosquitos and biting flies are more of a nuisance problem in Alaska than a public health problem. It was decided to offer Aerial Pest Control as a new category because of the limited number of aerial applicators in Alaska and the desire not to have to test all applicators in other categories for competency in aerial applications. A person certified in the Aerial Pest Control category must also be certified in the other applicable categories before he may apply restricted use pesticides.

The standards of competency for the categories described above will conform to those described in 40 CFR 171.4 and 40 CFR 171.6. For the two new categories, Mosquito and Biting Fly Pest Control and Aerial Pest Control, the following standards will apply:

Mosquito and biting fly pest control. Applicators in this category shall demonstrate a practical knowledge of the principal mosquito and biting fly species found in Alaska and of their life cycles. Sufficient knowledge shall be demonstrated for the type of equipment used in this category, of the pesticides available and the applicable State and Federal laws. Knowledge of the personal safety equipment necessary for the chemicals used is also required. Applicators shall demonstrate an an awareness that this type of pest control is associated with the public and that environmental effects on non-target organisms may be wide-spread.

Aerial pest control. Applicators in this category shall possess a valid Federal Aviation Administration commercial pilot's license and current medical certificate, Class II. Applicators shall demonstrate a familiarity with the environmental effects of pesticide drift from air applications and the necessity of safe flying techniques. They must meet or exceed the standards listed in 40 CFR 171.4 and 40 CFR 171.6. A practical knowledge of necessary personal safety equipment and of safe handling techniques for pesticides when mixing and loading shall also be required.

For certification, commercial applicators must pass a written examination(s) for the various applicator categories and

subcategories. The examinations will be given by ADEC periodically and, within reasonable limits, when requested. Questions for the written examinations will be taken from designated study materials available from the Department. No charge is anticipated. Training will be offered at least once in each category before October 1977.

No performance testing procedures will be used in any of the categories or subcategories.

Proof of certification will be mailed to all who successfully complete the training and examinations. Tutoring and make-up examinations may be offered to those who miss the scheduled training or fail the examination.

The standards of competency for private applicators will conform to those described in 40 CFR 171.5(a) and 40 CFR 171.6.

Private applicators will be certified by one of three procedures:

(a) The applicant for certification will attend a training session approved by ADEC, and pass a written examination at the 70 per cent level. Such training sessions will be conducted periodically in various Alaskan cities by the State Cooperative Extension Service. Subject matter presented in these training sessions will conform to that necessary to meet the stimulations of 40 CFR 171.5(a) and 40 CFR 171.6.

(b) The applicant for certification will pass a written examination at the 70 percent level. Such examinations will be administered by ADEC within reasonable limits when requested. The examination will cover the topics required by 40 CFR 171.5(a) and 171.6.

(c) The applicant for certification will obtain a minimum possible score of 70 percent in a correspondence course approved by ADEC and administered by either a representative of the Department or a member of the State Cooperative Extension Service. Such correspondence course will conform with requirements of 40 CFR 171.5 and 40 CFR 171.6.

A private applicator who is unable to read may have an official of the Department instruct him in the proper and safe use of pesticides and give him an oral examination to assure he understands these precautions and the importance of the instructions on the pesticide label. This procedure will be required for each restricted use pesticide he may wish to use.

Prior to this notice, ADEC and the Cooperative Extension Service have initiated training and certification programs based on this Plan. When this Plan receives final approval, ADEC intends to certify those applicators who have successfully met the requirements described for private and commercial pesticide applicators.

Alaska is withholding the decision to accept the credentials of Federal employees qualified under a Government Agency Plan until such a plan is available for review.

Alaska does not plan any special certification for applicators on Indian Reservations.

The State does not plan, at present, any reciprocal agreements with other states.

In addition to certification, Alaska will require a written permit from all applicators who plan to intentially apply a pesticide to the waters of Alaska or who plan to apply pesticides using aerial equipment. Public agencies who plan to apply pesticides in public projects will also be required to obtain a permit. Permits will be granted, upon written request, at the discretion of the Commissioner of ADEC.

The staff of ADEC has the responsibility of insuring compliance with the plan. New regulations and developments in the field of pesticide technology will be communicated to certified applicators by newsletters, farm forums, and through publications of the State Cooperative Extension Service. Training programs will be scheduled when needed to meet the requirements of changing technology and to assure a continuing level of competence and ability of applicators to use restricted use pesticides safely and properly. A requirement in the new and revised State regulations that all applicators of restricted use pesticides be recertified every three years will present an opportunity to meet with both private and commercial applicators at an interval that will insure that workers in this field in Alaska are familiar with new scientific developments and changing regulations.

Enforcement of these regulations will be the responsibility of the regional offices of ADEC located in Anchorage, Fairbanks, Juneau and Valdez. The staff of these offices will be able to consult with pesticide specialists stationed in Juneau and Palmer.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Alaska to the Chief, Pesticides Branch, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. The comments must be received on or before June 8, 1977, and should bear the identifying notation (OPP-42046). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned location from 8:30 to 3:30 Monday through Friday.

Dated: April 26, 1977.

DONALD P. DUBOIS,
Regional Administrator, U.S.
Environmental Protection
Agency, Region X.

[FR Doc.77-13093 Filed 5-6-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

BROADCAST SERVICE WORKING GROUPS

Schedule of Meetings

MAY 4, 1977.

1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Pursuant to Pub. L. 92-463, notice is hereby given of the following meetings for June 1977.

WARC-79 TV BROADCASTING SERVICE GROUP

Thursday, June 2, 1977—9:30 a.m.–12 noon, Room 8210, 2025 M Street NW., Washington, D.C., Chairman, James D. Parker; FCC Liaison, Charles H. Breig.

WARC-79 INTERNATIONAL BROADCASTING SERVICE GROUP

Thursday, June 2, 1977—10 a.m.–12 noon, Room A-110, 1229 20th St. NW., Washington, D.C.; Chairman, Stanley Leinwoll; FCC Liaison, Lloyd R. Smith.

WARC-79 SATELLITE BROADCASTING SERVICE GROUP

Wednesday, June 1, 1977—9:30 a.m.–12 noon, Room 8210, 2025 M Street NW., Washington, D.C.; Chairman, Edward E. Reinhart; FCC Liaison, Charles H. Breig.

WARC-79 AUXILIARY BROADCASTING SERVICE GROUP

Thursday, June 2, 1977—1:30 p.m.–4 p.m., Room 8210, 2025 M Street NW., Washington, D.C.; Chairman, John Serafin; FCC Liaison, Al Jarratt.

The agendas will be as follows:

1. Call to Order and Announcements by the Chairman.
2. Approval of Minutes of Previous Meeting.
3. Discussion of Fifth Notice of Inquiry in Docket 20271.
4. Reports from Task Groups.
5. Further Discussion.
6. Next Meeting Date and Adjournment.

The above meetings are open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13177 Filed 5-6-77;8:45 am]

V42 89 MAY 9 77 UMI

[Report No. 1043, Corrected]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

MAY 4, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20548	Secs. 73.25, 73.240, and 73.636	Amendment of secs. 73.35, 73.240, and 73.636, of the Commission's rules relating to multiple ownership of standard, FM, and television broadcast stations.	
		Filed by Robert M. Booth, Jr., attorney for Town and Country Radio, Inc.	Apr. 20, 1977
		Filed by John P. Bankson, Jr., and Louise A. Sunderland, attorneys for Wilfredo A. Soto, Jesus M. Soto, and Ricardo L. Segarra, d.b.a. Lares Broadcasters.	Apr. 22, 1977
		Filed by Michael H. Rosenbloom, attorney for Suburban Radio Group, Inc.	Apr. 25, 1977
21049		Commercial television network practices and the ability of station licensees to serve the public interest.	
		Filed by J. Carter McKaig, John D. Lane, and Ramsey L. Woodworth, attorneys for Westinghouse Broadcasting Company, Inc.	Apr. 22, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before May 24, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13176 Filed 5-6-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 15 Through April 22, 1977

Notice is hereby given that during the week of April 15 through April 22, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

MAY 2, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Apr. 15, through Apr. 22, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Apr. 15, 1977	Beacon Oil Co., Washington, D.C. (If granted: The FEA would review the entitlements exception relief granted to Beacon Oil Co. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0151	Review of entitlements exception relief.
Do	Bob Lawrence Volkswagen, Inc., Salisbury, Md. (If granted: Bob Lawrence Volkswagen, Inc., would receive a stay of the requirements of the remedial order issued by region III pending a determination on the appeal which the firm intends to file.)	FRS-1263	Stay of the remedial order issued by FEA region III.
Do	City of Long Beach, Calif., Long Beach, Calif. (If granted: The city of Long Beach, Calif., would receive an extension of the relief granted in FEA's Dec. 3, 1976, decision and order and would be permitted to sell a portion of the crude oil produced from the fault block II unit at upper tier ceiling prices.)	FXE-4075	Extension of relief granted in city of Long Beach, Calif., 4 FEA par. 83,212 (Dec. 3, 1976).
Do	David Crow, Shreveport, La. (If granted: The FEA's Feb. 17, 1977, decision and order would be modified to allow the regional Administrator of FEA region IV additional time to review the Dec. 6, 1976, remedial order issued to Crow.)	FRX-0150	Supplemental order to David Crow, 5 FEA par. 80,549 (Feb. 17, 1977).
Do	Donald Huhn, d.b.a. Huhn's Texaco Service Station, Minerva, Ohio. (If granted: Donald Huhn would be supplied motor gasoline by Cross Oil Co., rather than by Texaco, Inc.)	FEE-4077	Exception to change suppliers.
Do	Kalama Chemical, Inc., Kalama, Wash. (If granted: FEA's July 8, 1976, decision and order would be modified to increase the amount of toluene which Kalama Chemical, Inc., is permitted to import on a license fee-free basis).	FPI-0113	Modification of FEA's decision and order in Kalama Chemical, Inc., 3 FEA par. 83,267 (July 8, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Do	Louis Gais d.b.a. Cornerburg Texaco Service, Youngstown, Ohio. (If granted: Louis Gais would be supplied motor gasoline by Cross Oil Co. rather than by its base period supplier, Texaco, Inc.)	FEE-4078	Exception to change suppliers.
Do	Merchants Delivery Co., Kansas City, Mo. (If granted: Merchants Delivery Co. would be assigned a new, lower priced supplier of motor gasoline and diesel fuel to replace its base period supplier, Carl Berry Oil Co.)	FEE-4076	Do.
Do	Pryor Interprises, Inc., Griffin, Ga. (If granted: Pryor Interprises, Inc., would be assigned a lower priced supplier for its total base period use of motor gasoline.)	FEE-4074	Do.
Do	Wagner Oils, Inc., Fairborn, Ohio. (If granted: The FEA's Mar. 30, 1977, decision and order would be rescinded and Wagner Oils, Inc., would not be required to file form P112-M-1 (No. 2 heating oil supply/price monitoring report).)	FXA-1262	Appeal of FEA's decision and order in Wagner Oils, Inc., 5 FEA par. .... (Mar. 30, 1977).
Apr. 18, 1977	Standard Oil Co. of Indiana, Chicago, Ill. (If granted: Standard Oil Co. of Indiana would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Kalkaska gas processing plant.)	FEE-4079	Price exception (sec. 212.165).
Do	Quaker State Oil Refining Corp., Oil City, Pa. (If granted: The FEA's Mar. 18, 1977, decision and order would be reversed and Quaker State Oil Refining Corp. would receive an increase in the number of entitlements which it is permitted to sell each month in order to offset the increased crude oil costs which it is experiencing as a result of the exemption of stripper well property crude oil from the provisions of the FEA mandatory petroleum price regulations.)	FXA-1264	Appeal of FEA's decision and order in Quaker State Oil Refining Corp., 5 FEA par. .... (Mar. 18, 1977).
Apr. 19, 1977	Adams Oil Co., Dillwyn, Va. (If granted: The remedial order issued by region III on Apr. 4, 1977, would be rescinded and Adams Oil Co. would not be required to refund overcharges in its sales of gasoline, No. 2 fuel oil, No. 2-D diesel fuel, and kerosene.)	FRA-1267 FRS-1267	Appeal of remedial order issued by FEA region III on Apr. 4, 1977. Stay requested.
Do	Good Hope Industries, Inc., Springfield, Mass. (If granted: Good Hope Industries, Inc., would be permitted to import into districts I-IV, 3,662,045 bbl of naphtha on a fee-free basis during the allocation period May 1, 1977, through Apr. 30, 1978.)	FPI-0114	Exception to sec. 213.35.
Do	Louis Kahan, Washington, D.C. (If granted: Mr. Louis Kahan would receive a temporary stay of the requirements of the remedial order issued by region VI on Apr. 11, 1977.)	FRT-0041	Temporary stay of the remedial order issued by FEA region VI on Apr. 11, 1977.
Do	Kentucky Oil & Refining Co., Betsy Layne, Ky. (If granted: In order to facilitate the construction of its refinery, Kentucky Oil & Refining Co., Inc., would temporarily be permitted to receive revenues from the sale of entitlements within 30 d of its receipt of crude oil.)	FEE-4082	Allocation exception (sec. 211.67).
Do	Mohawk Petroleum Corp., Inc., Los Angeles, Calif. (If granted: Mohawk Petroleum Corp., Inc., would receive an extension of the relief granted in the FEA's Dec. 15, 1976, decision and order and would be relieved of any obligation to purchase entitlements.)	FXE-4083	Extension of the relief granted in Mohawk Petroleum Corp., Inc., 4 FEA par. 83,252 (Dec. 15, 1976).
Do	Shell Oil Co., Houston, Tex. (If granted: The FEA would suspend its consideration of Shell Oil Co.'s exception application concerning the passthrough of increased nonproduct costs prior to Feb. 1, 1976.)	FES-3545	Stay of the exception proceedings involving passthrough of increased nonproduct costs.
Do	Stovall Oil Co., Casper, Wyo. (If granted: Stovall Oil Co. would receive an extension of the relief granted in the FEA's Dec. 10, 1976, decision and order to permit the crude oil produced from Olsen No. 1 lease to be sold at upper tier ceiling prices.)	FXE-4080	Extension of the relief granted in Stovall Oil Co., 4 FEA par. 83,228 (Dec. 10, 1976).
Do	Superior Oil Co., Houston, Tex. (If granted: The Superior Oil Co. would be permitted to increase its prices to reflect nonproduct increases in excess of $0.005/gal for natural gas liquid products produced at its Rio Barvo plant.)	FEE-4081	Price exception (sec. 212.165).
Do	Western Jobbers Alliance, San Francisco, Calif. (If granted: The FEA's Mar. 9, 1977, decision and order would be rescinded and the Tosco Corp. would be required to place the members of Western Jobbers Alliance in an unbranded jobber class of purchaser.)	FEA-1266	Appeal of FEA's decision and order in Western Jobbers Alliance, 5 FEA par. .... (Mar. 9, 1977).
Apr. 20, 1977	Beacon Oil Co., Hanford, Calif. (If granted: Beacon Oil Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order and would be relieved of any obligation to purchase entitlements.)	FXE-4087	Extension of the relief granted in Beacon Oil Co., 4 FEA par. 83,233 (Dec. 15, 1976).
Do	Diamond Shamrock Corp., Amarillo, Tex. (If granted: The FEA's Mar. 23, 1977, decision and order would be modified to permit Diamond Shamrock Corp. to increase its prices for natural gas liquid products produced at its McKee plant.)	FXA-1265	Appeal of FEA's decision and order in Diamond Shamrock Corp., 5 FEA par. .... (Mar. 22, 1977).
Do	Edginton Oil Co., Washington, D.C. (If granted: Edgington Oil Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order and would be relieved of any obligation to purchase entitlements.)	FXE-4084	Extension of the relief granted in Edgington Oil Co., 4 FEA par. 83,243 (Dec. 15, 1976).
Do	Getty Oil Co., New York, N.Y. (If granted: An evidentiary hearing would be held in connection with an appeal which Getty filed from a remedial order issued to the firm on Aug. 12, 1976.)	FRX-0152	Supplemental order to Getty Oil Co., 5 FEA par. .... (Mar. 16, 1977).

V42 89 MAY 9 77 UMI

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Husky Oil Co. of Delaware, Denver, Colo. (If granted: Husky Oil Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order and would be relieved of any obligation to purchase entitlements.)	FXE-4085	Extension of relief granted in Husky Oil Co. of Delaware, 4 FEA par. 83,244 (Dec. 15, 1976).
Do.....	Lunday-Thagard Oil Co., South Gate, Calif. (If granted: Lunday-Thagard Oil Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order and would be relieved of any obligation to purchase entitlements.)	FXE-4086	Extension of the relief granted in Lunday-Thagard Oil Co., 4 FEA par. 83,249 (Dec. 15, 1976).
Apr. 21, 1977	Etexas Producers Gas Co., Dallas, Tex. (If granted: The Etexas Producers Gas Co. would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-4090	Price exception (sec. 212.165).
Do.....	Cecil Leung d.b.a. Imperial Richfield Service Station, Seattle, Wash. (If granted: The remedial order issued by the FEA region X on Apr. 5 1977, would be rescinded and Cecil Leung would not be required to refund overchargers which it received in its sales of motor gasoline.)	FRA-1268 FRS-1268	Appeal of the remedial order issued by FEA region X on Apr. 5, 1977. Stay requested.
Do.....	Mid-Penn Refining Co., Harmony, Pa. (If granted: Mid-Penn Refining Co. would be assigned a new supplier of motor gasoline to replace its base period supplier, Commonwealth Oil.)	FEE-4088	Exception to change suppliers.
Do.....	Mobil Oil Corp. (Burnell-North Pettus), New York, N.Y. (If granted: The FEA's Apr. 1, 1977, decision and order would be modified and Mobil Oil Corp. would be granted additional price relief covering nonproduct cost increases for natural gas liquid products produced at its Burnell-North Pettus plant.)	FX 1269	Appeal of decision and order in Mobil Oil Corp., 5 FEA par..... (Apr. 1, 1977).

[FR Doc.77-13013 Filed 5-3-77;2:27 pm]

INDUSTRIAL ENERGY CONSERVATION

Voluntary Reporting Programs and Corporate Exemptions Notice of Final Determination of Adequacy

On March 18, 1977, the Federal Energy Administration (FEA) issued a preliminary determination as to the adequacy of certain voluntary industrial reporting programs and the proposed exemption of certain corporations from mandatory reporting pursuant to section 376(g) of Part D, Title III of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6346(g)) (42 FR 15731, March 23, 1977). Nine comments were submitted in response to the proposal, and FEA has now completed its evaluation of these comments and other relevant information available to it. Accordingly, FEA is hereby issuing its final determination respecting the adequacy of voluntary reporting programs, and is specifying corporate exemptions, as listed in the appendix to this notice.

BACKGROUND

Part D of Title III of the EPCA requires that FEA establish a program to promote increased energy efficiency in American industry and establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive manufacturing industries in the United States. Corporations identified in accordance with section 373 of the EPCA (42 U.S.C. 6343), which are in industries for which targets have been set by FEA, are required by section 375(a) of the EPCA (42 U.S.C. 6345(a)) to report to FEA on their energy efficiency, except where they are in industries which have adequate voluntary reporting programs, as defined by section 376(g).

Pursuant to section 376(g), a corporation may be exempted from the mandatory reporting requirements under section 375(a) only where it fully participates in a voluntary reporting program, which annually has been determined to be adequate by FEA after notice and opportunity for public comment. Under section 376(g), an industry's voluntary reporting program shall be determined to be adequate only if each corporation within the industry identified pursuant to section 373 fully participates in the program; all information deemed necessary by FEA for purposes of evaluating the progress made by the industry in achieving its industrial energy efficiency improvement target is provided to FEA; and reports made to a trade association or other person in connection with the voluntary reporting program are retained for a reasonable period of time and are available to FEA. Section 376(g) further provides that if FEA determines that an industry's voluntary reporting program is not adequate solely because any corporation within the industry is not fully participating in the program, then only those corporations which are fully participating shall be exempted from reporting as required by section 375(a).

COMMENTS

All comments received by FEA on its proposed exemptions were from sponsors of voluntary programs or from corporations already participating in such programs. These comments called attention to the fact that revisions in the exemption listing had been previously communicated to FEA but had not been included in the preliminary listing which appeared in the March 23 notice.

Because of insufficient lead time, these revisions were unable to be acknowledged in the preliminary listing. However, since they were in fact received prior to the issuance of that listing, they are now included in this final determination.

ADEQUATE VOLUNTARY REPORTING PROGRAMS AND SPECIFICATION OF CORPORATE EXEMPTIONS

On November 22, 1976, FEA issued criteria which a voluntary reporting program by a trade association or other person must, at a minimum, meet in order that corporations identified pursuant to section 373, and participating therein, may be eligible for an exemption under section 376(g) (41 FR 51866, November 24, 1976). The notice specified that any trade association or other person desiring to establish such a voluntary reporting program must certify in writing within 30 days of the notice's publication that it is capable of meeting and willing to meet the established criteria. The notice further specified that any corporation desiring an exemption under section 376(g) must certify in writing within 30 days of the notice's publication that the corporation will fully participate in an adequate voluntary reporting program and that it is agreeable to and will abide by the criteria established in the notice.

The appendix to this notice sets forth sponsors of voluntary reporting programs (and their appropriate 2-digit SIC classification) which FEA has determined to be adequate, and those corporations which are exempted from mandatory reporting requirements through their full participation in each sponsor's voluntary program.

Any corporation which will be reporting other than its total energy data in any particular 2-digit SIC Code is listed followed by the term "(Partial)." This signifies that the corporation will be reporting part of its data for that SIC Code through the sponsor under whose program it appears, and the rest of its data through another sponsor or sponsors and/or by itself. Where a company's name is followed by an SIC Code(s) in addition to the one applicable to the sponsor, this indicates that the sponsor will also report data for that company with recard to the additional SIC Code(s).

In order to evaluate the effectiveness of voluntary reporting programs, including the quality of data reported thereunder, FEA intends to review on a selected basis company-specific data.

Issued in Washington, D.C., May 3, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

Aerospace Industries Association of America, Inc. (37)

The Boeing Company
General Dynamics Corporation
Grumman Corporation
LTV Corporation
Martin Marietta Corporation
TRW, Inc.

Air Conditioning and Refrigeration Institute (35)

The Trane Company
Carrier Corporation

Aluminum Association (33)

Anaconda Company (partial)
Revere Copper and Brass, Inc. (partial)
Consolidated Aluminum Corporation
Reynolds Metals Company (33–34)
Aluminum Company of American (28, 33–34)
Kaiser Aluminum & Chemical Corporation (33–34)

National Aluminum/National Steel Corporation (partial)
Ormet Corporation
Howmet Aluminum Corporation/Pechiney Ugine Kuhlmann Corporation (33 and partial 34)
Martin Marietta Corporation (33–34)

American Bakers Association (20)

Consolidated Foods Corporation (partial)
ITT Continental Baking Company, Inc.

American Boiler Manufacturers Association (34)

Combustion Engineering, Inc.
Babcock & Wilcox Company

American Feed Manufacturers Association (20)

Ralston Purina Company (partial)
Central Soya Company, Inc. (partial)
Cargill, Inc.
Kent Feeds, Inc./Grain Processing Corporation (partial)

Archer Daniels Midland Company (partial)
A.E. Staley Manufacturing Company (partial)

American Foundrymen's Society (33)

Jim Walter Corporation
Anaconda Company (partial)

American Iron & Steel Institute (33)

Bethlehem Steel Corporation
Wheeling-Pittsburgh Steel Corporation
CF&I Steel Corporation/Crane Company
Shenango, Inc.
U.S. Steel Corporation
Cyclops Corporation
Colt Industries
Laclede Steel Company
Republic Steel Corporation
Inland Steel Company
McLouth Steel Corporation
Babcock & Wilcox Company
Northwestern Steel & Wire Company
Alan Wood Steel Company
Kaiser Steel Corporation
Interlake, Inc. (partial)
International Harvester
Ford Motor Company (partial)
Lukens Steel Company
Jones & Laughlin Steel Corporation/LTV Corporation
Armco Steel Corporation
Youngstown Sheet & Tube Company/Lykes Corporation
Allegheny Ludlum Industries, Inc.
Georgetown Steel Corporation
The Timken Company
National Steel Corporation (partial)

American Meat Institute (20)

The Greyhound Corporation
Consolidated Foods Corporation (partial)
Wilson Foods Corporation/LTV Corporation
Oscar Mayer & Company
Swift & Company/Esmark, Inc.

American Mining Congress (33)

Kennecott Copper Corporation (partial)
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
Amax, Inc.
Anaconda Company (partial)

American Paper Institute (26)

Union Camp Corporation
The Continental Group, Inc.
Boise Cascade Corporation
The Chesapeake Corporation
Great Northern Nekoosa Corporation
Fort Howard Paper Company
Weyerhaeuser Company
Consolidated Papers, Inc.
Inland Container Corporation
Garden State Paper Company, Inc.
Gulf States Paper Corporation
Southland Paper Mills, Inc.
Abitibi Corporation
Fibreboard Corporation
MacMillan Bloedel, Inc.
Hudson Pulp & Paper Corporation
The Proctor & Gamble Company
Green Bay Packaging, Inc.
Hammermill Paper Company
Scott Paper Company
Crown Zellerbach Corporation
Champion International Corporation
St Regis Paper Company
Mead Corporation
Longview Fibre Company
ITT Rayonier, Inc.
Kimberly-Clark Corporation
Container Corporation of America/Mobil Corporation
International Paper Company
Packaging Corporation of America/Tenneco, Inc.
Owens-Illinois, Inc.
Sonoco Products Company
Southwest Forest Industries, Inc.
Temple-Eastex, Inc./Time, Inc.
Westvaco Corporation
Potlatch Corporation
Alton Box Board Company
American Can Company
Bowater, Inc.
Willamette Industries, Inc.
Georgia Pacific Corporation
Brown Company/Gulf & Western Industries, Inc.
Hoerner Waldorf Corporation
Federal Paper Board Company, Inc.
St. Joe Paper Company
Pineville Kraft Corporation

Americans Petroleum Institute (29)

Cities Service Company
Continental Oil Company
Mobil Oil Corporation/Mobil Corporation
Standard Oil Company of Ohio
Tenneco Oil Company/Tenneco, Inc.
Phillips Petroleum Company
Getty Oil Company
Exxon Company, USA/Exxon Corporation
Gulf Oil Corporation
Shell Oil Company
Farmland Industries, Inc.
Ashland Oil, Inc.
Standard Oil Company of California
Standard Oil Company of Indiana
Clark Oil & Refining Corporation
National Cooperative Refinery Association
Kerr-McGee Corporation
Tesoro Petroleum Corporation
Atlantic Richfield Company
Texaco, Inc.
Vickers Petroleum Corporation/Esmark, Inc.
Murphy Oil Corporation
Union Oil Company of California
Sun Oil Company
Rock Island Refining Corporation
Farmers Union Central Exchange
Texas City Refining, Inc.
Husky Oil Company
Total Petroleum, Inc./Total Leonard, Inc.
Marathon Oil Company
Lion Oil Company
Apco Oil Company
Charter International Oil Company
Crown Central Petroleum Corporation
La Gloria Oil and Gas Company
Pennzoil Company
Champlin Petroleum Company/Union Pacific Corporation
Coastal States Gas Corporation
Commonwealth Oil Refining Company, Inc.
Quaker State Oil Refining Corporation
Sinclair Oil Corporation
Koch Industries, Inc.
American Petrofina, Inc.
Diamond Shamrock Corporation
Earth Resources Company

American Textile Manufacturers Institute (22)

Cannon Mills Company
Spring Mills, Inc.
Graniteville Company
Johnson & Johnson
Dixie Yarns, Inc.
Collins & Aikman Corporation
Greenwood Mills, Inc.
West Point Pepperell, Inc.
The Bibb Company
M. Lowenstein & Sons, Inc.
Dan River, Inc.
Cone Mills Corporation
Avondale Mills
Russell Corporation
Spartan Mills
J. P. Stevens & Company, Inc.
American Thread Company
Monsanto Company
Thomaston Mills
Bemis Company, Inc.
Cranston Print Works Company
United Merchants & Manufacturers, Inc.
Burlington Industries, Inc.
Coats & Clark, Inc.
Reeves Bros., Inc.
Abney Mills
Milliken & Company
Fieldcrest Mills, Inc.
Textiles, Inc.
Goodyear Tire & Rubber Company
Texfi Industries, Inc.
Riegel Textile Corporation
Standard-Coosa-Thatcher Company
Crompton Company, Inc.

Battelle Institute (32)

Anchor Hocking Corporation (partial)
Brockway Glass Company, Inc. (partial)
Corning Glass Works (partial)
Owens-Illinois, Inc. (partial)
Owens-Corning Fiberglas Corporation

Biscuit & Cracker Manufacturers Association (20)

Nabisco, Inc. (partial)

Brick Institute of America (32)

Can Manufacturers Institute (34)

The Continental Group, Inc.
American Can Company
Crown Cork & Seal Company, Inc.
National Can Corporation

Carpet & Rug Institute (22)

Computer & Business Equipment Manufacturers Association (35)

Control Data Corporation
International Business Machines Corporation
Sperry Rand Corporation
NCR Corporation
TRW, Inc.

Construction Industry Manufacturers Association (35)

Harnischfeger Corporation
Caterpillar Tractor Company
Ingersoll-Rand Company
J. I. Case Company/Tenneco, Inc. (partial)
International Harvester (partial)
Ford Motor Company (partial)
Fiat-Allis Construction Machinery, Inc.
Cummins Engine Company, Inc.
FMC Corporation
Clark Equipment Company (35 and 37)
Bucyrus-Erie Company

Copper & Brass Fabricators Council (33)

Revere Copper and Brass, Inc. (partial)
Kennecott Copper Corporation (partial)
Phelps Dodge Corporation (partial)
Anaconda Company (partial)

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Corn Refiners' Association (20)

H. J. Heinz Company (partial)
Anheuser Busch, Inc. (partial)
CPC International, Inc.
Standard Brands, Inc. (partial)
Archer Daniels Midland Company (partial)
Penick & Ford, LTD./Univar Corporation
A. E. Staley Manufacturing Company (partial)
American Maize-Products Company
Grain Processing Corporation (partial)

Farm and Industrial Equipment Institute (35)

J. I. Case Company/Tenneco, Inc. (partial)
International Harvester (partial)
Massey-Ferguson, Inc.

Ferroalloys Association (33)

Ohio Ferroalloys Corporation
Newmont Mining Corporation (partial)
Interlake, Inc. (partial)

Fertilizer Institute (28)

Hooker Chemical Corporation/Occidental Petroleum Corporation (partial)
Borden, Inc. (partial)
Mississippi Chemical Corporation
Farmland Industries, Inc. (partial)
The Williams Companies
International Minerals & Chemical Corporation (partial)
Union Oil Company of California
C. F. Industries, Inc.

Forging Industry Association (34)

Cameron Iron Works, Inc.
The Canton Drop Forging & Manufacturing Company
NL Industries, Inc.
Pittsburgh Forgings Company
TRW, Inc.

General Aviation Manufacturers Association (37)

AVCO Corporation

Glass Packaging Institute (32)

Midland Glass Company, Inc.
Dart Industries, Inc.
Kerr Glass Manufacturing Corporation
Anchor Hocking Corporation (partial)
Brockway Glass Company, Inc. (partial)
Owens-Illinois, Inc. (partial)
Glass Containers Corporation/Norton Simon, Inc.
Indian Head, Inc.

Grinding Wheel Institute (32)

Grocery Manufacturers of America (20)

Borden, Inc.
General Mills, Inc.
H. J. Heinz Company (partial)
Ralston Purina Company (partial)
Anderson, Clayton & Company
Nabisco, Inc. (partial)
Consolidated Foods Corporation (partial)
The Proctor & Gamble Company
Kellogg Company
Carnation Company
Kraft, Inc.
The Coca-Cola Company (partial)
General Foods Corporation
Pepsico, Inc.
Standard Brands, Inc. (partial)
Archier Daniels Midland Company (partial)
A. E. Staley Manufacturing Company (partial)
Central Soya Company, Inc. (partial)
Amstar Corporation

Gypsum Association (32)

Kaiser Cement & Gypsum Corporation (partial)
The Flintkote Company (partial)
National Gypsum Company (partial)
Jim Walter Corporation
U.S. Gypsum Company (partial)

Manufacturing Chemist's Association (28)

National Distillers & Chemical Corporation
BASF Wyandotte Corporation/Luchem Corporation
PPG Industries, Inc.
Union Carbide Corporation (28 and 33)
Diamond Shamrock
Air Products and Chemicals, Inc.
Cities Service Company
Pennwalt Corporation
Hooker Chemical Corporation/Occidental Petroleum Corporation (Partial)
Hercules, Inc. (28 and 37)
Olin Corporation (28 and 34)
Borden, Inc. (partial)
Continental Oil Company
Exxon Chemical Company, USA/Exxon Corporation
El Paso Products Company
Monsanto Company
Standard Oil Company of Ohio
Tenneco Chemicals, Inc./Tenneco, Inc.
Phillips Petroleum Company
Stauffer Chemical Company
Gulf Oil Corporation
The Dow Chemical Company (28 and 33)
Shell Oil Company
FMC Corporation
Allied Chemical Corporation
Kaiser Aluminum & Chemical Corporation
E. I. Dupont De Nemours & Company, Inc. (28 and 34)
American Hoechst Corporation (28 and 22)
Celanese Corporation
Akzona, Inc.
American Cyanamid Company
Standard Oil Company of Indiana
W. R. Grace & Company
Firestone Tire and Rubber Company
Kerr-McGee Corporation
B. F. Goodrich Chemical Company/B. F. Goodrich Company
Engelhard Minerals & Chemical Corporation (28 and 32)
Rohm & Haas Company
Atlantic Richfield Company
Texaco, Inc.
International Minerals & Chemical Corporation (partial)
Ethyl Corporation
Eastman Kodak Company
Farmland Industries, Inc. (partial)

Motor Vehicle Manufacturers Association (38)

General Motors Corporation (37, 33, 34–35)
Chrysler Corporation (37, 34–35)
International Harvester
Ford Motor Company (37 and Partial 33, 34-35)
American Motors Corporation

National Canners Association (20)

H. J. Heinz Company (partial)
Ralston Purina Company (partial)
Stokely-Van Camp, Inc.
Campbell Soup Company
Hunt-Wesson Foods, Inc./Norton Simon, Inc. (partial)
Del Monte Corporation

National Cottonseed Products Association (20)

The Southern Cotton Oil Company, Inc./Norton Simon, Inc. (partial)

National Independent Meat Packers Association (20)

National Lime Association (32)

The Flintkote Company (partial)
U.S. Gypsum Company (partial)
National Gypsum Company (partial)
Martin Marietta Corporation (partial)
General Dynamics Corporation

National Soft Drink Association (20)

The Coca-Cola Company (partial)
Canada Dry Corporation/Norton Simon, Inc. (partial)

Pharmaceutical Manufacturers Association (28)

Merck & Company, Inc.

Portland Cement Association (32)

Lehigh Portland Cement Company
Kaiser Cement & Gypsum Corporation (partial)
Marquette Company/Gulf & Western Industries, Inc.
The Flintkote Company (partial)
U.S. Steel Corporation
Grifford-Hill & Company, Inc.
Lone Star Industries, Inc.
Newmont Mining Corporation
Ideal Basic Industries, Inc.
Alpha Portland Industries, Inc.
Missouri Portland Cement Company
General Portland, Inc.
California Portland Cement Company
Ash Grove Cement Company
Filtrol Corporation
Medusa Corporation
Dundee Cement Company
Penn-Dixie Industries, Inc.
Louisville Cement Company
Amcord, Inc.
National Gypsum Company (partial)
Southwestern Portland Cement Company/Southdown, Inc.
Martin Marietta Corporation (partial)
Citadel Cement Corporation

Refractories Institute (32)

General Refractories Company (partial)
Corning Glass Works (partial)
Combustion Engineering, Inc. (partial)
U.S. Gypsum Company (partial)
Dresser Industries, Inc.
Martin Marietta Corporation (partial)
Interpace Corporation (partial)
Kaiser Aluminum & Chemical Corporation

Eugene L. Stewart, Attorney at law (32)

PPG Industries, Inc.
Combustion Engineering, Inc. (partial)
Ford Motor Company
Libby-Owens-Ford Company

Tile Council of American (32)

National Gypsum Company (partial)

U.S. Beet Sugar Association (20)

Consolidated Foods Corporation (partial)
Holly Sugar Corporation
Great Western Sugar Company/Great Western United Corporation
The Amalgamated Sugar Company
American Crystal Sugar Company
U and I, Inc.

U.S. Brewers Association (20)

Pabst Brewing Company
Jos. Schlitz Brewing Company
Anheuser-Busch, Inc. (partial)
Adolph Coors Company
Archer Daniels Midland Company (partial)

U.S. Cane Sugar Refiners Association (20)

California and Hawaiian Sugar Company
Archer Daniels Midland Company (partial)

[FR Doc.77-13145 Filed 5-4-77;3:17 pm]

FEDERAL MARITIME COMMISSION

BLACK SEA STEAMSHIP CO.

Order of Revocation

In the matter of certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P–136 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C–1,136.

WHEREAS, Black Sea Steamship Company (Black Sea Shipping Company) C/O March Shipping Passenger Services, Suite 5257, One World Trade Center, New York, New York 10048, has ceased to operate the passenger vessel MAKSIM GORKIY (MAXIM GORKI) to and from United States ports; and

WHEREAS, Certificates (Performance) No. P–136 and Certificate (Casualty) No. C–1, 136 applying to the MAKSIM GORKLY (MAXIM GORKI) have been returned for revocation.

It is ordered, That Certificate (Performance) No. P–136 issued to Black Sea Steamship Company and reissued to Black Sea Steamship Company (Black Sea Shipping Company) and Certificate (Casualty) No. C–1.136 issued to black Sea Steamship Company (Black Sea Shipping Company) applying to the MAKSIM GORKIY (MAXIM GORKI) be and are hereby revoked effective April 29, 1977.

It is further ordered. That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission April 29, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–13171 Filed 5–6–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI77–39]

COLORADO OIL & GAS CORP.

Application for Special Relief Pursuant to Section 2.76

MAY 2, 1977.

Take notice that on February 28, 1977, Colorado Oil & Gas Corporation (Colorado Oil) filed an application for special relief under the provisions of Section 2.76 of the Commission's Statements of Policy and Interpretations and Order No. 481. Colorado Oil seeks to increase its rate from approximately 12 cents per Mcf to approximately 51 cents per Mcf in connection with gas produced from the Howell No. 1 well, Keyes Field, Cimmaron County, Oklahoma and sold under a contract[1] to Colorado Interstate Gas Company (Colorado). Applicant states that during September, 1976 said well was shut-in due to compressor mechanical failure but following work over and compressor overhaul expenditures of $25,375 it recommenced production and sales to Colorado in December, 1976, thereby preserving Colorado Oil's leasehold working interest. Colorado Oil states that a total rate of approximately 51 cents per Mcf will reimburse it for unrecovered capital costs plus production expenses in addition to receiving a 15 percent rate of return plus an allowance for Federal income tax liability.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13165 Filed 5–6–77;8:45 am]

[Docket No. ER77–318]

KANSAS CITY POWER & LIGHT CO.

Filing of Change in Rate Schedule

MAY 2, 1977.

Take notice that on April 22, 1977, Kansas City Power & Light Company (KCPL) tendered for filing a Municipal Wholesale Firm Power Contract dated February 7, 1977, between KCPL and the City of Pomona, Kansas. KCPL requests an effective date thirty (30) days after filing. The Contract terminates the Municipal Wholesale Firm Power Contract, dated January 3, 1973, KCPL Rate Schedule FPC No. 71, and provides for rates and charges for wholesale firm power service by KCPL to the City of Pomona.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13168 Filed 5–6–77;8:45 am]

[Docket No. ER77–315]

LONG ISLAND LIGHTING CO.

Filing of Initial Rate Schedule

MAY 2, 1977.

Take notice that on April 21, 1977, Long Island Lighting Company (LILCO) tendered for filing as an initial rate schedule an exchange agreement ("the Agreement") between LILCO and two member companies of the Northeast Utilities System (the NU Companies); the Connecticut Light and Power Company (CL&P) and the Hartford Electric Light Company (HELCO). LILCO indicates that the Agreement provides for LILCO to exchange gas turbine capacity from its system for capacity in the NU Companies' Middletown Unit No. 4 and Montville Unit No. 6, both mid range fossil fired steam units.

LILCO requests a waiver of the Commission's notice requirements to allow the Agreement to become effective as of July 1, 1976.

LILCO states that the Agreement provides that the parties will determine prior to 7 a.m. of the first Monday of each week during the term of the Agreement whether exchanges pursuant to the Agreement shall take place during that week. And that if the parties determine that an exchange is advantageous, LILCO will pay capacity charges to the NU Companies in an amount equal to the capacity exchanged during the week times $0.00274 times the number of hours during each week subject to a pro rata deduction for any hour during which LILCO calls for receipts from or deliveries to the NU Companies and the NU Companies are unable to meet such demands. LILCO further states that it will purchase energy from such units at the incremental cost of providing such energy and that the NU Companies will pay LILCO's incremental cost of providing any energy taken by the NU Companies pursuant to the Agreement.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing

[1] Colorado Oil, 100 percent working interest owner, currently sells subject gas production pursuant to a contract dated October 30, 1969 under FPC Gas Rate Schedule No. 65.

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are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13164 Filed 5-6-77;8:45 am]

[Docket No. ER77-319]

NEPOOL EXECUTIVE COMMITTEE

Filing of Amendment to the New England Power Pool Agreement

MAY 2, 1977.

Take notice that on April 22, 1977, the NEPOOL Executive Committee filed an Agreement Amending the NEPOOL Power Pool Agreement (Amendment), dated December 31, 1976, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

The NEPOOL Executive Committee indicates that the Amendment provides for revisions of Sections 9.2 (a), (b), (c); 9.3; 9.4 (a), (c) and 15.8 of the NEPOOL Agreement to provide revised arrangements for determining support by the NEPOOL participant systems of the generating capacity required to meet pool reliability standards. The NEPOOL Executive Committee states that the revised capability responsibility arrangements are intended to reduce uncertainties of the pool participants regarding their pool capability responsibilities and that these uncertainties have arisen during the period of reduced load growth experienced by the New England region following the 1973/1974 energy crisis. Moreover, the NEPOOL Executive Committee states that the revised arrangements are designed to preserve the pool's generation capacity planning and equalized reserve concepts, but provide that each participant's pool capability responsibility will be proportionate to its own actual load experience.

The NEPOOL Executive Committee requests that the Commission permit the Amendment to become effective as of November 1, 1977.

Any person desiring to be heard or to make any protest with reference to the Amendment should on or before May 13, 1977 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13167 Filed 5-6-77;8:45 am]

[Docket No. ER77-316]

PENNSYLVANIA ELECTRIC CO.

Filing of Amendment

MAY 2, 1977.

Take notice that Pennsylvania Electric Company (Penelec) on April 20, 1977 tendered for filing the amendment of its Wheeling and Supplemental Power Agreement with Allegheny Electric Cooperative, Inc. (Allegheny).

Penelec indicated that on January 31, 1977, in response to an order of the Commission issued January 14, 1977, Penelec filed revised sheets to its FPC Electric Tariff, and revisions to a Wheeling and Supplemental Power Agreement with Allegheny Electric Cooperative, Inc. ("Allegheny"). This submission was subsequently accepted for filing on March 28, 1977, and became effective February 26, 1976, thus terinating Docket No. ER76-301.

Penelec further states that following its filing of January 31, 1977, Allegheny formally executed the amendment of its Wheeling and Supplemental Power Agreement, an unexecuted form of which had been incorporated in the January 1977 filing. Penelec thereby tendered to the Commission an executed Amendment with Allegheny, to be substituted for the unexecuted version.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13169 Filed 5-6-77;8:45 am]

[Docket No. RI77-55]

TRANSOCEAN OIL, INC.

Petition for Special Relief

MAY 2, 1977.

Take notice that on April 6, 1977, TransOcean Oil, Inc. (Petitioner), 1700 First City East Building, Houston, Texas 70002, in Docket No. RI77-55 filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge a base rate of 39.5 cents per Mcf at 14.73 psia exclusive of all severance and production taxes, Btu adjustment, and gathering allowance for the sale of gas to Texas Gas Transmission Corporation from the D. M. Robinson No. 1 Well located in Maxie Field, Acadia Parish, Louisiana. The subject gas is currently being sold at a base rate of 29.5 cents per Mcf at 14.73 psia exclusive of all severance and production taxes, Btu adjustment, and gathering allowance.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13166 Filed 5-6-77;8:45 am]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Tariff Change

APRIL 29, 1977.

Take notice that Utah Power & Light Company on April 20, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1. The Company indicates that the proposed changes would increase revenues by $6.243.000 from jurisdictional sales and service based on the 12-month period ending December 31, 1977.

The Company states that the increases are necessary because of inflationary increases in all categories of costs. and to attain a reasonable rate of return on these sales for resale.

The Company requests an effective date of May 23, 1977 for these proposed changes.

Copies of the filing were served upon the Company's jurisdictional customers, and regulatory commissions for the states of Utah, Idaho and Wyoming.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-13170 Filed 5-6-77;8:45 am]

[Docket No. CS71-767, et al.]

CORNELIA CULLEN LONG, ET AL.

Applications for "Small Producer" Certificates [1]

APRIL 29, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS71-767 [1]	Apr. 4,1977	Cornelia Cullen Long, First City National Bank Bldg., Houston, Tex. 77002.
CS71-954 [2]	Aug. 23,1974	World Hydrocarbon, Inc., 900 Empire Life Bldg., Dallas, Tex. 75201.
CS72-393	Mar. 28,1977 [3]	Vanderbilt Resources Corp., 10403 West Colfax, suite 860, Denver, Colo. 80215.
CS72-1170	Apr. 1,1977 [4]	Amco Energy Corp., 4825 L.B.J. Freeway, suite 110, Dallas, Tex. 75234.
CS74-35	Apr. 4,1977 [5]	Estate of Bobby M. Burns, in care of L. F. Ley, Bank and Trust Tower, B. & T. 86, Corpus Christie, Tex. 78477.
CS77-455	Apr. 8,1977	American International Gas Train-Ritchie Mines, box 428, Cairo, W. Va. 26337.
CS77-456	Apr. 11,1977	Oil Patch Leasing Corp., P.O. Box 1086, Borger, Tex. 79007.
CS77-457	-----do-----	Dwight J. Wilson, 14th floor, 125 North Market, Wichita, Kans. 67202.
CS77-458	-----do-----	L. & B. Leasing, Inc., P.O. Box 18, Vincennes, Ind. 47591.
CS77-459	-----do-----	Spearlex Grain Co., P.O. Box 668, Spearman, Tex. 79081.
CS77-460	Apr. 13,1977	D-A Lubricant Co., Inc., 4415 Euclid Ave., Cleveland, Ohio 44103.
CS77-461	Apr. 14,1977	Herman J. Ledbetter, 1002 Sayles Blvd., Abilene, Tex. 79605.
CS77-462	-----do-----	Molz Oil Co., P.O. Box 148, Medicine Lodge, Kans. 67104.
CS77-463	Apr. 15,1977	Pano Tech Exploration Corp., 2015 C. & I. Bldg., Houston, Tex. 77002.
CS77-464	-----do-----	UCG Energy Corp., 1200 Parkway Towers, 404 James Robertson Parkway, Nashville, Tenn. 37219.
CS77-465	Apr. 18,1977	Clyde Joe Holman d.b.a. Holman Oil Co., P.O. Box 819, Okmulgee, Okla. 74447.
CS77-466	-----do-----	Bill J. Dutton, 620 1st National Center, Hutchinson, Kans. 67501.
CS77-467	-----do-----	W. M. Smith d.b.a. Ora Oil Co., P.O. Box 1757, Shreveport, La. 71166.
CS77-468	-----do-----	Drovis Oil Corp., P.O. Box 5397, Shreveport, La. 71105.
CS77-469	-----do-----	Cleo H. Dugger, P.O. Box 2172, Rosewell, N. Mex. 88201.
CS77-470	-----do-----	E. B. O'Hara, 1330 Metroband Bldg., Denver, Colo. 80202.
CS77-471	-----do-----	Alstate Petroleum Corp.
CS77-472	-----do-----	Hobe, Inc.
CS77-473	-----do-----	Paul Randels, 5417 El Dorado Dr., Fort Worth, Tex. 76107.
CS77-474	-----do-----	Northridge Oil Co., P.O. Box 6087, Texarkana, Tex. 75501.

[1] Applicant requests that Long Resources, Inc., be added as a holder of the small producer certificate in docket No. CS71-767 to reflect certain assignment of acreage to Long Resources.
[2] Filing reflects that Alston Oil Co. merged into World Hydrocarbon Exchange, Inc., on Oct. 25, 1973, and that on Nov. 12, 1973, the name was changed to World Hydrocarbon, Inc., as evidenced by a certificate of amendment issued by the secretary of state of the State of Texas.
[3] Applicant requests amendment of the original small producer certificate issued in docket No. CS72-393 to include Vanderbilt Energy Corp.
[4] Amco Energy Corp. is a successor by merger to Continental Energy Corp. Applicant requests change of name to Amco Energy Corp.
[5] Filing reflects change of name.

[FR Doc.77-13039 Filed 5-6-77;8:45 am]

SUPPLY-TECHNICAL ADVISORY TASK FORCE—SYNTHESIZED GASEOUS HYDROCARBON FUELS

Meeting

Final task force meeting in conference room 5200, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, June 2, 1977, 9:30 a.m. Presiding: Mr. William J. McCabe, FPC Coordinating Representative and Secretary, Gas Policy Advisory Council.

1. Call to order and introductory remarks—Mr. William J. McCabe.
2. Remarks by chairman and vice chairman—Dr. Alan G. Fletcher, Mr. Charles W. Margolf.
3. Working session—Final review of economic analysis—Dr. James J. Harris.
4. Other business.
5. Adjournament—Mr. William J. McCabe.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13162 Filed 5-4-77;4:19 pm]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Longer Run Ranges for Monetary Aggregates

In accordance with the Committee's rules regarding availability of information, notice is given that on April 19, 1977, the Federal Open Market Committee adopted the following ranges for rates of growth in monitary agregates for the period from the first quarter of 1977 to the first quarter of 1978: M-1, 4½ to 6½ per cent; M-2, 7 to 9½ per cent; and M-3, 8½ to 11 per cent.

By order of the Federal Open Market Committee, May 3, 1977.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-13109 Filed 5-6-77;8:45 am]

FIRST NORTHERN BANCORP

Formation of Bank Holding Company

First Northern Bancorporation, Anchorage, Alaska, has applied for the Board's approval under section 3(a)(1) of the Bank Hold Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 68.8 percent or more of the voting shares of The First National Bank of Fairbanks, Fairbanks, Alaska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 28, 1977.

Board of Governors of the Federal Reserve System, May 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13113 Filed 5-6-77;8:45 am]

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KSB, LTD.

Formation of Bank Holding Company

KSB, Ltd., Keokuk, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Keokuk Savings Bank and Trust Company, Keokuk, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 30, 1977.

Board of Governors of the Federal Reserve System, May 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13107 Filed 5-6-77;8:45 am]

MANUFACTURERS HANOVER CORP.

Order Approving Retention of Offices of Ritter Financial Corporation and Recommencement of Reinsurance Activities

Manufacturers Hanover Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), to retain indirectly seven offices of Ritter Financial Corporation, Wyncote, Pennsylvania ("Ritter"), a wholly owned subsidiary of Applicant. The offices that Applicant has applied to retain engage in the following activities: Making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company, servicing loans and other extensions of credit for any person and acting as agent or broker for the sale of credit-related life insurance and credit accident and health insurance. These activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (3), and (9)). The offices are located in Sicklerville, New Jersey; Fairmont, Red Springs and Wadesboro, North Carolina; Hummelstown, Pennsylvania; and Warsaw and Woodstock, Virginia.

Applicant has also applied for the Board's approval to recommence the activity of reinsuring credit life insurance and credit accident and health insurance that is directly related to extensions of credit by the Ritter organization in North Carolina and Pennsylvania. These activities have also been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the applications, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 16190 (1976)). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is the third largest banking organization in New York State and the fourth largest nationally.[1] Applicant controls Manufacturers Hanover Trust Company, New York, New York. Ritter, a regional consumer finance company with total assets of approximately $111 million and net receivables of approximately $102 million, was acquired by Applicant on January 3, 1975, pursuant to Board approval granted effective December 10, 1974 (61 Fed. Res. Bulletin 42 (1975)).

At the time that applicant filed its application to acquire Ritter; the latter had 125 offices in Connecticut, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia. During the pendency of that application, Ritter opened eight additional offices;[2] however, Applicant did not amend its application to reflect those additional offices. Accordingly, the Board's approval of Applicant's application to acquire Ritter related only to the 125 offices that were listed in its application. Applicant's operation of offices for which it did not obtain prior Board approval was in violation of the Board's Regulation Y.[3] By this application, Applicant seeks to bring the operation of its additional offices into conformance with the Act.

In acting on applications pursuant to § 4(c)(8) of the Act to retain offices or to recommence engaging in activities in situations where the necessary prior Board approval was not obtained for such offices or activities, the Board applies the same standards as it does to applications to establish such offices and commence such activities initially. In addition, the Board considers the competitive effects of such proposals as of the time that the offices were established or the activities commenced.

At the time that it approved Applicant's application to acquire Ritter, the Board noted that only a slight amount of existing competition would be eliminated between Applicant and Ritter. The competition that did exist was a result of the proximity of Ritter's two Connecticut offices to the Metropolitan New York market in which Applicant operated. Because of the locations of the offices that are the subject of this application, it does not appear that any competition between Applicant and those offices existed at the time that the Board approved Applicant's application nor does it appear that any competition exists at this time.

With respect to potential competition, the Board, in approving Applicant's original application, stated that it was questionable whether Applicant's de novo expansion in the consumer finance company business or accelerated growth in its consumer lending would give rise to substantial future competition between Applicant and Ritter. The Board concluded that the only significant competition that would be foreclosed by approval of the application would be some distance in the future. It does not appear that the Board's conclusion on this question would have been affected by an awareness of the existence of the additional offices; nor does it appear, on the basis of information in the record, that a significant amount of future competition would be eliminated by retention of these offices. Accordingly, it is the Board's conclusion that no significant amount of existing or potential competition would be eliminated as a result of Applicant's retention of the additional offices. Moreover, there is no evidence in the record indicating that retention of these offices would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application to retain the seven offices is hereby approved.

As part of its Order approving Applicant's acquisition of Ritter, the Board also specifically authorized Applicant, through a subsidiary of Ritter, to act as reinsurer of group credit life and credit accident and health insurance sold in connection with extensions of credit by Ritter's offices in Virginia, West Virginia, and New Jersey. Applicant's application indicated that Ritter was engaged in reinsurance activities only in those three States and, accordingly, the Board's Order of December 10, 1974, only authorized Applicant to engage in reinsurance activities in those three States. Applicant, however, commenced reinsurance activities in the States of North Carolina and Pennsylvania on December 16, 1975, and June 1, 1975, respectively. Applicant's performance of this activity without the prior approval of the Board was in violation of the Board's Regulation Y.[4] Applicant, at the request of the Board's staff, has terminated its reinsurance activities in North Carolina and Pennsylvania pending the Board's action on its application.

Credit life insurance and credit accident and health insurance are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service (12 CFR 225.4(a)(10) n. 7).

Applicant has stated that, upon recommencement of reinsurance activities in North Carolina and Pennsylvania, it would reduce the rates charged by Ritter's subsidiaries for credit life and credit accident and health insurance in the two States by amounts ranging from 2 per cent to 7.5 per cent.[5] The Board is of the view that the availability of this service at reduced premiums is in the public interest. There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, decreased or unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant, with respect to its proposed underwriting activities, to maintain on a continuing basis the public benefits that the Board has found to be reasonably expected to result from this proposal and upon which the approval of that aspect of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved.

As indicated above, the subject applications consist of after-the-fact requests for the Board's approval to conduct operations that had been commenced in violation of the Board's Regulation Y. It is the Board's view, on the basis of the facts and circumstances of the subject applications, that the violations were inadvertent. In acting on the applications, the Board took into consideration the fact that Applicant, upon becoming aware of the existence of the violations, took steps to conform its operations to the Act by filing the subject applications. In addition, Applicant's senior management has taken steps to prevent violations from occurring by establishing procedures for centralized internal review of all of Applicant's activities for compliance with the substantive and procedural requirements of the Act and the Board's Regulation Y. The Board expects that these actions will assist Applicant in avoiding a reoccurrence of similar violations. In consideration of the above and other information in the records of these applications, the Board has determined that the circumstances of the above violations do not warrant denial of the applications.

The determination with respect to these applications is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[6] effective May 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13112 Filed 5-6-77;8:45 am]

NORTHWEST BANCORP.

Order Denying Acquisition of Bank

Northwest Bancorporation, Minneapolis, Minnesota, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 per cent or more of the voting shares of First National Bank, Fort Dodge, Iowa, Fort Dodge, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the largest banking organization in Iowa and controls 7 banks with aggregate deposits of $721 million, representing approximately 6.1 percent of the total deposits in commercial banks in Iowa.[1] In addition to its holdings in Iowa, Applicant also controls 75 banks in six nearby states with total deposits of approximately $6 billion. Acquisition of Bank ($62.6 million in deposits) would increase Applicant's share of commercial bank deposits in Iowa by 0.5 per cent.

Bank is located in the Fort Dodge banking market, which is approximated by Webster County plus Cedar and Reading townships in adjoining Calhoun County. Applicant's banking subsidiary closest to Bank is located in Des Moines, Iowa, 87 miles from Bank, and there is currently no meaningful competition between Bank and any of applicant's banking subsidiaries. Accordingly, no significant existing competition would be eliminated between Bank and any of Applicant's subsidiary banks upon consummation of this proposal.

The Fort Dodge banking market is highly concentrated, the three largest of the eight banks in that market controlling approximately 85 percent of market deposits and 88 per cent of market loans. Bank is the largest bank in this market, holding approximately 30 per cent of total market deposits, and appears to be a viable and effective competitor. Thus, approval of the present proposal would enable Applicant to establish itself as a significant competitor in a highly concentrated market through the acquisition of the largest bank in that market. Prospects for deconcentration of the Fort Dodge market are few, essentially limited by Iowa's restrictive branch banking law to establishment of de novo banks.[2]

Applicant's acquisition of the largest bank in the market will do nothing to decrease this market concentration. To the contrary, it would eliminate the probability that Applicant would enter the market de novo and, through its competitive efforts to gain an increased market share, decrease present concentration in the market. It is also probable that the proposed acquisition would deter other banking organizations from attempting de novo entry into the Fort Dodge market.

On the basis of total deposits in the seven states in which it operates, Applicant is approximately ten times larger than the second largest Iowa bank holding company and its acquisition of the largest bank in the Fort Dodge market may be expected to discourage other Iowa banking organizations from entry into that market. Thus, acquisition of Bank by Applicant would probably eliminate any likelihood that the market would become less concentrated in the future. In view of the total resources available to Applicant, the absolute size of Bank, and its relative position in the market, the prospects for increased competition and deconcentration of the Fort Dodge market would be diminished as a result of the contemplated acquisition.

There can be no doubt that Applicant possesses the resources to accomplish a de novo entry into the Fort Dodge banking market. Indeed, the financial and managerial resources available to Applicant coupled with the relatively small size of the Fort Dodge banking market suggest that a de novo banking subsidiary established by Applicant in this market could become a substantial competitor within a brief period of time. Evidence of record suggests that Applicant is engaged in an expansion program designed to accomplish the acquisition of a bank in each of Iowa's major banking markets. Thus, if Fort Dodge is attractive for de novo entry, Applicant

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[1] All banking and other financial data are as of December 31, 1975.

[2] One of the offices opened during this period was subsequently closed.

[3] See 12 CFR § 225.4(c)(2).

[4] See 12 CFR 225.4(c)(2).

[5] Applicant's reduced premium rate schedule became effective on November 1, 1976. Applicant also undertook to rebate to Ritter's North Carolina and Pennsylvania customers amounts charged prior to November 1, 1976, that were in excess of the reduced premium rates.

[6] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

[1] All banking data are as of June 30, 1976.

[2] Iowa law generally prohibits the establishment of a branch office in any town in which another bank is located. Iowa Code Ann. § 524.1202. Thus, no bank may branch into Fort Dodge.

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must be regarded as a potential de novo entrant.[3]

Population per banking office and deposits per banking office in the Fort Dodge market are higher than those for all counties in Iowa that, like Webster County, have not been classified as Standard Metropolitan Statistical Areas ("SMSA's"), although such ratios are somewhat lower than those for counties of similar total population. In terms of total deposits, however, the Fort Dodge market is the ninth largest banking market in Iowa and its population growth compares favorably with other Iowa non-SMSA counties.[4] Retail sales per banking office in Fort Dodge are nearly twice as high as in any other non-SMSA county and future economic growth appears likely in view of the establishment of a new industrial park and other developments in the city of Fort Dodge.

Another indicium of the market's attractiveness for de novo entry is the above-average profitability of each of the three banks located in the city of Fort Dodge. Indeed, the return on assets at Bank and at the second largest Fort Dodge bank over the last four years has averaged 40 percent above that of other banks of similar size in Iowa. For the market as a whole, return on assets has been 12 per cent above all banks in the state. This disparity in profitability may well be related to the concentrated nature of the market, and thus be indicative of the substantial precompetitive effect Applicant's de novo entry would likely have. There is no evidence in the record to suggest that either the Iowa Superintendent of Banking or the Comptroller of the Currency would not grant an application to charter a de novo bank in Fort Dodge.

De novo entry by Applicant into the Fort Dodge market would not only increase competition therein by introducing a new and aggressive competitor into the market, but would also tend to reduce the concentration of banking resources in the market while preserving Bank as a viable competitive force in the market. In addition, the possibility would be preserved that Bank might become affiliated with one of the state's smaller bank holding companies—not an unlikely prospect in view of Bank's attractiveness for acquisition, due in part to its market position. On the basis of the facts of record, the Board concludes that consummation of the proposed acquisition would have a substantial adverse effect on potential competition in the Fort Dodge banking market.

Unless such anticompetitive effects are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served, the application must be denied.[5] The financial and managerial resources and future prospects of Applicant, and its subsidiary banks, are regarded as generally satisfactory while those of Bank are regarded as satisfactory. There is no evidence in the record to indicate that the banking needs of the relevant market are not being met by the existing institutions in the market. While certain benefits to the convenience and needs of the communities to be served might result from Applicant's acquisition of Bank, such benefits would also derive from entry by less anticompetitive means. Accordingly, although banking factors and considerations relating to the convenience and needs of the communities to be served are consistent with approval, they do not outweigh the substantial adverse competitive effects of the proposal. It is the Board's judgment that on the basis of the entire record, consummation of the proposed acquisition would not be in the public interest and that the application should be and hereby is denied.

By order of the Board of Governors,[6] effective May 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13108 Filed 5-6-77;8:45 am]

PEOPLES BANKING CORP.

Order Approving Acquisition of Bank

Peoples Banking Corporation, Bay City, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of The First National Bank of Lapeer, Lapeer, Michigan ("Bank"). Bank is to be merged into a bank that has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Bank would be the successor organization.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the thirteenth largest banking organization in Michigan, controls five banks with aggregate deposits of approximately $421.1 million representing 1.4 per cent of the total deposits in commercial banks in the State.[1] As a result of the acquisition of Bank, Applicant's share of deposits in commercial banks in Michigan would increase by 0.2 per cent and Applicant's rank in the State would increase from thirteenth to twelfth; however, without an appreciable effect upon the concentration of banking resources in Michigan.

Bank ($58.2 million in deposits) is the fifth largest of fourteen banking organizations in the Flint banking market, which is the relevant banking market for purposes of analyzing the competitive effects of the proposed transaction.[2] Bank controls approximately 3.0 per cent of the deposits in commercial banks in the market. Applicant's subsidiary, Frankenmuth Bank & Trust, Frankenmuth, Michigan ("Frankenmuth Bank"), operates five offices in the market and controls 4.1 per cent of the market's deposits, making Applicant the fourth largest banking organization in the market. Frankenmuth Bank's offices are located north and west of Flint, the market's principal city. Bank's offices are located southeast of Flint. The shortest distance between an office of Bank and an office of Frankenmuth Bank is 20 miles. In addition, a large number of intervening banks exist between Bank and Frankenmuth Bank. To the extent that Bank and Frankenmuth Bank operate in the same market, some existing competition would be eliminated as a result of the proposed transaction. However, the Board does not believe that approval of the application would result in the elimination of significant existing competition. Moreover, in view of the restrictions of Michigan law upon branching, it is unlikely that a significant amount of additional competition would develop between Bank and Frankenmuth Bank in the future.

The Flint banking market is highly concentrated with the two largest banking organizations controlling almost 70 per cent of commercial bank deposits in the market. Although consummation of the proposed transaction would increase somewhat the degree of concentration in the market (the four largest banking organizations control 86.6 per cent of market deposits), the Board views this proposal as a means whereby Applicant would be able to compete more effectively with the two largest organizations operating in the market. After consummation of the proposed transaction, several other organizations will remain available for acquisition by banking organizations not presently operating in the market. In the Board's judgment the proposed transaction would not result in the elimination of a significant amount of existing or future competition between Applicant and Bank. Furthermore, it is the Board's view that the effects of the proposal in increasing the level of concentration in the market are outweighed by the fact that Applicant will, as a result of the proposed transaction, be in a position to compete more effectively with the market's two dominant organizations.

Considerations relating to financial and managerial resources and future prospects of Bank, Applicant, and its subsidiaries are regarded as satisfactory and consistent with approval, particularly in view of Applicant's commitment to inject 880,000 in additional capital into Bank. Upon consummation of the proposal, it is proposed that Bank will begin compounding interest on time and savings deposits on a daily basis. Bank will also begin offering certificates of deposit with longer maturity periods and will expand its trust services. Thus, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and are regarded as sufficient to outweigh any slightly adverse competitive effects that might result from consummation of the proposal. The Board has therefore determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is exended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective May 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13111 Filed 5-6-77;8:45 am]

[3] Although the smaller banks in the market could be regarded as possibilities for a "foothold" acquisition, all are located outside of the city of Fort Dodge and are prevented from branching into Fort Dodge by Iowa law, thus making them unattractive for such an acquisition. Moreover, the primary opportunity for bank growth in the market is in the city of Fort Dodge. As none of these banks may enter that city it is not likely that they will be able to attract sufficient new business to significantly deconcentrate the market, either as independent banks or as a subsidiary of a bank holding company such as Applicant. Only a de novo bank located in the city of Fort Dodge would be capable of effecting such deconcentration. Thus, the market's attractiveness for de novo entry and the preservation of Applicant as such a potential entrant are major considerations with regard to this application.

[4] Non-SMSA data appear more relevant as Applicant is already represented in, or has applied to acquire banks in, six of Iowa's seven SMSA's. Between 1960 and 1970 Webster County population grew at a rate of 1.2 per cent annually, a growth rate which was only one-half of the state average of 2.4 per cent, but which was also significantly above that of the state's non-SMSA counties, which showed a population decrease of 1.2 per cent during this period.

[5] Northwest Bancorporation/First National Bank of Dubuque, 59 Fed. Res. Bull. 762 (1973) (convenience and needs considerations insufficient to outweigh adverse competitive effects).

[6] Voting for this action: Governors Wallich, Coldwell, Jackson and Partee. Abstaining: Governor Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

[1] All banking data are as of June 30, 1976.

[2] The Flint banking market is approximated by the Flint RMA (Ranally Metro Area) with the exception of that portion which extends into Shiawassee County and Attica Township east of Lapeer in Lapeer County.

[3] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

SEAFIRST CORP.

Order Approving Acquisition of Seafirst Life Insurance Company and SFC Insurance Company

Seafirst Corporation, Seattle, Washington, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), to acquire indirectly, through its wholly owned subsidiary, Seafirst Insurance Services Corporation, Seattle, Washington, all of the voting shares of Seafirst Life Insurance Company, Seattle, Washington ("Company"), a company that will engage de novo in the activity of underwriting, directly and as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant or its credit extending subsidiaries, and SFC Insurance Company, Phoenix, Arizona ("SFC"), a company that will engage de novo in the activity of underwriting, only as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant or its credit extending subsidiaries. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(10)).

Notice of the applications, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 15466 (1977)). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the largest banking organization in Washington, controls one subsidiary bank, the largest bank in the State, with total domestic deposits of $3.3 billion, representing approximately 33.0 percent of the total deposits in commercial banks in the State.[1] Applicant also engages in the activities of mortgage banking, leasing and providing computer services through operating subsidiaries of its subsidiary bank.

Company and SFC are both presently nonoperating companies. Company, a Washington corporation, would limit its activities to underwriting, both directly and as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant's credit extending subsidiaries. SFC, an Arizona corporation, would engage in the same activities as Company, but only as reinsurer, and its activities would involve acting as reinsurer of credit accident and health insurance ceded to it by Company. As indicated above, these proposals involve engaging in these activities de novo, and consummation of these transactions would not have any adverse effect upon existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. [12 CFR § 225.4(a)(10) n. 7]

Applicant proposes, upon approval of the subject applications, to offer credit life insurance at rates by from 3.3 to 13.6 percent below the prima facie rates established in Washington, and to offer credit accident and health insurance at rates from 2.5 to 7 percent below the prima facie rates established in Washington, including 30 day, 14 day, or 7 day retroactive coverage. In addition, credit card insurance would be offered at rates 20 percent below the prima facie rate established in Washington.[2] The Board concludes that Applicant's proposed reductions in insurance premiums are procompetitive and in the public interest.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from these proposals and upon which the approval of these proposals is based, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the applications are hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions

[1] All banking data are as of June 30, 1976, and reflect mergers and acquisitions through March 31, 1977.

[2] It should be noted that the subject applications seek approval to engage in the insurance activities described herein concerning insurance sold to customers in the State of Washington only.

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and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

These transactions shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[3] effective May 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13110 Filed 5-6-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the National Advisory Council on Equality of Educational Opportunity. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10 (a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: June 3 and 4, 1977; Boston, Massachusetts.

ADDRESS: On Friday, June 3, the meeting will be held in Room 2003-A, HEW Conference Room, in the John F. Kennedy Federal Building, Government Center. On Saturday, June 4, the meeting will be held at the Parker House Hotel, 60 School Street.

FOR FURTHER INFORMATION, CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street, NW., Suite 710, Washington, D.C. 20005. Phone: 202-382-7985.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4 p.m. on Friday, June 3rd, and reconvene at 9:30 a.m. on Saturday, June 4th, until 12 noon. The main theme of the meeting will be an overview of the implementation of the Emergency School Aid Act in the Northeast. Presentations will be made by the Boston School District; New Haven, Connecticut, School District; and other grantees within the U.S. Office of Education Region I. On Saturday, the majority of the time will be devoted to internal Council business including oral interim reports by various task force chairmen. Associate Commissioner Herman Goldberg will present an update on the ESAA program as viewed from his position.

Requests for oral presentations by the public before the Council must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Council will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, NW., Suite 710, Washington, D.C., 20005, and are available for public inspection.

Signed at Washington, D.C., on May 5, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc.77-13323 Filed 5-6-77;8:45 am]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part HA, Chapter HA, in the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, entitled Office of the Assistant Secretary for Health (38 FR 18571-74, as amended by 39 FR 42704, December 6, 1974 and 40 FR 55889, December 2, 1975) is amended to update the functional statements for the Office of Program Implementation to reflect functional realignments.

Section HA-B, Organization and Functions, is amended as follows: (1) Under the heading entitled Office of Program Implementation (HAM), delete the current functional statement and substitute the following:

Office of Program Implementation (HAM). The Director of the Office of Program Implementation: (1) Monitors implementation activities of interest to the Assistant Secretary for Health in coordination with the Office of Administrative Management and the Office of Policy Development and Planning; (2) directs review and analysis of memoranda and other documents directed to the Assistant Secretary for Health for adequacy of coordination and clearances, clearness and conciseness of presentation, and other elements of completed staff work; (3) provides correspondence control for the OASH, including document assignments and status of pending correspondence; (4) provides a focal point for the public on freedom of information, fair information practice, veterans affairs, and environmental health matters, including the coordination, clearance, and review of actions requiring assessment under the National Environmental Policy Act of 1969 (Pub. L. 91-190); (5) directs the committee management activities for the Public Health Service; (6) directs the Federal regulations process for the PHS, including the coordination and review leading towards the approval of new and revised regulations; (7) clears and controls the preparation of congressional reports; (8) directs the implementation planning system of the Public Health Service; (9) directs the Operational Planning System to assure the achievement of overall Health goals and legislative commitments; (10) provides guidance to the PHS agencies and coordinates the implementation of program policies and the tracking of approved legislative initiatives; and (11) insures that heads of PHS staff offices and agencies are informed of, and given an opportunity to comment on, proposed actions or decisions affecting their offices or responsibilities.

(2) Under the heading entitled Division of Health Research and Protection Operations (HAM-1), delete the current functional statement and substitute the following:

Division of Health Research and Protection Operations (HAM-1). (1) This division, with respect to the areas of health research and protection: (a) Assures adequate analysis of new laws and the development of plans to implement these new laws; (b) provides guidance in implementing new health research and protection programs and initiatives, and monitors the results; (c) provides assistance in the development and implementation of new or revised health research and protection regulations; (d) recommends objectives for tracking by the Office of the Secretary and the Office of the Assistant Secretary for Health on health research and protection programs in accordance with the Operational Planning System; (e) coordinates health research and protection program activities among the PHS agencies; (f) reviews and coordinates the clearance of congressional reports on health research and protection matters. (2) This Division, with respect to the overall PHS: (a) manages and coordinates the PHS regulations process; (b) implements and monitors the committee management system governing the establishment and maintenance of PHS committees; (c) serves as the PHS focal point on matters pertaining to fair information practices and the Privacy Act of 1974.

(3) Under the heading entitled Division of Health Services and Prevention Operations (HAM-2), delete the current functional statement and insert the following:

Division of Health Services and Prevention Operations (HAM-2). (1) This division, with respect to the areas of health services and prevention: (a) Assures adequate analysis of new laws and the development of plans to implement these laws; (b) provides guidance in implementing new health services and prevention programs and initiatives, and monitors the results; (c) provides assistance in the development and implementation of new or revised health services and prevention regulations; (d) recommends objectives for tracking by the Office of the Secretary and the Office of the Assistant Secretary for Health on health services and prevention programs in accordance with the Operational Planning System; (e) coordinates health services and prevention program activities among the PHS agencies; and (f) reviews and coordinates the clearance of congressional reports on health services and prevention matters.

(2) This division, with respect to the overall PHS: (a) manages and coordinates the PHS Operational Planning System; (b) serves as the PHS focal point on matters pertaining to veterans affairs and freedom of information.

Dated: April 22, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-13132 Filed 5-6-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-77-752; OILSR No. 0-3075-05-351, 77-32-IS]

OHIO MEADOWS UNITS 1-3, ET AL.

Notice of Hearing

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. Ohio Meadows Units 1-3, and Gunnison River Units 1-2, and Castle Mountain Company, and Donald B. Weixelman, General Partner and Authorized Agent, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448), (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 23, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Ohio Meadows, Units 1-3 and Gunnison River Units 1-2, located in Gunnison County, Colorado, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 11, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C., on June 2, 1977, at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before May 2, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

Dated: April 14, 1977.

[FR Doc.77-13149 Filed 5-6-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6645-A]

ALASKA NATIVE CLAIMS SELECTION

Notice for Publication

The decision to interim convey of February 20, 1976, was appealed to the Alaska Native Claims Appeal Board who remanded the case to the Alaska State Director, Bureau of Land Management, on April 20, 1977, for further consideration of the disputed easement issues. The decision to convey of February 20, 1976, is hereby vacated in its entirety and a new decision is hereby issued.

In order to conform with Secretarial Order 2982, the State of Alaska has recommended easements in addition to those approved by the State Director. These easements, located in sections 9, 10, 15, 16, 28 and 33, T. 23 S., R. 19 W., Seward Meridian, have not received public comment or normal review and therefore these lands are excluded from this decision. However, once the easement process has been completed, a decision to interim convey these sections will be issued.

On December 22, 1961, the State of Alaska filed general purpose selection application A-056377 (section 6(b) of the Alaska Statehood Act) for certain lands in T. 25 S., R. 22 W., Seward Meridian. This was amended to include additional lands on October 29, 1963. On May 31, 1966, the State filed general purposes application A-067745 for all of Whale Island lying within T. 25 S., Rs. 21 and 22 W., Seward Meridian. Portions of both selections have been tentatively approved. On June 16, 1972, each application was amended to include all lands in these townships, excluding patented lands. However, the lands were withdrawn from further State selection by the Alaska Native Claims Settlement Act (ANCSA) (85 Stat. 688) on December 18, 1971. Section 11 of ANCSA withdrew all of the above-mentioned townships for selection by the village of Afognak.

On October 22, 1974, the Natives of Afognak, Inc. filed village selection application AA-6645-A under the provisions of section 12(a) of the act for lands located in the Kodiak Island area, including all lands within T. 25 S., Rs. 21 and 22 W., Seward Meridian. The application was amended on December 13, 1974 to give a new description of the lands to be selected and to supersede the previously-filed application. Section 12(a)(1) provides that village selections "shall be made from lands withdrawn by subsection 11(a)." Subsection 11(a)(2) of the act withdrew for possible selection by the village corporation those lands "that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act."

Village selection application AA-6645-A, as amended, has been properly filed and the lands are available for selection. Those portions of the village selection to be described are unoccupied and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title. Accordingly, the tentative approval given in the decisions of October 14, 1963 and February 3, 1967, is hereby vacated in part and State selection applications A-056377 and A-067745 are reiected as to the following described lands:

STATE SELECTION A-067745 (UNSURVEYED)

All of Whale Island lying within T. 25 S., Rs. 21 and 22 W., Seward Meridian (except for section 31, T. 25 S., R. 21 W., Seward Meridian).

STATE SELECTION A-056377 (UNSURVEYED)

T. 25 S., R. 22 W., Seward Meridian.
Secs. 18 to 21, inclusive (fractional) excluding the Chugach National Forest Withdrawal;
Secs. 28, 30, 31, and 32 (fractional).

And all of the following lands which have not been tentatively approved and

[3] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

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which were eliminated from the Chugach National Forest by PLO 1053:

U.S. SURVEY 909

T. 25 S., R. 22 W., Seward Meridian (Unsurveyed),
Sec. 1 (fractional), excluding Native allotments AA–6220, AA–6221, and AA–7000;
Sec. 12 (fractional), excluding Native allotments AA–6220, AA–6221, A–7000, AA–7079 Parcel B, AA–8125, AA–8126, AA–8130, and AA–8131;
Sec. 13 (fractional), excluding Native allotments AA–7070 Parcel B, AA–8131, AA–8132, AA–7471 Parcel B, AA–7071 Parcel A, AA–8127, and AA–8129;
Sec. 14 (fractional), excluding Native allotment AA–8129;
Sec. 23 (fractional), excluding Native allotment AA–2530 Parcel A;
Sec. 24 (fractional), excluding Native allotment AA–2530 Parcels A and B;
Sec. 29 (fractional).

Aggregating approximately 4,966 acres of which approximately 4,334 acres were tentatively approved.

Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

It should be noted that the State has created numerous third-party interests in section 31, T. 25 S., R. 21 W., Seward Meridian. In order to determine valid existing rights, as delineated by the provisions of section 14(g) of ANSCA, section 31 is excluded from this decision. Further action on this section will be taken at a later date.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 69,291.92 acres, of which approximately 64,800 acres are in the Chugach National Forest, are considered proper for acquisition by the Natives of Afognak, Inc., and are hereby approved for interim conveyance pursuant to section 14(a) of the act:

SEWARD MELIDIAN, ALASKA (UNSURVEYED)

T. 23 S., R. 19 W.,
Secs. 1 and 2 (fractional);
Secs. 3 to 8, inclusive;
Secs. 11 to 14, inclusive (fractional);
Secs. 17 to 22, inclusive;
Secs. 23 to 26, inclusive (fractional);
Secs. 27, 29, and 30;
Sec. 31 (fractional);
Sec. 32 (fractional), excluding Native allotment AA–7070 Parcel A;
Secs. 34 and 35;
Sec. 36 (fractional).
T. 23 S., R. 20 W.,
Secs. 1, 2, and 3;
Sec. 4 (fractional);
Secs. 5, 6, and 7;
Secs. 8 and 9 (fractional);
Secs. 10, 11, and 12;
Secs. 14 and 15;
Secs. 16 and 17 (fractional);
Sec 18;
Secs. 19, 20, and 21 (fractional);
Secs. 22, 25, and 27;
Secs. 28 to 33, inclusive (fractional);
Secs. 34 and 36.
T. 23 S., R. 21 W.,
Secs. 4 and 5;
Secs. 8, 9, and 10;
Secs. 12 to 22, inclusive;
Secs. 24, 27, and 28;
Secs. 30, 31, 34, and 35.
T. 23 S., R. 22 W.,
Secs 18 to 22, inclusive (fractional);
Sec. 26;
Sec. 27, (fractional);
Secs. 35 and 36.
T. 23 S., R. 23 W.,
Secs. 13 and 14 (fractional);
Sec. 23 (fractional);
Secs. 26, 35, and 36.
T. 25 S., R. 21 W.,
Secs. 3 and 4 (fractional);
Secs. 6 and 7, excluding Native allotment AA–7000;
Secs. 16, 18, and 21 (fractional);
Secs. 29, 30, and 32 (fractional).
T. 25 S., R. 22 W.,
Sec. 1 (fractional), excluding Native allotments AA–6220, AA–6221, and AA–7000;
Secs. 2 to 11, inclusive;
Sec. 12 (fractional), excluding Native allotments AA–6220, AA–6221, AA–7000, AA–7079 Parcel B, AA–8125, AA–8126, AA–8130 and AA–8131;
Sec. 13 (fractional), excluding Native allotments A–7071 Parcel A, AA–7079 Parcel B, AA–7471 Parcel B, AA–8127, AA–8129, AA–8131 and AA–8132;
Sec. 14, excluding Native allotment AA–8129;
Secs. 15 and 16;
Secs. 17 to 22 (fractional);
Sec. 23 (fractional), excluding Native allotment AA–2530 Parcel A;
Sec. 24 (fractional), excluding Native allotment AA–2530 Parcels A and B;
Secs. 25 to 34, inclusive (fractional);
Secs. 35 and 36.

United States Survey 909, in section 13, T. 25 S., R. 22 W., Seward Meridian, containing .70 acres, was available and properly selected. These lands are unoccupied and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title. Therefore, U.S. Survey 909 is considered proper for acquisition by the Natives of Afognak, Inc., and is hereby approved for patent pursuant to section 14(a) of ANCSA.

The conveyance, issued for the surface estate of the lands described above, shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975(d).

3. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688; 43 U.S.C. 1601–1624.

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, the following public easements referred by easement identification number (EIN) on the easement maps in ease file AA–6645–EE are reserved to the United States and subject to further regulation thereby:

a. (EIN D9 1) An easement for a proposed access trail twenty-five (25) feet in width from the mouth of Malina Creek on Shelikoff Bay then along the right bank of Malina Creek and the north shoreline of Malina and Upper Malina Lakes to its terminus with the Muskomee Bay and Afognak Lake trail (D9 4). The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN D9 4) An easement for an existing access trail twenty-five (25) feet in width from Muskomee Bay, northeasterly to the junction of trail easements D9 22, S 2, and O 1. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN D9 5) A site easement in section 35, T. 23 S., R. 23 W., Seward Meridian at the head of Afognak Lake and junction of trail easements D9 22, S 2, D9 4 and O 1. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping, staging, and vehicle use.

d. (EIN D9 11) A site easement in section 10, T. 23 S., R. 20 W., Seward Meridian, adjacent to an unnamed lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping, staging, and vehicle use.

e. (EIN D9 22) An easement for a proposed access trail twenty-five (25) feet in width from site easement F 31 southerly through public lands to the junction of trail easements D9 4, S 2, and O 1 at Afognak Lake. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN D9 22a) An easement for a proposed access trail twenty-five (25) feet in width from site easement F 27a southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

g. (EIN F 20) An easement for a proposed access trail twenty-five (25) feet in width from proposed road easement FF 22 east to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

h. (EIN F 21) An easement for a proposed access trail twenty-five (25) feet in width from proposed road easement F 22 south to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN F 22) An easement one hundred (100) feet in width for a proposed road beginning at the head of Kazakof Bay in section 33, T. 22 S., R. 20 W., Seward Meridian, and ending at Afognak Bay in section 29, T. 24 S., R. 21 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. In the event the proposed road is not constructed, a trail easement twenty-five (25) feet in width is proposed for public use and access of the above described area.

j. (EIN F 23) A one (1) acre site easement in sections 19 and/or 30, T. 23 S., R. 20 W., Seward Meridian at Kazakof Bay. The site is for camping, staging, and vehicle use.

k. (EIN F 23a) An easement for a proposed access trail twenty-five (25) feet in width beginning at the site easement F 23 and continuing westerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

l. (EIN F 26) An easement for a proposed access trail twenty-five (25) feet in width from proposed road easement F 22 southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

m. (EIN F 27) An easement one hundred (100) feet in width for a proposed road from the Afognak Bay Road (F 22) to the south side of Malina Bay. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. In the event the proposed road is not constructed, a trail easement twenty-five (25) feet in width is proposed for public use and access of the above described area.

n. (EIN F 27a) A log transfer dock and public use easement in section 20, T. 23 S., R. 22 W., Seward Meridian, on the south side of Malina Bay. The easement is ten (10) acres in size and is used for camping, vehicle use, staging, and as a log transfer dock.

o. (EIN F 28) an easement one hundred (100) feet in width for a proposed road from Malina Bay Road (F 27) southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. In the event the proposed road is not constructed, a trail easement twenty-five (25) feet in width is proposed for public use and access of the above described area.

p. (EIN F 31) A one (1) acre site easement in section 23, T. 23 S., R. 23 W., Seward Meridian at the head of Malka Bay. The site is for camping, staging, and vehicle use.

q. (EIN F 33) An easement for a proposed access trail twenty-five (25) feet in width from road easement F 22 northwesterly through public lands to site easement D9 21 and continues southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

r. (EIN F 34) An easement for a proposed access trail twenty-five (25) feet in width from proposed road easement F 22 northwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

s. (EIN F 35) An easement for a proposed access trail twenty-five (25) feet in width from Kitoi Bay westerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

t. (EIN F 36) An easement for a proposed access trail twenty-five (25) feet in width from road easement F 38 easterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

u. (EIN F 38) An easement one hundred (100) feet in width for an existing road from Kazakof Bay northeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

v. (EIN F 38a) A log transfer dock and public use easement in section 33, T. 23 S., R. 20 W., Seward Meridian on the east side of Kazakof Bay. The easement is four and one-half (4½) acres in size and is used for camping, vehicle use, staging, and as a log transfer dock.

w. (EIN F 39) An easement one hundred (100) feet in width for a proposed road from road easement F 22 northwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. In the event the proposed road is not constructed, a trail easement twenty-five (25) feet in width is proposed for public use and access of the above described area.

x. (EIN O 1) An easement for a proposed access trail twenty-five (25) feet in width from the Navy recreational camp on the north side of Afognak Lake to the junction of trail easement D9 22, S 2, and D9 4. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

y. (EIN O 4) An easement for a proposed access trail twenty-five (25) feet in width from site easement D9 11 easterly to Kazakof Bay Road (F 38). The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

z. (EIN O 6) A one (1) acre site easement in section 27, T. 23 S., R. 22 W., Seward Meridian at the head of Malina Bay. The site is for camping, staging, and vehicle use.

aa. (EIN O 11) An easement for an existing access trail twenty-five (25) feet in width from Fox Bay to Marmot Bay. The usage of roads and trails will be controlled applicable State or Federal law or regulation.

ab. (EIN P 1) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, i.e., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

ac. (EIN P 11) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

ad. (EIN S 2) An easement for a proposed access trail twenty-five (25) feet in width from the junction of trail easements D9 4, D9 22, and O 1 southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

ae. (EIN S 3) An easement for a proposed access trail twenty-five (25) feet in width near the northwest shore of Afognak Lake from trail easement O 1 to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

The grant of the above described land is subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339; 341)), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1613(c), that the grantee hereunder convey those portions of the land hereinafter granted, as are prescribed in said section;

4. Requirements of section 22(k) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1621(k), that (a) the above-described lands are located within the boundaries of a national forest and that until December 18, 1976, the sale of any timber from such lands be subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and that (b) until December 18, 1983, such lands shall be managed under the principle of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands; and

5. The terms and conditions of the agreement of November 12, 1976 between Koniag, Inc., Koniag villages, and the Secretary of the Interior. A copy of this agreement is hereby attached to and made a part of this conveyance document.

Interim conveyance to the subsurface estate of the land described above will be granted to Koniag, Inc. pursuant to section 14(f) of the act, when conveyance is granted to Natives of Afognak.

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Inc. for the surface estate. Interim conveyance of the remaining entitlement will be made at a later date.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Daily Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until June 8, 1977, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived their rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

SUE A. WOLF,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13146 Filed 5-6-77;8:45 am]

Mining Enforcement and Safety Administration

PORTER TUNNEL MINE, TOWER CITY, PENNSYLVANIA

Public Hearing

Notice is hereby given that the Mining Enforcement and Safety Administration pursuant to authority under Section 103 (d) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. Section 813(d) will conduct a public hearing beginning on June 7, 1977, and continuing on June 8th and 9th as necessary, at Tower City, Pennsylvania. The hearing will begin at 9:00 a.m. (EDT) and will be held in the American Legion Hall, Post No. 468, South 10th Street, Tower City, Pennsylvania. The hearing panel will be cochaired by the Deputy Assistant Administrator, Coal Mine Health and Safety, Mining Enforcement and Safety Administration and the Commissioner, Office of Deep Mine Safety, Pennsylvania Department of Environmental Resources. The hearing will be held for the purpose of inquiring into the facts and circumstances surrounding the accident which occurred at Porter Tunnel Mine near Tower City, Schuylkill County, Pennsylvania on March 1, 1977, and which resulted in the death of nine miners. The mine is operated by the Kocher Coal Co.

Persons who will be required to testify at the hearing will be notified in writing prior to the hearing. Anyone having information directly relating to this accident or desiring to testify at the hearing should contact the Wilkes-Barre District Office of the Mining Enforcement and Safety Administration, Room 3128 Penn Place, 20 North Pennsylvania Ave., Wilkes-Barre, Pa. 18701. The telephone number is (717) 826-6321. Members of the public are invited to attend the hearing.

Anyone having questions regarding the hearing should write to: Administrator, Mining Enforcement and Safety Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: May 3, 1977.

THOMAS J. SHEPICH,
Acting Administrator, Mining Enforcement and Safety Administration.

[FR Doc.77-13119 Filed 5-6-77;8:45 am]

Fish and Wildlife Service

EASTERN TIMBER WOLF

Emergency Exemption; Issuance

On April 27, 1977, a letter waiving the 30 day public comment period was issued to the Regional Director, Region 3 authorizing emergency actions to enhance the survival of the eastern timber wolf (*Canis lupus lycaon*). This waiver was granted to allow the live trapping, holding and relocation of wolves that are in conflict with human interests in the States of Minnesota, Wisconsin, and Michigan.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist and that the health and well-being of the species are threatened and that no reasonable alternative to the proposed action is available to the applicant.

A copy of the letter of waiver is herewith presented. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended by Pub. L. 94-359 (90 Stat. 911).

Dated: May 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

Mr. JACK E. HEMPHILL,
Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn.

APRIL 27, 1977.

DEAR MR. HEMPHILL: This letter will serve to waive the 30-day public comment period in regard to an application submitted by the Regional Director, U.S. Fish and Wildlife Service, Twin Cities, for an emergency exemption from the provisions of the Endangered Species Act of 1973. This waiver and the issuance of the permit authorize the activities outlined below prior to the required 30-day public comment period on the permit application.

It has been determined by the Service that individuals of the Eastern timber wolf population (*Canis lupus lycaon*), must be removed from selected locations in Minnesota, Michigan, and Wisconsin when they are in conflict with human interests. Such wolves will be live-trapped and relocated in carefully selected areas or will be held for further scientific studies. This removal is necessary in those locations selected because there is a threat to the lives of those wolves and no reasonable alternative is available.

The Regional Director is hereby authorized, in accordance with permit PRT 2-776, to live-trap and relocate wolves within the States of Minnesota, Wisconsin, and Michigan. Holding may occur within those States or at other authorized locations. Any wolves taken as a result of this authorization and held in captivity remain the property of the U.S. Fish and Wildlife Service.

This exemption is granted, conditional to the provisions of the Endangered species permit PRT 2-776, issued April 27, 1977. Copies of this permit have been sent to the wildlife agencies in the three affected States.

Sincerely yours,

LYNN A. GREENWALT,
Director.

[FR Doc.77-13114 Filed 5-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Request for Amendment

On December 10, 1976, a permit issued to the Regional Directors, Regions 2 and 4 (Albuquerque, New Mexico), authorizing to live trap, harass, transport, propagate, hold and release Red Wolves (*Canis Rufus*).

A notice containing the application for the permit was published in the FEDERAL REGISTER on November 9, 1976, (41 FR 49541-42), soliciting public comments for a period of 30 days.

Under date of March 10, 1977, the Regional Directors, Regions 2 and 4, submitted a request for changes in the conditions of this permit. Published herewith is a copy of the terms of the request for these changes which will be considered as an amendment to this permit. This request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

U.S. FISH AND WILDLIFE SERVICE,
REGION 2,
Albuquerque, N. Mex., March 10, 1977.

To: Director, FWS, Washington, D.C. (WPO).
From: Assistant Regional Director, FWS, Region 2 (SE).
Subject: Permit Amendment Request—Red Wolf (PRT 2-389-07).

We are requesting the subject permit be amended to authorize the killing of transplanted red wolves, when deemed absolutely necessary by the Regional Directors of Regions 2 and/or 4. Ih this case, the destruction of transplanted wolves by the Service or authorized cooperators would only be attempted at such time when all other methods of

recapture have been exhausted and only after the subject animals have moved outside the parameters of the selected transplant site. This was stated in the project plan, of which Endangered Species Washington was furnished copies, and which our cooperators endorsed.

Removal, through killing, will be a last resort and will be done to enhance survival of the species as specified in section 10(a). Although we do not contemplate having to take this drastic action, it is necessary that we have this option available in order to assure cooperators and the general public that we do not intend to turn wolves loose in a currently wolf-free environment and let them do or go as they please. In order that we can gain or maintain the cooperation of the states, interest groups, general public, etc. we must be able to reasonably assure "them" that our transplant proposals and plans are adequate to cover unforeseen circumstances and that we will take all reasonable precautions to safeguard and maintain other resources. Wolves running loose in an area which has not harbored wolves for a hundred years or more does create concern, real or imagined, but sufficient to determine whether the wolf is transplanted or not. The Regions (2 and 4) believe we must be granted this authority to obtain the full cooperation of all parties concerned and help in attempts to save the species.

If transplant sites cannot be found then the red wolf will be extinct in the wild. We are, therefore, requesting authorization to kill individuals, as absolutely necessary as determined by the respective Regional Directors, and as stated in the project operating plan, in order to help assure survival of the species.

R. L. STEPHEN.

In keeping with the spirit of the Endangered Species Act of 1973 this notice is being published to allow public comment on the request for an amendment. Interested persons may comment on this amendment by submitting written data, views, or arguments, preferably in triplicate to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-389-07. Please refer to this number when submitting comments. All relevant comments received on or before June 8, 1977, will be considered.

Dated: May 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc.77-13123 Filed 5-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Hawaii Division of Fish and Game, 1151 Punchbowl Street, Honolulu, Hawaii 96813, Donald L. Walker, Chief, Wildlife Branch.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Designate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
Propagation and field research of Hawaiian crow including capture of young birds to stock a propagation project and capture for banding and marking and instrumentation with transmitters for population and management studies.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Hawaii Division of Fish & Game
Ronald L. Walker
1151 Punchbowl Street
Honolulu, HI 96813
Phone: 548-5917

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
State of Hawaii
Department of Land & Natural Resources
Division of Fish & Game
State wildlife resources management and protection agency.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Ronald L. Walker, Chief, Wildlife Branch
Phone: 548-5917
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Island of Hawaii
Hawaii

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number)
PRT 8-103-B-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ NA

10. DESIRED EFFECTIVE DATE
April 1, 1977

11. DURATION NEEDED
Indefinite

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See attachments for information provided under 50 CFR, 17.22

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) — DATE: 3/29/77

3-200
(6/74)

The following specific information is provided pursuant to 50 CFR 17.22(a):

1. Authority is sought by the applicant to capture, band and mark, attach telemetry devices, keep in captivity, propagate and release Hawaiian Crows or Alala (*Corvus tropicus*) for officially authorized State of Hawaii endangered species research and restoration projects. Copies of project documents are attached hereto as Contract No. 14-16-0001-6524, Project Agreement—Statewide Non-Game and Endangered Species Program, Job No. R-II-B and Contract No. 14-16-0001-77007(SE), Memorandum of Understanding for an Endangered Species Restoration Project for the Alala (Hawaiian Crow). See Exhibit "A" of Memorandum of Understanding.

2. At the present time there are three Alala in captivity at the applicant's facility at Pohakuloa. Project plans, as per Memorandum of Understanding call for obtaining from the wild not more than ten birds (five pairs). Efforts will be restricted to acquiring young which are crippled, abandoned, or incapacitated.

3. See Exhibit "A" of Memorandum of Understanding. There is no source of Alala other than wild birds on Hawaii. Project plan calls for removal of birds from the wild for captive propagation and the eventual release into wild habitats of birds reared in capacity.

4. See Exhibit A of Memorandum of Understanding and No. 3 above.

5. The captive propagation aspects of the Alala research and restoration program is located at Pohakuloa on the Island of Hawaii. The applicant has established at Pohakuloa an endangered species propagation facility which currently produces Hawaiian geese (Nene) and Hawaiian ducks (Koloa) for release in the wild to reinforce wild populations.

6. The pens which are provided for the Alala are 25×50 feet by 12 feet high constructed of 1/2 hardware cloth. They are protected by being surrounded by Nene pens. The entire facility is enclosed in a fence and is cared for on a full-time basis by Mr. Ah

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Fat Lee, propagationist and Mr. Maeda his assistant. Mr. Ernest Kosaka, Wildlife Biologist has general supervision over the project.

The applicant is willing to maintain or contribute data to a studybook. As the distance from the areas on the Island of Hawaii were wild birds may be obtained and the Pohakuloa Project is close and the time in transit will be short it will not be necessary to provide elaborate containers or feed and water for the birds in transit.

There have been no mortalities to Alala at the Pohakuloa Project.

7. See enclosed contracts.

8. The detailed purposes for which the permit is requested are embodied in the two attached contracts (Project Agreement and the Memorandum of Understanding).

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-727-07. Please refer to this number when submitting comments. All relevant comments received on or before June 8, 1977, will be considered.

Dated: May 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 77-13124 Filed 5-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Delmarva Fox Squirrel Recovery Team, Bernard F. Halla, Leader, Maryland Wildlife Administration, Tawes State Office Building, Annapolis, Maryland 21401.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Carry out research and management procedures as detailed in the Delmarva fox squirrel recovery plan. These activities may include live trapping, marking, recovery of threatened populations, transplanting, and other activities as specified in the recovery plan.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Delmarva Fox Squirrel Recovery Team
Bernard F. Halla, Leader
Maryland Wildlife Administration
Tawes State Office Building
Annapolis, Maryland 21401
Telephone: (301) 269-3195

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION:
Delmarva fox squirrel recovery team as appointed and approved by the Director, U.S. Fish & Wildlife Ser., to formulate & carry out a plan that will perpetuate the subspecies & with a goal to increase this subspecies numbers so that it may be removed from the Endangered Species list.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: U.S. Fish & Wild. Ser.; Md. Wildlife Adm.; of Md.; Va. Comm. of Game & Inland Fish; Del. Div. of Fish & Wildlife; Pa. Game Comm.; N. J. Div. of Fish, Game & Shell Fisheries

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.:
(see box 3)

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:
Not applicable

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Selected sites within the historic range of the Delmarva fox squirrel as designated by the recovery team in the states of Maryland, Virginia, Delaware, Pennsylvania, and New Jersey.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s)):
PRT-8-412-C; PRT 2-933BA

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s)):
Coop, Agreements for Endangered Species Programs with Md., Del., Va., N.J.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:
$ Not applicable

10. DESIRED EFFECTIVE DATE: 1 May 1977

11. DURATION NEEDED: 10 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Bernard F Halla
DATE: 3-30-77

3-200
8/70

ATTACHMENT TO PERMIT APPLICATION FOR DELMARVA FOX SQUIRREL RECOVERY TEAM

50 CFR 17.22

17.22(a). (1). Common name: Delmarva fox squirrel; scientific name: *Sciurus niger cinereus*.

The recovery plan anticipates up to three transplants of up to 20 squirrels each, per year, and transplanting of threatened populations as situations arise. The emergency transplants are dictated by changing conditions and are anticipated to be of levels from zero to ten transplants per year. Planned transplants hope to achieve a sex ratio of 50:50 of mature squirrels. Emergency transplants will involve any and all animals rescued from the site and include any age and sex. The goal of these scheduled and emergency movements are to establish new populations and to salvage animals whose habitat is being destroyed. All movements will be confined to within the historic range of the Delmarva fox squirrel, as defined in the recovery plan.

(2) Activities covered by this permit will be confined to populations in the wild.

(3) All activities covered by this permit will involve live trapping techniques. This method is well documented in the scientific literature, and has been used successfully on both the Delmarva and other fox squirrel subspecies.

(4) Not applicable.

(5) Delmarva fox squirrels involved in this study will not be maintained in captivity, but released into the wild after handling.

(6) Not applicable.

(7). All activities under this permit will be carried out by members and/or consultants of the Delmarva fox squirrel recovery team or state personnel and their agents as covered by Endangered Species cooperative agreements with the states of Maryland, Delaware, Virginia and New Jersey.

(8) It has been documented that the range of the Delmarva fox squirrel has been greatly reduced since 1900 so that it is now confined to portions of four counties in Maryland, and Assateague Island in Virginia. Continued habitat alteration or destruction threatens extirpation of residual populations.

(i) Collection of life history data through live trapping techniques, the handling and marking of squirrels, and transplant activities are necessary to insure the recovery of the Delmarva fox squirrel.

(ii) The use of live traps; examination of nest boxes; marking techniques to include tatoo, ear tags, collars, or other acceptable marking procedures; and transporting to preselected release sites will be covered under this permit.

(iii) All these activities support the goal of the recovery plan, which is restoration of the Delmarva fox squirrel population to a level where it can be removed from the endangered species list.

(iv) No individuals will be maintained in captivity for the purposes of the activities outlined under this permit.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has

been assigned File Number PRT 2-728-07. Please refer to this number when submitting comments. All relevant comments received on or before June 8, 1977, will be considered.

Dated: May 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-13125 Filed 5-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dr. Wayne C. Hanson, Environmental Studies Group H-8, Los Alamos Scientific Laboratory, M.S. 490, Los Alamos, N. Mex. 87545.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Scientific studies of peregrine falcons nesting in the vicinity of Los Alamos will be continued to (a) protect the birds and their habitat to the extent possible; (b) cooperate with State and Federal agencies in introducing fledgling birds into declining eyries; and (c) determine population trends of the falcons

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dr. Wayne C. Hanson
Environmental Studies Group H-8
Los Alamos Scientific Laboratory
M.S. 490
Los Alamos, NM 87545

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'8" WEIGHT: 160
DATE OF BIRTH: September 5, 1923 COLOR HAIR: Grey COLOR EYES: Hazel
PHONE NUMBER WHERE EMPLOYED: (505) 667-5021 SOCIAL SECURITY NUMBER: 536-18-8426
OCCUPATION: Research scientist (radiation ecologist)

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION:

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: University of California, Los Alamos Scientific Laboratory

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.:

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Los Alamos, Santa Fe, and Sandoval Counties, northcentral New Mexico

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s)):
Bird Banding Permit No. 20184

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s)):
New Mexico Scientific Permits

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:
$

10. DESIRED EFFECTIVE DATE: 4-15-77

11. DURATION NEEDED: Two years, subject to renewal

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): A R Hanson
DATE: 4-13-77

3-200
10/74

GPO 880-042

Attachments. (1) Common name of species: American peregrine falcon Scientific name of species: *Falco peregrinus anatum* Number, age and sex of animals involved: ≧ 2 adults + 6 young, both sexes. Activity sought to be authorized: Continuation of scientific studies previously authorized under Permit No. PRT-8-87-C, including (a) observations of nesting behavior; (b) measurements of hatched or broken eggshell fragments after adults and young have deserted the eyrie; and (c) cooperation with State and Federal agencies in introducing fledgling birds into declining eyries.

(2) The wildlife is still in the wild, and will remain so.

(3) Observations are made at a distance with telescopes and binoculars, eggshell fragments are removed during winter months of October–March when the birds are absent from the area, and fledgling introductions will be made in cooperation with State and Federal peregrine falcon recovery teams.

(4) No birds will be removed from the wild and all fledglings introduced into the eyries will be handled by State and Federal agencies under their respective permits.

(5) All birds will be left in the wild; none will be used, displayed or maintained.

(6) As previously stated, no birds will be housed, maintained in captive condition, transported or otherwise treated in a manner expected to incur mortalities.

(7) No contracts or agreements are applicable to these activities.

(8) Justification: Continuous records of peregrine falcon eyries in the vicinity of Los Alamos during the past 13 years, including the location and reproductive performance of an apparently single pair of birds. Reproductive success was constant during the period 1964–1970, during which period a total of 30 young were fledged. A decline in reproduction began in 1971 and continued through 1973; no young birds have been raised in 1974–1976. Examination of eggshell fragments from all of the 1964-1973 eyries was conducted under Permit No. PRT-8-87-C and showed no significant trend in eggshell fragment thickness with time, indicating that the decreased hatching rate of peregrine falcon eggs observed in this eyrie without further decreased eggshell thickness or proliferation of broken eggs is due to some unknown, but very important factor.

We propose to further study this eyrie by observing the nesting of the falcons, evaluating their success by minimal numbers of visits to the eyrie to determine (a) clutch size; (b) number of young; (c) food remains; (4) thickness of eggshell fragments remaining after the young have fledged; and (e) retrieval of unhatched eggs for pesticide analyses, to be conducted by Dr. James Enderson of Colorado State College.

We are participating with New Mexico and Federal personnel during 1977 in plans to introduce peregrine falcon fledglings into this eyrie in order to hold the pair to this location. This eyrie is now rated as the prime candidate for "stuffing", of a total of three eyries in the State of New Mexico. The peregrine falcon recovery team from Colorado State University will perform these operations, based upon our furnishing them the necessary data about timing, location and reproductive activities. We believe that such studies and activities offers the major hope of maintaining the species until it can begin recovery to its formar normal reproductive rate. In the meantime we will survey other prospective habitats in the area for signs of peregrine falcons or other raptorial birds and determine the nesting populations of same.

All activities sought to be authorized by this permit are conservative in nature and will yield scientific information only. No captive birds will be maintained.

(9) Other relevant information: (a) I have conducted scientific studies involving wildlife for 28 years, including a 21-year study of a Canada goose population and other studies from New Mexico to northern Alaska. During that time, I have held scientific banding and collector's permits in several states as well as Federal permits; I have never been faulted for my performance.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-719-07; please refer to this number when

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submitting comments. All relevant comments received on or before June 8, 1977, will be considered.

Dated: May 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-13126 Filed 5-6-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Richard A. Arnold, Department of Entomology, 201 Wellman Hall, University of California, Berkeley, Calif. 94720.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICANT: [ ] IMPORT OR EXPORT LICENSE [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Scientific research: autecological investigations on the endangered butterflies: Callophrys mossi bayensis, Plebejus icarioides missionensis, Apodemia mormo langei, Lycaeides argyrognomon lotis, Shijimiaeoides enoptes smithi, Shijimiaeoides battoides allyni

3. APPLICANT, (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Richard A. Arnold
201 Wellman Hall
Dept. of Entomology
University of California
Berkeley, Ca. 94720
415-642-5913

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS. | HEIGHT 5'8" | WEIGHT 145 lbs.
DATE OF BIRTH: 23 Jan. 1950 | COLOR HAIR: brown | COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: 415-642-5913 | SOCIAL SECURITY NUMBER: 324-40-3621
OCCUPATION: graduate student and research assis
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Dept. of Entomology
University of California
Berkeley, Ca. 94720

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

6. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

7. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
San Bruno Mt., San Mateo Co., Ca.
Antioch, Ca.
Mendocino Co., Ca.
Monterey area, Ca.
Los Angeles area, Ca.

8. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(If yes, list license or permit number)

9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [X] NO
(If yes, list jurisdictions and type of document)
not required

10. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: does not apply

11. DESIRED EFFECTIVE DATE: 25 Feb. 1977

12. DURATION NEEDED: 1 year

13. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22, see enclosed proposal

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Richard A. Arnold | DATE: 23 Jan. 1977

3-200 (6/74) GPO 883-042

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Larry J. Orsak, Department of Entomology, 210 Wellman Hall, University of California, Berkeley, Calif. 94720.

SUMMARY

I hope that this information gives you an idea of the particular problems which must be dealt with when considering habitat designation for these or other endangered butterflies. Basically, we simply do not know enough about these butterflies in terms of their biology and behavior, although they are are fairly well represented in museum and private collections. Without adequate basic research in these areas, it is impossible to make intelligent decisions on habitat management and critical habitat designations. It is quite possible that the Mission Blue and San Bruno Elfin may be able to survive in a semi-wild park situation such that the land could be used by man and butterflies alike. But until we know the extent and kinds of habitat modification which the butterflies can tolerate, it is quite likely that there will be disasterous consequences. The three extinct butterflies which formerly resided in the San Francisco area are ample evidence to indicate what might be the result of such decisions based upon inadequate data.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-682-07; please refer to this number when submitting comments. All relevant comments received on or before June 8, 1977, will be considered.

Dated: May 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-13127 Filed 5-6-77;8:45 am]

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR: [ ] IMPORT OR EXPORT LICENSE [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Scientific research: autecological investigations on the endangered butterflies: Callophrys mossi bayensis, Plebejus icarioides missionensis, Apodemia mormo langei, Lycaeides argyrognomon lotis, Shijimiaeoides enoptes smithi, Shijimiaeoides battoides allyni

3. APPLICANT, (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Larry J. Orsak
201 Wellman Hall
Dept. of Entomology
University of California
Berkeley, Ca. 94720
415-642-5913

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS. | HEIGHT 5'7.5" | WEIGHT 145 lbs.
DATE OF BIRTH: 15 Oct. 1953 | COLOR HAIR: brown | COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: 415-642-5913 | SOCIAL SECURITY NUMBER: 559-02-0166
OCCUPATION: graduate student
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Dept. of Entomology
University of California
Berkeley, Ca. 94720

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

6. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

7. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
San Bruno Mt., San Mateo Co., Ca.
Antioch, Ca.
Mendocino Co., Ca.
Monterey area, Ca.
Los Angeles area, Ca.

8. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(If yes, list license or permit number)

9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of document)
not required

10. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: does not apply

11. DESIRED EFFECTIVE DATE: 25 Feb. 1977

12. DURATION NEEDED: 1 year

13. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22, see enclosed proposal

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Larry J. Orsak | DATE: 23 Jan. 1977

3-200 (6/74) GPO 883-042

SUMMARY

I hope that this information gives you an idea of the particular problems which must be dealt with when considering habitat designation for these or other endangered butterflies. Basically, we simply do not know enough about these butterflies in terms of their biology and behavior, although they are fairly well represented in museum and private collections. Without adequate basic research in these areas, it is impossible to make intelligent decisions on habitat management and critical habitat designations. It is quite possible that the Mission Blue and San Bruno Elfin may be able to survive in a semi-wild park situation such that the land could be used by man and butterflies alike. But until we know the extent and kinds of habitat modification which the butterflies can tolerate, it is quite likely that there will be disasterous consequences. The three extinct butterflies which formerly resided in the San Francisco area are ample evidence to indicate what might be the result of such decisions based upon inadequate data.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-757-07; please refer to this number when submitting comments. All relevant comments received on or before June 8, 1977, will be considered.

Dated: May 2, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-13128 Filed 5-6-77;8:45 am]

MARINE MAMMAL PERMIT

Receipt of Request for Amendment

On September 21, 1976, an application from the California Department of Fish and Game to conduct research on sea otters found within the State's coastal waters was published in the FEDERAL REGISTER, Volume 41, No. 175 (41 FR 37822, September 8, 1976).

On March 3, 1977, the same agency submitted an amendment to the above cited application which withdraws that portion of the application requesting authority to use radio collars and to conduct oiled fur experiments. Additional clarifying information was also included. On April 5, 1977, the agency again submitted additional information as requested in support of their original application.

The full texts of the above cited amendment and additional information and a copy of the FEDERAL REGISTER, September 21, 1976 publication of the original application are available for review in the following offices:

U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Room 512, 1717 H Street, NW., Washington, D.C. 20006.
Regional Director, U.S. Fish and Wildlife Service, Northwest Region, 10875 NW. Rainmont Road, Portland, Oregon 97208.
Area Office, U.S. Fish and Wildlife Service, Federal Building, Room E-2911, 2800 Cottage Way, Sacramento, California 95825.

Written comments on this amendment and other information should be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240, within 30 days of the publication of this notice. This application has been assigned File Number PRT 2-319-10; please refer to this number when submitting comments. All relevant comments received on or before June 8, 1977 will be considered.

Dated: May 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch
Federal Wildlife Permit Office.

[FR Doc.77-13122 Filed 5-6-77;8:45 am]

DEPARTMENT OF JUSTICE

Bureau of Prisons

NATIONAL INSTITUTE OF CORRECTIONS ADVISORY BOARD

Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, June 5, 1977, starting at 5:00 p.m. and on Monday, June 6, 1977, starting at 8:00 a.m., at The Broker Inn, 555 30th Street, Boulder, Colorado.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its

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subcommittees' reports and recommendations as to future thrusts of the Institute.

SHERMAN R. DAY,
Director.

[FR Doc.77-13160 Filed 5-6-77;8:45 am]

Drug Enforcement Administration

[Docket No. 76-19]

DONALD HESS ANDERSON, M.D.

Denial of Applications for Registration

On May 13, 1974 and on May 24, 1975, Donald Hess Anderson, M.D. (hereafter referred to as Respondent) executed applications for registration with the Drug Enforcement Administration (DEA) under the Controlled Substances Act of 1970 as a practitioner authorized to dispense controlled substances listed in Schedules II, III, IV and V. On April 30, 1976, the Administrator of DEA issued to Respondent an Order to Show Cause as to why the two pending applications should not be denied for the reason that on March 15, 1976, in the United States District Court for the Western District of Michigan, Respondent was convicted, on his plea of nolo contendere, of one count of violating 21 U.S.C. 841(a)(1).

On May 12, 1976, Respondent, through counsel, requested a hearing. Pursuant to notice, a hearing in this matter was held in Detroit, Michigan on September 9, 1976, before Administrative Law Judge Francis L. Young.

During the hearing, Government's counsel, with the consent of Respondent's counsel, orally amended the Order to Show Cause to include as an additional ground for denial of Respondent's applications the fact that Respondent was not, as of the date of the hearing, authorized under the laws of the State of Michigan to dispense controlled substances.

At the close of the hearing, Respondent's counsel indicated that Respondent would promptly make application to the State of Michigan Department of Licensing and Regulation, State Board of Pharmacy, for authority to dispense controlled substances pursuant to State law. Respondent applied to the State on September 27, 1976. The State Board of Pharmacy issued its final order, denying that application, on February 7, 1977.

On March 9, 1977, Judge Young certified to the Administrator, pursuant to 21 CFR 1316.65, the record of the proceedings in this matter together with his recommended findings of fact and conclusions of law, and his recommended decision. The Administrator, pursuant to 21 CFR 1316.66, hereby publishes his final order in this proceeding based upon the findings of fact and conclusions of law set forth hereafter.

The Administrative Law Judge found that "DEA registration of a medical doctor as a practitioner under the Federal Controlled Substances Act of 1970 is contingent upon the doctor's being duly registered and authorized to dispense under the law of the State in which he practices. 21 U.S.C. § 823(f); 'In Re Eddie Mack Gipson, M.D.,' DEA Docket No. 75-27, 41 FR 46490 (1976). Thus it appears that there is no room for the exercise of discretion by the Administrator in this case in its present posture. Respondent's applications must be denied."

As parenthetically noted by Judge Young in the text of his recommended decision, throughout most of this hearing the issues relative to the denial of Respondent's applications had been argued with reference to the grounds for denial set forth in the original Order to Show Cause, namely Respondent's conviction of one count of dispensing secobarbital, a controlled substance listed in Schedule II, in violation of 21 U.S.C. 841(a)(1). Despite this evidence heard and received at the hearing, Judge Young considered the lack of Respondent's State registration to be dispositive of the entire matter. The Administrator adopts the Administrative Law Judge's findings of fact with respect to Respondent's lack of appropriate State registration, as well as his conclusion that this finding requires that Respondent's applications for DEA registration must be denied.

However, the record of this hearing, which includes as an exhibit the transcript of proceedings held on January 16, 1975 before the State of Michigan Department of Licensing and Regulation, Michigan Medical Practice Board, contains in sufficient detail substantial factual evidence relating to the circumstances of the investigation which resulted in Respondent's indictment in the Western District of Michigan, and in his ultimate conviction of one count in violation of 21 U.S.C. 841(a)(1). The Administrator finds, therefore, that Respondent was in fact convicted of a felony relating to controlled substances, that is, in violation of 21 U.S.C. 841(a)(1), and that his application for registration is subject to denial pursuant to 21 U.S.C. 824(a)(2). See "In the Matter of Sheldon Wagner, D.P.M.," Dk. 75-7, 41 FR 9403, March 4, 1976 and "In the Matter of Norman Bridge Drug Co.," Dk. 74-22, 41 FR 3108, January 21, 1976. The Administrator further finds and concludes that based upon the entire record of this proceeding, the conviction of Respondent resulted from Respondent's dispensing of Schedule II controlled substances without any legitimate medical need or purpose, and that such conviction is equally as dispositive of this matter as is Respondent's lack of an appropriate State registration. See "In the Matter of Reed Albert Shankwiler, D.O.," Dk. 76-4, 42 FR 8726 (February 11, 1977).

Thus on the basis of the entire record, and pursuant to the authority vested in the Attorney General and redelgated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that Respondent's applications for registration, executed on May 13, 1974 and on May 24, 1975, be denied.

Dated: May 3, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-13140 Filed 5-4-77;8:45 am]

[Docket No. 76-36]

ROBERT O'NEAL MOODY, FLORENCE, ALABAMA

Hearing

Notice is hereby given that on September 15, 1976, the Drug Enforcement Administration, Department of Justice, issued to Robert O'Neal Moody, Florence, Alabama, an Order to Show Cause as to why the Drug Enforcement Administration should not deny the application for registration under the Controlled Substances Act of 1970 executed by the Respondent on December 4, 1975, pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on Tuesday, May 24, 1977, in the U.S. Tax Court Courtroom, Room 1006, Federal Building, 167 North Main Street, Memphis, Tennessee.

Dated: May 2, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-13141 Filed 5-6-77;8:45 am]

Office of the Attorney General

[Order No. 717-77]

PRIVACY ACT OF 1974

Systems of Records

Under the Privacy Act of 1974 (5 U.S.C. 552a), the Department of Justice proposes to modify a system of records maintained by the Civil Division.

The system entitled "JUSTICE/CIV-001, Civil Division Case File System", previously reported in the FEDERAL REGISTER on March 4, 1977 (42 FR 12756), will be divided into three separate systems to describe more accurately the categories of records, the routine uses and the methods of access in the systems.

JUSTICE/CIV-001, Civil Division Case File System", will continue to be the primary case file system for legal cases in all sections of the Civil Division.

"JUSTICE/CIV-002, Civil Division Case File System—Customs Section", will be an information storage system maintained to assist in the litigation of customs cases and matters.

"JUSTICE/CIV-003, Office of Alien Property File System", will be an information storage system maintained to assist in the litigation and processing of cases and materials under the jurisdiction of the Office of Alien Property.

Interested persons are invited to submit written comments on the routine uses of these systems, and on the storage methods for JUSTICE/CIV-002. Comments should be mailed to the Administrative Counsel, Office of Management and Finance, Department of Justice, Room 1117, Washington, D.C. 20530. All comments must be received on or before June 9, 1977. No oral hearings are contemplated. Comments received will be available for inspection in Room 1266, Main Department of Justice Building, 10th and Constitution Avenue, NW. The systems will become effective as proposed without further notice, unless comments are received which result in a contrary determination.

Reports of these new systems were submitted to the President of the Senate, the Speaker of the House, the Privacy Protection Study Commission and the Office of Management and Budget on May 2, 1977.

JUSTICE/CIV-001

System name:

Civil Division Case File System.

System location:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system:

Any and all parties involved in the cases handled by the Civil Division will have identifying data contained in this system.

Categories of records in the system:

1. The main record of the system is the case file which is retained on each case under the jurisdiction of the Civil Division ecept for those cases for which files are maintained in the Civil Division Case File System: Customs Section and the Office of Alien Property File System, and constitutes the official record of the Department of Justice. All record material relating to a case is retained in the file. Each case is assigned a number comprised of the category designation for the subject matter; the code number for the judicial district where the action originated, and the number of cases of that category which have arisen in that district.

2. Alphabetical and numerical indices are utilized as a means of access to the proper file by the cross-referencing of the names of all parties to a suit with the file number. Forms CV-54 and carbon-interleaf index cards are used in these indices.

3. A Docket Card Index is maintained on each case in order to follow the progress of all Division cases and to obtain statistical data for monthly and fiscal reports. However, all information contained on the cards has been taken from the record material contained in the official file.

Authority for maintenance of the system:

General authority to maintain the system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101. The particular system was established in accordance with 28 CFR 0.77(f) and was delegated to the Civil Division pursuant to the memorandum from the Deputy Attorney General, dated July 17, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses.

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the F.B.I. and the United States Attorneys' Offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradiction proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 CFR 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarrented invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

V42N89 MAY 9 77 UMI

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

1) The case files utilize standard file jackets and are retained in electronic, rotary power files; 2) The alphabetical and numerical index cards, as well as the docket cards, are retained in standard file cabinets.

Retrievability:

The files and docket cards must be retrieved by file number. The file number can be ascertained from the alphabetical index if the name of any party to the suit is known.

Safeguards:

Information contained in the system is unclassified. However, only attorneys who have their names recorded in the File Unit can be issued a case file. Minimal information about a case is provided from the various indices to telephone callers, since there is a problem with identifying the identity of a caller. If a party desires detailed information, he is referred directly to the attorney of record.

Retention and disposal:

When a case file is closed by the legal section, it is sent to the Federal Records Center for retention in accordance with the authorized Record Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period has passed, the file is destroyed. However, the index and docket cards are not purged.

System manager(s) and address:

Assistant Attorney General; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure:

Address inquiries to: Assistant Attorney General; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures:

A request for information concerning the cases of the Civil Division should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include the file number and/or the names of any litigants known to the requestor. The requestor should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above. Requests may also be made by telephone. In such cases the caller will be referred to the attorney of record. The attorney, in turn, may require an official written request.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state, what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put onto docket and index cards.

Systems exempted from certain provisions of the act:

None.

JUSTICE/CIV–002

System name:

Civil Division Case File System: Customs Section.

System location:

26 Federal Plaza, New York, New York 10007, and U.S. Department of Justice Data Services Center, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of indivdiuals covered by the system:

Any and all parties and counsel involved in the cases handled by the Customs Section of the Civil Division will have identifying data contained in this system.

Categories of records in the system:

1. The main record of the system is the case file which is retained on each case under the jurisdiction of the Customs Section of the Civil Division and constitutes the official record of the Department of Justice thereon. All record material relating to a case is retained in the file. Each file is assigned the Customs Court number given to the summons filed in that court or, in cases filed prior to October 1, 1970, to reappraisement appeals or to protests filed with the Customs Court.

The number assigned to the file will change to the number assigned by the Court of Customs and Patent Appeals, if that case becomes the subject of an appeal before that court. In addition, the Customs Section retains a log of communications received and communications sent. The correspondence is identified thereon by court (case) number, identification of the kind of communication, and the person receiving it.

2. The case file and communication logs are physically retained at the offices of the Customs Section, 26 Federal Plaza, New York, New York 10007. From these records, the Customs Section inputs certain information for conversion into a data processing system which is maintained at the Department of Justice Data Services Center, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. Included in the information contained in the data processing system is the identity of the parties and their counsel, as well as the merchandise involved, the port of entry and the competing statutory provisions.

3. Alphabetical and numercial indices are maintained as a means of access to the proper file number by the cross-referencing of the names of non-government parties to suits with the appropriate file (court) numbers. These indices are made of index cards and maintained in the Chief Clerk's office in the Customs Section.

Authority for maintenance of the system:

The Customs Section case files are maintained under the authority of 28 U.S.C. 2601(b) and 2632(e) and established in accordance with 28 CFR 0.45(c) which gives the Civil Division responsibility for "all litigation incident to the reappraisement and classification of imported goods, including the defense of all suits in the Court of Customs and Patent Appeals", and with 28 CFR 0.48 which designates the Chief, Customs Section, "to accept service of notices of appeals to the Court of Customs and Patent Appeals and all pleadings and other papers filed in the Customs Court, when the United States is an adverse party in any customs litigation".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the Federal Bureau of Investigation and the United States Attorney offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice.

Certain information contained in the record may also be disseminated to the U.S. Customs Service, the Department of the Treasury, the International Trade Commission, the Department of State, or any other agency of the Government whose decision is being challenged in a case assigned to the Customs Section for disposition. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or a hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an

informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information indentifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 CFR 17.60; (14) copies of the summons (protest and reappraisement appeals, where appropriate) and the communication logs are made available to employees of the private contractor who services the data processing system in New York for the purpose of enabling such employees to extract all pertinent information from said documents so that such information may be encoded and converted to punch card form.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

(1) The case files utilize standard file jackets or envelopes and are maintained in standard file cabinets; (2) The alphabetical index cards are maintained in standard file cabinets; (3) The communication logs are maintained in looseleaf binders and, when not being currently referred to, are also maintained in standard file cabinets; (4) The information in the data processing system is maintained on tapes stored in the Data Services Center.

Retrievability:

(1) The case files must be retrieved by number. The file number may be ascertained from the alphabetical index when the name of any non-government litigant is known. (2) The information contained in the data processing system may be retrieved through the retrieval tool activated by an attorney making a request for a report to the computer technician who codes the request on a form in the format of the retrieval language. The action words of the retrieval reports are: List=lists the case numbers of the cases which satisfy certain criteria such as plaintiff's name, counsel's name, court number, merchandise, competing statutory provisions, Government counsel. Write=output and the full history for any case specified by case number. Write*=a limited case history for any case specified by case number. Count=tallying the number of cases in the data base contained in the request.

Safeguards:

(1) Information contained in the system is unclassified. However, only attorneys in the Customs Section who have responsibility for the case may properly obtain a case file. Correspondence and telephone calls about particular cases are referred to the attorney having responsibility for the case. In the attorney's absence, another attorney covering for the absent attorney or the Chief of the Section may respond to the telephone call or correspondence. The index files and the communication logs are utilized only by the personnel of the Customs Section in locating or verifying information contained in the system. (2) Information from the data processing system may be obtained only by attorneys on the basis of requests made in writing on a proper form supplied by the Customs Section. The request is made of the computer technician. Normally these requests are mailed to the technician in charge at the Data Services Center, but occasionally the request may be related telephonically by the computer technician.

Retention and disposal:

(1) Closed case files are sent to the Federal Records Center for retention in accordance wth the authorized Records Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period is passed, the file is destroyed. The communication logs are sent to the Federal Records Center for retention in accordance with the authorized records disposal schedule after five years. After the designated period those records are also destroyed. The index cards, however, are not purged. (2) Periodically, the inactive cases will be purged from the main tape in the data processing system and transferred to the historical tape where the information will be retained indefinitely. There is a provision in the data processing system to delete and remove an entire case history from the main or historical tape. This may be done on request from the Chief of the Customs Section and such removed cases will not be saved or written on any other tape.

System manager(s) and address:

Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures:

A request for information concerning the cases of the Customs Section of the Civil Division should be submitted in

V 42 89 MAY 9 77 UMI

writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include the file number and/or the names of any non-government litigant known to the requestor. The requestor should also provide a return address for transmitting the informaton. Such access request should be submitted to the Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Assistant Attorney General, Civil Division, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. The request should clearly state what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories:

All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put on communication logs and/or index cards.

Systems exempted from certain provisions of the act:

None.

JUSTICE/CIV–003

System name:

Office of Alien Property File System.

System location:

550 11th Street, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system.

Any and all parties involved in the cases, claims and matters handled by the Office of Alien Property may have identifying data contained in this system.

Categories of records in the system:

1. This system consists of indices and files relative to enemy-owned property, reporting sources, ownership, vesting, and claims for the return thereof. Each vesting order is assigned a general file number, and each claim has a separate file number. Separate account files are maintained on vested property for each alien account.

2. Alphabetical and numerical indices are utilized as a means of access to the proper general file by the cross-referencing of the names of all individual former property owners and claimants with the general files.

3. Records of litigation involving the Office of Alien Property are contained in this system. There are also alphabetical and numerical indices to facilitate access to these cases.

Authority for maintenance of the system:

The Office of Alien Property files are maintained under the authority of 44 U.S.C. 3101 and 50 U.S.C. App. 40, Title II of the International Claims Settlement Act, and was established in accordance with 28 CFR 0.47 which states in part "The Office of Alien Property shall be a part of the Civil Division * * *" and thereafter describes the authority, rights, privileges, powers, duties and functions of that office.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the Federal Bureau of Investigation and the United States Attorney offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice.

Certain information contained in the record may also be disseminated to the U.S. Customs Service, the Department of the Treasury, the International Trade Commission, the Department of State, or any other agency of the Government whose decision is being challenged in a case assigned to the Customs Section for disposition. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by any agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessary to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 CFR 17.60; (14) records are also available to the public for inspection and distribution as set forth at 8 CFR 503.1, including (a) Annual Reports of the Office of Alien Property, and (b) final determinations, opinions and orders in cases heard or reviewed within the Office of Alien Property; (15) records and documents are available for inspection by persons properly and directly concerned in connection with claims filed with the Office, records in cases heard or reviewed in the Office, and authorizations for sale and records of bids in public sales and orders for their acceptance or rejection and notifications thereof; (16) any record or portion thereof may also be disseminated to the Department of the Treasury and to the Foreign Claims Settlement Commission as a matter of routine use when such record relates to matters within the jurisdiction of the Office of Foreign Assets Control, Department of the Treasury, or claims being processed before the Foreign Claims Settlement Commission; (17) any record or portion thereof relating to an estate or trust matter under the jurisdiction of the probate courts of the several states may be disseminated to the parties and their representatives or to the courts, in proceedings involving the property owned or claimed to have been owned by a designated national of an enemy country under the provisions of the Trading with the Enemy Act; (18) any record may be disseminated to the Department of State for any negotiation or other action relating to the Office of Alien Property or to any subject matter which is, or was at one time, under the jurisdiction of the Office of Alien Property.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information in the system is stored in standard file jackets, and on index cards, within standard filing cabinets.

Retrievability:

The files and index cards must be retrieved by file numbers, which can be ascertained from alphabetical indices if the name of the non-government party is known, or from numerical indices relating to the various vesting orders, accounts, claims, or cases.

Safeguards:

Information in the system is regarded as confidential, pursuant to 8 CFR 503.17. Departmental rules and procedures are in force that insure that only Departmental attorneys and their authorized agents have access to this information.

Retention and disposal:

A file is closed when one of the following occurs:

1. The vesting order has been complied with and the property disposed of pursuant to the Trading with the Enemy Act, and all claims have been processed.

2. A case involving the Office of Alien Property has ended by the final termination of the litigation through a compromise settlement, court decision or any other method of termination for court cases.

The file is then retained in the Federal Records Center for a number of years and thereafter may be destroyed. Index cards are retained for as long as may be practicable.

System manager(s) and address:

Assistant Attorney General, Civil Division; U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure:

Address inquiries to Assistant Attorney General, Civil Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures:

A request for access to a record within the Office of Alien Property system involving matters of privacy and which is not otherwise available to the party requesting the same should be submitted in writing, with the envelope and letter clearly marked "Privacy Access Request". The request should include file or account numbers and/or the names of any known non-government parties. The requester should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

All claimants to property, as well as former depositories, are sources of information, also other offices and agencies operating under provisions of the Trading with the Enemy Act.

Systems exempted from certain provisions of the act:

None.

Dated: April 28, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-13084 Filed 5-6-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

CHANGE OF MEETING DATE

MAY 4, 1977.

Notice is hereby given that due to conflicts in schedules the meeting of the National Advisory Council on Economic Opportunity as announced in the FEDERAL REGISTER (42 FR 18906), April 11, 1977 has been rescheduled from May 13, 1977 to June 2 and 3, 1977. The meeting will begin at 9:30 a.m. and is open to the public.

WALTER B. QUETSCH,
Executive Director.

[FR Doc.77-13138 Filed 5-6-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR HUMAN GEOGRAPHY AND REGIONAL SCIENCE

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Human Geography and Regional Science.

Date and time: May 26 and 27, 1977—9 a.m. to 5 p.m.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of meeting: May 26, 1977—Closed: 9 a.m. to 5 p.m.; May 27, 1977—Open: 9 a.m. to 11 a.m.; May 27, 1977—Closed: 11 a.m. to 3 p.m.

Contact person: Ms. Patricia J. McWethy, Associate Program Director, Human Geography and Regional Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-634-6683.

Purpose of panel: To provide advice and recommendations concerning support for research in Human Geography and Regional Science.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reasons for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 4, 1977.

[FR Doc.77-13160 Filed 5-6-77;8:45 am]

V42189 MAY 9 77 UMI

ADVISORY PANEL FOR LINGUISTICS

Notice of Meeting

In acordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Linguistics.
Date and time: May 26 and 27, 1977, 9 a.m. to 5 p.m. each day.
Place: Room 517, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Part open.
Contact person: Dr. Paul G. Chapin, Program Director for Linguistics, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202–254–6326.
Summary minutes (open portion): May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Rm. 213, National Science Foundation, Washington, D.C. 20550.
Purpose of panel: To provide and recommendations concerning support for research in Linguistics.
Agenda: Closed—May 26, all day and May 27, 12 m to 5 p.m. To review and evaluate research proposals and projects as part of the selection process for awards. Open—May 27, 9 a.m. to 12 m. General discussion of the current status and future plans of the Linguistics Program.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

Dated: May 4, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–13181 Filed 5–6–77;8:45 am]

ADVISORY PANEL FOR SYSTEMATIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Systematic Biology.

DATE AND TIME: May 26 and 27, 1977—8:20 a.m. to 5 p.m. each day.

PLACE: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. John W. Wright, Program Director, Systematic Biology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5846.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in systematic biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provsions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 4, 1977.

[FR Doc.77–13182 Filed 5–6–77;8:45 am]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

RESEARCH GRANTS PANEL MEETING

Correction

In FR Doc. 77–11259, appearing on page 21874 in the issue of Friday, April 29, 1977, the date in the last line of the first paragraph should read, "June 20, 1977".

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–329 and 50–330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this proceeding to consist of the following members:

Michael C. Farrar, Chairman.
Richard S. Salzman.
Dr. W. Reed Johnson.

Dated: May 2, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77–12994 Filed 5–6–77;8:45 am]

[Dockets Nos. 50–250 and 50–251]

FLORIDA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 25 and 24 to Facility Operating Licenses Nos. DPR–31 and DPR–41, respectively, issued to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Nuclear Generating Units Nos. 3 and 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

These amendments concern changes required as a result of a reevaluation of the emergency core cooling system for Turkey Point Unit No. 4. The emergency core cooling system reevaluation fulfills, for Unit No. 4, the requirements of the Commission's Orders for Modification of License dated August 27, 1976, and December 3, 1976. The operating limits for Unit No. 3 set forth in its Technical Specifications remain unchanged although the Unit No. 3 Technical Specifications will be modified to reflect the revisions to the Unit No. 4 Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) the application for amendments dated December 9, 1976, as supplemented by letters dated December 9, December 30, 1976, and January 3, 1977; (2) Amendments Nos. 25 and 24 to Licenses Nos. DPR–31 and DPR–41; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Documents Room, 1717 H Street NW., Washington, D.C., and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of April 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3; Division of Operating Reactors.

[FR Doc.77–12995 Filed 5–6–77;8:45 am]

[Docket No. 50–309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR–36 issued to Maine Yankee Atomic Power Company (the licensee) which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment authorizes changes in the radiological environmental surveillance program consistent with current NRC guidance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 6, 1976, and (2) Amendment No. 27 to License No. DPR–36. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–12996 Filed 5–6–77;8:45 am]

[Docket No. P–564–A]

PACIFIC GAS & ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Notice of Special Prehearing Conference

On April 15, 1977, an Atomic Safety and Licensing Board issued a Notice of Antitrust Hearing, which ordered that a hearing be held, pursuant to section 105 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq., to determine whether the activities under the proposed license for the Stanislaus Nuclear Project, Unit 1, would create or maintain a situation inconsistent with the antitrust laws. This hearing will be conducted by an Atomic Safety and Licensing Board which consists of Mrs. Elizabeth S. Bowers and Mr. Edward Luton as members, and Mr. Daniel M. Head as chairman.

Notice is hereby given that, in accordance with § 2.751a of the Commission's Rules of Practice, 10 CFR Part 2, a Special Prehearing Conference will be held in the above-identified proceeding at 9:30 a.m. on June 8, 1977 at the 5th Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland 20014.

This Special Prehearing Conference will deal with the following matters:

1. Discussion of steps necessary for definition of the issues;

2. Oral argument on any matters still outstanding relating to petitions to intervene;

3. Oral argument on all outstanding motions, including Applicant's motion for summary disposition;

4. The need for discovery and the time required therefore;

5. Establishment of a schedule for further action; and

6. Such other matters as may aid in the orderly disposition of the proceeding.

With regard to the Applicant's motion for summary disposition, all parties except the NRC Regulatory Staff (the Staff) are given until Monday, May 23, 1977, to file responses thereto. The Staff is given until Tuesday, May 31, 1977, to file its response to the motion for summary disposition.

The parties are directed to confer in advance of this prehearing conference in such manner as they deem appropriate with a view toward obtaining stipulations regarding issues in controversy, discovery, scheduling and any other procedures that may aid in the orderly disposition of this cause. If possible, the parties should agree upon a statement of issues in controversy. However, if such an agreement cannot be reached, each party is hereby required to submit to the Board its own written statement of issues in controversy. Any such statement of issues, whether stipulated or not, must be submitted by June 1, 1977. Such statement(s) should be brief and present the issues in summary form, without setting out supporting facts unless absolutely necessary. The Board will require a report from the parties on their efforts regarding stipulations at the beginning of the Special Prehearing Conference.

Members of the public are invited to attend this prehearing as well as the evidentiary hearing which will be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances pursuant to § 2.715 (a) of the Commission's Rules of Practice will not be heard at the Special Prehearing Conference but oral or written statements to be presented by limited appearance will be received at the beginning of the evidentiary hearing.

Issued at Bethesda, Maryland, this 29th day of April 1977.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.77–12997 Filed 5–6–77;8:45 am]

[Dockets Nos. 50–277 and 50–278]

PHILADELPHIA ELECTRIC CO. ET AL.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 33 and 32 to Facility Operating Licenses Nos. DPR–44 and DPR–56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments will revise the shock suppressor surveillance and operability requirements to conform with the current NRC standard Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) the application for amendments dated August 21, 1975 as modified by letter dated November 9, 1976; (2) Amendments Nos. 33 and 32 to Licenses Nos. DPR–44 and DPR–56; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

V42N89 MAY 9 77 UMI

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of April 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-12998 Filed 5-6-77;8:45 am]

[Docket No. 70-1151]

WESTINGHOUSE NUCLEAR FUEL FABRICATION PLANT, COLUMBIA, S.C.

Negative Declaration Regarding Renewal of License

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License SNM-1107 for the continued operation of the Westinghouse Nuclear Fuel Fabrication Plant at Columbia, South Carolina.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of License No. SNM-1107. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal (NR-FM-013) is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 29th day of April 1977.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-12999 Filed 5-6-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects will hold a meeting on May 25-26, 1977 in Los Angeles, CA. Information regarding the exact location of the meeting room will be published later. The purpose of this meeting is to consider reactor pressure blowdown forces and water hammer effects.

The agenda for subject meeting shall be as follows:

WEDNESDAY, MAY 25, 1977

8:30 a.m.—9 a.m. (Open). The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to exchange opinions and discuss preliminary views and recommendations relating to the above evaluation.

9 a.m.—12 noon (Open). The Subcommittee will meet with representatives of the NRC Staff and Combustion Engineering, and their consultants, to discuss blowdown loadings on reactor pressure vessels and their supports under severe accident conditions.

1 p.m.—5:30 p.m. (Open). The Subcommittee will meet with representatives of the NRC Staff and Westinghouse, and their consultants, to discuss blowdown loadings on reactor pressure vessels and their supports under severe accident conditions.

THURSDAY, MAY 26, 1977

8:30 a.m.-9 a.m. (Open). The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to exchange opinions and discuss preliminary views and recommendations relating to this evaluation.

9 a.m.-12 noon (Open). The Subcommittee will meet with representatives of the NRC Staff, and their consultants, to discuss the analyses of blowdown loadings on reactor pressure vessels and their supports under severe accident conditions for individual plants.

1 p.m.-5 p.m. (Open). The Subcommittee will meet with representatives of the NRC Staff and their consultants, to discuss water hammer problems.

At the conclusion of these sessions, the Subcommittee may caucus to determine whether the matters identified in the Executive Sessions have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by spending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than May 18, 1977 to Dr. Richard Savio, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on May 24, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Attn: Dr. Richard Savio) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recesss. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination

can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Dr. Richard Savio, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection after June 1 and August 26, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: May 4, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-13207 Filed 5-6-77;8:45 am]

ABNORMAL OCCURRENCE REPORT

Improper Radioactive Source Handling Procedures

An NRC policy statement pertaining to implementation of section 208 of the Energy Reorganization Act of 1974 (Pub. L. 93-438, 42 U.S.C. 5848), as amended, was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10950). Included in the policy statement are criteria for the Commission to apply in determining whether incidents or events occurring at or associated with licensed activities or facilities are reportable as "abnormal occurrences" (i.e., unscheduled incidents or events which the Commission determines to be significant from the standpoint of public health or safety). In order to provide wide dissemination of information to the public, a FEDERAL REGISTER notice is issued on each abnormal occurrence with copies distributed to the NRC Public Document Room and all local public document rooms. At a minimum, each such notice contains the date and place of the occurrence, and describes its nature and probable consequences.

Additional information will be made available, if appropriate, by means of summary reports placed in the NRC Public Document Room and in all local public document rooms and/or the quarterly abnormal occurrence reports to Congress. The quarterly reports are available from National Technical Information Service, Springfield, Virginia 22161 at a nominal cost.

IMPROPER RADIOACTIVE SOURCE HANDLING PROCEDURES

Date and place. Based on the evaluation of an inspection of Ohmart Corporation, Cincinnati, Ohio, conducted on March 30-31 and April 1, 1977, the NRC concluded on April 7, 1977 that the company's current operations involving radioactive sources represented an immediate threat to the health and safety of the licensee employees because of serious management and procedural deficiencies for handling radioactive sources. According to NRC's criteria for determining abnormal occurrences, these deficiencies constitute such an occurrence. The company is licensed by the NRC for the manufacture and distribution of gauging devices containing radiographic sources.

Nature and probable consequences. It was determined during the NRC inspection that the licensee had violated various requirements of 10 CFR Part 19 (Notices, Instructions and Reports to Workers; Inspections) and Part 20 (Standards for Protection Against Radiation).

The methods used by the licensee employees in certain radioactive source handling operations brought the sources into close proximity to the individual source handlers' hands resulting in extremity exposures in excess of the limits of 19 CFR Part 20. The majority of extremity exposure was received during two types of source handling operations: (1) The unloading and wipe testing of incoming sources; and (2) the loading of sources into individual source tubes prior to their insertion into a gauging device. With the methods being employed, NRC calculations indicate, for example, that a licensee employee loading an eight-curie cesium 137 sealed source into a gauge would receive a hand exposure of approximately 32 rems for each such operation. While as many as six to eight individuals are at various times involved in handling sources, two or three handle the majority of the sources.

The individuals involved in source handling operations had been provided whole body film badges and dosimeters, but extremity exposures were not being measured nor evaluated. Extremity exposure measuring devices, such as ring badges, were not available to employees nor were mathematical calculations being utilized to estimate exposure. Further, the employees had not received adequate instructions regarding the safe handling of radioactive sources.

Cause or Causes. The licensee failed to exercise sufficient management control in that personnel were not provided specific source handling procedures or adequate radiation safety training. In addition, licensee management failed to supervise source handling operations sufficiently to be aware of actual source handling methods used by employees.

ACTIONS TAKEN TO PREVENT RECURRENCE

Licensee. In response to an NRC order, licensee management discontinued all source handling operations until such time as the immediately required corrective actions were taken and the NRC order was rescinded. Actions taken by the licensee in response to the NRC order include the following:

1. A review of source handling operations, an initial determination of extremity exposures incurred by source handling personnel, and appropriate use of extremity dose monitoring devices for all personnel involved in source handling operations.

2. Training was conducted which included detailed instructions for specific source handling methods designed to maintain extremity exposures below Part 20 limits. The training also included instructions on the hazards of radiation. All new employees will receive training prior to handling sources.

3. The use of revised source handling methods which are designed to minimize extremity exposure using a two phase implementation plan is as follows:

a. An interim method was implemented which provides for the use of remote handling tools designed to reduce extremity exposures to well below the Part 20 limits.

b. The installation and use, within 90 days, of improved facilities and equipment designed to further reduce employee exposure to radiation to levels as low as reasonably achievable.

NRC. On April 7, 1977, NRC issued an Order to Show Cause and Order Suspending License directing the licensee to: suspend all source handling operations; evaluate personnel exposures; train and instruct employees; and develop source handling techniques to assure that exposures to personnel are kept below Part 20 limits in future operations. On April 11, 1977, NRC inspectors visited the licensee's facility to confirm the licensee's compliance with the Suspension Order. NRC established that initial licensee corrective actions had been completed and that the immediate hazards considerations no longer existed. The NRC then issued a rescinding order on April 18, 1977, reinstating the license.

Follow-up inspections will be conducted as appropriate.

Dated at Washington, D.C., this 5th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-13209 Filed 5-6-77;8:45 am]

[Docket Nos. 50-516, 50-517]

LONG ISLAND LIGHTING CO., (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Supplementary Order Resuming Evidentiary Hearing

The evidentiary hearing will be resumed on May 31, 1977 at 9:00 AM in the Holiday Inn of Riverhead, Exit 72, Long Island Expressway, Riverhead, Long Island, New York, to receive evidence upon certain contentions and other matters as hereinafter specified. The hearing will proceed on successive week days and will resume on June 7, 1977. The record will be formally closed on or before June 10, 1977.

V42N89 MAY 9 77 UMI

Evidence will be taken sequentially upon the following contentions and matters which have been previously identified in Applicant's scheduling proposal dated April 14, 1977:

May 31—Applicant's supplemental testimony on IA4: ATWS costs. NRC Staff's testimony on VC1: Groundwater.
June 1—Other parties' testimony (if any) on VC1: Groundwater. Completion of Applicant's testimony on VF2: Table S–3. NRC Staff's testimony on VF2: Table S–3.
June 2—NRC Staff's testimony regarding health effects attributable to coal and nuclear fuel cycle alternatives. Other parties' testimony (if any) regarding health effects attributable to coal and nuclear fuel cycle alternatives.

If the taking of evidence is not completed on June 2, 1977, the hearing will continue as scheduled, supra. In any event, as previously stated, the record will be formally closed on or before June 10, 1977. During the hearing, any documentation to be relied upon by the parties for proposed findings and conclusions of law, and briefs shall be marked for identification and offered into evidence.

The public is invited to attend the hearing.

Dated at Bethesda, Md., this 3rd day of May 1977.

It is so ordered.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc.77–13212 Filed 5–6–77;8:45 am]

[Docket No. 50–255]

CONSUMERS POWER CO., PALISADES NUCLEAR GENERATING PLANT

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Provisional Operating License No. DPR–20, issued to Consumers Power Company (licensee) which revised Technical Specifications for operation of the Palisades Nuclear Generating Plant, located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

The amendment permits the licensee to operate the Palisades Nuclear Generating Plant with chemical effluents having a pH range of 6.5 to 9.5. The changes in effluents are designed to be consistent with the National Pollutant Discharge Elimination System (NPDES) permit, issued on December 27, 1974 as revised on August 2, 1976 by the State of Michigan Water Resources Commission. Changes to Amendment No. 6 to Provisional Operating License No. DPR–20 issued on August 30, 1974 by the U.S. Atomic Energy Commission, have been made to clarify the nonradiological environmental monitoring program associated with the operation of the closed-cycle condenser cooling system. Temperature measurements of the service and dilution water at the intake and that in the mixing basin prior to the water being discharged into Lake Michigan are required to be taken. Furthermore, flow measurements of the cooling tower suction basin overow and discharge water flow to the lake are required, to facilitate enforcement of the Special Technical Specifications arrived at through settlement with the intervenors.

Modifications to the radioactive effluent specifications have been made to clarify the method of control of gaseous releases, which are controlled through the average annual release rate rather than the days of holdup.

Changes in the reporting requirements of the effluent releases and environmental monitoring program have also been made to be consistent with NRC guidelines. A number of editorial changes have also been made for clarification purposes.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see: (1) The applications for the amendment dated January 15, April 18, July 7 and October 1, 1975, (2) Amendment No. 26 to License No. DPR–20 and (3) the Commission's Negative Declaration with the supporting Environmental Impact Appraisal.

All of the above items are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Kalamazoo Public Library, Kalamazoo, Michigan 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 2nd day of May 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77–13210 Filed 5–6–77;8:45 am]

[Docket No. 50–255]

PALISADES NUCLEAR GENERATING PLANT

Negative Declaration Regarding Provisional Operating License No. DPR–20

The U.S. Nuclear Regulatory Commission (the Commission) has considered the issuance of a change to the Technical Specifications, Appendix A, of Provisional Operating License No. DPR–20. This change authorizes the Consumers Power Company (licensee) to operate the Palisades Nuclear Generating Plant with chemical effluents having a pH range of 6.5 to 9.5. The changes in effluents are designed to be consistent with the National Pollutant Discharge Elimination System (NPDES) permit, issued on December 27, 1974, and revised on August 2, 1976, by the State of Michigan Water Resources Commission. Changes to Amendment No. 6 to the Provisional Operating License No. DPR–20, issued on August 30, 1974 by the Atomic Energy Commission, have been made to clarify the nonradiological environmental monitoring program associated with the operation of the closed-cycle condenser cooling system. Temperature measurements of the service or dilution water at the intake and that in the mixing basin prior to the water being discharged into Lake Michigan are required to be taken. In addition, flow measurements of the cooling tower suction basin overflow and discharge water flow to the lake are also required. The purpose of these measurements is to facilitate enforcement of the "Special Technical Specifications Pursuant to Agreement" for the Palisades Plant.

Modifications to the radioactive effluent specifications have been made to clarify the method of control of gaseous releases, which are controlled through the average annual release rate rather than the days of holdup.

Changes have also been made in the reporting requirements of the environmental monitoring programs to be consistent with NRC guidelines, and editorial changes have been made for clarification purposes.

The Commission's Office of Nuclear Reactor Regulation has prepared an environmental impact appraisal for the changes to the Technical Specifications, Appendix A, appended to the Provisional Operating License No. DPR–20, for the Palisades Nuclear Generating Plant described above. On the basis of this appraisal presented in this document, we have concluded that an environmental impact statement for this particular action is not warranted because, pursuant to the Commission's regulations in 10 CFR Part 51 and the Council of Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this change in the technical specifications is not a major federal action significantly affecting the quality of the human environment. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Dated at Rockville, Md., this 2d day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77–13211 Filed 5–6–77;8:45 am]

[Docket Nos. 50–582, 50–583]

SAN DIEGO GAS AND ELECTRIC CO.

Receipt of Application for Construction Permits and Operating Licenses and Availability of Environmental Report

The San Diego Gas and Electric Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed an application for licenses to construct and operate the proposed Sundesert Nuclear Plant, Units 1 and 2. This application consists of general and financial information, a Preliminary Safety Analysis Report, and an Environmental Report. The general and financial information portion of the application and the Environmental Report were docketed on April 12, 1977, and the Preliminary Safety Analysis Report was docketed on April 26, 1977. Docket Nos. 50–582 and 50–583 have been assigned to this application. Notice of Receipt of the Partial Application for Construction Permits and Operating Licenses was published in the FEDERAL REGISTER under Docket No. P–558–A on December 5, 1975 (40 FR 56985).

The application is for authorization to construct and operate two pressurized water nuclear reactors designated as the Sundesert Nuclear Plant, Units 1 & 2 on a site near Blythe in Riverside County, California. The reactors are designed for an initial output of 2785 megawatts thermal, with an equivalent net electrical output of approximately 960 megawatts.

A Notice of Hearing is being published separately, setting forth the radiological and environmental issues to be considered during the review. A date for submitting Petitions for Leave to Intervene, with specific contentions will be set forth in the Notice of Hearing.

The applicant has filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report, dated November 30, 1976. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities is being made available for public inspection at the Office of the Governor, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, and at Southern California Association of Governments, Suite 100, 600 South Commonwealth Avenue, Los Angeles, California 90005, and at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the local public document room in the Palo Verde Valley District Library, 125 West Chanslorway, Blythe, California 92255. Documents will also be available for public inspection after May 12, 1977, at the San Diego County Law Library, 1105 Front Street, San Diego, California 92101.

After the environmental report has been analyzed by the Commission's Office of Nuclear Reactor Regulation, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Md., this 2nd day of May 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77–13213 Filed 5–6–77;8:45 am]

[Docket Nos. 50–582, 50–583]

SAN DIEGO GAS & ELECTRIC CO., SUNDESERT NUCLEAR PLANT, UNITS 1 AND 2

Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the San Diego Gas & Electric Company (the applicant), for construction permits for two pressurized water nuclear reactors designated as the Sundesert Nuclear Plant, Units 1 and 2 (the facilities), each of which will be designed for operation at 2785 thermal megawatts with a net electrical output of approximately 960 megawatts. The proposed facilities are to be located on a site near Blythe in Riverside County, California.

The hearing, which will be scheduled to begin in the vicinity of the site of the proposed facilities, will be conducted by an Atomic Safety and Licensing Board (Board), which has been designated by the Chairman and the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Richard F. Cole, member, Dr. Marvin M. Mann, member and Robert M. Lazo, Esq., Chairman.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review functions which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's staff of a favorable safety evaluation of the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Item 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of a construction permit to the applicant. In the event that a separate hearing is held with respect to a limited work authorization, Item 6 below describes the matters that would be considered at such a hearing.

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) Applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

ISSUES PURSUANT TO 10 CFR 2.761a (LIMITED WORK AUTHORIZATION)

6. Pursuant to 10 CFR 2.761a, a separate hearing and partial decision by the

V42N89 MAY 9 77 UMI

Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the separate hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR 50.10(e), authorize the applicant to conduct certain onsite work entirely at its own risk prior to completion of the remainder of the proceeding.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine without conducting a de novo evaluation of the application: (1) Whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding Items 1–5 above as a basis for determining whether the construction permits should be issued to the applicant.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with § 51.52(c) of 10 CFR Part 51: (1) Determine whether the requirements of section 102(2) (A), (C), and (D) of NEPA and Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives, whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of items 1–5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by July 8, 1977. The presiding Atomic Safety and Licensing Board may make further provision with respect to limited appearances subsequently during the course of this proceeding.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by June 8, 1977. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petitioner, in addition to the matters specified in 10 CFR 2.714(d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR 2.714(a) (1)–(4) shall be considered in making a determination whether there has been a substantial showing of good cause by the petitioner.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant by May 31, 1977.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Lowenstein, Newman, Reis & Axelrad, Attention: Jack R. Newman, Esq., 1025 Connecticut Avenue NW., Suite 1214, Washington, D.C. 20036, attorney for the applicant.

For further details, see the application for a construction permit dated November 30, 1976, including site suitability information, and the applicant's environmental report, dated November 30, 1976, which, along with any amendments or supplements thereto, are or will be available as noted above for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of those documents will also be available at the Palo Verde Valley District Library, 125 West Chanslorway, Blythe, California 92255, for inspection by members of the public between the hours of 10 a.m. to 8:30 p.m. on Monday through Friday and from 10 a.m. to 5 p.m. on Saturday and after May 12, 1977, at the San Diego County Law Library, 1105 Front Street, San Diego, California 92101, from 8 a.m. to 10 p.m. Monday through Thursday, from 8 a.m. to 5 p.m. on Friday, from 10 a.m. to 5 p.m. on Saturday, and from 12 noon to 5 p.m. on Sunday. As they become available, a copy of the safety evaluation report by the Commission's Office of Nuclear Reactor Regulation, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permit, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Project Management, United States Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Office of Nuclear Reactor Regulation's safety evaluation and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Washington, D.C., this 4th day of May 1977.

UNITED STATES REGULATORY COMMISSION,
SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-13214 Filed 5-6-77;8:45 am]

[Docket Nos. STN 50-508, STN 50-509]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS NUCLEAR PROJECT NOS. 3 AND 5)

Resumption of Hearing

MAY 3, 1977.

On August 9, 1974, the U.S. Atomic Energy Commission[1] published a "Notice of Hearing on Application for Construction Permits" (39 FR 30535), with respect to the application filed by Washington Public Power Supply System (Applicant) on behalf of itself and four investor-owned electric utilities, for construction permits for two pressurized water nuclear reactors designated as WPPSS Nuclear Project Nos. 3 and 5, proposed to be located at Applicant's site in Grays Harbor County, approximately 26 miles west of Olympia, Washington.

Sessions of the public evidentiary hearing in this proceeding concerning environmental and site suitability matters were held before the Atomic Safety and Licensing Board (Board) on June 24 and 25, 1975, in Aberdeen, Washington. The Board issued a Partial Initial Decision on environmental and site suitability determinations on April 8, 1977 (LBP-77-25, 5 NRC ------ (1977)). The purpose of this Notice is to set a date for reconvening the hearing to consider all remaining public health and safety matters in the above-identified proceeding.

Please take notice that the public evidentiary hearing being held before the Atomic Safety and Licensing Board to consider an application for the issuance of construction permits for WPPSS Nuclear Project Nos. 3 and 5, will resume on Tuesday, May 24, 1977, at 10 a.m., local time, in the First Floor Conference Room, State of Washington General Administration Building, 11th Avenue, Olympia, Washington 98504. The hearing shall be conducted day by day until all evidence concerning health and safety matters has been presented or until continued by further order of the Board.

Members of the public are welcome to attend the hearing. Individuals who have requested permission to make a limited appearance pursuant to the provisions of § 2.715(a) of the Commission's rules of practice, will be permitted to present an oral or written statement on the first day of the hearing.

Issued at Bethesda, Md., this 3d day of May 1977.

It is so ordered.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc.77-13215 Filed 5-6-77;8:45 am]

PRESIDENT'S COMMISSION ON MENTAL HEALTH

PUBLIC'S CONCERNS REGARDING MENTAL HEALTH

Public Hearings

In accordance with section 10(A)(2) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following Presidential Commission public hearings during the month of May, 1977.

THE PRESIDENT'S COMMISSION ON MENTAL HEALTH

(1) May 24, 1977; 9:30 a.m. to 5 p.m., 3rd Floor Conference Room, William J. Greene, Jr., Federal Building, 600 Arch Street, Philadelphia, Pennsylvania.

(2) May 25, 1977; 9:30 a.m. to 5 p.m., Courtroom No. 1, Federal Building Courthouse, 801 Broadway, Nashville, Tennessee.

OPEN PUBLIC HEARINGS

Contact: Mary Ann Orlando, Special Assistant to the Chairperson, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500—Tel: 202/456-7100.

Anyone wishing to testify at either of the above public hearings should notify the Commission in writing no later than May 15, 1977, indicating the name of organization or organizations, if any, being represented and the subject and particular point of view within the mental health area to be discussed. Requests to testify should be addressed to:

The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

Requests to testify will be accepted on a time available basis. Those who are scheduled to testify will be notified by the Commission.

Oral testimony will be limited to 8 minutes, followed by 4 minutes of questioning by the Commission. Additional written data in support of the testimony will also be made a part of the record and must be submitted at the time of testimony.

If time does not permit all to testify, presentations will be accepted in written form and made a part of the record of the proceedings, but must be submitted to the Commission at its offices within one (1) week of the hearing.

In addition, time will be alloted to permit individuals from the audience to testify for a maximum of 3 minutes. Requests to testify from the floor will be accepted at the time of the hearing and will be honored on the basis of time available and relevance of subject matter.

Purpose of Commission: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order No. 11973 and was directed to identify the mental health needs of the nation. In particular, the Commission shall seek to identify: how the mentally ill, emotionally disturbed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The Commission shall conduct such public hearings, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

Purpose of Public Hearings: Public hearings are designed to give Commissioners an opportunity to hear firsthand the concerns of the American public directly related to the field of mental health.

Further information may be obtained from the above named person.

Attendance by the public will be limited to space available.

The Commission will furnish upon request transcripts of the public hearings at printing cost. Requests for such transcripts should be directed to: The President's Commission on Mental

[1] In accordance with the Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233, the Nuclear Regulatory Commission (NRC) was established on January 19, 1975. The NRC assumed the licensing and regulatory functions of the former Atomic Energy Commission.

V42N89 MAY 9 77 UMI

Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

Dated: May 6, 1977.

BENEDICT J. LATTERI,
Administrative Officer, President's Commission on Mental Health.

[FR Doc.77-13370 Filed 5-6-77;11:11 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 4, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Questionnaire for Processors of Meat of Cattle, single time, meat processors, Evinger, S. K., 395-3710.

Importers' Questionnaire—Live Cattle and/or Meat of Cattle, single time, importers, Evinger, S. K., 395-3710.

Questionnaire for Cattle Growers and Feedlot Operators, single time, cattle growers and cattle feeders, Evinger, S. K., 395-3710.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, program progress report, DSP-89, semi-annually, resettlement agencies, Warren Topellus, 395-5872.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, assessment of vehicle safety problems for special driving populations, single time, handicapped and elderly drivers, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, regulations-cotton acreage allotments and marketing quotas (upland and extra long staple, on occasion, cotton producers, Marsha Traynham, 395-4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary); waste and damage report—assigned home mortgage, FHA2783, on occasion, HUD area/insuring, housing, Veterans and Labor Division, 395-3532.

Schedule of tax information—assigned home mortgage, FHA-2779, on occasion, FHA approved mortgagees, Housing, Veterans and Labor Division, 395-3532.

Application for insurance benefits, fiscal data and general assignment home mortgage one to four, families, FHA2777, on occasion, FHA approved mortgagees, Housing, Veterans and Labor Division, 395-3532.

PHILLIP D. LARSEN,
Management and Budget Officer.

[FR Doc.77-13199 Filed 5-6-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-089]

RULES OF THE ROAD ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Rules of the Road Advisory Committee to be held on Wednesday and Thursday, June 8-9, 1977, at 9:00 a.m., in the Gallery of the Cartwright Hotel, 524 Sutter Street, San Francisco, California.

The agenda for this meeting is as follows:

1. Welcome.
2. Adoption of the agenda.
3. Adoption of the minutes of the January 25, 1977, meeting.
4. Consideration of proposed amendments to the 1972 international collision regulations.
5. Consideration of the draft rules for U.S. Waters.
6. Consideration of lighting requirements for small craft.
7. Consideration of changes in Lines of Demarcation.
8. Consideration of requiring the flashing yellow light at the head of tows on all inland waters.
9. Consideration of the use of strobe lights for navigational purposes.
10. Any other business.

Attendance is open to interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than two days before the meeting:

Captain R. A. Bauman, Executive Director, Rules of the Road Advisory Committee, c/o Commandant (G-WLE-4/73), U.S. Coast Guard, Washington, D.C. 20590, Telephone 202-426-4958.

to obtain information. A member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on April 27, 1977.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.77-13147 Filed 5-6-77;8:45 am]

Federal Aviation Administration

SOUTHERN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Commission Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Southern Region Air Traffic Control Advisory Committee to be held on June 7, 1977, at 9 a.m., e.s.t., at the Airport Holiday Inn, Atlanta, Georgia.

The agenda for this meeting is as follows:

1. Profile Descents
2. Military Training Routes
3. Atlanta Terminal Area Study Group Recommendations
4. ATC Emergency Procedures

Attendance is open to the interested public but limited to the space available. With approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Mr. Harl Long, Airspace and Procedures Branch, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320, 404-763-7866.

Any members of the public may present a written statement to the committee at any time.

Issued in East Point, Ga., on April 29, 1977.

RICHARD M. ROBINSON,
Acting Chairman, Southern Region Air Traffic, Control Advisory Committee.

[FR Doc.77-13152 Filed 5-6-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. 75-10; Notice 3]

DEFECT AND NONCOMPLIANCE NOTIFICATION

Denial of Petition for Reconsideration

This notice denies a petition for reconsideration of 49 CFR Part 577, Defect and Noncompliance Notification (41 FR 56813), published on December 30, 1976. The petition was filed by American Motors Corporation ("AMC").

AMC has petitioned that the Administrator delete § 577.5(g)(1)(iii)(A) in its entirety. This section requires that notification of a noncompliance or safety-related defect by a manufacturer contain a general description of the work involved in repairing it. AMC's objection to this requirement is longstanding, initially contained in its comment to the docket when Part 577 was proposed. NHTSA, in issuing the regulation and adopting the requirement, discussed in some detail (p. 56814) the reasons why it disagreed with AMC's views. In its petition for reconsideration AMC only reiterated its original views and challenged the Administrator's reasoning. It did not submit data not heretofore considered that would support an amendment or deletion of the requirement. Thus no reason has been shown why the requirement should be reconsidered and the petition is denied.

AMC's second objection is to § 577.6(b)(10). Under this section provisional notification is to include a statement indicating whether, in the manufacturer's opinion, the defect or noncompliance can be remedied by repair. If the answer is affirmitive, the manufacturer is required to provide a general description of the work and costs involved, where the parts will be available, and the estimate of the time necessary to repair the problem. In AMC's view, "it is unreasonable to expect that a manufacturer who in contesting an Administrative determination that a defect or noncompliance exists in his product would at the same time have developed a remedy for the alleged defect or noncompliance which he, acting in good faith, does not believe exists." It suggested that § 577.6(b)(10) "should be limited to an appropriate statement of repair feasibility and a recommendation of service facilities where the repair could be performed". Somewhat similar objections were voiced to the original proposal by the Motor Vehicle Manufacturers Association and Chrysler Corporation who felt that it would require unjustified effort to develop repair parts and facilities before a court decision is reached on the Administrator's determination. The agency replied (p. 56815) that these details are justified and necessary to fulfill the purpose of provisional notification contemplated by Congress. One such purpose is that it is in the interests of motor vehicle safety that remedy be accomplished as soon as practicable, without further delay, if the Administrator's determination is upheld in a court proceeding. Therefore, the petition by AMC for reconsideration of § 577.6(b)(10) is denied.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718, secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1407, 1411-1420; delegation of authority at 49 CFR 1.50).)

Issued on May 2, 1977.

JOAN B. CLAYBROOK,
Administrator.

[FR Doc.77-13089 Filed 5-6-77;8:45 am]

[Docket No. EX74-1; Notice 4]

STUTZ MOTOR CAR OF AMERICA, INC.

Petition for Temporary Exemption

This notice grants the petition by Stutz Motor Car of America, Inc. of New York City for an extension of its temporary exemption from Motor Vehicle Safety Standard No. 215, Exterior Protection, which expired January 1, 1977. The basis of the petition was that compliance would cause substantial economic hardship. Notice of Stutz's previous petition and its grant were published on February 28, 1974 (39 FR 7830) and April 30, 1974 (39 FR 15061). Notice of the current petition was published February 10, 1977 (42 FR 8447) and an opportunity afforded for comment.

Stutz manufactured 38 passenger cars in 1976. It requested an exemption from Standard No. 215 for one more year. In support of its original petition Stutz had stated that in its opinion it

Is in compliance with the standard except the possibility of not being able to open the hood after impact due to the possibility of the brass radiator shell jamming the hood or hood release in closed position. It believes that all other safety related components such as lights, door opening, trunk opening, exhaust system and cooling system will remain in conformity with the standard.

Stutz had planned to conform by December 31, 1976, using the funds generated by sales to "implement the necessary styling and design requirements". However, it discovered that "the cost of modifying all our forms and fixtures could not possibly be amortized into the limited number of cars produced". The company had a net profit of $107,819 in its last fiscal year ending June 30, 1976. It expects to be able to comply with Standard No. 215 by the end of 1977 when it begins production of a successor to the current Stutz.

No comments were filed on the petition.

The effect upon motor vehicle safety of an extension of the exemption appears minimal. To require the company to conform immediately would create a substantial economic hardship for it, in part by depriving it of the American market for an unknown period of time. The Administrator has determined that an extension of exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

In consideration of the foregoing NHTSA Exemption No. 74-1 is hereby extended from the date of issuance of this notice for a period expiring March 1, 1978.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410) delegation of authority at 49 CFR 1.50.)

Issued on May 2, 1977.

JOAN B. CLAYBROOK,
Administrator.

[FR Doc.77-13090 Filed 5-6-77;8:45 am]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Public Meeting; Correction

As published in the FEDERAL REGISTER on Monday, May 2, the National Highway Safety Advisory Committee will meet on May 17 and 18 at the DOT Headquarters Building in Washington, D.C.

Please note the following changes: On May 17 the Highway Environment Subcommittee meeting will begin at 1 p.m. instead of the previously published time of 8:30 a.m. Also on May 17 the Driver Subcommittee meeting will begin at 2 p.m. instead of the previously published time of 1 p.m.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C., telephone 202-426-2872.

Issued in Washington, D.C., May 4, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-13185 Filed 5-6-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

CORDAGE OF MAN-MADE FIBERS MEASURING 5/16 INCH OR OVER IN DIAMETER FROM THE REPUBLIC OF KOREA

Preliminary Countervailing Duty Determination

AGENCY: Customs Service, U.S. Treasury.

ACTION: Preliminary negative countervailing duty determination.

SUMMARY: This notice is to inform the public that it has been determined preliminarily that no bounty or grant is being paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of cordage of man-made fibers from the Republic of Korea. A final determination will be made no later than October 28, 1977. Interested persons are invited to submit written comments on this preliminary determination no later than June 8, 1977.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On December 9, 1976, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (41 FR 53882). The notice stated that a petition in satisfactory form was received on October 28, 1976, alleging that payments or bestowals conferred by the Government of the Republic of Korea upon the manufacture, production, or exportation of cordage of man-made fibers measuring 5/16 inch or over in diameter from the Republic of Korea constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

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The man-made fiber cordage specified in the petition is classifiable under item 316.6020 of the Tariff Schedules of the United States Annotated (TSUSA), and it is dutiable at the rate of 12.5 cents per pound plus 15 percent ad valorem. It is not eligible for preferential treatment under the Generalized System of Preferences.

On the basis of an investigation conducted pursuant to § 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that benefits have been received by the Korean manufacturers/exporters of cordage of man-made fibers measuring 3/16 inch or over in diameter which constitute bounties or grants within the meaning of section 303 of the Act but that these benefits involve aggregate amounts of .15 percent during 1975 and .17 percent for the first six months of 1976, considered to be de minimis. These benefits include:

1. Short-term financing at preferential interest rates under the "Regulation for Export Financing."

2. Tax benefits resulting from the inclusion in loss accounts of reserve funds for certain losses from export activities.

It preliminarily has been determined that certain practices of the Republic of Korea do not constitute a bounty or grant in that they do not on their face describe a bounty or grant based on the information currently available.

These practices are: 1. Remission, upon exportation, of commodity and textile taxes which are indirect taxes levied on enumerated commodites and passed on to the consumer. The Customs Court, in *Zenith Radio Corporation* v. *United States*, C.D. 4691, ruled that the rebate of the Japanese commodity tax on exportation is a bounty or grant within the meaning of section 303 of the Act. To the extent that the ruling in that case is applicable here, the Department, in the absence of a final court decision to the contrary, maintains its position that the rebate or remission upon exportation of indirect taxes directly related to the exported product does not constitute a bounty or grant.

2. Remission of commodity and textile taxes on imported goods, when such goods are incorporated into an exported product.

Programs preliminarily determined not to have been utilized by, or not applicable to, the cordage industry include:

1. Medium and long-term financing—Cordage manufacturers do not qualify for medium or long-term export financing programs.

2. Deferral of due dates for domestic taxes—Cordage manufacturers have not utilized this tax provision.

3. Credit on duty payments on machines imported to produce cordage for export—Korean manufacturers no longer import their machinery, and therefore, no longer receive benefits under this program.

4. Deferred payment export financing—Cordage manufacturers do not receive benefits under this program.

5. Special depreciation allowance—Neither cordage manufacturer exporting to the United States utilizes the special depreciation provision for export-related industries.

6. Export industrial estates—This regional incentive program was established to encourage manufacturers to locate in areas other than Seoul. Neither cordage manufacturers who exports to the United States is located in an "export industrial estate."

7. Masan free export zone—This area is not occupied by either cordage manufacturer who exports to the United States.

Accordingly, it is preliminarily determined that no bounty or grant, within the meaning of section 303 of the Act, is being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of cordage of man-made fibers measuring 3/16 inch or over in diameter from the Republic of Korea. A final decision in this case is required on or before October 28, 1977.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to the preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by this office not later than June 8, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

JOHN H. HARPER,
Acting Assistance Secretary of the Treasury.

APRIL 28, 1977.

[FR Doc.77-13143 Filed 5-6-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Correction

In FR Doc. 11055, appearing at page 19896, in the issue of Friday, April 15, 1977, in the table on page 19897, in the entry for Arkansas, Ash Flat Town, under the heading "population" the number should be changed to read "468".

Domestic and International Business Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 1. (Supp. V, 1975), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, May 24, 1977 in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of work program, including classification methods for foreign availability and technical classification.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977, (42 FR 7978).

Dated: May 3, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77-13121 Filed 5-6-77;8:45 am]

Economic Development Administration

ACCENT INDUSTRIES, INC.

Notice of Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Accent Industries, Inc., 2920 South Halladay Street, Santa Ana, California 92705, a producer of plant hangers, was accepted for filing on May 2, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business May 19, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-13120 Filed 5-6-77;8:45 am]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL AND IT'S SCIENTIFIC AND STATISTICAL COMMITTEE

Cancellation of Meeting

Notice is hereby given that the scheduled meeting on May 12 and 13, 1977, of the Pacific Fishery Management Council and its Scientific and Statistical Committee as published at 42 FR 20649, Volume 42, Number 77, on Thursday, April 21, 1977, has been cancelled.

Dated: May 4, 1977.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77-13156 Filed 5-6-77;8:45 am]

MARINE FISHERIES ADVISORY COMMITTEE

Public Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) and subcommittees.

The committee meeting (MAFAC XVII) will be held on Wednesday and Thursday, May 25 and 26, 1977, in Room 4830 of the Department of Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. The Committee will meet at 8:30 a.m. on Wednesday, May 25, to consider the agenda items specified below. The Wednesday session is scheduled to conclude by 4:45 p.m. On Thursday, May 26, the committee will meet for its last session at 8:30 a.m. to consider the remaining agenda items. It is anticipated that the meeting will be adjourned at noon on Thursday.

Three subcommittee meetings will be held in conjunction with the committee meeting. They will be held in Room 4830 of the Department of Commerce Building. On Tuesday morning, May 24, beginning at 9:00 a.m. and concluding about 12:00 noon, the newly formed MAFAC Consumer Affairs subcommittee will meet to consider organizational and planning matters as well as questions concerned with the voluntary fishery products inspection program and fishery products nomenclature. At 1:30 p.m. of the same day, the MAFAC National Plan for Marine Fisheries subcommittee will meet to consider implementation of the Secretary's Program for Marine Fisheries. This subcommittee meeting should conclude by 4:00 p.m. It will be immediately followed by a meeting of the MAFAC Marine Recreational Fisheries subcommittee to consider current marine recreational fisheries issues. This meeting will run to 6:00 p.m. or longer if necessary.

Items proposed for discussion at the committee meetings are shown on the following agenda:

May 24, 1977 (Tuesday)

9 to 12	Consumer Affairs subcommittee meeting.
12 to 1:30 p.m.	Lunch.
1:30 to 4 p.m.	National Plan for Marine Fisheries (NPMF) subcommittee meeting.
4 to 6 p.m.	Marine Recreational Fisheries (MRF) subcommittee meeting.
6 p.m.	Adjourn for the Day.

May 25, 1977 (Wednesday)

8:30 a.m.	Convene MAFAC XVII.
8:30 to 8:40 a.m.	Introduction and Announcements.
8:40 to 9:40 a.m.	NMFS Personnel Ceilings/Zero Base Budgeting.
9:40 to 11:40 a.m.	NMFS Extended Jurisdiction Report and Current Policy Concerns.
11:40 a.m.	Lunch.
1:30 p.m.	Reconvene MAFAC.
1:30 to 2:30 p.m.	Regional Fishery Management Councils' Report.
2:30 to 3:10 p.m.	Report on NPMF subcommittee meeting.
3:10 to 4:45 p.m.	Comparison of Recommendations from the National Plan for Marine Fisheries, the Eastland Fisheries Survey, the General Accounting Office Report and other studies.
4:45 p.m.	Adjourn for the Day.

May 26, 1977 (Thursday)

8:30 a.m.	Reconvene MAFAC XVII.
8:30 to 9:30 a.m.	Fisheries Models and Forecasting.
9:30 to 10:15 a.m.	Fishery Engineering Policy.
10:15 to 11 a.m.	Report on Consumer Affairs subcommittee meeting.
11 to 11:40 a.m.	Marine Recreational Fisheries subcommitte Report.
11:40 to 12 m.	Special items raised by committee for discussion.
12 m.	Adjourn MAFAS XVII.

The committee meeting and the subcommittee meetings are open to the public and there will be seating for approximately 20 public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

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Mr. Alfred J. Bilik, Executive Secretary, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: Area code 202–634–7270.

on or about May 17, 1977.

At the discretion of the Chairman, interested members of the public may be permitted to speak at times which will allow the orderly conduct of committee business, and a reasonable time relation between the committee's discussion of a given subject and an address to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so by addressing the same to the Executive Secretary, as above. To receive due consideration and facilitate their inclusion in the record of the meeting, written statements should be received within 10 days after the close of the committee meeting.

Dated: May 6, 1977.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

[FR Doc.77–13405 Filed 5–6–77;12:10 pm]

INTERSTATE COMMERCE COMMISSION

[Notice No. 385]

ASSIGNMENT OF HEARINGS

MAY 4, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125808 (Sub-1), AAACon Auto Transport, port, Inc. Petition Seeking Modification of Permit (Certificate), now being assigned July 11, 1977 (1 week) at New York, New York, in a hearing room to be later designated.

MC 134113 (Sub-9), Hi-Ball Trucking, Inc., now assigned June 8, 1977 at Billings, Montana, hearing canceled and transferred to Modified Procedure.

MC 113678 (Sub-No. 637), Curtis, Inc., now assigned May 5, 1977, at New York City, N.Y. is canceled and application dismissed.

MC 106393 Sub 109, Signal Delivery Service, Inc. now assigned May 17, 1977 at Atlanta, Georgia is canceled.

MC 129906 (Sub-4), American Farm Lines, Inc., now being assigned July 12, 1977 (4 days) at Dallas, Texas, in a hearing room to be later designated.

MC 42011 (Sub-30), D. Q. Wise & Co., Inc., now being assigned July 18, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 133095 (Sub-125), Texas Continental Express, Inc., now being assigned July 19, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 136008 (Sub-79), Joe Brown Company, Inc., now being assigned July 21, 1977 (2 days) at Albuquerque, New Mexico, in a hearing room to be later designated.

MC 139458 (Sub-1), Richner, Inc., now being assigned July 25, 1977 (1 week) at Durango, Colorado, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13190 Filed 5–6–77;8:45 am]

[Notice No. 165]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76784, filed April 21, 1977. Transferee: Earl R. Martin, Inc., P.O. Box 3, East Earl, Pennsylvania 17519. Transferor: Earl R. Martin, Address same as transferee. Applicants' representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pennsylvania 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 135741, MC 135741 (Sub-No. 2), and MC 135741 (Sub-No. 4), issued February 23, 1972, January 3, 1973 and March 10, 1975, as follows: *Dry fertilizer* and *dry fertilizer ingredients*, From points in Prince George County, Va., to points in Berks and Montgomery Counties, Pa.; *Dry fertilizer* and *dry fertilizer ingredients*, in bulk, in dump vehicles, and in containers, From points in Prince George County Va., to points in Chester and Lancaster Counties, Pa.; and *Ammonium sulphate*, in bulk, in dump vehicles, From Hopewell, Va., to Allentown and Lebanon, Pa., and Baltimore, Md. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77004, filed March 1, 1977. Transferee: C. C. Boring Trucking, Inc., Box A–7, West Main Street, Belleville, Pennsylvania 17004. Transferor: Paul E. Confer (Vivian M. Confer, Executrix), P.O. Box 234, Howard, Pennsylvania 16841. Applicants' representative: Leonard R. Apfelbaum, Attorney at Law, 160 Arch Street, Sunbury, Pennsylvania 17801. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–96235, issued October 21, 1968, as follows: *Fertilizer materials*, from Baltimore, Md., to points in Centre, Clinton, Bedford, Somerset, Juniata, Cambria, Blair, Perry, Huntingdon, Mifflin, Snyder, and Clearfield Counties, Pa., with no transportation for compensation on return except as otherwise authorized. *Fertilizer*, from Baltimore, Md., to points in Centre, Clinton, Bedford, Somerset, Juniata, Cambria, Blair, Perry, Huntingdon, Mifflin, Snyder, Clearfield, Northumberland, Lycoming, Union and Montour Counties, Pa., with no transportation for compensation on return except as otherwise authorized. *Brick*, from Paxtonville, Pa., to points in New Jersey and Delaware, and those in New York east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 62 to junction New York Highway 18, and thence along New York Highway 18 to Lake Ontario and south of Lake Ontario and a line beginning at Port Ontario, N.Y., and extending in a southeasterly direction through Pulaski, Utica, and Troy, N.Y., to the New York-Massachusetts State line, including points on the indicated portions of the highways specified and the points named, with no transportation for compensation on return except as otherwise authorized. From Beavertown, Pa., to construction sites in Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized.

Floor and structural tile, brick chips, and *brick and shale granules*, from Paxtonville, Pa., to points in New Jersey and Delaware, and those in New York east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 62 to junction New York Highway 18, and thence along New York Highway 18 to Lake Ontario and south of Lake Ontario and a line beginning at Port Ontario, N.Y., and extending in a southeasterly direction through Pulaski, Utica, and Troy, N.Y., to the New York-Massachusetts State line, including points on the indicated portions of the highways specified and the points named, with no transportation for compensation on return except as otherwise authorized. Brick, floor and structural tile, brick chips, and brick and shale granules, from Paxtonville, Pa., to points in Connecticut, Maryland, Virginia, the District of Columbia and those in New York west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 62 to junction New York Highway 18, thence along New York Highway 18 to Lake Ontario, and north of a line beginning at Port Ontario, N.Y., and extending in a southeasterly direction through Pulaski, Utica, and Troy, N.Y., to the New York-Massachusetts State line, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210 a(b).

No. MC–FC–77048, filed April 22, 1977. Transferee: Joseph C. Lavoie, 106 Macktown Road, Windsor, Connecticut 06095. Transferor: Brickhaulers, Incorporated, 34 Sillman Road, Wallingford, Connecticut 06492. Applicant's Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Connecticut 06117. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC 83726 (Sub-No. 1) and MC 83726 (Sub-No. 3), issued November 8, 1971, and June 9, 1972, respectively, as follows: Brick, over irregular routes, From Berlin, Windsor Locks, Hartford, and East Windsor Hill, Conn., to Pawtucket, R.I., points in that part of New York on and south of U.S. Highway 44 and on and east of the Hudson River, points in Providence, Kent, and Washington Counties, R.I., Taunton, Milford, and New Bedford, Mass., and that part of Massachusetts on and west of Massachusetts Highway 12; and From East Windsor Hill, Conn., to points in Maine, New Hampshire, and Vermont, points in that part of Massachusetts east of Massachusetts Highway 12 (except Taunton, Milford, and New Bedford), points in New York within 25 miles of Albany, and points in Rhode Island (except Pawtucket and points in Providence, Kent, and Washington Counties); and Building materials (except commodities in bulk), Between points in Connecticut. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 212a(b).

No. MC–FC–77068, filed May 2, 1977. Transferee: Robert J. Corduck and Jeanne L. Corduck, doing business as East Coast Movers, 14 Cerqua St., Woburn, Mass. 01801. Transferor: Remy Moving and Storage Corp., Old Post Road, Walpole, Mass. 02081. Applicants' representative: Robert J. Gallagher, Attorney-at-Law, Suite 1200, 1000 Connecticut Ave., Washington, D.C. 20036. Transferee seeks to acquire all of the operating rights of transferor set forth in Certificate No. MC 434, issued August 10, 1959, as follows: Household goods, between Fall River, Mass. and points within 10 miles thereof, on the one hand, and, on the other, points in New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Virginia; between Cambridge, Mass., and points in Massachusetts within 20 miles thereof, on the one hand, and, on the other, points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York; between Falmouth, Mass. and points in Massachusetts within 50 miles thereof, on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia; between points in a described area in Barnstable County, Mass., on the one hand, and, on the other, points in Connecticut, Rhode Island, and Maryland; and used furniture, uncrated, between Provincetown, Mass., and New York, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77088, filed April 18, 1977. Transferee: JRB, Inc., 1001 Wheatley Road, Ashland, Kentucky 41101. Transferor: Van's Transportation, Inc., P.O. Box 367, Middletown, Ohio 45042. Transferee's representative: Bill Jones, 1416 Winchester Ave., Ashland, Kentucky 41101. Transferor's representative: Paul F. Berry, Paul F. Berry Co., L.P.A., 275 E. State Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 139083 issued November 18, 1974, as follows: *Iron and steel articles* (except scrap metal), From the plant site of Armco Steel Corporation in Summit, Ky., to points in Kentucky, West Virginia, Virginia, Pennsylvania, Ohio, Indiana, Tennessee, Michigan, Illinois, New York, New Jersey, Maryland, Wisconsin, Missouri, and the District of Columbia, and *Pipe*, (except iron or steel pipe), Between Summit (Boyd County), Ky., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: The operations authorized are restricted to the transportation of traffic originating at the origins specified therein and destined to the destinations specified therein. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 212a(b).

No. MC–FC–77093, filed April 21, 1977. Transferee: A J L, INC., 26013–13th S.E., Space No. 37, Kent, Wash. 98431. Transferor: Mayo Robison, doing business as, Lumber Trucking Service, 943 South Nebraska, Seattle, Wash. 98108. Applicants' representative: Carl A. Jonson, Attorney at Law, 300 Central Bldg., Seattle, Wash. 98104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates, No. MC 110140 Sub-2, and Sub-5, Sub-9, and Sub-11, issued January 4, 1952 (corrected), January 11, 1967, October 17, 1973, and July 18, 1974, respectively, as follows: *Lumber*, over regular routes, with restrictions, from Everett, Wash., and Tacoma, Wash., to the part of Seattle, Wash., as follows: From Everett, over U.S. Highway 99 to Seattle. From Tacoma over U.S. Highway 99 to Seattle. Service is not authorized at any intermediate point on the above-specified routes. Lumber, over irregular routes, with restrictions, from points in Kitsap County, Wash., to the port of Seattle, Wash. Also lumber, from the port of entry on the United States-Canada Boundary line at or near Sumas, Wash., to points in King and Pierce Counties, Wash. Also lumber, from points in Clallam and Jefferson Counties, Wash., to the ports of entry on the United States-Canada Boundary line located at or near Blaine and Lyndon, Wash. And lumber from points in Grays Harbor County, Wash., to those ports of entry on the United States-Canada Boundary line near Blaine and Lynden, Wash. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC–FC–77101, filed April 28, 1977. Transferee: Wolff Brothers Moving Company, a corporation, 1110 Fairfield St., Scranton, Pa. 18509. Transferor: Willard Wassel, doing business as Wassell and Son Moving, 3260 Birney Ave., Scranton, Pa. 18505. Applicants' representative: Amil M. Minora, Attorney-at-Law, 444 Jefferson Ave., Scranton, Pa. 18510. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 140450, issued May 22, 1975, as follows: Household goods, as defined by the Commission, between Scranton, Pa., on the one hand, and, on the other, points in New Jersey, and points in the New York, N.Y. Commercial Zone, as defined by the Commission; and between Scranton, and Clarks Summit, Pa., on the one hand, and, on the other, points in New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77102, filed April 28, 1977. Transferee: Larry O. Christensen, doing business as Northern Courier Service, P.O. Box 23700, Minneapolis, Minn. 55423. Transferor: Loomis Courier Service, Inc., 390 Fourth St., San Francisco, Calif. 94107. Applicants' representative: Douglas L. Skor, Attorney-at-Law, 2200

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First National Bank Building, Saint Paul, Minn. 55101. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permits Nos. MC 129034 (Sub-No. 9) and MC 129034 (Sub-No. 12), issued by the Commission July 12, 1976, and October 28, 1976, respectively, as follows: Such commercial papers, documents, and written instruments (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Ironwood, Mich., on the one hand, and, on the other, points in Ashland, Bayfield, Iron, and Price Counties, Wis., limited to a transportation service to be performed under a continuing contract, or contracts with American National Bank and Trust Company; and cash letters, between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, points in Douglas, Polk, Barron, St. Croix, Dunn, Pierce, Eau Claire, Buffalo, Trempealeau, Pepin, Burnett, La Crosse, Chippewa, and Washburn Counties, Wis., limited to a transportation service to be performed under a continuing contract or contracts with banks or banking institutions. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13191 Filed 5-6-77;8:45am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1
Consumer Product Safety Commission	5, 6
Federal Elections Commission	2
Federal Home Loan Bank Board	3
Federal Power Commission	7, 10
Federal Trade Commission	8
Foreign Claims Settlement Commission	4
International Trade Commission	9

1

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m. May 10, 1977.
PLACE: 5th Floor Hearing Room, 2033 K Street, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Interpretations of Commission Regulations 155.2(a)-(h) Regarding Trading Standards for Floor Brokers; 2. Commission Consideration of Advisory Committee Exceptional Service Awards.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-351-77 Filed 5-4-77;4:47 pm]

2

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Wednesday, May 11, 1977, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. 20463.

STATUS: This Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: I. Presidential Primary Audit Recommendation No. 2; II. Compliance matters; III. Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone 202-523-4065.

[S-350-77 Filed 5-4-77;4:47 pm]

3

[No-21]

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., May 11, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Bank Membership and Insurance of Accounts Applications—Seaboard Savings and Loan Association, Virginia Beach, Virginia.
Branch Office Application—First Federal Savings and Loan Association of Boise, Boise, Idaho.
Branch Office Application—Colonial Federal Savings and Loan Association, Cape Girardeau, Missouri.
Satellite Office Application—Collective Federal Savings and Loan Association, Egg Harbor City, New Jersey.
Application for Insurance of Accounts—Cypress Savings and Loan Association, Pittsburg, Texas.
Amendment of Charter, Section 1—First Federal Savings and Loan Association of Johnson City, Johnson City, Tennessee.
Service Corporation Activity Application—Union Service Corporation, a Wholly-owned Subsidiary of Great Western Union Federal Savings and Loan Association, Seattle, Washington.
Limited Facility Application—Coast Federal Savings and Loan Association, Los Angeles, California.

Concurrent Consideration of Three Branch Office Applications

1. Fidelity Federal Savings and Loan Association of Knoxville, Knoxville, Tennessee
2. First Federal Savings and Loan Association of Oak Ridge, Oak Ridge Tennessee (East Branch)
3. First Federal Savings and Loan Association of Oak Ridge, Oak Ridge Tennessee (West Branch)

MAY 4, 1977.

Change of Office Location Application—Financial Federal Savings and Loan Association, Miami Beach, Florida.
Application for Extension of Time to Open Branch Office—Standard Federal Savings and Loan Association, Troy, Michigan.
Satellite Office Application—Coral Gables Federal Savings and Loan Association, Coral Gables, Florida.

[S-352-77 Filed 5-5-77;4:47 pm]

4

[Notice No. 7-77]

AGENCY HOLDING THE MEETING: Foreign Claims Settlement Commission.

ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date and time	*Subject matter*
Thursday, May 12, 1977, at 10:30 a.m.	Consideration of Hungarian claims.
Monday, May 16, 1977, at 10:30 a.m.	Do.
Wednesday, May 18, 1977, at 10:30 a.m. (canceled).	
Wednesday, May 25, 1977, at 10:30 a.m.	Routine business.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579. Telephone: 202/653-6156.

Dated at Washington, D.C. on April 29, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[S-353-77 Filed 5-4-77;4:47 pm]

5

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21556, April 27, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 2, 1977, 3:00 p.m.

CHANGES IN THE MEETING: The Commission added two items to the previously-announced agenda for this meeting, after determining that Agency business required discussion of the matters without seven days advance notice. As with the original item on the agenda, discussion of these two items was closed to the public: 1. *TRIS* The Office of the General Counsel briefed the Commission on the U.S. District Court decision on the Commission's April 8 ban of TRIS-treated children's apparel, and on action which the Commission needs to take on the judge's Order; 2. *Possible Violation of the Poison Prevention Packaging Act* (BCMI #770062) This case involves possible prosecution of a firm for possible violation of PPPA packaging requirements for prescription drugs.

[S-346-77 Filed 5-4-77;2:32 pm]

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6

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21556, April 27, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 3, 1977, 9:30.

CHANGES IN THE MEETING: *TRIS.* The Commission continued its consideration of action necessary following the U.S. District Court decision on CPSC's April 8 ban of TRIS-treated children's apparel. The Commission determined that Agency business required consideration of this matter without seven days advance notice. The meeting was open to the public.

[S-347-77 Filed 5-4-77;2:32 pm]

7

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: 2:00 p.m., May 11, 1977.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda) Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information Room 1000.

GAS AGENDA, 7607TH MEETING, MAY 11, 1977, REGULAR MEETING—PART I, (2 P.M.)

G-1—Docket No. RP76-15 and RP76-98, Algonquin Gas Transmission Company.

G-2—Docket No. RP77-36, City of Philadelphia, Philadelphia Gas Works.

G-3—FPC Gas Rate Schedule Nos. 554, 555, 556, 557, 559 and 560, Phillips Petroleum Company. FPC Gas Rate Schedule Nos. 537, 538, 539, 561, 562, 567, 569, 572, 576 and 577, Sun Oil Company.

G-4—Docket No. CI76-743, Ladd Petroleum Corporation.

G-5—Docket No. CS71-631, Eason Oil Company. Docket No. CS76-842, Devon Corporation.

G-6—Docket Nos. CP75-131 and CP76-129, Mountain Fuel Supply Company. Docket No. CP76-94, Phillips Petroleum Company.

G-7—Docket No. CP69-199, Transcontinental Gas Pipe Line Corporation. Docket No. CP77-107, Gas Gathering Corporation.

G-8—Docket No. CP77-183, Columbia Gas Transmission Corporation.

G-9—Docket No. CP76-248, Sea Robin Pipeline Company.

G-10—Docket No. CP77-291, Sea Robin Pipeline Company, Transcontinental Gas Pipe Line Corporation, Florida Gas Transmission Company, Southern Natural Gas Company, United Gas Pipeline Company.

MISCELLANEOUS AGENDA

M-1—Docket No. RM76-24, Petition of certain utilities and others for amendment of 18 CFR § 1.4(d) to facilitate settlement or disposition of particular issues in proceedings before the Commission.

PART II.—GAS AGENDA

CG-1—Docket No. RP74-100 (PGA Nos. 77-5 and 77-5A), National Fuel Gas Supply Corporation.

CG-2—Docket Nos. RP77-7 and RP72-157 (PGA No. 77-6), Consolidated Gas Supply Corporation.

CG-3—Docket No. RP72-134 (PGA No. 77-6), Eastern Shore Natural Gas Company.

CG-4—Docket Nos. RP69-19 and RP72-157, Consolidated Gas Supply Corporation.

CG-5—Docket Nos. AR61-2, AR69-1 and RP74-41, Texas Eastern Transmission Corporation.

CG-6—FPC Gas Rate Schedule No. 74, Kerr-McGee Corporation.

CG-7—Docket No. CI76-268, Phillips Petroleum Company. Docket No. CI77-157, Amoco Production Company. Docket No. CI77-262, Union Oil Company of California.

CG-8—Docket No. CI60-466, et al., Cabot Corporation, et al.

CG-9—Docket No. G-7241, et al., Aztec Oil and Gas Company, et al.

CG-10—Docket No. CP77-184, Columbia Gas Transmission Corporation.

CG-11—Docket No. CP77-334, Trunkline Gas Company.

CG-12—Docket No. CP77-135, Natural Gas Pipeline Company of America. Docket No. CP77-260, Texas Eastern Transmission Corporation.

CG-13—Docket No. CP76-396, Consolidated Gas Supply Corporation.

CG-14—Docket No. CP77-84, Northern Natural Gas Company, operating as Peoples Natural Gas Division. Docket No. CP77-169, Panhandle Eastern Pipe Line Company.

CG-15—Docket No. CP77-99, Northern Natural Gas Company.

CG-16—Docket Nos. CI76-173, CI77-131, CI77-149, CI77-199, CI77-255 and CI77-266, Gulf Oil Corporation.

MISCELLANEOUS AGENDA

CM-1—Sabine Pipe Line Company.

[S-348-77 Filed 5-4-77;2:32 pm]

8

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2 p.m., Wednesday, May 11, 1977.

PLACE: Room 532 (open meeting) and Room 540 (closed meeting), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to public:

2:00 p.m., Open Meeting:

(1) Oral Argument in Boise Cascade Corporation, et al., Docket No. 8958

Closed Meeting:

(1) Consideration of disposition of Respondent's appeal in Boise Cascade Corporation, et al., Docket No. 8958

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-355-77 Filed 5-5-77;9:03 am]

9

[USITC SE-77-31A]

AGENCY HOLDING THE MEETING: United States International Trade Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 20882.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., May 6, 1977

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

8. Response to Senate Appropriations Committee questions. The Chairman has indicated that it is his intention to take this item up at the beginning of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202-523-0161).

[S-359-77 Filed 5-5-77;3:40 pm]

10

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: (Sent to FEDERAL REGISTER on May 3, and 4, 1977).

PREVIOUSLY ANNOUNCED TIMES AND DATES OF MEETINGS: 2 p.m., May 10, 1977 and 2 p.m., May 11, 1977.

CHANGE IN THE MEETINGS: The above meetings have been cancelled upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman, and Watt.

KENNETH F. PLUMB,
Secretary.

[S-360-77 Filed 5-5-77;4:47 pm]

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MONDAY, MAY 9, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

Eligible Family

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Title 24—Housing and Urban Development

CHAPTER VIII—LOW-INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-428]

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule broadens the classes of persons eligible to occupy low-rent and Section 8 housing under the amended United States Housing Act of 1937. It gives effect to the 1976 Amendments and is intended to increase the scope and the effectiveness of the low-rent housing program. Additionally, this rule establishes a uniform definition of family and other related terms for all housing assisted under the United States Housing Act of 1937.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Priscilla Banks, Housing Programs Specialist, or Edward Whipple, Chief; Rental and Occupancy Branch, 202-755-6596, U.S. Department of Housing and Urban Development, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This rule implements the amendments to the United States Housing Act of 1937 in the Housing Authorization Act of 1976 which expand eligibility for public housing and Section 8 to include, under certain circumstances, presently ineligible single persons. As required by the Act, the rule provides that not more than 10 percent of the units within the jurisdiction of any public housing agency may be occupied by singles made eligible by this provision and that, in determining priority for admission, preference must be given to those single persons who are elderly, handicapped or displaced before admitting those single persons made eligible by this provision, except in those cases where the Field Office Director has determined that a project or a portion of a project is not suitable for occupancy by elderly, handicapped or disabled persons. In addition, this rule defines family and other related terms for all housing assisted under the United States Housing Act of 1937.

The Department gave notice on December 16, 1976, at 41 FR 55080 and 55081 that it was proposing to amend Title 24 of the Code of Federal Regulations by adding to Chapter VIII a new Part 812, Definition of Family and Other Related Terms and Occupancy by Single Persons. The comment period closed January 19, 1977. The Department is now publishing Part 812 as a final rule. Since this rule affects the status of many otherwise eligible Single Persons living in projects being converted to assisted housing, the Department has determined that it is in the public interest to make this rule effective upon the date of publication.

The Department received more than 45 comments in response to the proposed regulations. All comments were carefully considered, and changes have been made to the proposed regulations, as described below, based on these comments. A discussion of the principal changes and of the more recurrent and significant comments follows:

1. In response to several comments, § 812.1, Purpose and Scope, has been revised to include a reference to the statutory 10 percent limitation pursuant to section 3(2)(D) of the Act as implemented in § 812.3(f) of these regulations.

2. Several comments suggested that the phrase "stable family relationship" in § 812.2(d) be defined. The Department has determined not to change this provision. Each PHA and owner responsible for selecting Families will determine whether persons not otherwise qualifying as a "Family" have demonstrated a "stable family relationship" sufficient to establish their eligibility.

3. It was suggested that the definition of "handicapped" in § 812.2(e) be revised so that it "conveys a need for suitable housing for the handicapped but does not stress dependence." This suggestion has not been accepted because the regulation as proposed uses the definition in section 3 of the U.S. Housing Act of 1937. A similar comment concerning the disabled has not been accepted for the same reason.

4. Comments suggested that the definition of "Single Person," as published for comment requiring that the applicant be "a person living alone," be amended to permit persons to be eligible even if they were living with others at the time of their application for assistance. Accordingly, the definition of Single Person has been clarified to define a Single Person as "a person living alone or intending to live alone * * *." (See § 812.2(f).)

5. While many comments were in favor of making Single Persons eligible, several comments expressed the opinion that there should be a minimum age requirement or that eligibility should not be extended to Single Persons at all. The Department has determined that implementation of this amendment to the Act is not discretionary and that there is no authority to make it applicable only to single persons who have attained a certain minimum age.

6. Numerous comments objected to the restrictions set forth in Section 812.3 concerning the types of projects eligible for authorization by HUD to permit Single Persons to occupy housing assisted under the Act. The Department has carefully reconsidered the expressions of Congressional intent set forth in the Conference Report (H.R. Rep. No. 94-1304, 94th Cong., 2d Sess. 1976). With respect to this subject, the report states on page 20:

The Senate bill contained a provision, not in the House amendment, which makes single non-elderly persons eligible for occupancy of public housing and section 8 units in up to 10 percent of a public housing agency's units, provided that single persons who are elderly, handicapped or displaced get preference for admission. The conference report contains the Senate provisions. The conferees expect the Secretary of HUD to limit the applicability of this provision to situations involving the rehabilitation of an existing structure, the conversion of an existing project to a public housing or section 8 project, the filling of vacant efficiencies which are not appropriate for occupancy by elderly or handicapped, and any other similar situation where it would be appropriate for single persons to receive assistance.

(a) Several comments objected to the prohibition against authorizing leasing of units by Single Persons under the Section 8 Existing Housing Program, Part 882. In drafting the proposed regulations, the Department determined that Single Persons should not be eligible for the Section 8 Existing Housing Program because we interpreted the direction of the conference report to Limit Single Person eligibility to situations of conversions to housing assisted under the Act and to cases of vacancies of units not suitable for the elderly or handicapped. Under the Existing Housing Program, there are no physical projects to be converted or to have vacancies, and units are not considered part of the project until a participant selects a unit and executes a lease.

In reconsidering the conference report, however, the Department has determined that where there is "rehabilitation of an existing structure" (which is not converted to a public housing or section 8 project) and where, because of the higher rents, an otherwise eligible Single Person would have to either pay more than 25 percent of income towards rent or move out, such a Single Person may qualify to receive a Certificate of Family Participation from a PHA and could either remain in the dwelling or seek another suitable dwelling on the private market. No prior approval from the Department is required; however, the PHA is subject to the 10 percent limitation. (See § 812.3(b)(2).)

The Department has determined that, given the limitations stated in the Conference Report, it cannot make the Existing Housing Program generally available to Single Persons.

(b) Other comments suggested that permitting occupancy only after "one or more units have been vacant for a period of 60 days or more," and then only after receiving authorization from HUD, was unduly restrictive. This requirement has been retained because of the provision in the conference report giving "the filling of vacant efficiencies which are not appropriate for occupancy by elderly or handicapped" as an example of the types of situations to which this amendment should be limited. Requiring a 60-day vacancy period before authorizing Single Persons to move into units will help assure compliance with the priority required for the elderly and the displaced.

(c) While the preamble to the proposed regulations stated that the "proposed part extends eligibility for occupancy to Single Persons if they are residing in a project at the time of its conversion to a low-income or lower-income project," the proposed regulation did not include this specific limitation. It has been suggested that Single Persons be permitted to qualify for occupancy in projects which are converted prior to initial occupancy rather than to require a 60-day vacancy period to elapse. The Department has determined to accept this suggestion to permit field offices to authorize eligibility of Single Persons in such projects if it determines all or a portion of the units are not suitable for the elderly and handicapped because of design or location. (See § 812.3(b)(1)(i).)

(d) One comment suggested a wide variety of additional justifications upon which the field office could rely in authorizing Single Person eligibility, including achieving a wider economic mix in the project, a racially mixed project, and revitalization of an older, declining neighborhood. The Department has determined that it is constrained by the limitation in the Conference Report from broadening the situations where Single Persons may be eligible as suggested in this comment.

7. Several comments suggested that requiring the Field Office Director to approve an application requesting authorization for a PHA or private owner to permit Single Persons to occupy a project is too restrictive and administratively complex. (See § 812.3(c).) The Department has determined that the alternative, a 10 percent limitation for each project, would be unnecessarily restrictive. If the 10 percent limitation were applied on a project by project basis, there would be no flexibility to authorize more than 10 percent of the units in a single project to qualify for occupancy by Single Persons. Such approval, however, is not required by PHAs administering an Existing Housing Program to issue Certificates of Family Participation to Single Persons eligible under the new § 812.3(b)(2).

8. Several comments reflected misunderstanding about the effect of the preference required to be given to Elderly Families and Displaced Persons over Single Persons in § 812.3(e). These comments interpreted this Section to exclude disabled and handicapped persons from the preference. However, the definition of Elderly Families includes disabled and handicapped persons. In response to these comments, this section has been clarified to require that the preference be extended to "Elderly Families (including Disabled Persons and Handicapped Persons)."

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C.

Accordingly, a new Part 812 is added to Title 24 of the CFR, as follows:

Sec.
812.1 Purpose and scope.
812.2 Definitions.
812.3 Authorization to admit single persons.
812.4 Effect of authorization on contract provisions.

AUTHORITY: Sec. 2(f) of Housing Authorization Act of 1976 (42 U.S.C. 1437a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 812.1 Purpose and scope.

The purpose of this part is to establish a definition of the term Family and other related terms applicable to all housing assisted under the United States Housing Act of 1937 (the Act). In addition, this part prescribes criteria and procedures for occupancy in low-income and lower-income housing projects assisted under the Act by Single Persons who are not otherwise eligible by reason of qualification as an Elderly Family or as a Displaced Person or as the remaining member of a tenant family. This part also incorporates the statutory 10 percent limitation. (See § 812.3(f).) This part is applicable to all housing assisted under the Act.

§ 812.2 Definitions.

The following definitions shall be applicable to all housing assisted under the Act:

(a) *Disabled person.* "Disabled Person" means a person who is under a disability as defined in section 223 of the Social Security Act (42 U.S.C. 423) or in section 102(b)(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (42 U.S.C. 6001(7)).

(b) *Displaced person.* "Displaced Person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(c) *Elderly family.* "Elderly Family" means a family whose head or spouse or whose sole member is at least sixty-two years of age, or a Disabled Person as defined in this section or a Handicapped Person as defined in this section, and may include two or more elderly, Disabled or Handicapped Persons living together, or one or more such persons living with another person who is determined to be essential to his or her care and well being.

(d) *Family.* "Family" means (1) two or more persons sharing residency whose income and resources are available to meet the family's needs and who are either related by blood, marriage, or operation of law, or have evidenced a stable family relationship, (2) an Elderly Family or Single Person as defined in this part, (3) the remaining member of a tenant family, and (4) a Displaced Person.

(e) *Handicapped person.* "Handicapped Person" means a person having a physical or mental impairment which (1) is expected to be of long-continued and indefinite duration, (2) substantially impedes his or her ability to live independently, and (3) is of such a nature that such ability could be improved by more suitable housing conditions.

(f) *Single person.* "Single Person" means a person living alone or intending to live alone and who does not qualify as an Elderly Family or a Displaced Person as defined in this Part, or as the remaining member of a tenant family.

§ 812.3 Authorization to admit single persons.

(a) *Requirement for HUD authorization.* No PHA or private owner shall admit Single Persons to any housing assisted under the Act except pursuant to an authorization issued by the HUD Field Office Director in accordance with this section, except as provided in paragraph (b)(2) of this section.

(b) *Types of projects eligible for authorization.* (1) The HUD Field Office Director may authorize any PHA or private owner to permit Single Persons to occupy any project for which the PHA or private owner has the authority to select tenants or intends to acquire that authority if (i) the project is one which has been or is intended to be converted to a low-income or lower-income project assisted under the Act, and (A) Single Persons are residing in the project at the time of conversion, or (B) the Director determines that the project is not suitable for occupancy by the elderly, disabled, or handicapped because of design or location; or (ii) the project is a low-income or lower-income project receiving assistance under the Act and is experiencing sustained vacancies as evidenced by one or more units having been vacant for a period of sixty days or more and no eligible applicants other than Single Persons are available. (2) A PHA administering a Section 8 Existing Housing Program pursuant to Part 882 of this chapter is authorized to issue a Certificate of Family Participation to a Single Person who otherwise qualifies without specific authorization from the Field Office Director provided that (i) no more than 10 percent of the units in the PHA's Existing Housing Program for which Leases are approved by the PHA are leased by Single Persons, and (ii) the PHA determines that issuance of a Certificate to a Single Person is appropriate because rehabilitation of an existing structure (not assisted pursuant to the Act), resulting in increased rents, would require the Single Person to either pay more than 25 percent of income towards rent or move out.

(c) *Authorization for occupancy by single persons.* The Field Office Director may request the PHA or private owner to submit an application for authorization to permit Single Persons to occupy a project meeting criteria of § 812.3(b)(1). In addition, any PHA or private owner may initiate an application for such authorization. The application shall be submitted to the appropriate HUD

V 42 89 MAY 9 77 UMI

Field Office in the form of a letter which shall include the following:

(1) Identification of the project or projects involved and the maximum number of units for which the authorization is requested.

(2) A copy of the tenant selection policy which shall govern occupancy by Single Persons or, in the case of a project receiving assistance under Parts 880, 881, 883, or 886 of this chapter, a statement that the selection criteria set forth in the Management Plan applicable to the project will be adhered to in the selection of Single Persons.

(3) A narrative justification for the request including, in cases where the request is based on vacancies in a project already receiving assistance, a description of the PHA's or private owner's efforts to attract eligible applicants other than Single Persons to the project or projects involved.

(d) *Approval.* The HUD Field Office shall notify the PHA or private owner in writing of the action taken with respect to the application which may be one of the following:

(1) Approval as requested.

(2) Approval for a lesser number of units or projects than requested and any other conditions or modifications.

(3) Disapproval, with a statement of the reasons. In the event of approval, the letter of approval shall constitute the authorization to the PHA or private owner to permit Single Persons to occupy the specified number of units under the specified conditions.

(e) *Priority to elderly and displaced persons.* Notwithstanding any authorization to permit occupancy by Single Persons, a PHA or private owner shall extend preference to Elderly Families (including Disabled Persons and Handicapped Persons) and Displaced Persons over Single Persons unless the Field Office Director has determined pursuant to paragraph (b)(1)(i) of this section that the project or portion of such project is not suitable for occupancy by the elderly, disabled, or handicapped.

(f) *Statutory 10 percent limitation pursuant to section 3(2)(D) of the act.* The number of units authorized by the HUD Field Office to be made available to Single Persons within the area under the jurisdiction of a PHA shall not exceed 10 percent of the number of units within the jurisdiction assisted under the Act at the time of the authorization minus the number of units under the Existing Housing Program within the jurisdiction.

§ 812.4 Effect of authorization on contract provisions.

Notwithstanding the provisions of any contract or agreement pursuant to the Act, defining terms otherwise than as defined in § 812.2, PHAs or private owners are authorized to house Single Persons in accordance with an authorization by HUD pursuant to this part.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Issued at Washington, D.C., May 2, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-13229 Filed 5-6-77;8:45 am]

[Docket No. R-77-345]

PART 860—INCOME LIMITS WITH RESPECT TO, ADMISSION TO, AND OCCUPANCY OF, LOW-INCOME HOUSING OWNED BY PUBLIC HOUSING AGENCIES OR LEASED BY PUBLIC HOUSING AGENCIES FROM PRIVATE OWNERS

Subpart D—Minimum and Maximum Rent-Income Ratios, and Minimum Rent Requirements

AGENCY: Office of Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to delete the definitions of (1) disabled person, (2) displaced family, (3) elderly family, (4) family, and (5) handicapped person from the existing rules. These definitions are no longer required since they have been superseded. The effect will be to produce a single uniform definition of family for the program.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Priscilla Banks, Housing Program Specialist, or Edward Whipple, Chief, Rental and Occupancy Branch (202-755-6596), U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: The Department has determined that it is unnecessary to publish this amendment for comment since it merely deletes those definitions superseded by the definitions in 24 CFR Part 812. Public comment was solicited and considered in the development of that rule.

The Department has determined that it would be in the public interest to make this rule effective as of the effective date of Part 812.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C.

Accordingly, § 860.403 is hereby amended to read as follows:

§ 860.403 Definitions.

The definition of family and other related terms contained in Part 812 of this chapter shall be applicable to this subpart. For the purpose of this subpart the following terms shall have the following meaning.

(a) • • •

(b)-(e) [Reserved]

• • • • • •

(j) [Reserved]

• • • • • •

(Sec. 2(f) of Housing Authorization Act of 1976 (42 U.S.C. 1537a); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Issued at Washington, D.C., May 2, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-13231 Filed 5-6-77;8:45 am]

[Docket Nos. R-77-380; R-77-367; R-77-381; R-77-309; R-77-378]

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

Eligible Family

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the definition of "Eligible Family" in Parts 880, 881, 882, 883, and 886 of this chapter to incorporate by reference the definitions in Part 812 of this chapter, "Definition of Family and Other Related Terms and Occupancy by Single Persons." Part 812 establishes a uniform definition of family and other related terms applicable to all housing assisted under the United States Housing Act of 1937, as amended (the Act) and establishes procedures and criteria for occupancy of housing by single, non-elderly persons who are not displaced or the remaining member of a tenant family.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Priscilla Banks, Housing Programs Specialist, or Edward Whipple, Chief; Rental and Occupancy Branch, 202-755-6596, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 with respect to the applicability of Part 812 to Parts 880, 881, 882, and 883. James J. Tahash, Director; Insured Project Mortgage Division, 202-755-6830, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 with respect to the applicability of Part 812 to Part 886.

SUPPLEMENTARY INFORMATION: The Department has determined that it is unnecessary to publish this amendment for comment since it merely incorporates by reference the provisions of Part 812 and public comment was solicited and considered in the development of that rule.

The Department has determined that it would be in the public interest to make this rule effective as of the effective date of Part 812.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C.

Accordingly, 24 CFR is amended by revising Part 880—Section 8 Housing Assistance Payments Program-New Construction: Part 881—Section 8 Housing Assistance Payments Program-Substantial Rehabilitation; Part 882—Section 8 Housing Assistance Payments Program-Existing Housing: Part 883—Section 8 Housing Assistance Payments Program-Housing Finance and Development Agencies and New Construction Set-Aside for Section 515 Rural Rental Housing Projects; Part 886—Section 8 Housing Assistance Payment Program-Special Allocations by deleting the definition of Eligible-family in each part and incorporating the revised definition as follows:

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION

§ 880.102 Definitions.

• • • • • •

Eligible Family ("Family"). A Family as defined in Part 812 of this Chapter which qualifies as a Lower-Income Family and meets the other requirements of the Act and this part. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of elegibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in Income or other relevant circumstances during the term of the Contract.

• • • • • •

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

§ 881.102 Definitions.

• • • • • •

Eligible Family ("Family"). A Family as defined in Part 812 of this Chapter which qualifies as a Lower-Income Family and meets the requirements of the Act and this part. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in Income or other relevant circumstances during the term of the Contract.

• • • • • •

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

§ 882.102 Definitions.

• • • • • •

Eligible Family ("Family"). A Family as defined in Part 812 of this Chapter which qualifies as a Lower-Income Family and meets the other requirements of the Act and this part.

• • • • • •

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING FINANCE AND DEVELOPMENT AGENCIES AND NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

§ 883.202 Definitions.

• • • • • •

Eligible Family ("Family"). A Family as defined in Part 812 of this chapter which qualifies as a Lower-Income Family and meets the other requirements of the Act and this part. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in Income or other relevant circumstances during the term of the Contract.

• • • • • •

§ 883.702 Definitions.

• • • • • •

Eligible Family ("Family"). A family as defined in Part 812 of this chapter which qualifies as a Lower-Income Family and meets the other requirements of the Act and this part. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in Income or other relevant circumstances during the term of the Contract.

• • • • • •

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

§ 886.102 Definitions.

• • • • • •

Eligible Family ("Family"). A Family as defined in Part 812 of this Chapter which qualifies as a Lower-Income Family and meets the other requirements of the Act and this part. A Family's eligibility for housing assistance payments continues until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of eligibility at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in Income or other relevant circumstances during the term of the Contract.

• • • • • •

(Sec. 2(f), Housing Authorization Act of 1976 (42 U.S.C. 1437a); sec. 7(d) Dept. of HUD Act (42 U.S.C. 3535(d)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Issued at Washington, D.C., May 2, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-13230 Filed 5-6-77;8:45 am]

V 42 89 MAY 9 77 UMI

federal register

MONDAY, MAY 9, 1977
PART III

INTERSTATE COMMERCE COMMISSION

■

VARIOUS RAILROADS

System Diagram Maps

V42 89 MAY 9 77 UMI

INTERSTATE COMMERCE COMMISSION

[AB 160 (SDM)]

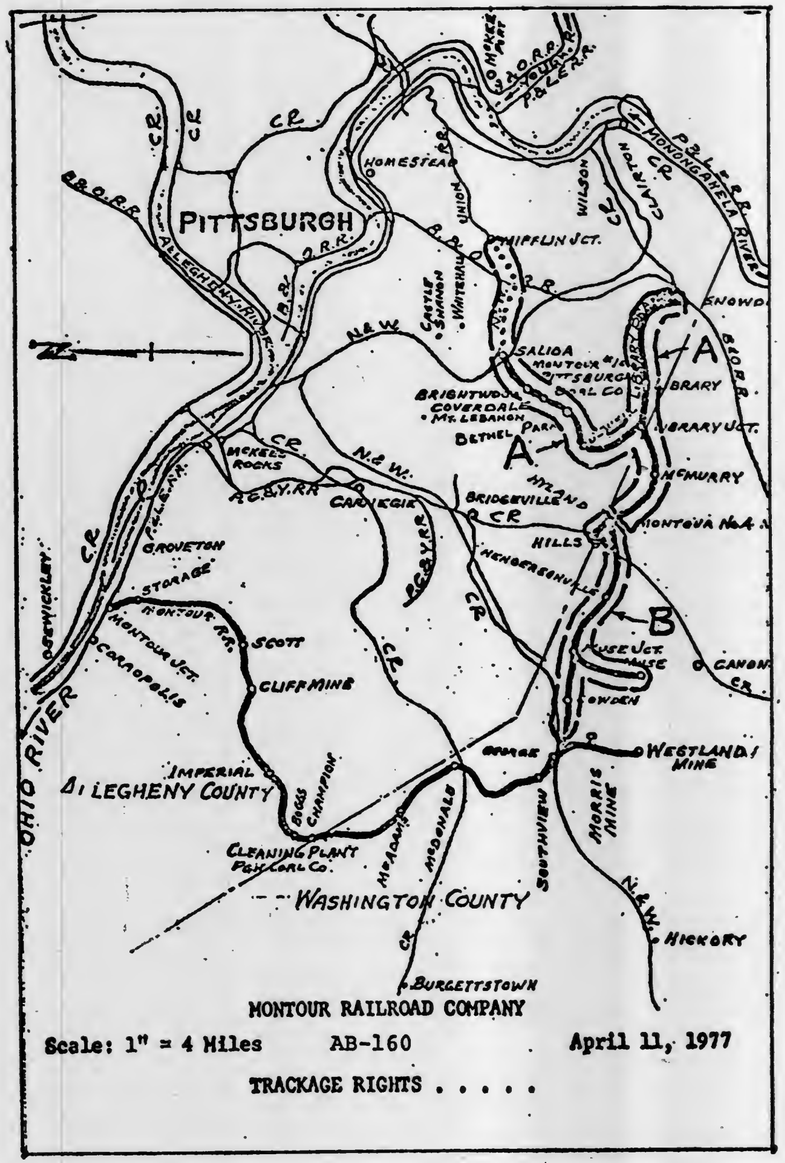
MONTOUR RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Montour Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB–160 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 2, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–160 (SDM).

ROBERT L. OSWALD,
Secretary.



MONTOUR RAILROAD COMPANY

Scale: 1" = 4 Miles AB-160 April 11, 1977

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V 42 89 MAY 9 77 UMI

A—All lines or portions of lines which are anticipated to be the subject of an abandonment or discontinuance application to be filed within three years following April 30, 1977.

B—All lines or portions of lines potentially subject to abandonment which are under study and believed to be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs as compared to potential revenues.

C—All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission as of April 30, 1977.

D—All lines or portions of lines which are being operated under the Rail Services Continuation provisions of the Interstate Commerce Act or the Regional Rail Reorganization Act of 1973 as of April 30, 1977.

The lines of the Montour Railroad Company designated in Categories A, B, and C are described as follows:

A—*Pennsylvania:*

(a) Main Line and Library Secondary Track; (b) State of Pennsylvania; (c) Allegheny and Washington Counties; (d) Main Line Mile Post 31.5 to Mile Post 41.3; Trackage Rights Mile Post 41.3 to Mile Post 44.2; Library Branch Mile Post 0 to Mile Post 5.7 (End), and Mile Post 35.08 to Mile Post 44.77 (End); (e) No agency stations.

B—*Pennsylvania:*

(a) Main Line and Muse Secondary Track; (b) State of Pennsylvania; (c) Washington County; (d) Main Line Mile Post 22.5 to Mile Post 31.5, Muse Spur Mile Post 0 to Mile Post 0.9; (e) No agency stations.

[FR Doc.77-13186 Filed 5-6-77;8:45 am]

[AB 165 (SDM)]

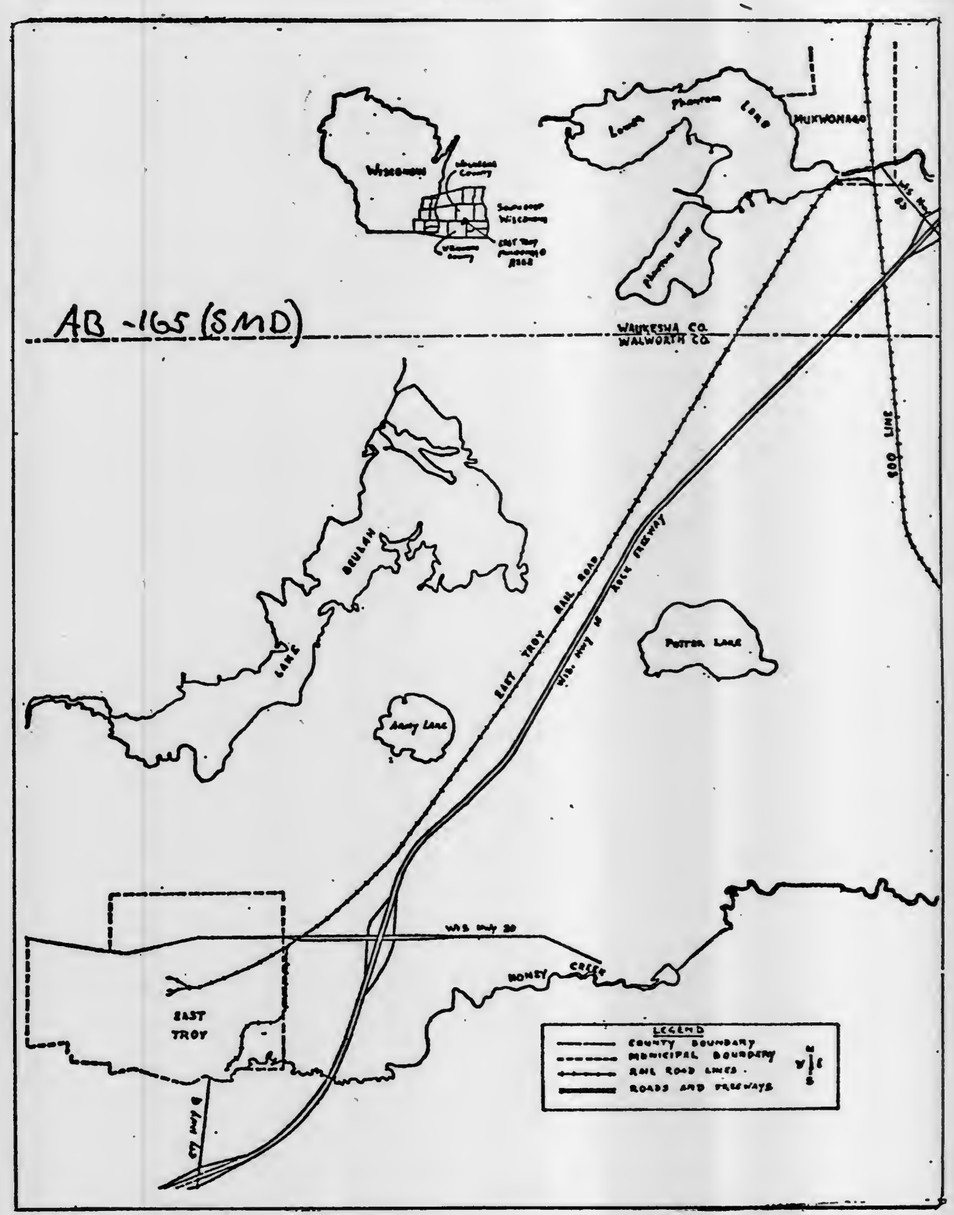
MUNICIPALITY OF EAST TROY RAILROAD

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Municipality of East Troy Railroad, has filed with the Commission its color-coded system diagram map in docket No. AB 165 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 27, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 165 (SDM).

ROBERT L. OSWALD,
Secretary.



V 42 89 MAY 9 77 UMI

SECTION 1121.21—DESCRIPTION OF LINE

(a) Designation: Entire seven miles of track of the Municipality of East Troy Railroad is anticipated to be the subject of an abandonment or discontinuance application to be filed within the three-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.
(b) State line is located: Wisconsin.
(c) Counties: Walworth, Waukesha.
(d) Mileposts: 0–7.

[FR Doc.77-13189 Filed 5-6-77;8:45 am]

[AB 158 (SDM)]

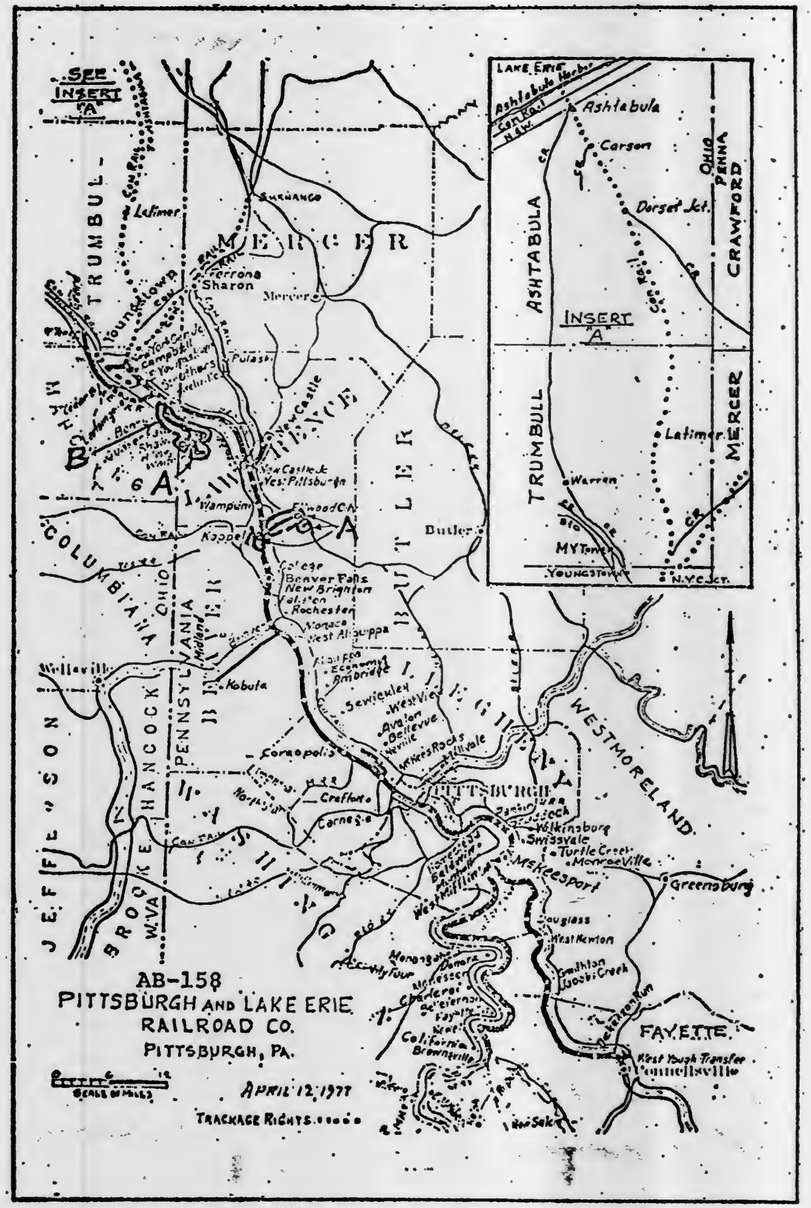
THE PITTSBURGH & LAKE ERIE RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Pittsburgh & Lake Erie Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 158 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the Office of the Commission, Section of Dockets, by requesting docket No. AB 158 (SDM).

ROBERT L. OSWALD,
Secretary.



V 42 89 MAY 9 77 UMI

A—All lines or portions of lines which are anticipated to be the subject of an abandonment or discontinuance application to be filed within three years following April 30, 1977.

B—All lines or portions of lines potentially subject to abandonment which are under study and believed to be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs as compared to potential revenues.

C—All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission as of April 30, 1977.

D—All lines or portions of lines which are being operated under the Rail Services Continuation provisions of the Interstate Commerce Act or the Regional Rail Reorganization Act of 1973 as of April 30, 1977.

The lines of The Pittsburgh and Lake Erie Railroad Company designated in Categories A, B, and C are described as follows:

A—*Pennsylvania*:

1. (a) Ellwood City Track (Ellwood City Branch); (b) State of Pennsylvania; (c) Beaver and Lawrence Counties; (d) Mile Post 1 to Mile Post 3.7 (End); (e) No agency stations.

2. (a) Mahoning State Line Track (Old Walford Branch); (b) State of Pennsylvania; (c) Lawrence County; (d) Mile Post 3.6 to Mile Post 7.8; (e) No agency stations.

B—*Pennsylvania*:

(a) Mahoning State Line Track (Old MSL RR); (b) States of Pennsylvania and Ohio; (c) Lawrence County, PA, and Mahoning County, OH; (d) Mile Post 0 to Mile Post 3.6; (e) No agency stations.

Ohio:

(a) Mahoning State Line Track (Old MSL RR); (b) States of Pennsylvania and Ohio; (c) Lawrence County, PA, and Mahoning County, OH; (d) Mile Post 0 to Mile Post 3.6; (e) No agency stations.

[FR Doc.77-13186 Filed 5-6-77;8:45 am]

[AB 162 (SDM)]

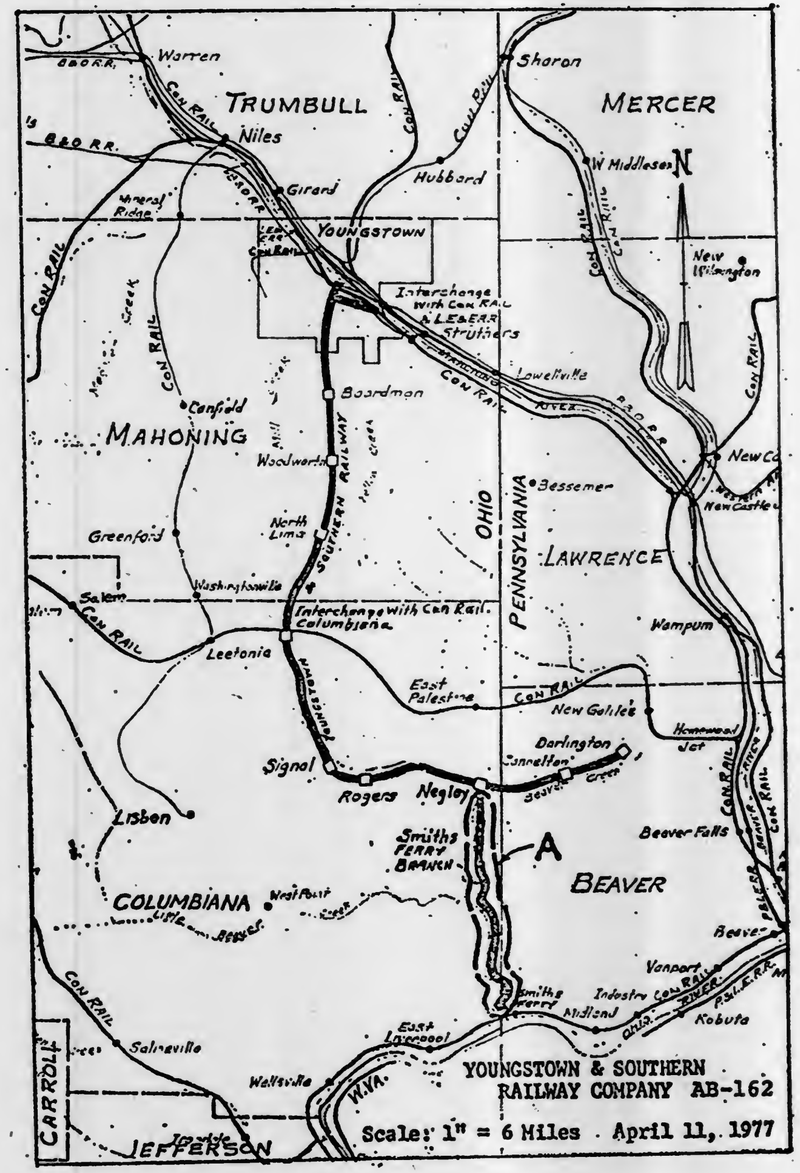
YOUNGSTOWN & SOUTHERN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Youngstown & Southern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 162 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 2, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 162 (SDM).

ROBERT L. OSWALD,
Secretary.



V 42 89 MAY 9 77 UMI

A—All lines or portions of lines which are anticipated to be the subject of an abandonment or discontinuance application to be filed within three years following April 30, 1977.

B—All lines or portions of lines potentially subject to abandonment which are under study and believed to be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs as compared to potential revenues.

C—All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission as of April 30, 1977.

D—All lines or portions of lines which are being operated under the Rail Services Continuation provisions of the Interstate Commerce Act or the Regional Rail Reorganization Act of 1973 as of April 30, 1977.

The lines of the Youngstown & Southern Railway Company designated in Categories A, B and C are as follows:

A—*Pennsylvania:*

(a) Smiths Ferry Spur (Smiths Ferry Branch); (b) States of Pennsylvania and Ohio; (c) Beaver County, PA, and Columbiana County, OH; (d) Mile Post 0 to Mile Post 13 (End); (e) No agency stations.

Ohio:

(a) Smiths Ferry Spur (Smiths Ferry Branch); (b) States of Pennsylvania and Ohio; (c) Beaver County, PA, and Columbiana County, OH; (d) Mile Post 0 to Mile Post 13 (End); (e) No agency stations.

[FR Doc.77-13187 Filed 5-6-77;8:45 am]

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(Revised as of January 1, 1977)

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V42 89 MAY 77 UMI

Vol.42—No.90
5–10–77
PAGES
23597–23794

federal register

TUESDAY, MAY 10, 1977

highlights

SUNSHINE ACT MEETINGS..... 23690

INTRAUTERINE CONTRACEPTIVE DEVICES
HEW/FDA establishes uniform professional and patient labeling for IUDs; effective 11–7–77 (Part III of this issue) 23771

FORMULATED FORTIFIED MILK-BASED PRODUCTS
USDA/FNS removes certain products for use in the Summer Food Service Program for Children..... 23606

FOCUS REPORTING SYSTEM
SEC clarifies and updates regulations (2 documents); effective 6–30–77; comments by 5–30–77 (Part IV of this issue)..... 23785

NEW ANIMAL DRUGS
HEW/FDA approves safe use of diethylcarbamazine citrate chewable tablets for treating certain infections in dogs; effective 5–10–77..... 23600

FARM COOPERATIVES
SBA proposes to establish eligibility requirements for financial assistance; comments by 6–9–77..... 23614

NATIONAL REGISTER OF HISTORIC PLACES
Interior/NPS publishes list of pending nominations..... 23643

DISCHARGE REVIEW BOARD
DOD/AF clarifies jurisdiction, authority and actions of review process; effective 4–1–77..... 23601

FREEDOM OF INFORMATION
USDA amends fee schedule; effective 5–10–77..... 23597

FOOD STAMP PROGRAM
USDA/FNS modifies authorization procedure; effective 5–10–77 23599

INTERPRETATIONS
FEA publishes interpretations issued during 1975 calendar year (Part II of this issue)..... 23721

AVOCADOS
USDA/AMS establishes minimum quality and maturity requirements; comments by 5–20–77..... 23607

CONTINUED INSIDE

V 42 90 MAY 10 77
UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FDIC—Bank clearing agencies; procedures for insured non-member State banks appealing adverse action.. 19325; 4–13–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

MEETINGS—

USDA: National Forest Management Act Committee of Scientists, 5–26–77 ... 23618
Commerce/NBS: Visiting Committee, 6–27–77 ... 23673
Interior/NPS: Appalachian National Scenic Trail Advisory Council, 5–27–77 ... 23643
Justice: United States Circuit Judge Nominating Commission, Eastern Fifth Circuit Panel, 5–24, 6–14, and 6–27–77 ... 23644
Sixth Circuit Panel, 5–23, 6–6 and 6–20–77 ... 23644
NSF: Advisory Panel for Neurobiology, 6–1 thru 6–3–77 ... 23670
Advisory Panel for Sensory Physiology and Perception, 6–1 thru 6–3–77 ... 23671
Science Applications Task Force, 5–23 and 5–24–77 ... 23671
Office of the Special Representative for Trade Negotiations: Advisory Committee for Trade Negotiations, 6–8–77 ... 23671

SEPARATE PARTS OF THIS ISSUE

Part II, FEA ... 23721
Part III, HEW/FDA ... 23771
Part IV, SEC ... 23785

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Authority delegations:
Honduras, Director; farm loans ... 23671
Turkey, Ambassador; personal foreign excess property ... 23672

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Avocados grown in So. Fla ... 23607

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Commodity Credit Corporation; Federal Grain Inspection Service; Food and Nutrition Service; Rural Electrification Administration.
Rules
Operations Office; fee schedule ... 23597
Notices
Meetings:
National Forest Management Act Committee of Scientists ... 23618

AIR FORCE DEPARTMENT
Rules
Discharge Review Board ... 23601

CIVIL AERONAUTICS BOARD
Rules
Organization and functions:
Government Rates Division Chief ... 23600
Notices
Charters:
Cargo transfer rate investigation; prehearing conference ... 23619
Organization and functions:
Chairman, Acting; designation ... 23621
Hearings, etc.:
International Air Service Co ... 23620
International Air Transport Association ... 23619

CIVIL SERVICE COMMISSION
Notices
Noncareer executive assignments:
Agriculture Department ... 23621

COMMERCE DEPARTMENT
See also Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
Notices
Organization and functions:
Economic Analysis Bureau ... 23676

V 42 90 MAY 10 77 UMI

COMMODITY CREDIT CORPORATION

Proposed Rules

Cooperative marketing associations; eligibility requirements for price support; extension of time ---- 23614

Loan and purchase programs:
- Grain and similarly handled commodities; 1976 and subsequent crops price support, extension of time ---- 23613

COMMODITY FUTURES TRADING COMMISSION

Proposed Rules

Commodity option transactions; hearing ---- 23614

DEFENSE DEPARTMENT

See Air Force Department.

EMERGENCY NATURAL GAS ACT OF 1977, ADMINISTRATOR

Notices

Emergency orders, etc.:
- Texas Gas Transmission Corp ---- 23618

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Telephone companies:
- Data processing services; inquiry; list of participants ---- 23615
- Tariffs, interface of International Telex Service with Domestic Telex and TWX Services; extension of time ---- 23615

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster and emergency areas:
- Alabama ---- 23641
- Arizona (2 documents) ---- 23641, 23642
- California ---- 23642
- Minnesota ---- 23642
- North Dakota ---- 23642
- Virginia ---- 23642

FEDERAL ENERGY ADMINISTRATION

Rules

Petroleum allocation and price rules:
- Interpretations; appendix ---- 23721

FEDERAL GRAIN INSPECTION SERVICE

Notices

Grain standards; inspection points:
- Louisiana ---- 23618

FEDERAL HOME LOAN BANK BOARD

Notices

Applications, etc.:
- Tri-County Savings & Loan Association, N.J ---- 23621

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING

Rules

Mortgage and loan insurance program:
- Hospitals; supplemental loan; eligibility; correction ---- 23601

FEDERAL MARITIME COMMISSION

Notices

Oil pollution; certificates of financial responsibility (2 documents) ---- 23621, 23622

Agreements filed, etc.:
- Pacific Coast-Australasian Tariff Bureau ---- 23623

FEDERAL POWER COMMISSION

Proposed Rules

Natural gas companies:
- Rate schedules and tariffs, filing; purchased gas adjustment; extension of time ---- 23615

Notices

Hearings, etc.:
- Coastal States Gas Producing Co.; extension of time ---- 23624
- Connecticut Light & Power Co ---- 23624
- Consolidated Gas Supply Corp ---- 23624
- Detroit Edison Co ---- 23624
- Devon Corp ---- 23626
- Eastern Shore Natural Gas Co. (2 documents) ---- 23626, 23627
- El Paso Natural Gas Co ---- 23627
- Gulf States Utilities Co ---- 23628
- Illinois Power Co ---- 23628
- Iowa Power & Light Co ---- 23628
- Mississippi River Transmission Corp ---- 23629
- National Fuel Gas Supply Corp ---- 23629
- Northeast Utilities Service Co ---- 23630
- North Penn Gas Co. (2 documents) ---- 23630
- Ohio Power Co ---- 23631
- Otter Tail Power Co ---- 23630
- Pearson, Lee, et al ---- 23628
- Public Utility District No. 1 of Chelan County, Wash ---- 23631
- Sea Robin Pipeline Co ---- 23631
- Tennessee Gas Pipeline Co. et al ---- 23631
- Texas Gas Transmission Corp ---- 23632
- Trunkline LNG Co. et al ---- 23633
- Union Electric Co ---- 23640
- Union Light, Heat & Power Co ---- 23640
- Upper Peninsula Generating Co ---- 23640
- Virginia Electric & Power Co. et al. (2 documents) ---- 23641

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
- Southern Bank Holding Co ---- 23641

FEDERAL TRADE COMMISSION

Notices

Consent orders:
- Frito-Lay, Inc.; correction ---- 23641

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
- Diethylcarbamazine citrate chewable tablets ---- 23600

Human drugs and medical devices:
- Intrauterine contraceptive devices; patient labeling ---- 23771

FOOD AND NUTRITION SERVICE

Rules

Food stamp program:
- Retail food stores, etc., participation; withdrawal of authorization procedures ---- 23599

Proposed Rules

Child nutrition programs:
- Summer food service program for children; milk-based products, formulated fortified; alternate food for meals; correction ---- 23606

GENERAL SERVICES ADMINISTRATION

Notices

FPMR Temporary Regulation A-11 ---- 23676

HEALTH, EDUCATION, AND WELFARE ADMINISTRATION

See Food and Drug Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration; Federal Housing Commissioner—Office of Assistant Secretary for Housing.

INTERIOR DEPARTMENT

See Land Management Bureau; National Park Service.

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments ---- 23684

Motor carriers:
- Temporary authority applications ---- 23684

JUSTICE DEPARTMENT

Notices

Meetings:
- U.S. Circuit Judge Nominating Commission, Eastern Fifth Circuit Panel ---- 23644
- U.S. Circuit Judge Nominating Commission, Sixth Circuit Panel ---- 23644

LABOR DEPARTMENT

See also Occupational Safety and Health Administration.

Notices

Industry study reports for adjustment assistance eligibility:
- Sugar ---- 23670

Adjustment assistance:
- Aetna Standard Engineering Co. et al ---- 23656
- Airco Alloys ---- 23644
- Alan Wood Steel Co ---- 23645
- Atlantic Steel Co ---- 23645
- Belle-Moc, Inc., et al ---- 23657
- Coca-Cola Co ---- 23667
- Converse Rubber Co. (3 documents) ---- 23647
- Copperweld Corp ---- 23648
- Delton Shirtmakers, Inc. (2 documents) ---- 23649
- Denison Cotton Mill Co ---- 23650
- Empire Oldsmobile ---- 23650
- Ettelson of Philadelphia, Inc. (2 documents) ---- 23651, 23667
- Ferry, E. W., Screw Products, Inc., et al ---- 23657
- General Motors Corp. et al ---- 23658
- Gilbert Shoe Co ---- 23652
- Gold Seal Garter Corp ---- 23652
- Gossard, H. W., Co ---- 23653
- Heavenly Shoe Co ---- 23654
- Homestead Industries, Inc ---- 23654
- International Shoe Co ---- 23655
- Kenosha Auto Transport Corp ---- 23658
- Macsteel Co ---- 23659
- Maria Garment Co ---- 23660
- Maxi Manufacturing Co ---- 23660
- Miss Quality Inc ---- 23661
- New Humor Co ---- 23662
- Phoenix Steel Corp. (2 documents) ---- 23662, 23663
- Raybestos Manhattan Friction Materials Co ---- 23664
- Roblin Steel Co ---- 23664
- Sebastian, Jack, Shoe, Inc ---- 23658
- Southwest Steel Rolling Mills, Inc ---- 23665
- Standee Manufacturing Corp ---- 23666
- Union Electric Steel Corp ---- 23668
- Western Leather Products Corp ---- 23665
- Westminster Corp ---- 23668
- Wheeling Machine Products Co ---- 23669

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
- Colorado ---- 23642

MARITIME ADMINISTRATION

Notices

Applications, etc.:
- American Export Lines, Inc ---- 23676

NATIONAL BUREAU OF STANDARDS

Notices

Meetings:
- Visiting Committee ---- 23673

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Endangered species permits; applications (2 documents) ---- 23675

Marine mammal permit applications, etc.:
- Aquarium of Niagara Falls, Inc ---- 23673
- Exhibits, Inc ---- 23674
- Mystic Marinelife Aquarium ---- 23674
- Northwest and Alaska Fisheries Center ---- 23675
- Tulsa Zoological Park ---- 23675
- Whittow, Dr. G. Causey ---- 23674

NATIONAL PARK SERVICE

Notices

Historic Places National Register; additions, deletions, etc ---- 23643

Meetings:
- Appalachian National Scenic Trail Advisory Council ---- 23643

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
- Neurobiology Advisory Panel ---- 23670
- Science Applications Task Force ---- 23671
- Sensory Physiology and Perception Advisory Panel ---- 23671

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

Health and safety standards:
- Benzene, exposure; emergency temporary standard and hearing; correction ---- 23601

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed:
- Copper Valley Electric Association, Inc ---- 23618

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Exchange Act:
- Financial and operational combined uniform single report ---- 23786

Proposed Rules

Securities Exchange Act:
- Financial and operational combined uniform single report ---- 23792

SMALL BUSINESS ADMINISTRATION

Proposed Rules

Business loans:
- Farm cooperatives; eligibility for financial assistance ---- 23614

STATE DEPARTMENT

See Agency for International Development.

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Meetings:
- Trade Negotiations Advisory Committee ---- 23671

TREASURY DEPARTMENT

Rules

Authorization for importation of certain ferrochromium and steel mill products ---- 23605

Notices

Antidumping:
- Railway track maintenance equipment from Austria ---- 23672

Organization and functions:
- Enforcement, Operations, and Tariff Affairs Office of Assistant Secretary; disestablishment ---- 23672
- Public Affairs Office of Assistant Secretary; establishment ---- 23672

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
- 1 ---- 23597
- 272 ---- 23599

PROPOSED RULES:
- 225 ---- 23606
- 915 ---- 23607
- 1421 ---- 23613
- 1425 ---- 23614

10 CFR
- 205 ---- 23722

13 CFR

PROPOSED RULES:
- 120 ---- 23614

14 CFR
- 385 ---- 23600

17 CFR
- 240 ---- 23786
- 249 ---- 23786

PROPOSED RULES:
- 1 ---- 23614
- 32 ---- 23614
- 249 ---- 23792

18 CFR

PROPOSED RULES:
- 154 ---- 23615

21 CFR
- 310 ---- 23772
- 520 ---- 23600
- 801 ---- 23772

24 CFR
- 241 ---- 23601

29 CFR
- 1910 ---- 23601

31 CFR
- 530 ---- 23605

32 CFR
- 865 ---- 23601

47 CFR

PROPOSED RULES:
- 61 ---- 23615
- 64 ---- 23615

V 42 90 MAY 10 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR

Ch. I 22125

3 CFR

EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) 23129
11861 (Amended by EO 11983) 23127
11872 (Revoked by EO 11983) 23127
11971 (Amended by EO 11982) 22859
11932 22859
11983 23127
11984 23129
MEMORANDUMS:
May 4, 1977 23499

5 CFR

213 ..... 22355, 22356, 23131
550 23131
PROPOSED RULES:
733 23160

7 CFR

1 23597
6 22874
52 22356
230 23155
271 22356
272 23599
295 23155
701 22358
907 22874
910 ..... 22359, 23156
916 23156
917 ..... 22875, 23157
959 22125
1068 22360
1421 22126
1430 22126
1888 23158
PROPOSED RULES:
53 23514
225 23606
915 23607
918 23160
944 23514
1421 23613
1425 23614

8 CFR

PROPOSED RULES:
103 22148
244 22148
299 22149

9 CFR

78 22370
94 23131
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373

9 CFR—Continued

390 22373
391 22373
PROPOSED RULES:
1 22374
2 22374
3 22374

10 CFR

2 ..... 22128, 22882
50 22882
140 23501
205 ..... 23501, 23722
212 ..... 22131, 22881
303 23134
305 23140
307 23142
309 23144
RULINGS:
1977–6 23501
PROPOSED RULES:
2 22168
170 22149
211 22889
212 ..... 22374, 22889

12 CFR

202 22861
220 22862
226 22360
329 22362
PROPOSED RULES:
220 22894
225 22560
226 23518
329 22378

13 CFR

309 23146
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137
PROPOSED RULES:
120 23614

14 CFR

39 ..... 22137, 22862, 22863, 23502–23504
71 ..... 22138, 23505
91 22139
97 22863
241 23146
385 23600
PROPOSED RULES:
39 ..... 22172, 22896
71 ..... 22172, 22173
152 22896

15 CFR

50 22362

16 CFR

13 22876
1014 22878

16 CFR—Continued

1202 22656
1500 22878
PROPOSED RULES:
2 22897
1205 23052

17 CFR

231 22139
239 22139
240 23786
249 23786
PROPOSED RULES:
1 23614
32 23614
249 23792

18 CFR

1000 22146
PROPOSED RULES:
1 23160
3 23160
4 23160
5 23160
6 23160
16 23160
35 22897
154 23615

19 CFR

159 ..... 23146, 23505

20 CFR

200 22865
PROPOSED RULES:
655 22378

21 CFR

172 23148
193 23148
310 23772
510 23149
520 23600
540 23149
561 ..... 22363, 23148
801 23772
PROPOSED RULES:
361 23161

23 CFR

PROPOSED RULES:
640 22173
642 22173

24 CFR

235 22557
241 23601
812 23582
860 23584
880 23585
881 23585
882 23585
883 23585
886 23585
888 22363
1914 22865–22867

24 CFR—Continued

PROPOSED RULES:
803 22704
888 22704
1932 22900

25 CFR

219 22141
PROPOSED RULES:
221 22902

26 CFR

301 22143
PROPOSED RULES:
53 23517

27 CFR

178 22144
181 22144

28 CFR

0 22557
16 23506
32 23252

29 CFR

9 22364
40 22364
1910 ..... 22516, 23601

31 CFR

530 23605
PROPOSED RULES:
215 22174

32 CFR

865 23601

33 CFR

1 23506
25 22879

36 CFR

7 22557

37 CFR

PROPOSED RULES:
4 22378

38 CFR

3 22868

39 CFR

PROPOSED RULES:
111 22176

40 CFR

33 22144
52 22869
180 22364
228 22144
435 22558
PROPOSED RULES:
51 22177
52 ..... 22902, 23162
60 22506
228 23163
PROPOSED RULES—Continued
250 22332
435 22560

41 CFR

1–1 23507
1–14 23507
9–7 23507
9–15 23507
15–3 22145
101–25 22558
114–25 23150

43 CFR

PUBLIC LAND ORDERS:
5617 22365

45 CFR

4 22145
84 ..... 22676, 22888
250 23508
1060 23151
1067 22365
1068 22145
PROPOSED RULES:
166 22336

46 CFR

148 22145
502 23509

46 CFR—Continued

PROPOSED RULES:
10 22903
12 22903
35 23517
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296
151 22903
153 23518
502 22383

47 CFR

2 23509
73 22558
74 22558
76 23510
81 ..... 22869–22872, 23510
83 ..... 22869–22872, 23510
87 23509
PROPOSED RULES:
61 23615
64 23615
73 ..... 22183, 22569, 23165
76 23519

49 CFR

1 22366
172 ..... 22366, 22880
175 ..... 22366, 22880
1033 ..... 22367, 22368, 22880
1036 23511
1041 22369
1320 22369
1322 22369
PROPOSED RULES:
Ch. II 22184

50 CFR

26 23151
33 22874
611 22559
PROPOSED RULES:
32 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*	*Pages*	*Date*
22125–22354	May 2	23127–23497	6
22355–22556	3	23499–23596	9
22557–22858	4	23597–23794	10
22859–23125	5		

V 42 90 MAY 10 77 UMI

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY

PART 1—ADMINISTRATIVE REGULATIONS FEE SCHEDULE

Subpart A—Official Records

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The amended U.S. Department of Agriculture fee schedule is published in its entirety. The amended fee schedule increases the fees USDA agencies may charge for responding to Freedom of Information Act requests. The increased fees are necessary to offset increased costs.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Anthony E. Cooch, Procurement, Grants and Agreements Management Staff, Office of Operations, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-7527).

SUPPLEMENTARY INFORMATION: On Wednesday, March 23, 1977, the Department of Agriculture published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 15708) setting forth a proposed amendment of the Department of Agriculture fee schedule. Interested persons were given thirty (30) days to submit comments concerning the proposed amendment; no comments were received. The amended fee schedule contains an additional revision not shown in the March 23, 1977, FEDERAL REGISTER. This revision involves a change of address for the Agricultural Stabilization and Conservation Service as shown in Sections 10a and 16c9. As this revision involves a matter of agency management it is not subject by law to the notice and public procedure requirements for rulemaking under 5 USC 553. Therefore, public participation is not being sought in regards to this address change. In accordance with the above Appendix A to 7 CFR, Subtitle A, Part 1, Subpart A is revised to read as follows:

FEE SCHEDULE

SEC. 1. *General.* This schedule sets forth fees to be charged for providing copies of records, including photographic reproductions, microfilm, maps and mosaics, and related services. The fees set forth in this schedule are applicable to all agencies and constituent units of the Department of Agriculture.

SEC. 2. *Facilities.* Records and related services are available at the locations specified by the agencies in their statements of organization and services. Each agency is responsible for promulgating procedures to facilitate public inspection and copying of its records. Any material offered for sale by the Government Printing Office should be purchased from that source. Departmental agencies will not stock such material for public sale.

Agencies do not stock copies of forms and publications or maintain records at any facility which does not require these materials in its operations.

SEC. 3. *Fees for materials and services.* All agencies of the Department shall be guided by the fees set forth herein. Any changes or additions to this fee schedule shall be made by amendment to or revision of this schedule.

SEC. 4. *Circumstances governing exceptions to the charging of fees for records and related services.* (For photographic reproductions, see SEC. 12.)

a. *Waiver of fees for records and related services.* Fees may be waived in whole or in part under the following conditions:

(1) Where individual collections are $3 or less.

(2) Where the furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable fees are set on a reciprocal basis with a foreign country or an international organization.

(3) Where the recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare.

(4) Where the agency determines that payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program involved.

b. *Fees not to be charged for records and related services.* Fees shall not be charged under the following conditions:

(1) When the furnishing of records and related services is determined by the agency to be in the public interest as primarily benefiting the general public.

(2) When filling requests from other Departments or Government agencies for official use, provided quantities requested are reasonable in number.

(3) When members of the public provide their own copying equipment, in which case no copying fee will be charged.

(4) When any notices, decisions, orders, or other material are required by law to be served on a party in any proceedings or matter before any Department agency.

(c) Where both a. and b. above apply to a matter, b. shall be controlling.

SEC. 5. *Limitations of copies.* a. Agencies may restrict numbers of photocopies and directives furnished the public to one copy of each page. Copies of forms provided the public shall also be held to the minimum practical. Persons requiring any large quantities should be encouraged to take single copies to commercial sources for further appropriate reproduction.

b. Single or multiple copies of transcripts, provided the Department under a reporting service contract, may be obtained from the contractor at a cost not to exceed the cost per page charged to the Department for extra copies. The contractor may add a postage charge when mailing orders to the public but no other charge may be added.

SEC. 6. *Search services.* a. Search services are services of agency personnel—clerical, supervisory or professional salary level—used in trying to find the records sought by the requester. They include time spent examining records for the purpose of finding records which are within the scope of the request. They also include services to transport personnel to places of record storage, or records to the location of personnel for the purpose of the search, if such services are reasonably necessary.

b. Because of the nature of the Department's business and records, the normal location of a record in a file or other facility will not be considered a search. This would be the same as quickly locating a piece of material for purposes of answering a letter or telephone inquiry, and is based on the Department's obligation to respond to requests furnishing a reasonably specific description of the record.

SEC. 7. *Payments of fees and charges.* a. Payments will be collected to the fullest extent possible in advance or at the time the requested materials are furnished.

b. Except as otherwise stipulated by agency procedures, payment shall be made by check, draft, or money order made payable to the Treasurer of the United States, but small amounts may be paid in cash, particularly where services are performed in response to a visit to a Department office.

c. Where the estimated fees to be charged exceed $50, a deposit of 50 percent of the estimated amount shall be collected from the requester before any of the requested materials are reproduced.

d. Where a request for records indicates the necessity of an extensive search, the requester should be notified of that fact and of the possibility of an unproductive search. The notification should offer the requester the opportunity to confer with agency personnel to reform his request to meet his needs at a lower fee. When an extensive search still appears necessary, unless the agency determines that the request is in the public interest in accordance with Section 4b(1), it shall inform the requester that no search will be undertaken until an agreement to pay applicable fees is received, including a depcsit of 50% of the estimated fee where appropriate.

SEC. 8. *Fees for records and related services.* a. Photocopies 8½" x 14" or smaller; $0.10 for the first copy and $0.05 for each additional copy of the same page.

b. Photocopies in excess of 8½" x 14"; $0.25 per linear foot of the longest side of the copy.

c. Manual searches will be charged for at the rate of $4 per hour for clerical time and $9 per hour for supervisory or professional time. Charges will be computed to the nearest quarter hour required for the search. A search may involve both clerical and supervisory or professional time.

d. Other direct costs incurred will be assessed the requester at the actual cost to the Government, e.g., where records are required to be shipped from one office to another by commercial carrier in order to timely answer the request, the actual freight charges will be assessed the requester.

e. Computer services will be charged for at the rates established in the Users Manual or Handbook published by the computer center at which the work will be performed, except

V42 90 MAY 10 77 UMI

that where commercial time-sharing computer sources are the required search media, the contract rate charged by the commercial source to the Government will be charged. A listing follows showing where those rates are published and the office from which copies may be obtained or at which the rates may be examined.

Fort Collins Computer Center Users Manual: Fort Collins Computer Center, U.S. Department of Agriculture, 3825 East Mulberry Street (P.O. Box 1206), Fort Collins, Colorado 80521.

New Orleans Computer Center Users Manual: New Orleans Computer Center, U.S. Department of Agriculture, 13800 Old Gentilly Road, Building 350, New Orleans, Louisiana 70129.

Kansas City Computer Center Users Manual: Kansas City Computer Center, U.S. Department of Agriculture, 8930 Ward Parkway (P.O. Box 205), Kansas City, Missouri 64141.

Washington Computer Center Users Handbook: Washington Computer Center, U.S. Department of Agriculture, Room S-100, South Building, 12th Street and Independence Ave., S.W., Washington, D.C. 20250.

St. Louis Computer Center. Charges for the St. Louis Computer Center will be based on actual expenses incurred in performing the search.

St. Louis Computer Center, U.S. Department of Agriculture, Farmers Home Administration, Business Services Branch, 1520 Market Street, St. Louis, Missouri 63103.

f. The fees do not include and no charge shall be made for (a) time spent examining records to determine whether an exemption can and should be asserted, (b) time spent deleting exempt matter being withheld from records to be furnished, or (c) time spent in monitoring a requester's inspection of agency records.

g. Certifications, $1 each; Authentications under Department Seal (including aerial photographs), $2 each.

h. Except as provided in section 9, for services not subject to the Freedom of Information Act and not covered by (g) above, agencies may set their own fees in accordance with applicable law.

i. The fees specified in a through f of this Section apply to all requests for services under the Freedom of Information Act, as amended (5 USC 552), unless no fee is to be charged, or the agency has determined to waive or reduce those fees pursuant to Section 4. No higher fees nor charges in addition to those provided for in this schedule may be charged a party requesting search or duplication services under the Freedom of Information Act.

j. The fees specified in g and h of this Section and in Sections 9 through 16 of this schedule apply to requests for services other than those subject to the Freedom of Information Act. The authority for establishment of these fees at 31 USC 483a and other applicable law.

SEC. 9. *Photographic reproduction, microfilm, mosaic and maps.* Reproduction of such aerial or other photographic microfilm, mosaic and maps as have been obtained in connection with the authorized work of the Department may be sold at the estimated cost of furnishing such reproductions as prescribed in this schedule.

SEC. 10. *Agencies which furnish photographic reproductions.*—a. *Aerial photographic reproductions.* The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS), APFO, USDA-ASCS, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84125.

Forest Service (FS), 24 LOB RP-E, Arlington, Virginia 22209, or nearest Forest Service Regional Office.

Soil Conservation Service (SCS), Cartographic Division, SCS, Washington, D.C. 20250, or Cartographic Unit in nearest SCS Technical Service Center.

b. *Other photographic reproductions.* Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Service (ASCS) (Address above).

Forest Service (Address above).

Office of Communication, Photographic Division, Room 536A, Washington, D.C. 20250.

Soil Conservation Service, Information Division, Audio Visual Branch, Washington, D.C. 20250.

National Agricultural Library, Information Officer, Room 204, Beltsville, Maryland 20705.

SEC. 11. *Photographic Sales Committee.* The Photographic Sales Committee consists of representatives designated by Department agencies principally concerned with the sale of photographic reproductions. The Committee recommends prices at which photographic and mosaic reproductions, except library material, shall be sold, and other matters related to photographic reproductions.

SEC. 12. *Circumstances under which photographic reproductions may be provided free.* Reproductions may be furnished free at the discretion of the agency, if it determines this action to be in the public interest, to:

a. Press, radio, television, and newsreel representatives for dissemination to the general public.

b. Agencies of State and local governments carrying on a function related to that of the Department when it will help to accomplish an objective of the Department.

c. Cooperators and others furthering agricultural programs. Generally, only one print of each photograph should be provided free.

SEC. 13. *Loans.* Aerial photographic film negatives or reproductions may not be loaned outside the Federal Government.

SEC. 14. *Sales of positive prints under Government contracts.* The annual contract for furnishing single and double frame slide film negatives and positive prints to agencies of the Department, County Extension Agents, and others cooperating with the Department, carries a stipulation that the successful bidder must agree to furnish slide film positive prints to such persons, organizations, and associations as may be authorized by the Department to purchase them.

SEC. 15. *Procedure for handling orders.* In order to expedite handling, all orders should contain adequate identifying information. Agencies furnishing aerial photographic reproductions require that all such orders identify the photographs. Each agency has its own procedure and order forms.

SEC. 16. *Photographic reproduction prices.* The prices for photographic reproductions listed here are the most generally requested items.

a. *National Agricultural Library.* The following prices are applicable to National Agricultural Library items only: Microfilm—$1.00 for each 30 pages or fraction thereof. Photoreproduction—$1 for each 10 pages.

b. *General photographic reproductions.* Minimum charge $1 per order. All sizes are approximate. An extra charge may be necessary for excessive laboratory time caused by any special instructions from the purchaser.

Class of work	Unit	Price
1. Black and white copy negatives and film positives:		
4 in x 5 in.	Each	$4.20
5 in x 7 in.	do	4.50
8 in x 10 in.	do	5.40
11 in x 14 in.	do	8.40
2. Black and white enlargements:		
Up to 8 in x 10 in.	do	3.30
11 in x 14 in.	do	4.80
Over 11 in x 14 in.	Per square foot	4.20
3. Reductions (from any size negative)		4.20
4. Slides—black and white (from copy negative):		
2 in x 2 in cardboard mounted	Each	3.00
3¼ in x 3¼ in.	do	4.20
Original color (from flat copy)	do	2.25
Duplicate color (2 in x 2 in cardboard mounted)	do	.35
(Duplicate color slides are slides copied from 35 mm color slides only. Slides made from black and white material, or from transparencies larger or smaller than 35 mm, will be charged at the same rates shown for black and white and original color slides.)		
5. Color transparencies (4 in x 5 in.)	do	9.00
6. Color prints		(1)
7. Current USDA slide sets in stock:		
1 to 50 frames		14.50
51 to 60 frames		16.50
61 to 75 frames		18.50
76 to 95 frames		21.50
96 to 105 frames		23.00
106 to 130 frames		26.50
(Prices include printed narrative guide.)		
The following can be purchased for the corresponding slide sets above:		
Cassettes		3.00
8. Milk sedimentation standards (5 in x 7 in black and white photograph)	Each	1.25
9. Seeds and seedlings (any size)	do	2.40

[1] By quotation.

c. *Aerial photographic reproductions.* No minimum charge on aerial photographic reproductions. All prints are furnished unmounted and untrimmed.

1. *Contact prints.* The prices for contact prints are set forth below. The size refers to the approximate size of the contact print.

	Each
Size 9 x 9 in on commercial grade paper	$2.00

2. *Enlargements* (projection prints). The prices for enlargements of various sizes are set forth below. The size in each case refers to the approximate size of paper required to produce the enlargement ordered.

Size:	Price each
9 x 9 in (from 70 mm)	$3.00
12 x 12 in	4.00
17 x 17 in	5.00
24 x 24 in	6.50
38 x 38 in	15.00

For larger size reproductions, add $2.00 for each additional 12 inches or fraction thereof, linear measurement.

3. *Aerial photo-index sheets,* size 20 x 24 inches.

Quantity:	Price each
Any quantity	$5.00

4. *Film positives.* Contact printed from aerial negatives, size 9 x 9 inches.

Quantity:	Price each
Any quantity	$3.00

5. *Copy negatives.* On film, aerial exposures, size 9 x 9 inches.

Quantity:	Price each
Any quantity	$3.00

6. *Aperture cards and printouts.*

	1st unit	Each additional unit
Duplicate of an aperture card	$1.00	$0.10
Aperture card from photoindex sheet	1.00	.25
Printout from aperture card	1.00	.50

7. *Color photography.* Furnished only by the Regional Forest Service Aerial Photography Laboratories at Ogden, Utah and San Francisco, California, and the Agricultural Stabilization and Conservation Service Aerial Photography Field Office in Salt Lake City, Utah.

Positive contact print made from negative	
Transparency 9 x 9 inches	$7.00
Enlargements 12 x 12 inches	12.00
Enlargements 17 x 17 inches	15.00
Enlargements 24 x 24 inches	20.00
Enlargements 38 x 38 inches	25.00
	40.00

8. *Landsat/skylab imagery.* Furnished only by the Agricultural Stabilization and Conservation Service Aerial Photography Field Office in Salt Lake City, Utah.

	Black and white	Color
Contact print (70 mm)	$1.50	
Transparencies (70 mm)	3.00	$5.00
Contact print 9 in x 9 in	3.00	7.00
Transparencies 9 in x 9 in	5.00	12.00
Enlargements 12 in x 12 in	6.00	15.00
Enlargements 17 in x 17 in	8.00	20.00
Enlargements 24 in x 24 in	15.00	25.00
Enlargements 38 in x 38 in	25.00	40.00
Composite negative 9 in x 9 in		14.00

9. *Special need.* For special needs not covered above, persons desiring aerial photographic reproductions should contact the agencies listed in Section 10a or the Department Aerial Photography Coordinator, Aerial Photography Field Office, USDA-ASCS, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84125.

SEC. 17. *Sound recordings.*

Reel to reel or cassette:	
7½ min	$6.20
15 min	7.25
22½ min	8.30
30 min	9.20
37½ min	10.50
45 min	11.30
52½ min	12.50
60 min	13.20

(5 U.S.C. 301; 5 U.S.C. 522; 31 U.S.C. 483a; and 7 CFR 2.79(a)(3)(iii).)

Done at Washington, D.C., this 3rd day of May 1977.

E. ALVAREZ,
Director.

[FR Doc.77-13136 Filed 5-9-77;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 102]

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, MEAL SERVICES, AND BANKS

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule deals with the process the Food and Nutrition Service (FNS) follows in reviewing the authorization of a participating firm which no longer appears to meet the criteria for authorization. The present regulation requires FNS to request a new application for authorization from the firm. In practice, the new application usually contains information already available to FNS. Consequently, the new application is not needed, and this rule does away with the requirement that it be submitted. Therefore, in situations in which the nature of a firm's business has changed and the firm no longer appears to meet the criteria for authorization, FNS will proceed directly to issue a notice to the firm that its authorization is being withdrawn. Any firm whose authorization is withdrawn under this rule will have the right to request administrative and judicial review of the determination.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Director, Food Stamp Program, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-8982).

SUPPLEMENTARY INFORMATION: On January 4, 1977, the Food and Nutrition Service published a proposed rule (42 FR 780) to amend Part 272 of the Food Stamp Program Regulations. Most of the comments received were favorable.

DISCUSSION OF MAJOR COMMENTS

Only four letters were received during the comment period, which expired February 3, 1977, on the proposed amendment to § 272.1(h). Three of the letters were from State agencies—Nebraska, Montana, and Ohio. They supported the proposal. The remaining letters, from a retail grocers' association, expressed opposition to the proposal because the procedure imposes "severe hardship on local retail grocers," since it makes them "responsible for initiating administrative procedures to preserve a participatory right in a government program." The grocer association contended that the procedure for requesting administrative review is complicated and that the FEDERAL REGISTER and Code of Federal Regulations, which would explain the procedure, are generally inaccessible to grocers. The association supported the present requirement that FNS request a new application any time it receives new or additional information.

FNS has decided to publish the rule as it appeared in the notice of proposed rulemaking. In situations in which FNS withdraws authorizations of participating firms, the new applications submitted by the firms have seldom contained information which FNS did not already have, and FNS normally acted immediately to withdraw their authorizations. As a result, the firms have to submit unneeded applications, and were still immediately faced with the problem of how to request review. The notice of withdrawal which FNS sends to such firms explains the procedure for requesting review. A copy of the applicable regulations is always enclosed.

Accordingly, Part 272 is amended as follows:

Section 272.1 is amended by deleting paragraph (g), relettering paragraph (h) as paragraph (g), and adding a new paragraph (h). The new paragraph (h) reads as follows:

§ 272.1 **Approval of retail food stores, wholesale food concerns, and meal services.**

• • • • •

(h) FNS will periodically review the nature and scope of participating firms' business. If FNS receives new or additional information about a firm involving any of the criteria set forth in paragraph (b), (c), and (d) of this section, FNS shall make a determination as to whether the firm's continued participation serves to further the purposes of the program. FNS shall withdraw approval to participate if a determination is made that the firm does not qualify for continued participation. Any withdrawal of authorization shall be subject to administrative review under the provisions of § 272.8.

• • • • •

(78 Stat. 703, as amended, 7 U.S.C. 2011-2026.)

NOTE.—The Food and Nutrition Service has determined that this document does not con-

V 42 90 MAY 10 77 UMI

tain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: April 30, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-13179 Filed 5-9-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-116, Amdt. 61]

PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTER

Delegation of Authority to the Chief, Government Rates Division, Bureau of Economics, to Issue Final Orders For Administering the Local Service Class Subsidy Rate

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule expands the delegated authority to the Chief, Government Rates Division, Bureau of Economics, concerning outine procedures for administering the local service class subsidy rate, in order to improve administrative efficiency.

DATES:

Effective: May 4, 1977.

Adopted: May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202-673-5442).

SUPPLEMENTARY INFORMATION: The procedures for administering the local service class subsidy require Board approval for the issuance of two types of final orders in addition to show-cause orders. These orders are of a routine nature and are required to update the local service class subsidy rate on a recurrent basis.

One type of such order outlines information and updates reporting requirements concerning the distribution of reported services and financial data to selected categories of services for the semiannual review of subsidy-eligible and subsidy-ineligible operations. Direct air carriers are required to submit this information to the Board so that we can prepare the semiannual amendments to the current Class Rate VIII.

The second type of order issues ad hoc adjustments to each carrier's individual subsidy ceiling under the class rate. The cumulative daily ceilings are raised or lowered to reflect cost increases or savings which have resulted from the addition, reinstatement, suspension, or deletion of subsidy-free eligible communities from the carrier's route schedule. Adjustments of the subsidy ceilings are based on a standard procedure using the net change between a carrier's cost in providing service under a prevailing flight pattern prior to the addition, deletion, or reinstatement of a community, and that of the revised flight pattern.

No substantive policy decisions are involved in the issuance of either of these orders. We believe that the delegation of authority to issue final orders concerning these routine matters would expedite the administration of the local service class subsidy note by removing such nonpolicy matters from the Board's direct consideration.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedures are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385), effective May 4, 1977, as follows:

Amend § 385.16 by adding new paragraphs (i) and (j) to read as follows:

§ 385.16 Delegation to the Chief, Government Rates Division, Bureau of Economics.

* * * * *

(i) Issue final orders amending the reporting requirement for distribution of reported services and financial data to selected categories for the semiannual review of subsidy-eligible and subsidy-ineligible operations under the local service class subsidy rate.

(j) Issue final orders making ad hoc adjustments to individual carrier subsidy ceilings under the local service class subsidy rate for the addition, reinstatement, suspension or deletion of subsidy-eligible communities to the carrier's route system.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13263 Filed 5-9-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Diethylcarbamazine Citrate Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency approves a new animal drug application (104-493V) filed by Norden Laboratories, Inc., providing for the safe and effective use of diethylcarbamazine citrate chewable tablet for use in the prevention of heartworm infection and as an aid in the treatment of ascarid infections in dogs. The Commissioner of Food and Drugs is amending Part 520 (21 CFR Part 520) to reflect this approval.

EFFECTIVE DATE: May 10, 1977.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Henry Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3430).

SUPPLEMENTARY INFORMATION: The application was filed by Norden Laboratories, Inc., Lincoln, NE 68501. It proposes the safe and effective use of diethylcarbamazine citrate chewable tablets for the prevention of infection with *Dirofilaria immitis* (heartworm disease) and as an aid in the treatment of ascarid infections in dogs. In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Food and Drug Administration, during regular working hours.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1).

Part 520 is amended by adding new § 520.622c to read as follows:

§ 520.622c Diethylcarbamazine citrate chewable tablets.

(a) *Specifications.* Each tablet contains 60 to 180 milligrams of diethylcarbamazine citrate.

(b) *Sponsor.* See No. 011519 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 3 milligrams per pound of body weight per day for the prevention of heartworm disease; 25 to 50 milligrams per pound of body weight for the treatment of ascarid infections.

(2) *Indications for use.* For the prevention of infection with *Dirofilaria immitis* (heartworm disease), and as an aid in the treatment of ascarid (*Toxocara canis*) and (*Toxascaris leonina*) infections in dogs.

(3) *Limitations.* Administer by free-choice feeding or crumble and place on food. Dogs with established adult heartworm infections should not be treated until converted to a negative status. For treatment of ascarid infections, repeat the dose 10 to 20 days after the first treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: This regulation becomes effective on May 10, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 3, 1977.

PHILIP D. CAZIER,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-13198 Filed 5-9-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-77-431]

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Eligibility of Hospitals for Supplemental Loans; Correction

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 3162 in the FEDERAL REGISTER of January 17, 1977.

EFFECTIVE DATE: January 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Lillian Erickson, Rules Docket Clerk, 451 Seventh Street, SW., Washington, D.C. 20410. Phone number (202) 755-7603.

SUPPLEMENTARY INFORMATION: The second sentence in § 241.125 is corrected by adding the words "to purchase equipment to be used in" immediately following the word "used" and immediately before the words "the operation".

(Sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).)

LAWRENCE B. SIMONS,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc.77-13284 Filed 5-9-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to Benzene; Correction

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Correction to Emergency Temporary Standard.

SUMMARY: This notice announces a correction to the emergency temporary standard for occupational exposure to benzene.

EFFECTIVE DATE: May 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Avenue, NW., Room N-3641, Washington, D.C. 20210, 202-523-8151.

SUPPLEMENTARY INFORMATION: On May 3, 1977, an emergency temporary standard for occupational exposure to benzene was published in the FEDERAL REGISTER (42 FR 22516). The preamble explains that the employer is to provide a copy of the physician's written opinion to the employee. That provision was inadvertently omitted from the standard, however. Accordingly, FR Doc. 77-12726 (42 FR 22516, May 3, 1977) is corrected by adding, on page 22527, 2nd column, a new paragraph (iii) at the end of § 1910.1028(i)(5), as follows:

"(iii) The employer shall provide a copy of the written opinion to the affected employee."

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C., this 6th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-13423 Filed 5-9-77;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL

PART 865—PERSONNEL REVIEW BOARDS

Subpart B—Air Force Discharge Review Board

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: This rule explains the jurisdiction, authority and actions of the Air Force Discharge Review Board. Review by the Board of its procedures revealed a need for further amplification and clarification. These revised procedures are intended to result in clearer understanding by former Air Force members desiring amendment to their military records.

EFFECTIVE DATE: April 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Colonel Lee, Principal Assistant for Discharge Review Matters, Office of the Secretary of the Air Force (Personnel Council), Commonwealth Building, 1300 Wilson Boulevard, Room 920, Arlington, Virginia 22209. (202-694-5418).

SUPPLEMENTARY INFORMATION: On March 9, 1977, the Department of the Air Force, DOD, published a proposed rule (42 FR 13124) to revise 32 CFR 865, Subpart B, Air Force Discharge Review Board. As stated at that time, the revision explains the use of case summaries and investigative reports; requires applicants to submit contentions and/or issues of fact, law, or discretion via DD Form 293 prior to Board consideration; amplifies review process used by the Board; changes Board decision announcements to include names and votes of Board members, statements of findings and conclusions on all issues relevant to the appeal, and statement of the reasons for the findings and conclusions; establishes a public reading room containing Board decisional announcements indexed by contentions raised during the review process.

No public comments were received in response to the proposed changes. However, the Board has determined that a more in-depth definition of clemency should be included. That definition has been added at § 865.106(e)(3).

(The legal authority for this part is sec. 8012, 70A, Stat. 488, sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.)

Accordingly, 32 CFR 865 is amended as follows:

Subpart B—Air Force Discharge Review Board

Sec.

365.100 Purpose.
865.101 Statutory authority.
865.102 Organization and purpose of the board.
865.103 Jurisdiction and authority.
865.104 Application for review.
865.105 Board meetings and locations.
865.106 Procedures for hearings.
865.107 Findings, conclusions, and reasons.
865.108 Disposition of proceedings.
865.109 Public disclosures.
865.110 Approval of exceptions to directive.
865.111 Procedures for regional boards.
865.112 Guidance sheet.

Subpart B—Air Force Discharge Review Board

§ 865.100 Purpose.

This Subpart explains the jurisdiction, authority, and actions of the Air Force Discharge Review Board. It applies to all Air Force activities. This Subpart is affected by the Privacy Act of 1974. The system of records cited in this Subpart is authorized by 10 U.S.C. 1553 and 8012. Each data gathering form or format which is required by this Subpart contains a Privacy Act Statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 865.101 Statutory authority.

The Air Force Discharge Review Board (hereafter called the "Board") was established within the Department of the Air Force under section 301 of the Serviceman's Readjustment Act of 1944, as amended (now 10 U.S.C. 1553). The authority for actions set out in § 865.103(b)(1) is derived from discretionary authority conferred upon the Secretary of the Air Force under 10 U.S.C. 508(a).

§ 865.102 Organization and purpose of the board.

The Board, a part of the Secretary of the Air Force Personnel Council, is administered and supervised by the Council's Director. An administrative agency, it reviews the discharge (other

V 4290 MAY 10 77 UMI

than a discharge by sentence of a general courtmartial) of former military personnel, on its own motion or at the request of a former military member or his or her appropriate representative.

§ 865.103 Jurisdiction and authority.

The Board has jurisdiction and authority in cases of former military personnel who, at the time of their separation from the Service, were members of the U.S. Army aviation components (Aviation Section, Signal Corps; Air Service; Air Corps; or Air Forces) or the U.S. Air Force. The Board does not have jurisdiction and authority concerning personnel of other arms and services who, at the time of their separation, were assigned to duty with the Army Air Forces or the U.S. Air Force.

(a) The Board's review is based on the former member's available military records, contentions submitted by the applicant, and on any other evidence that is presented to the Board. The review, as accorded the applicant by law, is not an adversary proceeding to relitigate the reasons for the applicant's separation. The Board determines whether the type of discharge the former serviceman or woman received is equitable and proper; if not, the Board instructs the U.S.A.F. Military Personnel Center to change the discharge or to issue a new discharge according to the Board's findings. The Board's determination is subject to review by the Secretary of the Air Force.

(b) The Board is not authorized to revoke any discharge, to reinstate any person who has been separated from the military service, or to recall any person to active duty. However, if an applicant was discharged from his or her last period of Air Force service under conditions which would bar his re-entry, the Board may restore the applicant's eligibility to enlist (actual enlistment would be subject to the needs of the service).

(c) The Board, on its own motion, may review a case that appears likely to result in a decision favorable to the former military member, without the member's knowledge of presence. In this case, if the decision is: (1) Favorable, the Board directs AFMPC/DPM to notify the former member accordingly at the member's last known address. (2) Unfavorable, the Board returns the case to the files without any record of formal action. If the former member later files an application for review, the Board then reconsiders the case without prejudice.

§ 865.104. Application for review.

An application for review must be submitted within 15 years after the effective date of the former member's discharge, subject to exceptions in § 865.106(h).

(a) The applicant submits a single copy of DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, with supporting affidavits and other evidence.

(b) The spouse, next-of-kin, or legal representative of a former member may submit the application for the review as agent for the member, but proof of the member's death or mental incompetency must accompany the request.

(c) Applicants forward their requests for review to the National Personnel Records Center (NPRC/MPR–AF), 9700 Page Boulevard, St. Louis, MO 63132. The National Personnel Records Center forwards all available military records of the former members to the Military Personnel Center for further processing to the Board.

(d) Applicants who express a desire to make a personal appearance before the Board have the option of requesting that one Board member be of enlisted status. The Board corresponds with the applicant before the hearing date to determine his or her preference. If requested, one senior noncommissioned officer is appointed as a voting member to the Board which considers the case.

§ 865.105 Board meetings and locations.

(a) The Board consists of five members and assembles to hear all cases. The president convenes, recesses and adjourns the Board. If the president is absent, the next senior member acts as president.

(b) In addition to holding hearings in Washington, D.C., the Board periodically conducts regional hearings at selected locations throughout the Continental United States. Boards are conducted at centralized locations in those areas with the greatest number of applicants. The selected locations enable applicants to have a personal appearance closer to their home. A continuing review and appraisal is conducted to ensure convenience of hearing locations within the Board's budgetary and manpower capability. Administrative details and responsibilities for traveling boards are outlined in § 865.111.

§ 865.106 Procedures for hearings.

(a) The applicant is entitled, by law, to appear in person at his or her request before the Board in open session and to be represented by counsel of his or her own selection. (In this subpart, "counsel" includes members in good standing of the Federal or a State bar, accredited representatives of veterans organizations recognized by the Veterans Administration under 38 U.S.C. chapter 59, and any other person the Board considers to be competent to present the applicant's claim equitably and comprehensively.) The applicant also may present such witnesses as he or she may desire.

(1) There are three methods of presenting a case before the Discharge Review Board. These are:

(i) Nonpersonal appearance cases—when an applicant indicates that he or she does not desire to appear at the Board, and does not desire to be represented by counsel.

(ii) Personal appearance cases—when an applicant desires to appear in person with or without counsel.

(iii) Nonpersonal appearance with counsel—when an applicant does not desire to appear in person but does want to be represented by counsel.

(2) The Government does not compensate or pay the expenses of the applicant, applicant's witnesses, or counsel.

(3) The applicant may submit any documents he or she wishes as evidence for the Board's consideration. All applicants are provided a guidance sheet (§ 865.112) which suggests various types of information which would be beneficial in the Board's review.

(4) Based upon the available military personnel records of the applicant, a summary of the case is prepared for use by the Board in the review process. A copy of this summary is available to the applicant or his/her counsel upon request.

(5) A designated member of each Air Force Discharge Review Board case insures the accuracy and completeness of the file.

(6) When an applicant has requested a personal appearance, the Board sends the applicant (and designated counsel, if any) written notice of the hearing time and place. The notice will normally be mailed at least 30 calendar days before the hearing date. If the applicant wishes, the time limit may be waived, and in such case the Board may set an earlier hearing date. Evidence must be placed in the record to show how and when the notice was given.

(7) If an applicant has requested a personal appearance and, after being notified of the hearing time and place, fails to appear at the appointed time, either in person or by counsel, the right to be present is waived.

(b) The Director, Secretary of the Air Force Personnel Council, ensures that hearings are conducted to afford full and fair inquiries by the Board.

(1) The Board members and recorder are sworn as are the applicant and witnesses if they decide to testify under oath.

(2) All parts of an applicant's military record that may be viewed by the Board members are made available to the applicant and his/her counsel.

(i) Only investigative reports having a direct bearing on member's discharge may be considered by the Board.

(ii) In cases where applicable investigative reports are in the record, neither Board members nor applicants and their counsel are permitted access to the complete report. An appropriate official prepares an extract of salient information which is included in the summary of the case (without including references to sources of information and other matters that would be detrimental to public interest, if disclosed).

(iii) This unclassified summary may be made available to the applicant and counsel.

(c) The Board, in conducting its inquiries, is not limited by the rules of evidence applicable in judicial proceedings.

(1) Witnesses may present evidence to the Board either in person or by affidavit. If a witness testifies under oath or affirmation, he or she is subject to examination by Board members.

(2) At the request of applicant or his or her counsel, and at the discretion of the Board, witnesses may be allowed to make unsworn statements in respondent's behalf, in which case they will not be examined by Board members.

(d) Applicants must state clearly and specifically any contention(s) and/or issue(s) of fact, law or discretion having a bearing on their case in order for a written determination to be made in accordance with § 865.107. A DD Form 293 provided for this purpose must be completed or amended prior to the Board's decision.

(e) The Air Force Discharge Review Board employs a three-step process in the review of each case:

(1) Preiudicial error in the administrative discharge process. The Board looks for technical errors made by the Air Force in discharging the individual.

(2) Changes in discharge policy since the date of the applicant's discharge. When no error exists, the Board considers the performance and conduct of the individual during period of military service. In its evaluation of the applicant's performance, the Board applies current policies, attitudes and views.

(3) Clemency. The clemency review involves the individual's development before joining the Air Force, the totality of the individual's military service, and post-service adjustment. In some cases, a post-service period of good citizenship of only one or two years may be sufficient to justify upgrading, depending on other factors such as the conduct that led to discharge and the age of the member at the time of discharge. In others, a longer period may be necessary to warrant such action. In this regard, five or more years of post-service good citizenship will be considered strong evidence in favor of upgrading.

(f) The Board may continue an inquiry on its motion or, at its discretion, grant an applicant's (or his or her counsel's) request for continuance if this appears necessary to ensure a full and fair hearing.

(g) The Board, at its discretion and for good cause, may permit an applicant to withdraw his or her request without prejudice at any time before the Board begins its deliberations.

(h) Once the Board has heard and rendered a decision on a case, an application for rehearing is entertained only on the basis of the following:

(1) If the original review did not involve a personal appearance by the applicant and a personal appearance is now desired, a rehearing is granted on application.

(2) If the applicant submits new substantial and reliable information which might reasonably be expected to change the original findings and decision, a rehearing is granted. The granting of a rehearing under this basis is discretionary, predicated on the Board's consideration of the new material submitted.

(3) Where, after the original decision, there have been relevant changes in law either in statute or through court decisions, or changes in Department of Defense and Air Force policies, the board will consider, on application, whether in light of these changes it should rehear the case.

§ 865.107 Findings, conclusions, and reasons.

(a) The Board, in executive closed session, determines the findings, conclusions and reasons in each case. The findings, conclusions, and reasons of a majority of the Board members constitute the Board's decision. A dissenting Board member may file a minority report.

(b) The decision of the Board in each case shall be made in writing. Any review of the Board's decision shall be made in writing.

(c) The decision of the Board and the reviewing authority, if any, shall include a statement of findings, conclusions, and reasons, except where the reviewing authority expressly adopts in whole or in part the statement of findings, conclusions, and reasons of the Board. In those cases where the reviewing authority adopts the Board's statement of findings, conclusions, and reasons, there is no requirement for duplicative publication.

(d) The decision of the Board shall include:

(1) The date, character of and reason for the discharge certificate at issue, including the specific regulatory authority under which the discharge was issued.

(2) Findings on all issues of fact, law or discretion upon which the decision on the application is based.

(3) Findings and conclusions on all other issues of fact, law or discretion raised by the applicant, including claims by applicant that statutory, regulatory and/or constitutional provisions were violated and such other claims made by applicant, which in the opinion of the Board would warrant greater relief than that afforded applicant by the Board's decision if resolved in the applicant's favor.

(4) Conclusion(s) as to whether or not any change, correction, or modification should be made in the type of character of the discharge certificate and/or the reasons and authority for the discharge and, if so, the particular changes, corrections, or modifications that should be made.

(5) A statement of the reasons for the findings and conclusions made in each case.

(e) Advisory opinions or portions thereof containing factual information relied upon for final decision not fully set forth in the statement of findings, conclusions and reasons; or containing advice, recommendation(s) or opinion(s) accepted as a basis for rejecting any of applicant's claims that are not fully set forth in the statement of findings, conclusions, and reasons shall be incorporated by reference in the statement of findings, conclusions and reasons, and appended to the decision.

(f) Statements of findings, conclusions, and reasons are not required in any determination as to whether a rehearing may be authorized, but apply to a final determination of the Board and/or reviewing authority after a rehearing except to the extent findings, conclusions, and reasons exist from any previous hearings and remain unchanged.

§ 865.108 Disposition of proceedings.

(a) When the Board has concluded its proceedings in any case, the recorder prepares a complete record.

(1) The record includes: (i) The application for review. (ii) An electromagnetic recording of the hearing, if any. (iii) Documentary evidence considered including, by reference only, the applicant's Master Personnel Record. (iv) The findings, conclusions, reasons, and instructions (see § 865.103(a)). (v) Minority reports of dissenting Board members, if rendered; and (vi) All other documents necessary to a true and complete history of the proceedings.

(2) The Board president signs the record and the recorder authenticates it as true and complete. (If the recorder is absent or incapacitated, a voting member of the board may authenticate the record.)

(b) For each case, the Board transmits the record of its proceedings and directions to AFMPC/DPMDR, Randolph AFB, TX 78148. That office administratively carries out the Board's directions and reports the results to the applicant and his or her counsel if any.

(c) The final determination, votes of Board members, and the statement of findings, conclusions, and reasons together with any required appendices thereto and minority opinions, if any, shall be sent promptly to the applicant and counsel with the notice of decision in accordance with § 865.108(b). Information that appears to be potentially injurious to the applicant's physical or mental health is furnished only to the guardian or other authorized representative.

(d) Unclassified records of Board proceedings are open to perusal by the Administrator of Veterans Affairs or his or her authorized representative.

§ 865.109 Public disclosures.

(a) Statements of findings, conclusions, reasons, and the record of the votes of Board members will be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant. If not otherwise listed in the statement of findings, conclusions, and reasons, a list of contentions and/or the issues of fact, law or discretion presented by the applicant will be made public with the decision.

(b) Written minority opinions or reports of a Board panel member on the decision of the Board will be made available for public inspection and copying.

(c) To the extent required to prevent invasion of personal privacy, identifying details of applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers will be deleted. Written justifications, available for public inspection shall be made for all other deletions.

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(d) Documents and records provided for public inspection and copying shall be made available at a reading room located at the Pentagon, Washington, D.C.

(e) All documents made available for public inspection and copying in accordance with § 865.109 (a) and (b) shall be indexed.

(1) the index will include an identifying characteristic (i.e., case number) for each case; the date, character of, reason for and authority for the discharge challenged therein, the decision of the Board and the reviewing authority, if any; and the issues addressed in the statement of findings, conclusions and reasons.

(2) Each index shall be published quarterly or more frequently and upon request be distributed for sale.

(3) The index will be available for review at all regional locations where the Board meets to hear cases. Notice of hearings to applicants will include information as to where the index may be located for inspection and copying. Index will be permanently maintained only at the permanent Board location.

§ 865.110 Approval of exceptions to directive.

Only the Secretary of the Air Force may authorize or approve a waiver of, or exception to, any part of this Subpart.

§ 865.111 Procedures for regional boards.

(a) The Air Force Discharge Review Board, for the convenience of the applicant, conducts regional board hearings at selected locations throughout the Continental United States. Boards are conducted at centralized locations in those areas with the greatest number of applicants. Selected board locations enable applicants to have a personal appearance closer to their home. As a location is determined, applicants from that area are advised of the date the board will be held. The locations normally are at an Air Force installation for the convenience of using existing facilities and selecting board augmentees.

(b) Composition of the Board for these hearings consists of three members from Washington with augmentation by two members from nearby local Air Force resources. One member may be a senior noncommissioned officer (E–8 or E–9) when an applicant requests such membership.

(c) The major commands of the installation selected are required to task the subordinate units to provide two colonels and a senior enlisted person on an additional duty basis, to serve as members of the Board. Detailed information must be provided to the Chief, Personnel Division, of the installation involved before each hearing date.

(d) The administrative staff in Washington processes all cases for regional hearings, establishes hearing dates, and returns the records to the Military Personnel Center at Randolph AFB, Texas, when the case is finalized. Detailed information for the local Board members is provided to the Directors of Personnel of the bases involved approximately four weeks before each hearing date.

(e) Travel and per diem for all board members are funded by the Secretary of the Air Force Personnel Council (SAF/PC). The funding cite number is included in the information provided to the local Board members before each hearing date.

§ 865.112 Guidance sheet.

(a) Regardless of the reason for your discharge, the suggested evidence listed below under No. 1 would be beneficial to the Board. If you can recall the specific reason for discharge (types are shown in left-hand column), additional suggested evidence is shown by the corresponding number in the right-hand column.

Reason for discharge	*Evidence needed by the Board*
1. Discharge for any reason.	1. Your statement on what happened that caused your discharge, what motivated you. Current police record (statement from local police department). Statement from schools and colleges (if you are attending or have completed any school or college since discharge, provide a copy of your transcript, diploma or letter of accomplishment from the school). Employment record (be specific—list jobs in order held—who supervisor was—reason for leaving job). Participation in civic or community affairs. Character references (frank statements about your character from members of your family, family friends, employer(s), family doctor or pastor, and other responsible people in the community).
2. General ineffectiveness (unsuitability, unfitness, limited potential/minimally productive).	2. Indication that your attitude, ability, bearing and behavior are now improved. Indication that your capacity towards organizational loyalty, willingness to work and dedication are improved.
3. Financial irresponsibility.	3. Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition). Statement from you on how your previous debts were resolved (paid off, bankruptcy, etc.).
4. Alcoholism	4. Verification of good credit (statement from banks, lending institutions, department stores, etc. that would attest to your financial condition). Membership in Alcoholics Anonymous—how long. Medical statement (statement by competent authority on your physical condition).
5. Character and behavior disorder.	5. Medical statement (statement by competent authority on your physical and mental condition).
6. Hardship	6. If discharge was for financial reasons: Verification of good credit (statement from banks, lending institutions, department stores, etc., that would attest to your financial condition). If discharge was for medical reasons: A medical statement from competent medical authority disclosing the hardship no longer exists.
7. Civil convictions	7. If applicable: Statement by competent authority that a pardon has been granted.
8. Homosexuality	8. Circumstances surrounding act or acts for which discharged: Was the applicant seduced or coerced by someone in authority? Was alcohol a factor? Were there any familial or pre-service factors? Present status: Married with a family? Are you dating? Medical statement: if you have been receiving psychotherapy.
9. Drug abuse	9. Statement concerning the underlying causes of the offense: Was it because of youthful curiosity? Did you have a need to be a member of the gang? Did you have the habit prior to enlistment? Medical statement by competent medical authority if you have been receiving psychiatric treatment. Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition).
10. Conscientious objector.	10. Statement from applicant concerning past views and what has happened to change them.
11. Enuresis	11. Medical statement by competent medical authority on the applicant's physical condition.
12. Exceeding weight standards.	12. Medical statement by competent medical authority on the applicant's physical condition—specifically, your present weight and height.

(b) Fire-related case: If you are advised that all or part of your records were destroyed by the fire in July 1973 at the National Personnel Records Center, it is doubly important that you provide as much evidence as possible to support your request. In these cases, the Board may have limited or no record evidence available to it and must rely on evidence presented by the applicant.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-13178 Filed 5-9-77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 530—RHODESIAN SANCTIONS REGULATIONS

Authorization for the Importation of Certain Ferrochromium and Steel Mill Products

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Rhodesian Sanctions Regulations are being amended to provide for an interim procedure effective until June 18, 1977, governing imports of ferrochrome and specialty steel products into the United States. This interim procedure will apply uniformly to all shipments of ferrochrome and specialty steel to the United States pending the negotiation of permanent certification procedures for each country exporting ferrochrome or specialty steel to the United States. The interim procedure will enable administrative and legislative procedures necessary for permanent arrangements in exporting countries to go forward and will prevent unnecessary disruption of trade pending conclusion of permanent certification arrangements.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 (202–376–0428).

SUPPLEMENTARY INFORMATION: An amendment of § 530.520 provides for the case-by-case issuance of licenses when supported by a certificate from the individual producer stating that the materials were in shipment to the United States on March 18, 1977, or were in its inventory for that purpose on that date.

A new § 530.523 is being added effective until June 18, 1977. The section permits the importation of these products when an appropriate government agency in the producing country issues a certificate stating in substance that, pursuant to the country's implementation of the United Nations sanctions, the materials do not contain any chromium of Southern Rhodesian origin.

Persons importing ferrochrome or steel mill products under the interim provisions of § 530.520(b) as amended, or under the provisions of § 530.523, should submit the required certificate to the District Director of Customs at the port of importation. These interim certificates are not required for imports from Canada in view of special certification arrangements which have been worked out with that country.

Since this amendment involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rule making, the opportunity for public participation, and a delay in effective date are inapplicable.

The primary author of this amendment is Stanley L. Sommerfield.

31 CFR Part 530 is amended as follows:

1. Section 530.520 is amended by the deletion of present paragraph (b) and the substitution of a new paragraph (b) as follows:

§ 530.520 In-transit steel mill products.

* * * * *

(b) Such materials may also be licensed to be imported on or before June 18, 1977, if the Office of Foreign Assets Control is satisfied that the materials were in transit to the United States on March 18, 1977. Applications must be supported by a certificate from the producer stating that the materials were in shipment to the United States on March 18, 1977, or were in its inventory for that purpose on that date.

* * * * *

2. Section 530.523 is added to the Regulations as follows:

§ 530.523 Interim certification of chromium materials from third countries.

Importation on or before June 18, 1977, of chromium materials subject to the prohibitions of § 530.202(a) (2) or (3) will be authorized on a case-by-case basis upon presentation to the Office of Foreign Assets Control of a certificate or certificates issued by an appropriate agency of the government of the producing country stating in substance that pursuant to the country's implementation of the United Nations sanctions the material does not contain chromium of Rhodesian origin.

(22 U.S.C. 287(c); Pub. L. 95–12, March 18, 1977, 91 Stat. 22; Executive Order 11322; Executive Order 11419; Executive Order 11978.)

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

ROBERT CARSWELL,
Acting Secretary.

[FR Doc.77-13504 Filed 5-9-77;10:55 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 225]

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

AGENCY: Food and Nutrition Service, USDA.

ACTION: Withdrawal of alternate food proposal.

SUMMARY: This notice withdraws a proposal to authorize a class of products referred to as "formulated fortified milk-based products" for use in the Summer Food Service Program for Children. This action results from the many negative comments received and the inconclusive benefits of this type of product to the child nutrition programs.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Grace L. Ostenso, Nutrition and Technical Services Staff, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-9081).

SUPPLEMENTARY INFORMATION: On July 13, 1976, the Food and Nutrition Service published a proposed rule (41 FR 28796) to add to Appendix A of the Summer Food Service Program for Children regulations (7 CFR Part 225) authorization for use of a class of products referred to as "formulated fortified milk-based products" as an alternate food for the two components specified in meal requirements for supplemental food.

It was envisioned that this product would provide service institutions with a convenient (one component), nutritions alternative.

In response to the proposal there were received letters from 138 individuals and organizations. A total of 112 commenters (81 percent) opposed the concept; 24 commenters (17 percent) were in favor of it; and two were neutral. Of those opposing the proposal, 54 were individuals, educators and professional organizations within the field of nutrition and public health; 10 were child nutrition program administrators, potential users of the proposed product. Others opposing the proposal included several members of Congress, consumer and community groups, concerned citizens, industry groups, and the Food and Nutrition Service Regional Offices. Among those in favor of the proposal, nine were individuals and educators within the field of nutrition and public health; and 11 were administrators of child nutrition programs, most of whom had used one such product in the past on a trial basis. Others favoring the proposal included industry firms, and two USDA Regional Offices. The neutral comments were relative to the product specifications, if the proposed class of products were authorized.

Discussion of Major Comments

The major comments on the proposal may be categorized and summarized, as follows:

1. Convenience. The respondents in opposition to the product questioned the gain in convenience in serving this product over the two components of milk or juice or fruit or vegetable, and a bread-type item. There was also concern that the proposed varied serving sizes for different ages of children would reduce the convenience and in some cases make the use impossible. Respondents favoring the product felt that a one component product replacing the two component supplemental food was of benefit to those summer feeding sites having limited facilities and inadequate sanitary conditions.

2. Nutrition Education. Many respondents in opposition to the proposal affirmed that authorizing the use of a formulated fortified product to replace wholesome, "natural" foods contradicts what nutrition educators are trying to teach and compromises the objectives for this child nutrition program. Those respondents supporting the concept, however, believed that since the product was proposed as a supplemental food item, it could provide an opportunity to educate children on the selection of nutritious snack foods.

3. Nutrition. Those respondents opposing the concept foresaw the ensuing products as likely to be high in sugar and fat, and devoid in fiber and trace nutrients found in "natural" foods. Those in favor of the concept argued that the product, providing children with one-sixth of the Recommended Dietary Allowances, would achieve a major objective in the summer program, which is to provide nutritional help to children.

4. Variety. There was some concern among those in opposition that some program administrators would elect to serve the formulated food every day because it would be the easiest to serve, thereby reducing the opportunity to expand a child's eating experiences. Supporters of the product saw it as offering increased variety to the supplemental food pattern.

5. Acceptability. Those commenters that had used such a product in the past testified the majority of children liked the taste and found it quite filling.

Reasons for Withdrawal

In view of the many negative comments received, and the inconclusive benefits of this type of product to the child nutrition programs, the Department hereby withdraws the proposal. It is the belief of the Department that a properly balanced diet of conventional foods is the preferred source of adequate nutrition. Any "alternate food" authorized for use in the child nutrition programs must be advantageous to the programs, meeting one or more of the following criteria: nutritional contribution equal to or greater than that of the food it replaces, acceptability, cost, and convenience.

The Department views the nutrient content of the proposed alternate food as satisfactory. However, using conventional foods within the current regulations, a comparable or higher level of nutrition can be provided with good menu planning. Furthermore, the Department does not deem that the small level of convenience provided is adequate justification to compromise the Department's commitment and responsibility to the development of good food habits and the furtherance of nutrition education.

In view of the foregoing, the Department hereby withdraws the proposal published in the FEDERAL REGISTER (41 FR 28796) on July 13, 1976.

Dated: May 5, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-13206 Filed 5-9-77;8:45 am]

Agricultural Marketing Service

[7 CFR Part 915]

HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Notice of Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Consideration is being given to the following proposal, which would regulate the handling of fresh avocados grown in South Florida by establishing minimum quality and maturity requirements for such avocados. The proposal would establish U.S. No. 3 as the minimum grade and would prescribe minimum weights or diameters by specified dates as the maturity requirements. Weights or diameters and picking dates are indices used at harvest to assure that avocados are mature and will ripen satisfactorily after picking.

COMMENT DATE: Comments must be received on or before May 20, 1977.

ADDRESSES: Comments may be addressed to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-3545).

SUPPLEMENTARY INFORMATION: The proposed requirements would be established pursuant to § 915.51 Issuance of regulations and were recommended by the Avocado Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The proposed minimum grade and maturity requirements for handling of designated varieties of avocados would be effective on and after May 30, 1977. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The purpose of the proposed regulation is to assure that the fruit of the various varieties will be of suitable quality and maturity so as to provide consumer satisfaction which is a critical element in disposition of the crop. Immature avocados are unpalatable and, except for a few varieties, external characteristics do not provide an adequate basis on which to distinguish immature avocados from those that will ripen into a platable product. Hence, consumers have no rational basis for selection of satisfactory fruit.

The recommendations of the Avocado Administrative Committee reflect its appraisal of the avocado crop and current and prospective market conditions. Shipments of avocados are expected to begin on or about May 30, 1977. The committee has considered and recommended the quality and maturity requirements, including shipping periods, deemed appropriate to the current season for the designated varieties and types of avocados, to prevent the handling of immature and other undesirable fruit. Such recommendation recognizes the differences in consumer demand within and outside the production area and the proposed regulation would provide the trade and consumers with an adequate supply of mature avocados of a satisfactory quality commensurate with crop conditions in the interest of producers and consumers pursuant to the declared policy of the act.

Such proposal reads as follows:

§ 915.319 Avocado Regulation 19.

(a) *Order.* (1) During the period May 30, 1977, through April 30, 1978, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided,* That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR Part 915), for the handling of avocados between the production area and any point outside thereof;

(2) On and after the effective date of this regulation, except as otherwise provided in subparagraphs (10) and (11) of this paragraph, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with subparagraph (3), (4), (5), (6), (7), (8), and (9) hereof.

V42 90 MAY 10 77 UMI

TABLE I

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kosel	5-30-77	16 oz.	6-13-77	13 oz.	6-27-77	10 oz.	7-11-77
Arue	5-30-77	16 oz.	6-13-77	14 oz. 3-3/16 in	7-18-77		
Roland 22	6-13-77	22 oz.	6-27-77	20 oz.	7-18-77		
J.M. Poropat	6-20-77	20 oz.	6-27-77	18 oz.	7-18-77	16 oz.	8-1-77
Fuchs	6-20-77	14 oz. 3-3/16 in.	7-4-77	12 oz. 3-0/16 in.	7-18-77	10 oz. 2-14/16 in.	8-8-77
K-5	6-27-77	18 oz. 3-5/16 in.	7-11-77	14 oz. 3-3/16 in.	7-25-77		
Dr. DuPuis #2	6-20-77	16 oz. 3-9/16 in.	7-4-77	14 oz. 3-7/16 in.	7-18-77	12 oz. 3-2/16 in.	8-1-77
Hardee	7-4-77	16 oz. 3-2/16 in.	7-11-77	14 oz. 2-14/16 in.	8-1-77		
Pollock	7-4-77	18 oz. 3-11/16 in.	7-18-77	16 oz. 3-7/16 in.	8-1-77	14 oz. 3-4/16 in.	8-15-77
Simmonds	7-4/77	16 oz. 3-9/16 in.	7-18-77	14 oz. 3-7/16 in.	8-1-77	12 oz. 3-1/16 in.	8-15-77
Nadir	7-4-77	14 oz. 3-3/16 in.	7-11-77	12 oz. 3-1/16 in.	7-18-77	10 oz. 2-14/16 in.	8-1-77
Katherine	7-4-77	16 oz.	7-18-77	14 oz.	8-1-77		
Haile	7-4-77	20 oz.	7-18-77	16 oz.	7-25-77	14 oz.	8-15-77
Ruehle	7-18-77	18 oz. 3-11/16 in.	7-25-77	16 oz. 3-9/16 in.	8-1-77	14 oz. 3-7/16 in.	
Ruehle (Continued)					8-15-77	12 oz. 3-5/16 in.	8-29-77
Alpha	7-25-77	16 oz. 3-9/16 in	8-15-77				
Donnie	7-11-77	16 oz. 3-5/16 in.	7-25-77	14 oz. 3-4/16 in.	8-22-77		

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Dawn	7-18-77	12 oz. 3-4/16 in.	8-1-77	10 oz. 3-0/16 in.	8-15-77		
Webb	7-18-77	18 oz.	8-1-77	16 oz.	8-15-77		
Biondo	8-1-77	15 oz.	8-15-77	12 oz.	10-3-77		
Cash	7-18-77	16 oz.	10-3-77				
Peterson	7-25-77	14 oz. 3-8/16 in.	8-8-77	10 oz. 3-2/16 in.	8-22-77	8 oz. 2-14/16 in.	9-5-77
232	8-1-77	14 oz.	8-15-77	12 oz.	8-29-77		
Gretchen	8-1-77	14 oz.	8-15-77	12 oz.	8-29-77		
Trapp	8-15-77	14 oz. 3-10/16 in.	8-29-77	12 oz. 3-7/16 in.	9-12-77		
B&B	8-1-77	16 oz. 3-8/16 in.	9-5-77				
Waldin	8-15-77	16 oz. 3-9/16 in.	8-29-77	14 oz. 3-7/16 in.	9-12-77	12 oz. 3-4/16 in.	9-26-77
Pinelli	8-1-77	18 oz. 3-12/16 in.	8-15-77	16 oz. 3-10/16 in.	8-29-77		
Miguel	8-1-77	22 oz. 3-13/16 in.	8-15-77	20 oz. 3-12/16 in.	8-29-77	18 oz. 3-10/16 in.	9-12-77
Nesbitt	8-1-77	22 oz. 3-12/16 in.	8-15-77	18 oz. 3-8/16 in.	8-22-77	16 oz. 3-5/16 in.	9-12-77
Beta	8-15-77	18 oz. 3-8/16 in.	8-22-77	16 oz. 3-5/16 in.	9-12-77		
K-9	8-15-77	16 oz.	9-5-77				
Tower 2	8-15-77	14 oz.	8-29-77	12 oz.	9-26-77		
Shula	8-15-77	22 oz.	9-5-77				
Tonnage	8-29-77	14 oz. 3-4/16 in.	9-5-77	12 oz. 3-0/16 in.	9-12-77	10 oz. 2-13/16 in.	9-19-77

V 42 90 MAY 10 77 UMI

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Fairchild	8-29-77	16 oz. 3-10/16 in.	9-12-77	14 oz. 3-7/16 in.	9-26-77	12 oz. 3-4/16 in.	10-3-77
Nirody	8-29-77	18 oz. 3-15/16 in.	9-12-77	16 oz. 3-12/16 in.	9-26-77		
Loretta	8-29-77	28 oz. 4-1/16 in.	12-19-77				
Black Prince	9-12/77	23 oz.	9-26-77	16 oz.	10-17-77		
Catalina	9-12-77	24 oz.	9-19-77	22 oz.	10-3-77		
Csonka	9-19-77	22 oz.	10-17-77				
Blair	9-12-77	16 oz.	9-26-77	14 oz. 3-9/16 in.	10-17-77		
Collinson	9-26-77	16 oz. 3-10/16 in.	10-24-77				
Chica	9-26-77	12 oz. 3-7/16 in.	10-10-77	10 oz. 3-4/16 in.	10-24-77		
Rue	9-26-77	30 oz. 4-3/16	10-3-77	24 oz. 3-15/16 in.	10-17-77	18 oz. 3-9/16 in.	10-31-77
Brooks 1978	10-10-77	10 oz.	10-17-77	8 oz.	11-14-77		
Booth 5	10-3-77	14 oz. 3-9/16 in	10-17-77	12 oz. 3-6/16 in.	10-31-77		
Hickson	10-3-77	15 oz. 3-5/16 in	10-17-77	12 oz. 3-1/16 in.	10-31-77	10 oz. 3-0/16 in.	11-14-77
Simpson	10-3-77	16 oz. 3-9/16 in.	10-24-77				
Vaca	10-3-77	16 oz. 3-9/16 in.	10-24-77				

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sherman	10-3-77	16 oz.	10-17-77	14 oz.	10-31-77	10 oz.	11-21-77
Marcus	10-3-77	32 oz. 4-12/16 in.	11-14-77				
Booth 10	10-10-77	16 oz. 3-10/16 in	11-7-77				
Booth 7	9-26-77	18 oz. 3-13/16 in.	10-10-77	16 oz. 3-10/16 in.	10-24-77	14 oz. 3-8/16 in.	11-7-77
Avon	10-10-77	15 oz. 3-11/16 in.	10-31-77				
Booth 11	10-10-77	16 oz. 3-12/16 in.	10-31-77				
Leona	10-10-77	18 oz. 3-10/16 in.	10-24-77				
Winslowson	10-10-77	18 oz. 3-14/16 in.	10-31-77				
Nelson	10-10-77	14 oz. 3-8/16 in.	10-24-77	12 oz. 3-5/16 in.	11-7-77	10 oz. 3-1/16 in.	11-28-77
Hall	10-10-77	26 oz. 3-14/16 in.	10-24-77	20 oz. 3-9/16 in.	11-7-77	18 oz. 3-8/16 in.	11-21-77
Lula	10-17-77	18 oz. 3-11/16 in.	10-31-77	14 oz. 3-6/16 in.	11-14-77	12 oz. 3-5/16 in.	11-28-77
Choquette	10-17-77	24 oz. 4-1/16 in.	10-31-77	20 oz. 3-14/16 in.	11-14-77	16 oz. 3-9/16 in.	11-21-77
Monroe	11-14-77	24 oz. 4-1/16 in.	11-28-77	20 oz. 3-14/16 in.	12-12-77	16 oz. 3-9/16 in.	12-26-77
Herman	10-17-77	16 oz. 3-9/16 in.	10-31-77	14 oz. 3-6/16 in.	11-14-77		
Murphy	10-17-77	16 oz.	10-31-77	14 oz.	11-14-77	11 oz.	12-5-77

V 42 90 MAY 10 77 UMI

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Ajax (B-7-B)	10-24-77	18 oz. 3-14/16 in.	11-14-77				
Booth 1	11-21-77	16 oz. 3-12/16 in.	12-5-77	14 oz. 3-10/16 in.	12-19-77	12 oz. 3-6/16 in.	1-2-78
Booth 3	10-24-77	16 oz. 3-10/16 in.	11-14-77				
Taylor	10-24-77	14 oz. 3-5/16 in.	11-7-77	12 oz. 3-2/16 in.	11-21-77		
Dunedin	11-7-77	16 oz. 3-10/16 in.	11-21-77	14 oz. 3-8/16 in.	12-5-77	10 oz. 3-1/16 in.	12-26-77
Byars	11-14-77	16 oz. 3-14/16 in.	12-5-77				
Linda	11-14-77	18 oz. 3-12/16 in.	12-5-77				
Nabal	11-14-77	14 oz. 3-9/16 in.	12-5-77				
Zio	11-28-77	12 oz.	12-12-77	10 oz.	12-26-77		
Wagner	12-5-77	12 oz. 3-5/16 in.	12-19-77	10 oz. 3-2/16 in.	1-2-78		
Maya	12-26-77	13 oz.	1-9-78	11 oz.	1-23-78		
Brookslate	1-9-78	14 oz.	1-23-78	12 oz.	2-6-78	10 oz.	2-20-78
Schmidt	1-16-78						
Itzamna	2-13-78						

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocado of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(6) No handler shall handle (i) prior to August 22, 1977, any Lisa variety avocados, (ii) during the period August 22, 1977, through August 28, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (iii) during the period August 29, 1977, through September 4, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 11 ounces, (iv) during the period September 5, 1977, through September 11, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, (v) during the period September 12, 1977, through September 19, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces:

(7) No handler shall handle (i) prior to September 12, 1977, any Booth 8 variety avocados, (ii) during the period September 12, 1977, through October 2, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3$^{9}/_{16}$ inches in diameter, or (iii) during the period October 3, 1977, through October 16, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3$^{9}/_{16}$ inches in diameter, or (iv) during the period October 17, 1977, through October 30, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least 3$^{7}/_{16}$ inches in diameter, or (v) during the period October 31, 1977, through November 14, 1977, any Booth 8 variety avacodos unless the individual fruit in each of such avocados weighs at least 10 ounces or is at least 3$^{1}/_{16}$ inches in diameter.

(8) Except as otherwise provided in subparagraphs (10) and (11) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 4, 1977.

(ii) From July 4, 1977, through July 31, 1977, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 1, 1977, through September 4, 1977, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 5, 1977, through October 3, 1977, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(9) Except as otherwise provided in subparagraphs (10) and (11) of this paragraph, varieties of avocados not covered by subparagraphs (2) through (8) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 19, 1977.

(ii) From September 19, 1977, through October 16, 1977, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 17, 1977, through December 19, 1977, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(10) Notwithstanding the provisions of subparagraphs (2) through (9) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in subparagraphs (6), (7), (8), and (9). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(11) The provisions of subparagraphs (2) through (10) of this paragraph shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the term "U.S. No. 3" shall have the same meaning as set forth in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069).

(c) The provisions of this regulation shall become effective May 30, 1977.

Dated: May 2, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13088 Filed 5-9-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1421]

GRAINS AND SIMILARLY HANDLED COMMODITIES

General Regulations Governing Price Support for 1976 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This notice extends to May 27, 1977, the time period for making comments on the proposed expansion of the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, grain sorghum, oats, rye and wheat, as a number of parties have requested additional time for making comments. The additional time for comments is given, as requested, in order that all persons will have sufficient time to respond.

DATE: Comments must be received on or before May 27, 1977.

ADDRESS: Send comments to the Director, Grains, Oilseeds and Cotton Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins (ASCS), 202–447–4634.

SUPPLEMENTARY INFORMATION: On April 12, 1977, a notice was published in the FEDERAL REGISTER, 42 FR 19149, that the Secretary was considering an amendment to the General Regulations Governing Price Support for the 1976 and subsequent crops to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, grain sorghum, oats, rye and wheat. Comments were solicited from interested persons. The comment period extended through May 12, 1977.

The Secretary is interested in receiving comments from all individuals, firms and cooperatives who wish to respond. A number of persons have requested, however, that additional time be allowed for submitting comments.

Notice is hereby given that an additional 15 days are being allowed for submission of comments. Comments must be received on or before May 27, 1977, to be sure of consideration. All written comments received during the

V 42 90 MAY 10 77 7 UMI

original 30 days and the additional 15 days for comments will be available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on May 5, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-13417 Filed 5-9-77;8:45 am]

[7 CFR Part 1425]

COOPERATIVE MARKETING ASSOCIATIONS

Eligibility Requirements for Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This notice extends to May 27, 1977, the time period for making comments on the proposed expansion of the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, grain sorghum, oats, rye, and wheat, as a number of parties have requested additional time for making comments. The additional time for comments is given, as requested, in order that all persons will have sufficient time to respond.

DATE: Comments must be received on or before May 27, 1977.

ADDRESS: Send comments to the Director, Grains, Oilseeds and Cotton Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins (ASCS). (202–447–4634).

SUPPLEMENTARY INFORMATION: On April 12, 1977, a notice was published in the FEDERAL REGISTER, 42 FR 19149, that the Secretary was considering an amendment to the Cooperative Marketing Associations Eligibility Requirements to expand the list of commodities on which approved cooperative marketing associations may participate in authorized price support programs to include barley, corn, grain sorghum, oats, rye, and wheat. Comments were solicited from interested persons. The comment period extended through May 12, 1977.

The Secretary is interested in receiving comments from all individuals, firms, and cooperatives who wish to respond. A number of persons have requested, however, that additional time be allowed for submitting comments.

Notice is hereby given that an additional 15 days are being allowed for submission of comments. Comments must be received on or before May 27, 1977, to be sure of consideration. All written comments received during the original 30 days and the additional 15 days for comments will be available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on May 5, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-13406 Filed 5-9-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 120]

BUSINESS LOAN POLICY

Notice of Proposed Rulemaking

AGENCY: Small Business Administration.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would clarify that all cooperatives, including farm cooperatives, must meet the qualification of a group corporation (13 CFR 122.9) to be eligible for financial assistance. This question arose when Pub. L. 94-305 made agriculture eligible for SBA assistance. The intent of this rule is to establish the same eligibility rules for farm cooperatives as for other cooperatives. Marketing Cooperatives would thus be equally ineligible as marketing group corporations are now. It will also incorporate SBA's longstanding policy that consumer cooperatives are ineligible. See 13 CFR 119.21(d).

DATES: Comments must be received on or before May 25, 1977.

ADDRESSES: Comments, submitted in duplicate, are to be addressed to Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416. (202–653–6470).

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. § 634.)

It is proposed to amend, as set forth below, § 120.2(d)(3) of Part 120, Chapter 1, Title 13 of the Code of Federal Regulations.

Section 120.2(d)(3) would be amended to read as follows:

§ 120.2 Business loans and guarantees.

* * * * * * *

(d) Financial assistance will not be granted by SBA:

(1) * * *

(2) * * *

(3) If the applicant is an eleemosynary institution or other nonprofit enterprise: *Provided, however,* That this provision shall not be construed to bar financial assistance to a cooperative, including a farm cooperative, which meets the qualifications and requirements under § 122.9, of this Chapter. Consumer cooperatives are not eligible. An otherwise eligible small business concern will not become ineligible because it is owned in whole or in part by a nonprofit organization.

* * * * * *

(Catalog of Federal Domestic Assistance Program No. 59.012 Small Business Loans.)

Dated: May 3, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-13196 Filed 5-9-77;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1 and 32]

REGULATION OF COMMODITY OPTION TRANSACTIONS

Public Hearing

AGENCY: Commodity Futures Trading Commission.

ACTION: Public hearing.

SUMMARY: The Commodity Futures Trading Commission will hold public hearings on Wednesday, May 25, 1977, to receive oral statements on its proposed pilot program for the regulation of commodity option transactions in the United States.

DATES: Hearing: 10 a.m., May 25 and May 26 (if necessary), 1977.

ADDRESS: 5th Floor Hearing Room, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mrs. Jane Stuckey, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. (202–254–6126).

SUPPLEMENTARY INFORMATION: The Commission's proposed pilot program was publicly announced in the FEDERAL REGISTER on April 5, 1977, (42 FR 18246).

Persons who wish to appear at the hearings should forward an outline of their proposed statement to Mrs. Stuckey at the above address in time for it to be received by May 20, 1977.

Persons making statements before the Commission may be accompanied by persons of their own choosing, who may advise or assist the speaker in responding to questions or otherwise assure that full information is developed for the use of the Commission. Oral presentations will be limited to 15 minutes. During and subsequent to any person's oral presentation, questions may be asked either by members of the Commission or the Commission staff.

The Commission recognizes that members of the public may have questions. Therefore, provision will be made for persons having questions to submit those questions in informal written form to a member of the Commission staff who will have discretion whether or not to pose those questions to the persons making the presentation.

Issued in Washington, D.C., on May 4, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-13236 Filed 5-9-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 154]

NATURAL GAS PIPELINE COMPANIES' FPC GAS TARIFFS

Purchased Gas Cost Adjustment Provision

AGENCY: Federal Power Commission.

ACTION: Notice requesting further comments.

SUMMARY: The Commission on April 26, 1977, granted a motion by the Staff for further comments in the rulemaking proceeding in Docket No. R-406, Purchased Gas Adjustment Provisions in Natural Gas Pipeline Companies' FPC Gas Tariffs. Comments were previously requested in this proceeding by notice published on May 17, 1976 (41 FR 20177). The additional comments are requested on the issue of whether a natural gas company should be allowed to file additional purchased gas adjustments, in addition to the proposed semi-annual adjustments, to track costs resulting from rate filings under Section 4(e) of the Natural Gas Act by pipeline suppliers.

DATES: Comments must be received on or before May 11, 1977.

ADDRESS: Send comments to Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 275–4166

Issued: April 26, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-12766 Filed 5-9-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 21005]

TARIFFS

International Telex Service With the Domestic Telex and TWX Services; Order Extending Time for Filing Comments, Responses and Replies

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: Upon request of RCA Global Communications, Inc. the Commission is extending the filing deadlines in Docket 21005 for a period of one week to allow for additional time to respond. DATES: Comments must be received on or before May 16, 1977; Responses must be received on or before June 16, 1977; and Replies must be received on or before June 27, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Tariff Division, Common Carrier Bureau (202–632–5550).

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1977.

Released: May 2, 1977.

ORDER

1. Before the Commission for consideration is the motion for extension of time, filed April 27, 1977, by RCA Global Communications, Inc. (RCA Globcom) seeking a one week extension of the filing deadlines in this Docket. In support of its request, RCA Globcom avers that key personnel, including the officer assigned management responsibility for coordinating its response, were required to respond to the action of governmental authorities on Saipan who terminated, on April 23, 1977, RCA Globcom's access to the sole commercial communications facilities link between Guam and Saipan.

2. In light of the extenuating circumstances on Saipan and RCA Globcom's assertion of the assignment of key personnel to address an interim resolution of the problems resulting from the action on Saipan, good cause appears to exist for grant of an extension of time. The one week period requested appears reasonable and not detrimental to the public interest.

3. *Accordingly, it is ordered,* Pursuant to delegated authority, 47 CFR 0.303(c), That the motion for extension of time, filed April 27, 1977, by RCA Global Communications is granted, and that the times for filing comments and responsive pleadings are extended to the following dates: Comments, May 16, 1977; Responses, June 16, 1977; Replies, June 27, 1977.

DANIEL OHLBAUM,
Acting Deputy Chief, Common Carrier Bureau.

[FR Doc.77-13227 Filed 5-9-77;8:45 am]

[47 CFR Part 64]

COMPUTER INQUIRY

Notice Listing Parties in Proceeding

AGENCY: Federal Communications Commission.

ACTION: Notice with service list.

SUMMARY: The Commission is publishing a revised list of those parties who will be participating in the new computer inquiry rulemaking proceeding. The purpose of the list is to enable parties to the proceeding to serve the parties listed with a copy of their comments and reply comments. This list is being prepared to reflect corrections made to the previous service list.

DATES: Comments must be received on or before May 16, 1977, and Reply Comments must be received on or before June 30, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James K. Smith, Common Carrier Bureau, 632-9342.

SUPPLEMENTARY INFORMATION: Released: May 5, 1977.

In the matter of amendment of § 64.702 of the Commission's Rules and Regulations (Computer Inquiry).[1]

1. A Supplemental Notice of Inquiry and Enlargement of Proposed Rulemaking (FCC 77-151) which expanded the scope of Docket No. 20828 was issued on March 8, 1977. Parties not listed in the service list attached to the Supplemental Notice who were interested in participating in this proceeding were requested to file a notice of intent to participate by March 25, 1977. In view of the additional responses, a revised service list, released April 21, 1977, was prepared to reflect any additions or corrections to the initial sevice list. Several corrections were not made to the April 21, 1977 service list which should have been made. A new service list (Attachment A) has been prepared which reflects these corrections. Those changes to the April 21, 1977 service list which are being made in Attachment A are denoted by an asterisk (*).

2. Parties to this proceeding should serve a copy of all pleadings in this proceeding on those parties listed in Attachment A. At least one copy per party should be served on those firms representing more than one party. To the extent that other documents may be entered into the record which are not served on the parties listed in Attachment A, reference should be made to the Commission's public file in Docket No. 20828 for the complete record. Comments and other documents filed in this proceeding will be available for public inspection in the Docket Reference Room in the Commission's offices at 1919 M Street, N.W., Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
DANIEL R. OHLBAUM,
Acting Deputy Chief, Common Carrier Bureau.

ATTACHMENT A

James G. Buckley, Jim Buckley and Associates, 1319 F Street, N.W., Room 711, Washington, D.C. 20004.
Jeremiah Courtney, Esq., Ad Hoc Telecommunications Committee, 2120 L Street, N.W., Washington, D.C. 20037.
Charles R. Cutler, Esq., Kirkland, Ellis & Rowe, 1776 K Street, N.W., Washington, D.C. 20006. Counsel for Aeronautical Radio, Inc.

[1] See 42 FR 21626, April 28, 1977.

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Gerald M. Lowrie, American Bankers Association, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036.

Aloysuis B. McCabe, Esq., Michael Yourshaw, Esq., Kirkland, Ellis & Rowe, 1776 K Street, N.W., Washington, D.C. 20006. Counsel for American Newspaper Publishers Association; Associated Press; Commodity News Services, Inc.

Michael D. Campbell, Esq., Stuart G. Meister, Esq., American Satellite Corporation, 20301 Century Blvd., Germantown, Maryland 20767.

*Alfred A. Green, Esq., American Telephone & Telegraph Company, 195 Broadway, New York, New York 10007.

Carol A. Cohen, Esq., Applied Data Research, Inc., Route 206 Center, Princeton, New Jersey 08540.

Herbert E. Marks, Esq., Stephen R. Bell, Esq., Richard P. Carr, Esq., Wilkinson, Cragun & Barker, 1735 New York Avenue, N.W., Washington, D.C. 20006. Counsel for Remote Processing Services Section (RPSS) of the Association of Data Processing Service Organizations; Independent Data Communications Manufacturers Association, Inc.

Ben Harty, Esq., Vice President, Boeing Computer Services, Inc., 177 Madison Avenue, Morristown, New Jersey 07960.

Arthur Scheiner, Esq., Michael H. Rosenbloom, Esq., Wilmer & Scheiner, 2021 L Street, N.W., Washington, D.C. 20036. Counsel for Boeing Computer Services, Inc.

Paul S. Hoffman, Vice President, Bowne and Company, Inc., 345 Hudson Street, New York, New York 10014.

Tedson J. Meyers, Esq., Michael W. Faber, Esq., Peabody, Rivlin, Lambert & Meyers, Connecticut Building, 12th floor, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036. Counsel for Citicorp; Bunker Ramo Corporation.

Joseph M. Kittner, Esq., Peter M. Anderson, Esq., McKenna, Wilkinson & Kittner, 1150 17th Street, N.W., Washington, D.C. 20036. Counsel for the Computer and Business Equipment Manufacturers Association; McDonnell Douglas Corporation.

John S. Voorhees, Esq., Howrey & Simon, 1730 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Counsel for the Computer and Business Equipment Manufacturers Association.

Robert P. Bigelow, Editor, Computer Law and Tax Report, 28 State Street, Suite 2200, Boston, Massachusetts 02109.

William K. Coulter, Esq., Communications Satellite Corporation, 950 L'Enfant Plaza, S.W., Washington, D.C. 20024.

James T. Roche, Esq., COMSAT General Corporation, 950 L'Enfant Plaza, S.W., Washington, D.C. 20024.

Terry G. Mahn, Esq., Computer and Communications Industry Association, 1911 N. Fort Myer Drive, Rosslyn, Virginia 22209.

Thomas L. Jones, Esq., Continental Telephone Corporation, 1800 K Street, N.W., Suite 629, Washington, D.C. 20006.

Philip C. Onstad, Manager, Telecommunications Policies, Control Data Corporation, 500 West Putnam Avenue, Greenwich, Connecticut 06830.

John Sodolski, Staff Vice President, Electronic Industries Association, 2001 Eye Street, N.W., Washington, D.C. 20006.

Henry Goldberg, Esq., Thomas J. Keller, Esq., Verner, Liipfert, Bernhard & McPherson, 1660 L Street, NW., Suite 1000, Washington, D.C. 20036. Counsel for French Telegraph Cable Co.

David Sherman, Esq., General Electric Company, 401 N. Washington Street, Rockville, Maryland 20850.

Richard A. Fazzone, Esq., General Electric Company, 2500 Cambridge Road, Schenectady, New York 12304.

Edward P. Taptich, Esq., McKenna, Wilkinson & Kittner, 1150 17th Street, N.W., Washington, D.C. 20036. Counsel for General Electric Company.

Spence W. Perry, Esq., General Services Administration, 18th and F Streets, N.W., Room 4008, Washington, D.C. 20405.

James M. Baisley, Esq., 400 North Wolf Road, Northlake, Illinois 60614. Counsel for GTE Automatic Electric, Inc.

Allen R. Frischkorn, Jr., Esq., 1120 Connecticut Avenue, N.W., Suite 900, Washington, D.C. 20036. Counsel for GTE Automatic Electric Inc.; GTE Data Services, Inc.

James V. Carideo, Esq., P.O. Box 1548, Tampa, Florida 33601. Counsel for GTE Data Services, Inc.

Richard Cahill, Esq., Richard McKenna, Esq., One Stamford Forum, Stamford, Connecticut 06904. Counsel for GTE Domestic Telephone Operating Companies.

Ruth L. Prokop, Esq., 1120 Connecticut Avenue, N.W., Washington, D.C. 20036. Counsel for GTE Domestic Telephone Operating Companies.

Andrew M. Wolfe, Esq., Harrick & Smith, 100 Federal Street, Boston, Massachusetts 02110. Counsel for Incoterm Corporation.

David R. Anderson, Esq., Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Counsel for International Business Machines Corporation.

J. Gordon Walter, Esq., Senior Attorney, IBM Corporation, Old Orchard Road, Armonk, New York 10504.

Agatha M. Modugno, Esq., Legal Department, ITT Domestic Transmission Systems, Inc., 67 Broad Street, New York, New York 10004.

Gerald A. Poch, ITT—North American Telecommunications Group, 320 Park Avenue, New York, New York.

Joseph J. Jacobs, Esq., Vice President and General Attorney, ITT World Communications, Inc., 67 Broad Street, New York, New York 10004.

David McCabe, 618 A Street, S.E., Apt. 4, Washington, D.C. 20003.

Michael H. Bader, Esq., Kenneth A. Cox, Esq., William J. Byrnes, Esq., 1730 M Street, N.W., Washington, D.C. 20036, Counsel for MCI Telecommunications Corporation; Microwave Communications, Inc. and N-Triple-C, Inc.

National Burglar and Fire Alarm Association, 1730 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

Eugene Strange, President, National Communications Services, 107 St. Andrews Drive, Vienna, Virginia 22180.

William B. Moriarty, II, National Data Corporation, One National Date Plaza, Atlanta, Georgia 30329.

Ralph W. Christry, Esq., Alston, Miller & Gaines, 1800 M Street, N.W., Suite 1000, Washington, D.C. 20036. Counsel for National Data Corporation.

Thomas W. Kern, Manager, Systems Standards, Industry Standards and Relations, NCR Corporation, Main and "K" Streets, Dayton, Ohio 45479.

General Counsel, Executive Office of the President, Office of Telecommunications Policy, 1800 G Street, N.W., Washington, D.C. 20504.

Raymond Panko, 808 Coleman Avenue, Apt. 12, Menlo Park, California 94025.

David R. Ellis, Esq., RCA American Communications, Inc., 201 Centennial Avenue, Piscataway, New Jersey 08854.

Donald J. Elardo, Esq., RCA Global Communications, Inc., 60 Broad Street, New York, New York 10004.

David J. Cook, Esq., Nixon, Hargrave, Devans and Doyle, Lincoln First Tower, Rochester, New York 14603. Counsel for Rochester Telephone Corporation.

John R. Bonica, Rutgers Journal of Computers and the Law, 180 University Avenue, Newark, New Jersey 07102.

F. Sherwood Lewis, Esq., Assistant Corporate Counsel, Sander Associates, Inc., Daniel Webster Highway South, Nashua, New Hampshire 03061.

*F. Thomas Tuttle, Esq., Counsel, Regulatory Matters, Satellite Business Systems, 8003 Westpark Drive, McLean, Virginia 22101.

Philip S. Abrams, Vice Presdent, Scientific Time Sharing Corporation, 7316 Wisconsin Avenue, Suite 207, Bethesda, Maryland 20014.

David B. Goldstein, Esq., Davis, Wright, Todd, Riese & Jones, 4200 Seattle, First National Bank Building, Seattle, Washington 98154. Counsel for Seattle-First National Bank.

John L. Bartlett, Esq., Kirkland, Ellis & Rowe, 1776 K Street, N.W., Washington, D.C. 20006. Counsel for Securities Industry Automation Corporation.

John V. Kenney, Esq., 1620 Eye Street, N.W., Suite 615, Washington, D.C. 20006. Counsel for Southern Pacific Communications Company.

Frank M. Lesher, Esq., Sperry Univac Division, Sperry Rand Corporation, P.O. Box 500, Blue Bell, Pennsylvania 19422.

Lloyd I. Krause, Stanford Research Institute, Menlo Park, California 94025.

Philip M. Walker, Esq., Telenet Communications Corporation, 1050 17th Street, N.W., Washingotn, D.C. 20036.

Donald E. Ward, Esq., 1050 17th Street, N.W., Suite 840, Washington, D.C. 20036. Counsel for Telenet Communications Corporation.

Fred W. Morris, President, Tele-Sciences Corporation, 9315 Hollyoak Court, Washington, D.C. 20034.

Merrikay S. Hall, Hughes, Hubbard & Reed, One Wall Street, New York, New York 10005. Counsel for Thrift Transfer Services, Inc.

Roderick A. Mette, Esq., 1747 Pennsylvania Avenue, N.W., Washington, D.C., 20006. Counsel for TRT Telecommunications Corporation.

William M. Combs, President, Tymnet, Inc., 10261 Bubb Road, Cupertino, California 95014.

John O. Somers, Esq., P.O. Box 11315, Kansas City, Missouri 64112. Counsel for United Computer Systems, Inc.

Thomas J. O'Reilly, Esq., Chadbourne, Park, Whiteside & Wolff, 1150 17th Street, N.W., Washington, D.C. 20036. Counsel for United States Independent Telephone Association.

John M. Lothschuetz, Esq., Carolyn C. Hill, Esq., 1800 K. Street, N.W., Suite 1102, Washington, D.C. 20006. Counsel for United Systems Service, Inc., on behalf of the member companies of the United Telephone System.

Warren E. Baker, Esq., P.O. Box 11315, Kansas City, Missouri 64112. Counsel for United Systems Service, Inc., on behalf of the member companies of the United Telephone System.

Charles M. Meehan, Esq., Keller & Heckman, 1150 17th Street, N.W., Suite 1000, Washington, D.C. 20036. Counsel for Utilities Telecommunications Council.

Stephen C. Weingarten, Esq., Western Union International, Inc., One WUI Plaza, New York, New York 10004.

Joel Yohalem, Esq., Robert N. Green, Esq., Western Union Telegraph Company, 1828 L Street, N.W., Washington, D.C. 20036.

James H. Carlisle, The Annenberg School of Communications, University of Southern California, University Park, Los Angeles, California 90007.

Kenneth Robinson, Esq., U.S. Department of Justice, Constitution Avenue at 10th Street, N.W., Washington, D.C. 20530.

John L. Wheeler, Xerox Corporation, Xerox Square 114, Rochester, New York 14644.

*Edgar Mayfield, Esq., American Telephone & Telegraph Company, Long Lines Department, P.O. Box 32, Room 4B–112, Bedminster, New Jersey 07921.

*James R. Tuck, Esq., NLT Computer Services Corporation, 3767 New Getwell Road, Memphis, Tennessee 38118.

[FR Doc.77–13334 Filed 5–9–77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-101]

TEXAS GAS TRANSMISSION CORP.

Emergency Order

On May 3, 1977, Texas Gas Transmission Corporation (Texas Gas), as agent for certain of its customers,[1] filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas which it is purchasing for certain of its customers.

Texas Gas, as agent, executed a contract on April 12, 1977, with Hunt Oil Company (Hunt) for the purchase of approximately 1,000 Mcfd from the Bayou Middle Fork Field, Claiborne Parish, Louisiana. Texas Gas will receive these volumes at the outlet of the Claiborne Gasoline Plant, Claiborne Parish, Louisiana, and transport these supplies through its existing pipeline facilities to the customers for which it is purchasing the gas.

The total price to be paid by Texas Gas, as agent, is $2.25 per MMBtu. This price is fair and equitable in accordance with Order No. 2.

Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76-17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find no basis for prescribing other charges since the parties have agreed upon the transportation charges.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from Hunt and to transport such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers' for which it is acting as agent, and (ii) Texas Gas' agreement to submit the reports required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Hunt. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 5, 1977.

[FR Doc.77-13388 Filed 5-9-77;8:45 am]

[1] These customers are local distribution companies and interstate pipelines as defined in sections 2 (1), (5) of the Act (91 Stat. 4).

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Louisiana Grain Inspection Area3

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act of 1976 (7 U.S.C. 71 et seq.), hereinafter the "Act," the Federal Grain Inspection Service is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a state is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

The Federal Grain Inspection Service will assume performance of official inspection and weighing services at such export port locations within 18 months of the November 20, 1976, effective date of the amended Act. Provided that, subject to meeting certain requirements of the Act, existing official agencies may continue to function during such a transition period.

The New Orleans Board of Trade, New Orleans, Louisiana, a designated official agency at the following Louisiana parishes or portions thereof: Orleans, Plaquemines, and Jefferson, will cease providing official inspection services effective midnight, May 7, 1977, in accordance with prior notice to the Federal Grain Inspection Service.

Notice is hereby given that, effective May 8, 1977, the designation of the New Orleans Board of Trade, New Orleans, Louisiana, as an official agency is canceled pursuant to the provisions of section 7(g)(2) of the Act (7 U.S.C. 79(g)(2)).

The Federal Grain Inspection Service, effective May 8, 1977, will commence providing official grain inspection and weighing services at the area previously serviced by the New Orleans Board of Trade including the following Louisiana parishes or portions thereof: Orleans, Plaquemines, and Jefferson, in accordance with sections 7(e)(1) and 7A(c)(1) of the Act (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)). The land-based elevators in this inspection area include the Mississippi River Grain Elevator, Myrtle Grove, Louisiana, the Continental Grain Company, Westwego, Louisiana, and the Bulk Terminal and the Public Grain Elevator, New Orleans, Louisiana.

(Sec. 7 (Pub. L. 94-582) 90 Stat. 2870 (7 U.S.C. 79); sec. 7A (Pub. L. 94-582) 90 Stat. 2875 (7 U.S.C. 79A).)

Effective date: This notice shall become effective May 7, 1977.

Done in Washington, D.C., on May 4, 1977.

D. R. GALLIART,
Interim Administrator.

[FR Doc.77-13205 Filed 5-9-77;8:45 am]

Office of the Secretary

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meeting

The Committee of Scientists will meet at 9 a.m. on May 24, 1977, through afternoon of May 26, 1977, in Room 104-A of the Department of Agriculture Administration Building, 14th and Independence Ave. SW., Washington, D.C. The purpose of this meeting is Organization and defining the role and charter of the Committee of Scientists.

The meeting will be open to the public. Persons who wish to attend should notify Charles R. Hartgraves, Forest Service, AC 202-447-5933. Written statements may be filed with the committee before or after the meeting.

M. RUPERT CUTLER,
Assistant Secretary.

MAY 6, 1977.

[FR Doc.77-13459 Filed 5-6-77;3:43 pm]

Rural Electrification Administration

COPPER VALLEY ELECTRIC ASSOCIATION, INC., GLENNALLEN, ALASKA

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider: (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $16,000,000 to Copper Valley Electric Association, Inc., of Glennallen, Alaska, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $14,326,000 to this cooperative. These loan funds will be used to finance a project consisting of a 12,000 kW hydro generating unit, substation, and 104 miles of 138 kV and 4 miles of 25 kV transmission line.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. James F. Palin, Manager, Copper Valley Electric Association, Inc., Box 45, Glennallen, Alaska 99588.

In order to be considered, proposals must be submitted on or before June 9, 1977, to Mr. Palin. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Copper Valley Electric Association, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washinton, D.C., this 2d day of May 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.77-13137 Filed 5-9-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27557]

CARGO CHARTER TRANSFER RATE INVESTIGATION

Reconvening Prehearing Conference; (former title—Transatlantic FAK Container and Charter Freight Rates Investigation)

Notice is hereby given that the prehearing conference in the above-entitled matter will be reconvened on June 14, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates. The Bureau of Economics will circulate its material on or before May 31, 1977, and the other parties on or before June 7, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Economics, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing. All submittal dates established herein are to be regarded as dates for receipt and not as mailing dates.

Dated at Washington, D.C., May 4, 1977.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.77-13262 Filed 5-9-77;8:45 am]

[Order 77-5-13, Docket 29123 Agreement C.A.B. 26319 R-1 through R-23, etc.]

IATA

Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of May 1977.

Agreements adopted by Traffic Conference 3 of the International Air Transport Association relating to passenger fares.

In Order 77-3-163, March 29, 1977, the Board deferred action upon Agreement C.A.B. 26319, adopted by the member carriers of the International Air Transport Association (IATA), which proposes a new intra-Pacific fare package, in view of information that the carriers had adopted an agreement at a special meeting in Manila modifying their original proposal. The Board noted at that time that the new agreement should be filed shortly and stated its intention to consider both agreements as one package. That agreement has now been filed and has been designated Agreement C.A.B. 26542.[1]

Together, the two agreements comprise the intra-Pacific fare structure to be effective through March 1978 and has direct application in air transportation, as defined by the Act, only insofar as fares to/from Guam and American Samoa are concerned. The earlier agreement proposes a five-percent increase in normal first-class and promotional fares and a three-percent increase in normal economy fares. Agreement C.A.B. 26542, however, modifies that earlier proposal in that normal first-class, economy-class, and excursion fares to/from Guam and American Samoa, and certain other destinations in the Pacific Basin, would remain at levels approved by the Board in Order 76-5-95, May 21, 1976. The agreement would add normal first-class, economy-class, and excursion fares for travel between Guam and Jakarta, at levels higher than those contained in presently effective tariffs, and would make certain other technical adjustments in various fare resolutions primarily to correct anomalies in the construction and combination of fares in the Pacific area.

The Board will dispose of the agreements here before it in a manner consistent with its recent disposition of recent agreements relating to the North/Central and South Pacific fare structures. With regard to the North/Central Pacific agreement, the Board found the proposed increases in most fares to be warranted. However, the proposed North/Central normal economy and 21-day excursion fares were found to be in excess of costs.[2] Insofar as data affecting Guam are typicaly included in carrier justification for North/Central Pacific fare increases, we are unable to conclude that normal economy fares to/from Guam are not also in excess of costs. In view of these circumstances, we will approve the increased fares proposed to/from Guam with the exception of the normal economy-fare increase. Contrary to our action with respect to the proposed increase in the North/Central Pacific excursion fare, however, we will approve the increase in this fare proposed to/from Guam since it presently reflects a much greater discount from the normal economy fare than does the corresponding fare to other North/Central Pacific destinations. Since the Board disapproved all increases proposed in fares applicable on the South Pacific route due to the excess earnings forecast by the principal U.S. carrier in that area, we will similarly disapprove all increases proposed in fares to/from American Samoa, inasmuch as data affecting American Samoa are typically included in justification for South Pacific fare increases.[3]

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[1] We will also herein dispose of a mail-vote agreement amending an intra-Pacific group inclusive-tour fare, the application of which does not involve U.S. points.

[2] See Order 77-3-163, Mar. 29, 1977.

[3] See Order 77-2-32, Feb. 4, 1977.

Agreement CAB	IATA No.	Title	Application
26319:			
R-1	001b	TC3-Special Effectiveness Resolution (Tie-in)	3
R-2	001bb	Special Escape for TC3 Supersonic Fares (New)	3
R-3	002	Standard Revalidation Resolution	3
R-4	014a	Construction Rules for Passenger Fares (Revalidating and Amending)	3
R-5	014oo	Construction Rule for TC3 (Revalidating and Amending)	3
R-6	022c	TC3 Adjustment Factors for Sales of Passenger Air Transportation (New)	3
26542:			
R-1	022c	TC3 Adjustment Factors for Sales of Passenger Air Transportation (Amending).	3
R-2	053	TC3 First Class Fares (Amending)	3
R-4	070a	TC3 Excursion Fares (Amending)	3
R-7	080c	TC3 Individual Inclusive Tour Fares (Amending)	3

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2. It is not found that the following resolutions, incorporated in Agreement C.A.B. 26319 as indicated, are adverse to the public interest or in violation of the Act insofar as they would apply in air transportation to/from Guam provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement C.A.B.	IATA No.	Title	Application
26319:			
R-7	053	TC3 First Class Fares	3
R-9	070a	TC3 Excursion Fares (Revalidating and Amending)	3
R-14	076c	TC3 Affinity Own Use and/or Incentive Group Travel (Revalidating and Amending.)	3
R-17	080e	TC3 Individual Inclusive Tour Fares (Revalidating and Amending)	3
R-21	084kk	TC3 Group Inclusive Tour Fares—Asia/South West Pacific (Revalidating and Amending).	3
R-22	084L	TC3 28 and 35 Day Group Inclusive Tour Fares (Revalidating and Amending).	3
R-23	084z	TC3 Group Inclusive Tour Fares South West Pacific (Revalidating and Amending).	3
R-9	084kk	TC3 Group Inclusive Tour Fares—Asia/South West Pacific (Amending)	3

3. It is not found that the following resolutions, incorporated into the agreements as indicated and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26319:			
R-13	075a	Common Interest Group Fares (Revalidating and Amending)	3
26542:			
R-5	076c	TC3 Affinity Own Use and/or Incentive Group Travel (Amending.)	3
R-10	084z	TC3 Group Inclusive Tour Fares South West Pacific (Amending)	3

4. It is found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest and in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26319:			
R-8	063	TC3 Economy Class Fares	3
26542:			
R-3	063	TC3 Economy Class Fares (Amending)	3

5. It is found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest and in violation of the Act insofar as they would apply in air transportation to/from American Samoa:

Agreement C.A.B.	IATA No.	Title	Application
26319:			
R-7	053	TC3 First Class Fares	3
R-9	070a	TC3 Excursion Fares (Revalidating and Amending)	3
R-14	076c	TC3 Affinity Own Use and/or Incentive Group Travel (Revalidating and Amending.)	3
R-17	080e	TC3 Individual Inclusive Tour Fares (Revalidating and Amending)	3
R-21	084kk	TC3 Group Inclusive Tour Fares—Asia/South West Pacific (Revalidating and Amending).	3
R-22	084L	TC3 28 and 35 Day Group Inclusive Tour Fares (Revalidating and Amending).	3
R-23	084z	TC3 Group Inclusive Tour Fares South West Pacific (Revalidating and Amending).	3
R-9	084kk	TC3 Group Inclusive Tour Fares—Asia/South West Pacific (Amending)	3

6. It is not found that the following resolutions, incorporated in the agreements as indicated, affect air transportation within the meaning of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26319:			
R-10	070h	TC3 Excursion Fares—Fiji to India (Revalidating and Amending)	3
R-11	070n	TC3 45 Day Excursion Fares—Australia, New Zealand and New Caledonia to Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka (Revalidating and Amending).	3
R-12	070c	TC3 New Zealand/Fiji Early Purchase Individual Contract Revalidating and Amending).	3
R-15	076v	TC3 Incentive Group Fares (Revalidating and Amending)	3
R-16	079f	TC3 Contract Bulk Inclusive Tour Rules (Revalidating and Amending).	3
R-18	080f	TC3 35 Day Individual and Group Inclusive Tour Fares, Australia/New Zealand to Bangladesh/Burma/India/Nepal/Pakistan/Sri Lanka.	3
R-19	081j	TC3 17 Day Group Inclusive Tour Fares Bangkok to Calcutta (Revalidating and Amending).	
26542:			
R-6	079f	TC3 Contract Bulk Inclusive Tour Rules (Amending)	3
R-8	084kk	TC3 Group Inclusive Tour Fares (Amending)	3
	IATA Resolution		
26552	300(Mail 122)084k		

Accordingly, *It is ordered*, That:

1. Those portions of Agreements C.A.B. 26319 and C.A.B. 26542, set forth in finding paragraphs one and three above, be and hereby are approved, subject where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement C.A.B. 26319, set forth in finding paragraphs two above, be and hereby are approved insofar as they would apply in air transportation to/from Guam, provided that approval is subject, where applicable, to conditions previously imposed by the Board;

3. Those portions of Agreements C.A.B. 26319 and C.A.B. 26542, set forth in finding paragraph four above be and hereby are disapproved;

4. Those portions of Agreements C.A.B. 26319 and C.A.B. 26542, set forth in finding paragraph five above, be and hereby are disapproved insofar as they would apply in air transportation to/from American Samoa.

5. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 26319, C.A.B. 26542, and C.A.B. 26552 set forth in finding paragraph six above;

6. The carriers are hereby authorized to file tariffs implementing the approved portions of the agreements on not less than one day's notice for effectiveness not earlier than May 9, 1977. The authority granted in this paragraph expires June 9, 1977; and

7. Tariffs implementing the approved portions of the Agreements shall be marked to expire March 31, 1978.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13264 Filed 5-10-77;8:45 am]

[Docket No. 29323]

INTERNATIONAL AIR SERVICE CO.

Hearing Regarding Acquisition of Control of Aloha Airlines, Inc.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on May 16, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1075 Connecticut Avenue, NW., Washington, D.C.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served March 9, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 4, 1977.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc.77-13261 Filed 5-9-77;8:45 am]

LEE R. WEST

Designation To Serve as Acting Chairman of the Board

MAY 4, 1977.

The Civil Aeronautics Board today has been advised that President Carter has designated Member Lee R. West to serve as Acting Chairman of the Board. Member Richard J. O'Melia had earlier submitted his resignation as Vice Chairman of the Board, effective at the pleasure of the President.

The Board by unanimous vote designated Member West Acting Chairman.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13258 Filed 5-9-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Food and Consumer Services, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-13183 Filed 5-9-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC-35]

TRI-COUNTY SAVINGS AND LOAN ASSOCIATION

Approval of Conversion (Notice of Final Action)

MAY 5, 1977.

Notice is hereby given that on May 4, 1977, the Federal Home Loan Bank Board, and the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77-279 approved the application of Tri-County Savings and Loan Association, Camden, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-13340 Filed 5-9-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Poilution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/Operator and Vessels
01067	Klosters Rederi A/S: *Sunward II.*
01185	Aksjeselskapet Kosmos: *Jacara.*
01750	Chotin Transporation Inc.: *ETT 108, ETT 112, ETT 117, EBL 62.*
01905	The Ben Line Steamers Ltd.: *Benhiant.*
01910	Deutsche Dampfschiffahrts Gesellschaft "Hansa": *Braunfels.*
02021	Atlantska Plovidba: *Hercegovina.*
02040	"ODRA" Swinoujscie: *Mustel.*
02242	Dal Deutsche Afrika-Linien G.m.b.H and Co.: *Gulf Ranger.*
02367	Canadian Pacific (Bermuda) Ltd.: *Fort St. John.*
02876	Kabushiki Kaisha Hokkaido Gyogyo Kosha: *Kohoku Maru No. 16; Kohoku Maru No. 17.*
02958	Kawasaki Kisen K.K.: *Iberia Maru.*
02975	Venture Shipping (Managers) Ltd: *Radiant Venture; Venus Venture; Sovereign Venture.*
03008	Rederi AB Walltank: *Falstaff.*
03289	Det Forenede Dampskib-Selskab A/S: *Drosselfels.*
03436	Iino Kaiun K.K.: *Toyosu.*
03614	A/S Kristian Jebsens Rederi: *Ronnes; Brunes.*
03690	The Harbor Tug and Barge Co.: *Santo Domingo.*
03708	Puget Sound Tug and Barge Co.: *Oahu.*
03735	Penrod Drilling Co.: *Penrod 75.*
03849	Algoma Central Railway: *Algolake.*
03863	Migrant Shipping Co. Ltd.: *Maya.*
03920	Nocos Tankers Inc.: *Mobil Aladdin.*
14128	Skips A/S Westray: *Brunto.*
04226	National Marine Service Inc.: *NMS No. 1465; NMS No. 1466; NMS No. 1467.*
04228	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Mineral Luxembourg.*
14413	Leif Hoegh and Co. A/S: *Hoegh Merchant.*
05003	Wisconsin Barge Line Inc.: *Wisconsin; Joseph Henderick.*
05445	Eastern Seaboard Petroleum Co. Inc.: *Eastpet No. 6.*
05549	Polska Zegluga Morska: *General Pradzynski.*
05770	C.A. Venezolana De Navegacion: *Tachira.*
07627	Kochi Prefectural Government: *Tosakaien Maru.*
07772	Great Eastern Maritime Co. Ltd.: *Penn Hills; Bloomfield.*
08131	Empresa Navegacion Caribe: *Playa Duaba.*
08229	Salvesen Offshore Drilling Ltd.: *Wingate.*
09162	Birdsall Shipping S.A.: *Tropic Isle.*
09226	Manhattan Oil Transportation of New York Inc.: *Joan K; Betty K; Mantank; Manoleine; Ivor; Manhunt; Starcraft; Supercraft.*
09785	San Diego Transportation Co.: *Ponce.*
09872	Jourdain Navigation Ltd.: *Edgar Jourdain.*
09901	Tacarigua Marine C.A.: *Tacamar IV.*
10591	Transpac Marine S.A.: *Atlas III; TM-622; TM-633.*
10718	Smit Lloyd B.V.: *Smit Lloyd 14.*
10963	Kusuzi Katoh: *Seiyu Maru No. 2.*
11083	Sagami Marine Industries Co. Ltd: *Leonila.*
11587	Rowandrill Inc.: *Rowan-Texas.*
11824	Gavaly Ultramar S.A.: *Jadi.*
11982	Aquila Shipping Co. Inc.: *Aquila.*
12088	Lerwick Marine Panama S.A.: *Alexander S. Onassis.*
12115	Nippon Kyoko Hogei K.K.: *Konan Maru No. 25.*
12217	Canadian National Railway Co.: *Marine Cruiser. Bluenose.*
12305	Transocean Transport Corp. & Botelho Shipping Corp.: *Transocean Transport II.*
12314	Panama Plywood Corp.: *El Ganso de Oro.*
12342	Natupan Compania Naviera S.A.: *Maracana I.*
12345	Drake Towing Co., Inc.: *SFI-73, SFI-71, SFI-72, SFI-74, Warren.*
12370	Alp Shipping Enterprises Corp.: *Mariprima.*
12377	Chieftain Shipping Inc.: *Al Redha.*
12379	Greekhymn Shipping Co. S.A.: *Stenies.*
12419	Capgreg Compania Maritima S.A.: *John Gregos.*
12430	Golden Dragon Co. Ltd. S.A.: *Golden Dragon.*
12435	Pesquero San Martin S.A. de C.V.: *San Martin II.*
12450	Silver Bulk Carriers Ltd.: *Seto Bridge.*
12468	Vroon B.V. Breskens Handel-En Scheepvaartonderneming: *Brazilian Express.*
12477	Garden Rouge S.A.: *Despina H.*
12448	Samelet Vesteroilsupply: *Sea Scout.*
12449	Meteor Maritime Inc.: *Nahost Jumbo.*
12451	Alice Suzanne International Inc.: *Alice Ace.*
12452	Aeolian Maritime Inc.: *Emil.*
12453	Diades Navigation Inc. of Panama: *Kodiak, Kristel.*
12454	Partenreederei M.S. Nautic: *Nautic.*
12455	Ionian Endurance Marine, Inc.: *Samos Progress.*
12456	K/S Merc Scandia XX: *Mercandian Pacific.*
12458	K/S Merc Scandia XII: *Mercandian Queen.*
12462	Cia Vasco Cantabrica de Navegacion S.A.: *Elvira C.*
12463	Oyang-Fisheries Co. Ltd.: *No. 37 Oyang.*
12464	Matsubun Gyogyo Kabushiki Kaisha: *Ryuho Maru No. 15, Ryuho Maru No. 17, Ryuho Maru No. 31.*
12465	Kashima Gyogyo Kabushiki Kaisha: *Kashima Maru No. 23, No. 15 Kashima Maru.*
12467	Jadecorn Shipping Corp.: *Jadecorn.*
12468	Minos Shipping Co. Ltd.: *Eurco Strength.*
12469	Express Line S.A.: *Western Highway.*
12470	Gallant Transport S.A.: *Gallant Pioneer.*
12471	Brave Transport S.A.: *Brave Pioneer.*

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Certificate No.	Owner/Operator and Vessels
12472---	Solar Transport S.A.: *Solar Peak.*
12473---	Yamakawa Gyogyo Seisan Kumiai: *Waka Maru No. 25.*
12474---	Asahi Gyogo Kabushiki Kaisha: *Asahi Maru No. 8.*
12475---	Shoichi Gyogyo Kabushiki Kaisha: *Shoichi Maru No. 52.*
12476---	Kabushiki Kaisha Kotobukimaru Tsuda Gyogyobu: *Kotobukimaru No. 25, Kotobukimaru No. 31.*
12477---	Kabushiki Kaisha Suzuki Gyogyobu: *Ryujin Maru No. 11.*
12478---	Kabushiki Kaisha Maruyo Gyogyobu: *Daikichi Maru No. 31, Daikichi Maru No. 32, Daikichi Maru No. 35, Daikichi Maru No. 37, Daikichi Maru No. 38, Daikichi Maru No. 51, Daikichi Maru No. 53.*
12479---	Kabushiki Kaisha Inai Sanji Shoten: *No. 51 Hakuryu Maru.*
12480---	Yugen Kaisha Endo Gyogyobu: *Choun Maru No. 21.*
12481---	Konno Suisan Kabushiki Kaisha: *Eikyumaru No. 35.*
12482---	Yokichi Akama: *Meisho Maru No. 15.*
12483---	Yamasan Endo Kabushiki Kaisha: *Sachi Maru No. 23, Sachi Maru No. 22.*
12484---	Aomori Ken Enyo Gyogyo Kabushiki Kaisah: *No. 11 Yashio Maru.*
12485---	Tharros Navigation Ltd.: *Tharros.*
12490---	Ionian Glow Marine Inc.: *Star Light.*
12491---	Ionian Spirit Marine Inc.: *Star Pride.*
12492---	Marfiel Armadora S.A.: *Juvena.*
12493---	Lucero Armadora S.A.: *Adamantios.*
12494---	Transworld Tanker Transport Inc.: *Energy Growth.*
12489---	Comet Maritime Inc.: *Radiant Star.*
12498---	RSHV Maasrix B.V.: *Maasrix.*
12495---	Albafrigo Navigation Co. S.A.: *Albafrigo.*
12500---	Albacore Navigation S.A.: *Albacore.*
12501---	Starling Marine Corp.: *Hazel Prosperity.*
12502---	Aspera Compania Naviera S.A.: *Fay C.*
12503---	Rederiet Helleskov: *Winni Helleskov, Jeanette Helleskov, Henriette Helleskov.*
12505---	Ionian Beach Marine Inc.: *Samos Sea.*
12508---	Hawk Navigation Inc.: *Stolt Boel.*
12509---	Eddie Navigation Corp. S.A.: *Don Eduardo.*
12510---	Delta Shipping Ltd.: *Mediterranean Carrier.*
12516---	Marathon Compania Naviera S.A.: *Zephyros.*
12518---	Ionian Chance Marine Inc.: *Samos Storm.*
12519---	Nea Proodos Shipping Co. S.A.: *Helena C.*
12520---	Nea Elpis Shipping Co. S.A.: *Antonios C.*
12527---	Kelvin Shipping Inc.: *Ioannis Martinos.*
12530---	Bright Star Maritime Co. S.A.: *Arcadian Star.*
12533---	Drake Marine Corp.: *Sanko Trust.*
12535---	Statex Petroleum Inc.: *Z-62.*
12536---	Gebr. Broere B.V.: *Broere Emerald.*
12537---	Stour Shipping Inc.: *Sun Antares.*
12538---	Polaris Marine Kabushiki Kaisha: *Blue Polaris.*
12539---	Kabushiki Kaisha Asako Shoten: *Kintoku Maru No. 11.*
12540---	White Rose Shipping Ltd.: *White Rose.*
12541---	Utopia Naviera Compania S.A.: *Southern Highway.*
12542---	Legion Maritime S.A.: *Hakone.*
12544---	Cossira Compagna di Navigazione S.P.A.: *Capo Ovest.*
12545---	Kaplana Shipping Ltd.: *Salinas.*
12550---	Cotsakis Shipping S.A.: *Antonia.*
12551---	Laird Shipping Inc.: *Gemini.*
12553---	Kirkconnell Shipping Co. Inc.: *Island Supplier, Linera.*
12555---	Komanditselskapet Sand Shipping A/S: *Nopal Sea.*
12556---	Universal Seaways Corp. of Liberia: *Aristodikos.*
12557---	Transatlantic Oceanways Corp. of Liberia: *Aristonidas.*
12558---	Transocean Bulk Transports Corp. of Liberia: *Messiniaki Akti.*
12562---	Nissin Gyogyo K.K.: *Chuyo Maru No. 18, Chuyo Maru No. 21, Chuyo Maru No. 22.*
12561---	Kyuei Gyogyo Kabushiki Kaisha: *Kyuei Maru No. 1.*
12563---	Sato Gyogyo Kabushiki Kaisha: *Ryoan Maru No. 21, Ryoan Maru No. 23, Ryoan Maru No. 25, Ryoan Maru No. 28.*
12564---	Tms Acquisition Corp.: *Moon Tide, Sun Tide.*
12567---	Ionian Azur Marine Inc.: *Afroditi P.*
12569---	Northatlantic Oil Carriers Ltd.: *Evanthia.*
12572---	Biscay Maritime Ltd.: *Vronti.*
12573---	Rederi-Interessentskabet Sif 22: *Erik Sif.*
12574---	Ippo Shipping Co. Ltd.: *Shinko Maru.*
12575---	Ro Ro Charterers Corp.: *Seaspeed Arabia.*
12576---	Ambassador Maritime Inc.: *Hilary B.*
12577---	Kumagai Gyogyo Kabushiki Kaisha: *Hamazen Maru No. 35.*
12578---	Eucharis Shipping Corp.: *Arc.*
12579---	Taisei Gyogyo K.K.: *Taisei Maru No. 1, Taisei Maru No. 3, Taisei Maru No. 11, Taisei Maru No. 16.*
12580---	Tricorn Shipping Corp.: *Tricorn.*
12581---	Western Marine Transport Ltd.: *Nata.*
01330---	Shell tankers (U.K.) Ltd.: *Hemimactra.*
01428---	Ocean Transport & Trading Ltd.: *Elpenor, Phrontis.*
01430---	Tankers Ltd.: *Athelbrae.*
01439---	Cory Maritime Ltd.: *Monkdgarth.*
01461---	Home Line Ltd.: *Nimos.*
01588---	Equity Compania Naviera S.A.: *Equity.*
01637---	Sidarma Societa Italiana di Armamento S.P.A.: *Piero Foscari.*
01743---	Polestar Compania Naviera S.A. Panama: *Maritsa.*
01842---	Christensen Canadian Enterprises: *Theta.*
01982---	Ab Svenska Ostasiatiska Kompaniet: *Tokyo.*
02242---	Dal Deutsche Afrika-Linien G.M.B.H. & Co.: *Pangini.*
02279---	Armenistis Shipping Co. Ltd. of Liberia: *Alikrator.*
02282---	Park Steamships, Ltd.: *Green Park.*
02367---	Canadian Pacific (Bermuda) Ltd.: *Pacific Logger.* Chevron Oil Co.: *Chevron-31, S-54, Chevron-33, S-94, S-55, S-93, No. 28, No. 17, Chevron-32, S-53, BGG-100, S-87, S-92, MCN No. 3.*
02580---	Apple River Chemical Co. Division of St. Paul Ammonia Products, Inc.: *GWG-No. 103.*
02715---	Allied Towing Corp.: *Hot Oil 17.*
02858---	Intermarine, Inc.: *Gilia.*
02763---	Ensenada Maritima Panama S.A.: *Olympic Snow.*
02889---	Showa Kaiun K.K.: *Shobu Maru.*
02976---	Arthur-Smith Corp.: *Star Diamond.*
02980---	Rederi A/S Mimer and A/S Norfart: *Anina.*
03004---	Rederi A Soya: *Faust.*
03012---	Aliki Liberian Maritime Co.: *Tarpon Swift.*
03013---	Tarstar Shipping Co.: *Aliki I.P.*
03014---	Tarwave Shipping Co.: *Tarpon Silver.*
03016---	Tarsea Shipping Co.: *Tarpon River.*
03054---	H. Schuldt: *Mexican Trader.*
03137---	Cunard Steamship Co. Ltd.: *Luminous.*
03214---	Saleninvest AB: *Sea Sovereign.*
03358---	St. Thomas Shipping Co., Inc.: *Fidelity.*
03389---	Shell Tankers, B.V.: *Marisa, Philippia.*
03438---	Inui Kisen Kabushiki Kaisha: *Evergreen.*
03441---	Japan Line K.K.: *Japan Lilac.*
03479---	Okada Shosen Kabushiki Kaisha: *Fugaku Maru.*
03484---	Sanko Kisen K.K.: *Juko Maru.*
03501---	Osaka Shosen Mitsui Senpaku K.K.: *Shinosaka Maru.*
03508---	Taivo Gyogyo K.K.: *Azuma Maru No. 33.*
03627---	Igert (a corporation): *MBL-601.*
03708---	Puget Sound Tug and Barge Co.: *PAC 336-2.*
03733---	Great Lakes Dredge & Dock Co.: *No. 58.*
03837---	N.M Paterson Sons Ltd.: *Hamildoc.*
03913---	Iberian Tankers Co.: *Wapello.*
03973---	Leaseback Projects Ltd.: *Chesley A. Crosbie.*
03974---	Crosbie Services Ltd.: *Sir John Crosbie.*
04125---	Atlantic Towing Ltd.: *Irving Shark, Irving Dolphin, Scotia Trader, Irving Sealion, Irving Marigold.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13339 Filed 5-9-77;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311 (p) (1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01150---	Chevron Transport Corp.: *Paul Pigott.*
01185---	Aksjeselskapet Kosmos: *Nopal Japana.*

Certificate No.	Owner/Operator and Vessels
04126---	Jugoslavenska Linijska Plovidba, Rijeka: *Senj, Volosko, Opatija, Dunav, Losinj, Nikola Tesla, Kastav, Zvir, Visevica, Klek, Bakar, Kraljevica, Drecnica, Lovcen, Drava, Tuhobic, Treci Maj, Susak, Sava, Pionir, Pula, Goran Kovacic, Zadar, Kranjcevic.*
04136---	Thomas Marine Co.: *GW-100, Sarah E. Thomas.*
04263---	Waywiser Navigation Corp., Ltd.: *Florence, Minlly.*
04394---	Philippine President Lines, Inc.: *Asia Seagull.*
04423---	Marcona Carriers Ltd.: *Marcona Prospector.*
04437---	Lebeouf Bros. Towing Co., Inc.: *LBTCO No. 4, LBTCO No. 5, LBTCO No. 6, LBTCO No. 7, LBTCO No. 8, LBTCO No. 10, LBTCO No. 18, LBTCO No. 17, LBTCO No. 16, LBTCO No. 15, LBTCO No. 14, LBTCO No. 13, LBTCO No. 12, LBTCO No. 11.*
04480---	Omaezaki Enyo Gyogyo Kyodo Kumiai: *Kaihou Maru No. 17.*
04491---	Fukumaru Gyogyo Kabushiki Kaisha: *Fuku Maru No. 18.*
04564---	Yamashita-Shinnihon Kisen Kaisha: *Yamatoshi Maru, Shinnichi Maru.*
04883---	Compania Naviera Para Viajes Sud America S.A.: *Pantelis.*
05090---	ESSO Petroleum Co. Ltd.: *ESSO Newcastle.*
05520---	Union Carbide Corp.: *NSBTS-2, CC-103.*
05718---	Prosperity Steamship Co. Ltd.: *Lucky Three, Lucky Two.*
06026---	Tarsands Shipping Co.: *Tarpon Sands.*
06064---	Trailer Marine Transport Corp.: *Biscayne, Florida.*
06336---	Mr. Sadao Ogino: *Koryo Maru No. 31.*
06359---	Malaysian International Shipping Corp., Berhad: *Bunga Dahlia.*
06364---	Panvia Compania Naviera S.A.: *Marco Botzaris.*
06387---	Grand Beteigeuse Inc.: *Grand Beteigeuse.*
06435---	Dampskibsaktieselskabet Den Norske Afrika-OG Australielinie, Wilhelmsens Dampskibsaktieselskabet A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart VI: *Tijuca.*
06472---	Taiheiyo Kisen Kaisha, Ltd.: *Horyu Maru.*
06546---	Kimberly Navigation Co. Ltd.: *Sankaty.*
06877---	Societe Francaise De Transports Maritimes Paris: *Ville Du Havre.*
07176---	Great Fortune Navigation Co. S.A., Hong Kong: *Great Victory, Great Glory, Great Success, Great Welfare, Great Fort.*
07247---	Luzon Shipping S.A.: *Manila Bay.*
07260---	Apollonian Spirit Co. S.A.: *Apollonian Spirit.*
07291---	Butler Marine Equipment Co.: *BU 45.*
07322---	Apollonian Light Co. S.A.: *Apollonian Light.*
07708---	Remolino Naviera S.A.: *Eastern Joy.*
08167---	Apollonian Victory Co., S.A.: *Apollonian Victory.*
08295---	Franicons Compania Maritima Naviera S.A.: *Good Luck.*
08310---	Universal Seaways Private Ltd.: *Universal King, Universal Queen.*
08304---	Botany Bay Shipping Co., Inc.: *Chios Island.*
08488---	Multinational Gas and Petrochemical Co., Monrovia, Liberia: *Amy Multina.*
08562---	Apollonian Champion Co. S.A.: *Apollonian Champion.*
08661---	Apollonian Grace Co. S.A.: *Apollonian Grace.*
08961---	Incan Ships Ltd.: *Incan St. Laurent.*
09068---	Asian Shipping Corp.: *Astyanax.*
09069---	Navifrut S.A.N.C.I.I.A.Y.F.: *Cipolletti.*
09097---	Nagos Navigation Co. Ltd. Cyprus: *Triada.*
09295---	Bentsen Line A/S: *Susann Bentsen.*
09819---	Sea Commerce Corp.: *Mediterranean Sprinter; Ocean Sprinter.*
09624---	Luna Navigation Co., Ltd.: *Bona Friendship.*
09785---	San Diego Transportation Co.: *418.*
09786---	Rederij H. and P. Holwerda: *Roelof Holwerda.*
09881---	K/S Bewa XVI: *Conny Bewa.*
09872---	Jourdain Navigation Ltd.: *George Crosbie.*
09908---	Freight Chartering Co., Ltd.: *Carmela I.*
09966---	Tara Corp. Ltd.: *Transcarib.*
09993---	Rederij Jodine: *Jodine.*
10059---	Petter K. Saevik & Sonner A/S & Co.: *Kings Star.*
10073---	Inversiones Calmer, S.A.: *Ukola.*
10087---	Knight Towing Ltd.: *Chester.*
10159---	Chios Castle Shipping Co. Ltd.: *Castle Glory.*
10255---	Golden Sun Shipping Co., S.A.: *Kow On.*
10260---	Hollywood Marine Inc.: *Star J.D. II, B-428.*
10322---	Duk Soo Moolsan Co., Ltd.: *Sunny No. 17, Sunny No. 35.*
10588---	Shrine Navigation Co. Ltd.: *Kamo.*
10617---	Valmar Navigation Co. Ltd.: *Gisella.*
10748---	Seapath Navigation Co. Ltd.: *Elbella.*
10836---	Hasting Corp.: *Hastings.*
10922---	Leda Shipping Co.: *Leda.*
10931---	Hansung Shipping Co., Ltd.: *Dona Placida.*
10962---	K. K. Matsueisuisan: *Matsuei Maru II.*
10963---	Kusuji Kato: *Seiyu Maru No. 2.*
10970---	Symphonic Navigation Co. S.A.: *Loversun.*
11043---	N. V. Bevoorrading Op Zee: *FSB-01.*
11056---	Ronnes Shipping Corp.: *Ronnes.*
11065---	C & M Shipping Co., S.A.: *Glory Pioneer.*
11075---	Big Valley Towing, Inc.: *MM-101, MM-102.*
11076---	Puddister Trading Co. Ltd.: *Marine Voyager.*
11115---	Andromeda Bulkshipping S.A.: *Andromed.*
11228---	Trianagia S.A.: *Anna C.*
11286---	Binion Marine Service, Inc.: *Ett 121.*
11401---	Iligan Bay Express Corp.: *Iligan Merchant.*
11631---	Koch Shipping Inc.: *Kristel.*
11663---	United Transporter, Inc.: *Eagle Transporter.*
11676---	Longan Shipping Pte. Ltd.: *Aventicum.*
11771---	Iphigenia Marine Ltd.: *Helena 1.*
11982---	Aquila Shipping Co., Inc.: *Notre Dame Victory.*
12025---	SPS Management A/S: *Frendo Partnership.*
12207---	Tidewater Marine Service, Inc. (U.K.) Ltd.: *Spartan Tide.*
12142---	Sidney Torres Marine Transports, Inc.: *SJT 4.*
12145---	Chevron U.S.A. Inc.: *Idaho Standard.*
12150---	Juniper Tankers, Inc.: *Gaines Mill.*
12176---	Miramar Transport Co. Ltd.: *United Spirit.*
12220---	Varna Shipping S.A. Panama: *Antonis Gianis.*
12474---	Asahi Gyogyo Kabushiki Kaisha: *Asahi Maru No. 8.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13338 Filed 5-9-77;8:45 am]

PACIFIC COAST-AUSTRALASIAN TARIFF BUREAU

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, by May 20, 1977. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Agreement Filed by:

A. H. Eber, Secretary, Pacific Coast-Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, California 94111.

Agreement No. 50 DR-3 has been filed with the Commission for approval under Section 14b of the Shipping Act, 1916, by the member lines of the Pacific Coast-Australasian Tariff Bureau (PCATB). The purpose of the amendment is to change the application of PCATB's Tariff FMC 9, Item 875, Electrical Supplies & Equipment, from a tariff rate to a contract/non-contract rate and thereby in-

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clude Item 875 within the scope of the conference's dual rate contract system.

By Order of the Federal Maritime Commission.

Date: May 4, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13337 Filed 5-10-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. 5. CI77-278, CI77-311]

COASTAL STATES GAS PRODUCING CO.

Extension of Time

MAY 2, 1977.

On April 25, 1977, Coastal States Gas Producing Company filed a motion for an extension of time to answer Trunkline Gas Company's petition for leave to intervene filed April 15, 1977, in the above-designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 31, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13277 Filed 5-9-77;8:45 am]

[Docket No. ER77-321]

CONNECTICUT LIGHT & POWER CO.

Transmission Agreement

MAY 5, 1977.

Take notice that on April 25, 1977, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated November 1, 1976 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Braintree Electric Light Department (BELD).

CL&P states that the Transmission Agreement provides for a transmission service to BELD during the period from November 1, 1976 to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities (NU) system determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which BELD is entitled to receive.

CL&P states that BELD did not notify CL&P of its need for transmission service over the NU system until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

CL&P therefore requests that in order to permit BELD to receive its Vermont Yankee purchase over the NU system and to allow CL&P, HELCO and WMECO to receive payment for such transmission service, the Commission, pursuant to § 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1976.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and BELD, Braintree, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13266 Filed 5-9-77;8:45 am]

[Docket No. CP77-355]

CONSOLIDATED GAS SUPPLY CORP.

Application

MAY 4, 1977.

Take notice that on April 22, 1977, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP77-355 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing May 6, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $4,100,000, with no single onshore project to exceed a cost of $1,025,000 and no single offshore project to exceed a cost of $2,500,000. These costs would be financed with funds on hand and funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13269 Filed 5-9-77;8:45 am]

[Docket No. ER77-264]

DETROIT EDISON CO.

Order Accepting for Filing in Part, Rejecting for Filing in Part, Suspending Proposed Rate Schedules in Part, Granting Intervention and Establishing Procedures

APRIL 29, 1977.

On March 28, 1977, the Detroit Edison Company (DEC) submitted for filing a proposed rate increase for electric service for three municipalities, three cooperatives and one privately owned utility.[1] DEC requested that the proposed tariff and rates be made effective May 1, 1977.

The proposed rate changes would increase revenues from jurisdictional sales and service by $7,632,000 based on the twelve month period ending December 31, 1977. In support of its proposed increase, DEC states that it has not filed for any increase in its jurisdictional sales since February 28, 1975. DEC states that, since that time, all of its costs including capital costs have been subjected to the continuous impact of inflation. Additionally, DEC avers that it is in the process of resuming construction programs, which had been deferred because of financial problems. DEC states that any procedures adopted with respect to this filing give due consideration to its need for prompt collection of the increased revenues requested herein.

DEC's filing was noticed on April 5, 1977 with protests and petitions to intervene due on or before April 20, 1977.

On April 19, 1977, a Petition to Intervene was filed by Consumers Power Company (Consumers), DEC's largest wholesale for resale customer. Consumers asserts that it purchases energy from DEC, that it may be bound by Commission action in this proceeding and that its participation will be in the public interest.

On April 20, the City of Croswell, and the Villages of Clinton and Sebewaing (Cities) filed a Protest, Petition to Intervene Request for Hearing and Five Months Suspension, and Motion to Reject Filing. In support of their intervention request, Cities allege that DEC's proposed changes will result in an average increased bill to them of 26.09 percent and that the increase will directly affect petitioners' rates to their retail customers because they each purchase most of their requirements from DEC. Further, Cities assert that they will be directly affected by DEC's proposal, they may be bound by Commission action, and that their interests cannot be adequately represented by any other party.

In support of their motion to reject and their request for a five-month suspension period, Cities allege that the filing violates certain contractual commitments to Sebewaing, contains "price squeeze" discrimination, and contains numerous errors which undermine its reliability for ratemaking purposes. Specifically, Cities aver that Sebewaing is served under a 1973 agreement that precludes any unilateral change in its rates. Cities state that the Commission in Docket No. E-9294 interpreted that agreement to preclude any Section 205 rate increase to be made effective prior to a Commission determination under Section 206. Cities request that the proposed increase rate not be permitted to become effective as to Sebewaing until after Commission hearing and determination under Section 206. A review of Docket No. E-9294 reveals that Sebewaing's point is well taken. An order in that case issued July 2, 1975 states in relevant part:

> Since the parties provided for changes in rates only by order issued by the Commission, it is clear they did not contemplate the unilateral filings permitted by section 205. The only changes in rates which occur by order of the Commission occur pursuant to an order issued pursuant to section 206. Thus, the parties have provided that changes in rates will only occur pursuant to section 206. Accordingly, we shall investigate Detroit's current rates and set just and reasonable rates pursuant to section 206, all changes to be prospective in application.

Accordingly, the request of Cities to reject the filing under section 205 as applied to Sebewaing only will be granted. An investigation will be ordered under Section 206, and any rate increase which the Commission may finally approve shall become effective for Sebewaing prospectively only.

In support of their request for a five-month suspension period, Cities assert that the increased filing presents them with a "price squeeze" where, so they allege, DEC's wholesale rates to them are higher than its comparable retail rate schedules. Further, Cities allege that the increased rates are predicated on, inter alia, a request for an excessive return, improper working capital allowance, improper allocation of general plant and related depreciation expense, and improper inclusion of certain rate base items. Cities also object to the five-year contract provision and other contract provisions.

Also, on April 20, 1977, a protest and petition to intervene was filed by Southeastern Michigan Rural Electric Cooperative, Inc., Thumb Rural Electric Cooperative, Inc., and Michigan Municipal Cooperative Power Pool (Coops.). In support of their petition to intervene, Coops state that they purchase energy from DEC and that they will be affected by any decision rendered herein. Additionally, Coops allege that their position cannot be adequately protected by any other party in this proceeding. Coops object to a "price squeeze" and to several aspects of DEC's cost of service, including those raised in the petition of Cities.

A review of DEC's filing and the various pleadings indicates that the proposed increased rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will therefore set the question of their lawfulness for hearing and will establish procedures for that hearing. Additionally, a review of all of the pleadings indicate that a suspension of the effectiveness of DEC's proposed increased rates for two months will best serve the public interest.

The Commission finds: (1) Good cause exists to accept for filing DEC's proposed rates tendered for filing on March 28, 1977, as to all named customers except the Village of Sebewaing, and suspend those rates for two months to become effective on July 1, 1977 subject to refund, pending the outcome of a hearing and decision thereon.

(2) Good cause exists to reject the filing of a proposed rate increase as to the Village of Sebewaing under Section 205, and to instead institute an investigation under Section 206 to determine whether the rate is so low as to adversely affect the public interest as where it might impair the financial ability of the public utility to continue its service, cast upon other customers an excessive burden, or be unduly discriminatory. *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348.

(3) The participation in the proceeding of City of Croswell (Rate Schedule No. 2; Thumb Electric Cooperative No. 4); Consumers Power Co. (No. 5); Village of Clinton (No. 6); Southeastern Michigan Rural Electric Cooperative (No. 14); Village of Sebewaing (No. 18); and Michigan Municipal Cooperative Pool (No. 20) may be in the public interest.

(4) Good cause exists to establish additional procedures to effectuate the Commission's policy relating to "price squeeze" announced in Order No. 563.

The Commission orders: (A) Pending a hearing and decision thereon, DEC's proposed tariff changes and rate changes as to all customers except the Village of Sebewaing are hereby accepted for filing and suspended for two months, to become effective on Juy 1, 1977 subject to refund.

(B) Pursuant to the Federal Power Act especially Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Commission's Regulations, a hearing shall be held concerning the justness and reasonableness of DG&E's proposed rates.

(C) The motion to reject the filing of a rate increase as to the Village of Sebewaing is granted. Pursuant to Section 206 of the Federal Power Act and the Commission's Rules of Practice and Procedure, an investigation is ordered to determine whether the current rate paid by Sebewaing under its contract of November, 1973 is so low as to adversely affect the public interest.

(D) The Intervenors are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights to intervene and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order issued by the Commission in this proceeding.

(E) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Customers request for data required to present their case, including a prima facie showing, on the price squeeze issue. Also, the Company shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Customers shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

(F) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before August 1, 1977. (See Administrative Order No. 157).

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial con-

[1] City of Crosswell (Rate Schedule No. 2); Thumb Electric Cooperative (No. 4); Consumers Power Co. (No. 5); Village of Clinton (No. 6); Southeastern Michigan Rural Electric Cooperative (No. 14); Village of Sebewaing (No. 18); and Michigan Municipal Cooperative Pool (No. 20). These rate schedule filings have been designated as indicated in Attachment 1 to this order.

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ference in this proceeding to be held on _____ at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions, (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(H) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT 1.—*Detroit Edison Co., docket No. ER77-626, filed Mar. 28, 1977*

Designation	Other Party	FPC Rate Schedules
(1) FPC electric tariff, original volume No. 1, (sheet Nos. 1-23).		
(2) Service agreements under FPC electric tariff, original volume No. 1.	City of Croswell	Supersedes rate schedule FPC No. 2, as supplemented.
(3)	Thumb Electric Cooperative	Supersedes rate schedule FPC No. 4, as supplemented.
(4)	Consumers Power Co	Supersedes rate schedule FPC No. 5, as supplemented.
(5)	Village of Clinton	Supersedes rate schedule FPC No. 6, as supplemented.
(6)	Southeastern Michigan Rural Electric Cooperatives.	Supersedes rate schedule FPC No. 14, 12 supplemented.
(7)	Michigan Municipal Cooperative Power Pool.	Supersedes rate schedule FPC No. 20, as supplemented.

[FR Doc.77-13324 Filed 5-9-77;8:45 am]

[Docket No. CS72-880]

DEVON CORP. (SUCCESSOR TO KIRBY PETROLEUM CO.)

Redesignation

MAY 3, 1977.

On April 18, 1977, Devon Corporation (Devon) filed in Docket No. CS72-880 a Motion for Order Redesignating Party in which it requested that the Commission issue an order redesignating the captioned proceeding in the name of Devon, insofar as it covers jurisdictional sales made from properties acquired from Kirby Petroleum Co. (Kirby).

By Order dated June 14, 1972, the Commission issued to Kirby Petroleum Co., a Nevada corporation, a small producer certificate in Docket No. CS72-880. On December 2, 1975, Devon acquired all of the outstanding stock of Kirby through a wholly owned first-tier subsidiary of Devon, created for that purpose. Kirby and the first-tier subsidiary were then immediately liquidated. By virtue of such liquidation, Devon succeeded to all of the assets of Kirby. The business formerly conducted by Kirby has continued to be conducted by Devon. Devon states that at no time, either before or after the foregoing acquisition, have the jurisdiction sales of Devon or Kirby and their affiliates exceeded ten billion cubic feet in any one calendar year.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter believes that the authorization to reflect a corporate name change is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Devon Corporation to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13281 Filed 5-9-77;8:45 am]

[Docket No. RP72-134, (PGA 77-4a), (PGA 77-5a)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

MAY 4, 1977.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on April 18, 1977,[1] tendered for filing the following revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1:

Substitute Fortieth Revised Sheet No. 3A Superseding Fortieth Revised Sheet No. 3A and
Substtitute Fortieth Revised PGA-1 Superseding Fortieth Revised PGA-1, to be effective March 1, 1977
Forty-First Revised Sheet No. 3A Superseding Revised Fortieth Revised Sheet No. 3A and
Forty-First Revised PGA-1 Superseding Revised Fortieth Revised PGA-1, to be effective March 3, 1977.

These revised tariff sheets reflect corresponding increases by Transcontinental Gas Pipe Line Corporation (Transco), Eastern Shore's sole supplier, effective March 1 and February 1, 1977, respectively. Prior revised tariff sheets made by Eastern Shore to reflect those increases—the Thirty-Ninth Revised Sheet No. 3A and PGA-1 and the Fortieth Revised Sheet No. 3A and PGA-1—are hereby withdrawn.

Eastern Shore submits the above revised tariff sheets in response to the Commission's order transmitted by letter of March 30, 1977. Because Eastern Shore's Fortieth Revised Sheet No. 3A and PGA-1 assumed that the increases requested in the Thirty-Ninth Revised Sheet No. 3A and PGA-1 would already be in effect, it is necessary to file a Substitute Fortieth Revised Sheet No. 3A and PGA-1 reflecting only the Transco increases effective March 1, 1977. The Forty-First Revised Sheet No. 3A and PGA-1, effective March 3, 1977, add Transco's February 1, 1977, increases. With the filing of the Forty-First Revised Sheet No. 3A and PGA-1, Eastern Shore's tariff will accurately reflect all increases made by Transco as of March 3, 1977. Because the revised tariff sheets submitted herein are substitute sheets intended to implement the Commission's Order of March 3, 1977, the question of notice has already been considered, and waived, by the Commission.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (10 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13274 Filed 5-9-77;8:45 am]

[1] As amended on April 19, 1977.

[Docket No. RP72-134, (PGA 77-6)]

EASTERN SHORE NATURAL GAS CO.

Tracking Rate Decrease to Schedule GSS-1

MAY 4, 1977.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on April 15, 1977, tendered for filing Forty-Second Revised Sheet No. 3A Superseding Forty-First Revised Sheet No. 3A and Forty-Second Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1. These revised tariff sheets, to be effective May 1, 1977, will decrease the demand and excess charges and will increase the capacity charge of Eastern Shore's General Storage Service Rate Schedule GSS-1. These changes reflect the increase in rates for the General Storage Service (GSS) Rate Schedule of Transcontinental Gas Pipe Line Corporation (Transco), Eastern Shore's sole supplier, requested in Transco's filing of March 30 1977. Transco's proposed decrease, in turn, is intended to reflect a net decrease in the Rate Schedule GSS charges by Consolidated Gas Supply Corporation (Consolidated) to Transco, requested in Consolidated's general rate filing of October 29, 1976, in Docket No. RP77-7. Consolidated's filing was suspended until May 1, 1977, by a November 24, 1976, order of the Federal Power Commission (Commission). Eastern Shore is filing the above revised tariff sheets in order to reflect Transco's filing to track Consolidated's rate decrease as of May 1, 1977.

Because Transco's proposed GSS rates will reduce the rates made effective subject to refund on February 1, 1977, in Transco's Docket No. RP76-136, Transco's proposed rates to be effective May 1, 1977, will also be subject to refund in that Docket. The rates Eastern Shore proposes herein, therefore, will be subject to refund contingent upon any refund obligations of Transco in Docket No. RP76-136.

Pursuant to § 154.51 of the regulations under the Natural Gas Act, Eastern Shore respectfully requests waiver of the notice requirements of § 154.22 of those regulations and of § 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary to permit the tariff sheets submitted to become effective as of May 1, 1977, to coincide with the effective date of Transco's rate changes. In support thereof, Eastern Shore states that Transco's March 30, 1977, filing of revised tariff sheets prohibited it from preparing its computations and revised tariff sheets in time to comply with the applicable notice requirements.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (10 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13268 Filed 5-9-77;8:45 am]

[Docket Nos. RP72-155 and RP76-59 (PGA77-2a)]

EL PASO NATURAL GAS CO.

Tariff Sheets Tender

MAY 4, 1977.

Take notice that on April 15, 1977, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, the following revised tariff sheets, to become effective April 1, 1977.

ORIGINAL VOLUME NO. 1

First Substitute Nineteenth Revised Sheet No. 3-B.

THIRD REVISED VOLUME NO. 2

First Substitute Ninth Revised Sheet No. 1-D.

ORIGINAL VOLUME NO. 2A

First Substitute Eleventh Revised Sheet No. 1-C.

Seventh Revised Sheet No. 1-D.

El Paso states that by order issued March 31, 1977, the Commission, inter alia, accepted for filing and suspended for one (1) day the PGAC tariff sheets filed by El Paso February 25, 1977,[1] and permitted such sheets to become effective April 2, 1977, subject to refund. El Paso states that ordering paragraph (B) of the Commission's said order of March 31, 1977, permitted El Paso to file a revised PGAC increase to be effective April 1, 1977, which excludes the amounts for gas purchases paid to reversionary interest holders[2] in excess of similar amounts paid to prior owners for gas purchases. El Paso states that the instant tender is designed to implement its PGAC increase on April 1, 1977, as permitted by said order of March 31, 1977.

El Paso states that the above described PGAC tariff sheets provide for a total PGAC current adjustment of 10.70¢ per Mcf, effective as of April 1, 1977, and is comprised of adjusted annualized purchased gas cost increases equating to 5.10¢ per Mcf, plus 5.60¢ per Mcf representing the adjusted unrecovered purchased gas cost balance in Account 191 as of December 31, 1976. El Paso further states that the adjustment proposed by the tendered substitute tariff sheets is an increase of 6.70¢ per Mcf in El Paso's currently effective rates and is 1.12¢ per Mcf below the PGAC net adjustment in rates of 7.82¢ per Mcf, filed by El Paso on February 25, 1977, and suspended for one (1) day until April 2, 1977, by the Commission order of March 31, 1977.

El Paso further states that the tendered Seventh Revised Sheet No. 1-D provides for a current adjustment of 8.0036¢ per Mcf effective as of April 1, 1977, applicable to sales subject to the PGAC—Clean High Pressure Gas ("PGAC-CHPG") provision contained in El Paso's FPC Gas Tariff, Original Volume No. 2A. Such current adjustment is comprised of an increase in the weighted average purchased cost of clean, high-pressure gas equating to 4.2165¢ plus 3.7871¢ per Mcf representing the unrecovered purchased gas balance in Account 191 as of December 31, 1976. El Paso further states that the net PGAC-CHPG adjustment proposed by the tendered Seventh Revised Sheet No. 1-D is an increase of 3.5123¢ per Mcf in the currently effective rates of the affected special rate schedules and is 13.1696¢ per Mcf below the PGAC-CHPG net adjustment in rates of 16.6819¢ per Mcf filed on February 25, 1977, and suspended for one (1) day until April 2, 1977, by the Commission's March 31, 1977, order.

In addition, El Paso furnished copies of the suspended tariff sheets[3] which reflect the superseding pagination reference required as a result of the submittal of the tendered tariff sheets to be effective on April 1, 1977, and which reflect the effective date of April 2, 1977, as prescribed by the Commission in its March 31, 1977, order. Other than these marginal changes, said tariff sheets are identical to the counterpart tariff sheets placed into effect on April 2, 1977, by the Commission's March 31, 1977, order.

El Paso states that copies of the instant tender have been served upon all parties of record in Docket Nos. RP72-155 and RP76-59 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before May 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are

[1] First Substitute Nineteenth Revised Sheet No. 3-B to Original Volume No. 1; First Substitute Ninth Revised Sheet No. 1-D to Third Revised Volume No. 2; First Substitute Eleventh Revised Sheet No. 1-C and Seventh Revised Sheet No. 1-D to Original Volume No. 2A.

[2] Such reversionary interest holders are the subject of the Commission's Opinion No. 737, as amended, issued July 11, 1975, at Docket Nos. CP75-209 and CP75-594.

[3] See footnote 1, supra.

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on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13326 Filed 5-9-77;8:45 am]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Joint Motion To Approve Settlement Agreement

MAY 4, 1977.

Take notice that Gulf States Utilities Company (Gulf States) on April 22, 1977 joined with Intervenor Sam Rayburn Dam Electric Cooperative, Inc. (Sam Rayburn) and tendered a Joint Motion to Approve Settlement Agreement between Gulf States and Sam Rayburn dated December 30, 1976.

Gulf States indicates that the settlement agreement provides for an extension of the existing contract, which had been terminated by Gulf States, effective November 1, 1978 for an additional two years until October 31, 1980. Gulf States further indicates that the settlement agreement establishes rates for base usage, which is the level of service rendered for each billing month from July, 1975 through June, 1976, and establishes rates for growth usage, which is usage in excess of base usage beginning with the billing month of July, 1976.

Gulf States failed to submit an escrow agreement denoted Exhibit A which Gulf States stated was attached to the Motion.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13332 Filed 5-9-77;8:45 am]

[Docket No. ER77-322]

ILLINOIS POWER CO.

Filing Amendment No. 9 to Interconnection Agreement

MAY 4, 1977.

Take notice that Illinois Power Company ("Illinois Power") on April 27, 1977, tendered for filing proposed Amendment No. 9 to the Interconnection Agreement (Agreement) dated March 1, 1964 between Commonwealth Edison Company and Illinois Power. The Commission has previously designated the March 1, 1964 Agreement as Illinois Power Rate Schedule FPC No. 11 and Commonwealth Edison Company Rate Schedule FPC No. 5.

The parties state that Amendment No. 9 provides for a proposed increase in the charges effective June 1, 1977 for Short-Term Power transactions between Illinois Power and Commonwealth Edison.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.8 or § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13272 Filed 5-9-77;8:45 am]

[Docket No. ES77-34]

IOWA POWER AND LIGHT CO.

Application

MAY 4, 1977.

Take notice that on April 25, 1977, Iowa Power and Light Company (Applicant), filed an Application with the Commission pursuant to Section 204 of the Federal Power Act and Part 34 of the Commission's regulations thereunder, seeking authority to engage in direct negotiations with underwriters with respect to the proposed issuance and sale of up to 1,000,000 shares of its authorized but unissued Common Stock, par value $10 per share. Applicant states that it is of the belief that the best interests of its customers and stockholders may be served if the Commission were to authorize direct negotiations with underwriters.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office at Des Moines, Iowa, and is engaged primarily in the generation, purchase, transmission, distribution and sale at retail of electric energy and in the purchase, distribution and sale at retail of natural gas in central and southwestern Iowa.

Any person desiring to be heard or make any protest with reference to said application should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13270 Filed 5-9-77;8:45 am]

[Docket No. CS76-419, et al.]

LEE PEARSON, ET AL.

Applications For "Small Producer" Certificates[1]

MAY 4, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations there under for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket	Date filed	Applicant
CS77-491	Apr. 22, 1977	A. T. Smith, 1776 Lincoln St., Denver, Colo. 80203.
CS77-492	do	Bill J. Maddox, 412 Lincoln Tower Bldg., Denver, Colo. 80295.
CS77-493	do	Marjorie S. Roosevelt, 39 Sunset Dr., Englewood, Colo. 80110.
CS77-494	do	Peter K. Roosevelt, 1330 Metroband Bldg., Denver, Colo.
CS77-495	do	Val Lodholm, 4799 Dahlia, Denver, Colo. 80206.
CS77-496	do	Howard W. Dennis, 808 Lincoln Tower, Denver, Colo. 80295.
CS77-497	do	Randall M. Case, 1776 Lincoln St., suite 1000, Denver, Colo. 80203.
CS77-498	do	Dorothy A. Dubitzky, 6810 J. Elizabeth Circle, Littleton, Colo. 80122.
CS77-499	do	Roy H. Dubitzky.
CS77-500	do	W. H. Arrington, Jr., 1860 Lincoln St., No. 808, Denver, Colo. 80295.
CS76-419	Apr. 25, 1977	Lee Pearson, 2401 Western Ave., Farmington, N. Mex. 87401.
CS77-475	Apr. 21, 1977	Barber Oil, Inc., P.O. Box 1658, Carlsbad, N. Mex. 88220.
CS77-476	do	Liberty Oil & Gas Corp., P.O. Box 297, Olney, Ill. 62450.
CS77-477	Apr. 22, 1977	Joseph W. Geary, 2800 One Main Place, Dallas, Tex. 75250.
CS77-478	do	Robert D. Fraizer, P.O. Box 31445, Aurora, Colo. 80010.
CS77-479	Apr. 25, 1977	Jean G. Swihart, 108 Northwest 29th St., Oklahoma City, Okla. 73118.
CS77-480	do	McKay Investments, Inc., P.O. Box 49, El Dorado, Kans. 67042.
CS77-481	do	Garco, Inc., P.O. Box 2952, Grand Junction, Colo. 81501.
CS77-482	do	Wilma Bacon, 408 Lilac Lane, Grand Junction, Colo. 81501.
CS77-483	do	Robert O. Wilkin, 3508 Sacramento St., San Francisco, Calif. 94118.
CS77-484	do	George W. Brewer, Jr., 3041 Quail Creek Rd., Oklahoma City, Okla. 73120.
CS77-485	Apr. 26, 1977	Sam Jack Partnership No. 6, P.O. Box No. 754, Indiana, Pa. 15701.
CS77-486	do	J.I.C. Drilling Co. No. 4, P.O. Box No. 754, Indiana, Pa. 15701.
CS77-487	Apr. 22, 1977	Robert D. Paulson, 1776 Lincoln St., Denver, Colo. 80203.
CS77-488	do	William G. Odell, 1776 Lincoln St., Denver, Colo. 80203.
CS77-489	do	Will P. Pirkey, M.D., 3191 South Broadway, Englewood, Colo. 80110.
CS77-490	do	Walter W. Doeringsfeld, Jr., 666 Niver Ave., Denver, Colo. 80221.

[FR Doc.77-13283 Filed 5-9-77;8:45 am]

[Docket No. CP77-350]

MISSISSIPPI RIVER TRANSMISSION CORP.

Application

MAY 4, 1977.

Take notice that on April 20, 1977, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP77-350 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation, construction and operation of an additional 1,000 horsepower compressor unit and certain appurtenant facilities, at its existing Twelve Mile No. 2 Compressor Station located on Applicant's Main Line in Madison County, Missouri, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that its Main Line System includes both its Twelve Mile No. 2 Compressor Station in Madison County, Missouri, and its Ste. Genevieve Compressor Station located north of Twelve Mile No. 2 in adjacent Ste. Genevieve County, Missouri. Applicant further states that the Twelve Mile No. 2 Station consists of 5 compressor units, each of 1,100 horsepower, all of which must be continually operating to provide the necessary system throughput. Should one of these units fail the entire Twelve Mile No. 2 Compressor Station ordinarily has to be shut down while the unit is being repaired since the remaining four units do not have the capacity to handle the flow of gas through the station and, as a result, the gas flow on Applicant's main line system, which would then bypass the Twelve Mile No. 2 Station, declines by approximately 60 million Mcf per day, it is said.

Applicant states that the installation of an additional 1,000 horsepower compressor unit at the Twelve Mile No. 2 Station would cause reliability on its main line system to be significantly increased due to the fact that if one of the six individual compressor units goes out of service for a given period of time the compressor station could continue operating by using the five remaining compressor units, and the flow of gas through the station could continue virtually unaffected while repairs are being effected. It is stated that in addition to improving the operating dependability and efficiency of Applicant's system, installation of this additional unit would result in a reduction in system fuel gas requirements, and the operation of the additional compressor unit at Twelve Mile No. 2 would substantially reduce Applicant's usage of its Ste. Genevieve Compressor Station, requiring Applicant to operate the Ste. Genevieve Station primarily for system peaking purposes on an average of eight hours per day during approximately four months of the winter heating season. The reduction in usage of the Ste. Genevieve Station, when netted against the operation of the additional compressor unit at the Twelve Mile No. 2 Station, results in a reduction in Applicant's total fuel usage of approximately 80,000 Mcf of natural gas per year, it is said.

Applicant states that the additional unit proposed to be installed is one which Applicant used at its Twelve Mile No. 1 Station until 1976. The total estimated cost of this proposed project is estimated to be $340,000 excluding the present net book value of the compressor unit itself (approximately $2,000) and of three compressor cylinders (approximately $36,000), all of which Applicant states it presently has in stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13271 Filed 5-9-77;8:45 am]

[Docket No. RP74-100 (PGA 77-5a)]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

MAY 4, 1977.

Take notice that on April 19, 1977, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, Twelfth Revised Sheet No. 4, proposed to be effective May 1, 1977.

National states that the purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions and to recover the cost of emergency purchases for February and March of 1977 over the remaining five months of its currently effective surcharge. National further states that such tariff sheet reflects an adjustment in National's rates of 2.86¢ per Mcf on Twelfth Revised Sheet No. 4.

National proposes, in the event that Twelfth Revised Sheet No. 4 is not approved effective May 1, 1977, that Alternate Twelfth Revised Sheet No. 4 filed herewith be made effective May 1, 1977. Alternate Twelfth Revised Sheet No. 4 reflects only the current PGA adjustment.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to

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intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13275 Filed 5-9-77;8:45 am]

[Docket No. ER77-312]

NORTHEAST UTILITIES SERVICE CO.

Termination of Exchange Agreement

MAY 4, 1977.

Take notice that Northeast Utilities Service Company (NU) on April 19, 1977 tendered for filing a Termination of the Exchange Agreement between NU and Boston Edison Company with respect to Northfield Mountain Project and Mystic Unit No. 5 (the Agreement).

NU indicates that the Agreement terminated on May 3, 1976 and that under the Agreement neither party paid the other a capacity or a transmission charge and that the Agreement provided each party with an improved generation mix and therefore reduced production costs.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13331 Filed 5-9-77;8:45 am]

[Docket No. RP73-8, (PGA77-9)]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

MAY 4, 1977.

Take notice that North Penn Gas Company (North Penn) on April 15, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective June 1, 1977. North Penn has included in its filing a decrease under:

Sections 14.3 and 14.5 Unrecovered Purchased Gas Cost Account and Flow-through of Refunds.

The rate change under Sections 14.3 and 14.5 reflects a surcharge credit of 2.107¢ per Mcf which results from amounts accumulated in the Unrecovered Purchased Gas Account for the period September, 1976 through February, 1977, the jurisdictional portion of refunds received by North Penn from its suppliers for the same six-month period and a carryover balance from the surcharge credit filed May 7, 1976, effective June, 1976 through November, 1976. The 2.107¢ surcharge credit will decrease North Penn's jurisdictional revenues by approximately $111.7 thousand over the period June 1, 1977 through November 30, 1977.

North Penn is requesting a waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on June 1, 1977.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interven. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13267 Filed 5-9-77;8:45 am]

[Docket No. ER77-266]

OTTER TAIL POWER CO.

Rate Filing

MAY 3, 1977.

Take notice that on April 22, 1977, Otter Tail Power Company (Otter Tail) tendered for filing rate schedules covering scheduling and dispatching service provided to Cooperative Power Association (Association) and Central Power Electric Cooperative (Central). An effective date of April 1, 1977, is requested for the increase, estimated at approximately $7,343 per year, in rates to be charged the Association per Supplement No. 3 to Otter Tail's Rate Schedule FPC No. 154. An effective date of March 20, 1977, is requested for the increase estimated at approximately $1,842, in rates to be charged Central per supplement No. 3 to Otter Tail's Rate Schedule FPC No. 121.

Otter Tail requests waiver of the Commission's notice requirements to allow these two Schedules to become effective on April 1, 1977 and March 20, 1977 respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13280 Filed 5-9-77;8:45 am]

[Docket Nos. RP73-8 and RP76-158, (PGA 77-5a), (PGA 77-6a), (PGA 77-7a)]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

MAY 4, 1977.

Take notice that North Penn Gas Company (North Penn) on April 22, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, to comply with Federal Power Commission (Commission) letters dated April 8, 1977 (PGA 77-7) and April 14, 1977 (RP76-158).

North Penn states that it will make refunds to its FPC jurisdictional customers for February and March, 1977 upon acceptance of this filing to reflect the lower rates contained in Substitute Fortieth and Substitute Forty-First Revised Sheets No. PGA-1.

North Penn is requesting a waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates shown on Substitute Fortieth, Substitute Forty-First and Substitute Forty-Third Revised Sheets No. PGA-1 to become effective as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13333 Filed 5-9-77;8:45 am]

[Docket No. ER77-323]

OHIO POWER CO.

Changes in Rates and Charges

MAY 4, 1977.

Take notice that American Electric Power Service Corporation (AEP) on April 27, 1977, tendered for filing on behalf of its affiliates Indiana & Michigan Electric Company (Indiana) and Ohio Power Company (Ohio), Modification No. 4 dated January 31, 1977, to the Interconnection Agreement dated December 12, 1949 among Indiana & Michigan Electric Company, Ohio Power Company and Cincinnati Gas & Electric Company (Cincinnati), designated Indiana Rate Schedule FPC No. 16 and Ohio Rate Schedule FPC No. 21.

AEP indicates that Section 1 of Modification No. 4 provides for an increase in the demand charge for Short Term Power from $0.50 to $0.60/kW-week and Section 3 provides for an increase in the demand charge for Limited Term Power from $2.75 to $3.25/kW-month. Moreover, Section 2 of Modification No. 4 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.125 to $0.15/kW-week and Section 4 provides for an increase in the transmission charge for third party Limited Term Power transactions from $0.55 to $0.65/kW-month, both schedules proposed to become effective June 1, 1977.

AEP states that since the use of Short Term and Limited Term Power cannot be accurately estimated for the twelve month period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this modification for such period.

AEP also states that copies of the filing were served upon Cincinnati Gas & Electric Company, the Public Service Commission of Indiana, the Michigan Public Service Commission and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13330 Filed 5-9-77;8:45 am]

[Project No. 637]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

Corrected Notice of Issuance of Annual License(s)

MAY 4, 1977.

This notice corrects and supersedes the Notice of Issuance of Annual License(s) for Project No. 637, issued April 1, 1977.

On October 30, 1975, Public Utility District No. 1 of Chelan County, Licensee for Lake Chelan Project No. 637, located on the Chelan River and Chelan Lake, Chelan County, Washington, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 637 was issued effective May 8, 1926, for a period ending May 7, 1976. Since expiration of the original license, the project has been maintained and operated under an annual license which will expire on May 7, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Public Utility District No. 1 of Chelan County.

Take notice that an annual license is issued to the Public Utility Districts No. 1 of Chelan County for the period May 8, 1977, to May 7, 1978, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Lake Chelan Project No. 637 subject to the terms and conditions of the original lincense. Take further notice that if issuance of a new license does not take place on or before May 7, 1978, a new annual license will be issued each year thereafter, effective May 8 of each year, until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13309 Filed 5-9-77;8:45 am]

[Docket No. CP77-361]

SEA ROBIN PIPELINE CO.

Application

MAY 4, 1977.

Take notice that on April 27, 1977, Sea Robin Pipeline Company (Sea Robin) filed an abbreviated application for a budget-type certificate of public convenience and necessity authorizing the construction and operation of gas purchase, and other facilities necessary to connect new supplies and to implement the exchange and transportation of natural gas. Applicant requests a total authorization of $4,287,095 with single projects limited to $2,500,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 27, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13327 Filed 5-9-77;8:45 am]

[Docket No. CP77-360]

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC. AND NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

MAY 4, 1977.

Take notice than on April 27, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas, 77001, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois, 60603 (Applicants), filed a joint abbreviated application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of pub-

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lic convenience and necessity authorizing the investment by Applicants in compression and related facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicants request authorization (a) to install, or cause to be installed, a 2,700 horsepower compressor unit and related facilities on the existing producer "A" platform in Eugene Island Block 367, offshore Louisiana, which platform is jointly owned by Texaco Inc. (Texaco) and Tenneco Oil Company (Tenneco Oil) and operated by Texaco; and (b) to operate and maintain said facilities in accordance with the gas purchase contracts between Tennessee and Tenneco Oil and between Natural and Texaco which were filed as exhibits to the joint application of Tennessee and Natural at Docket No. CP76-370.

Applicants state that Texaco and Tenneco Oil each own a 50 per cent leasehold interest in the gas reserves underlying Eugene Island Block 367 and Ship Shoal Blocks 343 and 344 (Block 343 Field) and that Texaco's 50 per cent interest is committed to Natural and 75 per cent of Tenneco Oil's 50 per cent interest is committed to Tennessee, both under Gas Purchase and Sales Agreements. Applicants further state that under their aforementioned respective Gas Purchase and Sales Agreements with their respective producers, they are required to furnish any compression facilities deemed necessary by the operator, and that Texaco, as operator of the Block 343 Field, has determined that compression on the Eugene Island Block 367 "A" platform is required to produce certain reservoirs against the line pressure required for the gas to enter Applicants' pipeline systems and that Texaco therefore proposes to install and operate a 2,700 horsepower compressor unit on the "A" platform.

Applicants estimate the cost of the 2,700 horsepower compressor unit to be $2,670.000 to be borne 50 per cent each by Tennessee and Natural.

Applicants estimate that over the life of the Block 343 Field reserves, an additional 98.040 MMcf of reserves will be recovered as a result of such compression, which would not otherwise be recovered.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 27, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13325 Filed 5-9-77;8:45 am]

[Docket No. CP77-358]

TEXAS GAS TRANSMISSION CORP.

Application

MAY 4, 1977.

Take notice that on April 25, 1977, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP77-358 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of up to 250 Mcf of natural gas per day at 14.73 psia, on an interruptible basis, for Allied Products Corporation-Kerr Finishing Division (Kerr), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 250 Mcf of natural gas per day on an interruptible basis for Kerr pursuant to a transportation service agreement dated April 8, 1977, between Applicant and Kerr.

Applicant states that Kerr has entered into a gas purchase option agreement with Trinidad Petroleum Corporation (Trinidad) for 24-months, giving Kerr the option to purchase volumes of natural gas to be produced from certain leasehold interests presently owned by Trinidad in Standard Field, LaSalle Parish, Louisiana. It is stated that Trinidad would charge Kerr $2.00/Mcf for gas purchased during the first 12 months of the agreement and $2.35/Mcf for the remainder 12-months. It is further stated that the subject gas would be delivered to Applicant at a meter station to be constructed and installed at or near Mile Post 78+0523 on Applicant's Bastrop-Eunice 26-inch pipeline, located near Olla in LaSalle Parish, Louisiana, and Applicant would simultaneously redeliver the gas to Transcontinental Gas Pipe Line Corporation (Transco), at an existing exchange point between Applicant and Transco near Mamou, Evangeline Parish, Louisiana, for ultimate delivery to Kerr for high priority process in Kerr's Concord, North Carolina, plant. It is stated that the gas purchased from Trinidad would be consumed during each month of the transportation period in plant processes for which there are no technically feasible alternative fuels. It is further stated that the total end-use requirements for natural gas at Kerr facility in Concord, N.C. during the transportation period is 180,000 Mcf.

Applicant states that a 2-inch run meter station and related equipment would be constructed and installed on its Bastrop-Eunice 26-inch pipeline in La Salle Parish, Louisiana, in order to effectuate the proposed transportation service. Pursuant to the terms and conditions of the proposed transportation service agreement, Applicant would construct and install the facilities for Kerr, which would own the facilities and Kerr would lease the facilities to Applicant, which as lessee, would operate the facilities for the duration of the transportation service agreement. The estimated cost of the proposed facilities is $11,100, it is said.

Applicant indicates that it would charge 4.67 cents per Mcf (at 14.73 psia) for all quantities of gas transported and delivered to Transco for the account of Kerr.

It is stated that Trinidad elected not to sell its natural gas on the interstate market due to the uncertainty created by the Commission's Opinion No. 770.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (1P CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13265 Filed 5-9-77;8:45 am]

[Opinion No. 796; Docket No. CP74-138, CP74-139, CP74-140]

TRUNKLINE LNG CO. AND TRUNKLINE GAS CO.

Opinion and Order on Proposal to Import Liquefied Natural Gas to the United States from Algeria

APRIL 29, 1977.

OPINION NO. 796

APPEARANCES

Raymond N. Shibley, James J. Flood, Jr., and John D. Townsend for Trunkline LNG Company and Trunkline Gas Company.
George A. Avery, James K. White, James B. Falahee, Toni K. Golden and William W. Ross for Consumers Power Company.
William W. Bedwell, John J. Mullally, and James H. Wuller for Mississippi River Transmission Corporation.
Michael F. Butler, Charles F. Dewey and Robert C. Goodwin for Federal Energy Administration and the Energy Resources Council.
James R. McClarnon for City of Indianapolis, Citizens Gas & Coke Utility.
Richard W. Johnson and Joseph T. Morrow for Northern Indiana Public Service Company.
Richard M. Merriman and Richard T. Witt for Central Illinois Light Company and Michigan Gas Utilities Company.
J. David Mann, Jr. and Stephen J. Small for Laclede Gas Company.
Joseph Certain and George P. Osborn for Indiana Gas Company and Central Indiana Gas Company.
Edward J. Kirby, James R. Lacey, Roger M. Nelson and Harold W. Borden, Jr. for Public Service Electric and Gas Company.
Charles E. McGee, Edward J. Kirby and Phil W. Jordan for Eascogas LNG, Inc.
John T. Ketcham for Consumers Gas Transmission Company and Algonquin LNG, Inc.
G. Scott Cuming, Kenneth G. Johnson, Robert H. Lovell and Donald S. Snow for El Paso Algeria Corporation.
Bradford Ross for Societé Nationale (Sonatrach).
Robert G. Giertz for the Maritime Administration.
Jacobus J. Lankhorst for the United States Coast Guard.
M. Frazier King, Jr., Peter C. Kissel and William R. Koerner, Jr. for the Staff of the Federal Power Commission.

On February 18, 1977, Presiding Judge Samuel Kanell issued an Initial Decision approving, subject to conditions, the applications, as amended, of Trunkline LNG Company (Trunkline LNG or TLC) and Trunkline Gas Company (Trunkline) for: (1) A certificate of public con- CP74-138); (2) an order under section 7(c) of the Natural Gas Act for construction of an LNG marine terminal, LNG plant and associated facilities in Calcasieu Parish, Louisiana (Docket No. CP74-138); (2) an order under Section 3 of the Natural Gas Act authorizing importation into the United States of gas from Algeria over a 20-year period, as outlined herein (Docket No. CP74-139); and (3) a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act for construction of a 45.8-mile gas pipeline extension within Louisiana to connect the proposed LNG plant with Trunkline's existing gas pipeline system.

For the reasons set forth in the instant opinion, the Commission shall affirm the Presiding Judge's decision subject to certain modifications of the conditions he attached to his decision; all as provided later in this opinion.

I. INTRODUCTION

The Presiding Judge gave a complete statement of the nature of the proceeding and the proposed project as follows (I.D., pp. 2-5):

Pursuant to sections 3 and 7(c) of the Natural Gas Act, Trunkline LNG Company (TLC) and Trunkline Gas Company (Trunkline) filed three applications with the Commission on November 15, 1973, to request necessary authority to implement a proposal to import about 168.4 million Mcf[1] per year year of liquefied natural gas (LNG) to the United States from Algeria.

On June 23, 1976, amendments were filed to these applications. These amendments reflect both increases in the cost of the purchased LNG and in construction costs. These changes and revised transportation arrangements result in raising the overall estimated initial cost of the regasified LNG delivered to the existing Trunkline transmission system to about $3.37 per Mcf in contrast to the estimated cost of about half of this amount, as set forth in the application as originally filed.

In application filed in Docket No. CP74-138, TLC seeks a certificate of public convenience and necessity from the Commission under section 7(c) of the Natural Gas Act for the proposed construction of a marine terminal, three 600,000 barrel capacity cryogenic storage tanks, seven submerged combustion vaporizers and necessary associated facilities for the receipt, storage, and revaporization of LNG into its natural gaseous state. These facilities would be located about 25 miles north of the Gulf of Mexico at a point 12 miles south of Lake Charles in Calcasieu Parish, Louisiana, along a canal which has access to the Calcasieu ship channel. This latter channel provides for passage of ocean-going vessels to and from the Gulf of Mexico.

The revised cost of the proposed Lake Charles LNG plant is estimated at $164,340,000, exclusive of the cost of extending the canal and providing a necessary turning basis for ocean-going vessels.

By application, as amended, filed under Section 3 of the Natural Gas Act, designed as Docket No. CP74-139, TLC seeks a Commission order authorizing the importation into the United States from Algeria of approximately 168,400,000 Mcf of gas annually for a period of 20 years, beginning 1980.

Under Docket No. CP74-140, Trunkline seeks a certificate of public convenience and necessity from the Commission for the construction and operation of necessary facilities, including a 45.8-mile pipeline extension within the State of Louisiana to receive, transport, and sell in interstate commerce the gas which will be made available by the revaporization of LNG imported from Algeria. The revised cost of the pipeline extension and related facilities is estimated at $28,830,000.

TLC is a wholly owned subsidiary of Trunkline which in turn is wholly owned by Panhandle Eastern Pipeline Company.

[1] Quantity in gasified form.

By order dated January 18, 1974, the Commission consolidated Dockets No. CP74-138, CP74-139, and CP74-140, for purposes of hearing and disposition, and directed that if hearing of all issues other than environmental were completed prior to Staff completion of an environmental impact statement (EIS), pursuant to the provisions of the National Environmental Policy Act, the record would remain open to receive environmental testimony and evidence, and an initial decision would not be issued prior to the completion of the submission of evidence relating to environmental matters.

By order issued June 28, 1974, the Commission denied requests by Trunkline and TLC for a tentative decision pending completion of the EIS.

While awaiting completion of the EIS, no sessions of the hearing were held between May 1974 and September 1976. During this interval, renegotiation of the purchase agreement for Algerian LNG and increased costs of shipping and construction resulted in doubling of the estimated cost of this imported gas.

In assigning this matter for hearing, the Commission enumerated the following issues as relevant for consideration:

1. Reliability of foreign supply of LNG;
2. Dependence on foreign LNG to meet residential and commercial market requirements;
3. Environmental impact considerations;
4. Pricing of LNG supply;
5. Shipping cost;
6. Economic feasibility of the project;
7. End use allocation of the LNG supply;
8. Availability of alternate fuels for the market to be served by the imported LNG;
9. Engineering feasibility;
10. Project safety.

Hearing in this matter was initiated February 26, 1974. The first phase of the hearing continued through nine sessions to May 2, 1974. The hearing was reopened on September 14, 1976, following completion of the EIS and the filing of amendments modifying the initial applications. The hearing was terminated on December 17, 1976, for a total of 22 sessions. All briefs were filed by January 27, 1977.

In light of the provision in the revised contract with the Algerian LNG supplier which provides that this contract can be cancelled by either party if not approved by the Commission by April 1, 1977,[2] the parties agreed to an expedited briefing schedule and also agreed to file exceptions to this Initial Decision within 15 days of its issue and replies to exceptions within 15 days.

* * * * *

As outlined by witnesses for the applicants, this project will be substantially similar to other LNG programs heretofore reviewed by the Commission concerning importation of LNG into the United States.

Under the revised agreement dated September 17, 1975 (Exhibit 69), between Panhandle Eastern Pipeline Company (Panhandle) and Societe' Nationale (Sonatrach),[3] a corporation which is wholly owned by the Government of Algeria, 3.368 trillion cubic feet of natural gas will be made available for use within the United States during a 20-year period beginning in 1980.

By subsequent agreement dated January 2, 1976, Panhandle assigned its interest and obligation under this Sonatrach agreement to its subsidiary, TLC.

[2] Approval date extended to July 1, 1977, per stipulation of counsel for Sonatrach.

[3] This revised contract supersede the August 17, 1973 contract which was abrogated by Sonatrach because of failure of timely approval by the Commission.

V 4290 MAY 10 77 UMI

Sonatrach will be responsible for producing the gas from its fields in Algeria, transporting the gas to Mediterranean ports, liquefying the gas and delivering the LNG to ocean-going LNG tankers. Further, Sonatrach will arrange to supply three of the five tankers required to transport the LNG to the United States and Trunkline will supply two tankers. Each tanker will have a capacity of 125,000 cubic meters.

These tankers will transport the liquefied gas in cryogenic containers from Algerian ports to the TLC plant to be built in the Lake Charles area of Southern Louisiana. TLC will regasify and deliver the gas to Trunkline, which will transport this gas through its extensive pipeline system and deliver the regasified LNG to its customers.

Trunkline submits that since 1971, it has been compelled to curtail its gas deliveries below its contractual commitments in amounts ranging from 250,000 to 850,000 Mcf per day. Its current level of curtailments is now 650,000 Mcf per day despite all possible efforts to develop new gas resources. The 420,000 Mcf of gas per day that Trunkline expects from this Algerian project will reduce the anticipated 1980 deficiency to about 450,000 Mcf per day. It is expected that even if the imported LNG becomes available in 1980, Trunkline will be unable to serve all Category 1 and 2 customers and that if this LNG were not available, a 1980 deficiency of about 900,000 Mcf per day will be experienced.

By agreement dated January 22, 1976 between Trunkline and TLC (Exhibit No. 66), TLC will sell the regasified LNG to Trunkline under a cost-of-service tariff arrangement which provides that Trunkline will pay all of TLC's cost plus a 15 percent return on equity invested in TLC.

II. Initial Decision

As indicated previously, the Presiding Judge approved applicants' proposals subject to various conditions. With regard to rates, the Presiding Judge prescribed the following conditions (I.D., pp. 55–61):

1. Rates charged Trunkline Gas Company by Trunkline LNG Company for gas obtained from regasified LNG under this project shall not include (a) a return on TLC equity in excess of 14 percent and (b) an overall return for TLC in excess of 9.5 percent.

2. The cost to Trunkline of gas produced from LNG shall not include any cost component related to a rate of return on equity invested in Lachmar[4] in excess of 17.5 percent, measured over any two-year period.

3. Trunkline shall submit to the Commission detailed documentation of any adjustment in LNG freight rates, to insure that only necessary and proper charges are included pursuant to the applicable contractual shipping arrangements, and shall arrange for necessary auditing procedures to insure that no duplication of return on Lachmar's equity is included in any costs charged to Trunkline.

4. Gas derived from this LNG import project will be sold by Trunkline Gas Company to its customers on a rolled-in basis.

5. Trunkline shall submit to the Commission detailed documentation underlying any adjustments in the price paid to Sonatrach for LNG. Such documentation shall clearly delineate the contractual basis for any such price change. Trunkline shall submit this documentation on an annual basis, to be received by the Commission within 45 days after each period ending December 31.

* * * * *

[4] A partnership owned 40 percent by Panhandle, 40 percent by General Dynamics Corporation and 20 percent by Moore McCormack Resources, Inc. (Footnote added.)

10. Prior to the end of the first five-year period of operation of the LNG plant, Trunkline and TLC shall present to the Commission competent documentation based on operational experience of this plant to support continuation of or any proposed change in the depreciation rate, and any change in such rate shall be made only in accord with procedures approved by the Commission.

11. Trunkline and TLC shall not include in gas rates any charges arising from acceleration of any cost without specific Commission approval.

12. Reports on the status of this LNG import program, outlining the progress of construction of the components of this project, the cost of such construction in contrast to projected costs, the effect of any cost changes in the cost of regasified LNG to gas users, the quantity of gas imported, and other substantive information outlining the effectiveness of this program, shall be submitted to the Commission semiannually, 45 days after each period ending June 30, and December 31.

In response to a request by the Energy In response to a request by the Energy Resources Council (ERC)[5] that the Commission adopt a "contingency planning policy" to "assure non-curtailable supply continuity" to high priority users in the event of an LNG import supply cutoff for any reason, the Judge established the following condition:

6. Within six months of the effective date of this Decision, Trunkline will submit a detailed, written compilation and evaluation of its own and its customers' gas reserve capabilities, and a detailed contingency plan to be implemented in the event of disruption of LNG deliveries, including the following:

a. Existing gas reserve capabilities;

b. Gas reserve capabilities which are either presently being constructed or presently being developed, with estimated availability dates;

c. Estimates of the percentage of each customer's needs which will be met by reserve capabilities; and

d. The feasibility of the use of cushion gas reserves to replace gas from LNG.

(I.D., p. 56)

The Judge also established detailed environmental and safety conditions designed to maximize the safety of the project and to minimize the adverse environmental consequences of the project, particularly the required construction in the United States phase of the project. These conditions were based upon his conclusion (I.D., p. 29) that the project, with the conditions urged by Staff and adopted by Trunkline:

* * * will have minimal effect on the environment and does not pose risks in excess of those deemed acceptable for a project of this complexity. Further, Staff and Trunkline have recommended safeguards designed to minimize risks and increase safety, and implementation of these safeguards will be required in the Order below. (I.D., p. 29)[6]

[5] This Council was established by Congress for the purpose of inter alia, coordinating energy policy among Federal agencies. Briefs on behalf of ERC were filed by the Federal Energy Administration (FEA).

[6] His conclusion was based upon the detailed discussion of the environmental and safety aspects of the project on pages 9–16 of the Initial Decision.

The Presiding Judge also found that the record demonstrated that Algeria has ample gas reserves to meet its contractual commitments to Panhandle in the instant case, as well as other commitments for the sale of Algerian gas reserves. (I.D., p.20) Furthermore, the Judge found that the reliability of the LNG gas supply was high and that previous interruptions of LNG supply were due to technical, not political (i.e., OPEC-related) reasons. Furthermore, he found, inter alia, that Algeria has a high "financial stake in the project" which enhanced the reliability. The Presiding Judge also noted that the Department of State concurred in his conclusion (I.D., p.29).

The Presiding Judge also found that the program was feasible from a financial standpoint (with an estimated $3.37 per Mcf initial rate at Trunkline's existing pipeline system) (I.D., pp.31–32) as well as feasible from an engineering standpoint (I.D., pp.33–34). Furthermore, he notes that by 1984, Trunkline will be required to rely on imported LNG for approximately one-half of its total supply and, even then, it will be able to serve only 75 percent of its priority One Customers with no gas available for lower priorities.[7] He also refused to adopt the ERC suggested condition of limiting all LNG imports from one nation to 0.8 to 1.0 Tcf of gas per year. (I.D., p.3)

The Presiding Judge found the estimated delivery cost of $3.37 per Mcf at Trunkline's now existing pipeline system as reasonable compared with alternatives such as coal gas ($5 per Mcf), new domestic gas from post 1–1–76 wells ($1.45 per Mcf per Opinion Nos. 770 and 770–A) and recent sales of emergency gas (as high as $2.34 per Mcf).

As a result of the above, as well as the remaining discussion in his Initial Decision, the Presiding Judge conditionally approved the applications for the project.

III. Positions of the Parties in Briefs on Exceptions and Briefs Opposing Exceptions to the Presiding Judge's Decision

On March 21, 1977, Briefs On Exceptions to the Initial Decision were filed by ERC, Staff and Trunkline and Trunkline LNG, Briefs Opposing Exceptions were filed on March 31, 1977, by El Paso Algeria Corporation, Staff, Trunkline and Trunkline LNG, MRT and on April 1, 1977, by Indiana Gas Company.

Staff, in its Brief On Exceptions, states that it takes no position as to whether or not the project should be certificated, but rather recommends conditions that should be attached in the event the

[7] In 1980, the LNG will constitute approximately 10 percent of Panhandle's supply (Ex. 60), 7 percent of MRT's supply (Tr. 15/1988), and 16 percent of Consumer Gas' supply (Ex. 83).

[8] After 1984, the gas will be used to exclusively supply Panhandle's Priority 1 customers (Ex. 61). In 1980, it will be used on the MRT system to supply "Step 5", resale firm customers with alternate fuel capability and priorities higher than Step 5.

Commission decides to certificate the project. While Staff is satisfied with certain of the conditions imposed by the Presiding Judge, it urges further conditions and modifications as set forth below.

Staff urges the Commission to condition the certification of the project to require elimination of the two provisions of Panhandle-Sonatrach sale and purchase contract (Ex. 69) which permit, respectively, renegotiation (Article XXIV) of the minimum price of $1.30 per MMbtu (subject to changes in currency values) set forth in Article VIII(3) and which permit automatic escalations in the minimum price in direct relation to the escalation of the price of No. 2 and No. 6 fuel oil (Article VIII(2)). Staff argues that these provisions violate the natural Gas Act which requires rate increases to be cost based.[9] Staff argues that to permit such escalation provisions would further enhance the control of the OPEC Nations over the energy supplies of the United States.

Staff urges that the Commission modify the Judge's decision to require the filing within 60 days of the date of the instant order of Sonatrach's final financing arrangements for the Algerian facilities involved in this project.

Staff also argues that the Judge should have required cost substantiation for the currently estimated cost of shipping the LNG by Lachmar and Sonatrach as well as substantiation of any increases in the costs of shipping the LNG. With respect to Lachmar, Staff argues that if the ships cannot be placed into service on time, the costs incurred may be capitalized and passed on to the consumer. Furthermore, Staff argues that all costs incurred during the second year due to nonvessel force majeure may also be capitalized and passed on to Trunkline LNG and eventually to the ultimate consumer. Thus, Staff argues that the Lachmar base rate is excessive because the risks set forth above do not justify a rate which Staff argues is 10 percent above the time charter rate. Staff states that the real risk is that of a late start-up (which is borne by the consumer) which offsets the risk of nonvessel force majeure assumed by Lachmar for years 1, 3 and 4 and does not justify the 10 percent above time charter excess. Staff cites the previous history of LNG start-ups as support for its prediction of a late start-up. Accordingly, Staff recommends that the Commission condition the certificate to require Lachmar or Trunkline after financing to provide the Commission with justification of this allegedly higher rate. Staff also states that the Lachmar base rate costs are out of date and that the 17.5 percent rate of return on equity ceiling imposed by the Presiding Judge on Lachmar is arbitrary, and without record support and that the issue should be decided in a hearing.

[9] Staff cites, inter alia, Columbia LNG, et al., Opinion No. 622–A, 48 FPC 723, 727 (1972) and Pacific Gas Transmission v. F.P.C., 536 F.2d 393 (D.C. Circ. 1976); cert denied December 6, 1976, 45 U.S.L.W. 3416, as support for its argument.

With regard to Sonatrach's shipping rates,[10] the Commission is also urged to require cost justification therefor. Furthermore, Staff argues that cost justification should be required for any rate adjustments under the "cost overrun" and "delay in start-up" escalators in the Sonatrach and Lachmar shipping contracts.

With respect to Trunkline LNG's cost-of-service tariff governing sale of the regasified LNG to Trunkline (Ex. 66), Staff argues that the minimum bill provision in Section 12.02D of the tariff be amended to provide that during periods of interruption, Trunkline LNG would recover its embedded debt costs but not any return on equity or the recovery of any equity investment through depreciation.[11] Staff also argues that the minimum bill provision in Section 12.02B of the tariff be amended to provide for loss of equity return in the event of project failure. Staff argues that this particular condition is needed because of the ambiguity of the present language in the proposed tariff.

Staff objects to the language of the Judge's condition number 10 (I.D., p. 60) which, it is argued, allows Trunkline LNG's tariff (Section 12.02B) to provide for a 5 percent depreciation rate subject to yearly redetermination. All the Judge requires is a report in 5 years substantiating any changes in the rate. Staff argues that the "unacceptable" language in the tariff should be eliminated and that Trunkline LNG be required to follow "conventional" procedures in seeking a change in the depreciation rate; a procedure Staff says Trunkline LNG has agreed to in its Reply Brief.

Staff also urges the Commission to reverse the Judge's decision to request (rather than require) Trunkline LNG to submit new accounts for tracking costs associated with its LNG facilities. Staff states that Trunkline LNG has no objection to such a condition. Staff also urges the Commission to adopt a fixed debt to equity capitalization ratio for Trunkline LNG, a proposal it alleges the Presiding Judge ignored in his initial decision.

Furthermore, Staff restates its support for a return on equity ceiling in Trunkline LNG's tariff of 14.50 percent in the event of incremental pricing (or 13.00 percent in the event of rolled-in pricing). Staff opposes the rate of return ceiling of 14 percent on equity and 9.5 percent overall imposed by the Presiding Judge on Trunkline LNG, in conjunction with rolled-in pricing, as being excessive. Staff states that the Judge's reliance on Opinion No. 769[12] was misplaced because the Commission gave Tennessee 13.75 percent return on equity based upon Tennessee's need to explore for and develop new sources of natural gas, a factor not applicable to Trunkline LNG. Furthermore, Staff states that the Judge ignored Staff Witness Adelman's recommendation of 13 percent on equity for rolled-in pricing and 14.5 percent for incremental pricing based upon, inter alia, his testimony to the effect that although Trunkline LNG has a higher risk than a pipeline company such as Tennessee, that risk is more than offset by Trunkline LNG's "all events" cost-of-service tariff.

Staff challenges the Judge's adoption of rolled-in pricing in lieu of Staff's recommended incremental pricing. Staff argues, inter alia, that rolled-in pricing insulates the LNG from the test of the marketplace by averaging its cost in with lower cost domestic gas, that it gives consumers "incorrect" economic signals as to the true cost of LNG, and it precludes state commissions from incrementally pricing LNG if they so choose. Staff states that rolled-in pricing is only proper when the price of the new gas supply does not significantly differ in price from the older flowing gas supply. Staff argues that the fact cited by the Judge that LNG will constitute approximately one-half of Trunkline's gas supply by the mid-1980's is not an argument against incremental pricing. Staff also states that the Judge's statement that incremental pricing may cause purchasers to switch to oil (a larger part of which is supplied by OPEC Nations) is unsupported by the record. Accordingly, Staff urges the Commission to reverse the Judge and adopt incremental pricing for LNG.

Staff sets forth several suggestions as to the contingency plan conditions. Staff also argues that the environmental data conditions (7d through 7g) should be amended to reflect the Staff language in the FEIS recommendations 4 and 7, respectively, and that the work "completion" in condition 7r should be changed to "commencement".

Trunkline LNG states that it will accept the environmental conditions as set forth in the Initial Decision and will accept the Judge's ceiling of 14 percent return on equity for Trunkline LNG if "no new adverse conditions" are added by the Commission. Trunkline LNG states that, in the interests of expediting approval for the project, it is limiting its objections to the Judge's decision to the conditions imposed by the Judge on the Lachmar shipping contract. Specifically, Trunkline LNG objects to the Judge's number 2 condition which specifies that Lachmar's return on equity cannot exceed 17.5 percent for any two-year period. Trunkline LNG argues (1) that the Commission has no jurisdiction over LNG shipping firms[13]; (2) the FPC has no means of adjusting the Lachmar rates; and (3) in any event, Lachmar has sufficient risk to justify the returns

[10] See Initial Decision, p. 5, 16–19, for a detailed discussion of the financing related to the Lachmar and Sonatrach shipping rates.

[11] Staff again cites Opinion No. 622–A, supra at 730 as well as Transwestern Pipeline Company, et al., Opinion No. 728–A, issued November 21, 1975, in Docket No. CP73–211 at mimeo, p. 4.

[12] Tennessee Gas Pipeline Co., et al., ---- FPC ---- issued July 9, 1976, in Docket No. RP73–113.

[13] Citing Docket No. R–377, 49 FPC 1078 (1973) and Pacific Indonesia LNG Company, et al., ---- FPC ---- issued April 2, 1976, in Docket No. CP74–160, et al.

V4290 MAY 10 77 UMI

of from 16.6 percent in the first year to 19.5 percent in the fifth year because it has the risk of failure of its project in the event LNG is not delivered and the nonvessel force majeure risk (including risk due to political force majeure) risk for years 1, 3 and 4.

ERC's Brief on Exceptions states that although the Presiding Judge referred to its proposed limit of 0.8 to 1.0 Tcf of imported LNG per year from any one country, the Judge did not specifically adopt the limit because the instant Trunkline LNG project plus the previously approved projects involving importation of Algerian LNG do not exceed ERC's proposed limit. ERC argues that the Judge should have adopted the ERC proposal as a firm ceiling.

ERC also criticizes the Presiding Judge's Condition #6 dealing with contingency planning because it does not contain the following three elements which ERC considers crucial:

(1) Noncurtailable supply continuity for high priority customers at the burner tip.
(2) for five consecutive months peak use on the system * * *.
(3) in the form of a definite plan prescribing specific actions to be taken.

ERC requests the Commission to require Trunkline LNG to file a plan containing the above three items.

Staff, in its Brief Opposing Exceptions, argues that the 15 percent return on equity proposed by Trunkline LNG for its tariff is excessive and that, if anything, the Judge's 14 percent return on equity ceiling should not be raised but lowered. Furthermore, Staff argues that no party has justified raising the Judge's Lachmar return on equity ceiling of 17.5 percent and Staff repeats its discussion to the effect that the rate might have to be lowered.

Staff opposes the ERC proposal to adopt its 0.8 to 1.0 Tcf LNG ceiling in this case because the issue is not ripe for decision in the instant proceeding. Staff argues, however, that more information may be necessary for formulating the contingency plan.

Trunkline LNG in its Brief Opposing Exceptions supports the Judge's rejection of Staff's 13 percent return on equity ceiling for Trunkline LNG and argues that Opinion No. 769 is applicable because therein the Commission emphasizes the importance of the capital attraction test as well as the comparable earnings test of the "Hope" and "Bluefield" cases. Trunkline LNG also support the Judge's decision to use rolled-in pricing arguing that the Staff's objections thereto are not relevant to the conditions as they exist and will exist on the Trunkline system. Trunkline LNG also argues that Staff's objections to the language of certain of the Judge's cost and rate conditions are without merit and merely exalt from over substance.

Trunkline LNG also argues that the Staff's proposed conditions to Panhandle-Sonatrach gas purchase contract are unjust and would impair the financial viability of the project. It argues that the fuel oil escalator is a reasonable index of costs and further that the price renegotiation clause only operates with the approval of both American and Algerian authorities.

Trunkline LNG also opposes Staff's condition requiring downward adjustment in Trunkline LNG's return on equity in the event its deliveries fall below 420,000 Mcf/day, a figure said to represent 100 percent load factor operations. TLC argues that the condition is arbitrary, unjustified and would adversely affect the financial viability of the project. Also, it argues that the provision would impose a penalty with no rational relationship to the interruption of service which triggers it. Trunkline LNG also argues for rejection of Staff's cost substantiation proposal relating to the Lachmar and Sonatrach shipping rates and for the substitution of the Judge's proposal on this issue.[14]

Trunkline LNG argues that there is no issue as to the contingency plan as alleged by ERC because it will include the three items requested by ERC. However, Trunkline LNG does suggest that the plan would be more efficacious if it were filed 12 months prior to the date of first deliveries of LNG and accompanied by supporting data developed on the plan as submitted. It contends that data requested by Staff and the Judge should await the filing of the contingency plan, which will be under the guidelines outlined by the Presiding Judge and ERC. Finally, with respect to ERC's proposed ceiling, Trunkline LNG concurs with Staff in urging rejection of the ceiling in this proceeding.

Indiana Gas and MRT both support the Judge's adoption of rolled-in pricing and oppose Staff's incremental pricing proposal. MRT also supports the Judge's determination on the proposed ERC import ceiling and on the contingency plan. El Paso Algeria also supports the Judge's decision on the ERC import proposal.

Discussion

Based upon the record in this proceeding, the Commission finds that the project proposed by applicants in this proceeding should be approved subject to the conditions set forth below.

The Commission concurs with and incorporates by reference the Presiding Judge's discussion of the environmental and safety aspects of this project (I.D., pp. 9–16, 34). The Commission concurs with his conclusion that the project will have a minimal effect on the environment and will have minimal safety risks, which are acceptable for a project of this complexity. (I.D., p. 29) Furthermore, the Commission adopts the conditions of the Presiding Judge subject to certain modifications. The Commission shall adopt Staff's suggestion to modify the Judge's Condition Nos. 7d and 7g to reflect the language set forth in Staff's FEIS recommendations 4 and 7 in Exhibit No. 84. Furthermore, the proposed modification of the Judge's Condition No. 7r shall be adopted.[16]

The Commission also adopts and incorporates by reference the findings of the Presiding Judge concerning the engineering feasibility of the project (I.D., pp. 33–34) for the reasons stated therein.

Several issues have been raised by Staff as to the reasonableness of the Panhandle-Sonatrach gas purchase contract, the Sonatrach and Lachmar shipping contractual agreements, and Trunkline LNG's tariff. The Commission has reviewed the evidence of record and the Presiding Judge's decision and has found that the following procedure represents the most appropriate means for assuring that Trunkline LNG's ultimate customers do not suffer from excessive rates and charges. Based upon the discussion in the Presiding Judge's decision, the Commission finds that an initial rate of $3.37 per Mcf [18] (as conditioned below) for gas delivered by Trunkline LNG to Trunkline at Trunkline's now existing pipeline system is in the public convenience and necessity. However, the Commission is aware that an appropriate means must be provided to permit upward and downward adjustments in the rates charged by Trunkline LNG to Trunkline to reflect, inter alia, changes in prudently incurred costs from the operations of Trunkline LNG, Sonatrach and Lachmar shipping, and Sonatrach's operations in Algeria. Accordingly, the Commission shall require Trunkline LNG to file a tariff for the resale of regasified LNG at Trunkline's existing pipeline system reflecting an initial rate of $3.37 subject to an adjustment provision discussed hereafter. Any change in that rate will necessitate Trunkline LNG making a filing under section 4 of the Natural Gas Act and §154.63 of the regulations showing the prudency and reasonableness of any increased cost during any phase of the delivery of the gas from the Algerian wells to Trunkline's existing pipeline system. Our action to the costs of the Algerian phase of the operation is consistent with our decision to eliminate Pacific Gas Transmission (PGT) Company's cost-of-service tariff which permitted automatic rate adjustments to reflect changes in the costs, including the cost of purchased gas mandated by Canadian officials. The Court affirmed the Commission's action stating that to continue to permit PGT to use a cost-of-service tariff:

> * * * would be an abdication of the Commission's statutory duty, making it a rubber stamp for Canadian authority, and inevitably subjecting gas consumers to unjust and unreasonable rates fixed by the Canadian authority, ipse dixit.[17]

[14] Staff urged further proceedings to determine the appropriate cost of the ships. The Presiding Judge required a post hoc report justifying any shipping cost increases.

[15] No parties object to these proposed changes by Staff.

[16] This figure reflects the following cost estimates: Cost at Algerian Ports, $1.47 per Mcf plus Shipping Cost of $1.27 per Mcf plus Trunkline LNG Cost of $.59 per Mcf plus transportation over new Trunkline Gas pipeline of $.04 per Mcf (I.D. pp. 6–8, 37–40).

[17] Pacific Gas Transmission Company v. F.P.C., 536 F. 2d 393 (D.C. Cir 1976); cert. denied, December 6, 1976, 45 U.S.L.W. 3416.

With regard to the review of costs in the shipping phase of a project, the Commission recently stated its policy as follows:

> Accordingly, the form of our control over the price charged by the importer was to examine original cost estimates for reasonableness, and then to require that any application for a price increase be substantiated by actual costs incurred. Our intention in examining original cost estimates was to do so in terms of insuring that only those costs which were prudently incurred by the participant companies should be passed on to the consumers of natural gas in interstate commerce. This means that the record should be developed to indicate that the shipping rate involved here is reasonable when considered in the context of the customs and practices of the shipping industry. If the rate paid here is comparable with rates charged for the same or similar services by this or any other shipping company, our investigation as to this item would be at an end. We do not intend to explore the methodology of developing a shipping rate, nor do we intend to require detailed cost and financial evidence relating to the shipping company.[18]

The Commission is aware of the fact that the shipping costs (among others) underlying the $3.37 per Mcf estimate may escalate as ship construction progresses. However, the Commission will have ample opportunity to examine any increased costs for prudency in future filings for rate adjustments to be made by Trunkline LNG.

Consistent with the above, the Commission shall reject Trunkline LNG's proposed cost-of-service tariff.[19] However, the Commission finds that rate adjustments should be permitted without the necessity of a full section 4 rate filing to reflect rate changes triggered by the currency adjustment provision in the Panhandle-Sonatrach gas purchase contract.[20]

With regard to the minimum bill provision relating to service interruptions proposed by Trunkline LNG, as well as the proposal made by Staff limiting Trunkline's proposal, we find that, based upon the record in this proceeding, the Commission should adopt a minimum bill for periods of service interruptions which would permit Trunkline LNG to recover its nonequity related fixed costs.[21] This provision is necessary in order to ensure financeability of the project.

These fixed costs to be recovered under the provision are inter alia those related to debt, taxes, and fixed operating and maintenance expenses. Stockholders of Trunkline LNG, however, would not be permitted during any period of partial or total nondelivery to recover a return on equity or return of equity (through depreciation expense or otherwise) on that portion of contract volumes not delivered.

As the Commission stated in Opinion No. 622–A, 48 FPC 723 at 730:

> Such tariff provisions are required by the public conveniences and necessity as an equitable apportionment of the risk between customer and stockholder and in order to assure the financing of the project on reasonable terms to the consumer.

Accordingly, the tariff, rate schedule and service agreements to be filed by Trunkline LNG and Trunkline Gas Company shall include the following minimum bill provision:

In the event that Seller is unable to deliver 100 percent of the gas contracted for by buyer during any period exceeding one day, Buyer shall reimburse Seller not only for volumes delivered, but also for contract volumes not delivered, such that Seller will recover on the nondelivered volumes an apportioned share of Sellers nonequity-related fixed expenses incurred during such period, limited to the following:

(a) Operating and maintenance expenses;
(b) Taxes payable;
(c) Interest expense based on that portion of Seller's then existing debt which was incurred for the construction of the LNG and related facilities;
(d) The requirements for repayment of such debt; and
(e) Amounts, if any, Seller shall be obligated to pay suppliers arising from Buyer's failure to accept deliveries from Seller.

Provided, however, That Buyer's obligation to pay for nondelivered amounts shall not extend beyond the time at which Seller, if it is the party claiming force majeure, could have remedied the cause in an adequate manner with all reasonable dispatch in order to resume deliveries to Buyer.

With respect to the issue of who bears the costs of project failure, the Commission concurs with Staff that Trunkline LNG should be precluded from automatically recovering any costs after the time of project failure absent an appropriate filing by Trunkline LNG with the Commission to amortize the remaining costs of the project to its cost of service over a five-year period, or such other period as the Commission may deem appropriate.

Consistent with the above, Trunkline LNG's revised tariff shall provide for resale of the regasified LNG at Trunkline's now existing pipeline at a volumetric rate not to exceed $3.37 per Mcf, subject to currency adjustments and the minimum bill provision, or such other rate as Trunkline LNG may charge pursuant to appropriate procedures under sections 4 and 5 of the Natural Gas Act, as previously discussed herein.

With regard to the issue of rolled-in versus incremental pricing, the Commission finds, based upon the evidence in this proceeding, that the incremental method is appropriate. As noted in "Columbia LNG Corporation, et al.," Opinion No. 786 ____ FPC ____, issued January 21, 1977, in Docket No. CP71–68, et al., the decision whether or not to incrementally price supplemental sources of gas such as imported LNG must be decided on a case-by-case basis. Based upon the evidence of record in this proceeding, the Commission finds that the incremental method using separate rate schedules is the correct method.

At the outset, we note that the instant case is different from the "Columbia" case where rolled-in pricing was adopted for imported LNG. There, it was found that the initial price of the LNG and other system supply, especially new domestic gas subject to Opinion Nos. 770 and 770–A, were comparable (mimeo p. 15). Rolling the cost of LNG into the rates of the three pipelines systems involved in the "Columbia" case was estimated to cause increases in the unit cost of gas as follows for the first full year of operation: (mimeo, p. 11).

Columbia Gas 9.5¢ per MMbtu
Consolidated Gas 17.55¢ per MMbtu
Southern Natural 13.3¢ per MMbtu

For the Trunkline Gas Company system, the comparable figures for the first 3 years of operation were estimated to be:

Year:	Dollars
First	.57
Second	.63
Third	.67

The estimated cost per MMbtu of LNG delivered at Trunkline's now existing system in the first year is $3.37 per MMbtu. By contrast, the comparable prices in the Columbia case were $1.66 per MMbtu for Columbia, $1.81 for Consolidated, and $1.71 for Southern (Columbia, supra p. 11).

The price of new domestic gas under Opinion Nos. 770 and 770–A is now $1.45 per Mcf [22] and at the current rate of adjustment would escalate by the end of 1980 to approximately $1.60 per Mcf. The record also indicates that Trunkline's cost of domestic gas in 1980 will be in the range of $1.75 per Mcf. (I.D. p. 29)

Although the rolled-in method has been generally favored by the Commission,[23] one of the prerequisites for its use in connection with new supplemental supplies is that the price of these supplies must be reasonably comparable to the price of existing supplies of natural gas available to the pipeline. As indicated above, the price comparability test has not been met in this proceeding. References by the Presiding Judge to the price of coal gas (I.D. p. 37) as well as to emergency and peaking service sales (I.D. p. 60) are not persuasive. The Commission has not yet decided the issue of whether to roll-in or incrementally price coal gas.[24] Pricing for peaking service and emergency sales of natural gas is clearly not comparable to pricing of a steady (as opposed to ad hoc) supply of supplemental natural gas for base load.

Given the price differential discussed above, the arguments of the Staff regarding the propriety of incremental

[18] Pacific Indonesia LNG Co., et al., ____ FPC ____, issued April 2, 1976, in Docket No. CP74-160, et al.

[19] Compare: Columbia LNG, Opinion No. 622–A, 48 FPC 723, at 728 (1972).

[20] No parties, including Staff, object to this provision.

[21] See Tr. 17/2210–2211, Testimony of Staff Witness Adelman.

[22] One Mcf of natural gas at that price has a heat value of 1 MMbtu. Thus, the price per Mcf of natural gas is comparable to a price per MMbtu.

[23] Battle Creek Gas Company v. F.P.C., 281 F. 2d 42 (D.C. Cir. 1960): Columbia, supra. (mimeo p. 13, footnote 18).

[24] Transwestern Pipeline Company, Opinion No. 728 ____ FPC ____ issued April 21, 1975, in Docket No. CP73–211 (mimeo pp. 22–23).

V 42 90 MAY 10 77 UMI

pricing become particularly relevant. As Staff Witness Goldstein indicated, if the cost of LNG is rolled-in with cheaper old gas, consumers will be given "incorrect signals" regarding the scarcity and costliness of supplemental gas supplies. "Consumers will be able to purchase these supplies for less than their cost of production and transportation." Use of the incremental method discourages the inefficient use of the gas because the LNG will be subject to the market test of whether its users value the LNG enough to pay the true cost of supplying them with this expensive gas. (Tr. 17/2287–2289) To allow the LNG to be marketed on a rolled-in basis would, in effect, create an artificial market for the imported gas. It would require all of Trunkline's customers to purchase the LNG and absorb its cost, thus denying them the option of choosing a cheaper alternative that may be available. To the extent that the LNG is incrementally priced at each stage of its sale and resale, all customers, including retail customers, are given the appropriate economic incentive to consider its actual cost in relation to the cost of other options, including conservation. Finally, we view an incremental pricing requirement for LNG as exercising a market restraint on future price escalations.

A necessary complement to selling the LNG on an incremental basis under separate rate schedules is requiring the LNG to be excluded from the system supply that is subject to curtailment under Trunkline's curtailment plan. As noted in Opinion No. 786 (mimeo, p. 12), this will encourage the pipelines to invest in supplemental supply projects and will enhance the financeability of the project because it reduces the risk that the new supply may be diverted to others.

Accordingly, we shall require the LNG sold by Trunkline Gas to its customers to be sold on an incremental basis under separate schedules. With respect to MRT and Panhandle, the Commission shall take action at the appropriate time in proceedings under sections 4 and 5 of the Natural Gas Act to require that the supplemental Trunkline LNG gas is sold incrementally to their respective customers. The Commission encourages state commissions to require local distribution companies such as Consumers Power Company to reflect the incremental pricing method, with the noncurtailable provision, for pricing the LNG to the ultimate consumers of natural gas for the reasons set forth in this Opinion. Thus, if this is followed, not only Trunkline's customers, but the ultimate consumers of the LNG will be charged the true cost of the LNG and will therefore be able to make truly rational consumption decisions. The Commission hereby requests that all state commissions in the states where there are consumers who receive gas from Trunkline Gas Company send their comments on this Opinion, if any, to the Commission within 30 days of the date of issuance of this Opinion.

With regard to the depreciation rate issue, the Commission agrees with Staff that conventional procedures under sections 4, 5 and 9 of the Natural Gas Act should be followed in permitting any increase in the proposed 5 percent straight-line rate. Therefore, the Judge's decision shall be modified to provide that Trunkline LNG shall initially use a 5 per cent straight-line depreciation rate and may request a change therein according to the procedures of sections 4, 5 and 9 of the Natural Gas Act.

With regard to the fixed debt-equity ratio proposed by Staff for Trunkline LNG's tariff, the Commission finds that such a condition is not supported by the record herein. Rate of return for Trunkline LNG shall be determined by appropriate proceedings under sections 4 and 5 of the Natural Gas Act according to the evidence presented in each proceeding

The modifications to the contingency plan to be filed by Trunkline proposed by ERC shall be adopted. However, we agree with Trunkline LNG that the plan should not be filed within 60 days of the date of the instant order, but rather one year before the start-up of LNG service. In this way, more current and reliable data will be available to formulate Trunkline's contingency plan. With respect to ERC's country of origin import limitation plan, the ERC filed a letter with the Commission on April 25, 1977, withdrawing the proposal in light of President Carter's April 20, 1977, energy program. Accordingly, the issue is moot and requires no further discussion herein.

With regard to the issue of Trunkline LNG and the development of new accounts, the Commission Staff is currently preparing a proposed notice of rulemaking to govern accounting of specialized LNG facilities. Accordingly, the Commission shall not adopt the Presiding Judge's proposed condition on this issue.

The Commission finds. Good cause exists to grant the application filed in this proceeding as hereinafter ordered and conditioned.

The Commission orders. (A) The applications, as amended, of Trunkline LNG Company and Trunkline Gas Company for: (1) A certificate of public convenience and necessity under section 7(c) of the Natural Gas Act for construction of an LNG marine terminal, LNG plant and associated facilities in Calcasieu Parish, Louisiana (Docket No. CP74-138); (2) an order under section 3 of the Natural Gas Act authorizing importation into the United States of gas from Algeria over a 20-year period, as outlined herein (Docket No. CP74–139); and (3) a certificate of public convenience and necessity under section 7 (c) of the Natural Gas Act for construction of a 45.8-mile gas pipeline extension within Louisiana to connect the proposed LNG plant with the Trunkline's existing gas pipeline system, are hereby approved subject to the following conditions:

(B) Gas derived from this LNG import project shall be sold by Trunkline Gas Company to its customers on an incremental basis pursuant to separate rate schedules or tariffs as set forth more fully in the body of this opinion.

(C) No later than six months prior to initiation of the sales and services authorized herein, Trunkline LNG shall submit for Commission approval a tariff, rate schedule and executed service agreement covering the sales and services certificated by paragraph (A), or resulting from such certification and consistent with the terms and conditions of this opinion and order, pursuant to the applicable provisions of Part 154 of the Commission's Regulations under the Natural Gas Act.

(D) The tariff, rate schedule and service agreements in Ordering Paragraph (C) above shall reflect a flat volumetric rate of $3.37 per Mcf, subject to adjustment to reflect changes in the currency adjustment provision in the Panhandle-Sonatrach contract, and subject to adjustment to reflect the minimum bill provision for service interruption, as set forth in the body of this opinion; which provision shall also be included therein. The tariff, rate schedule and service agreement shall govern sales of LNG by Trunkline LNG to Trunkline Gas Company at Trunkline Gas Company's now existing pipeline system.

(E) No later than 6 months prior to the initiation of service hereunder, Trunkline Gas Company shall file a separate tariff or rate schedule for sale the of LNG gas on an incremental basis pursuant to the principles set forth in this opinion, and copies of all service agreements for sales of the LNG gas to Trunkline Gas' respective customers.

(F) No change in Trunkline LNG's initial rate or the tariff governing sales to Trunkline Gas Company shall be permitted except pursuant to the procedures prescribed in sections 4, 5 and (in the case of depreciation rate of 5 percent) 9 of the Natural Gas Act and § 154.63 of the Commission's regulations under The Natural Gas Act with the exception of the changes in rates caused by the currency adjustment and minimum bill provision discussed in Ordering Paragraph (D) above.

(G) One year prior to the commencement of LNG deliveries Trunkline will submit a proposed contingency plan for use in periods of LNG service interruption which will ensure to the extent possible noncurtailable supply continuity for high priority customers at the burner tip for the five consecutive months of peak use on the system in the form of a specific plan describing specific actions to be taken. The plan shall contain the following information as well as any other information deemed appropriate by Trunkline:

1. A full accounting of the storage capacity of Trunkline, Panhandle Consumers and MRT and all their customers. The current and future utilization of this storage as well as the cost of storage shall be provided.

2. A full accounting of average and peak volumes of LNG in storage at Lake Charles and on board the two Lachmar ships.

3. A study showing the feasibility of using cushion gas and line pack on the systems of Trunkline, Panhandle, MRT and Consumers and all their customers.

4. A full accounting of gas which can be saved on a five-month peak period basis using conservation methods. The study shall cover the systems of Trunkline, Panhandle, Consumers and MRT.

5. A full report of possible exchanges among the customers of Trunkline such that high priority consumers are protected.

6. Such data shall be provided with a view providing full LNG volumes for a five month peak period through other alternatives.

(H) Safeguards' recommended by Staff's FEIS, to which Trunkline has agreed, shall be implemented as follows:

1. Trunkline shall increase the proposed deliverability of the fire water pump system in order that both the fire hydrant loop system and the individual tank deluge systems would be able to operate at maximum capacity in the event of an emergency.

2. Trunkline shall provide a means of fire-fighting a potential LNG fire at the storage tank, dikes and sumps.

3. The output of the emergency generator shall be increased so that all electric-powered detector devices, alarms, and firefighting equipment at the terminal shall remain operative in the event of a power failure.

4. The applicant should outline procedures to be utilized in the event that the evacuation of nearby areas and the suspension of local highway and shipping traffic are necessitated by a major accident. Such procedures should contain measures for the immediate notification of nearby inhabitants of any potentially dangerous situation that might arise and notification and mobilization of emergency personnel such as Civil Defense, hospitals, police, and fire departments.

5. An interlocking safety system similar to the one proposed for emergency notification of the Consolidated Aluminum Corporation shall be provided for all other industries which may locate in the vicinity of the LNG plant and marine terminal.

6. Trunkline shall provide a means of containing an LNG spill at the unloading dock due to a rupture of one or more of the unloading arms or of the LNG unloading line to shore to insure that the maximum possible spill from the LNG arm or LNG line will not spill into the water. Detailed drawings of the LNG spill containment system shall be consistent with known technology and shall be provided to the Commission prior to the operation of the proposed terminal.

7. If the terminal is approved for operation, it is recommended that the Commission require operational reports semiannually within 45 days after each period ending December 31 and June 30, describing facility operations for the period covered and particularly noting any abnormal operating experience or behavior. Abnormalities would include, but not limited to, rollover, geysering, cold spots on the tank, fires, significant equipment and piping malfunctions or failures, nonscheduled maintenance or repair (and reasons therefore), rapid vaporizations, vapor or liquid releases, negative pressures (partial vacuum) within the storage tank, and higher than predicted boil-off rates. The technical information supplied by the applicant should be submitted in a form acceptable to the Commission and should provide sufficient detail to allow a complete understanding of such events consistent with the existing state-of-the-art or knowledge. Such information can provide the FPC with useful technical data that may be applied to other LNG facilities. In the event that an abnormality is of sufficient magnitude to endanger the facility, the operating personnel, or nearby residences or industries, the Commission should be notified immediately.

8. Trunkline shall ensure that the capacity of the dike which surrounds the proposed spoil disposal area for the dredging of the proposed berthing area is adequate to contain all the spoils which are deposited. Outflow of water from the disposal area shall be regulated to prevent insufficient settling of waste water and to reduce the level of suspended solids re-entering the canal and turning basin.

9. Trunkline shall take steps to avoid the spilling of fuels, lubricants, pipecoating agents, and other harmful substances during the construction and operation of the proposed facilities.

10. Trunkline shall request that the Louisiana Wildlife and Fisheries Commission examine the proposed LNG terminal site and pipeline route to determine the presence of wildlife prior to construction. Trunkline shall make every reasonable effort to comply with protective measures recommended by the Louisiana Wildlife and Fisheries Commission.

11. Prior to crossing rice fields which have a clay pan, Trunkline shall consult with landowners and local representatives of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service concerning the advisability of piling the clay plan separate from the underlying soil layers, so that it may be replaced at or near its original position in the soil profile during backfilling in order to minimize the impact of pipeline construction on the ability of rice fields to hold irrigation water.

12. Trunkline shall consult with landowners concerning future plans to alter the drainage of land, and the location and depth of the pipeline shall accommodate to the extent possible future drainage and irrigation projects.

13. Trunkline shall make every effort to minimize the clearing of forest vegetation and to restrict the clearing of hardwoods to the normal right-of-way width at stream crossings. Material excavated from waterways shall be stored within the right-of-way. To the extent possible, spoil shall be transported to land outside of the narrow bands of bottomland hardwood forest which adjoin streams in the project area. Trunkline shall consult with the Louisiana Wildlife and Fisheries Commission concerning the advisability of temporarily storing the excavated material within the watercourse of those streams and investigate the feasibility of utilizing the most effective stream-crossing method which would minimize loss of bottomland forest habitat and avoid in-water construction activities.

14. Erosion-sensitive areas such as sloped streambanks shall be seeded as soon as possible upon completion of construction, and mulched, riprapped, or similarly treated where necessary to minimize soil erosion. The Louisiana Wildlife and Fisheries Commission and the Soil Conservation Service shall be consulted when selecting plant species to be used in reseeding the right-of-way. These plants shall be selected for value in providing food and cover for wildlife as well as for stabilizing soil. Erosion control diversions shall be used where necessary to prevent erosion of topsoil along the right-of-way.

15. To aid in the stabilization of streambanks and to provide a source of stream cover beneficial to stream-associated life forms, Trunkline shall plant indigenous bottomland shrubs and trees along the edges of each waterway crossed by the proposed pipeline.

16. To prevent the possible abandonment or destruction of wild turkey nests, pipeline construction activities shall not take place in the forested area adjoining the Calcasieu River during the period March through June. In addition, Trunkline shall schedule maintenance-mowing of the pipeline right-of-way during the late summer and fall months to minimize adverse impacts on nesting wildlife.

17. Trunkline's water-quality monitoring program shall include analysis of the parameters listed in Table 7 of the FEIS during the dredging activities. Return effluent flow from the onland dredge disposal sites shall be sampled as part of the monitoring program. If pollutant concentrations exceed existing background levels or if dissolved oxygen concentrations fall below levels necessary to support aquatic life as a result of dredging, mitigating measures shall be taken, including temporary suspension, reduction, or other modification of the dredging operation until previous background levels of pollutants or oxygen concentration returns.

18. Any significant changes in facility design, construction, operation, or operating philosophy shall be reported to the FPC on a timely basis. In addition, final design plans for the proposed LNG terminal shall be submitted to the Commission for review prior to commencement of the construction of the terminal.

19. Trunkline shall coordinate with the U.S. Coast Guard prior to operation of the terminal to investigate and establish further vessel traffic safety procedures to be implemented during the LNG tanker transit of the Calcasieu ship channel.

Reports outlining Trunkline's compliance with the foregoing safeguards shall be submitted seminannually to the Commission by Trunkline within 45 days after each period ending June 30 and December 31.

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(I) As a minimum, five tankers to be used to deliver the LNG shall be constructed and operated in compliance with the safety and reliability requirements, including any amendments thereto, of the U.S. Coast Guard (Ex. 86), without precluding the use of construction and operation criteria which result in higher degrees of safety.

(J) As a minimum, the LNG storage and regasification facilities shall be constructed and operated in compliance with the National Bureau of Standards' Cryogenic Safety Review (Ex. 85), without precluding the use of construction criteria which result in higher degrees of safety.

(K) Reports on the status of this LNG import program, outlining the progress of construction of the components of this project, the cost of such construction in contrast to projected costs, the effect of any cost changes in the cost of regasified LNG to gas users, the quantity of gas imported, and other substantive information outlining the effectiveness of this program, shall be submitted to the Commission semiannually, 45 days after each period ending June 30 and December 31.

(L) The authorizations granted herein shall not take effect as to any facility, or operation of any part of any facility, until all necessary federal, state and local authorizations as to that part of the facility, or operation thereof, have been secured. A copy of each such authorization for each facility, or part thereof, shall be submitted to the Commission prior to the commencement of service of such facility or part thereof. Such authorizations shall include, but are not limited to, building permits, Coast Guard clearances of vessels and harbor operations, and statements of compliance with applicable industry codes or regulatory codes governing the design, construction and operation of facilities in a safe manner.

(M) The general terms and conditions set forth in the Commission's regulations under the Natural Gas Act and particularly those contained in §§ 154 and 157.20, thereof, shall attach to the certificates issued herein.

(N) The facilities authorized herein shall be constructed and placed in actual operation, and the proposed sale and delivery of natural gas authorized herein shall commence on or before April 1, 1980.

(O) To the extent not granted herein, the exceptions to the Initial Decision are denied.

KENNETH F. PLUMB,[23]
Secretary.

[FR Doc.77-13282 Filed 5-9-77;8:45 am]

[Docket No. ER77-320]

UNION ELECTRIC CO.

Filing

MAY 4, 1977.

Take notice that on April 25, 1977, Union Electric Company (Union) tendered for filing a Letter Agreement revising the reservation charge for Maintenance Energy Transactions under the Interconnection Agreement dated November 1, 1969 between the Tennessee Valley Authority and Central Illinois Public Service Company, (CIPS) Illinois Power Company, (IP) and Union.

Union indicates that the Letter Agreement provides for an increase in the reservation charge for Maintenance Energy Transactions from $.50 per week per kilowatt to $.60 per week per kilowatt and that the reservation charge was arrived at through negotiations and is the same as that included in IP's Rate Schedule FPC No. 9 and in CIP's Rate Schedule FPC No. 62.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection at the Federal Power Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13328 Filed 5-9-77;8:45 am]

[Docket No. ER77-313]

UNION LIGHT, HEAT AND POWER CO.

Filing of Tariff

MAY 3, 1977.

Take notice that Union Light, Heat and Power Company (Union) on April 19, 1977 tendered for filing proposed changes in its FPC Electric Tariff for wholesale electric service to the City of Williamstown, Kentucky. Union indicates that the proposed tariff, FPC Electric Tariff Original Volume No. 1, will cancel and supersede Rate Schedule FPC No. 10, which is the present tariff established in the Contract for Electric Service with the City of Williamstown for the period August 1, 1966 to July 31, 1966.

Union proposes to make the changes in rates effective May 19, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13279 Filed 5-9-77;8:45 am]

[Docket No. ES77-33]

UPPER PENINSULA GENERATING CO.

Application for Authorization To Issue Securities

MAY 4, 1977.

Take notice that on April 29, 1977 Upper Peninsula Generating Company (Applicant) filed an application with the Federal Power Commission seeking authority, pursuant to section 204(a) of the Federal Power Act, to issue short term notes of an aggregate principal amount of up to $40,000,000.

The Applicant is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. The Applicant is engaged in generation of electric energy for sale to its owners, Upper Peninsula Power Company and Cliffs Electric Service Company.

The Applicant has proposed to issue unsecured promissory notes of a principal amount of up to $40,000,000 outstanding at any one time, payable to such bank or banks from which the Applicant may borrow, for periods not exceeding twelve months from the date of original issuance, extension or renewal. The notes will be issued on or before July 1, 1978 and will have a final maturity date not later than July 1, 1979. The interest rate on such notes will not exceed 120 percent of the prime rate in effect at the time of issue. The notes will not be subject to resale to the public.

The notes proposed to be issued would be in addition to short term notes of an aggregate principal amount not exceeding $30,000,000 at any one time, which the Applicant may issue under a revolving credit agreement authorized by the Commission in Docket No. E-9461.

The proceeds from the sale of the notes will be used for the purchase of coal supplies through July 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13273 Filed 5-9-77;8:45 am]

[23] Commissioner Holloman, dissenting, filed a separate statement as part of the original document.

[Docket No. E-9147 (Phase II)]

VIRGINIA ELECTRIC AND POWER CO.

Filing of Settlement Agreement

MAY 3, 1977.

Take notice that on April 12, 1977, Virginia Electric and Power Company ("Vepco") and ElectriCities of North Carolina ("ElectriCities") filed a joint motion that the Commission approve an attached Settlement Agreement entered into by them at a settlement of all issues in this proceeding.

Appended to the Settlement Agreement is a Memorandum of Agreement executed concurrently by Vepco and North Carolina Municipal Power Agency Number 2 ("NCMPA2") pursuant to which Vepco agrees to enter into a Contract for Interchange Service, including certain Schedules and Supplementary Agreement Number One, all attached thereto. NCMPA2 is a body corporate and politic organized under Chapter 159B of the General Statutes of North Carolina for the purpose of developing joint ownership of electric generation and transmission facilities for the benefit of its member municipalities who are all of the municipal systems in North Carolina who presently receive wholesale electric service directly or indirectly from Vepco. The effectiveness of the Settlement Agreement and the Memorandum of Agreement are contingent upon the effectiveness of the other.

The Settlement Agreement provides inter alia that Vepco will file in a timely manner the Contract for Interchange Service; that it will, subject to the same limitations as contained in the Memorandum of Agreement with NCMPA2, make available a similar Memorandum of Agreement to municipal wholesale customers now served by Vepco for the purpose of their development of ownership of electric generation and transmission facilities; that Vepco, as part of its next general wholesale rate application, will file a revised full service requirements tariff (included as part of the Settlement Agreement) for its wholesale municipal customers; and that Vepco will develop and file a partial requirements tariff to be applicable by such time as NCMPA2's planned 50,000 kW to 100,000 kW gas turbine generator(s) goes into commercial operation.

The Settlement Agreement further provides that Electri-Cities, on behalf of itself and its Vepco-served members in North Carolina and Virginia (including those served indirectly by Vepco), and Vepco each agree (with certain stated exceptions) not to raise issues or bring actions against the other based in whole or in part on allegations of anticompetitive conduct or acts or practices claimed to violate any state or federal antitrust laws, the Federal Power Act or other related statutes up to and including the date of the Settlement Agreement and that each releases (or covenants not to sue in certain circumstances) the other from claims as to such matters.

Any person desiring to be heard as to said motion should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 16, 1977. Copies of the motion are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13278 Filed 5-9-77;8:45 am]

[Docket No. E-6684]

VIRGINIA ELECTRIC AND POWER CO. AND DAN RIVER, INC.

Proposed Determination of Headwater Benefits Payments in Roanoke River Basin

MAY 4, 1977.

Public notice is hereby given that the Commission Staff proposes a determination pursuant to the provisions of section 10(f) of the Federal Power Act (16 U.S.C. 803), of certain payments for benefits provided by the Federal Philpott and John H. Kerr headwater improvements in the Roanoke River Basin to downstream hydroelectric plants owned by the Virginia Electric and Power Company (VEPCO) and Dan River, Inc. (Dan River) during the period of January 1, 1969, through December 31, 1972. The proposed payments, based on a report by the Commission's Bureau of Power, dated December 1975, amount to $1,352,000 for benefits plus $32,400 for a share of the costs of the investigations, assigned to VEPCO; and $900 for benefits plus $100 for a share of the costs of the investigations, assigned to Dan River.

Copies of the December 1975 Bureau of Power report were sent to all parties to the investigation on December 29, 1975, with requests for comments or suggestions. No objections were received.

Any person desiring to be heard or to make protest with reference to said proposed determination should on or before June 20, 1977 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13276 Filed 5-9-77;8:45 am]

FEDERAL RESERVE SYSTEM

SOUTHERN BANK HOLDING COMPANY

Formation of Bank Holding Company

Southern Bank Holding Company, Savannah, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of at least 52 percent of the voting shares of Southern Bank and Trust Company, Savannah, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 1, 1977.

Board of Governors of the Federal Reserve System, May 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13202 Filed 5-9-77;8:45 am]

FEDERAL TRADE COMMISSION

[Docket No. 9066]

FRITO-LAY, INC.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 77-11249 appearing at page 20346 in the issue for Tuesday, April 19, 1977 on page 20347, middle column, the 12th line of the first full paragraph should should be deleted and in its place inserted "concerned. In addition, the order speci-".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-471; FDAA-532-DR]

ALABAMA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Alabama, dated April 9, 1977, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 9, 1977:

The counties of:

Blount	Marshall
Clay	Morgan
De Kalb	Talladega

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 21, 1977.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13248 Filed 5-9-77;8:45 am]

ARIZONA

[Docket No. NFD-470; FDAA-3038-EM]

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Arizona, dated April 15, 1977, is hereby

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amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 15, 1977:

The counties of:

Graham Pinal

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice:

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 20, 1977.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13249 Filed 5-9-77;8:45 am]

[Docket No. NFD-474; FDAA-3038-EM]

ARIZONA

An Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 15, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Arizona is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Arizona.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert C. Stevens, FDAA Region IX, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency:

The San Carlos Indian Reservation.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 15, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13254 Filed 5-9-77;8:45 am]

[Docket No. NFD-469; FDAA-3023-EM]

CALIFORNIA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of California, dated January 20, 1977, and amended on February 2, 1977, February 15, 1977, and March 10, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 20, 1977:

The counties of:

Santa Barbara.
San Luis Obispo.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice:

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 20, 1977.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13250 Filed 5-9-77;8:45 am]

[Docket No. NFD-473]

FORT BERTHOLD INDIAN RESERVATION

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Dakota (FDAA-3016-EM) dated July 21, 1976.

DATED: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

Notice: The Notice of emergency for the State of North Dakota dated July 21, 1976, and amended on December 30, 1976, and March 1, 1977, is hereby further amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 21, 1976:

The Fort Berthold Indian Reservation within the counties of:

Dunn Mercer
McKenzie Mountrail
McLean

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13253 Filed 5-9-77;8:45 am]

[Docket No. NFD-472; FDAA-3013-EM]

MINNESOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Minnesota, dated June 17, 1976, and amended on June 28, 1976, August 27, 1976, November 9, 1976, December 30, 1976, January 14, 1977, January 19, 1977, February 11, 1977, and April 1, 1977, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

THE COUNTY OF WINONA

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 22, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13251 Filed 5-9-77;8:45 am]

[Docket No. NFD-468; FDAA-530-DR]

VIRGINIA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Virginia dated April 7, 1977, and amended on April 14, 1977, is hereby further amended to include the following area determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1977:

The Wythe-Bland Water and Sewer Authority in Carroll County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 21, 1977.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administrator.

[FR Doc.77-13252 Filed 5-9-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 25122-A-E and G-J]

NORTHWEST PIPELINE CORP.

Pipeline Applications

APRIL 29, 1977.

Pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way for natural gas pipelines for the Foundation Creek Gathering System in Garfield and Rio Blanco Counties, Colorado.

The above-named system is comprised of over 25 miles of various sizes, ranging from 4½" o.d. to 16" o.d., across the following public lands:

RIO BLANCO COUNTY

T. 4 S., R. 102 W., 6th P.M.
Sec. 18, SE¼SW¼;
Sec. 19, SE¼NE¼, W½NE¼, NE¼NW¼, SE¼SW¼, S½SE¼, NE¼SE¼;
Sec. 24, SE¼SW¼;
Sec. 25, W½NE¼, E½NW¼, NW¼NW¼, N½SW¼, SW¼SW¼, NW¼SE¼, SE¼SE¼;
Sec. 27, S½SE¼, SE¼SW¼;
Sec. 33, SE¼NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, W½SE¼, NE¼SE¼;
Sec. 34, E½NE¼, E½W½, SW¼NW¼;
Sec. 35, SW¼NW¼;
Sec. 36, NE¼NE¼, NW¼NW¼.
T. 4 S., R. 103 W., 6th P.M.
Sec. 27, E½E½, SE¼SW¼, W½SE¼;
Sec. 34, W½NE¼, E½NW¼, SE¼SE¼, N½SE¼.

GARFIELD COUNTY

T. 5 S., R. 102 W., 6th P.M.
Sec. 2, Lot 6;
Sec. 4, Lots 7 and 8;
Sec. 6, Lot 9;
Sec. 7, NW¼NE¼;
Sec. 10, S½SE¼;
Sec. 11, S½SW¼, SW¼SE¼;
Sec. 17, SE¼SW¼, S½SE¼;
Sec. 18, SW¼NE¼, N½S½, SE¼SE¼;
Sec. 19, SE¼SE¼;
Sec. 20, NE¼NE¼, N½NW¼, SW¼NW¼, W½SW¼;
Sec. 21, N½NW¼;
Sec. 30, N½NE¼, SW¼NE¼, S½NW¼.
T. 5 S., R. 103 W., 6th P.M.
Sec. 1, SE¼NE¼, W½NE¼, N½NW¼, SW¼NW¼, NE¼SE¼;
Sec. 2, NW¼NW¼, S½N½;
Sec. 3, NE¼NE¼;
Sec. 13, E½SW¼, N½SE¼;
Sec. 23, SE¼NE¼;
Sec. 24, NE¼NW¼, SW¼NW¼.

The above-named system will enable the applicant to expand its natural gas gathering and transportation systems and thereby meet the demands of its customers.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the applications should or should not be approved and, if so, under what terms and conditions; to allow all parties asserting claims to the lands or having bona fide objections to the proposed natural gas pipeline rights-of-way to file their claims and/or objections in this office. All comments, claims and objections must be identified with the specific lands involved by Township and Range and portions thereof along with name and number of this right-of-way.

Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

RODNEY A. ROBERTS,
Acting Chief, Branch of Adjudication.

[FR Doc.77-13247 Filed 5-9-77;8:45 am]

National Park Service

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trial Advisory Council will be held at 9 a.m. e.d.t. on May 27, 1977, at the Shepherd's College Student Center, Shepherdstown, West Virginia.

The Council was originally established by P.L. 90-543 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration of the Appalachian National Scenic Trial. It was rechartered by the Secretary of the Interior on February 24, 1975, under the authority of P.L. 91-383.

The purpose of the Council is to provide for the free exchange of ideas between the National Park Service and the public, and to encourage suggestions and ideas from members of the public on problems and programs pertinent to the Appalachian National Scenic Trail. The purpose of this meeting is a follows: (1) to discuss the progress of State and Federal programs; (2) to review specific Trail protection priorities and immediate goals; (3) to discuss alternative strategies for protecting the Trail; (4) to review the organization of the Council and its prospects for the future; and (5) to discuss the proposed draft shelter system policy.

The meeting which will be held prior to the Appalachian Trail Conference's biennial meeting, will be open to the public. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Charlestown Navy Yard, Boston, Massachusetts 02129, at area code 617-242-1730.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address, and at the Headquarters of the Appalachian Trail Conference, Washington and Jackson Streets, Harpers Ferry, West Virginia 25425. Copies of the minutes may be obtained by writing to the Appalachian Trail Project Office in Boston.

Dated: May 5, 1977.

ROBERT N. LANDAU,
Assistant for Advisory Boards and Commissions, National Park Service.

[FR Doc.77-13238 Filed 5-9-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 29, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 20, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

ALABAMA

Calhoun County

Anniston, *St. Michael and All Angels Episcopal Church*, W. 18th St.

Madison County

Huntsville, *Robinson, John, House (Oakland)*, 2709 Meridan St. N.

CALIFORNIA

Alameda County

Berkeley, *Berkeley Women's City Club*, 2315 Durant Ave.

San Luis Obispo County

San Luis Obispo vicinity, *Port San Luis Site*, S of San Luis Obispo.

CONNECTICUT

Fairfield County

Monroe, *Monroe Center Historic District*, CT 110 and CT 111.

Hartford County

Hartford, *Hyde-St. John House*, 25 Charter Oak Ave.

ILLINOIS

Fulton County

Bluff City vicinity, *Crable Site*, N of Bluff City.
Lewistown vicinity, *Larson Site*, S of Lewistown.

Hardin County

Rosiclare vicinity, *Orr-Herl Mound and Village Site*, NE of Rosiclare.

Mason County

Manito vicinity, *Clear Lake Site*, W of Manito (also in Tazewell Co.).

Union County

McClure vicinity, *Linn-Heilig Mounds and Village Site*, NE of McClure.
Ware vicinity, *Ware Mounds and Village, Site*, W of Ware.

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MARYLAND

Dorchester County

Cambridge vicinity, *Yarmouth*, SE of Cambridge.
Taylors Island vicinity, *Ridgeton Farm*, 0.5 mi. SW of Taylors Island.

Frederick County

Frederick vicinity, *One–Million–Liter Test Sphere*, N of Frederick on Ft. Detrick.

Washington County

Keedysville vicinity, *Baker Farm*, N of Keedysville off MD 34.
Keedysville vicinity, *Doub Farm*, N of Keedysville off MD 34.

MICHIGAN

Delta County

Escanaba, *Carnegie Public Library*, 201 S. 7th St.

Monroe County

Monroe, *Sawyer House*, 320 E. Front St.

NEW YORK

New York County

New York, *Duke, James B., Mansion*, 1 E. 78th St.

TEXAS

Garza County

Post vicinity, *Cooper's Canyon*, 5 mi. S of Post.
Post vicinity, *O. S. Ranch Petroglyphs*, 12 mi. E of Post.
Post vicinity, *Post–Montgomery Site*, W of Post.
Post vicinity, *Post West Dugout*, 2 mi. W of Post.

Nacogdoches County

Woden vicinity, *Oil Springs Oil Well Discovery Well*, 4 mi. SE of Woden.

VERMONT

Windham County

Brattleboro, *Canal Street Schoolhouse*, Canal St.
Brookline vicinity, *Round Schoolhouse*, S of Brookline on Grassy Brook Rd.

[FR Doc.77–12872 Filed 5–9–77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Eastern Fifth Circuit Panel

Chairman: DuBose Ausley. The schedule of meetings of the nominating panel for the Eastern Fifth Circuit of the United States Circuit Judge Nominating Commission is as follows:

1. The first meeting will be held on May 24, 1977, at 10 a.m. in the Second Floor Conference Room of Judge James C. Hill, United States Courthouse (Old Post Office Building), Atlanta, Georgia.

The purpose of the first part of this meeting is to formally constitute the Panel and to discuss procedures and this part of the meeting will be open to the public. The remaining portion of the meeting will be devoted to a discussion of potential candidates and will not be open to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

2. The second meeting will be held on June 14, 1977, at 10 a.m. in the same location as the first meeting. The purpose of this meeting will be to interview candidates and will not be open to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

3. The third meeting will be held on June 27, 1977, at 10 a.m. in the Montgomery Federal Courthouse, Montgomery, Alabama. The purpose of this meeting will be to interview candidates and will not be open to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

MAY 4, 1977.

[FR Doc.77–13226 Filed 5–9–77;8:45 am]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Sixth Circuit Panel

Chairman: Wilson W. Wyatt. The schedule of meetings of the nominating panel for the Sixth Circuit of the United States Circuit Judge Nominating Commission is as follows:

1. The first meeting will be held on May 23, 1977, at 10 a.m. in the Hall of Justice, 600 West Jefferson, Louisville, Kentucky. The morning session will be an orientation session dealing with procedures; it will be open to the public. The afternoon session will be given to a discussion of candidates and will be closed to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

2. The second meeting will be held on June 6, 1977, at 10 a.m. in the United States Post Office and Courthouse, 5th and Walnut Streets, Cincinnati, Ohio. The purpose of this meeting is to interview candidates and the meeting will be closed to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

3. The third meeting will be held on June 20, 1977, at 10 a.m. in the United States Post Office and Courthouse, 5th and Walnut Streets, Cincinnati, Ohio. The purpose of this meeting is to interview candidates and the meeting will be closed to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (CF 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

MAY 4, 1977.

[FR Doc.77–13225 Filed 5–9–77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA–W–1531]

AIRCO ALLOYS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1531: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 30, 1976 in response to a worker petition received on December 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing silico manganese at the Theodore, Alabama plant of Airco Alloys, Division of Airco, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Theodore plant of Airco Alloys, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations. Average employment of production workers at the Theodore, Alabama plant decreased 10.8 percent in 1975 compared to 1974 and declined 15.2 percent in 1976 compared to 1975. Plant employment declined 37.0 percent in the fourth quarter of 1975 compared to the fourth quarter of 1974. Production workers were out on strike from March 1, 1976 through May 14, 1976.

Sales, Production, or Both, Have Decreased Absolutely. Plant sales, in tons, declined 54.6 percent in 1975 compared to 1974 and decreased 1.4 percent in 1976 compared to 1975.

Plant production, in tons, declined 27.2 percent in 1975 compared to 1974 and decreased 32.4 percent in 1976 compared to 1975.

Increased Imports. Imports of silico manganese increased each year, from 29,926 short tons in 1971, to 67,751 short tons in 1974 and declined to 55,567 short tons in 1975. U.S. imports increased to 80,118 short tons in 1976. The ratio of imported silico manganese to domestic production increased from 15.4 percent in 1971 to 20.6 percent in 1972. The ratio of imports to domestic production declined to 16.5 percent in 1973 before increasing to 20.5 percent and 24.9 percent, respectively, in 1974 and 1975. The ratio of imports to domestic production increased to 42.5 percent in the first eleven months of 1976.

Contributed Importantly. A survey of customers purchasing silico manganese from Airco Alloys indicated that there has been a switch to imported silico manganese.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increased imports of silico manganese have contributed importantly to the total or partial separation of the workers at the Theodore, Alabama plant of Airco Alloys. In accordance with the provisions of the Act, I make the following certification:

All employees at the Theodore, Alabama plant of Airco Alloys who became totally or partially separated from employment on or after October 10, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.74–13286 Filed 5–9–77;8:45 am]

[TA–W–1406]

ALLAN WOOD STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1406: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on that date which was filed by the United Steel Workers of America on behalf of workers and former workers producing carbon and alloy steel products at the Alan Wood Steel Company in Conshohocken, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 867). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Alan Wood Steel Company, its customers, U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion four has not been met.

Significant Total or Partial Separations. The average number of production workers and maintenance declined 22.1 percent in 1975 compared to 1974 and increased 9.6 percent in 1976 compared to 1975. Employment decreased 32.4 percent in the fourth quarter of 1975 compared to the similar quarter in 1974 and decreased 16.4 percent in the first quarter of 1976 compared to the first quarter of 1975. Employment increased 22.0 percent in the second quarter of 1976, 35.2 percent in the third quarter and 1.8 percent in the fourth quarter compared to the same quarter of 1975.

Sales or Production, or Both, Have Decreased Absolutely. Sales of steel plate products, in terms of tons, decreased 13.0 percent in 1975 compared to 1974 and decreased 3.4 percent in 1976 compared to 1975. Sales of hot rolled sheet and strip products declined 40.4 percent from 1974 to 1975 and then increased 31.6 percent from 1975 to 1976. Sales of cold rolled sheet and strip products declined by 45.1 percent from 1974 to 1975 and increased 74.2 percent from 1975 to 1976.

Increased Imports. Imports of hot rolled carbon sheet steel decreased each year from 1971 through 1975. Imports increased 6.1 percent in the first nine months of 1976 compared to the same period of 1975. The ratio of imports to domestic shipments decreased from 12.3 percent in the first nine months of 1975 to 9.5 percent in the same period of 1976.

Imports of cold rolled carbon steel sheet decreased each year from 1971 through 1975 for a total of 41.7 percent. Imports increased 16.3 percent in terms of tons in the first nine months of 1976 compared to the similar period in 1975. The ratio of imports to domestic shipments decreased from 15.1 percent in the first nine months of 1975 to 11.8 percent in the first nine months of 1976.

Imports of hot rolled carbon steel strip decreased from 1974 to 1975 and then increased in the first nine months 1976 compared to the first nine months of 1975. The ratio of imports to domestic shipments, however declined from 2.7 percent in 1974 to 2.0 percent in 1975 and declined from 2.2 percent in the first nine months of 1975 to 1.9 percent in the first nine months of 1976.

Imports of cold rolled carbon steel strip declined each year from 1973 through 1975. Imports then increased in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic shipments increased from 3.7 percent in 1974 to 3.9 percent in 1975 and increased from 4.2 percent in the first nine months of 1975 to 5.1 percent in the first nine months of 1976.

Imports of carbon steel plate increased in 1974 compared to 1973. Imports decreased 20.4 percent in 1975 compared to 1974. In the first nine months of 1976 imports increased 1.7 percent compared to the first nine months of 1975. The ratio of imports to domestic shipments increased from 18.7 percent in the first nine months of 1975 to 24.8 percent in the first nine months of 1976.

Contributed Importantly. The Department's investigation revealed that most customers of Allan Wood that purchase steel plate, cold rolled sheet and strip, or hot rolled sheet and strip either do not purchase any imports of these steel products or have increased purchases from Allan Wood.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with cold rolled sheet and strip and hot rolled sheet and strip, or carbon alloy steel plate, produced at the Alan Wood Steel Company in Conshohocken, Pennsylvania did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–13287 Filed 5–9–77;8:45 am]

[TA–W–1411]

ATLANTIC STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1411: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976, in response to a worker petition received on December 14, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel at the Atlanta, Georgia, plant of the Atlantic Steel Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 869). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Atlantic Steel Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eli-

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gibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that criteria one (1) and two (2) have not been met.

The Atlantic Steel Company, Atlanta, Georgia, produces hot rolled carbon steel, which includes hot rolled carbon strip, concrete reinforcing bars, carbon steel structural shapes and hot rolled carbon steel bar. The Atlantic Steel Company also produces carbon steel wire.

Significant Total of Partial Separations

Employment increased 5.3 percent in 1976 compared to 1975.

The earliest possible date for coverage under the Trade Act is December 3, 1975, one year prior to the date of the petition, December 3, 1976. Employment at the Atlanta plant increased in December 1975 compared to the preceding month and increased in 1976 compared to 1975.

Sales or Production, or Both, Have Decreased Absolutely

Plant sales of hot rolled carbon steel, which includes hot rolled carbon steel bars, concrete reinforcing bars, carbon steel structural shapes and carbon steel strip declined 29.7 percent and 25.3 percent in quantity and value, respectively, in 1975 compared to 1974. Plant sales of hot rolled carbon steel increased 16.9 percent and 12.1 percent in quantity and value, respectively, in 1976 compared to 1975.

Plant sales of carbon steel wire declined 34.1 percent and 24.6 percent in quantity and value, respectively, in 1975 compared to 1974. Plant sales of carbon steel wire increased 19.5 percent and 19.7 percent in quantity and value, respectively, in 1976 compared to 1975.

Plant production of hot rolled carbon steel declined 28.4 percent and 25.3 percent in quantity and value, respectively, in 1975 compared to 1974. Plant production of hot rolled carbon steel increased 13.3 percent and 9.0 percent in quantity and value, respectively, in the first eleven months of 1976 compared to the same period of 1975.

Plant production of carbon steel wire declined 23.5 percent and 13.7 percent in quantity and value, respectively, in 1975 compared to 1974 and increased 10.6 percent and 9.6 percent, respectively, in the first eleven months of 1976 compared to the same period of 1975.

Increased Imports

U.S. imports of hot rolled carbon steel bars increased from 802.6 thousand short tons in 1971 to 804.1 thousand short tons in 1972. U.S. imports declined to 723.0 thousand short tons in 1973, 691.3 thousand short tons in 1974, and 423.1 thousand short tons in 1975. U.S. imports declined from 378.9 thousand short tons in the first three quarters of 1975 to 233.6 thousand short tons in the same period in 1976.

The ratio of imports of hot rolled carbon steel bars to domestsic shipments declined in each year from 1971, when the ratio was 14.5 percent, through 1975, when the ratio was 8.2 percent. The ratio of imports to domestic shipments declined from 9.1 percent in the first three quarters of 1975 to 5.4 percent in the first three quarters of 1976.

U.S. imports of concrete reinforcing bars were 514.5 thousand short tons in 1971 and declined to 358.2 thousand tons and 286.4 thousand tons, respectively, in 1972 and 1973. U.S. imports increased to 477.5 thousand net tons in 1974 before declining to 141.9 thousand net tons in 1975. U.S. imports increased from 121.3 thousand net tons in the first three quarters of 1975 to 143.4 thousand net tons in the same period in 1976.

The ratio of imports of concrete reinforcing bars to domestic shipments declined from 11.4 percent in 1971 to 8.0 percent and 5.6 percent, respectively, in 1972 and 1973. The ratio of imports to domestic shipments increased to 9.5 percent in 1974 before declining to 3.9 percent in 1975. The ratio of imports to domestic shipments increased from 4.4 percent in the first three quarters of 1975 to 4.8 percent in the first three quarters of 1976.

U.S. imports of carbon steel structural shapes increased from 1,477.5 thousand short tons in 1971 to 1,614.0 thousand short tons in 1972 before declining to 1,250.7 thousand short tons and 1,142.7 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 804.9 thousand short tons in 1975. U.S. imports increased from 629.1 thousand short tons in the first three quarters of 1975 to 909.8 thousand short tons in the first three quarters of 1976.

The ratio of imports of carbon steel structural shapes to domestic shipments was 31.3 percent in 1971 and increased to 34.1 percent in 1972. The ratio of imports to domestic shipments declined to 21.3 percent in 1973, 19.7 percent in 1974, and 19.5 percent in 1975. The ratio of imports to domestic shipments increased from 18.7 percent in the first three quarters of 1975 to 34.3 percent in the first three quarters of 1976.

U.S. imports of hot rolled carbon strip increased from 36.8 thousand short tons in 1971 to 43.3 thousand short tons in 1972. U.S. imports declined to 34.2 thousand short tons in 1973 before increasing to 35.0 thousand short tons in 1974. U.S. imports declined to 17.5 thousand short tons in 1975. Imports increased from 14.8 thousand short tons in the first three quarters of 1975 to 16.5 thousand short tons in the first three quarters of 1976.

The ratio of imports of hot rolled carbon steel strip to domestic shipments was 2.7 percent in 1971 and increased to 3.0 percent in 1972. The ratio of imports to domestic shipments declined to 2.0 percent in 1973 and increased to 2.7 percent in 1974 before declining to 2.0 percent in 1975. The ratio of imports to domestic shipments declined from 2.2 percent in the first three quarters of 1975 to 1.9 percent in the first three quarters of 1976.

U.S. imports of carbon steel wire declined from 515.3 thousand short tons in 1972 to 433.2 thousand short tons in 1973. U.S. imports increased to 553.8 thousand short tons in 1974 and decreased to 349.6 thousand short tons in 1975. U.S. imports increased to 371.8 thousand short tons in 1976.

The ratio of imports of carbon steel wire to domestic shipments declined from 23.3 percent in 1972 to 17.5 percent in 1973. The ratio of imports to domestic shipments increased to 22.6 percent in 1974 before declining to 22.0 percent and 19.9 percent, respectively, in 1975 and 1976.

Contributed Importantly

Although in the first three quarters of 1976 there was an increase in U.S. imports of concrete reinforcing bars, carbon steel structural shapes, hot rolled carbon steel strip, and carbon steel wire compared to the same 1975 period, Atlantic's sales and production of hot rolled carbon steel, which includes carbon steel structural shapes, concrete reinforcing bars, hot rolled carbon steel strip and carbon steel bars increased both in quantity and in value in 1976 compared to 1975. Although there was an increase in U.S. imports of carbon steel wire in 1976 compared to 1975, Atlantic's sales and production of carbon steel wire increased in quantity and in value in 1976 compared to 1975.

A survey of customers of Atlantic Steel indicated that these customers have not switched to imported hot rolled carbon steel or carbon steel wire. Customers that decreased purchases from Atlantic Steel cited declines in the construction industry as the major factor for their reduced purchases.

Conclusion

After careful review of the facts obtained during the course of the investigation, I conclude that increases of imports like or directly competitive with hot rolled carbon steel and carbon steel wire did not contribute importantly to the total or partial separations of the workers at the Atlanta, Georgia plant of the Atlanta Steel Company as required under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13288 Filed 5-9-77;8:45 am]

[TA-W-1614]

CONVERSE RUBBER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1613: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 31, 1977, in response to a worker petition received on January 31, 1977, which was filed by the United Paperworkers International Union on behalf of workers and former workers producing canvas and athletic footwear at the Berlin, New Hampshire, plant of Converse Rubber Company.

The notice of investigation was published in the Federal Register (42 FR 9239) on February 15, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Company, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Employment of production workers at the Berlin plant of Converse Rubber Company decreased 20 percent in 1975 and 8 percent in 1976 compared to 1974.

Sales or Production, or Both, Have Decreased Absolutely

Sales of canvas and athletic footwear by Converse Rubber Company declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974 and 13 percent in quantity and 7 percent in value in 1976 compared to 1975.

Production of canvas and athletic footwear at the Berlin, New Hampshire plant of Converse Rubber Company declined 4 percent in 1975 compared to 1974, increased 7 percent in 1976 compared to 1975 and declined 17 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975.

Increased Imports

Imports of athletic footwear increased in absolute terms and relative to domestic production each year from 1971 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic production. In 1975 imports increased 102 percent in absolute terms. The ratio of imports to domestic production increased from 84.3 percent in 1974, to 148.0 percent in 1975. In the first 9 months of 1976, imports increased 119 percent in absolute terms. The ratio of imports to domestic production increased from 203.9 percent in the first 9 months of 1975 to 333.3 percent in the first 9 months of 1976.

Imports of rubber/canvas footwear increased in absolute terms and relative to domestic production each year from 1972 through 1974. Imports decreased in absolute terms from 1974 to 1975 and increased 17 percent in the first 9 months of 1976 compared to the first 9 months of 1975. The ratio of imports to domestic production remained stable from 1974 to 1975, then increased from 18.3 percent in the first 9 months of 1975 to 25.4 percent in the first 9 months of 1976.

Contributed Importantly

Imports of canvas and athletic footwear by Converse Rubber Company increased 1,010 percent in quantity and 1,011 percent in value in 1975 compared to 1974 and declined 10 percent in quantity and 12 percent in quantity in 1976 compared to 1975.

Customers of Converse Rubber Company indicated they have decreased their purchases of canvas and athletic footwear from Converse Rubber Company and have increased their purchases of imported footwear.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas and athletic footwear produced at the Berlin, New Hampshire, plant of Converse Rubber Company, contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Berlin, New Hampshire, plant of Converse Rubber Company who became totally or partially separated from employment on or after May 15, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13291 Filed 5-9-77;8:45 am]

[TA-W-911]

CONVERSE RUBBER CO.

Notice of Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974, and in accordance with section 223(a) of such Act, on September 6, 1976, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers producing canvas footwear at the Bristol, Rhode Island, plant of Converse Rubber Company.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at the Lawrence Distribution Center of Converse Rubber Company, Lawrence, Massachusetts. Further investigation revealed that workers at the Lawrence Distribution Center were engaged in employment related to the production of canvas footwear and should have been included in the original certification as eligible to apply for adjustment assistance.

The subject workers were not identified in the original certification because the company maintained separated records and ledgers for distribution staff in other locations.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I hereby issue the following revised certification as follows:

All workers at the Bristol, Rhode Island, plant of Converse Rubber Company and all employees at the Lawrence Distribution Center, Lawrence, Massachusetts, who became totally or partially separated from employment on or after June 10, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13285 Filed 5-9-77;8:45 am]

[TA-W-1590]

CONVERSE RUBBER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of

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Labor herein presents the results of TA-W-1590: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 24, 1977, in response to a worker petition received on January 24, 1977, which was filed on behalf of workers and former workers producing canvas and athletic footwear at the Presque Isle, Maine, plant of Converse Rubber Company.

The notice of investigation was published in the FEDERAL REGISTER on February 1, 1977 (42 FR 6023). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Presque Isle plant of Converse Rubber Company decreased 23 percent in 1975 compared to 1974 and 20 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of canvas and athletic footwear by Converse Rubber Company declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974 and 13 percent in quantity and 7 percent in value in 1976 compared to 1975.

Production of canvas and athletic footwear at the Presque Isle, Maine, plant of Converse Rubber Company declined 18 percent in 1975 compared to 1974, and 25 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of athletic footwear increased in absolute terms and relative to domestic production each year from 1971 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic production. In 1975, imports increased 102 percent in absolute terms. The ratio of imports to domestic production increased from 84.3 percent in 1974, to 212.4 percent in 1975. In the first 9 months of 1976, imports increased 119 percent in absolute terms. The ratio of imports to domestic production increased from 203.9 percent in the first 9 months of 1975 to 333.3 percent in the first 9 months of 1976.

Imports of rubber/canvas footwear increased in absolute terms and relative to domestic production each year from 1972 through 1974. Imports decreased in absolute terms from 1974 to 1975 and increased 17 percent in the first 9 months of 1976 compared to the first 9 months of 1975. The ratio of imports to domestic production remained stable from 1974 to 1975, then increased from 18.3 percent in the first 9 months of 1975 to 25.4 percent in the first 9 months of 1976.

CONTRIBUTED IMPORTANTLY

Imports of canvas and athletic footwear by Converse Rubber Company increased 1,010 percent in quantity and 1,011 percent in value in 1975 compared to 1974 and declined 10 percent in quantity and 12 percent in quantity in 1976 compared to 1975.

Customers of Converse Rubber Company indicated they have decreased their purchases of canvas and athletic footwear from Converse Rubber Company and have increased their purchases of imported footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas and athletic footwear produced at the Presque Isle, Maine, plant of Converse Rubber Company, contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Presque Isle, Maine, plant of Converse Rubber Company who became totally or partially separated from employment on or after October 23, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-13290 Filed 5-9-77;8:45 am]

[TA-W-1516]

COPPERWELD CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1516: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America in behalf of workers and former workers producing copper-clad and aluminum-clad steel wire products at the Metallic Division of Copperweld Corporation, Glassport, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3370). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United Steelworkers of America, officials of the Copperweld Corporation, the U.S. Department of Commerce publications, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that there are no known imports of copper-clad or aluminum-clad steel wire products.

After careful review of the facts obtained in the investigation, I conclude that imports of copper-clad and aluminum-clad steel wire products like or directly competitive with products produced at Copperweld Corporation, Metallic Division, Glassport, Pennsylvania, have not increased as required in section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 29th day of 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13292 Filed5-9-77;8:45 am]

[TA-W-1212]

DELTON SHIRTMAKERS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1212: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 26, 1976, in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's shirts at the Lowell, Massachusetts plant of Delton Shirtmakers, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51138). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Shirtmakers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Comimssion, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Layoffs began in June 1976 and continued thereafter until the plant closed in September 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales decreased 67.7 percent and 11.0 percent in July and August 1976, respectively compared to the same months in 1975. All sales and production ceased when the plant shut down in September 1976. Sales equalled production.

INCREASED IMPORTS

Imports of men's woven dress shirts increased 86.0 percent in the first nine months of 1976 compared to the like period in 1975. Imports of men's knit shirts increased 13.2 percent in the first nine months of 1976 compared to the like period in 1975.

CONTRIBUTED IMPORTANTLY

The manufacturer for whom the company produced men's shirts also contracts and imports shirts from abroad. Customers of this manufacturer indicated that they increased purchases of imports of men's shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of men's shirts have contributed importantly to the total or partial separations of workers at the Lowell, Massachusetts plant of Delton Shirtmakers, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at the Lowell, Massachusetts plant of Delton Shirtmakers, Inc. who became totally or partially separated from employment on or after May 29, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13294 Filed 5-9-77;8:45 am]

[TA-W-1307]

DELTON SHIRTMAKERS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1307: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1976, in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's shirts at the New Bedford, Massachusetts plant of Delton Shirtmakers, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54555). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Shirtmakers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Layoffs began in January 1976 and all employment ceased when the plant closed in September 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Unit sales decreased 67.7 percent and 11.0 percent in July and August 1976 compared to the like periods in 1975. All sales and production ceased when the plant shut down in September 1976. Sales equalled production.

INCREASED IMPORTS

Imports of men's woven dress shirts increased 86.0 percent in the first nine months of 1976 compared to the like period in 1975. Imports of men's knit shirts increased 13.2 percent in the first nine months of 1976 compared to the like period in 1975.

CONTRIBUTED IMPORTANTLY

The manufacturer for whom the company produced men's shirts also contracts and imports shirts from abroad. Customers of this manufacturer indicated that they increased purchases of imports of men's shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of men's shirts have contributed importantly to the total or partial separations of workers at the New Bedford, Massachusetts plant of Delton Shirtmakers, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at the New Bedford, Massachusetts plant of Delton Shirtmakers, Inc. who became totally or partially separated from employment on or after January 2, 1976 are

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eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-13293 Filed 5-9-77;8:45 am]

[TA-W-1688]

DENISON COTTON MILL CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1688: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 1, 1977, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing cotton duck at the Denison Cotton Mill Company, Denison, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Denison Cotton Mill Company, its customers, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Denison Cotton Mill Company declined 9 percent in 1975 compared to 1974 and declined 33 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Denison Cotton Mill Company declined 42 percent in 1975 compared to 1974 and declined 11 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of cotton duck have increased from $30.5 million in 1973 to $40.9 million in 1974. Imports declined to $19.8 million in 1975 but increased in 1976 to $38.3 million.

CONTRIBUTED IMPORTANTLY

Customers of the Denison Cotton Mill Company increased purchases of imported cotton duck.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with cotton duck produced at the Denison Cotton Mill Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Denison Cotton Mill Company, Denison, Texas who became totally or partially separated from employment on or after February 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13294 Filed 5-9-77;8:45 am]

[TA-W-1554]

EMPIRE OLDSMOBILE

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1554: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 5, 1977, in response to a worker petition received on that date which was filed by workers formerly selling Oldsmobile automobiles at Empire Oldsmobile, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5450). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Motors Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average hourly employment increased 38.9 percent from model year (MY) 1975 to MY 1976 and declined 17.4 percent in the first seven months of MY 1977 compared to the same period in MY 1976. All hourly workers were permanently separated during March 1977.

Average employment of commission salesmen increased 40.0 percent from MY 1975 to MY 1976 and increased 14.3 percent in the first four months of 1977 compared to the same period in MY 1977. All commission salesmen were separated during December 1976.

Average salaried employment was unchanged from MY 1975 to MY 1976 and declined 35.3 percent in the first seven months of MY 1977 compared to the same period in MY 1976. The company expects all salaried employees to be separated by the end of April 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

All new cars sold by Empire Oldsmobile were supplied by the Oldsmobile Division of General Motors. The automobile model year used by General Motors runs from September through the following August.

Shipments of luxury small cars to Empire Oldsmobile declined 29.8 percent from MY 1975 to MY 1976 and were unchanged in the first quarter of MY 1977 compared to the same period in MY 1976. From MY 1975 through the first quarter of MY 1977, luxury small cars represented 3.1 percent of total automobile shipments to Empire Oldsmobile.

Shipments of compact cars to Empire Oldsmobile increased 97.9 percent from MY 1975 to MY 1976 and declined 12.5 percent in the first quarter of MY 1977 compared to the same period in MY 1976. From MY 1975 through the first quarter of MY 1977, compact cars represented 10.2 percent of total automobile shipments to Empire Oldsmobile.

Shipments of intermediate size cars to Empire Oldsmobile increased 71.4 from MY 1975 to MY 1976 and increased 36.3 percent in the first quarter of MY 1977 compared to the same period in MY 1976. From MY 1975 through the first quarter of MY 1977, intermediate size cars represented 56.1 percent of total automobile shipments of Empire Oldsmobile.

Shipments of full size cars to Empire Oldsmobile increased 16.0 percent from MY 1975 to MY 1976 and increased 117.3 percent in the first quarter of MY 1977 compared to the same period in MY 1976. From MY 1975 through the first quarter of MY 1977, full size cars represented 30.6 percent of total automobile shipments to Empire Oldsmobile.

INCREASED IMPORTS

Sales of imported luxury cars decreased from 250.8 thousand units comprising 100.0 percent of the market in MY 1973 to 223.1 thousand units comprising 35.7 percent of the market in MY 1974. In MY 1975, import sales increased to 354.0 thousand units comprising 36.1 percent of the market. In the first three quarters of MY 1976, sales of imports were 198.1 thousand units comprising 17.2 percent of the market compared to 261.3 thousand units comprising 38.0 percent of the market for the same period in MY 1975.

Sales of imported compact cars decreased from 344.4 thousand units comprising 17.4 percent of the market in MY 1973 to 238.3 thousand units comprising 13.2 percent of the market in MY 1974. In MY 1975, import sales declined to 114.1 thousand units comprising 7.8 percent of the market. In the first three quarters of MY 1976, sales of imports were 39.2 thousand units comprising 3.8 percent of the market compared to 93.5 thousand units comprising 8.5 percent of the market for the same period of MY 1975.

Sales of imported intermediate size cars increased from 265.1 thousand units comprising 9.7 percent of the market in MY 1973 to 269.2 thousand units comprising 11.7 percent of the market in MY 1974. In MY 1975, import sales declined to 189.4 thousand units comprising 9.9 percent of the market. In the first three quarters of MY 1976, sales of imports were 212.4 thousand units comprising 10.5 percent of the market compared to 131.0 thousand units comprising 9.4 percent of the market for the same period in MY 1975.

Sales of imported full size cars decreased from 148.6 thousand units comprising 3.9 percent of the market in MY 1973 to 43.5 thousand units comprising 1.9 percent of the market in MY 1974 and then increased to 180.5 thousand units comprising 12.0 percent of the domestic full size car market in MY 1975. In the first three quarters of MY 1976, sales of imports were 159.3 thousand units comprising 10.8 percent of the market compared to 150.8 thousand units comprising 13.1 percent of the market for the same period of MY 1975.

CONTRIBUTED IMPORTANTLY

Empire Oldsmobile was a retail car dealership engaged in the marketing of new Oldsmobile cars in the luxury small, compact, intermediate and full size car classes. The dealership opened in September 1974 and was closed in February 1977.

During the period of its operation, Empire Oldsmobile was under the full operating and financial control of the Oldsmobile Division of General Motors. The opening of Empire Oldsmobile in September 1974 was based upon General Motors' desire to locate an Oldsmobile dealership in mid-town New York City at a time when no independent dealerships were operating in that area. The ownership and operational control of a retail dealership by General Motors is not typical of the relationship that the firm establishes with its retail dealerships. It is General Motors' policy to maintain a system of independent retail dealerships which market the cars General Motors manufactures. Of the approximately 13,700 General Motors dealerships operating in the United States and Canada since 1972, only five (including Empire Oldsmobile) have been owned and operated by General Motors. General Motors is in the process of closing all five of these dealerships. Subsequent to the opening of Empire Oldsmobile by General Motors, several Oldsmobile franchises were granted to independent dealers in mid-town New York City. With its competitive presence in the central city area assured, General Motors decided that continued ownership and operation of Empire Oldsmobile was no longer necessary. The decision to close Empire Oldsmobile was based on General Motors' corporate policy to operate a network of independent retail dealerships with no corporate control by General Motors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with luxury small, compact, intermediate and full size cars sold by Empire Oldsmobile, New York, New York, did not contribute importantly to the total or partial separation of the workers at that firm.

Signed at Washington, D.C., this 29th Day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13296 Filed 5-9-77;8:45 am]

[TA-W-1304]

ETTELSON OF PHILADELPHIA, INC., PHILADELPHIA, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1304: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1976 in response to a worker petition received on November 29, 1976 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's big and tall size suits, sportscoats and slacks at the Philadelphia, Pennsylvania plant of Ettelson of Philadelphia, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ettelson of Philadelphia, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the above criteria have been met, the Department's investigation indicates that criteria (3) and (4) have not been met.

According to the best estimates available imports of men's big and tall size suits, sportcoats and slacks are negligible.

Customers indicated that they would still be purchasing from the company had it not shut down and further indicated that their purchases of imports of big and tall size men's suits, sportcoats and slacks were negligible.

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CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with men's suits, sportcoats and slacks produced at the Philadelphia, Pennsylvania plant of Ettelson of Philadelphia Inc., have not increased as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13297 Filed 5-9-77;8:45 am]

[TA-W-1679]

GILBERT SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1679: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 15, 1977 in response to a worker petition received on February 15, 1977 which was filed by three workers on behalf of workers and former workers producing children's and babies' shoes at The Gilbert Shoe Company in Thiensville, Wisconsin.

The Notice of Investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13085). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Department of Commerce, the U.S. International Trade Commission, The Gilbert Shoe Company and its customers, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average weekly number of employees decreased 2.0 percent in 1975 compared with 1974, decreased 2.0 percent in 1976 compared with 1975 and decreased 27.7 percent in the first quarter of 1977 compared with the first quarter of 1976.

Average weekly hours worked decreased 11.5 percent in 1975 compared with 1974, increased 6.5 percent in 1976 compared with 1975 and decreased 8.8 percent in the first quarter of 1977 compared with the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of children's and babies' shoes in terms of quantity, including women's safety shoes, decreased 15.4 percent in 1975 compared with 1974 and decreased 7.0 percent in 1976 compared with 1975.

Production of children's and babies' shoes in terms of quantity, including women's safety shoes, decreased 12.1 percent in 1975 compared with 1974 and decreased 6.9 percent in 1976 compared with 1975.

INCREASED IMPORTS

Imports of children's nonrubber footwear in terms of quantity decreased 17.7 percent in 1973 compared with 1972, decreased 12.9 percent in 1974 compared with 1973, decreased 9.0 percent in 1975 compared with 1974 and increased 42.3 percent in 1976 compared with 1975. The ratios of imports to domestic production and consumption increased from 60.0 and 37.5 percent, respectively, in 1975 to 72.1 and 41.9 percent, respectively, in 1976.

Imports of infants' and babies' nonrubber footwear in terms of quantity decreased 15.6 percent in 1973 compared with 1972, decreased 10.5 percent in 1974 compared with 1973, increased 1.5 percent in 1975 compared with 1974 and increased 55.1 percent in 1976 compared with 1975. The ratios of imports to domestic production and consumption increased from 28.5 and 22.2 percent, respectively, in 1975 to 41.0 and 29.1 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have increasingly shifted purchases of children's and babies' shoes to foreign sources while reducing domestic purchases. The reason most often cited for these increased purchases of imported footwear is the price differential which exists between imported children's and babies' shoes and that footwear purchased from domestic manufacturers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with children's and babies' shoes produced by The Gilbert Shoe Company in Thiensville, Wisconsin contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of children's and babies' shoes at The Gilbert Shoe Company in Thiensville, Wisconsin who became totally or partially separated from employment on or after April 17, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13298 Filed 5-9-77;8:45 am]

[TA-W-1667]

GOLD SEAL GARTER CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1667: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 17, 1977 in response to a worker petition received on February 2, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers of the New York, New York plant of Gold Seal Garter Corporation.

The notice of investigation was published in the FEDERAL REGISTER (42 FR 13086) on March 8, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Gold Seal Garter Corporation, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated; or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the plant increased 3.4 percent in 1975 compared to 1974 and decreased 6.7 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of brassiers and girdles by Gold Seal Garter Corporation decreased 6.4 percent in 1975 compared to 1974 and 2.1 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of brassieres, bra-lettes and bandeaux increased each year, from 4995 thousand dozen in 1971 to 6921 thousand dozen in 1975. Imports increased 26.4 percent in 1976 compared to 1975, from 6921 thousand dozen to 8751 thousand dozen.

Imports of girdles and corsets increased each year from 66 thousand dozen in 1973 to 137 thousand dozen in 1975. Imports increased 68.6 percent in 1976 compared to 1975, from 137 thousand dozen to 231 thousand dozen.

CONTRIBUTED IMPORTANTLY

A sample of Gold Seal Garter Corporation's customers indicated that several of these customers increased their purchases of imported brassieres and girdles while decreasing their purchases of brassieres and girdles from Gold Seal Garter Corporation.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres and girdles produced at the New York, New York plant of the Gold Seal Garter Corporation contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the New York, New York plant of the Gold Seal Garter Corporation who became totally or partially separated from employment on or after January 28, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13299 Filed 5-9-77;8:45 am]

[TA-W-1385, 1386, 1387, 1783]

H. W. GOSSARD CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1385; 1386; 1387; and 1783: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 8, 1976 in response to a worker petition received on December 8, 1976 which were filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' slips, and panties at the Arkansas and Missouri plants of H. W. Gossard Company, Chicago, Illinois.

The notices of investigation were published in the FEDERAL REGISTER on January 4, 1977 (42 FR 882 and 883) and on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H. W. Gossard Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974, must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criteria one (1) was not met at the Piggott, Arkansas plant (TA-W-1385) and that criteria two (2) and four (4) were not met at the Popular Bluff, Missouri (TA-W-1386); Malden Air Base, Missouri (TA-W-1387); and the Malden, Missouri (TA-W-1783) plants.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Popular Bluff, Missouri plant declined 21 percent from 1974 to 1975 and declined 3 percent from 1975 to 1976.

Empolyment of production workers at the Malden, Missouri plant declined 25 percent from 1974 to 1975 and declined 3 percent from 1975 to 1976.

Employment of production workers at the Pigott, Arkansas plant declined 12 percent from 1974 to 1975 and increased 14 percent from 1975 to 1976.

Employment of production workers at the Malden Air Force, Missouri plant remained constant from 1974 to 1975 and increased 1 percent from 1975 to 1976.

SALES, PRODUCTION, OR BOTH DECREASED ABSOLUTELY

Sales of ladies' sleepwear by the Lingerie Division declined 10 percent from 1974 to 1975 and declined 18 percent from 1975 to 1976.

Production of ladies' sleepwear at the Poplar Bluff, Missouri plant declined 24 percent from 1974 to 1975 and increased 16 percent in the first eleven months of 1976 compared to the first eleven months of 1975.

Production of ladies' sleepwear at the Malden, Missouri plant declined 10 percent from 1974 to 1975 and increased 6 percent in the first eleven months of 1976 compared to the first eleven months of 1975.

The Piggott, Arkansas plant contains the cutting operation for the Lingerie Division.

Sales of ladies' slips and panties by the Lingerie Division of Gossard Company increased 29 percent from 1974 to 1975 and increased 8 percent from 1975 to 1976.

Production of ladies' slips and panties at the Malden Air Base, Missouri plant declined 5 percent from 1974 to 1975 and increased 26 percent in the first eleven months of 1976 compared to the first eleven months of 1975.

All production and employees of the Malden Air Base plant were transferred to the Malden, Missouri plant in January 1977.

INCREASED IMPORTS

Imports of women's, misses' and juniors' non-cotton sleepwear declined absolutely from 1971 to 1972 and from 1972 to 1973. Imports increased absolutely from 1973 to 1974 and then declined absolutely and relatively from 1974 to 1975. Imports increased 51 percent from 1975 to 1976. Imports of women's, misses' and juniors' cotton sleepwear increased 43 percent from 1975 to 1976.

CONTRIBUTED IMPORTANTLY

Customers of H.W. Gossard were surveyed regarding their purchases of ladies' slips, panties and sleepwear. Most customers stated they did not shift purchases to imported panties and sleepwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slips, panties and sleepwear produced at the Piggott, Arkansas; Poplar Bluff, Missouri; Malden, Missouri and Malden Air Base, Missouri plants of H. W. Gossard Company, Chicago, Illinois did not contribute importantly to the decline in sales and production or to the total or partial separation of workers of these plants.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13302 Filed 5-9-77;8:45 am]

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[TA-W-1541]

HEAVENLY SHOE CO., WILKES-BARRE, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1541: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petition received on that date which was filed by the Boot and Shoe Worker's Union on behalf of workers and former workers producing women's shoes at the Heavenly Shoe Company, Wilkes-Barre, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3372). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Heavenly Shoe Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales and production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Heavenly Shoe Company declined 31 percent in 1975 compared to 1974 and increased 32 percent in 1976 compared to 1975. Employment declined 15 percent in the fourth quarter of 1976 compared to the previous quarter of 1976 and declined 25 percent compared to the fourth quarter of 1975. All workers were permanently laid off on March 30, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of the Heavenly Shoe Company declined in quantity and value in 1975 compared to 1974 by 43 percent and 33 percent, respectively. In 1976, sales increased 25 percent in quantity and 38 percent in value compared to 1975. In the fourth quarter of 1976, sales declined 22 percent in quantity and 23 percent in value compared to the third quarter of 1976 and declined 26 percent in quantity and 15 percent in value compared to the fourth quarter of 1975.

All sales and production operations were terminated on March 30, 1977.

INCREASED IMPORTS

Imports of women's nonrubber footwear increased relative to domestic production and consumption from 107.6 percent and 51.8 percent, respectively, in 1974 to 119.1 percent and 54.4 percent, respectively, in 1975. In 1976 imports as a percentage of production and consumption declined to 108.8 percent and 52.1 percent, respectively.

Imports of women's nonrubber footwear increased 192.9 million pairs in 1972 to 206.2 million pairs in 1973. Imports declined to 183.5 million pairs in 1975 but increased to 183.5 million pairs in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Heavenly Shoe Company indicated that they increased purchases of imports and decreased purchases from Heavenly Shoe.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes produced by Heavenly Shoe Company, Wilkes-Barre, Pennsylvania contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of the Heavenly Shoe Company, Wilkes-Barre, Pennsylvania who become totally or partially separated from employment on or after February 28, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-13300 Filed 5-9-77;8:45 am]

[TA-W-1364]

HOMESTEAD INDUSTRIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1364: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing valves at Plant No. 1 of Homestead Industries, Corapolis, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 883). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from Homestead Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first two criteria have been met, criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Plant No. 1 decreased 8 percent in 1975 compared to 1974. Employment declined 14 percent in the first eleven months of 1976 compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, in value, of valves at Plant No. 1 declined 36 percent in 1975 compared to 1974. Sales, in value, declined 7 percent in the first eleven months of 1976 compared to the like period in 1975. Sales are deflated using the BLS Wholesale Price Index for industrial valves.

INCREASED IMPORTS

Imports of valves and similar devices increased every year from 1971 to 1976, from 56.5 million dollars in 1971 to 165.1 million dollars in 1976. Imports increased from 127.6 million dollars in the first nine months of 1975 to 134.2 million dollars in the like period of 1976.

The ratio of imports to domestic production of valves and similar devices increased from 2.4 percent in 1971 to 4.7 percent in 1976. This ratio declined from 4.9 percent in the first nine months of 1975 to 4.5 percent in the like period of 1976.

A more specific import category for foreign valves similar to valves produced by Homestead (for which there is no matching available production data) is: Hand-operated and check-iron and steel valves. Imports of this category have increased every year from 1971 to 1975, from 13.3 million dollars to 75.0 million dollars. Imports declined from 59.8 million dollars in the first nine months in 1975 to 49.3 million dollars in in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Customers of Homestead Industries indicate that they do not import any articles competitive with the two types of valves produced at Plant No. 1 of Homestead Industries; lubricated plug valves and nonlubricated ballcentric valves. Customers indicated that they have not been offered any imported valves of the type produced by Homestead because of the unique nature of these valves.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves produced at Plant No. 1 of Homestead Industries Incorporated, Coraopolis, Pennsylvania did not contribute importantly to the total or partial separation of workers at that plant.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13301 Filed 5-9-77;8:45 am]

[TA-W-1660]

INTERNATIONAL SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1660: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 8, 1977 in response to a worker petition received on February 8, 1977 which was filed by three workers on behalf of workers and former workers producing women's and infants' shoes at the El Dorado Springs, Missouri plant of International Shoe Company.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13086). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof and to the decrease in sales and production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 11 percent from 1974 to 1975, and remained at the same annual average in 1976 as in 1975. However, employment declined 16 percent in the last six months of 1976 compared to the same period of 1975. The average number of hours worked declined 10 percent from 1974 to 1975 and declined 9 percent from 1975 to 1976. The average hours worked declined 34 percent in the last six months of 1976 compared to the last six months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales data are not maintained at the El Dorado plant, since all shoes are shipped to a central distribution location and stocked with shoes produced at other International plants.

Production of women's and infants' shoes declined 18 percent in quantity from 1974 to 1975 and declined 4 percent in quantity from 1975 to 1976. Production declined 42 percent in quantity in the last half of 1976 compared to the last six months of 1975.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear, except athletic, increased absolutely and relative to domestic production from 1972 to 1973, declined from 1973 to 1974, and then increased absolutely in each year from 1974 to 1976. The ratio of imports to domestic production declined from 114.1 percent in 1975 to 106.3 percent in 1976.

Imports of infants' and babies' nonrubber footwear declined absolutely in each year from 1972 to 1974, and then increased from 1974 to 1975 and from 1975 to 1976. The ratio of imports to domestic production increased from 28.5 percent in 1975 to 41.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

Retail customers switched purchases of women's and infants' shoes from International Shoe to imports from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and infants' shoes produced at the El Dorado Springs, Missouri plant of the International Shoe Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of women's and infants' shoes at the El Dorado Springs, Missouri plant of the International Shoe Company who became totally or partially separated from employment on or after July 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-13303 Filed 5-9-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened

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to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of April 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aetna Standard Engineering Co. (USWA).	Elwood City, Pa.	Apr. 25, 1977	Apr. 1, 1977	TA-W-2,027	Hot and rolling steel mills.
Bradley Scott Clothes, Inc. (workers).	Fall River, Mass.	Apr. 26, 1977	Apr. 20, 1977	TA-W-2,028	Men's clothing.
Harwood Manufacturing (ACTWU).	Adamsville, Tenn.	Apr. 25, 1977	do.	TA-W-2,029	Men's dress shirts.
Quanex Corp. (USWA).	South Lyon, Mich.	do.	Apr. 1, 1977	TA-W-2,030	Carbon and alloy steel tubes.
Townsend Fastening systems (USWA).	Elwood City, Pa.	do.	do.	TA-W-2,031	Industrial fasteners, rivets, and threaded products.
Do.	Fallstown, Pa.	do.	do.	TA-W-2,032	Do.
Walworth/Aloyco (I.U.E.)	Linden, N.J.	do.	Apr. 18, 1977	TA-W-2,033	Stainless steel valves.
Do.	Elizabeth, N.J.	do.	do.	TA-W-2,034	Do.

[FR Doc.77-13155 Filed 5-9-77;8:45 am]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 25th day of April 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Belle-Moc, Inc. (Lewiston Auburn Shoeworkers Protective Association).	Lewiston, Maine	Apr. 25, 1977	Apr. 18, 1977	TA-W-2,023	Men's cement process shoes.
Eltra of Puerto Rico, Inc. (company)	Canovanas, P.R.	do.	do.	TA-W-2,024	Rubber and canvas footwear and leather athletic footwear.
Hygrade Handbag Corp. (workers)	New Brunswick, N.J.	Apr. 22, 1977	Apr. 20, 1977	TA-W-2,025	Ladies' handbags.
Picato (workers)	Manchester, Conn.	do.	Apr. 15, 1977	TA-W-2,026	Women's sportswear.

[FR Doc.77-13064 Filed 5-9-77;8:45 am]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of April 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
E. W. Ferry Screw Products, Inc. (I.W.A.).	Brook Park, Ohio	Apr. 19, 1977	Apr. 13, 1977	TA-W-1,994	Cold headed industrial fasteners.
Uniroyal, Inc. (Arthur, Dry & Kalish P. C.	Naugatuck, Conn.	do.	Apr. 19, 1977	TA-W-1,995	Waterproof and fabric rubber sole footwear.

[FR Doc.77-13154 Filed 5-9-77;8:45 am]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 20, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of April 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

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Petitioner: Union/workers or former workers of General Motors Corp.—	Location	Date received	Date of petition	Petition No.	Articles produced
Stamping plant (UAW)	Lordstown, Ohio	Apr. 20, 1977	Mar. 28, 1977	TA-W-2,002	Stamping.
Casting plant (UAW)	Massena, N.Y.	do	do	TA-W-2,003	Castings.
Engine plant (UAW)	Tonawanda, N.Y.	do	do	TA-W-2,004	Engines.
Axle plant (UAW)	Buffalo, N.Y.	do	do	TA-W-2,005	Axles.
Rochester products (UAW)	Rochester, N.Y.	do	do	TA-W-2,006	Carburetors, locks, lighters, cannisters.
AC spark plugs (UAW)	Flint, Mich.	do	do	TA-W-2,007	Panels, spark plugs, oil filters, air cleaners, fuel pumps, etc.
Diesel equipment division (UAW)	Grand Rapids, Mich.	do	do	TA-W-2,008	Valve lifters.
Chevrolet transmission (UAW)	Muncie, Ind.	do	do	TA-W-2,009	Standard transmissions, 4-wheel drive conversion units.
Saginaw steering gear, plant No. 7 (UAW)	Saginaw, Mich.	do	do	TA-W-2,010	Steering gear.
Guide Lamp (UAW)	Anderson, Ind.	do	do	TA-W-2,011	Die castings, metal stampings such as side panels.
Chevrolet metal fabricating (UAW)	Flint, Mich.	do	do	TA-W-2,012	Hoods, fenders, front end components.
Fisher fabricating (UAW)	Willow Springs, Ill.	do	do	TA-W-2,013	Roof ASM.
Chevrolet Manufacturing (UAW)	Flint, Mich.	do	do	TA-W-2,014	Grilles and bumpers.
Chevrolet service parts (UAW)	Saginaw, Mich.	do	do	TA-W-2,015	Oil and water pumps.
Fisher cut and sew, plant No. 2 (UAW)	Grand Rapids, Mich.	do	do	TA-W-2,016	Interior trim sets.
Delco electronics	Kokomo, Ind.	do	do	TA-W-2,017	Radios, electrical parts.
Delco battery (UAW)	Muncie, Ind.	do	do	TA-W-2,018	Batteries.
Harrison radiator (UAW)	Buffalo, N.Y.	do	do	TA-W-2,019	Air inlets, heater defrosters.
New Departurer-Hyatt (UAW)	Sandusky, Ohio	do	do	TA-W-2,020	Wheel bearings, smog bearings, and bearings for water pump, alternators, and air conditioners.
Chevrolet transmission (UAW)	Parma, Ohio	do	do	TA-W-2,021	Transmissions and parts.
Central foundry (UAW)	Bedford, Ind.	do	do	TA-W-2,022	Transmission cases for 4-cylinder engines.

[FR Doc.77-13063 Filed 5-9-77;8:45 am]

[TA-W-1543]

JACK SEBASTIAN SHOE, INC. WILKES-BARRE, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1543: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petition received on that date which was filed by the Boot and Shoe Worker's Union on behalf of workers and former workers producing women's shoes at Jack Sebastian Shoe, Incorporated, Wilkes-Barre, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3372). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jack Sebastian Shoe, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Jack Sebastian Shoe declined 15 percent in 1975 compared to 1974 and declined 3 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Jack Sebastian Shoe declined 11 percent in value in 1975 compared to 1974 and declined 7 percent in value in 1976 compared to 1975.

Production at Jack Sebastian Shoe declined 26 percent in quantity in 1975 compared to 1974 and declined 5 percent in quantity in 1976 compared to 1975.

INCREASED IMPORTS

Imports of women's nonrubber footwear increased relative to domestic production and consumption from 107.6 percent and 51.8 percent, respectively, in 1974 to 119.1 percent and 54.4 percent, respectively, in 1975. In 1976 imports as a percentage of production and consumption declined respectively to 108.8 percent and 52.1 percent.

Imports of women's nonrubber footwear increased from 192.9 million pairs in 1972 to 206.2 million pairs in 1973. Imports declined to 183.5 million pairs in 1975 but increased to 183.8 million pairs in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Jack Sebastian Shoe, Incorporated indicated they increased purchases of imported women's footwear relative to purchases from Jack Sebastian in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's shoes produced by Jack Sebastian Shoe, Incorporated contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Jack Sebastian Shoe, Incorporated who become totally or partially separated from employment on or after February 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13304 Filed 5-9-77;8:45 am]

[TA-W-1690]

KENOSHA AUTO TRANSPORT CORP., KENOSHA, WISCONSIN

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1690: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 1, 1977 in response to a worker petition received on February 9, 1977 which was filed on behalf of workers and former workers at the Kenosha, Wisconsin terminal of Kenosha Auto Transport Corporation, a subsidiary of Jupiter Transportation Corporation, Chicago, Illinois, who were engaged in providing the service of delivering automobiles to dealers.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kenosha Auto Transport Corporation and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Kenosha Auto Transport Corporation does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in "Pan American World Airways, Incorporated" (TA-W-153, 40 FR 54639). The only question in this case is whether American Motors Corporation, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in "Nu-Car Driveaway, Incorporated" (TA-W-393, 41 FR 12749).

Kenosha Auto Transport Corporation is a transport business incorporated in the State of Wisconsin and licensed and regulated by the State and the Interstate Commerce Commission. Kenosha Auto Transport competed for available business with other carriers in the Kenosha, Wisconsin area and each was free to haul for any business requesting their services.

Neither American Motors Corporation nor Kenosha Auto Transport, is financially or otherwise involved in the business of the other. Kenosha Auto Transport either owns or leases the facilities necessary to the operation of its business and owns or leases all its trucks and equipment.

The workers upon whose behalf this petition was filed were hired and are paid by Kenosha Auto Transport Corporation. They are supervised by and subject to the control of Kenosha Auto Transport personnel only. All employment benefits which they enjoy are provided and maintained by Kenosha Auto Transport.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Kenosha Auto Transport Corporation, Kenosha, Wisconsin are not "articles" within the meaning of section 222(3) of the Trade Act of 1974, and that American Motors Corporation cannot be considered the "workers firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13305 Filed 5-9-77;8:45 am]

[TA-W-1403]

MACSTEEL CO., DIVISION OF MICHIGAN SEAMLESS TUBE CO., JACKSON, MICHIGAN

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents results of TA-W-1403: Investigation regarding certification of eligibility to apply to worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon and alloy steel bars and billets at the Macsteel Company, Jackson, Michigan, a Division of Michigan Seamless Tube Company.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 889). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Macsteel Company, its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria (1), (2), and (3) have been met, criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Macsteel Company, Jackson, Michigan increased 100 percent in May through December 1975 compared to the same period in 1974 and increased 4.7 percent in 1976 compared to 1975. Employment increased 26.7 percent and 4.8 percent, respectively in the first two quarters of 1976 compared to the first two quarters of 1975 and decreased 0.9 percent and 9 percent, respectively in the third and fourth quarters, respectively, in 1976 compared to the third and fourth quarters of 1975.

The average number of salaried workers increased 24.1 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Macsteel Company produces carbon and alloy hot rolled steel bars and billets primarily for transfer to other plants of Michigan Seamless Tube Company for the production of seamless tubing which is the end product. Production at Macsteel Company started in May 1974.

Production of Macsteel bars and billets increased 377.7 percent in May through December 1975 compared to the same period in 1974 and decreased 16.5 percent in 1976 compared to 1975. Production increased 9.3 percent and 5.9 percent, respectively, in the first two quarters of 1976 compared to the same quarters of 1975 and decreased 32.7 percent and 34 percent, respectively, in the third and fourth quarters of 1976 compared to the same quarters of 1975.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing decreased 10.9 percent in 1973 compared to 1972, increased 13.1 percent in 1974 compared to 1973, and decreased 13.4 percent in 1975 compared to 1974. Imports increased 11.5 percent in the first nine months of 1976 compared to the first nine months of 1975. The ratios of imports to domestic shipments increased from 20.5 percent in 1975 to 34.0 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed in the investigation revealed that Macsteel Company had attempted to develop a revolutionary system for producing billets and bars for use in the manufacture of seamless tubing. Technological difficulties, quality control problems and start-up problems caused temporary declines in production and employment at Macsteel Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with seamless steel tubing, the end product made from steel bars and billets produced at Macsteel Company, did not contribute importantly to

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the total or partial separations of the workers at the Macsteel plant.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13306 Filed 5-9-77;8:45 am]

[TA-W-1575]

MARIA GARMENT CO., JERSEY CITY, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1575: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 19, 1977 in response to a worker petition received on January 17, 1977 which was filed on behalf of workers and former workers producing ladies' knit slacks, blouses, dresses, and long formal dresses at Maria Garment Company, Jersey City, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5453). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Maria Garment Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974, must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 10 percent from 1974 to 1975 and declined 13 percent in the first eleven months of 1976 compared to the like period of 1975.

All employment was terminated in November 1976.

SALES, PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of all garments from Maria Garment declined 13 percent from 1974 to 1975 and declined 2 percent in the first eleven months of 1976 compared to the like period of 1975.

Production at Maria Garment was equivalent to sales. In 1976, production consisted primarily of ladies' long formal dresses. Production ceased in November 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's blouses and shirts increased absolutely in each year from 1972 through 1976. The ratio of imports to domestic production increased from 56 percent in 1974 to 65 percent in 1975. Imports increased 16 percent from 1975 to 1976.

Imports of women's, misses', and children's slacks and shorts declined absolutely and relative to domestic production in each year from 1972 to 1974. Imports increased absolutely from 1974 to 1975 and from 1975 to 1976. The ratio of imports to domestic production increased from 30.3 percent in 1974 to 32.1 percent in 1975. Imports increased 10 percent from 1975 to 1976.

Imports of women's and misses' dresses (which includes long formal dresses) declined absolutely and relative to domestic production in each year from 1972 through 1973. Imports increased absolutely and relatively from 1973 to 1974 and from 1974 to 1975. The ratio of imports to domestic production increased from 3.6 percent in 1974 to 4.1 percent in 1975. Imports increased 2 percent from 1975 to 1976.

CONTRIBUTED IMPORTANTLY

Prior to 1976, Maria Garment produced ladies' slacks, blouses and dresses in the first three quarters of each year, and ladies' long formal dresses in the fourth quarter of each year. In 1976, long formal dresses were produced throughout the year and represented nearly 100 percent of production.

This change in product mix was the result of Maria Garment's loss of orders from the manufacturer for whom Maria produced ladies' slacks, blouses, and dresses. This manufacturer purchases imports of ladies' slacks, blouses and dresses. Retail customers of the manufacturer who were surveyed by the Office of Trade Adjustment Assistance increased purchases of imported ladies' sportswear from 1975 to 1976. This was the only manufacturer for whom Maria produced sportswear. Maria was unable to secure sportswear orders from other manufacturers.

Maria Garment's sales declined throughout 1976. Manufacturers reduced orders with Maria for long formal dresses because their own sales were declining. Retail customers of these manufacturers were contacted regarding their purchases of long formal dresses. Twenty-five percent of the customers contacted reduced purchases of long formal dresses produced by Maria and increased purchases of imported long formal dresses from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks, blouses, dresses and long formal dresses produced at Maria Garment Company, Jersey City, New Jersey contributed importantly to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Maria Garment Company, Jersey City, New Jersey who became totally or partially separated from employment on or after December 20, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13307 Filed 5-9-77;8:45 am]

[TA-W-1316]

MAXI MANUFACTURING CO., CATAWISSA, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1316: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing forged carbon steel pipe unions at the Catawissa, Pennsylvania, plant of Maxi Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54561). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Maxi Manufacturing Company, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 17.4 percent in the first eleven months of 1976 compared to the like period in 1975. Average weekly hours per worker declined 19.5 percent in the first eleven months of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales declined 28.9 percent in the first nine months of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Carbon forged steel threated and socket weld pipe unions are included in the import category "Forged Steel Threaded and Socket Weld Fittings and Unions." U.S. imports of Forged Steel Threaded and Socket Weld Fittings and Unions increased in each year between 1971 and 1975, from 4.9 million pounds in 1971 to 19.3 million pounds in 1975. In the first nine months of 1976 imports declined to 11.0 million pounds compared to 32.3 percent in 1975. In the first nine months of 1975.

The ratio of imports to domestic production increased in each year between 1971 and 1975, from 14.7 percent in 1971 to 32.2 percent in 1975. In the first nine months of 1976, the ratio of imports to domestic production increased to 42.0 percent compared to 28.1 percent in the same period one year earlier.

CONTRIBUTED IMPORTANTLY

Customers of Maxi Manufacturing reported that they do not purchase imported forged steel unions. Some customers who reduced purchases indicated that, in 1976, they had large inventories left over from 1975. As a consequence, they had to reduce purchases from Maxi Manufacturing until inventories were reduced.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with forged carbon steel unions produced at the Catawissa, Pennsylvania, plant of Maxi Manufacturing Company did not contribute importantly to the total or partial separation of workers at the plant.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13308 Filed 5-9-77;8:45 am]

[TA-W-1253]

MISS QUALITY INC., R AND N DIVISION PHILADELPHIA, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1253: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 9, 1976 in response to a worker petition received on November 9, 1976 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing girls' blouses, slacks, coveralls, dresses, and jumpers at the Philadelphia, Pennsylvania plant of the R and N Division of Miss Quality, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53095). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the R and N Division, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibilty to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers are used interchangeably on all products at R and N.

Separations of production workers at the R and N plant in Philadelphia, Pennsylvania began in the fourth quarter of 1975 and employment declined 25.6 percent in the first quarter of 1976 compared to the same period in 1975. In the second, third and fourth quarters of 1976 employment of production workers increased, respectively, 13.3 percent, 2.7 percent and 8.6 percent compared to the same quarters of 1975.

Average hourly employment decreased 1.8 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales decreased 5.7 percent in value in 1976 compared to 1975. Sales equal production.

INCREASED IMPORTS

Imports of women's, misses', and children's blouses and shirts increased in quantity 27.1 percent in 1975 compared to 1974 and increased 24.8 percent in the first nine months of 1976 compared to the like period in 1975.

Imports of children's dresses increased 4.3 percent in 1975 compared to 1974 and declined 4.7 percent in the first nine months of 1976 compared to the like period in 1975.

Imports of women's, misses', and children's slacks and shorts increased 12.8 percent in 1975 compared to 1974 and increased 13.1 percent in the first nine months of 1976 compared to the like period in 1975.

CONTRIBUTED IMPORTANTLY

A sample of the customers of the manufacturers who contract with R and N revealed that several increased their imports of girls' blouses and tops or of girls' slacks while their purchases of the same products from the contractors of R and N declined.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with girls' blouses and slacks produced at the Philadelphia, Pennsylvania, plant of the R and N Division of Miss Quality, Inc., contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Philadelphia, Pennsylvania plant of the R & N Division of Miss Quality, Inc., who became totally or partially separated on or after October 18, 1975 and before April 3, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became separated on or after April 3, 1976 are denied adjustment assistance.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13309 Filed 5-9-77;8:45 am]

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[TA-W-1608]

NEW HUMOR CO., DALLAS, TEXAS

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1608: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 27, 1977 in response to worker petition received on that date which was filed by workers and former workers producing textile plant hangers at the New Humor Company, Dallas, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on February 15, 1977 (42 FR 9242). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the New Humor Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met for plant hangers; however, criterion (1) has not been met for novelties.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers in the Plant Hanger Department of the New Humor Company decreased 55.0 percent in the fourth quarter of 1975 compared to the same quarter of 1974 and further decreased 33.3 percent in the first ten months of 1976 compared to the same period in 1975. The Plant Hanger Department ceased operations on November 1, 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales and production of plant hangers decreased 84.6 and 84.7 percent, respectively in the first ten months of 1976 compared to the same period in 1975. Sales equalled production.

INCREASED IMPORTS

Imports of textile hangers, which includes cotton and jute, increased absolutely in each year from 1972 through 1975. Imports increased from 6.4 million pieces in 1974 to 21.1 million pieces in 1975. Imports increased from 3.4 million pieces in the first six months of 1975 to 7.2 million pieces in the same 1976 period.

Imports of textile hangers increased relative to domestic production and consumption in each year from 1972 through 1975. The ratio of imports to domestic production and consumption increased from 712.4 percent and 87.7 percent, respectively, in 1974 to 917.2 percent and 90.2 percent, respectively, in 1975, and from 436.7 percent and 81.4 percent, respectively, in the first six months of 1975 to 1007.1 percent and 91.0 percent, respectively in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

In 1975 and 1976 the domestic market for plant hangers was faced with an increase in the supply of plant hangers coupled with a decline in demand. The saturation of the market can mainly be attributed to the increased imports of plant hangers.

Customers of the New Humor Company cited the impact of imports on the domestic market as a major reason for reduced purchases from the subject firm. Also, customers stated that the New Humor Company could no longer remain price competitive with the lower priced imported hangers.

There have been no involuntary separations of workers from employment in the Gift and Novelty Department of the New Humor Company, Dallas, Texas since October 1, 1975, more than one year prior to the signature date of the petition.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with textile plant hangers produced at the New Humor Company, Dallas, Texas contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers in the Plant Hanger Department of the New Humor Company, Dallas, Texas including piece workers who became totally or partially separated from employment on or after November 22, 1975 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that separations of workers in the Gift and Novelty Department of the New Humor Company, Dallas, Texas have not occurred as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13310 Filed 5-9-77;8:45 am]

[TA-W-1421]

PHOENIX STEEL CORP., PHOENIXVILLE, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1421: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing tubular and structural steel at the Phoenixville, Pennsylvania plant of the Phoenix Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 893). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Phoenix Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that all four of the criteria have been met by workers in the Tubular Steel Division and the Structural Steel Division.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers decreased 7.3 percent in 1975 compared to 1974 and 3.4 percent in 1976 compared to 1975. Production workers are used interchangeably on all products.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of tubular steel decreased 19.5 percent in quantity and 29.4 percent in valume in 1976 compared to 1975.

Sales of structural steel increased 24.6 percent in quantity and 11.6 percent in value in 1976 compared to 1975.

Production of tubular steel decerased 16.7 percent in 1976 compared to 1975. Tubular steel accounted for 35 percent of total plant production in 1976.

The Structural Steel Division ceased operations in November 1976. Structural steel accounted for 65 percent of total plant production in 1976.

INCREASED IMPORTS

Imports of tubular steel were recorded at 1,774.0 thousand tons in 1971 and declined to 1,542.5 thousand tons in 1975. Imports in the first nine months of 1976 were recorded at 1,348.6 thousand tons compared to 1,209.2 thousand tons in the same period in 1975, a 11.5 percent increase. In the first nine months of 1976, the ratio of imports to domestic shipments was 34.0 percent compared to 20.5 percent in the same period in 1975.

Imports of structural steel shapes declined in each year from 1,614.0 thousand tons in 1972 to 804.9 thousand tons in 1975. The ratio of imports to domestic shipments decreased each year from 34.3 prcent in 1972 to 19.5 percent in 1975. Imports in the first nine months of 1976 were 909.8 thousand tons, an increase of 44.6 percent over the 629.1 thousand tons in the same 1975 period.

CONTRIBUTED IMPORTANTLY

Customers of tubular steel have reduced purchases from the subject plant and indicate that imports of tubular steel are a major concern in the industry. One major customer of tubular steel increased its import purchases of tubular steel 345 percent in 1976 compared to 1975.

Customers of structural steel indicated they have switched to foreign sources of supply.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with the tubular steel and structural steel produced at the Phoenixville, Pennsylvania plant of the Phoenix Steel Corporation have contributed importantly to the total or partial separation of workers as required in section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All workers at the Phoenixville, Pennsylvania plant of the Phoenix Steel Corporation who became totally or partially separated from employment on or after December 3, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13311 Filed 5-9-77;8:45 am]

[TA-W-1422]

PHOENIX STEEL CORP., CLAYMONT, DELAWARE

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1422: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers producing steel plates at the Claymont, Delaware plant of the Phoenix Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 893). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Phoenix Steel Corporation, its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment decreased 20.0 percent in 1975 compared to 1974 and 9.7 percent in 1976 compared to 1975. Employment decreased 45.1 percent in the fourth quarter of 1975 compared to the same quarter in 1974.

SALES OR PRODUCTION, OF BOTH, HAVE DECREASED ABSOLUTELY

Sales decreased in quantity 39.7 percent in 1975 compared to 1974 and 5.3 percent in 1976 compared to 1975. Sales decreased in value 37.6 percent in 1975 compared to 1974 and 23.0 percent in 1976 compared to 1975. Sales decreased 67.1 percent in quantity in the fourth quarter of 1975 compared to the same 1974 quarter.

Production decreased in quantity 42.6 percent in 1975 compared to 1974 and 3.3 percent in 1976 compared to 1975. Production decreased 71.2 percent in the fourth quarter of 1975 compared to the same quarter in 1974.

INCREASED IMPORTS

Imports of carbon steel plate increased 1,552,000 tons in 1971 to 1,651,000 tons in 1972 before declining to 1,322,000 tons in 1973. Imports increased in 1974 to 1,699,000 tons and declined to 1,353,000 tons in 1975. Imports for the first nine months of 1976 were 1,083,200 tons, a 1.7 percent increase from the same period in 1975.

The ratio of imports to domestic shipments increased from 16.4 percent in 1973 to 18.8 percent in 1974 and to 19.4 percent in 1975. The ratio jumped from 18.7 percent in the first nine months of 1975 to 24.8 percent for the same period in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers revealed that some customers either increased their import purchases of carbon steel plate or maintained their import purchases while reducing their purchases from the subject plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with carbon steel plates produced at the Claymont, Delaware plant of the Phoenix Steel Corporation have contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Claymont, Delaware plant of the Phoenix Steel Corporation who became totally or partially separated from employment on or after December 3, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13312 Filed 5-9-77;8:45 am]

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[TA-W-1311]

RAYBESTOS MANHATTAN FRICTION MATERIALS CO., MANHEIM, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 and the Department of Labor herein presents the results of TA-W-1311: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by three workers on behalf of workers and former workers producing friction materials products at the Manheim, Pennsylvania plant of Raybestos Manhattan Friction Materials Company, a division of Raybestos-Manhattan, Inc., Trumbell, Connecticut.

The notice of investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Raybestos Manhattan Friction Materials Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criterion four has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Manheim decreased 23.5 percent in 1975 compared with 1974 and decreased 2.6 percent in 1976 compared with 1975. Average weekly hours worked decreased 4.3 percent in 1975 compared with 1974 and increased 2.9 percent in 1976 compared with 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of clutch facings at the Manheim plant in terms of quantity decreased 18.2 percent in 1975 compared with 1974 and increased 17.5 percent in 1976 compared with 1975. Production of woven lining decreased 41.4 percent in 1975 compared with 1974 and increased 10.8 percent in 1976 compared with 1975. Production of brake lining decreased 3.4 percent in 1975 compared with 1974 and decreased 40.2 percent in 1976 compared with 1975. Production of asbestos yarn decreased by 21.9 percent from 1974 to 1975 and decreased by .8 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of asbestos friction materials products, including clutch facings, brake linings, woven linings and asbestos friction materials in terms of value decreased 14.3 percent in 1972 compared with 1971, increased 48.6 percent in 1973 compared with 1972, increased 36.5 percent in 1974 compared with 1973 and decreased 8.2 percent in 1975 compared with 1974. The ratio of imports to domestic production and consumption decreased from 5.3 percent and 5.3 per cent, respectively, in 1974 to 4.8 percent and 4.7 percent, respectively, in 1975. Imports of asbestos friction materials products increased 26.1 percent in 1976 compared with 1975.

Imports of asbestos yarn are included in TSUSA basket category 518.2100 of which the asbestos yarn is estimated to constitute 80 percent. Imports of this category increased 10.7 percent in 1972 compared with 1971, increased 45.2 percent in 1973 compared with 1972, increased 40.0 percent in 1974 compared with 1973, increased 49.2 percent in 1975 compared with 1974 and decreased 10.6 percent in 1976 compared with 1975.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated that they purchase no imported friction materials products such as clutch facings and woven and brake linings. Purchases of these products from the Manheim plant have generally remained constant or have increased in 1976 compared with 1975.

In order to comply with government regulations concerning the production of asbestos yarn, Raybestos is phasing out production of asbestos yarn at Manheim. The company will source production at domestic facilities in the Carolinas. The company has always purchased small amounts of heavy duty asbestos yarn from foreign sources. It will continue to do so after the transfer.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with asbestos friction materials products and asbestos wool yarn produced by the Manheim plant did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C., this 29th Day of April 1977.

JAMES F. TAYLOR,
Director Office of Management, Administration and Planning.

[FR Doc.77-13313 Filed 5-9-77;8:45 am]

[TA-W-1395]

ROBLIN STEEL CO., DUNKIRK, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1395: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel, structural shapes, sizes, plates, silicon steel, pipes and tubing, piling, round wire, stainless round wire and welded pipe at the Dunkirk, New York plant of the Roblin Steel Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 896). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America and the Roblin Steel Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

The Dunkirk, New York plant of the Roblin Steel Company produces alloy and carbon steel billets.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

Annual average plant employment of production workers increased 3.4 percent in 1975 compared to 1974 and increased 0.7 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Dunkirk, New York plant of the Roblin Steel Company have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13314 Filed 5-9-77;8:45 am]

[TA-W-1545]

SHOE HEELS AND COUNTER DEPARTMENT, FINISHED LEATHER AND VINYL PRODUCTS DEPARTMENT, WESTERN LEATHER PRODUCTS CORP., MILWAUKEE, WISCONSIN

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1545: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petion received on January 4, 1977 which was filed on behalf of workers and former workers producing shoe counters and heels at the Milwaukee, Wisconsin plant of Western Leather Products Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5446). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Western Leather Products Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether any of the other criteria have been met, criterion (3) has not been met for shoe counters and heels and criteria (2) and (4) have not been met for finished leather and vinyl products.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The investigation revealed that during the year prior to the signature date of the petition, and up to the present, involuntary separations of production workers took place only in the counters, heels and finished leather and vinyl products departments.

Employment of production workers at the finished leather and vinyl products department declined 10.0 percent in 1975 compared to 1974 and declined 11.1 percent in 1976 compared to 1975. Production workers within the department are used interchangeably among the large variety of products manufactured in this department.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of finished leather and vinyl products equal company production. Sales by this department increased 43.9 percent in 1975 compared to 1974 and increased 12.0 percent in 1976 compared to 1975, in adjusted 1974 dollars. Travel kits accounted for approximately 80.0 percent of this department's sales.

INCREASED IMPORTS

The evidence developed in the Department's investigation reveals that there are no separately identifiable imports of shoe counters and heels. The products are not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of these items are negligible.

Imports of shoes which incorporate counters and heels of the same origin are not like or directly competitive with shoe counters produced by Western Leather Products Corporation.

Imports of luggage increased from $55.781 million in 1972 to $74.108 million in 1973, then declined to $67.070 millions in 1974 and to $59.357 millions in 1975 and increased to $112.527 millions in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of Western Leather's customers indicated that all but one either increased purchases of travel kits from the subject firm or did not purchase imports. The only customer that decreased purchases from Western Leather while importing travel kits, imported this product in a negligible amount.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that articles like or directly competitive with shoe counters and heels produced at the counter and heels department of Western Leather Products Corporation, Milwaukee, Wisconsin, are not being imported in increasing quantities either actual or relative to domestic production as required in section 222 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with travel kits produced at the finished leather and vinyl products department of that company have not contributed importantly to worker separations as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13315 Filed 5-9-77;8:45 am]

[TA-W-1177]

SOUTHWEST STEEL ROLLING MILLS, INC., LOS ANGELES, CALIFORNIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1177: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 14, 1976 in response to a worker petition received on October 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing fence posts, steel bar products, reinforcing bar and structural steel shapes at the Los Angeles, California plant of the Southwest Steel Rolling Mills, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48817). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Southwest Steel Rolling Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed criteria three (3) and the four (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of employees at Southwest Steel Rolling Mills declined 38 percent in 1975 compared to 1974 and declined 51 percent in the first three quarters of 1976 compared to the like period of 1975. Since September 1976, only the plant guard force has been employed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of steel bars, reinforcing bars and fence posts constituted over 95 percent in 1975 and over 93 percent in 1976 of total sales of finished products. Total sales of all products produced at Southwest Steel Rolling Mills, Inc., declined 22 percent in the first seven months of 1975 compared to the same period in 1974. In November 1975 all operations at the plant ceased. In 1976, the plant was reopened. During the first seven months of 1976, sales declined 47 percent compared to the same period in 1975. In September 1976, operations again ceased. The plant has remained idle since that time.

INCREASED IMPORTS

There are no separate import and production categories for fence posts. They are included in the categories, Fence Gates, Posts and Fittings. U.S. imports of fence gates, posts and fittings increased from 5.3 thousand net tons in 1971 to 6.7 thousand net tons in 1972 and declined to 4.6 thousand net tons in 1973. In 1974 imports increased to 4.7 thousand net tons before declining to 0.8 thousand net tons in 1975. In the first nine months of 1976 imports increased to 2.1 thousand net tons compared to 0.6 thousand net tons in the same period in 1975. The ratio of imports to domestic production increased from 2.4 percent in 1971 to 2.8 percent in 1972 and declined to 1.8 percent in 1973 and 1974.

In 1975 the ratio of imports to domestic production declined to 0.3 percent. In the first nine months of 1976 the ratio of imports to domestic production increased to 1.1 percent compared to 0.3 percent during the same period in 1975.

Imports of steel bars increased from 876.6 thousand net tons in 1971 to 935.9 thousand net tons in 1972 before declining to 849.4 thousand net tons in 1973, 777.1 thousand net tons in 1974 and 488.7 thousand net tons in 1975. In the first six months of 1976 imports declined to 141.7 thousand net tons compared to 358.6 thousand net tons during the same period in 1975. The ratio of imports to domestic shipments declined in every year from 13.1 percent in 1971 to 7.7 percent in 1975. In the first six months of 1976 the ratio of imports to domestic shipments declined to 4.0 percent compared to 9.8 percent during the first six months of 1975.

U.S. imports of carbon steel structural shapes increased from 1,477.5 thousand short tons in 1971 to 1,614.0 thousand short tons in 1972 before declining to 1,250.7 thousand short tons in 1973, 1,142.7 thousand short tons in 1974 and 804.9 thousand short tons in 1975. In the first nine months of 1976 imports of carbon steel structural shapes were 909.8 thousand short tons compared to 629.1 thousand short tons during the same period of 1975. The ratio of imports to domestic shipments increased from 31.3 percent in 1971 to 34.1 percent in 1972 before declining to 21.3 percent in 1973, 19.7 percent in 1974 and 19.5 percent in 1975. In the first nine months of 1976 the ratio of imports to domestic shipments increased to 34.3 percent compared to 18.7 percent during the same period one year earlier.

CONTRIBUTED IMPORTANTLY

In 1974 Southwest discontinued the fabrication and placement of reinforcing bar, continuing contracts were sub-contracted to other domestic manufacturers and no new contracts were bid.

Customers of the Southwest Steel Rolling Mills, Inc., stated that they did not shift purchases to imported steel products. Those customers who reduced purchases from Southwest stated that reduced construction activity had lowered the demand for the products made by Southwest Steel Rollings Mill, Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of products like or directly competitive with the reinforcing bars, fence posts, steel bar products and structural shapes produced at the Los Angeles, California plant of the Southwest Steel Rolling Mills, Inc., did not contribute importantly to the total or partial separations of the workers at that plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13316 Filed 5-9-77;8:45 am]

[TA-W-1523]

STANDEE MANUFACTURING CORP., PERTH AMBOY, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1523: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 27, 1976 in response to a worker petition received on that date which was filed on behalf of workers producing girls sportswear at the Perth Amboy, New Jersey plant of Standee Manufacturing Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3380). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Standee Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Complete employment data was not available from the company. Employment was 25 percent higher in the first 6 months of 1976 than the first 6 months of 1975. Third quarter comparisons were not available.

All employees were separated in December. 1976 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total value of production by Standee decreased 3 percent in value in 1975 from 1974 and 1 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of children's dresses into the U.S. decreased in 1973 from 1972 and in 1974 from 1973, increased in 1975 from 1974 and decreased from 949 thousand dozen in 1975 to 901 thousand dozen in 1976.

Relative to domestic production, imports decreased in 1973 from 1972 and increased in 1974 from 1973. Relatively, imports increased from 12.8 percent of domestic production in 1974 to 14.2 percent in 1975. Relative figures for 1976 are not available.

Imports of women's, misses' and children's blouses and shirts into the U.S. increased absolutely but decreased relative to domestic production in 1973 from 1972, and increased absolutely and relative to domestic production in 1974 from 1973 and in 1975 from 1974. Imports increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976.

Imports of women's, misses', and children's slacks and shorts into the U.S., both absolutely and relative to domestic production, decreased in 1973 from 1972 and in 1974 from 1973 and increased in 1975 from 1974. Imports increased from 10,067 thousand dozen in 1975 to 11,040 thousand dozen in 1976.

Imports of women's, misses' and children's skirts into the U.S., both absolutely and relative to domestic production, dcreased in 1973 from 1972 and in 1974 from 1973 and increased in 1975 from 1974. Imports increased from 508 thousand dozen in 1975 to 780 thousand dozen in 1976.

Imports of women's, misses' and children's suits into the U.S. both absolutely and relative to domestic production, increased in 1973, 1974 and 1975 from the previous year. Imports decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Standee have not shifted purchases from Standee to imported girls sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with girl's sportswear produced at the Perth Amboy, New Jersey plant of Standee Manufacturing Corp. did not contribute importantly to the total or partial separations of the workers of that plant. Therefore, workers or former workers of that plant are not eligible to apply for Trade Adjustment Assistance.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13317 Filed 5-6-77;8:45 am]

[TA-W-1305]

SUMNEYTOWN PANTS SHOP, ETTELSON OF PHILADELPHIA, INC., SUMNEYTOWN, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1305: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1976 in response to a worker petition received on November 29, 1976 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's big and tall size suit pants and slacks at the Sumneytown, Pennsylvania plant of Ettelson of Philadelphia, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54567). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ettelson of Philadelphia, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important than any other cause.

Without regard to whether any of the above criteria have been met, the Department's investigation indicates that criteria (3) and (4) have not been met.

According to the best estimates available imports of men's big and tall size suit pants and slacks are negligible.

Customers indicated that they would still be purchasing from Ettelson of Philadelphia, Inc. had it not shut down and further indicated that their purchases of imports of men's big and tall size suit pants and slacks are negligible.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with men's big and tall size suit pants and slacks produced at the Sumneytown Pants Shop, Sumneytown, Pennsylvania plant of Ettelson of Philadelphia, Inc., did not increase as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13318 Filed 5-6-77;8:45 am]

[TA-W-1524]

TENCO DIVISION, COCA COLA CO.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1524: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 27, 1976 in response to a worker petition received on December 27, 1976 which was filed on behalf of workers and former workers producing instant coffee at the Linden, New Jersey plant of Tenco Division of the Coca Cola Company, Atlanta, Georgia.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3369). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the officials of Tenco Division, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed

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importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria were met for the Processing Department at the Linden plant and that criterion four was not met for the Packaging Department at the Linden plant.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Total production employment at the Linden plant declined 16 percent from 1974 to 1975 and declined 11 percent from 1975 to 1976.

Workers are directly identifiable between the Processing Department and the Packaging Department. Bumping is permitted between departments.

SALES, PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of spray dried and freeze dried instant coffee by the Linden plant increased 21 percent in value from 1974 to 1975 and increased 68 percent in value from 1975 to 1976.

Sales value, when adjusted for price changes, increased 12 percent from 1974 to 1975 and increased 32 percent from 1975 to 1976.

Pounds of instant coffee produced in the Processing Department declined 22 percent from 1974 to 1975 and declined 28 percent in the last three quarters of 1976 compared with the same period of 1975.

Pounds of instant coffee packaged in the Packaging Department increased 34 percent from 1974 to 1975 and then declined 7 percent in the last three quarters of 1976 compared with the same period of 1975.

The first quarter was eliminated from 1976 production comparisons because of a strike at the Linden plant during that period.

INCREASED IMPORTS

Imports of soluble roasted coffee (processed instant coffee powder) increased absolutely and relative to domestic production in each year from 1971 through 1974. Imports declined absolutely and relatively from 1974 to 1975. Imports then increased 53 percent in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 35.0 percent in the first nine months of 1975 to 51.4 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Company imports of instant coffee powder increased 32 percent from 1975 to 1976. Importing coffee powder offers cost advantages over processing the coffee domestically. Tenco's imports of coffee powder are sent directly to packaging or bulk shipment at Linden (with the exception of some spray dried coffee which is agglomerated at Linden), thus eliminating all processing at the plant. In March 1975, Tenco ceased the freeze drying operation at the Linden plant and has since imported all freeze dried coffee to meet customers' requirements. Increased company imports resulted in production declines in the Processing Department at Linden.

Increased imports however, have not been detrimental to production in the Packaging Department at Linden. Imported coffee powder must be packaged just as coffee processed at the plant. Consequently, company imports cannot be considered as contributing to declines in employment or production in the Packaging Department.

Declines in production in the Packaging Department from 1975 to 1976 can be attributable to several factors. Increases in bulk shipments and changes in the product mix (from large to smaller containers) and difficulties in obtaining supplies from foreign sources would cause the quantity of pounds packaged to decline.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with instant coffee produced in the Procesing Department at the Linden, New Jersey plant of Tenco Division of the Coca-Cola Company contributed importantly to the total or partial separation of the workers of that department. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of instant coffee in the Processing Department at the Linden, New Jersey plant of Tenco Division of the Coca Cola Company who became totally or partially separated from employment on or after December 2, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

It is further concluded that increases of imports like or directly competitive with instant coffee packaged in the Packaging Department at the Linden, New Jersey plant of Tenco Division of the Coca Cola Company did not contribute importantly to the total or partial separations of workers of that department.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13319 Filed 5-9-77;8:45 am]

[TA-W-1473]

UNION ELECTRIC STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1473: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on December 20, 1976 which was filed by the United Steelworkers of American on behalf of workers and former workers producing finished forged hardened steel rolls for rolling machines in cold rolling mills at the Carnegie, Pennsylvania plant of the Union Electric Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1539). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America and Union Electric Steel Corporation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 22 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred since November 1, 1975 more than one year prior to the date of the petition November 1, 1976, except for a three week period ending February 7, 1977 due to a general energy shortage.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Carnegie, Pennsylvania plant of Union Electric Steel Corporation have not become totally or partially separated as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13320 Filed 5-9-77;8:45 am]

[TA-W-59T]

WESTMINSTER CORP.

Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-59T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On August 18, 1975, workers engaged in employment related to the production of infants, babies, children and misses footwear at the Westminster, Maryland plant of the Westminster Corporation were certified as eligible to apply for trade adjustment assistance. The Notice of Determination was published in the FEDERAL REGISTER on August 27, 1975 (40 FR 38200).

The investigation regarding termination of certification was initiated on July 28, 1976 to determine whether the group of workers specified above continue to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER (41 FR 33599) on August 10, 1976. No public hearing was requested and none was held.

During the course of the investigation, information was obtained from offcals of The Westminster Corporation, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification.

Without regard to whether the other criteria are satisfied, the investigation reveals that the first criterion is no longer met with respect to workers at the Westminster, Maryland plant of the Westminster Corporation.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Subsequent to the August 18, 1975 finding, employment of hourly workers at the Westminster, Maryland plant of the Westminster Corporation decreased 69 percent from 1974 to 1975. All hourly workers were laid off by the end of December 1975, subsequent to the June 1975 closing of the plant.

Employment of salaried workers at the Westminster, Maryland plant of the Westminster Corporation decreased 57 percent from 1974 to 1975, and decreased 33 percent in the first three quarters of 1976 compared to the like period in 1975. All salaried workers were laid off by the end of October 1976, subsequent to the June 1975 closing of the plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in employment related to the production of babies', infants', children's, and misses' footwear at the Westminster, Maryland plant of the Westminster Corporation are no longer attributable to the conditions specified in section 222 of the Trade Act of 1974. In accordance with section 223(d) of the Act, I hereby revise the certification of August 18, 1975 to read as follows:

That all workers of the Westminster, Maryland plant of the Westminster Corporation (TA-W-59) who became or will become totally or partially separated from employment on or after October 3, 1974 and before May 15, 1977 be certified eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated from employment on or after May 15, 1977 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13321 Filed 5-9-77;8:45 am]

[TA-W-1347]

WHEELING MACHINE PRODUCTS CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1347; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel pipe couplings at the National Road plant of Wheeling Machine Products Co., Wheeling, West Virginia.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55610). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Wheeling Machine Products Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

The average number of production workers at the National Road plant decreased 10 percent in the 4th quarter of 1975 compared to the like period in 1974. Employment declined 26 percent in the first 11 months of 1976 compared to the like period in 1975.

SALES OF PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of pipe couplings at the National Road plant decreased 16 percent in value in the 4th quarter of 1975 compared to the like period in 1974. Sales decreased 35 percent in value in the first 11 months of 1976 compared to the like period in 1975.

INCREASED IMPORTS

Imports of steel couplings increased each year from 1971 to 1975, from 3.2 million pounds in 1971 to 13.2 million pounds in 1975. Imports decreased from 9.9 million pounds in the first 9 months of 1975 to 7.1 million pounds in 1976.

The ratio of imports to domestic production of steel pipe couplings increased from 25.0 percent in 1971 to 39.8 percent in 1972, then decreased to 35.3 percent in 1973. The import to production ratio declined in 1974 to 24.3 percent, then increased to 51.8 percent in 1975. The ratio of imports to domestic production of couplings increased from 45.4 percent in the first 9 months of 1975 to 57.3 percent in the first 9 months of 1976.

CONTRIBUTED IMPORTANTLY

Customers of the National Road plant were surveyed. Many of these customers are distributors that indicated they had purchased less from Wheeling Products in 1976 than in 1975 because imports were coming into the U.S. and being offered to their customers at lower prices than they could offer. The Office of Trade

V42190 MAY 10 77 UMI

Adjustment Assistance contacted some of the customers of piping distributors. Most of these customers revealed that they had decreased their purchases of domestically manufactured couplings and increased purchases of imported couplings. The lower price of the imports was given as the cause of the switch.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with steel pipe couplings produced at the National Road plant of Wheeling Machine Products Company, Wheeling, West Virginia, contributed importantly to the total or partial separations of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of steel pipe couplings at the National Road plant of Wheeling Machine Products Company, Wheeling, West Virginia who became totally or partially separated from employment on or after November 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th Day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-13322 Filed 5-9-77;8:45 am]

SUGAR

On March 17, 1977, the International Trade Commission determined that increased imports of sugar are a substantial cause of the threat of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 15978).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on sugar. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received 21 petitions for certification of eligibility for adjustment assistance from workers engaged in the growing and processing of beet and cane sugar. Investigations are currently in process. A total of about 1600 workers who were laid off from beet sugar processing plants and sugar cane mills will be affected.

2. There is no evidence of any widespread or significant unemployment among sugar cane farm and mill workers in the mainland United States. There is also no evidence of significant unemployment among sugar beet farm workers or those engaged in the processing and refining of beet and cane sugar, with the exception of those workers covered by the petitions. Since the Hawaiian sugar industry is of a year-round nature, these workers would not be excluded from trade readjustment and relocation allowances by the requirement in the Act that all eligible workers must have been employed at least 26 of the 52 weeks immediately preceding their separations. Similarly, although beet processing tends to be of a seasonal nature, the eligibility of most of the workers who have petitioned for adjustment assistance (mainly maintenance personnel) would not be affected by this legal requirement.

3. Nearly 200 sugar cane mill workers in Hawaii and about 100 in Louisiana are likely to be laid off over the next few months. More workers could be affected if the price of sugar does not recover. A continuation of the western drought will also have an adverse effect on employment in sugar beet growing and processing. Many of these workers can be expected to apply for adjustment assistance. Some of the workers involved in growing and processing beet and cane sugar in the mainland United States would not be eligible for trade readjustment and relocation allowances due to the high degree of seasonality that is characteristic of the industry.

4. The workers that were separated from the industry are located primarily in scattered parts of Colorado and Hawaii. Local unemployment rates were considerably higher in Hawaii (8.5 to 9.6 percent) than in the impacted areas in Colorado (2.4 to 7.0 percent). Some of the displaced Hawaiian sugar cane mill workers can be absorbed into field operations, however. The reemployment prospects of the remainder of these workers, both in Hawaii and the mainland United States, are limited by the lack of other crops or food processing plants in the impacted areas.

5. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the needs of the displaced workers. Although actual levels of enrollment are in some instances higher than expected levels, funding appears to be adequate to sustain all programs. The Employment and Training Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department's report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 2nd day of May 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77-13157 Filed 5-9-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR NEUROBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Neurobiology.

DATE AND TIME: June 1, 2, 3, 1977—8:30 a.m.-17:30 hours.

PLACE: Torrey Pines Inn, LaJolla, California.

TYPE OF MEETING: Part open.

CONTACT PERSON:

Dr. N. Herbert Spector, Program Director of Neurobiology, Room 333, National Science Foundation, Washington, D.C. 20550, 202-634-4106.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in Neurobiology.

AGENDA: June 1 and 3; and June 2, 8:30-12 Closed; The panel will be reviewing and evaluating research proposals and projects as part of the selection process for awards. June 2, 13-17:30 hours Open: (1) Discussion of problems and perspectives in basic research in the neurosciences; (2) Methods for improvement of the Neurobiology Program at the National Science Foundation.

REASON FOR CLOSING: The proposal's being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: The determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 5, 1977.

[FR Doc.77-13233 Filed 5-9-77;8:45 am]

ADVISORY PANEL FOR SENSORY PHYSIOLOGY & PERCEPTION

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Sensory Physiology and Perception.

DATE AND TIME: June 1, 2, and 3, 1977—9 a.m.-5 p.m. each day.

PLACE: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Room 517.

TYPE OF MEETING: Part open.

CONTACT PERSON:

Dr. Terrence R. Dolan, Program Director for Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550, Telephone 202-634-1624.

SUMMARY MINUTES: (Open portion) May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF PANEL: To provide advise and recommendations concerning support for research in Sensory Physiology and Perception.

AGENDA: *Closed*—June 1, 2 all day; June 3, 1-5 p.m. To review and evaluate research proposals and projects as part of the selection process for awards. *Open:* June 3, 9 a.m.-12 noon—(1) Discussion of problems and perspectives in basic research in the sensory physiology and perception sciences. (2) Methods for improvement of the Sensory Physiology and Perception Program at the National Science Foundation.

REASON FOR CLOSING: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 5, 1977.

[FR Doc.77-13234 Filed 5-9-77;8:45 am]

SCIENCE APPLICATIONS TASK FORCE

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Science Applications Task Force.

DATE: 23-24 May 1977.

TIME: 23 May: 9 a.m. to 5 p.m., 24 May: 9 a.m. to 4 p.m. (tentatively).

PLACE: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

TYPE OF MEETING: Open.

CONTACT PERSONS:

Gilbert B. Devey, Executive Secretary, Science Applications Task Force, National Science Foundation. Telephone: 202-634-6608.
Dale Draper, NSF Secretariat, National Science Foundation. Telephone: 202-632-5876.

Persons interested in attending the meeting should inform the Executive Secretary before 5 p.m. on May 16, 1977.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF ADVISORY GROUP: The purpose of the NSF Task Force on Science Applications is to provide advice and assessments and make recommendations to the NSF Director on science applications programs and related organization and management issues.

AGENDA

May 23-24, 1977, Room 540, 1800 G Street, NW.

MAY 23, 1977

9 a.m.—Announcements: Dr. John R. Whinnery, Task Force Chairperson.
9:15 a.m.—Remarks About House Science and Technology Committee Study of RANN. R. B. Dillaway.
10:15 to 11:30 a.m.—Individual Reports and Elements of Final Report.
11:30 to 12—Materials Research Laboratories.
Noon to 1:30 p.m.—Lunch (Continuing Task Force Discussion).
1:30 to 3 p.m.—Individual Reports and Elements of Final Report.
3 to 4 p.m.—Discussions with Program Directors/Managers.
4 p.m.—Remarks by Mr. E. Q. Daddario, Director, Office of Technology Assessment.
5 p.m.—Adjourn.

MAY 24, 1977

9 a.m.—General Discussion and Public Participation.
Noon to 1:30 p.m.—Lunch.
1:30 p.m.—General Discussion and Public Participation.
4 p.m.—Tentative Adjournment.

NOTE.—Persons interested in submitting oral or written statements at this meeting should contact Mr. Devey or Mr. Draper before 5 p.m. on May 16, 1977.

REASON FOR LATE NOTICE: The final agenda for this meeting could not be prepared until details had been determined at the meeting of the Task Force held on May 3, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 5, 1977.

[FR Doc.77-13232 Filed 5-9-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Wednesday, June 8, 1977, from 1 p.m. to 4:30 p.m. in Room 204-A of the Everett Dirksen Building Chicago, Illinois.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Secretary, Advisory Committee for Trade Negotiations, Office of the Special Representative for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,
Executive Secretary, Advisory Committee for Trade Negotiations.

[FR Doc.77-13363 Filed 5-9-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of authority No. 165-18]

DIRECTOR, USAID/HONDURAS

Assistant Administrator for Latin America

Pursuant to the authority vested in me as Assistant Administrator for Latin America, Agency for International Development, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Honduras, authority to negotiate and execute A.I.D. Loan No. 522-T-032 (Small

V42 90 MAY 10 77 UMI

Farmer Technologies) in accordance with and subject to the terms and conditions set forth in a project authorization dated December 30, 1976, authorizing said Project ("Project Authorization").

This delegation of authority is effective through July 29, 1977.

Acting Assistant Administrator, Latin America Bureau.

APRIL 27, 1977.

[FR Doc.77-13257 Filed 5-9-77;8:45 am]

[Delegation of Authority No. 121]

PERSONAL FOREIGN EXCESS PROPERTY IN TURKEY

Delegation of Authority

Pursuant to the authority vested in me by Delegation of Authority No. 104 from the Secretary of State, dated November 3, 1961 (26 FR 10608), as amended, I hereby delegate to the United States Ambassador to Turkey the following authority:

a. Upon the determination that it will be consistent with and in furtherance of the purposes of part I and within the limitations of the Foreign Assistance Act of 1961, as amended (the Act), to permit the furnishing of U.S. Government-owned excess property and related services in accordance with section 607(a) of the Act. Such authority shall be exercised only with respect to personal foreign excess property located in Turkey. Any acquisitions of excess property located in Turkey made under section 607(a) of the Act directly from U.S. Government agencies shall be subject to the guidelines set forth in Chapter 7 of A.I.D. Handbook 16.

b. To make the determinations prescribed under section 607(b) of the Act, to wit:

(1) That, with respect to any U.S. Government-owned excess property which is to be made available in accordance with this Delegation of Authority, there is a need for such property in the quantity requested and such property is suitable for the purpose requested;

(2) The status and responsibility of the end-user justifies the requested transfers and the end-user has the ability effectively to recondition when necessary, use, and maintain such property; and

(3) The residual value, serviceability, and appearance of the property to be transferred will not reflect unfavorably on the image of the United States and will justify the accessoroal costs, and the residual value at least equals the total of these costs.

Such determinations shall be made in writing prior to the transfer of such property. The authority delegated under this paragraph b may be redelegated to subordinate officers.

The authority delegated by this Delegation of Authority shall be subject to the terms and provisions of A.I.D. Handbook 16 including, without limitation, those portions of Chapter 5 thereof entitled "Control, Utilization, and Disposition of Excess Property" and "Use of the Official AID Emblem".

This Delegation of Authority revokes Delegation of Authority No. 28, dated May 2, 1963 (28 FR 4726), as amended, only insofar as Delegation of Authority No. 28 concerns Turkey.

This Delegation of Authority shall become effective June 30, 1977.

Dated: April 27, 1977.

JOHN J. GILLIGAN,

[FR Doc.77-13259 Filed 5-9-77;8:45 am]

DEPARTMENT OF THE TREASURY

[Treasury Department Order No. 250]

DISESTABLISHMENT OF THE POSITION AND OFFICE OF ASSISTANT SECRETARY

Enforcement, Operations, and Tariff Affairs

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, the following organizational changes are ordered.

1. The position and the Office of Assistant Secretary (Enforcement, Operations, and Tariff Affairs) are hereby disestablished. The functions, responsibilities, and personnel formerly assigned to the Assistant Secretary (Enforcement, Operations and Tariff Affairs) are hereby temporarily transferred to the Under Secretary, pending review and further disposition of these functions and responsibilities.

2. Additional changes in organization, and reassignments of functions, responsibilities, and personnel necessitated by this order will be finalized as soon as possible.

3. Treasury Department Orders No. 128 (Revision 5), No. 147 (Revision 3), No. 191-3, No. 217 (Revision 1), and No. 220 are hereby amended.

This order is effective immediately.

Dated: May 3, 1977.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-13256 Filed 5-9-77;8:45 am]

[Treasury Department Order No. 251]

ESTABLISHMENT OF THE OFFICE OF THE ASSISTANT SECRETARY

Public Affairs

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, it is ordered that:

1. The position of the Assistant Secretary (Public Affairs) is hereby established. The incumbent will report to the Secretary, and will be responsible for:

a. Establishing general operating policies and guidelines, and providing leadership, direction and management strategy for administering public affairs programs and activities in all Treasury offices and bureaus;

b. Formulating and executing public information policies and programs which will increase the public's knowledge and understanding of Treasury's activities and services;

c. Providing continuing public information support to the Office of the Secretary; and

d. Serving as the principal advisor to the Secretary, the Deputy Secretary, and senior officials throughout the Treasury Department on matters affecting the public's understanding of Treasury policies and programs.

2. The Office of the Assistant Secretary (Public Affairs) is hereby established. Under the supervision of the Assistant Secretary (Public Affairs) this Office performs the following functions:

a. Developing materials to inform the public of the Department's policies, programs, activities, and services;

b. Serving the day-to-day needs of the print and electronic media, including the writers who specialize in economic reporting and analysis, and the media who base their daily operations in the Treasury headquarters;

c. Serving the specialized needs of specific Treasury officials for releasing public information;

d. Providing editorial support services such as preparation of Congressional and public statements, and research, correspondence, clipping service and files;

e. Coordinating public affairs policies throughout the Department.

3. All of the functions, positions, personnel, records and property assigned to the Office of the Special Assistant to the Secretary (Public Affairs) are transferred to the Office of the Assistant Secretary (Public Affairs).

4. Responsibility for maintaining the Secretary's current issues briefing book and for answering correspondence, and the positions, personnel, records, and property associated with these responsibilities are transferred to the Office of the Assistant Secretary (Public Affairs) from the immediate office of the Secretary.

5. The Assistant Secretary (Public Affairs) is authorized to define the organizational structure and the specific responsibilities of the positions and personnel assigned to the Office of the Assistant Secretary (Public Affairs).

This Order is effective immediately.

Treasury Department Order No. 99 is hereby rescinded.

Dated: May 3, 1977.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-13255 Filed 5-9-77;8:45 am]

Office of the Secretary

RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA; ANTIDUMPING

Withholding of Appraisement Notice

AGENCY: United States Treasury Department.

ACTION: Withholding of appraisement.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are or are likely to be sales of railway track maintenance equipment from Austria to the United States at less than fair value within the meaning of the Antidumping Act of 1921. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Interested persons are invited to comment on this action by June 9, 1977.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul R. Nichols, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received on September 23 and October 1, 1976, from counsels acting on behalf of Kershaw Manufacturing Co., Inc. Montgomery, Alabama, and Tamper, Inc., Columbia, South Carolina, respectively indicating that railway track maintenance equipment from Austria was being sold at less than fair value, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). On the basis of this information a "Notice of Reopening of Discontinued Investigation" was published in the FEDERAL REGISTER of November 1, 1976 (41 FR 47970-71), and the U.S. Customs Service renewed its inquiry to obtain information necessary to enable the Secretary of the Treasury to determine whether there were reasonable grounds to believe or suspect that there are or are likely to be sales to the United States at less than fair value.

Tentative Determination of sales at less than fair value: On the basis of the information presented and that developed by the United States Customs Service, for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the exporter's sales price of railway track maintenance equipment from Austria is less or likely to be less, than the fair value, and thereby the foreign market value, of such or similar merchandise.

Statement of reasons on which this determination is based: (a) *Scope of the Investigation.* It appears that all imports of the subject merchandise from Austria were manufactured by Plasser and Theuer, Linz, Austria. Therefore, the investigation was limited to this manufacturer.

(b) *Basis of Comparison.* For the purposes of determining whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between exporter's sales price and the third country price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales appear to be made to a related purchaser in the United States which in turn sells to unrelated purchasers. Third country price, as defined in section 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise is not sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes. In accordance with section 153.31(b), Customs Regulations (10 CFR 153.31(b), pricing information was obtained concerning sales of railway track maintenance equipment from Austria during the period of March 1 through December 31, 1976.

(c) *Exporter's Sales Price.* For the purposes of this tentative determination of sales at less than fair value, deductions have been made from the U.S. resale price for ocean and inland freight, insurance, brokerage, handling, and United States customs duties.

(d) *Third Country Price.* For the purposes of this tentative determination of sales at less than fair value, the third country price has been calculated on the basis of the C.I.F. delivered price to a customer in Alexandria, Egypt. Deductions have been made for ocean and inland freight, and insurance.

(e) *Result of Fair Value Comparison.* Using the above criteria, preliminary analysis suggests that exporter's sales price probably will be lower than the third country price of such or similar merchandise. Comparisons were made on merchandise which accounts for approximately 63 percent of the merchandise exported to the United States during the investigative period. The best information available indicates that margins exist on 100 percent of the merchandise compared, with the average margin being 62 percent. The manufacturer of the subject merchandise has submitted additional information, but not in sufficient time to allow consideration of it in connection with this determination.

Accordingly, Customs officers are being directed to withhold appraisement of railway track maintenance equipment from Austria, in accordance with § 153.48 Customs Regulations (19 CFR 153.48).

In accordance with section 153.40 Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office on or before May 20, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received in his office on or before June 9, 1977.

This notice, which is published pursuant to § 153.35(b) Customs Regulations (19 CFR 153.35(b)), shall become effective May 10, 1977. It shall cease to be effective at the expiration of 6 months from the date of publication unless previously revoked.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

MAY 3, 1977.

[FR Doc.77-13203 Filed 5-9-77;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS' VISITING COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act 5 U.S.C., App. I (Supp. V. 1975), notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Monday, June 27, 1977, from 8:30 a.m. to 4:30 p.m. in Lecture Room B, Administration Building, National Bureau of Standards, Gaithersburg, Maryland; and Tuesday, June 28, 1977, from 9 a.m. to 12 noon in Room 3881 and from 2 p.m. to 3:30 p.m. in Room 5851, Department of Commerce, Washington, D.C.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any persons wishing to attend the meeting should inform Ms. Elaine D. Bunten, Office of the Associate Director for Programs, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-3131.

Dated: May 4, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-13260 Filed 5-9-77;8:45 am]

National Oceanic and Atmospheric Administration

AQUARIUM OF NIAGARA FALLS, INC.

Issuance of Permit To Take Marine Mammals

On March 4, 1977 notice was published in the FEDERAL REGISTER (42 FR 12453), that an application had been filed with the National Marine Fisheries Service by the Aquarium of Niagara Falls, Inc., 701 Whirlpool Street, Niagara Falls, New York 14301, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 4, 1977, and as authorized by the provisions

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of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Aquarium of Niagara Falls, Inc. subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 4, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13239 Filed 5-9-77;8:45 am]

DR. G. CAUSEY WHITTOW

Issuance of a Permit To Take Endangered Marine Mammals

On February 3, 1977, notice was published in the FEDERAL REGISTER (42 FR 6618), that an application had been filed with the National Marine Fisheries Service by Dr. G. Causey Whittow, Kewala Marine Laboratory, 41 Ahui Street, University of Hawaii, Honolulu, Hawaii 96813, for a Permit to continue the studies on the Hawaiian monk seal (*Monachus schauinslandi*), an endangered species, previously authorized under his Marine Mammal Protection Act Permit, under the provisions of the Endangered Species Act of 1973, for scientific purposes.

Notice is hereby given that on May 4, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above mentioned taking to Dr. G. Causey Whittow, to take Hawaiian monk seals for two years and to conduct general observational studies subject to certain conditions therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 4, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13246 Filed 5-9-77;8:45 am]

EXHIBITS, INC., DORNEY PARK COASTER CO.

Receipt of Application for Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a Permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Exhibits, Inc., Dorney Park Coaster Company, Dorney Park Road (Allentown, Pennsylvania 18140, requests to take three (3) California sea lions (*Zalophus californianus*) for public display.

The requested animals will be captured by a professional collector on or near Santa Cruz or San Miguel Islands off Santa Barbara, California, with a hoop net on land or with a modified gill net in the water.

The animals will be acclimated at the collector's facility, and then shipped to the Allentown facility by commercial aircraft and truck.

At the facility the animals will be displayed in a circular pool 120 feet in diameter with a varying depth of 4 to 22 feet. In addition, there is an indoor holding pool and 2 haul-out areas.

The facility is operated for profit with approximately 25,000 weekly visitors. The animals will be on display from April through September at the facility in Allentown. During the off-season the animals will be maintained at the Applicant's facility, a circular pool approximately 30 feet in diameter and 2 to 6 feet deep, with a shaded haul-out area, in Bradenton, Florida.

Dorney Park is owned and operated by the Dorney Park Coaster Company with the Director, Mr. Dietch, having 30 years working experience in the care and maintenance of sea lions.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boue-card, St. Petersburg, Florida 33702;
Regional Director, National Marine Fisheries Service, Southwest Region, 200 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 9, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 2, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-13240 Filed 5-9-77;8:45 am]

MYSTIC MARINELIFE AQUARIUM

Issuance of Permit To Take Northern Fur Seals

On January 21, 1977, notice was published in the FEDERAL REGISTER (42 FR 3886), that an application had been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, Mystic, Connecticut 06355, for a Permit to take ten (10) Northern fur seals (*Callorhinus ursinus*), for the purpose of public display.

Notice is hereby given that on May 2, 1977, and as authorized by the provisions of the Fur Seal Act of 1966 (16 U.S.C. 1151–1187), The National Marine Fisheries Service issued a Permit for the above taking to Mystic Marinelife Aquarium subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930;
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 2, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13241 Filed 5-9-77;8:45 am]

NORTH CAROLINA DEPARTMENT OF NATURAL AND ECONOMIC RESOURCES

Receipt of Application for Endangered Species Scientific Purposes Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take an endangered species of fish for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

North Carolina Department of Natural and Economic Resources, Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557, requests to take, for research purposes, shortnose sturgeon (*Acipenser brevirostrum*), an endangered species of fish, during the next three years.

The Applicant proposes: (a) To capture, identify, tag, and release sturgeons, including shortnose sturgeon in the Atlantic Ocean off North Carolina and Virginia. (b) To examine the catches of commercial fishermen in the Albemarle Sound area, North Carolina, in order to determine if shortnose sturgeon still exist in the area. (c) To examine, tag and release any living shortnose sturgeon captured incidentally in Division nets set primarily for *Alosa* sp. and *Morone* sp. in the Albemarle Sound area.

The Applicant stated that sturgeon are infrequent inclusions in pound and gill net operations and that research is needed to evaluate aspects of the life history of the shortnose sturgeon in these water.

The data collected from captured specimens will be provided to other researchers who are conducting more extensive work on shortnose sturgeon.

Documents submitted in connection with this application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Written data or views, or requests for a public hearing on this application, should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 9 1977. The holding of such a hearing is at the discretion of the Director. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate.

An statements and opinions that may be contained in this notice in support of this application are summarized from information supplied by the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Date: May 2 1977.

ROBERT J. AYERS,
Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-13242 Filed 5-9-77;8:45 am]

NORTHWEST AND ALASKA FISHERIES CENTER

Marine Mammal and Endangered Species Permit

On December 16, 1976, notice was published in the FEDERAL REGISTER (41 FR 54970) that Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way N.E., Seattle, Washington 98115, had applied for a Permit for Scientific Research under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and for Scientific Purposes under the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), to take by tagging 980 Hawaiian monk seals (*Monachus schauinslandi*).

Notice is hereby given that on April 6, 1977, the National Marine Fisheries Service issued a Permit for Scientific Research as authorized by the Marine Mammal Protection Act of 1972, and for Scientific Purposes as authorized by the Endangered Species Act of 1973, to the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, subject to certain conditions set forth therein.

Of the 980 animals authorized to be taken over the next five years, not more than 90 animals may be taken prior to December 31, 1977. Prior to the continuation of this project after December 31, 1977, the Holder shall submit a report to the Director, National Marine Fisheries Service, describing the activities conducted as authorized by the Permit. The Director, may, in consultation with the Marine Mammal Commission, approve continuation of the project or terminate the project.

Issuance of the Permit is based, as required by the Endangered Species Act of 1973, on a finding that such permit (1) was applied for in good faith; (2) if granted and exercised, will not operate to the disadvantage of the endangered species involved; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 4, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13243 Filed 5-9-77;8:45 am]

TULSA ZOOLOGICAL PARK

Issuance of Permit To Take Marine Mammals

On March 4, 1977, notice was published in the FEDERAL REGISTER (42 FR 12455), that an application had been filed with the National Marine Fisheries Service by Tulsa Zoological Park, 5701 E. 36th Street North, Tulsa, Oklahoma 74115, for a permit to take one (1) California sea lion (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 4, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to Tulsa Zoological Park subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 4, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13244 Filed 5-9-77;8:45 am]

VIRGINIA INSTITUTE OF MARINE SCIENCE

Receipt of Application for Endangered Species Scientific Purposes Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take an endangered species of fish for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

Virginia Institute of Marine Science (VIMS), Gloucester Point, Virginia 23062, requests to take, for research purposes, shortnose sturgeon (*Acipenser brevirostrum*), an endangered species of fish, during the next three years.

The Applicant states that the research is needed to evaluate aspects of the life history of the shortnose sturgeon in the Virginia waters of Chesapeake Bay and its tributaries.

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Information on the number of captures, method of capture, weight, and fork and total lengths will be obtained from sturgeons that have been incidentally taken by commercial pound and gill net fishery operations. Live specimens will be released at the site of capture after the desired information is obtained. Dead specimens will be returned to VIMS for further analysis.

The Applicant stated that the data collected could provide valuable information to other researchers who are conducting more extensive work on short-nose sturgeon.

Documents submitted in connection with this application are available for review in the following offices:

Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Written data or views, or requests for a public hearing on this application, should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 9, 1977. The holding of such a hearing is at the discretion of the Director. These individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate.

Any statements and opinions that may be contained in this notice in support of this application are summarized from information supplied by the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: May 2, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-13245 Filed 5-9-77;8:45 am]

[Department Organization Order 35-1A; Amdt. 2]

DEPARTMENT ORGANIZATION ORDER SERIES

Bureau of Economic Analysis

APRIL 13, 1977.

This order effective April 13, 1977 further amends the material appearing at 40 FR 42766 of September 16, 1975 and 41 FR 8520 of February 27, 1976.

Department Organization Order 35-1A of August 4, 1975 is hereby further amended as shown below. The purpose of this amendment is to redelegate, to the Director, Bureau of Economic Analysis, the Secretary's authority under sections 4(a) (1), (2), (4), and 4(b) of the International Investment Survey Act of 1976.

Section 3. Delegation of authority. a. Paragraph .01 is revised to read as follows:

.01 Pursuant to the authority vested in the Secretary of Commerce by law, including Reorganization Plan No. 5 of 1950 and 15 U.S.C. 1516, and subject to such policies and directives as the Secretary may prescribe, the Director is hereby delegated authority to perform the following functions vested in the Secretary of Commerce under:

b. Delete the word "and" at the end of subparagraph 3.01c.

c. Delete period at end of subparagraph 3.01d. and add semicolon and the word "and".

d. A new subparagraph .01e. is added to read as follows:

e. Section 3 of Executive Order 11961 of January 19, 1977 which delegates to the Secretary of Commerce certain authority of the President under sections 4(a) (1), (2), (4), and 4(b) of the International Investment Survey Act of 1976 (Public Law 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). The functions thereunder shall be carried out in coordination with the Bureau of International Economic Policy and Research, Assistant Secretary for Policy (Department Organization Order 10-2, Section 6.), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out the functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-13237 Filed 5-9-77;8:45 am]

Maritime Administration

[Docket No. S-556]

AMERICAN EXPORT LINES, INC.

Notice of Application

Notice is hereby given that American Export Lines, Inc. has applied for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (the Act), to operate a vessel on a maximum of two voyages in the intercoastal trade during the course of the vessel's service on Line D on Trade Route No. 12 (U.S. Atlantic/Far East). The vessel would carry outsized reactor components and accessories which are scheduled for shipment from Portsmouth, New Hampshire, to Long Beach, California, in July 1977, and in December 1977 or January 1978.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on May 18, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: May 18, 1977.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-13503 Filed 5-9-77;10:55 am]

GENERAL SERVICES ADMINISTRATION

[Temp. Reg. A-11, Supp. 4]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Changes to Federal Travel Regulations

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-11, incorporates all current provisions of the regulation including those in supplements 1 and 3 thereto, and further amends certain provisions of FPMR 101-7, Federal Travel Regulations (FTR).

2. *Effective date.* a. Effective May 1, 1977, the expiration date of FPMR Temporary Regulation A-11 and supplements 1 and 3 thereto is extended.

b. The provisions of attachment A to this supplement are effective for travel performed on or after June 1, 1977; however, for entitlement to the increased relocation allowances prescribed herein, an employee's effective date of transfer; i.e., the date the employee reports for duty at a new official station, must be on or after June 1, 1977.

3. *Expiration date.* This regulation expires April 30, 1978, unless sooner superseded or canceled.

4. *Background.* a. Executive Order 11609 (July 22, 1971) and the Travel Expense Amendments Act of 1975 (Pub. L. 94-22, May 19, 1975) authorize the Administrator of General Services to prescribe regulations necessary to administer the laws governing travel and relocation allowances and entitlements for Federal employees. Pursuant to this authority, various amendments to the FTR were proposed by GSA in a notice of proposed rulemaking which was published in the FEDERAL REGISTER on May 20, 1976 (41 FR 20708). Federal agencies were invited to comment. This supplement implements certain of those proposed amendments as explained below.

(1) Proposed changes dealing with provisions concerning the use of various modes of transportation, miscellaneous travel expenses, claims for reimbursement, and relocation allowances and entitlements resulted in generally supportive comments from Federal agencies. Hence, those proposed changes, as modified to the extent feasible to accommodate the views of commenting agencies, are implemented herein.

(2) Proposed changes to regulations pertaining to per diem and actual subsistence expense reimbursement (FTR, Chapter 1, Parts 7 and 8) generated substantial agency comment. These proposed changes, therefore, are not implemented in this supplement but will be subject to further evaluation and interagency review.

b. In addition to changes related to the above notice of proposed rulemaking, the FTR are also amended to: (1) implement the provisions of Comptroller General Decision B-178342, dated August 11, 1976, which authorizes reimbursement for the cost of certain insurance purchased in connection with the operation of a vehicle in a foreign country, and (2) revise certain paragraphs for clarity.

c. The FTR consist of: (1) The basic regulations issued by GSA Bulletin FPMR A-40, dated April 30, 1973, and (2) amendments to the basic regulations issued in FPMR Temporary Regulation A-11, dated May 19, 1975, and supplements 1 and 3 thereto, dated June 27, 1975, and September 28, 1976, respectively. To consolidate all current amendments to the basic regulations in a single document for ease of reference, the applicable provisions of FPMR Temporary Regulation A-11 and supplements 1 and 3 thereto are republished without change in attachment A to this supplement.

5. *Explanation of changes.* The provisions of attachment A to this supplement amend the FTR, as revised by FPMR Temporary Regulation A-11, for the reasons given below. It should be noted that all applicable amendments to the FTR published in attachments to FPMR Temporary Regulation A-11 and supplements 1 and 3 thereto are republished in this supplement without change.

a. Paragraph 1-2.2e is added to provide guidance in the use of ocean vessels as a method of transportation for official travel.

b. Paragraph 1-2.6 is revised to reflect the new term "Government-furnished" vehicle and to add paragraph 1-2.6c to provide procedures to be followed if a Government-furnished vehicle is not available as a first resource.

c. Paragraph 1-3.2c is revised to authorize reimbursement for the cost of additional insurance when required for the use of a rented or leased vehicle in a foreign locality.

d. Paragraph 1-3.6 is revised to reflect the new term "U.S. flag carrier" and to incorporate guidelines for the use of U.S. flag air carriers for Government-financed transportation of persons and property which were issued by the Comptroller General of the United States in implementation of the International Air Transportation Fair Competitive Practices Act of 1974 (Pub. L. 93-623; January 3, 1975).

e. Paragraphs 1-4.2a and 1-4.2c(2) are revised to make editorial changes, and paragraph 1-4.2a-1 is added to provide a procedure by which agencies can request GSA to establish higher mileage rates for use of privately owned conveyances in areas outside the conterminous United States. (Under this procedure, any new rate approved by GSA for a particular overseas area will become the uniform rate payable to all Federal employees in that area.)

f. Paragraph 1-8.2c(1) is revised to clarify that the rate and method of reimbursement in instances of mixed travel involving both per diem and actual subsistence expenses, or several high rate geographical areas, is determined by the location of the temporary duty assignment at the end of the day, regardless of where lodgings are obtained, paragraph 1-8.2c(3) is revised to delete the reference to examples showing computation of mixed travel reimbursement, and figure 1-8.2c is deleted.

g. Paragraph 1-9.1b-1 is added to authorize reimbursement for the cost of traveler's checks, money orders, or certified checks purchased in connection with official travel within as well as outside the conterminous United States (as formerly provided in 1-9.1c(3), reimbursement for the cost of these items was permitted only when purchased in connection with travel outside the conterminous United States), and paragraph 1-9.1c(3) by replacing the provisions currently appearing therein, which have been transferred to new paragraph 1-9.1b-1, with new provisions authorizing reimbursement for the cost of trip insurance purchased in connection with the operation of Government-furnished or privately owned vehicles in foreign countries.

h. Paragraph 1-10.2 is revised to update provisions for the use of Standard Form 1169, U.S. Government Transportation Request (GTR), and reflect changes in regulations governing the use of cash in the procurement of Government financed passenger transportation services.

i. Paragraph 1-10.3c(3) is revised to prohibit agencies from requiring travelers to furnish bonds in order to obtain travel advances.

j. Paragraph 1-11.3c is amended for clarity and to add paragraph 1-11.3c(18) to include cash payment for passenger transportation services as a cash expenditure for which receipts are required to support a claim for reimbursement.

k. Paragraph 1-11.5c(3) is revised to require receipts for cash payment for common carrier fares, except local transit fares, to support a claim for reimbursement and to provide that travelers paying cash for transportation must include a statement on the travel voucher assigning to the Government their right to recover excess payments resulting from a carrier's use of improper rates.

l. Paragraph 1-11.6b(11) is revised to reflect the new term "foreign flag air carrier" and to update a reference.

m. Paragraph 2-1.4c is revised to clarify the definition of "agency" and to include therein the judicial branch of the Government, and paragraph 2-1.4d is revised to expand the definition of "immediate family" and to establish general criteria for determining the dependent status of certain members of an employee's household for the purpose of relocation allowances entitlements.

n. Paragraph 2-1.5f(1)(c) is revised to add a public law reference number, and paragraph 2-1.5g(5-a) is added to provide for the return travel of a former spouse and dependents from an overseas post of duty under certain conditions.

o. Paragraph 2-1.6b is revised for clarity.

p. Paragraph 2-2.3d(2) is revised to provide agencies with the authority to approve an exception, under certain circumstances, from the minimum daily driving distance requirement for travel to a new duty station by privately owned automobile.

q. Paragraph 2-4.2 is revised to authorize reimbursement for reasonable local transportation expenses at the location of the new duty station during housekeeping trips.

r. Paragraph 2-6.2g is revised to increase the dollar limitations on expenses which may be reimbursed in connection with the purchase or sale of a residence incident to relocation.

s. Paragraph 2-8.2a is revised to increase the maximum weight allowance for shipment of household goods and personal effects of an employee without immediate family, and paragraph 2-8.2a-1 is added to establish guidelines for shipment of an employee's personally owned professional books, papers, and equipment as an administrative expense of an agency.

6. *Effect on other issuances.* Effective June 1, 1977, attachment A to FPMR Temporary Regulation A-11, dated May 19, 1975, is superseded, and supplements 1 and 3 to that regulation, dated June 27, 1975, and September 28, 1976, respectively, are canceled. The applicable provisions of the above are incorporated herein.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

APRIL 29, 1977.

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CHANGES TO FEDERAL TRAVEL REGULATIONS, FPMR 101–7

1. Paragraphs 1–1.2 a and b and 1–1.3c (3) through (8) are republished without change, as follows:

1–1.2. *Applicability.*

a. The provisions of this chapter apply to official travel of civilian employees of Government agencies, including civilian employees of the Department of Defense, as authorized under 5 U.S.C. 5701–5709, but excluding employees of the judicial branch of the Government.

b. The provisions of this chapter also apply to official travel of individuals employed intermittently in the Government service as consultants or experts and paid on a daily when-actually-employed (WAE) basis and of individuals serving without pay or at $1 a year. These individuals are not considered to have a "permanent duty station" within the general meaning of that term; however, they may be allowed travel or transportation expenses under this chapter while traveling on official business for the Government away from their homes or regular places of business and while at places of Government employment or service. Maximum rates prescribed herein are applicable unless a higher rate is specifically authorized in an appropriation or other statute.

1–1.3. *General rules.*

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c. *Definitions.*

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(3) *Government-furnished automobile.* The term "Government-furnished automobile" includes an automobile which is: (a) owned by an agency, (b) assigned or dispatched to an agency on a rental basis from a GSA inter-agency motor pool, or (c) leased by the Government for a period of 30 days or longer from a commercial firm.

(4) *Government-contract rental automobile.* A "Government-contract rental automobile" is an automobile obtained from a commercial firm under the provisions of an appropriate General Services Administration (GSA) Federal Supply Schedule contract.

(5) *Special conveyance.* "Special conveyance" is any method of transportation other than common carrier, Government-furnished or privately owned, which requires specific authorization or approval for the use thereof. Such transportation generally includes conveyances obtained through commercial rental means for less than 30 days.

(6) *Employee.* As used in this chapter, "employee" means an individual employed in or under an agency, including an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed (WAE) basis and an individual serving without pay or at $1 a year.

(7) *Government.* "Government" means the Government of the United States and the government of the District of Columbia.

(8) *Agency.* "Agency" means an executive agency; a military department; an office, agency, or other establishment in the legislative branch; and the government of the District of Columbia, but does not include a Government-controlled corporation, a Member of Congress, or an office or committee of either House of Congress or of the two Houses.

2. Paragraph 1–2.2e is added and paragraphs 1–2.2a through d are republished without change, as follows:

1–2.2. *Methods of transportation.*

a. Authorized methods. Methods of transportation authorized for official travel include railroads, airlines, helicopter service, ships, buses, streetcars, subways, and taxicabs; Government-furnished and contract rental automobiles and airplanes; privately owned and rented automobiles and airplanes; and any other necessary means of conveyance.

b. *Selecting method of transportation to be used.* Travel on official business shall be by the method of transportation which will result in the greatest advantage to the Government, cost and other factors considered. In selecting a particular method of transportation to be used, consideration shall be given to energy conservation and to the total cost to the Government, including costs of per diem, overtime, lost work time, and actual transportation costs. Additional factors to be considered are the total distance of travel, the number of points visited, and the number of travelers. 5 U.S.C. 5733 requires that, "The travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the employee requiring such travel."

c. *Presumptions as to most advantageous method of transportation.*

(1) *Common carrier.* Since travel by common carrier (air, rail, or bus) will generally result in the most efficient use of energy resources and in the least costly and most expeditious performance of travel, this method shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship upon the traveler, or when the total cost by common carrier would exceed the cost by some other method of transportation. The determination that another method of transportation would be more advantageous to the Government than common carrier transportation shall not be made on the basis of personal preference or minor inconvenience to the traveler resulting from common carrier scheduling.

(2) *Government-furnished automobiles.* When it is determined that common carrier transportation is not advantageous to the Government and that an automobile is required for official travel, a Government-furnished automobile shall be used whenever it is reasonably available.

(3) *Privately owned conveyance.* Except as provided in 1–2.2d, the use of a privately owned conveyance shall be authorized only when such use is advantageous to the Government. A determination that the use of a privately owned conveyance would be advantageous to the Government shall be preceded by a determination that common carrier transportation or Government-furnished vehicle transportation is not available or would not be advantageous to the Government. To the maximum extent possible, these determinations and the authorization to use a privately owned conveyance shall be made before the performance of travel.

(4) *Special conveyance.* Commercially rented vehicles and other special conveyances shall be used only when it is determined that use of other methods of transportation discussed in 1–2.2c would not be more advantageous to the Government. In the selection of commercially rented vehicles, first consideration shall be given to Government-contract rental vehicles available under an appropriate GSA Federal Supply Schedule contract.

d. *Permissive use of a privately owned conveyance.* When an employee uses a privately owned conveyance as a matter of personal preference and such use is compatible with the performance of official business, although not determined to be advantageous to the Government under 1–2.2c(3), such use may be authorized or approved provided that reimbursement is limited in accordance with the provisions of 1–4.

e. *Travel by ocean vessel.* Except for travel between points served by ferries, travel by ocean vessel shall not be regarded as advantageous to the Government in the absence of sufficient justification that the advantages accruing from the use of ocean transportation offset the higher costs associated with this method of transportation; i.e., per diem, transportation, and lost worktime. Authority to authorize or approve travel by ocean vessel shall be retained at the highest administrative level consistent with agency travel management policy. The requirements of 1–3.6a for use of United States flag ships shall be observed. (See 1–3.3c for authorized vessel accommodations.)

3. Paragraph 1–2.6 is revised as follows:

1–2.6. *Use of Government-furnished vehicles.*

a. *Use limited to official purposes.* When a Government-furnished vehicle is used by an employee for official travel, its use shall be limited to official purposes (31 U.S.C. 638a) which include transportation between places where the employee's presence is required incident to official business; between such places and places of temporary lodging when public transportation is unavailable or its use is impractical; and between either of the above places and suitable eating places, drug stores, barber shops, places of worship, cleaning establishments, and similar places necessary for the sustenance, comfort, or health of the employee to foster the continued efficient performance of Government business.

b. *Government driver's identification card.* Under instructions prescribed by the U.S. Civil Service Commission, a Federal employee who must occasionally use a Government-furnished vehicle for official business while on temporary duty away from his official station need not possess a Standard Form 46, U.S. Government Motor Vehicle Operator's Identification Card, if he holds a valid State, District of Columbia, or territorial motor vehicle operator's license and presents travel orders specifically authorizing the temporary use of a Government-furnished vehicle.

c. *Vehicle not available.* If a Government-furnished vehicle is not available as a first resource, a commercially rented vehicle may be used provided such use is consistent with the provisions of 1–2.2c and the regulations and authorizations of the employee's agency.

4. Paragraph 1–3.2c is revised as follows:

1–3.2. *Rental authomobiles and special conveyances.*

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c. *Damage waiver or insurance costs.* Commercial vehicle rental contracts customarily include full insurance coverage for property damage or injury or death to third parties resulting from the rentee's use of the vehicle. Damage to the rented vehicle (collision damage), however, is often covered only above a deductible amount specified in the rental contract, the rentee being responsible for the cost of damage below that amount. In such instances, additional insurance (collision damage waiver or collision damage insurance) to relieve the rentee from liability for damage to the vehicle up to a deductible amount is available in the rental contract for an extra fee.

(1) Agencies may not pay or reimburse the employee for the cost of collision damage waiver or collision damage insurance when official travel in the rental vehicle is performed wholly within the conterminous United States, Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, or the United States territories and possessions. However, agencies are authorized to pay for damage to the rented vehicle up to the deductible amount contained in the rental contract if the damage occurs while the vehicle is being used for official business.

(2) Agencies may pay or reimburse the employee for the cost of additional insurance (collision damage waiver or collision damage insurance) when the vehicle is rented or leased for official travel in foreign areas (areas other than those listed in (1), above).

(3) The cost of personal accident insurance is a personal expense and is not reimbursable.

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5. Paragraph 1–3.6 is revised as follows:

1–3.6 *Use of United States flag carriers.*

a. *Travel by United States flag ships.* Section 901 of the Merchant Marine Act of 1936 (46 U.S.C. 1241(a)) provides: "Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor."

b. *Use of United States flag air carriers.*

(1) *Definition.* The term "U.S. flag air carrier" as used in this regulation means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), but excludes foreign air carriers operating under permits.

(2) *General requirements.*

(a) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (Pub. L. 93–623, January 3, 1975; 49 U.S.C. 1517) requires any executive department or other agency or instrumentality of the United States which finances transportation of persons (and their personal effects) or property by air between the United States and a place outside thereof, or between two places both of which are outside of the United States, to take such steps as may be necessary (including disallowance of payment) to ensure that only U.S. flag air carriers are used whenever service by these carriers is available.

(b) The act cited in (a), above, also requires the Comptroller General of the United States to disallow any expenditures from appropriated funds for payment of travel on foreign flag air carriers in the absence of satisfactory proof of the necessity therefor.

(c) Employees shall use U.S. flag air carriers when travel is performed by commercial air transportation between the United States and a foreign country or between locations outside the United States to the extent such service is available under the guidelines set forth in 1–3.6b (3) and (4), below. This requirement also applies to other persons such as employee dependents, consultants, contractors, grantees, or other travelers whose travel is paid from funds appropriated, owned, controlled, granted, or otherwise established for the account of the United States. The requirement to use U.S. flag air carriers to the maximum extent possible shall not be influenced by factors of cost, convenience, or personal travel preference of the traveler. Excess and near excess foreign currencies will be used for paying the expenses of such travel as provided in 1–10.4.

(3) *Guidelines for determining "available" service.* The Comptroller General of the United States has issued to heads of departments, agencies, and others concerned, specific guidelines in Decision B–138942, March 12, 1976, for determining "available" U.S. flag air carrier service. Under those guidelines, a U.S. flag air carrier which can provide the commercial air transportation needed to accomplish an agency's mission is considered "available" even though:

(a) Comparable or a different kind of service by a foreign flag air carrier costs less;

(b) Service by a foreign flag air carrier can be paid in excess foreign currency (However, see 1–3.6b(4)(e), below, regarding certain programs and activities funded solely with excess foreign currency.);

(c) Service by a foreign flag air carrier is preferred by the agency or traveler needing air transportation; or

(d) Service by a foreign flag air carrier is more convenient for the agency or traveler needing air transportation.

(4) *Guidelines for determining "unavailable" service.* The decision of the Comptroller General cited in (3), above, and Comptroller General Decision B–184136, August 17, 1976, state that passenger service by a U.S. flag air carrier is considered "unavailable" when:

(a) The traveler, while en route, would have to wait 6 hours or more to transfer to a U.S. flag air carrier to proceed to the intended destination;

(b) Any flight by a U.S. flag air carrier is interrupted by a stop anticipated to be 6 hours or more for refueling, reloading, repairs, or other cause, and no other flight by a U.S. flag air carrier is available during the 6-hour period;

(c) Service by a U.S. flag air carrier, or by a combination of U.S. flag and foreign flag air carriers (if U.S. flag air carriers are "unavailable"), would take 12 or more hours longer, from the origin airport to the destination airport, to accomplish the agency's mission than would service by a foreign flag air carrier or carriers;

(d) The elapsed travel time on a scheduled flight from the origin airport to the destination airport by foreign flag air carrier(s) is 3 hours or less, and service by U.S. flag air carrier(s) would involve twice that scheduled travel time; or

(e) U.S. flag air carriers render themselves "unavailable" by declining to accept payment in foreign currencies for transportation services required by certain programs or activities of the Government which, under legislative authority, are financed solely with excess foreign currencies which may not be converted to U.S. dollars. In these instances, and notwithstanding the provisions of 1–3.6b(3)(b), foreign flag air carriers that will accept the required foreign currency may be used to the extent necessary to accomplish the mission of the particular program or activity. The statement of justification required under 1–3.6c must indicate that the transportation service needed can be paid for only in excess foreign currencies and that otherwise "available" U.S. flag air carriers declined to accept payment in the foreign currencies.

c. *Use of foreign flag air carriers.* The use of foreign flag air carriers may be authorized or approved only when U.S. flag air carrier service is "unavailable" as determined under the guidelines in b, above. Service by a U.S. flag air carrier should be used from the origin airport to the furthest practicable interchange point on a usually traveled route to the extent such service, including appropriate connections, is "available." When the origin airport or an interchange point on a usually traveled route is not serviced by a U.S. flag air carrier, a foreign flag air carrier should be used only to the nearest practicable interchange point to connect with "available" U.S. flag air carrier service. A statement executed by the traveler or agency justifying the use of a foreign flag air carrier for any part of foreign travel must be entered on or attached to the travel voucher, transportation request, or other payment document. Each request for a change in route or schedule which involves the use of a foreign flag air carrier must be accompanied by a statement justifying such use. Expenditures for transportation on a foreign flag air carrier shall be disallowed in the absence of a justification statement. The following is provided as a guide for preparing the required statement:

I certify that it (is (was) necessary for

(Name of traveler or agency)

to use

(Name of foreign flag vessel(s) or foreign flag air carrier(s))

or to transport

(Flight identification number)

(Personal effects) (Freight)

between

and

en route from

to

on for the following reasons:

(Date)

(Date) (Signature of traveler or authorizing officer)

(Title or position)

(Organization)

6. Paragraph 1–4.1c is republished without change as follows:

1–4.1. *Basic rules.*

• • • • •

c. *Other allowable costs.* Reimbursement for parking fees; ferry fees; bridge, road, and tunnel fees; and airplane parking, landing, and tiedown fees shall be allowed in addition to the mileage allowance unless the travel orders or other administrative determinations restrict such allowance.

7. Paragraphs 1–4.2a and 1–4.2c(2) are revised, paragraph 1–4.2a–1 is added, and paragraph 1–4.2c(1) is republished without change, as follows:

1–4.2. *When use of a privately owned conveyance is advantageous to the Government.*

a. *Authorized mileage rates.* When the use of a privately owned conveyance is authorized or approved as advantageous to the Government for the performance of official travel as provided in 1–2.2c(3), reimbursement to the traveler shall be at the mileage rates prescribed in (1) through (3), below.

(1) For use of a privately owned motorcycle: 11 cents per mile.

(2) For use of a privately owned automobile: 15½ cents per mile.

(3) For use of a privately owned airplane: 24 cents per mile.

a–1. *Mileage rates outside the conterminous United States.* Generally, the mileage rates prescribed in a, above, are applicable outside as well as within the conterminous United States. However, if an agency determines that any mileage rate which is below the statutory maximum ((1), below) is inadequate compensation for use of a privately

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owned conveyance in a particular area outside the conterminous United States, the head of the agency may submit a request to GSA for the establishment of a higher mileage rate for that area. Any new mileage rate approved by GSA for a particular area shall be the uniform rate payable to all Federal employees in that area. The request to establish a higher rate shall be forwarded to the General Services Administration (FZR), Washington, D.C. 20406, and shall include the following information:

(1) A recommended mileage rate not exceeding the following statutory maximums.

(a) For use of a privately owned motorcycle: 11 cents per mile.

(b) For use of a privately owned automobile: 20 cents per mile.

(c) For use of a privately owned airplane: 24 cents per mile.

(2) An analysis of the costs per mile of operating the privately owned conveyance in the particular area involved which shall include the data listed below. Expenses which are reimbursable as separate allowances under 1-4.1c, such as parking or toll fees, shall not be included as cost factors in this analysis.

(a) Size/type of conveyance to which the cost data applies.

(b) Fixed operating costs: vehicle depreciation, insurance, taxes, and registration fees.

(c) Variable operating costs: gasoline, motor oil, maintenance, repairs, and tires.

(d) Other related cost factors affecting vehicle operating costs which are peculiar to the area involved.

* * * * *

c. *To and from common carrier terminals and office.*

(1) *Round trip when in lieu of taxicab to carrier terminals.* In lieu of the use of a taxicab under 1-2.3c, payment on a mileage basis at the rate of 15½ cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for the round-trip mileage of a privately owned automobile used by an employee going from either his home or place of business to a terminal or from a terminal to either his home or place of business. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under 1-2.3c for a one-way trip between the applicable points.

(2) *Round trip when in lieu of taxicab between residence and office on day of travel.* In lieu of the use of a taxicab under 1-2.3d, payment on a mileage basis at the rate of 15½ cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for round-trip mileage of a privately owned automobile used by an employee going from his residence to his place of business or returning from place of business to residence on a day travel is performed. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under 2-2.3d for a one-way trip between the points involved.

* * * * *

8. Paragraphs 1-4 b through d, 1-7.1a, 1-7.2a, 1-7.3c, and 1-8.1 are republished without change, as follows:

1-4.4.

When use of a privately owned conveyance is in lieu of a Government-furnished automobile.

* * * * *

b. *Reimbursement based on Government costs.* Based upon average rental rates which agencies pay for GSA motor pool automobiles and the administrative cost to the user agency, it has been determined that the average mileage cost for use of a Government-furnished automobile for travel in the conterminous United States is 11 cents. Therefore, the mileage rate for authorized use of a privately owned conveyance when use of a Government-furnished automobile would be most advantageous to the Government shall be 11 cents. Exceptions to the above limitation may be authorized if any agency determines that, because of unusual circumstances, the cost of providing a Government-furnished automobile would be higher than 11 cents. In such instances the agency may allow reimbursement at such higher rate within the statutory maximum that will most nearly equal the cost of providing a Government-furnished automobile in those circumstances. In addition to mileage for the distance allowed under 1-4.1b, the employee may be reimubrsed for expenses authorized under 1-4.1c which would have been incurrend if a Government-furnished vehicle had been used.

c. *Partial reimbursement when Government automobile is available.* When an employee who is committed to using a Government-furnished automobile, or who because of the availability of Government-furnished automobiles, would not ordinarily be authorized to use a privately owned conveyance in lieu of a Government-furnished automobile nevertheless requests use of a privately owned conveyance, reimbursement may be authorized or approved. The rate of reimbursement shall be 6 cents per mile, which is the approximate cost of operating a Government-furnished automobile, fixed costs excluded.

d. *Reimbursement claims.* When claiming mileage at the 11-cent rate, the employee shall state on his voucher that he had not made a commitment to use a Government-furnished automobile and that reimbursement for use of a privately owned automobile was not limited under 1-4.4c.

1-7.1. *Coverage.*

a. *Travel for which per diem shall be paid.* Per diem allowances under 1-7 shall be paid for official travel except when it is determined that reimbursement should be on the basis of actual subsistence expenses as provided in 1-8.

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1-7.2. *Maximum locality rates.*

A per diem allowance in lieu of actual subsistence expenses for travel on official business shall be authorized or approved within the following maximum rates:

a. *Conterminous United States.* Reimbursement for official travel within the limits of the conterminous United States shall be a daily rate not in excess of $35 except when actual subsistence expense travel is authorized or approved due to the unusual circumstances of the travel assignment or for travel to a designated high rate geographical area as provided in 1-8.1.

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1-7.3. *Agency responsibility for authorizing individual rates.*

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c. *When lodgings are required.*

(1) For travel in the conterminous United States when lodging away from the official duty station is required, the per diem rate shall be established on the basis of the average amount the traveler pays for lodging, plus an allowance of $16 for meals and miscellaneous subsistence expenses. Calculation shall be as follows:

(a) To determine the average cost of lodging, divide the total amount paid for lodgings during the period covered by the voucher by the number of nights for which lodgings were or would have been required while away from the official station. Exclude from this computation the night of the employee's return to his residence or official station.

(b) To the average cost of lodging add the allowance for meals and miscellaneous expenses. The resulting amount rounded to the next whole dollar, subject to the maximum prescribed in 1-7.2a, is the rate to be applied to the traveler's reimbursement voucher.

(2) No minimum allowance is authorized for lodging since those allowances are based on actual lodging costs. Receipts for lodging costs may be required at the discretion of each agency; however, employees are required to certify on their vouchers that per diem claimed is based on the average cost for lodging while on official travel within the conterminous United States during the period covered by the voucher,

(3) An agency may determine that the lodging-plus method as prescribed herein is not appropriate in circumstances such as when quarters or meals, or both, are provided at no cost or at a nominal cost by the Government or when for some other reason the subsistence costs to be incurred by the employee can be determined in advance. In such instances a specific per diem rate may be established and reductions made in accordance with this part, provided the exception from the lodging-plus method is authorized in writing by an appropriate official of the agency involved.

* * * * *

1-8.1. *Authorization or approval.*

a. *General.* Authority for reimbursement of actual and necessary subsistence expenses incurred during official travel is normally contingent upon the entitlement to per diem (see 1-7) and the determination that the authorized maximum per diem allowance would be inadequate to cover the actual and necessary expenses of the traveler. A traveler may be reimbursed for the actual and necessary expenses of the official travel when the maximum per diem allowance otherwise allowable is determined to be inadequate due to the unusual circumstances of the travel assignment, or for travel to high rate geographical areas. Heads of those agencies defined in 5 U.S.C. 5701, or their designees (see 1-8.3), shall authorize or approve reimbursement for the actual and necessary subsistence expenses of a traveler incurred during official travel in accordance with the provisions of this part.

b. *Travel to high rate geographical areas.* Actual subsistence expense reimbursement shall normally be authorized or approved whenever temporary duty travel is performed to or in a location designated as a high rate geographical area (see 1-8.6), except when the high rate geographical area is only an enroute or intermediate stopover point at which no official duty is performed. Agencies may, however, authorize other appropriate and necessary reimbursement as follows:

(1) A per diem allowance under 1-7.3 if the factors cited in 1-7.3a would reduce the travel expenses of an employee provided the agency official designated under 1-8.3a(1) determines the existence of such factors in a particular travel assignment and authorizes an appropriate per diem rate; or

(2) Actual subsistence expense reimbursement under paragraph c, below, and 1-8.2a(2) if the travel to a high rate geographical area also involves unusual circumstances of the travel assignment.

c. *Unusual circumstances of the travel assignment.* Actual subsistence expense reimbursement may be authorized or approved for specific travel assignments within and

outside the conterminous United States when it is determined that maximum per diem allowance (see 1-7.2) would be inadequate due to the unusual circumstances of the travel assignment.

(1) The actual subsistence expense basis of reimbursement shall not be authorized or approved in instances in which the actual and necessary subsistence expenses exceed the maximum per diem allowable only by a small amount. The actual subsistence expense basis may appropriately be authorized or approved for travel assignments which otherwise meet conditions prescribed herein and by the head of the agency if, due to unusual circumstances:

(a) The actual and necessary subsistence expenses exceed the maximum per diem allowance (see 1-7.2) by 10 percent or more; or

(b) The traveler has no alternative but to incur hotel costs which absorb all or nearly all of the maximum per diem allowance (see 1-7.2), since hotel accommodations constitute the major portion of necessary subsistence expenses.

(2) Notwithstanding the criteria outlined above, actual subsistence expense reimbursement shall not be authorized or approved solely on the basis of inflated lodging and/or meal costs since inflated costs are common to all travelers; some unusual circumstances of the travel assignment must be involved to cause the lodging and/or meal costs to be higher than those which normally would be incurred at a particular location (42 Comp. Gen 440).

(3) Travel which involves unusual circumstances may include, but is not limited to, the following situations:

(a) The traveler attends a meeting, conference, or training session away from his official duty station where lodging and/or meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs incurred because of such prearranged accommodations, absorb all or practically all of the maximum per diem allowance;

(b) The traveler, by reason of the assignment, necessarily incurs unusually high expenses in the conduct of official business such as for superior or extraordinary accommodations including a suite or other quarters for which the charge is well above that which he would normally have to pay for accommodations; or

(c) The traveler necessarily incurs unusually high expenses incident to his assignment to accompany another traveler in a situation as described above.

d. *Maximum to be stated in travel authorization.* The amount per calendar day authorized by the agency or as prescribed herein for high rate geographical areas shall be stated in the travel authorization for a specific travel assignment.

e. *Conditions warranting approval.* If travel is performed without prior authorization or is authorized on a per diem basis and otherwise conforms to the provisions of this part, the actual and necessary subsistence expenses incurred may be approved within the authorized maximum rates as stated herein.

9. Paragraph 1-8.2c (1) and (3) are revised, paragraphs 1-8.2 a and b and the remainder of c are republished without change, and figure 1-8.2c is deleted, as follows:

1-8.2 *Authorized reimbursement.*

a. *Maximum daily reimbursement.* When the actual subsistence expenses incurred during any one day are less than the daily rate authorized, the traveler shall be reimbursed only for the lesser amount. The daily rate shall not be prorated for fractions of a day; however, expenses incurred and claimed for a fraction of a day shall be reviewed and allowed only to the extent determined to be reasonable by the agency concerned. The maximum amount of reimbursement for actual subsistence expense travel which may be authorized or approved for each calendar day or fraction thereof is limited as follows:

(1) For travel within the conterminous United States to designated high rate geographical areas, under the general provisions of 1-8.1b, the maximum authorized rates have been set administratively as provided in 1-8.6. These are uniform maximum actual subsistence expense rates and are not subject to change by the agencies concerned, except as provided in 1-8.1b (1) and (2).

(2) For travel within the conterminous United States involving unusual circumstances, the statutory maximum daily rate is $50. Agencies shall determine appropriate and necessary daily maximum rates not to exceed this amount.

(3) For travel outside the conterminous United States involving unusual circumstances, the statutory maximum daily rate is $21 per day plus the maximum per diem allowance officially established for the overseas locality in which the travel is performed. (See 1-7.2.) Agencies shall determine appropriate and necessary daily maximum rates not to exceed this limitation.

b. *Allowable expenses.* Actual subsistence expense reimbursement shall be allowed for the same type of expenses normally covered by the per diem allowance under the provisions of 1-7.1b.

c. *Special rules for mixed travel (per diem and actual subsistence expense).* Travel may be authorized or approved on both a per diem basis and an actual subsistence expense basis during a single trip when travel is performed in several locations including high rate geographical areas; however, only one method of reimbursement (per diem or actual subsistence expense) shall be authorized within the same day.

(1) *Rate and method of reimbursement determined by location of temporary duty assignment.* In instances of mixed travel involving both per diem and actual subsistence expense, or several high rate geographical areas, the method of reimbursement and authorized maximum rate for a calendar day (beginning at 12:01 a.m.) shall be the method and rate applicable for the temporary duty point where the traveler is located at the end of the day. The location of lodgings does not affect this determination. For example, when a traveler performs travel in a per diem area for part of a day and completes that day's travel in a high rate geographical area where he performs official duty (either that day or the following workday) and obtains lodging, the traveler shall be reimbursed under the actual subsistence expense method for the entire day not to exceed the maximum rate prescribed for the high rate geographical area.

(2) *Reimbursement for day of return.* The method of reimbursement for the day of return to home or official station (where lodgings are not involved) shall be the same method of reimbursement authorized for the first day of travel. For example, if a traveler is authorized actual subsistence expense reimbursement for the first day of travel, reimbursement for the day of return to home or official station shall also be on an actual subsistence expense basis; if per diem is authorized for the first day of travel, per diem shall also be authorized for the day of return to home or official station.

(3) *Reimbursement computation.* A traveler's claim for reimbursement may include several different rates depending upon the location(s) in which travel is performed.

10. Paragraphs 1-8.3 and 1-8.6 are republished without change, as follows:

1-8.3. *Agency responsibilities, review, and administrative controls.*

a. *Delegation of authority.* Heads of agencies may delegate, with provisions for limited redelegation, authority to authorize or approve travel under 1-8.1 as follows:

(1) The delegation or redelegation of authority to authorize or approve travel on an actual subsistence expense basis due to unusual circumstances of the travel assignment or to authorize a per diem allowance under the provisions of 1-8.1b(1) shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances involved in the travel assignment.

(2) Travel to designated high rate geographical areas is normally on an actual subsistence expense basis. Accordingly, the delegation or redelegation of authority to authorize or approve this type of travel should be at a lower administrative level than that stated in (1), above.

b. *Review and administrative controls.* Heads of agencies shall establish necessary administrative arrangements for an appropriate review of the justification for travel on the actual subsistence expense basis and of the expenses claimed by a traveler to determine whether they are allowable subsistence expenses and were necessarily incurred in connection with the specific travel assignment. Agencies shall ensure that travel on an actual subsistence expense basis is properly administered and shall take necessary action to prevent abuses.

1-8.6. *Designated high rate geographical areas.*

Pursuant to the provisions of 1-8.1b and 1-8.2a(1), for temporary duty travel to or within the cities designated as high rate geographical areas below, a traveler automatically shall be placed in an actual subsistence expense status and shall be reimbursed for the actual and necessary subsistence expenses incurred not to exceed the maximum rate prescribed for the particular geographical area involved.

Designated high rate geographical areas:	*Prescribed maximum daily rates*
Boston, Mass. (all locations within the corporate limits of Boston and Cambridge, Mass.)	$49
Chicago, Ill. (all locations within the corporate limits thereof)	43
Los Angeles, Calif. (all locations within the outer boundaries of the corporate limits of the city of Los Angeles, including those areas surrounded by the city of Los Angeles and the Pacific coastline)	40
Newark, N.J. (all locations within the corporate limits thereof)	42
New York, N.Y. (all locations within the boroughs of the Bronx, Brooklyn, Manhatten, Queens, and Staten Island)	50
Philadelphia, Pa. (all locations within the city of Philadelphia)	46
San Francisco, Calif. (all locations within the corproate limits of San Francisco and Oakland, Calif.	41
Washington, D.C. (all locations within the corporate limits of Washington, D.C.; the cities of Alexandria, Falls Church, and Fairfax and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland)	80

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11. Paragraph 1–9.1b–1 is added and paragraph 1–9.1c is amended, as follows:

1–9.1 *Expenses allowable.*

. . . . . .

b–1. *Traveler's checks, money orders, or certified checks.* Reimbursement for cost of traveler's checks, money orders, or certified checks purchased in connection with official travel may be allowed. The amount of the checks or money orders may not exceed the amount of funds necessary to cover the estimated reimbursable expenses.

c. *Fees relating to travel outside the conterminous United States.* Reimbursement for the following items of expense may be authorized or approved:

. . . . . .

(3) *Trip insurance.* Cost of trip insurance purchased by employees for use of a Government-furnished or privately owned vehicle during official business for specific or individual trips into a foreign country. Trip insurance covers potential liability for property damage or personal injury or death to third parties. Reimbursement is limited to instances in which the purchase of such insurance is required by foreign statute or is a practical necessity due to the legal procedures of a foreign country which, in the event of an accident, could result in detainment of the driver and impoundment of the vehicle. The amount of reimbursement is limited to the cost of the minimum amount of insurance required for the use of a foreign country's roads or the minimum amount required to be purchased by industrial custom.

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12. Paragraph 1–10.2 is revised as follows:

1–10.2. *Procurement of common carrier transportation.*

a. *U.S. Government transportation requests.* All passenger transportation services by common carrier must be procured through the use of Standard Form 1169, U.S. Government Transportation Request (GTR), unless otherwise specifically provided herein and in 41 CFR 101–41.203.

(1) *Regulations governing use.* The GTR and procedures for its use are prescribed by the Administrator of General Services in 41 CFR 101–41.

(2) *Use of the GTR.* The GTR shall be issued and used only for officially authorized passenger transportation by common carrier or for authorized passenger transportation services or accommodations furnished by common carrier; i.e., air, bus, rail, or vessel. The GTR shall not be issued and used in the following instances:

(a) For personal transportation services or privileges which increase or exceed the cost of those authorized. When an indirect route or accommodations superior to those authorized are requested or used by the traveler for personal reasons, the additional cost, including the applicable share of the Federal transportation tax, shall be at personal expense and paid to the carrier;

(b) For individually procured taxicab, airport limousine, intracity transit, rental automobiles, or other for-hire automobile services;

(c) For payment of toll road or toll bridge charges; or

(d) For passenger transportation services costing $10 or less, excluding Federal transportation tax, or excess baggage services costing $15 or less for each leg of a trip, unless special circumstances justify use of a GTR.

(3) *Lost or stolen GTR.* When a GTR in the possession of a traveler or other accountable person is lost or stolen, an immediate report shall be made to the administrative office in the manner prescribed by the agency concerned. If the lost or stolen GTR shows the carrier, service desired, and point of origin, the named carrier and other local initial carriers shall be promptly notified. A GTR which is recovered subsequent to having been reported lost shall not be used but shall be sent to the administrative office. A traveler may be held liable for any expenditure by the Government caused through negligence on his part in safeguarding GTR's or tickets received in exchange for a GTR.

b. *Cash payments for transportation.*

(1) Travelers shall use cash to procure all passenger transportation services costing $10 or less, excluding Federal transportation tax, and to pay excess baggage charges costing $15 or less for each leg of a trip, unless special circumstances justify the use of a GTR.

(2) Agencies may, by appropriate regulations, require a traveler to use cash to procure passenger transportation services within the United States (50 States and the District of Columbia) when the cost is over $10 but does not exceed $100, excluding Federal transportation tax, for each trip as authorized on the official travel authorization. Cash payment of official transportation expenses, without regard to the $100 limitation, is authorized when employees secure group or excursion fares available through travel agents (1–3.4b(2)); travel agents may not otherwise be used under these cash payment provisions.

(3) Except as noted in (2), above, a GTR must be used to procure passenger transportation services costing in excess of $100, excluding Federal transportation tax, unless otherwise exempted in writing as provided in 41 CFR 101–41.203–2.

(4) Receipts, passenger coupons, or other appropriate evidence shall be required to support claims for reimbursement of cash payments for passenger transportation services in all cases except for use of local transit systems. (See 1–11.5c(3) for voucher requirements.)

13. Paragraph 1–10.3c(3) is revised as follows:

1–10.3. *Advance of funds.*

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c. . . .

(3) *Other means of recovery.* Outstanding advances which have not been recovered by deductions from reimbursement vouchers or voluntary refunds by the traveler shall be recovered promptly by a setoff of salary due or retirement credit or otherwise from the person to whom it was advanced, or his estate, by deduction from any amount due from the United States, or by any other legal method of recovery that may be necessary. Salary or other amounts due shall be considered before the retirement credit. In view of these protections, which are specifically included in the law, travelers shall not be required to furnish bonds in order to obtain travel advances (Pub. L. 92–310, June 6, 1972; 31 U.S.C. 1201(a)).

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14. Paragraph 1–11.3c is amended and paragraph 1–11.3c(18) is added, as follows:

1–11.3. *Travel vouchers and attachments.*

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c. *Receipts required.* Receipts are required for allowable cash expenditures in amounts in excess of $15, plus any applicable tax. When receipts are not available, the expenditures shall be explained on the voucher. Receipts are required for the following expenditures regardless of amount:

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(18) *Cash payments for passenger transportation services.* (See 1–10.2b(4).)

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15. Paragraph 1–11.5c(3) is revised as follows:

1–11.5. *Preparation of voucher.*

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c. . . .

(3) *Cash payment for common carrier fare.* A traveler using cash to purchase any authorized passenger transportation service for official travel as provided in 1–10.2b shall account for those expenses on an authorized travel voucher form, furnishing pertinent receipts, passenger coupons, or other appropriate evidence to support the claim for reimbursement. Receipts are not required for local transit system fares. A traveler who has procured passenger transportation services with cash (whether using personal funds or a travel advance) shall assign to the Government his right to recover any excess payment involving a carrier's use of improper rates by including the following statement on the travel voucher: "I hereby assign to the United States any rights I may have against other parties in connection with any reimbursable carrier transportation charges described herein."

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16. Paragraph 1–11.6b(11) is revised as follows:

1–11.6. *Administrative approvals.*

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b. . . .

(11) *Use of foreign flag air carriers (1–3.6c).*

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17. Paragraphs 2–1.4 c and d are revised as follows:

2–1.4. *Definitions.*

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c. *Agency.* For purposes of this chapter 2, "agency" means:

(1) An "Executive agency" as defined in 5 U.S.C. 105 (an executive department, an independent establishement, the General Accounting Office, or a wholly owned Government corporation as defined in section 101 of the Government Corporation Control Act, as amended, but excluding a Government controlled corporation);

(2) A military department;

(3) A court of the United States;

(4) The Administrative Office of the United States Courts;

(5) The Federal Judicial Center;

(6) The Library of Congress;

(7) The United States Botanic Garden;

(8) The Government Printing Office; and

(9) The District of Columbia.

d. *Immediate family.*

(1) Any of the following named members of the employee's household at the time he reports for duty at his new permanent duty station or performs authorized or approved overseas tour renewal agreement travel or separation travel:

(a) Spouse;

(b) Children of the employee or employee's spouse who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support (The term "children" shall include natural offspring; stepchildren; adopted children; and grandchildren, legal minor wards, or other dependent children who are under legal guardianship of the employee or employee's spouse.);

(c) Dependent parents (including step- and legally adoptive parents) of the employee or employee's spouse (See (2), below, for dependent status criteria.); and

(d) Dependent brothers and sisters (including step- and legally adoptive brothers and sisters) of the employee or employee's spouse who are unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. (See (2), below, for dependent status criteria.)

(2) Generally, the individuals named in 2–1.4d(1) (c) and (d) shall be considered dependents of the employee if they receive at least 51 percent of their support from the employee or employee's spouse; however, this percentage of support criteria shall not be the decisive factor in all cases: These individuals may also be considered dependents for the purposes of this chapter if they are members of the employee's household and, in addition to their own income, receive support (less than 51 percent) from the employee or employee's spouse without which they would be unable to maintain a reasonable standard of living.

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18. Paragraph 2–1.5f(1)(c) is revised and 2–1.5g(5–a) is added, as follows:

2–1.5. *Eligibility and conditions.*

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f. . . .

(1) . . .

(c) *Special statutory provisions.* Appointments under any law in effect on August 26, 1960 (effective date of Pub. L. 86–587 pertaining to manpower shortage category appointees), which authorized payment of travel and transportation expenses of appointees by the Government, are not affected by the provisions herein. The limitations of the act involved and the regulations issued thereunder, but not these regulations, are applicable to such cases.

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g. . . .

(5–a) *Return of former spouse and dependents.* The provisions of (5), above, are also applicable to the spouse and dependents of an employee who have traveled to the employee's overseas post of duty as dependents (as provided in 2–1.4d) at Government expense, even if, because of divorce or annulment, such individuals will have ceased to be dependents as of the date the employee becomes eligible for return travel. Travel of such former dependents is authorized by the employee's next entitlement to return travel but not beyond the end of the employee's current agreed tour of duty.

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19. Paragraph 2–1.6b is revised as follows:

2–1.6. *Use of funds.*

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b. *Funding of transfers between agencies.* In the case of transfer from one agency to another, allowable expenses shall be paid from the funds of the agency to which the employee is transferred. However, in transfers between agencies for reasons of reduction-in-force or transfer of functions, expenses allowable under these regulations (excluding nontemporary storage when assigned to an isolated permanent duty station within the conterminous United States and also excluding transfer to, from, or between foreign countries) may be paid in whole or in part by the agency from which the employee is transferred or by the agency to which he is transferred as may be agreed upon by the heads of the agencies concerned.

20. Paragraph 2–2.3d(2) is revised and paragraphs 2–2.3 b and c are republished without change, as follows:

2–2.3. *For use of a privately owned automobile in connection with permanent change of station.*

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b. *Mileage rates prescribed.* Payment of mileage allowances when authorized or approved in connection with the transfer shall be allowed as follows:

Occupants of automobile:	Mileage rate (cents)
Employee only; or 1 member of immediate family	8
Employee and 1 member; or 2 members of immediate family	10
Employee and 2 members; or 3 members of immediate family	12
Employee and 3 or more members; or 4 or more members of immediate family	15

c. *Mileage rates in special circumstances.* Heads of agencies may prescribe that travel orders or other administrative determinations specify higher mileage rates not in excess of 15 cents for individual transfers of employees or transfers of groups of employees when:

. . . . . .

d. . . .

(2) *Maximum allowance based on total distance.* Per diem allowances should be paid on the basis of actual time used to complete the trip, but the allowances may not exceed an amount computed on the basis of a minimum driving distance per day which is prescribed as reasonable by the authorizing official and is not less than an average of 300 miles per calendar day. An exception to the daily minimum driving distance may be made by the agency concerned when travel between the old and new official stations is delayed for reasons clearly beyond the control of the travelers such as acts of God, restrictions by Governmental authorities, or other reasons acceptable to the agency; e.g., a physically handicapped employee. In such cases, per diem may be allowed for the period of the delay or for a shorter period as determined by the agency. The traveler must provide a statement on his reimbursement voucher fully explaining the circumstances which necessitated the en route travel delay. The exception to the daily minimum driving distance requires the approval of the agency's authorizing official.

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21. Paragraph 2–4.2 is revised as follows:

2–4.2. *Duration of trip.*

The round trip should be allowed for a reasonable period of time considering distance between the old and new official stations, mode of transportation to be used, and the housing situation at the new official station location. In no instance shall the period of the round trip at Government expense be allowed in excess of 6 calendar days, including travel time. In authorizing or allowing a particular mode of transportation, consideration shall be given to providing minimum time en route and maximum time at the new official station locality. Accordingly, if the use of a privately owned automobile is permitted, such use is deemed to be advantageous to the Government and the mileage allowance shall be as provided in 2–2.3 b and c. Reasonable expenses for local transportation at the location of the new official station shall be allowed. Agencies may authorize local transportation by common carrier, local transit systems, GSA contract rental or other commercially rented automobiles, or privately owned automobiles; however, the mode of local transportation must be consistent with the mode of transportation authorized for travel to and from the new official station. Expenses for the use of taxis shall be limited to transportation between depots, airports, or other carrier terminals, and place of lodging.

22. Paragraph 2–6.2g is revised as follows:

2–6.2. *Reimbursable and nonreimbursable expenses.*

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g. *Overall limitations.* The aggregate amount of expenses which may be reimbursed is as follows:

(1) In connection with the sale of the residence at the old official station, reimbursement shall not exceed 10 percent of the actual sale price or $8,000, whichever is the lesser amount.

(2) In connection with the purchase of a residence at the new official station, reimbursement shall not exceed 5 percent of the purchase price or $4,000, whichever is the lesser amount.

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23. Paragraph 2–8.2a is revised and paragraph 2–8.2a–1 is added, as follows:

2–8.2. *General limitations.*

a. *Maximum weight allowance.* The maximum weight of household goods which may be transported or stored in connection therewith is limited to 11,000 pounds net weight for employees with immediate families and 7,500 pounds net weight for employees without immediate families. However, if in an individual case an employee without immediate family possesses household goods exceeding the 7,500 pound limit, the limit may be extended up to 11,000 pounds net weight, provided that: (1) The employee acquired all or a substantial portion of the property because he had been the head of or a member of a larger household (as when the employee's spouse has died), and (2) it is determined under regulations prescribed by the agency head that hardship would result from application of the 7,500 pound limit. The aggregate total of the weight of household goods stored under 2–9.1 and 2–9.2 plus the weight of household goods transported under this Part 8 shall not exceed the above maximum weight allowances.

a–1. *Professional books, papers, and equipment.*

(1) For purposes of this Part 8, the term "professional books, papers, and equipment" includes those professional or specialized items and other materials which are personally owned by the employee for use in the performance of official duties. The term does not include sports equipment or office, household, or shop fixtures and furniture; e.g., bookcases, file cabinets, desks, and racks of any kind even though used in connection with the professional books, papers, and equipment.

(2) There is no statutory authority to transport personally owned professional books, papers, and equipment in addition to the maximum weight allowance (2–8.2a) established by law for transportation of an employee's household goods and personal effects. However, there may be instances in which the weight of the professional books, papers, and equipment would cause an employee's household goods shipment to be in excess of the maximum weight allowance. In such instances, the personally owned professional books, papers, and equipment may be transported to the new permanent duty station as an administrative expense of an agency (not chargeable to travel and transportation appropriations). Shipment of these items as an administrative expense

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would be in lieu of shipment as an allowance of the employee. (Comp. Gen. Decision B-171677, May 13, 1971.)

(3) Authority to transport professional books, papers, and equipment as an administrative expense shall be subject to agency policy and discretion within the following guidelines:

(a) The employee shall furnish an itemized inventory of professional books, papers, and equipment for review by an appropriate authorizing official at the new permanent duty station. In addition, the employee shall furnish appropriate evidence (as determined by the agency concerned) that transporting the itemized materials as part of the employee's household goods would result in an excess of the employee's maximum weight allowance.

(b) The authorizing official at the new permanent duty station shall review and certify that the professional books, papers, and equipment as itemized are necessary in the proper performance of the employee's duties at the new duty station and that if these items were not transported to the new duty station, the same or similar items would have to be obtained at Government expense for the employee's use at the new duty station.

(c) When professional books, papers, and equipment are certified as provided in (b), above, and shipped for the employee as an administrative expense of an agency, shipment shall be by the actual expense method; the commuted rate method shall not be used. When shipped in the same lot with the employee's household goods and other personal effects under the actual expense method, the professional books, papers, and equipment shall be packed and weighed separately; the weight thereof and the administrative appropriation chargeable shall be stated as separate items on the Government bill of lading. In unusual instances in which it is impractical or impossible to obtain separate weights, a constructive weight of 7 pounds per cubic foot may be used.

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[FR Doc.77-13460 Filed 5-9-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 386]

ASSIGNMENT OF HEARINGS

MAY 5, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 126600 (Sub-14), Ehrsam Transport, Inc., now being assigned July 6, 1977 (1 day) at Kansas City, Missouri, in a hearing room to be later designated.

MC 124796 (Sub-117), Continental Contract Carrier Corp., now being assigned July 7, 1977 (2 days) at Kansas City, Missouri, in a hearing room to be later designated.

MC 133095 (Sub-131), Texas Continental Express, Inc., now being assigned July 11, 1977 (1 day) at Kansas City, Missouri, in a hearing room to be later designated.

MC 95540 (Sub-966), Watkins Motor Lines, Inc., now being assigned July 12, 1977 (2 days) at Kansas City, Missouri, in a hearing room to be later designated.

MC 115793 (Sub-22), Caldwell Freight Lines, Inc., now being assigned July 14, 1977 (2 days) at Kansas City, Missouri, in a hearing room to be later designated.

MC 124796 (Sub-No. 145), Continental Contract Carrier Corp., now being assigned for hearing on June 14, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 141033 (Sub-No. 9), Continental Contract Carrier Corp., now being assigned June 20, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13342 Filed 5-9-77;8:45 am]

[Notice No. 58]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 5, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1824 (Sub-No. 74TA), filed April 14, 1977. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655. Applicant's representative: T. E. Robertson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities owned and/or utilized by J. H. Filbert, Inc., located in Baltimore City, Anne Arundel, Baltimore, Howard and Prince Georges Counties, Md. to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, Md. 21229. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 16903 (Sub-No. 49TA), filed April 15, 1977. Applicant: MOON FREIGHT LINES, INC., 120 West Grimes Lane, P.O. Box 1275, Bloomington, Ind. 47401. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane foam products, component parts and accessories* moving in the same vehicle, from Charleston, Ill., to points in West Virginia, Pennsylvania, North Carolina, Virginia, Maryland, Delaware, New York, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, Vermont, Tennessee, Mississippi, Alabama, Georgia, South Carolina, and the District of Columbia, restricted to the transportation originating at the plantsite of The Celotex Corporation, Charleston, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corporation, 1500 North Dale Marby, Tampa, Fla. 33607. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Rm. 469, Indianapolis, Ind. 46204.

No. MC 32779 (Sub-No. 12TA), filed April 19, 1977. Applicant: SILVER EAGLE COMPANY, 2532 S.E. Hawthorne Blvd., Portland, Oreg. 97214. Applicant's representative: Robert R. Hollis, 520 S.W. Yamhill St., Suite 400, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), (1) between Spokane, Wash., and Seattle, Wash., and their respective commercial zones, serving all intermediate and off route points in Lincoln, Adams, Grant and Kittitas Counties, Wash.: From Spokane over Interstate Highway 90 to Seattle and return over the same route; (2) Between Spokane, Wash., and Portland, Oreg. and their respective commercial zones, serving all intermediate and off route points in Lincoln, Adams, Franklin, Walla Walla, Benton and Klickitat Counties, Wash.: From Spokane over Interstate Highway 90 to Junction U.S. Highway 395, thence over U.S. Highway 395 to Junction U.S. Highway 730, thence over U.S. Highway 730 to Junction Interstate Highway 80N, thence over Interstate Highway 80N to Portland and return over the same route; and (3) between Pasco, Wash., and Wentachee, Wash., and their respective commercial zones, serving all intermediate and off route points in Benton, Yakima and Kittitas Counties, Wash.: From Pasco over U.S. Highway 12 to Junction U.S. Highway 97, thence over U.S. Highway 97 to Wenatche and return over the same route, for 180 days. Supporting shipper: This application is supported by 68 shippers. Names may be examined at the Interstate Commerce Commission, Washington, D.C., or at Portland field office of the Interstate Commerce Commission. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Oreg. 97204.

No. MC 36509 (Sub-No. 26TA), filed April 6, 1977. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 55 Battery Street, Seattle, Wash. 98121. Applicant's representative: George H. Hart, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin and currency*, between Minneapolis, Minn., on the one hand, and, on the other, Superior, Wis.; and between Minneapolis, Minn. on the one hand, and, on the other, points in Barnes, Burleigh, Cass, Grand Forks, Morton, Ramsey, Richland, Stutsman, and Ward Counties, N. Dak.; and between Minneapolis, Minn., on the one hand, and, on the other, points in South Dakota, under a continuing contract or contracts with Federal Reserve Bank of Minneapolis, 250 Marquette Avenue, Minneapolis, Minn. 55480. Supporting shipper: Federal Reserve Bank of Minneapolis, 250 Marquette Ave., Minneapolis, Minn. 55480. Send protests to: District Supervisor Claud W. Reeves, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 40494 (Sub-No. 12TA), filed April 18, 1977. Applicant: HILBURN TRUCKING, INC., 19401 East 39th St., Independence, Mo. 64092. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New and used combines*, knocked down or set up, and *parts thereof*, between Independence, Mo., on the one hand, and, on the other, points in Nebraska, Kansas, Colorado, Illinois, Wisconsin, Indiana, Ohio and Michigan, for 180 days. Supporting shipper: Allis-Chalmers, P.O. Box 1099, Independence, Mo. 64051. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 94201 (Sub-No. 148TA), filed April 20, 1977. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, 1500 Cedar Grove Rd., Atlanta, Ga. 30316. Applicant's representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrapping paper, printing paper and pulpboard*, from the plantsite, warehouse and storage facilities of Union Camp Corporation, located at or near Franklin, Va. to Louisville, Ky. and points within its commercial zone and all points in Illinois, Indiana and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470.

No. MC 95540 (Sub-No. 979TA), filed April 14, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33801. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, except in bulk, in vehicles equipped with mechanical refrigeration from the storage facilities utilized by M & M/Mars, located at or near Hampden Township, Cumberland County, Pa., to points in Alabama, Colorado, Florida, Georgia, Iowa, Illinois, Mississippi, Missouri, Nebraska, North Carolina, South Carolina, Tennessee, Texas, Kansas, Minnesota, Oregon, Utah, Washington, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper. M & M/Mars, Division of Mars, Inc., High Street, Hackettstown, N.J. 07840. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 96938 (Sub-No. 5TA), filed April 13, 1977. Applicant: ARKANSAS TRANSIT HOMES, INC., 6400 Mabelvale Pike, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph St., Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, except recreational vehicles, and buildings, in sections, except prefabricated buildings, in initial movements, in truck-away service, from Jackson and Mississippi Counties, Ark. to points in Oklahoma, Texas, Louisiana, Mississippi and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Countryside Homes, Inc., P.O. Box 696, Newport, Ark. 72112. Richland Homes, Inc., Manila, Ark. 72442. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 107496 (Sub-No. 1075TA), filed April 19, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, from Worthington, Minn. to points in Iowa, Nebraska, South Dakota, and North Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Batcheller's Ag Service's, P.O. Box 472, Worthington, Minn. 56187. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1076TA), filed April 19, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Applicant sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Springfield, Mo. to Wickliffe, Ky., for 180 days. Supporting shipper: West Vaco Corporation, 299 Park Avenue, New York, N.Y. 10017. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1077TA), filed April 19, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, from La-Crosse, Wis. to points in Minnesota and Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hawkeye Chemical Company, P.O. Box 899, Clinton, Iowa. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1078TA), filed April 20, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Lansing, Iowa, to points in Illinois, Wisconsin, and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Admistures Corporation, 5909 N. Rogers

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Avenue, Chicago, Ill. 60646. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 109692 (Sub-No. 44TA), filed April 7, 1977. Applicant: GRAIN BELT TRANSPORTATION COMPANY, 340 North James St., Kansas City, Kans. 66118. Applicant's representative: Warren H. Sapp, 4420 Madison, Kansas City, Kans. 64111. Authority sought to operate at a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and parts and accessories therefor, pipe, tubing, light poles, mast arms, brackets, bases and transmission poles, and equipment and supplies* used in the installation thereof (except commodities in bulk), from the plantsite of Valmont Industries, Inc., located at or near Valley, Nebr., to points in Kansas, Minnesota, Missouri, North Dakota, Oklahoma and South Dakota; (2) *equipment, materials and supplies* used in the manufacture of the commodities named in (1) above, from points in Kansas, Minnesota, Missouri, North Dakota, Oklahoma, and South Dakota; and (3) *used irrigation systems, and parts and accessories thereof, and new and used equipment, materials and supplies* used in the installation of used irrigation systems, restricted to traffic moving for the account of Valmont Industries, Inc., between points in Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Valmont Industries, Inc., Valley, Nebr. 68064. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 110525 (Sub-No. 1189TA), filed April 18, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluoric acid*, in bulk, in tank vehicles, from Houston, Tex., to all points in the State of Montana, for 180 days. Supporting shipper(s): Stauffer Chemical Company, Nyala Farm Road, Westport, Conn. 06880. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 113528 (Sub-No. 28TA), filed April 20, 1977. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, 67 Midtown Park East, Mobile, Ala. 36601. Applicant's representative: Joy Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Worth, Tex., to Columbus, Griffin, Vidalia and Macon, Ga., for 180 days. Supporting shipper: Dixie Beer Co., P.O. Box 308, Columbus, Ga. 30912; Macon Beer Co., 202 7th St., Macon, Ga. 31201; Jackson Distr. Co., Inc., P.O. Box 377–878 East Broadway, Griffin, Ga. 30224; Rushing Distributing Company, Inc., 407 E. Main St., Vadalia, Ga. 30474. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 113678 (Sub-No. 666TA), filed April 14, 1977. Applicant: CURTIS, INC., 4810 Pontiac St. Commerce City (Denver), Colo. 80022. Applicant's representative: David L. Metzler, P.O. Box 16004 Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, rugs, floor coverings, and related products*, from points in Georgia, North Carolina, and South Carolina, to points in California, Idaho, Oregon, and Washington, for 180 days. Supporting shipper(s): There are approximately twenty-nine (29) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 113843 (Sub-No. 240TA), filed April 18, 1977. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils, 316 Summer St., Boston, Mass. 02210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned food stuffs*, from: Napoleon, Ohio, to points in New Jersey, New York, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Campbell Soup Company, East Maumer Avenue, Napoleon, Ohio 43545. Send protests to: District Supervisor John B. Thomas, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, Mass. 02114.

No. MC 114632 (Sub-No. 109TA), filed April 13, 1977. Applicant: APPLE LINES, INC., 212 SW. 2d St., Madison, S. Dak. 57042. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Dugdale Packing Company located at or near Cozad, Nebr., to points in Colorado, Illinois, Iowa, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, Missouri, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Dugdale Packing Company, P.O. Box 166, Cozad, Nebr. 69130, Darold E. Mapes, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 115162 (Sub-No. 356TA), filed April 22, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Oxford County, Maine; Lamoille County, Vt., and Caledonia County, Vt., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, for 180 days. Supporting shipper: Vermont Weatherboard, Inc., P.O. Box 536, 15 West Church St., Hardwick, Vt. 05943. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 115311 (Sub-No. 219TA), filed April 20, 1977. Applicant: J. & M. TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim C. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products and materials and supplies* used in the installation and distribution thereof, from Brunswick, Ga., to points in Georgia, Kentucky, and Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, 1062 Lancaster Ave., Rosemont, Pa. 19010. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 115322 (Sub-No. 131TA), filed April 20, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, and pulpboard;* and (2) *materials and supplies* used or useful in the production of paper, paper products, and pulpboard, (1) from Plymouth, N.C., to points in Massachusetts and New York; and (2) from points in Massachusetts and New York, to Plymouth, N.C., for 180 days. Supporting shipper: Weyerhaeuser Company, P.O. Box 787, Plymouth, N.C. 27962. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 116254 (Sub-No. 177TA), filed April 12, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium aluminate*, in bulk, in tank vehicles, from South Pittsburgh, Tenn., to Listerhill and Sheffield, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reynolds Metals Company, Sheffield, Ala. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 117686 (Sub-No. 170TA), filed April 21, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar*, in containers, from Gramercy, La., to points in North Dakota, South Dakota, Minnesota, and Nebraska, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: O. G. Stine, Traffic Manager, Colonial Sugars Co., Borden Inc., Gramercy, La. 70052. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 118159 (Sub-No. 208TA), filed April 18, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, from the facilities of Elm Hill Meats Co., located at or near Lexington, Ky., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating, authority. Supporting shipper(s): Elm Hill Meats, Inc., P.O. Box 496, Lexington, Ky. 40501. Send protests to: District Supervisor Joe Green, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 120257 (Sub-No. 35TA), filed April 6, 1977. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo St., Terrell, Tex. 75160. Applicant's representative: Bernard H. English, 6270 Firth Rd., Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories*, from the plantsite and storage facilities of Elk Corporation located at or near Stephens, Ark., and Camden, Ark., to points in Alabama, Louisiana, Mississippi, Oklahoma, Kentucky, Tennessee, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Elk Corporation, P.O. Box 37, Stephens, Ark. 71764. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 124679 (Sub-No. 77TA), filed April 19, 1977. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South St., Salt Lake City, Utah 84119. Applicant's representative: Daniel E. England, 300 Arrow Press Sq., P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Van Nuys and Fairfield, Calif., to Moab, Utah, for 180 days. Supporting shipper: Archer Distributing Co., Box 596, Price, Utah 84501. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 126555 (Sub-No. 47TA), filed April 21, 1977. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Barry C. Burnett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zeolite* (natural) from points in Mineral County and Larimer County, Colo., to points in the United States (except Hawaii), for 180 days. Supporting shipper: Colorado Lien Company, P.O. Box 1961, Ft. Collins, Colo. 80522. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 126844 (Sub-No. 39TA), filed April 7, 1977. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, N.J. 08360. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles, from the plant sites and storage facilities of Standard Brands Incorporated located at Franklin Park and Bensenville, Ill. to Jersey City, N.J. and Cockeysville, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Brands Incorporated, 625 Madison Avenue, New York, N.Y. 10022. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608.

No. MC 127047 (Sub-No. 24TA), filed April 22, 1977. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Component parts* for mobile homes and recreational vehicles (except in bulk), from Hutchinson and Newton, Kans., to points in Idaho, Montana, Utah, Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhauser, Inc., Newton Manufacturing Co., Newton, Kans. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 135425 (Sub-No. 25TA), filed April 18, 1977. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193–5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of abrasives and abrasive products and industrial materials and supplies, and materials, supplies and equipment used in the conduct of such business (except in tank vehicles), from Watervliet and Granville, N.Y. and Worcester, Mass., to points in California, Oregon, Washington and Nevada, under a continuing contract with Norton Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippetr: Norton Company, Worcester, Mass. 01606. Send protests to: Allan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 135425 (Sub-No. 26TA), filed April 18, 1977. Applicant: CYCLES LIMITED, P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193–5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of abrasives and abrasive products and industrial materials and supplies, and materials, supplies and equipment used in the conduct of such business (except in tank vehicles), from Watervliet and Granville, N.Y. and Worcester, Mass., to points in California, Oregon, Washington and Nevada, under a continuing contract with Norton Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippetr: Norton Company, Worcester, Mass. 01606. Send protests to: Allan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 135437 (Sub-No. 13TA), filed April 8, 1977. Applicant: TRI-NORTH-

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EASTERN TRANSPORT, INC., South Main St. (P.O. Box 80), Lyndonville, N.Y. 14098. Applicant's representative: John M. Nader, Route 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural gypsum and limestone, in bags* (except in bulk), from Irvington, Ky., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Michigan, Mississippi, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Connecticut, Rhode Island, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Pelletizing Corp., P.O. Box 3628, Des Moines, Iowa 50322. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 135874 (Sub-No. 84TA), filed April 22, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th St. South, South St. Paul, Minn. 55075. Applicant's representative: Randy Busse (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk) from the facilities of Wiscold, Inc. located at or near Beaver Dam, Wis., to points in Kentucky, North Carolina, South Carolina, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136464 (Sub-No. 29TA), filed April 21, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, and materials and supplies* used in the installation, manufacture, packaging and sale therepf, from Sparks, Nev. to points in California, Washington, and Oregon, under a continuing contract or contracts with Bigelow-Sanford, Inc., restricted to service from Sparks, Nev. and further restricted to partial pickups in conjunction with shipments originating at any other Bigelow-Sanford, Inc. facility or warehouse, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bigelow-Sanford, Inc., Box 3089, Greenville, S.C. 29602. Send protests to: District Supervisor, Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, N.C.

No. MC 138274 (Sub-No. 43TA), filed April 19, 1977. Applicant: SHIPPERS BEST EXPRESS, INC., 2151 North Redwood Road, Salt Lake City, Utah 84116. Applicant's representative: D. Michael Jorgensen, 300 Arrow Press Square No. 2, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from Denver, Colo. and its commercial zone to points in California, Arizona, Oregon and Washington, for 180 days. Supporting shipper: Flavorland Industries, P.O. Box 16345, 5590 High St., Denver, Colo. 80216. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 138328 (Sub-No. 36TA), filed April 13, 1977. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 14507 Frontier Rd., Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Tires*, from Kansas City, Mo., to points in Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John T. Cowden, Vice President and General Manager, Big O Tires of Idaho, P. O. Box 5539, Boise, Idaho. 83705. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 No. 14th St., Omaha, Nebr. 68102.

No. MC 139227 (Sub-No. 2TA), filed April 20, 1977. Applicant: ROYAL TRANSPORTS, INC., P.O. Box 12628, North Kansas City, Mo. 64116. Applicant's representative: Harold D. Holwick (same address as applicant). Authority sought to operate as a *common carrier*, by motor over irregular routes, transporting: *Crude oil*, in bulk, in tank vehicles, from Richardson County, Nebr. to points in Miami and Johnson Counties, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Blue Bird Oil Company, 5540 Raytown Road, Raytown, Mo. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 139269 (Sub-No. 11TA), filed April 8, 1977. Applicant: C. P. CRASKA, INC., 10422 Cosby Manor Rd., Utica, N.Y. 13502. Applicant's representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, N.Y. 13501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically temperature controlled vehicles, from Jersey City, N.J. and 25 miles thereof and New York, N.Y., to points in Vermont, New Hampshire and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately (5) statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Morris H. Gross, Interstate Commerce Commission, Rm. 1259 U.S. Court House & Federal Bldg., 100 So. Clinton St., Syracuse, N.Y. 13202.

No. MC 141033 (Sub-No. 22TA), filed April 13, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (not frozen, not bulk) in mixed shipments with liquid bleach, dry bleach, animal litter, cooking oils, and cleaning compounds, from (a) the plantsites or facilities of the Clorox Company located at Charlotte, N.C. to points in Kentucky, Tennessee and West Virginia; (b) from the plantsites or facilities of the Clorox Company located at Chicago, Ill. to points in Iowa, Kentucky, lower peninsula of Michigan, Missouri and Wisconsin; (c) from the plantsites or facilities of the Clorox Company located at Houston, Tex. to points in Arkansas, Georgia, Missouri, New Mexico, Oklahoma, and Tennessee; (d) from the plantsites or facilities of The Clorox Company located at Jersey City, N.J. to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont; (e) from the plantsites or facilities of The Clorox Company located at Los Angeles, Calif. to points in Oregon, Utah and Washington; and (f) from the plantsites or facilities of The Clorox Company located at Oakland, Calif. to points in Colorado, Idaho, Montana, Utah and Wyoming, restricted to shipments originating at the above-named described plantsites or facilities, for 180 days. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, Calif. 94612. Send protests to: Irene Carlos, Interstate Commerce Commission, Rm. 1331 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 141774 (Sub-No. 7TA), filed April 19, 1977. Applicant: R & L TRUCKING INC., 105 Rocket Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic bags, plastic can liners, plastic containers and plastic articles;* and (2) *materials and supplies* used in the manufacture of plastic bags, plastic can liners, plastic containers, and plastic articles (except commodities in bulk, in tank vehicles), (1) from the facilities utilized by Bes-Pak & Company, Inc., in Montgomery County, Ala., to points in Florida; Louisville, Ky.; St. Louis, Mo.; and Memphis, Tenn.; and (2) from Florida; and Louisville, Ky.; St. Louis, Mo.; and Memphis, Tenn. to the facilities utilized by Bes-Pak & Company, Inc. in Montgomery County, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bes-Pak & Company, Inc., P.O. Drawer 2190, Montgomery, Ala. 36103. Send protest to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616–2121 Bldg., Birmingham, Ala. 35203.

No. MC 142335 (Sub-No. 1TA), filed April 18, 1977. Applicant: C & E TRUCKING COMPANY, INC., 8434 Tepic Drive, Paramount, Calif. 90723. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, Beverly Hills, Calif. 90210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste and scrap paper* for recycling, from points in Maricopa and Pima Counties, Ariz., to plant facilities utilized by Crown Zellerbach Corporation located at or near Antioch, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Crown Zellerbach Corporation, One Bush Street, San Francisco, Calif. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13341 Filed 5-9-77;8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Communications Commission	2
Federal Election Commission	3
Federal Power Commission	4
Indian Claims Commission	5
Postal Rate Commission	6
Securities and Exchange Commission	7
Tennessee Valley Authority	8

1

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

DATE AND TIME: May 5, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

The Commission met with staff to discuss a proposed corrective action plan and settlement of a civil penalty in a substantial product hazard case involving "Mr. Coffee" coffee makers manufactured by North American Systems. In voting to hold the meeting, the Commission determined that Agency business required that the Commission meet without the normal seven days advance notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207. Telephone (202-634-7700).

[S-356-77 Filed 5-5-77;11:58 am]

2

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., May 11, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Fifth Notice of Inquiry relative to preparation for the 1979 World Administrative Radio Conference (Docket No. 20271).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202-632-7260).

Issued: May 4, 1977.

[S-362-77 Filed 5-6-77;8:45 am]

3

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Thursday, May 12, 1977, at 10 a.m.

PLACE: 1325 K St. NW., Washington, D.C. 20463.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion of meeting open to the public:
- I. Future meetings.
- II. Correction and approval of minutes, April 28, 1977.
- III. Election of Commission Chairman and Vice Chairman.
- IV. Certification:
  - A. Certification of a Supplemental Payment to the Democratic National Convention Committee, Inc.
  - B. Repayment Request pursuant to 26 U.S.C. § 9038.
- V. Advisory opinions:
  - A. AO 1977-6.
  - B. AO 1977-8.
  - C. AOR 1977-2 (preliminary discussion).
- VI. FEC computer program recommendations.

Portion of meeting closed to the public:
- VII. Executive Session:
  - A. Compliance.
  - B. Personnel:

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone: 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-357-77 Filed 5-5-77;2:34 pm]

4

AGENCY HOLDING THE MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (Sent to F.R. of 4-27-77.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 4, 1977, 2 p.m.

CHANGE IN THE MEETING:

Addition of G-19, Docket Nos. CP77-100, CP77-101, and CP77-102, Tenneco Atlantic Pipeline Company; Docket No. CP77-103, Tennessee Gas Pipeline Company.

Addition of G-20, Hartsville Gas Company and Creal Springs, Illinois.

Addition of G-21, Docket No. CP77-286, Transcontinental Gas Pipe Line Corporation; Docket No. CP77-316, United Gas Pipe Line Company.

KENNETH F. PLUMB,
Secretary.

[S-358-77 Filed 5-5-77;2:44 pm]

5

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., May 18, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 29-J, *Hannahville* (Potawatomi).
Docket 100-B-1, *Klamath and Modoc.*
Docket 272, *Creek.*
Docket 342-G, *Seneca.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006. Tel. (202)-653-6184).

[S-364-77 Filed 5-6-77;8:50 am]

6

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: 9:30 a.m. Thursday, May 12, 17977.

PLACE: Conference Room, Room 500, 2000 L St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. MC76-1.
2. Docket No. MC76-3.
3. Docket No. MC76-4.

CONTACT PERSONS FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268. Telephone (202-254-5614).

[S-365-77 Filed 5-6-77;10:58 am]

7

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

PREVIOUS NOTICE DATED: May 3, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, May 12, 1977.

CHANGES IN THE MEETING:

The Commission will hold an open meeting to consider alternative courses of action with respect to Off-Board Trading Restrictions of National Securities Exchanges at 10 a.m. on Thursday, May 12, 1977.

The items previously scheduled for consideration on Thursday, May 12, 1977, will be considered at an open meeting on Wednesday, May 11, 1977, at 3 p.m.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business requires the above changes, that no earlier notice thereof was possible and the said Commissioners voted to approve the changes.

FOR INFORMATION CONTACT:

Lawrence A. Horn (202-755-1563).

Dated: May 5, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S-363-77 Filed 5-6-77;8:45 am]

8

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

TIME AND DATE: 10:30 a.m., Thursday, May 12, 1977.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—PERSONNEL ACTIONS—NONE

B—CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Renewal of consulting contract with Gordon F. Palm & Associates, Inc., Lakeland, Florida—Division of Chemical Development.

C—PURCHASE AWARDS

1. Req. No. 821322—Electrical penetration assemblies for Bellefonte Nuclear Plant.
2. Req. No. 822199—Requirement contract for steel reinforcing bars for proposed Hartsville Nuclear Plant.
3. Amendment to Contract 74C61-85499 with Brown Boveri Corporation, North Brunswick, New Jersey, for turbogenerators for proposed Hartsville and Phipps Bend Nuclear Plants.
4. Negotiation No. 143538—Completely bladed high pressure rotor and accessories for Widows Creek Steam Plant.
5. Req. No. 821398—Structural steel for auxiliary building for proposed Hartsville and Phipps Bend Nuclear Plants.
6. Req. No. 821400—Structural steel for control building for the proposed Hartsville and Phipps Bend Nuclear Plants.
7. Req. No. 543370—Indefinite quantity term contract for stainless steel for any TVA project or warehouse.
8. Amendment to Contract 74C57-83659 with Ecokel, Cincinnati, Ohio, for cooling towers for Sequoyah Nuclear Plant, units 1 and 2.
9. Req. No. 820721—Gate, globe, and check valves for proposed Hartsville and Phipps Bend Nuclear Plants.
10. Req. No. 87381—Gate, globe, and check valves for proposed Hartsville and Phipps Bend Nuclear Plants.
11. Req. No. 822167—Fire detection systems for Sequoyah and Watts Bar Nuclear Plants.

D—PROJECT AUTHORIZATIONS

1. No. 3230—1977 emergency flood relief for the Upper Clinch-Powell area of Tennessee and Virginia.
2. No. 3226—Evaluation of Dowa SO_x scrubbing system (in collaboration with Electric Power Research Institute and the Dowa Mining Company, Ltd.).

E—FERTILIZER ITEMS—NONE

F—POWER ITEMS

1. Resolution relating to change in funding authority in exploration and milling agreement between TVA and Federal-American Partners.
2. New power contract with City of Murfreesboro, Tennessee.
3. Lease-purchase and amendatory agreement with the City of Dyersburg, Tennessee—lease of TVA's West Dyersburg Substation and termination of 13.2-kV delivery point.
4. Letter agreement with the U.S. Energy Research and Development Administration—power supply for Oak Ridge and Puducah projects.

G—REAL PROPERTY TRANSACTIONS

1. Grant of 30-year recreation easement to the State of Tennessee, Department of Conservation, affecting 73 acres of land in Polk County, Tennessee—tract XTAR-6RE.
2. Resolution relating to sale of cabin site land in Sequoyah Landing Subdivision, Anderson County, Tennessee—tract XNR-601:10.
3. Resolution relating to modification of deed to approximately 1.75 acres of a 26.9-acre tract on Fort Loudoun Reservoir to permit location of a substation—tract XTFL-78.
4. Resolution relating to grant of permanent highway easement affecting 2.05 acres of Hiwassee Reservoir land in Cherokee County, North Carolina—tract XTFBR-27H.
5. Filing of condemnation suits.

H—UNCLASSIFIED

1. Resolution relating to settlement agreement with Randall K. Osborne d.b.a. Osborne Coal Company in connection with alleged breach of contract.
2. Resolution relating to delegation of authority with respect to amendments to uranium mineral rights contracts.
3. Agreement with Coppers & Lybrand, New York, New York, for professional accounting services.

In connection with the Board's quarterly financial review, data, and information concerning current and anticipated conditions and costs affecting TVA's power operations and the adequacy of revenues to meet the requirements of the TVA Act and the tests and provisions of its bond resolutions will be discussed with the Board. This data and information will be considered by the Board in its determination to be made at a future date as to whether an adjustment of the rates and charges for the sale of electric power will be necessary during the quarter beginning July 1, 1977.

DATED: May 5, 1977.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-343-4537.

[S-361-77 Filed 5-6-77;8:45 am]

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federal register

TUESDAY, MAY 10, 1977
PART II

FEDERAL ENERGY ADMINISTRATION

INTERPRETATIONS
ISSUED IN 1975

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Interpretations Issued in 1975

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are all interpretations issued by FEA in calendar year 1975. This is one of a series of notices intended to make FEA interpretations available to the public through publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Cliff Russell, 202–566–9567.

SUPPLEMENTARY INFORMATION: In accordance with FEA's notice concerning the publication of 1976 Price and Allocation Interpretations (42 FR 7923, February 8, 1977), appended hereto are the Interpretations issued by the FEA General Counsel and Regional Counsels during calendar year 1975 pursuant to 10 CFR Part 205, Subpart F.

Also appended hereto is an additional Interpretation issued in 1976 by FEA Region I, which was inadvertently omitted from the 1976 Interpretations appended to the Notice at 42 FR 7923. This Interpretation has been designated 1976–25.

Certain Interpretations issued in 1974 will be published in the FEDERAL REGISTER as soon as they are reviewed for publication in accordance with the uniform classification headings and editorial standards used for publication of 1975, 1976, and 1977 Interpretations.

FEA would normally prefer to number Interpretations by year and the order in which they were issued—e.g., Interpretation 1975–1, 1975–2, etc.—as in the manner of FEA Rulings. Many Interpretations issued in 1975 have already been reprinted in FEA's Compliance Manual under such a sequential numerical designation system. That system does not, however, reflect a complete listing of Interpretations issued in 1975 (all regional Interpretations were omitted) and does not entirely follow the chronological order in which the Interpretations reprinted therein were issued. Because FEA's Compliance Manual is available to the public through Freedom of Information procedures and Interpretations as numbered therein have been cited in proceedings before FEA and elsewhere, FEA believes that unnecessary confusion would result if FEA were to seek to renumber all 1975 Interpretations strictly in accordance with the date of issuance.

Therefore, FEA has assigned numerical designations to 1975 Interpretations as follows: (1) Interpretations 1975–1 through 1975–48 are the same as Interpretations 1975–1 through 1975–48 in the Compliance Manual, except that (a) a non-interpretive letter reproduced in the Compliance Manual as Interpretation 1975–36 is omitted here, (b) Interpretation 1975–38, which was neither reproduced nor listed by name in the Compliance Manual, is included herein, and (c) Interpretation 1975–46, which was also not reproduced or listed by name in the Compliance Manual, is listed by name, date, "rules interpreted" heading and classification code herein, but the text is omitted because of its similarity with Interpretation 1975–8; and (2) Interpretations 1975–49 through 1975–74 are all other Interpretations issued in 1975 (all regional Interpretations), numbered in accordance with the chronological order of their issuance.

All 1975 Interpretations except one, 1975–25, are Interpretations of the Mandatory Petroleum Price and Allocation Regulations. The symbol "OI," included in the code assigned to 1975–25, stands for "Other Interpretation," and indicates that 1975–25 is an Interpretation of FEA rules other than those found in the price and allocation regulations.

Older Interpretations are more likely to relate to regulations, rulings or laws which have been amended, revised or revoked, compared with more recent Interpretations. Thus, for example, 1975 Interpretations construing and applying FEA's definition of "property" may be of little interest or questionable continued validity in view of significant changes in that definition effective September 1, 1976. FEA has not attempted to review the Interpretations published today for continuing applicability and validity. Interested persons should therefore note with particular attention the limitations on the applicability of Interpretations as stated below.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal (§ 205.86). Several of the Interpretations published herewith have been affirmed on appeal to date and none of them has been modified or reversed on appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice cited above.

Issued in Washington, D.C., April 27, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX.—*Table of interpretations*

No.	To	Date	Category
	1975		
1975–1	Skelly Oil Co.	Jan. 21	Allocation/price.
1975–2	Monsanto Co.	Feb. 19	Price.
1975–3	Enterprise Products Co.	Feb. 12	Do.
1975–4	Shell Oil Co.	Feb. 14	Do.
1975–5	Phillips Petroleum Co.	...do...	Do.
1975–6	Cheker Oil Co.	...do...	Do.
1975–7	Pasco, Inc.	...do...	Do.
1975–8	Continental Airlines	...do...	Allocation.
1975–9	Norman Wooten, Inc.	...do...	Price.
1975–10	Twin Montana, Inc.	...do...	Do.
1975–11	Calumet Industries, Inc.	...do...	Do.
1975–12	Longview Refining Co.	Feb. 25	Do.
1975–13	Southern Gulf Oil Distributors Association, Inc.	Mar. 12	Allocation.
1975–14	Can Manufacturers Institute	...do...	Do.
1975–15	Department of the Navy	Mar. 20	Price.
1975–16	Murphy Oil Corp.; System Fuels, Inc.	Apr. 15	Do.
1975–17	Agents Alliance, Inc.	...do...	Allocation.
1975–18	Oregon Department of Transportation	Apr. 21	Price.
1975–19	National Association of Texaco Consignees, Inc.	Apr. 24	Allocation.
1975–20	U.S. Marine Corps	Apr. 29	Do.
1975–21	Shell Oil Co.	May 12	Do.
1975–22	Northeast Petroleum Corp.	June 10	Price.
1975–23	Consolidated Paper, Inc.	June 13	Allocation.
1975–24	A. Johnson & Co.	June 18	Price.
1975–25	Babcock & Wilcox Co.	June 24	Other.
1975–26	Pan American World Airways, Inc.	June 27	Allocation.
1975–27	Pacific Lighting Exploration Co.	June 30	Price.
1975–28	(No interpretation designated 1975–28 was issued.)		
1975–29	G. E. Kadane & Sons	July 12	Do.
1975–30	Continental Oil Co.	June 27	Allocation.
1975–31	...do...	Aug. 20	Allocation/price.
1975–32	Tesoro Petroleum Corp.	Aug. 21	Do.
1975–33	Midwest Oil Co.	...do...	Allocation.
1975–34	Baltimore Gas & Electric Co.	Aug. 27	Do.
1975–35	Wickland, Inc.	Sept. 24	Do.
1975–36	(No interpretation designated 1975–36 was issued.)		
1975–37	Farmland Industries, Inc.	Oct. 2	Do.
1975–38	B. R. Peters, Inc.	Oct. 6	Do.
1975–39	National Institute of Infant Services	...do...	Do.
1975–40	Japanese Air Lines Co., Ltd.	Oct. 7	Do.
1975–41	U.S. Oil & Refining Co.	Oct. 6	Price.
1975–42	Petroleum, Inc., and Don M. Rounds Co.	Oct. 21	Do.
1975–43	Berry Holding Co., et al.	Nov. 10	Do.
1975–44	Moore-McCormack Resources, Inc.	Nov. 12	Allocation.

No.	To	Date	Category
1975–45	J. & W. Refining, Inc.	Dec. 12	Do.
1975–46	Trans World Airlines.	Nov. 22	Do.
1975–47	Pacemaster, Inc.	...do...	Price.
1975–48	Rotary Gasoline Dealers	Nov. 24	Do.
1975–49	Gas Club, Ltd.	Jan. 2	Allocation/price.
1975–50	Cook & Cooley, Inc.	Jan. 3	Allocation.
1975–51	East Oil, Inc.	Jan. 10	Price.
1975–52	Idaho Transportation Department	Jan. 15	Allocation.
1975–53	Independent Drivers Organization of Oahu	Mar. 5	Do.
1975–54	Boston Housing Authority	Mar. 10	Do.
1975–55	Pleasant Street Co.	Mar. 24	Price.
1975–56	Day & Zimmerman, Inc.	Apr. 1	Allocation.
1975–57	Body Beautiful Car Wash	Apr. 7	Do.
1975–58	Estate of Anna Signore	Apr. 16	Allocation/price.
1975–59	Kramer Service Center, Inc.	Apr. 28	Price.
1975–60	WESO Corp.	May 4	Allocation.
1975–61	Simmons Oil Corp.	June 17	Do.
1975–62	Boron Oil Co.	July 24	Do.
1975–63	Campbell Oil Co., Inc.	...do...	Price.
1975–64	Derby Refining Co.	Aug. 4	Do.
1975–65	Dollar Rent-A-Car Systems	Aug. 13	Allocation.
1975–66	DeBlois Oil Co.	Aug. 15	Price.
1975–67	William S. Bronson, et al.	Oct. 10	Allocation.
1975–68	Mid-State Oil Co., Inc.	...do...	Do.
1975–69	Cyr Oil Co.	Oct. 17	Price.
1975–70	E. L. Danielson and F. D. Thurman	Oct. 24	Allocation.
1975–71	Gordon H. Wallace	Nov. 11	Do.
1975–72	Joseph L. Castor	Nov. 20	Do.
1975–73	Beukema Petroleum Co.	Nov. 28	Do.
1975–74	Albina Fuel Co.	Dec. 15	Price.
	1976		
1976–25	Callahan Oil Co.	May 10	Allocation.

INTERPRETATION 1975—1

To: Skelly Oil Co.

Date: January 21, 1975.

Rule Interpreted: EPAA.

Code: GCW—AI,PI—Definition of Refined Petroleum Products.

You recently requested that I advise you as to whether the chemicals phenol or acetone come within FEA's authority under the Emergency Petroleum Allocation Act of 1973 (the "Act"). It is my understanding that phenol (C_6H_5OH) is produced by reacting benzene, a refined petroleum product, with propylene to form cumene, which is then converted to phenol by a chemical reaction. Acetone (C_3H_6O) is produced by subjecting propylene, which is not a refined petroleum product, to a chemical reaction.

The Act provides for the mandatory allocation of crude oil, residual fuel oil and certain refined petroleum products at prices specified in or determined in a manner prescribed by regulation. Neither phenol nor acetone is crude oil or residual fuel oil, as defined in the Act, nor are they among the products enumerated in the definition of "refined petroleum products" set forth in the Act. Further, neither of these two products could chemically be considered to fall within one of the generic categories of products which are listed in the definition of a refined petroleum product. Therefore, it is my opinion that phenol and acetone are not refined petroleum products within the meaning of the Act and are not subject to the Mandatory Petroleum Allocation or Price Regulations issued pursuant thereto.

INTERPRETATION 1975—2

To: Monsanto Co.

Date: February 10, 1975.

Rules Interpreted: §§ 212.72, 212.74.

Code: GCW—PI—Definition of Property, New and Released Crude Oil, Unitization.

This is in response to your August 12, 1974 request for an interpretation concerning the definition of "property," 10 CFR § 212.72, for purposes of determining "new and released crude petroleum," 10 CFR § 212.74. This interpretation is based on information submitted by Monsanto Company, August 12, 1974, and by Lion Oil Company, September 19, 1974.

FACTS

Monsanto Company is the operator of the Schuler Field, Union County, Arkansas. On January 15, 1941 the owners of oil and gas leases of the Jones sand horizon of the Schuler Field entered into a Unit Operation Agreement and a Royalty Pooling Agreement. The Arkansas Oil and Gas Commission approved, Order Reference 6–41, these agreements on February 5, 1941 to become effective February 15, 1941. Pursuant to Section III, Paragraph 24 of the Unit Operation Agreement, the agreements applied only to the Jones sand horizon. However, the parties to the agreements amended the Unit Operation Agreement and the Royalty Pooling Agreement on September 6, 1941 to include all horizons lying above the Jones sand horizon. In Part A the amendment to the Royalty Pooling Agreement states:

"From the effective date of the order of the Arkansas Oil and Gas Commission approving the Amendment to the Unit Operation Agreement • • • and approving this amendment, each horizon above • • • the Jones sand • • • which horizon is now or may hereafter be capable of producing oil or gas, shall be merged into and become part of the unitized area. • • •"

The amendment to the Unit Operation Agreement states in Paragraph C that contingent upon the Arkansas Oil and Gas Commission's approval,

"Each horizon above that portion of the Jones sand which constitutes the unitized area • • • shall be merged into and become a part of the unitized area and shall henceforth be operated under the terms of that agreement to the same extent and with the same effect as though said horizons lying above the Jones sand had been included in the unitized area as originally described in the Unit Operation Agreement of January 15, 1941."

The Arkansas Oil and Gas Commission ordered, Order Reference 28–41, Paragraph A, effective December 18, 1941, that:

"Each horizon, or portion thereof, which now is, or may hereafter be, capable of producing oil or gas, and which lies above the unitized area of the Jones sand, unitized by Order No. 6–41 • • • be operated • • • as a part of said unitized area of Jones sand • • •"

You have requested an interpretation that the Jones sand horizon (Schuler-Jones sand), Schuler Field and the horizons above the Jones sand horizon (Schuler-Shallow sands) be considered as separate properties as defined in § 212.72 for purposes of calculating "new and released crude petroleum." Your arguments are: Monsanto has historically treated the two sands as separate production areas; the state of Arkansas requires that production from different sands or formations be accounted for and reported separately; the quality of crude produced from the two sands varies in that crude oil produced from the Shallow sands is of a higher gravity and has a lower sulfur content; and secondary recovery methods are used only on the Jones sand.

INTERPRETATION

Section 212.74 of the FEA regulations states:

"• • • a producer of crude petroleum may sell in each month, without respect to the ceiling price, the new crude petroleum and the released crude petroleum produced and sold from a property in that month."

A "property" is defined, in § 212.72, as "[t]he right which arises from a lease or from a fee interest to produce domestic crude petroleum."

The issue raised by your request for interpretation is whether, in determining the "new and released crude petroleum produced and sold from a property in a month," one looks to the area subject to the unitization agreement as amended or to each source of production which has been combined to form the unitized area covered by the unitization agreement as amended. Our conclusion is that the area subject to the unitization agreement as amended including all sources of production constitutes a "property" as defined in § 212.72.

The purpose of the Unit Operation Agreement was "to install • • • a plant for the introduction of gas, air and other fluids into that horizon, to restore and maintain reservoir pressure • • •." Unit Operation Agreement, Introduction. To accomplish this purpose the agreement states in Section II that "each of the parties • • • shall own, in lieu of the former interest of said party • • • the undivided interest in oil and gas produced from the Jones sand horizon under that tract of land, and each of the leases • • •." Furthermore, the Royalty Pooling Agreement states: "oil and gas leases • • • which are the subject of the unit operation agreement • • • may be operated as one unitized area • • • just as though all of the land • • • had been originally included in one single oil and gas lease • • •." Thus, the agreements clearly state that the Jones sand horizon is to be treated as a single lease owned severally by the parties to the agreements.

The amendments to the Unit Operation Agreement and to the Royalty Pooling Agreement, as ordered by the Arkansas Oil and Gas Commission, merge into and make a part of, as if they had been included in the unitized area, all horizons lying above the Jones sand horizon. The Arkansas Oil and Gas Commission's order makes all the horizons lying above the Jones sand horizon "a part of said unitized area of Jones sand." Also, as quoted above, this was the intent of the parties to the amendments.

A lease to produce crude petroleum is considered a "property" pursuant to § 212.72. Accordingly, because the unitized area includes the Jones sand horizon and all horizons lying above it and because the unitized area is considered as "one single oil and gas lease," the Jones sand horizon and all horizons lying above it are con-

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sidered to be one lease. Thus, for purposes of determining "new and released crude petroleum" Monsanto must treat the areas of the Schuler Field subject to the unitization agreement as amended as a single property.

The quality of the crude petroleum, the method of recovery, the historical treatment of an area subject to one lease as two areas of production, and the conservation reports required by a state do not alter the FEA's definition of property. An exception to the regulations may be applied for pursuant to Part 205, Subpart D of the FEA regulations.

INTERPRETATION 1975—3

To: Enterprise Products Co.

Date: February 12, 1975.

Rules Interpreted: §§ 212.31, 212.83, 212.91, 212.111.

Code: GCW—PI—Definition of Firm.

This is in response to your letter to the Federal Energy Office (FEO), which is now the Federal Energy Administration (FEA), dated April 9, 1974, in which you requested an interpretation as to the maximum lawful prices permissible in a series of actual, related transactions between a reseller, Enterprise Products Company, Inc. ("Enterprise"); two retailers affiliated with Enterprise, Holicer Gas, Inc. ("Holicer") and French L. P. Gas, Inc. ("French"); and an unrelated purchaser, American Oil Company ("Amoco"), during the period January 7–17, 1974. The transactions involved the sale of propane.

FACTS

Enterprise is a large propane wholesaler, and is a "reseller" as defined in 10 CFR 212.31 (6 CFR 150.352 under regulations in effect prior to January 15, 1974). It is owned, for all purposes relevant to price controls, 50 percent by Mr. Dan L. Duncan ("Duncan"), and 50 percent by Mr. Joe D. Havens ("Havens").

Holicer and French are small retail propane dealers which have historically sold to residential and small commercial customers. They are "retailers" as defined in 10 CFR 212.31 (6 CFR 150.352).

On or about November 1, 1973, Duncan and Havens purchased 8 percent of the outstanding stock of French as part of an agreement under which Duncan and Havens would acquire more than 50 percent of outstanding stock over a period of time.

On or about November 30, 1973, Duncan and Havens purchased 29 percent of the outstanding stock of Holicer as part of an agreement under which Duncan and Havens would, over a period of time, acquire all of the shares of Holicer.

Early in January, 1974, Enterprise sold 2,100,000 gallons of propane to Holicer and 630,000 gallons to French. The price charged in these transactions was x per gallon, which Enterprise calculated to be its maximum lawful selling price for the class of purchaser concerned at that time.

Within a few days, Holicer sold 2,100,000 gallons of propane to Amoco at x per gallon (F.O.B. Arcadia) and 1,470,000 gallons of propane to Amoco at x per gallon (F.O.B. Mt. Belvieu), and French sold 630,000 gallons of propane to Amoco at x per gallon (F.O.B. Mt. Belvieu). Amoco was not and is not a consumer of propane. These prices to Amoco were those that were determined by Holicer and French, respectively, as their applicable maximum lawful selling prices at that time. The difference between the total of 2,730,000 gallons provided by Enterprise to Holicer and French and the total 4,200,000 gallons sold to Amoco by Holicer and French were obtained from suppliers other than Enterprise.

On February 1, 1974, a general investigation into the propriety of the foregoing and similar transactions involving Enterprise was commenced, at the instigation of Mr. James C. French, formerly the sole owner of French, by the Internal Revenue Service (IRS) which, at the time, had enforcement authority with respect to FEO price regulations. Enterprise subsequently decided to treat its sales to French and Holicer as intra-company transfers. Accordingly, Enterprise made refunds to French and Holicer totalling approximately x and French and Holicer, in turn, made refunds to Amoco which totalled approximately x. However, Enterprise reserved the right to rebill in order to recoup these refunds should the FEO rule, as requested by Enterprise in this request for interpretation, that it was lawful for Enterprise to charge French and Holicer x per gallon for the propane sold them for resale to Amoco and that French and Holicer, in turn, may lawfully charge x and x per gallon to Amoco, as agreed in the original transactions.

The Enterprise - French / Holicer - Amoco transactions, as well as other similar "oil brokerage" transactions involving Enterprise and other firms, were the subject of public hearings before the Permanent Subcommittee on Investigations, Committee on Government Operations, U.S. Senate, on April 10, 1974. The affidavit of Mr. French was discussed and admitted into the record of the Subcommittee on that date in the presence of Havens and Duncan, whose appearance before the Subcommittee had been obtained by subpoena. The record of those hearings, as it relates to the transactions which are the subject of this interpretation, has been used, pursuant to 10 CFR 205.84(a), as an additional source of information in evaluating and reaching a decision on the subject request for interpretation.

On June 6, 1974, the IRS issued a final report on its general investigation of compliance by Enterprise, French and Holicer with applicable price regulations. The report states that as a result of this investigation, Enterprise agreed to refund a total of x on account of what IRS termed "technical adjustments due to incorrect cost pass-through" (all customers) and to refund a total of x on account of what IRS called "sham transactions" (all customers), including a total of x refunded or to be refunded to Amoco by French and Holicer. The IRS also listed x as "inter-company refunds" which Enterprise had made or agreed to make to French and Holicer, relating to the same Amoco transactions.

The IRS recommended that the case be closed without further action "since Enterprise has agreed to take corrective action and refund all of the overcharges." The IRS report noted, however, that in agreeing to make refunds Enterprise did not admit any violations and that Enterprise had reserved the right to rebill Amoco pending a determination by FEO on this request for interpretation.

The IRS report of June 6, 1974, has been used, pursuant to 10 CFR 205.84(a), as an additional source of information in evaluating and reaching a decision on this request for interpretation.

In its request for interpretation, Enterprise argues that Enterprise, French and Holicer are separate firms, and do not constitute a single "firm," so that Enterprise could sell propane to French and Holicer at its maximum lawful selling price, as it may to any unaffiliated firm, and so that French and Holicer could similarly sell propane to Amoco and to other customers at their own independently-determined maximum lawful selling prices.

Enterprise further argues that even if Enterprise, French, and Holicer are determined to constitute a single firm, Enterprise may nevertheless charge French and Holicer its maximum lawful selling prices as though French and Holicer were independent firms, on the theory that each entity within a "firm" is a "separate pricing unit."

Finally, Enterprise argues that the price at which French and Holicer sold to Amoco (the price which reflected a markup by Enterprise and a further markup by French or Holicer) was lawful for the additional reason that the sale to Amoco was a sale to a "new market" by French and Holicer under 10 CFR 212.111(a)(2), which provides that the price rules for "new items" apply to sales to "new markets," with a "market" stated to be "one or more members of the following groups: resellers; retailers; consumers; manufacturers; or service organizations." All previous sales by French and Holicer had been to consumers. Amoco is not a consumer.

INTERPRETATION

In the opinion of FEA, all of the arguments raised by Enterprise are disposed of by the determination that Enterprise, French and Holicer constitute a single firm, for purposes of FEA price regulations. In other words, there is no need to determine whether the prices charged by French and Holicer, if they were separate firms, would have been lawful as sales to "new markets" and there is, in any event, no basis under the regulations for the "separate pricing entities" theory.

With respect to the central question as to whether Enterprise, French and Holicer constitute a single firm, the key element in the definition of firm, for purposes of this interpretation, is the statement that the firm includes the parent and any entities "which it directly or indirectly controls." (10 CFR 212.31, 212.91) The FEA interprets "firm," for purposes of cost pass-through, in the widest possible sense—i.e., the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls. This is provided for refiners by express provision in 10 CFR 212.83(b) and for resellers and retailers by implication under 10 CFR 212.91.

Where the FEA has, pursuant to its authority under 10 CFR 212.31, applied a different interpretation to "firm" (as in 10 CFR 212.11(a), for profit margin purposes) the inclusion of entities "directly or indirectly controlled" has not been altered. That is, where the "firm" has been broken down for special purposes it has been divided into consolidated vs. unconsolidated portions, or into portions conducting unrelated activities, without changing the requirement that the firm or portion of the firm under consideration must include those applicable sub-entities which are directly or indirectly controlled. Neither of the special situations indicated above apply to the case at hand. The profit margin test does not apply to resellers or retailers, and all three firms concerned are engaged in the same basic activity of selling L.P. gas.

In a series of rulings during Phase II of the Economic Stabilization Program the major questions concerning inter-corporate control and control by individuals for purposes of price regulations were fully answered and settled. Under Phase IV Q and A 8–5, CLC Release 367, August 20, 1973, Phase II rulings were deemed not legally binding during Phase IV but were to be used as guidance in the absence of any specific legal interpretation which might be issued. Nothing in the few rulings issued by CLC in Phase IV or by FEA is contrary to the pertinent Phase II rulings discussed in this interpretation. Since these Phase II rulings thus firmly settled this area of the law, and since the same applicable definitions and concepts to which those rulings relate were continued essentially unchanged in Phase IV and under the FEA regulations, the FEA believes that it is appropriate to apply the pertinent Phase II rulings in this interpretation.

The Phase II definition of "firm," the meaning of which was the chief subject to the Phase II rulings referred to in this interpretation, was as follows:

"Firm" means any person, corporation, association, estate, partnership, trust, joint-venture, or sole proprietorship of any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal and state and local governments. For purposes of this definition, a firm includes any entity listed in the preceding sentence that is part of or is directly or indirectly controlled by the firm. A person will be deemed to control any firm which is controlled directly or indirectly by such person, his spouse, children, grandchildren, or parents. 6 CFR 101.2, 37 F.R. 9457 (May 11, 1972).

This concept of "direct or indirect control," which brings within the "firm" all entities "controlled" by the firm, was continued essentially unchanged in Phase IV and remains applicable under the FEA regulations today. See definitions of "firm," "parent and its consolidated entities," and "unconsolidated entity," 6 CFR 150.31, 38 FR 21592 (August 9, 1973); 10 CFR 212.31, 39 F.R. 1924 (January 15, 1974).

The first Phase II ruling in point made clear that when A held more than a 50 percent interest in B it was deemed to control B for the purposes of the Economic Stabilization Program. Price Commission Ruling 1972–169 (37 FR 9641, May 13, 1972). It made no difference that the controlling entity was an individual; the individual and the controlled firm or firms, taken all together, constituted a single "firm" under the Program. CLC Ruling 1972–55, 37 FR 11694 (June 10, 1972), CLC Rulings 1972–81 and –82, 37 F.R. 15010 (July 27, 1972).

When an entity held less than a 50 percent interest in another entity control might still be shown. It was a question of fact to be determined in each case. PC Ruling 1972–179 (CLC Ruling 1972–51), 37 FR 10962 (June 1, 1972). In a specific hypothetical example in which A owned 45 percent of the stock of B, A was found to control B because A had a sufficient interest in B to dictate the pricing policies of B. CLC Ruling 1972–97, 37 F.R. 16025 (August 9, 1972).

It was also made clear that the division of ownership or control into exactly equal shares or interests (e.g., 50 percent–50 percent, 33⅓ percent–33⅓ percent–33⅓ percent) would not serve to defeat the purpose of the regulations and rulings concerning control. Specifically, where A and B each owned a one-half interest in C on a joint-venture basis, control on the part of both A and B (whether deemed direct or indirect) would be presumed. The result was that A plus C was considered a single entity and B plus C was considered a single entity, for the purpose of determining the size of the annual sales or revenues of the firm (price category determination), while for other purposes under the Economic Stabilization Program A and B were required to decide which of them would consider C as belonging to it in its entirety. PC Ruling 1972–216 (CLC Ruling 1972–77), 37 FR 13652 (July 12, 1972).

A firm seeking a formal interpretation from FEA generally bears the burden of providing the facts that are necessary with respect to the position the firm is asking the FEA to take. This rule is especially applicable in cases such as the present one where the question at issue depends upon facts that are not such as would ordinarily be known to FEA, except through the presentation made by the requesting party. In other words, since Enterprise has requested the FEA to rule that it does not control Holicer and French, it rests with Enterprise to provide facts to show convincingly that it does not control them.

In our judgment, Enterprise has not satisfactorily demonstrated lack of control. Enterprise stated in the "facts" section of its presentation that Duncan and Havens own no more than 8 percent of the outstanding stock of French and no more than 29 percent of the outstanding stock of Holicer; that neither the board of directors of French nor that of Holicer have "any compulsion to do the will of Duncan and Havens;" and that the arrangements for the acquisition of interest in French and Holicer were not made for the purpose of circumventing the regulations of either the CLC or the FEA, but were motivated by a legitimate desire to enhance the competitive position of Enterprise or of Duncan and Havens vis-a-vis the dominant firms in the industry which have long enjoyed the advantages of vertical integration (e.g., ownership or control of a wholesale and a retail marketing system). However, Enterprise fails to make a convincing case of lack of control for two main reasons:

(1) Enterprise's presentation on pages 7–8 of its argument that Enterprise, Holicer and French do not constitute a "firm" under 10 CFR 212.31 consists of a largely irrelevant analysis of FEA's definition of "firm" and related terms. The fact that the definition of "firm" contains a proviso permitting the FEA by regulation or ruling to vary the inclusiveness of "firm" depending upon the subject at hand (e.g., profit margin test, reporting requirements, base price determination, etc.) does not bear in any way upon the need for a factual examination of the question of control in a particular case in absence of a regulation or ruling determinative of the question. The only discussion of lack of control in the "argument" section of the Enterprise submission (apart from the stock ownership and other points already noted herein from the "facts" section) is the assertion that neither the admitted "communality of interest" between the entities concerned nor the assistance lent by Enterprise to the other two firms in connection with the Amoco sale necessarily indicates anything more than mere affiliation. But the fact that control does not necessarily result when these two particular and fairly common conditions are present does not avoid the need to examine further the question of control in light of all the considerations relevant to this issue.

(2) Information available to FEA in this case from other sources strongly indicates control of Holicer and French by Enterprise. This information, all of which has been known and available to Enterprise since the time its request for interpretation was submitted, was not directly commented upon or otherwise contradicted in the Enterprise submission or in any of several subsequent communications by Enterprise in connection with this request.

In a sworn affidavit dated March 30, 1974, and submitted to a Senate subcommittee investigating "oil brokerage" transactions, the president and former sole owner of French, Mr. James C. French, made the following main points:

(a) He understood that "one of the main considerations [of Havens and Duncan] in electing to purchase" French was French's allowable markup under the Economic Stabilization Program. He was told prior to the "purchase" of his company that Enterprise would be routing large wholesale transactions through French to third parties. When he expressed reservations concerning the propriety of such transactions and a desire to "get out of the company," Havens said there would be "no deal" unless he stayed on as President. "In order for these transactions to be within the rules of the Economic Stabilization Program," Havens explained, it would be necesary for Mr. French to stay on "as President and controlling shareholder."

(b) While Mr. French did stay on as President and, on paper, as "controlling shareholder" after the purchase on or about November 7, 1973, of his company by the Havens-Duncan group, he testified that on November 12, 1973, Havens gave him "instructions" to sign an agreement for a specific purchase of L. P. Gas from Enterprise at x per gallon; that on November 14, 1973, Havens "instructed" him to sell the same amount of L. P. gas to Westinghouse at x a sale characterized by Mr. French as a "paper transaction" because French neither took possession of the propane concerned nor made delivery; that on January 7, 1974, Havens "instructed" him to sign a sales agreement for the purchase of a specific quantity of propane from Enterprise at x per gallon, with respect to which he "received instructions" from Havens on January 17, 1974, to bill Amoco for the entire amount at x per gallon; and that subsequent to the investigation of the Internal Revenue Service in connection with these transactions Havens "dictated to [Mr. French's] secretary the wording to use" in Mr. French's letter to Amoco explaining the refund to Amoco as agreed between Enterprise and the IRS.

The foregoing, taken from "Current Energy Shortage Oversight Series—Oil Brokers," Hearings before the Permanent Subcommittee on Investigations, Committee on Government Operations, U.S. Senate, April 4 and 10, 1974, pp. 814–816, indicates that even though at the time of these transactions Mr. French retained ownership of 88 percent of the outstanding stock of French, Mr. French clearly believed, and acted upon the belief, that Enterprise, or Havens and Duncan, had obtained effective control of French. This view was reasonable in view of the fact that the stock purchase agreements and other documents executed on or about November 7, 1973, in addition to providing for eventual complete control (by 1976) of French by the Havens-Duncan group, prohibited French from making any distribution of profits in the meantime, and that, pursuant to these agreements, Mr. French was put on a salary basis. These facts, taken from the Senate Subcommittee Report, pp. 813, 817, 818 (n. 3), obviously bear importantly on the question of control.

Mr. French's understanding that he had given up effective control was also supported by the fact that while he controlled two out of three seats on the board of directors of French (the Havens-Duncan group had the right to appoint one director), no action could be taken requiring approval of the board of directors or by the shareholders except by the unanimous action of the board or the shareholders. The foregoing facts were taken from the Senate Subcommittee Report, p. 818, n. 3. The assertion in the request for interpretation that the board was not under "any compulsion to do the will of Duncan and Havens," although true in a literal sense, is not meaningful because under the agreements relating to the stock purchase there was little or nothing of any importance left for the board affirmatively to do. The control of the Duncan-Havens group was effected or protected in this respect by the negative or veto power which the group held

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over any attempts which the majority of the board might make toward independent action.

Nothing in the record suggests any misunderstanding between Mr. French and the Havens-Duncan group as to who would exercise effective control of French, and nothing discloses any attempt by Mr. French to resist effective control of French by Havens and Duncan. On the contrary, Mr. French had reason not to resist Havens and Duncan in this matter. In the opinion of the IRS, as stated in the IRS report of June 6, 1974, the shareholders of French and Holicer before the agreements with Havens and Duncan were entered into had no incentive to resist operational control by Havens and Duncan because they knew that the substantial additional profits which would result from the business routed by Enterprise through French and Holicer would assure the availability of ample funds for the eventual purchase by the two companies of the remaining majority interests of the previous shareholders, in accordance with the stock purchase agreements.

In addition to the sum of x paid to Mr. French by Havens and Duncan at the time of the initial stock purchase in 1973 and the sum of x to be paid to him in 1974 and 1976 by Havens and Duncan for additional stock purchases, Mr. French was to be paid by French, in 1976, from accumulated profits, the sum of x for his net remaining stock in French. Thus, Mr. French's compensation for the sale of his stock in French (in addition to his salary of x per week as president of French) came to a total of x. This amount appears to have been influenced by the expectation of multiple profits which were to be generated under the planned propane sale and resale program. These considerations further support the view that Havens and Duncan obtained effective control of French and Holicer.

Mr. French's lack of independence in this situation is further illustrated by the fact that at the time the documents relating to the purchase by the Havens-Duncan group were executed Mr. French was asked to sign, and did sign, as President of French, a blank promissory note the purpose of which was not explained to him. He later learned that Havens, without consulting Mr. French, obtained for French a x bank loan with the promissory note. Senate subcommittee Report, p. 815.

Under the arrangements outlined above, the Havens-Duncan group had total control of the profits of French beginning November 1, 1973. Profits could not be distributed and would accumulate until the Havens-Duncan group was in a position to obtain and use them. Under such a plan, it is highly unlikely that the Havens-Duncan group would fail to obtain effective management of French's operations. We note in this connection that Havens hired the new general manager of French and Holicer, who negotiated the sale to Amoco by French and Holicer. By every indication, the Havens-Duncan group did obtain effective control of Holicer and French from the beginning of November, 1973, throughout the period in which the transactions concerned occurred.

The summary of the Senate subcommittee staff stated that the documents relating to the acquisition of Holicer are, in all material respects, identical with those relating to the acquisition of French, except for the participation of an associate of Havens and Duncan in the purchase of the French stock, and the fact that the initial stock position which Havens and Duncan acquired in Holicer is somewhat larger (29 percent) than the initial stock ownership in French by the Havens-Duncan-White group (12 percent). Senate Subcommittee Report, p. 818, n. 3.

In view of all of the foregoing considerations, we conclude that Havens and Duncan had effective control of French and Holicer and that "the firm," therefore, for purposes of price controls for the period in which the transactions concerned occurred, consisted of Havens, Duncan, Enterprise, French, Holicer, and any other firm directly or indirectly controlled by Havens and Duncan or Enterprise.

The import of this interpretation is that the sales made to Amoco by French and Holicer, ostensibly as independent firms, were in fact sales made by the single "firm" which included French and Holicer as controlled sub-units, and that therefore the maximum lawful selling price applicable to sales to the class of purchaser of which Amoco was a part was the maximum lawful selling price to that class of purchaser as determined for that "firm." Assuming Enterprise's maximum lawful selling price for propane for the class of purchaser concerned was properly calculated at x per gallon, that is the maximum lawful selling price by the "firm" with respect to all purchasers in that class.

As noted above, since Enterprise, French and Holicer constitute a single "firm," the "firm" does not qualify under the "new market" rule because the "firm," thus understood, previously sold the product to the reseller or retailer market of which Amoco is a part, for purposes of 10 CFR 212.111.

Finally, there is no basis under the regulations for the theory that a single firm may be regarded as consisting of "separate pricing units." Since Enterprise, French and Holicer constitute a single "firm," the prices which that total "firm" charges, in sales external to the "firm," are the prices which are regulated under 10 CFR, Part 212 (previously, 6 CFR, Part 150, Subpart L). The general pricing rule, 10 CFR 212.10, applies to the price charged by the "firm." The price rules specifically applicable to resellers and retailers, 10 CFR, Part 212, Subpart F, apply to sales by "resellers," "reseller-retailers," and "retailers." The definition of each of these terms incorporates the definition of "firm." The rule which permits a "firm" which is a reseller or retailer to pass through increases in the "cost" of the item to be resold, 10 CFR 219.93, obviously means the cost to the "firm." Moreover, that regulation contains the express limitation that increased product costs may be passed through on a "dollar-for-dollar basis" only—meaning that no profit may be included in the pass-through of the cost increases. Since pricing to reflect profit margin maintenance is not authorized under the regulations, the result is that the portion of the current selling price which consists of profit is limited to that which was included in the firm's May 15, 1973, lawful selling price. Nothing in the regulations cited on pages 8 and 9 of the request for interpretation, and nothing in any other price regulation permits a "firm" to increase its lawful selling price by denominating as "costs," for cost pass-through purposes, the "firm's" own profits in intra-firm sales or in multiple sales and resales within the "firm." We therefore conclude that the basic unit to which the price regulations generally apply is the "firm" rather than a pricing entity which is a part of a "firm," and that the view that Enterprise, French and Holicer may each add their own markup to the product sold, even though the three entities constitute a single "firm," must be rejected as totally without basis in the regulations.

INTERPRETATION 1975—4

To: Shell Oil Co.

Date: February 14, 1975.

Rules Interpreted: §§ 210.32, 212.72, 212.74.

Code: GCW — PI — Definition of Property, Stripper Well Lease Exemption, Unitization.

This is in response to your request of August 6, 1974, for an interpretation concerning the term "property," as defined in Parts 210 and 212 of the Federal Energy Administration Regulations.

FACTS

You have asked, when a firm produces oil on a given lease from more than one producing zone, (a) whether each zone may be categorized as a separate property for purposes of the "stripper well lease" exemption of § 210.32, or (b) whether each zone may be categorized as a separate property for purposes of the "new crude petroleum" price regulations of § 212.74. You have also asked (c) whether a "newly formed unit," consisting of several leases which produced crude oil in 1972, may be regarded as a new property which had no production in 1972, for purposes of the "new crude petroleum" price rules of § 212.72.

INTERPRETATION

(A) The first sale of domestic crude petroleum produced from a stripper well lease is exempt from the federal energy pricing regulations pursuant to § 210.32(a). Pursuant to § 210.32(b) a stripper well lease "means a 'property' whose average daily production of crude petroleum • • • did not exceed 10 barrels per day during the preceding calendar year." "Property" is defined as "the right which arises from a lease in existence in 1972 • • •." Accordingly, for purposes of defining a "property," a lease is not divided into units smaller than that encompassed by the lease. Thus, when more than one production zone is located on a single lease, for purposes of § 210.32, "property" means the lease and not the individual production zones.

(B) New and released crude petroleum produced and sold from a property may be sold without respect to the ceiling price pursuant to § 212.74. Property for purposes of § 212.74 is defined in § 212.72 as "the right which arises from a lease or from a fee interest to produce domestic crude petroleum." Accordingly, a lease which encompasses more than one production zone may not be divided into more than one "property" for purposes of § 212.72.

(C) Production of new and released crude petroleum is determined under § 212.72 according to whether production exceeds the base production control level of a property. Pursuant to § 212.72 "base production control level crude petroleum" for a particular property means:

"(1) If crude petroleum was produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in the same month of 1972;

(2) If domestic crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12."

"Property is the right which arises from a lease • • • ." (§ 212.72). Accordingly, because the 1972 production from a property is required to calculate "base production control level crude petroleum," a firm must use the lease which was in existence in 1972 to define the property involved. Furthermore, § 210.32, which defines "property" as "a lease in existence in 1972," states that a property for purposes of § 210.32 "is coextensive with that property used in Section [Part] 212 for purposes of determining 'base production control level'."

Production from a newly formed unit consisting of several leases which produced crude oil in 1972 cannot be considered as production from a property which had no production in 1972, because the FEA definition of "property" relates back to leases in existence in 1972. Thus, all of the production from the leases in existence in 1972, which now are part of a newly formed unit, must be taken into account in determining the base production control level of the newly formed unit.

INTERPRETATION 1975—5

To: Phillips Petroleum Co.

Date: February 14, 1975.

Rules Interpreted: §§ 212.82, 212.83.

Code: GCW—PI—Base Price, Class of Purchaser, Equal Application Rule.

This is in response to your October 24, 1974 request for an interpretation of Federal Energy Administration (FEA) petroleum price regulations on behalf of Phillips Petroleum Company (Phillips) concerning the determination of lawful prices which a refiner may charge for gasoline.

FACTS

As described by your letter, Phillips performed certain calculations of its base prices for gasoline during the period January 1974 through May 1974. These calculations were then administered through the two principal marketing areas served by Phillips: the "West Coast" area, served through Phillips' refinery at Avon, California, and the "East" area, the remainder of the markets. For each of these areas, Phillips has customarily determined separate prices for gasoline. In performing its calculations, Phillips determined an amount of increased product costs per per gallon (the "d" factor of the refiner's cost allocation formula of § 212.83(c)(2)(i)) which it used to determine base prices. Phillips then determined a lesser amount of this increased cost figure, which it used in setting prices actually charged in the West Coast area, and a different lesser amount which it used in setting prices actually charged in the East area. The increase applied in the East area during this time was 2¢ per gallon less than that applied in the West Coast area, except that in May, the applied increases were the same in both areas.

Because the increases actually charged were in all cases less than the increase determined in calculating base prices, and because the East area increases were lower than the West Coast area increases, Phillips states that it sustained substantial amounts of unrecovered costs which it carried forward to subsequent months pursuant to 10 CFR 212.83(d) (now § 212.83(e)).

In August, 1974, FEA notified Phillips that the above-described calculation of West Coast area and East area price increases was considered inconsistent with FEA regulations. Following further correspondence with FEA personnel, Phillips has submitted this request seeking an interpretation of §§ 212.82 and 212.83 as applied to Phillips' West Coast-East pricing calculations, described above.

INTERPRETATION

The provisions of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159 (EPAA), require in Section 4(b)(2), that FEA regulations under the EPAA shall provide for—

(A) A dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products to all marketers or distributors at the retail level; and

(B) The use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel oil and refined petroleum products at all levels of marketing and distribution.

Section 4(b)(1)(F) of the EPAA specifies that one objective of FEA regulations is to provide for "equitable distribution of • • • refined petroleum products at equitable prices • • •." The conference report accompanying Pub. L. 93-159 explains the Congressional focus that FEA regulations "harmonize the objective of equitable allocation of fuels with the objectives of the Economic Stabilization Act." The report emphasizes that FEA price regulations should prevent price discrimination which Congress feared might occur (House Rep. No. 93-628, Nov. 10, 1973, p. 26).

FEA price regulations issued January 15, 1974 (39 FR 1924), were specifically designed to implement these expressed Congressional concerns. Adopted from the Cost of Living Council's Phase IV Regulations for the petroleum industry (6 CFR Part 150, Subpart L), FEA price regulations focused on the concepts of a single price for an item sold to a class of purchaser (10 CFR 212.82(f) now § 212.82(b)) and a single determination of increased product costs (10 CFR 212.83).

With respect to motor gasoline, the calculation of the cost increase, which is applied to calculate the base prices for that product, is stated in § 212.83(c)(1)(i) and expressed mathematically in § 212.83(c)(2)(i).

The general cost allocation rule for "special products" in § 212.83(c)(1)(i), applicable to gasoline, is that a refiner, to compute its base prices, may increase its calculated May 15, 1973 weighted average selling price to each class of purchaser by an amount to reflect increased costs attributable to gasoline sales, calculated in accordance with § 212.83(c)(2)(i). The rule further provides that increased product costs not so allocated to the special product (gasoline) may be included in the refiner's calculations of prices for covered products other than special products.

The cost calculation required by this rule (§ 212.83(c)(2)(i)), is one which results in a per unit dollar increment which a refiner may apply to the May 15, 1973 weighted average selling price for gasoline to each class of purchaser, to compute the base price of gasoline to each class of purchaser. This formula calculation represents FEA's policy under the EPAA to avoid discriminatory pricing patterns, by requiring a single per unit cost determination and a single per unit cost application.

In calculating increased product costs to be applied to compute base prices, FEA regulations also provide an option not to allocate all allowable increased costs to a particular special product. Section 212.83(c)(1)(i) permits those costs which are not applied to gasoline base prices to be applied to base prices of other products, as determined under the calculations of § 212.83(c)(1)(ii).

The price regulations, therefore, provide a framework for calculating only a single increase of costs to be applied to each class of purchaser of a particular covered product. The differences in prices which result through this technique are those which have historically existed; their maintenance is fully intended by FEA in carrying out its objective to prevent discriminatory pricing.

Phillips asserts that during the period in question nothing in the FEA price regulations prohibited the charging of prices different from the calculated base prices, as long as the base prices were not exceeded. Phillips points out that, in its view, unrecovered costs permitted to be carried forward to a subsequent month, can be generated by "failure to sell the product at the full amount of the increased [sic] base price."

The language apparently relied upon by Phillips appears in § 212.83(e), "Carryover of Costs," and states:

(1) If • • • a firm charges prices for a special product which result in the recoupment of less total revenues than the entire amount of increased product costs calculated for that product pursuant to the general formula and allowable under paragraph (c)(1)(i) of this section and that unused amount of increased costs is not used • • • pursuant to paragraph (c)(1)(ii) of this section, [those costs] • • • may be added to • • • compute the base prices for that special product for a subsequent month.

This language does not, by its terms, authorize the disparate application of costs as suggested by Phillips. Rather, the quoted regulation relies upon the calculations of § 212.83(c)(1)(i) and (c)(2), which, as discussed earlier, deal only in terms of a single increment of costs applied to each class of purchaser. The quoted paragraph does refer to prices "charged," but does not support an assertion that these prices may be calculated by using costs applied in a manner different than that authorized by the general rule and the general formula. Indeed, the reference to prices charged was intended by FEA to serve as recognition of the economic fact that often a firm may be unable actually to charge the "base prices" (e.g., FEA Ruling 1974-12, 39 FR 18423, May 28, 1974). Recognition of this fact, however, does not imply FEA sanction of an unequal application of or selective failure to apply a single cost in establishing prices.

The primary purpose of § 212.83(e) was simply to provide a self-correcting mechanism for over or under recoupment of increased costs, in recognition of the fact that base price determinations in each month must necessarily rely on estimated sales volumes, which may turn out to be inaccurate.

The interpretation urged by Phillips is, in essence, that § 212.83(e) permits the application of any increment of increased product costs to determine the actual selling price of a covered product to any class of purchaser, as long as the increment is less than the maximum permitted under § 212.83(c)(2)(i). To adopt this interpretation would render meaningless the requirement of the FEA price regulations that a single increment of increased costs be calculated and equally applied to classes of purchaser, and the base price rule and class of purchaser concepts described above. It is, in short, unreasonable to assume that the regulatory system carefully structured to preserve historical pricing differentials could be circumvented by the interpretation of § 212.83(e) which is urged by Phillips.

To clarify the meaning of § 212.83(e) in this regard, FEA found it advisable to issue the clarifying amendment of September 1, 1974 (39 FR 32306, September 5, 1974) referred to by Phillips. This amendment served to make explicit the requirement discussed here, that prices charged must reflect the equal application of increased product costs. The amendment did not alter the concepts and implications of the pricing policies and regulatory framework described above.

It is therefore our interpretation that the provisions of §§ 212.82 and 212.83, in effect between January and May, 1974 did not authorize the unequal application of costs in the manner described by Phillips, and do not permit the carryover to a subsequent month of those increased product costs not recovered due to that unequal cost application.

INTERPRETATION 1975—6

To: Cheker Oil Co.

Date: February 14, 1975.

Rules Interpreted: § 212.93, Ruling 194-18.

Code: GCW—PI—Temporary Discounts on May 15, 1973, Class of Purchaser.

This is in response to your December 31, 1974, request of interpretation on behalf of Cheker Oil Company (Cheker) concerning the calculation of May 15, 1973 selling prices under 10 CFR 212.93.

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FACTS

According to statements submitted by Cheker, Cheker instituted on May 2, 1973, certain revisions in its published Dealer Tankwagon (DTW) prices for gasoline. Although these published revisions constituted Cheker's "official" prices for gasoline in sales to retail dealers, Cheker was, on May 15, 1973, actually charging prices less than the published DTW prices prevailing during that time. These lower prices resulted from certain discounts off DTW prices that were made available throughout Cheker's distribution systems to certain dealers, "to preserve their competitive pricing posture in their specific local markets." Cheker removed its discounts and began charging only its published DTW prices on or about June 8, 1973.

In determining its maximum lawful prices under petroleum price regulations first issued by the Cost of Living Council (CLC) and later adopted by FEA, Cheker used its DTW prices as set forth on the revised schedule which was issued May 2, 1973 and in effect on May 15, 1973. Cheker did not use the actual discounted prices which had been charged on May 15, 1973, in performing its calculations.

Upon initiation of an investigation by FEA personnel in Region V, Cheker was advised that its use of the revised DTW prices, as published on May 2, 1973, instead of prices actually charged on May 15, 1973, in determining lawful prices, was erroneous. Relying upon certain language in FEA Ruling 1974–18 and in 10 CFR 212.93, Cheker asserts its calculations were proper, and has requested this interpretation of the application of the FEA price regulations to confirm that its calculations were correct.

INTERPRETATION

The price rule of 10 CFR 212.93(a), which Cheker asserts it is applying in calculating its prices for gasoline, states:

A seller may not charge a price for any item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, increased costs of the item.

Section 212.93(d) requires, in part, that:

In computing the May 15, 1973 selling price, a firm may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973.

This language of § 212.93(d) construes precisely the language of § 212.93(a) relating to the calculation of a seller's May 15, 1973 weighted average prices, and requires, contrary to Cheker's assertion, that the May 15, purchaser be determined upon prices actually charged, and not merely upon the prices published. To the extent that a published schedule reflects prices actually charged to some customers by a seller, those prices may of course be used, but not because they were "official" published prices, but rather because they were the prices actually charged. However, in cases where a published price existed, but a "sale" price, or a discounted price lower than a published price was actually charged, a seller must include those lower prices by using them in its calculations of May 15, 1973 weighted average prices under § 212.93(a).

Ruling 1974–18, issued on June 12, 1974 (39 FR 21042), is not relevant to the issue of whether "discounted" prices must be taken into account in determining May 15, 1973 weighted average prices. The ruling is addressed solely to the issue of the extent to which particular types of discounts serve to establish a customary price differential for purposes of making class of purchaser determinations. In that regard, the ruling drew a distinction between "customary" and "temporary" discounts for purposes of determining a class of purchaser to which a discounted price prevailed. It did not provide, however, for a seller to exclude, from its May 15, 1973 weighted average price calculation for each class of purchaser prices actually charged which were less than published or posted prices. The ruling simply stated, as Cheker notes, that a purchaser charged such a lower price because of a "temporary" discount, "may be included in the class of purchaser which includes purchasers customarily paying the full tankwagon price."

In fact, Ruling 1974–18 reaffirmed the requirements of § 212.93(d), since the calculation of a single May 15, 1973 weighted average price for a DTW class of purchaser is accomplished precisely by determining a "weighted average" of the prices charged: the lower, temporary discount price, and the full, higher DTW price. In the example of Ruling 1974–18, both such prices were "charged" to purchasers on May 15, 1973.

The language of Ruling 1974–18 therefore cannot support Cheker's views. The fact that under Ruling 1974–18 a seller is not, in the case of the temporary discount, required separately to maintain the discount, simply indicates that a separate "class of purchaser" will not be created by the presence of temporary discounts. Indeed, no separate maintenance of the discount could occur in that case, since that lower price is required to be included in the "weighted average" determined under § 212.93(a).

These requirements are entirely consistent with FEA's purpose under its Reseller rules, to which Ruling 1974–18 applies as fully as it applies to the Refiner rules. Those rules do not focus on the individual mark-up applied in discounted prices, but rather focus on the weighted average of the prices charged to a class of purchaser. They provide no basis for a seller to omit, in calculations of a lawful price to a class of purchaser, the prices actually charged, even if those prices were less than the seller's published prices.

Accordingly, it is our interpretation that the calculations performed by Cheker are not consistent with the provisions of 10 CFR 212.93 (a) and (d), which require a seller to include all prices actually charged to a particular class of purchaser on May 15, 1973; nor with Ruling 1974–18, which serves only as a guide for determining whether or not separate classes of purchaser exist, where a certain type of discount was in effect on May 15, 1973.

INTERPRETATION 1975–7

To: Pasco, Inc.

Date: February 14, 1975.

Rule Interpreted: § 212.83.

Code: GCW—PI—Refiner Price Formula ("*V*" Factor).

This is in response to your request for interpretation dated October 22, 1974, concerning whether the "V_{1}" and "V_{2}" factors in the cost allocation formulae of 10 CFR 212.83(c)(2) include the volume of all the product or products sold by the refiner concerned, whether or not refined from crude oil by that refiner. You have asked that these volume factors be interpreted in such a way that the volume of product purchased by the refiner concerned be excluded from that refiner's sales volume of that product.

FACTS

Pasco, Inc. ("Pasco"), a refiner which entered the petroleum refining business in December, 1972, owns and operates one refinery. Approximately *xx* percent of Pasco's total sales volume is derived from the sale of gasoline, which it markets through a wholly-owned subsidiary, Pasco Marketing, Inc. ("PMI"). Approximately *xx* percent of the volume of products marketed by PMI is obtained from the Pasco refinery. The remainder is purchased from suppliers other than Pasco.

Under the cost allocation formulae of 10 CFR 212.83(c)(2), Pasco may, in general, increase the price of a "special product," such as gasoline, to reflect (1) the total increased cost of crude oil input to the refinery, multiplied by the ratio that the total volume of gasoline sold in a given period bears to the total volume of all covered products sold in the same period, plus (2) the total increased cost of gasoline purchased for resale, plus (3) an adjustment to reflect any unrecovered increased costs from previous months which the refiner now wishes to pass through, plus or minus (4) a permitted adjustment to reflect certain allowable re-allocation of costs as between different products produced by the refiner. The sum of (1), (2), (3) and (4) is divided by the total estimated volume of gasoline sales for the current month to determine the total maximum dollar cost-justified price increase on a per-unit basis.

As indicated above, a relatively large portion of gasoline sold by Pasco is not produced in its refinery but is purchased product. Assuming that this large volume of purchased product must be included in the sales volume ratio in (1), above, the formula permits a larger share of increased crude oil costs to be passed through on gasoline and thus permits a price for gasoline which is higher than that which could be charged if the purchased product were permitted to be excluded from the sales volume ratio. An additional result under the same assumption is that the maximum permissible selling price for other refined products, such as No. 2 home heating oil, is correspondingly lower. Increased costs may be reallocated from No. 2 heating oil to gasoline, but may not be reallocated from gasoline, or any other product, to No. 2 heating oil.

Thus, when competitive circumstances are such that current gasoline selling prices are significantly lower than those which are permissible under the cost allocation formulae, the "unused" costs allocated to gasoline may not be reallocated to No. 2 home heating oil, a product which market conditions are more likely to permit to be priced at the maximum permissible level. However, if the maximum permissible price for gasoline were permitted to be determined under the cost allocation formula by excluding the volume of purchased product from the sales volume ratio in (1), above, the result would be a direct allocation of a larger share of crude oil cost increases to No. 2 home heating oil, and thus a corresponding increase in maximum permissible prices for that product.

INTERPRETATION

The definitions of "V_{2}" and "V_{1}" in 10 CFR 212.83(c)(2) indicate that purchased products as well as those refined from crude oil by the refiner concerned are included in the defined sales volumes, except in the case of propane. This is shown by the clear and necessary implication of the parenthetical "propane" clause which is found in both definitions, and which became effective August 1, 1974. For example, the definition of "V_{2}" begins as follows:

"V_{2}=The total volume of all covered products (other than propane, *which may be included only to the extent that it was refined by the refiner from crude petroleum*) • • • sold in the period "n" • • • [emphasis added]." It is also shown by the express statement made in the preamble to the regulation amendment which inserted the parenthetical "propane" clause, that, prior to that amendment, the use of the unqualified words "all covered products" in V_{2} "results in an allocation of increased costs of crude petroleum • • • in an amount which reflects not only the volume of propane refined from crude petroleum *but also the volume of propane purchased by the refiner and propane produced from natural gas liquids* [emphasis added]." 39 F.R. 30828 (August 26, 1974).

The view of the FEA as expressed in the above-quoted statement is that the words "all covered products," taken literally, require inclusion of purchased products in the sales volume of those products. The appropriateness of a literal interpretation in this case is supported by the practical consideration that purchased products are often commingled with refinery products, both in the sense of the fungible nature of certain purchased and refined final products and in the sense of the admixing of certain other products (blending ingredients) during the refining process.

INTERPRETATION 1975—8

To: Continental Airlines.

Date: February 14, 1975.

Rules Interpreted: §§ 210.21, 210.33, 211.51.

Code: GCW—AI—Definition of United States, Bonded Fuel; Bonded Fuel Exemption; Guam.

This is in response to your November 13, 1974 request for interpretation on behalf of Continental Airlines (Continental) regarding the applicability of FEA regulations to sales of aviation fuel at Guam, and whether such fuel sold there by Mobil Oil Corporation (Mobil) is "bonded" fuel for purposes of FEA programs. Your letter further requests that any earlier documents relating to "this general subject matter" be made available to you. We are not aware of any such documents in the Office of General Counsel, and suggest that your request should be pursued under the guidelines established in 10 CFR Part 202 for the production or disclosure of material or information by FEA.

FACTS

The facts as stated by Continental are that Continental purchases aviation fuel at Guam from Mobil. Mobil asserts, and has asserted since before the implementation of FEA regulations, that the aviation fuel which Continental purchases at Guam is "bonded" fuel. Based on this assertion, Mobil has required Continental to pay a price for aviation fuel which Continental asserts is higher than the prices being charged by other suppliers of aviation fuel on Guam and in the Trust Territory area pursuant to FEA regulations applicable to prices charged for domestic (non-bonded) aviation fuels.

Continental further states that, to its knowledge, the aviation fuel it purchases from Mobil is shipped directly to Mobil in Guam from foreign countries, but is not held in United States Customs' bond at Guam. Continental believes that Mobil is the only supplier of aviation fuel in Guam that asserts that such fuel is bonded fuel. In a telephone conversation of December 27, 1974, you advised this office that the aviation fuel involved is used by Continental only in flights which begin and end in the United States, its territories and possessions.

Continental requests an interpretation of whether its purchases of aviation fuel at Guam are subject to FEA regulations.

INTERPRETATION

Pursuant to the Emergency Petroleum Allocation Act of 1973, (Pub. L. 93–159 (EPAA)), FEA price and allocation regulations apply to each sale of certain petroleum products, including aviation fuel, in the United States. "United States" is defined by FEA, under the EPAA, at 10 CFR § 210.21, as follows:

"United States" means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States other than the Panama Canal Zone.

Since Guam and the Trust Territory are part of the "territories and possessions of the United States," FEA regulations apply generally to all transactions in Guam which involve aviation fuel, unless exempt by virtue of a specific exemption in the regulations. Although "aviation fuels" are among the petroleum products regulated by FEA (see 10 CFR § 211.142 and 10 CFR § 212.31), there is an exemption provision of Subpart C of Part 210, CFR which states, in § 210.33, that: Bonded fuels, as defined in Subpart B of Part 211 of this Chapter, are exempt from the provisions of Parts 211 and 212 of this Chapter.

The definition of "bonded fuels" in § 211.51, describes these as: (f)uels produced outside the customs limits of the United States, held in bond under continuous United States customs custody in accordance with Treasury Department Regulations, and destined for use outside of the United States, its territories or possessions.

Thus, if the aviation fuel purchased by Continental at Guam fell within this definition of "bonded fuels," it would be exempt from FEA regulations pursuant to 10 CFR § 210.33.

FEA regulations, as noted above, require that the bonding of fuels conform to federal Treasury Department Regulations. A review of the pertinent federal laws and Treasury Department Regulations discloses that bonding can, by definition, only take place within the Customs Territory of the United States, and that Guam is not within the Customs Territory. "Customs Territory of the United States" means only the several States, the District of Columbia and the Commonwealth of Puerto Rico (Pub. L. 87–456, 76 Stat. 72, as amended by Pub. L. 87–794, 76 Stat. 882, 19 USC § 1202, Tariff Schedules of the United States (1962), as amended; and 19 CFR § 7.8, note 15). The jurisdictional authority of the United States Customs Service is coextensive with the described customs territories, and does not encompass Guam and the Trust Territory (19 U.S.C. § 1401, et. seq.; 19 CFR § 1.2, *et* seq.).

Accordingly, based upon the facts as stated by Continental, it is our interpretation that the aviation fuel it purchases from Mobil is not "bonded fuel" as defined by FEA regulations, since it is not capable of being "held in bond under continuous United States customs custody," and is not "destined for use outside of the United States, its territories or possessions." Thus, the fuel does not come within the exemption provisions of 10 CFR § 210.33, noted above.

Because we reach this interpretation, it is not necessary to consider Continental's request that FEA direct an exchange of aviation fuel for Continental's benefit. Should such relief nevertheless be desired by Continental, it should be requested pursuant to the general provisions of Subparts A and H of Part 211 of FEA regulations.

INTERPRETATION 1975—9

To: Norman Wooten, Inc.

Date: February 14, 1975.

Rules Interpreted: §§ 212.111, 212.93.

Code: GCW—PI—New Item Rule, Acquisition Rule.

Your letter of March 26, 1974, submitted to the Federal Energy Administration (FEA) on behalf of Mr. Norman Wooten, Inc. ("Wooten"), requested a "determination" of the effect upon certain pending transactions described herein of § 212.111 of the FEA Price Regulations, which pertain to the computation of base prices for "new items."

More recently, the FEA received a supplement to your initial submission dated August 15, 1974, and signed by Mr. Daniel C. Kaufman. On September 3, 1974, a meeting was held in Room 5134A of the Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. to discuss the disposition of the supplemented request. During the meeting it was agreed among yourself, Mr. Kaufman, and Mr. Stewart Stone of the Office of General Counsel, FEA, that Wooten's request would be treated as a request for interpretation and that upon receipt of additional data regarding the computation of lawful prices under the FEA regulations, the Office of General Counsel would issue its formal interpretation. The additional information has been received.

FACTS

The request was engendered by the following fact situation:

(1) Wooten has been doing business as a midstream refueler for 2¼ years, under the name of Ohio River Service and Supply, as a commissioned agent for Standard Oil of Kentucky ("Kentucky");

(2) Reduced to its most important elements, the relationship between Wooten and Kentucky consists of the sale by Kentucky, through its agent Wooten, of fuel (basically diesel fuel) and lubricating oil. Wooten receives commissions of _____ per gallon on diesel fuel sales and __% of the selling price on lubricating oil;

(3) Presently, Kentucky pays rent on the real estate used by Wooten, owns the tugboat and two barges with special refueling capabilities, pays all major operating expenses, maintains product inventory, and is responsible for all bookkeeping and billing relating to the midstream refueling operation;

(4) Kentucky does not wish to maintain Wooten as an agent for the midstream refueling operation. Kentucky would prefer to sell the assets, including a wharfboat, towboat and two barges, to Wooten and establish Wooten as a retail dealer on the river. In conjunction with the contemplated sale of assets, Wooten would also assume responsibility for bookkeeping, billing, operating expenses, rental on the real estate, and maintenance of product inventory. Although there is no sale of customer lists involved, Wooten would serve as an independent retailer substantially the same customers as it now serves as a commissioned agent.

ISSUE

The question presented relates to the method by which Wooten shall establish its maximum lawful price under FEA price regulations which it may charge at retail for fuel and lubricating oil in the event that Wooten purchases Kentucky's assets. Wooten argues that it would be entering a new business and that § 212.111 calls for the treatment of the sale of fuel by Wooten as a

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"new item" whose base price should be determined under § 212.111(b)(3) by reference to "the price at which that item is priced in transactions at the nearest comparable outlet on the day when the item is first offered for sale."

INTERPRETATION

Section 212.111(b)(3) does not apply to sales by Wooten because, although Wooten, as an entity, did not sell fuel during the one year period immediately preceding the date on which it offered fuel for sale, the component of Kentucky which will be acquired by Wooten did make such sales.

Accordingly, Section 212.111(c) of the FEA regulations indicates the method by which Wooten shall determine its maximum lawful price for covered products, since this is the Section which provides for prices to be charged upon acquisition of a legal entity or a component of a legal entity which previously engaged in the sale of such products in the same market area. The basic objective of § 212.111(c) is to insure that changes in ownership do not result in unwarranted price increases or otherwise serve to avoid the FEA price regulations. Thus, where there is a change in ownership of an entity engaged in the distribution of petroleum products, but where the distribution of a particular covered product is not otherwise affected, prices for that product under the FEA regulations should generally not be affected. Section 212.111 states in paragraph (c), that:

(1) If a legal entity or a component of a legal entity determines a base price or maximum selling price, or ceiling price pursuant to this part for a covered product which it sells to a particular market and the entity, or component is subsequently acquired by another firm, that covered product does not become a new item with respect to the same market. The base price or ceiling price of the covered product with respect to that market remains the base price or ceiling price determined for it by the acquired entity or component.

While the phrase "entity or a component of a legal entity" is not defined in the regulations, it ordinarily connotes an on-going, identifiable business or a subsidiary or division thereof. Wooten argues that the phrase contemplates "something more than a towboat and three barges" and this may be correct. The acquisition of physical assets may not, in and of itself, constitute the acquisition of "a legal entity or a component of a legal entity" within the meaning of §212.111(c). However, where as here, the acquiring firm takes over an on-going business activity including operating assets, a leasehold interest, books and records, supply obligations, product inventory, etc., such acquisition of an identifiable business activity constitutes the acquisition of "a legal entity or a component of a legal entity" within the meaning of § 212.111(c).

Accordingly, upon acquisition of Kentucky's midstream refueling operation, as set forth in the request for determination, Wooten shall determine its maximum lawful price, for products previously sold on behalf of Kentucky, by reference to § 212.111(c)(1). This means that, if at the time of acquisition Kentucky's current lawful price being charged to a class of purchaser for diesel fuel sold through Wooten were 25.5 cents per gallon, the maximum lawful price which Wooten could charge for diesel fuel sold to that class of purchaser upon acquisition of Kentucky's assets, would be 25.5 cents per gallon, pursuant to § 212.111(c) of the regulations, but subject to the further price increases permitted to resellers and retailers pursuant to § 212.93(b) of the regulations.

In determining its maximum lawful price subsequent to the date of acquisition, Wooten shall be subject to § 212.93 provided that:

(1) in applying the price rule contained in § 212.93(a), Wooten shall calculate the "weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973," by substituting the weighted average price at which the item was lawfully priced by Kentucky in transactions with the class of purchaser concerned on the date of acquisition;

(2) in calculating "increased costs" as defined in § 212.92 for use in the price rule of § 212.93(a), Wooten shall calculate the "weighted average unit cost of that product in inventory on May 15, 1973," by substituting the weighted average unit cost of that product in inventory on the date of acquisition.

It should be noted that, upon the acquisition, Kentucky will be required to compute its prices for covered products sold to Wooten in a different manner than it computed the prices at which those products were sold through Wooten, as Kentucky's agent. Thus, Kentucky formerly sold at retail on the river, and therefore was permitted to compute its prices by reference to its May 15, 1973 prices for classes of purchaser who purchased at retail. The contemplated acquisition will, however, result in sales by Kentucky to Wooten at a non-retail level. Therefore, Kentucky's price to Wooten, for inventory sold on the date of acquisition and for supplies sold subsequent to that date, will have to be determined with respect to Kentucky's prices to classes of purchasers which purchased at a non-retail level. For example, in pricing diesel fuel sold to Wooten, Kentucky will be required by the FEA regulations to place Wooten in the class of purchaser which is most similarly situated (e.g., other midstream refuelers in the area purchasing comparable volumes at wholesale), and to charge Wooten the same price as is charged to other members of that class.

INTERPRETATION 1975—10

To: Twin Montana, Inc.

Date: February 14, 1975.

Rule Interpreted: § 210.32.

Code: GOW—PI—Stripper Well Lease Exemption, Unitization.

This is in response to your March 12, 1974 request for an interpretation concerning the applicability of 10 CFR § 210.32 (the stripper well lease exemption of the FEA Mandatory Petroleum Price and Allocation Regulations), to the production of domestic crude petroleum which is attributed to leases subject to the "Unit Agreement" for the "Lupton Unit." I regret the delay which occurred in responding to your request.

FACTS

The information submitted by you was contained in a report prepared by Mr. Frank Jennings, Esq. and sets forth certain facts which form the basis of your request. According to that report, Twin Montana, Inc. ("Twin Montana") is a party to an agreement unitizing the crude petroleum production from certain tracts, known as the "Lupton Unit." This agreement was entered into prior to the effective date of the Emergency Petroleum Allocation Act of 1973 (P.L. 93-159) under which the FEA issued the subject regulation.

Certain provisions of the Lupton Unit Agreement have given rise to the question presented by Twin Montana. That Agreement states that the crude petroleum produced from the "Unit Area" shall be considered as crude petroleum produced from each lease within the Lupton Unit, as if the producing wells had each been operated from each lease within the Lupton Unit (Section 3.4 of the Unit Agreement). This provision imputes all production and operations of the Unit to each and every lease in the Unit. The Agreement also specifies the method for allocating shares of the production from the Unit to particular leases within the Unit.

On the basis of these provisions, Twin Montana asserts that a particular lease within the Lupton Unit may be considered a "stripper well lease" if the annual share of the Unit's production allocated to the lease in the preceding calendar year, divided by the product of the number of days in the year times the number of wells producing crude petroleum within the Unit Area, is less than ten barrels.

Twin Montana requests an interpretation that, on this basis, oil allocated to a lease under the Lupton Unit Agreement is exempt from FEA Mandatory Petroleum Price Regulations pursuant to the regulation concerning the first sale of domestic crude petroleum produced from a "stripper well lease." That regulation is set forth in § 210.32 of the FEA regulations.

INTERPRETATION

Section 210.32 of the FEA regulations states, in paragraph (a), that:

The first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids produced from any stripper well lease is exempt from (the Mandatory Price and Allocation Regulations).

A stripper well lease is defined, in § 210.32(b), as

• • • a "property" whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed ten barrels per day during the preceding calendar year.

A "property" is, in turn, also defined in § 210.32(b) as

The right which arises from a lease in existence in 1972 or from a fee interest to produce domestic crude petroleum in existence in 1972 and is coextensive with that property used in Section 212 for purposes of determining "base production control level."

"Average daily production" is also defined in § 210.32(b), in pertinent part, to mean

The qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of days in that year times the number of wells which produced crude petroleum and petroleum condensates, including natural gas liquids, from that property in that year.

The issue raised by your request for interpretation is whether, in determining the "average daily production" for purposes of the stripper well lease exemption, one may consider all of the producing wells in the unit as being producing wells with respect to each lease subject to the Unit Agreement (as provided in Section 3.4 of the Unit Agreement). Our conclusion is that the entire Lupton Unit Area subject to the Unit Agreement constitutes the single "property" for purposes of determining "average daily production," and that the total production from the Lupton Unit must be divided by the total number of producing wells in the Unit to determine average production per well.

This conclusion follows from the fact that an essential element for purposes of computing average daily per well production is "the number of wells which produce crude petroleum • • • from that property in that year". Under a unit agreement the location of producing wells with respect to individual leases cannot be determined, and the only number of producing wells that can be taken into account for this computation is with respect to the entire Unit Area.

The purpose of a Unit Agreement is to conduct secondary and other recovery programs. Thus, the language of Section 3.4 of the Unit Agreement, noted earlier, provides that operations conducted on any part of the Unit Area "shall be considered as operations upon or production from each Tract, • • • just as if such operations had been conducted and a well had been drilled on and was producing from each such Tract."

Thus, under the Unit Agreement, it is no longer possible to ascribe rights or make determinations based on whether a producing well is physically located on the area covered by a particular lease, since all production is considered to take place on all leases covered by the Unit Agreement. Typically, in methods of secondary recovery or pressure maintenance, which the Unit Agreement is designed to permit, a number of producing wells are closed in or are used for injection, and are therefore no longer used for production.

A determination of average daily production for a lease, based upon the share of production from the Unit allocated to that lease, but using the number of producing wells within the Unit, is not permissible because it compares production allocated to a single lease within a Unit with the total number of wells producing in the Unit, so that although the production from the Unit might well be in excess of ten barrels per well per day, each lease owner subject to the Unit could claim a stripper well lease exemption. On the other hand, the determination of average daily production based upon physical location of producing wells with respect to particular leases would be arbitrary and contrary to the terms of the Unit Agreement, since only those owners which retained production wells physically located on their lease could possibly calculate a per well production figure for purposes of the stripper well exemption, whereas those owners whose leases contained former production wells that were closed in or used for injection could not possibly claim a stripper well exemption. It is a necessary conclusion, then, that the "property" to be considered under a unit agreement, when applying the provisions of 10 CFR § 210.32, is the Unit itself, and not each separate participating lease.

The FEA is currently considering whether, and how, its regulations should be amended in order to facilitate secondary recovery (and unitization agreements intended to promote secondary recovery). It should be noted, however, that the stripper well lease exemption was intended to ensure that wells producing at low production levels be continued in operation, rather than be shut in because of high operating costs in relation to the volume produced. Since the Lupton Unit Agreement was effective before the stripper well lease exemption was adopted, it would not appear that further price incentives could be justified as necessary to facilitate unitization or to insure that production under the Unit Agreement is sustained.

INTERPRETATION 1975—11

To: Calumet Industries, Inc.

Date: February 14, 1975.

Rule Interpreted: § 212.126.

Code: GCW—PI—Refiner Reporting Requirements.

On March 6, 1974 the FEA Regional Office, Chicago, Illinois, received a S-16, Application for Exception, from Calumet Industries, Inc., hereinafter referred to as Calumet. The Application for Exception was forwarded to the FEA National Office, Washington, D.C. On October 31, 1974, the Office of Exceptions and Appeals dismissed without prejudice the exception request. The dismissal was based on the fact that Calumet was requesting an interpretation of § 212.126 of the FEA regulations rather than an exemption from the FEA regulations.

FACTS

Calumet operates a division, Calumet Refining Company, which produces lubricants, diesel fuel, and No. 4 and No. 6 heating oils. Calumet derives less than *x* from the sale of the covered products it produces. Calumet does not sell the domestic crude petroleum it produces as an operator. Calumet produces no No. 2 heating oil.

INTERPRETATION

Pursuant to § 212.126(b), each firm which refines a covered product is subject to the FEA's reporting requirements. Section 212.126(b) states: "Each firm which refines covered products • • • shall prepare and file with the FEA periodic reports in accordance with the forms and instructions issued by the FEA." Accordingly, all refiners, regardless of their annual sales, capacity, or products produced are subject to the FEA's reporting requirements.

INTERPRETATION 1975—12

To: Longview Refining Co.

Date: February 25, 1975.

Rules Interpreted: §§ 212.83(e), 205.194, Economic Stabilization Act § 210.

Code: GCW—PI—Over-recoupment, Refunds.

This is in response to your letter of September 30, 1974, and the enclosed request for interpretation filed on behalf of the Longview Refining Company ("Longview"). This interpretation is based upon the information provided in the request and other documents filed with the request, and is expressly limited to the facts set forth therein.

FACTS

The request is for an interpretation of § 212.83(e) (§ 212.83(d) until this paragraph was redesignated § 212.83(e) on December 1, 1974 (39 FR 42368 (December 5, 1974))), which specifies the manner in which overrecoupment of increased product costs is to be dealt with in subsequent months. Longview's position is that this section prescribes price adjustments in subsequent months as the exclusive method of treating overcharges, and that refunds to identified purchasers of overcharges do not satisfy the requirements of that section or discharge the responsibility for compliance with that section. A refund to particular purchasers of the overcharges, Longview asserts, would require a refiner to refund the amount of any overcharge two times, once in direct refunds to purchasers, and again to all purchasers in subsequent months through the mechanism of the price adjustments called for by the price formula.

During the months of December 1973 and January 1974, Longview sold motor gasoline and diesel fuel to its wholesale purchasers at prices substantially in excess of the prices permitted under the Cost of Living Council regulations (6 CFR 150.355) and, subsequent to January 14, 1974, under the Federal Energy Office regulations (10 CFR 212.82). This overcharge was due to an inaccurate estimate of the cost of crude oil to Longview. For the purposes of this interpretation it is assumed that the wholesale purchasers and the total volumes of each product purchased by each purchaser are known.

INTERPRETATION

Section 212.83(e)(1) provides in relevant part:

"If in any month beginning with October 1973, a firm charges prices for a special product which result in the recoupment of more total revenues than the entire amount of increased product costs calculated for that product pursuant to the general formula and allowable under paragraph (e)(1)(i) of this section, the amount of excess product costs recouped must be substracted from the May 15, 1973 selling prices to compute the base prices for that special product for the subsequent month."

This paragraph provides the general rule for computing prices in a subsequent month when there has been an overrecovery in a preceding month. It was included in the regulations in recognition of the fact that prices charged in a particular month are based in part on estimated sales volumes for that month, which may prove to be inaccurate, so that there would be a month-by-month self-adjustment, to prevent recovery by refiners in excess of the "• • • dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products to all marketers or distributors at the retail level • • •" specified in § 4(b)(2)(A) of the Emergency Petroleum Allocation Act of 1973 (P. L. 93-159).

Where the identity of purchasers of a covered product is unknown, a subsequent refund to the marketplace pursuant to § 212.83(e) is clearly the only means of compensating for a previous overrecoupment. However, when the identity of purchasers and the exact volumes of covered products purchased by each are known, it is possible for a refiner to bring itself into compliance with the regulations by retroactively adjusting prices (and thereby refunding overpayments made) so that the prices actually charged for that month will not "• • • result in the recoupment of more total revenues than the entire amount of increased product costs calculated for that product • • •."

This result, although not explicitly stated in the regulations, is consistent with both the Economic Stabilization Act of 1970, as amended (P.L. 92-210, as amended by P.L. 93-28) and the FEA Procedural Regulations (10 CFR Part 205).

Moreover, § 210 of the Economic Stabilization Act is expressly incorporated and made applicable to the regulations promulgated under the authority of the Emergency Petroleum Allocation Act. That section establishes a right of action for refunds of amounts paid in excess of the applicable ceiling on the goods or services involved. It should also be noted that § 205.194 of the FEA regulations specifically provides that one of the remedies which may be ordered by the FEA is the refund by a person to whom a remedial order is issued of amounts received that are in excess of amounts permitted under Part 212 of the price regulations. Thus, FEA regulations themselves contemplate refunds in appropriate circumstances.

In order for FEA regulations to be consistent both with the Economic Stabilization Act, and with the dollar-for-dollar passthrough requirement of the Emergency Petroleum Allocation Act, they must be read as permitting refunds where individual purchasers and the amount of overcharges can be identified. It is therefore our interpretation of § 212.83 that a retroactive downward adjustment of prices for the months of December 1973 and January 1974, such that the prices charged no longer result in the recoupment of excess revenues, constitutes a means of compliance with the requirements of § 212.82 and § 212.83. Such downward adjustment must, of course, be extended equally to all classes of purchasers and to all members of each class. All amounts refunded pursuant to such adjustments would constitute reductions in the amounts of revenues received in sales of covered products for purposes of

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§ 212.83(e)(1), and no adjustment to May 15, 1973 prices in a subsequent month would be required with respect to such amounts.

In circumstances where the entire amount of overcharges for a particular month cannot be accounted for by refunds to identified purchasers, the balance of the overcharged amounts should be applied to reduce prices in subsequent months to classes of purchaser other than those classes whose members received refunds.

FEA approval of any plan for refunds, consistent with this interpretation, shall be obtained from the Director of the Refinery Audit Review Program, Fred Stuckwisch, Room 5002, 2000 M Street, NW., Washington, D.C. 20508. Telephone: (202) 254–8877.

INTERPRETATION 1975—13

To: Southern Gulf Oil Distributors Assoc., Inc.

Date: March 18, 1975.

Rule Interpreted: § 211.51.

Code: GCW—AI—Consignee, Wholesale Purchaser-Resellers.

Southern Gulf Oil Distributors Assoc., Inc. (the "Association") recently requested an interpretation of the Mandatory Petroleum Allocation Regulations concerning the status of consignee agents under those regulations.

FACTS

We understand that each member (a "distributor" of the Association normally distributes Gulf Oil Corporation products under the terms of a form contract entitled "Wholesale Consignment Agreement" (Gulf 1140–L). The agreement establishes a relationship whereby the distributor receives a commission for selling and delivering products, title to which remains with Gulf until they are sold. The agreement authorizes the distributor to make credit sales for the account of Gulf, but provides that any such sales not approved by Gulf in advance are made at the distributor's sole risk. We understand that members of the Association often extend credit at their own risk. The distributor is fully responsible for Gulf's products in his possession.

The entire charge, control and management of the distributor's business of selling and distributing Gulf's products are expressly left to the complete discretion and judgment of the distributor. He is required to furnish all necessary facilities and equipment (including bulk stations and trucks) involved in the storage, handling, and sale of Gulf's products as well as make provision for, and assume all responsibilities and expenses connected with, all necessary labor. All operating expenses including assessments, taxes, fees, and licenses arising out of his business or property are to be paid by the distributor.

Neither the distributor nor his employees are deemed to be employees of Gulf, under the form of agreement, and the distributor is required by its terms to provide all appropriate employer's liability, workmen's compensation and public liability insurance for his employees and to indemnify and hold Gulf harmless for any claims against Gulf arising from the operation of the distributor's business. The distributor is expressly prohibited from representing himself or his employees as agents or employees of Gulf.

ISSUE

The issue presented for interpretation is whether distributors of Gulf products operating pursuant to this agreement qualify as wholesale purchaser-resellers as defined in 10 CFR 211.51.

INTERPRETATION

It is my opinion that firms which sell and distribute allocated products pursuant to the terms of the contractual arrangement set forth above qualify as wholesale purchaser-resellers as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations.

Wholesale purchaser-reseller is defined in § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Firms which obtain and resell or otherwise transfer allocated products are not excluded from the definition solely on the grounds that they fail to take legal title to the product.

Conversely, however, firms exercising only physical control over the delivery of a supplier's products do not qualify as wholesale purchaser-resellers. To qualify as a wholesale purchaser-reseller under FEA regulations, a consignee must have a substantial degree of operational independence in the conduct of the consignee's business of transfer and sale of a supplier's products.

According to the terms of the Gulf Wholesale Consignment Agreement, distributors retain a substantial measure of functional autonomy in distributing and selling Gulf products. Although distributors must account fully to Gulf for all products received, and such products must be sold at a price fixed by Gulf, they are fully responsible for all aspects of conducting the business and are expected to exercise independent judgment and discretion in its operation. While Gulf permits the distributor a qualified association with its product name, it provides, under this agreement, no facilities, equipment, labor, organizational or employee benefits and explicitly disavows any agency relationship to the distributor and its employees.

Thus, any firm which is in the business of selling and distributing allocated products under the terms of the Gulf Wholesale Consignment Agreement operates as a functional entity that is sufficiently independent of its supplier so as to qualify as a wholesale purchaser-reseller, as defined in 10 CFR 211.51.

This interpretation is limited to the factual situation set forth above and shall not be construed to apply to any relationship where the existence of other agreements, amendments, modifications or practices of any kind have the effect of changing the relationship described above.

INTERPRETATION 1975—14

To: Can Manufacturers Institute.

Date: March 18, 1975.

Rule Interpreted: § 211.83.

Code: GCW—AI—Propane Allocation.

Your letter of May 29, 1974, on behalf of the Can Manufacturers Institute requested an interpretation of § 211.83 of the Mandatory Petroleum Allocation Regulations (10 CFR § 211.83) concerning the proper allocation level for propane used to operate forklift trucks by the can manufacturing industry.

FACTS

We understand from your letter that the can manufacturing industry uses forklift trucks primarily in enclosed areas where clean burning fuels are required both to protect the safety and health of workers and to avoid contamination of food cans. Although some forklift trucks may be convertible to electricity, most can manufacturers have historically relied upon propane as the sole fuel source for these vehicles.

ISSUE

Whether forklift trucks used in the can manufacturing industry are entitled to a propane allocation level of one hundred percent of base period use subject to an allocation fraction?

INTERPRETATION

Section 211.83(c)(2)(iii) of FEA's regulations establishes a propane allocation level of one hundred percent of base period use subject to an allocation fraction for "industrial use as a process or plant protection fuel or where *no substitute for propane is available*" (emphasis added). The phrase "where no substitute for propane is available" is specifically defined in § 211.83 as follows:

"Where no substitute for propane is available" means those circumstances in which no alternate fuel is available or in which a firm has historically relied upon propane as its sole fuel source.

In view of the regulatory provisions set forth above, it is our opinion that those can manufacturers which have historically relied on propane as the sole fuel source for their forklift trucks are entitled to an allocation of propane equal to one hundred percent of base period volume subject to an allocation fraction.

This interpretation assumes that a can manufacturer receives propane from his supplier into a storage facility at the manufacturing plant from which the manufacturer refills the individual bottles on forklift trucks. If a can manufacturer's propane supplier refills or replaces the individual bottles (which are normally less than 100 pound capacity) on each forklift truck, FEA regulations would not apply because the propane allocation regulations are not applicable to sales of bottled propane. See § 211.81(a)(1) of the Mandatory Petroleum Allocation Regulations.

INTERPRETATION 1975—15

To: Department of the Navy.

Date: March 20, 1975.

Rules Interpreted: § 212.52, EPAA.

Code: GCW—PI—Sales by Federal Government, EPAA Supercession of Other Federal Laws.

This is in response to your letter of August 27, 1974, requesting the formal views of the Federal Energy Administration on your determination that, as a matter of law, FEA price regulations (specifically 10 CFR § 212.52) are inapplicable to sales of crude oil from the naval petroleum and oil shale reserves. On the basis of what we understand to be the facts, as set forth herein, we have concluded that the appropriate response to your request is the interpretation that follows.

FACTS

Section 7421, chapter 641 of the United States Code, Title 10 (Armed Forces), vests the Secretary of the Navy with possession of "all properties inside the naval petroleum and oil shale reserves that are or may become subject to the control of and use by the United States for naval purposes," subject to an exception not presently relevant. The same section confers in the Secretary exclusive jurisdiction and control over certain lands inside reserves numbered 1 and 2.

The reserves subject to the Secretary's jurisdiction are administered by the Secretary under section 7422, for exploration, prospecting, conservation, development, use, and operation. As contemplated by the House Committee on Naval Affairs, oil may be produced under that section for two purposes only: (1) protection, conservation, testing, and maintenance of the reserves, and (2) when the Secretary, subject to presidential approval and joint resolution of Congress, "finds that it is needed for national defense." (See H.R. Rep. No. 1529, 78th Cong., 2d Sess. 6–7 (1944)).

Section 7426 authorizes: joint, unit, or other cooperative plans of exploration, prospecting, conservation, development, use, and operation of lands owned or controlled by the United States inside naval petroleum reserve numbered 1 and lands owned or leased by private interest—(1) inside naval petroleum reserve numbered 1; or (2) outside naval petroleum reserve numbered 1 on the same geologic structure.

Each party to such cooperative agreements (except the United States) is permitted under section 7426 to produce and receive petroleum, which is charged to that party's share, as reimbursement for surrendering control of its rate of production and for current expenses of "protecting, conserving, testing, and maintaining a good oil-field condition the lands, wells, and improvements thereon, and its real and personal taxes levied or assessed thereon • • •." In administering the reserves, the Secretary is permitted under section 7430 to "use, store, sell or exchange for other petroleum or refined products, the oil and gas products" produced from the reserves. Sales under section 7430 are required to be made at public sale to the highest qualified bidder.

The thrust of the Navy's argument, as we understand it, is that if the Secretary is not allowed freely to price the limited quantities of crude oil that are produced to protect, test, and maintain the reserves, and to compensate its unit partner at reserve numbered 1 for its share of the operating expenses there, the Navy will be required to produce crude oil in greater quantities than it otherwise would, which is inconsistent with its statutory duty to preserve the oil in the ground until it is needed for national defense purposes. The Secretary suggests, therefore, that FEA price regulations do not apply to the reserves as a matter of law.

INTERPRETATION

As you know, section 212.52 of the Mandatory Petroleum Price Regulations originally contained an exemption for sales of covered products, including crude oil, by Federal, State, and local governments. On February 21, 1974, the Federal Energy Office terminated a rulemaking proceeding that had been initiated by the Cost of Living Council in October, 1973, and removed that exemption for State and local government sales. On March 5, 1974, FEO issued a notice of public hearing and a request for written comments on the question whether FEO should reconsider the amendment that withdrew the exemption. Thereafter, on April 2, 1974, after evaluating written comments and oral statements received in connection with the rulemaking, FEO issued an amendment to the price regulations sustaining the February 21 amendment and also deleting section 212.52(b), which had previously exempted sales of covered products by the Federal government. At that time FEO determined that continuation of the Federal exemption was inequitable in light of the removal of the State and local exemptions.

The Emergency Petroleum Allocation Act of 1973 vests the President with broad regulatory authority over petroleum products. If the President is to discharge his statutory responsibilities effectively, we have concluded that the Allocation Act must be interpreted to supersede conflicting provisions of chapter 641 of Title 10. The emergency nature of the Allocation Act supports the view that the Allocation Act must necessarily supersede all conflicting Federal and State legislation not specifically exempted from the scope of its operation. The fact that Federal, State, and local governments are not specifically exempt from the reach of the Allocation Act also supports the conclusion that Congress intended activities by those entities to fall within the reach of regulatory control.

The foregoing conclusion is further supported by judicial construction of the Emergency Price Control Act of 1942 (as amended by the Act of October 2, 1942, 50 U.S.C.A. App., § 961, et seq.). Inasmuch as the EPCA was enacted subsequent to the Interstate Commerce Act, the emergency act was held to supersede the prior legislation "to whatever extent may be necessary to achieve its own purposes." *Henderson* v. *Washington, Marlboro & Annapolis Motor Lines*, 132 F. 2d 729 (D.C. Cir. 1942).

Pursuant to the Allocation Act, the President has delegated his authority to allocate and price petroleum products first to FEO (E.O. 11748, 38 FR 33575, December 6, 1973) and then to FEA (E.O. 11790, 39 FR 23185, June 27, 1974). The authority so delegated encompasses authority for the promulgation of regulations required by section 4(b)(1)(a) to provide for the protection of public health, safety, and welfare • • • and *the national defense*" (emphasis supplied). Thus, the Allocation Act confers the President with broad regulatory authority over crude oil, residual fuel oil, and refined petroleum products, including the responsibility to promulgate regulations consistent with the national defense. The authority respecting regulations under the Allocation Act pertaining to the national defense and production from the reserves might have been delegated by the President to the Secretary of the Navy. It has, however, been delegated by the President to FEA. We have concluded, pursuant to our authority under the Allocation Act and Executive Order 11790, that exemption of the naval petroleum and oil shale reserves from FEA Mandatory Petroleum Price Regulations would not comport with FEA responsibilities, including its responsibility to consider the effects of its regulations on the national defense.

FEA is aware that sales of the Navy's production at the regulated price might involve the disposition of larger quantities of crude oil than sales at a free market price. We note, however, that the Cost of Living Council in December of 1973 (38 FR 34985, December 21, 1973), increased by $1 per barrel the ceiling price for domestic crude oil, and the ceiling price is now $1.35 per barrel above the May 15, 1973 price. Thus, the production of similar amounts of crude oil, even at controlled prices, results in substantially more revenues now than it would have at May, 1973 market prices. We appreciate your concern for maintaining the oil in the ground, but must conclude that the Mandatory Petroleum Price Regulations apply uniformly to Federal, State, and local governments.

INTERPRETATION 1976—16

To: Murphy Oil Corp.; System Fuels, Inc.

Date: April 15, 1975.

Rule Interpreted: § 212.83(e).

Code: GCW—PI—Carryover of Increased Product Costs, Contracts Entered Into On or Before September 1, 1974.

This is in response to your January 21, 1975 request for an interpretation of Federal Energy Administration (FEA) petroleum price regulations on behalf of Murphy Oil Corporation (Murphy), and joined in by System Fuels, Inc. (SFI), concerning an interpretation of 10 CFR 212.83(e), as applied to a certain contract between Murphy and SFI. The question to be determined is whether a proposed modification of a price term in a contract entered into in January, 1972, will mean that prices charged pursuant to that contract no longer qualify as "price(s) charged • • • because of price term of a written contract • • • which was entered into on or before September 1, 1974 • • •." under § 212.83(e) of the FEA price regulations, in which case any difference in prices charged for a product by Murphy that reflected unequal application of increased costs because of the price term of the contract between Murphy and SFI could not be carried forward as unrecovered increased costs for recovery in a subsequent month pursuant to § 212.83(e).

FACTS

As outlined in your written request, and discussed in a meeting with FEA personnel on January 17, 1975, and subsequent telephone conversations with this Office, the pertinent facts in this request are stated below. Murphy and SFI entered a contract in January 1972, pursuant to which Murphy agreed to sell and SFI agreed to buy, quantities of No. 2 and of No. 6 fuel oil. The term of the contract is five years commencing in September 1972 and expiring August 31, 1977.

The contract contains a price term which states that the selling prices of the No. 2 and No. 6 fuels sold and delivered under the contracts "shall be subject to increasing or decreasing cent for cent, with the arithmetic average of Gulf Coast posted prices for 40° API gravity and above crude oil of • • • four major oil companies • • •."

This price term was to be effected from the date the contract was entered "thru [sic] the expiration of the Sales Agreement (August 31, 1977)." The effect of this price term was to place Murphy's price to SFI for No. 6 fuel at x per barrel less than the specified average crude oil price, and for No. 2 fuel at x per barrel more than the specified average crude oil price.

When the Cost of Living Council (CLC) instituted a crude oil price control system which involved one price for "old" crude oil and another, higher price for "new" crude oil (the so-called "two-tier" system), a disagreement arose between Murphy and SFI regarding how to determine the "average" Gulf Coast posted price for crude oil to be used under the quoted contract term. Murphy, attempting to construe the contract under those CLC regulations, contended that the cost to be applied was Murphy's total weighted average cost of crude, a figure which Murphy was required to use in its own cost calculations, and which, for Murphy, was composed of its costs of "old" domestic crude oil (run in its refinery in Meraux, Louisiana) and costs of imported Canadian crude oil (run in its refinery at Superior, Wisconsin). SFI, relying upon the fact that its purchases, according to the contract, were made out of the Meraux refinery, asserted that the proper measure of the cost of crude oil was Murphy's cost of crude oil at that refinery (i.e., the cost of "old" crude oil).

In January 1974, FEA adopted the CLC's crude oil price and cost rules, and the disagreement between Murphy and SFI continued. Both Murphy and SFI, however, recognized that the intent of the contract clause was to provide for adjustments to selling prices. In May 1974, SFI instituted suit in a Federal District Court, seeking a declaratory judgment regarding the proper application of the price term of the contract, in light of the events described. Since the filing of the suit, which is now pending, and continuing to the present, Murphy and SFI have continued their negotiations in an effort to settle this issue.

In September 1974, FEA issued certain amendments to its price regulations that

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relate to the application of increased product costs by a refiner to its prices, where such prices are specified in a contract. In pertinent part, the amendment states:

Where an equal amount of increased product cost is not included in the price charged to a purchaser because of a price term of a written contract * * * which was entered into on or before September 1, 1974, that portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues. (10 CFR 212.83(e)). (30 FR 32306, September 5, 1974)

In December 1974, FEA issued regulations regarding the allocation of quantities of "old" oil under a system of "entitlements" to such oil (39 FR 42246, December 4, 1974). These regulations were designed to reduce disparities in crude oil costs incurred by refiners because of varying access to quantities of inexpensive "old" oil and higher priced "new" oil and imported oil. In light of this cost leveling effect, which has been implemented with respect to all domestic refiners, SFI has indicated a willingness to accept Murphy's weighted average crude oil cost between Murphy's two refineries (the Meraux and Superior refineries), as the basis for pricing the No. 2 and No. 6 fuel oil purchased under the contract after January 1, 1975. On its part, Murphy is willing to accept, as the measure of adjusting the product prices under the contract, the Meraux weighted average crude oil cost, for the period of the dispute prior to January 1, 1975. Both measures are intended to carry out the intent of the price adjustments first provided for in the contract by reference to the Gulf Coast average prices.

In addition, the parties have proposed as part of their settlement that certain volumes of No. 2 oil, which Murphy must make available to SFI under the contract, be exchanged by SFI to Murphy for related volumes of No. 6 oil. This exchange would be performed using prices established for each of the fuel volumes pursuant to the contract price terms agreed upon in the proposed settlement.

As a condition of the proposed regulation between Murphy and SFI, Murphy has requested this interpretation. Murphy expects to determine and charge, under present FEA regulations, base prices for these fuels that include greater increments of increased product costs than would be included in prices charged to SFI under the contract price term now proposed to be used by the parties. Under § 212.83(e) Murphy would be unable to carry forward the difference in its increased product costs, if unequally applied between SFI under the contract, and other classes of purchaser, if the proposed revision of this contract price term were to alter the status of the agreement between Murphy and SFI as a written contract "entered into on or before September 1, 1974," for purposes of § 212.83(e).

INTERPRETATION

Section 212.83(e) was amended, effective September 1, 1974, to limit the conditions under which a refiner could permissibly charge a price to a purchaser for a product which reflected the unequal application of the refiner's increased product costs among all its classes of purchaser of the product. The amendment was issued in express recognition by FEA of the existence and effect of long-term contracts which, by their price terms, prevented a seller from charging a price otherwise lawful under FEA regulations. Absent such a contract, the amendment makes it clear that an unequal application of increased product costs will result in the seller's inability to subsequently recover the difference between the highest amount of increased cost and the lowest amount of increased cost applied in sales of the product. The amendment of § 212.83 therefore offers "protection" to the seller if such a contract exists, by permitting the seller to carry forward for recovery in a subsequent month, the cost differential, to the extent it was necessitated by the contract.

FEA recognized, however, that this protection against cost "losses" under contract price terms might be misused if a seller could choose those parties with whom favorable low-price contracts would be entered, while recovering the resulting cost differentials in sales to purchasers with whom the seller declined to enter such contracts. In short, the seller's cost "protection" under the § 212.83(e) amendment was potentially a basis upon which selected buyers could be offered price "protection." To avoid this potential discriminatory use of contracts, FEA established September 1, 1974, the effective date of the amendment, as the date on or before which such contracts must have existed in order to fall within the provisions of § 212.83(e). In addition, FEA noted that even such pre-existing contracts might provide a shelter for discriminatory cost application, stating that the protection of § 212.83 (e):

* * * will apply only to the extent that the maximum price which may be charged under the contract is less than the price that would otherwise result from the equal application of increased product costs. Thus, to the extent that a seller charges a price which is less than it is entitled to charge under a fixed-price contract and which is less that the price reflecting equal application of increased product costs, it may not carryover to a subsequent month the unrecouped increased costs represented by the difference between the actual price charged and the highest price that could have been charged under the contract. (39 FR 32306, September 5, 1974)

The effect under FEA regulations of the price term now proposed between Murphy and SFI may be analyzed in terms of the considerations addressed by FEA in its September 1, 1974 amendment to § 212.83(e).

The language of § 212.83(e) specifically applies to "a price term of a written contract * * * entered into on or before September 1, 1974." Read in a broad sense, this language would include the written contract between Murphy and SFI, since the contract in issue was entered into in January 1972. The amendment, however, has for its focus the "price term" of such a contract, and the prices charged pursuant to such a price term. The amendment does not, however, address the case of an adjustment in the price term of a contract.

Although FEA cannot characterize the contractual aspects of the parties' proposed settlement, particularly in light of the litigation context, and interpretation of the applicability of § 212.83(e) to the proposed settlement is appropriate. Thus, without deciding whether the proposed settlement is a "reformation" an "amendment," a "renegotiation" or other contractual adjustment, we note that if no price adjustment clause existed in the original contract between the parties, the language of § 212.83 (e) would permit Murphy to carry forward the full amount of its cost differential resulting from sales to SFI under a fixed price contract.

In our view, the parties here seek only to apply reasonable meaning to language that was originally contained in the contract, but which became incapable of application because of changed circumstances, including the institution of Federal petroleum price regulations. We conclude, therefore, that the proposed change in the contract does not contravene FEA's purposes under § 212.83(e).

The amendment to § 212.83(e) also reflected FEA's concern that a seller's inability to recover costs because of preexisting contractual price terms would not result in the permanent loss of those costs. Thus, any cost differential not recovered by Murphy because of its contracts, using the original contract terms, could clearly be carried forward for subsequent recovery under § 212.83 (e). The resolution suggested by the parties, which would alter the means to measure the movement of the purchase price of the products under the contract, is not contrary to this purpose.

Furthermore, the proposed settlement terms are not inconsistent with FEA's intent to prevent a discriminatory application of favorable contract clauses to preferred customers. Price terms, "favorable" to SFI in relation to any other, non-contract purchasers of the products, have been available to SFI since 1972. The modified price terms now contemplated by the parties would therefore not represent discriminatory preference for SFI and against others, such as was proscribed by the September 1, 1974 date, since SFI historically received such a preference. In short, neither Murphy nor SFI receives "new" protection by revising the measure of product prices under the contract.

FEA has intended generally to preserve relationships established in advance of its regulatory program, and it is therefore relevant in this case not only that the parties to the contract remain the same through the relevant date (September 1, 1974), but also that both parties have joined in the present interpretation request. It appears that both parties would consider the proposed settlement satisfactory, and that both parties agree with, or consent to, the requested treatment of the proposed settlement under § 212.83(e).

One final aspect of the proposed settlement that is also relevant is the unchanged duration of the contract itself. An important reason for the provisions of § 212.83(e) was the recognition of the cost impact of a long-term contract, which could prevent the full recovery of costs under FEA rules. The provisions of § 212.83(e) were not intended to discourage stable long-term sales relationships, and nothing contained in the proposed settlement appears to alter the original term of this contract. At the same time, neither Murphy nor SFI would receive a benefit of any longer duration than that which would otherwise have prevailed.

The proposal to adjust product volumes on an exchange basis does not fall directly within the price focus of § 212.83(e). Where the proposed substitution of product is not precluded by other aspects of FEA regulations, such an exchange would raise, for purposes of Part 212, only the question of the proper price term to be applied. The proposed exchange would permit SFI to purchase a volume of No. 6 oil, in exchange for No. 2 oil, on the basis of the prices for No. 6 oil and No. 2 oil pursuant to the contract. We conclude that this proposed exchange would not, for purposes of § 212.83(e), constitute a contract made after September 1, 1974, since the overall dollar benefit to SFI, in relation to other purchasers of these fuels, is not altered by the exchange.

It is therefore our interpretation that the proposed settlement terms do not alter the status of the January 1972 contract between Murphy and SFI as a "contract * * * entered into on or before September 1, 1974," and that those terms themselves are not a contract entered into after September 1, 1974, for purposes of calculations under 10 CFR 212.83(e).

INTERPRETATION 1975—17

To: Agents Alliance, Inc.

Date: April 15, 1975.

Rule Interpreted: § 211.51.

Code: GCW—AI—Wholesale Purchaser-Resellers.

By letter dated March 17, 1975, Agents Alliance, Inc. requested an interpretation of the Mandatory Petroleum Allocation Regulations concerning the status of certain distributors of Atlantic Richfield Company's products under those regulations.

FACTS

We understand that distributors operating in the states of Arizona, Nevada, Idaho, Washington, Oregon and California normally distribute Atlantic Richfield Company (Arco) products under the terms of a form contract entitled "Commission Distributor Agreement" (RD 537 Rev. 1-68). The agreement establishes a relationship whereby the distributor receives a commission for selling and delivering products within a defined marketing territory, title to which remains with Arco until they are sold. The agreement authorizes the distributor to make credit sales for the account of Arco but provides that any such sales made in excess of those approved by Arco are made at the distributor's risk. The distributor is fully responsible for Arco's products and sales revenues in his possession. Arco agrees to provide quantities of products as the distributor shall require and to furnish the distributor with promotional materials for the sale of products.

Full control of the distributor's independent business of selling and distributing Arco's products is expressly retained by the distributor. He is required to furnish and bear all expense connected with necessary facilities and equipment (including his bulk plant and trucks) involved in the storage, handling and sale of Arco's products, and to make provision for, and assume all responsibilities and expenses connected with, all necessary labor. All operating expenses including assessments, taxes, fees, and licenses arising out of his business are to be paid by the distributor.

The agreement expressly provides that the distributor's employees are not employees of Arco, and the distributor is required by its terms to provide all appropriate employer's liability, workmen's compensation and public liability insurance for his employees and to indemnify and hold Arco harmless for any claims against Arco arising therefrom. The distributor is expressly prohibited from signing any contract on behalf of Arco.

ISSUE

The issue presented for interpretation is whether Arco distributors operating pursuant to this agreement qualify as wholesale purchaser-resellers as defined in 10 CFR 211.51.

INTERPRETATION

It is my opinion that firms which sell and distribute allocated products pursuant to the terms of the contractual arrangement set forth above qualify as wholesale purchaser-resellers as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations.

Wholesale purchaser-reseller is defined in § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Firms which obtain and resell or otherwise transfer allocated products are not excluded from the definition solely on the grounds that they fail to take legal title to the product.

Conversely, however, firms exercising only physical control over the delivery of a supplier's products do not qualify as wholesale purchaser-resellers. To qualify as a wholesale purchaser-reseller under FEA regulations, a consignee must have a substantial degree of operational independence in the conduct of the consignee's business of transfer and sale of a supplier's products.

According to the terms of the Commission Distributor Agreement submitted by you, Arco distributors retain a substantial measure of functional autonomy in distributing and selling Arco products. Although, distributors must account fully to Arco for all products and sales revenues received, and such products must be sold at a price approved by Arco, they are fully responsible for all aspects of conducting the business and are expected to exercise independent judgment and discretion in its operation. While Arco permits the distributor an association with its product name, it bears no expenses under this agreement, for facilities, equipment, labor, organizational or employee benefits and explicitly recognizes the distributorship as an independent business.

Thus, any firm which is in the business of selling and distributing allocated products under the terms of the Commission Distributor Agreement submitted by you, operates as a functional entity that is sufficiently independent of its supplier so as to qualify as a wholesale purchaser-reseller, as defined in 10 CFR 211.51.

This interpretation is limited to those Arco distributors which operate under the Commission Distributor Agreement described above and shall not be construed to apply to any relationship where the existence of other agreements, amendments, modifications or practices of any kind have the effect of changing the relationship described above.

INTERPRETATION 1975—18

To: Oregon Department of Transportation.

Date: April 21, 1975.

Rules Interpreted: § 212.93, Ruling 1974-4.

Code: GWC—PI—State Tax Increase Passthrough.

This is in response to your request for interpretation, dated April 18, 1975, filed on behalf of the Oregon Department of Transportation.

FACTS

The State of Oregon currently has a law which imposes a "license" tax of seven cents per gallon on "dealers," defined as the importer, producer, refiner or other acquirer of motor vehicle or aircraft fuel who subsequently sells, uses, or distributes fuel within the state on which no previous license tax has been paid or, in effect, those distributors that constitute the first level of distribution within the state. This tax has been in effect since prior to 1973, and has traditionally been included as part of the price charged by such dealers.

Amendments to this law are now being considered. The initial proposal was simply to increase the current license tax by two cents per gallon. Upon the informal advice of the FEA that FEA price regulations would not permit the amount of such an increased tax to be passed on by the companies required to pay the tax in the form of higher prices, a new tax has been proposed in alternative form, in the event that federal regulation would preclude the passthrough of the increase in the license tax, on the effective date of the tax.

The alternate form of the tax would require "dealers" to collect two cents per gallon from each purchaser, and to remit that amount to the state, and also to pay two cents per gallon for all fuel consumed by each dealer. The proposed statutory language specifically authorizes each subsequent seller to collect the tax from each subsequent purchaser. In addition, both forms of the tax provide an exemption for volumes of fuel not sold or used within the state, including provisions for the refund of amounts paid for such volumes.

The Oregon Department of Transportation has requested an interpretation on two points. First, would dealers be able to include an increase in the current license tax of two cents per gallon in the price charged to their purchasers? And second, would the alternate form of the tax, by which the two cents per gallon tax is imposed on the purchaser at the time of sale, permit the inclusion of the tax increase by such purchaser in prices charged to its purchasers?

INTERPRETATION

The increase in the current tax initially proposed could not be included by a dealer in prices charged to its purchasers under FEA price regulations now in effect. Such a tax increase would not represent an increase in the cost of the product to the dealer, but rather an increase in the cost of doing business. Because the responsibility to pay the tax remains with the dealer, it also could not be regarded as a tax imposed on purchasers, which is collected by sellers, and therefore it could not be added by the seller to the maximum lawful price of the product, as provided by Ruling 1974-4.

The result is different with regard to the alternate form of the tax, which is imposed on ultimate purchasers and merely collected by the dealers. Ruling 1974-4, a copy of which is enclosed, dealing with a state gross income tax, provides in part that "* * * it has the same impact as a sales tax since it is in fact a tax imposed on the customer based on retail selling prices and collected by the retail seller. State sales taxes collected under an agency arrangement would not be considered part of the price charged by [the dealer] in retail sales subject to the pricing rule in § 212.93." Because the proposed Oregon alternate tax has the same impact as a sales tax and is merely collected by the dealer for the state, it comes within the rationale of this Ruling. It is not an increase in the price charged by the dealer, but is a sum in excess of the dealer's maximum lawful price collected by the dealer as agent of the state. However, this agency theory is only applicable to sums collected for volumes sold for use within the state, in the same sense that a sales tax only applies to such volumes.

The rationale of Ruling 1974-4 also applies to each subsequent sale, since the proposed state law requires that the amount of the tax be included in the selling price by each subsequent seller. Thus, as long as the tax in question retains the characteristics of a sales tax (i.e., is applicable to sales of the product for use in the state) and is merely collected by the seller as agent for the state, it may be added to the maximum lawful selling price by the seller.

It is therefore our interpretation of § 212.93 that an increase in state taxes may only be added to maximum lawful prices in the following circumstances. The tax must be imposed on the purchaser and merely collected by the seller as agent for the state; the tax must be imposed in lieu of a state sales tax; and the tax must have no extraterritorial effect.

Under the facts presented by the State of Oregon in its request for interpretation, the alternate form of the tax appears to meet these criteria. Therefore it could be col-

V 42 90 MAY 10 77 UMI

lected in addition to the maximum lawful selling price by each seller, consistent with the current FEA price regulations.

INTERPRETATION 1975—19

To: National Association of Texaco Consignees, Inc.

Date: April 24, 1975.

Rule Interpreted: § 211.51.

Code: GCW—AI—Wholesale Purchaser-Reseller.

By letters dated March 5 and March 7, 1975, the National Association of Texaco Consignees, Inc., requested an interpretation of the Mandatory Petroleum Allocation Regulations concerning the status of certain distributors of Texaco Inc.'s products under those regulations.

FACTS

We understand that distributors normally distribute Texaco's products under the terms of a form contract entitled "Consignment Agreement" (Form S-82, 1-65). The agreement establishes a relationship whereby the distributor receives a commission for selling and delivering products to customers that he selects, title to which, remains with Texaco until sold. The distributor is prohibited from mixing Texaco's products for sale with other products or from selling to re-sellers not authorized by Texaco. The agreement authorizes the distributor to make credit sales for his own account or for the account of Texaco, but provides that sales for his own account and credit sales made in excess of those approved by Texaco are made at the distributor's risk. The distributor is fully responsible for Texaco products and sales revenues in his possession, and Texaco retains a right to inspect inventories and records pertaining thereto.

Control of the distributor's independent business of selling and distributing Texaco's products is retained by the distributor. He is required to furnish and bear all expenses connected with necessary facilities and equipment (including his bulk plant and trucks) involved in the storage, handling and sale of Texaco's products, and to make provision for, and assume all responsibilities and expenses connected with, all necessary labor. All expenses incident to the conduct of his business and sale of Texaco's products are to be paid by the distributor.

The agreement expressly provides that the distributor shall exercise full direction, control and responsibility over all employees required for the operation of his business, and the distributor is required by its terms to provide all appropriate employer's liability, workmen's compensation and public liability insurance for such employees and to indemnify and hold Texaco harmless for any claims against Texaco arising therefrom.

ISSUE

The issue presented for interpretation is whether Texaco distributors operating pursuant to this agreement qualify as wholesale purchaser-resellers as defined in 10 CFR 211.51.

INTERPRETATION

It is my opinion that firms which sell and distribute allocated products pursuant to the terms of the contractual arrangement set forth above qualify as wholesale purchaser-resellers as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations.

Wholesale purchaser-reseller is defined in § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Firms which obtain and resell or otherwise transfer allocated products are not excluded from the definition solely on the grounds that they fail to take legal title to the product.

Conversely, however, firms exercising only physical control over the delivery of a supplier's products do not qualify as wholesale puchaser-resellers. To qualify as a wholesale purchaser-reseller under FEA regulations, a consignee must have a substantial degree of operational independence in the conduct of the consignee's business of transfer and sale of a supplier's products.

According to the terms of the Consignment Agreement submitted by you, Texaco distributors retain a substantial measure of functional autonomy in distributing and selling Texaco products. Although distributors must account fully to Texaco for all products and sales revenues received, and such products must be sold at a price authorized by Texaco, they are fully responsible for conduct of the business and are expected to exercise independent judgment and discretion in its operation. While Texaco permits the distributor an association with its product name, it bears no expenses under this agreement, for facilities, equipment, labor, organizational or employee benefits and implicitly recognizes the distributorship as an independent business.

Thus, any firm which is in the business of selling and distributing allocated products under the terms of the Consignment Agreement submitted by you, operates as a functional entity that is sufficiently independent of its supplier so as to qualify as a wholesale purchaser-reseller, as defined in 10 CFR 211.51.

This interpretation is limited to those Texaco distributors which operate under the agreement described above and shall not be construed to apply to any relationship where the existence of other agreements, amendments, modifications or practices of any kind have the effect of changing the relationship described above.

INTERPRETATION 1975—20

To: United States Marine Corps.

Date: April 29, 1975.

Rules Interpreted: §§ 211.9, 211.10, 211.102.

Code: GCW—AI—Purchase of Surplus Motor Gasoline, Supplier/Purchaser Relationship.

Your letter of March 28, 1974 (your file CLA-1j), on behalf of the Marine Corps Exchange System ("Exchange") requested an interpretation of §§ 211.9 and 211.10 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.9 and 211.10) concerning the purchase of surplus motor gasoline by the Exchange from a non-base period supplier and the effect of such a purchase upon the regulatory supplier/purchaser relationship between the Exchange and its base period suppliers.

FACTS

We understand that the Exchange has opportunities at a number of locations in its system to purchase surplus motor gasoline from non-base period suppliers. The Exchange wishes to purchase the surplus offered to it but does not wish to jeopardize its right to purchase motor gasoline in the future from it base period suppliers.

ISSUE

The issue presented for consideration is whether a wholesale purchaser-reseller (the Exchange) may purchase surplus product from a non-base period supplier without affecting it regulatory supplier/purchaser relationship with its base period suppliers.

INTERPRETATION

The applicable provisions of the Mandatory Petroleum Allocation Regulations are 10 CFR 211.9 and 211.10, which read in pertinent part as follows:

§ 211.9 *Supplier/purchaser relationships.*

(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through H of this part.

(2) (i) Unless otherwise provided in this part or directed by FEA, the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEA.

• • • • • •

§ 211.10 *Supplier's method of allocation.*

• • • • • •

(9) • • •

(7) *Purchaser's rights.* Notwithstanding the provisions of § 211.12, any wholesale purchaser or end-user may purchase allocated product from any supplier which certifies that it has surplus product to distribute and that it has complied with the provisions of [10 CFR 211.10(g)].

• • • • • •

Under these regulations, as a general rule, a wholesale purchaser-reseller has a right to purchase an allocated product, such as motor gasoline, only from its base period supplier. A supplier has an obligation to allocate product to wholesale purchaser-resellers which it supplied during the base period. The base period for motor gasoline is the month of 1972 corresponding to the current month (10 CFR 211.102). Hence, each month a base period supplier of motor gasoline must offer its base period wholesale purchaser-resellers the same amount (as adjusted pursuant to FEA's regulations) of motor gasoline which the purchasers bought in the corresponding month in 1972 subject to reductions (by use of an allocation fraction) if the supplier does not have enough product to meet its supply obligations as defined under the regulations.

A wholesale purchaser-reseller, however, is not required to purchase the product allocated to it by its base period supplier. The fact that a purchaser does not purchase product from his base period supplier does not terminate the supplier/purchaser relationship required by 10 CFR 211.9(a)(2)(i). Therefore, if during a particular month a wholesale purchaser-reseller chooses not to purchase from its base period supplier because the purchaser is able to acquire surplus product from another supplier under terms advantageous to the purchaser, the base period supplier is not freed from its responsibility to allocate product to the purchaser in any succeeding period which corresponds to a base period.

A supplier may, of course, apply to FEA to be relieved of its supply obligation to a wholesale purchaser-reseller. If the supplier is able to demonstrate that serious financial hardship or gross inequity will result if the supplier/purchaser relationship is continued, FEA may order the termination of the relationship.

A wholesale purchaser-reseller must obtain a certification that any surplus he plans to buy from a supplier is in fact surplus and that the supplier has complied with the requirements of 10 CFR 211.10(g). Thus, it is our opinion that a purchaser, such as Exchange, could secure its supplies from non-base period suppliers having surplus product

and still maintain its allocation entitlement from its base period supplier unless FEA ordered a termination of the relationship on the grounds previously mentioned. However, we would caution you that the Exchange will not know from month-to-month which supplier will be able to make the certification required by 10 CFR 211.10(g) and in fact supply surplus product to the Exchange.

INTERPRETATION 1975-21

To: Shell Oil Co.

Date: May 12, 1975.

Rule Interpreted: § 211.67(d)(2).

Code: GCW—AI—Entitlements Program, Export Sales Deduction.

This is in response to response to Shell Oil Company's letter of December 16, 1974 requesting an interpretation as to the scope of the export sales deduction set forth in 10 CFR 211.67(d)(2) under the old oil allocation program.

FACTS

Shell Oil Company operates a gas processing plant located in Kalkaska, Michigan. The raw mix stream of natural gas liquids extracted at the Kalkaska gas processing plant is transferred by pipeline to Marysville, Michigan where it is sold to Dome Petroleum Corporation. Thereafter, Dome exports the liquids by pipeline to Sarnia, Ontario, Canada.

ISSUE

The issue presented for consideration is whether the liquified petroleum gas (LPG) content of the volumes of natural gas liquids exported to Canada from the Kalkaska gas processing plant must be deducted from Shell's crude oil runs to stills under § 211.67(d)(2) for purposes of the old oil allocation program.

INTERPRETATION

Section 211.67(d)(2) of the Mandatory Petroleum Allocation Regulations provides:

(2) The volume of a refiner's crude oil runs to stills for purposes of calculating its old oil supply ratio and the adjusted national old oil supply ratio shall be reduced by that refiner's volume of export sales in that month of refined petroleum products (except refined lubricating oils), including sales to a domestic purchaser which certifies the product is for export.

The purpose of this provision was stated in the preamble to FEA's November 7, 1974 further notice of proposed rulemaking as follows:

Since the purpose of the [entitlements] program is directed toward placing domestic refiners and marketers on a more competitive basis, the proposed rule provides for a deduction, on a barrel for barrel basis, from a refiner's volume of crude oil runs to stills of the volume of sales by that refiner for export. FEA does not believe that it would be appropriate to permit refiners to receive entitlements under the program based on export sales. (39 FR 39742; November 11, 1974.)

It is clear from the stated purpose of § 211.67(d)(2) that FEA intended that the barrel for barrel deduction from crude runs apply only to refined petroleum products which are produced at a refinery and not those produced at a gas processing plant. However, the definition of "refined petroleum product" set forth in § 211.51 includes LPG's regardless of where they are produced:

"Refined petroleum product" means gasoline, kerosene, middle distillate (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel.

Thus, a literal interpretation of § 211.67(d)(2) might indicate that since the volumes of LPG's contained in the natural gas liquids exported from Shell's Kalkaska gas processing plant are defined as refined petroleum products in § 211.51, they must be deducted from Shell's crude runs under § 211.67(d)(2). The purpose of § 211.67(d)(2), however, is to prevent refiners from receiving entitlements based on crude runs resulting in export volumes. This purpose is not served by deducting from a refiner's crude oil runs to stills export volumes which are extracted at a gas processing plant.

Our conclusion is that the LPG's extracted at a gas processing plant are not "refined petroleum products" for the purposes of § 211.67(d)(2). Shell, therefore, is not required to deduct the volume of export sales of LPG's extracted at its Kalkaska plant from the volume of its crude oil runs to stills for purposes of the old oil allocation program.

INTERPRETATION 1975—22

To: Northeast Petroleum Corp.

Date: June 10, 1975.

Rules Interpreted: § 212.31, Ruling 1975—2.

Code: GCW—PI—Class of Purchaser.

This is in response to your November 7, 1974 Request for Interpretation on behalf of Northeast Petroleum Corporation (Northeast) concerning the determination of Northeast's "class of purchaser" in its purchases of gasoline from Chevron Oil Company (Chevron). We have also received further data from you concerning this matter in various TWX messages. Also, on December 3, 1974, we received a letter from Chevron Oil Company, Eastern Division, advising us of its interest in this matter, and on December 20, 1974, we received a further letter from Chevron which set forth Chevron's additional statement of facts and its view of the requirements of the regulations. These submissions by Chevron have not been relied on by FEA in this response to your request for interpretation, but copies are enclosed for your information.

FACTS

Northeast purchased gasoline on May 15, 1973 from Chevron pursuant to a sales agreement that was entered into in May, 1972. The contract provided for the sale of a specific amount of gasoline at fixed prices (*x* per gallon for Regular gasoline and *x* per gallon for Premium gasoline) for a period of 12 months, beginning in June, 1972.

Northeast states that the foregoing prices "were cargo prices as opposed to merely discounted prices off Chevron's dealer tank wagon posting;" that Northeast "as a contract cargo buyer was on May 15, 1973 purchasing product from Chevron • • • at prices which were *x* per gallon for Regular gasoline and *x* per gallon for Premium gasoline below Chevron['s] • • • posted dealer tank wagon prices," but that, since the effective date of FEA regulations, "the price differential has been only *x* per gallon for Regular gasoline and *x* per gallon for Premium gasoline below Chevron['s] • • • posted dealer tank wagon prices."

Northeast maintains that it "is a class of purchaser separate and distinct from the distributors and/or dealer tank wagon customers of Chevron."

Chevron states in its December 17, 1974 submission that, pursuant to the May, 1972 sales agreement between Chevron and Northeast, Northeast was not a cargo buyer, but that deliveries were to be made in "barge or part cargo." Chevron also states that:

"Chevron has always treated Northeast as a customer that purchases at prices less than the dealer tank wagon posted prices. Northeast and Chevron's other reseller customers share the common denominator that all take delivery by direct shipment. Delivery by direct shipment means that the customer takes delivery by means capable of transporting substantial quantities (for instance, barge, pipeline or tanker shipments) and not by methods of transportation capable of transporting only small quantities, such as deliveries by tank wagon or deliveries in drums."

Chevron concludes that "The base prices to Northeast are the base prices to a class of purchaser comprising customers that purchased at substantial discounts off Chevron's dealer tank wagon posted prices for motor gasolines on May 15, 1973."

Chevron accounts for the reduction in the amount of the May 15, 1973 price differential between the prices charged to Northeast for gasoline and its posted dealer tank wagon prices for gasoline by stating that:

"When Chevron's contract with Northeast expired on May 31, 1973, Chevron's prices for motor gasoline to Northeast were no longer restricted contractually, and Chevron thereafter charged Northeast the lawful base prices to the class of purchaser into which Northeast falls."

The issue posed by this Request for Interpretation is whether Chevron has properly determined the class of purchaser (and the corresponding lawful price) for its sales of gasoline to Northeast, pursuant to the FEA Mandatory Petroleum Price Regulations.

INTERPRETATION

FEA price regulations provide generally that sellers may charge prices for covered products that reflect their May 15, 1973 lawful selling prices and a dollar-for-dollar passthrough of the amount by which their product costs have increased since that time. Thus, each selling price determined under FEA price regulations has at least two components: that portion which represents a May 15, 1973 lawful selling price and that portion which represents a pass-through of increased product costs. (In addition, a further increment to some selling prices is permitted, subject to certain conditions, to reflect increased non-product costs.)

The portion of the selling price that represents a May 15, 1973 selling price is, with respect to each product sold to each buyer "• • • the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973 • • •." (§ 212.82(b))

In making the computation of this "weighted average price • • • in transactions with the class of purchaser concerned on May 15, 1973," a firm "• • • may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973." (§ 212.82(b).)

Since increased product costs are generally required to be applied equally among classes of purchaser of a particular covered product, differences in weighted average May 15, 1973 selling prices among classes of purchaser are generally reflected in like differences in current lawful selling prices for that product among those classes of purchaser, and a principal function of the class of purchaser concept is to preserve the price distinctions among purchasers that customarily existed under free market conditions. To achieve the objective of making covered products available at equitable prices, FEA regulations require sellers to group together customers that are similarly situated and to compute a weighted average of their May 15, 1973 selling prices in sales to those customers. Sellers are thus required to maintain a single lawful price for a product to all customers that fall into a particular class, rather than having to establish individual maximum lawful prices to individual customers.

The FEA has acknowledged that class of purchaser determinations pursuant to the FEA Mandatory Petroleum Price Regulations pose many difficult problems for both sellers

V 42 90 MAY 10 77 UMI

and purchasers. On March 7, 1975, Ruling 1975–2 was published in the FEDERAL REGISTER (40 F.R. 10555), to outline the rationale for the class of purchaser concept and to provide further guidance as to how class of purchaser determinations are to be made.

The basic guidelines for class of purchaser determinations are set forth in § 212.31, where the term "class of purchaser is defined as:

"Purchasers or lessees to whom a person has charged a comparable price for a comparable property or service pursuant to customary price differentials between those purchasers or lessees and other purchasers or lessees."

The term "customary price differential" is defined in the same section as including:

"A price distinction based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality, or location or type of purchaser, or a term or condition of sale or delivery.

The purpose of Ruling 1975–2 was to set out more explicitly the key elements that must be taken into account in determining the existence of separate and distinct classes of purchaser. The ruling stated that the determination of what constitutes a "comparable price" charged pursuant to a "customary price differential" should begin with the § 212.31 definition of "customary price differential," which lists illustrative factors to be taken into account. The important factors are differences in location, type of purchaser, volume, and term or condition of sale or delivery.

In applying the regulations and the guidelines of Ruling 1975–2 to the facts as stated by Northeast and Chevron, several conclusions can be drawn.

First, it is clear, as asserted by Northeast, that a class of purchaser may have only one member, where the May 15, 1973 price to a particular purchaser reflected a customary price differential between that purchaser and all other purchasers (Rulings 1974–17 and 1975–2).

Second, it is also clear, as asserted by Chevron, that the expiration of a fixed price contract after May 15, 1973 may result in a price increase to a former contract purchaser which properly belongs in a class of purchaser that includes other purchasers which paid higher lawful prices on May 15, 1973. In such a case, the weighted average May 15, 1973 selling price to all members of the class of purchaser concerned would be higher than the May 15, 1973 price that was paid by the former contract purchaser alone.

Finally, it is clear that Chevron has not supplied sufficient facts to indicate that it has applied fully the guidelines of Ruling 1975–2, particularly those relating to type of purchaser and volume, in determining the class of purchaser into which Northeast properly falls.

As stated in Ruling 1975–2: (1) In evaluating its sales from a particular location, a seller should • • • look to the types of customers it had, on May 15, 1973, for purposes of making price determinations. There are certain readily apparent distinctions to be made in this regard, such as those relating to recognized levels of distribution (e.g., wholesale, retail, end-user, etc.), those relating to types of use (e.g., re-sale, industrial, commercial, residential, etc.). It should be noted in this regard that although certain industry-wide practices have existed in regard to certain "customer types," as to which customary price differentials existed, other practices as to price distinctions based on customer types may have varied from seller to seller, depending on circumstances. (See also Example 2 of Ruling 1975–2.)

Having determined those types of customers which were treated differently from other types of customers for pricing purposes on May 15, 1973, a firm must next determine, as to each such type of customer, the extent to which prices of product were differentiated according to volumes purchased (e.g., sales in cargo lots, barge sales, pipeline sales, tankwagon sales, sales made pursuant to a sliding volumetric discount scale, etc.). (See also Example 4 of Ruling 1974–2.)

Thus, for example, if Chevron has grouped together in a single class of purchaser Northeast and other buyers which operate at essentially different levels of distribution than Northeast, with differences in selling prices between such sales at essentially different levels of distribution reflecting customary price differentials, it would have improperly applied the FEA class of purchaser regulation and guidelines, notwithstanding the fact that "Chevron has always treated Northeast as a customer that purchases at prices less than the dealer tank wagon posted prices," as stated in Chevron's December 17, 1974 submission.

Similarly, if Chevron has grouped together in a single class of purchaser Northeast and other buyers which purchased in significantly different volumes than Northeast, with differences in selling prices between such sales in significantly different volumes reflecting customary price differentials, it would have improperly applied the FEA class of purchaser regulation and guidelines.

It is immaterial in this regard whether sales to Northeast are characterized as "cargo lots" or as "part cargo lots." The key question is whether Northeast purchased in significantly different volumes than did other members of the class of purchaser into which Chevron has placed it.

Finally, as noted in Ruling 1975–2, the terms and conditions under which a buyer bought product on May 15, 1973, are important for making class of purchaser determinations. Although it is not possible to determine with accuracy from the facts submitted, the extent to which Chevron may have grouped together in a single class of purchaser Northeast and other buyers which bought on significantly different terms and conditions than Northeast, there is a suggestion that Chevron may have placed Northeast in the same class of purchaser as those purchasers that bought from Chevron in tank truck loads, at so called "rack prices." It would clearly not be proper to place such "rack buyers" in the same class of purchaser as a terminal operator that bought in cargo lots, or in barge or part cargo lots, since the terms and conditions under which such sales are made would differ significantly.

Northeast included in its request for interpretation a request that FEA enjoin Chevron from continuing its present pricing policies and require Chevron to remit overcharges to Northeast. Such relief is not available under the specific purposes of requests for interpretations, as prescribed in 10 CFR 205.2.

Although this interpretation does not provide a definitive resolution of the matters in dispute between Northeast and Chevron, it is as full a statement of the principles of FEA regulations as the facts submitted to FEA will permit.

Complete resolution of these matters can only be achieved through a complete factual analysis of the selling practices of Chevron on May 15, 1973. Once these practices are factually established, Ruling 1975–2 and this interpretation will control the result. Since these patterns are best disclosed through a review of the seller's pricing practices, FEA has determined to initiate an investigation of the factual issues raised in Northeast's request. We have, therefore, referred this matter to the FEA Refinery Audit Review Program, to conduct an investigation through its Chevron audit team.

The investigation will be conducted in the context of FEA's regular audit, and is intended to resolve, consistent with Ruling 1975–2, the questions of fact regarding Northeast's "class of purchaser" placement. Should you have any questions, regarding this matter, you may contact Mr. Fred Stuckwisch, Director, Refinery Audit Review Program, 2000 M St. NW., Room 5002, Washington, D.C. 20508, 202–254–8877.

INTERPRETATION 1975—23

To: Consolidated Paper, Inc.

Date: June 13, 1975.

Rule Interpreted: § 211.22.

Code: GCW—AI—Inventories.

Your letter of May 23, 1975, on behalf of Consolidated Paper, Inc. ("Consolidated") requested an interpretation of § 211.22 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.22) concerning the accumulation of No. 2 fuel oil during the summer months for the forthcoming winter in anticipation of an increased need for this product.

FACTS

We understand that Consolidated is a manufacturer of paper products and that its customary energy fuel is natural gas, although it has alternative capability to use No. 2 fuel oil.

Consolidated has recently received written notification from the Wisconsin Public Service Corporation that natural gas curtailments will result in a reduction in natural gas to Consolidated of 91.2% during the winter of 1975–1976. In view of this anticipated curtailment, Consolidated wishes to purchase surplus No. 2 fuel oil and accumulate during the 1975 summer a fuel oil inventory substantially greater than its 1972 summer inventory.

ISSUE

The issue presented for consideration is whether a firm may purchase surplus No. 2 fuel oil pursuant to 10 CFR 211.10(g) thereby accumulating a substantially greater inventory than it had in previous summers in anticipation of a significantly greater need for that fuel next winter.

INTERPRETATION

The applicable provision of the Mandatory Petroleum Allocation Regulations is 10 CFR 211.22(a), which reads in pertinent part as follows:

§ 211.22 *Administrative actions.*

(a) *Inventories of crude oil and allocated products.*

No • • • wholesale purchaser • • • shall accumulate inventories of any • • • allocated product which exceed customary inventories maintained by that • • • wholesale purchaser • • • in the conduct of its normal business practices unless otherwise directed by the FEA • • •.

This provision of the regulations permits inventory accumulation of products such as No. 2 fuel oil without FEA action so long as the accumulation is a normal business practice. What constitutes a normal business practice depends on the facts in each situation. However, where a wholesale purchaser-consumer, such as Consolidated, has demonstrated increased requirements for No. 2 fuel oil as an alternative fuel for natural gas, we believe that it would be a normal business practice to prepare for the anticipated curtailment by acquiring greater volumes of the alternative fuel commensurate with its increased needs.

Further, § 211.22 was promulgated to prevent hoarding of available supplies during a period of shortage when supplies are to be shared on an equitable basis by all purchasers. Thus, when an allocated product is generally available in surplus quantities, as during the summer months in the case of heating fuels, it would not be contrary to the purpose of § 211.22 for a firm to accumulate reasonable quantities of the product for use during the forthcoming heating season.

In light of the foregoing discussion, it is our opinion that Consolidated may accumulate greater quantities of No. 2 fuel oil in inventory during the summer of 1975 than it did during the corresponding period in 1972. The increased inventory would be permitted under FEA's regulations in view of the substantial anticipated increase in Consolidated's use of No. 2 fuel oil and current surplus supplies of No. 2 fuel oil.

INTERPRETATION 1975—24

To: A. Johnson & Co., Inc.

Date: June 18, 1975.

Rules Interpreted: §§ 212.2, 212.53.

Code: GCW—PI—Import Exemption.

On June 11, 1974, FEA received from A. Johnson & Co. (hereinafter "A. Johnson") a "Request for Determination." The request, which has been treated by the FEA as a request for an interpretation pursuant to 10 C.F.R., Part 205, Subpart F, seeks an interpretation concluding that the herein described transactions between A. Johnson's foreign branch and Trans Ocean Petroleum, Inc. (hereinafter "Trans Ocean") and transactions between Trans Ocean and Pace Oil Company, Inc. (hereinafter "Pace") are not subject to price controls imposed by FEA regulations. In support of its request, A. Johnson has set out in the request the factual and legal basis for its claims. Comments were solicited from Trans Ocean by this office in view of the impact on it of any decision on this matter. After initially deciding to submit no comment, Trans Ocean's parent company, Ingram Corporation, responded on August 14, 1974 and concurred in A. Johnson's memorandum.

A. Johnson's request came as a result of its receipt of a letter from the Internal Revenue Service, which was at the time responsible for enforcement of FEA regulations, on May 10, 1974, suggesting that prices charged for sales of naphtha by A. Johnson to Trans Ocean were subject to and in violation of petroleum pricing regulations established by the Cost of Living Council and subsequently adopted by FEA in its mandatory allocation and pricing regulations. Specific mention was made by the IRS of that portion of FEA regulations which prohibit a seller from charging for any item subject to § 212.93 a price in excess of the lawful weighted average price which the item had on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, increased costs of the item.

FACTS

A. Johnson is a U.S. corporation with its principal place of business in the United States. Among its business activities is the purchase and sale on the world market of various products, including petroleum products. It conducts such transactions through foreign branches which apparently are not separately incorporated but whose financial operations are separately maintained for purposes of internal accounting. The particular division of the company involved here is its Venezuelan branch, hereinafter referred to as "Foreign Branch," which is qualified to do business in and is subject to taxes in Venezuela. In a recent fiscal year, more than 50 percent of Foreign Branch's sales were to firms in Western Europe.

In the transactions at issue here, Foreign Branch purchased naphtha from Compania Shell de Venezuela (hereinafter "C.S.V."), a non-U.S. company with a refinery operation in Venezuela. The physical transfer of the unfinished naphtha to A. Johnson, as well as transfer of title, took place in Venezuela. Information obtained by FEA investigations indicates that A. Johnson & Co., New York, New York, made payment to C.S.V. for the naphtha delivered to Foreign Branch.

Foreign Branch then sold the unfinished naphtha to Trans Ocean, a U.S. corporation wholly owned by Ingram Corporation of New Orleans, Louisiana. Such sales were made pursuant to a long-term supply contract with Trans Ocean. Physical delivery and transfer of title to Trans Ocean occurred in Venezuela, although information provided to FEA investigators indicates that the proceeds from the sale were received in New York by A. Johnson from Trans Ocean.

Trans Ocean subsequently imported the unfinished naphtha into the United States and, pursuant to a long-term supply contract, sold the unfinished naphtha to Pace, a U.S. petroleum refiner. Pace took title to the product at its dock facility in Wilmington, Delaware. Pace then refined and processed the naphtha into gasoline and marketed the gasoline in the United States.

ISSUE

Which, if any, of these transactions is subject to FEA price regulations?

INTERPRETATION

Section 212.2 of FEA's regulations (and predecessor Cost of Living Council regulations) provides, in pertinent part:

"This part applies to each sale, lease or purchase of a covered product *in the United States* • • •." (Emphasis added.)

Section 212.53(b) of FEA's regulations provides an exemption from the price regulations for:

"The prices charged for imports, but only *the first sale into U.S. Commerce* are [sic] exempt."

The term "first sale into U.S. Commerce" is not defined in the regulations. Moreover, it has not heretofore been defined in any previous decision or interpretation issued by the FEA and was given only cursory interpretation by the Cost of Living Council. Therefore, the very important issues raised by A. Johnson's request for interpretation present in effect a case of first impression for the FEA, and for that reason an extended discussion of the rationale for the present interpretation is warranted.

At the outset it should be noted that there is a distinction between the purposes and language of §§ 212.2 and 212.53(b), a distinction which A. Johnson has failed to recognize in its request for interpretation. The former merely defines the scope of the FEA's intended jurisdiction over sales for purposes of the price regulations. It makes it clear that the FEA will not impoee price controls on sales transactions occurring wholly without the United States (i.e., transactions in which the product is physically located outside the United States, title to the product is transferred outside the United States and the parties to the transaction are not United States companies or owned or controlled by such companies). The basis for this rule is the obvious practical problem of obtaining jurisdiction over the parties to such transactions and detecting violations arising therefrom. But the fact that all regulated sales must occur in significant part within the U.S. to provide a basis for jurisdiction does not mean that the first sale into U.S. commerce, which is an exempted sale, must necessarily occur after the product which is the subject of the transaction has physically entered the U.S.

In arriving at a proper interpretation of the first sale exemption, the FEA has looked at a number of factors. First is the language of the exemption itself, which refers not only to the first sale "into" (not "in") U.S. commerce, but also to "the prices charged for imports." The juxtaposition of these terms suggests that the first sale into U.S. commerce is one that is closely related in terms of timing and function with the actual importation process.

Second is the rationale for the exemption, which in part was to minimize to the extent possible disincentives to the importation of crude oil and petroleum products which might result from domestic price regulations. It was believed that the imposition of price controls at too early a stage in the importation process would have the effect of encouraging suppliers to divert oil to other countries where they could realize higher world market prices. A second rationale was the same as that noted above for § 212.2—namely, that the U.S. Government has practical and jurisdictional problems in regulating transactions in foreign countries. Thus, proper application of the "first sale" exemption must take cognizance of whether the designation of a particular transaction as the first sale might have the undesirable result of diverting imports and whether it would present practical difficulties in regulating subsequent transactions.

On the basis of these considerations, the FEA has concluded that the first sale into U.S. commerce is the transaction pursuant to which the product in question is actually imported into the United States. A factual determination must be made in each case as to which of several transactions was the one "pursuant to which" importation in fact occurred. This question can usually be resolved by considering the domicile of the importer (i.e., the entity that has title to the product at the time it physically enters the U.S.) and its normal business practices. Thus, as a general rule, if the importer is a foreign corporation, the first sale into U.S. commerce is the first sale to a customer within the United States. However, if the importer is a U.S. company which purchases the product abroad for the purpose of importing it into the United States, the FEA will consider the first sale into U.S. commerce to be the sale to such importer, even though it may occur abroad. Furthermore, the FEA will presume that a U.S. firm which purchases a product abroad and subsequently imports it made the purchase for the purpose of importation. Such presumption can be rebutted by evidence that the importer had no intention of importing the product at the time it was purchased and arrived at the decision to import it only later.

The rule set forth herein accomplishes the objective of § 212.53(b), in that it exempts from controls that transaction which set in motion the importation process, thus avoiding a disincentive to importation, but at the same time achieves the desired purpose of making price controls as comprehensive as possible. Moreover, such an interpretation is full consistent with the language of § 212.53(b) and provides a relatively simple test that can be readily applied by firms involved in importation of oil to determine their obligations under the FEA price regulations.

Applying these rules to the factual situation presented in A. Johnson's request for interpretation, the FEA concludes that the first sale into U.S. commerce is the sale from A. Johnson to Trans Ocean. This is so, even though actual delivery and transfer of title occurred in Venezuela, because Trans Ocean is a U.S. corporation and because its subsequent importation of the product creates the presumption that it purchased naphtha from

V 42 90 MAY 10 77 7 UMI

A. Johnson for the purpose of importing it into the United States. Thus, Trans Ocean's sale to Pace is the second sale in U.S. commerce and is subject to FEA price controls.

The conclusion reached herein is consistent with the Cost of Living Council's few formal interpretations of the first sale exemption, some of which were cited by A. Johnson in its request for interpretation. One such interpretation held in effect that the mere foreign domicile of a company doing business in the United States does not exempt it from U.S. price controls.[1] (CLC Ruling 1972–33, 37 F.R. 6118, Mar. 24, 1972.) A. Johnson asserts that this ruling implies that, conversely, a U.S. company's sales transactions in a foreign country are not subject to U.S. price controls. It seems apparent to the FEA that no such implication was intended by the authors of Ruling 1972–33, but such a conclusion does seem to be supported by § 212.2, cited above. But in any event, the interpretation the FEA has adopted herein does not result in any of the subject transactions occurring in a foreign country being subjected to U.S. price controls. It finds only that the first sale into U.S. commerce—a sale that is exempt from U.S. controls—can occur when the product is physically located in a foreign country and does so occur in this instance.

Another Cost of Living Council interpretation referred to by A. Johnson does seem more closely in point with the present facts, although the FEA disagrees with A. Johnson's reading of it. Cost of Living Council Q & A No. 13 (Release 411, September 19, 1973) contained the following relevant question and answer:

"Q. A U.S. firm receives imported goods which it processes and ships from a bonded warehouse. Under the customs laws, these goods are not imports until they are sold to a U.S. purchaser and leave the bonded warehouse. Is the sale from the bonded warehouse exempt under the Phase IV regulations?

"A. No. Only the first sale of an import into U.S. commerce is exempt. A sale to a U.S. purchaser is considered to be the first sale into U.S. commerce regardless of whether delivery is taken inside or outside of the customs territory of the U.S. Thus, the sale which brings the items to the bonded warehouse, although the sale does not subject the goods to import duties, is the first sale into U.S. commerce for purposes of the Economic Stabilization Programs."

A. Johnson asserts, for reasons that are not entirely clear, that the firm in the present set of facts which most closely resembles the seller in the foregoing Q & A is Pace. However, such a conclusion ignores the following plain language of the answer: "A sale to a U.S. purchaser is considered to be the first sale into U.S. commerce *regardless of whether delivery is taken inside or outside of the customs territory of the U.S.*" (Emphasis added.) The plain import of the Q & A is to the effect that the sale to a U.S. firm which is responsible for the importation is the first sale into U.S. commerce, regardless of where it occurs. Thus, the Cost of Living Council Q & A fully supports the conclusion reached herein and is directly contrary to the conclusion reached by A. Johnson that the first sale into U.S. commerce must actually occur in the United States.

This interpretation is based upon information submitted to FEA by A. Johnson and as supplemented by FEA's own investigation to the extent noted herein. This interpretation depends for its authority on the accuracy of the factual statement contained herein and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based. See 10 CFR, Part 205. In addition, this interpretation is based on the assumption that the transactions described herein were entered into a good faith without any intention of circumventing applicable petroleum price regulations. This interpretation will not be binding on FEA should it subsequently be determined that the referenced transactions were entered into principally for the purpose of evading the price regulations, and in that event the FEA will not be precluded from taking appropriate action pursuant to 10 CFR § 205.201.

INTERPRETATION 1975—25

To: Babcock and Wilcox Co.

Date: June 24, 1975.

Rules Interpreted: §§ 215.3, 215.5.

Code: GCW—OI—Burning of Petroleum Products by Power Generators.

By letter dated March 25, 1975, the Federal Energy Administration's ("FEA") Office of Exceptions and Appeals advised the Babcock and Wilcox Company ("B&W") that, pursuant to 10 C.F.R. §§ 205.50(b) and 205.80(b), its request for an exception to 10 C.F.R. §§ 215.3 and 215.5 was being treated solely as a request for interpretation of FEA's regulations and, therefore, the request was being referred to the FEA Office of General Counsel, which has the responsibility for interpreting the regulations. The request for exception was dismissed without prejudice.

FACTS

This request for interpretation pertains to power generators proposed to be installed at B&W's welded tube mill ("Plant") located in Alliance, Ohio. The Plant currently operates two coal fired boilers that are used to provide process and space heating steam. B&W has asserted in documents provided to FEA that continued operation of the two coal fired power generators is impracticable because repair of the units is impossible; spare parts are no longer available; and the units will not accommodate the planned expansion of the Plant. In addition, the continued use of coal to fire the power generators will, without use of coal with a sulfur content of .75 percent or lower, or the installation of flue gas desulfurization equipment, place the Plant in violation of the Ohio Environmental Protection Agency's regulations upon the July 1, 1975 expiration of a variance granted by that agency. For these reasons, B&W asserts that replacement of the power generators is essential, and B&W is proposing to replace those units with new oil fired power generators.

INTERPRETATION

Issue: Is the burning of petroleum products by B&W's power generators proscribed by § 215.3, or are such generators "new power generators" within the meaning of § 215.5.

B&W has in its submission stated that it intends to replace the power generators that on December 7, 1973 were fired with coal, with new oil-fired generators. FEA assumes, therefore, that oil firing is not being obtained by modification of the existing coal-fired power generators. In addition, FEA assumes that the new power generators have, individually or in combination, a total firing rate of 50 million Btu's per hour or greater. It is apparent from the factual presentation that the new units will be utilized in commercial operation.

There are two sections of 10 C.F.R. Part 215 that potentially are applicable to the situation described by B&W.

§ 215.3 *Power generators burning nonpetroleum products.*

(a) No petroleum product shall be sold or otherwise provided to or accepted by any firm for burning under power generators that were not using a petroleum product on December 7, 1973.

§ 215.5 *New power generators.*

Any firm with power generators which commenced commercial operations after December 7, 1973 shall not utilize any petroleum products with sulfur content by weight lower than that needed to meet Primary Ambient Air Quality Standards or to comply with EPA [Environmental Protection Agency] new source performance standards (40 C.F.R. Part 60) or for startup until 30 days prior notice of such intended use had been provided the FEA pursuant to § 215.7.

If the "new" B&W power generators are in replacement of the coal fired units, rather than modification of such units, the prohibition against the purchase by or sale to B&W of petroleum products for use in such generators, as stated in § 215.3(a), is not applicable. Section 215.3 only applies to power generators in commercial operation on December 7, 1973, that were not using petroleum products on that date.

Since the proposed power generators would be commencing commercial operations after December 7, 1973, they are now power generators within the meaning of Part 215 and are subject to the requirements of § 215.5. That section, however, does not allow new power generators to burn petroleum products with a "sulfur content by weight lower than that needed to meet Primary Ambient Air Quality Standards or to comply with EPA new source performance standards (40 C.F.R. Part 69) • • •." In addition, such petroleum products shall not be utilized until "30 days prior notice of such intended use has been provided the FEA pursuant to § 215 7." Subject to the sulfur content restrictions, there is no prohibition in Part 215 against the burning of petroleum products by B&W's new power generators, but the 30-day notice requirement must first be satisfied.

INTERPRETATION 1975—26

To: Pan American World Airways, Inc.

Date: June 27, 1975.

Rules Interpreted: §§ 210.21, 210.33, 211.51.

Code: GCW—AI—Definition of United States, Bonded Fuel; Bonded Fuel Exemption; Guam.

(Text omitted because Interpretation 1976—26 has similar facts and presents essentially the same issue and FEA interpretive statement as Interpretation 1975—8.)

INTERPRETATION 1975—27

To: Pacific Lighting Exploration Co.

Date: June 30, 1975.

Rule Interpreted: § 212.72.

Code: GCW—PI—BPCL, Unitization, Definition of Property.

This is in response to your request of October 1, 1974 for an interpretation, filed in behalf of Pacific Lighting Exploration Company ("Pacific"), as to whether crude oil production from "Well No. 34–A" located in the Sooner Trend Middle Layton Sand Unit (STMLS Unit) in Kingfisher County, Oklahoma, is subject to the ceiling price rule of § 212.73 of the Federal Energy Administration Regulations.

FACTS

The STMLS Unit was unitized in 1967. Under the "Plan of Unitization" for the STMLS Unit, the oil and gas rights arising from lease or fee interests respecting several separately owned tracts of property are brought under the common control of a single "unit operator" for the purpose of facilitating the use of enhanced recovery techniques in producing crude oil from the oil and gas formation underlying the STMLS Unit. In June of 1973, a new well identified as Well No. 34–A was drilled on the Foreman Lease which is located within the STMLS Unit and which is subject to the Plan of Unitization.

Pacific asserts that the drilling of Well No. 34–A increased the production and the recoverable reserves from the Foreman Lease. Pacific further asserts that the drilling of Well No. 34–A did not result in the diminution of production from any other leases in the STMLS Unit.

ISSUE

The question presented relates to the method by which Pacific shall establish the lawful price under FEA price regulations for crude oil production from the Foreman Lease. Pacific argues that, in light of the fact that the drilling of Well No. 34–A enhanced both the production and the recoverable reserves from the entire STMLS Unit, the amount of production for the Foreman Lease which exceeds the base production control level for that lease should be deemed "new crude petroleum," as defined in 10 CFR 212.72, which may be sold without regard to the ceiling price rule of 10 CFR 212.74.

INTERPRETATION

Section 212.74 of FEA's Mandatory Petroleum Price Regulations provides that "new" and "released" crude petroleum produced and sold from a property may be sold without respect to the ceiling price applicable to "old" crude petroleum under § 212.73.

Production of "new" and "released" crude petroleum is determined under § 212.72 according to whether production exceeds the base production control level of a property. Pursuant to § 212.72 "base production control level crude petroleum" for a particular property means:

"(1) If crude petroleum was produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in the same month of 1972;

(2) If domestic crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12."

"Property" is defined in § 212.72 as "the right which arises from a lease or from a fee interest to produce domestic crude petroleum." Because the 1972 production from a property is required to calculate "base production control level crude petroleum," a firm must make reference to the lease or fee interest which was in existence in 1972 to define the property involved. This requirement is reflected in § 210.32, which defines "property" as "the right that arises from a lease in existence in 1972 or from a fee interest to produce crude oil in existence in 1972, and is coextensive with the term 'property' used in § 212.72 for purposes of determining 'base production control level crude petroleum.'"

Where, as in this case, the right to produce domestic crude petroleum arises from the combination of several leases and/or fee interests, a firm must aggregate those leases and interests in determining the "property" to which reference is made in establishing the base production control level. See, for example, Paragraphs 4.1 and 4.2 of the "Plan of Unitization" which have the effect of pooling the production from the unit, and of amending the prior rights, leases and contracts to the extent necessary to accomplish such pooling. It is in fact, the essence of the "Plan of Unitization" that the former lease or fee interest on which a particular well is located is irrelevant. See, for example, the definition of "unit production" in Paragraph 1.3, which means "all Oil • • • produced from the Unit Area • • • regardless of the well or tract within the Unit Area from which same is produced." Accordingly, the entire STMLS Unit constitutes the "property" which is relevant for the purpose of establishing the amounts of "old," "new," and "released" crude petroleum which are currently produced from the unit. Thus, all the production from the lease subject to the Plan of Unitization during 1972 must be taken into account in determining the base production control level of the STMLS Unit, and, similarly, the total of current production from the entire unit must be considered in calculating the amounts of "new" and "released" crude petroleum which may be sold without respect to the ceiling price.

INTERPRETATION 1975—28

(No Interpretation designated 1975—28 was issued.)

INTERPRETATION 1975—29

To: G. E. Kadane & Sons.

Date: July 12, 1975.

Rule Interpreted: Supart D.

Code: GCW—PI—Definition of Crude Oil, Residual Fuel Oil.

This is in response to your letter of December 4, 1974, requesting an interpretation of FEA regulations as they apply to the production of crude oil from the Banning Lease at the West Newport Field in Orange County, California. After consideration of the information contained in the request (both written and verbal), and the relevant authorities, the Federal Energy Administration has determined that the proper interpretation is that which follows.

FACTS

G. E. Kadane & Sons ("Kadane") is the producer of crude oil from the Banning Lease at the West Newport Field in Orange County, California. Since 1958, Kadane has operated an enhanced recovery project (the so-called "fire flood" technique), which involves the ignition and controlled burning under controlled pressure (in situ combustion) of a part of the heavy crude oil in the reservoir on the Banning Lease. Kadane has, since 1956, sold the crude oil produced from the Banning Lease to Standard Oil of California ("Standard") for use as a refinery feedstock.

Kadane requests an interpretation that the production from the Banning Lease is not "crude oil", as that term is defined under FEA regulations, because the in situ combustion process significantly alters the chemical composition of the crude oil in the reservoir, and the resultant production meets the technical specifications for—and therefore should be classified as—"residual fuel oil", as that term is defined under FEA regulations. Kadane proposes to terminate its contract with Standard—under which the product is currently sold as crude oil—and to market the product instead as residual fuel oil through the services of Armour Oil Company, a refiner, to various end-users for use in ships' bunkers or as industrial fuel, as the market and FEA allocation requirements applicable to residual fuel oil warrant. The product would be priced as a "new item", under the Kadane proposal, pursuant to § 212.111.

ISSUE

The issue presented by this request is whether the production from the Banning Lease is properly treated as crude oil or as residual fuel oil for purposes of FEA regulations.

INTERPRETATION

The Mandatory Petroleum Price Regulations provide a regulatory scheme that is structured in terms of the four major segments of the petroleum industry. While the price regulations are accordingly divided basically into four subparts, corresponding to activities by producers, refiners, gas processors, and resellers and retailers, respectively, they apply to all facets of the petroleum industry involving a "sale, lease or purchase of a covered product in the United States" (10 CFR 212.2). Thus, by virtue of this regulatory framework, each particular activity must generally be regulated pursuant to one of the defined subparts, to the exclusion of the others, even though that particular activity may not be precisely the same as the majority of those activities to which the subpart is expressly directed. For example, before the adoption of special provisions in Subpart K (§ 212.161, et seq.) for the pricing of natural gas liquids, gas processors were subject as refiners to the refiners' price rules in Subpart E (§ 212.81, et seq.). In another example, FEA has ruled that a firm that reclaims crude oil from the salt water generated by oil and gas wells and from the bottoms of pits in which the salt water is often stored, is a producer of crude petroleum within the meaning of Subpart D of the price regulations. (*Tesoro Petroleum Corp.*, 2 FEA ¶ 80,514.)

Subpart D of the price regulations (§ 212.71, et seq.) applies to producers of crude petroleum. Based upon the facts presented in your request, it is our interpretation that the operation in which Kadane is involved is properly regarded as the production of domestic crude petroleum (and therefore subject to the producers' price rules in Subpart D), even though the crude oil produced from the Banning Lease might arguably satisfy the technical specifications of "residual fuel oil" as well as being included within the generic classification of "crude oil." The substance produced from the Banning Lease has, since 1956, been sold pursuant to a contract with Standard as "crude oil" for use as a refinery feedstock. To interpret FEA regulations as calling for the treatment of the crude oil produced from the Banning Lease as "residual fuel oil" would require a radical departure from the historical treatment of the Banning Lease production by Kadane itself.

Despite the surface appeal of Kadane's argument that the "fire flood" technique operates partially to crack the crude oil in the reservoir, and that the resulting operation qualifies Kadane as a "refiner", as that term is defined in § 212.31, attempting to apply the refiners' price rules—which are based on May 15, 1973 prices plus the increased cost of crude oil purchased or landed each month—reveals the inherent flaw in the proposal. In sum, notwithstanding the arguably dual characteristics of the crude oil produced from the Banning Lease, the operation of the lease is nevertheless properly categorized as a production activity yielding crude oil, no different than it has been since well before the advent of the FEA regulations.

[1] This ruling was subsequently clarified by Ruling 1972–71, which held that when a foreign corporation sells to a U.S. customer either directly or through a U.S. subsidiary acting as a sales agent, that sale is the first sale into U.S. commerce and is exempt from price controls. But where the foreign corporation transfers title to its U.S. affiliate, which in turn resells to a U.S. customer, the first sale is the sale between affiliates, and all subsequent sales are subject to controls. (39 FR 13273, July 6, 1972.)

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INTERPRETATION 1975—30

To: Continental Oil Co.

Date: June 27, 1975.

Rule Interpreted: § 211.25(c).

Code: GCW—AI—Borrow-Pay Back Rule.

Your letter of January 17, 1975 on behalf of Continental Oil Company ("Conoco") requested an interpretation of § 211.25(c) of the Mandatory Petroleum Allocation Regulations [10 CFR 211.25(c)] regarding the borrow-pay back" provision available to suppliers and wholesale purchasers.

FACTS

During 1974 Conoco placed some of its petroleum supplies in storage facilities not under the control of Conoco employees and from which certain of Conoco's purchasers withdrew product from time-to-time. These facilities are located in areas where Conoco's wholesale purchasers conduct their businesses. The operators of these facilities maintain records of withdrawal which are periodically sent to Conoco.

Conoco is aware that some of its wholesale purchaser-resellers withdrew more allocated products than they were entitled to purchase during 1974 under FEA's regulations. However, because of accounting delays, Conoco states it could not know which of its purchasers had overdrawn during 1974 and by what amount until early 1975.

Conoco would like to deduct during 1975 an amount of product equal to the 1974 overdraw from the amount of product a purchaser is entitled to purchase during 1975.

ISSUE

The issue presented for consideration is whether a supplier may deduct in 1975 from a wholesale purchaser's allocation entitlement an amount of product equal to the volume of that product which the wholesale purchaser overdrew during 1974.

INTERPRETATION

The applicable provision of the Mandatory Petroleum Allocation Regulations is 10 CFR 211.25(c), which reads as follows:

(c) To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both on a volume for volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers.

For the purpose of this interpretation we will assume that Conoco's customers agreed with Conoco to repay any overdraws of their entitlement. Section 211.25(c) permits "borrow-pay back" on a volume for volume basis of allocated products between suppliers and wholesale purchasers within a calendar year. A definite period of time during which all transactions under § 211.25(c) must be completed is necessary so that FEA can test compliance with the regulations. Section 211.25(c) clearly refers to a calendar year as the definite period during which transactions for that period must be completed. Consequently, adjustments pursuant to § 211.25(c) for 1974 must have been made during 1974, not partly in 1974 and partly in 1975.

Therefore, it is our opinion that Conoco may not deduct from a wholesale purchaser's 1975 allocation entitlements an amount of product equal to the volume of that product which that wholesale purchaser overdrew in 1974.

It should be observed that it was Conoco's obligation under FEA's regulations to monitor its transactions under § 211.25(c) to prevent its current problem. In computing its allocation fraction for each period which corresponded to a base period during 1974, Conoco had a basis for determining well in advance of December 1974 which of its purchasers were in danger of causing a violation of § 211.25(o) and could have acted to make a compensating adjustment before the end of 1974.

INTERPRETATION 1975—31

To: Continental Oil Co.

Date: August 20, 1975.

Rules Interpreted: §§ 211.25, 212.31.

Code: GCW—AI, PI—Base Period Supplier, Commission Agent, Class of Purchaser.

By letter of May 7, 1975, Continental Oil Company (Continental) requested an interpretation of the Mandatory Petroleum Allocation and Price Regulations as they apply to a proposed change in Continental's marketing operations.

FACTS

We understand that Continental proposes to change its marketing operations in the States of Arkansas and Texas. At the present time, Continental supplies refined petroleum products (motor gasoline, middle distillates, lubricating oils and greases) in Arkansas and Texas directly to the following various types of purchasers:

(1) Continental owned and operated retail sales outlets, each of which is a wholesale purchaser-reseller;

(2) Continental owned retail sales outlets leased to and operated by branded independent marketers, each of which is a wholesale purchaser-reseller;

(3) Jobbers, which are branded independent marketers and each of which is a wholesale purchaser-reseller;

(4) Commission agents which operate bulk plants, each of which may be a wholesale purchaser-reseller; and

(5) Wholesale purchaser-consumers and end-users supplied directly by Continental.

According to its request, Continental is planning to sell to various purchasers (the "Purchasers") x of its Conoco brand service stations and x bulk plants and x "vacant sites" in Texas and Arkansas. Specifically, Continental would convey to the various Purchasers its title to real estate and improvements involved, and where Continental leases the real property or improvement, it would secure an assignment of the lease to the Purchaser. The request further states that Continental intends to assign lease agreements and contracts with wholesale purchasers and end-users to the various Purchasers, who would then be responsible for fulfilling the terms of the lease agreements and contracts.

Continental would enter into ten year supply contracts with each Purchaser. As stated by Continental, "The supply contract is subject to the FEA Mandatory Petroleum Allocation Regulations and obligates each Purchaser, with FEA approval, to assume Continental's supply obligations for the transferred properties and accounts. Continental's supply obligations for the • • • properties and accounts would, then, apply only to the • • • purchasers."

ALLOCATION ISSUES FOR INTERPRETATION

The allocation issues for interpretation are whether a supplier substitution pursuant to 10 CFR § 211.25(a) requires FEA approval and whether a base period supplier which uses a substitute supplier is relieved of its supply obligation to its customers which are supplied by the substitute supplier.

INTERPRETATION

General

10 CFR § 211.25(a) provides that

Any supplier may arrange to supply any purchaser which is entitled to receive an allocation from it through another supplier or suppliers in accordance with normal business practices. The purchaser shall, however, be entitled to receive the same amount of an allocated product from the substituted supplier that it would receive if it were directly supplied by the original supplier using that supplier's allocation fraction.

Thus, § 211.25(a) provides a means for base period suppliers to meet their supply obligations to base period and assigned customers other than by direct delivery of product by the base period supplier. Such arrangements are discretionary under the clear language of the rule and therefore may be entered into voluntarily with the consent of the base period supplier and the substitute supplier. In addition, a base period supplier's customers supplied by a substitute supplier are entitled to receive allocations based upon the base period supplier's allocation fraction, rather than that of the substitute supplier. No provision in the rule requires prior FEA approval of such arrangements. FEA may, however, under certain circumstances order the termination of substitute supplier arrangements. E.g., Whitco, Inc., 2 FEA 83,170 (June 3, 1975).

A supplier which arranges to supply its base period and assigned customers through a substitute supplier is not relieved of its regulatory supply obligation to those customers. Thus, while the substitute supplier may have a contractual obligation to the base period supplier to supply products to the base period supplier's customers, the regulatory obligation to supply still rests with the base period supplier. Of course, as long as the substitute supplier arrangement in fact provides a customer with his proper allocation, the regulatory obligation of the base period supplier is discharged.

In order to terminate the regulatory supplier/purchaser relationships between Continental and its customers and have relationships assigned to other suppliers, there are several avenues open to Continental. 10 CFR § 211.14(d), for example, provides as follows:

(d) Any refiner, importer, or other supplier which has significantly reduced or which intends to reduce marketing or distribution activities in any region or area and which is required by FEA regulations to supply its base period and assigned wholesale purchasers in that region or area may apply to the National FEA to seek a change in the method of supplying such wholesale purchaser. The FEA may order the reassignment of wholesale purchasers or end-users from one supplier to another. Pending action by the National FEA on such application, such refiners, importers and suppliers are under a continuing obligation to provide allocations to all their base period and assigned wholesale purchasers in any region or area either directly or through a substitute supplier in accordance with § 211.25.

Further, as you know, FEA will consider terminating supplier/purchaser relationships on a case-by-case basis where the customer agrees to the termination and another supplier is willing to have the customer assigned to it.

Commission agents

I note that you have not asked whether your bulk plant commission agents are wholesale purchaser-resellers within the meaning of 10 CFR § 211.51, although from the materials submitted in connection with your request, it would appear that they do qualify as wholesale purchaser-resellers. As you may know, FEA Ruling 1975-8 provides guidance with respect to this issue and I am enclosing a copy for your information.

I would observe, however, that if your commission agents are wholesale purchaser-resellers, the customers which they serve would have a supplier/purchaser relationship with the commission agent as their base period supplier and not with Continental. Therefore, a decision to substitute a Purchaser as a supplier for a commission agent's customer would involve the commission agent, as the base period supplier, and the Purchaser as the substitute supplier.

Further, to the extent that a commission agent is a wholesale purchaser-reseller, his conversion to jobber status would not require Continental to consider him as a substitute supplier in dealing with his base period and assigned customers. As a wholesale purchaser-reseller, the commission agent is the supplier of the firms it currently serves and Continental is presently required to allocate directly to the commission agent and the agent, as a supplier, then allocates to its customers.

Finally, if your commission agents are wholesale purchaser-resellers, you may supply them through a substitute supplier as you would any other purchaser.

PRICE ISSUE FOR INTERPRETATION

The price issue for interpretation is what prices may be charged by Continental to the Purchasers of its marketing assets in view of the fact that some of those Purchasers already buy product from Continental, either in the same class of purchaser context or in another such context, and some of those Purchasers do not now buy product from Continental.

INTERPRETATION

While FEA has a "new product" rule, under which special pricing provisions apply to govern the prices which may be charged when a producer or seller markets an entirely new product or enters an entirely new distribution level for the first time, the FEA has no special pricing rule for sales of the same product to a new purchaser in the same market (i.e., a new purchaser falling within an established class of purchaser) or to an old purchaser purchasing for the first time or as a member of another established class of purchaser.

The FEA has no special pricing rules in these cases because the general pricing rules may be applied in these situations without difficulty.

The refiner price rules apply to the product and to "the class of purchaser concerned." 10 CFR § 212.82(b). "Class of purchaser" means purchasers to whom the seller has charged a comparable price for comparable property pursuant to customary price differentials between those purchasers and other purchasers. 10 CFR § 212.31.

Thus, the maximum price which the seller may charge for an established product in an established market when the sale is made to a new customer (one to whom the seller had not previously sold the product) is the ceiling price applicable to the product concerned and the class of purchaser into which the new customer falls.

Where the seller currently sells the product concerned to an estblished customer who now wishes to begin purchasing the same product as a member of another class of purchaser (e.g., wishes to purchase at a different location and location forms the basis for a valid class distinction, or wishes to purchase at a different level of distribution), the ceiling price applicable to that "transfer customer's current purchases no longer applies to him when he begins to purchase as a member of another class. As in the case of a new customer, the seller may charge to the transfer customer whatever higher or lower price ceiling applies to the class of purchaser that the transfer customer will enter.

It should be noted that the question referred to under the allocation issues, above, as to whether your bulk plant commission agents qualify as "wholesale purchaser-resellers," for purposes of the allocation regulations, is not relevant to the price issue. A Purchaser who is now a bulk plant commission agent and who will become a jobber or reseller upon consummation of the sale of assets should be treated as a new purchaser for price purposes since Continental has been transferring product to its commission agents by consignment and not by sale.

INTERPRETATION 1975—32

To: Tesoro Petroleum Corp.

Date: August 21, 1975.

Rules Interpreted: §§ 211.51, 212.31.

Code: GCW—AI,PI—Definition of Firm.

This is in response to your communications of June 23 and July 29, 1975, relating to your request for a determination that your client, Tesoro Petroleum Corporation ("Tesoro") does not control Commonwealth Oil Refining Company, Inc. ("CORCO").

As you know, the FEA informed you by letter dated July 14, 1975, that your request for exception dated June 23, 1975, was dismissed without prejudice to refiling at a later date and was being treated by FEA as a request for interpretation concerning the threshold question of whether Tesoro "controls" CORCO within the meaning of the definition of "firm" in 10 CFR 212.31 and 211.51.

FACTS

1. Tesoro is a refiner subject to 10 CFR, Parts 211 and 212. It owns refineries in Alaska, Texas, Wyoming and Montana with a combined capacity of 76,000 barrels per day.

2. CORCO is a refiner subject to 10 CFR, Parts 211 and 212. It operates a refinery in Puerto Rico with a capacity of 161,000 barrels per day.

3. Pursuant to a tender offer made April 18, 1975, Tesoro purchased approximately 37% of the outstanding shares of CORCO. The purchase was consummated on June 5, 1975.

4. No shareholder, other than Tesoro, owns 5 percent or more of the oustanding voting shares of CORCO.

5. At present a majority of the Board of Directors of CORCO are persons selected or designated by Tesoro.

6. The definition of "firm" in § 212.31 provides that the FEA "may, in regulations and forms issued under this part (212), treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm." An identical provision, applicable to Part 211 (allocation), appears in the definition of "firm" in § 211.51.

7. Section 212.83, which provides for the passthrough of refiners' product and nonproduct cost increases, defines "firm" for the purposes of that section as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls."

INTERPRETATION

In a series of rulings during Phase II of the Economic Stabilization Program the major questions concerning inter-corporate control for purposes of price regulations were fully answered and settled. Under Phase IV Q&A 8–5, CLC Release 367, August 20, 1973, Phase II rulings were deemed not legally binding during Phase IV but were to be used as guidance in the absence of any specific legal interpretation which might be issued. Nothing in the few rulings issued by CLC in Phase IV or by FEA is contrary to the pertinent Phase II rulings discussed in this interpretation. Since these Phase II rulings thus firmly settled this area of the law, and since the same applicable definitions and concepts to which those rulings relate were continued essentially unchanged in Phase IV and under the FEA regulations, the FEA applies the pertinent Phase II rulings in interpretations relating to the question of control.

The Phase II definition of "firm," the meaning which was the chief subject to the Phase II rulings referred to in this interpretation, was as follows:

"Firm" means any person, corporation association, estate, partnership, trust, joint-venture, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal and state and local governments. For purposes of this definition, a firm includes any entity listed in the preceding sentence that is part of or is directly or indirectly controlled by the firm. A person will be deemed to control any firm which is controlled directly or indirectly by such person, his spouse, children, grandchildren, or parents. 6 CFR 101.2, 37 F.R. 9457 (May 11, 1972).

This concept of "direct or indirect control," which brings within the "firm" all entities "controlled" by the firm, was continued essentially unchanged in Phase IV and remains applicable under the FEA regulations today. See definitions of "firm," "parent and its consolidated entities," and "unconsolidated entity," 6 CFR 150.31, 38 F.R. 21592 (August 9, 1973); 10 CFR 212.31, 39 F.R. 1924 (January 15, 1974).

The first Phase II ruling in point made cent interest in B it was deemed to control B for the purposes of the Economic Stabilization Program. Price Commission Ruling 1972–169 (37 F.R. 9641, May 13, 1972).

When an entity held less than a 50 percent interest in another entity control might still be shown based on other considerations. It was a question of fact to be determined in each case. PC Ruling 1972–179 (CLC Ruling 1972–51), 37 F.R. 10962 (June 1, 1972). In a specific hypothetical example in which A owned 45 percent of the stock of B, A was found to control B. This was based on the fact the remaining 55 percent of the stock was so dispersed that A was able to elect a majority of the Board of Directors of B.

In a formal interpretation issued on February 12, 1975, the FEA determined that control existed where the principles concerned had purchased only 8 percent of the outstanding stock of one entity and only 29 percent of the outstanding stock of another entity, in view of all of the circumstances surrounding these purchases.

We note that in its tender offer of April 18, 1975, Tesoro announced publicly that the purpose of its offer was "to acquire 5,500,000 shares (approximately 38 percent of all the shares outstanding as of December 31, 1974) and to acquire working control of the Company (CORCO). Tesoro intends to exercise such control and to seek at least majority representation on the Company's Board of Directors." In addition, in its "Supplement and Extension" notice of April 29, 1975, Tesoro discussed certain consequences which might result "[i]f Tesoro acquires working control of (CORCO) as a result of this Offer."

From the contert in which the purpose of the tender offer was explained by Tesoro,

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it seems clear that the goal of obtaining working control of CORCO was to be achieved by obtaining approximately 38 percent of the outstanding shares of CORCO, a degree of ownership which would permit Tesoro to obtain majority representation of CORCO's Board of Directors because of the widely dispersed ownership of the remaining shares outstanding.

Since Tesoro did in fact ultimately purchase approximately 5,500,000 shares of CORCO (about 37 percent of outstanding shares) and did in fact thereby obtain majority representation on CORCO's Board of Directors, we conclude that Tesoro succeeded in its stated goal to obtain working control of CORCO. CORCO is, therefore, an entity which Tesoro directly or indirectly controls, for the purposes of the price and allocation regulations.

In its interpretation request, Tesoro admits that under the facts in this case FEA might conclude that Tesoro directly or indirectly controls CORCO. Tesoro argues that while it may enjoy "unexercised power to control" CORCO, and that while Tesoro and CORCO have mutually agreed "to use their best efforts to develop a plan of consolidation of the two companies," nevertheless Tesoro does not now exercise day-to-day supervisory or operational control over CORCO and no plan of consolidation has been formulated or approved. Tesoro maintains that only the actual exercise of the power to control CORCO in its day-to-day operations would constitute direct or indirect control by Tesoro under FEA rules.

In the opinion of FEA, the administrative determination of whether one firm is controlled by another must be a factual and legal determination based upon possession of the power of control and not upon the happenstance of exercise of that power. Because substantial questions concerning maximum price levels and supply/entitlements obligations are at stake, the determination must be one that is based on objective and well-established criteria. A decision which would depend upon a judgmental determination by FEA regarding the degree of Tesoro's actual supervision of CORCO's day-to-day operations, and which might be subject to review according to the changing circumstances of managerial intervention by Tesoro, would be both administratively unfeasible and too arbitrary and indefinite to permit coherent application of the price and allocation regulations to Tesoro.

The FEA appreciates the difficulties which you have outlined which result from treatment of Tesoro and CORCO as a single firm under the price and allocation regulations, particularly in view of the uniqueness of CORCO's cost and marketing situation as a company operating in Puerto Rico. These considerations, while possibly forming the basis for an exception from the price and allocation regulations, are not relevant to an interpretation of the meaning of those regulations.

INTERPRETATION 1975—33

To: Midwest Oil Co.

Date: August 21, 1975.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCW—AI—Definition of Wholesale Purchaser-Reseller.

You recently requested an interpretation of the Mandatory Petroleum Allocation Regulations concerning your status under those regulations.

FACTS

We understand the facts upon which this interpretation is based to be as follows:

You distribute Atlantic Richfield Company ("ARCO") products under the terms of a contract dated April 1, 1973 between yourself (the "Marketer") and ARCO entitled "Atlantic Richfield Company Marketer Agreement" (the "Agreement"). The Agreement was formerly a Sinclair Oil Company form contract.

The Agreement provides that you will be a "bailee for hire" except as enlarged by the terms of the Agreement. The Agreement establishes a relationship whereby Harper (defined in the Agreement as the Marketer") receives commissions for the sale and delivery of ARCO products, title to which remains with ARCO until they are sold.

Although ARCO has the right to reject any order taken by the Marketer, you have advised us that you solicit, maintain and service all customers and that rarely, if ever, does ARCO provide you with customers to service. The Marketer may not make credit sales for ARCO's account without ARCO's prior consent. Prior to the imposition of the requirement to maintain supplier/purchaser relationships under the Mandatory Petroleum Allocation Regulations, you could terminate relationships with customers you served without ARCO's concurrence.

The Marketer is required to bear all expenses for "necessary trucks, truck-tanks, motive power, drivers, labor, water, light, power, and heat * * * draying [ARCO's] products and equipment and in making sales, deliveries and collections." The Marketer is responsible for the acts of its employees and for their wages, including all taxes and contributions imposed by Federal and state governments upon such wages. Further, you agree to use no improper or illegal methods in soliciting or securing business covered by the Agreement and to "assist [ARCO] generally in promoting the successful merchandising of its products * * *."

ARCO owns the bulk plant from which you service customers although no rent is charged for use of the plant.

ISSUE

The issue presented for interpretation is whether the Marketer operating as described above qualifies as a wholesale purchaser-reseller as defined in 10 CFR § 211.51.

INTERPRETATION

It is our opinion that the Marketer to the extent that it sells and distributes allocated products under the circumstances set forth above qualifies as a wholesale purchaser-reseller as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations and clarified by FEA Ruling 1975–8 (a copy of which is enclosed for your information).

Wholesale purchaser-reseller is defined in 10 CFR § 211.51 as "any firm which purchases, receives through transfer or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form".

Ruling 1975–8 explains that the phrase "as by consignment" is included in the definition of a wholesale purchaser-reseller to make clear that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition solely on the ground that they fail to take legal title to the product. This phrase explicitly recognizes the fact that consignment relationships have long existed in the petroleum industry under which consignees perform essentially the same functions as jobbers and that such consignees should be treated under the allocation regulations in the same manner as jobbers. Therefore, those consignees which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between a supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers.

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product. Only in those situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally like a jobber, will the firm qualify as a wholesale purchaser-reseller.

Thus, according to the ruling, a consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing product solely to customers designated by the supplier.

Under the factual situation described above, you retain a substantial measure of functional autonomy in distributing and selling ARCO's products. Although you must account fully to ARCO for all products received, and such products must be sold at a price fixed by ARCO, you are fully responsible for all aspects of conducting the business. You do not merely provide a delivery service for ARCO but solicit your own customers which purchase the products which you have on consignment from ARCO. We understand that ARCO may disapprove a new customer but that this occurs when the price offered by a proposed customer is not satisfactory to ARCO. ARCO provides no equipment, labor, organizational or employee benefits (such as social security contributions), although ARCO provides you without charge the bulk plant from which you withdraw supplies. We do not believe that in the context of the foregoing fact situation ARCO's provision of the bulk plant without charge to you affects your status as a wholesale purchaser-reseller. Accordingly, it is our opinion that you are a wholesale purchaser-reseller as defined in 10 CFR § 211.51 and explained in Ruling 1975–8.

INTERPRETATION 1975—34

To: Baltimore Gas and Electric Co.

Date: August 27, 1975.

Rules Interpreted: § 211.29, Special Rule No. 1.

Code: GCW—AI—SNG Feedstock Allocation.

Your letter of April 29, 1975 requested an interpretation of section 211.29 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.29), and of Special Rule No. 1 which follows that section of the regulations.

FACTS

Baltimore Gas and Electric Company ("BG&E") is a public utility which, among other things, purchases and sells natural gas in central Maryland. BG&E purchases virtually all of its natural gas requirements from Columbia Gas Transmission Corporation. Columbia has notified BG&E that BG&E may expect curtailed deliveries of approximately 25 percent below 1972 delivery levels during the 1974–1975 heating season. Because of increasing natural gas curtailments in past years leading to the current projected curtailment, BG&E decided prior to 1972 to build a naphtha-based synthetic natural gas (SNG) plant. Negotiations began in 1972 with Amerada Hess Corporation ("Hess") to supply the required quantities of naphtha from the Hess refinery located in the Virgin Islands. Although BG&E claims that BG&E and Hess entered into a contract in late 1972 with respect to the naphtha feedstocks to be supplied when the proposed SNG plant would be completed, it appears that the contract for supply of specific volumes of naphtha feedstock was not entered into until April 1, 1975.

As of April 30, 1974, BG&E had expended $6,174,940 in connection with the design, engineering and physical construction of the plant. Expenditures are stated to be as follows:

General contractor (Stone and Webster Engineering Corp.)	$5,756,060
BG&E supervision and engineering	166,338
General conditions	186,617
Temporary utilities	22,392
Equipment (electric substation)	43,513
Total	6,174,940

Of the $5,756,060 paid to the general contractor, it appears from the cost audit of April 30, 1974 prepared by Stone and Webster and included as Exhibit B to BG&E's request for interpretation that expenditures for construction (labor, equipment and supplies) amounted to $678,141.55. This sum, when added to the expenditures for temporary utilities and the electric substation, amounts to $744,046.55 for the construction of the SNG facility prior to May 1, 1974. The remaining $5,430,893.45 expended by BG&E was in connection with design, engineering, supervision, office overhead, estimating costs and similar items.

ISSUE

The question presented for consideration is whether BG&E may petition for assignment of a naphtha supplier and base period volume pursuant to 10 CFR 211.29 and paragraph 4 of Special Rule No. 1 which follows that section of the regulations.

INTERPRETATION

Section 211.29 of the Mandatory Petroleum Allocation Regulations [10 CFR 211.29] reads in pertinent part as follows:

§ 211.29 *Synthetic natural gas production.*

Notwithstanding any inconsistent provisions of §§ 211.12 and 211.13, a firm which purchases * * * allocated products for use as a feedstock in a synthetic natural gas plant which has requirements which exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office * * *.

The above referenced section of the regulations was amplified by an Appendix—Special Rule No. 1 issued on July 31, 1974 (39 FR 27910, August 2, 1974). Paragraph four of the Special Rule reads in pertinent part as follows:

4. *Allocation of naphtha to synthetic natural gas plants where groundbreaking has occurred.* In considering the petition for assignment of suppliers and base period volume * * * under § 211.29 made on behalf of a synthetic natural gas plant which utilizes naphtha as an exclusive feedstock and with respect to which groundbreaking has occurred, the FEA shall grant such petition to the extent that contracts for supply calling for delivery of specific volumes are currently in effect * * *.

The term "groundbreaking" is defined in paragraph 3 of the Special Rule to mean "the on site expenditure of at least five million dollars on the actual physical construction of an SNG facility prior to May 1, 1974."

Section 211.29, as amplified by Special Rule No. 1, states that FEA will automatically grant petitions for assignment of supplier and base period volumes of naphtha for SNG plant feedstock use if three conditions are met—the plant will utilize naphtha as its exclusive feedstock, ground-breaking has occurred and there are contracts currently in effect for delivery of specific volumes of naphtha.

Under the facts presented, only the first requirement—exclusive use of naphtha feedstock—has been met. The information submitted by BG&E and its general contractor show only $744,046.55 for items which constitute expenditures for actual physical construction. The requirement that there be "on site expenditure * * * on actual physical construction" is not satisfied by payments for design, overhead, engineering and like items. On site expenditures for actual physical construction includes equipment costs, labor and construction materials.

BG&E's contract with Hess for delivery of specific volumes of naphtha for the SNG plant was not in effect on the date of issuance of Special Rule No. 1; that is, in effect on July 31, 1974. We believe that the requirement in paragraph 4 of Special Rule No. 1 that supply contracts be "currently in effect" means such contracts must have been in effect on the date of issuance of the Special Rule.

In view of these considerations, FEA should not review BG&E's application for assignment of supplier and base period volume in light of the "grandfathering" provisions of paragraph four of Special Rule No. 1. Therefore, if BG&E wishes to obtain assignment to Hess and allocation of naphtha as feedstock for its SNG plant, it must follow the requirements in 10 CFR 205.30 et seq. and 211.29 and paragraph 6 of the accompanying Appendix—Special Rule No. 1.

INTERPRETATION 1975–35

To: Wickland, Inc.

Date: September 24, 1975.

Rule Interpreted: § 211.11(d).

Code: GCW—AI—Transfer of Allocation Entitlement.

Your letter of July 8, 1975 on behalf of Wickland, Inc. ("Wickland") requested an interpretation of the Mandatory Petroleum Allocation Regulations regarding the transfer of motor gasoline allocation entitlements upon the dissolution of a subsidiary and the assimilation of its assets, obligations and operations by the parent firm.

FACTS

Addison Oil Company ("Addison") is a nonbranded, independent marketer which owns and operates 38 motor gasoline retail sales outlets in the State of California. Addison does not supply any other purchasers. Addison is the wholly-owned subsidiary of Wickland, which is itself a nonbranded, independent marketer of motor gasoline which also operates retail sales outlets.

Wickland plans to dissolve Addison and assume all of Addison's assets, obligations and operations, including Addison's 38 retail sales outlets.

Both Addison and Wickland purchase gasoline from Atlantic Richfield Company ("ARCO") and physically transport it to the Addison and Wickland retail sales outlets in trucks operated or chartered by Addison and Wickland, respectively.

ISSUE

The issue presented for consideration is whether the proposed transaction will affect the allocation entitlements of the gasoline retail sales outlets owned and operated by Addison.

INTERPRETATIONS

It is my opinion that the proposed transaction will not affect the allocation entitlements of the gasoline retail sales outlets operated by Addison. Addison and Wickland operate in dual capacities under the Mandatory Petroleum Allocation Program. From the viewpoint of their retail sales outlets, the two companies are suppliers of motor gasoline since they physically transport gasoline to their purchasers. See 10 CFR 211.106 (d). For regulatory purposes, Addison is not treated as a separate supplier from Wickland since "for purposes of defining a supplier * * * a firm shall mean the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." 10 CFR 211.10(a).

From the viewpoint of ARCO, Addison and Wickland are wholesale purchaser-resellers as defined in 10 CFR 211.51. However, for the purposes of this interpretation, it is not important to determine whether Addison and Wickland are treated separately or as a single wholesale purchaser-reseller since the same result is obtained under the regulations whether they are separate wholesale purchasers or a single purchaser. If Addison and Wickland are a single firm, the internal reorganization of the firm would not affect the firm's right to an allocation. If Addison and Wickland are separate wholesale purchaser-resellers, Addison's entitlement to motor gasoline from ARCO would also be transferred to Wickland.

Section 211.11(d) of the regulations (10 CFR 211.11(d)) reads as follows:

(d) *Transfer of entitlement.* The right to receive an allocation shall not be assignable separately but shall be considered an integral part of the ongoing business or established end use. The right to an allocation shall be deemed to have been transferred only when the entire business or activity of the firm is transferred to a successor firm.

It is our opinion that the dissolution of a subsidiary and assumption of its assets, obligations and operations by the parent would constitute a transfer of the entire business of the subsidiary to the parent. The subsidiary's right to an allocation would be transferred to the parent pursuant to 10 CFR 211.11(d) if the subsidiary has a separate allocation entitlement.

INTERPRETATION 1975—36

(No Interpretation designated 1975—36 was issued.)

INTERPRETATION 1975—37

To: Farmland Industries, Inc.

Date: October 2, 1975.

Rules Interpreted: §§ 211.201, 211.202, 211.203 (c)(2)(iii), 211.51.

Code: GCW—AI—Wholesale Purchaser-Consumer, Wholesale Purchaser-Reseller, Allocation Entitlement.

This is in response to your request for an interpretation of the Mandatory Petroleum Allocation Regulations as they affect the obligation of Farmland Industries, Inc. ("Farmland") to supply lubricant base stock oils and lubricants to base period purchasers.

FACTS

Farmland is a refiner of crude oil which produces, among other products, lubricant

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base stock oils ("stock oils"). During 1973, Farmland blended in excess of 55,000 gallons of its stock oils into lubricating oils. Farmland also sold 6.4 million bbls. of its stock oils to other blenders of lubricants.

The lubricating oils blended by Farmland from its stock oils are sold to agricultural associations. The associations in turn sell the lubricating oils to ultimate consumers who use them almost exclusively in agricultural production.

So far as Farmland can determine, the stock oils sold by Farmland to other blenders are blended into lubricants and greases sold eventually to ultimate consumers who do not use these products in agricultural production or for Department of Defense use. The use pattern of the products by ultimate users remains approximately the same now as during the 1973 base periods.

Farmland's customers for lubricating oils have certified volumes of lubricants currently required for agricultural production which exceed the quantities blended by Farmland in 1973. To fill 100 percent of this demand, Farmland would have to increase its use of its own stock oils for blending with a resultant decrease in the supply of stock oils it could sell to those blenders and compounders which purchased stock oils from Farmland in 1973.

ISSUE

The issue for consideration is whether Farmland may increase the blending of its stock oils to make more lubricants for agricultural production and decrease its supply of stock oils from which it is required to allocate to base period purchasers.

INTERPRETATION

Stock oils and lubricants as separate allocable products. Section 211.201 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.201) sets out the scope of Subpart K—Other Products—in the following language:

(a) This subpart applies to the mandatory allocation of those allocated products which are not subject to allocation under Subparts D through J of this part, including benzene, toluene, mixed xylenes, hexane *lubricants*, greases, special naphthas (solvents), *lubricating base stock oils* and process oils produced in or imported into the United States. (Emphasis added.)

Section 211.202 (10 CFR 211.202) defines "lubricants" and "lubricant base stock oils" as follows:

"Lubricants" means all grades of lubricating oils which have been blended with the necessary lubricant additives so as to produce a lubricating oil composition in a form that is designed to be used for lubricating purposes in industrial, commercial and automotive use without further modification, wherein said lubricating oils are comprised of greater than ten (10) percent of refined petroleum products by weight.

"Lubricant base stock oils" means those refined petroleum products which are primary components used in the compounding and blending of lubricants and greases including but not limited to bright stocks, solvent neutrals, coastal oils, pale oils and red oils.

The intent of these regulatory provisions is to require the allocation of lubricants and stock oils as separate products. The definitions also show that whereas there may be a use for lubricants in agricultural production, there is no such use for stock oils.

Farmland as supplier and wholesale purchaser-consumer. Section 211.51 (10 CFR 211.51) defines "supplier" as follows:

"Supplier" means any firm or any part or subsidiary of any firm other than the Department of Defense which presently, during the base period, or during any period between the base period and the present supplies, sells, transfers or otherwise furnishes (as by consignment) any allocated product or crude oil to wholesale purchasers or end-users, including, but not limited to, refiners • • •

Section 211.202 (10 CFR 211.202) defines "wholesale purchaser-consumer" as follows:

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into storage substantially under the control of that firm at a fixed location and purchased or obtained more than 20,000 gallons of lubricants, 10,000 pounds of greases or 55,000 gallons of any other product subject to (Subpart K—Other Products) in any completed calendar year subsequent to 1971.

Farmland is a supplier of stock oils since it refines and supplies that allocated product to wholesale purchasers. In addition, Farmland is a wholesale purchaser-consumer of stock oils, because it obtained in excess of 55,000 gallons of that product in a calendar year subsequent to 1971 from a supplier (itself), placed it in storage at a fixed location under its control and consumed it by blending it into lubricating oil.

The dual capacity in which Farmland is placed under the regulations results in Farmland's allocating to itself as a wholesale purchaser-consumer. Farmland as a wholesale purchaser-consumer may not be treated any different than any other of its wholesale purchaser-consumers.

As specified in 10 CFR 211.203(c)(2)(iii), wholesale purchaser-consumers and end-users are entitled to 100 percent of base period use of stock oils for blending and compounding of lubricants. Farmland must allocate at this level to all base period purchasers of stock oils, including itself. Therefore, we conclude that Farmland may not increase the level of use of its own stock oils to satisfy the increased demand for lubricants from its purchasers of those finished products if such increased use would reduce the available supply of stock oils from which Farmland must supply its other base period wholesale purchasers.

If Farmland is able to increase its available supply of stock oils so that it has an allocation fraction in excess of 1.0, it may increase the supply of stock oils to itself in the same manner in which it increases supplies to its other base period wholesale purchasers pursuant to 10 CFR 211.10(g) of the Regulations.

INTERPRETATION 1975—38

To: B. R. Peters, Inc.

Date: October 6, 1975.

Rule Interpreted: § 211.51.

Code: GCW—AI—Definition of Wholesale Purchaser-Reseller.

By letter dated May 23, 1975, you requested an interpretation of the Mandatory Petroleum Allocation Regulations concerning the qualifications of B. R. Peters, Inc. as a "wholesale purchaser-reseller" under those regulations.

FACTS

You have stated that B. R. Peters, Inc. distributes product for Texaco, Inc. under the terms of a form Texaco contract entitled "Consignment Agreement" (Form S–82 1–65) (hereinafter "form contract").

ISSUE

The issue presented for interpretation is whether B. R. Peters, Inc. operating pursuant to the form contract qualifies as a wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION

As you know, by an interpretation issued on April 24, 1975, it was my opinion that any firm which is in the business of selling and distributing allocated products under the terms of the form contract qualified as a "wholesale purchaser-reseller" under § 211.51 of FEA's Mandatory Petroleum Allocation Regulations. Therefore, it is my opinion that, to the extent that B. R. Peters, Inc., sells and distributes allocated products pursuant to the terms of the form contract, it qualifies as a "wholesale purchaser-reseller" as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations.

This interpretation is limited to the stated facts and shall not be construed to apply where the existence of other agreements, amendments, modifications or practices of any kind have the effect of changing the relationship between Texaco and B. R. Peters, Inc. under the form contract.

INTERPRETATION 1975—39

To: National Institute of Infant Services.

Date: October 6, 1975.

Rules Interpreted: § 211.51, Ruling 1974–15.

Code: GCW—AI—Definition of "Sanitation Services."

This is in response to your request on behalf of the National Institute of Infant Services ("NIIS") for an interpretation of the definition of "sanitation services" as that term is used in § 211.51 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.51).

FACTS

NIIS is a national trade association representing diaper service firms in the United States. Its members provide diaper and adult pad service to homes, doctor's offices, hospitals, nursing homes, orphanages and other institutions.

NIIS members recycle diaper and adult pads for any members of the public willing to pay for such services. As part of their operations, NIIS members collect and dispose of solid wastes.

ISSUE

The issue presented for consideration is whether NIIS members are engaged in "sanitation services" as defined in 10 CFR 211.51.

INTERPRETATION

"Sanitation services" is defined in 10 CFR 211.51 as follows:

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

Entities engaged in sanitation services are doing so because such services are essential for the general health and safety of all members of the public. Sanitation services, however, do not include operations which merely provide conveniences to the public.

In FEA Ruling 1974–15 (39 FR 21042, June 18, 1974) FEA determined that the portable sanitation industry was within the meaning of "sanitation services." The basis of the determination, however, was that portable sanitation facilities almost invariably are utilized when no alternative facilities for solid waste disposal exist. In fact, state and local laws often require that these portable facilities be furnished at construction sites and recreation areas.

The services provided by NIIS members, on the other hand, do not fall within the rationale behind FEA Ruling 1974–15. Disposal of solid wastes by operators of diaper services is a convenience to members of the public who choose to pay for such services. However, families and institutions have the alternative of disposing of solid wastes through use of available sewerage facilities. The services performed by NIIS members are not essential to the maintenance of the public health and safety. Therefore, we conclude that the services furnished by NIIS members are not "sanitation services" as that term is defined in 10 CFR 211.51.

(d) Any order issued pursuant to this subpart unless otherwise specified, shall be effective for the duration of the Mandatory Petroleum Allocation Program, according to its terms.

While this paragraph was not promulgated until December 18, 1974 (39 FR 44030, December 20, 1974) the preamble to the rulemaking adopting the provision points out that its purpose is to make clear that previously issued adjustment orders, unless clearly intended as temporary orders, would be effective for the duration of the Mandatory Petroleum Allocation Program. The preamble provided:

"The purpose of these amendments is to clarify that orders adjusting a purchaser's base period use • • • for periods corresponding to base period, unless clearly intended as interim or temporary orders, should remain effective beyond the end of 1974."

Thus, all adjustment orders issued pursuant to Subpart B of Part 205, whether issued before or after the adoption of § 205.26 (d) constitute permanent adjustments unless otherwise specified in the order.

The February 17 adjustment order issued to Exxon Company with respect to JAL's crew training program contained no express termination date or other indication that the adjustment therein granted was for a period less than the duration of the Mandatory Petroleum Allocation Program. Further, nothing in the July 18 clarifying order can fairly be construed as indicating a termination date for the adjustment. The references therein to specific twelve month and six month periods do not limit the duration of the adjustment granted JAL by the February 17 order, but rather define the time periods during which the indicated volumes of fuel were to be made available. Therefore, it is my opinion that the February 17 adjustment order as clarified on July 18 provided a permanent adjustment to JAL's base period volume and is effective pursuant to 10 CFR § 205.26(d) for the duration of the Mandatory Petroleum Allocation Program.

INTERPRETATION 1975—41

To: U.S. Oil and Refining Co.

Date: October 6, 1975

Rules Interpreted: § 210.32, Rulings 1974–29, 1975–12.

Code: GCW—PI—Stripper Well Lease Exemption, Definition of Average Daily Production.

This is in response to your letter of May 5, 1975, requesting an interpretation of 10 CFR 210.32 (Stripper well leases) as clarified by Ruling 1974–29 (Production Wells for Purposes of the "Stripper Well Lease" Exemption of 10 CFR § 210.32, 39 FR 44414, December 24, 1974). After consideration of the information contained in your request, and all the relevant authorities, the Federal Energy Administration has determined that the appropriate interpretation is the one that follows.

FACTS

As we understand the facts, U.S. Oil and Refining Co. ("the Company") is the producer of crude oil from the Ritchie (Baker Sand) Unit located in Union County, Arkansas. On January 1, 1969, the Ritchie Field was unitized for the purpose of implementing an enhanced recovery project utilizing carbon dioxide (CO_2) in an experimental CO_2 immiscible displacement and recovery project. This system involves the introduction of CO_2 into the reservoir, which, when dissolved in the heavy crude oil, lowers the viscosity of (and acts as a propellant for) the reservoir crude oil, thereby increasing producing rates and ultimate recoveries.

During calendar years 1973 and 1974, there were sixteen wells located on the Ritchie Unit. Of the total of six wells utilized during that period as reservoir fluid lift wells, two wells were employed part of the time exclusively to inject carbon dioxide into the reservoir. The remaining ten wells "have been, and remain, standby recovery wells immediately available as lift wells when and if it should be technically sound to employ them in that fashion." Four of the ten "standby wells" were used as injection wells: two for injecting CO_2, and two for injecting water for pressure maintenance. Not all sixteen wells were in use because of the availability of only limited quantities of carbon dioxide. A new supply is anticipated late in 1975, when the Company expects to resume the operation of all sixteen wells for the lifting of reservoir fluids, and the injection of CO_2 and water.

You have requested the interpretation that the wells not used as lifting wells should have been included as "production wells" for purposes of the stripper well lease exemption of 10 CFR 210.32, in calculating average daily production during the calendar years 1973 and 1974.

ISSUE

The interpretation requested turns on the issue whether a standby well—which acts neither as a producing well nor as an injection well due to the temporary unavailability of sufficient quantities of carbon dioxide for maximum efficient operation of the project—may nevertheless be considered a well that produces crude oil and counted as such for purposes of determining average daily production, as the term "well" is used in the stripper well lease exemption as clarified by Rulings 1974–29 and 1975–12.

INTERPRETATION

The stripper well lease exemption of 10 CFR 210.32 exempts from the provisions of the Mandatory Petroleum Allocation and Price Regulations the first sale of crude oil, including condensates, produced from any property whose average daily production of crude oil, including condensates, per well did not exceed ten barrels per day during any preceding calendar year beginning after December 31, 1972.

"Average daily production" means the qualified maximum total production of crude oil, including condensates, produced from a property, divided by a number equal to the number of days in the year times the number of *wells that produced crude oil*, including condensates, from that property in that year. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production. (Emphasis added.)

In Ruling 1974–29 the FEA made it clear that "[w]hile injection techniques help to 'produce' crude petroleum, they are not wells which themselves 'produce' crude petroleum. Therefore, wells which did not actually yield or produce crude petroleum during the [measuring] calendar year are not production wells for this purpose."

During the calendar years 1973 and 1974, the sixteen wells located on the Ritchie Unit fell basically into four categories: (1) Four reservoir lift wells that were operated on a most nearly continual basis exclusively to produce crude oil; (2) two wells that were used alternatively for the injection of CO_2 and the lifting of crude oil; (3) four injection wells; and (4) six wells that were used neither to produce crude oil nor for injection purposes.

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The proper treatment of the 10 wells in categories (3) and (4) is governed by Ruling 1974–29, as these wells were "not wells which themselves 'produce[d]' crude petroleum." The fact that these wells might have been "immediately available as lift wells when and if it [was] technically sound to employ them in that fashion" does not alter the fact that during calendar years 1973 and 1974 they did not "produce" crude oil as that term is used in 10 CFR 210.32. (Emphasis added.) Until such time as they actually do produce crude oil they cannot be counted as production wells in the calculation of "average daily production" from the Ritchie Unit. Accordingly, they should not have been included in the calculation of average daily production during calendar years 1973 and 1974.

With respect to the two wells in category (2) that were used alternatively for the injection of CO_2 and the lifting of crude oil, it is clear that for a least some period of time each year, these were wells that produced crude oil as contemplated by 10 CFR 210.32 and Ruling 1974–29. Ruling 1974–29 establishes that only producing wells are to be counted for purposes of 10 CFR 210.32. Therefore, it is our interpretation that only that portion of each calendar year during which these wells were operated in the producing mode is to be considered in determining the number of producing wells in the calculation of average daily production for the property during the calendar year. Ruling 1975–12 (a copy of which is enclosed) delineates the method of calculating the average daily production, and applies to these wells during the time they were operated in the producing mode. As stated in Ruling 1975–12:

FEA will presume that if, for any reason, a well has not operated for a period of more than 24 consecutive hours, production has been significantly curtailed or disrupted and, unless that presumption is overcome, appropriate adjustments must be made in the calculation of average daily production.

The presumption may be overcome upon the showing, by production records or otherwise, that the time lost for mechanical repairs or maintenance was not in excess of the historical norm or was subsequently recouped.

Inasmuch as your interpretation request does not contain sufficient information, such as the amount of time each well was operated in the injection versus the producing mode, or the extent of and reasons for any curtailments or disruptions while in the producing mode, FEA cannot render a determination as to the fraction of each well in category (2) that should be counted for determining average daily production pursuant to 10 CFR 210.32. However, it is our interpretation that these two wells must be counted as partial producing wells so as to reflect only the time that they were operated in the producing mode. Application of Ruling 1975–12 may further reduce the producing well fraction, if down-time periods exceeding 24 hours occurred and the presumption of significant curtailment or disruption is not overcome. Accordingly, these wells are to be considered as partial wells based upon the ratio of the number of days that they were operated in the producing mode, to the number of days in the measuring calendar year. For example, if the particular well was operated in the producing mode for 292 days of the measuring calendar year, it would be considered ⅘ of a well (i.e., 292/365=⅘).

The wells in category (1) are producing wells and, as such, are subject to Ruling 1975—12 insofar as there have been any disruptions or curtailments in production.

Therefore, the sixteen wells are characterized as follows: (1) four producing wells; (2) two partial producing wells; and (3) ten non-producing wells that cannot be counted in determining average daily per-well production from the Ritchie Unit.

This interpretation is issued in response to a request based upon information available for calendar years 1973 and 1974. However, the principles set forth in this interpretation are also applicable to calendar years 1975 and thereafter, as information for those years becomes available.

INTERPRETATION 1975—42

To: Petroleum, Inc. and Don M. Rounds Co.

Date: October 31, 1975.

Rule Interpreted: Ruling 1975—15.

Code: GCW—PI—Definition of Property.

This is in response to your February 10, 1975 request for interpretation submitted by you to Gordon L. Allott, Jr., Regional Counsel for Region VIII. The request—together with the names and addresses of all interest owners, copies of the leases involved, and a schedule of production levels through October 1974—was transmitted to this office by Region VIII for our review. After consideration of all the information contained in the request, and all the relevant authorities, the Federal Energy Administration has determined that the appropriate interpretation is the one that follows.

FACTS

Your request for interpretation has been filed on behalf of Petroleum, Inc. (operator of the property that is the subject matter of the request), and Don M. Rounds Company (owner of the largest working interest therein). Other owners and parties in interest, which are listed in Exhibit "A" attached to your request, are incorporated herein by reference.

As we understand the facts, the right to produce crude oil from the property that is the subject of this request derives from two leases: The first, dated October 23, 1967, from Wasyl Buczkowskyj, as lessor, to D. M. Rounds, as lessee (Document No. 1509928, Book 588); and the second, dated October 14, 1968, from Louisiana Land and Exploration Company as lessor, to Don M. Rounds Company, as lessee (Document No. 1523337, Book 601). On July 16, 1974, there was executed a partial assignment of oil and gas rights under those leases to Kenneth L. Tipps.

Since 1967, seven wells have been drilled on the property, of which five produce from the Cretaceous "D" formation, and two (one of which is the No. 1 Tipps well) produce from the Cretaceous "J_3" formation. The two wells producing from the "J_3" formation—the No. 1 Tipps well and the No. 7 Buczkowskyj well—were drilled in April and August of 1974, respectively.

You have requested the interpretation that under the Mandatory Petroleum Price Regulations, the production obtained from the "J_3" sand under the Buczkowskyj No. 7 well is "new" oil and therefore not subject to the ceiling price rule of § 212.73, but is governed instead by the provisions of § 212.74.

ISSUE

The requested interpretation turns on whether the Cretaceous "J_3" formation under the Buczkowskyj lease constitutes a "property", as that term is defined in the price regulations, that is separate and distinct from the property that encompasses the Cretaceous "D" formation.

INTERPRETATION

The issue raised in your request is governed squarely by the principles announced in Ruling 1975–15 (40 FR 40832, September 4, 1975), a copy of which is enclosed for your convenience. Since, as the Ruling makes clear, the concept of "property" relates to the right to produce crude oil, whether arising from a lease or from a fee interest, and since the base production control level relates to the production from the property in 1972, your contention that "no 'base production control level crude petroleum' is established for the "J_3" sand under the Buczkowskyj lease prior to 1974" is inapposite to the regulatory criteria for determining "new" and "released" crude oil. Inasmuch as during the base period the right to produce crude oil from the "J_3" formation was not separate and distinct from the right to produce crude oil from the "D" formation, the two formations do not constitute separate properties. Rather, a base production control level must be established for the right to produce crude oil, as that right existed in 1972, which in this case arises from the two leases previously mentioned. As pointed out in Ruling 1975–15, "new" oil is not established by the assignment in 1974 of the Tipps lease, or by the commencement of production from a previously undeveloped reservoir. Therefore, in any month, crude oil produced from the Buczkowskyj No. 7 well or from the Tipps No. 1 well will not qualify as "new" crude oil unless the production therefrom, when aggregated with the production from all of the other wells on the property, exceeds the entire production from the property in the corresponding month in 1972.

INTERPRETATION 1975—43

To: Berry Holding Co., et al.

Date: November 10, 1975.

Rules Interpreted: § 210.32, Rulings 1974–29, 1975–12.

Code: GCW—PI—Stripper Well Lease Exemption, Definition of Average Daily Production.

This is in response to your letter of May 14, 1975, requesting an interpretation of 10 CFR 210.32 (Stripper well leases), on behalf of the producers named below. After consideration of all the information contained in the request, and all the relevant authorities, the Federal Energy Administration has determined that the appropriate interpretation is the one that follows. Accordingly, this interpretation is issued to Berry Holding Company, Berry Oil Company, Berry & Ewing, Big Ten Oil Company, and Surprise Oil Company. Use of the term "Berry" is intended only as an abbreviated reference to the firms listed above, and does not limit the applicability of this interpretation to less than all of those firms.

FACTS

Berry is a producer of crude oil from properties located in the Midway-Sunset oil field of Kern County, California. Production from each of these properties is enhanced by a technique involving steam or thermal stimulation, described by Berry as follows:

The steam or thermal stimulation technique for secondary recovery as employed by [Berry] is commonly known as the "huff and puff" or "steam soak" method. [Berry's] practice is to inject steam directly into a well and to allow the steam to penetrate producing zones in order to heat and thereby increase the fluid movement of the oil. It is absolutely impossible to inject steam down a well without at the same time taking that well temporarily off production. The shut in period on the average may extend for approximately two weeks to two months depending upon subsurface geology and other technical considerations. When a well is returned to production, the effect of the heat resulting from the steam stimulation causes the well to produce at an abnormally high daily rate for a relatively short period of time, after which the daily rate of production is gradually reduced as the thermal energy is dissipated and without further steam stimulation would eventually return to its primary rate of production.

ISSUE

Berry has requested an interpretation of 10 CFR 210.32 as applied to the following issues:

(1) Whether a well that performs the dual function of a producing well and an injection well is a well for purposes of calculating average daily production for the property concerned.

(2) Whether there is any specific time during which a well must produce crude oil in order to be considered a well for purposes of calculating average daily production for the property concerned.

INTERPRETATION

The stripper well lease exemption of 10 CFR 210.32 exempts from the provisions of the Mandatory Petroleum Allocation and Price Regulations the first sale of crude oil, including condensates, produced from any property whose average daily production of crude oil, including condensates, per well did not exceed ten barrels per day during any preceding calendar year beginning after December 31, 1972. "Average daily production" means the qualified maximum total production of crude oil, including condensates, produced from a property, divided by a number equal to the number of days in the year times the number of *wells that produced crude oil*, including condensates, from that property in that year. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasibility rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production. [Emphasis added.]

In Ruling 1974–29 the FEA made it clear that "[w]hile injection techniques help to 'produce' crude petroleum, they are not wells which themselves 'produce' crude petroleum. Therefore, wells which did not actually yield or produce crude petroleum during the [measuring] calendar year are not production wells for this purpose."

With respect to wells that during the measuring calendar year were used alternately for the injection of steam (or other stimulant) and the lifting of crude oil, it is clear that for at least some period of time during that year, these were wells that produced crude oil as contemplated by 10 CFR 210.32 and Ruling 1974–29. Ruling 1974–29 establishes that only producing wells are to be counted for purposes of 10 CFR 210.32. Therefore, it is our interpretation that only that portion of each calendar year during which these wells were operated in the producing mode is to be considered in determining the number of producing wells in the calculation of average daily production for the property during the calendar year. Ruling 1975–12 (a copy of which is enclosed) delineates the method of calculating the average daily production, and applies to these wells during the time they were operated in the producing mode. As stated in Ruling 1975–12:

FEA will presume that if, for any reason, a well has not operated for a period of more than 24 consecutive hours, production has been significantly curtailed or disrupted and, unless that presumption is overcome, appropriate adjustments must be made in the calculation of average daily production.

The presumption may be overcome upon the showing, by production records or otherwise, that the time lost for mechanical repairs or maintenance was not in excess of the historical norm or was subsequently recouped. See Ruling 1975–12 for a complete discussion of this presumption.

Inasmuch as your interpretation request does not contain sufficient information, such as the amount of time each well was operated in the injection versus the producing mode, or the extent of and reasons for any curtailments or disruptions while in the producing mode, FEA cannot render a determination as to the fraction of each well that should be counted for determining average daily production pursuant to 10 CFR 210.32. However, it is our interpretation that these wells must be counted as partial producing wells so as to reflect only the time that they were operated in the producing mode. Application of Ruling 1975–12 may further reduce the producing well fraction, if down-time periods exceeding 24 hours occurred and the presumption of significant curtailment or disruption is not overcome. Accordingly, these wells are to be considered as partial wells based upon the ratio of the number of days that they were operated in the producing mode, to the number of days in the measuring calendar year. For example, if the particular well was operated in the producing mode for 292 days of the measuring calendar year, it would be considered ⅘ of a well (i.e., 292/365=⅘).

INTERPRETATION 1975—44

To: Moore-McCormack Resources, Inc.

Date: November 12, 1975.

Rule Interpreted: § 211.183.

Code: GCW—AI—Naphtha Allocation.

This is in response to your letter of August 29, 1975, on behalf of Moore-McCormack Resources, Inc. ("MME") requesting an interpretation of § 211.183 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.183).

FACTS

MME plans, with other firms, to develop a processing facility to convert naphtha into nitration grade benzene, fuel gas (composed of less than ten percent propane or butane by weight), liquid butane and pentane, and heavy aromatics. Some toluene and xylene will be produced in an intermediate process but will be converted through hydrodealkylation into nitration grade benzene.

The output of the plant, by weight, will be as follows:

	Percent
Nitration grade benzene	48.91
Fuel gas	33.78
Liquid butane and pentane	16.29
Heavy aromatics	1.02

ISSUE

The issue presented for consideration is whether the naphtha to be utilized in MME's plant would be allocated under the allocation level for petrochemical feedstock use.

INTERPRETATION

It is our opinion that the naphtha input to the proposed plant would be petrochemical feedstock under the Mandatory Petroleum Allocation Program.

Allocation levels for end-uses of naphtha are specified in § 211.183 of the Mandatory Petroleum Allocation Regulations (10 CFR 211.183). That section reads in pertinent part as follows:

§ 211.183 *Allocation levels.*

• • • • • •

(b) *Allocation levels (not subject to an allocation fraction).* (1) One hundred (100) percent of current requirements for the following uses:

• • • • • •

(iii) Petrochemical feedstock use.

• • • • • •

Section 211.51 of the allocation regulations (10 CFR 211.51) defines "petrochemical feedstock use" as usage of crude oil, residual fuel oil, and refined petroleum products for processing in a petrochemical plant.

Section 211.51 further states that "petrochemical plants" means those industrial plants, regardless of capacity, that process petrochemical feedstocks and obtain at least thirty (30) percent conversion, by weight, to petrochemicals or other products that are converted to petrochemicals, so long as the weight of hydrocarbon contained in the final petrochemical is equal to at least (30) percent of the initial petrochemical feedstock fed to the plant under consideration.

Finally, § 211.51 provides that "Petrochemicals" are the organic chemicals defined as petrochemicals in § 213.27(q) of this chapter, plus any other analogus organic chemicals similarly derived.

Section 213.27(q) of the Oil Import Regulations (10 CFR 213.27(q)) and related provisions of § 213.27 make it clear that benzene is a petrochemical. Since the benzene to be produced by MME is obtained by conversion of 48.91 percent by weight of the naphtha input, MME's new plant would be a petrochemical plant. Therefore, the naphtha would be utilized by MME for petrochemical feedstock use and the applicable allocation level would be 100 percent of current requirements not subject to an allocation fraction.

It should be noted that the liquid butane and pentane plus the heavy aromatics which will be produced in the proposed plant are allocable products. Before MME and its associates may allocate these products, including the butane and pentanes to be used by MME and its associates, the requirements of 10 CFR 211.10(e) and 211.12(e) with respect to FEA approval of MME as a new supplier and approval of MME's arrangements for accepting wholesale purchasers must be satisfied.

INTERPRETATION 1975—45

To: J&W Refining, Inc.

Date: December 12, 1975.

Rule Interpreted: § 211.63(a).

Code: GCW—AI—December 1 Rule.

Your letter of February 26, 1975 on behalf of J&W Refining, Inc. ("J&W") requested an interpretation of and exception to the provisions of 10 CFR 211.63(a). On April 25, 1975, FEA's Office of Exceptions and Appeals granted an exception to J&W from the provisions of § 211.63(a), which permitted J&W to receive prospectively volumes of Federal royalty oil under the program administered by the United States Geological Survey ("USGS"). Therefore, this interpretation will address only the questions you raised with respect to the termination of a crude oil supplier/purchaser relationship by the mutual consent of the parties to the relationship. The interpretation expressed herein is based upon the facts set forth in your February 26, 1975, request for interpretation and the supplemental information you furnished to this office by your letter of September 10, 1975.

FACTS

In March 1973, J&W was organized to reactivate a refinery in Anderson County, Texas. In order to obtain supplies of crude oil, J&W participated in the USGS royalty oil lottery held on September 20, 1973 and was advised on October 2, 1973 that it had been awarded certain production, a portion of which was being purchased at that time

V42 90 MAY 10 77 UMI

by Shell Oil Company ("Shell"). Delivery of these volumes to J&W was to commence on November 1, 1973. However, due to delays in making the necessary arrangements to implement the USGS award, J&W did not begin to receive delivery of the royalty oil from Shell until February 1974. On February 8, 1974, the royalty oil purchase agreement between J&W and USGS was finalized and by letter dated February 8, 1974, the previous purchasers of the oil (including Shell) were directed by USGS to deliver specified volumes of royalty oil to J&W.

On June 10, 1974 Shell terminated its deliveries of royalty oil to J&W after informing USGS that Shell construed § 211.63(a) as entitling it to the volumes of USGS royalty oil received on December 1, 1973, irrespective of the February 8, 1974, directive from USGS.

ISSUE

The issue presented for interpretation is whether Shell's compliance through June 10, 1974, with USGS's February 8, 1974 directive constituted Shell's consent under § 211.63(a) to a termination of the supplier/purchaser relationship which existed between Shell and USGS on December 1, 1973.

INTERPRETATION

Section 211.63(a) provides in pertinent part:

(a) All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, except purchases and sales made to comply with this program; *Provided, however,* That (1) any such supplier/purchaser relationship may be terminated by the mutual consent of both parties; • • •

It is uncontested that, with respect to the volumes of royalty oil in question, a December 1, 1973, supplier/purchaser relationship existed between Shell and USGS. Further, as made clear by FEA's Ruling 1974–22, § 211.63 applies to sales of crude oil made by the Federal government and thus supersedes awards under the USGS royalty oil program to the extent that such awards are inconsistent with § 211.63. Therefore, in order to find that J&W was entitled to the volumes of royalty oil covered by the February 8, 1974, royalty oil purchase agreement, Shell must be found to have consented to the termination of its supplier/purchaser relationship with USGS.

You have urged that Shell's consent to the termination of its supplier/purchaser relationship with USGS can be implied from the fact that on February 9, 1974 Shell commenced deliveries to J&W of the royalty oil which Shell had previously received from USGS. You have further stated that Shell had either constructive or actual notice of the application of § 211.63(a) to its relationship with USGS and that Shell, in making deliveries to J&W, thereby consented to the termination of its relationship with USGS.

However, in commencing deliveries of royalty oil to J&W, Shell acted in accordance with what it could at that time justifiably consider a lawful USGS directive, since until the issuance of FEA Ruling 1974–22 on July 3, 1974 it remained unclear as to whether § 211.63 superseded the USGS royalty oil program. There is no indication in any of the contracts or correspondence submitted by J&W that Shell intended to relinquish its rights under § 211.63 when it commenced deliveries under the February 8, 1974 USGS directive. FEA has consistently ruled that a termination by mutual consent requires that the purchaser give its affirmative written consent thereto in light of the promulgation of § 211.63. Since there is no evidence that Shell so intended to waive its rights under § 211.63, its compliance with the February 8, 1974 USGS directive cannot be construed as a consent to the termination of its supplier/purchaser relationship with USGS under § 211.63(a)(1).

INTERPRETATION 1975—46

To: Trans World Airlines.

Date: November 22, 1975.

Rules Interpreted: §§ 210.21, 210.33, 211.51.

Code: GCW—AI—Definition of United States, Bonded Fuel; Bonded Fuel Exemption; Guam.

(Text omitted because Interpretation 1975–46 has similar facts and presents essentially the same issue and interpretive statement as Interpretation 1975–8.)

INTERPRETATION 1975—47

To: Pacemaster, Inc.

Date: November 22, 1975.

Rules Interpreted: §§ 212.31, 212.82, Ruling 1975–2.

Code: GCW—PI—Class of Purchaser.

This is in response to your letter of May 9, 1975, requesting an interpretation on behalf of Pacemaster, Inc. ("Pacemaster"). This interpretation also reflects certain information supplied by you in telephone conversations with this office.

FACTS

Pacemaster distributes gasoline through retail outlets operated in Florida and is a "retailer" as defined in § 212.31. SuperTest Oil and Gas Company, Inc. ("SuperTest"), is a subsidiary of a refiner that obtains in excess of percent of the product it sells from that refiner, and is therefore a "refiner" as defined in § 212.31.

On May 15, 1973, Pacemaster was purchasing gasoline from SuperTest pursuant to a contract under which the gasoline was priced according to the current Gulf Coast Low Price as reported in Platt's Oilgram. As a function of this contract, the price paid by Pacemaster for gasoline purchased from SuperTest's Tampa terminal was, on May 15, 1973, $0.0115 per gallon higher than the price paid by other so-called "under-the-rack" purchasers, which bought comparable volumes of product, under identical payment terms and identical delivery arrangements to those afforded to Pacemaster.

The provisions of Pacemaster's contract with SuperTest had initially afforded Pacemaster a number of benefits not enjoyed by SuperTest's other customers. At the time the contract was entered into, these benefits included a low-interest loan, the principal of which was to be repaid at a rate reflecting the volume of gasoline purchased by Pacemaster, and the lease of 16 retail outlets to Pacemaster by SuperTest. Although the price provision in the contract did not specifically refer to the loan, Pacemaster states that the price term reflected the basis upon which the contract was initially executed, including the availability of the low-interest loan and the lease of 16 retail outlets.

On February 13, 1973, Pacemaster states that SuperTest demanded immediate payment of the outstanding balance of its loans to Pacemaster, and conditioned future sales of product to Pacemaster on Pacemaster's payment. Pacemaster states that it acceded to this request because of the unavailability of alternate sources of supply, but that despite Pacemaster's discharge of its indebtedness, SuperTest continued to charge the contract price for gasoline.

On October 4, 1973, the contract between Pacemaster and SuperTest was extended by court order, through March 31, 1974. Pacemaster states that this was based on Pacemaster's contention that SuperTest's supply obligation under the contract endured despite full repayment of Pacemaster's indebtedness. On November 1, 1973, Pacemaster returned to SuperTest the retail outlets it had been leasing.

ISSUES

The issues raised by this request for interpretation are:

(1) Whether the contractual relationship pursuant to which the price paid by Pacemaster was different from that paid by SuperTest's other "under-the-rack" purchasers on May 15, 1973, served to establish Pacemaster as a class of purchaser distinct from SuperTest's other "under-the-rack" purchasers, and, if so,

(2) Whether SuperTest may continue to maintain Pacemaster in that class of purchaser after termination of the contract pursuant to which the May 15, 1973, price differential between Pacemaster and SuperTest's other "under-the-rack" purchasers was established.

INTERPRETATION

As a refiner, SuperTest is subject to the refiner price rules of Subpart E of 10 CFR Part 212. Section 212.82(a) of that subpart provides in relevant part that:

A refiner may not charge to any class of purchaser a price for a covered product in excess of the base price for that covered product • • •

"Base price" is defined in § 212.82(b) as:

The weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus increased product costs incurred between the month of measurement and the month of May 1973 • • •.

A reading of these two sections makes clear that the maximum lawful price to any purchaser will depend upon the class of purchaser to which it belongs and upon the weighted average unit price to that class of purchaser on May 15, 1973.

Section 212.31 defines "class of purchaser" as:

Purchasers or lessees to whom a person has charged a comparable price for a comparable property or service pursuant to customary price differentials between those purchasers or lessees and other purchasers or lessees.

That same section defines "customary price differential" as including:

A price distinction based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality or location or type of purchaser, or a term or condition of sale or delivery.

Because of the complexities that arise with regard to the proper application of the class of purchaser doctrine, the FEA issued Ruling 1975–2 (40 FR 10655, March 7, 1975).

That ruling states in part:

The principal function of the doctrine is to maintain the price differentials that existed on May 15, 1973 between groups of purchasers which were not similarly situated then and are not now similarly situated.

The ruling goes on to state:

It is in [the] area of differing terms and conditions of sale, and particularly where such terms and conditions, including price terms, were established by written contract on May 15, 1973, that class of purchaser determinations become most difficult.

In some instances, the fact that sales were made pursuant to contractual terms and conditions may serve to distinguish those purchasers from purchasers that did not buy under contract, and in others it may not. For example, if a seller sold a product to both contract and non-contract purchasers on identical terms and conditions, there would be no basis for establishing separate classes of purchaser. If, however, a firm's contract purchasers were generally those purchasers that bought all of their requirements from the firm over a given time period, whereas the firm's non-contract purchasers bought from the firm only on an occasional and unpredictable basis, and if this difference in methods of purchaser were reflected in a customary price differential, it would not be proper for the selling firm to place its contract and non-contract purchasers in the same class.

Under the facts stated above, it is our interpretation that Pacemaster constituted a separate class of purchaser for SuperTest on May 15, 1973, by virtue of its contractual relationship with SuperTest. The contractual relationship differentiated Pacemaster from SuperTest's other "under-the-rack" purchasers because the price computed under the contract was based upon the previous loans to Pacemaster and the lease by Pacemaster of SuperTest's retail outlets.

Implicit in the principle that the class of purchaser doctrine is "to maintain the price differentials that existed on May 15, 1973, between groups of purchasers which were not similarly situated then and are not now similarly situated" is the converse, that is, if the groups of purchasers are now similarly situated, then the May 15, 1973, price differentials should not be maintained.

Ruling 1975–2 states in this regard:

Rulings 1974–17 and 1974–18 have been incorrectly construed by some persons as requiring a supplier generally to maintain certain discounts in effect on May 15, 1973, to the same purchasers which received them on that date, possibly because the rulings were stated as hypothetical examples involving particular purchasers. No such construction was intended, however. Rather, a supplier must maintain the applicable customary price differential to the same class of purchaser. The membership of the class is to be determined by the same objective standards applied by the seller on May 15, 1973. Thus, for example, if a particular customer was receiving a volume discount on May 15, 1973, because its purchases exceeded a certain prescribed volume, the seller does not have to continue to offer the applicable price differential to the same purchaser if that purchaser's volumes decline below that level. On the other hand, a seller is required currently to offer such a price differential to a purchaser which now meets the minimum prescribed volume, even though it may not have done so on May 15, 1973.

The logic of this position obviously applies equally whether one class of purchaser is perceived as receiving a discount or the other class of purchaser is perceived as paying an add-on. If, by applying the objective standards that determined the different classes of purchaser on May 15, 1973, it is determined that all purchasers are now similarly situated, then all such purchasers should now be in the single appropriate class.

That a change in class of purchaser can result from the termination of a previously existing contractual relationship is shown by the Decision on Appeal in *Greenbelt Consumer Services, Inc., Silver Spring, Maryland.* In that case, termination of a franchise agreement resulted a change in the class of purchaser in which Greenbelt was placed, from the class that included branded independent marketers to the class that included non-branded independent marketers. Greenbelt contended that termination of the services included in the franchise agreement resulted in a price increase. The interpretation concluded that nothing in the FEA regulations required the supplier to continue the franchise agreement.

Consequently, there is no merit in Greenbelt's argument that BP has managed to obtain a de facto price increase in excess of permissible levels through its termination of the dealer franchise agreement and the elimination of services and other benefits formerly provided to Greenbelt under the franchise agreement. Termination of the franchise agreement resulted in the shift of Greenbelt from one class of purchaser to another. Under the provisions of 10 CFR, Part 212, BP must therefore base its prices to Greenbelt upon the prices charged to members of the class of purchaser to which Greenbelt was shifted upon termination of the franchise relationship, i.e., the class of non-branded distributors. (*Greenbelt Consumers Services Inc., Silver Spring, Maryland.* 1 FEA ¶20,211).

As noted above, Pacemaster constituted a class of purchaser separate and distinct from SuperTest's other "under-the-rack" purchasers on May 15, 1973, by virtue of its contractual relationship with SuperTest. That relationship, however, was terminated as of April 1, 1974. Pacemaster currently purchases gasoline from SuperTest under the same terms and conditions of sale and delivery as SuperTest's other "under-the-rack" purchasers in all respects except price. The volumes of product sold are comparable and the sales are made under identical payment and delivery terms. All sales are made from SuperTest's Tampa terminal.

It is therefore our interpretation of §§ 212.31 and 212.82 that Pacemaster no longer constitutes a class of purchaser separate and distinct from SuperTest's other "under-the-rack" purchasers, but is, and has been since the termination of its contractual relationship with SuperTest, a member of the class of purchaser which includes other purchasers who are currently similarly situated. Despite the fact that these purchasers were not similarly situated on May 15, 1973, application of the objective standards used to determine classes of purchasers on that date reveals that Pacemaster now has all the characteristics of the class including of SuperTest's other "under-the-rack" purchasers from its Tampa terminal. As stated in Ruling 1975–2, quoted above, FEA regulations do not require that class of purchaser membership be maintained as it existed on May 15, 1973, but that the customary price differential be maintained with regard to persons who now qualify for membership in that class.

INTERPRETATION 1975—48

To: Rotary Gasoline Dealers.

Date: November 24, 1975.

Rule Interpreted: § 212.93(b).

Code: GCW—PI—Increased Non-Produot Costs, Commission Agents.

This is in response to your request for an interpretation, dated May 20, 1975, filed on behalf of the Rotary Gasoline Dealers. The Rotary Gasoline Dealers are identified in Exhibit "A" attached to your request, which is incorporated herein by reference.

FACTS

The Rotary Gasoline Dealers ("Dealers"), as individuals, executed agreements for the distribution of petroleum products with the Southern Oil Company of New York, Inc. ("Southern"). Each dealer also executed a lease agreement, providing for the rental of a retail outlet from Southern for the sale of Southern petroleum products.

The agreements between Southern and each of the Dealers established a commission schedule, effective May 1, 1973, which provided for increases in the commission to be paid to each dealer based upon increases in the selling prices of Southern's petroleum products. The information submitted by the Dealers indicates that these schedules were adhered to by Southern until November 27, 1973.

On November 27, 1973, Southern notified the Dealers that, because Cost of Living Council Phase IV price controls did not permit Southern "to recover in retail prices any increased commission or profit without specific approval," increased commissions reflecting increased selling prices would no longer be paid, and the commissions would be computed on the basis of May 15, 1973, selling prices and would remain at that level.

Although Southern's retail selling price has increased since that time, Southern has not increased the commissions paid to the Dealers above those computed on the basis of May 15, 1973, selling prices. Southern's apparent basis for not adhering to the commission schedule has been that payment of increased commissions is precluded by FEA price regulations.

ISSUE

Do FEA price regulations prohibit an increase in commissions paid by suppliers to commission agents for the distribution of petroleum products?

INTERPRETATION

The private contractual relationships between suppliers (refiners or resellers) and commission agents are generally premised on the retention of title to the product by the supplier until that product is sold by the supplier to the ultimate purchaser, with commission agents then receiving a commission from the supplier for the services they perform in connection with the sale of the product—e.g., storage, delivery, etc. Since FEA price regulations pertain to prices charged in sales of petroleum products, the absence of petroleum product ownership by agents and the retention of ownership and control of the pricing of the product by suppliers mean that FEA price regulations apply directly to prices charged by suppliers in sales of petroleum products, even where such sales are made through commission agents. FEA price regulations do not control the commissions that may be paid to agents for distributing those products.

FEA price regulations applicable to most petroleum products, including gasoline, provide generally for an automatic dollar-for-dollar passthrough of the increased cost of the product (or of the raw material—crude oil—used to produce the product) being sold. This is accomplished through regulations that limit prices charged in sales of petroleum products to the May 15, 1973, prices for each product in sales to specific classes of purchasers, plus the increased costs of that product since May 1973, calculated pursuant to the provisions of § 212.83 or § 212.92.

Increases in non-product costs—labor, rent, interest expense, etc.—are not afforded an automatic dollar-for-dollar passthrough under FEA price regulations, but may only be passed through to the extent permitted by the regulations. Resellers are permitted, for example, to charge three cents per gallon in excess of the amount otherwise permitted to be charged "to reflect non-product cost increases that the seller incurred after May 15, 1973" (§ 212.93(b)).

As noted above, commission agents generally perform services for a seller in connection with the sale of petroleum products, for which they are compensated by the seller pursuant to the terms of a contract between the seller and the agents. There is no sale of product and, hence, no product price is established between the seller and the agent

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that could be subject to FEA price regulations. The price regulations simply establish the maximum lawful prices the seller may charge in sales made through commission agents.

There are no FEA regulations applicable to the specific terms under which sellers contract for distribution services, just as there are no regulations applicable to the terms under which sellers obtain other services, such as bookkeeping, maintenance, advertising, etc. Commissions paid to consignee-agents (with certain exceptions as increased commissions paid by refiners which are outlined below) constitute non-product costs of marketing to the supplier concerned, which may be passed through in prices charged for products only to the extent permitted by the non-product cost passthrough regulations.

Although the amount of the commission paid by sellers to commission agents is not specifically regulated pursuant to the pricing authority of the FEA, the FEA has sought to be responsive to the needs of these distributors. By amendment to the regulations, effective June 1, 1974, refiners were permitted to treat as increased product costs certain increases in commissions paid to consignee or commission agents. In this way, refiners were permitted to increase commissions paid to commission agents up to a specified amount, and to passthrough the amounts of those increases in commissions paid under the automatic dollar-for-dollar passthrough provisions applicable to product cost increases. This provision afforded relief from the general increased non-product cost passthrough requirements applicable to refiners, which otherwise permitted such passthrough only if the refiner concerned remained under its based period profit margin. This amendment was intended to serve as an incentive to refiners to increase the commissions paid to commission agents in recognition of the fact that their non-product costs had increased, in amounts comparable to the amounts by which resellers and retailers were permitted to increase their prices to reflect increased non-product costs. However, the absence of such a provision prior to that time did not operate to prohibit an increase in commissions, it simply meant that refiners that were above their base period profit margins had to absorb any increase in the amount of commissions paid, just as they had to absorb increases in other operating expenses, other than increased product costs.

With respect to increased commissions paid to consignee-agents by reseller firms, such increased commissions constitute increased non-product costs, which may be passed through in higher prices only to the extent permitted by § 212.93(b). As noted above, § 212.93(b) provides specific price increments which may be charged in sales of particular products in order to reflect increased non-product costs.

It is therefore our interpretation of the FEA Mandatory Petroleum Price Regulations that nothing in these regulations prohibits Southern from paying commissions to Dealers based upon current selling prices. Southern's current selling prices, however, must not exceed the maximum lawful prices established by the price regulations. Any increases in commissions paid to the Dealers above their May 15, 1973 levels may only be passed through in the form of increased prices to purchasers to the extent specifically authorized by the regulations applicable to the passthrough of increased non-product costs (where the supplier is a reseller) or to the extent specifically authorized by the regulations applicable to the passthrough of increased commissions paid to consignee agents (where the supplier is a refiner).

INTERPRETATION 1975—49

To: Gas Club, Ltd.

Date: January 2, 1975.

Rule Interpreted: § 210.62.

Code: GCR(IX)—AI,PI—Normal Business Practices.

The following is in response to your request for interpretation received by our office on October 3, 1974 regarding the proposed activities of Gas Club, Ltd.

You indicated in your submission, through meetings, and in telephone conversations with our staff that Gas Club's intended structure and contemplated practices would be as follows:

Gas Club is a private club with membership open to the public. As initially proposed, membership requirements consisted primarily of a fee of thirty-five dollars and a commitment to purchase a minimum gas deposit of 200 gallons. To attract membership, Gas Club advertised to the general public. Membership was to provide among other benefits: a discount on the price of gasoline, up to 40 percent discounts on all parts and services, discounts on major hotels, a guaranteed monthly allotment of gasoline and free car washes. Sales were to be made at two retail sales outlets located in Belmont and San Francisco respectively. Non-members would also purchase gasoline or service at these outlets, but they would not receive the various discounts and benefits.

On September 16, 1974, Gas Club was advised that its requirement that members commit themselves in advance to make minimum purchases was in direct violation of our regulations. Specifically, they were told that 10 CFR 210.62(b) provides, in its relevant part, that a supplier of product shall not give preferential treatment to customers who agree in advance to purchase motor gasoline in excess of normal needs. They were also advised that its guarantee of monthly allotments to members violated our allocation regulations to the extent that such guarantees were made to gasoline purchasers who did not qualify as end-users entitled to allocations.

At this time, Gas Club did modify its proposal by not requiring advance commitments and not guaranteeing allotments of gasoline to its members. This interpretation reviews their proposed plan of operation in light of these modifications.[2]

Our review of Gas Club's proposed practices leads us to the conclusion that, first of all, the granting of discounts only to members would constitute a discriminatory practice in violation of section 210.62(b). Moreover, the offering of discounts to members and not the general public would deviate from customary business practices and consequently be in violation of 210.62(c). Secondly, the fee requirement for membership, which in turn is a prerequisite for the purchase of discounted gas, is in itself an illegal tie-in prohibited by 210.62(c). In addition, such a fee arrangement violates 210.62(b) in that it grants preferences based on what in effect is a commitment to purchase volumes of gasoline in excess of normal use.

I. Preferential Discounting at Retail Sales Outlets is Prohibited by 210.62(b) and 210.62 (c).

Section 210.62 states: "No supplier shall engage in any form of discrimination among purchasers of any allocated product. For purposes of this paragraph, 'discrimination' means extending any preference of sales treatment which has the effect of frustrating or impairing the objectives, purposes and intent of this chapter or of the ACT, • • •"

Gas Club presently has two retail sales outlets which are open to the public. Those who have membership cards with Gas Club will be given a discount of 5 percent on the sale price for gasoline, and others will have to purchase at pump prices. This preferential treatment of Gas Club members is in violation of 210.62(b). Contrary to initial impressions, the practice of giving a discount preference alone does not impair our pricing objectives.[3] However, preferential pricing does impair the objective of equitable product distribution. Purchasers at the distribution level of the retail outlet are generally referred to as "end-users" under our regulations. Unless they are specifically given allocation preferences, end-users must be treated equally with respect to the distribution of gasoline. (FEA, H & A decision, paragraph 20,107, Attorney General of the Commonwealth of Massachusetts, Boston, Massachusetts (Case No. 00013–INT, Filed 4–1–74, Decided 5–17–74;) End-users are generally not allocated specific volumes; and therefore, practices which potentially affect their rights to product must be closely scrutinized and strictly regulated. When a preferential discount is given, the general public's right to gasoline at Gas Club outlets is diminished to the extent that the discount affects their purchasing power and the actual availability of product. Preferences to a select group of motorists increase this group's purchasing power, induce them to purchase at Gas Club outlets exclusively and thus diminish availability of product to the public in general. The regulatory objective of insuring equal rights to gas for end-users is impaired by the discount preference and such discriminatory discounting is prohibited by 210.62(b).

The only exception to the equal treatment requirement is in the case of "commercial accounts." Giving preference to commercial accounts is a historical practice which is sanctioned as a normal business practice under 210.62(b). Normal business practices are allowed unless specifically prohibited by the regulations. (FEO Ruling 1974–3.) It should be noted that any preferences given to commercial accounts must be of the variety that are within the established business practice of the retail sales outlet industry. (FEO Ruling 1974–6.) Gas Club does not qualify for this exception in that it is neither using established business practices nor does it purport to be giving preferences only to commercial accounts.

In addition to being a prohibited discriminatory practice, the preferential discounting based on the payment of a membership fee is prohibited by section 210.62(c). Members of Gas Club, which can be any member of the general public, must pay a $35 fee to be entitled to discounted gasoline.

[2] Gas Club was ordered to refrain from giving discount preferences to its members on the price for gasoline during the period its requests for interpretation was being reviewed.

[3] Our pricing rules only intended that a price not be charged in excess of a figure based on a historical index. The beneficiaries of this limit are those who have historically been sold to as a class. This historical class of purchaser concept insures the maintenance of a historical index. The pricing rules in this way set the maximum price and it assures a member of that class a price not in excess of a figure based on the historical index. However, discounting to certain members of a historical price is not prevented as long as the creation of this new class of purchaser does not result in the exacting of a price higher than the legal price to that class of purchaser.

Section 210.62(b) prohibits the imposition of uncustomary terms and conditions on the sale of an allocated product. The allocation and pricing scheme as envisioned by the regulations relies on the maintenance of customary practices to meet its objectives. At the distribution level of the retail sales outlet, purchasers are customarily treated equally with respect to the purchase of a particular grade of product. If discounts are given at all, they are available to all purchasers. This practice fosters equitable distribution.

Gas Club's proposed practice of giving discounts only to fee paying members is uncustomary and results in maldistribution. The $35 fee will not be, and at times, cannot be paid by some members of the public. This means a pricing differential will be maintained. The distribution consequences of the resulting preferential discounting have already been described. For these reasons, preferential discounting, as practiced by Gas Club, is prohibited by 210.62(c).

A form of preferential discounting occurs at retail sales outlets with self-service islands. This has recently become an established practice with the retail sales industry. Such discounting practices are distinguishable from the proposed practices of Gas Club in that self-service discounts are available cost free to all the public. Therefore, self-service discounting does not result in inequitable distribution, and thus, not prohibited.

II. The Charging of Membership Fees to Obtain the Privilege of Purchasing Discounted Gasoline is Prohibited by 210.62(c) and 210.62(b)

The $35 fee requirement for Gas Club membership constitutes an illegal tie-in practice which violates 210.62(b). In effect, a purchaser at a Gas Club outlet has to pay $35 to have the privilege of purchasing discounted gasoline. Not only is this tie-in uncustomary; but also, in a large number of instances, it will result in the exacting of a higher price for gasoline than that permitted under the regulations. The initial payment of $35 is part of the price for gas, and as long as it is not recouped through the purchase of discounted gas or the exercise of other Gas Club benefits, the actual price for gas to the member is higher than the discounted price at the pump. At a discount rate of 5 percent, the amount of gas that must be purchased before the $35 membership fee is recouped is substantial. It is our judgment that the public will utilize Gas Club only on a temporary or an intermittent basis. Thus, the likelihood the fee will never be recouped is high. For many, the actual price paid will be greater than the legal price. Section 210.62(c) prohibits any practice which constitutes a means to obtain a price higher than is permitted by the regulations.

Moreover, the charging of the $35 membership fee induces Gas Club members to purchase at Gas Club outlets sufficient volumes of discounted gasoline to recoup their $35 fee. Those who feel they must recoup their fee will in effect be committed to purchasing a set volume of gasoline. Purchasing patterns of members will be distorted. Their purchases at a given Gas Club outlet will be in excess of what they would usually purchase at any given retail sales outlet. Section 210.62 (b) specifically prohibits arrangements which give preferences based on commitments to purchase volumes in excess of normal use to prevent this very type of distortion. Although, the Gas Club plan, as presented, does not contain a specific requirement on pre-purchased commitments, the consequences of the fee requirement are substantially the same. For this reason, the charging of membership fees to acquire the privilege of purchasing discounted gas is prohibited by 210.62(b).

INTERPRETATION 1975—50

To: Cook & Cooley, Inc.

Date: January 3, 1975.

Rules Interpreted: §§ 211.12, 211.13.

Code: GCR(IX)—AI—Base Period Volume.

The following is in response to your November 26, 1974 request for interpretation received by our office on November 29, 1974.

In your submissions, you indicated that Cook and Cooley is a Texaco jobber serving Texaco branded stations. On October 18, 1974, Cook and Cooley received an FEA assignment order to supply gasoline to A and A Service, located at 3115 Lincoln Blvd., Santa Monica, California. This order was based on your consent to assume the obligation to supply following a termination of supplier-purchaser relationship pursuant to 10 CFR 211.9(a)(2)(i). On November 4, 1974, Cook and Cooley received an FEA assignment order pursuant to 10 CFR 211.12(e)(3) to supply another gasoline reseller; (Target Independent Stations, located at 16425 Pioneer Blvd., Norwalk, California.) Both assigned customers had non-priority entitlements subject to an allocation fraction. In both instances, Texaco was unwilling to increase deliveries to Cook and Cooley to meet Cook and Cooley's increased supply obligations.

On June 10, 1974 prior to the assignment in question, Cook and Cooley had received a letter from our Hearings and Appeals Division stating that a supplier (Texaco) is obligated to increase deliveries to meet a purchaser's (Cook and Cooley's) increased supply obligation when such an increase is due to FEA assignment orders pursuant to 211.12 (e), or adjustments to the purchaser's customers' base period volumes pursuant to 211.13 (b) and (c). This letter indicated that, at the time, FEA regulations allowed 100 percent "pass-throughs" in the instances just mentioned.

In your request for interpretation, you desire to know whether 100 percent "pass-throughs" are still available. In particular, you desire to know if Texaco is obligated to deliver gasoline in sufficient amounts to meet Cook and Cooley's increased supply obligations due to the FEA assignment orders dated October 18, 1974 and November 4, 1974 respectively.

It is our determination that, as of June 1, 1974, a jobber of gasoline cannot receive an automatic adjustment to its entitlement because of an assignment of a wholesale purchaser pursuant to 211.12(e) or because an adjustment is made to a customer's base period volume pursuant to 211.13 (b) or (c). The only exception is where the jobber is assigned a wholesale purchaser with a priority entitlement.

The customers assigned to Cook and Cooley do not have priority entitlements to gasoline. They are resellers who are only entitled to base period volumes subject to an allocation fraction. Therefore, Texaco is not obligated to supply increased volumes because of the FEA assignment orders above-mentioned.

A gasoline jobber is a wholesale-purchaser-reseller within the meaning of the Federal Energy Guidelines. (10 CFR 211.51) The regulations presently provide that a wholesale-purchaser-reseller's allocation entitlement to gasoline is limited to the amount it certifies to be for ultimate use under an allocation level not subject to an allocation fraction, plus an amount equal to its supplier's allocation fraction times the base period purchases from its supplier minus amounts certified for uses not subject to an allocation fraction. (10 CFR 211.12(b)) A reseller, in short is entitled to receive an amount based on its 1972 purchases, i.e. its base period volume entitlement; plus amounts which are for special priority customers. 100 percent "pass throughs" are only required when a jobber's supply obligation is increased due to the increased requirements of a priority customer. A priority customer is one whose entitlement is not limited by an allocation fraction or is eligible to receive current requirements. However, no such pass-through is available when requirements to "non-priority customers" are increased. In these instances, a jobber must supply these customers out of its base period volume entitlement. (10 CFR 211.10(c)(2)) This base period volume is set by the jobber's base period (1972) purchases from its supplier. (10 CFR 211.12(c)) The only provisions for adjustments to a purchaser's base period volume entitlement are contained in 10 CFR 211.13.

To allow automatic pass-throughs in cases where the obligation to a "non-priority customer" is increased by an FEA order would in effect give a jobber an adjustment to his base period volume entitlement. Such adjustments are only permitted when requested pursuant to 10 CFR 211.13. Presently, of the several adjustments listed in 211.13, the only adjustment which might be applicable is for "unusual growth" under 211.13(b). However, this adjustment is made only for an actual increase in sales in the year 1973 over that sold in 1972. It does not allow for adjustments due to FEA assignment or adjustment orders. The other 211.13 adjustments involve increases based on increased needs of priority customers.

Prior to June 1, 1974, pass-throughs were permitted. Jobbers were not limited in their entitlement to gasoline to a volume measured by their 1972 purchases. As a supplier themselves, jobbers were entitled to receive a base period volume measured by the base period volume of their own customers. (Section 211.51, 39 FR 1936) Thus, adjustments to the customers' base period volumes were automatically passed-through. Furthermore, adjustments to a supplier's entitlement upon the acquisition of new customers were allowed under Section 211.13(c) of the January 15th regulations (39 FR 1934).

Unfortunately, such provisions for pass-throughs are no longer available under our amended regulations effective June 1, 1974. A recent provision, 211.13(c), was utilized to aid suppliers whose supply obligations increased. It permitted adjustments to base period volumes for "changed circumstances"; but this section has been deleted from our regulations. Presently, the only means for Cook & Cooley to augment its base period volume is to apply for an "Exception" to have its base period volume increased. This request for "Exception" would be sent to this Regional Office.

In the alternative, Cook & Cooley might apply for a rescission of the October 18 and November 4, 1974 FEA assignment orders pursuant to 10 CFR Subpart J. If this application is successful, the obligation to supply would be removed.

It should be noted that Cook and Cooley may have customers who requested base period volume adjustments under 211.13(c) for changed circumstances, and their requests were acted on by FEA prior to June 1, 1974. Either the request was denied and appealed; or it was granted and the order was stayed pending appeal. Presently, it is FEA policy to process cases which were on appeal prior to the deletion of 211.13(c). These cases are being reviewed by our Hearings and Appeals Division. It is our determination that Appeal decisions based on review of pre-June 1, 1974 FEA actions on 211.13(c) requests which result in increased supply obligations to Cook and Cooley will be passed-through. As indicated earlier, adjustments to base period volumes of customers were formerly passed-on by virtue of the definition of the

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supplier's base period volume entitlement. Appeal Decisions on prior FEA 211.13(c) actions will have the same effect on suppliers as they would have had when the initial action was taken.

This is a special determination which is devised to forestall inequities which may occur because of delays in processing 211.13(c) appeals due to the anticipated deletion of 211.13(c). Generally, Appeals decisions do not have retroactive effect. However, before 211.13 (c) was finally deleted, many 211.13(c) applicants were advised not to file appeals on initial decisions. But for this delay, many applicants might have had their 211.13(c) requests appealed and finalized prior to June 1, 1974.

INTERPRETATION 1975—51

To: East Oil, Inc.

Date: January 10, 1975.

Rules Interpreted: §§ 210.77, 212.31, 212.102, 212.103(a).

Code: GCR (IV)—PI—Definition of Rent.

This is in response to your formal request for a Legal Interpretation on behalf of East Oil, Inc. that was forwarded to this office under cover of your letter dated October 15, 1974.

FACTS

The issue presented for interpretation is whether a lessor is allowed under the Mandatory Petroleum Price Regulations to charge the lessee a higher price for gasoline than provided for by the terms of a lease agreement between the parties. The argument is advanced that the amount paid for the gasoline was included as part of the rent, an increase of which is prohibited by 10 CFR § 212.103(a); and that, further, even if the lease agreement was determined to include a separate and divisable gasoline supply contract, the same conclusion would be reached pursuant to § 210.77, since that section recognizes that private contracts between parties are enforceable so long as they are not inconsistent with the Regulations.

The requesting party, by attorney, has certified by letter dated October 18, 1974, that a copy of the Request for Interpretation, including attendant documentation, was mailed to the opposite party, Port Oil Company.

INTERPRETATION

The threshold issue to be determined is whether the clause in the lease relating to the price for delivered gasoline is in fact a portion of the rent paid pursuant to the leasehold interest. Generally the rights of the parties under a lease are governed by the law of the place where the demised property is situated, or, if the rights are in personam, such rights are governed by the law of the place where the lease is executed or to be performed (51 C.J.S. § 231). The law of South Carolina, therefore, would govern the rights of the parties under this lease, except with regard to those items governed by the Emergency Petroleum Allocation Act, the Federal Energy Administration Act, and appurtenant Regulations.

There are numerable difficulties in ascertaining when a chargeable item under a lease is in fact "rent"; this normally would be determined in accordance with applicable state law. Generally, "the term 'rent' will not be extended to include all payments which by the terms of the lease the tenant is bound to make, and it does not include the obligation to perform collateral contracts or covenants" (52 C.J.S. § 463). Conversely, "although a charge or payment which a tenant is bound to make under the terms of a lease which ordinarily would not be considered part of the rent may be made such by the terms of the contract, the use of the term 'rent' by the parties is not conclusive as to the character of an obligation, nor is the fact that the term is not employed, particularly where the rights of third persons are involved" (52 C.J.S. § 463).

There are two clauses in the subject lease that could be construed to be "rent" in the legal sense. Clause 5 of the lease agreement obligates the lessee to pay the lessor a "monthly rental" for the demised premises "a sum equal to the same amount which lessor is to pay to X finance company." Clause 14 begins, "For and in further consideration of lessor leasing to lessee the premises herein described, lessor agrees to sell to lessee and lessee agrees to purchase from lessor all of lessee's requirements of regular and premium gasoline, kerosene, and diesel fuel for the above-mentioned premises upon the terms and conditions hereinafter set forth:

(a) • • •

(b) The price for all products delivered hereunder shall be in transport truckload quantities of not less than six thousand (6,000) gallons and shall be lessor's cost from X oil company or any other supplier substituted for X oil company, as of the date of delivery", plus various costs.

The threshold issue, as above mentioned, is whether the amounts to be paid under Clause 14(b) constitute "rent" as defined in the Regulations.

10 CFR § 212.31 defines "rent" as follows: "Rent" means any price for the use of personal property of any description, including any charge no matter how identified in the lease or other agreement, for the use of any property or for any service in connection with the use of leased property.

If the price paid for delivered gasoline as shown in Clause 14(b) is in fact "rent", any increase in this amount would be contrary to the provisions of 10 CFR § 212.103:

A lessor or lessee of real property used in retailing gasoline may not—

(a) Increase, offer to increase, or give notice of intent to increase the rent for that real property to an amount in excess of the base rent as defined in § 212.102;

Is the price for the petroleum products paid pursuant to Clause 14(b) a "charge • • • for the use for any property" or a "charge • • • for any service in connection with the use of leased property" as defined in § 212.31?

To become familiar with the general legal principles regarding this subject, and to further the consistent application of settled law, the discussion proffered in Corpus Juris Secundum is valuable:

The definition of "rent" frequently incorporates the element of periodicity • • •. (52 C.J.S. § 464).

While technically the rent must be certain as to amount and time of payment, or capable of being made certain, whether it is payable in money, chattels, or labor, there is some authority for applying the designation of "rent", although the parties have not agreed on the amount, to the sum which will reasonably compensate the landlord for the use of the premises, and which implies an agreement on the part of the tenant to pay (52 C.J.S. § 464).

The term "rent" may be employed broadly with reference to the compensation for the use of the property of any kind. Strictly speaking, however, it is applicable only to compensation for the use of the land and tenements corporeal, and not to compensation for the use of chattels (52 C.J.S. § 464).

Technically, rent is something which a tenant renders out of the profits of the land which he enjoys, and accordingly, rent is spoken of as arising from lands and tenements corporeal or issuing of the land (52 C.J.S. § 464).

The amount the lessee is to pay the lessor pursuant to Clause 5 of the subject lease agreement is termed "monthly rental of the demised premises", whereas the amount to be paid pursuant to Clause 14(b) is termed "the price for all products delivered".

This differentiation in nomenclature is an indication that the parties did not contemplate the amount in Clause 14(b) as being rental for the leasehold. Further, it would appear that the amounts paid for delivered products under 14(b) would in fact be just that; i.e., payment for petroleum products delivered rather than rental payments for use of the real property. It would be possible for the lessee to not take delivery during a certain month, thereby paying no amount pursuant to 14(b); however, the "monthly rental" would still be due and owing under Clause 5.

Based on these facts, and the general discussion in C.J.S., it is hereby determined that the sums due the lessor pursuant to Clause 14(b) are not in fact "rent" within the purview of the definition in 10 CFR § 212.31.

The requesting party asserts alternatively, in the event the lease agreement is viewed to include a separate and divisible supply contract, that the lessor still may not increase the price of the products described in Clause 14(b). 10 CFR § 210.77 is cited as recognizing the fact that private contracts between parties remain enforceable so long as they are not inconsistent with the Mandatory Petroleum Allocation and Price Regulations. We agree that this section, which provides a defense for breach of contract when such breach is caused by adherence to the Regulations, makes such a recognition. We disagree, however, with the requesting party's conclusion that any price increase allowable under § 212.93 would be violative of § 210.77. While a price increase under these circumstances would apparently be a breach of the leasing agreement by the lessor, it does not necessarily follow that such action would contravene the Regulations.

It is the conclusion of this office, therefore, that the payments contemplated under Clause 14(b) of the subject leasing agreement do not meet the definition of "rent" as defined in § 212.31, and any increase in this amount would not, therefore, be in violation of § 212.103(a). Further, such an increase, while it could well be a breach of contract by the lessor, would not be in violation of § 210.77 of the Regulations as long as such increase was made within the parameters set forth in 10 CFR § 212.93.

INTERPRETATION 1975—52

To: Idaho Transportation Department.

Date: January 15, 1975.

Rules Interpreted: § 211.51, Ruling 1974–19.

Code: GCR(X)—AI—Definition of Wholesale Purchaser, Firm.

The following is an interpretation of Federal Energy Administration Regulations as they affect the ability of the Idaho Transportation Department, Division of Highways, to procure petroleum products by competitive bidding.

FACTS

The Idaho Transportation Department, Division of Highways, states in its request that it has historically obtained petroleum products for various state departments through competitive bidding. These contracts were obtained through the State of Idaho for a period of one year on a county by county basis. The Division of Highways would, therefore, be supplied by more than one petroleum company each year and the supplier for each county would not necessarily be the same from one year to the next. Though the contracts were awarded by the State of Idaho, the petroleum products used by the Division of Highways were paid for out of the Division of Highway funds. The Division of Highways used over 2,000,000 gallons of gasoline and 600,000 gallons of diesel fuel per year on a state wide basis. However, in only six counties out of the total of 44 counties did the Division of Highways use more than 84,000 gallons of a single product.

The request for interpretation submitted by the Idaho Transportation Department seeks to determine whether it may purchase petroleum products as an "end-user" or a "wholesale purchaser" as defined by the Federal Energy Administration Regulations 10 CFR 211.51.

INTERPRETATION

10 CFR 211.9(a) requires suppliers and their wholesale purchasers to maintain the supply relationship that existed during the base period (the corresponding months of 1972). This requirement is further clarified in Ruling 1974–19 (attached) which defines the ability of consumers which normally purchase through competitive bidding to alter their base period supplier/relationship. That Ruling distinguishes between wholesale purchasers as defined in the Regulations—which may not change their base period supplier/purchaser arrangement, and end-users which may change their base period supply relationship in this manner.

• • • • •

The term wholesale purchaser consumer means:

"Any *firm* that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm in a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any complete calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971," (emphasis added).

The controlling issue presented in the interpretation is whether the "firm" discussed in the definition quoted above was the Idaho Transportation Department, Division of Highways, or the local subdivisions of the Department of Highways supplied separately according to the county in which the subdivision was located. The definition of a "firm" in Section 211.51 of FEA Regulations means, among other things: "The Federal Government including corporations, departments, Federal agencies, and other instrumentalities of the State and local government. The FEA may, in Regulations and forms issued in this part treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls; (b) a parent and its consolidated entities, (c) an unconsolidated entity; or (d) any part of a firm."

It is the determination of the Federal Energy Administration, Region X, that the "firm" in this case is the Idaho Transportation Department, Division of Highways including local county divisions thereof. As specified in the request for interpretation, the contracts were awarded by the State of Idaho and paid for out of the Division of Highway funds. The fact that contracts were awarded on a county by county basis, and that the supplier for each county division of the Highway Division would not necessarily be the same from one year to the next, does not alter the pre-existent supplier/purchaser relationship in effect between the Department of Transportation and the suppliers involved. Therefore, pursuant to the direction found in 10 CFR 211.9(a) and Ruling 1974–19, the Idaho Transportation Department, the Division of Highways, is defined as a wholesale purchaser-consumer and must continue to be supplied by its base period suppliers unless those relationships are mutually terminated.

INTERPRETATION 1975—53

To: Independent Drivers Organization.

Date: March 5, 1975.

Rule Interpreted: § 211.106.

Code: GCR(IX)—AI—Wholesale Purchaser-Reseller.

On January 2, 1975, you requested, on behalf of the Independent Drivers of Oahu (IDO 2), an interpretation regarding the right of IDO 2 to receive the allocation entitlement of the Independent Drivers Organization (IDO 1). Secondly, you requested reconsideration and modification of the order issued by FEA on March 6, 1974 whereby IDO 1's allocation was limited for sale only to taxi drivers. In addition to the statement of facts contained in your January 2, 1975 request, our office has received additional information through telephone conversations and by the affidavit of Joseph Miller, President of IDO 2, submitted on January 27, 1975. A summary of the information submitted follows.

IDO 2 was incorporated in the State of Hawaii in April 1974, and is the business operations arm of the Hawaii Transportation and Allied Workers Union, Seafarers International Union, AFL–CIO. IDO 2 is a membership organization which provides certain benefits to its members. These benefits include access to an IDO-operated service station located at 770 Kapiolani Street, Honolulu. The primary group of members utilizing the service station are taxi drivers. In addition, the service station is available to non-members who are affiliated with AFL–CIO, including persons belonging to Unity House, essentially an umbrella organization for Teamsters, taxi drivers, and AFL–CIO Hotel and Restaurant Workers. These non-members with union affiliation purchase gasoline for commercial as well as family uses. IDO 2 has access to one taxi stand located in Honolulu, but not all taxi drivers purchasing gasoline from IDO 2 utilize the stand.

IDO 2 was formed following the dissolution of IDO 1. At its inception, IDO 1 was a non-profit organization. Like IDO 2, IDO 1 was associated with the Hawaii Transportation and Allied Workers Union, and operated a service station for the benefit of members at 1760 Ala Moana Blvd., Honolulu. This service station was managed by Joseph Miller, who is now president of IDO 2. Charles Kiaha was the president-treasurer of IDO 1, and presently, Mr. Kiaha is the Director of IDO 2. Lila Medeiros was the secretary of IDO 1, and is presently associated with IDO 2.

IDO 1's service station operations commenced about March, 1971. Until the station's demolition in April, 1974, IDO 1's service station, except for some temporary service modifications in 1973 during the energy crisis, sold gasoline to taxi drivers and members of the State Federation AFL–CIO, as does IDO 2. During the base period (1972), 65 percent to 70 percent of the station's sales were to taxi drivers, and the remaining portion was sold to members of the State Federation.

The service station operated by IDO 1 was demolished in April, 1974 to make way for other construction. At this time, on advice of counsel, IDO 2 was formed and IDO 2 leased the facilities where it is presently operating a service station. The leased facilities had been previously used by a firm on the site to fuel company trucks.

As far as the officers, directors, and members were concerned, IDO 1 became IDO 2. There was no formal announcement of the dissolution of IDO 1 and the incorporation of IDO 2. In fact, Union Oil Company, IDO 1's base period supplier, continues to bill IDO 2 as IDO 1 for gasoline supplies. IDO 2 verbally and informally has assumed liabilities of IDO 1 and paid outstanding debts. There were no assets except good will. As indicated above, the core members of IDO 2 are essentially the same as those of IDO 1 although their official capacities differ slightly. The members, benefits to members, and customers of IDO 2's service station are substantially the same as those of IDO 1. The only differences between the two organizations are the name, the location, and the fact that IDO 2 is a corporation for profit, as opposed to being non-profit. The dissolution of IDO 1 and the subsequent incorporation of IDO 2 was to facilitate the operation of entities like IDO on an inter-island basis.

It should be made clear that, in servicing members, other taxi drivers, and members of AFL–CIO both IDO 1 and IDO 2's service station sold motor gasoline to these customers. Neither IDO operation used gasoline allocated from Union to operate company-owned vehicles.

Based on these facts, IDO 2 is entitled to receive the motor gasoline allocation entitlement of IDO 1. For allocation-purposes, IDO 1 and IDO 2 are the same entity. A service station business, in effect, was relocated following the demolition of the original facility. The business, although relocated, was the same in that it services substantially the same customers, operates in the same manner, performs the same distribution functions for the motor gasoline market, and is managed by the same individuals. Therefore, IDO 1 and IDO 2 are the same wholesale purchaser-reseller under FEA regulations. 10 CFR 211.51 defines wholesale purchaser-reseller: "• • • any firm which purchases, receives through transfer, or otherwise obtains • • • an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form." The service station operated by IDO is a retail sales outlet within the meaning of 10 CFR 211.51: "• • • a site on which a supplier maintains an on-going business of selling any allocated product to end-users and wholesale purchaser-consumers." IDO 1 and 2 did resell product to end-users rather than consume motor gasoline in the operation of its own vehicles.

10 CFR 211.106(c) provides that a wholesale purchaser-reseller, although he has vacated a former site, may continue to receive his allocation entitlement at another location where he reestablishes the retail sales outlet business. IDO 2 relocated the retail sales business of IDO 1 to another site; IDO 1 ceased operation at the former. Therefore, the allocation follows the business and IDO 2 is entitled to IDO 1's allocation.

In your January 2 request, you also indicated a desire to have the March 6, 1974 FEA order, classifying IDO as a consumer and limiting sales to taxi drivers, modified to conform with IDO's actual 1972 practices. Such a reconsideration cannot be made without instituting the procedures set out in 10

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CFR 205.130 et seq. governing modification or recision. These procedures should be instituted immediately. However, before a reconsideration can be made, an interpretation is required. The prior FEA order was based on the reasoning from an interpretation setting out the allocation rights of Charley's Taxis & Tours located in Hawaii. The interpretation, and the precedent set for retail sales outlets primarily engaged in the servicing of taxicabs must be reevaluated.

The March 6, 1974, FEA order stated that IDO was entitled to current requirements subject to an allocation fraction. This order was based on the finding that IDO was primarily engaged in sales to taxi drivers, and therefore qualified for priority treatment as a passenger transportation service. It is clear from the facts submitted that, although IDO may primarily serve taxi drivers, IDO is not a consumer of motor gasoline. IDO sold gasoline to taxi drivers as well as members of the AFL–CIO. As such, and as indicated above, IDO is a wholesale purchaser-reseller within the meaning of the Mandatory Petroleum Allocation Regulations. Its activities do not constitute consumption of motor gasoline for passenger services. Priority treatment is given only to firms actually performing passenger transportation services. Therefore, the order is erroneous in granting IDO the right to receive current requirements. In fact, although the order states that IDO was eligible to receive current requirements, the order limited IDO's monthly volume entitlement to the gallonage which IDO sold during the base period (1972). Therefore, although the order stated that IDO was eligible for current requirements it in fact limited IDO's entitlement only to that which IDO could be granted as a reseller. However, the order needs to be modified to allow IDO to market gasoline as a wholesale purchaser-reseller. As the order stands, since it is based on the determination that IDO was a consumer of product, IDO presently cannot utilize its allocation for purposes other than sale to taxi drivers.

As indicated above, the March 6, 1974 order was issued in conjunction with an interpretation involving Charley's Taxis & Tours. Charley's Taxis & Tours was treated as a consumer of motor gasoline and given the right to receive 100 percent of current requirements, subject to an allocation fraction.

Charley's is a firm which owns and operates its own individual cabs, and at the same time, franchises taxicabs which are owned by drivers. Charley's operation is a whole, including that portion which consisted of independently-owned cabs, was given the right to obtain full current requirements. To the extent this interpretation allowed current requirements treated for independently owned cabs, it may be erroneous. This interpretation, and the orders issued pursuant to it, are presently being reconsidered by FEA.

In any event, IDO does not own and operate taxicabs. IDO sells gasoline to taxi drivers who independently own the taxis. Therefore, IDO is clearly a reseller of motor gasoline. For these reasons, the March 6, 1974 order should be reconsidered and modified to reflect an accurate and proper status for IDO under FEA regulations.

While the FEA order is being reconsidered, and in view of the likelihood of success, IDO should either purchase surplus product or apply to the State Fuel Allocation Office for an emergency allocation of motor gasoline. If neither of these sources has available supply, then IDO should apply to FEA pursuant to 10 CFR 205.39 for a temporary assignment of supplier.

INTERPRETATION 1975—54

To: Boston Housing Authority.

Date: March 10, 1975.

Rules Interpreted: §§ 211.9, 211.162.

Code: GCR(I)—AI—Supplier/Purchaser Relationship.

This letter is in response to your written inquiry of October 21, as supplemented by your letter of October 29, and by a telephone conversation between Mr. Meehan of your office and Ms. Casey of the Regional Counsel's Office on November 19, 1974.

FACTS

You have stated that in the fall of 1973, the Boston Housing Authority was unable to secure a supplier for No. 6 fuel oil for 11 of your housing projects. At that time, arrangements were made with a number of suppliers, including the Alaimo Fuel Company and Clene-Heat, Inc., to supply this fuel. At this time, you state that the Alaimo Fuel Company is prepared to provide your entire supply of No. 6 fuel oil through December 31, 1974, and that all of your 1973 suppliers of this fuel, except Clene-Heat, Inc., are willing to mutually terminate their supplier/purchaser relationships with the Boston Housing Authority in favor of Alaimo Fuel's becoming the sole supplier of No. 6 fuel oil for that period. The Boston Housing Authority is now seeking permission from the Federal Energy Administration to have the 11 projects in question served by a single fuel dealer, the Alaimo Fuel Company, through December 31, 1974.

INTERPRETATION

The Federal Energy Administration, Region I, determines that under the operation of the Petroleum Price and Allocation Regulations (10 CFR Chapter II), the companies named in your letter assumed supply obligations for No. 6 fuel oil in the base year, 1973 (Sections 211.9, 211.162). Since your Housing Authority is a wholesale purchaser consumer under the Regulations (an ultimate user, Section 211.51), it is permitted for these suppliers to mutually agree with the Boston Housing Authority to terminate their supply obligations (Section 211.9(a)(2)(ii)). Any agreements to mutually terminate should be put into writing.

With regard to Clene-Heat, Inc., which appears unwilling to mutually terminate its supply relationship, the only option open to the Boston Housing Authority is to file a petition for exception requesting an assignment of supplier other than Clene-Heat, Inc., as it base period supplier (Section 205.52). Should a mutual termination occur, however, it is required that your organization, as purchaser, must apply to the FEA to have a new supplier assigned under Regulation Sections 211.9(2)(ii), 211.12(e). In view of the time constraints, however, and the difficulties of showing inequity or hardship resulting from the present arrangement, it is unlikely that this alternative would be viable in your case.

INTERPRETATION 1975—55

To: Pleasant Street Co.

Date: March 24, 1975.

Rule Interpreted: § 212.93(b).

Code: GCR(I)—PI—Definition of Firm.

This letter is in response to your written Request for an Interpretation of August 13, 1974, relative to the price rule of the Petroleum Allocation and Price Regulations (10 CFR Chapter II) as it provides for nonproduct cost allowances under Sections 212.93 (b)(1)(i) and (b)(2).

FACTS

According to documents submitted along with the Request for Interpretation, as supplemented by information supplied at a conference of November 8, 1974 with Ms. Casey of the Regional Counsel's staff, the Pleasant Street Company is a corporation organized and existing under the laws of the State of Maine since April 25, 1971. At the time of organization, Allen E. Morrell, Richard A. Morrell, and Robert L. Morrell each owned ten (10) shares of the company's stock. In 1971, Allen E. Morrell sold his shares to members of the Morrell family including two (2) shares apiece to Richard and Robert Morrell.

Among the purposes of the corporation, as stated in the "Certificate of Organization" (Exhibit A) dated April 25, 1961, are:

"To engage in the wholesale and retail business of heating fuels • • • ".

"To buy and sell, wholesale and retail, • • • fuel oil • • • ".

Other corporate purposes were included in the materials submitted with the Request for Interpretation:

"The purpose of the organization of Pleasant Street Co. ('Pleasant Street') was to:

(a) Pool the purchasing power of several retail corporations in one central company, thereby providing greater leverage in the marketplace;

(b) Provide terminal and storage facility spaces not available to other corporations retailing heating oil;

(c) Provide additives for the fuel oil stored; and,

(d) Own and manage several parcels of real estate on a street known as Pleasant Street in Brunswick, Maine, the use of which was unrelated to the heating oil business."

The Pleasant Street Company sells x percent of its fuel oil to, and is the sole supplier of, three retail companies which are also owned by members of the Morrell family: Brunswick Coal and Lumber Company (founded December, 1927; present shareholders Robert Morrell, Richard Morrell); Fortin Fuel Company (founded 1959, present shareholders Robert Morrell, Richard Morrell); Yarmouth Fuel Company (founded 1969; present shareholders Robert Morrell, Richard Morrell).

Under agreements with the Pleasant Street Company, the three retail companies are charged prices which guarantee a certain rate of return above list price for the fuel purchased from Pleasant Street.

INTERPRETATION

The Federal Energy Administration, Region I, determines that the Pleasant Street Company is not entitled to the non-product cost allowances under Sections 212.93 (b)(1)(i) and (b)(2) of the Petroleum Allocation and Price Regulations (10 CFR Chapter II). Under the operation of these Regulations, the FEA may treat as a single firm:

"(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm." (Sections 211.51, 212.31).

In view of the existing arrangements between the Pleasant Street Company and the Brunswick, Fortin, and Yarmouth companies, the FEA is warranted in treating Pleasant Street and the three retailing entities as a "single firm". As can be seen from the definition of "firm", the key concept is the control, direct or indirect, which one company exercises over another and not whether the firms are consolidated in their structures. In this case, there is identity of ownership among the companies involved, and this ownership is shared by two members of the Morrell family. In addition to this, the three retailing entities receive all their fuel from the Pleasant Street Company, and these sales constitute over x percent of Pleasant Street's sales. Based on these facts, it is reasonable to conclude that this is a closely controlled operation within the meaning of the definition which allows related entities to be treated as a single "firm".

No data has been submitted which would demonstrate that costs are generated separately by these various entities and that they should be compensated with non-product cost allowances at both the wholesale and retail levels. Absent such information, the presumption of control exercised by the Pleasant Street Company shall stand, and an additional layer of non-product cost allowances shall not be permitted.

The Pleasant Street Company has the option to apply under Section 205.52 for an Exception from the application of the price rule Section 212.93. In accord with this possibility, since it is stated in your Request for Determination that a portion of Pleasant Street's cost increases are attributable to compliance with environmental protection regulations, you might refer to FEA Case No. FEE–0891, Par. 20,667, in which a partial Exception was granted from Section 212.93 because of costs incurred for the installation of environmental protection equipment.

INTERPRETATION 1975—56

To: Day and Zimmerman, Inc.

Date: April 1, 1975.

Rules Interpreted: §§ 211.9, 211.10, Ruling 1974–19.

Code: GCR(VII)—AI—Competitive Bids.

On March 3, 1975, Day and Zimmerman, Inc. (Day) filed a request for interpretation with Region VII of the Federal Energy Administration (FEA) which basically inquired as to whether or not competitive bids could be let under the Mandatory Petroleum Allocation Regulations. Day had indicated to the FEA that it intends to let competitive bids in order to realize a lower price.

The Emergency Petroleum Allocation Act of 1973 (EPAA) requires that access to petroleum products be determined on the basis of general regulations which apply equally to all persons similarly affected. *New York City Housing Authority*, CCH Fed. Energy Guidelines, Par. 20,640 (August 5, 1974); *County of Nassau, New York*, CCH Fed. Energy Guidelines, Par. 20,691 (October 30, 1974); *State of Alaska*, CCH Fed. Energy Guidelines, Par. 20,720 (November 25, 1974).

In order to effectuate this objective, on January 15, 1974, the FEA promulgated the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). Those regulations generally require that supplier/purchaser relationships in effect during the base period be maintained throughout the duration of the Program, regardless of intervening events that may have occurred since the base period. In the case of diesel fuel and motor gasoline, the specified base period is "the month of 1972 corresponding to the current month" (10 CFR 211.102, 211.122). In the case of No. 5 and No. 6 fuel oil (residual fuel oils), the specified base period is "the month of 1973 corresponding to the current month" (10 CFR 211.162).

On June 14, 1974, FEA issued *Ruling 1974–19*, CCH Fed. Energy Guidelines, Par. 16,029, which governs your request for interpretation. The *Ruling* states in part that:

"The Mandatory Allocation Regulations in 10 CFR Part 211, provide no exemption for Federal, State, or local governments. Therefore, County A, County X and State B are fully subject to all the Provisions of that Part. The competitive bid requirements of the laws and ordinances • • • are superceded to the extent they are inconsistent with the allocation regulations."

Day is a "wholesale purchaser-consumer" as that term is defined in 10 CFR 211.51 with respect to each of the above-mentioned products. The provisions of 10 CFR 211.9(a) generally require that the supplier/purchaser relationship in effect during the base period be maintained for the duration of the Mandatory Petroleum Allocation Program. As a wholesale purchaser-consumer, Day cannot solicit competitive bids as such, however, Day is free to purchase surplus product from one other than a base period supplier if that supplier has met the provisions of 10 CFR 211.10(g).

Your last three questions which generally deal with the transfer of an allocation entitlement from a base period supplier to a successful competitive bidder will not be answered as there are no regulatory provisions governing the disposition of product in that manner.

INTERPRETATION 1975—57

To: Body Beautiful Car Wash.

Date: April 7, 1975.

Rule Interpreted: §§ 211.12, 211.106(e).

Code: GCR(IX)—AI—"New" Wholesale Purchaser-Reseller.

On January 27, 1975, our office was advised by FEA's Operations Division that your client, Body Beautiful Car Wash, desired an interpretation to determine whether its retail facilities at 2045 Pacific Highway, San Diego, California, should be treated as a new wholesale purchaser-reseller operation under the Mandatory Petroleum Allocation Regulations. Based on the submissions made by your office in behalf of Body Beautiful Car Wash in support of its November 26, 1974 request for assignment of supplier, and additional submissions made in February and March in support of the proposition that Body Beautiful is a new reseller, the facts pertinent to this request for interpretation are as follows:

Consolidated Plywood of California, d.b.a. Body Beautiful Car Wash, on November 12, 1974, began operation of an integrated car wash and motor gasoline sales facility located at the above-mentioned address. Although Consolidated Plywood presently owns this property, the site had previously been owned by Phillips Petroleum during the base period (1972). During Phillips' ownership, the site was leased to a reseller, Dr. Frame, who operated a Phillips retail sales outlet in conjunction with an automatic carwash. Consolidated Plywood purchased the property in May of 1973 with the apparent purpose of demolishing the facilities on the site to make way for construction of an office building.

At this time, Dr. Frame was notified that his lease would be terminated, but he was allowed to remain on the premises on a month-to-month basis. The plans to build the office building did not materialize, but on August 1, 1974, Dr. Frame was given formal notice of termination. Consolidated Plywood had decided to construct and operate a modern car wash and gasoline sales facility on the site. Dr. Frame's business was finally abandoned and closed on September 23, 1974, when reconstruction could actually commence. During the 18-month period after the initial notice of termination by Consolidated Plywood, Dr. Frame had begun to wind down his business operations and allowed the facilities to deteriorate.

For approximately two months, the site was not used for any business because demolition and construction work was proceeding. During that time, an entire, new gasoline pumping station was erected; all new car wash facilities and equipment were installed; new exterior on the car wash structure was installed; remodeled office facilities were constructed; and new curbs, driveways, landscaping, and new signs were installed. These improvements required the investment of x. Consolidated Plywood commercially opened its Body Beautiful Car Wash operations on November 12, 1974.

Body Beautiful Car Wash utilized the following method for the marketing of motor gasoline. A free exterior car wash was provided to anyone purchasing a "fill-up" of motor gasoline. This marketing method differed from that practiced by Dr. Frame whose sales of motor gasoline were not integrated with his car wash facilities on the site. Body Beautiful's operations involved totally different and unique services and clientele than did Dr. Frame's old business. In addition, while Dr. Frame had been marketing Phillips Petroleum Products at the site, Body Beautiful Car Wash markets Standard Oil products.

The issue presented by the above set of facts is whether Dr. Frame's entitlement to motor gasoline transfers to Body Beautiful Car Wash pursuant to 10 CFR 211.106(e). If there is a transfer of entitlement under 211.106(e), then Body Beautiful Car Wash will be precluded from applying as a new reseller under 10 CFR 211.12(e). The transfer of Dr. Frame's entitlement would impose a supplier/purchaser relationship between Phillips Petroleum Products and Body Beautiful Car Wash. Although, theoretically, a transfer of entitlement pursuant to 211.106(e) does not obligate a retailer to purchase from the historical supplier, in fact, under the Mandatory Petroleum Allocation Regulations, the retailer's only alternative is to purchase "surplus product" from another supplier. At a time when no surplus is available on the market, the retailer has only one supplier which is obligated to furnish motor gasoline, namely the supplier on whom the Mandatory Petroleum Allocation Regulations impose a supplier/purchaser relationship. If 10 CFR 211.106(e) is interpreted not to impose the historical supplier/purchaser relationship which existed on the site, then Body Beautiful Car Wash is without a supplier under the Mandatory Petroleum Allocation Regulations and would qualify as a new reseller under 211.12(e).

10 CFR 211.106(e) provides:

"Whenever a wholesale purchaser-reseller is deemed to have gone out of business in accordance with paragraph (c) of this section, the right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by FEA, after its predecessor vacates the premises."

This particular provision of the Mandatory Petroleum Allocation Regulations has several distinct regulatory functions. First, in providing for the automatic transfer of an entitlement to the successor on the site, continuity of supply to a community is assured. Secondly, an entitlement to gasoline which is based on the historical sales of a predecessor, by its very nature, limits the amount of motor gasoline that retail sales outlet is eligible to receive. Therefore, the quantity of motor gasoline flowing into a community is automatically regulated. That is, since an entitlement to motor gasoline for a business which was in operation in 1972 is based on the monthly 1972 sales of that retail sales outlet, a particular retail sales outlet receives motor gasoline in proportion to its 1972 sales, and the community serviced

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by that retail sales outlet is, in turn, assured that it will have available, through the outlets in the community, a proportionate share of that amount of motor gasoline available in 1972. Thirdly, an existing entitlement to motor gasoline based on 1972 quantities and supply patterns assures that the distribution line from refiner all the way down to the level of the retail sales outlet is maintained. Therefore, in providing for, and requiring an automatic transfer of entitlement to a successor on the site, continuity of supply is maintained, quantity of supply is regulated so as to assure equitable distribution, and a historical source of product to a community is maintained. The functions of 211.106(e) are particularly important during a motor gasoline shortage. At a time when motor gasoline supplies are sufficient to meet needs, 211.106(e) serves the purpose of maintaining the distribution lines and assuring quantity regulation. If a shortage recurs, a community's proportionate share of motor gasoline and the proportionate burden on suppliers to furnish a particular community is maintained.

The effectiveness of 211.106(e) in carrying out the above-mentioned functions rests on several presumptions. First of all, it assumes that if a succeeding retail sales outlet business on a site is established within a reasonable amount of time, the community will not have adjusted for the loss of the preceding outlet either by the entry of additional outlets in the area or by an FEA adjusted entitlement for the remaining outlet(s) in the area. Moreover, this provision presumes that all retail sales outlets are capable of making motor gasoline available to any motorist in the community, since any similarly situated outlet is capable of servicing substantially the same group of motorists. For these reasons, 10 CFR 211.106(e) has been interpreted to require a transfer of entitlement whenever a retail sales outlet is vacated and the succeeding retailer reestablishes another retail sales outlet business within a reasonable time. City Services Oil Company, Tulsa, Oklahoma (Case No. A–100031, filed 4–5–74, decided 7–29–74). Even though 211.106(e) specifically provides that before an entitlement will transfer, the "same ongoing business must be reestablished," this phrase has been interpreted to encompass the reestablishment of any retail sales outlet business on the same site (See case just cited). Section 211.106(e) does not require the transfer by sale of the ongoing business before a transfer of entitlement occurs, and in fact, there needs to be no business connection between the predecessor on the site and the successor on the site.

Turning to the case at hand, to determine whether Body Beautiful Car Wash is the same ongoing business as Dr. Frame's retail sales outlet business, for purposes of 211.106 (e), requires a close inspection of the facts in this case to determine whether or not the transfer of entitlement will further the purposes of 211.106(e). As stated above, 211.106 (e) generally presumes that a succeeding retail sales outlet business is capable of servicing substantially the same group of motorists in the community which was serviced by the predecessor. Although this may generally be the case, when there are radical changes in marketing methods, station facilities, services provided, type or brand of product provided, pricing, and personnel, there is no assurance that the purposes of 211.106(e) will be furthered.

Body Beautiful Car Wash has made substantial investments to remodel, refurbish, and alter the station facilities. Body Beautiful is marketing a different brand of gasoline in a substantially different manner from Dr. Frame's marketing methods. As such, Body Beautiful Car Wash will be selling to a different group of customers than that which purchased motor gasoline at Dr. Frame's station. Even if Dr. Frame's old customers desired to purchase motor gasoline at Body Beautiful Car Wash, given the new set of customers purchasing from Body Beautiful Car Wash, the availability of substantially the same amount of motor gasoline to the old customers is not assured. Unlike a change to a self-service operation, the integration of a car wash with the sale of motor gasoline makes the outlet incapable of potentially serving the same group of customers. Car washes cater to a different class of clientele. They appeal to a purchase pattern distinctly different from the usual practice of purchasing motor gasoline as needed. Patrons of car washes adjust their gasoline purchases to coincide with the need for a car wash.

There is only a limited possibility that Body Beautiful Car Wash will be capable of servicing substantially the same group of customers. It would be futile to maintain the historical distribution chain in an attempt to assure equitable distribution. Body Beautiful is in the same position as that of a new market entry. Because of the radical changes, the fact that the site was previously occupied by another retail sales outlet is irrelevant. The fact that Dr. Frame was given notice of termination and consequently wound down his business further supports this characterization.

Therefore, for purposes of 211.106(e), Body Beautiful Car Wash has not reestablished the same ongoing business. Dr. Frame's entitlement does not transfer, and Body Beautiful Car Wash must be assigned a supplier under 211.12(e).

INTERPRETATION 1975—58

To: Estate of Anna Signore.

Date: April 16, 1975.

Rules Interpreted: §§ 211.9, 211.106, 212.101, 212.102.

Code: GCR(I)—AL, PI—Base Rent Rule, Lease Termination.

This letter is in response to your written request of October 15, 1974, for an interpretation of the applicability of the Petroleum Price and Allocation Regulations (10 CFR Chapter II) to the termination of the lease agreement between the Cities Service Company and the Estate of Anna Signore.

FACTS

On December 4, 1963, the Cities Service Company agreed to lease a retail outlet at 362 Boylston Street, Newton Center, Massachusetts from the Estate of Anna Signore. Under its terms, the lease was for a period of one year and was renewable from year to year until notice (30 days) to terminate was given by either party.

On January 8, 1969, Cities Service sublet this property to Luigi Signore (a xxx legatee of the Estate of Anna Signore) at a rental of xxx cents per gallon. This rental was revised to xxx cents per gallon on November 13, 1973, retroactive to June 1, 1972.

On September 16, 1974, Cities Service sent a notice of termination of their lease from the Signore Estate as of October 31, 1974. The Estate is not engaged in the refining, reselling, or retailing of covered products (212.101).

QUESTION PRESENTED

Whether the Cities Service Company may terminate its lease of property from the Estate of Anna Signore and its sub-lease to Luigi Signore, where the result will be a change of financial arrangements between Cities Service as supplier and Luigi Signore as the purchaser/operator of a gasoline retail outlet.

INTERPRETATION

The Federal Energy Administration, Region I, has determined that where a lease may be terminated according to its provisions, the Price and Allocation Regulations will not prevent the termination from taking effect except where termination was done in retaliation for the other party's adherence to the Regulatory Program (Section 210.61). Absent a showing of a retaliatory intent on the part of the Cities Service Company, the Federal Energy Administration can do nothing to prevent the termination of this lease.

While the FEA cannot force the continuance of a properly terminable lease, the Regulations do require that a base period supply relationship be maintained for the duration of the Program (Section 211.9). Thus, under the operation of the Regulations, the Cities Service Company, as the 1972 base year supplier of gasoline for this site, is bound to supply the site with fuel for the duration of the program (Sections 211.106, 211.9).

Products sold by Cities Service to Luigi Signore, pursuant to the supplier/purchaser relationship, shall, as usual, be priced according to the price rule, Section 212.93, which requires adherence to the May 15, 1973 price with some allowable adjustments.

The rent to be charged for the property shall be governed by the "base rent" rule (Sections 212.101–102) which states that "where both the lessor and lessee (of the property) are refiners, resellers, reseller-retailers, or retailers", the rent charged must be in accord with the "contractual terms prevailing on May 15, 1973". In this instance, however, if the lease arrangement changes and the Estate leases the property directly to Luigi Signore, the "base rent rule" will not apply, since the Estate does not fall within that category of lessors to which the rent rule applies.

INTERPRETATION 1975—59

To: Kramer Service Center, Inc.

Date: April 28, 1975.

Rules Interpreted: §§ 212.31, 212.91, 212.93.

Code: GCR (II)—PI—Non-Product Cost Increase.

This will acknowledge receipt of your letter of April 14, 1975, wherein, on behalf of your above captioned client, you request our opinion as to whether Mobil Oil Corporation ("Mobil") is entitled to receive monies which reflect non-product cost increases. It is our opinion, based upon the facts you have presented, that Mobil may not do so.

In reaching this decision, the following portions of the Petroleum Allocation and Price Regulations (10 CFR) are relevant:

10 CFR Section 212.31 provides, in pertinent part: "'Refiner' means a firm (other than a reseller or retailer) or that part of such a firm which refines products or blends and substantially changes covered products and sells these products to resellers, reseller-retailers or ultimate consumers. • • •

"'Reseller' means a firm (other than a refiner or retailer) or that part of such a firm which carries on the trade or business of purchasing covered products, and reselling them without substantially changing their form to purchases other than ultimate consumers.

"'Retail sales' means sales of covered products to ultimate consumers.

"'Retailer' means a firm (other than a refiner or reseller) or that part of such a firm which carries on the trade or business of purchasing covered products and reselling them to ultimate consumers without substantially changing their form."

10 CFR Section 212.91 provides:

"*Applicability.* This subpart (Subpart F—Reseller and Retailers) applies to each sale of a covered product (other than the first sale of crude oil) by resellers, reseller-retailers, and retailers and to each sale of crude oil (other than the first sale) by a refiner. For purposes of this subpart, 'reseller' includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaging in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that if directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity."

10 CFR Section 212.93 provides, in pertinent part:

"*Price rule.* (a) A seller may not charge a price for any item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects on a dollar-for-dollar basis, increased costs of the item.

(b) Notwithstanding the provisions of paragraph (a) of this section: (1) With respect to No. 2 oils and gasoline: (i) In retail sales, a seller may charge one cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section, and, with respect to all other sales a seller may charge one-half cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases that the seller incurred after May 15, 1973. (ii) Beginning with March 1974, in retail sales of gasoline, a seller may charge two cents per gallon of gasoline in excess of the amount otherwise permitted • • • (iii) Beginning with April 1974, with respect to all sales of gasoline other than retail sales, a seller that had a total sales volume of covered products in calendar year 1973 of less than 100 million gallons may charge one-half cent per gallon of gasoline in excess of the amount otherwise permitted • • • and a seller that had a total sales volume of covered products in calendar year of 1973 of 100 million gallons or more may charge one-quarter cent per gallon of gasoline in excess of the amount otherwise permitted. . . ."

Based upon these provisions, it is clear that although Mobil may, arguably, be engaged in making retail sales, it is a "refiner" and not a "reseller" or "retailer" in such a case. Non-product cost pass-throughs are only applicable to sales made by those other than refiners. Thus, Mobil is not entitled to receive any monies which reflect non-product cost increases.

Kramer Service Center, Inc. ("Kramer") operates a retail gasoline service station along the New York State Thruway. Its submission to FEA included a variety of documents which purport to define the nature of Kramer's relationship with Mobil. Upon examination of these documents, it is unclear to FEA whether or not Kramer makes "retail sales" of product. It is our opinion that such a determination depends upon contract and/or lease interpretation. It is also FEA's understanding that Mobil and Kramer are presently involved in litigation which we expect will resolve this issue. If Kramer does, in fact, make retail sales, it may avail itself of the non-product cost increase allowances as provided in 10 CFR Section 212.93(b). If Mobil is making the retail sales, no non-product cost increase allowance is available.

INTERPRETATION 1975—60

To: WESO Corp.

Date: May 4, 1975.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCR(V)—AI—Definition of Wholesale Purchaser-Reseller.

Your request for interpretation and the additional information which you submitted have been reviewed by this Office. You are requesting an interpretation of the definition of "wholesale purchaser-reseller" as found in 10 CFR 211.51.

FACTS

We understand the facts upon which this interpretation is based to be as follows:

You distribute products from Waco Oil through U.S. Oil through Conoco (U.S. Oil supplying Conoco gasoline on an exchange basis) without benefit of a written contract or agreement.

WESO Corporation makes all of its own distribution decisions and does all of its own customer solicitation. WESO has the responsibility and the liability for any credit extended to WESO's customers. WESO takes title to the products it sells and bears the risk of loss. WESO is responsible for and does invoice its customers for product delivered.

WESO neither owns nor operates bulk terminal facilities or trucks and transports. WESO maintains only a small staff of sales and office personnel to arrange delivery and complete all transactions.

All operating decisions are strictly made by WESO alone.

ISSUE

The issue presented for interpretation is whether WESO operating as described above qualifies as a wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION

It is our opinion that the WESO Corporation to the extent that it sells and distributes allocated products under the circumstances set forth above qualifies as a wholesale purchaser-reseller as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations.

A wholesale purchaser-reseller is defined in 10 CFR § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

FEA Ruling 1975–8 further clarifies the definition of wholesale purchaser-reseller by highlighting elements which when present qualify the firm as a wholesale purchaser-reseller even in cases where the firm does not take title to the product. Ruling 1975–8 recognizes that some relationships exist wherein a firm functions as a "jobber" without actually having that name. The determining feature is function. Thus, firms "which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between a supplier and the suppliers customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers." FEA Ruling 1975–8.

Ruling 1975–8 also provides that: "[a firm] which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operation; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its suppliers products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than solely being restricted to distributing product to customers designated by the supplier."

The only element of these criteria which WESO does not meet is that of having the physical facilities for handling the products.

But, the concept of wholesale purchaser-reseller envisions an entity having more than limited physical control over the distribution of product. WESO exercises direct control over the inventory, pricing, and solicitation and selection of customers. WESO takes and retains title to the product until sold and maintains total responsibility for and liability from the extension of credit and the billing of customers.

WESO does not own, operate, or maintain any of the physical equipment or facilities necessary for its distribution of product. However, WESO has complete operational control on a day-to-day basis of the entire distribution mechanisms, financial judgments, and business transactions.

On the basis of the above facts it is, accordingly, our opinion that WESO Corporation is a wholesale purchaser-reseller as defined in 10 CFR § 211.51, as clarified in FEA Ruling 1975–8.

INTERPRETATION 1975—61

To: Simmons Oil Corp.

Date: June 17, 1975.

Rules Interpreted: §§ 211.11, 211.106, Ruling 1974–3.

Code: GCR (IX)—AI—"New" Motor Gasoline Retail Sales Outlet.

The following is in response to your May 23, 1975 request for interpretation regarding whether a retail sales outlet recently purchased and rebuilt by Simmons Oil Corporation (Simmons) is qualified for treatment as a new station.

The following summary of your submissions is the factual basis for this interpretation. On or about September 10, 1974, Simmons purchased a retail sales outlet located at 2810 E. Bell Road, Phoenix, Arizona. This facility was being supplied by Powerine Oil Company with an average monthly volume of approximately 16,000 gallons of motor gasoline. The station was a self-service operation providing coin-operated dispensing facilities. For a short period of time, Simmons operated the station in substantially the same manner as the previous operator. The station was then closed for a 30–45 day period at which time the facilities were demolished and a new station facility was erected to provide full-service as opposed to self-service dispensing. In addition, new tanks were installed, several additional service islands were constructed and the station grounds were completely repaved and landscaped. Since Simmons intended to market Gulf product, Gulf signs were erected and exterior Gulf decals were applied to station and pump facilities. The construction and rebuilding of the station facilities required a total investment of approximately xxxxxx to xxxxxx.

Under the Mandatory Petroleum Allocation Regulations, no express guidelines are pro-

V 42 90 MAY 10 77 UMI

vided to determine what constitutes a new business. Generally, retail sales outlet operators are entitled to allocations as long as an ongoing business is maintained. (211.11) In addition, it is clear once a retail sales outlet operator ceases to maintain an ongoing business by vacating a site and not relocating elsewhere, the right to an allocation is relinquished. (211.106) Between the spectrum of a continually unchanged operation and the actual vacating of a site, a number of alterations in marketing method and/or operating facilities may occur.

Often, such modifications evidence new business intentions. The difficult question and the question presented in this request, is what, if any, modification in marketing method and station facilities will constitute the creation of a new business. Simmons, in initially operating the station site in the same manner as the previous operator, in effect, maintained the same ongoing business that had historically been maintained on that site. For that reason, the allocation of the previous operator transferred to Simmons pursuant to 10 CFR 211.106(e). Simmons then completely demolished the existing facilities and constructed new facilities. At this juncture, the question is whether Simmons must keep the old allocation or may Simmons be treated as a new business with the opportunity to apply for a new supplier and the assignment of a different base period volume.

Simmons' case is analogous to an existing reseller desiring to expand operations by alteration of facility and marketing methods. This situation is slightly different from the case where an operator vacates and a new operator rebuilds the existing station. The issue in this latter case is whether the existing allocation is transferred, thereby limiting the gallonage available to the new operator. It presents slightly different considerations from the case at hand. In Simmons' case, the transfer had clearly occurred. Simmons is now limited by it's own allocation. However, the main question presented is the same: may an operator relinquish its entitlement based on changes in its business to qualify for new, reseller treatment.

An allocation entitlement has multi-faceted regulatory purposes. Its main function is to assure to a reseller an equitable share of a scarce petroleum product. Indirectly, an entitlement also assures equitable distribution to a particular market area. Moreover, a particular reseller's right to receive an allocation is based, to a degree, on its ability to maintain its distribution function. When an individual ceases doing business, i.e., when the distribution function is no longer maintained, the entitlement must be relinquished. (211.11, FEO Ruling 1974-3.)

When modifications of a business occur, arguably, the distribution function is also changed. Under such circumstances, the basis for maintaining the same entitlement may not exist, and the right to the entitlement of the old business should be relinquishable. The reseller should be eligible for a new entitlement.

Up until the present time, however, all retail sales outlets have generally been viewed as carrying out the same distributional function. All outlets generally retail product to end-users. Therefore, under this viewpoint, as long as retailing to end-users occurs, the fact that a particular retailer changes marketing methods or modifies station facilities is irrelevant. Its distribution function, and therefore its right to an allocation, remain the same.

Although in the abstract this sounds fine, in reality, in order to assure not only equitable distribution to the retailer, but to the market area, each particular retail sales outlet must be viewed in its own market. Limiting a site to its 1972 volumes assures equitable distribution to the market only as long as substantially the same types of customers in the market area are served by the site. Although it is administratively impossible to fairly account for all market changes or distributional changes by particular resellers, there are certain marketing responses which indicate functional changes by retail sales outlets. Substantial investment for facility alterations with the object of changing marketing methods strongly evidences not only the intent of the retailer to market to either a substantially augmented or different group of customers, but the likelihood of that occurring is substantial. The retailer in this instance is analogous to a new market entry, and unless he is given similar treatment, inequities will occur. Thus, these retailers should be treated like new market entries and be allowed to apply as new stations.

Applying these principles and based on the information submitted by Simmons Oil Company showing that substantial alterations were made to their site as well as to their marketing methods, new station treatment is appropriate.

INTERPRETATION 1975—62

To: Boron Oil Co.

Date: July 24, 1975.

Rules Interpreted: §§ 210.62(a), 211.9, Ruling 1974-3.

Code: GCR(V)—AI—Normal Business Practices.

This is in response to your January 28, 1975 request for interpretation on behalf of Boron Oil Company (Boron) concerning the use of brand and trademark under 10 CFR §§ 210.62(a), 211.9, and FEA Ruling 1974-3.

FACTS

Boron is a wholly owned subsidiary of The Standard Oil Company (Ohio) which markets petroleum products in the State of Michigan. From November 1, 1969 to October 31, 1974 Boron sold gasoline to Webb's Diamond Oil Company (Webb). Webb is a wholesale purchaser-reseller who resells gasoline to some 15 retail sales outlets. Among them is William Van Ooteghen d/b/a Bill's Super Service (Van Ooteghen) at 2929 Center Road, Essexville, Michigan. The sales from Boron to Webb were made pursuant to a Products Agreement dated November 1, 1969. This said "products agreement" authorized Webb to use the "Boron" trademark in marketing. The "Boron" branded signs for each location were leased from Boron by Webb. Boron in the lease to Webb reserved the right to remove the sign should Webb "cease to be a Boron Service Jobber".

The "products agreement" between Boron and Webb was terminated at the end of a normal term on October 31, 1974. The termination of the "product agreement" included the simultaneous withdrawal of authorization to use the Boron trademark. Since the termination of the "products agreement", Boron has continued to supply Webb with allocated product.

The supply agreement between Webb and Van Ooteghen which had commenced in 1970 was terminated in December, 1973. Webb continues to supply Van Ooteghen with allocated product. At the time of the termination of the agreement between Boron and Webb, Van Ooteghen was notified that the Boron sign and credit cards would no longer be authorized. Webb offered a different brand sign, made provisions for the use of a different credit card, and made appropriate adjustments in price for an unbranded product pursuant to 10 CFR § 212.93.

The question presented for interpretation is whether under the Regulations, 10 CFR §§ 210.62(a), 211.9 and FEA Ruling 1974-3 the change in the "products agreement" and subsequent removal of the brand signs is permissible.

INTERPRETATION

It is the contention of Van Ooteghen that the removal of the trademark Boron sign constitutes a change in normal business practice as contrary to 10 CFR § 210.62(a). It is the contention of Boron and of Webb that a change in brand is permissible so long as the basic supply relationship is not altered.

The FEA has never involved itself in the peripheral contractual relationships surrounding the petroleum industry. The history and comments behind the various amendments to § 210.62(a) have never purported to involve questions other than the maintenance of the basic supply relationship carried on in a normal, non-discriminatory manner. The issue of trademark and brand have not come into issue except where they are used to vary the price in an illegal manner or to result in a discriminatory practice. This theory is reiterated by § 211.9(c) which again aims at the maintenance of the supplier/purchaser relationship regardless of changes in ownership or brand. Furthermore, there is no language in any FEA Ruling including Ruling 1974-3 which requires the maintenance of a brand name or trademark. Boron has made the appropriate adjustments in price and service. These adjustments are only those made to be in keeping with the class of purchaser requirements of 10 CFR Part 212, Subpart E necessary for the change in class of purchaser in which Van Ooteghen has now been placed.

Accordingly, it is our interpretation that the removal of the Boron brand signs and credit cards is of itself not contrary to the normal business practices required by 10 CFR § 210.62(a).

INTERPRETATION 1975—63

To: Campbell Oil Co., Inc.

Date: July 24, 1975.

Rules Interpreted: §§ 210.61, 210.62(a), 212.31, Ruling 1975-2.

Code: GCR(VII)—PI—Class of Purchaser, Retaliatory Actions.

On behalf of the Campbell Oil Company, Inc. (Campbell) of Ames, Iowa, you have requested an Interpretation as to whether certain practices instituted by Texaco, Inc. (Texaco) in May, 1974 are prohibited by 10 CFR 210.61 and 10 CFR 210.62(a).

FACTS

Campbell is a distributor of allocated products for Texaco. In addition to its bulk plant in Ames, Iowa, Campbell also operates a retail outlet on South Duff Avenue (South Duff) in Ames, Iowa. Campbell states that prior to May, 1974 the normal business practice was for Campbell to either call the Texaco bulk plant in Des Moines, Iowa or a common carrier for a transport load of motor gasoline for delivery to South Duff. If the call was made to Texaco in Des Moines, the personnel there would call a common carrier to have the product delivered to South Duff. The common carrier had the requisite permits to allow it to deliver the product directly into South Duff's storage tanks. All transportation costs were borne by Texaco.

Campbell further states that all other deliveries of motor gasoline whether by common carrier or Texaco transporter were to its Ames bulk plant. On a few occasions Campbell would haul product from its bulk plant to South Duff at its own expense. This was done either when someone forgot to order a transport load or when a common carrier was unavailable for immediate delivery. Time was of the essence in order to prevent South Duff from exhausting its supply. Both Texaco and Campbell are agreed that Texaco transporters do not have permits which allow them to deliver into a retail outlet's storage tanks.

Campbell further states that Texaco notified it in May, 1974 that, as a result of newly instituted procedures, Texaco would better utilize its transporters for the delivery of products. This new policy had the effect of (1) a decrease in the use of common carriers, (2) more deliveries directly to the Ames bulk plant, (3) less product delivered directly to South Duff by common carrier at Texaco's expense, (4) more back-hauling by Campbell from its bulk plant to South Duff which increased its expenses substantially, and (5) termination of Campbell's ability to call Texaco or a common carrier whenever it needed product delivered to South Duff.

Texaco states that its practice from 1972 to date has been to make as many deliveries as possible by company truck and to utilize the common carrier only when a company truck was unable to make the delivery. Texaco further states that there has been no modification of its normal business practice in not delivering directly to South Duff, but only to Campbell's bulk plant. Even though Texaco concedes that a common carrier may have delivered product directly to South Duff and that such product diversion may have been ordered by its employees in Des Moines, Texaco maintains that neither Campbell nor its Des Moines employees had authority to order the product to be delivered directly to South Duff, and that said delivery was made only when a company truck was unavailable to make delivery.

Data received by the Federal Energy Administration (FEA) indicate that, notwithstanding the Distributor Agreement between Texaco and Campbell as to product delivery, the practice from 1972 to May, 1974 was for either Campbell or employees of Texaco to call and to direct a common carrier to deliver gasoline directly to South Duff with Texaco bearing the freight-in costs. Even though the information further revealed that Campbell did haul gasoline from its bulk plant to South Duff at its own expense, the volume was insignificant in comparison to the volumes delivered by common carrier. The back-hauling occurred only when a common carrier could not be notified in time for a transport load of gasoline to be delivered in order to prevent South Duff from running out of product. Even though Texaco asserts that its practice was and is to deliver product by company truck, if possible, and to place orders in excess of its capability to handle with common carriers, this practice was not followed with respect to South Duff.

INTERPRETATION

The FEA Price Regulations. provide that a refiner such as Texaco in its capacity as Campbell's supplier may not charge a price for a covered product which exceeds the weighted average price at which the product was lawfully sold by the seller in transactions with the class of purchaser involved on May 15, 1973, plus an amount which reflects increased costs. 10 CFR 212.82. "Class of purchaser" is defined in 10 CFR 212.31 to mean "purchasers • • • to whom a person has charged a comparable price for a comparable property pursuant to customary price differentials between those purchasers and other purchasers." "Customary price differential" as defined in that same section, "includes a price distinction based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality, or location or type of purchaser, *or a term or condition of sale or delivery.*" (Emphasis added).

As stated in FEA Ruling 1975-2, the primary function of the "class of purchaser" principle is to maintain the price differentials which existed on May 15, 1973 between groups of purchasers which were not similarly situated then and are not now similarly situated.

FEA Ruling 1975-2 discusses in detail the manner in which membership in a particular class of purchaser is determined for purposes of the FEA Price Regulations. As stated in that ruling:

A firm may, for example, make its product available to some customers on a delivered basis and to others at its terminal. Such a difference in the terms of sale to otherwise indistinguishable purchasers would serve as the basis for a customary price differential between groups of purchasers and thereby establish separate classes of purchasers.

According to the facts presented by Campbell's request for interpretation and the criteria stated in Ruling 1975-2, Campbell is clearly a member of that class of purchaser which on May 15, 1973 received product at a delivered price which included the cost of transportation. The information submitted shows that, despite the absence of a term in the contract specifically providing therefor, the South Duff outlet received product at a delivered price. Although there were occasional deliveries by Campbell from the Ames bulk plant to South Duff, these deliveries were apparently at Campbell's option. The preponderance of the product delivered to South Duff was so delivered by common carrier at Texaco's expense.

Therefore, it is our interpretation of FEA regulations that Campbell, particularly with regard to the South Duff outlet, belongs to the class of purchaser for which the terms and conditions of sale reflect a price which is determined on a delivered product basis. Membership in this class may not be and the terms and conditions of sale and delivery may not be unilaterally changed by either Texaco or Campbell. This interpretation is based upon the presumed validity of the statements, allegations and documentary material submitted to FEA for its resolution in this matter.

The FEA has also concluded from the evidence before it that no "retaliatory action," as that term is defined in 10 CFR 210.61, was undertaken in this matter. Section 210.61 provides in part that:

No firm including an individual may take retaliatory action against any other firm (including an individual) that files or manifests an intent to file a complaint of alleged violation of, or that otherwise exercises any rights conferred by the Act, any provisions of this part, or any order issued under this Chapter.

Retaliatory action as contemplated by that section must be against a firm for the exercise of rights under FEA regulations, and there has been no information submitted to support this interpretation.

INTERPRETATION 1975—64

To: Derby Refining Co.

Date: August 4, 1975.

Rule Interpreted: § 212.93(b)(1)(iv).

Code: GCR(VII)—PI—Once-A-Month Rule.

This is in response to your request for interpretation on behalf of the Derby Refining Company concerning the operational effect of Section 212.93(b)(1)(iv).

FACTS

You have asked, what price adjustments if any, are permissible to a retailer of motor gasoline under Section 212.93(b)(1)(iv). You have also asked, what constitutes a price increase to reflect a change in amount of increased costs which may only be made once in a calendar month according to Section 212.93(b)(1)(iv). It is FEA's assumption pursuant to our meeting on May 16, 1975 that these questions relate only to there being one supplier and one product cost price increase per month.

INTERPRETATION

The price rule of 10 CFR 212.93(a) which is applicable to resellers, reseller-retailers, and retailers (Section 212.91) states:

A seller may not charge a price for any item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects on a dollar-for-dollar basis, increased costs of the item.

Section 212.93(b)(1)(iv) states:

(b) Notwithstanding the provisions of paragraph (a) of this section:

• • • (iv) **A seller may** adjust its selling price for an item at any time to an amount that is equal to or less than the selling price permitted under this Subpart, except that a price increase to reflect a change of amount of increased costs may not be made more than once in any calendar month, but may be made on any day during that month.

The once-a-month rule was written during the embargo period on the assumption that a reseller would be at his maximum lawful price at all times. One of its objectives was to delay the imposition on consumers of higher prices occasioned by product cost increases. These conditions no longer exist.

The issue under current market conditions is whether the dealer's selling price is at or below his maximum lawful price. Based on the assumption that a reseller has only one supplier who passes through one product cost price increase per month, the rule does not limit a reseller as to the number of times he may raise or lower his price, so long as he does not charge a price in excess of the maximum lawful price.

INTERPRETATION 1975—65

To: Dollar Rent-A-Car Systems.

Date: August 13, 1975.

Rules Interpreted: §§ 211.51, 211.103.

Code: GCR(IX)—AI—Passenger Transportation Services.

This is in response to your June 3, 1975, letter requesting an interpretation of "passenger transportation services" as defined in 10 CFR 211.51 (copy enclosed) of the Mandatory Petroleum Allocation Regulations as applied to the car rental industry. You have asked whether Dollar Rent-A-Car Systems (Dollar) can be considered a passenger transportation service under our regulations, and thus be entitled to an allocation level of 100 percent of current requirements for allocated products purchased from your base period supplier, Atlantic Richfield Company, in accordance with 10 CFR 211.103(c)(1)(v).

In your June 3 letter, and in subsequent phone conservations and a meeting with Assistant Counsel Steven Waterson, July 24, you indicated that, in your company's method of operation, all cars are initially rented with a full tank of gasoline. The price of the gasoline is comparable to, or lower than, retail sales outlets. Your storage facilities are not used as a retail sales outlet, and the firm does not rely on gasoline sales

V 42 90 MAY 10 77 UMI

as a profit item, but rather as a convenience to the rental customer.

The storage facility located near Los Angeles International Airport is the primary subject of this request. The fleet serviced by that facility has doubled during the past year, business volume has increased almost 200 percent during that same period, and a large percentage of your customers at that facility are Federal and State government employees.

You believe that Dollar is entitled to favored treatment under 10 CFR 211.103 because your

"• • • service results in an overall savings of fuel in that it allows businessmen (sic) to leave his own car at home and use mass transit systems for most of his journey, therefore using the rental car for only the last portion consequently, the rental car provides an alternative means for using fuel supplies which is more efficient and more economical."

The issue, therefore, is whether a car rental service, serving the public primarily at major U.S. airports, making its vehicles available for rental on a daily or weekly basis and being a wholesale purchaser with a base period allocation entitlement and base period supplier, is entitled to one hundred percent (100 percent) of current needs (subject to supplier's allocation fraction) as a public transportation service under current FEA regulations.

We conclude that the definition of public transportation services as set forth in 10 CFR 211.51 does not include car rental agencies, used for private operation by individuals, regardless of the actual period of rental or purpose.

Section 211.103(c)(1)(v), which provides that passenger transportation services shall be entitled to one hundred percent (100 percent) of current requirements reduced by the application of the allocation fraction, is dependent on subsection (a) of that section. Section 211.103(a) states that

"The allocation levels listed in this section only apply to allocations made by supplier to end-users which are bulk purchasers and to wholesale purchaser-consumers."

Dollar is not a wholesale purchaser-consumer, but rather a wholesale purchaser-reseller, since the ultimate consumer of the allocated product received from Dollar's supplier is the lessee of the vehicle. The provisions of Section 211.103(a) through (d) do not apply to wholesale purchaser-resellers.

INTERPRETATION 1975—66

To: DeBlois Oil Co.

Date: August 15, 1975.

Rules Interpreted: Rulings 1974–17, 1974–18, 1975–2.

Code: GCR(I)—PI—Customary Discounts.

This is in response to your correspondence of June 4, 1975, requesting an interpretation of FEA Rulings 1974–17, 1974–18, and 1975–2, as they apply to the reinstatement of certain price allowances discontinued by your supplier prior to May 15, 1973.

FACTS

According to the facts presented in your request, DeBlois Oil Company has purchased fuel oil and kerosene from the Atlantic Richfield Company since 1971. During part of 1971 and all of 1972, Atlantic Richfield granted discounts to DeBlois Oil, which totalled $.008 per gallon below the posted tank car prices. Atlantic Richfield completely removed these discounts by January 20, 1973.

ISSUE

The issue presented for interpretation is whether FEA Rulings 1974–17, 1974–18, and 1975–2 provide for the reinstatement of "customary discounts" that were discontinued between January 1, 1973, and May 15, 1973.

INTERPRETATION

FEA Rulings 1974–17, 1974–18, and 1975–2 do not allow for the reinstitution of price allowances not in effect on May 15, 1973. These Rulings merely clarify the application of the "class of purchaser" concept, as it relates to the applicable price rules. A refiner's current maximum price is the price charged on May 15, 1973, plus certain allowable pass-throughs for increased product and non-product costs. The May 15, 1973 price is defined as "• • • the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on *May 15, 1973* • • •". (10 CFR 212.82(b)). (Emphasis added).

The entire discussion of discounts in the FEA Rulings refers only to those discounts that were actually in effect on May 15, 1973. Although it may be useful to examine the historic basis of May 15, 1973, discounts in order to determine whether the discount should be characterized as "customary" or "competitive", there is no indication that customary discounts that were discontinued prior to May 15, 1973, should be considered in the determination of current selling prices.

The Emergency Petroleum Allocation Act of 1973 (EPAA) is the enabling legislation under which the Mandatory Petroleum Pricing Regulations (10 CFR Part 212) were promulgated. Section 4(b)(2)(B) of the EPAA specifies that the pricing regulations should provide for "the use of the same date in the computation of mark-up, margin and posted price for all marketers or distributors of crude oil, residual fuel and refined petroleum products at all levels of marketing and distribution". Prices in effect on May 15, 1973, form the basis of the pricing regulations, and nothing in FEA Rulings 1974–17, 1974–18, or 1975–2 provides for the reinstatement of discounts terminated prior to that date.

INTERPRETATION 1975—67

To: William S. Bronson; Carl Carter Agency, Inc.; Dyer Oil Service; Golden Oil Co.; Charles Harrison; James A. Hauer; Herman F. Shields.[4]

Date: October 10, 1975.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCR(V)—AI—Definition of Wholesale Purchaser-Reseller.

Your request to the General Counsel for interpretation has now been forwarded to this office for response. You are requesting an interpretation of the definition "wholesale purchaser-reseller" as found in 10 CFR § 211.51.

FACTS

We understand the facts upon which this interpretation is based to be as follows:

You distribute Atlantic Richfield Company (ARCO) products under the terms of a contract dated November 1, 1967, between yourself (the "Marketer") and ARCO entitled "Atlantic Richfield Company Marketer Agreement" (Agreement). ARCO is the successor in interest to the Sinclair Refining Company.

The Agreement provides that you will be a "bailee for hire" except as enlarged by the terms of the Agreement. The Agreement establishes a relationship whereby you, Harrison, the marketer, receive commissions for the sale and delivery of ARCO products, title to which remains with ARCO until they are sold.

Although ARCO has the right to reject any order taken by the Marketer, you have advised us that you solicit, maintain, and service all customers and that rarely, if ever, does ARCO provide you with customers to service. The Marketer may not make credit sales for ARCO's account without ARCO's prior consent. Prior to the imposition of the requirement to maintain supplier/purchaser relationships under the Mandatory Petroleum Allocation Regulations, you could terminate relationships with customers you served without ARCO's concurrence.

The Marketer is required to bear all expenses for "necessary trucks, truck-tanks, motive power, drivers, labor, water, light, power, and heat • • • draying (ARCO's) products and equipment and in making sales, deliveries and collections." The Marketer is responsible for the acts of its employees and for their wages, including all taxes and contributions imposed by Federal and state governments upon such wages. Further, you agree to use no improper or illegal methods in soliciting or securing business covered by the Agreement and to "assist (ARCO) generally in promoting the successful merchandising of its products • • •."

ARCO owns the bulk plant from which you service customers although no rent is charged for use of the plant.

ISSUE

The issue presented for interpretation is whether the Marketer operating as described above qualifies as a wholesale purchaser-reseller as defined in 10 CFR § 211.51.

INTERPRETATION

It is our opinion that the Marketer to the extent that it sells and distributes allocated products under the circumstances set forth above qualifies as a wholesale purchaser-reseller as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations and clarified by FEA Ruling 1975–8 (a copy of which is enclosed for your information).

Wholesale purchaser-reseller is defined in 10 CFR § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Ruling 1975–8 explains that the phrase "as by consignment" is included in the definition of a wholesale purchaser-reseller to make clear that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition solely on the ground that they fail to take legal title to the product. This phrase explicitly recognizes the fact that consignment relationships have long existed in the petroleum industry under which consignees perform essentially the same functions as jobbers and that such consignees should be treated under the allocation regulations in the same manner as jobbers. Therefore, those consignees which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between a supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers.

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product. Only in those situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally like a jobber, will the firm qualify as a wholesale purchaser-reseller.

Thus, according to the ruling a consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics; (a) appropriate facilities and equipment for conduct of the business of selling and distributing its supplier's products; (b) responsibility independent of its supplier, for its internal financial management and physical and administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing product solely to customers designated by the supplier.

Under the factual situation described above, you retain a substantial measure of functional autonomy in distributing and selling ARCO's products. Although you must account fully to ARCO for all products received, and such products must be sold at a price fixed by ARCO, you are fully responsible for all aspects of conducting the business. You do not merely provide a delivery service for ACO but solicit your own customers which purchase the products which you have on consignment from ARCO. We understand that ARCO may disapprove a new customer but that this occurs when the price offered by a proposed customer is not satisfactory to ARCO. ARCO provides no equipment, labor, organizational or employee benefits (such as social security contributions), although ARCO provides you without charge the bulk plant from which you withdraw supplies. We do not believe that in the context of the foregoing fact situation ARCO's provision of the bulk plant without charge to you affects your status as a wholesale purchaser-reseller. Accordingly, it is our opinion that you are a wholesale purchaser-reseller as defined in 10 CFR § 211.51 and explained in Ruling 1975–8.

INTERPRETATION 1975—68

To: Mid-State Oil Co., Inc.

Date: October 10, 1975.

Rule Interpreted: § 211.51.

Code: GCR(V)—AI—Definition of Wholesale Purchaser-Reseller.

Your request to the General Counsel for interpretation of 10 CFR § 211.51 (wholesale purchaser-reseller) has now been forwarded to this office for response. Your request concerns your status under the above cited regulation.

FACTS

We understand the facts upon which this interpretation is based to be as follows:

You distribute Atlantic Richfield Company (ARCO) products under the terms of a contract dated March 8, 1974, between yourself and First-Miss, Inc. entitled "Contract of Sale of Petroleum Facilities at Minonk, Illinois", (the "Contract").

The Contract provides that you, Mid-State Oil Company (Fischer Oil Company), of Roanoke, Illinois is the "buyer" and First-Miss, Inc. is the "seller" of allocated petroleum products. The Contract further provides that the buyer will purchase specified quantities of distillates and gasolines at a specified price.

Incorporated by reference and included as part of the Contract is agreement between Atlantic Richfield Company (ARCO) and First-Miss, Inc. dated August 31, 1973, (Agreement). The Agreement provides that First-Miss, Inc. is the "buyer" of petroleum products and ARCO is the "seller" of petroleum products. The Agreement further provides that ARCO sell and First-Miss buy specified quantities of allocated products at specified prices subject to agreed escalation. The Agreement designates the loading meters at terminals to be the place where title to the petroleum products passes from ARCO to First-Miss.

Mid-State Oil Company as buyer from First-Miss has total responsibility for the petroleum products. Mid-State solicits customers, makes credit arrangements, bears all expenses, pays all taxes, and is responsible for its employees. Neither First-Miss nor ARCO are involved in the operation of Mid-State.

ISSUE

The issue presented for interpretation is whether Mid-State operating as described above qualifies as a wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION

It is our opinion that Mid-State to the extent that it sells and distributes allocated products under the circumstances set forth above qualifies as a wholesale purchaser-reseller as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations.

A wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form".

There is no question that Mid-State purchases allocated product and then resells it. There can be no confusion as to the role which is played by Mid-State as they are obviously not agents, consignees, or employees. Mid-State retains functional autonomy in distributing products.

Upon expiration of the contract you must be treated as any other independent businessman. If the Mandatory Allocation Regulations are then in effect, you either have an established base period supply relationship or you must apply for some such supply relationship as provided in the Regulations. If the Mandatory Allocation Regulations are not in effect, FEA has no involvement in any contractual relationships. Since you operate as an entirely independent business, there is only one application of § 211.51 (wholesale purchaser-reseller) which is possible. Accordingly it is our opinion that you are a wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION 1975—69

To: Cyr Oil Company.

Date: October 17, 1975.

Rules Interpreted: § 212.31, Subpart G.

Code: GCR(I)—PI—Rent Regulations, Definition of Firm.

This is in response to your October 21, 1974 Request for Interpretation of 10 CFR 212.101 et seq., regarding the price rule for leases. A conference was held on December 19, 1974 to explore the facts stated in the original request. The participants in the conference were Mr. Wilfred L. Cyr, Ms. Edith Feigen, Office Manager for the Cyr Oil Company, Mr. Joseph Tanski, Attorney for Cyr, and Mr. Daniel Blessington, representing the Federal Energy Administration. At the conference, Mr. Tanski requested that FEA refrain from issuing an interpretation until he submitted some "suggested standards" on how FEA should proceed with the Interpretation. Those suggestions were received in a letter from Mr. Tanski dated January 28, 1975. The information is based upon information received from the Request for Interpretation, the conference, and the subsequent letter.

FACTS

Cyr Oil Company (Company) is a Massachusetts corporation, in existence since 1940, in which Wilfred L. Cyr owns 100 percent of the capital stock. Mr. Cyr is also the President, Treasurer and a Director of this corporate entity. The company is a distributor of petroleum products for Texaco, Inc., and owns properties in its own name.

It has supplied petroleum products to the operators of the Walpole Service Center ("Service Center"), located at Main and North Streets in Walpole, Massachusetts, since June of 1973. Prior to this time, George Levya and Kenneth Smith, the operators of the Service Center, purchased covered products from Phillips Petroleum Company. (Phillips also leased the Service Center to them until the termination of their lease agreement on June 18, 1973).

Cyr Trust (Trust) is a real estate investment company, created in 1944, which owns and rents a variety of properties. One of the trustees is the same Wilfred L. Cyr as described above. The Trust now owns the Service Center property. While it is claimed that the Trust has no employees, it is admitted that the Company's office manager, Ms. Edith Feigen, signs the Trust's checks and takes care of other details relating to the Trust's properties.

On June 11, 1973, a memo was signed by Wilfred L. Cyr and George Levya, which made reference to "Cyr". Neither the reference nor the signature indicated whether "Cyr" meant the Company and/or the Trust. The memo itself provided that "Cyr" would supply Levya and Smith at the Service Center Property with petroleum products for a period of 60 days.

This same memo provided that "Cyr" would "lease" the Service Center to the operators at a rent of *xxxx* per month for the same 60-day period. (The *xxx* per month figure was the rent in effect on May 15, 1973 pursuant to the terms of the lease with Phillips). While no formal lease was entered into, the Company received monthly rental payments from Levya and Smith. This arrangement continued beyond the original 60-day period until November of 1974, at which time rental payments began to be made to the Trust. Mr. Cyr, in his October 21, 1974 Request for Interpretation, claims that the Company received the rental payments for the Trust, in order to avoid confusion, i.e., that Levya and Smith would have mistakenly made payments to the Company rather than the Trust, even if they were informed that the Trust was their landlord.

It has been alleged that the Trust's original intent was to lease the Service Center property to Texaco as a real estate investment only. The proposed lease between Texaco and the Trust never was signed, however, and it is the Company's position that property because the arrangement with Texaco was not consummated.

10 CFR 212, Subpart G, provides, inter alia, that a lessor which is also a reseller may not charge a rent for real property used in the retailing of gasoline in excess of that charged for the station, pursuant to the contractual terms prevailing on May 15, 1973.

The term "reseller" is defined in 10 CFR 212.31 as follows:

" 'Reseller' means a firm (other than a refiner or retailer) or that part of such

[4] NOTE.—This interpretation was issued to the forenamed individuals and firms in separate letters dated October 10, 1975, the texts of which were identical except that the date of the supply contract differed in most cases.

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firm which carries on the trade or business of purchasing covered products, and reselling them without substantially changing their form to purchasers other than ultimate consumers."

A "firm" is also defined in 10 CFR 212.31:

" 'Firm' means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The FEA may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part or a firm.

QUESTION

Should the Cyr Trust and the Cyr Oil Company be treated as a single "firm" by the FEA for the purposes of applying the provisions of 10 CFR 212, Subpart G?

ARGUMENTS BY PETITIONER

The Trust contends that although the Company is a "reseller" within the meaning of 10 CFR 212.31, the provisions of 10 CFR 212, Subpart G do not apply to the Trust since the Trust is not a "reseller". In the correspondence dated January 28, 1975, Mr. Joseph Tanski, representing the Trust, concedes that the definition of "firm" also contained in Section 212.31 of the Regulations provides that the FEA may treat related entities as a single firm. He contends that the FEA must apply appropriate standards in making such a determination. Mr. Tanski suggests that the FEA should treat related entities as a single firm only under the following circumstances:

A. If an additional entity is created solely for the purpose of circumventing a regulation,

B. If the entities are involved in similar areas of economic enterprises,

C. "If the prohibited action which is the subject of dispute • • • is otherwise in violation of the Regulations • • • the agency should consider such fact in determining whether to treat two entities as one firm • • •",

D. If the FEA demonstrates that the purposes of applicable energy legislation will not be served by treating the entities as separate firms.

INTERPRETATION

FEA concedes that its discretion in treating a firm as a reseller is not unbridled. With that in mind, the four standards suggested by Mr. Tanski will now be addressed.

The test formulated in Paragraph A involves an attempt to avoid the impact of the Regulations. FEA is not required to find the existence of such a motive.

In Paragraph B, it is proposed that entities historically engaged in different areas of economic enterprise should not be treated as the same firm. Since the Company has historically been engaged in the distribution and sale of covered products, and the Trust has been involved in real estate investments, it is argued that they should be treated seprately. It is stated that "some degree of common ownership or control" should not cause the Trust to be restricted along with the Company. This argument fails to recognize the fact that it was virtually impossible for those dealing with the Company and Trust in relation to the Service Center property to realize that there were two entities involved. As evidenced by the July 11, 1973 memo, "Cyr" conveyed to Levya and Smith an interest in the Service Center property. At the same time, "Cyr" agreed to supply covered products. The historical distinction, therefore, has been blurred insofar as it relates to the subject transactions. It should also be pointed out that the apparent "degree of common ownership or control" in the Company and the Trust by Wilfred L. Cyr is very great indeed.

The argument set forth in Paragraph C is unclear. The presence or absence of a second violation has no apparent relevancy in FEA's determination of this case.

Although a showing as suggested in Paragraph D is not specifically required, any decision by the FEA must, of course, be consistent with its objectives and purposes of controlling legislation.

Since the question of treating the Trust and the Company as a single firm is for purposes of applying the provisions of 10 CFR 212, Subpart G, it is of primary importance to measure the facts in this case against the intent of the subject Regulations.

In the introductory comments to the amendments to Subpart G of Part 212, published in 39 F.R. 15139 (May 1, 1974), the purpose of the lease price rule was stated as follows:

"The leasing of property used in the retailing of gasoline, between suppliers and retailers, is inextricably woven into the fabric of the supplier's marketing system and is directly related to the price at which gasoline is sold at retail. The price charged for product and the rent charged for property, each of which is often expressed as a flat rate in cents per gallon, constitute a combined charge to the retailer by the supplier for the purchasing and retailing of gasoline. FEA has determined that the statutory mandate to regulate the price of refined petroleum products requires the continued regulation of rents charged between retailers and suppliers in service station leases, as an integral part of its petroleum pricing regulations."

In summary, the purpose of the Regulations controlling service station rent is to prevent a rental increase to be used as a means of increasing gasoline prices. In view of Wilfred L. Cyr's position as President of the Company and trustee of the Trust, it seems clear that, if treated as separate firms, a rental increase by the Trust could be a means to effectuate a gasoline price increase by the Company. If the Company and the Trust were to be treated as separate firms, the purpose of 10 CFR 212, Subpart G would be frustrated. If there is to be any meaning to the lease price rule, the FEA must treat the Company and the Trust as a single firm, i.e. a "reseller" within the meaning of 10 CFR 212.31.

Based on the above considerations, the Federal Energy Administration, Region I, determines that for the purpose of 10 CFR 212, Subpart G of the Regulations, Cyr Oil Company and Cyr Trust are to be treated as a single firm which is a reseller. The Trust, consequently, is prevented by Section 212.103 from increasing the rent for the Service Center property located at Main and North Streets in Walpole, Massachusetts to an amount in excess of the base rent as defined by 10 CFR 212.102.

INTERPRETATION 1975—70

To: E. L. Danielson and F. D. Thurman.

Date: October 24, 1975.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCR(IX)—AI—Wholesale Purchaser-Reseller.

I am responding to two requests[6] for interpretation you have submitted to the FEA in accordance with the provisions of 10 CFR 205, Subpart F. The interpretations involve a determination as to whether your clients, E. L. Danielson, Union Oil consignee, and F. D. Thurman, Texaco consignee, can be considered wholesale purchaser-resellers in accordance with 10 CFR 211.51 of the FEA regulations.

FACTS

We understand the facts upon which this interpretation is based to be as follows: E. L. Danielson entered into a wholesale consignment agreement with Union Oil Company of California on June 10, 1955. That agreement, subject to termination by either party on 7 days' written notice to the other, has remained in full force and effect to the present time.

The Agreement provides that E. L. Danielson, as consignee, agrees to handle, advertise for sale and sell within the County of Solano, California, only those petroleum products provided by the consignor, Union Oil Company (Union). The Agreement establishes that title to all products remains in consignor until sold by consignee, at which time consignee receives a commission in accordance with provisions of a Schedule of Commissions attached to the Agreement.

The consignee is required to sell consigned product at prices authorized by the consignor; to use his best efforts in promoting the sale of consigned products within the territory assigned; to hire and pay wages of all assistants and employees required and to indemnify and hold consignor harmless from any liability for premiums, taxes and contributions necessary for Workmen's Compensation, unemployment insurance, pensions and retirement benefits due those employees; to pay all licenses and other fees required and all expenses incident to the conduct of his business and the handling, storage, transportation, distribution and delivery of consigned products; to furnish, maintain and operate trucks and any other equipment required; and to be responsible for all products consigned or for any loss or damage thereto.

Consignor, in turn, is obligated to pay the scheduled commissions for product sold by the consignee, but title in all products so consigned remains in the consignor until sold by the consignee in accordance with the terms of the Wholesale Consignment Agreement.

Consignor also retains the right of prior approval for any credit sales the consignee may desire to make and such authorization may be revoked at any time by the consignor.

The agreement between F. D. Thurman and Texaco, Inc., was entered into on January 27, 1975, and can be terminated by either party with five days' written notice.

F. D. Thurman, as consignee, agrees to sell Texaco-branded products in Sacramento, California, at prices authorized by Texaco. Title to the products remains with Texaco until sold by the consignee, at which time the consignee receives a commission according to the schedule in the body of the agreement.

The consignee is required to bear the expenses of conducting this business; furnish truck and equipment; pay his employees and assume full responsibility for them; bear the expense of workmen's compensation insurance for his employees; pay social security and withholding taxes as required by applicable state and federal laws; and provide for all annuities, pension plans and profit sharing for his employees.

[6] The E. L. Davidson request, dated May 9, 1975, was originally directed to the FEA General Counsel's Office, Washington, and referred to Region IX for action by memorandum dated September 19, 1975. The F. D. Thurman request, dated October 9, 1975, was received October 10.

ISSUE

The issue presented for interpretation is whether the consignees operating as described above qualify as wholesale purchaser-resellers as defined in 10 CFR 211.51.

INTERPRETATION

It is our opinion that the consignees, to the extent that they sell and distribute allocated products under the circumstances set forth above, qualify as wholesale purchaser-resellers as defined in 211.51 of the Mandatory Petroleum Allocation Regulations and clarified by FEA Ruling 1975–8 (copy enclosed).

Wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Ruling 1975–8 explains that the phrase "as by consignment" is included in the definition of a wholesale purchaser-reseller to make clear that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition solely on the ground that they fail to take legal title to the product. This phrase explicitly recognizes the fact that consignment relationships have long existed in the petroleum industry under which consignees perform essentially the same functions as jobbers and that such consignees should be treated under the allocation regulations in the same manner as jobbers. Therefore, those consignees which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between a supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers.

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product. Only in those situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally like a jobber, will the firm qualify as a wholesale purchaser-reseller.

Thus, according to the ruling, a consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) Appropriate facilities and equipment for the conduct of the business of selling and distributing its suppliers' products; (b) responsibility independent of its supplier, for its internal financial management and physical and other administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its suppliers' products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing products solely to customers designated by the supplier.

Under the factual situation described above, your clients retain a substantial measure of functional autonomy in distributing and selling their supplier's products. Although they must account fully to their suppliers for all products received, and such products must be sold at a price fixed by their suppliers, they are fully responsible for all aspects of conducting their respective businesses. They do not merely provide a delivery service for their suppliers, but solicit customers who purchase the products they have on consignment from the supplier. We understand that the supplier may disapprove a new customer, but that this occurs when the price offered by a proposed customer is not satisfactory to the supplier. Union and Texaco, from the terms of the contract, apparently provide no equipment, labor, organizational or employee benefits. Accordingly, it is our opinion that your clients are wholesale purchaser-resellers as defined in 10 CFR 211.51 and explained in Ruling 1975–8.

INTERPRETATION 1975—71

To: Gordon H. Wallace.

Date: November 11, 1975.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCR(IX)—AI—Wholesale Purchaser-Reseller.

This is in response to your October 16, 1975 request for interpretation submitted to FEA in accordance with the provisions of 10 CFR 205, Subpart F. You wish to know if your client, Gordon H. Wallace, an Atlantic Richfield (ARCO) distributor, is to be considered a wholesale purchaser/reseller as defined by 10 CFR 211.51.

FACTS

We understand the facts upon which this interpretation is made to be as follows: Gordon H. Wallace (distributor) entered into a "commission tank truck distributor's agreement" with ARCO on April 29, 1969, the agreement continuing until either party terminated. ARCO would provide petroleum products to the distributor at its bulk plant, 5815 West Imperial Highway, Los Angeles, and pay the distributor according to rates specified in the agreement, generally at one month intervals.

The distributor agreed to deliver ARCO products to contractual customers and others within that territory. The agreement provided that distributor's employees would be under "his direction, supervision and control and are not employees of the company . . ." Distributor would pay all expenses necessary to perform the aforementioned services.

Paragraph 3 of the agreement states that the distributor ". . . is engaged in an independent business." The paragraph does not reserve in ARCO the right to direct the number, compensation, time or details of work of Distributor's employees.

In addition, the distributor is liable for providing workmen's compensation and unemployment insurance, annuities or retirement benefits and any other benefits or taxes imposed by Federal or state laws.

ISSUE

The issue presented for interpretation is whether the distributor operating as described above qualifies as wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION

It is our opinion that the distributor, to the extent that he sells and distributes allocated products under the circumstances set forth above, qualifies as a wholesale purchaser-reseller as defined in 211.51 of the Mandatory Petroleum Allocation Regulations and clarified by FEA Ruling 1975–8.

Wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product. Only in those situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally like a jobber, will the firm qualify as a wholesale purchaser-reseller.

In the present case, a distributor is arguably in the same position as the above consignee. Thus, according to the ruling, a consignee (or distributor) which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) Appropriate facilities and equipment for the conduct of the business of selling and distributing its suppliers' products; (b) responsibility independent of its supplier, for its internal financial management and physical and other administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its suppliers' products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing products solely to customers designated by the supplier.

In the factual situation posited above, your client retains a substantial amount of autonomy in distributing ARCO's petroleum products, notwithstanding the fact that ARCO generally limits the distributor's sales territory and fixes the prices for the products. The distributor is responsible for his employees' acts, compensation and other benefits. What is especially dispositive is the fact that ARCO calls this distributor an "independent businessman" so that they will not be liable for the distributor's acts. Clearly then, ARCO cannot reasonably contend that an independent businessman is synonymous with an agent or company employee. Accordingly, it is our opinion that Gordon H. Wallace is a wholesale-purchaser/reseller as detailed by 10 CFR 211.51 and FEA Ruling 1975–8.

INTERPRETATION 1975—72

To: Joseph L. Castor.

Date: November 20, 1975.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCR(IX)—AI—Wholesale Purchaser-Reseller.

This is in response to your request for interpretation, received by this office on October 31, 1975, in accordance with the provisions of 10 CFR 205, Subpart F, as to whether Joseph L. Castor (Castor), an Atlantic Richfield Company (ARCO) distributor, is a wholesale-purchaser/reseller as defined by 10 CFR 211.51.

FACTS

We understand the facts upon which this interpretation is based to be as follows: Castor entered into a commission tank truck distributor's agreement with ARCO on March 9, 1970, continuing thereafter with a right of termination reserved to either party. This agreement is still in full force and effect.

The agreement provided that title to all petroleum products would remain with ARCO until sold, and that all prices would be fixed by ARCO. Further, credit limits were set by ARCO, and the distributor assumed liability if these limits were exceeded.

Overall, numerous documentary indicia of distributor independence appear. Castor was

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responsible for the products in his possession, and apparently had the authority to select customers within the marketing area. Castor bore all costs of delivery and owned all rolling stock and other equipment. Further, Castor was responsible for all his employees and paid their workmen's compensation insurance, solely provided any pensions or annuities, and paid all Federal and state taxes as imposed by law. Even more importantly, ARCO stated that Castor was "engaged in an independent business," presumably to limit its liability and exposure.

ISSUE

The issue presented for interpretation is whether the consignee described above qualifies as a wholesale purchaser-reseller, as defined in 10 CFR 211.51.

INTERPRETATION

It is our opinion that the consignee, (or whatever term may be used) to the extent that he sells and distributes allocated products under the circumstances set forth above, qualifies as a wholesale purchaser-reseller as defined in Section 211.51 of the Mandatory Petroleum Allocation Regulations and clarified by FEA Ruling 1975–8 (copy enclosed).

Wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product and that only in situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally as a jobber would, will the firm qualify as a wholesale purchaser-reseller. Castor, the instant consignee, would seem, for all intents and purposes, to be in the same position as the type of consignee treated as a reseller by the Ruling.

According to Ruling 1975–8, a consignee (such as Castor) who operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) Appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for internal financial management and physical and other administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products; and (4) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing products solely to customers designated by the supplier.

From the above described facts, it is apparent that Castor retains sufficient control and authority over the conduct of his business to be considered a wholesale-purchaser/reseller. Although ARCO exercises control over territory, pricing and title to the product, these are insufficient to render Castor a mere agent, as opposed to "reseller." Since he bears the expenses of conducting his business and is completely responsible for the conduct of his employees, it is our opinion that Castor is a wholesale-purchaser/reseller as defined by 10 CFR 211.51.

INTERPRETATION 1975—73

To: Beukema Petroleum Co.

Date: November 28, 1975.

Rules Interpreted: §§ 211.9, 211.10, 211.102, 211.106.

Code: GCR(V)—AI—Base Period Supplier.

This interpretation is issued in response to your request for interpretation dated July 21, 1975 as supplemented on July 25 and August 19, 1975. After consideration of the information contained in your request as supplemented, submissions filed by Admiral Petroleum Company and Four Star Service Stations Inc., and relevant authorities, the Federal Energy Administration, Region V, has determined that the proper interpretation is as follows:

APPEARANCES

Peter W. Steketee, Freihofer, Cook, Hecht, Oosterhouse and De Boer, P.C., 950 Union Bank Building, Grand Rapids, Michigan 49502, for Beukema Petroleum Company.
Robert W. White, Clary, Nantz, Wood and Van Orden, 700 Commerce Building, Grand Rapids, Michigan 49502, for Admiral Petroleum Company.
Robert D. Kullgren, Schmidt, Heaney, Howlett and Van't II of 700 Frey Building, Union Bank Plaza, Grand Rapids, Michigan 49502, for Four Star Service Stations Inc.

FACTS

From January 1, 1972 to July 1, 1972, Beukema Petroleum Company operated a branded Sunoco retail sales outlet at 2354 Eastern Avenue S.E., Grand Rapids, Michigan (the "Eastern sales outlet"). On June 1, 1972, Admiral Petroleum Company ("Admiral") agreed to supply Beukema with petroleum products for resale at the Eastern sales outlet thereby replacing Sunoco as its supplier. Admiral also agreed to sublease to Beukema and supply a retail gasoline outlet located at 821 Lake Michigan Drive N.W. in Grand Rapids (the "Lake Michigan sales outlet"). In July 1972 Beukema opened a third station located in Wyoming, Michigan which Admiral also agreed to supply. Beukema closed the Wyoming sales outlet in September 1973, and currently operates only the Eastern and Lake Michigan sales outlets.

Prior to the Beukema-Admiral agreement, Four Star Service Stations Inc. ("Four Star") approached the Marathon Oil Company ("Marathon") and inquired whether it knew of any independent retailers which Four Star could supply with minimal amounts of gasoline and was referred to Beukema by Marathon. Four Star needed to supply a gasoline retailer to preserve its federal distributor's license and apparently certain federal tax advantages. Following discussions with Admiral and Beukema, it was agreed that Four Star would sell gasoline to Admiral which Four Star would in fact deliver for Admiral to Beukema.

As of June 1, 1972, therefore, Four Star sold gasoline to Admiral at cost plus freight and then delivered the gasoline to Beukema for Admiral's account. Admiral billed Beukema at cost plus freight and taxes plus Admiral's margin for the gasoline delivered by Four Star. Orders for product were placed by Beukema with Admiral and Beukema's outlets sold gasoline under the Admiral trademark. Four Star had no credit or billing arrangements with Beaukema. This arrangement continued until October 1974 when Beukema terminated the agreement.

On January 15, 1974, the Mandatory Petroleum Price and Allocation Regulations became effective. In January 1974 Four Star applied for an adjustment to its base period volume by submitting a form FEO–17 to its base period supplier, Marathon. As justification for increased volumes based on new customers, Four Star submitted FEO–17 forms for the Eastern and Lake Michigan Drive sales outlets. The forms indicated that the Beukema retail sales outlets were operating under the Admiral trademark.

Marathon submitted Four Star's FEO–17 to Region V, FEA. On February 27, 1974, Region V notified Marathon that Four Star's base period volume had been adjusted on the basis of historical growth and a purported establishment of base period volumes for three wholesale accounts. Region V also notified Four Star that Beukema's base period volume had been adjusted to reflect the Wyoming and Lake Michigan sales outlets and an adjustment of the Eastern sales outlet's base period volume.

Beukema contends that FEA's February 27 Order assigned Four Star as Beukema's base period supplier for the duration of the Mandatory Petroleum Allocation Program and therefore terminated any supplier/purchaser relationship between Beukema and Admiral. Admiral contends that the method chosen by the parties to supply Beukema under FEA Regulations was the same as the method which had existed prior to the imposition of controls. Furthermore, Admiral claims that at the time of FEA's order no one seriously questioned that Admiral was Beukema's base period supplier under FEA regulations.

From October 1974 until July 1, 1975, Beukema operated on surplus product obtained from a non-base period supplier. In July 1975 Beukema sought product from Four Star contending that Four Star had a base period supply obligation to Beukema under FEA's February 27, 1974 Order. Four Star commenced deliveries. On July 10, 1975, Region V ordered Four Star to supply Beukema "to alleviate the immediate needs of Beukema Oil Co., and to provide an interim arrangement until the Federal Energy Administration, Region V, may rule appropriately regarding the Admiral-Beukema dispute • • •". That order was issued by the FEA, Region V Branch Office in Grand Rapids, although there is doubt that under FEA's regulations authority to issue such an order exists. On July 23, 1975 that interim authorization letter was rescinded by order of the Detroit Area Office.

Shortly after July 10, 1975 Admiral threatened legal action against Four Star unless delivery to Beukema was in accord with the Admiral, Four Star, Beukema agreement. Four Star thereupon terminated its supply to Beukema until Beukema on July 28, 1975 obtained a temporary restraining order from a United States District Court directing Four Star to supply Beukema. On August 15, 1975 a preliminary injunction was issued requiring Four Star to supply Beukema.

ISSUE

The question presented for consideration is whether Admiral or Four Star is Beukema's base period supplier for each of the months July through December under FEA's regulations.

INTERPRETATION

The base period for motor gasoline means the month of 1972 corresponding to the current month. 10 CFR 211.102. Thus, a firm's supplier during a particular month in 1972 is that firm's base period supplier for the current corresponding month.

Each of Beukema's retail sales outlets is considered a separate wholesale purchaser-reseller under 10 CFR 211.106(b)(1). Section 211.9(a)(2)(i) of the Mandatory Petroleum

Allocation Regulations provides that supplier/purchaser relationships between base period suppliers and wholesale purchaser-resellers must be maintained unless terminated by FEA. If a relationship is terminated by FEA, a new relationship with a new base period supplier must be assigned by FEA. 10 CFR 211.10(e). Supplier/purchaser relationships are not altered by the fact that the brand or franchise under which that retail sales outlet operates has changed. Thus, Sunoco is the Eastern sales outlet's base period supplier for the first six months of the year.

The Lake Michigan outlet did not begin operation until June, 1972. During the period June–December, 1972 Admiral was the supplier for both the Eastern and the Lake Michigan retail sales outlet. Accordingly, Admiral is the base period supplier for the Eastern and Lake Michigan sales outlets for the last six months of a year. Four Star is the base period supplier for Admiral for the same period of time.

Beukema has no base period supplier for the Lake Michigan outlets for the period January–June and would therefore apply for assignment of a base period supplier for that period. That application should be made to Region V, FEA, in Chicago.

The 1972 relationship between the parties is determinative of the supply obligation unless FEA has expressly, in writing, approved termination of the base period relationship. No such approval was sought nor has such approval been granted by FEA.

All documents submitted in conjunction with this Request for Interpretation (submissions by all parties, depositions, and transcripts of court hearings) indicate that the intent of the parties during the base period was that Admiral would have the obligation to supply and that Four Star would act as a common carrier for Admiral with Admiral retaining the responsibility to furnish product. Thus, Admiral is the base period supplier since Admiral was directly responsible for the physical delivery of product to Beukema with Four Star acting as a common carrier on Admiral's behalf. See 10 CFR 211.106.

FEA's issuance of the February 1974 Adjustment Order did not change the base period relationship between Beukema and Admiral. An adjustment order may increase a firm's base period volume which it may receive from its base period supplier. Such an order does not terminate the supplier/purchaser relationship between a base period supplier and its purchaser nor does it assign a purchaser to a base period supplier.

Beukema also raised a question regarding the price to be charged in the event Four Star were found to be Beukema's base period supplier. Because of our interpretation that Admiral, rather than Four Star, is the base period supplier to Beukema for the months June through December, this issue need not be discussed.

INTERPRETATION 1975—74

To: Albina Fuel Co.

Date: December 15, 1975.

Rules Interpreted: § 212.93, Rulings 1975–1, 1975–9.

Code: GCR(X)—PI—Non-product Costs, Retailer Blending Costs.

This is in response to the Request for Interpretation filed by you on behalf of your client, Albina Fuel Company of Portland, Oregon. The issue raised in your request was whether Section 212.93 of FEA Regulations can be interpreted to include a certain blending cost incurred by your client as an "increased cost of the item" which may be passed on to your client's customers.

FACTS

As stated in your Request for Interpretation Albina Fuel Company, a retail distributor, offers for sale residual fuel, PS 300 (light), PS 400M (medium), and PS 400I (industrial). When its supplier, Shell Oil Co., notified Albina of its intention to cease production of 400M on March 31, 1974, Albina determined that the refinery specifications for Shell medium called for a blending of 25% PS 300 with 75% 400I. Albina also determined that, if necessary, it could blend PS 300 and 400I in order to continue supplying its customers with 400M. On February 22, 1974, Albina was advised of Shell's indefinite suspension of its plan to cease production of 400M. Until September 19, 1974, Albina purchased these three products from Shell Oil Co., taking delivery of each item by one stop at Shell's bulk plant, then transporting the product directly to the customer.

On July 1, 1974, the cost of 400M rose *xxx* and the cost of 400I rose *xxx*, making 400M the highest priced residual fuel.

As the high-demand winter months approached, Albina calculated that it could obtain 400M by making two stops at Shell's plant (cost *xxxxx*/bbl), loading 25% 300 at one loading rack (cost *xxxx*/bbl) and 75% 400I (cost *xxxxx*/bbl) at a second loading rack. The fuels would be sufficiently mixed during loading and transportation to become 400M, the item offered for sale by Albina and meeting the customers' fuel oil requirements, at a saving of approximately *xxx*/bbl.

Beginning September 19, 1974, Albina ceased purchasing 400M outright from Shell and began acquiring 400M in its delivery truck tanks by the above process.

Albina maintains storage facilities only for a minimum amount of fuel for emergency purposes. Its inventory otherwise consists of the products in its retail delivery trucks en route from Shell's bulk plant to its customers. On June 2, 1975 Shell lowered its price of P.S. 300 to *xxxxx*/bbl and its price of 400M to *xxxxxx*/bbl. The price of 400I remained at *xxxxxx*. There was no longer a saving in blending 400M; therefore, since June 2, 1975 your client has purchased the product outright from Shell.

ISSUE

May the *xxxxx* blending cost be considered an "increased cost of the item" under Section 212.93 of FEA Regulations, resulting in a pass-through to Albina's customers of the *xxx* blending cost?

INTERPRETATION

As stated in your Request for Interpretation, the applicable FEA Regulations are as follows:

Section 212.93 Price Rule.

"(a) A seller may not charge a price for any item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects on a dollar-for-dollar basis, *increased costs* of the item." (Emphasis added)

Section 212.31 Definitions.

"'Item' means a product or service unit sold, leased or offered for sale or lease to a class of purchaser."

Section 212.92 Definitions.

"'Increased costs' means the difference between the weighted average unit cost of a *product in inventory* and the weighted average unit cost of that product in inventory on May 15, 1973. If a particular product was not in inventory on May 15, 1973, the date for computing the cost is the most recent day preceding May 15, 1973, when the seller had the product in inventory." (Emphasis added)

Your request for Interpretation also refers to Ruling 1975–1, dealing with transportation costs. That ruling together with Ruling 1975–9 and Ruling 1975–10 allows transportation costs and certain costs associated with transportation to be treated as "increased costs of the item," (commonly referred to as "increased product costs"). In order to be so treated, the costs must be incurred in bringing product into the firm's inventory. Ruling 1975–1 turns in part on the fact that transportation costs incurred in bringing refined product into the seller's inventory have historically been treated as a cost of acquiring the product. See Ruling 1975–1, 2 FEA, Par 16,041 at page 16,072. However, this does not appear to be case with respect to the blending costs at issue here. Similarly, the ruling notes that transportation costs are allowed as a "cost of crude petroleum" and "cost of petroleum product" under the refiner price rules (Section 212.83(b)). However, there is no corresponding recognition in the refiner price rules of blending expenses as an allowed "cost of crude petroleum" or "cost of petroleum product." Instead, such costs as "labor cost increase" and "additive cost increase" are dealt with under Section 212.87 relating to increased non-product costs for refiners. Accordingly, Ruling 1975–1 does not provide authority for the proposition that the $.42 blending cost incurred by your client is an increased cost of the item (product cost) which may be passed on to your client's customers. Instead, the blending costs appear to be a type of miscellaneous cost, or non-product cost, which may only be passed through to your client's customers pursuant to the limitations contained in section 212.93(b). With respect to residual fuel oil Section 212.93(b) provides that in retail sales a seller may charge ¾ cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of Section 212.93, to reflect non-product cost increases which the seller incurred after May 15, 1973. With respect to all other sales, the allowable charge is ¼ cent per gallon. These charges are authorized beginning with the month of April 1974. See Section 212.93 (b)(3).

The blending cost incurred by your client is not, strictly speaking, a transportation cost, and does not appear to be a type of cost associated with transportation which may be considered as increased product costs under the authority of Ruling 1975–9. Furthermore, the fact that a cost has to do in some way with bringing the product into inventory would not of itself make the cost a product cost. For example, a general increase in overhead and operating expenses would not be an increased product cost even though some portion of that increased expense could be attributed or assigned to the firm's activity in bringing product into inventory.

In light of the above, it is our opinion that the *xxxxxx* per barrel blending cost incurred by your client is not an "increased cost of the item" under Section 212.93(a) and that accordingly the blending cost may only be passed through to your client's customers within the limitations imposed by Section 212.93(b)(3) of FEA Regulations.

INTERPRETATION 1976—25

To: Callahan Oil Company.

Date: May 10, 1976.

Rules Interpreted: §§ 211.9, 211.25, Ruling 1974–3.

Code: GCR(I)—AI—FEA Assignment, Supplier-Substitution.

V 42 90 MAY 10 77 7 UMI

This is in response to your October 14, 1975 Request for Interpretation on behalf of Callahan Oil Company as to whether a supplier substitution pursuant to FEA regulation 10 CFR Section 211.25 is permissible in complying with an FEA order of assignment issued pursuant to 10 CFR 205, Subpart C.

FACTS

Callahan Oil Company (Callahan) is an independent marketer of gasoline in New England based in Norwich, Connecticut with a total annual volume of retail gasoline sales of about *xxxxxxxxx* gallons. It owns and operates about *xx* branded retail outlets which are not affected by this dispute and about *xx* non-branded retail outlets, including the outlets covered by the assignment orders herein. Callahan buys the major portion of its gasoline in tanker or barge quantities, which are delivered to its facilities in Norwich or New Haven.

During the Spring, 1975, FEA received FEA Forms–17, Requests for Assignment of Supplier, from Callahan requesting assignmeat of a supplier and specified volumes of motor gasoline to eight non-branded retail gasoline stations owned and operated by Callahan at various locations throughout New England. In processing the referenced requests, FEA contacted Gibbs Oil Company (Gibbs) as a potential supplier. Gibbs indicated its willingness to supply the Callahan locations if BP Oil Company's (BP) obligations as Gibb's supplier were increased accordingly. Subsequent discussions were held between FEA and BP during which BP indicated that if it was assigned these supply obligations BP would designate its distributor, Gibbs, as a substitute supplier pursuant to 10 CFR 211.25.

On July 31, 1975, FEA issued assignment orders which directed BP to supply motor gasoline to the eight Callahan-owned and operated retail outlets. The orders were issued in Case Nos. 01–008732, 01–008733, 01–008735, 01–008736, 01–009770, 01–009076, 01–009178 and 01–009180 and in substance required BP

To supply motor gasoline to * * * (the retail outlet) in the following assigned base period volumes * * *

On August 11, 1975 FEA Regulatory Programs Division received individual letters dated August 7 and 8 from BP acknowledging receipt of each of the assignment orders in question and stating as follows:

As advised at the time BP indicated its agreement to accept this assignment, BP is arranging to supply through its Distributor, Gibbs Oil Company, 40 Lee Burbank Highway, Revere, MA 02151 under the "Supplier Substitution" provision of Title 10, CFR, 211.25.

Copies of the aforementioned letters were sent to Callahan. On August 22, 1975 FEA sent letters to BP in each of the aforementioned cases stating in pertinent part as follows:

* * * BP Oil Inc., per FEA orders, is the assigned supplier of these outlets. However, you (BP) may, pursuant to the provisions of Section 211.25 (supplier substitution) of the Mandatory Petroleum Allocation and Price Regulations (10 CFR II), arrange to supply the outlets through Gibbs Oil Company of Revere, MA or any other supplier in accordance with normal business practices.

Copies of the aforementioned letters were sent to Callahan.

On August 14, 1975 FEA Compliance and Enforcement Division received a complaint pursuant to 10 CFR Part 205, Subpart N, from Callahan which alleged non-compliance with FEA regulations and the referenced assignment orders.

The Callahan complaint alleged in substance that the BP-Gibbs substitution was not a permissible supplier substitution under 10 CFR 211.25 in that it was neither an exchange arrangement under § 211.25 as suggested by Ruling 1974–3, which can be justified from a logistical standpoint, nor was it a normal business practice sanctioned under § 211.25 since "BP does not normally require its terminal operator customers like Callahan to purchase from terminal operators like Gibbs." The Compliance and Enforcement Division reviewed and responded to that complaint via letter dated October 31, 1975 concluding that the supplier substitution arrangement between BP and Gibbs to supply the retail outlets in question was not a violation of the assignment orders or FEA regulations and that the relief sought by Callahan should be pursued by a timely Exception request to the FEA National Office of Exceptions and Appeals. Notwithstanding a rather detailed factual finding and determination in this letter, Callahan seeks this Interpretation incorporating by reference its complaint dated August 12, 1975 and its letter dated September 12, 1975 citing the decision in Whitco, Inc., 2 FEA ¶ 83,170.

ISSUE

The issue presented for consideration is whether, under the circumstances presented, it is lawful under the Mandatory Petroleum Allocation Regulations for a reseller of motor gasoline to comply with an FEA assignment order by the substitution of another supplier pursuant to 10 C.F.R. § 211.25(a).

DISCUSSION

The FEA has recognized that the continuing supply obligations specified in 10 CFR 211 could create distribution difficulties for suppliers. To alleviate such problems and provide some flexibility in the Allocation Program, FEA created a means by which a firm can arrange to meet its supply obligations through a supplier substitution. 10 CFR 211.25(a) provides, in part, that:

Any supplier may arrange to supply any purchaser which is entitled to receive an allocation from it through another supplier or suppliers in accordance with normal business practices * * *

Ruling 1974–3 addresses itself to supplier/purchaser relationships, and among other things, discusses § 211.25. The Ruling states that a base period supplier has a continuing obligation to provide allocations to base period purchasers and that the supply obligation imposed by 10 CFR 211.9 may be accomplished indirectly "(u)nder Section 211.25 * * * *through appropriate exchange agreements with other suppliers in accordance with normal business practices.*" (Emphasis added.)

The supplier's decision to utilize substitutions under § 211.25 is not unfettered, however, as that provision has been construed by FEA's Office of Exceptions and Appeals. In *Whitco, Inc.*, 2 FEA ¶ 83,170, a decision on an Exception request, FEA's Office of Exceptions and Appeals determined that:

(1) Where valid economic reasons do not exist for doing so, a base period supplier may not use supplier substitution under § 211.25 to fulfill its base period obligations to purchasers since the insertion of an additional firm in the distribution chain does not constitute a normal business practice as sanctioned by § 211.25;

(2) even where valid economic reasons exist for the insertion of a substitute supplier, the base period supplier must realize that in marketing product through a substitute supplier, class of purchaser adjustments may be required for purposes of applying FEA's price regulations; and

(3) whenever FEA finds that the implementation of a supplier substitution has resulted in a serious financial hardship to a base period purchaser, FEA may grant exception relief which would have the effect of prohibiting that substitution.

Thus, the *Whitco* decision imposes guidelines which serve to restrict the apparently broad discretion offered suppliers under § 211.25 by prohibiting indiscriminate substitutions where serious financial hardship can be documented in the context of an application for exception relief to FEA.

Callahan urges that although it has never purchased gasoline from BP, it maintains substantial and continuing exchange agreements with BP, allegedly involving millions of gallons per month, and that since such a "business relationship" existed, that it was the proper party (in its role as a jobber), rather than Gibbs, to be substituted by BP for the supply of the Callahan-owned retail outlets.

In the instant case, however, Gibbs was the historical distributor for BP products to retail outlets in New England. It was normal business practice for BP to deliver product to Gibbs for distribution to retail outlets. Callahan was not a distributor of BP motor gasoline, and its alleged participation in exchange agreements with BP is not tantamount to a finding that Callahan is a distributor of BP products. In any event, even if it could be concluded that Callahan could be construed to be a "distributor" of BP products, this factor alone would not be sufficient to undercut the reasonableness of BP's choice of Gibbs to be the substitute supplier. It is clear that although Gibbs may not have been the only logical choice for a supplier substitution by BP, it was certainly a reasonable choice based on BP's historical business practice in serving retail stations like Callahan's in the New England marketing area.

Callahan also contends that because of its position as a bulk terminal operator it * * * cannot afford to buy substantial quantities of gasoline * * * from Gibbs, another terminal operator like themselves," and that the insertion of Gibbs into the supplier chain is economically wasteful. In support of its position, Callahan has asserted that the third guideline of the Whitco decision requires that a supplier substitution cannot be effectuated if the result of that substitution is to elevate the price charged to a customer above that which the customer would otherwise pay if supplied directly.

There is no showing, however, that the Callahan-owned retail stations are paying a higher price in purchases from Gibbs than those stations would pay if the purchases were made directly from BP at the price normally charged by BP to the class of purchaser which encompasses such retail stations. In addition, Callahan appears to be suggesting that Whitco mandates that if any profit is to be made at the middle level of distribution, Callahan, in its role as a jobber, not in its role as the owner of retail stations, should be afforded the benefit of the substitution. Such a position is untenable, since Whitco does not address this issue. Rather, Whitco concerns the potential for an adverse economic impact on the purchaser when supplier substitution occurs.

In the instant case, Callahan has presented no detailed factual information probative of financial hardship, such as severely increased prices from the substitute supplier which jeopardize Callahan's market position or which threaten Callahan's continued viability as a retailer. It should be noted that even if Callahan has presented such data, the proper avenue for relief in cases of economic hardship is a request for an exception pursuant to Subpart D of Part 205 of FEA regulations. In fact, FEA expressly recommended to Callahan in a letter dated October 31, 1975 that exception relief might be appropriate upon the presentation of substantive financial data. To date, Callahan has not availed itself of this opportunity.

Callahan also contends that the effect of the eight assignment orders issued relating to retail stations herein concerned was to establish a supplier/purchaser relationship between BP and Callahan in its capacity as a terminal operator, rather than between BP and each of the eight stations. Callahan views the supplier substitution, therefore, as a unilateral termination of Callahan's § 211.9 supplier/purchaser relationship with BP. Contrary to Callahan's suggestion, however, the eight supplier/purchaser relationships created by these assignment orders are not with Callahan in its capacity as a terminal operator. Rather, the eight supplier/purchaser relationships are with eight separate retail firms, notwithstanding their ownership and operation by Callahan. In addition, even if Callahan, as a terminal operator, was deemed to be the purchaser, Callahan's contention, if valid, would render the provisions of § 211.25 mere surplusage. FEA regulations expressly contemplate substitution and the language in § 211.9 regarding termination is irrelevant to the present case since in cases of supplier substitution the underlying base period obligation is not terminated, it remains unchanged.

Based on the foregoing, it appears that BP's utilization of Gibbs as a substitute supplier to the Callahan retail outlets was, and is, consistent with the normal business practices of these firms during the base period and was, therefore, permissible under 10 CFR 211.25 of the regulations.

At such time as Callahan believes that it is suffering an undue financial burden as a result of BP's supplier substitution as discussed herein, Callahan may seek exception relief in accordance with the provisions of Subpart D of Part 205 of FEA regulations.

[FR Doc.77–12696 Filed 5–9–77;8:45 am]

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federal register

TUESDAY, MAY 10, 1977

PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

INTRAUTERINE CONTRACEPTIVE DEVICES

Professional and Patient Labeling

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 75N-0122]

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

SUBCHAPTER H—MEDICAL DEVICES

PART 801—LABELING

Intrauterine Contraceptive Devices; Professional and Patient Labeling

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is establishing uniform professional and patient labeling for intrauterine devices (IUD's). The labeling will assist professionals and patients in deciding whether to use an IUD for contraception; it includes requirements for instructions on insertion and usage, contraindications, warnings, adverse reactions, precautions, side effects, and information on IUD effectiveness.

EFFECTIVE DATE: November 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Device IUD's—Robert Skufca, Bureau of Medical Devices and Diagnostic Products (HFK-460), 8757 Georgia Ave., Silver Spring, MD 20910 (301-427-7238).

Drug IUD's—Edwin M. Ortiz, Bureau of Drugs (HFD-130), 5600 Fishers Lane, Rockville, MD 20857 (301-443-3490).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 1, 1975 (40 FR 27796), the Commissioner of Food and Drugs proposed to amend Chapter I of Title 21 of the Code of Federal Regulations by expanding § 310.502 to establish uniform professional and patient labeling for intrauterine devices. Interested persons were given until September 2, 1975 to submit written comments. In the FEDERAL REGISTER of October 15, 1975 (40 FR 48362), the Commissioner extended until November 14, 1975 the period for commenting on the proposal. Nearly 100 individuals, physicians, trade associations, consumer groups, professional organizations, and local government health departments commented on the proposal.

The comments primarily concerned the labeling directed to the physician and to the patient (the Patient Brochure). The major issues raised about labeling directed to the physician concerned informed consent and timing of delivery (whether the physician should provide the labeling to the patient before the date set for insertion or merely before insertion). In addition, numerous suggestions concerned specific items in the physician and patient labeling such as warnings, side effects, contraindications, and insertion techniques. Comments on labeling directed to the patient concerned scope, language, and format of the information. Both sets of comments are addressed in more detail below.

In this document, the terms "drug IUD's" and "device IUD's" are used in both the preamble and the final regulation itself. Drug IUD's incorporate heavy metals, drugs, or other active substances to increase the contraceptive effect, to decrease adverse reactions, or to provide increased medical acceptability. Device IUD's are fabricated solely from inactive materials, e.g., inactive metals or plastics. Device IUD's may contain substances added to improve the physical characteristics of the inactive metals or plastics if the added substances do not contribute to contraception through chemical action on or within the body and are not dependent upon being metabolized to achieve contraception.

The agency's policy of treating some IUD's as drugs and others as devices is unaffected by the revised definition of device found in the Federal Food, Drug, and Cosmetic Act, as amended by the Medical Device Amendments of 1976 (Pub. L. 94-295).

A drug IUD cannot be marketed until FDA approves a new drug application for the product. Similar premarket approval requirements apply to device IUD's marketed for the first time subsequent to the enactment of Pub. L. 94-295. After a transitional period, device IUD's on the market before the date of enactment of Pub. L. 94-295 may also be required to comply with premarket approval requirements.

The Commissioner is aware that States and their political subdivisions may have requirements applicable to device IUD's which are different from or in addition to requirements applicable under the Federal Food, Drug, and Cosmetic Act. New section 521 of the act (21 U.S.C. 360k) preempts such local requirements until such time as the Commissioner has granted an exemption from such preemption in response to an application for exemption.

The Commissioner requests that any State or political subdivision thereof, which has requirements applicable to device IUD's for which an exemption from Federal preemption is desired, submit an application for exemption to FDA as required by section 521(b) of the act.

The Commissioner is revising § 310.502 (21 CFR 310.502) to indicate that labeling of device IUD's is governed by § 801.425 (21 CFR 801.425). The medical device regulations formerly under Subchapters A, C, and D of Chapter I of Title 21 were recodified under new Subchapter H (Medical Devices), Parts 800 through 899, as published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6896). As a result of the recodification, regulations pertaining to device IUD's are now promulgated under Subchapter H (Medical Devices), and those pertaining to drug IUD's will remain under Subchapter D (Drugs for Human Use). Regulations that apply to both drug IUD's and device IUD's will be in Subchapter D and Subchapter H, respectively. Accordingly, the final regulation based on the July 1, 1975 proposal which relates to drug IUD's is set forth under § 310.502 and that which relates to device IUD's is set forth under new § 801.425.

In addition, the final regulation contains format changes. For example, in the patient labeling information, the headings "Important Warnings" and "Complications" are combined under a new section entitled "Warnings", and a new heading "Special Warning about Pregnancy with an IUD in Place" has been added.

In preparing the final regulation, the agency has considered a report prepared under contract with FDA by the Battelle Memorial Institute, Human Affairs Research Centers, 4000 NE 41st, Seattle, Washington (Ref. 1a). This report is a review and analysis of the literature and journal articles on IUD's from 1968 through August 1975. References in the preamble are to the Battelle report, unless otherwise noted. The first number in parentheses references the narrative material in the report; the second number(s) references the appropriate page(s) in the bibliography in the report.

A summary of the comments on the proposal and the Commissioner's conclusions follow:

LABELING DIRECTED TO THE PHYSICIAN

1. One comment on "Indications and usage" for drug IUD's objected to the tabulation of event rate data (data relating to termination of use for four specifically defined categories) by the life table method which is based on the results from the number of women-months at 12- and 24-month intervals of use. The comment argued that data developed in new studies after elapse of the 12- and 24-month intervals would render obsolete any data that are included in the current IUD labeling.

The life table method of calculating rates for key events leading to discontinuation was developed by Potter and Tietze (Ref. 1), and it is the basis for all major studies utilizing contraceptive use effectiveness data. The Commissioner does not intend to substitute another statistical approach at this time because he believes that the life table method, utilizing 12- and 24-month interval data, provides consistent and necessary parameters for evaluating key events, and that data obtained for these two periods provide an effective measure of contraceptive use effectiveness. Manufacturers will be responsible for ensuring that the data used in their labeling are the latest available at the time of each printing, and they will also be responsible for amending labeling within a reasonable time after the development of new data.

2. Contraindications for IUD's are those situations in which the product should not be used because the risk clearly outweighs any possible benefit. In contrast, while precautions are appropriate where there is no absolute restriction on use of the product with the intended patient, the attending physician is expected to decide whether a product should be used after evaluating the individual patient. The Commissioner has therefore eliminated from the "Contraindications" section of the physician labeling certain conditions in which IUD use may be indicated following positive treatment of the particular conditions. For example, anemia is now addressed in the "Precautions" section (Ref. 1a (184), pp. 193-6).

Four comments recommended that adnexal disease, bicornuate or septate uterus, history of rheumatic heart disease, menorrhagia, cervical stenosis, heart disease with valvular involvement, abnormal "Pap" smear, and Wilson's disease be added to the list of contraindications.

The Commissioner believes that the reference to a history of repeated pelvic inflammatory disease is more precise than, and therefore preferable to, a reference to "adnexal" (uterine appendages) disease. Furthermore, distortion of the uterine cavity, already listed under contraindications, includes "bicornuate or septate uterus" so that these conditions need not be specifically listed. The Commissioner believes that menorrhagia (excessive menstual bleeding) is only a contraindication for IUD's in instances where its cause is unexplained. Unexplained menorrhagia is already covered by the contraindication for "Genital bleeding of unknown etiology." Thus, the Commissioner believes that separate listing of menorrhagia as a contraindication is inappropriate as a contraindication in the proposed labeling.

The Commissioner believes that cervical stenosis (constriction) is not a contraindication to IUD use because the cervix must be sounded and often dilated in the nulliparous patient before insertion of the IUD. Therefore, it is not included in the final regulation.

The Commissioner agrees with the comments that Wilson's disease should be added to the list of contraindications for copper-containing drug IUD's since it is believed that Wilson's disease results from abnormal copper metabolism, and excessive amounts of copper have been found in the brain, liver, and urine of patients who use copper-containing drug IUD's. For drug IUD's, known or suspected allergy to copper is retained as a contraindication.

Because patients with valvular (rheumatic) or congenital heart disease are more prone than patients without such cardiac anomalies to develop subacute bacterial endocardities (infimation of the heart), some researchers recommend that contraceptives other than IUD's be used in these patients, while others suggest that only those with a valvular heart disease who are symptomatic and on therapy should be restricted to other forms of contraceptives.

The Commissioner believes that IUD's represent a potential source of septic emboli, which could lead to death, in patients with valvular or congenital heart disease. However, IUD use is not an absolute restriction for these patients because pregnancy could pose a greater risk to them than IUD's. Accordingly, the regulation requires a precaution on use of IUD's in patients with valvular or congenital heart disease to be provided in physician labeling but does not list valvular or congenital heart disease as a contraindication.

The Commissioner has determined that if there is suspicion of malignancy because of an abnormal "Pap" smear, a definitive diagnosis should be made prior to IUD use. Therefore, he includes under the "Contraindications" section "unresolved abnormal 'Pap' smear."

3. Two comments on "Warnings" in the proposed professional labeling objected to the use of the word "recent" in reference to reports indicating an increased incidence of septic abortion in patients becoming pregnant with IUD's in place. A comment on spontaneous abortion (miscarriage) suggested that a statement be included in the labeling relating to all abortions (septic or otherwise) resulting from IUD removal during pregnancy.

The Commissioner agrees that the word "recent" is inappropriate since not all reported septic abortions occurred recently. Because the critical fact is that septic abortions have occurred in patients who become pregnant with IUD's in place and not when these septic abortions have occurred, the word "recent" is deleted from the final regulation.

The Commissioner is also requiring that the physician labeling include a statement relating to the risk of spontaneous abortions in IUD users who become pregnant. Published data demonstrate that if an IUD is left in place in a pregnant patient, the rate of spontaneous abortion, especially in mid-trimester, is greater than when the article is removed. Removal of the IUD improves the chances of a live birth since an IUD sometimes interferes with the course of pregnancy. Removal is recommended in all cases where the IUD's tail or string is visible at the cervix. If the tail or string is not visible or removal proves to be difficult, termination of the pregnancy should be considered and discussed with the patient as an option since, in any event, the attempt to remove the IUD may unavoidably result in an abortion. The patient should also be warned of the increased risk of sepsis, if the pregnancy is not terminated. If, after being offered the opportunity to terminate the pregnancy, the patient elects to continue the pregnancy with the IUD in place, she should be followed closely by the physician (Ref. 1a (227, 264), pp. 244-253, 268-271).

4. Three comments suggested that the warning concerning ectopic (outside the uterus) pregnancy be clarified.

The Commissioner agrees that further explanation of the signs and symptoms of an ectopic pregnancy should be addressed in the warning, since manifestations of this condition in association with an IUD may be unlike the symptoms of normal uterine pregnancies. There are two situations in which a physician should be especially alert to the possibility of ectopic pregnancy in IUD users: (1) patients with delayed menses, slight menorrhagia, or unilateral pelvic pain and (2) patients who may want to interrupt pregnancy because of IUD failure. Moreover, to amplify and clarify the relationship between the IUD and ectopic pregnancy, the Commissioner is adding to the final regulation the requirement that the labeling state that IUD users who become pregnant are more likely to have an ectopic pregnancy than non-IUD users and that IUD users in whom pregnancy occurs should be carefully evaluated for the possibility of an ectopic pregnancy. (Ref. 1a (199), pp. 244-253).

5. Three comments expressed concern that the proposed warnings on "severe" pelvic infection was too limited. One of these comments suggested that the IUD should be removed whenever pelvic infections occur.

Because pelvic infection, including pelvic inflammatory disease can be serious and can lead to decreased fertility, ectopic pregnancy, or chronic pelvic pain, the Commissioner is revising the warnings on pelvic infection to be more informative to physicians. The Commissioner has eliminated the word "severe" from the heading so that all pelvic infections, not just severe ones, are addressed by the warning. The proposed warning directed the physician to remove an IUD if serious pelvic infection occurs. However, the Commissioner is aware that there is no consensus regarding the removal of the IUD upon discovery of general pelvic infection (acute, subacute, or chronic). Thus, the Commissioner believes that the physican may decide what course of action is appropriate for the patient (i.e., removal or nonremoval). The revised labeling, however, suggests the advisability of antibiotic treatment following appropriate bacteriological studies. If the infection does not respond to antibiotic treatment within 24 to 48 hours, the physician should remove the IUD and reassess the advisability of continuing treatment based on the culture and sensitivity reports (Ref. 1a (234, 236, 240), pp. 244-253).

6. Two comments suggested that a discussion of migration and embedment of an IUD be included under "Warnings."

Perforation is broadly defined as the complete or partial positioning of the IUD through the uterine wall including the cervix and has been included under the "Warnings" and "Adverse Reactions" sections. The term "perforation," which is used in the regulation, is an inclusive term and is the most commonly used term to denote the change in relationship of the IUD to the uterus. The term "migration" is imprecise, and the Commissioner finds that it cannot be defined for purposes of this regulation. The Commissioner agrees that the term "embedment" is distinguishable from "perforation" and is including it under the "Adverse Reactions" and "Warnings" sections.

7. One comment recommended that a discussion of the possibility of expulsion

V 42 90 MAY 10 77 UMI

or displacement of an IUD be included under "Warnings."

The Commissioner considers the possibility of expulsion of an IUD a serious risk that should be addressed in the final regulation as suggested. However, he finds it more appropriate to refer to this matter under "Precautions" and "Adverse Reactions" than under "Warnings," since "Warnings" addresses only the most serious of possible adverse effects. Therefore, the final regulation is amended under "Precautions" to state that, "Since expulsion is possible with IUD use, patients should be reexamined and evaluated shortly after the first postinsertion menses, but definitely within 3 months after insertion. Thereafter, patients should have a routine medical examination."

The term "displacement" is imprecise and will not, therefore, be used in the labeling.

8. One comment requested the deletion from the "Warnings" section concerning copper-containing IUD's of the statement that "minute amounts of copper may cause hemolysis in patients with a deficiency of glucose 6-phosphate dehydrogenase" on the grounds that the amount of copper released into the system is too insignificant to produce hemolysis.

The Commissioner agrees that the statement is not supported by available data, and he therefore is deleting it from the "Warnings" section.

DISTRIBUTION OF LABELING TO PATIENTS

9. A number of comments expressed concern over when the IUD patient Brochure should be given to a patient. The preamble of the proposal stated that "prior to the date" scheduled for insertion of the IUD the physician must supply the patient with a Patient Brochure so that she has adequate time to read the labeling. The proposed regulation, however, stated that "prior to insertion," the physician must provide the patient with a Patient Brochure, and that the patient must be given adequate time to read the labeling in advance of the time scheduled for insertion of the IUD. Five comments objected to providing the patient with a Patient Brochure "prior to the date" scheduled for insertion. One comment stated that to require a patient to return to the physician's office at least 1 day after she has decided to use an IUD is unfair to the woman and the physician. Another comment indicated that if the Patient Brochure must be provided during an appointment prior to the date of insertion, the number of patients who do not return and become pregnant after the first appointment would be significant. One comment stated that the intention of the IUD labeling regulation should not be to require double visits, thereby increasing the cost to the patient. The comments were in general agreement, however, that a patient should have an opportunity prior to insertion to read the Patient Brochure and discuss any questions she may have with a physician.

The Commissioner agrees that the patient should be provided with the brochure "prior to insertion." The Commissioner does not believe that it is essential that the brochure be provided at a date earlier than the one set by the physician and patient, for consideration of insertion. He does, however, believe that the patient should have adequate time to read the brochure and discuss any questions with the physician before making a final, informed, and rational decision to use an IUD, and this was the intent of the proposal. It is therefore highly desirable, although not required, that the patient receive the brochure on a date earlier than the date set for insertion. However, the Commissioner did not intend to require that the patient visit the physician twice, once to receive the brochure and again to have the IUD inserted. He believes that the term "prior to insertion" indicates it is permissible, though less desirable, for the patient to be provided the brochure the same day that she obtains the IUD.

To maximize the availability of the Patient Brochure to prospective IUD users, and to make it more likely that a patient has obtained and read the brochure prior to insertion, the Commission recommends that the following methods be used to disseminate the brochure:

a. The patient may be provided the Patient Brochure (and information about any other available birth control method) during a routine visit to a physician or a trained health professional, especially when the patient requests information on IUD's or birth control in general.

b. The patient could pick up the brochure at the physician's office without being examined by the physician. This would not require use of a physician's time and would not constitute a formal visit to the physician.

c. A copy of the brochure could be mailed to the patient from the physician's office.

To encourage adequate dissemination of the Patient Brochure, it should be understood by manufacturers that the brochure must accompany each IUD but must be packaged separately from the sterile package itself. This requirement is added to the final regulation.

10. Two comments concerning the "Precautions and routine examinations" section recommended that in addition to physicians, other appropriately trained health professionals be allowed to disseminate IUD information to the patient.

The Commissioner agrees with this recommendation. The final regulation is amended under the "Patient counseling" portion of the "Precautions" section to include a broader segment of the health community, including nurses and other trained health professionals in the dissemination of IUD information. This will ensure that more prospective IUD users are given access to the necessary patient information to allow them to make more informed judgments regarding IUD use.

11. The proposal stated that the physician should discuss fully the information in the Patient Brochure with the patient, as well as other means of contraception, and obtain the patient's consent. The proposal provided that if a patient is not competent to give informed consent, her parent or guardian must be provided with the information necessary to decide on behalf of the patient. Under the proposal, the consent could be oral or written; if oral, a notification in the patient's record was recommended.

The portion of the proposal concerning informed consent elicited 13 comments. Four comments generally approved of the informed consent provisions, while nine comments opposed such provisions as not being appropriate in IUD labeling regulations. Comments in support of the informed consent provisions suggested that, without enforcement by FDA, it is a hollow requirement. It was suggested that procedures be established to monitor compliance with informed consent provisions and that violators be prosecuted. It was also suggested that physicians' records be periodically reviewed by IUD manufacturers or the government to ensure compliance with the provisions. Physicians, according to the comment, should keep records documenting the consent whether it is oral or written. Moreover, it was suggested that witnesses should be required to sign consent forms that would then become part of the record.

Comments opposing the proposed informed consent provisions argued that such a requirement is not proper for an FDA package insert requirement. It was stated that supplying appropriate information to the patient and obtaining her consent to a particular medical procedure is a basic part of good medical practice. It was suggested that by requiring informed consent, FDA would be interfering with the practice of medicine and infringing upon the physician-patient relationship. One comment suggested that FDA does not have the authority to impose on physicians an informed consent provision, regardless of its form or content, except where an investigational procedure is used.

The Commissioner has carefully considered the comments on the informed consent issue. He concludes that the final regulation should not mandate a formal consent procedure. However, he believes it is incumbent upon the attending physician to offer the same type of patient information as would be given in any other comparable medical procedure. The Commissioner concludes that the patient's interests will be adequately protected by expanded requirements to ensure that the prospective IUD user is provided full information about marketed IUD products. Of course, formal informed consent in accordance with § 310.102 is required for use of an investigational drug IUD and will be required in investigational studies of device IUD's when proposed regulations published in the FEDERAL REGISTER of August 20, 1976 (41 FR 35282) become effective.

The primary purposes of IUD labeling are to provide physicians and patients with adequate information so that patients can make an informed choice whether to use an IUD, and so that IUD's can be used in a safe and effective manner. The final regulation accomplishes this by requiring detailed information about IUD's to accompany every IUD, and also by requiring physicians to give patients time to read IUD information so they can make a more informed judgment about IUD use.

Whether or not FDA were to include an informed consent provision in IUD labeling regulations, physicians nonetheless have a duty under the law of most States to disclose affirmatively to patients all known material risks or dangers regarding medical procedures. Moreover, recent cases indicate a trend toward requiring both manufacturers and physicians to provide complete information to patients relating to all known or potential risks associated with medical products and for physicians to obtain consent.

12. Two comments on patient examination prior to insertion suggested the test for all forms of venereal disease be performed, not simply a culture for gonorrhea as indicated in the proposed regulation.

The Commissioner agrees that under certain circumstances (e.g., known contact with a syphilitic), the patient should be tested for other forms of venereal disease as well as for gonorrhea. Therefore, the Commissioner is amending the final regulation under "Precautions" to require that prior to insertion, a pelvic examination, "Pap" smear, gonorrhea culture, and if indicated, appropriate tests for other forms of venereal disease should be done (Ref. 1a, (181–192), pp. 193–195).

13. Two comments recommended that a statement on uterine sounding with respect to depth be included in the final regulation. It was noted that an IUD is more likely to be expelled when the uterine cavity is less than 6.5 centimeters (cm) deep.

The Commissioner agrees with the comment, and he is amending the final regulation under "Precautions" to indicate that the insertion of an IUD into a uterine cavity measuring less than 6.5 cm may increase the incidence of expulsion, bleeding, and pain (Ref. 1a, (183) pp. 193–195).

14. One comment suggested that it is unfair to require inappropriate an inapplicable statements to be included in the labeling of products to which the statement has only "tangential" relevance. The section "Continuation and removal" and portions of the section on "Insertion technique," for example, may not apply to all devices.

The Commissioner agrees that specific instructions for continuation and removal and insertion techniques are best left to the manufacturer. Therefore, information on specific insertion techniques formation on the need periodically to remove a particular device will be under the heading "Directions for Use" with specific wording to be developed by the manufacturer. It is generally suggested that whenever possible an IUD should be inserted during a menstrual period because the cervical canal is more open at this time than at other times during the cycle and because the possibility of pregnancy is reduced. Accordingly, the warning concerning insertion of the device during the menstrual period will remain in the physician labeling. The Commissioner realizes that a woman may menstruate and yet be pregnant and that, as a result, insertion of an IUD is ultimately a matter of medical judgment (Ref. 1a, (181–192), pp. 193–195).

General information on continuation and removal regarding such matters as insertion during the menstrual period, anemia, pelvic infection, pregnancy, uterine or cervical malignancy, and insertion of an IUD in uterine cavities smaller than 6.5 cm are now treated under other sections of the labeling such as "Precautions."

The Commissioner has simplified the format of the proposed regulation section headed "Precautions and routine examinations" which included "Insertion Technique." Now the "Precautions" section of the labeling contains necessary information on any special care to be exercised by the practitioner for safe and effective use of IUD's. In addition to what was proposed, there is now a precaution suggesting that a complete medical history germane to IUD selection be taken; a precaution on the use of medical diathermy (replacing the proposed warning on microwave therapy, a form of medical diathermy); a separate section on bleeding problems related to anemia; and a section on instructions to the patient.

16. One comment suggested that the discussion of menorrhagia (excessive bleeding) or metrorrhagia (uneven bleeding) producing anemia under "Requirements for continuation and removal" be limited to indicate that medical removal of an IUD should occur only when there is prolonged or recurrent menorrhagia or metrorrhagia.

The Commissioner is revising the labeling with respect to anemia and other blood related problems. The "Precautions" section in the labeling will indicate that IUD's should be used with caution in patients who have anemia or a history of menorrhagia or hypermenorrhea, and that patients experiencing menorrhagia or metrorrhagia following IUD insertion may develop hypochromic microcytic anemia (iron deficiency anemia).

The labeling will also suggest that IUD's be used with caution in patients receiving anticoagulants or having a coagulopathy because such patients may be predisposed to greater uterine bleeding than patients not receiving anticoagulants or having coagulation therapy (Ref. 1a, (214–220), pp. 244–253).

17. Two comments suggested that syncope (fainting) be added to the list of adverse reactions.

The Commissioner agrees with the comment because syncope may be anticipated during manipulation of the cervix during IUD insertion or removal. Accordingly, and in light of recent information, the Commissioner adds both to the "Precautions" section and to the "Adverse Reactions" section, "Syncope, bradycardia (slowness of the pulse), or other neurovascular episodes" (Ref. 1, (200–1), pp. 244–53).

OTHER CHANGES IN LABELING REQUIREMENTS

In addition to the changes made above in response to comments, the Commissioner is changing the labeling with respect to the recommended timing of a patient's first postinsertion visit.

The proposal stated that the visit should occur within 3 months postinsertion. Since expulsion occurs most frequently prior to the first postinsertion menses, the Commissioner is amending the "Precaution" in the physician's labeling and "Directions for Use" in the patient labeling to suggest an examination soon after the next menstrual period but no later than 3 months after insertion (Ref. 1a, (2340), p. 477).

The Commissioner has added "fragmentation of the IUD" to the list of "Adverse Reactions" because of several reports in the literature which indicate a breakdown of IUD composition in the uteri of a small number of women (Ref. 1a, (1227, 1790, 2072), pp. 417, 447, 462).

Section 310.502 contains information on IUD's which pertains only to drug IUD's. In addition to those already discussed in the preamble, a number of other potential sources of danger have been reported in the literature.

Under "Warnings," the Commissioner adds the statement, "Long-term effects on the offspring when pregnancy occurs with (name of drug IUD) in place are unknown."

Also under "Warnings" is added a statement indicating that systemically administered sex steroids, including progestational agents, have been associated with an increased risk of congenital anomalies. It is not known whether such anomalies could occur with a progesterone-containing IUD in place; however, with the recent approval of a progesterone-containing IUD by FDA, the Commissioner believes such information is important.

A report has appeared in the literature suggesting that a copper induced urticarial allergic skin reaction developed in a woman wearing a copper-containing IUD. The Commissioner believes that if symptoms of such an allergic response should occur, the patient should be instructed to tell the consulting physician that a copper-containing IUD is being worn. Reference to the urticarial allergic reaction is made under both "Precautions" and "Adverse Reactions."

For copper-containing IUD's the Commissioner adds both to the "Precautions" and to the "Adverse Reactions" sections a vascular reaction of the skin called a "urticarial allergic skin reac-

V42N90 MAY 10 77
UMI

tion," which has been reported in the literature.

In the physician's labeling under "Directions for Manufacturers," the Commissioner is requiring the manufacturer to indicate whether or not his article must be replaced every year or so in order that the patient continue to be protected from pregnancy. This information is now required under "Continuation and Removal" for the patient labeling.

CONTENTS OF LABELING DIRECTED TO THE PATIENT

18. One comment suggested that for clarity the labeling directed to the patient be revised to provide separate preinsertion and postinsertion information.

The Commissioner agrees with the comment and has determined that the Patient Brochure will contain both preinsertion and postinsertion information separately identified. The brochure is to be made available to the patient prior to insertion and must be packaged separately from the sterile IUD packaging. To maximize the opportunity for every interested patient to receive the brochure, manufacturers must recognize the necessity of printing and shipping labeling brochures in quantities greater than the number of IUD's manufactured and shipped. The Commissioner's authority under sections 502(f), 505, 520 (e) and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (f), 355, 360j(e), and 371(a)) is the basis for such a requirement.

19. One comment referring to the section on general information argued that the statement, "Your doctor can explain how the IUD and other forms of contraception prevent you from becoming pregnant and can tell you about any risks you take in using them," is inappropriate because the precise mechanism of IUD's in preventing pregnancy has not been definitely determined. The comment further stated that since all known risks cannot be foreseen, and all possible risks cannot be determined for any device or drug, the phrase "any risks" is too broad.

The Commissioner agrees with the comment and has rephrased the sentence in a new introductory paragraph to recommend that the patient should, prior to deciding on a method of birth control, discuss with the physician any questions she may have about the IUD or other methods of contraception.

20. Two comments addressed the phrase "range of effectiveness percent" under "General Information." One comment suggested that the mathematical rating for IUD's is questionable as a statistical approach for lay use. Another comment suggested that in addition to pregnancy rate, additional data relating to continuation and safety should be included in the Patient Brochure.

The Commissioner agrees that in addition to the pregnancy rate, the other data that would be meaningful to the patient and should be included are discontinuation rates and adverse reactions data relating to required medical removal. These figures should be expressed in terms of a figure per 100-woman-years of use. This information, the Commissioner believes, will be important in helping the patient select or reject a particular IUD. He therefore has required inclusion of this information in the Patient Brochure under "Use Effectiveness." He notes, however, that this particular information varies for each particular IUD and therefore will be different for each product's brochure.

21. One comment stated that the phrase "certain types of IUD's must be replaced periodically" should be revised to incorporate a statement that informs the patient whether the specific IUD referred to in the Patient Brochure is one which must be replaced periodically.

The Commissioner agrees with the comment, but will under a new section in the final regulation ("Directions for Use") require the manufacturer to supply his own information on the time interval for replacement and removal.

22. One comment suggested that the statement appearing under the heading "Checking your IUD" that "If you can feel the thread, you know the IUD is in place and working" is misleading because presence of the tail does not necessarily mean that there is no perforation or that a pregnancy has not occurred. Reference was made to the statement in the physician's labeling that pregnancy can occur with an IUD in place.

The Commissioner agrees that the referenced statement could be misleading. Therefore, the final regulation has been revised under "Directions for Use" to indicate that if the patient can feel the thread, it is likely that the IUD is working.

23. In the proposal under the heading "Checking your IUD" the patient is advised that if she thinks the IUD has come out, she should use another birth control method such as vaginal foam and condoms (rubbers) until she can be checked by her physician. One comment suggested in this light that vaginal cream and vaginal jelly should also be listed as alternate means of birth control in this type of situation.

The Commissioner agrees with the suggestion and is amending the final regulation to include contraceptive creams, jellies, and foams. The Commissioner is also adding the statement that these alternative methods are not as effective in preventing conception as the IUD (Ref. 1a, (234), p. 477).

24. Five comments indicated that the Patient Brochure should contain, in lay language, all the information including warnings, indications, contraindications, side effects, and adverse reactions contained in the physician labeling.

The Commissioner believes that the labeling directed to the patient should be comprehensible to as large a segment of the population as possible. The Commissioner finds that only by including in the Patient Brochure most of the information found in the Physician Labeling, but written in lay language, will the labeling meet requirements for comprehensibility and completeness. If because of comprehensiveness, a patient may not understand a particular complication or side effect, the physician can explain it to her.

The Commissioner, therefore, is adding to the Patient Brochure all the information necessary for the patient to make an intelligent decision regarding IUD use and continuation, including a more detailed summary of clinical trials with the IUD than was proposed and a list, in lay language, of all known risks that have been associated with IUD's.

The Commissioner has divided the Patient Brochure into two sections: "Preinsertion Information" and "Postinsertion Information." Under "Preinsertion Information," the section "What you should tell your doctor" has been expanded to include, among other aspects of patient history, prior uterine surgery, allergy to copper (for drug IUD's), heart disease, and heart murmur. A new section on "Adverse Reactions" sets forth in lay terms what is found under adverse reactions in the physician labeling. Preceding "Postinsertion Information," the Commissioner has provided an introductory paragraph advising patients to read the brochure and to discuss it with their physicians. In the section "Directions for Use" under "Checking your IUD," the Commissioner has expanded the paragraph dealing with "When to check for the thread" to indicate that it should be done after each menstrual period and to advise the patient to make sure that the IUD thread is high in the vagina.

The section headings in the proposal, "Important warnings" and "Complications," are combined in the final regulation under the new section headed "Warnings." Under "Warnings," the paragraph entitled "Tail or thread disappearance" indicates that if the thread cannot be felt, it is possible that perforation has occurred. This possibility was not described in the proposal. The Commissioner is also adding, to conform with the physician labeling, the warning that a patient using a metal IUD should not undergo medical diathermy treatments including short wave and microwave (Refs. 2 and 3).

25. One comment regarding "Side effects" suggested low backache may occur intermittently for several months or during the entire time the IUD is in place and should be listed therefore under "Complications."

The Commissioner agrees that "backache" should be included in the Patient Brochure but has listed it under "Adverse Reactions" in the final regulation rather than in "Complications" (now "Warnings").

26. One comment objected to including venereal disease as a complication occurring with the use of an IUD.

The Commissioner agrees that venereal disease is not a direct complication of IUD usage, and the final regulation is amended to delete such reference.

27. One comment suggested that a statement be included under "Side Effects" reflecting that the possibility exists that bleeding may be heavier throughout the use of an IUD, not just within the first 2 or 3 months.

The Commissioner agrees that bleeding may be heavier than normal throughout the use of the IUD, not just within the first 2 or 3 months, depending on the nature of the placement, the design of the device, and the general physiological condition of the patient. The final regulation is amended to reflect this fact by recommending to the patient in the section headed "Side Effects" that she should see her physician if bleeding persists.

28. Three comments suggested that the proposed labeling requirements are inflexible because they do not provide manufacturers with adequate opportunity to reflect the individual differences of particular devices.

The Commissioner realizes that differences exist among various IUD's with respect to reported event rates, design, methods of insertion, etc., but he believes that the regulation as proposed is appropriate for all IUD's currently on the market and that the final regulation permits sufficient flexibility as required for the various IUD's. The regulation recognizes distinctions between drug and device IUD's and permits the labeling to reflect data unique to a particular product. Furthermore, manufacturers may supply information in the labeling that is in addition to but not in lieu of the requirements in the regulation, so long as such additional information does not undermine or detract from the required information.

29. Five comments indicated that risk/benefit information, including relative safety and efficacy data on other contraceptive products, be part of IUD labeling. In addition, two comments recommended that an explanation of the relative advantages and disadvantages of alternative forms of birth control, including sterilization and abortion, be included in the Patient Brochure.

The Commissioner believes that comparative risk/benefit information on other contraceptive products, whether IUD's or other contraceptives, should not be required in IUD labeling at this time. This type of information can best be discussed with the physician.

The physician will in all cases help the patient to select the proper IUD, or he will, after evaluating the patient, decide not to insert an IUD at all. Under the latter circumstances, other forms of birth control will be considered, and the physician can discuss the relative benefits and risks of such other forms of birth control as they apply to the particular needs of the individual patient.

In addition to the comments received on patient labeling, the Commissioner also received a petition submitted on behalf of several women's and consumer organizations in June 1975, which, among other things, requested the agency to promulgate regulations requiring patient labeling and made a number of specific suggestions as to content and format of such labeling. The suggestions in the petition concerning IUD labeling requirements have been considered during the development of this final regulation, which constitutes the agency's response to those suggestions.

Several manufacturers indicated that they may have difficulty distributing the necessary number of brochures to physicians in 90 days, as would have been required by the proposal. Accordingly, the Commissioner is extending from 90 to 180 days the effective date of the final regulation.

Device IUD requirements will be codified in § 801.425 while drug IUD requirements will be codified in § 310.502, which conforms to FDA's recodification of medical devices regulations published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6896).

As proposed, the final regulation will require submission of drug IUD labeling in supplemental new drug applications.

The following documents have been placed on file and are available for public review in the office of the Hearing Clerk.

Reference 1a, may be obtained by writing or calling: Acquisition Office, National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: 703-451-3836. The NTIS number is PB 249-614. The cost is $12.50 for paperback and $2.25 or microfiche.

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(Secs. 201 (g) and (h), 502, 505, 520(e), 701 (a), 52 Stat. 1041 as amended, 1050-1053 as amended, 1055, 90 Stat. 567 (21 U.S.C. 321 (g) and (h), 352, 355, 360j(e), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 310 by revising § 310.502 to read as follows:

§ 310.502 Intrauterine devices for human use for the purpose of contraception.

(a) *New drug status of certain intrauterine devices for human use for the purpose of contraception.* (1) The Food and Drug Administration has become aware of the increased clinical use for the purpose of contraception of intrauterine devices (IUD's) that incorporate heavy metals, drugs, or other active substances. The amount of local irritation caused by such active materials has been reported as being correlated, in animal studies, to the effectiveness of such products in achieving their contraceptive effect. Several investigators have reported different pregnancy rates which appear to be dependent on the type of metal used and/or the amount of exposed surface of the metal. Drugs have been incorporated with otherwise inert intrauterine devices to increase the contraceptive effect, decrease adverse reactions, or provide increased medical acceptability.

(2) Intrauterine devices used for the purpose of contraception and incorporating heavy metals, drugs, or other active substances to increase the contraceptive effect, to decrease adverse reactions, or to provide increased medical acceptability (drug intrauterine devices) are not generally recognized as safe and effective for contraception and are new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act. A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD-1571 set forth in § 312.1(a)(2) of this chapter) must therefore be submitted to cover clinical investigations to obtain evidence that such preparations are safe and effective for this use. An approved new drug application is required for the marketing of such articles.

(b) *Labeling of intrauterine contraceptive devices considered new drugs (drug IUD's).* The intrauterine contraceptive device is a popular method of contraception used by several million women in the United States. Although this method of contraception is generally safe and effective, certain complications and side effects may result from its use. A Food and Drug Administration review of the labeling of intrauterine contraceptive devices currently marketed in the United States reveals that information necessary for the safe and effective use of these products is not uniformly available to either the practitioner or the patient. Based on the review of the labeling and on the recommendations of the Ad Hoc Obstetric-Gynecology Advisory Committee, the Commissioner has concluded that in the interest of safe and effective use, and prevention of misleading labeling, there is a need to establish uniform physician and patient labeling for such drugs.

V 42 90 MAY 10 77 UMI

(1) Labeling accompanying each drug IUD and directed to the physician shall be substantially as follows, adjusted where appropriate to the requirements of a particular drug IUD.

DESCRIPTION

(To be supplied by manufacturer)

Description shall include the following information:

1. Proprietary or established name of the IUD.
2. Major ingredients or composition.
3. Model.
4. Physical dimensions (size and shape).
5. Description of components in package or system.
6. A statement that the product is sterile.
7. Other characteristics.

MODE OF ACTION OR PRINCIPLES OF IUD DESIGN

(To be supplied by the manufacturer)

The manufacturer shall include information on the mode of action or principles of the IUD's design. At a minimum, the statement should provide that IUD's seem to interfere in some manner with nidation in the endometrium, probably through foreign body reaction in the uterus.

INDICATIONS AND USAGE

The labeling may include indications and usages other than those stated below, provided that an approved new drug application is in effect.

(*Name of drug IUD*) is indicated for contraception.

CONTRAINDICATIONS

IUD's should not be inserted when the following conditions exist:

1. Pregnancy or suspicion of pregnancy.
2. Abnormalities of the uterus resulting in distortion of the uterine cavity.
3. Acute pelvic inflammatory disease or a history of repeated pelvic inflammatory disease.
4. Post partum endometritis or infected abortion in the past 3 months.
5. Known or suspected uterine or cervical malignancy including unresolved, abnormal "Pap" smear.
6. Genital bleeding of unknown etiology.
7. Untreated acute cervicitis until infection is controlled.
8. Copper-containing IUD's should not be inserted in presence of diagnosed Wilson's Disease.
9. Known allergy to copper. (For copper-containing IUD's.)

WARNINGS

1. *Pregnancy*—a. *Long-term effects.*—Long-term effects on the offspring when pregnancy occurs with (name of drug IUD) in place are unknown.

b. *Septic abortion.* Reports have indicated an increased incidence of septic abortion associated in some instances with septicemia, septic shock, and death in patients becoming pregnant with an IUD in place. Most of these reports have been associated with the mid-trimester of pregnancy. In some cases, the initial symptoms have been insidious and not easily recognized. If pregnancy should occur with an IUD in place, the IUD should be removed if the string is visible or, if removal proves to be or would be difficult, termination of the pregnancy should be considered and offered the patient as an option bearing in mind that the risks associated with an elective abortion increase with gestational age.

c. *Continuation of pregnancy.* If the patient chooses to continue the pregnancy, she must be warned of the increased risk of spontaneous abortion and of the increased risk of sepsis, including death if the pregnancy continues with the IUD in place. The patient must be closely observed and she must be advised to report all abnormal symptoms, such as flu-like syndrome, fever, abdominal cramping and pain, bleeding, or vaginal discharge immediately because generalized symptoms of septicemia may be insidious.

2. *Ectopic pregnancy.* a. A pregnancy that occurs with an IUD in place is more likely to be ectopic than a pregnancy occurring without an IUD in place. Accordingly, patients who become pregnant while using the IUD should be carefully evaluated for the possibility of an ectopic pregnancy.

b. Special attention should be directed to patients with delayed menses, slight metrorrhagia and/or unilateral pelvic pain and to those patients who wish to terminate a pregnancy because of IUD failure to determine whether ectopic pregnancy has occurred.

3. *Pelvic infection.* Pelvic infection may occur with the IUD in place and at times result in the development of tubo-ovarian abscesses or general peritonitis. Appropriate aerobic and anaerobic bacteriological studies should be done and antibiotic therapy initiated. If the infection does not show a marked clinical improvement within 24 to 48 hours, the IUD should be removed and the continuing treatment reassessed based upon the results of culture and sensitivity tests.

4. *Embedment.* Partial penetration or lodging of the IUD in the endometrium can result in difficult removals.

5. *Perforation.* Partial or total perforation of the uterine wall or cervix may occur with the use of IUD's. The possibility of perforation must be kept in mind during insertion and at the time of any subsequent examination. If perforation occurs, the IUD should be removed. Adhesions, foreign body reactions, and intestinal obstruction may result if an IUD is left in the peritoneal cavity.

6. *Congenital anomalies.* Systemically administered sex steroids, including progestational agents, have been associated with an increased risk of congenital anomalies. It is not known whether such anomalies could occur when pregnancy is continued with a progesterone-containing IUD in place.

PRECAUTIONS

1. *Patient counseling.* Prior to insertion the physician, nurse, or other trained health professional must provide the patient with the Patient Brochure. The patient should be given the opportunity to read the brochure and discuss fully any questions she may have concerning the IUD as well as other methods of contraception.

2. *Patient evaluation and clinical considerations.* a. A complete medical history should be obtained to determine conditions that might influence the selection of an IUD. Physical examination should include a pelvic examination, "Pap" smear, gonorrhea culture and, if indicated, appropriate tests for other forms of venereal disease.

b. The uterus should be carefully sounded prior to insertion to determine the degree of patency of the endocervical canal and the internal os, and the direction and depth of the uterine cavity. In occasional cases, severe cervical stenosis may be encountered. Do not use excessive force to overcome this resistance.

c. The uterus should sound to a depth of 6 to 8 centimeters (cm). Insertion of an IUD into a uterine cavity measuring less than 6.5 cm by sounding may increase the incidence of expulsion, bleeding, and pain.

d. The possibility of insertion in the presence of an existing undetermined pregnancy is reduced if insertion is performed during or shortly following a menstrual period. The IUD should not be inserted post partum or postabortion until involution of the uterus is completed. The incidence of perforation and expulsion is greater if involution is not completed.

e. IUD's should be used with caution in those patients who have an anemia or a history of menorrhagia or hypermenorrhea. Patients experiencing menorrhagia and/or metrorrhagia following IUD insertion may be at risk for the development of hypochromic microcytic anemia. Also, IUD's should be used with caution in patients receiving anticoagulants or having a coagulopathy.

f. Syncope, bradycardia or other neurovascular episodes may occur during insertion or removal of IUD's, especially in patients with a previous disposition to these conditions.

g. Patients with valvular or congenital heart disease are more prone to develop subacute bacterial endocarditis than patients who do not have valvular or congenital heart disease. Use of an IUD in these patients may represent a potential source of septic emboli.

h. Use of an IUD in those patients with acute cervicitis should be postponed until proper treatment has cleared up the infection.

i. Since an IUD may be expelled or displaced, patients should be reexamined and evaluated shortly after the first postinsertion menses, but definitely within 3 months after insertion. Thereafter annual examination with appropriate medical and laboratory examination should be carried out. The IUD should be replaced every ____ years (information to be supplied by manufacturer).

j. The patient should be told that some bleeding and cramps may occur during the first few weeks after insertion, but if her symptoms continue or are severe she should report them to her physician. She should be instructed on how to check after each menstrual period to make certain that the thread still protrudes from the cervix, and she should be cautioned that there is no contraceptive protection if the IUD is expelled. She should be cautioned not to pull on the thread and displace the IUD. If partial expulsion occurs, removal is indicated and a new IUD may be inserted. The patient should be told to return in ____ years for replacement of the IUD.

k. The use of medical diathermy (shortwave and microwave) in patients with metal-containing IUD's may cause heat injury to the surrounding tissue. Therefore, medical diathermy to the abdominal and sacral areas should not be used.

l. Copper-containing IUD's—A copper induced urticial allergic skin reaction may develop in women wearing a copper-containing IUD. If symptoms of such an allergic response occur, the patient should be instructed to tell the consulting physician that a copper-bearing device is being worn.

ADVERSE REACTIONS

These adverse reactions are not listed in any order of frequency or severity.

Reported adverse reactions include: endometritis, spontaneous abortion, septic abortion, septicemia, perforation of the uterus and cervix, embedment, fragmentation of the IUD pelvic infection, vaginitis, leukorrhea, cervical erosion, pregnancy, ectopic pregnancy, difficult removal, complete or partial expulsion of the IUD, intermenstrual spotting, prolongation of menstrual flow, anemia, pain and cramping, dysmenorrhea backaches, dyspareunia, neurovascular episodes including bradycardia, and syncope secondary to insertion. Perforation into the abdomen has been followed by abdominal adhesions, intestinal penetration, intestinal obstruction, and cystic masses in the pelvis.

For copper-containing IUD's the following adverse reaction should also be added: urticarial allergic skin reaction.

DIRECTIONS FOR USE

(To be supplied by manufacturer)

Directions for use shall include the following:

1. Insertion technique.

2. Requirements for replacement and removal (including information on whether the IUD should be replaced periodically and, if so, how often).

CLINICAL STUDIES

Different event rates have been recorded with the use of different IUD's. Inasmuch as these rates are usually derived from separate studies conducted by different investigators in several population groups, they cannot be compared with precision. Furthermore, event rates tend to be lower as clinical experience is expanded, possibly due to retention in the clinical study of those patients who accept the treatment regimen and do not discontinue due to adverse reactions or pregnancy. In clinical trials conducted by (name of sponsor) with the (name of drug IUD), use effectiveness was determined as follows for parous and nulliparous women, as tabulated by the life table method. (Rates are expressed as events per 100 women through 12 and 24 months of use.) This experience is based on (number) woman/months of use, including (number) women who completed 12 months of use and (number) women who completed 24 months of use.

	12 mo		24 mo	
	Parous	Nulliparous	Parous	Nulliparous
Pregnancy				
Expulsion				
Medical removal				
Continuation rate				

(2) Labeling, in sufficient quantities to be available to patients who express interest in IUD's, shall accompany each drug IUD (packaged separately from the sterile packaging), be made available to the patient, and contain the following information:

PATIENT INFORMATION

This brochure provides information on the use of intrauterine contraceptive devices (IUD's). There are other birth control methods that may be suitable. Before deciding which type of birth control method to use, you should read this brochure and have the opportunity to discuss fully with your doctor any questions you may have about the IUD and other methods of contraception.

PREINSERTION INFORMATION

WHAT YOU SHOULD KNOW ABOUT THE IUD

IUD's are small articles of various sizes and shapes which are inserted into the uterus (womb). The purpose of the IUD is to prevent pregnancy.

How the IUD prevents pregnancy is not completely understood. Several theories have been suggested. IUD's seem to interfere in some manner with the implantation of the fertilized egg in the lining of the uterine cavity. The IUD does not prevent ovulation.

The effectiveness of the IUD is measured by the pregnancy rate of women who use it and the rate of adverse reactions and side effects requiring removal of the IUD.

USE-EFFECTIVENESS

Different pregnancy and adverse reaction rates have been reported with the use of different IUD's. Because these rates are usually derived from separate studies conducted by different investigators in several population groups, they cannot be compared with precision.

In clinical trials with (name of drug IUD), ------ patients completed ------ cycles or months in use. The incidence of unplanned pregnancies was ------ per 100 woman years or ------ women out of 100 became pregnant in a year while using an IUD. The incidence of adverse reactions requiring medical removal of the IUD is ------ per 100 woman years or ------ women out of 100 discontinued using the IUD for medical reasons.

WHAT YOU SHOULD TELL YOUR DOCTOR

Before you have an IUD inserted, you should tell your doctor if you have ever had, or suspect you have ever had, any of the following conditions which might make the IUD unsuitable as a method of contraception for you:

Abnormalities of the uterus (womb).
Allergy to copper.
Anemia.
Bleeding between periods.
Cancer of the uterus (womb) or cervix.
Fainting attacks.
Heart disease.
Heart murmur.
Heavy menstrual flow.
Infection of the uterus (womb) or cervix.
Pelvic infection (pus in fallopian tubes).
Prior IUD use.
Prior uterine surgery.
Recent abortion or miscarriage.
Recent pregnancy.
Severe menstrual cramps.
Suspected or possible pregnancy.
Suspicious or abnormal "Pap" smear.
Unexplained genital bleeding.
Vaginal discharge or infection.
Venereal disease.
Wilson's disease.

ADVERSE REACTIONS

The following adverse reactions and side effects have been reported and may occur after the IUD is inserted:

Anemia.
Backache.
Blood poisoning (septicemia).
Bowel obstruction.
Cervical infection.
Complete or partial expulsion.
Cysts on ovaries and tubes.
Delayed menstruation.
Difficult removal.
Embedment.
Fainting at the time of insertion or removal.
Fragmentation of the IUD.
Intermenstrual spotting.
Internal abdominal adhesions.
Pain and cramps.
Painful intercourse.
Pelvic infection.
Perforation of the uterus (womb) or cervix.
Pregnancy.
Pregnancy outside the uterus (womb) (tubal or ovarian).
Prolonged or heavy menstrual flow.
Septic abortion (infected miscarriage) followed in some cases by blood poisoning (septicemia) which can lead to death.
Spontaneous abortion (miscarriage).
Vaginal discharge and infection.

If you decide on the IUD as your method of birth control, read the following information and instructions carefully. Please keep this brochure so that you may refer to it. If you have any questions, consult your doctor.

POSTINSERTION INFORMATION

DESCRIPTION

(To be supplied by manufacturer)

Description shall include the following information:

1. Proprietary or established name of the drug IUD.
2. Model.
3. Physical dimensions (size and shape).
4. Composition (metal or plastic).
5. Color and number of the tail or threads.
6. Other characteristics.

DIRECTIONS FOR USE

1. *Checking your IUD.* A tail or thread is attached to the IUD so you can check to see if it is still in place since the IUD can come out of the uterus (womb) without your knowing it. This occurs most often during or right after a menstrual period.

Follow these steps to make sure your IUD is in place:

a. Wash your hands.

b. Assume the squatting position or seat yourself on the toilet.

c. Insert the index or middle finger high in vagina and locate the cervix (mouth of the uterus (womb)). The cervix feels firm like the tip of your nose.

d. Feel for the tail or thread of the IUD, which should be in the cervix high in your vagina.

e. If you can feel the tail or thread it is likely that the IUD is in place and working. You should not pull on the tail or thread. This may displace the IUD.

f. After each menstrual period, you should check to make sure the tail or thread is in place in the cervix. You may check for the tail or thread more often if you wish.

g. If you think the IUD has come out or has been displaced (e.g., you cannot feel the tail or thread or you can feel the IUD itself), use another birth control method, such as contraceptive vaginal foam, cream, or jelly, or condoms (rubbers), until you can be checked. (These alternative methods are not as effective as the IUD.) Call your doctor for an examination.

h. You should return to see your doctor as soon as possible after your next menstrual period, after insertion of your IUD, but no later than 3 months after insertion. This will allow the doctor to make sure that the IUD is in the correct position.

i. After your first checkup, you should be checked at least once a year by your doctor.

2. *Continuation and removal.* While you are wearing the IUD, you may use tampons and take douches, if this is your usual practice. With some IUD's, you may wear the IUD until you wish to become pregnant. With other IUD's it is necessary that they be replaced every year or so in order for you to continue being protected against pregnancy. Check with your doctor concerning this. You should return to your doctor if you wish to have the IUD removed.

SIDE EFFECTS

The following may occur during or after the IUD is inserted:

1. Some bleeding occurs following insertion in most women. Because of this, your

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doctor may choose to insert your IUD during or at the end of your menstrual period. This also reduces the possibility that you are pregnant at the time of IUD insertion.

2. Bleeding between menstrual periods, usually in the form of spotting, may occur during the first 2 or 3 months after insertion. The first few menstrual periods after the insertion may be heavier and longer. If these conditions continue for longer than 2 or 3 months, consult your doctor.

3. Pain, usually in the form of uterine cramps or low backache, may occur at the time of insertion and last for a few days. Simple pain medication usually relieves the cramping.

4. Fainting may occur at the time of insertion or removal of an IUD. This passes quickly and is not usually serious.

5. The IUD may be expelled during the first two or three menstrual cycles following insertion. Expulsion increases the risk of an unplanned pregnancy. Although not as effective as the IUD, the use of a second contraceptive method, such as a contraceptive vaginal foam, cream, or jelly, or condoms (rubbers) is recommended.

WARNINGS

1. Call your doctor for any of the following reasons:

a. *Severe or prolonged bleeding.* If the flow is heavier and lasts much longer than your usual menstrual flow, you may need to have the IUD removed to prevent the development of anemia.

b. *Pelvic pain and cramps.* This could mean an infection has developed requiring treatment.

c. *Exposure to venereal disease* (VD). If exposure to venereal disease is suspected, report for examination and treatment promptly. Failure to do so could result in serious pelvic infection because use of an IUD in itself does not prevent venereal disease.

d. *Tail or thread disappearance.* If you cannot feel the tail or thread coming through the cervix, it is possible that the IUD has been expelled or displaced or that perforation has occurred. If any of these has occurred, you are no longer protected from becoming pregnant. Use another birth control method, such as contraceptive vaginal foam, cream, or jelly, or condoms (rubbers), until you can be checked. (These alternative methods are not as effective as the IUD.)

2. Do not undergo medical diathermy (including shortwave or microwave) treatments to the abdomen or lower back areas if you are wearing a metal IUD. These treatments may cause heat injury to the surrounding tissues.

SPECIAL WARNING ABOUT PREGNANCY WITH AN IUD IN PLACE

Some women become pregnant while using an IUD. If you miss your menstrual period, or if you have a scanty flow during your period, or if you suspect that you might be pregnant, see your doctor right away. Serious complication of sepsis (severe infection), septic abortion (infected miscarriage), and death have occurred when a pregnancy continues with an IUD in place. Most of the occurrences of these serious complications have been reported in the middle third of pregnancy.

If your doctor confirms that you are pregnant, he should remove the IUD if the tail is visible. Removal of an IUD in pregnancy decreases the likelihood of serious complications.

If removal of your IUD proves to be difficult, you and your doctor should discuss at that time the question of continuing the pregnancy in view of the serious complications that may occur. In reaching a decision as to whether or not to have an abortion, it should be remembered that the risks associated with terminating a pregnancy increase with the length of time you are pregnant.

(3) Any drug IUD that is not labeled as required by this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce after November 7, 1977, is misbranded pursuant to section 502 of the act. However, a drug IUD in the possession of an independent wholesaler, a retailer, or a licensed practitioner before November 7, 1977, is not misbranded if labeling required by paragraph (b) (2) of this section is furnished to such independent wholesalers, retailers, or licensed practitioners in sufficient quantities to accompany each device in their possession.

(4) The holder of an approved new drug application for such device, as described in paragraph (a) (2) of this section, shall submit a supplement to his application to provide for the labeling described in paragraph (b) (1) and (2) of this section. The supplement shall be submitted before November 7, 1977, under the provisions of § 314.8 of this chapter. The labeling may be put into use without advance approval by the Food and Drug Administration.

(c) *Applicability.* Paragraphs (a) and (b) of this section do not apply to the following intrauterine contraceptive devices, which are subject to the requirements of § 801.425 of this chapter:

(1) Intrauterine devices fabricated solely from inactive materials, e.g., inactive plastics or metals.

(2) Intrauterine devices with substances added to improve the physical characteristics if such substances do not contribute to contraception through chemical action on or within the body and are not dependent upon being metabolized for the achievement of the contraceptive purpose.

(3) Intrauterine devices that contain a component, such as barium, added exclusively for the purpose of visualization by x-ray.

2. In Part 801 by adding new § 801.425 to read as follows:

§ 801.425 Professional and patient labeling for intrauterine contraceptive devices.

(a) This section applies to intrauterine devices (IUD's) that are not subject to new drug requirements under § 310.502 of this chapter. IUD's subject to this section (device IUD's) include:

(1) IUD's fabricated solely from inactive materials, e.g., inactive plastics or metals.

(2) IUD's with substances added to improve the physical characteristics if such substances do not contribute to contraception through chemical action on or within the body and are not dependent upon being metabolized for the achievement of the contraceptive purpose.

(3) IUD's that contain a component, such as barium, added exclusively for the purpose of visualization by x-ray.

(b) The intrauterine contraceptive device (IUD) is a popular method of contraception used by several million women in the United States. Although this method of contraception is generally safe and effective, certain complications and side effects may result from its use. A Food and Drug Administration review of the labeling of IUD's currently marketed in the United States reveals that information necessary for the safe and effective use of these products is not uniformly available to either the practitioner or the patient. Based on the review of the labeling and on the recommendations of the Ad Hoc Obstetric-Gynecology Advisory Committee, the Commissioner has concluded that in the interest of safe and effective use, and prevention of misleading labeling, there is a need to establish uniform physician and patient labeling for such devices.

(1) Labeling accompanying each IUD and directed to the physician shall be substantially as follows, adjusted where where appropriate to the requirements of a particular device IUD:

DESCRIPTION

(TO BE SUPPLIED BY MANUFACTURER)

Description shall include the following information:

1. Proprietary or established name of the IUD.
2. Major ingredients or composition.
3. Model.
4. Physical dimensions (size and shape).
5. Description of components in package or system.
6. A statement that the product is sterile.
7. Other characteristics.

MODE OF ACTION OR PRINCIPLES OF IUD DESIGN

(TO BE SUPPLIED BY THE MANUFACTURER)

The manufacturer shall include information on the mode of action or principles of the IUD's design. At a minimum, the statement should provide that IUD's seem to interfere in some manner with nidation in the endometrium, probably through foreign body reaction in the uterus.

INDICATIONS AND USAGE

The labeling may include indications and usages other than those stated below, provided that an approved premarket approval application is in effect. (Name of IUD) is indicated for contraception.

CONTRAINDICATIONS

IUD's should not be inserted when the following conditions exist:

1. Pregnancy or suspicion of pregnancy.
2. Abnormalities of the uterus resulting in distortion of the uterine cavity.
3. Acute pelvic inflammatory disease or a history of repeated pelvic inflammatory disease.
4. Post partum endometritis or infected abortion in the past 3 months.
5. Known or suspected uterine or cervical malignancy including unresolved, abnormal "Pap" smear.
6. Genital bleeding of unknown etiology.
7. Untreated acute cervicitis until infection is controlled.

WARNINGS

1. *Pregnancy*—a. *Long-term effects.* Long-term effects on the offspring when pregnancy occurs with (name of IUD) in place are unknown.

b. *Septic abortion.* Reports have indicated an increased incidence of septic abortion associated in some instances with septicemia, septic shock, and death in patients becoming pregnant with an IUD in place. Most of these reports have been associated with the midtrimester of pregnancy. In some cases, the initial symptoms have been insidious and not easily recognized. If pregnancy should occur with an IUD in place, the IUD should be removed if the string is visible or, if removal proves to be or would be difficult, termination of the pregnancy should be considered and offered the patient as an option bearing in mind that the risks associated with an elective abortion increase with gestational age.

c. *Continuation of pregnancy.* If the patient chooses to continue the pregnancy, she must be warned of the increased risk of spontaneous abortion and of the increased risk of sepsis, including death if the pregnancy continues with the IUD in place. The patient must be closely observed and she must be advised to report all abnormal symptoms, such as flu-like syndrome, fever, abdominal cramping and pain, bleeding, or vaginal discharge, immediately because generalized symptoms of septicemia may be insidious.

2. *Ectopic pregnancy.* a. A pregnancy that occurs with an IUD in place is more likely to be ectopic than a pregnancy occurring without an IUD in place. Accordingly, patients who become pregnant while using the IUD should be carefully evaluated for the possibility of an ectopic pregnancy.

b. Special attention should be directed to patients with delayed menses, slight metrorrhagia and/or unilateral pelvic pain and to those patients who wish to terminate a pregnancy because of IUD failure to determine whether ectopic pregnancy has occurred.

3. *Pelvic infection.* Pelvic infection may occur with the IUD in place and at times result in the development of tubo-ovarian abscesses or general peritonitis. Appropriate aerobic and anaerobic bacteriological studies should be done and antibiotic therapy initiated. If the infection does not show a marked clinical improvement within 24 to 48 hours, the IUD should be removed and the continuing treatment reassessed based upon the results of culture and sensitivity tests.

4. *Embedment.* Partial penetration or lodging of the IUD in the endometrium can result in difficult removals.

5. *Perforation.* Partial or total perforation of the uterine wall or cervix may occur with the use of IUD's. The possibility of perforation must be kept in mind during insertion and at the time of any subsequent examination. If perforation occurs, the IUD should be removed. Adhesions, foreign body reactions, and intestinal obstruction may result if an IUD is left in the peritoneal cavity.

PRECAUTIONS

1. *Patient counseling.* Prior to insertion the physician, nurse, or other trained health professional must provide the patient with the Patient Brochure. The patient should be given the opportunity to read the brochure and discuss fully any questions she may have concerning the IUD as well as other methods of contraception.

2. *Patient evaluation and clinical considerations.* a. A complete medical history should be obtained to determine conditions that might influence the selection of an IUD. Physical examination should include a pelvic examination, "Pap" smear, gonorrhea culture and, if indicated, appropriate tests for other forms of venereal disease.

b. The uterus should be carefully sounded prior to insertion to determine the degree of patency of the endocervical canal and the internal os, and the direction and depth of the uterine cavity. In occasional cases, severe cervical stenosis may be encountered. Do not use excessive force to overcome this resistance.

c. The uterus should sound to a depth of 6 to 8 centimeters (cm). Insertion of an IUD into a uterine cavity measuring less than 6.5 cm by sounding may increase the incidence of expulsion, bleeding, and pain.

d. The possibility of insertion in the presence of an existing undetermined pregnancy is reduced if insertion is performed during or shortly following a menstrual period. The IUD should not be inserted post partum or postabortion until involution of the uterus is completed. The incidence of perforation and expulsion is greater if involution is not completed.

e. IUD's should be used with caution in those patients who have anemia or a history of menorrhagia or hypermenorrhea. Patients experiencing menorrhagia and/or metrorrhagia following IUD insertion may be at risk for the development of hypochromic microcytic anemia. Also, IUD's should be used with caution in patients receiving anticoagulants or having a coagulopathy.

f. Syncope, bradycardia, or other neurovascular episodes may occur during insertion or removal of IUD's, especially in patients with a previous disposition to these conditions.

g. Patients with valvular or congenital heart disease are more prone to develop subacute bacterial endocarditis than patients who do not have valvular or congenital heart disease. Use of an IUD in these patients may represent a potential source of septic emboli.

h. Use of an IUD in those patients with acute cervicitis should be postponed until proper treatment has cleared up the infection.

i. Since an IUD may be expelled or displaced, patients should be reexamined and evaluated shortly after the first postinsertion menses, but definitely within 3 months after insertion. Thereafter annual examination with appropriate medical and laboratory examination should be carried out.

j. The patient should be told that some bleeding and cramps may occur during the first few weeks after insertion, but if these symptoms continue or are severe she should report them to her physician. She should be instructed on how to check after each menstrual period to make certain that the thread still protrudes from the cervix, and she should be cautioned that there is no contraceptive protection if the IUD is expelled. She should be cautioned not to pull on the thread and displace the IUD. If partial expulsion occurs, removal is indicated and a new IUD may be inserted.

k. The use of medical diathermy (shortwave and microwave) in patients with metal-containing IUD's may cause heat injury to the surrounding tissue. Therefore, medical diathermy to the abdominal and sacral areas should not be used.

ADVERSE REACTIONS

These adverse reactions are not listed in any order of frequency or severity.

Reported adverse reactions include: endometritis, spontaneous abortion, septic abortion, septicemia, perforation of the uterus and cervix, embedment, fragmentation of the IUD, pelvic infection, vaginitis, leukorrhea, cervical erosion, pregnancy, ectopic pregnancy, difficult removal, complete or partial expulsion of the IUD, intermenstrual spotting, prolongation of menstrual flow, anemia, pain and cramping, dysmenorrhea, backaches, dyspareunia, neurovascular episodes including bradycardia and syncope secondary to insertion. Perforation into the abdomen has been followed by abdominal adhesions, intestinal penetration, intestinal obstruction, and cystic masses in the pelvis.

DIRECTIONS FOR USE

(TO BE SUPPLIED BY MANUFACTURER)

Directions for use shall include the following:

1. Insertion technique.
2. Requirements for replacement and removal, if applicable.

CLINICAL STUDIES

Different event rates have been recorded with the use of different IUD's. Inasmuch as these rates are usually derived from separate studies conducted by different investigators in several population groups, they cannot be compared with precision. Furthermore, event rates tend to be lower as clinical experience is expanded, possibly due to retention in the clinical study of those patients who accept the treatment regimen and do not discontinue due to adverse reactions or pregnancy. In clinical trials conducted by (name of sponsor) with the (name of IUD), use effectiveness was determined as follows for parous and nulliparous women, as tabulated by the life table method. (Rates are expressed as events per 100 women through 12 and 24 months of use.) This experience is based on (number) women/months of use including (number) women who completed 12 months of use and (number) women who completed 24 months of use.

	12 mo		24 mo	
	Parous	Nulliparous	Parous	Nulliparous
Pregnancy				
Expulsion				
Medical removal				
Continuation rate				

(2) Labeling, in sufficient quantities to be available to patients who express interest in IUD's, shall accompany each IUD (packaged separately from the sterile packaging), be made available to the patient, and contain the following information:

PATIENT INFORMATION

This brochure provides information on the use of Intrauterine Contraceptive Devices (IUD's). There are other birth control methods that may be suitable. Before deciding which type of birth control method to use, you should read this brochure and have the opportunity to discuss fully with your doctor any questions you may have about the IUD and other methods of contraception.

PREINSERTION INFORMATION

WHAT YOU SHOULD KNOW ABOUT THE IUD

IUD's are small articles of various sizes and shapes which are inserted into the uterus (womb). The purpose of the IUD is to prevent pregnancy.

How the IUD prevents pregnancy is not completely understood. Several theories have been suggested. IUD's seem to interfere in some manner with the implantation of the fertilized egg in the lining of the uterine cavity. The IUD does not prevent ovulation.

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The effectiveness of the IUD is measured by the pregnancy rate of women who use it and the rate of adverse reactions and side effects requiring removal of the IUD.

USE-EFFECTIVENESS

Different pregnancy and adverse reaction rates have been reported with the use of different IUD's. Because these rates are usually derived from separate studies conducted by different investigators in several population groups, they cannot be compared with precision.

In clinical trials with (name of IUD), ------ patients completed ------ cycles or months in use. The incidence of unplanned pregnancies was ------ per 100 woman years or ------ women out of 100 became pregnant in a year while using an IUD. The incidence of adverse reactions requiring medical removal of the IUD is ------ per 100 woman years or ------ women out of 100 discontinued using the IUD for medical reasons.

WHAT YOU SHOULD TELL YOUR DOCTOR

Before you have an IUD inserted, you should tell your doctor if you have ever had, or suspect you have ever had, any of the following conditions which might make the IUD unsuitable as a method of contraception for you:

Abnormalities of the uterus (womb).
Allergy to copper.
Anemia.
Bleeding between periods.
Cancer of the uterus (womb) or cervix.
Fainting attacks.
Heart disease.
Heart murmur.
Heavy menstrual flow.
Infection of the uterus (womb) or cervix.
Pelvic infection (pus in fallopian tubes).
Prior IUD use.
Prior uterine surgery.
Recent abortion or miscarriage.
Recent pregnancy.
Severe menstrual cramps.
Suspected or possible pregnancy.
Suspicious or abnormal "Pap" smear.
Unexplained genital bleeding.
Vaginal discharge or infection.
Venereal disease.

ADVERSE REACTIONS

The following adverse reactions and side effects have been reported and may occur after the IUD is inserted:

Anemia.
Backache.
Blood poisoning (septicemia).
Bowel obstruction.
Cervical infection.
Complete or partial expulsion.
Cysts on ovaries and tubes.
Delayed menstruation.
Difficult removal.
Embedment.
Fainting at the time of insertion or removal.
Fragmentation of the IUD.
Intermenstrual spotting.
Internal abdominal adhesions.
Pain and cramps.
Painful intercourse.
Pelvic infection.
Perforation of the uterus (womb) or cervix.
Pregnancy.
Pregnancy outside the uterus (womb) (tubal or ovarian).
Prolonged or heavy menstrual flow.
Septic abortion (infected miscarriage) followed in some cases by blood poisoning (septicemia) which can lead to death.
Spontaneous abortion (miscarriage).
Vaginal discharge and infection.

If you decide on the IUD as your method of birth control, read the following information and instructions carefully. Please keep this brochure so that you may refer to it. If you have any questions, consult your doctor.

POSTINSERTION INFORMATION

DESCRIPTION

(TO BE SUPPLIED BY MANUFACTURER)

Description shall include the following information.

1. Proprietary or established name of the IUD.
2. Model.
3. Physical dimensions (size and shape).
4. Composition (metal or plastic).
5. Color and number of the tail or threads.
6. Other characteristics.

DIRECTIONS FOR USE

1. *Checking your IUD.* A tail or thread is attached to the IUD so that you can check to see if it is still in place since the IUD can come out of the uterus (womb) without your knowing it. This occurs most often during or right after a menstrual period.

Follow these steps to make sure your IUD is in place:

a. Wash your hands.

b. Assume the squatting position or seat yourself on the toilet.

c. Insert the index or middle finger high in vagina and locate the cervix (mouth of the uterus (womb)). The cervix feels firm like the tip of your nose.

d. Feel for the tail or thread of the IUD, which should be in the cervix high in your vagina.

e. If you can feel the tail or thread it is likely that the IUD is in place and working. You should not pull on the tail or thread. This may displace the IUD.

f. After each menstrual period, you should check to make sure the tail or thread is in place in the cervix. You may check for the tail or thread more often if you wish.

g. If you think the IUD has come out or has been displaced (i.e., you cannot feel the tail or thread or you can feel the IUD itself), use another birth control method, such as contraceptive vaginal foam, cream, or jelly, or condoms (rubbers), until you can be checked. (These alternative methods are not as effective as IUD's.) Call your doctor for an examination.

h. You should return to see your doctor as soon as possible after your next menstrual period, after insertion of your IUD, but no later than 3 months after insertion. This will allow the doctor to make sure that the IUD is in the correct position.

i. After your first checkup, you should be checked at least once a year by your doctor.

2. *Continuation and removal.* While you are wearing the IUD, you may use tampons and take douches, if this is your usual practice. With some IUD's, you may wear the IUD until you wish to become pregnant. Check with your doctor concerning this. You should return to your doctor if you wish to have the IUD removed.

SIDE EFFECTS

The following may occur during or after the IUD is inserted:

1. Some bleeding occurs following insertion in most women. Because of this, your doctor may choose to insert your IUD during or at the end of your menstrual period. This also reduces the possibility that you are pregnant at the time of IUD insertion.

2. Bleeding between menstrual periods usually in the form of spotting, may occur during the first 2 or 3 months after insertion. The first few menstrual periods after the insertion may be heavier and longer. If these conditions continue for longer than 2 or 3 months, consult your doctor.

3. Pain, usually in the form of uterine cramps or low backache, may occur at the time of insertion and last for a few days. Simple pain medication usually relieves the cramping.

4. Fainting may occur at the time of insertion or removal of an IUD. This passes quickly and is not usually serious.

5. The IUD may be expelled during the first two or three menstrual cycles following insertion. Expulsion increases the risk of an unplanned pregnancy. Although not as effective as the IUD, the use of a second contraceptive method, such as a contraceptive vaginal foam, cream, or jelly, or condoms (rubbers), is recommended.

WARNINGS

1. Call your doctor for any of the following reasons:

a. *Severe or prolonged bleeding.* If the flow is heavier and lasts much longer than your usual menstrual flow, you may need to have the IUD removed to prevent the development of anemia.

b. *Pelvic pain and cramps.* This could mean an infection has developed requiring treatment.

c. *Exposure to venereal disease (VD).* If exposure to venereal disease is suspected, report for examination and treatment promptly. Failure to do so could result in serious pelvic infection because use of an IUD in itself does not prevent venereal disease.

d. *Tail or thread disappearance.* If you cannot feel the tail or thread coming through the cervix, it is possible that the IUD has been expelled or displaced or that perforation has occurred. If any of these has occurred you are no longer protected from becoming pregnant. Use another birth control method, such as contraceptive vaginal foam, cream, or jelly, or condoms (rubbers), until you can be checked. (These alternative methods are not as effective as the IUD).

2. Do not undergo medical diathermy (including shortwave or microwave) treatments to the abdomen or lower back areas if you are wearing a metal IUD. These treatments may cause heat injury to the surrounding tissues.

SPECIAL WARNING ABOUT PREGNANCY WITH AN IUD IN PLACE

Some women become pregnant while using an IUD. If you miss your menstrual period, or if you have a scanty flow during your period, or if you suspect that you might be pregnant, see your doctor right away. Serious complication of sepsis (severe infection), septic abortion (infected miscarriage), and death have occurred when a pregnancy continues with an IUD in place. Most of the occurrences of these serious complications have been reported in the middle third of pregnancy.

If your doctor confirms that you are pregnant, he should remove the IUD if the tail is visible. Removal of an IUD in pregnancy decreases the likelihood of serious complications.

If removal of your IUD proves to be difficult, you and your doctor should discuss at that time the question of continuing the pregnancy in view of the serious complications that may occur. In reaching a decision as to whether or not to have an abortion, it should be remembered that the risks associated with terminating a pregnancy increase with the length of time you are pregnant.

(3) Any device IUD that is not labeled as required by this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce after November 7, 1977 is misbranded pursuant to section 502 of the

act. However, an IUD in the possession of an independent wholesaler, a retailer, or a licensed practitioner before November 7, 1977 is not misbranded if labeling required by paragraph (b) (2) of this section is furnished to such independent wholesalers, retailers, or licensed practitioners in sufficient quantities to accompany each device in their possession.

Effective date: This regulation shall be effective November 7, 1977.

(Secs. 201(g), (h), 502, 505, 520(e), 701(a), 52 Stat. 1041 as amended, 1050-1053 as amended, 1055, 90 Stat. 567 (21 U.S.C. 321(g), (h), 352, 355, 360j(e), 371(a)).)

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the FDA Inflation Impact Assessment is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: May 2, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-13098 Filed 5-9-77;8:45 am]

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federal register

TUESDAY, MAY 10, 1977
PART IV

SECURITIES AND EXCHANGE COMMISSION

■

FOCUS REPORTING SYSTEM

Financial Reporting Requirements

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Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13462; File No. S7-691]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

FOCUS Reporting System

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendments.

SUMMARY: This release amends the financial and operational reporting requirements collectively known as the FOCUS reporting system by adopting previously proposed amendments to the FOCUS report and accompanying rules, and revoking §§ 249.618 and 249.636. The amendments are intended to clarify and streamline the existing system.

DATES: Effective date: June 30, 1977; comments by May 30, 1977.

ADDRESS: Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Pillero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1390.

SUPPLEMENTARY INFORMATION: On January 4, 1977, a document was published in the FEDERAL REGISTER (42 FR 782) proposing to amend §§ 240.17a-4, 240.17a-5, 240.17a-10, 240.17a-11, 240.17a-13, 240.17a-19, 240.17a-20, 240.15c3-3 and 240.617, and proposing to revoke §§ 249.618 and 249.636. The proposed amendments were designed to facilitate the application of a streamlined system of financial and operational reporting and, through the integration of Form X-17A-10 (§ 249.618) and Form X-17A-20 (§ 249.636) into the existing structure of Form X-17A-5 (§ 249.617), achieve a further reduction in the quantity and frequency of reports which must be filed by brokers and dealers. The proposals, with the exception of the proposed annual Schedule of Consolidation and Diversification ("Schedule II"), are adopted with minor modifications. Because of the significant revision of Schedule II, the original proposal is withdrawn. All comments with respect to the proposed amendments were given due consideration.

As a result of comments received, the following changes in the proposed amended rules and forms are made in addition to language changes for clarification:

(1) AMENDED FORM X-17A-5 (§ 249.617)

The Statement of Revenue and Expenses contained in Part II and Part IIA of Form X-17A-5 (§ 249.617) incorporates certain data previously required to be reported on Form X-17A-10 (§ 249.618) and Form X-17A-20 (§ 249.636), thus eliminating the need for separate filings of these forms.[1] As proposed, the Statement of Revenue and Expenses would have required a reporting of total transaction fees payable under section 31 of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)). As the fee is payable on an annual basis, the reporting requirement has been eliminated from the quarterly form and will be collected on an annual report.

Three supplementary schedules were proposed to be added to Form X-17A-5 (§ 249.617) to collect economic and statistical data on a calendar year basis. Schedule I requires the reporting of general information designed to measure certain economic and financial characteristics of the broker or dealer. Schedule I is adopted as proposed.[2] Schedule II as proposed would require a listing of annual gross revenues by major categories of all majority owned and partially owned subsidiaries and affiliates of the broker or dealer. Comments have suggested that a significantly more detailed schedule should be required, and therefore proposed Schedule II is withdrawn.[3] Schedule III requires a detailed report of income information from brokers and dealers filing Part II of Form X-17A-5 (§ 249.617) with annual gross revenue related to the securities business of $10 million or more. Proposed Schedule III-A has been amended to include the subcategory "Options" under Line 2 "Market-Making."[4]

(2) REVOCATION OF FORM X-17A-10 (§ 249.618) AND FORM X-17A-20 (§ 249.636)

Amended Form X-17A-5 (§ 249.617) incorporates the data presently derived from reports on Form X-17A-10 (§ 249.618) and Form X-17A-20 (§ 249.636). Those commentators which addressed the subject of the proposed revocation of the latter forms supported the reduction in the number and frequency of required reports as an advancement of the goals of the FOCUS system, and the Commission hereby revokes Form X-17A-10 (§ 249.618) and Form X-17A-20 (§ 249.636).

(3) AMENDED § 240.17a-4

One commentator suggested the addition of the work "schedules" to the text of proposed amended § 240.17a-4(b)(8), to clarify that the records which must be preserved contain information in support of the entire report which is prepared as of the audit date. The adopted rule incorporates this suggestion.

(4) AMENDED § 240.17a-5

Paragraph (c)(3) of § 240.17a-5 as proposed would require that unaudited statements be furnished to customers within 45 days after the date as of which the statements are prepared. Several commentators have indicated that this would not allow sufficient time for the statements to be prepared and enclosed with the monthly mailing to customers, and that an additional separate mailing would incur substantial cost. Suggested alternative filing periods ranged from 60 days to 105 days after the date as of which the statements are prepared. While the Commission realizes the economic advantage of coordinated mailings, it also recognizes the necessity of providing information to customers in as timely a manner as possible, and therefore adopted paragraph (c)(3) requires that these statements be provided to customers within 65 days after the date as of which they are prepared.

Several commentators suggested that the requirements of paragraph (d)(2) be amended to include a reconciliation between the consolidated and unconsolidated balance sheets. The disparity arises as a result of the consolidation methods required by generally accepted accounting principles with respect to the annual audited report and those utilized pursuant to § 240.15c3-1 in conjunction with the quarterly reports on Form X-17A-5 (§ 249.617). The adopted version of paragraph (d)(2) requires that summary financial data be reported for subsidiaries which are not included in the balance sheet filed as part of Form X-17A-5 (§ 249.617) Part II or Part IIA.

Comments have been submitted requesting that the Commission define the term "adequacy" as that term is intended to be used in the proposed amended version of paragraph (g)(1)(iv) which requires that the auditor review the adequacy of the broker's or dealer's procedures for complying with the possession or control requirements of § 240.15c3-3. This review was proposed as part of the reporting structure intended to replace Question (2) on the Schedule of Information for Possession or Control Requirements in Part II of Form X-17A-5 (§ 249.617). The Commission has determined to adopt this provision along with the remainder of the new reporting structure, and seek public comments with respect to an appropriate definition of "adequacy" in this context. As the revised reporting structure is substantially adopted, brokers and dealers need not respond to Question (2) on the

[1] The text of the amended Part II Statement of Revenue and Expenses and the text of the accompanying instructions are attached hereto as Appendix A. The text of the amended Part IIA Statement of Revenue and Expenses and the text of the accompanying instructions are attached hereto as Appendix B. Copies are available for public inspection. Appendices filed as a part of original document.

[2] The text of Schedule I and the text of the accompanying instructions are attached hereto in Appendix C. Copies are available for public inspection. Appendix filed as a part of original document.

[3] A more detailed "Consolidation and Diversification Schedule" is proposed in place of Schedule II. See Securities Exchange Act Release No. 13461, April 22, 1977.

[4] The text of Schedule III and the text of the accompanying instructions are attached hereto in Appendix C. Copies are available for public inspection. Appendix filed as a part of original document.

Schedule of Information for Possession or Control Requirements as part of the report filed on Part II of Form X-17A-5 (§ 249.617 for the calendar quarter ending March 31, 1977.[5] However, brokers and dealers should be aware that this question must be answered in conjunction with the report prepared by the broker or dealer on Form X-17A-5 (§ 249.617) as of the audit date.

(5) AMENDED § 240.17a-10

Comments were submitted suggesting that the information necessary to prepare annual schedule III which is required to be filed in conjunction with the report on Form X-17A-5 (§ 249.617) as of the quarter ending December 31 of each year would not be readily obtainable within 17 business days. The balance of this information previously was required to be filed within 60 calendar days as part of a report on Form X-17A-10 (§ 249.618). Adopted § 240.17a-10 has been revised to increase the filing period for this schedule to 60 calendar days after the close of each calendar year.

(6) AMENDED § 240.17a-11

No adverse comments were received, and § 240.17a-11 is adopted as proposed.

(7) AMENDED § 240.17a-13

Several commentators expressed concern that the proposed amendment to § 240.17a-13 would not permit the securities count performed by the auditor in conjunction with the audit to satisfy the requirements of § 240.17a-13, even if this securities count were conducted in compliance with the requirements specified in that section. The Commission notes that brokers and dealers have, as a matter of practice, engaged an independent public accountant to conduct the securities count required by § 240.17a-13, even during those calendar quarters when an audit was not being performed. The Commission does not object to the practice of an independent public accountant conducting a securities count for or in conjunction with the broker or dealer if the securities count which is conducted fully complies with the requirements of § 240.17a-13. Further, the Commission does not object to this practice during quarters other than the one in which the audit is conducted, if the securities count which is performed fully complies with the requirements of § 240.17a-13.

(8) PROPOSED AMENDED § 240.17a-18

The proposed amendments to § 240.17a-18 are hereby withdrawn for further consideration.

(9) AMENDED § 240.17a-19

One commentator questioned whether a self-regulator would be able to provide short-term notice as to a change in status of a member organization. The Commission is of the opinion that such notice is a key factor in the early-warning and surveillance system, and therefore § 240.17a-19 is adopted as proposed.

(10) AMENDED § 240.17a-20

No adverse comments were received, and § 240.17a-20 is adopted as proposed.

(11) AMENDED § 240.15c3-3

No adverse comments were received, and § 240.15c3-3 is adopted as proposed.

TEXT OF AMENDED RULES

In § 240.17a-4, paragraph (b)(8) is revised and (b)(9) is added as follows:

§ 240.17a-4 Records to be preserved by certain exchange members, brokers and dealers.

• • • • • •

(b) • • •

(8) Records which contain the following information in support of amounts included in the report prepared as of the audit date on Form X-17A-5 (§ 249.617 of this chapter) Part II or Part IIA and in the annual financial statements and schedules required by § 240.17a-5(i)(xv):

• • • • • •

(9) The records required to be made pursuant to § 240.15c3-3(d)(4).

• • • • • •

In § 240.17a-5, paragraphs (a)(2)(i), (ii), and (iii), (a)(3), (b)(1), (c)(2) and (3), (d)(1)(iii), (d)(2), (e)(1)(i), (e)(2), (e)(4), (e)(4)(iii)(B), (C), (D), (E), and (F), (f)(2), (g)(1)(iv), (g)(3) are revised and (b)(6) is added to read as follows:

§ 240.17a-5 Reports to be made by certain brokers and dealers.

(a) • • •

(2)(i) Every broker or dealer subject to this paragraph (a) who clears transactions or carries customer accounts shall file Part I of Form X-17A-5 (§ 249.617 of this chapter) within 10 business days after the end of each month.

(ii) Every broker or dealer subject to this paragraph (a) who clears transactions or carries customer accounts shall file Part II of Form X-17A-5 (§ 249.617 of this chapter) within 17 business days after the end of the calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than a calendar quarter. Certain of such brokers or dealers shall file Part IIA in lieu thereof if the nature of their business is limited as described in the instructions to Part II of Form X-17A-5 (§ 249.617 of the chapter).

(iii) Every broker or dealer who does not clear transactions nor carry customer accounts shall file Part IIA of Form X-17A-5 (§ 249.617 of this chapter) within 17 business days after the end of each calendar quarter and within 17 business days after the date selected for the annual audit of financial statement where said date is other than the end of the calendar quarter.

• • • • • •

(3) The reports provided for in this paragraph (a) shall be considered filed when received at the Commission's principal office in Washington, D.C. and the regional office of the Commission for the region in which the broker or dealer has its principal place of business. All reports filed pursuant to this paragraph (a) shall be deemed to be confidential

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(b) *Report filed upon termination of membership interest.* (1) If a broker or dealer holding any membership interest in a national securities exchange ceases to be a member in good standing of such exchange, such broker or dealer shall, within two business days after such event, filed with the Commission Part II or Part IIA of Form X-17A-5 (§ 249.617 of this chapter) as determined by the standards set forth in paragraphs (a)(2)(ii) and (iii) of this section as of the date of such event. The report shall be filed at the Commission's principal office in Washington, D.C., and with the regional office of the Commission for the region in which the broker or dealer has its principal place of business.

• • • • • •

(6) Any broker or dealer who is required to file a report pursuant to this paragraph (b) by virtue of terminating its membership interest in a self-regulatory organization other than the examining authority designated pursuant to section 17(d) of the Act may seek an exemption from the requirement to file such report by submitting a written request to the Commission no later than 5 business days prior to the date of termination of the membership interest. Such request shall contain the following information:

(i) An indication as to whether the broker or dealer is in violation of the applicable requirements specified in § 240.15c3-1 or § 240.15c3-3;

(ii) An indication as to whether the broker or dealer is experiencing any significant financial, operational or record-keeping problems;

(iii) An affirmation that the broker or dealer is in compliance with applicable rules of the Commission and each self-regulatory organization of which the broker or dealer is a member, setting forth in detail the circumstances surrounding any violations of such rules.

(iv) A detailed description of the reasons for the requested exemption.

(c) • • •

(2) *Audited statements to be furnished.* The following statements shall be furnished as required by paragraph (c)(1) of this section within 105 days after the date of the audited report required by paragraph (d) of this section:

• • • • • •

(3) *Unaudited statements to be furnished.* The statements shall contain the information specified in paragraph (c)(2)(i) and (ii) of this section. Said unaudited statements shall be as of the date 6 months from the date of the audited statements required to be furnished pur-

[5] The Commission is proposing to amend Form X-17A-5 to require that this question need be answered only as part of the report prepared as of the fiscal year end and audit date.

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suant to paragraphs (c)(1) and (2) of this section. Said unaudited statements shall be furnished not later than 65 days after the date as of which the statements are prepared.

(d)(1) • • •

(iii) A broker or dealer which is a member of a national securities exchange and has transacted a business in securities solely with or for other members of a national securities exchange, and has not carried any margin account, credit balance or security for any person who is defined as a "customer" in paragraph (c)(4) of this section, shall not be required to file a report under this paragraph.

(2) The annual audited report shall contain a Statement of Financial Condition (in a format and on a basis which is consistent with the totals reported on the Statement of Financial Condition contained in Form X–17A–5 (§ 249.617 of this chapter), Part II or Part IIA, a Statement of Income, a Statement of Changes in Financial Position, a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and Statement of Changes in Liabilities. Subordinated to Claims of General Creditors.) Such statements shall be in a format and on a basis which is consistent with such statements as contained in Form X–17A–5 (§ 249.617 of this chapter) Part II or Part IIA. If the Statement of Financial Condition filed in accordance with instructions to Form X–17A–5, Part II or Part IIA, is not consolidated, a summary of financial data, including the assets, liabilities, and net worth or stockholders' equity, for subsidiaries not consolidated in the Part II or Part IIA Statement of Financial Condition as filed by the broker or dealer should be included in the notes to the consolidated statement of financial condition reported on by the independent public accountant.

• • • • • •

(e) • • •

(1)(i) An audit shall be conducted by a public accountant who shall be in fact independent as defined in paragraph (f)(3) of this section herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d): *Provided, however*, That the financial statements filed pursuant to paragraph (d) of this section need not be audited if, since the date of the previous financial statements or report filed pursuant to § 240.15b1–2 or this section: (A) The securities business of such broker or dealer has been limited to acting as broker (agent) for an issuer in soliciting subscriptions for securities of such issuer, said broker has promptly transmitted to such issuer all funds and promptly delivered to the subscriber all securities received in connection therewith, and said broker has not otherwise held funds or securities for or owed money or securities to customers; or (B) its securities business has been limited to buying and selling evidences of indebtedness secured by mortgage, deed or trust, or other lien upon real estate or leasehold interests, and said broker or dealer has not carried any margin account, credit balance, or security for any securities customer.

(2) Attached to the report shall be an oath or affirmation that, to the best knowledge and belief of the person making such oath or affirmation, (i) the financial statements and schedules are true and correct and (ii) neither the broker or dealer, nor any partner, officer, or director, as the case may be, has any proprietary interest in any account classified solely as that of a customer. The oath or affirmation shall be made before a person duly authorized to administer such oaths or affirmations. If the broker or dealer is a sole proprietorship, the oath or affirmation shall be made by the proprietor; if a partnership, by a general partner; or if a corporation, by a duly authorized officer.

• • • • • •

(4) The broker or dealer shall file with the report a supplemental report which shall be covered by an opinion of the independent public accountant on the status of the membership of the broker or dealer in the Securities Investor Protection Corporation ("SIPC") if, pursuant to paragraph (e)(1) of this section, a report of the broker or dealer is required to be covered by an opinion of a certified public accountant or a public accountant who is in fact independent. The supplemental report shall cover the SIPC annual general assessment reconciliation or exclusion from membership forms not previously reported on under this subparagraph (4) which were required to be filed on or prior to the date of the report required by paragraph (d) of this section. The supplemental report, an original of which shall be submitted to the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, the principal office of the designated examining authority for such broker or dealer and the office of SIPC, shall be bound separately, be dated and be signed manually, and shall include the following:

• • • • • •

(iii) • • •

(B) For all or any portion of a fiscal year ending in 1976 and each fiscal year thereafter, comparison of amounts reflected in the annual report required by paragraph (d) of this section, with amounts reported in the Annual General Assessment Reconciliation (Form SIPC–7);

(C) Comparison of adjustments reported in Form SIPC–7 with supporting schedules and working papers supporting adjustments;

(D) Proof of arithmetical accuracy of the calculations reflected in Form SIPC–7 and in the schedules and working papers supporting adjustments; and

(E) Comparison of the amount of any overpayment applied with the Form SIPC–7 on which it was computed; or

(F) If exclusion from membership is claimed, the accountant shall review the annual report required by paragraph (d) of this section for all or any portion of a fiscal year ending in 1976 and each fiscal year thereafter to ascertain that the Certification of Exclusion from Membership (Form SIPC–7) was consistent with the income reported.

(f) • • •

(2) *Designation of accountant.* (i) Every broker or dealer which is required by paragraph (d) of this section to file an annual report of financial statements shall file no later than December 10 of each year a statement with the Commission's principal office in Washington, D.C., the regional office of the Commission for the region in which its principal place of business is located and the principal office of the designated examining authority for such broker or dealer. Such statement shall indicate the existence of an agreement dated no later than December 1, with an independent public accountant covering a contractual commitment to conduct the broker's or dealer's annual audit during the following calendar year.

(ii) The agreement may be of a continuing nature, providing for successive yearly audits, in which case no further filing is required. If the agreement is for a single audit or if the continuing agreement previously filed has been terminated or amended, a new statement must be filed by the required date.

(iii) The statement shall be headed "Notice pursuant to Rule 17a–5(f)(2)" and shall contain the following information.

(A) Name, address, telephone number and registration number of the broker or dealer;

(B) Name, address and telephone number of the accounting firm;

(C) The audit date of the broker or dealer for the year covered by the agreement.

(iv) Any broker or dealer which is exempted from the requirement to file an annual audited report of financial statements shall nevertheless file the notice specified herein indicating the date as of which the unaudited report will be prepared.

(v) Notwithstanding the date of filing specified in paragraph (f)(2)(i) of this section, every broker or dealer shall file the notice provided for in paragraph (f)(2) of this section within 30 days following the effective date of registration as a broker or dealer.

• • • • • •

(g) • • •

(1) • • •

(iv) In obtaining and maintaining physical possession or control of all fully paid and excess margin securities of customers as required by § 240.15c3–3. Such review shall include a determination as to the adequacy of the procedures described in the records required to be maintained pursuant to § 240.15c3–3(d)(4).

• • • • • •

(3) A material inadequacy in the accounting system, internal accounting controls, procedures for safeguarding securities, and practices and procedures referred to in paragraph (g)(1) of this section which is expected to be reported under these audit objectives includes any condition which has contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to (i) inhibit a broker or dealer from promptly completing securities transactions or promptly discharging his responsibilities to customers, other brokers and dealers or creditors; (ii) result in material financial loss; (iii) result in material misstatements in the broker's or dealer's financial statements; or (iv) result in violations of the Commission's recordkeeping or financial responsibility rules to an extent that could reasonably be expected to result in the conditions described in paragraphs (g)(3)(i), (ii), or (iii) of this section.

• • • • • •

In § 240.17a–10, paragraphs (a), (b), and (d) are revised to read as follows:

§ 240.17a–10 Report of revenue and expenses.

(a)(1) Every broker or dealer ►exempted from the filing requirements of paragraph (a) of § 240.17a–5 shall, not later than 17 business days after the close of each calendar year (commencing with calendar year 1977), file the Facing Page, a Statement of Income (Loss) and balance sheet from Part IIA of Form X–17A–5 (§ 249.617 of this chapter) and Schedules I and II of Form X–17A–5 (§ 249.617 of this chapter)◄ for such calendar year.

►(2) Every broker or dealer subject to the filing requirements of paragraph (a) of § 240.17a–5, shall submit Schedules I and II of Form X–17A–5 (§ 249.617 of this chapter) with its Form X–17A–5 (§ 249.617 of this chapter) for the calendar quarter ending December 31 of each year.

(3) Every broker or dealer subject to the filing requirements of paragraph (a) of § 240.17a–5 which has gross revenue related to the securities business which equals or exceeds $10 million for the calendar year shall, not later than 17 business days after the close of each calendar year (commencing with calendar year 1976), submit Schedule I, II and III of Form X–17A–5 (§ 249.617 of this chapter) with its submission of Form X–17A–5 (§ 249.617 of this chapter) for the calendar quarter ending December 31 of each year. Every broker or dealer subject to the requirements of this paragraph (a)(3) shall submit Schedule III of Form X–17A–5 (§ 249.617 of this chapter) within 60 calendar days after the close of each year.

(b) The provisions of paragraph (a) of this section shall not apply to a member of a national securities exchange or a registered national securities association which maintains records containing the information required by Form X–17A–5 (§ 249.617 of this chapter) as to each of its members, and which transmits to the Commission a copy of the record as to each such member pursuant to a plan, the procedures and provisions of which have been submitted to and declared effective by the Commission. Any such plan filed by a national securities exchange or a registered national securities association may provide that when a member is also a member of one or more national securities exchanges, or of one or more national securities exchanges and a registered national securities association, the information required to be submitted with respect to any such member may be transmitted by only one specified national securities exchange or registered national securities association. For the purpose of this section, a plan filed with the Commission by a national securities exchange or a registered national securities association shall not become effective unless the Commission, having due regard for the public interest, for the protection of investors, and for the fulfillment of the Commission's functions under the provisions of the Act, declares the plan to be effective. Further, the Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act.

• • • • • •

(d) In the event any broker or dealer finds that it cannot file the annual report required by paragraph (a) of this section within the time specified without undue hardship, it may file with the Commission's principal office in Washington, D.C., prior to the date upon which the report is due, an application for an extension of time to a specified date which shall not be later than 60 days after the close of the calendar year for which the report is to be made. The application shall state the reasons for the requested extension and shall contain an agreement to file the report on or before the specified date.

In § 240.17a–11, paragraphs (a), (b)(1), and (b)(2) are revised and (b)(4) is added to read as follows:

§ 240.17a–11 Supplemental current financial and operational reports to be made by certain exchange members, brokers and dealers.

(a) Every member, broker or dealer subject to § 240.15c3–1, whose net capital at any time is less than the minimum required by any capital rule to which such person is subject and every member, broker or dealer subject to § 240.15c3–1 whose total outstanding principal amounts of satisfactory subordination agreements exceeds the maximum allowable for a period in excess of 90 days in accordance with the provisions of § 240.15c3–1(d), shall:

(1) Give telegraphic notice as set forth in paragraph (f) of this section that such person's net capital is less than is required by any such capital rule, identifying the applicable net capital rule or rules or that such person's total outstanding principal amounts of satisfactory subordination agreements exceeds the maximum allowable in accordance with the provisions of § 250.15c3–1(d). The notice shall be given on the same day that such person's capital becomes less than required by any of the aforesaid rules to which such person is subject or, with respect to the total outstanding principal amounts of satisfactory subordination agreements, on the first day upon which such amount has exceeded the maximum allowable for a period in excess of 90 days.

(2) Within 24 hours thereafter file Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) as determined in accordance with the standards set forth in §§ 240.17a–5(a)(2)(ii) and (a)(2)(iii), and such supplementary information as may be required.

(b)(1) If a computation made by a broker or dealer pursuant to the requirements of § 240.15c3–1(c) shows, at any point during the month, that his aggregate indebtedness is in excess of 1,200 per centum of his net capital, or that his total net capital is less than 120 per centum of the minimum net capital required of him, such person shall file a report on Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) as determined in accordance with the standards set forth in §§ 240.17a–5(a)(2)(ii) and (a)(2)(iii), within 15 calendar days after the end of each month thereafter until 3 successive months shall have elapsed during which his aggregate indebtedness does not exceed 1,200 per centum of his net capital, and his total net capital does not fall below 120 per centum of the minimum net capital required of him.

(2) If a computation made by a member, broker or dealer to § 240.15c3–1(f) shows, at any point during the month, that his net capital is less than 6 percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A: Formula for the Determination of Reserve Requirements, or that his total net capital is less than 120 per centum of the minimum net capital required of him, such broker or dealer shall file a report on Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) as determined in accordance with the standards set forth in §§ 240.17a–5(a)(2)(ii) and (a)(2)(iii), within 15 calendar days after the end of each month thereafter until three successive months shall have elapsed during which his net capital is not less than six percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A, and his total net capital does not fall below 120 per centum of the minimum net capital required of him.

(3) • • •

(4) If a member, broker or dealer subject to the requirements of § 240.15c3–1(c)(2)(x)(F)(3), § 240.15c3–1(c)(2)(x)(B)(*1*) or § 240.15c3–1d(c)(2) fails to comply with the financial responsibility standards set forth in any of the above provisions, such member, broker or dealer shall immediately give notice of such event as specified in such provision.

• • • • • •

In § 240.17a–13, paragraph (b)(5) is revised to read as follows:

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§ 240.17a–13 Quarterly security counts to be made by certain exchange members, brokers and dealers.

* * * * *

(b) * * *

(5) Record on the books and records of the member, broker, or dealer all unresolved differences setting forth the security involved and date of comparison in a security count difference account no later than 7 business days after the date of each required quarterly security examination, count, and verification in accordance with the requirements provided in paragraph (c) of this section. *Provided*, however, That no examination, count, verification, and comparison for the purpose of this section shall be within 2 months of or more than 4 months following a prior examination, count, verification, and comparison made hereunder.

* * * * *

Section 240.17a–19 is revised to read as follows:

§ 240.17a–19 Form X–17A–19 Report by national securities exchanges and registered national securities associations of changes in the membership status of any of their members.

(a) Within 24 hours of the occurrence of the initiation of the membership of any person, or the suspension or termination of the membership of any member for which it is the designated examining authority, (unless a notice of such event previously has been filed) or upon learning that one or more of such events will occur, every national securities exchange and every registered national securities association shall give telegraphic notice of events required to be reported pursuant to Section 240.17a–19 to the Commission at its principal office in Washington, D.C., the Regional Office of the Commission for the region in which the member has its principal place of business, and the Securities Investor Protection Corporation.

(b) Every national securities exchange and every registered national securities association shall file with the Commission at its principal office in Washington, D.C., the Regional Office of the Commission for the region in which the member has its principal place of business, and the Securities Investor Protection Corporation such information as is required by § 249.635 of this chapter on Form X–17A–19 within 5 business days of the occurrence of the initiation of the membership of any person, or the suspension or termination of the membership of any member (unless a notice of such event previously has been filed) or promptly upon learning that one or more of such events will occur. Nothing in this section shall be deemed to relieve a national securities exchange of its responsibilities under § 240.17a–5(b)(5) except that to the extent a national securities exchange promptly files a report on Form X–17A–19 including therewith, inter alia, information sufficient to satisfy the requirements of § 240.17a–5(b)(5), it shall not be required to file a report pursuant to § 240.17a–5(b). Upon the occurrence of the events described in this paragraph, every national securities exchange and every registered national securities association shall notify in writing such member of its responsibilities under § 240.17a–5(b).

Section 240.17a–12 is revised to read as follows:

§ 240.17a–20 Monitoring effect of competitive commission rates.

(a)(1) Every broker or dealer subject to the filing requirements of paragraph (a) of § 240.17a–5 shall file, not later than 17 business days after the close of each calendar quarter, a report of its revenues and expenses and related financial and other information for each calendar quarter on Form X–17A–5 (§ 249.617 of this chapter.)

(2) The provisions of paragraphs (a)(1) of this section shall not apply to a member of a national securities exchange or a registered national securities association if said exchange or association maintains records containing the information required by § 249.617 of this chapter on Form X–17A–5 as to such member, and transmits to the Commission a copy of the records as to such member pursuant to a plan, the procedures and provisions of which have been submitted to and declared effective by the Commission. Any such plan filed by a national securities exchange or a registered national securities association may provide that when a member is also a member of one or more national securities exchanges, or of one or more national securities exchanges and a registered national securities association, the information required to be submitted with respect to any such member may be submitted by only one designated national securities exchange or registered national securities association. For the purpose of this section, a plan filed with the Commission by a national securities exchange or a registered national securities association shall not become effective unless the Commission, having due regard for the fulfillment of the Commission's functions under the provisions of the Act, declares the plan to be effective. Further, the Commission, in declaring any such plan effective may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act.

(3) Individual reports filed pursuant to paragraph (a) of this section are to be considered nonpublic information, except in cases where the Commission determines that it is in the public interest to direct otherwise.

(b) On written request of any national securities exchange, registered national securities association, broker or dealer, or on its own motion, the Commission may grant an extension of time or an exemption from any of the requirements of § 240.17a–20 or § 249.617 (Form X–17A–5) of this chapter either unconditionally or on specified terms and conditions.

In § 240.15c3–3, paragraph (d)(4) is added to read as follows:

§ 240.15c3–3 Customer protection—reserves and custody of securities.

* * * * *

(d) * * *

(4) A broker or dealer which is subject to the requirements of § 240.15c3–3 with respect to physical possession or control of fully paid and excess margin securities shall prepare and maintain a current and detailed description of the procedures which it utilizes to comply with the possession or control requirements set forth in this section. The records required herein shall be made available upon request to the Commission and to the designated examining authority for such broker or dealer.

* * * * *

Section 249.617 is revised to read as follows:

§ 249.617 Form X–17A–5, Information required of certain brokers and dealers pursuant to § 17 of the Securities Exchange Act of 1934 and § 240.17a–5, § 240.17a–10, § 240.17a–11 and § 240.17a–20 of this chapter.

Appropriate parts of this form shall be used by every broker or dealer required to file reports under § 240.17a–5(a), (b), and (d), § 240.17a–10(a), § 240.17a–11, and § 240.17a–20a) of this chapter.

Section 249.618 is revoked:

§ 249.618 Form X–17A–10, annual report of revenue and expenses to be filed by brokers and dealers pursuant to Section 17 of the Act and § 240.17a–10 of this chapter. [Revoked]

Section 249.636 is revoked:

§ 249.636 Form X–17A–20 Monitoring effect of competitive commission rates—revenue and expense information. [Revoked]

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The amendments to §§ 240.17a–4, 240.17a–5, 240.17a–10, 240.17a–11, 240.17a–13, 240.17a–19, 240.17a–20, 240.15c3–3, and 249.617, and the revocation of §§ 249.618 and 249.636 are effected pursuant to 15, 17 and 23 of the Securities Exchange Act of 1934 ("the Act") (15 U.S.C. 78o, 78q, 78w). The Commission has determined that the amendments impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act and are not inconsistent with the public interest or the protection of investors, as the amendments lessen any existing burden on competition by reducing the number and frequency of reports required to be filed by brokers and dealers.

EFFECTIVE DATE

The amendments adopted herein are effective June 30, 1977. A primary effect of the amendments adopted herein is to integrate the reports previously required on Form X–17A–10 (§ 249.618) and Form X–17A–20 (§ 249.636) into the reports filed on Form X–17A–5 (§ 249.617). In order to provide a complete and consistent data base for calendar year 1977 and thereby permit the elimination of Form X–17A–10 (§ 249.618) and Form X–17A–20 (§ 249.636), reports for the first calendar quarter must be filed on the revised income statement of Part II or Part IIA of Form X–17A–5 (§ 249.617).* Although the utilization of the amended income statement may be inconvenient for certain firms, the alternative is the filing of separate reports on Form X–17A–10 and Form X–17A–20 for calendar year 1977. Because the revised income statement incorporates the data presently required by Form X–17A–20, brokers and dealers will not be required to file such report for the first calendar quarter of 1977.

REQUEST FOR COMMENTS

The Commission is interested in receiving comments on all aspects of the FOCUS reporting system, and in particular, with respect to an appropriate definition of the term "adequacy" as that term is used in revised § 240.17a–5(g)(1)(iv).

Written comments should be submitted in triplicate on or before May 30, 1977. Comments shoud be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–691 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 22, 1977.

[FR Doc.77–12630 Filed 5–6–77;8:45 am]

*Certain of the self-regulatory organizations have printed the revised income statement, and will be distributing it to their members to be utilized in conjunction with the first calendar quarter reports. Those firms which use the present version of the income statement for the first calendar quarter report will be required to refile the data in the amended format as an attachment to the report filed for the second calendar quarter.

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 249]

[Release No. 34–13461; File No. S7–690]

FOCUS REPORTING SYSTEM

Requirements for Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Amendments to Form.

SUMMARY: These amendments would update and clarify the financial reports presently required to be filed by brokers and dealers. The amendments would also provide guideline schedules to assist registrants in the preparation of these reports.

DATES: Comments on or before: May 30, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202–755–1390.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced proposed amendments to Part I, Part II and Part IIA of Form X–17A–5 (§ 249.617), a financial and operational combined uniform single report under the Securities Exchange Act of 1934. The proposed amendments are intended to revise the form in accordance with amendments to the Commission's financial responsibility rules, and to clarify certain line items and instructions. The Commission also announced the proposal of guidelines for use in the preparation of reports on Form X–17A–5 (§ 249.617), the proposal of a facing page for the annual audited report, and the republication of the annual Consolidation and Diversification Schedule.

INTRODUCTION

On December 17, 1975 the Commission adopted Form X–17A–5 (§ 249.617), the Financial and Operational Combined Uniform Single ("FOCUS") report, to become effective on January 1, 1976.[1] Part I of Form X–17A–5 (§ 249.617) consists of 26 categories of key indicators designed to provide a comprehensive yet concise report of a broker's or dealer's financial and operational condition on a monthly basis. The form is structured so as to facilitate a trend analysis of these indicators over a calendar year period. Part II of Form X–17A–5 (§ 249.617) is a general purpose financial and operational report designed to obtain essential regulatory information on a quarterly basis and to develop financial statements in a format consistent with generally accepted accounting principles. Part IIA is an abbreviated version of Part II which is filed on a quarterly basis by brokers and dealers which neither clear transactions nor carry customer accounts.

In adopting release, the Commission stated its intention to periodically review the FOCUS Report * * * in order to continue modifying and updating the financial and operational reporting systems to keep pace with the changing securities industry."[2] In Securities Exchange Act Release No. 13100,[3] the Commission noted that the recommendations of a work group comprised of representatives of the self-regulatory organizations with respect to proposed amendments to Form X–17A–5 (§ 249.617) would be published for comment in early 1977.[4] The public comment letters sumitted, the work group's recommendations and the Commission's experience to date have indicated that technical modifications to the present format of Form X–17A–5 (§ 249.617) would be appropriate.

PROPOSED AMENDMENT OF PART I OF FORM X–17A–5 (§ 249.617)

The proposed amendments discussed below are described categorically in the order in which the particular line item appears on the proposed amended version of Part I.[5] In addition to the proposed amendments to individual line items and instructions, four blank lines would be placed at the end of the form to be utilized for reporting special information when requested by the Commission or the designated examining authority, and the overall language of line items and instructions would be clarified.

(1) EQUITY MARKETS (ITEM 2)

The instructions concerning the average number of markets made in equity securities would be clarified by including a specific reference to § 240.15c3–1(a)(4).

(2) AGED FAILS (ITEM 4)

The instruction would be amended to require the entering of ledger balances of fails to receive and fails to deliver aged eleven business days or more following settlement date (twenty-one business days or more following settlement date for municipal securities). The time periods would be revised in accordance with amended § 240.15c3–1(c)(2)(ix).

(3) 15C3–3 RESERVE (ITEM 7)

Item 7(c) would be amended to require the entry of the date on which a deposit was made if such deposit was required to be made pursuant to § 240.15c3–3(e).

(4) TOTAL EQUITY SUBORDINATION (ITEM 16)

A new item would be added to require the entry of the total amount of approved subordination agreements which are outstanding at the report date and which are considered equity capital pursuant to § 240.15c3–1(d).

(5) UNCONSOLIDATED INCOME/EXPENSE (ITEM 17)

This item would combine the items presently appearing under the captions "Unconsolidated Income/Expense" (Item 16) and "Trading and Investment Account Gains (or Losses)" (Item 17).

(6) DEDUCTIONS/CHARGES TO CAPITAL (ITEM 21)

Operational charges and potential charges to capital, which are presently designated Items 25 (a) and (b), would be redesignated Items 21 (a) and (b).

(7) TOTAL HAIRCUTS (ITEM 22)

This requirement, which is presently designated as Item 21, would be redesignated as Item 22.

(8) AI/RESERVE FORMULA DEBITS (ITEM 24)

Items 22 (a) and (b) would be redesignated as Items 24 (a) and (b).

(9) MINIMUM CAPITAL REQUIREMENT (ITEM 25)

Item 2(c), requiring the entry of the dollar amount of the highest minimum net capital requirement to which the firm is subject, would be redesignated as Item 25(a).

A new Item 25(b) would be added to require the entry of the amount of minimum net capital required to support aggregate indebtedness or aggregate debit items (as appropriate), if such amount is greater than the minimum capital requirement reported in Item 25(a).

(10) RATIO AND EXCESS NET CAPITAL (ITEM 26)

Item 24(a), requiring the entry of the ratio of aggregate indebtedness to net capital, would be redesignated as Item 26(a). A new line item would be added as Item 26(b) to require the entry of the ratio of net capital to aggregate debit items when the alternative method is used. Items 24(b) (1) and (2), requiring the entry of the amount of excess net capital, would be redesignated Items 26 (c) and (d). A new requirement would be added as Item 26(e), to record the ratio of certain options deductions to net capital.

(11) SCHEDULED CAPITAL WITHDRAWALS WITHIN 6 MONTHS (ITEM 27)

Item 25(c) would be redesignated as Item 27.

[1] Securities Exchange Act Release No. 11935, December 17, 1975; 40 FR 59706, December 30, 1976.

[2] Id., at 6.

[3] Securities Exchange Act Release No. 13100, December 22, 1976; 42 FR 782, January 4, 1977. (Hereinafter cited as "Release No. 13100.")

[4] Id., n. 8.

[5] The text of proposed amended Part I and accompanying instructions are attached hereto as Appendix A. Copies of such form and instructions are available for public inspection. Appendix filed as a part of original document.

(12) FILING PERIOD WITH RESPECT TO PART I OF FORM X–17A–5 (§ 249.617)

In Release No. 13100, the Commission stated its determination that all brokers and dealers, other than those specifically granted extensions of time pursuant to § 240.17a–5(1)(3), should file the report on Part I within 10 business days after the end of each month, commencing with the report filed for the month of April, 1977. The Commission also indicated that it would consider requests from individual brokers and dealers for extensions of this filing requirement. Brokers and dealers which have submitted such a request were granted an extension up to and including the report filed for the month of June, 1977.[6] These brokers and dealers will be required to file estimated data within 10 business days and final data as soon as possible but no later than 17 business days, for all reports on Part I of Form X–17A–5 (§ 249.617), commencing with the report filed for the month of July, 1977 up to and including December, 1977.

This optional procedure is intended to provide an interim period during which brokers and dealers may adjust their accounting systems and develop work plans which are designed to comply with the filing periods specified in § 240.17a–5(a). At the close of this interim period, all such brokers and dealers will be required to file Part I within 10 business days after the end of the month. Those brokers and dealers which have received an extension through June, 1977 and which do not wish to avail themselves of this optional procedure, will be required to file Part I within 10 business days commencing with the report filed for the month of July, 1977.

Those brokers and dealers which have not filed an extension request as specified in Release No. 13100 will be expected to comply with the 10 business day filing period commencing with the report filed for the month of April, 1977.

PROPOSED AMENDMENT OF PART II OF FORM X–17A–5 (§ 249.617) [7]

The proposed amendments discussed below are described in the order in which the particular statement or schedule appears in Part II. In addition to the proposed amendments of particular statements and schedules, the facing page would be revised to require an indication of the purpose for which the report is being filed.

(1) COMPUTATION OF NET CAPITAL (PAGE 5 AND 6 OF PART II)

A new subcategory G is proposed to be added under Item 6 to record option deductions and/or charges pursuant to § 240.15c3–1. A new subcategory H would be added under Item 6 to record the total amount of deductions and/or charges entered under that Item.

Several items would be added to the net capital section in order to provide readily accessible information in key categories. These items include a new Line 21 to record the percentage of aggregate indebtedness to net capital after anticipated capital withdrawal, and, under the alternative, a new Line 26 to record the percentage of net capital to aggregate debits and a new Line 27 to record the percentage of net capital after anticipated withdrawals to aggregate debits.

A new Part C, captioned "Other Ratios," would be added. This section would contain present Line 21 (which would be redesignated Line 29), the percentage of debt to debt-equity total computed in accordance with § 240.15c3–1(d), and a new Line 30 to record the ratio of options deductions to net capital.

(2) COMPUTATION FOR DETERMINATION OF RESERVE REQUIREMENTS FOR BROKER-DEALERS UNDER RULE 15C3–3 (PAGE 8 OF PART II)

An additional line would be placed under the caption "Credit Balances" to permit the entry and description of credits other than those specifically described. Line 22 (Amount held on deposit in "Reserve Bank Account(s)") and Line 24 (New amount in Reserve Bank Account(s) after adding deposit or subtracting withdrawal) would be amended to include the dollar value of qualified securities.

(3) INFORMATION FOR POSSESSION OR CONTROL REQUIREMENTS UNDER RULE 15C3–3 (PAGE 9 OF PART II)

A new note D is proposed to be added to specify that Item 2, requiring the entry of the market value and number of items of customers' fully paid and excess margin securities for which instructions to reduce to possession or control had not been issued as of the report date, must be responded to only as part of the report which is prepared as of the date selected for the annual audit of financial statements. This information would be filed within 60 calendar days after the date of the report, rather than within the 17 business day filing period applicable to the remainder of the report.

A new Item 3 would be added to require the broker or dealer to make a representation, on a quarterly basis, that the system and procedures utilized in complying with the possession or control requirements of § 240.15c3–3 have been tested and are functioning in a manner adequate to fulfill such requirements.[8]

(4) OWNERSHIP EQUITY AND SUBORDINATED LIABILITIES MATURING OR PROPOSED TO BE WITHDRAWN WITHIN THE NEXT SIX MONTHS (PAGE 10 OF PART II)

Two additional lines would be provided to permit the reporting of more data. The instruction which appears on this schedule would be revised to require the reporting of payments of liabilities secured by fixed assets which could be required by the lender on demand or in less than six months.

(5) OWNERSHIP EQUITY AND SUBORDINATED LIABILITIES MATURING OR PROPOSED TO BE WITHDRAWN WITHIN THE NEXT SIX MONTHS/RECAP (PAGE 11 OF PART II)

The caption of Line 3 would be changed from "Accruals" to "Other Anticipated Withdrawals" and subcategories 3(B) ("Partners' Drawing Accounts"), 3(C) ("Taxes"), and 3(D) ("Interest on Capital") would be deleted.

(6) FINANCIAL AND OPERATIONAL DATA (PAGE 12 OF PART II)

Line 16 ("failed to deliver") and Line 17 ("failed to receive") would be amended from 15 business days to 11 business days and a 21 business day requirement would be added for municipal securities. These revisions would be made to reflect the provisions of amended § 240.15c3–1(c)(2)(ix).

PROPOSED AMENDMENT OF PART IIA OF FORM X–17A–5 (§ 249.617) [9]

The proposed amendments discussed below are discussed in the order in which the particular statement or schedule appears in Part IIA. In addition to the proposed amendments of particular statements and schedules, the facing page would be revised to require an indication of the purpose for which the report is being filed.

(1) COMPUTATION OF NET CAPITAL (PAGE 3 OF PART IIA)

A new subcategory E is proposed to be added under Item 6 to record option deductions and/or charges pursuant to § 240.15c3–1.

(2) OWNERSHIP EQUITY AND SUBORDINATED LIABILITIES MATURING OR PROPOSED TO BE WITHDRAWN WITHIN THE NEXT SIX MONTHS (PAGE 7 OF PART IIA)

The instruction which appears on this schedule would be revised to require the reporting of payments of liabilities secured by fixed assets which could be required by the lender on demand or in less than six months.

PROPOSED SUPPLEMENTAL SCHEDULES AND GUIDELINES

Paragraph (a)(2)(iv) of § 240.17a–5 provides that the Commission or the designated examining authority may require a broker or dealer to file financial or operational information, in addition to a report on Part II or Part IIA, upon receiving written notice from the Commission or the designated examining authority. The intent of this provision is to pro-

[6] This procedure applies only to those brokers and dealers which are subject to the New York Stock Exchange plan filed pursuant to paragraph (a)(4) of § 240.17a–5.

[7] The text of proposed amended Part II is attached hereto as Appendix B. Copies are available for public inspection. Appendix filed as a part of original document.

[8] This representation is only part of the structure for insuring compliance with the possession or control requirements of § 240.15c3–3. For a description of the other components of this structure, *see* Release No. 13100, notes 10 and 11 and accompanying text

[9] The text of proposed amended Part IIA is attached hereto as Appendix C. Copies are available for public inspection. Appendix filed as a part of original document.

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vide a means by which the Commission and the self-regulators may obtain more detailed information than is normally required when it appears that a broker or dealer may be experiencing difficulty in a particular area.

The supplemental schedules which are proposed herein[10] are intended to indicate the type and format of information which would be required in many instances pursuant to the exception reporting provision of § 240.17a–5(a)(2)(iv), but are not intended to limit the authority of the Commission or the designated examining authority to require other information. The proposed schedules, which may also be utilized as guidelines in the preparation of quarterly reports on Part II or Part IIA of Form X–17A–5 (§ 249.617), are as follows:

1. Cash segregated in compliance with Federal and other regulations.
2. Aged securities failed to deliver.
3. Receivables from customers.
4. Receivables from non-customers.
5. Additional capital charges on customers' and non-customers' accounts.
6. Regulated commodity accounts liquidating to an equity.
7. Future commodities contracts and spot (cash) commodities—proprietary accounts.
8. Undue concentration based on § 240.15c3–1.
9. Securities owned and other investments—not readily marketable.
10. Other assets—miscellaneous.
11. Payable to customers.
12. Payable to non-customers.
13. Accounts payable and accrued liabilities and expenses.
14. Secured Demand Notes—capital deficiency charge.
15. Statement of changes in Stockholder's Equity or Partners' or Sole Proprietors' Capital (Unconsolidated).
16. Computation of Net Capital—other deductions and/or charges.
17. Compliance with requirements of § 240.15c3–3.
18. Contingencies.
19. Money difference accounts.
20. Security suspense accounts.
21. Security suspense accounts—details.
22. Security difference accounts—details.
23. Account differences with correspondents and similar items.
24. Bank account reconciliations—unidentified items.
25. Maximum haircuts on underwriting commitments during the period.
26. Insurance claims receivable—cash and securities.
27. Litigation.

[10] The text of the proposed supplemental schedules, which are designated "FOCUS Forms 1–27," is attached hereto in Appendix D. Also attached in Appendix D are instructions indicating the conditions under which these schedules are likely to be requested. Copies are available for public inspection. Appendix filed as a part of original document.

Withdrawal of Proposed Schedule of Gross Revenue of All Subsidiaries and Partly Owned Affiliates and Proposal of Consolidation and Diversification Schedule

In Release No. 13100, the Commission proposed for comment three schedules which are designed to integrate the data previously reported on Form X–17A–10 (§ 249.618) into the existing structure of Form X–17A–5 (§ 249.617). Schedule II ("Schedule of Gross Revenue of All Subsidiaries and Partly Owned Affiliates") as proposed would require a listing of annual gross revenues by major categories of all majority owned and partially owned subsidiaries and affiliates of the broker-dealer filing Form X–17a–5 (§ 249.617).

After further consideration, the Commission has determined that Schedule II as proposed would not provide all of the data necessary, and therefore is withdrawing proposed Schedule II. In place of the withdrawn schedule the Commission is proposing Schedule IIA of Form X–17A–5 (§ 249.617), designated a "Consolidation and Diversification Schedule."[11] Schedule IIA would require a listing of revenue and expense items, net income and certain balance sheet items on both a consolidated and unconsolidated basis.

[11] Because of the significant differences between Schedule II and Schedule IIA, the Commission has determined to publish the latter for comment, rather than adopting it immediately. The text of proposed Schedule IIA is attached hereto as Appendix F. Copies are available for public inspection. Appendix filed as a part of original document.

Proposed Facing Page for the Annual Audited Report[12]

In adopting amended § 240.17a–5, the Commission eliminated the detailed format of the "Answers to Financial Questionnaire" in favor of general purpose financial statements prepared in accordance with generally accepted accounting principles and designed to meet the specific audit objectives. Experience has shown that the processing of the annual audited reports would be greatly facilitated if the identification information were submitted in a consistent format. The Commission therefore proposes a facing page to be utilized in conjunction with the annual audited report. This facing page would require basic identification information such as the name and address of the broker-dealer and of the accountant whose opinion is contained in the report.

Statutory Basis

The proposed amendments to § 249.–617 described herein would be adopted pursuant to sections 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o, 78w).

Request for Comments

The Commission encourages comments on the amendments proposed herein and welcomes suggestions as to further modifications which may increase the effectiveness of Form X–17A–5 and the FOCUS reporting system.

Interested persons should submit written comments in triplicate on or before May 30, 1977. All such communications should be directed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–690 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 22, 1977.

[FR Doc.77–12629 Filed 5–6–77;8:45 am]

[12] The text of the proposed facing page is attached hereto as Appendix E. Copies are available for public inspection. Appendix filed as a part of original document.

V42 90 MAY 10 77 UMI

Advance Orders are now being Accepted
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(Revised as of April 1, 1977)

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V 42 90 MAY 10 77 UMI

91

Vol.42—No.91
5–11–77
PAGES
23795–24044

federal register

WEDNESDAY, MAY 11, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for July are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202–523–5282.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

Denver, Colo., 5–19, 5–20.
(Details: 42 FR 20208, 4–18–77.)
For reservations call: Ida Martinez or Velita Bonney at 303–234–2216.

SUNSHINE ACT MEETINGS 23935

CHILDREN'S SLEEPWEAR
CPSC withdraws proposal on flammability standards for sizes 7–14 23853

COMMODITIES
CFTC revises registration forms and related rules; effective 5–10–77 (Part IV of this issue) 23967

FLUE-CURED TOBACCO
USDA/CCC amends rules on price supports; effective 5–11–77 23795

FOOTWEAR FROM TAIWAN
Treasury/Customs revokes countervailing duty; effective 5–11–77 23801

COMPUTERS
Commerce/DIBA rules on applications for licenses for exportation of computers and related equipment; effective 5–6–77 23796

CORPORATE GOVERNANCE
SEC re-examines rules on shareholder participation; comments by 7–1–77 23901

CONTINUED INSIDE

V42 91 MAY 11 77
UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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- Scheduling of documents for publication. 523–5220
- Copies of documents appearing in the Federal Register. 523–5240
- Corrections 523–5286
- Public Inspection Desk 523–5215
- Finding Aids 523–5227

Public Briefings: "How To Use the Federal Register." 523–5282

Code of Federal Regulations (CFR) 523–5266
- Finding Aids 523–5227

PRESIDENTIAL PAPERS:
- Executive Orders and Proclamations. 523–5233
- Weekly Compilation of Presidential Documents. 523–5235
- Public Papers of the Presidents 523–5235
- Index 523–5235

PUBLIC LAWS:
- Public Law dates and numbers 523–5237
- Slip Laws 523–5237
- U.S. Statutes at Large 523–5237
- Index 523–5237

U.S. Government Manual 523–5230

Automation 523–5240

Special Projects 523–5240

HIGHLIGHTS—Continued

SECURITIES
SEC proposal requiring commercial industrial companies to disclose investment concentrations; comments by 6–30–77 23853

HOME HEATING
FEA proposes test procedures for unvented equipment; comments by 6–29–77 23860

NATIONAL FLOOD INSURANCE PROGRAM
HUD/FIA issues final flood elevation determinations for various communities (7 documents) (Part II of this issue) 23971–23975

MEXICAN BROADCASTING
FCC publishes list of FM broadcasting and television stations within 250 miles of the U.S.-Mexican border (2 documents) (Part V of this issue) 24008, 24020

PRIVACY ACT OF 1974
SBA proposes new system of records; comments by 6–10–77 23906

RAILROADS
ICC publishes railway system diagram maps (8 documents) (Part III of this issue) 23977

MOTOR GASOLINE
FEA issues amendment to proposal on adjustments to base period volumes; comments by 5–20–77 23859

MUNICIPAL SECURITIES
SEC extends uniform net capital rule; comments by 6–1–77 23799

COTTON APPAREL FROM POLAND
CITA increases import levels 23870

MEETINGS—
- Administrative Conference of U.S.: Judicial Review Committee, 5–20–77 23867
- Licenses and Authorizations Committee, 6–8–77 23867
- CEQ: TSCA Interagency Committee on Priority Chemicals Testing, 5–19–77 23872
- Commerce/DIBA: Computer Systems Technical Advisory Committee, 6–9–77 23869
- NOAA: North Pacific Fishery Management Council, and Scientific Statistical Committee, 5–26 and 5–27–77 23870
- EPA: Federal Insecticide, Fungicide and Rodenticide Act Scientific Advisory Panel, 5–25 thru 5–27–77 23872
- HEW: Review Panel on New Drug Regulation, 5–15 and 5–16–77 23884
- ADAMHA: Alcohol Training Review Committee, 6–6 thru 6–8–77 23882
- Social Sciences Training Review Committee, 6–2 and 6–3–77 23879
- NIH: Commission for Control of Huntington Disease and Its Consequences, 5–20 and 5–21–77 23882
- National Transportation Policy Study Commission, 5–26–77 23887
- SEC: National Market Advisory Board, 5–16, 5–17, 6–20, 6–21, 7–18, and 7–19–77 23888
- State: Shipping Coordinating Committee, U.S. National Committee for Prevention of Marine Pollution, 6–14–77 23906

CANCELLED MEETINGS—
- USDA/FS: Bighorn National Forest Grazing Advisory Board, 5–3–77 23867
- Cibola National Forest Grazing Advisory Board, 5–20–77 23867
- Condor Advisory Committee, 5–24–77 23867
- Humboldt National Forest Grazing Advisory Board, 5–16–77 23867
- Malheur National Forest Grazing Advisory Board, 5–4–77 23867
- Prescott National Forest Grazing Advisory Board, 5–6–77 23867
- Timpas Unit Grazing Advisory Board, 5–11–77 23867
- Union County Grazing Advisory Board, 5–16–77 23867

V 42 91 MAY 11 77 UMI

SEPARATE PARTS OF THIS ISSUE

Part II, HUD/FIA 23971
Part III, ICC 23977
Part IV, CFTC 23987
Part V, FCC 24007

contents

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
Notices
Meetings:
Judicial Review Committee ... 23867
Licenses and Authorizations Committee ... 23867

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Milk marketing orders:
New York-New Jersey; extension of time ... 23841

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Commodity Credit Corporation; Forest Service; Soil Conservation Service.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION
Notices
Meetings:
Advisory Committees; June (2 documents) ... 23879, 23882

CIVIL AERONAUTICS BOARD
Proposed Rules
Local service carriers, changes in authorized operations; standardized costing method ... 23841
Notices
Hearings, etc.:
Air-India ... 23868
Heacock, Amos E., et al ... 23869

COMMERCE DEPARTMENT
See Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration.

COMMODITY CREDIT CORPORATION
Rules
Loan and purchase programs:
Tobacco ... 23795

COMMODITY FUTURES TRADING COMMISSION
Rules
Commodity Exchange Act regulations:
Registration forms; futures commission merchants, floor brokers, etc ... 23987

CONSUMER PRODUCT SAFETY COMMISSION
Proposed Rules
Flammable fabrics:
Children's sleepwear, sizes 7 through 14; advertising noncomplying items; withdrawal ... 23853
Notices
Crossbows; enforcement proceedings:
Wham-O Manufacturing Co ... 23871

COST ACCOUNTING STANDARDS BOARD
Notices
Cost accounting standards:
Standards and regulations promulgated, effectiveness; evaluation conference ... 23871

CUSTOMS SERVICE
Rules
Liquidation of duties; countervailing duties:
Footwear from Republic of China ... 23801

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Rules
Export licensing:
Electronic computers, etc.; data accompanying license applications ... 23796
Notices
Meetings:
Computer Systems Technical Advisory Committee ... 23869

ECONOMIC DEVELOPMENT ADMINISTRATION
Rules
Public works impact program areas; designation standards ... 23795
Notices
Import determination petitions:
J. B. Lion Corp ... 23870

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Proposed Rules
Foreign Atomic Energy Programs; unclassified activities ... 23865

ENVIRONMENTAL PROTECTION AGENCY
Rules
Air quality implementation plans; various States, etc.:
Arizona ... 23802
California (6 documents) ... 23802–23805
Notices
Meetings:
FIFRA Scientific Advisory Panel ... 23872
Pesticide registration:
Grotan Dr-35 ... 23873
Pesticides; specific exemptions and experimental use permits:
Elanco Products Co. et al.; correction ... 23872
Washington State Department of Agriculture ... 23873

ENVIRONMENTAL QUALITY COUNCIL
Notices
Meetings:
Priority Chemicals Testing, TSCA Interagency Committee ... 23872

FEDERAL COMMUNICATIONS COMMISSION
Notices
Cable television:
ATR rate case, tariff revisions ... 23875
Meetings:
Federal-State Joint Board ... 23876
Mexican FM broadcasting stations; assignments and allocations list ... 24020
Mexican TV stations; assignments and allocations list ... 24008
Hearings, etc.:
American Telephone & Telegraph Co. et al ... 23876
Cable Haven TV, Inc ... 23875
Leer Electronics ... 23877
Nutmeg Broadcasting Co ... 23874

FEDERAL ENERGY ADMINISTRATION
Proposed Rules
Energy conservation program; appliances:
Home heating equipment, unvented ... 23860
Petroleum allocation regulations, mandatory:
Gasoline, motor; adjustments to base period volumes ... 23859

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National:
Flood elevation determinations, etc. (7 documents) ... 23972–23975

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Atlantic Richfield Co. et al.; correction ... 23877
El Paso Eastern Co. et al.; correction ... 23877
Mid-Continent Gas Storage Co. et al.; corrections (2 documents) ... 23878

FEDERAL RAILROAD ADMINISTRATION
Notices
Petitions for exemptions, etc.:
Johnstown & Stoney Creek Railroad Co ... 23906

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
McCune Bancshares, Inc ... 23878
Packwood Financial, Inc ... 23878
Second Charter Financial Corp ... 23879
Piedmont Bankgroup Inc ... 23879

FEDERAL TRADE COMMISSION
Rules
Prohibited trade practices:
Las Animas Ranch, Inc., et al ... 23879
Proposed Rules
Consent orders:
Copco, Inc ... 23841
Fisher Foods, Inc ... 23849
Food Fair Stores, Inc ... 23847
Kroger Co ... 23843
Shop-Rite Foods, Inc ... 23846

FOREST SERVICE
Notices
Environmental statements; availability, etc.:
Cooperative Western Spruce Budworm Pest Management Plan, Oreg. and Wash ... 23867
Meetings:
Bighorn National Forest Grazing Advisory Board et al; cancellations ... 23867

GENERAL SERVICES ADMINISTRATION
Notices
Public utilities; hearings etc.:
Public Service Co. of Colorado ... 23879

GEOLOGICAL SURVEY
Proposed Rules
Coal-mining operating regulations:
Montana, surface mining reclamation standards ... 23855

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also, Alcohol, Drug Abuse, and Mental Health Administration.
Notices
Information collection and data acquisition activity, description; inquiry ... 23883
Meeting:
New Drug Regulation Review Panel ... 23884

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See also Federal Insurance Administration.
Notices
Authority delegations:
New Community Development Corporation, Acting General Manager; order of succession ... 23884

INTERIOR DEPARTMENT
See Land Management Bureau; Outdoor Recreation Bureau.

INTERNAL REVENUE SERVICE
Notices
Authority delegations:
Commissioner, signing of name for ... 23907

INTERSTATE COMMERCE COMMISSION
Rules
Credit extensions to shippers by rail and motor carriers; correction ... 23840
Practice rules:
Republication ... 23806
Notices
Abandonment of railroad services, etc.:
Apache Railway Co ... 23978
Columbia, Newberry & Laurens Railroad Co ... 23979
Durham & Southern Railroad Co ... 23980
Florida East Coast Railway Co ... 23981
Gainesville Midland Railroad Co ... 23982
Lowville & Beaver River Railroad ... 23983
Richmond, Fredericksburg & Potomac Railroad Co ... 23984
Vermont Railway ... 23985
Fourth section applications for relief ... 23908
Hearing assignments ... 23908
Motor carriers:
Irregular route property carriers; gateway elimination ... 23908
Temporary authority applications (3 documents) ... 23920–23930

JUSTICE DEPARTMENT
Rules
Organization, functions, and authority delegations:
Assistant Attorney General, Criminal Division; designation as Acting Attorney General ... 23801

LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
New Mexico (2 documents) ... 23885
Wyoming ... 23886
Authority delegations:
Oregon State Office, Records and Data Management Branch Chief ... 23885
Outer Continental Shelf; Western Gulf of Alaska, oil and gas leasing ... 23885

NATIONAL CAPITAL PLANNING COMMISSION
Notices
Citizen participation and intergovernmental liaison; procedures; republication ... 23886

NATIONAL INSTITUTES OF HEALTH
Notices
Meeting:
Huntington's Disease and Its Consequences, Commission for Control of ... 23882

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Marine mammal permit applications, etc.:
Japan Salmon Fisheries Cooperative Associations ... 23870
Meeting:
North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel ... 23870

OUTDOOR RECREATION BUREAU
Notices
Environmental statements; availability, etc.:
Continental Divide National Scenic Trail ... 23886

SECURITIES AND EXCHANGE COMMISSION
Rules
Securities Exchange Act:
Brokers and dealers; uniform net capital rule ... 23799
Proposed Rules
Financial statements:
Marketable securities and other security investments ... 23853
Notices
Investor dispute resolution system; implementation ... 23892
Meetings:
National Market Advisory Board ... 23888
Proxy solicitations; shareholder communications, etc.; inquiry ... 23901
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc. (2 documents) ... 23889
Midwest Stock Exchange, Inc ... 23888
New York Stock Exchange ... 23897
Options Clearing Corp. (2 documents) ... 23899
Pacific Stock Exchange Inc. (2 documents) ... 23900, 23901
Hearings, etc.:
Appalachian Power Co. et al ... 23888
Boston Stock Exchange, Inc ... 23905
Cincinnati Stock Exchange ... 23892
Columbia Gas System, Inc ... 23890
Consolidated Natural Gas Co ... 23891
Fund A Partnership ... 23891
I.I., Inc ... 23892
Insured Municipals—Income Trust ... 23894
Itel Computer Dimensions, Inc ... 23895
Midwest Stock Exchange, Inc ... 23896
New England Electric System ... 23896
North East Heat & Light Co ... 23898
Philadelphia Stock Exchange (3 documents) ... 23892, 23896
Travelers Insurance Co ... 23904

SMALL BUSINESS ADMINISTRATION
Notices
Privacy Act; systems of records ... 23906

SOIL CONSERVATION SERVICE
Notices
Environmental statements on watershed projects; availability, etc.:

V42N91 MAY 11 77 UMI

CONTENTS

South Anna River Watershed, Va ---- 23867

STATE DEPARTMENT
Notices
Meetings:
Shipping Coordinating Committee, Marine Pollution Prevention, U.S. National Committee ---- 23906

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE
Notices
Cotton textiles:
Poland ---- 23870

TRANSPORTATION DEPARTMENT
See Federal Railroad Administration.

TRANSPORTATION POLICY STUDY, NATIONAL COMMISSION
Notices
Meetings ---- 23887

TREASURY DEPARTMENT
See also Customs Service; Internal Revenue Service.
Notices
Antidumping:
Rubber thread from Italy ---- 23907

VETERANS ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Washington, D.C. Area National Cemetery at Quantico, Va ---- 23907

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
1464 ---- 23795
PROPOSED RULES:
1002 ---- 23841

10 CFR
PROPOSED RULES:
211 ---- 23859
430 ---- 23860
810 ---- 23865

13 CFR
302 ---- 23795

14 CFR
PROPOSED RULES:
302 ---- 23841

15 CFR
376 ---- 23796

16 CFR
13 ---- 23799
PROPOSED RULES:
13 (5 documents) ---- 23841–23849
1616 ---- 23853

17 CFR
1 ---- 23988
240 ---- 23799
PROPOSED RULES:
210 ---- 23853

19 CFR
159 ---- 23801

24 CFR
1917 (7 documents) ---- 23972–23975

28 CFR
0 ---- 23801

30 CFR
PROPOSED RULES:
211 ---- 23855

40 CFR
52 (7 documents) ---- 23802–23805

49 CFR
1100 ---- 23806
1320 ---- 23840
1322 ---- 23842

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR
Ch. I ---- 22125

3 CFR
EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) ---- 23129
11861 (Amended by EO 11983) ---- 23127
11872 (Revoked by EO 11983) ---- 23127
11971 (Amended by EO 11982) ---- 22859
11932 ---- 22859
11983 ---- 23127
11984 ---- 23129
MEMORANDUMS:
May 4, 1977 ---- 23499

5 CFR
213 ---- 22355, 22356, 23131
550 ---- 23131
PROPOSED RULES:
733 ---- 23160

7 CFR
1 ---- 23597
6 ---- 22874
52 ---- 22356
230 ---- 23155
271 ---- 22356
272 ---- 23599
295 ---- 23155
701 ---- 22358
907 ---- 22874
910 ---- 22359, 23156
916 ---- 23156
917 ---- 22875, 23157
959 ---- 22125
1068 ---- 22360
1421 ---- 22126
1430 ---- 22126
1464 ---- 23795
1888 ---- 23158
PROPOSED RULES:
53 ---- 23514
225 ---- 23606
915 ---- 23607
918 ---- 23160
944 ---- 23514
1002 ---- 23841
1421 ---- 23613
1425 ---- 23614

8 CFR
PROPOSED RULES:
103 ---- 22148
244 ---- 22148
299 ---- 22149

9 CFR
78 ---- 22370
94 ---- 23131
301 ---- 22373
307 ---- 22373
308 ---- 22373
310 ---- 22373
318 ---- 22373
320 ---- 22373
325 ---- 22373
327 ---- 22373
331 ---- 22373
350 ---- 22373
354 ---- 22373
355 ---- 22373
362 ---- 22373

9 CFR—Continued
381 ---- 22373
390 ---- 22373
391 ---- 22373
PROPOSED RULES:
1 ---- 22374
2 ---- 22374
3 ---- 22374

10 CFR
2 ---- 22128, 22882
50 ---- 22882
140 ---- 23501
205 ---- 23501, 23722
212 ---- 22131, 22881
303 ---- 23134
305 ---- 23140
307 ---- 23142
309 ---- 23144
RULINGS:
1977-6 ---- 23501
PROPOSED RULES:
2 ---- 22168
170 ---- 22149
211 ---- 22889, 23859
212 ---- 22374, 22889
430 ---- 23860
810 ---- 23865

12 CFR
202 ---- 22861
220 ---- 22862
226 ---- 22360
329 ---- 22362
PROPOSED RULES:
220 ---- 22894
225 ---- 22560
226 ---- 23516
329 ---- 22378

13 CFR
302 ---- 23795
309 ---- 23146
500 ---- 22135
520 ---- 22135
551 ---- 22135
552 ---- 22136
553 ---- 22137
554 ---- 22137
555 ---- 22137
560 ---- 22137
PROPOSED RULES:
120 ---- 23614

14 CFR
39 ---- 22137, 22862, 22863, 23502–23504
71 ---- 22138, 23505
91 ---- 22139
97 ---- 22863
241 ---- 23146
385 ---- 23600
PROPOSED RULES:
39 ---- 22172, 22896
71 ---- 22172, 22173
152 ---- 22896
302 ---- 23841

15 CFR
50 ---- 22362
376 ---- 23796

16 CFR
13 ---- 22876, 23799
1014 ---- 22878
1202 ---- 22656
1500 ---- 22878
PROPOSED RULES:
2 ---- 22897
13 ---- 23841–23849
1205 ---- 23052
1616 ---- 23853

17 CFR
1 ---- 23988
231 ---- 22139
239 ---- 22139
240 ---- 23786, 23799
249 ---- 23786
PROPOSED RULES:
1 ---- 23614
32 ---- 23614
210 ---- 23853
249 ---- 23792

18 CFR
1000 ---- 22146
PROPOSED RULES:
1 ---- 23160
3 ---- 23160
4 ---- 23160
5 ---- 23160
6 ---- 23160
16 ---- 23160
35 ---- 22897
154 ---- 23615

19 CFR
159 ---- 23146, 23505, 23801

20 CFR
200 ---- 22865
PROPOSED RULES:
655 ---- 22378

21 CFR
172 ---- 23148
193 ---- 23148
310 ---- 23772
510 ---- 23149
520 ---- 23600
540 ---- 23149
561 ---- 22363, 23148
801 ---- 23772
PROPOSED RULES:
361 ---- 23161

23 CFR
PROPOSED RULES:
640 ---- 22173
642 ---- 22173

24 CFR
235 ---- 22557
241 ---- 23601
812 ---- 23582
860 ---- 23584
880 ---- 23585
881 ---- 23585
882 ---- 23585
883 ---- 23585
886 ---- 23585

V 42 91 MAY 11 77 UMI

24 CFR—Continued

888 22363
1914 22865–22867
1917 23972–23975

PROPOSED RULES:

803 22704
888 22704
1932 22900

25 CFR

219 22141

PROPOSED RULES:

221 22902

26 CFR

301 22143

PROPOSED RULES:

53 23517

27 CFR

178 22144
181 22144

28 CFR

0 ..... 22557, 23801
16 23506
32 23252

29 CFR

9 22364
40 22364
1910 ..... 22516, 23601

30 CFR

PROPOSED RULES:

211 23855

31 CFR

530 23605

PROPOSED RULES:

215 22174

32 CFR

865 23601

33 CFR

1 23506
25 22879

36 CFR

7 22557

37 CFR

PROPOSED RULES:

4 22378

38 CFR

3 22868

39 CFR

PROPOSED RULES:

111 22176

40 CFR

33 22144
52 ..... 22869, 23802–23805
180 22364
228 22144
435 22558

PROPOSED RULES:

51 22177
52 ..... 22902, 23162
60 22506
228 23163
250 22332
435 22560

41 CFR

1–1 23507
1–14 23507
9–7 23507
9–15 23507
15–3 22145
101–25 22558
114–25 23150

43 CFR

PUBLIC LAND ORDERS:

5617 22365

45 CFR

4 22145
84 ..... 22676, 22888
250 23508
1060 23151
1067 22365
1068 22145

PROPOSED RULES:

166 22336

46 CFR

148 22145
502 23509

46 CFR—Continued

PROPOSED RULES:

10 22903
12 22903
35 23517
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296
151 22903
153 23518
502 22383

47 CFR

2 23509
73 22558
74 22558
76 23510
81 ..... 22869–22872, 23510
83 ..... 22869–22872, 23510
87 23509

PROPOSED RULES:

61 23615
64 23615
73 ..... 22183, 22569, 23165
76 23519

49 CFR

1 22366
172 ..... 22366, 22880
175 ..... 22366, 22880
1033 ..... 22367, 22368, 22880
1036 23511
1041 22369
1100 23806
1320 ..... 22369, 23840
1321 .....
1322 ..... 22369, 23842

PROPOSED RULES:

Ch. II 22184

50 CFR

26 23151
33 22874
611 22559

PROPOSED RULES:

32 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*	*Pages*	*Date*
22125–22354	May 2	23127–23497	6
22355–22556	3	23499–23596	9
22557–22858	4	23597–23794	10
22859–23125	5	23795–24044	11

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Dowty rotol propellers; airworthiness directive.. 22862; 5–5–77
Standard instrument approach procedures 22863; 5–5–77
FCC—TV broadcast stations in Cheyenne, Okla.; changes in table of assignments 18280; 4–6–77

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service—
Milk albuminate; use in sausage products; comments by 5–16–77. 9182; 2–15–77
Commodity Credit Corporation—
Determination of price support levels by types of peanuts; comments by 5–19–77 ..... 20302; 4–19–77
Tobacco loan program; 1977 support levels; comments by 5–20–77. 20476; 4–20–77
Farmers Home Administration—
Planning and performing development work; comments by 5–20–77. 20825; 4–22–77
Rural rental housing loan policies, procedures, and authorizations; comments by 5–19–77. 20302; 4–19–77

COMMERCE DEPARTMENT
Office of the Secretary—
Unaffiliated foreign residents and direct investment surveys, reports on international transactions in royalties and fees; comments by 5–16–77 ..... 19888; 4–15–77

COMMODITY FUTURES TRADING COMMISSION
Bona fide hedging transactions or positions; comments by 5–16–77. 14832; 3–16–77
Commodity pool operators; comprehensive scheme for regulations; comments by 5–16–77 .... 9265; 2–15–77
Commodity trading advisers; comprehensive scheme for regulation; comments by 5–16–77 .... 9277; 2–15–77

COMMUNITY SERVICES ADMINISTRATION
Disaster relief; criteria for waiver of non-Federal share; comments by 5–20–77. 20468; 4–20–77

CONSUMER PRODUCT SAFETY COMMISSION
Child resistant packaging standards, certain preparations containing iron; comments by 5–18–77 ..... 20148; 4–18–77
Poison prevention packaging; certain aspirin containing powders; exemption from child-resistant packaging standards; comments by 5–19–77. 20291; 4–19–77

DEFENSE DEPARTMENT
Army Department—
Personal privacy and rights of individuals regarding their personal records, exemption; comments by 5–19–77 ..... 20314; 4–19–77

ENVIRONMENTAL PROTECTION AGENCY
Marine sanitation device standard, prohibition of sewage discharge in certain waters; comments by 5–17–77. 15079; 3–18–77
North Dakota; approval and promulgation of State implementation plans; comments by 5–20–77 ..... 20480; 4–20–77
Pretreatment standards for existing sources and new sources of pollution, availability of document; comments by 5–18–77 ..... 20314; 4–19–77

FEDERAL COMMUNICATIONS COMMISSION
Changes in table of assignments for TV broadcast stations in Fayetteville, Ark., et al.; comments by 5–19–77. 19491; 4–14–77
Computer inquiry; listing parties in proceeding; comments by 5–16–77. 21626; 4–28–77
Educational broadcast stations; Commission policy on noncommercial nature of programs; comments by 5–16–77 ..... 15927; 3–24–77
FM broadcast stations in Gillette, Wyo.; reply comments extended to 5–18–77. 19160; 4–12–77
[First published at 42 FR 10858, Feb. 24, 1977]
FM broadcast stations, table of assignments; Macomb, Ill.; comments by 5–19–77 ..... 20153; 4–18–77
Permission for aeronautical enroute stations to identify by location of principal control point; reply comments by 5–19–77 ..... 19498; 4–14–77
Private land mobile radio services; permissibility of use of automatic Morse code identification equipment; comments by 5–17–77.. 14124; 3–15–77
TV broadcast stations; adding new VHF stations in the top 100 markets; comments by 5–20–77.. 16782; 3–30–77

FEDERAL ENERGY ADMINISTRATION
Alaska North Slope crude oil pricing and entitlements treatment; comments by 5–19–77 ..... 22889; 5–5–77
Small refiner bias under the entitlements program; elimination of issuances of all bias entitlements with respect to processing agreements; comments by 5–21–77 ..... 21269; 4–26–77

FEDERAL RESERVE SYSTEM
Credit card plans; transaction-by-transaction billing and imposition of no finance charge; comments by 5–16–77 ..... 20478; 4–20–77
Flood-prone areas; loans by State member banks; comments by 5–20–77. 20477; 4–20–77

FINE ARTS COMMISSION
Federal advisory committees; comments by 5–18–77 ..... 20169; 4–18–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
Community services and continuing education programs; priorities for special projects for FY 1977; comments by 5–19–77 ..... 17889; 4–4–77
Food and Drug Administration—
New drugs containing hexachlorophene; comments by 5–19–77. 20315; 4–19–77
Public Health Service—
Alternate Professional Standards Review Organizations; criteria; comments by 5–16–77 ..... 17501; 4–1–77
Hospital and station management; contributions for benefit of patients; comments by 5–16–77. 17500; 4–1–77
Professional standards review areas; Ohio, boundaries change; comments by 5–16–77 ..... 16839; 3–30–77
Social Security Administration—
Aged, blind, and disabled; supplemental security income; interim regulations; comments by 5–16–77. 17440; 4–1–77
Federal Health Insurance for the aged and disabled; cost basis on purchase of facility an ongoing operation and transactions involving provider's capital stock; comments by 5–16–77 ..... 17485; 4–1–77
Federal old-age, survivors, and disability insurance; requirements for entitlement or reentitlement to child's benefits; comments by 5–16–77 ..... 17484; 4–1–77
Federal old-age, survivors, and disability insurance; computing self-employment income for social security purposes; comments by 5–19–77 ..... 17881; 4–4–77

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Federal Housing Commissioner—Office of Assistant Secretary for Housing—
Fair market rents for Section 23 and Section 8 existing housing programs; comments by 5–18–77. 22704; 5–4–77

INTERIOR DEPARTMENT
Fish and Wildlife Service—
Migratory bird hunting; comments by 5–18–77 ..... 13311; 3–10–77
Land Management Bureau—
Electric transmission facilities crossing Federal lands, minimum power transmission level requiring wheeling stipulation; comments by 5–16–77 ..... 20315; 4–19–77

V 42 91 MAY 11 77 UMI

Outer Continental Shelf leasing; form of bonus and rental payments; comments by 5–16–77..... 17147; 3–31–77

JUSTICE DEPARTMENT
Parole Commission—
Parole, release, supervision, and recommitment of prisoners, youth offenders, and juvenile delinquents; comments by 5–16–77..... 13305; 3–10–77

LABOR DEPARTMENT
Employment Standards Administration—
Longshoremen's and harbor workers' compensation; administration and procedure; comments by 5–16–77. 21816; 4–29–77

NUCLEAR REGULATORY COMMISSION
Authority for access to or control of special nuclear material; comments by 5–16–77..... 14881; 3–17–77
Petition for use of byproduct material for in vitro clinical or laboratory testing; comments by 5–16–77. 15913; 3–24–77

SECURITIES AND EXCHANGE COMMISSION
Securities registered by open-end management companies; computation of filing fees; comments by 4–20–77. 15922; 3–24–77
Securities transactions by members of national securities exchanges; comments by 5–15–77.. 16746; 3–29–77

TRANSPORTATION DEPARTMENT
Coast Guard—
Carriage of solid hazardous materials in bulk; comments by 5–15–77. 17889; 4–4–77
Great Lakes pilotage rates; comments by 5–18–77..... 20163; 4–18–77
Federal Aviation Administration—
Airport and airway development; civil rights; comments by 5–20–77. 22896; 5–5–77
Airworthiness directive; Dowty Rotol; comments by 5–16–77..... 17136; 3–31–77
Airworthiness directives; McCauley series propellers; comments by 5–16–77..... 15914; 3–24–77
Airworthiness directive; McCauley propellers; comments by 5–16–77. 17137; 3–31–77
Airworthiness directive; McDonnell Douglas; comments by 5–20–77 (2 documents).... 20145–6; 4–18–77
Alteration of control zone and transition area, Columbus, Nebr.; comments by 5–21–77..... 20147; 4–18–77
Major regulatory action with energy impact; definition; comments by 5–16–77..... 17135; 3–31–77

Next Week's Meetings

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Shippers Advisory Committee, Lakeland, Fla. (open), 5–17–77. 21124; 4–25–77
Forest Service—
Cibola National Forest Grazing Advisory Board, Albuquerque, N. Mex. (open with restrictions), 5–20–77. 19162; 4–12–77
Humboldt National Forest Livestock Advisory Board, Elko, Nev. (open), 5–16–77..... 18293; 4–6–77
Union County Grazing Advisory Board, Clayton, N. Mex. (open), 5–16–77. 18882; 4–11–77
Office of the Secretary—
Agricultural Research Policy Advisory Committee, Washington, D.C. (open), 5–19–77.. 20840; 4–22–77

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Federal Graphics Evaluation Advisory Panel; Washington, D.C. (partially open), 5–20–77..... 22612; 5–4–77
Research Grants Panel, Washington, D.C. (closed), (3 documents), 5–17, 5–19, and 5–20–77..... 20520, 20521; 4–20–77

CIVIL RIGHTS COMMISSION
Delaware Advisory Committee, Wilmington, Del. (open), 5–20–77.... 20840; 4–22–77
Iowa Advisory Committee, Des Moines, Iowa (open), 5–16–77..... 17508; 4–1–77
Maine Advisory Committee, Auburn, Me. (open with restrictions), 5–19–77..... 20324; 4–19–77
Maryland Advisory Committee, Baltimore, Md. (open), 5–17–77.... 22187; 5–2–77
Montana Advisory Committee, Billings, Mont. (open with restrictions), 5–21–77..... 20324; 4–19–77
New Hampshire Advisory Committee, Manchester, N.H. (open with restrictions), 5–18–77..... 20324; 4–19–77
New Hampshire Advisory Committee, Concord, N.H. (open with restrictions), 5–17–77..... 20324; 4–19–77
New Hampshire Advisory Committee, Portsmouth, N.H. (open with restrictions), 5–19–77..... 20324; 4–19–77
North Carolina Advisory Committee, Raleigh, N.C. (open), 5–19–77. 20841; 4–22–77

COMMERCE DEPARTMENT
Domestic and International Business Administration—
Electronic Instrumentation Technical Advisory Committee, Washington, D.C. (partially closed), 5–17–77. 21637; 4–28–77
Management-Labor Textile Advisory Committee, Washington, D.C. (open), 5–17–77.. 21504; 4–27–77.
Numerically Controlled Machine Tool Technical Advisory Committee, Washington, D.C. (partially closed), 5–18–77..... 21131; 4–25–77
Semiconductor Technical Advisory Committee, Washington, D.C. (partially closed), 5–19–77..... 22391; 5–3–77
National Bureau of Standards—
Task Force, Washington, D.C. (open), 5–16 and 5–17–77..... 22188; 5–2–77
National Oceanic and Atmospheric Administration—
Marine Fisheries Service, National, Washington, D.C. (open with restrictions), 5–19 and 5–20–77. 19365; 4–13–77
Office of the Secretary—
Commerce Technical Advisory Board, Washington, D.C. (open), 5–17 and 5–18–77..... 21307; 4–26–77

CONSUMER PRODUCT SAFETY COMMISSION
Product Safety Advisory Council, Washington, D.C. (open), 5–16–77. 22188; 5–2–77

DEFENSE DEPARTMENT
Navy Department—
Board of Advisors to the President, Naval War College, Newport, R.I., 5–21–77..... 21836; 4–29–77
Naval Research Advisory Committee, Washington, D.C. (closed), 5–19 and 5–20–77..... 22189; 5–2–77
Office of the Secretary—
Defense Intelligence Agency, Scientific Advisory Committee; Rosslyn, Va. (closed), 5–18–77.. 18421; 4–7–77

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Geothermal Energy Advisory Committee, Geopressure Subcommittee; Austin, Tex. (open), 5–19–77..... 22575; 5–4–77
Global Environmental Effects of Carbon Dioxide Study Group, Atlanta, Ga., 5–21–77..... 18883; 4–11–77
[First published at 42 FR 17515, Apr. 1, 1977]

ENVIRONMENTAL PROTECTION AGENCY
Air quality models guidelines, Atlanta, Ga. and Chicago, Ill. (open), 5–17 and 5–19–77..... 20492; 4–20–77
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel, Washington, D.C. (open), 5–16 and 5–17–77.... 22189; 5–2–77
Science Advisory Board Environmental Measurements Advisory Committee, Washington, D.C. (open), 5–19–77. 22190; 5–2–77

FEDERAL COMMUNICATIONS COMMISSION
Radio Technical Commission for Marine Services, New York, N.Y. (open), 5–16–77..... 21647; 4–28–77
Radio Technical Commission for Marine Services, Washington, D.C. (open), 5–17 thru 5–19–77.. 21647; 4–28–77

FEDERAL ENERGY ADMINISTRATION
East Coast natural gas distribution industry, Washington, D.C. (open), 5–17–77..... 21134; 4–25–77

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Meeting, Washington, D.C. (closed), 5–19–77..... 20345; 4–19–77

GENERAL SERVICES ADMINISTRATION
Regional Public Advisory Panel on Architectural and Engineering Services, Washington, D.C. (open), 5–17 thru 5–19–77..... 22204; 5–2–77

HEALTH, EDUCATION, AND WELFARE
Aging, Federal Council—
Quarterly meeting; Washington, D.C. (open), 5–18 thru 5–20–77. 21322; 4–26–77
Alcohol, Drug Abuse, and Mental Health Administration—
Drug Abuse National Advisory Council, Rockville, Md. (partially open), 5–16 and 5–17–77..... 20503; 4–20–77
Disease Control Center—
Immunization Practices Advisory Committee, Atlanta, Ga. (open), 5–18 and 5–19–77..... 21116; 4–25–77
Education Office—
Education of Disadvantaged Children, National Advisory Council, Washington, D.C. (open), 5–18 and 5–19–77..... 20510; 4–20–77
Education of Disadvantaged Children, National Advisory Council, Washington, D.C. (closed), 5–20 and 5–21–77..... 20510; 4–20–77
Environmental Education Advisory Council, Washington, D.C. (open), 5–18 and 5–19–77..... 22204; 5–2–77
Ethnic Heritage Studies National Advisory Council, New York, N.Y. (open), 5–19 and 5–20–77. 21854; 4–29–77
Food and Drug Administration—
Allergenic Extracts Panel; Rockville, Md. (open), 5–20 and 5–21–77. 19922; 4–15–77
Antimicrobial Panel; Rockville, Md. (open), 5–20 and 5–21–77. 19917; 4–15–77
Arthritis Advisory Committee; Rockville, Md. (open), 5–19 and 5–20–77..... 19917; 4–15–77
Contraceptive and Other Vaginal Drug Products Panel; Rockville, Md. (open), 5–20 and 5–21–77. 19917; 4–15–77
Health care and services ad hoc professional meeting, Washington, D.C. (open), 5–18–77.... 22405; 5–3–77
Miscellaneous Internal Drug Products Panel; Rockville, Md. (open), 5–15 thru 5–16–77..... 19917; 4–15–77
lealth Resources Administration—
Cooperative Health Statistics Advisory Committee, Silver Spring, Md. (open), 5–19 and 5–20–77. 20504; 4–20–77
Health Services Administration—
Maternal and Child Health Research Grants Review Committee; Rockville, Md. (partially open), 5–18 thru 5–20–77..... 15139; 3–18–77
Migrant Health, National Advisory Committee on; Rockville, Md. (open), 5–16 thru 5–18–77. 13158; 3–9–77
National Institutes of Health—
Arthritis, Metabolism and Digestive Diseases National Advisory Council, Bethesda, Md. (open with restrictions), 5–18 thru 5–20–77. 20506; 4–20–77
Artificial Kidney-Chronic Uremia Advisory Committee, Bethesda, Md. (open and closed), 5–16 thru 5–18–77..... 19402; 4–13–77
Clinical Trials Review Committee, Bethesda, Md. (open), 5–16 and 5–17–77..... 20505; 4–20–77
Committee to Coordinate Toxicology and Related Programs on Approaches to Determining the Mutagenic Properties of Chemicals: Risk to Future Generations, Bethesda, Md. (open with restrictions), 5–20–77..... 20351; 4–19–77
Dental Research National Advisory Council, Bethesda, Md. (partially closed), 5–16 and 5–17–77. 15971; 3–24–77
National Institute of Arthritis, Metabolism, and Digestive Diseases, National Diabetes Advisory Board, Washington, D.C. (open), 5–20–77. 21521; 4–27–77
National Library of Medicine Board of Regents, Bethesda, Md. (open and closed), 5–19 and 5–20–77. 19404; 4–13–77
Research Resources National Advisory Council, Bethesda, Md. (open and closed), 5–19–77..... 19403; 4–13–77
Office of the Secretary—
Board of Advisors to the Fund for the Improvement of Postsecondary Education, Washington, D.C. (open), 5–15 thru 5–17–77. 22204; 5–2–77
National Health Insurance Issues Advisory Committee, Washington, D.C. (open), 5–20 and 5–21–77. 23179; 5–6–77
National Professional Standards Review Council, Washington, D.C. (open with restrictions), 5–16 and 5–17–77..... 21116; 4–25–77

INTERIOR DEPARTMENT
Land Management Bureau—
Oil Shale Environmental Advisory Panel, Roosevelt, Utah (open), 5–18–77..... 22205; 5–2–77
National Park Service—
Boston National Historical Park Advisory Commission, Boston, Mass. (open with restrictions), 5–19–77. 21667; 4–18–77

JUSTICE DEPARTMENT
Committee on Selection of the Director of the Federal Bureau of Investigation, Washington, D.C. (closed), 5–19 thru 5–21–77..... 22428; 5–3–77
United States Circuit Judge Nominating Commission, Western Fifth Circuit Panel, Houston, Tex. (closed), 5–17–77..... 22206; 5–2–77
Immigration and Naturalization Service—
Hispanic Advisory Committee on Immigration and Naturalization, San Diego, Calif. (open with restrictions), 5–19 and 5–20–77. 22428; 5–3–77
Law Enforcement Assistance Administration—
Law Enforcement/Private Security Relationships Committee, Arlington, Va. (open), 5–19 and 5–20–77. 22206; 5–2–77

LABOR DEPARTMENT
Labor Statistics Bureau—
Business Research Advisory Council's Committee on Wages and Industrial Relations; Washington, D.C. (open), 5–18–77..... 21335; 4–26–77
Occupational Safety and Health Administration—
Revision of standards on machinery and machine guarding, Los Angeles, Calif., Winston-Salem, N.C. (open), 5–17 thru 5–19–77. 10018; 2–18–77

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Space Vehicles Panel of the NASA Research and Technology Advisory Council, Hampton, Va. (open with restrictions), 5–17 thru 5–19–77. 21118; 4–25–77

NATIONAL SCIENCE FOUNDATION
Ad Hoc Advisory Panel for the Very Large Array, Washington, D.C. (open), 5–19–77..... 22440; 5–3–77
Ecological Sciences Advisory Panel, Washington, D.C. (closed), 5–17 and 5–18–77..... 21874; 4–29–77
Project Directors of the Women in Science Program, Washington, D.C. (open), 5–19 and 5–20–77. 22440; 5–3–77
Science Education Projects Advisory Panel, Ethics and Values in Science and Technology Program Subpanel, Washington, D.C. (closed), 5–19 and 5–20–77..... 22440; 5–3–77
Science Education Projects Advisory Panel, Subpanel for the Minority Centers for Graduate Education, Washington, D.C. (closed), 5–16 and 5–17–77..... 21875; 4–29–77
Science Education Advisory Panel, Subpanel on the Development in Science Education Program, Chevy Chase, Md. (closed), 5–15 thru 5–21–77. 21875; 4–29–77

NUCLEAR REGULATORY COMMISSION
Reactor Safeguards Advisory Committee, Kenosha, Wis. (open and closed), 5–17–77..... 22207; 5–2–77
Reactor Safeguards Advisory Committee, Subcommittee on Electrical Systems, Control and Instrumentation, Windsor, Conn. (closed), 5–20–77. 22965; 5–5–77
Reactor Safeguards Advisory Committee, Reactor Fuel Subcommittee, Washington, D.C. (open), 5–20–77.... 22965; 5–5–77

V 42 91 MAY 11 77 UMI

OCEANS AND ATMOSPHERE, NATIONAL ADVISORY COMMITTEE
Washington, D.C. (open), 5–16 and 5–17–77..... 21336; 4–26–77

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS
Annual selection meeting, Warrenton, Va. (closed), 5–20 thru 5–22–77. 21339; 4–26–77

PRESIDENT'S COUNCIL ON ENVIRONMENTAL QUALITY
Meeting, Anchorage, Alaska (open), 5–16 and 5–17–77.. 21899; 4–29–77

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
Advisory Board, Washington, D.C. (open), 5–16–77..... 22215; 5–2–77

SECURITIES AND EXCHANGE COMMISSION
Corporate Disclosure Advisory Committee, Washington, D.C. (open), 5–18 and 5–19–77..... 19945; 4–15–77
National Market Advisory Board, Washington, D.C. (open), 5–16 and 5–17–77..... 12282; 3–3–77

SMALL BUSINESS ADMINISTRATION
Casper District Advisory Council, Casper, Wyo. (open), 5–20–77..... 21339; 4–26–77
New Orleans District Advisory Council, Baton Rouge, La. (open), 5–19–77. 16691; 3–29–77
Sioux Falls District Advisory Committee, Sioux Falls, S. Dak. (open), 5–20–77. 22212; 5–2–77

STATE DEPARTMENT
Agency for International Development—
Research Advisory Committee, Washington, D.C. (open), 5–18 and 5–19–77..... 20357; 4–19–77
Shipping Coordinating Committee, Safety of Life at Sea Subcommittee, Washington, D.C. (open), 5–18–77. 20209; 4–18–77
Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Washington, D.C. (open), 5–19–77. 21341; 4–26–77

TRANSPORTATION DEPARTMENT
Coast Guard—
National Offshore Operations Industry Advisory Committee, San Diego, Calif. (open), 6–15–77..... 22213; 5–2–77
Federal Aviation Administration—
Flight Information Advisory Committee, Washington, D.C. (open), 5–19–77..... 20209; 4–18–77
National Highway Traffic Safety Administration—
National Highway Safety Advisory Committee, Washington, D.C. (open), 5–17 and 5–18–77. 22215; 5–2–77; 23573; 5–9–77
Truck and Bus Safety Subcommittees, Washington, D.C. (open with restrictions), 5–19–77..... 20697; 4–21–77

VETERANS ADMINISTRATION
Station Committee on Educational Allowances; San Diego, Calif. (open), 5–16–77..... 21341; 4–26–77
Wage Committee, Washington, D.C. (closed), 5–19–77.... 20211; 4–18–77

Next Week's Public Hearings

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
Atlantic tuna fisheries; bluefin regulations, Peabody, Mass., 5–16–77. 21825; 4–29–77
Travel Service—
Universal Exposition Expo 81; preliminary draft environmental impact statement; Ontario, Calif. (open), 5–16 thru 5–19–77..... 20325; 4–19–77

ENVIRONMENTAL PROTECTION AGENCY
Endrin; risk and benefits from pine mouse control in orchards, hearing at New Paltz, N.Y., 5–19–77..... 21641; 4–28–77
Request by California to waiver Federal standards for new vehicle emissions, San Francisco, Calif. (open), 5–16 thru 5–18–77..... 19372; 4–13–77

ENVIRONMENTAL QUALITY COUNCIL
Alaska natural gas transportation system alternatives, Anchorage, Alaska (open), 5–16 and 5–17–77. 17511; 4–1–77

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
Saccharin and its salts; Washington, D.C. (open), 5–18 thru 5–19–77. 20009: 4–15–77

INTERNATIONAL TRADE COMMISSION
Cast-iron stoves; Washington, D.C. (open), 5–19–77.... 16874; 3–30–77

TRANSPORTATION DEPARTMENT
Federal Railroad Administration—
Workmen, blue signal protection; Washington, D.C. (open), 5–19–77. 20154; 4–18–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes, as conditions of price support for flue-cured tobacco, a limitation of 110 percent of farm acreage allotments as the acreage which may be planted to flue-cured tobacco, and a requirement that producers report the acreage planted to the county ASCS office. The need for this rule is to strengthen procedures for assuring that marketings of tobacco are properly identified as to the farms on which it is produced and, therefore, that price support is provided only for eligible tobacco.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hiernoymus (202) 447–5753.

SUPPLEMENTARY INFORMATION: Representatives of farmer organizations and others have expressed the belief that in the absence of acreage limitations and planted acreage determinations, program procedures are not effectively assuring that production in excess of the farm marketing quotas on some farms is not marketed with price support by improper representations as to the farm on which the tobacco was produced.

A notice that Commodity Credit Corporation was considering an amendment to the Tobacco Loan Program regulations (7 CFR Part 1464) to provide as conditions of price support for flue-cured tobacco that producers report their acreage planted to flue-cured tobacco and that such planted acreage not exceed 107 percent of the farm acreage allotment was published in the FEDERAL REGISTER on March 29 (42 FR 16636). 98 responses were received: 20 of these recommended that the proposal be adopted; 8 of these suggested that the planted acreage limitation be established at 110 percent of the farm acreage allotment. Of the 78 responses which opposed the proposed changes, 34 did so on the basis that the acreage limitation was unduly restrictive and that plantings ranging from 110 percent to 120 percent of the farm acreage allotments should be allowed, especially for the 1977 crops, as much of the tobacco has already been planted. Others opposed the proposed changes on the basis that (i) acreage limitations are unnecessary and undesirable as the farm poundage quotas effectively control production and producers should be allowed the flexibility of producing their poundage quota on whatever acreage is most suitable to their particular farming operations, and (ii) with much of the tobacco already planted, it is too late to establish acreage limitations this year.

After considering the comments received, it is determined that a limitation should be placed on planted acreage but that the acreage limitations shall be 110 percent of the farm acreage allotment, instead of 107 percent as set forth in the proposal.

Accordingly, 7 CFR 1464.7 is amended to read as follows:

§ 1464.7 Eligible producers.

(a) All producers of Puerto Rican tobacco are eligible producers, since Puerto Rican tobacco is not under U.S. marketing quotas. All producers of any kind of tobacco for which marketing quotas have been terminated are eligible producers during the periods for which the terminations are effective. Any producer of another kind of tobacco is an eligible producer if (1) an acreage allotment or marketing quota has been established for his farm under the applicable regulations issued by the Secretary of Agriculture with respect to marketing quota and acreage allotments (Parts 724, 725, and 726 of this title) for the applicable marketing year; (2) all the tobacco produced on his farm is produced on acreage which does not exceed the acreage allotment, or if flue-cured tobacco, does not exceed 110 percent of the acreage allotment established for his farm; and (3) if acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on his farm to a county ASCS office in accordance with regulations issued by the Secretary of Agriculture with respect to determinations of acreage and compliance (Part 718 of this title) for the applicable year; and (4) pesticides containing DDT, TDE, toxaphene and endrin have not been used on the tobacco in the field or after being harvested and the absence of such use of the pesticides has been reported to a county ASCS office in accordance with applicable regulations issued under Parts 724, 725 and 726 of this title.

(b) In accordance with Parts 724, 725, and 726 of this title and pursuant to the Agricultural Adjustment Act of 1938, as amended, there are issued for the use of eligible producers, marketing cards which do not bear the words, "No price support" and which if for other than flue-cured and burley tobacco are designated "Within Quota" marketing cards for identification of their tobacco upon marketing. When marketing quota cards issued pursuant to the Agricultural Adjustment Act of 1938, as amended, are used for the purpose of obtaining price support under this subpart, the data in support thereof may be utilized by CCC as it considers necessary or desirable for the conduct of the price support program.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421, 1423).)

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OBM Circular A–107.

Signed at Washington, D.C., on May 3, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77–13404 Filed 5–10–77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 302—DESIGNATION OF AREAS

Standards for the Designation of Public Works Impact Program Areas

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This regulation amends 13 CFR 302.7(a)(1) (i) and (ii). It is designed to bring these paragraphs into conformance with certain administrative changes made by Public Law 93–644. The present EDA regulation references the Office of Economic Opportunity. The Office of Economic Opportunity is no longer in existence. The functions that were originally assigned to the Office of Economic Opportunity now come under the jurisdiction of the Community Services Administration. This regulation is being amended merely to reflect this change.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas S. Francis, Director, Office of Development Organizations, U.S. Department of Commerce, Room 6815, Washington, D.C. 20230 (202–377–3207).

V42N91 MAY 11 77 UMI

SUPPLEMENTARY INFORMATION:

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, EDA amends 13 CFR 302.7(a)(1) by revising paragraphs (i) and (ii) to read as follows:

§ 302.7 Standards for designation of public works impact program areas.

(a) • • •

(1) • • • (i) an area presently identified by the Community Services Administration as an urban or rural special impact area under the provisions of Part A of Title VII of the Economic Opportunity Act of 1964, as amended; or

(ii) an area in which the majority of the families are living in poverty, as defined by the Community Services Administration guidelines, 45 CFR 1060.2, Attachment A.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, 40 FR 56702.)

Dated: May 2, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-13448 Filed 5-10-77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Licenses To Export or Reexport Electronic Computers

AGENCY: Office of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations by revising the portion that prescribes the data that must accompany applications for licenses to export or reexport electronic computers and related equipment to destinations in Country Groups Q, W, and Y. The revision, intended to expedite processing of computer license applications, provides for the use of a new form, indicates applicable requirements, and makes additional changes.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John Shepard, Acting Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4811).

SUPPLEMENTARY INFORMATION: The revisions of § 376.10 announced herein are intended to expedite the processing of applications for licenses to export or reexport computers and related equipment to destinations in Country Groups Q, W, and Y. In addition, the revised procedures are intended to furnish guidance to exporters regarding the categories of computers for which applications are most likely to receive favorable and prompt consideration, and to identify the characteristics and capabilities of those computers for which applications will require more comprehensive review and may result in processing delays.

DIGITAL COMPUTERS

The significant revisions as they relate to exports and reexports of digital computers and related equipment to destinations in Country Groups Q, W, and Y include the following:

1. A new form, DIB-6031P, "Computer System Parameters", has been developed on which information is to be provided concerning the digital computer system and associated equipment proposed for export or reexport. This form is also designed to rank proposed transactions, based on computer characteristics and capabilities, to provide an indication to applicants of an increased likelihood of processing delays with progressively higher level systems.

2. A requirement has been established for the submission of special documentation, in addition to Form DIB-6031P, that must accompany applications to export or reexport certain higher level digital computers. Included in the documentation is an undertaking by the applicant to have periodic inspections made of the computer and equipment exported or reexported and to submit reports with respect thereto.

Furthermore, criteria and procedures are established that would permit the export or reexport of certain low level digital computers and office machines under general licenses (G-DEST) to all destinations, except those in Country Groups S and Z.

GUIDELINES FOR EXPORTERS REGARDING ANALOG COMPUTERS

Applications involving the export or reexport of analog computers destined to countries in Country Groups, Q, W, and Y are more likely to be approved promptly if the following limits are not exceeded:

1. The rated errors for summers, inverters and integrators are not less than:
(a) Static: 0.01 percent.
(b) Total at 1 kHZ: 0.15 percent.
2. The rated errors for multipliers are not less than:
(a) Static: 0.025 percent.
(b) Total at 1 kHz: 0.25 percent.
3. The rated error for fixed function generators (log × and sine/cosine) is not less than:
(a) Static: 0.1 percent.
4. There are no more than 350 operational amplifiers; and
5. There are no more than four integrator time scales switchable during one programme.
6. Technical notes:
(a) The percentage for 1. (a) above applies to the actual output voltage; all other percentages apply to full scale; that is, from maximum negative to maximum positive reference voltages.
(b) Total errors at 1 kHz for 1. (b) and 2. (b) above are to be measured with those resistors incorporated in the inverter, summer or integrator which provide the least error.
(c) Total error measurements include all errors of the unit resulting from, for example, tolerances of resistors and capacitors, tolerances of input and output impedances of amplifiers, the effect of loading, the effects of phase shift, and the generating of functions.

WAIVER OF PROPOSED RULEMAKING PROCEDURES

In developing the procedures announced herein, the Department has consulted with and taken into consideration the comments received from the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and successively rechartered and extended on December 20, 1974, and January 13, 1977, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee was initially established on February 4, 1974, and its reestablishment was approved on July 8, 1975, pursuant to the charter of the Committee. The Subcommittee was formed to review the procedural aspects of export license applications within the Office of Export Administration and recommend areas where improvements can be made. Members of the public are given the opportunity to provide written and oral comments to the subcommittee.

In view of the foregoing, the Department has found that proposed rule making procedures are unnecessary and, because the amended regulations announced herein are designed to improve the processing of export license applications, it will be in the public interest to make these regulations effective without delay. Interested persons are, however, invited to submit written comments which will be considered in assessing any further modifications to the procedures announced herein. Such comments should be mailed to: Director, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Accordingly, § 376.10 of the Export Administration Regulations (15 CFR 376.10) is revised as follows:

§ 376.10 Electronic computers and related equipment.

Special provisions relating to the licensing for export of electronic computers and/or related commodities (Export Control Commodity Numbers 714 and 891) are set forth below.

(a) *Digital computers.* (1) *General requirements.* Applications to export or reexport digital computers to destinations in Country Groups Q, W, and Y, or to upgrade existing digital computer installations in those areas must be accompanied by Form DIB-6031P, "Computer System Parameters". Two or more forms may be submitted if needed to describe all equipment on complex systems. In the case of equipment being exported or reexported to Q, W, or Y destinations for the first time, detailed specification sheets should be furnished to corroborate the data supplied on Form DIB-6301P. Calculations used to arrive at values

should also be furnished, as appropriate. Care should be taken to observe the precise definitions in § 376.10(a)(4) below in making calculations. The following additional information must be supplied, as applicable, for all transactions:

(i) The name and address of the actual end user of the equipment;

(ii) A definitive statement as to the type of services performed or goods produced by the proposed end user;

(iii) A description of the nature of the data processing activities for which the equipment will be used;

(iv) The location of all remote terminals proposed for the system, and distance from the main computer installation. If any user of a terminal differs from the end user of the central computer system, this information should be given and the information required by paragraphs (i), (ii), and (iii) above should be provided for each additional end user;

(v) A technical justification for the end user's need for the equipment that is proposed for export or reexport; and

(vi) A simplified system schematic drawn in standard computer equipment/system symbology showing the CPU features and the specific channel connections of all peripheral devices, data acquisition and/or control elements and telecomunications networks included in the total system. In instances where a commodity that will be used to enhance an existing system is to be exported or reexported, the schematic should clearly identify which components constitute the existing system and which are proposed as enhancements or additions.

(2) *Special documentation requirements.* Applications to export or reexport computers having any charactistics falling in boxes "c" or "d" on Form DIB-6031P, Computer Systems Parameters, should be accompanied by the following documents:

(i) A signed statement from a responsible representative of the end-user or importing agency describing the end use and certifying that:

(a) The equipment will be used only for civil applications;

(b) The equipment will not be reexported or otherwise disposed of without the permission of the Office of Export Administration;

(c) Responsible Western representatives of the exporting firm will have the right of access to the computer facility and all equipment wherever located during normal working hours or at any time when the computer is operating and will be furnished information demonstrating continued authorized application of the equipment; and

(d) Responsible Western representatives of the exporting firm will be notified of any significant change in the application or other facts on which the export license or reexport request is based.

(ii) A signed statement from the applicant agreeing to:

(a) Notify the Office of Export Administration promptly of any indication of significant change in application or other facts on which the export license or reexport request is based;

(b) Keep spare parts under the applicant's control and limit the quantity of spares on site to that needed to support the computer facility for six months;

(c) Have responsible Western representatives visit and inspect the computer facility and all equipment wherever located; and

(d) Report, after each such visit, to the Office of Export Administration if the export is from the United States, or, if from another country, to the export licensing authority of the country from which the export will be made, unless otherwise directed by the Office of Export Administration. The report shall indicate whether the computer is still being used for the approved purposes at the authorized location.

(3) *Visitation requirements.* A responsible Western representative of the exporting firm will be required to visit and report on computers covered by paragraph (2) of this section for a total period of six years, at least monthly for the first two years and quarterly for four years thereafter. However, the following modifications will be observed:

(i) The total visitation requirement will be reduced to quarterly visits for a total period of three years if the processing data rate entered in items 2 of Section I, Central Processor, on Form DIB-6031P does not exceed 20 *and* the values for the peripheral devices in Section II, Peripheral Devices, do not exceed the limits of the "b" boxes. Under those items on Form DIB-6031P where no "b" box appears, the values of the "a" box must not be exceeded.

(ii) The total visitation requirement will be reduced to quarterly visits for a total period of six years if the values for the central processor in Section I, Central Processor, or Form DIB-6031P, do not exceed the limits of the "b" boxes, or "a" boxes where no "b" box appears, or the values in item 2 and 5c of Section II, Peripheral Devices, do not exceed 1.6 and 64,000, respectively.

(iii) Visits will not be required for specialized remote terminal devices if the effective bit transfer rate does not exceed 1,200 bits per second and the terminal devices can be exported without a validated license.

(iv) Special conditions, such as on-site residency, may be imposed for computers with characteristics falling in any of the "d" boxes of Form DIB-6031P.

(4) *Definition of terms.* (i) "CPU bus rate" is the number of bits excluding parity accessed in one memory cycle times the number of read-write cycles per second times the number of independent memories (including interleaved) which can be transferred simultaneously between the main memory and the CPU, as limited by the CPU or any device normally placed between the main memory and the CPU. For systems with multiple CPUs, the "CPU bus rate" is the sum of the individual CPU bus rates as defined above that can be sustained simultaneously.

(ii) "I/O bus rate" is the number of bits excluding parity accessed in one memory cycle times the number of read-write cycles per second times the number of independent memories (including interleaved) which can be transferred simultaneously between the main memory, and the I/O bus (or busses) as limited by any device normally placed between the main memory and the I/O bus, and which can be transferred simultaneously with the CPU bus rate.

(iii) "Total effective bit transfer rate" is the sum of the "effective bit transfer rates" (sub-paragraph (viii) below) of all peripheral memory units and data channels provided with the system, which can have simultaneous access to the I/O bus (or busses) as limited by the I/O control units provided with the system, assuming the configuration of peripheral units and data channels which would maximize this rate.

(iv) "Processing data rate" is the product of the "average number of bits transferred per instruction" and the "processing rate."

(v) "Average number of bits transferred per instruction" is the sum of:

(a) The number of bits in a fixed or floating point "instruction;"

(b) 0.40 times the number of bits in a fixed point "operand;" and

(c) 0.15 times the number of bits in a floating point "operand."

(vi) "Processing rate" is the reciprocal of the sum of:

(a) 0.85 times the average "execution time" of a fixed point addition;

(b) 0.09 times the average "execution time" of a floating point addition; and

(c) 0.06 times the average "execution time" of a floating point multiplication.

(vii) The "instruction" and "operand" lengths and the "execution times" of the above operations are based on:

(a) A fixed point operand length of 24 bits or greater;

(b) A floating point operand length of 30 bits or greater;

(c) The fetching of an instruction word from main memory (for CPUs simultaneously fetching more than one instruction in one memory word, the execution time shall be the average over the possible locations of the instruction within the fetch word);

(d) One operand being in the accumulator(s) or a location in main memory acting as the accumulator(s);

(e) The second operand being in main memory;

(f) The result being left in the same accumulator or a location in main memory acting as the accumulator;

(g) The instruction and operands being in optimum locations in main memory; and

(h) No indexing or indirect operations being included.

(viii) "Effective bit transfer rate" (R_e) for magnetic tape transports and for data channels is the maximum bit transfer rate excluding parity. For static memory devices (devices other than magnetic tape transports or rotating memory devices), it is the number of bits transferred per access excluding parity

V 4291 MAY 11 77 UMI

divided by the "average access time". For rotating memory devices it is the product of the maximum bit transfer rate excluding parity (R), the number of independent read-write channels (C), and the rotational period (T_R) divided by the sum of the rotational period (T_R) and the sum of the "minimum seek time" (Tmin) and the "latency time" (T_L) divided by the number of independent seek mechanisms (S).

$$R_E = \frac{R \times C \times T_R}{T_R + \frac{T_{min} + T_L}{S}}$$

(ix) "Average access time" is the sum of the "average seek time" and the "latency time" divided by the number of independent seek means or mechanisms.

(x) "Average seek time" for moving head and/or moving media devices is the sum of the "maximum seek time" and twice the "minimum seek time" divided by three. "Maximum seek time" is as rated for the particular device, e.g. for moving head devices, the time to move between the two most widely separated tracks. "Minimum seek time" for moving head and/or moving media devices is as rated for the particular device, e.g. for moving head devices, the time to move from one track to an adjacent track. "Seek time" for static or fixed head devices is zero.

(xi) "Latency time" for static memory devices is the cycle time of the device; "latency time" for rotating memory devices is the rotational period divided by twice the number of independent read-write heads per track.

(xii) "Net capacity" of a memory device is the total capacity designed to be accessible to the digital computing system excluding parity and error correction.

(xiii) "Memory performance factor" for each independent peripheral memory device other than magnetic tape transports is the "net capacity" (in millions of bits) divided by the "average access time" (in seconds) raised to the 3/2 power.

$$\text{Memory performance factor} = \frac{\text{net capacity}}{(\text{average access time})^{3/2}}$$

(xiv) "Total number of accesses" is the sum of the number of accesses of all peripheral memory units provided with the system. The number of accesses to a memory device is the reciprocal of the "average access time".

(xv) "Total effective bit transfer rate" of remote terminals is the sum of the "effective bit transfer rates" of all "terminal devices" located remote from the "computer operating area" provided with the system, which can have simultaneous access to the I/O bus (or busses) as limited by the interface equipment or interfaced "communication channels" provided with the system, assuming the configuration of terminal devices and communication channels which would maximize this rate.

(xvi) "Effective bit transfer rate" for "terminal devices" and "communication channels" is the maximum bit transfer rate excluding parity, word marker and flag bits.

(xvii) "Terminal devices" are all peripheral devices excluding memory devices and special process control sensing and actuating equipments, capable of transmitting and/or receiving sequences of binary digits or alpha-numeric characters. Normal groupings of such equipments, e.g. combined paper tape reader/punch and printer, connected to a single data or communication channel, shall be considered as single devices;

(xviii) The "computer operating area" is the immediate vicinity of the computer installation where the normal operating, support and service functions take place.

(xix) "Communication channels" are the transmission paths or circuits and the terminal transmitting and receiving equipments (Modems) for transferring digital information between distant locations.

(5) *Qualification of certain computers for general license treatment.* Certain digital computers and/or devices covered by CCL Nos. 714(4d) and related peripherals covered by Nos. 714(7) and 714(8) may be exported or reexported under General License *G–DEST* to all destinations except those in Country Groups S and Z provided that (1) a written request is submitted to the Office of Export Administration with information demonstrating that the conditions set forth in subparagraphs (i) and (ii) below are fully met and (2) authorization is received from the Office of Export Administration that those specific digital computers and/or devices may be regarded as qualifying for export or reexport under General License *G–DEST*.

(i) General provisions. The digital computers and/or devices must be types that have been designed for identifiable office and personal use and, by nature of design, software, microprogram control (firmware), specialized logic control (hardware) or performance, are substantially restricted to the particular application for which they have been designed.

(ii) Technical specifications. The digital computers and/or devices are limited as follows:

(*a*) The "CPU data handling rate" does not exceed 2 million bits per second;

(*b*) The "CPU numerical processing rate" for units capable of arithmetic operations does not exceed 0.1 million bits per second;

(c) The "total internal memory available to the user" does not exceed 32,768 bits;

(d) For peripheral devices with which the computer is equipped:

(*1*) No more than one magnetic tape transport which does not exceed:

(*i*) 1600 bits inch per track;

(*ii*) 9 tracks per ½ inch (12.7 mm) tape width;

(*iii*) ½ inch (12.7 mm) tape width; and

(*iv*) 25 inches per second tape read/write speed;

(*2*) Cassette/cartridge tape drives operating serially one track at a time, provided they have:

(*i*) No more than 800 bits per inch per track; and

(*ii*) No more than 6000 bits per second maximum bit transfer rate;

(*3*) Terminal devices and displays which require a validated export license only for Country Groups S and Z (See Commodity Interpretation 13);

(*4*) Digital recording and reproducing equipment specially designed to use magnetic card, tag, label, or bank check recording media with a magnetic surface area not exceeding 10 square inches.

(iii) Definitions.

(*a*) "CPU data handling rate" is the maximum number of bits that can be accessed in parallel from an internal memory divided by the minimum time (including access time) for the execution of any instruction operating on this number of bits.

(*b*) "CPU numerical processing rate" is the number of bits used to represent an arithmetic operand divided by the average time required for execution of a multiplication operation, assuming the most efficient arithmetic data coding and the fastest hardware, microprogram control (firmware) and/or software multiplication technique available to the user.

(c) "Total internal memory available to the user" is the sum of the storage capacities of all user-alterable internal storage devices plus all user-replaceable fixed storage devices that may be incorporated in the equipment at one time and that may be used to store microprogram control (firmware) and/or software instructions and data.

(b) *Analog Computers.* (1) Applications to export or reexport analog computers to Country Groups Q, W, and Y should include the following information on their technical characteristics:

(i) The quantity, static accuracy, and total error rating of each type of summer, integrator, multiplier, or function generator employed; and

(ii) The number of integrator time scales and whether or not they are switchable during operation.

(iii) Defintion of terms: (*a*) "Static accuracy" for summers, inverters, and integrators only, applies to the percentage of actual output voltage. All other references to static accuracy apply to the percentage of full scale voltage; that is, from maximum negative to maximum positive reference voltage.

(b) "Total error" includes all errors of the unit resulting from, for example, tolerances of resistors and capacitors, tolerances of input and output impedances of amplifiers, the effect of loading, the effects of phase shift, the generating functions, etc. Total error at 1KHz is to be measured with those resistors incorporated in the inverter, summer, or integrator that provide the least error.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-13464 Filed 5-10-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C–2877]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Las Animas Ranch, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires seven Colorado Springs, Colorado, sellers of undevedoped land, among other things, to cease misrepresenting the risks involved in land purchases; the location and quality of the land offered for sale; the costs and availability of utilities; and other such relevant information. Further, the order requires the firms to cease failing, in connection with the extension of consumer credit, to disclose such information as required by Federal Reserve Board regulations under the Truth in Lending Act. The firms are required to provide cooling-off periods during which customers may cancel their contracts without penalty; to advise buyers of their right to cancellation and refunds; and to institute a surveillance program designed to ensure compliance with the provisions of this order.

DATES: Complaint and order issued April 22, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

John W. Madden III, Director, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colorado 80202 (303–837–2271).

SUPPLEMENTARY INFORMATION: On Wednesday, February 16, 1977, there was published in the FEDERAL REGISTER (42 FR 9436) a proposed consent agreement with analysis In the Matter of Las Animas Ranch, Inc., a corporation; Mount Blanca Estates, Inc., a corporation; Mount Blanca Valley Ranches, Inc., a corporation; Chubasco, Inc., a corporation; Pine Cone Properties, Inc., a corporation; O'Keefe-Baldwin & Associates, Ltd., a general partnership; Trinchera Creek Estates, Ltd., a general partnership; Charles R. Baldwin, individually and as an officer, stockholder and managing partner of said corporations and partnerships; and Danny W. O'Keefe, individually and as an officer, stockholder and managing partner of said corporations and partnerships, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments have been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows: Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–5 Knowingly by advertising agent; § 13.15 Business status, advantages or connections; 13.15–20 Business methods and policies; § 13.20 Comparative data and merits; § 13.55 Demand, business or other opportunities; § 13.60 Earnings and profits; §13.73 Formal Regulatory and statutory requirements; 13.73–92 Truth in Lending Act; § 13.135 Nature of product or service; § 13.143 Opportunities; § 13.155 Prices; 13.155–5 Additional charges unmentioned; 13.155–15 Comparative; 13.155–78 Repossession balances; 13.–155–98 Two-for-one sales; § 13.160 Promotional sales plans; § 13.175 Quality of product or service; § 13.195 Safety; 13.195–30 Investment; §13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–55 Refunds, rebates and/or credits. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.–1572 Availability of advertised merchandise and/or facilities; § 13.1575 Comparative data or merits; § 13.1610 Demand for/or business opportunities; § 13.1615 Earnings and profits; § 13.–1623 Formal regulatory and statutory requirements; 13.1623–95 Truth in Lending Act; §13.1685 Nature; § 13.–1697 Opportunities in product or service; § 13.1715 Quality; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions; 13.1760–50 Sales contract. —Prices: § 13.1778 Additional costs unmentioned; § 13.1785 Comparative; § 13.1823 Terms and conditions; 13.1823–20 Truth in Lending Act. —Promotional Sales Plans: § 13.–1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–75 Truth in Lending Act; § 13.1863 Limitations of product; § 13.1870 Nature; § 13.1882 Prices; 13.1882–10 Additional prices unmentioned; § 13.1886 Quality, grade or type; § 13.1892 Sales contract, right-to-cancel provision; § 13,1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905–50 Sales contract; 13.1905–60 Truth in Lending Act. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147 (15 U.S.C. 45, 1601, et seq.).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13420 Filed 5-10-77;8:45 am]

[1] Copies of the complaint and the decision and order filed with the original document.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13488; File No. S7–603]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment, solicitation of public comment.

SUMMARY: This release extends until August 1, 1977 temporary provisions of the Commission's uniform net capital rule dealing with (i) the treatment of good faith deposits and syndicate or joint account receivables arising in connection with municipal securities underwritings, (ii) undue concentration haircuts on positions in municipal securities, (iii) the treatment of municipal securities for which there is no ready market, and (iv) the alternative net capital requirement as applied to brokers and dealers effecting transactions solely in municipal securities. The effect of the amendments is to preserve the existing treatment of transactions in municipal securities until that date. The Commission has determined that further public comment is necessary concerning these matters.

DATE: Amendments effective immediately; comments on or before: June 1, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202–755–1390.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 13113 (Dec. 28, 1976) [42 FR 3301 (Jan. 18, 1977)] ("Release No. 13113"), the Commission extended until January 1, 1977 the temporary provisions of Rule 15c3–1 [(17 CFR 240.15c3–1)] ("section 240.15c3–1") under the Securities Exchange Act of 1934 dealing with the items summarized above. The Commission took such action to afford interested members of the public the opportunity to express their views, especially by way of impact studies and other appropriate statistical compilations, concerning the nature of more permanent successors to the temporary provisions. The Commission understands that commentators are presently conducting studies of this nature but require additional time to complete their work. Accordingly, the Commission has determined that it is appropriate to extend

V 4291 MAY 11 77 UMI

the temporary provisions in question until August 1, 1977, and to receive public comment concerning these matters during a period expiring on June 1, 1977.

Solicitation of Public Comment. The Commission solicits the views of all interested members of the public, addressed to the following questions:

1. On the basis of impact data and other appropriate statistical compilations, is it appropriate in the public interest and for the protection of investors to consider unduly concentrated those positions in municipal securities of an issue[1] which are long or short in the proprietary or other accounts of a broker or dealer longer than twenty business days, and which in market value exceed the greater of $500,000 or 10 percent of tentative net capital? On the basis of similar impact data, are these parameters appropriate as applied to positions in municipal notes?

2. In light of impact data and other appropriate statistical compilations, do there exist or can there be evolved uniform criteria for determining when a "ready market" for a particular municipal security exists?

3. On the basis of impact studies, trial capital computations and other appropriate statistical compilations, is it necessary to adjust the treatment of certain items under the alternative net capital requirement to reflect essential differences between the clearance and settlement mechanisms for municipal securities and their counterparts in the corporate securities industry? What would be the effect of modifications suggested in response to this question upon minimum net capital requirements for brokers and dealers effecting transactions in municipal securities, computed under the alternative net capital requirements as amended herein?

Interested persons are invited to submit their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than June 1, 1977. Reference should be made to File No. S7-603. All comments received will be available for public inspection.

Public Procedure. In Release Nos. 12482 and 13113, the Commission invited public comment concerning several questions relating to the appropriate net capital requirements for brokers and dealers effecting transactions in municipal securities. The amendments to section 240.15c3-1 adopted herein are framed in light of considerations disclosed in the public's response to that invitation, and do not alter the existing regulatory scheme for such brokers and dealers. The Commission finds, pursuant to 4 U.S.C. 553(b)(3)(B) (1970), that further notice and public procedure respecting these amendments is impracticable and unnecessary to the public interest. The Commission finds further that these amendments relieve regulatory restrictions within the meaning of 5 U.S.C. 553(d)(1) (1970), and may therefore become effective less than thirty days from their publication.

Statutory Basis, Effective Date and Competitive Considerations. Pursuant to the Securities Exchange Act of 1934, and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), w(a), the Commission amends section 240.15c3-1 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective immediately. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to establish minimum financial responsibility standards for all brokers and dealers.

Text of Amendments to § 240.15c3-1. The text of the amendments to § 240.15c 3-1 is as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) Interest receivable, floor brokage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in paragraph (c)(2)(iv)(E) of this section, mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with an underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; and, until August 1, 1977, receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts which are outstanding longer than ninety (90) days from settlement of the underwriting with the issuer, and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than ninety (90) days from settlement of the underwriting with the issuer;

* * * * * * *

(f) *Alternative Net Capital Requirement.* (1)(i) A broker or dealer who is not exempt from the provisions of 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to paragraph (k)(1) or (k)(2)(i) may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(1) of this section and certain deductions provided for in paragraph (c)(2) of this section. Provided, that in order to qualify to operate under this paragraph (f), such broker or dealer shall at all times maintain net capital equal to the greater of $100,000 (until August 1, 1977, $25,000 in the case of a broker or dealer effecting transactions solely in municipal securities) or 4 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a) and shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission in which the broker or dealer has its principal place of business in writing of its election to operate under this provision. Once a broker or dealer has determined to operate pursuant to the provisions of this paragraph (f), he shall continue to do so unless a change in such election is approved upon application to the Commission.

(ii) In the case of a municipal securities broker, as defined in section 3(a)(31) of the Securities Exchange Act of 1934, who is not exempt from the provisions of § 240.15c3-3 under the Securities Exchange Act of 1934 pursuant to subparagraph (k)(1) or (k)(2)(i), and who effects transactions only on a payment versus delivery basis with other brokers or dealers or municipal securities brokers or municipal securities dealers, and who does not hold funds or securities for, or owe money to, customers and does not otherwise carry accounts of, or for, customers, in order to qualify to operate under this paragraph (f) such municipal securities broker shall at all times, until August 1, 1977, maintain net capital equal to the greater of $25,000 or 4 percent of aggregate debit items computed in accordance with Exhibit A to Rule 15c3-3, § 240.15c3-3a. *Provided,* That in order to qualify to operate under this paragraph (f), such municipal securities broker shall notify the Examining Authority for such broker or dealer and the Regional Office of the Commission in which the broker or dealer has its principal place of business, in writing, of its election to operate under this provision. Once a municipal securities broker has determined to operate pursuant to this paragraph (f), he shall continue to do so unless a change in such election is approved upon application to the Commission.

* * * * * * *

In § 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) is amended to read as follows:

* * * *Provided further,* That until August 1, 1977, this paragraph shall not apply to municipal securities.

* * * * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 29, 1977.

[FR Doc.77-13483 Filed 5-10-77;8:45 am]

[1] For the purpose of this question, the term "municipal securities of an issue" should be assumed to denote all municipal securities issued by the same issuer and having the same dated date, maturity date, interest rate and credit backing.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-129]

PART 159—LIQUIDATION OF DUTIES

Footwear From Republic of China; Revocation of Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury.

ACTION: Revocation of Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that the countervailing duty determination of footwear from the Republic of China (Taiwan) is being revoked, based on additional information which revealed that Taiwanese footwear exporters received *de minimis* benefits under the Statute for Encouragement of Investment. Furthermore, countervailing duties previously deposited will be refunded.

EFFECTIVE DATE: May 11, 1977.

This order will become effective on May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination" with respect to footwear from the Republic of China (Taiwan) Treasury Decision 76-340, was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1298). An amendment notice relating to certain duty-free footwear classifiable under item 700.54 of the Tariff Schedules of the United States (TSUS), was published in the FEDERAL REGISTER of June 24, 1976 (41 FR 26035).

The notice of final countervailing duty determination stated that "footwear facilities in Taiwan may be eligible for various tax and other incentives under the "Statute for Encouragement of Investment," the criteria of which includes enterprises that would qualify if they export all of their production. Since the Treasury Department cannot ascertain at this time that no footwear facilities receive benefits under the "Statute for Encouragement of Investment," it has been determined that exports of footwear from Taiwan are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303)".

In addition to suspending the liquidation of all entries for consumption, or withdrawal from warehouse for consumption, of such dutiable footwear and requiring a deposit in the amount of 5 percent ad valorem as the estimated countervailing duty, the notice also stated that "further inquiry will be made to determine those footwear facilities, if any, who receive benefits under the above-mentioned statute".

Pursuant to the inquiry, additional information was developed regarding income tax exemptions to exporters from the Republic of China (Taiwan) under the aforementioned statute in order to determine to what extent footwear facilities benefit from the statute. The information, relating to a period prior to the above-noted final countervailing duty determination, with respect to programs involving loans provided by the Republic of China (Taiwan) through its central bank at preferential interest rates revealed that exporters received benefits in an amount considered to be de minimis. In this instance the aggregate benefit was one one-hundredth of one percent. (.01%) ad valorem. The benefits bestowed in 1974 to eligible facilities under the tax exemption involved an aggregate amount of fifteen one-hundredths of one percent (.15%), or if allocated over total export sales to six one-hundredths of one percent (.06%), are considered to be de minimis. With respect to the tax exemption program, this figure was based on the weighted average benefit derived from the forty-four companies who were eligible under the "Statute for Encouragement of Investment" in 1974, the period of the subject inquiry. In addition it is noted that in 1974 the Government of the Republic of China (Taiwan) removed footwear from the list of product sectors eligible for benefits under the aforementioned statute. While there are twenty-two footwear companies eligible for benefits at the present time, none will qualify by the end of 1978. No footwear company received benefits under both the tax exemption and preferential financing programs.

All other allegations identified in the preliminary countervailing duty determination were disposed of as either not constituting a bounty or grant or not utilized by the footwear industry. The Customs Court, in *Zenith Radio Corporation* v. *United States*, C.D. 4691, ruled that the rebate of the Japanese commodity tax on exportation is a bounty or grant within the meaning of the Countervailing Duty Law. To the extent that the ruling in that case is applicable here, the Department, in the absence of a final court decision to the contrary, maintains its position that the rebate or remission upon exportation of indirect taxes directly related to the exported product are not bounties or grants.

On the basis of all the facts gathered, it is hereby determined that a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) is not being paid or bestowed upon the manufacture, production, or exportation of dutiable footwear from the Republic of China (Taiwan).

Accordingly, notice is hereby given that countervailing duties will not be imposed upon dutiable footwear imported from the Republic of China (Taiwan) entered on or after January 7, 1976, the effective date of the "Final Countervailing Duty Determination", and Customs officers will be instructed to proceed with liquidation of all entries of dutiable footwear from the Republic of China (Taiwan) without regard to countervailing duties. Moreover, the table in §159.47(f), Customs Regulations (19 CFR 159.47(f)), is amended by deleting from the column headed "Country", the name Taiwan; from the column headed "Commodity", the word "footwear"; from the column headed "Treasury Decision", "76-340", and the words "Bounty Declared—Rate" from the column headed "Action".

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624).

BETTE B. ANDERSON,
Under Secretary of the Treasury.

MAY 2, 1977.

[FR Doc.77-13371 Filed 5-10-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 718-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart W—Additional Assignments of Functions and Designation of Officials To Perform the Duties of Certain Offices in Case of Vacancy or Absence Therein or in Case of Inability or Disqualification To Act

DESIGNATION OF ACTING ATTORNEY GENERAL DURING ABSENCE OF BOTH ATTORNEY GENERAL AND DEPUTY ATTORNEY GENERAL

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Deputy Attorney General is authorized by statute to act as Attorney General in the event of the Attorney General's absence from office. This order designates the Assistant Attorney General in charge of the Criminal Division to act as Attorney General in the event of the absence from office of both the Attorney General and the Deputy Attorney General. This will enable action to be taken on certain intelligence matters that could not await the return of the Attorney General or Deputy Attorney General.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202-739-2041).

By virtue of the authority vested in me by 28 U.S.C. 508(b), § 0.133 is amended by designating the present text as paragraph (b) and by inserting a new paragraph (a), to read as follows:

§ 0.133 Designating officials to perform the functions of certain offices in case of absence therein or in case of inability or disqualification to act.

(a) In the event of the absence of the Attorney General from office, the Deputy Attorney General shall, pursuant to 28 U.S.C. 508, perform the functions and

V4291 MAY 11 77 UMI

duties of and act as Attorney General. In the event of absence from office of both the Attorney General and the Deputy Attorney General, the Assistant Attorney General in charge of the Criminal Division shall perform the functions and duties of and act as Attorney General.

* * * * *

Dated: May 1, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-13434 Filed 5-10-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 718-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control, Pima County Regulations, State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of the amendments to the Rules and Regulations of the Pima County Air Pollution Control District submitted to EPA by the State of Arizona on February 20, 1975 as a revision to the State of Arizona Air Pollution Control Implementation Plan. The amendments comprise Regulation I: Rules 2, 4D, 4E, 4J, 8G, 16C, 29, and 30 concerning definitions, annual renewal of operating permits, permit requirements for certain unpaved roads and racing event sites, and permit fees.

Pursuant to section 110 of the Clean Air Act, as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove of revisions to state implementation plans. The Administrator finds good cause for making this rulemaking effective immediately, since the regulations being approved are currently being enforced by the Pima County Air Quality Control District, and therefore pose no further requirements on any affected facility.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Attn: Erik Hauge, Air Programs Branch, EPA, Region IX, 100 California Street, San Francisco, California 94111, Telephone 415-556-7595.

SUPPLEMENTAL INFORMATION: On March 8, 1977 (42 FR 13026) EPA proposed approval of the identified amendments to the Rules and Regulations of the Pima County Air Pollution Control District. These revisions to the State implementation plan were submitted on February 20, 1975. The proposed rulemaking notice provided for a 30-day public comment period. Information concerning the regulations proposed for approval (the EPA evaluation report), the regulations under consideration, and a copy of the Proposed Rulemaking Notice were made available for public inspection during the comment period at locations in Phoenix and Tucson, Arizona and at the EPA offices in San Francisco, California and Washington, D.C. as per the March 8, 1977 notice. No comments were received.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart D of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120, paragraph (c) is amended by the addition of subparagraph (10) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(10) Amendments to the Rules and Regulations of the Pima County Air Pollution Control District (Regulation I: Rules 2, 4D, 4E, 4J, 8G, 16C, 29, and 30) submitted on February 20, 1975 by the Director, Arizona Department of Health Services (the Governor's official representative).

[FR Doc.77-13415 Filed 5-10-77;8:45 am]

[FRL 718-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Bay Area Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Bay Area Air Pollution Control District's Rules and Regulations with the exception of regulations concerning organic solvents, new source review, emergency, episodes, gasoline vapor recovery, malfunction, sulfur dioxide, and in-stack monitoring.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTAL INFORMATION: On January 28, 1977 (42 FR 5385), EPA proposed approval of revisions to the Bay Area Air Pollution Control District's Rules and Regulations submitted on December 13, 1972, July 25, 1973, November 2, 1973, July 19, 1974, October 23, 1974, January 10, 1975, April 10, 1975, November 3, 1975, February 10, 1976, April 21, 1976, August 2, 1976, and November 10, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. The only comments received concerned the disapproval of Regulation 3 which will be covered in a separate FEDERAL REGISTER action. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended. (42 U.S.C. 1857c-5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(20) Revised regulations for the following APCD's submitted on December 13, 1972 by the Governor.

(i) Bay Area APCD.

(A) Regulation 2: (*1*) Section 3211.

(21) * * *

(v) Bay Area APCD.

(A) Regulation 1: (*1*) Divisions 1-4. (B) Regulation 2: (*1*) Divisions 1-2; Division 3 (Section 3000-3120, 3210-3211, and 3213-3214.2); Division 4 (Sections 4111-4113, 4210-4211, and 4310); Division 5 (Sections 5111-5112 and 5210); Division 6 (Sections 6111-6112.4, 6114, and 6200-6220); and Divisions 7-9.

(C) Regulation 4: (*1*) Sections 1-2.

(22) Revised regulations for the following APCD's submitted on November 2, 1973 by the Governor's designee.

(i) Bay Area APCD.

(A) Regulation 2: (*1*) Divisions 1-2; Division 3 (Sections 3000-3120, 3124-3211, and 3213-3214.2); Division 4 (Sections 4110.1-4310); Division 5 (Sections 5110.1-5210); Division 6 (Sections 6110.1-6220); Division 7-12; and Division 14.

(23) * * *

(24) * * *

(i) * * *

(A) * * *

(ii) Bay Area APCD.

(A) Regulation 1: (*1*) Sections 3112-3114, 3119 and 3122.

(25) * * *

(26) * * *

(i) * * *

(A) * * *

(ii) Bay Area APCD

(A) Regulation 2: (*1*) Sections 2018.1-2.

(B) Regulation 7.

(C) Regulation 8.

(27) * * *

(28) * * *

(29) * * *

(30) Revised regulations for the following APCD's submitted on February 10, 1976 by the Governor's designee.

(i) Bay Area APCD

(A) Regulation 1: (*1*) Section 3121.

(B) Regulation 6.

(31) * * *

(32) Revised regulations for the following APCD's submitted on August 2, 1976 by the Governor's designee.

(i) Bay Area APCD.

(A) Regulation 2: (*1*) Sections 2022.1-.2, 2035.1, 3211.1, and Divisions 16-18.

* * * * *

[FR Doc.77-13410 Filed 5-10-77;8:45 am]

[FRL 720-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Butte, Glenn, Tehama, and Yuba Counties' Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Butte County, Glenn County, Tehama County, and Yuba County Air Pollution Control Districts' (APCD) Rules and Regulations with the exception of regulations concerning new source review and malfunction.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: On March 10, 1977 (42 FR 13307 et seq.), EPA proposed approval of revisions to the Butte County, Glenn County, Tehama County, and Yuba County Air Pollution Control Districts' Rules and Regulations. The revisions were submitted on the following dates: Butte County APCD, July 25, 1973, January 10, 1975, and February 10, 1976; Glenn County APCD, July 25, 1973, January 22, 1974, January 10, 1975, and April 21, 1976; Tehama County APCD, July 25, 1973, July 19, 1974, and April 10, 1975; and Yuba County APCD, July 25, 1973, January 10, 1975, July 22, 1975 and February 10, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice.

It is also the purpose of this action to rescind the current disapproval notice and substitute regulation in 40 CFR 52.224 (a) and (b) for Glenn County and Tehama County APCD's.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended. (42 U.S.C. 1857c-5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(21) * * *

(viii) Butte County APCD

(A) Sections 1-1 to 1-35, 2-1 to 2-17, 2A-1 to 2A-18, 3-1 to 3-17, 5-1 to 5-3, 6-1 to 6-21, 7-1 to 7-3, and 8-1 to 8-2.

(ix) Glenn County APCD

(A) Sections 1 to 5, 10 to 23, 75 to 95.1, 96 to 97, 110 to 125, and 150 to 153.

(x) Tehama County APCD

(A) Rules 1:1 to 1:3, 3:1 to 3:14, 4:1 to 4:16, 5.1, and Implementation Plan for Agricultural Burning.

(xi) Yuba County APCD

(A) Rules 1 to 1.3, 2 to 2.25, 4 to 4.11, 5 to 5.18, 6 to 6.1, and Agricultural Burning Regulations, Sections 1 to 6.

(22) * * *

(23) Revised regulations for the following APCD's submitted on January 22, 1974 by the Governor's designee.

(i) Glenn County APCD

(A) Sections 150 to 155

(24) * * *

(v) Tehama County APCD

(A) Rules 3:14, 4:15 to 4:16, and 4:18.

(25) * * *

(26) * * *

(iii) Butte County APCD

(A) Sections 3-11, 3-11.2, 3-12, and 3-12.1.

(iv) Glenn County APCD

(A) Sections 1 to 5, 10 to 24, 57, 58, 75 to 95.1, 96 to 97, 110 to 125, and 150 to 155.

(v) Yuba County APCD

(A) Agricultural Burning Regulations Section 1 (O-R) and Sections 3E and 3H.

(27) * * *

(ii) Tehama County APCD

(A) Rule 4:6

(28) * * *

(iii) Yuba County APCD

(A) Rule 1.1a

(29) * * *

(30) * * *

(ii) Butte County APCD

(A) Section 3-11.2

(iii) Yuba County APCD

(A) Agricultural Burning Regulations. Section 1 (S-T) and Section 3 (E-P).

(31) * * *

(iv) Glenn County APCD

(A) Sections 14.3 and 15.

* * * * *

2. Section 52.224, paragraph (a)(2)(ii) and (iii) is revised as follows:

§ 52.224 General requirements.

(a) * * *

(2) * * *

(i) * * *

(ii) Glenn County APCD

(iii) Tehama County APCD

* * * * *

[FR Doc.77-13411 Filed 5-10-77;8:45 am]

[FRL 721-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Calaveras County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Calaveras County Air

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Pollution Control District's Rules and Regulations with the following exceptions: The revocations are disapproved involving Rules 407(b), Combustion Contaminants, Rule 412, Organic Liquid Loading, and Rule 413, Effluent Oil Water Separators; the addition of Rule 209, Fossil Fuel-Steam Generator Facility is disapproved; and the changes to the new source review rules (Regulation V) will be addressed in a separate FEDERAL REGISTER notice. For Federal enforcement purposes, the Rules 407(b), 412, 413, and 408 (Fuel Burning Equipment) submitted on June 30, 1972 and approved as part of the California State Implementation Plan (SIP), remain in effect as a portion of the approved SIP. It is also the purpose of this action to rescind the current disapproval notices in 40 CFR 52.224(a) and 40 CFR 52.234(a) for Calaveras County and to rescind the substitute regulations in 40 CFR 52.224 (b) and 52.234(d) for Calaveras County.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47949), EPA proposed approval of revisions to the Calaveras County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973, and July 22, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the proposed rulemaking notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c–5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(xii) Calaveras County APCD.

(A) Regulations I, II, III, IV, and V.

* * * * *

(28) * * *

(iv) Calaveras County APCD.

(A) Regulations I, II, III, IV, VI, and VII.

* * * * *

2. Section 52.224, paragraph (a)(5)(iii) is revised as follows:

§ 52.224 General requirements.

(a) * * *

* * * * * *

(5) San Joaquin Valley Intrastate:

(i) * * *

(ii) * * *

(iii) Calaveras County APCD

3. Section 52.226 is amended as follows:

§ 52.226 Control strategy and regulations: Particulate matter, San Joaquin Valley Intrastate Region.

* * * * *

(b) * * *

(2) Calaveras County APCD

(i) The revocation of Rule 407(b), Combustion Contaminants, is disapproved. Rule 407(b) remains in effect as a portion of the approved plan.

(ii) The revocation of Rule 408, Fuel Burning Equipment, is disapproved. Rule 408 remains in effect as a portion of the approved plan.

(iii) The addition of Rule 209, Fossil Fuel Burning Equipment, is disapproved. Rule 408, Fuel Burning Equipment, remains in effect as a portion of the approved plan.

4. Section 52.234, paragraphs (a) and (d) are revised as follows:

§ 52.234 Source surveillance.

(a) Except in the Air Pollution Control Districts (APCD) listed in this paragraph, the requirements of §51.19 of this chapter are not met since the plan does not provide for recordkeeping and periodic reporting of emission data by sources.

(1) North Coast Intrastate:

(i) Mendocino County APCD

(ii) Lake County APCD

(2) San Joaquin Valley Intrastate:

(i) Calaveras County APCD

* * * * * *

(d) *Regulation for source recordkeeping and reporting.* (1) The owner or operator of any stationary source in the State of California, except for those APCD's specified in paragraph (a) of this section, shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures.

5. Section 52.269 is amended as follows:

§ 52.269 Control strategy and regulations: Photochemical oxidants (hydrocarbons) and carbon monoxide.

(a) * * *

(b) The following regulatory changes represent a relaxation of previously submitted regulations, and an adequate control strategy demonstration has not been submitted showing that the relaxation would not interfere with the attainment and maintenance of the national standards for photochemical oxidants.

(1) San Joaquin Valley Intrastate Region

(i) Calaveras County APCD

(A) The revocation of Rule 412, Organic Liquid Loading, is disapproved. Rule 412 remains in effect as a portion of the approved plan.

(B) The revocation of Rule 413, Effluent Oil Water Separators, is disapproved. Rule 413 remains in effect as a portion of the approved plan.

[FR Doc.77–13413 Filed 5–10–77;8:45 am]

[FRL 724–6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Imperial County Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Imperial County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning new source review and emergency episodes.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, 100 California Street, San Francisco, California 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On September 13, 1976 (41 FR 38782), EPA proposed approval of revisions to the Imperial County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the proposed rulemaking notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: May 4, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(21)(xxii)(A) is revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(xxii) Imperial County APCD

(A) Rules 100, 113 to 131, 145 to 170, and Agricultural Burning Implementation Plan (Rules 200 to 206).

* * * * *

[FR Doc.77–13416 Filed 5–10–77;8:45 am]

[FRL 721–4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to San Diego County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the San Diego County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning new source review, emergency episodes, and organic vapor recovery.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs, Branch, 100 California Street, San Francisco, CA 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On September 13, 1976 (41 FR 38783), EPA proposed approval of revisions to the San Diego County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973; July 19, 1974; January 10, 1975; July 22, 1975; November 3, 1975; and April 21, 1976. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received. A description of the regulations being acted on in this rulemaking is available in the proposed rulemaking notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of 40 CFR Part 52 is amended as follows:

Subpart F—California

1. In § 52.220, paragraph (c) is revised to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(vi) San Diego County APCD.

(A) Rules 41, 55, 58, and 101–113.

* * * * *

(24) * * *

(iii) San Diego County APCD.

(A) Regulation IX.

* * * * *

(28) * * *

(ii) San Diego County APCD.

(A) Rule 66.

* * * * *

(31) * * *

(iii) San Diego County APCD.

(A) Rule 5.

* * * * *

2. In § 52.224, paragraph (a)(3)(i) and (4)(i) are revised to read as follows:

§ 52.224 General requirements.

(a) * * *

(3) San Diego Intrastate.

(i) San Diego County APCD.

* * * * *

(4) Southeast Desert Intrastate.

(i) San Diego County APCD.

* * * * *

3. In § 52.246, paragraph (b) is revised to read as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions.

* * * * *

4. In § 52.252, paragraph (b) is revised to read as follows:

§ 52.252 Control of degreasing operations.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Regions.

* * * * *

§ 52.260 [Reserved]

5. Section 52.260 is revoked and reserved.

[FR Doc.77–13414 Filed 5–10–77;8:45 am]

[FRL 721–1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Sierra County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Sierra County Air Pollution Control District's Rules and Regulations with the exception of regulations concerning new source review. It is also the purpose of this action to rescind the current disapproval notices in 40 CFR 52.224(a) and 40 CFR 52.234(a) for Sierra County and to rescind the substitute regulations in 40 CFR 52.224 (b) and 40 CFR 52.234(d) for Sierra County.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 11, 1977.

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FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, 415–556–7288.

SUPPLEMENTARY INFORMATION: On November 1, 1976 (41 FR 47954), EPA proposed approval of revisions to the Sierra County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973 and January 10, 1975. These revisions were submitted by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(21) * * *

(xx) Sierra County APCD.

(A) Parts I, II, III, IV, V, and VI.

* * * * *

(26) * * *

(ix) Sierra County APCD.

(A) Rules 101, 102, 201–216, 301–323, 405–409, and 601–620.

* * * * *

2. Section 52.224, paragraph (a)(2)(iv) is revised as follows:

§ 52.224 General requirements.

(a) * * *

(2) * * *

(iv) Sierra County APCD.

3. Section 52.234, paragraph (a)(3)(i) is revised as follows:

§ 52.234 Source surveillance.

(a) * * *

(3) Sacramento Valley Intrastate:

(i) Sierra County APCD.

[FR Doc.77–13412 Filed 5–10–77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 24)]

PART 1100—RULES OF PRACTICE

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: These rules revise the existing Rules of Practice and prescribes certain additional rules. The rules are intended to clarify, simplify and update the existing rules and to facilitate and expedite the proceedings before the Commission.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak (Rates) (202–275–7693).

Philip Israel (Finance) (202–275–7245).

Michael Erenberg (Operating Rights) (202–275–7292).

INTERSTATE COMMERCE COMMISSION,
WASHINGTON D.C. 20423

SUPPLEMENTARY INFORMATION: The rules, as revised, make substantial changes in the procedures regarding discovery, administrative appeals, and argument at the end of oral hearings.

Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy of the attached notice with the Director, Office of the Federal Register.

These rules are issued under the authority of Title 49—Chapters 1, 8, 12, and 13, U.S. Code and 5 U.S.C. 553 and 559.

Issued at Washington, D.C.

ROBERT L. OSWALD,
Secretary.

Accordingly, the following amended Rules of Practice (49 CFR 1100), have been modified and adopted.

Sec.
1100.1 General information. (Rule 1)
1100.2 Liberal construction. (Rule 2)
1100.3 Information; special instructions. (Rule 3)

Subpart A—Rules of General Applicability

1100.4 Communications and pleadings generally. (Rule 4)
1100.5 Definitions. (Rule 5)
1100.6 Use of gender and number. (Rule 6)

PRACTITIONERS

1100.7 Register of practitioners. (Rule 7)
1100.8 Attorneys at Law—Qualifications and requirements for practice before the Commission. (Rule 8)
1100.9 Persons not attorneys at law—qualifications and requirements for practice before the Commission. (Rule 9)
1100.10 Initial appearances. (Rule 10)
1100.11 Suspension, disbarment, or other disciplinary action. (Rule 11)

SPECIAL RULES RESPECTING JOINT BOARDS

1100.12 Joint board organization and procedures. (Rule 12)

PLEADING SPECIFICATIONS GENERALLY

1100.13 Typographical specifications generally. (Rule 13)
1100.14 Copies. (Rule 14)
1100.15 Attestation and verification. (Rule 15)
1100.16 Affirmation in lieu of oath. (Rule 16)
1100.17 Pleadings part of record. (Rule 17)
1100.18 Amendments. (Rule 18)
1100.19 Time. (Rule 19)
1100.20 Service of pleadings and papers. (Rule 20)
1100.21 Replies and motions. (Rule 21)

COMMENCEMENT OF PROCEEDINGS

1100.22 Informal complaints not seeking damages. (Rule 22)
1100.23 Informal complaints seeking damages. (Rule 23)
1100.24 Formal complaints; copies (Rule 24)
1100.25 Formal complaints; joinder. (Rule 25)
1100.26 Formal complaints; allegations generally. (Rule 26)
1100.27 Formal complaints; when damages sought. (Rule 27)
1100.28 Formal complaints; discrimination, preference, and prejudice. (Rule 28)
1100.29 Formal complaints; other specifications. (Rule 29)
1100.30 Formal complaints; prayers for relief. (Rule 30)
1100.31 Amended and supplimental formal complaints. (Rule 31)
1100.32 Service of formal and cross complaints. (Rule 32)
1100.33 Answers and cross complaints to formal complaints. (Rule 33)
1100.34 Motions to dismiss or to make more definite and certain. (Rule 34)
1100.35 Satisfaction of complaint. (Rule 35)
1100.36 Applications—Forms and instructions. (Rule 36)
1100.37 Applications; notice. (Rule 37)
1100.38 Protests against applications. (Rule 38)
1100.39 Protests in valuation proceedings. (Rule 39)
1100.40 Protests against tariffs or schedules. (Rule 40)
1100.41 Service of investigation order; default where failure to comply. (Rule 41).

PETITIONS SEEKING INSTITUTION OF RULEMAKING PROCEEDINGS

1100.42 Petitions seeking institution of rulemaking proceedings. (Rule 42)

MODIFIED PROCEDURE

1100.43 Modified procedure; how initiated. (Rule 43)
1100.44 Modified procedure; effect of order. (Rule 44)
1100.45 Modified procedure; intervention. (Rule 45)
1100.46 Modified procedure; joint pleadings. (Rule 46)
1100.47 Modified procedure; content of pleadings. (Rule 47)
1100.48 Modified procedure; verification. (Rule 48)

Sec.
1100.49 Modified procedure; when pleadings filed and served. (Rule 49)
1100.50 Modified procedure; copies of pleadings. (Rule 50)
1100.51 Modified procedure; hearings. (Rule 51)
1100.52 Modified procedure; subsequent procedure. (Rule 52)
1100.53 Notice of hearing. (Rule 53)
1100.54 Subpoenas. (Rule 54)
1100.55 Discovery. (Rule 55)
1100.56 Deposition. (Rule 56)
1100.57 Depositions, location, officer, time, fees, absence, disqualification. (Rule 57)
1100.58 Depositions. Procedure. (Rule 58)
1100.59 Effect of errors and irregularities in depositions. (Rule 59)
1100.60 Written interrogatories to parties. (Rule 60)
1100.61 Request for admission. (Rule 61)
1100.62 Depositions, requests for admission, written interrogatories, and responses thereto: inclusion in record. (Rule 62)
1100.63 Supplementation of responses. (Rule 63)
1100.64 Production of documents and things and entry upon land for inspection and other purposes. (Rule 64)
1100.65 Failure to respond to discovery. (Rule 65)

HEARINGS

1100.66 Authority of officers. (Rule 66)
1100.67 Prehearing conferences. (Rule 67)
1100.68 Stipulations. (Rule 68)
1100.69 Appearances; standard of conduct; absence from hearing. (Rule 69)
1100.70 Intervention; petitions. (Rule 70)
1100.71 Participation without intervention. (Rule 71).
1100.72 Witness examination; order of procedure. (Rule 72)
1100.73 Evidence; admissibility generally. (Rule 73)
1100.74 Evidence; cumulative restriction. (Rule 74)
1100.75 Evidence; prepared statements. (Rule 75)
1100.76 Evidence; official records. (Rule 76)
1100.77 Evidence; entries in regular course of business. (Rule 77)
1100.78 Evidence; documents containing matter not material. (Rule 78)
1100.79 Evidence; documents in Commission's filed. (Rule 79)
1100.80 Evidence; records in other Commission proceedings. (Rule 80)
1100.81 Evidence; abstracts of documents. (Rule 81)
1100.82 Evidence; exhibits. (Rule 82)
1100.83 Record in referred matter unaffected by a second reference. (Rule 83)
1100.84 Evidence; filing of subsequent to hearing; copies. (Rule 84)
1100.85 Ruling of an officer at hearing; objection to. (Rule 85)
1100.86 Oral argument before the hearing officer. (Rule 86)
1100.87 Continuance for further hearing. (Rule 87)
1100.88 Transcript of record. (Rule 88)

BRIEFS: REPORTS: ORAL ARGUMENT

1100.89 Briefs; content and arrangement. (Rule 89)
1100.90 Briefs; when filed. (Rule 90)
1100.91 Officer's initial decision. (Rule 91)
1100.92 Voiding initial decisions, reports, or orders. (Rule 92)
1100.93 Oral argument before Commission. (Rule 93)

ORDER COMPLIANCE: DAMAGE STATEMENTS

1100.94 Compliance with Commission's orders. (Rule 94)
1100.95 Statements of claimed damages based on Commission findings. (Rule 95)

ADMINISTRATIVE APPEALS

1100.96 Administrative appeals—Proceeding involving both rail and non-rail matters. (Rule 96)
1100.97 Administrative appeals—Non-rail proceedings. (Rule 97)
1100.98 Administrative appeals—Rail proceedings. (Rule 98)
1100.99 Petitions not otherwise covered. (Rule 99)

SPECIAL RAIL REQUIREMENTS

1100.100 Application of the rules: Time limits — Proceedings involving common carriers by railroad. (Rule 100)
1100.101 Utilization of the Rail Services Planning Office and other Commission employees. (Rule 101)
1100.102 Enforcement of time limits; disposition of pleadings—Proceedings involving common carriers by rail. (Rule 102)

Subpart B—Special Rules of Practice

1100.200 Special rules of practice governing procedure in certain suspension and fourth-section matters. (Rule 200)
1100.225 Special rules of practice governing the procedure of the Motor Carrier Board, the Finance Board, the Operations Boards, the Special Permission Board, the Released Rates Board, and the Tariff Rules Board. (Rule 225)
1100.240 Special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(2), 210a (b), of the Interstate Commerce Act and certain other procedural matters with respect thereto. (Rule 240)
1100.245 Special rules governing procedures for the issuance to single-State common carriers by motor vehicle of Certificates of Registration under section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, authorizing motor common carrier operations in interstate and foreign commerce, and certain other procedural matters with respect thereto. (Rule 245)
1100.246 Special rules pertaining to proceedings for the discontinuance or change of train or ferry service. (Rule 246)
1100.247 Special rules governing notice of filing of applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto. (Rule 247)
1100.248 Implementation of Public Law 91–375, Postal Reorganization Act (Motor Carrier Licensing Provisions).
1100.249 Special rules governing the filing of motor carrier mail transportation service orders or determinations under subsection (f) of section 5203 of Title 39, United States Code, 84 Stat. 768, 39 U.S.C. 5208. (Rule 249)
1100.250 Special rules for proceedings in which the elimination of discrimination against the shipment of recyclable materials is sought. (Rule 250)
Appendix A—Code of ethics for practitioners before the Interstate Commerce Commission.
Appendix B—Approved forms.
Appendix C—Ex Parte Communications.
Appendix D—Attorneys-Qualifications.
Appendix E—Index of the Special Rules Contained in Parts 1101–1159.
Appendix F—Number of Copies of Documents (In Addition to Original) to be filed with the Commission.
Appendix G—Section 17(a) and (14) of the Interstate Commerce Act.

AUTHORITY: 49 U.S.C. Chapters 1, 8, 12, and 13; 5 U.S.C. 553 and 559.

Interim rule:	Final rule
1	1
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§ 1100.1 General Information.

(a) *Scope of rules.* The rules in this part govern procedure before the Interstate Commerce Commission in proceedings under the Interstate Commerce Act, as amended, and related acts, except insofar as they may be inconsistent with and superseded by requirements governing the practice and procedure in specified categories of proceedings as set out in Parts 1101–1159,[1] or unless otherwise directed by the Commission in any proceeding.

(b) *Applicability.* Subpart A of this part sets forth general rules applicable to all types of proceedings, except to the extent otherwise provided in subpart B hereof which sets forth special rules applicable to particular types of proceedings. Wherever there is any conflict between one of the rules of general applicability in subpart A and a special rule in subpart B, the special rule will govern.

(c) *Reference to and citation of rules.* This part shall be referred to as the "Rules of Practice." Each section, and any paragraph or subparagraph thereof, shall be referred to as a "Rule". The number of each rule shall include only the numbers and letters at the right of the decimal point. For example, "§ 1100.-61 Request for admission" shall be referred to as "Rule 61." Paragraph (b) of that rule, relating to "Effect of Admission," shall be referred to as "Rule 61(b)."

§ 1100.2 Liberal Construction.

The rules in this part shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented.

§ 1100.3 Information; Special Instructions.

Information as to procedure under the rules in this part and instructions supplementing these rules in special instances, will be furnished upon written application to the Secretary and Assistant Secretary of the Commission, Washington, D.C. 20423, or by telephone.

Subpart A—Rules of General Applicability

§ 1100.4 Communications and Pleadings Generally.

(a) *How addressed.* All communications, including correspondence concerning matters referred to boards, should be addressed to the Commission unless otherwise specifically directed. All communications should clearly designate the docket number, if any, and short title. The person communicating shall state his address, the party he represents, and how response should be sent to him if not by first class mail.

(b) *Timely Filing Required.* Pleadings, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the Commission's offices at Washington, D.C., within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative, provided, however, that if such document is mailed by certified, registered or express mail postmarked at least 3 days prior to the due date, it will be accepted as timely filed.

(c) *Disposition of; When Defective.* In any proceeding when upon inspection the Commission is of the opinion that a pleading, document, or paper tendered for filing does not comply with this part or, if it be an application, does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the pleading, document, or paper for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) *Objectionable Matter.* The Commission may order any redundant, irrelevant immaterial, impertinent, or scandalous matter stricken from any pleading, document, or paper filed with it.

(e) *Ex Parte Communications Prohibited; Penalties Provided.* Ex Parte communications as defined in Appendix C to this part are prohibited and any person violating the prohibitions set out in such Appendix is subject to the penalties therein provided.

§ 1100.5 Definitions.

As used in this part:

(a) The terms "act" and "part" mean the Interstate Commerce Act and the several parts thereof, respectively. The term "act" also means, unless the context otherwise indicates, any other statute which the Commission administers in whole or in part.

NOTE.—References to parts designated by Roman numerals refer to the Interstate Commerce Act. References to "this part," the rules in this part or to parts designated by Arabic numerals, refer to this Code.

(b) The term "proceeding" shall include: (1) an "informal complaint" filed under Rule 22 or 23 or a "formal complaint" alleging violation of any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, including petitions on the special docket; (2) an "application" for (i) the granting of any right, privilege, authority, or relief under or from any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, or (ii) the consideration of any submission required by law to be made to the Commission; (3) an "investigation" instituted by the Commission; (4) a "rulemaking" proposal instituted by the Commission.

(c) The term "complainant" means a persons filing a complaint; "defendant" means a person against whom complaint is filed; "applicant" means a person designated in an investigation; "protestant" means a person opposed to the granting of an application, to any tariff or schedule becoming effective, or to a tentative valuation; "intervener" means a person permitted to intervene as provided in Rule 70 or 71, and "petitioner" means any other person seeking relief otherwise than by complaint, protest or application.

(d) The term "party" shall include all named in paragraph (c) above, or others, permitted or directed by the Commission to participate in a proceeding. It shall not include persons signing certifications of support or witnesses appearing at an oral hearing or submitting verified statements under modified procedure unless such persons are included in the preceding provisions of this Rule, and shall not include persons named in the docket service list merely for the purpose of receiving copies of Commission releases.

(e) The term "pleading" means a complaint, answer, reply, application, protest, written comment, petition to investigate, motion (other than motion orally made at hearing or argument), brief, exceptions, petition, document supplementing oral hearing as described in Rule 86 and all documents filed under modified procedure.

(f) The term "practitioner" means a person authorized by the Commission to appear before it in a representative capacity.

(g) The term "officer," except as a different meaning is indicated in Rules 15 (b), 55 to 65, inclusive, 69(a) and 76 (civil and corporate functionaries), includes a Division, Commissioner, administrative law judge, board of employees (called an "employee board" in this part), an examiner or special board composed of State representatives (called a "joint board" in this part), to which a proceeding is assigned or referred for hearing, consideration, or recommendation of an appropriate order. The term "board" means either an employee board or a joint board as the context requires.

(h) The term "initial decision" means a statement of findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record, and an appropriate order. An initial decision made by a Commissioner, an administrative law judge or a joint board will become effective as the order of the Commission in the circumstances described in Rule 91(b).

(i) The term "tentative decision" means a decision proposed by the Commission, which shall embrace the same elements specified for inclusion in initial decisions. A tentative decision will not become the decision of the Commission through failure to file objections, but in the absence of exceptions or of ascertainable error the statement therein of the issues and facts ordinarily will be taken by the Commission as the basis of its subsequent decision.

(j) The term "modified procedure" means the procedure specified in Rules 43 to 52, inclusive, which rules provide for the filing and serving of pleadings in proceedings with a view to limiting the matters upon which subsequent oral evidence, if any, will be introduced.

(k) The term "transcript" means a written or electronically recorded statement of all proceedings at an oral hearing.

[1] An index to parts 1101–1159 is set forth in Appendix E hereto.

§ 1100.6 Use of Gender and Number.

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender include the feminine.

PRACTITIONERS

§ 1100.7 Register of Practitioners.

A register is maintained by the Commission in which are entered the names of all persons entitled to practice before the Commission. Corporations and firms will not be admitted or recognized.

§ 1100.8 Attorneys at law—qualifications and requirements for practice before the Commission.

Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia may represent others before the Commission upon filing with the Commission a written declaration so stating that he is currently qualified. The written declaration shall contain the declarant's full name, address, and telephone number. A declaration may be filed with the Secretary of the Commission in the form as shown in Appendix D to this part, in which event the attorney's name will be entered in the Register of Attorneys at Law. Attorneys may also file declarations with the Secretary or a Hearing Officer when making an initial appearance in any proceeding and the Attorney's name will be entered in the Register of Attorneys at Law. Once an attorney's name is entered in the Register of Attorneys at Law no further declaration of qualification will be required except in those instances where an attorney's right to practice has been suspended, in which event a written declaration will be required that he is now properly qualified in accordance with this paragraph.

§ 1100.9 Persons not attorneys at law—qualifications and requirements for practice before the Commission.

(a) *In general.* Any citizen or resident of the United States, not an attorney of law, who shall file an application for admission to practice, accompanied by payment of the fee prescribed by rule or order of the Commission, successfully complete the practitioners' examination, and show that he possesses the necessary legal and technical qualifications to enable him to render valuable service before the Commission and that he is competent to advise and assist in the presentation of matters before the Commission, may be permitted to practice before the Commission.

(b) *Application for admission.* An application filed pursuant to this rule under oath for admission to practice shall be completed in full on the form provided by the Commission, and shall be addressed to the Secretary of the Commission, Washington, D.C. 20423.

(c) *Additional certificates by applicant's sponsors; hearing on application; abandonment of application.* The Commission may require an applicant's sponsors to provide a detailed statement of the nature and extent of their knowledge of his qualifications. Upon consideration thereof, if the Commission is not satisfied as to the adequacy of applicant's qualifications, he will be notified thereof by registered mail, whereupon he may request a hearing to prove his qualifications. If he presents such a request, the Commission will accord him a hearing. In the absence of a request for hearing within 20 days from receipt of said notice, his application shall be considered as withdrawn.

(d) *Application fee.* Each application filed pursuant to this rule must be accompanied by a non-refundable fee of $50. Payment must be made either in cash, or by check or money order payable to the Interstate Commerce Commission.

(e) *Failure to appear for examination.* Except for good cause shown, if an appliant fails to appear at the time and place indicated by the Commission to take the practitioners' examination, the application shall be considered withdrawn.

(f) *Applicant's oath.* No applicant shall be admitted to practice before the Commission until he shall have subscribed to an oath or affirmation that he will deport himself, as a practitioner before the Commission, uprightly, and according to law; and that he will support the Constitution of the United States and laws of the United States and will conform to the rules and regulations of the Commission.

§ 1100.10 Initial appearances.

Practitioners shall file a declaration that they are authorized to represent the particular party in whose behalf they propose to act at the time of making an initial appearance in any proceeding. This requirement will be met by the practitioner entering his name as the representative of an applicant in the appropriate space on an application form; by signing any complaint, petition, protest, reply, or other pleading with a designation following the practitioner's signature that he is the attorney for or other representative of a party therein named; by entering an appearance on the form provided at any hearing; or by filing a letter with the Secretary of the Commission stating that he is authorized to represent a party, whose name and address is given in a particular proceeding which shall be identified. For additional information on appearances, see Rule 69.

§ 1100.11 Suspension, disbarment, or other disciplinary action.

When it is shown to the Commission that any member of its bar has been suspended or disbarred from practice in any court of record, or has violated any of the Commission's rules, including the code of ethics as set out in Appendix A, or has engaged in other conduct unbecoming a member of the bar of the Commission, he will be subject to suspension, disbarment, or other disciplinary action by the Commission. The member shall be afforded an opportunity to show good cause, within such time as the Commission shall prescribe, why he should not be suspended, disbarred or otherwise disciplined. Upon his response to the order to show cause, and after hearing, if requested, or upon failure to respond within the time prescribed for a response, the Commission shall issue an appropriate order.

SPECIAL RULES RESPECTING JOINT BOARDS

§ 1100.12 Joint board organization and procedures.

(a) *Organization.* After a joint board has been created it shall select one of its members to act as chairman for all purposes concerning matters which may be referred to it. In the event the member so selected is absent from any meeting of the joint board the members attending shall select one of such members, except as provided in paragraph (b) of this section, temporarily to act as chairman.

(b) *Waiver by Absence of a Joint Board Member.* The failure of a duly appointed member of a joint board to participate in any hearing after notice thereof on a matter referred to such joint board shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State from which such member was appointed.

(c) *Procedural rulings in case of Disagreement.* If the members of a joint board or a majority thereof in actual attendance at a hearing shall be unable to agree upon the disposition of a procedural question arising therein, the chairman (or acting chairman) of the board shall decide the question and rule or order accordingly.

(d) *Form of joint board's initial decision; service.* In the interest of uniformity the board's initial decision shall conform as nearly as may be practicable to the form of decision issued by the Commission in similar cases. The board's initial decision will be served by the Commission.

(e) *Termination of joint board jurisdiction; subsequent procedure.* The jurisdiction of a joint board over a referred matter shall be terminated in the event of: (1) service of an initial decision as provided in paragraph (d) of this section; (2) submission of the board's conclusions without a written initial decision; (3) waiver of action in writing by appropriate authority of each State from which a member is entitled to be appointed; (4) failure of all members of the board to appear at the hearing; (5) failure of a majority of the board to agree on substantive matters; or (6) entry of order vacating the order of reference to the joint board. Except where an initial decision is served as provided in paragraph (d) of this section, in which event the subsequent procedure will be as provided in Rules 101, 102, 103 and 104, a referred matter, after termination of joint board jurisdiction, will be decided by the Commission or be made the subject of another officer's initial decision on the record theretofore made or after such hearing or further hearing as may be required.

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PLEADING SPECIFICATIONS GENERALLY

§ 1100.13 Typographical specifications generally.

Except as otherwise provided respecting applications (Rule 36(a)), exhibits (Rule 82(a)), and informal complaints (Rule 22(a)), all pleadings, documents, and papers to be filed under these rules shall be on opaque, unglazed, durable paper not exceeding 8½ by 11 inches. To permit binding in covers of uniform size, margins of at least 1½ and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, printing by offset press, multigraphing, or mimeographing, or by any other process, provided the copies are clear and permanently legible. Whiteline blueprints which cannot be reproduced by photography are not acceptable. If directly typewritten, or if in facsimile reproduction of typewriting, the impression may be on both sides of the paper and must be double-spaced, except that long quotations shall be single-spaced and indented. Nothing less in size than Elite type shall be used. If printed, adequate leading and nothing less than 10-point type shall be used, except that 8-point type may be employed in footnotes and in tabular matter where printing limitations so require. If a pleading or brief is in excess of 50 pages (except a pleading under modified or shortened procedure), including cover pages, indexes, and appendices, the impression must be on both sides. Printing by offset press will be accepted: Provided, That the type used is not reduced in size smaller than that required for typewritten documents. Failure to observe these specifications will result in rejection.

§ 1100.14 Copies.

The original and 6 copies of every pleading, document, or paper permitted or required to be filed under this part shall be furnished for use of the Commission except as a different number is otherwise specified in Appendix F hereto which lists the various pleadings, documents, or papers normally filed with the Commission.

§ 1100.15 Attestation and verification.

(a) *Practitioner's signature.* If a party is represented by a practitioner each pleading, document, or paper of such party shall be signed in ink by one such practitioner whose address shall be stated. The signature of a practitioner constitutes a certificate by him that he has read the pleading, document, or paper; that he is authorized to file it; that to the best of his knowledge, information, and belief there is good ground for it; that it is not interposed for delay; and that with respect to a complaint he files it with the distinct knowledge and specific consent of complainant. A pleading, document, or paper thus signed need not be verified or accompanied by affidavit except as otherwise provided in these rules.

(b) *When no Practitioner's Signature.* A pleading, document, or paper not signed by a practitioner must be signed in ink, the address of the signer shall be stated, and the facts alleged in a pleading must be verified under oath by the person in whose behalf it is filed. Signature and verification in such manner must be by at least one complainant if the pleading is a complaint. A pleading, document, or paper filed on behalf of a corporation or other organization authorized to make complaint under the act, which is not signed by a practitioner must be signed in ink, and the facts alleged in a pleading must be verified by an executive officer of such corporation or organization.

§ 1100.16 Affirmation in lieu of oath.

Whenever under this part an oath is required, an affirmation in judicial form will be accepted in lieu thereof.

§ 1100.17 Pleadings part of record.

Recitals of material and relevant facts in a pleading filed prior to oral hearing in any proceeding, if separately stated and verified, and unless specifically denied in a counterpleading filed under these rules, shall constitute evidence and be a part of the record without special admission or incorporation therein, but if request is seasonably made, a competent witness must be made available for cross-examination on the evidence so included in the record. Pleadings may contain specific references to or quotation from the tariffs or schedules containing the several rates, fares, charges, schedules, classifications, regulations or practices alleged to be material. A filing under Rule 40, protests against tariffs or schedules, shall not be considered a pleading for the purposes of this rule.

§ 1100.18 Amendments.

Leave to file amendments to any pleading will be allowed or denied as a matter of discretion.

§ 1100.19 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is Saturday, Sunday, or a legal holiday in the District of Columbia, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday. This rule shall apply to the measurement of time forward, as well as backward from a specified date.

(b) When the date designated for filing briefs or other documents is a Saturday, Sunday or a legal holiday in the District of Columbia, that date shall be extended to the next day which is neither a Saturday, Sunday, nor a legal holiday in the District of Columbia. A half holiday shall not be considered as a holiday.

(c) *Modification.* Except as to the maximum time periods provided by law or specified in this part respecting informal complaints seeking damages (Rule 23), any time period prescribed or permitted in this part may, upon request and for good and sufficient cause, be modified by the Commission in its discretion. Requests for extension or modifications of time must be served upon all parties of record at the same time and by the same method of communication as service is made on the Commission. A request for postponement of date for filing briefs or other documents must be filed not less than 10 days before the due date. Only the original of the request and certificate of service need be filed with the Commission. If granted, the party making the request shall promptly so notify all parties to the proceeding and so certify to the Commission.

§ 1100.20 Service of pleadings and papers.

(a) *Generally.* Except as otherwise provided in paragraph (b) of this section, or as otherwise provided respecting applications (Rule 36(b)), formal complaints (Rule 32), and informal complaints (Rule 22(b)), every pleading, document, or paper must, when filed, or tendered to the Commission for filing, include a certificate showing simultaneous service thereof upon all parties to the proceeding. Such service shall be made by delivery in person, or by first-class mail, certified mail, registered mail, or by express or equivalent parcel delivery service, properly addressed with charges prepaid, one copy to each party. Service upon the parties shall be by the same means of communication and class of service employed in making delivery to the Commission: Provided, however, That when delivery is made to the Commission in person, and it is not feasible to serve the other parties in person, service shall be made by first-class or express mail. When any party is represented by a practitioner, service upon such practitioner will be deemed service upon the party.

(b) *Exceptions as to Letter.* Copies of letters to the Commission relating to oral argument (Rule 93) and subpoenas (Rule 54(a)) need not be served upon other parties to the proceeding.

§ 1100.21 Replies and motions.

(a) Time for filing. Except that a reply to a reply is not permitted and except as otherwise provided in these rules, an adverse party may file and serve a reply or motion addressed to any pleading permitted under the rules in this part within 20 days after the filing of such pleading with the Commission.

(b) *Replies to Administrative Appeals.* A reply to an administrative appeal filed under Rules 97 and 98 seeking a change in a decision, order, or requirement may be filed and served within 20 days after the final date for filing such administrative appeals.

(c) The original of the reply or motion should be accompanied by the same number of copies as required respecting the pleading to which the reply or motion is addressed.

COMMENCEMENT OF PROCEEDINGS

§ 1100.22 Informal complaints not seeking damages.

(a) *Form and content.* Informal complaint may be by letter or other writing, and will be serially numbered and filed as of the date of its receipt. No form of informal complaint is suggested, but in substance the letter or other writing (original and one copy shall be filed) must contain the essential elements of a formal complaint as specified in Rules 26 and 28. It may embrace supporting papers.

(b) *Correspondence Handling.* If the informal complaint appears to be susceptible of informal adjustment, a copy or a statement of the substance thereof will be transmitted by the Commission to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the filing of a formal complaint.

(c) *Discontinuance Without Prejudice.* A proceeding thus instituted on the informal docket is without prejudice to complainant's right to file and prosecute a formal complaint, in which event the proceeding on the informal docket will be discontinued.

§ 1100.23 Informal complaints seeking damages.

(a) *Actual Filing Required.* Notification to the Commission that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute except as provided in paragraph (e) of this section.

(b) *Content.* An informal complaint seeking damages, when permitted under the act, must be filed within the statutory period, and should contain such data as will serve to identify with reasonable definiteness the shipments or transportation services in respect of which damages are sought. Such complaint should state: (1) that complainant makes claim for damages, (2) the name of each individual seeking damages, (3) the names of defendants against which claim is made, (4) the commodities the rate applied, the date when the charges were paid, by whom paid, and by whom borne, (5) the period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery, (6) the points of origin and destination, either specifically or, where they are numerous, by definite indication of a defined territorial or rate group of the points of origin and destination and, if known, the routes of movement, and (7) the nature and amount of the injury sustained by each claimant.

(c) *Statement of Prior Claim.* If a complaint filed under paragraph (b) or (e) of this section contains a claim on any shipment which has been the subject of a previous informal or formal complaint to the Commission, reference to such complaint must be given.

(d) *Copies.* The original of an informal complaint seeking damages must be accompanied by copies in sufficient number to enable the Commission to transmit one to each defendant named.

(e) *Special-docket Proceedings.* Where the act provides for an award of damages for violation thereof and a carrier is willing to pay them, or to waive collection of undercharges, petition for appropriate authority should be filed by the carrier on the special docket in the form prescribed by the Commission. If the petition is granted an appropriate order will be entered. Such petition, when not filed in connection with an informal complaint pending before the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer thereto admitting the matters stated in the petition. If a carrier is unable to file such petition within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a statement setting forth the facts may be filed by the carrier within the statutory period. Such statement will be deemed the equivalent of an informal complaint filed on behalf of the shipper or consignee and sufficient to stay the operation of the statute.

(f) *Six Months' Rule.* If an informal complaint seeking damages cannot be disposed of informally, or is denied, or is withdrawn by complainant from further consideration, the parties affected will be so notified in writing by the Commission. The matter in such complaint will not be reconsidered unless, within six months after the date such notice is mailed, either a formal complaint as to such matter is filed, or it is informally resubmitted on an additional basis. Such filing or resubmission will be deemed to relate back to the date of the original filing, but reference to that date and the Commission's file number must be made in such resubmission or in the formal complaint filed. If the matter is not so resubmitted, or included in a formal complaint, as provided in this section, complainant will be deemed to have abandoned the complaint and no complaint seeking damages based on the same cause of action will thereafter be placed on file or considered unless itself filed within the statutory period.

§ 1100.24 Formal complaints; copies.

(a) *Generally.* The original of each formal complaint, amended or supplemental formal complaint, or cross complaint, must be accompanied by copies in sufficient number to enable the Commission to serve one upon each defendant, including each receiver or trustee, and retain six copies in addition to the original.

(b) *Provision for State Authorities.* If complaint is made under Part II of the act, or respecting Statemade rates (Rule 28(b)), sufficient copies in addition to those required under paragraph (a) of this section shall be furnished to permit the Commission to supply one to the appropriate authority in each of the States included in the scope of the complaint.

§ 1100.25 Formal complaints; joinder.

(a) *Causes of Action.* Two or more grounds of complaint concerning the same principle, subject, or state of facts may be included in one complaint, but should separately be stated and numbered.

(b) *Complainants.* Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and concern substantially the same alleged violation of the act and a like state of facts.

(c) *Defendants.* If complaint is made with respect to through transportation by continuous carriage or shipment, all persons subject to the act participating therein, and against which an order is sought, should be made defendants. If complaint is made of a classification or any provision thereof, ordinarily it will suffice to make defendants the persons operating one or more through routes between representative points of origin and destination.

(d) *Correct designation of Parties.* The unabbreviated names of all parties complainant and defendant must be stated correctly.

§ 1100.26 Formal complaints; allegations generally.

A formal complaint should be so drawn as fully and completely to advise the parties defendant and the Commission in what respects the provisions of the act have been or are violated or will be violated, and should set forth briefly and in plain language the facts claimed to constitute such violation. If two or more sections or subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one section, subsection, or requirement should be stated separately from those claimed to constitute a violation of another section, subsection, or requirement whenever that can be done by reference or otherwise without undue repetition.

§ 1100.27 Formal complaints; when damages sought.

A formal complaint that includes a request for an award of damages should contain the information specified for an informal complaint seeking damages (Rule 23, paragraphs (b) and (c)).

§ 1100.28 Formal complaints; discrimination, preference, and prejudice.

(a) *Generally.* A complaint that alleges the act is violated because of an undue or unreasonable preference or advantage, undue or unreasonable prejudice or disadvantage, or unjust discrimination should specify clearly the particular elements stated in the act as constituting such violation, and the facts which complainant relies upon to establish it. Such elements may include a special rate, rebate, drawback, or other device; and a particular person, com-

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pany, firm, association, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic.

(b) *State-made Rates.* A complaint that brings in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, upon the ground that it violates provisions of the act which prohibit undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or any undue, unreasonable or unjust discrimination against interstate or foreign commerce, should bring in issue the justness and reasonableness of the rate, fare, charge, classification, regulation, or practice applicable to the interstate or foreign commerce involved in such complaint. Such complaint should also bring in issue the question as to what should be the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice that should be established so as to remove any such advantage, preference, prejudice, or such unjust discrimination.

§ 1100.29 Formal complaints; other specifications.

(a) *Tariff or Schedule References.* The several rates, fares, charges, schedules, classifications, regulations, or practices on which complaint is made should be set out by specific reference to the tariffs or schedules in which they appear, whenever that is practicable.

(b) *States in which Transportation occurs.* A formal complaint under Part II of the act should specifically name the States in and through which the transportation which gives rise to the complaint is performed.

(c) *Hearing Place.* A formal complaint should be accompanied by a statement requesting modified procedure or specifying the place at which hearing is desired.

§ 1100.30 Formal complaints; prayers for relief.

(a) *Generally.* A formal complaint in which relief for the future is sought should contain a detailed statement of the relief desired. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing.

(b) *Specific Prayer for Damages.* Except under unusual circumstances, and for good cause shown, damages will not be awarded upon a complaint unless specifically prayed for, or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

§ 1100.31 Amended and supplemental formal complaints.

An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants.

§ 1100.32 Service of formal and cross complaints.

The Commission will serve formal complaints. It will also serve supplemental, amended, and cross complaints and specific amendments to all complaints when it has granted leave to file such pleadings. Such service will be made personally upon a carrier or freight forwarder or upon an agent thereof designated for purposes of service, or by mail addressed to the carrier or freight forwarder or to the agent thereof at the address filed. If no agent has been designated, service may be made by posting in the Office of the Secretary of the Commission, and if the defendant be a carrier subject to Part II of the act, by also posting in the Office of the Secretary or clerk of the motor carrier regulatory board of the State wherein the motor carrier maintains headquarters. If the complaint involves only the lawfulness of rates, fares, charges, classifications, or practices, service in the manner indicated in the third sentence of this section may be made upon an attorney in fact of a carrier or freight forwarder who has filed a tariff or schedule on behalf of such carrier or freight fowarder, but such service will not be made upon a carrier subject to Part I of the act unless such carrier has failed to designate an agent for service in the city of Washington.

§ 1100.33 Answers and cross complaints to formal complaints.

(a) *Generally.* An answer may simultaneously be responsive to a formal complaint and to any amendment or supplement thereof. It must be drawn so as fully and completely to advise the parties and the Commission of the nature of the defense, including, if a departure from the requirements of section 4(1) of the act is involved, the number of the particular application or order, if any, which protects such departure; and must admit or deny specifically and in detail each material allegation of the pleading answered. An answer may embrace a detailed statement of any counter-proposal which a defendant may desire to submit. Unless the issue is such that separate answers are required, answer for all defendents may be filed on their behalf by one defendant in one document, in which event the answer must show clearly the names of all defendants joining therein, and their concurrence.

(b) *Cross complaints.* A cross complaint, alleging that other persons, parties to the proceeding, have violated the act or requirements established pursuant thereto, or seeking relief against them under the act, may be tendered for filing by a defendant with its answer.

(c) *Time for filing; copies.* Unless otherwise directed by the Commission, an answer to a complaint should be filed within 20 days after the day on which the complaint to which answer is filed was served. The original and six copies of an answer shall be filed with the Commission.

(d) *When issue joined.* If any defendant answers or fails to file and serve an answer within the period specified in paragraph (c), issue thereby is joined as to such defendant.

§ 1100.34 Motions to dismiss or to make more definite and certain.

(a) As to complaint. Defendant may file with his answer, or with his statement under modified procedure, a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and details desired. Defendant may also file with his answer a motion to dismiss a complaint because of lack of legal sufficiency appearing on face of such complaint.

(b) *As to answer.* No replication to the answer shall be filed, but any party may file, within 10 days after the filing of an answer, or, in the case of modified procedure, complainant may file with his statement in reply, a motion that the answer, or defendant's statement, as the case may be, be made more definite and certain, such motion to point out the defects complained of and the details desired.

§ 1100.35 Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the opposing parties must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§ 1100.36 Applications, forms and instructions.

An application filed with the Commission shall be prepared in accord with and contain the information called for in the form of application, if any, prescribed by the Commission, or any instructions which may have been issued by the Commission with respect to the filing and service of an application.

§ 1100.37 Applications; notice.

Appropriate notice of the filing of an application will be given by the applicant or by the Commission to the States, to State authorities, or to other persons as may be required by the form or instruction or by the act.

§ 1100.38 Protests against applications.

(a) *Content.* A protest against the granting of any application shall set forth specifically the grounds upon which it is made and contain a concise statement of the interest of protestant in the proceeding.

(b) *When filed.* Any protest shall be filed with the Commission promptly after the application is filed. If the proceeding is one respecting which the Commission has issued a notice advising the public of the filing of the application, the protest shall be filed within the time specified in such notice.

(c) *Copies; Service.* A protest filed under this section shall be served upon applicant and, unless otherwise specified in the public notice, the original and six copies of the protest shall be filed with the Commission.

(d) *When rule disregarded.* An application may be set for hearing without awaiting the filing of a protest or of a reply thereto, and also may be disposed of without regard to the prior paragraphs of this section unless the act provides that the particular application may be granted only upon hearing.

§ 1100.39 Protests in valuation proceedings.

A protest of a tentative valuation shall contain a concise statement of the essential elements of protest with particular reference to the matters in the tentative valuation concerning which protest is made and shall include a statement of the changes therein desired by protestant. When practicable, each object of protest should be set up as a separate item in a separately numbered paragraph. Each item of protest against land values or areas must state the valuation section and zone on the Commission's maps in which the land is located. When protestant claims that property owned or used has been omitted, a full description of such property and its location must be included in the protest.

§ 1100.40 Protests against tariffs or schedules.

(a) *Content.* The protested tariff or schedule sought to be suspended should be identified by making reference to the name of the publishing carrier, freight forwarder, or agent, to the Interstate Commerce Commission number, and to the specific items or particular provisions protested and to the effective date of the tariff or schedule. Reference should also be made to the tariff or schedule, and the specific provisions thereof, proposed to be superseded. The protest should state the grounds in support thereof, indicate in what respect the protested tariff or schedule is considered to be unlawful, and state what protestant offers by way of substitution. Such protests will be considered as addressed to the discretion of the Commission. Should a protestant desire to proceed further against a tariff or schedule which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, tariffs or schedules filed under the act will not be considered unless made in writing and filed with the Commission at Washington, D.C. such protests and requests for suspension shall reach the Commission at least 12 days (except as provided in paragraph (c) of this section) before the effective dates of the tariffs, schedules, or parts thereof to which they refer, unless the protested publications were filed on less than 30-days notice under the authority of this Commission, in which event the protests should be filed not less than 5 days before such effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with paragraph (a) of this section and copies thereof are immediately telegraphed by protestants to the respondent carriers or their publishing agents. Six copies of such telegrams should immediately be mailed by the protestants to the Commission at Washington.

(c) *Motor Carrier Tariff Bureau Filings.* When motor common carrier tariff bureaus file schedules of proposed general increases in rates and charges, or if a proposed rate restructuring, which proposals are subject to the special procedures in Ex Parte No. MC-82, *"New Procedures in Motor Carrier Rev. Proc.,"* 339 I.C.C. 324, and set forth in Part 1104 of this subchapter, protests thereto shall reach the Commission at least 20 days before the published effective dates of those schedules. To assure consideration, replies to protests should reach the Commission not later than the seventh workday prior to the effective date of the protested schedules.

(d) *Copies; Service.* The original and six copies of each protest, except as provided in paragraph (e), or of each reply filed under this section, must be filed with the Commission, and one copy of the protest simultaneously must be served upon the publishing carrier, freight forwarder, or agent, and upon other persons known by protestants to be interested. These pleadings should be directed to the attention of the Suspension and Fourth Section Board.

(e) *Passenger fare increases.* The original only of each protest or request for investigation and suspension of increased passenger fares need be filed with the Commission.

(f) *Reply to Protest.* A reply to a protest filed under this section must reach the Commission not later than the fourth working day prior to the scheduled effective date of the protested schedules unless otherwise provided.

(g) *Special requirements for protests against revisions to rail rates and charges and replies thereto.* (1) Protests against, and requests for suspension of, tariffs of schedules filed by rail carriers or the publishing agents that result in revisions of rates or charges shall also include a verified complaint containing specific facts showing: (i) that without suspension the protested tariffs or schedules will cause substantial injury to the complainant or the party represented by the complainant, (ii) that it is likely that complainant or the party represented by the complainant will prevail on the merits pursuant to any applicable provisions of the act, and (iii) where protestants allege that a rate is unreasonably high in violation of Section 1(5)(b), they must submit evidence relating to market dominance as set forth at 49 CFR 1109.1. (2) Replies to verified complaints filed under this section shall be verified.

§ 1100.41 Service of investigation order; default where failure to comply.

An order instituting an investigation will be served by the Commission upon respondents. If within the time period stated in that order a respondent fails to comply with any requirement specified therein, respondent shall be deemed in default and to have waived any further hearing. Thereafter the investigation may be decided without further proceedings.

PETITIONS SEEKING INSTITUTION OF RULEMAKING PROCEEDINGS

§ 1100.42 Petitions seeking institution of rulemaking proceedings.

Any person may file a petition requesting the Commission to institute a proceeding for the purpose of issuing statements; rules, or regulations of general applicability and significance designed to implement or interpret law, or to formulate general policy for future effect. No reply to such a petition may be filed. Whether a proceeding shall be instituted as requested is within the discretion of the Commission and the ruling on the petition will be final. In the event a rulemaking proceeding is instituted by the Commission, the procedure to be employed for the taking of evidence or the receipt of views and comments will be designated by Commission order.

§ 1100.43 Modified procedure, how initiated.

The Commission may, in its discretion, order that a proceeding be heard under modified procedure if it appears that substantially all important issues of material fact may be resolved by means of written materials and that the efficient disposition of the proceeding can be made without oral hearing.

(a) *Commission's initiative or by request.* Modified procedure (see Rule 5(j)) will be ordered in a proceeding upon the Commission's initiative or upon its approval of a request filed by any party that the modified procedure shall be observed.

(b) *Order directing Modified Procedure.* An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified procedure rules. As used in Rules 47, 49, and 51 the term "complainant" shall comprehend the party having the initial duty to establish the truth of the claim or to justify the relief or authorization sought, and the term "defendant" shall comprehend the party controverting the truth of the claim or opposing the relief or authorization sought.

§ 1100.44 Modified Procedure; Effect of Order.

(a) *Relief from Answer Rule.* Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering as provided in Rule 33.

(b) *Default Where Failure to Comply.* If within any time period provided in the modified procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter the proceeding may be disposed of without further notice to the defaulting party, and without other formal proceedings as to such party.

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§ 1100.45 Modified procedure; intervention.

Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions of Rule 47 below.

§ 1100.46 Modified procedure; joint pleadings.

Parties having common interests, to the extent practicable, shall arrange for joint preparation of pleading filed under modified procedure.

§ 1100.47 Modified procedure; content of pleadings.

(a) *Generally.* A statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. Only facts contained in the verified statement of facts can be used in argument. If, pursuant to Rule 44(a), no answer has been filed, defendant's statement must admit or deny specifically and in detail each material allegation of the complaint. In addition defendant's statement and complainant's statement in reply shall: specify those statement of fact and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) *Exhibit Identification.* An exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right hand corner: "Complainant (Defendant)_____ _____ Exhibit No._____ Witness_____"

(c) *Damages.* If an award of damages is sought the paid freight bills or properly certified copies thereof should accompany the original of complainant's statement when there are not more than 10 shipments, but otherwise the documents should be retained.

§ 1100.48 Modified procedure; verification.

The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

§ 1100.49 Modified procedure; when pleadings filed and served.

Within 20 days from the date of service of an order requiring modified procedure, complainant shall serve upon the other parties a statement of all the evidence upon which it relies. Within 30 days thereafter defendant shall serve its statement. Within 20 days thereafter complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

§ 1100.50 Modified procedure; copies of pleadings.

Except as otherwise provided in Rule 247, the original and six copies of any statement made pursuant to Rule 49 shall be filed with the Commission. Subsequent pleadings are subject to Rule 52.

§ 1100.51 Modified procedure; hearings.

(a) *Request for cross examination or other hearing.* If cross examination of any witness is desired the name of the witness and the subject matter of the desired cross examination shall, together with any other reques for oral hearing, including the basis therefor, be stated at the end of defendant's statement or complainant's statement in reply as the case may be. Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross examination.

(b) *Hearing issues limited.* The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

§ 1100.52 Modified procedure; subsequent procedure.

Procedure subsequent to that provided in the modified procedure rules shall be the same as that in proceedings not handled under modified procedure.

§ 1100.53 Notice of hearing.

(a) *Assignment; service and posting of notice; electronically recorded transcript.* In those proceedings in which an oral hearing is to be held, the Commission will, by order or otherwise, assign a time and place for hearing. Such action will include notice when the transcript is to be made by electronic recording. Notice of such hearing will be posted in the Office of the Secretary of the Commission and will be served upon the parties and such other persons as may be entitled to receive notice under the act.

(b) *Requests for changes in assignment.* Requests for postponements of date of hearing will be granted only for good and sufficient cause. After notice of the use of electronic recording, any request for stenographic transcript by the Commission's official reporter in lieu thereof must be made in writing to the Secretary of the Commission not less than 20 days prior to the date of the hearing. Such request will contain a statement that the requestor will provide the Commission with the original and one copy of such stenographic transcript at his own expense in accordance with the schedule of charges in the official reporting contract. In the event a request is made for a written transcript of an electronic recorded proceeding at a later date, the requestor will furnish at no expense to the Commission, an original and one copy of such written transcript for the Commission's use, in accordance with the schedule of charges in the official reporting contract.

(c) *Service of notice of assignment change.* The Commission may confine the service of notice of a change of time or place assigned for hearing (other than by publication or posting), or of any adjourned, further, or supplemental hearing to those only who have indicated to the Commission a desire to be notified, at their own expense if telegraphic advice becomes necessary, of any such change.

§ 1100.54 Subpoena.

(a) *Requests; particularity.* Unless directed by the Commission upon its own motion, a subpoena to compel a witness to produce documentary evidence will be issued only upon petition showing general relevance and reasonable scope of the evidence sought, which petition must also specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby; *Provided, however,* That for good cause shown, in lieu of a petition, the request for such a subpoena may be made orally upon the record to the officer presiding at the hearing. A request for issuance of a subpoena other than to compel the production of documentary evidence may be made either by letter (original only need be filed with the Commission) or orally upon the record to the officer presiding at the hearing. A showing of general relevance and reasonable scope of the evidence sought may be required and the subpoena will be issued or denied accordingly.

(b) *Issuance.* A subpoena may be issued by the Commission or by the officer presiding at the hearing, but only under the signature of the Secretary or of a member of the Commission.

(c) *Service.* The original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be delivered to him by the officer or person making service.

(d) *Return.* If service of subpoena is made by a United States marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with, the original subpoena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpoena. The written acceptance of service of a subpoena by the person named therein shall be sufficient without other evidence of return. The original subpoena bearing or accompanied by the required return, affidavit, statement, or acceptance of service, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpoena, to the officer presiding at the hearing at which the person subpoenaed is required to appear.

(e) *Witness fees.* A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the United States. Such fee is to be paid by the party at whose instance the testimony is taken at the time the subpoena is served, except that when the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered at the time of service.

§ 1100.55 Discovery.

(a) *In general.* Unless otherwise available under the Interstate Commerce Act or other applicable statutes, parties may obtain discovery pursuant to these rules (Rules 55–65, inclusive) regarding any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding (other than those informal proceedings specified in Rules 22, 23, 200, and 225, and proceedings that need not be determined on a record after hearing) provided that, discovery procedures (except for written interrogatories and requests for admissions) may be used only when the Commission, upon its own motion, or upon a verified petition filed by a party, and upon good cause shown, shall have entered an order approving such use. Such petitions, where required, must be filed in sufficient time to allow for the filing of replies and for consideration by the Commission without requiring the postponement of any established date for hearing or for submission of initial statements under modified procedure. Likewise, the use of discovery in those circumstances in which no petition is required must be accomplished without requiring the postponement of any established date for hearing or for submission of initial statements under modified procedure. It is not ground for objection that the information sought will be inadmissible as evidence if the information sought appears reasonably calculated to lead to the discovery of admissible evidence: provided that Rules 55–65, inclusive, shall not apply to application proceedings handled pursuant to the modified procedure, except that in such proceedings on petition seeking appropriate discovery procedures may be filed.

(b) *Definition.* The term "Commission," as used in these discovery rules (Rules 55–65, inclusive), means the Interstate Commerce Commission, division, Commissioner or presiding officer.

(c) *Protective conditions.* Upon motion by any party, by the person from whom discovery is sought, or by any person with a reasonable interest in the data, information, or material sought to be discovered, and for good cause shown, any order which justice requires may be entered to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of issues untimely or inappropriate to the proceeding. Relief through a protective order may include one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time and place; (3) that the discovery may be had only upon such terms and conditions as the Commission may impose to insure financial responsibility in indemnifying the party or person against whom discovery is sought to cover the reasonable expenses incurred; (4) that the discovery may be had only by a method other than that selected by the party seeking discovery; (5) that certain matters not be inquired into, or that the scope of discovery be limited to certain matters; (6) that discovery be conducted with no one present except persons designated in the protective order; (7) that a deposition after being sealed be opened only by order of the Commission; (8) that a trade secret or other confidential research development, or commercial information not be disclosed or be disclosed only in a designated way; and (9) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened only upon direction or order of the Commission. If the motion for a protective order is denied in whole or in part, the Commission may, on such terms and conditions as it deems just, enter an order requiring any party or person to provide or permit discovery. A protective order under this paragraph may only be sought after, or in conjunction with, an effort by any party to obtain relief under Rules 58(d), 60(a), or 65.

(d) *Sequence and timing of discovery.* Unless the Commission upon motion, for the convenience of parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(e) *Stipulations regarding discovery.* Unless otherwise ordered, a written stipulation entered into by all the parties and filed with the Commission may: (1) provide that depositions be taken before any person, at any time or place, upon sufficient notice, and in any manner and when so taken may be used like other depositions, and (2) modify the procedures provided by these rules for other methods of discovery.

§ 1100.56 Deposition.

(a) *Purpose.* Subject to the proviso in Rule 55(a), the testimony of any person, including a party, may be taken by deposition upon oral examination.

(b) *Petitions.* The petition filed under Rule 55(a) requesting an order to take a deposition and perpetuate testimony or to produce documents and materials: (1) shall set forth the facts it desires to establish and the substance it expects to elicit; (2) shall be served upon all parties to the proceeding and upon the person sought to be deposed and/or the custodian of the documents or materials sought to be produced; (3) shall set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition should be taken; and (4) shall specify with particularity the documents and materials which the deponent is requested to produce.

(c) *Order.* If the Commission is convinced on its own initiative or by the petition requesting an order to take a deposition that the deposition will prevent a failure or delay of justice, it will serve an order upon the parties and the witness, naming the witness whose deposition is to be taken, specifying the time when, the place where, and the officer before whom the deposition is to be taken, and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The provisions for the taking of the deposition specified in the Commission's order may or may not be the same as requested in the petition. The deposition may then be taken in accordance with these rules, and the Commission may make orders of the character provided by Rule 65.

§ 1100.57 Depositions, location, officer, time, fees, absence, disqualification.

(a) *Where deposition shall be taken.* Unless otherwise ordered or agreed to by stipulation, depositions shall be taken in the city or municipality where the deponent is located.

(b) *Officer before whom taken.* Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. Within a foreign country, depositions may be taken before an officer or person designated by the Commission or agreed upon by the parties by stipulation in writing to be filed with the Commission.

(c) *Fees.* A witness whose deposition is taken pursuant to these rules and the officer taking same, unless he be employed by the Commission, shall be entitled to the same fee paid for like service in the courts of the United States, which fee shall be paid by the party at whose instance the deposition is taken.

(d) *Failure to attend or to serve subpoena expenses.* (1) If the party who filed a petition pursuant to Rule 56(b) fails to attend and proceed with the taking of the deposition and another party attends in person or by representative pursuant to an order entered under Rule 56(c), the Commission may order the party who filed the petition to pay to such other party the reasonable expenses incurred by him and his representative in so attending, including reasonable attorney's fees.

(2) If the party who filed a petition pursuant to Rule 56(b) fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by representative because he expects the deposition of the witness to be taken, the Commission may order the party who filed the petition to pay to such other party the reasonable expenses incurred by him and his representative in so attending, including reasonable attorney's fees.

(e) *Disqualification for interest.* No deposition shall be taken before a per-

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son who is a relative or employee or representative or counsel of any of the parties, or is a relative or employee of such representative or counsel or is financially interested in the proceeding.

§ 1100.58 Depositions, procedures.

(a) *Examination.* Examination and cross-examination of witnesses shall proceed as permitted at a hearing and shall be limited to the subject matter specified in the order under Rule 56(c). All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition, and he shall transmit them to the officer, who shall open the sealed envelope, propound the questions to the witness, and record the answers verbatim.

(b) *Use of depositions.* At the hearings, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency (other than this Commission, except in those instances where the Commission itself is a party to the proceeding) which is a party, may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer or Commission finds: (i) That the witness is dead; or (ii) that the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally at public hearing, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts. Substitution of parties does not affect the right to use depositions previously taken.

(c) *Effect of taking or using depositions.* A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under paragraph (b)(2) of this rule. At the hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

(d) *Motions to protect.* At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the Commission may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 55(c). If the order made terminates the examination, it shall be resumed thereafter only if so ordered. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(e) *Recordation.* The officer before whom the deposition is to be taken shall observe the provisions of Rules 13 and 69 respecting appearances and typographical specifications, shall put the witness on oath, and shall personally, or by someone acting under his direction and in his presence, record and transcribe the testimony of the witness as required by these rules.

(f) *Signing.* When the testimony is fully transcribed or otherwise recorded, the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 15 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used fully as though signed, unless, on a motion to suppress, it is found that the reasons given for refusal to sign require rejection of the deposition in whole or in part.

(g) *Attestation.* The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that the officer is not a relative or employee or representative or counsel of any of the parties, or is a relative or employee of such representative or counsel, or is financially interested in the proceeding.

(h) *Return.* The officer shall securely seal the deposition in an envelope indorsed with sufficient information to identify the proceeding and marked "Deposition of (here insert name of witness)" and shall either personally deliver or promptly send the original and one copy of all exhibits, by registered mail to the Secretary of the Commission. A deposition to be offered in evidence must reach the Commission not later than 5 days before the date it is to be so offered.

(i) *Notice.* The party taking the deposition shall give prompt notice of its filing to all other parties.

(j) *Copies.* Upon payment of reasonable charges therefor, the officer before whom the deposition is taken shall furnish a copy of it to any interested party or to the deponent.

§ 1100.59 Effect of errors and irregularities in depositions.

(a) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(b) *As to taking of deposition.* (1) Objection to the competency of a witness or to the competency, relevancy, or materiality of testimony are not wavied by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(c) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 57 and 58 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

§ 1100.60 Written interrogatories to parties.

(a) *Availability; procedures for use.* Subject to the proviso in Rule 55(a), any party may serve upon any other party written interrogatories to be answered by the party served, or if the party served is a public or private corporation, partnership, association, or governmental agency (other than this Commission, except in those instances where the Commission itself is a party to the proceeding), by any officer or agent, who shall furnish such information as is available to the party. Copies of any interrogatories served, and answers thereto, shall also be filed with the Commission. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them and subscribed by an appropriate verification generally in the form prescribed in No. 6 of appendix B to these rules. Objections are to be signed by the representative or counsel making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party submitting the interrogatories, but not less than 15 days after the service thereof.

(b) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records, or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies thereof, or compilation, abstracts, or summaries therefrom. If information sought is contained in computer runs, punchcards, or tapes which also contain privileged or proprietary information or information the disclosure of which is proscribed by the act, it shall be sufficient response under these rules that the person upon whom the interrogatory has been served is willing to make available to and permit an independent professional organization not interested in the proceeding and paid by the party serving the interrogatory to extract from such runs, punchcards, or tapes the information sought in the interrogatory that is not privileged or proprietary information or information the disclosure of which is proscribed by the act.

(c) *Service of interrogatories in those proceedings not requiring a petition pursuant to Rule 55(c).* In those proceedings not requiring a petition for interrogatories pursuant to Rule 55(a) and unless under special circumstances and for good cause shown, no written interrogatories shall be served within 20 days prior to the date assigned for commencement of hearing or the filing of opening statements of fact and argument under the modified procedure, and when the writtin interrogatories are to be served in a foreign country, they shall not be served within 40 days prior to such date.

§ 1100.61 Request for admission.

(a) *Availability; procedures for use.* Subject to the proviso in Rule 55(a), a party may serve upon any other party a written request for the admission, for purposes of the pending proceeding only, of the truth of any matters within the scope of Rule 55(a) set forth in the request, including the genuineness of any documents described in the request for admission. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Copies of any requests for admission served, and answers thereto, shall also be filed with the Commission. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within a period designated in the request, not less than 15 days after service thereof, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or his representative or counsel. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not on that ground alone, object to the request; he may, subject to the provisions of Rule 65(c), deny the matter or set forth reasons why he cannot admit or deny it. Copies of any answers or objections shall be filed with the Commission.

(b) *Effect of admission.* Any matter admitted under this rule is conclusively established unless upon petition and a showing of good cause the Commission enters an order permitting withdrawal or amendment of the admission. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

(c) *Service of written requests for admission in those proceedings not requiring a petition pursuant to Rule 55(a).* In those proceedings not requiring a petition for requests for admission pursuant to Rule 55(a), and unless under special circumstances and for good cause shown, no requests for admission shall be served within 20 days prior to the date assigned for commencement of hearing or the filing of opening statements of fact and argument under the modified procedure, and when requests for admission are to be served in a foreign country they shall not be served within 40 days prior to such date.

§ 1100.62 Depositions, requests for admission, written interrogatories, and responses thereto: inclusion in record.

At the oral hearing, or upon the submission of statements under the modified procedure, depositions, requests for admission and written interrogatories, and respective responses may be offered in evidence by the party at whose instance they were taken. If not offered by such party, they may be offered in whole or in part by any other party. If only part of a deposition, request for admission or written interrogatory, or response thereto is offered in evidence by a party, any other party (where the matter is being heard orally) may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts. Such depositions, requests for admission and written interrogatories, and responses thereto shall be admissible in evidence subject to such objections as to competency of the witness, or competency, relevancy, or materiality of the testimony as were noted at the time of their taking or are made at the time they are offered in evidence.

§ 1100.63 Supplementation of responses.

A party who has responded to a request for discovery with a response that was complete when made is under a duty to supplement his response to include information thereafter acquired in the following instances:

(a) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to: (1) the identity and location of persons having knowledge of discoverable matters, and (2) the identity of each person expected to be called as an expert witness at the hearing, the subject matter on which he is expected to testify, and the substance of his testimony.

(b) A party who knows or later learns that his response is incorrect is under a duty seasonably to correct his response.

(c) A duty to supplement responses may be imposed by order, agreement of the parties, or at any time prior to the hearing or the submission of verified statements under the modified procedure through new requests for supplementation of prior responses.

§ 1100.64 Production of documents and things and entry upon land for inspection and other purposes.

(a) *Scope.* Subject to the proviso in Rule 55(a), any party may be ordered

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and directed: (1) to produce and permit the petitioning party to inspect any designated documents (including writings, drawings, graphs, charts, photographs, phonograph records, tapes, and other data compilations from which information can be obtained, translated, if necessary, with or without the use of detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of Rule 55(a) and which are in the possession, custody, or control of the party upon whom the order is served, but if the writings or data compilations (including computer runs, punchcards, and tapes) include privileged or proprietary information or information the disclosure of which is proscribed by the act, such writings or data compilations need not be produced under this rule but may be provided pursuant to Rule 60(b); or (2) to permit, subject to appropriate liability releases and safety and operating considerations, entry upon designated land or other property in the possession or control of the party upon whom the order is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 55(a).

(b) *Procedure.* Any petition filed pursuant to this rule shall set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The petition shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

§ 1100.65 Failure to respond to discovery.

(a) *Failure to answer.* If a deponent fails to answer or gives an evasive answer or incomplete answer to a question propounded under Rule 58(a), or a party fails to answer or gives evasive or incomplete answers to written interrogatories served pursuant to Rule 60(a), the party seeking discovery may apply for an order compelling an answer, by motion filed with the Commission and served on all parties and deponents. Such motion to compel and answer must be filed with the Commission within 10 days after the failure to obtain a responsive answer upon deposition, or within 10 days after expiration of the period allowed for submission of answers to interrogatories. On matters relating to a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

(b) *Failure to comply with order.* (1) If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the Commission, such refusal may subject the refusing party or person to action by the Commission under sections 12(3) and 12(4) of the act to compel appearance and compliance with the Commission's order.

(2) If any party or an officer, director, managing agent, or employee of a party or person refuses to obey an order made under paragraph (a) of this section requiring him to answer designated questions, or an order made under Rule 64 requiring him to produce any document or other thing for inspection, copying, testing, sampling, or photographing or to permit it to be done, or to permit entry upon land or other property, the Commission may make such orders in regard to the refusal as are just, and among others the following:

(i) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or any other designated facts shall be taken to be established for the purposes of the proceeding in accordance with the claim of the party obtaining the order:

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony;

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the proceeding or any part thereof.

(c) *Expenses on refusal to admit.* If a party, after being served with a request under Rule 61 to admit the genuineness of any document or the truth of any matter of fact, serves a sworn denial thereof, and if the party requesting the admission thereafter proves the genuineness of any such document or the truth of any such matter of fact, the Commission may order the party making such denial to pay to such other party the reasonable expenses incurred in making that proof, including reasonable attorney's fees.

(d) *Failure of party to attend or serve answers.* If a party or a person or an officer, director, managing agent, or employee of a party or person willfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 60, after proper service of such interrogatories, the Commission on motion and notice may strike out all or any part of any pleading of that party or person, or dismiss the proceeding or any part thereof.

(e) *Expenses against United States.* Expenses and attorney's fees are not to be imposed upon the United States under this rule.

HEARINGS

§ 1100.66 Authority of officers.

(a) An officer may grant leave to amend or to file any pleadings, or to intervene, upon request tendered at the hearing, but in no event shall an officer grant leave to amend if thereby the issues would be so changed as to make a referred matter one which should properly be referred to a different officer. An officer shall have power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding. The officer shall regulate the procedure in the hearing before him, and shall have authority to take all measures necessary or proper for the efficient performance of the duties assigned him, including the authority to hold hearings, to administer oaths and affirmations, to examine witnesses, to issue subpoenas at the hearing of arguments by the officer, or Rule 55(a)) dispose of requests for discovery, to hold conferences for the settlement and simplification of issues, to rule on motions and dispose of procedural requests, to make initial decisions, and to take any other action authorized by this part, by the Administrative Procedure Act, or by the Interstate Commerce Act and related acts. Any proceedings in which an oral hearing is held and in which the officer can announce his decision either: (1) on the record after the close of the taking of testimony and the hearing of arguments by the officer, or (2) by appropriate notification to the parties after the close of hearing may be made the subject of an initial decision prepared by a party or parties in whose favor the officer decides, within a period specified by the officer, and subject to such changes as the officer considers appropriate in the draft prepared for him.

(b) At any oral hearing conducted before the Commission, an Administrative Law Judge or joint board, at which an official record of the proceeding is made, the recording of the hearing by means of live or delay television, radio, or the use of a tape recorder or other electronic or photographic equipment by any person other than the official reporter will not be permitted without special permission of the Chairman of the Commission.

§ 1100.67 Prehearing conferences.

(a) *Purposes.* Upon written notice by the Commission in any proceeding, or upon written or oral instruction of an officer, parties or their attorneys may be directed to appear before an officer at a specified time and place for a conference, prior to or during the course of a hearing, or in lieu of personally appearing, to submit suggestions in writing, for the purpose of formulating issues and considering:

(1) The simplification of issues;

(2) The necessity or desirability of amending the pleadings either for the purpose of clarification, amplification, or limitation;

(3) The possibility of making admissions of certain averments of fact or stipulations concerning the use by any or all parties of matters of public record, such as annual reports and the like, to the end of avoiding the unnecessary introduction of proof;

(4) The procedure at the hearing;

(5) The limitation of the number of witnesses;

(6) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and

(7) Such other matters, including disposition of requests for discovery, as may aid in the simplification of the evidence and disposition of the proceeding.

Parties may request prehearing conference.

(b) *Facts disclosed privileged.* Facts disclosed in the course of the prehearing conference are privileged and, except by agreement, shall not be used against participating parties either before the Commission or elsewhere unless fully substantiated by other evidence.

(c) *Recordation and order.* Action taken at the conference, including a recitation of the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered and defining the issues, shall be recorded in an appropriate order, unless the parties enter upon a written stipulation as to such matters, or agree to a statement thereof made on the record by the officer.

(d) *Objection to the order; subsequent proceedings.* If an order is entered, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements reached at such conference. Thereafter the terms of the said order or modification thereof, the written stipulation, or statement of the officer, as the case may be, shall determine the subsequent course of the proceedings, unless modified to prevent manifest injustice.

§ 1100.68 Stipulations.

Apart from the procedure contemplated by the prehearing provisions (Rule 67), and upon permission granted, the parties may in the discretion of the officer, by stipulation in writing filed with the Commission at any stage of the proceeding, or orally made at the hearing, agree upon any pertinent facts in the proceeding. It is desired that the facts be thus agreed upon so far as and whenever practicable.

§ 1100.69 Appearances; standard of conduct; absence from hearing.

(a) *Who may appear.* Any individual may appear for himself and any member of a partnership which is a party to any proceeding may appear for such partnership upon adequate identification. A bona fide officer or a full-time employee of a corporation, association, or of an individual may appear for such corporation, association, or individual by permission of the officer presiding at the hearing. A party also may be represented by a practitioner.

(b) *Appearances.* An appearance may be either general, that is, without reservation, or it may be special, that is, confined to a particular issue or question. When a practitioner enters an appearance at a hearing he will be expected to represent his client faithfully until the completion of the proceeding in which he has been retained, or until the completion of the part of the proceeding for which he has specially appeared. A practitioner who has entered his appearance at the hearing shall not be permitted to withdraw from the hearing, or willfully to absent himself therefrom, except for good cause and, wherever practicable, only with the permission of the presiding officer. If a person desires to appear specially, he must expressly so state when he enters his appearance and at that time he shall also state the questions or issues to which he is confining his appearance; otherwise, his appearance will be considered as general.

(c) *Standard of conduct.* Contemptuous conduct by any person appearing at a hearing shall be ground for his exclusion by the presiding officer from the hearing.

(d) *Absence from hearing.* If a party or the person representing him shall, after entering an appearance, attempt to withdraw from the hearing in a manner other than that specified in paragraph (b) of this section, the Commission on its own motion, or on motion of any party to the proceeding, may take such action as, in the interest of justice and the protection of the lawful rights of all parties to the proceeding, the circumstances of the case may warrant, including the striking out of all or any part of any pleading of the offending party, and including the possible dismissal of the action or proceeding, or any part thereof, the entry of an order of default against that party, or the disciplining of the practitioner concerned.

§ 1100.70 Intervention; petitions.

(a) *Content generally.* A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief is sought by petitioner, the petition should conform to the requirements for a formal complaint.

(b) *When filed.* A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after, except for good cause shown.

(c) *Broadening issues; filing.* If the petitioner seeks a broadening of the issues and shows that they would not thereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in season to permit service upon and answer by the parties in advance of the hearing.

(d) *Copies; service; replies.* When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the Commission. When a petition for leave to intervene is not tendered at the hearing, the original and three copies of the petition shall be submitted to the Commission together with a certificate that service in accordance with Rule 20 has been made by petitioner. Any reply in opposition to a petition for leave to intervene not tendered at the hearing must be filed within 20 days after service. In the discretion of the Commission leave to intervene may be granted or denied before the expiration of the time allowed for replies.

(e) *Disposition.* Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted the petitioner thereby becomes an intervener and a party to the proceeding.

§ 1100.71 Participation without intervention.

In an investigation proceeding, or in a proceeding under section 1a, of the act, and in a proceeding of any one of the characters herein enumerated when heard on a consolidated record with a complaint proceeding, but in no other proceeding, an appearance may be entered at the oral hearing, or in any proceeding in which the justness or reasonableness of any rate, rule, charge, or other provision of a tariff is at issue and the Commission has ordered that the proceeding be heard under modified procedure, without filing a petition in intervention or other pleading, if no affirmative relief is sought, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented and any right to broaden them unduly is disclaimed. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

§ 1100.72 Witness examination; order of procedure.

Witnesses will be orally examined under oath before the officer unless their testimony is taken by deposition or the facts are presented to the Commission in the manner provided under modified procedure. In formal-complaint, application, and investigation proceedings, complainant, applicant, and respondent, respectively, shall open and close at the hearing, except at further hearings granted on petition the petitioners requesting further hearing shall open and close; and except, further, that parties other than the respondent shall open and close in investigations in which the burden of proof is not upon the respondent. Interveners shall follow the party in whose behalf the intervention is made. The foregoing order of presentation may be varied by the officer, who also shall designate the order of presentation in any other type of proceeding, of any other party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

§ 1100.73 Evidence; admissibility generally.

Any evidence which is sufficiently reliable and probative to support a decision under the provisions of the Administrative Procedure Act, or which would be admissible under the general statutes of the United States, or under the rules of evidence governing proceedings in matters not involving trial by jury in the courts of the United States, shall be admissible in hearings before the Commission. The rules of evidence shall be applied in any proceeding to the end that needful and proper evidence shall be conveniently, inexpensively, and speedily

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produced, while preserving the substantial rights of the parties.

§ 1100.74 Evidence; cumulative restriction.

It shall be the duty of the officer before whom any proceeding is being heard to limit the number of witnesses whose testimony may be merely cumulative. And in order to enforce this section, the officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

§ 1100.75 Evidence; prepared statements.

With the approval of the officer, a witness may read into the record, as his testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel, or a prepared statement of a witness who is present at the hearing may be received as an exhibit, provided that the statement shall not include argument; that before any such statement is read, or admitted in evidence the witness shall deliver to the officer, the reporter, and to opposing counsel as may be directed by the officer, a copy of such statement or of such interrogatories and his written answers thereto; and that the admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner, including the right of cross-examination of the witness. Such approval ordinarily will be denied when in the opinion of the officer the memory or demeanor of the witness may be of importance.

§ 1100.76 Evidence; official records.

An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry. This section does not prevent the proof of official records or of entry or lack of entry therein or official notice thereof by a method authorized by any applicable statute or by the rules of evidence.

§ 1100.77 Evidence; entries in regular course of business.

Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, will be admissible as evidence thereof if it shall appear that it was made in the regular course of business, and that it was the regular course of business to make such memorandum or record at the time such record was made, or within a reasonable time thereafter.

§ 1100.78 Evidence; documents containing matter not material.

When material and relevant matter offered in evidence is in a document containing other matter not material or relevant, the offering party shall produce the document at the hearing, shall plainly designate the matter so offered, and shall accord to the officer and to participating counsel an opportunity to inspect it. Unless it is desired to read such matter into the record, and the officer so directs, true copies in proper form of the material and relevant matter taken from the document may be received as an exhibit, but other parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant. The document itself will not be received.

§ 1100.79 Evidence; documents in Commission's files.

(a) *In general.* If any matter contained in a report or other document, not a tariff or schedule, open to public inspection in the files of the Commission is offered in evidence such report or other document need not be produced but in other respects the provisions of Rule 78 will apply.

(b) *Tariffs and schedules; official notice in investigation proceedings.* If any matter contained in a tariff or schedule on file with the Commission is offered in evidence, such tariff or schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff or schedule. Official notice will be taken without offer or production of that portion of any tariff or schedule which is the subject matter of an order of investigation and suspension.

§ 1100.80 Evidence; records in other Commission proceedings.

If any portion of the record before the Commission in any proceeding other than the one on hearing is offered in evidence a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(a) The party offering the same agrees to supply such copy later at his own expense, if and when required by the Commission; and

(b) The portion is specified with particularity in such manner as to be readily identified; and

(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to paragraphs (a) and (b) of this section; and

(d) The officer directs such incorporation. Any such portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection

§ 1100.81 Evidence; abstracts of documents.

When documents, such as freight bills or bills of lading, are numerous, the officer may refuse to receive in evidence other than a limited number of such documents said to be typical. Instead he may instruct, if the proffer be for the purpose of proving damage, that introduction be deferred until there is opportunity to comply with Rule 95. If the proffer be for other purpose the officer may require the party in orderly fashion to abstract the relevant data from the documents, affording other parties reasonable opportunity to examine both the documents and the abstract, and thereupon offer such abstract in evidence in exhibit form.

§ 1100.82 Evidence; exhibits.

(a) *Generally.* Exhibits of a documentary character may have a maximum width of 22 inches by 12½ inches in height. Whenever practicable the sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets the first sheet or title-page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered by the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Whenever practicable, especially in proceedings in which it is likely that many documents will be offered, all the documents produced by a single witness should be assembled and bound together, suitably arranged and indexed, so that they may be identified and offered as one exhibit. Exhibits should not be argumentative and should be limited to statements of fact, and be relevant and material to the issue, which can better be shown in that form than by oral testimony.

(b) *Reference to tariff authority, routes, and distances.* All exhibits showing rates, fares, charges, or other tariff or schedule provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff or schedule authority therefor, and if distances are shown must also show the authority therefor, and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the Commission, or definitely ascertainable from a tariff or schedule on file with the Commisssion showing rates prescribed by the Commission and based on short-line distances, or short-highway distances, provided the exhibit makes specific reference to such tariff or schedules as provided by this section.

(c) *Copies.* Unless the officer shall otherwise direct, the original and one copy of each exhibit of a documentary character shall be furnished for the use of the Commission—original to be delivered to the reporter, and the copy to the officer. If the hearing be before a board, a copy of the exhibit shall be furnished to each member of the board, unless the board otherwise directs. Unless the officer for cause directs otherwise, a reasonable number of copies shall be furnished to counsel in attendance at the hearing. Unless the officer shall otherwise direct, in proceedings under the Uniform Bankruptcy Act, the original and three copies of every exhibit of a documentary character shall be furnished for use of the Commission—original to be delivered to the reporter, and the three copies to the office.

(d) *Interchange prior to hearing.* Whenever practicable, the parties should interchange copies of exhibits or other pertinent material or matter before or at the commencement of the hearing; and the Commission or presiding officer may so direct.

(e) *When excluded how treated.* In case an exhibit has been identified, objected to, and excluded, the officer will develop whether the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn it should be given an exhibit number for identification and be incorporated in the record. Exhibit numbers once used for identification will not be duplicated thereafter.

§ 1100.83 Record in referred matter unaffected by a second reference.

If for any reason an order referring a matter to a particular officer is vacated and the matter referred to a different officer, any testimony already taken in such proceeding shall be part of the record along with any testimony which thereafter may be taken.

§ 1100.84 Evidence; filing of subsequent to hearing; copies.

Except as provided below or as expressly may be permitted in a particular instance, the Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with any proceeding after close of the hearing, and may return any such documents to the sender. Before the close of a hearing the officer may, at the request of a party or upon his own motion, or upon agreement of the parties, require that a party furnish additional documentary evidence supplementary to the existing record. within a stated period of time. Documentary evidence thus to be furnished will be given an exhibit number at the time of filing and the parties accordingly advised. Unless otherwise directed by the officer, the original and one copy of such submission shall be filed with the Commission.

§ 1100.85 Ruling of an officer at hearing; objection to.

Formal exception to a ruling of an officer at a hearing is unnecessary. It is sufficient that a party, at the time the ruling is made or sought, make known to the officer on the record the action which he desires the officer to take or his objection to the action of the officer and his grounds therefor. An objection not pressed in brief will be considered as waived. Where no brief is filed an objection will be considered as waived if not pressed in exceptions or reply to exceptions, if filed, or in a separate petition dealing only with that objection. Rulings of the presiding officer at the hearing may not be appealed prior to service of the initial decision except where such ruling: (a) may result in substantial detriment to the public interest or undue prejudice to any party, and the presiding officer so finds, (b) denies or terminates any person's participation, (c) grants a request for the inspection of documents not ordinarily available for public inspection, (d) overrules an objection based on privilege, the result of which ruling is to require the presentation of testimony or documents, or (e) for some other reason might, in the opinion of the presiding officer, result in substantial irreparable harm.

§ 1100.86 Oral argument before the hearing officer.

At the discretion of the hearing officer and upon reasonable notice to the parties, oral argument may be made at the close of testimony before him as an alternative to the filing of written briefs. Such argument, which should include requested findings and conclusions, will be recorded and made a part of the transcript of testimony, and will be available to the Commission for consideration in deciding the case. The making of such argument shall not operate to preclude oral argument before the Commission pursuant to Rule 93.

§ 1100.87 Continuance for further hearing.

A continuance may be granted by the presiding officer if it is impossible to conclude a hearing within the time available, or for any reason a continuance is necessary or advisable, but a joint board shall not set a date and place for a continued hearing without first consulting the Commission. If consultation with the Commission is impracticable, the hearing shall be adjourned by the joint board to such time and place as the Commission subsequently shall determine.

§ 1100.88 Transcript of record.

(a) *Filing.* After the close of the hearing the complete transcript of testimony taken and the exhibits shall be filed with the Commission.

(b) *Corrections.* A suggested correction in a transcript ordinarily will be considered only if offered not later than 20 days after the date each transcript is filed with the Commission. A copy of the letter (original only need be filed with the Commission) requesting the suggested corrections shall be served upon all parties of record and with 2 copies to the official reporter.

(c) *No free copies.* No free copies of transcript will be furnished to any party to any proceeding.

BRIEFS; REPORTS; ORAL ARGUMENTS

§ 1100.89 Briefs; content and arrangement.

(a) *Due date.* The due date of each brief must appear on its front cover or title page.

(b) *Table of contents; citations.* A brief of more than 20 pages shall contain of its front flyleaf a table of contents and points made with page references, the table of contents to be supplemented by a list of citations, alphabetically arranged, with references to the pages in which they appear.

(c) *Sketch or chart.* In proceedings wherein misrouting or undue prejudice or preference are alleged, the complainant should include as part of the brief a small sketch or chart adequately reflecting the situation.

(d) *Evidence abstract.* A brief filed after a hearing may contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record, if written, or exhibit where the evidence appears. In the event the party elects not to include a separate abstract in his brief, he should give specific reference to the portions of the record, whether transcript or otherwise relied upon in support of the respective statements of fact made throughout the brief.

(e) *Requested findings.* Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the Commission to make.

(f) *Exhibit reproduction.* Exhibits should not be reproduced in the brief, but may, if desired, be shown, within reasonable limits, in an appendix to the brief. Analyses of such exhibits should be included in the brief where pertinent.

§ 1100.90 Briefs; when filed.

In a proceeding which has been the subject of oral hearing, and in which briefs are to be filed, which fact will be stated by the officer on the record, only one brief shall be filed by each party. The officer shall fix for all parties the same time within which to file briefs, which time shall not exceed 45 days from the close of the hearing unless otherwise ordered by the Commission. Reply

V 42 91 MAY 11 77 UMI

briefs are not permitted unless ordered by the Commission.

§ 1100.91 Initial decision.

(a) *How served.* An initial decision will be served by mailing a copy to each party of record and to other persons who are believed to have an interest in the proceeding.

(b) *When and how effective as the order of the Commission.* If no exceptions or appeal is filed to the initial decision made: (1) in any proceeding by a Commissioner, and administrative law judge, or a joint board, or (2) in rail proceedings by an employee board or division, and the Commission does not stay it, the initial decision becomes the order of the Commission upon expiration of the period for filing exceptions or appeals, or of any postponement of such period, or postponement of the effective date of such initial decision and a notice stating that the initial decision has, giving the date, become the order of the Commission will be mailed to the parties by the Commission. In non-rail proceedings, the initial decision of officers other than individual Commissioners, administrative law judges, and joint boards are effective as the decision of the Commission, although administrative appeals as defined in Rule 97 may be filed.

§ 1100.92 Voiding initial decision.

The division or Commission may, in its discretion, void any requirement for an initial decision and may direct that any matter shall be considered forthwith by the division or Commission if it concludes that the matter involves a question of agency policy, a new or novel issue of law, or an issue of general transportation importance or if the due and timely execution of its functions so requires. All parties of record shall be notified by the Commission whenever the Commission or division voids the requirement for an initial decision.

§ 1100.93 Oral argument before Commission.

(a) *Request, to whom address.* Request for oral argument should be addressed to the Secretary, Interstate Commerce Commission. Oral argument shall be at the discretion of the Commission or its division.

(b) *Request, by whom made.* Any party may submit a written request for oral argument, stating reasons therefor. No replies shall be entertained.

(c) *Request, when filed.* Requests for oral argument shall be filed within 30 days after the date of service of the decision, order or requirement being appealed, unless a different time period is fixed by the Commission or division, which shall rule upon such requests by order.

(d) *Time allotment.* Unless otherwise directed, the proponents of a rule or order will be allowed one half hour for oral argument and shall be heard first. Opponents, in the aggregate, will also be allowed one half hour. One counsel only will be heard for each side, unless additional presentations are specifically authorized and additional time is allocated for them.

ORDER COMPLIANCE; DAMAGE STATEMENTS

§ 1100.94 Compliance with Commission's orders.

When in consequence of proceedings under the act, the Commission has by its order directed a defendant or a respondent to do or desist from doing a particular thing, such defendant or respondent must notify the Commission on or before the date upon which such order becomes effective of the manner and details of compliance with the order. Such notification shall be in the form of an affidavit subscribed by an appropriate verification generally in the form prescribed in No. 6 of appendix B to these rules and must, when filed or tendered to the Commission for filing, show simultaneous service thereof upon all parties to the proceeding in accordance with Rule 20(a). If a change in rates or schedules is required, the notification must be given in addition to the filing of proper tariffs or schedules, and must specify the Interstate Commerce Commission numbers of the tariffs or schedules so filed.

§ 1100.95 Statements of claimed damages based on Commission findings.

When the Commission finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the form No. 5. (See Appendix B.) The statement should not include any shipment not covered by the Commission's findings, or any shipment on which complaint was not filed with the Commission within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route, a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges, for vertification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for certification, a letter request from defendants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and corrected agreed statements submitted to the Commission. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case, its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Commission whereupon it will consider entry of an order awarding damages.

§ 1100.96 Administrative appeals—Proceeding involving both rail and nonrail matters.

Administrative appeals shall be governed by the provisions of Rule 98 (rail proceedings) in any proceeding in which a significant rail matter is involved, regardless of whether nonrail matters are also involved.

§ 1100.97 Administrative appeals—nonrail proceedings.

The rules in this section apply to nonrail proceedings:

(a) *General.* The term "administrative appeals" means exceptions and petitions for administrative review.

(b) *Exceptions.* (1) Exceptions may be filed to an initial or tentative decision of an individual Commissioner, an administrative law judge, a joint board, or an examiner, and shall detail the assailed finding, with supporting citations to the record and authorities.

(2) Exceptions shall be confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding and shall be based on the following grounds:

(i) That a necessary finding of fact is omitted, erroneous, or unsupported by substantial evidence of record;

(ii) That a necessary legal conclusion or finding is contrary to law, Commission precedent or policy;

(iii) That an important question of law, policy or discretion is involved which is without governing precedent; or

(iv) That prejudicial procedural error has occurred.

(3) Exceptions shall not exceed 30 pages in length, including the index of subject matter, argument, and appendices or other attachments, and replies shall be subject to the same limitation.

(4) Exceptions which are not timely filed or do not comply with the requirements in paragraphs (b) (1) through (3) of this section will be subject to rejection.

(c) *Conclusiveness.* Unless the division or Commission, as the case may be, reverses, changes, or modifies the prior decision, order, or requirement or unless the decision, order, or requirement is issued by the division or Commission in the first instance, or unless the decision, order, or requirement is issued by an employee board, no further administrative appeal shall lie.

(d) *Petitions for administrative review.* (1) Except when no further administrative appeal shall lie, any party may file a petition for administratvie review, which shall detail in what respects further hearing, rehearing, reargument or reconsideration is sought and the reasons therefor. (2) Such specifications of alleged error, relief sought, and argument in support thereof must be summarized, in a preface to the petition, suitably paragraphed, which shall be a succinct, but

accurate and clear, condensation of the matters raised on petition. Exept in extraordinary circumstances, and upon leave granted, the preface shall not exceed 3 pages. Replies to petitions shall also contain a preface of no more pages than permitted in the petition's preface, and shall address, point by point, the specifications of alleged error, relief sought, and argument in the preface to the petition. In proceedings in which a division reverses, changes, or modifies a prior decision by a hearing officer or an employee board, petitions for reconsideration addressed to the division in an appellate capacity, and replies thereto, shall not exceed 10 pages, in addition to the preface required by this paragraph. In all other proceedings, petitions for reconsideration, and replies thereto, shall not exceed 30 pages in addition to the preface required by this paragraph. (3) When in a petition filed under this section opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced.

(e) *Time for filing.* Exceptions and petitions for administrative review shall be filed within 30 days after the date of service of the decision, order or requirement. For replies, see Rule 21.

(f) *Successive petitions.* A party shall not be permitted to file a second administrative appeal unless the division or Commission, as the case may be, shall have reversed, changed, or modified the prior decision, order, or requirement, or where the decision, order, or requirement is issued by the division or Commission in the first instance, in which event the petition shall be limited to the reversal, change, or modification, and successive administrative appeals upon substantially the same grounds shall not be entertained.

(g) *Administrative finality.* The timely filing of exceptions and petitions for administrative review shall, and the Commission on its own motion may, stay the effect of the decision, order, or requirement until thirty days after the date of service of the order of the Commission, division or review board acting thereon, unless otherwise provided. Decisions of an employee board whether original or on review, are not administratively final.

(h) *Matters of general transportation importance.* (1) Limitations on petitions for review of division decisions. Pursuant to authority granted in section 17 (6) of the Interstate Commerce Act, the right to apply to the entire Commission for rehearing, reargument, or reconsideration of a decision, order, or requirement of a division of the Commission in any proceeding shall be limited and restricted to those proceedings in which the entire Commission, on its own motion, determines and announces that an issue of general transportation importance is involved. In proceedings in which no such announcement has been made, but in which a division reverses, changes, or modifies a prior decision by a hearing officer or where the initial decision is made by a division, a petition to the same division for rehearing, reargument, or reconsideration of its decision will be permitted and will be considered and disposed of by such division in an appellate capacity and with administrative finality.

(2) Petitions seeking a finding that an issue of general transportation importance is involved; 3-page limitation; time for filing; no reply permitted. In any proceeding which has involved the taking of evidence at oral hearing or by modified procedure in which the Commission has not noted the presence of an issue of general transportation importance, any party may, within 15 days after the service of a final decision, order, or requirement of a division or appellate division, as to which the filing of a petition for rehearing, reargument, or reconsideration is not permitted, file a petition requesting the Commission to find on its own motion that the proceeding is one involving an issue of general transportation importance. Any petition seeking such a finding shall not be considered an application for rehearing, reargument, or reconsideration within the meaning of section 17 of the Act and shall not exceed 3 pages, excluding the title page and the page containing certificate of service. No reply thereto may be filed and the ruling thereon will be final. Petitions seeking the relief specifically covered herein will not be entertained at any other stage of the proceeding.

(3) Copies of petitions and replies. In cases in which it has been determined and announced that an issue of general transportation importance is involved, there shall be furnished for the use of the Commission the original and 14 copies of each petition filed under this section and of replies to such petitions. A like number of copies shall be furnished of petitions seeking a finding that the proceeding involves an issue of general transportation importance.

(i) Petitions for stay. A party may petition for stay of a decision, order, or requirement pending a request for judicial review, for extension of the compliance date, for modification of the effective date or for similar procedural relief, stating reasons therefor. Such a petition shall be filed no less than five (5) working days in advance of the effective date, and no replies shall be entertained.

§ 1100.98 Administrative appeals—Rail proceedings.

The rules in this section apply to rail proceedings:

(a) *General.* The term "administrative appeals" means appeals and petitions for administrative review.

(b) *Appeal of initial decision.* (1) Any party may appeal from any decision which is issued in the first instance unless such an appeal is precluded by the time constraints of the Railroad Revitalization and Regulatory Reform Act of 1976. (2) Appeals shall detail the assailed findings, with supporting citations to the record and authorities. Appeals shall be confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding and shall be based on the following grounds:

(i) That a necessary finding of fact is omitted, erroneous, or unsupported by substantial evidence of record;

(ii) That a necessary legal conclusion or finding is contrary to law, Commission precedent or policy;

(iii) That an important question of law, policy or discretion, is involved which is without governing precedent;

(iv) That prejudicial procedural error has occurred.

(3) Appeals shall not exceed 30 pages in length, including the index of subject matter, argument, and appendices or other attachments, and replies shall be subject to the same limitation.

(4) Appeals which are not timely filed or do not comply with the requirements in paragraphs (b) (1) through (3) of this section will be subject to rejection.

(c) *Time for filing.* Appeals, including petitions for administrative review under this rule must be filed within 20 days after the service of the decision being reviewed, or within such further period (not to exceed 20 days) as the division or Commission may authorize. If no such appeal is timely filed, the order set forth in such decision shall become the order of the Commission at the expiration of the time for filing.

(d) *Successive administrative appeals.* A party shall not be permitted to file a second administrative appeal, except that: (1) petitions for administrative review pursuant to paragraph (e) below, and (2) petitions for stay pursuant to paragraph (g) below shall be permitted.

(e) *Discretionary review of final decisions.* (1) Any party may file a petition for administrative review of the decision, order, or requirement of the division or Commission, subject to the following requirements:

(i) That the petition shall detail in what respects the proceeding involves a matter of general transportation importance or new evidence or changed circumstances exist which would materially affect the prior decision, order or requirement, and include a request that the Commission make such determination.

(ii) That, to the extent further hearing, rehearing, reargument, or reconsideration is sought, the petition shall detail in what respects such relief is requested and the reasons therefor. When in a petition filed under this section opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced.

(iii) That the petition shall not exceed 10 pages in length, although a separate preface and summary of arguments not exceeding 3 pages may also accompany the petition. Replies shall be subject to the same requirements.

(2) The filing of the petition itself shall not stay the effect of the prior decision, order, or requirement.

(f) *Effectiveness.* (1) The timely filing of an appeal shall stay the effect of the

V 42 91 MAY 11 77 UMI

decision, order, or requirement pending the determination of such appear. (2) Unless otherwise provided, the Commission, on its own motion, or upon petition, may stay the effect of a decision, order or requirement of the division or Commission. (3) Any decision, order, or requirement of the division or Commission not stayed shall become effective 30 days after it is served on the parties, unless the Commission provides for such decision, order, or requirement to become effective at an earlier date.

(g) *Petition for stay.* A party may petition for stay of a decision, order, or requirement pending a request for judicial review, for extension of the compliance date, for modification of the effective date or for similar procedural relief, stating the reasons therefor. Such a petition shall be filed no less than five working days in advance of the effective or compliance date, and no replies shall be entertained.

§ 1100.99 Petitions not otherwise covered.

A party seeking relief not otherwise provided for by these rules may file a petition for such relief, stating reasons therefor. Petitions barred by any other rule of practice shall not be entertained.

SPECIAL RAIL REQUIREMENTS

§ 1100.100 Application of the rules: Time limits—Proceedings involving common carriers by railroad.

In applying these rules to proceedings involving common carriers by railroad subject to Part I of the Interstate Commerce Act, the Commission will be governed by the time limits specified in section 17 (9) and (14) of said Act, as set forth in Appendix G.

§ 1100.101 Utilization of the Rail Services Planning Office and other Commission employees.

(a) The Commission may, in its discretion, call upon the Rail Services Planning Office for assistance in evaluation, analysis, fact- finding, and planning, particularly with regard to rulemaking proceedings, mergers, and appeals within the Commission in an effort to focus issues and expedite matters before the Commission.

(b) In rulemaking proceedings or complex adjudicatory proceedings, the Commission will utilize additional administrative law judges and employees of the Rail Services Planning Office for the taking of evidence or the receipt of views and comments and may, by Commission order, designate such additional procedures as it deems necessary to insure the expedited resolution of such proceeding.

§ 1100.102 Enforcement of time limits; disposition of pleadings—Proceedings involving common carriers by rail.

(a) *Enforcement of time limits.* In proceedings with respect to any matter involving a common carrier by railroads, the failure of any party to meet prescribed time limits without a showing of extraordinary circumstances may result in the dismissal of any involved complaint, application or appeal or the striking of any petition, pleading, or motion. Should the Commission fail to meet a prescribed time limit for disposition of any matter, it must issue a statement to all parties of record: (1) explaining the reason for its failure and (2) delineating the steps it will take to expedite the matter.

(b) *Disposition of pleadings.* In proceedings with respect to any matter involving a common carrier by railroad, any pleading or motion for which no specific provision as to time for disposition is made must be disposed of expeditiously and, in any event, not later than 120 days after the time permitted for filing pleadings and replies.

Subpart B—Special Rules of Practice

§ 1100.200 Rules of practice governing procedure in certain suspension and fourth-section matters.

(a) The proceedings of the Suspension and Fourth Section Board shall be informal. No transcriptions of such proceedings will be made. Subpoenas will not be issued and, except when applications or petitions are required to be attested, oaths will not be administered.

(b) Petitions for reconsideration of orders of the following may be filed by any interested person within 20 days after the date of the service of the orders:

(1) Of Suspension and Fourth Section Board,

(2) Of Appellate Division 2 reversing, changing, or modifying a previous determination of an employee board, and

(3) Of Division 2 suspending schedules or granting or denying fourth-section relief prior to hearing in proceedings not subject to a prior determination by an employee board.

The original and six copies of every pleading, document, or paper filed under this section shall be gurnished for the use of the Commission. Any interested person may file and serve a reply to any petition for reconsideration permitted under this paragraph within 20 days after the filing of such petition with the Commission but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the Commission's rules of practice.

(c) When the Suspension and Fourth Section Board has declined to suspend a proposed tariff or schedule, or any part thereof, a petition in writing by any protestant or protestants may be filed with the Commission for reconsideration by the designated appellate division provided it reaches the Commission at least two work-days prior to the effective date of the tariff or schedule in question. For the purposes of this section, a work-day shall be considered as any day except Saturday, Sunday, or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a work day within the meaning of this section.) Petitions submitted under this section shall be filed with the Secretary of the Commission by 4 p.m., United States Standard Time (or by 4 p.m., Local Daylight Saving Time if that time is observed in the District of Columbia). Telegraphic notice or the equivalent thereof must be given by the petitioners to the respondent or respondents. As no replies to the petitions for reconsideration are contemplated under this rule, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Suspension and Fourth Section Board. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. Such request shall contain the following prefatory statement: "This matter requires expedited handling under Rule 200 of the Commission's Rules of Practice." A petition not timely filed shall be rejected by the Secretary.

§ 1100.225 Rules of practice governing the procedures of the Motor Carrier Board, the Finance Board, the Operations Boards, the Special Permission Board, the Released Rates Board, and the Tariff Rules Board.

(a) The proceedings of the Motor Carrier Board, the Finance Board, the Operations Boards, the Special Permission Board, the Released Rates Board, and the Tariff Rules Board shall be informal. No transcript of such proceedings will be made. Subpoenas will not be issued and, except when applications, petitions, or statements are required to be attested, oaths will not be administered.

(b) A petition for reconsideration of an order of the Motor Carrier Board, the Operations Boards, the Special Permission Board, the Released Rates Board, or the Tariff Rules Board may be filed by any interested person.

(c) A petition for reconsideration of a Finance Board decision may be filed only by a party to the proceeding.

(d) A petition for reconsideration pursuant to paragraphs (b) and (c of this section and reply thereto will be governed by the Commission's rules of practice, excent as provided in paragraphs (e), (f), and (g) of this section.

(e) The original and six copies of every pleading, document, or paper permitted or required to be filed under this section, shall be furnished for the use of the Commission.

(f) A petition seeking reconsideration of an order of the Motor Carrier Board entered under section 210a(a) of 311(b) of the act must be filed within 20 days after the date of service of the order. Within 20 days after the filing of such petition with the Commission any interested person may file and serve a reply thereto.

(g) A petition seeking reconsideration of an affirmative order of the Motor Carrier Board entered pursuant to the rules and regulations governing transfers of property brokers' licenses, Part 1045 of this chapter, passenger brokers' licenses, Part 1133 of this chapter, motor carrier operating rights, Part 1132 of this chapter, water carrier operating rights, Part 1141 of this chapter, and freight

forwarder permits, Part 1151 of this chapter, must be filed within 20 days following publication of a synopsis of such order in the FEDERAL REGISTER. In such a petition the matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. Within 20 days after the final date for filing of such petitions with the Commission, any interested person may file and serve a reply thereto.

(h) *Service; Special Permission Applications.* Every application requesting authority to change, cancel, or reissue a tariff matter under suspension or continued in effect as a result of suspension shall include a certificate showing simultaneous service thereof upon all parties to the investigation and suspension proceeding. Service shall be made in the manner specified in Rule 20(a) of this part. Notification of the action taken by the Special Permission Board will be given to all parties of record.

§ 1100.240 Rules governing applications by motor carriers of property or passengers under sections 5(2) and 210a(b) of the Interstate Commerce Act.

(a) *Scope of rules.* These rules govern the filing and handling of: (1) applications under section 5(2) of the act respecting control, lease, and unification of operating rights and properties of motor carriers of property or passengers, and (2) applications for approval under section 210a(b) of the act of the temporary operation of motor carrier properties sought to be acquired in an application under section 5(2) of the act. Except as otherwise herein provided, the rules of general applicability shall govern.

(b) *Notice.* (1) Notice of the filing of applications under section 5(2) will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. The summary will be prepared by the applicant, and the Commission will advise the applicant if the summary, in its view, does not properly describe the transaction.

(2) If applicants propose that any portion of the operating rights involved in the transaction be canceled or restricted, such proposal will be included in the summary.

(3) The summary will state whether an application has or has not been filed for temporary authority under section 210a(b) of the act.

(4) No notice by applicants to interested persons is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State Boards, and Regional Directors of the Commission's Bureau of Operations as may be required by the prescribed form of application, and except as hereinafter provided in paragraph (d)(3) of this section.

(5) Except for good cause shown, amendments to applications which broaden the scope of the proposed transaction will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER. Restrictive amendments may be submitted at any time, but if tendered after such publication, they may be allowed only in the discretion of the Commission, or by the hearing officer if the matter is assigned for hearing or prehearing conference.

(c) *Protests and request for hearing under section 5(2).* (1) Protests to the granting of an application under section 5(2) of the act shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. A protest filed under these rules shall be served upon applicants' representatives named in the notice of filing published in the FEDERAL REGISTER. Unless otherwise specified in the notice, the original and one copy of the protest shall be filed with the Commission. Protests not in reasonable compliance with the requirements of this section may be rejected in the discretion of the Commission.

(2) Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) A protest against an application shall set forth specifically the grounds upon which it is made and the protestant's interest in the proceeding, shall request an oral hearing if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally.

(4) Any request for an oral hearing shall be supported by a specific explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits, and shall set forth the approximate number of witnesses who would be presented by the protestant, an estimate of the hearing time required for such presentation, and whether a hearing at Washington, D.C., would be objectionable, and, if so, what place would be more suitable; and protestant shall certify in its protest that, if an oral hearing is held, it will appear and present evidence.

(5) Where a person has a limited interest in an application, which possibly could be eliminated by a restrictive amendment of the proposed transaction, such person may also include in a protest filed in conformity with this paragraph an offer to withdraw the protest in the event of acceptance of such amendment by applicants and the Commission.

(6) Except as provided in paragraph (c)(5) of this section, or for good cause shown, the failure of any person filing a protest to an application to appear at a hearing scheduled thereon shall be construed as a waiver of his right to participate further in the proceeding, and such person and any representative responsible for his participation in the proceeding may be subject to censure for failure to appear.

(7) Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by telegram or letter within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(d) *Procedure to be followed under section 210a(b).* (1) Subject to subparagraph (4) of this paragraph, protests to the granting of an application for temporary authority under section 210a(b) may be filed by persons who oppose, or intend seasonably to oppose, the application under section 5(2).

(2) The protest to temporary approval may be by telegram, letter, or other writing, of which only an original need be filed, or may be included in a protest filed under paragraph (c) of this section. It should state the interest of the protestant and the grounds for the position taken in opposition to temporary approval, and should show service upon applicants' representatives.

(3) If an application for temporary authority is filed in a contested proceeding after the period for filing protests under paragraph (c) of this section has expired, applicants are required to furnish copies of such application to protestants. Notice will not thereafter be given by publication in the FEDERAL REGISTER.

(4) Applications for temporary authority under section 210a(b) will be disposed of without hearings or other proceedings, and without necessarily awaiting expiration of the period allowed for protests. If the application for temporary authority is filed within 30 days after the date of initial publication; or, if the application for temporary authority is filed after expiration of the 30 days from the date of initial publication of notice of the section 5 application, and protests have been filed, copies of the temporary authority application shall be served on protestants, and action will not be taken in less than 20 days from the date of such service, unless circumstances require immediate action.

(e) *Hearing or other procedures under section 5(2).* (1) The Commission will determine whether an assignment for oral hearing should be made, after notice to interested persons of the filing of the application has been published in the FEDERAL REGISTER and the period for filing protests has expired. At or prior to such time, applicants who do not intend to prosecute their application should promptly request dismissal thereof.

(2) Applicants who believe their application is not susceptible of handling without oral hearing may request oral hearing when the application is filed, or later, if additional evidence which cannot reasonably be submitted in the form of affidavits is required.

(3) If applicants request an oral hearing and show that such hearing is necessary, or if the proceeding is contested,

V 42 91 MAY 11 77 UMI

applicants shall advise the approximate number of witnesses who will be presented, furnish an estimate of the hearing time required for such presentation, and state whether a hearing at Washington, D.C., would be objectionable, and, if so, what place would be more suitable.

(f) *Notice of hearing, conference, or other proceedings.* (1) Notice of the time and place of any hearing, conference, or other proceedings will be given to applicants' representatives, applicants, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other procedure.

(2) A request by any party for a change in the time or place of an assigned hearing must set forth good and sufficient cause for the action requested, must be in writing and filed with the Commission not less than 10 days before the assigned hearing date, except in emergency circumstances, and must be served on all known parties of record at the same time and by the same method of communication as service is made on the Commission. Where such requests are filed less than 10 days before the date of hearing, the petitioning party shall state the reasons for his failure to make such request within the prescribed time.

(3) The applicants' representatives, protestants, and those who request notice of changes in time or place of hearing, conference, or other proceedings will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

(4) Upon receipt of an order or notice of a hearing assignment, applicants who no longer intend to proceed to hearing shall immediately and jointly request dismissal of their application, with appropriate notification to all protestants, failing which applicants or their representatives, or both, may be subject to censure.

(g) *Intervention.* Rule 71 relating to participation without intervention is inapplicable to applications subject to this section. No person who fails to file a protest as provided in these rules will be permitted to intervene in opposition except upon a showing of substantial reasons in a petition submitted in accordance with Rule 70.

§ 1100.245 Rules governing the issuance of Certificates of Registration under section 206(a) of the act.

(a) *Scope of rules.* These rules govern: (1) the matter of giving notice to interested persons, by publication in the FEDERAL REGISTER, of the filing of applications for State certificates of public convenience and necessity authorizing motor common carrier operations in the transportation of property or passengers in intrastate commerce, in connection with which the applicant, also desires to engage in transportation in interstate and foreign commerce under the provisions of section 206(a)(6) of the act, and certain related matters.

(2) The filing with the Interstate Commerce Commission of applications for Certificates of Registration based upon intrastate certificates of public convenience and necessity issued by a State Commission which contain a concurrent finding that the public convenience and necessity require operations in interstate and foreign commerce in accordance with the provisions of section 206(a)(6) of the act.

(3) The filing with, and the handling by, the Interstate Commerce Commission of petitions for reconsideration of the decisions of State Commissions, made pursuant to the provisions of section 206(a)(6) of the act, finding that the public convenience and necessity require motor common carrier operations in the transportation of property or passengers, in interstate and foreign commerce, which do not exceed the scope of the concurrently authorized motor common carrier operations in intrastate commerce contained in certificates of public convenience and necessity issued by such State Commissions. Except as otherwise herein provided, the rules of general applicability shall govern.

(b) *Notice to interested persons of the filing of State Applications.* In accordance with such rules and regulations as may be prescribed by the State Commissions, any persons seeking an intrastate certificate of public convenience and necessity, who or which also desires to engage in transportation in interstate and foreign commerce pursuant to section 206(a)(6) of the act, shall so notify the State Commission with which the intrastate application is filed at the time of filing the intrastate application. Notice to interested persons of the filing of such an application, and of the applicant's desire also to engage in transportation in interstate and foreign commerce, shall be given by the publication in the FEDERAL REGISTER of a summary of the authority sought as prepared by the State Commission and transmitted to the Interstate Commerce Commission at Washington, D.C. (See approved Form No. 7 in Appendix B.) In order to afford interested persons a reasonable opportunity to be heard, such summaries must be forwarded to the Interstate Commerce Commission sufficiently in advance of any hearings that may be scheduled on the application so noticed. Except as otherwise may be required by the State Commission, no other notice by applicant to interested persons is necessary.

(c) *Conduct of, and participation in, State Commission application proceedings.* Subject to the requirement of section 206(a)(6) of the act, that interested persons be afforded a reasonable opportunity to be heard, the rules and regulations of the State Commission with which the intrastate application is filed shall govern the conduct of, and participation in, any State hearings or other State Commission proceedings that may be held with respect to such application, notice of the filing of which has been published in the FEDERAL REGISTER pursuant to paragraph (b) of this section. Protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission. The record made in the State Commission proceeding shall be made available to the parties to such proceeding upon payment of such costs as may be fixed or prescribed by the State Commission.

(d) *Applications to the Interstate Commerce Commission for Certificates of Registration.* (1) Within 30 days after service by the State Commission of a certificate of public convenience and necessity authorizing motor common carrier operations in intrastate commerce and containing the recitations required by section 206(a)(6) of the act, the holder of such State certificate shall file with the Interstate Commerce Commission at Washington, D.C., an Application for Motor Carrier Certificate of Registration, Form BOR–100, § 1003.1 of this chapter. Such application shall be prepared in accordance with and contain all information called for in the form of application and the instructions thereto. Copies of such application shall be furnished in such number, and be filed and served in the manner and upon the persons specified in the form of application.

(2) Upon receipt, an application for a Certificate of Registration will be assigned a docket number; and thereafter notice of the date of filing of the application and the docket number assigned thereto will be transmitted by the Interstate Commerce Commission to the applicant and those persons upon whom copies of the application were served by the applicant as specified in the form of application; and thenceforth all further proceedings therein before the Interstate Commerce Commission will be under such docket designation.

(3) Any party in interest, who or which opposed in the State Commission proceeding the authorization of operations in interstate or foreign commerce, shall be deemed to be a party in the corresponding application proceeding instituted in accordance with paragraph (d)(1) of this section. No other person will be permitted to participate in such proceeding except upon a showing of substantial reasons in a petition submitted in accordance with Rule 70 of the Commission's rules of practice.

(4) Except for good cause shown, and upon leave granted, failure to file an application for a Certificate of Registration within the 30-day time period specified in paragraph (d)(1) of this section shall be construed as a waiver of any right thereafter to file for and obtain such a certificate.

(e) *Petitions for reconsideration of State Commission decisions made the subject of applications for Certificates of Registration.* (1) Parties. Any party in interest, who or which opposed in the State Commission proceeding the authorization of operations in interstate or foreign commerce, may file with the Interstate Commerce Commission at Washington, D.S., a petition seeking reconsideration of the State Commission decision which is the basis for an application for a Certificate of Registration.

(i) The original and six copies of every pleading, document, or paper permitted or required to be filed under this section, shall be furnished for the use of the Commission.

(ii) A petition seeking reconsideration of an order of the Motor Carrier Board entered under section 210a(a) or 311(b) of the act must be filed within 20 days after the date of service of the order. Within 20 days after the filing of such petition with the Commission any interested person may file and serve a reply thereto.

(iii) A petition seeking reconsideration of an affirmative order of the Motor Carrier Board entered pursuant to the rules and regulations governing transfers of property brokers' licenses, Part 1045 of this chapter, passenger brokers' licenses, Part 1133 of this chapter, motor carrier operating rights, Part 1132 of this chapter, water carrier operating rights, Part 1141 of this chapter, and freight forwarder permits, Part 1151 of this chapter, must be filed within 20 days following publication of a synopsis of such order in the FEDERAL REGISTER. In such a petition the matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. Within 20 days after the final date for filing of such petitions with the Commission, any interested person may file and serve a reply thereto.

(iv) Every application requesting authority to change, cancel, or reissue a tariff matter under suspension or continued in effect as a result of suspension shall include a certificate showing simultaneous service thereof upon all parties to the investigation and suspension proceeding. Service shall be made in the manner specified in Rule 20 of Subpart A.

(2) *Filing requirements.* Except for good cause shown, and upon leave granted, petitions under this rule shall be filed within 30 days after the date of the filing of an application with the Interstate Commerce Commission pursuant to paragraph (d)(1) of this section for a Certificate of Registration authorizing motor common carrier operations in interstate and foreign commerce under the provisions of section 206(a)(6) of the act, and such petition shall be filed under the docket number assigned to the related application proceeding.

(3) *Contents.* Any such petition shall specify with particularity the facts, matters, and arguments relied upon; and unless a copy of such record already has been submitted by another petitioner, such petition shall be accompanied by a certified copy of the complete record made before the State Commission, including a transcript of any testimony taken and any exhibits filed before such State Commission, such copy to be provided by, and at the expense of, the petitioner. The petition shall conform in all respects to requirement of Rules 13 and 15 of this Commission's rules of practice. The original and 6 copies of the petition, and one certified copy of the record made before the State Commission, shall be furnished for the use of the Interstate Commerce Commission.

(4) *Replies to petitions.* A reply to a petition filed under these rules may be filed and served within 20 days after the final date for filing such petitions. The original and 6 copies of the reply shall be furnished for the use of the Interstate Commerce Commission.

(5) *Service of petitions and replies.* Copies of each petition and reply filed under these rules shall be served on the State Commission involved and on all other parties to the State Commission proceeding in accordance with the requirements of Rule 20 of the Commission's rules of practice.

(6) *Effect of petitions.* The filing under these rules of a petition for reconsideration shall not preclude or affect the institution of the motor carrier operations in intrastate commerce authorized by the State certificate: and failure seasonably to file a petition for reconsideration under these rules will be construed as a waiver of opposition and further participation in the related application proceeding for a Certificate of Registration.

(f) *Disposition of applications for Certificates of Registration and related petitions for reconsideration.* Applications for Certificates of Registration and related petitions for reconsideration filed under these rules will be handled together and processed in a single proceeding and will be disposed of by the division of the Interstate Commerce Commission to which these matters may be assigned, acting as an Appellate Division. Except as the Interstate Commerce Commission may, in its discretion, otherwise direct, a decision and order issued by the Appellate Division disposing of such an application and petition will be administratively final and petitions by any of the parties for reconsideration of such Division's actions will not be entertained.

(g) *Disposition of unopposed applications for Certificates of Registration.* Where the State Commission proceeding which resulted in the issuance of the State Certificate sought to be made the basis of a Certificate of Registration was unopposed, or where petitions for reconsideration of the finding of the State Commission that the public convenience and necessity require operations in interstate and foreign commerce are not seasonably filed, the application for a Certificate of Registration will be disposed of in the most expeditious manner and, so far as practicable and legally permissible, without formal hearings or other proceedings.

§ 1100.246 Rules pertaining to proceedings for the discontinuance or change of train or ferry service.

(a) *Scope of special rules.* These special rules govern procedure before the Commission in proceedings commenced by carriers subject to part I of the Interstate Commerce Act, under and pursuant to the provisions of section 13a of said Act, upon a notice under paragraph (1) of said section or by a petition under paragraph (2) thereof, with respect to a proposed discontinuance or change, in whole or in part, of the operation or service of any train or ferry.

(b) *General rules otherwise applicable.* Except as provided otherwise in these special rules, proceedings upon notices and petitions filed under section 13a shall be governed by the rules of general applicability.

(c) *Notice and petitions by carriers.* A notice filed under paragraph (1), and a petition under paragraph (2), of said section 13a shall be prepared in accordance with and contain the information called for by rules and regulations then in force with respect to such a notice or petition. See Part 1122 of this chapter.

(d) *Notice to interested parties.* Notice of the institution of any investigation or of the time and place of any hearing, conference, or other proceeding will be given by the Commission to the carrier or carriers involved, the Governor and appropriate regulatory agency of each State in which the train or ferry affected is operated, protestants, and other interested parties of record, by mailing to them the order or notice instituting the investigation or assigning the hearing, conference, or other proceeding. Similar notice will be given to the same parties of changes in the time or place of hearing, conference, or other proceeding when time permits notice by mail; but, if telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who have requested telegraphic notice at their expense.

(e) *Participation at hearings without intervention.* In an investigation proceeding under section 13a(1), or in proceedings upon a petition filed under section 13a(2), an appearance may be entered at the hearing without filing a petition in intervention or other pleading, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

(f) *Complaints and protests.* When a notice is filed with the Commission pursuant to section 13a(1), proposing to discontinue or change, in whole or in part, the operation or service of any train or ferry between a point in one State and a point in any other State or in the District of Columbia, any interested person opposed to such proposal

V42N91 MAY 11 77 UMI

may file with the Commission a complaint or protest by telegram, letter, or other writing, of which only an original need be filed. Service thereof upon the carrier proposing the discontinuance or change is not required. A complaint or protest should identify the carrier and the particular train or ferry involved, and should state the interest of the complainant or protestant and the grounds for the opposition. The complaint or protest must be filed with the Commission in Washington, D.C., not later than 15 days before the date when the carrier proposes to make effective the discontinuance or change. The failure to reply will not be construed as an admission of any allegations contained in the protest or complaint.

(g) *Petitions for reconsideration of orders institutina an investigation.* Petitions for reconsideration of an order instituting an investigation in relation to a proposed change or discontinuance may be filed by the carrier or carriers affected within 15 days after the date of service of the order. An original and 6 copies shall be furnished for the use of the Commission, and copies thereof shall be served upon the persons to whom copies of the notice of the carrier were required to be mailed by the rules and regulations prescribed by the Commission. See § 1122.5 of this chapter. Any interested person may file and serve a reply to any petition for reconsideration permitted under this paragraph within 15 days after the filing of such petition with the Commission.

(h) *Reconsideration of decision not to institute an investigation.* A decision not to institute an investigation concerning a proposed discontinuance or change of service may be made the subject of a petition for reconsideration by any interested person, provided the petition reaches the Commission at least two workdays prior to the effective date of the proposed discontinuance or change of service. If an order is desired requiring continuance of the service pending hearing and decision upon investigation, the petition should reach the Commission at least 12 days before the discontinuance or change is scheduled to become effective. (Under section 13a(1) of the act, an order of the Commission requiring continuance of the operation or service, pending hearing and decision in an investigation, must be served upon the carrier or carriers affected thereby at least 10 days before a discontinuance or change would otherwise become effective.) For the purposes of this section, a workday shall be considered any day except Saturday, Sunday, or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a workday within the meaning of this section.) Petitions submitted under this paragraph shall be filed with the Secretary of the Commission by 4 p.m., United States Standard Time (or by 4 p.m. Local Daylight Saving Time if that time is observed in the District of Columbia. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. The request for reconsideration shall contain the following prefatory statement: "This matter requires expedited handling under Rule 246 of the Commission's rules of practice." If in writing, an original and six copies of the petition shall be furnished for the use of the Commission. Telegraphic notice or its equivalent must be given by the petitioner to the carrier or carriers affected, and certification that such notice has been given must accompany the request for reconsideration. Action may be taken upon the petition without awaiting a reply, but if a reply is received prior to a decision upon the petition it will be given consideration. A petition not timely filed will be rejected by the Secretary.

(i) *Protests.* Section 13a(2) requires this Commission to conduct a full hearing in the State involved, before it may grant a petition filed thereunder for authority to discontinue or change the operation or service of any train or ferry operated wholly within the boundaries of that State. It is not necessary, therefore, that persons opposed to such a petition file a protest in order to obtain a hearing; but interested persons may file protests by complying with Rule 38 or they may register their opposition by letter addressed to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for the purpose of receiving notice of the time and place of the hearing. See paragraph (e) of this section in regard to participation at hearing.

§ 1100.247 Special rules governing notice of filing of applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to Certificate of Registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto (Rule 247).

(a) *Scope and applicability of special rules.* (1) *Scope.* These special rules govern the filing and handling pursuant to the provisions of the Interstate Commerce Act of (i) applications for certificates, permits, and licenses respecting the transportation of property or passengers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209, and 211, (ii) applications for certificates, permits, and exemptions respecting the water transportation of property or passengers under sections 302(e), 303, and 309, and (iii) applications for permits to operate as freight forwarders and for certificates of abandonment under section 410. Except as otherwise herein provided, the general rules of practice shall apply.

(2) *Applicability.* Except as otherwise provided herein these special rules shall apply to all applications enumerated in subparagraph (1) of this paragraph and filed with the Commission on and after April 5, 1977, and to such of those applications filed prior to that time as the Commission may designate by appropriate publication in the FEDERAL REGISTER.

(b) *Applications:* (1) *Form and content.* An application filed with the Commission under these special rules shall be prepared in accordance with and contain the information called for in the form of application prescribed by the Commission or in instructions which may have been issued by the Commission with respect to the filing of such an application for a certificate, permit, or license as defined in paragraph (a)(1) shall be accompanied by (i) certifications of support on the prescribed form for each individual, corporation, or partnership known to the applicant upon whose support applicant intends to rely, and (ii) a caption summary of the authority sought for publication in the FEDERAL REGISTER, which summary shall be prepared in accordance with the instructions accompanying the application form. No application will be accepted for filing unless it is accompanied by certifications of support (when necessary) as herein required and by a caption summary of the authority sought. Upon request by any party, the applicant shall furnish such party with copies of all certifications filed with the application. If, subsequent to the filing of an application, additional witnesses become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve copies thereof upon all parties of record. The total number of witnesses subject to his rule whose testimony is offered in support of the application may not exceed twice the number for whom certifications were filed with the application, whether the case is designated for oral hearing or for modified procedure. In cases designated for oral hearing, certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for commencement of hearing: *Provided,* That, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing to be filed and served not later than 30 days prior to the date of the continued hearing. No testimony will be received from witnesses for whom such certifications have not been timely received. *Provided, however,* That the provisions of this paragraph limiting the total number of witnesses and requiring certifications for subsequently discovered witnesses shall not be applicable to applications to transport passengers, and that certifications for subsequently discovered witnesses shall not be required in cases handled under modified procedure except when reassigned for oral hearing.

(2) *Copies and service.* Copies of an application filed under these special rules shall be furnished in such number and shall be filed and served in the manner and upon the persons specified in the form or instructions.

(3) Requests for handling applications under either oral hearing or modified procedure. An applicant who believes its application is susceptible for handling without oral hearing may request such handling when the application is filed.

(c) *Notice to interested persons.* Notice of the filing of applications to competitors and other interested persons will be given by the publication in the FEDERAL REGISTER of a caption summary of the authority sought. Such caption summaries will be prepared by the applicant in accordance wth the prescribed format and instructions in the application, which summaries will be reviewed by the Commission before submittal to the FEDERAL REGISTER. Incomplete or incorrect captions may result in rejection of the application. After the caption summary appears in the FEDERAL REGISTER, it shall be the responsibility of applicant promptly to advise the Commission if the summary does not properly describe the authority sought and submit a corrected FEDERAL REGISTER caption summary (not to expand the application). No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State boards, and regional directors of the Commission's Bureau of Operations as may be required by the prescribed form of the application.

(d) *Amendments.* Except for good cause shown, amendments to applications which broaden the scope of the proposed operations will not be allowed if tendered after notice of the filing of an application has been published in the FEDERAL REGISTER.

Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided,* That, except as hereinafter provided, in cases assigned for oral hearing, amendments must be received by the Commission not later than: (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of prehearing conference assigned to consider such amendments. Restrictive amendments submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conference assigned for the consideration of amendments shall be subject to the provisions of subparagraph (e)(6) of this rule respecting appearance at hearings.

(e) *Protests and requests for hearing.* (1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. A protest filed under these rules shall certify that it has been served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing published in the FEDERAL REGISTER). Unless otherwise specified in the published notice, the original and one copy of the protest shall be filed with the Commission. Protests not in reasonable compliance with the requirements of these rules may be rejected in the discretion of the Commission.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) A protest against any application shall set forth specifically the grounds on which it is made and contain a detailed sttatement of the protestant's interest in the proceeding (including a copy of only the specific portions of its pertinent authority and including direct operations held by virtue of the gateway elimination regulations either published in the FEDERAL REGISTER as letter-notices or granted in separate gateway elimination certificates, which protestant believes to be in conflict with that sought in the application, and describing in detail the method (whether by joinder, interline, or other means) by which protestant would use such authority to provide all or part of the service proposed), shall request an oral hearing if one is desired, and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protestants shall name the carrier(s) with whom interline operations shall be performed thereunder. Protests phrased in general terms and not complying with these specifications may be rejected.

(4) Any request for an oral hearing shall be supported by a specific explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits, shall set forth the number of witnesses which would be presented by the protestant and an estimate of the hearing time required for such presentation, and shall contain the following certification without further qualification: The undersigned hereby certifies that, if an oral hearing is held, protestant(s) will appear and present evidence of protestant(s) own operations and particular interest(s) in the outcome of this application unless this application is amended so as to eliminate the interest(s) of protestant(s) as set forth in this protest.

(5) Where a person has a limited interest in an application, which possibly could be eliminated by a restrictive amendment to the application, which amendment must be acceptable to the Commission, it may also include in a protest filed in conformity with this paragraph an offer to withdraw the protest in the event of acceptance by applicant and the Commission of such amendment.

(6) Except where a restrictive amendment has been made as provided in subparagraph (5) of this paragraph, or for good cause shown, the failure of any person filing a protest to an application to appear at a hearing scheduled thereon shall be construed as a waiver of its right to participate further in the proceeding, and it and any representative responsible for its participating in the proceeding may be subject to censure for failure to appear. In addition, the mere appearance of protestant without the presentation of evidence of protestant's own operations and particular interest in the application may, in the absence of good cause shown, subject protestant and its representative to similar censure.

(7) An interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by telegram or letter (original and one copy) within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(8) A person (carrier) who does not file a protest as required by the regulations in this part, or who otherwise fails to remain a proper party to an application proceeding filed under the regulations in this part (by withdrawal of a previously filed protest, by failure to file verified statements in opposition, by failure to appear at a scheduled oral hearing, or by other means), and who is not granted leave to intervene pursuant to the provisions of paragraph (i) of this section, except for good cause shown, may not personally, or through a representative, appear as a witness for a party protestant, except as provided hereafter. This provision shall not preclude the filing of a proper joint protest on behalf of several opposing carriers, or the presentation of evidence of service by bona fide connecting carriers through a duly qualified protestant, as to the nature and extent of their joint services, or other probative evidence, provided the party protestant's original protest contains a clear statement that its opposition is based, in part at least, upon a transportation service performed by it jointly with connecting carrier and fully complies with Special Rule 247(e)(3).

(f) *Hearing or other procedures to be followed.* (1) *Determination.* The Commission will determine whether an assignment for oral hearing should be made, at a time after notice to interested persons of the filing of the application ISTER and the period for filing protests has been published in the FEDERAL REGhas expired. At or prior to such time, any applicant who does not intend to prosecute its application should promptly request dismissal thereof.

(2) *Uncontested proceedings.* Proceedings in which no protests are filed within 30 days after publication of notice in the FEDERAL REGISTER, and which are not assigned for oral hearing, will be determined on the basis of verified statements submitted by applicant, in accordance with the format provisions of Special Rule 247(f)(3).

(3) *Contested proceedings.* In those contested proceedings in which the Commission determines that assignment of an application for oral hearing is unnecessary, thereafter the procedure shall be in accordance with rules 43(b), 44(b), and 45–52, inclusive, of the General Rules of Practice, except that: (1) Only the original and one copy of any statement made pursuant to rule 49 need be filed with the Commission, and (2) that the statements to be submitted under rule 47 shall follow the format which is enumerated immediately below. The verified statements to be submitted by applicant (including those of supporting parties) and by protestants under Special Rule 247 shall be prepared in separately numbered and titled paragraphs so as to present the evidence in accordance with the format described immediately hereafter (and in appropriate appendixes as needed). All other con-

V 42 91 MAY 11 77 UMI

tested proceedings which are subject to these rules will be assigned for oral hearing unless other procedures are ordered.

VERIFIED STATEMENT OF APPLICANT

I. Legal name and domicile of carrier.
II. Identity and qualifications of testifying witness.
III. Authority sought.
IV. (A) General scope of presently authorized operations (attach copies of pertinent operating rights). (B) Duplicating authority resulting from grant of application. (C) Dual operations resulting from grant of application. (D) Affiliation with other carriers and persons affiliated with carriers (indicate pertinent MC numbers and docket numbers of finance proceedings; identify common and contract carriers as such).
V. Pertinent terminal facilities and communications network.
VI. Pertinent equipment.
VII. Safety program.
VIII. Service now provided to supporting witnesses.
IX. Type of service offered (e.g., LTL, bulk, multiple delivery, et cetera).
X. Financial data (current balance sheet and income statement).
XI. Feasibility of operation; environmental impact.
XII. Any other information deemed pertinent by the witness.
XIII. Argument.
XIV. Verification.

VERIFIED STATEMENT IN SUPPORT OF APPLICATION

I. Legal name and domicile of supporting party of firm.
II. Identity and qualifications of testifying witness.
III. General description of supporting party and/or operations.
IV. Specific description of commodities applied for.
V. Volume and frequency of traffic (poundage, truckloads, et cetera).
VI. Amount of traffic to be tendered applicant.
VII. Specific and/or representative origins and destinations.
VIII. How the traffic now moves.
IX. Existing services and deficiencies.
X. Type of service required (bulk, LTL, multiple delivery, et cetera).
XI. Similar applications supported (pertinent docket numbers).
XII. Any other information deemed pertinent by the witness.
XIII. Argument.
XIV. Verification.

VERIFIED STATEMENT OF PROTESTANT

I. Legal name and domicile.
II. Identity and qualifications of testifying witness.
III. Specific pertinent conflicting authority.
IV. Pertinent terminals and communications network.
V. Pertinent equipment.
VI. Type of service offered (LTL, bulk, interline, et cetera).
VII. Traffic subject to diversion if application granted: (a) Service provided for supporting party or firm; (b) Service provided for other parties within scope of application.
VIII. Any other information deemed pertinent by the witness.
IX. Argument.
X. Verification and certificate of service.

Requests for extension or modification of the time limits within which these statements are due to be filed (or as enumerated in rule 49 of the General Rules of Practice, 49 CFR 1100.49) will be granted only in the most extraordinary circumstances.

(g) *Failure to prosecute applications.* An applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof. Failure to prosecute an application under procedures ordered by the Commission will result in dismissal thereof. Submission of a request for dismissal of an application later than 15 calendar days after the service date of a notice setting it for oral hearing, or failure by applicant to appear and prosecute the application at such hearing will result in dismissal thereof and will bar the filing of any application for the same or any part of the same authority by the same applicant for a period of 1 year after the date of the dismissal order except upon a petition showing good cause why this rule should be waived. Such petition shall be served upon all protestants to the prior application.

(h) *Notice of hearing, conference, or other proceedings.* (1) *Initial assignment.* Notice of the time and place of any hearing, conference, or other proceedings will be given to applicant's representative, applicant, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other procedure.

(2) *Assignment of an application for hearing concurrently with notice of its filing.* For the convenience of the Commission in handling applications related to one or more applications which already have been noticed in the FEDERAL REGISTER when, in the Commission's discretion, the public interest would be served, an application may be concurrently noticed and assigned for hearing provided appropriate publication in the FEDERAL REGISTER can be made at least 1 week prior to the assigned date of hearing. Where such action is taken, and regardless of any prior publication of the application, any interested person may, without filing a protest prior to the assigned hearing, appear at the hearing in opposition to the application so assigned and become a party and be entitled to participate in that proceeding.

(3) *Request for change.* A request by any party for a change in the time or place of an assigned hearing must set forth good and sufficient cause for the action requested, must be in writing and filed with the Commission not less than 10 days before the assigned hearing date, except in emergency circumstances, and must be served on all known parties of record at the same time and by the same method of communication as service is made on the Commission. Where such requests are filed less than 10 days before the date of hearing, the petitioning party shall state the reasons for his failure to make such request within the prescribed 10 days.

(4) *Notice of changes.* The applicant's representative (or applicant if it has no representative), protestants, and those who request notice of changes in time or place of hearing, conference, or other proceeding will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

(i) *Intervention.* Rule 71 relating to participation without intervention is inapplicable to applications subject to this section, except with respect to those persons seeking to intervene in support. No person who fails to file a protest as provided in these rules will be permitted to intervene in oppostion in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with rule 70.

(j) *Drafting of recommended order and report by prevailing party.* Applications in which oral hearings are held and in which the hearing officer can announce his decision, either: (1) on the record after the close of the taking of testimony, or (2) by appropriate notification to the parties after the filing of briefs, may be made the subject of an initial decision prepared by the party or parties in whose favor the hearing officer decides, within a period specified by the hearing officer. The hearing officer will make such changes as he considers appropriate in the draft prepared for him.

The following language is to be added to the instruction to each respective form.[2]

[2] Special Rule 247(b)(1) of the Commission's General Rules of Practice has been amended to provide for the mandatory filing with the application of the certifications of support, and a caption summary of the authority sought for publication in the FEDERAL REGISTER. Applications not accompanied by a properly completed caption summary of the authority sought will not be accepted for filing.

The caption summary shall be prepared in the general form described in appendix F to the report in Ex Parte No. 55 (Sub-No. 14), 125 M.C.C. 790 (1976). The docket number and filing date will be assigned when the application is accepted for filing by the Interstate Commerce Commission. Applicant shall print or type (single space) its name and trade name, if any, in uppercase above its address. Applicant shall print or type (single space) the name of its representative above the representative's address. The authority sought shall be described in a double spaced paragraph and the commodity description (except specified restrictions and exemptions) and the particular method of transportation involved (e.g., common carrier, contract carrier, broker, or freight forwarder) shall be underlined.

Verified statements submitted in support of an application filed pursuant to Special Rule 247 shall be prepared in accordance with the format specifically described in Special Rule 247(f)(3). If, subsequent to the filing of an application, additional witnesses become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve copies thereof upon all

[2] The appendix at page 5 of Forms OP-OR-11 and OP-FF-10 is renumbered page 6, respectively, and the above language is inserted and numbered page 5 in each form. The above language is added to page 5 of Form OP-WC-20 and as page 6 of Form OP-WC-10. Page 7 of Form OP-OR-9 is deleted, and the above language is inserted and numbered page 7.

parties of record. The total number of witnesses whose testimony is offered in support of an application may not exceed twice the number for whom certifications were originally filed with the application. In cases designated for oral hearing, certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for commencement of the hearing: *Provided*, That, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing to be filed and served not later than 30 days prior to the date of the continued hearing. No testimony will be received from witnesses for whom such certifications have not been timely received. An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. Any request for an oral hearing shall be supported by a specific explanation as to why the evidence would be more amenable to presentation at oral hearing. Amendments to applications which broaden the scope of the proposed operations will not be allowed. Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided*, That, except as hereinafter provided, in cases assigned for oral hearing amendments must be received by the Commission not later than: (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of prehearing conference assigned to consider such amendments. Restrictive amendments submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conferences assigned for the consideration of amendments shall be subject to the provisions of paragraph (e)(6) of Special Rule 247 respecting appearance at hearings.

NOTE.—Certifications of support are not applicable to the preparation of Form OP-WC-10.

§ 1100.248 Implementation of Public Law 91-375, Postal Reorganization Act (Motor carrier licensing provisions).

(a) *Scope of rules.* These special rules govern the filing and handling of applications seeking the right to operate pursuant to either a Postal Certificate of Public Convenience and Necessity or a General Postal Certificate of Exemption authorizing operation, in interstate or foreign commerce, by motor vehicle in the transportation of mail.

(b) *Applications for postal certificates of public convenience and necessity.* (1) The application form (Op-Or-10) shall be available from the Secretary, Interstate Commerce Commission, and shall be completed in duplicate, and transmitted to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and a copy thereof shall be sent to the transportation regulatory commission (or, if none, the Governor) of each State within which operations are sought to be performed.

(2) Attached to the application shall be a true copy of applicant's contract with the Postal Service (or its predecessor Post Office Department), which contract must have been in force on the effective date of section 5215 of the Postal Act.

(3) If applicant is a successor in interest to a qualifying star route carrier, evidence of continuity of star route service and carrier identity must be furnished (this may be done in letter form duly sworn and notarized).

(4) The application form provides space for a description of the territory served by the applicant on or before the effective date of section 5215. Here applicant should describe the territorial extent of operations performed pursuant to its contract in force on the effective date, such description being in terms of the appropriate political division or subdivision (i.e., State, county, city, village, et cetera) within which service was authorized by contract. Authority may be granted only commensurate with the service covered by applicant's contract; therefore, applicants are cautioned to be specific in delineating the territory sought in order to avoid delays in processing their applications.

(5) Notice to the public of any such application will be made by publication in the FEDERAL REGISTER. Provision will be made for the filing of protests within 30 days from the date of publication, although it is not contemplated that protests will, in fact, be filed.

(6) Upon determination that an applicant is qualified to receive "grandfather" authority, and upon compliance by applicant with sections 215 and 221(c) of the Interstate Commerce Act, and with the rate-filing procedures established by this Commission, a Postal Certificate of Public Convenience and Necessity will be issued, authorizing the transportation of mail from, to, or between points in the involved territory.

(7) All further proceedings, including petitions for reconsideration, shall be handled in the manner specified in this Commission's rules of practice.

(c) *Applications for inclusion within general postal certificate of exemption.* The class of carriers to which such certificate of exemption is applicable is defined as all star route, mail messenger and contract motor vehicle operators, whose for-hire motor carrier operations are confined to a single State, and who, on the effective date of section 5215 of the above-entitled Postal Act, hold a contract for the transportation of mail wholly within a single State. Upon submission to the Commission of a copy of such contract, the name of the carrier's representative to whom inquiries may be made, and the carrier's written request therefor, such carrier shall be included within the terms of the general postal certificate of exemption which reads as follows:

General Postal Certificate of Exemption, Designated Single-State Motor Carriers Affected By The Postal Reorganization Act (Pub. L. 91-375).

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 3d day of March 1971.

After due investigation, it appearing that any motor carrier having complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and having complied with all the requirements established by this Commission in its report in Ex Parte No. MC-86, and lawfully engaging in operations solely within a single State in the Transportation of mail; that the transportation of mail in interstate or foreign commerce performed by him is in fact of such nature, character, or quantity as not substantially to affect or impair uniform regulation by this Commission of transportation by motor carriers engaged in interstate or foreign commerce in effectuating the national transportation policy declared in the Interstate Commerce Act; that he, therefore, is entitled to inclusion within a general postal certificate of exemption in accordance with the provisions of section 204(a)(4a) of part II of said act; and this Commission so finding:

It is ordered, That the said motor carrier be, and it is hereby, granted this general postal certificate of exemption, which during the period it shall remain effective and unrevoked, shall exempt the said motor carrier from compliance with the provisions of part II of said act in respect of transportation of mail in interstate or foreign commerce, and it is hereby issued to said motor carrier.

It is further ordered, That this general postal certificate of exemption shall be effective from the date hereof and shall remain in effect until revoked in accordance with the provisions of said act.

By the Commission.

ROBERT L. OSWALD,
Secretary.

§ 1100.249 Special rules governing the filing of motor carrier mail transportation service orders or determinations under subsection (f) of section 5203 of title 39, United States Code 84 Stat. 768, 39 U.S.C. 5208.

(a) *Definitions.* For the purposes of this section the following words and terms, except as otherwise indicated in the context of this section, are to be construed as follows:

(1) "Postal Service" means the U.S. Postal Service, 39 U.S.C. 201.

(2) Whenever, a "section" is cited, it refers to a provision of title 39, United States Code, as revised and reenacted.

(3) "Commission" means the Interstate Commerce Commission.

(4) "Motor carrier" or "carrier" means a common carrier by motor vehicle as defined in subsection (5) of section 5201 of title 39, United States Code, 39 U.S.C. 5201.

(b) *Applicability.* The provisions of this section shall apply to all orders or determinations of the Postal Service under section 5203 (39 U.S.C. 5203) directing a motor carrier to transport mail.

(c) *Filing and content of orders or determinations.* (1) *General.* All orders or determinations shall be filed by the Postal Service with the Commission at its office in Washington, D.C. and shall conform to the provisions of subparagraphs (2) and (3) of this paragraph.

(2) *Content.* Each order or determination of the Postal Service shall include: (i) The full and correct name and business address of the motor carrier, (ii) a description of the main transportation service required, (iii) a specification of the operating authority held by the carrier which corresponds to the mail transporation required, and (iv) a showing that the order or determination is consistent with orders of the Commission under sections 5207 and 5208 (39 U.S.C. 5207 and 5208), if any, or that the Postal

V 42 91 MAY 11 77 UMI

Service and the carrier have agreed that the compensation for the transportation and service connected therewith is fair and reasonable. Further, each order or determination issued shall set forth in a conspicuous place on the face thereof, in bold face type, a clear statement that the order or determination is concurrently filed with the Interstate Commerce Commission at Washington, D.C., that it is being simultaneously deposited with the Director, Office of the Federal Register, and that any protest seeking termination thereof under subsection (f) of section 5203 (39 U.S.C. 5203) must be filed in 15 days of the date of publication in the FEDERAL REGISTER. This statement may also include reference to the penalty provisions of section 5206 (39 U.S.C. 5206), and such other information as the Postal Service deems appropriate.

(d) * * * Transportation, U.S. Postal Service, Washington, D.C. 20260, as agent for the Postmaster General.)

(e) *Petitions for reconsideration.* Petitions for reconsideration: (1) of an order terminating an order or determination of the Postal Service, or (2) of a notice declining to order termination of such an order or determination, may be filed by any interested person within 20 days after service of the order or notice of the Commission. As no replies to the petitions for reconsideration under this rule are contemplated in view of the statutory time limitation, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Commission. Such petitions for reconsideration must be clearly marked: "Petition for Reconsideration—Mail Transportation Service Order (or Determination)." Petitioners shall file an original and six (6) copies of the petition with the Commission and one copy thereof shall be served simultaneously on the opposing party(ies), and a certificate of service shall be executed to that effect.

(f) *Withdrawal of Postal Service orders or determinations.* If, within 90 days after the filing of an order or determination by the Postal Service, the motor carrier cited in the order or determination voluntarily agrees and undertakes to perform the required mail transportation service, the Postal Service shall promptly notify the Commission of such action and shall withdraw the Postal Service order forthwith.

§ 1100.250 Special rules for proceedings in which the elimination of discrimination against the shipment of recyclable materials is sought.

(a) *Filing of complaint.* A person seeking elimination of discrimination against shipments of recyclable materials shall file a formal complaint. Such complaint should be so drawn as to fully advise the parties defendant and the Commission of the discrimination against recyclables complained of; make specific reference to the tariffs or schedules containing the rates, fares, or charges occasioning the discrimination against the shipment of recyclable materials, if the claimed discrimination is said to be occasioned by the rate structure; and in all other respects comport with the requirements for the commencement of proceedings as set forth in the Rules of Practice.

(b) *Discrimination defined.* For the purpose of these rules, "discrimination" is understood to encompass, but not be limited to, situations in which carriers charge different rates and/or charges for substantially similar transportation service on recyclable materials which are competitive, in whole or in part, with virgin natural resource materials. Any complainant of the view that the "discrimination" referred to in section 603 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 793 (1974), is other than "unjust discrimination" prescribed by section 2 of the Interstate Commerce Act shall set forth the reasons therefor in said complaint.

(c) *Recyclable materials defined.* For the purpose of these rules, the term "recyclable materials" includes, but is not limited to, commodities shown in Standard Transportation Commodity Code Tariff No. 1-B, Traffic Executive Association—Eastern Railroads, Agent, I.C.C. No. C-998, issued jointly with other agents, effective April 1, 1974, including the following:

STCC No.:	Commodity
22 ----------	Textile waste garneted or processed.
22 973 15-----	Neils, ramie.
22 973 25-----	Nolls (combings or comb).
22 973 68-----	Rovings, jute and istle (ixtle).
32 299 24-----	Cullet (broken glass).
33 119-4------	Blast furnace or coke oven products, nec.
32 312--------	Copper matte, speiss, or flue dust.
33 322--------	Lead matte, speiss, or flue dust.
33 332--------	Zinc dross, residues, ashes.
33 342--------	Aluminum residues.
33 398--------	Miscellaneous nonferrous metal residue.
40 1----------	Ashes.
40 2----------	Waste or scrap.

(d) *Filing of answer.* Answers to claims of discrimination shall be so drawn as to fully advise the complainant, any other parties, and the Commission of the defense to the charge of discrimination against the shipment of recyclable materials that the respondent proposes to assert in its defense and otherwise conform to the requirements of the Rules of Practice.

(e) *Procedural handling.* The proceeding following the commencement of the action as set forth in the foregoing rules shall be handled under modified procedure and will be accorded expeditious handling.

(f) *Intervention.* (1) A summary of any complaint filed with the Commission under these rules will be published in the FEDERAL REGISTER as notice to interested parties, (2) Government agencies, environmental and other public interest groups, and trade associations having an interest in the proceeding may intervene as of right by filing a statement of their intention to participate within 20 days from the date that notice of the filing of a complaint is published in the FEDERAL REGISTER. After the expiration of that 20-day period, petitions for leave to intervene must be filed under rule 70 of the rules of practice, 49 CFR 1100.70.

(g) *Other procedures.* In all other particulars, the proceeding shall be governed by the Commission's Rules of Practice.

APPENDIX A—CODE OF ETHICS FOR PRACTITIONERS BEFORE THE INTERSTATE COMMERCE COMMISSION

TABLE OF CONTENTS

Preamble—Canons of Ethics

1. Standards of ethical conduct in courts of the United States to be observed.
2. The duty of the practitioner to and his attitude towards the Commission.
3. Punctuality and expedition.
4. Attempts to exert political influence on the Commission.
5. Attempts to exert personal influence on the Commission.
6. The selection of Commissioners.
7. The practitioner's duty in its last analysis.
8. Private communications with the Commission.
9. Adverse influence and conflicting interests.
10. Joint association of practitioners and conflicts of opinion.
11. Withdrawal from employment.
12. Advising upon the merits of a client's cause.
13. Negotiations with opposing party.
14. Fixing the amount of the fee.
15. Compensation, commission and rebates.
16. Contingent fees.
17. Division of fees.
18. Suing clients for fees.
19. Acquiring interest in litigation.
20. Expenses.
21. Witnesses.
22. Dealing with trust property.
23. How far a practitioner may go in supporting a client's cause.
24. Restraining clients from improprieties.
25. Ill-feeling and personalities between advocates.
26. Treatment of witnesses and litigants.
27. (None)
28. Discussion of pending litigation in public press.
29. Candor and fairness.
30. Right of practitioner to control to incidents of the trial.
31. Taking technical advantage of opposing practitioner; agreements with him.
32. Advertising, direct or indirect.
33. Professional card.
34. Stirring up litigation, directly or through agents.
35. Justifiable and unjustifiable litigation.
36. Responsibility for litigation.
37. Discovery of imposition and deception.
38. Upholding the honor of the calling.
39. Intermediaries.
40. Retirement from public employment.
41. Confidences of a client.
42. Partnerships-names.
43. Titles.

PREAMBLE

No rules of conduct can be framed which will particularize all the duties of the practitioner in the varying phases of litigation or in his relations to clients, adversaries, other practitioners, the Commission and the public. The following canons of ethics are adopted as a general guide for those admitted to practice before the Interstate Commerce Commission.

It will be remembered that the practitioners before the Commission include (a) lawyers, who have been regularly admitted to practice law and (b) others having traffic or other technical experience qualifying them to aid the Commission in administration of the Interstate Commerce Act and related acts of Congress. The former are bound by a broad code of ethics and unwritten rules of professional conduct which apply to every activity of a lawyer; for the latter, no code of ethics has been written heretofore. The following canons do not release the lawyer from any of the duties or principles of professional conduct by which lawyers are bound. They apply alike to all practitioners before the Commission and the setting forth therein of particular duties or principles of conduct should not be construed as a denial of the existence of others equally imperative although not specifically mentioned. The word "Commission" as used herein includes Divisions of the Commission and the representatives of the Commission, whether members, examiners, or other employees connected with the matter in hand.

CANONS OF ETHICS

1. *Standards of ethical conduct in courts of the United States to be observed.* These canons are in furtherance of the purpose of the Commission's rules of practice which enjoin upon all persons appearing in proceedings before it to conform, as nearly as may be, to the standards of ethical conduct required of practitioners before the courts of the United States; and such standards are taken as the basis for these specifications, modified insofar as the nature of the practice before the Commission requires.

2. *The duty of the practitioner to and his attitude toward the Commission.* It is the duty of the practitioner to maintain toward the Commission a respectful attitude, not for the sake of the temporary incumbent of the office, but for the maintenance of the importance of the functions he administers. In many respects the Commission functions as a Court, and practitioners should regard themselves as officers of that Court and strive to uphold its honor and dignity. The Commission, not being wholly free to defend, itself is peculiarly entitled to receive the support of the practitioner against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a member or employee of the Commission it is the right and duty of the practitioner to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them duty of the practitioner not only to his client, but to the Commission and to the public, to be punctual in attendance, and to be conshould be protected.

3. *Punctuality and expedition.* It is the cise and direct in the trial and disposition of causes.

4. *Attempts to exert political influence on the Commission.* It is unethical for a practitioner to attempt to sway the judgment of the Commission by propaganda, or by enlisting the influence or intercession of members of the Congress or other public officers, or by threats of political or personal reprisal.

5. *Attempts to exert personal influence on the Commission.* Marked attention and unusual hospitality on the part of a practitioner to a Commissioner, examiner, or other representative of the Commission, uncalled for and unwarranted by the personal relations of the parties, subject both to misconstruction of motive and should be avoided. A self-respecting independence in the discharge of duty, without denial or diminution of the courtesy and respect due the official station is the only proper foundation for cordial personal and official relations between Commission and practitioners.

6. *The selection of Commissioners.* The nomination of commissioners is a duty of the President, and confirmation, of the Senate. It is the duty of the practitioners insofar as they attempt to advise the appointing or confirming officers, to endeavor to prevent any consideration from outweighing fitness in the selection.

7. *The practitioner's duty in its last analysis.* No client, corporate or individual, however powerful, no cause, civil or political however important, is entitled to receive, and no practitioner should render, any service or advice involving disloyalty to the law or disrespect of its official ministers, or corruption of any person or persons exercising a public office or employment or private trust, or deception or betrayal of the public. In rendering any such improper service or advice the practitioner invites and merits stern and just condemnation. Correspondingly, he advances the honor of his calling and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, although until a statute shall have been construed and interpreted by competent adjudication, he is free and entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all he will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

8. *Private communications with the Commission.* In the disposition of contested proceedings brought under the Interstate Commerce Act the Commission exercises quasi-legislative powers, but it is nevertheless acting in a quasi-judicial capacity. It is required to administer the Act and to consider at all times the public interest beyond the mere interest of the particular litigants before it. To the extent that it acts in a quasi-judicial capacity, it is grossly improper for litigants, directly or through any counsel or representative, to communicate privately with a Commissioner, examiner, or other representative of the Commission about a pending cause, or to argue privately the merits thereof in the absence of their adversaries or without notice to them. Practitioners at all times should scrupulously refrain in their communications to and discussions with the Commission and its staff from going beyond ex parte representations that are clearly proper in view of the administrative work of the Commission.

9. *Adverse influences and conflicting interests.* It is the duty of a practitioner at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of the person to represent or assist him.

It is unethical to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon a practitioner represents conflicting interests when in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

10. *Joint association of practitioners and conflicts of opinion.* A client's proffer of the assistance of additional practitioner should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A practitioner should decline association as colleague if it is objectionable to the practitioner first retained, but if the client should relieve the practitioner first retained, another may come into the case.

When practitioners jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted by them unless the nature of the difference makes it impracticable for the practitioner whose judgement has been overruled to cooperate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another practitioner are unworthy of those who should be brethren, but nevertheless, it is the right of any practitioner, without fear or favor, to give proper advice to those seeking relief against an unfaithful or neglectful practitioner, generally after communication with the practitioner of whom the complaint is made.

11. *Withdrawal from employment.* The right of a practitioner to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The practitioner representing him should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the practitioner's remonstrance in presenting frivolous defenses, or if he deliberately disregards an agreement or obligation as to fees or expenses, the practitioner may be warranted in withdrawing on due notice to the client, allowing him time to employ another. So also when a practitioner discovers that his client has no case and the client is determined to continue it; or even if he finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawing from a case after a retainer has been paid, he should refund such part of the retainer as has not been clearly earned.

12. *Advising upon the merits of a client's cause.* A practitioner should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result or pending or contemplated litigation. He should beware of bold and confident assurance to clients, especially where employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment the client should be advised to avoid or to end the litigation.

13. *Negotiations with opposing party.* A practitioner should not in any way communicate upon the subject of controversy with a party represented by another practitioner except upon express agreement with the practitioner representing such party; much less should he undertake to negotiate or compromise the matter with him, but should deal only with the practitioner who represents the other party. It is incumbent upon the practitioner most particulary to avoid everything that may tend to mislead a party not represented by a practitioner, and he should not undertake to advise him as to the law.

V 42 91 MAY 11 77 UMI

14. *Fixing the amount of the fee.* In fixing fees, practitioner should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, although his poverty may require a less charge, or even none at all.

15. *Compensation, commission and rebates.* A practitioner should accept no compensation, commissions, rebates or other advantages from the parties to the proceeding other than his client without the knowledge and consent of his client after full disclosure.

16. *Contingent fees.* Contingent fees should be such only as are sanctioned by law. In no case, except a charity case, should they be entirely contingent upon success.

17. *Division of fees.* No division of fees for services is proper, except with a member of the bar or with another practitioner, based upon a division of service or responsibility. It is unethical for a practitioner to retain laymen to solicit his employment in pending or prospective cases, and reward them by a division of fees, and such a practice cannot be too severely condemned.

18. *Suing clients for fees.* Controversies with clients concerning compensation are to be avoided insofar as compatible with self-respect, and with the right to receive reasonable recompense for services; and lawsuits against clients should be resorted to only to prevent injustice, imposition or fraud.

19. *Acquiring interest in litigation.* The practitioner shall not purchase or otherwise acquire any pecuniary interest in the subject matter of the litigation which he is conducting.

20. *Expenses.* A practitioner may not properly agree with a client that the practitioner shall pay or bear the expenses of litigation. He may in good faith advance expenses as a matter of convenience but subject to reimbursement by the client.

21. *Witnesses.* A practitioner shall not undertake that the compensation of a witness shall be contingent upon the success of the cause in which he is called. If the ascertainment of truth requires that a practitioner should seek information from one connected with or reputed to be biased in favor of an adverse party, he is not thereby deterred from seeking to ascertain the truth from such person in the interest of his client.

22. *Dealing with trust property.* Money of the client or other trust property coming into the possession of the practitioner should be reported promptly, and, except with the client's knowledge and consent, should not be commingled with the practitioner's private property or be used by him.

23. *How far a practitioner may go in supporting a client's cause.* Nothing will operate more certainly to create or foster popular prejudice against practitioners as a class, and deprive them of that full measure of public esteem and confidence which belongs to the proper discharge of their duties than does the false claim, often set up by the unscrupulous in defense of questionable transaction, that it is the duty of the practitioner to do whatever may enable him to succeed in winning his client's cause.

The practitioner owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights, and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by rules of law, legally applied. No fear of the disfavor of the Commission or public unpopularity should refrain him from full discharge of his duty. The client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his counsel to assert every such remedy or defense. But it is to be steadfastly borne in mind that this great trust is to be performed within and not without the bounds of the law. Admission to the privilege of appearing before the Commission as representing another does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

24. *Restraining clients from improprieties.* A practitioner should use his best efforts to restrain and to prevent his clients from doing those things which he himself ought not to do, particularly with reference to their conduct towards the Commission, other practitioners, witnesses and suitors. If a client persists in such wrong-doing, the practitioner should terminate their relations.

25. *Ill-feeling and personalities between advocates.* Clients, not their representatives, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence practitioners in their conduct and demeanor toward each other or toward suitors in the case. All personalities between practitioners should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of practitioners on the other side. Personal colloquies between practitioners which cause delay and promote unseemly wrangling should also be carefully avoided. Their statements should be addressed to the Commission.

26. *Treatment of witnesses and litigants.* A practitioner should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudice of a client in the trial or conduct of a cause. The client cannot be made the keeper of the practitioner's conscience in such matters. He has no right to demand that the practitioner representing him shall abuse the opposing party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking on his own behalf.

27. (*None.*)

28. *Discussion of pending litigation in public press.* Attempts to influence the action and attitude of the members and examiners of the Commission through propaganda or through colored or distorted articles, in the public press, are more apt to react against than in favor of the parties resorting to such measures. On the other hand, it is not against the public interest or unfair to the Commission that the facts of pending litigation shall be made known to the public through the press in a fair and unbiased manner and in dispassionate terms. Practitioners should themselves avoid, and should counsel their clients against, giving to the public press any press notices or statements of a nature intended to inflame the public mind, to stir up possible hostility toward the Commission, or to influence the Commission's course and judgment as to pending or anticipated litigation. When the circumstances of a particular case appear to justify a statement to the public through the press, it is unethical to make it anonymously.

29. *Candor and fairness.* The conduct of practitioners before the Commission and with other practitioners should be characterized by candor and fairness. The nontechnical character and liberality of the Commission's practice call for scrupulous observance of the principles of fair dealing and just consideration for the rights of others.

It is not candid or fair for a practitioner knowingly to misstate or misquote the contents of a paper, the testimony of a witness, the language or the argument of an opposing practitioner, or the language or effect of a decision or a text book; or, with knowledge of its invalidity to cite as authority a decision which has been overruled or otherwise impaired as a precedent or a statute which has been repealed; or in argument to assert as a fact that which has not been proved, or to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A practitioner should not offer evidence, which he knows the Commission should reject, in order to get the same before the Commission by argument for its admissibility, or arguments upon any point not properly calling for determination. He should not introduce into an argument remarks or statements intended to influence the bystanders.

These and all kindred practices are unethical and unworthy of a practitioner.

30. *Right of practitioner to control the incidents of the trial.* As to incidental matters pending the trial, not affecting the merits of the cause or working substantial prejudice to the rights of the client, such as forcing the opposing practitioner to trail when he is under affliction or bereavement, forcing the trial on a particular day to the injury of the opposing practitioner when no harm will result from trial at a different time, agreeing to extensions of time and the like, the practitioner and not the client, must be allowed to judge. In such matters no client has a right to demand that his practitioner shall be illiberal or do anything therein repugnant to the practitioner's sense of honor and propriety.

31. *Taking technical advantage of opposing practitioner; agreements with him.* A practitioner should not ignore known customs or practice of the Commission, even when the law permits, without giving timely notice to the opposing practitioner. Insofar as possible, important agreements affecting the rights of the clients should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing.

32. *Advertising, direct or indirect.* The most worthy and effective advertisement possible is the establishment of a well-merited reputation for capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not improper. But solicitation of employment by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unethical. It is equally unethical to procure business by indirection through touters of any kind. Indirect advertisement for employment by furnishing or inspiring newspaper comments concerning causes in which the practitioner has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the practitioner's positions, and all other like self-laudation, lower the tone of the calling and are intolerable.

33. *Professional card.* The simple professional card mentioned in Canon 32 may with propriety contain only a statement of the practitioner's name (and those of his associates), occupation, address, telephone number, and special branch or branches of practice. Such cards may be inserted in reputable lists and may give authorized references, or name clients with their permission.

34. *Stirring up litigation, directly or through agents.* It is unethical for a practitioner to volunteer advice that a proceeding be brought before the Commission, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unethical but it is indictable at common law. It is disreputable for a practitioner to hunt up defects or other causes of action and disclose them in order to be employed to bring complaint, or to breed litigation by seeking out those having claims for damages or any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly, or indirectly, those who bring or influence the bringing of such cases to his office to seek his services. No complaint should be brought before the Commission by a practitioner except with the distinct knowledge and specific consent of the client in the particular case. A duty to the public and to the Association devolves upon every member having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disciplined or disbarred.

35. *Justifiable and unjustifiable litigation.* The practitioner must decline to conduct a cause or to make a defense when convinced that it is intended merely to harass or to injure the opposing party, or to work oppression or wrong. But otherwise, it is his right, and having accepted retainer, it becomes his duty, to insist upon the judgement of the Commission as to the merits of his client's claim. His appearance should be deemed equivalent to an assertion upon his honor that in his opinion his client's case is one proper for determination.

36. *Responsibility for litigation.* No practitioner is obliged to act either as adviser or advocate for every person who may seek to become his client. He has the right to decline employment. Every practitioner upon his own responsibility must decide what employment he will accept, what causes he will bring before the Commission for complainants, or contest for defendants or respondents. The responsibility for advising as to questionable transactions, for bringing questionable proceedings, for urging questionable defenses is his alone. He cannot escape it by urging as excuses that he is only following his client's instructions or that he is under a stated retainer or in the regular employment of his client.

37. *Discovery of imposition and deception.* When a practitioner discovers that some fraud or deception has been practiced, which has unjustly imposed upon the Commission or a party, he should endeavor to rectify it; first by advising his client to forego any advantage thus unjustly gained and, if his client refuses, by promptly informing the injured person or his counsel (practitioner) so that appropriate steps may be taken.

38. *Upholding the honor of the calling.* Practitioners should expose without fear or favor before the proper tribunals corrupt or dishonest conduct and should accept without hesitation employment against a practitioner who has wronged his client. The practitioner upon the trial of a cause in which perjury has been committed owes it to the Commission and to the public to bring the matter to the knowledge of the prosecuting authorities. The practitioner should aid in guarding the bar of the Commission against admission thereto of candidates unfit or unqualified because deficient in either moral character or education. A practitioner should no person for admission to practice before the Commission unless from personal knowledge or upon reasonable inquiry he sincerely believes and is able to vouch that such person possesses the qualifications prescribed in the Commission's rules of practice. He should strive at all times to uphold the honor and maintain the dignity of his calling and to improve not only the law but the administration of justice;

39. *Intermediaries.* The services of a practitioner should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and practitioner. His responsibility and qualifications are individual. He should avoid all relations which direct the performance of his duties in the interest of such intermediaries. His relation to the client should be personal, and the responsibility should be direct to the client.

He may accept employment from any organization such as an association, club or trade organization, authorized by law to be a party to proceedings before the Commission, to render services in such proceedings in any matter in which the organization, as an entity, is interested. This employment should only include the rendering of such services to the members of the organization in respect to the individual affairs as are consistent with the free and untrammeled performance of his duties to the Commission.

Nothing in this canon shall be construed as conflicting with canon 17.

40. *Retirement from public employment.* A practitioner, having once held public office or having been in the public employ, should not after his retirement, accept employment as an advocate or adviser in the same proceeding or as to the same, or substantially the same, facts as were involved in any specific question which he investigated or passed upon in a judicial or quasi-judicial capacity while in such office or employ, whether the same or different parties are concerned.

41. *Confidences of a client.* The duty to preserve his client's confidences in the course of his employments outlasts the practitioner's employment, and extends as well to his employees. None of them should accept employment which involves the disclosure or use of these confidences, either for the private advantage of the practitioner or his employees or to the disadvantage of the client, without knowledge and consent of the client even though there are other available sources of such information. A practitioner should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a practitioner is falsely accused by his client, he is not precluded from disclosing the truth in respect to the false accusation. The announced intention of a client to commit a crime is not included within the confidences which a practitioner is bound to respect. He may properly make such disclosures as to prevent the act or protect those against whom it is threatened.

42. *Partnership names.* Partnerships among practitioners for the practice of their calling are very common and are not to be condemned. The rules of the Commission provide that corporations of firms will not be recognized. Practitioners before the Commission should therefore appear individually and not as members of partnerships. In the formation of partnerships care should be taken not to violate any law locally applicable; care should also be taken to avoid any misleading name or representation which would create a false impression as to the position or privileges of a member not locally admitted, or who is not duly authorized to practice, and as such amendable to discipline. No person should be held out as a practitioner or member who is not so admitted. No practitioner who is not admitted to practices in the courts should be held out in a way which will give the impression that he is so admitted. No false or assumed or trade name should be used to disguise the practitioner or his partnership. The continued use of the name of a deceased or former partner is or may be permissible by local custom, but care should be taken that no imposition or deception is practiced through this use. If a member of the firm becomes a Commissioner, or an Examiner or other employee of the Commission his name should not be retained in the firm name, as such retention may give color to the impression that an improper relation or influence is continued or possessed by the firm.

This canon does not inhibit the association of a practitioner with a mercantile, manufacturing, or other commercial institution, in the capacity of its representative or adviser.

43. *Titles.* No member of the Association not admitted to the bar shall use the title "Attorney" or "Counsel" but should use the title "Traffic Manager", "Practitioner before the Interstate Commerce Commission", "Registered Practitioner", or other appropriate title or designation.

APPENDIX B—APPROVED FORMS

TABLE OF CONTENTS

1. Complaint; verification.
2. Answer.
3. Certificate of service.
4. Petition for leave to intervene.
5. Form of reparation statement under Rule 100.
6. Verification for statements of fact filed under modified procedure.
7. Approved Form No. 7 under Rules 245.

[These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary. Before using such forms the pertinent rules, particularly those referred to in the footnotes, should carefully be studied.]

No. 1 COMPLAINT [3]

Before the Interstate Commerce Commission

Complaint

---

v.

[Insert without abbreviation the names of the complainant and defendant (Including each of the receivers, operating trustees, or other legal representatives of defendant), and whether a corporation, firm or partnership, specifying the individual name of the parties composing the partnership; and the post office address of any motor carrier defendant.]

The Complaint of the above-named complainant respectfully shows:

I. That [complainant should here state nature and place of business, also whether a corporation, firm, or partnership and if a firm or partnership, the individual names of the parties composing same.]

II. That the defendant above-named is [here state whether: (a) carrier by railroad, express, motor vehicle (common or contract), water (common or contract), a freight forwarder, or otherwise; (b) the transportation is of property or passengers, or both; and (c) the transportation involves a freight forwarder or more than one type of carrier (specifying particulars) between points in the State of ---------- and points in the State o f---------- [a complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed] and as such defendant is subject to the provisions of the Interstate Commerce Act.

III. That [state in this and subsequent paragraph to be numbered IV, V, etc. the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the

[3] See Rules 26 to 33, inclusive.

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lawfulness of which is challenged, and also, if practicable, the points between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, describe clearly the rate territory or rate group involved. Whenever practicable tariff or schedule reference should be given.]

[Where unlawful discrimination, preference, or prejudice is alleged the particular elements specified in the act as constituting such violation (see sections 2, 3, 4, 13, 216, 217, 218, 305, and 406) and the facts upon which complainant relies to establish the violation should be stated clearly. Where any provision of the act other than those just mentioned, or any requirement established pursuant to the act, is alleged to be violated, the pertinent statutory provision, or established requirement, together with the facts which are alleged to constitute the violation, should be stated. If two or more subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one subsection, or requirement, should be stated separately from those claimed to constitute a violation of another subsection, or requirement, wherever that can be done by reference or otherwise without undue repetition.]

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates [fares or charges, etc.] for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section ------, of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section ------, and (3) unduly preferential or prejudicial in violation of section ------, and (4) in violation of the long-and-short haul [or aggregate of intermediate rates] provision of section 4 thereof. [Use one or more of the allegations numbered (1), (2), (3), (4), or other appropriate allegation according to the nature of the complaint.] That [if recovery of damages is sought] complainant has been injured thereby to his damage in the sum of $---------.

Wherefore complainant prays that defendant be required to answer to charges herein; that after due hearing and investigation an order be made commanding said defendant [and each of them] to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of ---------- between the origin and destination points named in paragraph ------ hereof, in lieu of the rates [fares or charges, etc.], named in said paragraph, such other rates [fares or charges, etc.], as the Commission may deem reasonable and just [and also, if recovery of damages is sought, pay to complainant by way of reparation for the unlawful charges hereinbefore alleged the sum of $---------, or such other sum, as in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to an award of damages under the provisions of said act for violation thereof], and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at ----------, 19-----.

(Complainant's signature [4])

(Office and post-office address)

(Signature of practitioner)

(Post-office address)

[4] See footnote to Verification.

VERIFICATION [5]

State of ----------
County of ----------

----------, being duly sworn, deposes and says: that he is the complainant (or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the ---------- ---------- company, complainant) in the above-entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things, he believes them to be true.

Subscribed in my presence, and sworn to before me, by the affiant above named, this ---- day of ----------, 19-----.

[Use an L.S. impression seal]

[Title of officer]

Commission expires ----------

NO. 2 ANSWERS [6]

Before the Interstate Commerce Commission

Answer

Docket No. ---------

----
v.

The above-named defendant, for answer to the complaint in this proceeding, respectively states:

I. [Here set forth appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph.]

Wherefore defendant prays that ----------

Dated ----------, 19----

(Name of defendant)

By [7]

(Title of Officer)

(Office and post-office address)

(Signature of Practitioner)

(Post-office Address)

[6] Signature and verification by complainant unnecessary if complaint is signed by a practitioner. See Rule 17.

[6] See Rules 35 to 37, inclusive.

[7] See Rule 17.

Ex Parte No. 55 (Sub-No. 24)

NO. 3 CERTIFICATE OF SERVICE [8]

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by (here state the precise manner of making service, which must be consistent with the provisions of Rule 22).

Dated at ----------, this ---- day of ----------, 19-----.

(Signature)

NO. 4 PETITION FOR LEAVE TO INTERVENE [9]

Before the Interstate Commerce Commission

Petition

[v.]

(Or state other title)

Docket No. ---------

Comes now your petitioner, ---------- ----------, and respectfully represents that he has an interest in the matters in controversy in the above-entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That [petitioner should here state nature and place of business, and whether as corporation, firm, or partnership, etc., as in form No. 1.]

II. [Petitioner should here set out specifically his position and interest in the proceeding.]

III. [If affirmative relief is sought see paragraphs III and X and prayer in form No. 1.]

Wherefore said ---------- prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in person or by counsel upon brief and at the oral arguments, if oral argument is granted.

[If affirmative relief is sought insert appropriate prayer here.]

Dated at ----------, 19----

[See forms No. 1 and 3 as to subscription, verification and certificate of service.]

NO. 5 FORM OF REPARATION STATEMENT UNDER RULE 100

Claim of ---------- under decision of the Interstate Commerce Commission in Docket No. ---------.

[8] See Rule 22.

[9] See Rule 73.

Date of shipment	Date of delivery or tender of delivery	Date charges were paid	Car [1] initials	Car [2] number	Origin	Destination	Route	Commodity	Weight	Rate	Amount	Rate	Amount	Reparation on basis of the Commission's decision	Charges paid by [3]

[1] Substitute "Vessel" if water carrier involved.
[2] Substitute "Voyage No." if water carrier involved.
[3] Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Commission by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

(Claimant)

By ----------
(Practitioner)

(Address)

(Date)

Total amount of reparation $---------. The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date ---------- Concurred [10] in: ------ ------ Company ---------- Company, Defendant Collecting Carrier, Defendant.[11]

By ----------, Auditor. By ----------, Auditor.

NO. 6. VERIFICATION FOR STATEMENT OF FACT FILED UNDER MODIFIED PROCEDURE [12]

State of ----------,
County of ----------,
ss:

----------, being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted therein, and that the same are true as stated.

(Signed) ----------

Subscribed and sworn to before me this ---------- day of ----------

Notary Public of ----------.

My Commission expires ----------.

NO. 7. NOTICE OF FILING OF APPLICATION FOR PUBLICATION IN FEDERAL REGISTER UNDER SECTION 205(a)(6) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

(See instructions)

Part I

(To be completed by applicant)

Notice is hereby given that the below named applicant has filed with ----------

----
(Name of State Commission)

an application for a certificate to conduct motor common carrier operations in intrastate commerce; that, in connection with such operations, applicant also is seeking authority to engage in transportation in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations which may be authorized to be conducted; and that the intrastate and interstate operations proposed to be conducted are as set forth below.

1. ----------
(Name and business address of applicant)

(Street) (City) (State)

2. ----------
(Name and address of applicant's representative, if any)

(Street) (City) (State)

3. Describe below in full the operations proposed to be conducted in intrastate commerce, together with the extent to which applicant is seeking authority in connection with such intrastate operations to engage in transportation in interstate and foreign commerce. (If additional space is necessary, use reverse side.)

(Signature)

(Title)

Date, ---------- 19----

Part II

(To be completed by State Commission)

Date of filing application----------

Docket number assigned----------

Date and time and place application has been assigned for hearing, if known -------

----

(Signature)

(Title)

(Name of State commission)

Date this notice forwarded to Interstate Commerce Commission, Washington, D.C. 20423, ----------, 19-----.

INSTRUCTIONS

This form is for use in giving notice to interested persons regarding the filing of intrastate motor carrier applications in connection with which the applicant also desires authority to engage in interstate and foreign commerce pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, by Public Law 87-805. It should be filed in duplicate (along with the intrastate application) with the State Commission, which will forward it to the Interstate Commerce Commission, Washington, D.C. 20423.

The description in Part I, item 3 should include the commodities (or passengers) sought to be transported, the points to be served, and the routes over which, or territories within which, such transportation is to be performed. Care should be taken to insure that the description, which will be published in the FEDERAL REGISTER, fully informs interested persons of the type and scope of the proposed intrastate operations, and the extent to which applicant desires authority to engage in transportation in interstate and foreign commerce in connection with such intrastate operations.

APPENDIX C—EX PARTE COMMUNICATIONS

1. *Ex parte communications.* (a) No person who is a party to, or counsel or agent of a party, or who intercedes in, any on-the-record proceeding, shall submit any ex parte communication concerning the merits of the proceeding to any member of the Commission, hearing officer, member of a joint board, or to any employee of the Commission participating or who may reasonably be expected to participate in the decision in such proceeding.

(b) No member of the Commission, hearing officer, member of a joint board, or employee of the Commission participating or who may reasonably be expected to participate in the decision in such proceeding shall invite or knowingly entertain any prohibited ex parte communication, or make any such communication to any party to, or counsel or agent of a party, or any other person who he has reason to know may transmit such communication to a party or party's agent.

2. The prohibitions of paragraph 1 apply from the time an on-the-record proceeding is noticed for oral hearing or the taking of evidence by modified procedure, at such time as the person responsible for the communication has knowledge that the proceeding will be so noticed, or from such earlier time as the Commission may fix by rule or order in the particular case.

3. For the purposes hereof: (a) "On-the-record proceeding" means a proceeding described in Section 556-557 of the Administrative Procedure Act (5 U.S.C. 556-557) or a proceeding required by the Constitution, by statute, by Commission rule, or by order in the particular case, to be decided solely upon the record made in a Commission hearing.

(b) "Person who intercedes in any proceeding" means any individual outside the Commission (whether public or private life), partnership, corporation, or association, other than a party or an agent of a party, who volunteers a communication which he may be expected to know may advance or adversely affect the interest of a particular party or any party's agent.

(c) "Ex parte communication concerning the merits" includes both oral and written communications, but the following classes of ex parte communication shall not be prohibited:

(1) Any oral or written communication which all the parties to the proceeding agree, or which the Commission, the hearing officer, or joint board formally rules, may be made on an ex parte basis.

(2) Any oral or written communication of facts or contentions which have general significance for an industry subject to regulation if the communicator cannot reasonably be expected to know that the facts or contentions are material to a substantive issue in a pending on-the-record proceeding in which he is interested.

(3) Any communication by means of any new medium which in the ordinary course of business of the publisher is intended to inform the general public, members of the organization involved, or subscribers to such publications with respect to pending on-the-record proceedings.

(d) "Any employee of the Commission participating in the decision" includes personal assistants to members of an employee review board appointed pursuant to Public Law 87-247 (1961) to whom the proceeding may be referred for decision, employees of the Commission's Office of Proceedings, employees of the Rail Services Planning Office, and the staff of the General Counsel's Office.

4. Any member of the Commission, hearing officer, member of a joint board, or employee of the Commission, participating or who reasonably may be expected to participate in the decision, who personally receives a written communication which he believes is prohibited at the time received, shall promptly transmit the written communication, or a written summary of the substance of an oral communication, together with a written statement of the circumstances under which the communication was made, if not apparent from the communication itself, to the Secretary of the Commission, who shall place any material so received in the correspondence section of the public docket of the proceeding. Any such person who receives a communication and who is not certain whether such communication is a prohibited ex parte communication may request, and shall be given promptly, a ruling on the question from the Commission's General Counsel. The Chairman of the Commission shall be notified promptly of all reports of ex parte communications, or requests for rulings on possible ex parte communications, transmitted to the Secretary or the General Counsel. He may require that any such communication be placed in the correspondence section of the docket if he concludes that the dictates of fairness require that it be made public, even if it is not prohibited communication, and he may direct the taking of such other or further action as may be appropriate under all the circumstances.

[10] For concurring certificate in case collecting carrier is not a defendant.

[11] If not a defendant, strike out the word "defendant."

[12] See Rule 50.

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5. The Commission may censure, or suspend or revoke the privilege to practice before the agency, of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

6. To the extent permitted by law, the relief or benefit sought by a party to a proceeding may be denied if the party, or an agent of the party, knowingly and willfully violates the foregoing prohibitions or requirements.

APPENDIX D—ATTORNEYS-QUALIFICATION

I, ----------
(Name)

(Address) (Telephone No.)
hereby declare that I am an attorney at law qualified as a member in good standing of the bar of the highest court of the ----------
----
(Signature)

APPENDIX E—INDEX OF THE SPECIAL RULES CONTAINED IN PARTS 1101–1159

PARTS 1101–1109—RULES OF PRACTICE

Part
1101 Temporary operating authorities and approvals.
1102 Procedures governing rail carrier general increase proceedings.
1104 Procedures to be followed in motor carrier revenue proceedings.
1107 Requirements and procedures relating to Railroad Rate Adjustment Act of 1973.
1108 Revised Guidelines for Implementation of the National Environmental Policy Act of 1969.

PARTS 1110–1119—RAIL CARRIERS—CONSOLIDATION, FINANCE, AND REORGANIZATION

1110 General requirements.
1111 Railroad and water carrier consolidation procedure.
1112 Interlocking officers.
1113 Guaranty of loans to carriers by railroad.
1114 Alteration or modification of securities and the provisions of instruments, and filing of certificates and reports.
1115 Issuance of securities, assumption of obligations, and filing of certificates and reports.
1116 Recordation of documents.
1117 Reorganization of railroads.
1118 Corporate reorganization of carriers and corporations.

PARTS 1120–1129—SPECIAL PROCEDURES; RAIL CARRIERS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

1120 Construction, extension, acquisition, or operation of railroad lines.
1121 Abandonment of railroad lines.
1122 Discontinuance or change of operation or service.
1123 Determination of avoidable losses.
1124 Regulations governing the adequacy of intercity railroad passenger service.
1125 Standards for determining rail service continuation subsidies.
1126 Submission of cost data to justify reimbursement for directed service.

PARTS 1130–1139—SPECIAL PROCEDURES; MOTOR CARRIERS AND BROKERS CERTIFICATES, PERMITS, LICENSES

1130 Applications for motor carrier certificates and permits.
1131 Temporary authority applications under section 210a(a) of the Interstate Commerce Act.
1131a Temporary authority applications under section 311(a) of the Interstate Commerce Act.
1132 Transfers of operating rights.
1133 Transfers of Passenger Brokers' licenses.
1134 Control or consolidation of motor carriers or other properties.
1135 Corporate reorganizations of motor carriers.

PARTS 1140–1149—SPECIAL PROCEDURES; WATER CARRIERS

1140 Extensions of operations.
1141 Transfers of certificates and permits to operate.

PARTS 1150–1159—SPECIAL PROCEDURES; FREIGHT FORWARDERS

1150 Applications for permits.
1151 Transfers of operating rights (permits).

APPENDIX F.—*Number of copies of documents (in addition to original) to be filed with the Commission*

Type of document	Citation	Number of copies: original plus—
APPLICATIONS—FINANCE MATTERS		
Competitive bidding requirements—exemption.	49 CFR 1115.25 (49 CFR 1110.7)	Six (6).
Interlocking officers—approval	49 CFR 1112.7	Six (6).
Rail line—abandonment	49 CFR 1121.4(a)	Six (6).
Rail line—construction, extension, acquisition or operation.	49 CFR 1121.2(b)	Nine (9).
Rail or ferry line—discontinuance or change of service.	49 CFR 1121.8	Eight (8) of notice.
If by notice		Seven (7) of statements.
If by petition		Seven (7).
Railcarriers—guaranty loans	49 CFR 1113.4(c)	Six (6).
Railroad consolidation	49 CFR 1111.4(b)	Five (5).
Railroad reorganization	49 CFR 1117.12(b)	Six (6).
Securities issuance, assumption of obligations	49 CFR 1115.3(e) (49 CFR 1110.7)	Six (6).
Securities or instruments—alteration or modification.	49 CFR 1114.3(b)	Six (6), plus one (1) for Governor of each State in which applicant operates.
APPLICATIONS—MOTOR CARRIER AND BROKER		
Acquisition of control (form PO–F–45)	49 CFR 1134.50(b) (49 CFR 1003.1)	Five (5).
Brokers of passengers—license (form OP–OR–11).	(49 CFR 1003.1)	None.
Brokers of property—license (form OP–OR–11).	(49 CFR 1003.1)	Do.
Certificate of exemption (form OP–OR–110)	(49 CFR 1003.1)	Do.
Certificate of registration (form OP–OR–100)	49 CFR 1047.10 (49 CFR 1003.1)	Do.
Motor carrier—certificate or permit (form OP–OR–9).	49 CFR 1130.1(b) (49 CFR 1003.1)	One.
Merger, consolidation, purchase, or lease (form OP–F–44).	49 CFR 1134.1(b) (49 CFR 1003.1)	Five (5).
Rental contract approval—contract carrier (form BOp79).	(49 CFR 1003.1)	Three (3) plus three (3) of rental contract.
Temporary authority (form OP–MCB–95)	49 CFR 1131.2(b) (49 CFR 1003.1)	Six (6).
Temporary operation (form OP–F–46)	49 CFR 1134.6(b) (49 CFR 1003.1)	Five (5).
Transfer or lease of certificate of registration (form OP–M–110).	49 CFR 1132.12(b) (49 CFR 1003.1)	Four (4).
Transfer or lease of operating rights or broker license (form OP–M–100).	49 CFR 1132.2 (49 CFR 1003.1)	Do.
APPLICATIONS—WATER CARRIER AND FREIGHT FORWARDER		
Certificate of exemption—water carrier (form OP–WC–10).	(49 CFR 1003.2)	One (1).
Exemption by contract carriers—by water (form BWC–1).	(49 CFR 1003.2)	One (1).
Extension of operations (form OP–WC–20)	49 CFR 1140.1(b) (49 CFR 1003.3)	One (1).
Freight forwarder permit (form OP–FF–10)	49 CFR 1150.1 (49 CFR 1003.3)	One (1).
New certificates and permits (form OP–WC–20)	49 CFR 1140.1(b) (49 CFR 1003.2)	One (1).
Transfer of water carrier certificates and permits.	49 CFR 1141.6(b)	Four (4).
Transfer of freight forwarder permit	49 CFR 1151.5(b)	Do.
APPLICATIONS—OTHER		
4th section	Rule 200	Six (6); fourteen (14) if division 2 matter.
Released rates	Rule 225(e)	Six (6).
Special permission	do	Six (6).
Sec. 5a (forms OP–F–44 and OP–F–45)	49 CFR 1134.1(b) and 1134.50(b) (49 CFR 1003.1).	Five (5).
PLEADINGS AND OTHER DOCUMENTS		
Admissions, requests for	Rule 6(a)	One (1) (copy only).
Answers to requests for admissions		Do.
Administrative appeals, petitions for stay	Rules 97 and 98	Six (6).
General transportation importance—petitions.	do	Fourteen (14).

Type of document	Citation	Number of copies: original plus—
Employee board actions—petition for reconsideration.	Rule 225(e)	Six (6).
Suspension and 4th section matters—petition for reconsideration.	Rule 200(5)	Six (6); fourteen (14) if division 2 matter.
Investigation into discontinuance—order instituting or decision not to investigate—petition for reconsideration.	Rule 245(g), Rule 245(h)(3)	Six (6).
Bankruptcy proceedings, various pleadings	Rule 14	Six (6).
Complaints—formal	Rule 24(a)	Six (6), copies plus one (1) for each defendant to be served. If State-made rates involved one (1) additional copy for each State concerned.
Complaints—informal—not seeking damages	Rule 22(a)	One (1).
Complaints—informal—seeking damages	Rule 23(d)	One (1) for each defendant to be served.
Complaints—answers	Rule 33(c)	Six (6) copies.
Complaints—satisfaction	Rule 35	None.
Depositions	Rule 62	One (1) plus one (1) copy of exhibits.
Exhibits	Rule 82(c)	One (1) copy; plus one (1) copy for each counsel and each board member.
Interrogatories—written	Rule 60(a)	One (1) (copy only).
Interrogatories—answers to	Rule 60(a)	Do.
Intervention petitions	Rule 70(d)	Three (3).
Intervention petitions—at oral hearing	Rule 70	One (1) plus one (1) for each party represented. If granted, one (1) for Commission.
Modified procedure—verified statements—in general.	Rule 50	Six (6).
Modified procedure—verified statement—applications.	Rule 247(e)(3)	One (1).
Prepared statements—oral hearing	Rule 75	Copy for reporter, and one (1) for each counsel.
Protests—general	Rule 38(c)	Six (6).
Protests—motor carrier finance	Rule 240(c)(1)	One (1).
Protests—investigation and suspension proceedings.	Rule 40(d)	Six (6).
Protests—motor carrier, broker, water carrier, freight forwarder applications.	Rule 247(d)(1)	One (1).
Oral argument matters	Rule 93	None.
Replies to pleadings	Rule 21(c)	Same number as pleading replied to.
Subpena requests	Rule 54	None.
Time modification—requests for extension	Rule 19(b)	Do.
Transcript correction	Rule 88(b)	Two (2) for reporter.

APPENDIX G

COMMISSION HEARING AND APPELLATE PROCEDURE

Sec. 303. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by redesignating paragraphs (9) through (12) thereof as paragraphs (10) through (13) thereof, respectively, and by inserting therein the following new paragraph (9):

"(9) (a) Whenever the term hearing is used in this part, such term shall be construed to include an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties, such conferences to be chaired by a division, an individual Commissioner, an administrative law judge, an employee board, or any other designated employee of the Commission.

"(b) With respect to any matter involving a common carrier by railroad subject to this part, whenever the Commission assigns the initial disposition to any such matter before the Commission to an administrative law judge, individual Commissioner, employee board, or division or panel of the Commission, such judge, Commissioner, board, division, or panel shall—

"(i) Complete all evidentiary proceedings with respect to such matter within 180 days after its assignment; and

"(ii) With respect to any matter so assigned which involves written submissions or the taking of testimony at a public hearing, submit in writing to the Commission, within 120 days after the completion of all evidentiary proceedings, an initial decision, report, or order containing—

"(A) Specific findings of fact;

"(B) Specific and separate conclusions of law;

"(C) A recommended order; and

"(D) Any justification in support of such findings of fact, conclusions of law, and order.

The Commission, or a duly designated division thereof, may, in its discretion, void any requirement for an initial decision, report, or order, and, in appropriate cases, may direct that any matter shall be considered forthwith by the Commission or such division, if it concludes that the matter involves a question of agency policy, a new or novel issue of law, or an issue of general transportation importance, or if the due and timely execution of its functions so requires. Whenever an initial decision, report, or order is submitted, copies thereof shall be served upon interested parties. Any such party may file an appeal with the Commission, with respect to such initial decision or report. If no such appeal is filed within 20 days after such service, or within such further period (not to exceed 20 days) as the Commission, or a duly designated division thereof, may authorize, the order set forth in such initial decision or report shall become the order of the Commission and shall become effective unless, within such period, the order shall have been stayed or postponed by the Commission pursuant to subdivision (d) or (e).

"(c) The Commission, or a duly designated division thereof, may, upon its own initiative, and shall, in any case in which an appeal is filed under subdivision (b), review the matter upon the same record or upon the basis of a further hearing. Any such appeal shall be considered and acted upon by the Commission, or a duly designated division thereof, within 180 days after the date on which such appeal is filed. Any such decision, report, or order shall be stayed pending the determination of such appeal. Such a review shall be conducted in accordance with section 557 of title 5, United States Code, and such rules (limiting and defining the issues and pleadings upon review) as the Commission may adopt in conformance with section 557(b) of such title 5. The Commission may, in its discretion and on such terms and conditions as it may prescribe, authorize duly designated employee boards to perform functions under this paragraph of the same character as those which may be performed by a duly designated division of the Commission (other than the decision of any appeal under this paragraph which may be further appealed to the Commission).

"(d) Any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall become effective 30 days after it is served on the parties thereto, unless the Commission provides for such decision, order, or requirement, or any applicable rule, to become effective at an earlier date. Any interested party to a decision, order or requirement of a duly designated division of the Commission may petition the Commission for rehearing, reargument, or other reconsideration, subject to such rules and limitations as the Commission may establish. If the Commission finds that a decision, order, or requirement presents a matter of general transportation importance, or if it finds that clear and convincing new evidence has been presented or that changed circumstances exist which would materially affect such decision, order, or requirement, the Commission may reconsider such decision, order, or requirement, and it may, in its discretion, stay the effective date of such decision, order, or requirement. If the Commission reconsiders a decision, order, or requirement, it must complete the process and issue its final order not more than 120 days after the date on which it grants the application for reconsideration.

"(e) The Commission may, in its discretion, extend any time period set forth in this section for a period of not more than 90 days, if a majority of the Commissioners, by public vote, agree to such extension. The Commission shall submit an annual report in writing to each House of Congress setting forth each extension granted pursuant to this subdivision (classified by the type of proceeding involved), and stating the reasons for each such extension and the duration thereof.

"(f) In extraordinary situations in which an extension granted pursuant to subdivision (e) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

"(i) Not less than 7 of the Commissioners, by public vote, agree to such further extension; and

"(ii) Not less than 15 days prior to expiration of the extension granted pursuant to subdivision (e), the Commission reports in writing to the Congress that such further extension has been granted, together with—

"(A) A full explanation of the reasons for such further extension;

"(B) The anticipated duration of such further extension;

"(C) The issues involved in the matter before the Commission; and

"(D) The names of personnel of the Commission working on such matter.

"(g) The Commission may, at any time upon its own initiative, on grounds of material error, new evidence, or substantially changed circumstances—

"(i) Reopen any proceeding;

"(ii) Grant rehearing, reargument, or reconsideration with respect to any decision, order, or requirement; and

"(iii) Reverse, modify, or change any decision, order, or requirement.

The Commission may establish rules allowing interested parties to petition for leave

V42N91 MAY 11 77 UMI

to request reopening and reconsideration based upon material error, new evidence, or substantially changed circumstances.

"(h) Notwithstanding any other provision of this Act, any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall be final on the date on which it is served. A civil action to enforce, enjoin, suspend, or set aside such a decision, order, or requirement, in whole or in part, may be brought after such date in a court of the United States pursuant to the provisions of law which are applicable to suits to enforce, enjoin, suspend, or set aside orders of the Commission.

"(i) Notwithstanding the provisions of paragraphs (5), (6), (7), and (8), the provisions of this paragraph shall govern the disposition of, and shall apply to, any matter before the Commission which involves a common carrier by Railroad subject to this part, except that the provisions of other sections of this part pertaining to deadlines in Commission proceedings shall govern to the extent that they are inconsistent with the provisions pertaining to deadlines contained in this paragraph.

"(j) Reports in writing and other written statement (including, but not limited to, any report, order, decision and order, vote, notice, letter, policy statement, rule, or regulation) of any official action of the Commission (whether such action is taken by the Commission, a division thereof, any other group of Commissioners, a single Commissioner, an employee board, an administrative law judge, or any other individual or group of individuals who are authorized to take any official action on behalf of the Commission) shall indicate (i) the official designation of the individual or group taking such action, (ii) the name of each individual taking, or participating in taking, such action, and (iii) the vote or position of each such participating individual. If any individual who is officially designated as a member of a group which takes any such action does not participate in such action, the written statement of such action shall indicate that such individual did not participate. Each individual who participates in taking any such action shall have the right to express his individual views as part of the written statement of such action. The written statement of any such action shall be made available to the public in accordance with Federal law.".

(b) Section 17 of the Interstate Commerce Act is amended by inserting therein a new paragraph (14) as follows:

"(14) (a) Any formal investigative proceeding with respect to a common carrier by railroad which is instituted by the Commission after the date of enactment of this subdivision shall be concluded by the Commission with administrative finality within 3 years after the date on which such proceeding is instituted. Any such proceeding which is not so concluded by such date shall automatically be dismissed

"(b) Within 1 year after the date of enactment of this subdivision, the Commission shall conclude or terminate, with administrative finality, any formal investigative proceeding with respect to a common carrier by railroad which was instituted by the Commission on its own initiative and which has been pending before the Commission for a period of 3 or more years following the date of the order which instituted such proceeding.".

[FR Doc.77-12940 Filed 5-10-77;8:45 am]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. 73, MC-1]

PART 1320—EXTENSION OF CREDIT TO SHIPPERS BY RAIL CARRIERS

PART 1322—EXTENSION OF CREDIT TO SHIPPERS BY MOTOR CARRIERS

Provisions for Payment of Rates and Charges

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the FEDERAL REGISTER notice in the above-entitled proceeding (42 FR 22369), published May 3, 1977, clerical errors were made. They are in lines 6 and 8 of § 1320.1 and in the last line of § 1320.9. They are hereby corrected as set forth under "Supplementary Information".

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION:

§ 1320.1 Carrier may extend credit to shipper.

The carrier, upon taking precautions deemed by it to be sufficient to assure payment of the tariff charges within the credit periods specified in this part, may relinquish possession of freight in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay such charges, such persons herein being called shippers, for a period of 4 days (or 5 days where retention or possession of freight by the carrier until tariff rates and charges thereon have been paid will retard prompt delivery or will retard prompt release of equipment or station facilities) as set forth in this part. In regard to traffic of nonprofit shippers' associations and shippers' agents, within the meaning of section 402(c) of part IV of the Interstate Commerce Act, the carriers shall require such organizations to furnish the names of the beneficial owners of the property in the bills of lading or at least have the bills of lading incorporate by reference a document containing the names of the beneficial owners.

§ 1320.9 Periods of credit following presentation of freight bill.

Where the freight bill is presented to the shipper subsequent to the time the freight is delivered, the 4- and 5-day periods of credit shall run from the first 12 o'clock midnight following the presentation of the freight bill.

Issued at Washington, D.C., May 6, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13482 Filed 5-10-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1002]

[Docket No. AO-71-A71]

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Extension of Time for Filing Exceptions to the Recommended Decision (Partial) on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions.

SUMMARY: This notice extends the date for filing exceptions to the recommended decision (partial), which previously set May 11, 1977 as such date. Interested parties requested the additional time to study the findings, conclusions, and amendatory provisions of the decision.

DATE: Exceptions now are due on or before May 27, 1977.

ADDRESS: Exceptions (six copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Willard H. Blanchard, Deputy Director Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5661.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, Issued January 9, 1976; published January 14, 1976 (41 FR 2092). Extension of Time for Filing Briefs, Issued April 15, 1976; published April 21, 1976 (41 FR 16660). Recommended Decision (Partial), Issued April 5, 1977; published April 11, 1977, (42 FR 18950).

Notice is hereby given that the time for filing exceptions to the recommended decision (partial) with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area which was issued April 5, 1977 (42 FR 18950) is hereby extended to May 27, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C. on: May 6, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13465 Filed 5-10-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[PDR-46A; Doc. 30631; Dated: May 4, 1977]

STANDARDIZED METHOD FOR COSTING PROPOSED CHANGES IN THE AUTHORIZED OPERATIONS OF LOCAL SERVICE CARRIERS

Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice extends until May 25, 1977, the date for filing comments in a rulemaking proceeding involving the standardized method for costing proposed changes in the authorized operations of local service carriers. This action was requested by the local service carriers.

COMMENT DATE: Comments by May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking PDR-46, 42 FR 15916, March 24, 1977, the Civil Aeronautics Board gave notice that it had under consideration amendments to Subpart K of Part 302 of its Procedural Regulations. This subpart sets out the standardized method for costing proposed changes in the authorized operations of local service carriers. Comments were requested to be filed by May 9, 1977.

Counsel for the local service carriers has requested an extension of the time for filing comments until May 25, 1977. In support of its request, counsel stated that clearance of its comments is necessary, that such clearance is expected at the May 19, 1977, meeting of the Association of Local Transport Airlines, and that the May 25 date will enable it to put the comments into final shape for submission to the Board.

No previous extension of time having been requested in this proceeding, the undersigned hereby extends the time for filing comments to May 25, 1977. This action is taken pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.-20(d)).

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc.77-13615 Filed 5-10-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0018]

COPCO, INC.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order which requires a New York City importer and distributor of gourmet cookware, among other things to cease establishing, maintaining, and enforcing price maintenance agreements, and requiring such agreements as a precondition to dealing; soliciting reports of price cutters, and threatening or terminating those dealerships. Respondent is additionally required to cease withholding earned advertising credits, and restricting dealers from selling goods to unauthorized customers or classes of customers. Further, the order mandates that respondent clearly disclose in pricing materials that such prices are merely "suggested", and maintain prescribed files for a period of three years.

DATE: Comments must be received on or before July 11, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, MA 02114. (617-223-6621.)

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of

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the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b) (14) of the Commission's rules of practice (16 CFR 4.9(b) (14).

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Copco, Inc., a corporation, and it now appearing that Copco, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Copco, Inc., a corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Copco, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 11 East 26th Street, New York, New York 10010.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

DEFINITION

Dealer.—For purposes of this complaint and order, "dealer" is defined as any person, partnership, corporation or other business entity who purchases Copco products for resale.

ORDER

I. *It is ordered*, That respondent Copco, Inc., a corporation, it successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the manufacture, importation, distribution, offering for sale and sale of cookware, and other merchandise in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Establishing, maintaining or enforcing with any dealer any contract, agreement, understanding or arrangement fixing, establishing, maintaining, controlling or enforcing, directly or indirectly, the price at which any of said products is advertised, sold or offered for sale at retail.

B. Publishing, disseminating, circulating or providing by any other means, any retail price, unless the word "suggested" is clearly and conspicuously stated on each page of any price list, book, tag, advertising or promotional material or other document that contains a retail price. In addition, all written communications by Copco to dealers intended for internal dealer use shall clearly and conspicuously contain the following disclosure, or a disclosure of similar import, on each page of any document that contains a retail price: "Suggested retail prices are suggestions only. Copco dealers are completely free to resell Copco merchandise at prices and to customers of their own choosing."

C. Requiring any dealer or prospective dealer to enter into an oral or written agreement or understanding that such dealer or prospective dealer will maintain any resale or retail price for any of said products as a condition of buying any of said products.

D. Prior to selling to a prospective dealer, requiring assurances, whether by understanding, agreement or otherwise, from such person or persons that they will adhere to and observe suggested resale or retail prices for said products.

E. Requiring, directly or indirectly, any dealer to resell to respondent any unsold stock of said products in the event that business relations between respondent and the dealer are terminated: *Provided*, That respondent shall not be prohibited from repurchasing such unsold stock with the consent of the dealer, or where respondent has a "security interest" in said products or where the dealer is unable to meet its financial obligations to the respondent.

F. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer who does not adhere to any resale or retail price for any of said products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer so reported.

G. Refusing or threatening to refuse any sale to any dealer for the reason that said dealer had been reported as not adhering to or observing any resale or retail price for any of said products.

H. Refusing or threatening to refuse any sale to any dealer, either directly or indirectly, or threatening to cancel or terminate, or canceling or terminating any dealer because of any resale or retail price observed, maintained or advertised by the dealer for any of said products.

I. Requiring, from any dealer charged with price cutting or failure to adhere to any resale or retail price, a promise or assurance to adhere to any resale or retail price for any of said products as a condition precedent to any future sales to said dealer.

J. Requiring or inducing by any means, any dealer or prospective dealer to refrain or to agree to refrain from reselling any of said products to any other dealer or distributor.

K. Requesting or requiring any salespersons, sales representatives and any other employees or agents of respondent, either directly or indirectly, to report any dealer who does not adhere to any resale or retail price for any of said products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer so reported.

L. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any Copco dealer because said dealer advertises respondent's products at retail prices other than that which respondent deems appropriate or has approved.

M. Establishing, continuing or enforcing by refusal to sell, termination or threat thereof, delay in shipment or threat thereof, or in any other manner, any contract, agreement, understanding or arrangement or method of doing business which has the purpose or effect of restricting or limiting in any manner the customers or classes of customers to whom dealers may sell respondent's products.

N. Convening or participating in any meeting for the purpose of undertaking or engaging in any of the acts or practices prohibited by this order.

II. *It is further ordered*, That respondent herein, during the three (3) year period of time following the effective date of this order, shall mail or deliver, and obtain signed receipts therefor, copies of this order to every present dealer and to all future dealers of said products at the time said dealers are opened as accounts.

III. *It is further ordered*, That respondent herein shall forthwith distribute a copy of this order to each operating division and subsidiary engaged in the manufacture, sale, and distribution of said products and to all officers and directors engaged in the manufacture, sale, and distribution of said products.

IV. *It is further ordered*, That respondent shall, within thirty (30) days from the date on which this order becomes final, mail or deliver, and obtain a signed receipt therefor, a copy of this order to all Copco sales personnel and Copco sales representatives engaged in the distribution, offering for sale or sale of said products.

V. *It is further ordered*, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the order.

VI. *It is further ordered*, That the respondent herein for a period of three (3) years from the date of this signing establish and maintain a file of all records referring or relating to respondent's refusal to sell said products to any existing dealer, which file shall contain a record of any written communication to each such dealer explaining respondent's refusal to sell, and which file will be made available for Commission inspection on reasonable notice.

VII. *It is further ordered*, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Copco, Inc., (Copco), an importer and distributor of gourmet cookware.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint accompanying the proposed order alleges that Copco had engaged in certain anti-competitive practices which had the effect of enforcing and fixing Copco's resale prices for its products and for its dealers, thereby eliminating price competition among retail dealers.

More specifically, the complaint alleges that, with reference to the aforementioned products, Copco has (1) established agreements, understandings, or arrangements with dealers to maintain resale price; (2) informed some of its dealers that it expected such dealers to maintain resale prices or such dealerships would be terminated; (3) required its dealers to agree not to sell these products to other dealers; and (4) solicited from its salespersons and dealers cooperation and assistance in identifying and reporting those dealers who failed to observe Copco's sales policy by advertising, offering for sale, or selling Copco products at prices below the set resale price.

The proposed consent order requires the proposed respondent to cease and desist from the practices set forth in numbered items (1) through (4) above.

The proposed consent order further requires Copco (1) to state on each page of any price list, price book, price tag, advertising or promotional material indicating any resale or retail price for these products, that any retail price is suggested only, and Copco dealers are free to resell Copco merchandise at prices and to customers of their own choosing; (2) to maintain for the next three (3) years a file pertaining to Copco's refusal to sell its products to any existing dealer, which file shall contain a record of any written communication to each such dealer explaining respondent's refusal to sell, and which file will be made available for Commission inspection on reasonable notice.

The terms of the aforementioned order will have the effect of preventing Copco from fixing or maintaining the resale prices of their dealers for these products, thereby encouraging price competition in the sale of these products. Ultimately, this action should result in lower prices to the purchasing public for the aforementioned products.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13421 Filed 5-10-77;8:45 am]

[16 CFR Part 13]

[D. 9040]

KROGER CO.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order that would require a Cincinnati, Ohio, retail food store chain, among other things to make each of its advertised items readily available for sale to customers in its stores, to have advertised items correctly priced, and to sell those items at or below the advertised price. Further, the firm must post copies of advertisements and notices of the availability of "rain checks" for unavailable items.

DATE: Comments must be received on or before July 7, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Richard C. Foster, Assistant Director for Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580 (202-523-3355).

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission, having initiated a proceeding challenging certain acts and practices of The Kroger Co., a corporation, and it now appearing that said corporation, hereinafter sometimes referred to as respondent, is willing to enter into an agreement containing an Order to cease and desist from the use of the acts and practices being challenged:

It is hereby agreed by and between The Kroger Co., by its duly authorized officers and its General Counsel, and counsel for the Federal Trade Commission that:

1. The Kroger Co. is a corporation organized, existing and doing business under and by virtue of the laws of the state of Ohio with its office and principal place of business located at 1014 Vine Street, Cincinnati, Ohio.

2. Respondent admits all the jurisdictional facts set forth in the Complaint here attached.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

4. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it together with the draft of the Complaint issued in this proceeding, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission diclose facts or considerations which indicate that the Order contained in the Agreement is inappropriate, improper or inadequate.

5. This Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the Complaint which is attached hereto. Nor shall any matter which has been admitted by respondent herein be deemed an admission for any other purpose or in any other proceeding.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of 16 CFR 3.25 (1976), of the Commission's Rules of Practice, the Commission may, without further notice to respondent, (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, and when served upon respondent, the Order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute or regulation for other orders. The Order shall become final upon service. Mailing of the Complaint and decision containing the agreed-to Order to respondent's address as stated in this Agreement shall constitute service. Respondent waives any right he may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or in this Agreement may be used to vary or contradict the terms of the Order.

7. Respondent has read the Complaint and Order contemplated hereby, and understands that once the Order has been issued, it will be required to file one or more compliance reports showing that respondent has fully complied with the Order, and that respondent may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

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ORDER

Definitions. For purposes of this Order, "unadjusted rate of unavailability" means the raw rate of unavailability before the rate is reduced by those instances of unavailability which are excused by defenses set forth in Trade Regulation Rule 424, as presently drafted, or this Order.

For purposes of this Order, "unadjusted rate of over price marking or overcharging" means the raw rate of over price marking or overcharging before the rate is reduced by those instances of over price marking or overcharging which are excused by defenses set forth in Trade Regulation Rule 424, as presently drafted, or this Order.

For purposes of this Order, "sample" means a selection of at least forty of respondent's stores, at least 50 percent of which will be selected from at least four of the twenty largest standard metropolitan statistical areas in which respondent operates six or more retail food stores. The survey of the sample must be conducted in at least three different weeks, and not more than 40 percent of the stores selected may be surveyed during the same week. Stores to be surveyed by or on behalf of the Commission shall be chosen in a manner which is consistent with this definition but which is otherwise to be determined at the discretion of the staff or the Commission. Respondent waives any right it might have to challenge the admissibility into evidence of the results of the survey of the sample on grounds that those results are not projectable to a universe greater than the sample. Respondent, however, retains the right to challenge the evidentiary weight to be given to the results of any such survey on any legally available basis.

For purposes of this Order, the "average, unadjusted rate of unavailability revealed by a survey of a sample of respondent's retail food stores" referred to in Section II.B.1. of this Order shall be determined as follows:

(a) For each store surveyed, the number of items which the ad represents to be available in that store and the number of items found to be unavailable in that store shall be recorded.

(b) After the individual stores in the sample are surveyed, the total number of items represented to be available in the surveyed stores shall be determined.

(c) After the individual stores in the sample are surveyed, the total number of items found to be unavailable in the surveyed stores shall be determined.

(d) A fraction shall then be constructed using as the numerator the total number of items found to be unavailable (see subparagraph c) and as the denominator the total number of items contained in all relevant advertisements (see subparagraph b).

(e) The fraction described in subparagraph d shall then be multiplied by 100 to arrive at a percentage figure.

$$\frac{\text{Total No. items found to be unavailable}}{\text{Total No. items contained in advertisements}} \times 100 = \text{Average, unadjusted rate of unavailability}$$

For purposes of this Order, the "average, unadjusted rate of • • • over price marking • • • revealed by a survey of a sample of respondent's retail food stores" referred to in Section II.D.1. of this Order shall be determined as follows:

(a) For each store surveyed, the number of items which the ad represents to be available in that store and the number of items found to be over price marked in that store shall be recorded.

(b) After the individual stores in the sample are surveyed, the total number of items represented to be available in the surveyed stores shall be determined.

(c) After the individual stores in the sample are surveyed, the total number of items found to be over price marked in the surveyed stores shall be determined.

(d) A fraction shall then be constructed using as the numerator the total number of items found to be over price marked (see subparagraph (c) and as the denominator the total number of items contained in all relevant advertisements (see subparagraph (b)).

(e) The fraction described in subparagraph (d) shall then be multiplied by 100 to arrive at a percentage figure.

Total number items found to be over price marked/Total number items contained in advertisements × 100 = Average, unadjusted rate of over price marking.

For purposes of this Order, the "average, unadjusted rate of • • • overcharging • • • revealed by a survey of a sample of respondent's retail stores" referred to in Section II.D.1. of this Order shall be determined as follows:

(a) For each store surveyed, the number of items which the ad represents to be available in that store and the number of items found to be overcharged in that store shall be recorded.

b. After the individual stores in the sample are surveyed, the total number of items represented to be available in the surveyed stores shall be determined.

c. After the individual stores in the sample are surveyed, the total number of items found to be overcharged in the surveyed stores shall be determined.

d. A fraction shall then be constructed using as the numerator the total number of items found to be overcharged (see subparagraph c) and as the denominator the total number of items contained in all relevant advertisements (see subparagraph b).

e. The fraction described in subparagraph d shall then be multiplied by 100 to arrive at a percentage figure.

Total number items found to be overcharged/Total number items contained in advertisements × 100 = Average, unadjusted rate of overcharging.

For purposes of this Order, "respondent" means The Kroger Co., a corporation, its successors or assigns, its officers, agents, respresentatives and employees.

For purposes of this Order, "retail food store" shall mean all of respondent's food stores, but shall not include convenience stores (stores less than 4,000 square feet in total area) and drug stores.

I. *Prohibited activities.* It is ordered that respondent, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of food or grocery products or other merchandise, hereafter sometimes referred to as items, offered or sold in its retail food stores, in or affecting commerce, as "commerce" as defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly:

A. Disseminating, or causing the dissemination of any advertisement by any means which offers or presents any items for sale at a stated price, unless throughout the effective period of the advertised offer at each retail food store covered by the advertisement:

1. Each advertised item is readily available for sale to customers in the public area of the store, or, if not readily available there, a clear and conspicuous notice is posted where the item is regularly displayed which states that the item is in stock and may be readily obtained upon request, and said item is readily furnished upon request;

2. Each unit of each advertised item, any of which is marked with a price, is individually, clearly, and conspicuously marked with a price no higher than the advertised price; and

3. Each unit of each advertised item is sold to customers at or below the advertised price.

Unless, with respect to 1, 2 and 3 above, respondent was complying with a specific exception, limitation or restriction with respect to store, item or price which was clearly and conspicuously disclosed in all advertisements for the product in question.

Provided, however, that no enforcement proceeding relating to the unavailability, over price marking or overcharging of advertised products, which is based on a survey, shall be instituted or commenced except on the basis of a survey conducted by, on behalf of, or under the guidance or direction of the Commission of a sample of respondent's retail food stores.

II. A. *Defenses applicable to unavailability.*—The following shall constitute defenses to a charge of unavailability under Trade Regulation Rule 424, as presently drafted, Section 5 of the Federal Trade Commission Act or any provision of this Order if respondent can show:

1. That the advertised items were unavailable due to circumstances beyond respondent's control, that respondent did not have notice or knowledge of such impending unavailability in time to delete the items from the proposed advertisement, and that respondent offered to customers a "rain check" for each unavailable item which entitled the holder to purchase the item in the near future at or below the advertised price; or

2. That the advertised items were delivered to respondent's retail food stores in quantities sufficient to meet reasonably anticipated demand.

B. *Presumptions applicable to Defenses set forth in Section II.A.*—The following presumptions apply to the defenses set forth in Section II.A.

1. Because respondent, pursuant to Section III.C.2. of this Order, has obligated itself to institute, enforce, and maintain procedures designed to effect compliance with this Order, if (a) the average, unadjusted rate of unavailability revealed by a survey of a sample of respondent's retail food stores does not exceed four (4.0) percent, and (b) the unavailability revealed by the survey is not shown to be caused in whole or substantial part by the gross negligence or deliberate acts or omissions of respondent, it shall be presumed that such unavailability resulted from circumstances beyond respondent's control within the meaning of Section II.A.1. *Provided:* That, sporadic unavailability caused by the gross negligence or deliberate acts or omissions of a store level employee of respondent shall not negate the presumption if respondent can demonstrate that it took appropriate disciplinary action against the employee promptly after learning that the employee's gross negligence or deliberate acts or omissions caused such unavailability.

Provided further, That persistent unavailability caused by the gross negligence or deliberate acts or omissions of a substantial number of store level employees of respondent shall be attributed to respondent and shall negate the presumption.

2. If respondent is not advised in writing by the Federal Trade Commission or its staff that it has reason to believe that respondent has failed to make advertised items available, in violation of Trade Regulation Rule 424, Section 5 of the Federal Trade Commission Act or this Order, and is not so notified within three months of the occurrence of such alleged violation, it shall be presumed that the alleged failure of respondent to make advertised items available was due to circumstances beyond respondent's control within the meaning of Section II.A.1. Such notice shall indicate each specific item alleged to be unavailable in identified stores on specified days.

C. *Defenses applicable to over price marking or overcharging.*—The following shall constitute defenses to a charge of over price marking or overcharging under Trade Regulation Rule 424, as presently drafted, Section 5 of the Federal Trade Commission Act or any provision of this Order if respondent can show:

1. That the advertised items were not marked or charged out at or below the advertised price due to circumstances beyond respondent's control, and respondent, upon notice or knowledge of such over price marking or overcharging, acted immediately to price mark the goods with or charge out the goods at the advertised price;

2. That, with respect to charges of over price marking, in the case of stores equipped with devices which "read" an identification code marked on the packaging of items, and which transmit the information to a computer which then transmits the correct prices of the items to cash registers where the prices are displayed and printed on cash register tapes, where the items (and individual units thereof) are not price marked in any additional manner, the advertised price of such items is clearly and conspicuously posted at the point of display;

3. That in the case of advertised items the ultimate price of which is to be determined by the total dollar amount of the customer's order or the use of a coupon or other similar price arrangement, the price at which the item is sold, and not the price marked on the item, shall govern.

D. *Presumptions applicable to Defenses set forth in Section II.C.*—1. Because respondent, pursuant to Section III.C.2. of this Order, has obligated itself to institute, enforce, and maintain procedures designed to effect compliance with this Order, if (a) the average, unadjusted rate of neither over price marking nor overcharging revealed by a survey of a sample of respondent's retail food stores exceeds two (2.0) percent, and (b) the over price marking or overcharging revealed by the survey is not shown to be caused in whole or substantial part by the gross negligence or deliberate acts or omissions of respondent, it shall be presumed that such over price marking or overcharging resulted from circumstances beyond respondent's control within the meaning of Section II.C.1. *Provided:* That, sporadic over price marking or overcharging caused by the gross negligence or deliberate acts or omissions of a store level employee of respondent shall not negate the presumption if respondent can demonstrate that it took appropriate disciplinary action against the employee promptly after learning that the employee's gross negligence or deliberate acts or omissions caused such over price marking or overcharging. *Provided further,* That persistent over price marking or overcharging caused by the gross negligence or deliberate acts or omissions of a substantial number of store level employees of respondent shall be attributed to respondent and shall negate the presumption.

2. If respondent is not advised in writing by the Federal Trade Commission or its staff that it has reason to believe that respondent has failed to price mark or charge out advertised items at the advertised prices in violation of Trade Regulation Rule 424, Section 5 of the Federal Trade Commission Act or this Order, and is not so notified within three months of the occurrence of such alleged violation, it shall be presumed that the alleged failure of respondent to make advertised items available at or below the advertised price was due to circumstances beyond respondent's control within the meaning of Section II.C.1. Such notice shall indicate each specific item alleged to be over price marked or overcharged in identified stores on specified days.

III. *Additional obligations of respondent.*—A. IT IS FURTHER ORDERED that throughout each advertised sale period in each of its retail food stores covered by an advertisement, respondent shall post conspicously (1) at or near each doorway affording entrance to the public, and (2) at or near the place where customers pay for merchandise:

(1) A copy of the advertisement.

(2) The following statement:

All items advertised are required to be readily available for sale at or below the advertised price in each Kroger store except as specifically noted in this ad.

If an advertised item you wish to purchase is unavailable you may obtain a rain check that will enable you to purchase this item at the advertised price in the near future.

If you have any questions the store manager will be glad to assist you.

B. It is further ordered that respondent shall cause the following statement to be clearly and conspicuously set forth in each printed advertisement which represents that items are available for sale at any of its retail food stores:

Each of these advertised items is required to be readily available for sale in each Kroger store, except as specifically noted in this ad.

C. It is further ordered that: 1. Respondent shall forthwith deliver a copy of this Order to each of its operating divisions and other personnel in its organization down to the level of and including assistant store managers who, directly or indirectly, have any supervisory responsibilities relating to (a) availability or price marking of advertised items in respondent's retail food stores, and (b) check stand operations, or who are engaged in any aspect of preparation, creation, or placing of advertising, and respondent shall secure a signed statement acknowledging receipt of said Order from each such person.

2. Respondent shall institute, enforce and maintain a program (including a continuing surveillance program) which is designed to effect compliance with this Order and which is adequate to reveal whether the business practices of its retail food stores conform to this Order, and shall confer with any duly authorized representative of the Commission pertaining to such program when requested to do so by a duly authorized representative of the Commission. The details (including methodology and procedures to ascertain and effect compliance) of the program are set forth in an initial report on compliance procedures submitted simultaneously with this Order. The program may be modified by respondent from time to time, upon thirty (30) days' advance notice to the Commission, provided that as modified the program shall be adequate to comply with respondent's obligations under Part III.C.2. of this Order.

3. Respondent shall, for a period of three (3) years subsequent to the date of this Order: a. Maintain business records which show the efforts taken to ensure continuing compliance with the terms and provisions of this Order;

b. Grant any duly authorized representative of the Federal Trade Commission access to all such business records;

c. Furnish to the Federal Trade Commission: (i) Copies of such records as reveal the results of outside surveys and such other records as are maintained at the Kroger General Office, which are requested by any of its duly authorized representatives within three weeks from the date the request is received by respondent; and (ii) copies of all other such records which are requested by any of its duly authorized representatives as promptly as possible.

4. Respondent shall, all other provisions of this Order notwithstanding, annually for a period of three (3) years from the date that this Order becomes final, file with the Commission a report in writing demonstrating the effectiveness of the steps or actions taken by respondent with regard to the aforesaid program, including a surveillance program, and setting forth in detail the manner and form in which it has complied with this Order in the preceding year.

D. It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respondent which may affect compliance obligations arising out of this Order.

THE KROGER CO., A CORPORATION; DOCKET NO. 9040; ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from The Kroger Co. (Respondent), which operates retail food stores under the name Kroger.

The proposed consent order described in this analysis has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that, in a number of Respondent's retail food stores, a number of items listed in its advertisements were not readily available for sale to customers and were not readily available for sale at or below the advertised prices. The complaint also alleges that Respondent violated the Federal Trade Commission Trade Regulation Rule concerning Retail Food Store Advertising and Marketing Practices (16 CFR 242 (1975)).

The proposed order requires Respondent, in its retail food stores, to make each advertised item readily available for sale to customers in the store, to have advertised items which are marked with a price have the correct price marked, and to sell advertised items at or below the advertised price. The proposed order also provides that unavailability due to circumstances beyond Respondent's control and limitations on availability which are clearly and conspicuously set forth in advertising shall not be a violation of

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the order. The proposed order further states that, with noted qualifications, a rate of unavailability of 4% or below will be presumed to be due to circumstances beyond Respondent's control.

The order further requires Respondent's food stores to post copies of advertisements and notices of the availability of "rain checks" for unavailable items.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13436 Filed 5-10-77;8:45 am]

[16 CFR Part 13]

[File No. 742 3196]

SHOP-RITE FOODS, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order that would require a Grand Prairie, Tex., retail food store chain, among other things to make each of its advertised items readily available for sale to customers in its stores, to have advertised items correctly priced, and to sell those items at or below the advertised price. Further, the firm must post copies of advertisements and notices of the availability of "rain checks" for unavailable items.

DATE: Comments must be received on or before July 7, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Carl L. Swanson, Director, Dallas Regional Office, Federal Trade Commission, 2001 Bryan St., Suite 2665, Dallas, Texas 75201, 214-749-3056.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9(b) (14)).

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Shop-Rite Foods, Inc., a corporation, and it now appearing that Shop-Rite Foods, Inc., a corporation, hereinafter referred to as proposed respondent, is willing to enter into an Agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Shop-Rite Foods, Inc., a corporation, its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, that:

1. Proposed respondent, Shop-Rite Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at 2401 West Marshall Drive, Grand Prairie, Texas, 75050.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the Complaint attached herewith.

3. Proposed respondent further waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this Agreement.

4. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the sixty (60) day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This Agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commissions' Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision contained in the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent's duly authorized officer and attorney have read the proposed complaint and order contemplated hereby, and understand that once the order has been issued, proposed respondent will be required to file one or more compliance reports showing that it has fully complied with the order, and that proposed corporate respondent may be liable for a civil penalty in the amount provided by law for each violation of the order after it become final.

ORDER

I. It is ordered that respondent Shop-Rite Foods, Inc., a corporation, its successors or assigns, its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of food or grocery products or other merchandise, hereinafter sometimes referred to as items, offered or sold in its retail stores, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act as amended, do forthwith cease and desist from, directly or indirectly:

A. Disseminating, or causing the dissemination of any advertisement by any means which offers or presents any items for sale, unless during the effective period of the advertised offer at each retail store covered by the advertisement:

1. Each advertised item is in stock and readily available to customers, or if not readily available, clear and adequate notice shall be provided that the items are in stock and may be obtained upon request;

2. Each unit of each advertised item, any of whose units are marked with a price, is individually, clearly, and conspicuously marked with a price no higher than the advertised price;

3. Each unit of each advertised item is charged out to customers at a price which is at or below the advertised price;

Provided, however, that it shall constitute a defense to a charge of violation under subparagraph I.A.1. if respondent maintains and furnishes or makes available for inspection and copying upon the request of the Federal Trade Commission, such records as will show that (a) the advertised items were ordered in adequate time for delivery or were delivered to the stores in quantities sufficient to meet reasonably anticipated demands during the advertised sales period or (b) the advertised items were ordered in quantities sufficient to meet reasonably anticipated demands but were not delivered due to circumstances beyond respondent's control, and that respondent, upon notice or knowledge of such nondelivery immediately offers to customers a choice of a 'rain check' for each unavailable item which entitles the holder to purchase the item in the future at or below the advertised price, or a similar product of equal or better quality at or below the advertised price of the unavailable product.

Provided, further, that it shall not be deemed a violation of subparagraph I.A.1, I.A.2, or I.A.3, if respondent is complying with a specific exception, limitation or restriction with respect to store, item or price which is clearly and conspicuously disclosed in all advertisements for the product in question.

Provided, further, however, that if respondent or any of its employees, agents, or representatives are not advised of an alleged instance of unavailability through any source, including the Federal Trade Commission, within six months of its occurrence, it shall be presumed that the records called for by this subparagraph were in the possession of respondent and that quantities of the advertised items adequate to meet reasonably anticipated demand had been ordered in adequate time for delivery prior to the sale and were delivered.

Provided, further, that in the case of advertised items the ultimate price of which is to be determined by the total dollar amount of the customer's order or the use of a coupon, or other similar price arrangement, the price at which the item is sold, and not the price marked on the item, shall govern.

Provided, further, that in stores equipped with optical scanning devices which electronically "read" the identification numbers marked on the packaging of such units, and which transmit the identification number to in-store computers which then transmit the correct prices of the items to electronic cash registers where the prices are displayed and printed on cash register tapes, the units need not be pricemarked in any additional manner; furthermore, clear and conspicuous posting of the display will be deemed in compliance with this requirement provided that the units of such items are sold to customers at or below the advertised prices throughout the advertised sale period.

II. *It is further ordered*, That respondent Shop-Rite Foods, Inc., a corporation, its successors or assigns, its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of food or drugs, as those terms are defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly:

A. Disseminating or causing to be disseminated, by United States mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act as amended, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, subject to the jurisdictional requirements of Section 5 of the Federal Trade Commission Act as amended, any advertisement which contains any of the offers prohibited by Section I of this Order;

B. Disseminating or causing to be disseminated by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act as amended, subject to the jurisdictional requirements of Section 5 of the Fderal Trade Commission Act as amended, any advertisement which contains any of the offers prohibited by Section I of this Order.

III. *It is further ordered*, That throughout each advertised sale period in each of its retail stores covered by an advertisement, respondent shall display conspicuously at or near the place where customers pay for merchandise the following statement:

All items advertised are required by law to be readily available for sale at or below the advertised prices in each store except as specifically noted in this ad.

If an advertised item you wish to purchase is unavailable, you may obtain a raincheck that will enable you to purchase this item at the advertised price in the near future. Or, you will be allowed to purchase immediately, a similar product or equal or better quality at the advertised price of the unavailable advertised item.

If you have any questions, the store manager will be glad to assist you.

In order to avoid overcharging that might result from incorrect price marking, we ask each of our customers to inspect the price marked (if any) on each item he or she selects to insure that such price is correct and to report instances of merchandise being marked with an incorrect price to store personnel. We are legally obligated to make available any advertised item at the advertised price during the applicable advertised sale period regardless of the price marked on any unit of the advertised item. (In the case of coupon offers or minimum purchase orders, you must, of course, have the appropriate coupon or make the required minimum purchase in order to receive the advertised price.)

If any checker, when confronted by you with the fact that he or she is about to ring up, or he or she has rung up, an advertised item, at a price higher than advertised, refuses to correct the error immediately or to ring up the item at the advertised price, you are requested to report the incident to the store manager.

IV. *It is further ordered*, That respondent shall cause the following statement to be clearly and conspicuously set forth in each advertisement which represents that items are available for sale at a stated price at any of its stores: "Each of these advertised items is required to be readily available for sale at or below the advertised price in each store, except as specifically noted in this ad."

V. *It is further ordered*, That: A. Respondent shall forthwith deliver a copy of this Order to each of its operating divisions and to each of its present and future officers and other personnel in its organization down to the level of and including assistant store managers who, directly or indirectly, have any supervisory responsibilities relating in any way to availability, pricing or charging out of advertised items as to individual retail stores of respondent, or who are engaged in any aspect of preparation, creation, or placing of advertising, and that respondent shall secure a signed statement acknowledging receipt of said order from each such person;

B. Respondent shall institute and maintain a program of continuing surveillance adequate to reveal whether the business practices of each of its retail stores conform to this Order, and shall confer with any duly authorized representative of the Commission pertaining to such program when requested to do so by a duly authorized representative of the Commission;

C. Respondent shall, for a period of three (3) years subsequently to the date of service of this Order:

1. Maintain business records which show the efforts taken to insure continuing compliance with the terms and provisions of this Order;

2. Furnish to the Federal Trade Commission copies of such records which are requested by any of its duly authorized representatives.

VI. *It is further ordered*, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the respondent which may affect compliance obligation arising out of this Order.

VII. *It is further ordered*, That the respondent herein shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order; and shall in addition, on or bfore each of the subsequent two anniversary dates of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this Order in the preceding year.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Shop-Rite Foods, Inc., hereinafter referred to as respondent.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comment by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement the agreement's proposed order.

The complaint charges respondent with false and misleading advertising in the sale of retail food items in that many advertised special sale items were not available or if available, in many instances were charged out to the consumer at a price higher than advertised.

The complaint additionally charges respondent with a violation of the Federal Trade Commission Trade Regulation Rule concerning Retail Food Store Advertising and Marketing Practices in that respondent (1) advertised sale items for sale which were either not readily available or were not in stock; (2) items advertised as sale items were not charged out to customers at prices at or below those advertised.

The proposed order requires respondent to have all items advertised as sale items in stock in reasonably anticipated quantities and to be conspicuously displayed. If such item is not conspicuously displayed the respondent will give notice that the item may be obtained upon request. The order further requires respondent to remark all sale items with the sale in order to prevent charging customers prices higher than those advertised.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13437 Filed 5-10-77;8:45 am]

[16 CFR Part 13]

[File No. 732 3328]

FOOD FAIR STORES, INC., ALSO T/A PANTRY PRIDE

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order that would require a Philadelphia, Pa., retail food store chain, among other things to make each of its advertised items readily available for sale to customers in its stores, to have advertised items correctly priced, and to

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sell those items at or below the advertised price. Further, the firm must post copies of advertisements and notices of the availability of "rain checks" for unavailable items.

DATE: Comments must be received on or before July 7, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Regional Director, Washington, D.C. Regional Office, Federal Trade Commission, 600–C Gelman Building, 2120 L St. NW., Washington, D.C. 20017 (202–254–7700).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Food Fair Stores, Inc., a corporation, also trading and doing business as Pantry Pride, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between proposed respondent, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Food Fair Stores, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its office and principal place of business located at 3175 John F. Kennedy Boulevard, Philadelphia, Pennsylvania. Proposed respondent also operates, trades and does business under the name of Pantry Pride.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered*, That respondent Food Fair Stores, Inc., a corporation, also trading and doing business as Pantry Pride, or under any name or names, its successors or assigns, its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of food, or grocery products, or other merchandise, hereinafter sometimes referred to as items, offered or sold in its retail food stores, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from, directly or indirectly:

A. Disseminating, or causing the dissemination of, any advertisement by any means which offers any items for sale at a stated price, unless throughout the effective period of the advertised offer at each retail food store covered by the advertisement:

1. Each advertised item is readily available for sale to customers in the public area of the store;

2. Each unit of each advertised item, any of whose units are marked with a priced, is individually, clearly, and conspicuously marked with a price no higher than the advertised price;

3. Each advertised item is sold to customers at or below the advertised price.

Provided, That it shall not be deemed a violation of the above subparagraphs A.1, A.2, A.3, if respondent is complying with a specific exception, limitation or restriction with respect to store, item or price which is clearly and conspicuously disclosed in all advertisements for the product in question.

Provided, further, That it shall constitute a defense to a charge of unavailability under subparagraph I.A.1. if respondent has posted a clear and conspicuous notice where the item is regularly displayed which states that the item is in stock and may be obtained upon request, and said item is furnished on request.

Provided, further, It shall constitute a defense to a charge of unavailability under subparagraph I.A.1. if respondent maintains and furnishes or makes available for inspection and copying upon the request of the Federal Trade Commission, such records and affidavits as will show that (a) the advertised items were delivered to or were on hand in its food stores in quantities sufficient to meet reasonably anticipated demand, or (b) the advertised items were ordered but not delivered due to circumstances beyond respondent's control, and that respondent, upon notice or knowledge of such non-delivery, acted immediately to contact the media to correct any future advertisement (including the same ad run at some future date) to delete or to reflect the limited availability of such items, and (c) respondent offered to customers on inquiry a "rain check" for each unavailable item which entitled the holder to purchase the item in the near future at or below the advertised price.

If respondent or any of its employees, agents or representatives are not advised of an alleged instance of unavailability through any source including the Federal Trade Commission within three months of its occurrence, it shall be presumed that the records called for by this proviso were in the possession of respondent showing (a) or (b), and (c), unless clear and convincing evidence establishes the contrary.

Provided, That in the case of advertised items the ultimate prices of whose units are determined by the total dollar amount of the customer's order or the use of a coupon, or other similar conditional price arrangment, the prices at which the units are sold, and not the prices marked on the units, shall govern.

In determining compliance with Section I of this order, the Commission will consider the circumstances surrounding failure to make advertised items conspicuously and readily available for sale at or below the advertised prices due to circumstances beyond respondent's control. In considering what circumstances shall be considered "beyond respondent's control" the Commission will consider instances of demonstrable human error where such error appears excusable under all of the facts and circumstances and is not indicative of a pattern of non-compliance or attributable to company negligence in following surveillance procedures.

II. *It is further ordered*, That throughout each advertised sale period in each of its retail food stores covered by an advertisement, respondent shall post conspicuously (1) at or near each doorway affording entrance to the public, and (2) at or near the place where customers pay for merchandise, notices which contain the following:

A. A copy of the advertisement.

B. A statement that: All items advertised are readily available for sale at or below the advertised price. In the event you are unable to find any advertised item, please ask any employee. If we cannot supply you with any advertised item, a rain check will gladly be issued entitling you to purchase such item in the near future at the advertised price. Instead of a rain check, you may ask for a comparable item at the advertised price.

Please ask our store manager if you have any questions. He will be pleased to assist you.

III. *It is further orders*, That: A. Respondent shall forthwith deliver a copy of this order to each of its operating divisions and to each of its present and future officers and other personnel in its organization, down to the level of store managers, who directly or indirectly, have any supervisory responsibilities as to individual retail food stores of respondent, or who are engaged in a supervisory capacity in any aspect of preparation, creation, or placing of advertising, and that respondent shall secure a signed statement acknowledging receipt of said order from each such persons;

B. Respondent shall institute and maintain a program of continuing surveillance adequate to reveal whether the business practices of each of its retail food stores conform to this order, and shall confer with any duly authorized representative of the Commission pertaining to such program when requested to do so by a duly authorized representative of the Commission;

C. Respondent shall, for a period of three (3) years subsequent to the date of this order:

1. Maintain business records which show the efforts taken to insure continuing compliance with the terms and provisions of this order;

2. Grant any duly authorized representative of the Federal Trade Commission access to all such business records;

3. Furnish to the Federal Trade Commission copies of such records which are requested by any of its duly authorized representatives;

D. Respondent shall, all other provisions of this order notwithstanding, on or before each of the first three (3) anniversary dates of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order in the preceding year.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respondent which may affect compliance obligations arising out of this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Food Fair Stores, Inc. (Respondent), which operates retail food stores under the names Food Fair and Pantry Pride.

The proposed consent order described in this analysis has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that, in a number of Respondent's retail food stores, a number of items listed in its advertisements were not readily available for sale to customers and were not readily available for sale at or below the advertised prices. The complaint also alleges that Respondent violated the Federal Trade Commission Trade Regulation Rule concerning Retail Food Store Advertising and Marketing Practices (16 CFR 242).

The proposed order requires Respondent, in its retail food stores, to make each advertised item readily available for sale to customers in the public area of the store, to have advertised items correctly priced, and to sell advertised items at or below the advertised price. The proposed order also provides that unavailability because of unanticipated demand, circumstances beyond Respondent's control, and other limitations clearly and conspicuously set forth in advertising shall not be a violation of the order.

The order further requires Respondent's food stores to post copies of advertisements and notices of the availability of "rain checks" for unavailable items.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc 77-13138 Filed 5-10-77;8:45 am]

[16 CFR Part 13]

[Docket 9062]

FISHER FOODS, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order that would require a Bedford Heights, Ohio, retail food store chain, among other things, to make each of its advertised items readily available for sale to customers in its stores, to have advertised items correctly priced and to sell those items at or below the advertised price. Further, the firm must post copies of advertisements and notices of the availability of "rain checks" for unavailable items.

DATE: Comments must be received on or before July 7, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Building, 1240 East 9th Street, Cleveland, Ohio 44199 (216–522–4207).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission, having initiated a proceeding challenging certain acts and practices of Fisher Foods, Inc. ("Fisher"), a corporation, and it now appearing that Fisher is willing to enter into an agreement containing an Order to cease and desist, as hereinafter set forth, from the use of acts and practices being challenged:

It is hereby agreed by and between Fisher and counsel for the Federal Trade Commission that:

(1) Fisher is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 5300 Richmond Road, Bedford Heights, Ohio.

(2) Fisher admits all the jurisdictional facts set forth in the Complaint.

3. Fisher waives: a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

4. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, this Agreement, together with a copy of the Complaint issued in this proceeding, shall be placed on the public record for a period of 60 days and information in respect thereto shall be publicly released; and such acceptance may be withdrawn by the Commission during the 60-day period if comments or views submitted to the Commission disclose facts or considerations that indicate that the Order contained in the Agreement is inappropriate, improper, or inadequate.

5. This Agreement is for settlement purposes only and does not constitute an admission by Fisher that the law has been violated as alleged in the Complaint; any matter that has been admitted by Fisher herein shall not be deemed an admission for any other purpose or in any other proceeding.

6. This Agreement contemplates that, if it is accepted by the Commission and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of 16 CFR 3.25 (1976) of the Commission's Rules of Practice, the Commission may, without further notice to Fisher, (a) issue its decision containing the following Order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, and when served upon Fisher, the Order shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time as are provided by statute or regulation for other orders. The Order shall become final upon service. Mailing of the Complaint and decision containing the agreed-to Order to Fisher's address as stated in this Agreement shall constitute service. Fisher waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, but no agreement, understanding, representation, or interpretation not con-

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tained in the Order or in this Agreement may be used to vary or contradict the terms of the Order.

7. Fisher has read the Complaint and Order contemplated hereby, and understands that, once the Order has been issued, it will be required to file one or more compliance reports showing that Fisher has fully complied with the Order, and understands that Fisher may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

ORDER

I

DEFINITIONS

For purposes of this Order: A. "Respondent" means Fisher Foods, Inc. but does not include Fisher's existing wholly owned subsidiary, Dominick's Finer Foods, Inc.

B. A "Retail Food Store" means one of Respondent's Retail Food Stores in the Northern Ohio Division, in the Southern Division, or in the Los Angeles Division, other than a convenience store, i.e., a store having less than 4,000 square feet of floor space.

C. The "Northern Ohio Division" means the Retail Food Stores located in the following counties in Ohio: Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, and Wayne.

D. The "Southern Ohio Division" means the Retail Food Stores located (1) in each county in Ohio other than the Ohio counties located in the Northern Ohio Division, and (2) in states contiguous to Ohio.

E. The "Los Angeles Division" means the Retail Food Stores located in, and in states contiguous to, California.

F. A "Northern Ohio Division Sample" means a selection of at least 25% (to the nearest whole number) of Respondent's Retail Food Stores located in the Northern Ohio Division, 75% (to the nearest whole number) of which selection shall be selected from the Ohio Counties of Cuyahoga, Lake, Lorain, and Summit.

G. A "Southern Ohio Division Sample" means a selection of at least 25% (to the nearest whole number) of Respondent's Retail Food Stores located in the Southern Ohio Division.

H. A "Los Angeles Division Sample" means a selection of at least 25 percent (to the nearest whole number) of Respondent's Retail Food Stores located in the Los Angeles Division, 75 percent (to the nearest whole number) of which shall be selected from the California Counties of Los Angeles and Orange.

I. A "Survey" or a "Survey of the Sample" means a survey of the Northern Ohio Division Sample, Southern Ohio Division Sample, or Los Angeles Division Sample, conducted in accordance with the Survey Procedures set forth in Exhibit A, attached hereto and incorporated herein by reference. Stores to be surveyed shall be chosen in a manner that is consistent with the Survey Procedures. Respondent waives any right it might have to challenge the admissibility into evidence of the results of a Survey, or to challenge the evidentiary weight of a Survey based upon the size of the Sample. Respondent, however, retains the right to challenge the evidentiary weight to be given to the results of any such Survey on any other legally available basis.

J. The "Unadjusted Number of Unavailable Advertised Items" with respect to one of Respondent's surveyed Retail Food Stores means the surveyed number of unavailable advertised items before that number is reduced by any instances of unavailability that are excused by the defenses set forth in Trade Regulation Rule 424, as presently drafted, or in this Order.

K. The "Adjusted Number of Unavailable Advertised Items" with respect to one of Respondent's surveyed Retail Food Stores means the Unadjusted Number of Unavailable Advertised Items reduced by all instances of unavailability that are excused by the defenses set forth in Trade Regulation Rule 424, as presently drafted, or in this Order.

L. The "Unadjusted Number of Over-Price-Marked or Overcharged Advertised Items" with respect to one of Respondent's surveyed Retail Food Stores means the surveyed number of Over-Price-Marked or Overcharged Advertised Items before that number is reduced by any instances of overpricing or overcharging that are excused by the defenses set forth in Trade Regulation Rule 424, as presently drafted, or in this Order.

M. The "Adjusted Number of Over-Price-marked or Overcharged Advertised Items" with respect to one of Respondent's surveyed Retail Food Stores means the Unadjusted Number of Over-Price-Marked or Overcharged Advertised Items reduced by all instances of over-price-marking or overcharging that are excused by the defenses set forth in Trade Regulation Rule 424, as presently drafted, or in this Order.

N. The "Average Adjusted Rate of Unavailability" revealed by a Survey, as referred to in Paragraph III(B)(1) of this Order, shall be determined as follows: 1. For each store surveyed, the Unadjusted Number of Unavailable Advertised Items shall be recorded and that number shall be reduced in accordance with the definition of "Adjusted Number of Unavailable Advertised Items" in this Order to ascertain the Adjusted Number of Unavailable Advertised Items in that store.

2. For each store surveyed, the number of items that the advertisement represents to be available in that store shall be recorded.

3. After the individual stores in the Sample have been surveyed, the sum, or aggregate, of the Adjusted Numbers of Unavailable Advertised Items recorded pursuant to Paragraph I(N)(1) shall be determined.

4. After the individual stores in the Sample have been surveyed, the sum, or aggregate, of the numbers of advertised items recorded pursuant to Paragraph I(N)(2) shall be determined.

5. The Average Adjusted Rate of Unavailability shall be the fraction of which the numerator is the sum, or aggregate, determined pursuant to Paragraph I(N)(3) and of which the denominator is the sum, or aggregate, determined pursuant to Paragraph I(N)(4).

O. The "Average Adjusted Rate of • • • Over-Price-Marketing" revealed by a Survey as referred to in Paragraph III(D)(1) of this Order, shall be determined as follows: 1. For each store surveyed, the Unadjusted Number of Over-Price-Marked Advertised Items shall be recorded and that number shall be reduced in accordance with the definition of "Adjusted Number of Over-Price-Marked Advertised Items" in this Order to ascertain the Adjusted Number of Over-Price-Marked Advertised Items in that store.

2. For each store surveyed, the number of items that the advertisement represents to be available in that store shall be recorded.

3. After the individual stores in the sample have been surveyed, the sum, or aggregate, of the Adjusted Numbers of Over-Price-Marked Advertised Items recorded pursuant to Paragraph I(O)(1) shall be determined.

4. After the individual stores in the Sample have been surveyed, the sum, or aggregate, of the numbers of advertised items recorded pursuant to Paragraph I(O)(2) shall be determined.

5. The Average Adjusted Rate of Over-Price-Marking shall be the fraction of which the numerator is the sum, or aggregate, determined pursuant to Paragraph I(O)(3), and of which the denominator is the sum, or aggregate, determined pursuant to Paragraph I(O)(4).

P. The "Average Adjusted Rate of • • • Overcharging" revealed by a survey as referred to in Paragraph III(D)(1) of this Order shall be determined as follows: 1. For each store surveyed, the Unadjusted Number of Overcharged Advertised Items shall be recorded and that number shall be reduced in accordance with the definition of "Adjusted Number of Overcharged Advertised Items" in this Order to ascertain the Adjusted Number of Overcharged Items in that store.

2. For each store surveyed, the number of items that the advertisement represents to be available in that store shall be recorded.

3. After the individual stores in the Sample have been surveyed, the sum, or aggregate, of the Adjusted Numbers of Overcharged Advertised Items recorded pursuant to Paragraph I(P)(1) shall be determined.

4. After the individual stores in the Sample have been surveyed, the sum, or aggregate, of the numbers of advertised items recorded pursuant to Paragraph I(P)(2) shall be determined.

5. The Average Adjusted Rate of Overcharging shall be the fraction of which the numerator is the sum, or aggregate, determined pursuant to Paragraph I(P)(3), and of which the denominator is the sum, or aggregate, determined pursuant to Paragraph I(P)(4).

Q. A "Perishable Item" means any item that will probably spoil or that will be substantially reduced in value if not sold on the day of delivery, or, in the case of prepared foods such as barbecued chicken or in-store baked products, on the day of preparation.

II

PROHIBITED ACTIVITIES

It is ordered, that, in connection with Respondent's advertising, offering for sale, sale, or distribution of food or grocery products or other merchandise (hereinafter sometimes referred as items) offered for sale or sold in its Retail Food Store, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, that Respondent forthwith cease and desist, directly or indirectly or through any device, from disseminating or causing the dissemination of any advertisement by any means that offers any items for sale at an advertised price unless, with respect to Paragraph II (A), II(B), and II(C) below, Respondent is complying with a specific exception, limitation, or restriction with respect to a store, item, or price that is clearly and conspicuously disclosed in all advertisements for the item in question (including but not limited to limitations or restrictions concerning the stores in which an item is available, the numeral quantities of an item available in each Retail Food Store, and the hours during which a Perishable Item is available), or unless, throughout the effective period of the advertised offer at each Retail Food Store covered by the advertisement:

A. Each advertised item is readily available for sale to customers in the public area of the store or, if not readily available there, a clear and conspicuous notice is posed where the item is regularly displayed indicating that the item is in stock and may be obtained upon request and the item is readily furnished upon request;

B. Each unit of each advertised item, any of which is marked with a single price, is individually, clearly, and conspicuously marked with a price that is no higher than the advertised price; if any unit of an advertised item is marked with two or more different prices, the customer is charged the lowest

of the prices, which is no higher than the advertised price;

C. Each unit of each advertised item is sold to customers at or below the advertised price;

except that no proceeding to enforce Paragraphs II(A), II(B), or II(C) of this Order, pursuant to Section 5(1) of the Federal Trade Commission Act, as amended, that is based on a survey shall be instituted or commenced except on the basis of a Survey of a Sample of the Northern Ohio Division.

III

DEFENSES AND PRESUMPTIONS

A. Defenses to a charge of unavailability under Trade Regulation Rule 424, as presently drafted, Section 5 of the Federal Trade Commission Act, as amended, or any provisions of this Order shall consist of every instance in which the Respondent can show:

1. That the advertised item was unavailable due to circumstances beyond Respondent's control, that Respondent did not have notice or knowledge of such impending unavailability in time to delete the item from the proposed advertisement, and that Respondent offered to customers, for each unavailable item, a "raincheck" that (a) entitled the holder to purchase the item in the near future at or below the advertised price and (b) conspicuously disclosed on its face that, if the customer tendered the "raincheck" to Respondent more than three days, but less than 17 days, after receipt and the advertised item was still unavailable, the customer may elect, at his option, either to renew the "raincheck" for an additional two-week period or to received a comparable item at or below the advertised price.

2. That the advertised items were delivered in adequate time to Respondent's Retail Food Stores in quantities sufficient to meet reasonably anticipated demand. For purposes of this Paragraph III(A)(2):

(a) Respondent shall be deemed to have shown that it delivered an item to a store in quantities sufficient to meet reasonably anticipated demand in a particular advertisement period if it maintains records showing that it delivered that item to that store during that adveritsement period in quantities equal to or greater than the quantities of that item sold by that store during the last preceding comparable advertisement period.

(b) The phrase, "quantities of that item sold by that store during the • • • advertisement period," for items other than meat, means the sum of the number of units in the closing inventory of the store after closing hours on the night before the first day of the advertisement period, plus the number of units delivered to the store during the advertisement period, plus the number of "rainchecks" issued for that item during the advertisement period, and minus the number of units in the closing inventory of the store after closing hours on the last day of the advertisement period.

(c) The phrase, "delivered in adequate time," for items other than meat, means that, if Respondent delivers more than one shipment of an item to a store in the comparable advertisement period, the "quantities of that item sold by that store during the • • • advertisement period" shall be apportioned among the deliveries in the particular advertisement period in such quantities that, by the comparable delivery date of the particular advertisement period, there shall have been delivered to the store at least the same proportion of quantities as were delivered by that date in the comparable period. For example, if the "quantities of that item sold by that store during the comparable advertisement period" for items other than meat were 110 units (100 units actually delivered and 10 "rainchecks" issued), and the units were delivered to the store in the comparable advertisement period in three deliveries consisting of 40 units on Monday, 40 units on Wednesday, and 20 units on Friday, Respondent "will have delivered, in adequate time" if Respondent delivers for the particular advertisement period, at least 40 percent (of the 110 units to be delivered) by Monday, 80 percent by Wednesday, and 100 percent by Friday.

(d) It shall be presumed that Respondent has delivered meat items to a store in quantities sufficient to meet reasonably anticipated demand in a particular advertisement period when the sum of the number of the primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the night before the first day of the particular advertisement period, plus the number of primal cuts or carcasses containing that item delivered to the store during the particular advertisement period, minus the number of primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the last day of the particular advertisement period, is equal to or greater than the sum of the number of primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the night before the first day of the comparable advertisement period, plus the number of primal cuts or carcasses containing that item delivered to the store during the comparable advertisement period, minus the number of primal cuts or carcasses containing that item in the closing inventory of the store after closing hours on the last day of the comparable advertisement period, taking into consideration the number of "rainchecks" issued and the frequency of delivery.

(e) The phrase, "last preceding comparable advertisement period" means, for a particular item, the last preceding advertisement period (during which the item was advertised) that is most comparable to the particular advertisement period, considering the time of the year, the week of the month, weather conditions, the nature of the item, the amount of the price reduction, the location of the advertisement for the item with reference to the advertisement as a whole, the type size of the advertisement for the item, the availability of a coupon, the location of the product within the store, and any other relevant factors affecting a customer's buying habits.

(f) Each item that Respondent can show it delivered to a Retail Food Store, included in the Sample, in quantities sufficient to meet reasonably anticipated demand, as provided herein, shall be employed herein as a defense in reducing the "Unadjusted Number of Unavailable Advertised Items" in computing the "Adjusted Number of Unavailable Advertised Items."

B. The following presumptions shall apply in ascertaining the availability to Respondent of the defenses set forth in Paragraph III(A).

1. Because Respondent has obligated itself, pursuant to Paragraph IV(C)(2) of this Order, to institute, enforce, monitor, improve on the basis of experience, and maintain procedures designed to effect compliance with this Order, it shall be presumed that the unavailability of all advertised items resulted from circumstances beyond Respondent's control, within the meaning of Paragraph III(A)(1), if (a) the Average Adjusted Rate of Unavailability does not exceed ⅝₀₀ or 2 percent and (b) the unavailability revealed by the Survey is not shown to be caused in whole or in substantial part by the gross negligence or deliberate acts or omissions of Respondent. (Sporadic unavailability caused by the gross negligence or deliberate acts or omissions of an insubstantial number of store level employees of Respondent shall not negate the presumption if Respondent can demonstrate that it took appropriate disciplinary action against the employees promptly after learning that the employees' gross negligence or deliberate acts or omissions caused the unavailability; persistent unavailability, however, caused by the gross negligence or deliberate acts or omissions of a substantial number of store level employees of Respondent shall be attributed to Respondent and shall negate the presumption.)

2. If, with respect to a Survey conducted in accordance with Paragraph IV(C) of this Order, Respondent is not advised in writing by the Federal Trade Commission or its staff within four months after receipt of a verified report from respondent as outlined in the Survey Procedures, or if Respondent is not advised with respect to a Survey conducted by the Federal Trade Commission or its staff within four months after the Commission or its staff receives documents from Respondent concerning its defenses as set forth in Trade Regulation Rule 424, as presently drafted, or this Order, that the Federal Trade Commission or its staff has reason to believe that Respondent has failed to make advertised items available, in violation of Trade Regulation Rule 424, as presently drafted, Section 5 of the Federal Trade Commission Act, as amended, or this Order, after taking into consideration the defenses set forth in Trade Regulation Rule 424, as presently drafted, or in this Order, it shall be presumed that the alleged failure of Respondent to make advertised items available was due to circumstances beyond Respondent's control within the meaning of Paragraph III(A)(1). If on the other hand Respondent is advised, within the prescribed period, of the position of the Federal Trade Commission or its staff, the advice shall indicate each specific item alleged to have been unavailable in identified stores on specified days.

C. Defenses to a charge of over-price-marking or overcharging under Trade Regulation Rule 424, as presently drafted, Section 5 of the Federal Trade Commission Act, or any provision of this Order, shall consist of every instance in which the Respondent can show:

1. That the advertised item was not marked or charged out at or below the advertised price due to circumstances beyond Respondent's control, and that Respondent, upon notice of knowledge of such over-price-marking or overcharging, acted immediately to price-mark the goods with, or charge out the goods at, the advertised price.

2. That, with respect to charges of over-price-marking in the case of stores equipped with devices that "read" an identification code (commonly referred to as the Universal Product Code) marked on the packaging of items and transmit the information to a computer that transmits the information to cash register tapes, with the items (and individual units thereof) not price-marked in any additional manner, the advertised price of such items was clearly and conspicuously posted at the point of display.

3. That, in the case of advertised items the ultimate price of which is to be determined by the total dollar amount of the customer's order or the use of a coupon or other similar price arrangement, the price at which the item is sold, and not the price marked on the item, shall govern.

D. The following presumptions shall apply in determining the availability to Respondent of the defenses set forth in Paragraph III(C).

1. Because Respondent has obligated itself, pursuant to Paragraph IV(C)(2) of this Order, to institute, enforce, monitor, improve on the basis of experience, and maintain procedures designed to effect compliance with

V42|91 MAY 11 77 UMI

this Order, it shall be presumed that the over-price-making or overcharging of all advertised items resulted from circumstances beyond Respondent's control within the meaning of Paragraph III(C)(1) if (a) neither the Average Adjusted Rate of Over-Price-Marking nor the Average Adjusted Rate of Overcharging exceeds 1/100 of 1 percent, and (b) the over-price-marking or overcharging revealed by the Survey is not shown to be caused in whole or in substantial part by the gross negligence or deliberate acts or omissions of Respondent. (Sporadic over-price-marking or overcharging caused by the gross negligence or deliberate acts or omissions of an insubstantial number of store level employees of Respondent shall not negate the presumption if Respondent can demonstrate that it took appropriate disciplinary action against the employees promptly after learning that the employees' gross negligence or deliberate acts or omissions caused the over-price-marking or overcharging; however, persistent over-price-marking or overcharging caused by the gross negligence or deliberate acts or omissions of a substantial number of store level employees of Respondent shall be attributed to Respondent and shall negate the presumption.)

2. If, with respect to a Survey conducted in accordance with Paragraph IV(C) of this Order, Respondent is not advised in writing by the Federal Trade Commission or its staff within four months after receipt of a verified report from Respondent as outlined in the Survey Procedures, or if Respondent is not advised with respect to a Survey conducted by the Federal Trade Commission or its staff within four months after the Commission or its staff receives documents from Respondent concerning its defenses as set forth in Trade Regulation Rule 424, as presently drafted, or this Order, that the Federal Trade Commission or its staff has reason to believe that Respondent has failed to price-mark or charge out advertised items at the advertised prices, in violation of Trade Regulation Rule 424, as presently drafted, Section 5 of the Federal Trade Commission Act, as amended, or this Order, after taking into consideration the defenses set forth in Trade Regulation Rule 424, as presently drafted, or in this Order, it shall be presumed that the alleged failure of Respondent to make advertised items available at or below the advertised price was due to circumstances beyond Respondent's control within the meaning of Paragraph III(C)(1). If on the other hand Respondent is advised, within the prescribed period, of the position of the Federal Trade Commission or its staff, the advise shall indicate each specific item alleged to have been over-price-marked or overcharged in identified stores on specified days.

IV

ADDITIONAL OBLIGATIONS OF RESPONDENT

A. *It is further ordered*, That, throughout each advertisement period in each of its Retail Food Stores covered by an advertisement, Respondent shall post conspicuously, at or near each doorway affording entrance to the public, and at or near the place where customers pay for merchandise:

1. A copy of any printed advertisement.
2. The following statement:

NOTICE

All items advertised for sale in this store are "required to be readily available for sale" at or below the advertised price, except as otherwise specifically noted in the advertisement.

If an advertised item you wish to purchase is unavailable, please request a "raincheck" from the store office.

If two (or more) prices appear on a unit of any item, you will be charged the lower (or lowest) of the prices marked; in no event will you be charged more than the advertised price.

If you have any questions, the store manager will be glad to assist you.

B. *It is further ordered*, That Respondent shall cause the following statement to be clearly and conspicuously set forth in each printed advertisement that represents that items are available for sale at any of its Retail Food Stores.

Each of these advertised items is "required to be readily available for sale" in each store, except as otherwise specifically indicated in this advertisement.

C. *It is further ordered*, That: 1. Respondent shall forthwith deliver a copy of this Order to the head of its operating divisions and to each of its officers and other personnel in its organization down to the level of, and including, assistant store managers who, directly or indirectly, have any supervisory responsibilities relating to (a) the availability or price-marking of advertised items in Respondent's Retail Food Stores and (b) check stand operations or who are engaged in any aspect of the preparation, creation, or placing of advertising; Respondent shall promptly deliver a copy of this Order to any person who is hereafter elected to or placed in one of these positions. Respondent shall secure a signed statement acknowledging receipt of the Order from each such person.

2. Respondent shall institute, enforce, monitor, improve on the basis of experience, and maintain a program (including a continuing surveillance procedure) that is designed to effect compliance with this Order and to reveal whether the business practices of each of its Retail Food Stores conform to this Order, and shall confer with a representative of the Federal Trade Commission pertaining to the program when requested to do so by such representative. This program shall include five Surveys of Respondent's Retail Food Stores by an independent organization, conducted according to the Survey Procedures and within the time limitations hereinafter prescribed, with the commencement date for each of these Surveys to be selected by the Federal Trade Commission or its staff. At least one of these Surveys shall be conducted using a Sample of the Northern Ohio Division and shall be conducted between six months after the effective date of this Order and four years after the effective date of this Order. At least one of these Surveys shall be conducted using a Sample of the Southern Ohio Division and shall be conducted between one year after the effective date of this Order and four years after the effective date of this Order. At least one of these Surveys shall be conducted using a Sample of the Los Angeles Division and shall be conducted between one year after the effective date of this Order and four years after the effective date of this Order. Each of the remaining two Surveys shall be conducted in any of the three divisions chosen by the Federal Trade Commission or its staff and shall be conducted between one year after the effective date of this Order and four years after the effective date of this Order, except that no Survey of the same division shall be commenced earlier than six months after the commencement of an earlier Survey of the same division. The results of each of these Surveys, the defenses of Respondent, and any underlying documents shall be provided to the Federal Trade Commission or its staff within four months after the completion of the Survey.

3. The results of any of these Surveys, any defenses of the Respondent, and any underlying documents, as they relate to Respondent's Retail Food Stores located in the Southern Ohio Division or in the Los Angeles Division, may be used by the Federal Trade Commission in any proceeding under the Federal Trade Commission Act, as amended, other than a proceeding to enforce Paragraph II of this Order. The results of any of these Surveys, any defenses of the Respondent, and any underlying documents, as they relate to respondents Retail Food Stores located in the Northern Ohio Division, may be used by the Federal Trade Commission in any proceeding under the Federal Trade Commission Act, as amended. As set forth in Paragraph I(I), Respondent waives any right it might have to challenge the admissibility into evidence of the results of a Survey or to challenge the evidentiary weight of the Survey based upon the size of the Sample; Respondent, however, retains the right to challenge the evidentiary weight to be given to the results of any such survey on any other legally available basis.

4. Respondent shall, for a period of five years after the effective date of this Order:

(a) Maintain business records which show Respondent's efforts taken to ensure continuing compliance with the terms and provisions of this Order;

(b) Grant a representative of the Federal Trade Commission access to all such business records, during normal business hours and for all reasonable periods of time;

(c) Furnish to the Federal Trade Commission or its staff copies of such records when they are requested by any representative of the Federal Trade Commission possessing the authority to make such request.

5. Respondent shall, all other provisions of the Order, notwithstanding, for a period of four years after the effective date of this Order, file with the Commission an annual report in writing revealing the effectiveness of the steps or actions taken by Respondent with regard to the aforesaid program (including a continuing surveillance procedure) and setting forth in detail the manner and form in which it has complied with this Order in the preceding year.

D. *It is further ordered*, That Fisher shall notify the Commission at least 30 days prior to any proposed change in its corporate existence (such as dissolution, assignment, or sale) resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in Fisher that may affect compliance obligations arising out of this Order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Fisher Foods, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again decide whether it should withdraw from the agreement or make final the agreement's proposed consent order.

The complaint alleges that respondent violated Section 5 of the Federal Trade Commission Act and the Commission's Trade Regulation Rule concerning Retail Food Store Advertising and Marketing Practices by failing to have advertised iems readily available for sale at or below the advertised price.

The proposed consent order requires respondent to discontinue this violation and to comply in the future with the requirements of the Act and of the Trade Regulation Rule. The consent order also requires respondent to include a notice in its advertising and in its stores that each of its advertised items is required to be readily available for sale at or below the advertised price.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13439 Filed 5-10-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1616]

CHILDREN'S SLEEPWEAR IN SIZES 7 THROUGH 14

Withdrawal of Proposed Amendment Regarding Advertising

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of proposed amendment.

SUMMARY: In this document the Commission withdraws a proposed amendment to regulations under the Standard for the Flammability of Children's Sleepwear in sizes 7 through 14. The Commission has decided that the proposed amendment, which would have affected advertising of some items that comply and some that do not comply with the standard, is no longer needed.

FOR FURTHER INFORMATION CONTACT:

Bernard Schwartz, Office of Standard Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6470).

SUPPLEMENTARY INFORMATION: The Commission's Standard for the Flammability of Children's Sleepwear in sizes 7 through 14 (16 CFR Part 1616), issued under the Flammable Fabrics Act (15 U.S.C. 1191), became effective on May 1, 1975. All children's sleepwear in sizes 7 through 14 manufactured after that date must meet the standard; however, noncomplying sleepwear manufactured before the effective date may continue to be sold after May 1, 1975. The standard provides that all complying sleepwear manufactured between May 1, 1975 and May 1, 1978 must be labeled as complying with the standard. (16 CFR 1616.6(b)).

The Commission has issued regulations for enforcement of the standard. (The regulations were initially issued as 16 CFR Part 302.21 but they were recodified at 16 CFR 1616.31 on December 30, 1975 (40 FR 59884).) To help consumers identify complying and noncomplying items, these regulations require persons who sell sleepwear items in sizes 7 through 14 at retail establishments to segregate complying and noncomplying items and to use identifying signs.

On October 22, 1975 the Commission published in the FEDERAL REGISTER (40 FR 49536) a proposed amendment to the regulations which was designed to help consumers who buy through direct mail, telephone solicitation, or other methods in which they cannot inspect items before purchase. The proposal would have required noncomplying items of sleepwear offered for sale between May 1, 1975, and May 1, 1978, by direct mail advertisements, catalogs, telephone solicitation or similar means to be clearly and conspicuously identified as noncomplying. The regulation would also have provided that if both complying and noncomplying items are advertised in catalogs or other promotional materials, all complying items must be identified clearly and conspicuously.

The Commission received one comment in response to the proposal. The commenter favored the regulation, but suggested it is unnecessary to require that complying sleepwear be identified whenever noncomplying sleepwear is advertised in the same promotional material, since consumers would understand that the non-labeled sleepwear does comply with the standard.

The Commission has learned that at this time there are in existence an exceedingly small number of noncomplying children's sleepwear items in sizes 7 through 14. It is also aware that many manufacturers discontinued production of noncomplying sleepwear over one year before the standard became effective on May 1, 1975. Moreover, it is now almost two years since manufacturers have been required to produce children's sleepwear in sizes 7 through 14 that complies with the standard. For the foregoing reasons, it does not appear that the amendment is needed, and the Commission withdraws its proposed amendment of October 22, 1975 (40 FR 49536).

Dated: May 5, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-13424 Filed 5-10-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5825, 34-13500, 35-20016]

MARKETABLE SECURITIES AND OTHER SECURITY INVESTMENTS

Disclosure of Investment Concentrations

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Commission is proposing a new rule and an amendment to an existing rule to require commercial and industrial companies to disclose investment concentrations in marketable securities and other security investments. This proposal is a revision of an earlier proposed rule which would have applied to all registrants rather than to commercial and industrial companies only.

DATE: Comments on or before: June 30, 1977.

ADDRESS: Comments in triplicate to: George A. Fitzsimmons, Securities and Exchange Commission, 500 N. Capitol St., Washington, D.C. 20549. All comments will be available for public inspection. (File No. S7-694.)

FOR FURTHER INFORMATION CONTACT:

Robert R. Love, Office of the Chief Accountant, Securities and Exchange Commission, 500 N. Capitol St., Washington, D.C. 20549, 202-755-1773.

SUPPLEMENTARY INFORMATION: In Release No. 33-5668 [41 FR 4833], issued January 7, 1976, the Commission proposed to issue a new rule under Rule 3-16 of Regulation S-X [17 CFR 210.3-16], which, if adopted, would have required disclosure in a footnote to the financial statements of investments in the securities of any issuer for which aggregate book value exceeds five percent of stockholders' equity. The proposal defined "issuer" as a state or municipality of other political subdivision as well as a corporation and its majority owned subsidiaries.

Based upon comments on the original proposal and staff research, the Commission has determined to make several revisions to the proposal. These revisions would cause the proposed rule to apply only to commercial and industrial companies rather than all registrants, would clarify certain wording including the definition of the term "issuer," would change the test for significance to one percent of total assets rather than five percent of stockholders' equity, and would modify Rule 12-02, Marketable securities—other security investments [17 CFR 210.12-02], by deleting the portion of the instructions to that schedule which presently permit registrants to show as an aggregate their investments in the securities of municipalities, states, the U.S. Government or agencies thereof.

DISCUSSION OF MAJOR COMMENTS ON THE ORIGINAL PROPOSAL AND OF CHANGES IN THE REVISED PROPOSAL

COMMUNICATION OF RISK

The proposal to require registrants to disclose concentrations of security investments was developed with an awareness that many registrants are facing changing risk characteristics in their business environment and that often financial reports do not adequately communicate such changes. This problem was earlier addressed in a more general way in Accounting Series Release No. 166 [40 FR 2678], which reminded registrants of their responsibilities to communicate changes in the degree of business uncertainty.

In commenting on the original proposal on concentration of investments, several respondents recognized that communication of risk was the underlying purpose of that proposal and suggested the exclusion of securities which have high ratings from investment rating agencies, bonds guaranteed by insurance companies, and securities guaranteed by the U.S. Government. After considering

V 4291 MAY 11 77 UMI

the merits and the difficulties of differentiating risks associated with various securities, the Commission has tentatively concluded that it would be better to require the disclosure of all investment concentrations, recognizing that registrants may add any information which might help to convey the degree of risk associated with such investments. There are significant practical difficulties in trying to define a level of risk for purposes of disclosure. Furthermore, there is the potential that the resulting disclosures could be misleading. For example, many securities are not rated by any rating agency for reasons which are unrelated to risk. Exempting highly rated securities but requiring disclosure of concentrated investments in unrated securities could give a misleading impression of risk.

Some respondents questioned whether the information which would be required by the proposed rule should necessarily be in a footnote to the financial statements rather than in the description of business section or some other section of a financial report. The Commission, however, believes that requiring footnote disclosure is consistent with the purpose of providing increased information about the risks and uncertainties associated with the financial statements; therefore, the revised proposal is unchanged in this respect and calls for footnote disclosure.

WHO WOULD BE AFFECTED BY THIS PROPOSED RULE?

The rule as originally proposed in Release No. 33-5668 would have applied to all registrants. This revised proposal would apply only to commercial and industrial companies since other registrants would be required to provide the same or similar information under other rules. Insurance companies are presently required to state in a note to the financial statements the name of any person in which the total amount invested in the person and its affiliates exceeds 2 percent of total investments (Rules 7-03-1, NOTE 6 and 7A-03-1, NOTE 6) [17 CFR 210.7-03 and 7A-03]. And registered investment companies are required to furnish semiannually to stockholders a list showing the amounts and values of securities owned (Investment Company Act of 1940, section 30(d)(2)). The financial statements of bank holding companies and banks are filed in accordance with Article 9 of Regulation S-X [17 CFR 210.9-01 to 9-05]. On April 21, 1977, the Commission released a proposal (33-5823) for extensive revisions of Article 9. These revisions include a proposal to disclose concentrations of investments.

DEFINITION OF ISSUER

The rule as originally proposed stated, "For the purpose of this disclosure the term 'issuer' means (i) a state and its agencies or a political subdivision and its agencies or an agency which is an instrumentality of two or more states including any subordinate subdivision of such state, subdivision or agency whose securities are considered liabilities of or are guaranteed by such state, subdivision, or agency, and (ii) a corporation and its majority owned subsidiaries."

A number of respondents raised questions about how securities with various specific characteristics, such as revenue bonds, moral obligations, and bi-state issues, would be regarded under this definition. The wording of the proposed rule has been modified in an attempt to respond to these questions.

DISCLOSURE OF MARKET VALUES AND RELATIONSHIP TO STATEMENT OF FINANCIAL ACCOUNTING STANDARDS NO. 12

The rule as originally proposed would have required disclosures of "aggregate value based on market quotations at balance sheet date." Respondents pointed out that many security investments have no meaningful market quotations. The revised proposal, therefore, calls for "aggregate market value." Guidance as to how to arrive at market values when market quotations are unavailable is given in Accounting Series Release 118 (35 FR 19986) which discusses various alternate methods for valuing securities including general principles and methods appropriate for "fair value as determined in good faith by the board of directors."[1]

The original proposal called for disclosure of "book value." Questions were raised about how to treat the book value of a security that is included in a portfolio of marketable equity securities which has been written down to aggregate market value in accordance with Statement of Financial Accounting Standards No. 12 (SFAS 12). Paragraph 8 of SFAS 12 states, "The carrying amount of a marketable equity securities portfolio shall be the lower of its aggregate cost or market value, determined at the balance sheet date * * *." If a portfolio of marketable equity securities is carried at aggregate market value, then the term "book value" of an individual security in such a portfolio would not be consistent with the collective portfolio concept in SFAS 12. The revised proposal has been reworded to require the disclosure of cost and of market value and an indication of which is the carrying value in the balance sheet or an indication that the security is part of a portfolio of marketable equity securities carried at aggregate market value pursuant to SFAS 12.

SIGNIFICANCE TEST

The rule as originally proposed would have required disclosures of investment concentrations in excess of five percent of stockholders' equity. Many respondents noted that while such a test might be appropriate for certain financial institutions is would not necessarily be appropriate for other registrants, particularly because the capital structures of registrants are diverse. The revised proposal uses one percent of total assets for the significance test.

[1] The pertinent part of Accounting Series Release 118 is as follows: Ordinarily, quotations for a security should be obtained from more than one broker-dealer, particularly if quotations are available only from broker-dealers not known to be established market-makers for that security, and quotations for several days should be reviewed. If the validity of the quotations appears to be questionable, or if the number of quotations is such as to indicate that there is a thin market in the security, further consideration should be given to whether "market quotations are readily available." If it is decided that they are not readily available, the security should be considered one required to be valued at "fair value as determined in good faith by the board of directors."

Securities Valued "in Good Faith" To comply with Section 2(a)(39) of the Act and Rule 2a-4 under the Act, it is incumbent upon the Board of Directors to satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and to determine the method of arriving at the fair value of each such security. To the extent considered necessary, the board may appoint persons to assist them in the determination of such value, and to make the actual calculations pursuant to the board's direction. The board must also, consistent with this responsibility, continuously review the appropriateness of the method used in valuing each issue of security in the company's portfolio. The directors must recognize their responsibilities in this matter and whenever technical assistance is requested from individuals who are not directors, the findings of such individuals must be carefully reviewed by the directors in order to satisfy themselves that the resulting valuations are fair.

No single standard for determining "fair value . . . in good faith" can be laid down, since fair value depends upon the circumstances of each individual case. As a general principle, the current "fair value" of an issue of securities being valued by the Board of Directors would appear to be the amount which the owner might reasonably expect to receive for them upon their current sale.

Methods which are in accord with this principle may, for example, be based on a multiple of earnings, or a discount from market of a similar freely traded security, or yield to maturity with respect to debt issues, or a combination of these and other methods. Some of the general factors which the directors should consider in determining a valuation method for an individual issue of securities include: 1) the fundamental analytical data relating to the investment, 2) the nature and duration of restrictions on disposition of the securities, and 3) an evaluation of the forces which influence the market in which these securities are purchased and sold. Among the more specific factors which are to be considered are: type of security, financial statements, cost at date of purchase, size of holding, discount from market value of unrestricted securities of the same class at time of purchase, special reports prepared by analysts, information as to any transactions or offers with respect to the security, existence of merger proposals or tender offers affecting the securities, price and extent of public trading in similar securities of the issuer or comparable companies, and other relevant matters.

This release does not purport to delineate all factors which may be considered. The directors should take into consideration all indications of value available to them in determining the "fair value" assigned to a particular security. The information so considered together with, to the extent practicable, judgment factors considered by the board of directors in reaching its decisions should be documented in the minutes of the directors' meeting and the supporting data retained for the inspection of the company's independent accountant.

MODIFICATION OF SCHEDULE I

In conjunction with the revised proposal to issue a new rule under Rule 3-16 (17 CFR 210.3-16), the Commission is also now proposing to modify Schedule I, Marketable securities—other security investments, which is prescribed by Rule 12-02 of Regulation S-X (17 CFR 210.12-02). Rule 12-02, in Instruction 1(a), now permits registrants to report as aggregate amounts investments in securities issued or guaranteed by municipalities, states, the U.S. Government or agencies thereof. Due to the financial problems of certain municipalities and states such aggregation no longer seems appropriate. For this reason the Commission proposes to delete the pertinent parts of Instruction 1(a).

The Commission recognizes that the information sought by the proposed rule under Rule 3-16 might duplicate to some extent information now called for by Rule 12-02. Comments are solicited as to whether Rule 12-02 should be deleted or how it might be modified to reduce any such duplication.

PROPOSED AMENDMENTS

Commission Action.—The Commission hereby proposes to amend Part 210 of 17 CFR Chapter II, (1) by the addition of a new paragraph (u) in § 210.3-16 as given below; (2) by insertion of the letter (u) after the letter (p) in the second sentence under § 210.3-16; and (3) by the revision of Instruction 1(a) to § 210.12-02 by deleting subsection (1) and by deleting the number (2) and the words "issued by others" from subsection (2) of the instruction to read as given below.

§ 210.3-16 General notes to financial statements. (See Release No. AS-4.)

* * * * *

(u) *Marketable securities and other security investments.* (1) This rule applies to financial statements prepared in accordance with § 210.5-01 to 5-04. (2) State in a note the name of issuer, aggregate cost and aggregate market value of the securities of any issuer for which the aggregate market value exceeds 1 percent of total assets. Indicate whether the securities are carried in the balance sheet at cost or at market value or as part of a portfolio of marketable equity securities carried at aggregate market value.

(3) For the purpose of this disclosure, the term "issuer" shall have the meaning given in Section 2(4) of the Securities Act of 1933, except that (i) the United States Government and its agencies shall be considered as one issuer, (ii) any state of the United States and its agencies shall be considered as one issuer, (iii) a political subdivision of a state of the United States and its agencies shall be considered as one issuer, (iv) a foreign government and its agencies and political subdivisions shall be considered as one issuer, and (v) a corporation and its majority owned subsidiaries shall be considered as one issuer. For purposes of determining amounts to be reported, securities guaranteed by or considered liabilities or moral obligations of another entity shall be considered as securities of both the issuer and the guarantor or obligor.

Consideration shall be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics of different issues of securities of an issuer as may be appropriate.

NOTE: Section 2(4) of the Securities Act of 1933 is as follows: The term "issuer" means every person who issues or proposes to issue any security; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or person performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; except that in the case of an unincorporated association which provides by its articles for limited liability of any or all of its members, or in the case of a trust, committee, or other legal entity, the trustees or members thereof shall not be individually liable as issuers of any security issued by the association, trust, committee, or other legal entity; except that with respect to equipment-trust certificates or like securities, the term "issuer" means the person by whom the equipment or property is or is to be used; and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of any interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of public offering.

§ 210.12-02 Marketable securities—other security investments.

* * * * *

(Instruction) 1(a) Each issue shall be stated separately, except that reasonable groupings, without enumeration, may be made of securities for which the amounts shown in column C in the aggregate are not more than 2 percent of total assets.

* * * * *

These amendments are proposed to be adopted pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, and 77s) of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78l, 78m, 78o(d) and 78w) of the Securities Exchange Act of 1934; and sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n and 79t) of the Public Utility Holding Company Act of 1935. Pursuant to section 23(a)(2) of the Exchange Act, the Commission has considered the effect that the proposed amendments would have on competition and is not aware, at this time, of any burden that such amendments, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of the Act. However, the Commission specifically invites comment as to the competitive impact of these proposals, if adopted.

By the Commission.

Dated: May 2, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13484 Filed 5-10-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Proposed Adoption of Cooperative Agreement With Montana: Comment Period Scheduled

AGENCY: Geological Survey, Interior.

ACTION: Proposed rule, comment period scheduled.

SUMMARY: This document proposes to adopt a Cooperative Agreement between the Department of the Interior, and the State of Montana that will govern the procedures that will be used to administer and enforce surface mining reclamation standards in Montana. Presently, both Montana and the Department perform overlapping and duplicative functions which impose unnecessary costs on both the respective governments, and the regulated industry. The Agreement eliminates this duplication and overlap wherever possible.

DATE: Comments must be received by May 27, 1977.

ADDRESS: Comment Address: Director, Geological Survey, National Center, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Robert Uram, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. Telephone number 202-343-4803.

SUPPLEMENTAL INFORMATION: On May 17, 1976, the Department of the Interior adopted new regulations to govern the management of federally owned coal resources. 41 FR 20252 (1976). Those regulations authorize the Department to

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enter into cooperative agreements with states in which federal coal leases have been or will be issued for the purpose of avoiding duality in the administration and enforcement of surface coal mine reclamation operations. 30 CFR 211.75 (b).

The Secretary and the Governor of Montana have completed the negotiation of a Cooperative Agreement under this authority. The Agreement provides that the State of Montana will be principally responsible for the administration and enforcement of surface coal mine reclamation operations on federal coal leases in Montana.

In the regulations promulgated on May 17, 1976, the Department also established a procedure by which the Department could adopt the substantive, on-the-ground standards of a state's reclamation law as the federal standards for operations on federal coal leases in the State, as long as the state's requirements afforded "general protection of environmental quality and values at least as stringent as would occur under exclusive application of [the federal standards]." 30 CFR 211.75(a). In an advance notice of proposed rulemaking, the Department explained what steps it would take to determine whether it would adopt the requirements of a State's reclamation law. 41 FR 27993 (1976).

Under these procedures, on September 14, 1976, the Department proposed to adopt as Federal regulations the substantive requirements of Montana's coal mine reclamation law. 41 FR 39036 (1976). That rulemaking proceeding has not been completed. The comment period on the proposal expires on May 9, 1977. After the comment period expires the Department will evaluate the comments, and adopt a final notice on that proposal. The substantive standards that are proposed to be adopted in that rulemaking are incorporated into the proposed Cooperative Agreement as Appendix A. If the Cooperative Agreement is finally adopted, Appendix A will be revised to reflect any changes made in the final rulemaking on the September 14, 1976, proposal.

Four elements are central to a Cooperative Agreement for the administration and enforcement of surface coal mine reclamation standards: mine plans; inspections; enforcement provisions; and bonding requirements. The Department has reviewed Montana's law, and believes that the State of Montana is capable of administering and enforcing reclamation operation on federal coal lease in Montana in such a way that federal interests are protected.

Although the proposed Agreement grants the State the principal authority for administering and enforcing reclamation operations, we note the following. First, the Federal Coal Leasing Amendments Act of 1975, P.L. 94-377, requires the Secretary to approve the mining plan of a federal lessee. Article IV, section C states the Secretary's duty to review and approve mining plans independently from state review and approval. The Agreement does avoid the application of conflicting standards by allowing the submission of one mining plan to the State and the Department.

Second, the Department retains its authority to establish the amount of the performance bond to be imposed. Article VII, section A avoids the imposition of double bonds by providing that the Department's bond requirement, if higher than the State's, will only be for the amount of the difference between the two amounts.

The proposal contains chiefly the text of the Cooperative Agreement, but it also contains proposed technical changes in 30 CFR 211.10, 211.74, and 211.77 to conform those rules to the fact that the Cooperative Agreement, if adopted, will contain the requirements of a Federal lessee's mining plan in Montana.

This proposed rulemaking does not explicitly amend 43 CFR Subpart 4031, but the Department wishes to state that the enforcement and administration provisions of that Subpart will be administered consistently with the changes in 30 CFR Part 211 proposed here.

Comment Period

Final Cooperative Agreements have also been signed with Wyoming (effective February 1, 1977) and New Mexico, Utah, and North Dakota (all effective May 1, 1977). In these rulemaking proceedings, the Department set a 30-day comment period. The Department has concluded that it is both unnecessary and contrary to the public interest to have a 30-day comment period on this proposal. A shorter comment period is allowed.

This rulemaking proceeding is extremely similar to the ones previously completed for Wyoming, Utah, New Mexico, and North Dakota. The public has had the opportunity to comment on the concept of this type of Cooperative Agreement in those proceedings, in addition to the opportunity to comment on 30 CFR 211.75(b) prior to its adoption last May. The previous agreements failed to generate significant comments. This Agreement does not significantly deviate from those prior actions. A full 30-day comment period is unnecessary, because the public has had repeated opportunities to comment on this type of proposal.

In addition, the 30-day comment period is contrary to the public interest because it may extend this rulemaking proceeding past the date of enactment of new Federal surface mining legislation. The Department has supported the enactment of strong surface mining legislation, and in particular has offered amendments to that legislaion to ensure that Federal-State cooperation in regulating reclamation of Federal lands would be encouraged. On April 29, 1977, the House passed H.R. 2, its version of the surface mining legislation. Senate consideration of similar legislation is also well-advanced, and final legislation could be passed soon. It is important to complete this rulemaking before the legislation is enacted so that Montana's regulatory program will be able to receive the full benefits of the new legislation. Section 523 of H.R. 2, for example, recognizes the validity of Cooperative Agreements (with appropriate modifications) to regulate coal surface mining on Federal lands "existing on the date of enactment of this Act." H.R. 2 permits these Agreements to remain in effect prior to approval of a state program under the bill. In the absence of a Cooperative Agreement, H.R. 2 would temporarily displace Montana from regulating Federal lands after the Department adopted a Federal lands program, and prior to the approval of a state program. Since Montana has an excellent program, the public interest would be enhanced if this temporary displacement could be prevented. Although neither the date of enactment, nor the particular provisions of surface mining legislation is certain, it is possible a bill containing provisions similar to section 523 in H.R. 2 will be enacted in the near future. Consequently, a shortened comment period is needed to help ensure that this rulemaking can be completed before the legislation has been enacted. Comments are requested by May 27, 1977.

The environmental impacts of this proposed action are discussed in the final Environmental Impact Statement, Surface Management of Coal Resources (43 C.F.R. Subpart 3041) and Coal Mining Operating Regulations (30 C.F.R. Part 211) (1976). NEPA does not require, and the Department has not prepared, a separate impact statement for this action.

Dated: May 5, 1977.

CECIL D. ANDRUS,
Secretary.

1. Accordingly, the Department proposes to amend 30 CFR 211.10 by adding a new paragraph (e)(5) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * *

(5) Montana. A Federal coal lessee in the State of Montana who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) Section 50-1039, 50-1043, R.C.M. 1947;

(ii) Mont. Admin. Code Section 26-2.10(10)-S 10270-10300;

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan has been given to the State of Montana and the Secretary.

2. The Department proposes to amend 30 CFR 211.74 by adding a new paragraph (g)(5) to read as follows:

§ 211.74 Variances.

* * * * *

(g) *States with § 211.75(b) agreements.* * * *

(5) Montana. A Federal coal lessee in the State of Montana shall request and receive variances from the State of Montana and the Secretary under Montana Admin. Code Section 26-2.10(10)-S 10300.

3. The Department proposes to amend 30 CFR 211.77 by adding a new paragraph (e) to read as follows:

§ 211.77 States with cooperative agreements.

* * * * *

(e) Montana. The administration and enforcement of reclamation requirements on federal coal leases in Montana subject to this part shall be done according to the Cooperative Agreement between the State of Montana and the Department of the Interior. The Cooperative Agreement is published at [date and page of publication of final rule, if adopted, to be inserted], and is available at appropriate offices of the Department of the Interior.

4. The State of Montana and the Department of the Interior propose to enter into a Cooperative Agreement to designated the State of Montana as the principle party to administer surface coal mine reclamation operations on Federal coal leases in Montana to read as follows:

Cooperative Agreement Between the United States Department of the Interior and the State of Montana under section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and section 307 of the Federal Land Policy and Management Act of 1976, and 30 CFR 211.75(b).

This Agreement (referred to as the Cooperative Agreement) is made between the State of Montana acting by and through Governor Thomas Judge (referred to as the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

Article I

Purpose

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of Montana with respect to the administration and enforcement of coal surface mine reclamation requirements where a person engaged in surface mining of coal under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920 removes or intends to remove more than 10,000 cubic yards of coal or overburden. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of Montana, to the extent possible, as the principal entity to enforce reclamation laws and regulations on Federal coal leases in Montana.

Article II

Effective Date

The Cooperative Agreement is effective on the ____ day of _____, 19____, and remains in effect until terminated as provided in Article IX.

Article III

Requirements for Cooperative Agreement

The Governor affirms that the State of Montana will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Montana Department of State Lands and the Montana Board of Land Commissioners (referred to as the State Agency) are, and shall continue to be, the agencies responsible for administering this Cooperative Agreement on behalf of the Governor on Federal coal leases throughout the State.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement.

C. *State Reclamation Law.* The reclamation requirements of Montana listed in Appendix A afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR Part 211, and do not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The procedures of the State of Montana shall be as effective for the purpose of enforcing the reclamation requirements listed in Appendix A as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State Agency will inspect all mines on Federal coal leases located in the State, in accordance with the minimum schedule in Article V.

F. *Enforcement.* The Governor affirms that the State Agency will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agency will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State Agency will devote adequate funds for the administration and enforcement of reclamation requirements on Federal coal leases in the State.

I. *Reports and Records.* The State Agency shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agency shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

Article IV

Mine Plans

Federal regulation, 30 CFR 211.10(c), and State laws and regulations require the operator of lands leased, permitted or licensed for coal mining to receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The State Agency and the Secretary agree that a Federal coal lessee must submit a mining plan or permit application under both State and Federal law, which plan or permit must include, at a minimum, the following information:

1. The information required by:

a. Sections 50-1039, 50-1043, 50-1607, R.C.M. 1947;

b. Mont. Admin. Code Section 26-2.10(10)-S 10270-10300;

c. 30 CFR 211.10(c).

2. Statement certifying that a copy of the mining plan or permit application has been given to both the State Agency and the Secretary.

If either the State Agency or the Secretary requires the operator to submit additional information, he shall submit the information to both the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan, permit or request for an amendment or a variance from the plan or permit.

c. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan or permit, as provided in sections 50-1042, 50-1043 R.C.M. 1947, or request for an amendment, as provided in Mont. Admin. Code Section 26-2.10(10)-S10300.

The State Agency shall notify the Secretary of its action pursuant to such provisions. The Secretary shall then independently review and take action on the mining plan or permit as required by 30 CFR 211.10(d), or request for a variance as required by 30 CFR 211.74, or an amendment to an approved mining plan or permit which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action.

Article V

Inspections

A. The State Agency shall inspect as authorized by section 50-1038, R.C.M. 1947, as frequently as necessary but at least quarterly the operations area of all Federal Coal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved mining plans that affect the reclamation of mined lands. The State Agency shall also perform all inspections required under 30 CFR 211.41. Such inspections performed in accordance with 30 CFR 211.41 shall be considered in meeting the quarterly inspection requirement.

B. The State Agency will, subsequent to conducting any inspection as required by paragraph A of this Article, file with the Secretary a report on (1) the general conditions of the lands under coal lease, permit or license, (2) the manner in which the operations are being conducted and (3) whether the operator is complying with applicable reclamation requirements. A copy of this report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Federal Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State. Inspections by the Secretary may be made in association with the regular inspection by the State Agency.

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D. The Secretary may conduct inspections on Federal coal leases to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by Sections 50–1046, 50–1050, and 50–1056, R.C.M. 1947.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State Agency shall take immediate action, as authorized by sections 50–1050 and 50–1056, R.C.M. 1947.

C. The State Agency shall notify the Secretary of all violations of applicable laws regarding reclamation on Federal coal leases including violations of Federal laws and regulations or lease terms and of all actions taken under sections 50–1046, 50–1050, and 50–1055, R.C.M. 1947, with respect to such violations.

D. This section does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, but not State law, or from taking appropriate measures to remedy violations of a mining plan or other appropriate requirements.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII

BONDS

A. *Amount and Responsibility.* The State Agency may require Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit a bond as provided in section 50–1039, R.C.M. 1947. The Secretary shall reduce the Federal bond required for reclamation purposes under 43 CFR 3041.3 and 30 CFR 211.3, by the amount of the bond required by the State Agency only if the release of all or any portion of the State Agency's bond is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the bond.

B. *Notification.* Prior to releasing the bond provided for in section 50–1039, R.C.M. 1947, for lands the surface of which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of Bond.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by section 50–1039, R.C.M. 1947.

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Agency has failed to comply and shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Agency has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. The time period specified shall not be less than 30 days. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the Governor upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State Agency and affording the State Agency an opportunity for a hearing:

1. That the State Agency has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State Agency has failed to comply with any assurance given by the State Agency upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations or Montana laws and regulations.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where the State Agency will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall not be less than 30 days from the date of such notice, and the place of hearing shall be in the State.

4. The Secretary shall also publish a notice in the FEDERAL REGISTER containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State Agency may file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State Agency will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State Agency may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the Governor shall be entitled to obtain a copy of the transcript. The Governor shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, document, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State Agency, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the Governor of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of his intended withdrawal and shall afford the State Agency an opportunity to present evidence satisfactory to the Secretary that the States Agency has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State Agency to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State Agency for a hearing.

ARTICLE X

REINSTATEMET OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the Governor and upon giving evidence satisfactory to the Secretary that the State Agency can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection. Upon acceptance by the Governor and the Secretary, the amendment shall be adopted after rulemaking.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of Montana may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the State Agency shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of the Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No employee of the State Agency responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decisionmaking, or enforcement of actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses which are necessary to carry out the requirements of the Cooperative Agreement can be performed or determined or have access to such facilities.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The Governor and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of departments or divisions, or a change in the function or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addressess, telephone numbers, and the names, location, telephone numbers of their respective mine inspections and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The Governor and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards, pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act, the Constitution of the United States, or the Constitution or laws of the State of Montana.

THOMAS JUDGE,
Governor, State of Montana.

CECIL D. ANDRUS,
Secretary, Department of the Interior.

APPENDIX A

(1) Mont. Stat. 50–1043;
(2) Mont. Stat. 50–1044(1)–(4);
(3) Mont. Stat. 50–1045;
(4) Mont. Stat. 50–1046;
(5) Mont. Admin. Code 26–2.10(10)–S 10310
(6) Mont. Admin. Code 26–2.10(10)–S 10330
(7) Mont. Admin. Code 26–2.10(10)–S 10340
(8) Mont. Admin. Code 26–2.10(10)–S 10350
(9) Mont. Admin. Code 26–2.10(18)–S 10400
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[FR Doc.77–13369 Filed 5–10–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

ADJUSTMENTS TO BASE PERIOD VOLUMES FOR MOTOR GASOLINE

Amendment to Notice of Proposed Rulemaking

AGENCY: Federal Energy Administration.

ACTION: Amended notice of proposed rulemaking.

SUMMARY: FEA hereby gives notice of an amendment to its April 20, 1977 notice of proposed rulemaking on adjustments to base period volumes for motor gasoline to include an additional request for comments on whether certain of the current procedures for the distribution of surplus motor gasoline should be changed. FEA believes that receipt of specific comments on this issue is important to assist in further clarifying the effects of these proposed base period volume adjustments.

DATES: Comments by May 20, 1977.

ADDRESS: Written comments to: Executive Communications, Room 3309, Federal Energy Administration, Box LS, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mary B. Jones (Program Office), 2000 M Street, NW., Room 2314, Washington, D.C. 20461, 202–254–3234.

Kathleen C. Williams (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202–566–2454.

SUPPLEMENTARY INFORMATION: On April 20, 1977, FEA issued a notice of proposed rulemaking and public hearing on adjustments to base period volumes for motor gasoline (42 FR 20826, April 22, 1977). In that notice, FEA proposed amendments to the Mandatory Petroleum Allocation Regulations for motor gasoline to provide adjustments to the base period uses of retail motor gasoline sales outlets, and bulk purchasers and wholesale purchaser-consumers which have allocation levels which are not one hundred percent of current requirements, to reflect actual purchases from base period suppliers in the corresponding month of the immediately preceding calendar year. FEA has concluded that the related issue of the distribution of surplus product should be considered in conjunction with the adjustments to base period use, and therefore requests public comment on the advisability of changes to the regulations as they relate to surplus product.

Under the current procedures for the distribution of surplus product (10 CFR 211.10 (f) and (g)), the supplier after determining that its allocation fraction will exceed one (1.0) or that its available supply is greater than its purchasers' requirements, is required to file a surplus product report with FEA within five days of making the determination and then wait for a period of up to ten days after FEA receives the report to ascertain whether FEA will redirect the surplus product. After release by FEA, the regulations require that the supplier offer a proportionate share of the available product to all wholesale purchaser-resellers within the class of branded independent marketers and the class of non-branded independent marketers which are entitled to receive an allocation from the supplier. Information available to FEA indicates that, in some instances, 10 CFR 211.10(g)(5) has been interpreted to require a supplier only to make surplus product available to branded and non-branded independent marketers as a class but not proportionately to each member of the class. This is contrary to the intent of the regulation which is to insure equitable access to available supplies of surplus product for all marketers.

In the April 20 notice, FEA discussed the changes that have occurred in the retail gasoline market, noting in particular that some increased product needs have been satisfied through the purchase of surplus product. The proposed adjustments to the base period use of wholesale purchaser-resellers are intended to protect those purchasers who have been relying on surplus product from their suppliers to supplement their base period volumes. FEA initially determined, however, that the adjustments should reflect only purchases of surplus product from base period suppliers in order to permit the maximum amount of flexibility in the marketing of gasoline by preserving the availability of a reasonable amount of surplus product, consistent with FEA's obligation to protect purchasers of motor gasoline in the event of shortages of product.

In this connection, FEA requested comments on several alternatives to the proposed amendments, since certain marketers had advised FEA of their inability to obtain adequate supplies from their base period suppliers, and since the proposed adjustments to base period uses could result in a diminished supply of uncommitted gasoline, thus reducing the purchase opportunities of those retail

V 4291 MAY 11 77 UMI

sales outlets which are dependent on surplus product. FEA also requested comments on whether the amendments would result in the redirection of a greater volume of motor gasoline to retail sales outlets as opposed to jobbers.

In light of FEA's concern that all marketers have equitable access to available supplies of surplus product, FEA has concluded that additional comments on the distribution of surplus product are necessary. Therefore, FEA requests specific comments on whether the current regulations governing the distribution of surplus product should be revised to require public notice of availability of surplus product and to include an explicit requirement that each wholesale-purchaser reseller be offered a pro-rata share of surplus product based on the proportion of its adjusted base period volume to the total adjusted base period volumes of all purchasers entitled to receive an allocation from the supplier. In this regard, FEA requests comments on whether provisions requiring public notice and making surplus product available on a pro-rata basis would impose disproportionate administrative or logistical burdens on suppliers.

Interested persons are invited to submit data, views, or arguments with respect to the additional subject for comments set forth in this notice to Executive Communications, Federal Energy Administration, Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Adjustments to Base Period Volumes for Motor Gasoline," Box LS. Fifteen copies should be submitted. All written comments should be submitted by 4:30 p.m. on May 20, 1977. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in accordance with the procedures set forth in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332 and Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

Issued in Washington, D.C., May 6, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-13492 Filed 5-9-77;9:08 am]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Unvented Home Heating Equipment; Proposed Rulemaking and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration hereby proposes to amend its regulations in order to prescribe test procedures for unvented home heating equipment under the Energy Policy and Conservation Act. Unvented home heating equipment is a class included within a broader type of appliances covered by the Act. The Act requires that standard methods for testing covered appliance types be prescribed as part of the energy conservation program for appliances. The Act further authorizes FEA to prescribe test procedures for classes within a given type of covered product. The intended effect of this proposal is to implement the Act's requirements by soliciting public comments before test procedures are prescribed.

DATES: Comments by June 29, 1977, 4:30 p.m.; requests to speak by June 20, 1977, 4:30 p.m.; statements by June 30, 1977, 4:30 p.m.; hearing to be held on July 6, 1977, at 9:00 a.m.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3309, Federal Energy Administration, Box MJ, Washington, D.C. 20461; statements to Regulations Management, Room 2214, Federal Energy Administration, 2000 M Street, NW., Washington, D.C. 20461. Hearing held at: Room 2105, 2000 M St. NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Room 307, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–4635.

SUPPLEMENTARY INFORMATION: A. *Background.*—The Federal Energy Administration (FEA) proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for "unvented home heating equipment" pursuant to section 323, 42 U.S.C. 6293, of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). The Act requires that FEA prescribe standard methods for testing types of covered appliances and further authorizes FEA to prescribe test procedures for classes within a given type of covered product. Unvented home heating equipment is a class included within the type designated by the Act as "home heating equipment, not including furnaces."

Development of test procedures is one discrete part of the energy conservation program for appliances. Even when promulgated, final test procedures will not of themselves require testing to be conducted. They will merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC), in exercising its appliance energy efficiency labeling authority regarding a particular appliance type, may well require the application of substantially less than all of the final test procedures applicable to that appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general provisions, and a Subpart C, containing proposed energy efficiency improvement targets. Proposed Subparts A and C have not yet been finalized. A further proposal of Subpart C will be necessary in order to meet the requirements of section 325(a)(1) of the Act as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94–385).

Subpart A as previously proposed (41 FR 19977, May 14, 1976; 42 FR 15423, March 23, 1977) contained definitions in proposed § 430.2, some of which are applicable to the test procedures for unvented home heating equipment. In addition, FEA is proposing to add to the definition in § 430.2 of "Basic model," a subparagraph (7)(i) applying specifically to unvented home heating equipment.

By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. The notice issued July 22 described the requirements of section 323 and set forth proposed test procedures for room air conditioners. A further notice issued March 24, 1977 (42 FR 16811, March 30, 1977) solicited comments with respect to a clarification of the provision concerning the number of units to be tested. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977) FEA proposed an amendment setting forth proposed test procedures for dishwashers. Test procedures for water heaters, television receivers, refrigerators and refrigerator-freezers, freezers, and clothes dryers were issued on April 21, 1977 (42 FR 21576 et seq., April 27, 1977).

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards Act (NBS) to develop for 13 types of covered products test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of home heating equipment, not including furnaces.

NBS has transmitted to FEA a test procedure review document which reviewed existing test procedures for measuring energy consumption for unvented home heating equipment, a class of the broader appliance type designated by the Act as home heating equipment, not including furnaces. The NBS review document included recommended test procedures for unvented home heating equipment. Copies of this review document will be made available for inspection by interested persons as provided for later in this notice. FEA intends to publish proposed test procedures for the class, vented home heating equipment, as soon as practicable.

In developing the proposed test procedures for unvented home heating equipment, NBS consulted with the Gas Appliance Manufacturers Association, the Association of Home Appliance Manufacturers, the National Electrical Manufacturers Association, and the American Society of Heating, Refrigeration, and Air Conditioning Engineers' Technical Committee 6.4 (which is concerned with space heating). NBS subsequently formulated a test procedure which is the basis for today's proposal.

B. *Measures of Energy Consumption.*—The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. Since the annual operating costs of unvented home heating equipment could vary significantly depending upon usage patterns and fuel type, FEA is proposing to establish estimated annual operating costs for two basic categories of heater usage.

Work performed at NBS indicates that unvented home heating equipment is used either as primary or supplementary sources of heat. Portable electric heaters are most commonly used as supplementary heaters and are generally moved from place to place within a home to provide additional heat as required. Permanently installed electric heaters are considered as primary sources of heat in most home installations. Unvented gas heaters, however, are not as easily classified into supplementary or primary heat source categories. A division of unvented gas heaters into supplementary and primary sources of heat is being proposed, using 15,000 Btu's per hour as the dividing line. Unvented gas heaters with nameplate input 15,000 Btu's per hour and above would be classified as primary heaters and those below 15,000 Btu's per hour as supplementary heaters for purposes of calculating annual operating costs.

FEA is proposing to establish two basic heater usage categories to be used for calculating annual operating costs: (1) primary heaters, which include all permanently installed electric heaters and all unvented gas heaters with a nameplate input of 15,000 Btu's per hour and above (§ 430.22(g)(1)); and (ii) supplementary heaters, which include all portable electric heaters and all unvented gas heaters with a nameplate input of less than 15,000 Btu's per hour (§ 430.22(g)(2)). The estimated annual operating cost for primary heaters is the product of the average annual energy consumption times a representative average unit cost of energy. The estimated annual operating cost for supplementary heaters is the product of the maximum power input (electric and gas), a representative average use cycle, and a representative average unit cost of energy.

Also proposed (§ 430.22(g)(3)) as test procedures for the determination of other measures of energy consumption which are likely to assist consumers in making purchasing decisions are test procedures regarding the cost of operating per hour of continuous use. Cost of operation per hour of use may be useful for consumers to compare operating costs of similar sized heaters using different fuel types.

An additional proposed measure (§ 430.22(g)(4)) that is likely to assist consumers in making purchasing decisions is the regionalized estimated annual operating cost for primary heaters. The estimated annual operating cost discussed previously is based upon a national average for heating requirements. While the cost figure which results from using such an average provides a basis for comparing different heating units, actual annual operating costs experienced by a consumer may vary significantly depending upon where in the country the heating unit is operated. Clearly, geographical and climatic conditions are not the only factors which can affect the estimated annual operating cost (e.g., individual comfort requirements, frequency of use). But the effect of climate can be quantified and the estimated annual operating cost can be easily adjusted to better reflect the typical operating costs of a unit in a particular geographic unit.

To determine the regionalized operating cost, the estimated annual operating cost is multiplied by a correction factor which reflects the heating load of a particular geographic location. A map depicting degree day lines for different areas of the country is included as Chart 1 of Appendix G. The cost of operating a primary heating unit is very nearly proportional to the number of degree days of a particular region. As discussed below, the estimated annual operating cost was based on a national average of 4,000 degree days. Thus, where the map shows that an area experiences 2000 degree days the regionalized operating cost would be one half (2000/4000) of the estimated annual operating cost. If, instead, a heating unit were operated in an area which normally experienced 8,000 degree days, the regionalized operating cost would be the estimated annual operating cost multiplied by 2. The map or information derived from it could be provided in addition to the information provided on the label.

FEA recognizes that there may be additional useful measures of energy consumption for unvented home heating equipment other than the measures described above. Accordingly, today's proposal, in proposed subparagraph 430.22(g)(5), provides for other useful measures which the Administrator determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test method proposed today as Appendix G to Subpart B. Manufacturers would, if required, only have to perform various computations while still applying the same test method contained in Appendix G.

C. *Laboratory Methodology.*—Proposed Appendix G to Subpart B provides for a controlled laboratory environment for measuring energy consumption for the various unvented home heaters which are available to the consumer. The laboratory method consists of measuring the maximum power input to a heating unit. For primary heaters, the maximum power input is used in conjunction with the "Modified Degreee Day Procedure" of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) as published in Chapter 43 of the 1976 ASHRAE Handbook Systems Guide (discussed below) to calculate the average annual energy consumption.

The ASHRAE "Modified Degree Day Procedure" expresses energy consumption as a function of heating load (expressed in degree days), the difference between the indoor and outdoor design temperatures, a correction factor, and the heat loss of the building in which the heat source is installed. In the proposed regulations, the heat provided by the heater is assumed to be equivalent to the heat loss of the building. With this assumption, the ASHRAE procedure can be used to calculate energy consumption for a particular heating unit (as opposed to a particular building).

A degree day is a measure of the heating load on a heating unit. A degree day is defined as the difference between the mean outdoor temperature over a 24-hour period and 65° F. For example, if the average of the high and low temperatures for a day were 40° F, the heating load would be 25 (65–40) degree days. For primary heaters of the type covered by this proposal, the average annual heating load is approximately 4,000 degree days.

A correction factor, C_4, is used in the ASHRAE procedure to make the calculated values of energy consumption more closely approximate field measurements of energy consumption. The correction factor is a function of the outdoor design temperature. Using a graph of degree days as a function of indoor-outdoor design temperature difference and the average value of 4,000 degree days, the average indoor-outdoor design temperature difference for primary heaters is determined to be 60° F. The ASHRAE procedure is based on an indoor design temperature of 70° F. The

V 42 91 MAY 11 77 UMI

corresponding outdoor design temperature is thus 10° F (70° F–60° F). According to the ASHRAE procedure, for a 10° F outdoor design temperature, C_d is 0.79.

D. *Representative Average-Use Cycle.*—Section 323(b)(2) (42 U.S.C. 6293 (b)(2) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for primary heaters is 4,000 degree days per year and for supplementary heaters is 133 hours of operation per year. This determination is based upon NBS' recommendation to FEA.

The representative average annual use cycle for primary heaters of 4,000 degree days was determined by using values or degree days of various regions of the country and data regarding the distribution of unvented home heating equipment. This information was used to calculate a weighted national average of degree days. NBS' recommendation is available for inspection as provided for later in this notice.

FEA has determined that a representative average use cycle for supplementary heaters is 133 hours of annual operation. This determination is based on an estimate of annual usage for portable electric heaters made by the Edison Electric Institute and is also applied to unvented gas heaters in the absence of field usage data.

FEA intends to develop representative average unit costs of energy needed to calculate the annual operating cost for the representative average-use cycle and to provide this information to manufacturers and FTC on or before the effective date of test procedures for unvented home heating equipment.

E. *Number of Units to be Tested.* Proposed paragraph 430.23(g) would provide for sampling of each basic model to be tested when testing of unvented home heating equipment is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed paragraph 430.23(g), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in paragraph 430.22(g), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the sample of a particular basic model will depend upon the following factors:

(a) the level of confidence required (set at 95 percent in the proposed regulations);

(b) the maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and

(c) the relationship of the mean and standard deviation of the basic model.

The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, no fewer than 3 units of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

F. *Request for Particular Comments.* While FEA is soliciting comments on all aspects of the proposed test procedures for unvented home heating equipment FEA is particularly interested in receiving comments on any other useful measures of energy consumption or data on typical consumer usage of unvented home heating equipment in addition to those proposed today.

In addition, FEA is interested in receiving comments on any definitions described in previously proposed § 430.2, as these provisions might affect the testing of unvented home heating equipment. Such comments are timely until the close of the written record, as specified below.

In addition to the definition of basic model for unvented home heating equipment, the following definitions are proposed today: home heating equipment, not including furnaces; unvented home heating equipment; unvented gas heater; unvented circulator; radiant heater; unvented overhead heater; wall heater, unvented closed front; electric heater; baseboard electric heater; ceiling electric heater; floor electric heater; portable electric heater; and wall electric heater.

The following definitions previously proposed in §430.2 (41 FR 19377) are hereby withdrawn: home heating equipment; unvented gas and oil fired room heater; unvented circulator; coal basket; fireplace insert; gas log; radiant heater; unvented overhead heater; wall heater, unvented, open-flame radiant type; wall heater, unvented closed front; stationary electric room heater; portable electric room heater; and baseboard electric heater.

G. *Comment Procedure.*—1. *Written Comment.* Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed test procedures for unvented home heating equipment set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box MJ, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Unvented Home Heating Equipment—Proposed Test Procedures." Fifteen copies should be submitted. All comments received by June 29, 1977, before 4:30 p.m., e.s.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. *Public Hearings.*—a. *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on July 7, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.s.t., on June 20, 1977. Such a request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Unvented Home Heating Equipment—Proposed Test Procedures."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through June 22, 1977.

FEA will notify, before 4:30 p.m., June 22, 1977, each person selected to appear at a hearing. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at (202) 254–3345.

b. *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.s.t., June 29, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS' recommendations concerning test procedures for electric and unvented home heating equipment along with the ASHRAE Modified Degree Day Procedure will also be made available for inspection at the FEA Freedom of Information Office.

H. *Environmental and Inflationary Review.* As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L 93–275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

NOTE.—The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A-107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended by Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 4, 1977.

J. PETER LUEDTKE,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding a subparagraph (7)(i) as part of the definition of "Basic model," and by adding the definitions of "home heating equipment, not including furnaces," "unvented home heating equipment," "unvented gas heater," "unvented circulator," "radiant heater," "unvented overhead heater," "wall heater, unvented closed front," "electric heater," "baseboard electric heater," "ceiling electric heater," "floor electric heater," "portable electric heater," and "wall electric heater heater," to read as follows:

§ 430.2 **Definitions.**

• • • • •

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and:

• • • • •

(7)(i) with respect to unvented home heating equipment, having essentially identical functional physical and electrical characteristics.

• • • • •

"Home heating equipment, not including furnaces" means vented home heating equipment and unvented home heating equipment.

"Unvented home heating equipment" means a class of home heating equipment not including furnaces, used for the purpose of furnishing heat to a space proximate to such heater directly from the heater and without duct connections and includes electric heaters and unvented gas heaters.

"Unvented gas heater" means an unvented, self-contained, free-standing, nonrecessed gas-burning appliance which furnishes warm air by gravity or fan circulation, and includes unvented circulators, radiant heaters, unvented overhead heaters, and wall heaters, unvented closed front.

"Unvented circulator" means an unvented gas heater having an external jacket surrounding the burner and designed to convert the energy in gas to convected and radiant heat by direct mixing of air inside the jacket.

"Radiant heater" means an open-front unvented gas heater designed primarily to convert the energy in gas to radiant heat by means of refractory radiants or similar radiating materials. A radiant heater has no external jacket and is only installed in an incombustible fireplace.

"Unvented overhead heater" means an unvented gas heater for suspension from the ceiling in the room being heated.

"Wall heater, unvented closed front" means an unvented circulator which has a closed front and is designed for insertion in or attachment to a wall or partition.

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"Electric heater" means an electric appliance in which heat is generated from electrical energy and dissipated by convection and radiation and includes baseboard electric heaters, ceiling electric heaters, floor electric heaters, portable electric heaters, and wall electric heaters.

"Baseboard electric heater" means an electric heater which is intended to be recessed in or surface mounted on walls at floor level, which is characterized by long, low physical dimensions, and which transfers heat by natural convection and/or radiation.

"Ceiling electric heater" means an electric heater which is intended to be recessed in, surface mounted on, or hung from a ceiling, and which transfers heat by radiation and/or convection (either natural or forced).

"Floor electric heater" means an electric heater which is intended to be recessed in a floor, and which transfers by radiation and/or convection (either natural or forced).

"Portable electric heater" means an electric heater which is intended to stand unsupported, which is connected to an electric supply by means of a cord and plug, and which transfers heat by radiation and/or convection (either natural or forced).

"Wall electric heater" means an electric heater (excluding baseboard electric heaters) which is intended to be recessed in or surface mounted on walls, which transfers heat by radiation and/or convection (either natural or forced) and which includes forced convectors, natural convectors, radiant heaters, high wall or valance heaters.

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2. Section 430.22 is amended by adding a paragraph (g), to read as follows:

§ 430.22 **Test procedures for measures of energy consumption.**

• • • • •

(g) *Unvented Home Heating Equipment.* (1) The estimated annual operating cost for primary heaters, which

V 42 91 MAY 11 77 UMI

include permanently installed electric heaters and unvented gas heaters (with and without an auxiliary electric system) with nameplate input 15,000 Btu's per hour and above, shall be:

(i) for permanently installed electric heaters and unvented gas heaters, without an auxiliary electric system with nameplate input 15,0000 Btu's per hour and above, the product of: (A) the average annual energy consumption in kilowatt-hours per year for electric heaters and in Btu's per year for gas heaters, determined according to 3.1.1 and 3.1.2, respectively, of Appendix G of this subpart and (B) the representative average unit cost in dollars per kilowatt-hour or dollars per Btu as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year, and

(ii) for unvented gas heaters with an auxiliary electrical system with nameplate input 15,000 But's per hour and above, the sum of: (A) the product of the average annual heater gas energy consumption in Btu's per year, determined according to 3.1.2 of Appendix G of this subpart, times the representative average unit cost in dollars per Btu as provided by the Administrator plus (B) the product of the average annual auxiliary electrical energy consumption in kilowatt-hours per year, determined according to 3.1.3 of Appendix G of this subpart, times the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for supplementary heaters, which include portable electric heaters and unvented gas heaters (with and without an auxiliary electrical system) with nameplate input less than 15,000 Btu's per hour, shall be:

(i) for portable electric heaters and unvented gas heaters without an auxiliary electrical system with nameplate input less than 15,000 Btu's per hour, the product of: (A) the maximum power input, in kilowatts for electric heaters and Btu's per hour for gas heaters, determined according to 2.1 and 2.2, respectively, of Appendix G of this subpart, (B) a representative average use cycle of 133 hours per year, and (C) the representative average unit cost in dollars per kilowatt-hour or dollars per Btu as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per hour, and

(ii) for unvented gas heaters with an auxiliary electrical system with nameplate input less than 15,000 Btu's per hour, the sum of: (A) the product of the maximum gas power input to the heater in Btu's per hour determined according to 2.2 of Appendix G of this subpart, times a representative average use cycle of 133 hours per year, times the representative average unit cost in dollars per Btu as provided by the Administrator, plus (B) the product of the maximum electrical power input to the auxiliary electrical system in kilowatts, determined according to 2.1 of Appendix G of this subpart, times a representative average use cycle of 133 hours per year, times the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(3) The estimated hourly operating cost for unvented home heating equipment shall be the product of: (i) the maximum power input in kilowatts for electric heaters and Btu's per hour for gas heaters, determined according to 2.1 or 2.2 of Appendix G of this subpart, and (ii) the representative average unit cost in dollars per kilowatt-hour or dollars per Btu as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per hour.

(4) The regionalized estimated annual operating cost shall be the product of: (i) the estimated annual operating cost for primary heaters determined in accordance with paragraph (g)(1) of this section and the ratio of the annual degree days of a particular geographic location obtained from the map of Chart 1 of Appendix G to this subpart to 4,000 degree days.

(5) Other useful measures of energy consumption for unvented home heating equipment shall be those measures of energy consumption for unvented home heating equipment which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix G of this subpart.

. . . . .

3. Section 430.23 is amended by adding a paragraph (g), to read as follows:

§ 430.23 Units to be tested.

. . . . .

(g) *Unvented home heating equipment.* (1) When testing of unvented home heating equipment is required for a measure or measures of energy consumption described in § 430.22(g) of this subpart, a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within five percent of the true mean of such measures of the basic model, except that no fewer than three units of each basic model shall be tested.

(2) The sample selected for paragraph (g)(1) of this section shall be a simple random sample drawn from the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (g)(1) of this section are satisfied at each rating.

. . . . .

4. Subpart B of Part 430 is amended to add Appendix G, to read as follows:

APPENDIX G—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF HOME HEATING EQUIPMENT, NOT INCLUDING FURNACES

1. TESTING CONDITIONS

1.1 *Installation.*

1.1.1 *Electric heater.* Install heater according to manufacturer's instructions. Heaters shall be connected to gas supply line with a gas displacement meter installed between the supply line and the heater according to manufacturer's specifications. The gas displacement meter shall have a maximum error not greater than 1 percent. Gas heaters with fans shall be connected to an electrical supply circuit of nameplate voltage with a wattmeter installed in the circuit.

1.2 *Temperature regulating controls.* All temperature regulating controls shall be shorted out of the circuit or adjusted so that they will not operate during the test period.

1.3 *Fan controls.* All fan controls shall be set at the highest fan speed setting.

1.4 *Ambient temperature.* Maintain the room ambient air temperature (T,) between 68° F and 72° F.

1.5 *Energy supply.*

1.5.1 *Electrical supply.* For an electric heater, and for gas heaters with an auxiliary electric system maintain the electrical supply to the heater within 1 percent of the nameplate voltage.

1.5.2 *Gas supply.*

1.5.2.1 *Natural gas.* For an unvented gas heater utilizing natural gas, maintain the gas supply to the heater with a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. The regulator outlet pressure at normal supply test pressure shall be approximately that recommended by the manufacturer. The natural gas supplied should have a heating value of approximately 1025 Btu's per standard cubic foot. Determine the actual heating value, in Btu's per standard cubic foot, for the natural gas to be used in the test, with an error no greater than 1 percent.

1.5.2.2 *Propane gas.* For an unvented gas heater utilizing propane, maintain the gas supply to the heater with a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. The regulator outlet pressure at normal supply test pressure shall be approximately that recommended by the manufacturer. The propane supplied should have a heating value of approximately 2500 Btu's per standard cubic foot. Determine the actual heating value in Btu's per standard cubic foot, for the propane to be used in the test, with an error no greater than 1 percent.

1.6 *Energy flow instrumentation.* Install one or more energy flow instruments which measure, as appropriate, and with an error no greater than 1 percent, the quantity of electrical energy, natural gas flow or propane flow supplied to the heater.

2. TEST PROCEDURES AND MEASUREMENTS

2.1 *Electric power measurement.* Establish the test conditions set forth in 1 of this appendix. Allow an electric heater to warm up for at least 5 minutes before recording the maximum electric power measurement from the wattmeter. Allow the auxiliary electrical system of a forced air unvented gas heater to operate for 5 minutes before recording the electric power measurement from the wattmeter.

2.2 *Gas power measurement.* Establish the test conditions set forth in 1 of this Appendix. A gas heater shall be operated for one hour. Using the energy flow instrumentation of 1.6 and the gas supply energy rating of 1.5.2, determine the power input of the heater under test in Btu's per hour.

2.3 *Recorded values.*

2.3.1 Record the test room temperature, T_r, for each test in degrees Fahrenheit.

2.3.2 *Electrical power values.*

2.3.2.1 Permanently installed electric heaters, the maximum electric power input (P_E).

2.3.2.2 Portable electric heaters, the maximum electric power input (P_{EP}).

2.3.2.3 Unvented gas heaters with nameplate input of 15,000 Btu's per hour and above with auxiliary electrical systems, the maximum electric power input (P_{OA}).

2.3.2.4 Unvented gas heaters with nameplate input less than 15,000 Btu's per hour with auxiliary electrical systems, the maximum electric power input (P_{OA}).

2.3.3 *Gas power values.*

2.3.3.1 Unvented gas heaters with nameplate input of 15,000 Btu's per hour and above, the maximum gas power input (P_O).

2.3.3.2 Unvented gas heaters with nameplate input less than 15,000 Btu's per hour, the maximum gas power input (P_{OP}).

3. *Calculation of Derived Results From Test Measurements.*

3.1 *Average annual energy consumption for primary heaters—permanently installed electric heaters and unvented gas heaters with nameplate input of 15,000 Btu's per hour and above.*

3.1.1 *Permanently installed electric heaters.* Calculate the average annual energy consumption, E_E, expressed in kilowatt-hours per year, for permanently installed electric heaters using the adapted version of the ASHRAE Modified Degree Day Procedure, defined as:

$$E_E = \frac{P_E \times D \times A}{\Delta t \times M_E}(C_D)$$

where

E_E=average annual energy consumption in kilowatt-hours per year for permanently installed electric heaters.

P_E=the maximum power input of permanently installed electric heater in kilowatts as measured in 2 of this Appendix.

D=4,000 degree days per year.

A=24 hours per day conversion factor.

Δt=65° F design temperature difference between indoor and outdoor design temperatures.

M_E=1.0, rated full load efficiency for electric heaters.

C_D=0.79, correction factor.

3.1.2 *Unvented gas heaters without an auxiliary eletric system with nameplate input 15,000 Btu's per hour and above.* Calculate the average annual energy gas consumption, E_G, expressed in Btu's per year, for unvented gas heaters using the adapted version of the ASHRAE Modified Degree Day Procedure, defined as:

$$E_G = \frac{P_G \times D \times A}{\Delta t \times M_G}(C_D)$$

where

D, A, t, and C_D are defined in 3.1.1 of this Appendix, and

E_G=average annual energy consumption in Btu's per year for unvented gas heaters without an auxiliary electric system with nameplate input 15,000 Btu's per hour and above.

P_G=power of unvented gas heater in Btu's per hour as measures in 2 of this Appendix.

M_G=0.92[1], rated full load efficiency for unvented gas heaters.

[1] The efficiency of unvented gas heaters is taken as the ratio of net heating value divided by gross heating value.

3.1.3 *Unvented gas heaters with an auxiliary electrical system with nameplate input 15,000 Btu's per hour and above.* Calculate the average annual electrical energy consumption, E_{GE}, expressed in kilowatt-hours per year for auxiliary electrical energy consumption for unvented gas heaters, defined as:

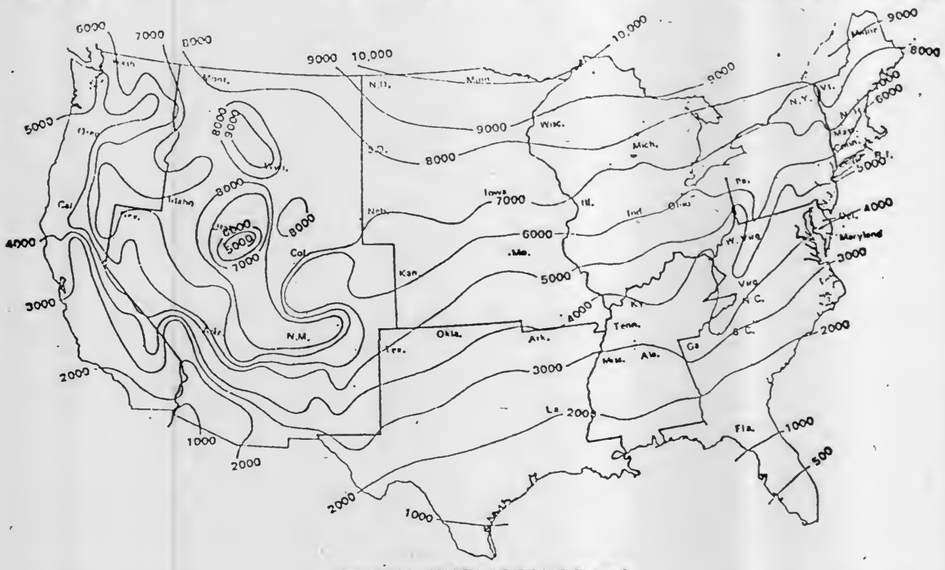
$$E_{GE} = P_{GE} \times E_G / P_G$$

where

P_G and P_G are defined in 3.1.2 of this Appendix; and

E_{GE}=average annual electrical energy consumption in kilowatt-hours per year for unvented gas heaters with an auxiliary electrical system.

P_{GE}=the maximum electrical power input of an unvented gas heater auxiliary electrical system in kilowatts as measured in 2 of this Appendix.



[FR Doc.77-13204 Filed 5-5-77;12:28 p.m.]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[10 CFR Part 810]

UNCLASSIFIED ACTIVITIES IN FOREIGN ATOMIC ENERGY PROGRAMS

Notice of Proposed Rulemaking

AGENCY: Energy Research and Development Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule is to amend ERDA's regulations on "Unclassified Activities in Foreign Atomic Energy Programs". Specifically it is proposed to amend 10 CFR Part 810:

(1) To withdraw the general authorization presently granted therein for the conduct in Free World countries of certain activities involving the separation of isotopes of any source or special nuclear material and certain fuel fabrication activities involving plutonium;

(2) To add Cambodia, Laos and Southern Rhodesia to the country/area list to be consistent with other U.S. Government export control regulations;

(3) To add an additional criterion to be used in evaluating activities requiring specific authorization by the Administrator; and

(4) To revise the reporting requirements.

The Energy Research and Development Administration believes the proposed amendments summarized above are necessary because of increasing concern over the possibility that certain sensitive nuclear facilities being assisted by U.S. persons are not subject to appropriate international safeguards. Promulgation

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of these amendments would not mean that all the identified activities will be prohibited, but it would ensure that the U.S. Government has an opportunity to determine whether each such activity is inconsistent with U.S. policy on nonproliferation of nuclear weapons, or is otherwise inimical to the interest of the United States.

DATES: Comments must be received on or before July 11, 1977.

ADDRESSES: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. These should be submitted to the Assistant Administrator for National Security, Energy Research and Development Administration, Attention: Division of International Security Affairs, Washington, D.C. 20545. Comments received after the due date will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed by that date.

FOR FURTHER INFORMATION CONTACT:

Mr. Irvin L. Williams, Area Code 301 Telephone 353-3324.

SUPPLEMENTARY INFORMATION: Implementation of this regulation may require U.S. persons to obtain specific authorization for activities that have heretofore been conducted under the general authorization. In view of this, and in addition to soliciting comments on the proposed regulation, ERDA is prepared to receive from those affected by this change a description of those ongoing activities which may in the future require specific authorization under the proposed regulation. Such descriptions would allow ERDA: (1) To review activities now being conducted to determine whether promulgation of the proposed regulation is in the interest of the United States; and (2) to begin reviewing such activities with a view to making early decisions as to whether their conduct will be inimical to the interest of the United States. This procedure is intended to prevent any unwarranted disruption of ongoing activities which are not inimical to the interest of the United States.

Any trade secret or proprietary information submitted by any person pursuant to this regulation shall be afforded the maximum degree of protection allowed by law.

In consideration of the foregoing, it is proposed to amend Part 810 of Title 10, Code of Federal Regulations as follows:

§ 810.7 [Amended]

1. By revising paragraph 810.7(a)(1) to read as follows:

(a) • • •

(1) Does not constitute directly or indirectly engaging in any such activity in any of the following countries or areas:

Albania;
Bulgaria;
Cambodia;
China, including Manchuria (and excluding Taiwan (Formosa)) (includes Inner Mongolia; the provinces of Tsinghai and Sikang; Sinkiang; Tibet; the former Kwantung Leased Territory; the present Port Arthur Naval Base Area and Liaoning province);
Cuba;
Czechoslovakia;
East Germany (Soviet zone of Germany and the Soviet Sector of Berlin);
Estonia;
Hungary;
Laos;
Latvia;
Lithuania;
North Korea;
Outer Mongolia;
Poland;
Rumania;
Southern Rhodesia;
Union of Soviet Socialist Republics;
Vietnam; and"

• • • • • •

2. By revising § 810.7(a)(2)(i) to read as folows:

(a) • • •

(2) • • •

(i) Designing or assisting in the design of facilities for the chemical processing of irradiated special nuclear material, facilities for the production of heavy water, facilities for the separation of isotopes of any source or special nuclear material, facilities for the fabrication of nuclear fuel containing plutonium, or equipment or components especially designed for any of the foregoing; or"

• • • • • •

3. By redesignating paragraph (b)(5) of § 810.8 as paragraph (b)(6), and by adding a new paragraph (b)(5) to read as follows:

(b) • • •

(5) Whether there is reason to believe that the assistance to be furnished will be utilized by a non-nuclear weapon state in nuclear activities which are not subject to the safeguards system of the IAEA; and"

• • • • • •

4. By revising § 810.10(b)(1) to read as follows:

(b) Activities to be reported:

(1) Directly or indirectly assisting in the design, construction, fabrication or operation, outside the United States, of:

(i) A nuclear reactor; or

(ii) A facility for the separation of isotopes of any source or special nuclear material; or

(iii) A facility for the chemical, physical or metallurgical processing or fabrication or alloying of special nuclear material; or

(iv) A facility for the production of heavy water, zirconium (hafnium-free or low-hafnium), reactor grade graphite, or beryllium; or"

5. By revising § 810.10(b)(2) to insert at the beginning of the paragraph the phrase "Directly or indirectly assisting in".

6. By revising § 810.10(c)(1)(iii) to read as follows:

(c) • • •

(1) • • •

(iii) The furnishing of component parts which are not especially designed for use in a reactor, facility or component part specified in paragraphs (b)(1) or (2) of § 810.10 and which are not intended for use in such a reactor, facility or component;

• • • • • •

(Secs. 57, 161, Atomic Energy Act of 1954, as amended, 68 Stat. 932, 948, as amended (42 U.S.C. 2077, 2201); secs. 104, 105, Energy Reorganization Act of 1974, 88 Stat. 1237, 1238 (42 U.S.C. 5814, 5815))

Dated at Washington, D.C. this 6th day of May 1977.

For the Energy Research and Development Administration.

ALFRED D. STARBIRD,
Assistant Administrator for National Security.

[FR Doc.77-13713 Filed 5-10-77;12:01 pm]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON JUDICIAL REVIEW

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 2:00 p.m., May 20, 1977 in the 7th floor Conference Room of Covington and Burling, 888 16th Street, NW., Washington, D.C. 20006.

The Committee will meet to consider, for the second time, an ongoing study of "Judicial Review of Customs Service Actions," by Professor Peter M. Gerhart, Other Conference business of a general nature may also be discussed.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037, at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Jeffrey Lubbers (202-254-7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 3, 1977.

[FR Doc.77-13361 Filed 5-10-77;8:45 am]

COMMITTEE ON LICENSES AND AUTHORIZATIONS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Licenses and Authorizations of the Administrative Conference of the United States, to be held at 11:00 a.m., June 8, 1977 in the offices of O'Melveny & Myers, Fifth Floor South, 1800 M Street, NW, Washington, DC.

The Committee will meet to consider (1) Professor Scott's draft report on "The Dual Banking System: A Model of Divided Regulation." (2) Status of Professor Breger's project on procedures for waivers and exemptions. (3) Ways to increase member participation in the activities of the Conference.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Philip J. Harter, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 5, 1977.

[FR Doc.77-13426 Filed 5-10-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

CANCELLATION OF ADVISORY COMMITTEE MEETINGS

The following eight Forest Service advisory committee meetings have been cancelled:

Bighorn National Forest Grazing Advisory Board, May 3, 1977
Cibola National Forest Grazing Advisory Board, May 20, 1977
Condor Advisory Committee, May 24, 1977
Humboldt National Forest Grazing Advisory Board, May 16, 1977
Malheur National Forest Grazing Advisory Board, May 4, 1977
Prescott National Forest Grazing Advisory Board, May 6, 1977
Timpas Unit Grazing Advisory Board, May 11, 1977
Union County Grazing Advisory Board, May 16, 1977

J. W. DEINEMA,
Deputy Chief.

[FR Doc.77-13403 Filed 5-10-77;8:45 am]

FINAL 1976 COOPERATIVE WESTERN SPRUCE BUDWORM PEST MANAGEMENT PLAN

Availability of USDA 1977 Final Environmental Statement Addendum

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Final Environmental Statement Addendum for control of the western spruce budworm in Oregon and Washington, USDA-FS-R6-FES(Adm)-76-7.

The Environmental Statement Addendum concerns a proposed treatment of western spruce budworm on 460,000 acres of infested Federal, State, and private lands in Oregon and Washington during the spring and summer of 1977 with Carbaryl to suppress the western spruce budworm.

This Final Environmental Statement Addendum was transmitted to CEQ on May 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oregon 97204.
Okanogan National Forest, 219 Second Avenue South, Okanogan, Washington 98840.
Wenatchee National Forest, 301 Yakima Street, Wenatchee, Washington 98801.
Bureau of Indian Affairs, 1425 Northeast Irving, Portland, Oregon 97232.
National Park Service, Pacific Northwest Region, 4th and Pike, Seattle, Washington 98101.
Washington State Department of Natural Resources, Public Lands Building, Room 201, Olympia, Washington 98504.

A limited number of single copies are available upon request to Regional Forester, T. A. Schlapfer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: May 4, 1977.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programming, and Budgeting.

[FR Doc.77-13364 Filed 5-10-77;8:45 am]

Soil Conservation Service

SOUTH ANNA RIVER WATERSHED, VA.

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the South Anna River Watershed in Louisa County, Virginia.

The environmental assessment of this Federal action indicates that this portion of the project will not create significant adverse local, regional, or national

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impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. David N. Grimwood, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection, municipal water storage and flood prevention. The planned works of improvement as described in the negative declaration, include conservation land treatment supplemented by four single purpose floodwater retarding structures and one multiple purpose structure for municipal and industrial water supply and floodwater storage.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 400 North 8th Street, Room 9201, Richmond, Virginia 23240. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 USC 1001-1008.)

Dated: May 3, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc.77-13427 Filed 5-10-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30692; Order 77-4-151]

AIR-INDIA

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of April, 1977.

Tariff revision filed by Air-India to increase level of 14/120-day excursion fare between India and the United States.

By tariff revision[1] filed on April 1, 1977 for effectiveness May 1, 1977, Air-India has proposed, pursuant to an order of the Government of India, increases in the level of its 14/120-day excursion fare between India and the United States. The tariff filing would increase round-trip fares from $798 to $854 (New York-Bombay/Delhi), and from $835 to $894 (New York-Calcutta/Madras).

On April 5, 1977, a complaint was filed by India Travel Service, Ltd. and William Becker Travel Bureau, Inc. (the complainants) requesting the Board to reject or suspend Air-India's tariff filing. In support of their complaint, the complainants allege that Air-India has long been in violation of certain provisions of the Act by paying excessively high commissions to select agents which in turn enables these agents to sell tickets to the public at less than published tariff fares, and that Air-India has continued this practice despite an injunction issued by the Federal District Court for the Eastern District of New York which enjoined Air-India from engaging in any activities which would enable passengers to obtain air transportation at prices other than those in tariffs on file with the Board. The complainants further state that, accordingly, Air-India cannot now claim that it needs additional revenue in the form of fare increases—all it need do for increased revenues is pay reasonable commissions and stop rebating. Board allowance of the proposed increases, they maintain, would be tantamount to rewarding Air-India for the alleged violations. The complainants therefore urge the Board to adopt a policy whereby those carriers which continue to deplete their revenues by selling air transportation at less than fares on file with the Board, or by offering high commissions to agents who then rebate to travellers, are denied all fare increases until the rebating practices cease. The complainants state that Air-India cannot hide behind an order of the Indian Government in attemping to justify a fare increase which, if unreasonable, must be rejected or suspended to protect the integrity of the Board's tariff processes. Finally, the exhibits attached to the complaint include a copy of a resolution passed by the Society of Indian Travel Agents (S.I.T.A.) which indicates concern with the possible traffic impact of the proposed increase, and a willingness to accept lower commissions in order to keep the fare at present levels.

In its answer to the complaint, Air-India supports the proposed increase by stating that the increase is economically justified by the fare's low yield of 5.38 cents per mile over even Air-India's least circuitous route (New York-London-Bombay); that the seven-percent increase contemplated is not out-of-line with recent increases in North Atlantic fares as approved by the Board;[2] and that Pan American, Air-India's principal U.S.-flag competitor, has complained on at least two occasions that the fare in question is too low.[3] Air-India maintains that it is not engaged in rebating; that its commission structure is reasonable when compared with those of other major North Atlantic carriers since the advent of open commission rates; and that, rather than doing business with agents who sell tickets at less than published fares, it has taken various actions to bring such violations to the attention of both the Board and the U.S. Attorney's office. The carrier also points out that S.I.T.A. consists of almost exclusively non-IATA agents, with whom Air-India does not do business. Additionally, Air-India construes the complaint as the personal vendetta of Mr. Gopal Raju, owner of both complainant travel agencies. Air-India notes that it commenced litigation on October 13, 1975 against Mr. Raju individually as well as the two travel agencies, after repeated unsuccessful attempts to collect substantial sums due it, and that this litigation will shortly come to trial.

In their reply,[4] the complainants state that Air-India's answer consists of nothing more than an attack on the complainants and Mr. Raju, whose business has been ruined by the complainants' refusal to issue any tickets at less than the fare on file with the Board in spite of the pressure of competitors' violations. It is also allegd that the complainants owe Air-India no money, since the amounts due are offset by amounts owed to the complinants by the carrier as a result of a ticket rebating scheme imposed on them by the carrier. The complainants further assert that Air-India has mischaracterized the membership of S.I.T.A.; that, in fact, there is a large number of appointed agents among its members and that the S.I.T.A. statement is therefore relevant to the matter. Finally, the complainants maintain that the commission rates of other carriers cited by Air-India in its answer have no bearing on the Indian market.

Upon full consideration of the petition, the response and reply thereto, and other relevant matters, the Board has decided to dismiss the complaint.

The seven-percent increase contemplated by Air-India's tariff filing is, indeed, comparable with other increases in North Atlantic fares found to be justified and recently approved by the Board. On these grounds, the increase cannot be found to be unreasonable. Nor would we expect any significant adverse impact on traffic to result from such an increase in this low level fare. The 14/120-day excursion fare is, by a substantial margin, the lowest-priced individual fare in scheduled service between India and the United States and the proposed increase comports with the Board's long-term objective of reducing the spread between full economy fares and promotional fares. Finally, we do not regard the matters raised about tariff violations and excessive agent commissions as germane to otherwise justified fare increase. These matters will, however, be referred to the Board's Bureau of Enforcement for such action as may be appropriate.

Acordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

[1] Section 63 on 1st Revised Page 285 to Passenger Fares Tariffs No. 4, C.T.C. (A) 19, C.A.B. No. 22, issued by John M. Sampson, Agent.

[2] Order 77-3-54, March 9, 1977.

[3] Complaints of Pan American, Docket 25800, March 9, 1973, and Docket 26976, August 21, 1974.

[4] The complainants' reply was filed with a motion for leave to file an otherwise unauthorized document, which will be granted.

[4] Air India v. Wm. Becker Travel Bureau, Inc., India Travel Service, Ltd. and Gopal Raju, No. 18160/75, Supreme Court of New York, New York County.

It is ordered That:

1. The complaint of India Travel Service, Ltd. and William Becker Travel Bureau, Inc. in Docket 30692 is hereby dismissed; and

2. The motion by India Travel Service, Ltd. and William Becker Travel Bureau, Inc. for leave to file an otherwise unauthorized document is hereby granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13454 Filed 5-10-77;8:45 am]

[Order 77-5-20; Dockets 30510-30513]

AMOS E. HEACOCK ET AL.

Order Affirming Staff Action

In the matter of applications of Amos E. Heacock, d.b.a. Air Transport Associates, Richard D. Neumann, California Air Charter & Holiday Airways, d.b.a. Air United States, Shields B. Craft & N. Y. Craft, d.b.a. Standard Airways, Ralph W. E. Cox, Jr., d.b.a. U.S.O.A. for certificates of public convenience and necessity.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of May 1977.

By petitions filed March 21 and March 23, 1977, the applicants in the above-referenced dockets seek review of decisions made by the Managing Director, dated March 14, 1977, denying each of the applicants a waiver of filing fees. We have decided to exercise our discretionary right of review and to affirm the Managing Director's decisions.

The applicants are seeking certificates of public convenience and necessity to engage in supplemental air transportation. A waiver of the Board's filing fee regulations is sought generally on the grounds that the applicants are small businesses and former nonscheduled air carriers and that imposition of the filing fee would be unduly burdensome. Upon consideration of all the facts, the Managing Director concluded that payment of the prescribed fee by the applicants would not be unduly burdensome or unfair and inequitable. We agree with that determination. We wish only to comment on the assertions made by the applicants concerning the legality of our filing fee regulations.

The Board is presently reviewing its filing and license fee regulations. As a result, by Order 77-4-42, April 8, 1977, we suspended the payment of all license fees pending reissuance of section 389.25 of the Board's regulations. However, we specifically stated that our action was applicable solely to license fees, not filing or other fees. We added:

[I]t is our present view that the Board's filing fee regulations are in accord with judicially imposed requirements. We point out, in this regard, that filing fees are based upon a percentage of the costs associated with the processing of applications and tariff filings and do not cover the full cost of processing. This determination to recoup only a portion of the expense was based on public policy grounds which the courts appear to have determined is an inappropriate standard. Thus, we see little likelihood that filing fees would be reduced even if some modifications to the method of computing filing fees are ultimately adopted.* Order 77-4-42, p. 2.

In accordance with our views stated in Order 77-4-42, we will not waive our filing fee regulations in this case.[1]

Accordingly, *it is ordered*, That: The staff actions dated March 14, 1977, denying requests for waivers of filing fees in Dockets 30510, 30511, 30512, and 30513, be and hereby are affirmed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13455 Filed 5-10-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, June 9, 1977, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee Advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Election of new Chairman.

(4) Reports on the work programs of the Subcommittees: (a) Technology Transfer; (b) Foreign Availability; (c) Licensing Procedures; and (d) Hardware.

Executive Session

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5 (c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617 M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: May 6, 1977.

RAUER H. MEYER,
Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77-13352 Filed 5-10-77;8:45 am]

*See OR-27, effective March 1, 1968, 33 FR 68, January 4, 1968, and 33 FR 360, January 10, 1968.

[1] The applicants also question the propriety of imposing a fee prior to action being taken on their pending motions to consolidate. We wish to point out that should the Board deny these motions and dismiss the applications, the applicants would be entitled to a refund of the fees. Section 389.25(a)(1) of the Board's Regulations.

V 42 91 MAY 11 77 UMI

Economic Development Administration

J. B. LION CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by J. B. Lion Corporation, 35 Benham Avenue, Bridgeport, Connecticut 06605, a producer of handbags and cosmetic kits, was accepted for filing on May 4, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 23, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-13353 Filed 5-10-77;8:45 am]

National Oceanic and Atmospheric Administration

FEDERATION OF JAPAN SALMON FISHERIES COOPERATIVE ASSOCIATION

Public Hearing

On April 20, 1977 (FR 42, 20485) it was announced that an application (Category 5: Other Gear) has been received to take marine mammals incidental to the course of commercial fishing operations from the Federation of Japan Salmon Fisheries Cooperative Associations, Tokyo, Japan. Interested persons were invited to submit written comments on or before May 20, 1977.

A public hearing regarding this application will be held on May 27, 1977, beginning at 10 a.m. in the Penthouse, Page 1 Building, 2001 Wisconsin Avenue NW., Washington, D.C. The record will remain open for public comments until the hearing record is closed.

Dated: May 6, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13458 Filed 5-10-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE, AND ADVISORY PANEL

Partially Closed Meeting

Notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, its scientific and Statistical Committee, and its Advisory Panel.

The North Pacific Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Council has established a Scientific and Statistical Committee, as well as an Advisory Panel, under section 302(g) of the Act, to assist the Council in the development and amendment of fishery management plans.

The meetings will be Thursday and Friday, May 26-27, 1977, in the Hill Building in Rooms 808 and 809, located at 632 6th Avenue, Anchorage, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. each night. The meetings may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

MAY 26

1. Public hearings on Council management plans and activities.
2. Reports from Scientific and Statistical Committee and Advisory Panel.
3. Progress report and update from Council's Drafting Management Planning Teams.
4. Closed Executive Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians. (Council only)

MAY 27

1. Review of foreign fishing activities.
2. Other Council business.

A closed executive session of the Council is planned for the early afternoon of the first day, May 26, from 1:30 p.m. through 3:30 p.m. to hear Department of State reports and other related Council business on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission, and continuing negotiations with the Canadians, properly classified under Executive Order 11652. Only those Council members having security clearances will be allowed to attend this executive session. The Scientific and Statistical Committee and Advisory Panel will not attend this session.

After the closed meeting adjourns, a public hearing will be held on the afternoon of the first day, May 26, at approximately 3:30 p.m., at the same location. Interested members of the public are invited to testify at this hearing on matters relating to fishery management plans under development by the Council and other related Council functions. A separate notice of the public hearing will be issued.

The Assistant Secretary for Administration, with the concurrence of the DOC General Counsel, formally determined, on May 9, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the executive session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because these items will be concerned with matters listed in 5 U.S.C. 552b(c)(1), i.e., it is specifically required by E.O. 11652 that they be kept secret in the interest of national security. (A copy of the determination is available for public inspection and copying).

The meeting will be open to the public (except the executive closed session of the Council) and there will be seating for approximately 65-75 public members available on a first come, first served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about May 16, 1977:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, Telephone 907-274-4563.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. The public is permitted to file written statements at any time before or after the meeting. However, to receive due consideration and facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda items should be received no later than 10 days after the close of the joint meeting.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-13596 Filed 5-10-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON APPAREL PRODUCTS FROM POLAND

Increasing Import Level

MAY 9, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: **Increasing the designated annual consultation level to 476,087 pounds for certain cotton apparel in Category 62, produced or manufactured in Poland and exported to the United States during the year which began on January 1, 1977.**

SUMMARY: **The Government of Poland, under the terms of paragraph 3(c) of the** Bilateral Cotton Textile Agreement of November 6, 1975, between the Governments of the United States and the Polish People's Republic, has requested an increase of 150,000 pounds in the designated consultation level applicable to Category 62 during the agreement year which began on January 1, 1977. The United States Government has acceded to the request.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Judith McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202-377-5423).

2.

SUPPLEMENTARY INFORMATION: On January 3, 1977, a letter was published in the FEDERAL REGISTER (42 FR 64) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restrain applicable to certain specified categories of cotton textile produced or manufactured in Poland and exported to the United States during the twelve-month period which began on January 1, 1977. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of cotton apparel products in Category 62 in excess of 476,087 pounds during the agreement year which began on January 1, 1977.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

May 9, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 29, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products produced or manufactured in Poland.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973 pursuant to the Bilateral Cotton Textile Agreement of November 6, 1975, between the Governments of the United States and the Polish People's Republic, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective May 11, 1977 and for the twelve month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 62 in excess of 476,087 pounds.

The actions taken with respect to the Government of Poland and with respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce.

[FR Doc.77-13597 Filed 5-10-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 77-2; Served: May 6, 1977]

WHAM-O MANUFACTURING CO.

Hearing

Please take notice that the hearing in the above entitled proceeding previously scheduled for June 7, 1977, is hereby postponed until 9:30 a.m. (PDST), June 28, 1977. The hearing will be held in the Court of Claims Hearing Room, Room 8549, 300 North Los Angeles Street, Los Angeles, California.

The issues to be heard include inter alia:

(1) Whether Respondent Wham-O Manufacturing Company knowingly violated Section 19(a)(4) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(4)), in that it failed to inform the Commission immediately upon obtaining information which reasonably supported the conclusion that crossbows manufactured by Respondent contained a defect which could create a substantial product hazard, as required by Section 15(b) of the Consumer Product Safety Act, 15 U.S.C. 2064(b) and 16 CFR Part 1115; and

(2) Whether Respondent Wham-O Manufacturing Company is subject to a civil penalty in the amount of $125,000, or some other amount, for such knowing violation pursuant to Section 20 of the Consumer Product Safety Act, 15 U.S.C. 2069.

Dated: May 6, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77-13456 Filed 5-10-77;8:45 am]

COST ACCOUNTING STANDARDS BOARD

EVALUATION CONFERENCE ON PROMULGATED STANDARDS AND REGULATIONS

Notice is hereby given of the Cost Accounting Standards Board's Second Evaluation Conference on Promulgated Standards and Regulations to be held in Reston, Virginia, on October 12 and 13, 1977, and of the procedures to be followed in the Conference. The purpose of the Conference is to provide the Board with an opportunity to receive directly from all interested persons their evaluations of the effectiveness of promulgated Standards and regulations.

Time and duration. The Conference will commence at 9 a.m. on October 12, 1977. The Board anticipates that no more than two days will be required for the Conference. If more time is needed to permit all interested persons to participate, the Conference will be extended.

Place and accommodations. The Conference will be held at the Sheraton Inn and International Conference Center, 11810 Sunrise Valley Drive, Reston, Virginia, 22091 703-620-9000. Reston, Virginia, is approximately 25 miles from Washington, D.C., and 5 miles from Dulles International Airport. Anyone desiring overnight accommodations must make reservations directly. No reservations for overnight accommodations may be made through the Cost Accounting Standards Board.

General scope of the conference. The Conference is being undertaken to receive suggestions and recommendations to improve the effectiveness of Cost Accounting Standards, rules and regulations of the Board, and to enhance their utility in contract negotiation, administration, and audit. To the extent possible, each suggestion or recommendation should be substantiated by examples and data derived from experience.

The Conference will encompass a review of promulgated Standards, interpretations, and regulations which will have been in effect for a year prior to the Conference. This excludes Standard No. 415, Accounting for the Cost of Deferred Compensation. The Standards, interpretations and regulations involved are:

Contract Regulation (4 CFR, Part 331).
Disclosure Regulation (4 CFR, Part 351).
Standard No. 401—Consistency in estimating, accumulating and reporting costs.
Interpretation No. 1 to Standard No. 401.
Standard No. 402—Consistency in allocating costs incurred for the same purpose.
Interpretation No. 1 to Standard No. 402.
Standard No. 403—Allocation of home office expenses to segments.
Standard No. 404—Capitalization of tangible assets.
Standard No. 405—Accounting for unallowable costs.
Standard No. 406—Cost accounting period.
Standard No. 407—Use of standard costs for direct material and direct labor.
Standard No. 408—Accounting for costs of compensated personal absence.
Standard No. 409—Depreciation of tangible capital assets.
Standard No. 410—Allocation of business unit general and administrative expenses to final cost objectives.
Standard No. 411—Accounting for aquisition costs of material.
Standard No. 412—Composition and measurement of pension cost.
Standard No. 414—Cost of money as an element of the cost of facilities capital.

With respect to the above Standards, the Board invites comments concerning any questions or problems that have arisen which may be sufficiently widespread and serious to warrant issuance of formal interpretations by the Board.

V 42 91 MAY 11 77 UMI

The Board will soon publish its Restatement of Objectives, Policies, and Concepts. The Restatement will include the following discussion of costs and benefits:

COMPARING COSTS AND BENEFITS

Section 719 of the Defense Production Act of 1950, as amended by Pub. L. 94–152 requires the Board, in promulgating Standards, to take into account "the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits, including advantages and improvements in the pricing, administration, and settlement of contracts."

The Board views costs and benefits in a broad sense. All disruptions of contractors' and agencies' practices and procedures are viewed as costs. Prior to making a final promulgation decision, the Board makes specific inquiries into the likely costs of implementing proposed Standards, both for contractors and for affected agencies of the Government. In this inquiry, an effort is made to distinguish transitional costs from those that may persist on a recurring basis. Also, the Board makes a distinction between (1) incremental administrative costs, i.e., the cost of added activities over and above that which would otherwise have been incurred, and (2) costs that are absorbed in implementing and administering Standards, i.e., the cost of effort or resources diverted to the implementation and administration of Standards that otherwise would have been applied elsewhere. Out-of-pocket administrative expenses can be estimated, albeit with difficulty, and any increase in such expenses must be regarded as a cost.

Benefits from CAS include anticipated reductions in the number of time-consuming controversies stemming from unresolved aspects of cost allocability as well as greater equity to all concerned. The Board also expects that benefits will be achieved through simplified negotiation, administration, audit, and settlement procedures. Also, Standards should serve to reduce the opportunities for the manipulation of accounting methods alleged to have existed prior to establishment of the Board. Finally, and most importantly, the availability of better cost data stemming from the use of Cost Accounting Standards will permit improved comparability of offers and facilitate better negotiation of resulting contracts. The Board believes that it would be extremely difficult, if not impossible, to quantify the benefits which are sought from Standards.

The Board is interested in data which will enable it to gauge the impact of a proposed Standard on the amount of costs that will shift to or from Government contracts as a result of one or more Standards. The Board recognizes that a fair Cost Accounting Standard may result in a shift of cost either to or from Government contracts. In formulating Standards, the Board will not regard such shifts of costs as determinative.

The likely impact of a Cost Accounting Standard on a contractor is to modify the distribution of his costs among time periods or among his projects in a given time period. Standards may increase administrative costs which, if not offset by the benefit of increased productivity in defense contracting, would contribute to inflation; the Board considers the total of benefits relative to the total cost.

The Board is interested in receiving comments and suggestions concerning all of the material in the Restatement. It is, however, particularly interested in receiving comments addressed to the above-quoted costs and benefits section including suggestions as to ways in which costs and benefits may be quantified.

Those invited to participate. Persons may appear on their own behalf or as representatives of Federal Government agencies, firms, companies, colleges or universities, professional associations, or other interested groups. The Board, however, is particularly interested in hearing from representatives of individual companies and contracting agencies about specific experiences involving the application of the Board's Standards, rules, and regulations.

Attendance and proceedings of the conference. The Conference shall be open to the public, and all interested persons are invited to attend. In order to allow the Board to make appropriate arrangements for the Conference meeting room, anyone who will attend the Conference, either as a participant or as an observer, is asked to notify the Administrative Officer of the Board of that fact prior to October 3, 1977. A record of the Proceedings will be kept and may be inspected at the Offices of the Board, 441 G Street NW., Washington, D.C. 20548.

Oral presentations. Oral presentations by participants summarizing previously submitted written statements shall be no more than 10 minutes in duration. In addition, time will be allowed for participants to respond to questions which may be asked by Board Members and the Executive Secretary of the Board. Persons who wish to make oral presentations at the Conference must notify the Executive Secretary in writing at least 45 days before the date of the Conference. The Executive Secretary will advise those making oral presentations of the day and probable time for his presentation. Anyone making an oral presentation must provide two copies of his written statement to the Board at least 30 days before the Conference.

Written presentations. Persons who wish only to submit written statements to the Evaluation Conference may do so. Such statements must arrive at the office of the Board before the end of the Conference in order to be included in the record.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.77-13480 Filed 5-10-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY COMMITTEE ON PRIORITY CHEMICALS TESTING

Meeting

This notice is intended to advise all interested persons of the schedule for the meeting of the TSCA Interagency Committee on Priority Chemicals Testing established under Section 4(e) of the Toxic Substances Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing of chemical substances and mixtures.

The next meeting will be held Thursday, May 19, 1977, at 9:00 a.m. in Room 5104, New Executive Office Building, 726 Jackson Place, Washington, D.C.

All interested persons are invited to attend.

WARREN R. MUIR,
Chairman, TSCA ICPCT.

MAY 2, 1977.

[FR Doc.77-13428 Filed 5-10-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 726-6); [OPP-50286A]

ELANCO PRODUCTS CO., ET AL.

Issuance of Experimental Use Permits; Correction

In FR Doc. 77-9887 appearing on page 17897 in the issue of April 4, 1977, the second paragraph, next to last sentence in permit No. 1471-EUP-49 is corrected to read "The experimental use permit is effective from March 11, 1977 to March 11, 1979."

Dated: May 3, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13488 Filed 5-10-77;8:45 am]

[FRL 726-3; OPP-00051]

FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Office of Pesticide Programs. Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: There will be a three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Wednesday, May 25, Thursday, May 26, and Friday, May 27, 1977. The meeting will be held in Rm. 2812 (a) and (b), Waterside Mall, 401 M St. SW, Washington DC 20460. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-567), Rm. E-315, EPA, 401 M St. SW, Washington DC 20460, telephone 202-755-4851.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to discuss the following topics:

1. Organizational activities of the Panel.

2. Proposed regulations for classification of pesticides (Part I) as required under Section 3(d) of FIFRA, amended.

3. Subpart on proposed chemistry requirements of the Guidelines for Registering Pesticides in the United States as required by Section 3(c)(2) of FIFRA, amended.

EPA is now developing proposed regulations concerning procedures for classification of pesticides by use of rulemaking procedures and is proposing classifications to be issued under those procedures. It is not known at this time whether formal Agency approval of the classification rulemaking proposal will be accomplished prior to the May 25–27 meeting; however, the substance of the regulatory proposal will be discussed at that meeting. EPA is also currently engaged in developing proposed regulations which would set guidelines concerning data on product chemistry. It is unlikely that formal Agency approval of these proposed regulations will be accomplished before the May 25–27 meeting; nonetheless, the substance of the regulatory proposal will be discussed at that meeting.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address shown above. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit four copies of a summary no later than May 24, 1977. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory panel. All statements will be made a part of the record and will be taken into consideration by the Panel in formulating its own comments.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.); sec. 10(a)(2), Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: May 5, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-13255 Filed 5-10-77;8:45 am]

[FRL 726-; OPP-30131]

PESTICIDES PROGRAMS

Receipt of Application to Register a Pesticide Product Containing a New Active Ingredient

Hallemite, Lehn & Fink Industrial Products Div. of Sterling Drug, Inc., 225 Summit Ave., Montvale N.J. 07645, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticides product GROTAN DR-35 (EPA File Symbol 10000-U), containing 14.5% of the active ingredient 2-chloro-*N*-(hydroxymethyl) acetamide which has not been included in any previously registered pesticide products. The application received from Hallemite, Lehn & Fink Industrial Products Div. of Sterling Drug, Inc., proposes that the product be classified for general use as a preservative in paints, emulsion and styrene polymers, styrene acrylics, floor polishes, polyethylene emulsions, scouring cleansers, and all-purpose and dishwashing detergents. PM33

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of Section 3(c)(4) of FIFRA [40 CFR 162.2(b)(6)] and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received by June 10, 1977, and should bear a notation indicating the EPA File Symbol "10000-U." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-755-9041.

Notice of approval or denial of this application to register GROTAN DR-35 will be announced in the FEDERAL REGISTER. The label furnished by Hallemite, Lehn & Fink Industrial Products Div. of Sterling Drug, Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: May 3, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13486 Filed 5-10-77;8:45 am]

[FRL 726-8; OPP-180116]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Triforine To Control Mummyberry on Blueberries

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 (a) et seq.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use Triforine for the control of mummyberry on 700 acres of blueberries in western Washington. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, an economic hardship has occurred to commercial blueberry growers in Washington because of the disease called mummyberry, which first appeared in the 1950's and is now present in all of the blueberry fields in western Washington; some 700 acres are involved. Mummyberry is caused by the fungus *Monilinia vaccini corymbosi*. Primary infection by ascospores takes place early in the spring just as the leaf and flower buds begin to grow (mid-March to April). These ascospores are released from spore cups that develop from mummified fruit. Spore cup emergence coincides with the emergence of the young susceptible tissues of the plant. Mummies are a result of the disease from the previous crop and have overwintered on or near the surface of the soil beneath the bushes. Infected blossoms and leaves turn brown and wither as a result of these primary infections. The fungus then produces a second spore type on these infected tissues. These are blown onto remaining blossoms where secondary infection takes place on the developing pistil of the flowers. These flower infections remain undetected until the fruit begins to enlarge in July. The infected fruit turns off color and usually drops to

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the ground before healthy berries mature. These mummified fruits persist through the winter and act as a source of the fungus for the primary infection the following spring. Treatment begins when ascospores are released from the spore cups, coinciding with the bud break in the spring.

Currently, there are four fungicides registered for the control of mummyberry on blueberries: benomyl, captan, ferbam, and ziram. The Applicant has submitted data which showed that these fungicides are relatively ineffective in controlling the current outbreak of this disease. However, triforine (N,N'-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)] bis [formamide] appeared to be efficacious in suppressing this pathogen. According to the Applicant, it seemed particularly effective against the primary inoculum (ascospores), which is the most critical stage in the life cycle of the pathogen. Triforine is registered in the U.S. under the trade name Funginex 20% EC. It is registered in Canada for the above purpose.

The Appliant proposed to use Funginex 20% EC, EPA Reg. No. 21137-4, at a rate of 24 fluid ounces per acre (0.3 pound active ingredient triforine per 100 gallons of water or in sufficient water for coverage, applied by ground equipment, or 24 fluid ounces per 5 gallons of water per acre if applied by aircraft. A maximum of three applications will be applied. The first treatment will begin at bud break, the second one will be made seven to ten days later, and the final one will be made prior to blossom opening. A minimum of 60 days will lapse between the last application of triforine and harvest. All counties west of the Cascade Mountains will be involved in this program. A maximum of 700 acres will be treated. Applications will be made by State-licensed commercial applicators or State-certified private applicators. The Washington State University Extension Service will provide information as to the dosage rate, timing, and other application procedures.

Without the application of triforine, the Applicant has estimated that yield losses could amount to forty (40) percent under favorable climatic conditions, which would cost the commercial blueberry growers $600,000; losses up to seventy-five (75) percent could also occur in some areas. The Applicant further stated that losses of this magnitude could force some blueberry growers out of production, and since it takes years for blueberries to reach peak yields, it would have long term effects on the blueberry production in the State.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of mummyberry has occurred in western Washington State; (b) there is no pesticide presently registered and available for use to control this pest; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Funginex 20% EC, EPA Reg. No. 21137-4, will be used at a rate of 24 fluid ounces (0.3 pound A.I. triforine) per 100 gallons of water (or in sufficient water for coverage) per acre applied by ground equipment, or 24 fluid ounces per 5 gallons of water per acre if applied by aircraft;

2. A maximum of three applications will be made. The first treatment will begin at bud break, the second one will be made 7 to 10 days later, and the final one will be made prior to blossom opening;

3. A minimum of 60 days will lapse between the last application of triforine and harvest;

4. A report summarizing the results of this program will be submitted to EPA;

5. If applied by aircraft, all precautions will be taken to avoid or minimize spray drift;

6. A maximum of 700 acres of blueberry fields in the counties west of the Cascade Mountains will be treated; and

7. The EPA has determined that a triforine residue level not to exceed 0.1 ppm in or on harvested blueberries is adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action.

Dated May 4, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-13487 Filed 5-10-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-252; RM 2361]

BROADCAST OPERATIONS DURING AN EMERGENCY

Memorandum Opinion and Order Denying Petition for Rulemaking

Adopted: April 5, 1977.

Released: April 13, 1977.

In the matter of amendment of § 73.-98, broadcast operation during an emergency.

1. The Commission herein considers a "Petition for Rule Making"[1] filed by Nutmeg Broadcasting Company ("Nutmeg"), licensee of AM Station WILI, Willimantic, Connecticut, which seeks an amendment of the Commission's Rules to allow unlimited-time AM stations which provide the only intereference-free local service in their area to broadcast during nighttime hours maintaining daytime power and commercial content during emergencies.

2. In support of its petition, Nutmeg states it believes that in the case of serious disasters, commercial content would be meaningless and in such situations noncommercial operation would best serve the public interest. Nutmeg feels, however, that lesser, weather-related, emergencies present a different situation and require special consideration. During such lesser emergencies, the petitioner states that it is important for the public to receive information on emergency conditions and cancellations and that the only way for some stations to reach the entire population of their service area is to use their daytime facilities during nighttime hours. However, petitioner asserts that to broadcast over an extended period on a noncommercial basis would cause many stations financial hardship. Thus, petitioner contends that in such situations many licensees feel compelled for economic reasons to operate commercially using their regular nighttime facilities, thereby reducing their coverage area. For these reasons, Nutmeg requests the Commission to amend its rules to allow unlimited time stations which provide the only daytime interference-free local service to an area,[2] to present commercial matter while operating in the daytime mode during nighttime hours in emergencies. In this way, petitioner believes, these stations would be able to serve the public better and, at the same time, prevent financial hardship to their stations.

3. Section 73.98 of the Commission's Rules provides that, during emergency situations, stations may use their daytime facilities during evening hours only if regular, unlimited-time service is nonexistent, provides inadequate coverage, or fails to serve the public need at such a time. Licensees who elect to operate with daytime facilities at night under the provisions of this section, are required to do so on a noncommercial basis. The Commission placed these limitations on emergency broadcasting because of the great potential such operations have for causing skywave interference to other stations. Additionally, the Commission wished to ensure that these special privileges were not abused and used by licensees as opportunities to increase their stations' nighttime coverage area and provide them with a monetary advantage they might not otherwise realize. To insure that a decision to operate during an emergency was based on the public interest and need, the Commission required that such operation be noncommercial.

4. Prior to adoption of § 73.98, there had been serious questions raised as to whether bona fide emergencies existed or whether alleged "emergencies" were being used by some licensees to extend

[1] Public Notice of the filing of the petition was issued on April 22, 1974 (Report No. 906).

[2] Unlike daytime stations which have no nighttime revenues to begin with, full-time stations do have and would lose revenues otherwise available to them if they operated on an emergency basis with daytime facilities.

their hours of operation. Such "emergency" operation often consisted of information on the emergency being broadcast at infrequent or scattered intervals with the balance of the format consisting of commercials and regular program material. Because of these circumstances, the Commission adopted[3] Section 73.98 which prohibited spot announcements, commercial continuity, and program material of any kind not related to the emergency. The new rules, however, did allow music[4] to be transmitted between emergency announcements to alert the public that the station was on the air and ready to serve them.

5. While we agree with the petitioner that making a decision to cease normal operation of a station and to forego regular programming—including commercial content—and use daytime facilities at night to cover the emergency may well involve some cost to the station, we cannot agree that the Commission's rules should allow full-time radio stations to operate as the petitioner requests. During an emergency, a concerned broadcast station can serve an important function and play a vital role in meeting the needs of the community in a difficult period. Licensees such as Nutmeg are to be commended for their concern with and involvement in the communities they serve. Certainly the importance of providing radio coverage of an emergency situation and the conditions which result therefrom cannot be minimized. It was for these reasons that the Commission adopted the provisions of § 73.98, thereby ensuring that the public would have these services. Although the Commission allowed stations to use their daytime facilities during evening hours if the licensee believed the nighttime facilities would not reach the entire area concerned, it would be quite a different matter for the Commission to allow licensees to operate on a commercial basis at such times. Such a provision, even if limited to full-time stations, would again raise the possibility of abuse in these "emergency" situations. Nothing said by the petitioner provides a reason for confidence that it would be possible to avoid the problems the Commission encountered prior to the adoption of Section 73.98.

6. In essence, Nutmeg's petition is premised on the belief that Rule 73.98, as presently framed, inhibits fulltime stations from operating with their daytime facilities during nighttime hours in marginal, weather-related emergencies. We concede that this may well be the case. The overriding consideration, however, is that the vast majority of fulltime station licenses specify reduced power and/or use of more restrictive directional antenna systems during nighttime hours, and that the usual reason for these constraints is to provide nighttime skywave interference protection to all stations assigned to the same frequency. In view of our legal obligation under Section 316 of the Communications Act, as interpreted in the KOA case (319 U.S. 239 (1943)) to protect the established RSS limits of unlimited-time stations generally, as well as our obligation to comply with foreign station protection requirements imposed by international agreement, we are effectively foreclosed from allowing an expansion of emergency operations under Rule 73.98 beyond existing levels in the manner proposed.

7. In view of the foregoing the petition of Nutmeg Broadcasting Company Is Denied and thisp roceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc 7713440 Filed 5-10-77;8:45 am]

[3] Emergency Operation, Report and Order, 28 FR 12218 (Nov. 16, 1963), 1 R.R. 2d 1559 (1963).

[4] Music was seen as a better alternative to the low-level tone suggested originally, as it would be more likely to hold listeners' attention, and be more soothing than the continuous tone.

[FCC 77-278; CSR-1053 (NJ0008)]

CABLE HAVEN TV, INC.
Petition for Declaratory Ruling

Adopted: April 20 1977.

Released: April 29, 1977.

1. Cable Haven TV, Inc., (Stafford Township, New Jersey) seeks a declaratory ruling from the Commission that its proposed Cedar Bonnet Island cable television facilities are not aggregable with its Stafford Township facilities and hence do not constitute a single cable television system. Both the island and the territory already served are within Cable Haven's franchise area under a 1968 township ordinance.[1] Indeed, the petitioner has already wired the entire franchise area, including Cedar Bonnet Island. Yet there are no subscribers on the island because Cable Haven has not strunk a trunk line from the mainland. The mainland system, because of its size, is required by the Commission to provide network program nonduplication protection and may soon be required to make access channels available.[2] If Cable Haven were to run its trunk line across the bay onto the island, the resulting operation would be deemed a single cable system for federal regulatory purposes. The services received by all subscribers would be the same. However, Cable Haven claims that extension of the trunk line would be economically infeasible. While it claims it can install a separate headend for $1,600, it says the least expensive method of extending the trunk line would cost about $16,000. A separate headend would permit the Cedar Bonnet facility to receive all signals over the air, separately from the Stafford Township facility.

2. Cable Haven seeks a declaratory ruling that construction of a new headend will create a new and separate cable system for federal regulatory purposes. Grant of the proposed ruling would allow petitioner to serve the islanders without having to provide network nonduplication protection, access and other services which are dependent upon certain minimum subscriber totals, since subscribers to this island system are expected to number no more than twenty-five.[3] Additionally, island subscribers would not be able to watch the local origination and pay programming now viewed by their mainland neighbors. The issue, therefore, is whether the resulting operations are one or two systems for federal regulatory purposes.

3. The Commission's new definition of a cable television system in § 76.5(a) of our rules[4] excludes on its face the possibility of subscribers served by two separate headends from being deemed to form a single system. The underlying question in each case is whether a valid business reason exists for establishing separate headends or whether it was done to avoid federal requirements. See First Report and Order in Docket No. 20561, FCC 77-205, —FCC — (1977), at para. 38. We believe the present proposal results from valid, independent business judgment. The estimated cost of extending the trunk cable from the mainland across the bay onto Cedar Bonnet Island would be extremely expensive, especially in view of the fact that only twenty or thirty additional subscribers can be expected.

In view of the foregoing, we believe that granting the petition for declaratory ruling would be in the public interest.

Accordingly, *It is ordered*, That the "Petition for Declaratory Ruling" (CSR-1053) filed by Cable Haven TV, Inc. *Is granted.*

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13442 Filed 5-10-77;8:45 am]

[1] The Commission has certified Cable Haven to serve this entire area. (CAC-4205)

[2] The system presently has about 3,100 subscribers with a potential of 4,300.

[3] There are only seventy-five houses on the island. About forty-two of them are occupied in the winter.

[4] That section defines a cable television system as: "A nonbroadcast facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment, under common ownership and control, that distributes or is designed to distribute to subscribers the signals of one or more television broadcast stations, but such term shall not include (1) any such facility that serves fewer than 50 subscribers, or (2) any such facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management."

[FCC 77-263]

COMMON CARRIERS PROVIDING BROADCAST SIGNALS TO CABLE TELEVISION SYSTEMS
Tariff Revisions in Light of Decision in ATR Rate Case

APRIL 7, 1977.

This notice is being issued to call attention to the issuance by the Commission of a decision believed to be of broad

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applicability to many common carriers providing broadcast signals to cable television systems. On March 24, 1977, the Commission released its Decision and Order, FCC 77-207, Docket No. 19609, In the Matter of American Television Relay, Inc. (ATR), which set forth specific Commission policies concerning the lawfulness of the population-sensitive rate structure used by ATR to calculate monthly charges for signal service to cable television customers. The Commission discussed the burden a carrier must meet if it wishes to depart from cost of service based ratemaking principles by employing population-sensitive rate structures. The Commission stated that a carrier seeking to justify population-sensitive rates must establish cost of service as a point of departure from rates based on cost of service, must show that rates at the lower end of the scale will cover direct costs of connection plus some contribution to common costs, and demonstrate that the preferred customer, absent preferential rates, would be financially incapable of subscribing to the service (ATR, paras. 41-42). The Commission further held that any charges based upon geographic zones must accurately reflect the cost-distance relationship, and that tariff prohibitions of customer retransmission without the carrier's prior consent are unlawful.

All common carriers currently providing signals to cable television customers under tariffs incorporating rate structures similar to that of ATR should reevaluate the lawfulness of their tariffs in light of the principles and policies set forth in the *ATR* decision. The Commission proposes to engage in this review sua sponte, but will withhold action for a period of 120 days to afford affected carriers a reasonable time to complete their own reviews and to make any revisions they deem necessary under the *ATR* guidelines. At the end of this period, the Commission will inspect all tariffs similar to the one investigated in Docket No. 19609 with a view to appropriate action to insure compliance with the *ATR* case principles. Carriers with population-sensitive tariffs that have been suspended, but whose hearings have been held in abeyance pending resolution of the *ATR* case (Docket Nos. 20198, 20493, 20801, 21047 and 21145) should also proceed to examine the lawfulness of their presently effective tariffs in light of the principles set forth in the *ATR* decision to determine whether they desire to file any revisions within this 120 day period. All tariff revisions filed pursuant to this Notice should follow the provisions of Section 61.58 of our Rules and Regulations, 47 CFR § 61.58, as amended by our recent Report and Order, FCC 77-146, released February 28, 1977, with respect to notice and effective date and all other applicable rules for tariff filings.

Action by the Commission April 6, 1977. Commissioners Wiley (Chairman), Lee, Hooks, Quello, Fogarty and White with Commissioner Washburn not participating.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13444 Filed 5-10-77;8:45 am]

[FCC 77-284; Docket No. 20981]

IMPACT OF CUSTOMER PROVISION OF TERMINAL EQUIPMENT ON JURISDICTIONAL SEPARATIONS

First Supplemental Notice

Adopted: April 22, 1977.

Released: April 25, 1977.

1. In a Notice of Inquiry, Proposed Rule Making and Creation of Federal-State Joint Board, released November 8, 1976 (FCC 76-1008), this Commission gave notice of the convening of a Federal-State Joint Board pursuant to Section 410(c) of the Communications Act of 1934, 47 U.S.C. § 410(c). This Joint Board was established to develop recommendations in an inquiry into the revisions, if any, which should be made in the prescribed jurisdictional separations[1] procedures in order to compensate for any shift in revenue requirements and/or distribution of revenues amongst the telephone companies which might result when the customer provides his own terminal equipment.

2. Pursuant to Section 410(c) of the Communications Act, 47 U.S.C. § 410(c), the following State Commission members of the Joint Board have been nominated by the National Association of Regulatory Utility Commissioners (NARUC) and submitted for our approval: Peter A. Bradford, Maine Public Utilities Commission; Edward P. Larkin, New York Public Service Commission; Edwin R. Lundborg, Colorado Public Service Commission; and William Symons, Jr., California Public Utilities Commission. We hereby accept these very competent state commissioners as members of the Joint Board. They will be joined by Commissioners Richard E. Wiley, Robert E. Lee, and Benjamin L. Hooks of this Commission.

3. It is the further purpose of this notice to organize and establish a meeting place and date so that this Board may determine at that time procedures appropriate to the stated purpose of the creation of this Board. It is anticipated that the initial meeting will explore and initiate methods of gathering data and methods to analyze and test such data with the ultimate goal of making appropriate recommendations, if necessary, for changes in the separations process to the end that the economic viability of small independent telephone companies and their rates for basic residential service will not be adversely impacted to any significant extent by the customer provision of terminal equipment.

4. Accordingly, *It is ordered*, That Peter A. Bradford, Edward P. Larkin, Edwin R. Lundborg, William R. Symons, Jr., Richard E. Wiley, Robert E. Lee, and Benjamin L. Hooks are appointed to the Federal-State Joint Board mentioned herein and the first meeting of such Board shall be held on May 20, 1977, at 9:30 A.M. in the offices of this Commission at 1919 M Street, NW., in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-13449 Filed 5-10-77;8:45 am]

[1] Jurisdictional separations procedures are applicable to property costs, revenues, expenses, taxes and reserves and are designed primarily for the allocation of those items between state and federal jurisdiction. The fundamental basis on which separations are made is the relative usage of commonly used telephone plant in each of the operations. Those items which are specifically attributable to one or the other jurisdiction are directly assigned. See, Separations Manual, NARUC-FCC Cooperative Committee on Communications, February, 1971 §§ 11.11-11.13.

[FCC 77-273; Docket No. 20452]

INTERCONNECTION FACILITIES PROVIDED TO THE INTERNATIONAL RECORD CARRIERS

Order

Adopted: April 20, 1977.

Released: April 22, 1977.

1. We have before us American Telephone and Telegraph Company's (AT&T) April 15, 1977 Petition for Extension of Time from April 25, 1977 to May 27, 1977 within which to comply with the Commission's Final Decision and Order, FCC 77-176, released March 23, 1977, in the above-captioned proceeding. The Final Decision and Order directed AT&T to remove the unlawful discrimination in the provision of entrance and intercity facilities as between the international record carriers (IRCs) and domestic satellite and specialized common carriers.

2. AT&T states that the complexities involved in furnishing the facilities at issue to the IRCs make it impossible to formulate and implement at this time all the actions which will comply completely with the Commission's directions by April 25, 1977. AT&T indicates that while it has determined that intercity facilities will be provided to IRCs under existing tariff offerings of facilities to Other Common Carriers it has not completed its review of entrance-type facilities so that an appropriate action can be determined. Finally, AT&T states that its efforts to determine all of the actions necessary to comply with the Commission's directive are expected to be completed by May 27, 1977.

3. We have considered the foregoing and conclude that the requested extension of time is reasonable and would not unduly delay implementation of the Commission's order.

4. Accordingly, *It is ordered*, That AT&T is granted additional time from April 25, 1977 to May 27, 1977 within which to take actions in compliance with our Final Decision and Order in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13441 Filed 5-10-77;8:45 am]

[Docket No. 21199]

LEER ELECTRONICS

Order Designating Application for Hearing on Stated Issues

Adopted: April 18, 1977.

Released: April 25, 1977.

In the matter of George E. Leer, d.b.a. Leer Electronics, 2771 Plumas Drive, San Jose, California 95121, application for citizens band radio station license in the citizens band radio service.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-captioned application for a Citizens Band radio station license by George E. Leer on January 9, 1976.

1. On August 21, 1972, the Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, released an Order (SS-093-73) directing Leer to Show Cause why his license should not be revoked and why he should not be ordered to cease and desist from further violations of the Commission's Rules and Section 301 of the Communications Act of 1934, as amended. An attachment to the Order to Show Cause explained the procedural rights of Leer, including his right to a hearing or to waive hearing and submit a written statement. Leer failed to submit a reply to the Order to Show Cause. On November 7, 1972, the Chief Administrative Law Judge, in accordance with Section 1.92 of the Commission's Rules, held that Leer had waived his right to a hearing by his failure to reply and certified the matter to the Commission for administrative disposition.

2. On December 11, 1972, the Commission, by the Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, released an Order (SS-093-73) revoking Leer's Citizens Band license. In that Order it was concluded that Leer operated radio transmitting apparatus in wilful violation of Sections 95.95(c) (failure to identify own station and stations communicated with by assigned call sign), 95.91(b) (failure to observe a five-minute silent period between contacts), 95.41(d)(2) (interstation communications on a intrastation channel), 95.83(a)(1) (engaging in CB radio communications as a hobby or diversion), 95.41(d) (operation on a frequency not assigned to CB radio service), 95.37(c) (overheight antenna), 95.105 (failure to maintain a copy of Part 95 of the Commission's Rules at the station), 95.47(d) (operation with unauthorized emission), and 95.49(c) (operation causing harmful interference).[1]

3. On December 11, 1972, the Commission also released, pursuant to authority delegated to the Chief, Safety and Special Radio Services Bureau, an Order (SS-093-73) directing Leer to cease and desist from further violations of the Commission's Rules and the Communications Act. That Order was based on the same violations which found the basis for the Order of Revocation.

4. On June 19, 1973, Leer was found guilty of four counts of violations of Section 502 of the Communications Act of 1934, as amended. Judge R. H. Peckham, United States District Court, Northern District of California, fined Leer $500 on each of the four counts, but suspended $250 of the fine on each count, with the proviso that Leer be on probation for a period of three years and refrain from operation of radio transmitting equipment in violation of the Communications Act or the Commission's Rules.

5. Despite the conviction and conditions of sentence, Leer apparently operated a Citizens Band radio station on July 12, 1974, in violation of the conditions of his probation and Section 301 of the Communications Act of 1934, as amended. On July 23, 1974, Leer was sent a Federal Communications Commission Form 835, warning him of legal consequences of unlicensed radio operation.

6. In view of the findings and conclusions of the Order to Cease and Desist and the Order of Revocation, the criminal conviction of June 19, 1973, and the apparent unlicensed operation of July 12, 1974, it cannot be determined that a grant of Leer's application would serve the public interest, convenience, and necessity. Therefore, the Commission must designate the application for hearing. The findings and conclusions of the Order to Cease and Desist and the Order of Revocation shall be res judicata as to the applicant and shall not be relitigated in this proceeding.

Accordingly, it is Ordered, Pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 0.331 and 1.973(b) of the Commission's Rules that the captioned application is designated for hearing at a time and place to be specified by subsequent Order, upon the following issues:

(1) To determine the effect of the facts and conclusions contained in the Order to Cease and Desist and the Order of Revocation, both released on December 11, 1972 (SS-093-73), upon the applicant's qualifications to be a licensee of the Commission.

(3) To determine the effect of the conviction of June 19, 1973, of violations of the Communications Act of 1934, as amended, in the United States District Court, Northern District Court of California, upon the applicant's qualifications to be a licensee of the Commission.

(3) To determine whether the applicant engaged in unlicensed operation subsequent to his June 19, 1973, conviction.

(4) To determine, in light of the evidence adduced under the foregoing issues, whether the applicant has the requisite qualifications to be a licensee of the Commission.

(5) To determine whether the public interest, convenience, and necessity would be served by a grant of the application for a Citizens Band radio station license.

It is further ordered, That to avail himself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in the Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-13443 Filed 5-10-77;8:45 am]

[1] Certain Section of Part 95 of the Commission's Rules have been renumbered, revised, or deleted. The Rules cited herein are those in effect at the time of operation.

FEDERAL POWER COMMISSION

[Docket No. G-3894, etc.]

ATLANTIC RICHFIELD CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates; Correction

APRIL 18, 1977.

In FR Doc. 77-5236, issued February 11, 1977 and published at 42 FR 10722, February 23, 1977, page 10723, Docket No. CI77-238, "Frio Production Company, Operator," Under column headed "Purchaser and Location" Insert "United Gas Pipe Line Company" as purchaser in lieu of "Valley Gas Transmission, Inc.".

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13390 Filed 5-10-77;8:45 am]

[Docket Nos. CP73-258, etc.]

EL PASO EASTERN COMPANY, ET AL.

Order Consolidating Proceedings, Terminating Consolidated Proceedings, Granting Requests to Withdraw Applications and Dismissing Certain Applications, Providing for Hearing, Prescribing Procedures, and Requiring Payment of Filing Fees and Notice of New Docket Designations; Correction

APRIL 15, 1977.

In FR Doc. 77-11766, issued on April 14, 1977, and published at 42 FR 21138, April 25, 1977, the following changes should be made:

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Page	Paragraph	Line	Change
21139	2	2	Delete "." after "1"; insert "and March 2," after "1".
21140	2	14	"42" for "41".
21141	3	2	"April 25, 1977" for "May 5, 1977".
21141	3	6	"not later than June 1, 1977." for "on June 14, 1977, at 10:00 a.m.".

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13391 Filed 5-10-77;8:45 am]

[Docket Nos. CP76-208, etc.]

MID-CONTINENT GAS STORAGE CO., ET AL.

Order Providing Formal Hearing, Consolidating Proceedings, and Granting Interventions; Correction

APRIL 21, 1977.

In FR Doc. 77-11769, issued April 14, 1977 and published at 42 FR 21143, April 25, 1977, on page 21145, delete Ordering Paragraph (D) and redesignate Ordering Paragraph (E) and Ordering Paragraph (D).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13392 Filed 5-10-77;8:45 am]

[Docket No. CP76-208, etc.]

MID-CONTINENT GAS STORAGE CO., ET AL.

Order Providing Formal Hearing, Consolidating Proceedings, and Granting Interventions; Correction

APRIL 25, 1977.

In FR Doc. 77-11769 issued April 14, 1977, and published at 42 FR 21143, April 25, 1977, on page 21144, paragraph 2, 7th sentence, add: "* * * which was corrected timely."

On page 21145, finding paragraph numbered (3); delete the 3rd sentence entirely.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13389 Filed 5-10-77;8:45 am]

FEDERAL RESERVE SYSTEM

McCUNE BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

McCune Bancshares, Inc., McCune, Kansas ("Applicant") has applied for the Board's approval under section 3 (a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) of formation of a bank holding company through the acquisition of 80 per cent or more of the voting shares of McCune State Bank, McCune, Kansas ("Bank"). Applicant has also applied, pursuant to section 4 (c) (8) of the Act (12 U.S.C. section 1843 (c) (8)) and section 225.4(b) (1) of the Board's Regulation Y, for permission to engage in the sale of credit life and credit accident and health insurance and other insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a) (9)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (42 FR 14920 (1977)). The time for filing comments and views has expired, and the applications and all comments received have been considered in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c) (8) of the Act.

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank, Applicant would own the 381st largest bank in Kansas, holding 0.06 percent of total deposits in commercial banks in the State. Bank, with deposits of $5.7 million,[1] is the third smallest of 15 banks in the relevant market[2] and controls 2.51 percent of the total deposits therein.

Applicant's principals have interests in three other Kansas one-bank holding companies. The subsidiary banks of these holding companies are located considerable distances from Bank and operate in different banking markets. Inasmuch as the proposal to form a bank holding company represents a restructuring of the existing ownership of Bank into corporate form, consummation of the proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on other banks in the trade area.

The financial and managerial resources and future prospects of Applicant, which are largely dependent upon Bank, are considered satisfactory and consistent with approval of the subject application. Although Applicant will incur debt in connection with the subject proposal, its projected income from Bank and insurance operations should provide sufficient revenue to service its acquisition debt without placing an undue strain on the financial condition of either Applicant or Bank.

Although consummation of the transaction would effect no changes in the banking services offered by Bank, considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that consummation of the proposal to form a bank holding company would be consistent with the public interest and the application should be approved.

In connection with the application to become a bank holding company, Applicant has also applied, pursuant to section 225.4(a) (9) of Regulation Y, to engage de novo in the sale of credit life and credit accident and health insurance and other insurance directly related to extensions of credit by Bank, including farm owners, home owners, crop hail, and automobile liability and physical damage insurance. Approval of the application to engage in such activities would insure the residents of McCune and nearby areas a convenient source of credit-related insurance services. It does not appear that Applicant's engaging in the above-described activities would have any significant adverse effect on existing or potential competition. Furthermore, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c) (8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and that the application to engage in credit-related insurance activities should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and the commencement of credit-related insurance agency activities shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The approval of Applicants insurance activities is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective May 5, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-13450 Filed 5-10-77; 8:45 am]

[1] All banking data are as of December 31, 1975.

[2] The relevant market is approximated by the southern half of Crawford County, the northern half of Cherokee County and the northeast portion of Labette County.

PACKWOOD FINANCIAL, INC.

Formation of Bank Holding Company

MAY 6, 1977.

Packwood Financial, Inc., Packwood, Iowa, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become a bank holding company through acquisition of 73.7 percent or more of the voting shares of Farmers Savings Bank, Packwood, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 2, 1977.

Board of Governors of the Federal Reserve System, May 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13485 Filed 5-10-77;8:45 am]

PIEDMONT BANKGROUP INC.

Formation of Bank Holding Company

Piedmont Bankgroup Incorporated, Martinsville, Virginia, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company through acquisition of 100 percent of the voting shares of the successors by merger to Piedmont Trust Bank, Collinsville, Virginia, and Bank of Carroll, Hillsville, Virginia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 2, 1977.

Board of Governors of the Federal Reserve System, May 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13462 Filed 5-10-77;8:45 am]

SECOND CHARTER FINANCIAL CORP.

Formation of Bank Holding Company

Second Charter Financial Corporation, Albion, Indiana, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company through acquisition of approximately 88 percent of the voting shares of The Albion National Bank, Albion, Indiana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Govenors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 2, 1977.

Board of Governors of the Federal Reserve System, May 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13461 Filed 5-10-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 39]

PUBLIC SERVICE COMPANY OF COLORADO AND COLORADO PUBLIC UTILITY COMMISSION

Proposed Intervention in Utility Rate Application

The General Services Administration seeks to intervene in a proceeding before the Colorado Public Utility Commission concerning tariffs filed by the Public Service Company of Colorado designed to increase its annual electric revenues by $43 million. GSA represents the interests of the executive agencies of the United States Government, as users of electric utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW, Washington, DC 20405, telephone (202) 566-0750, on or before June 10, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: May 4, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-13463 Filed 5-10-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1977:

SOCIAL SCIENCES TRAINING REVIEW COMMITTEE

Date and time: June 2–3, 9 a.m.
Place: Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open, June 2, 9 to 11 a.m.; Closed, otherwise.
Contact: Mrs. Barbara Frideland, Parklawn Building, Room 9C-09, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science training and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 11 a.m., June 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

Date and time: June 2–4, 9 a.m.
Place: Executive Room, Dupont Plaza Hotel, Dupont Circle NW., Washington, D.C.
Type of meeting: Open June 2, 9–9:30 a.m.; Closed, otherwise.
Contact: Dr. Joel W. Goldstein, Parklawn Building, Room 10-95, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3936.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., June 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

Date and time: June 2–4, 9 a.m.
Place: Nathan Hale Room, Sheraton Park Hotel, 2600 Woodley Road NW., Washington D.C.
Type of meeting: Open, June 2, 9 to 10 a.m.; Closed, otherwise.
Contact: Mrs. Eileen Nugent, Parklawn Building, Room 10C-06, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3942.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to neuropsychology research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title, 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

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MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

Dated and time: June 2–4, 9 a.m.
Place: Cabinet Room, Shoreham Americana, 2500 Calvert Street, Washington, D.C.
Type of meeting: Open, June 2, 9 to 10:30 a.m.; closed, otherwise.
Contact: Mrs. Edna M. Hardy Hill, Parklawn Building, Room 7–102, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–2888.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10:30 a.m., June 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

EPIDEMIOLOGIC STUDIES REVIEW COMMITTEE

Date and time: June 6, 9 a.m.
Place: Nathan Hale Room, Sheraton-Park Hotel, 2660 Woodley Road, NW., Washington, D.C. 20008.
Type of meeting: Open, June 6, 9 to 10 a.m.; closed, otherwise.
Contact: Mrs. Lavinia Walsh, Parklawn Building, Room 10C–09, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3774.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

METROPOLITAN MENTAL HEALTH PROBLEMS REVIEW COMMITTEE

Date and time: June 8–10, 9 a.m.
Place: Parlor A, Burlington Hotel, Vermont Avenue at Thomas Circle, Washington, D.C.
Type of meeting: Open, June 8, 9 to 9:30 a.m.; closed, otherwise.
Contact: Mrs. Phyllis Piazow, Parklawn Building, Room 15–99, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3373.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to metropolitan mental health problems and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., June 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

CRIME AND DELINQUENCY REVIEW COMMITTEE

Date and time: June 8–10, 9 a.m.
Place: Parliament Room B, Holiday Inn Georgetown, 2505 Wisconsin Avenue, Washington, D.C.
Type of meeting: Open, June 8, 9 to 10:30 a.m.; closed, otherwise.
Contact: Carol Beall, Parklawn Building, Room 18C–04, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3728.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in crime and delinquency, individual violent behavior, and related law and mental health interactions, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10:30 a.m., June 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

PRECLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

Date and time: June 9–10, 9 a.m.
Place: Suite G–100 and G–101, Sheraton-Park Hotel, 2600 Woodley Road, NW., Washington, D.C.
Type of meeting: Open, June 9, 9 to 9:30 a.m.; Closed, otherwise.
Contact: Mrs. Nina Young, Parklawn Building, Room 9–97, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3454.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to preclinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

Date and time: June 9–10, 9 a.m.
Place: Thomas Paine Room, Sheraton Park Hotel, 2660 Woodley Road NW., Washington, D.C.
Type of meeting: Open, June 9, 9 to 10 a.m.; Closed, otherwise.
Contact: Mrs. Antoinette C. Simms, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3568.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Intsitute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

CLINICAL PROJECTS RESEARCH REVIEW COMMITTEE

Date and time: June 12–14, 9 a.m.
Place: Washington Room, Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, Virginia 22209.
Type of meeting: Open, June 12, 9 to 10 a.m.; Closed, otherwise.
Contact: Harriet German, Parklawn Building, Room 10C–05, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3367.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

DRUG ABUSE TRAINING REVIEW COMMITTEE

Date and time: June 13–15, 9 a.m.
Place: 8th Floor Conference Room, One Central Plaza, 11300 Rockville Pike, Rockville, Maryland 20852.
Type of meeting: Open, June 13, 9 to 10 a.m.; closed, otherwise.
Contact: Dr. Lonnie E. Mitchell, Rockwall Building, Room 640, 11400 Rockville Pike, Rockville, Maryland 20852.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Drug Abuse relating to drug abuse training and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9 to 10 a.m., June 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

RESEARCH SCIENTIST DEVELOPMENT REVIEW COMMITTEE

Date and time: June 14–16, 9 a.m.
Place: Terrace Room, Linden Hill Motor Hotel, 5400 Pooks Hill Road, Bethesda, Maryland.
Type of meeting: Open, June 14, 9 to 10 a.m., closed, otherwise.
Contact: Ms. Jeannette Raley, Parklawn Building, Room 9C–24, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4347.
Purpose: The Committee reviews applications for Research Scientist Development Awards, and Research Scientist Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

DRUG ABUSE RESEARCH REVIEW COMMITTEE

Date and time: June 14–17, 9 a.m.
Place: Conference Rooms 845, 873, and 677, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852.
Type of meeting: Open, June 14, 9 to 9:30 a.m.; closed, otherwise.
Contact: Mr. J. Michael Morrison, Rockwall Building, Room 750, 11400 Rockville Pike, Rockville, Maryland 20852.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Drug Abuse relating to research activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9:00 to 9:30 a.m., June 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

MENTAL HEALTH SERVICES RESEARCH REVIEW COMMITTEE

Date and time: June 15–17, 9 a.m.
Place: Gramercy Inn, North Scott Room, 1616 Rhode Island Avenue NW., Washington, D.C. 20036.
Type of meeting: Open, June 15, 9 to 10 a.m.; closed, otherwise.
Contact: Mr. James T. Cumiskey, Parklawn Building, Room 11C–17, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3765.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

JUVENILE PROBLEMS RESEARCH REVIEW COMMITTEE

Date and time: June 16–18, 9 a.m.
Place: Parlor A, The Burlington Hotel, Vermont Avenue at Thomas Circle NW., Washington, D.C.
Type of meeting: Open, June 16, 9 to 9:30 a.m.; closed, otherwise.
Contact: Mrs. Diana Souder, Parklawn Building, Room 10–104, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3566.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., June 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

PERSONALITY AND COGNITION RESEARCH REVIEW COMMITTEE

Time and date: June 18–20, 9 a.m.
Place: Brent 1 Room, Old Town Holiday Inn, 480 King Street, Alexandria, Virginia 22314.
Type of meeting: Open, June 18, 9 to 10 a.m.; closed, otherwise.
Contact: Shirley Maltz, Parklawn Building, Room 10C–06, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3942.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 16, the meeting will be open for discussion of administrative announcements and programs developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

Date and time: June 23–25, 9 a.m.
Place: Adams Room, Holiday Inn of Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland.
Type of meeting: Open, June 23, 9 to 9:30 a.m.; closed, otherwise.
Contact: Mrs. Vi Kemp, Parklawn Building, Room 10–104, 5600 Fishers Lane, Rockville Maryland 20857, 301–443–4843.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., June 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

MENTAL HEALTH SMALL GRANT COMMITTEE

Date and time: June 2325, 1 p.m.
Place: Oak Room and Parlor A, The Burlington Hotel, 1120 Vermont Avenue NW., Washington, D.C.
Type of meeting: Open, June 23, 4 to 5 p.m.; Closed, otherwise
Contact: Ms. Mary E. Enyart, Parklawn Building, Room 10C–14, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4337.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 4 to 5 p.m., on June 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

June 23–27, 8:30 a.m.
Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.
OPEN, June 23, 8:30 to 10 a.m., CLOSED, otherwise
Contact: Mr. Sidney Leopold, Parklawn Building, Room 14C–17, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–2080.
Purpose: The Committee provides initial review of applications for community services alcoholism demonstration grants for special treatment and rehabilitation programs to the Director of the National Institute on Alcohol Abuse and Alcoholism and to the National Advisory Council on Alcohol Abuse and Alcoholism.
Agenda: From 8:30–10 a.m., June 23, the meeting will be open for discussion of administrative announcements. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and

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Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

Date and time: June 23, 24, 25, 9 a.m.
Place: Suite B-120, Shoreham Americana Hotel, 2500 Calvert Street, NW., Washington, D.C.
Type of meeting: Open, June 23, 9 to 9:30 a.m.; Closed, Otherwise.
Contact: John Hammack, Parklawn Building, Room 10-95, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3936.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 t 9:30 a.m., June 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance wth the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

Date and time: June 27-29, 9 a.m.
Place: Ravensworth West, Arlington Hyatt House, 1325 Wilson Boulevard, Arlington, Virginia 22209.
Type of meeting: Open, June 27, 9 to 10 a.m., Closed, Otherwise.
Contract, Evelyn Cralle, Parklawn Building, Room 10C-25 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4707.
Purpose: The Committee is charged with the initial reivew of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., June 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office for Public Affairs, NIAAA, 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306. The NIDA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 814, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-6245. The NIMH Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: May 6, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-13357 Filed 5-10-77;8:45 am]

ALCOHOL TRAINING REVIEW COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1977:

Name: Alcohol Training Review Committee.
Date: June 6-8, 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open: 9 to 11 a.m., June 6.
Closed: Thereafter.
Contact: Dr. Leonard Mitnick, Parklawn Building, Room 16C-26, Rockville, Maryland 20857, 301-443-1056.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism.
Agenda: From 9 to 11 a.m., June 6, the Committee will be open for reports and announcements of administrative and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above.

The NIAAA information contact who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306.

Dated: May 5, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-13358 Filed 5-10-77;8:45 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, on May 20-21, 1977 at the Department of Health, Education, and Welfare, Room 727-A, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201.

The Commission is directed to "• • • investigate and make recommendations concerning the proper roles of Federal and State governments and national and local public and private agencies in research, prevention, identification, treatment, and rehabilitation of persons with Huntington's Disease • • •" In this connection, the Commission determined at its meeting on April 24 that it was imperative to meet at the earliest opportunity with representatives of Federal agencies whose programs most directly impact on families of Huntington's Disease victims. Representatives of some twelve Federal agencies were invited to give presentations on the subject. May 20-21 was selected as the most convenient date when the requirements of space and the schedules of participants could be arranged and which would allow enough time for the Commission to present its conclusions to the Congress before its August deadline. Therefore, the foregoing factors precluded more advanced notice of this meeting.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. and from 6 p.m. to 8 p.m. on May 20, and from 9 a.m. to 5 p.m. on May 21. Attendance will be limited to space available. Testimony from Federal officials will be heard from 9 a.m. to 5 p.m. on May 20 and from the public from 6 p.m. to 8 p.m. The entire meeting on May 21 will be devoted to discussion of the Commission's findings and recommendations.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, Maryland 20014, phone (301) 496-9275, will provide substantive program information and inquiries concerning public testimony.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, Maryland 20014, phone (301) 496-5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: May 6, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13520 Filed 5-10-77;8:45 am]

Office of the Secretary

COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Comments

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows: The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before June 10, 1977 and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: May 5, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Grant under the Indochinese Refugee Assistance Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Elementary and Secondary Education, Indochinese Refugee Assistance Program.

3. AGENCY FORM NUMBER

OE 443-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 105(a) No State educational agency shall be entitled to any payment under this title for any fiscal year unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require. • • • (P.L. 94405; 20 USC 1211b).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

To determine applicant eligibility and the amount of the grant award.

7. DATA ACQUISITION PLAN

a. Method of Collection: Mail
b. Time of Collection: Summer
c. Frequency: Annually

8. RESPONDENTS

a. Type: State Educational Agencies
b. Number: 52
c. Estimated Average Man-Hours Per Respondent: 2 hours

9. INFORMATION TO BE COLLECTED

The standard application in Financial Management Circular 74-7 and the standard face page (SF 424) will be used. Supplementing information for counts of Indochinese children based on statutory requirements will be requested; i.e., for each LEA:

Total School Enrollment In Local School District.

Total Number of Indochinese Refugee Children In Local School District Aged 5 to 17 Enrolled in Public School.

Total Number of Indochinese Refugee Children in Local School District Aged 5 to 17 Enrolled in Nonpublic School.

Number of Nonpublic School Children Included In the Count But Who Will Not be Receiving Services Because of Legal Prohibition.

Number of Refugee Children At $300 or $600 as Defined By Section 1229.18 of The Regulations.

Total Amount Requested.

Federal Funds Requested For State Administration.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for the Emergency Adult Education Program for Indochina Refugees.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Adult Education

3. AGENCY FORM NUMBER

OE 575.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 315. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1977, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees • • • (P.L. 94-405; 20 U.S.C. 1211b).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

This form will be used by the Division of Adult Education, U.S. Office of Education to make awards to State and local agencies to operate Emergency Adult Education programs for Indochina Refugees.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall.
c. Frequency: Single time.

8. RESPONDENTS

a. Type: Local Educational Agency.
b. Number: 300.
c. Estimated average man-hours per respondent: 40.
a. Type: State Educational Agency.
b. Number: 56.
c. Estimated average man-hours per respondents: 40.

9. INFORMATION TO BE COLLECTED

All respondents will be required to provide information requested on the standard nonconstruction application for Federal Assistance. Special emphasis will be given in the program narrative to the design and educational significance of the proposed project; the approach to the project with particular reference to staffing and facilities; method for evaluating the project; and cooperative arrangements with other agencies.

1. TITLE OF PROPOSED ACTIVITY

State Plans and Reports for Vocational Education Programs.

2. AGENCY/BUREAU/OFFICE

Office of Education, Bureau of Occupational and Adult Education.

3. AGENCY FORM NUMBER

OE Forms 576-1, 576-2, 576-3, 576-4, and 576-5.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

OE Form 576-1. "Section 106(a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this Act shall, through its State board, submit to, and maintain on file with, the Commissioner a general application • • •." (P.L. 94-482, Title II, Section 202; 20 U.S.C. 2306.)

OE Form 576-2. "Section 107(a)(1) Any State desiring to receive funds under this Act shall submit to the Commissioner, during fiscal year 1977 and during each fifth fiscal year occurring thereafter, a State plan for vocational education for the five fiscal years succeeding each such fiscal year." (P.L. 94-482, Title II, Section 202; 20 U.S.C. 2307.)

OE Form 576-3 and 576-4. "Section 108(a)(1) Any State desiring to receive funds under this Act shall submit to the Commissioner an annual program plan and accountability report for each of the fiscal years included in the five-year State plan." (P.L. 94-482, Title II, Section 202; 20 U.S.C. 2308.)

OE Form 576-5. "Section 105(d)(3) Each State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council created under section 162, through the State board, an annual evaluation report, accompanied by such additional comments of the State board as the State board deems appropriate • • •." (P.L. 94-482, Title II, Section 202; 20 U.S.C. 2305.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information will be used to insure compliance with the provisions of the Vocational Education Act and as a major resource in planning and evaluation activities for vocational education programs.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.

b. Time of collection: July 1, except that OE Form 576-5 will be collected no later than 90 days following the end of the fiscal year.

c. Frequency: OE Form 576-1 will be collected one time; OE Form 576-2 will be

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collected every five years; OE Forms 576–3, 576–4, and 576–5 will be collected annually.

8. RESPONDENTS

a. Type: State boards.
b. Number: 56 (Universe).
c. Estimated average man-hours per respondent: 1300.
a. Type: Other (State Advisory Councils for Vocational Education).
b. Number: 56 (Universe).
c. Estimated average man-hours per respondent: 500.

9. INFORMATION TO BE COLLECTED

For OE Form 576–1 (General Application), the information to be collected will consist of twelve assurances.

OE Form 576–2 (Five-year State Plan) will contain: (1) Eight certifications, (2) Procedures to assure compliance with the general application, (3) Assessment of employment opportunities, (4) Goals to meet employment needs, (5) Funding to meet employment needs, (6) Funding to meet program (purpose) needs, (7) Policies for eradicating sex discrimination, and (8) Coordination between manpower training programs and vocational education programs. OE Form 576–3 (Annual Program Plan) will contain: (1) Any updating of the five-year State plan considered necessary to reflect later or more accurate employment data or a different level of funding than was anticipated, (2) A description of how the uses of funds proposed for the fiscal year in the five-year State plan will be complied with or changed (in light of anticipated appropriations) and the reasons for the changes, (3) A description of how funds used will comply with the minimum percentages, matching, and maintenance of effort requirements, (4) The proposed distributions of funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the assurance given in the general application and is in accordance with the policies and procedures set forth in the five-year State plan for assuring compliance with the general application, (5) The results of the coordination of programs funded under this Act and manpower training programs, (6) The results of compliance of the State plan with the provisions concerning providing equal access to programs by both men and women, and (7) Participation of local advisory councils.

OE Form 576–4 (Accountability Report) will: (1) Show the extent to which the State, during the fiscal year preceding the submission of the report, has achieved the goals of the approved five-year State plan, (2) Show the degree to which proposed uses of Federal, State, and local funds have been complied with, (3) Show in detail how the funds used complied with the minimum percentage, matching, and maintenance of effort requirements, (4) Show in detail how funds under the Act allocated for authorized programs have been used during the fiscal year, (5) Contain a summary of the evaluation of programs conducted by the State, and (6) Contain a description of how the evaluation information has been used to improve the State's programs of vocational education, including consideration given to each recommendation in the evaluation report of the State advisory council for vocational education.

OE Form 576–5 (State Advisory Council Evaluation Report) will contain: (1) The results of the evaluations by the State advisory council of the effectiveness of programs, services, and activities carried out in the year under review in meeting the program goals set forth in the five-year State plan and the annual program plan, (2) A review of the program evaluation results developed by the State under Section 112(b) of the Act, (3) A review of the analysis of the distribution of Federal funds within the State submitted by the State according to the annual program plan and accountability report, (4) Recommended changes in programs, services, and activities as may be considered necessary by the State advisory council based on the results of its evaluation, (5) Comments on the reports of the State Manpower Services Council, and (6) Identification of the vocational education and employment and training needs of the State and the assessment of the extent to which vocational education, employment training, vocational rehabilitation, and other programs assisted under the Vocational Education Act and related Acts represent a consistent, integrated, and coordinated approach to meeting those needs.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Transfer Credit Letter.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Postsecondary Education, Division of Eligibility and Agency Evaluation.

3. AGENCY FORM NUMBER

OE 1261.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 1201 As used in this act—(a) The term "institution of higher education" means an educational institution in any State which • • • (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited • • • (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited • • •" (Pub. L. 89–329, as amended; 20 U.S.C. 1141)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

To determine whether certain institutions should be cited as an "eligible institution" for purposes of various Federal education programs established under the Higher Education Act of 1965, as amended.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Whenever respondent is named as a reference.
c. Frequency: On occasion.

8. RESPONDENTS

a. Type: Institutions of higher education.
b. Number: 300.
c. Estimated average man-hours per respondent: ¼ hour.

9. INFORMATION TO BE COLLECTED

Whether responding institutions accept transfer credits from the institution that gave the respondent's name as a reference.

[FR Doc.77–13356 Filed 5–10–77;8:45 am]

REVIEW PANEL ON NEW DRUG REGULATION

Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the Review Panel on New Drug Regulation, established pursuant to 42 U.S.C. 217a. by the Secretary of Health, Education, and Welfare, on **February 21, 1975**, will meet on Sunday, **May 15, 1977, from 7:15 p.m.** to 9:30 p.m. **and Monday, May 16, 1977,** from 9:30 a.m. to 5:30 p.m., in Room 5559 of the Donohoe Building, 400 6th Street SW., Washington, D.C. The Review Panel will consider matters pertaining to its study of existing policies and procedures for the regulation of new drugs by the Food and Drug Administration and the investigation of allegations by certain employees of the Bureau of Veterinary Medicine, FDA. In accordance with the provisions of Section 10 (d) of Public Law 92–463 and 5 U.S.C. 552(b)(6), the meeting will be closed to the public from 9:30 a.m. until 11:30 a.m. on May 16 for the discussion of internal personnel matters pertaining to FDA's Bureau of Veterinary Medicine, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

All other portions of the meeting will be open to the public. Further information on the Review Panel may be obtained from John D. Rust, Executive Secretary, Review Panel on New Drug Regulation, telephone (202) 472–3000. Mail should be addressed to: Donohoe Building, Room 1187 330 Independence Avenue SW., Washington, D.C. 20201.

Dated: May 5, 1977.

JOHN D. RUST,
Executive Secretary, Review Panel on New Drug Regulation.

[FR Doc.77–13533 Filed 5–9–77;1:15 p.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–77–488]

ACTING GENERAL MANAGER, NEW COMMUNITY DEVELOPMENT CORP.

Designation

Section A. *Designation.* Each of the officials listed in Items (1)–(5), below is designated to serve as General Manager, New Community Development Corporation, in the case of absence or vacancy in such position. The named officials shall serve in the order set forth.

(1) Administrator, New Communities Administration.
(2) Deputy Administrator for Program Policy and Management.
(3) Deputy Administrator for Operations and Finance.
(4) Deputy Administrator for Project Support and Development.
(5) Assistant Deputy Administrator for Program Policy and Management.

Sec. B. *Functions.* The official serving in an acting capacity under this designation shall have all the powers, functions and duties assigned to such position.

Sec. C. *Effective date.* This designation is effective as of May 2, 1977.

Sec. D. *Supersedure.* The designation dated Nov. 9, 1976 (41 FR 49537) for the Acting Deputy General Manager, New Community Development Corporation and Acting Administrator, New Communities Administration is hereby revoked.

Issued at Washington, D.C., on May 5, 1977.

JAY JANIS,
Acting Secretary of Department of Housing and Urban Development.

[FR Doc.77–13491 Filed 5–10–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA, OUTER CONTINENTAL SHELF IN THE WESTERN GULF

Location and Date of Hearings Regarding Proposed Oil and Gas Lease Sale

In accordance with 43 CFR 3301.4, public hearings will be held in Alaska for the purpose of receiving comments and suggestions relating to a proposed oil and gas lease sale offshore the Western Gulf of Alaska. The hearings will be held on June 1 and 2, 1977, at the Kodiak Community College, Rooms 1 and 2, Cutoff Road, Kodiak, Alaska, and on June 3 and 4, 1977, at the Captain Cook Hotel in the Mid-Deck of the Discovery Room, Fifth and K Street, Anchorage, Alaska. The hearings are scheduled to commence at 9:00 a.m. each day and end at 5:00 p.m. Depending upon the number of people registered to testify, there may be evening sessions on June 1.

The hearings will provide the Secretary with additional information from both public and private sectors to help evaluate fully the potential effects of the proposed offering of the 564 tracts on the total environment, aquatic resources, aesthetics, recreation, and other resources in the entire area during the exploration, development, and production phases of the leasing program.

The hearings will also provide the Secretary, under section 102(2)(C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested State and local agencies.

A draft environmental statement concerning the proposed lease sale (OCS Sale No. 46) was made available to the public on April 12, 1977. Copies of this statement can be obtained at the Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement are also available for review in the main public libraries in various coastal cities in the sale area.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are requested to contact the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management at the above address by 4:30 p.m., d.s.t., May 27, 1977. Written comments from those unable to attend the hearings should also be addressed to the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management at the above address. Comments should refer to the section and page number from the draft environmental statement. The Department will accept written testimony and comments on the draft environmental statement until June 24, 1977. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

CURT BERKLAND,
Director, Bureau of Land Management.

Approved: May 6, 1977.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc.77–13453 Filed 5–10–77;8:45 am]

CHIEF, BRANCH OF RECORDS & DATA MANAGEMENT DIVISION OF MANAGEMENT SERVICES OREGON STATE OFFICE

Redelegation of Authority

APRIL 22, 1977.

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 dated July 23, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under section 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows: (1) Accept and record instruments meeting recording requirements; (2) Notify owners to take curative actions to complete defective filings; (3) Reject instruments and void claims not filed within the prescribed time periods; and (4) Reject filings and void claims located on lands not available for mineral location on dates of location.

Dated: May 2, 1977.

MURL W. STORMS,
State Director.

Approved:

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.77–13365 Filed 5–10–77;8:45 am]

[NM 30404]

NEW MEXICO

Application

MAY 3, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 9 W.,
Sec. 3, SW¼SW¼;
Sec. 4, SE¼SE¼.

This pipeline will convey natural gas across 0.322 of a mile of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–13429 Filed 5–10–77;8:45 am]

(NM 30503, 30506, 30507, 30510 and 30512)

NEW MEXICO

Applications

MAY 3, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.,
Sec. 9, SW¼SE¼.
T. 19 S., R. 27 E.,
Sec. 34, E½NW¼ and NE¼SW¼.
T. 20 S., R. 29 E.,
Sec. 7, E½SW¼;
Sec. 18, NE¼NW¼.
T. 18 S., R. 32 E.,
Sec. 25, SE¼NE¼ and N½SE¼.
T. 18 S., R. 33 E.,
Sec. 19, SE¼SE¼;
Sec. 20, S½SW¼;
Sec. 30, lots 1, 2, N½NE¼ and NE¼NW¼.
T. 26 S., R. 37 E.,
Sec. 13, E½SE¼.

These pipelines will convey natural gas across 3.441 miles of national resource lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be pro-

V 42 91 MAY 11 77 UMI

ceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-13430 Filed 5-10-77;8:45 am]

(WYOMING 59148)

WYOMING

Application

MAY 3, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4 inch natural gas pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 94 W., Sec. 32, N½SW¼, SE¼SW¼, S½SE¼.

The pipeline will transport natural gas from a point in section 33, T. 18 N., R. 94 W., in a westerly direction to a point of connection with Colorado Interstate Gas Company's existing pipeline in section 32, T. 18 N., R. 94 W. in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-13431 Filed 5-10-77;8:45 am]

Office of the Secretary

[Int FES 77-11]

CONTINENTAL DIVIDE NATIONAL SCENIC TRAIL

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, P. L. 91-190, the Department of the Interior has prepared a final environmental impact statement on the proposed Continental Divide National Scenic Trail, a potential addition to the National Trails System.

The proposed route, in proximity to the Continental Divide, extends some 3,100 miles from the United States-Canada border in northwest Montana to the United States-Mexico border in southwest New Mexico. The designated trial would initially consist of those existing segments on federally administered areas which meet presently acceptable standards for use.

Copies of the impact statement are available for inspection at the Bureau of Outdoor Recreation, Mid-Continent Regional Office, 603 Miller Court, Lakewood, Colorado, and the Bureau of Outdoor Recreation, Office of Communications, Room 237, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C.

A limited number of copies are also available and may be obtained by writing to the Regional Director, Bureau of Outdoor Recreation, Mid-Continent Regional Office, Denver Federal Center, P.O. Box 25387, Denver, Colorado 80225.

Dated: May 3, 1977.

RICHARD R. HITE,
Deputy Assistant
Secretary of the Interior.

[FR Doc.77-13432 Filed 5-10-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

[NCPC File No. 1819]

PROCEDURES FOR CITIZEN PARTICIPATION AND INTERGOVERNMENTAL LIAISON

Republication

In FR Doc. 77-12056 appearing at page 21528-9 in the FEDERAL REGISTER of April 27, 1977, material intended as footnote was published as text. The material, as corrected, is republished in its entirety for the convenience of the reader.

The National Capital Planning Commission, at its April 7, 1977 meeting, adopted the following Procedures for Citizen Participation and Intergovernmental Liaison.

The procedures, as proposed, were published for comment in the FEDERAL REGISTER on February 9, 1977 (42 FR 8235-6). Comments were received from the Upper Northeast Coordinating Council and from Chester A. Nauminow. Mr. Nauminow's comments generally related to alleged responsibilities of the Commission under the Federal Administrative Procedure Act, the "Government in the Sunshine Act", and the National Environmental Policy Act of 1969 and were not relevant to the procedures. The comments of the Council, to the extent deemed relevant and appropriate, are reflected in the adopted procedures.

I. DISTRICT ELEMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL [1]—FEDERAL INTEREST REVIEW [2]

A. *Citizen Participation.* (Comments on the effect of the District element or amendment on the Federal establishment and/or on Federal interests in the National Capital Region).

Publication in the FEDERAL REGISTER of notice that NCPC will review and act on a District element or amendment thereto; the notice shall also be sent to the NCPC mailing list. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral to affected Federal agencies for review and written comments.

II. FEDERAL ELEMENTS OF THE COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL [1]—PREPARATION

A. *Citizen Participation.* Publication in the FEDERAL REGISTER of notice that NCPC is circulating a draft statement of goals, objectives, criteria and alternative policies for review and comment; the notice shall also be sent to the NCPC mailing list. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* 1. Data gathering from interested and affected agencies as required.

2. Coordination with interested and affected agencies regarding staff drafts for each element.

3. Referral of relevant Comprehensive Plan materials to the following for informal review:

a. Appropriate Federal authorities;
b. Appropriate District authorities;
c. Metropolitan Washington Council of Governments (hereinafter "COG") and through COG to local governments;
d. Local planning agencies;
e. State clearinghouses; and
f. Regional and subregional authorities.

III. FEDERAL ELEMENTS AND AMENDMENTS TO COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL [1] ADOPTION

A. *Citizen Participation.* Publication in the FEDERAL REGISTER of notice that NCPC will review and act on a Federal element or amendment thereto; the notice shall also be sent to the NCPC mailing list. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

[1] The Comprehensive Plan for the National Capital consists of (1) "Federal elements" prepared and adopted by the National Capital Planning Commission (hereinafter "NCPC") and (2) "District elements", adopted by the Council of the District of Columbia and reviewed by NCPC. When District elements are reviewed by NCPC, the criterion used is the effect of the District element on the Federal establishment and/or Federal interests in the National Capital Region (referred to as a "Federal interest review"). These procedures provide for citizen participation in connection with (1) Federal interest review of District elements pursuant to Sec. 2 of the National Capital Planning Act of 1952, as amended (hereinafter "Planning Act") (see I); (2) preparation by NCPC of Federal elements pursuant to Sec. 4 of the Planning Act (see II); and (3) adoption by NCPC of Federal elements also pursuant to Sec. 4 of the Planning Act (see III).

[2] Section 2(a)(4)(A) of the Planning Act permits only 60 days for initial NCPC review and Federal interest determination.

B. *Intergovernmental Liaison.* Referral as relevant to the following for review and written comments:

1. Appropriate Federal authorities; [3]
2. Appropriate District authorities; [3]
3. COG (and through COG to local governments);
4. Local planning agencies;
5. State clearinghouses; and
6. Regional and subregional authorities.

IV. FEDERAL AND DISTRICT PLANS, PROJECTS [4]—AGENCY PREPARATION

A. *Citizen Participation if Agency has Citizen Participation Process.* Agency to citizen participation; NCPC staff to par-advise NCPC at earliest possible time of citizen participation; NCPC staff to participate in process as appropriate and where feasible to encourage agencies to provide for citizen participation as agencies develop their plans.

B. *Intergovernmental Liaison.*—1. Data gathering by agency as required, NCPC informed.

2. Coordination by NCPC with appropriate authorities in conjunction with sponsoring agency (early consultation).

V. FEDERAL AND DISTRICT PLANS AND PROJECTS [4]—COMMISION PLAN AND PROJECT REVIEW

A. *Citizen Participation.* (Comments and statements on District plans and projects, except "in lieu of zoning" matters, on the effect of the plan or project on the Federal establishment and/or on Federal interests in the National Capital Region).

Publication in the FEDERAL REGISTER of notice that NCPC will review and act on plan or project; the notice shall also be sent to the NCPC mailing list. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral to all or some of the following:

[3] Sec. 4(c) of the Planning Act directs NCPC to refer proposed Comprehensive Plan elements to appropriate Federal and District of Columbia authorities for comment and recommendation prior to adoption.

[4] The preparation of plans and projects of Federal and District agencies involves two planning processes. The first is the sponsoring agency's own process established by that agency (see IV). The second is NCPC's review of those plans (see V). Consistent with the objectives of the District of Columbia Self-Government and Governmental Reorganization Act, NCPC has limited its review of most District plans and projects to a "Federal interest review". Accordingly, citizen comments on such plans and projects should be correspondingly limited. There is, however, no such limitation on District projects in the central area of the District of Columbia as concurrently defined by NCPC and the Council of the District of Columbia to which the District's Zoning Regulations are not applicable and for which approval by NCPC "in lieu of zoning" is required. Nor is there any limitation on citizen comments on Federal plans and projects.

	By agency	By Commission
1. State governments	Required by A-95.[1] [3]	
2. COG	Required by A-95.[1] [3]	Pursuant to agreement with COG.[4]
3. Subregional agencies		Pursuant to sec. 5(d) of Planning Act outside District of Columbia.
4. Local governments		Through COG pursuant to informal agreement between COG and NCPC.
a. Executive and administrative.		
b. Legislative.		
5. Local planning agencies		Pursuant to sec. 5(d) of Planning Act outside District of Columbia.
6. Other jurisdictions		

[1] Sec. 2 of pt. II of attachment A to Office of Management and Budget Circular No. A-95 (revised) requires Federal agencies to establish procedures for consultation with Governors, State, and areawide clearinghouses, and local elected officials on planning and construction of Federal buildings, installations, and public works and with respect to projects in the National Capital Region, to undertake such consultation in cooperation with NCPC.
[3] Except for District plans, referral is presently by NCPC.
[3] No referral to District of Columbia.
[4] Master plans outside of District of Columbia only.

VI. FEDERAL CAPITAL IMPROVEMENTS PROGRAM [5]—PREPARATION

A. *Intergovernmental Liaison.* — 1. Data gathering from interested and affected agencies.

2. Coordination with interested and affected Federal agencies regarding agency capital budget and program submissions.

3. Coordination with relevant local, state and regional capital budgets and programs.

VII. FEDERAL CAPITAL IMPROVEMENTS PROGRAM [5]—ADOPTION

A. *Citizen Participation.* Publication in the Federal Register of notice that NCPC is circulating a draft program for review and comment; the notice shall also be sent to the NCPC mailing list. The notice shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral of draft program as relevant to the following:

1. Appropriate Federal authorities;
2. Appropriate District authorities;
3. COG (and through COG to local governments);
4. Local planning agencies;
5. State clearinghouses; and
6. Regional and subregional authorities.

VIII. ZONING [6]

A. *Citizen Participation.* (Comments and statements on (1) the effect of zoning proposals on the Federal establishment and/or on Federal interests in the National Capital Region and/or (2) their consistency with the Comprehensive Plan).

Publication in the FEDERAL REGISTER of notice that NCPC will review and act on (1) Zoning Commission referrals, after public hearing, of proposed Zoning Commission actions pursuant to statute and (2) recommendations or requests for NCPC participation in cases before the Zoning Commission and the Board of Zoning Adjustment at or before public hearings thereon. The notice shall also be sent to the NCPC mailing list and shall solicit written comments prior to and oral comments at an open session Commission meeting.

B. *Intergovernmental Liaison.* Referral to affected Federal agencies.

DANIEL H. SHEAR,
Secretary.

MAY 5, 1977.

[FR Doc.77-13452 Filed 5-10-77;8:45 am]

[5] NCPC is responsible for preparing and recommending a Federal capital improvements program for the National Capital Region that identifies and describes proposed Federal land acquisition and development proposals within the Region for the next six years (see VII). A draft program is prepared by the staff, circulated to Federal agencies for comment, and then adopted by NCPC after receipt of citizen comments.

[6] NCPC may participate in the Zoning Commission process either prior to the Zoning Commission hearing or after such hearing; in the latter case, the proposed action of the Zoning Commission is before the NCPC for its review (see VIII).

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with Subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces the following meeting:

Name: Meeting of the Commission.
Date: May 26, 1977.
Time: 9:30 a.m.
Place: 2167 Rayburn House Office Bldg., Washington, D.C. 20515.
Type of meeting: Open.
Contact person: Beth Singley, National Transportation Policy Study Comm., 1750 K Street NW., Suite 800, Washington, D.C. 20006.

Purpose of the Commission: The National Transportation Policy Study Commission was established under Section 154 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative agenda: Review of Commission Work Plan; Review of Plans for

V42N91 MAY 11 77 UMI

Public Hearings; Discussion of Transportation Work Shops.

Dated: May 5, 1977.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc.77-13451 Filed 5-10-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on May 16 and 17, 1977, in Room 776, 500 North Capitol Street, Washington, D.C. and on June 20 and 21 and July 18 and 19, 1977, at locations to be determined later. Initial notice of the May meeting was published in the FEDERAL REGISTER on March 3, 1977.

The summarized agenda for the June and July meetings will be published in the FEDERAL REGISTER at a later date. The summarized agenda for the May meeting is as follows:

1. Discussion of the Board's report to the Securities and Exchange Commission regarding restrictions on off-board transactions in listed securities by exchange members.

2. Discussion of regulation of specialists and market makers should off-board trading restrictions be removed.

3. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13380 Filed 5-10-77;8:45 am]

[File No. 7-4940]

AMERICAN EXPRESS CO.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 2, 1977.

In the matter of an application of Midwest Stock Exchange, Inc., for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which company has applied to list and register that security on one or more other national securities exchanges:

American Express Company, Common stock, $0.60 par value, FILE NO. 7-4940.

Upon receipt of a request, on or before May 17, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13384 Filed 5-10-77;8:45 am]

[Release No. 20015; 70-5993]

APPALACHIAN POWER CO., ET AL.

Proposed Acquisition of Evidences of Indebtedness From Residential Electric Utility Customers Pursuant to a Residential Insulation Financing Program

MAY 2, 1977.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801; Kentucky Power Company, 15th Street and Carter Avenue, Ashland, Kentucky 41101; Kingsport Power Company, 40 Franklin Road, Roanoke, Virgina 24009; Michigan Power Company, P.O. Box 413, Three Rivers, Michigan 49093, Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44702; Wheeling Electric Company, 51 Sixteenth Street, Wheeling, West Virginia 26003, (70-5993).

Notice is hereby given that the above-named electric utility subsidiary companies of American Electric Power Company, Inc., a registered holding company, (collectively, "the Applicants") have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 9(a)(1) of the Act and Rule 40 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Applicants jointly and severally request authorization for the acquisition of evidences of indebtedness from their respective residential electric utility customers pursuant to a proposed Residential Insulation Financing Program ("Program"). It is stated that under the Program, Applicants will offer to lend to each of their residential electric utility customers amounts for the installation of insulation in one- to four-family residences. In return for such a loan, the customer would be required to execute a promissory note payable to the appropriate Applicant. Such financing commitment to any single customer, limited to the lesser of $750 or the customer's actual installed cost of installation, will have a maximum repayment period of three years and an annual rate of interest of 8 percent on the monthly unpaid balance. No interest charge will be made if the customer repays the loan in full within ninety days.

It is stated that the financing commitment for each customer will be subject to credit approval by the appropriate Applicant. Following credit approval, the customer will be so notified, and advised as to the most appropriate insulation. The customer will make his own arrangements as to actual purchase and installation of the insulation. The installed cost of the insulation will be the amount actually paid by the customer for materials and installation. Where the customer self-installs the insulation, the actual installed cost will be the amount paid for materials. When the installation has been completed, the customer will advise the Applicant's representative, who will then view the premises to ascertain the completion. The representative will make no judgment as to quality of the installation. Upon this field inspection and receipt of the customer's invoices, the Applicant and the customer will execute a Program loan agreement and the customer will be issued a check in the amount agreed upon and a coupon repayment book.

It is stated that the maximum aggregate amount of loans outstanding at any one time from all the Applicants combined will not exceed $7,500,000. The maximum amount of loans outstanding at any one time from each individual Applicant will be as follows:

Applicant:	*Amount*
Appalachian Power Co	$2,620,000
Indiana & Michigan Electric Co	1,700,000
Kentucky Power Co	500,000
Kingsport Power Co	130,000
Michigan Power Co	100,000
Ohio Power Co	2,300,000
Wheeling Electric Co	150,000
Total	7,500,000

The Program is to be financed by each Applicant individually with its own funds or through its normal short-term

financing program. It is stated that the Program is proposed in view of the energy crisis and the impact of this crisis on Applicants and their customers' residential bills for electric energy. It is further stated that the Program will serve as a means of curtailing the rate of growth in electric energy consumption so as to avoid the necessity of construction of power plants and transmission and distribution facilities sooner than anticipated.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,500, and that the annual cost of implementing the Program, including advertising and additional personnel, is estimated to be approximately $400,000 for all the Applicants combined. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed acquisition of customers' notes, except that several state commissions will, in the exercise of their general regulatory authority, pass upon and approve the general provisions of the Program.

Notice is further given that any interested person may, not later than May 23, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13381 Filed 5-10-77;8:45 am]

[Release No. 34-13488; File No. SR-CBOE-1977-8]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, section 16 (June 4, 1975) (the "Act"), notice is hereby given that on April 14, 1977 the Chicago Board Options Exchange, Incorporated (the "Exchange") filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT BY THE EXCHANGE OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Chicago Board Options Exchange, Incorporated ("the Exchange") has established a non-refundable membership purchase deposit fee of five thousand dollars ($5,000.00) to be deposited with the Secretary of the Exchange by each applicant for a membership offered by the Exchange under its proposed program[1] at the time such applicant accepts the Exchange's offer to sell such a membership. Such a fee will be applied to the purchase price of said Exchange membership at the time such purchase price is paid to the Exchange in accordance with the provisions of Exchange Rule 3.13(a) subsequent to the applicant's receipt of approval for membership. As mentioned above, the deposit fee shall be non-refundable, except in those instances where, for reasons beyond an applicant's control, i.e., death, injury, serious illness, he is unable to consummate the purchase of an Exchange membership.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the non-refundable deposit is to discourage the non-bona fide acceptance of an Exchange offer to purchase a membership. Under the terms of the subject membership offering as described above, only a limited number of memberships will be offered to a current list of applicants which contains in excess of 450 applicants. Consequently, it is quite important that such membership offering be made only to those who, in good faith, desire to become members of this Exchange. Those who are interested only in purchasing an Exchange offered membership if the price of such membership compares favorably with those prices of membership sold between existing members should not be permitted to impede the Exchange's efforts to reach serious prospective purchasers. Such a "free-riding" tactic would frustrate the Exchange's efforts to expeditiously sell memberships to those applicants with bona fide purchase intentions.

Since the Exchange intends to subtract the subject deposit fee from the total purchase price to be paid by all approved applicants, no one tendering an acceptance of an Exchange offer in good faith will be in any way disadvantaged. Furthermore, those who, for reasons beyond their control, are unable to finalize the purchase of a membership, will also not be disadvantaged, for their deposit fees will be returned. Consequently, only those applicants who tender an acceptance and thereafter renege on their agreement to purchase a membership, will forfeit the deposit as the consequence of their actions.

Section 6(b)(4) of the Act provides the basis for the proposed rules change. The deposit fee will be required of all applicants which seek to acquire a membership from the Exchange, and consequently is equitable in its application to such persons. Moreover, such a fee is reasonable in that it is set high enough to discourage the type of speculation and "free riding" described above, yet it does not work any hardship on those with bona fide intentions to purchase a membership, for it shall be credited against the purchase price of such Exchange offered memberships.

The Exchange does not believe that the proposed rules changes will impose any burden upon competition through the establishment and application of the foregoing membership purchase deposit fee.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 26, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 29, 1977.

[FR Doc.77-13378 Filed 5-10-77;8:45 am]

[Release No. 34-13489; File No. SR-CBOE-1977-7]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), notice is hereby given that on April 11,

[1] The sale of 50 memberships at $55,000 each as described in the Form 19b-4A (SR-CBOE-1977-7) filed with the Securities and Exchange Commission on April 11, 1977. Notice of such filing, together with the terms of substance thereof, has been given pursuant to the requirements of Section 19(b)(1) of the Act.

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1977, the Chicago Board Options Exchange, Incorporated (the "Exchange") filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT BY THE EXCHANGE OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Board of Directors of the Chicago Board Options Exchange, Incorporated has determined, in accordance with the provisions of Section 2.1 of Article II of the Exchange Constitution, to sell fifty (50) additional memberships in the Exchange at a price of fifty-five thousand dollars ($55,000), each out of the three hundred (300) previously approved. Such sales will commence not sooner than thirty (30) days from the date on which this filing is submitted to the Securities and Exchange Commission.

The Exchange, in accordance with the operation of clauses (i) and (ii) of paragraph (a) of Rule 19b-4, has determined to treat such membership sales as a "proposed rules change" under said Rule. As such, this proposed rule change is being filed in accordance with the provisions of Section 19(b)(3) of the Securities Exchange Act of 1934, as amended ("the Act").

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to expand the number of outstanding Exchange memberships.

The Exchange believes that it is consistent with the provisions of section 6(b)(5) of the Act for the Exchange to sell additional memberships. These new members will bring greater Market-Maker and Floor Broker capability to the Exchange and will provide member firms with the opportunity for expanded access to the Exchange.

No comments have been solicited with respect to this proposed rule change.

No burden will be imposed upon competition through the sale of additional Exchange memberships. To the contrary, the additional memberships will provide additional competition not only among Exchange members but also between exchange marketplaces.

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 26, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 29, 1977.

[FR Doc.77-13377 Filed 5-10-77;8:45 am]

[Release No. 20010; 70-6003]

COLUMBIA GAS SYSTEM, INC.

Proposed Issuance and Sale of Short-Term Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

APRIL 29, 1977.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Columbia requests that the exemption from the provisions of section (6)(a) of the Act afforded to it by the first sentence of section (6)(b), relating to the issue and sale of short-term notes, be increased through May 31, 1978, from 5 percent approximately 18 percent of the principal amount and par value of the other securities of Columbia then outstanding in order to permit Columbia to have outstanding up to $322,000,000 principal amount of proposed short-term notes, consisting of bank notes and commercial paper. Generally, Columbia will make the proceeds from the sale of these notes available to its subsidiary companies for the purchase of gas for underground storage and other liquid hydrocarbons inventories and for other short-term requirements. In this regard, see Columbia's filing for intrasystem financing (File No. 70-5991). It is stated that the short-term gas and liquid hydrocarbon requirements of approximately $245,000,000, together with interim cash requirements of up to $77,000,000 for emergency gas purchases, may make it necessary to have outstanding at any one time up to May 31, 1978, short-term notes in the aggregate amount of $322,000,000.

Columbia proposes to issue and sell commercial paper to one or more dealers, and it will continue to do so as long as the effective interest rate is less than the effective interest cost which Columbia would have to pay to banks for an equivalent amount of funds as of the date of borrowing, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 60 days from the date of issue with an effective interest cost in excess of such effective interest cost on bank borrowings.

The commercial paper will be in the form of promissory notes with maturities not to exceed 270 days and will not be prepayable prior to maturity. The actual maturities will be determined by market conditions, effective interest cost to Columbia, and Columbia's anticipated cash requirements at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and not more than $5,000,000 and will be sold at a discount which will be not in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of the particular maturity and rating.

It is stated that no commission or fee will be payable in connection with the issue and sale of the commercial paper notes. Each dealer, as principal, will reoffer such notes at a discount rate of ⅛ of 1 percent per annum less than the discount rate to Columbia. The reoffering will be made to not more than an aggregate of 200 customers of the dealers, such customers to be identified and designated in lists (non-public) prepared in advance. No additions will be made to the customer lists, which will consist of institutional investors. It is expected that Columbia's commercial paper notes will be held by customers to maturity, but, if they wish to resell prior thereto, the applicable dealer, pursuant to a repurchase agreement, will repurchase the notes and reoffer the same to others in its specified group of customers.

Columbia requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. In support of this request, Columbia states that the proposed commercial paper notes will have a maturity of nine months or less, that it is not practical to invite competitive bids for commercial paper, and that current rates for commercial paper for such prime borrowers as Columbia are published daily in financial publications.

Columbia proposes that up to $322,000,000 of the proposed short-term borrowings may be in the form of short-term bank notes, issued from time to time in accordance with a proposed credit-line agreement with participating banks. A list of such banks and information regarding the anticipated effective cost of such borrowings are to be filed by amendment. The notes are to be repaid on or before May 31, 1978, and will be prepayable, in whole or in part, without penalty.

The expenses to be paid by Columbia in connection with the proposed transactions are estimated at $7,400. Columbia has also requested that authority be granted to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

The application states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 25, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13382 Filed 5-10-77;8:45 am]

[Release No. 2006; 70-6004]

CONSOLIDATED NATURAL GAS CO.

Proposed Issuance and Sale of $75,000,000 Principal Amount of Debentures at Competitive Bidding

APRIL 28, 1977.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), 30 Rockefeller Plaza, New York, New York 10020, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Consolidated proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $75,000,000 principal amount of ----% Debentures Due June 1, 1997. The interest rate (which will be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest (which will be not less than 99 percent or more than 102 percent of the principal amount thereof) will be determined by competitive bidding. The debentures will be issued as a new series under a Seventh Supplemental Indenture, dated as of June 1, 1977, to the Indenture between Consolidated and Manufacturers Hanover Trust Company, New York, New York, as Trustee, dated as of May 1, 1971. The Indenture includes a prohibition until June 1, 1982, against redeeming the issue with or in anticipation of funds borrowed at a lower effective interest cost. The debentures will be subject to an annual sinking fund of $4,700,000 commencing June 1, 1982, which will leave $4,500,000 principal amount thereof to be redeemed at maturity. The proceeds of the sale of the debentures will be used to finance, in part, the 1977 capital expenditures of Consolidated's subsidiary companies, estimated at $236,400,000, of which about 79 percent will be applied to gas supply projects.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $154,000, including $30,000 service charges of the system service company at cost and accountants' fees and expenses of $14,500. The fees and expenses of counsel for the underwriters are to be paid by the successful bidders, and the amount thereof will be supplied by amendment.

It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 25, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13394 Filed 5-10-77;8:45 am]

[Release No. 9735; 811-2051]

FUND A PARTNERSHIP

Filing of Application of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 26, 1977.

Notice is hereby given that Fund A Partnership (Applicant"), c/o Arthur Andersen & Co., 1345 Avenue of the Americas, New York, New York 10019, a non-diversified open-end investment company organized as a general partnership under the laws of New York and registered under the Investment Company Act of 1940 ("Act"), filed an application on March 4, 1977, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that, pursuant to a resolution adopted by the Management Committee of the Applicant on September 29, 1976, in accordance with its Partnership Agreement dated as of March 16, 1970, the Applicant was dissolved and liquidated on December 16, 1976; that checks representing the liquidating shares of the partners of the Applicant were mailed to said partners on December 16, 1976; that the existence of Applicant has ceased; and that Applicant has no assets and no partners.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, on the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 20, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the

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date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13395 Filed 5-10-77;8:45 am]

[File No. 7-4939]

GULF RESOURCES & CHEMICAL CORP.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 22, 1977.

In the Matter of an application of Philadelphia Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Gulf Resources & Chemical Corp., Common Stock, 10¢ Par Value, File No. 7-4939.

Upon receipt of a request, on or before May 6, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13400 Filed 5-10-77;8:45 am]

[File No. 7-4938]

HOUSTON INDUSTRIES INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 22, 1977.

In the matter of an application of Philadelphia Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securites exchanges:

Houston Industries Inc., Common Stock, No Par Value, File No. 7-4938.

Upon receipt of a request, on or before May 6, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13401 Filed 5-10-77;8:45 am]

[File No. 7-4941]

HOUSTON INDUSTRIES INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 3, 1977.

In the matter of applications of the Cincinnati Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securites exchanges:

Houston Industries, Inc., No Par Common, File No. 7-4941.

Upon receipt of a request, on or before May 19, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13403 Filed 5-10-77;8:45 am]

[File No. 500-1]

I.I., INC.

Suspension of Trading

MAY 2, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of I.I. Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12:00 noon (EDT) on May 2, 1977 through May 11, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13387 Filed 5-10-77;8:45 am]

[Release No. 34-13470]

IMPLEMENTATION OF AN INVESTOR DISPUTE RESOLUTION SYSTEM

The Securities and Exchange Commission today announced that it would consider proposals, generated by a conference sponsored by securities industry self-regulatory organizations, on the implementation of a nationwide investor dispute resolution system prior to taking direct action in this area. The Commission anticipates that all such proposals will be submitted by November 15, 1977. It is expected that the proposed conference will include representatives of self-regulatory organizations, their members, and members of the public. According to testimony from industry representatives, the purpose of this conference is to consider how the securities industry can respond to the Commission's concern that there be more effective, efficient, and economical dispute resolution procedures available to individual investors, including a uniform arbitration code and procedures, a simplified system for the resolution of disputes involving small dollar amounts, and other means of simplifying the mechanisms for resolution of customer disputes with brokers and dealers.

The Commission has been informed that the conference will commence in the near future and will comprise several meetings in a number of geographic locations in order to encourage and allow for a broad base of participation, especially from members of the public. It is the view of the Commission that the implementation of a uniform investor dispute resolution procedure is an appropriate step toward the development of a national market system,[1] and that the organization of such a conference by the self-regulatory agencies is a proper exercise of self-regulatory authority as embodied in the Securities Exchange Act of 1934.[2]

The Commission has deferred further direct action in this area on the assumption that participants in the conference will include investors or representatives of investors, that the product of the conference will be one which implements a simplified nationwide system for the resolution of customer disputes along the lines enunciated in Securities Exchange Act Release No. 34-12974 (November 15, 1976),[3] and that the proposed system will be in the public interest. If any of these assumptions prove to be erroneous, the Commission may deem it necessary to take rulemaking or other action as deemed appropriate to implement a nationwide investor dispute resolution system.

I. BACKGROUND

In May of 1976, the Commission established the Office of Consumer Affairs ("the Office"). Its mandate was to explore alternative methods for the resolution of disputes between individual investors and brokers and dealers, including the establishment of a single nationwide system for investor dispute resolution. Such a nationwide system would be readily accessible to investors in a number of cities around the country and would be administered by knowledgeable and impartial individuals.

In June of 1976 the Commission invited public comment on the feasibility of a nationwide investor dispute resolution system available through self-regulatory organizations, and on July 15, 1976 held the first of two public forums to receive views of interested parties on such a system. Participants in that forum included representatives of the securities industry, professional arbitrators and investors. There was agreement among all commentators and witnesses that the securities industry has an obligation to respond to investor complaints, and that disputes should be resolved as quickly as possible. In general, commentators agreed that the securities industry and the self-regulatory organizations should be responsible for improving dispute resolution programs, since government intervention could be costly and unproductive. Commentators gave varied opinions on such issues as whether or not counsel should be permitted at arbitration proceedings, what is an appropriate dollar ceiling on claims which could be resolved through such a system, the proper qualifications for arbitrators, how expenses should be borne, and the role of the Commission.

Following the first public forum, the Office conducted an extensive study of the nature of investor complaints and the methods for resolving them. The Office reported its findings to the Commission in October of 1976, together with recommendations for a three-part plan to improve the resolution of investor complaints.

II. DISCUSSION

In summary, the Office found that investors with large claims apparently consider litigation to be a feasible method of seeking redress, but litigation may be burdensome and complex and is not cost effective for investors with relatively small claims (for example, under $5,000), in that attorney's fees and other costs may well exceed the amount of the claim. Although some investors take advantage of the arbitration facilities maintained by self-regulatory organizations, the fees imposed for use of such arbitration facilities vary widely, as do the procedures for invoking these facilities, and the travel expense to the site of the arbitration may be substantial. Also, investors often doubt the impartiality of officials associated with self-regulatory organizations and, therefore, hesitate to use the arbitration facilities. Finally, in many cases an investor without counsel is unable to understand the complexities of the proceeding or to represent and advance adequately his or her case.

Based on these findings, the Office recommended, and the Commission subsequently approved in principle, the following program:

1. Brokerage firms with public customers should be required to institute in-house complaint processing systems which would insure review of complaints by senior management and would require periodic reporting to the Commission and the self-regulatory organizations for enforcement and regulatory purposes. These in-house systems should be well publicized and explained to investors, either through pamphlets or notices included with periodic statements. The investor should be informed of possible alternatives if the matter is not satisfactorily resolved at the level of the brokerage firm;

2. A uniform code of arbitration should be drafted for use by the organizations currently offering arbitration facilities. The code should provide for non-binding informal mediation as a condition precedent to formal arbitration. A simplified arbitration format should be designed for disputes of less than $5,000. Arbitration should be available in locations convenient to both parties, if possible. Panels including persons not engaged in the securities business should be authorized in order to minimize the potential and appearance of bias. A uniform fee schedule should be adopted;

3. Self-regulatory organization rules should be amended to require that member firms submit to arbitration at the instance of an investor or another firm that has been called to arbitration by an investor, at the arbitration facilities of any self-regulatory organization. Customer agreements to arbitrate, at the instance of a firm, in margin agreements or elsewhere, should be prohibited; and

4. A network of "small claims adjustors" should be designated to settle claims of less than $1,000. The "adjustors" should be employees of a new administrative entity, the Securities Investor Service Bureau (the "SISB") which would also serve as a clearinghouse and data base for customer complaints.

In approving, in principle, the recommendations set forth above, the Commission invited further public comment before taking action.[4] After a substantial number of written comments had been received, a second public forum was held on February 9 and 10, 1977.

The views expressed at the second public forum generally favored an industry sponsored dispute resolution system. Most of the witnesses opposed the creation of a separate administrative entity, such as the SISB, and in lieu thereof they advocated modification of arbitration facilities that are currently in place to form a more streamlined system for settlement of small claims. Some witnesses also opposed a requirement that brokers and dealers file periodic reports of complaints received. A number of commentators acknowledged, however, that investor complaints are useful in monitoring the financial condition and sales practice activities of brokers and dealers. In this connection, it appears that there is no substantial opposition to a requirement that the number of complaints received by a broker or dealer be reported to a self-regulatory organization or to the Commission on an existing reporting form. Commentators agreed that a uniform arbitration code is a worthwhile endeavor and would be beneficial, although some opposed informal mediation as an intermediate step prior to formal arbitration.

The New York Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. proposed that a conference be held or that a task force be created of industry representatives and members of the public for the purpose of considering whether and how to develop a single system for the resolution of investor disputes. Many other commentators also supported this proposal. The Commission believes that this industry initiative in this area is an appropriate exercise of self-regulation, and that under these circumstances the Commission should consider the results or recommendations of the conference before taking further direct action.

[1] 15 U.S.C. 78k-1.
[2] 15 U.S.C. 78f, 78o-3, 78s.
[3] 41 FR 50880 (November 18, 1976).
[4] Securities Exchange Act Release No. 34-12974 (November 15, 1976); 41 FR 50880 (November 18, 1976).

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III. CONCLUSION

The Commission anticipates that the conference will propose a system which includes the following elements as a basic framework and others as agreed upon: (a) A uniform arbitration code for small claims, to be adopted by all of the self-regulatory organizations, through appropriate rule changes filed with the Commission under Section 19(b) of the Securities Exchange Act of 1934, as amended, and Rule 19b–4 (17 CFR 240.19b–4) (hereinafter "§ 240.19b–4") thereunder; (b) a definition of the scope and type complaint susceptible to resolution through the system; (c) a standard fee schedule; (d) designation of sites for arbitration; (e) a plan for coordinating the availability and resources of the system; and (f) other steps to facilitate the resolution of complaints of individual investors.

The Commission will continue during the pendency of this conference to consider the implementation of other recommendations of the Office of Consumer Affairs so as to expedite the establishment of an integrated nationwide system for complaint processing and resolution of investor disputes. In addition, the record will remain open for comments from interested persons on these matters. Comments should be addressed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Although the Commission does have extensive authority over the self-regulatory organizations, their rules and procedures,[6] it is of the view that it would not be useful at this time to interpose itself in this area since the industry has manifested its intention to take affirmative action. Hence, the Commission wishes to await the results of the proposed conference with the expectation that such results will reflect the goals and attributes set forth in Securities Exchange Act Release No. 34–12974.[7]

The Commission has carefully considered all of the comments received and the testimony of witnesses who appeared at both public forums, on its proposal for a nationwide investor dispute resolution system, and has determined that it would consider proposals generated from the conference prior to taking any further direct action in this area assuming that such conference takes place as proposed, and those proposals are published no later than November 15, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 26, 1977.

[FR Doc.77–13379 Filed 5–10–77;8:45 am]

[6] Senate Comm. on Banking, Housing, and Urban Affairs, Report on S. 249, S. Rep. No. 75, 94th Cong. 2nd Sess. 23–28 (1975).

[7] Footnote 3 supra.

[Release No. 9739; 812–4116]

INSURED MUNICIPALS—INCOME TRUST

Filing of Application for an Order of Act Granting Exemption From Provisions

APRIL 27, 1977.

Notice is hereby given that Insured Municipals—Income Trust ("Applicant"), c/o Van Kampen Sauerman, Inc., 208 South LaSalle Street, Chicago, Illinois 60604, a unit investment trust registered under the Investment Company Act of 1940 ("Act"), filed an application on April 5, 1977, and an amendment thereto on April 15, 1977, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of section 22(d) of the Act to the extent necessary to permit the investment pursuant to an automatic reinvestment option ("ARO Plan") of income and capital gains distributions made to certificateholders of a predecessor series of the Applicant into units of a subsequent series of the Applicant ("Reinvestment Series") at a reduced sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant is sponsored by Van Kampen Sauerman, Inc. ("Sponsor"). It registered with the Commission as a unit investment trust on August 25, 1975. It also filed a registration statement on Form N–8B–2 pursuant to section 8(b) of the Act on October 16, 1975, and has commenced distribution of trust units pursuant to a series of registration statements under the Securities Act of 1933 which have been declared effective.

Applicant represents that the objective of each of its series (and those of its predecessor, The First National Dual Series Tax-Exempt Bond Trust) is to seek tax-exempt income and conservation of capital through investment in tax-exempt bonds. All of such bonds are obligations issued by or on behalf of states, counties, territories or municipalities of the United States and authorities or political subdivisions thereof, the interest on which, in the opinion of counsel to the various issuers of such bonds, is exempt from all Federal income taxes under existing law. A separate Indenture is entered into each time a new series of Applicant is created and the bonds to comprise its portfolio are deposited with the Trustee. Applicant states that with respect to each series the Sponsor obtains a portfolio insurance policy protecting the bonds therein against default in the payment of principal and interest. In certain series, there have been or may be a bond or bonds which have been separately insured by the issuer thereof.

Applicant proposes to offer the right to participate in the ARO Plan to certificate holders of record in each of its series who have selected the semi-annual plan of distribution. Applicant states that its certificate holders will be able to join the ARO Plan at any time by delivering to the Applicant's Trustee an Authorization Form. Likewise, a participant may withdraw at any time upon written notice to the Trustee. To assist in withdrawals, the Trustee intends to establish a toll free telephone number. However, if notification of withdrawal has not been given to the Trustee prior to a particular semi-annual distribution date, the participant will be deemed to have elected to participate in the ARO Plan with respect to that particular distribution, and his withdrawal will become effective for the next succeeding distribution. Each participant will have his interest and principal distributions reinvested on the corresponding distribution date in the appropriate Reinvestment Series of the Applicant. Applicant represents that it intends to see to it that each Reinvestment Series will be declared effective by the Commission in sufficient time to allow distribution to Plan participants of final prospectuses relating to such Reinvestment Series. As presently contemplated, it is intended that each Reinvestment Series will become effective on or about each semi-annual record date for determining who is eligible to receive distributions on the related Distribution Date. Applicant states that if a Reinvestment Series has not been declared effective in such sufficient time, the ARO Plan will be suspended with respect to that series and recommenced with the next succeeding series. In such a case, a participant would receive his normal cash distribution. Applicant represents that no fractional units will be purchased under the ARO Plan and any excess cash from each distribution not utilized to purchase full units will be distributed to the respective Plan participants.

In order that distributions may be reinvested on the next succeeding Distribution Date, the Authorization Form must be received by the Trustee no later than the 15th day of the month preceding such Distribution Date. Any Authorization Form received after such date will result in the commencement of reinvestment on the second Distribution Date thereafter. Once delivered to the Trustee, an Authorization Form will, except in the following instance, constitute a valid election to participate in the Plan for each subsequent distribution as long as the certificateholder continues to participate in the Plan. If there should be a material change in the policies of the Applicant which adversely affect certificateholders or ARO Plan participants, the authorization will be voided and participants will be provided both a notice of the policy change and a new Authorization Form which must be returned to the Trustee before the certificateholder will again be able to participate in the Plan.

Unless a certificate holder notifies the Trustee in writing to the contrary, any certificateholder who has acquired units through the ARO Plan will be deemed

to have elected the semi-annual plan of distribution and to participate in the ARO Plan with respect to distributions made in connection with units so purchased under the ARO Plan. A certificateholder may withdraw from the ARO Plan with respect to distributions related to units purchased under the ARO Plan, and remain in the Plan with respect to units acquired other than through the Plan. All such distributions made with respect to units purchased under the Plan will be accumulated with distributions generated from the units of the series of the Applicant used to purchase such additional ARO Plan units, but no distributions generated from units of other series of the Applicant will be accumulated with the foregoing distributions for ARO Plan purchases. Thus, if a person owns units in more than one series of the Applicant (which are not the result of purchases under the ARO Plan), distributions with respect thereto will not be aggregated for purchases under the ARO Plan. Any funds not utilized to purchase full units in the Reinvestment Series will be automatically distributed by the Trustee on the Distribution Date. Confirmations of sales relating to units purchased under the ARO Plan and certificates relating thereto will be provided in the normal course of business. Both the Sponsor and the Trustee reserve the right to suspend, modify or terminate the Plan at any time. All participants will receive notice of any such suspension, modification or termination.

Units of each existing series of the Applicant have been offered at a public offering price of approximately $1,050 per unit plus accrued interest. However, it is the Sponsor's intention to increase the authorized number of units in future series of the Applicant (including each Reinvestment Series) so that units will be offered at a price of approximately $105 per unit plus accrued interest. It is, however, also the Sponsor's intention to require purchase of at least 10 units during the primary distribution of units (As opposed to secondary transactions in which there will be no minimum) by all investors except those purchasing units under the ARO Plan (in which there is no minimum). The purpose of this change is to insure that the current minimum purchase is retained for purchases in the primary distribution but at the same time to permit maximum use of distributions for the purchase of additional units through the reinvestment program.

Applicant proposes to offer Reinvestment Series units under the ARO Plan at a price reflecting a sales charge of 3½ percent of the underlying net asset value of the bonds in such series rather than the customary 4½ percent sales charge which applies to all primary and secondary sales of units in the various series of Applicant (including primary and secondary sales of Reinvestment Series units other than through the ARO Plan).

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus. Rule 22d–1 permits certain variations in sales load, none of which it is alleged are applicable to the proposed ARO Plan.

In support of its request, Applicant asserts that applying a sales charge of less than the customary 4½ percent charge in the case of ARP Plan purchases is both beneficial to ARO Plan participants, and also warranted in light of the related cost savings. Applicant states that approximately 3½ percent of the customary 4½ percent sales charge is attributable to brokerage efforts to make the initial customer solicitation, to ascertain the customer's financial requirements and to counsel him on the Applicant's specific product. Applicant represents that each Reinvestment Series will be substantially similar to the series of the Applicant into which the ARO Plan participant originally purchased with the exception of the make-up of the bond portfolio and certain portfolio related information. Consequently, the support for that portion of the sales charge attributable to counselling the participant on the Applicant's product is reduced, as is the selling effect relating to initial solicitations. It is the Applicant's belief that cost savings related thereto should be passed on to ARO Plan participants.

However, with respect to any particular Reinvestment Series, Applicant believes a participant may seek professional advice, and, thus, a reduced sales charge for such financial services is warranted. It is the Applicant's belief that a charge of 1½ percent of the net asset value of the underlying bonds in each Reinvestment Series (or assuming a net asset value of approximately $100 per unit, a sales charge of $1.50 per unit) is a reasonable and justifiable expense to be allocated to the soliciting broker for his professional assistance in connection with each Reinvestment Series.

Applicant further asserts that implementation and continuation of the ARO Plan will create special out-of-pocket costs which should properly be borne by the Plan participants. It is the Sponsor's belief that the special out-of-pocket expenses related to the Plan (including such items as (a) maintaining Trustee records on participants, (b) mailing, shipping and miscellaneous delivery charges, (c) maintaining a toll free telephone number with knowledgeable operators, and (d) separate printing charges) will amount to $1 per unit (assuming the above net asset value, 1 percent of such value). Finally, prior experience indicates that the normal out-of-pocket costs for establishing each series of the Applicant approximate 1 percent of the underlying asset value of the Applicant's portfolio. Applicant represents that all such costs will be covered in the proposed 3½ percent sales charge. Thus, Applicant concludes that the proposed 3½ percent sales charge for ARO Plan purchases not only passes through certain cost savings to ARO Plan participants but also charges such persons for reasonable expenses related to the creation of the ARO Plan, and for fees relating to periodic, professional, financial advice.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purpose fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 23, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing, upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13396 Filed 5–10–77;8:45 am]

[File No. 81–253]

ITEL COMPUTER DIMENSIONS, INC.

Application and Opportunity for Hearing

APRIL 21, 1977.

Notice is hereby given that Itel Computer Dimensions, Inc. ("Applicant") (formerly known as Computer Dimensions, Inc.) has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("1934

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Act") for exemption from filing a Form 10–K required by section 15(d) of that Act.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the 1934 Act in respect of a security registered pursuant to section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the provisions of section 15(d) if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Application states, in part:

1. Applicant is a Delaware corporation subject to the reporting provisions of section 15(d) of the 1934 Act.

2. On December 14, 1976, Applicant became a wholly-owned Delaware subsidiary of Itel Corporation. The common stock of Itel Corporation is listed in the New York Stock Exchange and registered pursuant to Section 12(b) of the 1934 Act.

In the absence of an exemption, the Applicant would be required to file a report on Form 10–K for its fiscal year ending December 31, 1976.

The Applicant states that no useful purpose would be served in filing said report because Itel Corporation now owns all of the Applicant's outstanding stock and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 16, 1977, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13397 Filed 5–10–77;8:45 am]

[File Nos. 7–4936—7–4937]

KUBOTA, LTD. AND OAK INDUSTRIES, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 22, 1977.

In the matter of applications of the Philadelphia Stock Exchange for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Kubota, Ltd., American Depository Receipts, 50 Yen Par Value (each American Depository Receipt represents 20 common shares), File No. 7–4936.

Oak Industries, Inc., Common Stock, $1 Par Value, File No. 7–4937.

Upon receipt of a request, on or before May 6, 1977, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13402 Filed 5–10–77;8:45 am]

[Release No. 13470; SR–MSE–77–5]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

APRIL 26, 1977.

On March 7, 1977, the Midwest Stock Exchange, Incorporated ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change to remove the requirement that one of the sponsors of an applicant for membership be a member.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13357 (March 11, 1977)) and by publication in the FEDERAL REGISTER (42 FR 15389 (March 21, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 7, 1977, be, and it hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13398 Filed 5–10–77;8:45 am]

[Release No. 19996; 70–5750]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Extension of Bank Borrowing and Increase in Amount Authorized

APRIL 26, 1977.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed with this Commission post-effective amendments to its application-declaration previously filed and amended in this matter, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as further amended by said post-effective amendments, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 1, 1975 (HCAR No. 19272), issued in this proceeding, NEES was authorized to issue or renew notes of a maturity less than one year evidencing short-term bank borrowings provided that the aggregate principal amount of such notes outstanding at any one time should not exceed $25,000,000. Said authorization is to terminate upon completion of NEES's next common share issue, or on May 31, 1977, whichever first occurs.

By post-effective amendments filed in this proceeding it is now proposed that (i) the borrowing authority be extended until December 31, 1978, and (ii) the authorized amount of borrowing be increased from $25,000,000 to $52,500,000, subject to a reduction back to $25,000,000 as indicated below.

NEES has outstanding $27,500,000 principal amount of 3¼ percent Debentures which mature for payment on June 1, 1977. The indenture requires NEES to deposit cash for such payment with the trustee one day prior to the maturity date. NEES has negotiated a loan from John Hancock Mutual Life Insurance Company ("Hancock") in the amount of $27,500,000, which loan is the subject of a separate proceeding (File No. 70–6002). Under the terms of the proposed loan NEES will issue a note and receive the proceeds on or before May 31, 1977. It is stated that in order to provide for the contingency that the Hancock loan is not consumated by May 31, 1977, it is necessary for NEES to have authority to issue additional short-term notes to banks in the amount of $27,500,000.

Such additional borrowing authority would terminate if the necessary funds are obtained from Hancock prior to May 31, 1977. If it should become necessary to use the proceeds from additional borrowings to pay the Debentures at maturity, such additional borrowings would be repaid upon receipt of the proceeds from the Hancock loan, and the borrowing authority would be reduced to $25,000,000. In the event the Hancock loan were for any reason not consumated, NEES proposes to negotiate a similar transaction with another institutional lender and use the proceeds to repay the additional borrowings, following which the borrowing authority would be reduced to $25,000,000.

Although no formal commitments have been made, NEES expects such borrowings will be effected from among the following banks:

Name of Bank:	Amount
Bank of America, North America Division, New York, N.Y.	$500,000
Brown Brothers, Harriman & Co., Boston, Mass.	500,000
Continental Illinois National Bank & Trust Co., Chicago, Ill.	10,000,000
Chase Manhattan Bank, N.A., New York, N.Y.	10,000,000
Chemical Bank, New York, N.Y.	500,000
Citibank, N.A., New York, N.Y.	10,000,000
Irving Trust Company, New York, N.Y.	10,000,000
Manufacturers Hanover Trust, New York, N.Y.	500,000
Morgan Guaranty Trust Co., New York, N.Y.	10,000,000
The First National Bank of Chicago, Chicago, Ill.	500,000
Total	52,000,000

The amounts that NEES may borrow from a particular bank may be increased or decreased, but at no time will the aggregate amount of short-term borrowings from all banks exceed the authorization requested.

NEES expects to have a common share issue in the latter half of 1977. It is proposed that the short-term borrowing authority extend beyond the date of such common share issue to December 31, 1978. The proceeds from the sale of notes will be made available to subsidiaries, particularly (1) New England Power Company through the purchase of additional shares of its common capital stock and/or capital contributions for its construction program or to provide for other capitalizable expenditures, and (2) New England Energy Incorporated in furtherance of its exploration for, and development and production of, fuel used in the NEES System.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that there will be no fees or expenses incurred in connection with the proposed transaction.

Notice is further given that any interested person may, not later than May 20, 1977, request in writing that a hearing be held on such mattter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as further amended by said post-effective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13385 Filed 5–10–77;8:45 am]

[Release No. 34–13499; File No. SR–NYSE–77–15]

NEW YORK STOCK EXCHANGE

Proposed Policy Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 1, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED POLICY CHANGE

(a) The Board of Directors of the New York Stock Exchange, Inc. (the "Exchange") proposes to amend the Exchanges' policy on the form of a Single Denomination Stock Certificate (as set forth in the "NYSE Company Manual" on pp. A–227–228) as follows:

NEW LANGUAGE ITALICIZED

SINGLE DENOMINATION STOCK CERTIFICATE

A single denomination stock certificate with punch panel or without punch panel may be utilized in accordance with the following provisions:

With Punch Panel: All engraving requirements of the conventional certificate must be followed with the exception of the corner piece. The corner piece, which denotes the limitation a certificate may represent, is not required when an engraved punch panel appears on the certificate.

Without Punch Panel: The single denomination stock certificate without punch panel calls for additional and special engraving requirements and certificate imprintings which must be adhered to without exception. They are as follows:

1. The share and number counters and the open throat area, used for stockholder addressing and indicating the issuance of shares in numerical and alpha numerical form, must bear fine line intaglio engraving. (The fine line intaglio engraving is spaced so as to create clearly discernible parallel lines. If these parallel lines are erased or broken, they are extremely obvious to the unaided eye and reconstruction is virtually impossible.)

2. A penetrating ink ribbon must be used in addressing certificates and imprinting the number of shares in numerical and alpha numerical form. (The penetrating ink ribbon must have the capacity of actually penetrating the fabric of the certificate.)

3. As an additional preventative to raising the number of shares represented by a certificate, a matrix (see example) must be added in the open throat area indicating the number of shares in five different positions.

Matrix Example

*100,000*****
100,000**
100,000
****100,000**
*****100,000*

Or

The share amount may be macerated provided that the ink penetrates the fabric of the certificate and the maceration cuts the fabric similar to a check writer and is preceded and followed by a macerated character of sufficient size to protect against possible alteration (see example). Further, the maceration must be applied over the fine line intaglio en-

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graving appearing either in the share counter or the open throat area.

Maceration Example

X5,500X
(In macerated form)

4. The number of shares must also be shown in alpha numerical form in the open throat area.

Along with the above additional and special requirements, all of the engraving requirements of the conventional certificate must be followed with the exception of the corner piece. The corner piece, which denotes the limitation a certificate may represent, is not required.

Basis and Purpose of Proposed Policy Change

Present Exchange Policy restricts the ways in which an issuer or its agent (the transfer agent) may imprint or denominate share values on Single Denomination Stock Certificates. An issuer or the transfer agent may either denominate by manually punching a share panel on the certificate or, alternatively, may imprint share values in the seven prescribed locations on the face of the certificate. (See "Text of Proposed Policy Change" above.)

The option of imprinting share values in seven locations on a Single Denomination Stock Certificate represents an economically viable alternative only for those issuers and transfer agents having high-speed computer capability. While issuers and transfer agents not having computer capability may elect to manually punch share value on Single Denomination Stock Certificates, pursuant to present Exchange policy, there is a general disinclination to do so as such process is both very time-consuming and labor intensive.

It has been concluded that imprinting or denominating share values on Single Denomination Stock Certificates by a process known as "maceration" would afford a degree of protection comparable to techniques presently recognized by Exchange policy. Accordingly, the purpose of the proposed policy change is to permit issuers and transfer agents to utilize such mechanical process (i.e., "maceration") when imprinting share values on certificates so that the option of utilizing the Single Denomination Stock Certificate format is not virtually and unnecessarily restricted to only those issuers and transfer agents having high-speed computer capability.

4. *Basis under the Act for Proposed Policy Change* (a), (i), (ii), (iii), (iv), (v), (B) and (D), (vi), (vii), (viii), and (b) (i) through (vii) not applicable.

(a) (v) (A) The Exchange's Committee on Securities adopted engraving requirements for stock and bond certificates on December 23, 1874 and, since that time, the Exchange has steadfastly endeavored to assure that certificates of listed issues provide all reasonable safeguards against fraudulent acts. In fact, the Exchange requires engraving features for certificates of listed issues that are far more stringent than those of any other exchange or regulatory body.

The purposes of the Exchange's engraving and protective requirements are two-fold. In the first instance they are designed to prevent the fraudulent duplication or counterfeiting of stock certificates. Secondly, they act as preventatives to the fraudulent alteration of validly issued certificates, i.e., they prevent the raising of the number of shares or principal amount of a certificate to a higher value.

The primary protective features against counterfeiting lie in the engraved borders, the engraved vignette and the engraved text appearing on the face of certificates. Under the proposal, these features will not be changed. The primary protective features against fraudulent alteration, with respect to the Single Denomination Stock Certificates, lies in the special certificate imprinting requirements set forth in the Exchange's statement of policy above. (See "Text of Proposed Policy Change".)

In an effort to ascertain the security effectiveness of "maceration" which is herein proposed as an alternative denominating or imprinting method, the Exchange has determined that it affords comparable protection to that of manually punching the share value on stock certificates—a technique presently permitted under Exchange policy.

(a) (v) (C) As represented in the statement of "Purpose of Proposed Policy Change" above, permissive utilization of a "maceration" process to denominate or imprint share values on Single Denomination Stock Certificates would effectively remove an unnecessary restriction as to the range of entities eligible to issue stock certificates in the "Single Denomination Stock Certificate" format.

(a) (v) (E) The "security" features of the mechanical process known as "maceration ("the process") have been subjected to comment by the Department of the Treasury, Bureau of Engraving and Printing and the Board of Directors of the Stock Transfer Association. Such entities have rendered statements to the general effect that the process represents an adequate method for protection of share values on Single Denomination Stock Certificates.

Comments Received From Members, Participant, or Others on Proposed Policy Changes

Six comments were received. One was a favorable appraisal by the Department of the Treasury, Bureau of Engraving and Printing, of the degree of protection afforded in the maceration process.

The other five from various users, trade associations, etc., were favorable to the adoption of this policy.

Burden on Competition

The New York Stock Exchange believes that the proposed policy change does not impose a burden on competition. On the contrary, it would tend to foster competition among registered transfer agents.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

May 2, 1977.

[FR Doc 77-13373 Filed 5-10-77;8:45 am]

[Release No. 20007; 70-5849]

NORTH EAST HEAT & LIGHT CO.

Proposal to Make Unsecured Borrowings From Banks; Interim Order Authorizing Emergency Borrowing

APRIL 28, 1977.

Notice is hereby given that North East Heat & Light Company ("North East"), 16 North Lake Street, North East, Pennsylvania 16428, a gas utility subsidiary of British American Utilities ("British American"), a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6 and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, for a complete statemet of the proposed transaction.

North East proposes to issue and sell unsecured notes to Manufacturers and Traders Trust Company of Buffalo, New York ("Bank") in an aggregate principal amount of $45,000. The notes will bear interest, payable monthly, on the unpaid principal amount thereof, at a rate per annum equal to the prime rate then in effect at the Bank plus 1½ percent. At the present time, based on a prime rate of 6¼ percent, the effective cost of the borrowings will be 7¾ percent. The notes are to be payable on demand and will be prepayable, in whole or in part, at any time without premium or penalty at the option of North East. No compensating balances are required. North East presently has no outstanding bank borrowings. It is stated that the proceeds of these borrowings will be used to pay North East's gross receipts tax and other currently payable expenses. The gross receipts tax is due at the end of April, 1977; in light of this consideration North East has requested interim authorization to borrow up to $40,000 pending the issuance of a final order in this matter. British American and North East have filed a plan with this Commission for the reorganization of the holding company system (File No. 54-256). That plan provides for the liquidation of British American as a holding company and the continued corporate existence of only North East.

Notice is further given that any interested person may, not later than May 23, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, Pursuant to the applicable provisions of the Act and the rules thereunder that North East be, and it hereby is, authorized effective forthwith to incur short-term borrowing through May 31, 1977, in an aggregate principal amount not to exceed $40,000 outstanding at any one time. Jurisdiction is reserved to grant the further relief applied for in whole or in part.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-13399;Filed 5-10-77;8:45 am]

[Release No. 34-13504;
File No. SR-OCC-77-2]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would permit a Clearing Member to limit its liability to the OCC Clearing Fund to an additional 100 percent of its Clearing Fund contribution by (i) giving notice of termination of its clearing membership, (ii) clearing no opening transactions thereafter, and (iii) liquidating or transferring its existing positions as promptly as practicable (as opposed to doing so within a prescribed period).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide OCC's Clearing Members with a workable method for limiting their liability to the Clearing Fund. Under OCC's present By-Laws, if a loss is charged to the Clearing Fund, a Clearing Member may limit its liability to an additional 100 percent of its Clearing Fund contribution at the time of the charge if, within five business days following the date of the charge, the Clearing Member (i) notifies OCC in writing that it is terminating its clearing membership, and (ii) closes out or transfers all of its positions.

The level of open interest in options has increased to the point where OCC no longer believes it practicable to require Clearing Members to transfer or liquidate all of their positions within a five-day period in order to limit their liability to the Clearing Fund. Accordingly, the proposed rule change would permit a Clearing Member to limit its liability by (i) giving notice of its intent to terminate its clearning membership, (ii) clearing no opening transactions thereafter, and (iii) closing out or transferring its existing positions as promptly as practicable under the circumstances.

The proposed rule change moderates a provision which may have a deterrent effect on clearing membership and contributes to the public interest and the protection of investors by reducing the likelihood of disorderly liquidations in the event that a substantial loss were to be charged to OCC's Clearing Fund.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change imposes any burden on competition.

On or before June 16, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room at 1100 L Street, NW., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 3, 1977.

[FR Doc.77-13372 Filed 5-10-77;8:45 am]

[Release No. 34-13503; File No. SR-OCC-77-1]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would permit purchasers of options to file exercise notices on the date of execution of their opening purchase transactions, subject to OCC's acceptance of such transactions, on the following business day.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendment to Rule 801 is to permit an exercise notice to be filed in respect of an opening purchase transaction on the date when the transaction is executed (subject to the transaction's acceptance by OCC on the following business day).

Rule 801 has been interpreted as prohibiting the filing of exercise notices with respect to option contracts which have not yet been issued. As a result, a Clearing Member which engages in an opening purchase transaction on the day before the ex date for a dividend or other distribution is unable to file an exercise notice until the ex date. If it files an exercise notice at that time, it will not be entitled to receive the dividend or distribution.

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However, Rule 803 provides that an exercise notice filed on the date of an opening writing transaction may be assigned to the writing Clearing Member, even though the writing transaction will not be accepted by OCC until the following business day. Accordingly, a Clearing Member which engages in an opening writing transaction on the day before an ex date will be required to deliver the dividend or distribution if an exercise notice filed on the same day is assigned in respect of the opening writing transaction.

Due to the inconsistency between Rule 801 in its present form and Rule 803, the liquidity of the options market with respect to an underlying security may be lessened on the day before the ex date for a substantial dividend or distribution. Potential writers may require a premium which includes the value of the dividend or distribution, because they will be required to pay over the dividend or distribution if an exercise notice is assigned in respect of their opening writing transactions. Potential purchasers, on the other hand, may not be willing to pay such a premium, because their inability to file exercise notices until the ex date will prevent them from receiving the dividend or distribution upon exercise. The proposed rule change eliminates the inconsistency between Rules 801 and 803 by permitting purchasers to file exercise notices on the date of their opening purchase transactions. However, any exercise notice filed in respect of an opening purchase transaction would become null and void if the transaction was not duly reported to OCC as a compared trade on the date of execution or the purchaser failed to pay the applicable premium on the following business day.

The proposed rule change contributes to the protection of investors and the public interest by eliminating an impediment to the liquidity of the secondary market in options.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change imposes any burden on competition.

On or before June 16, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room at 1100 L Street, N.W., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 3, 1977.

[FR Doc.77-13374 Filed 5-10-77;8:45 am]

[Release No. 34-13484; File No. SR-PSE-77-8]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 1, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Rule VI, section 49(c) and Rule VI, section 62 (Commentary .03) and to adopt Options Floor Procedure Advice C-1.

The language of these rule provisions, as proposed to be amended, and the Floor Procedure Advice to be adopted, are set forth below (italics indicate language added, and brackets indicate language deleted):

RULE VI

EXCHANGE OPTIONS TRADING

Priority of Bids and Offers

Sec. 49. Except as provided by Section 51 below, the following rules of priority shall be observed with respect to bids and offers: (a) No change; (b) No change; (c) [Openings.] *Opening rotations.* [Notwithstanding anything in (a) and (b) to the contrary, where necessary in]

(1) In order to achieve a single price opening, the Order Book Official may give market orders, entitled to participate in the opening, priority over limit orders at the same opening price on the Order Book Official's Book. The Options Floor Trading Committee shall establish a cut-off time for orders entitled to participate in the opening.

(2) The Order Book Official, while conducting an opening rotation, will attempt to match all public customer orders (of which he has knowledge) at at single price. If there exists an imbalance of public customer orders the Order Book Official will seek market maker and firm participation to establish the opening price.

Commentary: No change.

RESPONSIBILITIES OF FLOOR BROKERS

Sec. 62. Commentary: .01—No change; .02—No change; .03—*Pursuant to Section 62, a Floor Broker's use of due diligence in executing a market order as defined in paragraph (a) of Section 57 shall include (i) the prompt execution of such order at the best obtainable price after representing the order at the post in accordance with the provisions of Commentary .02 of this Section; and (ii) the representation of such order at the post within a reasonable time after such order reaches the trading floor.*

PSE OPTIONS FLOOR PROCEDURES ADVICE

Subject: Procedures for Opening Rotations.

The following procedures shall be followed by the Order Book Official at each post when conducting an opening rotation pursuant to PSE Rule VI, Sections 36 and 49. (1) Prior to the opening of the underlying security on the primary market, the OBO shall try to determine from the floor brokers the size and prices of those customer orders which are near the previous closing price of those classes traded at the post.

(2) After the underlying security has opened, the OBO will request markets in each of the series traded at the post from the primary market makers at the post.

(3) If the OBO feels the response to the request for markets is insufficient either as to price or size, he may request markets from each market maker who did not respond and/or call for supplemental market makers.

(4) The OBO will then ask the floor brokers in the crowd what customer orders they are holding to be executed at the opening and, when possible, match all customer orders at the appropriate price.

(5) If imbalances occur, the OBO will ask the market makers if they can eliminate the imbalance at the established price and, if not, establish where the orders can be filled.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

Rule VI, section 49(c) is being amended to provide greater clarity with respect to effecting a single price opening during opening rotations. Rule VI, section 62 (Commentary .03) is being amended to provide greater clarity regarding a Floor Broker's use of due diligence in executing market orders. In connection with the amendment to section 49(c), Floor Procedure Advice C-1 establishes the new procedures to be followed in implementing the amended Section.

The proposed rule changes, by providing clarification to existing rules, shall enable the PSE to carry out the purposes of the Act and to comply and to enforce compliance by its members and persons associated with its members, with the Act and the rules and regulations thereunder.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

On or before June 16, 1977, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 10, 1977. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

April 28, 1977.

[FR Doc.77-13376 Filed 5-10-77;8:45 am]

[Release No. 34-13485; File No. SR-PSE-77-9]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 14, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") proposes to modify the fixed point intervals at which exercise prices for call options on securities trading below $25, between $25 and $80 and above $200 are determined. Presently, exercise prices are generally fixed at 5 point intervals for securities trading below 50, 10 point intervals for securities trading between 50 and 200, and 20 point intervals for securities trading above 200. Under the proposed modifications, the intervals for exercise prices would generally be fixed at 2½ points for securities trading below $25, 5 points for securities trading between $25 and $80, and 10 points for securities trading above $80. The PSE may depart from this general practice when it believes the result would be in the best interest of the investing public.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change will enable the PSE to moidfy the exercise price intervals which are established for options or securities trading below $25, between $25 and $80, and above $200.

The PSE believes that it is consistent with the protection of investors and the public interest and the promotion of just and equitable principles of trade to modify the intervals at which exercise prices are set on options for securities trading below $25, between $25 and $80 and above $200. The setting of exercise prices at 2½ point intervals between $10 and $25, at 5 point intervals between $25 and $80, and at 10 point intervals above $80, provides greater assurance to investors that at all times there will be an option series available for trading at an exercise price that approximates the market price of the underlying stock.

The ability to open option series at prices which more closely approximate the market prices for underlying securities will afford public investors more opportunities to engage in hedging transactions, and thereby limit their risks. In addition to hedging transactions, there are numerous other public investor purchase and writing strategies which may be utilized as option series are opened at prices which are "at the market."

As option series are permitted to be opened at exercise prices which are closer to the market price of underlying securities, PSE Market-Makers will be given greater opportunities to engage in spreading transactions. Inability to spread or hedge decreases the liquidity of the market, and the bid/ask quote spread is likely to be wider in order to compensate Market-Makers for the added risks involved. Increased ability to reduce their risks through hedging will contribute to the Market-Makers' performance of their obligations to maintain fair and orderly markets. Consequently, competition and participation among PSE Market-Makers will intensify and thereby afford the public investor increased access to narrow, continuous, two-sided markets.

Comments have either been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

On or before June 16, 1977, or within such longer period (i) as the Commission may designate up to ninty (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 1, 1977. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13375 Filed 5-10-77;8:45 am]

[Release No. 34-13482, 35-20008, IC-9740]

REEXAMINATION OF RULES RELATING TO SHAREHOLDER COMMUNICATIONS, SHAREHOLDER PARTICIPATION IN THE CORPORATE ELECTORAL PROCESS, AND CORPORATE GOVERNANCE GENERALLY

AGENCY: Securities and Exchange Commission.

ACTION: Request for written statements and announcement of hearings.

SUMMARY: The Commission has requested written statements preparatory to holding hearings on the subjects of shareholder communications, shareholder participation in the corporate electoral process and corporate governance. Such statements and hearings are to give the Commission the benefit of the views of interested members of the public in a broad re-examination of its rules concerning proxy solicitations.

DATES: Written statements must be received on or before July 1, 1977.

ADDRESSES: All communications should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Such communications should refer to File No. S7-693, and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street. NW., Washington, D.C. 20549.

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FOR FURTHER INFORMATION CONTACT:

Barbara L. Leventhal, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202–755–1750).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it will hold public hearings concerning shareholder communications, shareholder participation in the corporate electoral process and, more generally, corporate governance. The hearings, which are tentatively scheduled to commence in September, 1977, are for the purpose of giving the Commission the benefit of the views of interested members of the public with respect to these matters, in order to assist the Commission in a broad re-examination of Regulation 14A (17 CFR 240.14a–1 et seq.) promulgated under section 14(a) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)) relating to the solicitation of proxies, and other applicable statutory provisions, rules and regulations. At the conclusion of these hearings, the Commission will determine whether it is necessary or appropriate in the public interest or for the protection of investors to propose amendments to Regulation 14A, to propose amendments to other applicable rules or to recommend legislation to Congress.

I. Background

Over the years, questions have frequently been raised relating to the extent to which shareholders should be able to participate in corporate governance. The Commission recently adopted amendments to Rule 14a–8 (17 CFR 240.14a–8), promulgated pursuant to Section 14(a) of the Exchange Act, which clarify the procedural requirements in connection with shareholder proposals. However, as the Commission emphasized in Securities Exchange Act Release No. 12999, November 22, 1976, 41 FR 52994 (Dec. 3, 1976), announcing the adoption of these amendments, they were "not intended as a final resolution of the questions and issues relating to shareholder participation in corporate governance and, more generally, shareholder democracy." The Commission believes that it is now appropriate to study these issues on a broader basis.

Recent disclosures concerning a wide variety of questionable and illegal corporate practices, accomplished in certain instances with the knowledge and participation of top corporate management, have served to focus public attention on the subject of corporate accountability.[1] A number of proposals designed federal chartering[2] or setting of minimum standards of corporate conduct,[3] and providing mechanisms to assure a higher level of management accountability to shareholders through revisions of the Commission's proxy rules.[4]

The SEC, through its jurisdiction over proxy solicitations, has broad power under section 14(a) of the Securities Exchange Act to promulgate proxy rules and regulations which are "necessary or appropriate in the public interest or for the protection of investors." The Commission recognizes that under the existing regulations shareholders often may not be provided adequate opportunities to participate meaningfully in corporate governance or the corporate electoral process. Shareholders generally have limited information relating to certain significant corporate policies and practices on matters which are not submitted to shareholders for their approval; and, as a practical matter, limited access to corporate proxy machinery. For the vast majority of shareholders, an election contest is not feasible because of the huge expenses involved. Although shareholders may be permitted to make nominations from the floor at annual meetings, it is clear that this right is of little practical value, since at that point proxies have already been received by management, for nominees which it has chosen, and the number of shareholders attending an annual meeting typically is insignificant. The Commission believes that it is now appropriate to study these issues on a broader basis.

II. Scope of Inquiry

The Commission is interested in obtaining the views of interested members of the public in the following areas:

A. Obtaining Shareholders' Views on Significant Matters

In recent years, both individual and institutional shareholders of publicly owned corporations have expressed significant interest in obtaining disclosure of corporate policies and activities in a number of areas, including practices which have a significant impact on the environment, employment and other potentially discriminatory practices, corporate policies towards political contributions, and other socially significant matters.[5] Shareholders have also indicated a desire to obtain the views of other shareholders on such policies and activities by means of the Commission's proxy rules, specifically Rule 14a–8. Such matters are required to be disclosed, where material.[6] However, the complexity of these matters and other considerations generally limit the possibility of adopting mandatory specific disclosure rules or guidelines applicable to registration statements, reports and proxy statements, filed pursuant to the federal securities laws[7] except in limited circumstances.[8] The Commission's proxy rules also limit the manner in which shareholders may seek the views of other shareholders on these matters, because of, among other reasons, standards based on state law[9] and limitations placed on solicitations of shareholders which do not fully comply with the Commission's proxy rules.[10]

In light of the demonstrated interest of shareholders in a number of significant matters in which their corporations are involved, including those described above, the Commission invites comments from interested persons on the following areas of inquiry:

1. Should the Commission amend its proxy rules to facilitate communications between shareholders on matters in which they have an interest?

(a) If so, what standards should be applied to determine which matters are proper subjects for such communications?

(b) What criteria, if any, should be applied to shareholders who wish to communicate with other shareholders on such matters and in what manner should such communications be made?

2. Should the Commission amend its proxy rules to provide a mechanism whereby shareholders would be able to present their views on management proposals? If so, what mechanism would be appropriate?

3. Should the Commission amend its proxy rules, specifically Rule 14a–3(b) (17 CFR 240.14a–3(b)) or Schedule 14A (17 CFR 240.14a–101) to require management to discuss in its annual report to shareholders or proxy statement certain matters in which shareholders have an interest? If so, what standards should be applied to determine which matters are proper subjects for such discussion?

4. What would be the costs and benefits of 1–3 above?

5. To what extent might the self-regulatory organizations require shareholder communication procedures along the lines suggested in 1 above, the presentation of shareholders' views on management proposals as suggested in 2, above, or disclosures similar to those suggested in 3, above, as a condition of listing or continued trading in a corporation's securities?

B. Shareholder Participation in Corporate Governance

In recent years there has been a considerable amount of thoughtful criticism concerning the ability of shareholders to participate meaningfully in the governance of their corporations. Some of this criticism is related to the matters discussed under A, above, but much of it relates to shareholder participation in the selection and election of the corporate managers, the directors who either set corporate policies or select those who do, the executive officers. In light of the foregoing, the Commission invites comments from interested persons on the following areas of inquiry:

1. Should the Commission's Proxy Rules be amended to permit shareholders to propose by-law changes, charter amendments or other appropriate changes in the governing instruments of the corporation which would permit shareholders to nominate candidates for election as directors even where such matters may not be proper subjects for shareholder action under state law?

2. If so, would other amendments to the proxy rules be necessary, such as amendments to Rules 14a–1, 14a–2, 14a–3, 14a–7, 14a–8 and 14a–11? Particular attention is directed to the following questions:

(a) Should shareholders have access to management's proxy soliciting materials for the purpose of nominating persons of their choice to serve on the board of directors?

(b) If so, what criteria, if any, should be applied to shareholders who wish to have access to managements' proxy soliciting materials for such purpose?

(c) What disclosures should be required of shareholders who utilize management's proxy soliciting materials for the purpose of making nominations?

(d) Are shareholder nominations allowable under state law?

(e) Can meaningful distinctions be drawn between persons attempting to take over management of a corporation and shareholders interested in nominating a candidate for election as a director?

3. Should the Commission consider further voting of securities held in "street" or nominee name, including rules of self-regulatory organizations which result in "street" name stock generally being voted for management on many matters under certain circumstances?[11]

4. Are there situations involving conflicts of interest where affiliates or other persons should be required to vote their securities with the majority, or in proportion to the votes of shareholders who do not have such conflicts of interest, in some or all matters affecting the substantive rights of shareholders?

(a) Should other means of "neutralizing" such votes be considered?

(b) Does the Commission have such authority under the federal securities laws?[12]

5. To what extent might the self-regulatory organizations promulgate rules requiring companies to adopt procedures such as those suggested in 1, 2, 3 or 4 above as a condition to listing or continued trading of a company's securities?

6. Are there other steps the Commission could take to improve corporate governance, such as changes in the format of proxies or prohibition or limitation on the use of discretionary proxies?

7. If it is impracticable or inappropriate for the Commission to provide for more meaningful participation by shareholders in corporate governance under its existing statutory authority, should the Commission consider submitting or supporting legislation which would establish minimum federal standards for conduct by directors? If so, would an express federal private right of action be necessary to enforce meaningfully such standards?

8. What would be the costs and benefits of 1–7 above?

C. Changes Relating to Matters To Be Disclosed in Proxy Statements or Otherwise in Connection with the Solicitation of Proxies

It has been suggested that the disclosure of certain information which presently is not expressly required to be disclosed in proxy statements or in connection with the solicitation of proxies might assist shareholders in evaluating the quality of corporate management and in making informed voting decisions.

Therefore, the Commission invites comments from interested persons on the following matters:

1. Should the Commission amend its proxy rules, specifically Rule 14a–3(b) or Schedule 14A, to require disclosure in proxy statements and/or annual reports to shareholders of:

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[1] During the last two years, more than three hundred and fifty corporations have made disclosures, in public documents filed with the Commission, of a wide variety of questionable and illegal corporate practices including bribes, kickbacks, illegal political contributions, and improper accounting practices. As noted in the "Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices," submitted to the Senate Committee on Banking, Housing and Urban Affairs (May 12, 1976), "[t]he almost universal characteristic of the cases reviewed • • • by the Commission has been the apparent frustration of our system of corporate accountability • • •."

[2] Legislation to require federal chartering of corporations has been advocated by many commentators. See generally Schwartz, A Case for the Federal Chartering of Corporations, 31 Bus. Law 1125 (1976); Nader, The Case for Federal Chartering, in "Corporate Power in America" 67 (R. Nader and M. Green, eds. 1973). In June of 1976, the "concept of Federal chartering as a possible method of bringing the giant multinationals into reign" [sic] was explored in a hearing before the Senate Committee on Commerce. "Hearings on Corporate Rights and Responsibilities" before the Committee on Commerce, U.S. Senate, 94th Cong. 2d Sess. (June 15, 1976). See also H.R. 7581, 121 Cong. Rec. H. 4648 (May 22, 1975) the "Corporate Citizenship and Competition Bill" introduced by Rep. James V. Stanton, which provides for federal chartering to achieve an anti-trust objective.

[3] See Cary, Federalism and Corporate Law, Reflections Upon Delaware, 83 Yale L. J. 663 (1974); Cary, A Proposed Federal Corporate Minimum Standards Act, 20 Bus. Law 1101 (1974); Arsht, Reply to Professor Cary, 31 Bus. Law 1113 (1976).

[4] Feis, Is Shareholder Democracy Attainable?, 31 Bus. Law 621 (1976); Schwartz, A Proposal for the Designation of Shareholder Nominees for Director in the Corporate Proxy Statement, 74 Col. L. Rev. 1139 (1974); Eisenberg, Access to the Corporate Proxy Machinery, 83 Harv. L. Rev. 1489 (1970).

[5] Securities Act Release No. 5627, (October 14, 1975), 40 FR 51656 (Nov. 6, 1975), contains, inter alia, the Commission's conclusions on the basis of public hearings and comments with respect to investors' interest in and use of information pertaining to socially significant matters. Approximately one hundred participants in the Commission's public proceedings identified themselves as investors who consider social information important. "The majority of these investor-participants who explained the use to which they might put social information indicated that such information might play a role in voting on shareholder proposals. A lesser number indicated that such data would be taken into account in determining what securities to purchase, hold or sell." Id. at 39. The Commission concluded on the basis of this proceeding that there had been no showing, "particularly in light of the more than 100 areas of social information identified by persons responding to our request for comments, that disclosure of information describing corporate social practices should be specifically required of all registrants." Id. at 2. This conclusion was based on the view of the Commission and the courts "[t]hat economic matters were the primary concern of the Congress in prescribing the Commission's disclosure authority." Id. at 13. The Commission noted, however, that "insofar as the Commission's rulemaking authority under Section 14(a) of the Securities Exchange Act is concerned the primacy of economic matters, particularly with respect to shareholder proposals, is somewhat less • • •. The Congressional purpose in enacting section 14 has been characterized as 'to require fair opportunity for the operation of corporate suffrage.'" Id. at 14. See also Sec. Act Rel. Nos. 5560 (Feb. 11, 1975) and 5704 (May 6, 1976) with regard to this proceeding.

[6] 17 CFR 230.408; 17 CFR 240.10b–5; 17 CFR 240.12b–20; 17 CFR 240.14a–9(a).

[7] See e.g. Sec. Act Rel. No. 5627 (October 14, 1975) (Commission's conclusions with respect to investors' interest in and use of information pertaining to socially significant matters); Report of the SEC on Questionable and Illegal Corporate Payments and Practices, submitted to the Senate Committee on Banking, Housing and Urban Affairs (May 12, 1976).

[8] See e.g. Sec. Act Rel. No. 5704 (May 6, 1976), 41 FR 216321 (May 27, 1976), relating to environmental disclosure; Sec. Act Rel. No. 5170 (July 19, 1971), 36 FR 13989 (July 29, 1971), relating to disclosure of certain civil rights matters.

[9] 17 CFR 240.14a–8(c)(1).

[10] See 17 CFR 240.14a–1(f) (definition of "Solicitation"); 17 CFR 240.14a–2 (Solicitations to which §§ 140.14a–1 to 240.14a–11 apply); 17 CFR 240.14a–3 (Information to be furnished to security holders); and 17 CFR 240.14a–11 (Special provisions applicable to election contests).

[11] The Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities (December 3, 1976) detailed the voting practices of brokers who hold securities on behalf of their customers. It indicated that under stock exchange rules brokers who do not receive voting instructions from customers may vote shares held for such persons on certain specified matters and those which do not substantially affect shareholders rights during the 10 days prior to the meeting. See e.g. NYSE Rule 452. These votes are invariably cast for management. Id. at 13–15. The Commission concluded that "because of requirements and limitations in those rules, such voting is not improper." Id. at 8. The Commission desires in the instant proceedings to receive information as to the effects of such voting practices on corporate governance.

[12] Similar proposals with respect to "going private" transactions were published for public comment in Securities Act Release No. 5567 (February 6, 1975) (File No. 4–178).

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(a) The process used by management to select nominees for directorships;

(b) The qualifications, if any, which nominees must possess;

(c) How much time incumbents have devoted to the affairs of the corporation during the previous fiscal year;

(d) What aspects of the issuer's activities incumbents have dealt with during that year; and

(e) Whether any directors have resigned from the board in the last fiscal year and, if so, the reasons therefor? [14]

2. Should the Commission amend its proxy rules, specifically Rule 14a–3(b), to require disclosure in annual reports to shareholders of the views or statements of outside or independent directors relating to the performance of management or other matters?

3. Should the Commission amend its proxy rules, specifically Item 7 of Schedule 14A, to provide for more detailed or comprehensive disclosure of management remuneration? [15] If so, what changes would be appropriate?

4. Should the Commission amend its proxy rules, specifically Rule 14a–3(b) and/or Schedule 14A, to require that post meeting reports be included in annual reports to shareholders of proxy statements? Should Schedule 14A be amended to require disclosure of whether transcripts of annual meetings will be made available to shareholders on request?

5. What would be the costs and benefits of 1–4, above?

[14] Similar proposals were recently submitted to the Commission's Advisory Committee on Corporate Disclosure by its Working Group on Proxy Disclosure. The Advisory Committee rejected a number of proposals recommending that the Commission require substantial additional disclosures in proxy statements or annual reports to shareholders concerning a registrant's directors. The following recommendations were tentatively approved: (1) That the Commission require issuers to include in their proxy materials a statemest of the date by which shareholder proposals must be received by an issuer in order to be eligible for inclusion in the issuer's proxy materials for its next subsequent year's annual meeting; (2) that information concerning the nomination of corporate directors should include a statement of whether there is a nominating committee of the board and, if so, identify the members of the committee; and (3) that corporations must file a director's resignation letter with the Commission if the director so requests.

[15] The Commission presently has under consideration proposals to provide more comprehensive information to shareholders concerning remuneration received by certain officers and directors by requiring disclosure in proxy statements of all direct remuneration paid by registrants and their affiliates. It also has invited public comments as to whether the information now available regarding various forms of executive compensation plans is adequate for purposes of determining the actual compensation of management and for comparing the levels of management compensation among companies. Sec. Act. Rel. No. 5758 (Nov. 2, 1976), 41 FR 49403 (Nov. 9, 1976); See e.g. "SEC v. Potter Instrument Corp." (D.D.C. March 9, 1977), in which a corporation, its largest stockholders, and board of directors consented to the entry of an injunction based in part on allegations that the corporation violated the '34 Act by failing to disclose that the chairman of the board had received substantial benefits from the corporation in addition to his salary.

III. PROCEDURES

In order to facilitate consideration of the relevant issues, the Commission requests that all interested persons submit written statements, setting forth their views with respect to the issues enumerated above, or other relevant issues. After the Commission has had an opportunity to review the written submissions, the Commission will issue an order for hearings inviting brief oral statements from among those persons who have made such submissions and have requested to be heard orally, and others, and establishing procedures to be followed at the hearings. Any definitive proposals to amend Regulation 14A or other applicable rules, will, of course, be published for comment.

This public rulemaking proceeding has been ordered by the Commission pursuant to sections 14(a), 21(a), 22 and 23 (a) of the Securities Exchange Act of 1934 and Rule 4(b) of the Commission's rules of practice.

(Secs. 14(a), 21(a), 22, 23(a), 48 Stat. 895, 899, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 5, 76 Stat. 569, 570; sec. 18, 89 Stat. 155; (15 U.S.C. 78n(a), 78u(a), 78v, 78w(a)))

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

SUGGESTED BACKGROUND MATERIALS

In light of the importance of the issues under consideration in the instant proceeding, the Commission is anxious to obtain the views of all interested persons, including individual and institutional investors. The following commentaries, which are referred to in the release, may provide helpful background information on the subject matter of the release:

ARSHT, Reply to Professor Cary, 31 Bus. Law 1113 (1976).

Cary, Federalism and Corporate Law: Reflections Upon Delaware, 83 Yale L. J. 663 (1974).

Cary, A Proposed Federal Corporate Minimum Standards Act, 29 Bus. Law 1101 (1974).

Eisenberg, Access to the Corporate Proxy Machinery, 83 Harv. L. Rev. 1489 (1970).

Eisenberg, Legal Models of Management Structure in the Modern Corporation Officers, Directors and Accountants, 63 Calif. L. Rev. 375 (1975).

Feis, Is Shareholder Democracy Attainable? 31 Bus. Law 621 (1976).

Nader, The Case for Federal Chartering in Corporate Power in America 67 (R. Nader and M. Green eds. 1973).

Schwartz, A Case for Federal Chartering of Corporation, 31 Bus. Law 1125 (1976).

A Proposal for the Designation of Shareholder Nominees for Director in the Corporate Proxy Statement, 74 Col. L. Rev. 1139 (1974).

[FR Doc.77–13422 Filed 5–10–77;8:45 am]

[Release No. 9741; 812–4085]

TRAVELERS INSURANCE CO., ET AL.

Application For an Order of Exemption

APRIL 28, 1977.

In the matter of the Travelers Insurance Company and the Travelers Fund A for Variable Annuities and The Travelers Fund A–1 for Variable Annuities, One Tower Square, Hartford, Connecticut 06115 (812–4085).

Notice is hereby given that The Travelers Insurance Company ("The Travelers"), The Travelers Fund A for Variable Annuities ("Account A") and The Travelers Fund A–1 for Variable Annuities ("Account A–1"), separate accounts of The Travelers registered under the Investment Company Act of 1940 ("Act") as open-end diversified management investment companies (hereinafter collectively referred to as "Applicants"), filed an application on January 26, 1977 and amendments thereto on March 9 and April 13, 1977, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Travelers is a stock insurance company chartered in 1864 by special act of the Connecticut General Assembly and has been continuously engaged in the insurance business since that time. It is licensel to do a life insurance and annuity business in all states of the United States, the District of Columbia, Puerto Rico, Guam, Canada, the Bahamas and the Virgin Islands. The Travelers is a wholly-owned subsidiary of the Travelers Corporation, also a Connecticut insurance company and the publicly held parent of the Travelers group of companies.

Account A and Account A–1 are separate accounts of The Travelers which were established on September 22, 1967 and July 20, 1974, respectively, and are diversified open-end management companies which fund certain variable annuity contracts. The Travelers is principal underwriter for Account A and Account A–1.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with section 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 23, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of any attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 23, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13386 Filed 5–10–77;8:45 am]

[File Nos. 7–4934–7–4935]

WAINOCO OIL CO. AND XTRA, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 22, 1977.

In the matter of applications of the Boston Stock Exchange, Inc., for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above-named national securities exchange has filed applications with the

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Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Walnoco Oil Co. (Wyoming), Common Stock No Par Value, File No. 7-4934.
Xtra, Inc. (Delaware), Common Stock, $1 Par Value, File No. 7-4935.

Upon receipt of a request, on or before May 6, 1977 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13393 Filed 5-10-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

PRIVACY ACT OF 1974

Proposed New System of Records

In 41 FR 41647 and 42 FR 19539, the Small Business Administration published notices of systems of records in compliance with the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

Notice is hereby given that the SBA has submitted a proposed new systems of records pursuant to the provisions of the Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, which provides supplemental guidance to Federal Agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records as required by the Privacy Act of 1974.

Any person interested in commenting on the following proposed additional system may do so by submitting comments in writing to Administrator, Small Business Administration 1441 "L" Street NW., Washington, D.C. 20416. Comments must be submitted on or before June 10, 1977.

Dated: May 3, 1977.

A. VERNON WEAVER,
Administrator.

SBA445

System name:

Freedom of Information Act and Privacy Act Case Files—SBA445.

System location:

Central Office.

Categories of individuals covered by the system:

Persons who have requested information or filed appeals under either of the Acts.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

Routine uses of records maintained in the system, including categories of users and the purposes of such cases:

To provide a system for maintaining records of initial requests and appeals under the Freedom of Information Act, and of initial requests, requests for amendments to record, and appeals under the Privacy Act. The records are used by the staff of the Freedom of Information and Privacy Act office to review individual cases, and to keep a chronological log so as to comply with statutory time limitations.

Storage:

Information is maintained in folders in locked steel cabinet.

Retrievability:

Files are alphabetical by name.

Safeguards:

Information released to authorized personnel only.

Retention and disposal:

Records are maintained indefinitely.

Systems Manager(s) and address:

Freedom of Information and Privacy Act Officer, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

Notification procedure:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed above, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Most of file consists of correspondence submitted directly to and replies from the Small Business Administration.

[FR Doc.77-13368 Filed 5-10-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/65]

SHIPPING COORDINATING COMMITTEE, UNITED STATES NATIONAL COMMITTEE FOR THE PREVENTION OF MARINE POLLUTION

Meeting

The United States National Committee for the Prevention of Marine Pollution of the Shipping Coordinating Committee will hold an open meeting at 9:30 a.m. on Tuesday, June 14, 1977, in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss and present the U.S. position for the upcoming Marine Environment Protection Committee (MEPC) Seventh Session of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London June 20-24, 1977. In particular, the National Committee will discuss development of the U.S. positions dealing with, inter alia, the following topics:

Segregated ballast in existing tankers or alternative measures.
Matters related to implementation of:
The 1969 Amendments to the 1954 Oil Pollution Convention.
The 1973 Marine Pollution Convention.
Comprehensive Anti-Pollution Manual: Section II (Contingency Planning).
Reports of the Subcommittee on Bulk Chemicals.
Technical assistance in the field of marine pollution with particular emphasis on the needs of developing countries.

Requests for further information on the meeting should be directed to CAPT J. R. Kirkland, United States Coast Guard. He may be reached by telephone on (area code 202) 426-9573.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

APRIL 28, 1977.

[FR Doc.77-13362 Filed 5-10-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS-77-7]

JOHNSTOWN & STONEY CREEK RAILROAD CO.

Petition for Exemption From the Hours of Service Act

The Johnstown and Stoney Creek Railroad has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61-64 (b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-77-7, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before June 15, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C., on May 2, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-13418 Filed 5-10-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 67 (Rev. 13)]

SIGNING OF COMMISSIONER'S NAME

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific authorization to sign the name of, or on behalf of, Jerome Kurtz, Commissioner of Internal Revenue. The text of the Delegation Order appears below.

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Martha M. Seeman, PR:I, 1111 Constitution Ave., N.W., Room 3528, Washington, D.C. 20224 202-566-4273 (not toll-free).

Date of issue May 5, 1977; Effective Date May 5, 1977.

SIGNING THE COMMISSIONER'S NAME OR ON HIS BEHALF

Effective 12:01 a.m., May 5, 1977, all outstanding authorizations to sign the name of, or on behalf of, William E. Williams, Acting Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, Jerome Kurtz, Commissioner of Internal Revenue.

This Order supersedes Delegation Order No. 67 (Rev. 12), issued February 27, 1977.

JEROME KURTZ,
Commissioner.

[FR Doc.77-13354 Filed 5-10-77;8:45 am]

Office of the Secretary

RUBBER THREAD FROM ITALY

Tentative Termination of Antidumping Investigation

AGENCY: United States Treasury Department.

ACTION: Tentative termination of antidumping investigation.

SUMMARY: This notice is to advise the public that an antidumping investigation which was discontinued on November 21, 1973, with respect to rubber thread from Italy is being tentatively terminated. The investigation, conducted under the Antidumping Act, was discontinued on the basis of minimal dumping margins in relation to total sales, combined with assurances by the sole Italian manufacturer exporting these articles to the United States that it would not sell at less than fair value in the future. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market. Analysis made by the Customs Service subsequent to the discontinuance of this investigation has revealed that the price assurances have been honored. Interested persons are invited to request an opportunity to present oral views on or before, or to submit written comments on or before June 10, 1977.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul R. Nichols, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A "Notice of Discontinuance of Antidumping Investigation" with respect to rubber thread from Italy was published in the FEDERAL REGISTER of November 21, 1973 (38 FR 32148).

After due investigation, it has been determined, tentatively, that rubber thread from Italy has not been sold at less than fair value. This is in accordance with price assurances submitted prior to the discontinuance of the fair value investigation.

Statement of reasons on which this tentative termination is based:

The investigation indicated that no sales at less than fair value of rubber thread from Italy produced by the sole Italian firm exporting to the United States, Filiattice, S.p.A., have been made for a period of 2 years from the discontinuance of the fair value investigation.

Accordingly, notice is hereby given that the Department of the Treasury intends to terminate the antidumping investigation with respect to rubber thread from Italy.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office on or before May 23, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office on or before June 10, 1977.

This notice is published pursuant to § 153.33(h) of the Customs Regulations (19 CFR 153.33(h)).

BETTE B. ANDERSON,
Under Secretary of the Treasury.

MAY 3, 1977.

[FR Doc.77-13447 Filed 5-10-77;8:45 am]

VETERANS ADMINISTRATION

WASHINGTON, D.C., AREA NATIONAL CEMETERY AT QUANTICO, VA.

Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement for the Proposed Washington, D.C., Area National Cemetery, Quantico, Virginia", dated March 1977, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed National Cemetery is to be located on 726 acres at Quantico, Virginia. This proposed development will provide burial space for approximately 300,000 gravesites and will have an administration building, a memorial center, service buildings and columbarium to provide for all associated cemetery functions.

This Draft Statement discusses the environmental impact of the proposed Washington, D.C., Area National Cemetery. The document is being placed for public examination in the Veterans Administration Office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Jack S. Westall, Assistant Chief Medical Director for Administration (13), Room 600, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Single copies of the Draft Statement may be obtained on request to the above office.

Approved: March 25, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-13490 Filed 5-10-77;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Notice No. 387]

ASSIGNMENT OF HEARINGS

MAY 6, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61592 (Sub-398), Jenkins Truck Line, Inc.; MC 103926 (Sub-54), W. T. Mayfield Sons Trucking Co.; MC 106119 (Sub-57), E. L. Murphy Trucking Co.; MC 106341 (Sub-58), Moss Trucking Co., Inc., and MC 111545 (Sub-229), Home Transportation Company, now being assigned May 17, 1977 (1 day), in the Voyager Building Room 100, 2255 Phillips Street, Jacksonville, Florida.

MC 2202 (Sub-No. 518), Roadway Express, Inc., now assigned May 25, 1977, at Montgomery, Ala., is canceled and application dismissed.

MC 13250 (Sub-No. 134), J. H. Rose Truck Line, Inc. and MC 113855 (Sub-No. 365), International Transport, Inc., now assigned May 17, 1977, at Jacksonville, Florida, will be held in the Voyager Building Room 100, 2255 Phillips Street.

MC 118959 (Sub-137), Jerry Lipps, Inc., now assigned May 18, 1977, at Jacksonville, Florida, will be held in the Voyager Building Room 100, 2255 Phillips Street.

MC 11207 (Sub-378), Deaton, Inc.; MC 59150 (Sub-95), Ploof Truck Lines, Inc.; MC 115311 (Sub-201), J & M Transportation Co., Inc.; MC 115491 (Sub-132), Commercial Carrier Corporation, and MC 121060 (Sub-42), Arrow Truck Lines, Inc., now assigned May 19, 1977, at Jacksonville, Florida, will be held in the Voyager Building Room 100, 2255 Phillips Street.

MC 109708 (Sub-67), Indian River Transport Co., d.b.a. Indian River Transport, Inc., now assigned May 23, 1977, at Orlando, Florida, will be held in the Kahler Plaza, Eola West, 151 East Washington Street.

MC 128555 (Sub-12), Meat Dispatch, Inc., now assigned May 26, 1977, at Miami, Florida, will be held in Room 208 Federal Building, 51 Southwest First Avenue.

MC-F-12927, Jones Truck Lines, Inc.—Purchase (Portion)—Transamerican Freight Lines, Inc., now assigned June 6, 1977, at Chicago, Illinois, has been postponed to June 13, 1977 (1 week), in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13479 Filed 5-10-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 6, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed by May 26, 1977.

FSA No. 43360—*Soda Ash from Tg Soda, Wyoming.* Filed by Southwestern Freight Bureau, Agent (No. B-669), for interested rail carriers. Rates on soda ash, in carloads, as described in the application, from Tg Soda, Wyoming, to specified points in Arkansas and Louisiana.

Grounds for relief—Market competition.

Tariffs—Supplement 291 to Southwestern Freight Bureau, Agent, tariff 270-F, I.C.C. No. 4832, and supplement 219 to Western Trunk Line Committee, Agent, tariff 124-N, I.C.C. No. A-4374. Rates are published to become effective on June 13, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77 13468 Filed 5-10-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 6, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by May 23, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 105045 (Sub-No. E212), filed March 24, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Virginia, to points in New Mexico. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at or near Murphysboro, Ill.

No. MC 105045 (Sub-No. E229), filed March 24, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Texas to points in Delaware. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

No. MC 105045 (Sub-No. E230), filed March 24, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Oklahoma to points in Delaware. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

No. MC 105045 (Sub-No. E231), filed March 24, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk), which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Kansas to points in Delaware and South Carolina. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

No. MC 105045 (Sub-No. E232), filed March 24, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Nebraska to points in South Carolina and Delaware. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

No. MC 105045 (Sub-No. E233), filed March 24, 1976. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Iowa to points in South Carolina, Connecticut, Rhode Island, Vermont, New Hampshire, New Jersey, and Delaware. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

No. MC 105045 (Sub-No. E234), filed March 24, 1976. Applicant: R.L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, 1020 Pennsylvania St., Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment,* and *supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up of pipe in connection with main or trunk pipe lines, from points in Wisconsin to points in South Carolina and North Carolina. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

No. MC 107496 (Sub-No. E798) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 7, 1974, and republished, as corrected, this issue. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative. E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Peoria, Ill., and points within 10 miles thereof, to points in Iowa except points north of U.S. Highway 6 and east of U.S. Highway 63. The purpose of this filing is to eliminate the gateways of points in Lee and Des Moines Counties, Iowa.

NOTE.—The purpose of this correction is to state the correct destination highway.

No. MC 107515 (Sub-No. E641) (Partial Correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of April 1, 1977, and republished, as corrected, this issue. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (2) *meats, meat products, and meat by-products, dairy products, and such articles distributed by meat packing houses*, as are foodstuffs as described in Sections A, B, and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides) in vehicles equipped with mechanical refrigeration, from points in Iowa on, south and west of a line beginning at the Iowa-Illinois State line and extending along Iowa Highway 2 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 4, thence along Iowa Highway 4 to the Iowa-Minnesota State line, to Norfolk, Va. The purpose of this filing is to eliminate the gateway of the facilities of Refigrerated Transport Co., Inc. at Doraville, Ga.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 112070 (Sub-No. E111), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Pennsylvania on and north of a line beginning at the Pennsylvania-Maryland state line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to the Pennsylvania-West Virginia state line, on the one hand, and, on the other, those points in Texas on and north and west of a line beginning at the Texas-Oklahoma state lie, and extending along Interstate Highway 35 to junction U.S. Highway 90, thence along U.S. Highway 90 to the International boundary between the United States and Mexico; (B) Between points in Pennsylvania, on the one hand, and, on the other, those points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along U.S. Highway 271 to junction U.S. Highway 69, to junction U.S. Highway 59, to junction Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico; (C) Between points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania state line and extending along Pennsylvania Highway 36 to junction

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Pennsylvania Highway 49 to junction Pennsylvania Highway 349, to junction U.S. Highway 6, to junction Pennsylvania Highway 144, to junction U.S. Highway 322, to junction U.S. Highway 522, thence along U.S. Highway 522 to the Maryland-Pennsylvania state line, on the one hand, and, on the other, points in Crawford and Sebastian Counties, Ark. The purpose of this filing is to eliminate the gateways of points in Illinois, Iowa, Missouri, and Enid, Okla., and points within 90 miles thereof.

No. MC 112070 (Sub-No. E112), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods*, as defined by the Commission, between points in Minnesota, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateways of points in Iowa, Missouri, and Enid, Okla. and points within 90 miles thereof.

No. MC 112070 (Sub-No. E113), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods* as defined by the Commission, (A) between points in Michigan, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along U.S. Highway 271, to junction U.S. Highway 69, to junction Texas Highway 21, to junction U.S. Highway 59, to junction Interstate Highway 45, thence along Interstate Highway 45, to the Gulf of Mexico; (B) Between points in Michigan on and west of a line beginning at Lake Superior and extending along U.S. Highway 41, thence along U.S. Highway 41 to Little Bay De Noc, on the one hand, and, on the other, points in Texas; (C) Between points in Michigan, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along U.S. Highway 75, thence along U.S. Highway 75, to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of points in Iowa and Enid, Okla., and points within 90 miles thereof.

No. MC 112070 (Sub-No. E114), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods* as defined by the Commission, (A) between points in Douglas, Bayfield, Ashland, Burnett, Washburn, Sawyer, Polk, and Barron Counties, Wis., on the one hand, and, on the other, points in Texas; (B) Between points in Wisconsin, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along U.S. Highway 69, to junction Interstate Highway 35, thence along Interstate Highway 35 to the International boundary between United States and Mexico; (C) Between points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along U.S. Highway 271, to junction Texas Highway 49, thence along Texas Highway 49, to the Texas-Louisiana state line. The purpose of this filing is to eliminate the gateways of points in Iowa and Enid, Okla., and points and places within 90 miles thereof.

No. MC 112070 (Sub-No. E115), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods*, as defined by the Commission, (A) between points in Kentucky, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along U.S. Highway 281 to junction U.S. Highway 81, to junction Interstate Highway 35, thence along Interstate Highway 35 to the International boundary between. United States and Mexico; (B) Between points in Kentucky on and west of a line beginning at the Kentucky-Ohio state line and extending along Interstate Highway 75, thence along Interstate Highway 75, to the Kentucky-Tennessee state line, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma state line, and extending along Interstate Highway 35, to junction U.S. Highway 77, thence along U.S. Highway 77 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of points in Missouri and Enid, Okla. and points within 90 miles thereof.

No. MC 112070 (Sub-No. E116), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Tennessee, on the one hand, and, on the other, Enid, Okla., and points within 90 miles thereof; (B) between points in Tennessee, on the one hand, and, on the other, points in El Paso, Hudspeth and Culbertson Counties, Tex. The purpose of this filing is to eliminate the gateway of points in Missouri, and Enid, Okla. and points within 90 miles thereof.

No. MC 112304 (Sub-No. E4), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Maryland, to points in Louisiana. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E5), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Maryland, to points in Arkansas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E6), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Missouri. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E7), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Iowa. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E8), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranisporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Maryland, to points in Kansas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E9), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO. 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Maryland, to points in Oklahoma. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E10), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Maryland, to points in Texas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E11), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO. 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Ohio to points in Mississippi. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E12), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO. 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Ohio, to points in Louisiana. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E13), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York, to points in Louisiana. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E14), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cinicinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York, to points in Texas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E15), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York, to points in Oklahoma. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E16), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York, to points in Kansas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E17), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York to points in Mississippi. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E18), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York, to points in Arkansas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No MC 112304 (Sub-No. E19), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New York, to points in Missouri. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112305 (Sub-No. E20), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Michigan, to points in Florida. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E21), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Michigan to points in South Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E22), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

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ing: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Michigan, to points in Alabama. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E23), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Michigan, to points in Georgia. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E24), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Iowa. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E25), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Missouri. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E26), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Kansas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E27), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Texas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E28), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Oklahoma. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E29), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Arkansas. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E30), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in New Jersey to points in Louisiana. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E31), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin to points in Georgia. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E32), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Pennsylvania to points in Louisiana. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E33), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Pennsylvania to points in Mississippi. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E34), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin to points in Florida. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E35), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin to points in North Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E36), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin to points in South Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E37), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin to points in North Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E38), filed October 1, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Indiana on, south, and east of a line beginning at the Indiana-Ohio State line and extending along Interstate Highway 70 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, to points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending along Interstate Highway 77 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E39), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Indiana on, north, and east of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 465, thence along Interstate Highway 465 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Ohio State line, to points in North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along Interstate Highway 95 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E40), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Indiana on, south, and west of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 70 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, to points in Tennessee on and east of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 25E to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E41), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Indiana on, south, and west of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 70 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, to points in North Carolina on and east of a line beginning at the North Carolina-Tennessee State line and extending along Interstate Highway 40 to junction Interstate Highway 26, thence along Interstate Highway 26 to junction U.S. Highway 25, thence along U.S. Highway 25 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E42), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Indiana on, south, and west of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 70 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, to points in South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 25 to junction Interstate Highway 26, thence along Interstate Highway 26 to junction Interstate Highway 95, thence along Interstate Highway 95 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E43), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana to Savanna, Ga. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E45), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E49), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E50), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No E51), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Indiana on, north, and east of a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 465, thence along Interstate Highway 465 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Ohio state line to points in South Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E52), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to opearte as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana on, north, and east of a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 465, thence along Interstate Highway 465 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Ohio state line to points in Georgia. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E53), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana on, north, and east of a line beginning at the Indiana-Illinois state line, and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 465, thence along Interstate Highway 465 to junction Interstate Highway 70 to the Indiana-Ohio state line, to points in Alabama on and east of a line beginning at the Alabama-Tennessee state line and extending along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E54), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana on, north, and east of a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 465, thence along Interstate Highway 465 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Ohio state line, to points in Tennessee on and east of a line beginning at the Tennessee-Kentucky state line and extending along U.S. Highway 127 to junction Interstate Highway 59, thence along Interstate Highway 59 to the Tennessee-Georgia state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E55), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana on, north, and east of a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 465, thence along Interstate Highway 465 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Ohio state line, to points in Florida. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E56), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin, to points in Alabama. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E57), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Wisconsin, to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E58), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Alabama on and east of a line beginning at the Alabama-Tennessee state line and extending along Alabama Highway 79 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

in Tennessee on and east of a line beginning at the Tennessee-Kentucky state line and extending along U.S. Highway 127 to junction Interstate Highway 59, thence along Interstate Highway 59 to the Tennessee-Georgia state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E59), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. highway 231 to junction Interstate 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Alabama on and east of a line beginning at the Alabama-Tennessee state line and extending along Alabama Highway 79 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E60), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E61), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E62), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E63), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E64), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. 66), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E67), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in North Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E68), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell,

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Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in South Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation, at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E69), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Georgia. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E70), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Indiana bounded by a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 36 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois state line, to points in Florida. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E71), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in West Virgiina on, north, and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Louisiana. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E72), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in West Virginia, on, north, and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Mississippi. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E73), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in West Virginia on, north, and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Tennessee on and west of a line beginning at the Tennessee-Kentucky, state line and extending along U.S. Highway 231 to the Tennessee-Alabama state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E76), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in West Virginia on, north and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Alabama on and west of a line beginning at the Alabama-Tennessee state line and extending along U.S. Highway 231-431, thence south along U.S. Highway 231 and Alt. U.S. Highway 231, from Huntsville to Montgomery, to junction U.S. Highway 331, thence along U.S. Highway 331 to the Alabama-Florida state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E74), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in West Virginia on, north, and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Florida on and west of a line beginning at the Florida-Alabama state line and extending along U.S. Highway 331, to junction U.S. Highway 98, thence along U.S. Highway 98 to the Santa Rosa Beach. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E75), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in West Virginia on, north, and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Tennessee on and west of a line beginning at the Tennessee-Kentucky, state line and extending along U.S. Highway 231 to the Tennessee-Alabama state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E77), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in West Virginia on, north and west of a line beginning at the West Virginia-Pennsylvania state line and extending along Interstate Highway 79 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Interstate Highway 64, thence along Interstate Highway 64 to the West Virginia-Kentucky state line, to points in Minnesota, on, west, and south of a line beginning at the Minnesota-Wisconsin state line and extending along U.S. Highway 10 to juncton Interstate Highway 494, thence along Interstate Highway 494 to junction Interstate Highway 694, thence along Interstate Highway 694 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Minnesota-North Dakota state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E78), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41, to the Kentucky-Tennessee state line, to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E79), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41, to the Kentucky-Tennessee state line, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E80), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41, to the Kentucky-Tennessee state line, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E81), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41, to the Kentucky-Tennessee state line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E82), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41, to the Kentucky-Tennessee state line, to points in Rhode Island. The purpose of this filing is to eliminuate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E83), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41 to the Kentucky-Tennessee state line, to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E84), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 and Alt. U.S. Highway 41 to the Kentucky-Tennessee state line, to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E85), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on and west of a line beginning at the Kentucky-Indiana state line, and extending along U.S. Highway 41 and Alt. U.S. Highway 41 to the Kentucky-Tennessee state line, to points in North Carolina on, east, and north of a line beginning at the North Carolina-Virginia state line and extending along Interstate Highway 95, to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 258, thence along U.S. Highway 258 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction North Carolina Highway 24, thence along North Carolina Highway 24 to Swansboro. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E87), filed October 15, 1976. Applicant: ACE DOR October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky, on, east, and north of a line

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beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E88), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alterante 41 to Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 124174 (Sub.-No. E55), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, Skins*, and *Pieces thereof*, and *Tannery Products, By-products*, and *supplies*, (except commodities in bulk, in tank vehicles) from points in Alabama on and west of a line beginning at the Alabama-Florida state line, and extending along U.S. Highway 231 to junction Alabama Highway 77, to junction Alabama Highway 25, to junction U.S. Highway 278, to junction Interstate Highway 59, to the Alabama-Georgia state line, (a) to points in Tennessee on and north and west of a line beginning at the Georgia-Tennessee state line and extending along Interstate Highway 59 to junction U.S. Highway 11 and 64, to junction U.S. Highway 64 to junction U.S. Highway 411, north to Tennessee Highway 72, to junction U.S. Highway 129, at the Tennessee-North Carolina state line; (b) to points in Indiana on and north and east of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway 460, to the Indiana-Illinois state line;

(c) To points in Illinois on and north of a line beginning at the Indiana-Illinois state line, and extending along U.S. Highway 460 to the Illinois-Missouri state line; (d) to points in Missouri on and north of a line beginning at the Missouri-Illinois state line and extending along Interstate Highway 70, to junction Interstate Highway 29, to junction U.S. Highway 59, to junction U.S. Highway 136, west to the Missouri-Nebraska state line; (e) to points in Nebraska on and north of a line beginning at the Nebraska-Missouri state line, and extending along U.S. Highway 136 to junction U.S. Highway 6 and 34, to junction U.S. Highway 6 to Nebraska Highway 61, to junction U.S. Highway 30, to the Nebraska-Wyoming state line. The purpose of this filing is to eliminate the gateway of Evansville, Ind. (f) From points in Alabama on and west of a line beginning at the Alabama-Florida state line, and extending along U.S. Alt. Highway 231, to junction Alabama Highway 25, to junction U.S. Highway 278, to junction Interstate Highway 59, to the Alabama-Georgia state line, to Hazelwood, N.C., and points in Virginia, Maryland, New Jersey, Massachusetts, Vermont, New Hampshire, Maine, New York, Pennsylvania, West Virginia, Ohio, Kentucky, Michigan, Wisconsin, Minnesota, Iowa, and South Dakota. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC 124174 (Sub-No. E56), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins*, and *pieces thereof*, and *tannery products, by-products*, and *supplies* (except commodities in bulk, in tank vehicles), from points in Georgia on and east of a line beginning at the Georgia-Alabama state line, and extending along U.S. Highway 278, to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Tennessee state line, (a) to those points in Virginia on and north of a line beginning at the Tennessee-Virginia state line, and extending along U.S. Highway 23 to junction U.S. Highway 421 and 58, to junction Interstate Highway 81, to junction Interstate Highway 64, to junction U.S. Highway 60, thence along U.S. Highway 60, to the Atlantic Ocean; (b) to those points in Tennessee on and north of a line beginning at the Georgia-Tennessee state line and extending along U.S. Highway 27 to junction U.S. Highways 41 and 64, to junction U.S. Highway 64, to junction Tennessee Highway 13, to junction Tennessee Highway 20, to the Mississippi River at the Tennessee-Arkansas state line; (c) to points in Missouri, Nebraska, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Indiana, Michigan, Ohio, West Virginia, Maryland, Pennsylvania, New York, Massachusetts, Vermont, New Hampshire, Maine, Kentucky, and New Jersey. The purpose of this filing is to eliminate the gateway points of Chattanooga, Tenn., Kingsport, Tenn., Richmond, Va., or Norfolk, Va.

No. MC 124174 (Sub-No. E58), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins*, and *pieces thereof, tannery products, by-products*, and *supplies* (except liquids and commodities in bulk, in tank vehicles), from points in South Carolina, (a) to points in Tennessee on and west of a line beginning at the Georgia-Tennessee State line and extending along South Carolina Highway 3 to junction Interstate Highway 24, to junction U.S. Highway 127, to the Tennessee-Kentucky State line; (b) to points in Virginia on and north of a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 23 to junction U.S. Highway 421 and 58, to junction Interstate Highway 81, to junction Interstate Highway 64, to U.S. Highway 60 at the Atlantic Ocean; (c) to points in Missouri, Nebraska, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Maryland, Pennsylvania, New Jersey, New York, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateways of Chattanooga, Tenn., Kingsport, Tenn., Richmond, Va., and/or Norfolk, Va.

No. MC 124174 (Sub-No. E59), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins*, and *pieces thereof, tannery products, by-products*, and *supplies* (except commodities in bulk, in tank vehicles), (A) from points in Arkansas on and east of a line beginning at the Arkansas-Oklahoma state line and extending along U.S. Highway 70, to junction Interstate Highway 30, to junction U.S. Highway 67, to the Arkansas-Missouri state line; (1) to points in Missouri on and east of a line beginning at the Missouri-Illinois state line and extending along U.S. Highway 40 and 61 to junction U.S. Highway 61, to junction Missouri Highway 6, to Brashear, north on unnumbered road to Willmatheville, to junction U.S. Highway 63, to the Missouri-Iowa state line; (2) to points in Iowa on and east of a line beginning at the Iowa-Missouri state line, and extending along U.S. Highway 63 to junction U.S. Highway 218, to the Iowa-Minnesota state line; (3) to points in Minnesota on and east of a line beginning at the Iowa-Minnesota state line, and extending along U.S. Highway 218 to junction Interstate Highway 35, to junction U.S. Highway 52, to junction Interstate Highway 94, to the Minnesota-North Dakota state line. The purpose of this filing is to eliminate the gateway of St. Louis, Mo. (B) From points in Arkansas, on and east of a line beginning at the Arkansas-Oklahoma state line, and extending along U.S. Highway 70 to junction Interstate Highway 30, to junction U.S. Highway 67, to the Arkansas-Missouri state line, (1) to points in Tennessee on and east of a line beginning at the Kentucky-Tennessee state line and extending along U.S. Highway 431 to junction Interstate Highway 24, south to the Tennessee-Georgia state line, to Buford, Ga., Hazelwood, N.C., and points in Virginia, Kentucky, West Virginia, Maryland, New Jersey, Pennsylvania, New York, Massachusetts, Vermont, New Hampshire, Maine, Ohio, Indiana, Michigan, Illinois, and Wisconsin. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 124174 (Sub-No. E62), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins*, and *pieces thereof, tannery products, tannery by-products*, and *supplies* (except commodities and liquids, in bulk, in tank vehicles), (A) from points in Mississippi on and east of a line beginning at the Mississippi-Louisiana state line and extending along U.S. Highway 51 to the Mississippi-Tennessee state line, (1) to points in Indiana on and north and east of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Indiana-Illinois state line; (2) to points in Illinois on and north of a line beginning at the Indiana-Illinois state line and extending along U.S. Highway 50 to junction U.S. Highway 51, to junction Illinois Highway 29, to junction Illinois Highway 104, to junction Illinois Highway 99, to junction U.S. Highway 24, to the Illinois-Missouri state line; (3) To points in Missouri on and north of a line beginning at the Missouri-Illinois state line, and extending along U.S. Highway 24 to junction Missouri Highway 6, to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Iowa state line; (4) to points in Iowa on and north of a line beginning at the Missouri-Iowa state line, and extending along U.S. Highway 43, to Iowa Highway 163, to junction U.S. Highway 69, north to junction U.S. Highway 30, to junction Iowa Highway 141, to junction Interstate Highway 29, thence along Interstate Highway 29, to the Iowa-South Dakota state line; (5) to points in South Dakota on and north and west of a line beginning at the Iowa-South Dakota state line and extending along Interstate Highway 29, thence along Interstate Highway 29 to the South Dakota-North Dakota state line. The purpose of this filing is to eliminate the gateway of Evansville, Ind.

(B) From points in Mississippi on and east of a line beginning at the Mississippi-Louisiana state line and extending along U.S. Highway 51 to the Mississippi-Tennessee state line, (1) to points in Georgia on and north of a line beginning at the Georgia-Tennessee state line, and extending along U.S. Highway 41 and 76 to junction Georgia Highway 52, to junction Georgia Highway 136, to junction U.S. Highway 19, to junction Georgia Highway 20, to junction Georgia Highway 13, to junction U.S. Highway 23, to junction U.S. Highway 23 and 441, to the Georgia-North Carolina state line; (2) to points in Tennessee on and east of a line beginning at the Tennessee-Georgia state line, and extending along U.S. Highway 27, thence north along U.S. Highway 27, to the Tennessee-Kentucky state line. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn. (C) From points in Mississippi on and east of a line beginning at the Mississippi-Louisiana state line, and extending along U.S. Highway 51 to the Mississippi-Tennessee state line, (1) to points in Kentucky on and north and east of a line beginning at the Kentucky-Tennessee state line, and extending along Kentucky Highway 92, to junction U.S. Highway 25, to Daniel Boone Parkway, east on Parkway to Kentucky Highway 15, to junction U.S. Highway 60, to junction U.S. Highway 62, to junction Kentucky Highway 44, to junction U.S. Highway 31W/61, to junction U.S. Highway 60, to junction U.S. Highway 231, thence along U.S. Highway 231 to the Kentucky-Indiana state line; (2) to Hazelwood, N.C., and points in Minnesota, Wisconsin, Michigan, Ohio, West Virginia, Maryland, Pennsylvania, New Jersey, New York, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateways of Evansville, Ind., and/or Chattanooga, Tenn.

No. MC 124174 (Sub-No. E60), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins*, and *pieces thereof, tannery products, tannery by-products*, and *supplies* (except commodities in bulk, and tank vehicles) (A) From points in Arkansas, (1) to points in Missouri on and east of a line beginning at the Illinois-Missouri state line, and extending along Interstate Highway 70, to junction Missouri Highway 79, to junction U.S. Highway 61, to the Missouri-Iowa state line; (2) to points in Iowa an and east of a line beginning at the Iowa-Missouri state line, and extending along U.S. Highway 61, north to junction U.S. Highway 218, to Iowa Highway 150, to junction U.S. Highway 52, to the Iowa-Minnesota state line; (3) to points in Minnesota on and east of a line beginning at the Iowa-Minnesota state line, and extending along U.S. Highway 52 to junction Minnesota Highway 58, to the Minnesota-Wisconsin state line; (4) to points in Minnesota on and east of a line beginning at the Minnesota-Wisconsin state line and extending along U.S. Highway 53 north to the International boundary line between the United States and Canada; (5) to points in Wisconsin on and east of a line beginning at the Minnesota-Wisconsin state line and extending along U.S. Highway 63 to junction U.S. Highway 8, west to junction Wisconsin Highway 35, north to the Wisconsin-Minnesota state line. The purpose of this filing is to eliminate the gateway of St. Louis, Mo. (B) From points in Arkansas to points in Tennessee on and east of a line beginning at the Kentucky-Tennessee state line, and extending along U.S. Highway 431 to junction In-

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terstate Highway 24, south to the Tennessee-Georgia state line, to Buford, Ga., Hazlewood, N.C., and points in Virginia, Kentucky, West Virginia, Maryland, New Jersey, Pennsylvania, New York, Massachusetts, Vermont, New Hampshire, Maine, Ohio, Indiana, Michigan, and Illinois. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

No. MC 124174 (Sub-No. E61), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins*, and *pieces thereof, tannery products, tannery by-products*, and *supplies* (except commodities in bulk, and liquids in tank vehicles, (A) from points in Arkansas on and east of a line beginning at the Louisiana-Arkansas state line, and extending along U.S. Highway 167, to junction U.S. Highway 79, to junction U.S. Highway 49, north to junction Arkansas Highway 39, north to junction Arkansas Highway 1, to junction Arkansas Highway 135, to junction U.S. Highway 62, to junction U.S. Highway 67, to the Arkansas-Missouri state line, (1) to points in Missouri on and east of a line beginning at the Illinois-Missouri state line, and extending along Interstate Highway 70 to junction U.S. Highway 63, north to the Missouri-Iowa state line; (2) to points in Iowa on and east of a line beginning at the Iowa-Missouri state line and extending along U.S. Highway 63 to junction Iowa Highway 163, to junction U.S. Highway 69, to junction U.S. Highway 30, to junction U.S. Highway 71, to junction U.S. Highway 20, thence west along U.S. Highway 20 to the Iowa-South Dakota state line; (3) to points in South Dakota on and north of a line beginnnig at the Iowa-South Dakota state line and extending along Interstate Highway 29 to junction South Dakota Highway 50, to junction U.S. Highway 81, to junction U.S. Highway 16, to junction Interstate Highway 90, to junction U.S. Highway 14, thence along U.S. Highway 14, to the South Dakota-Wyoming state line. The purpose of this filing is to eliminate the gateway of St. Louis, Mo. (B) From points in Arkansas on and east of a line beginning at the Louisiana-Arkansas state line, and extending along U.S. Highway 167, to junction U.S. Highway 79, to junction U.S. Highway 49, north to junction Arkansas Highway 39, north to junction Arkansas Highway 1, to junction Arkansas Highway 135, to junction U.S. Highway 62, to junction U.S. Highway 67, to the Arkansas-Missouri state line, (1) to points in Tennessee on and east of a line beginning at the Kenutcky-Tennessee state line, and extending along U.S. Highway 431 to junction Interstate Highway 24 to the Tennessee-Georgia state line, to Buford, Ga., Hazelwood, N.C., and points in Virginia, Kentucky, West Virginia, Maryland, New Jersey, Pennsylvania, New York, Massachusetts, Vermont, New Hampshire, Maine, Ohio, Indiana, Michigan, Illinois, Wisconsin, and Minnesota. The purpose of this filing is to eliminate the gateway of Nashville, Tenn.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13481 Filed 5-10-77;8:45 am]

[Notice No. 59]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 19945 (Sub-No. 65TA), filed April 14, 1977. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, from the storage facilities of Triple T Chemicals, Inc. located near Mt. Vernon, Ind., to points in Illinois on and south of U.S. Highway 36, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charles W. Robb, Traffic Manager, Triple T Chemicals, Inc., Vincennes, Ind. 47591. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 50069 (Sub-No. 522TA), filed April 13, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Wm. P. Fromme (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar*, in bulk, in tank vehicles, from Detroit, Mich., to Cleveland, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mameco International, 4475 E. 175th St., Cleveland, Ohio. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 52579 (Sub-No. 161TA), filed April 15, 1977. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Irwin Rosen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers for retail stores distribution, from Arlington, Tex., to the Denver Colo. Commercial Zone, for 180 days. Supporting shipper: Montgomery Ward, 3600 Rosemead Blvd., Rosemead, Calif. 91770. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 63417 (Sub-No. 99TA), filed April 14, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, not exceeding one gallon in capacity, from the plantsite and facilities used by Glass Containers Corporation located at or near Knox, Marlenville and Parkers, Pa., to Cheriton, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Glass Containers Corporation, 114 Penn Avenue, Knox, Pa. 16232. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 104675 (Sub-No. 39TA), filed April 14, 1977. Applicant: FRONTIER DELIVERY, INC., 620 Elk Street, Buffalo, N.Y. 14210. Applicant's representative: E. Russell Whiteman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, in dump, tank or hopper type vehicles from Solvay, N.Y., to points in Virginia, for 180 days. Supporting shipper: Allied Chemical Corp., P.O. Box 1135R, Morristown, N.J. 07960. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 106674 (Sub-No. 227TA), filed April 19, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane foam products*, from Charleston, Ill., to points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, restricted to the transportation of traffic originating at the plantsite and facilities of the Celotex Corporation at or near Charleston, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corporation, 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107515 (Sub-No. 1070 TA), filed April 13, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and tufted textile products*, from Morganfield, Ky., to points in Oklahoma, Texas, and Albuquerque, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pioneer Carpet Mills, Inc., P.O. Box 372, Morganfield, Ky. 42437. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 110420 (Sub-No. 767 TA), filed April 11, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buffing compounds, cleaning compounds, and varnish compounds*, from Waxdale, Wis., to points in Illinois, Monroe, Mich., and Chagrin Falls, Ohio, for 180 days. Supporting shipper: S. C. Johnson and Son, Inc., 1525 Howe St., Racine, Wis. 53403. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 111170 (Sub-No. 234 TA), filed April 14, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, liquid, in tank trucks, (1) from points in Union County, Ark., to points in the United States (except Alaska and Hawaii); and (2) between points in Union County, Ark. and St. Louis, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporing shippers: Velsicol Chemical Corporation, 351 East Ohio, Chicago, Ill. 60611; and T and T Chemical, P.O. Box 782, 409 Wildwood Drive, El Dorado, Ark. 71730. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111274 (Sub-No. 21 TA), filed April 19, 1977. Applicant: ELMER C. SCHMIDGALL and BENJAMIN G. SCHMIDGALL doing business as SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular, transporting: *Materials and components* used in the manufacturing of grain dryers, restricted to shipments having a subsequent movement by truck, from Mound Ridge, Kans., London, Ohio and Buckner, Ky., to Morton, Ill., under a continuing contract with Meyer Morton Company. Supporting shipper: Meyer Morton Company, 252 W. Adams, Morton, Ill. 61550. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 111401 (Sub-No. 485 TA), filed April 19, 1977. Applicant: GROENDYKE TRANSPORT INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (Same address as applicant). Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite of Farmland Industries, Inc. at Farmland (Grant Parish), La., to points in Texas located east of U.S. Highway 281, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Industries, Inc., 3315 N. Oak Trafficway, Kansas City, Mo. 64116. Sent protests to: Joe Green, District Supervisor, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 114004 (Sub-No. 170 TA), filed April 20, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except recreational vehicles), and *buildings*, in sections (except prefabricated buildings), in initial movements, in truck-away service, from Giles County, Tenn., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Pride Homes, P.O. Box 173, Ardmore, Tenn. 38449. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 114569 (Sub-No. 176 TA), filed April 15, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except in bulk) in vehicles equipped with mechanical refrigeration, from the storage facilities of M & M/Mars, located at or near Hampden, Township, Cumberland County, Pa. to points in Alabama, Arizona, Arkansas, Colorado, Kansas, Kentucky, Louisiana, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming, restricted to traffic moving for M & M/Mars originating at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M & M/Mars Division of Mars, Incorporated, Hackettstown, N.J. 07040. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 115322 (Sub-No. 130 TA), filed April 19, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from Buffalo, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rich Products Corp., P.O. Box 245, 1145 Niagara Street, Buffalo, N.Y. 14240. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

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No. MC 117119 (Sub-No. 624TA), filed April 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount stores (except commodities in bulk), from the facilities of Howard Bros. Discount Stores at Monroe, La., to Cynthiana and Corbin, Ky., for 180 days. Supporting shipper: Howard Bros. Discount Stores, Inc., 3030 Aurora, Monroe, La. 71201. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119654 (Sub-No. 31TA), filed April 14, 1977. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, Ind. 46952. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, unfrozen, from Hoopeston and Princeville, Ill., to points in Indiana, Kentucky, Ohio, and points in the Lower Peninsula of Michigan, for 180 days. Supporting shipper: Joan of Arc Company, Inc., 2231 W. Altorfer Drive, Peoria, Ill. 61614. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 119726 (Sub-No. 86 TA), filed April 18, 1977. Applicant: N. A. B. TRUCKING CO. INC., 1644 W. Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: Jeffrey Forgash (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, trnasporting: *Paper bags*, from New Philadelphia, Ohio, to Terre Haute, Seymour, Evansville and Bloomington, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Plains. Bag Corporation, Reiser Ave., New Philadelphia, Ohio. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Room 489, Indianapolis, Ind. 46204.

No. MC 123233 (Sub-No. 71 TA), filed April 18, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d' Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* in bulk, in tank vehicles, from Massena, N.Y., to the ports of entry on the International Boundary line between the United States and Canada located at Trout River and Fort Covington, N.Y., restricted to the transportation of traffic having an immediate subsequent movement in foreign commerce, in through, local, single line service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Alpha Portland Cement Company, Alpha Building, Easton, Pa. 13042. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 123387 (Sub-No. 6TA), filed April 14, 1977. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Norfolk, Va., to points in Arkansas, Illinois, Indiana, Michigan, Ohio, Pennsylvania, Texas and Wisconsin, for 180 days. Supporting shipper: Champale Products Corporation, 710 Washington Avenue, Norfolk, Va. 23501. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 123502 (Sub-No. 49TA), filed April 20, 1977. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, Md. 21061. Applicant's representative: W. Wilson Corrom (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys and ores*, from Riverville, Va. to Pittsburgh, Pa., for 180 days. Supporting shipper: Almet, Inc., 75 Claremont Road, Bernardsville, N.J. 07924. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 123672 (Sub-No. 6TA), filed April 15, 1977. Applicant: BCD TRUCKING, INC., R.D. No. 2, Center Rd., Forestville, N.Y. 14062. Applicant's representative: Robert G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (except frozen bakery products), between Buffalo, N.Y., on the one hand, and, on the other, Hagerstown, Md., Harrisburg, Pa., and the District of Columbia, under a continuing contract, or contracts, with ITT Continental Baking Co., located at Buffalo, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ITT Continental Baking Co., 313 Fougeron St., Buffalo, N.Y. 14211. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 123744 (Sub-No. 27TA), filed April 11, 1977. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: E. Steward Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rotary mowers*, from Minden, La., to the facilities of Wayne R. Wyant, Inc., located at New Bethlehem, Pa., for 180 days. Supporting shipper: Wayne R. Wyant, Inc., New Bethlehem, Pa. 16242. Send protests to: District Supervisor Richard C. Gobbell, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., Pittsburgh, Pa. 15222.

No. MC 124090 (Sub-No. 6TA), filed April 15, 1977. Applicant: TRANSPORTES AZTECA, 425 East Blackwell St., Dover, N.J. 07801. Applicant's representative: Bernard F. Flynn, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel wire*, in gaylords, between Lumber City, Ga. and Laredo, Tex., restricted to foreign commerce to the Republic of Mexico for 180 days. Supporting shipper: Uniroyal, Inc., Oxford Management and Research Center, Middlebury, Conn. 06749. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 124511 (Sub-No. 29TA), filed April 14, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223 E. Highway 54, Mexico, Mo. 65265. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel articles*, from Chicago and Chicago Heights, Ill., to the facilities of A. M. Castle and Co. located in North Kansas City, Mo.; Wichita, Kans.; and Tulsa, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clearing Steel Div. N.I.I. Metal Services Inc., 1132 W. Blackhawk, Chicago, Ill. 60622. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 124887 (Sub-No. 31TA), filed April 20, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route No. 1, Box 230, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry, from Dale County, Ala., to points in the United States east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota, for 180 days. Supporting shipper: Frit Industries, Jody Parker Road, Ozark, Ala. 33660. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 125777 (Sub-No. 188TA), filed April 14, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Avenue, Gary, Ind. 46403. Applicant's representative: William E. Frantz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from Savannah, Ga., to points in Alabama, Florida, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller and Company, 55 E. Monroe, Chicago, Ill. 60603. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 127811 (Sub-No. 9TA), filed April 11, 1977. Applicant: BRYNWOOD TRANSFER, INC., 175 8th Avenue S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel beams, bearing plates, studs*, angles, nuts, reinforcing bars and related accessories for installation, from Eau Claire, Wis., to Minneapolis-St. Paul, Ada, Willmar, Crookston and St. Cloud, Minn., and Lorimor and Waterloo, Iowa, and points in their respective Commercial Zones, for 180 days. Supporting shipper: Phoenix Steel Co., Eau Claire, Wis. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 129032 (Sub-No. 37TA), filed April 14, 1977. Applicant: TOM INMAN TRUCKING, INC., P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: John Paul Fischer, 256 Montgomery Street, 5th Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chicoite*, NMFC Item 48115, a natural non-colloidal earth product having value for its absorptive properties, containing not less than 73 percent silica and not more than 10 percent alumina, in bags or boxes (except in bulk), from the plant sites and facilities of Excel-Mineral Company located at Taft, Calif., and approximately 16.9 miles north of McKittrick, Calif., to all points in the states of Wyoming, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Tennessee, and Mississippi, for 180 days. Supporting shipper: Excel-Mineral Company, P.O. Box 4548, 1288 Coast Village Road, Santa Barbara, Calif. 93103. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 129287 (Sub-No. 3TA), filed April 19, 1977. Applicant: EUGENE TRIPP, P.O. Box 2730, North 6400 Hwy. 10 West, Missoula, Mont. 59801. Applicant's representative: Jeremy G. Thane, Savings Center Building, Missoula, Mont. 59801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Fairfield, Calif., to points in Montana; and (2) *empty containers*, from points in Montana, to Fairfield, Calif., for 180 days. Supporting shippers: Rosin Dist., B. N., Industrial Site, Helena, Mont. 59601; Zip Beverage, Inc., 1200 Shakespeare St., Missoula, Mont., 59801; Havre Distributors, 935 First Street, Havre, Mont. 59501; Shelby Distributors, Box 489, Shelby, Mont. 59474; Intermountain Distributing Co., 2201 Minnesota Avenue, Billings, Mont. 59101; Triangle Distributors, Inc., 513 South Front Street, Conrad, Mont. 59425; Dodd Distributing, Inc., 419 N. 9th Street, Miles City, Mont. 59301. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 133928 (Sub-No. 11TA), filed April 13, 1977. Applicant: OSTERKAMP TRUCKING, INC., 1049 N. Glassell St., Orange, Calif. 92667. Applicant's representative: Anthony Henry Osterkamp, Jr., P.O. Box 5546, Orange, Calif. 92667. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and building materials and materials and supplies* used in the manufacture, installation, and distribution of the above named commodities, from the plant site of the United States Gypsum Company located at or near Empire, Nev., to points in California, Idaho, Oregon and Washington, under a continuing contract, or contracts, with United States Gypsum Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suporting shippers: United States Gypsum Company, 525 South Virgil Avenue, Los Angeles, Calif. 90020. Send protests to: Irene Carlos, Interstate Commerce Commission, Room 1321 Federal Bldg., 30 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 134094 (Sub-No. 5TA), filed April 13, 1977. Applicant: HEIGHT'S SERVICE, INC., 521 E. Nevada Avenue, St. Paul, Minn. 55101. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, premiums and malt beverage dispensing equipment* when moving in mixed loads with malt beverages, from St. Paul, Minn., to Joliet, Ill., under a continuing contract, or contracts, with Pro-Hamms Distributing Co., Inc., for 180 days. Supporting: Pro-Hammas Distributing Co., Inc., Route 2, 1500 N. Amherst Court, Joliet, Ill. 60433. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135083 (Sub-No. 46TA), filed April 19, 1977. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE, Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by vehicle, over irregular routes, transporting: *Roofing and roofing products, supplies and equipment and insulating material* (except commodities in bulk moving in tank vehicles), (1) from points in Oklahoma and Texas (except from the facilities of the Celotex Corporation at Houston and San Antonio, Tex.), to points in Arizona, Colorado, and New Mexico; (2) from Denver, Colo., to points in Arizona and New Mexico; (3) from points in Kansas, to points in Arizona and New Mexico; and (4) from Los Angeles, Calif., to points in Arizona, Colorado and New Mexico, restricted against the transportation of shipments originating at the plantsites of Certain-Teed Products Corporation/CSG Group, located at Kansas City and Pauline, Kans., and destined to points in New Mexico, and further restricted against the transportation of commodities originating at the plantsite of Johns-Manville Company located at or near McPherson, Kans., and destined to points in New Mexico, for 180 days. Supporting shippers: Johns-Manville Corporation, Deer Creek Canyon, Denver, Colo.; Allied Materials Corporation, P.O. Box 12340, Oklahoma City, Okla.; Georgia-Pacific Corporation, 900 S.W. Fifth Avenue, Portland, Oreg. 97204; Wholesale Roofing of New Mexico, 920–A First, N.W., Albuquerque, N. Mex.; American Forest Product Corporation, 100 Menaul Blvd., NE, Albuquerque, N. Mex. Send protests to: Darrell W. Hammons, District Supervisor Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, N. Mex. 87101.

No. MC 135221 (Sub-No. 4TA), filed April 15, 1977. Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 West, Salt Lake City, Utah 84120. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, transporting: (1) *Bulk boneless beef*, in vehicles equipped with mechanical refrigeration, from Boise, Idaho, Billings, Mont., Denver and Greeley, Colo., to the plant site of Otto & Sons Inc., at or near West Jordan, Utah; and (2) *ground beef patties*, individually quick-frozen, in vehicles equipped with mechanical refrigeration, from the plant site of Otto & Sons, Inc., at or near West Jordan, Utah, to Renton, Spokane and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Otto & Sons, Inc., 4980 W. 9470 So., West Jordan, Utah 84084. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 136005 (Sub-No. 2TA), filed April 19, 1977. Applicant: Jack D. Whatley and Robert T. Calhoun a Partnership, doing business as MAGIC VALLEY REFRIGERATED EXPRESS, P.O. Box 2101, 1400 Whitewing, McAllen, Tex.

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76102. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned citrus juice*, from the facilities of Texas Citrus Exchange, located at Harlingen and Mission, Tex., to points in New Mexico, Arizona, California, Indiana and Michigan; and (2) *frozen concentrated citrus products*, in containers, in mixed loads with canned citrus juice, (a) from the facilities of Texas Citrus Exchange, located at Harlingen and Mission, Tex., (b) from the storage facilities of Texas Citrus Exchange at Brownsville and McAllen, Tex., to points in Oklahoma, Arkansas, Missouri, Kansas, Illinois, Nebraska, Iowa, South Dakota, Minnesota, Wisconsin, North Dakota, Colorado, New Mexico, Arizona, California, Indiana and Michigan, under a continuing contract with Texas Citrus Exchange, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Citrus Exchange, P.O. Box 480, Edinburg, Tex. 78539. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B–400 Federal Building, 727 E. Durango, San Antonio, Tex. 78206.

No. MC 138762 (Sub No. 9TA), filed April 18, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th & 11th Streets, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located in Michigan and New York, to Cleveland, Ohio and Aliquipa and Pittsburgh, Pa., restricted to shipments originating at the facilities of Beachville Lime Co. at or near Beachville, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jones & Laughlin Steel Corporation, 1600 West Carson Street, Pittsburgh, Pa. 15263. Send protest to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North Billings, Mont. 59101.

No. MC 138762 (Sub-No. 10TA), filed April 18, 1977. Applicant's MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th & 11th Streets, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice*, in bulk, in tank vehicles, between ports of entry on the International Boundary line between the United States and Canada located at points in New York, on the one hand, and, on the other, Newfane, N.Y., restricted to traffic originating and terminating in the Province of Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ontario Grape Growers Marketing Board, 52 Scott Street, St. Catherines, Ontario, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 139163 (Sub-No. 11TA), filed April 18, 1977, Applicant: ELECTRONIC RIGGERS OF FLORIDA, INC., 1256 La Quinta Drive, Orlando, Fla. 32809. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines and parts, materials, and supplies* used in the manufacture, installation, or sale of such commodities, between Atlanta, Ga., and its commercial zone, on the one hand, and, on the other, points in Arkansas, under a continuing contract with Xerox Corp., 3000 Des Plaines Avenue, Des Plaines, Ill. 60018. Send protests to: G. H. Fauss Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 139254 (Sub-No. 8TA), filed April 19, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from the plant site of Champion International Corporation near Courtland, Ala., to points in Connecticut, Delaware, Florida, New Hampshire, Rhode Island and the District of Columbia, under a continuing contract with Champion International Corporation, for 180 days. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 140677 (Sub-No. 16TA), filed April 15, 1977. Applicant: John T. Brewer, John R. Brewer and Lewis L. Brewer, doing business as BREWER TRUCKING, 1603 East Tallent, Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings* from Henderson, Ky., to points in North Dakota and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cresline Plastic Pipe Co., Inc., 955 Diamond Ave., Evansville, Ind. 47717. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S Dak. 57501.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13469 Filed 5–10–77;8:45 am]

[Notice No. 60]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 49387 (Sub-No. 48TA), filed April 8, 1977, Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Highway 24 East, Box 658, Moberly, Mo. 65270. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, and commodities in bulk), serving California and Tipton, Mo., as off-route points in connection with applicant's regular route operations between Kansas City and St. Louis, Mo., over Interstate Highway 70 and U.S. Highway 50, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Racker's Mfg. Co., P.O. Box 382, California, Mo. 65018, (2) T & J Distributors, Highway 50 West, California, Mo. 65018; (3) Honeycomb Pla-Products, Inc., P.O. Box 550, Tipton, Mo. 65081; (4) Schaffter Equip. Co., East Hwy. 50, Tipton, Mo. 65081; (5) Bassett Bedding Co., P.O. Box 583, Tipton, Mo. 65081; (6) Weber Shoe, Box 100, Tipton, Mo. 65081; and (7) Koechner's Mfg. Co., P.O. Box 157, Tipton, Mo. 65081. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 60066 (Sub-No. 12TA), filed April 15, 1977. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul Street, Omaha, Nebr. 68102. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except articles of unusual value, classes A and B explosives, household goods, and commodities in bulk, (1) Between Ogallala, Nebr. and Fort Morgan, Colo.: From Ogallala via U.S. 30 to its junction with U.S. 138, thence over U.S. 138 to its junction with U.S. 6, thence over U.S. 6 to Fort Morgan, and return over the same route, serving all intermediate points between Julesburg, Colo. and Fort Morgan, Colo., and the off-route point of Haxtun, Colo.; (2) Between Fort Morgan, Colo. and Wray, Colo.: From Fort Morgan over U.S. 34 to Wray, and return over the same route, serving all intermediate points; and (3) Between Wray, Colo. and Julesburg, Colo.: From Wray, Colo. over U.S. 385 to Julesburg, and return over the same route, serving all intermediate points and the off-route points of Paoli and Haxtun, Colo., for 180 days. Supporting shippers: There are approximately 30 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 69834 (Sub-No. 12TA), filed April 13, 1977. Applicant: PRICE TRUCK LINE, INC., 2945 North Market, Wichita, Kans. 67219. Applicant's representative: William H. Shawn, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *School, art and hobbies supplies, and commodities* used in the manufacturing, packaging, and the transportation of school, art, and hobbies supplies, between the facilities of Binney & Smith, Inc., located at Winfield, Kans., and the warehouse facilities of Southwest Freight Distributors, Inc., located at Dallas, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Binney & Smith, Inc., 1100 Church Lane, Easton, Pa. 18042. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 82063 (Sub-No. 76TA), filed April 18, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, Mo. 63127. Applicant's representative: W. E. Klipsch, 10795 Watson Road, Sunset Hills, Mo. 63127. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Geismar, La. to Pulaski County, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arkla Chemical Corporation, Traffic Coordinator Bert E. Johnson, P.O. Box 715, Little Rock, Ark. 72203. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 82063 (Sub-No. 77TA), filed April 15, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, Mo. 63127. Applicant's representative: W. E. Klipsch, 10795 Watson Road, Sunset Hills, Mo. 63127. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Weeks Island, La., to Jacksonville, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Transvaal, Inc., P.O. Box 69, Jacksonville, Ark. 72076. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 98614 (Sub-No. 5TA), filed April 14, 1977. Applicant: ARKANSAS TRANSPORT COMPANY, 124 E. 7th Street, North Little Rock, Ark. 72115. Applicant's representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil, burner FS–2*, from Standard Transmission Corp., Conway, Ark., to Lone Star Ammunition Plant, in Bowie County, near Texarkana, Tex. (Defense, Tex.), on government bills of lading, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Department of Defense, Defense Supply Agency, Federal Office Building, 515 Rusk Avenue, Houston, Tex. 77002. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capital, Little Rock, Ark. 72201.

No. MC 98952 (Sub-No. 44TA), filed April 14, 1977. Applicant: GENERAL TRANSFER COMPANY, 2880 N. Woodford St., P.O. Box 2203, Decatur, Ill. 62526. Applicant's representative: Paul E. Steinhour, 918 E. Capitol Avenue, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* in mechanically refrigerated equipment, except in bulk, from Carol Strean, Ill., and points within the Chicago, Ill., commercial Zone to points in Ohio, restricted to the plantsites and storage facilities of E. J. Brach and Sons, and further restricted to traffic originating at named origin and destined to named destination, for 180 days. Supporting shipper: E. J. Brach & Sons, 4656 W. Kinzie, Chicago, Ill. 60644. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 106074 (Sub-No. 31TA), filed April 11, 1977. Applicant: B AND P MOTOR LINES, INC., 710 Oakland Road, P.O. Box 741, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard boards and sheets*, consisting of sawdust or ground wood with added resin binder not exceeding ten percent by weight, compressed, not bent or curved, from Azusa, Buena Park, Corona, Los Angeles, Ontario, Rocklin, and Sacramento, Calif., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, and Tennessee, for 180 days. Supporting shipper: Fibreboard Corporation, 55 Francisco Street, San Francisco, Calif. 94133. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 106839 (Sub-No. 6TA), filed April 7, 1977. Applicant: LARSEN MOTOR LINES, INC., P.O. Box 53201, New Orleans, La. 70153. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, La. 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except those of unusual value, Classes A and B explosives, commodities in bulk, household goods and those requiring special equipment (1) Between New Orleans, La., and Lafitte, La., over Louisiana State Hwy. 45 and return over the same route, serving all intermediate points; (2) between New Orleans, La., and Louisiana State Penitentiary at or near Angola, La.; from New Orleans, La. over U.S. Hwy. 61 and/or Interstate 10 to Baton Rouge, La., thence over U.S. Hwy. 61 to Bains, La., thence over Louisiana State Hwy. 66 to the Louisiana State Penitentiary at or near Angola, La., serving no intermediate points, for 180 days. Supporting shippers: Louisiana State Penitentiary, Angola, La. 70712; Lynn's Net Shop, Box 0499, Church St., Lafitte, La. 70067; Mrs. Ambrose Angler, Box 577–E, Lafitte, La. 70067; Couevas & Sons Ventures, Box 506, Hwy. 45, Lafitte, La. 70067. Send protests to: Dis-

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trict Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 107002 (Sub-No. 505TA), filed April 15, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: Edward M. Regan, P.O. Box 1123, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Alpine Laboratories located near Mobile, Ala., in Baldwyn County, Ala., to Bakersfield, Calif., and Vicksburg, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Alpine Laboratories, Inc., P.O. Box 147, Bay Minette, Ala. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 110563 (Sub-No. 201TA), filed April 14, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: John L. Maurer, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux City, Iowa, to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Foods Co., 1200 Bluff Road, Sioux City, Iowa 51107. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 112822 (Sub-No. 416TA), filed April 15, 1977. Applicant: BRAY LINES, INC., P.O. Box 1191, 1401 N. Little Street, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* (not frozen and except in bulk), (1) from the facilities of the Clorox Co., at or near Atlanta, Ga., to points in Arkansas, Kansas, Louisiana, Missouri, and Texas; (2) from the facilities of the Clorox Co., at or near Oakland, Calif., to points in Montana, Oregon, Utah, Washington, and Wyoming; and (3) from the facilities of the Clorox Co., at or near Houston, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, Calif. 94612. Send protests to: Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 113908 (Sub-No. 397TA), filed April 15, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage base, beverages, beverage concentrates, fruit emulsions, and fruit juice*, in bulk, from Chicago, Ill., and the commercial zone thereof, to Vincentown, N.J., and the commercial zone thereof, for 180 days. Supporting shipper: A. E. Staley Manufacturing Co., 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 114097 (Sub-No. 7TA), filed April 14, 1977. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 South Front St., La Crosse, Wis. 54601. Applicant's representative: Edward H. Instenes, P.O. Box 676, Winona, Minn. 55987. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans or can ends*, from St. Paul, Minn. and commercial zone thereof to La Crosse, Wis. (restricted to Hi-Cube, Roller Bed trailers), under a continuing contract with National Can Corporation, for 180 days. Supporting shipper: National Can Corporation, 8101 Higgins Rd., Chicago, Ill. 60631, and G. Heileman Brewing Company, Inc., 925 South Third St., La Crosse, Wis. 54601. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Rm. 202, Madison, Wis. 53703.

No. MC 114194 (Sub-No. 193TA), filed April 12, 1977. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: A. Bruce Fraser (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Products of corn*, except feed and feed ingredients and oil, in bulk, in tank vehicles, from CPC International, Inc., Argo, Ill., to points in Alabama, Connecticut, Delaware, Georgia, Kentucky, Maryland, Michigan, North Carolina, South Carolina, Tennessee, Wisconsin, and the District of Columbia; and (2) *products of corn*, inedible, except feed and feed ingredients and oil, in bulk, in tank vehicles, from CPC International, Inc., Argo, Ill., to points in Indiana, Iowa, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, for 180 days. Supporting shipper: CPC International, Inc., International Plaza, Englewood Cliffs, N.J. 07632. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 115841 (Sub-No. 536TA), filed April 13, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, Tenn. 37919. Applicant's representative: Chester G. Groebel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and infant materials and supplies* in mixed loads with foodstuffs, in mechanically refrigerated vehicles, from the plantsite and facilties of Gerber Products Company, located at or near Skyland, N.C., to points in Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Oregon, Tennessee, and Washington, for 180 days. Supporting shipper: Gerber Products Company, 445 State St., Fremont, Mich. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 119654 (Sub-No. 32TA), filed April 18, 1977. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, Ind. 46952. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic Products*, from Seymour, Ind., to Milwaukee, Wis., and points in Michigan and Ohio; and (2) *materials, equipment and supplies* used in the manufacture of plastic products, from Milwaukee, Wis., and points in Michigan and Ohio, to Seymour, Ind., for 180 days. Supporting shipper: Amoco Plastics Products Company, P.O. Box 1000, Seymour, Ind. 47274. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 127625 (Sub-No. 21TA), filed April 15, 1977. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, S.C. 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, in pneumatic tank trailers, from the plantsite of the International Minerals and Chemical Company, located in Spartanburg, S.C., to points in Georgia on and north of U.S. Highway 78, for 180 days. Supporting shippers: International Minerals and Chemical Company, P.O. Box 5398, Spartanburg, S.C. 29301. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 127897 (Sub-No. 2TA), filed April 15, 1977. Applicant: TAG, INC., 1816 Grand Street, Sioux City, Iowa 51107. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions*, in bulk, in tank vehicles, from the facilities of Nutra-Flo Chemical Co., at or near New Ulm, Minn., to points in Iowa, North Dakota, South Dakota, and Wisconsin, under a continuing contract or contracts, with Nutra-Flo Chemical Co., Sioux City, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nutra-Flo Chemical Co., 1919 Grand Street, Sioux City, Iowa 51105. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No MC 129862 (Sub-No. 14TA), filed April 14, 1977. Applicant: RAJOR, INC., 2 Lewisburg Pike, P.O. Box 756, Franklin, Tenn. 37064. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic instruments and components, tables and stands* for electronic instruments and components, and *toys and games*, other than coin-operated, from Greeneville and Jefferson City, Tenn., to points in Florida, under a continuing contract with the Magnavox Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Magnavox Company, Greeneville, Tenn. 37743. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 133233 (Sub-No. 51TA), filed April 13, 1977. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, I-80 and Highway 50, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precut wooden storage sheds*, from Afton, Wyo., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin, under a continuing contract, or contracts with New Idria Mining & Chemical Company, of Afton, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: New Idria Mining & Chemical Company, Box 517, Afton, Wyo. 83110. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 133689 (Sub-No. 122TA), filed April 12, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Landy of Wisconsin, Inc., at or near Eau Claire, Wis., to Raleigh, Durham, and Charlotte, N.C.; Columbia, S.C.; Atlanta and Tucker, Ga.; Detroit and Livonia, Mich.; and points in Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Landy of Wisconsin, Inc., Eau Claire, Wis. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134477 (Sub-No. 158TA), filed April 7, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Krey Packing Company, Inc., located at or near St. Louis, Mo., to Chicago, Ill., and points in Connecticut, Massachusetts, Maryland, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island, restricted to the transportation of shipments originating at the above-described origin and destined to the above-described destination points, for 180 days. Supporting shipper: Krey Packing Company, Inc., 3607 Florissant, St. Louis, Mo. 63107. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134477 (Sub-No. 159TA), filed April 20, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and processed pork*, from Dayton and Washington Court House, Ohio, to ports of entry on the United States-Canada Boundary line located at or near Pembina, N. Dak.; Noyes, Minn.; Detroit, Mich.; Niagara Falls, N.Y.; Sweetgrass, Mont.; Blaine, Wash., and Houlton, Maine, restricted to traffic destined to the Provinces of British Columbia, Alberta, Manitoba, Ontario, and New Brunswick, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sugar Creek Packing Co., 2101 Kenskill Ave., Washington Court House, Ohio 43160. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operation, 414 Federal Bldg. and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 13447 (Sub-No. 165TA), filed April 19, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and processed pork*, from Dayton and Washington Court House, Ohio, to Green Bay, Wis.; Des Moines, Iowa; Hopkins, Minn.; Fargo and Bismarck, N. Dak., 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sugar Creek Packing Co., 2101 Kenskill Ave., Washington Court House, Ohio. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134484 (Sub-No. 12TA), filed April 12, 1977. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, Idaho 83401. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from Toppenish, Wash., to points in Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flavorland Industries, Inc., P.O. Box 16345, Denver, Colo. 80216. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 134979 (Sub-No. 9TA), filed April 14, 1977. Applicant: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pet food* (except in bulk), from the plantsite and facilities of Farmers Union Grain Terminal Association at Owatonna, Minn., to points in Idaho, Montana, North Dakota, and Washington; (2) *milk replacer*, except in bulk, from Minneapolis, Minn., to points in Idaho, Montana, North Dakota, and Washington; and (3) *dried molasses*, except in bulk, from St. Paul, Minn., to points in Idaho, Montana, North Dakota, and Washington, under a continuing contract or contracts with Farmers Union Grain Terminal Association, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper:

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Farmer Union Grain Terminal Association, Box 1447, Sioux Falls, S. Dak. 57101. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 135437 (Sub-No. 15TA), filed April 14, 1977. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., South Main Street, P.O. Box 80, Lyndonville, N.Y. 14098. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods; vegetables canned or processed* (except frozen), *canned yams, carrots and beans*, from Elliott and Turkey, N.C., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Jersey, New York, New Hampshire, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for Joan of Arc Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joan of Arc Co., 2231 W. Altorfare Dr., Peoria, Ill. 61614. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 135705 (Sub-No. 8TA), filed April 14, 1977. Applicant: MELROSE TRUCKING CO., INC., 6360 Raderville Route, Casper, Wyo. 82601. Applicant's representative: John P. Thompson and Raymond M. Kelley, 450 Capitol Life Center, E. 16th at Grant, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* in bulk, in tank vehicles, from the Ideal Basic Industries Cement Division Plantsite, located at or near Boettcher, Colo., to the Wheatland Power Plant Project, located approximately six (6) miles north of Wheatland, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Flatiron Pre-Mix Cement Company, P.O. Box 229, Boulder, Colo. 80302; Monolith Portland Midwest Co., 2480 W. 26th Ave., Suite 162B, Denver, Colo. 80211; Ideal Basic Industries Cement Div., Ideal Plaza, 950 17th St., P.O. Box 8789, Denver, Colo. 80201. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm. 105, Federal Bldg. and Court House, 111 South Wolcott St., Casper, Wyo. 82601.

No. MC 135874 (Sub-No. 81TA), filed April 15, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street, S., South St. Paul, Minn. 55075. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dayton and Washington Court House, Ohio, to ports of entry on the United States-Canada boundary line at or near Pembina, N. Dak.; Noyes, Minn.; Blaine, Wash.; Detroit, Mich.; Buffalo, N.Y.; Houlton, Maine; and Sweet Grass, Mont., restricted to traffic destined to the Provinces of Manitoba, British Columbia, Ontario, New Brunswick, and Alberta, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sugar Creek Packing Company, 2101 Kenskill Ave., Washington Court House, Ohio 43160. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135874 (Sub-No. 82TA), filed April 15, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dayton and Washington Court House, Ohio, to Green Bay, Wis.; Des Moines, Iowa; Hopkins, Minn.; Bismarck, N. Dak.; and Fargo, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sugar Creek Packing Company, 2101 Kenskill Ave., Washington Court House, Ohio 43160. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136212 (Sub-No. 23TA), filed April 15, 1977. Applicant: JENSEN TRUCKING COMPANY, INC., 502 West 4th Street, P.O. Box 349, Gothenburg, Nebr. 69138. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from a point at or near Darr, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dugdale Packing Company, P.O. Box 166, Cozad, Nebr. 69130. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 138054 (Sub-No. 16TA), filed April 11, 1977. Applicant: CONDOR CONTRACT CARRIERS, INC., P.O. Box 1354, Garden Grove, Calif. 92642. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Power transmission equipment and component parts and accessories*, from Eaton, Ohio, and Pella, Iowa, to points in Nevada, restricted to a transportation service to be performed under a continuing contract, or contracts, with Emerson Electric Co., for 180 days. Supporting shipper: Emerson Electric Company, 8100 Florissant Avenue, St. Louis, Mo. 63136. Send protests to: Irene Carlos, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 138176 (Sub-No. 2TA), filed April 11, 1977. Applicant: MARVIN RENTZ, doing business as RENTZ FARM SUPPLY, Route 1, Brinson, Ga. 31725. Applicant's representative: Frank D. Hall, 3384 Peachtree Road NE., Suite 713, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, and *fertilizer*, liquid or dry, in bulk, in tank vehicles, or dry, in bags, from the facilities of Kaiser Agriculture Chemical Co. at or near Bainbridge, Ga., to all points in Alabama, south of U.S. Highway 80; all points in Florida on and north of Interstate Highway 4; and all points in South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Agricultural Chemical Co., P.O. Box 246, Savannah, Ga. 31402. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, ICC, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 138492 (Sub-No. 2 TA), filed April 11, 1977. Applicant: RICHARD E. GREGORY, doing business as GREGORY GRAIN COMPANY, R.R. 1, Moweaqua, Ill. 62550. Applicant's representative: John E. Harvey, P.O. Box 1470, Decatur, Ill. 62525. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain or soybean products*, dry, in bulk, bags or boxes, in straight or mixed loads, from the plant and storage facilities of Archer-Daniels-Midland Company, Decatur, Ill., to points in Illinois, Minnesota, Iowa, Missouri, Tennessee, Kentucky, Indiana, Ohio, Michigan, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jerry C. Slaughter, General Traffic Manager, Archer-Daniels-Midland Company, 4666 Faries Parkway, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Harold C. Jolliff, District Supervisor, Interstate

Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 138762 (Sub-No. 8 TA), filed April 14, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th and 11th Streets, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poly vinyl chloride*, in bulk, in tank vehicles, between ports of entry on the International Boundary line between the United States and Canada located at or near Buffalo and Niagara Falls, New York, to Avon Lake, Ohio, Henry, Ill., Louisville, Ky., and Pedrickton, N.J., restricted to shipments originating at or destined to the plant-site and facilities of B.F. Goodrich, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: B. F. Goodrich, Canada Limited, Executive Offices, Kitchener, Ontario, Canada N2G 4J5. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 139368 (Sub-No. 3 TA), filed April 12, 1977. Applicant: VERLYN G. CLARK AND WILLIAM GENE CLARK, doing business as V. CLARK & SON TRUCKING, 318 Ninth Avenue West, Ashland, Wis. 54806. Applicant's representative: Wayne W. Wilson, 329 West Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products*, from Duluth, Minn. to points in Ashland, Bayfield, and Iron Counties, Wis., and Gogebic County, Mich., and the return of *rejected shipments and bakery product shipping containers;* and (2) *bakery products*, from Gogebic County, Mich., to points in Ashland, Bayfield, and Iron Counties, Wis., and the return of *rejected shipments and bakery product shipping containers*, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Our Own Bakeries, Inc., 855 Washington St., Marquette, Mich. 48955; Zinsmaster Baking Company, 2831 W. Superior St., Duluth, Minn. 55806; and American Bakeries Company, 2326 West Superior St., Duluth, Minn. 55806. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 139615 (Sub-No. 7TA), filed April 12, 1977. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 94, Oskaloosa, Iowa 52577. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire hydrants, valves, and parts and accessories*, from Oskaloosa, Iowa, to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture, distribution, and installation of fire hydrants, valves, and castings (except commodities in bulk), from points in Illinois, Indiana, and Missouri, to Oskialoosa, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clow Corporation, Executive Plaza East, 1211 West 22nd Street, Oak Brook, Ill. 60521. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 139681 (Sub-No. 6TA), filed April 14, 1977. Applicant: ASBURY WRIGHT, doing business as WRIGHT TRUCKING CO., Box 67, Pinehurst, Calif. 31070. Applicant's representative: Archie B. Culbreth, 1252 West Peachtree St. NW., Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machiney, equipment, implements, tractors, and parts* thereof, from Auburn and Valley, Nebr., Canton, Moline, and Louisville, Ky., and Memphis, Tenn., to points in Crisp, Dooly, and Houston Counties, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately four statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 140829 (Sub-No. 47TA), filed April 11, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick veneer, glazed quarry tile, grout and adhesives, concrete modular panels, fireplaces, manmade cultured marble and cabinets and vanities*, from Cleveland, Hamilton, Ironton, Minerva, and New Philadelphia, Ohio; Owensboro, Ky.; Brazil, Ind.; Palatine, Ill.; Wisconsin Rapids, Wis.; Adrian, Mich.; and Stanley, Kans., to Des Moines, Iowa and Omaha, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: T. L. Millikan, Building Spec. Manager, Sunderland Brothers Co., 609 N. 46th Street, Omaha, Nebr. 68123. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 141511 (Sub-No. 4TA), filed April 15, 1977. Applicant: ROBERT W. RETTIGA, doing business as PROTEIN EXPRESS, Route No. 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Butter;* (2) *commodities* otherwise exempt from economic regulation when moving in mixed shipments with the commodities in (1) above; and (3) *materials, equipment and supplies* used in the manufacture and sale of the foregoing commodities (except commodities in bulk), between the facilities of Level Valley Dairy Company at West Bend and Slinger, Wis., on the one hand, and, on the other, points in Florida, Texas, Alabama, Georgia, Tennessee, New Jersey, New York, Pennsylvania, Virginia, West Virginia, North Carolina, South Carolina, Louisiana, Mississippi, New Mexico, Arizona, and California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Level Valley Dairy Company, 807 Pleasant Valley Road, West Bend, Wis. 53095. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 141597 (Sub-No. 2TA), filed April 15, 1977. Applicant: RIVERSIDE TRUCK LINE, INC., 910 4th Avenue South, Denison, Iowa 51442. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed religious matter*, (1) from points in Arkansas, Florida, Kansas, Minnesota, Missouri, Texas, and Wisconsin, to Iowa Falls, Iowa, under a continuing contract, or contracts, with Riverside Book and Bible House of Iowa Falls, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Riverside Book and Bible House, 1500 Riverside Drive, Iowa Falls, Iowa 50126. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 141804 (Sub-No. 52TA), filed April 19, 1977. Applicant: WESTERN EXPRESS, DIV. OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Fredrick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Morristown, Knoxville, Paris, and Johnson City, Tenn., and Fort Smith, Ark., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Washington, for 180 days. Supporting shippers: Wickes Furniture, Division of The Wickes Corporation, 351 West Dundee Road, Wheeling, Ill. 60060, and DeSoto, Inc., 1700 S. Mt. Prospect Road, Des Plaines,

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Ill. 60018. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 142782 (Sub-No. 2TA), filed April 14, 1977. Applicant: K. F. MARSHALL LIMITED, 605 Athlone Avenue, Woodstock, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipe*, the transportation of which requires trailers equipped with hydraulic pipe unloaders, and *related concrete products*, from ports of entry on the international boundary line between the United States and Canada on the Niagara River, to points in Allegany, Cattaraugus, Chautauqua, Erie, Genesse, Livingston, Niagara, Orleans, and Wyoming Counties, N.Y., and returned shipments in the reverse direction, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Permapipe Limited, Township of Brantford, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 143152 (Sub-No. 1TA), filed April 15, 1977. Applicant: BILLY R. HODGE, doing business as HODGE TRUCKING COMPANY, Box 386, Hoxie, Ark. 72433. Applicant's represenative: Thomas B. Staley, 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural micro-nutrient fertilizer* and *fertilizer ingredients*, from the plant site of Frit Industries in Walnut Ridge, Ark., to points in Tennessee, Kentucky, Florida, Georgia, Alabama, and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frit Industries, Inc., P.O. Box 149, Industrial Park, Walnut Ridge, Ark. 72476. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143159TA, filed April 14, 1977. Applicant: BRICK HAULERS, INC., Route 1, Box 407, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick*, from the plantsites of Boren Clay Products Company, located at or near Blacksburg and Gaffney, S.C., to points in Alabama, Florida, Georgia, North Carolina, Tennessee, and Virginia; and (2) *returned, rejected, and damaged commodities* in (1), from the destination points to the origin points in (1), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boren Clay Products Company, P.O. Box 550, Gaffney, S.C. 29340. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516; Mart Office Building, Charlotte, N.C. 28205.

No. MC 143169TA, filed April 18, 1977. Applicant: HARRY BROTTON AND HENRY LUCERO, doing business as LUCERO FILM SERVICE, 3630 Locke Avenue, Los Angeles, Calif. 90032. Applicant's representative: Hertzberg, Kaplan & Koslow, 3550 Wilshire Boulevard, Suite 1418, Los Angeles, Calif. 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motion picture film positives, theater related supplies, carbons for carbon arc projectors and lamps, parts and supplies used in the general repair of exhibitors booth equipment and existing theater installation, and advertising material*, between Los Angeles, Calif. and points in Arizona and Nevada, restricted to locations of film exhibitors, for 180 days. Supporting shippers: United Artists Theater Circuit, Inc., 291 South La Cienega Boulevard, Suite 304, Beverly Hills, Calif. 90214; Jim LeRoy Booking and Buying Service, 292 South La Cienega, Beverly Hills, Calif. 90212; American Multi-Cinema, 9440 Santa Monica Blvd., Beverly Hills, Calif. 90210; and Showplace Associates, Inc., Showplace Theaters, 4230 W. Bethany Home Road, Phoenix, Ariz. 85019. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143171TA, filed April 19, 1977. Applicant: FALK ENTERPRISES, INC., 601 Head of River Road, Chesapeake, Va. 23322. Applicant's representative: Blair P. Wakefield, Suite 1001, First & Merchants Bank Building, Norfolk, Va. 23510. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Creosoted or otherwise chemically preserved poles, posts, piling, lumber and cross and switch ties*, from the plant site of Eppinger and Russell Company, Chesapeake, Va., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, and West Virginia, for 180 days. Supporting shipper: Eppinger and Russell Company, 4010 Buell Street, Chesapeake, Va. 23324. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Rm. 10-502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240.

PASSENGER APPLICATIONS

No. MC 143142 (Sub-No. 1TA), filed April 13, 1977. Applicant: GARFIELD AND SARGENT, INC., Airline Road, S. Dennis, Mass. 02660. Applicant's representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, limited to round trip pleasure and sightseeing tours, beginning and ending at points in Barnstable County, Mass., and extending to points in the United States, including Alaska, but excluding Hawaii, for 180 days. Supporting shippers: There are approximately 60 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, R.I. 02903.

No. MC 143170TA, filed April 18, 1977. Applicant: A-1 BUS LINES, INC, 65 NE. 27th Street, Miami Fla. 33137. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, (I) between the Miami International Airport, Fort Lauderdale International Airport, and the Palm Beach International Airport, on the one hand, and all points in Florida on the other; all passengers having a prior or subsequent movement by air (II) Between the Port of Miami and Port Everglades on the one hand and points in Dade, Broward, and Palm Beach Counties on the other; all passengers having a prior or subsequent movement by water, for 180 days. Supporting shippers: Suntours Limited, 1885 S. Treasure Drive, Miami, Fla.; C.A.S.T., Inc., 444 Brickell Ave., Suite 650, Miami, Fla. 33131; Hanseatic Tours, 2000 Hamburg 36, Neuer Wall 54 Germany; Allied Tours South, Inc., 2347 Galiano St., Coral Gables, Fla.; Treasure Tours, 19400 Collins Ave., Miami Beach, Fla. 33160; Fidelity Tours, Inc., 2911 Collins Ave., Miami Beach, Fla. 33140; Canales Tours, 60# 554, Merida, Mexico; Norwegian America Line, P.O. Box 13110, Everglades Station, Ft. Lauderdale, Fla. 33316. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, BOp, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13470 Filed 5-10-77;8:45 am]

[Notice No. 57]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub-No. 288TA), filed April 20, 1977. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Box 2809, Kansas City, Mo. 64106. Applicant's representative: Rodger J. Walsh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in the Descriptions case 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Denver, Colo., to points in California for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Packing Company, 5000 Clarkson Street, Denver, Colo. 80216. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnub St., Kansas City, Mo. 64106.

No. MC 59150 (Sub.-No. 98TA), filed April 15, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, P.O. Box 3277, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, and materials, equipment and supplies* used in the manufacture, packaging, distribution, or installation thereof, from Brunswick, Ga., to points in Alabama, Georgia, Florida, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, and Virginia, for 180 days. Supporting shipper: Georgia Pacific Corp., 1062 Lancaster Avenue, Rosemunt, Pa. 19010. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 80430 (Sub-No. 161TA), filed April 22, 1977. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, P.O. Box 851, LaCrosse, Wis. 54601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk), from the facilities of Wiscold, Inc., located at or near Beaver Dam, Wis., to points in Georgia and Tennessee for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis.

No. MC 85934 (Sub-No. 74TA), filed April 18, 1977. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming Avenue, P.O. Box 248, Dearborn, Mich. 48121. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent sulphuric acid* in bulk tank vehicles, from Midland, Mich., to points in Oregon, Ohio, with return of recovered sulphuric acid, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dow Corning Corporation, Edmund C. Wurtzel, Supervisor of Transportation, P.O. Box 1592, Midland, Mich. 48460. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Buerau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 103993 (Sub-No. 888TA), filed April 21, 1977. Applicant: MORGAN DRIVE AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum containers* (Hopper Vans) on shipper owned trailers equipped with pintle hook connectors, from Elizabeth, W. Va., to Leetsdale, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Carbide Corporation, P.O. Box 4488, Charleston, W. Va. 25304. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 849TA), filed April 21, 1977. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Picnic tables*, from Alpena, Mich., to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Missouri, New Jersey, New York, Ohio, South Carolina, Pennsylvania, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Northern Fabricators, Inc., 3336 E. Piper Rd., Alpena, Mich. 49707. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 111401 (Sub-No. 486TA), filed April 22, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products-crude petroleum treating compound*, in bulk, in tank vehicles, from Sand Springs, Okla., to points in North Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arco Chemical Company, P.O. Box 370, Sand Springs, Okla. 74063. Send protests to: District Supervisor, Joe Green, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 112750 (Sub-No. 341TA), filed April 8, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Microfilm, microfiche, microforms, and related items*, used in the business of banks and banking institutions, between Memphis, Tenn. on the one hand, and, on the other, points in Arkansas, Mississippi, and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are 50 (fifty) statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113666 (Sub-No. 116TA), filed April 20, 1977. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diethyl dithio phosphoric acid*, in bulk, in tank vehicles, from the plantsite of American Cyanamid Company located at South River, Marion County, Mo., to

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Warners, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Cyanamid Company, P.O. Box 400, Princeton, N.J. 08540. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 116073 (Sub-No. 353TA), filed April 21, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, transporting: *Travel trailers*, including *5th wheel trailers, motor homes, and tent and pickup campers*, from the plantsite of AMF Skamper located at or near Bristol, Ind., to points in the United States, excluding Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: AMF Skamper, Box 338, Bristol, Ind. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 118142 (Sub-No. 144TA), filed April 21, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Batteries*, new and spent, and *battery supplies*, (1) from Salina, Kans., to City of Industry, Calif., Opa Locka, Fla., Framingham, Mass., Portland, Oreg., Reading, Pa., and Greer, S.C.; (2) from Selma, Ala., to Dallas, Tex., O'Fallon, Mo., and Indianapolis, Ind.; (3) from Lampeter, Pa., and Indianapolis, Ind., to Salina, Kans.; and (4) from Selma, Ala., to City of Industry, Calif., all of the above transportation, restricted to traffic originating at the plant site and facilities of General Battery Corporation, and to delivery to the destined points, for 180 days. Supporting shipper: General Battery Corporation, P.O. Box 1262, Spring Valley Rd. & Nolan Street, Reading, Pa. 19603. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 119792 (Sub-No. 62TA), filed April 21, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, 3600 S. Western Avenue, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, Ill. 60609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(B) of the Interstate Commerce Commission Act when transported in mixed loads with bananas, from Norfolk, Va., to points in Ohio, Michigan, Kentucky, Illinois, Indiana, Iowa, Wisconsin, Minnesota, Missouri, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dominican Import Company, Inc., Robert Rogers, Vice President, 700 Boundary Ave., Chesapeake, Va. 23324. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 120427 (Sub-No. 3TA), filed April 21, 1977. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 34, Adams, Nebr. 68301. Applicant's representative: John K. Walker, 3325 West 2nd Street, Grand Island, Nebr. 68801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed logs and wooden beams*, from Claremore, Okla., to points in Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chisum Industries, Inc., Harold Green, Jr., Box 1966, Grand Island, Nebr. 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg. & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 123255 (Sub-No. 100TA), filed April 18, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, from seymour, Ind., to Howell, Mich., and Milwaukee, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amoco Plastic Products Company, Post Office Box 1000, Seymour, Ind. 47274. Send protests to: Frank L. Clavary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and United States Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 126555 (Sub-No. 48TA), filed April 21, 1977. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Barry C. Burnette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, transporting: *Gypsum*, from points in Larimer County, Colo., to points in California, Oregon, Washington, Idaho, Utah, Nevada, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas for 180 days. Supporting shipper: Colorado Lien Company, P.O. Box 1961, Ft. Collins, Colo. 80522, Dean A. Schipper, Sales Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 127047 (Sub-No. 23TA), filed April 21, 1977. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Component parts* for mobile homes and recreational vehicles (except in bulk), from the plant and warehouse facilities of Chandler Supply Company at Wichita, Kans., to points in Colorado, Missouri, and Nebraska, restricted to traffic originating at point of origin for 180 days. Supporting shipper: Chandler Supply Company, 3151 South West Street, Wichita, Kans. 67217. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 128021 (Sub-No. 31TA), filed April 22, 1977. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., P.O. Box 100, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Charcoal, charcoal briquets, wood chips* (not charred), *charcoal lighter fluid* (naptha distillate), *fire place logs* (sawdust wax impregnated), *vermiculite* (other than crude), (except in bulk, in tank vehicles), from the plantsite of Kingsford Company and its warehouse at Belle, Mo., and Bland Mo., to points in Illinois, Wisconsin, Michigan, and Tennessee, under a continuing contract or contracts with the Kingsford Company, for 180 days. Supporting shipper: The Kingsford Company, P.O. Box 1033, Louisville, Ky. 40201. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Birmingham, Ala. 35203.

No. MC 128527 (Sub-No. 79TA), filed April 20, 1977. Applicant: MAY TRUCKING COMPANY, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: Edward G. Rawle, 4635 SW. Lake View Blvd., Lake Oswego, Oreg. 97034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous and nonferrous scrap metals* for recycling, from Kennewick, Wash., to Portland and McMinnville, Oreg., for 180 days. Supporting shipper: Pacific Iron & Steel, 1615 Chemical Drive, Kennewick, Wash. 99336. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 134970 (Sub-No. 14TA), filed April 21, 1977. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, Ill. 61738. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, (1) from Gibson City, Hoopeston, and Rochelle, Ill., to points in Iowa, Michigan, Missouri, Minnesota, Ohio, West Virginia, Indiana, Kentucky, Tennessee, and Wisconsin; (2) from Tipton, Ind., to points in Illinois, Iowa, Michigan, Missouri, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; (3) from Indianapolis, and Peru, Ind., to points in Illinois, Iowa, Kentucky, Minnesota, Missouri, Tennessee, West Virginia, and Wisconsin; (4) from Croswell, Mich., to points in Illinois, Iowa, Michigan, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; (5) from Hart and Scottville, Mich., to points in Illinois, Indiana, Iowa, West Virginia, and Tennessee; (6) from Curtice, Norwalk, and Paulding, Ohio, to points in Illinois, Iowa, Michigan, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; (7) from Cumberland, Frederic, and Plymouth, Wis., to points in Illinois, Iowa, Michigan, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; and (8) from Appleton, Columbus, and Horicon, Wis., to points in Indiana, Illinois, Iowa, Ohio, West Virginia, Kentucky, Minnesota, Tennessee, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Don L. Schmidt, Assistant Traffic Manager, Stokely-Van Camp, Inc., 941 N. Meridan Street, Indianapolis, Ind. 46206. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 135283 (Sub-No. 21TA), filed April 22, 1977. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 1665, East Hwy. 30, P.O. Box 1665, East Hwy, 30, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture*, from the plantsite and facilities of Coleman Furniture Corporation, located at or near Pulaski, Va., to points in Iowa and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Coleman Furniture Corporation, Joseph B. Frye, Traffic Manager, P.O. Box 908, Pulaski, Va. 24301. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 135684 (Sub-No. 33TA), filed April 20, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Crofton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Bldg. West, 1819 H St. NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper*, from Allegheny, Fayette, and Westmoreland Counties, Pa., to points in Ohio and New Jersey, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arco Trading Corporation, 615 Iron City Dr., Pittsburgh, Pa. 15205. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 138635 (Sub-No. 38TA), filed April 21, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and new furniture parts* (crated), from Portland, Oreg., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Barker Manufacturing Company, Box 2717, Portland, Oreg. 97208. Send protests to: District Supervisor, Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 138890 (Sub-No. 4TA), filed April 22, 1977. Applicant: MOODIE, INC., 301 Acorn St., Stevens Point, Wis. 54481. Applicant's representative: Wayne W. Wilson, 329 W. Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk), from the facilities of Wiscold, Inc., located at or near Beaver Dam, Wis., to points in Kentucky, Georgia, North Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 139577 (Sub-No. 5TA), filed April 22, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 E. Winnebago St., Friesland, Wis. 53935. Applicant's representative: Delbert De Young (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk), from the facilities of Wiscold Inc., located at or near Beaver Dam, Wis., to points in Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 140028 (Sub-No. 4TA), filed April 22, 1977. Applicant: MOULDEN & SONS, INC., P.O. Box 18, 200 Second Street, Enumclaw, Wash. 98101. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pumice rock*, in dump trucks and trailers, from points in Deschutes County, Oreg., to points in Kitsap County, Wash., for 180 days. Supporting shipper: Bremerton Concrete Products Company, P.O. Box 86, Bremerton, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 142310 (Sub-No. 1TA), filed April 22, 1977. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, Wis. 54458. Applicant's representative: Wayne W. Wilson, 329 W. Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk), from the facilities of Wiscold, Inc., located at or near Beaver Dam, Wis., to points in Kentucky, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wiscold, Inc., 11400 West Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 142694 (Sub-No. 1TA), filed April 22, 1977. Applicant: JOSEPHINE V. CREAGER, doing business as JACK CREAGER TRUCKING, 3812 So. 243d, Kent, Wash. 98031. Applicant's representative: Henry C. Winters, 235 Evergreen Bldg., 15 S. Grady Way, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular, transporting: *Metal articles*, (1) between Los Angeles and Berkeley, Calif., on the one hand, and, on the other, Portland, Oreg., and Kent, Wash.; and (2) between Portland, Ore., and Kent, Wash., restricted to transportation services to be performed under a continuing contract or contracts with Ducommun Metals Co., Kent, Wash., for 180 days. Supporting shipper: Ducommun Metals Co., Inc., 8212 South 196th, Kent, Wash. 98031. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Avenue, Seattle, Wash. 98174.

No. MC 143018 (Sub-No. 1TA), filed April 22, 1977. Applicant: FLETCHER TRUCKING CO., INC., P.O. Box 727, Dunlap, Tenn. 37327. Applicant's representative: Blaine Buchanan, 1024 James Building, Chattanooga, Tenn. 37402.

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Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, between points in Marion and Hamilton Counties, Tenn.; Cherokee, DeKalb, and Jackson Counties, Ala.; and Chattooga, Dade, and Walker Counties, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. There are approximately 3 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., and copies thereof which may be examined at the field office named below. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 143168TA, filed April 18, 1977. Applicant: TREASURE STATE TRANSPORT, INC., P.O. Box 1441, Great Falls, Mont. 59403. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* (except in bulk), as are usually dealt in by wholesale or retail lumber yards or flour mills, between points in California, Idaho, Montana, North Dakota, Oregon, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arvid D. King, Director, Motor Carrier Service, Peavey Company, 730 Second Avenue South, Minneapolis, Minn. 55402. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13471 Filed 5-10-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1, 2, 3
Federal Communications Commission	5, 6, 7
Federal Reserve System	4, 8

1

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: May 19, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111-18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Gas-fired Space Heaters and Catalytic Heaters, Petitions CP 74-10 and 75-16* The Commission will consider several possible regulatory actions on these products.

2. *Possible Substantial Product Hazard: B. Altman & Co. trolley ride toy, ID 77-14* The Commission previously considered this case at its April 28 meeting, and asked the staff to provide additional information on the products.

3. *Report on Office of Public Participation and Financial Compensation Program* In January, the Commission approved establishment of an Office of Public Participation, and in March published proposed rules for financial compensation of consumers to participate in CPSC rulemaking activities. This report, prepared by a contractor, proposes a plan for establishing the office, and methods for implementing consumer participation.

4. *Policy on Official Appearances at Facilities with Discriminatory Policies* This policy, if approved, would amend an internal CPSC Order on speaking engagements, by directing staff not to accept invitations to speak at facilities which discriminate by race, sex or religion.

5. *Voluntary Standards Policy* This policy would describe CPSC philosophy on a) support and participation in voluntary standards development; b) reliance on mechanisms other than issuing CPSC mandatory standards and c) consideration of voluntary standards in developing and/or promulgating mandatory safety standards. Commissioner Franklin prepared an outline for this discussion.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300 1111-18th St., NW., Washington D.C. 20207, telephone 202-634-7700.

[S-366-77 Filed 5-6-77;3:43 pm]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: May 18, 1977, 9:30 a.m.

LOCATION: 3rd floor Hearing Room, 1111-18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Christmas Tree Lights:* The staff will brief the Commission on the status of its evaluation of offers to develop a recommended safety standard for miniature Christmas tree lights. The Commission sought these offers after making a preliminary determination that a standard is necessary to prevent or reduce an unreasonable risk of injury associated with these products.

2. *Compliance Options Under the Federal Hazardous Substances Act and Poison Prevention Packaging Act:* a briefing by staff.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111-18th St., NW., Washington D.C. 20207, telephone 202-634-7700.

[S-367-77 Filed 5-6-77;3:43 pm]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE: May 11, 1977, 9:30 a.m.

CHANGES IN THE MEETING:

The Commission decided to revise the agenda of this meeting by eliminating consideration of CPSC's draft policy on voluntary standards, and by changing the beginning time to 9:00 a.m. so that it could add a presentation on public playground equipment by the National School Supply and Equipment Association to a presentation on playground equipment by Theodora Sweeney, which was previously scheduled.

[S-368-77 Filed 5-6-77;3:43 pm]

4

AGENCY HOLDING MEETING: Federal Reserve system.

On Monday, May 16, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting on May 4, 1977.

2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-369-77 Filed 5-6-77;3:43 pm]

5

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 10:00 a.m., May 12, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Notice of Proposed Rule Making relating to rate base treatment of AT&T's investment in affiliated companies.

Common Carrier—2—Petition for Reconsideration filed by GTE Satellite Corporation of Memorandum Opinion, Order, Authorization, and Certification (SBS Decision), FCC 77-64, released on February 8, 1977.

Cable Television—1—Application for Review of Bureau action dismissing as moot a petition for order to show cause, filed by Apple Valley Broadcasting, Inc., licensee of Television Broadcast Station KAPP (ABC, Channel 35), Yakima, Washington.

Cable Television—2—Applications for licenses in the Cable Television Relay Service filed by Focus Cable of Oakland, Inc., Oakland, California, and a petition to deny

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filed by Community Coalition for Media Change.

Renewal—1—Applications of Buckley Broadcasting, Inc. for renewal of licenses of Stations KKHI (BR-1907), and KKHI-FM (BRH-1093), San Francisco, California.

Aural—1—Applications for FM broadcast construction permits for Bardstown, Kentucky, filed by Nelson County Broadcasting Co., Inc. (BPH-9434), Earl Lamar Clark (BPH-9628), and Old Kentucky Home Broadcasters, Inc. (BPH-9639).

Aural—2—Request for an extension of authority to remain silent on behalf of Hex Country Radio, Inc., licensee of AM station WCLY, Columbia, Pennsylvania.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC, Public Information Officer, telephone npmber, 202-632-7260.

Issued: May 5, 1977.

[S-370-77 Filed 5-6-77;3:43 pm]

6

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., May 12, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Request for Open Meeting in the Jonesboro, Arkansas (KAIT-TV), license renewal proceeding (Docket No. 19292).

Hearing—2—Application for review of a Review Board decision denying an application for additional time in which to construct UHF television station WOTF, Channel 19, Cleveland, Ohio (Docket No. 20585).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: May 5, 1977.

[S-371-77 Filed 5-6-77;3:43 pm]

7

AGENCY HOLDING THE MEETING: Federal Communications Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, page 22221, Monday, May 2, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, May 5, 1977.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING:

Consideration of the following Special Agenda item has been cancelled, and a new date for consideration will be announced at a later time:

Memorandum Opinion and Notice of Proposed Rule Making concerning uniform settlement rates on parallel international communications routes.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632-7260.

Issued: May 5, 1977.

[S-372-77 Filed 5-6-77;3:43 pm]

8

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, May 13, 1977, at 10:00 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Possible candidates for a position at a Federal Reserve Bank. This matter was originally considered at a meeting on April 20, 1977.
2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-373-77 Filed 5-9-77;9:02 am]

federal register

WEDNESDAY, MAY 11, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Final Determinations of Flood Elevations

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2629]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Scotch Plains, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Scotch Plains, New Jersey.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Scotch Plains, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Scotch Plains, New Jersey.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Scotch Plains, New Jersey, are available for review at Township Hall, 430 Park Avenue, Scotch Plains, New Jersey 07076.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blue Brook	Sky Top Dr.	212
Green Brook	Union Ave.	161
	Park Ave.	159
Cedar Brook	Forest Ave.	148
	Hunter Ave.	139
	Farley Ave.	133
East Branch Green Brook.	Glenside Ave.	199
	Harding Rd.	179
	Union Ave.	160
Branch 22	Cooper St. (upstream side of street).	89
Tributary B	350 ft northeast of Rahway Rd. at river mile 0.38.	115
Branch 22-11	Fenimore Dr.	118
Winding Brook	Linden Lane (extended).	54
	Fairway County (extended).	54
Robinson's Branch, Rahway River.	Lake Ave. (70 ft upstream).	56
	Lake Ave. (190 ft downstream).	55

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13014 Filed 5-10-77;8:45 am]

[Docket No. FI-966]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Midland Park, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Midland Park, New Jersey.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Midland Park, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Midland Park, New Jersey.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Midland Park, New Jersey, are available for review at Borough Hall, 280 Godwin Avenue, Midland Park, New Jersey.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Goffle Brook	N.Y.S. & W.R.R.	265.2
	Greenwood Ave.	264.8
	Dam 3	259.1
	Granite St.	250.6
	Slocomac Ave.	229.8
	Dam 2	212.5
	Dam 1	203.7
	Goffle Ave.	185.4
	Lake Ave.	173.0
Goffle Brooks Tributary.	Shopping center access road.	276.0
	Myrtle Rd.	274.6
	Godwin Ave.	269.2
	Park Ave.	266.5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13015 Filed 5-10-77;8:45 am]

[Docket No. FI-2404]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Eden, North Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Eden, North Carolina.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Eden, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Eden, North Carolina.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Eden, North Carolina, are available for review at City Hall, 350 West Stadium Drive, Eden, North Carolina 27288.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dan River	N.C. Highway 87	524
	N.C. Highway 700	507
Smith River	Aiken Rd.	551
	Kings Highway	522
Matrimony Creek	Center Church Rd.	556
	West Washington St.	528
Tackett Branch	Ayden St.	573
Rock Creek	Summit Rd.	560
Dry Creek	S.R. 1740	547

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13016 Filed 5-10-77;8:45 am]

[Docket No. FI-2624]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Topsail Beach, North Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the town of Topsail Beach, North Carolina. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the town of Topsail Beach, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Topsail Beach, North Carolina.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Topsail Beach, North Carolina, are available for review at Town Hall, 820 South Anderson Boulevard, Topsail Beach, North Carolina.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Anderson Blvd.	13
	Channel Ave.	13
	Bridgers Ave.	13
	Evelyn Ave.	13
	Bridgers Circle.	13
	Bridgers St.	13
	Channel Blvd.	13
	Godwin Ave.	13
	McLeod Ave.	13
	Boryk Ave.	13
	Trout Ave.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13017 Filed 5-10-77;8:45 am]

(Docket No. FI-2024)

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Grand Forks, North Dakota

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Grand Forks, North Dakota. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Grand Forks, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Grand Forks, North Dakota.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insur-

V 42 91 MAY 11 77 UMI

ance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Grand Forks, North Dakota, are available for review at City Hall, Grand Forks, North Dakota 58201.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red River of the North.	Minnesota Ave [1]	832
	Demers Ave	831
	U.S. Highway 2	830
English Coulee	14th Ave. South	831
	Burlington Northern R.R.	829
	University Ave	829
	6th Ave	829
	U.S. Highway 2	829

[1] Extended.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13018 Filed 5–10–77;8:45 am]

[Docket No. FI–2490]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Ripley, West Virginia

AGENCY: Federal Insurance Administrator, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Ripley, West Virginia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Ripley, West Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Ripley, West Virginia.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Ripley, West Virginia, are available for review at City Hall, Ripley, West Virginia 25271.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sycamore Creek	Church St	601
	Sycamore Rd	601
Mill Creek	Route 33	599
	Main St	602

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13019 Filed 5–10–77;8:45 am]

[Docket No. FI–1194]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Franklin, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100–year flood) are listed below for selected locations in the City of Franklin, Wisconsin.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Franklin, Wisconsin.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Franklin, Wisconsin.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Franklin, Wisconsin are available or review at City Hall, 9229 West Loomis, Franklin, Wisconsin 52132.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Root River	West Rawson Ave	122
	West Drexel Ave	115
	West Ryan Rd	106
	West Oakwood Rd	102
	South 60th St	101
	West South County Rd. [1]	99
Tess Corners Creek	West St. Martin's Rd. [1]	189
	do. [2]	188
	North Cape Rd. [1]	186
	do. [2]	185
	West Forest Home Ave. [1]	179
	do. [2]	178
East Branch Root River.	Trailer Park Rd	177
	West Rawson Ave	165
	West Drexel Ave. [1]	135
	do. [2]	135
	South 51st St. [1]	134
	do. [2]	133
Woods Creek	West College Ave	178
Oak Creek	West Puetz Rd. [2]	166
	Crest Center	166
	West Maplecrest Dr	166
	West Glenwood Dr	164
	West Woodward Dr. [1]	155
	do. [2]	155
	West Southland Dr. [1]	152
	do. [2]	151
	West Ryan Rd. [1]	131
	do. [2]	130
	South 31st St. [1]	118
	do. [2]	117
	South 27th St. [1]	118

[1] Upstream side of road.
[2] Downstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969, ment Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13020 Filed 5–10–77;8:45 am]

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federal register

WEDNESDAY, MAY 11, 1977
PART III

INTERSTATE COMMERCE COMMISSION

■

VARIOUS RAILROADS

System Diagram Maps

V42 91 MAY 11 77 UMI

INTERSTATE COMMERCE COMMISSION

[AB 179(SDM)]

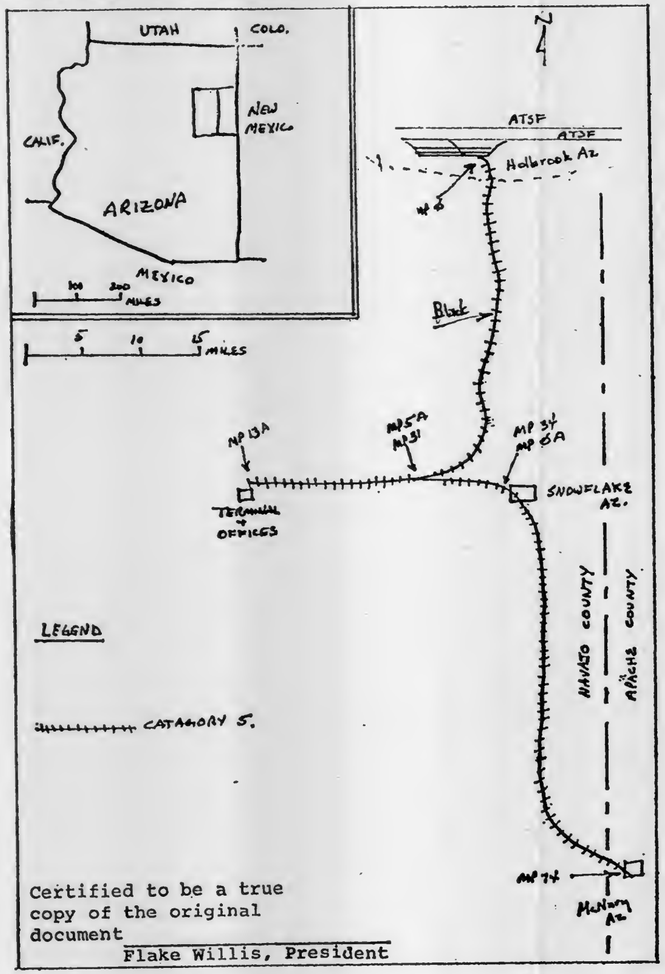
APACHE RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Apache Railway Co., has filed with the Commission its color-coded system diagram map in docket No. AB 179 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-179 (SDM).

ROBERT L. OSWALD,
Secretary.



Certified to be a true copy of the original document
Flake Willis, President

LINE DESCRIPTION OF SYSTEM DIAGRAM MAP

(a) The lines of the Apache Railway are all listed in Category No. 5 and are designated as Main Track.
(b) The Apache Railway is located within Arizona.
(c) The Apache Railway presently operates in Navajo and Apache Counties, Arizona.
(d) Milepost delineation: (see map)
1. Numbering 0 at Holbrook to 31 at the Junction.
2. Numbering 34 at Snowflake to 74 at McNary.
3. Numbering 0A at Snowflake to 13A at the Terminal.
(e) Agency station for the entire railroad is located at the Terminal, some 14 miles west of Snowflake.

[FR Doc 77-13346 Filed 5-10-77;8:45 am]

[AB 146 (SDM)]

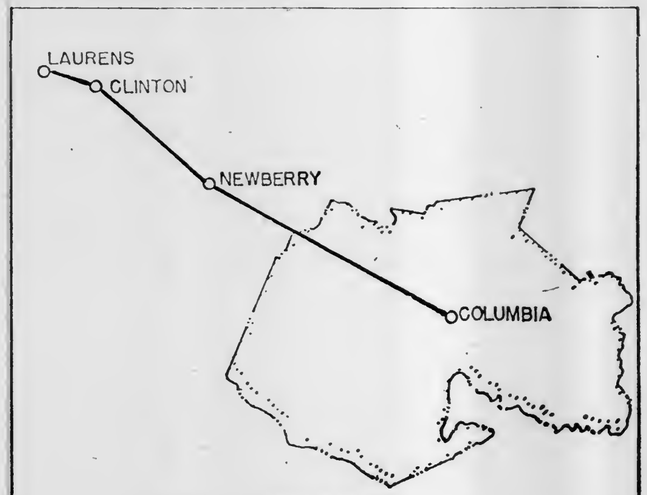
COLUMBIA, NEWBERRY & LAURENS RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Columbia, Newberry and Laurens Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB-146 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-146 (SDM).

ROBERT L. OSWALD,
Secretary.



COLUMBIA, NEWBERRY & LAURENS RR CO.
SYSTEM DIAGRAM MAP
ICC DOCKET AB 146

LEGEND:
CATEGORY 5
POPULATION OVER 5,000
STD. METRO. STAT. AREA

APRIL 1, 1977

[FR Doc.77-13347 Filed 5-10-77;8:45 am]

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[AB 148 (SDM)]

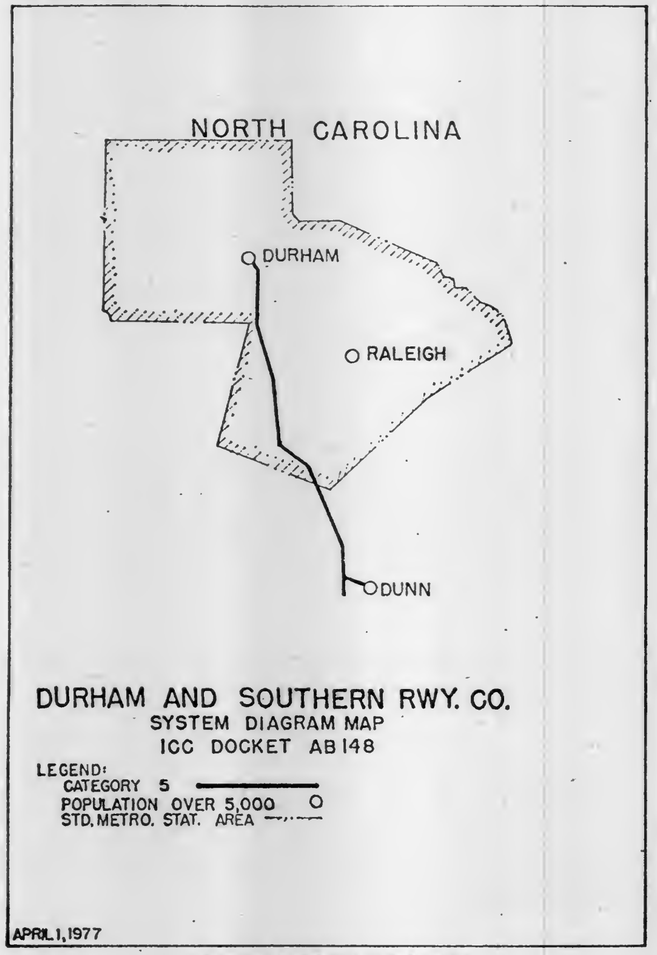
DURHAM & SOUTHERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Durham and Southern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB–148 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–148 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13348 Filed 5-10-77;8:45 am]

[AB 70 (SDM)]

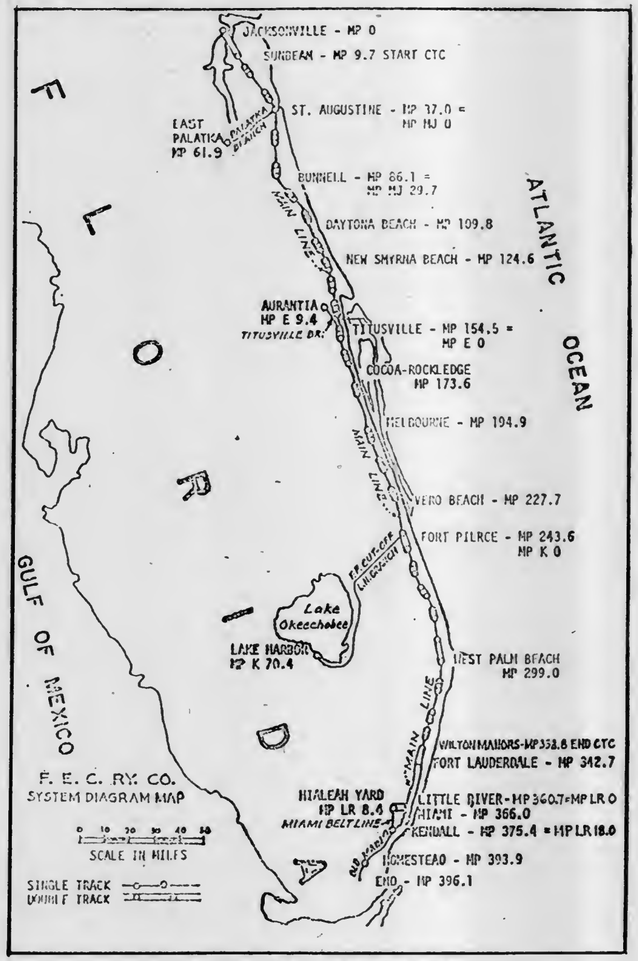
FLORIDA EAST COAST RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Florida East Coast Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 70 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–70 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13345 Filed 5-10-77;8:45 am]

V 42 91 MAY 11 77 UMI

[AB–147 (SDM)]

GAINESVILLE MIDLAND RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Gainesville Midland Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB–147 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps may also be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–147 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77–13350 Filed 5–10–77;8:45 am]

[AB 180 (SDM)]

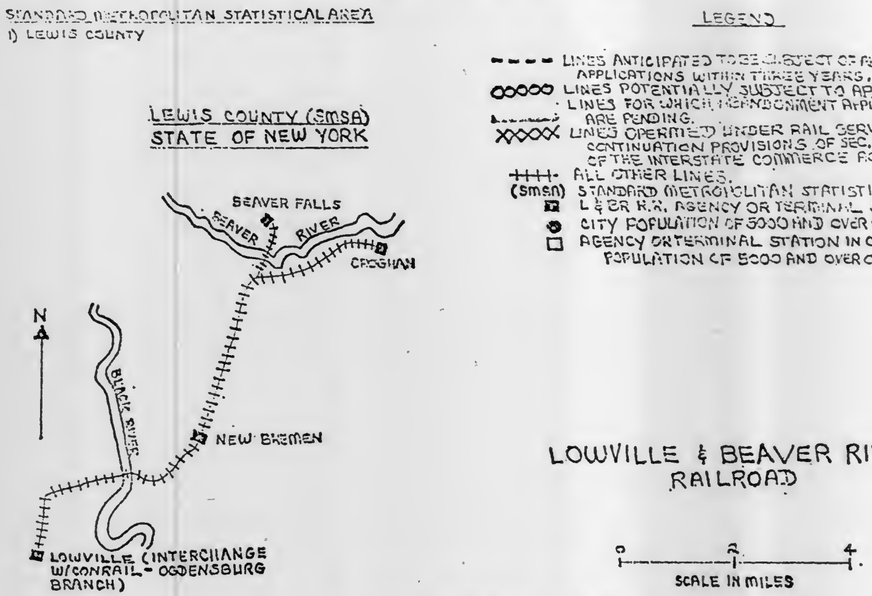
LOWVILLE & BEAVER RIVER RAILROAD

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Lowville & Beaver Railroad, has filed with the Commission its color-coded system diagram map in docket No. AB–180 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–180 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77–13343 Filed 5–10–77;8:45 am]

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[AB 157 (SDM)]

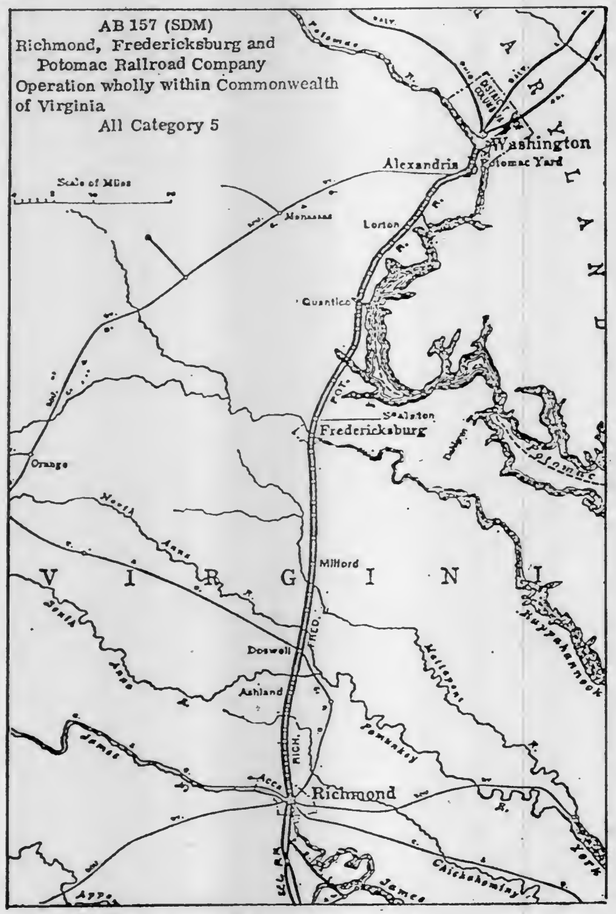
RICHMOND, FREDERICKSBURG & POTOMAC RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Richmond, Fredericksburg and Potomac Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB–157 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designatetd agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–157 (SDM).

ROBERT L. OSWALD,
Secretary.



Certified to be a true copy of the original document.

C. D. Newbauer, Jr., Vice President-Administration

[FR Doc.77–13344 Filed 5–10–77;8:45 am]

[AB–166 (SDM)]

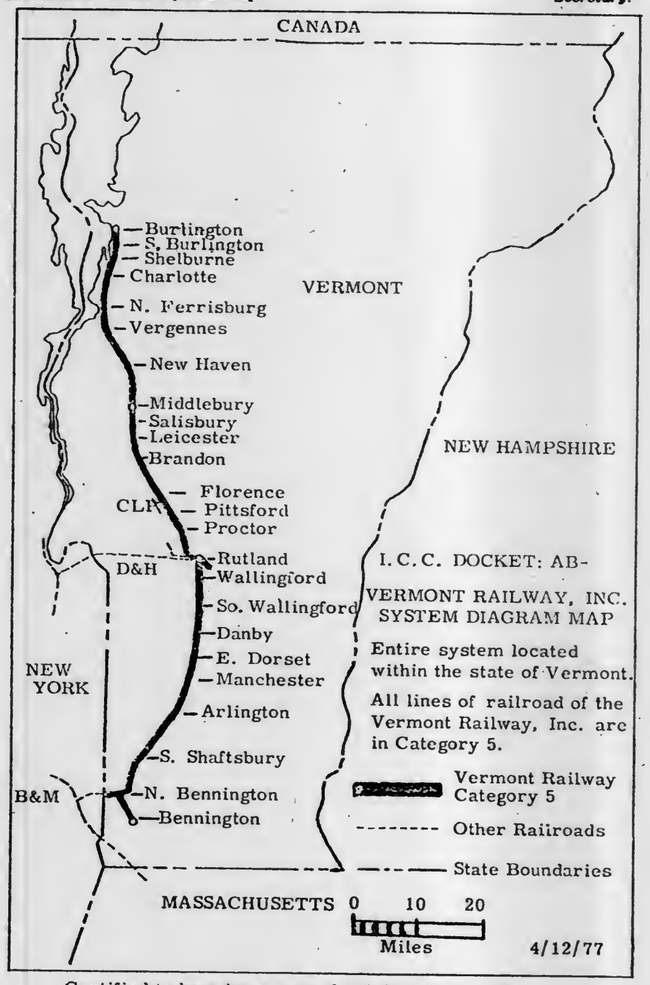
VERMONT RAILWAY

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Vermont Railway, has filed with the Commission its color-coded system diagram map in docket No. AB–166 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–166 (SDM).

ROBERT L. OSWALD,
Secretary.



Certified to be a true copy of original document.

H. T. Filskov, Vice Pres. & Gen. Mgr.

[FR Doc.77–13349 Filed 5–10–77;8:45 am]

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federal register

WEDNESDAY, MAY 11, 1977

PART IV



COMMODITY FUTURES TRADING COMMISSION

■

GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Revision of Registration Forms and Amendment of Related Rules

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Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Revision of Registration Forms and Amendment of Related Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of revised forms and final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has revised its registration forms for all categories of registrants. Form 7–R which replaces Forms 1–R, 5–R and 6–R will be used by firms and individuals seeking registration or renewal of registration as futures commission merchants, commodity trading advisors, and pool operators. Form 8–R which replaces Forms 2–R, 4–R and 94 will be used by individuals seeking registration or renewal of registration as associated persons and floor brokers, and by certain individuals who, as "controlling persons", are required to submit biographical information in connection with the initial registration of a futures commission merchant, trading advisor or pool operator. Forms 3–R reporting deficiencies and changes in application forms remains in effect.

The registration forms have been revised: (1) to reduce the filing burden for applicants, (2) to streamline the Commission's processing of the forms, and (3) to improve the quality of the questions by clarifying the wording, adding new items to obtain essential information, and deleting items which are not relevant to registration.

EFFECTIVE DATE: May 10, 1977. See "Effective Date" under SUPPLEMENTARY INFORMATION.

ADDRESSES: See "Availability of Forms" under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Robert Shiner, Office of Qualifications and Registration, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, 202–254–9703.

SUPPLEMENTARY INFORMATION: On February 2, 1977, the Commission published a proposal [1] to revise the forms used for registration and renewal of registration by futures commission merchants, floor brokers, associated persons, commodity trading advisors and commodity pool operators and to amend the related rules under the Commodity Exchange Act ("Act"), 7 U.S.C. 1 et seq. (Supp. V, 1975). As the Commission stated in the proposal, the revised forms are designed to reduce the filing burden for applicants, to streamline the Commission's processing of the forms, and, most importantly, to better serve the purposes of registration under the Commodity Exchange Act. The new Form 7–R is to be used by applicants for registration or renewal of registration as futures commission merchants, commodity trading advisors or commodity pool operators. The new Form 8–R relates to individuals and should be used by applicants for registration or renewal of registration as floor brokers or associated persons. The new Form 8–R also serves as a supplement to Form 7–R to obtain biographical and other information about specified persons affiliated with futures commission merchants, commodity trading advisors or commodity pool operators and who are not required to register as associated persons.

Effective Date

Registration Forms 7–R and 8–R and their schedules shall be effective on May 10, 1977. Present registrants are not required to file on the new forms until their current registrations expire. The amendments to regulations §§ 1.8, 1.9, 1.10(a), 1.10a, 1.10b, 1.10c, and 1.10d shall be effective on May 10, 1977. The amendments to § 1.14 "Deficiencies, inaccuracies and changes to be reported", will become effective on May 10, 1977 only for those registrants filing on the new forms. Registrants who filed on an old form and whose registration remains in effect shall continue to report changes in accordance with the existing provisions of § 1.14 until the registrant files an application for renewal of registration on the appropriate new form.

Availability Of Forms

The new registration forms and schedules will be available after May 10, 1977. The Commission will accept applications for initial registration (not renewal) filed on the old forms until June 20, 1977. Registrants will receive their applications for renewal of registration by mail from the Commission's Office of Qualifications and Registration several weeks before the expiration of their current registrations. Interested persons may obtain application forms from the Commission's main office in Washington, D.C. or from any regional office.

Washington, D.C. Office, 2033 K Street, NW., Washington, D.C. 20581.
Eastern Regional Office, One World Trade Center, Suite 4747, New York, New York 10048.
Central Regional Office, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.
Minneapolis Office, Central Region, 510 Grain Exchange Building, Minneapolis, Minnesota 55415.
Western Regional Office, 4901 Main Street, Room 208, Kansas City, Missouri 64112.
San Francisco Office, Western Region, Two Embarcadero Center, Suite 975, San Francisco, California 94111.

Comments on and Revisions in Proposed Forms

The Commission received 14 comments from various categories of registrants in response to its proposal. After carefully considering all of the comments, the Commission has determined that the revised forms and related rule amendments should be adopted, but that certain changes from the proposals are necessary and appropriate, in light of the comments received, to improve the forms and the registration process. The changes generally reduce the amount of information required to be submitted by applicants or are clarifying in nature. The comments and the changes made in the forms and related rules are discussed below and are followed by a summary of the content of the forms and amended rules, as adopted.

1. *Adverse Actions.* As stated in the February 2, 1977 Federal Register notice, an important reason for the registration requirement under the Act is to assure that persons in the commodities industry are fit to engage in the business for which application for registration is made. Sections 4n and 8a of the Act authorize the Commission to deny registration to any applicant if the applicant or certain persons affiliated with the applicant have engaged in conduct that resulted in an adverse action [2] against the applicant or person. The questions dealing with prior or pending adverse actions on Form 7–R and Form 8–R are designed to provide adequate information to enable the Commission to form a basis for granting or denying registration in accordance with the standards contained in sections 4n and 8a of the Act.

Many of the comments on the Commission's proposed forms were addressed to the adverse action questions (i.e., items 8A through 8F on Form 7–R and items 11A through 12D on Form 8–R). Applicants were instructed in a special note to these items to furnish complete details of certain adverse actions, including the dates and nature of judgments, decisions, verdicts or other findings made, and to attach copies of relevant documents or explain why they are unobtainable. Many commenters interpreted this to mean that copies of all documents filed in proceedings covered by the adverse action questions had to be submitted with the application form and, thus, they objected to the volume of legal papers which they thought they would be required to furnish. In proposing the requirement for the submission of relevant documents of adverse actions, the Commission intended to require applicants to submit only those documents which reflect the final disposition of such actions. Accordingly, the Commission has sought to clarify this instruction by providing that the applicant shall only attach copies of documents which contain judgments, decisions, verdicts or other findings made or sanctions or sentences imposed. The instructions to the adverse action questions have been further clarified by stating it is unnecessary for a registrant to attach copies of any documents if the registrant has reported the details of the adverse action on a previous application. The instructions have also been changed to make it unnecessary to submit documents that relate to actions of the Commission or the Commodity Exchange Authority or to reparations proceedings before the Commission.

[1] 42 FR 6508.

[2] As used in this notice, the term "adverse action" means those grounds for denial of registration set forth in Sections 4n and 8a of the Act, and any other actions which the Commission determines constitute "other good cause shown" under Section 8(a)2 of the Act. Examples of adverse actions include any criminal liability, any civil liability for actions involving fraud, abuse of fiduciary responsibility or misuse of funds or property of others, and actions taken by state or federal regulatory authorities. See the Commission's interpretative release "Standards for Denial of Registration", which includes a discussion of "other good cause shown," 40 FR 28125 (July 3, 1975).

Related comments were received concerning whether documents for pending actions were required to be submitted. Persons who submitted comments on this topic felt that the requirement for relevant documents in pending cases was overly burdensome since a registrant, especially a large futures commission merchant, may at any given time be a party to a number of unresolved customer complaints which may or may not have merit. The Commission agrees that it is unnecessarily burdensome to require applicants to submit documents for pending cases which may ultimately be resolved in their favor. The amendment to the instructions, discussed above, which specifically limits documents to be attached to the application to those reflecting a final disposition of the action, makes it clear that documents are not required for pending actions.

One commenter felt that it was unfair even to require applicants to report pending actions. The Commission believes this information is necessary because the activity underlying the pending action may be grounds for denial or, at least, grounds for the suspension or revocation of a person's registration if the action is not resolved in the person's favor. Thus, although applicants will not be required to attach documents for pending actions, they will be required to report such actions and to furnish details of the nature of the action.

Several persons criticized the broad scope of the adverse action questions. For example, one person objected to the Commission's asking about adverse actions based upon activities relating to banking, insurance, real estate, finance, accounting or legal representation because they are not directly related to the commodity futures industry. The Commission believes, however, that actions by the applicant involving a breach of fiduciary responsibility, misuse of the funds or property of others, or fraud are highly relevant in determining the applicant's suitability for registration.

Another objection to the adverse action questions was the absence of time limits for certain reportable actions. Most of the questions are limited to actions which occurred within the past ten years, but certain questions pertaining to debarment by an agency of the United States from contracting with the United States, felony convictions, and bankruptcies or business failures had no time limits. The Commission is primarily concerned with more recent bankruptcies and business failures and has thus limited that question to events which occurred in the past ten years. Questions 12A and 12B regarding felony convictions and debarment from contracting with the United States have been retained as proposed, in conformity with Section 8a(2) of the Act which places no time limitation on such actions in providing that they may constitute grounds for denial of registration. It should be noted that with respect to Form 8–R which is filed by individuals, details of the replies to questions 12A–12D will not be placed in the public file.

With regard to the reporting of bankruptcies and business failures, the Commission is mindful of a recent bill introduced in Congress to amend the Bankruptcy Act. If enacted, H.R. 6 would prohibit discrimination by a government agency in granting a license based solely on an applicant's previous bankruptcy or association with a bankrupt debtor.[3] As a matter of policy, the Commission will not seek to deny an applicant's registration based solely on the fact that such applicant or a firm or other organization with which the applicant has been associated has failed in business, made a compromise with creditors, filed or been declared bankrupt under any bankruptcy acts, or been in federal or state receivership. The Commission nevertheless requires that such actions be reported because they may point to the existence of other factors which would constitute grounds for denial of registration, e.g., fraud on creditors.

Item 8A of Form 7–R and item 11A of Form 8–R have been reworded to include injunctions, suspensions, bars from membership in exchanges and associations and similar actions which may have occurred more than ten years ago but which are currently in effect. This is consistent with Section 4n of the Act and with the Commission's release discussing "other good cause shown," but was inadvertently omitted from the questions as originally proposed.

One commenter wrote that it would be extremely burdensome for large futures commission merchants to comply with the reporting requirements of item 8 of Form 7–R because the adverse action questions on the new forms are broader than those on the present forms. Thus, a registrant completing the form for the first time for a renewal of registration may have to report information which was not previously required. The writer suggested that an FCM already registered with the Commission should not have to submit this information.

The Commission believes the comment has merit. Item 8C of Form 7–R, a new question, asks an applicant whether it has been involved in any civil proceedings in the last ten years involving charges of misrepresentation, deceit, theft, conversion, abuse of fiduciary relationship or misuse of the funds or property of others which resulted in a judgment against the applicant. The Commission realizes that it may be burdensome for a nation-wide futures commission merchant to prepare details and obtain final documents for all such actions which may have occurred within the past ten years. Moreover, the adverse action questions on the present forms cover the most serious actions and this information is already on file with the Commission. If a futures commission merchant has been registered for a period of time, the most relevant facts concerning its continued fitness are recent judgments and pending actions.

Accordingly, to relieve the reporting burden for long-time registrants, the Commission has added an instruction to item 8C of Form 7–R permitting futures commission merchants who have been continuously registered since April 21, 1975 or before, and who are applying for reregistration as a futures commission merchant, or who are applying for registration or reregistration as a commodity pool operator or commodity trading advisor, to report only those judgments against them, in the specified civil proceedings, which were entered on or after April 21, 1975.[4] The details of almost all other reportable adverse actions should have been furnished to the Commission on previous applications.

It should also be noted that item 8C, as proposed, included civil and administrative proceedings. The form, as adopted, excludes administrative proceedings from this item because relevant proceedings, in most instances, would be covered under item 8A.

Another question concerned the note to item 12A of Form 8–R which instructs the individual to report convictions even though the record may have been expunged or there was a post-conviction dismissal. State laws are not uniform with respect to the treatment of expungements and the note to item 12A thus places all applicants for registration on an equal basis. More importantly, however, the fact that a conviction has been expunged does not change the fact that the individual was found to have participated in activities which may constitute grounds for denial of registration. The Commission believes that this information is necessary for a proper evaluation of an applicant's fitness for registration in the commodities industry, even though state authority may have seen fit to expunge a conviction for purposes related to the administration of state law. In this respect, it should be understood that an affirmative answer to an adverse ac-

[3] H.R. 6, 95th Cong., 1st Sess. (1977).

[4] April 21, 1975 was selected as the cut-off date because futures commission merchants who qualify for the exception will have been registered for at least two years, a period of time sufficient to establish a record in the industry. April 21, 1975 was also thhe effective date of the amendments to the Act which created the Commission.

V 42 91 MAY 11 77 UMI

tion question does not automatically result in a denial of registration to an applicant. In determining whether to grant or deny registration, the Commission considers all relevant factors respecting the adverse action and the applicant.

The Commission wishes to emphasize that it considers the willful falsification or misrepresentation or willful omission of any material fact required to be stated on or included with the application to be a very serious matter which will be weighed heavily by the Commission in its determination concerning whether to grant or deny registration. Much of the Commission's regulatory oversight is based upon recordkeeping and reports which are either required to be maintained by the registrant, filed by the registrant with the Commission or distributed to customers. A person's suitability is dependent in part on the likelihood of his dealing truthfully with the Commission and with the public, and the Commission believes that willful falsifications, misrepresentations or omissions in connection with an application for registration may be indicative of an applicant's general character and honesty.

2. *Net Worth of Commodity Trading Advisors and Commodity Pool Operators.* Proposed schedules to Form 7–R asked commodity pool operators and commodity trading advisors to report their net worth as of the latest month-end. Several commenters urged that this not be required since the schedules, as well as the forms, will be public documents under the amended rules. They argued that because the net worth of a company is sensitive information, a commodity trading advisor or pool operator may not wish to reveal this information for competitive reasons. They also argued that the release of information by the Commission concerning the net worth of those commodity trading advisors and pool operators who are sole proprietors may be an unwarranted invasion of personal privacy. The Commission's reason for including the net worth items on the proposed forms was to obtain information which would provide some measure of the registrant's financial condition and ability to continue in business. The Commission has given further consideration to the issue and has determined that a single figure is not in itself very meaningful. Accordingly, the Commission has decided to delete the question requesting net worth from Schedule B and Schedule C.

3. *Assets of Commodity Pools.* Schedule C of Form 7–R requests the commodity pool operator to furnish the amount of total assets and net assets, as of the last month-end, of each pool which it operates. Knowing the size of the pools is an important factor used by the Commission to allocate its auditing resources. In addition, a substantial decline in the assets of the pool may be cause for investigation. The Commission received several comments on these items arguing that such information could be of substantial value to competitors and/or that private or family pools would not wish to have these figures made public.

The Commission reminds those persons who are concerned about the disclosure of a pool's total and net assets that paragraph 3 of the Special Notice, on page 1 of proposed Form 7–R, allows the applicant to petition the Commission to treat such information as non-public in response to requests under the Freedom of Information Act (5 U.S.C. § 552) if the applicant believes the placing of any information in the public files "would reveal sensitive business information." In addition, in light of the comments, the words "or would constitute a clearly unwarranted invasion of personal privacy" have been added. This addition will afford a commodity pool operator the opportunity to petition the Commission for non-public treatment of information to protect the privacy of pool participants.

4. *Education and Training (Form 8–R).* Some comments were critical of the request for information on the educational and training background of individuals on Form 8–R[5]. The commenters may have assumed erroneously that a lack of educational training will be used as a basis for denial of registration. It is the Commission's policy, at this time, not to deny registration based solely on an applicant's education and training[6]. Denial of registration is based upon an applicant's lack of fitness (or failure to meet minimum financial requirements in the case of futures commission merchants) in accordance with the criteria contained in Sections 4n and 8a of the Act and the Commission's release discussing "other good cause shown." However, when the Commission has adverse information concerning an applicant which may be grounds for denial of registration, a careful evaluation is made of all facts known about the applicant and about the adverse action. The education and training information considered together with other information furnished by the applicant or obtained from other sources affords an overall view which has in some cases been sufficiently mitigating to permit a finding that an applicant is suitable for registration notwithstanding a previous adverse action against him.

One change was made in the education items on Form 8–R. The Commission has decided that no useful purpose is served by requesting data on high school attendance, as in the proposed Form 8–R. Item 8 on Form 8–R, as adopted, thus encompasses only college and graduate school. This, together with the applicant's employment history for the past ten years in item 6, should reflect an applicant's activities during his adult life.

5. *Interim Changes Required to be Reported.* A commodity pool operator objected to the continuous updating of information which is required to be submitted on Form 3–R since all information on Form 7–R must be reviewed and corrected annually when registration is renewed. The items on Form 7–R which are required to be kept current by reporting changes on Form 3–R are limited to those which the Commission believes are essential. They include, for example, name of the applicant, addresses of main and branch offices, place where general business records and commodity records are kept, names of principals of a firm, and adverse actions. The proposed forms had also required trading advisors to report interim changes to item 4(c) "basis of compensation" on Schedule B of Form 7–R, and had required pool operators to update items on dividend policy, basis of compensation, and advisory services and trading plans used, all on Schedule C of Form 7–R. The Commission has decided that current data on these items is not essential and these items, therefore, have been excluded from the list of items for which updating is required. It will be sufficient to have such information updated when the application for renewal of registration is submitted.

The wording of the instructions to Form 7–R concerning interim changes has also been revised to make it clear that any interim changes which are required to be reported by a registrant must also be reported by an applicant for registration if such a change has occurred after the filing of its application but before the effective date of its registration.

6. *Miscellaneous Comments.* There were several additional comments, which did not result in changes in the proposed forms. These are discussed below.

One commenter felt that the Commission should adopt the SEC's "Uniform Application for Securities and Commodities Industry Representative" (Form U–4) in lieu of Form 8–R. As explained in the previous FEDERAL REGISTER notice, the Commission gave serious consideration to the possibility of using SEC Form U–4 as a registration document. Although SEC Form U–4 is similar to the Commission's Form 8–R it was found not acceptable because it is not designed as a public document. The Commission would be precluded by the Privacy Act from placing the Form U–4 in its public files without first manually deleting substantial personal information from the form. In addition, much of the information collected on the Form U–4 is not relevant for registration purposes. For example Form U–4 asks for the registrant's marital status, for his securities and commodity accounts with brokers, dealers or banks in the past ten years including account numbers, and for his other business interests. Finally, the information obtained on the Form U–4 concerning adverse actions is not as comprehensive as that required by Form 8–R in conformance with Sections 4n and 8a of the Act and the Commission's release discussing "other good cause shown."

Schedules B and C of Form 7–R ask whether the applicant or any principal of the applicant engaged in any commodity futures or commodity option transactions for its or his own account during the past year. A farmers' cooperative suggested that the words "other than a hedging transaction made in connection with its or his own farming operations" be added. Many of the directors of the cooperative are farmers who engage in hedging transactions. The Commission rejected this suggestion, in part, because the question requires only a "yes" or "no" answer and does not ask for any details of the trading. To include the suggested exemption or one designed to cover all hedgers would complicate the question without serving any purpose since an affirmative reply does not necessarily imply any wrongdoing.

Finally, a general comment was that the structure of the adverse action questions is such that only an attorney rather than the applicant could prepare the forms. Although, the Commission understands the commenter's concern, it does not believe the questions can be made any simpler without either: (1) Sacrificing critical information which is essential to the evaluation of the applicant's fitness; or (2) collecting information the disclosure of which in a public document may constitute an unwarranted invasion of personal privacy. While the Commission recognizes that the adverse action questions are not simple, it believes that the instructions are clear and that an applicant or individual required to furnish biographical information on Form 8–R who reads the questions and follows the instructions will be able to complete the form without difficulty.

SUMMARY OF REVISED REGISTRATION FORMS

1. *Form 7–R.* The new Form 7–R, as adopted, replaces Forms 1–R, 5–R, and 6–R formerly used by applicants for registration as futures commission merchants, commodity trading advisors and commodity pool operators. Basically, Form 7–R contains those items which are common to the three forms which it replaces. Other necessary information is obtained on supplemental Schedule A which must be completed by persons applying for registration as futures commission merchants, on supplemental Schedule B to be completed by commodity trading advisors, and on supplemental Schedule C to be completed by commodity pool operators.

Where a firm is simultaneously registering or reregistering in more than one category, it may file a single Form 7–R, including the applicable schedule for each category of registration, and check the appropriate boxes at the top of page 2 of the form. Separate registration fees for each category are still required, however. If a firm is applying for registration or renewal of registration in more than one capacity and these applications are not made at the same time, or are not to be filed at the same regional office of the Commission,[7] the applicant may avoid filling out two or more complete forms by cross-referencing the information from one form to the other. Whenever it is necessary for a multiple registrant to report any interim changes since its last filing, the registrant may send one notice to the Commission which will serve to update all of the registrant's application forms.[8]

The major change in Form 7–R from the old forms is in the content of the questions concerning prior adverse actions against the applicant (i.e., items 8A through 8F) and the fact that the questions apply only to the applicant firm itself. On Forms 1–R, 5–R and 6–R, these questions were also applicable to the principals of the applicant; however, because such persons were not required to sign the firm's application form, they never directly attested to the accuracy of the replies. Under the new system, each of these individuals is required to file a separate Form 8–R which contains similar questions with regard to the individual and which is to be certified by the individual.

Because Form 7–R, including details of any adverse actions against the applicant, will be placed in a public file, and in recognition of the fact that the Privacy Act[9] applies to individuals, sole proprietors should not answer items 8A through 8F. This information will be obtained from their Form 8–R filings. The privacy treatment afforded these filings is discussed below.

The combined Form 7–R changes somewhat the coverage of persons who are considered principals of the applicant and whose names are to be shown in item 5 of the application. Form 7–R requires the applicant to list the name and title of the proprietor, each general partner, each officer and director, any person performing similar functions, and any other controlling person of the applicant. The instructions to the form clarify that, for the purposes of the form, "other controlling person" includes, but is not limited to: holders of more than 10% of the outstanding shares of any class of voting stock of the applicant, if the applicant is a corporation; any persons who have contributed more than 10% of the capital of the applicant; and any persons possessing the power to direct or cause the direction of the management or policies of the applicant, including any such persons who have made loans to the applicant.

On the old Forms 1–R, 5–R and 6–R, all limited partners of a partnership applicant were required to be listed whereas on Form 7–R only those limited partners who fall within the definition of "other controlling person" are to be included. Also, the "other controlling person" definition may encompass more stockholders than under the previous requirement to identify "owners of 10% or more of the capital stock of the applicant."

The "other controlling person" definition, as indicated above, specifically includes certain creditors of the applicant and contributors of more than 10% of the capital. These persons were not expressly included in the former applications for commodity trading advisors and commodity pool operators which required that persons performing functions similar to those of a sole proprietor, partners, officers or directors be listed.

Each individual enumerated in item 5 of Form 7–R and each branch office manager, as listed in item 6, will continue to be required to file biographical and other information. This must be furnished on Form 8–R and should be attached to the Form 7–R by the applicant. Excepted from this requirement are individuals who are currently registered as floor brokers or associated persons or whose application for such registration is pending.[10]

If a person registered as a futures commission merchant, commodity trading advisor or commodity pool operator is applying for renewal of its registration and the biographical information for any individual named in items 5 or 6 has previously been furnished, either on Form 8–R or the old Form 94 which it replaces, no new filing by such individual is required. This continues the present practice. However, the Commission intends to recheck registrants and their principals from time to time and will require all principals of firms who are required to submit biographical information to file a new Form 8–R at that time. This is stated in the instructions to Form 7–R and in amended regulations §§ 1.10(a), 1.10c and 1.10d.

2. *Schedules A, B and C of Form 7–R.* These supplemental schedules, which are part of the form, request information which is unique to each type of registrant. Generally, the questions on Schedules A, B and C parallel those which appeared on Forms 1–R, 5–R and 6–R, respectively. The following additional information is called for, however.

[5] The old registration forms for commodity trading advisors, commodity pool operators and associated persons had included education and training questions. By incorporating these items on Form 8–R, floor brokers and principals of futures commission merchants are now also required to furnish this information.

[6] The Commission is authorized by Section 4p of the Act to specify standards for registrants with respect to training, experience and qualifications and may specify such standards in the future or may adopt regulations authorizing contract markets or a registered futures association to administer proficiency examinations.

[7] Persons registering as futures commission merchants file their applications at the nearest regional office of the Commission while persons registering as commodity trading advisors and commodity pool operators file at the Commission's Eastern Regional Office in New York City.

[8] Interim changes are presently reported and will continue to be reported on Form 3–R. Items on the registration forms which must be kept current are specified in the instructions to Forms 7–R and 8–R and in regulation § 1.14.

[9] 5 U.S.C. 552a (Supp. IV, 1974).

[10] It should be noted that many of the individuals listed in items 5 and 6 by an applicant for registration as a futures commission merchant are required by the Act and the Commission's regulations concerning options (41 FR 51808, November 24, 1976) to register as associated persons and to pay a $20 registration fee. Such individuals are those associated with the applicant in the solicitation or acceptance of customers' orders for commodity futures contracts or commodity options (other than in a clerical capacity), or the supervision of any person or persons so engaged.

V 42 91 MAY 11 77 UMI

Schedule A for applicants as futures commission merchants asks, in item 5, whether the applicant engages in, or intends to engage in, commodity option transactions pursuant to Part 32 of the regulations under the Act. Schedule B for commodity trading advisors asks, in item 2, for the approximate number of clients and/or subscribers which the advisor has. Schedule C for commodity pool operators asks, in item 3, for total assets and net assets at the last month-end of each pool which the applicant manages. This replaces a question on Form 6–R asking for initial capitalization of each pool. The revised question is more meaningful particularly for reregistrations where the pools are already in operation since this will indicate the current size of the pool. Schedules B and C contain a new question-asking whether the applicant or any person affiliated with the applicant (as listed in tiem 5 of Form 7–R) engaged in any commodity futures or commodity option transactions for its or his own account during the past year.

It should also be noted that item 4(a) on Form 7–R concerning the form of organization of the applicant applies to the pool operator rather than to the pool. Thus, a single individual who is the general partner of a limited partnership pool should check the sole-proprietorship (individual) box as the appropriate form of organization. The relationship of the registrant, i.e., general partner, to the commodity pool which he operates is to be shown in item 2 of Schedule C of the form.

3. *Form 8–R and Schedule A.* Form 8–R replaces Form 2–R, "Registration of Floor Brokers," Form 4–R, "Registration of Associated Persons," and Form 94, the biographical information form filed by certain persons affiliated with futures commission merchants, commodity trading advisors and pool operators, and by floor brokers. Form 4–Ra which is presently filed by an applicant for registration as an associated person who confines his activities to areas outside the United States, its territories or possessions is not being replaced or revised.

Floor brokers and associated persons are not required to file the new forms until their present registrations expire. Other individuals who have previously filed Form 94 in connection with a registration of a futures commission merchant, commodity trading advisor or pool operator and the registration is currently in effect need not file a Form 8–R at this time nor upon renewal of such registration unless specifically requested to do so by the Commission.

Like Forms 4–R and 94, Form 8–R relates primarily to the background of the individual. Floor brokers are required to submit a brief Schedule A of Form 8–R, in addition to Form 8–R, in order for the Commission to obtain information about their business operations comparable to that which is now required on Form 2–R. This is similar to the former procedure which required a floor broker to make initial application for registration on Form 2–R and also file his biographical data on Form 94.

Form 8–R is primarily a revision of Form 4–R. The major change from Form 4–R is in the questions relating to adverse actions taken against the individual. These questions have now been divided into two sections: those actions during the previous ten years and which are of a nature clearly relevant in determining an applicant's fitness to engage in the commodities business (items 11A, 11B and 11C); and broader questions, generally not limited to the past ten years, the responses to which may provide additional significant information concerning the applicant's suitability for registration (items 12A, 12B, 12C and 12D). "Yes" or "No" responses should be indicated on the form while details should be shown on a supplemental sheet. An affirmative reply and the details of an adverse action reported in item 11 will be available in the public files. An affirmative reply to any of the questions in item 12 will be available in the public files, but the details of the answer will not be automatically placed in the public file and will be made available to the public only pursuant to a Freedom of Information Act request and only after a determination that the information can properly be released under the Freedom of Information and Privacy Acts.[11]

In recognition of the Privacy Act, individuals are given the option of reporting their home address, home telephone numbers and place of birth on a supplemental attachment which will not be in their public file. As with the previous forms, furnishing of social security numbers is not mandatory. If the social security number is given, it may also be furnished on a supplemental sheet.

In accordance with Section 4n(1) of the Act, old Forms 5–R and 6–R required that information on the education of principals be included in the application for registration of commodity trading advisors and commodity pool operators. Similar information was obtained for associated persons on Form 4–R. This information is presently requested in a slightly different format on Form 8–R. The use of a single Form 8–R for all individuals will now require floor broker applicants and principles of applicants for registration as futures commission merchants to furnish this information.

A floor broker or a registered associated person applying for renewal of registration on Form 8–R may shorten his answers to questions about prior employment, residences, education and training by referring to his previous application. Since the questions on education and training on Form 8–R are somewhat different from such questions on the old Form 4–R, associated persons are requested to complete items 8, 9 and 10 the first time they file on the new form; thereafter, they may use the abbreviated renewal procedure. Also, floor brokers who are making application for renewal of registration on Form 8–R for the first time must furnish replies to the education and training questions since this information was not called for on the former floor broker application forms (i.e., Form 2–R and Form 94).

[11] See 41 FR 16288 (April 16, 1976).

Summary of Amended Rules

Sections 1.7 through 1.15 deal with registration of persons under the Act. The Commission is amending certain of these rules primarily to bring them into conformity with Forms 7–R and 8–R, as adopted. A summary of the rule amendments follows.

§ 1.8—Registration required of floor brokers. This regulation is deleted. The rule repeats verbatim the requirement for registration set forth in Section 4e of the Act and is therefore unnecessary.

§ 1.9—Registration as one type of person not included in registration as any other type of person. Formerly the rule stated that registration as one type of person does not include registration as any other type of person. An exception to this rule has been added to make it unnecessary for futures commission merchants who are sole proprietors and for floor brokers to register also as associated persons. Section 4k(1) of the Act states that any individual who is registered as a floor broker or futures commission merchant (and such registration is not suspended or revoked) need not also register as an associated person. The amendment makes § 1.9 of the regulations consistent with section 4k of the Act.

§ 1.10—Applications for registration and financial reports of futures commission merchants. Paragraph (a) of the regulation is amended to refer only to applications for registration as futures commission merchant; applications for registration of floor brokers are referred to in a separate rule designated as § 1.10a. Paragraph (a) of § 1.10 is further amended to change "Form 1–R" to "Form 7–R" and to add the requirement that Form 8–R, the biographical information form, be filed by certain specified affiliated persons of the applicant at the time of the initial application for registration as a futures commission merchant and at such other times as the Commission may require. It also requires that any individual who becomes affiliated with a futures commission merchant after the initial registration must promptly file a Form 8–R with the Commission. This is in accordance with the Commission's present policy although it previously was not specifically stated in the rules.

§ 1.10a—Applications for registration of floor brokers. This is a new regulation containing provisions which were formerly part of § 1.10(a). Paragraph (a) of § 1.10a refers to Form 8–R, the application form required to be filed for registration as a floor broker in place of Form 2–R. Paragraph (b) of § 1.10a is a new provision which permits a floor broker who is renewing his registration to use the same shortened procedure which is presently used by associated persons when renewing their registrations. The instructions to Form 8–R explain this renewal procedure in greater detail.

§ 1.10b—Applications for registration of associated persons. Paragraphs (a) and (b) of this rule are amended to change the reference to the appropriate form from "Form 4–R" to "Form 8–R." Paragraph (b), which deals with renewal procedures, is further amended to delete the references to specific item numbers in that paragraph. The references are no longer necessary since complete instructions for the simplified procedure to be used when renewing registration are printed in the instructions to Form 8–R.

§ 1.10c—Applications for registration of commodity trading advisors. This regulation is amended to delete references to Form 5–R and Form 94 and to substitute references to Form 7–R and Form 8–R. This revised subsection is identical to § 1.10(a), as amended.

§ 1.10d—Applications for registration of commodity pool operators. Changes similar to those in § 1.10c have also been made in § 1.10d. In addition, the requirement that an applicant furnish a statement of the capital structure under which it engages in business as a commodity pool operator has been deleted.

§ 1.14—Deficiences, inaccuracies, and changes to be reported. § 1.14 requires that registrants and applicants keep certain items on their application forms accurate and current between registration dates. They are required to file a Form 3–R to report any deficiencies or inaccuracies in the application and to update certain items if changes have occurred. Paragraph (a) which pertains to Form 7–R has been amended to change the item numbers to correspond with the new form; and a corresponding paragraph (b) has been added to cover amendments to Form 8–R.[12] Section 1.14, as adopted, differs slightly from the proposed § 1.14. Rather than having a separate paragraph which required applicants to update their applications between the time of filing and the effective date of registration (proposed § 1.14(c)), paragraphs (a) and (b) of § 1.14 have been amended to apply to applicants as well as registrants.

The items to be kept current are generally the same as previously required. The major change in § 1.14 is that all individuals who have filed a Form 8–R (including principals, other controlling persons and branch office managers of registered futures commission merchants, commodity trading advisors and commodity pool operators) are now required to update their Form 8–R filings. In the past, the updating requirement applied only to registrants. Individuals who submitted biographical information on the old Form 94 will not be required to update that information. Eventually, however, such persons will be required to file a Form 8–R which must be kept current.

[12] It should be noted that the interim changes to be reported by associated persons on Form 8–R do not include changes in employment. This information is obtained from the employer pursuant to paragraph (d) of § 1.14 which was formerly designated paragraph (b).

Form 3–R which is used for reporting changes is not being revised at this time. The previous § 1.14, printed on the reverse side of Form 3–R, will remain in effect for registrants who filed on the old application forms until they have filed for the first time on the new Form 7–R or Form 8–R. Once they have completed their first filing on the new forms, the amended § 1.14 will apply to any changes in or amendments to the information furnished.

The Commission hereby adopts Form 7–R and Form 8–R and amends 17 CFR Part 1 as follows:

§ 1.8 [Deleted]

1. § 1.8 *Registration required of floor brokers,* is deleted in its entirety.

2. § 1.9 is amended to read as follows:

§ 1.9 Registration as one type of person not included in registration as any other type of person.

Registration as one type of person (e.g., futures commission merchant) subject to regulation under the Act shall not include registration as any other type of person subject to regulation under the Act (e.g., commodity pool operator), except that an individual who is registered as a futures commission merchant or as a floor broker (and such registration is not suspended or revoked) need not also register as an associated person.

3. Paragraph (a) of § 1.10 is amended to read as follows:

§ 1.10 Applications for registration and financial reports of futures commission merchants.

(a) Application for registration as a futures commission merchant shall be filed on Form 7–R in accordance with the instructions contained therein. The initial application for registration shall be accompanied by a Form 8–R executed and filed by each sole proprietor and by each natural person who is a general partner, officer, director or branch office manager of the applicant, or performs similar functions, or is any other controlling person of the applicant; except that an accompanying Form 8–R need not be filed by any individual who is registered as a floor broker or an associated person or has applied for registration as a floor broker or an associated person and such application has not been withdrawn or denied. Any natural person (other than a floor broker or associated person) who subsequently becomes a general partner, officer, director or branch office manager of the registrant, or performs similar functions, or becomes any other controlling person of the registrant, shall promptly execute and file a Form 8–R. Each Form 8–R shall be filed in accordance with the instructions contained therein. Individuals who were previously required to submit biographical information on Form 94 or who have filed a Form 8–R as required by this section shall file a current Form 8–R, upon request by the Commission.

* * * * *

4. A new § 1.10a is added to read as follows:

§ 1.10a Applications for registration of floor brokers.

(a) Application for registration as a floor broker shall be filed on Form 8–R in accordance with the instructions contained therein.

(b) Each registrant applying for renewal of registration as a floor broker on Form 8–R may insert the words "No Change" or "Information Since Last Application," as the case may be, in response to items on Form 8–R or Schedule A, in accordance with the instructions contained therein. If a registrant applies for renewal on Form 8–R and completes any of the items as provided in this paragraph, all information previously furnished to the Commission by the registrant in a referenced application or supplement thereto, in response to those or similar items, shall be deemed incorporated by reference on the Form 8–R on which such application for renewal is made.

5. § 1.10b is amended to read as follows:

§ 1.10b Applications for registration of associated persons.

(a) Application for registration as an associated person shall be filed on Form 8–R in accordance with the instructions contained therein; provided, however, that an associated person who confines his activities to areas outside the United States, its territories or possessions may file application for registration on Form 4–Ra in accordance with the instructions contained therein.

(b) Each registrant applying for renewal of registration as an associated person on Form 8–R may insert the words "No Change" or "Information Since Last Application," as the case may be, in response to items on Form 8–R, in accordance with the instructions contained therein. If a registrant applies for renewal on Form 8–R and completes any of the items as provided in this paragraph, all information previously furnished to the Commission by the registrant in a referenced application or supplement thereto, in response to those or similar items, shall be deemed incorporated by reference on the Form 8–R on which such application for renewal is made.

6. § 1.10c is amended to read as follows:

§ 1.10c Applications for registration of commodity trading advisors.

Application for registration as a commodity trading advisor shall be filed on Form 7–R in accordance with the instructions contained therein. The initial application for registration shall be accompanied by a Form 8–R executed and filed by each sole proprietor and by each natural person who is a general partner, officer, director or branch office manager of the applicant, or performs similar functions, or is any other controlling person of the applicant; except that an accompanying Form 8–R need not be

V 42 91 MAY 11 77 UMI

filed by any individual who is registered as a floor broker or an associated person or has applied for registration as a floor broker or an associated person and such application has not been withdrawn or denied. Any natural person (other than a floor broker or associated person) who subsequently becomes a general partner, officer, director or branch office manager of the registrant, or performs similar functions, or becomes any other controlling person of the registrant, shall promptly execute and file a Form 8–R. Each Form 8–R shall be filed in accordance with the instructions contained therein. Individuals who were previously required to submit biographical information on Form 94 or who have filed a Form 8–R as required by this section shall file a current Form 8–R, upon request by the Commission.

7. § 1.10d is amended to read as follows:

§ 1.10d Applications for registration of commodity pool operators.

Application for registration as a commodity pool operator shall be filed on Form 7–R in accordance with the instructions contained therein. The initial application for registration shall be accompanied by a Form 8–R executed and filed by each sole proprietor and by each natural person who is a general partner, officer, director or branch office manager of the applicant, or performs similar functions, or is any other controlling person of the applicant; except that an accompanying Form 8–R need not be filed by any individual who is registered as a floor broker or an associated person or has applied for registration as a floor broker or an associated person and such application has not been withdrawn or denied. Any natural person (other than a floor broker or associated person) who subsequently becomes a general partner, officer, director or branch office manager of the registrant, or performs similar functions, or becomes any other controlling person of the registrant, shall promptly execute and file a Form 8–R. Each Form 8–R shall be filed in accordance with the instructions contained therein. Individuals who were previously required to submit biographical information on Form 94 or who have filed a Form 8–R as required by this section shall file a current Form 8–R, upon request by the Commission.

8. § 1.14 is amended by amending paragraph (a), adding a new paragraph (b) and redesignating the present paragraph (b) as paragraph (d) to read as follows:

§ 1.14 Deficiencies, inaccuracies, and changes to be reported.

(a) Each applicant or registrant as a futures commission merchant, commodity trading advisor or commodity pool operator shall file promptly with the Commission a statement on Form 3–R to correct any deficiency or inaccuracy in its application for registration, or any schedule or supplemental statement thereto, and to report any change which no longer renders accurate and current the information contained in any of the items on Form 7–R of such application or supplemental statement; or contained in any of the following items on Schedules A, B or C of Form 7–R:

(1) *With respect to a futures commission merchant.* The following items on Schedule A, "Application for Registration as Futures Commission Merchant:"

Item 3—Correspondents and agents (excluding employees and associated persons) operating within the United States, authorized to solicit or accept orders in the name of the registrant;

Item 4—Commodity exchanges in the United States in which the registrant has membership privileges; and

Item 5—Participation in commodity option transactions by the registrant.

New domestic branch offices and new correspondents and agents who are operating within the United States and are authorized to solicit or accept orders on behalf of the futures commission merchant shall be reported promptly and fees shall be remitted as provided in § 1.11.

(2) *With respect to a commodity trading advisor.* The following items on Schedule B, "Application for Registration as Commodity Trading Advisor:"

Item 4(a)—Manner of furnishing advisory services; and

Item 6—Ownership in, control or management authority over, or reciprocal business arrangements with, futures commission merchants or commodity trading advisors by the registrant or any persons named in Item 5 of Form 7–R.

(b) Each applicant or registrant as a floor broker or associated person and all individuals who have filed Form 8–R pursuant to § 1.10(a), § 1.10c or § 1.10d shall file promptly with the Commission a statement on Form 3–R to correct any deficiency or inaccuracy in the Form 8–R, or Schedule A thereof, or any supplemental statement thereto, and to report any change which no longer renders accurate and current the information contained in any of the following items on Form 8–R, or Schedule A thereof, or any supplemental statement thereto:

Item 1—Name of floor broker, associated person or other individual;

Item 2—Any other names by which individual has been known;

Item 4—Home address and telephone number (applicable only to associated persons);

Item 5—Business address (applicable only to floor brokers);

Items 11 and 12—Adverse actions as specified in the form;

Schedule A, Item 3—Name of each clearing member through whom the registrant clears commodity futures transactions for his own account and for accounts which he controls or in which he has a financial interest; and

Schedule A, Item 4—Name of each clearing member for whom the registrant is currently engaged as floor broker.

(c) All statements on Form 3–R shall be prepared and filed in accordance with the instructions contained therein.

(d) Each futures commission merchant shall promptly file with the Commission a report stating the name of each associated person newly employed in such capacity by it or its agents, and shall promptly file with the Commission a report of the termination of employment, and the reasons therefor, of any person who acted as an associated person for the futures commission merchant or its agents.

(7 U.S.C. 6f, 6k, 6n, and 12a (Supp. V, 1975).)

Issued in Washington, D.C., on May 4, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

COMMODITY FUTURES TRADING COMMISSION	APPLICATION FOR REGISTRATION AS FUTURES COMMISSION MERCHANT, COMMODITY TRADING ADVISOR AND COMMODITY POOL OPERATOR	CFTC FORM 7-R

SPECIAL NOTICE

1. The information on this Form 7-R is being collected pursuant to authority granted in Sections 4f(1) and 4n(1) of the Commodity Exchange Act [7 U.S.C. § 6f(1) and § 6n(1)]. Under Section 4d(1) of the Commodity Exchange Act [7 U.S.C. § 6d(1)], it is unlawful for anyone to act as a futures commission merchant without being registered in that capacity with the Commission. Under Section 4m of the Commodity Exchange Act [7 U.S.C. § 6m], it is unlawful for a commodity trading advisor or commodity pool operator to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as a commodity trading advisor or commodity pool operator without being registered in that capacity with the Commission, except that a commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than 15 persons and does not hold himself out generally to the public as a commodity trading advisor need not register. The furnishing of all information on this form is mandatory prior to processing of the application for registration.

A "futures commission merchant" is defined as any individual, association, partnership, corporation or trust engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; and includes any person required to register as a futures commission merchant by the Commission's regulations relating to commodity options.

A "commodity trading advisor" is defined as any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, or (v) any contract market: Provided, that the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession.

A "commodity pool operator" is defined as any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market.

2. The information being requested is designed to assist the Commission in determining whether the application for registration or renewal thereof should be granted or denied. Information included herein will be used as a basis for initiating an inquiry into the applicant's fitness to engage in the business for which registration is sought.

3. THIS APPLICATION IS CONSIDERED BY THE COMMISSION AS A PUBLIC RECORD AND WILL BE AVAILABLE FOR INSPECTION BY ANY INTERESTED PERSON. Copies will be maintained in the public reference facilities of the Commission's office in which application for registration was submitted. If the applicant believes that the placing of the information on this form, including Schedules A, B, or C, in the Commission's public files would reveal sensitive business information, or would constitute a clearly unwarranted invasion of personal privacy, the applicant may petition the Commission to treat such information as non-public in response to requests under the Freedom of Information Act [5 U.S.C. § 552].

4. Forms which have not been prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this form shall not constitute any finding that it has been filed as required or that the information is true, current or complete. Misstatements or omissions of fact may constitute federal criminal violations. [See 18 U.S.C. § 1001]

V42 91 MAY 11 77 UMI

COMMODITY FUTURES TRADING COMMISSION	APPLICATION FOR REGISTRATION AS FUTURES COMMISSION MERCHANT, COMMODITY TRADING ADVISOR AND COMMODITY POOL OPERATOR	CFTC FORM 7-R

PLEASE READ SPECIAL NOTICE AND INSTRUCTIONS ON REVERSE SIDE PRIOR TO COMPLETING THIS FORM

Application is hereby made for registration as:
(Check where applicable)

- ☐ Futures Commission Merchant, for the year ending Dec. 31, 19__
- ☐ Commodity Trading Advisor, for the year ending June 30, 19__
- ☐ Commodity Pool Operator, for the year ending June 30, 19__

Enclosed is remittance payable to the Commodity Futures Trading Commission in the amount of $ _____ to cover the prescribed fee.

ENTER BELOW	1. Name of applicant (If individual, Last First, Middle Initial)	2. Address of principal office (Include No., Street, City, State and Zip Code)	AREA CODE AND TELEPHONE NUMBER

3. Place where your general business records and those commodity records provided for by regulation under the Commodity Exchange Act will be kept.

_____ (No. Street and Room No.) _____ (City, State and Zip Code)

SAMPLE

4. (a) Form of organization of applicant (check one)

☐ Sole Proprietorship (Individual) ☐ Partnership ☐ Corporation
☐ Other (specify)

(b) State in which incorporated, organized or established

5. Name and title of the proprietor (if applicant is a sole proprietorship), of each general partner (if applicant is a partnership), of each officer and director (if applicant is a corporation), of any person performing similar functions and of any other controlling person of the applicant.

NAME	TITLE	MORE THAN 10% STOCKHOLDER		ASSOCIATED PERSON OR FLOOR BROKER	
		YES	NO	YES	NO

ORIGINAL COPY

6. Branch offices located in the United States. If NONE, check here ☐

ASSOCIATED PERSON OR FLOOR BROKER		NAME OF BRANCH OFFICE MANAGER	ADDRESS OF BRANCH OFFICE (No., Street, City, State and Zip Code)
YES	NO		

7. Name, title, business address and business telephone number of partner, officer or other individual to whom all registration data and inquiries are to be directed.

SAMPLE

8. Provide on attached sheets complete details, including dates, of any matter to which a "Yes" response in items 8A through 8F relates. Also attach documents containing the judgments, decisions, verdicts or other findings made and sanctions or sentences imposed. If documents are not attached, an explanation stating why documents are not obtainable must be furnished. (No details or documents need be furnished if the details have been reported in writing to this Commission or the Commodity Exchange Authority on a previous application or supplemental statement; or if the details are already on file as a result of an action by the Commission or Commodity Exchange Authority or a reparations proceeding. Merely write the words "previous filing" and give the name of the action or proceeding next to your "Yes" response and show the year of the filing, action or proceeding.) The questions below relate only to the FIRM applying for registration; they need not be answered on this form by a sole proprietor. (See Instructions.)

8A. Is the applicant firm currently, or has it been in the past 10 years, subject to a suspension, expulsion, bar, fine, censure, denial of membership or registration, cease and desist order, temporary or permanent injunction, denial of trading privileges or other sanction or discipline through an adverse determination, voluntary settlement or otherwise by:

(i) the Securities and Exchange Commission, the Secretary of Agriculture (including the Commodity Exchange Authority), the Commodity Futures Trading Commission, or the securities commissioners or equivalent authority of any State, territory, District of Columbia or foreign country?
Yes ☐ No ☐

(ii) any commodity or securities exchange, related clearing organization, association registered with the Commission under Title III of the Act or the National Association of Securities Dealers, Inc.?
Yes ☐ No ☐

(iii) any federal or state court or regulatory authority (not mentioned above), quasi-governmental body or professional association, based upon activities relating to commodities, securities, banking, insurance, real estate, finance, accounting or legal representation?
Yes ☐ No ☐

8B. Has the applicant firm EVER been convicted or been found guilty of or pleaded guilty or nolo contendere to any felony or, within the past 10 years, any misdemeanor?
Yes ☐ No ☐

8C. Has a complaint, counterclaim or cross complaint been filed against the applicant firm in the past 10 years in any civil proceeding or Commodity Futures Trading Commission reparation proceeding charging misrepresentation, fraud, deceit, theft, conversion, abuse of a fiduciary relationship or other action involving the misuse of the funds or property of others which resulted in a judgment against the firm with respect to such charge?
Yes ☐ No ☐

8D. Has the applicant firm EVER been debarred by any agency of the United States from contracting with the United States?
Yes ☐ No ☐

8E. Has the applicant firm or any predecessor of the applicant firm during the past 10 years failed in business, made a compromise with creditors, filed or been declared bankrupt under any bankruptcy acts, or been in federal or state receivership?
Yes ☐ No ☐

8F. Is the applicant firm a party to any action or is there any criminal charge pending against the applicant firm, by indictment or otherwise, the resolution of which could result in a "Yes" answer to items 8A through 8E?
Yes ☐ No ☐

WILLFUL FALSIFICATION OR MISREPRESENTATION OR WILLFUL OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED IN THIS APPLICATION OR RELATED SCHEDULES OR FINANCIAL STATEMENTS, IF ANY, SHALL CONSTITUTE CAUSE FOR THE DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION AND/OR PROSECUTION UNDER CRIMINAL STATUTES.

CERTIFICATION

The undersigned has read and understands the foregoing statement and represents that all information contained or incorporated in this form, including the Schedules attached hereto, is true and complete. The undersigned further understands that the applicant may not act as a futures commission merchant, commodity trading advisor or commodity pool operator for the period covered by this application until the registration has become effective.

_____ Name of Applicant

By _____ Signature

_____ Date

_____ Title (Corporate Officer, Partner or Sole Proprietor)

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V 42 91 MAY 11 77 UMI

INSTRUCTIONS TO FORM 7-R

WHO MUST FILE. All futures commission merchants, commodity trading advisors and commodity pool operators must file this form in order to be registered with the Commission. Registration as one type of person (e.g., futures commission merchant) subject to regulation under the Commodity Exchange Act does not include registration as any other type of person subject to regulation under the Act (e.g., commodity pool operator). However, the same Form 7-R may be used for simultaneous application for registration, or renewal of registration, as more than one type of registrant unless the applications must be sent to different offices. (See "WHERE TO FILE," below.) Where an applicant is required to file a separate application for registration in more than one capacity and the information asked for in an item on a form has already been provided by the applicant in response to the same or similar items contained in any other application for registration or supplement thereto, such item may be answered by reference to the other application or supplement thereto.

HOW TO COMPLETE THE FORM. This application should be typewritten or printed in black ink, a duplicate should be retained for your files. All questions should be answered completely and accurately to eliminate delay and assist in prompt handling of the application. If additional space is needed, use an attachment and refer to the corresponding item number on the form. Supplementary details of a violation or offense provided in response to a "yes" answer in Item 8 should be submitted on an attachment to the application. All names should be shown in full. All addresses should include number, street, city, state and zip code.

If this is an application for renewal of your registration as a futures commission merchant, commodity trading advisor or commodity pool operator, answers to certain items have been preprinted on the Form 7-R furnished by the Commission for your reregistration. Examine carefully any preprinted answers for accuracy and completeness. Where preprinted answers are inaccurate or incomplete, make changes or additions on the application form; if space is not sufficient, use an attachment to the form.

This form must be dated and signed by a general partner, officer, or sole proprietor (i.e., an individual) and reflect the title of the person signing on behalf of the applicant.

Item 2: If applicant's mailing address is different from address of principal office, enter mailing address followed by address of principal office.

Item 3: If general business records and commodity records are not at the same location, give address for each.

Item 4: An applicant for registration as a pool operator should show the form of organization of the operator and not the relationship to the pools which it operates. For example, an individual pool operator should check "sole proprietorship," even though he may be a general partner of the pool.

Item 5: For the purposes of this form, "other controlling person" includes, but is not limited to, holders of more than 10 percent of the outstanding shares of any class of voting stock of the applicant, if the applicant is a corporation; any other persons who have contributed more than 10 percent of the capital of the applicant; and any persons possessing the power to direct or cause the direction of the management or policies of the applicant, including any such persons who have made loans to the applicant. If the person listed is the holder of more than 10 percent of any class of voting stock of the applicant or has contributed more than 10 percent of the capital of the applicant, check "yes" under "More than 10% Stockholder."

Items 5 and 6: If the person listed is currently registered or has applied for registration as an associated person or floor broker, and the application has not been denied, check "yes" under "Associated Person or Floor Broker."

Item 6: Futures commission merchants may exclude any branch offices in which orders for commodity futures or commodity options are NOT solicited or accepted.

Item 8: These questions relate only to the applicant for registration. Similar questions for sole proprietors and other individuals who are listed in Items 5 and 6 should be answered on Form 8-R. (See instructions below.)

Item 8C: Futures commission merchants applying for renewal of registration, who were registered before April 21, 1975, need only report judgments entered on or after April 21, 1975.

Schedule C, Item 2: If the relationship is not the same for all pools which applicant operates, show on an attachment the relationship to each of the pools listed in reply to Item 3, below.

SUPPLEMENTAL INFORMATION RE CERTAIN INDIVIDUALS (FORM 8-R): Any natural person named in Items 5 or 6 of Form 7-R, who is not registered or currently applying for registration as an associated person or floor broker, must complete the information on Form 8-R. These forms are to be attached to this application (Form 7-R) by the futures commission merchant, commodity trading advisor or commodity pool operator. Any individual who has submitted a Form 8-R (or the former Form 94) in connection with an existing registration or application of a futures commission merchant, commodity trading advisor or commodity pool operator need not file another Form 8-R except upon specific request by the Commission.

REGISTRATION FEE. Each application for registration, or renewal of registration, must be accompanied by a fee as follows:

FUTURES COMMISSION MERCHANT -- $200 for the principal office plus $6 for each domestic branch office (listed in Item 6 of Form 7-R) and for each correspondent and agent operating within the United States (listed in Item 3 of Schedule A).
COMMODITY TRADING ADVISOR ------ $50
COMMODITY POOL OPERATOR ------ $50

If this form is being used as an application for more than one type of registration, a separate fee must be computed for each type. The registration fee should be submitted by check made payable to the Commodity Futures Trading Commission.

WHERE TO FILE: Futures commission merchants should send their applications for registration or reregistration to the nearest regional office of the Commodity Futures Trading Commission. Commodity trading advisors and commodity pool operators should send their applications to the Eastern Regional Office of the Commodity Futures Trading Commission at One World Trade Center, 47th Floor, New York, New York 10048. Send the original copy of the completed Form 7-R, together with the registration fee. Retain the completed duplicate copy for your files. Also enclose related Form 8-R's, if any. If a futures commission merchant is simultaneously registering as a commodity trading advisor or commodity pool operator and the firm is not located in the Eastern Region of the Commission, a completed Form 7-R, either the original or a signed duplicate, should be sent to each of the appropriate offices of the Commission.

NOTICE OF REGISTRATION: The Commodity Futures Trading Commission will send you a notice when your registration has become effective. It is illegal to act as a futures commission merchant, commodity trading advisor or commodity pool operator until your registration is effective.

Registration of futures commission merchants expire on December 31 of each year; registrations of commodity trading advisors and commodity pool operators on June 30 of each year.

INTERIM CHANGES ON FORM 7-R: You must report promptly, on Form 3-R, any acts or events occurring subsequent to the filing of this form which affect your answers to: ANY of the items on Form 7-R; Items 3, 4 or 5 of Schedule A; Items 4(a) or 6 of Schedule B; or Items 3 (except total or net assets) or 8 of Schedule C. Whenever there is an amendment involving the addition of the name of a natural person in Items 5 or 6 of Form 7-R, such person (other than an individual registered or applying for registration as an associated person or floor broker) must complete a Form 8-R which should be attached to the amendment. Also futures commission merchants must remit appropriate fees for new domestic branch offices and new correspondents and agents operating within the United States who are authorized to solicit or accept orders on behalf of the registrant.

Page 4 of 4

COMMODITY FUTURES TRADING COMMISSION	SUPPLEMENT TO APPLICATION FOR REGISTRATION AS FUTURES COMMISSION MERCHANT	CFTC 7-R SCHEDULE A

1. NAME OF APPLICANT (If individual, LAST, FIRST, MIDDLE)

2. PARTNER, OFFICER OR OTHER INDIVIDUAL TO WHOM CUSTOMER COMPLAINTS ARE TO BE DIRECTED

NAME AND TITLE	BUSINESS ADDRESS	BUSINESS TELEPHONE

3. CORRESPONDENTS AND AGENTS

List correspondents or agents (*excluding employees and associated persons*), operating within the United States, authorized to solicit or accept orders in the name of the applicant. If NONE, check here ☐

NAME OF CORRESPONDENT / AGENT	PRINCIPAL ADDRESS OF OPERATION (No., street, city, state and zip code)

SAMPLE

4. COMMODITY EXCHANGES

List commodity exchanges in the United States in which the applicant has membership or membership privileges. (Designate by asterisk each exchange in which applicant is a clearing member.) If NONE, check here ☐.

COMMODITY EXCHANGE	COMMODITY EXCHANGE

5. Does the applicant engage in, or intend to engage in, commodity option transactions for customers pursuant to Part 32 of the Regulations under the Commodity Exchange Act?

Yes ☐ No ☐

6. Is this an initial application for registration or an application for renewal of registration as a Futures Commission Merchant? (*Check one*)
☐ Initial ☐ Renewal
If this is an initial application for registration as a Futures Commission Merchant, it must be accompanied by a financial report prepared on Form 1-FR and a statement describing the source of applicant's current assets and a representation that the applicant's capital has been contributed for the purpose of operating the business of a Futures Commission Merchant and will continue to be used for that purpose.

V 42 91 MAY 11 77 UMI

COMMODITY FUTURES TRADING COMMISSION	SUPPLEMENT TO APPLICATION FOR REGISTRATION AS COMMODITY TRADING ADVISOR	CFTC 7-R SCHEDULE B

1. NAME OF APPLICANT *(If individual,* LAST, FIRST, MIDDLE)

2. APPROXIMATE NUMBER OF CLIENTS AND/OR SUBSCRIBERS AT LAST MONTH-END

3. LIST TITLES OF PUBLICATIONS, REPORTS OR OTHER ADVISORY SERVICES, INCLUDING TRADING PLANS AND INSTRUCTION COURSES, WHICH APPLICANT CURRENTLY OFFERS TO THE PUBLIC OR WHICH OTHERWISE CONSTITUTE PART OF APPLICANT'S BUSINESS AS A COMMODITY TRADING ADVISOR.

4. ADVISORY SERVICES

MANNER OF FURNISHING ADVISORY SERVICES (a)	CHECK APPLICABLE BLOCKS	FREQUENCY OF FURNISHING ADVISORY SERVICES (b)	CHECK APPLICABLE BLOCKS
Face-to-face		Daily	
Mail		Weekly	
Telephone		Monthly	
Telegraph		OTHER *(Specify)*	
OTHER *(Specify)*			

(c) What is the basis upon which the applicant is or will be compensated for its advisory services?

5. Does applicant or any person listed in Item 5 of Form 7-R or any employee of the applicant hold any type of authority or control over the funds or accounts of clients who trade in commodity futures or commodity options on applicant's advice?
Yes ☐ No ☐ If yes, complete items below.

NAME OF HOLDER OF AUTHORITY	BUSINESS ADDRESS *(No., street, city, state and zip code)*	NATURE & SCOPE OF AUTHORITY

6. Does applicant or any person listed in Item 5 of Form 7-R have any degree of ownership in, any control or management authority over, or any reciprocal business arrangement *(involving any of the applicant's commodity trading services)* with any Futures Commission Merchant or agent thereof, commodity pool, Commodity Pool Operator, Floor Broker, Associated Person or other Commodity Trading Advisor? Yes ☐ No ☐ If yes, list below the name and business address of each such organization or individual and state the type of authority *(e.g., ownership, managerial control,* etc.*)* or nature of agreements.

NAME AND BUSINESS ADDRESS OF ORGANIZATION OR INDIVIDUAL	TYPE OF AUTHORITY OR AGREEMENT

7. In the past year has applicant or any person listed in Item 5 of Form 7-R engaged in any commodity futures or commodity option transactions for its or his own account? Yes ☐ No ☐

COMMODITY FUTURES TRADING COMMISSION	SUPPLEMENT TO APPLICATION FOR REGISTRATION AS COMMODITY POOL OPERATOR	CFTC 7-R SCHEDULE C

1. NAME OF APPLICANT *(If individual,* LAST, FIRST, MIDDLE)

2. RELATIONSHIP OF APPLICANT TO THE COMMODITY POOLS WHICH IT OPERATES *(Check one)*
☐ GENERAL PARTNER ☐ OTHER *(Specify)*

3. DETAILS OF EACH POOL OPERATED BY APPLICANT

NAME OF POOL	FORM OF ORGANIZATION *(Limited partnership, corp., trust, etc.)*	TOTAL ASSETS AT LAST MONTH-END	NET ASSETS AT LAST MONTH-END
		$	$

4. DIVIDEND POLICY IN RESPECT TO CLIENTELE AND MEMBERS OF EACH POOL

NAME OF POOL	DIVIDEND POLICY

5. BASIS ON WHICH APPLICANT IS/WILL BE COMPENSATED FOR OPERATING EACH POOL

NAME OF POOL	BASIS OF COMPENSATION

6. NATURE & SCOPE OF AUTHORITY WITH RESPECT TO CLIENTS' FUNDS & COMMODITY POOL ACCOUNTS

NAME OF POOL	TYPE & SCOPE OF AUTHORITY	PERSONS EXERCISING AUTHORITY

7. ADVISORY SERVICES AND TRADING PLANS USED

NAME	LOCATION *(No., street, city, state and zip code)*

8. Does applicant or any person listed in Item 5 of Form 7-R have any degree of ownership in, any control or management authority over, or any reciprocal business arrangement *(involving any of the commodity pools which the applicant operates)* with any Futures Commission Merchant or Commodity Trading Advisor? Yes ☐ No ☐ If yes, list below the name and business address of each such organization or individual and state the type of authority *(e.g., ownership, managerial control, etc.)* or nature of agreements.

NAME AND BUSINESS ADDRESS OF ORGANIZATION OR INDIVIDUAL	TYPE OF AUTHORITY OR AGREEMENT

9. In the past year has applicant or any person listed in Item 5 of Form 7-R engaged in any commodity futures or commodity option transactions for its or his own account? Yes ☐ No ☐

SAMPLE
SAMPLE
V 42 91 MAY 11 77 UMI

COMMODITY FUTURES TRADING COMMISSION	APPLICATION FOR REGISTRATION AS FLOOR BROKER OR ASSOCIATED PERSON AND SUPPLEMENT TO APPLICATION ON FORM 7-R	CFTC FORM 8-R

PLEASE READ SPECIAL NOTICE AND INSTRUCTIONS ON REVERSE SIDE PRIOR TO COMPLETING THIS FORM

This form is being filed as (Check where applicable)

[ ] Application for registration as Floor Broker for the year ending December 31, 19__
[ ] Fee of $20 enclosed

[ ] Application for registration as Associated Person
[ ] Fee of $20 enclosed

[ ] Supplement to application for registration as
[ ] Futures Commission Merchant
[ ] Commodity Trading Advisor
[ ] Commodity Pool Operator

FOR OFFICE USE ONLY

1 Name of Floor Broker, Associated Person or Other Individual (last, first, middle)

2 Have you ever been known by any other names (including a maiden name)?
If yes, give name(s) [ ] YES [ ] NO

3 (a) Date of Birth | (b) Place of Birth (City and State)* | (c) Social Security No. (Voluntary submission to aid in processing)*

4 (a) Present Home Address (No. and Street, City, State and Zip Code)* | (b) Home Telephone No.*

5 FLOOR BROKER APPLICANTS: Business Address (Show Number, Street, City, State and Zip Code).
ALL OTHER INDIVIDUALS: Name and Address of PRINCIPAL Office of Futures Commission Merchant (or Agent), Commodity Trading Advisor or Commodity Pool Operator with whom you are Associated (Show Number, Street, City, State and Zip Code)

SAMPLE

6 Present and Prior Employment (for past 10 years starting with CURRENT YEAR) (All time must be accounted for including self employment, part-time employment, unemployment, military service and time as a student. Attach additional sheet if necessary.)

DATE (MO./YR.) FROM	DATE (MO./YR.) TO	NAME OF EMPLOYER AND ADDRESS OF OFFICE WHERE EMPLOYED	KIND OF BUSINESS	POSITION HELD	REASON FOR LEAVING

7. Prior Residences (Cover past 10 years. Attach additional sheet if necessary.)

DATE (MO./YR.) FROM	DATE (MO./YR.) TO	ADDRESS (Street, City and State)

* Responses to these items may be furnished on a supplementary sheet marked "Supplement to Item No. ____." See Paragraph 3 of the SPECIAL NOTICE. Since the furnishing of supplements to Items 3 or 4 will unavoidably have the effect of increasing the overall time required to process the form and raising the Commission's costs, the Commission asks individuals to furnish their responses to these items on this Form 8-R if they have no objection to having the information in the public files of the Commission.

ORIGINAL COPY

Page 2 of 4

COMMODITY FUTURES TRADING COMMISSION	APPLICATION FOR REGISTRATION AS FLOOR BROKER OR ASSOCIATED PERSON AND SUPPLEMENT TO APPLICATION ON FORM 7-R	CFTC FORM 8-R

SPECIAL NOTICE

1. The information on this Form 8-R is being collected pursuant to authority granted in Sections 4f(1), 4k(2) and 4n(1) of the Commodity Exchange Act [7 U.S.C. § 6f(1), § 6k(2) and § 6n(1)]. Under Sections 4e and 4k(1) of the Commodity Exchange Act [7 U.S.C. § 6e and § 6k(1)], it is unlawful for anyone to act as a floor broker or an associated person without being registered in that capacity with the Commission. The furnishing of all information on this form is mandatory prior to processing of the application for registration as floor broker or associated person (or for any other registration which this document supports), except the social security number, disclosure of which is voluntary. Social security numbers, if furnished, will be used to assist the Commission in identifying individuals and, therefore, will assist us in promptly processing the forms.

   A "floor broker" is defined as any person who, in or surrounding any "pit," "ring," "post," or other place provided by a contract market for the meeting of persons similarly engaged, purchases or sells for any other person any commodity for future delivery on or subject to the rules of any contract market.

   An "associated person" is defined as any person associated with a futures commission merchant or with an agent of a futures commission merchant as a partner, officer or employee (or any person occupying a similar status or performing similar functions) in any capacity which involves the solicitation or acceptance of customers' orders (other than in a clerical capacity) or the supervision of any person or persons so engaged. However, an individual who registers as a futures commission merchant or as a floor broker (and such registration is not suspended or revoked) need not also register as an associated person.

2. The information being requested is designed to assist the Commission in determining whether an application for registration or renewal thereof should be granted or denied. Information included herein will be used as a basis for initiating an inquiry into the individual's fitness to engage in the business for which registration is sought.

3. THIS FORM, WITH THE EXCEPTION OF THE SUPPLEMENTARY ATTACHMENTS TO ITEMS 3, 4 AND 12 (IF ANY), IS CONSIDERED BY THE COMMISSION AS A PUBLIC RECORD AND WILL BE AVAILABLE FOR INSPECTION BY ANY INTERESTED PERSON. Copies will be maintained in the public reference facilities of the Commission's office in which application for registration was submitted. The Commission may disclose supplementary information in Items 3, 4 and 12 to third parties (1) in connection with matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act, [5 U.S.C. § 552]; and (5) in other circumstances in which withholding of such information appears unwarranted. If the individual believes that the placing of any other information on this form in the Commission's public files would constitute an unwarranted invasion of his personal privacy or would reveal sensitive business information, he may petition the Commission to treat such information as non-public in response to requests under the Freedom of Information Act.

4. Forms which have not been prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this form shall not constitute any finding that it has been filed as required or that the information submitted is true, current or complete. Misstatements or omissions of fact may constitute federal criminal violations. [See 18 U.S.C. § 1001]

Page 1 of 4

V42N91 MAY 11 77 UMI

B. Educational Institutions Attended

(a) Check Highest Year Completed: COLLEGE 1☐ 2☐ 3☐ 4☐ GRADUATE SCHOOL 1☐ 2☐ 3☐ 4☐

(b) NAME AND ADDRESS OF INSTITUTION (City and State)	DATE (MO./YR.) FROM	TO	MAJOR COURSES	DEGREE, IF ANY

9. List any undergraduate or graduate college courses or specialized training programs in commodity futures trading which you have completed (Show the number of college credits or hours of training for each.) _____

10. Have you ever taken any qualifying examination testing your fitness for employment in any phase of commodity futures trading? Yes☐ No☐

If you have passed such examination, give name and date of examination and by whom administered _____

Provide on attached sheets complete details, including dates, of any matter to which a "Yes" response in items 11A through 12D relates. Also attach documents containing the judgments, decisions, verdicts or other findings made and sanctions or sentences imposed. If documents are not attached, an explanation stating why documents are not obtainable must be furnished. (No details or documents need be furnished if the details have been reported in writing to this Commission or the Commodity Exchange Authority on a previous application or supplemental statement; or if the details are already on file as a result of an action by the Commission or Commodity Exchange Authority or a reparations proceeding. Merely write the words "previous filing" and give the name of the action or proceeding next to your "Yes" response and show the year of the filing action or proceeding.)

11A. Are you currently, or have you been in the past 10 years, subject to a suspension, expulsion, bar, fine, censure, denial of membership or registration, cease and desist order, temporary or permanent injunction, denial of trading privileges or other sanction or discipline through an adverse determination, voluntary settlement or otherwise by:

(i) the Securities and Exchange Commission, the Secretary of Agriculture (including the Commodity Exchange Authority), the Commodity Futures Trading Commission, or the securities commissioners or equivalent authority of any State, territory, the District of Columbia or foreign country? Yes☐ No☐

(ii) any commodity or securities exchange, related clearing organization, association registered with the Commission under Title III of the Act or the National Association of Securities Dealers, Inc.? Yes☐ No☐

(iii) any federal or state court or regulatory authority (not mentioned above), quasi-governmental body or professional association based upon activities relating to commodities, securities, banking, insurance, real estate, finance, accounting or legal representation? Yes☐ No☐

11B. Have you in the past 10 years been convicted, or been found guilty of, or pleaded guilty nr nolo contendere to a felony or misdemeanor charging misrepresentation, fraud, deceit, theft, embezzlement, gambling, conversion, abuse of a fiduciary relationship or otherwise involving the misuse of the funds or property of others? Yes☐ No☐

11C. Has a complaint, counterclaim or cross complaint been filed against you in the past 10 years in any civil proceeding or Commodity Futures Trading Commission reparation proceeding charging misrepresentation, fraud, deceit, theft, conversion, abuse of a fiduciary relationship or other action involving the misuse of funds or property of others which resulted in a judgment against you with respect to such charge? Yes☐ No☐

NOTE: Because attachments to items 12A through 12D will not be placed in the Commission's public files, they should be furnished on a supplementary sheet separate from other attachments (see paragraph 3 of the SPECIAL NOTICE).

12A. Have you EVER (not limited to the past 10 years) been convicted or been found guilty of, or pleaded guilty or nolo contendere to a felony or, within the past 10 years, a misdemeanor of ANY kind, not listed in reply to items 11A or 11B (other than traffic violations for which you were fined $300 or less)? Yes☐ No☐

NOTE: Include every such offense regardless of whether the record was expunged, set aside or sealed; there was a post-conviction dismissal; a State certificate of relief from disabilities or similar document was issued which relieves the holder of forfeitures, disabilities or bars that result from a conviction; or a pardon was granted. (Exclude offenses in which the charge was adjudicated in a juvenile court or under a youth offender law.)

12B. Have you EVER (not limited to the past 10 years) been debarred by any agency of the United States from contracting with the United States? Yes☐ No☐

12C. Has any firm, corporation or other organization with which you have been associated as a sole proprietor, partner, officer, director, holder of more than 10% of the outstanding shares of any class of voting stock, or other controlling person, within the past 10 years and during the time of your association, failed in business, made a compromise with creditors, filed or been declared bankrupt under any bankruptcy acts, or been in federal or state receivership? Yes☐ No☐

12D. Are you a party to any action, or do you have any charge pending against you, by indictment or otherwise, the resolution of which could result in a "yes" answer to items 11A through 12C? Yes☐ No☐

WILLFUL FALSIFICATION OR MISREPRESENTATION OR WILLFUL OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED IN THIS FORM SHALL CONSTITUTE CAUSE FOR THE DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION AND/OR PROSECUTION UNDER CRIMINAL STATUTES.

CERTIFICATION BY FLOOR BROKER, ASSOCIATED PERSON OR OTHER INDIVIDUAL

I hereby represent that I have read and understand the foregoing statement and that all information contained or incorporated in this form is true and complete. If applying for registration as floor broker or associated person, I further understand that I may not act in such capacity for the period covered by this application until my registration has become effective.

_____ Signature _____ Date

CFTC FORM 8-R ORIGINAL COPY Page 3 of 4

SAMPLE

INSTRUCTIONS TO FORM 8-R

WHO MUST FILE: This form is to be used as an application for registration as a floor broker or associated person. It is also used as a biographical information supplement to Form 7-R to furnish information to the Commodity Futures Trading Commission about certain other individuals who are associated with or affiliated with futures commission merchants, commodity trading advisors and commodity pool operators who are applying for registration with the Commission; but this Form 8-R is NOT an application for registration of such individuals.

This form is required to be completed by:

1. All floor brokers.

2. All individuals who are "associated persons" of futures commission merchants or of agents of a futures commission merchant. However, any individual who is registered or currently applying for registration as a floor broker or a sole proprietor futures commission merchant (and such registration is not suspended or revoked) need not also register as an associated person. An associated person who confines his activities to areas outside the United States, its territories or possessions, may file application for registration on Form 4-Ra.

3. The following individuals associated with futures commission merchants, commodity trading advisors or commodity pool operators, if they are not currently registered or applying for registration as a floor broker or "associated person"**

All sole proprietors, general partners, officers, directors and persons performing similar functions;

Holders of more than 10 percent of the outstanding shares of any class of voting stock of the applicant firm or any individual who has contributed more than 10 percent of the capital;

Any individual possessing the power to direct or cause the direction of the management or policies of the applicant firm including any such individuals who have made loans to the applicant firm; and

All managers of domestic branch offices which are listed in item 6 of Form 7-R by the applicant futures commission merchant, commodity trading advisor or commodity pool operator.

** Completion of this form is not required if the futures commission merchant, commodity trading advisor or commodity pool operator is reregistering and a Form 8-R (or the former Form 94) has been previously submitted. It should be noted that if any of the above persons are associated with a futures commission merchant in any capacity which involves the solicitation or acceptance of customers' orders for commodity futures contracts or commodity options (other than in a clerical capacity), or the supervision of any persons so engaged, such person must register as an associated person. In such case, check box 2 on page 2 of this form and enclose the registration fee of $20.

HOW TO COMPLETE THE FORM: This form should be typewritten or printed in black ink, a duplicate should be retained for your files. All questions should be answered completely and accurately to eliminate delay and assist in prompt handling. If additional space is needed, use an attachment and refer to the corresponding item number on the form. Be sure to date and sign the certification on page 3 of the form.

Schedule A. If this is an application for registration as a floor broker, complete and attach Schedule A.

Renewal of Registration as Floor Broker or Associated Person. If this is an application for renewal of your registration as a floor broker or associated person, answers to certain items have been preprinted on the Form 8-R furnished by the Commission for your reregistration. Examine carefully any preprinted answers for accuracy and completeness. Where preprinted answers are inaccurate or incomplete, make changes or additions on the application form; if space is not sufficient, use an attachment to the form.

In completing your application for renewal of your registration as a floor broker or associated person, you may shorten your answers to items 6, 7, 8, 9 and 10 on Form 8-R and to items 2, 3 and 4 on Schedule A of the form. For each such item, if there have been no changes in the information previously furnished to the Commission on your last application (or on a supplemental Form 3-R), you may insert the words "No Change." If there have been no such changes but additional information is required to be reported, you may insert the words "Information Since Last Application" and then provide all such additional information required to update your registration file. All other items must be answered completely. This shortened procedure may be used unless the Commission requests otherwise.

REGISTRATION FEE: Each application for registration, or renewal of registration, as a floor broker or an associated person must be accompanied by a fee of $20. Make checks payable to the Commodity Futures Trading Commission.

WHERE TO FILE: If you are applying for registration as an ASSOCIATED PERSON, send the original copy of the completed form to the Central Regional Office of the Commodity Futures Trading Commission at Sears Tower, 46th Floor, 233 S. Wacker Drive, Chicago, Illinois 60606. If you are applying for registration as a FLOOR BROKER, send the original copy of the completed Form 8-R to the nearest regional office of the Commodity Futures Trading Commission. If you are filing in connection with the registration of a FUTURES COMMISSION MERCHANT, COMMODITY TRADING ADVISOR or COMMODITY POOL OPERATOR, attach the original copy of the completed Form 8-R to the related Form 7-R. (Refer to instruction on "Where to File" on Form 7-R.) Retain the completed duplicate copy of Form 8-R for your files.

NOTICE OF REGISTRATION:

Floor Brokers. You will be notified by the Commodity Futures Trading Commission when your registration has become effective. Your registration will expire at the end of the calendar year.

Associated Persons. A license will be issued to you by the Commodity Futures Trading Commission as notice that your registration has become effective. Your registration period will be established by the Commission for a period of not less than one year and not more than two years from the effective date of your registration. The expiration date of your registration period will appear on your license.

Other Individuals. This is NOT an application for registration and you are not required to file this Form 8-R periodically. However, certain information must be kept up-to-date. See instructions below.

INTERIM CHANGES ON FORM 8-R: Report promptly, on Form 3-R, any actions or events occurring subsequent to the filing of this form which affect your answers to: item 1, item 2, items 4(a) or 4(b) (if an associated person), item 5 (if a floor broker), or items 11A, 11B, 11C, 12A, 12B, 12C or 12D of Form 8-R, or items 3 or 4 of Schedule A.

CFTC FORM 8-R Page 4 of 4

V42 91 MAY 11 77 UMI

COMMODITY FUTURES TRADING COMMISSION	SUPPLEMENT TO APPLICATION FOR REGISTRATION AS FLOOR BROKER	CFTC 8-R SCHEDULE A

1. (a) Name of applicant (last, first, middle) (b) Business Telephone No.

2. List U.S. commodity exchanges of which you are a member. (If membership is pending, so indicate.)

SAMPLE

3. Name of each clearing member through whom transactions in commodity futures are cleared for your own account or for any account which you control or in which you have a financial interest. (Exclude clearing members who are rarely used.)
If NONE, check here ☐

4. Name of each clearing member for whom you are currently engaged as floor broker. If NONE, check here ☐

[FR Doc.77-13351 Filed 5-10-77;8:45 am]

federal register

WEDNESDAY, MAY 11, 1977

PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

FEDERAL COMMUNICATIONS COMMISSION

■

MEXICAN TELEVISION AND FM BROADCASTING STATIONS

Mexican–U.S.A. Border

V 42 91 MAY 11 77 UMI

FEDERAL COMMUNICATIONS COMMISSION

LIST OF MEXICAN TELEVISION STATIONS AND ALLOCATIONS WITHIN 250 MILES OF THE MEXICO–U.S.A. BORDER

MAY 2, 1977.

The FCC has issued a list of Mexican television station assignments and channel allocations that is recapitulative and contains information supplied by the Department of Frequencies of Mexico. It reflects all the additions, changes and deletions notified to the Commission by the above date and supersedes previous lists issued by the Commission.

Further additions, changes and deletions, as coordinated between the Commission and the Mexican Department of Frequencies will be issued as reported to the Commission by the Mexican Department of Frequencies.

Copies of the list may be obtained from Downtown Copy Center, 1730 K Street, N.W., Washington, D.C. 20006, telephone (202) 452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

MEXICAN-U.S.A. TELEVISION AGREEMENT

LIST OF ASSIGNMENTS AND ALLOCATIONS FOR VHF AND UHF TELEVISION

(Listed by State)

MEXICO

OFFSET CARRIER DESIGNATORS

Z Zero offset frequency.
\+ Plus 10 kHz.
− Minus 10 kHz.
L— Limited allocation.

STATE ABBREVIATIONS

Baja California—BJ.
Chihuahua—CH.
Coahuila—CL.
Nuevo Leon—NL.
Sonora—SO.
San Luis Potosi—SL.
Tamaulipas—TA.

PARAMETER ABBREVIATIONS

Directional antenna—DA.
Horizontal Polarization—HOR.
Feet—FT.
Kilowatt—KW.
Limited—LTD.
License—LIC.
Commercial—CO.

Revised to April 12, 1977

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN APR 12, 1977 PAGE 1
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

		ENSENADA		BJ	31-52-00.0	17	Z											760512
		ZONE 2	**USA BORDER**		116-36-30.0														
	CO	ENSENADA		BJ	31-52-00.0	23	Z											760512
		ZONE 2	**USA BORDER**		116-36-30.0														
	CO	ENSENADA		BJ	31-52-00.0	29	+											751217
		ZONE 2	**USA BORDER**		116-36-30.0														
XHBC	CO	LIC	MEXICALI		BJ	32-34-53.0	03	Z	83.8(KW)	0526(FT)								720419
			ZONE 2	**USA BORDER**		115-31-07.0			HOR										
XHAQ	CO	LIC	MEXICALI		BJ	32-34-06.0	05	+	54.3(KW)	0304(FT)								720419
			ZONE 2	**USA BORDER**		115-31-53.0	DA		HOR										
	CO		MEXICALI		BJ	32-39-00.0	14	+										760512
			ZONE 2	**USA BORDER**		115-28-00.0													
	CO		MEXICALI		BJ	32-39-00.0	20	+										760512
			ZONE 2	**USA BORDER**		115-28-00.0													
	CO		MEXICALI		BJ	32-39-00.0	32	+										760512
			ZONE 2	**USA BORDER**		115-28-00.0													
	CO		MEXICALI		BJ	32-39-00.0	38	Z										760512
			ZONE 2	**USA BORDER**		115-28-00.0													
	CO		ROSARIO		BJ	30-02-30.0	08	-										760512
			ZONE 2	**USA BORDER**		115-46-58.0													
	CO		SAN FELIPE		BJ	31-01-36.0	30	+										760512
			ZONE 2	**USA BORDER**		114-49-46.0													
	CO		SAN QUINTIN		BJ	30-22-16.0	38	Z										760512
			ZONE 2	**USA BORDER**		115-59-10.0													
	CO		SAN TELMO		BJ	30-59-00.0	18	+										760512
			ZONE 2	**USA BORDER**		116-06-00.0													
	CO		SANTA CATARINA		BJ	29-42-20.0	12	+										760512
			ZONE 2	**USA BORDER**		115-06-20.0													
	CO		SANTO TOMAS		BJ	31-30-00.0	02	+										760512
			ZONE 2	**USA BORDER**		116-25-59.0													
	CO		SANTO TOMAS		BJ	31-30-00.0	59	Z										760512
			ZONE 2	**USA BORDER**		116-25-59.0													
	CO		SAUZAL		BJ	31-54-00.0	41	Z										760512
			ZONE 2	**USA BORDER**		116-46-01.0													
	CO		SAUZAL		BJ	31-54-00.0	61	Z										760512
			ZONE 2	**USA BORDER**		116-46-01.0													

Prepared By Data Automation Division

V42N91 MAY 11 77 UMI

	CO	SAUZAL	BJ	31-54-00.0	70 Z			760512
		ZONE 2 **USA BORDER**		116-46-01.0				
	CO	TECATE	BJ	32-34-30.0	67 Z			760512
		ZONE 2 **USA BORDER**		116-37-30.0				
	CO	TECATE	BJ	32-34-30.0	73 Z			760512
		ZONE 2 **USA BORDER**		116-37-30.0				
XETV	CO LIC	TIJUANA	BJ	32-30-33.0	06 Z	100(KW)	1163(FT)	720419
		ZONE 2 **USA BORDER**		117-01-46.0		HOR		
XEWT	CO LIC	TIJUANA	BJ	32-30-33.0	12 Z	31.6(KW)	0395(FT)	720419
		ZONE 2 **USA BORDER**		117-01-46.0		HOR		
	CO	TIJUANA	BJ	32-31-50.0	21 -			760512
		ZONE 2 **USA BORDER**		117-01-46.0				
	CO	TIJUANA	BJ	32-31-50.0	33 Z			760512
		ZONE 2 **USA BORDER**		117-01-46.0				
	CO	TIJUANA	BJ	32-31-50.0	45 Z			760512
		ZONE 2 **USA BORDER**		117-01-46.0				
	CO	TIJUANA	BJ	32-31-50.0	57 Z			760512
		ZONE 2 **USA BORDER**		117-01-46.0				
XHCH	CO LIC	CHIHUAHUA	CH	28-38-12.0	02 -	5.44(KW)	C165(FT)	720419
		ZONE 2 **USA BORDER**		106-04-42.0	DA	HOR		
XHIT	CO LIC	CHIHUAHUA	CH	28-38-12.0	04 +	42.8(KW)	0089(FT)	720419
		ZONE 2 **USA BORDER**		106-04-42.0	DA	HOR		
XHFI	CO LIC	CHIHUAHUA	CH	28-38-00.0	05 -	23.4(KW)	-254(FT)	751217
		ZONE 2 **USA BORDER**		106-04-30.0	DA	HOR		
XETT	CO LIC	CHIHUAHUA	CH	28-30-00.0	11 -	.202(KW)	C121(FT)	720419
		ZONE 2 **USA BORDER**		106-04-30.0	DA	HOR		
	CO	CHIHUAHUA	CH	28-38-10.0	14 -			760512
		ZONE 2 **USA BORDER**		106-04-30.0				
	CO	CHIHUAHUA	CH	28-38-10.0	20 Z			760512
		ZONE 2 **USA BORDER**		106-04-30.0				
	CO	CHIHUAHUA	CH	28-38-10.0	26 -			760512
		ZONE 2 **USA BORDER**		106-04-30.0				
	CO	CIUDAD CAMARGO	CH	27-41-49.0	10 +			761129
		ZONE 2 **USA BORDER**		105-10-09.0				
	CO	CIUDAD CAMARGO	CH	27-41-49.0	17 Z			760512
		ZONE 2 **USA BORDER**		105-10-09.0				

	CO	CIUDAD CAMARGO	CH	27-41-49.0	23 Z			751217
		ZONE 2 **USA BORDER**		105-10-09.0				
	CO	CIUDAD CUAUHTEMOC	CH	27-41-49.0	09 +			761129
		ZONE 2 **USA BORDER**		105-10-09.0				
	CO	CIUDAD CUAUHTEMOC	CH	28-24-40.0	16 +			761129
		ZONE 2 **USA BORDER**		106-51-40.0				
	CO	CIUDAD CUAUHTEMOC	CH	28-24-40.0	22 +			761129
		ZONE 2 **USA BORDER**		106-51-40.0				
	CO	CIUDAD DELICIAS	CH	28-11-10.0	13 -			761129
		ZONE 2 **USA BORDER**		105-28-00.0				
	CO	CIUDAD DELICIAS	CH	28-11-10.0	44 -			760512
		ZONE 2 **USA BORDER**		105-28-00.0				
	CO	CIUDAD DELICIAS	CH	28-11-10.0	50 -			760512
		ZONE 2 **USA BORDER**		105-28-10.0				
	CO	CIUDAD JIMENEZ	CH	27-07-52.0	08 Z			761129
		ZONE 2 **USA BORDER**		104-55-29.0				
	CO	CIUDAD JIMENEZ	CH	27-07-52.0	19 Z			760512
		ZONE 2 **USA BORDER**		104-55-29.0				
	CO	CIUDAD JIMENEZ	CH	27-07-52.0	25 Z			760512
		ZONE 2 **USA BORDER**		104-55-29.0				
XEPM	CO LIC	CIUDAD JUAREZ	CH	31-42-21.3	02 Z	9.45(KW)	0096(FT)	761129
		ZONE 2 **USA BORDER**		106-28-40.5		HOR		
XEJ	CO LIC	CIUDAD JUAREZ	CH	31-42-21.3	05 Z	9.95(KW)	0205(FT)	761129
		ZONE 2 **USA BORDER**		106-28-40.5		HOR		
XEDI00	CO LIC	CIUDAD JUAREZ	CH	31-44-24.0	11 +	5(KW)	100(FT)	761129
		ZONE 2 **USA BORDER**		106-28-41.0		HOR		
	CO	CIUDAD JUAREZ	CH	31-44-19.0	20 +			760512
		ZONE 2 **USA BORDER**		106-29-15.0				
	CO	CIUDAD JUAREZ	CH	31-44-19.0	32 -			760512
		ZONE 2 **USA BORDER**		106-29-15.0				
	CO	CIUDAD JUAREZ	CH	31-44-19.0	44 Z			760512
		ZONE 2 **USA BORDER**		106-29-15.0				
	CO	CIUDAD JUAREZ	CH	31-44-29.0	58 Z			760512
		ZONE 2 **USA BORDER**		106-29-15.0				
XHJMA	CO LIC	HIDALGO DEL PARRAL	CH	26-51-40.0	03 -	.8(KW)	0098(FT)	761129
		ZONE 2 **USA BORDER**		105-39-50.0		HOR		

CO	HIDALGO DEL PARRAL	CH	26-56-04.0	12 +		761129
	ZONE 2 **USA BORDER**		105-39-58.0			
CO	HIDALGO DEL PARRAL	CH	26-56-04.0	18 +		761129
	ZONE 2 **USA BORDER**		105-39-58.0			
CO	HIDALGO DEL PARRAL	CH	26-56-04.0	21 +		761129
	ZONE 2 **USA BORDER**		105-39-58.0			
CO	LAS MINAS	CH	30-17-31.0	17 +		760512
	ZONE 2 **USA BORDER**		106-30-00.0			
CO	LAS MINAS	CH	30-17-31.0	23 -		760512
	ZONE 2 **USA BORDER**		106-30-00.0			
CO	LAS PALOMAS	CH	31-43-00.0	27 +		760512
	ZONE 2 **USA BORDER**		107-36-20.0			
CO	MADERA	CH	29-11-30.0	13 +		760512
	ZONE 2 **USA BORDER**		108-06-27.0			
CO	MEOQUI	CH	28-16-00.0	56 Z		760512
	ZONE 2 **USA BORDER**		105-29-00.0			
CO	N CASAS GRANDES	CH	30-24-36.0	08 +		760512
	ZONE 2 **USA BORDER**		107-54-30.0			
CO	N CASAS GRANDES	CH	30-24-36.0	18 +		760512
	ZONE 2 **USA BORDER**		107-54-30.0			
CO	N CASAS GRANDES	CH	30-24-36.0	24 +		760512
	ZONE 2 **USA BORDER**		107-54-30.0			
CO	N CASAS GRANDES	CH	30-24-36.0	30 Z		760512
	ZONE 2 **USA BORDER**		107-54-30.0			
CO	OJINAGA	CH	29-33-53.0	06 Z		760512
	ZONE 2 **USA BORDER**		104-25-33.0			
CO	OJINAGA	CH	29-33-53.0	15 Z		760512
	ZONE 2 **USA BORDER**		104-25-33.0			
CO	SAN BUENAVENTURA	CH	29-50-47.0	10 -		761129
	ZONE 2 **USA BORDER**		107-29-10.0			
CO	SAN BUENAVENTURA	CH	29-50-47.0	21 -		761129
	ZONE 2 **USA BORDER**		107-29-10.0			
CO	CIUDAD ACUNA	CL	29-19-33.0	34 Z		760512
	ZONE 2 **USA BORDER**		100-55-51.0			
CO	CIUDAD ACUNA	CL	29-19-33.0	40 +		760512
	ZONE 2 **USA BORDER**		100-55-51.0			

	CO	CIUDAD ACUNA	CL	29-19-33.0	58 Z		760512
		ZONE 2 **USA BORDER**		100-55-51.0			
	CO	CUATRO CIENEGAS	CL	26-58-19.0	53 Z		760512
		ZONE 2 **USA BORDER**		102-04-09.0			
	CO	MONCLOVA	CL	26-54-14.0	09 +		760512
		ZONE 2 **USA BORDER**		101-25-08.0			
	CO	MONCLOVA	CL	26-54-14.0	29 Z		760512
		ZONE 2 **USA BORDER**		101-25-08.0			
	CO	MONCLOVA	CL	26-54-14.0	35 Z		760512
		ZONE 2 **USA BORDER**		101-25-08.0			
	CO	MUZQUIZ	CL	27-52-51.0	41 Z		760512
		ZONE 2 **USA BORDER**		101-30-56.0			
	CO	MUZQUIZ	CL	27-52-51.0	47 Z		760512
		ZONE 2 **USA BORDER**		101-30-56.0			
	CO	NUEVA ROSITA	CL	27-56-25.0	04 -		760512
		ZONE 2 **USA BORDER**		101-13-15.0			
	CO	NUEVA ROSITA	CL	27-56-25.0	17 -		760512
		ZONE 2 **USA BORDER**		101-13-15.0			
	CO	NUEVA ROSITA	CL	27-56-25.0	23 +		760512
		ZONE 2 **USA BORDER**		101-13-15.0			
	CO	PARRAS	CL	25-27-00.0	17 +		760512
		ZONE 2		102-10-00.0			
	CO	PARRAS	CL	25-27-00.0	23 -		760512
		ZONE 2		102-10-00.0			
XEPN	CO LIC	PIEDRAS NEGRAS	CL	28-42-27.0	03 Z	5.29(KW) 0320(FT)	720419
		ZONE 2 **USA BORDER**		100-30-57.0		HOR	
	CO	PIEDRAS NEGRAS	CL	28-42-25.0	08 -		760512
		ZONE 2 **USA BORDER**		100-31-02.0			
	CO	PIEDRAS NEGRAS	CL	28-42-25.0	28 Z		760512
		ZONE 2 **USA BORDER**		100-31-02.0			
	CO	PIEDRAS NEGRAS	CL	28-42-25.0	46 Z		760512
		ZONE 2 **USA BORDER**		100-31-02.0			
	CO	PIEDRAS NEGRAS	CL	28-42-25.0	70 Z		760512
		ZONE 2 **USA BORDER**		100-31-02.0			
	CO	SABINAS	CL	27-50-34.0	59 Z		760512
		ZONE 2 **USA BORDER**		101-07-23.0			

	CO	SABINAS	CL	27-50-34.0	65 Z				760512
		ZONE 2 **USA BORDER**		101-07-24.0					
XHAE	CO LIC	SALTILLO	CL	25-25-06.0	05 +	3.6(KW)	0230(FT)		720419
		ZONE 2 **USA BORDER**		100-58-50.0		HOR			
XHAD	CO LIC	SALTILLO	CL	25-24-58.0	07 -	10.6(KW)	-507(FT)		720419
		ZONE 2 **USA BORDER**		100-58-20.0	DA	HOR			
	CO	SALTILLO	CL	25-25-30.0	25 -				760512
		ZONE 2 **USA BORDER**		101-00-00.0					
	CO	SALTILLO	CL	25-25-30.0	44 -				760512
		ZONE 2 **USA BORDER**		101-00-00.0					
	CO	SALTILLO	CL	25-25-30.0	50 Z				760512
		ZONE 2 **USA BORDER**		101-00-00.0					
	CO	SAN VINCENTE	CL	29-10-29.0	02 Z				760512
		ZONE 2 **USA BORDER**		102-06-06.0					
XHIA00	CO LIC	TORREON	CL	25-32-00.0	02 +	13.5(KW)	0567(FT)		720419
		ZONE 2		103-26-20.0		HOR			
XELN00	CO LIC	TORREON	CL	25-32-00.0	04 Z	3.68(KW)	0128(FT)		720419
		ZONE 2		103-26-10.0		HOR			
XHO00	CO LIC	TORREON	CL	25-32-20.0	11 +	10.9(KW)	0303(FT)		720419
		ZONE 2		103-27-18.0		HOR			
	CO	TORREON	CL	25-33-00.0	13 +				751217
		ZONE 2		103-28-15.0					
	CO	VILLA ACUNA	CL	29-19-29.0	07 Z				751217
		ZONE 2 **USA BORDER**		100-55-58.0					
	CO	CIUDAD ANAHUAC	NL	27-18-00.0	71 Z				760512
		ZONE 2 **USA BORDER**		100-07-30.0					
	CO	CIUDAD ANAHUAC	NL	27-18-00.0	77 Z				760512
		ZONE 2 **USA BORDER**		100-07-30.0					
	CO	LINARES	NL	24-51-39.0	15 Z				760512
		ZONE 2 **USA BORDER**		99-34-05.0					
	CO	LINARES	NL	24-51-39.0	21 -				760512
		ZONE 2 **USA BORDER**		99-34-05.0					
	CO	MONTEMORELOS	NL	25-11-34.0	45 -				760512
		ZONE 2 **USA BORDER**		99-49-31.0					
	CO	MONTEMORELOS	NL	25-11-34.0	51 Z				760624
		ZONE 2 **USA BORDER**		99-49-31.0					

XEFB	CO LIC	MONTERREY	NL	25-41-00.0	03 +	100(KW)	0956(FT)		720419
		ZONE 2 **USA BORDER**		100-19-00.0		HOR			
XET	CO LIC	MONTERREY	NL	25-41-14.7	06 Z	80(KW)	3204(FT)		760414
		ZONE 2 **USA BORDER**		100-18-49.4	DA	HOR			
	CO	MONTERREY	NL	25-40-11.0	08 +				760225
		ZONE 2 **USA BORDER**		100-18-26.0					
XHX	CO LIC	MONTERREY	NL	25-40-11.0	10 +	330(KW)	0197(FT)		720419
		ZONE 2 **USA BORDER**		100-18-26.0		HOR			
XHAW	CO LIC	MONTERREY	NL	25-40-48.0	12 Z	99.8(KW)	-146(FT)		751217
		ZONE 2 **USA BORDER**		100-19-45.0	DA	HOR			
	CO	MONTERREY	NL	25-40-11.0	16 Z				760512
		ZONE 2 **USA BORDER**		100-18-26.0					
	CO	MONTERREY	NL	25-40-11.0	22 +				760512
		ZONE 2 **USA BORDER**		100-18-26.0					
	CO	MONTERREY	NL	25-41-00.0	28 +				760512
		ZONE 2 **USA BORDER**		100-19-00.0					
	CO	MONTERREY	NL	25-40-11.0	34 -				760512
		ZONE 2 **USA BORDER**		100-18-26.0					
	CO	SABINAS HIDALGO	NL	26-29-59.0	32 Z				760512
		ZONE 2 **USA BORDER**		100-10-09.0					
	CO	SABINAS HIDALGO	NL	26-29-59.0	38 Z				760512
		ZONE 2 **USA BORDER**		100-10-09.0					
	CO	MATEHUALA	SL	23-39-40.0	09 -				760512
		ZONE 2 **USA BORDER**		100-38-23.0					
	CO	AGUA PRIETA	SO	31-20-50.0	17 +				760512
		ZONE 2 **USA BORDER**		109-32-40.0					
	CO	CABORCA	SO	30-42-40.0	21 -				760512
		ZONE 2 **USA BORDER**		112-09-00.0					
	CO	CANANEA	SO	30-58-30.0	05 +				760512
		ZONE 2 **USA BORDER**		110-18-00.0					
	CO	CANANEA	SO	30-58-57.0	26 Z				780512
		ZONE 2 **USA BORDER**		110-18-01.0					
	CO	CANANEA	SO	30-58-57.0	56 Z				760512
		ZONE 2 **USA BORDER**		110-18-01.0					
	CO	EL GOLFO	SO	31-41-00.0	04 Z				780512
		ZONE 2 **USA BORDER**		114-29-35.0					

	CO	EL GOLFO	SO	31-41-00.0	58 Z		760512
		ZONE 2 **USA BORDER**		114-29-35.0			
	CO	EMPALME	SO	27-57-55.0	13 Z		770127
		ZONE 2 **USA BORDER**		110-48-20.0			
	CO	GUAYMAS	SO	27-55-20.0	03 +		770127
		ZONE 2 **USA BORDER**		110-53-15.0			
	CO	GUAYMAS	SO	27-55-20.0	09 Z		770127
		ZONE 2 **USA BORDER**		110-53-15.0			
XEWH	CO LIC	HERMOSILLO	SO	29-04-16.0	06 -	6.65(KW) 0170(FT)	720419
		ZONE 2 **USA BORDER**		110-58-56.0		HOR	
	CO	HERMOSILLO	SO	29-05-40.0	08 Z		760512
		ZONE 2 **USA BORDER**		110-57-30.0			
	CO	HERMOSILLO	SO	29-05-40.0	10 Z		760512
		ZONE 2 **USA BORDER**		110-57-30.0			
XHAK	CO LIC	HERMOSILLO	SO	29-04-56.0	12 Z	8.2(KW) 0086(FT)	720419
		ZONE 2 **USA BORDER**		110-58-12.0	DA	HOR	
	CO	HERMOSILLO	SO	29-05-40.0	17 -		760512
		ZONE 2 **USA BORDER**		110-57-30.0			
	CO	HERMOSILLO	SO	29-05-40.0	23 Z		760512
		ZONE 2 **USA BORDER**		110-57-30.0			
	CO	HERMOSILLO	SO	29-05-40.0	29 Z		760512
		ZONE 2 **USA BORDER**		110-57-30.0			
	CO	HERMOSILLO	SO	29-05-40.0	35 -		760512
		ZONE 2 **USA BORDER**		110-57-30.0			
	CO	MAGDALENA	SO	30-37-45.0	14 Z		760512
		ZONE 2 **USA BORDER**		110-57-45.0			
	CO	MAGDALENA	SO	30-37-45.0	20 -		760512
		ZONE 2 **USA BORDER**		110-57-45.0			
	CO	NACO	SO	31-19-53.0	48 Z		760512
		ZONE 2 **USA BORDER**		109-57-05.0			
	CO	NACOZARI	SO	30-22-25.0	25 Z		760512
		ZONE 2 **USA BORDER**		109-41-28.0			
	CO	NACOZARI	SO	30-22-25.0	31 +		760512
		ZONE 2 **USA BORDER**		109-41-28.0			
XEFA	CO LIC	NOGALES	SO	31-19-20.0	02 +	.874(KW) -175(FT)	720418
		ZONE 2 **USA BORDER**		110-59-10.0		HOR	

CO	NOGALES	SO	31-18-50.0	07 -			760512
	ZONE 2 **USA BORDER**		110-56-45.0				
CO	NOGALES	SO	31-18-50.0	22 Z			760512
	ZONE 2 **USA BORDER**		110-56-45.0				
CO	NOGALES	SO	31-18-50.0	38 +			760512
	ZONE 2 **USA BORDER**		110-56-45.0				
CO	NOGALES	SO	31-18-50.0	50 +			760512
	ZONE 2 **USA BORDER**		110-56-45.0				
CO	PUERTO LIBERTAD	SO	29-54-34.0	18 Z			760512
	ZONE 2 **USA BORDER**		112-40-52.0				
CO	PUERTO LIBERTAD	SO	29-54-34.0	24 -			760512
	ZONE 2 **USA BORDER**		112-40-52.0				
CO	PUERTO LOBOS	SO	30-14-59.0	03 -			760512
	ZONE 2 **USA BORDER**		112-48-13.0				
CO	PUERTO PENASCO	SO	31-18-09.0	37 Z			760512
	ZONE 2 **USA BORDER**		113-32-57.0				
CO	SAN LUIS RIO COLORAD	SO	32-29-30.0	44 Z			761129
	ZONE 2 **USA BORDER**		114-46-36.0				
CO	SAN LUIS RIO COLORAD	SO	32-29-30.0	50 Z			761129
	ZONE 2 **USA BORDER**		114-46-36.0				
CO	SAN JAVIER	SO	28-22-30.0	38 -			760512
	ZONE 2		109-33-00.0				
CO	SAN JAVIER	SO	28-22-30.0	44 Z			751217
	ZONE 2		109-33-00.0				
CO	SONOITA	SO	31-51-52.0	25 +			760512
	ZONE 2 **USA BORDER**		112-41-30.0				
CO	SONOITA	SO	31-51-52.0	31 -			760512
	ZONE 2 **USA BORDER**		112-41-30.0				
CO	URES	SO	29-25-45.0	41 Z			760512
	ZONE 2 **USA BORDER**		110-23-29.0				
CO	URES	SO	29-25-45.0	47 Z			760512
	ZONE 2 **USA BORDER**		110-23-29.0				
CO	CIUDAD CAMARGO	TA	26-19-01.0	18 Z			760512
	ZONE 3 **USA BORDER**		98-49-55.0				
CO	CIUDAD CAMARGO	TA	26-19-01.0	24 Z			760512
	ZONE 3 **USA BORDER**		98-49-55.0				

	CO	CIUDAD GUERRERO	TA	26-46-45.0	37 Z			761129
		ZONE 3	••USA BORDER••	99-20-22.0				
	CO	CIUDAD MANTE	TA	22-44-49.0	05 Z			761129
		ZONE 2	••USA BORDER••	98-58-13.0				
	CO	CIUDAD VICTORIA	TA	23-44-06.0	11 -			761129
		ZONE 2	••USA BORDER••	99-07-51.0				
	CO	CIUDAD VICTORIA	TA	23-44-06.0	13 -			761129
		ZONE 2	••USA BORDER••	99-07-51.0				
	CO	CIUDAD VICTORIA	TA	23-44-06.0	14 +			760512
		ZONE 2	••USA BORDER••	99-07-51.0				
	CO	CIUDAD VICTORIA	TA	23-44-06.0	20 Z			760512
		ZONE 2	••USA BORDER••	99-07-51.0				
	CO	CIUDAD VICTORIA	TA	23-44-06.0	26 +			760512
		ZONE 2	••USA BORDER••	99-07-51.0				
	CO	CIUDAD VICTORIA	TA	23-44-06.0	32 +			760512
		ZONE 2	••USA BORDER••	99-07-51.0				
XHCRQQ	CO LIC	MATAMOROS	TA	25-52-45.0	02 +	3.6(KW)	0328(FT)	720419
		ZONE 3	••USA BORDER••	97-31-09.0		HOR		
	CO	MATAMOROS	TA	25-52-45.0	07 Z			760512
		ZONE 3	••USA BORDER••	97-31-09.0				
	CO	MATAMOROS	TA	25-52-45.0	17 Z			760512
		ZONE 3	••USA BORDER••	97-31-09.0				
	CO	MATAMOROS	TA	25-52-45.0	54 Z			760512
		ZONE 3	••USA BORDER••	97-31-09.0				
XEFE	CO LIC	NUEVO LAREDO	TA	27-29-49.0	02 Z	21.4(KW)	0187(FT)	720419
		ZONE 3	••USA BORDER••	99-30-03.0	DA	HOR		
XEBR	CO LIC	NUEVO LAREDO	TA	27-29-46.0	11 Z	3.52(KW)	0188(FT)	751217
		ZONE 3	••USA BORDER••	99-30-03.0		HOR		
	CO	NUEVO LAREDO	TA	27-29-48.0	21 Z			760512
		ZONE 2	••USA BORDER••	99-30-01.0				
	CO	NUEVO LAREDO	TA	27-29-48.0	33 +			760512
		ZONE 2	••USA BORDER••	99-30-01.0				
	CO	NUEVO LAREDO	TA	27-29-48.0	45 Z			760512
		ZONE 2	••USA BORDER••	99-30-01.0				
XERV	CO LIC	REYNOSA	TA	26-05-45.0	09 Z	35.8(KW)	0272(FT)	720419
		ZONE 3	••USA BORDER••	98-17-11.0		HOR		

CO	REYNOSA	TA	26-05-50.0	14 Z				760512
	ZONE 3	••USA BORDER••	98-16-42.0					
CO	REYNOSA	TA	26-05-50.0	36 Z				760512
	ZONE 3	••USA BORDER••	98-16-42.0					
CO	RIO BRAVO	TA	25-58-45.0	42 Z				760512
	ZONE 3	••USA BORDER••	98-05-16.0					
CO	SAN FERNANDO	TA	24-50-46.0	19 Z				760512
	ZONE 3	••USA BORDER••	98-09-30.0					
CO	SAN FERNANDO	TA	24-50-46.0	25 +				760512
	ZONE 3	••USA BORDER••	98-09-30.0					
CO	SOTO LA MARINA	TA	23-44-59.0	03 Z				760512
	ZONE 3	••USA BORDER••	98-11-59.0					
CO	VALLE HERMOSO	TA	25-49-00.0	72 Z				760512
	ZONE 3	••USA BORDER••	97-49-00.0					

[FR Doc.77-13445 Filed 5-10-77;8:45 am]

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LIST OF MEXICAN FM BROADCASTING STATIONS AND ALLOCATIONS WITHIN 200 MILES OF THE MEXICAN–U.S.A. BORDER

MAY 2, 1977.

The FCC has released a list of Mexican FM Broadcasting Station Assignments and Allocations that is recapitulative and contains information supplied by the Department of Radio Frequencies of Mexico. It reflects all the additions, changes and deletions notified to the FCC by the above date and supersedes previous lists issued by the Commission.

Further additions, changes and deletions, as coordinated between the Commission and the Mexican Department of Radio Frequencies will be issued as reports to the Commission by the Mexican Department of Radio Frequencies.

Copies of the list may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20006, telephone 202–452–1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

MEXICAN-U.S.A. FM BROADCAST AGREEMENT

LIST OF ASSIGNMENTS AND ALLOCATIONS FOR FM BROADCASTING

(Listed by State)

MEXICO

PROVINCE ABBREVIATIONS

Baja California—BJ.
Chihuahua—CH.
Coahuila—CL.
Nuevo Leon—NL.
Sonora—SO.
Tamaulipas—TA.

PARAMETER ABBREVIATIONS

Directional Antenna—DA.
Horizontal Polarization—H.
Vertical Polarization—V.
Feet—FT.
Kilowatt—KW.
License—LIC.
Construction Permit—CP.
Class of Station—A, B, C, D.

Revised to April 12, 1977.

FM ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,FREQ APR 12, 1977 PAGE 1
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

CIUDAD MORELOS	BJ	214 B	32-38-00.0				USA	770121	
		90.7	114-51-00.0						
CIUDAD MORELOS	BJ	288 A	32-38-00.0				USA	770121	
		105.5	114-51-00.0						
CIUDAD MORELOS	BJ	298 B	32-38-00.0				USA	770121	
		107.1	114-51-00.0						
ENSENADA	BJ	206 A	31-51-10.0				USA	750819	
		89.1	116-38-09.0						
ENSENADA	BJ	221 A	31-51-10.0				USA	750819	
		92.1	116-38-09.0						
ENSENADA	BJ	234 A	31-51-10.0				USA	750819	
		94.7	116-38-09.0						
ENSENADA	BJ	238 C	31-51-10.0				USA	750819	
		95.5	116-38-09.0						
ENSENADA	BJ	245 B	31-51-10.0				USA	750819	
		96.9	116-38-09.0						
ENSENADA	BJ	250 A	31-51-10.0				USA	750819	
		97.9	116-38-09.0						
ENSENADA	BJ	254 A	31-51-10.0				USA	750819	
		98.7	116-38-09.0						
ENSENADA	BJ	262 B	31-51-10.0				USA	750819	
		100.3	116-38-09.0						
XHATFM ENSENADA	BJ	266 B	31-51-10.0	50KWH			USA	761126	
CP		101.1	116-38-09.0	492FTH					
ENSENADA	BJ	290 C	31-51-10.0				USA	761126	
		105.9	116-38-09.0						
XHFEFM MEXICALI	BJ	210 B	32-40-02.0	.9KWH			USA	761126	
LIC		89.9	115-26-58.0	112FTH					
XHJCFM MEXICALI	BJ	218 B	32-40-00.0	3.7KWH			USA	761126	
LIC		91.5	115-27-00.0	-220FTH					
XHMMP MEXICALI	BJ	222 B	32-40-01.0	18.5KWH			USA	761126	
LIC		92.3	115-26-59.0	148FTH					
XHPFFM MEXICALI	BJ	270 B	32-40-00.0	9.5KWH			USA	761126	
LIC		101.9	115-27-02.0	137FTH					
XHVGFM MEXICALI	BJ	277 B	32-38-38.0	9.57KWH			USA	761126	
LIC		103.3	115-27-00.0	204FTH					

Prepared By Data Automation Division

V42N91 MAY 11 77 UMI

XHBA CP	MEXICALI	BJ	281 C 104.1	32-40-00.0 115-27-01.0	100KWH 1968FTH		USA	761126
XHMCFM LIC	MEXICALI	BJ	285 A 104.9	32-40-02.0 115-26-58.0	.97KWH 181FTH	.97KWV 181FTV	USA	750819
	ROSARIO	BJ	268 B 101.5	30-02-30.0 115-40-00.0			USA	750819
	ROSARIO	BJ	272 B 102.3	30-02-30.0 115-40-00.0			USA	750821
	ROSARIO	BJ	276 B 103.1	30-02-30.0 115-40-00.0			USA	750829
	ROSARIO	BJ	280 B 103.9	30-02-30.0 115-40-00.0			USA	750829
	ROSARIO	BJ	288 C 105.5	30-02-30.0 115-40-00.0			USA	750829
	ROSARIO	BJ	292 B 106.3	30-02-30.0 115-40-00.0			USA	730830
	ROSARIO	BJ	296 B 107.1	30-02-30.0 115-40-00.0			USA	730830
	ROSARIO	BJ	300 B 107.9	30-02-30.0 115-40-00.0			USA	730830
	SAN FELIPE	BJ	202 B 88.3	31-01-36.0 114-49-46.0			USA	730830
	SAN FELIPE	BJ	206 B 89.1	31-01-36.0 114-49-46.0			USA	730830
	SAN FELIPE	BJ	230 B 93.9	31-01-36.0 114-49-46.0			USA	730830
	SAN FELIPE	BJ	234 B 94.7	31-01-36.0 114-49-46.0			USA	730830
	SAN FELIPE	BJ	238 B 95.5	31-01-36.0 114-49-46.0			USA	730830
	SAN FELIPE	BJ	246 B 97.1	31-01-36.0 114-49-46.0			USA	730830
	SAN QUINTIN	BJ	236 B 95.1	30-22-16.0 115-59-10.0			USA	730830
	SAN QUINTIN	BJ	240 B 95.9	30-22-16.0 115-59-10.0			USA	730830

SAN QUINTIN	BJ	244 B 96.7	30-22-16.0 115-59-10.0			USA	730830
SAN QUINTIN	BJ	248 B 97.5	30-22-16.0 115-59-10.0			USA	730830
SAN QUINTIN	BJ	252 C 98.3	30-22-16.0 115-59-10.0			USA	730830
SAN QUINTIN	BJ	256 B 99.1	30-22-16.0 115-59-10.0			USA	730830
SAN QUINTIN	BJ	260 B 99.9	30-22-16.0 115-59-10.0			USA	730830
SAN QUINTIN	BJ	264 B 100.7	30-22-16.0 115-59-10.0			USA	730830
SAN TELMO	BJ	204 B 88.7	30-59-00.0 116-06-00.0			USA	730830
SAN TELMO	BJ	220 B 91.9	30-59-00.0 116-06-00.0			USA	730830
SAN TELMO	BJ	224 B 92.7	30-59-00.0 116-06-00.0			USA	730830
SAN TELMO	BJ	232 B 94.3	30-59-00.0 116-06-00.0			USA	730830
SANTA CATARINA	BJ	250 B 97.9	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	254 B 98.7	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	258 B 99.5	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	262 B 100.3	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	266 B 101.1	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	270 B 101.9	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	274 B 102.7	29-43-00.0 115-08-30.0			USA	770121
SANTA CATARINA	BJ	282 B 104.3	29-43-00.0 115-08-30.0			USA	770121

NOTICES
24022
NOTICES
24023

	TECATE	BJ	299 A	32-34-30.0			USA		730830
			107.7	116-37-30.0					
	TIJUANA	BJ	204 A	32-30-33.0			USA		730830
			88.7	117-01-46.0					
XHISFM LIC	TIJUANA	BJ	212 C	32-30-26.0	93.1KWH		DA USA		761128
			90.3	117-04-50.0	456FTH				
XETRA LIC	TIJUANA	BJ	216 C	32-30-24.0	100KWH		USA		761128
			91.1	117-04-49.0	805FTH				
XHRMFM LIC	TIJUANA	BJ	223 B	32-31-25.0	25KWH	25KWV	USA		760227
			92.5	117-03-56.0	203FTH	203FTV			
XHTYFM CP	TIJUANA	BJ	233 A	32-31-24.0	1.6KWH		USA		761126
			94.5	117-04-50.0	162FTH		LTD TO 200 FT HAAT & 2 KW AT 330 DEG.(TRUE N.) OR EQUIVALENT.		
XHQSFM LIC	TIJUANA	BJ	239 A	32-31-36.0	2.59KWH		USA		761126
			95.7	117-02-56.0	295FTH				
XHQFFM LIC	TIJUANA	BJ	255 A	32-31-26.0	3.63KWH		USA		761126
			98.9	117-04-49.0	116FTH				
	TIJUANA	BJ	259 A	32-30-33.0			USA		730830
			99.7	117-01-46.0					
NEW CP	TIJUANA	BJ	273 B	32-31-26.0	.4KWH		DA USA		761126
			102.5	117-04-49.0	164FTH		LTD TO 164 FT HAAT & 400 W. AT 347 DEG.(TRUE NORTH) OR EQUIVA.		
XHERS LIC	TIJUANA	BJ	283 B	32-31-25.0	57.3KWH		USA		761126
			104.5	117-00-35.0	617FTH		NEGOTIATED-LESS SEPARATION THANESTABLSH. MAY OPERATE MAX. FAC.		
XHFGFM LIC	TIJUANA	BJ	297 A	32-31-28.0	4.55KWH		USA		761126
			107.3	117-04-50.0	969FTH				
	ASCENCION	CH	240 C	31-05-34.0			USA		730830
			95.9	107-59-49.0					
	ASCENCION	CH	277 C	31-05-34.0			USA		730830
			103.3	107-59-49.0					
	ASCENCION	CH	296 B	31-05-34.0			USA		730830
			107.1	107-59-49.0					
	BALDERAS	CH	206 C	31-00-49.0			USA		730830
			89.1	105-34-45.0					
	BALDERAS	CH	236 B	31-00-49.0			USA		730830
			95.1	105-34-45.0					
	BALDERAS	CH	267 A	31-00-49.0			USA		730830
			101.3	105-34-45.0					

	BALDERAS	CH	300 C	31-00-49.0			USA		730830
			107.9	105-34-45.0					
	CIUDAD CAMARGO	CH	241 C	27-41-49.0			USA		770121
			96.1	105-10-09.0					
	CIUDAD CAMARGO	CH	248 B	27-41-49.0			USA		770121
			97.5	105-10-09.0					
	CIUDAD CAMARGO	CH	275 B	27-41-49.0			USA		770121
			102.9	105-10-09.0					
	CIUDAD CAMARGO	CH	289 B	27-41-49.0			USA		770121
			105.7	105-10-09.0					
NEW CP	CIUDAD CAMARGO	CH	293 B	27-40-03.0	50KWH		USA		770121
			106.5	105-10-00.0	492FTH				
	CIUDAD CUAUHTEMOC	CH	252 C	28-24-40.0			USA		770121
			98.3	106-51-40.0					
	CIUDAD CUAUHTEMOC	CH	260 B	28-24-40.0			USA		770121
			99.9	106-51-40.0					
	CIUDAD CUAUHTEMOC	CH	277 B	28-24-40.0			USA		770121
			103.3	106-51-40.0					
	CIUDAD CUAUHTEMOC	CH	281 B	28-24-40.0			USA		770121
			104.1	106-51-40.0					
	CIUDAD CUAUHTEMOC	CH	285 B	28-24-40.0			USA		770121
			104.9	106-51-40.0					
	CIUDAD GUERRERO	CH	201 B	28-32-57.0					770121
			88.1	107-29-27.0					
	CIUDAD GUERRERO	CH	205 B	28-32-57.0					770121
			88.9	107-29-27.0					
	CIUDAD GUERRERO	CH	246 A	28-32-57.0					770121
			97.1	107-29-27.0					
	CIUDAD GUERRERO	CH	270 C	28-32-57.0					770121
			101.9	107-29-27.0					
	CIUDAD GUERRERO	CH	274 B	28-32-57.0					770121
			102.7	107-29-27.0					
	CIUDAD JIMENEZ	CH	217 C	27-07-52.0			USA		770121
			91.3	104-55-29.0					
	CIUDAD JIMENEZ	CH	221 C	27-07-52.0			USA		770121
			92.1	104-55-29.0					

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	CIUDAD JIMENEZ	CH	225 C 92.9	27-07-52.0 104-55-29.0			USA	770121
	CIUDAD JIMENEZ	CH	282 B 104.3	27-07-52.0 104-55-29.0			USA	770121
	CIUDAD JIMENEZ	CH	286 B 105.1	27-07-52.0 104-55-29.0			USA	770121
	CIUDAD JIMENEZ	CH	298 B 107.5	27-07-52.0 104-55-29.0			USA	770121
XHPXFM LIC	CIUDAD JUAREZ	CH	252 C 98.3	31-44-20.0 106-29-11.0	2.32KWH -124FTH		USA	770127
	CIUDAD JUAREZ	CH	264 C 100.7	31-57-18.0 106-28-11.0			USA	770121
XHEMFM LIC	CIUDAD JUAREZ	CH	278 A 103.5	31-44-19.0 106-29-12.0	2.99KWH -17FTH		USA	770121
XHTOFM LIC	CIUDAD JUAREZ	CH	282 B 104.3	31-44-18.0 106-29-17.0	10KWH -114FTH		USA	770121
XHIMFM LIC	CIUDAD JUAREZ	CH	286 A 105.1	31-44-18.0 106-29-13.0	.760KWH -17FTH		USA	770121
XHGAFM CP	CIUDAD JUAREZ	CH	290 B 105.9	31-44-18.0 106-29-14.0	3.40KWH -223FTH		USA	770121
	CIUDAD JUAREZ	CH	294 C 106.7	31-44-19.0 106-29-15.0			USA	770121
XHNZFM CP	CIUDAD JUAREZ	CH	298 C 107.5	31-44-19.0 106-29-15.0	100KWH 1968FTH		USA	770121
	CHIHUAHUA	CH	203 B 88.5	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	207 B 89.3	28-38-12.0 106-04-42.0			USA	730927
XHUAFM CP	CHIHUAHUA	CH	211 C 90.1	28-38-10.0 106-04-25.0	100KWH 1969FTH		USA	781126
	CHIHUAHUA	CH	215 C 90.9	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	219 C 91.7	28-38-12.0 106-04-42.0			USA	730913
	CHIHUAHUA	CH	227 B 93.3	28-38-12.0 106-04-42.0			USA	730830

	CHIHUAHUA	CH	231 B 94.1	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	235 B 94.9	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	239 B 95.7	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	279 B 103.7	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	283 B 104.5	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	287 B 105.3	28-38-12.0 106-04-42.0			USA	730830
XHSUFM LIC	CHIHUAHUA	CH	291 C 106.1	28-38-10.0 106-04-25.0	.956KWH -100FTH	.956KWV -100FTV	USA	750123
	CHIHUAHUA	CH	295 B 108.9	28-38-12.0 106-04-42.0			USA	730830
	CHIHUAHUA	CH	299 B 107.7	28-38-12.0 106-04-42.0			USA	730830
	DELICIAS	CH	229 B 93.7	28-11-10.0 105-28-00.0			USA	730830
	DELICIAS	CH	233 B 94.5	28-11-10.0 105-28-00.0			USA	730830
	DELICIAS	CH	237 B 95.3	28-11-10.0 105-28-00.0			USA	730830
	DELICIAS	CH	255 C 98.9	28-11-10.0 105-28-00.0			USA	730830
	DELICIAS	CH	263 A 100.5	28-11-10.0 105-28-00.0			USA	730830
	DELICIAS	CH	267 C 101.3	28-11-10.0 105-28-00.0			USA	730830
	EL PORVENIR	CH	217 A 91.3	31-15-00.0 105-52-20.0			USA	730830
	EL PORVENIR	CH	256 C 99.1	31-15-00.0 105-52-20.0			USA	730830
	EL PORVENIR	CH	284 B 104.7	31-15-00.0 105-52-20.0			USA	730830

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EL PORVENIR	CH	288 B 105.5	31-15-00.0 105-52-20.0	USA	730830
EL SUECO	CH	282 A 100.3	29-54-00.0 106-24-00.0	USA	730830
EL SUECO	CH	286 B 101.1	29-54-00.0 106-24-00.0	USA	730830
ENCINILLAS	CH	223 C 92.5	29-13-42.0 106-16-13.0	USA	730830
ENCINILLAS	CH	243 C 96.5	29-13-42.0 106-16-13.0	USA	730830
ENCINILLAS	CH	247 B 97.3	29-13-42.0 106-16-13.0	USA	730830
ENCINILLAS	CH	272 B 102.3	29-13-42.0 106-16-13.0	USA	730830
HIDALGO DEL PARRAL	CH	206 B 89.1	26-56-04.0 105-39-58.0	USA	770121
HIDALGO DEL PARRAL	CH	212 A 90.3	26-56-04.0 105-39-58.0	USA	770121
HIDALGO DEL PARRAL	CH	245 B 96.9	26-56-04.0 105-39-58.0	USA	770121
HIDALGO DEL PARRAL	CH	257 C 99.3	26-56-04.0 105-39-58.0	USA	770121
HIDALGO DEL PARRAL	CH	261 B 100.1	26-56-04.0 105-39-58.0	USA	770121
HIDALGO DEL PARRAL	CH	269 C 101.7	26-56-04.0 105-39-58.0	USA	770121
HIDALGO DEL PARRAL	CH	273 B 102.5	26-56-04.0 105-39-58.0	USA	770121
LAS PALOMAS	CH	245 B 96.9	31-43-00.0 107-36-20.0	USA	730830
LAS PALOMAS	CH	262 B 100.3	31-43-00.0 107-36-20.0	USA	730830
LAS PALOMAS	CH	269 B 101.7	31-43-00.0 107-36-20.0	USA	730830
LAS PALOMAS	CH	273 B 102.5	31-43-00.0 107-36-20.0	USA	730830

MADERA	CH	241 B 96.1	29-11-30.0 108-09-40.0	USA	730830
MADERA	CH	264 B 100.7	29-11-30.0 108-09-40.0	USA	730830
MADERA	CH	276 A 103.1	29-11-30.0 108-09-40.0	USA	730830
MADERA	CH	289 B 105.7	29-11-30.0 108-09-40.0	USA	730830
MADERA	CH	293 B 106.5	29-11-30.0 108-09-40.0	USA	730830
NUEVO CASAS GRANDES	CH	213 B 90.5	30-23-15.0 107-58-00.0	USA	770121
NUEVO CASAS GRANDES	CH	236 B 95.1	30-23-15.0 107-58-00.0	USA	770121
NUEVO CASAS GRANDES	CH	244 A 96.7	30-23-15.0 107-58-00.0	USA	770121
NUEVO CASAS GRANDES	CH	261 B 104.1	30-23-15.0 107-58-00.0	USA	770121
NUEVO CASAS GRANDES	CH	285 B 104.9	30-23-15.0 107-58-00.0	USA	770121
OJINAGA	CH	209 C 89.7	29-33-53.0 104-25-23.0	USA	730830
OJINAGA	CH	245 C 96.9	29-33-53.0 104-25-23.0	USA	730830
OJINAGA	CH	249 C 97.7	29-33-53.0 104-25-23.0	USA	730830
OJINAGA	CH	261 B 100.1	29-33-53.0 104-25-23.0	USA	730830
OJINAGA	CH	265 B 100.9	29-33-53.0 104-25-23.0	USA	730830
OJINAGA	CH	269 B 101.7	29-33-53.0 104-25-23.0	USA	730830
OJINAGA	CH	273 B 102.5	29-33-53.0 104-25-23.0	USA	730830
SAN BUENAVENTURA	CH	228 B 93.5	29-50-47.0 107-29-10.0	USA	770121

	SAN BUENAVENTURA	CH	232 B 94.3	29-50-47.0 107-29-10.0		USA	770121
	SAN BUENAVENTURA	CH	250 C 97.9	29-50-47.0 107-29-10.0		USA	770121
	SAN BUENAVENTURA	CH	258 B 99.5	29-50-47.0 107-29-10.0		USA	770121
	CIUDAD ACUNA	CL	218 C 91.5	29-19-33.0 100-55-51.0		USA	730830
	CIUDAD ACUNA	CL	225 A 92.9	29-19-33.0 100-55-51.0		USA	750925
XHRQFM CP	CIUDAD ACUNA	CL	238 B 95.5	29-19-01.0 100-55-05.0	3.69KWH 157FTH	USA	761126
XHPLFM LIC	CIUDAD ACUNA	CL	259 A 99.7	29-19-33.0 100-55-51.0	.823KWH 70FTH	USA	761126
	CIUDAD ACUNA	CL	264 A 100.7	29-19-33.0 100-55-51.0		USA	730830
	CIUDAD ACUNA	CL	276 B 103.1	29-19-33.0 100-55-51.0		USA	730830
	CIUDAD ACUNA	CL	280 C 103.9	29-19-33.0 100-55-51.0		USA	730830
	CUIDAD ACUNA	CL	297 A 107.3	29-19-33.0 100-55-51.0		USA	730830
	CUATRO CIENEGAS	CL	205 C 88.9	26-58-19.0 102-04-09.0		USA	770127
	CUATRO CIENEGAS	CL	213 C 90.5	26-58-19.0 102-04-09.0		USA	770127
	CUATRO CIENEGAS	CL	223 B 92.5	26-58-19.0 102-04-09.0		USA	770127
	CUATRO CIENEGAS	CL	239 A 95.7	26-58-19.0 102-04-09.0		USA	770127
	CUATRO CIENEGAS	CL	243 A 96.5	26-58-19.0 102-04-09.0		USA	770127
	CUATRO CIENEGAS	CL	247 B 97.3	26-58-19.0 102-04-09.0		USA	770127
	CUATRO CIENEGAS	CL	274 A 102.7	26-58-19.0 102-04-09.0		USA	770127

	CUATRO CIENEGAS	CL	284 B 104.7	26-58-19.0 102-04-09.0		USA	770127
	GENERAL CEPEDA	CL	289 C 105.7	25-22-40.0 101-29-00.0		USA	770127
	GUADALUPE	CL	201 B 88.1	26-08-30.0 101-23-00.0		USA	730830
	GUADALUPE	CL	221 B 92.1	26-08-30.0 101-23-00.0		USA	730830
	GUADALUPE	CL	252 B 98.3	26-08-30.0 101-23-00.0		USA	730830
	GUADALUPE	CL	260 A 99.9	26-08-30.0 101-23-00.0		USA	730830
	GUADALUPE	CL	264 A 100.7	26-08-30.0 101-23-00.0		USA	730830
	LA ROSITA	CL	262 A 100.3	28-21-25.0 101-39-50.0		USA	730830
	LA ROSITA	CL	270 B 101.9	28-21-25.0 101-39-50.0		USA	730830
	LA ROSITA	CL	274 A 102.7	28-21-25.0 101-39-50.0		USA	730830
	LA ROSITA	CL	278 B 103.5	28-21-25.0 101-39-50.0		USA	730830
	MONCLOVA	CL	254 B 98.7	26-54-14.0 101-25-08.0		USA	730830
XHMSFM LIC	MONCLOVA	CL	258 B 99.5	26-57-45.0 101-26-58.0	.383KWH 223FTH	USA	761126
XHTFFM CP	MONCLOVA	CL	262 A 100.3	26-54-13.0 101-25-08.0	.362KWH 152FTH	USA	761126
	MONCLOVA	CL	281 B 104.1	26-54-14.0 101-25-08.0		USA	730830
NEW CP	MONCLOVA	CL	298 B 107.1	26-57-45.0 101-26-58.0	50KWH 492FTH	USA	761126
	MUZQUIZ	CL	216 B 91.1	27-52-51.0 101-30-56.0		USA	730830
	MUZQUIZ	CL	232 B 94.3	27-52-51.0 101-30-56.0		USA	730830

	MUZQUIZ	CL	294 B 106.7	27-52-51.0 101-30-56.0			USA	730830
	PARRAS DE LA FUENTE	CL	266 A 101.1	25-27-00.0 102-10-00.0				770127
	PARRAS DE LA FUENTE	CL	270 A 101.9	25-27-00.0 102-10-00.0				770127
	PARRAS DE LA FUENTE	CL	294 A 106.7	25-27-00.0 102-10-00.0				770127
	PARRAS DE LA FUENTE	CL	298 B 107.5	25-27-00.0 102-10-00.0				770127
XHTAFM LIC	PIEDRAS NEGRAS	CL	233 A 94.5	28-42-35.0 100-31-01.0	.885KWH 112FTH		USA	770127
	PIEDRAS NEGRAS	CL	244 C 98.7	28-42-25.0 100-31-02.0			USA	770127
XHSLFM LIC	PIEDRAS NEGRAS	CL	256 A 99.1	28-42-26.0 100-31-07.0	.969KWH 107FTH		USA	770127
XHSGFM LIC	PIEDRAS NEGRAS	CL	260 A 99.9	28-42-24.0 100-31-00.0	.392KWH 107FTH		USA	770127
	PIEDRAS NEGRAS	CL	268 C 101.5	28-42-25.0 100-31-02.0			USA	770127
NEW CP	PIEDRAS NEGRAS	CL	273 A 102.5	28-42-26.0 100-31-07.0	4KWH 295FTH		USA	770127
XHREFM LIC	PIEDRAS NEGRAS	CL	288 B 105.5	28-42-24.0 100-31-00.0	1.89KWH 107FTH		USA	770127
XHNE CP	PIEDRAS NEGRAS	CL	292 B 106.3	28-42-24.0 100-31-00.0	50KWH 492FTH		USA	770127
	PIEDRAS NEGRAS	CL	298 A 107.1	28-42-25.0 100-31-02.0			USA	770127
	PIEDRAS NEGRAS	CL	300 B 107.9	28-42-25.0 100-31-02.0			USA	770127
XHECFM LIC	SABINAS	CL	220 B 91.9	27-50-46.0 101-07-30.0	4KWH 102FTH		USA	761126
	SABINAS	CL	266 A 101.1	27-50-34.0 101-07-23.0			USA	730830
	SABINAS	CL	290 C 105.9	27-50-34.0 101-07-23.0			USA	730830

	SABINAS	CL	298 A 107.5	27-50-34.0 101-07-23.0			USA	730830
	SALTILLO	CL	209 B 89.7	25-26-37.0 100-59-22.0			USA	730927
XHRPFM LIC	SALTILLO	CL	234 A 94.7	25-26-37.0 100-59-22.0	2.96KWH -558FTH		USA	761126
	SALTILLO	CL	244 B 96.7	25-26-37.0 100-59-22.0			USA	730830
	SALTILLO	CL	249 A 97.7	25-26-37.0 100-59-22.0			USA	730830
	SALTILLO	CL	261 A 100.1	25-26-37.0 100-59-22.0			USA	730830
XHSAFM CP	SALTILLO	CL	265 A 100.9	25-26-37.0 100-59-22.0	3KWH 295FTH		USA	761126
	SAN CARLOS	CL	252 A 98.3	29-01-45.0 100-54-00.0			USA	730830
	SAN VICENTE	CL	214 B 90.7	29-09-00.0 103-00-00.0			USA	730830
	SAN VICENTE	CL	222 C 92.3	29-09-00.0 103-00-00.0			USA	730830
	SAN VICENTE	CL	227 B 93.3	29-09-00.0 103-00-00.0			USA	730830
	SAN VICENTE	CL	231 B 94.1	29-09-00.0 103-00-00.0			USA	730830
	SAN VICENTE	CL	235 B 94.9	29-09-00.0 103-00-00.0			USA	750925
	SAN VICENTE	CL	239 B 95.7	29-09-00.0 103-00-00.0			USA	730830
	SAN VICENTE	CL	254 C 98.7	29-09-00.0 103-00-00.0			USA	730830
	VILLA UNION	CL	202 A 88.3	28-14-00.0 100-44-30.0			USA	730830
	VILLA UNION	CL	240 C 95.9	28-14-00.0 100-44-30.0			USA	730830
	VILLA UNION	CL	283 A 100.5	28-14-00.0 100-44-30.0			USA	730830

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	ANAHUAC	NL	295 A 106.9	27-18-00.0 100-07-30.0		USA	730830
	CERRALVO	NL	264 A 100.7	26-05-32.0 99-36-29.0		USA	730830
	GENERAL BRAVO	NL	208 A 89.5	25-47-20.0 99-10-40.0		USA	770127
	GENERAL BRAVO	NL	221 A 92.1	25-47-20.0 99-10-40.0		USA	770127
	LINARES	NL	237 A 95.3	24-51-39.0 99-34-05.0		USA	730830
	LINARES	NL	297 A 107.3	24-51-39.0 99-34-05.0		USA	730830
	LINARES	NL	277 B 103.3	24-51-39.0 99-34-05.0		USA	730830
	MONTEMORELOS	NL	212 A 90.3	25-11-34.0 99-49-31.0		USA	730830
	MONTEMORELOS	NL	249 A 97.7	25-11-34.0 99-49-31.0		USA	730830
	MONTEMORELOS	NL	261 A 100.1	25-11-34.0 99-49-31.0		USA	730830
	MONTERREY	NL	203 C 88.5	25-40-11.0 100-18-26.0		USA	730830
	MONTERREY	NL	207 A 89.3	25-40-11.0 100-18-26.0		USA	730830
XHXLFM LIC	MONTERREY	NL	211 A 90.1	25-40-11.0 100-18-26.0	1.63KWH -246FTH	USA	761126
	MONTERREY	NL	215 A 90.9	25-40-11.0 100-18-26.0		USA	750123
	MONTERREY	NL	219 C 91.7	25-40-11.0 100-18-26.0		USA	730830
XHSRO LIC	MONTERREY	NL	223 B 92.5	25-40-11.0 100-18-26.0	27.5KWH -201FTH	USA	761126
XHQQFM LIC	MONTERREY	NL	227 B 93.3	25-36-00.0 100-18-00.0	2.4KWH 519FTH	USA	761126
XETFM LIC	MONTERREY	NL	231 B 94.1	25-40-16.0 100-18-22.0	1.95KWH -80FTH	USA	761126

XHNLFM CP	MONTERREY	NL	235 A 94.9	25-15-37.0 100-18-25.0	3.68KWH -394FTH	USA	761126
XHRKFM LIC	MONTERREY	NL	239 B 95.7	25-40-40.0 100-17-11.0	0.85KWH -57FTH	USA	761126
XHSRFM LIC	MONTERREY	NL	247 B 97.3	25-40-18.0 100-18-10.0	13.7KWH -202FTH	USA	761126
XHRLFM LIC	MONTERREY	NL	251 A 98.1	25-39-03.0 100-18-38.0	10KWH -469FTH	USA	761126
XHJDFM LIC	MONTERREY	NL	255 B 98.9	25-49-30.0 100-18-30.0	3.45KWH 135FTH	USA	761126
XHSPFM LIC	MONTERREY	NL	259 B 99.7	25-40-01.0 100-18-55.0	1.8KWH -401FTH	USA	761126
XHMQFM LIC	MONTERREY	NL	263 A 100.5	25-40-04.0 100-18-31.0	1.81KWH -394FTH	USA	761126
XHILFM LIC	MONTERREY	NL	267 B 101.3	25-40-35.0 100-19-24.0	3.82KWH -432FTH	USA	761126
NEW CP	MONTERREY	NL	271 C 102.1	25-40-00.0 100-18-55.0	100KWH 1968FTH	USA	761126
	MONTERREY	NL	275 C 102.9	25-40-11.0 100-18-26.0		USA	730830
NEW CP	MONTERREY	NL	279 C 103.7	25-40-11.0 100-18-26.0	100KWH 1969FTH	USA	761126
XHMFFM CP	MONTERREY	NL	283 C 104.5	25-40-00.0 100-18-39.0	100KWH 1968FTH	USA	761126
	MONTERREY	NL	287 C 105.3	25-40-11.0 100-18-26.0		USA	730830
NEW CP	MONTERREY	NL	291 C 106.1	25-40-58.0 100-18-40.0	100KWH 1969FTH	USA	761126
XHPJFM LIC	MONTERREY	NL	295 B 108.9	25-40-59.0 100-18-28.0	3.4KWH 56FTH	USA	761126
XHMNFM CP	MONTERREY	NL	299 B 107.7	25-40-00.0 100-18-29.0	50KWH 492FTH	USA	761126
	SABINAS HIDALGO	NL	208 A 89.5	26-29-59.0 100-10-09.0		USA	770127
	SABINAS HIDALGO	NL	249 A 97.7	26-29-59.0 100-10-09.0		USA	770127

SABINAS HIDALGO	NL	265 A	26-29-59.0			USA	770127
		100.9	100-10-09.0				
SABINAS HIDALGO	NL	293 A	26-29-59.0			USA	770127
		106.5	100-10-09.0				
AGUA PRIETA	SO	247 B	31-18-24.0			USA	730830
		97.3	109-33-37.0				
AGUA PRIETA	SO	253 A	31-18-24.0			USA	730830
		98.5	109-33-37.0				
AGUA PRIETA	SO	267 B	31-18-24.0			USA	730830
		101.3	109-33-37.0				
BENJAMIN HILL	SO	211 B	30-09-50.0			USA	770127
		90.1	111-07-00.0				
CABORCA	SO	237 C	30-41-50.0			USA	730830
		95.3	112-09-29.0				
CABORCA	SO	257 A	30-41-50.0			USA	730830
		99.3	112-09-29.0				
CABORCA	SO	261 B	30-41-50.0			USA	730830
		100.1	112-09-29.0				
CABORCA	SO	296 B	30-41-50.0			USA	730830
		107.1	112-09-29.0				
CABORCA	SO	300 B	30-41-50.0			USA	730830
		107.9	112-09-29.0				
CANANEA	SO	272 B	30-58-57.0			USA	730830
		102.3	110-18-01.0				
CANANEA	SO	276 B	30-58-57.0			USA	730830
		103.1	110-18-01.0				
CANANEA	SO	280 B	30-58-57.0			USA	730830
		103.9	110-18-01.0				
CANANEA	SO	284 B	30-58-57.0			USA	730830
		104.7	110-18-01.0				
EL GOLFO	SO	251 B	31-41-00.0			USA	730830
		98.1	114-29-35.0				
EL GOLFO	SO	263 B	31-41-00.0			USA	730830
		100.5	114-29-35.0				
EL GOLFO	SO	267 B	31-41-00.0			USA	730830
		101.3	114-29-35.0				

	EL GOLFO	SO	275 B	31-41-00.0			USA	730830
			102.9	114-29-35.0				
	EL GOLFO	SO	279 C	31-41-00.0			USA	730830
			103.7	114-29-35.0				
	HERMOSILLO	SO	214 B	29-04-29.0			USA	730830
			90.7	110-57-36.0				
	HERMOSILLO	SO	218 C	29-04-29.0			USA	730830
			91.5	110-57-36.0				
	HERMOSILLO	SO	222 B	29-04-29.0			USA	730830
			92.3	110-57-36.0				
XHMVFM CP	HERMOSILLO	SO	230 C	29-04-29.0	100KWH		USA	761126
			93.9	110-57-36.0	1969FTH			
	HERMOSILLO	SO	234 B	29-04-29.0			USA	730830
			94.7	110-57-36.0				
	HERMOSILLO	SO	238 B	29-04-29.0			USA	730830
			95.5	110-57-36.0				
	HERMOSILLO	SO	242 B	29-04-29.0			USA	730830
			96.3	110-57-36.0				
	HERMOSILLO	SO	246 C	29-04-29.0			USA	730830
			97.1	110-57-36.0				
	HERMOSILLO	SO	253 C	29-04-29.0			USA	730830
			98.5	110-57-36.0				
	HERMOSILLO	SO	258 B	29-04-29.0			USA	750829
			99.5	110-57-36.0				
NEW CP	HERMOSILLO	SO	262 B	29-04-29.0	50KWH		USA	761126
			100.3	110-57-36.0	492FTH			
	HERMOSILLO	SO	266 B	29-04-29.0			USA	730830
			101.1	110-57-36.0				
	HERMOSILLO	SO	274 B	29-04-29.0			USA	730830
			102.7	110-57-36.0				
	HERMOSILLO	SO	282 B	29-04-29.0			USA	730830
			104.3	110-57-36.0				
	HERMOSILLO	SO	286 B	29-04-29.0			USA	730913
			105.1	110-57-36.0				
	MAGDALENA	SO	232 B	30-37-45.0			USA	730830
			94.3	111-03-42.0				

	MAGDELENA	SO	263 B	30-37-45.0		USA	730830
			100.5	111-03-42.0			
	NACO	SO	227 C	31-19-53.0		USA	730830
			93.3	109-57-05.0			
	NACO	SO	233 A	31-19-53.0		USA	730830
			94.5	109-57-05.0			
	NACO	SO	251 A	31-19-53.0		USA	730830
			98.1	109-57-05.0			
	NACO	SO	298 B	31-19-53.0		USA	760830
			107.5	109-57-05.0		DELETION PENDING FINAL CONFIRMATION FROM MEXICO. D20507	
	NACO	SO	260 B	31-19-53.0		USA	760630
			99.9	109-57-05.0		PENDING FINAL CONFIRMATION FROM MEXICO. D20507	
	NACOZARI	SO	256 A	30-22-25.0		USA	730830
			99.1	109-41-28.0			
	NACOZARI	SO	265 A	30-22-25.0		USA	730830
			100.9	109-41-28.0			
	NACOZARI	SO	288 B	30-22-25.0		USA	730830
			105.5	109-41-28.0			
	NOGALES	SO	244 B	31-19-49.0		USA	750918
			96.7	110-56-42.0		NOTE 1	
	NOGALES	SO	248 A	31-19-49.0		USA	750918
			97.5	110-56-42.0			
XHQTFM LIC	NOGALES	SO	274 B	31-19-50.0	4KWH	USA	761128
			102.7	110-56-40.0	-190FTH		
XHRZFM LIC	NOGALES	SO	278 B	31-19-50.0	1.94KWH	USA	761128
			103.5	110-56-55.0	-93FTH		
	NOGALES	SO	282 B	31-19-49.0		USA	750918
			104.3	110-56-42.0			
	NOGALES	SO	286 B	31-19-49.0		USA	760227
			105.1	110-56-42.0			
	NOGALES	SO	290 C	31-19-49.0		USA	750918
			105.9	110-56-42.0			
XHSNFM CP	NOGALES	SO	294 C	31-19-51.0	100KWH	USA	761128
			106.7	110-56-45.0	1968FTH		
	PUERTO KINO	SO	201 B	28-45-28.0		USA	730830
			88.1	111-58-50.0			

	PUERTO KINO	SO	205 B	28-45-28.0		USA	730830
			88.9	111-58-50.0			
	PUERTO KINO	SO	269 C	28-45-28.0		USA	730830
			101.7	111-58-50.0			
	PUERTO KINO	SO	289 B	28-45-28.0		USA	730830
			105.7	111-58-50.0			
	PUERTO KINO	SO	297 C	28-45-28.0		USA	730830
			107.3	111-58-50.0			
	PUERTO LIBERTAD	SO	207 A	29-54-34.0		USA	760507
			89.3	112-40-52.0			
	PUERTO LIBERTAD	SO	228 C	29-54-34.0		USA	760507
			93.1	112-40-52.0			
	PUERTO LIBERTAD	SO	241 B	29-54-34.0		USA	760507
			96.1	112-40-52.0			
	PUERTO LOBOS	SO	233 A	30-16-00.0		USA	730830
			94.5	112-49-35.0			
	PUERTO LOBOS	SO	245 A	30-16-00.0		USA	730830
			96.9	112-49-35.0			
	PUERTO LOBOS	SO	273 C	30-16-00.0		USA	730830
			102.5	112-49-35.0			
	PUERTO LOBOS	SO	277 B	30-16-00.0		USA	730830
			103.3	112-49-35.0			
	PUERTO LOBOS	SO	281 B	30-16-00.0		USA	730830
			104.1	112-49-35.0			
	PUERTO LOBOS	SO	285 B	30-16-00.0		USA	730830
			104.9	112-49-35.0			
	PUERTO LOBOS	SO	289 A	30-16-00.0		USA	730830
			105.7	112-49-35.0			
	PUERTO PENASCO	SO	228 B	31-18-09.0		USA	770127
			93.5	113-32-57.0			
	PUERTO PENASCO	SO	287 B	31-18-09.0		USA	770127
			105.3	113-32-57.0			
	PUERTO PENASCO	SO	291 B	31-18-09.0		USA	770127
			106.1	113-32-57.0			
	SAN LUIS RIO COLORAD	SO	203 A	32-29-30.0		USA	770127
			88.5	114-48-36.0			

	SAN LUIS RIO COLORAD	SO	273 A 102.5	32-29-30.0 114-46-36.0		USA	770127
NEW CP	SAN LUIS RIO COLORAD	SO	292 B 106.3	32-29-15.0 114-46-50.0	50KWH 492FTH	USA	770127
	SAN LUIS RIO COLORAD	SO	300 B 107.9	32-29-30.0 114-46-36.0		USA	770127
	SASABE	SO	204 B 88.7	31-28-00.0 111-32-50.0		USA	760408
	SASABE	SO	208 C 89.5	31-28-00.0 111-32-50.0		USA	760408
	SASABE	SO	266 B 101.1	31-28-00.0 111-32-50.0		USA	760408
	SASABE	SO	270 B 101.9	31-28-00.0 111-32-50.0		USA	760408
	SONOITA	SO	211 B 90.1	31-51-52.0 112-41-30.0		USA	730830
	SONOITA	SO	231 B 94.1	31-51-52.0 112-41-30.0		USA	730830
	SONOITA	SO	239 A 95.7	31-51-52.0 112-41-30.0		USA	730830
	SONOITA	SO	243 B 96.5	31-51-52.0 112-41-30.0		USA	730927
	SONOITA	SO	247 B 97.3	31-51-52.0 112-41-30.0		USA	730830
	TECORIPA	SO	220 B 91.9	28-37-00.0 109-57-45.0		USA	760507
	TECORIPA	SO	224 A 92.7	28-37-00.0 109-57-45.0		USA	760507
	TECORIPA	SO	228 B 93.5	28-37-00.0 109-57-45.0		USA	760507
	TECORIPA	SO	232 B 94.3	28-37-00.0 109-57-45.0		USA	760507
	TECORIPA	SO	240 B 95.9	28-37-00.0 109-57-45.0		USA	760507
	TECORIPA	SO	244 C 96.7	28-37-00.0 109-57-45.0		USA	760507

	TECORIPA	SO	248 C 97.5	28-37-00.0 109-57-45.0		USA	760507
	URES	SO	225 A 92.9	29-25-45.0 110-23-29.0		USA	730830
	URES	SO	236 B 95.1	29-25-45.0 110-23-29.0		USA	730830
	URES	SO	292 C 106.3	29-25-45.0 110-23-29.0		USA	730913
	URES	SO	299 C 107.7	29-25-45.0 110-23-29.0		USA	730830
	CIUDAD ALEMAN	TA	265 A 100.9	26-24-33.0 98-58-24.0		USA	770127
	CIUDAD CAMARGO	TA	213 B 90.5	26-19-01.0 98-49-55.0		USA	770127
	CIUDAD CAMARGO	TA	269 A 101.7	26-19-01.0 98-49-55.0		USA	770127
	CIUDAD GUERRERO	TA	261 A 100.1	26-46-45.0 99-20-22.0		USA	770127
	CIUDAD GUERRERO	TA	297 A 107.3	26-46-45.0 99-20-22.0		USA	770127
	CIUDAD VICTORIA	TA	233 C 94.5	23-44-06.0 99-07-51.0		USA	770127
	CIUDAD VICTORIA	TA	241 C 96.1	23-44-06.0 99-07-51.0		USA	770127
	CIUDAD VICTORIA	TA	248 B 97.5	23-44-06.0 99-07-51.0		USA	770127
	CIUDAD VICTORIA	TA	252 C 98.3	23-44-06.0 99-07-51.0		USA	770127
	CIUDAD VICTORIA	TA	257 C 99.3	23-44-06.0 99-07-51.0		USA	770127
NEW CP	CIUDAD VICTORIA	TA	269 C 101.7	23-44-06.0 99-07-51.0	100KWH 196FTH	USA	770127
	CIUDAD VICTORIA	TA	273 C 102.5	23-44-06.0 99-07-51.0		USA	770127
	CIUDAD VICTORIA	TA	281 C 104.1	23-44-06.0 99-07-51.0		USA	770127

	CIUDAD VICTORIA	TA	296 B	23-44-06.0			USA	770127
			107.1	99-07-51.0				
	CIUDAD VICTORIA	TA	300 C	23-44-06.0			USA	770127
			107.9	99-07-51.0				
	MATAMOROS	TA	212 A	25-52-45.0			USA	730830
			90.3	97-31-09.0				
XEEWFM CP	MATAMOROS	TA	249 A	25-52-28.0	50KWH		USA	761126
			97.7	97-31-29.0	492FTH			
XHMLS LIC	MATAMOROS	TA	268 A	25-52-27.0	3.48KWH		USA	761126
			101.5	97-31-29.0	171FTH			
	MATAMOROS	TA	276 A	25-52-45.0			USA	730830
			103.1	97-31-09.0				
XHNAFM CP	MATAMOROS	TA	290 A	25-52-23.0	3KWH		USA	761126
			105.9	97-31-30.0	295FTH			
	MATAMOROS	TA	296 B	25-52-45.0			USA	730830
			107.1	97-31-09.0				
	NUEVO LAREDO	TA	205 B	27-29-48.0			USA	730830
			88.9	99-30-01.0				
	NUEVO LAREDO	TA	217 B	27-29-48.0			USA	730830
			91.3	99-30-01.0				
XHNOE LIC	NUEVO LAREDO	TA	231 A	27-29-48.0	.89KWH		USA	761126
			94.1	99-30-00.0	100FTH			
	NUEVO LAREDO	TA	248 A	27-29-48.0			USA	751009
			97.1	99-30-01.0				
XHNKFM LIC	NUEVO LAREDO	TA	257 B	27-29-46.0	.85KWH		USA	761126
			99.3	99-30-00.0	148FTH		NEGOTIATED-LESS SEPARATION THAN ESTABLSH. MAY OPERATE MAX. FAC	
XHNMFM CP	NUEVO LAREDO	TA	262 A	27-29-46.0	4KWH		USA	761126
			100.3	99-30-01.0	295FTH			
XHMWFM CP	NUEVO LAREDO	TA	272 A	27-29-48.0	3KWH		USA	761126
			102.3	99-30-01.0	295FTH			
	NUEVO LAREDO	TA	279 A	27-29-48.0			USA	730830
			103.7	99-30-01.0				
	NUEVO LAREDO	TA	283 A	27-29-48.0			USA	730830
			104.5	99-30-01.0				
	NUEVO LAREDO	TA	287 A	27-29-48.0			USA	730830
			105.3	99-30-01.0				

	NUEVO LAREDO	TA	296 A	27-29-48.0			USA	730830
			107.1	99-30-01.0				
	REYNOSA	TA	207 A	26-05-50.0			USA	730830
			89.3	98-16-42.0				
	REYNOSA	TA	211 A	26-05-50.0			USA	730830
			90.1	98-16-42.0				
	REYNOSA	TA	215 A	26-05-50.0			USA	730830
			90.9	98-16-42.0				
	REYNOSA	TA	226 C	26-05-50.0			USA	730830
			93.1	98-16-42.0				
XHRTFM CP	REYNOSA	TA	237 A	26-05-08.0	2KWH		USA	761126
			95.3	98-17-01.0	295FTH			
	REYNOSA	TA	268 A	26-05-50.0			USA	730830
			101.1	98-16-42.0				
	REYNOSA	TA	273 B	26-05-50.0			USA	730830
			102.5	98-16-42.0				
XHRY CP	REYNOSA	TA	277 A	26-05-21.0	3KWH	3KWV	USA	761126
			103.3	98-16-29.0	295FTH	295FTV		
	REYNOSA	TA	294 A	26-05-50.0			USA	730830
			106.7	98-16-42.0				
	SAN FERNANDO	TA	265 B	24-50-46.0			USA	730830
			100.9	98-09-30.0				
	SANTANDER JIMENEZ	TA	225 B	24-12-56.0			USA	770127
			92.9	98-29-05.0				
	SANTANDER JIMENEZ	TA	229 B	24-12-56.0			USA	770127
			93.7	98-29-05.0				
	SANTANDER JIMENEZ	TA	285 C	24-12-56.0			USA	770127
			104.9	98-29-05.0				
	SANTANDER JIMENEZ	TA	289 B	24-12-56.0			USA	770127
			105.7	98-29-05.0				
	SOTO LA MARINA	TA	205 B	23-46-02.0			USA	770127
			88.9	98-12-14.0				
	SOTO LA MARINA	TA	209 B	23-46-02.0			USA	770127
			89.7	98-12-14.0				
	SOTO LA MARINA	TA	213 C	23-46-02.0			USA	770127
			90.5	98-12-14.0				

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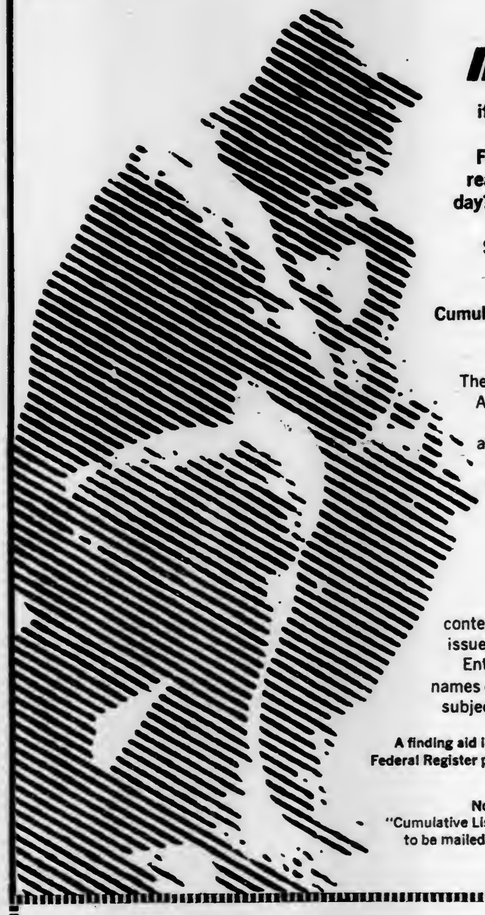
SOTO LA MARINA	TA	217 C 91.3	23-46-02.0 98-12-14.0	USA	770127
VALLE HERMOSO	TA	209 A 89.7	25-49-00.0 97-49-00.0	USA	770127
VALLE HERMOSO	TA	217 A 91.3	25-49-00.0 97-49-00.0	USA	770127
VALLE HERMOSO	TA	222 B 92.3	25-49-00.0 97-49-00.0	USA	770127
VALLE HERMOSO	TA	287 A 105.3	25-49-00.0 97-49-00.0	USA	770127

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V 42 91 MAY 11 77 UMI

Vol.42—No.92
5–12–77
PAGES
24045–24227

federal register

THURSDAY, MAY 12, 1977

highlights

SUNSHINE ACT MEETINGS..... 24173

RAILROAD INDUSTRY
SEC issues advanced notice of proposed rulemaking regarding disclosure guidelines, deferred maintenance, betterment accounting, and exemption from financial statement requirements for certain railroads (2 documents); comments by 6–17–77..... 24069, 24071

UNIFORM SYSTEM OF ACCOUNTS
CAB proposes amendments to forms regarding transactions with affiliates and nontransport divisions; comments by 6–13–77 (Part VI of this issue)..... 24215

ARCHITECTURAL GLAZING MATERIALS
CPSC proposes extension of effective date of safety standard for certain fabricators; comments by 5–27–77.. 24067

CONTRACT APPEALS
HUD proposes changes to rules of procedures for handling appeals; comments by 6–10–77 (Part III of this issue)..... 24199

SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME
HEW publishes cost-of-living increases in benefits and income limitations (Part V of this issue)..... 24209

LETTERS OF CREDIT
Treasury/Comptroller establishes guidelines for use by national banks before issuance; effective 5–12–77 (Part IV of this issue)..... 24205

EXTERNAL-LOAD OPERATIONS
DOT/FAA adopts procedural amendments for restricted category rotorcraft; effective 8–10–77 (Part II of this issue) 24195

EMERGENCY DROUGHT IMPACT AREAS
USDA/FmHA amends regulations to expedite designation of emergency areas for purposes of loan assistance; effective 5–12–77..... 24062

AIR TRAFFIC CONTROL FREQUENCY
FCC authorizes use by aeronautical utility mobile stations under certain communications; effective 6–13–77.. 24054

PESTICIDES
EPA proposes exemption of certain inert ingredients from tolerance requirements; comments by 6–13–77.... 24071

CONTINUED INSIDE

V 42 92 MAY 12 77 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Standard instrument approach procedures; changes and additions.
17106; 3–31–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

MOTOR VEHICLE SAFETY STANDARDS
DOT/NHTSA establishes requirements for impact resistance of vehicles in low speed front and rear collisions; effective 9–1–78 24056

EMPLOYMENT TAXES
Treasury/IRS issues interim regulations regarding constructive filing of waivers of exemptions from social security taxes by certain tax exempt organizations; comments by 6–27–77 24046

FREEDOM OF INFORMATION
CIA clarifies and updates the term "records"; effective 5–12–77 24049

HEARING—
HEW: Student Financial Assistance Study Group, 5–26–77 24101

MEETINGS—
USDA/AMS: Shippers Advisory Committee, 5–31–77 .. 24074
Commerce/NOAA: Gulf of Mexico Fishery Management Council, 6–13 thru 6–15–77 24076
Sea Grant Review Panel, 7–1 and 7–2–77 24076
Weather Modification Advisory Board, 5–31 and 6–1–77 24077
DOD: Armed Forces Epidemiological Board, 6–1–77 24077
Wage Committee, 7–5, 7–12, 7–19, and 7–26–77 .. 24077
FCC: WARC–79 Satellite Broadcasting Service Group, 5–26–77 24081
HEW: Student Financial Assistance Study Group, 5–27–77 24101
ADAMHA: Advisory Committees, 6–21 and 6–22, and 6–27 thru 7–1–77 24099
CDC: Coal Mine Health Research Advisory Committee, 5–27–77 24099
NIH: Aging Review Committee, 6–23–77 24100
Biomedical Library Review Committee, 6–28 and 6–29–77 24100
Clinical Trials Review Committee, 6–13 and 6–14–77 24100
General Clinical Research Centers Committee, 6–23 and 6–24–77 24100
Pharmacology—Toxicology Research Program Committee, 6–16 and 6–17–77 24101
Interior/NPS: Rocky Mountain Regional Advisory Committee, 6–15 thru 6–17–77 24119
NASA: Research and Technology Advisory Council Committee on Materials and Structures, 6–7 thru 6–9–77 24120
Space Program Advisory Council (SPAC) Applications Committee, 6–7–77 24121
Stratospheric Research Advisory Committee, 5–31 and 6–1–77 24121
NFAH: Education Programs Panel Advisory Committee, 6–2 and 6–3–77 24126
Research Grants Panel, 6–2 and 6–3–77 24126
Science, Technology and Human Values Advisory Committee, 6–3–77 24125
DOT/FAA: Radio Technical Commission for Aeronautics Special Committee 122 and 127 (2 documents), 6–7 thru 6–9 and 6–14 and 6–15–77 24134

CHANGED MEETING—
USDA/CSRS: Committee of Nine, 6–2 and 6–3–77 24074

SEPARATE PARTS OF THIS ISSUE
Part II, DOT/FAA 24195
Part III, HUD 24199
Part IV, Treasury/Comptroller 24205
Part V, HEW 24209
Part VI, CAB 24215

V 42 92 MAY 12 77 UMI

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Authority delegations:
Colombia, Director; contract of guaranty ... 24134

AGRICULTURAL MARKETING SERVICE
Rules
Oranges (navel) grown in Ariz. and Calif ... 24061
Oranges (Valencia) grown in Ariz. and Calif ... 24061
Proposed Rules
Limes grown in Fla ... 24066
Potato research and promotion plan; expenses ... 24066
Notices
Meetings:
Shippers Advisory Committee ... 24074

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Cooperative State Research Service; Farmers Home Administration.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION
Notices
Meetings:
Advisory Committees; June ... 24099

ARMY DEPARTMENT
See Engineers Corps.

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Notices
Grants, guidelines for:
Architecture and environmental arts, 1978 fiscal year ... 24121
Meetings:
Education Programs Panel ... 24126
Research Grants Panel ... 24126
Science, Technology and Human Values Advisory Committee ... 24125

CENTRAL INTELLIGENCE AGENCY
Rules
Freedom of information ... 24049

CIVIL AERONAUTICS BOARD
Proposed Rules
Accounts and reports for certificated air carriers; uniform system:
Form 41 amended ... 24216
Notices
Hearings, etc.:
Air Manila, Inc ... 24074
Braniff Airways, Inc ... 24074
Deutsches Reiseburo GmbH ... 24076

COMMERCE DEPARTMENT
See National Oceanic and Atmospheric Administration.

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY
Notices
Community development block grants:
Grantee performance reports; inquiry ... 24105

COMPTROLLER OF CURRENCY
Rules
Rulings:
Letters of credit ... 24206

CONSUMER PRODUCT SAFETY COMMISSION
Proposed Rules
Architectural glazing materials; safety standards ... 24067

COOPERATIVE STATE RESEARCH SERVICE
Notices
Meetings:
Committee of Nine ... 24074

DEFENSE DEPARTMENT
See also Engineers Corps.
Notices
Meetings:
Armed Forces Epidemiological Board; Environmental Quality Subcommittee ... 24077
Wage Committee ... 24077

DISEASE CONTROL CENTER
Notices
Meetings:
Coal Mine Health Research Advisory Committee ... 24099

EDUCATION OFFICE
Notices
Applications and proposals, closing dates:
State student financial assistance training program; extension of time ... 24101

EMERGENCY NATURAL GAS ACT OF 1977, ADMINISTRATOR
Emergency orders, etc.:
Texas Gas Transmission Corp ... 24074

ENGINEERS CORPS
Rules
Administrative procedures:
Civil works projects; reimbursement for advance non-Federal participation ... 24049

ENVIRONMENTAL PROTECTION AGENCY
Proposed Rules
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Acetic anhydride, et al ... 24071

FARMERS HOME ADMINISTRATION
Rules
Emergency loans:
Drought, emergency, impact area; designation ... 24062

FEDERAL AVIATION ADMINISTRATION
Rules
Air traffic operating and flight rules; air carriers certification and operations:
Rotocraft external-load operations; compensation or hire ... 24196
Transition areas (3 documents) ... 24045–24046
Proposed Rules
Control zone and transition area ... 24066
Notices
Meetings:
Aeronautics Radio Technical Commission, Special Committee 122 ... 24134
Aeronautics Radio Technical Commission, Special Committee 127 ... 24134

FEDERAL COMMUNICATIONS COMMISSION
Rules
Aviation services and frequency allocations and radio treaty matters:
Aeronautical utility mobile stations; availability of air traffic control frequencies ... 24054
Radio broadcast services:
Antenna monitors type approved by AM broadcasting stations operating directional antenna systems; editorial changes ... 24055
Notices
Domestic public radio services; applications accepted for filing ... 24078
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies ... 24080
World Administrative Radio Conference; Satellite Broadcasting Service Group ... 24081
Hearings, etc.:
Wire Tele View Corp ... 24081

FEDERAL DISASTER ASSISTANCE ADMINISTRATION
Notices
Disaster and emergency areas:
Louisiana ... 24107
Oregon ... 24107
Tennessee ... 24107

FEDERAL MARITIME COMMISSION
Notices
Casualty and nonperformance, certificates:
Mitsui O.S.K. Lines Ltd. et al. (2 documents) ... 24082

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Appalachian Power Co ... 24082
Boston Edison Co ... 24082
Cardinal Operating Co ... 24082
Carolina Power & Light Co ... 24083
Cincinnati Gas & Electric Co ... 24083
Colorado Interstate Gas Co ... 24084
Connecticut Light & Power Co ... 24084
Consolidated Gas Supply Corp ... 24085
El Paso Electric Co ... 24085
El Paso Natural Gas Co ... 24085
Grand Bay Co ... 24086
Great Southern Oil & Gas Co., Inc ... 24086
Gulf States Utilities Co ... 24086
Indiana & Michigan Electric Co ... 24086
Iowa-Illinois Gas & Electric Co ... 24087
Ladd Petroleum Corp ... 24087
Montana-Dakota Utilities Co ... 24087
Montana Power Co ... 24088
Mountain Fuel Resources, Inc ... 24088
Mountain Fuel Supply Co. (2 documents) ... 24089
National Fuel Gas Supply Corp ... 24090
NEPOOL Executive Committee ... 24090
Northern Natural Gas Co ... 24090
Panhandle Eastern Pipe Line Co ... 24091
Pinto, Inc., et al ... 24091
Russell, William C ... 24093
Southern Natural Gas Co ... 24093
Southport Exploration, Inc ... 24094
Texas Gas Transmission Corp ... 24094
United Gas Pipe Line Co ... 24094
Upper Peninsula Power Co ... 24095

FISH AND WILDLIFE SERVICE
Rules
Fishing:
Elk National Refuge, Wyo ... 24060

FOREIGN-TRADE ZONES BOARD
Notices
Foreign-trade zone applications:
San Francisco, Calif ... 24076

GENERAL ACCOUNTING OFFICE
Notices
Regulatory reports review; proposals, approvals, etc ... 24095

GENERAL SERVICES ADMINISTRATION
Rules
Property management:
Federal; utilization, donation and disposal, certified and noncertified electronic products ... 24051
Notices
Environmental impact statements; preparation procedures ... 24095

GEOLOGICAL SURVEY
Notices
Oil and gas operations:
Marathon Oil Co.; royalty payment ... 24111

HAZARDOUS MATERIALS OPERATIONS OFFICE
Notices
Applications; exemptions, renewals, etc.:
Economics Laboratory, et al ... 24136
General Electric, et al ... 24135

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Alcohol, Drug Abuse, and Mental Health Administration; Disease Control Center; Education Office; National Institutes of Health.
Notices
Meetings:
Student Financial Assistance Study Group ... 24101
Social Security; cost-of-living increase ... 24210

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Community Planning and Development, Office of Assistant Secretary; Federal Disaster Assistance Administration; New Communities Administration.
Proposed Rules
Contract appeals ... 24200

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service; Reclamation Bureau.

INTERNAL REVENUE SERVICE
Rules
Employment taxes:
Exemption waivers, constructive filing; social security taxes for tax-exempt organizations ... 24046
Notices
Authority delegations:
Assistant Commissioner (Administration); identification media ... 24139

INTERNATIONAL TRADE COMMISSION
Notices
Import investigations:
Dot Matrix impact printers ... 24120
Photocubes, etc., display devices for ... 24120
Sonar apparatus, light shields for ... 24120
Toy vehicles, steel; certain ... 24120

INTERSTATE COMMERCE COMMISSION
Notices
Abandonment of railroad services, etc.:
Buffalo, Rochester & Pittsburgh Railway Co ... 24169
Chattahoehee Valley Railway Co ... 24161
Chesapeake & Ohio Railway Co ... 24169
El Paso Union Passenger Depot Co ... 24169
Fairmont, Morgantown & Pittsburgh Railroad Co., et al ... 24169
High Point, Thomasville & Denton Railroad Co ... 24162
Holton Inter-Urban Railway Co ... 24163
Northwestern Pacific Railroad Co ... 24164
Winston-Salem Southbound Railway Co ... 24168
Fourth section applications for relief ... 24169
Motor carriers:
Temporary authority applications ... 24170
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications ... 24139

LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
New Mexico (2 documents) ... 24110
Wyoming ... 24110
Opening of public lands:
Washington ... 24110
Withdrawal and reservation of lands, proposed, etc.:
Alaska ... 24108
Arizona ... 24109

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Notices
Meetings:
Research and Technology Advisory Council ... 24120
Space Program Advisory Council ... 24121
Stratospheric Research Advisory Committee ... 24121

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Rules
Motor vehicle safety standards:
Bumper standards; damageability requirements ... 24056

NATIONAL INSTITUTES OF HEALTH
Notices
Meetings:
Aging Review Committee ... 24100
Biomedical Library Review Committee ... 24100
Clinical Trials Review Committee ... 24100
General Clinical Research Centers Committee ... 24100
Pharmacology-Toxicology Research Program Committee ... 24101

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Meetings:
Gulf of Mexico Fishery Management Council ... 24076
Sea Grant Review Panel ... 24076
Weather Modification Advisory Board ... 24077

NATIONAL PARK SERVICE
Notices
Environmental statements; availability, etc.:
Glacier National Park, Mont ... 24119
Meetings:
Golden Gate National Recreation Area Advisory Commission ... 24119
Rocky Mountain Regional Advisory Committee ... 24119

NATIONAL TRANSPORTATION SAFETY BOARD
Notices
Aircraft accidents; investigation hearings ... 24132
Safety recommendations and accident reports; availability, responses, etc ... 24131

NEW COMMUNITIES ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Jonathan New Community Project, Minn ... 24108

V42N92 MAY 12 77 UMI

CONTENTS

NUCLEAR REGULATORY COMMISSION
Notices
Regulatory guides; issuance and availability ... 24129
Applications, etc.:
Baltimore Gas & Electric Co ... 24126
Florida Power & Light Co. (3 documents) ... 24127, 24130
New York State Power Authority ... 24131
Northern States Power Co ... 24128
Pacific Gas & Electric Co ... 24131
Portland General Electric Co., et al ... 24128
Public Service Co. of New Hampshire, et al ... 24131
Southern California Edison Co., et al ... 24129
Toledo Edison Co., et al ... 24130
Wisconsin Electric Power Co., et al ... 24130

PIPELINE SAFETY OPERATIONS OFFICE
Notices
Petition for waiver; pipeline:
Phillips Pipeline Co ... 24136

RECLAMATION BUREAU
Notices
Environmental statements; availability, etc.:
Dolores Project, Colorado ... 24111

SECURITIES AND EXCHANGE COMMISSION
Rules
Securities Exchange Act:
Securities issuers reporting to multiple Federal agencies ... 24062
Proposed Rules
Securities Act and Securities Exchange Act:
Railroad industry disclosure guidelines, deferred maintenance, and betterment accounting ... 24069
Securities Exchange Act:
Financial statement requirement exemptions for certain railroad issuers ... 24071

SMALL BUSINESS ADMINISTRATION
Notices
Applications, etc.:
Community Equity Corp. of Nebraska ... 24133
Charles River Resources, Inc ... 24133
Disaster areas:
Colorado ... 24133
Vermont ... 24133

STATE DEPARTMENT
See also Agency for International Development.
Notices
Fishery conservation zone; limits ... 24134

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE
Notices
Generalized system of preferences, articles eligible for ... 24133

TRANSPORTATION DEPARTMENT
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Hazardous Materials Operations Office; National Highway Traffic Safety Administration; Pipeline Safety Operations Office.
Notices
Railroad passenger experimental route "Mountaineer"; termination ... 24136

TREASURY DEPARTMENT
See Comptroller of Currency; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
907 ... 24061
908 ... 24061
1832 ... 24062
PROPOSED RULES:
911 ... 24066
1207 ... 24066

12 CFR
7 ... 24206

14 CFR
71 ... 24045
91 ... 24196
133 ... 24196
PROPOSED RULES:
71 ... 24066
241 ... 24218

16 CFR
PROPOSED RULES:
1201 ... 24067

17 CFR
240 ... 24062
249 ... 24062
PROPOSED RULES:
230 ... 24069
240 ... 24069

24 CFR
PROPOSED RULES:
20 ... 24200

26 CFR
33 ... 24046

32 CFR
1900 ... 24049

33 CFR
209 ... 24049

40 CFR
PROPOSED RULES:
180 ... 24071

41 CFR
101–43 ... 24051
101–44 ... 24052
101–45 ... 24052

47 CFR
2 ... 24054
73 ... 24055
87 ... 24054

49 CFR
581 ... 24056

50 CFR
33 ... 24060

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR
Ch. I ... 22125

3 CFR
EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) ... 23129
11861 (Amended by EO 11983) ... 23127
11872 (Revoked by EO 11983) ... 23127
11971 (Amended by EO 11982) ... 22859
11932 ... 22859
11983 ... 23127
11984 ... 23129
MEMORANDUMS:
May 4, 1977 ... 23499

5 CFR
213 ... 22355, 22356, 23131
550 ... 23131
PROPOSED RULES:
733 ... 23160

7 CFR
1 ... 23597
6 ... 22874
52 ... 22356
230 ... 23155
271 ... 22356
272 ... 23599
295 ... 23155
701 ... 22358
907 ... 22874, 24061
908 ... 24061
910 ... 22359, 23156
916 ... 23156
917 ... 22875, 23157
959 ... 22125
1068 ... 22360
1421 ... 22126
1430 ... 22126
1464 ... 23795
1832 ... 24062
1888 ... 23158
PROPOSED RULES:
53 ... 23514
225 ... 23606
911 ... 24066
915 ... 23607
918 ... 23160
944 ... 23514
1002 ... 23841
1207 ... 24066
1421 ... 23613
1425 ... 23614

8 CFR
PROPOSED RULES:
103 ... 22148
244 ... 22148
299 ... 22149

9 CFR
78 ... 22370
94 ... 23131
301 ... 22373
307 ... 22373
308 ... 22373
310 ... 22373
318 ... 22373
320 ... 22373
325 ... 22373
327 ... 22373
331 ... 22373

9 CFR—Continued
350 ... 22373
354 ... 22373
355 ... 22373
362 ... 22373
381 ... 22373
390 ... 22373
391 ... 22373
PROPOSED RULES:
1 ... 22374
2 ... 22374
3 ... 22374

10 CFR
2 ... 22128, 22882
50 ... 22882
140 ... 23501
205 ... 23501, 23722
212 ... 22131, 22881
303 ... 23134
305 ... 23140
307 ... 23142
309 ... 23144
RULINGS:
1977–6 ... 23501
PROPOSED RULES:
2 ... 22168
170 ... 22149
211 ... 22889, 23859
212 ... 22374, 22889
430 ... 23860
810 ... 23865

12 CFR
7 ... 24206
202 ... 22861
220 ... 22862
226 ... 22360
329 ... 22362
PROPOSED RULES:
220 ... 22894
225 ... 22560
226 ... 23516
329 ... 22378

13 CFR
302 ... 23795
309 ... 23146
500 ... 22135
520 ... 22135
551 ... 22135
552 ... 22136
553 ... 22137
554 ... 22137
555 ... 22137
560 ... 22137
PROPOSED RULES:
120 ... 23614

14 CFR
39 ... 22137, 22862, 22863, 23502–23504
71 ... 22138, 23505, 24045
91 ... 22139, 24196
97 ... 22863
133 ... 24196
241 ... 23146
385 ... 23600
PROPOSED RULES:
39 ... 22172, 22896
71 ... 22172, 22173, 24066

14 CFR—Continued
PROPOSED RULES—Continued
152 ... 22896
241 ... 24216
302 ... 23841

15 CFR
50 ... 22362
376 ... 23796

16 CFR
13 ... 22876, 23799
1014 ... 22878
1202 ... 22656
1500 ... 22878
PROPOSED RULES:
2 ... 22897
13 ... 23841–23849
1201 ... 24067
1205 ... 23052
1616 ... 23853

17 CFR
1 ... 23988
231 ... 22139
239 ... 22139
240 ... 23786, 23799, 24062
249 ... 23786, 24062
PROPOSED RULES:
1 ... 23614
32 ... 23614
210 ... 23853
230 ... 24069
240 ... 24069
249 ... 23792

18 CFR
1000 ... 22146
PROPOSED RULES:
1 ... 23160
3 ... 23160
4 ... 23160
5 ... 23160
6 ... 23160
16 ... 23160
35 ... 22897
154 ... 23615

19 CFR
159 ... 23146, 23505, 23801

20 CFR
200 ... 22865
PROPOSED RULES:
655 ... 22378

21 CFR
172 ... 23148
193 ... 23148
310 ... 23772
510 ... 23149
520 ... 23600
540 ... 23149
561 ... 22363, 23148
801 ... 23772
PROPOSED RULES:
361 ... 23161

V 42 92 MAY 12 77 UMI

23 CFR

PROPOSED RULES:
640 22173
642 22173

24 CFR

235 22557
241 23601
812 23582
860 23584
880 23585
881 23585
882 23585
883 23585
886 23585
888 22363
1914 22865–22867
1917 23972–23975

PROPOSED RULES:
20 24200
803 22704
888 22704
1932 22900

25 CFR

219 22141

PROPOSED RULES:
221 22902

26 CFR

33 24046
301 22143

PROPOSED RULES:
53 23517

27 CFR

178 22144
181 22144

28 CFR

0 ..... 22557, 23801
16 23506
32 23252

29 CFR

9 22364
40 22364
1910 ..... 22516, 23601

30 CFR

PROPOSED RULES:
211 23855

31 CFR

530 23605

PROPOSED RULES:
215 22174

32 CFR

865 23601
1900 24049

33 CFR

1 23506
25 22879
209 24049

36 CFR

7 22557

37 CFR

PROPOSED RULES:
4 22378

38 CFR

3 22868

39 CFR

PROPOSED RULES:
111 22176

40 CFR

33 22144
52 ..... 22869, 23802–23805
180 22364
228 22144
435 22558

PROPOSED RULES:
51 22177
52 ..... 22902, 23162
60 22506
180 24071
228 23163
250 22332
435 22560

41 CFR

1–1 23507
1–14 23507
9–7 23507
9–15 23507
15–3 22145
101–25 22558
101–43 24051
101–44 24052
101–45 24052
114–25 23150

43 CFR

PUBLIC LAND ORDERS:
5617 22365

45 CFR

4 22145
84 ..... 22676, 22888
250 23508
1060 23151
1067 22365
1068 22145

45 CFR—Continued

PROPOSED RULES:
166 22336

46 CFR

148 22145
502 23509

PROPOSED RULES:
10 22903
12 22903
35 23517
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296
151 22903
153 23518
502 22383

47 CFR

2 ..... 23509, 24054
73 ..... 22558, 24055
74 22558
76 23510
81 ..... 22869–22872, 23510
83 ..... 22869–22872, 23510
87 ..... 23509, 24054

PROPOSED RULES:
61 23615
64 23615
73 ..... 22183, 22569, 23165
76 23519

49 CFR

1 22366
172 ..... 22366, 22880
175 ..... 22366, 22880
581 24056
1033 ..... 22367, 22368, 22880
1036 23511
1041 22369
1100 23806
1320 ..... 22369, 23840
1322 ..... 22369, 23842

PROPOSED RULES:
Ch. II 22184

50 CFR

26 23151
33 ..... 22874, 24060
611 22559

PROPOSED RULES:
32 22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date	Pages	Date
22125–22354	May 2	23499–23596	9
22355–22556	3	23597–23794	10
22557–22858	4	23795–24044	11
22859–23125	5	24045–24227	12
23127–23497	6		

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-EA-25]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Alteration of Transition Area: Allentown, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will extend the transition area by ½ mile so as to accommodate a revision to the instrument approach procedures for runway 6 at the Allentown-Bethlehem-Easton Airport. The revision requires a nominal amount of extra controlled airspace.

EFFECTIVE DATE: May 19, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York, 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Allentown, Pa., Transition Area. A revision to the runway 6 instrument procedures for Allentown-Bethlehem-Easton Airport require an additional ½ mile of controlled airspace.

Under the circumstances presented, the FAA concludes that the Rule is minor in nature and does not impose any evident additional burden on any person, but adds to air safety. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication.

DRAFTING INFORMATON

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective May 19, 1977, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the description of the Allentown, Pa. 700-foot floor transition area by deleting "extending from the OM to 11 miles southwest of the OM;" and by inserting in lieu thereof, "extending from the OM to 11.5 miles southwest of the OM;".

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13555 Filed 5-11-77;8:45 am]

[Airspace Docket No. 77-EA-7]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Designation of West Milford, N.J., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes controlled airspace (transition area) to provide protection to aircraft executing instrument approaches and departures for Greenwood Lake Airport, West Milford, N.J.

EFFECTIVE DATE: 0901 G.m.t. May 26, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area identified as West Milford, N.J. A NPRM was published in the FEDERAL REGISTER on February 14, 1977. (42 FR 9029).

Interested parties were given 30 days in which to submit comments on the proposal. There were no objections to the NPRM.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, Thomas C. Halloran, Esq., Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as proposed, effective 0901 G.m.t. May 26, 1977.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

1. Amend § 71.181 of Part 71, of the Federal Aviation Regulations by designating a West Milford, N.J., 700-foot floor transition area as follows:

WEST MILFORD, N.J.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°07'45" N., 74°20'50" W., of Greenwood Lake Airport, West Milford, N.J.; within a 7-mile radius of the center of the airport, extending clockwise from a 154° bearing from the airport to a 217° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 217° bearing from the airport to a 318° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 318° bearing from the airport to a 079° bearing from the airport; within 2 miles each side of the Sparta, N.J. VORTAC 067° radial, extending from the 5-mile radius area to the VORTAC.

[FR Doc.77-13554 Filed 5-11-77;8:45 am]

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[Airspace Docket No. 77-EA-29]

PART 71—DESIGNATION OF CONTROLLED AIRSPACE

Revocation of Transition Area: Wurtsboro, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will decontrol airspace in the Wurtsboro, N.Y., Terminal Area by revoking the transition area. The runway 5 instrument procedure has been cancelled as of March 31, 1977, thereby nullifying the need for the transition area.

EFFECTIVE DATE: May 19, 1977.

ADDRESSES: Copies of this Final Rule may be obtained from Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revoke the designated. Wurtsboro, N.Y., Transition Area. There is no longer any need for this controlled airspace.

Under the circumstances presented, the FAA concludes that this is a regulation which is relieving and creates no additional burden on any person. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective May 19, 1977, as follows:

1. Revoke the Wurtsboro, N.Y., Transition Area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13556 Filed 5-11-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7485]

PART 33—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ACT OF OCTOBER 19, 1976

Constructive Filing of Waivers of Exemption From Social Security Taxes by Certain Tax-Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document provides temporary regulations relating to the constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations. Changes to the applicable tax law were made by the Act of October 19, 1976. These regulations affect certain tax-exempt organizations which have paid social security taxes without filing a certificate waiving their exemption from those taxes. In addition, the temporary regulations promulgated by this document serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: The temporary regulations are effective with respect to services performed after 1950, and the final regulations are proposed to be effective with respect to services performed after 1950. Written comments and requests for a public hearing must be delivered or mailed by June 27, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3926).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary regulations relating to constructive filing of waivers of exemption by certain tax-exempt organizations under section 3121(k) of the Internal Revenue Code of 1954, as amended by the Act of October 19, 1976 (Pub. Law 94-563, 90 Stat. 2655). These regulations add a new part 33, Temporary Employment Tax Regulations Under the Act of October 19, 1976, to title 26 of the Code of Federal Regulations. In addition, the regulations promulgated in this document are proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 31) under section 3121(k) of the Internal Revenue Code of 1954.

EXPLANATION OF PROVISIONS

The employees of certain tax-exempt organizations are excluded from social security coverage unless the employing organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxes. Prior to the enactment of Pub. Law 94-563, a large number of tax-exempt organizations and their employees had been paying Federal Insurance Contributions Act (FICA) taxes without having filed certificates waiving their exemption from these taxes. The purpose of Pub. Law 94-563 was to validate the social security coverage of the employees.

CONSTRUCTIVE FILING OF WAIVER CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN ALLOWED

Section 3121(k)(4) of the Code, as added by Pub. Law 94-563, applies to a tax-exempt organization which paid FICA taxes for a period involving three or more consecutive calendar quarters without filing a waiver certificate. If this period did not terminate before the end of the third quarter of 1973, and if the organization did not obtain a refund or credit of the taxes before September 9, 1976, the organization will be deemed under section 3121(k)(4) to have filed a certificate waiving its exemption from FICA taxes. The interim regulations make it clear that a refund or credit of those taxes was "obtained" prior to September 9, 1976, only if the taxpayer account of the organization or any of its employees was credited by the Internal Revenue Service before that date.

The interim regulations provide that in determining whether an organization has erroneously paid FICA taxes for three or more consecutive calendar quarters, any quarter during which an application for the organization's tax-exempt status was pending with the Internal Revenue Service will not be counted. This permits an organization to pay FICA taxes while awaiting determination of its tax-exempt status, without being automatically covered by section 3121(k)(4) if such status is later granted retroactively. The interim regulations also provide that where an organization is deemed to have filed a waiver certificate under section 3121(k)(4) but has not paid FICA taxes for one or more quarters covered by the deemed filed certificate, the due date for filing the returns and for paying the taxes for those quarters is August 1, 1977.

CONSTRUCTIVE FILING WHERE REFUND OR CREDIT HAS BEEN ALLOWED

Section 3121(k)(5) of the Code, also added by Pub. Law 94-563, applies to organizations that would have been covered by section 3121(k)(4) if they had not received a refund or credit of FICA taxes prior to September 9, 1976. An organization in this situation will be deemed to have filed a waiver certificate on April 18, 1977, covering all employees for whom FICA taxes were paid, unless it files an actual retroactive waiver certificate on or before April 18, 1977.

An organization which is deemed to have filed a waiver certificate on April 18, 1977, will be solely liable for all social security taxes due for the period prior to April 1, 1977. The employees have no liability for the payment of any portion of these taxes.

In certain circumstances, an employee of an organization deemed to have filed on April 18 may elect additional retroactive social security coverage for quarters for which FICA taxes were paid and refunded or credited but which are prior to the effective date of the deemed-filed certificate. If all required conditions are satisfied, the employee can obtain additional coverage by filing a request and making full repayment of the taxes under section 3101 for the additional quarters.

ACTUAL FILING OF WAIVER BY APRIL 18, 1977

An organization which obtained a refund or credit of FICA taxes before September 9, 1976, may file an actual waiver certificate on or before April 18, 1977. This waiver certificate must be effective retroactively to cover the period of the refund or credit received (or 20 quarters, if less). Also, it must be accompanied by a list of those employees if any) who concur in the filing of the certificate. An organization which files such a retroactive waiver certificate must afford all eligible employees an opportunity to obtain the retroactive social security coverage. Taxes due for the period prior to the quarter in which a waiver certificate is filed or deemed filed under 3121(k)(5) may be paid in installments over an extended period of time.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this regulation was Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, a new Part 33, Temporary Employment Tax Regulations under the Act of October 19, 1976, is added to title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

§ 33.1 Constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations.

(a) *Constructive filing of waiver certificate where no refund or credit has been allowed.* (1) This paragraph applies to an organization if all of the following four conditions are met.

(i) The organization is one described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of the Code.

(ii) The organization did not file a valid waiver certificate under section 3121(k)(1) of the Internal Revenue Code of 1954 (or the corresponding provision of prior law) as of the later of October 19, 1976, or the end of the third calendar quarter of the period referred to in subdivision (iii) of this subparagraph.

(iii) The taxes imposed by sections 3101 and 3111 of the Code were paid with respect to remuneration paid by the organization to its employees, as though such certificate had been filed, during any period that includes all or part of each of at least three consecutive calendar quarters and that did not terminate before the end of the third calendar quarter of 1973. These three quarters shall not include any quarter during any part of which an application for a ruling or determination letter recognizing an organization's tax-exempt status was pending with the Internal Revenue Service. In addition, for an organization required by paragraph (a)(2)(i) of § 1.508-1 (Income Tax Regulations) to apply for recognition of section 501(c)(3) status, the three calendar quarters referred to in the first sentence of this subdivision shall only include quarters after the quarter in which a ruling or determination letter recognizing its tax-exempt status is issued to such organization.

(iv) The Internal Revenue Service did not allow (or erroneously allowed) a refund or credit of any part of the taxes paid as described in subdivision (iii) of this subparagraph with respect to remuneration for services performed on or after July 1, 1973. For purposes of the previous sentence, a refund or credit which would have been allowed, even if a valid waiver certificate filed under section 3121(k)(1) had been in effect, shall be disregarded. A refund or credit will be regarded as having been erroneously allowed if it was credited by the Internal Revenue Service to the taxpayer account of the organization or any of its employees on or after September 9, 1976, even though it was properly made under the law in effect when made.

(2)(i) An organization to which this paragraph applies shall be deemed to have filed a valid waiver certificate under section 3121(k)(1) (or the corresponding provision of prior law) for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). The waiver certificate shall be deemed to have been filed on the first day of the period described in subparagraph (1)(iii) of this paragraph and shall be effective on the first day of the calendar quarter in which such period began. However, such waiver is effective only with respect to remuneration for services performed after 1950.

(ii) The waiver certificate shall be deemed to have been accompanied by a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes imposed by section 3101 and 3111 were paid as described in subparagraph (1)(iii) of this paragraph. Each such employee shall be deemed to have concurred in the filing of the certificate for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). A statement containing the name, address, and employer identification number of the organization, and the name, last known address, and social security number (if any) of each employee described in the preceding sentence shall be filed by the organization at the request of the Internal Revenue Service.

(iii) The services of all employees entering or reentering the employ of an organization on or after the first day following the close of the calendar quarter in which the organization is deemed to have filed the waiver certificate, performed on or after the day of such entry or reentry, shall be covered by the certificate.

(3) For purposes of computing interest under section 6601 and additions to tax under section 6651, where an organization is deemed under this paragraph to have filed a waiver certificate but the taxes imposed by section 3101 or 3111 for one or more quarters covered by such certificate are unpaid, the due date for filing returns of these taxes and for paying these taxes shall be August 1, 1977. For purposes of section 6651 (relating to additions to tax for failure to file return or pay tax), whether or not an organization's failure to pay these taxes by August 1, 1977, is due to reasonable cause shall be determined on a case-by-case basis. In appropriate cases, unanticipated financial hardship caused by this section shall constitute reasonable cause.

(b) *Constructive filing of waiver certificate where refund or credit has been allowed and new certificate is not filed.* (1) This paragraph applies to an organization which meets two conditions. First, it must be an organization to which paragraph (a) of this section would apply but for its failure to satisfy the requirement of paragraph (a)(1)(iv) of this section because a refund or credit of taxes was allowed before September 9, 1976. Second, it must not have filed an actual valid waiver certificate under section 3121(k)(1) in accordance with the requirements of paragraph (c) of this section.

(2) An organization to which this paragraph applies shall be deemed. for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B), to have filed a valid waived cer-

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tificate under section 3121(k)(1) on April 18, 1977. Such certificate shall be effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subaragraph (1) of this paragraph was allowed (or, if later, on July 1, 1973).

(3) If an organization is deemed under this paragraph to have filed a waiver certificate on April 18, 1977, the provisions of paragraph (a)(2)(ii) of this section (relating to employees covered by a deemed-filed waiver certificate) shall apply. Such certificate shall supersede any certificate which may have been actually filed by such organization prior to that date.

(4) Where an organization is deemed under this paragraph to have filed a waiver certificate on April 18, 1977, the due date for the return and payment of the taxes imposed by sections 3101 and 3111 for wages paid prior to April 1, 1977, with respect to services constituting employment by reason of such certificate shall be August 1, 1977. However, see paragraph (d) of this section which permits the payment of these taxes in installments. Such taxes (along with the amount of any interest paid in connection with the refund or credit described in subparagraph (1) of this paragraph) shall be a liability of such organization, payable from its own funds. No portion of such taxes (or interest) shall be deducted from the wages of (or otherwise collected from) the individuals who performed such services, and those individuals shall have no liability for the payment thereof.

(5) This subparagraph allows certain employees of organizations covered under this paragraph to obtain social security coverage for periods prior to those covered by a deemed-filed waiver certificate. To qualify under this subparagraph, all of the following conditions must be met.

(i) An individual performed service, as an employee of an organization deemed under this paragraph to have filed a waiver certificate under section 3121(k)(1), at any time prior to the period for which such certificate is effective.

(ii) The taxes imposed by sections 3101 and 3111 were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b)) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) had been in effect) prior to September 9, 1976.

(iii) Any portion of such service (with respect to which taxes were paid and refunded or credited as described in subdivision (ii) of this subparagraph) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) a valid waiver certificate effective as provided in paragraph (c)(2) of this section (with such individual's signature appearing on the accompanying list).

If this subparagraph applies, the remuneration paid for the portion of such service described in subdivision (iii) of this subparagraph shall be deemed to constitute remuneration for employment (as defined in section 210(a) of the Social Security Act and section 3121(b)), where such individual files a request (in the manner and form, and with such official as may be prescribed by regulations under title II of the Social Security Act), accompanied by full repayment of the taxes which were paid under section 3101 with respect to such remuneration and were refunded or credited. In any case where remuneration paid by an organization to an individual is deemed under this subparagraph to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of the Code) for repayment of any taxes which it paid under section 3111 with respect to such remuneration and which were refunded or credited to it. Any interest received by the organization or its employees in connection with a refund or credit with respect to such taxes shall be remitted with the repayment of taxes pursuant to this subparagraph.

(c) *Actual filing of waiver certificate by April 18, 1977, where refund or credit has been allowed.* (1) An organization may file an actual waiver certificate in accordance with subparagraphs (2) and (3) of this paragraph if it is an organization to which paragraph (a) of this section would apply but for its failure to meet the condition set forth in paragraph (a)(1)(iv) of this section.

(2) An organization described in subparagraph (1) of this paragraph may file an actual waiver certificate on or before April 18, 1977. This certificate must be effective for the period beginning on or before the first day of the first calendar quarter with respect to which a refund or credit described in paragraph (b)(1) of this section was allowed (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under section 3121(k)(1)(B)(iii)). Such waiver certificate must be accompanied by a list described in section 3121(k)(1)(A), containing the signature, address, and social security number of each concurring employee (if any).

(3) Such a waiver certificate shall be valid only if the organization complies with the following notification requirements and, on or before August 1, 1977, files (with the service center of the Internal Revenue Service with which the waiver certificate is filed) a certification that it has complied with these notification requirements. However, these requirements shall be conclusively presumed to have been met with respect to any employees who concur in the filing of the waiver certificate.

(i) Written notification of the option to obtain social security coverage for the retroactive period covered by the waiver certificate shall be given to all current and former employees of the organization with respect to whose remuneration taxes imposed by sections 3101 and 3111 were paid for any part of the period covered by the waiver certificate. For purposes of the preceding sentence, in the case of a former employee a mailing of notification to his or her last known address shall constitute delivery to the former employee. This notification must be given at least 30 days prior to the date by which the employee is required to inform the organization whether he elects the retroactive social security coverage.

(ii) The notification required by this subparagraph must state the earliest date for which the waiver certificate is effective and the date by which the employee must inform the organization of a decision to elect the retroactive coverage. In addition, the notification must advise the employee how to obtain information as to the quarters of social security coverage to be obtained and any taxes or interest for which the employee will be liable if the election is made. The organization must provide this information to any interested employee at least 14 days prior to the last day on which such employee may inform the organization of his election.

(iii) If the notification results in any employee electing the retroactive coverage whose signature did not appear on the list of concurring employees which accompanied a previously filed waiver certificate, the certification to be supplied on or before August 1, 1977, must be accompanied by a special amendment to that list. Any employee whose name appears on this special amended list shall be treated as if his name appeared on the list of concurring employees filed with the waiver certificate. The preceding sentence shall only apply with respect to amended lists of concurring employees filed to comply with the requirements of this subparagraph.

(4) Any interest received in connection with a refund or credit described in paragraph (b)(1) of this section must be repaid on or before August 1, 1977, with respect to each employee who concurs in the filing of a waiver certificate pursuant to this paragraph. Notwithstanding the provisions of paragraph (c)(4) of § 31.3121(k)–1, if such interest is repaid on or before August 1, 1977, the waiver certificate shall be considered filed on the date it was originally furnished to the Internal Revenue Service.

(d) *Installment payment of taxes for retroactive coverage under section 3121(k)(5).* This paragraph applies where an organization files a waiver certificate under section 3121(k)(1) on or before April 18, 1977, in accordance with the provisions of paragraph (c) of this section, or is deemed to have filed such a certificate under paragraph (b)(2) of this section. In such a case, the taxes due under sections 3101 and 3111 (together with any additions to tax or interest other than interest described in paragraph (c)(4) of this section) by reason of such certificate, for any period prior to the first day of the calendar

quarter in which the certificate is actually or deemed filed, may be paid in quarterly installments over an appropriate period of time, as determined by the district director. In determining the appropriate period of time, the district director shall exercise forbearance and, to the extent possible, grant the organization an installment agreement that will allow it sufficient funds to carry out its basic mission. If any installment is not paid on or before the date fixed for its payment, the total unpaid amount shall become payable immediately and shall be paid upon notice and demand.

(e) *Application of certain provisions to cases of constructive filing.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, all of the provisions of section 3121(k) (other than subparagraphs (B), (F), and (H) of section 3121(k)(1) and the regulations thereunder (including the provisions requiring the payment of taxes under sections 3101 and 3111 with respect to the services involved), shall apply with respect to any certificate which is deemed to have been filed under paragraph (a) or (b) of this section, in the same way they would apply if the certificate had been actually filed on that day under section 3121(k)(1).

(2) The provisions of section 3121(k)(1)(E) shall not apply unless the taxes described in paragraph (a)(1)(iii) of this section were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate.

(3) The action of the organization in obtaining the refund or credit described in paragraph (b)(1) of this section shall not be considered a termination of such organization's coverage period for purposes of section 3121(k)(3).

(4) Any organization which is deemed to have filed a waiver certificate under paragraph (a) or (b) of this section shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

JOHN L. WITHERS,
Acting Commissioner of Internal Revenue.

Approved: May 6, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-13500 Filed 5-9-77;10:05 am]

Title 32—National Defense

CHAPTER XIX—CENTRAL INTELLIGENCE AGENCY

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Freedom of Information

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: This rule amends CIA regulations governing access to records under the Freedom of Information Act by clarifying and updating the term "records" so that it includes machine readable materials and those documents and records furnished by other agencies, foreign governments, or international organizations and held by the CIA. Also, under this rule, a request under the Act for documents or records originated by CIA, which is referred to CIA by another agency, shall be considered a Freedom of Information request to the CIA. It will be processed in accordance with CIA regulations, as of the time that it is received by CIA, and CIA will respond directly to the requester, making it unnecessary for a requester to submit requests to both agencies. Similarly, a request directed to CIA that concerns documents or records originated by another agency will be transferred by CIA to the originating agency for their determination and direct response to the requester.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Gene F. Wilson, Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505, 703–351–7486.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking issued February 3, 1977 and published in the FEDERAL REGISTER, Vol. 42, No. 28, on February 10, 1977. No comments were received in response to the notice. These amendments are the same as those published in the notice.

Accordingly, 32 CFR Part 1900 is amended as follows:

§ 1900.3 [Amended]

1. In § 1900.3 paragraph (g) is amended by inserting the words "machine readable materials" between the word "photographs" and the words "and other documentary materials" and by deleting paragraphs (4) and (5).

2. Section 1900.11 is amended by revising paragraph (d) to read as follows:

§ 1900.11 Freedom of information communications; requirements as to form.

* * * * * *

(d) Any request or communication to an agency other than the Central Intelligence Agency which requests or concerns documents or records originated by the CIA, and which is transferred by that agency to the CIA, shall be considered a Freedom of Information request to the CIA for that referred document as of date of receipt by the CIA of the referral, and shall be processed pursuant to regulations. CIA will respond directly to the requester.

3. In § 1900.43 a new paragraph (c) is added to read as follows:

§ 1900.43 Reviewing records.

* * * * *

(c) In the event located records are determined to have originated with another government agency, the Coordinator shall notify the requester of such fact and shall expeditiously forward such records or a description thereof to the originating agency for their determination and direct response to the requester.

Dated: April 30, 1977.

JOHN F. BLAKE,
Deputy Director for Administration, Central Intelligence Agency.

[FR Doc.77-13518 Filed 5-11-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165–2–18]

PART 209—ADMINISTRATIVE PROCEDURES

Reimbursement for Advance Non-Federal Participation in Civil Works Projects

AGENCY: Office of the Chief of Engineers, Department of the Army.

ACTION: Final rule.

SUMMARY: This regulation establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement for reimbursement of advance non-Federal participation in Civil Works projects. These instructions will implement the provisions of Section 215 of the Flood Control Act of 1968. These requirements are intended to improve and expedite action resulting from non-Federal requests.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard J. Rusnack, Construction-Operations Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314, 202–693–6909.

SUPPLEMENTARY INFORMATION: Since this regulation only provides procedural guidance to Corps of Engineers field personnel on the implementation of Public Law 90–483, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

V 4 2 9 2 MAY 12 77 UMI

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Statutory Authority Pub. L. 90-483)

Dated: April 29, 1977.

ALFRED F. LAWRENCE, Jr.,
Colonel, Corps of Engineers, Acting Executive.

Section 209.345 including Appendix A is added to 33 CFR Part 209 as follows.

§ 209.345 Water Resource Policies and Authorities.

REIMBURSEMENT FOR ADVANCE NON-FEDERAL PARTICIPATION IN CIVIL WORKS PROJECTS

(a) *Purpose.* This Regulation gives general instructions on use of Section 215 of the Flood Control Act of 1968 (Pub. L. 90-483) to reimburse a non-Federal public body for construction of part of an authorized Federal project. It establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement. All authorized projects are subject to this Act and Regulation.

(b) *Applicability.* This regulation applies to all field operating agencies having Civil Works responsibilities.

(c) *References.* (1) Section 215, FCA of 1968 (Pub. L. 90-483, 42 U.S.C. 1962d-5a). (APP A, this regulation).

(2) Senate Document No. 10, 90th Congress, 1st Session, "Study of Federal Reimbursement Policy for Work by States and other Non-Federal Entities on Authorized Water Resources Projects."

(3) Section 221, FCA of 1970 (Pub. L. 91-611, 42 U.S.C. 1962d-5b).

(4) ER 405-2-680.

(5) ER 1140-2-301

(6) ER 1180-1-1, (para. A-310, App. A)

(d) *General Policy.* (1) The specific limitations put upon the allotment of funds authorized by Section 215 indicate that only limited use should be made of the authority. It will, therefore, be Corps of Engineers policy to restrict the use of this authority to cases that meet all of the following conditions: (i) The work, even if the Federal Government does not complete the authorized project, will be separately useful or will be an integral part of a larger non-Federal undertaking that is separately useful; (ii) the work done by the non-Federal entity will not create a potential hazard; (iii) approval of the proposal will be in the general public interest; (iv) only work commenced after project authorization and execution of an agreement pursuant to this Regulation will be eligible for reimbursement or credit; (v) proposed reimbursement will not exceed the amount that the District Engineer considers a reasonable estimate of the reduction in Federal expenditures resulting from construction of the project component by the non-Federal entity.

(2) Before finally approving any agreement under Section 215, the Chief of Engineers will inform the Secretary of the Army and the Chairman (Senate and House), Subcommittee on Public Works, Committee on Appropriations of the proposed arrangements. The Chief of Engineers will not sign an agreement until Secretarial and Committee concurrences are obtained.

(3) Section 215 authority will not be used where it might appear to circumvent the intent of Congress. It will not, for example, be used to initiate work on projects to which Congressional committees have indicated general opposition or refused to provide requested funds, or to accelerate portions of work on which construction has already been commenced by the Federal Government.

(4) Section 215 (f) authorizes a specific allotment of funds to reimburse non-Federal entities for work accomplished under the Section. No allotment has been established, nor is one proposed at this time. Until one is, and firm procedures are established, any agreement with a non-Federal entity shall call for reimbursement, or for credit against required contributions, only when construction funds for the Federal project which incorporates the part constructed by the non-Federal entity are appropriated and allocated.

(5) The non-Federal entity will normally be required to develop the design memorandum, engineering plans, and specifications for the work it proposes to undertake. Subject to policies established in ER 1140-2-301, as modified in paragraph (e)(2) of this section, the District Engineer may provide engineering services with funds advanced by the non-Federal entity if he determines it to be impracticable for the entity to obtain the services elsewhere. Non-Federal engineering and overhead costs for the part of the Federal project that the non-Federal entity proposes to construct will be part of the reimbursement agreement.

(6) The agreement shall include local cooperation items required by the project authorization and by Section 221, FCA of 1970.

(7) Reimbursement of non-Federal work under Section 215 is not applicable to small projects authorized under the general authority of Section 107, Public Law 86-645, as amended. (33 U.S.C. 577); Section 205, Public Law 858, 80th Congress, as amended, (33 U.S.C. 701s); and Section 103, Public Law 87-874, as amended, (33 U.S.C. 426g); and Section 14, Public Law 79-526 (33 U.S.C. 701r).

(e) *Procedures.* (1) Non-Federal entities desiring reimbursement under Section 215 for constructing part of an authorized Federal project should confer with the District Engineer and submit a written proposal to him. This proposal will form the basis for consulting, as needed, with OCE and for deciding whether the proposal meets the policy criteria of paragraph (d) of this section, and whether to continue under the procedures below and what sequence to follow.

(2) If Federal preconstruction planning funds are not available to the project and it is considered impractical for the non-Federal entity to prepare a partial design memorandum and/or plans and specifications, the draft agreement may propose that this work be accomplished by the Corps of Engineers through an advance of non-Federal funds for this purpose. Certain advances of funds will be necessary, in any event, to cover other costs which are required on the part of the Corps of Engineers. Paragraph 11 of ER 1140-2-301 requires that requests to the Appropriations Committees for approval of advances of funds should normally be submitted to the Committees by non-Federal interests outside of Corps of Engineers channels. An exception to this procedure will be made in the case of Section 215 proposals in that the request for approval of advances will be made a part of the request to the Committees for approval of the overall arrangement referred to in paragraph (d)(2) of this section. Thus, proposed advances of funds for the following purposes will be clearly set forth in the draft agreement: (i) preparation of a partial design memorandum and/or plans and specifications, (ii) Corps review of design scheduled for accomplishment by local interests, and (iii) periodic and final inspections.

(3) The District Engineer will submit for review an unsigned draft agreement to OCE. All agreements will be prepared for the signature of the Chief of Engineers.

(4) The District Engineer will be notified of any changes in the draft agreement that the Chief of Engineers may require, and will negotiate a final agreement with the non-Federal entity. After signature of the agreement by the non-Federal entity, the District Engineer will forward three copies to HQDA (DAEN-CWO-C) WASH DC 20314, for signature by the Chief of Engineers.

(5) Upon receipt from OCE of the fully executed agreement, the District Engineer will transmit the signed agreement to the non-Federal entity.

(6) The Division Engineer will review the (partial) design memorandum, and, if it meets the relevant criteria in paragraph (d)(1) of this section, will submit it to OCE with recommendations on whether or not the work may proceed subject to reimbursement under the agreement.

(7) The Division Engineer will approve plans and specifications.

(8) The non-Federal entity will award contract.

(9) The District Engineer will conduct periodic and final inspections.

(10) Upon completion of the local work, the District Engineer will certify the cost data, and that performance has been in accordance with the agreement.

(f) *Agreements.* Agreements under Section 215 should follow the general format presented in paragraph (c)(6) of this section, adapted as warranted by the specific case. Each agreement shall:

(1) Expire 3 years after the date of execution if the non-Federal entity has not commenced the work contemplated by the agreement.

(2) State the time allowed for completion of the work. A reasonable time shall be allowed, but normally not over 2 construction seasons.

(3) Fully describe the work to be accomplished by the non-Federal entity and specify the manner in which it will be carried out.

(4) The agreement will specify that reimbursement by the Federal Government will not exceed $1,000,000.

(5) Provide for necessary review of designs, plans, and specifications, by the District Engineer.

(6) Provide for examination and review of proposed contracts and for inspection of the work by the District Engineer for conformance with the terms of the agreement.

(7) State fully the basis on which reimbursement or credit shall be determined, and provide for the final adjustment when the balance of the Federal project is constructed. If the improvement proposed by the non-Federal entity includes work that will not become a part of the Federal project, the means of determining the part eligible for reimbursement shall be fully defined.

(8) State that such reimbursement shall depend upon appropriation of funds applicable to the project and shall not take precedence over other pending projects of higher priority.

(9) Specify that reimbursement or credit for non-Federal work shall apply only to that work undertaken after execution of the agreement. The term "work" shall include advance engineering and design as well as actual construction.

(10) State that the agreement is not to be construed as committing the United States to reimbursement if the Federal project is not undertaken, of if the Federal project should be modified in such a way that the work performed by the non-Federal entity does not constitute a part thereof.

(11) Contain applicable equal employment clauses from Armed Services Procurement Regulations.

(g) *Nature and amount of reimbursement.* (1) The non-Federal entity may be reimbursed by a payment of cash, or, preferably, by reductions in any non-Federal contribution to the Federal project that may have been required by the legislation authorizing it, or by a combination of cash and such reductions.

(2) The amount of reimbursement shall equal the approved expenditures made by the non-Federal entity for work that would have been accomplished at Federal expense if the entire project were carried out by the Corps of Engineers, and as covered in the agreement under paragraphs (f)(7) and (f)(10) of this section. The amount of reimbursement will not exceed, however, the amount that the District Engineer finds to be a reasonable estimate of the reduction in Federal expenditure resulting from construction by the non-Federal entity.

APPENDIX A.—PUBLIC LAW 90-483, 90TH CONGRESS, S. 3710, AUGUST 13, 1968

An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purpose. (82 Stat. 731).

* * * * *

Sec. 215. (a) The Secretary of the Army, acting through the Chief of Engineers, may, when he determines it to be in the public interest, enter into agreement providing for reimbursement to States or political subdivisions thereof for work to be performed by such non-Federal public bodies at water resources development projects authorized for construction under the Secretary of the Army and the supervision of the Chief of Engineers. Such agreements may provide for reimbursement of installation costs incurred by such entities or an equivalent reduction in the contributions they would otherwise be required to make, or in appropriate cases, for a combination thereof. The amount of Federal reimbursement, including reductions in contributions, for a single project shall not exceed $1,000,000.

(b) Agreements entered into pursuant to this section shall (1) fully describe the work to be accomplished by the non-Federal public body, and be accompanied by an engineering plan if necessary therefor; (2) specify the manner in which such work shall be carried out; (3) provide for necessary review of design and plans, and inspection of the work by the Chief of Engineers or his designee; (4) state the basis on which the amount of reimbursement shall be determined; (5) state that such reimbursement shall be dependent upon the appropriation of funds applicable thereto or funds available therefor, and shall not take precedence over other pending projects of higher priority for improvements; and (6) specify that reimbursement or credit for non-Federal installation expenditures shall apply only to work undertaken or Federal projects after project authorization and execution of the agreement, and does not apply retroactively to past non-Federal work. Each such agreement shall expire three years after the date on which it is executed if the work to be undertaken by the non-Federal public body has not commenced before the expiration of that period. The time allowed for completion of the work will be determined by the Secretary of the Army, acting through the Chief of Engineers, and stated in the agreement.

(c) No reimbursement shall be made, and no expenditure shall be credited, pursuant to this section, unless and until the Chief of Engineers or his designee, has certified that the work for which reimbursement or credit is requested has been performed in accordance with the agreement.

(d) Reimbursement for work commenced by non-Federal public bodies no later than one year after enactment of this section, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 2 of the Act of August 13, 1946, as amended (33 U.S.C. 426f). Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after enactment of this section may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United States to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works, not to exceed $10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

* * * * *

[FR Doc.77-13553 Filed 5-11-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amendment H-99]

UTILIZATION, DONATION, AND DISPOSAL OF CERTIFIED AND NONCERTIFIED ELECTRONIC PRODUCTS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth policy and procedures which provide for the utilization, donation, and disposal of certified and noncertified electronic products. The Department of Health, Education, and Welfare is responsible for policy and procedures governing the safety of radiation-emitting electronic products. It is their opinion that certain electronic products subject to safety performance standards may not be fully reconditioned or tested to determine whether the products are adulterated, misbranded, or dangerous prior to placement into the property disposal process. This amendment takes the necessary action to amend the FPMR accordingly.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Procedures Management Division, Office of Customer Service and Support, Federal Supply Service, General Services Administration, Washington, DC 20406, 703-557-1914.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

The table of contents for Part 101-43 is amended by adding the following new entry:

Sec.
101-43.313-12 Noncertified electronic products.

Subpart 101-43.3—Utilization of Excess

Section 101-43.313-12 is added as follows:

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§ 101–43.313–12 Noncertified electronic products.

(a) For the purpose of this section "noncertified electronic product" means any excess or exchange/sale electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the Food and Drug Administration (FDA) under 21 CFR 1020 and which the manufacturer has not certified as meeting such standard. The noncertification may be due to either (1) manufacture of the product before the effective date of the standard or (2) the product was exempted from the applicable standard and is so labeled.

(b) Excess or exchange/sale electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR 1000 shall be made available for transfer to Federal agencies in accordance with the provisions of § 101–43.311 and this § 101–43.313–12. Standard Form 120, Report of Excess Personal Property (illustrated at § 101–43.4902), shall identify the items as noncertified electronic products and shall contain a statement that the items may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR 1000. Excess property catalogs and bulletins circulated by GSA offering such items shall advise Federal agencies of the potential danger of using the items unless they are upgraded to meet Federal radiation safety standards.

(c) Transfers of noncertified electronic products among Federal agencies shall be accomplished:

(1) As set forth in § 101–43.315; and

(2) By Standard Form 122, Transfer Order Excess Personal Property (illustrated at § 101–43.4906), or any other approved GSA transfer order form certified by the transferee that he:

(i) Is aware of the potential danger in using the item without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000; and

(ii) Agrees to accept the item from the holding agency under the conditions cited in paragraph (c)(2)(i) of this section.

PART 101–44—DONATION OF PERSONAL PROPERTY

The table of contents for Part 101–44 is amended by adding the following new entries:

Sec.

101–44.324 Donation of certified and noncertified electronic products.

101–44.502–3 Certified and noncertified electronic products.

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

Section 101–44.324 is added as follows:

§ 101–44.324 Donation of certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any excess electronic product that has been determined by GSA to be surplus to the needs and responsibilities of all Federal agencies, and which bears the manufacturer's certification label or tag (21 CFR 1010.2) that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR 1020. "Noncertified electric products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been exempted from an applicable standard and is so labeled.

(b) Surplus certified and noncertified electronic products not required for transfer as excess personal property to Federal agencies in accordance with the provisions of § 101–43.313–12 shall be made available for donation for educational, public health, civil defense, and public airport purposes pursuant to the provisions of § 101–44.304, as follows:

(1) Pursuant to the provisions of § 101–44.324(c) in the case of noncertified:

(i) Color and black and white television receivers;

(ii) Microwave ovens;

(iii) Diagnostic X-ray systems and their major components;

(iv) Cabinet X-ray systems;

(v) Laser products: or

(vi) Any other electronic products for which FDA promulgates a performance standard; and

(2) Pursuant to the provisions of § 101–44.324(d) in the case of:

(i) Noncertified microwave ovens;

(ii) Certified and noncertified diagnostic X-ray systems and their major components;

(iii) Certified and noncertified cabinet X-ray systems; or

(iv) Noncertified laser products; and

(3) Only under conditions of destructive salvage in the case of noncertified cold-cathode gas discharge tubes.

(c) Donation of electronic products designated in (b)(1) of this section shall be accomplished as provided in § 101–44.304 provided the donee:

(1) Is appropriately warned that the item may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR 1000;

(2) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or to any other person arising from or incident to the donation of the item, its use, or final disposition; and

(3) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or final disposition.

(d) Whenever donations of electronic products designated in (b)(2) of this section are for educational, public health, civil defense, or public airport purposes, or to service educational activities, HEW, DOD, or FAA, as applicable, shall: (1) Provide the applicable State radiation control agency in which the donee is located (see § 101–45.4926) with a copy of the donation document (SF 123, Application for Donation of Surplus Personal Property) and include the name and address of the donee and a description of the item or items donated and (2) require that the donee certifies on SF 123 that he:

(i) Is aware of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000, and agrees to accept the item from the holding agency for donation under those conditions;

(ii) Agrees the Government shall not be liable for personal injuries to, disabilities of or death of the donee, the donee's employees, or to any other person arising from or incident to the donation of the item, its use, or final disposition; and

(iii) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the domination of the item, its use, or final disposition.

Subpart 101–44.5—Donation of Property to Public Bodies

Section 101–44.502–3 is added as follows:

§ 101–44.502–3 Certified and noncertified electronic products.

Whenever any item of the type defined under § 101–44.324 is donated to a public body in accordance with the provisions of this subpart, the head of the agency authorized to make the donation shall be responsible for the same safeguards, notifications, and certifications required by § 101–44.324.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

The table of contents for Part 101–45 is amended by adding the following new entries:

Sec.

101–45.309–11 Certified and noncertified electronic products.

101–45.4926 State radiation control agencies.

Subpart 101–45.3—Sale of Personal Property

Section 101–45.309–11 is added as follows:

§ 101–45.309–11 Certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any surplus or exchange/sale electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR 1000. "Noncertified electronic products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been

exempted from an applicable standard and is so labeled.

(b) The sale of the following certified and noncertified exchange/sale and surplus electronic products which are not required for transfer or donation shall be accomplished in accordance with the provisions of § 101–45.304 and the special conditions of sale in this § 101–45.309–11:

(1) Noncertified color and black and white television receivers;

(2) Noncertified microwave ovens;

(3) Certified and noncertified diagnostic X-ray systems and their major components;

(4) Certified and noncertified cabinet X-ray systems;

(5) Noncertified laser products;

(6) Noncertified cold-cathode gas discharge tubes under conditions of scrap or salvage; and

(7) Any other noncertified electronic product for which FDA may promulgate a performance standard.

(c) The invitations for bids shall contain a notice to bidders substantially as follows:

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR 1000, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other person arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the purchase or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR Part 1000.

(d) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see § 101–45.4926) with a written notice of the award that includes the name and address of the purchaser and the description of the item sold.

Subpart 101–45.49—Illustrations

Section 101–45.4926 is added as follows:

§ 101–45.4926 State radiation control agencies.

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ALASKA

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VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Charlotte Amalie, St. Thomas, VI 00801.

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WISCONSIN

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WYOMING

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(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 25, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-13614 Filed 5-11-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20664; FCC 77-288]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Making Available to Aeronautical Utility Mobile Stations, Under Certain Conditions, All the ATC Frequencies Listed in Section 87.401

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: These Amendments of the Commission's rules allow aeronautical utility mobile stations to operate on any air traffic control frequency for authorized communications. This will allow a particular station to communicate with FAA aeronautical radio stations in conformity with FAA practices. The rule making was instituted at the request of FAA.

EFFECTIVE DATE: June 13, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Hays, Aviation and Marine Division, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: April 27, 1977.

Released: May 9, 1977.

In the matter of amendment of Parts 2 and 87 of the Commission's rules to make available to aeronautical utility mobile stations, under certain conditions, all the ATC frequencies listed in § 87.401.

1. A Notice of Proposed Rule Making in the above-captioned matter was released on November 5, 1975, and was published in the FEDERAL REGISTER on November 12, 1975 (40 FR 52745). The time for filing comments and reply comments has expired and timely comments were filed by Aeronautical Radio, Inc. (ARINC) and the Federal Aviation Administration (FAA). Subsequently, the Aircraft Owners and Pilots Association (AOPA) submitted a letter commenting on this rule making which will be considered in view of the importance of this rule making to the persons represented by them. Furthermore, this rule making was coordinated directly with the FAA to resolve questions as to definitions and operational problems.

2. Under present Commission rules, aeronautical utility mobile stations may only be assigned one or more of the fourteen frequencies listed in § 87.431 which are also shown in §§ 87.183(i) and 87.401(a) as available for use as air traffic control frequencies on a secondary basis. The FAA, however, has authorized its FAA flight service stations to communicate with this class of station on certain other ATC frequencies listed in §§ 87.183(i) and 87.401(a). The ATC frequencies are allocated for civil aviation use and are assigned to both government and non-government radio stations for communication in the ATC system which is administered by the FAA.

3. Aeronautical utility mobile stations are licensed for use aboard non-government maintenance, police, fire, emergency and other vehicles which operate on runways at airports having airdrome control towers or FAA flight service stations and are limited to communications involving the management of ground traffic by the airdrome control station located at the control tower or the FAA flight service station. Although the Commission, in most instances, will continue to assign to these stations one or more of the fourteen frequencies presently listed in section 431, this rule making will permit the assignment in special cases of other ATC frequencies to allow a particular station to communicate with FAA aeronautical radio stations in conformity with FAA practices. These ATC frequencies listed in §§ 87.183(i) and 87.401(a) will only be assigned after direct coordination with the FAA.

4. In their comments the AOPA contends that since FAA flight service stations do not control any airports, they cannot control aeronautical utility mobile stations. It is true that FAA flight service stations can only provide advisory information to aircraft which includes wind direction and velocity, favored or designated runways, altimeter settings, known traffic, notices to airmen, airport taxi routes, airport traffic patterns, and instrument approach procedures. They cannot control air traffic and have no traffic authority over ground vehicles. However, this does not prevent the Commission from permitting them to control communications with ground vehicles. Considering the importance of

advisory information to aircraft safety, the Commission believes that FAA flight service stations rendering this service should have authority to determine what communications have priority and to curtail other transmissions.

5. In addition, the AOPA requested that the Commission clarify whether aeronautical utility mobile stations can communicate with each other when neither the airdrome control tower nor the FAA flight service station are in operation. After discussions with the FAA, the Commission has decided that aeronautical utility mobile stations should not operate in such circumstances. The Commission can envision no instances when ground-to-ground communication between vehicles would be within the scope of service of aeronautical utility mobile stations which is limited to the necessities of ground traffic control. This would especially be true if neither the airdrome control tower nor the FAA flight service station were in operation to provide direction. Accordingly, we have made appropriate modifications to this rule making.

6. The FAA recommended that any reference to control of aeronautical utility mobile stations by airdrome control towers or FAA flight service stations be deleted from the definition of aeronautical utility mobile station. They indicated that this is a regulation and should not be stated in a definition. The FAA also requested that the "A" designator next to the fourteen airport utility frequencies and related footnote in the table of ATC frequencies set forth in §§ 87.183(i) and 87.401(a) be deleted. The footnote implies that those frequencies are available as ATC frequencies on a secondary basis to their primary use as airport utility frequencies. The FAA indicated that this is not correct because they consider the frequencies to be ATC frequencies and part of the ATC system.

7. The Commission concurs in both recommendations of FAA and has made appropriate modifications to this rule making.

8. ARINC suggests that the Commission retain the definition of aeronautical utility land station. They state that no provisions of the rules authorize airdrome control stations to communicate with aeronautical utility mobile stations but that aeronautical utility land stations have this authority. This argument is without merit since § 87.401(c) does permit direct communication between airdrome control stations and aeronautical utility mobile stations. The Commission, however, will retain the definition of aeronautical utility land station because in certain circumstances it has been necessary to authorize this type of station and a review of our files disclosed several licenses of this type outstanding.

9. A consequential amendment to Part 2 is included.

10. Accordingly, it is ordered, That pursuant to authority contained in Sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, Part 97 of the Commission's rules is amended effective June 13, 1977, as set forth below.

11. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2 and 87 of chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 2.1 the definition, "Aeronautical utility mobile station," is amended to read as follows:

§ 2.1 Definitions.

* * * * *

Aeronautical utility mobile station. A mobile station used for communication at airdromes with the aeronautical utility land station, the airdrome control station, the FAA flight service station, ground vehicles, and aircraft on the ground.

* * * * *

2. In § 87.5 the definition, "Aeronautical utility mobile station", is amended to read as follows:

§ 87.5 Definition of terms.

* * * * *

Aeronautical utility mobile station. A mobile station used for communication at airdromes with the aeronautical utility land station, the airdrome control station, the FAA flight service station, ground vehicles, and aircraft on the ground.

* * * * *

§ 87.183 [Amended]

3. Section 87.183(i) is amended by deleting the "A" designator next to the frequencies 121.600 through 121.925 MHz in the table of frequencies and by deleting the footnote "A" at the end of the table.

§ 87.401 [Amended]

4. Section 87.401(a) is amended by deleting the "A" designator next to the frequencies 121.600 through 121.925 MHz in the table of frequencies and by deleting the footnote "A" at the end of the table and showing it as "reserved".

5. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) The frequencies 121.600 through 121.925 MHz listed in § 87.401(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.401(a) may be assigned to aeronautical utility mobile stations only after direct coordination with the FAA.

(b) The frequency that will be assigned to the aeronautical utility station at an airport is the frequency that is used by the aeronautical utility land station, the airdrome control station or the FAA flight service station at the airport to communicate with ground vehicles.

6. A new § 87.432 is added to read as follows:

§ 87.432 Eligibility.

Authorization to operate an aeronautical utility mobile station will be issued only for operation at landing areas having an airdrome control tower or an FAA flight service station.

7. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

Communications by an aeronautical utility mobile station shall be limited to the management of ground traffic at an airdrome.

8. Section 87.437, headnote and text, are amended to read as follows:

§ 87.437 Supervision by airdrome control operator or FAA flight service station operator.

Transmissions by the aeronautical utility mobile station shall be under control of the airdrome control station or the FAA flight service station and shall be discontinued immediately when so requested by either the airdrome control station or FAA flight service station. The aeronautical utility mobile station shall guard its assigned frequency during periods of operation. The aeronautical utility mobile stations at an airport shall cease to transmit when neither the airdrome control station nor the FAA flight service station are in operation.

[FR Doc.77-13510 Filed 5-11-77;8:45 am]

PART 73—RADIO BROADCAST SERVICES

Editorial Amendments to Use of Type Approved Antenna Monitors by AM Broadcast Stations Operating Directional Antenna Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends Rules and Regulations for AM broadcast stations using directional antenna systems by deleting all references to procedures for use by stations not having type approved antenna monitors in use. On January 10, 1973, the Commission adopted rules that required all AM broadcast stations with directional antennas to have type approved monitors in use no later than June 1, 1977. Rule references to stations not having the required monitors are being deleted as no longer necessary.

EFFECTIVE DATE: June 1, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, Telephone 202-632-9660.

SUPPLEMENTARY INFORMATION: Adopted: April 28, 1977.

Released: May 3, 1977.

In the matter of Amendment of Part 73 of the Commission's Rules and Regulations in reference to the use of type approved antenna monitors by AM broadcast stations operating directional antenna systems.

1. On January 10, 1973, the Commission adopted a Report and Order (Docket No. 18471, FCC 73-60) adopting

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standards for the type approval and installation of antenna monitors at AM broadcast stations operating directional antenna systems. The proceeding resulted in a new rule, Section 73.69, that included a note containing the schedule under which stations were to install type approved antenna monitors. All AM stations operating with directional antenna systems are to have the monitors installed prior to June 1, 1977. Effective that date, the schedule for installation of monitors by various classes of stations given in the note is unncessary, and by this Order is deleted.

2. Prior to June 1, 1977, some stations did not have type approved antenna monitors installed and therefore there were alternative provisions in the operating log and maintenance log rules for the monitor and other meter reading entries. Since all stations with directional antennas are now expected to have type approved monitors installed and in use, the alternative logging requirements are no longer necessary, and editorial amendments are made in both the operating and maintenance log rules to delete all references for monitor and meter readings at stations not having type approved antenna monitors. Editorial changes are also made in § 73.113 (a)(2) of the operating log requirements to indicate that the antenna monitor indications of sample currents or indications of their ratios are to be entered in the operating log, rather than base currents. This editorial revision does not add any additional logging requirements, but rather deletes the alternative procedures for base current readings that were applicable to stations that previously may not have had type aporoved antenna monitors in use.

3. In addition to the required editorial amendments in the operating and maintenance log rules discussed above, there are additional references in § 73.66(d) concerning remote control authorizations, § 73.68 (b) and (d). and §73.69(b) concerning antenna monitors and monitor sampling systems that differentiate between remotely controlled stations with remote indications of phases from a type approved antenna monitor and those stations not having such remote control indications. Sections 73.66(d), 73.68 (b)(3) and (d)(2). and 73.68(b)(2) are being editorially amended. Sections 73.68(d)(4) and 73.69(d)(4) are being deleted entirely as no longer applicable.

4. We are also by this Order deleting the parenthetical term "phase" from the headnotes of §§ 73.68 and 73.69 in reference to antenna monitors.

5. We conclude that, for the reasons set forth above, adoption of these amendments will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issues upon which comments would serve any useful purpose.

6. Therefore, *It is ordered*, That, pursuant to Sections 4 and 303 of the Communications Act of 1934, as amended, Part 74, Subpart D, of the Commission's Rules and Regulations are amended as set forth below, effective June 1, 1977.

(Secs. 4, 303, 48 Stat. as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

1. In § 73.66, paragraph (d) is amended to read as follows:

§ 73.66 Remote control authorization.

* * * * *

(d) Stations not having an approved antenna sampling system shall include in their applications for authority to operate a directional antenna transmitting system by remote control showings describing the stability of the antenna system during the one-year period preceding the filing as specified on FCC Form 301-A. Stations having the indications of antenna phases and sample currents or current ratios provided by an approved sampling system (see § 73.68 (a)) are not required to submit Section II of FCC Form 301-A for application for authority to operate by remote control.

2. In § 73.68, the headnote and paragraphs (b)(3) and (d)(2) are amended, and paragraph (d)(4) is deleted as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(b) * * *

(3) That the readings and maintenance log entries specified in § 73.114 (a)(8) be made.

* * * * *

(d) * * *

(2) The base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization shall be determined and entered in the maintenance log once each day for each radiation pattern used.

* * * * *

(4) [Deleted]

* * * * *

3. In § 73.69, paragraph (b)(2) is amended, and paragraph (b)(4) and the Note following paragraph (e) are deleted as follows:

§ 73.69 Antenna monitors.

* * * * *

(b) * * *

(2) The base currents, their ratios, and the deviations of those ratios, in percent, from the values specified in the station authorization shall be determined and entered in the maintenance log once each day for each radiation pattern used.

* * * * *

(4) [Deleted]

* * * * *

(e) * * *

NOTE.—[Deleted]

4. In § 73.113, paragraph (a)(2) is amended and paragraph (a)(3) is deleted as follows:

§ 73.113 Operating log.

(a) * * *

(2) For stations with directional antennas, the following additional indications shall be read either directly or by remote control and entered in the operating log at the time of commencement of operation in each mode and thereafter, at successive intervals not exceeding three hours in duration.

(i) Antenna monitor phase indications.

(ii) Antenna monitor sample currents or current ratio indications.

* * * * *

5. In § 73.114, paragraph (a)(8) is amended and paragraph (a)(9) is deleted as follows:

§ 73.114 Maintenance log.

(a) * * *

(8) For stations with directional antennas, entries shall be made in the maintenance log, based on observations made without modulation, if instrument readings are affected by modulation for each directional radiation pattern used at least three days of each calendar week taken not less than 44 hours nor more than 76 hours apart. The date and time of each observation shall be shown. The entries are as follows:

(i) Common point current.

(ii) Base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization.

(iii) Antenna monitor sample currents and computed ratios or the indicated ratios of those currents, and the deviations of such ratios, in percent, from values specified in the station authorization.

NOTE.—Stations not operated by remote control and having a radio-telephone first-class operator on duty at the transmitter for all periods of operation with a directional radiation pattern, and the station authorization permits antenna base current readings at less frequent intervals than specified in this paragraph, entries may be made pursuant to the schedule specified in that authorization.

* * * * *

[FR Doc.77-13564 Filed 5-11-77;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Nos. 73-19, 74-11; Notices 14, 17]

PART 581—BUMPER STANDARD

Damageability Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to Petitions for Reconsideration.

SUMMARY: This notice responds to petitions for reconsideration of the March 4, 1976, FEDERAL REGISTER notice (41 FR 9346) establishing a new bumper standard that limits damage to vehicle bumpers and other vehicle surfaces in low-speed crashes.

EFFECTIVE DATE: September 1, 1978.

ADDRESS: Petitions should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Tim Hoyt, Office of Crashworthiness, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2264.

SUPPLEMENTARY INFORMATION: The standard, 49 CFR Part 581, issued under the authority of Title I of the Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 15 U.S.C. 1901-1991, limits damage to non-safety related components and vehicle surfaces and incorporates the safety-related damage criteria of the current Standard No. 215, Exterior Protection (49 CFR Part 571.215). Under the new standard, all vehicles manufactured on or after September 1, 1978, must be capable of undergoing prescribed pendulum and barrier crash tests while experiencing damage only to the vehicle bumper and those components that attach it to the vehicle frame. Vehicles manufactured on or after September 1, 1979, must be capable of undergoing the same tests while experiencing no damage to vehicle exterior surfaces except on the bumper, where dents not exceeding ⅜ inch and set not exceeding ¾ inch may occur.

Petitions for reconsideration were received from General Motors (GM), Ford, Chrysler, American Motors Corporation (AMC), Gulf and Western, Nissan, and Leyland Cars. The issues raised by petitioners focused primarily on Part 581's cost-benefit basis, its leadtime, and its damage criteria.

GM, Ford, Chrysler, AMC, Nissan, and Gulf and Western stated that the National Highway Traffic Safety Administration (NHTSA) failed to present evidence that Part 581 would be cost beneficial. Ford stated that the record supporting Part 581 gives no assurance that the public will realize incremental savings once the standard is implemented. Chrysler, Nissan, and Gulf and Western cited cost and weight increases which they alleged would impose additional burdens on car owners over and above those presently experienced. AMC complained that the provision for escalating the bumper requirements after one year would result in costly and complex bumper designs, since such a schedule would prohibit the optimization of bumper systems.

Petitioners requested that the agency demonstrate that the requirements of Part 581 will provide cost savings greater than those currently provided by Standard No. 215, Exterior Protection. It was suggested by GM, AMC, and Ford that the agency undertake field studies to gather data to support the Part 581 standard. Several manufacturers suggested that implementation of Part 581 be postponed until such time as a field study is completed.

Petitioners' arguments have been raised in past comments to FEDERAL REGISTER notices proposing a Part 581 bumper standard. The NHTSA found them unpersuasive then and hereby rejects them once again. The NHTSA and Houdaille Industries conducted cost benefit studies on compliance with the Part 581 bumper requirements. The studies indicate that bumper systems using current technology and designed to meet the standard's requirements will provide a favorable cost-benefit ratio. Petitioners have not presented evidence that effectively disputes the conclusions reached in these studies.

Conducting field studies as a means of gathering evidence to support implementation of the Part 581 standard is unrealistic and would not demonstrate as accurately as the Houdaille and NHTSA studies the positive cost-saving potential of the standard. Many manufacturers are continuing to comply with the current Standard 215 bumper requirements by means of inefficient, unoptimized bumpers. Data gathered on these systems thus would not indicate the full possibilities of bumpers specifically designed to meet the Part 581 requirements in an efficient manner. Once manufacturers start utilizing the technology and materials available to them the full benefits of the Part 581 bumper standard can be realized. Until such time, however, manufacturers have it within their power to cause field study results to be misleading and unrepresentative of the potential of Part 581.

The NHTSA has ample evidence in the record that manufacturers are capable of meeting the requirements of Part 581. It also has evidence that compliance can be achieved in a cost-efficient manner. There has been no evidence presented by any of the petitioners that the standard would have a negative cost-benefit impact if met in the ways outlined by Houdaille and the NHTSA in their studies. The agency therefore rejects the cost-benefit objections raised by petitioners.

AMC requested additional leadtime to meet the requirements of Part 581. It contended that it needs 36 months' leadtime to comply with Part 581. It asked that the initial effective date of the standard be delayed until September 1, 1979.

The NHTSA finds AMC's request without merit. The 30-month leadtime for the initial requirements and the 42-month leadtime for the final requirements is considered adequate for compliance. No other manufacturers have expressed concern over attaining the level of performance prescribed for 1978, and evidence in the record indicates that most vehicles already come close to satisfying the specified damage criteria. The request of AMC is therefore denied.

General Motors objected in its petition to the prescribed escalation of the bumper requirements for September 1, 1979, only 1 year after the standard's initial effective date. It stated that compliance with two sets of bumper requirements within such a short period of time would result in unrecoverable costs relating to research, design, development, and tooling, and would inhibit the feasibility of optimizing its bumper systems.

Ford Motor Company stated that it plans to redesign its passenger cars for 1981 due to the requirements of the Energy Policy and Conservation Act (Pub. L. 94-163) and associated legislation. Ford explained that compliance with Part 581 will entail some redesign. It therefore requested that the bumper standard's effective date be delayed until September 1, 1980, so that these necessary redesigning efforts can be accomplished simultaneously.

The agency has found both General Motors' and Ford's requests persuasive. It has therefore issued a notice proposing to delay for 1 year the implementation of the second phase of bumper requirements from September 1, 1979, until September 1, 1980. This action does not conform exactly to Ford's request. However, the NHTSA does not know of any vehicles that would require major design changes until implementation of the more stringent second phase requirements.

Filler panels and stone shields were identified in the March 4, 1976, final rule as exterior vehicle surfaces that must experience no damage as a result of the prescribed test impacts. GM, Chrysler, and AMC objected to this interpretation of the level of damage resistibility filler panels and stone shields must achieve. GM contended that these components are part of the bumper system and provide the transition between the bumper face bar and body panels. It stated that bumper stroke causes unavoidable surface scratches, abrasions, and displacements, which could be eliminated only by using expensive materials and mounting techniques. Chrysler pointed out that filler panels are designed to flex during bumper impacts and may not return to exactly their original contour. According to AMC, however, once a deformed bumper is repaired following an impact, the flexible filler panel will return to its original contour. All three manufacturers requested that filler panels be permitted to sustain some degree of damage during testing.

The agency has reexamined the role of filler panels and stone shields in the bumper system and finds that although they do not actually hold the bumper to the vehicle frame, they are cosmetic components that are part of the entire system that performs the task of attaching the bumper to the frame of the car.

The NHTSA has concluded that permitting damage to filler panels and stone shields will not significantly degrade the level of performance required for vehicles manufactured after September 1, 1978. The flexibility of the filler panel and stone shield material enables it to withstand deforming impacts without permanently losing its shape, but as long as the bumper and components attach-

V 42 N 92 MAY 12 77 UMI

ing it to the vehicle frame are permitted to sustain damage as a result of impacts, the filler panel and stone shield may likewise sustain some degree of damage. Since these components are less visible than the bumper itself, the small amount of damage that they will incur will normally not be as significant as that allowed to the bumper. Therefore, filler panels and stone shields on vehicles manufactured from September 1, 1978, to August 31, 1979, will be permitted to sustain damage during the prescribed test impacts. This, in essence, grants the requests of petitioners. The agency will address in an upcoming notice the application of damage criteria to stone shields and filler panels on vehicles manufactured after September 1, 1979.

Ford and Chrysler charged that the Part 581 damage criteria are impracticable and lacking in objectivity. Specifically, they objected to the criteria that allow no separations or deviations, and require certain systems to operate in a normal manner. According to petitioners, these criteria are not objective since the requirements of no separations and no deviations can be interpreted as meaning that even the most microscopic deviations and separations are prohibited, or alternatively that only those deviations that are readily apparent are prohibited. With regard to the requirement that certain systems operate in a normal manner, petitioners stated that the meaning of "normal" is unclear and can be interpreted differently by different people. Ford and Chrysler expressed concern that the agency will interpret the meaning of these damage criteria in a manner conflicting with their interpretation. To resolve the situation to which it is objecting, Chrysler suggested that the requirements be revised to allow minimal and inconsequential deviations, while Ford suggested that the agency withdraw S5.3.2 and S5.3.5 and parts of S5.3.3, S5.3.8, S5.3.10, and S5.3.11 pending development of objective criteria to enable manufacturers to predict accurately whether their vehicles will comply.

The agency understands the petitioners' concerns, but finds that a simple interpretation of the cited requirements is adequate to satisfy their objections. The damage criteria allowing no deviations and no separations are not intended to apply to microscopic changes in the vehicle following test impacts. The types of deviations and separations addressed by Part 581 are those that are perceptible without the use of sophisticated magnifying or measuring equipment. What is required is that the vehicle not reflect any normally observable changes in the stated areas following the prescribed test procedure. Damage that is only identifiable by use of microscopically-oriented equipment would not be considered as prohibited under Part 581.

With regard to the requirement that a vehicle's hood, trunk, and doors operate in the normal manner, the standard is simply providing that these systems continue to operate following the test impacts in the same manner as they did before the impacts. This requirement has been a part of Standard No. 215, Exterior Protection, since its implementation on September 1, 1972. No compliance controversies have ever arisen concerning it.

Leyland Cars and AMC requested that the requirements of S5.3.11, allowing no more than ¾-inch set and ⅜-inch dent to the bumper face bar, be made applicable to the component that backs up the bumper face bar. Leyland Cars explained that some of its bumpers are covered by a rubber or plastic molding which, under Part 581, would be considered as the bumper face bar. It requested that the component over which the molding is placed be permitted to sustain the same degree of set allowed for the bumper face bar. AMC asked that the component underlying the molding be permitted to experience dents up to ⅜ inch as is the bumper face bar.

The NHTSA finds petitioners' concerns unfounded. The prohibition against set and denting applies to vehicle exterior surfaces. From the description of the component supplied by Ford and Chrysler it appears that it is completely covered by the molding and is not an exterior surface area of the vehicle. Therefore, it may experience damage during test impacts. The molding enveloping the reinforcement would represent the exterior surface that is subject to the requirements of S5.3.11.

Nissan and Gulf and Western objected to the prescribed limitations on set and denting contained in S5.3.11. Nissan requested that the damage criteria be revised to allow ½-inch dent and 1-inch set, instead of the currently required ⅜-inch dent and ¾-inch set. It was Nissan's contention that such a revision would cause only a slight change in the appearance of a damaged vehicle, while enabling a considerable change in a vehicle's cost and weight. Gulf and Western alleged that there was no economic justification for the ⅜-inch dent and ¾-inch set requirements since they are based solely upon a public opinion poll. It requested that the Part 581 requirements not be implemented until an economic justification is presented.

The NHTSA finds both Nissan's and Gulf and Western's requests lacking in merit. A survey conducted by Louis Harris & Associates of public reaction to various degrees of bumper damage showed that a significant number of people consider ½-inch dents to be damage they would repair. Based upon this information and cost and weight data contained in the various studies upon which the agency relied in the formulation of the standard, it has been determined that the amendment requested by Nissan would adversely affect the results to be achieved by implementation of the Part 581 bumper standard. The results of the Harris survey have definite economic significance in that those individuals indicating that a certain degree of damage was significant enough that they would have it repaired were providing the pollster with cost data. Damage that is repaired will have a financial impact on the car owner. By the same token, damage that is detectable but unrepaired will affect the market value of the vehicle and thereby have an economic impact on the car owner. These cost factors were all considered in deciding on the ⅜- and ¾-inch damage limitations. For these reasons, the requests of Nissan and Gulf and Western are denied.

Chrysler objected to the procedure prescribed for measuring the depth of bumper dents (S5.3.11(b)), charging that it is unreasonable, inaccurate, and lacks objectivity. Chrysler alleged that the end points of the straight line described in the test procedure for connecting the bumper contours adjoining the contact area are locations that are subjective on bumper face bars with compound curvature. It also charged that the specified measurement method lacks objectivity and can be used only for determining the depth of dents in flat surfaces. Chrysler requested that the agency clarify the provision.

Although the objections raised by Chrysler illustrate that some configurations are more difficult to measure than others, it is the agency's judgment that the method described in S5.3.11(b) is valid and still the most feasible means of determining the extent of damage. Location of the end points of the straight line used to measure the depth of bumper dents does not, in the opinion of the NHTSA, pose a problem. In order to to establish the exact location of the end points, the manufacturer may either paint or chalk the pendulum test device. In this way, the pendulum will leave a mark on the precise area of contact.

With regard to Chrysler's objections concerning the measurement of dents, it should be noted that the straight line measurement technique is not necessarily a test procedure. Rather, the language specifying that a deviation from original contour not exceed ⅜-inch when measured from a straight line connecting the bumper contour adjoining the contact area should be considered a definition of a dent. Deformations outside the contact area on the bumper surface, such as recessions of a larger area of the bumper, are defined as set.

The agency realizes that the measurement of dent and set on some bumpers with complex curvature may not be a simple procedure. In such cases, the testers must use measurement procedures that will enable them to accurately measure the degree of dent the bumper has incurred. In situations involving a concave face bar, a reference line can be established by placing a straight line across the area of contact prior to impact. After completion of the actual impact the change in bumper contour can be measured from the previously established reference line. In situations involving a convex face bar, or more complex surfaces, it may be necessary for the manufacturer to remove the bumper following impact in order to compare it with an unimpacted bumper, or to make a cast of the preimpact bumper for comparison with the bumper following the prescribed testing.

Chrysler also requested that S5.3.11 be amended to specify that bumper set be measured relative to the vehicle frame in perpendicular, parallel, and vertical directions with respect to the vehicle's longitudinal centerline. It stated that such a revision would reduce the task of measuring permanent set to a reasonable level.

The NHTSA denies this request since Chrysler has presented no information indicating that the currently prescribed measurement procedure is unfeasible. The agency knows of no reason why reference lines relative to the vehicle frame cannot be established from which bumper set can be measured. To adopt Chrysler's suggested method for measurement would unduly complicate the procedure since determination of the vehicle longitudinal centerline is complex.

GM charged that the NHTSA's definition of bumper face bar may include license plate brackets that are attached to the vehicle bumper, since these components may contact the impact ridge of the pendulum test device. If identified as the bumper face bar, these license plate brackets would be required to meet the level of performance prescribed for bumpers. According to GM, such a result would be extremely costly. License plate brackets capable of complying with the bumper damage criteria would be expensive to produce as well as to replace. This, in GM's opinion, would have a negative cost-benefit impact.

While the NHTSA agrees that licence plate brackets should not be required to meet the damage criteria of the bumper face, the NHTSA believes that it is good design practice to locate license plates in an area other than the bumper face. However, recognizing the limited space available on the front of some cars for license plate placement, the NHTSA is reluctantly willing to grant GM's petition on this point. The agency will, in the future, review industry practice on the placement of license plates on new automobiles in an effort to determine if future rulemaking on this matter would be desirable.

AMC requested in its petition that the NHTSA amend the requirements limiting the total force on planes A and B to 2,000 pounds (S5.3.7) to permit a force of 2,000 pounds on plane A below the impact ridge and a force of 2,000 pounds on the combined surfaces of planes A and B above the impact ridge. AMC based its request on the premise that the current requirement allows the full 2,000-pound force to be exerted either above or below the impact ridge of the test device. It pointed out that the NHTSA stated in an earlier notice that the 2,000-pound limit would prevent any substantial damage to the vehicle. Based upon this, AMC argued that allowing 2,000 pounds of force both above and below the impact ridge would not expose those surface areas to any greater force than would be allowed under the current requirements.

The NHTSA disagrees with AMC's contention. The force limitation contained in Part 581 is intended to assure that the primary force of the impact is directed at the bumper face bar. Although all 2,000 pounds of allowable force could be directed to the area either above or below the impact ridge, this total amount of force would not be a significant damage factor. However, if the areas covered by planes A and B were allowed to sustain a total force of 4,000 pounds, the focus of primary force on the bumper face bar would not be assured and the type of aggressive bumper system Part 581 is designed to prevent could be utilized. AMC's request is therefore denied.

AMC requested that Part 581 be amended to include a provision appearing in the January 2, 1975, proposal (40 FR 10) that stated a vehicle need not meet further requirements after having been subjected to either the longitudinal pendulum impacts followed by the barrier impacts, or the corner pendulum impacts.

The agency has stated in past notices that a vehicle will be involved in an average of three low-speed collisions in its 10-year life. There is no way to predict which portion of the bumper will be affected in these impacts. Therefore, it was decided that vehicles should be required to meet the prescribed damage criteria when subjected to the entire series of test impacts. To provide otherwise would be to establish a level of performance lower than necessary to protect a vehicle from the full range of potentially damaging impacts it is likely to incur during its on-road life. It was for this reason that the provision appearing in the January 2, 1975, proposal was not adopted. It is for this same reason that the agency denies AMC's request.

The text of the Title I bumper standard has in previous notices and the March 4, 1976, final rule been published in the format of a motor vehicle safety standard. Since the bumper standard is actually an entire part within Chapter V of the Code of Federal Regulations the format must be changed in order that it may be properly codified. The content of this standard will remain the same. This notice, however, revises the numbering system so that it conforms to the Code of Federal Regulations format.

The principal authors of this notice are Guy Hunter, Office of Crashworthiness, and Karen Dyson, Office of Chief Counsel.

In light of the foregoing, 49 CFR Part 581, is amended and recodified to read as set forth below.

Effective date: September 1, 1978.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegation of authority at 49 CFR 1.50.)

Issued on May 4, 1977.

JOAN CLAYBROOK,
Administrator.

§ 581.1 Scope.

This standard establishes requirements for the impact resistance of vehicles in low speed front and rear collisions.

§ 581.2 Purpose.

The purpose of this standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions.

§ 581.3 Application.

This standard applies to passenger motor vehicles other than multipurpose passenger vehicles.

§ 581.4 Definitions.

All terms defined in the Motor Vehicle Information and Cost Savings Act, P.L. 92-513, 15 U.S.C. 1901-1991, are used as defined therein.

"Bumper face bar" means any component of the bumper system that contacts the impact ridge of the pendulum test device.

§ 581.5 Requirements.

(a) *Vehicles manufactured on or after September 1, 1978.* Each vehicle manufactured on or after September 1, 1978, shall meet the damage criteria of S5.3.1 through S5.3.9 when impacted by a pendulum-type test device in accordance with the procedures of S7.2 under the conditions of S6, at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of S7.1 at 5 mph, followed by impacts into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of S6, at 5 mph.

(b) *Vehicles manufactured on or after September 1, 1979.* Each vehicle manufactured on or after September 1, 1979, shall meet the damage criteria of S5.3.1 through S5.3.7, and S5.3.9 through S5.3.11, when tested in accordance with the requirements of S5.1.

(c) *Protective criteria.*

(1) Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (§ 571.108 of this part). The aim of each headlamp shall be adjustable to within the beam aim inspection limits specified in Table 2 of SAE Recommended Practice J599b, July 1970, measured with a mechanical aimer conforming to the requirements of SAE Standard J602a, July 1970.

(2) The vehicle's hood, trunk, and doors shall operate in the normal manner.

(3) The vehicle's fuel and cooling systems shall have no leaks or constricted fluid passages and all sealing devices and caps shall operate in the normal manner.

(4) The vehicle's exhaust system shall have no leaks or constrictions.

(5) The vehicle's propulsion, suspension, steering, and braking systems shall remain in adjustment and shall operate in the normal manner.

(6) A pressure vessel used to absorb impact energy in an exterior protection system by the accumulation of gas pressure or hydraulic pressure shall not suffer loss of gas or fluid accompanied by separation of fragments from the vessel.

V 42 92 MAY 12 77 UMI

(7) The vehicle shall not touch the test device, except on the impact ridge shown in Figures 1 and 2, with a force that exceeds 2000 pounds on the combined surfaces of Planes A and B of the test device.

(8) For vehicles manufactured from September 1, 1978 to August 1, 1979, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings, or other covering materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact, except where such damage occurs to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame.

(9) Except as provided in S5.3.8, there shall be no breakage or release of fasteners or joints.

(10) For vehicles manufactured on or after September 1, 1979, the exterior surfaces, except for the bumper face bar, shall have no separations of surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact.

(11) Thirty minutes after completion of each pendulum and barrier impact test, the bumper face bar shall have—

(i) No permanent deviation greater than ¾ inch from its original contour and position relative to the vehicle frame; and

(ii) No permanent deviation greater than ⅜ inch from its original contour on areas of contact with the barrier face or the impact ridge of the pendulum test device measured from a straight line connecting the bumper contours adjoining any such contact area.

§ 581.6 Conditions.

The vehicle shall meet the requirements of S5 under the following conditions.

(a) *General.*

(1) The vehicle is at unloaded vehicle weight,

(2) The front wheels are in the straight ahead position.

(3) Tires are inflated to the vehicle manufacturer's recommended pressure for the specified loading condition.

(4) Brakes are disengaged and the transmission is in neutral.

(5) Trailer hitches and license plate brackets are removed from the vehicle.

(b) *Pendulum test conditions.* The following conditions apply to the pendulum test procedures of S7.1 and S7.2.

(1) The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of A1S1 4130 steel hardened to 34 Rockwell "C." The impact ridge and the surfaces in Planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1963. From the point of release of the device until the onset of rebound, the pendulum suspension system holds Plane A vertical, with the arc described by any point on the impact line lying in a vertical plane (for S7.1, longitudinal; for S7.2, at an angle of 30° to a vertical longitudinal plane) and having a constant radius of not less than 11 feet.

(2) With Plane A vertical, the impact line shown in Figures 1 and 2 is horizontal at the same height as the test device's center of percussion.

(3) The effective impacting mass of the test device is equal to the mass of the tested vehicle.

(4) When impacted by the test device, the vehicle is at rest on a level rigid concrete surface.

(c) *Barrier Test Condition.* At the onset of a barrier impact, the vehicle's engine is operating at idling speed in accordance with the manufacturer's specifications. Vehicle systems that are not necessary to the movement of the vehicle are not operating during impact.

§ 581.7 Test Procedures.

(a) *Longitudinal Impact Test Procedures.*

(1) Impact the vehicle's front surface and its rear surface two times each with the impact line at any height from 16 to 20 inches, inclusive, in accordance with the following procedure.

(2) For impacts at a height of 20 inches, place the test device shown in Figure 1 so that Plane A is vertical and the impact line is horizontal at the specified height.

(3) For impacts at a height between 20 inches and 16 inches, place the test device shown in Figure 2 so that Plane A is vertical and the impact line is horizontal at a height within the range.

(4) For each impact, position the test device so that the impact line is at least 2 inches apart in vertical direction from its position in any prior impact, unless the midpoint of the impact line with respect to the vehicle is to be more than 12 inches apart laterally from its position in any prior impact.

(5) For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes Plane A of the test device and with the test device inboard of the vehicle corner test positions specified in S7.2.

(6) Move the test device away from the vehicle, then release it to impact the vehicle.

(7) Perform the impacts at intervals of not less than 30 minutes.

(b) *Corner impact test procedure.*

(1) Impact a front corner and a rear corner of the vehicle once each with the impact line at a height of 20 inches and impact the other front corner and the other rear corner once each with the impact line at any height from 16 to 20 inches, inclusive, in accordance with the following procedure.

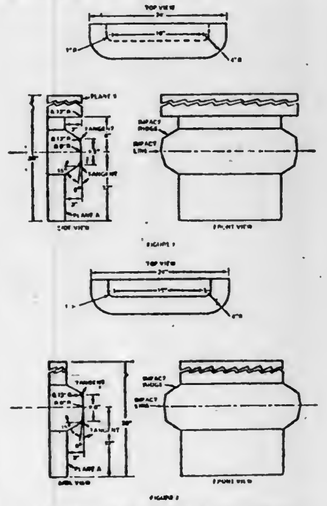
(2) For an impact at a height of 20 inches, place the test device shown in Figure 1 so that Plane A is vertical and the impact line is horizontal at the specified height.

(3) For an impact at a height between 16 inches and 20 inches, place the test device shown in Figure 2 so that Plane A is vertical and the impact line is horizontal at a height within the range.

(4) Align the vehicle so that a vehicle corner touches, but does not move, the lateral center of the test device with Plane A of the test device forming an angle of 60 degrees with a vertical longitudinal plane.

(5) Move the test device away from the vehicle, then release it to impact the vehicle.

(6) Perform the impacts at intervals of not less than 30 minutes.



[FR Doc.77-13235 Filed 5-5-77;4:47 pm]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

National Elk Refuge

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule is a special regulation which will permit sport fishing on the Gros Centre River and Flat Creek on the National Elk Refuge, as per State fishing orders. The reason for this opening is to provide a fishing recreational opportunity on this refuge.

EFFECTIVE DATES: May 31 through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Pearson, National Elk Refuge, P.O. Box C, Jackson, Wyoming 83001 (307-733-2627).

SUPPLEMENTARY INFORMATION: Sport fishing will be done in accordance with all applicable State regulations plus the following special condition:

(1) Use of boats or other floating devices is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges, which are generally set forth in Title 50, Code of Federal Regulations, Part 33.

The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROBERT L. PEARSON,
Acting Refuge Manager, National Elk Refuge, Jackson, Wyoming.

MAY 2, 1977.

[FR Doc. 77-13595 Filed 5-11-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 413]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to fresh market during the weekly regulation period May 13-19, 1977. This regulation is needed to provide for orderly marketing of fresh navel oranges for the regulation period because of the production and marketing situation confronting the navel orange industry.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such navel oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of navel oranges that may be marketed during the specified week stems from the production and marketing situation confronting the navel orange industry.

(i) The committee has submitted its recommendation for the quantity of navel oranges it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for navel oranges continues to be fairly good, except for larger sized fruit. Average f.o.b. price was $3.56 per carton on a reported sales volume of 973 carlots last week, compared to $3.68 per carton on sales of 1,028 carlots a week earlier. Track and rolling supplies at 252 cars were down 194 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of navel oranges which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for navel oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of navel oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 10, 1977.

§ 907.713 Navel Orange Regulation 413.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period May 13, 1977, through May 19, 1977, are hereby fixed as follows:

(i) District 1: 1,050,000 cartons;

(ii) District 2: Unlimited Movement;

(iii) District 3: Unlimited Movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 11, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13849 Filed 5-11-77;11:48 am]

[Valencia Orange Regulation 555]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 13-19, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3345.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is gradually improving. Average f.o.b. price was $3.33 per carton on 254

V 42 92 MAY 12 77 UMI

cars for the week ended May 5, as compared with $3.16 per carton on 178 cars the previous week. Track and rolling supplies at 193 cars were up 38 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on May 10, 1977.

§ 908.855 Valencia Orange Regulation 555.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 13, 1977, through May 19, 1977, are hereby fixed as follows:

(i) District 1: 220,808 cartons;

(ii) District 2: 189,220 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–49, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 11, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13850 Filed 5-11-77;11:48 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Subpart A—Emergency Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration amends its regulations to add a provision to allow authorization of Emergency Drought Impact Area(s) (EDIA) by the Interagency Drought Emergency Coordinating Committee. Amendment is intended to expedite the designation of Emergency Loan Areas and will result in a more efficient handling of emergency situations.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James E. Lee, 202–447–6157.

SUPPLEMENTARY INFORMATION: §1832.10 of Subpart A, Part 1832, Title 7, Code of Federal Regulations (40 FR 42321) is amended to add a new paragraph (e). It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment not withstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to expedite the lending procedure in drought areas by allowing FmHA employees to take EM loan applications in areas designated by the Interagency Drought Emergency Coordinating Committee, and to process the same under Subpart A of Part 1832 (except for the provisions of §1832.3(k)) and Part 1888 of this Chapter. Proposed rulemaking's notice and comment procedure would be contrary to the public interest in that the delay caused by the procedure in providing the assistance afforded by this amendment to eligible disaster victims would possibly cause financial hardships to many such victims. Such delay may also cause an adverse effect on the local economy of areas affected by the disasters.

Accordingly §1832.10 is amended by the addition of paragraph (e) to read as follows:

§ 1832.10 Making EM Loans available.

* * * * *

(e) *Designation of an Emergency Drought Impact Area (EDIA).* (1) The Interagency Drought Emergency Coordinating Committee pursuant to a Memorandum of Agreement published at 42 FR 21855 may designate an EDIA as eligible for EM loan assistance.

(2) FmHA is authorized to make EM loans under such an EDIA designation. EM loans may be made under this Subpart A (except for the provisions of § 1832.3(k)) and Part 1888 of this Chapter. A Drought designation number will be assigned for each separate designation.

(3) When an EDIA is designated, the methods for designation in §1832.10 (a), (b), (c), and (d) will not apply.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: May 5, 1977.

DENTON E. SPRAGUE,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-13516 Filed 5-11-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13477]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES AND EXCHANGE ACT OF 1934

Issuers Reporting to Certain Other Federal Agencies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission amends and rescinds various rules and forms with the effect that those registrants who currently file copies of their reports submitted to the Interstate Commerce Commission, Federal Power Commission, Federal Communications Commission, and Civil Aeronautics Board in lieu of the Commission's regular annual and quarterly report forms are now required to file reports in compliance with such forms and the regulations governing such reports.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul A. Belvin, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–755–1750).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announces the adoption of amendments to Rules 13a–13 (17 CFR 240.13a–13), 14a–3 (17 CFR 240.14a–3), 14c–3 (17 CFR 240.14c–3), and 15d–13 (17 CFR 240.15d–13), and the revocation of Rule 13b–1 (17 CFR 240.13b–1) and annual report Form 12–K (17 CFR 249.312) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). These amendments were proposed for comment on September 3, 1976 in Securities Exchange Act Release No. 12769 (41 FR 39048). Many helpful

comments were received from the public. The Commission has given careful consideration to these comments.[1]

BACKGROUND AND DISCUSSION

Section 13(b) of the Exchange Act authorizes the Commission to prescribe the form or forms in which the information required pursuant to the continuous disclosure provisions of the Exchange Act shall be set forth and, in general, to prescribe the appropriate methods of accounting to be used by registrants reporting on such forms.[2] Prior to the amendment of the Exchange Act pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976 (the "Railroad Act") (45 U.S.C. 801 (February 5, 1976)), the broad authority granted to the Commission in section 13(b) was restricted by two important qualifications which (1) limited the Commission's authority to prescribe methods of accounting to be used in reports filed with the Commission when the registrants concerned are alsb under the jurisdiction of other federal laws or regulations which prescribe their accounting methods; and (2) mandated that the Commission allow ICC regulated companies, and other carriers similarly regulated, to file copies of reports submitted to the ICC, or other federal agency, in lieu of the reports otherwise required pursuant to section 13(b).

These restrictions were removed from section 13(b) pursuant to section 308(b) of the Railroad Act. As amended, section 13(b) now provides that Commission rules applicable to registrants whose methods of accounting are prescribed by other laws or regulations may be inconsistent with the disclosure requirements of the other agencies to the extent that the Commission determines that the public interest or the protection of investors so require.

In Securities Exchange Act Release No. 12769,[3] the Commission indicated that the significant differences in form and content between Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) and the documents filed in lieu thereof suggest that the public interest and the protection of investors require that the current reporting scheme applicable to registrants who file reports with other federal agencies be withdrawn and proposed amendments and revocations of rules and forms to accomplish this purpose.[4] In response to these proposals, the Commission received 30 letters of comment representing each of the industries affected, with the exception of the airline industry.

The letters of comment received were directed primarily to the withdrawal of Form 12–K rather than presenting objections to specific types of disclosure which would be required to be presented in Forms 10–K or 10–Q if the proposals were adopted. Several commentators suggested that the disclosure gaps between Form 10–K and those reports filed on Form 12–K in lieu thereof, as noted in Release No. 12769, fail to recognize Commission Rules 14a–3 and 14c–3 with respect to information to be included in annual reports to stockholders[5] and the requirements of exchange listing agreements with respect to the disclosure of narrative information and certified financial statements. These commentators felt that the proposals therefore would result in duplicative reporting.

Initially, it should be noted that the issuers affected by the action announced today do not uniformly have a class of securities registered for trading on a national securities exchange nor are they all subject to the requirements of section 14 of the Exchange Act and Regulation 14A (17 CFR 240.14a–1 to 240.14a–101) thereunder. In addition, to the extent that narrative or financial information which meets the requirements of Form 10–K is included by the registrant in any reports to shareholders or any document filed with the Commission it may be incorporated by reference to a filed document.[6] Also, registrants which are subject to section 14 and file a definite proxy or information statement not later than 120 days after the close of the fiscal year need not prepare and provide Part II of Form 10–K.[7]

Several commentators indicated that the requirement that Form 10–K contain certified financial statements would place an undue burden on registrants. It appears to the Commission that a substantial majority of the interested parties already have occasion to obtain certified financial statements from independent auditors in connection with exchange listing agreements, bank financing arrangements or otherwise. Moreover, registrants which file reports with the FPC currently are required to include financial statements certified as prepared substantially in accordance with Regulation S–X (17 CFR 210) in their annual reports to stockholders pursuant to the rules as to use of Form 12–K.[8] Also, several of the industries affected today historically make one or more public offerings of their securities each year subject to the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and must prepare certified financial statements in connection with registration statements thereunder. In any event, the Commission believes that the benefits to investors from certified financial statements, including their comparability to other registrants and general familiarity to readers of financial statements, outweigh any additional expense to registrants.[9]

Based on the statutory amendments to section 13(b), its review of the reports filed as exhibits to Forms 12–K and 10–Q, and after consideration of the comments received, the Commission has concluded that the proposals announced in Release

[1] In related action announced today the Commission requested public comment with respect to (1) the proper form and content of railroad industry disclosure guidelines; (2) uniform definition of deferred maintenance and appropriate standards for its quantification and disclosure; and (3) the appropriateness of betterment accounting in reports filed with the Commission and distributed to shareholders. Securities Exchange Act Release No. 34–13479 (April 28, 1977) (See FR Doc. 77–13493 under Securities and Exchange Commission in the Proposed Rules section of this issue.)

[2] Section 13(a) of the Act requires every issuer subject to the registration requirements of section 12 of the Act to file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, (1) such information and documents as the Commission shall require to keep reasonably current the information and documents filed under section 12 of the Act, and (2) such annual reports certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports as the Commission may prescribe. Each issuer which has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, is required to file such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the Act in respect of a security registered pursuant to section 12.

[3] Securities Exchange Act Release No. 12769 (September 3, 1976) (41 FR 39048).

[4] The Commission consulted with each of the interested agencies in the formulation of these proposals. Many of their comments have been incorporated into the current action.

[5] Several commentators erroneously indicated that the Commission's annual report rules require registrants filing on Form 12–K to include certified financials in their annual reports to stockholders. See Rules 14a–3(b)(3)(i) and 14c–3(a)(3)(i).

[6] See, Securities Act Release No. 5819 (March 16, 1977) (42 FR 16920), which amends Rule 24 of the Commission's rules of practice regarding incorporation by reference (17 CFR 201.24), as of July 1, 1977.

[7] General Instruction H to Form 10–K, 17 CFR 249.310.

[8] The Commission will accept financial schedules submitted to independent regulatory agencies for inclusion in the Form 10–K and 10–Q reports when these schedules comply with the requirements of Forms 10–K, 10–Q and Regulation S–X. For example, the Civil Aeronautics Board has recently adopted amendments to its Uniform System of Accounts and Reports for the express purpose of revising certain CAB schedules in order to meet the Commission's requirements and permit their incorporation into Commission filings. CAB Regulation ER 980 (December 23, 1976) (42 FR 19). It is not intended that the dual filing of schedules under these circumstances would be prevented.

[9] It was suggested by a number of railroad related commentators that lessor railroads and switching and terminal companies should be the subject of a broad exemption from the financial statements requirements of Forms 10–K and 10–Q. In related action announced today the Commission has specifically requested comment from interested parties regarding the appropriateness of providing an exemption from the financial statements requirements of Forms 10–K and 10–Q and the form and content of any such exemption. Securities Exchange Act Release No. 34–13478 (April 28, 1977) (See FR Doc. 77–13633 under Securities and Exchange Commission in the Proposed Rules section of this issue).

V 42 92 MAY 12 77 UMI

No. 12769 should be adopted as proposed.[10]

SYNOPSIS OF AMENDMENTS

Based on the above, the Commission has determined to adopt the proposals contained in Securities Exchange Act Release No. 12769 substantially as proposed. Therefore, Rule 13b–1 and Form 12–K are rescinded and those portions of Rules 13a–13 and 15d–13 which now provide that issuers who file quarterly or monthly reports with the ICC, FPC, FCC, or CAB may file such reports in lieu of Form 10–Q are deleted. Pursuant to these amendments, all registrants which report to the ICC, FPC, FCC, and CAB must now file annual and quarterly reports to the Commission in compliance with Forms 10–K and 10–Q and the regulations governing such reports.

The amendments to Rules 14a–3 and 14c–3 represent technical amendments necessitated by the withdrawal of Form 12–K.

DATE OF EFFECTIVENESS

The amendments to Rules 13a–13, 14a–3, 14c–3, and 15d–13, and the rescission of Form 12–K and Rule 13b–1 shall be effective for annual and quarterly fiscal periods ending on or after October 1, 1977.

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments are adopted pursuant to sections 12, 13, 15 (d), and 23(a) of the Exchange Act. Pursuant to section 23(a) of the Exchange Act, the Commission has considered the effect that the amendments would have on competition and has concluded that, to the extent the amendments impose burdens on competition, such burdens are necessary and appropriate in furtherance of the purposes of the Exchange Act.

TEXT OF AMENDMENTS

I. Securities Exchange Act Rule 13a–13 is amended to read as follows:

§ 240.13a–13 Quarterly reports on Form 10–Q (§ 240.308a of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer which has securities registered pursuant to section 12 of the Act and which is required to file annual reports pursuant to section 13 of the Act on Form 10–K (§ 249.310 of this chapter) or U5S (§ 249.450 of this chapter) shall file a quarterly report on Form 10–Q (§ 249.308a of this chapter) within the period specified in General Instruction A to that form, for each of the first three fiscal quarters of each fiscal year of the issuer, commencing with the first such fiscal quarter which ends after securities of the issuer become so registered.

(b) The provisions of this rule shall not apply to the following issuers:

(1) Investment companies required to file quarterly reports pursuant to § 240.13a–12; or

(2) Foreign private issuers required to file reports pursuant to § 240.13a–16.

(c) Part I of the quarterly report on Form 10–Q need not be filed by the following issuers:

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i)(B) of § 210.3–16;

(2) Mutual life insurance companies; or

(3) Mining companies not in the production state but engaged primarily in the exploration for or the development of mineral deposits other than oil, gas, or coal, if all the following conditions are met:

(i) The registrant has not been in production during the current fiscal year or the two years immediately prior thereto; except that being in production for an aggregate period of not more than eight months over the three-year period shall not be a violation of this condition.

(ii) Receipts from the sale of mineral products or from the operations of mineral producing properties by the registrant and its subsidiaries combined have not exceeded $500,000 in any of the most recent six years and have not aggregated more than $1,500,000 in the most recent six fiscal years.

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

II. Securities Exchange Act Rule 14a–3 (17 CFR 240.14a–3) is amended to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * * *

(b) * * *

(9) Management's proxy statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited, on the written request of any such person, a copy of the issuer's annual report on Form 10–K (§ 249.310), including the financial statements and the schedules thereto, required to be filed with the Commission pursuant to Rule 13a–1 (§ 240.13a–1) under the Act for the issuer's most recent fiscal year and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10–K (§ 249.310) provided that the copy of the annual report on Form 10–K (§ 249.310) furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specific reasonable fee which fee shall be limited to the issuer's reasonable expenses in furnishing such exhibit.

NOTE.—Pursuant to the undertaking required by the above paragraph (b)(9), an issuer shall furnish a copy of its annual report on Form 10–K (§ 240.310) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the annual meeting of the issuer's security holders, the person making the request was a beneficial owner of securities entitled to vote at such meeting.

* * * * * *

III. Securities Exchange Act Rule 14c–3 (17 CFR 240.14c–3) is amended to read as follows:

§ 240.14c–3 Annual report to be furnished to security holders.

(a) * * *

(9) The information statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person furnished a copy of the information statement, on the written request of any such person, a copy of the issuer's annual report on Form 10–K (§ 249.310), including the financial statements and the schedules thereto, required to be filed with the Commission pursuant to Rule 13a–1 (§ 240.13a–1) under the Act for the issuer's most recent fiscal year and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10–K (§ 249.310) provided that the copy of the annual report on Form 10–K (§ 249.310) furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the issuer's reasonable expense in furnishing such exhibit.

NOTE.—Pursuant to the undertaking required by the above paragraph, an issuer shall furnish a copy of its annual report on Form 10–K (§ 249.310) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the annual meeting of the issuer's security holders, the person making the request was a beneficial owner of securities entitled to vote at such meeting.

* * * * * *

IV. Securities Exchange Act Rule 15d–13 (17 CFR 240.15d–13) is amended to read as follows:

[10] The Commission reminds those issuers affected by the action announced today that, pursuant to section 12(h) of the Act, the Commission may upon application of an interested party exempt in whole or in part any issuer or class of issuers from the provisions of section 12(g, 13, 14, or 15(d) if the Commission finds by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors.

§ 240.15d–13 Quarterly reports on Form 10–Q (§ 249.308a of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer which has securities registered pursuant to the Securities Act of 1933 and which is required to file annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 on Forms 10–K (§ 249.310) or U5S (§ 249.450) shall file a quarterly report on Form 10–Q (§ 249.308a of this chapter) within the period specified in General Instruction A to that form for each of the first three fiscal quarters of each fiscal year of the issuer, commencing with the first such fiscal quarter which ends after securities of the issuer become so registered.

(b) The provisions of this rule shall not apply to the following issuers:

(1) Investment companies required to file quarterly reports pursuant to § 240.15d–12; or

(2) Foreign private issuers required to file reports pursuant to § 240.15d–16.

(c) Part I of the quarterly report on Form 10–Q need not be filed by the following issuers:

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i)(B) of § 210.3–16;

(2) Mutual life insurance companies; or

(3) Mining companies not in the production stage but engaged primarily in the exploration for or the development of mineral deposits other than oil, gas or coal, if all the following conditions are met:

(i) The registrant has not been in production during the current fiscal year or the two years immediately prior thereto; except that being in production for an aggregate period of no more than eight months over the three-year period shall not be a violation of this condition.

(ii) Receipts from the sale of mineral products or from the operations of mineral producing properties by the registrant and its subsidiaries combined have not exceeded $500,000 in any of the most recent six years and have not aggregated more than $1,500,000 in the most recent six fiscal years.

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10–Q shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

* * * * *

V. § 249.312 Form 12–K, annual report for issuers which file reports with certain other federal agencies. Form 12–K is hereby rescinded.

VI. § 240.13b–1 Carriers and other persons subject to federal regulation. Rule 13b–1 is hereby rescinded.

(Secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 78l, 78m, 78o(d), 78w(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77–13714 Filed 5–11–77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

HANDLING OF LIMES GROWN IN FLORIDA

Quality and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: Consideration is being given to the following proposal which would regulate the handling of fresh limes grown in Florida by continuing on and after June 19, 1977, the same minimum quality and size requirements as are currently in effect through June 18, 1977. In the absence of the proposed amendment, quality and size regulation of Florida limes would expire on June 18, 1977.

DATES: Comments must be received on or before May 27, 1977. Proposed effective dates: June 19, 1977, through April 30, 1978.

ADDRESSES: Comments may be addressed to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made availablefor public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegeatble Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3545.

SUPPLEMENTARY INFORMATION: The proposed regulation would be established pursuant to the amended marketing agreement and Order No. 911, as amended, (7 CFR Part 911), regulating the handling of limes grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Mexican type limes shipped to destinations outside the production area would continue to be required to grade at least U.S. No. 2, with no color or minimum size requirements. Persian type limes shipped to such destinations would be required to grade at least U.S. No. 2, Mixed Color, and to measure at least 1¾ inches in diameter. Both types of limes shipped to destinations within the production area would continue to be exempted from pack, container, and grade requirements, except the minimum juice content requirement. Persian type limes so shipped would be required to be at least 1¾ inches in diameter.

The proposed regulation is based upon an appraisal of current and prospective crop and market conditions for Florida limes. Fresh shipments for the 1977-78 season are expected to equal about 500,000 bushels, as compared with shipments of about 790,000 bushels during the 1976-77 season. Shipments for the 1977-78 season began on April 1, 1977, and shipments in increased volume are being made as the season progresses. The regulation is designed to assure the handling of limes which provide consumer satisfaction and promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

Such proposal reads as follows:

1. The provisions of paragraph (a) of § 911.339 (Lime Regulation 37; 42 FR 21786) are hereby amended to read as follows:

§ 911.339 Lime Regulation 37.

Order. (a) During the period June 19, 1977, through April 30, 1978, no handler shall handle:

* * * * *

Dated: May 9, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13626 Filed 5-11-77;8:45 am]

[7 CFR Part 1207]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This notice invites written comments on proposed expenses of $2,350,000 and a rate of assessment of one cent per hundredweight of potatoes for the functioning of the National Potatoe Promotion Board. The regulation would enable the Board to collect assessments from designated handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATE: Comments due by May 27, 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-3545.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The proposals are as follows:

§ 1207.306 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1977, and ending June 30, 1978, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,350,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the plan shall be one cent ($0.01) per hundredweight of assessable potatoes handled by him during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

Dated: May 6, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13512 Filed 5-11-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-EA-28]

PROPOSED ALTERATION OF CONTROL ZONE & TRANSITION AREA

Aberdeen, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to provide additional airspace (control zone, transition area) to protect aircraft executing approach and departure procedures for Phillips Army Air Field, Aberdeen Proving Ground, Maryland. A new VOR-A instrument approach has been developed for the air field.

DATE: Comments must be received on or before June 20, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

The official docket may be examined at the following location: Airspace and Procedures Branch, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. Telephone: 212-995-3391.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. All communications received on or before June 20, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Aberdeen, Md., Control Zone and Transition Area. The FAA believes that this action would protect aircraft utilizing the approach and departure instrument procedures for Phillips Army Air Field.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Aberdeen, Md., Control Zone and Transition area, as follows:

§ 71.171 [Amended]

1. Amend Section 71.171 of Part 71 of the Federal Aviation Regulations by amending the description of the Aberdeen, Md. Control Zone as follows:

After the words, "northeast of the RBN" insert,"; within 3.5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 11.5 miles northeast of the VOR."

§ 71.181 [Amended]

2. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by adding the following to the description of the Aberdeen, Md. Transition Area: "; within 5 miles each side of the Phillips OR 033° radial, extending from the VOR to 13 miles northeast of the VOR."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on April 29, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-13515 Filed 5-11-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1201]

ARCHITECTURAL GLAZING MATERIALS

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes an amendment to the Safety Standard for Architectural Glazing Materials to extend the effective date as it applies to persons who incorporate architectural glazing materials into the architectural products subject to the standard (fabricators). The amendment would allow fabricators to use some noncomplying glazing that conforms to a voluntary standard through July 5, 1978. The amendment would not apply to manufacturers of glazing materials. The Commission believes the amendment is necessary because there will be insufficient supplies of complying glazing available to fabricators on the effective date and thus consumers may be unable to obtain architectural products incorporating glazing materials. In addition fabricators may suffer undue economic loss in disposing of noncomplying glazing they have in inventory.

DATES: The standard remains generally effective on July 6, 1977. The amendment is proposed to be effective the same day. Written comments must be received by May 27, 1977.

ADDRESS: Comments must be sent to: Office of the Secretary, Consumer Product Safety Commission, Room 300, 1111 18th Street NW., Washington, D.C. 20207. (telephone (202) 634-7700). All information the Commission has relevant to this proceeding, including any comments received in response to this proposal, may be seen, or copies may be obtained from the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT:

Alan H. Schoem, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: (202-634-7770).

SUPPLEMENTARY INFORMATION: On January 6, 1977, the Consumer Product Safety Commission published in the FEDERAL REGISTER a Safety Standard for Architectural Glazing Materials (42 FR 1428 (16 CFR 1201)), under the provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 et seq.). The standard is intended to reduce the unreasonable risks of injury associated with architectural glazing materials by ensuring that the glazing materials used in storm doors or combination doors, doors, bathtub doors and enclosures, shower doors and enclosures, certain glazed panels, and sliding glass doors (patio-type) either do not break when impacted with a specified energy, or break with characteristics that are less likely than other glazing materials to present an unreasonable risk of injury. The standard is effective July 6, 1977 except for glazing materials used in doors or other assemblies to retard the passage of fire where such doors or other assemblies are required by a federal, state, local or municipal fire ordinance, for which the standard is effective January 6, 1980. Section 14(a) of the CPSA (15 U.S.C. 2063) requires manufacturers of products subject to a consumer product safety standard to certify that the products comply with the standard.

The July 6, 1977 effective date has presented some confusion. Manufacturers of glazing materials are not required to begin producing glazing materials that conform to the standard until July 6, 1977 and, thus, they are not required to certify that glazing conforms to the standard until that date. As a result, persons who incorporate glazing materials into the architectural products subject to the standard (fabricators) may not have glazing material

V 42 92 MAY 12 77 UMI

in stock on July 6 that is certified to conform to the Commission's standard. This means that fabricators would generally be unable to incorporate glazing into the architectural products subject to the standard until glazing that is certified to conform to the standard reaches them through normal marketing channels. This could result in a shortage of architectural products subject to the standard at the retail level.

When the Commission issued the standard in January, it anticipated that by providing a six month lead time in the effective date of the standard until July 6, 1977, there would be sufficient time for manufacturers to produce glazing materials certified to conform to the Commission's standard by the effective date, to get the conforming glazing materials into the marketplace, and for fabricators to use up existing inventories of glazing materials, not certified to conform to the Commission's standard. However, manufacturers of glazing materials apparently are just now preparing to manufacture glazing materials certified to conform to the Commission's standard. Without a modification in the effective date of the standard, fabricators would likely be left with inventories of noncomplying glazing materials that were manufactured before the effective date of the standard but that could not be incorporated into architectural productions subject to the standard, after the effective date. Thus, fabricators may suffer adverse economic effects in disposing of the noncomplying glazing. As indicated above, fabricators may also not have glazing that conforms to the Commission's standard and thus they would be unable to incorporate glazing into the architectural products subject to the standard. This in turn could lead to shortages of these architectural products at the consumer level.

The Commission, in issuing the standard, included a stockpiling provision, applicable between the date of issuance of the standard and its effective date, that prohibtis persons from incorporating glazing materials which do not comply with the standard into the products subject to the standard at more than a specified rate. (16 CFR 1201.6) The Commission believes it would be inequitable to now forbid such persons from incorporating legally maintained inventories of glazing materials into the architectural products subject to the standard so long as possible adverse effects on health and safety are minimized.

The Commission recognizes that, with few exceptions, glazing materials that conform to ANSI Z97.1–1972 or 1975, "American National Standard, Safety Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," meet some minimal level of safety and are, therefore, generally safer than ordinary annealed glass in the same sizes. The Commission, therefore, proposes to modify the effective date of the standard as it applies to fabricators in order to avoid the situation where on July 6, 1977 fabricators would be unable to incorporate glazing materials into the architectural products subject to the standard because no glazing certified to conform to the standard had yet reached them, and to avoid significant adverse economic effects resulting from an inability to use inventories of glazing materials that are consistent with the stockpiling provisions in section 1201.6 of the standard. However, the Commission believes it is also necessary to insure that after July 6, 1977, regular annealed glass is not used in architectural products subject to the standard since annealed glass is associated with many of the glazing injuries known to the Commission.

Accordingly, the Commission proposes to amend the effective date of the standard to allow persons who assemble or fabricate an architectural product subject to the standard that incorporates glazing materials (or who incorporate glazing material into an architectural product subject to the standard) to use glazing materials that conform to ANSI Z97.1–1972 or 1975 through July 5, 1978. However, such glazing materials must be permanently labeled or certified to indicate that they conform to ANSI Z97.1–1972 or 1975 and the glazing materials must have been manufactured prior to July 6, 1977.

The proposed change in the effective date does not affect persons who manufacture glazing materials (including persons who laminate, or temper or otherwise process materials to produce glazing) for use in the architectural products subject to the standard. They must, effective July 6, 1977, manufacture such glazing materials to conform to the Commission's standard and such glazing must be certified in accordance with section 14(a) of the CPSA to conform to the Commission's standard. In regard to this certification, manufacturers of the glazing materials must develop and use their own reasonable testing program to certify that glazing materials conform to the Commission's standard until the Commission prescribes, by rule, under section 14(b) of the CPSA, the testing program that must be used by all manufacturers. It is now anticipated that this rule will be published in the FEDERAL REGISTER for public comment in mid-June 1977 and published in the FEDERAL REGISTER in final form by mid-December 1977.

As discussed previously in this document, the Commission included in the standard a stockpiling provision applicable to fabricators of glazing materials. Since, beginning July 6, 1977, manufacturers of glazing materials will be manufacturing glazing materials that conform to the Commission's standard, and because there is only a short time period remaining within which manufacturers could produce nonconforming glazing materials, the Commission believes that no further stockpiling provisions are necessary.

This proposed amendment is issued under the authority of section 9(e) of the Consumer Product Safety Act, 15 U.S.C. 2058(e) and 5 U.S.C. 553 (the Administrative Procedure Act). The Commission is providing only 15 days for comment on the proposed amendment to the effective date in order to issue it as expeditiously as possible.

After consideration of the effect of the current effective date of the Standard for Architectural Glazing Materials, the Commission concludes that the standard should be amended as proposed below. Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), Pub. L. 92–573, 86 Stat. 1215; U.S.C. 2058(e)), the Commission proposes to amend the standard for architectural glazing materials by adding a new § 1201.2(d) and by revising § 1201.7 to read as follows:

§ 1201.2 Definitions.

* * * * *

(d) Test methods and recommended practices published by the American National Standards Institute (ANSI) and referred to in this part 1201, are hereby incorporated by reference into this part 1201.[2]

* * * * *

§ 1201.7 Effective date.

The effective date of this Part 1201 shall be July 6, 1977 except:

(a) For glazing materials used in doors or other assemblies subject to this Part 1201 and intended to retard the passage of fire, when such doors or other assemblies are required by a federal, state, local or municipal fire ordinance, the effective date shall be January 6, 1980.

(b) Architectural glazing materials manufactured before July 6, 1977 may be incorporated into architectural products listed in § 1201.1(a) through July 5, 1978, if

(1) The architectural glazing material conforms to ANSI Z97.1–1972 or 1975, and

(2) The architectural glazing material is permanently labeled to indicate it conforms to ANSI Z97.1–1972 or 1975 or is accompanied by a certificate certifying conformance to ANSI Z97.1–1972 or 1975.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register, May 9, 1977, and a copy of the incorporated material is on file in the Federal Register Library.

Interested persons are invited to submit, on or before May 27, 1977, written comments regarding the proposed amendment to the Standard for Architectural Glazing Materials.

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a supporting memorandum or brief. Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3rd floor, 1111 18th Street, NW., Washington, D.C. 20207.

Dated: May 5, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-13685 Filed 5-11-77;8:45 am]

[2] ANSI Standards are approved by, published by, and available from the American National Standards Institutes, Inc., 1430 Broadway, New York, New York 10018.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230 and 240]

[Release Nos. 33-5824, 34-13479]

RAILROAD INDUSTRY DISCLOSURE GUIDELINES, DEFERRED MAINTENANCE, AND BETTERMENT ACCOUNTING

Formulation of Guidelines

AGENCY: Securities and Exchange Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Because of recent legislative and administrative action affecting the railroad industry, the Commission announces that it is considering the formulation of rules and guides and requests public comment with respect to (1) the form and content of railroad industry disclosure guidelines; (2) a uniform definition of deferred maintenance and uniform standards for its quantification and disclosure; and (3) the appropriateness of betterment accounting in documents filed with the Commission and distributed to stockholders. The announcement is being made at this time so that rules and guidelines can be developed at the earliest practicable date.

DATES: Comments must be received on or before: June 17, 1977.

ADDRESS: Comments should refer to File No. S7-692 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

(A) With respect to railroad industry disclosure guidelines: Richard K. Wulff, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–755–1750).

(B) With respect to deferred maintenance and betterment accounting: Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–755–1182).

SUPPLEMENTARY INFORMATION: Pursuant to its expanded authority under section 13(b) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)), as amended by the Railroad Revitalization and Regulatory Reform Act of 1976 ("Railroad Act") (45 U.S.C. 801 (February 5, 1976)), the Commission announced in other action today the adoption of amendments to certain rules and forms which require railroad companies for the first time to file annual reports and quarterly reports with the Commission on Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) respectively.[1] In addition, pursuant to the Railroad Act, certain securities of railroad companies are no longer exempt from the registration requirements of the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.). In connection with the initial preparation by railroads of disclosure documents under the Securities Act and the Exchange Act, the Commission requests public comment on the above matters.

DEVELOPMENT OF DISCLOSURE GUIDELINES FOR CLASS I RAILROADS

The Commission has directed the staff of its Division of Corporation Finance to develop disclosure guidelines for selected industries. The Commission's decision to formulate guides is prompted by a recent recommendation of the Advisory Committee on Corporate Disclosure and is designed to encourage uniform textual and financial statement disclosure of material items that are unique to particular industries. The proposed guidelines generally have the same effect as those already published for bank holding companies, real estate limited partnerships, and oil and gas drilling programs in their preparation of disclosure documents under both the Securities Act and the Exchange Act. The approach to be adopted in the formulation of the new guides would also be similar to that used by the Commission and its staff in the promulgation of the existing guidelines.

The Advisory Committee has also recommended that as an aid to the development of meaningful guidelines users and preparers of information for the selected industries be afforded the opportunity to participate in the formulation of the guides by providing comments and suggestions. A further recommendation of the Committee was to test the efficacy of this procedure by selecting a few industries, at least initially, for guidelines development. The Commission has chosen Class I Railroads for guidelines formulation, in part, because of the impact of the Railroads Act.

As is the case with existing guidelines for preparing Securities Act and Exchange Act registration statements and reports, it is not intended that any railroad guides would constitute Commission rules but that they would exhibit policies and practices utilized by the Division of Corporation Finance in administering the the disclosure requirements of the federal securities laws.

In furtherance of the Advisory Committee's recommendation, the Commission hereby requests the comments and suggestions of all interested person familiar with the railroad industry to assist in the development of meaningful guidelines to be followed in the preparation of Securities Act and Exchange Act disclosure documents. Prospective commentators are requested to isolate specific areas of disclosure which might be subject to uniform presentation by railroads. Among other areas, commentators should consider guidelines with respect to: (1) Line of business reporting, including a breakdown of the contribution of freight and passenger service, (2) the status of physical plant and equipment, including the average economical service lives, average ages, bad order ratios and classification by age range of locomotives, freight cars and other equipment, and capital and maintenance spending practices with respect to plant and equipment, (3) the average return on invested capital, (4) competitive conditions and position; and (5) disclosure of deferred maintenance, as discussed in greater detail later. It is also requested that difficult disclosure problems be considered from both an accounting and non-accounting vantage. The desired information will pinpoint the scope as well as the substance of the guidelines and commentary should be designed with this goal in view.

DEFERRED MAINTENANCE

The Commission is also requesting comments and suggestions of all interested persons familiar with the railroad industry on the development of a uniform definition of deferred maintenance, uniform methodology for its quantification and the appropriate standards of disclosure for such amount under the Federal securities laws.

The Commission has observed that deferred maintenance is a phenomenon facing a substantial portion of the railroad industry. A study prepared for the Federal Railroad Administration by Thomas K. Dyer, Inc., consulting engineers, indicates that deferred maintenance for all Class I railroads is in excess of $7 billion. In that study deferred maintenance was defined as "the quantity of materials, amount of labor, and incidentals for the work required to bring each of the components of the railroad's facilities to a level where, on the average, one half of its useful life remains."[2] The Commission understands that this definition and the Dyer methodology for computing deferred maintenance will be an important element in the Secretary of Transportation's recommendation to Congress for governmental financing of the railroad industry's facilities rehabilitation and improvements needs.[3]

The Commission requests comments on the appropriateness of this definition, the methodologly used in the Dyer study and whether deferred maintenance amounts determined using the Dyer def-

[1] See Securities Exchange Act Release No. 34–13477 (April 28, 1977) (See proposed rules and regulations in this issue at page 24071.)

[2] Maintenance of Way Study, United States Class I Railroads, October 1974, Association of American Railroads, Thomas K. Dyer, Inc., Lexington, Mass.

[3] A copy of the Dyer Report is included in Commission file S7-692 and is available for inspection at the Commission's Public Reference Section, 1100 L St. N.W., Washington, D.C. 20549.

V 42 N 92 MAY 12 77 UMI

inition and methodology would be appropriate for disclosure of an individual railroad's amount of deferred maintenance. If it is the commentators' view that the Dyer approach is not appropriate, the Commission requests suggestions for an approach that is believed to be appropriate.

It is noteworthy that a railroad industry sponsored study commonly referred to as the ASTRO Report[4] acknowledged that the industry had an "enormous backlog" of rail and tie renewals due to low replacement levels in the 1950's and 1960's and that these levels implied replacement cycles which are much greater than the average useful lives of new rail and ties. In this regard, the ASTRO Report stated that new rail can reasonably be expected to last an average of 60 years, including subsequent reuse in secondary lives and the average life for new ties about 35 years. The analysis in the ASTRO Report indicates the importance of knowing not only the extent to which a railroad's track replacement deviates from the normal (50 percent life remaining) condition, but also whether past replacement patterns may necessitate material increases in replacements merely to maintain current track conditions. The Commission also requests comments concerning disclosures by railroads of their historical track replacement patterns, the rates at which their track materials are currently being used up[5] and future requirements and costs associated with maintaining the track in the present condition and eliminating deferred maintenance. Consideration should also be given to providing the foregoing information with respect to major track components (e.g., main line, branch line, year and traffic density subclassifications).[6]

Regardless of the asserted present lack of consensus on the definition and computation of deferred maintenance, the Commission believes that the existence of significant amounts of deferred maintenance is material information to shareholders. Pending the formulation of industry wide guidelines, material amounts of deferred maintenance should be disclosed to stockholders in whatever fashion the management of individual railroads believes best portrays their situation with appropriate disclosure of the definition of deferred maintenance that has been employed and a brief description of the methodology.

[4] The American Railroad Industry: A Prospectus, America's Sound Transportation Review Organization (June, 1970).

[5] In this connection consideration should be given to the factors affecting track life such as accumulated gross tonnage, average carload weight, whether ties are treated and whether rail is jointed or welded.

[6] A General Accounting Office Study for A Subcommittee of the Senate Government Operations Committee pointed out that the Dyer method does not indicate the segments of the track system on which maintenance has been deferred. Information on Estimated Costs to Rehabilitate the Nation's Railroad Track and a Summary of Federal Assistance to the Industry, Nov., 1975, at 9.

BETTERMENT ACCOUNTING

Background. The Commission is also inviting comment as to whether betterment accounting should continue to be an acceptable accounting principle for railroads for reporting their financial position and results of operations in filings with the Commission and in reports to shareholders.

Under betterment accounting the initial cost of track structures, usually ties, rails, and ballast, is recorded as a nondepreciable asset. Subsequent replacements are charged to operating expense except to the extent they constitute a betterment. For example, if 110 lb. rail is replaced with 132 lb. rail, the cost attributable to the 22 lb. betterment is recorded as a non-depreciable asset and the cost attributable to the 110 lb. replacement is recorded as an operating expense.

All railroads in the United States use betterment accounting for purposes of reporting their financial results to the Interstate Commerce Commission. All but three railroads use betterment accounting in filings with the Commission and for shareholder reporting purposes. The three railroads that use depreciation accounting provide a reconciliation of their financial results under depreciation accounting to that that would have been reported had betterment accounting been used.

Views of Those Who Support Betterment Accounting.—Challenges to betterment accounting are not new. In 1957 a committee of the American Institute of Accountants (now the American Institute of Certified Public Accountants) conducted a study of railroad accounting practices and stated the following regarding betterment accounting (frequently called "replacement" accounting):

The Committee believes that 'replacement' accounting does not accord with practices generally followed by other industries. As to track components, however, the committee, in consideration of the long history of the use of replacement accounting by railroads with respect thereto, the unique nature of this category of railroad property, its relatively stable physical quantity, and mature economic status of the industry, has concluded, with one member dissenting, that no substantial useful purpose would be served by a change to depreciation accounting techniques in the absence of evidence indicating that depreciation-maintenance procedures would provide more appropriate charges to income for the use of such property.[7]

In a letter to the ICC, the same committee stated:

We feel that a practice consistently followed for more than 50 years and which affects a significant segment of the railroads' properties and operations should not be changed unless and until it has been found to be clearly erroneous by a convincing preponderance of evidence. We believe that no sufficient reasons have been presented to justify a change in this accounting method with its resultant tremendous upheaval in the fields of federal, state and local taxes, its substantially increased costs of accounting and no proposals for the protection of both investors and shippers in the transition. The present accounting method has withstood the test of several decades of use without demonstrated proof of harm to any parties. It is now impractical, if not impossible in view of the economic and taxation changes which have taken place during that time to reconstruct the accounts in such a way that all parties will be treated equitable.[8]

The proponents of betterment accounting frequently assert that betterment accounting is justified because the railroad industry is mature and has had a relatively stable physical quantity of track structures. Under these conditions, as long as the railroads have a continuing program that replaces worn-out track facilities on a pro-rata basis each period, the financial results reported using betterment accounting would not be significantly different from the results using depreciation accounting.[9]

Proponents also point out that during periods of rising prices betterment accounting results in greater charges to operating expense than does depreciation accounting, thereby providing a more conservatively stated statement of income (analogous to the use of LIFO).

Views of Those Who Oppose Betterment Accounting. Those who oppose betterment accounting argue that, under the present environment in which railroads operate, betterment accounting cannot in many cases report economic realities. Consummated and proposed abandonments of track structure point out that a relatively stable physical quantity of track structure is no longer present or desirable, and the large amounts of deferred maintenance being reported, together with observed deterioration of track structures in many parts of the country, indicate that a continuing level of normal maintenance has not occurred.[10]

Opponents of betterment accounting argue that the railroad industry is the only industry employing betterment accounting (and then only for track structure) and it is not well understood by financial statement readers. Also, betterment accounting does not directly measure the cost of consuming physical assets (i.e. track structure) and thus misstates the cost of doing business. A charge for capital consumption will only concur if replacements are made, which, even if made, may not correspond to the economic consumption of the track structure. And it is argued that under betterment accounting the utilization of property that is never replaced is not recognized as a cost of doing business until it is retired," which, as a result of the rate making process, may not allow for the recovery of the cost of the track structure.

Some who oppose betterment accounting believe it may create an incentive towards the deferral of necessary maintenance in order to achieve higher earnings. In its April 30, 1976 petition of the ICC to institute a rulemaking proceeding on betterment accounting, the Department of Transportation wrote:

The issue of betterment versus depreciation accounting is important to those who are interested in the integrity of railroad financial statements and accounting practices and to those who are interested in the influence that accounting policies have on the manner in which railroad managements make investment policy decisions for railroad track improvements and maintenance. Although no conclusive evidence exists that points to betterment accounting as the sole, or even the primary, culprit in the long history of neglect that has led to the current deteriorated state of much of the nation's rail system, DOT believes the Commission policies should not create any incentive for railroad management to allow deterioration of fixed assets.

While railroad management may always, of course, choose to defer maintenance, there may, in a betterment accounting system, be an incentive for them to do so. Under betterment accounting, costs of maintenance are immediately subtracted from total revenues, thus suggesting that the firm is less profitable than it might otherwise appear. The end effect is that balance sheet asset and equity values may be presented inaccurately. To the degree that maintenance is deferred to inflate net income, such deferral contributes to the exhaustion of track facilities and aggravates already critical deferred maintenance problems. DOT recognizes, of course, that other factors, particularly the simple non-availability of cash, may loom just as large in the decision to postpone investment in track facilities.

The Commission invites commentators to develop or refute the above arguments and to present other relevant arguments for or against the retention of betterment accounting in filings with the Commission and for reporting to shareholders. The Commission would be particularly interested in receiving evidence that demonstrates whether, in today's environment, the results under betterment and depreciation accounting are similar or not, and if not, the magnitude of the difference.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13943 Filed 5-11-77;8:45 am]

[7] Report of American Institute of Accountants Committee on Relations with the Interstate Commerce Commission, March 29, 1957.

[8] Letter from American Institute of Certified Public Accountants Committee on Relations with the Interstate Commerce Commission to Mr. Owen Clarke, Chairman, Interstate Commerce Commission, December 31, 1957.

[9] Arthur Andersen & Co., "Accounting and Reporting Problems of the Accounting Profession," Fifth Edition—August 1965, page 147.

[10] Id. at 147-48.

[11] Id. at 149.

[17 CFR Part 240]

[Release No. 34-13478]

CERTAIN RAILROAD ISSUERS

Exemption From Financial Statement Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In view of recent legislature and administrative action affecting the railroad industry, the Commission announces it is considering the formulation of rules and requests public comment regarding the appropriateness of providing permanent exemption for lesser and switching and terminal company railroads from the financial reporting requirements of Commission forms. The announcement is being made at this time so that exemptive rules, if appropriate, can be developed at the earliest practicable date.

DATES: Comments must be received on or before: June 17, 1977.

ADDRESS: Comments should refer to File No. 37-653 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Paul A. Belvin, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 202-755-1750.

SUPPLEMENTARY INFORMATION: In related action today[1] the Securities and Exchange Commission announced the adoption of amendments to Rules 13a-13 (17 CFR 240.13a-13), 14a-3 (240.-15d-13), and the revocation of Rule 13b-1 (17 CFR 240.13b-1) and annual report Form 12-K (17 CFR 249.312) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975). The effect of these amendments is to require that those registrants who currently file copies of their reports submitted to the Interstate Commerce Commission, Federal Power Commission, Federal Communications Commission, and Civil Aeronautic Board in lieu of the Commission's regular annual and quarterly report forms instead file reports in compliance with such forms and the regulations governing such reports.

It was suggested during the proceeding by a number of railroad related commentators that lessor railroads and switching and terminal companies should be the subject of a broad exemption from the financial statements requirements of Forms 10-K and 10-Q. Lessor railroads are substantially or wholly owned subsidiaries of operating railroads whose facilities or trackbeds are operated under lease pursuant to which the parent railroad is lessee. The income of the lessor subsidiary is determined pursuant to the lease arrangement based on the interest and a fixed dividend on the outstanding securities of the lessor. Switching and terminal companies are owned by operating railroads which share the expenses of operation on a user basis.

The Commission specifically invites additional comment from interested parties regarding the appropriateness of providing permanent exemption from the financial statements requirements of Forms 10-K and 10-Q for these and other railroad issuers and the proper form and content of any such exemptions. Comment is also invited as to the precise manner by which any such issuers might be identified in any exemptive provisions, in order that the scope of the exemption is not unduly broad. The Commission also invites comments as to why railroad entities of the type described above should be the subject of an exemption, while other entities, such as financing subsidiaries of non-railroad issuers, traditionally have not been the subject of a categorical exemption from the reporting requirements.

The Commission anticipates that final action with respect to this matter will be announced no later than October 1, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13633 Filed 5-11-77;8:45 am]

[1] Securities Exchange Act Release No. 34-13477 (April 28, 1977).

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 721-8; OPP-300010B]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice reproposes that certain inert ingredients in pesticide formulations be exempted from the requirement of a tolerance. This proposal was requested by various firms. This proposed amendment will allow the use of additional inert ingredients in pesticides

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applied to raw agricultural commodites and add another pesticide to the list of those generally recognized as safe for use.

DATE: Comments must be received on or before June 13, 1977.

ADDRESSES: SEND COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Toxicology Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA (202/426-2680).

SUPPLEMENTARY INFORMATION: On October 14, 1976, notice was given (41 FR 45029) that at the request of several interested persons, the Administrator, EPA, was proposing, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

One comment was received in response to this notice from the EPA's Health Effects Division, Office of Health and Ecological Effects, Office of Research and Development. This comment questioned the appropriateness of the term "inert" and pointed out that some of the proposed pesticide chemicals were "far from being toxicologically inert," even though they may be inert with regard to their direct pesticidal activity. It was also recommended that the residues of these ingredients on raw agricultural commodities and processed food be assessed before they are assumed not to be a public health hazard.

In response, it is pointed out that by "inert," the Agency means that the ingredient enhances the activity of the pesticide without having any direct pesticidal activity of its own. Further implications of the term inert are that the ingredient is efficacious as part of the pesticide formulation and is safe with regard to human exposure when used in accordance with good agricultural practice. The term is not intended to imply toxicological inertness or lack of toxicity; the ingredient may or may not be chemically or toxicologically active.

All tolerance exemption requests to the Agency must be supported by scientific data or previous clearances before any exemption is granted. Any inert ingredient is assessed beforehand with special emphasis on its toxicity in relation to its expected residues from the proposed use.

In addition, all the inerts for which exemptions were requested in this proposal have never been implicated as tumor-producing agents, have been previously cleared for food use by the EPA or FDA, or not expected to produce residues other than innocuous degradation products when used in accordance with good agricultural practice.

It has also been determined that because the ingredient sodium hypochlorite has only one use with respect to food, i.e., as a washing agent for fresh fruits and vegetables, it should be transferred from 40 CFR 180.1001(c) to 40 CFR 180.2, *Pesticide chemicals considered safe*.

Because the previous proposal apparently did not provide sufficient information to permit adequate public review and comment, the inert (or occasionally active) ingredients concerned, the firms requesting exemptions, and the bases for their approval are provided at this time and the comment period is being extended accordingly.

Inert ingredient	Firm	Bases for approval
Acetic anhydride	Chevron Chemical Co., Inc., 940 Hensley St., Richmond, Calif. 94804.	Previously cleared under 180.1001(c). No reasonable expectation of residues in human food.
alpha-Alkyl (C_8-C_{11})-omega-hydroxypoly(oxypropylene) [1] block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles. Average molecular weight approximately 635.	Jefferson Chemical Co., Inc., P.O. Box 4128, Austin, Tex. 78765.	Close structural similarity to a previously cleared inert ingredient.
Potassium sulfate	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898.	Generally recognized as safe (GRAS) by the Food and Drug Administration pursuant to 21 CFR 121.101(d)(8) as a direct food additive.
Sodium hypochlorite	FMC Corp., Middleport, N.Y. 14105.	Previously cleared under 21 CFR 121.1091 for use in lye-washing of fruits and vegetables. Widely used as a disinfectant in municipal potable water supplies. No reasonable expectation of residues in human food.
Sodium mono-, di-, and tributyl naphthalene sulfonates.	Petrochemicals Co., Inc., 2001 N. Grove St., Fort Worth, Tex. 76765.	Previously cleared under 21 CFR 121.1198 for meat curing and in washing peeling of fruits and vegetables.
Valeric acid	Industrial Bio-Test Labs., Inc., 1810 Frontage Rd., Northbrook, Ill. 60062.	Previously cleared under 21 CFR 121.1164 as synthetic flavoring and adjuvant.

[1] In 41 FR 45029, this chemical was originally written as "alpha-Alkyl (C_8-C_{11}) • • • and is now corrected.

Based on the above material, available information on the chemistry of these substances, and a review of their uses, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to humans. The proposed amendments to 40 CFR 180.2 and 180.1001 will protect the public health.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 13, 1977, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject matter and the OPP document control number "OPP-300010B". All written comments filed in response to this notice and the October 14, 1976, proposal will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: April 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

With the exception of editorial changes to correct typographical errors, it is concluded that the original proposal be reproposed as follows:

(1) Part 180, Subpart A, § 180.2(a) is amended by adding the pesticide chemical sodium hypochlorite to read as follows.

(2) Part 180, Subpart D, § 180.1001 is amended by: (1) deleting the entry "alpha-alkyl (C6-C10)-omega-hydroxypoly (oxypropylene) block polymer with polyoxyethylene; polyoxypropylene content averages 3 moles; polyoxyethylene content averages 7 moles; average molecular weight approximately 625" from paragraph (c); (2) deleting the entry "Sodium mono-, di-, and tributyl naphthalene sulfonates" from paragraph (d); (3) deleting the entries "Aluminum stearate", "Wintergreen oil", "Ethanol", and "Benzoic acid" from paragraph (d); (4) alphabetically inserting new items in paragraphs (c), (d), and (e); and (5) by deleting sodium hypochlorite from paragraph (c) to read as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellant in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium polysulfide, sodium carbonate, sodium chloride, sodium hypochlorite, sodium polysulfide, and sulfur, and, when used postharvest as fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the

purposes of section 408(a) of the act generally recognized as safe for use.

• • • • • •

§ 180.1001 Exemptions from the requirement of a tolerance.

• • • • • •

(c) • • •

Inert ingredient	Limits	Uses
• • • • •		
Alpha-alkyl (C6-C14)-omega-hydroxypoly-(oxypropylene) block copolymer with polyoxy-ethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 635.		Surfactants, related adjuvants of surfactants.
• • • • •		
Potassium sulfate		Solid diluent.
• • • • •		
Sodium mono-, di-, and tributyl naphthalene sulfonates.		Surfactants, related adjuvants of surfactants.
• • • • •		

(d) • • •

• • • • •		
Valeric acid, normal	Not more than 2 pct in pesticide formulations.	Stenching agent or odorant.
• • • • •		

(e) • • •

• • • • •		
Acetic anhydride		Solvent, cosolvent, stabilizer.
• • • • •		
Alpha-alkyl (C6-C14)-omega-hydroxypoly (oxypropylene) block copolymer with polyoxyethylene; polyoxypropylene content is 1-3 moles; polyoxyethylene content is 7-9 moles; average molecular weight approximately 635.		Surfactants, related adjuvants of surfactants.
• • • • •		
Sodium mono-, di-, and tributyl naphthalene sulfonates.		Solvent, cosolvent stabilizer.
• • • • •		

[FR Doc.77-13228 Filed 5-11-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-87]

TEXAS GAS TRANSMISSION CORP.

Supplemental Emergency Order

By order issued April 6, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 92-5 (91 Stat. 4 (1977)), Texas Gas Transmission Corporation (Texas Gas), as agent for certain of its customers,[1] was authorized to purchase approximately 2,000 Mcfd of natural gas from Par Oil Company (Par).

By telegram dated May 5, 1977, Texas Gas requested that the order be amended to permit Texas Gas to purchase up to 5,000 Mcfd. Texas Gas states that, on May 3, 1977, it amended the contract with Par to provide for the purchase of these additional volumes.

The April 6, 1977, order in this proceeding is hereby amended to permit Texas Gas, as agent to purchase up to 5,000 Mcfd of natural gas from Par and transport and deliver that gas to the customers for which it is an agent. To the extent not inconsistent with the provisions of this order, the provisions of the April 6, 1977, order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Par. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 6, 1977.

[FR Doc.77-13538 Filed 5-11-77;8:45 am]

[1] These customers are local distribution companies and interstate pipelines as defined in §§ 2(1), (5) of the Act (91 Stat. 4).

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING—MARKETING ORDER NO. 905—7 CFR PART 905—REGULATING THE HANDLING OF ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Postponement of Public Meeting

The meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905) originally scheduled for May 17, 1977 (42 FR 21124), is postponed until May 31, 1977. The meeting will be held in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time. This notice is issued pursuant to the provisions of section 10 (a) (2) of the Federal Advisory Committee Act (86 Stat. 770). Marketing Order No. 905 regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). At its meeting on May 5, 1977, the committee recommended regulations it deemed appropriate to the prevailing demand situation and requested that the meeting scheduled for May 17 be delayed until May 31, 1977.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: May 6, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13518 Filed 5-11-77;8:45 am]

Cooperative State Research Service

COMMITTEE OF NINE

Notice of Meeting; Amendment

The location of the June 2-3, 1977 meeting of the Committee of Nine, notice of which was published in the FEDERAL REGISTER on April 27, 1977 (42 FR 21500), has been changed from Room 104-A to Room 509-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Dated: May 9, 1977.

R. J. ALDRICH,
Administrator.

[FR Doc.77-13610 Filed 5-11-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30552]

AIR MANILA, INC.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on June 14, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., May 5, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-13611 Filed 5-11-77;8:45 am]

[Order 77-5-39; Docket 30610]

BRANIFF AIRWAYS, INC.

Application for Amendment of Public Convenience Certificate; Order To Show Cause

Application of Braniff Airways, Inc. for the amendment of its certificate of public convenience and necessity for Route 153 so as to delete Talara and Iquitos, Peru.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of May, 1977.

On March 14, 1977, Braniff Airways, Inc. filed an application in Docket 30610 requesting amendment of its certificate for Route 153 so as to delete Talara and Iquitos, Peru, therefrom. Contemporaneously, Braniff filed a petition requesting that the deletion be accomplished by show-cause procedures and a motion that the Board consolidate its application in Docket 30610 with its applications in Dockets 26966 and 29074.

In support of its request, Braniff alleges, inter alia, that: as a result of the United States-Caribbean-South America Route Investigation, the Board consolidated Braniff's Route 146 (formerly Panagra's) with Route 153, leaving an amended certificate for Route 153 with Talara and Iquitos as intermediate points; service to Talara had been suspended and service had never been inaugurated at Iquitos at the time of the Board's investigation; Braniff has not provided service to either point subsequent to the issuance of the amended certificate for Route 153; both points are adequately served by Peruvian airlines; and neither Talara nor Iquitos generates sufficient international traffic to justify additional service by Braniff.

In support of its motion to consolidate, Braniff states that both Dockets 26966 and 29074[1] pertain to Braniff applications to amend its certificate for Route 153; that the Board has consolidated those dockets and issued an order to show cause why Braniff's certificate should not be made final (Order 77-2-123); and that, since Braniff's application herein pertains to Route 153, consolidation would not unduly delay the proceedings which have already been initiated and would be conducive to the proper dispatch of the Board's business.

No answers to the application and motion have been received.

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause why the Board should not grant the requested deletions and to deny Braniff's motion to consolidate. We believe the issues raised by the deletions proposed herein are disparate enough to warrant individual treatment.

We tentatively find and conclude that the public convenience and necessity require the amendment of Braniff's certificate for Route 153 so as to delete the points Talara and Iquitos, Peru.[2] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

Both Talara and Iquitos were certificated to Braniff's predecessor, Panagra. These points were part of Panagra's certificate for Route 146 at the time of merger negotiations between Panagra and Braniff and the conduct of the United States-South America Route Investigation (Docket 12895, et al.) in the mid-60's. In 1964 Panagra obtained authority to suspend service to Talara during the pendency of the latter case. Service to Iquitos had not been inaugurated because approval from the Peruvian government for international service to Iquitos had not been obtained. In 1966, the Board approved the acquistion of Panagra by Braniff and transferred the certificate for Route 146 to Braniff (Panagra Acquisition Case, 45 CAB 495 (1966)) and the U.S.-Peruvian bilateral agreement with Peru was amended to add Iquitos as a point for international traffic in Peru for U.S. carriers. At the conclusion of the United States-South American Investigation (Order 68-11-122), the Board consolidated Panagra's former Route 146 with Braniff's Route 153, leaving an amended certificate for Route 153, with Talara and Iquitos as intermediate points on each segment of the route (49 CAB 500 (1968)). Braniff has not provided service to either location since the issuance of that amended certificate.[3] However, both Talara and Iquitos receive daily jet service from two Peruvian carriers to and from Lima, where they can connect to Braniff's international services.[4] Despite the frequency of service to Talara and Iquitos by the Peruvian carriers, the Board's international O&D survey statistics reveal that the traffic generated is truly local in nature. Talara generated less than one daily passenger to and from all international points covered by the O&D survey for 1975, while Iquitos provided less than two daily international passengers in each direction. The traffic generated by the points cannot be served by an intercontinental carrier such as Braniff except at a severe loss.

Thus, institution of service to Talara and Iquitos by Braniff would involve an unnecessary increase in operating costs, would result in loss of through traffic (to and from Lima) because of additional stops and flight time required, and would otherwise not be economically sound. The public interest will best be served by leaving these points to the Peruvian carriers who specialize in local service transportation. In these circumstances, we do not believe that any useful purpose would be served by the retention of Braniff's unused certificate authority at Talara and Iquitos.[5] Finally, the absence of opposition to Braniff's application lends support to our decision that the show-cause procedure is appropriate.[6]

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Braniff Airways, Inc., for Route 153 so as to delete Talara and Iquitos, Peru, therefrom;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of this order, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; and answers to such objections may be filed 10 days thereafter;[7]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. The motion of Braniff Airways, Inc., for consolidation of Docket 30610 with Dockets 26966 and 29074, be and it hereby is denied; and

6. A copy of this order shall be served upon all persons listed in ordering paragraph 12 of Order 77-2-123, February 24, 1977.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13613 Filed 5-11-77;8:45 am]

[1] Docket 26966 requests that another point be substituted for Lima in condition (7) of Route 153 and Docket 29074 requests the addition of Dallas/Fort Worth as a coterminal point on Route 153, segment 1.

[2] We also tentatively find that Braniff is fit, willing, and able properly to perform the air transportation authorized by the certificate proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations and requirements thereunder.

[3] Within 90 days after final decision in the investigation, Braniff should have instituted service at both points and is in apparent violation of its certificate. Our action herein does not render moot any violations of the Act and neither prejudices any enforcement action which may be taken for such violations nor lessens the severity of any such offense.

[4] AeroPeru provides a single nonstop flight between Talara and Lima four days per week, while Compania de Aviacion "Faucett", S.A. (Faucett) provides one-stop turnaround service between Talara and Lima on the three other days of the week. AeroPeru also provides 13 flights per week from Iquitos to Lima and 15 flights per week from Lima to Iquitos. Faucett has a total of 17 turnaround flights each week between Iquitos and Lima.

[5] The action we propose by this order is similar to that taken with respect to previous applications of Braniff and other international carriers to delete dormant operating authorizations. See, e.g., United States-South America Route Investigation, 49 CAB 500 (1968).

[6] Since grant of the proposed authority herein will not result in any change in the level of service at any U.S. point within the meaning of section 312.9(a)(1) of the Board's Regulations, our action will not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969.

[7] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

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[Docket 30565]

DEUTSCHES REISEBURO GMBH (GERMANY)

Foreign Air Carrier Permit; Postponing Hearing and Scheduling Second Prehearing Conference

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter assigned to be held on May 26, 1977 (42 FR 22564, May 4, 1977), is postponed.

As a result of Board Order 77-5-8, adding parties to this proceeding, a second prehearing conference is scheduled to be held on May 16, 1977 at 9:30 a.m. (local time), in Room 1003, Hearing Room B, North Univeral Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned.

Dated at Washington, D.C., May 5, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-13612 Filed 5-11-77;8:45 am]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5-77]

FOREIGN-TRADE ZONE NO. 3, SAN FRANCISCO

Application To Relocate Zone to Piers 19 and 23, Embarcadero, San Francisco

Notice is hereby given that the San Francisco Port Commission (the Commission), Grantee of Foreign-Trade Zone No. 3, San Francisco, California, has requested from the Foreign-Trade Zones Board (the Board) permission to relocate the zone from its present two sites to a consolidated site at Piers 19 and 23, Embarcadero, San Francisco. The application is dated May 4, 1977 and was formally filed May 10, 1977.

The present zone consists of a site at Berry Street with a warehouse/processing facility having 55,000 sq. ft. of floor space and a 61,000 sq. ft. warehouse at King Street. The sites are a block apart near Pier 46A about 1½ miles south of the Commission's offices in the Ferry Building.

The proposed consolidated facility would comprise Piers 19 and 23 on the Embarcadero at the foot of Filbert Street about one-half mile north of the Ferry Building in San Francisco. The two piers are connected at the inner end by a bulkhead and connecting wharves and provide over 225,000 square feet of covered space. Operator of the zone under contract with the Commission will be Foreign Trade Services, Inc.

The new facility is requested to provide improved zone services for the area's business community. Not affected by this proposal is the special purpose subzone sponsored by the Commission located at 355 Treat Street.

An examiners committee consisting of the following has been named to review the proposal and report to the Board: John J. Da Ponte, Jr. (Chairman), Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, D.C. 20230; Dan Lane, Supervisor of Merchandise Control, U.S. Customs District, San Francisco, 555 Battery Street, San Francisco, California 94216; and Colonel Henry A. Flertzheim, Jr., District Engineer, U.S. Army Engineer District San Francisco, 211 Main Street, San Francisco, California 94105.

Copies of the Commission's application are available for inspection at:

District Director, U.S. Customs Service, San Francisco District, 555 Battery Street (Room 319), San Francisco, California 94216.

Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce (Room 6886B), Washington, D.C. 20230.

Comments concerning the proposal are invited in writing from interested parties (original and six copies). They should be addressed to the Board's Executive Secretary at the above address and be postmarked on or before May 27, 1977.

Dated: May 10, 1977.

JOHN J. DA PONTE, Jr.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.77-13777 Filed 5-11-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Gulf Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to Alabama, west coast of Florida, Louisiana, Mississippi, and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing and conduct public hearings.

The meeting will be held Monday, Tuesday and Wednesday, June 13, 14 and 15, 1977, in the Orleans Ballroom of the Bourbon Orleans-Ramada, Bourbon and Orleans Street, New Orleans, Louisiana. The meeting will convene at 1:30 p.m. on June 13, and adjourn at about noon June 15, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Management plans.
2. Personnel and administration categories.
3. Review of foreign fishing applications, if any.
4. Other fishery management business.

This meeting is open to the public and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about June 6, 1977:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by submitting them to Mr. Swingle at the above address. To receive due consideration and facilitate inclusion of those comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: May 6, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-13590 Filed 5-11-77;8:45 am]

SEA GRANT REVIEW PANEL

Partially Closed Meeting

The Sea Grant Review Panel will meet on June 1 and 2, 1977 from 9 a.m. to 4:30 p.m. each day in Page Building No. 1, Room 416, 2001 Wisconsin Avenue NW., Washington, D.C.

The Panel was established in December 1976 under Section 209 of the National Sea Grant Program Act, and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under Sections 205 and 206 of the Act;

b. The Sea Grant Fellowship Program, established under Section 208 of the Act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia (which are provided for in Section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under Section 204(a) of the Act and applied by the Director in accordance with Section 204(c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

June 1, 1977: (9 a.m. to 4:30 p.m.)

9:00 a.m. Preliminary remarks and discussion of agenda.

9:15 a.m. A. Institutional and coherent area program discussions.
University of Rhode Island.
Massachusetts Institute of Technology.
University of Miami.
University of South Carolina.
Oregon State University.
Texas A&M University.
Louisiana State University.
University of Michigan.
University of Wisconsin.
Woods Hole Oceanographic Institution.
University of California.
University of Delaware.
University of Hawaii.
University of Southern California.

B. Sea Grant College candidates discussion. The following universities are eligible on the basis of time to be considered for designation as Sea Grant Colleges:
University of Southern California.
Louisiana State University.

4:30 p.m. Recess.

June 2, 1977: (9 a.m. to 4:30 p.m.)

9:00 a.m. C. Review of Sea Grant legislation items.
D. Review of MIT-Holloman report.
E. Program development strategy.
F. Discussion with Sea Grant directors.

4:30 p.m. Adjourn.

All agenda items will be open to public attendance, except for a five-minute portion at the end of the discussion of each institution under Agenda Items A and B, in accordance with 5 U.S.C. 552b(c)(6), as determined by the Assistant Secretary for Administration, pursuant to subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463) as amended. Approximately thirty seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant Program, 3300 Whitehaven Street, Washington, D.C. 20235.

For further information, contact Mr. Arthur G. Alexiou, Associate Director for Programs, at above address. Telephone (202) 634-4019.

T. P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

MAY 10, 1977.

[FR Doc.77-13819 Filed 5-11-77;8:45 am]

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. I (Supp. V. 1975), notice is hereby given of the second meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 9 a.m. to 5 p.m. on May 31 and June 1, 1977, in Room 4830 of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. (Public entrance to the building is on 14th Street, between Constitution Avenue and E Street NW.)

The Board was established in January 1977 (42 FR 4512, 1-25-77) to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups, who are appointed by the Secretary of Commerce.

The purpose of this meeting is to hear the programs, plans and views of several Federal agencies involved in some aspect of weather modification, to discuss study papers prepared for the Board and to consider further assignments and actions for the conduct of the study and preparation of the final report to the Secretary of Commerce.

The agenda for the meeting is:

May 31, 1977 (Tuesday):

9-9:15 a.m.	Introductory remarks.
9:15-12 a.m.	Federal agency presentations to include programs, plans and views on weather modification.
12-1 p.m.	Recess for lunch.
1-5 p.m.	Continuation of agency presentations.

June 1, 1977 (Wednesday):

9-12 a.m.	Discussion of study papers on (1) an overview of the state-of-the-art of weather modification research, (2) obstacles to progress in weather modification and (3) outlook for 5 years and 20 years in weather modification.
12-1 p.m.	Recess for lunch.
1-5 p.m.	Discussion and assignment of actions associated with conduct of the study and preparation of the report to the Secretary of Commerce.
5 p.m.	Adjournment.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before May 25. Other public statements regarding Board affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Environmental Modification Office, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, 301-443-8721.

T. P. GLEITER,
Assistant Administrator for Administration.

MAY 10, 1977.

[FR Doc.77-13820 Filed 5-11-77;8:45 am]

DEPARTMENT OF DEFENSE

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Subcommittee on Environmental Quality of the Armed Forces Epidemiological Board.

Date of Meeting: 1 June 1977.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Washington, D.C.

Time: 0900-1700.

Proposed Agenda: The proposed agenda will include discussion of problems related to the detection of contaminants in water supplies in the combat environment and means available or under development to remove them, and discussion of problems related to land treatment of waste water effluents.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: 5 May 77.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-13480 Filed 5-11-77;8:45 am]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory

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Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, July 5; Tuesday, July 12; Tuesday, July 19; and Tuesday, July 26, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed in section 552b. of Title 5, United States Code. Two of the matter so listed are those related solely to the internal personnel rules and practices of an agency, (5 U.S.C. 552b.(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense. (5 U.S.C. 552 b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552 b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 5, 1977.

[FR Doc.77-13583 Filed 5-11-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 857]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 9, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see section 309(c) of the Communications Act). applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rule (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceeding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceeding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21226-CD-TC-(8)-77 Morris Communications, Inc. concent to transfer of control from Horace A. Morris, Sr., transferor to Horace A. Morris, Jr. and David O. Kelly, transferees. Station: KFL880, KIY731, and KSV933, Greenville, S.C.; KLF505, KU0629, Spartanburg, S.C.; KWU349, Gaffney, S.C.; KLF904, Seneca, S.C.; KUC905, Anderson, S.C.

21227-CD-AL-(2)-77 Xavier W. Nady consent to assignment of license from Xavier W. Nady, assignor to Answerphone, Inc., assignee. Stations: KLF597, KLF620, Tacoma, Washintgon.

21228-CD-AL-(2)-77 Xavier W. Nady d/b as Mobilephone-Yuma, consent to assignment of license from Xavier W. Nady d/b as Mobilephone-Yuma, assignor to Answerphone, Inc., assignee. Stations: KUD226, KOF906, Yuma, Arizona.

21229-CD-AL-77 AAA Anserphone, Inc.-Jackson, consent to assignment of license from AAA Anserphone, Inc.-Jackson assignor to Alco Telephone Answer-ring Service of Greenville, Mississippi, Inc., assignee. Station: KUC976, Oxford, Mississippi.

21230-CD-AL-(2)-77 Lewis M. Kelly, d/b as Seattle Radiotelephone Service, consent to assignment of license from Lewis M. Kelley, d/b as Seattle Radiotelephone Service, assignor to Kelley's Radio Telephone, Inc. assignee. Stations: KOA733, Seattle, Washington; KLF604, Everett, Washington.

21231-CD-TC-77 Delta Mobile Phone of Arkansas, Inc., consent to transfer of control from Vernon Hull, and G. Douglas Abraham, transferor to Hunter Bell, transferee. Station: KWT964, Helena, Arkansas.

21232-CD-P-77 Tel-Page Corporation (KRH631), C.P. for additional facilities to operate on 152.15 MHz to be located at new site described as Loc. No. 3: 989 James Street, Syracuse, New York.

21234-CD-P-77 Tel-Page Corporation (KUS378), C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 2: 989 James St., Syracuse, New York.

21235-CD-P-77 Fayetteville Communications, Inc. (new), C.P. for a new 1-way station to operate on 158.70 MHz to be located at Mt. Sequoyah, Fayetteville, Arkansas.

21237-CD-P-77 James D. and Lawrence D. Garvey d/b as Radiofone (KUS290), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. No. 2: 1¼ miles South of Thibodaux, Louisiana.

21238-CD-P-(3)-77 Favetteville Communications, Inc. (KFL899), C.P. to change antenna system, replace transmitter, and relocate facilities operating on 152.12MHz: additional facilities to operate on 152.03, 152.06 MHz to be located at Mt. Sequoyah, Arkansas.

21239-CD-P-(2)-77 Onelika-Auburn Communications, Inc. (KLF555), C.P. for additional facilities to operate on 75.42 MHz at Loc. No. 1: 7½ Miles east of Opelika, Near Mountain Springs Church, Alabama; and 72.02 MHz at Loc. No. 2: 509 South Seventh Street, Onelika, Alabama.

21240-CD-MP-77 Radio Paging, Inc. (KWU 517), modified permit to relocate facilities operating on 454.225 MHz located at Old Montgomery Road, West of Conroe, Texas.

21241-CD-P-(2)-77 Aztec Communications, Inc. (KIQ510), C.P. to replace transmitter operating on 35.58 MHz (Loc. No. 1) located at 1510 Montana Avenue, Jacksonville; change antenna system and relocate facilities operating on 35.58 MHz (Loc. No. 2) to be located 9117 Hogan Road, Jacksonville, Florida.

21242-CD-P-77 F M Communications, Inc. (new), C.P. for a new 2-way station to operate on 454.200 MHz to be located Mt. Nebo. 1.25 miles SSW of Roseburg, Oregon.

21244-CD-P-77 Industrial Electronics & Automation Co., Inc. d/b as Big Sky Radio Paging (KUO589), C.P. for additional facilities to operate on 152.12 MHz to be located at a new site described as Loc. No. 2: ¾ Mile East of Bozeman, Montaha.

21245-CD-P-77 Continental Telephone Company of Iowa (KAL874), C.P. to change antenna system operating on 152.69 MHz located 0.5 mile south of Coon Rapids, Iowa.

21247-CD-P-77 Blacker's Communications (KWT990), C.P. to relocate control facilities operating on 454.275 MHz (Loc. No. 2) to be located at 2110 Blaine Street, Caldwell, Idaho.

21248-CD-P-(6)-77 James Edwin Walley d/b as Auto-Phone Company (new), C.P. for a new 1-way station to operate on 152.24 MHz (Loc. No. 1) to be located at Pilot Peak, 7½ miles S.W. of Grass Valley: Loc. No. 2 to operate on 152.24 MHz to be located at Mount Cohassett, 16 Miles NE. of Chico: Loc. No. 3 to operate on 152.24 MHz to be located at 1½ miles South of Sunset Hill, Southwest of Forbestown: Loc. No. 4 to operate on 75.72, 75.68, and 75.74 MHz (Control) to be located at 1538 18th Street, Oroville, California.

21249-CD-P-77 JMD, Inc. (KUS230), C.P. for additional facilities to operate on 454.075 MHz to be located at 1000 27th Avenue, S.W., Cedar Rapids, Iowa.

21250-CD-P-77 Messages by Radio, Inc. (KEA200), C.P. for additional facilities to operate on 152.03 MHz to be located at a new site described as Loc. No. 3: One World Trade Center, New York, N.Y.

21251-CD-P-77 Empire Paging Corporation (KWU374), C.P. for additional control facilities to operate on 72.58 MHz to be located at a new site described as Loc. No. 4: Empire State Building, 50 Fifth Avenue, New York, New York.

21252-CD-P-77 Airsignal International, Inc. (KKE964), C.P. to change antenna system, replace transmitter and relocate facilities operating on 454.125 MHz to be located at One Shell Plaza, Houston, Texas.

21253-CD-P-77 Kidd's Communications, Inc. (KLF641), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as Loc. No. 4: 3519 Pinehurst Drive, Bakersfield, California.

21254-CD-P-(2)-77 Kidd's Communications, Inc. (KUO618), C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as Loc. No. 2: Bear Mountain, 8 Miles East of Arvin; Loc. No. 3 to operate on 72.04 MHz (Control) to be located at 215 East 18th Street, Bakersfield, California.

21255-CD-P-(2)-77 General Electric Company of Florida (KWT890), C.P. for additional facilities to operate on 152.84 MHz to be located at a new site described as Loc. No. 4: Corner of Main St. and S.R. 37, Bradley Junction, Florida.

21256-CD-P-77 Dodge County Telephone Company (KWH346), C.P. to change antenna system and replace transmitter operating on 158.10 MHz located 1.8 miles SW of Reeseville, Wisconsin.

21257-CD-P-77 Answer, Inc. of San Antonio (KKG559), C.P. for additional facilities to operate on 454.325 MHz to be located at a new site described as Loc. No. 5: 411 E. Durango Blvd., San Antonio, Texas.

21258-CD-P-77 J. M. Blodgett d/b as Radio Page (KWT885), C.P. for additional facilities to operate on 35.58 MHz to be located at a new site described as Loc. No. 4: Northgate Apts., Northgate Plaza, Camden, New Jersey.

21260-CD-P-77 General Telephone Company of the Midwest (KAQ620), C.P. to change antenna system operating on 152.63 MHz located at 1.5 miles SW of Manchester, Iowa.

RURAL RADIO

60270-CD-P/L-77 Continental Telephone Company of California (new), C.P. for a new Rural Subscriber-Fixed to operate on 157.83 MHz to be located 32 Miles SSE of Yerington, Nevada.

60271-CD-AL-77 X Nady Jr., Consent to Assignment of License from X Nady Jr., Assignor to Answerphone, Inc., Assignee. Station: KPI67, Temporary-Fixed.

OFFSHORE RADIO TELECOMMUNICATIONS SERVICE

50014-CG-P-(3)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.300, 488.375, 486.225 MHz to be located 43 Miles South of Franklin, La., Eugene Island Area, Gulf of Mexico.

50015-CG-P-(3)-77 Same as above, C.P. for a new station to operate on 488.525, 488.550, 488.475 MHz to be located Block 207A, Ship Shoal Area, Gulf of Mexico.

50016-CG-P-(2)-77 Same as above, C.P. for a new station to operate on 488.250, 488.325 MHz to be located at Block 296B, Eugene Island Area, Gulf of Mexico.

50017-CG-P-(2)-77 Same as above, C.P. for a new station to operate on 488.075, 488.125 MHz to be located 60 miles south of Lake Charles, Block 192A, West Cameron Area, Gulf of Mexico.

50018-CG-P-77 Same as above, C.P. for a new station to operate on 488.250 MHz to be located 85 miles south of New Iberia, La., Block 50, South Marsh Island, Gulf of Mexico.

50019-CG-P-77 The offshore Telephone Company (new), C.P. for a new station to operate on 488.525 MHz to be located in South Timballer Area, Gulf of Mexico.

50020-CG-P-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.275 MHz to be located 140 Miles Southwest of Jennings, Louisiana, Vermillion Area, Gulf of Mexico.

50021-CG-P-(3)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.025, 488.100, and 488.175 MHz to be located 90 Miles Southeast of Port Arthur, Texas, High Island Area, Gulf of Mexico.

50022-CG-P-(2)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.350 and 488.450 MHz to be located 140 miles south of Jennings, Louisiana, East Cameron Area, Gulf of Mexico.

50023-CG-P-(2)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.050 and 488.200 MHz to be located in East Cameron Island Area, Gulf of Mexico.

50024-CG-P-(2)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.075 and 488.125 MHz to be located 55 miles Southeast of Grand Chenier, Block 119, Gulf of Mexico.

50025-CG-P-(3)-77 The Offshore Telephone Company (new), C.P. for a new station to operate on 488.500, 488.575, and 488.700 MHz to be located in West Delta Area, Gulf of Mexico.

POINT TO POINT MICROWAVE RADIO SERVICE

2178-CF-MP-77 United Telephone Company of Florida (KIU43), 21 North Lake Avenue, Avon Park, Florida, lat. 27°35'47" N., long. 81°30'10" W. C.P. to change frequencies 5945.2V to 5980.0V; 6004.5V to 6041.6V; 6083.8V to 6160.2V MHz toward Crewsville and 6093.5V to 5945.2H MHz toward Frostproof and replace antenna on frequency 6004.5V MHz toward Hillcrest.

2223-CF-P-77 The Chesapeake and Telephone Company of Virginia (KIR29), 703 East Grace Street Richmond, Virginia, lat. 37° 32' 26" N., long. 77° 26' 13" W. C.P. to change frequencies 10955V, 6330.7H to 11055V, 10895V MHz toward Chester, Virginia on azimuth 180.5 degrees and replace antenna and transmitters.

2225-CF-P-77 Same (KUA81), Eastern Boundary of Chester, Virginia, lat. 37°21'-32" n. long. 77°26'20" W. C.P. to change frequencies 11405V, 6049.0H to 11265V, 11585V MHz toward Richmond, Virginia on azimuth 0.5 degrees.

2254-CF-P-77 The Bell Telephone Company of Pennsylvania (WGH95), Applebee 3.8 miles NNW. of Bethel, Pennsylvania, lat. 40°30'58" N., long. 76°20'09" W. C.P. to add antenna on frequency 11405V MHz toward Sharp Mt. passive reflector and from passive reflector to Pottsville, Pennsylvania.

2259-CF-P-77 Hawaiian Telephone Company (KUQ93), Renewal of Development radio license expiring 5-23-77 term: 5-23-77 to 5-23-78.

2263-CF-P-77 Virgin Islands Telephone Corporation (WWT57), 48A Krondprindsens Gade Charlotte Amalie, Virginia Islands, lat. 18°20'34" N., long. 64°56'23" W. C.P. to add frequency 6026.7V MHz toward Hawk Hill PR on azimuth 289.15 degrees and from passive reflector to Crown Mt., on azimuth 19.6 degrees.

2265-CF-P-77 Same (WWT60), Crown Mt. 4.4 Km N/M of Charlotte Amalie, Virgin Islands, lat. 18°21'32" No., long. 64°58'23" W. C.P. to add frequencies 6308.4V MHz toward C-Sted on azimuth 157.4 degrees and 6278.8V MHz toward Hawk Hill PR from passive reflector to Charlotte Amalie on azimuth 109.4 degrees.

2266-CF-P-77 Same (WWY43), C-Sted No. 10 King St. Christiansted, Virgin Islands, lat. 17°44'50" N., long. 64°42'20" W. C.P. to add frequency 6056.4V MHz toward Crown Mt., Virgin Island on azimuth 337.20 degrees.

2267-CF-P-77 Wisconsin Telephone Company (WBB354), 5 miles SW of Waukesha CTHX Waukesha, Wisconsin, lat. 42°57'-34" N., long. 88°18'02" W. C.P. to add a new point of communication on frequencies 10855V, 11015V, 10935V MHz toward Davidson Rd., Wisconsin on azimuth 51.3 degrees.

2268-CF-P-77 Same (new) Davidson Rd. 2140 Davidson Rd. Waukesha, Wisconsin, lat. 43°01'34" N. long. 88°11'14" W. C.P. for a new station on frequencies 11465V, 11625V, 11545V, MHz toward Waukesha on azimuth 231.3 degrees and 11465V, 11625V, 11545V MHz toward Meno Falls, on azimuth 26.5 degrees.

2269-CF-P-77 Wisconsin Telephone Company (new), N91 WI3749 Warren St., Menomonee Fall, Wisconsin, lat. 43°10'59" N. long. 88°04'49" W. C.P. for a new station on frequencies 10855V, 11015V, 10935V MHz toward Davidson Rd. on azimuth 206.6 degrees and 10735V, 10895V, 10975V MHz toward Slinger on azimuth 321.5 degrees.

2270-CF-P-77 Same (new), 2.2 miles East of Slinger, Wisconsin, lat. 43°19'29" N., long. 88°14'06" W. C.P. for a new station on frequencies 11425V, 11585V, 11665V MHz toward Meno Falls on azimuth 141.4 degrees, 11425V, 11585V MHz toward Kohlsville on azimuth 330.8 degrees and 11425H, 11625H MHz toward West Bend on azimuth 28.2 degrees.

2271-CF-P-77 Same (new), 1.5 miles West of Kohlsville, Wisconsin, lat. 43°28'29" N., long. 88°21'01" W. C.P. for a new station on frequencies 10735V, 10895V MHz toward Slinger, Wisconsin on azimuth 150.7 degrees and 10855V, 10895H MHz toward South Byron on azimuth 332.4 degrees.

2272-CF-P-77 Same (new), 1 mile East of South Byron, Wisconsin, lat. 43°38'14" N. long. 88°28'03" W. C.P. for a new station on frequencies 11465V, 11585H MHz toward Kohlsville on azimuth 152.3 degrees and 11465V, 11585H MHz toward No Fondulac on azimuth 354.4 degrees.

2273-CF-P-77 Same (new), 2 miles North of No Fond du lac, Wisconsin, lat 43°50'01" N., long. 88°29'39" W. C.P. for a new station on frequencies 10855V, 10895H MHz toward South Byron on azimuth 174.4 degrees and 10735V, 10855H MHz toward Oshkosh on azimuth 349.6 degrees.

2274-CF-P-77 Same (WHU23), 315 Algoma Boulevard, Oshkosh, Wisconsin, lat. 44°01'11" N., long. 88°32'30" W. C.P. to add a new point of communication on frequencies 11425V, 11465H MHz toward No Fondulac on azimuth 169.5 degrees and 11425V, 11465H MHz toward V/O Larsen on azimuth 348.9 degrees.

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2293–CF–P–77 Sam (new), V/O Larsen 2.2 miles Northwest of Larsen, Wisconsin, lat. 44°10'49" N., long. 88°35'07" W. C.P. for a new station on frequencies 10735V, 10855H MHz toward Oshkosh on azimuth 168.9 degrees and 10815V, 11015H MHz toward Appleton on azimuth 57.1 degrees.

2275–CF–P–77 Same (KSO85), West Washington St., Appleton, Wisconsin, lat. 44°15'45" N., long. 88°24'30" W. C.P. to add a new point of communication on frequencies 11505V, 11625H MHz toward V/O Larsen on azimuth 237.2 degrees.

2276–CF–P–77 Same (new), 1.5 miles East of West Bend, Wisconsin, lat. 43°25'47" N., long. 88°02'28" W. C.P. for a new station on frequencies 10735H, 11015V MHz toward Slinger, Wisconsin on azimuth 208.2 degrees.

2279–CF–P–77 Same (KSO85), 221 West Washington St., Appleton, Wisconsin, lat. 44°15'45" N., long. 88°24'30" W. C.P. to add frequencies 11505V, 11385V MHz toward Osborn on azimuth 9.1 degrees.

2280–CF–P–77 Wisconsin Telephone Company (KSO86), Osborn 3.7 miles SW of Seymour, Wisconsin, lat. 44°27'56" N., long. 88°21'47" W. C.P. to add a new point of communication on frequencies 10815V, 10775V MHz toward Appleton on azimuth 189.1 degrees and 10815V, 10775V MHz toward Oneida on azimuth 69.0 degrees.

2281–CF–P–77 Same (new), 1.1 miles West of Onedia, Wisconsin, lat. 44°30'28" N., long. 88°12'40" W. C.P. for a new station on frequencies 11505V, 11385V MHz toward Osborn on azimuth 249.1 degrees, 11505V, 11385V MHz toward South Chase on azimuth 15.4 degrees and 11505V, 11305V MHz toward Green Bay on azimuth 88.2 degrees.

2282–CF–P–77 Same (new), 0.5 miles ESE of South Chase, Wisconsin, lat. 44°41'17" N., long. 88°08'30" W. C.P. for a new station on frequencies 10815V, 10775V MHz toward Onedia on azimuth 195.4 degrees and 10815V, 10775V MHz toward Stiles Jct. on azimuth 19.7 degrees.

2283–CF–P–77 Same (new), 0.2 miles East of Stiles Junction, Wisconsin, lat. 44°53'05" N., long. 88°02'32" W. C.P. for a new station on frequencies 11505V, 11385V MHz toward South Chase on azimuth 199.8 degrees and 11505V, 11385V MHz toward Peshtigo on azimuth 50.9 degrees.

2284–CF–P–77 Same (new), 7.5 miles SW. of Peshtigo, Wisconsin, lat. 44°59'27" N., long. 87°51'30" W. C.P. for a new station on frequencies 10815V, 10775V MHz toward Stiles Jct. on azimuth 231.1 degrees and 10815V, 10775V MHz toward Marinette on azimuth 56.6 degrees.

2285–CF–P–77 Same (new); 1727 Stephenson, Marinette, Wisconsin, lat. 45°05'50" N., long. 87°37'49" W. C.P. for a new station on frequencies 11505V, 11385V MHz toward Peshtigo, Wisconsin on azimuth 236.7 degrees.

2286–CF–P–77 Same (KS087), 205 South Jefferson Street, Green Bay, Wisconsin, lat. 44°30'43" N., long. 88°00'50" W. C.P. to add a new point of communication on frequencies 10815V, 10775V MHz toward Oneida, Wisconsin on azimuth 288.4 degrees.

2288–CF–P–77 General Telephone Company of Pennsylvania (WBA883), 131 W. 9 Street, Erie, Pennsylvania, lat. 42°07'31" N., long. 80°05'10" W. C.P. to add frequency 11385V MHz toward McKean, Pennsylvania.

2289–CF–P–77 Same (WBA884), 2 miles East of McKean, Pennsylvania, lat. 41°59'25" N., long. 80°06'07" W. C.P. to add frequency 10855V MHz toward Erie and a new point of communication on frequency 6226.9H MHz toward Frenchtown, Pennsylvania 177.8 degrees.

1956–CF–ML–77 American Telephone and Telegraph Company (KIL24), 3.75 miles NW of Safford, (Dallas) Alabama. Modification of License to correct coordinates to read lat. 32°17'19" N., long. 87°22'17" W.; correct azimuths toward Pleasant Hill and Aimwell, Alabama to read 44.8 degrees and 52.5 degrees respectively.

2187–CF–P–77 American Television and Communications Corporation (KYC45), Beauty Lake, 3.8 miles South, 1.8 miles east of Silica, Minnesota, lat. 47°12'55" N., long. 93°03'25" W. Construction permit to correct transmit station coordinates and to add 6182.4H MHz toward Hoyt Lakes, Minnesota, on azimuth 64.1 degrees.

2188–CF–P–77 American Television and Communications Corporation (new), Hoyt Lakes, Minnesota, lat. 47°30'36" N., long. 92°08'59" W. Construction permit for new station—6241.7V MHz toward Babbitt, Minnesota, on azimuth 42.9 degrees.

2189–CF–P–77 American Television and Communications Corporation (new), Babbitt, Minnesota, lat. 47°41'17" N., long. 91°54'17" W. Construction permit for new station—5960.0V MHz toward Ely, Minnesota, on azimuth 6.4 degrees.

2241–CF–P–77 Eastern Microwave, Inc. (WQR73), 2850 Berthoud Street, Pittsburgh, Pennsylvania, lat. 40°26'46" N., long. 79°57'51" W. Construction permit to add 11545.0V MHz toward Oakdale, Pennsylvania, via power split, on azimuth 250.9 degrees.

2287–CF–P/ML–77 Bell Telephone Company of Nevada (KPF80), Temporary fixed-developmental in the territory of the Grantee. Construction permit and modification of license to add frequency band 17700–19700 MHz to existing frequency band.

2290–CF–P–77 Penn Service Microwave Company, Inc. (WQQ37), Wyoming Mtn., 4 miles SSE of Wilkes-Barre, Pennsylvania, lat. 41°11'53" N., long. 75°49'16" W. Construction permit to replace transmitters and to add 5960.0H and 6160.2H MHz toward Meehoopany and to add same frequencies to Chestnut Hill with Vertical polarization, both in Pennsylvania, via power split.

2291–CF–P–77 Midwestern Relay Company (WLJ55), Rib Mountain, WAOW–TV transmitter, Wausau, Wisconsin, lat. 44°55'15" N., long. 89°41'30" W. Construction permit to add 6034.2H MHz toward Tims Hill, Wisconsin, on azimuth 326.9 degrees.

2345–CF–TC–(12)–77 Video Service Company, Applications for pro forma transfer of control of point to point microwave radio authorizations of Video Service Company, from Cox Cable Communications, Inc. (before merger), Transferor, to Cox Cable Communications, Inc. (after merger) Transferee, for the following stations:

KSO93, Wellsboro, Indiana.
KSO94, DeLong, Indiana.
KVO52, Peru, Indiana.
WBA765, Huntington, Indiana.
KSO92, Scircleville, Indiana.
WQQ96, Kokomo, Indiana.
WQQ97, Anderson, Indiana.
WQQ98, Morristown, Indiana.
KSP63, Logansport, Indiana.
KSP64, Monticello, Indiana.
KSQ36, Lafayette, Indiana.
KSQ37, Attica, Indiana.

2181–CF–P–77 Eastern Shore Communications Corporation (new), Beaver Point, 19.3 miles NW. of Price, Utah, lat. 39°45'20" N., long. 110°59'30" W. Construction permit for new station—5989.7H, 6049.0H, 6108.3H, and 6167.6H MHz toward Bald Mesa and same frequencies with Vertical polarity toward Price, both in Utah, on azimuths 133.0 and 136.0 degrees, respectively, via power split.

2182–CF–P–77 Eastern Shore Communications Corporation (new), Bald Mesa, 12.3 miles ESE of Moab, Utah, lat. 38°31'43" N., long. 109°19'28" W. Construction permit for new station—6234.3V, 6293.6V, 6352.9V, and 6412.2V MHz toward Moab, Utah, via passive reflector located at Moab, Utah, lat. 38°34'27" N., long. 109°33'02" W., on azimuths, 284.5 and 23.9 degrees, respectively.

2030–CF–P–77 American Telephone and Telegraph Company (KGG35), Topton Mtn., 0.03 miles North of Henningsville (Berks), Pennsylvania. Modification of license to correct structure height to show a increase 20 feet as approved for station KLJ463, The Bell Telephone Company of Pennsylvania.

MAJOR AMENDMENT

1208–CF–P–77 New York Telephone (new), 15 Cedar Street, Nyack, New York, lat. 41°05'25" N., long. 73°55'11" W. Application amended to add frequencies 19590V, 19590H MHz toward a new point of communication, General Motors, Beckman Avenue, N. Tarrytown, New York, on azimuth 100.42 degrees.

843–CF–P–77 Southern Montana Telephone Company (new), Lloyd Street, Jackson, Montana, lat. 45°22'05" N., long. 113°24'35" W. Application amended to change frequency from 2110.8H to 2121.6V MHz towards Hirschy, Montana.

844–CF–P–77 Same (new), Hirschy, 14.5 Km. NW. of Jackson, Montana, lat. 45°28'23" N., long. 113°31'08" W. Application amended to change frequencies from 2160.8H to 2171.6V MHz toward Jackson, Montana and 2179.0V to 2185.2V MHz toward Wisdom, Montana.

845–CF–P–77 Same (new), 2nd Street, Wisdom, Montana, lat. 45°37'05" N., long. 113°28'56" W. Application amended to change frequency from 2129.0V to 2115.2V MHz toward Hirschy, Montana.

[FR Doc.77–13587 Filed 5–11–77;8:45 am]

[Report No. 1045]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MAY 9, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20418 (RM–2346 & RM–2727).		Petition for rulemaking to amend Television Table of Assignments to add new VHF stations in the top 100 markest and to insure that the new stations maximize diversity of ownership, control, and programing. Filed by Louis Schwartz, Robert A. Woods and Lorence L. Kessler, attorneys for The Mohawk-Hudson Council on Educational Television.	Apr. 29, 1977.
20909	Pts. 89, 91, and 93	Amendment of pts. 89, 91, and 93 of the rules to reallocate land mobile channels in the 470–512 MHz band in the Boston, Chicago, Cleveland, Detroit, Los Angeles, New York, Philadelphia, Pittsburgh, San Francisco, and Washington, D.C., urbanized areas. Filed by Joseph M. Kittner and Virginia S. Carson, attorneys for Associated Public-Safety Communications Officers, Inc.	May 3, 1977.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–13586 Filed 5–11–77;8:45 am]

WARC–79 SATELLITE BROADCASTING SERVICE GROUP

Change in Advisory Committee Meeting Date

MAY 9, 1977.

The May 9, 1977, FEDERAL REGISTER contained notice of an advisory committee meeting to be held by the 1979 World Administrative Radio Conference (WARC) Satellite Broadcasting Group on June 1, 1977, at 9:30 a.m. After preparation of the public notice for this meeting, the committee chairman learned that he would have to attend international telecommunication meetings in Geneva, Switzerland on the scheduled meeting date. Accordingly, the Commission wishes to re-schedule this meeting for May 26.

It has been necessary to schedule the meeting for a date in advance of June 1 to permit the committee to prepare and submit timely comments to the Commission's Fifth Notice of Inquiry. The Commission will consider the Fifth Notice of Inquiry this week. If the Notice is adopted, comments will be required by mid-July. To postpone the advisory committee meeting until after the chairman's return from Geneva would delay work on the committee's consideration of the Fifth Notice and make it difficult to prepare formal comments within the deadline established by the Commission.

In re-scheduling the meeting for May 26, the Commission recognizes that this FEDERAL REGISTER notice may not fully comply with the Office of Management and Budget's requirement for 15 days advance notification of advisory committee meetings. However, because of the reasons previously cited and in view of the fact that notice of the Commission's intention to hold the meeting has been previously published in the FEDERAL REGISTER, the Commission feels that an exception to the OMB requirement is justified. Accordingly, the Satellite Broadcasting Service Group will meet from 9:30 a.m. to 12:30 p.m. on May 26, 1977, in Room 6331 of the Commission's offices at 2025 M Street NW., Washington, D.C. The agenda for this meeting will be the same as stated in the May 9 FEDERAL REGISTER:

1. Call to Order and Announcements by the Chairman.
2. Approval of Minutes of Previous Meetings.
3. Discussion of Fifth Notice of Inquiry in Docket 20271.
4. Reports from Tasks Groups.
5. Further Discussion.
6. Next Meeting Date and Adjournment.

The meeting is open to broadcast industry representatives and interested members of the public. Members of the public may participate by means of oral or written statements. Individuals should contact Charles Breig, (202) 632–6495, for further details.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–13585 Filed 5–11–77;8:45 am]

[FCC 77–277; Docket No. 21209, CSC–170 (PA0660)]

WIRE TELE VIEW CORP.

Order To Show Cause

Adopted: April 20, 1977.

Released: May 6, 1977.

In re: Wire Tele View Corporation, Pottsville, Pa., petition for issuance of a show cause order.

1. Scranton Broadcasters, Inc., licensee of Translator Station W78AK, Pottsville, Pennsylvania, has petitioned for an order to show cause against Wire Tele View Corporation. Tele View operates a cable television system serving Pottsville, Pennsylvania. The petition is unopposed.

2. Scranton Broadcasters has submitted its letter to Tele View, dated December 15, 1976, in which it demands carriage and network program nonduplication protection for W78AK. It says this is one of many similar requests which have all been either ignored or rejected. Our review of the evidence demonstrates that Scranton Broadcasters has made a prima facie case entitling its translator to both carriage and nonduplication protection on the Pottsville cable system.

a. *Carriage*

3. Section 76.57 of the Commission's rules, which establishes carriage rights for cable systems located outside all television markets, such as the Pottsville system, states, in relevant part:

> A cable television system operating in a community located wholly outside all major and smaller television markets * * * may carry or, on request of the relevant station licensee * * * shall carry the signals of * * * television translator stations with 100 watts or higher power serving the community of the system.

W78AK is licensed to serve Minersville, Port Carbon, and Pottsville at 100 watts of power. Therefore, barring evidence to the contrary, we must presume that the station actually does serve Pottsville.

b. *Nonduplication rights*

4. Station W78AK rebroadcasts the programming carried by Station WDAU–TV (CBS, Channel 22) Scranton, Pennsylvania. Tele View's latest informational filing with the Commission (FCC Form 325) indicates that it carries two CBS affiliates on its system: Stations WCAU–TV (CBS, Channel 10), Philadelphia, Pennsylvania and WLYH–TV (CBS, Channel 15), Lancaster, Pennsylvania. Section 76.92(d), governing network nonduplication rights for translators, says:

> Any cable television system operating in a community to which a 100 watt or higher power translator station is licensed, which translator is located within the predicted Grade B signal contour of the television broadcast station that the translator station retransmits, and which translator is carried by the cable system, shall, upon request of such translator station licensee * * * delete the duplicating network programming of any television broadcast station whose reference point * * * is more than 55 miles from the community of the system.

Pottsville is within WDAU–TV's Grade B contour. Philadelphia's reference point is 74.74 miles from Pottsville, while the distance between Lancaster and Pottsville is 44.76 miles. Therefore, it appears TV, and would not be required to protect CBS programming broadcast by W78AK which is simultaneously duplicated by the Philadelphia CBS affiliate carried on the Pottsville system, WCAU–TV, and would not be reqwuired to provide protection against WLYH–TV.

Accordingly, it is ordered, That the "Request for Order to Show Cause" filed by Scranton Broadcasters, Inc. (CSC–170) is granted.

It is further ordered, That pursuant to Sections 312 (b) and (c) and section 409(a) of the Communications Act of 1934, as amended, 47 U.S.C. 312 (b) and (c) and 409(a), Wire Tele View Corporation is directed to show cause why it should not be ordered to cease and desist from further violation of §§ 76.57 and 76.92 et seq. of the Commission's rules and regulations on its cable system at Pottsville, Pennsylvania.

It is further ordered, That Wire Tele View Corporation is directed to appear

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and give evidence with respect to the matters described above at a hearing to be held at a time and place and before an Administrative Law Judge to be specified by subsequent order, unless hearing is waived, in which event a written statement may be submitted.

It is further ordered, That Scranton Broadcasters, Inc., shall be made a party to this proceeding.

It is further ordered, That the Cable Television Bureau shall be made a party to this proceeding.

It is further ordered, That the Secretary of the Federal Communications Commission shall send copies of this order by certified mail to Wire Tele View Corporation.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-13588 Filed 5-11-77;8:45 am]

FEDERAL MARITIME COMMISSION

SECURITY FOR THE PROTECTION OF THE PUBLIC FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Mitsui O.S.K. Lines (Passenger), Ltd. and Sawayama Steamship Co., Ltd., C/O Mitsui O.S.K. Lines, Ltd., One World Trade Center, New York, New York 10048.

Dated: May 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13600 Filed 5-11-77;8:45 am]

SECURITY FOR THE PROTECTION OF THE PUBLIC INDEMNIFICATION OF PASSENGERS FOR NONPERFORMANCE OF TRANSPORTATION

Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Mitsui O.S.K. Lines (Passenger), Ltd. and Sawayama Steamship Co., Ltd., c/o Mitsui O.S.K. Lines, Ltd., One World Trade Center, New York, New York 10048.

Dated: May 9, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-13599 Filed 5-11-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-325]

APPALACHIAN POWER CO.

Rate Filing

MAY 5, 1977.

Take notice that Appalachian Power Company (APCO) on April 28, 1977 tendered for filing Supplements to twenty Rate Schedules on file with the Commission.

APCO indicates that the charges reflected in these Supplements primarily involve increased demand and energy charges and a revised fuel adjustment clause. APCO further indicates that the proposed rate increase is occasioned by increases in the cost of providing electric service, however, no facilities will be installed or modified in order to supply the service to be furnished under the proposed rate.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13542 Filed 5-11-77;8:45 am]

[Docket No. ER77-330]

BOSTON EDISON CO.

Contract Filing

MAY 5, 1977.

Take notice that Boston Edison Company (Boston) on April 28, 1977, tendered for filing a contract between itself and New England Power Company providing for the construction and operation of an additional interconnection between their two systems. Boston indicates that the costs of the proposed interconnection have not been determined and no diagram of the facilities to be constructed is available. Boston further indicates that a copy of this filing was served upon New England Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13540 Filed 5-11-77;8:45 am]

[Docket No. ER77-327]

CARDINAL OPERATING CO.

Tariff Change

MAY 5, 1977.

Take notice that Cardinal Operating Company (Cardinal), on April 28, 1977, tendered for filing a proposed Amendment No. 3, dated as of March 1, 1977, to the Station Agreement, dated as of January 1, 1968, as amended, filed as Rate Schedules Nos. 1 and 69, respectively, of Cardinal Operating Company and Ohio Power Company, among those companies and Buckeye Power, Inc. Ohio Power Company has filed a certificate of concurrence, concurring in the filing by Cardinal Operating Company.

Cardinal indicates that the proposed changes involve modifications of certain definitions contained in Amendment No. 1 to the Station Agreement, which are necessitated by the proposed issuance by Buckeye Power, Inc. of additional First Mortgage Bonds, to complete the financing and construction of 615 MW generating unit at the Cardinal Station.

Cardinal requests waiver of the Commission's notice requirements to allow the proposed Amendment to be effective as of May 20, 1977.

Cardinal further indicates that copies of the proposed Amendment have been furnished to The Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13548 Filed 5-11-77;8:45 am]

[Docket No. ER76-495 and E-8884 (Phase I) (AFUDC Issue)]

CAROLINA POWER AND LIGHT CO.

Order Reopening Record and Severing AFUDC Issue From Prior Proceeding and Consolidating Determination of That Issue With Determination of AFUDC Issue, in Later Proceeding

MAY 6, 1977.

On April 7, 1977, Presiding Administrative Law Judge George P. Lewnes certified to the Commission, pursuant to Section 1.28 of the Commission's Rules of Practice and Procedure, an appeal by the Commission Staff of the denial of a Staff motion dated March 29, 1977, to sever for separate hearing and determination the issue of the proper accrual rate for Allowance For Funds Used During Construction (AFUDC) for purposes of determining (1) the proper rate base in the instant proceeding and (2) whether Carolina Power and Light Company's (CP&L) plant accounts should be retroactively modified. Judge Lewnes denied Staff's motion for severance on the ground that the issue of the proper AFUDC rate had been raised in the proceeding and therefore should have been addressed by Staff in its evidentiary presentation. For the reasons set forth herein, the Commission shall grant Staff's motion subject to modifications.

Staff notes that by letter order dated August 23, 1974,[1] the Commission reserved decision on amounts capitalized for AFUDC at a rate in excess of 6.5%.[2] Staff argues that although all parties have severed evidence in this phase of the proceeding, further evidence is necessary in light of Order No. 561, — FPC — issued February 2, 1977, in Docket No. RM75-27 which established a procedure for determining the proper AFUDC rate *prospective* from January 1, 1977. Staff states that although the AFUDC issue was addressed by CP&L and Intervenors,[3] it was not addressed by Staff because Staff's evidence was filed prior to the date of issuance of Order No. 561. Staff states that if its motion is granted, Staff believes it could serve evidence on the AFUDC issue in late June, 1977, and that, after the establishment of a date for answering evidence by CP&L and Intervenors, the hearing could reconvene in September, 1977.

On April 20, 1977, CP&L filed an answer opposing Staff's motion. CP&L argues that Staff had an opportunity to address the AFUDC issue and failed to do so. CP&L states that the record, which includes direct and cross-examination of witnesses for CP&L and Intervenors on the AFUDC issue, including the impact of Order No. 561 thereon, is sufficient to enable the Commission to decide the issue without further proceedings. Furthermore, CP&L argues that Order No. 561 is currently on rehearing for purposes of further consideration and may be subsequently altered by a further rehearing order. In any event, CP&L argues that the Commission has already indicated that Order No. 561 will not control periods prior to January 1, 1977. Therefore CP&L urges that no good purpose would be served by granting Staff's motion.

On April 15, 1977, Intervenors filed an answer supporting Staff's motion stating *inter alia* that although the record contains the Intervenors' evidence on the AFUDC issue, the record would be enhanced by presentation of the Staff's views. Intervenors also state that the issue is one of the first impression. On the same date Intervenors also filed a motion in Docket Nos. E-8884 (Phase I) and the present docket, ER76-495 requesting severance of the AFUDC issues from Docket No. E-8884 (Phase I) and consolidation of that issue with the severed AFUDC proceeding in Docket No. ER76-495. Intervenors note that by Order issued July 12, 1976, in Docket No. E-8884 (Phase I) the Commission reopened the record for the taking of evidence on the "price squeeze" issue and that due to the pendency of settlement discussions no evidence has been served on that issue. Docket No. ER76-495 is CP&L's next rate increase following E-8884 (Phase I) and the parties and issues in both proceedings are said to be the same. Intervenors argue that the AFUDC issue is essentially the same in both proceedings and should therefore be decided in one hearing and decision.

On May 2, 1977, CP&L filed an answer to Intervenor's April 15, 1977, motion restating the arguments set forth in its April 20, 1977, pleading and applying them to the proceedings in Docket No. E-8884 (Phase I). Specifically, CP&L argues that granting of Intervenors's motion will delay the proceeding in Docket No. E-8884 (Phase I), wherein all issues except for "price squeeze" are ripe for decision by the Presiding Judge.

Although the Commission stated that Order No. 561 would not automatically be applied to periods prior to its issuance, the principles stated therein are relevant in the determination of the proper AFUDC rate for rate and accounting purposes.[4] Accordingly, it is appropriate to reopen the record in Docket Nos. E-8884 (Phase I) and ER76-495 to receive further evidence on the AFUDC issue in light of Order No. 561. Accordingly, the Commission shall sever the issue of the proper AFUDC rate for CP&L for rate and accounting purposes from Docket No. E-8884 (Phase I), consolidate the trial of the issue in that docket with the trial of that issue in Docket No. ER76-495 for purposes of hearing and decision, and shall direct the Presiding Judge in Docket No. ER76-495 to establish appropriate dates for service of supplemental evidence and for hearings on the AFUDC issue.

The Commission finds: Good cause exists to grant Staff's motion to sever the AFUDC issue as hereinafter ordered and conditioned.

The Commission orders: (A) The issue of the proper AFUDC rate for accounting and rate purposes in Docket No. E-8884 (Phase I) is hereby severed from that proceeding and consolidated for purposes of hearing and decision with the trial of that issue in Docket No. ER76-495.

(B) The Presiding Judge in Docket No. ER76-495 shall establish appropriate dates for service of supplemental evidence and for hearings for the determination of the AFUDC issue in that docket and Docket No. E-8884 (Phase I).

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13562 Filed 5-11-77;8:45 am]

[Docket Nos. E-8546 and E-8885]

THE CINCINNATI GAS & ELECTRIC CO.

Proposed Settlement Agreement

MAY 6, 1977.

Take notice that on April 21, 1977, The Cincinnati Gas & Electric Company filed with the Presiding Law Judge a proposed Settlement Agreement in the above-referenced dockets on behalf of The Cincinnati Gas & Electric Companl and the Village of Georgetown, Ohio, (Georgetown), requesting that it, along with the record, be certified to the Commission for approval.

The proposed Agreement would terminate the two consolidated dockets. Docket No. E-8546 involves a complaint filed by Georgetown alleging that CG&E violated Section 205 of the Federal Power Act and certain rules, regulations, and orders issued by the Commission. Docket No. E-8885 involves a proposed electric tariff to cancel and supersede rate schedules then on file with the Commission for wholesale electric service to the Villages of Bethel, Blanchester, Georgetown, Hamersville, and Ripley, Ohio and the West Harrison Gas and Electric Comjany, which serves West Harrison, Indiana.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 27, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13551 Filed 5-11-77;8:45 am]

[1] A copy of the letter is attached to Staff's March 29, 1976, motion.

[2] CP&L increased its AFUDC rate from 6 to 8% on January 1, 1965.

[3] Electricities of North Carolina and the Cities of Bennettsville and Camden, South Carolina.

[4] *Public Service Company of Indiana* — FPC — Opinion No. 783 issued November 10, 1976, in Docket No. E-8586 *et al. Florida Power and Light Company* — FPC — Opinion No. 784 issued December 15, 1976, in Docket No. E-8008.

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[Docket No. CP73-237]

COLORADO INTERSTATE GAS CO.

Petition To Amend

MAY 5, 1977.

Take notice that on April 18, 1977, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP73-237 a petition to amend the Commission's order of August 29, 1973 (50 FPC 588), as amended by order issued October 6, 1976 (56 FPC —), issued in the instant docket pursuant to Section 7 of the Natural Gas Act so as to authorize the revision and changes of certain facilities necessary to develop, maintain, and operate the Boehm Field in Morton County, Kansas, as an underground storage reservoir and to extend the time for completion of construction, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that by the order of August 29, 1973, it was authorized to acquire, construct, and operate certain facilities necessary to develop, maintain and operate the Boehm Field in Morton County, Kansas, as an underground gas storage reservoir. Thirty-two storage injection-withdrawal wells, 5 observation wells, and 10 field line gas heater-separators, among other facilities, were authorized over a 4-year period beginning in 1973, it is said. Petitioner states that by the order of October 6, 1976, the authorized maximum reservoir stablized shut-in-pressure was increased from 1,441 psia to 1,730 psia and the maximum inventory of stored gas was limited to 24,800,000 Mcf of natural gas at 14.73 psia.

By this petition, Petitioner requests that the authorization be further amended to authorize the following revisions and changes:

1. A reduction in the number of injection-withdrawal wells from 32 to 30.

2. An increase in the number of observation wells from 5 to 11, including authority to complete 2 observation wells in 1977, and

3. A 1-year extension of time to complete the development of the Boehm storage field.

Petitioner requests also that the data submitted in the original application be revised to reflect a reduction in the estimated gas in place on January 1, 1973, from 8,250,000 Mcf to 6,000,000 Mcf. Petitioner states that it does not propose that the current authorized maximum gas inventory of 24,800,000 Mcf be changed.

Petitioner indicates that data obtained from development and operation of the Boehm Field over the past 4 years point out the need to correct and/or revise certain estimates in data present in its application as amended. Petitioner states that the configuration of the "G" sand and Keyes sand reservoirs has been better defined as the Boehm storage field and has been developed and operated since 1973, and that the reservoirs are not configured, nor are they as extensive, as estimated during design of the field for storage. Consequently, five wells (Well Nos. 2, 20, 21, 25, and 29) that were contemplated for injection-withdrawal purposes have been redesignated as observation wells because they were completed in poor sand areas of the reservoirs, it is said. It is stated that there is some possibility that three of these redesignated wells (Well Nos. 20, 21 and 29) may become suitable for injection-withdrawal use dependent upon the gas migration trends and that, as a result, the number of injection-withdrawal wells has been reduced from 32 to 27 with the potential of increasing the number to 30 if three of the presently designated observation wells become suitable for storage use sometime in the future.

Petitioner further states that four of the five wells (Well Nos. 5, 6, 7, and 8) that were programmed for conversion to observation use have been completed and that Petitioner did not purchase the fifth well (Well No. 3) as initially proposed because it was determined that this well had been originally completed so low in the structure that it was very unlikely that gas would migrate to that location. Therefore, the well is of questionable use for observation purposes, it is said.

It is stated that the rise in pressure in two of the observation wells (Well Nos. 6 and 8) during an injection cycle indicated that gas was migrating toward two existing abandoned wells located on the periphery of the field and that these wells are not included in Petitioner's initial design and development program. However, it is said, the wells were found to penetrate the storage formations; consequently, Petitioner believes it prudent to re-enter and convert these wells (Well Nos. 38 and 39) for observation use to preclude the potential danger of a blowout as well as providing a means to monitor gas migration in the field. Petitioner states that re-entry of these wells is scheduled for completion during the 1977 construction season and that the cost to re-enter the two dry holes is approximately $244,192.

Petitioner states that the gas in place in the Boehm Field when it assumed control of the facility in 1973 was estimated based on composite pressure-production declined data that included the Purdy, "G" and Keyes sands. It is stated that water encroachment in the "G" and Keyes reservoirs was not contemplated when the Boehm Field was designed for storage use and that a greater than actual quantity of gas in place was indicated because the well pressures were influenced by water pressure rather than solely gas pressure in the reservoirs. Petitioner states that the current data indicate the gas in place in 1973 was overestimated by some 2,250,000 Mcf which is comprised of overestimates of 500,000 Mcf in the "G" sand and 1,750,000 Mcf in the Keyes sand. The estimate of the gas-in-place volume has been revised from 2,000,000 Mcf to 1,500,000 Mcf in the "G" sand and from 6,250,000 Mcf to 4,500,000 Mcf in the Keyes sand, making a total of 6,000,000 Mcf of gas in place when Petitioner assumed control of the field in 1973.

Pursuant to the Commission's order of August 29, 1973, Petitioner was authorized a 4 year construction program terminating December 31, 1976. Petitioner requests a one-year time extension to December 31, 1977, in order to complete all necessary construction. Construction work yet to be completed includes the two observation wells and miscellaneous residual construction, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 23, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13565 Filed 5-11-77;8:45 am]

[Docket No. ER77-321]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

MAY 5, 1977.

Take notice that on April 25, 1977, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated November 1, 1976 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Braintree Electric Light Department (BELD).

CL&P states that the Transmission Agreement provides for a transmission service to BELD during the period from November 1, 1976 to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which BELD is entitled to receive.

CL&P staes that BELD did not notify CL&P of its need for transmission service over the NU system until a date which prevented the filing of such rate schedule more than thirty days prior to the proposed effective date.

CL&P therefore requests that in order to permit BELD to receive its Vermont Yankee purchase over the NU system and to allow CL&P, HELCO and WMECO to receive payment for such transmission service, the Commission, pursuant to section 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed to become effective on November 1, 1976.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and BELD, Braintree, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13564 Filed 5-11-77;8:45 am]

[Docket No. RP72-157 (PGA77-5a)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MAY 5, 1977.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on April 14, 1977 tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 in compliance with a Commission letter dated April 1, 1977 conditionally accepting the April 1, 1977 rates as filed on March 3, 1977 subject to a downward adjustment to reffect the proper supplier rates of Texas Eastern Transmission Corporation (Texas Eastern).

Consolidated states that this revision to the April 1, 1977 rates to reflect the Texas Eastern April 1, 1977 rates will generate an additional decrease of approximately $3.5 million annually in jurisdictional revenues. The total proposed rate decrease as reflected in the April 1 rates will be approximately $7.1 million annually.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

All persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13545 Filed 5-11-77;8:45 am]

[Docket No. ER77-328]

EL PASO ELECTRIC CO.

Filing of Amendment to Interconnection Agreement

MAY 5, 1977.

Take notice that El Paso Electric Company (El Paso) on April 28, 1977 tendered for filing a Supplement to its Rate Schedule No. 16, to amend the terms of the Interconnection Agreement between El Paso Electric and Public Service Company of New Mexico (PNM) dated July 19, 1966, and to amend Service Schedules A and B of that Interconnection Agreement. El Paso indicates that this Supplement was executed on April 15, 1977 and that Copies of the filings were served upon PNM and the New Mexico Public Service Commission.

El Paso further indicates that this Supplement constitutes a normal filing to reflect the negotiation of additional provisions of the Rate Schedule by the parties thereto, including an agreement to permit application for a unilateral rate increase by either party, and a redesignation of units to be made available by El Paso for delivery of contingent Contract Demand under the Agreement.

El Paso requests a waiver of the Commission's notice requirement to allow the Suplement to become effective as of April 28, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13543 Filed 5-11-77;8:45 am]

[Docket No. CP76-425]

EL PASO NATURAL GAS CO.

Petition to Amend

MAY 5, 1977.

Take notice that on April 26, 1977, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP76-425 a petition to amend the Commission's order of January 19, 1977 (57 FPC—), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the retention in place of Petitioner's existing Gomez Exchange tap and related pipeline facilities located in Pecos County, Texas, as an emergency interconnection with Northern Natural Gas Company (Northern), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the Commission's order dated January 19, 1977, issued in the instant docket, Petitioner was authorized to abandon a tap facility, consisting of a 12-inch O.D. tap and side-gate valve, located on Petitioner's interstate system in Pecos County, Texas, and the transportation and delivery of up to 50,000 Mcf per day of natural gas, on an exchange basis, between Petitioner and Northern. Petitioner states that the Gomez Exchange Tap located on Applicant's 16-inch O.D. Gomez-Waha looped pipeline in Pecos County, Texas, was to be abandoned in place inasmuch as Northern had not delivered volumes of gas to Petitioner since August 31, 1973. Northern's Gomez-treating plant processed sufficient capacity to treat all of the raw gas volumes available to Northern from the Gomez field since that time it is said.

Applicant asserts that in the event that an emergency condition should occur, the immediate operational availability of the existing interconnecting facilities would provide an expeditious means of preventing a loss of gas service and possible harm to Petitioner's and Northern's interstate customers as well as provide a means by which deliveries may be made to accommodate the needs of other pipeline companies entering into arrangements with Northern or Petitioner. Petitioner and Northern, therefore, propose to retain in place the existing Gomez Exchange tap and related pipeline facilities for use as an emergency interconnection between Petitioner's and Northern's facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the pro-

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testants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13566 Filed 5-11-77;8:45 am]

[Docket No. CP77-352]

GRAND BAY CO.

Application

MAY 5, 1977.

Take notice that on April 21, 1977, Grand Bay Company (Applicant), Saratoga Building, 212 Loyola Avenue, New Orleans, Louisiana 70112, filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities, all as more fully set forth in the application which is on file and open to public inspection.

Applicant is seeking authorization to install or have installed, and to operate and maintain or cause to be operated and maintained, certain compression facilities situated in Section 55, Township 20 South, Range 18 East, Plaquemines Parish, Louisiana.

Applicant states that the producers of the natural gas to be compressed by the facilities, for which Commission authorization is herein requested, have indicated to Applicant that said natural gas is low pressure oil well gas and absent of sufficient compression to enable it to enter the interstate pipeline facilities of Mid Louisiana Gas Company, Southern Natural Gas Company and United Gas Pipe Line Company, and into the gathering facilities of Gulf Oil Corporation, and that said gas would otherwise have to be flared or disposed of in some different manner. Applicant has also been advised that absent the installation of the facilities, for which authority is herein requested, approximately 13,505,000 Mcf of gas during the first year would be unavailable to the interstate market. The installation and operation of the compression facilities will make said gas available for transportation for the account of Mid Louisiana Gas Company, Southern Natural Gas Company, United Gas Pipe Line Company and Texas Eastern Transmission Corporation.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 27, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13567 Filed 5-11-77;8:45 am]

[Docket No. RI77-37]

GREAT SOUTHERN OIL & GAS CO., INC.

Amended Application for Special Relief

MAY 6, 1977.

Take notice that on May 2, 1977, Great Southern Oil & Gas Company, Inc. (Petitioner), P.O. Box 52957, OCS, Lafayette, Louisiana, 70505, filed an amended application in the above-captioned docket which amends its application for special relief filed February 23, 1977.[1] Petitioner requests a price of $1.2299 per Mcf in its amended application for gas sold to Columbia Gas Transmission Corporation from acreage in the West Gueydan Field, Vermilion, whereas in its original application Petitioner had not specified a price for the subject sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13557 Filed 5-11-77;8:45 am]

[1] Notice issued March 10, 1977. Published in the FEDERAL REGISTER.

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Filing of Settlement Agreement

MAY 5, 1977.

Take notice that Gulf State Utilities (Gulf States) on April 29, 1977, filed a settlement agreement between Gulf States and Sam Rayburn Dam Electric Cooperative Inc. (Sam Rayburn), dated December 30, 1976. Gulf States asserts that inadvertedly, the settlement agreement was not attached to a joint motion of Gulf States and Sam Rayburn to approve the settlement agreement filed on April 22.

In the joint motion, Gulf States indicates that the settlement agreement provides for an extension of the existing contract, which had been terminated by Gulf States, effective November 1, 1978 for an additional two years until October 31, 1980. Gulf States further indicates that the settlement agreement establishes rates for base usage, which is the level of service rendered for each billing month from July, 1975 through June, 1976, and establishes rates for growth usage, which is usage in excess of base usage beginning with the billing month of July, 1976.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13544 Filed 5-11-77;8:45 am]

[Docket No. ER77-332]

INDIANA & MICHIGAN ELECTRIC CO.

Changes in Rates and Charges

MAY 5, 1977.

Take notice that American Electric Power Service Corporation (AEP) on April 29, 1977, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (Indiana Company), Modification No. 4 dated May 1, 1977 to the Interconnection Agreement dated February 21, 1964, between Indiana & Michigan Electric Company and Public Service Company of Indiana, Inc., designated Indiana Company Rate Schedule FPC No. 24.

AEP indicates that Section 1 of modification No. 4 provides for an increase in the demand charge for Short Term Power from $0.50 to $0.60 per kilowatt per week and Section 3 provides for an increase in the demand charge for Limited Term Power from $2.75 to $3.25 per kilowatt per month. Section 2 of Modification No. 4 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.125 per kilowatt per week to $0.15 per kilowatt per week and Section 4 provides for an increase in the transmission charge for third party Limited Term transactions from $0.55 per kilowatt per month to $0.65 per kilowatt per month. AEP also indicates that Section 5 of Modification No. 4 provides for an increase in the minimum energy charge for Emergency Service from 17.5 mills to three $0.03 cents per kilowatt-hour. AEP requests that all of the aforementioned Schedules proposed become effective June 1, 1977. AEP states that since the use of Short Term Power, Limited Term Power and Emergency Service cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

Copies of the filing were served upon Public Service Company of Indiana, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13547 Filed 5-11-77;8:45 am]

[Docket No. E-7453]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Application

MAY 5, 1977.

Take notice that on April 19, 1977, Iowa-Illinois Gas and Electric Company (Applicant) of Davenport, Iowa, filed a seventh supplemental application seeking authority pursuant to Section 204 of the Federal Power Act to extend to no later than June 30, 1978, the date of issuance and to no later than June 30, 1979, the final maturity date of notes authorized to be issued.

Applicant is incorporated under the laws of the State of Illinois with its principal business office at Davenport, Iowa, and is engaged in the electric and gas utility businesses within the State of Iowa and the State of Illinois.

The notes are to be issued from time to time to banking institutions and/or sold as commercial paper to direct purchasers or through commercial paper dealers.

Notes to banking institutions will be issued in accordance with various informal lines of credit agreements. The notes are to have maturities of up to one year from their dates and in any event on or before June 30, 1979, and are to have an interest cost to the Company not exceeding that charged on prime loans of lending institutions at the time of issuance.

Commercial paper will be issued as unsecured promissory notes and, in most cases, sold through established commercial paper dealers. In some cases commercial paper may be placed directly. Commercial paper notes are to have maturities of not more than 270 days from their dates and in any event on or before June 30, 1979, and the interest rate will be dependent upon the terms of the notes and money market conditions at the time of issuance.

The proceeds from the issuance of notes will be added to working capital for ultimate application toward the cost of gross additions to utility plant

Any person desiring to be heard or to make any protest with reference to the application should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13568 Filed 5-11-77;8:45 am]

[Docket No. CI77-427]

LADD PETROLEUM CORP.

Application for Transportation of Natural Gas

MAY 5, 1977.

Take notice that on April 25, 1977, Ladd Petroleum Corporation (Ladd), filed in Docket No. CI77-427, an application pursuant to Section 7 of the Natural Gas Act, covering the proposed transportation of natural gas for Northern Natural Gas Company (Northern Natural) from Block 291, Ship Shoal, South Addition Area, to Block 207, Ship Shoal Area, Offshore Louisiana, all as more fully set forth in its application on file with the Commission which is open to public inspection.

Ladd requests authority to transport natural gas owned by Northern Natural through an existing oil pipeline from Block 291, Ship Shoal South Addition Area, Offshore Louisiana, to Block 207, Ship Shoal Area, Offshore Louisiana. The transportation service agreement between Ladd and Northern Natural provides for the payment by Northern Natural to Ladd of 4.5 cents per Mcf at 15.025 psia.

Ladd is solely an independent producer apart from this project. Ladd requests that the Commission exercise its jurisdiction over this project so as not to jeopardize Ladd's otherwise independent producer status.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 27, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Fedeal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commision on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13569 Filed 5-11-77;8:45 am]

[Docket No. RP77-63]

MONTANA-DAKOTA UTILITIES CO.

Proposed Change in Rates

MAY 6, 1977.

Take notice that on April 29, 1977, Montana-Dakota Utilities Co., ("MDU") filed proposed increased rates to its jurisdictional customers, Wyoming Gas Company, Byron Gas Service, and Northern Gas Company ("Northern Gas"). MDU also proposed certain changes in its Purchased Gas Cost Adjustment Provision designed to reflect the special nature of the service rendered to Northern Gas. The proposed effective date is July 1, 1977.

The increased revenues from the rates as proposed would amount to $269,392 annually.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

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1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13552 Filed 5-11-77;8:45 am]

[Docket No. ER76-848]

MONTANA POWER CO.

Order Accepting Tariff for Filing and Denying Request for Waiver

MAY 6, 1977.

On August 9, 1976, Montana Power Company (Montana) submitted for filing as an initial rate schedule a proposed tariff providing for the sale of various types of non-firm energy to any electric utility contracting for such service.[1] Montana completed its filing by submittal of additional information in a letter filed March 14, 1977. The tariff provides that the availability of such energy will be determined solely by Montana, and the rate for energy sold will depend upon the resource from which such energy is generated. The tariff alternatively provides for the supply of non-firm energy on a split-the-savings, exchange, or provisional[2] basis. Montana requested waiver of the Commission's notice requirements and an effective date of August 6, 1976.

Montana states that the tariff was formulated to expedite non-firm energy transactions by providing a vehicle for such transactions on a continuing basis.

Montana also states that the split-the-savings rate contained in the tariff is the most equitable costing method for the sale of non-firm energy, but because some utilities do not accept split-the-savings as a proper costing method, the individual rates based on generating resource were made available under the tariff. Montana anticipates that the separate rates will also be employed for sales where its share of the split-the-savings rate would be so small that Montana would not be willing to risk an energy sale, but the individual rate would be advantageous to the company and still be low enough to provide a cost savings to the purchaser.

Public Notice of the filing was issued on August 19, 1976 with comments, protests, or petitions to intervene due on or before August 27, 1976. No responses were received.

Under Montana's proposed tariff, the rate for energy from a non-controllable hydro source[3] will be 3.5 mills/kwh during the period September 1–March 31 and 3.0 mills/kwh during the period April 1–August 31. The rate for energy from a controllable hydro source will be its replacement cost.

If the energy sold from a controllable hydro source is replaced by Montana's coal fired thermal units then the price for such energy is subject to negotiation by Montana and the buyer under one of two methods. One method provides that the rate shall be the incremental production cost plus a portion, not to exceed 50% of the allocable investment cost and fixed operation and maintenance costs (exclusive of fuel costs) associated with the unit(s) from which such energy is provided. The other method calls for a split-the-savings rate based on Montana's incremental production cost (defined as including a portion of fixed costs) and the purchaser's decremental cost.

If the energy sold from a controllable hydro source is replaced by purchased power the rate is to be based on the cost of that purchase plus 15% if the energy is delivered from a firm power purchase and at cost plus 10% or a 1 mill/kwh adder, whichever is lower, if such energy is delivered from a surplus power purchase.

The Commission notes that while the tariff filed provides the framework and mechanism for the establishment of rates, the level of charges to be assessed will not in many cases be known until such time as individual sales for non-firm energy are arranged. In the sale of controllable hydro, for example, the rate design methodology and rate level has not been prescribed under the tariff but rather is negotiable and may be based on one or two pricing principles, split-the-savings or incremental cost of production plus a portion of allocable fixed costs. Under these circumstances, the rate to be charged can fall anywhere within a wide price range dependent upon the outcome of negotiations between buyer and seller. Thus, the rate and its relationship to cost cannot be ascertained at this time. Accordingly, to permit Commission examination and review of the rates charged we shall require Montana Power to file a service agreement within thirty days of its execution, covering each sale under the subject tariff accompanied by appropriate cost support and all other information and data necessary to show how the rate was derived.

Montana's filing should be accepted for filing. The Commission's review of the filing indicates that good cause has not been shown for waiver of the Commission's notice requirements. Accordingly, the proposed tariff should be accepted for filing and become effective April 13, 1977, 30 days after completion of the filing.

The Commission reserves the right to suspend and make subject to refund such rates as may be filed pursuant to the subject tariff pending completion of any review or investigation as may be ordered.

The Commission finds: (1) Montana's proposed tariff should be accepted for filing to become effective April 13, 1977.

(2) Good cause does not exist to grant Montana's request for waiver of the Commission's notice requirements.

The Commission orders: (A) Montana's proposed tariff is hereby accepted for filing to become effective April 13, 1977, 30 days after completion of the filing.

(B) Montana's request for waiver of the Commission's notice requirement is hereby denied.

(C) Montana Power shall file a service agreement within thirty days of its execution covering each sale under the subject tariff accompanied by appropriate cost support and all other information and data necessary to show how the rate was derived.

(D) The Commission reserves the right to suspend and make subject to refund such rates as may be filed pursuant to the subject tariff pending completion of any review or investigation as may be ordered.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER and shall serve a copy thereof upon the wholesale customers of Montana.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13561 Filed 5-11-77;8:45 am]

[Docket No. RP74-14 and RP74-34 (PGA77-2)]

MOUNTAIN FUEL RESOURCES, INC.

Tariff Sheet Filing

MAY 5, 1977.

Take notice that on April 15, 1977, Mountain Fuel Resources, Inc., pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Third Revised Sheet No. 7 to its FPC Gas Rate Schedule No. 1. Resources states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provisions authorized by the Commission's order issued November 28, 1973 in Docket Nos. RP74-14 and RP74-34. More specifically, the tariff sheet reflects a net increase over that currently being collected of 0.65 cents per Mcf to be effective June 1, 1977.

Any person desiring to be heard and to make any protest with reference to said filing should on or before May 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13546 Filed 5-11-77;8:45 am]

[Docket No. CP77-359]

MOUNTAIN FUEL SUPPLY CO.

Application

MAY 5, 1977.

Take notice that on April 27, 1977, Mountain Fuel Supply Company (Applicant), P.O. Box 11368, Salt Lake City, Utah 84139, filed in Docket No. CP77-359 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 554 Mcf of natural gas per day with Northwest pursuant to a gas poration (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport and exchange up to 554 Mcf of natural gas per day with Northwest pursuant to a gas purchase, transportation, and exchange agreement dated March 9, 1977, between Applicant and Northwest. Applicant states that it has a supply of natural gas located in southwestern Wyoming which it desires to have transported or delivered by displacement to its existing facilities.

Pursuant to the gas purchase, transportation, and exchange agreement dated March 9, 1977, between Applicant and Northwest, Applicant would make the gas to be transported available to Northwest at the outlet of the Wilson Ranch #2 wellhead in Lincoln County, Wyoming, and Northwest would redeliver by displacement the propose volumes of gas at an existing point of interconnection of the facilities of Northwest and Applicant near Granger, Wyoming.

Applicant proposes to pay Northwest 18.2 cents per Mcf for the transportation and exchange service proposed herein.

Applicant indicates that it would sell to Northwest up to 25 percent of the volumes of gas delivered pursuant to the exchange agreement, and that the price for the gas sold to Northwest would be equal to the price paid by Applicant.

Applicant asserts that it would use the subject gas to augment its diminishing supply from older sources, which would help maintain the deliverability of natural gas to existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein proivded for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13571 Filed 5-11-77;8:45 am]

[Docket No. CP73-43]

MOUNTAIN FUEL SUPPLY CO.

Petition To Amend

MAY 5, 1977.

Take notice that on April 21, 1977, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84239, filed in Docket No. CP73-43 a petition to amend the Commission's order of November 17, 1972 (48 FPC 1096), as amended February 10, 1977 (57 FPC ——), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of additional facilities for the further development of the Leroy Storage Field in Uinta County, Wyoming, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the Commission's order of November 17, 1972, as amended February 10, 1977, Petitioner was authorized to construct and operate certain natural gas facilities necessary to develop the Leroy Storage Field in Uinta County, Wyoming.

Petitioner proposes herein to drill and operate one observation well and two injection-withdrawal wells and to construct and operate the necessary laterals, dehydration and appurtenant facilities required for storage operation in Uinta County, Wyoming. Approximately 6,960,000 Mcf of gas was in storage at Leroy at the beginning of the 1976–77 withdrawal season.

Petitioner states that since beginning development of the Leroy Storage Field, it has identified a small reverse fault in the storage field running in a generally northeast-southwest direction through Sec. 33, R.117W., T.16N., and displacement across the fault is indicated to be about 80 feet with the northern block of the reservoir being structurally higher than the southern block. Petitioner further states that displacement across the fault has not been great enough to offset the storage interval in the two fault blocks which interval exhibits a general thickness of approximately 200 feet, and definite communication exists between the northern and southern fault blocks in the reservoir. Well No. 8, the observation well to the south of the fault, shows identical pressure changes with those wells to the north of the fault, it is said.

Petitioner states that the volume of the southern block of the storage reservoir has been taken into account in its previous reservoir volume calculation, however, Petitioner is now of the opinion that optimum utilization of the reservoir dictates the drilling and completing of two injection-withdrawal wells on the structural high of the southern reservoir block. It is stated that such wells would serve two primary purposes: (1) information from these wells would give Petitioner needed control for the more precise definition of the southern extension of the storage reservoir; and, (2) Petitioner believes that there is a high probability that the storage gas bubble extends well down into the reservoir block in which event the two proposed wells would add to field deliverability, decrease field cushion gas requirements, and increase field working gas.

Petitioner indicates that down-dip well control moving in an easterly direction away from the principal fault zone is lacking. Petitioner states it believes that information obtained through the drilling and maintenance of an observation well in the NW¼ NE¼ of Sec. 28, R.117W., T.16N. would add greatly to the precise definition of the storage zone and its operating characteristics. Petitioner proposes that such well be drilled and operated as an observation well only.

Petitioner states that its development of the Leroy Field has reached the point where an operating advantage can be obtained through the hooking up and placing in an injection-withdrawal status of Well Nos. 2 and 8, and that this would immediately increase the injection potential in the field; and as the storage bubble grows down to these wells, the field's deliverability would incerase the field's overall working/cushion gas ration.

[1] Montana is a member of the seven party Revised Intercompany Pool Agreement (ICP–R). Pursuant to Part III(2) of that agreement, member parties agree to file from time to time with the Commission, various service schedules specifying the rates and conditions under which various classifications of power and energy will be made available to the member parties. The other six parties are: Pacific Power & Light Company, Portland General Electric Company, Idaho Power Company, Utah Power & Light Company, Washington Water Power Company, and Puget Sound Power & Light Company.

[2] Provisional energy is defined as non-firm energy made available by Montana which may require the later return to Montana of either a part or all of the energy sold in order to offset the effect of the occurrence of an event that was considered improbable at the time of the original negotiations.

[3] Noncontrollable hydro must be currently generated or spilled whereas controllable hydro can be stored or otherwise exchanged for future use.

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Petitioner states that the cost of the proposed development work is estimated at $2,804,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13570 Filed 5-11-77;8:45 am]

[Docket No. RP77-57]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MAY 6, 1977.

Take notice that National Fuel Gas Supply Corporation ("National"), on April 29, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, The proposed changes would increase revenues from jurisdictional sales and service by approximately $5,449,000, based on the 12-month period ended December 31, 1976, as adjusted. The proposed effective date is June 1, 1977.

National states that the increased rates are required to recoup increased costs incurred in operating and maintaining its system, including but not limited to, increased cost of capital, increased depreciation, increased wages, and increased taxes and gas costs. The rates proposed reflect an overall rate of return of 10.8%. The filing also reflects a continuing decline in National's gas supply with a consequent reduction in annual sales volumes. Further, National states that the proposed rates do not inclued the appropriate surcharge as provided by its purchased gas adjustment clause. At such time as the increased rates are to become effective National will make the appropriate filing to reflect the applicable surcharge adjustment in effect at that time.

National states that it has excluded from this filing costs applicable to facilities to be sold to National Gas Storage Corporation pursuant to the joint application of Storage and National which is the subject of Docket No. CP76-492.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, and Pennsylvania.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 852 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-13559 Filed 5-11-77;8:45 am]

[Docket No. ER77-326]

NEPOOL EXECUTIVE COMMITTEE

Filing of Amendment to the New England Power Pool Agreement

MAY 5, 1977.

Take notice that on April 28, 1977, the NEPOOL Executive Committee tendered for filing an Agreement Amending the NEPOOL Power Pool Agreement (Amendment), dated December 31, 1976, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

The Amendment was filed by the NEPOOL participant systems in compliance with orders of the Commission Docket No. E-7690, issued September 10, 1976, and November 5, 1976. The Amendment deletes Section 9.5 of the NEPOOL Agreement and suspends Section 9.4(d) of the NEPOOL Agreement during the pendency of the appeal taken by the NEPOOL Executive Committee to the United States Court of Appeals for the District of Columbia Circuit (and ninety days thereafter) from the order of the Commission requiring modification of Section 9.4(d).

The NEPOOL Executive Committee requests a waiver of the Commission's notice requirements to allow the Amendment to become effective as of February 3, 1977.

Any person desiring to be heard or to make any protest with reference to the Amendment should on or before May 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13539 Filed 5-11-77;8:45 am]

[Docket No. CP77-173]

NORTHERN NATURAL GAS CO., OPERATING AS PEOPLES NATURAL GAS DIVISION

Amendment to Application

MAY 6, 1977.

Take notice that on April 27, 1977, Northern Natural Gas Company, operating as Peoples Natural Gas Division (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP77-173 an amendment to their application filed in said docket pursuant to Section 7 of the Natural Gas Act so as to authorize the construction and operation of a 194 horsepower compressor facility at a site to be designated Kendall North Compressor Staton, at an existing point of delivery to Colorado Interstate Gas Company (CIG) in Kearny County, Kansas, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

In its initial application filed in the instant docket, Applicant proposed to abandon and remove the facilities of its Syracuse Compressor Station located in Hamilton County, Kansas, consisting of one 300 horsepower unit; one 240 horsepower compressor unit and to construct and operate two compressor unit additions totaling 1,400 horsepower at its Kendall Compressor Station located in Kearny County, Kansas.

Applicant states that it is presently authorized to deliver up to 7,500 Mcf of natural gas per day to CIG pursuant to the terms of a gas purchase and exchange agreement dated April 20, 1976, and that it delivers volumes of gas to CIG at two points of interconnection on CIG's gathering system which are located in Kearny County, Kansas. Applicant further states that under the terms of the said agreement it is obligated to deliver a combined volume of not less than 3,000 Mcf of natural gas per day to CIG through the delivery points.

Under present operating conditions, free-flow delivery capability of the two delivery points is marginal with regard to the minimum delivery requirement, it is said. Consequently, Applicant proposes to install one 194 horsepower compressor unit at the site to be designated Kendall North Compressor Station at a cost of $68,710, that would be financed from cash on hand.

Applicant asserts that the additional compressor horsepower at Kendall Compressor Station originally proposed in this docket and the installation of the compressor facilities of Kendall North Compressor Station proposed herein are vital to Applicant's Kendall Area system capability during the upcoming irrigation season.

Any person desiring to be heard or to make any protest with reference to said

amendment should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13558 Filed 5-11-77;8:45 am]

[Docket No. CP77-356]

PANHANDLE EASTERN PIPE LINE CO.

Application

MAY 5, 1977.

Take notice that on April 22, 1977, Panhandle Eastern Pipe Line Company (Applicant), 3000 Bissonnet Avenue, Houston, Texas 77001, and 344 Broadway, Kansas City, Missouri 64141, filed in Docket No. CP77-356 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation on an interruptible basis of up to 4,000 Mcf of natural gas per day for Hayes-Albion Corporation (Hayes-Albion), a direct industrial customer of Applicant, for use in Hayes-Albion's Albion, Michigan, manufacturing plant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport said volumes of gas pursuant to an industrial gas contract dated October 1, 1975, between Applicant and Hayes-Albion, for a term of 2 years. Applicant states that it would deliver the subject gas to Albion-Hayes through the pipeline and gas distribution facilities of Southeastern Michigan Gas Company (SEMG). Applicant indicates that Hayes-Albion has entered into an agreement with SEMG for the transportation of the gas from the point of interconnection of Applicant's pipeline facilities and the facilities of SEMG located near Albion, Michigan, and that SEMG would transport and deliver the said volumes of gas to Hayes-Albion at the outlet side of SEMG's measuring station at the point of connection between the facilities of SEMG and Hayes-Albion in Albion, Michigan.

Applicant asserts that Hayes-Albion's Albion, Michigan, plant is a principal employer in the city of Albion and is a major manufacturer of malleable castings for the auto industry, and that its principal products are differential cases and carriers, front wheel hubs and transmission universal joint yokes.

Pursuant to the industrial gas contracts dated October 1, 1975, as amended July 1, 1976, Applicant proposes to charge Hayes-Albion a base price of 80 cents per Mcf for the purchase of the volumes of gas to be transported. Applicant further states that it would have the right to curtail or interrupt all or any part of the deliveries of gas to Hayes-Albion when, in Applicant's judgment, such gas is needed to meet the requirements of Applicant's customers receiving service, either directly or indirectly, from Applicant under classifications contemplating an uninterruptible or partially uninterruptible supply of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13572 Filed 5-11-77;8:45 am]

[Docket Nos. CI77-373 et al.]

PINTO, INC. ET AL.

Order Further Consolidating Proceedings, Setting Consolidated Proceedings for Hearing, Setting Notice Period and Granting Interventions

Pinto, Inc., CI77-373; Ecee, Inc., CI77-372; TBP Offshore Co., CI77-409; Mesa Offshore Co., RI77-13; Pennzoil Offshore Gas, Operators Inc., CI76-806.

MAY 4, 1977.

On March 29, 1977, Pinto, Inc. (Pinto) and Ecee, Inc. (Ecee) each filed applications for certificates of public convenience and necessity and each requested special rate relief pursuant to Section 2.56a(g) of the Commission's General Policy and Interpretations (18 CFR § 2.56a(g)), so that each applicant would be authorized to collect a rate substantially in excess of the applicable nationwide rate set in Opinion Nos. 770 and 770-A. Under the relevant nationwide rate, Pinto and Ecee would be entitled to collect $1.4785/Mcf at 15.025 psia, excluding adjustments and escalations.

Pinto, in Docket No. CI77-373, requested a special relief rate of $4.0233/Mcf for its interests in the gas under West Cameron Block 586, Offshore Louisiana which it estimated to total 939 MMcf in reserves. Pinto estimated that its initial sales volumes from this block would be about 28,800 Mcf per month (960 Mcf/D).

Ecee, in Docket No. CI77-372, requested a special relief rate of $4.0217/Mcf for its interests in gas under West Cameron Block 586. It estimated its reserves to equal 512 MMcf with its initial sales volumes to the pipeline running approximately 15,700 Mcf per month (523 Mcf/D).

Both Pinto and Ecee signed individual contracts, dated March 1, 1977, to sell the subject gas to Sea Robin Pipeline Company (Sea Robin). Article IV of each, substantially identical, contract sets forth 5 pricing provisions: First, a specific base price is agreed upon of $1.75/Mcf for the first year of deliveries with a fixed 2 cents/Mcf escalation each year thereafter for the term of the contract. Second, the parties agreed that if a area rate in the Offshore Louisiana area during the contract term was higher than "first," above, the area rate would become the base price. Third, the parties agreed upon a "deregulation clause" which essentially sets the price along the lines of a "favored nations" formula, in the event the Commission, or its successor authority no longer has or asserts jurisdiction over the sale price. The buyer has a right to refuse to pay the price set by "third". The fourth provision allows the seller to collect a price higher than "first" or "second", above, if authorized by the Commission pursuant to optional procedure or special relief. Fifth, seller is reimbursed for any excess royalty payments incurred in the premises.

On April 14, 1977, TBP Offshore Company (TBP), in Docket No. RI77-409, filed for a certificate, pursuant to Section 7 of the Natural Gas Act (Act), and requested special rate relief in accordance with Section 2.56a(g) of the Regulations. Under the terms of Opinion No. 770 and 770-A, TBP would be entitled to a rate of $1.4785/Mcf at 15.025 psia,

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excluding adjustments and escalations, for its gas in West Cameron Block 586. TBP requested a special relief rate of $4.0265 for the sale of its reserves, estimated by the company to equal 256 MMcf, to Sea Robin, in accordance with their contract dated March 29 ,1977. TBP estimated that its initial sales volumes to Sea Robin would equal about 7,850 Mcf per month (260 Mcf/D). The price provisions in its March 29, 1977 contract with Sea Robin parallel those pricing provisions in the Pinto and Ecee contracts mentioned above.

Pinto, Ecee, and TBP individually retain the right to have the gas processed before or after delivery to Sea Robin, and each retains all rights, title and interest in any products resulting from such processing. Each applicant agreed to pay Sea Robin at least .02 cents per Mcf per mile of transportation from the delivery points to the processing plant for any plant volume reduction.

According to the three contracts, the sellers herein dedicate to the sale only such Block 586 gas as will be produced from depths located above one hundred (100) feet below the stratigraphic equivalent of the induction electric log total depth of 10,390 feet of the OCS–G–2436 Well No. 1.

Staff has determined that these three applicants acquired their interests in Block 486 through assignment from Texas Production Company, one of Block 586's bidders and original working interest holders. As of September 3, 1976, Pinto's working interest in Block 586 equalled 3.67%, Ecee's amounted to 2.0%, and TBP's was 1%. Staff has found that Pinto was assigned a 3% working interest in Vermilion Block 228, Offshore Louisiana, which it obtained on May 1, 1971, from Texas Production Company. Although, as of February 3, 1977, Pinto still owned 3% of Vermilion 228, its application herein covered just its interest in West Cameron Block 586. To date, Pinto apparently has not filed for a certificate authorizing sales from Vermilion 228. Vermilion 228 is one of the four blocks included in Pennzoil Offshore Gas Operators, Inc.'s (POGO) application for certification in Docket No. CI76–806 with which the instant three applications are being consolidated by this order. Pinto and Ecee respectively have not, therefore, each included into one project all of their respective individual interests in the Federal Domain. Pinto, Ecee, and TBP shall each explain fully why this block was included in its present application, and other, (if any), as yet uncertificated blocks it owns were not so included.

A review of Commission files shows that Pinto and Ecee are making sales to Sea Robin from their interests in East Cameron Block 270, pursuant to certificates granted respectively in Docket Nos. CI73–455 and CI73–456. Pinto is selling gas to United from West Cameron Block 587 under a certificate granted in Docket No. CI75–436. It appears TBP is not making any sales in interstate commerce. TBP filed an application for a small producer certificate in Docket No. CS76–396, on January 9, 1976, as amended April 12, 1976. The Commission denied TBP's application on June 10, 1976, by an order issued in Docket No. CS66–57, *et al.*, because, *inter alia*, TBP and Mesa Petroleum Company were affiliated companies.

In an order dated March 11, 1977, in Docket No. CI76–806, the Commission set for hearing POGO's application for a certificate and petition for special relief for its gas interests in West Cameron Block 586, Vermilion Block 228, Eugene Island Block 256 and West Cameron Block 572.

In a March 28, 1977 order, the Commission consolidated the application of Mesa Offshore Company (Mesa) for certificate authorization and request for special relief (concerning Vermilion Block 228 and Eugene Island Block 256) with POGO's application mentioned above.

While the three applicants herein did not request that their filings be consolidated with those of POGO's and Mesa's, expedition of the Commission's business requires that these 5 filings be consolidated into a single proceeding as they involve common issues of fact and law. Pinto's, Ecee's, and TBP's applications involve their interests in West Cameron Block 586, one of the blocks involved in POGO's application. And all 5 applications request special rate relief for reserves which have not yet flowed in interstate commerce.

Mobil Oil Corporation (Mobil), one of the winning bidders, along with POGO, Cities Service, and Texas Production Company, for West Cameron Block 586 in the June 19, 1973 Outer Continental Shelf Lease Sale, filed, on April 12, 1976, in Docket No. CI76–464 for a certificate to initiate sales from Block 586 to Natural Gas Pipeline Company of America (Natural) at the nationwide rate established in Opinion No. 699–H. Mobil's working interest in the block at the time of its filing was 33⅓% whereas Cities Service owned 10%; POGO had 50%; Pinto's was 3⅓%; Ecee's equalled 2% and TBP owned 1%. On June 29, 1976, Sea Robin filed an application in Docket No. CP76–418 for authorization to construct and operate a pipeline connecting West Cameron Block 586 to an existing line of Stingray Pipeline Company's (Stingray) located in West Cameron Block 595 and to transport Block 586 gas for itself, United Gas Pipeline Company (United) and Natural. On October 12, 1976, Sea Robin amended its application to add Southern Natural Gas Company (Southern) to the list of companies for which Sea Robin was transporting Block 586 gas. Sea Robin estimated that Block 586 contained 30.688 Bcf of proven reserves.

The Commission granted Mobil a permanent certificate at the nationwide rate by an order issued February 15, 1977, in Docket No. CI76–464. In the same February 15, 1977 order, the Commission issued Sea Robin a certificate in Docket No. CP76–418 to construct and operate the proposed facilities and to transport gas through such facilities for United, Natural and Southern. However, the authorization to construct and operate the facilities was conditioned upon Mobil's acceptance of its certificate, POGO's filing a letter of commitment and the remaining producers' filing of applications or letters of commitment. Sea Robin has agreed to transport 12,100 Mcf/D for Natural, 13,650 Mcf/D for United and 4,550 Mcf/D for Southern on a firm basis.

Cities Service filed on April 20, 1977, in Docket No. CI77–421 for permanent certificate authorization to commence sales of its gas interests in Block 586 to Sea Robin at the nationwide rate established in Opinion Nos. 770 and 770–A.

POGO, on April 28, 1977, filed for a temporary certificate, in Docket No. CI76–806, to authorize commencement of sales of its Block 586 gas to Sea Robin at the nationwide rate as established in Opinion Nos. 770 and 770–A.

In its March 28, 1977 order in Docket Nos. RI77–13 and CI76–806 the Commission set a date of April 12, 1977, on or before which intervenors or those wishing to make protests should make their filings. In accordance with that order, Associated Gas Distributors (AGD) petitioned to intervene in the consolidated proceedings on April 12, 1977. On March 30, 1977, United Municipal Distributors Group (MDG) petitioned to intervene out of time in the original POGO proceeding (Docket No. CI76–806). We will treat MDG's untimely petition in Docket No. CI76–806 as a timely intervention filed in the consolidated proceedings in Docket Nos. CI76–806 and RI77–13 in accordance with Ordering Paragraph (D) of our March 28, 1977 order.[1]

On April 18, 1977, Southern Natural Gas Company (Southern) petitioned to intervene in Docket Nos. CI77–372 and CI77–373 concerning the captioned application of Ecee and Pinto respectively.

An examination of the applications and petitions of Pinto, Ecee, and TBP respecitvely and the data submitted in support thereof raises a question as to whether there is sufficient basis for the Commission to find the proposed rate to be just and reasonable. Therefore, we deem it necessary that a consolidated hearing be held in this matter to determine answers to all of the issues raised in the three instant applications and petitions, together with all the issues raised in the applications and petitions of POGO in Docket No. CI76–806 and Mesa in Docket No. RI77–13.

The Commission finds: (1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) It is necessary and in the public interest that the above-docketed proceedings (CI77–372; CI77–373; CI77–409) be consolidated with that of Pennzoil Offshore Gas Operators, Inc. in Docket No. CI76–806 and that of Mesa Offshore, Inc. in Docket No. RI77–13.

[1] *Order Consolidating Proceedings, Setting Consolidated Proceedings For Hearing, Setting Notice Period*, Docket Nos. RI77–13 and CI76–806, issued March 28, 1977, Ordering Paragraph (D).

(3) It is in the public interest that the interventions of Associated Gas Distributors, United Municipal Distributors Group and Southern Natural Gas Company be granted.

The Commission Order: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter I), a consolidated public hearing in Docket Nos. CI77–372; CI77–373; CI–77–409; CI76–806; and RI77–13 shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington,D.C. 20426, for the purpose of hearing and disposition of the issues in this consolidated proceeding.

(B) The proceedings in Docket Nos. CI77–372; CI77–373; and CI77–409 are hereby and hereafter consolidated for all purposes with the proceedings in Docket Nos. CI76–806 and RI77–13.

(C) A Presiding Administrative Law Judge designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 3.5 (d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) Any person desiring to be heard or to make any protest with reference to this consolidated proceeding should, on or before May 20, 1977, file with the Federal Power Commission, at the address stated in Ordering Paragraph (A), a petition to intervene or a protest, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules.

(E) The interventions granted in Ordering Paragraph (G) of the Order Setting Proceeding For Hearing and Granting Interventions, in Docket No. CI76–806, issued March 11, 1977—namely, the Public Service Commission of the State of New York; United Gas Pipeline Company; and Southern Natural Gas Company—are hereby and hereafter granted intervention in this consolidated proceeding under the same terms and conditions stated in the aforementioned Ordering Paragraph (G).

(F) The Associated Gas Distributors and the United Municipal Distributors Group are hereby permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission; *Provided, however*, that the participation of such intervenor shall be limited to matters affecting asserted rights and interests as set forth in its petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that such intervenor might be aggrieved because of any order or orders issued by the Commission in this consolidated proceeding.

(G) Pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure (18 CFR § 1.8), the Presiding Administrative Law Judge is hereby authorized to permit the participation at the pre-hearing conference or hearing of any party that has filed a petition to intervene pursuant to Ordering Paragraph (D), above, that has not been acted upon by the Commission.

(H) Petitioners Pinto, Ecee, and TBP each individually, and any intervenor(s) supporting the individual petitions for special relief shall file their direct testimony and evidence on or before May 25, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this consolidated proceeding. Each Petitioner shall individually submit gas supply and cost data for its interest in West Cameron Block 586. Pinto, Ecee and TBP shall each file records, data and papers showing the date each acquired its interest in Block 586, from whom, and the sum of money paid therefor. Each Petitioner (Pinto, Ecee, and TBP) shall submit records, data, and papers detailing the dates of acquisition; the names of the seller, assignor, or lessor, as the case may be, and the monies spent for each of their other interests in the Federal Domain, Offshore Louisiana. The three Petitioners shall show its percentage of interest in the aforementioned blocks, and if a FPC ceritificate has been applied for, the relevant docket number(s) and the disposition of the proceeding. For every block each Petitioner owns, if any, for which certification has not been applied, the Petitioner shall fully explain why those block(s) were not included in its instant application. Each Petitioner shall file not only opinion evidence on the costs and gas supply issues, but also sufficient underlying data so that the reasonableness and credibility of the opinion evidence can be weighed by application of traditional evidentiary standards. The aforementioned list of data and evidence is not intended to foreclose data, testimony, or other evidence not specifically enumerated from being brought within this proceeding. All relevant and material evidence shall be admissible.

(I) The Commission Staff shall have the right to examine, and copy where appropriate, the records, accounts and memoranda of Pinto, Ecee, and TBP.

(J) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held in this consolidated proceeding on May 4, 1977, at 10:00 A.M., E.S.T. in a hearing room at the address noted in Ordering Paragraph (A).

(K) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13563 Filed 5–11–77;8:45 am]

[Docket No. RI77–63]

WILLIAM C. RUSSELL

Petition for Special Relief

MAY 5, 1977.

Take notice that on April 18, 1977, William C. Russell (Applicant), 745 Fifth Avenue, New York, New York, 10022, filed a petition for special relief in Docket No. RI77–63 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. 2.76). Applicant requests relief from the nation-wide flowing gas rate for the proposed sale of natural gas to Southern Union Gathering Company from the Basin Dakota Gas Field, San Juan County, New Mexico. Applicant requests a rate of $1.02562 per Mcf. Applicant proposes to do reconditioning work on Lunt No. 62 Well which has been nonproductive since production casing failure in August, 1976.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 27, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13573 Filed 5–11–77;8:45 am]

[Docket No. RP74–6 (Phase II)]

SOUTHERN NATURAL GAS CO.

Certification of Settlement

MAY 5, 1977.

Take notice that on April 25, 1977, Presiding Administrative Law Judge Thomas L. Howe certified to the Commission a proposed stipulation and agreement which would constitute a partial settlement of the issues in Southern Natural Gas Company, Docket No. RP74–6 (Phase II). This settlement would be applicable to the smaller customers on Southern's system.

At a hearing held on April 22, Southern placed into the record a proposed stipulation and agreement and an illustrative exhibit. This stipulation would

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permit Southern to waive the penalty provisions of its tariff permanently for takes of gas in excess of curtailment orders by OCD or G schedule customers with Contract Demands or Maximum Delivery Obligations of 16,000 Mcf per day or less than these customers apply for the exemption and certify that the following conditions exist:

1. No additional requirements were added during the November 1, 1976–March 31, 1977 period.

2. The excess gas was needed for firm priority 1, 2 or 3 consumers (or interruptible priority 1, 2 or 3 consumers without alternate fuel capability).

3. The OCD or G customer sold no gas on any day during a month for which relief was requested to consumers in lower curtailment priorities than Southern allocated gas to on such day.

4. All gas supplies available from other sources, including maximum withdrawals from storage and peak shaving, were fully utilized on any day for which relief is sought.

All parties wishing to submit comments on the proposed stipulation and agreement shall file such comments with the Commission within 14 days of the issuance of this notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13541 Filed 5–11–77;8:45 am]

[Docket No. RI77–62]

SOUTHPORT EXPLORATION, INC.

Petition for Special Relief

MAY 6, 1977.

Take notice that on April 21, 1977, Southport Exploration, Inc. (Petitioner), 124 East 4th Street, Suite 200, Tulsa, Oklahoma 74103, filed a petition for special relief in Docket No. RI77–62, pursuant to Commission Order No. 481.

Petitioner seeks authorization to charge $2.00 per Mcf plus adjustments and taxes, and a 1.5 cent per Mcf quarterly increase for gas sold to Texas Gas Transmission Corporation from 5 wells to be drilled in the Operculinoides Four Sand, St. John Field, LaFourche Parish, Louisiana. Petitioner proposes to drill 5 new wells at an approximate cost of $15,871,000 in previously untested formations which lie below presently producing formations. Petitioner states that unless the requested increase from 36.5 cents per Mcf to $2.00 per Mcf plus adjustments, taxes and quarterly increase is granted development and exploration of new wells would be uneconomical.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13560 Filed 5–11–77;8:45 am]

[Docket No. CP72–182]

TEXAS GAS TRANSMISSION CORP.

Proposed Change in FPC Gas Tariff

MAY 6, 1977.

Take notice that on April 26, 1977, Texas Gas Transmission Corporation (Texas Gas), tendered for filing the following revised sheets to its FPC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 555–A, Original Sheet No. 555–B, Third Revised Sheet No. 556, and Fourth Revised Sheet No. 558.

Texas Gas states that the subject filing reflects the addition of three points of delivery in its Rate Schedule X–50, an exchange agreement with Transcontinental Gas Pipe Line Corporation (Transco), which was authorized by Commission Order issued April 12, 1977, in Docket No. CP72–182.

The tariff sheets are proposed to become effective April 12, 1977.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 25, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13550 Filed 5–11–77;8:45 am]

[Docket No. CP77–351]

UNITED GAS PIPE LINE CO.

Application

MAY 5, 1977.

Take notice that on April 20, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77–351 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon in place certain field pipelines in Terrebonne Parish, Louisiana and to abondon and remove meter and regulating facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the abandonment and removal and abandonment in place of facilities as follows:

1. Abandon in place approximately 2.3 miles of 6-inch field pipeline located in Terrebonne Parish, Louisiana.

2. Abandon in place approximately 0.4 miles of 4-inch field pipeline located in Terrebonne Parish, Louisiana.

3. Abandon and remove meter and regulating facilities located in Terrebonne Parish, Louisiana.

Applicant states that the 6-inch pipeline which it proposes to abandon connects its system to the Southeast Houma Field in Terrebonne Parish. It is stated that the pipeline was installed in 1958, and that the use of this line is no longer required by Applicant since it no longer receives any production from the Southeast Houma Field nor does it expect any deliveries of gas from this field in the future. Applicant indicates that it has three current gas producers contracts with producers in the subject field, and all three producers have notified Applicant that the term of the leases has expired and the wells are not producing.

Applicant further states that the 4-inch field pipeline which it proposes to abandon also connects its system to the Southeast Houma Field, and is no longer being used by Applicant.

Applicant states that it has been advised by a major real estate developer that plans have been made to utilize a portion of the subject Terrebonne Parish area for residential and commercial property development. Since gas has not been purchased by Applicant since the wells have stopped producing, the right-of-way for the applicable lines have lapsed and are no longer in force and effect, it is said. Applicant states that it has been requetsed by the developer to remove its facilities.

Applicant further states that the metering and regulating facilities proposed to be abandoned and removed would be used by Applicant at other locations as required.

Applicant asserts that the lines are no longer essential to its operations and that abandonment would elimimate expenditures for the operation and maintenance of these lines.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13574 Filed 5–11–77;8:45 am]

[Docket No. ES77–32]

UPPER PENINSULA POWER CO.

Application by Upper Peninsula Power Company for Authorization To Issue Securities Under Section 204(a)

MAY 6, 1977.

Take notice that on April 29, 1977, Upper Peninsula Power Company (Applicant) filed an application with the Federal Power Commission seeking authority, pursuant to Section 204(a) of the Federal Power Act, to issue short-term notes of an aggregate principal amount of up to $9,500,000.

The Applicant is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. The Applicant is engaged in the electric utility business in a 4,460 square mile area in the upper peninsula of Michigan with a population of approximately 140,000.

The Applicant has proposed to issue unsecured promissory notes of a principal amount of up to $9,500,000 outstanding at any one time, payable to such bank or banks from which the Applicant may borrow, for periods not exceeding twelve months from the date of original issuance, extension or renewal. The notes will be issued on or before June 30, 1978 and will have a final maturity date not later than June 30, 1979. The interest rate on such notes will not exceed 120% of the prevailing prime commercial rate in effect from time to time. The notes will not be subject to resale to the public.

The proceeds from the sale of the notes will be used, pending permanent financing, to finance the continuation of the Applicant's construction program, and the purchase of fuel supplies through June 30, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–13549 Filed 5–11–77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 6, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 31, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

NUCLEAR REGULATORY COMMISSION

NRC requests an extension no change clearance of 10 CFR Part 34, Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations. Pursuant to Part 34 licensees must maintain records of the latest date of calibration of each radiation survey instrument; keep records of leak test results for each sealed source of radioactive material; maintain a record of the quarterly physical inventory of sealed sources; keep a utilization log for each sealed source; maintain records of film badge reports and records of pocket dosimeter readings; and maintain records of radiation surveys. Any leak test of a sealed source which reveals the presence of 0.005 microcurie of removable radiactive material must be reported to the Commission within 5 days. NRC estimates respondents to be 375 licensees holding specific licenses for industrial radiography pursuant to Part 34 and that recordkeeping burden averages approximately 47 hours annually per respondent. Respondent burden for a report of leaking sealed sources averages approximately one-half hour per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–13534 Filed 5–11–77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Order Adm 1095.1A]

ENVIRONMENTAL IMPACT STATEMENTS

Preparation Procedures

Notice is hereby given that the General Services Administration in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) has revised internal procedures for preparing environmental impact statements. The revisions were made primarily to delegate more responsibilities to the regional offices and the Commissioner, Public Buildings Service.

Public comments are not requested as there are no substantive differences from the original ADM 1095.1 which was published for public inspection on April 4, 1975 (40 FR 15131).

Dated: April 27, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

ENVIRONMENTAL CONSIDERATIONS IN DECISIONMAKING

1. *Purpose.*—This order prescribes the uniform procedures to be followed in implementing the laws, Executive orders, and directives concerning all major GSA actions that significantly affect the quality of the human environment, consistent wtih the basic statutory responsibilities governing GSA program operations. This order also provides a basis for the publication, when required, or service and staff office orders and instructions explicitly directed toward the particular functions, activities, and personnel of each organization.

2. *Cancellation.*—ADM 1095.1 is canceled.

3. *Background.*—a. The laws, Executive orders, and directives to be imple-

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mented include the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), hereinafter referred to as NEPA; Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality"; section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); Executive Order 11593 of May 13, 1971, entitled "Protection and Enhancement of the Cultural Environment"; GSA Order PBS 1022.1, entitled "Protection of historic properties"; Executive Order 11752 of December 17, 1973, entitled "Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities"; and the Guidelines issued by the Council on Environmental Quality (CEQ) for preparing environmental impact statements, hereinafter referred to as the Guidelines, published in the FEDERAL REGISTER August 1, 1973, 38 F.R. 20550, and amended in the FEDERAL REGISTER on August 7, 1973, 38 F.R. 21265.

b. Section 102 of NEPA directs all Federal agencies to the fullest extent possible (1) to utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment; (2) to identify and develop methods and procedures which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations; (3) to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official which includes to the fullest extent possible the following:

(1) The environmental impact of the proposed action;

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) Alternatives to the proposed action;

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) Executive Order 11514 effectuates the purpose of NEPA, and the revised Guidelines implement NEPA.

4. *Role of the environmental impact statement process.*—The environmental impact statement process is a means of coordinating active consideration of environmental concerns throughout the GSA planning, action development, and review processes. Environmental enhancement, protection, and restoration shall be regarded as primary responsibilities. Through serious consideration of all reasonable alternatives, adverse environmental effects must be avoided or minimized to the fullest extent possible. The process shall be used to reassess ongoing actions as NEPA applies to those actions approved prior to January 1, 1970, and to assess future actions to avoid or minimize adverse effects.

5. *Responsibilities.*—a. *External to GSA.*—(1) *Council on Environmental Quality.*—Under section 202 of NEPA (42 U.S.C. 4344), CEQ is responsible for reviewing and appraising the environmental programs and activities of the Federal Government. CEQ will determine the extent to which these programs and activities are contributing to the achievement of NEPA's policy and will make recommendations to the President with respect thereto.

(2) *Environmental Protection Agency (EPA).*—Pursuant to section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), EPA is responsible for the review of agency activities and proposed legislation and regulations if these would result in environmental impact on any activities under the authority of the EPA Administrator.

(3) *Advisory Council on Historic Preservation.*—The Council is charged in section 202 of the National Historic Preservation Act of 1966 (16 U.S.C. 470j) with advising the President and the Congress in the field of historic preservation and with commenting on Federal, federally assisted, and federally licensed undertakings which affect properties listed in the National Register of Historic Places.

b. *Internal GSA.*—(1) *Commissioner, Public Buildings Service.*—The Commissioner acts for the Administrator on environmental and historic preservation matters.

(2) *Director, Special Studies and Programs Office.*—The Director is responsible for the initiation and direction of GSA's agency-wide policy for environmental and historic preservation programs. He has review responsibility on the environmental impact statement process and responsibility for dealing with entities outside the agency on environmental policy matters.

(3) *Director, Environmental Affairs Division, Special Studies and Programs Office.*—The Director coordinates and implements the GSA environmental program and serves as the official GSA liaison officer with the Council on Environmental Quality and the Environmental Protection Agency.

(4) *General Counsel.*—The General Counsel has responsibility for interpreting statutes, Executive orders, guidelines, and regulations, and for reviewing and commenting on the legal sufficiency of environmental assessments, negative declarations, and draft and final environmental impact statements.

(5) *Other.*—As appropriate, each major program area within GSA shall be responsible for drafting and implementing corresponding orders consistent with the requirements of this order and with their respective program functions and operations. Responsibilities within the services and staff offices are to be delineated in the corresponding orders.

6. *Preparation of the environmental assessment.*—Any major GSA action which may significantly affect environmental quality shall be carefully evaluated, and an environmental assessment of the action shall be prepared which will, to the fullest extent possible, address the requirements of section 102(2)(c) of NEPA. (See subpar. 3b(3).) From this assessment a determination can be made to develop an environmental impact statement or a negative declaration. Those GSA actions and activities which are covered by NEPA include, but are not limited to:

a. Major actions which would result from recommendations or favorable reports on legislation, including requests for appropriations, originating both within and outside the agency when GSA has primary responsibility for implementing the legislation;

b. Major actions which would result from establishment or modification of rules, regulations and procedures, and policies;

c. Major new and continuing actions by GSA, including grants, loans, and other funding assistance, new construction, real property actions, procurement actions, stockile management and disposal actions, leases, permits, easements, and licenses; and

d. Major actions which would result from new technology, research, and development, based on the size of GSA's investment, likelihood of widespread application, potential environmental impacts, and degree that continued investment will foreclose alternatives.

7. *Decision to prepare an environmental impact statement.*—Subsequent to an environmental assessment, if there is doubt whether a statement should be prepared, or if the proposed action is likely to be highly environmentally controversial, a statement shall be prepared. It must be recognized that many Federal decisions seem of limited environmental consequence when viewed individually but are of significant consequence when viewed collectively. When GSA is responsible for all such decisions, a GSA statement shall be filed covering the entire complex of decisions and actions.

8. *Specific criteria.*—As required by section 1500.6(c) of the Guidelines, the services and staff offices must review the typical classes of actions that they undertake and develop specific criteria and methods for identifying those actions likely to require environmental statements and those actions likely not to require environmental statements. The specific criteria, if applicable to existing actions and activities, shall be transmitted by the Heads of Services and Staff Offices to the Director, Special Studies and Programs Office (PW), upon request or as new agency activities arise which could qualify under the Guidelines.

ATTACHMENT

CHAPTER 1. DEFINITIONS

1. *Environment.*—The whole complex of physical, social, cultural, and aethetic factors which affect individuals and communities and ultimately determine their form, character, relationship, and survival.

2. *Resources.*—All actions and ideas, as well as living and nonliving materials devoted to the action.

3. *Public entities.*—Any Federal, State, or local offices and legislatures, and any public or semipublic agencies.

4. *Relevant A-95 clearinghouse.*—Clearinghouse(s) listed in OMB Circular No. A-95 (Revised) clearinghouse directory for the geographical area in which the GSA action is to take place. (OMB through its Circular No. A-95 (Revised) established this system of clearinghouses to facilitate intergovernmental and intragovernmental communication.)

5. *Corresponding service and staff office orders and instructions.*—Service and staff office orders and instructions which provide guidelines, delineate procedures, and assign responsibilities relevant to the personnel and activities of the appropriate organization consistent with the basic statutory provisions governing its operations.

6. *Environmental assessment.*—An evaluation occurring early in the approval process of the potential environmental impact of a project or activity.

7. *Environmental impact statement.*—A detailed statement which, pursuant to section 102(2)(C) of the NEPA, to the fullest extent possible, identifies and analyzes, among other things, the anticipated environmental impact of a proposed GSA action and discusses how the adverse effects will be mitigated.

8. *Negative declaration.*—An official administrative decision stating that an analysis of the environmental assessment has been made and that the proposed action is not considered a major GSA action having a significant impact on the environment, and, therefore, will not require the preparation of an environmental impact statement. (The declaration must also include a summary of any known environmental impact.

9. *Significant environmental effects.*—Socioeconomic and physical effects which may be beneficial and/or detrimental to the environment, even if the net is believed to be beneficial. (These effects may be influenced by the geographical location of the subject project or action. Significant detrimental effects include those that degrade the environment, curtail its range of uses, or sacrifice its long-term productivity to serve only man's short-term needs.)

10. *Comments.*—All formal reactions by public and private entities to the proposed action and to the environmental impact statement.

11. *Areas of jurisdiction by law or special expertise.*—Specific Federal agencies identified by appendix II of the Guidelines as competent to comment on environmental impact statements which have bearing on particular environmental concerns. (GSA's areas of jurisdiction by law or special expertise include energy and natural resources conservation (design and operation of buildings); property management; redevelopment and construction in built-up areas; historic, architectural, and archaeological preservation; and any other areas designated by the Council on Environmental Quality.)

12. *Lead agency.*—The Federal agency which has primary authority for committing the Federal Government to a course of action with significant environmental impact.

CHAPTER 2. ENVIRONMENTAL IMPACT STATEMENT PROCESS, CONTENT, AND FORMAT

1. *Environmental assessment.*—The preparation of an environmental assessment shall begin within the regional office, service, or staff office in the early stages of planning an action. As the action develops, the assessment shall be prepared by all involved, using interdisciplinary expertise to ensure complete assessment and full consideration of the range of environmental factors in the development of the action to make certain that:

a. Commitments are not made to courses of action that will unnecessarily complicate reconciliation with environmental factors;

b. Environmentally desirable alternatives are not inadvertently foreclosed; and

c. Negative environmental impacts are minimized.

2. *Lead agency.*—a. If there is a question concerning the primary responsibility for statement preparation, the matter shall be referred to the Special Studies and Programs Office (PW) for resolution by CEQ. However, it is possible for a statment to be submitted jointly by all agencies concerned, with the comments being returned to a single designated official.

b. If GSA is the "lead agency" and one or more other agencies have partial responsibility for the action, the other agencies shall be requested to provide to the responsible GSA official such information as may be necessary to prepare a suitable and complete environmental impact statement. If another agency is designated to be the "lead agency," the criteria for statement preparation for that agency shall apply. Thus, GSA should consider its planned action in relation to those actions of other agencies in the area, as well as those actions jointly undertaken by GSA and other Federal agencies.

3. *Clearinghouse consultation.*—The relevant A-95 clearinghouse (as defined in ch. 1-4) shall be notified of plans for the project or action at the earliest practicable point. Thus, any comments germane to the environmental assessment, to the decision to prepare an environmental impact statement, or to the early planning of the action may be promptly received and incorporated.

4. *Decision to prepare an environmental impact statement or negative declaration.*—a. Upon completion of an environmental assessment a decision must be made to prepare either a negative declaration or an environmental impact statement. If it is determined that an environmental impact statement will be necessary, the regional office, service, or staff office developing the action shall begin preparation of the statement as described in pars. 5 and 6.

b. If, however, after preparation of an environmental assessment it is concluded that the action will not constitute a major Federal action significantly affecting the quality of the human environment, the regional office, service, or staff office shall, in accordance with appropriate service or staff office orders:

(1) Forward the environmental assessment and negative declaration or recommendation for a negative declaration to the Central Office program official for review and comment. Copies shall also be forwarded to the Office of General Counsel (L) and the Director, Special Studies and Programs Office (PW), unless the action is a class of action exempted from this procedure by approved service or staff office orders. All such review periods shall run concurrently for a period of 10 workdays from the date of receipt. The 10 workday review period may be extended if necessary. Any requests for additional review time, information or revision shall be directed to the appropriate service or staff office program official. All comments shall be forwarded to the Central Office program official for preparation of a consolidated response to the region. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the need for additional information or revision that may arise between the program officials and other reviewing offices, except that final approval for legal sufficiency shall be the responsibility of the General Counsel or his designee. The assessment shall be attached to a negative declaration. Unless otherwise notified within the review period, the concerned Central Office program official and/or regional office shall assume the environmental assessment and negative declaration are adequate and may proceed with the action.

(2) Document the files with the negative declaration/environmental assessment which shall be available for public inspection upon request.

(3) Continue development of the action, and, in the spirit of environmental enhancement, monitor the action for any subsequent development which may necessitate the preparation of an environmental impact statement.

c. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the decision to prepare an environmental impact statement that may arise between the program officials and other reviewing offices.

5. *Environmental impact statement format.*—a. Draft and final environmental impact statements shall be prepared in clear black type.

b. A cover page containing all essential information to facilitate subsequent identification and retrieval shall be prepared for each statement. Figure 2-5 is a suggested format.

c. The format of the summary sheet accompanying each statement is specified in appendix I of the Guidelines.

6. *Draft environmental impact statement preparation and content.*—a. The draft shall describe in detail the environmental implications of a proposed GSA action and shall satisfy the substantive requirements of the final statement to the fullest extent possible. The minimum content requirements of an environmental impact statement are listed in subpar. 3b(3) of the transmittal order and explained in detail in section 1500.8 of the Guidelines.

b. Preparation of the draft environmental impact statement shall include input from all relevant disciplinary areas. Specialists to be consulted may include urban planners, land use planners, space planners, landscape architects, transportation experts, interior designers, design architects, engineers, geologists, chemists, toxicologists, sociologists, economists, psychologists, statisticians, or any other experts, public or private, deemed necessary for full consideration of all relevant environmental factors. The solicitation of expert assistance from any public or private entity during the preparation of a GSA environmental impact statement does not detract from GSA the responsibility for scope and content of the statement and the judgment relevant to GSA actions on the project.

c. Each statement shall show that the particular economic and technical benefits of the proposed action have been assessed against the environmental effects.

d. When the Head of Service or Staff Office or Regional Administrator deems it appropriate, public meetings shall be held during the course of development of the action, either in the form of public information/factfinding meetings before the draft statement is prepared or in the form of public hearings at least 15 calendar days following issuance of the draft statement. The agency's decision to hold a public hearing shall be based on the magnitude of the action, the complexity of the issue, and the extent of previous public involvement and interest. The Head of Service or Staff Office or Regional Administrator shall determine the best method of notifying the public that a public hearing is to be held.

e. When the service or staff office or regional office has completed the preliminary draft statement, it shall be transmitted in accordance with appropriate service or staff office orders to the Central Office program official for review and comment. Copies shall also be forwarded to the Office of General Counsel (L) and the Director, Special Stud-

V 42 92 MAY 12 77 UMI

ies and Programs Office (PW). All such review periods shall run concurrently for a period of 15 workdays from the date of receipt. The 15 workday review period may be extended if necessary. Any requests for additional review time, information, or revision shall be directed to the appropriate service or staff office program official. All comments shall be forwarded to the Central Office program official for preparation of a consolidated response to the region. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the need for additional information or revision that may arise between the program officials and other reviewing offices, except the final approval for legal sufficiency shall be the responsibility of the General Counsel or his designee. Unless otherwise notified within the review period, the concerned regional or Central Office official shall assume the statement is adequate, or the statement shall be revised according to their comments and distributed as indicated in par. 7 by the Head of the appropriate Service or Staff Office or Regional Administrator.

f. The Head of Service or Staff Office or Regional Administrator shall determine the extent of newspaper coverage and select the newspaper(s) which would most adequately inform the reading public in the area that a GSA draft environmental impact statement has been prepared. Notice should be published at least once and should include how and where copies of the statement may be obtained. The paper(s) may be a weekly and very local in nature. If the action is not local in character, the Head of Service or Staff Office or Regional Administrator shall determine the best method of publicizing the availability for review of the environmental impact statement. The Director of Information in the Central Office and the Regional Administrators in the regions shall clear notices regarding any GSA activity under their jurisdiction as provided in the GSA Administrative Manual, ch. 6–2 (OAD P 5410.1).

7. *Distribution of draft environmental impact statements.*—In accordance with service or staff office orders, the service or staff office or regional office responsible for the preparation of the draft statement shall distribute the statement. The following shall always be included in the distribution:

a. The Governor and Senators from the affected State, the Congressman from the affected district, any other appropriate officials;

b. The Council on Environmental Quality (5 copies);

c. The relevant A–95 clearinghouse, appropriate elected officials, and all State and local agencies that would be interested in the action;

d. Federal agencies directly related to the specific action;

e. EPA (7 copies);

f. All other Federal agencies competent to comment owing to legal jurisdiction or special expertise (for reference, see appendix II of the Guidelines);

g. Any group or individual that requests a copy of the environmental statement; and

h. Any entity, group, or individual that the Special Studies and Programs Office decides should be included.

8. *Commenting period.*—The service or staff office or regional office preparing the statement shall establish a time limit of not less then 45 calendar days for comments on each draft. In establishing this time limit, the service or staff office or regional office should keep in mind the magnitude and complexity of the statement and the extent of citizen interest in the proposed action. For the purpose of establishing the minimum review period, the impact statement received by CEQ during a given week (Monday through Friday) shall be recorded as filed with CEQ on the Friday of the following week. Upon request, GSA may extend the commenting period for up to 15 calendar days whenever practicable. It may be assumed that entities that have not responded by the close of the commenting period do not wish to comment.

9. *Consideration of comments.*—The service or staff office or regional office shall carefully reconsider its action in relation to the relevant and substantive comments received on the draft environmental impact statement and, to the fullest extent possible, but consistent with basic statutory responsibilities governing its program operations, shall make every attempt to reconcile its action with respect to any divergent recommendations by:

a. Altering its current plan of action;

b. Working with the commenting entities to develop mutually acceptable plans or workable compromises; and

c. Working with any additional entities or private groups to initiate additional projects or programs designed to mitigate environmental impacts.

If in the opinion of the Commissioner, Public Buildings Service (P), a substantial environmental consideration was not adequately dealt with in the draft statement, the draft shall be considered incomplete, and consideration shall be given to issuing a supplementary statement as provided in par. 13 or to issuing a new draft statement.

10. *Final environmental impact statement preparation and content.*—a. The final statement shall consist of all the information in the draft statement and information on any developments that arise subsequent to the filing of the draft. All substantive comments made on the draft statement shall be attached to the final statement, insofar as feasible, and the substantive comments must be addressed in the text through revisions and additions or by direct reference. Additionally, wherever a conflict exists, efforts to reconcile differences shall be described, including the activities listed in par. 9.

b. When completed, the preliminary final statement shall, in accordance with appropriate service or staff office orders, be transmitted to the Central Office program official for review and comment. Copies shall also be forwarded to the Office of General Counsel (L) and the Director, Special Studies and Programs Office (PW). All such review periods shall run concurrently for a period of 15 workdays from the date of receipt. The 15 workday review period may be extended if necessary. Any requests for addition review time, information, or revision shall be directed to the appropriate service or staff office program official. All comments shall be forwarded to the Central Office program official for preparation of a consolidated response to the region. The Commissioner, Public Buildings Service, shall reconcile any differences concerning the need for additional information or revision that may arise between the program officials and other reviewing offices, except that final approval for legal sufficiency shall be the responsibility of the General Counsel or his designee. Unless otherwise notified within the review period, the concerned regional or Central Office official shall assume the statement is adequate or the statement shall be revised in accordance with their comments. The Head of the appropriate Service or Staff Office or Regional Administrator who prepared the statement shall then distribute the statement as indicated in par. 11.

11. *Distribution of the final environmental impact statement.*—a. Copies of the final statement shall be sent simultaneously and free of charge to:

(1) All entities that offered substantive comments on the draft;

(2) The Environmental Protection Agency (5 copies);

(3) The relevant A–95 clearinghouse;

(4) The principal whose project is the subject of the statement; and

(5) The Council on Environmental Quality (5 copies).

b. All members of the public who request a copy shall receive one if feasible. When it is not feasible to comply with requests for copies, the Special Studies and Programs Office (PW) shall consult with CEQ in devising alternative arrangements. Under no circumstances shall a charge be affixed greater than the cost of reproduction.

12. *Moratorium period.*—The services and staff offices and regional offices shall take no administrative action in prosecution of any phase of the subject action within 90 calendar days of the commencement of the review period on the draft (see par. 8) or within 30 calendar days of CEQ's receipt of the final statement. The above 90- and 30-day periods may run concurrently to the extent that they overlap. The Commissioner, Public Buildings Service, or Regional Administrator shall receive all requests for reducing the minimum time requirements. If after weighing all considerations he deems the request justified, he shall instruct the Special Studies and Programs Office (PW) to consult with the Council on Environmental Quality in arriving at alternative arrangements. Each organization shall be responsible for defining in its orders what action will not constitute "an administrative action in prosecution of the action" for each of its typical classes of action for which environmental impact statements are often prepared.

13. *Supplementary statements.*—The service or staff office or regional office shall supplement or amend draft and final statements when substantial changes are made in the proposed action (unless these changes are made to decrease the environmental impact), when changes are made which significantly increase the adverse environmental impact, or when significant new information becomes available concerning the environmental impact of the action. The service or staff office or regional office shall distribute these supplements or amendments pursuant to par. 11, and the Special Studies and Programs Office (PW) shall consult with CEQ regarding the necessity of reestablishing appropriate commenting or review periods.

14. *Recommendations or favorable reports on proposals for legislation.*—a. If GSA makes a recommendation or favorable report on a legislative proposal the subject of which is the primary responsibility of GSA, then GSA must determine the environmental impact of that proposal. If in the opinion of the Head of a Service or Staff Office, the Director, Special Studies and Programs Office, or the Commissioner, Public Buildings Service, the proposal may have significant environmental impact, an environmental impact statement shall be prepared on the proposal consistent with the provisions of section 1500.12(b) of the Guidelines.

b. Where possible, the final statement shall be available to the Congress, CEQ, EPA, and the public at the time the legislation is submitted to the Congress. If time is a constraint, the draft statement may be used.

15. *Early notice system.*—a. Each service and staff office and regional office shall keep available for public inspection a current list of its contemplated actions for which environmental impact statements are being prepared. A copy of the current list shall be transmitted to the Special Studies and Programs Office (PW) on the last workday prior to March 9, June 9, September 9, and December 9 of each year.

b. Each service and staff office and regional office shall also maintain for public inspection a current list of its actions for which negative declarations have been made and shall transmit them pursuant to a, above.

c. The Special Studies and Programs Office (PW) shall compile the aforementioned lists and transmit composite agency lists for the previous quarter to the CEQ by March 15, and June 15, September 15, and December 15 of each year.

d. The Special Studies and Programs Office (PW) shall promptly notify CEQ if any action is listed as one for which an environmental impact statement is being prepared and at a later date a decision is made that only a negative declaration is needed.

16. *Commenting on environmental impact statements prepared by other agencies.*—Upon receipt in GSA of a draft statement prepared by another agency, the Special Studies and Programs Office (PW) shall forward the statement to those GSA offices competent to comment on it. Those offices shall then provide comments for the Special Studies and Programs Office's official reply. Comments shall be specific, substantive, and factual, following the format of the draft statement. Within GSA's areas of jurisdiction by law or special expertise, GSA will assess the degree of environmental impact and the acceptability of that impact. GSA may recommend modifications or alternatives to a project. (See section 1500.9e of the Guidelines.)

17. *Supplementary guidelines.*—The CEQ Guidelines, upon which this order is based, may be supplemented as required by CEQ. The Guidelines became effective on January 28, 1974, and are effective for all draft and final impact statements filed with the Council after that date.

DRAFT (FINAL) ENVIRONMENTAL IMPACT STATEMENT

(Name of action or property and location)

Environmental Statement Number ( )

Number of Volumes ( )

Prepared by:

(Name, title, address, and telephone number of official who drafted statement)

(Organization)

(Date)

(This date shall be the date of the letter transmitting the statement to CEQ)

FIGURE 2–5.—Format for cover sheet for environmental statement.

[FR Doc.77–13499 Filed 5–11–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of June 1977:

DRUG ABUSE PREVENTION REVIEW COMMITTEE

Date and time: June 21–22, 1977, 9 a.m.
Place: Conference Room 873, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852.
Type of meeting: Open, June 21, 9 to 10 a.m., Closed, otherwise.
Contact: Dr. John R. Olsen, Room 752, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852, 301–443–2450.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to prevention activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9–10 a.m., June 21 the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

DRUG ABUSE DEMONSTRATION REVIEW COMMITTEE

Date and time: June 27–29, 1977, 9 a.m.
Place: Southwest Conference Room, 8th floor, One Central Plaza, 11300 Rockville Pike, Rockville, Maryland 20852.
Type of meeting: Open, June 27, 9 to 10:30 a.m.; Closed, otherwise.
Contact: Thomas C. Voskuhl, Room 630, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852, 301–443–4100.
Purpose: The Drug Abuse Demonstration Review Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.
Agenda: From 9 a.m. to 10:30 a.m., June 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

ALCOHOL RESEARCH REVIEW COMMITTEE

Date: June 29–July 1.
Place: Holiday Inn, Bethesda, Maryland.
Type of meeting: Open, 9 to 10 a.m., June 29; Closed, 10:30 a.m., June 29 through July 1, 1977.
Contact: James C. Teegarden, Ph. D., 6C–03 Parklawn Building, Rockville, Maryland 20857, 301–443–4223.
Purpose: The Committee provides initial review of applications for basic research grants, applied research grants, and special grants, in such project areas as pharmacological, physiological, sociological and psychological aspects of alcohol use, incidence and prevalence of alcohol-related problems. Makes recommendations to the Director, National Institute on Alcohol Abuse and Alcoholism, and to the National Advisory Council on Alcohol Abuse and Alcoholism.
Agenda: From 9 to 10 a.m., June 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above.

The NIDA Information Officer who will furnish summaries of the meeting and a roster of the Committee membership on request is Mr. Kenneth Howard, Director, Office of Communications and Public Affairs, 11400 Rockville Pike, Room 110, Rockville, Maryland 20852, 301–443–6500. The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee Membership is Mr. Henry Bell, Director, Office of Public Affairs, NIAAA 6C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4223.

Dated: May 6, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77–13498 Filed 5–11–77;8:45 am]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

NAME: Coal Mine Health Research Advisory Committee.

DATE: May 27, 1977.

PLACE: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

TIME: 9 a.m.

TYPE OF MEETING: Open: 9 a.m. to 2:30 p.m. on May 27; Closed: Remainder of meeting.

CONTACT PERSON:

Marilyn K. Hutchison, M.D., Executive Secretary, Park Building, Room 3–14, NIOSH, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: 301–443–6377.

PURPOSE: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare, on matters involving or relating to coal mine health research, including grants and contracts for such research.

AGENDA: Agenda items for the open portion of the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, review of the Mining Enforcement and Safety Administration coal mine health program, health research in the Bureau of Mines, activities

V 42 92 MAY 12 77 UMI

of the National Advisory Committee on Occupational Safety and Health, and the Appalachian Laboratories for Occupational Safety and Health research report. During the closed session beginning at 2:45 p.m., the Committee will be performing the final review of coal research grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in section 52b(c)(6), Title 5. U.S. Code, and the Determination by the Director, Center for Disease Control pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Any one wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentation will be scheduled at the discretion of the Chairman and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairman. At the discretion of the Chairman and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 9, 1977.

WILLIAM C. WATSON, JR.,
Director, Center for Disease Control.

[FR Doc.77-13728 Filed 5-11-77;8:45 am]

National Institutes of Health

AGING REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on June 23, 1977, in Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on June 23 for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 553b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 23 from 10:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13522 Filed 5-11-77;8:45 am]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice Ris hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 28-29, 1977, from 8:30 a.m. to 5:00 p.m. on June 28, and from 8:30 a.m. to adjournment on June 29, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 8:30 to 12:00 p.m. on June 28, for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 28 from 12:00 p.m. to 5:00 p.m. and from 8:30 a.m. to adjournment on June 29 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301-494-4191, will provide summaries of the meeting, rosters of Committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.348, 13.349, 13.351, 13.352, 13.881—National Institues of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 77-13525 Filed 5-11-77;8:45 am]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 13-14, 1977, at the Seattle Hyatt House, in the Continental Room, Seattle, Washington.

This meeting will be open to the public from 8:30 a.m. to 9:00 a.m. on June 13, 1977, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 13, 1977 from 9:00 a.m. to adjournment and from 8:30 a.m. to adjournment on June 14, 1977, for the review, discussion and evaluation of individual grant applications and individual contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13523 Filed 5-11-77;8:45 am]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, June 23, 24, and 25, 1977, Conference Room 4, building 31, National Institutes of Health, Bethesda, Maryland 20014.

The meeting will be open to the public on June 23, 1977, from 9:00 a.m. to 11:00 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public from 11:00 a.m. on June 23 to adjournment on June 25, for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephriam Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B47, Building 31, National Institutes of Health, Bethesda, Maryland 20014. (301) 496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13524 Filed 5-11-77;8:45 am]

PHARMACOLOGY-TOXICOLOGY RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pharmacology-Toxicology Research Program Committee, National Institute of General Medical Sciences, June 16-17, 1977, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on June 16 from 9:00 a.m. to 10:00 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public on June 16 from 10:00 a.m. to 5:00 p.m. and on June 17 from 9:00 a.m. to 5:00 p.m. or adjournment for the review, discussion and evaluation of individual grant applications. These applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20014, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Raymond E. Bahor, Executive Secretary, Westwood Building, Room 919, Bethesda, Maryland, Telephone: 301, 496-7707.

(Catalog of Federal Domestic Assistance Program 13-859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institutes of Health.)

Dated: May 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-13521 Filed 5-11-77;8:45 am]

Office of Education

STATE STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

Extended Closing Date for Receiving State Applications

On April 8, 1977, a notice was published in the FEDERAL REGISTER establishing May 15, 1977 as the closing date for receipt of applications from States under Section 493C of the Higher Education Act of 1965, as amended, to design and develop State Student Financial Assistance Training Programs (42 FR 18663).

To give State agencies additional time to complete these applications, the deadline for receipt of applications is hereby extended to Friday, June 10, 1977. All other requirements of the notice for the State Student Financial Assistance Training Program published on April 8 will remain in effect.

(20 U.S.C. 1088b-3.)

Dated: May 10, 1977.

(Catalog of Federal Domestic Assistance Number 13.582; State Student Financial Assistance Training Program.)

RICHARD L. MCVITY,
Director, State Student Incentive Grant Program, Bureau of Student Financial Assistance.

[FR Doc.77-13768 Filed 5-11-77;8:45 am]

Office of the Secretary

STUDENT FINANCIAL ASSISTANCE STUDY GROUP

Hearing and Meeting

The Student Financial Assistance Study Group was established by public notice on August 27, 1976, to advise the Secretary of Health, Education, and Welfare on ways to implement more effectively and efficiently the Student Financial Assistance Programs administered by the Department. These programs include the Basic Educational Opportunity Grants Program (BEOG), the Guaranteed Student Loan Program (GSL), the Supplemental Educational Opportunity Grants Program (SEOG), the National Direct Student Loan Program (NDSL), the College Work-Study Program (CWS), and the State Student Incentive Grant Program (SSIG).

Notice is hereby given pursuant to Pub. L. 92-463 that the Student Financial Assistance Study Group will hold a hearing to receive comments on recommendations which the Study Group proposes to make to the Secretary of HEW. The public hearing will be held on Thursday, May 26, 1977 in Room 305A of the South Portal Building of the Department of Health, Education, and Welfare, at 200 Independence Avenue, Washington, D.C. from 9:00 a.m. to 4:00 p.m. This is the final public hearing of the Student Financial Assistance Study Group.

INDEX OF THE PROPOSED RECOMMENDATIONS OF THE STUDENT FINANCIAL ASSISTANCE STUDY GROUP

The Student Financial Assistance Study Group here presents a series of brief statements which outline the Study Group's recommendations regarding the determination of eligibility for participation in the Federal programs, its recommendations for increasing the effectiveness and the efficiency of the delivery of student aid, and its recommendations directed at improving program management and insuring program integrity. This is not meant to be a full or final statement of the Study Group recommendations. In such brief statements, it is impossible to present the full scope of the intent as well as provide a rationale for the recommendation. These statements are intended only to give an idea of the direction of the recommendation.

INSTITUTIONAL ELIGIBILITY

1. *Two step eligibility process.*—The institutional eligibility process should be changed from the current one-step process to a two-step process. The first step, handled by the Division of Eligibility and Agency Evaluation (DEAE) should determine educational quality; the second, accomplished within the Bureau of Student Financial Assistance (BSFA) would determine financial management capability of the institution.

2. *First step-determination of basic eligibility.*—In fullfilling its continuing responsibility for Basic Eligibility, the Division of Eligibility and Agency Evaluation (DEAE) should rely on approved accrediting agencies and also on state agencies.

3. *Second step-determination of certification and compliance.*—An Office of Certification and Compliance, established within the Bureau of Student Financial Assistance (BSFA), should be responsible for the second step of the process.

4. *Alternative procedures.*—The three letter procedure should be discontinued or significantly modified. The Commissioner's approval procedure, for institutions not having access to a nationally recognized accrediting agency should be continued. The process of using State Agency approval for public Postsecondary Vocational Schools, and State Agency approval of Nurse Education should be continued. Efforts should be made to avoid the use of the Commissioner's Satisfactory Assurance Procedure.

5. *Standardization of requirements.*—Basic Eligibility requirements should be standardized from one program to another.

6. *Formal recognition of State accrediting, licensing and charter agencies.*—State accrediting, licensing and charter agencies should be recognized

V 42 92 MAY 12 77 UMI

and utilized as supportive resources as are private accrediting agencies; the Office of Education should endeavor to strengthen the role of these groups.

7. *Information network exchange.*—A national network should be established to exchange information on eligibility issues. (Such a network might include DEAE, national accrediting associations, state accrediting, licensing, and charter agencies, the Federal Trade Commission, the Veteran's Administration, etc.

8. *Contracting between eligible and non-eligible institutions.*—The Commissioner should limit and control the extent of services which an eligible institution may contract from an ineligible institution.

STUDENT ELIGIBILITY

1. *Common definition.*—Criteria for student eligibility should be consistent for all SFA programs except GSL.

2. *Need definition.*—There should be a common and consistent statutory definition of the term "need" for Basic Grant and campus-based programs.

3. *Student expense budgets.*—Institutions of postsecondary education, in making financial aid awards, must be obliged to use student budgets which are consistent with published institutional literature. The Office of Education should support the development and publication of a manual of budget construction.

4. *Defining the independent/self-supporting student.*—The current definition of "independent student" needs immediate resolution.

5. *Use of need analysis systems for independent students.*—Institutions should be prohibited from including a living allowance in the budget for an independent student when the need analysis system used has provided for such an allowance.

6. *Equitable packaging procedures.*—Fair packaging procedures should be encouraged but uniformity in this regard should not be mandated by Office of Education.

7. *Progress requirement.*—A student should successfully complete a minimum number of credits in order to be eligible for financial aid.

8. *Duration and funding limitations.*—An overall maximum monetary limit should be placed on an individual student's eligibility for College Work-Study.

9. *Part-time students.*—Research is needed to better understand the needs of the part-time student and the impact his financial needs will have on postsecondary education, thereby testing the necessity for a separate set of student expense budgets.

10. *Correspondence school students.*—Specialized regulations are needed to address the unique circumstances of correspondence school students.

LENDER ELIGIBILITY

1. *Unregulated lender requirement.*—Unregulated lenders (educational institutions) should demonstrate organizational and managerial capability equal to that of regulated financial institutions (banks).

2. *Educational institutions lender certification.*—The Office of Education should establish certification standards and criteria, including a formal agreement, to determine adequacy of educational lenders.

3. *Annual agreement or contract provisions.*—Office of Education and/or State guarantee agencies should formally contract with lenders on an annual basis to maintain standards of participation.

4. *Reporting and control system.*—Office of Education and/or State agencies should measure performance of educational and other non-regulated lenders through an established reporting and control system.

5. *HEW audit guidelines.*—HEW Audit guidelines should be developed for the audit of regulated and non-regulated lenders.

6. *Lender on-site compliance reviews.*—On-site compliance reviews should be made of all lenders prior to approval and on a regular basis during participation in the program.

7. *Improving communications between and providing training for guarantors and participating lending institutions.*—Communication between guarantee agents (Office of Education or State guarantee agencies) and lenders must be strengthened. Training sessions, the use of advisory groups and the greater use of regional offices are ways to accomplish this.

8. *Encouraging good lender portfolio management practices.*—A variety of techniques should be employed to encourage good lender portfolio practices including training, development of manuals, compliance review and the like.

9. *Encouraging increased State participation.*—Office of Education should increase its efforts to encourage the participation of additional states in the Guaranteed Student Loan program. An indepth study should determine optimal methods of program administration and develop models for the use of additional state participants.

10. *Lender assistance in dissemination of student financial aid information.*—All guarantee agents should establish and coordinate a student information resource system to provide loan officers with eligibility requirements and current availability information on other sources of Student Financial Assistance.

11. *Student borrower pre-loan counseling.*—All borrowers should be counseled to understand obligations and responsibilities of the program prior to the disbursement of the loan funds.

12. *Development of regulations pertaining to the guaranteed student loan program.*—Joint meetings between the Office of Education and all guarantee agents should be convened regularly to promote common interpretation of policy, law and regulations and achieve uniform procedures.

13. *Implementation of the escrow system.*—The proposed Escrow System should not be implemented until a thorough review of all feasible alternatives to the system has been completed.

14. *Responsibilities of educational institutions which do not participate as lenders in the guaranteed student loan program.*—Non-lending eduactional institutions whose students borrow in the Guaranteed Student Loan program should be required to assume management responsibilities in the program, such as counseling of students, certification of student eligibility and timely notification of student termination and graduation.

15. *Review guaranteed student loan program participation of non-lenders.*—Program compliance visits to educational institutions for programs other than the Guaranteed Student Loan program should include a review of that program.

16. *Certification and limit, suspension and terminate processes—State agencies.*—Procedures for Limit, Suspension, and Termination action in the Guaranteed Student Loan Program delegated to state and private non-profit guarantee agencies should be more clearly defined.

17. *Joint site visits between OE and State agencies.*—The Office of Education and State agencies should conduct joint site visits of institutions of higher education and financial institutions.

INFORMATION FOR STUDENTS AND PARENTS

1. *Coordination of efforts.*—A clearinghouse should be established for all student assistance information activities for Federal, State, institutional and community-based programs.

2. *State agency programs.*—State initiated information programs should be encouraged through the identification of exemplary programs and through incentive grants to improve information dissemination.

3. *Institutional initiatives.*—Institutional information initiatives must be encouraged by providing training seminars, identifying and disseminating exemplary materials and assisting institutions in the refinement of their materials.

4. *Scope of information content.*—The content of information efforts should be balanced and comprehensively directed toward improving student access, choice, retention, and student protection.

5. *Information dissemination audiences.*—Information dissemination efforts should be targeted to obtain cooperation of all media, education and student associations, should appeal to all audiences, all academic levels, traditional and non-traditional, people of all socio-economic backgrounds as well as to all who are in a position to influence educational decisions.

STUDENT APPLICATION PROCESS

1. Common Financial Aid Data Collection System (CFADC). A student application system should be implemented to make it possible for a student to supply financial data only once a year in order to have family financial strength analyzed.

2. *Base year family financial data.*—In the final assignment of Federal funds only verifiable year-end data on the family financial situation should be used.

1. *Data validation.*—The Common Financial Aid Data Collection system should include a coordinated data validation component.

2. *Identification of common data elements and establishment of common definitions.*—The common data elements and definitions which will permit the Common Financial Aid Data Collection to operate should be identified by the Office of Education, private need analysis services and state scholarship and grant agencies with all practical speed in order to have full implementation of the system for the academic year 1978–79.

3. *The Basic Education Opportunity Grant application deadline date.*—The deadline for filing the application for Basic Educational Opportunity Grant should be extended to a later point in the program year.

4. *The Basic Educational Opportunity Grant appropriations procedures.*—The appropriation procedures for the Basic Educational Opportunity Grant Program should either fix the dollar amount of the appropriation on the basis of the best projection of needed funds or agree to an established payment schedule.

THE FUNDING APPLICATION PROCEDURE FOR STUDENT FINANCIAL ASSISTANCE

1. *Requirements of a funding process.*—The process designed to assign campus-based funds to participating institutions must be simple and straightforward; understandable to all concerned; provide equity; and be consistent from state to state, region to region, and institution to institution.

2. *Developing a new institutional funding process.*—A new method of fund allocation should be developed and fully operational for use in 1979–80 (Fall 1978). The development of the 1979–80 funding process should be "transitional" in that revisions in the 1978–79 process should be consistent with the approach to be utilized in 1979–80.

3. *Developing a new institutional funding process.*—The 1978–79 process should fund all institutions at a level which bears a reasonable relationship to current levels, attempt to correct gross inequities and be flexible to accommodate new institutions.

4. *Establishment of a working group.*—The Commissioner should immediately establish a working group to assist in the development of new approaches to the funding process. The committee's oversight role should continue until a permanent fund allocation system is in place and operational (September 30, 1978).

5. *Reducing the reporting burden.*—One data collection document should be developed which would replace both the Fiscal Operations Report and the application for new funding.

STATE ALLOCATION SYSTEM

1. *An appropriate conceptual framework for the institutional Application and State Allocation Procedures.*—The established working committee should consider the incongruities between procedures utilized to bring funds to States and those used to distribute funds within States.

2. *The assignment of the ten percent discretionary funds.*—The Working Committee that is asked to develop the new institutional application and State Allocation Procedures should, as part of its task, review the need for the ten percent discretionary funds to be allocated in a manner different from the allocation of the ninety percent statutory funds.

3. *Revising the State allocation formulae.*—Variables utilized in the State allocation formulae should be changed to be consistent with the eligible populations being served by these programs.

PAYMENTS OF FUNDS TO INSTITUTIONS AND TO STUDENTS

1. *Payment of funds control.*—Procedures should be established immediately between the Office of Education and Departmental Federal Assistance Financing System, to deobligate promptly and prevent the release of improper payments to institutions for campus-based and Basic Educational Opportunity Grant programs.

2. *Payment of funds control.*—Controls should be established to assure that the cash draw and cash balances of schools as reported to Departmental Federal Assistance Financing System are reconciled to those approved and canceled by the Office of Education. Differences should be investigated and corrected promptly.

3. *Cash utilization verification.*—Cash utilization reports submitted to Departmental Federal Assistance Financing System and the Office of Education by institutions of postsecondary education should be verified to the accounting records of schools as a normal part of the on-site reviews of schools.

4. *Basic educational opportunity grant alternative disbursement system.*—The need for the Basic Educational Opportunity Grant Alternative Disbursement System should be reassessed with consideration given to a timely phase-out of the procedure.

5. *Payments to students by institutions (Basic Educational Opportunity Grant and Supplemental Educational Opportunity Grant Programs).*—Payments to students should reasonably relate to their expenses over their period of attendance, and be conditioned upon their continued goodstanding (satisfactory progress). Cash draw downs by schools from Departmental Federal Assistance Financing System should reflect the actual student payments.

ORGANIZATIONAL STRUCTURE

1. *Single administrative unit.*—All six student financial aid programs should be consolidated into a single administrative unit.

2. *Appropriate level in hierarchy.*—This single administrative unit should be placed in this hierarchy of the Office of Education at an appropriate level to facilitate its operation: this suggests a bureau level.

3. *Functional lines.*—The Administrative Bureau should be organized along functional lines rather than program lines.

4. *Operations division.*—Separate units should be established within an Operations Division to perform the operations activities of the loan and grant program.

5. *Departmental Federal assistance financing system.*—The Division of Eligibility and Agency Evaluation should remain separate from the Student Financial Assistance organization. A separate certification division should be established within the Bureau of Student Financial Assistance to certify a school's participation in the Student Financial Assistance programs.

REGIONAL OFFICES

6. *Organizational structure.*—The organizational structure of the Regional Offices should be compatible with the Central Office in those areas where they have authority and responsibility.

7. *Authority clearly set out.*—Respective authorities and responsibilities of the Regional Offices and headquarters must be set out clearly.

8. *Standard policies and procedures.*—Standard policies and procedures must be established for Regional Office operations.

ORGANIZATION—STAFFING

1. *Number of employees.*—Staffing levels need to be adequate to ensure proper control throughout the process.

2. *Qualifications.*—Qualifications for filling these staffing needs must call for individuals able to handle this type of responsibility.

TRAINING THE FINANCIAL AID OFFICER

1. *Training in the management of student financial assistance programs.*—The Office of Education should give incentive and guidance in the development of a comprehensive training program directed toward those involved in the management of Student Financial Assistance programs.

MANAGEMENT

Management information reporting.—The Bureau of Student Financial Assistance should provide its managers with periodic status reports on its various operations.

2. *Collection of data.*—Data collection activities of the various Student Financial Assistance programs should be coordinated and, when possible, consolidated.

3. *Computer utilization.*—Health, Education, and Welfare should undertake a full scale review of all Student Financial Assistance computer operations.

4. *Personnel management.*—The job description of the Student Financial Assistance Staff at Headquarters and in the

V 42 92 MAY 12 77 UMI

Regions be revised to more accurately describe the duties actually performed and that common job descriptions be written for like duties.

5. *Consolidation of progress reports.*—The campus-based Fiscal Operations Reports should be consolidated with the Basic Educational Opportunity Grant Progress Reports.

6. *Elimination of Basic Educational Opportunity Grant Progress Report.*—The Basic Educational Opportunity Grant procedure for processing school progress reports and for making adjustments to school payment authorizations should be reassessed.

7. *Coordination with other Federally supported student financial assistance programs (outside of the Office of Education.*—Efforts should be made to provide closer coordination and interaction between other Federal programs that provide financial assistance to students and the programs operated by the Office of Education.

8. *Statement of intent and purpose.*—The Office of Education should promulgate a statement which, in accordance with available evidence of Congressional intent, clearly sets out the national purpose of the Student Financial Aid programs. Such a statement should explain the relationship among the several programs and the relationship between the Federal funds and non-Federal student aid funds.

9. *Streamlining the regulation process.*—The Office of Education should streamline the process for writing regulations to facilitate their distribution on a more timely basis. A single organizational unit within the Bureau of Student Financial Assistance should be responsible for the development and publication of all regulations to insure their compatibility and consistency.

10. *Regulation coordination.*—Immediate attention must be given to ensure that new regulations now being written in response to the various provisions of Education Amendments of 1976 are not only coordinated with each other but also with other existing relevant regulations.

11. *Manual issuances.*—The Office of Education should give immediate attention to the development and dissemination of an integrated set of guidelines or manuals governing all financial aid programs administered by the Bureau of Student Financial Assistance.

12. *Establishment of support centers (regional offices).*—The Study Group recommends that the Regional Office be designated as the OE program support center, and that the Central Office of Education give consistent policy direction to these Regional Offices so that a uniform interpretation of rules, regulations, and program management directives is achieved.

13. *Policy changes—National Direct Student Loan.*—The cancellation provisions in the National Direct Student Loan program should be dropped. Between student and school the grace period and loan payment amounts should be negotiable within established limits. Institutions should be allowed to write off uncollectible loans after all efforts at due diligence have failed. Increased efforts should be made to consolidate loans in repayment status in order to reduce multiple payments.

14. *Policy changes—Basic Educational Opportunity Grant.*—The Basic Educational Opportunity Grant entitlement as presented on the Payment Schedule should be for periods of attendance of 8 months or more. Institutions with school years of more than 8–9 months should have the option of disbursing over a period of between 8 months and Basic Educational Opportuntiy Grants the actual length of the school year.

Average costs should be used for students' on-campus room and board rather than actual cost.

The computation used for summer awards, refund policy and other items not covered in the Basic Educational Opportunity Grant Handbook should be addressed immediately by the Office of Education.

The Payment Schedule development should be timed in such a fashion so as to allow its distribution at approximately the same time as the Basic Educational Opportunity Grant applications to which it will relate.

Student Eligibility Reports should be accepted for Basic Educational Opportunity Grant computation by the institution only for the period during which it is submitted or subsequent periods during the academic year.

Information concerning dependent student earnings should be collected on the Basic Educational Opportunity Grant application to better assess the contribution to be expected from the family unit.

15. *Policy changes—Supplemental Educational Opportunity Grant.*—The difference between Supplemental Educational Opportunity Grant initial year and continuation years should be eliminated.

The "matching" requirement should be eliminated.

16. *Policy changes—College Work-Study Program.*—Institutions should be allowed to transfer students who have earned full College Work-Study Program eligibility to college payroll without penalty of overawarding.

Student should not be able to use the loss of College Work-Study employment in filing claims for unemployment compensation or similar programs designed to support the regular workers who are unemployed.

Work-Study utilization rates used in computing institutional program effectiveness should take into account the large number of variables in the employment program.

Institutions should be allowed to carry over unused College Work-Study funds from one award period to the next.

17. *Transfer of funds between campus-based programs.*—The Study Group recommends more flexible procedures to cover the transfer of funds between the campus-based programs (National Direct Student Loan, College Work-Study Program, Supplemental Education Opportunity Grant).

18. *Reallocation of unused funds.*—The Study Group recommends that the Regional Offices of Education be given final responsibility for reallocating unused funds between institutions and between states.

19. *Combining the National Health Professions Federally Insured Loan Program and the Guaranteed Student Loan Program.*—The Study Group recommends that the National Health Professions Federally Insured Loan Program be eliminated as a separate program and that the Guaranteed Student Loan Program be restructured to provide for increased loan limits to students in the health professions.

20. *Payment of administrative allowance to schools.*—Institutions of postsecondary education should be paid an allowance for the costs incurred in administering the Student Financial Aid programs. The amount of these allowances should be established thru a representative sample survey undertaken to identify the costs involved in the administration of all student aid programs to establish as basis for reimbursing institutions for the administration of federal aid programs.

21. *Verification of student information by schools.*—The Study Group recommends the promulgation of regulations for the Basic Educational Opportunity Grant, National Direct Student Loan, College Work-Study Program, Supplemental Educations Opportunity Grant, and Guaranteed Student Loan programs which clarify and extend institutional responsibility for comparing and verifying information received from different sources for each recipient of Federal funds.

22. *Verification of income through Federal records.*—Students should be asked upon application to give permission to utilize IRS and other Federal records to verify income and aid in the collection of loans.

23. *Financial aid transcripts.* The Study Group recommends that the Office of Education assist in developing a standard financial aid transcript for use by school in monitoring students' financial aid.

24. *Preventing abuse through student bankruptcy.*—The Study Group recommends that the Secretary communicate to the appropriate member of Congress the wisdom of keeping in effect the provision of the Education Amendments of 1976 which limits the dischargeability of federally insured education loan debts through the filing of a petition of bankruptcy, and indicate to those members of Congress the Department's opposition to Section 436 of HR. 6.

25. *Student repayment computation.*—The Study Group recommends that the Office of Education establish a common, simple methodology for crediting repaid advances made to students back to the SFA programs from which the advances were originally paid.

26. *Payment of disability claims.*—The Study Group recommends that the Secretary take immediate action to insure expeditious processing of permanent and total disability claims.

27. *Information for planners and evaluators.*—The Study Group recommends that the Office of Education undertake a series of studies to evaluate whether existing programs are fulfilling their intended purposes, to identify and evaluate actual and perceived barriers to the equitable distribution of financial aid, to ascertain the ramifications implicit in expected changes in the size of the eligible populations, possible changes in social security and veterans' benefits, new enrollment patterns among potential students, etc., and to simulate alternative ways to distributing funds.

28. *Institutional management and organization.*—The Study Group recommends that the office of Education include as a part of the conditions specified in the terms of agreement (1) that written policies, procedures and guidelines governing Student Financial Aid programs be developed (2) that appropriate staff be assigned to the Student Financial Aid process to carry out such policies and procedures (3) that short term and long-range plans be available describing the use of Federal aid dollars in relation to the institution's total aid program.

29. *Implementing limit-suspend-terminate authority.*—The Study Group recommends that the Office of Education immediately issue regulations and procedures to implement its legislative authority to limit, suspend, or terminate schools and lenders participating in the Student Financial Aid programs which fail to comply with program requirements.

The regulations should assure a fair hearing for institutions against which such actions are initiated.

However, the regulations should provide for immediate, temporary suspension of institutions where necessary to protect the integrity of the programs or the interest of the Government.

A network should be established to assure the communications of timely current information on actions pending or taken under the Limit, Suspend and Terminate process. The Office of Education should maintain and publish a current listing of certified institutions.

30. *Limit, suspend and terminate—basic eligibility and compliance actions.*—The Study Group recommends that the Office of Education regulations on Limit, Suspend, and Terminate distinguish between those actions related to the responsibilities of the Division of Eligibility and Agency Evaluation and those responsibilities of the Bureau of Student Financial Assistance.

Provision should be made whereby State Guarantee Agencies may be delegated authority to take compliance actions where appropriate and necessary.

31. *Designated Office of Education official.*—The Limit, Suspend and Terminate regulations should identify a single Office of Education official as the deciding officer for making emergency action, suspend, limit, or terminate decisions. This official should be the Deputy Commissioner of the Bureau of Student Financial Assistance who should delegate his authority to the Regional Commissioner and State Guarantee Agency as deemed appropriate and necessary. The decision of the deciding official should be appealable to an independent Board of Appeals or an Administrative Law Judge reporting to the Commissioner of Education.

32. *Limit, suspend, and terminate. regulations—separate procedures.*—The Study Group recommends that new regulations distinguish between and provide separately for suspension, limitation, and termination proceedings. The Deputy Commissioner of the Bureau of Student Financial Assistance or his designee should be able to initiate proceedings under each of these provisions in the order deemed necessary rather than as currently specified in the proposed regulation.

33. *Limit, suspend and terminate regulations—clarity of terms.*—The Limit-Suspend-Terminate regulations should not contain ambiguous terms or language with unclear meanings.

34. *Staff and other resources for effective implementation.*—The Study Group recommends that the Office of Education the Department of Health, Education and Welfare and the Office of Management and Budget carefully review the Office of Education's capability to implement new regulations on Limit, Suspend, and Terminate actions and that appropriate actions be taken to insure that sufficient staff and other resources are available to meet the need for effective and timely administrative action.

35. *Limit, suspend, and terminate—emergency action.*—The Limit, Suspend, and Terminate regulations should provide for emergency action, i.e., immediate suspension of an institution's authority to participate in one or more Student Financial Aid programs. An institution, against which an emergency action has been taken, should be afforded opportunity for a fair hearing. However, an appeal of an emergency action by itself should not act to delay the initiation of the emergency action.

36. *School/lender fiscal and program reviews.*—The Office of Education should work jointly with State Guarantee Agencies, the Office of the Inspector General (OIG) and in coordination with the Association of Independent Certified Public Accountants to develop audit guides and instructions for use in onsite reviews by independent auditors, Office of the Inspector General and Student Financial Aid staff. The Office of Education, the Regional Office and the State Guarantee Agencies should coordinate the on-site reviews of schools and lenders to prevent multiple and duplicative visits to the same institution. Required biennial audits of schools and lenders should be the foundation upon which on-site reviews are scheduled. Maximum reliance should be placed upon independent auditors, state auditors and the Office of the Inspector General for the conduct of reviews. Student Financial Aid staff on the other hand should concentrate on performing priority reviews in accordance with prescribed guidelines performing special reviews as deemed necessary by the Bureau of Student Financial Assistance, and providing support services to institutions.

Procedures should be established whereby those institutions which are known or potential high risks can be identified and reviewed on a priority basis.

Dr. John A. Perkins, Chairman of the Student Financial Assistance Study Group, will preside at the hearing. Persons wishing to testify are encouraged to limit their oral statements to 10 minutes. Requests to testify should be submitted in writing to: Mrs. Mary Jane Calais, Staff Director, Student Financial Assistance Study Group, Room 325H, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245–9855. Requests to testify should reach Mrs. Calais not later than May 20, 1977. Persons wishing to present written statements for the record are encouraged to do so. Such written statements should be received by the Student Financial Assistance Study Group not later than May 20, 1977.

The hearing will be open for public observation.

Pursuant to Public Law 92–463, notice is also hereby given of a meeting of the Student Financial Assistance Study Group to be held on Friday, May 27, 1977 from 8:30 a.m. until 12:00 noon in Room 339A of the HEW South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

On Saturday, May 28, the Study Group will meet in Room 305A from 8:30 a.m. until 4 p.m.

The meeting will be used to review and discuss the final report and to make final staff work assignments. Members of the public are invited to attend the meeting; but due to limited meeting accommodations, reservations are recommended. Persons wishing to attend should notify the Study Group Staff Director by mail at Room 325H, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201, or by telephone at (202) 245–9855.

MARY JANE CALAIS,
Staff Director, Student Financial Assistance Study Group.

[FR Doc.77-13582 Filed 5-11-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-77-753]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Grantee Performance Reports

AGENCY: Office of Community Planning and Development, Department of Housing and Urban Development.

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ACTION: Notice soliciting comments on Grantee Performance Report.

SUMMARY: HUD is soliciting comments concerning the utilization and improvement of its Grantee Performance Report in connection with the Community Development Block Grant Program.

DATE: Comments are due by June 1, 1977.

ADDRESS: Room 7276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Earl Kunkel, phone number (202) 755–6300.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)) establishes the requirement that recipients of community development block grants under Title I of the Act submit an annual performance report to the Department of Housing and Urban Development. That section reads as follows:

Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each grantee shall submit to the Secretary a performance report concerning the activities carried out pursuant to this title, together with an assessment by the grantee of the relationship of those activities to the objectives of this title and the needs and objectives identified in the grantee's [application] • • •.

In response to Section 104(d), the Department established a series of reporting forms called the Grantee Performance Report (GPR) which is required to be submitted at least 30 days, but not more than 60 days, prior to submission of an annual entitlement application. Discretionary grantees are required to submit a GPR either upon completion of approved activities or prior to submission of an application for a subsequent discretionary grant.

The GPR was designed to serve three different levels or types of needs. First, the GPR was designed to help citizens in units of general local government know and understand what is being done with community development block grants and what progress is being made, and to help meet program management needs of local officials.

Second, the GPR is used by HUD field staff to evaluate recipients' performance in carrying out block grant programs. The GPR was designed to report on progress in carrying out approved activities, including actual expenditures per activity and actual beneficiaries—both of which may have varied from that indicated in the application. In addition, it is designed to report on compliance with statutory and regulatory requirements, block grant performance standards, and assurances.

Third, the GPR was designed as a principal means for collecting data for national evaluation of the block grant program and for reporting on the program to the Congress and the public. In this regard, separate reporting requirements normally associated with Federal grant programs, such as fiscal reports and physical progress reports, were not established.

The present GPR forms were first required in connection with applications submitted in Fiscal Year 1976 and the GPR covered approximately the first eight months of the first program year. Because of the late date that the forms were first made available, not all entitlement applicants used the present forms in Fiscal Year 1976. All entitlement applicants are using the present forms for Fiscal Year 1977 applications and the period covered by the report is from the inception of the program to the date of the report, approximately 18 to 20 months.

The Department is now soliciting public comment on the GPR to determine whether changes and improvements may be needed. Comments are requested from local officials and interested persons and organizations on how the GPR may better serve local objectives and needs. Comments should be directed to either or both of the following objectives: better serving the needs of citizens and local officials for information on the block grant program, and simplifying grantee reporting, consistent with statutory requirements.

Interested persons may obtain copies of the report forms from any HUD Area or Regional Office.

In developing comments, respondents are requested to give consideration to the following items.

WHEN IS THE MOST APPROPRIATE TIME TO SUBMIT THE GPR?

1. Prior to submission of the application. Block grant regulations currently require the GPR to be submitted at least 30 days, but not more than 60 days, prior to submission of the application.

2. Concurrently with submission of the application. This was the policy for submission of GPR's in Fiscal Year 1976.

3. At the end of the program year. The GPR could be required 30, 60 or 90 days after completion of the program year.

4. At fixed dates. The GPR could be required as of June 30, or December 31, for instance, for all recipients regardless of the timing of a particular recipient's program year.

5. At different times for different elements of the report. The report on financial matters or progress on planned activities for instance, could be submitted at a different time from reporting on compliance with program requirements.

WHAT SHOULD BE THE BASIS AND REPORTING PERIOD OF THE GPR?

1. The most recent approved application. The report could cover the previous year's Community Development Program and Housing Assistance Plan (HAP). This would entail an activity-by-activity comparison of actual accomplishment against the most recent application.

2. All approved applications from the inception of the program. This is the format for the report required in Fiscal Year 1977. This entails an activity-by-activity comparison of accomplishment against all previously approved applications, excluding only those activities previously reported as completed or deleted.

3. Program accomplishment without regard to year of approval. This would not entail an activity-by-activity comparison against any particular application but would require reporting any activities carried out during the reporting period which are included in any previous year's application.

4. Different reporting periods for different activities. For instance, some activities could be reported on a cumulative basis whereas other activities could be reported on a program year basis.

WHAT SHOULD THE CONTENT OF THE GPR INCLUDE?

1. What are the best indicators of progress in accomplishing approved activities? Should the GPR focus on particular activities as indicators of progress? If so, which ones?

2. What are the best indicators of progress in accomplishing approved HAP's? Should the report be based on one-year HAP goals, three-year HAP goals, or both?

3. How should compliance with program requirements, such as civil rights and equal opportunity, environment, relocation and labor standards, be best demonstrated? Can reports prepared for other programs or Federal agencies be activities? Should the GPR focus on partutilized for the black grant program?

4. To what extent should the report include narrative statements as opposed to statistical tables or forms? To what extent is it necessary or appropriate to explain problems or delays encountered, revisions made, or particularly noteworthy accomplishments?

OTHER ITEMS

1. Should separate reporting requirements be established for discretionary grantees? What should be the content of such reports, the timing, or the frequency?

2. Would different reporting requirements for urban counties facilitate improved local program management and increase citizen understanding of the program?

3. Should there be specific requirements for publication, distribution, or access to the GPR? Should submission of the GPR to A–95 clearinghouses be mandatory or optional?

All comments and suggestions pertaining to the above issues as well as to any other GPR-related issues which are received before June 1, 1977, will be carefully considered. Comments should be addressed to:

Assistant Secretary for Community Planning and Development, Attention: Program Standards Division, Room 7276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Issued at Washington, D.C. on May 5, 1977.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc.77-13511 Filed 5-11-77;8:45 am]

Federal Disaster Assistance Administration

[Docket No. NFD–477]

LOUISIANA

Declaration of Disaster Areas

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FDAA–534–DR), dated May 2, 1977, and related determinations.

DATED: May 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202–634–7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 2, 1977, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding beginning about April 20, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Louisiana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Joe D. Winkle, FDAA Region VI, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster.

The Parishes of:

Ascension	Livingston
East Baton Rouge	St. Landry
East Feliciana	St. Martin
Lafayette	Tangipahoa

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13529 Filed 5-11-77;8:45 am]

[Docket No. NFD–476]

TENNESSEE

Declaration of Disaster Area

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Tennessee (FDAA–533–DR), dated April 29, 1977, and related determinations.

DATED: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202–634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 29, 1977, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms and flooding beginning about April 4, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Tennessee.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster:

The Counties of:

Anderson	Hancock
Campbell	Roane
Claiborne	Scott

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13531 Filed 5-11-77;8:45 am]

[Docket No. NFD–475]

OREGON

Declaration of Disaster Areas

AGENCY: Federal Disaster Assistance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Oregon (FDAA–3039–EM), dated April 29, 1977, and related determinations.

DATED: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development Washington, D.C. 20410, (202–634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 29, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Oregon is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of Oregon.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. William H. Mayer, FDAA Region X, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Gilliam	Lake
Harney	Malheur
Klamath	Sherman

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13532 Filed 5-11-77;8:45 am]

V 42 92 MAY 12 77 UMI

New Communities Administration

[Docket No. N-77-754]

JONATHAN NEW COMMUNITY PROJECT

Intent to Issue an Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Communities Administration Washington, D.C. intends to issue a Draft Environmental Impact Statement (EIS) for the Jonathan New Community project located in Carver County/Chaska, Minnesota.

Jonathan is located approximately 25 miles south of Minneapolis. More specifically, the project area lies within the City of Chaska and the Township of Laketown in Carver County, Minnesota.

As a result of the project's severe financial difficulties, the New Communities Development Corporation (NCDC) Board of Directors is contemplating a number of alternative acquisition and disposition/development options for the Jonathan New Community project. The EIS will evaluate the environmental impact of these alternative actions for the NCDC Board's consideration together with other factors in determining what alternative action to pursue. These alternative actions include:

1. *Alternative I—the "Non-Development" Alternative.*—This alternative assumes that the New Communities Administration (NCA) will be unsuccessful in securing a developer for the project and consequently no new development will be undertaken and the project will be disposed of. This alternative would limit the project to the existing development comprising about 414 acres, 944 housing units, some commercial, industrial, parks and recreation facilities and about 2,860 people.

2. *Alternative II.*—This alternative assumes additional development to the extent of filling in vacant lots within the existing platted property. It would produce a development comprising about 665 acres, 1,800 housing units, commercial, industrial, parks and recreation and school facilities and about 5,670 people over 5 years.

3. *Alternative III–the "Village I" Alternative.*—This alternative assumes completion of Village I. It would produce a development comprising about 918 acres, 2,532 housing units, commercial, industrial, parks and recreation and school facilities and about 7,773 people 10 years.

4. *Alternative IV—the "Infrastructure" Alternative.*—This alternative assumes that existing infrastructure will be utilized to its optimum level. It would produce a development comprising about 1,653 acres, 5,272 housing units, commercial, industrial, parks and recreation and school facilities and about 15,816 people over 20 years.

5. *Alternative V—the "Single Family" Alternative.*—This alternative assumes that development of Jonathan will be composed of a number of small-scale, private residential planned unit developments. It would produce a development comprising about 4,000 acres, 13,402 housing units, commercial, industrial, parks and recreation and school facilities and about 40,200 people over 30 years.

6. *Alternative VI—the Original Title VII Approved Project.*—This alternative assumes continuing development of the Jonathan project as approved by HUD in 1970. It would produce a development comprising about 8,194 acres, 15,504 housing units, commercial, industrial, parks and recreation and school facilities and about 50,000 people over 20 years.

Copies of the Draft EIS will be available on or around June 2, 1977. The comment period on the Draft EIS will be 45 calendar days.

Comments concerning the subject of this notice are invited from all affected and interested parties.

Please send comments by May 27, 1977 to:

Earl DeMaris, Deputy Administrator for Project Support and Development, Attn: Leo Stein, U.S. Department of Housing and Urban Development, New Communities Administration, 451 7th Street SW., Room 7134, Washington, D.C. 20410, Telephone 202-755-6092.

Issued in Washington, D.C., May 5, 1977.

Dated: April 28, 1977.

EARL DEMARIS,
Acting Deputy General Manager and Administrator, New Communities Administration.

Dated: April 11, 1977.

FRANCIS G. HARES,
Concurrence, Office of Environmental Quality.

GRANT E. MITCHELL,
Concurrence, Office of General Counsel.

[FR Doc.77-13733 Filed 5-11-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-12926]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The General Services Administration, on April 22, 1977, filed application, Serial No. AA-12926, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws and mineral leasing laws, subject to valid existing rights:

A tract of land in section 14, T. 28 S., R. 53 E., Copper River Meridian, Alaska, described as follows:

Beginning at International Boundary Monument No. 146, Latitude 59°27'02.511" N., Longitude 136°21'38.468" W.; thence N. 64°15'00" E. along the International Boundary of Canada and the United States, a distance of 17.09'; thence S. 72°05'15" E. along the southerly right-of-way of the Haines Highway, a distance of 86.91'; thence S. 64°15'00" W.—652.39' to a point on the meander line of the north shore of Klehini River; thence N. 81°16'15" W.—105.99' to a monument on the northerly shore of Klehini River on the International Boundary dividing Canada and the United States; thence N. 64°15'00" E., along the aforementioned International Boundary Line a distance of 659.80' to Boundary Monument No. 146, the point of beginning.

Containing 0.92 of an acre.

The applicant agency desires that the lands be withdrawn and reserved for a border station. These lands are presently withdrawn by Proclamation No. 1196 of May 3, 1912 as a border reserve, and the effect of this proposed order would be to transfer administrative jurisdiction over them to General Services Administration.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before June 22, 1977.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, on or before June 22, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 7252.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc.77-13575 Filed 5-11-77;8:45 am]

[Serial Number A 9973]

ARIZONA

Proposed Withdrawal and Reservation of Lands for Military Purposes

The United States Army, Corps of Engineers, on behalf of the Department of Defense, has filed application A 9973 on April 11, 1977, for the withdrawal of lands described below from settlement, sale, location or entry under the public land laws, including the mining and mineral leasing laws and disposal of materials under the Act of July 31, 1947, as amended (30 U.S.C. 601,602), except such lands and resources shall be subject to such use, appropriation or disposition as the Secretary of the Interior shall determine to be consistent with Executive Order 8038, of January 5, 1939 and Public Land Order 5493 of May 21, 1975, with the approval of Secretary of Defense.

The applicant desires to continue using the lands already included in the Luke-Williams Air Force Range, described below as Area "A" and "B" for defense purposes in training aircraft pilots by the United States military forces. Lands described below in Area "C" lie outside the existing range and will be used in support of the Luke-Williams range training program as a safety buffer zone to preclude inadvertent incidents over off-range lands.

On or before June 13, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (hereinafter referred to as the Act), an opportunity for public hearing is hereby afforded. Anyone who desires a public hearing on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before June 13, 1977. If a public hearing is scheduled, notice will be published in the FEDERAL REGISTER giving the time and place of such hearing.

All of the Federal lands described in Area "A" and "B" are presently segregated from operation of the public land laws by virtue of Public Law 87-597 of August 24, 1962 (Luke-Williams Air Force Range) which Public Law will expire August 23, 1977. The lands described in Area "A" are also segregated to the extent provided by Executive Order 8038 of January 25, 1939 and Public Land Order 5493 of March 21, 1976 (Cabeza Prieta National Wildlife Refuge).

Effective as of May 12, 1977, all of the lands described below in which the United States has an interest in or which may be acquired by the United States in the future by exchange or acquisition, shall be segregated from entry as specified above for a period of two years unless the application is approved or rejected prior to that date. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

The applicant will be required to prepare an environmental assessment and/or environmental impact statement pursuant to the Environmental Policy Act of 1969, 43 U.S.C. 4321.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will submit a legislative proposal to the Congress of the United States for its consideration to determine whether the lands will be withdrawn as requested by the applicant agency.

The lands involved in the application are described below and are delineated on Map designated as "Luke Air Force Range, Public Land Withdrawal," Drawing No. 11-M-169 which is on file in the Arizona State Office, Bureau of Land Management, in case file A 9973.

All correspondence in connection with this withdrawal should be directed to the undersigned officer, Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

GILA AND SALT RIVER MERIDIAN, ARIZONA

AREA "A"

T. 14 S., R. 8 W., unsurveyed
Secs. 19 to 21 and 28 to 33, incl.,
T. 15 S., R. 8 W., unsurveyed
Secs. 4 to 9, incl., Secs. 16 to 21, incl., and Secs. 28 to 33, incl.,
T. 16 S., R. 8 W., unsurveyed
Secs. 4 to 9, incl., Secs. 16 to 21 incl., and Secs. 28 to 33, incl.,
T. 17 S., R. 8 W., unsurveyed
Secs. 4, 5, 6, 8, and 9,
T. 14 S., R. 9 W., unsurveyed
Secs. 16 to 36, incl.,
T. 15 S., R. 9 W., unsurveyed
T. 16 S., R. 9 W., unsurveyed
T. 17 S., R. 9 W., unsurveyed
T. 14 S., R. 10 W., unsurveyed
Secs. 13 to 36, incl.,
T. 15 S., R. 10 W., unsurveyed
T. 16 S., R. 10 W., unsurveyed

Containing 140,570.00 acres more or less.

AREA "B"

T. 8 S., R. 12 W.,
T. 9 S., R. 12 W.,
T. 8 S., R. 13 W.,
Secs. 1 to 4 incl.,
Sec. 5, Lot 1 and S½,
Sec. 6, SE¼SE¼,
Sec. 7 to 36, incl.
T. 9 S., R. 13 W.,
T. 8 S., R. 14 W.,
Sec. 11, S½SE¼,
Sec. 12, S½NE¼ and S½,
Secs. 13 and 14,
Sec. 15, S½NE¼ and S½,
Sec. 16, S½SW¼ and SE¼,
Secs. 19 to 36 incl.
T. 9 S., R. 14 W.,
T. 8 S., R. 15 W.,
Secs. 33 to 36, incl.
T. 9 S., R. 15 W.,
T. 9 S., R. 16 W.,
Secs. 1 and 2,
Secs. 7 to 36, incl.
T. 9 S., R. 17 W., partially surveyed,
Secs. 12 to 16, incl.,
Sec. 17, S½,
Secs. 19 to 36, incl.
T. 9 S., R. 18 W.,
Sec. 21, SE¼,
Sec. 22, S½,
Secs. 23 to 36, incl.
T. 9 S., R. 19 W.,
Secs. 25 to 36, incl.
T. 9 S., R. 20 W.,
Secs. 25 to 36, incl.
T. 10 S., R. 20 W., unsurveyed,
Secs. 4 to 10, incl.,
Secs. 14 to 23, incl.,
Secs. 26 to 36, incl.
T. 9 S., R. 21 W.,
Secs. 25 to 36, incl.
T. 10 S., R. 21 W.
T. 11 S., R. 21 W.
T. 12 S., R. 21 W.
T. 9 S., R. 22 W.,
Secs. 25 to 28, incl.,
Sec. 29, E½, E½NW¼ and SW¼,
Secs. 32 to 36, incl.
T. 10 S., R. 22 W.,
Secs. 1 to 5, incl.,
Sec. 6, E½,
Secs. 7 to 36, incl.
T. 11 S., R. 22 W.
T. 12 S., R. 22 W.

Containing 345,090.58 acres more or less.

AREA "C"

T. 6 S., R. 8 W., partially surveyed,
Sec. 26, S½NW¼NW¼, SW¼NW¼ and SW¼,
Secs. 27 to 31, that portion lying south of the Southern Pacific Railroad Right-of-Way,
Secs. 32, 33, and 34, incl.,
Sec. 35, W½, W½SE¼.
T. 6 S., R. 9 W.,
Sec. 25, that portion lying south of the Southern Pacific Railroad Right-of-Way,
Secs. 33, 34, and 35, that portion lying south of the Southern Pacific Railroad Right-of-Way.
T. 7 S., R. 8 W.,

V 42 92 MAY 12 77 UMI

Sec. 2, Lots 2, 3, and 4, S½NW¼, SW¼ NE¼ and S½.
Secs. 3 to 11, incl.,
Sec. 12, S½SW¼NW¼ and W½SW¼.
T. 7 S., R. 9 W.,
Secs. 1 to 4, and Secs. 9 to 12 incl.,

Containing 17,131.51 acres more or less.

The three areas described above aggregate 502,792.09 acres, more or less, in Maricopa, Pima and Yuma Counties, Arizona.

Dated: May 5, 1977.

ROBERT O. BUFFINGTON,
State Director.

[FR Doc.77-13576 Filed 5-11-77;8:45 am]

[NM 30504, 30505, 30508, 30509 and 30511]

NEW MEXICO

Applications

MAY 4, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for eight 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 25 E.,
Sec. 9, S½SE¼.
T. 21 S., R. 27 E.,
Sec. 22, SW¼NE¼, E½NW¼ and N½SE¼;
Sec. 27, SW¼NW¼, N½SW¼ and NW¼ SE¼.
T. 20 S., R. 28 E.,
Sec. 12, E½SE¼;
Sec. 13, NE¼NE¼;
Sec. 21, NW¼NE¼.

These pipelines will convey natural gas across 2.410 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13577 Filed 5-11-77;8:45 am]

[NM 30514]

NEW MEXICO

Application

MAY 5, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1937 (87 Stat. 576), Anadarko Production Company has applied for one 2½-inch pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 30 E.,
Sec. 29, SW¼NE¼, SE¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 30, SE¼SE¼;
Sec. 31, N½NE¼, SW¼NE¼, and SE¼ NW¼.

This pipeline will convey water across 1.597 miles of natural resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13578 Filed 5-11-77;8:45 am]

[OR 7762 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Land

MAY 3, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1970), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 23 N., R. 23 E.,
Sec. 10, S½, excepting and excluding that parcel of land within the railroad right-of-way in the N½SW¼, SE¼SW¼, and SE¼ containing 34 acres, more or less;
Sec. 11, SW¼NW¼, SW¼, and SW¼SE¼, excepting and excluding that parcel of land within the railroad right-of-way in the S½SW¼ and SW¼SE¼ containing 13.50 acres, more or less;
Sec. 13, W½W½, excepting and excluding that parcel of land within the railroad right-of-way in the SW¼SW¼ containing 8 acres, more or less;
Sec. 14, excepting and excluding that parcel of land within the railroad right-of-way in the W½NE¼, SE¼NE¼, and E½SE¼ containing 35 acres, more or less;
Sec. 15;
Sec. 22;
Sec. 23;
Sec. 24, SW¼ and SW¼SE¼;
Sec. 25, N½.

The area described contains, after making the aforesaid exceptions, 3,709.50 acres in Douglas County.

2. The subject land consists of one large parcel located approximately 14 miles southeast of the Town of Waterville. Elevation ranges from 1,000 to 2,400 feet above sea level, and the topography is rolling to steep and generally sloping towards Douglas Creek which crosses the northwest portion of the parcel. Vegetation consists primarily of native grasses. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m. June 8, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.77-13579 Filed 5-11-77;8:45 am]

[Wyoming 57619-Amdt.]

WYOMING

Application

MAY 4, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C 185), the Marathon Pipe Line Company of Casper, Wyoming, filed an application for an amendment to existing right-of-way Wyoming 57619 to construct a 3-inch natural gas pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 47 N., R. 92 W.,
Lot 4, SW¼NW¼, sec. 1.

Marathon Pipe Line Company seeks to amend its existing right-of-way No. W-57619 for the primary purpose of constructing, operating, maintaining, and removing an extension of its common carrier pipeline gathering system for the transportation of oil and other synthetic liquid fuels, and related facilities. The extension to the existing right-of-way will commence at a point in section 1, T. 47 N., R. 92 W., and extend to a point in section 36, T. 48 N., R. 92 W., all in Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13580 Filed 5-11-77;8:45 am]

Bureau of Reclamation

[INT-FES-77-12]

DOLORES PROJECT, COLO.

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed water resource project that would develop water for irrigation and municipal and industrial uses in southwest Colorado. It would also benefit fisheries, recreation, and flood control.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-9247.
Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.
Division of Engineering Support, Technical Services and Publications Branch, E. & R. Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3006.
Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, Telephone (801) 524-5404.
Western Colorado Projects Office, Durango Planning Field Division, Bureau of Reclamation, 835 Second Avenue, P.O. Box 640, Durango, Colorado 81301, Telephone (303) 247-0247.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 9, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-13536 Filed 5-11-77;8:45 am]

Geological Survey

MARATHON OIL CO.

Appeals From Notices Issued by Area Oil and Gas Supervisors' Offices

APRIL 30, 1977.

GS-O&G: Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL-4)—Royalty Payment on Oil and Gas Lost
Marathon Oil Company: Appeals from Notices issued November 15, 1974, by Area Oil and Gas Supervisors' Offices in Anchorage, Alaska; Casper, Wyoming; Los Angeles, California; Roswell, New Mexico; Tulsa, Oklahoma; and Washington, D.C.
Appellant: Affirmed.

By separate notices of appeal dated December 16, 1974, or December 17, 1974, Marathon Oil Company appealed from the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL-4) issued by the Area Oil and Gas Supervisors' Offices in Anchorage, Alaska; Casper, Wyoming; Los Angeles, California; Roswell, New Mexico; Tulsa, Oklahoma; and Washington, D.C. Said notices of appeal requested that appellant be allowed additional time within which to file additional statements of reasons and briefs and arguments of the facts and laws, that the Director grant the opportunity for oral argument, and that the actions of the Area Oil and Gas Supervisors be stayed pending final determination of the appeals.

By separate letters of January 9, 1975, Acting Director Henry W. Coulter advised appellant's attorneys in Marathon Oil Company's Casper, Wyoming, and Houston, Texas, Division Offices that their requests for additional time to file additional or supplemental statements in support of their appeals were granted, that their requests for suspension of compliance with the notices were denied, and that a determination would be made at a later date regarding the allowance of oral arguments in connection with their appeals. Acting Director Coulter's letter regarding Marathon Oil Company's appeal from the notice issued by the Area Oil and Gas Supervisor, Los Angeles, California, was dated January 23, 1975.

By letter dated February 26, 1975, and received in the Office of the Director, U.S. Geological Survey, after close of business on March 4, 1975, Marathon Oil Company's Division Attorney, Casper, Wyoming, submitted his supplemental written showing and arguments on the facts and laws and renewed the motion for oral argument. By letter of February 27, 1975, Marathon Oil Company's Division Attorney, Houston, Texas, requested that the supplemental written showing and argument of facts and laws submitted by the Marathon Oil Company's Casper Division be considered applicable to the appeals submitted by the Houston Division and renewed his request for the opportunity for oral argument. The deadline for filing said document established by Acting Director Henry W. Coulter's letter of January 23, 1975, pursuant to 30 CFR 290.5, was February 28, 1975.

By letter dated June 17, 1975, Acting Director Montis R. Klepper granted Marathon Oil Company's May 30, 1975, request for additional time within which to furnish additional supplemental material in support of its appeal from NTL-4.

Appellant's letter of June 27, 1975, submitted additional supplemental material in support of its appeal and requested that the supplemental brief submitted by Amoco Production Company be adopted and incorporated by reference in Marathon Oil Company's second supplemental statement.

Marathon Oil Company's notices of appeal present the contentions that:

I. The notices appealed from violate the plain meaning of the applicable statute and regulations.

II. The notices appealed from are inconsistent with applicable lease and unit contract provisions.

III. The notices appealed from constitute a reversal of historic, consistent, administrative construction and interpretation of the applicable provisions of the Mineral Leasing Act of 1920, as amended.

Marathon Oil Company's "Supplemental Written Showing and Arguments on the Facts and Laws Concerning the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases, Alaska Area, Mid-Continent Area, Northern Rocky Mountain Area, Southern Rocky Mountain Area, and Pacific Area. NTL-4, issued by the Oil and Gas Supervisors, Alaska Area, Mid-Continent Area, Northern Rocky Mountain Area, and Pacific Area, dated November 15, 1974, and Relating to Royalty Payment on Oil and Gas Lost" presented the following arguments in support of its appeals as consolidated in said supplemental showing:

I. NTL-4 and its background memoranda reach conclusions that are violative of the plain meaning of the statute and regulations.

II. NTL-4 and its background memoranda ignore the rules of statutory construction as well as the legislative history of the Act.

III. NTL-4 mandates royalty payments in contradiction of the Government's own lease terms and unit contract provisions.

IV. NTL-4 is an abortive attempt to displace an historic and consistent interpretation of the Act, in violation of the doctrine of practical construction.

V. NTL-4 is an improper and impermissible method of amending a substantive regulation and violates the Administrative Procedure Act.

Marathon Oil Company's second supplemental statement, dated June 27, 1975, presents the arguments that:

I. NTL-4 is an abortive attempt to displace an historic and consistent interpretation of the Act, in violation of the doctrine of practical construction; and

II. NTL-4 is an attempt to impose penalties upon lessees beyond those enacted by Congress.

We do not find appellant's arguments convincing.

Although certain of the aforequoted arguments are repetitious of one another, our comments with respect to Marathon Oil Company's individual arguments are presented in the order that each argument was made. Said comments are as follows:

ARGUMENTS CONTAINED IN NOTICES OF APPEAL

I.

The notices appealed from violate the plain meaning of the applicable statute and regulations.

A basic rule of statutory construction is that the "meaning of a statute must, in the first instance, be sought in the language in which the Act is framed." *Caminetti* v. *United States*, 242 U.S. 470, 485 (1917); *accord Flora* v. *United States*, 357 U.S. 63, 65 (1958).

A search for the meaning of the Mineral Leasing Act of February 25, 1920, and the amendments thereto, must commence with an examination, comparison, and analysis of the language of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as originally enacted. Such study together with a study of the effects of the various amendments that have been enacted during the ensuing 57 years is contained in the Solicitor's October 4,

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1976, Opinion which served as the basis for the conclusions presented on the subject in Secretary of the Interior Thomas S. Kleppe's letter of October 4, 1976, to the General Counsel for the United States General Accounting Office. The second conclusion presented in Secretary Kleppe's letter stated:

> Royalty is due and payable "in amount or value" of all oil or gas, or both, that is withdrawn from a reservoir which is subject to a Federal oil and gas lease. More specifically, royalty is due on vented and flared gas, and gas or oil, or both, leaked, spilled, or used in producing operations, and lease terms and regulations to the contrary are invalid.

The Secretary's October 4, 1976, letter together with the Solicitor's Opinion (M–36888) of October 4, 1976, as modified by the January 19, 1977, and the March 9, 1977, addenda thereto, are enclosed herewith and made a part of this decision as completely as if the contents of those documents were contained within the body of this decision.

II

The notices appealed from are inconsistent with applicable lease and unit contract provisions.

As previously noted, the conclusions in Secretary Kleppe's letter of October 4, 1976, include the conclusion that lease terms and regulations that are contrary to the requirements of the statute are invalid. This conclusion was further supported and elaborated on in the March 9, 1977, addendum (M–36888 Supp. II) to the October 4 Solicitor's Opinion (M–36888). The second conclusion contained in the Solicitor's Opinion of October 4, 1976, at 2 reads as follows:

> In the absence of a specific statutory bar such as in sections 18 and 19 of the Mineral Leasing Act, royalty is due "in amount or value" on all production from a Federal oil and gas lease, including vented and flared gas, and gas or oil leaked, spilled, or used in producing operations.

It goes without saying that any contractual terms contained in an approved unit agreement that are contrary to statutory requirements are also invalid. Simply stated, the approval of a unit agreement permits the payment of royalty due under a Federal oil and gas lease on the basis of constructive production, i.e., allocated production, in lieu of the payment of royalty on the basis of actual production from the leasehold. We find no basis for suggesting that "production" as used in unit and cooperative agreements can have a meaning that differs significantly from the meaning of that word as used in the Mineral Leasing Act of February 25, 1920, and the amendments thereto.

The Solicitor's Opinion of October 4, 1976, concludes at 2 that "production" means all oil and gas withdrawn from a reservoir. At 10, the Solicitor's Opinion concludes that the Mineral Leasing Act of February 25, 1920, as amended, requires the Department to collect royalty on all production, including oil and gas used for production purposes and oil and gas unavoidably lost, and that inclusion of an exemption for this purpose in either a lease or departmental regulation, except to the now dormant sections 18 and 19 of the Mineral Leasing Act, *is contrary to the enabling statute* and *is a nullity*. (Italic added) (*Manhattan General Equipment Co.* v. *Commissioner*, 297 U.S. 129, 134 (1936); *McDade* v. *Morton*, 353 F. Supp. 1006, 1012 (D.D.C. 1973); *Union Oil Co. of California* v. *Morton*, 512 F. 2d 743, 748 (9th Cir. 1975))

III

The notices appealed from constitute a reversal of historic, consistent administrative construction and interpretation of the applicable provisions of the Mineral Leasing Act of 1920, as amended.

It is not clear why the Department failed to fully recognize the clear distinctions contained in the leasing provisions of the Act.

The first lease form published by the Department of the Interior, 47 I.D. 447 (1920), incorporated the special relief constraints unique to leases that were to be issued in exchange for valid mining claims "claimed and possessed prior to July 3, 1910, and continuously since by claimant or his predecessor in interest under the pre-existing placer mining law to any oil or gas bearing land upon which there has been drilled one or more oil or gas wells to discovery embraced in the Executive order of withdrawal issued September 27, 1909 * * *."

Since the first leases to be issued under the Mineral Leasing Act of February 25, 1920, would be issued under the relief provisions of section 18, the drafters of the first lease did, as one would expect, incorporate royalty provisions consistent with the unique relief provisions of section 18.

The royalty provisions of the first lease form stated that the lessee was to pay:

> * * * a royalty of -- per centum of the value of oil or gas produced from the land leased herein (except oil or gas used for production purposes on said lands or unavoidably lost), or on demand of the lessor, -- per centum of the oil or gas produced (except oil or gas used for producton purposes or unavoidably lost) * * *. Section 2(c) 47 I.D. at 488.

The drafters of this first lease form may have anticipated that leases issued under provisions of the Mineral Leasing Act other than section 18 would be prepared on the same standard lease form but with the language enclosed in parentheses struck from leases issued under sections 14, 15, 17, and 20. It was and is common practice to use a "standard" contract form and to strike out language that is inappropriate in the specific situation.

In any event, the Department's error was compounded in the (1925) decision cited by appellant. Said decision is addressed at 6 in the Solicitor's Opinion of October 4, 1976. The Solicitor concluded at 7 that:

> M. P. Smith, 51 I.D. 251 (1925) and Computation of Royalty under Section 15, 51 I.D. 283 (1925), are incorrect and that the application of the exemption in sections 18 and 19 to other sections is wrong.

Since lease provisions and departmental regulations which permit the exclusion of oil and gas used for production purposes or unavoidably lost from the volume of production used for computing the royalty due the United States are nullities, the past actions of the Department and its officials in recognition of those provisions were unauthorized and cannot serve to reduce the rights of the United States (*Atlantic Richfield Company* v. *Walter J. Hickel, Secretary of the Interior, et al.*, 432 F. 2d 587 (10th Cir. 1970)). See also, Effect of October 4, 1976, Solicitor's Opinion M–36888 (M–36888 Supp. II).

ARGUMENTS CONTAINED IN MARATHON OIL COMPANY'S SUPPLEMENTAL WRITTEN SHOWING AND ARGUMENT ON THE FACTS AND LAWS

I

NTL–4 and its background memoranda reach conclusions that are violative of the plain meaning of the statute and regulations.

This contention is similar to that presented in I of Marathon Oil Company's notices of appeal and is answered in our response to that argument.

II

NTL–4 and its background memoranda ignore the rules of statutory construction as well as the legislative history of the Act.

Such, of course, is not the case. The Solicitor's October 4, 1976, Opinion shows that with certain exceptions, the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL–4), issued November 15, 1974, by the U.S. Geological Survey's Area Oil and Gas Supervisors, are in conformance with the rules of statutory construction as well as the legislative history of the Mineral Leasing Act of February 25, 1920, and the amendments thereto.

As previously indicated, the October 4, 1976, Solicitor's Opinion at 10 concludes that the Mineral Leasing Act requires the Department to collect royalty on all production, including oil and gas used for production purposes and oil and gas unavoidably lost.

It should also be noted that for the Secretary to grant such an exemption under leases issued pursuant to sections 14, 15, 17, and 20 of the Mineral Leasing Act would, in essence, serve to reduce the royalty due the United States below the minimum per centum specified in the law.

It is quite clear from discussions during the consideration of S. 2775 of the 66th Congress, the bill which eventually became the Mineral Leasing Act of February 25, 1920, that the per centum royalty specified was a minimum amount establishing a floor for the amount of royalty that the Secretary might charge.

During the section-by-section consideration of S. 2775 which began in the House of Representatives on October 25, 1919, and ended with passage of an amended version of the bill on October 30, 1919, Chairman N. J. Sinnott of the Committee on Public Lands, House of Representatives, and other Congressmen, such as Congressman Ferris of Oklahoma, repeatedly explained that the bill provided for a minimum royalty of ⅛ or 12½ per centum, with the maximum royalty to be established by the Secretary of the Interior. At 7512, Congressional Record, October 25, 1919, Congressman Ferris of Oklahoma summarized the scrutiny given the contents and drafting of S. 2775 as follows:

> * * * Your Committee on Public Lands for eight years has been working on this. Your Interior Department has been working on it. Your Geological Survey has been working on it. Your Department of Justice has been working on it. * * * Every line, yes, every section, has been scrutinized by lawyer and layman; by those in and out of Congress, by experts and those who feel they are experts. * * *

At 7520, Congressman Taylor of Colorado explained:

> The amendments that we on the Public Lands Committee have put on this Senate bill make its provisions much more harsh and drastic on prices and royalties and in many other respects, than it was as it passed the Senate.
>
> • • • • •
>
> Minimum royalties are in each instance prescribed, and the maximum are left to the discretion of the Secretary of the Interior.
>
> • • • • •
>
> After years of effort, I have succeeded in including in this bill a provision permitting all cities and towns to locate, open up, and operate municipal coal mines free of any charge or royalty.
>
> • • • • •

At 7537, Congressional Record, October 27, 1919, Chairman Sinnott in discussing a specific distinction in language stated:

> That language was put in with a great deal of consideration, and we would not like to change from "valuable" to "paying." There is quite a distinction. We are in line with the decisions of the courts as to what is a discovery, and I think it would be a very dangerous matter to experiment with this language at this time.

At 7603, Congressional Record, October 27, 1919, section 24 was amended to insure that in the issuance of sodium leases, the Secretary of the Interior could not assume that:

> * * * the failure of Congress to put into this provision the limitation which is put into the other might indicate an intention on the part of Congress that the last half should be leased for less than the minimum royalty.

The precise language added to prevent such a misunderstanding was added following the word "royalty" and read, "of not less than one-eighth of the amount or value of the production."

III

NTL–4 mandates royalty payments in contradiction of the Government's own lease terms and unit contract provisions.

This argument is comparable to that presented as argument II in the notices of appeal submitted by Marathon Oil Company and is adequately refuted in the discussion of said argument, *supra*.

IV

NTL–4 is an abortive attempt to displace an historic and consistent interpretation of the Act, in violation of the doctrine of practical construction.

This argument is essentially the same as that presented as Argument III in Marathon Oil Company's notices of appeal and is adequately refuted in the discussion of said argument, *supra*.

V

NTL–4 is an improper and impermissible method of amending a substantive regulation and violates the Administrative Procedure Act.

We know of no provision of the Administrative Procedure Act that permits, much less requires, that regulations that are contrary to law be honored pending amendment thereof in accordance with procedures that are followed in the promulgation and revision of regulations that conform with the law. It would have been an impropriety not to have issued NTL–4.

ARGUMENTS CONTAINED IN MARATHON OIL COMPANY'S SECOND SUPPLEMENTAL WRITTEN SHOWING OF ARGUMENT ON THE FACTS AND LAWS

I

NTL–4 is an abortive attempt to displace an historic and consistent interpretation of the Act in violation of the doctrine of practical construction.

As Marathon Oil Company points out in its discussion of the above-quoted argument, the issue was part of the arguments presented in its previous submittals. We believe that our discussions and those contained in the Solicitor's Opinion of October 4, 1976, refute the arguments presented in said submittals.

II

NTL–4 is an attempt to impose penalties upon lessees beyond those enacted by Congress.

The November 15, 1974, Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases, issued by the Area Oil and Gas Supervisors, imposed no penalty as Marathon Oil Company suggests in the above-quoted argument. Said argument also errs in that it fails to recognize the Secretary's authority to do any and all things necessary to carry out and accomplish the purposes of the Act (30 U.S.C. 189).

Since lease provisions and departmental regulations which permit the exclusion of oil and gas used for production purposes or unavoidably lost from the volume of production used for computing the royalty due the United States are nullities, the past actions of the Department and its officials in recognition of those provisions were unauthorized and cannot serve to reduce the rights of the United States (*Atlantic Richfield Company* v. *Walter J. Hickel, Secretary of the Interior, et al.*, 432 F. 2d 587 (10th Cir. 1970)).

It is noted that portions of the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL–4) issued November 15, 1974, by the Area Oil and Gas Supervisors of the Conservation Division, Geological Survey, do not conform entirely with the conclusions of the Solicitor's Opinion of October 4, 1976. Corrected notices will be issued in the near future.

Marathon Oil Company's appeal from the Notices to Lessees and Operators of Federal Onshore Oil and Gas Leases (NTL–4) issued November 15, 1974, by the Area Oil and Gas Supervisors' Offices in Anchorage, Alaska; Casper, Wyoming; Los Angeles, California; Roswell, New Mexico; Tulsa, Oklahoma; and Washington, D.C.; are therefore denied.

Since the points in contention are clearly understood and in our opinion are covered by specific provisions of the governing statutes, appellant's request for an opportunity to make oral argument in support of its appeal is denied.

The Secretary of the Interior has indicated his approval for the issuance of this decision as a final administrative action of the Department of the Interior. Therefore, this decision is final and not subject to appeal pursuant to 30 CFR Part 290.

Dated: May 5, 1977.

W. A. RADLINSKI,
Acting Director.

I concur:

CECIL D. ANDRUS,
Secretary of the Interior.

Response to February 17, 1976, request from the General Accounting Office: Interpretation of Mineral Leasing Act of 1920, and Outer Continental Shelf Lands Act Royalty Clause; M–36888, decided: October 4, 1976.

Oil and Gas Leases: Production—Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases—Words and Phrases.

"Production" as used in all Federal oil and gas leases includes all oil and gas withdrawn from a reservoir.

Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases.

In the absence of a specific statutory bar, such as is found in sections 18 and 19 of the Mineral Leasing Act of 1920, royalty is due in the "amount or value" of all production from a federal oil and gas lease, including vented and flared gas and gas or oil leaked, spilled or used in producing operations.

Oil and Gas Leases: Generally—Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases.

An assessment greater than the normal royalty charge may be required for oil and gas that are wasted.

M.P. Smith, 51 I.D. 251 (1925); Computation of Royalty under Section 15, 51 I D 283 (1925), overruled.

ADDENDUM A

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., October 4, 1976

Memorandum.
To: Secretary.
From: Solicitor.
Subject: Response to February 17, 1976, request from General Accounting Office: Interpretation of Mineral Leasing Act of 1920 and Outer Continental Shelf Lands Act Royalty Clause.

This memorandum responds to a request dated February 17, 1976, by the General Accounting Office for a report on the views of

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the Department of the Interior and to questions raised by appeals pending before the Director, Geological Survey, regarding the proper construction of the oil and gas royalty provisions of the Mineral Leasing Act of 1920, as amended and supplemented, 41 Stat. 437, 30 U.S.C. §§ 181–287 (1970), and the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U.S.C. §§ 1331–43 (1970) (referred to as OCS Act).

The relevant portions of the Mineral Leasing Act say that the lessee shall pay a percentage of the "amount or value of the production removed or sold from the lease." 30 U.S.C. §§ 226(b), (c), and (l), Act of August 8, 1946, 68 Stat. 583, amending the Mineral Leasing Act of 1920, as amended and supplemented. The corresponding provision of the OCS Act says that the lessee shall pay a percentage of the "amount or value of the production saved, removed or sold." 43 U.S.C. § 1137(a). The application of these royalty clauses to oil and gas sold, or to oil and gas removed from the leasehold for purposes of sale or transfer is unchallenged. In the last several years, the application of these royalty clauses to oil and gas that are vented or flared, used for production purposes on the leasehold, or unavoidably lost, has been the subject of considerable controversy.

Summary. My conclusions on the matter and the position I recommend to you for adoption by the Department of the Interior are:

1. "Production" as used in all Federal oil and gas leases includes all oil and gas withdrawn from a reservoir.

2. In the absence of a specific statutory bar such as in sections 18 and 19 of the Mineral Leasing Act, royalty is due "in amount or value" on all production from a Federal oil and gas lease, including vented and flared gas, and gas or oil leaked, spilled, or used in producing operations.

3. An assessment greater than the normal royalty charge may be required for oil and gas that are wasted.

I also recommend that these rulings apply beginning June 28, 1974 for leases issued under the OCS Act, and November 18, 1974, for leases issued under the Mineral Leasing Act.

Analysis of Royalty Requirements

The first step necessary to determine the proper interpretation of the royalty provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, is to define the meaning of the word "production" as it is used in those Acts.

As indicated in the summary I have concluded that "Production" means all oil and gas withdrawn from a reservoir.

A comparison of the language of sections 14, 15, 17, 18, 19, and 20 of the Mineral Leasing Act as originally enacted, and Sections 6 and 8 of the Outer Continental Shelf Lands Act strongly supports this conclusion. These Acts established several primary categories of oil and gas leases, each with separate and distinct statutory requirements relating to the royalty to be paid to the United States.

The common element in each of the royalty requirements in these acts is that royalty is due and payable to the United States "in amount or value of production." In only one instance does a statute exempt a portion of lease production from royalty payment.

Examining the development of the Mineral Leasing Act is helpful in resolving the questions addressed in this memorandum. The Mineral Leasing Act of 1920 created three separate classes of leasehold interests. First, it allowed certain holders of placer oil locations under the Mining Law of 1872, to exchange their unpatented mining claims for leases or prospecting permits under the new Act. Second, it gave certain types of agricultural entryman a preference right to a prospecting permit under the new Act. Third, it created a new way of obtaining mineral rights to oil and gas—through a prospecting permit or a competitive lease. For each of these new interests Congress specified what royalty the lessee should pay the Government.

For leases issued as the result of a discovery under a prospecting permit, Section 14 of the Mineral Leasing Act said:

• • • Such leases shall be for a term of twenty years upon a royalty of 5 per centum *in amount or value of the production* and the annual payment in advance of a rental of $1 per acre. • • • The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum *in amount or value of the production* • • • the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulation prescribe. (Emphasis added).

Section 15 of the Mineral Leasing Act instructed the Department what royalty a prospecting permittee had to pay before he applied for a lease and is significant because it sets forth in a complete and comprehensive way the elements that make up "production." Section 15 states:

That until the permittee shall apply for lease to the one-quarter of the permit area heretofore provided he shall pay to the United States 20 per centum of the gross value of *all oil or gas secured* by him from the lands embraced within his permit and sold or *otherwise disposed of or held by him for sale or other disposition.* (Emphasis added).

The royalty provision of Section 17 which covered competitive leasing of a known geological structure of a producing oil or gas field said:

• • • such leases to be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall not be less than 12½ per centum *in amount or value of the production*, and the payment in advance of a rental of not less than $1 per acre per annum thereafter • • •. (Emphasis added).

For leases which were granted because a person had a location under the Mining Law of 1872, Congress provided in section 18 that a lease was to be issued:

• • • upon payment as royalty to the United States of an amount equal to *the value at the time of production* of one-eighth *of all the oil or gas already produced except oil or gas used for production purposes on the claim, or unavoidably lost,* • • • the claimant • • • shall be entitled to a lease thereon from the United States • • • at a royalty of not less than 12½ per centum of all the oil or gas produced except oil or gas used for production purposes on the claim or unavoidably lost • • • (Emphasis added).

As a corollary to the exchange lease provided in Section 18, Section 19 provided for the exchange of rights under certain mining claims for prospecting permits or leases. Leases obtained under the provisions of Section 19 were to provide for a royalty of:

Not less than 12½ per centum of *all the oil or gas produced, except oil or gas used for production purposes on the claim, or unavoidably lost* • • • (Emphasis added).

Section 20 granted certain agricultural entrymen a preference right to a permit and to a lease and said:

• • • Leases executed under this section • • • shall provide for the payment of royalty of not less than 12½ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 14 hereof.

The distinct differences in the language used by Congress to describe royalty requirements for each of the different categories of leases indicates: (1) that the term "production" included all oil and gas withdrawn from a reservoir; and (2) that where Congress intended to require that royalty be based upon less than all "production" Congress included in the statute a specific exception (i.e., "except oil or gas used for production purposes on the claim, or unavoidably lost.")

If the term "production" did not include oil and gas lost through escape, i.e., spillage, venting etc. the specific exceptions contained in sections 18 and 19 of the Mineral Leasing Act would have no meaning. In order for oil or gas, or both, to be "excepted" from the requirement that a royalty be paid on it, that oil or gas, or both, must first be considered to be part of production from the leasehold.

The legislative history of the Mineral Leasing Act confirms the view that Congress intentionally made these distinctions. For example, amendments to sections 18 and 19 were discussed on the floor of the House. E.g., 57 Cong. Rec. 4489–90 (1919). Congress clearly realized it was imposing different royalty requirements for leases issued in exchange for relinquished mining claims from those imposed on other types of leases.

The Department failed, however, to fully recognize the distinctions contained in the Act. The first lease form published by the Department, 47 I.D. 447 (1920), incorporated the special constraint unique to leases that were to be issued in exchange for relinquishment of rights under valid mining claims. The royalty provisions of the first lease form stated that the lessee was to pay:

A royalty of ____ per centum of the value of oil or gas produced from the land leased herein (except oil or gas used for production purposes on said lands or unavoidably lost), or on demand of the lessor, ____ per centum of the oil or gas produced (except oil or gas used for production purposes or unavoidably lost) • • •. Section 2(c), 47 I.D. at 488.

The drafters of this first lease form may have expected that leases that would subsequently be issued under provisions of the Act other than Sections 18 and 19 would simply omit the language enclosed in parenthesis, but the omission was not made and the inappropriate language was included in leases issued pursuant to provisions of the Act other than sections 18 and 19.

The Department's error was compounded in a case involving the computation of royalty required under Section 15 of the Mineral Leasing Act of February 25, 1920. *Computation of Royalty under Section 15, Act of February 25, 1920,* 51 I.D. 283 (1925). Section 15, 41 Stat. 437, said: "That until the permittee shall apply for a lease to one-quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the *gross* value of *all* oil or gas secured by him from the lands embraced within his permit and sold *or otherwise disposed of or held by him for sale or other disposition.*" (Emphasis added). Congress could hardly have expressed more clearly its intention to recoup royalties on all oil produced, regardless of how it was used. Congress stressed that the royalty applied to the "gross" value, to "all" oil, to oil and gas "otherwise disposed of" as well as "sold" and to "other disposition" as well as "held" oil. Despite the clear language of section 15, the Department concluded that payment of royalty under section 15 was not required for oil or gas used for production purposes on the permit lands or unavoidably lost. 51 I.D. at 283. Prior to this decision, the Bureau of Mines and the Geological Survey had interpreted section 15 to require payment for all oil produced.

The decision admits that the Bureau of Mines and Geological Survey's interpretation is "fully warranted," but rejects it in order to be "consistent." In reaching its strained conclusion, the decision says, "Sections 16 and 19 of the Leasing Act • • • provide for certain rates of royalty upon all the oil and gas produced except oil or gas used for production purposes upon the claim or unavoidably lost. *This exception is not found in any other section of the act, but the Department has made it applicable* to all oil and gas leases." (Emphasis added). 51 I.D. at 284. With the exception of a quotation from *M. P. Smith* 51 I.D. 251 (1925) (which states that the Mineral Leasing Act, and regulations issued under the act permit the use without charge, of fuel oil by permittees and lessees in drilling operations), the decision does not in any way explain why the Department made this exception applicable to the other lease sections. *M. P. Smith, supra,* provides no support for the position. *Computation* does note that the Geological Survey and the Bureau of Mines construed section 15 as requiring payment of royalty on all oil, without exception. 51 I.D. at 284. It adds that "such construction has been fully warranted." The decision goes on to reject this "fully warranted" construction.

It seems that the rulings of the Department would be inconsistent if it were to hold that permittees, applicants for lease and lessees are not required to pay royalty on oil or gas • • • used for production purposes, but that after discovery and prior to application for lease, permittees must pay a royalty of 20 per cent on oil or gas used for production purposes in addition to such royalty rate on all oil or gas sold or otherwise disposed of or held for sale or other disposition. 51 I.D. at 285.

I conclude that *M. P. Smith,* 51 I.D. 251 (1925), and *Computation of Royalty under Section 15,* 51 I.D. 283 (1925), are incorrect and that the application of the exemption in sections 18 and 19 to other sections is wrong.

Subsequent Legislative Actions

In 1930, an additional category of onshore oil and gas leases was created by the enactment of the Right-of-Way Lands Leasing Act of May 21, 1930, 30 U.S.C. §§ 301–305 (1970). A lease or agreement entered under the Act of May 21, 1930, was to provide for a royalty to be paid to the United States of not less than "12½ per centum in amount or value of the production."

When Congress amended section 17 of the Mineral Leasing Act by the Act of March 4, 1931, 46 Stat. 1523, to authorize the unitization of leasehold interests in Federal oil and gas leases, it retained the language of the 1920 Act with respect to the royalty requirements for leases issued under Section 17.

The Act of August 21, 1935, 49 Stat. 674, made extensive changes in the leasing procedures relating to Federal oil and gas lands. The royalty rates prescribed were in every case to be based upon a percentage "in amount or value of production."

The current language relating to the royalty requirements to be stipulated in Federal onshore oil and gas leases appeared first in the August 8, 1946, modifications of Section 17 of the Mineral Leasing Act and in the incentives contained in Section 12 of that amendment to the Mineral Leasing Act. In each instance, the royalty to be paid the United States is to be paid "in amount or value of the production removed or sold from the lease."

We can find no explanation for the addition of the phrase "removed or sold from the lease." S. 1236 was first introduced in the 79th Congress, 1st Session. That draft repeated the language of the original Section 14 of the Mineral Leasing Act, and referred to 12½ percent in "amount or value of the production." Section 2, S. 1236, July 8, 1945. On May 29, 1946, S. 1236 was reported from committee. Without explanation, section 2 of the earlier version, now section 3, was amended to read as eventually passed, "12½ per centum in amount or value of the production removed or sold from the lease." We have found no explanation of this change in the committee report, the conference debates, or correspondence.

The Outer Continental Shelf Lands Act of August 7, 1953, 67 Stat. 462, 43 U.S.C. 1331–1343, incorporates two categories of leases normally distinguished as Section 6 and Section 8 leases. Although the details differ and the percentage of royalty required under each category of lease also differs, the royalty under both categories of Outer Continental Shelf lands oil and gas leases is to be paid "in amount or value of the production saved, removed, or sold from the lease."

The OCS Act is an amalgamation of two bills, S. 1901 and H.R. 5134. The original draft of S. 1901 merely required the "payment of royalty of 12½ per centum." After the bill was reported out of the Senate Committee on Interior and Insular Affairs, the words "amount or value of the production saved, removed or sold" were added. The committee report noted that the additional language was clarifying, but did not say what was being clarified. Senate Report No. 411, 83rd Congress, 1st Sess. 21, 25 (1953). The House version, H.R. 5134, included the "saved, removed, or sold" language from its inception.

The royalty requirements of the Mineral Leasing Act, as amended, and the Outer Continental Shelf Lands Act relate to payments "in amount or value of production removed or sold" and "in amount or value of production saved, removed, or sold from the lease," respectively. With the exception of leases issued under sections 18 and 19, the Department must collect royalty on all substances withdrawn from the reservoir.

"Saved", "removed," and "sold" must also be defined. "Sold" means disposed of to a purchaser, whether through the exchange of money, commodities, services, or otherwise. "Saved" means "retained on the leasehold." "Saved" oil and gas would include oil or gas, or both, returned to a subsurface formation as occurs under flood operations and attic oil production procedures. "Removed" then includes all other production, i.e., all other oil and gas secured from within the boundaries of the lease and disposed of in some other manner. It includes oil or gas, which is physically transported from the lease, as well as oil or gas, which is reinjected into a formation under the lease or which through an action or failure to act by the lessee, is lost from the lease by escape through venting or leakage, through consumption in a flare or as fuel for leasehold production equipment.

Collection of Charges for Waste

The Department, in addition to collecting royalty payments on production may also collect for waste. Section 16, 30 U.S.C. § 225 (1970), prescribes that a permittee or lessee in the conduct of exploration and mining operations shall:

Use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits.

Although the last sentence of section 16 makes waste "grounds for the forefeiture of a permit or lease," section 31, 30 U.S.C. § 188 (a) (1970), provides authority under which the Secretary may take somewhat less drastic action that the initiation of proceedings to cancel a permit or lease. Under Section 31, the Secretary by regulation and lease provision "may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions of a lease."

Under the above-cited authority, the Secretary has established regulations, 30 C.F.R. 221.35, which require the lessee to pay the lessor "the full value of all gas wasted by blowing, release, escape, or otherwise • • • unless, on application by the lessee, such waste of gas under the particular circumstances involved shall be determined by the Secretary to be sanctioned by the laws of the United States and of the State in which it occurs."

The onshore oil and gas operating regulations, 30 C.F.R. 221.2(n), define waste as follows:

(n) Waste of oil or gas. Waste of oil or gas, in addition to its ordinary meaning, shall mean the physical waste of oil or gas, and waste, loss, or dissipation of reservoir energy existent in any deposit containing oil or gas and necessary or useful in obtaining the maximum recovery from such deposits.

(1) Physical waste of oil or gas shall be deemed to include the loss or destruction of oil or gas after recovery thereof such as to prevent proper utilization and beneficial use thereof, and the loss of oil or gas prior to recovery thereof by isolation or entrapment, by migration, by premature release of natural gas from solution in oil, or in any other manner such as to render impracticable the recovery of such oil or gas.

(2) Waste of reservoir energy shall be deemed to include the failure reasonably to maintain such energy by artificial means and also the dissipation of gas energy, hydrostatic energy, or other natural reservoir energy, at any time at a rate or in a manner which would constitute improvident use of the energy available or result in loss thereof without reasonably adequate recovery of oil.

Under the current regulations, waste, which the Secretary determines after application by the lessee "• • • to be sanctioned by the laws of the United States and of the State in which the loss occurs • • •" is subject to the royalty applicable to all production from a lease and to a greater assessment that may attach to a loss which the Secretary does not determine to be sanctioned either by the laws of the United States or of the State where the loss occurs. In the absence of an application by the lessee, favorably acted upon by the Secretary or his delegate, the assessment of the greater amount prescribed in the regulations attaches to lost oil or gas.

APPLICATION OF THIS OPINION

I have concluded that both the Mineral Leasing Act and the OCS Act require the Department to collect royalty on all production, including oil and gas used for production purposes and oil and gas unavoidably lost and that inclusion, of an exemption for this purpose in either a lease or Departmental regulation, except pursuant to the now dormant sections 18 and 19 of the Mineral Leasing Act, is contrary to the enabling statutes and is a nullity. No effect will be given to these exemptions in the future. The question remains whether the Department will seek to recover royalties that were not paid as a result of past erroneous decisions of officers of this Department. In the case of leases issued under the Mineral Leasing Act, the error extends back to 1921. For the OCS Act, the error began in 1954. To some extent, the resolution of the question involves considerations of policy rather than questions of law. Generally, a decision overruling an earlier decision is retrospective as well as

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prospective in operation. Linkletter v. Walker, 381 U.S. 618 (1965); Gideon v. Wainwright, 372 U.S. 335 (1962); Safarik v. Udall, 304 F. 2d 944 (D.C. Cir. 1962), cert. denied, 371 U.S. 901 (1961). The same considerations govern civil criminal and administrative proceedings. Retail Wholesale and Department Store Union. v. NLRB, 466 F. 2d 350 (D.C. Cir. 1972) (Referred to as Retail Union); Safarik v. Udall, supra. A decision may be made prospective "where persons have contracted, acquired rights or acted in reliance on the prior decision and the operation of the later decision retrospectively would result in substantial harm to such persons." Safarik v. Udall, supra at 950. In deciding whether a decision should be made prospective, the decision-maker must weigh the detriment created by applying the incorrect law against the hardship the application of the new law would create. Retail Union v. NLRB, supra. The unauthorized acts of employees of the United States do not prevent it from enforcing the law. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Utah Power & Light Co. v. United States, 243 U.S. 389 (1917); 43 C.F.R. 1810.3 (1975); but see United States v. Lazy F. C. Ranch, 481 F. 2d 985 (9th Cir. 1973) (estoppel possible if public interest not adversely affected.)

Generally speaking, four factors govern the inquiry into the retroactivity of an interpretation: (1) the nature of reliance placed on the precedent by the parties; (2) the purpose of the rule in light of public policy; (3) the harm to the parties who relied on the prior decisions; and (4) the harm to the government or public purpose. Linkletter v. Walker, supra; United States v. Winnegar, 81 I.D. 370 (1974), appeal pending, Shell Oil Co. v. Kleppe, Civil No. 74-F-739, D. Colo. In *Winnegar*, for example, the Interior Board of Land Appeals reversed a longstanding decision of the Department that established a different standard to be met by oil shale claimants under the Mining Law of 1872 from that for claimants of other minerals. The Board made its decision "retroactive"[1] because it felt that the interest of the United States in preventing improper disposition of public lands outweighed the speculative interest of the oil shale claimants.

In many other instances, however, the Department has recognized that legitimate interests of persons dealing with the Department were sufficient for a ruling to be made prospective only. In issuance of Noncompetitive Oil and Gas Leases on Lands Within The Geologic Structure of Producing Oil or Gas Fields, 74 I.D. 285 (1967) (referred to as Issuance), the Solicitor concluded that a prior practice of the Department of accepting noncompetitive oil and gas lease offers that were included in a known geologic structure after the date of application, but before the date of issuance was unauthorized by statute. He ruled that an offer must be rejected if it was included in a known geologic structure any time before the lease was issued. 74 I.D. at 285–86. Failure to apply this principle in the past undoubtedly cost the United States much revenue—at a minimum, leases were obtained without competitive bidding, and without the payment of any bonus whatsoever. Applying the doctrine to existing leases would have, on the other hand, possibly resulted in the cancellation of scores of leases, some of which could have been almost fifty years old. Consequently, on the authority of Franco Western Oil Co. (Supp.), 65 I.D. 427 (1958), Issuance was made prospective only. 74 I.D. at 290. This position was approved in *McDade* v. *Morton*, 353 F. Supp. 1006 (D.D.C. 1973), aff'd, 494 F.2d 1156 (D.C. Cir. 1974).

Franco Western Oil Co. (Supp.), 65 I.D. 427 (1958), approved *Safarik* v. *Udall*, supra, considered whether a decision changing an interpretation of the Mineral Leasing Act should be given prospective effect. The decision noted that, "It has not been the practice of the Department to give its decisions retroactive effect so as to disturb actions taken in other cases on an overruled interpretation of law." 65 I.D. at 428. The court in *Safarik* v. *Udall*, 304 F.2d at 950, agreed with this interpretation and added that the power to make "decisions operate only prospectively 'whenever injustice or hardship will thereby be averted' is undoubted." Id.

Here, until June 28, 1974, for the OCS, and November 18, 1974, for the Mineral Leasing Act, oil and gas lessees relied on the regulations and lease forms of the Department in good faith. A requirement that they repay funds now due under the present interpretation of the law would impose heavy burdens on these operators. In addition, there will be a difficult, if not impossible, problem of measuring what amounts of oil and gas were used or lost in the past. I do not believe that the purpose of either Act would be enhanced by applying this opinion to royalty collected in the period preceding June 28, 1974, for the OCS lessees, or November 18, 1974, for Mineral Leasing Act lessees. Subsequent to that time, however, the lessees should have been aware that the Department was investigating the applicable royalty clauses, and on notice that the past interpretation of law might be incorrect. The conclusions I have reached should be made applicable from that time forward.

Dated: October 4, 1976.

H. GREGORY AUSTIN.

Approved:
THOMAS S. KLEPPE.

COMPUTATION OF MONIES DUE THE UNITED STATES ON OIL AND GAS LOST AS A RESULT OF PENNZOIL'S BLOWOUT

M-36888 (supp.). Decided: January 19, 1977.

Oil and Gas Leases: Production—Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases—Words and Phrases.

Oil or gas that is wasted is in a category by itself, distinctly separable from "production," when it is oil or gas that is lost on the surface or in the subsurface through the negligence of the lessee, i.e., without the specific sanction of the supervisor.

Oil and Gas Leases: Royalties—Outer Continental Shelf Lands Act: Oil and Gas Leases.

The loss through waste to the lessor compensable under 30 CFR 250.20 is either the royalty or the full value and the choice between them is a matter which is committed to the sound exercise of the supervisor's discretion.

Oil and Gas Leases: Generally—Oil and Gas Leases: Royalties.

Whereas 30 CFR § 221.48 and § 221.50 clearly indicate the lessee must pay royalty on all production, the lessee is obligated to pay full value on all gas wasted (§ 221.35), and the supervisor has no discretion to collect less than the full value of gas wasted.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., January 19, 1977.

Memorandum

To: Director, U.S. Geological Survey.

From: Solicitor.

Subject: Computation of monies due the United States on oil and gas lost as a result of Pennzoil's blowout.

This is written in response to your request for clarification of the portion of the Solicitor's Opinion of October 4, 1976, which related to the assessment of greater than normal royalty charges for oil or gas that is wasted. The question you raise is whether the conclusion of the Solicitor's Opinion that an assessment greater than the normal royalty charge may be required for oil or gas that is wasted is applicable to leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. §§ 1331–1343) as well as those issued pursuant to the Mineral Leasing Act of 1920 (30 U.S.C. §§ 181–287). The Solicitor's Opinion did not specifically address the question of assessments for waste which may arise under an OCS oil and gas lease. Consequently, the question is discussed below as an addendum to that opinion.

Section 5(a) of the OCS Lands Act (43 U.S.C. § 1334(a)(1)) grants discretionary authority to the Secretary of the Interior to "prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer continental shelf . . ." That section also provides that "such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act." Section 5(a)(2) of the Act (§ 1334(a)(2)) provides criminal penalties for willful violation of rules prescribed by the Secretary for the prevention of waste. Additionally, Section 5 mandates the Secretary to administer the provisions of the Act relating to OCS leasing and to prescribe rules and regulations necessary to carry out those provisions.

Under this authority, the Secretary has promulgated regulations pertaining to oil and gas and sulphur operations in the outer contintntal shelf (30 CFR Part 250). Under Section 250.30 of those regulations, the lessee is required to "take all necessary precautions to prevent damage to or waste of any natural resource. . . ." "Waste of oil and gas" as defined in Section 250.2(h) includes, among other things, "(1) physical waste as that term is generally understood in the oil and gas industry; . . . and (3) the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas. . . ." When waste occurs, the supervisor is authorized by Section 250.20 to determine, pursuant to the lease and regulations, "the loss through waste" and "the compensation due to the lessor as reimbursement for such loss."

There are three separate aspects of the statutory-regulatory scheme set forth above. It is evident throughout Section 5 of the Act that Congress was clearly concerned with the prevention of waste. With this regard, two separate sets of obligations for prevention of waste and penalties for violation of those obligations are provided in the Act itself and carried forward in the regulations.

The first set of obligations and penalties arises under the authorization of the Secretary to prescribe regulations to provide for the prevention of waste and is carried forward in regulations which make it the obligation of the lessee to "take all necessary precautions to prevent damage to or waste of any natural resource." The Secretary's regulatory prescription establishes an obligation on the part of the lessee to avoid negligent actions or omissions which result in waste. The statutory penalty for such negligence is cancellation of the lease by the Secretary or forfeiture of the lease through judicial proceedings for failure to comply with the regulations. (§ 5(b)) (*See also*, 30 CFR 250.30).

The second set of obligations and penalties arises under § 5(a)(2) of the statute. In that subsection, Congress established criminal penalties for the knowing and willful violation of any rule or regulation prescribed by the Secretary for the prevention of waste.

The third aspect of the statutory-regulatory scheme arises under the Secretary's statutory duty to administer the OCS Lands Act leasing provisions and to prescribe rules and regulations necessary to carry them out. (§ 5(a)) It is pursuant to this authority that the Secretary has established regulations which provide for compensation to the United States as reimbursement for the loss of oil and gas through waste (30 CFR 250.20).[1] The regulation is based on a policy of strict liability of the lessee for waste as defined under the regulations (30 CFR § 250.2(h)).

Section 250.20 of the regulations clearly gives to the supervisor the discretion to determine the loss through waste and the compensation due to the lessor as reimbursement for such loss. The first determination the supervisor must make under the regulation requires measurement or a reasonable estimate of the volume of oil or gas wasted. The second determination, of the compensation due the lessor as reimbursement for the loss, is the one on which you request our advice. Your question is whether that compensation may exceed the normal royalty charge.

We think the proper amount to be assessed as compensation for the loss is, in the supervisor's discretion, either the royalty or the full value of the oil or gas that is wasted. Section 250.20 of the regulations contains separate provisions for (1) the supervisor's determination of royalty due on production and (2) his determination of the amount due as compensation for loss through waste. Hence, waste is clearly treated separately from that part of production on which only royalty is due. Reading together the definition of waste contained in § 250.2(h) of the OCS regulations and Section 250.20, it is clear that what distinguishes waste on which more than royalty may be collected from lost production on which only royalty may be collected is that the former was lost through negligence. Oil or gas that is wasted is in a category by itself, distinctly separable from "production", when it is oil or gas that is lost on the surface or in the subsurface through the negligence of the lessee, i.e., without the specific sanction of the supervisor.

This distinction between production on which only royalty is due and waste for which a greater amount may be assessed is also found in the corresponding onshore oil and gas operating regulations. Under 30 CFR 221.35, waste of oil or gas is again defined in terms of unsanctioned loss. Whereas Sections 221.48 and 221.50 clearly indicate the lessee must pay royalty on production, the lessee is obligated to pay full value on all gas wasted (§ 221.35), and the supervisor has no discretion to collect less that the full value of gas wasted.

Offshore, the supervisor has more flexibility. Under the OCS regulations, when loss of oil or gas is unsanctioned, strict liability attaches and the amount due the lessor under § 250.20 is "compensation . . . as reimbursement" for the loss. Since wasted oil or gas is oil or gas which is produced or producible, in the context of the definition of "production" in the October 4, 1976, Solicitor's Opinion (all oil and gas withdrawn from a reservoir), the minimum amount accruing to the lessor on wasted oil or gas is the royalty. However, in 30 CFR § 250.20, the Secretary has authorized the supervisor, in his discretion, to determine "the loss through waste" and "the compensation due to the lessor as reimbursement for such loss." The language of the regulation, which separates the supervisor's determination of royalty due on production from his determination of the amount due as compensation for loss through waste, suggests that the supervisor may determine that an amount greater than the normal royalty charge accrues to the lessor. Hence, the loss to the lessor compensable under Section 250.20 is either the royalty or the full value and the choice between them is a matter which is committed to the sound exercise of the supervisor's discretion, subject to any instructions or guidelines contained in pertinent OCS Orders.

H. GREGORY AUSTIN,
Solicitor.

ADDENDUM B

U.S. DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY,
October 4, 1976.

HON. PAUL G. DEMBLING,
General Counsel, U.S. General Accounting Office, Washington, D.C.

DEAR MR. DEMBLING: Enclosed with this letter is a copy of a Solicitor's Opinion, which I have approved, which fully explains the Department of the Interior's views on the royalty and other financial obligations of an oil and gas lessee under the Mineral Leasing Act of 1920, and the Outer Continental Shelf Lands Act.

The Opinion concludes that:

1. Production as used in the Mineral Leasing Act of February 23, 1920 as amended, and as used in the Outer Continental Shelf Lands Act of August 7, 1952, includes all oil or gas which is withdrawn from a reservoir.

2. Royalty is due and payable "in amount or value" of all oil or gas, or both, that is withdrawn from a reservoir which is subject to a Federal oil and gas lease. More specifically, royalty is due on vented and flared gas, and gas or oil, or both, leaked, spilled, or used in producing operations, and lease terms and regulations to the contrary are invalid.

3. Under current regulations an assessment greater than the normal royalty charge may be required when waste occurs that is not determined by the Secretary or his delegate to be sanctioned by the laws of the United States; and

4. Beginning June 28, 1974, for OCS leases, and November 18, 1974, for Mineral Leasing Act leases, royalty should be collected in accordance with the Opinion.

The Opinion responds fully to your request for information on this topic.

Sincerely yours,

THOMAS S. KLEPPE,
Secretary of the Interior.

Enclosure.

EFFECT OF OCTOBER 4, 1976 SOLICITOR'S OPINION M-36888

M-36888 Supp. II. Decided: March 9, 1977.

Oil and Gas Leases: Generally—Outer Continental Shelf Lands Act: Oil and Gas Leases.

The interpretation of the Mineral Leasing Act of 1920 set forth in the October 4, 1976, Solicitor's Opinion (M-36888) is compelled by the statute.

Terms of an oil and gas lease inconsistent with the statute are equally as invalid as a regulation which operates to create a rule out of harmony with the statute.

A lessee gains no rights through a lease which could not be bestowed lawfully, since regulations or lease terms inconsistent with the statute are invalid.

The involuntary invalidation of a lease term does not amount to *pro tanto* cancellation of the lease.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C. March 9, 1977

JEROME C. MUYS, Esquire,
Debevois and Liberman,
700 Shoreham Building,
806 15th Street, N.W.,
Washington, D.C.

DEAR MR. MUYS: This letter is written in response to your letter of January 12 in behalf of Chanslor-Western Oil and Development Company. Action on Chanslor-Western's appeal from the application of NTL-4 to Chanslor-Western's leases (Sacramento 019381(a), 091392, 019381(b)) has been delayed pending this reply. In the Solicitor's Opinion of October 4, 1976, we concluded that in the absence of a specific statutory bar, such as in sections 18 and 19 of the Mineral Leasing Act of 1920, royalty is due on all production, including vented and flared gas and oil or gas used for production purposes or unavoidably lost. We stated that inclusion of an exemption for this purpose, other than pursuant to sections 18 and 19, in either a lease or Departmental regulation is contrary to law and is a nullity.

Chanslor-Western's leases Sacramento 019381(a) and 019381(b) were issued pursuant to Section 14 and Sacramento 019382 was reissued pursuant to section 2(a) of the 1935 amendments to the Mineral Leasing Act. Neither section provided for the exemption of oil or gas used for production purposes or unavoidably lost from royalty requirements as in sections 18 and 19 of the Act. You seek clarification of the October 4 Solicitor's Opinion or "limitation of its application to Chanslor-Western's appeal so as to preserve Chanslor-Western's long-standing exemption from payments of royalties on oil which it uses for essential production purposes on the lease."

The intent expressed in the October 4 Solicitor's Opinion is to apply the Solicitor's interpretation to all existing leases from the date of issuance of NTL-4, November 18, 1974, for Mineral Leasing Act leases and from the date of issuance of the corresponding OCS Notice, June 28, 1974, for OCS Lands Act leases. Your position is that the Department cannot now change its interpretation of the Mineral Leasing Act because it is a longstanding contemporaneous interpretation of the statute by the agency charged with its interpretation and the property rights of the lessee are determined by those rules in effect when the lease is executed. (Citing *Union Oil Co. of California* v. *Morton*, 512 F. 2d 743, 748 (9th Cir. 1975) *Continental Oil Co.* v. *U.S.*, 184 F. 2d 802, 810 (9th Cir. 1950)).

First, we will respond to your argument based on the doctrine of contemporaneous construction. Stated simply, the doctrine of contemporaneous construction is that the interpretation of a statute by the agency charged with its administration which was contemporaneous with enactment and which is of longstanding is entitled to great, if not controlling, weight in construeing the statute. Houghton v. Payne, 194 U.S. 88 (1904).

[1] The decision in *Winnegar* is not truly retroactive because it did not change a previously completed action, although it did reverse a longstanding rule.

[1] "The supervisor shall determine pursuant to the lease and regulations the rental and the amount or value of production accruing to the lessor as royalty, the loss through waste or failure to drill and produce protection wells on the lease, and the compensation due to the lessor as reimbursement for such loss."

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However, "it is only where the language of the statute is ambiguous and susceptible of two reasonable interpretations that weight is given to the doctrine of contemporaneous construction." (Id. at 99). The rule of contemporaneous construction is not an absolute rule of interpretation and will give way to an inquiry as to the original correctness of such construction (*Id.* at 100). "A custom of the department, however long continued by successive officers, must yield to the positive language of the statute." (*Id.*)

The interpretation of the Mineral Leasing Act of 1920 set forth in the October 4 Solicitor's Opinion, we think, is compelled by the statute. We do not think the particular language of the statute is susceptible of any other reasonable interpretation. We have indicated why we think so in the Opinion. In Manhattan General Equipment Co. v. Commissioner, 297 U.S. 129, 134 (1936), the court stated:

"The power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is not the power to make law . . . but the power to adopt regulations and to carry into effect the will of Congress as expressed by the statute. A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity."

See, also, McDade v. *Morton*,. 353 F. Supp. 1006, 1012 (D.D.C. 1973); *Lynch* v. *Tilden Produce Co.*, 265 U.S. 315 (1924). Terms of an oil and gas lease inconsistent with the statute are equally invalid. *Union Oil Company of California* v. *Morton, supra*. In the *Union Oil* case the court outlined the outermost boundary of the Secretary's authority. "The Secretary can alienate interests in land belonging to the United States only within limits authorized by law." The October 4 Solicitor's Opinion, in effect, found that the Secretary, by permitting exemptions from royalty requirements for oil or gas used for production purposes or unavoidably lost, was alienating the royalty interest of the United States on certain leases without authority to do so.

In a similar case, *Atlantic Richfield Company* v. *Hickel*, 432 F. 2d 587 (10th Cir. 1970), an administrative determination made by the Acting Director of the Geological Survey resulting in a reduced royalty under a lease held by ARCO was determined by the Secretary to be contrary to law. ARCO was required to pay back royalty. The court sustained the Secretary's view that the original administrative determination was contrary to law and thereby outside the scope of the agents' authority. (at 592) The court held that "the United States may not be estopped from asserting a lawful claim by the erroneous or unauthorized actions or statements of its agents or employees, nor may the rights of the United States by waived by unauthorized agents' acts. (at 591–592)

The Secretary was held to be without authority to accept a lesser royalty rate than that required under the Mineral Leasing Act provisions. The acquiescence by the Government's agents and acceptance of a lesser royalty for thirteen years were held not to alter the obligation of the Secretary nor were those circumstances held to estop the government. *See also, Federal Crop Ins. Corp.* v. *Merrill*, 332 U.S. 380, 384–5 (1947); *Automobile Club of Michigan* v. *Commissioner*, 353 U.S. 180 (1957); *Utah Power and Light Co.* v. *Morton*, 243 U.S. 389, 410 (1917).

In another similar case, *McDade* v. *Morton, supra* at 1011, the Interior Department Solicitor found that the past practice of determining whether to lease land competitively or noncompetitively upon the basis of facts known at the time of filing of a lease offer was clearly erroneous and contrary to the ordinary reading of the statute. In upholding the Solicitor's Opinion, the court stated that an administrative agency is not estopped "by its former interpretation of a statute, however longstanding, from correcting that which it presently feels to be clearly erroneous." (at 1012) The doctrine of equitable estoppel was held not to be a bar to the Secretary's correction of a mistake of law. (at 1012) Then the court quoted from *Pennsylvania Water and Power Co.* v. *Federal Power Commission*, 123 F. 2d 155, 162 (1941), the following statement:

"Save in respect of a subject-matter finally closed and settled under the former practice, the decision on which that practice is founded contains no element of estoppel or *res judicata*, as the doctrines thereof are applicable in judicial proceedings."

The chief argument you make in Chanslor-Western's behalf is that the language quoted by the court in McDade exempts Chanslor-Western's leases from the applicability of NTL–4 and the October 4 Solicitor's Opinion. You view the issuance of the lease as making the lease terms "a subject-matter finally closed and settled under the former practice."

The quoted language originated in the case of *Payne* v. *Houghton*, 22 App. D.C. 234, 249, aff'd, *Houghton* v. *Payne*, 194 U.S. 88 (1904). At issue in that case was the government's revocation of a certificate or license admitting certain publications as second class mail. The license was determined to have been issued contrary to law. The court upheld the government. The quoted language was in connection with the statement: "Were an attempt made now to reopen the question as to mail matter carried under the former permission, and collect additional postage, the question would be a very different one." It appears that the language in question went to the retroactive collection of postage on mail carried earlier under the certificate, not to revocation of the certificate itself. Since the court did not consider or rule on the question of collection of past postage, the statement in question appears as dictum. In Chanslor-Western's case, the Department, in effect, has declared invalid a lease term as contrary to law and this action is not inconsistent with the action taken by the government in *Payne* to revoke a certificate deemed contrary to law.

The specific question before the Department in this matter is not whether the regulations or lease terms are invalidated by the corrected interpretations (since they are invalidated by operation of law) but rather whether the Secretary is required to collect additional royalty that would have been due in the past under the corrected interpretation of the law. The decision in the *Atlantic Richfield* case upholds the Secretary's authority to collect back royalty based on correction of an administrative interpretation of the Mineral Leasing Act. Yet precedent also has been set for a corrected interpretation of the law under similar circumstances to be applied from date of notice as in *McDade*. *See also, Franco Western Oil Company, et al.*, 65 I.D. 427, 428; *Safarik* v. *Udall*, 304 F. 2d 944 (D.C.C. 1962). These cases indicate that it is in the Secretary's discretion to apply the corrected interpretation retroactively or prospectively based on equitable considerations.

The Secretary is limited in the exercise of this authority only by the rule of estoppel where the application of the corrected interpretation of law threatens to work a serious injustice and if the public's interest would not be unduly damaged by the imposition of estoppel. *United States* v. *Lazy FC Ranch*, 481 F. 2d 985, 989, (9th Cir., 1973). The Secretary has determined that the payment of royalty under the corrected interpretation will date from the date of notice to the lessee (through NTL–4). We do not think this determination will work a serious injustice especially since other, more appropriate, relief may be obtained under the Mineral Leasing Act where justified. The Secretary is authorized pursuant to 30 U.S.C. § 209 to reduce the royalty whenever in his judgment the lease cannot successfuly be operated under the lease terms.

You also argue on behalf of Chanslor-Western that "the property rights of the lessee are determined by those rules in effect when the lease was executed." (Citing *Union Oil Company, supra*) Without going further into the reasons for this, it should be noted that the interpretation just quoted is peculiar to the OCS Lands Act. The leases we are discussing were issued under the Mineral Leasing Act of 1920. In any case, a lessee gains no rights through a lease which could not be bestowed lawfully, since regulations or lease terms inconsistent with the statute are invalid. *Union Oil Company, supra*, at 748. With this regard, each of Chanslor-Western's leases expressly incorporated the provisions of the Mineral Leasing Act of 1920. Regardless of whether the lease expressly or impliedly incorporated the Act, the ruling in *Continental Oil Company* v. *United States*. (184 F. 2d 802 (9th Cir. 1950)) applies:

"The rights of the parties are determined by the provisions of the leases, *read in light of the provisions of the Mineral Leasing Act* . . ." (at 807) (emphasis added)

Clearly, when the provisions of the lease are in conflict with the Act, the statute must prevail.

Your argument is apparently based on the view expressed in *Standard Oil Company of California* v. *Hickel*, 317 F. Supp. 1192, aff'd 450 F. 2d 493 (9th Cir. 1971) that the Government's rights and obligations under a lease as the lessor of public lands are subject to the same rules of contract construction as are applicable to contracts between private parties. Thus, you argue that invalidation of Chanslor-Western's lease terms providing for certain exemptions from payment of royalty amounts to unauthorized administrative cancellation of leases, similar to a breach of contract. But *Standard Oil* dealt with the construction of contract provisions which fall within the discretionary authority of the Secretary. At issue in this case are contract provisions which the Solicitor concludes the Secretary could not validly approve since they are contrary to the law establishing the authority under which the leases were issued. We would likely concur in your argument based on *American Trucking Assn.* v. *Frisco Transportation Co.*, 358 U.S. 133, 146 (1948), *Alabama Power Co.* v. *Federal Power Commission*, 482 F. 2d 1208, 1212–16 (5th Cir. 1973) and *United States* v. *Seatrain Lines, Inc.* 329 U.S. 424 (1947), where an administrative agency exercised its discretionary authority to change the terms of certain issued licenses through adoption of a different, preferable policy, if that were the case here. But the cases you cite are distinguished from this particular case by the fact that in this case the statute is viewed by the Department as compelling the conclusion reached in the October 4 Solicitor's Opinion. Hence, the involuntary invalidation of a lease term does not amount to *pro tanto* cancellation of the lease.

In conclusion, the October 4, Solicitor's Opinion is properly applicable to all leases issued pursuant to the Mineral Leasing Act of 1920 and the OCS Lands Act. The Secretary's decision to require payment of royalty in accordance with that Opinion from the date of issuance of notices to the lessees and not to require back payment of royalty was based upon equitable considerations within the lawful exercise of his discretion.

We hope this letter has clarified a number of points made in the October 4 Solicitor's Opinion which you questioned.

Sincerely yours,

FREDERICK N. FERGUSON,
Acting Deputy Solicitor.

[FR Doc.77–13581 Filed 5–11–77;8:45 am]

National Park Service

GLACIER NATIONAL PARK, WEST GLACIER, MONT.

Public Meetings and Availability of Draft Environmental Assessment on Fire Management in Glacier National Park

Purpose of meetings.—Continuing public interest has been expressed in many quarters on wildland fire control and management programs in Glacier National Park. This Notice is to advise the public that existing programs and possible alternatives have been reviewed and documented in a draft environmental assessment, which is available for study at Park Headquarters in West Glacier, Montana, and at Ranger Stations throughout the park. Public meetings will be held in the vicinity of the park during June 1977 to enable the public to comment on the park's fire control and management practice.

Location of meetings.—Two meetings will be held to receive comments. The first will be held at 7 p.m., June 23, at the Rainbow Hotel, 20 Third Street North, Great Falls, Montana. The second will be held at 7 p.m., June 27, at the Eagle's Club, 37 First Street West, Kalispell, Montana. These meetings are being held to provide the widest possible involvement from individuals, organizations, and public officials. Written statements regarding the subject under discussion at these meetings are also invited. These may be submitted at the public meetings or may be addressed to the Superintendent, Glacier National Park, West Glacier, Montana 59936. The official record for these statements will remain open through July 27, 1977. Additional information on the public meetings or copies of environmental assessments may be obtained from the Superintendent at the above address.

If, as a result of public comments and a full analysis of the situation, the Superintendent determines that fire control practices in the park should be revised, a specific plan will be prepared and submitted to the Regional Director of the Rocky Mountain Region for approval, together with the final environmental assessment.

PHILLIP R. IVERSEN,
Superintendent, Glacier National Park, West Glacier, Montana 59936.

[FR Doc.77–13591 Filed 5–11–77;8:45 am]

GOLDEN GATE NATIONAL RECREATION AREA

Meetings; Notice of Intent

Notice is hereby given in accordance with the Federal Advisory Committee Act that five meetings of the Golden Gate National Recreation Area Advisory Commission will be held during June 1977. The major item on the agenda is to receive public comment to aid in developing a General Management Plan for Golden Gate National Recreation Area and Point Reyes National Seashore.

Prior to and concurrent with these public meetings will be a series of consultations between members of the National Park Service and appropriate Federal, State, and local government officials, organizations and individuals. These meetings and consultations will allow the Advisory Commission and the National Park Service to hear comments from individuals and organizations on proposals in the General Management Plan Assessment of Alternatives for Golden Gate National Recreation Area and Point Reyes National Seashore.

This involvement of the public is an important step in developing the General Management Plan that will guide the preservation and use of these two national park areas.

The meetings will be held as follows:

Saturday, June 11, 1977, 9:30 a.m. (PDT) at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco.

Wednesday, June 15, 1977, 7:30 p.m. (PDT) at West Marin School, Highway 1, Point Reyes Station, Calif.

Wednesday, June 22, 1977, 7:30 p.m. (PDT) at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco.

Saturday, June 25, 1977, 9:30 a.m. (PDT) at Tamalpais High School Student Center, Miller Avenue and Camino Alto Road, Mill Valley, Calif.

Wednesday, June 29, 1977, 7:30 p.m. (PDT) at YWCA, 2600 Bancroft Way, Berkeley, Calif.

National Park Service staff will be available to answer questions for one hour immediately preceding each of the workshops. For further information contact William J. Whalen, General Manager, Bay Area National Parks, Fort Mason, San Francisco, CA 94123; telephone: 415–556–2920.

The meetings will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Minutes of the meeting will be available for public inspection within 45 days of each meeting in the Office of the General Manager, Bay Area National Parks, Fort Mason, San Francisco, CA.

The Advisory Commission was established by Pub. L. 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park System in Marin and San Francisco counties. Members of the Advisory Commission are:

Mr. Frank Boerger	Mr. Peter Haas, Sr.
Ms. Daphne Greene	Ms. Amy Meyer

Member pending confirmation by the Secretary of the Interior are:

Mr. Ernest Ayala	Mr. John Mitchell
Mr. Richard Bartke	Mr. Merritt Robinson
Mr. Fred Blumberg	Mr. Jack Spring
Mr. John Jacobs	Dr. Edgar Wayburn
Ms. Ginny Park Li	Mr. Joseph Williams
Mr. Joseph Mendoza	

Dated: May 29, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region, National Park Service.

[FR Doc.77–13594 Filed 5–11–77;8:45 am]

ROCKY MOUNTAIN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Rocky Mountain Regional Advisory Committee will be held on June 15, 1977, at Fort Union Trading Post National Historic Site, Trenton, North Dakota; June 16, 1977, Theodore Roosevelt National Memorial Park, Medora, North Dakota; June 17, 1977, Wind Cave National Park, Hot Springs, South Dakota, and Mount Rushmore National Memorial, Hill City, South Dakota.

The purpose of the Rocky Mountain Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from member of the public on problems and programs pertinent to the Rocky Mountain Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mr. William W. Robinson, Denver, Colorado (Chairman)
Dr. John D. Hunt, Logan, Utah
Mr. Roadley Dean, Rapid City, South Dakota
Mr. Samuel J. Taylor, Moab, Utah
Mr. D. C. "Del" Shipman, Watford City, North Dakota
Mr. Vince R. Lee, Wilson, Wyoming

The meetings and on-site inspections will be conducted in different locations as follows:

JUNE 15, 1977

12 p.m. (CDT)—Tour of Fort Union Trading Post National Historic Site.

2 p.m. (CDT)—Ceremony commemorating inclusion of Snoden Bridge in the National Register of Historic Places.

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JUNE 16, 1977

9 a.m. (MDT)—Tour of South Unit, Theodore Roosevelt National Memorial Park.

1 p.m (MDT)—Public meeting at Roughrider Motel, Medora, N.D., to discuss the redesignation of Theodore Roosevelt National Memorial Park.

JUNE 17, 1977

8 a.m. (MDT)—Tour Wind Cave National Park.

12:30 p.m. (MDT)—Public meeting at Visitor's Center Conference Room, Mount Rushmore National Memorial to discuss concessions operations in the National Park Service.

Persons wishing information concerning this meeting or who wish to submit written statements may contact the Superintendents of Theodore Roosevelt National Memorial Park or Mount Rushmore National Memorial or the Public Affairs Office, Rocky Mountain Regional Office, National Park Service, Denver, Colorado 80225. Telephone (303) 234–3095.

Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at the Rocky Mountain Regional Office, 655 Parfet Street, Denver, Colorado.

Dated: May 4, 1977.

LYNN H. THOMPSON,
Regional Director,
Rocky Mountain Region.

[FR Doc.77-13593 Filed 5-11-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-33]

CERTAIN LIGHT SHIELDS FOR SONAR APPARATUS

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-33, Certain Light Shields for Sonar Apparatus, at 10 a.m. on Thursday, June 2, 1977, in the ALJ Hearing Room, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on April 26, 1977 (42 FR 21335). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13608 Filed 5-11-77;8:45 am]

[Investigation No. 337-TA-31]

CERTAIN STEEL TOY VEHICLES

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-31, Certain Steel Toy Vehicles, at 10 a.m. on Tuesday, May 17, 1977, in the ALJ Hearing Room, Rom 610, Bicentennial Building, 600 E Street, NW., Washingtn, D.C. Notice of this investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19933). The purpose of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13602 Filed 5-11-77;8:45 am]

[Investigation No. 337-TA-30]

DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE (PHOTOCUBES)

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-30, Display Devices for Photographs and the like, at 10 a.m. on Monday, May 16, 1977, in Room 610 Bicentennial Building, 600 E Street, NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on February 18, 1977 (42 FR 10073). The purpose of this conference are to establish a schedule for the submission of prehearing briefs, set a date for the prehearing conference and hearing, and to resolve any discovery problems which have arisen relating to the preparation for hearing.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13601 Filed 5-11-77;8:45 am]

[Investigation No. 337-TA-32]

DOT MATRIX IMPACT PRINTERS

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-32, Dot Matrix Impact Printers, at 10 a.m. on Wednesday, May 18, 1977, in the ALJ Hearing Room, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on April 26, 1977 (42 FR 21334). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Temporary Relief Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

Issued: May 6, 1977.

The Secretary shall serve a copy of this Notice upon parties of record and shall publish this Notice in the FEDERAL REGISTER.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13604 Filed 5-11-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-31]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON MATERIALS AND STRUCTURES

Meeting

The NASA Research and Technology Advisory Council (RTAC) Committee on Materials and Structures will meet on June 7, 8, and 9, 1977, at the NASA Langley Research Center, Hampton, Virginia. The meeting will be held in Room 225, Building 1219. The meeting is open to the public on a first-come/first-served basis, up to the seating capacity of the room, which is about 50 persons. Visitors will report to the receptionist in the lobby of Building 1219.

The NASA RTAC Committee on Materials and Structures serves in an advisory capacity only. The Committee studies issues pertinent to the NASA materials and structures research program, and identifies related critical problems in materials science and engineering, advanced concepts and materials applications, structural design and analysis, and structural loads and dynamics. They review relevant program goals, assess current work, determine technology voids, and report recommendations to the Council. The current Chairman is Dr. Holt Ashley. There are 14 members. The following list sets forth the approved agenda and schedule for the June 7, 8, and 9, 1977, meeting. For further information, please contact Mr. George C. Deutsch, NASA Headquarters, Washington, D.C. 20546, Area Code 202, 755-3264.

JUNE 7, 1977

Time	*Topic*
8:30 a.m.	Chairman's and Executive Secretary's Reports (Purpose: These reports will be presented to obtain approval of past meeting minutes, to review results of the February 2-4, 1977, meeting of the RTAC, to report NASA organization changes, to brief the Committee on recent research and technology program changes, and to obtain members' comments and recommendations.)
9:45 a.m.	NASA Office of Aeronautics and Space Technology New Initiatives Review (Purpose: To inform the Committee on New Program Plans for Fiscal Year 1979 and obtain members' comments and recommendations.)
1:00 p.m.	Review of Langley Program and Facilities (Purpose: To inform the Committee on the projects in the Langley program and to inspect related facilities.)

JUNE 8, 1977

8:30 a.m.	Continue Review of Langley Program and Facilities.
1:00 p.m.	NASA Composites Program Review (Purpose: The Committee will review a report on the status of the NASA Composite Materials Program for purposes of discussion and recommendation.)
2:00 p.m.	Composites for General Aviation (Purpose: Two members of the Committee will review their plans for working with the RTAC Panel on General Aviation and for attending the General Aviation Composites Workshop. Committee comment will be provided.)
3:00 p.m.	Solar Sail Research and Technology Program (Purpose: To review recent progress in Materials and Structures research for Solar Sails for discussion and recommendations.)
4:00 p.m.	Technology Focal Points (Purpose: For the Chairman to report recent progress and RTAC reviews of this principle at NASA Centers.)

JUNE 9, 1977

8:30 a.m.	IPAD Status Report (Purpose: To inform the Committee on recent progress in Integrated Programs for Aerospace Vehicle Design (IPAD) and results of the meeting of the Industry Technical Advisory Board (ITAB) for comment and recommendations.)
9:30 a.m.	NASA Center Reports (Purpose: NASA Center representatives on the Committee will report on recent progress on materials and structures technology development programs for Committee information.)
10:30 a.m.	Issues (Purpose: The Committee will discuss new items identified during Center and member report briefings and other parts of the meeting and determine future action.)
1:00 p.m.	Members' Reports (Purpose: To present reports of recent accomplishments in research and development programs in members' organizations for Committee information.)
2:30 p.m.	Plans for Next Meeting (Purpose: To discuss time, place, and agenda for next meeting.)
3:00 p.m.	Adjournment.

Dated: May 5, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.77-13501 Filed 5-11-77;8:45 am]

[Notice 77-32]

SPACE PROGRAM ADVISORY COUNCIL (SPAC) APPLICATIONS COMMITTEE

Meeting

The ad hoc informal Subcommittee on Satellite Telecommunications of the SPAC Applications Committee will meet on June 7, 1977, from 9:00 a.m. to 4:00 p.m. at NASA Headquarters, Federal Office Building 10B, Room 226A, 600 Independence Avenue SW., Washington, D.C. Members of the public will be admitted to the meeting at 9:00 a.m. on a first-come, first-served basis. The seating capacity of the room is 35 people. Visitors will be requested to sign a register.

This Subcommittee, comprised of 9 members of the SPAC Applications Committee including the Chairman, Mr. Thomas Rogers, serves in an advisory capacity only and will recommend a satellite telecommunications program to NASA.

For further information regarding the meeting, please contact Mr. Louis B. C. Fong, Washington, D.C. (202) 755-8617. The approved agenda for the meeting on June 7, 1977, is as follows:

Time	*Topic*
9:00 a.m.	Opening Remarks by Chairman.
9:30 a.m.	Satellite Telecommunications Program. The ad hoc informal Subcommittee on Satellite Telecommunications will continue its discussions and consideration of the National Research Council (NRC)-Space Applications Board report on "Federal Research and Development for Satellite Communications." The Subcommittee will attempt to arrive at preliminary findings and conclusions and to provide NASA with preliminary guidance on the direction(s) NASA's Satellite Telecommunications Program could take.
4:00 p.m.	Adjourn.

Dated: May 5, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.77-13502 Filed 5-11-77;8:45 am]

[Notice 77-30]

STRATOSPHERIC RESEARCH ADVISORY COMMITTEE

Meeting

The Stratospheric Research Advisory Committee will meet at the National Aeronautics and Space Administration Headquarters on May 31, and June 1, 1977. The meeting will be open to members of the public. The meeting will take place from 1:00 p.m. to 5:00 p.m. on May 31 and from 9:00 a.m. to 4:30 p.m. on June 1 in Room 6004 of Federal Office Building 6, 400 Maryland Avenue, SW, Washington, D.C. 20546.

The Stratospheric Research Advisory Committee advises NASA concerning the contents and direction of the NASA Upper Atmospheric Research Program. Topics under discussion at this meeting will include: Discussion of the Global Atmospheric Sampling Program (GASP) by the Lewis Research Center; Discussion of the Chlorofluoromethane Assessment Workshop Report; and Discussions of the Measurement Strategy for Stratospheric Research.

For further information regarding the meeting, please contact Dr. Shelby G. Tilford, Executive Secretary, at Area Code 202/755-3766, National Aeronautics and Space Administration, Washington, D.C. 20546.

KENNETH R. CHAPMAN,
Assistant Administrator for Department of Defense and Interagency Affairs, National Aeronautics and Space Administration.

MAY 5, 1977.

[FR Doc.77-13478 Filed 5-11-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARCHITECTURE AND ENVIRONMENTAL ARTS PROGRAM

Grant Guidelines

The following are guidelines for the Achitecture and Environmental Arts Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Architecture and Environmental Arts Program application deadlines are included. Interested persons should contact Mr. Roy Knight, Acting Director,

V 42 92 MAY 12 77 UMI

Architecture and Environmental Arts Program, National Endowement for the Arts, Mail Stop 503, Washington, D.C. 20506 (202/634-4276) for further information.

Signed at Washington, D.C., on May 2, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

INTRODUCTION

The Architecture + Environmental Arts Program is concerned primarily with excellence in design. Funded activities relate to architecture, landscape architecture, urban design, city and regional planning, interior design, industrial design, fashion design, and other recognized design professions. The Endowment also supports allied professions which assist the design field. The program attempts to encourage creativity and to make the public aware of the benefits of good design.

Although the major objectives of the Endowment's Architecture + Environmental Arts Program remain unchanged, there are significant revisions in the granting categories and procedure for Fiscal Year 1978. The new categories are intended to allow greater flexibility in responding to requests for support.

This year all grant categories will share the same three deadlines. By this means the Endowment will be able to act quickly on ideas and opportunities which are submitted.

It is anticipated that competition for available funds will be keen. The Endowment looks for talent, creativity, innovation, clarity of purpose, efficient organization, and significant impact in its effort to promote the highest standards of design through this grant program.

For further information or clarification, contact the Architecture + Environmental Arts Program, Mail Stop 503, National Endowment for the Arts, Washington, D.C. 20506. Telephone: (202) 634-4276.

Grant category	Application deadlines for all applicants	Project beginning date
Professional fellowships in design.	June 14, 1977	Dec. 1, 1977
	Oct. 14, 1977	Mar. 1, 1978
Design Project Fellowships.	Feb. 2, 1978	June 1, 1978
Livable Cities		
Design and Communication.		
Cultural Facilities Research and Design.		
General programs	No deadline. Send letter of inquiry.	

GRANT CATEGORIES

Individuals

Professional Fellowships in Design

To assist practicing professional designers and planners of exceptional talent who seek time for personal development.

Design Project Fellowships

To assist exceptionally talented individuals in pursuit of specific design, research, or education projects.

ORGANIZATIONS

Livable Cities

To encourage exemplary design in our communities as an integral part of the planning process.

Design and Communication

To assist the development and dissemination of information about design for the public and the design professions.

Cultural Facilities Research and Design

To assist communities in the planning and design of exemplary cultural facilities; to encourage the commitment of local public and private money to carry out projects.

GENERAL PROGRAMS

To assist and contract for projects not specifically included in other grant categories.

GRANT CATEGORIES FOR INDIVIDUALS

PROFESSIONAL FELLOWSHIPS IN DESIGN

To assist practicing professional designers and planners of exceptional talent who seek time for personal professional development

Through fellowships awarded in this category, the Architecture and Environmental Arts Program seeks to assist creative individuals who have established a proven record of outstanding accomplishment at midcareer. The Endowment recognizes that heavy demands on the time of practicing designers often hinder attempts to develop their personal creative potential. This category is intended to provide support for time taken away from practice to be devoted solely to activity which will enhance the recipient's abilities or which will permit exploration of areas of interest or approaches to design new to the recipient.

Grants are awarded on the basis of past professional contribution and promise of future achievement. The applicant's proposed approach to self-development should be the subject of a brief project description. The Endowment will rely on the responsibility and motivation of the individual to make the most of this opportunity.

DESIGN PROJECT FELLOWSHIPS

To assist exceptionally talented individuals in pursuit of specific design, research, or education projects

The Endowment recognizes that many of the most important contributions to the field of design are made by creative individuals working independently. Thus, provision is made to assist those persons who have imaginative and valuable projects which they are both motivated and qualified to do.

These fellowships will support a broad range of projects such as: the exploration or testing of design concepts, the development and dissemination of ideas, or efforts to bring design issues and opportunities to public attention. Projects may deal with subjects on the scale of regions, neighborhoods, buildings, or products designed for individual consumer use.

Since this category is intended to support special projects, the individual applicant should explain the subject, methodology, and intended impact of the proposed work clearly and thoroughly. Evidence of qualification to complete the work in an effective manner is very important.

GRANT AMOUNTS

Non-matching grants of up to $10,000 are available for Professional Fellowships in Design and Design Project Fellowships.

ELIGIBILITY

General. Applications for grants to individuals must be submitted in the name of one person.

Generally, grants to individuals are made only to citizens or permanent residents of the United States.

Persons who are engaged in teaching are not eligible for Professional Fellowships in Design but are eligible in the Design Project Fellowships category. Professional Fellowships in Design and Design Project Fellowships may not be used to support an individual's formal professional education.

Professional Fellowships in Design. Applicants for Professional Fellowships in Design must have been continuously active as practicing professionals in any one of the design fields or allied professions for the past five years. Included are architecture, landscape architecture, city and regional planning, urban design, interior design, industrial design, fashion design, and other recognized design fields. Normally they should hold at least a bachelor's degree or the equivalent in an accredited professional curriculum, and hold a license for practice if required in the applicant's profession. However, other applicants who are qualified by virtue of outstanding performance as professionals will be considered.

Design Project Fellowships. If essential for completeness of a project, modest use of consultants is permitted in Design Project Fellowships. The individual applying, however, must carry out most of the work under any grant which may be awarded. (Projects which involve substantial participation of more than one person or include an organization must apply through a qualified organization; matching funds are required for such projects.)

GRANT CATEGORIES FOR ORGANIZATIONS

LIVABLE CITIES

To encourage exemplary design in our communities as an integral part of the planning process

There was a time in our history when civic pride, "boosterism," and competition to excel and be recognized for achievement prompted the towns and cities of this country to undertake civic projects that reflected the leadership and spirit of the public and private sectors. These projects stated, to both resident and visitor, the community's confidence and its vision of its own dynamic future seen for that community by its leaders. It was widely accepted that design provided the best medium for these public visions.

Times have changed and civic pride has all too often given way to a simplistic notion that bigger is better and that new is certainly preferable to old. However, increased environmental awarenes shas brought about a renewed interest in the quality of our built environment and in those peculiarities and features of our towns that reflect the differences of terrain, building materials, climate, and, above all, people.

Recently, citizen involvement with physical planning for neighborhoods and communities and cities have reinforced this mood. More and more the concepts of livability, human scale, variety of experience, and cultural opportunity have joined social and economic concerns as the foundation for a new civic movement.

Livable Cities expands the Endowment's urban design focus which in the past produced the National Theme Programs of City Edges, City Options, Cityscale, and the American Architectural Heritage Program. Livable Cities will embrace all of these earlier programs but will take a broader approach to urban quality that will more easily respond to the different design priorities and opportunities in our towns and cities. The emphasis of this category is upon creativity, energy, and cooperative spirit in the public and private sectors using design to work toward opportunities to improve communities.

Funds will not be available for construction, renovation, or capital investment. Matching grants will be awarded to promote design excellence in research, planning, and conceptualization of community projects. Projects which will be implemented in a manner that will assure significant and long-term impact are given the highest priority for funding. The following are some examples of project types and opportunities that could be supported under Livable Cities: [1]

Design of Special Public Places
Preserving Our Architectural Heritage
Design for the Pedestrian in Auto-Free Zones
Neighborhood Conservation and Enhancement
Open Space and Design for Recreation
Long Range Community Urban Design
Townscape Improvement
Enhancement of Rural Landscapes
Design Controls
Design in Transit Facilities
Creative Zoning and Building Codes
Community Design Services
Commercial District Revitalization
City Edge Conditions
Design Competitions
Graphic Design in the Environment
Waterfront Enhancement.

DESIGN AND COMMUNICATION

To assist the development and dissemination of information about design for the public and the design professions

The objective of this grant category is to facilitate good design through the development and communication of ideas and information about design. It is a grant category for public interest groups, community agencies, educational organizations and the design professions. It is intended to enable these groups to work together toward a wider appreciation of design and its more extensive application, while encouraging imagination and innovation.

The extent to which good design thinking is employed to improve our lives will be decided in terms of the quality of design the public demands and the professions provide. Thus, improvement of design depends on increasing public awareness, appreciation, and participation as well as strengthening talents and expertise within the professions.

The importance of good design may be assessed in terms of many decisions which everyone makes; the choice of a place to live, its design, the character of its setting, the quality of its furnishings.

Other issues often arise that require attention: improving an industrial district by landscaping; or preventing intrusion of an unacceptable structure into an old neighborhood; or transforming a languishing commercial district into a more lively place. These are matters of personal or public choices involving design and a need for good professional information and advice.

[1] The Endowment has a separate program to assist museums in preserving collections of aesthetic and cultural significance. The program seeks to encourage renovation of facilities for climate control, security, and storage in existing structures. For further information write: Museum Program, Stop 502, National Endowment for the Arts, Washington, D.C. 20506. Also, see reference to Challenge Grants, p. 7.

Under this category, a range of activity will be eligible, extending from the development of new ideas in a university setting or by research organizations, through programs of the professional societies to disseminate ideas, to professional or public gatherings to exchange and discuss ideas and strategies. Any form of communication medium may be incorporated in projects—publications, films, television broadcasts, et cetera. The audience must be clearly defined as well as the means for reaching it.

For this program:
The more significant the issue, the better.
The more imaginative the idea, the better.
The more complete and accurate the information, the better.
The wider the audience, the better.

CULTURAL FACILITIES RESEARCH AND DESIGN

To assist communities in the planning and design of exemplary cultural facilities; to encourage the commitment of local public and private money to carry out projects

The Architecture + Environmental Arts Program recognizes the need to develop cultural facilities in order to provide for increasing activity in the arts across the nation.

A small amount of money is available for design and planning assistance to groups which plan to build, replace or improve their physical facilities. The Endowment does not provide money for acquisition of real estate, construction, or repairs to buildings.

Grants are available for design and planning studies, research on aspects of facility design and management, feasibility studies, preparation of information to support promotion of a facility, planning for adaptive use of old buildings for arts-related use, and technical studies related to lighting, acoustical, and similar problems. The program places highest priority on projects which represent a compelling immediate need and which give promise of economic and social benefit to the community. Full documentation of programs and activities to be housed must be included in the application. Applicant organizations should also be keenly aware of the Endowment's interest in creative and imaginative design. Finally, the Endowment will seek to assist those projects which have the greatest promise of implementation.

GRANT AMOUNTS

Matching grants of up to $30,000 will be awarded; most, however, will be for less. Matching funds must be part of the approved budgeted project and spent within the period specified in the grant.

ELIGIBILITY

Grants are available to nonprofit, tax-exempt organizations, including universities, professional degree-granting institutions, state arts agencies, state and local governments, regional arts organizations, national service organizations in the fields of design.

Where two or more organizations are involved in a project, one must be designated the "Applicant Organization." This organization assumes the responsibility for receipt and disbursement of funds, administration, accounting, and reporting for any eventual grant. This responsibility includes providing information to other interested organizations concerning the status of the application and the progress of any project awarded a grant.

By statute, the National Endowment for the Arts is limited to the support of organizations which meet the following criteria:

a. Organizations in which no part of net earnings inures to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under Section 170(c) of the Internal Revenue Code of 1954, as amended. Two copies of the Internal Revenue Service determination letter for tax-exempt status must be submitted with each application.

b. Applicants receiving National Endowment for the Arts support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973, as amended, which bar discrimination in federally assisted projects on the basis of race, color, national origin, or handicap. Applicants receiving support from the National Endowment for the Arts who will be making payments for services to any person other than the grantee must comply with these requirements. Such grantees are required to file with the Grants Office an Assurance of Compliance form. The form on page 35 may be removed and completed for this purpose. Please enclose the completed form with your application and mail to: Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, DC 20506. If the applicant has filed an Assurance of Compliance form with the Arts Endowment within the last five years, in connection with a grant award, it is not necessary to complete the Assurance form at this time.

c. Organizations which compensate all professional performers, related or supporting professional personnel, laborers, and mechanics, on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations, or the equivalent thereto as recognized by the appropriate union, for the duration of any projects supported in whole or in part by the National Endowment for the Arts.

IMPORTANT POINTS FOR ALL APPLICANTS

Applicants should consider carefully whether they have provided all necessary and pertinent information and supplementary documents. Those reviewing the application should have material sufficient to understand the nature of the project and the qualifications of the principals carrying out the project.

Listed below are some points that might be helpful to an organization preparing an application.

How will the project respond to a public need?

What assurance is there that the project will be carried out and will have a favorable impact on the community both aesthetically and economically?

Are there written endorsements demonstrating support for the project?

Is it clear that the proposed objectives can be achieved within the framework of realistic methodology, budget, and schedule while meeting the highest standards?

Have resumes been included demonstrating that those participating are qualified to achieve the project goals?

Is there minimum emphasis on the rental or purchase of equipment, travel, and similar items?

Are there assurances that the proposed project will not duplicate the efforts of others?

Is it clear why Endowment funds are essential to the project?

Is the location of the project indicated?

Is related information clarifying the scale and character of the project provided?

Is there a brief history of the project or organizations concerned?

Are illustrations which describe the project provided?

Have examples of work illustrating design capabilities of the principals in the project been included?

V 42 92 MAY 12 77 UMI

If there is a master plan to which the project is related, is a copy of the appropriate portion included?

GENERAL PROGRAMS

To assist and contract for projects not specifically included in other grant categories

The Endowment will consider proposals for projects which do not fit into any one or a combination of the categories listed. Through General Programs, the Endowment will continue to support the professional design organizations and State Arts Agencies which emphasize design. Grants will be awarded generally on a matching basis to organizations and on a non-matching basis to individuals.

In order to ensure budgetary flexibility, funds have been set aside to enable the Architecture + Environmental Arts Program to respond to new developments in the field of design.

Only applications which clearly do not fit under any other category may be submitted under this category and only upon recommendation of the Architecture + Environmental Arts Program.

FEDERAL DESIGN IMPROVEMENT PROGRAM

The Federal Design Improvement Program, coordinated by the National Endowment for the Arts, is an effort to achieve better architecture, environmental planning, and visual communication throughout government. It consists of four major elements:

The federal architecture project, a continuing study of the Guiding Principles of Federal Architecture that gives promise of establishing the basis for making government buildings inviting and attractive for the people who visit and work in them.

The graphics improvement program in which more than 50 departments and agencies are participating, and 45 are beginning to produce more readable, cost effective publications, establishing clearer communication between government and the people.

The design information program to educate and inform administrators and designers of the need for and advantages of integrating good design into the management process. Key activities include design assemblies, studio seminars, awareness workshops, and the newsletter Federal Design Matters.

The cooperative project with the Civil Service Commission to attract and recruit the best designers to government. The examination procedure has been modified extensively, and expert panels are evaluating portfolios to establish a list of the best available designers from which agencies can draw.

UNITED STATES/UNITED KINGDOM BICENTENNIAL EXCHANGE FELLOWSHIP PROGRAM

Under an agreement between the governments of Great Britain and the United States, a total of five Fellowships from the Architecture + Environmental Arts Program and other disciplines for work and study in the United Kingdom will be awarded each year to mid-career American artists who show a clear potential to become leaders in their respective fields. A similar number of British artists will receive awards to pursue their disciplines in the United States. The program, administered jointly in the United States by the National Endowment for the Arts and the Department of State, and in the United Kingdom by the British Council, will continue through 1981.

Fellowship grants of up to $15,000 are available to enable artists to pursue their disciplines in the United Kingdom. Each fellow will receive a monthly stipend of $1,600. Round-trip transportation will be provided for the fellow. Additional funds may also be made available for other extraordinary expenses directly associated with the Fellowship. There is no matching requirement.

US/UK Fellowships will normally be awarded for nine consecutive months in residence in the United Kingdom. Occasionally US/UK Fellowships will be considered for not less than six consecutive months. Applicants should propose plans that can take place between summer 1978 and spring 1979.

Applications will be accepted twice during the year. Applications must be postmarked no later than the following deadline dates: June 14, 1977; October 14, 1977.

Only applicants recommended by the Architecture + Environmental Arts Advisory Panel will be notified.

A representative of the American Selection Committee will write to recommended artists to obtain additional information by March 1978. Applicants applying for a US/UK Fellowship must complete three copies of the Individual Grant Application NEA-2 (Rev.) and submit them to the Grants Office, Mail Stop 500, National Endowment for the Arts, Washington, D.C. 20506.

For further information, please contact the Office of Special Projects, National Endowment for the Arts, Washington, D.C. 20506. Tel. 202 634-6020.

APPLICATION INFORMATION

CHALLENGE GRANTS

Contingent on receipt of appropriations, the Arts Endowment is planning a program of Challenge Grants. The purpose of these grants is to encourage cultural organizations to project and implement realistic plans for securing new and increased sources of continuing support and to assess their long-range goals.

Challenge Grants will be available to cultural institutions or groups of cultural institutions that have demonstrated a commitment to aesthetic quality and have programs of national or regional impact. It is expected that most recipients of Challenge Grants will also be grantees of other Programs of the Arts Endowment.

These grants will be awarded on a minimum 3 to 1 matching basis with each federal dollar generating at least three new and/or increased dollars from other sources. Grants are awarded on a one-time basis but may cover a period of up to three years.

The specific use of the Challenge Grant and matching funds is primarily at the discretion of the grantee. Possible uses of Challenge Grants are:

To meet increased operating costs;

To help eliminate accumulated debts;

To initiate or augment a cash reserve or an endowment fund;

To provide capital improvements for cultural facilities;

To assist a special one-time project which shows clearly that it will contribute to the basic strengthening of the grantee, and will have a beneficial impact on generating continued contributions from new and/or increased sources.

More detailed information may be obtained by writing: Challenge Grants, National Endowment for the Arts, Washington, D.C. 20506.

METHODS OF FUNDING

PROGRAM FUNDS METHOD

Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application (Organization Grant Application NEA-3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated source of matching must be identified. Budgeted funds, as well as newly raised funds, may be used for matching in all programs.

Example:

If an applicant requests from the Endowment	$30,000
Then applicant lists match of at least	30,000
And total project budget reflects at least	60,000

TREASURY FUND METHOD

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other non-federal sources to funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows non-federal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Gifts to the Endowment are generally deductible for federal income, estate, and gift tax purposes.

Gifts may be made to the Endowment for the support of a nonprofit tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant under its regular program guidelines—organizations such as a museum, a symphony orchestra, a dance, opera, or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops.

When a restricted gift is received, it frees an equal amount from the Treasury Fund, which is then made available to the grantee in accordance with the amount and conditions of the grant, as recommended by the National Council on the Arts and approved by the Chairman.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

How a Treasury Fund Grant is arranged. Those interested in giving for a specific purpose should note the step by step process described below.

1. If a project is eligible for consideration under the Architecture + Environmental Arts guidelines, the applicant submits to the Endowment a formal application, which may include a list of potential donors.

2. The application is reviewed first by the Architectural + Environmental Arts Panel and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

3. If the grant award is approved, the applicant then requests that the donors forward their gifts to the National Endowment for the Arts in the form of a gift transmittal letter specifying the amount and restricted purpose of the donation (i.e., the name of the applicant and specific project supported), and date by which payment will be made to the grantee organization (see below).

Handling procedures. In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients will receive payment directly from the donor (in cash or negotiable securities) on all restricted Treasury Fund gifts to the Endowment. Under this method, the following procedures apply:

1. Gift transmittal letter is received by the Endowment from donor with above specified information.

2. Upon receipt of payment on the gifts, grantee provides the Endowment with evidence of receipt of such payment as follows:

In the case of individual gifts of less than $5,000, grantee will forward to the Endowment a list of donors' names, addresses and amounts received, certified by an official of the organization and notarized.

In the case of individual gifts of $5,000 or more, grantee will forward to the Endowment, within the grant period, a photostatic copy of the instrument of payment, i.e. the check or negotiable securities, with a covering letter.

3. In cases where benefit proceeds are to be utilized for purposes of the Treasury Fund, evidence, such as benefit announcement circulars, invitations, posters, etcetera (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund) must be retained by grantee as evidence of donors' intent. In these cases, the grantee organization will forward to the Endowment, within the grant period, a notarized letter requesting release of the Treasury matching funds, signed by an appropriate official, certifying that the benefit was held on a specified date, yielded a specified sum for Treasury Fund gift purposes related to the grant in question, and that evidence of the benefit will be retained by grantee organization in its files.

4. In all cases, donors are to make payment on gifts at least 60 days prior to termination of the grant period, and grantee organizations will provide the Endowment with evidence of receipt of payment on gifts at least 30 days prior to the termination of the grant period.

The process in terms of money:

Donor's contribution(s) to Endowment	$25,000
Endowment match from the Treasury Fund	25,000
Total Endowment grant	50,000
Grantee's additional project cost	50,000
Minimum total budget of project	100,000

PERIOD OF SUPPORT

A grant is awarded for the specified period of time which you indicate in the appropriate space on the application form. We request that this grant period not exceed one year. In scheduling the starting date for your project, please take into account the fact that payment does not accompany the grant award letter. You must complete the Cash Request form enclosed with the letter and return it to the Endowment for processing. This generally requires three to four weeks.

PROJECT LOCATION

Generally all projects supported by the Endowment must be performed within the fifty states, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands. Exceptions may be made if full justification is provided in terms of benefits accruing to the United States.

APPLICATION REVIEW PROCEDURE

Architecture and Environmental Arts staff refer all applications to an advisory panel composed of outstanding representatives on the design and planning fields. The recommendations of this panel are submitted to the National Council on Arts, an advisory group of 26 persons appointed by the President of the United States and the Chairman of the National Endowment for the Arts. The National Council reviews and makes recommendations on applications to the Chairman of the National Endowment for the Arts. The applicant is then notified by letter concerning final action taken by the Chairman of the Endowment.

Information regarding action taken on applications cannot be made available until after the groups listed above have made their recommendations and the Chairman of the Endowment has reached a final decision. Applicants are requested not to seek information on the status of their requests.

REQUIRED MATERIALS TO BE SUBMITTED WITH APPLICATION FORMS

1. A minimum of three letters of endorsement pertaining to the project purposes and the qualifications of participants.

2. Resumes for the individual applicant or major participants in organization projects.

3. Two copies of the organization's Internal Revenue Service determination letter for tax-exempt status. Although this letter may have been submitted previously, it must be submitted with each application.

4. Signed copy of the Assurance of Compliance with the Regulations of the Civil Rights Act of 1964 form if one has not been submitted, in connection with a grant award, during the last five years.

SUBMISSION OF APPLICATIONS

If, after thorough review of these guidelines, you feel that you are eligible for a grant within the scope of the Architecture and Environmental Arts Program, please complete three copies of either the Individual Grant Application NEA-2 (Rev.) or the Organization Grant Application NEA-3 (Rev.) form. Application forms and a sample form are provided in the back of this booklet. It is suggested that you familiarize yourself with the sample form before completing your application.

The application and all other materials relating to the project should be submitted to: Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506.

INQUIRIES

All inquiries regarding scope and application procedures for Architecture and Environmental Arts grants should be directed to:

Architecture and Environmental Arts Program (Mail Stop 503), National Endowment for the Arts, Washington, D.C. 20506, 202-634-4276.

Questions related to grant conditions and budgets should be directed to:

Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506, 202-634-6160.

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, we wish to furnish you with the following information:

Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954), authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what is can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (Pub. L. 90-480) legislation that would require all public buildings constructed, leased, or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

NOTE ON PUBLICATIONS

The National Endowment for the Arts strongly encourages grantees who produce books or other publications for dissemination to take advantage of the free cataloging service of the Cataloging-in-Publication Office of the Library of Congress.

Cataloging-in-Publication provides publishers with cataloging data to be printed in the book. Having the data in the book speeds up the library cataloging process and gets the book into immediate circulation—to the benefit of author, publisher, and reader.

For procedural information call or write to:

Library of Congress, Descriptive Cataloging Division, Cataloging-in-Publication Office, Washington, D.C. 20540, Tel. (202) 426-6372.

[FR Doc.77-13366 Filed 5-11-77;8:45 am]

National Endowment for the Humanities

ADVISORY COMMITTEE ON SCIENCE, TECHNOLOGY AND HUMAN VALUES

Partially Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Endowment for the Humanities announces the following meeting:

Name: Advisory Committee on Science, Technology and Human Values (STHV) Meeting in Collaborative Session with the Advisory Committee on Ethics and Values in Science and Technology (EVIST) of the National Science Foundation.

V 42 92 MAY 12 77 UMI

Date: June 3, 1977.
Time: 9:30 a.m.–11:45 a.m., 12:30 p.m.–5:00 p.m.
Place: Room 540, National Science Foundation, 1800 G Street, N.W. Washington, D.C.
Type of meeting: Part-open.
Contact person: Dr. Richard Hedrich, Coordinator, Program of Science, Technology and Human Values, Office of Planning and Analysis, National Endowment for the Humanities, Washington, D.C. 20506. (Telephone 202–382–5996). Individuals planning to attend are requested to notify Dr. Hendrich by May 27.

Purpose of Advisory Committee: To provide advice and recommendations concerning support of scholarly activities in the filed of ethical and human value relationships to developments in science and technology, in conjunction with cooperative programs of the National Endowment for the Humanities (NEH) and the National Science Foundation (NSF).

AGENDA

9:30 a.m.–11:45 a.m. (open)
Reports and Discussion on NSF and NEH Programs
NSF—Office of Science and Society
Public Understanding of Science
Science for Citizens
Ethics and Values in Science and Technology
NEH—Program of Science, Technology and Human Values
12:30 p.m.–5:00 p.m. (Closed) Consideration of applications.

Reason for closing: The categories and quality of applications presently under consideration for funding will be discussed. This will involve consideration of individual proposals currently being reviewed which include information of a proprietary or confidential nature; including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552c(b), Freedom of Information Act.

Authority to close: The determination made by the Committee Management Officer pursuant to provisions of Section 10(d) of Public Law 92–463, as amended.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13495 Filed 5–11–77;8:45 am]

EDUCATION PROGRAMS PANEL

Meeting

MAY 5, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Programs Panel will convene at 9:00 a.m. each day in Rooms 1023 and 1025 at 806 Fifteenth Street NW., Washington, D.C., on June 2 and 3, 1977.

The purpose of the meeting is to review Projects applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552 b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 Fifteenth Street NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13496 Filed 5–11–77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

MAY 5, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806–15th Street NW., Washington, D.C. 20506, in Room 1130, from 9 a.m. to 5:30 p.m. on June 2 and 3, 1977.

The purpose of this meeting is to review applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects beginning October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552 b(c) and that it is essential to close the meeting to protect the free exchange on internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506 or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13494 Filed 5–11–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 2 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

This amendment modified the Technical Specifications of the facility in order to have its specifications consistent with the Technical Specifications recently approved for Calvert Cliffs Nuclear Power Plant Unit No. 1. This consistency is necessary because these units are essentially identical and both units share a common control room. This amendment also incorporated a number of miscellaneous editorial changes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 3, 1977, as supplemented by letter dated March 24, 1977, (2) Amendment No. 6 to License No. DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of April 1977.

For the Nuclear Regulatory Commission.

PAUL W. O'CONNOR,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77–13216 Filed 5–11–77;8:45 am]

[Docket No. 50–389]

FLORIDA POWER AND LIGHT CO. (ST. LUCIE PLANT UNIT NO. 2)

Issuance of Construction Permit

Notice is hereby given that, pursuant to the Atomic Safety and Licensing Board's Partial Initial Decision, Supplement to the Partial Initial Decision, and Initial Decision dated February 28, 1975, April 25, 1975, and April 19, 1977, respectively, the Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPPR–144 to the Florida Power and Light Company (the Applicant) for construction of a pressurized water nuclear reactor at the applicant's site on Hutchinson Island in St. Lucie County, Florida. The proposed reactor, known as the St. Lucie Plant Unit No. 2 (the facility) is designed for a rated power of 2570 megawatts thermal with a net electrical output of 810 megawatts.

The Initial Decision dated April 19, 1977 is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

Construction Permit No. CPPR–144 includes the condition that the permit is subject to the outcome of the proceedings in *Natural Resources Defense Council* v. *NRC* (D.C. Circuit, July 21, 1976) Nos. 74–1385 and 74–1586. In addition, the construction permit includes antitrust conditions which have been agreed to by Florida Power and Light Company in a letter to the Commission dated March 18, 1977. This construction permit, however, is issued subject to further action as may be deemed appropriate by the Commission as a result of an antitrust proceeding involving this facility now pending before an Atomic Safety and Licensing Board initiated by a group of Florida cities.

The construction permit is effective as of its date of issuance. The earliest date for the completion of the facility is August 1, 1982, and the latest date for completion is February 28, 1984. The permit shall expire on the latest date for completion of the facility.

A copy of (1) the Partial Initial Decision, dated February 28, 1975; (2) the Supplement to the Partial Initial Decision, dated April 25, 1975; (3) the Initial Decision, dated April 19, 1977; (4) Construction Permit No. CPPR–144; (5) the report of the Advisory Committee on Reactor Safeguards, dated December 12, 1974; (6) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated November 7, 1974; and (7) Supplements 1 and 2, thereto, dated March 3, 1976 and April 27, 1976, despectively; (8) the Applicant's Environmental Report dated August 1973 and supplements thereto; (9) the Draft Environmental Statement dated February 1974; and (10) the Final Environmental Statement dated May 1974 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. Single copies of items (4), (6), (7) and (10) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 2d day of May, 1977.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.77–13217 Filed 5–11–77;8:45 am]

[Docket No. 50–251]

FLORIDA POWER AND LIGHT CO. (TURKEY POINT PLANT UNIT NO. 4)

Order for Modification of License

I

The Florida Power and Light Company (the Licensee), is the holder of Facility Operating License No. DPR–41 which authorizes the operation of the nuclear power reactor known as Turkey Point Unit No. 4 (the facility) at steady state reactor power levels not in excess of 2200 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the Licensee's site in Dade County Florida.

II

On February 8, 1977, the Nuclear Regulatory Commission ordered Turkey Point Unit No. 4 be brought to a cold shutdown condition in order to perform an inspection of steam generators at the end of the current fuel cycle or within 120 equivalent days of power operation from February 8, 1977, whichever occurs first. Among other operational limitations, the NRC order specifically required that the reactor operation shall be terminated if primary to secondary leakage which is attributable to two (2) or more tubes per plant occurs during a twenty (20) day period. Nuclear Regulatory Commission approval was required before resuming reactor power operation after such a shutdown.

On March 20, 1977, the unit was shut down to plug a leaking tube in steam generator C of Unit No. 4. During this outage, a second leaking tube was discovered and was also plugged. The tube leaking incident was first observed in mid-February and progressed very slowly over a period in excess of one month. The leakage behaved in a predicted fashion and had no safety consequences not previously evaluated.

After discussions with the NRC staff, with respect to the licensee's assessment that continued facility operation with the identified leaks plugged would not endanger public health and safety and did not require specific aproval under the provisions of the Order, the Unit was returned to operation on March 25, 1977.

On April 25, 1977, the licensee informed the NRC that they had detected another leak with an equivalent leakage rate of about 0.04 GPM. By April 27, 1977, the leakage rate had progressed to 0.14 GPM and the Unit was shutdown for investigation. On April 28, 1977, the NRC staff was informed that the leaking tubes were identified on the C steam generator (row 2—column 47, row 2—column 61 and row 3—column 62). These three tubes are located near the inner tube lane in a "hard spot" between flow slots. The elevations of these leaks have been determined to be at the fourth and the fifth support plates.

By letter dated April 29, 1977, the licensee submitted: (1) results of their inspection of the three leaking tubes and (2) their safety evaluation of the latest tube leak incident. In addition, the licensee requested NRC approval to resume power operation for the remaining fuel cycle, which was estimated to be about fifteen (15) equivalent days. The NRC staff has reviewed the submitted information and concurs that the resumption of power operation by Turkey Point Unit No. 4. will not present a significant risk to the public health and safety.

The information developed by the licensee's inspection indicates that the leaks are attributed to tube denting. The leaking tubes are located in "hardspot" regions where tube denting is predicted to be more severe than in other areas of the tube bundle. The leaks were located at about the level of the tube support plates.

All leaks associated with dented tubes experienced to date have been small, well below the leakage limits established by license condition or Technical Specification. The leakage rate progresses slowly and is detectable. Tube cracks which result from severe denting are constrained within the tube support plates; and, thus, any leaks caused by this type of crack will be limited even under accident conditions.

Although there may be an additional leak that may develop during operation during the remaining short period until the scheduled refueling outage, the limits on primary to secondary leakage rate will assure that such leaks do not become large enough to be unstable under accident loadings.

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Moreover, the probability of having either a loss-of-coolant-accident or a main-steam-line-break accident is estimated to be extremely low in the fifteen (15) days remaining in the fuel cycle. For these reasons there is reasonable assurance that until the forthcoming refueling outage (scheduled to commence in about 15 days), continued operation will not endanger the health and safety of the public.

Of more significance in the long term is the need to carefully assess the condition of the steam generators and to determine to the extent possible causes for the continuing occurences of leakage in the facility. FP&L has proposed to conduct a thorough inspection and evaluation of the steam generators during the forthcoming refueling outage. The proposed program has been and continues to be discussed with the NRC staff to assure staff concurrence with the program. In this connection, FP&L originally attributed the March leak to corrosive conditions in the area between the first tube support plate and the tubesheet, whereas the most recent leaks were attributed to denting. Since these two different conditions require different assessments and treatment, it is important to identify the causes of leaks which have occurred. After discussions with the staff, the licensee has committed to pull and metallurgically evaluate at least one tube from a steam generator from Unit No. 4 during the forthcoming refueling outage. The entire tube should be pulled and should be metallurgically examined at each area of suspected degradation but at least at each tube/tube sheet or tube/support plate intersection. Preferably the selected tube should be R–45C53 in Steam Generator C, the tube which leaked in March. If this tube cannot reasonably be removed, a tube which has experienced a leaking dent is to be pulled and metallurgically examined, as described above instead.

This examination will provide an important contribution to the identification of the causes of leakage in Turkey Point Unit No. 4 and will substantially enhance the ability to assess the safety significance of such leakage.

Based on our review as discussed above, the staff has determined that the time and operating limitations contained in our Order of February 8, 1977 (as supplemented by the Safety Evaluation dated February 11, 1977) will provide reasonable assurance that the public health and safety will not be endangered by continued operation of Unit No. 4. The NRC staff believes that we should confirm by an Order, which supplements our Order of February 8, 1977, our approval for Unit No. 4 to resume operation.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida: (1) the licensee's submittal dated April 29, 1977, (2) the Order for Modification of License, In the Matter of Florida Power and Light Company (Turkey Point Plant Unit No. 4), Docket No. 50–251 dated February 8, 1977, (3) our Safety Evaluation Report applicable to our Order dated February 8, 1977, dated February 11, 1977 and (4) This Order for Modification of License, In the Matter of Florida Power and Light Company (Turkey Point Plant, Unit No. 4), Docket No. 50–251.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Part 2 and 50, *It is ordered That* Facility Operating License No. DPR–41 is hereby amended by granting approval for the resumption of reactor operation in accordance with the provisions of our Order for Modification of License dated February 8, 1977 provided that the reactor is operated within the following provisions.

1. Unit No. 4 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators at the end of the current fuel cycle or within 120 equivalent days of operation from February 8, 1977, whichever occurs first. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection.

For the purpose of this requirement, equivalent operation is defined as operation with a primary coolant temperature greater than 350° F.

2. Unit No. 4 shall be operated within the additional operating limitations and provisions listed in our Order for Modification of License dated February 8, 1977 (as supplemented by our Safety Evaluation Report dated February 11, 1977).

Dated in Bethesda, Maryland this 3rd day of May 1977.

For the Nuclear Regulation Commission.

EDSON G. CASE,
Acting Director,
Office of Nuclear Reactor Regulation.

[FR Doc.77-13218 Filed 5-11-77;8:45 am]

[Docket No. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 20 and 14 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

The amendments revised the Technical Specifications for the facilities to remove the requirement for conducting a liquid penetrant test of the reactor vessel head cladding during the first 40-month inspection period.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 31, 1977, (2) Amendment Nos. 20 and 14 to License Nos. DPR–42 and DPR–60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of April 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-13219 Filed 4-11-77;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. NPF–1 issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power & Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

This amendment (1) revises Figure 5.1–1 of Appendix A to correctly show the location and designation of the two meteorological towers, and (2) revises Table 3–1 of Appendix B to show that the annual chemical usage limit is based on boron, not boric acid.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 11, 1977, (2) Amendment No. 16 to License No. NPF–1, and (3) the Commission's letter to Portland General Electric Company dated April 27, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon, 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-13220 Filed 5-11-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.99, Revision 1, "Effects of Residual Elements on Predicted Radiation Damage to Reactor Vessel Materials," provides guidance for predicting the effect of neutron irradiation on the wall of the steel reactor vessel. Impurities, or "residual elements," particularly copper and phosphorus, in the steel increase the amount of neutron-induced embrittlement, and the guide describes how to predict the amount of embrittlement as a function of the amount of these impurities and the amount of time the plant has operated. It also provides guidance for choosing a radiation-resistant steel for future plants. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 27th day of April 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-13224 Filed 5-11-77;8:45 am]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the license for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (SO–1) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment incorporates provisions in the Technical Specifications, required for operation of SO–1 with the refueled Cycle VI Core, with the new onsite emergency power system, with modified ECCS features, and with the new sphere enclosure and associated modifications in conjunction with a reduced SO–1 exclusion area boundary. The amendment also adds a license condition which requires the steam generator to be reinspected within 12 months from the date of the amendment. The staff has also reviewed the seismic modifications made by the licensees and has found that continued operation with these modifications is acceptable.

Based on the determination discussed in the Safety Evaluation, relating to this amendment, an exemption to the single failure requirement in 10 CFR Part 50, Appendix A, General Design Criterion 35 is granted for SO–1 pursuant to 10 CFR Part 50, § 50.12 and operation until October 1, 1977 without a backup air supply for the pneumatic flow control valves FCV–1116D, E and F is authorized.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with the new sphere enclosure and associated modifications in conjunction with a reduced SO–1 exclusion area boundary was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1332). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of the other items associated with this amendment was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated June 15, September 23, 1976 and January 18, 1977, (2) Amendment No. 25 to License No. DPR–13, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-13221 Filed 5-11-77;8:45 am]

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[Docket No. 50-346]

THE TOLEDO EDISON CO. AND THE CLEVELAND ELECTRIC ILLUMINATING CO. (DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1)

Issuance of a Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF-3 to the Toledo Edison Company and The Cleveland Electric Illuminating Company authorizing operation of the Davis-Besse Nuclear Power Station, Unit No. 1 by the Toledo Edison Company in accordance with the provisions of the license and the Technical Specifications. The Davis-Besse Nuclear Power Station, Unit No. 1 is a pressurized water nuclear reactor located at the licensees' site on the southwestern shore of Lake Erie in Ottawa County, Ohio, approximately 21 miles east of Toledo, Ohio.

However, the facility is temporarily restricted from operating at full rated power until certain tests and other items noted in the license conditions are completed to the written satisfaction of the Commission.

In accordance with the Commission's March 14, 1977 issuance of an effective interim rule regarding the environmental considerations of the uranium fuel cycle (42 FR 13804), the staff has examined the revised impact values contained in Table S-3 of 10 CFR Part 51 to determine the effect on the cost-benefit balance previously performed for this facility. This examination is set forth in the "Environmental Assessment, Davis-Besse Nuclear Power Station, Unit No. 1, Fuel Cycle Considerations. The staff has concluded that the use of the revised values does not tilt the cost-benefit balance so as to change the staff's original conclusion to issue an operating license presented in the Final Environmental Statement related to operation of the Davis-Besse Nuclear Power Station, Unit 1 (October 1975).

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The Commission has also made appropriate findings which are set forth in the license regarding the environmental impacts associated with operation of the facility. The license also includes the condition that the license is subject to the outcome of the proceedings in *Natural Resource Defense Council* v. *NRC* (D. C. Circuit) (July 21, 1976), Nos. 74-1385 and 74-1586. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license is effective as of its date of issuance and shall expire on March 24, 2011.

This action is in furtherance of the licensing action encompassed in the Notice of Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing published in the FEDERAL REGISTER on April 30, 1973 (FR 10661).

A copy of (1) Facility Operating License No. NPF-3, complete with Technical Specifications (Appendices "A" and "B" Attachment 1) and Preoperational Tests, Startup Tests and Other Items Which Must Be Completed Prior to Proceeding to Succeeding Operational Modes (Attachment 2); (2) the report of the Advisory Committee on Reactor Safeguards, dated January 21, 1977; (3) the Office of Nuclear Reactor Regulation's Safety Evaluation and Supplement 1 dated December 9, 1976 and April 1977, respectively; (4) the Final Safety Analysis Report and amendments thereto; (5) the applicant's Environmental Report dated December 20, 1974 and supplements thereto; (6) the Draft Environmental Statement dated April 1975; (7) the Final Environmental Statement dated October 1975; and (8) the Environmental Assessment on Fuel Cycle Considerations are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of the license and items (2) and (8) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation (Document No. NUREG-0136) and its Supplement No. 1, and Final Environmental Statement (Document No. NUREG-75/097) may be purchased at current costs, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 22nd day of April 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-13222 Filed 5-11-77;8:45 am]

[Dockets Nos. 50-266 and 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 25 and 30 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

These amendments consist of changes in the Technical Specifications that will revise the Nuclear Enthalpy Rise Hot Channel Factor ($F^N_{\Delta H}$) limits to account for the effect of fuel rod bowing on departure from nucleate boiling.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 6, 1977, (2) Amendment No. 25 to License No. DPR-24, (3) Amendment No. 30 to License No. DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the University of Wisconsin—Stevens Point Library, ATTN: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc.77-13223 Filed 5-11-77;8:45 am]

[Docket No. 50-389A]

FLORIDA POWER & LIGHT COMPANY (ST. LUCIE, UNIT 2)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Alan S. Rosenthal, Chairman
Richard S. Salzman
Jerome E. Sharfman

Dated: May 5, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-13756 Filed 5-11-77;8:45 am]

[Docket No. P-564A]

PACIFIC GAS AND ELECTRIC COMPANY (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Jerome E. Sharfman, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: May 5, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-13758 Filed 5-11-77;8:45 am]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT)

Hearing

An Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission (Commission) and a Presiding Examiner and Associate Examiner of the Board on Electric Generation Siting and the Environment of the State of New York (Siting Board) will conduct a joint hearing for the purpose of receiving evidence on the following subjects:

(1) Alternative uses of waste heat;
(2) Transmission line location and related environmental impacts;
(3) Alternative sources of power;
(4) Financial qualifications.

The hearing will be held at the offices of the Public Service Commission, Agency Building No. 3, Empire State Plaza, Albany, New York, beginning at 1:00 p.m. on Monday, May 16, 1977, and continuing, if necessary, through the following week. The public is invited to attend.

Dated at Bethesda, Maryland this 4th day of May, 1977.

For the Atomic Safety and Licensing Board.

JOHN F. WOLFE,
Chairman.

[FR Doc.77-13757 Filed 5-11-77;8:45 am]

[Docket Nos. 50-443, 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Hearing

A hearing in the above-entitled matter previously scheduled for March 22, 1977, will take place beginning May 23, 1977, at 9:30 a.m., in the Superior Courtroom of the Hillsborough County Courthouse, 19 Temple Street, Nashua, New Hampshire. Parties are directed to file any direct expert testimony no later than May 13, 1977.

Pursuant to Commission's Regulations 10 CFR § 2.715, limited appearances will be allowed at the outset of the hearing provided that a limited appearance will be no more than five minutes in length and will deal solely on the matter of cooling towers. Parties seeking to make such limited appearances need not appear in person but may submit their statements in writing.

It is so ordered.

Dated this 5th day of May 1977 at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.77-13758 Filed 5-11-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR-77-19]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Brief Reports of Civil Aviation Accidents, 1975.—The National Transportation Safety Board on April 29 released a series of 11 reports which compile 1975 civil aviation accidents into various categories, ranging from midair collisions to the role of alcohols as a cause factor in aviation accidents. Each publication consists of a computer printout, listing the basic facts of an accident, the probable cause, and contributing factors, if any. Statistical tables analyzing the accidents by type, injury, and cause also are included.

Ten of the publications cover general aviation—business and private flying. The eleventh publication, "List of Aircraft Accidents/Incidents by Make and Model" (Report No. NTSB-AMM-77-1), includes both airline and general aviation.

The 10 general aviation publications are entitled: Briefs of Accidents Involving—

Midair Collisions (NTSB-AMM-77-2)
Turbine Powered Aircraft (NTSB-AMM-77-3)
Rotorcraft (NTSB-AMM-77-4)
Weather as a Cause/Factor (NTSB-AMM-77-5)
Alcohol as a Cause/Factor (NTSB-AMM-77-6)
Missing and Missing-Later-Recovered Aircraft (NTSB-AMM-77-7)
Corporate/Executive Aircraft (NTSB-AMM-77-8)
Amateur/Home Built Aircraft (NTSB-AMM-77-9)
Air Taxi Operations (NTSB-AMM-77-10)
Aerial Application Operations (cropdusting) NTSB-AMM-77-11)

Single copies of these publications may be obtained without charge by writing to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Multiple copies may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

NEW AVIATION SAFETY RECOMMENDATIONS

A-77-18 and 19, issued May 4 to the Federal Aviation Administration.—Last August 6, an Air Chicago Freight Airlines, Inc., North American TB-25N, N9446Z, operating with a limited category airworthiness certificate, crashed while attempting an emergency landing at Midway Airport, Chicago, Illinois. The Safety Board's investigation indicated that the flight was conducted to prepare a pilot for a B-25 type-rating examination; only the trainee and an instructor pilot were aboard. About 5 minutes after takeoff, the pilot advised Midway tower, "Emergency, request straight in 446Z." This was the last radio transmission from the aircraft. Some 35 seconds later, the pilot of another aircraft reported that the B-25 had crashed.

Board investigation revealed that a massive internal failure in the left engine resulted in a fire which was not contained and could not be extinguished by the engine's fire extinguisher system. The fire spread, causing large amounts of smoke and combustion products to enter the cockpit, and apparently caused the flightcrew to lose control of the aircraft. The Board could not determine the precise reason for the engine failure.

The Safety Board reviewed the maintenance procedures used by the company and found that, although the aircraft was inactive following its purchase in July 1974 until February 1976, the engines had not been prepared for long-term storage or preoiled, as recommended by the manufacturer, before they were started in February 1976. A special surveillance program of large and transport category aircraft is currently being implemented by FAA's Southern Region, whereby relatively old and inactive aircraft are grounded for obvious maintenance deficiencies. The Board believes that such a program will be most effective in reducing the utilization of unairworthy aircraft in flight operations. However, in view of the evidence gathered in the investigation of the Air Chicago crash, the Board recommends that FAA—

Expand the program currently in effect in FAA's Southern Region to include vintage and military surplus aircraft and rotorcraft, and expand the program to include all FAA Regions. (A-77-18)

Review existing maintenance requirements to determine that those in effect are sufficient to assure the maximum level of safety in the operation of surplus and vintage aircraft and rotorcraft. (A-77-19)

A-77-20 through 22, issued May 2 to the Federal Aviation Administration.—Last January 3, a Cessna 310J crashed at Rockford, Illinois, during an instrument approach after a 1 hour 49 minute flight. The pilot reported during the approach that he had lost all power from both engines. Examination of the engines disclosed neither mechanical failures nor any other reason for the power loss. Safety Board investigators determined that both fuel selector valves were in the auxiliary tank position.

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The usable fuel capacity of the auxiliary tanks is 30 gallons. If in cruise 28 to 30 gallons per hour is consumed, the Board concludes that a pilot might reasonably expect to cruise for an hour using the auxiliary tanks. However, the fuel injection system bypasses and returns approximately half the fuel delivered by the engine-driven pump. In the Cessna 300 and 400 series airplanes, the bypassed fuel is returned only to the main tank, in effect reducing the endurance on auxiliary tanks in the Cessna 310 to approximately 30 minutes.

Cessna has advised the Board that their test pilots and marketing personnel consider the auxiliary tanks suitable for only 30 minutes' operation. However, the owner's manuals for the various models of the 310 series do not provide enough specific information for the pilot to determine the auxiliary tank's endurance, except through trial and error. Earlier manuals generally contained more information than later ones, and the manual for the 310J is least descriptive of all. Thus, a pilot might easily assume that he could operate for an hour on auxiliary tanks, then run out of fuel after just 30 minutes. The Safety Board believes that such was the case in this accident.

A review of Cessna 310 accidents involving fuel starvation for the years 1966 through 1976 disclosed 10 accidents in which early depletion of auxiliary fuel most likely was the reason for fuel starvation. Believing that the pilot should be given more specific information regarding the actual operating time using auxiliary fuel tanks, the Safety Board recommends that FAA—

Issue an Airworthiness Directive requiring that all Cessna Model 310 airplanes with an auxiliary fuel system installed be placarded, in the cockpit, to caution pilots that only 30 minutes flight time may be available when using auxiliary tanks. (A–77–20)

Require, for all new airplanes in which some auxiliary fuel is returned to tanks other than the auxiliary tanks, that the flight manual or approved manual material specifies the amount of fuel returned to another tank and the flight time available when using the auxiliary tanks. (A–77–21)

Require that district accident prevention specialists disseminate this information as widely as possible among pilots of the Cessna 310. (A–77–22)

SAFETY RECOMMENDATION RESPONSES

From the Federal Aviation Administration re A–77–9 and 10.—Letter of April 26 is in answer to recommendations resulting from investigation of the collision last September 13 between a Cessna 414 and a U.S. Air Force F–4E Phantom II Fighter near Brighton, Florida. (See 42 FR 10915, February 24, 1977.)

Recommendation A–77–9 asked FAA to establish direct lines of communication between appropriate air traffic control facilities and military tactical operations to relay essential tactical information to military flightcrews being afforded instrument flight rules separation in positive control airspace.

FAA concurs with the intent of A–77–9, but does not agree with the proposed method of implementation. FAA states: "Requiring air traffic control facilities to relay tactical information to military flightcrews could seriously derogate the controller's ability to provide essential ATC services to other users." FAA is initiating action, with the Department of Defense, "to explore alternative methods of accomplishing the intent of this recommendation without amplifying the crucial problems associated with frequency congestion."

Recommendation A–77–10 asked FAA to assure ultrahigh frequency (UHF) guard-transmitting and receiving capability at all control positions where air traffic control services are provided routinely to military tactical flights.

In response to A–77–10, FAA states: "• • • increasing the number of UHF guard sites can create a problem that derogates our capability to communicate on 243.0 MHz. The problem occurs when two or more sites cannot hear each other transmitting due to terrain, shielding, etc. Since they cannot receive each other, they could attempt to respond to aircraft transmissions simultaneously, creating interference or garbling which effectively blocks all transmissions. This condition could completely negate our capability to respond to the aircraft in distress."

FAA reports that it currently has methods, other than direct pilot/controller capability, of communicating with aircraft on 243.0 MHz, i.e., relaying through FAA terminal facilities, flight service stations, or military facilities. FAA said: "These methods have proven to be both reliable and effective. In any event, any extensive increase in UHF guard capability at control positions would require careful evaluation on a cost versus benefit basis."

FAA states that it is now investigating the "possibility of configuring one Back-up Emergency Communications UHF controller station per center's area of specialization (where there is significant military activity) to cycle to 243.0 MHz rather than the sector discrete frequency. We believe that this will significantly increase our UHF guard capability."

From the Materials Transportation Bureau re P–76–101.—Letter of April 22 concerns a recommendation, issued jointly to the Secretary, U.S. Department of Transportation, and to the State of Maine Public Utilities Commission, which resulted from Safety Board investigation of the Maine Utility Gas Company's liquified petroleum gas accident at Bangor, Maine, last August 13. (See 42 FR 5158, January 27, 1977.)

Recommendation P–76–101 called for DOT, in conjunction with the Maine Public Utilities Commission, to monitor the compliance actions taken by Maine Utility Gas Company to insure that it has established operations and maintenance records as required by 49 CFR Part 192.

MTB reports that it met last October 19 with the Maine Public Utilities Commission and with the Maine Utility Gas Company. Details of the Bangor failure were discussed and, MTB states: "• • • it appears that the Maine UGC has not been complying with certain sections of the Federal regulations for the Transportation of Natural and Other Gas by Pipeline,' 49 CFR Part 192. Clarification of those noncompliance items is still under investigation."

MTB further states that it will "continue to monitor the Maine PUC to insure that the appropriate compliance action is taken and that Maine UGC will be required to maintain and implement the appropriate operations and maintenance records."

Also in connection with recommendation P–76–101 it is to be noted that on April 20 the Maine Public Utilities Commission forwarded to the Safety Board a copy of its formal decision, dated April 19, 1977, requiring compliance action of the Maine Utilities Gas Company. The Commission's order was reported May 5 at 42 FR 22964.

NOTE.—The above consists of summaries of Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of this notice in the FEDERAL REGISTER. Safety Board recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 9, 1977.

[FR Doc.77–13622 Filed 5–11–77;8:45 am]

[Docket No. SA–458]

AIRCRAFT ACCIDENT—NEW HOPE, GEORGIA

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. e.d.t. on June 6, 1977, in Room C of Sheraton Hall in the Sheraton-Biltmore Hotel, 817 West Peachtree Street, NE, Atlanta, Georgia.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving a Southern Airways, Inc., Douglas DC–9, N1335U, which occurred April 4, 1977, at New Hope, Georgia.

LESLIE D. KAMPSCHROR,
Hearing Officer.

MAY 5, 1977.

[FR Doc.77–13623 Filed 5–11–77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Acceptance of Petition for Review of Product Eligibility Under the Generalized System of Preferences

Notice is hereby given of acceptance for review of a petition for the modification of the list of articles receiving duty-free treatment under the Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). This petition indicates the existence of unusual circumstances warranting an immediate review by the Trade Policy Staff Committee (TPSC). The description of the petition is as follows:

1. Case No., 77–14.
2. Tariff Schedules of the United States (TSUS) item No. and description—147.55 microscopic slides and microscopic glasses.
3. Petitioner, Erie Scientific Co., Buffalo, N.Y.
4. Action requested—Withdrawal of GSP benefits.
5. Action taken—Petition accepted.

All interested parties are invited to submit their views on the requested action to the GSP Subcommittee of the TPSC, Room 720, 1800 G Street NW., Washington, D.C. 20506. Written comments should be received no later than the close of business, May 26, 1977.

Subject to the regulations of the TPSC, and except for business confidential information, all written materials filed with the TPSC in connection with this petition will be open to public inspection by appointment at the office of the TPSC, Room 728, 1800 G Street NW., Washington, D.C. 20506, 202–395–3320.

WILLIAM B. KELLY, JR.,
Chairman, Trade Policy Staff Committee.

[FR Doc.77–13750 Filed 5–11–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 13223]

COLORADO

Declaration of Disaster Loan Area

The Counties of Baca, Bent, Crowley, Elbert and adjacent counties within the State of Colorado, consitute a disaster area because of physical damage caused by winter storm, heavy snow, freezing rain, sustained winds in excess of 50 MPH, and gusts of 100 MPH and more which occurred on March 9, through March 13, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 1, 1977, and for economic injury until the close of business on February 2, 1978, at:

Small Business Administration, District Office, 721—19th Street—Room 407, Denver, Colorado 80202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 2, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–13508 Filed 5–11–77; 8:45 am]

[Declaration of Disaster Loan Area No. 1324]

VERMONT

Declaration of Disaster Loan Area

The area of Canal and Rockingham Streets in the City of Bellows Falls in Windham County, Vermont, constitutes a disaster area because of damage resulting from a fire which occurred on April 17, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 5, 1977 and for economic injury until the close of business on February 2, 1978 at:

Small Business Administration, District Office, 87 State Street, Montpelier, Vermont 05602.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–13509 Filed 5–11–77;8:45 am]

[License No. 01/01–0283]

CHARLES RIVER RESOURCES, INC.

Issuance of Small Business Investment Company License

On March 4, 1977, a Notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (Vol. 42, No. 43) stating that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 C.F.R. 107.102 (1976)) for a license to operate as a small business investment company by Charles River Resources, Inc., 575 Technology Square, Cambridge, Massachusetts 06110.

Interested parties were given until the close of business on March 21, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued License No. 01/01–0283 to Charles River Resources, Inc., to operate as a small business investment company.

Dated: May 5, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77–13507 Filed 5–11–77;8:45 am]

[Application No. 07/07–5078]

COMMUNITY EQUITY CORPORATION OF NEBRASKA

Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Community Equity Corporation of Nebraska (applicant), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1977).

The officers and directors of the applicant are as follows:

William C. Moore, President, Director, 9606 North 29th Street, Omaha, Nebraska 68112.
Herbert M. Patten Secretary, General Manager, Director, 5510 Camden Avenue, Omaha, Nebraska 68112.
Alvin M. Goodwin, Treasurer, Director, 4905 Manderson Street, Omaha, Nebraska 68104.

The applicant, a Nebraska corporation, with its principal place of business located at 5620 Ames Avenue, Room 104, Omaha, Nebraska 68104, will begin operations with $300,000 of paid-in capital and paid-in surplus, derived from the sale of 30,000 shares of common stock to approximately 20 private investors including Community Equity Corporation, a Nebraska non-profit corporation, which will purchase a minimum of $160,000 in shares of the initial offering. The remaining shares will be purchased by Omaha's major business and industry enterprises.

The applicant will conduct its activities and operations principally in the State of Nebraska, with particular emphasis on the Omaha and Lincoln Metropolitan areas.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, on or before May 27, 1977, submit to SBA written comments

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on the proposed applicant. Any such communication should be addressed to the Deputy Associate Adminstrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Omaha, Nebraska.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 5, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-13506 Filed 5-11-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 165-19]

DIRECTOR, USAID/COLOMBIA

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Colombia, authority to negotiate, execute and implement a contract of guaranty with the Central Bank of Colombia for a productive credit guaranty project in accordance with and subject to the terms and conditions set forth in the project authorization dated ----------.

The delegation of authority to negotiate and execute shall lapse 120 days from the date of execution of the project authorization.

Dated: May 4, 1977.

EDWARD W. COY,
Acting Assistant Administrator.

[FR Doc.77-13592 Filed 5-11-77;8:45 am]

[Public Notice 544]

FISHERY LIMITS

The Fishery Conservation and Management Act of 1976 establishes a fishery conservation zone contiguous to the territorial sea of the United States, the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The Act also provides for the negotiation of boundaries in areas adjacent to or opposite of any foreign nation.

Public Notice 526 (42 FR 12937, March 7, 1977) noted that the limits of the fishery conservation zone as set forth therein were without prejudice to any negotiations with neighboring countries or to any positions which may have been or may be adopted respecting the limits of maritime jurisdiction.

On April 27, 1977, the Government of the United States and the Government of Cuba concluded a modus vivendi to serve for the rest of 1977 as a maritime boundary, pending further technical work.

The coordinates are as follows:

1.	23°56'24" N. 81°13'27" W.	10.	24°03'18" N. 84°11'20" W.
2.	23°50'00" N. 81°50'00" W.	11.	24°10'22" N. 84°29'19" W.
3.	23°50'00" N. 83°12'10" W.	12.	24°12'56" N. 84°35'44" W.
4.	23°51'11" N. 83°20'13" W.	13.	24°14'17" N. 84°38'37" W.
5.	23°52'49" N. 83°31'09" W.	14.	24°40'23" N. 85°31'20" W.
6.	23°54'12" N. 83°39'45" W.	15.	24°51'56" N. 85°53'45" W.
7.	23°56'09" N. 83°48'16" W.	16.	25°10'29" N. 86°27'25" W.
8.	23°56'11" N. 83°48'23" W.	17.	25°13'03" N. 86°32'08" W.
9.	23°58'20" N. 83°55'52" W.		

The line hereby established should be considered to replace that portion of the line established in the Department's notice 526 of March 7, 1977, from point 116 to point 163 in the section of notice 526 entitled "U.S. Atlantic Coast and Gulf of Mexico".

It has also come to the attention of the Department of State that three errors appear in the Department's notice 526 of March 7, 1977 in the section of that notice entitled "Central and Western Pacific". That section should be amended as follows:

A. The introduction concerning American Samoa should read: *"American Samoa.* The seaward limit of the fishery conservation zone, except to the north and northeast where the limit remains to be determined, shall be determined by straight lines connecting the following coordinates:".

B. The longitude of point 11 of the fishery conservation zone around Guam should be: 145°03'36".

C. The introduction concerning Palmyra Atoll should read: *"Palmyra Atoll—Kingman Reef.* The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the territorial sea is measured except that to the southeast of Palmyra Atoll and Kingman Reef the limit of fishery conservation zone shall be determined by straight lines connecting the following coordinates:".

Publication of a notice on this subject which is effective immediately upon publication is necessary to effectively exercise the foreign affairs responsibility of the Department of State. (See Title 5, U.S.C. Sec. 553 (a) (1) and (b) (B).

Dated: May 9, 1977.

MARK B. FELDMAN,
Deputy Legal Adviser.

[FR Doc.77-13537 Filed 5-11-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 122—PLANNING FOR 50 kHz VOR/ILS CHANNELING

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 122—Planning for 50 kHz VOR/ILS Channeling to be held June 14-15, 1977, RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Seventh Meeting held January 18-19, 1977; (3) Consideration of Suggested Revisions to Standards; and (4) Finalize Revisions to VOR/ILS/DME Minimum Performance Standards.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 3, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-13408 Filed 5-11-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 127—EMERGENCY LOCATOR TRANSMITTERS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 127—Emergency Locator Transmitters to be held June 7-8-9, 1977, Conference Room 6332, Headquarters U.S. Coast Guard, 400 Seventh Street, S.W., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Sixth Meeting held February 18-19-20, 1976; (3) Review of FAA Technical Input on Crash Force Sensors; and (4) Finalize Draft Minimum Performance Standards for Emergency Locator Transmitters.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 3, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-13409 Filed 5-11-77;8:46 am]

Office of Hazardous Materials Operations

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for renewal of Exemption or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be described, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions because they represent the large majority of applications awaiting disposition.

DATES: Comments by May 27, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:
Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Application No.	Applicant	Party to a special permit or exemption
2587-P	Valweld Inc., Appleton, Wis.	2587
4763-P	Worth Chemical Corp., Greensboro, N.C.	4763
5372-P	Vulcan Materials Co., Birmingham, Ala.	5372
6145-P	G. Frederick Smith Chemical Co., Columbus, Ohio.	6145
6538-P	Aladdin Industries Inc., Nashville, Tenn.	6538
6563-P	Liquid Carbonic Corp., Chicago, Ill.	6563
6564-P	Chem Lab Products Inc., Anaheim, Calif.	6564
6600-P	Morrow Counts Prod. Co., Abilene, Tex.	6600
6622-P	Worth Chemical Corp., Greensboro, N.C.	6622
6687-P	The Cessna Aircraft Co., Wichita, Kans.	6687
6749-P	Chem Lab Products Inc., Anaheim, Calif.	6749
6758-P	Bennett Industries, Pacoima, Calif.	6758
6994-P	Carter-Wallace, Inc., Cranbury, N.J.	6994
7045-P	X-Ray Sales and Service Co., Fort Worth, Tex.	7045
7240-P	Thermoset Plastics, Inc., Indianapolis, Ind.	7240
7260-P	Atlas Powder Co., Dallas, Tex.	7260
7423-P	Rossborough Manufacturing Co., Cleveland, Ohio.	7423
7444-P	South Jersey Gas Co., Folsom, N.J.	7444
7444-P	Mobil Chemical Co., Beaumont, Tex.	7444
7444-P	New Bedford Gas and Edison Light Co., New Bedford, Mass.	7444
7444-P	New Jersey Natural Gas Co., Asbury, N.J.	7444

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 5, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-13336 Filed 5-11-77;8:45 am]

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of Applications for Exemption

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by June 13, 1977.

ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments

Application No.	Applicant	Renewal of special permit or exemption
3330-X	General Electric, Schenectady, N.Y.	3330
3941-X	Aerojet Solid Propulsion Co., Sacramento, Calif.	3941
5454-X	Air Products and Chemicals, Inc., Allentown, Pa.	5454
5704-X	IMC Chemical Group, Inc., Allentown, Pa.	5704
6016-X	Huber Supply Co., Mason City, Iowa.	6016
6253-X	Luther Werke, Hamburg, Germany.	6253
6883-X	Pennwalt Corp., Buffalo, N.Y.	6883
6927-X	Dow Chemical Co., Midland, Mich.	6927
6994-X	Apache Container Corp., St. Paul, Minn.	6994
7060-X	Baltimore Airways Inc., Clarksville, Md.	7060
7098-X	Rohm and Haas Co., Philadelphia, Pa.	7098
7206-X	Ruan Transport Corp., Des Moines, Iowa.	7206
7240-X	Hysol Division, The Dexter Corp., Olean, N.Y.	7240
7209-X	U.S. Energy Research and Development Administration, Washington, D.C.	7209
7285-X	Produits Chimiques Ugine Kuhlmann, Paris, France.	7285
7286-X	Liquid Carbonic Corp., Chicago, Ill.	7286
7444-X	Philadelphia Gas Works, Philadelphia, Pa.	7444
7718-X	Atlas Powder Co., Dallas, Tex.	USCG 5-74

V4292 MAY 12 77 UMI

should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor Vehiclee, 2—Rail Freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New exemptions

Application No.	Applicant	Regulation(s) affected	Nature of application
7725-N	Economics Laboratory Inc., St. Paul, Minn.	49 CFR 172.201(a)(3).	To allow the shipping description on shipping papers to contain coded information. (Modes 1, 2, 3, 4, and 5.)
7726-N	Hughes Aircraft Co., Los Angeles, Calif.	49 CFR 173.301, 173.302, 175.3.	To authorize shipment of helium and nitrogen gases in non-DOT cylinders. (Modes 1, and 4.)
7727-N	Albert O. Pollard Co., Wilmington, Del.	49 CFR 173.28(m).....	To authorize shipment of class B poison liquids in reused 17E drums. (Mode 1.)
7728-N	U.S. Energy Research and Development Administration, Upton, N.Y.	49 CFR 173.206, 175.3.	To authorize shipment of lithium foil in argon-filled airtight non-DOT aluminum boxes. (Modes 1 and 4.)
7729-N	Carleton Controls Corp., East Aurora, N.Y.	49 CFR 178.58-2(b), 178.58-5, 178.58-10, 173.302, 175.3.	To authorize construction of a modified DOT 4DA specification cylinder for nitrogen shipments. (Modes 1, 2, 4, and 5.)
7730-N	Western Company of North America, Forth Worth, Tex.	49 CFR 178.343-5, 173.263.	To authorize modification of the location requirement for bottom outlet valves in MC-312 cargo tanks transporting hydrochloric acid and mixtures thereof. (Mode 1.)
7731-N	Minnesota Valley Engineering, New Prague, Minn.	49 CFR 172.101, 173.315(a)(1).	To authorize shipment of liquefied helium in a non-DOT portable tank. (Modes 1, 2, and 3.)
7732-N	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.306(a)(3), 173.1200(a)(8).	To authorize shipment of certain ORM-D aerosols in non-DOT inside polyethylene containers. (Modes 1, 2, and 3.)
7733-N	Hach Chemical Co., Ames, Iowa.	49 CFR 172.400, 175.630.	To authorize shipment of small quantities of certain class B poison packages without labels. (Modes 1, 3, 4, and 5.)
7734-N	Rheem Manufacturing Co., Linden, N.J.	49 CFR pt. 173.....	To authorize shipments of certain corrosive liquids in a non-DOT open head polyethylene pail without overpack. (Modes 1, 2, and 3.)
7735-N	Rheem Manufacturing Co., Linden, N.J.	49 CFR 173.119(a), (b).	To authorize shipment of certain flammable liquids in DOT specification 34 containers. (Modes 1, 2, and 3.)
7736-N	Siegling America, Inc., Englewood, N.J.	49 CFR 173.119(m), 172.400.	To authorize shipment of a flammable and poisonous liquid in unlabeled non-DOT specification containers. (Mode 1.)
7737-N	Parker Hannifin Corp., Eastlake, Ohio.	49 CFR 178.42, pt. 173, 175.3.	To authorize shipment of those compressed gases authorized for shipment in a DOT-3E cylinder to be shipped in an aluminum cylinder constructed in accordance with the specification of a DOT-3E cylinder. (Modes 1, 2, 3, 4, and 5.)
7738-N	Mobil Chemical Co., Richmond, Va.	49 CFR 173.271.....	To authorize shipment of phosphorous oxychloride and phosphorus trichloride in a non-DOT specification portable tank. (Modes 1 and 3.)
7739-N	New Zealand Electricity Department, Lambton Quay, Wellington.	46 CFR pt. 64, 70.05-30.	To authorize shipment of aliphatic mercaptan mixtures in non-DOT portable tanks. (Mode 3.)
7740-N	Amchem Products, Inc., Ambler, Pa.	49 CFR 173.245.....	To authorize shipment of certain corrosive liquids in metal drums marked ICC-5 or ICC-5G. (Mode 1.)
7741-N	Bell Aerospace, Buffalo, N.Y.	49 CFR 173.302, 175.3, 173.276.	To authorize shipment of liquid anhydrous hydrazine and helium in non-DOT stainless steel tanks. (Modes 1, 3, 4, and 5.)
7742-N	Sigma Chemical Co., St. Louis, Mo.	49 CFR 172.400.....	To authorize shipment of limited quantities of certain class B poisons without the required DOT label. (Modes 1 and 2.)
7743-N	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.315.....	To authorize shipment of dichlorosilane in DOT 51 portable tanks. (Mode 1.)
7744-N	Dow Corning Corp., Midland, Mich.	.....do.....	To authorize shipment of cold anhydrous hydrogen chloride in a specially designed DOT MC-331 urethane foam insulated cargo tank. (Mode 1.)
7745-N	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.148(a)...	To authorize shipment of monoethylamine (anhydrous) in DOT MC-330 and MC-331 tank trucks. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 5, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-13335 Filed 5-11-77;8:45 am]

Office of Pipeline Safety Operations

[Docket No. 77-5]

PHILLIPS PIPELINE CO.

Grant of Waiver

By letter received January 27, 1977, the Phillips Pipeline Company (Phillips) requested a waiver from compliance with Federal liquid pipeline safety standards under 49 CFR 195.234(g) regarding record retention of developed film of 51 welds. Phillips stated in its petition that the film was inadvertently lost while in the possession of a radiographic technician of the independent X-ray company which performed the nondestructive testing of these welds. Phillips further stated that the film had been read by the technician and its welding inspector and had been entered in the Radiographic Inspection Log before being lost. Phillips included affidavits from both the technician and the Welding Inspector attesting to the above facts and that all 51 of the welds represented by the lost film were acceptable. Phillips also included a copy of the Radiographic Inspection Log.

Phillips has further stated in subsequent communications that:

1. The pipe is 6'', seamless, 5LX FR x 42, .250 wall thickness.
2. The total length of the pipeline is 267,493.7 feet with 7,487 girth welds, all of which were X-rayed.
3. There were 352 welds rejected, 14 cut out and 338 were repaired.
4. These 352 welds were X-rayed a second time.
5. All welds represented by the 51 lost radiographs were acceptable in accordance with API 1104 (13th edition).
6. All these welds were made by one welder.
7. The pipeline was hydrostatically tested to as least 90 percent SMYS or 2192 psig, and
8. The operating pressure will me 1440 psig.

After review of the information, MTB has determined that:

1. The Radiographic Inspection Log containing the X-ray numbers, type and number of exposures taken, condition of the welds, their location, and dates taken, verifies that the welds were acceptable in accordance with API 1104 (13th edition).
2. It would be unreasonable to require a large segment of the pipeline to be dug up and X-rayed again just to supply documentation for recordkeeping purposes, since the original affidavits and Radiographic Inspection Log will, in this instance, be sufficient documentation and will be maintained in the radiographic file for the required three years.
3. The hydrostatic testing of the pipeline further attested to the safety of the pipeline; and
4. It would not be inconsistent with pipeline safety to grant the waiver as requested.

Therefore, effective immediately, the requested waiver is granted.

(18 USC 831-835; 49 CFR 1.53(g).)

Issued in Washington, D.C. on May 5, 1977.

JAMES T. CURTIS, JR.,
Director, Materials Transportation Bureau.

[FR Doc.77-13407 Filed 5-11-77;8:45 am]

Office of the Secretary

TERMINATION OF THE "MOUNTAINEER" EXPERIMENTAL RAILROAD PASSENGER ROUTE BETWEEN NORFOLK, VA. AND CINCINNATI, OHIO

Decision of the Secretary of Transportation

INTRODUCTION AND BACKGROUND

The question before me is whether to terminate the "Mountaineer", a rail

passenger route operated by the National Railroad Passenger Corporation (Amtrak) and serving the cities between Norfolk, Virginia, and Cincinnati, Ohio, or to designate that route as a part of the basic system (as defined in section 102(4) of the Rail Passenger Service Act, 45 U.S.C. 102(4) (Supp. 1976) (the "Act")). This action is required by section 403(c) of the Act, 45 U.S.C. 563(c) (Supp. 1976) which provides for the establishment of experimental rail passenger routes to be operated by Amtrak for a period of at least two years, after which "the Secretary [of Transportation], in consultation with the Board of Directors [of Amtrak], shall terminate such route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system."

The "Mountaineer" route, providing rail passenger service between Norfolk, Virginia, and Cincinnati, Ohio, was designated by former Secretary Brinegar as an experimental route pursuant to section 403(c) of the Act on March 1, 1975, and began operating on March 23, 1975. Amtrak has now operated that route for more than two years, providing rail passenger service to Norfolk, Suffolk, Petersburg, Nottoway County Station, Farmville, Lynchburg, Bedford, Roanoke, Christiansburg and Narrows, in Virginia; to Bluefield, Welch, and Williamson, in West Virginia; to Tri-State Station, Russell and South Portsmouth, in Kentucky; and to Cincinnati, Ohio. The Act now requires me to make a determination as to the sufficiency of the present patronage of the route, and, if I find that patronage is insufficient, to terminate the route.

DECISION

In reaching my decision in this matter, I have carefully weighed data gathered and prepared by the Department's Federal Railroad Administration (FRA) from Amtrak's official records, data prepared and submitted by Amtrak, and the views and comments submitted by State and local government officials and by members of the public. I consulted with the Board of Directors of Amtrak at its regular board meeting on March 31, 1977, and received its recommendations. Having considered all of the above, and for the reasons given below, I have decided that the patronage of the "Mountaineer" is insufficient to serve the public convenience and necessity, and, therefore, the route must be terminated.

PATRONAGE

The number of patrons using a transportation system, the availability and adequacy of alternative modes of transportation, and the cost of providing the transportation system are factors in determining the public convenience and necessity.[1]

An analysis conducted by the FRA shows that the number of patrons on any given segment of the "Mountaineer" route at any one time averages 35 passengers.[2] This number alone is not necessarily determinative of the public's use of a transportation service. It becomes significant, however, when viewed in the context of seasonal variations, variations along the route, and in comparison to usage of other rail passenger routes within the Amtrak system.

Examining those factors, the FRA found that the average passenger load varied by an average of no more than 20 passengers along different portions of the route at any one time, indicating that distribution of patronage is fairly even along the route. There is a strong seasonal variation. The trains carry twice as many passengers in the summer months as in the winter months. Comparison studies with other Amtrak routes show that even the summer passenger load is among the lowest in the Amtrak system. In summary, the route is very poorly patronized; even peak patronage in the summer is no better than poor.

The cost of providing "Mountaineer" service is high, and returns are low. Cost analyses have been performed by Amtrak on almost all of its passenger routes. These analyses show that the "Mountaineer" is among the poorest economic performers in the Amtrak system. For the period from July 1, 1975 to June 30, 1976, it ranked last among long-haul routes in financial contribution per revenue passenger mile, and ranked 15th out of 17 long-haul routes in the generation of connecting revenues. This last measure, in addition to indicating financial weakness, suggests that the route does not contribute significantly to the growth and development of the rail passenger transportation system as a whole. Amtrak's cost projections show no significant improvement for the future.[4] Patronage would have to triple to improve the economics of the route substantially. No such growth is foreseen.[4]

In its meeting of March 31, 1977, the Board of Directors of Amtrak indicated its preference for termination of the "Mountaineer" in favor of a new route to Cincinnati, Ohio, through Virginia and West Virginia which would originate in Washington, D.C. The Board's position was based on an application of Amtrak's own criteria and procedures for the making of route and service decisions, which have been approved by Congress under section 404 of the Act. Under the criteria, the "Mountaineer" would be a prime candidate for discontinuance even if it were not an experimental route.

ALTERNATIVE TRANPORTATION

Alternative mass transportation exists in the region. Bus lines provide service to all cities along the "Mountaineer" route. Thirty-one percent of the present "Mountaineer" riders would have direct bus service between origin and destination. Another 50 percent would have scheduled connecting service. The remaining 20 percent would receive some service, although that service is admittedly very poor.

While I am sympathetic to the plight of those individuals who will be left without immediately available alternative transportation, the statute leaves me no alterative course of action.

Furthermore, the new route proposed by Amtrak would alleviate much, if not all, of the inconvenience which might be suffered by certain individuals from termination of the "Mountaineer." Persons in those cities without convenient bus service to Norfolk and Suffolk (the only cities on the "Mountaineer" route which will not receive service from the proposed new route) will be able to take the train to larger population centers where such service is available.

ENVIRONMENTAL EFFECTS

The FRA, in its "Negative Declaration for Possible Decision by the Secretary of Transportation to Order the Discontinuance of Amtrak's Norfolk to Cincinnati Route" dated April 28, 1977, has investigated the potential environmental impact of a termination of the "Mountaineer," and declared that it would have no foreseeable significant impact upon the quality of the human environment.

The declaration concludes that the impact on the environment caused by the use of alternative transportation (including automobile traffic) would be negligible; that no significant effects on economic development and growth in the region are expected as a result; that there would be no change in the physical environment; and that the termination would not cause an increase in the use of fuel by other modes of transportation. Rather, a net fuel savings is foreseen.

ECONOMIC EFFECTS

The Commonwealth of Virginia has urged the continuation of the "Mountaineer" on grounds that the route is an integral part of the southern Virginia region's future economic development. To support its position, the Commonwealth has submitted economic data and projections for the region. That information does not, however, establish

[1] See, e.g., *Colorado v. United States*, 271 U.S. 153, 169 (1925); Southern Pacific Co.—Partial Discontinuance of Passenger Trains, 312 I.C.C. 631 (1961); and Great Northern Ry. Co.—Discontinuance of Passenger Service, 312 I.C.C. 580 (1961).

[2] The measure used by FRA to determine patronage was passenger-miles per train mile (PM/TM). PM/TM is a good measure of patronage because it presents the usage of a train in terms of a common denominator. Unlike revenue passenger miles (which tend to be higher on long hauls than short hauls), ridership (which is higher where people take short trips rather than long trips), and load factors (revenue passenger miles as a percentage of available seat miles—which only tells how well the train is sized to the demand for seats), PM/TM indicate usage irrespective of the distance the train or the people on it were travelling. It may be viewed as telling you how many people you are likely to see on the average if you were to climb on board the train a number of times at a number of different locations along its route. If a route only carries 30 PM/TM, it does not matter whether the route is short haul or long-haul, or whether the riders completely change at each stop or are riding from one end of the route to the other. What it does indicate is that not many passengers will be found on the train at any given time.

[3] Supporting data are attached as Exhibit I.

[4] Amtrak's current capital plan projects a maximum 5 percent increase for FY 1977. Projections for the proposed new route indicate a 60 percent increase in ridership.

V 42 N 92 MAY 12 77 UMI

a direct connection between the economic growth of the region and the necessity of continuing rail passenger service. Nevertheless, the Commonwealth of Virginia is not precluded by this decision from seeking to procure rail passenger service for its citizens under section 403(b) of the Act, which allows a State, regional or local agency to request such service on the condition that it pay a portion of the cost of providing the service.

The mayor of Norfolk argues that the City of Norfolk has actively promoted the "Mountaineer" and developed a tourist program of which the "Mountaineer" is an integral part. He argues further that tourism is an important factor in Norfolk's economy, and that removal of the "Mountaineer" could seriously affect that industry. While this represents a very real concern to the City of Norfolk and addresses the issue of public convenience and necessity, this argument does not overcome the statutory requirement that the route be terminated if patronage is insufficient.

VALIDITY OF THE EXPERIMENT

A number of the comments received indicate dissatisfaction with the conditions under which the "Mountaineer" was operated, and imply that the experiment was less than fair because of this. Amtrak maintains data related to passenger complaints, on-time performance, and equipment failures for all trains in the system. These records show that the "Mountaineer" service was comparable to other long haul trains within the system.

The purpose of the experimental route program is to determine whether the designated routes serve a public need which would justify their continuation as a part of the basic system. This determination can only be made if these trains are operated in a manner comparable to other trains already within the system, with a level of service which could be maintained by Amtrak on a long-term basis. Amtrak's records show that it has done this. There appears to be no reason to believe that Amtrak or any other person has attempted to discourage the use of the "Mountaineer" by means of poor service.

CONCLUSION

In summary, it appears that the "Mountaineer" is not a viable element of the national railroad passenger system at its present stage of development. Therefore, in consideration of the poor financial performance of the route, the low number of persons served, Amtrak's recommendations and the availability of alternative modes of transportation, I find that the "Mountaineer" has attracted insufficient patronage to serve the public convenience and necessity. Under section 403(c) of the Act, such a finding requires me to terminate the route.

In consideration of the arguments and findings above, and pursuant to the authority granted me by section 403(c) of the Act, I direct that Amtrak cease operation of the "Mountaineer" service within thirty days of this determination, and that the service be terminated pursuant to section 403(c) of the Act.

Dated: May 3, 1977.

BROCK ADAMS,
Secretary of Transportation.

EXHIBIT I

ECONOMIC INDICATORS OF THE MOUNTAINEER FISCAL YEAR 1976

Average Revenue per Passenger	$14.34
Average Subsidy per Passenger	$54.87
Percentage of Cost covered by Revenue	20.7
Revenue	$1,001,504
Cost	$4,834,915
Deficit	$3,833,411
Projected Amount of Deficit Eliminated if Route Eliminated	$2,491,000
Subsidy per revenue passenger mile	16.4¢
Avoidable subsidy per passenger mile	14.9¢
Average revenue per passenger mile	4.6¢

Estimated annual avoidable loss of the Mountaineer based on fiscal year 1976 operating experience

[In thousands of dollars]

Revenue:	
Norfolk-Cincinnati local riders	$609
Riders through Cincinnati:	
Norfolk-Cincinnati trip segment	303
Cincinnati-Chicago trip segment	168
Total revenue	1,170
Avoidable costs:	
Operation of Mountaineer trains between Norfolk and Cincinnati (684 mi)	3,637
Additional cost savings of elimination of Mountaineer consist from Riley between Cincinnati and Chicago (285 mi)	(811)
Cost of adding diner to Riley trains between Hinton and Chicago (594 mi)	(650)
Total avoidable cost	3,798
Avoidable operating deficit	(2,628)
Estimated revenues from passengers connecting with other Amtrak trains	137
Net avoidable deficit	2,491

Notes

1. Total revenues are fiscal year 1976 actuals.
2. The avoidable costs for fiscal year 1976 operating experience are identified per the year to date through August 1976 Route Profitability System report for the Mountaineer adjusted for inflation.
3. Estimated revenues from passengers connecting with other Amtrak trains are based on a sample of ridership on the Mountaineer.

Forecast avoidable deficit of the Mountaineer fiscal year 1977–81

[In thousands of dollars]

	Fiscal year				
	1977	1978	1979	1980	1981
Revenue	$1,090	$1,205	$1,354	$1,476	$1,685
Avoidable costs	4,002	4,281	4,580	4,886	5,231
Avoidable operating deficit	(2,912)	(3,076)	(3,226)	(3,410)	(3,546)
Revenues from connecting passengers	128	141	158	173	197
Net avoidable deficit	2,784	2,935	3,068	3,237	3,349

Notes

1. Revenue is from market forecasts.
2. Costs are projections of fiscal year 1976 experience.
3. Connecting revenue is based on fiscal year 1976 sample applied to forecasted revenues.
4. If the Mountaineer were discontinued prior to Mar. 24, 1977, there would be no labor protection liability per app. C-2 to the NRPC agreement. If discontinuance should occur after Mar. 23, 1977, labor protection would cost an estimated $524,000 in the 1st full year and $576,000 in the 2d full year after discontinuance.

THE MOUNTAINEER ROUTE CRITERIA AND PROCEDURES, NORFOLK-CINCINNATI

ECONOMIC CRITERIA

Current Economics (FY 1976)

Financial Contribution per RPM: ($.149) [1]
Ranked 17th out of 17 routes.
Ranked below preliminary standard.

Financial Contribution: ($2,796,000)
Ranked 5th out of 17 routes.
Ranked above preliminary standard.

Connecting Revenue: $305,000 [2]
Ranked 15th out of 17 routes.
Ranked below preliminary standard.

Future Economics (FY 1981)

Financial Contribution per RPM: ($.176) [1]
Ranked 17th out of 19 routes.
Ranked below preliminary economics.

Financial Contribution: ($3,789,000)
Ranked 8th out of 19 routes.
Ranked above preliminary standard.

Incremental Capital Investment: $11,879,300
Ranked 10th out of 18 routes.
Ranked below preliminary standard.

Return on Incremental Capital Investment: 6%
Ranked 3rd out of 14 routes.
Ranked below preliminary standard.

NOTE.—The social and environmental data will require detailed analysis.

[FR Doc.77-13463 Filed 5-11-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 164]

ASSISTANT COMMISSIONER (ADMINISTRATION)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authorization for the Commissioner of Internal Revenue to prescribe identification media for use in the Internal Revenue Service is being redelegated to the Assistant Commissioner (Administration). The text of the delegation order appears below.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. E. William Digges, A:FM:PR, 1111 Constitution Ave., NW., Room 629–WB, Washington, D.C. 20224, 202–376–0508 (not toll free).

LEO C. INGLESBY,
Director,
Facilities Management Division.

AUTHORITY TO PRESCRIBE IDENTIFICATION MEDIA

1. The authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150–37 to prescribe identification media for use within the Internal Revenue Service is hereby delegated to the Assistant Commissioner (Administration).
2. This authority may not be redelegated.

WILLIAM S. WILLIAMS,
Acting Commissioner.

APRIL 4, 1977.

[FR Doc.77-13477 Filed 5-11-77;8:45 am]

[1] Riders traveling west of Cincinnati are considered connecting riders and are not included in the calculation in order to not double count connecting revenue in the criterion.

[2] Connecting revenue considers ridership connecting with the Mountaineer to/from the James Whitcomb Riley. Ridership connecting to and from other Amtrak trains is also included in this total and based upon surveys performed for a sample period.

INTERSTATE COMMERCE COMMISSION

[Volume No. 16]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

MAY 6, 1977.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a

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broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 99143 (Sub-No. 5) (Republication), filed January 28, 1976, published in the FEDERAL REGISTER issue of March 11, 1976, and republished this issue. Applicant: OHIO VALLEY CHARTER SERVICES, INC., R.D. No. 2, East Liverpool, Ohio 43920. Applicant's representative: James R. Allison, 25 East Rebecca Street, East Palestine, Ohio 44413. A Report of the Commission, Review Board Number 3, dated March 27, 1977, and served April 25, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, (1) of *passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Columbiana County, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii and Ohio), and (2) of *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Columbiana County, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii, Ohio, Pennsylvania, Maryland, West Virginia, Virginia, Michigan, New York, Florida, and the District of Columbia); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission rules and regulations thereunder. The purpose of this republication is to indicate the addition of the words "and ending" following the word "beginning" in (1) above, and also to indicate the addition of an additional commodity and territorial description in (2) above in applicant's grant of authority.

No. MC 123407 (Sub-No. 328) (Republication), filed October 6, 1976, published in the FEDERAL REGISTER issue of October 29, 1976 and republished this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyear (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Panelling*, between the facilities of the Pan American Gyro-Tex Company located at or near Jacksonville, Fla., on the one hand, and, on the other, points in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—The purpose of this republication is to indicate Oklahoma as a destination state in lieu of Ohio. Common control may be involved.

Hearing: June 1, 1977 at Jacksonville, Fla. (3 days), at 9:30 a.m. Local Time. A tentative time allowance is shown for this hearing. Location of hearing room will be by subsequent notice.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2421 (Sub-No. 13), filed March 25, 1977. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, Lenoir, N.C. 28645. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, from Louisville, Winchester and Paducah, Ky., to those points in that part of North Carolina on and west of U.S. Highway 29.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Washington, D.C.

No. MC 9812 (Sub-No. 5), filed March 30, 1977. Applicant: C. F. KOLB TRUCKING, COMPANY, INC., R.R. No. 1, Box 294, Mount Vernon, Ind. 47620. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, bottled and canned, *and empty containers*, between points in Illinois, Indiana and Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind. or Louisville, Ky.

No. MC–10436 (Sub-No. 1), filed April 18, 1977. Applicant: North Manchester Trucking Company, Inc., P.O. Box 268, 611 West Fourth Street, North Manchester, Indiana 46962. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Serving Bippus, Urbana and Roann, Indiana as off-route points in connection with applicant's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 16903 (Sub-No. 48), filed March 21, 1977. Applicant: MOON FREIGHT LINES, INC., 120 W. Grime Street, P.O. Box 1275, Bloomington, Ind. 47401. Aplicant's reresentative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural and cast stone* from points in Vanderburgh County, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant reequests it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 16965 (Sub-No. 8), filed April 5, 1977. Applicant: FRANKLIN TRUCKING, INC., 210 E. Washington St., Hartford City, Ind. 47348. Applicant's representative: Robert E. Franklin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Seymour, Ind., to points in Illinois, Ohio and Wisconsin, under a continuing contract, or contracts, with Amoco Plastic Products Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 19945 (Sub-No. 64), filed March 25, 1977. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, from Springfield, Ill., to points in Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Louis, Mo. or Washington, D.C.

No. MC–25798 (Sub-No. 292), filed April 15, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell, Post Office Box 1186, Auburndale, Florida 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foods* from Solon, Ohio; Traverse City, Saugatuck and Frankfort, Michigan to points in Alabama, Florida, Georgia and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Michigan, or Tampa, Florida.

No. MC 27817 (Sub-No. 128), filed March 18, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graft, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grass stop*, in rolls, *metal stove shovels, metal roofing and siding* and *fabricated metal building products*, from the plantsite of The Billy Penn Corporation—Division of Penn Supply and Metal Corporation, Inc., located at Philadelphia, Pa., to points in Connecticut, Massachusetts, New Jersey, New York and Rhode Island, restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Harrisonburg, Pa., or Washington, D.C.

No. MC 27817 (Sub-No. 130), filed April 18, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk and frozen foods), from the plantsite and storage facilities of American Home Foods, Division of American Home Products Corporation at or near Milton, Pa., to points in Maryland, Virginia, West Virginia, North Carolina, Ohio, New York, New Jersey, and the District of Columbia, restricted to traffic originating at and destined to the above named origins and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 42487 (Sub-No. 862), filed March 18, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the Nuclear Generating plantsite and facilities of the Tennessee Valley Authority, located at or near Hartsville, Tenn., as an off-route point in connection with carrier's presently authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chattanooga, Tenn., or Washington, D.C.

No. MC 55898 (Sub-No. 53), filed March 28, 1977. Applicant: DECATO BROS., INC., Heater Road, Lebanon, N.H. 03766. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, forest products and composition board*, between ports of entry on the International Boundary line between the United States and Canada located at points in Maine, Michigan, Minnesota, New Hampshire, New York, and Vermont, on the one hand, and, on the other, points in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Concord, or Montpelier, N.H., Boston, Mass., or Albany, N.Y.

No. MC–59957 (Sub-No. 50), filed March 24, 1977. Applicant: Motor Freight Express, a Corporation, Arsenal Road and Toronito Streets, York, Pennsylvania 17402. Applicant's representative: S. Berne Smith, Esquire, 100 Pine Street (P.O. Box 1166), Harrisburg, Pa. 17108. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment): serving points in Fayette, Greene and Washington Counties, Pa., which are more than 25 miles from the city of Pittsburgh, Pa., as off-route points in connection with carrier's authorized regular-route operations to and from Pittsburgh, Pa.

NOTE.—Applicant's regular routes serve points in the states of Illinois, Indiana, Ohio, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, and Virginia, and The District of Columbia. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa.

No. MC–61396 (Sub-No. 328), filed March 28, 1977. Applicant: Herman Bros. Inc., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand* from the facilities of Quartzite Stone Co., Inc., located at or near Lincoln, Kansas, to Superior, Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Omaha, Nebr.

No. MC 63871 (Sub-No. 4), filed March 21, 1977. Applicant: ANDREWS & PIERCE, INC., 1431 Bedford Street, North Abinston, Mass. 02351. Applicant's representative: James E. Mahoney, 84 State Street, Boston, Mass. 02169. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from South Volney, N.Y., to points in Massachusetts and Rhode Island; (2) *materials, supplies, and equipment*, used in the manufacture, sale and distribution of malt beverages, from points in Massachusetts and Rhode Island, to South Volney, N.Y.; and (3) *empty glass*

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bottles, not exceeding one gallon in capacity, from Milford, Mass., to South Volney, N.Y.

NOTE.—Common carrier may be involved. If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass. or Providence, R.I.

No. MC 67210 (Sub-No. 11), filed March 16, 1977. Applicant: GLENNON TRANSPORTS, INC., 1000 North Fourteenth St., St. Louis, Mo. 63106. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the off-route points of Shiloh, Ferrin, Iuka, Xenia, Camp Travis, Calhoun, West Salem, Bone Gap, Damiansville, Woodlawn, Thackery, Bungay, Liberty, Barnhill, Enterprise, Rinard, Ellery, Goldengate, Walnut Hill, Scott Air Force Base, Phillipstown, Garrison, Belle Prairie, Bluford, Keenville, Sims, and Kell, Ill., in connection with carrier's regular-route operations set out herein below: (1) Between St. Louis, Mo., and Mt. Carmel, Ill., serving all intermediate points: From St. Louis over U.S. Highway 50 to junction Illinois Highway 130, thence over Illinois Highway 130 to Albion, Ill., thence over Illinois Highway 15 to Mt. Carmel, and return over the same route; (2) between junction U.S. Highway 50 and Illinois Highway 161, and McLeansboro, Ill., serving all intermediate points: From junction U.S. Highway 50 and Illinois Highway 161 over Illinois Highway 161 to junction Illinois Highway 15, thence over Illinois Highway 15 to Mt. Vernon, Ill., thence over U.S. Highway 460 to McLeansboro, and return over the same route; (3) between Carlyle, Ill., and Nashville, Ill., serving all intermediate points: From Carlyle over Illinois Highway 127 to Nashville, and return over the same route; (4) between junction U.S. Highways 50 and 45, and Carmi, Ill., serving all intermediate points: From junction U.S. Highways 50 and 45 over U.S. Highway 45 to junction U.S. Highway 460, thence over U.S. Highway 460 to Carmi, and return over the same route; (5) between Albion, Ill., and Fairfield, Ill., serving all intermediate points: From Albion over Illinois Highway 15 to Fairfield, and return over the same route;

(6) Between junction U.S. Highway 45 and unnumbered highway near Cisne, Ill., and junction Illinois Highway 161 and U.S. Highway 50, serving all intermediate points: From junction U.S. Highway 45 and unnumbered highway, over unnumbered highway to junction Illinois Highway 37, thence over Illinois Highway 161 to junction U.S. Highway 50, and return over the same route; (7) between Mt. Carmel, Ill., and Carmi, Ill., serving all intermediate points: From Mt. Carmel over Illinois Highway 1 to Carmi, and return over the same route; (8) between junction U.S. Highways 45 and 460, and McLeansboro, Ill., serving all intermediate points: From junction U.S. Highways 45 and 460 over U.S. Highway 460 to McLeansboro, and return over the same route; (9) between McLeansboro, Ill., and Mt. Vernon, Ill., serving all intermediate points: From McLeansboro over Illinois Highway 142 to Wayne City, Ill., thence over Illinois Highway 15 to Mt. Vernon, and return over the same route; (10) between Mt. Vernon, Ill., and Salem, Ill., serving the intermediate point of Rome, Ill.: From Mt. Vernon over Illinois Highway 37 to Salem, and return over the same route; (11) between Fairfield, Ill., and Wayne City, Ill., serving no intermediate points: From Fairfield over Illinois Highway 15 to Wayne City, and return over the same route; (12) between junction U.S. Highways 51 and 460, and junction U.S. Highways 51 and 50, serving the intermediate points of Richview, Centralia, and Central City, Ill.: From junction U.S. Highways 51 and 460 over U.S. Highway 51 to junction U.S. Highway 50, and return over the same route; (13) between St. Louis, Mo., and junction Illinois Highway 3 and U.S. Highway 51: From St. Louis over U.S. Highway 50 Bypass to East St. Louis, Ill., thence over Illinois Highway 3 to junciton U.S. Highway 51, and return over the same route; (14) between junction Illinois Highways 3 and 149, and junction Illinois Highways 3 and 146: From junction Illinois Highways 3 and 149 over Illinois Highway 149 to junction Illinois Highway 127, thence over Illinois Highway 127 to junction Illinois Highway 146, thence over Illinois Highway 146 to junction Illinois Highway 3, and return over the same route; (15) between junction U.S. Highways 51 and 460 and Shawneetown, Ill.: From junction U.S. Highways 51 and 460 over U.S. Highway 460 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, thence over Illinois Highway 13 to Shawneetown, and return over same route;

(16) Between McLeansboro, Ill., and junction Illinois Highways 13 and 1: From McLeansboro over Illinois Highway 142 to junction Illinois Highway 13, thence over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route; (17) between Carmi, Ill., and Brockport, Ill.: From Carmi over Illinois Highway 1 to junction U.S. Highway 45, thence over U.S. Highway 45 to brookport, and return over the same route; (18) between Mound City, Ill., and junction Illinois Highway 37 and U.S. Highway 460: From Mound City over Illinois Highway 37 to junction U.S. Highway 460, and return over the same route; (19) between Ware, Ill., and junction Illinois Highways 1 and 13: From Ware over Illinois Highway 146 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, and return over the same route; (20) between junction Illinois Highways 146 and 34 and Benton, Ill.: From junction Illinois Highways 146 and 34 over Illinois Highway 34 to Benton, and return over the same route; (21) between Harrisburg, Ill., and Carbondale, Ill.: From Harrisburg over Illinois Highway 13 and to Carbondale, and return over the same route; (22) between Thompsonville, Ill., and Murphysboro, Ill.: From Thompsonville over Illinois Highway 149 to Murphysboro, and return over the same route; (23) between Wittington, Ill., and Belleville, Ill.: From Wittington over Illinois Highway 183 to Sesser, Ill., thence over unnumbered highway to junction Illinois Highway 154, thence over Illinois Highway 154 to Red Bud, Ill., thence over Illinois Highway 159 to Belleville, and return over the same route; (24) between Waltonville, Ill., and junction Illinois Highways 148 and 37: From Waltonville over Illinois Highway 148 to junction Illinois Highway 37, and return over the same route; (25) between Eden, Ill., and junction Illinois Highway 153 and U.S. Highway 460; From Eden over Illinois Highway 153 to junction U.S. Highway 460, and return over the same route; (26) between Ava, Ill., and junction Illinois Highways 151 and 3; From Ava over Illinois Highway 151 to junction Illinois Highway 3, and return over the same route, serving in connection with the regular-route operations set out in (13) through (26) above, all intermediate points except those on U.S. highway 460 between junction U.S. Highway 460 and 51 and junction U.S. Highway 460 and 45, and those points on Illinois Highway 142 between McLeansboro, Ill., and Dale, Ill.;

(27) Between East St. Louis, Ill., and Cairo, Ill., serving the intermediate points of Tamaroa, Dowell, Elkville, Hallidayboro, and DeSoto, Ill., and points on U.S. Highway 460 (except Nashville, Ill.): From East St. Louis over U.S. Highway 51 to Cairo, and return over the same route, serving in connection with the regular-route operations sought in (27) above, the off-route points of Merrimac, New Hanover, Fountain, Harrisonville, Valmeyer, Foster Pond, Raddle, Jacob, Gorham, Sand Ridge, Grimsby, Neunert, Grand Tower, Fayville, Goose Island, Thebes, Horseshoe Lake Conservation Area, Miller City, Willard, Burksville, Renault, Ames, Prairie du Rocher, Kellogg, Millstadt, Preston, Walsh, Schuline, Blair, New Palestine, Shiloh Hill, Story, Conant, Denmark, Elco, Diswood, Spring Garden, Ewing, Macedonia, Akin, Lonzo, Bardan, Walpole, Brownsville, Gossett, Ridgeway, Mulkeytown, Orient, Rosiclare, Brownfield, Creal Springs, Karnak, Joppa, Hillerman, Belknap, Forman, Tunnell Hill, New Federal Prison, Temple Hill, Simpson, Phillipstown, Herald, New Haven, and Equality, Ill.; (28) between Evansville, Ind., and Harrisburg, Ill., serving all intermediate points in Illinois: From Evansville over Indiana Highway 62 to the Indiana-Illinois State Line, thence over Illinois Highway 141 to junction U.S. Highway 45, thence over U.S. Highway 45 to Harrisburg, and return over the same route; (29) between Harrisburg, Ill., and junction of Illinois Highway 145 and U.S. Highway 45, east of Metropolis, Ill., serving all intermediate

points: From Harrisburg, Ill., over Illinois Highway 145 to junction U.S. Highway 45, and return over the same route; and (30) between Harrisburg, Ill., and junction of Illinois Highway 1 and Illinois Highway 13, serving all intermediate points: From Harrisburg, Ill., over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route, serving the off-route point of Cave in Rock, Ill., in connection with routes set out in (28) through (30) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 79687 (Sub-No. 10), filed March 2, 1977. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, Pa. 16063. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers, caps, stoppers*, and *covers*, from Glenshaw, Pa., to points in Michigan; and (2) *refused, rejected, and damaged shipments*, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Pittsburgh, Pa.

No. MC 89684 (Sub-No. 97), filed March 25, 1977. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West Street, Salt Lake City, Utah 84110. Applicant's representative: Robert G. Shepherd, Jr., 600 South Cherry Street, Suite 711, Denver, Colo. 80222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural equipment and parts;* and (2) *snow mobile parts and accessories*, between the warehouse and parts facilities of John Deere, Inc., Massey-Ferguson, Inc., Hesston Corporation, and Sperry New Holland, Inc., located in Denver, Colo., on the one hand, and, on the other, points in Utah, points in that part of Idaho south of the Idaho County Line, points in Silver Bow, Beaverhead, and Madison Counties, Mont., Albany, Carbon, Sweetwater, Uinta, Lincoln, Sublette, and Teton Counties, Wyo., points in Elko County, Nev., Ontario, Cairo, Nyssa, Vale, and Adrian, Oreg.; Cameron, The Gap, Page, Flagstaff, Cedar Ridge, and The Navajo Power Plant, located 5 miles southeast of Page, Ariz., restricted to the transportation of packages or articles each weighing not more than 150 pounds; and further restricted against the transportation of packages, or articles weighing more than 500 pounds, in the aggregate, from one consignor at one location to one consignee at one location during a single day.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 93980 (Sub-No. 69), filed March 25, 1977. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought ot operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, (1) from points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, to points in Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, for the account of Lawrence R. McCoy; and (2) from points in Maine, Massachusetts, New Hampshire, and Vermont, to points in Ohio and points in that part of Tennessee east of Interstate Highway 65, for the account of Lawrence R. McCoy.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., or Washington, D.C.

No. MC 93980 (Sub-No. 70), filed March 25, 1977. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Raleigh Road, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, supplies, and equipment* (except commodities in bulk, in tank vehicles), used in the processing, packing, storage, handling, and marketing of tobacco, and (2) *unmanufactured, tobacco*, when moving in the same vehicle and at the same time with the commodities described in (1) above, between points in Connecticut, Delaware, Florida, Georgia, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., or Washington, D.C.

No. MC 94265 (Sub-No. 248), filed March 21, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., Route No. 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peanuts, roasted peanuts, and peanut products* (except in bulk in tank vehicles), (1) from the plantsite of Seabrook Blanching Corporation, located at or near Edenton, N.C.; (2) from the plantsite of Jimbo Jumbo, Inc., located at or near Edenton, N.C.; and (3) from the plantsite of Carolina Peanuts Company, located at or near Robersonville, N.C., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Ohio, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 94350 (Sub-No. 382), filed March 25, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Tennessee, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 94350 (Sub-No. 383), filed March 23, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Georgia, to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, and points in Arkansas, Louisiana, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Macon, Ga.

No. MC 94350 (Sub-No. 384), filed March 25, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements, from points in Alabama, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 99685 (Sub-No. 5), filed March 14, 1977. Applicant: G. I. TRUCKING COMPANY, a Corporation, 14727 Alondra Boulevard, La Mirada, Calif. 90638. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in

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bulk, those requiring special equipment, and motor vehicles), between points in California, on the one hand, and, on the other, (1) points within an area bounded by and on a line beginning at Topanga Beach thence north along California Highway 27 to the northernmost junction with the corporated limits of Los Angeles, thence along the northern corporated boundary of Los Angeles to junction with the southern boundary of the Angeles National Forest, thence along the southern boundary of the Angeles National Forest to junction with the San Bernardino National Forest, thence along the southern boundary of the San Bernardino National Forest to junction U.S. Highway 395, thence south along U.S. Highway 395 to junction Interstate Highway 10, thence along Interstate Highway 10 to Redlands, thence along an imaginary line to junction U.S. Highway 395 and California Highway 60, thence along U.S. Highway 395 to junction Cajalco Drive, thence along Cajalco Drive to junction Mockingbird Canyon Road, thence along Mockingbird Canyon Road and Van Buren Blvd., to junction California Highway 91, thence along California Highway 91, to junction California Highway 55, thence along California Highway 55 to the Pacific Coastline to Topanga Beach, Calif.

(2) (a) Chula Vista, Calif., and intermediate points on Interstate Highway 5, and San Diego and El Cajon and intermediate points on Interstate Highway 8 and points intermediate thereto or within 10 miles thereof, (b) Santa Maria and points on and within 10 miles of U.S. Highway 101 between Santa Maria and junction U.S. Highway 101 and California Highway 27 (except Saticoy), (c) Lompoc, points within 10 miles thereof, and points on and within 10 miles of California Highway 1 between Lompoc and Santa Maria, (d) San Fernando, points within 10 miles thereof, Ventura, and points between San Fernando and Ventura on and within 10 miles of California Highway 126 and Interstate Highway 5 (except Saticoy and Castaic), (e) points between Ventura and San Fernando on and within 10 miles of California Highway 118 (except Saticoy), (f) Riverside and points between San Diego and Riverside on and within 10 miles of Interstate Highway 15, (g) Points on and within 15 miles of U.S. Highway 101, between and including Santa Maria and Paso Robles, (h) points on and within 15 miles of California Highway 14 between and including junction Interstate Highway 5 and Mojave; and points on and within 15 miles of Interstate Highway 10 at and west of Indio in Riverside County, California, and on and within 15 miles of California Highway 86 and 111 in Riverside and Imperial Counties, California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with a similar application at Los Angeles, Calif.

No. MC 102567 (Sub-No. 197), filed April 18, 1977. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, Louisiana 71010. Applicant's representative: Joe C. Day, 2040 North Loop West, Suite 208, Houston, Texas 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Liquid Hydrocloric (Muriatic) Acid, in bulk, in rubber-lined tank vehicles, from Deer Park (Harris County), Texas to all points in Arkansas, Louisiana, Mississippi, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, Louisiana, or Houston, Texas.

No. MC 103066 (Sub-No. 56), filed April 14, 1977. Applicant: Stone Trucking Company, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Scrap metal and catalytic agents*, between points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Sotuh Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin, restricted against the transportation of commodidates in bulk, in tank vehicles, and those which because of size or weight require special equipment.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

Docket MC 103066 (Sub-No. 57), filed April 14, 1977. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Metal Racks* from Cleveland, Ohio to points in California, Colorado, Illinois, Louisiana, Missouri, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Cleveland, Ohio.

Docket MC 103066 (Sub-No. 58), filed April 14, 1977. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Plastic foam, rubber foam, and cellulose foam* from Bremen, Fort Wayne, Indianapolis, LaPorte, Marion, Indiana, Corry and Hazelton, Pennsylvania; Moonachie, New Jersey, and Cornelius, North Carolina to points in Illinois, Indiana, Kentucky, Michigan, New Jersey, Ohio, Pennsylvania, and Tennessee, restricted against the transportation of commodities in bulk, in tank vehicles, and those which because of size or weight require special equipment.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

Docket MC–103066 (Sub–No. 59), filed April 14, 1977. Applicant: STONE TRUCKING COMPANY, a Corporation, P.O. Box 2014, Tulsa, Oklahoma 74101. Applicant's Representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Floor coverings and supplies* used in the installation of floor coverings from the plants of Congoleum Corporation located at or near Trenton, New Jersey and Marcus Hook, Pennsylvania to ports of entry on the United States-Canada boundary line located in Washington, Idaho, Montana, and North Dakota, between Blaine, Washington, and Pembina, North Dakota inclusive.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC–103993 (Sub-No. 884), filed March 28, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's Representative: James B. Buda (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *containers and cargo containers*, from Chatham County, Georgia, to points in the United States, except Alaska and Hawaii; (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements, between Chatham County, Georgia, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Atlanta, Georgia or Savannah, Georgia.

No. MC 103993 (Sub-No. 885), filed March 28, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's Representative: James B. Buda (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *containers and cargo containers* from Lee County, Iowa, to points in the United States (except Alaska and Hawaii); (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements, between Lee County, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Detroit, Michigan.

No. MC 106674 (Sub-No. 226), filed March 21, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid propane*, in bulk, between points in Alabama, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 107002 (Sub-No. 499), filed March 24, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Choctaw County, Ala., to points in Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Mobile, Ala.

No. MC 107002 (Sub-No. 504), filed April 18, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Mississippi 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the site of Alpine Laboratories, located in Baldwyn County, Alabama to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Mobile, Alabama or Jackson, Mississippi.

No. MC 107295 (Sub-No. 845), filed April 15, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *fireplaces* and *barbecue grills, parts*, and *accessories*, from Shelbyville, Ky., to points in the United States (except Alaska and Hawaii); (2) *materials, equipment*, and *supplies* used or useful in the manufacture or distribution of commodities in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsite or warehouse facilities of Whittler Steel & Manufacturing, Inc., at Shelbyville, Ky.; (3) *fireplaces, barbecue grills, parts*, and *accessories*, including all material, equipment, and supplies used or useful in the manufacture and distribution of fireplaces and barbecue grills, between the plantsite of Whittler Steel & Manufacturing, Inc., located at Santa Fe Springs, Calif., and Shelbyville, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Los Angeles, Calif., or Washington, D.C.

No. MC 107295 (Sub-No. 846), filed April 15, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *plumbers' goods, bathroom* or *lavatory fixtures* and *accessories* thereto, (1) from Abingdon, Ill., to points in Arizona, Arkansas (except Ft. Smith), California, Colorado, Idaho, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Utah, Washington, Wisconsin, and Wyoming; (2) from Robinson, Ill., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (3) from Knoxville, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 107993 (Sub-No. 52), filed March 25, 1977. Applicant: J. J. WILLIS TRUCKING COMPANY, a corporation, 2608 Electronic Lane, P.O. Box 5328, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft loading and maintenance equipment*, from points in Monterey County, Calif., to points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco or Los Angeles, Calif.

No. MC 108207 (Sub-No. 459), filed March 28, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., Dallas, Tex. 75207. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molding compounds; granulated resin; and liquid plastics*, in refrigerated equipment (except in bulk), from Los Angeles, Calif., to Memphis, Tenn., and points in Arizona, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Dallas, Tex.

No. MC 108676 (Sub-No. 103), filed March 25, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated flat glass*, from ports of entry on the International Boundary line between the United States and Canada located at Detroit, Mich. and Niagara Falls, N.Y., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant did not specify a location.

No. MC 109533 (Sub No. 87), filed March 30, 1977. Applicant: OVERNITE TRANSPORTATION COMPANY, P.O. Box 1216, Richmond, Virginia 23209. Applicant's representative: C. H. Swanson, (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities (except those of unusual value, Class- equipment): Serving Alcoa and Maryville, Tennessee as off-route points in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tennessee, or Washington, D.C.

No. MC 109595 (Sub-No. 17), filed April 8, 1977. Applicant: REX TRANSPORTATION CO., a corporation, Suite 207, Clausen Building, 1520 North Woodward Avenue, Bloomfield Hills, Michigan 48013. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *cement* from Detroit, Michigan, to points on the international boundary line between the United States and Canada, located on the Detroit and St. Clair Rivers in Michigan, for furtherance to points in Ontario.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Detroit or Lansing, Mich. or Cleveland, Ohio.

No. MC 110420 (Sub-No, 766), filed March 28, 1977. Applicant: QUALITY CARRIERS, INC., I–94 and County Truck C., Bristol, Wis. 53104. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buffing compounds, cleaning compounds, and varnish compounds*, from Waxdale, Wis., to points in Illinois, Monroe, Mich., and Chagrin Falls, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Milwaukee, Wis.

No. MC 110525 (Sub-No. 1186), filed March 25, 1977. Applicant: CHEMICAL

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LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals*, in bulk, in tank vehicles, from points in Henry County, Ky. (on and north of Kentucky State Highway 146 and on and west of U.S. Highway 421), to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Michigan, Ohio, North Carolina, Texas, and Wisconsin; and (2) *contaminated liquid chemicals*, in bulk, in tank vehicles, from the destination states in part (1) above, to points in Henry County, Ky. (on and north of Kentucky State Highway 146 and on and west of U.S. Highway 421).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Washington, D.C.

No. MC 111729 (Sub-No. 695), filed March 15, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, cash letters, commercial documents and business records), between Spokane, Wash., on the one hand, and, on the other, points in Kootenai County, Idaho, restricted (1) against the transportation of packages or articles weighing in excess of 150 pounds from one consignor to one consignee on any one day; (2) against providing service from or to the premises of banks and banking institutions; and (3) against providing service from or to the premises of persons, other than agencies of the United States Government, who or which have entered into contracts with applicant or its affiliates, and are served by them pursuant to the permits issued by the Commission.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Spokane, Wash.

No. MC 111956 (Sub-No. 38), filed March 21, 1977. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, Pa. 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers, caps, stoppers and covers*, from Glenshaw, Pa., to points in Michigan; and (2) *rejected, refused and damaged shipments*, on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 112617 (Sub-No. 362), filed March 23, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky. or Washington, D.C.

No. MC 112617 (Sub-No. 363), filed April 5, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: C. R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl Terephthalate*, in bulk, in tank vehicles, from the plantsite of E. I. Dupont de Nemours & Co., located at Old Hickory, Tenn.; Hercules, Inc., located at Wilmington, N.C.; and Tennessee Eastman Co., located at Kingsport, Tenn., to the plant site of General Electric Co., located at Mt. Vernon, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Louisville, Ky. or Washington, D.C.

No. MC 113325 (Sub-No. 146), filed March 28, 1977. Applicant: SLAY TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, Mo. 63104. Applicant's representative: T. M. Tahan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Washington County, Mo., to points in the United States (except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Memphis, Tenn.

No. MC 113388 (Sub-No. 117), filed April 13, 1977. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, P.O. Box 618, Seaford, Delaware 19973. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue, N.W., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen footstuffs*, from Salisbury, Maryland and Downingtown, Pennsylvania to points in in Ohio and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113678 (Sub-No. 663), filed March 23, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs*, from the plantsites and storage facilities utilized by O'Brien Spotorno Mitchess, located at points in San Francisco, Santa Clara, San Mateo, Alameda, Marin, Napa, San Joaquin, Sonoma, Contra Costa, Stanislaus, Solona, and Santa Cruz Counties, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 113678 (Sub-No. 664), filed March 23, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk and frozen foods), and *advertising matter, display racks, and premiums* when moving at the same time and in the same vehicle with foodstuffs, from the plantsite of American Home Foods, Division of American Home Products Corp. located at or near Vacaville, Calif., to points in Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Denver, Colo.

No. MC 113908 (Sub-No. 396), filed April 14, 1977. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale St., P.O. Box 3180, G.S.S. Springfield, Missouri 65804. Applicant's representative: JOHN E. JANDERA, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: CHEMICALS, in bulk, from points in Illinois, to points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois.

No. MC 114457 (Sub-No. 297), filed March 18, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Austin and Owatonna, Minn., to points in Arkansas and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Paul, Minn., or Chicago, Ill.

No. MC 114569 (Sub-No. 172), filed March 23, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles used in meat packinghouses* (except hides, animal feed and animal feed ingredients, and commodities in bulk), from the plantsite and storage facilities of Elm Hill Meat Co., located at or near Lexington, Ky., to points in Delaware, Illinois, Iowa, Massachusetts, Maryland, New Jersey, New York, Pennsylvania and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lexington, Ky. or Washington, D.C.

No. MC 114632 (Sub-No. 92) (Partial Correction), filed December 22, 1976, published in the FEDERAL REGISTER issue of February 17, 1977, and republished in part as corrected this issue. Applicant: APPLE LINES, INC., 212 SW. Second St. P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Andrew Clark, 1000 1st National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (4) *Calcined petroleum coke, graphite ore, coke breeze, and carbon scrap*, from the plant site of American Colloid, located at or near Granite City, Ill., to points in Arkansas, Iowa, Kansas, Louisiana, the Upper Peninsula of Michigan, Missouri, Nebraska, Oklahoma and Texas.

NOTE.—The purpose of this republication in part is to indicate in (4) above the plant site of American Colloid as located at or near Granite City, Ill. in lieu of Graphite City, Ill. as previously published in error. The rest of the publication remains the same.

No. MC 114896 (Sub-No. 49), filed March 25, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities*, between Boston, Mass., Hartford, Conn., points in Connecticut, Massachusetts, Vermont, and New Hampshire, under a continuing contract, or contracts, with Federal Reserve Bank of Boston.

NOTE.—Applicant holds common carrier authority in MC 140345, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Boston, Mass.

No. MC 115311 (Sub-No. 218), filed April 15, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Georgia 31061. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Georgia 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Gypsum and gypsum products, and materials, equipment and supplies used in the manufacture, packaging, distribution, or installation thereof from Brunswick, Georgia to points in Georgia, Kentucky, Louisiana, Maryland, Mississippi, West Virginia, and District of Columbia.

NOTE.—If a hearing is deemed necessary the Applicant requests it be held at either Atlanta, Georgia or Jacksonville, Florida.

No. MC 115491 (Sub-No. 133), filed March 21, 1977. Applicant: COMMERCIAL CARRIER CORPORATION, P.O. Drawer 67, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soil conditioners, calcium carbonate, magnesium carbonate and mixtures thereof*, from those points in Florida on and north of Florida Highway 50 and east of Jefferson County, Fla., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Tampa, Fla.

No. MC 115904 (Sub-No. 72), filed March 25, 1977. Applicant: GROVER TRUCKING CO., A Corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes and sheets, corrugated and not corrugated*, from the plantsite of Boise Cascade Corporation, located at or near Nampa, Idaho, to points in Utah and Nevada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Boise, Idaho, or Washington, D.C.

No. MC 116457 (Sub-No. 20), filed March 23, 1977. Applicant: GENERAL TRANSPORTATION, INCORPORATED, 1804 S. 27th Ave., Phoenix, Ariz. 85005. Applicant's representative: Donald Parker Crosby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, unglazed brick, structural glazed brick and tile, fire brick, fluelining, ceramic floor and wall tile fire clay and commodities* incidental to the installation thereof (except commodities in bulk, moving in tank vehicles), (1) from points in Dona Ana County, N. Mex., and points in Arizona, Colorado, Oklahoma, Mississippi, and Utah to points in Arizona, California, Nevada, Colorado, Utah, Washington, Oregon, Montana, Wyoming, Idaho and New Mexico; and (2) from points in Texas, Arkansas, and Kansas, to points in Idaho, Utah, Colorado, New Mexico, Washington, Oregon, and those in California north of San Luis Obispo, Kern, and San Bernidino Counties, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz. or Dallas, Tex.

No. MC 116763 (Sub-No. 375), filed March 24, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the plantsite and warehouse facilities of Redwing, Mfg., located at or near Fredonia, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York City, N.Y.

No. MC 117068 (Sub-No. 78), filed March 21, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal waste spreader tanks and parts and accessories* of such tanks, from Vinton, Iowa, to those points in that part of the United States, in and west of Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, restricted to shipments moving for the account of A. O. Smith Harvestore Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 117940 (Sub-No. 217), filed March 25, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such commodities* as are dealt in by retail department stores (except foodstuffs, commodities of unusual value, explosives, commodities in bulk, household goods, and those requiring special equipment), from points in California, to points in Colorado, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Utah, restricted to the transportation of shipments destined to the facilities of Gamble Skogmo, Inc. and its divisions and subsidiaries.

NOTE.—Applicant holds contract carrier authority in No. MC. 114789 (Sub-No. 16), and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either St. Paul or Minneapolis, Minn.

No. MC 119741 (Sub-No. 68), filed March 28, 1977. Applicant GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, P.O. Box 1235, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from the plantsite and storage facilities of Interbake foods, Inc., located at Battle Creek, Mich., to points in Iowa, Kansas, Missouri, Oklahoma,

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and Texas, restricted to the transportation of traffic originating at the above named origin, and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Battle Creek, or Lansing, Mich.

No. MC 119792 (Sub-No. 59), filed March 28, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, a Corporation, 3600 South Western, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39, South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and packinghouse products* (except commodities in bulk), from Elkhart and South Bend, Ind., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123061 (Sub-No. 87), filed March 24, 1977. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, Utah 84116. Applicant's representative: Harry D. Pugsley, 310 South Main St., P.O. Box 780, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, from points in Storey and Pershing Counties, Nev., to points in Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Reno, Nev. or Salt Lake City, Utah.

No. MC 124711 (Sub-No. 45), filed March 25, 1977. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Liquid fertilizer solutions* (except petroleum products), in bulk, in tank vehicles, from Indianola, Nebr., to points in Kansas and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, Okla.; Tulsa, Okla.; or Kansas City, Mo.

No. MC 124947 (Sub-No. 56), filed April 12, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Oklahoma 74079. Applicant's representative: Michael J. Norton, Suite 404—Boston Building, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting tractors, attachments, parts, accessories and supplies, from the plantsite and facilities of J. I. Case Company at or near Racine, Wisconsin to points in California, Oregon, Washington, Idaho, Nevada, Arizona and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 124078 (Sub-No. 724) (amendment), filed April 17, 1977, published in the FEDERAL REGISTER issue of May 5, 1977, and republished as amended this issue. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aplite*, in bulk, from Montpelier, Virginia, to points in New Jersey, New York, North Carolina, Ohio, and Rhode Island.

NOTE.—The purpose of this republication is to indicate applicant's amended request for authority to include Rhode Island as a destination state. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 124511 (Sub-No. 30), filed April 18, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223, Mexico, Mo. 65265. Applicant's Representative: Ernest A. Brooks II, 1301 Ambassador Bldg. St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Fire brick, fire clay, furnace of kiln lining, refractory products and commodities incidental to the installation thereof, and materials and supplies used in their manufacture and production (except commodities in bulk, in tank vehicles), (1) between points in Audrain, Callaway and Montgomery Counties, Mo., on the one hand, and, on the other, points in Delaware, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia and Wisconsin; and, (2) between the plantsite of A. P. Green Refractories Co., at or near Goose Lake (Grundy County), Ill., on the one hand, and, on the other, points in Arkansas, Colorado, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Chicago, Ill.

No. MC 124511 (Sub-No. 30), filed March 28, 1977. Applicant: MORGAN TRUCKING CO., a Corporation, 1201 E. 5th Street, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of H. J. Heinz Company located at Iowa City, Iowa, to Minneapolis, St. Paul, and Hopkins, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or Pittsburg, Pa.

No. MC 125519 (Sub-No. 4), filed, April 12, 1977. Applicant: RALPH MOYLE, INC., P.O. Box 20, Mattawan, Michigan 49071. Applicant's representative: WILLIAM B. ELMER, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *foodstuffs*, from the plantsite of A. F. Murch Company located at Paw Paw, Michigan, to points in Indiana, Illinois, Ohio and Wisconsin; *and materials and supplies used in connection with the manufacture and distribution of the foregoing*, from the above named destination states, to the plantsite of A. F. Murch Company located at Paw Paw, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lansing, Mich. or Chicago, Ill.

No. MC 125519 (Sub-No. 5), filed April 12, 1977. Applicant: RALPH MOYLE, INC., P.O. Box 20, Mattawan, Michigan 49071. Applicant's representative: WILLIAM B. ELMER, 21635 East Nine Mile Road, St. Clair Shores, Michigan 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *preserved and pickled vegetables*, from the plantsite of Harrison Packing Company, Inc. in Kalamazoo, Michigan, to points in Indiana, Illinois, Ohio, and Wisconsin; and *materials and supplies used in the manufacture and distribution thereof*, from points in said destination states to the plantsite of Harrison Packing Company, Inc. in Kalamazoo, Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lansing, Mich., or Chicago, Ill.

No. MC 126539 (Sub-No. 29), filed March 28, 1977. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and composite containers and container ends*, (1) from Massillon, Ohio, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin; and (2) from Fort Madison, Iowa, to Massillon, Ohio.

NOTE.—Applicant holds contract carrier authority in No. MC 129135 (Sub-2), therefore dual operation may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio or Chicago, Ill.

No. MC 127924 (Sub-No. 3), filed March 25, 1977. Applicant: BECKER TRUCKING CO., a Corporation, Box 217, Newton Falls, Ohio 44444. Applicant representative: Paul F. Beery, 275 E. State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes transporting: *Agricultural limestone*, in bulk, in dump vehicles, from Maple Grove, Ohio, to points in Mercer, Venango, Lawrence, Westmoreland,

Beaver, Jefferson, Butler, Indiana, Fayette, Armstrong, Cambria, Greene, Somerset, Washington, Erie, Crawford, and Warren Counties, Pa., and points in Chautauqua County, N.Y., under contract with Basic, Incorporated.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 129016 (Sub-No. 8), filed March 23, 1977. Applicant: JOH-LAR TRANSPORTATION, INC., 1608 E. 18th St., P.O. Box 2097, Muncie, Ind. 47302. Applicant's representative: Leonard M. Jackson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper boxes*, finished, nonfinished, *scrap paper, inks, wax, roll stock, paints, and machinery* used in the production of paper products, between Huntington, W. Va., Midland, Mich., Peru, Ottawa, and Joliet, Ill., Pevely, Mo., and Delaware, Ohio, under a continuing contract or contracts with West Virginia Corrugated Container Corp., division of Corco Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis Ind., Columbus or Cincinnati, Ohio, or Louisville, Ky.

No. MC 129034 (Sub-No. 14), filed April 11, 1977. Applicant: LOOMIS COURIER SERVICE, INC., 390 Fourth Street, San Francisco, California 94107. Applicant's Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cash letters* (1) Between points in Oregon; (2) Between points in Skamania and Klickitat Counties, Wash. and Wasco and Hood River Counties, Oreg; and (3) Between points in Skamania and Klickitat Counties, Wash. on the one hand, and, and on the other, Portland, Oreg., under a continuing contract or contracts with banks and banking institutions.

NOTE.—Applicant holds common carrier authority in MC 134386, and subs thereunder, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oregon.

No. MC 133119 (Sub-No. 119), filed March 25, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg cartons and garden containers*, from the ports of entry on the International Boundary line between the United States and Canada, located at or near Noyes, Minn.; Pembina and Portal, N. Dak.; and Raymond, Mont., to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating in Saskatchewan, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Minot, N. Dak.

No. MC 133591 (Sub-No. 34), filed March 24, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Harry Ross, 58 South Main St., Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and games and parts thereof*, and *advertising materials* when moving with toys and games, from Booneville, Ark., to points in Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 134494 (Subs 1 and 6), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 133689 (Sub-No. 120), filed March 23, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Fairmont, Albert Lea and Winnebago, Minn., to points in Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, and Massachusetts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133741 (Sub-No. 20), filed April 18, 1977. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyoming 82501. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips in bulk*, From the facilities utilized by the Louisiana-Pacific Corporation at or near Dubois, Wyoming to the facilities utilized by the Louisiana-Pacific Corporation at or near Riverton, Wyoming, restricted to shipments having a subsequent movement by rail, under a continuing contract or contracts with the Louisiana-Pacific Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg., or Denver, Colo.

No. MC 134060 (Sub-No. 17), filed March 25, 1977. Applicant: DAVINDER FREIGHTWAYS LTD., Duncan Financial Centre, Duncan, British Columbia, Canada. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper*, from points in that part of Oregon and Washington, on and west of U.S. Highway 97, to the ports of entry on the International Boundary Line between the United States and Canada, located at or near Blaine and Sumas, Wash., restricted to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135874 (Sub-No. 75), filed March 24, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux Falls, Rapid City, Watertown, and Madison, S. Dak.; Jamestown, N. Dak., and points in Iowa and Ohio, to the ports of entry on the International Boundary line between the United States and Canada located at Buffalo, N.Y. and Detroit, Mich., on traffic destined to Toronto, Ontario, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 136553 (Sub-No. 47), filed April 12, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, Iowa 52001. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, vanities, and accessories for cabinets and vanities*, from Ottawa, Kansas to points in Illinois, Iowa, Missouri, and Omaha, Nebraska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 136981 (Sub-No. 5), filed April 18, 1977. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Rd., P.O. Box 52, Newbury, Ohio 44065. Applicant's representative: Lewis S. Witherspoon, 88 East Broad St., Suite 930, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting litharge, nepheline syenite, soda ash, glass bulbs, glass rods and tubing, glassware, K. D. metal racks, cullet, electric lamps, batteries and battery chargers, lighting fixtures, holiday decorations, K.D. packaging materials, and steel nestainers for the General Electric Company: Between points in Illinois, Indiana, Ohio, Michigan, Buffalo, New York; points in Pennsylvania west of Interstate Highway 76 (Penna. Turnpike) and north of Interstate Highway 70; and points of entry at the International Border between the United States and Canada, at Buffalo, New York and Detroit, Michigan, under a continuing contract or contracts with General Electric Company.

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NOTE.—Applicant holds common carrier authority in No. MC 134798 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 138104 (Sub-No. 39), filed April 12, 1977. A9pplicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Texas 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Texas 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) trailers, semitrailers, and trailer chassis (other than those designed to be drawn by passenger automobiles) parts and equipment therefor, in initial movements, (2) the commodities described in (1) above, in secondary movements, (1) from the plaintsites and storage facilities of Dairy Equipment Company, at or near Madison, Wisconsin, to all points in the United States, including Alaska, but excluding Hawaii, and (2) from all points in the United States, including Alaska, but excluding Hawaii, Oklahoma, and Texas, to the plaintsites and storage facilities of Dairy Equipment Company, at or near Madison, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Fort Worth, Tex. or Madison, Wis.

No. MC 138322 (Sub-No. 3) (Amendment), filed March 3, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished as amended this issue. Applicant: BHY TRUCKING, INC., 9231 Whitmore, El Monte, Calif. 91733. Applicant's representative: John W. Carlisle, 4100 Greenbriar, Suite 215, Houston, Tex. 77098. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rail, track, and railroad materials* used from abandoned tracks, spurs, or lines of railroads, from any facility or job site in the United States, including Alaska, but excluding Hawaii, where such commodities or materials are being removed or stored to any point, plant site or storage yard in the United States, including Alaska, but excluding Hawaii, where such materials are being bought, sold, or used, restricted against transporting such articles which, because of size or weight, require the use of special equipment in the loading, unloading, or transportation thereof when such articles in one piece weigh 15,000 pounds or more.

NOTE.—The purpose of this republication is to indicate applicant's amended request for authority to include Alaska. If a hearing is deemed necessary, the applicant requests that it be held on a consolidated record with other similar applications at Los Angeles, Calif.

No. MC 139163 (Sub-No. 9), filed March 21, 1977. Applicant: ELECTRONIC RIGGERS OF FLORIDA, INC., 1256 La Quinta Drive, Orlando, Fla. 32809. Applicant's representative: M. Craig Massey, 202 E. Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copying machines and parts, materials and supplies* used in the manufacture, installation, or sale of such commodities, between Atlanta, Ga. and its commercial zone, on the one hand, and, on the other, points in Arkansas, under a continuing contract, or contracts, with Xerox Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Orlando, Fla.

No. MC 139254 (Sub-No. 6), filed March 25, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *paper* and *paper products* from the plant sites and storage facilities of Champion International Corporation located at Asheville, Canton, Fletcher, and Waynesville, N.C., to points in New Jersey, New York, and Pennsylvania, restricted (1) against the transportation of commodities in bulk, (2) to the transportation of traffic originating at the said plant sites and storage facilities, and (3) to the performance of transportation under a continuing contract or contracts with Champion International Corporation, of Hamilton, Ohio.

NOTE.—Common control may be involved. Applicant has pending motor common carrier authority in No. MC 142559, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139495 (Sub-No. 221), filed March 24, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant site and warehouse facilities of Kraft, Inc. located at Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia, restricted to traffic originating at the above named origin and destined to the above named destination points.

NOTE.—Applicant holds contract carrier authority in MC–133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139912 (Sub-No. 1), filed March 28, 1977. Applicant: ANTHONY PETTOLINA & SONS, INC., Turner and Mascher Streets, Philadelphia, Pa. 19122. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings*, from Philadelphia, Pa., to points in and south of Mercer and Monmouth Counties, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 139999 (Sub-No. 23) (correction), filed March 7, 1977, published in the FEDERAL REGISTER issue of April 21, 1977, as MC 13999 Sub-No. 23, republished as corrected this issue. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Elmer Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in Descriptions in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corporation, located at Cherokee, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—The purpose of this republication is to correct docket number MC 139999 Sub 23, in lieu of MC 13999 Sub-No. 23 which was previously published in error. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 140159 (Sub-No. 1), filed April 14, 1977. Applicant: CHARLES L. FEATHER, R.D. No. 4, Box 653, Altoona, Pa. 16601. Applicant's representative: Thomas M. Mulroy, 800 Lawyers Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier* by a motor vehicle over irregular routes transporting: *Salt*, in bulk, in dump vehicles, from Fairport, Ohio to points in Centre, Cambria, Blair, Huntingdon, Bedford and Fulton Counties, Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa. or Cleveland, Ohio.

No. MC–140267 (Sub-No. 4), filed April 12, 1977. Applicant: R. A. TRANSPORTATION, INC., 115 Jacobus Ave., South Kearny, N.J. 07032. Applicant's representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *flour, in bags*, from Buffalo and Lockport, N.Y. and Martel, Ohio to Baltimore and Jessup, Md., under a continuing contract or contracts with Frank A. Serio and Sons, Inc., located at Baltimore, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Baltimore, Md. or Newark, N.J.

No. MC–140273 (Sub-No. 1), filed March 24, 1977. Applicant: BUESING BROS. TRUCKING, INC., N. 520 Tamarac Avenue, Long Lake, Minnesota 55356. Applicant's Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, crushed rock and taconite tailings* between points in St. Louis, Carlton, Lake and Pine Counties, Minnesota, on the one hand, and, on the other, points in Douglas County, Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minnesota.

No. MC 140389 (Sub-No. 13), filed March 17, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsden, Ala. 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plantsites and warehouses of Montfort Packing Company, located at or near Greeley, Colo., to points in Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Washington, D.C.

No. MC 140563 (Sub-No. 8), filed March 21, 1977. Applicant: W. T. MYLES TRANSPORTATION CO., a Corporation, P.O. Box 321, Conley, Ga. 30027. Applicant's representative: Archie B. Culberth, 1252 West Peachtree St., N.W., Suite 246, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newsprint, groundwood papers, printing paper and woodpulp*, from the plantsite of Bowater Southern Paper Corporation, located at Calhoun, Tenn., to points in Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Virginia, West Virginia, Wisconsin, the District of Columbia, and those points in Florida on and north of Florida Highway 50, and those in Michigan on and south of Michigan Highway 21; and (2) *paper core tubes, and materials and supplies* used in the manufacture of the commodities described in (1) above (except in bulk), from the destination points named in (1) above, to the plantsite of Bowater Southern Paper Corporation, located at Calhoun, Tenn., restricted to traffic originating at or destined to the named plantsite.

NOTE.—Applicant holds contract carrier authority in MC 138869 (Sub-Nos. 2, 4, and 6), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 140665 (Sub-No. 9), filed March 28, 1977. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies*, from Waverly and Pittsburgh, Pa., Worth, Chicago Heights, and Chicago, Ill., Florence, S.C., Sykesville, Md., Kokomo, Ind., and St. Paul, Minn., to points in Arizona, California, Idaho, Colorado, Nevada, New Mexico, Montana, Oregon, Utah, Washington and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio, Chicago, Ill. or Washington, D.C.

No. MC 140827 (Sub-No. 6), filed March 25, 1977. Applicant: MARKET TRANSPORT, LTD., 33 N.E. Middlefield Road, Portland, Oreg. 97211. Applicant's representative: Philip G. Skofstad, N.E. 13th Street and Linden Avenue, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and commodities*, otherwise exempt from economic regulation under Section 203(b)(6) of the Act, when moving in mixed shipments with bananas, from Los Angeles and Long Beach, Calif., to points in Oregon and Washington.

NOTE.—Applicant holds contract carrier authority in various subs under MC 138946. Therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 140829 (Sub-No. 46), filed March 30, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and bone chews*, in vehicles equipped with and without mechanical refrigeration, from the plantsites and facilities of Sanna Division of Beatrice Foods Co., located at Menomonie, Vesper, Cameron, Wisconsin Rapids and Eau Claire, Wis., to points in Connecticut, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Virginia.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140879 (Sub-No. 3), filed March 23, 1977. Applicant: RALPH OWENS, 311 Park Avenue, Hereford, Tex. 79405. Applicant's representative: Richard Hubbert, 1607 Broadway, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packing houses*, from Amarillo, Tex., to El Paso, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Amarillo or Lubbock, Tex.

No. MC 142680 (Sub-No. 1), filed March 24, 1977. Applicant: SUMTER TIMBER COMPANY, INC., P.O. Box 104, Cuba, Ala. 36907. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from points in Pickens and Sumter Counties Ala., to points in Florida, Georgia, Mississippi, Tennessee, points in St. Tammany, Tangipahoa, Livingston, Assumption, Ascension, St. John The Baptist, St. James, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines and St. Bernard parishes, La.; and (2) from points in Pickens and Sumter Counties, Ala., to points in Mobile and Baldwin Counties, Ala., restricted to shipments having an immediate subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga., or Birmingham, Ala.

No. MC 142690 (amendment), filed November 30, 1976, published in the FEDERAL REGISTER issue of February 17, 1977 and republished this issue. Applicant: WATIE'S TRANSPORT LTD., a Corporation, 220–37th Street N.E., Calgary, Alberta T2E 2L9 Canada. Applicant's representative: George W. Watie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, between the port of entry on the International Boundary Line between the United States and Canada, located at Sweetgrass, Mont., on the one hand, and, on the other, Sweetgrass, Mont., for the purpose of interlining with other carriers, restricted to traffic moving from or to points in the Province of Alberta, Canada.

NOTE.—The purpose of this republication is to convert applicant's contract carrier authority to common carrier authority. If a hearing is deemed necessary, the applicant requests it be held at Great Falls or Billings, Mont.

No. MC–142696 (Sub-No. 2), filed March 24, 1977. Applicant: GREENE'S CARTAGE CO., INC., 1934 Avalon Avenue, Muscle Shoals, Alabama 35660. Applicant's representative: R. S. Richard, P.O. Box 2069, Montgomery, Alabama 36103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *such merchandise* as is dealt in by home product distributors, restricted to home delivery, from Memphis, Tennessee, to points in Alabama, Mississippi, and to all points in Tennessee east of Benton, Decatur, Hardin, and Henry Counties, Tennessee, under a continuing contract, or contracts, with Stanley Home Products, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Memphis, Tenn., Birmingham, Ala., or Huntsville, Ala.

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No. MC–142782 (Sub-No. 1), filed March 21, 1977. Applicant: K. F. MARSHALL LIMITED, a Corporation, 605 Athlone Avenue, Woodstock, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Concrete pipe and related products* which are incidental to the installation of concrete pipe, from ports of entry on the International Boundary line between the United States and Canada on the Niagara River, to points in Allegany, Cattaraugus, Chautauqua, Erie, Genessee, Livingston, Niagara, Orleans and Wyoming Counties, N.Y.; and (2) *returned shipments*, on return, under a continuing contract, or contracts, with Permapipe Limited, located in Township of Brantford, Ontario, Canada, restricted to foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 142900 (Sub-No. 2), filed March 25, 1977. Applicant: ED MARKS TRUCKING INC., 1305 West Idaho St., Kalispell, Mont. 59901. Applicant's representative: Edward L. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trace mineral fertilizer*, from Wellsville (Fremont County), Colo., to points in Montana.

NOTE.—If a hearing is deemed necessary; applicant requests it be held at Great Falls, Mont., or Pueblo, Colo.

No. MC 142925 (Sub-No. 1), filed March 23, 1977. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683, 2344 Sagamore N., Lafayette, Ind. 47902. Applicant's representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines and chemicals*, in vehicles equipped with mechanical refrigeration, from Dayton, Ohio and Elkhart, Ind., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, Washington and Denver, Colo., under a continuing contract, or contracts, with Miles Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Fort Wayne, Ind. or Chicago, Ill.

No. MC 143024 (Sub-No. 2), filed March 21, 1977. Applicant: JACOBSMA TRANSPORT, INC., OF SIOUX CITY, 2600 Highway 75 North, Sioux City, Iowa 51105. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk and tank vehicles, (1) from the facilities of Gulf Central Pipeline, located at or near Spencer, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota; and (2) from the facilities of Gulf Center Pipeline, located at or near Holstein, Iowa, to the destination points named in (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 143067, filed March 17, 1977. Applicant: CONDON MOTOR EXPRESS, INC., 2442 46 North Southport Avenue, Chicago, Ill. 60614. Applicant's representative: Frank J. Belline, McDonald's Plaza, S304, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings* and *materials and supplies* used in the installation of floor coverings (except commodities in bulk), between points in Elk Grove Village, Ill., and Munster, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 143095, filed March 29, 1977. Applicant: NEW ENGLAND TRANSPORT, INC. LTD., P.O. Box 441, Springfield, Vermont 05156. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Pre-cut timber homes, prefabricated buildings, and building materials;* (1) between Sullivan County, N.H., and Windsor County, Vt., on the one hand, and, on the other, points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada; (2) and between points in Sullivan County, N.H., and Windsor County, Vt., restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities utilized by Cluster Shed, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at either Concord, N.H., Boston or Springfield, Mass., or Burlington, Vt.

No. MC 143096, filed March 24, 1977. Applicant: NELSON DISTRIBUTING, INC., 1620 Palmer, P.O. Box 90, Miles City, Mont. 59301. Applicant's representative: Charles W. Jardine, P.O. Box 728, 513 Main Street, Miles City, Mont. 59301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and related advertising material*, from Golden, Colo., to Missoula, Great Falls, Kalispell, Butte, Glasgow, Havre, Shelby, Billings, Bozeman, Helena, and Miles City, Mont.; and (2) *recyclable bottles and cans*, from the destination points named in (1) above, to Golden, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Billings, Great Falls, Helena, or Miles City, Mont.

No. MC 143113, filed March 15, 1977. Applicant: 3 W TRUCKING INC., 2707 Cascade Road, Yakima, Wash. 98901. Applicant's representative: Warren L. Dewar, Jr., Suite No. 1, Yakima Legal Center, 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulp fiber packing trays*, (1) from the plantsite of Keyes Fiber Company, located at Sacramento, Calif., to points in Umatilla, Wasco, and Hood River Counties, Oreg., and points in Adams, Asotin, Benton, Cheland, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties, Wash.; and (2) from the plantsite of Keyes Fiber Company, located at Wenatchee, Wash., to the plantsite of Keyes Fiber Company, located at Sacramento, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Yakima or Seattle, Wash.

No. MC 143131, filed March 23, 1977. Applicant: GODSEY BROTHERS, INC., 5804 Whitethorne Drive, Evansville, Ind. 47710. Applicant's representative: R. Cameron Rollins, 321 E. Center Street, Kingsport, Tenn. 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cinder block, clay, clay products, shale and shale products, tile and tile products, concrete and concrete products, cement and cement products, masonry hand tools, and fireplace accessories*, between Fairdale, Ky., and points in Illinois and Indiana; and (2) *materials and supplies* used in the manufacture of brick, block, tile, cement, and concrete, between Evansville, Ind., and points in Illinois and Kentucky, under a continuing contract, or contracts, with General Shale Products Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Indianapolis, Ind.

PASSENGER APPLICATIONS

No. MC 143140, filed April 7, 1977. Applicant: SEYMOUR BUS LINES, INC., Route 3, Maynardville, Tenn. 37807. Applicant's representative: Billy Joe White, P.O. Box 254, Tazewell, Tenn. 37879. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations, in all-expense round trip and sightseeing tours, from points in Union, Jefferson, Blount, Anderson, Campbell, Claiborne, and Knox Counties, Tenn., to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Knoxville, Tenn.

No. MC 143142, filed March 31, 1977. Applicant: GARFIELD AND SARGENT, INC., Airline Road, S. Dennis, Mass. 02660. Applicant's representative: Robert McFarland, 999 W. Big Beaver Road, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, in round trip pleasure and sightseeing tours, beginning and ending at points in Barnstable County, Mass., and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Hyannis or Boston, Mass., or Providence, R.I.

BROKER APPLICATION

No. MC 12945 (Sub-No. 1), filed March 21, 1977. Applicant: THE TOLEDO AUTOMOBILE CLUB, a Corporation, 2271 Ashland Avenue, Toledo, Ohio 43620. Applicant's representative: Gerald P. Wadkowski, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Toledo, Defiance, and Bowling Green, Ohio, to sell or offer to sell the transportation of *passengers and their baggage*, moving in the same vehicle with passengers, in special and charter operations, in all expense tours, by motor, rail, and air carriers, beginning and ending at points in Erie, Sandusky, Geneca, Wyandot, Hancock, Hardin, Auglaize, Allen, Putnam, Van Wert, and Mercer Counties, Ohio, and points in Monroe, Lenawee, Hillsdale, Jackson, Washtenaw, and Wayne Counties, Mich., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Toledo, Ohio, or Detroit, Mich.

FREIGHT FORWARDER APPLICATION

No. FF 358 (Sub-No. 1), filed March 23, 1977. Applicant: KINGPAK, INC. P.O. Box 18298, Wichita, Kans. 67218. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operations, in interstate commerce as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water, and express, in the transportation of (1) *used household goods and unaccompanied baggage*, and (2) *used automobiles*, between points in the United States, including Alaska and Hawaii, restricted in (2) above to the transportation of export and import traffic.

NOTE.—Applicant states that the purpose of this application is to add Alaska to its present authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Wichita, Kans.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240 (c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC–F–13115. (Correction) (DIXON BROS, INC.—control—C & R TRANSFER CO.), published in the February 17, 1977 issue of the FEDERAL REGISTER on pages 9763 and 9764. Previous notice excluded a portion of the authority be sought. On page 9764, second column following "junction U.S. Highway 218; and", the following portion was inadvertently excluded: "thence north along U.S. Highway 218 to the Iowa-Minnesota State line, and points in that part of Nebraska on, north, and east of a line beginning at the Iowa-Nebraska State line and extending west along U.S. Highway 30 to Junction Nebraska Highway 14, and thence north along Nebraska Highway 14 to the Nebraska-South Dakota State line, except from Crookston, Moorhead, Shakopee, Pine Bend, Winona, and Minneapolis, Minn., and points in the Minneapolis commercial zone, as defined by the Commission, to points in North Dakota, and except the transportation of fertilizer, from Sioux Falls, S. Dak., to points in Iowa, Minnesota, Nebraska, and North Dakota, with restrictions; posts, poles, pilings and Lumber, from points in Lawrence County, S. Dak., and Crook County, Wyo., to points in Iowa, Minnesota, Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming, with restrictions; posts, poles, pilings and lumber, from Whitewood, S. Dak., to points in Wisconsin, Illinois, and to Detroit, Mich., with restrictions. Vendee is authorized to operate as a common carrier in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. Application has been filed for temporary authority."

MOTOR CARRIER OF PASSENGERS

No. MC–F–13147. (Correction) (THE COLONIAL TRANSIT COMPANY, INCORPORATED d/b/a COLONIAL TRANSIT CO., INC.—purchase (portion)—Greyhound Lines, Inc., d/b/a GREYHOUND LINES), published in the March 31, 1977, issue of the FEDERAL REGISTER on page 17216. Prior notice should have read as follows: "and for acquisition by FPS Consultants, Ltd., 1119 Caroline Street, Fredericksburg, VA 22401, of control of such rights through the purchase. Applicants' attorneys: L.C. Major, Jr., Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312 and Anthony P. Carr, Greyhound Lines, Inc., Greyhound Tower, Phoenix, AZ 85077. Operating rights sought to be transferred: Passenger and their baggage, and express, and newspapers in the same vehicle with passengers, as a common carrier over regular routes between Washington, D.C., and Woodbridge, Va. and more particularly described as follows: From Washington, D.C. over U.S. Highway 1 to Woodbridge, Va., and return over the same route, serving all intermediate points. As a matter directly related to this finance application, applicant has simultaneously filed with the Commission an appropriate certificate application for authority to transport Passengers and their baggage, and express, and newspapers in the same vehicle with passengers, between Woodbridge, Va., and Triangle, Va., via U.S. Highway 1. Vendee is authorized to operate as a common carrier in the District of Columbia, Maryland and Virginia. Application has not been filed for temporary authority under section 210a(b)."

NOTE.—No. MC–61802 (Sub–No. 13) is a directly related matter.

No. MC–F–13190. Authority sought for control by SANDERSVILLE RAILROAD COMPANY, P.O. Box 269, Sandersville, GA., 31082, of B–H Transfer Co., P.O. Box 151, Sandersville, GA., 31082, and for acquisition by Ben J. Tarbutton, Jr., Hugh M. Tarbutton and Rosa M. Tarbutton, all of P.O. Box 269, Sandersville, GA., 31082, of control of B–H Transfer Co., through the acquisition by Sandersville Railroad Company. Applicants' attorney: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA., 30349. Operating rights sought to be controlled: Under MC–135809 (Sub–No. 6), To transport dry sodium tripolyphosphate and tetrasodium pyrophosphate, in bulk, in tank vehicles from Sandersville, Ga., to points in DeKalb, Fulton, Glascock, Jefferson, Twiggs, Washington, and Wilkinson Counties, Ga., and points in Aiken and York Counties, S.C., restricted to shipments having an immediately prior movement by rail. Sandersville Railroad Company holds authority from this Commission in RC–No. 1915. Application has not been filed for temporary authority under section 210a(b).

NOTE.—The issuance of the certificate in MC–135809 (Sub–No. 6) has been withheld until the determination of this application.

No. MC–F–13197 (JACK C. ROBINSON, DBA, ROBINSON FREIGHT LINES—control—Cumberland Express, Inc.), published in the May 5, 1977, issue of the FEDERAL REGISTER. Application filed May 2, 1977, for temporary authority under section 210a(b).

No. MC–F–13200. Authority sought for purchase by OVERLAND EXPRESS, INC., P.O. Box 2667, New Brighton, MN., 55112, of a portion of the operating rights of C.G. Potter, d.b.a. Maumee Express, P.O. Box 1073, Secaucus, N.J., 07094, and for acquisition by William F. Hagerman, P.O. Box 2667, New Brighton, MN., 55112, of control of such rights through the purchase. Applicant's attorney: Charles W. Singer, 2440 East Commercial Blvd., Fort Lauderdale, FL., 33308. Operating rights sought to be transferred: General commodities, with

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exceptions as a common carrier over irregular routes from Newark, N.J., to points in that part of the New York, N.Y., Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203 (b) (8) of the Interstate Commerce Act (the "exempt" zone), with no transportation for compensation on return except as otherwise authorized. From New York, N.Y., to points in Union, Hudson, Essex, Bergen, and Passaic Counties, N.J., with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-133689 (Sub-No. 123) is a directly related matter.

No. MC-F-13203. Authority sought for control by ALLIED VAN LINES, INC. d.b.a. ALLIED VAN LINES, 25th Avenue and Roosevelt Road, Broadview, IL., 60153, of Eleveld Chicago Furniture Service, Inc., 4020 West 24th Street, Chicago, IL., 60623, of control of such rights through the transaction. Applicant's attorneys: Terry G. Fewell or Ronald C. Nesmith, P.O. Box 4403, Chicago, IL., 60680. Operating rights sought to be controlled: New Furniture (uncrated), as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, as a common carrier over irregular routes from Peru, Ind., to points in Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Wisconsin, and Illinois (except Chicago, Ill.), with no transportation for compensation on return except as otherwise authorized; new furniture, from Grand Rapids, Mich., to points in Illinois, Indiana, and Ohio, with transportation for compensation on return except as otherwise authorized; store and office fixtures (as described in appendix III to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, 275) and parts thereof, between the plant site of Capitol Fixture and Construction Corporation at or near Arlington Heights, Ill., on the one hand, and, on the other, Pittsburgh, Pa., St. Louis, Mo., and points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin; (1) store and office fixtures, as described in Appendix III to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 275, and (2) supplies and materials used in the installation of said store and office fixtures (except commodities in bulk), between the plant site and facilities of Packerland Woodworking Company, a subsidiary of Capitol Fixtures and Construction Corporation, at or near Peshtigo, Wis., on the one hand, and, on the other, Pittsburgh, Pa., and St. Louis, Mo., points in Illinois (except Rockford, St. Charles, Elgin, Naperville, Kankakee, and points in the Chicago, Ill., Commercial Zone as defined by the Commission), Indiana (except Michigan City), Michigan, and Ohio. Vendee is authorized to operate as a common carrier in all the States in the United States including Alaska and Hawaii and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13209. Authority sought for control by REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, GA., 30050, of Commercial Contract Carrier Corp. (non-carrier), and in turn, Coastal Transport and Trading Co., A corporation, P.O. Box 7438, Savannah, GA., 31408, and for acquisition by R. Lamar Beauchamp and Richard A. Beauchamp, both of P.O. Box 308, Forest Park, GA., 30050, of control of Commercial Contract Carrier Corp., and in turn Coastal Transport and Trading Co., through the acquisition by R. Lamar Beauchamp and Richard A. Beauchamp. Applicants' attorneys: Guy H. Postell, 3384 Peachtree Road, N.E., Atlanta, GA., 30327 and Sheldon Silverman, 1819 H Street, N.W., Washington, D.C., 20006. Operating rights sought to be controlled: Under a certificate of registration in Docket No. MC-121654, covering the transportation of Iron or Steel Products as a common carrier, in interstate commerce, within the State of Georgia, between Savannah, Georgia, Port Wentworth, Georgia and Garden City, Georgia, on the one hand, and all points in Georgia, on the other, over no fixed route. Refrigerated Transport Co., Inc., is authorized to operate as a common carrier and contract carrier in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-13210. Authority sought for purchase by SYSTEM 99, 8201 Edgewater Drive, Oakland, CA., 94621, of a portion of the operating rights of O.N.C. Freight Systems, 4030 Fabian Way, Palo Alto, CA., 94303, and for acquisition by M. D. Gilardy, L. A. Dore, Jr., and E. R. Preston, all of 8201 Edgewater Drive, Oakland, CA., 94621, of control of such rights through the purchase. Applicants' attorney: Martin Rosen & Michael Stecher, 256 Montgomery Street, San Francisco, CA., 94104 and Joseph P. Ficurelli, P.O. Box 10280, Palo Alto, CA., 94303. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Yuma, Arizona, and Tucson, Arizona serving all intermediate points and those in Arizona within 10 miles of the route described below: from Yuma, Arizona over U.S. Highway 80 to Gila Bend, Arizona, thence over Arizona Highway 84 to junction Arizona Highway 93, thence over Arizona Highway 93 to Tucson (also from Gila Bend over U.S. Highway 80 to Mesa), and return over the same route. Vendee is authorized to operate as a common carrier in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. Application has been filed for temporary authority under section 210a (b).

No. MC-F-13211. Authority sought for control by TRI-STATE MOTOR TRANSIT CO., d.b.a. TRI-STATE MOTOR TRANSIT, P.O. Box 113 (Business I 40), Joplin, MO., 64801, of Colonial Fast Freight Lines, Inc., P.O. Box 10327, Homewood, AL., of control of such rights through the transaction. Applicants' attorneys: E. Stephen Heisley, 666 Eleventh St., N.W., 805 McLaughlen Bank Bldg., Washington, D.C., 20001, and Max G. Morgan, 223 Chudad Bldg., Oklahoma City, OK., 73112. Operating rights sought to be controlled: Contractors materials and supplies, cranes, sand hopper, elevators, conveyors, dust collectors, meter boxes, iron and steel pipe, plastic pipe, materials and supplies used in operation, production, processing or transportation of agriculture, water treatment, food processing, wholesale groceries, and institutional supply industries, and numerous other specified commodities, as a common carrier over irregular routes, from to, and between specified points in all the States in the United States, with certain restrictions, as more specifically described in Docket No. MC-115840 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. Vendee is authorized to operate in all the States in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13212. Authority sought for control by BLUEBIRD INCORPORATED, non-carrier, 2000 Market Street, Suite 1400, Philadelphia, PA., 19103, of (B) Hams Express, Inc., 3499 S. Third St., Philadelphia, PA., 19148 and (BB) Mid-South Trucking Inc., 614 N. Commerce St., Tupelo, MS., 38801, of control of such rights through the transaction. Applicants' attorney: David M. Schwartz, Sullivan & Worcester, 1025 Connecticut Ave., N.W., Suite 500, Washington, D.C., 20036. Operating rights sought to be controlled: (B) Meats, meat products, and meat by-products, articles distrbuted by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C, and D, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk), as a contract carrier over irregular routes from the plant site, warehouses, and storage facilities used by Blue Bird Food Products, Co., at or near Philadelphia, Pa., to points

in the United States (except Alaska, Hawaii, California, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah and Wyoming), with no transportation for compensation on return except as otherwise authorized. From points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, to the plant site and other facilities of Blue Bird at or near Philadelphia, Pa., with no transportation for compensation on return except as otherwise authorized, with restrictions; meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Blue Bird Food Products Co., at or near Philadelphia, Pa., to points in Utah, with no transportation for compensation on return except as otherwise authorized, with restrictions; meats, meat products, and meat by-products, and articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk hides), from the facilities of Blue Bird Food Products Co., at or near Philadelphia, Pa., to points in California, with no transportation for compensation on return except as otherwise authorized. From the warehouse facilities of Blue Bird Food Products Co., at Cleveland, Ohio, to points in Michigan, Illinois, and New York, with no transportation for compensation on return except as otherwise authorized. From the warehouse facilities of the Blue Bird Food Products Co., at Chicago, Ill., to points in Ohio, Michigan, Missouri, Wisconsin, Colorado, Oklahoma, Arkansas, Kentucky, Nebraska, Indiana, and New York, with no transportation for compensation on return except as otherwise authorized. From the warehouse facilities of Blue Bird Food Products, Co., at Milwaukee, Wis., to points in Illinois, and Ohio, with no transportation for compensation on return except as otherwise authorized with restrictions; meat, meat products, and meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as defined in Section A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plant site, warehouses, and storage facilities used by Agar Food Products Co., located at or near Chicago, Ill., to points in the United States (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Denver, Colo., to points in California, Arizona, Montana, New Mexico, Oregon, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Kansas City, Mo., to points in Arkansas, Missouri, New Mexico, Nebraska, Oklahoma, South Dakota, Tennessee, and Texas, with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Nashville, Tenn., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, and South Carolina, with no transportation for compensation on return except as otherwise authorized. From cold storage warehouses at Cleveland, Ohio, to points in Maryland, Michigan, New York, Pennsylvania, Virginia and West Virginia, with no transportation for compensation on return except as otherwise authorized. From points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, and Wisconsin, to the named facilities of Patrick Cudahy (Illinois) Incorporated located at or near Chicago, Ill., with no transportation for compensation on return except as otherwise authorized. From points in Alabama, Arkansas, Georgia, Kentucky, Oklahoma, Tennessee, and Texas, to cold storage warehouses at Peoria, Ill., and Indianapolis, Ind., with no transportation for compensation on return except as otherwise authorized. From points in Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, and Virginia, to cold storage warehouses located at or near Benton Harbor, Mich., and Indianapolis, Ind., with no transportation for compensation on return except as otherwise authorized. From points in Colorado, North Dakota, Oklahoma, South Dakota, Tennessee, and Texas, to cold storage warehouses located at or near Cedar Rapids and Davenport, Iowa, and Peoria, Ill., with no transportation for compensation on return except as otherwise authorized, with restrictions. (BB) Mid-South Trucking, Inc., holds no authority at this time from the Interstate Commerce Commission. Concurrently with the instant application, it has filed an application for permanent motor contract carrier authority to transport meat, meat products, and meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to or for use by meat packers, (except commodities in bulk and hides), as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (a) from the plantsite, warehouses, and storage facilities used by Mid-South Packers, Incorporated at or near Tupelo, Mississippi to points in the United States (except Alaska and Hawaii) and (b) from points in Alabama, Arkansas, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin to the plantsite, warehouses, and storage facilities used by Mid-South Packers, Incorporated at or near Tupelo, Mississippi, under a continuing contract or contracts with Mid-South Packers, Incorporated. This application which is now pending has been assigned Docket No. MC-143201. Bluebird Incorporated, holds no authority from this Commission. However, Ham Express, Inc., is a wholly owned subsidiary of Bluebird Incorporated which also wholly owns Mid-South Packers, Incorporated which, in turn, wholly owns Mid-South Trucking, Inc. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-143201 is a directly related matter.

No. MC-F-13213. Authority sought for purchase by AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, N.J. 08619, of a portion of the operating rights of MODERN TRANSFER CO., INC., an alleged Bankrupt, Alan M. Black, Receiver, 502 Turner Street, Allentown Pa., 18102, and for acquisition by BONSCO, INC., 3630 Quaker Bridge Road, Trenton, N.J. 08619, of control of such rights through the purchase. Applicants' attorneys: Herbert Burstein, 2373 One World Trade Center, New York, N.Y. 10048 and Alexander N. Rubin, Jr., 1800 Penn Mutual Tower, Philadelphia Pa. 19106. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over irregular routes between points in Pennsylvania within 15 miles of Allentown, Pa., including Allentown; those in the Townships of Upper Mount Bethel, Lower Mount Bethel, Washington, Plainfield, Bushkill, and Forks (Northampton County), Pa.; those in the the Townships of East Rockhill, West Rockhill, and Hilltown (Bucks County), Pa; and those in the Townships of Franconia, Hatfield, Montgomery, and Upper Gwynedd (Montgomery County), Pa., and points in New Jersey within ten miles of Phillipsburg, N.J., including Phillipsburg, N.J., on the one hand, and, on the other, points in Maryland, and the District of Columbia; general commodities, with exceptions as common carrier over regular routes between Baltimore Md., and Easton, Pa., from Baltimore over U.S. 40 to junction U.S. Highway 13, thence over U.S. Highway 13 to Wilmington, Del., thence over U.S. Highway 202 to West Chester, Pa., thence over Pennsylvania Highway 100 to Hereford, Pa., thence over Pennsylvania Highway 29 to to Allentown, Pa., and thence over U.S. Highway 22 to Easton, and return over the same route. Service is authorized to and from the intermediate points of Wilmington, Del., and those between Wilmington and Easton; and the off-route

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points of Stowe, Pa., and those within five miles of Baltimore. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

NOTE.—Upon approval of the transaction by the Commission, Vendee has consented to the following restriction on the regular route authority involved: Restriction: "Restricted against the transportation of local shipments moving both from and to points on the said route north of Wilmington, Delaware".

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elmination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no reprsentative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 10761 (Sub-No. 282), filed April 4, 1977. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 5650 Foremost Drive SE., Grand Rapids, Michigan 49506. Applicant's representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, New Jersey 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except loose bulk commodities; livestock; explosives, except small arms ammunition; currency; bullion; commodities exceeding ordinary equipment and loading facilities): Between Chicago, Illinois, and Chenoa, Illinois, serving no intermediate points: From Chicago over U.S. Highway 66 to Chenoa, and return over the same route, between Chenoa, Illinois, and El Paso, Illinois, serving El Paso for purposes of joinder only, and serving Chenoa as an intermediate point on the applicant's route between Chicago and Kansas City, Missouri: From Chenoa over U.S. Highway 24 50 El Paso, and return over the same route.

NOTE.—Applicant states that the purpose of this filing is to assure that certain routes retained by applicant upon sale of a portion of its operating rights in Docket No. MC–F–12927, are never-the-less available to Applicant following the transfer in the directly related Section 5 (2) proceeding. Applicant requests consolidation of this application with that in No. MC–F–12927, *Jones Truck Lines—Purchase (Portion) Transamerican Freight Lines, Inc*

No. MC 99261 (Sub-No. 4) (Correction), filed March 25, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished as corrected this issue. Applicant: ROOT'S EXPRESS, INC., 11 Karlada Drive, Binghamton, N.Y. 13902. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: Regular routes: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Binghamton, N.Y., and Syracuse, N.Y., serving all intermediate points, and serving the off-route points of Broome, Chenango, Cortland, Delaware, Monroe, Oneida, Onondaga, Otsego, Sullivan, Tioga, and Tompkins Counties, N.Y.: From Binghamton over U.S. Highway 11 and Interstate Highway 81 to Syracuse, and return over the same route; (B) irregular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in Broome County, N.Y., on the one hand, and, on the other, points in Broome, Chenango, Cortland, Delaware, Monroe, Oneida, Onondaga, Otsega, Sullivan, Tioga, and Tompkins Counties, N.Y.; and (2) between points in Broome, Chenango, Cortland, Delaware, Monroe, Oneida, Onondaga, Otsego, Sullivan, Tioga, and Tompkins Counties, N.Y.

NOTE.—This application is being republished to correct the territorial description in (B) above. The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in MC–F–13173 published in the FEDERAL REGISTER issue of April 7, 1977. If a hearing is deemed necessary, the applicant requests it be held at Binghamton, N.Y.

No. MC 135865 (Sub-No. 5), filed February 14, 1977. Applicant: APPLEGATE DRAYAGE COMPANY, a Corporation, P.O. Box 2728, Sacramento, Calif. 95812. Applicant's representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment), (1) between San Francisco and Salinas, Calif.: From San Francisco over U.S. Highway 101 and 101 by-pass to Salinas, Calif., and return over the same route: (2) Between Oakland and Los Gatos, Calif.: From Oakland over California Highway 17 to Los Gatos and return over the same route: (3) Between Oakland and Saratoga, Calif.: From Oakland over California Highway 17, to junction California Highway 9, thence over California Highway 9 to Saratoga and return over the same route: (4) Between San Jose, Calif., and junction California Highway 4 and Interstate Highway 680 near Pacheco, Calif.: From San Jose, Calif., over U.S. Highway 101 to junction of U.S. Highway 101 and Interstate Highway 680, thence over Interstate Highway 680 to junction with California Highway 4, near Pacheco, Calif., and return over the same route: (5) Between Oakland and Sacramento, Calif.: From Oakland over California Highway 24 to junction Interstate Highway 680, thence over Interstate Highway 680 to junction California Highway 4, thence over California Highway 4 to junction California Highway 160, thence over California Highway 160 to Sacramento, and return over the same route:

(6) Between California Highway 4 and junction Interstate Highway 80, near Pinole and Stockton, Calif., over Interstate Highway 4, and return over the same route; (7) Between San Francisco and Sacrameento, Calif.: From San Francisco over Interstate Highway 80 to junction Interstate Highway 580, thence over Interstate Highway 580 to junction Interstate Highway 205, thence over Interstate Highway 205 to junction U.S. Highway 99, thence over U.S. Highway 99 to Sacramento and return over the same route: (8) Between San Francisco and Sacramento, Calif.: From San Francisco over Interstate Highway 80 to Sacramento and return over the same route, serving all intermediate points, and the off-route points of Watsonville, Hollister, Manteca, Winters, Woodland, Travis Air Force Base, Roseville, Sunset-Whitney Industrial Park, Rocklin, Loomis, and Lincoln, Calif., and points in Sacramento and San Joaquin Counties, Calif., in (1) through (8) above.

NOTE.—The purpose of this application is to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter Directly Related to a Section 5(2) finance proceeding in MC–F–13126 published in the FEDERAL REGISTER of February 24, 1977. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

Docket No. AB–1 (Sub-No. 49)

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN ELKHORN JUNCTION AND IRVINGTON IN DOUGLAS COUNTY, NEBRASKA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of the line of railroad extending from railroad milepost 1.7 at Elkhorn Junction (30th Street in Omaha, Nebraska) to milepost 7.0 in Irvington, Nebraska, a distance of 5.3 miles in Douglas County, Nebraska. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB–7 (Sub-No. 29)

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT IN THE CITY OF BERLIN, GREEN LAKE COUNTY, WISCONSIN

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of a line of railroad beginning at Engineer's Station 2214+14 (milepost 181.08) and extending northwesterly to the end of the track at Engineer's Station 2233+73 (milepost 181.45) a total distance of approximately 1,959 feet of main track and 4,115 feet of other track or a total of approximately 6,074 feet of track, all in the City of Berlin, Green Lake County, Wisconsin. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB–12 (Sub-No. 31)

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN WESTWOOD SIDING AND BEVERLY HILLS IN LOS ANGELES COUNTY, CALIFORNIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 22, 1977, a finding, which is administratively final, was made by the Commission, Commissioner MacFarland, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of the line of railroad extending from railroad milepost 501.62 near Westwood Siding in a northeasterly direction to the end of the branch at railroad milepost 502.84 near Beverly Hills, a distance of 1.22 miles in Los Angeles County, California. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the is-

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suance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-12 (Sub-No. 34)

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN FALL CREEK JUNCTION AND FALL CREEK IN LANE COUNTY, OREGON

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 610.49 near Fall Creek Junction in a southeasterly direction to the end of the branch at railroad milepost 608.35 near Fall Creek, a distance of 2.14 miles in Lane County, Oregon. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into binding agreement, with the carrier seeking such abandonment, to provide such assistace or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-12 (Sub-No. 46)

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN HAMILTON AND ORDBEND IN GLENN COUNTY, CALIFORNIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 22, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 169.0 beyond Hamilton in a southerly direction to railroad milepost 161.7 near Ordbend, a distance of 7.3 miles in Glenn County, California. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-125 (Sub-No. 1)

NORFOLK SOUTHERN RAILWAY COMPANY ABANDONMENT BETWEEN DIAMOND SPRINGS AND SHELTON, IN VIRGINIA BEACH, VIRGINIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 22, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & O. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Norfolk Southern Railway Company of its line of railroad extending from railroad milepost 7.24SN at the west side of Bayside Road near Diamond Springs in an easterly direction to the end of the line at railroad milepost 8.6SN near Shelton, a distance of approximately 1.4 miles, in Virginia Beach, Virginia. A certificate of abandonment will be issued to the Norfolk Southern Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and (2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or (b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

essary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-131

YAKIMA VALLEY TRANSPORTATION COMPANY ABANDONMENT IN SELAH, YAKIMA COUNTY, WASHINGTON

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 20, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subect to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Yakima Valley Transportation Company and the abandonment of operation of a portion of its line of railroad extending from railroad milepost 3.01 in Selah, Washington, in a northerly direction to railroad milepost 3.47 in Selah, Washington, a distance of 0.46 miles, in Yakima County, Washington. A certificate of abandonment will be issued to the Yakima Valley Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and (2) it is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 109533 (Deviation No. 14), OVERNITE TRANSPORTATION COMPANY, P.O. Box 1216, Richmond, Va. 23209, filed April 28, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Birmingham, Ala., over Interstate Highway 65 to Louisville, Ky., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, Ala., thence over U.S. Highway 11 to Chattanooga, Tenn., thence over U.S. Highway 41 to Nashville, Tenn., thence over U.S. Highway 31-W to Louisville, Ky., and return over the same route.

No. MC 42487 (Deviation No. 111), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed April 27, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Birmingham, Ala., over Interstate Highway 59 to junction Interstate Highway 24, thence over Interstate Highway 24 to Chattanooga, Tenn., thence over Interstate Highway 75 to Knoxville, Tenn., thence over Interstate Highway 40 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 30 near Chambersburg, Pa., (2) from Birmingham, Ala., over the route described in (1) above to junction Interstate Highway 81 and Tennessee Highway 137, thence over Tennessee Highway 137 to Kingsport, Tenn., thence over U.S. Highway 11W to junction Interstate Highway 81, about 5 miles southwest of Bristol, Tenn., thence over Interstate Highway 81 to junction U.S. Highway 30, near Chambersburg, Pa., and (3) from Birmingham, Ala., over the route described in (2) above to junction Interstate Highway 81 and U.S. Highway 23, thence over U.S. Highway 23 to Kingsport, Tenn., thence over U.S. Highway 11W to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 30 near Chambersburg, Pa., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, Ala., over U.S. Highway 31 to Ardmore, Tenn., thence over Tennessee Highway 110 to Fayetteville, Tenn., thence over U.S. Highway 231 to Murfreesboro, Tenn., thence over U.S. Highway 41 to Nashville, Tenn., thence over U.S. Highway 31W to Elizabethtown, Ky., thence over U.S. Highway 62 to Lexington, Ky., thence over U.S. Highway 25 to Cincinnati, Ohio, thence over U.S. Highway 22 to Pittsburgh, Pa., thence over U.S. Highway 30 to junction Interstate Highway 81 near Chambersburg, Pa., and return over the same route.

No. MC 59583 (Deviation No. 56), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662, filed April 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Roanoke, Va., over Interstate Highway 81 to junction U.S. Highway 460 near Christiansburg, Va., thence over U.S. Highway 460 to junction Interstate Highway 77 near East Princeton, W. Va., thence over Interstate Highway 77 to junction Interstate Highway 64 near Charleston, W. Va., thence over Interstate Highway 64 to junction U.S. Highway 52 near Huntington, W. Va., thence over U.S. Highway 52 to Cincinnati, Ohio, (2) from Roanoke, Va., over the route described in (1) above to Charleston, W. Va., thence over Interstate Highway 64 to junction U.S. Highway 35 near Nitro, W. Va., thence over U.S. Highway 35 to Dayton, Ohio, (3) from Roanoke, Va., over Interstate Highway 81 to junction U.S. Highway 460 near Christiansburg, Va., thence over U.S. Highway 460 to junction Interstate Highway 77 near East Princeton, W. Va., thence over Interstate Highway 77 to Akron, Ohio, and (4) from Roanoke, Va., over the route described in (3) above to East Princeton, W. Va., thence over Interstate Highway 77 to junction Interstate Highway 79 near Charleston, W. Va., thence over Interstate Highway 79 to Pittsburgh, Pa., and return over the same routes for operating convenience only.

The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Roanoke, Va., over U.S. Highway 11 to Bristol, Tenn., thence over U.S. Highway 11-W to Tazewell, Tenn., thence over U.S. Highway 25-E to Corbin, Ky., thence over U.S. Highway 25 to junction Kentucky Highway 490 near Pittsburg, Ky., thence over Kentucky Highway 490 to junction U.S. Highway 25 near Livingston, Ky., thence over U.S. Highway 25 to Mt. Vernon, Ky., thence over U.S. Highway 150 to Danville, Ky., thence over U.S. Highway 127 to Alton Station, Ky., thence over Kentucky Highway 151 to Graefenburg, Ky., thence over U.S. Highway 60 to Louisville, Ky., thence over U.S. Highway 42 to Cincinnati, Ohio, thence over Ohio Highway 4 to Springfield, Ohio, thence over U.S. Highway 40 to Columbus, Ohio, thence over Ohio Highway 3 to Wooster, Ohio, thence over Ohio Highway 5 to Akron, Ohio, (2) from Roanoke, Va., over U.S. Highway

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11 to Hagerstown, Md., thence over U.S. Highway 40 to Hancock, Md., thence over Interstate Highway 70 to Breezewood, Pa., thence over U.S. Highway 30 to Bedford, Pa., thence over U.S. Highway 220 to junction Pennsylvania Highway 56, thence over Pennsylvania Highway 56 to Homer City, Pa., thence over U.S. Highway 119 to Indiana, Pa., thence over U.S. Highway 422 to Warren, Ohio, thence over Ohio Highway 5 to Akron, Ohio, and (3) from Roanoke, Va., over U.S. Highway 11 to Hagerstown, Md., thence over U.S. Highway 40 to Washington, Pa., thence over U.S. Highway 19 to Pittsburgh, Pa., and return over the same routes.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules —Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 727), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed April 29, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Gary, Ind., over Interstate Highway 65 to junction Indiana Highway 43, thence over Indiana Highway 43 to Lafayette, Ind., with the following access routes: (1) From Merrilville, Ind., over city streets to junction Interstate Highway 65, (2) From Merrilville, Ind., over U.S. Highway 30 to junction Interstate Highway 65, and (3) From Crown Point, Ind., over U.S. Highway 231 to junction Interstate Highway 65, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Gary, Ind., over Indiana Highway 53 to Crown Point, Ind., thence over unnumbered highways to Cedar Lake, Ind., thence over U.S. Highway 41 to junction U.S. Highway 52, thence over U.S. Highway 52 to Lafayette, Ind., and return over the same route.

No. MC-74761 (Deviation No. 6), TAMIAMI TRAIL TOURS, INC., 525 Madison St., P.O. Box 1441, Tampa, Fla. 33062, filed April 26, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Gainesville, Fla., over Florida Highway 121 to Williston, Fla., and (2) From Archer, Fla., over Florida Highway 24 to Bronson, Fla., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Gainesville, Fla., over Florida Highway 24 to Archer, Fla., thence over combined U.S. Highways 27 and 41 to Williston, Fla., and (2) From Archer, Fla., over combined U.S. Highways 27 and 41 to Williston, Fla., thence over U.S. Highway Alternate 27 to Bronson, Fla., and return over the same routes.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Arkansas Docket No. M-10229, filed April 20, 1977. Applicant: ARKANSAS EXPRESS, INC., 1612 East 31st Street, North Little Rock, Ark. 72206. Applicant's representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, Ark. 72201. Certificate of Public Convenience and Necessity sought to operate a freight service over regular routes as follows: Transportation of *General commodities* (except Classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment), (1) between Little Rock, and Helena, Ark.: From Little Rock over Interstate 40 to the junction of U.S. Highway 49, thence over U.S. Highway 49 to Helena, and return over the same route, serving all intermediate points on U.S. Highway 49 (except Brinkley, Ark.) and serving no intermediate points on Interstate 40, (2) between the junction of Arkansas Highway 1 and U.S. Highway 49 and Mariana, Ark.: From the junction of Arkansas Highway 1 and U.S. Highway 49 over Arkansas Highway 1 to Mariana, Ark. and return over the same route, serving all intermediate points. (3) between Little Rock, Ark. and the Arkansas-Louisiana State Boundary line: From Little Rock over U.S. Highway 65 to the Arkansas-Louisiana State Boundary line, and return over the same route, serving all intermediate points. (4) between Little Rock, and Camden, Ark.: From Little Rock over U.S. Highway 65 to the junction of U.S. Highway 167, thence over U.S. Highway 167 to Fordyce, Arkansas, thence over U.S. Highway 79 to Camden, and return over the same route, serving Fordyce and all intermediate points on U.S. Highway 79, and serving no intermediate points on U.S. Highway 167, (5) between Frodyce, Ark., and the junction of Arkansas Highway 35 and U.S. Highway 65: From Fordyce over Arkansas Highway 8 to Warren, Ark., thence over Arkansas Highway 4 to Monticello, Ark., thence over Arkansas Highway 35 to the junction of U.S. Highway 65, and return over the same route, serving all intermediate points.

(6) Between Pine Bluff, and Warren Ark.: From Pine Bluff over Arkansas Highway 15 to Warren, and return over the same route, serving all intermediate points (7) between Camden, and East Camden, Ark.: From Camden over U.S. Highway 79 to the junction of Arkansas Highway 274, thence over Arkansas Highway 274 to East Camden, and return over the same route, serving all intermediate points; and (8) between the junction of U.S. Highway 65 and Arkansas Highway 4 and the plant facility of Pot Latch Corporation, north of Arkansas City on Arkansas Highway 4: From the junction of U.S. Highway 65 and Arkansas Highway 4 over Arkansas Highway 4 to the plant facility of Pot Latch Corporation, and return over the same route, serving all intermediate points.

NOTE.—Applicant proposes to tack the requested routes at all common points of joinder. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time and place is scheduled for June 28, 1977, at 10 a.m., at the Arkansas Transportation Commission, Justice Building, Little Rock, Ark. 72201 and should not be directed to the Interstate Commerce Commission.

New York Docket No. T 8573, filed April 1, 1977. Applicant: KERR MOTOR LINES, INC., 1/4 Jackson Street, Binghampton, N.Y. 13903. Applicant's representative: Edward Kerr (same address as applicant. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Binghampton and Albany, N.Y., over Interstate Highway 88 for operating convenience and safety. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Building No. 5, Room 311, Albany, N.Y. 12232 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13462 Filed 5-11-77;8:45 am]

[AB 59 (SDM)]

CHATTAHOOCHEE VALLEY RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Chattahoochee Valley Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB-59 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-59 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13476 Filed 5-11-77;8:45 am]

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[AB 150 (SDM)]

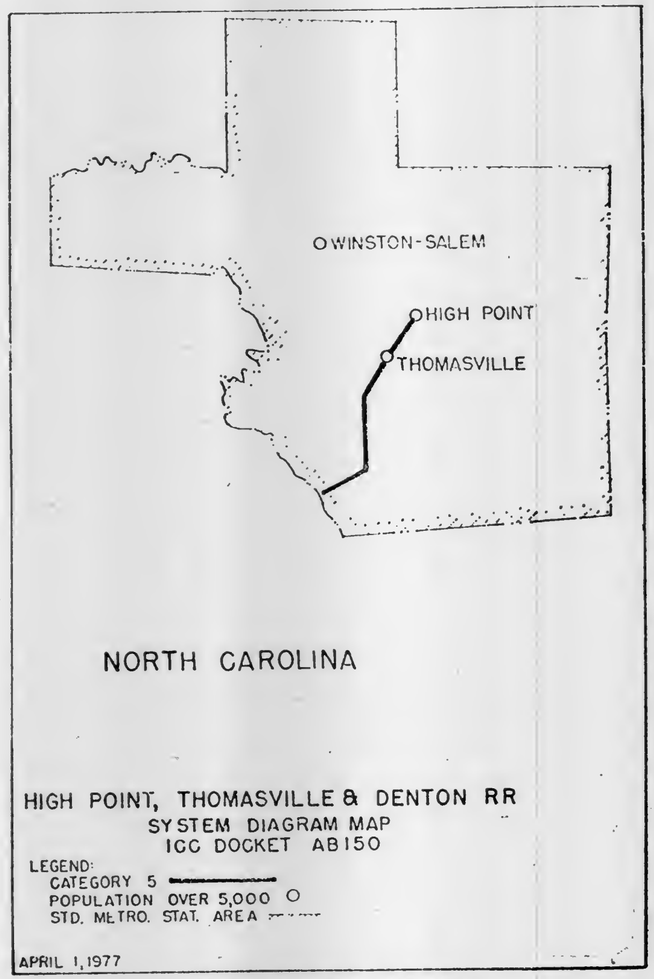
HIGH POINT, THOMASVILLE & DENTON RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the High Point, Thomasville & Denton Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 150 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–150 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13475 Filed 5-11-77;8:45 am]

[AB 13 (SDM)]

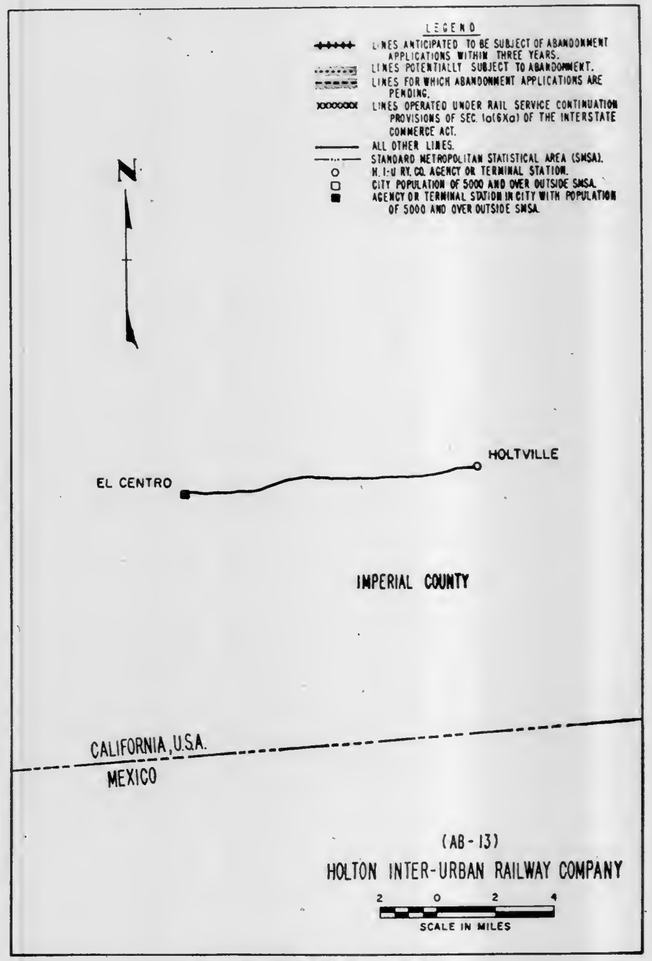
HOLTON INTER-URBAN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Holton Inter-Urban Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 13 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–13 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13472 Filed 5-11-77;8:45 am]

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[AB 14 (SDM)]

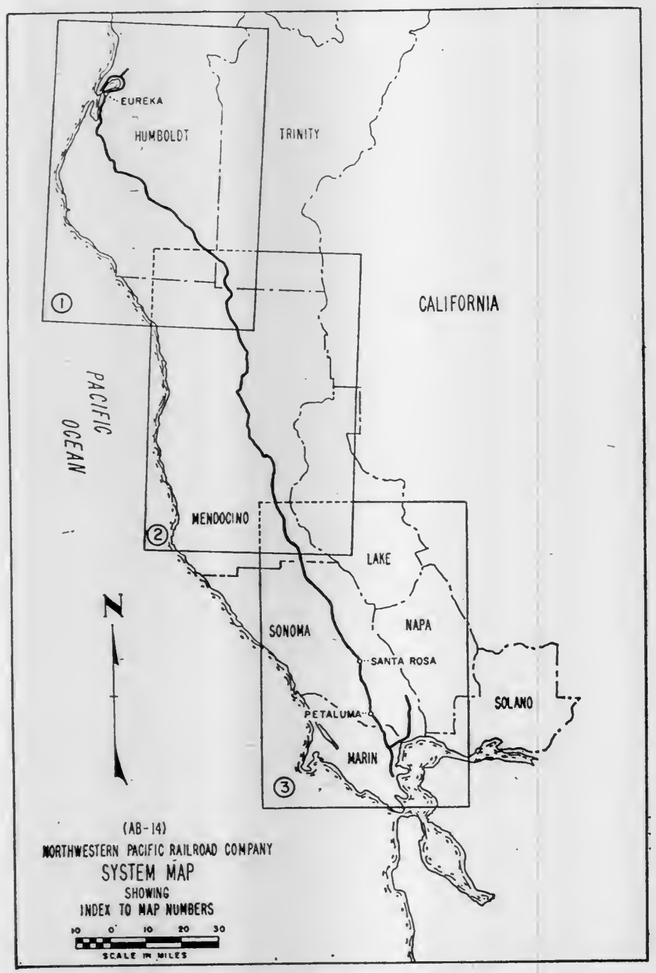
NORTHWESTERN PACIFIC RAILROAD CO.

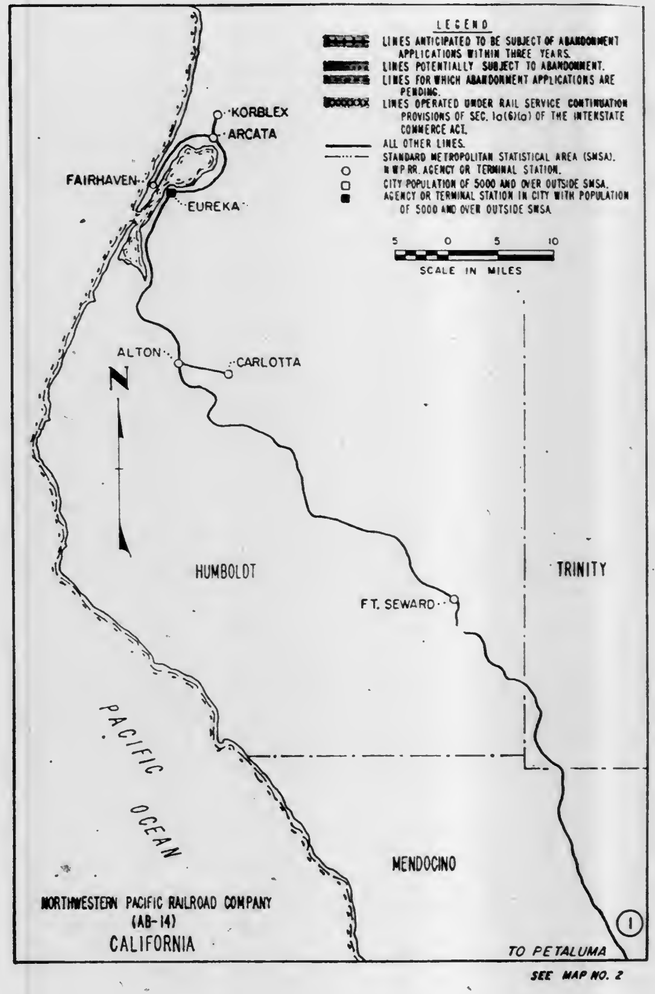
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Northwestern Pacific Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 14 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

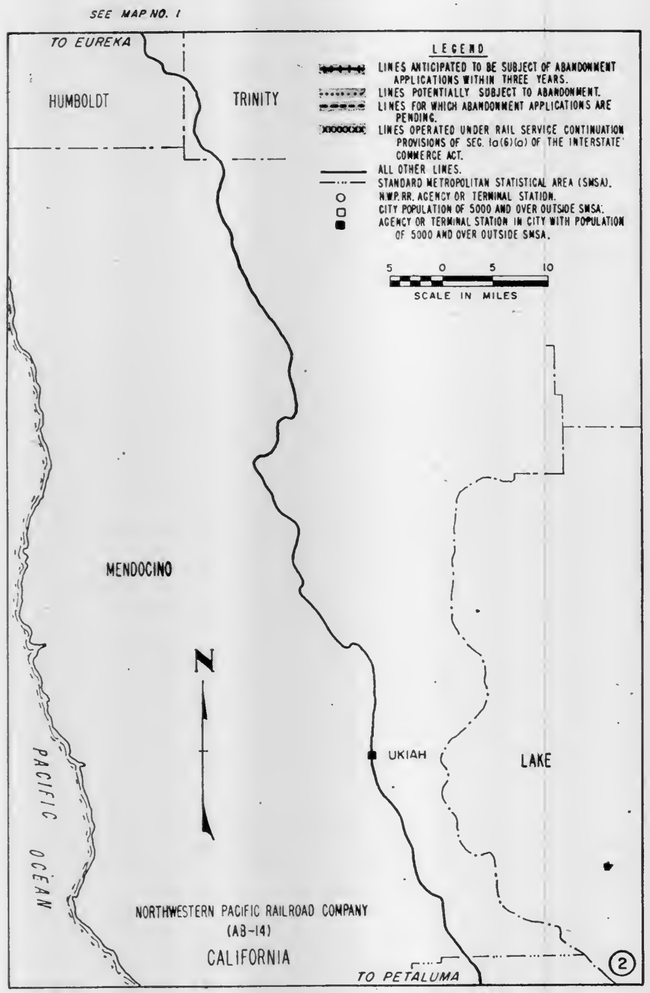
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–14 (SDM).

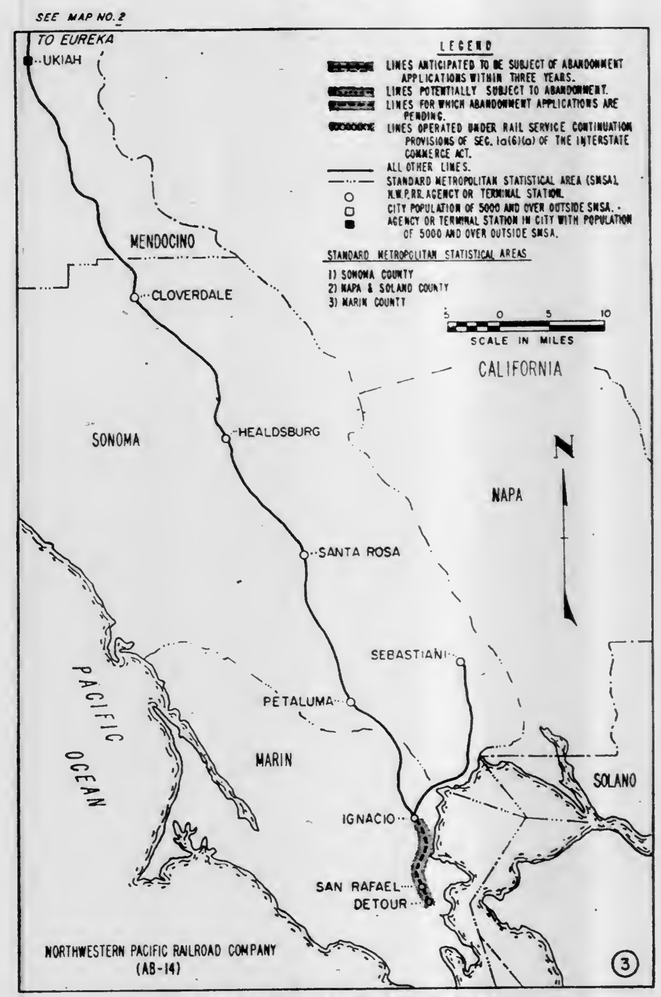
ROBERT L. OSWALD,
Secretary.





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NORTHWESTERN PACIFIC RAILROAD COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the Northwestern Pacific Railroad Company as shown on the system diagram map:

LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING BEFORE THE INTERSTATE COMMERCE COMMISSION

California

(1) (a) Designation of Line: San Rafael Branch.
(b) States in which Located: California.
(c) Counties in which Located: Marin.
(d) Milepost Locations: 14.329 at or near Detour to 25.821 at or near Ignacio.
(e) Agency or Terminal Stations on the Line: Detour (milepost 14.329), San Rafael (milepost 17.0), Ignacio (milepost 25.8).

(Map No. 3)

[FR Doc.77-13473 Filed 5-11-77;8:45 am]

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[AB 149 (SDM)]

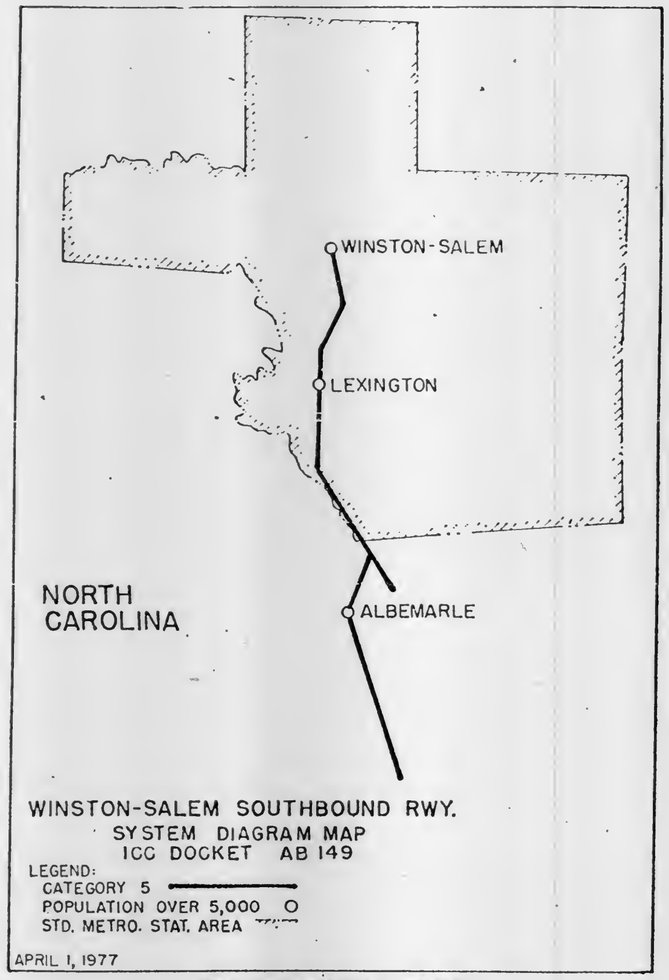
WINSTON-SALEM SOUTHBOUND RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Winston-Salem Southbound Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB–149 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–149 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13474 Filed 5-11-77;8:45 am]

[AB 18 (Sub-No. 6) Finance Docket No. 27412]

CHESAPEAKE & OHIO RAILWAY CO.

Abandonment of Line; Trackage Rights

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of 11.63 miles of branch line between Coleman and Union, Isabella County, Mich., by the Chesapeake and Ohio Railway Company and the proposed acquisition by the Chesapeake and Ohio Railway Company of trackage rights over 15.40 miles of main line track and 0.91 miles of connecting track of the former Ann Arbor Railroad Company between Mt. Pleasant and Clare in Isabella County, Mich., if approved by the Commission, do not contitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic volume on the line proposed for abandonment is low and the environmental impacts associated with the possible diversion of rail traffic to motor carrier should be minimal. Most of the traffic on the line is generated at Mt. Pleasant and will continue to receive applicant's rail service over the Ann Arbor line between Mt. Pleasant and Clare if the application for trackage rights is approved. The State has already assumed responsibility for the Ann Arbor line and is negotiating the trackage rights agreement with the Chessie System at this time. The State has also proposed a Solvent Carrier Subsidy for the C&O line proposed for abandonment, if the action is approved. Because rail service will probably continue for the majority of affected shippers, there should be no serious adverse impact on community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13620 Filed 5-11-77;8:45 am]

[AB 19 (Sub-No. 31)]

BUFFALO, ROCHESTER, AND PITTSBURGH RAILWAY CO. AND BALTIMORE AND OHIO RAILWAY CO.

Abandonment

APRIL 29, 1977.

In the matter of Buffalo, Rochester and Pittsburgh Railway Company Abandonment—and abandonment of operations—by the Baltimore and Ohio Railway Company—between Guthrie Spur Junction and Tidedale in Indiana County, Pennsylvania.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.

Said comments, which were made by the applicants, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13619 Filed 5-11-77;8:45 am]

[AB 94 (Sub-No. 1)]

EL PASO UNION PASSENGER DEPOT CO.

Abandonment All Within City of El Paso, El Paso County, Texas

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq. 2. A notice setting forth this conclusion was served February 2, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13617 Filed 5-11-77;8:45 am]

[AB 19 (Sub-No. 11)]

FAIRMONT, MORGANTOWN AND PITTSBURGH RAILROAD CO. AND THE BALTIMORE AND OHIO RAILROAD CO.

Abandonment Portion Smithfield and Masontown Branch Between Strum and Leckrone, in Fayette County, Pennsylvania

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental thershold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Said comments, which were made by the Menallen Coke Company, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13618 Filed 5-11-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 9, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before May 27, 1977.

FSA No. 43361—*White and Buff-Colored Cement from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–671), for interested rail carriers. Rates on white and buff-colored cement, in carloads, as described in the application, from specified points in Texas, to points in Indiana, Michigan and Ohio.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 80 to Southwestern Freight Bureau, Agent, tariff 325–B, I.C.C. No. 5156. Rates are published to become effective on June 11, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13616 Filed 5-11-77;8:45 am]

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[Notice No. 61]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 6, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1328 (Sub-No. 26TA), filed April 11, 1977. Applicant: MGS TRANSPORTATION, INC., P.O. Box 270, Alexandria, Ind. 46001. Applicant's representative: Charles Garrett, P.O. Box 270, Alexandria, Ind. 46001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and mineral wood products*, between the plantsite of Johns-Manville Sales Corporation at Alexandria, Ind. and rail piggyback facilities in the state of Indiana restricted to traffic having a prior or subsequent movement by rail, under a continuing contract with Johns-Manville Sales Corporation, for 180 days. Supporting shipper: Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: D/S J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 20916 (Sub-No. 23TA), filed April 20, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182–B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden landscaping ties*, from the plantsites of Anderson Lumber Company at Amelia, Va., Barnes Lumber Corporation at Charlottesville, Va., and H. H. Nasch Timber Corporation at Gladys, Va., to points in New Jersey, and points in Westchester County, Long Island, Suffern and Spring Valley, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Valley Timber & Deck Sales, Inc., P.O. Box 734, Westwood, N.J. 07675. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave., N.W., Rm. 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 31389 (Sub-No. 226TA), filed April 14, 1977. Applicant: McLEAN TRUCKING COMPANY, 617 Waughtown St., Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site of United Gas Pipe Line Company Compressor Station near Vinton, La., as an off-route point in conjunction with applicant's regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Gas Pipe Line Company, P.O. Box 1478, Houston, Tex. 77001. Send protests to District Supervisor, Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 42011 (Sub-No. 34TA), filed April 11, 1977. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, 13309 E. Apache Street, Tulsa, Okla. 74112. Applicant's representative: James W. Hightower, 136 Wynnewood Prof. Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Arkansas and Oklahoma to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Associated Producers, Inc., 5005 N. Pennsylvania Ave., Oklahoma City, Okla. 73112. Send protests to: District Supervisor, Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 48213 (Sub-No. 45TA), filed April 15, 1977. Applicant: C. E. LIZZA, INC., P.O. Box 447, Latrobe, Pa. 15650. Applicant's representative: William A. Gray, Wick, Vuono, & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives and fireworks*, from New Castle, Pa., to points in Michigan and Minnesota, under a continuing contract with Vitale Fireworks Manufacturing Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vitale Fireworks Manufacturing Company, 302 Wilson Road, New Castle, Pa. 16103. Sent protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 56409 (Sub-No. 13TA), filed April 19, 1977. Applicant: MAJOR TRANSPORT, INC., Box 204, Highway 135 & Airport Road, Palmyra, Wis. 53156. Applicant's representative: David V. Purcell, 111 E. Wisconsin Ave., Milwaukee, Wis. 53202. Authority sought to operate as a *cmmon carrier*, by motor vehicle, over irregular routes, transporting: *Grass pellets*, from the plantsites and facilities of Warren's Turf Nursery, Inc. in Jefferson County, Wis., to Toledo, Ohio and points in Alabama, Arkansas, Georgia, Illinois, Maryland, Massachusetts, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Warren's Turf Nursery, Inc., 8400 W. 111th St., Palos Park, Ill. 60464 (Maurice Rosener). Sent protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, Wis. 53202.

No. MC 104683 (Sub-No. 42TA), filed April 12, 1977. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, Miss. 39401. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Escambia County, Ala., to Petal, Miss., from 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Martin Gas Sales, Inc., Drawer 191, Kilgore, Tex. 75662. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 106400 (Sub-No. 108TA), filed April 12, 1977. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8525, Sugar Creek, Mo. 64054. Applicant's representative: Harold D. Holwick, P.O. Box 12628, North Kansas City, Mo. 64116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles between Kansas City, Mo. and the states of Missouri, Kansas, Arkansas, and Oklahoma, for 180 days. Supporting shipper: Ralston Purina Company, 2334 Rochester Avenue, Kansas City, Mo. 64120. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 111729 (Sub-No. 698TA), filed April 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cardiac pacemakers, related accessories, instruction booklets, specification sheets, and identification charts*, between Freeport and Houston, Tex., on traffic having an immediately prior or subsequent movement by air, for 180 days. Supporting shipper: Intermedics, Inc., P.O. Box 617, Tarpon Inn Village, Freeport, Tex. 77541. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 699 TA), filed April 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers and records, audit and accounting media, and replacement parts* related to the mining industry, between Big Stone Gap, Va., on the one hand, and, on the other, Clothier, Crab Orchard, Lejvasy, and Tams, W. Va., for 180 days. Supporting shipper: Westmoreland Coal Company, P.O. Drawer A, Big Stone Gap, Va. 24219. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112520 (Sub-No. 336TA), filed April 15, 1977. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, transporting: *Motor Oil*, in bulk, from Jacksonville, Fla., to Niota, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sun Oil Co., 3101 Talleyrand Ave., Jacksonville, Fla. 32202. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 118989 (Sub-No. 156TA), filed April 13, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Roland Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers* from Burlington, Wis., to Kansas City, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Diversified Industries, Highway 3350, Burlington, Wis. 53105 (Richard W. Olson). Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Rm 619, Milwaukee, Wis. 53202.

No. MC 123774 (Sub-No. 29TA), filed April 18, 1977. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg. Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from Summerville, Pa., to points in New York and New Jersey, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hanley Company, Inc. Summerville, Pa. 15864. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 126555 (Sub-No. 45TA), filed April 11, 1977. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Barry C. Burnette, P.O. Box 3000, Rapid City, S. Dak. 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from Sturgis, S. Dak., to Rapid City, S. Dak., for subsequent movement by rail to Mosinee, Wis., for 180 days. Supporting shipper: Dickson Forest Products, Inc., Box 736, Sturgis, S. Dak. 57785, Charles N. Davis, Plant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 124306 (Sub-No. 26TA), filed April 19, 1977. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Francis W. McInerny, MacDonald & McInerny, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of Union Texas Petroleum at or near Hattiesburg, Miss., to Tirzah, Florence, Sumter, and Hartsville, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peoples Natural Gas Company of SC, & Subsidiary—Supertane Gas Co., Florence, S.C. Send protests to: Archie W. Andrews, Dist. Supvr., Bureau of Operations, ICC, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 127047 (Sub-No. 22TA), filed April 12, 1977. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Implement cabs, bale loaders, combine scanners, and accessories for implement cabs*, from Newton and Peabody, Kans., to points in the United States (except Hawaii and Alaska), restricted to traffic originating at the plant and warehouse facilities of Full Vision, Inc., of Newton, Kans., for 180 days. Supporting shipper: Full Vision, Inc., Box 647, Newton, Kans. 67114. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Building, Wichita, Kans. 67202.

No. MC 117568 (Sub-No. 12TA), filed April 8, 1977. Applicant: KEMPT TRUCK LINES, INC., P.O. Box 156, Verona, Mo. 65769. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes*, from the plantsite and warehouse facilities of Husky Industries, Inc., located at or near Branson, Mo., to points in Texas, Louisiana, Arkansas, Oklahoma, Arizona, New Mexico, Kansas, and Colorado, under a continuing contract with Husky Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center East, Atlanta, Ga. 30345. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 128638 (Sub-No. 14TA), filed April 14, 1977. Applicant: CENTRAL GRAIN HAULERS, INC., Route 1, Van Meter Road, P.O. Box 746, Winchester, Ky. 40391. Applicant's representative: William L. Willis, Suite 708, McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk, except in tank vehicles, from Cincinnati, Ohio, and points in its commercial zone, to Bristol, Va., and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper: Southern States Cooperative, Inc., P.O. Box 1657, Richmond, Va. 23213. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Rm. 216, Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 134755 (Sub-No. 100TA), filed April 11, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, from Emlenton and New Kensington, Pa., and Congo and St. Marys, W. Va., to points in Louisiana, Mississippi, and Tennessee, for 180 days. Supporting shipper: Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, Pa. 16301. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

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No. MC 138328 (Sub-No. 35TA), filed April 11, 1977. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, 14507 Frontier Rd., P.O. Box 37308, Omaha, Nebr. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, steel door frames, and brass, bronze, copper, and steel hardware*, from the plantsite of The Ceco Corporation located at or near Milan, Tenn., to points in Illinois (except Broadview, Morton, and Peoria, Ill.), Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. R. D'Agento, Traffic Manager, The Ceco Corporation, 5601 West 26th Street, Chicago, Ill. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138762 (Sub-No. 6TA), filed April 13, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th and 11th Streets, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, between the port of entry at or near Porth Huron, Mich., on the United States-Canada International Boundary line on the one hand, and, on the other, points in Ohio, Michigan, and Indiana, on traffic originating in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. C. Mewdell, C.I.T.T., Ontario District Traffic Mgr., Canadian Industries Limited, 45 Sheppard Ave. East, Willowdale, Ontario, M2N 2Z9. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Ave. North, Billings, Mont. 59101.

No. MC 138762 (Sub-No. 7TA), filed April 13, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th and 11th Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite or warehouse facilities of CF Industries at or near Port Huron, Mich., to the port entry on the United States-Canada International Boundary line at or near Port Huron, Mich., restricted to traffic destined to points in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Fred Loftin, Manager, Transportation Dept., United Co-Operatives of Ontario, Box 527, Mississauga, Ontario, Canada L5A 3A4. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Ave. North Billings, Mont. 59101.

No. MC 138872 (Sub-No. 4TA), filed April 13, 1977. Applicant: ART ARMITAGE TRUCKING, 162 Vimy Road, Bible Hill, Nova Scotia, Canada B2N 4O9. Applicant's representative: Douglas B. Chapman, 109 Main Street, Bar Harbor, Maine 04609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and articles* associated with the manufacturing of tires, from the port of entry on the International Boundary line between the United States and Canada at or near Calais, Maine, to Woodland, Maine, restricted to transportation having subsequent movement by rail, under a continuing contract with Michelin Tires Limited, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michelin Tires (Canada) Limited, P.O. Box 399, New Glasgow, Nova Scotia, Canada B2H 5E6. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl St., Portland, Maine 04111.

No. MC 140587 (Sub-No. 2TA), filed April 11, 1977. Applicant: CECIL CLAXTON, East Elm Street, Wrightsville, Ga. 31096. Applicant's representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine* (not in bulk), from Tampa, Fla., to Savannah, Brunswick, Albany, Columbus, Macon, Dublin, Augusta, Atlanta, Athens, and Rome, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Sales Co., 322 Souperton Ave. E., Dublin, Ga. 31021. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 141399 (Sub-No. 2TA), filed April 13, 1977. Applicant: GEARY S. BONVILLE, East State Street, Presque Isle, Maine 04769. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and limestone* in bulk and in bags, from Presque Isle, Maine, to all ports of entry on the International Boundary line between the United States and Canada along the Maine-New Brunswick borders and from all ports of entry on the International Boundary line between the United States and Canada along the Maine-New Brunswick borders to points in Aroostook, Penobscot and Washington Counties, Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 3 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies may be examined at the field office named below. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl St., Portland, Maine 04111.

No. MC 142115 (Sub-No. 2TA), filed April 15, 1977. Applicant: PIKE'S, LIMITED, P.O. Box 215, Stephenville, Newfoundland, Canada. Applicant's representative: Peter L. Murray, 30 Exchange St., Portland, Maine 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oil and vegetable oil* in bulk from Pawtucket, R.I., to ports of entry on the International Boundary Line between the United States and Canada at or near Houlton and Calais, Me., restricted to traffic having destination in Prince Edward Island, Canada, for 180 days. Supporting shipper: Colfax, Incorporated, 38 Colfax St., Pawtucket, R.I. 02860. Send protests to: Donald G. Weiler, District Supervisor, Bureau Of Operations Interstate Commerce Commission, Rm. 307, 76 Pearl Street Portland, Me. 04111.

No. MC 142012 (Sub-No. ITA), filed April 18, 1977. Applicant: OSBORNE WEST, LTD., 220 Erie Street, Pomona, Calif. 91766. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, Transporting: (1) *General commodities* (except Class A and B explosives) in ocean containers having a prior or subsequent move by water, and (2) *Empty containers, chassis and trailers*, between points in Oregon and Washington, on the one hand, and on the other, points in California, for 180 days. Supporting shipper(s) There are approximately ten (10) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142349 (Sub-No. 2TA), filed April 18, 1977. Applicant: SE-BE TRUCK LINE, INC., P.O. Box 392, Denver, Iowa 50622. Applicant's representative: Grant J. Merritt, Suite 415, 730 Second Avenue South, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products* from the Service Center of Jones & Laughlin Steel Corporation located at 2250 West 47th Street, Chicago, Ill., to points in Iowa, for 180 days. Supporting shipper: Jones & Laughlin Steel Corporation, 2250 West 47th Street, Chicago, Ill. 60609. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13621 Filed 5-11-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commission on Civil Rights	1, 2
Consumer Product Safety Commission	3
Equal Employment Opportunity Commission	4
Federal Trade Commission	5, 6
International Trade Commission	7
National Science Foundation	8
National Transportation Safety Board	9, 10

1

AGENCY HOLDING THE MEETING: Commission on Civil Rights.

TIME AND DATE: 9 a.m.–12 p.m., 1:30 p.m.–5 p.m., Monday, May 16, 1977; 9 a.m. to conclusion of agenda, Tuesday, May 17, 1977.

PLACE: Open portion of meeting: Room 512; closed portion of meeting: Room 800, 1121 Vermont Avenue, NW., Washington, D.C.

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public 1:30 p.m.–5 p.m., Monday, May 16, 1977:

I. Approval of agenda.

II. Approval of minutes of last meeting.

III. Staff Director's report:

A. Status of funds;

B. Personnel report;

C. Correspondence:

1. Letter from Hon. Andrew Young re receipt of reports;

2. Letters from Maurice Mitchell re Colorado SAC report;

3. Letter from Asian American Center on Civil Rights Digest;

4. Letter from Urban Environment Conference on EPA;

D. Office Directors' reports.

IV. Report re Civil Rights Developments in the Midwest Region.

V. Rechartering of Colorado and South Carolina Advisory Committees.

VI. Decision on Report re School Desegregation in Fort Wayne, Indiana.

VII. Decision on Florida SAC Recommendation re Citizenship Requirement for Peace Officers.

VIII. Decision on Proposal re Commission Indian Hearing.

IX. Decision on Proposal re State Civil Rights Agencies Study.

X. Discussion of Hearing on Bakke Case.

XI. Report on Program Development and Planning.

XII. Federal Advisory Committee Act Reports (information only).

XIII. Developments re Florida SAC Report on Jacksonville (information only).

XIV. Commission Complaints Process (information only).

MATTERS TO BE CONSIDERED: Portion closed to the public on May 16, 1977, at 9 a.m., and on May 17, at 9 a.m.:

(1) Review of Los Angeles report on school desegregation.

(2) Review of National Media Study.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202–254–6697).

[S-376-77 Filed 5-9-77;4:33 p.m.]

2

AGENCY HOLDING THE MEETING: Commission on Civil Rights.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 21898, April 29, 1977.

PREVIOUS ANNOUNCED TIME AND DATE OF MEETING: May 3, 1977, 4:30 p.m.

CHANGES IN THE MEETING: Meeting rescheduled for May 12, 1977. Time: 12 p.m.; place: unchanged.

ADDITIONAL AGENDA ITEM: Discussion of propose letter to the Attorney General respecting participation by the United States as Amicus Curiae in a case before the Supreme Court involving affirmative action admission programs of institutions of higher education.

STATUS: Portion of meeting regarding new agenda item will be open to the public. The remaining portion will be closed as previously announced.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202–254–6697).

[S-377-77 Filed 5-9-77;4:33 pm]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: May 10, 1977, 2 p.m.

LOCATION: 8th floor Conference Room, 1111 18th St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *CPSC Reorganization Plan.* The Commission will meet to discuss implementation of a reorganization plan proposed by Chairman Byington. In voting to hold the meeting, the Commission determined that Agency business requires a meeting without seven days advance notice, and that the meeting should be closed.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary. Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202–634–7700.

[S-380-77 Filed 5-10-77;11:27 am]

4

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, May 17, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW, Washington, D.C. 20506.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

(1) *Freedom of Information Act Appeals; Nos. 77–3–FOIA–53, 57 and 58.* Three requests, on behalf of an employer charged with discrimination by individuals, for intra-agency memoranda contained in the Commission's files.

(2) *Civil Service Commission Equal Employment Rules and Regulations on Class Action and Consolidation of Complaints of Discrimination.* The Commissioners will receive an oral report by the Director of the Commission's own Office of Equal Employment Opportunity concerning new amendments to these rules and regulations.

(3) *Processing of Charges against State and Local Agencies; Equal Opportunity Clause of Contract.* The Commission will consider a recommendation by the Director of Compliance Programs that a policy be approved that all charges of employment discrimination against agencies administering state laws or local ordinances prohibiting such discrimination, and receiving or applying for funds from EEOC, be processed through an EEOC office outside of the EEOC region within which the charged agency is located.

(4) *Providence (Rhode Island) Human Relations Commission; Funding Recommendation.* The Commission will consider a recommendation by the Director of Compliance Programs that this agency be provided funds by EEOC to develop procedures and train staff to handle charges of discrimination referred to the agency by EEOC.

Portions closed to the public:

(1) *Freedom of Information Act Appeal No. 77–3–FOIA–56.* A request, on behalf of an employer charged with

V 42 92 MAY 12 77 UMI

discrimination by an individual, for information obtained from the individual during conciliation efforts.

(2) *Freedom of Information Act Appeal No. 77-3-FOIA-69.* A request by a contractor for proprietary information submitted by two other contractors who were awarded contracts for a study.

(3) *Litigation Authorization.* Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations. (42 FR 13830, March 14, 1977.)

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued May 6, 1977.

[S-381-77 Filed 5-10-77;11:27 am]

5

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Tuesday, May 17, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Nonadjudicative Matters:*

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meeting of May 10, 1977.

(2) Consideration of Proposed Issuance of Complaints in File No. 701 0047, Beer Industry.

(3) Consideration of Two Related Part II Matters:

(a) Proposed Issuance of Complaint in (Nonpublic) Part II Matter.

(b) Proposed Disposition of Union Carbide Corp., File No. 751 0011.

(4) Consideration of Proposed Issuance of Complaint and Injunction Action in (Nonpublic) Part II Matter.

Adjudicative Matters Under Part 3 of the Rules of Practice:

(1) Approval of Minutes of Adjudicative Matters Considered at Meeting of May 3, 1977.

(2) Consideration of Respondent's request for court enforcement of subpoenas duces tecum in Docket 8992, Coca-Cola Bottling Company of New York, Inc.

(3) Consideration of final decision in Docket No. 9019, Genesco, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-382-77 Filed 5-10-77;11:27 am]

6

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Wednesday, May 18, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) Consideration of amendments to Rules of Practice §§ 2.34, 2.35, and 3.25(d), 16 CFR §§ 2.34, 2.35, and 3.25(d) to require that certain information relating to the proposed settlement of a pending investigation or complaint be placed on the public record at the beginning of the 60-day period for public comment. See 41 FR 36823 (September 1, 1976).

(2) Consideration of proposed reduction of sample size Quarterly Financial Report (QFR) Program.

(3) Report from General Counsel on Congressional Matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-383-77 Filed 5-10-77;11:27 am]

7

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 2 p.m., May 18, 1977.

PLACE: Hearing Room, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Approval of report in Investigation 332-80 (Watches).
5. Television receivers:

(a) Investigation 603-TA-1—Status report;

(b) Investigation 337-TA-23—Review of presiding officer's rulings issuing subpoenas for non-party Commission records pursuant to notice of December 20, 1976.

6. Possible study on automobile imports—See memorandum from the Deputy Director of Operations, dated April 28, 1977..

7. Judge Renick's memorandum of April 29, 1977, subject: Wearing of Judicial Robes (if necessary).

8. Standard summaries questionnaires—See memoranda from the Director of Industries, dated May 2, 1977. and from Commissioner Bedell, dated May 6, 1977.

9. Items left over from previous agenda.

Portions closed to the public: 1. Reorganization (portions respecting the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202-523-0161).

[S-374-77 Filed 5-9-77;4:32 pm]

8

AGENCY HOLDING THE MEETING: National Science Foundation.

The National Science Board, the policy-making body of the National Science Foundation, will meet on Thursday-Friday, May 19-20, 1977, in Room 340, 1800 G Street, NW., Washington, D.C. 20550. Much of this meeting will be open to the public in keeping with the Government in the Sunshine Act. Attached is an agenda for the meeting. As indicated the session of the meeting that will be open to the public is scheduled for Thursday, May 19, from 1 to 4:30 p.m. Should an additional open session be necessary to complete the open session agenda, that session will be held about 3 p.m., Friday, May 20.

The agenda also indicates the subjects to be discussed in both open and closed sessions.

Requests for information on the items may be directed to the Office of the National Science Board, Washington, D.C., which may be reached on 202-632-5840. If the person receiving your call is unable to answer your question, please ask for Miss Vernice Anderson, Executive Secretary, National Science Board.

AGENDA—27 ANNUAL (190TH) MEETING, NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, WASHINGTON, D.C., MAY 19-20, 1977

THURSDAY, MAY 19—1-4:30 P.M. OPEN SESSION

1. Minutes—189th Meeting.
2. Chairman's Report.
3. Director's Report.
4. Board Committees—Reports on Meetings.
5. NSF Advisory Groups:
(a) Reports on Meetings;
(b) Board Representation at Future Meetings.
6. Repotrs on Annual Reviews of National Research Centers.
7. Materials Research Laboratory Site Visits.
8. Annual Business:
(a) Meeting Schedule for Calendar Year 1978;
(b) Annual Consideration of National Science Board Committees.
9. Other Business.
10. Next Meetings:
(a) National Science Board, 191st Meeting June 23-24;
(b) NSB Committee, Executive Committee—77-5 Meeting—June 22.

THURSDAY, MAY 19—4:30-5:30 P.M., CLOSED SESSION

A. Minutes—Closed Session—189th Meeting.
B. Annual Business:
1. Report of Ad Hoc Nominating Committee for Board Officers; Selection of Two Members of Executive Committee (for two-year terms expiring in May 1979);
2. Annual Report of Executive Committee.
C. Committee Reports:

1. Ad Hoc Committee on NSF Staff and NSB Nominees;
2. Meetings with High Government Officials.
D. Report on site location negotiations for NRCC computation center.
E. Consideration of proposed legislative initiative.

FRIDAY, MAY 20—8:30 A.M.-3 P.M., CLOSED SESSION

F. Grants and Contracts—Action Items:
1. Astronomical, Atmospheric, Earth, and Ocean Sciences;
2. Biological, Behavioral, and Social Sciences—Social Sciences;
3. Mathematical and Physical Sciences, and Engineering;
4. Research Applications—Advanced Energy and Resources Research and Technology;
5. Scientific, Technological, and International Affairs—Science Resource Studies.

[S-379-77 Filed 5-10-77;10:20 am]

9

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 9:30 a.m., Thursday, May 19, 1977 (NM-77-11).

PLACE: Conference Rooms 8A, B, and C, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. *Railroad Accident Report.* Collision of Two Conrail Commuter Trains in New Canaan, Connecticut, on July 13, 1976. 2. *Discussion.* Candidate Special Studies for Board Approval.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming (202-755-4930).

[S-378-77 Filed 5-10-77;9:46 am]

10

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 23027, May 5, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 12, 1977, 9:30 a.m. (NM-77-9a).

CHANGES IN THE MEETING: The following agenda item has been added: *Letter* to Senator Magnuson re S. 568, a Bill to Regulate Oil Tanker Transportation in Domestic and Foreign Commerce.

[S-375-77 Filed 5-9-77;4:33 pm]

V 42 92 MAY 12 77 UMI

federal register

THURSDAY, MAY 12, 1977
PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

OPERATIONS REVIEW PROGRAM AMENDMENT NO. 2

Rotorcraft External-Load Operations

V 42 92 MAY 12 77 UMI

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15176; Amendment Nos. 91-138 and 133-6]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

Operations Review Program Amendment No. 2: Rotorcraft External-Load Operations

AGENCY: Federal Aviation Administration, FAA (DOT).

ACTION: Final rule.

SUMMARY: These amendments require all rotorcraft external-load operations to be conducted under Part 133 whether or not they are conducted for compensation or hire, thus allowing restricted category rotorcraft to be operated for compensation or hire under Part 133.

This amendment resulted from proposals from the Aerial Crane Operators Committee (ACO) recommending that restricted category rotorcraft external-load operations be conducted under the provisions of Part 133 and that Part 91 be amended to allow those operations to be conducted for compensation or hire.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, (AFS-901), Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 755-8715.

SUPPLEMENTARY INFORMATION: Interested persons have been given an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 75-38; 40 FR 54188; November 20, 1975). In addition, pursuant to a notice of hearing (Notice 75-38A; 41 FR 7517; February 19, 1976) the FAA held two public hearings on Notice 75-38 (Washington, D.C. on March 18, 1976, and Seattle, Washmgton on March 25, 1976). The FAA also extended the comment period so that relevant comments submitted during and after the hearings could be considered. Each comment received in response to Notices 75-38 and 75-38A has been considered in the adoption of these amendments. Except where changes are specifically discussed, these amendments and the basis for them are the same as those contained in Notice 75-38.

On February 12, 1974, the FAA issued an invitation to submit proposals for consideration during the Airworthiness Review Program (Notice 74-5; 39 FR 5785; February 15, 1974). Two proposals were received from the ACO recommending that restricted category rotorcraft external-load operations be conducted under the provisions of Part 133, and that Part 91 be amended to allow those operations to be conducted for compensation or hire.

On February 26, 1975, the FAA issued an invitation to submit proposals for consideration during the Operations Review Program (Notice 75-9; 40 FR 8685; February 28, 1975). The FAA then published a Compilation of Proposals (see Notice 75-9A; 40 FR 24041; June 4, 1975) that would be considered as possible agenda items for the Operations Review Conference held December 1-5, 1975. Included in the Compilation were proposals to bring all rotorcraft external-load operations under Part 133.

The proposals ACO submitted for the Airworthiness Review were deferred for consideration with proposals that also concerned rotorcraft external-load operations appearing in the Operations Review Compilation. The proposals contained in Operations Review Program Notice No. 1 (Notice 75-38; 40 FR 54188; November 20, 1975) are generally based on the FAA's evaluation of proposals submitted for both the Airworthiness and Operations Reviews:

Proposal No.	Review	FAR	Proponent
495	Airworthiness	§91.39	ACO
540	do	§133.19	ACO
218	Operations	§91.39	FAA
219	do	§91.39	FAA
697	do	§133.10	FAA
698	do	§133.11	FAA
699	do	§133.13	FAA
700	do	§133.17	FAA
701	do	§133.19	FAA
703	do	§133.32	FAA

Specificaly, Notice No. 75-38 proposed amending Parts 91 and 133 of the Federal Aviation Regulations (14 CFR Parts 91 and 133) to: (1) require that all rotorcraft external-load operations, currently conducted under Part 91, be conducted under Part 133 regardless of whether they are conducted for compensation or hire; (2) prescribe appropriate operating limitations for restricted category rotorcraft external-load operations under that Part; (3) provide that Operator Certificates issued under Part 133 be effective for 24 months; and (4) except rotorcraft external-load operations from the requirement in § 91.39 which prohibits the operation of restricted category civil aircraft carrying persons or property for compensation or hire.

Because many of the comments received in response to Notice 75-38 discussed the merits of "standard" and "restricted" rotorcraft, a brief explanation of these terms is in order. A "standard" rotorcraft is one having a normal, utility, acrobatic or transport category type certificate issued under §§ 21.21, 21.27, or 21.29, and having a standard airworthiness certificate issued under § 21.183. These rotorcraft are often called "standard category" rotorcraft, and they are identified that way in the following discussion. A "restricted" category rotorcraft is one having a restricted category type certificate issued under § 21.25 and having a restricted category airworthiness certificate issued under § 21.185. They are called "restricted category" rotorcraft in the following discussion.

The proposal to amend § 91.39(b) and § 91.39(d) drew strong objections, primarily from those operators now certificated under Part 133. Those who oppose this change contend that the FAA would create an unsafe condition by allowing the use of restricted category (particularly military surplus) rotorcraft in Part 133 operations for compensation or hire. They argue that the current distinction between rotorcraft external-load operations conducted in restricted category rotorcraft and those conducted in standard category rotorcraft should be retained. They contend that the operating limitations proposed in Notice 75-38 are inadequate to provide an equivalent level of safety when restricted category rotorcraft are allowed to operate under Part 133.

Restricted category rotorcraft do not comply with all the airworthiness standards in Part 27 for normal category rotorcraft or in Part 29 for transport category rotorcraft. They are type certificated to airworthiness standards that are less stringent than those applicable to a standard category rotorcraft. Under § 21.25, an applicant is entitled to a type certificate for rotorcraft in the restricted category for special purpose operations if he shows that no feature or characteristic makes the rotorcraft unsafe when it is operated under the operating limitations prescribed for its intended use. In addition, § 21.27 allows certain surplus military aircraft to be certificated in the standard category if the applicant shows compliance with the applicable airworthiness certification standards.

Some restricted category rotorcraft brought under Part 133 are surplus military helicopters which have no civil counterpart. The Armed Services specify aircraft requirements and performance capabilities when soliciting aircraft construction bids that are directly and uniquely related to a particular military mission. The mission for a military rotorcraft (and particularly for external-load operations) may be quite similar to the mission of a civil rotorcraft. Other military requirements, however, specify equipment and structural changes that are not appropriate in an aircraft designed for civil use. These requirements may or may not improve the reliability or increase the safety aspects of the aircraft. Thus, while safety is a consideration in designing an aircraft manufactured for military use, it is not an overriding determinant. Therefore, some items must be changed when converting a surplus military rotorcraft to meet the civil requirements.

At the public hearings held in Washington, D.C., and Seattle, Washington, certain commenters argued that the operating limitations in proposed § 91.39(d) were not stringent enough. Essentially, they urged that external-load operations with restricted category rotorcraft should not be conducted over densely populated areas.

The FAA has long held that public demand for a specific kind of aircraft operation (evidence in this proceeding by numerous commenters strongly in favor of Notice 75-38) warrants to balanced set of airworthiness standards and operating rules which will ensure an appropriate level of safety. Based on the comments received and the record of the two public hearings held on Notice 75-38, the FAA has concluded that the operating limitations for restricted category rotorcraft proposed in the notice must be strengthened. The safety of persons and property on the surface will be adequately protected by prohibiting restricted category rotorcraft external-load operations over a densely populated area, in a congested airway or near a busy airport where passenger transport operations are conducted. These limitations are identical to those in § 91.39(d) that now apply to the operation of each restricted category aircraft.

In view of the differences between the airworthiness requirements applied to standard and restricted category rotorcraft, the FAA has adopted the limitations discussed above in a new § 133.45 (e) (rather than in § 91.39(d), as proposed). Those limitations do not apply to external-load operations conducted by standard category rotorcraft. The FAA has concluded that this amendment and the standards now contained in Part 133 will maintain an appropriate level of safety.

In Notice 75-38, the FAA proposed to amend § 91.39(b) to except rotorcraft external-load operations from the prohibition against operating a restricted category rotorcraft for compensation or hire. On further study, the FAA believes that this change may cause a misunderstanding. The FAA intends to make Part 133 applicable to all non-passenger-carrying civil rotorcraft external-load operations conducted in the United States by any person other than as an air carrier (see § 133.1). The FAA does not intend to allow these operations with restricted category rotorcraft under § 91.39 beyond the grace period provided in § 133.11(b). Accordingly, the FAA is adopting a new § 91.39(f) which makes that section inapplicable to Part 133 operations after the grace period expires.

Commenters on both sides of the question of whether or not restricted category rotorcraft should be allowed to operate under Part 133, submitted accident report data in an attempt to support their position. Each side used the data to buttress their arguments that restricted category rotorcraft are either more or less safe than standard category rotorcraft when used in external-load operations. However, the accident data submitted lacked a delineation of aircraft population and exposure figures. Such data is not available from any known source. Therefore, the FAA could make no valid comparison or draw supportable conclusions on the sole basis of the data presented or otherwise available.

Notice 75-38 proposed to amend § 133.1 (Applicability) to make Part 133 applicable to all rotorcraft external-load operations whether or not the operation is conducted for compensation or hire. As adopted, a nonsubstantive editorial change to § 133.1 clearly indicates that Part 133 applies only to civil rotorcraft, and not to public rotorcraft operations.

Several commenters questioned the sufficiency of the 120 days allowed in proposed § 133.11 for issuance of a Rotorcraft External-Load Operator Certificate. These commenters expressed concern that the FAA could not conduct the necessary pre-certification inspections and process the resulting paperwork within the period proposed. The FAA does not agree.

The 120-day period in § 133.11 is adequate to process the anticipated number of applications for Rotorcraft External-Load Operator Certificates. Each operator will apply to the Flight Standards district office having jurisdiction over the area in which the applicant's home base of operation is located. No one district office will be responsible for all applications. In determining a suitable time period for certification of previously uncertificated operators, the FAA also considered the benefits to be derived from Part 133 certification. The FAA believes these benefits should be provided as soon as possible after these amendments became effective. Accordingly, § 133.11 allows 120 days for those operators who now operate under Part 91 to apply for and be issued a certificate under Part 133. They are not allowed, however, to operate for compensation or hire until they have been certificated under Part 133.

The proposal to amend § 133.13 to limit the duration of a Part 133 certificate to 24 calendar months drew objections from several commenters. They contended that the proposal was merely an unjustified encroachment of the FAA on rotorcraft external-load operations, and would impose administrative burdens on both the operators and the FAA. Other commenters stated that the proposals would be acceptable if the renewal process was simple and conducted expeditiously by district offices.

In proposing to limit the duration of a Part 133 certificate in § 133.13, the FAA considered the impact of the action on the inspection and administrative workload of Flight Standards district offices. The increased workload will not be so substantial as to have an adverse effect on the effectiveness of the certification program. Limiting the duration of Part 133 certificates to 24 calendar months, with attendant renewal requirements, will enable district offices to exercise the necessary control over the certificate holders and particularly over the new certificate holders who will now be certificated under Part 133. In addition § 133.13 is amended to provide that a certificate issued before the effective date of this amendment remains in effect for up to 24 calendar months after that date.

Although not treated in the notice, § 133.3(f) must be amended to make it clear that standard category rotorcraft may continue to be operated over congested areas. This is necessary, because § 133.45(e) as adopted prohibits restricted category rotorcraft external-load operation over a densely populated area, in a congested airway or near a busy airport where passenger transport operations are conducted.

No adverse comments were received on the proposed change to § 91.79(c) which would except rotorcraft used in Part 133 external-load operations from the minimum altitude requirements of that section. On further study, the FAA has determined that it is more appropriate to provide this relief through an amendment to § 133.31. A similar approach was taken with respect to agricultural operations in § 137.49, and keeps the number of cross-references to other Parts to a minimum in Part 133.

A proposed change to § 133.43(c) would apply the weight and center of gravity limitations of that section to rotorcraft type certificated in the restricted category under § 21.25. This is no longer necessary because § 133.43 was amended as part of the Airworthiness Review Program (see Amendment No. 133-5; 41 FR 55454; December 20, 1976).

No adverse comments were received on the proposed change to § 133.51. This amendment will confine the applicability of § 133.51 to a standard category rotorcraft. A separate airworthiness certificate is not necessary for rotorcraft certificated in the restricted category for the purpose of carrying external loads.

In addition to the major revisions to Part 133 discussed above, other minor or clarifying changes have been made that were not discussed in Notice 75-38. Section 133.15 is amended to include certificate renewal procedures similar to the procedures currently in that section for initial certification. Section 133.19 is amended to clarify the fact that the exclusive use prerequisite to Part 133 certification requires a rotocraft with either a valid standard category or a valid restricted category airworthiness certificate.

Interested persons have been afforded an opportunity to participate in the making of this rule, and due consideration has been given to all relevant matter presented.

The principal authors of this document are Clifford L. Weaver, Flight Standards Service, and Richard B. Elwell, Office of the Chief Counsel.

Accordingly, Parts 91 and 133 of the Federal Aviation Regulations (14 CFR Parts 91 and 133) are revised, effective August 10, 1977, to read as follows:

1. By amending § 91.39 by inserting a new paragraph (f) to read as follows:

§ 91.39 Restricted category civil aircraft: operating limitations.

. . . . . .

(f) After December 9, 1977, this section does not apply to nonpassenger-carrying civil rotorcraft external-load operations conducted under Part 133 of this chapter.

2. By amending § 133.1 to read as follows:

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§ 133.1 Applicability.

This part prescribes—

(a) Airworthiness certification rules for rotorcraft used in; and

(b) Operating and certification rules governing the conduct of; nonpassenger-carrying civil rotorcraft external-load operations in the United States by any person (other than as an air carrier). However, this part does not apply to operations conducted under Part 375 of this Title.

3. By amending § 133.11 to read as follows:

§ 133.11 Certificate required.

(a) No person subject to this part may conduct rotorcraft external-load operations within the United States without, or in violation of the terms of, a Rotorcraft External-Load Operator Certificate issued by the Administrator under § 133.17.

(b) A person who does not hold a Rotorcraft External-Load Operator Certificate on August 10, 1977, may conduct rotorcraft external-load operations not for compensation or hire under Part 91 of this chapter until December 9, 1977.

4. By amending § 133.13 to read as follows:

§ 133.13 Duration of certificate.

Unless sooner surrendered, suspended, or revoked, a Rotorcraft External-Load Operator Certificate expires at the end of the twenty-fourth month after the month in which it is issued or renewed, except that a certificate issued before August 10, 1977 expires on August 10, 1979.

5. By amending the heading and § 133.15 to read as follows:

§ 133.15 Application for certificate issuance or renewal.

Application for an original certificate or renewal of a certificate issued under this part is made on a form, and in a manner, prescribed by the Administrator. The form may be obtained from a General Aviation, Air Carrier, or Flight Standards District Office of the FAA. The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

6. By amending § 133.19 by deleting the period at the end of paragraph (a)(2) and inserting a semicolon and the word "and" in place thereof, by revising paragraph (a)(1), and by adding a new paragraph (a)(3) to read as follows:

§ 133.19 Rotorcraft.

(a) The applicant must have the exclusive use of at least one rotorcraft that—

(1) Was type certificated under, and meets the requirements of, Part 27 or 29 of this chapter (but not necessarily with external-load-carrying attaching means installed), or of § 21.25 of this chapter for the special purpose of rotorcraft external-load operations;

* * * * *

(3) Has a valid standard or restricted category airworthiness certificate.

* * * * *

7. By amending § 133.31 by revising the introductory text of paragraph (f) and by adding a new paragraph (g) to read as follows:

§ 133.31 Operating rules.

* * * * *

(f) Notwithstanding any provisions of Part 91 of this chapter, the holder of a Rotorcraft External-Load Operator Certificate may (in rotorcraft type certificated under, and meeting the requirements of, Part 27 or 29 of this chapter including the external-load attaching means) conduct rotorcraft external-load operations over congested areas if those operations are conducted without hazard to persons or property on the surface, and are conducted in compliance with the following: * * *

* * * * *

(g) Notwithstanding Part 91 of this chapter, and except as provided in § 133.45(e), the holder of a Rotorcraft External-Load Certificate may conduct external-load operations, including approaches, departures, and load positioning maneuvers necessary for the operation, below 500 feet above the surface and closer than 500 feet to persons, vessels, vehicles, and structures, if the operations are conducted without creating a hazard to persons or property on the surface.

8. By amending § 133.45 by adding a new paragraph (e) to read as follows:

§ 133.45 Operating limitations.

* * * * *

(e) No person may conduct an external-load operation under this Part with a rotorcraft type certificated in the restricted category under § 21.25 of this chapter over a densely populated area, in a congested airway, or near a busy airport where passenger transport operations are conducted.

9. By amending § 133.51 to read as follows:

§ 133.51 Airworthiness certification.

A Rotorcraft External-Load Operator Certificate is a current and valid airworthiness certificate for each rotorcraft (fitted with external-load attaching means) type certificated under Part 27 or 29 of this chapter and listed in that certificate, when the rotorcraft is being used in operations under this part or in operations incidental to those operations.

(Secs. 307, 313(a), 601, 603, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423 and 1427), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821, 11949, and OMB Circular A-107.

Issued in Washington, D.C. on May 3, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-13607 Filed 5-11-77;8:45 am]

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THURSDAY, MAY 12, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

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BOARD OF CONTRACT APPEALS AND RULES OF PROCEDURE FOR HANDLING APPEALS

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 20]

[Docket No. R-77-285]

BOARD OF CONTRACT APPEALS AND RULES OF PROCEDURE FOR HANDLING APPEALS

AGENCY: Board of Contract Appeals, HUD.

ACTION: Proposed Rule.

SUMMARY: This proposal would adopt, with appropriate changes for HUD's requirement, the Uniform Rules of Procedures for Boards of Contract Appeals drafted by the National Conference of Board of Contract Appeals Members. The changes to present rules are primarily editorial; however, certain sections have been rearranged for clarity and accuracy and to incorporate recent developments in the Board's organization.

DATES: Comments must be received on or before June 10, 1977.

ADDRESS: Send comments to: Rules Docket Clerk, Office of the Secretary, Room 10141, 451 7th Street, S.W., Washington, D.C. 20410. Comments will be available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT:

B. Paul Cotter, Jr., Administrative Judge, HUDBCA, Telephone 202-755-5571.

SUPPLEMENTARY INFORMATION: The Department proposes to adopt the following revision to 24 CFR Part 20, "Contract Appeals", in lieu of the provisions currently in effect for proceedings before the Department of Housing and Urban Development Board of Contract Appeals (40 FR 6491, February 12, 1975). Since the inception of the Board on August 26, 1974, and the promulgation of its rules in February 1975, three significant developments have occurred. First, the composition of the Board has expanded thereby eliminating the need for ad hoc members. Second, the Board has identified various problems characteristic of HUD contract appeals. Third, the National Conference of Board of Contract Appeals Members has drafted Uniform Rules of Procedure which were issued April 25, 1975, and were drawn from the cumulative experience of all Boards of Contract Appeals.

The Uniform Rules have been adopted with appropriate modifications to reflect the Board's experience in processing HUD contract appeals. Wherever possible the Uniform Rules have been modified to make them more understandable to the layman who elects to present his appeal to the Board himself.

In view of the expanded composition of the Board, the provision for designating ad hoc members has been eliminated from § 20.3. Board members are titled Administrative Judges in accordance with the Secretary's appointment certificate and to correct an omission in the original rules.

Section 20.4(b) of the existing regulation has been deleted as redundant.

For ease of reference and citation the rules of procedure format (formerly §§ 20.10 through 20.50) has been modified by deleting §§ 20.20 through 20.50 and including all the rules of procedure in sequentially numbered order under a revised § 20.10.

The following substantive changes have been made: (1) The reference to "OGC" has been eliminated from Rule 4 (formerly § 20.10(d)) as a matter more appropriate to internal administrative policy and to make clear that the appeal file is to be received by the Board within 30 days; (2) The Contracting Officer is now charged under Rule 4 (former § 20.10 (d)) with furnishing to appellant a copy of the appeal file documents with certain noted exceptions rather than just an index of those documents, thereby expediting the proceeding by facilitating a more complete statement of the claim in the complaint and eliminating the necessity for discovery of documents otherwise available; (3) Discovery and prehearing procedures have been expanded and revised; and (4) Two new sections, Rules 31 and 32, have been added to address the subjects of suspended appeals and dismissal for failure to prosecute.

The Department has determined that an Environmental Impact Statement is not required with respect to this proposed rule. A copy of the Environmental Finding of Inapplicability is available for inspection at the above address. The Department has also determined in accordance with OMB Circular A-107 that this proposal does not have an economic impact. A copy of the Economic Finding of Inapplicability is also available for inspection at the above address.

Accordingly, it is proposed to amend 24 CFR Part 20 to read as follows:

PART 20—CONTRACT APPEALS

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

Sec.

20.1 Scope of part.
20.2 Establishment of Board.
20.3 Organization, membership and location of the Board.
20.4 Jurisdiction and authority of the Board.
20.5 Procedure.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

20.10 Rules.

PRELIMINARY PROCEDURES

Rule 1. How to appeal a contracting officer's decision.
Rule 2. Contents of notice of appeal.
Rule 3. Forwarding of appeals by the contracting officer.
Rule 4. Preparation, contents, organization, forwarding, and status of appeal file.
Rule 5. Service of documents.
Rule 6. Computation and extension of time limits.
Rule 7. Dismissal for lack of jurisdiction.
Rule 8. Pleadings and motions.
Rule 9. Amendments to pleadings or record.
Rule 10. Hearing election.
Rule 11. Prehearing briefs.
Rule 12. Prehearing or presubmission order and conference.
Rule 13. Submission of appeal without a hearing.
Rule 14. Optional accelerated procedure.
Rule 15. Settling the record.
Rule 16. Discovery—depositions.
Rule 17. Interrogatories to parties, admission of facts, production and inspection of documents.

HEARINGS

Rule 18. Where and when held.
Rule 19. Notice of hearings.
Rule 20. Unexcused absence of a party.
Rule 21. Nature of hearings.
Rule 22. Examination of witnesses.
Rule 23. Copies of papers.
Rule 24. Posthearing briefs.
Rule 25. Transcript of proceedings.
Rule 26. Withdrawal of exhibits.

REPRESENTATION

Rule 27. The appellant.
Rule 28. The respondent.

DECISIONS

Rule 29. Decisions.
Rule 30. Motion for reconsideration.

DISMISSALS

Rule 31. Dismissal without prejudice.
Rule 32. Dismissal for failure to prosecute.

MISCELLANEOUS

Rule 33. Ex parte communications with the Board.
Rule 34. Sanctions.
Rule 35. Remand from court.

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

§ 20.1 Scope of part.

This part establishes a Board of Contract Appeals, sets forth policies and procedures regarding matters to be considered by the Board, and prescribes the Rules of the Board.

§ 20.2 Establishment of Board.

There is hereby established in the Office of the Secretary the Housing and Urban Development Board of Contract Appeals ("the Board").

§ 20.3 Organization, membership and location of the Board.

(a) *Organization and membership.* The Board shall be comprised of a Chief Administrative Judge, who shall be Chairman, and such other Administrative Judges as may be appointed by the Secretary. The Board shall be staffed by support personnel as needed. All members of the Board shall be attorneys at law admitted to practice before the highest court of the District of Columbia or any state, commonwealth or territory of the United States. Contract appeals are assigned to a panel of at least two (2) members of the Board, except for the optional accelerated procedure set forth in Rule 14 of Subpart B of this Part 20, where a decision may be rendered by a single Administrative Judge.

(b) *Location.* The Board is located in Washington, D.C., and its mailing address is U.S. Department of Housing and Urban Development, Board of Contract Appeals, Room 7150, 451 7th Street SW., Washington, D.C. 20410.

§ 20.4 Jurisdiction and authority of the Board.

(a) *Contract Appeals.* The Board shall consider and determine appeals from decisions of Contracting Officers arising under contracts which contain provisions requiring the determination of appeals by the Secretary of Housing and Urban Development or the Secretary's duly authorized representative or board. The Board has authority to determine contract appeals falling within the scope of its jurisdiction as fully and finally as might the Secretary.

(b) *Other matters.* The Board shall have jurisdiction over other matters assigned to it by the Secretary. Determinations in other matters shall have the finality provided by applicable statute, rule or regulation.

(c) *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. If an appeal involves a claim which is not cognizable under the terms of the contract or applicable regulation, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(d) *Board powers.* The Board shall have all powers necessary and incident to the proper performance of its duties assigned herein. Subject to the approval of the Secretary, the Board shall adopt its own methods of procedure and rules for its conduct and for the preparation and prosecution of appeals.

(e) *Final decision.* In each case, the Board shall make a final decision which is just and is supported by the record of the case and the law. The decision of a majority of a panel constitutes the decision of the Board. The member or members assigned to consider an appeal have authority to act for the Board in all matters with respect to such appeal. No member may act for the Board or participate in a decision if he has participated directly in any aspect of the award or administration of the contract involved.

(f) *Subpoena power.* Pursuant to 5 U.S.C. 304, any Board member presiding over a contract appeal under § 20.4(a) may request the appropriate United States District Court for the issuance of subpoenas for witnesses or documents relating to that appeal.

§ 20.5 Procedure.

(a) *Rules.* Appeals referred to the Board are conducted in accordance with the rules of the Board set forth in Subpart B of this Part 20, unless otherwise provided by applieable statute or regulation. The provisions of the Administrative Procedure Act, 5 U.S.C. 551, et seq., as amended, shall not apply to contract appeals before the Board.

(b) *Administration and interpretation of rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted to secure a just and inexpensive determination of appeals without unnecessary delay. In any situation for which these rules make no provision, the Board may, in its discretion, conform the proceeding to the Rules of Civil Procedure for the United States District Courts.

(c) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts and to discourage unwarranted surprise.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

§ 20.10 Rules.

These rules govern the procedure before the Department of Housing and Urban Development Board of Contract Appeals in all matters unless otherwise provided by applicable law or regulation. They shall be construed to secure the just, speedy, and inexpensive determination of every matter.

PRELIMINARY PROCEDURES

Rule 1. *How to Appeal a Contracting Officer's Decision*

Notice of an appeal must be in writing, addressed to the Secretary, and the original, together with two copies, should be filed with the Contracting Officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive, regulation or law.

Rule 2. *Contents of Notice of Appeal*

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract by number, the headquarters, regional or area office cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the contractor making the appeal ("the appellant"), or by an officer of an appellant corporation or member of an appellant firm, or by any appellant's authorized representative or attorney. The complaint referred to in Rule 8 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

Rule 3. *Forwarding of Appeals by the Contracting Officer*

When a notice of appeal in any form has been received by the Contracting Officer, he shall endorse thereon the date of mailing of the notice by the appellant or date of receipt, if otherwise conveyed, and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal, whether through the Contracting Officer or otherwise, the appellant, the Contracting Officer and Government ("respondent") counsel will be promptly notified of its receipt and docketing by the Board which will furnish the contractor with a copy of these rules.

Rule 4. *Preparation, Contents, Organization, Forwarding, and Status of Appeal File*

(a) *Duties of Contracting Officer.* Within 30 days of receipt of notice that an appeal has been docketed, the Contracting Officer shall file with the Board an appeal file consisting of all documents pertinent to the appeal, including:

(1) the Contracting Officer's decision and findings of fact from which the appeal is taken;

(2) the contract, including pertinent specifications, amendments and plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letters of claim in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

Within the same time above specified, the Contracting Officer shall furnish the appellant a copy of each document he transmits to the Board, except (1) those described in subparagraph (a) (1), (2) and (3) above, as to which a list furnished appellant of all documents transmitted will suffice, and (ii) those described in subparagraph (d) below.

(b) *Duties of the Appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the Contracting Officer, the appellant may supplement the same by transmitting to the Board any documents not contained therein which it considers pertinent to the appeal and shall furnish two copies of such documents to the respondent's trial attorney.

(c) *Organization of Appeal.* Documents in the appeal file may be originals or legible facsimiles or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file. The first two documents in every appeal file shall be the Contracting Officer's final decision and the contract.

(d) *Lengthy Documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document, as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of Documents in Appeal File.* Documents contained in the appeal file shall be, without further action by the parties, a part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or, in the event there is no hearing on the appeal, of settling the record. If objection to a document is made, the Board will rule upon its admissibility into the record as evidence in accordance with Rules 15 and 21, hereof.

Rule 5. *Service of Documents*

A copy of every written communication submitted to the Board shall be sent to every other party to the dispute. Such communications shall be sent by delivering in person or by mailing, properly addressed with postage prepaid, to the opposing party or, where the party is represented by counsel, to its counsel. Each communication with the Board shall be accompanied by a statement, signed by the originating party, saying when, how, and the name and address of the party to whom a copy of the communication was sent.

Rule 6. *Computation and Extension of Time Limits*

(a) *General.* All time limitations specified for various procedural actions are computed as maximums and are not to be fully exhausted if the action described can be accomplished in a lesser period. At the discretion of the Board, these time limitations may

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be extended in appropriate circumstances for good cause shown.

(b) *Computation.* Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(c) *Extensions.* All requests for extensions of time shall be submitted to the Board in writing and shall state good cause therefor.

Rule 7. *Dismissal for Lack of Jurisdiction*

Any motion adressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits of the appeal and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

Rule 8. *Pleadings and Motions*

(a) *Complaint.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of its claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. If the complaint is not received within the 30 days and, in the opinion of the Board, the issues before the Board are sufficiently defined, the appellant's claim and notice of appeal may be deemed to set forth its complaint, and the parties shall be so notified.

(b) *Answer.* Within 30 days from receipt of said complaint or a Rule 8(a) notice from the Board, respondent shall prepare and file with the Board an original and two copies of any answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer and shall set forth any affirmative defenses or counter-claims as appropriate. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the respondent, and the parties shall be so notified.

(c) *Motions.* (1) The Board may entertain any timely motion for an appropriate order. Application to the Board for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds therefore, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The Board may, on its own motion, initiate any action by notice to the parties.

(3) Unless otherwise specified by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board may require the presentation of briefs or arguments. The Board shall make an order on each motion that is appropriate and just to the parties and upon conditions that will promote efficiency in disposing of the appeal.

(4) Affidavits in support of motions shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion is made and supported as provided in this rule, a party opposing the motion who is represented by counsel may not rest upon the mere allegations or denials of his pleading; his response, by affidavits or as otherwise provided in this rule, must show that there is a genuine issue of fact or of law for decision. Should it appear from the affidavits of a party opposing the motion that for reasons stated he cannot present by affidavit facts essential to justify his opposition, the Board may deny the motion or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

Rule 9. *Amendments of Pleadings or Record*

(a) *Pleadings.* The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The application for such an order will suspend the time for responsive pleading. The Board may, in its discretion and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties.

(b) *Record.* When an issue within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, is tried by consent of the parties or by permission of the Board, the issue shall be treated in all respects as if it had been raised therein. In that event a motion to amend the pleadings to conform to the proof may be made but is not required. If evidence is objected to at a hearing on the ground that it is not within an issue raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal but the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

Rule 10. *Hearing Election*

Upon receipt of respondent's answer or of the notice referred to in the last sentence of Rule 8(b), above, appellant shall advise the Board in writing whether he desires a hearing as prescribed in Rules 18 through 26, or whether, in the alternative, he elects to submit his case on the record without a hearing, as prescribed in Rule 13. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in Rule 14.

Rule 11. *Prehearing Briefs.*

Based on an examination of the documentation described in Rule 4, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 10. In the absence of a Board requirement therefore, either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

Rule 12. *Prehearing or Presubmission Order and Conference*

(a) *Prehearing Order.* Normally, in cases set for hearing, the Board will issue an order requiring that, prior to the day of the hearing, the parties will: (1) exchange a list of witnesses giving titles and a brief description of the subject matter of the testimony; (2) exchange proposed exhibits and prepare an additional set of such exhibits to be delivered to the board member at the beginning of the hearing: (3) exchange a list of expert witnesses with a summary of their qualifications and testimony; and (4) explore the possibilities of agreements on settlement, facts or issues not in dispute or ways of disposing of portions of the appeal. Any of the foregoing requirements may be waived by the Board if they conflict with Rule 14 governing the optional accelerated procedure or if they will cause undue hardship to the appellant.

(b) *Complex Case Order.* In appropriate cases, for example, where it appears that the issues are confused or complex, that the dollar amount involved is very large or that the hearing will be unduly long for any other reason and, also, in most cases involving quantum, the Board will issue a more comprehensive pretrial order. In addition to items (1), (2), (3) and (4) referenced in the preceding paragraph, this order will require the parties to (5) submit a stipulation of all facts not in dispute; and (8) attempt preparation of an agreed statement of factual and legal issues and, failing therein, submit separate statements. Where the issue of quantum will be heard, the Board may issue an additional pretrial order requiring the parties to state the monetary claim in detail with accounting schedules and explanations. These statements shall be exchanged, audits shall be permitted and audit reports shall be exchanged.

(c) *Conference.* Whether the case is to be submitted pursuant to Rule 13, or heard pursuant to Rules 18 through 28, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before an Administrative Judge of the Board for a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses and the avoidance of similar cumulative evidence, if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute; and

(5) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be set forth in an appropriate order.

Rule 13. *Submission of Appeal Without a Hearing*

Either party may elect to waive a hearing and to submit his case upon the record before the Board, as settled pursuant to Rule 15. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested) and by briefs in accordance with Rule 24.

Rule 14. *Optional Accelerated Procedure*

(a) *Application.* In appeals involving $25,000 or less, either party may elect, in its notice of appeal, complaint, answer, or by separate correspondence or statement prior to

commencement of hearing or settlement of the record, to have the appeal processed under a shortened and accelerated procedure. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by either party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of the Board decision favorable to it does not exceed $25,000. In addition, this optional accelerated procedure may be employed, at the discretion of the Board and regardless of the amount involved, for other reasons including, but not limited to financial hardship or location of appellant in an area of concentrated unemployment, underemployment, or substantial or persistent labor surplus. An accelerateed case shall be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board sustains the objection. In cases proceeding under this rule, parties are encouraged, to the extent possible and consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

(b) *Decision.* Written decision by the Board in cases proceeding under this rule normally will be brief and contain summary findings of fact and conclusions only. The Board will endeavor to render its decision within 30 days after the appeal is ready for decision. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or a designated member. However in cases involving $5,000 or less where there has been a hearing, the single Administrative Judge presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions and a decision of the appeal. In the latter instance, the Board will subsequently furnish the parties a typed copy of the oral decision for record and payment purposes and to establish the date from which the period for filing a motion for reconsideration under Rule 30 commences.

(c) *Applicable rules.* Except as modified herein, these rules otherwise apply to accelerated cases in all respects.

Rule 15. *Settling the Record*

(a) *Contents.* The record upon which the Board's decision will be rendered consists of the appeal file described in Rule 4 and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions and interrogatories and answers to interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically made a part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) *Time of.* Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) *Weight of the evidence.* The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 16. *Discovery—Depositions*

(a) *Definition.* As used in these rules, the term "discovery" shall mean the methods described in this rule and Rule 17 whereby the appellant contractor or the respondent Government may require the other party to disclose the facts, documents, papers, things, and other information within that party's knowledge or possession prior to an oral hearing or a determination on the record.

(b) *General Policy and Protective Orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, methods, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(c) *When Depositions Permitted.* After an appeal has been docketed and a complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(d) *Orders on Depositions.* The time, place, and manner of taking depositions shall be as mutually agreed up by the parties, or failing such agreement, governed by order of the Board.

(e) *Use as Evidence.* No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at the hearing. Testimony by deposition will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. However, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions as evidence to supplement the record.

(f) *Expenses.* Each party shall bear its own expenses associated with discovery, unless, in the discretion of the Board, the expenses shall be apportioned otherwise.

Rule 17. *Interrogatories to parties, admission of facts, production and inspection of documents*

(a) *General.* The scope and use of interrogatories to parties, admissions of facts and production and inspection of documents shall be controlled by Rule 16.

(b) *Interrogatories to Parties.* After an appeal has been filed with the Board, a party may serve on the other party written questions to be answered separately in writing, signed under oath and returned within 30 days of receipt by the answering party. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted.

(c) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a written request for the admission of specified facts. Within 30 days after receipt of the request, the party served shall answer each requested fact or file objections thereto in writing. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission within the time specified.

(d) *Production and inspection of documents.* Upon motion of any party showing good cause therefore, and upon notice, the Board may order the other party to produce and permit the inspection or photographing of any specifically identified documents or objects, not privileged, which are shown by the moving party either to be relevant to the subject matter of the appeal or to be reasonably calculated to lead to the discovery of admissible evidence.

HEARINGS

Rule 18. *Where and When Held*

Hearings will ordinarily be held in Washington, D.C., except that upon timely request and for good cause shown, the Board may, in its discretion, set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. At the request of either party and for good cause shown, the Board may, in its discretion, advance a hearing.

Rule 19. *Notice of Hearings*

The parties shall be given at least fifteen (15) days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for a just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties.

Rule 20. *Unexcused Absence of a Party*

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 13.

Rule 21. *Nature of Hearings*

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the Rules of Evidence for United States Courts and Magistrates, as amended, subject, however, to the sound discretion of the presiding member in supervising the extent and manner of presentation of such evidence. In general, admissibility will be decided on the grounds of relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the above rules of evidence, may be admitted in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

Rule 22. *Examination of Witnesses.*

Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member shall otherwise order. If the testimony of a witness is not given under oath, the Board shall warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in connection with any matter within the jurisdiction of any department or agency thereof.

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Rule 23. *Copies of Papers*

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

Rule 24. *Posthearing Briefs*

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

Rule 25. *Transcript of Proceeding*

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by the Board.

Rule 26. *Withdrawal of Exhibits*

After a decision has become final the Board may, on its own motion or upon request and after notice to the other party, in its discretion, direct or permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of withdrawal.

REPRESENTATION

Rule 27. *The Appellant*

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law admitted to practice before the highest court of the District of Columbia or any state, commonwealth or territory of the United States. An attorney representing an appellant shall file a written notice of appearance with the Board. The Board may in its discretion authorize the appearance of other designated individuals.

Rule 28. *The Respondent*

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board. Whenever at any time it appears that the appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend furtber processing of the appeal. However if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

Rule 29. *Decisions*

Decisions of the Board will be rendered in writing, and copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 15.

Rule 30. *Motion for Reconsideration*

A motion for reconsideration by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DISMISSALS

Rule 31. *Dismissal Without Prejudice*

In certain cases, appeals docketed before the Board are required to be placed in a suspense status, and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any case where the suspension has continued, or it appears in the discretion of the Board that it will continue, for a period in excess of one year, the Board may dismiss the appeal from its docket without prejudice to its restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years from the date of dismissal to reinstate any appeal dismissed without prejudice, the dismissal shall automatically be converted to a dismissal with prejudice without further action by the parties or the Board.

Rule 32. *Dismissal for Failure to Prosecute*

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

MISCELLANEOUS

Rule 33. *Ex Parte Communications with the Board*

Ex parte communications, that is, written or oral communications with the Board by or for one party only without notice to the other, shall not be permitted. No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to ex parte communications concerning the Board's administrative functions or procedures.

Rule 34. *Sanctions*

If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal, including dismissal with prejudice.

Rule 35. *Remand from Court*

Whenever any matter is remanded to the Board from any court for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board, recommending procedures to be followed in order to comply with the court's order. The Board will review the reports and enter special orders governing the handling of matters remanded to it for further proceedings by any court. To the extent the court's directive and time limitations will permit, such orders will conform to these rules.

(Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C. April 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-13514 Filed 5-11-77;8:45 am]

federal register

THURSDAY, MAY 12, 1977
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

■

INTERPRETIVE RULINGS

Letters of Credit

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Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Letters of Credit

AGENCY: Comptroller of the Currency.

ACTION: Final interpretive ruling.

SUMMARY: This amendment revises 12 CFR 7.7016 to establish guidelines for the safe and sound issuance of letters of credit by national banks. It clarifies the language of the previous ruling. Clarification was deemed desirable because some national bank issuers of letters of credit, believing the five standards listed in the previous ruling to be mandatory, have refused to honor drafts drawn under their letters of credit on the ground that the instrument failed to meet the Comptroller's standards and was therefore not a "true letter of credit transaction." As revised, the ruling makes clear that, while national banks for safe and sound banking purposes should issue their letters of credit in conformity with the ruling's standards, the determination of a letter of credit's legality and whether it should be honored is governed solely by statutory law, such as the Uniform Commercial Code, or by convention, such as the Uniform Customs and Practice for Documentary Credits.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Ford Barrett, Assistant Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219, 202–447–1880.

SUPPLEMENTARY INFORMATION: On October 28, 1976, the Comptroller of the Currency published in the FEDERAL REGISTER (41 FR 47258) for comment a proposal to amend an interpretive ruling, 12 CFR 7.7016, which governs the issuance of letters of credit by national banks. This amendment is intended to clarify the ruling's purpose, which is to establish guidelines for the safe and sound issuance of letters of credit. As discussed in greater detail in the original FEDERAL REGISTER notice, the Comptroller believes that clarification is desirable because the purpose of the prior ruling occasionally has been misinterpreted.

Five comments were received in response to the Comptroller's proposed revision. One comment noted that the ruling's opening sentence states that a "national bank may issue letters of credit permissible under the Uniform Commercial Code and the Uniform Customs and Practice for Documentary Credits * * *." It was pointed out that the use of the word "and" could be construed as requiring all letters of credit to be subject to both the Uniform Commercial Code and the Uniform Customs, when in actual practice, many domestic letters of credit are subject only to the former. To resolve this problem, the Comptroller has replaced "and" with "or." As revised, the ruling's opening sentence permits national banks to issue letters of credit permissible under either the Uniform Commercial Code or the Uniform Customs.

Another comment expressed the view that the standard established by subsection (a), which states that each letter of credit should conspicuously state that it is a letter of credit or be conspicuously entitled as such, is unnecessary and perhaps in conflict with UCC 5–102(1)(a). That section, it was argued, provides that a credit issued by a bank is a letter of credit without labeling as such, so long as it requires "a documentary draft or a documentary demand for payment." Since virtually all bank credits are of the "documentary" type, the comment contended that the Comptroller's ruling would require labeling where the Uniform Commercial Code does not.

For a number of reasons, subsection (a) has been retained as originally proposed. First, the Comptroller believes that an undertaking which functions like a letter of credit should be labeled as such because proper labeling assists the bank and examiners in identifying outstanding commitments in the nature of letters of credit. The amount of standby letters of credit outstanding iis a memorandum item which must be recorded quarterly on the Consolidated Report of Condition; when a bank labels some of its standby letters of credit as something other than "letter of credit," the probability of reporting an erroneous figure on the Consolidated Report of Condition increases. Second, the express letter of credit identification provides all parties with unambiguous notice of the body of law applicable to such documents.

A document labeled a letter of credit becomes subject without question to the provisions of Article 5 as set forth in UCC 5–102(1)(c); if the document is not labeled as a letter of credit and a dispute subsequently develops, an issue may arise whether Article 5 is applicable.[1] In view of the burdensome litigation which could arise on this point alone, the Comptroller believes it reasonable to require that documents in the nature of letters of credit be labeled as such. Third, the Comptroller disagrees with the suggestion that "virtually all" bank credits will remain of the so-called "documentary" type. As was pointed out in another comment, a growing number of standby letters of credit require only the presentation of a draft. Because of this growing practice of requiring only a draft unaccompanied by other documentation the language of subsection (d), which formerly referred to the presentation of "specific documents", has also been changed now to refer to the presentation of "a draft or other documents."

Another comment, referring to the requirement in subsection (e) that the bank's customer should have an unqualified obligation to reimburse the bank for payments made under the letter of credit, questioned whether the ruling intends for the obligation to exist at the time of the issuance of the letter of credit, with the result that the subsequent involvement of the customer in bankruptcy or other proceedings affecting creditors' rights would not jeopardize the letter of credit's validity. Without commenting on how a bank's letter of credit or its customer's obligation to repay would be treated in a subsequent bankruptcy proceeding involving the customer, the Comptroller believes that on its face subsection (e) is satisfied if the customer agrees at the time of the issuance of the letter of credit to make repayment for drafts drawn and paid thereunder. Accordingly, no change in the ruling is warranted by this concern.

Finally, one commentator asked that the Comptroller add the following new language at the end of the ruling's opening sentence: "* * * with the substantive rights and obligations thereunder to be governed by the law of the State, Territory or District where the bank is located." The reason given for adding this language is that there are legal principles in addition to the provisions of the Uniform Commercial Code and the Uniform Customs and Practice for Documentary Credits which may be applicable to standby letters of credit. As an example, this comment cites pending litigation involving a national bank which issued standby letters of credit on behalf of a land developer in favor of a county government to assure the construction of certain roads in extremely remote mountain subdivisions. The developer is now bankrupt and the issuing bank has declined to pay drafts drawn under the standby credits on the grounds that the roads will probably never be built, either by the county or anyone else, and therefore payment of the drafts would result in an unjust windfall to the county. With the addition of the proposed language, the Comptroller is informed, the courts would be encouraged to look beyond the UCC and the Uniform Customs to other principles and doctrines, such as the doctrine of unjust enrichment, to decide the equities in a letter of credit case.

The Comptroller has concluded that the suggested additional language is unnecessary. If required in a particular case, courts will undoubtedly exercise their inherent powers to fashion an equitable remedy whether or not the suggested additional language is added to the Comptroller's ruling. Indeed, one court, without the aid of this language, has felt compelled to limit the damages awarded in a letter of credit case to prevent unjust enrichment.[2]

[1] A case in point is *Barclays Bank D.C.O. v. Mercantile Nat'l Bank*, 481 F. 2d 1224, 1228–1230 (5th Cir. 1973), *cert. denied*, 414 U.S. 1139 (1974); see also *The Prudential Insurance Co. of America v. Marquette Nat'l Bank of Minneapolis*, 419 F. Supp. 734, 735 (D. Minn. 1976).

[2] *New York Life Ins. Co. v. Hartford Nat'l Bank & Trust Co.*, 19 U.C.C. Rep. Ser. 1377 (Conn. Super. Ct. of Hartford County 1975).

Moreover, the purpose of the Comptroller's ruling, as set forth above and in the original FEDERAL REGISTER notice, is not to create substantive standards for the guidance of the courts, but to establish principles to encourage the safe and sound issuance of letters of credit by national banks. To make this purpose abundantly clear, the words "As a matter of sound banking practice" have been added to the second sentence.

Ford Barrett, Assistant Chief Counsel, Comptroller of the Currency, was the principal author of this amendment. However, other personnel in the Comptroller's Office participated in developing the ruling, both on matters of substance and style.

The Comptroller of the Currency, therefore, amends 12 CFR Part 7 by revising § 7.7016 to read as follows:

§ 7.7016 Letters of credit.

A national bank may issue letters of credit permissible under the Uniform Commercial Code or the Uniform Customs and Practice for Documentary Credits to or on behalf of its customers. As a matter of sound banking practice, letters of credit should be issued in conformity with the following: (a) Each letter of credit should conspicuously state that it is a letter of credit or be conspicuously entitled as such; (b) the bank's undertaking should contain a specified expiration date or be for a definite term; (c) the bank's undertaking should be limited in amount; (d) the bank's obligation to pay should arise only upon the presentation of a draft or other documents as specified in the letter of credit, and the bank must not be called upon to determine questions of fact or law at issue between the account party and the beneficiary; (e) the bank's customer should have an unqualified obligation to reimburse the bank for payments made under the letter of credit.

Dated: May 5, 1977.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.77–13505 Filed 5–11–77;8:45 am]

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federal register

THURSDAY, MAY 12, 1977

PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

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SOCIAL SECURITY BENEFIT INCREASES

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SOCIAL SECURITY BENEFIT INCREASES

Cost-of-Living Increase in Benefits Under Titles II and XVI of the Social Security Act and in Income Limitations for Beneficiaries Under the Supplemental Security Income Program

I hereby determine and announce a cost-of-living increase of 5.9 percent in benefits under the Social Security Act (the Act), under title II effective with the month of June 1977 and under title XVI effective with the month of July 1977. This is pursuant to authority contained in section 215(i) of the Social Security Act (42 U.S.C. (415(i)), as amended by section 3 of Pub. L. 93-233, enacted December 31, 1973, and in section 1617 of the Social Security Act (42 U.S.C. 1382f).

The revised table of benefits following this notice is deemed to appear in section 215(a) of the Act. With respect to benefits for transitional insured persons aged 72 and over entitled under section 227 of the Act (42 U.S.C. 427) and for uninsured persons aged 72 and over entitled under section 228 of the Act (42 U.S.C. 428), the amounts $78.50 and $39.30 for a month are established and deemed to appear in sections 227 and 228, in lieu of the respective amounts of $74.10 and $37.10 that were established by the last cost-of-living increase. The additional amount of the supplemental security income benefit with respect to essential persons payable under section 211 of Pub. L. 93-66 is established in the amount of $1,068.00 for a year in lieu of the amount of $1,008.00 that was in effect under section 221(a)(1)(A) of the law as a result of the last cost-of-living increase.

Annual income limitations under the Supplemental Security Income Program for the aged, blind, and disabled, are established in the amounts of $2,133.60 and $3,200.40 in lieu of the respective amounts of $2,013.60 and $3,021.60 that were in effect under sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2) of the Act, as a result of the last cost-of-living increase. (The last cost-of-living increase in benefits under titles II and XVI of the Social Security Act and in income limitations for beneficiaries under the Supplemental Security Income Program herein referred to was published on May 14, 1976, at FR 19999.)

AUTOMATIC BENEFIT INCREASE DETERMINATION

Section 215(i) of the Social Security Act requires that, when certain conditions are met in the first calendar quarter of a year, the Secretary shall determine that a cost-of-living increase in benefits and income limitations is due. That section further specifies a formula which automatically determines the amount of any cost-of-living increase in benefits and income limitations, based on the Consumer Price Index reported by the Department of Labor.

Section 215(i)(2)(A) of the Act provides that the Secretary shall determine each year, beginning with 1975, whether there is a cost-of-living computation quarter in such year. If he so determines, he shall, effective with June of that year, increase benefits for individuals entitled under sections 227 and 228 of the Act, and shall increase the primary insurance amounts of all other individuals entitled to benefits under title II of the Act (excluding primary insurance amounts determined under section 215(a)(3)). The percentage of increase in benefits shall be equal to the percentage of increase by which the Consumer Price Index for the cost-of-living computation quarter exceeds the Index for the most recent prior base quarter or cost-of-living computation quarter.

Section 215(i)(1) of the Act defines a base quarter as a calendar quarter ending on March 31 in each year after 1974 or any other calendar quarter in which occurs the effective month of a general benefit increase. This subsection of the Act also defines a cost-of-living computation quarter as a base quarter in which the Consumer Price Index prepared by the Department of Labor exceeds by not less than 3 percent such Index in the later of (1) the last prior cost-of-living computation quarter or, or (2) the most recent calendar quarter in which a general benefit increase was effective; with the exception that there shall be no cost-of-living computation quarter in any calendar year if, in the year prior to such year, a law has been enacted providing a general benefit increase or if, in such prior year, such a general benefit increase becomes effective. Section 215(i)(1) of the Act further provides that the Consumer Price Index for a base quarter or a cost-of-living computation quarter shall be the arithmetical mean of such Index for the 3 months in such quarter.

The Consumer Price Index prepared by the Department of Labor for each month in the quarter ending March 31, 1977, was: for January 1977, 175.3; for February 1977, 177.1, for March 1977, 178.2. The arithmetical mean for this calendar quarter is 176.9. This result is compared to the last prior cost-of-living computation quarter, which was the quarter ending March 31, 1976. The Consumer Price Index prepared by the Department of Labor for each month in that quarter was: for January 1976, 166.7; for February 1976, 167.1, for March 1976, 167.5. The arithmetical mean for that calendar quarter was 167.1. The increase for the calendar quarter ending March 31, 1977, is 5.9 percent. Thus, since the percentage of increase in the Consumer Price Index from the calend- quarter ending March 31, 1976, to the calendar quarter ending March 31, 1977, is not less than 3 percent, the quarter ending March 31, 1977, is a cost-of-living computation quarter. Consequently, a cost-of-living benefit increase of 5.9 percent is effective for benefits under title II of the Act beginning June 1977.

TITLE II BENEFITS

Title II benefits are payable under the Federal old-age, survivors, and disability insurance program. Individuals entitled under such programs include insured workers, wives, husbands, children, widows, widowers, mothers, and parents.

In accordance with section 215(i)(2)(D)(iv) of the Act, the primary insurance amounts and the maximum family benefits shown in columns IV and V, respectively, of the revised benefit table set forth in this announcement were obtained by increasing by 5.9 percent the corresponding amounts shown in the benefit table heretofore established by the last cost-of-living increase and further extended, by the operation of section 215(i)(2)(D)(v), as a result of the increase in the contribution and benefit base determined in 1976 under section 230 of the Act and published on October 13, 1976, at 41 FR 44878. Section 227 of the Act provides limited benefits to a worker, who became age 72 before 1969 and was not insured under the usual requirements, and to his wife or widow. Such an individual has a transitional insured status. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The monthly benefit amounts of $74.10 and $37.10 heretofore established, for persons entitled under sections 227 and 228 of the Act, were increased by 5.9 percent to obtain the new amounts of $78.50 and $39.30, respectively.

TITLE XVI BENEFITS

Section 1617 of the Social Security Act provides that, whenever the benefits under title II are increased as a result of a determination made under section 215(i), the amounts in sections 1611(a)(1)(A), 1611(a)(2)(A), 1611(b)(1), and 1611(b)(2) of the Social Security Act and in section 211(a)(1)(A) of Pub. L. 93-66, shall be increased, effective with months after the month in which the title II increase is effective, and that the percentage of such increase shall be the same as the percentage of increase by which the title II benefits are increased (and rounded, when not a multiple of $1.20, to the next higher multiple of $1.20).

In accordance with section 1617, monthly Federal Supplemental Security Income (SSI) guarantees under the SSI program for the aged, blind, and disabled are increased effective with July 1977, by 5.9 percent. The benefits, under that program, other than income excluded under section 1612(b), of $2,013.60 and $3,021.60 heretofore established are increased by 5.9 percent to $2,133.60 and $3,200.40, respectively. The amount of $1,008.00 previously established as the amount of the additional supplemental security income benefit with respect to essential persons payable under section 211(a)(1)(A) of Pub. L. 93-66, is increased by 5.9 percent to obtain a new amount of $1,068.00.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802-5, and 13.807 Social Security Programs.)

Dated: May 5, 1977.

JOSEPH A. CALIFANO, Jr.,

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JUNE 1977

This revised table was made pursuant to sec. 215(i)(2)(D) of the Social Security Act, as amended

(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (e)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
	$16.20	$107.90		$76	$114.30	$171.50
$16.21	16.84	109.60	$77	78	116.10	174.20
16.85	17.60	112.10	79	80	118.80	178.30
17.61	18.40	114.20	81	81	121.00	181.60
18.41	19.24	116.20	82	83	123.10	184.70
19.25	20.00	118.70	84	85	125.80	188.70
20.01	20.64	120.90	86	87	128.10	192.20
20.65	21.28	122.80	88	89	130.10	195.20
21.29	21.88	125.30	90	90	132.70	199.10
21.89	22.28	127.40	91	92	135.00	202.50
22.29	22.68	129.50	93	94	137.20	205.80
22.69	23.08	131.60	95	96	139.40	209.10
23.09	23.44	134.00	97	97	142.00	213.00
23.45	23.76	135.20	98	99	144.30	216.50
23.77	24.20	138.90	100	101	147.10	220.70
24.21	24.60	140.80	102	102	149.20	223.90
24.61	25.00	143.20	103	104	151.70	227.60
25.01	25.48	145.80	105	106	154.50	231.80
25.49	25.92	148.20	107	107	157.00	235.50
25.93	26.40	150.50	108	109	159.40	239.20
26.41	26.91	152.80	110	113	161.90	242.90
26.95	27.46	155.00	114	118	164.20	246.30
27.47	28.00	157.40	119	122	166.70	250.20
28.01	28.68	159.80	123	127	169.30	254.00
28.69	29.25	162.20	128	132	171.80	257.80
29.26	29.68	164.40	133	136	174.10	261.30
29.69	30.36	166.60	137	141	176.50	264.80
30.37	30.92	169.10	142	146	179.10	268.70
30.93	31.36	171.50	147	150	181.70	272.60
31.37	32.00	173.60	151	155	183.90	275.90
31.37	32.00	173.60	151	155	183.90	275.90
32.01	32.60	176.10	156	160	186.50	279.80
32.61	33.20	178.40	161	164	189.00	283.50
33.21	33.88	180.70	165	169	191.40	287.10
33.89	34.50	183.10	170	174	194.00	291.00
34.51	35.00	185.30	175	178	196.30	294.50
35.01	35.80	187.80	179	183	198.90	298.50
35.81	36.40	190.00	184	188	201.30	302.00
36.41	37.08	192.50	189	193	203.90	306.10
37.09	37.60	194.90	194	197	206.40	309.70
37.61	38.20	197.10	198	202	208.80	313.20
38.21	39.12	199.70	203	207	211.50	317.30
39.13	39.68	202.00	208	211	214.00	321.00
39.69	40.33	203.90	212	216	216.00	324.00
40.34	41.12	206.50	217	221	218.70	328.10
41.13	41.76	208.80	222	225	221.20	331.80
41.77	42.44	211.40	226	230	223.90	335.90
42.45	43.20	213.60	231	235	226.30	339.50
43.21	43.76	216.30	236	239	229.10	343.70
43.77	44.44	218.30	240	244	231.20	348.40
44.45	44.88	220.40	245	249	233.50	355.60
44.89	45.60	223.20	250	253	236.40	361.40
----------	----------	225.40	254	258	238.70	368.50
----------	----------	227.30	259	263	240.80	375.50
----------	----------	230.10	264	267	243.70	381.20
----------	----------	232.30	268	272	246.10	388.40
----------	----------	234.80	273	277	248.70	395.40
----------	----------	237.00	278	281	251.00	401.10
----------	----------	239.30	282	286	253.50	408.30
----------	----------	241.90	287	291	256.20	415.50
----------	----------	243.90	292	295	258.30	421.10
----------	----------	246.50	296	300	261.10	428.20
----------	----------	248.80	301	305	263.50	435.40
----------	----------	250.90	306	309	265.80	441.10
----------	----------	253.50	310	314	268.50	448.20
----------	----------	255.60	315	319	270.70	455.40
----------	----------	257.90	320	323	273.20	461.10
----------	----------	260.40	324	328	275.80	468.20
----------	----------	262.60	329	333	278.10	475.30
----------	----------	265.30	334	337	281.00	481.20
----------	----------	267.20	338	342	283.00	488.10
----------	----------	269.60	343	347	285.80	495.30
----------	----------	272.20	348	351	288.30	501.00
----------	----------	274.30	352	356	290.50	508.10
----------	----------	276.90	357	361	293.30	515.30
----------	----------	279.10	362	365	295.60	521.00

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(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		284.30	366	370	297.90	528.10
		283.80	371	375	300.60	535.10
		288.20	376	379	303.10	541.10
		288.60	380	384	305.70	548.20
		293.70	385	389	307.90	555.20
		293.00	390	393	310.30	560.90
		295.50	394	398	313.00	568.10
		297.80	399	403	315.40	575.30
		300.40	404	407	318.20	580.80
		302.30	408	412	320.20	588.00
		304.50	413	417	322.50	595.10
		306.70	418	421	324.80	600.80
		309.10	422	426	327.40	607.90
		311.20	427	431	329.60	615.10
		313.10	432	436	331.60	622.20
		315.70	437	440	334.40	625.00
		317.70	441	445	336.50	628.80
		319.80	446	450	338.70	632.50
		322.20	451	454	341.30	635.00
		324.30	455	459	343.50	638.50
		326.50	460	464	345.80	642.00
		328.50	465	468	347.90	645.10
		331.10	469	473	350.70	648.60
		332.90	474	478	352.60	652.20
		335.10	479	482	354.90	655.10
		337.10	483	487	357.10	658.70
		339.60	488	492	359.70	662.30
		341.70	493	496	361.90	665.10
		344.10	497	501	364.50	668.60
		346.10	502	506	366.60	672.10
		348.30	507	510	368.90	675.10
		350.40	511	515	371.10	678.60
		352.80	516	520	373.70	682.30
		354.80	521	524	375.80	684.90
		357.00	525	529	378.10	688.60
		359.50	530	534	380.80	692.10
		361.40	535	538	382.80	695.00
		363.60	539	543	385.10	698.60
		366.00	544	548	387.60	702.10
		368.10	549	553	389.90	705.70
		370.20	554	556	392.10	707.80
		371.90	557	560	393.90	710.70
		374.00	561	563	396.10	712.90
		376.00	564	567	398.20	715.70
		378.00	568	570	400.40	717.80
		379.80	571	574	402.30	720.60
		381.80	575	577	404.40	722.90
		383.50	578	581	406.20	725.60
		385.60	582	581	408.40	727.80
		387.30	585	588	410.20	730.70
		389.60	589	591	412.60	732.80
		391.50	592	595	414.60	735.60
		393.40	596	598	416.70	737.60
		395.30	599	602	418.70	740.70
		397.20	603	605	420.70	742.80
		399.20	606	609	422.80	745.50
		401.20	610	612	424.90	747.80
		403.10	613	616	426.90	750.70
		405.00	617	620	428.90	753.50
		406.90	621	623	431.00	755.60
		408.80	624	627	433.00	758.50
		410.80	628	630	435.10	761.20
		412.70	631	634	437.10	764.90
		414.70	635	637	439.20	768.50
		416.80	638	641	441.40	772.20
		418.50	642	644	443.20	775.60
		420.50	645	648	445.40	779.40
		422.40	649	652	447.40	782.80
		423.60	653	656	448.60	785.00
		424.80	657	660	449.90	787.20
		426.30	661	665	451.50	790.10
		427.80	666	670	453.10	792.90
		429.40	671	675	454.80	795.60
		430.90	676	680	456.40	798.50
		432.40	681	685	458.00	801.40
		434.10	686	690	459.80	804.10
		435.50	691	695	461.20	807.10
		437.00	696	700	462.80	809.90
		438.60	701	705	464.50	812.70
		440.10	706	710	466.10	815.50
		441.60	711	715	467.70	818.20
		443.20	716	720	469.40	821.20
		444.70	721	725	471.00	824.00
		446.20	726	730	472.60	826.90

(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		417.70	731	735	474.20	829.80
		449.30	736	740	475.90	832.50
		450.80	741	745	477.40	835.50
		452.20	746	750	478.90	838.20
		453.60	751	755	480.40	840.70
		454.90	756	760	481.80	843.00
		456.20	761	765	483.20	845.40
		457.50	766	770	484.50	847.80
		458.70	771	775	485.80	850.10
		460.00	776	780	487.20	852.40
		461.30	781	785	488.60	854.80
		462.50	786	790	489.80	857.10
		463.70	791	795	491.10	859.50
		465.00	796	800	492.50	861.90
		466.40	801	805	494.00	864.30
		467.70	806	810	495.30	866.60
		469.00	811	815	496.70	869.10
		470.20	816	820	498.00	871.30
		471.50	821	825	499.40	873.80
		472.80	826	830	500.70	876.10
		474.00	831	835	502.00	878.50
		475.20	836	840	503.30	880.80
		476.50	841	845	504.70	883.30
		477.80	846	850	506.00	885.40
		479.20	851	855	507.50	887.90
		480.40	856	860	508.80	890.20
		481.70	861	865	510.20	892.60
		483.00	866	870	511.50	895.00
		484.50	871	875	512.90	897.30
		485.40	876	880	514.10	899.70
		486.70	881	885	515.50	902.10
		488.00	886	890	516.80	904.40
		489.20	891	895	518.20	907.00
		490.60	896	900	519.60	909.20
		491.80	901	905	521.00	911.60
		493.20	906	910	522.30	914.00
		494.50	911	915	523.70	916.40
		495.80	916	920	525.10	918.50
		496.90	921	925	526.30	921.10
		498.20	926	930	527.60	923.30
		499.50	931	935	529.00	925.70
		500.80	936	940	530.40	928.10
		502.00	941	945	531.70	930.50
		503.30	946	950	533.00	932.80
		504.70	951	955	534.50	935.30
		506.00	956	960	535.90	937.60
		507.30	961	965	537.30	939.90
		508.40	966	970	538.40	942.30
		509.70	971	975	539.80	944.70
		511.00	976	980	541.20	946.90
		512.30	981	985	542.60	949.30
		513.50	986	990	543.80	951.70
		514.80	991	995	545.20	954.10
		516.10	996	1000	546.60	956.40
		517.20	1001	1005	547.80	958.40
		518.30	1006	1010	548.90	960.70
		519.50	1011	1015	550.20	962.70
		520.70	1016	1020	551.50	965.00
		521.80	1021	1025	552.60	967.00
		522.90	1026	1030	553.80	969.20
		524.10	1031	1035	555.10	971.30
		525.20	1036	1040	556.20	973.40
		526.40	1041	1045	557.50	975.60
		527.60	1046	1050	558.80	977.70
		528.60	1051	1055	559.80	979.70
		529.80	1056	1060	561.10	982.00
		531.00	1061	1065	562.40	984.00
		532.20	1066	1070	563.60	986.30
		533.30	1071	1075	564.80	988.30
		534.40	1076	1080	566.00	990.50
		535.60	1081	1085	567.30	992.50
		536.70	1086	1090	568.40	994.70
		537.90	1091	1095	569.70	996.90
		539.10	1096	1100	571.00	999.00
		540.10	1101	1105	572.00	1001.00
		541.30	1106	1110	573.30	1003.20
		542.50	1111	1115	574.60	1005.30
		543.60	1116	1120	575.70	1007.60
		544.80	1121	1125	577.00	1009.60
		545.90	1126	1130	578.20	1011.80
		547.10	1131	1135	579.40	1013.80
		548.20	1136	1140	580.60	1016.10
		549.40	1141	1145	581.90	1018.20
		550.60	1146	1150	583.10	1020.30
		551.60	1151	1155	584.20	1022.30
		552.80	1156	1160	585.50	1024.50
		554.00	1161	1165	586.70	1026.60
		555.10	1166	1170	587.90	1028.90
		556.30	1171	1176	589.20	1030.90

V 42 92 MAY 12 77 UMI

(I) (Primary insurance benefit under 1939 Act, as modified)		(II) (Primary insurance amount effective for June 1976)	(III) (Average monthly wage)		(IV) (Primary insurance amount)	(V) (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
	557.40	1176	1180	590.30		1033.00
	558.40	1181	1185	591.40		1034.90
	559.50	1186	1190	592.60		1036.90
	560.60	1191	1195	593.70		1038.90
	561.60	1196	1200	594.80		1040.90
	562.70	1201	1205	595.90		1042.80
	563.80	1206	1210	597.10		1044.90
	564.80	1211	1215	598.20		1046.80
	565.90	1216	1220	599.30		1048.80
	566.90	1221	1225	600.40		1050.70
	568.00	1226	1230	601.60		1052.70
	569.10	1231	1235	602.70		1054.60
	570.10	1236	1240	603.80		1056.70
	571.20	1241	1245	605.00		1058.60
	572.30	1246	1250	606.10		1060.60
	573.30	1251	1255	607.20		1062.50
	574.40	1256	1260	608.30		1064.60
	575.50	1261	1265	609.50		1066.50
	576.50	1266	1270	610.60		1068.50
	577.60	1271	1275	611.70		1070.40
	578.60	1276	1280	612.80		1072.40
	579.60	1281	1285	613.80		1074.20
	580.60	1286	1290	614.90		1076.10
	581.60	1291	1295	616.00		1077.90
	582.60	1296	1300	617.00		1079.80
	583.60	1301	1305	618.10		1081.80
	584.60	1306	1310	619.10		1083.50
	585.60	1311	1315	620.20		1085.30
	586.60	1316	1320	621.30		1087.20
	587.60	1321	1325	622.30		1089.00
	588.60	1326	1330	623.40		1090.90
	589.60	1331	1335	624.40		1092.70
	590.60	1336	1340	625.50		1094.60
	591.60	1341	1345	626.60		1096.40
	592.60	1346	1350	627.60		1098.30
	593.60	1351	1355	628.70		1100.10
	594.60	1356	1360	629.70		1102.00
	595.60	1361	1365	630.80		1103.80
	596.60	1366	1370	631.80		1105.80
	597.60	1371	1375	632.90		1107.60

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federal register

THURSDAY, MAY 12, 1977

PART VI

CIVIL AERONAUTICS BOARD

■

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of CAB Form 41 Schedules

V 42 92 MAY 12 77 UMI

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-324; Docket 30852; Dated: May 5, 1977]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of CAB Form 41 Schedules Relating to Transactions With Affiliates and Nontransport Divisions

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to amend the Board's Uniform System of Accounts and Reports prescribed for Certificated Air Carriers. The notice proposes: (1) The combination of two report schedules, one dealing with carrier accounts with associated companies and nontransport divisions and another dealing with air carrier investments, into a single schedule to be filed annually; (2) the modification of the format of another schedule which deals with the reporting of air carrier transactions with associated companies and nontransport divisions; (3) the addition of a requirement for carriers to disclose income tax allocation procedures used in filing consolidated returns; and (4) the elimination of a requirement to establish a separate set of books for nontransport leasing operations. This proposal was developed as a part of the Board's on-going effort to reduce and improve air carrier reporting whenever possible.

DATES: Comments by June 13, 1977.

ADDRESSES: Comments should be sent to Docket 30852, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, University Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Kurlander, Director, Bureau of Accounts and Statistics, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: In ER-707, adopted September 22, 1971, the Board established the need to monitor transactions between air carriers and members of affiliated groups by citing the rapid growth of nontransport activities being conducted by certificated air carriers and their affiliates during the preceding decade and the need to avoid practices of activity intermingling which could impair the integrity of the regulated activity. There still exists a need to monitor such transactions and thereby accomplish the objectives outlined in that rule. However, we have come to the conclusion that improvements could be made in the Board's existing reporting requirements in this area.

During 1976, an extensive review of carrier reporting of transactions with affiliates and nontransport divisions was conducted with a view toward improving the quality of reporting for such transactions in CAB Form 41 schedules and correcting and earlier reporting inconsistencies which surfaced during the course of the review. Six carriers were selected for on-site review: Braniff Airways, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., North Central Airlines, Inc., Piedmont Aviation, Inc., and Trans World Airlines, Inc. As the result of informal discussions of their interpretations of existing reporting requirements and suggestions for improvements, all six carriers contributed to the development of the changes now proposed, particularly with respect to Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies."

In order to improve the reporting which relates to such transactions and accomplish reporting reductions, where appropriate, the Board is hereby proposing to amend Part 241 of the Economic Regulations by: (1) combining quarterly Schedule B-4(b), "Accounts with Subsidiaries, Other Associated Companies and Nontransport Divisions," with annual Schedule B-41, "Investments Held by, or for the Account of, Respondent" and making the resulting new schedule an annual filing; (2) modifying the format and reporting instructions for Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies"; (3) adding a new accounting plan, CAB Form AP-16, to disclose income tax allocation procedures; and (4) eliminating the need to establish a separate accounting system for leasing operations pursuant to Section 1-6 of Part 241.

Combination of Schedule B-4(b) and Schedule B-41

The combination of Schedule B-4(b) and Schedule B-41 would eliminate the need to file quarterly B-4(b) schedules. This would relieve carriers from providing duplicative information for the fourth quarter of each calendar year when both schedules were filed and eliminate the need to provide information during the other three quarters which, in essence, reflected nothing more than account balances. It is believed that the reporting on the new Schedule B-41, "Investments held by, or for the Account of, Respondent; Including Nontransport Divisions," shown in Exhibit A, when coupled with the revisions contemplated for Schedule B-44 would provide more informative data on the nature, volume, and impact of transactions betwen the regulated entity and members of the affiliated group, including nontransport divisions.

The proposed Schedule B-41 would provide separate captions for reporting investments in associated companies, other than associated companies, and nontransport divisions. The caption for "Other Investments" has been included because the reporting of all investments of the air carrier is required by Section 407(b) of the Federal Aviation Act of 1958, as amended (the Act). The term "Other Investments" would apply to investments by the air carrier in persons or firms which fall short of the 5 percent capital ownership requirement for "Associated Companies" as they are defined in Part 241. Generally speaking, the reporting for "Other Investments" would be limited to general disclosures relating to the investment, such as the balance of receivables, balance of payables, the amount of the dividend or interest income during the year, the type of security (common or preferred) and so forth. Basically, this is the same information which has been reported for "Other than Associated Companies" on the current Schedule B-41. It does not represent, therefore, any additional reporting burden.

Modification of Schedule B-44

Turning now to Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies," attention should be focused on the fact that the proposed changes will completely revise the format of the schedule. The first change relates to the manner in which the report is filed. The current instructions require the schedule to be filed on two separate sheets, one sheet for reporting resources acquired by the air carrier and another for resources disposed of by the air carrier. In contrast, the proposed rule would eliminate the need to file two separate sheets each time because the proposed schedule is designed to accommodate both increases and decreases in carrier resources and, in addition, provide separate captions for dealing with dividends and income tax transactions. This leads to the second major change, which occurs in the arrangement of the schedule.

The Schedule B-44 we are proposing would be entitled "Transactions Between Carrier and Affiliates—Annual Summary." As previously indicated, the new schedule would be divided into four major sections entitled "Increase in Carrier's Resources." "Decrease in Carrier's Resources," "Dividends," and "Income Tax Transactions." Within each of these sections, lines are provided for reporting, in separate columns for each affiliate, the aggregate amounts of specific types of transactions which occurred during the calendar year.

For the purposes of this schedule, the term resources shall encompass assets such as cash, receivables (in certain instances where they have been transferred in settlement of an amount owed or as a donation), securities, investments, equipment, supplies, buildings and land. The term "operational services" shall include the expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations.

In the section entitled "Increase in Carrier's Resources," the first line, entitled "Cash received by Carrier from Affiliate," would be used to report cash remittances by an affiliate to the air carrier. The second line, entitled "Contribution of Capital by Affiliate to the Carrier," would be used to record any increase in the carrier's assets without

regard to the type of asset which results from the purchase of additional securities or any other contribution of capital as it would be reflected through an increase in the equity section of the carrier's balance sheet. The third line, entitled "Credit Adjustments to Affiliate's Retained Earnings," would be used to record the increase in the carrier's investment in the affiliate by virtue of adjustments to the opening balance of retained earnings of affiliates.[1] The fourth, fifth and sixth lines also reflect increases in carrier assets, except receivables as earlier noted, or an inflow of benefits to the carrier such as the provision of operational services or pledging of resources.

The second major section, entitled "Decrease in Carrier's Resources" would reflect the decreases in carrier assets and any outflow of benefits from the carrier. To a certain extent, the two sections will work in conjunction with one another with respect to certain transactions; however, they are not expected to balance each other in an accounting sense. For example, in a case where an air carrier sells a building to an affiliate, the carrier would report as a decrease in resources, the net book value of the building sold. The net book value of the building would be reported on the line entitled "Property, Equipment, and Other Assets Disposed of by Carrier to Affiliate." If cash were remitted in payment, the carrier would concurrently report the cash received as an increase in resources. If, on the other hand, a long-term receivable is recorded by the carrier, the carrier would not report the receivable as an incease in resources. Instead, the carrier would only report an increase in resources when cash was remitted by the affiliate in settlement of the receivable. Similarly, in the case of operational services rendered by the carrier, the operational services would be reflected as a decrease in carrier resources while the establishment of an amount receivable would not be regarded as an increase in carrier resources. The increase in carrier resources, for the puposes of this report, would be reported only when and to the extent cash or some other asset is remitted to the carrier in settlement of the amount owed.

The third section of the schedule, entitled "Dividends" has been included so as to identify the portion of increases and decreases in carrier resources which are attributable to dividends and to facilitate distinctions between dividends declared by investor-controlled companies, which are accounted for under the equity method, and dividends declared by other affiliates.

The fourth section of the schedule, entitled "Income Tax Transactions" has been included so as to separately identify different aspects of income tax transactions. The first two lines of this section deal with the income taxes billed back and forth between the carrier and affiliates. Since these amounts billed represent receivables, they would not be included as an increase or decrease in carrier resources until remittance has been made, whereupon they would be reported as either "Cash Received by Carrier from Affiliate" or "Cash Disbursed by Carrier to Affiliate." The remainder of this section deals with the flow between the carrier and affiliates of investment tax credits and net operating losses. The aggregate amounts shown on these last four lines of the section will not be reflected elsewhere on the schedule.

Finally, in connection with this schedule, there would be a requirement for carriers who have transactions such as contributions of capital or adjustments directly to the retained earnings of affiliates to explain, both as to nature and amount, the transactions which gave rise to the aggregate amount reported when the amount reported exceeds one percent of the carrier's net stockholder equity. This requirement would apply to contributions of capital by the carrier to the affiliate or vice versa and debit or credit adjustments to the retained earnings of affiliates. The one percent criterion would apply to the amount reported for each affiliate independently and not an aggregate decrease computed by adding the decreases for a series of affiliates.

Accounting Plan

During the review of carrier reports, it was noted that income tax allocation procedures played a significant role in the flow of benefits between members of an affiliated group and that the Board does not now review the tax allocation procedures used in the preparation of consolidated income tax returns. From a regulatory standpoint, the ultimate result of a tax allocation procedure can be as detrimental to the air transportation service provided as an inequitable allocation procedure for revenues and expenses. In view of the fact that the Board does not now receive a description of tax allocation procedures, the proposed rule would require carriers to file an accounting plan, AP-16, "Procedures for Allocating Income Taxes Among Transport Entities, Affiliates and Nontransport Divisions," which covers income tax allocations in essentially the same manner that accounting plans are now filed on allocations of other revenues and expenses on AP-1, "Procedures for Assigning or Prorating Profit and Loss Items between Accounting Entities."

Separate Accounting Records and Leasing Operations

It should be noted that the proposed rule would make one significant change in connection with "Nontransport Divisions." It would amend Section 1-6, "Accounting Entities" to make it clear that the requirement to establish a separate set of accounting records shall not apply to leasing activities. Recently, the Financial Accounting Standards Board (FASB) issued its Statement of Financial Accounting Standards No. 13 which prescribed detailed accounting practices for lease transactions. In another rulemaking proceeding, the Board has proposed to incorporate the new standards of accounting for leases promulgated by the FASB into Part 241. While a detailed discussion of these new accounting standards is well beyond the scope of this proposal, it will suffice to make specific mention of the fact that investments in assets for the purpose of leasing to others will not be accounted for through Account 1520, "Advances to Associated Companies." Instead, net investments in such leases will be accounted for in other accounts classified with or near other receivables. Leases of short-term duration will be accounted for in the nonoperating property and equipment category.

Effective Date

If adopted, we would expect to make this rule effective June 30, 1977, so that the carriers would not be required to file Schedule B-4(b) for the quarter ended June 30, 1977.

Proposed Rule

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend Section 03—Definitions for Purposes of This System of Accounts and Reports, so as to delete the definition "Subsidiary company" and have section 03 read in pertinent part:

Section 03—Definitions for Purposes of This System of Accounts and Reports

* * * * *

Stops, technical—Aircraft landings made for purposes other than enplaning or deplaning traffic. For purposes of identifying reporting entities, landings, made for stopover passengers are regarded as technical stops.

Tariff, published— * * *

* * * * *

2. Amend Section 1—Introduction to System of Accounts and Reports, to specifically exclude leasing operations by having Section 1-6, "Accounting Entities," read in pertinent part:

Sec. 1-6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(i) or 32(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not related to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational

[1] This situation is not expected to occur frequently. Nevertheless, our review of carrier reporting indicated that such adjustments have occurred in the past and it is our intention to provide a means to report such adjustments on the proposed schedule when they do occur.

V 42 N 92 MAY 12 77 UMI

unit, shall be treated as a separately operated organizational division; except that the provisions of this paragraph and paragraph (b) shall not apply to leasing activities.

• • • • • •

3. Amend Section 2—General Accounting Policies, as follows:

A. By amending Section 2–1, "Basis of Allocation between Entities" by changing paragraph (c) so that section 2–1 reads in pertinent part as follows:

Sec. 2–1 Basis of allocation of entities.

• • • • • •

(c) For purposes of this section, investments by the air carrier used in common by the regulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1–6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses those investments. Where the entity of predominant use is a nontransport venture, the air carrier shall reflect the investment in account 1520, "Advances to Associated Companies."

• • • • • •

B. By amending Section 2–18—Transactions between members of an affiliated group, to eliminate the word incidental from paragraph (c) so that section 2–18 reads in pertinent part as follows:

Sec. 2–18 Transactions between members of an affiliated group.

• • • • • •

(c) The cost, less all associated valuation allowance accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable transport-related revenues or capital gain income accounts, as appropriate. Where such services and assets are reflected in tariffs filed with the Board or in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares or charges contained therein in the appropriate transport-related services, capital gains or air transport income accounts. Where no tariff or prevailing price list is applicable, the associated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment-Credit or subaccount 89.1 Intercompany Transaction Adjustment-Debit.

• • • • • •

4. Amend Section 5—Balance Sheet Account Groupings, so that paragraph (b) of Section 5–2, "Investments and Special Funds" reads in pertinent part as follows:

Sec. 5–2 Investments and special funds.

• • • • • •

(b) Investments in investor controlled companies shall be recorded at cost plus the equity in undistributed earnings or losses since acquisition, except as provided in paragraph (c) of this section. Investments in all other associated or nonassociated companies shall be recorded at cost, except as provided in paragraph (c).

• • • • • •

5. Amend Section 22—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to eliminate Schedule B–4(b) and change the title of Schedules B–41 and B–44 so that the list reads in pertinent part as follows:

B. By revising paragraph (d) to include a new subparagraph (16) and other editorial changes so that paragraph (d) will read in pertinent part as follows:

Section 22—General Reporting Instructions

(a) • • •

List of Schedules in CAB Form 41 Report

Schedule No.	Schedule title	Filing frequency
•	• • • •	•
B–3	Statement of changes in stockholder's equity.	Annually.
B–4	Allowance for uncollectible accounts.	Quarterly.
B–5	Property and equipment.....	Do.
•	• • • •	•
B–14	Summary of property obtained under long-term lease.	Do.
B–41	Investments held by, or for the account of, respondent; including nontransport divisions.	Annually
B–43	Inventory of airframes and aircraft engines.	Do.
B–44	Transactions between air carriers and affiliates, annual summary.	Do.
B–46	Long-term and short-term nontrade debt.	Do.
•	• • • •	•

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP–1 through AP–16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2–1.

• • • • • •

(10) Procedures for assigning or prorating expenses between transport operations and transport-related operations as prescribed by section 10–7100 or 11–7100.

• • • • • •

(14) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associate to investor controlled company or vice versa and adjustments as prescribed in sections 6–1510.1 and 6–1510.2.

• • • • • •

(16) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2–18(d).

6. Amend Section 23—Certification of Balance Sheet Elements, as follows:

A. By revising the reporting instructions applicable to Schedule B–4 to delete the portion of the instructions dealing with accounts with investor controlled companies, other associated companies and nontransport divisions, so that the new title and instructions for this schedule read, in their entirety, as follows:

Schedule B–4—Allowance for Uncollectible Accounts

(a) This schedule shall be filed by all route air carriers.

(b) Each allowance for uncollectible accounts shall be separately identified in the indicated section of this schedule. Columns 1 and 2 shall reflect the account number and description of the asset against which each allowance is provided. The balance of each allowance as at the end of each quarter shall agree with the corresponding amount reported on Schedule B–1 Balance Sheet.

B. By revising paragraph (c) to exclude the term subsidiaries from the instructions applicable to Schedule B–12 so that the instructions for Schedule B–12 read in pertinent part:

Schedule B–12—Statement of Changes in Financial Position

• • • • • •

(c) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P–1.1 or Schedule P–1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. • • •

• • • • • •

C. By revising the instructions to Schedule B–41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–41—Investments Held By, or For the Account Of, Respondent; Including Nontransport Divisions

(a) This schedule shall be filed by all route air carriers.

(b) The data shall be grouped and separately subtotaled according to: investments in investor controlled companies (account 1510.1); investments in other associated companies (account 1510.2); investments in nontransport divisions and other investments; and notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4, "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5, "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies and other investments.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the names and addresses of persons in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Than Associated Companies" nor for "Nontransport Divisions" listed in column 1.

D. By revising the instructions to Schedule B–44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–44—Transactions Between Air Carrier and Affiliates—Annual Summary

(a) This schedule shall be filed by all route air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) Increase in carrier's resources, (2) decrease in carrier's resaources, (3) dividends, and (4) income tax transactions.

(c) For the purposes of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1–6 and the term resources shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land; and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1–6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1–6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B–44.

(d) Within the transaction groupings for resources, the term operational services shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, knowhow, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to the carriers," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2995 of Schedule B–1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P–2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts

V 42 92 MAY 12 77 UMI

which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Credit to Investment and Debit to Account 8100)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of by sale to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by the carrier in the intended of affiliate" carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid. Cash and property received or disbursed shall also be reported as cash remittances or property acquired or disposed of in the resource increase or resource decrease transaction groupings. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided at the top of columns 2 through 7, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carriers and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

(p) In the column headings, carriers shall insert the name of the separately incorporated affiliate or identify that the entity being reported as a nontransport division.

7. Amend Section 32—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to change the title of Schedules B–41 and B–44 so that the list reads in pertinent part as follows:

B. By revising paragraph (d) to include a new subparagraph (15) and other editorial changes so that paragraph (d) will read in pertinent part as follows:

Section 32—General Reporting Instructions

(a) * * *

List of schedules in CAB Form 41 report

Schedule No.	Schedule title	Filing frequency
*	* * *	*
B–14	Summary of property obtained under long-term lease.	Do.
B–41	Investments held by, or for the account of, respondent; including nontransport divisions.	Annually.
B–43	Inventory of airframes and aircraft engines.	Do.
B–44	Transactions between air carriers and affiliates, annual summary.	Do.
B–46	Long-term and short-term nontrade debt.	Do.
*	* * *	*

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements or professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. These statements shall be filed in triplicate on standard forms AP–1 through AP–16.

(1) Procedures for assigning or prorating profit and loss items between operating entities as described in section 2–1.

* * * * *

(13) Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associate to investor controlled company or vice versa and adjustments as prescribed in sections 6–1510.1 and 6–1510.2.

* * * * *

(15) Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2–18(d).

8. Amend Section 33—Certification of Balance Sheet Element, as follows:

A. By revising paragraph (b) to exclude the term subsidiaries from the instructions applicable to Schedule B–12 so that the instructions for Schedule B–12 read in pertinent part:

Schedule B–12—Statement of Changes in Financial Position

* * * * *

(b) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P–1.1 or Schedule P–1.2 shall be increased by expenses not requiring working capital in the current period and shall be decreased by income not generating working capital in the current period such as gains on property retirements and undistributed earnings of investor controlled companies. * * *

* * * * *

B. By revising the instructions to Schedule B–41 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–41—Investments held by, or for the Account of, Respondent; Including Nontransport Divisions

(a) This schedule shall be filed by all supplemental air carriers.

(b) The data shall be grouped and separately subtotaled according to: Investments in investor controlled companies (account 1510.1); investments in other associated companies (account 1510.2); investments in nontransport divisions and other investments; and notes and accounts receivable due to the air carrier.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which notes and accounts receivable, both current and noncurrent, are due to the air carrier. Additionally, this column shall show

the name of each nontransport division for which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4, "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies plus the equity in undistributed earnings or losses since acquisition reflected in column 5, "Equity in Undistributed Earnings" shall agree in the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments."

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies and other investments.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of interest received during the year on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate "a/c rec.") with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the names and addresses of persons in whose name the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Debt Principal Amount" shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Than Associated Companies" nor for "Nontransport Divisions" listed in column 1.

C. By revising the instructions to Schedule B–44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B–44—Transactions Between Air Carrier and Affiliates—Annual Summary

(a) This schedule shall be filed by all supplemental air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) Increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purposes of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1–6 and the term resources shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land; and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1–6, shall be reported as an increase in a resource and net loss incurred by investor controlled companies and organizational divisions as defined in section 1–6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B–44.

(d) Within the transaction groupings for resources, the term operational services shall include the providing of benefits to other parties by an expenditure of assets, labor, material, supplies, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leases will not be considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction grouping for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report both cash and checks. This includes for example: (1) Cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances to the carrier by an affiliate for repayment of advances or loans, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) cash remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate payable to the carrier in exchange for cash or cash in kind. Within the transaction grouping for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example, (1) Cash advanced to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for repayment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) cash disbursed by carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction grouping for resource increases, on the line entitled "Contribution of capital by affiliate to the carrier," carriers shall report any increase in assets without regard to the type of asset which results from the purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (f) or in paragraph (g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2295 of Schedule B–1, "Balance Sheet," shall be described as to the nature of the transaction and the amount involved on Schedule P–2, "Notes to Income Statement."

(g) Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's capital accounts which do not flow through the income statement such as credit adjustments to the opening balance of retained earnings. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's capital accounts which do not flow through the income statement such as debit adjustments to the opening balance of retained earnings.

V 42 N 92 MAY 12 77 UMI

(h) Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Credit to Investment and Debit to Account 8100)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of by sale to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraph (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by carrier in the interest of affiliate" carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid. Cash and property received or disbursed shall also be reported as cash remittances or property acquired or disposed of in the resource increase or resource decrease transaction groupings. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided at the top of columns 3 through 7, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

(p) In the column headings, carriers shall insert the name of the separately incorporated affiliate or identify that the entity being reported as a nontransport division.

9. Amend CAB Form 41 schedules to reflect the foregoing changes in accounting as shown in Exhibits A, B, and C, and add a new accounting plan form AP-16 as shown in Exhibit D.

Request for Comments

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766; 49 U.S.C. 1324, 1377.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

EXHIBIT A

CAB Form 41

INVESTMENTS HELD BY, OR FOR THE ACCOUNT OF, RESPONDENT; INCLUDING NONTRANSPORT DIVISIONS
(PURSUANT TO SECTION 407(b) OF THE FEDERAL AVIATION ACT)

AIR CARRIER

As at December 31, 19

COMPANY OR DIVISION	LIABILITY ACCOUNTS: 1200, 1270 Notes & Accounts Receivable	1520 Advances	1530 Other Investments and Receivables	2000, 2010, 2020, 2030 & Accounts Payable	2110, 2120 Advances	Amount of Dividends or Interest Income During Year	OTHER DATA ON INVESTMENTS 1/: Type of Security	Holder of Record (Yes or No)	Shares or Debt Principal Amount	Per Cent of Total Issue Outstanding
(1)	(2)	(3)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
ASSOCIATED COMPANIES (Grouped and separately subtotaled according to investor controlled companies and other associated companies.)										
OTHER INVESTMENTS (Columns 2, 3, 4, 5, 6 and 13 are not applicable to this group)										
NONTRANSPORT DIVISIONS										

1510 Investments at Cost	1510 Equity in Undistributed Earnings	1530 Other Investments and Receivables
(4)	(5)	(6)

1/ In the event the answer is "no" in column 11, supply the names and address of persons in whose name the interest is held in the space provided below.

Schedule B-41

V 42 N 92 MAY 12 77 UMI

EXHIBIT B

TRANSACTIONS BETWEEN AIR CARRIER AND AFFILIATES
ANNUAL SUMMARY

AIR CARRIER
12 months ended

AGGREGATE ANNUAL AMOUNTS OF TRANSACTIONS WITH CARRIER

Line No.	NATURE OF TRANSACTION (1)	AFFILIATE (2)	AFFILIATE (3)	AFFILIATE (4)
	INCREASE IN CARRIER'S RESOURCES			
1	Cash received by carrier from affiliate			
2	Contribution of capital by affiliate to carrier*			
3	Credit adjustments to affiliate's retained earnings*			
4	Net income of affiliate for year (Debit to Investment and Credit to Account 8100)			
5	Operational services performed by affiliate for carrier			
6	Property, equipment, and other assets acquired by carrier from affiliate			
7	Resources pledged by affiliate, in the interest of carrier			
	DECREASE IN CARRIER'S RESOURCES			
8	Cash disbursed by carrier to affiliate			
9	Contribution of capital by carrier to affiliate*			
10	Debit adjustments to affiliate's retained earnings*			
11	Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)			
12	Operational services performed by carrier for affiliate			
13	Property, equipment and other assets disposed of by carrier to affiliate			
14	Resources pledged by carrier, in the interest of affiliate			
	DIVIDENDS			
15a	Paid by affiliate to carrier - from Investor Controlled Companies			
15b	Paid by affiliate to carrier - from Other Affiliates			
16	Paid by carrier to affiliate			
	INCOME TAX TRANSACTIONS			
17	Income taxes billed by carrier to affiliate			
18	Income taxes billed by affiliate to carrier			
19	Investment tax credits transferred by carrier to affiliate			
20	Investment tax credits transferred by affiliate to carrier			
21	Net operating losses transferred by carrier to affiliate			
22	Net operating losses transferred by affiliate to carrier			
	Explanation of basis used in valuing property dividends:			

Schedule B-44

* Any transaction appears on these lines which accounts for payment of the carrier's net stockholder profit be specified as to nature and amount on Schedule P-2, Notes to Income Statement.

CAB Form 41

Budget Bureau No. 39-R0032

EXHIBIT C

STATUS OF ACCOUNTING PLANS REQUIRED TO BE FILED		Air Carrier _____ 12 Months Ended June 30, 19____			
				Latest Plan	
Statement No.	Subject (1)	Applicable Section (2)	Was Plan Revised This Period (Yes or No) (3)	Date Filed (4)	Effective Date (5)
1	Assigning or prorating profit and loss items between operating entities	2-1(b)			
2	Retroactive adjustments made to conform accounts with mail rate actions	2-4(d)			
3	Self-insurance reserves	2-13(c)			
4	Equalization reserves	2-13(d)			
5	Depreciation	2-14(b)			
6	Airframe and aircraft engine overhauls and airworthiness reserves	5-4(g)(2)			
7	Amortization of developmental and preoperating costs and other intangibles	5-5(b) 6-1870(c) 6-1880			
8	Obsolescence and deterioration reserves — expendable parts	6-1311(d)			
9	Unearned transportation revenue	2-17(b) 6-2160(d)			
10	Assigning or prorating expenses between incidental services and transport operations	9-4600(d)			
11	Application of maintenance burden	10-5300(c) 11-5300(c) 24-P-6(f)			
12	Computation of available seat-miles and available ton-miles	25-T-3(g) 35-T-3.1			
13	Accrued vacation liability	6-2120(c)			
14	Accounting for investments in subsidiary and other associated companies, including change in status from associated to subsidiary company, or vice versa, and adjustments in investment accounts.	6-1510(c)			
15	Accounting for pension plan	2-19 18-57			
16	Allocating income taxes	2-18(d)			

NOTE: If not applicable, use the abbreviation "NA"

SCHEDULE A-1

CAB Form 41

V 42 92 MAY 12 77 UMI

EXHIBIT D
Page 1 of 2

Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART A

Please check applicable box:

Carrier files Federal income tax returns as an independent company ☐

Income of carrier reported to Internal Revenue Service as a part of a consolidated tax return ☐

If carrier reports income as a part of a consolidated tax return, please list below the affiliated companies that are included in the consolidated tax return:

Describe allocation procedures used to allocate income taxes among the affiliated group: (In the event there is a written tax allocation agreement, the furnishing of a copy of such agreement will be considered response)

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

CAB Form AP-16a

EXHIBIT D
Page 2 of 2

Carrier _____

PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on _____, 19____

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART B

Describe allocation procedures used to allocate income taxes among the transport entities of the air carrier and its nontransport divisions in compliance with section 2-18(d).

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _____

TITLE: _____

DATE: _____

CAB Form AP-16b

[FR Doc.77-13457 Filed 5-11-77;8:45 am]

V 42 9 2 MAY 12 77 UMI

V 4 2 9 2
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523·5022

V42 92 MAY 12 77 UMI

Vol.42–No.93
5–13–77
BOOK 1:
PAGES
24229–24550
BOOK 2:
PAGES
24551–24709

federal register

BOOK 1 OF 2 BOOKS

FRIDAY, MAY 13, 1977

highlights

SUNSHINE ACT MEETINGS..... 24357

CHLOROFLUOROCARBONS AS PROPELLANTS IN AEROSOL PRODUCTS
HEW/FDA proposes to prohibit use; comments by 7–12–77 (Part V of this issue)..... 24535
EPA proposes to eliminate almost all of the manufacture, processing and distribution; comments by 7–15–77; hearing 8–1–77 (Part V of this issue)..... 24542
CPSC gives notice of Commission action in response to proposed ban (Part V of this issue)..... 24550

COSMETIC LABELING FOR FLUOROCARBON INGREDIENTS
HEW/FDA establishes more descriptive names for aerosol propellants..... 24255

CARCINOGENIC RESIDUES IN EDIBLE ANIMAL PRODUCTS
HEW/FDA extends comment date to 7–25–77 for criteria and procedures for evaluating assays..... 24254

ANIMAL DRUGS
HEW/FDA approves safe and effective use of dexamethasone sodium phosphate injection in treating dogs for inflammatory conditions; effective 5–13–77..... 24254

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT
FEA notice of intention to issue construction orders to certain major fuel burning installations (3 documents) (Part II of this issue)..... 24458, 24468, 24471
FEA notice of intention to issue prohibition orders to certain installations (4 documents) (Part III of this issue)..... 24486, 24494, 24502, 24508

INCOME TAX EXEMPTION FOR OIL AND GAS WELLS
Treasury/IRS issues recordkeeping requirements and provides regulations relating to limitations on percentage depletion..... 24263
Treasury/IRS proposes to clarify the circumstances by which depletion will be available; comments by 6–27–77..... 24279

CONTINUED INSIDE

V 42 93 MAY 13 77 UMI

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

USDA/FmHA—Special assistance to drought stricken areas..... 19322; 4–13–77

CAB—Air freight forwarders, cooperative shippers associations; classification and exemption..... 20119; 4–18–77

Charter trips and special services; cooperative shippers association. 20118; 4–18–77

Supplemental air transportation; cooperative shippers association and air freight forwarders, joint loaders. 20119; 4–18–77

HUD/CP&D—Community development block grants; areawide programs. 20254; 4–18–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

EXCISE TAXES
Treasury/IRS issues regulations on the valuation of a private foundation's noncharitable assets for calculating its minimum investment return 24264

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT
Labor/Secy provides additional guidance to prime sponsors for the operation and administration of authorized projects and public jobs programs; effective 6–13–77 (Part IV of this issue) 24522

GENERAL WAGE DETERMINATIONS
Labor/ESA publishes minimum wages for Federal and federally assisted construction (Part VI of this issue) 24551

ALL ITEMS CONSUMER PRICE INDEX
Labor/Secy announces United States city average increase 24344

IMPORTED TELEVISION RECEIVERS
Labor/Secy announces availability of report on impact on domestic industry 24342

VOCATIONAL REHABILITATION GRANTS
HEW/HDO announces closing date of 6–20–77 for receipt of applications for research and demonstration projects 24331

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY GRANTS
HEW/HDO announces closing date of 6–20–77 for receipt of applications for new grants authorized under the Older Americans Act 24330

STUDENT ASSISTANCE PROGRAMS
HEW/OE extends comment period to 5–23–77 on proposals concerning student consumer information, state student assistance training, student eligibility, and limitation and suspension or termination of institutional eligibility 24291

LEGAL ASSISTANCE
LSC increases maximum annual income levels for eligible individuls; effective 5–13–77 24271

FEDERAL AGENCY AND CONTRACTORS USE OF OFFICIAL MAIL
PS establishes licensing procedure for contractors and clarifies regulations for Federal agency mailing privileges; effective 5–13–77 24266

FEDERAL CREDIT UNIONS
NCUA prescribes requirements for the establishment and maintenance of reserves; effective 5–13–77 24252

COMMUNITY FACILITY LOANS
USDA/FmHA broadens benefits of programs; effective 5–13–77; comments by 6–13–77 24232

PEANUT FARM STORED LOAN AND PURCHASE PROGRAM
USDA/CCC sets forth terms and conditions for making farm storage loans for 1976 and subsequent crops; effective 5–13–77 24231

MEETINGS—
USDA/FSQS: Nitrates and Nitrosamines Expert Panel, 5–31–77 24294
DOD/AF: Scientific Advisory Board, Simulation Technology ad hoc committee, 6–7 thru 6–9–77 24304
Secy: Defense Intelligence Agency Scientific Advisory Committee, 6–15–77 24304
EPA: Science Advisory Board, Environmental Health Advisory Committee, 6–1–77 24305
HEW/CDC: Safety and Occupational Health Study Section, 6–2 and 6–3–77 24319

V 42 93 MAY 13 77 UMI

FDA: Blood and Blood Derivatives Panel, 6–17 and 6–18–77 24327
Microbiology Device Classification Panel, 6–6 and 6–7–77 24325
Pulmonary Allergy and Clinical Immunology Advisory Committee, 6–16 and 6–17–77 24327
Interior/NPS: Historic American Buildings Survey Advisory Board, 6–2 and 6–3–77 24341
Pictured Rocks National Lakeshore Advisory Commission, 6–2–77 24341
Labor/OSHA: Construction Safety and Health Advisory Committee, 6–2–77 24342
Occupational Safety and Health, Federal Advisory Council, 6–1–77 24343
NASA: Space Program Advisory Council (SPAC), Life Sciences Committee, 6–1 and 6–2–77 24346
NFAH/NEA: National Council on the Arts, Special Projects Advisory Panel, 6–6 and 6–7–77 24347
NEH: Education Programs Panel, 6–8 and 6–9–77 24347
Research Grants Panel, Editing Program, 6–9 and 6–10–77 24347

SEPARATE PARTS OF THIS ISSUE

Part II, FEA 24357
Part III, FEA 24485
Part IV, Labor/Secy 24521
Part V, HEW/FDA, EPA, CPSC 24535

contents

AGRICULTURAL MARKETING SERVICE
Rules
Nectarines grown in Calif 24229
Pears, plums, and peaches (fresh) grown in Calif 24230

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Commodity Credit Corporation; Farmers Home Administration; Food Safety and Quality Service; Forest Service; Rural Electrification Administration.

AIR FORCE DEPARTMENT
Notices
Meetings:
Scientific Advisory Board 24304

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Notices
Meetings:
Education Programs Panel 24347
Research Grants Panel 24347
Special Projects Advisory Panel 24347

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM
Notices
Procurement list, 1977; additions and deletions (2 documents) 24302

CENSUS BUREAU
Notices
Population censuses, special; results 24297

CIVIL AERONAUTICS BOARD
Notices
Emergency air transportation requirements:
Alaska Airlines, Inc., et al 24294
Hearings, etc.:
Wien Air Alaska, Inc 24295

COMMERCE DEPARTMENT
See also Census Bureau; Domestic and International Business Administration; Economic Development Administration; Maritime Administration; National Bureau of Standards.
Notices
Watches and watch movements:
Allocation of quotas; Guam and American Samoa 24301

COMMODITY CREDIT CORPORATION
Rules
Loan and purchase programs:
Peanuts 24231

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Chlorofluoroalkanes, fully halogenated; non-essential uses as propellants in consumer aerosol products 24550

CUSTOMS SERVICE
Notices
Countervailing duty petitions and preliminary determinations:
Float glass from Italy 24347
Reimbursable services; excess cost of preclearance operations 24348
Tariff-rate quotas:
Tuna fish 24348

DEFENSE DEPARTMENT
See also Air Force Department.
Notices
Meetings:
Defense Intelligence Agency Scientific Advisory Committee 24304

DISEASE CONTROL CENTER
Notices
Meetings:
Safety and Occupational Health Study Section 24319

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Scientific articles; duty free entry:
Children's Hospital Medical Center 24297
Stanford University 24298
Yale University et al 24299

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Import determination petitions:
Accessories by Pearl, Inc 24300

EDUCATION OFFICE
Proposed Rules
Student consumer information services, etc.; extension of time 24291

EMPLOYMENT AND TRAINING ADMINISTRATION
Notices
Employment transfer and business competition determinations; financial assistance applications 24342

EMPLOYMENT STANDARDS ADMINISTRATION
Notices
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions 24342

ENVIRONMENTAL PROTECTION AGENCY
Proposed Rules
Toxic substances:
Chlorofluorocarbons; reporting requirements 24542
Notices
Air and water pollution control; violating facilities list 24304
Environmental statements; availability, etc.:
Scarborough, Maine, wastewater collection and treatment facilities 24311
Meetings:
Environmental Health Advisory Committee 24305
Pesticide chemicals; tolerances, exemptions, etc.; petitions:
ICI United States, Inc 24306
Monsanto Co 24305
Pesticide registration:
Applications (2 documents) 24306, 24307
Pesticides; specific exemptions and experimental use permits:
Agriculture Department 24304
Hercules Inc 24305

ENVIRONMENTAL QUALITY COUNCIL
Notices
Environmental statements; availability, etc 24302

FARMERS HOME ADMINISTRATION
Rules
Guaranteed loans:
Loss payable, maximum amount 24252
Loan and grant programs (group):
Community facility loans 24232

FEDERAL COMMUNICATIONS COMMISSION
Rules
FM broadcast stations; table of assignments:
Nebraska 24272
West Virginia 24272
Industrial radio services:
Business radio service; frequencies; permission to use 24274
Microwave service, private operational fixed:
Transmitter power, annual measurement 24276
Radio broadcast services:
FM broadcast stations, noncommercial educational; channel assignments under U.S.-Mexico agreement 24273
Proposed Rules
Telephone companies:
Uniform system of accounts 24291
Notices
FM broadcast stations, table of assignments:
Virginia 24312

FEDERAL ENERGY ADMINISTRATION
Notices
Coal use, construction orders:
Dartmouth College 24468
General Motors Corp. et al. (2 documents 24458, 24471
Environmental statements; availability, etc.:
Oklahoma Energy Conservation Plan 24312
Power plants burning natural gas or petroleum products, prohibition orders:
Brown Co 24508
International Paper Co. et al. (2 documents) 24486, 24494
Kennecott Copper Corp 24502

FEDERAL HOUSING COMMISSIONER—ASSISTANT SECRETARY FOR HOUSING
Proposed Rules
Low-income housing:
Housing assistance payments; fair market rents for new construction and substantial rehabilitation 24279

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood Insurance Program, National:
Special hazard areas, map corrections (19 documents) 24255–24262

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc.:
Attanasio, John R 24313

FEDERAL POWER COMMISSION
Notices
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend 24313

FEDERAL RAILROAD ADMINISTRATION
Proposed Rules
Operating rules:
Workmen, blue signal, protection; hearing rescheduled 24293

FEDERAL RESERVE SYSTEM
Notices
Home Mortgage Disclosure Act exemption applications; New York State 24314
Applications, etc.:
Central National Bancshares, Inc 24313
Northeast United Bancorp, Inc. of Texas 24314
Roger Billings, Inc 24314
SYB Co 24315
Wachovia Co 24316
Wells Fargo & Co 24317

FEDERAL TRADE COMMISSION
Notices
Corrective advertising; opportunity to submit comments; extension of time 24317

FISH AND WILDLIFE SERVICE
Notices
Endangered and threatened species permits; applications (3 documents) 24336–24339

FOOD AND DRUG ADMINISTRATION
Rules
Animal drugs, feeds, and related products:
Carcinogenic residues in edible animal products; assay evaluation; extension of time 24254
Dexamethasone injection 24254
Nonstandardized animal foods, common names; correction 24254
Cosmetic products:
Fluorocarbon propellant ingredients; labeling; establishment of names 24255
Proposed Rules
Fluorocarbons, certain, in food, food additives, drugs, etc. in self-pressurized containers; prohibition on use 24536
Human drugs:
Over-the-counter drugs; conditions for use and labeling of inactive ingredients; correction 24279
Notices
Animal drugs:
Furazolidone, et al.; hearing; proposed withdrawal; correction 24328
Biological product licenses:
Metabolic, Inc., revocation (2 documents) 24328, 24329
GRAS status, petitions:
Acetate, magnesium and zinc, in vitamin-mineral food supplements 24328
Meetings:
Advisory committees, panels, etc. (2 documents) 24320, 24326

FOOD SAFETY AND QUALITY SERVICE
Notices
Meetings:
Nitrites and Nitrosamines Export Panel 24294

FOREST SERVICE
Rules
Prohibitions:
Middle Fork Feather Wild River Zones, Calif.; motors and motorized equipment 24265
Proposed Rules
Prohibitions; motors and motorized equipment in Middle Fork Feather Wild River Zones 24290

GENERAL SERVICES ADMINISTRATION
Notices
Property management regulations, temporary:
Authority delegation to Defense Department Secretary (2 documents) 24319
Designations and redesignations of Federal buildings 24318

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Disease Control Center; Education Office; Food and Drug Administration; Human Development Office; National Institute of Education.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Housing Commissioner—Assistant Secretary for Housing; Federal Insurance Administration; Interstate Land Sales Registration Office.

HUMAN DEVELOPMENT OFFICE
Notices
Multidisciplinary centers of gerontology program, 1977 grants announcement 24330
Vocational rehabilitation, research and demonstrations; applications and closing dates 24331

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Land Management Bureau; National Park Service.
Notices
Environmental statements; availability, etc.:
Navajo-El Paso/Consolidation

V 42 93 MAY 13 77 UMI

Coal Lease and Mining Plan, N. Mex. 24341
Watches and watch movements: Allocation of quotas; Guam and American Samoa; cross reference 24341

INTERNAL REVENUE SERVICE

Rules

Excise taxes: Foundation assets valuation 24264
Income taxes: Oil and gas wells; percentage depletion limitations 24263

Proposed Rules

Income taxes: Oil and gas wells; limitations on percentage depletion 24279

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations: Color television receiving sets, certain 24342

INTERSTATE COMMERCE COMMISSION

Rules

Railroad car service orders; various companies: Chicago, Milwaukee, St. Paul & Pacific Railroad Co 24278

Notices

Abandonment of railroad services, etc.:
Allegheny & Western Railway Co. et al 24348
Baltimore & Ohio Railroad Co. 24349
Burlington Northern Inc 24349
Chesapeake & Ohio Railway Co. 24350
Illinois Central Gulf Railroad Co (3 documents) 24352
Norfolk & Western Railway Co. 24354
Oregon Short Line Railroad Co. et al 24355
Petaluma & Santa Rosa Railroad Co 24355
Southern Pacific Transportation Co. (2 documents) 24355
Washington County Railroad Co. et al 24356
Car service rules, mandatory; exemptions 24350
Fourth section applications for relief 24352
Hearing assignments (2 documents) 24349
Motor carriers: Transfer proceedings 24353
Water carrier temporary authority applications 24356

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
Land O Lakes Estates 24334
McShepherd Ranches 24335
San Juan Meadows 24335

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Rules

Comprehensive Employment and Training Act: Public jobs program 24522

Proposed Rules

Farm labor contractor registration: Certificates of registration and employee identification cards, issuance by States 24289

Notices

Consumer price index, all items; U.S. city average 24344
Industry study reports for adjustment assistance eligibility: Television receivers 24345
Adjustment assistance:
American Can Co. et al 24346
Garcia, Carmen, Inc 24344
Garcia, Henry, Inc 24345
Lee, Bob, Mfg. Co. et al. (2 documents) 24344

LAND MANAGEMENT BUREAU

Notices

Opening of public lands: Washington 24336
Withdrawal and reservation of lands, proposed, etc.: Idaho (2 documents) 24335, 24336

LEGAL SERVICES CORPORATION

Rules

Eligibility; maximum annual income levels for individuals eligible for legal assistance 24271

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Mercantile National Bank at Dallas 24301
Prudential Lines, Inc 24301

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Meetings: Space Program Advisory Council 24346

NATIONAL BUREAU OF STANDARDS

Notices

Retrofit materials recommended criteria and products eligible for tax credit; report review; inquiry 24301

NATIONAL CREDIT UNION ADMINISTRATION

Rules

Reserves: Establishment and maintenance 24252

NATIONAL INSTITUTE OF EDUCATION

Notices

Meetings: Educational Research National Council 24329

NATIONAL PARK SERVICE

Notices

Meetings:
Historic American Buildings Survey Advisory Board 24341
Pictured Rocks National Lakeshore Advisory Commission 24341

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Notices

Applications, etc.: Baker Tank Co 24342
Meetings:
Construction Safety and Health Advisory Committee 24342
Occupational Safety and Health Federal Advisory Council 24343

POSTAL SERVICE

Rules

Postal Service Manual: Official mail, contractor use of; restrictions revised 24266

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed: Big Rivers Electric Corp 24294

SECURITIES AND EXCHANGE COMMISSION

Rules

Public Utility Holding Company Act: Form U5S, annual report; modification of instructions 24253

TRANSPORTATION DEPARTMENT

See also Federal Railroad Administration.

Rules

Conduct standards 24277

TREASURY DEPARTMENT

See also Customs Service; Internal Revenue Service.

Notices

Asset depreciation range guidelines:
Generation and/or distribution systems, industrial steam and electric, and waste reduction plants 24348
Instruments, professional, scientific, and controlling; photographic and optical goods; watches and clocks 24348

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
916 24229
917 24230
1421 24231
1823 24232
1933 24232
1980 24252

12 CFR
702 24252

17 CFR
259 24253

21 CFR
8 24254
500 24254
502 24254
503 24254
514 24254
522 24254
571 24254
701 24255

PROPOSED RULES:
2 24536
189 24536
201 24279
310 24536
330 24279
500 24536
510 24536
700 24536
801 24536

24 CFR
1920 (19 documents) 24255–24262
888 24279

26 CFR
1 24263
53 24264

PROPOSED RULES:
1 24279

29 CFR
94 24522
95 24522
98 24522
99 24522

PROPOSED RULES:
40 24289

36 CFR
261 24265

PROPOSED RULES:
261 24290

39 CFR
111 24266

40 CFR
PROPOSED RULES:
712 24542
762 24542

45 CFR
1611 24271

PROPOSED RULES:
144 24291
168 24291
175 24291
176 24291
178 24291
178a 24291
190 24291

47 CFR
73 (3 documents) 24272, 24273
91 24274
94 24276

PROPOSED RULES:
31 24291

49 CFR
99 24277
1033 24278

PROPOSED RULES:
218 24293

V 42 93 MAY 13 77 UMI

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

1 CFR

Ch. I 22125

3 CFR

EXECUTIVE ORDERS:
11460 (Revoked by EO 11984) 23129
11861 (Amended by EO 11983) 23127
11872 (Revoked by EO 11983) 23127
11971 (Amended by EO 11982) 22859
11932 22859
11983 23127
11984 23129
MEMORANDUMS:
May 4, 1977 23499

5 CFR

213 ..... 22355, 22356, 23131
550 23131
PROPOSED RULES:
733 23160

7 CFR

1 23597
6 22874
52 22356
230 23155
271 22356
272 23599
295 23155
701 22358
907 ..... 22874, 24061
908 24061
910 ..... 22359, 23156
916 ..... 23156, 24229
917 ..... 22875, 23157, 24230
959 22125
1068 22360
1421 ..... 22126, 24231
1430 22126
1464 23795
1823 24232
1832 24062
1888 23158
1933 24232
1980 24252
PROPOSED RULES:
53 23514
225 23606
911 24068
915 23607
918 23160
944 23514
1002 23841
1207 24066
1421 23613
1425 23614

8 CFR

PROPOSED RULES:
103 22148
244 22148
299 22149

9 CFR

78 22370
94 23131
301 22373
307 22373
308 22373
310 22373
318 22373
320 22373
325 22373
327 22373
331 22373
350 22373
354 22373
355 22373
362 22373
381 22373
390 22373
391 22373
PROPOSED RULES:
1 22374
2 22374
3 22374

10 CFR

2 ..... 22128, 22882
50 22882
140 23501
205 ..... 23501, 23722
212 ..... 22131, 22881
303 23134
305 23140
307 23142
309 23144
RULINGS:
1977-6 23501
PROPOSED RULES:
2 22168
170 22149
211 ..... 22889, 23659
212 ..... 22374, 22889
430 23860
810 23865

12 CFR

7 24206
202 22861
220 22862
226 22360
329 22362
702 24252
PROPOSED RULES:
220 22894
225 22560
226 23516
329 22378

13 CFR

302 23795
309 23146
500 22135
520 22135
551 22135
552 22136
553 22137
554 22137
555 22137
560 22137
PROPOSED RULES:
120 23614

14 CFR

39 ..... 22137, 22862, 22863, 23502–23504
71 ..... 22138, 23505, 24045
91 ..... 22139, 24196
97 22863
133 24196
241 23146
385 23600
PROPOSED RULES:
39 ..... 22172, 22896
71 ..... 22172, 22173, 24066
152 22896
241 24216
302 23841

15 CFR

50 22362
376 23796

16 CFR

13 ..... 22876, 23799
1014 22878
1202 22656
1500 22878
PROPOSED RULES:
2 22897
13 23841–23849
1201 24067
1205 23052
1616 23853

17 CFR

1 23988
231 22139
239 22139
240 ..... 23786, 23799, 24062
249 ..... 23786, 24062
259 24253
PROPOSED RULES:
1 23614
32 23614
210 23853
230 24069
240 24069
249 23792

18 CFR

1000 22146
PROPOSED RULES:
1 23160
3 23160
4 23160
5 23160
6 23160
16 23160
35 22897
154 23615

19 CFR

159 ..... 23146, 23505, 23801

20 CFR

200 22865
PROPOSED RULES:
655 22378

21 CFR

8 24254
172 23148
193 23148
310 23772
500 24254
502 24254
503 24254
510 23149

21 CFR—Continued

514 24254
520 23600
522 24254
540 23149
561 ..... 22363, 23148
571 24254
701 24255
801 23772
PROPOSED RULES:
2 24536
189 24536
201 24279
310 24536
330 24279
361 23161
500 24536
510 24536
700 24536
801 24536

23 CFR

PROPOSED RULES:
640 22173
642 22173

24 CFR

235 22557
241 23601
812 23582
860 23584
880 23585
881 23585
882 23585
883 23585
886 23585
888 22363
1914 22865–22867
1917 23972–23975
1920 24255–24262
PROPOSED RULES:
20 24200
803 22704
888 ..... 22704, 24279
1932 22900

25 CFR

219 22141
PROPOSED RULES:
221 22902

26 CFR

1 24263
33 24046
53 24264
301 22143
PROPOSED RULES:
1 24279
53 23517

27 CFR

178 22144
181 22144

28 CFR

0 ..... 22557, 23801
16 23506
32 23252

29 CFR

9 22364
40 22364
94 24522
95 24522
98 24522
99 24522
1910 ..... 22516, 23601
PROPOSED RULES:
40 24289

30 CFR

PROPOSED RULES:
211 23855

31 CFR

530 23605
PROPOSED RULES:
215 22174

32 CFR

865 23601
1900 24049

33 CFR

1 23506
25 22879
209 24049

36 CFR

7 22557
261 24265
PROPOSED RULES:
261 24290

37 CFR

PROPOSED RULES:
4 22378

38 CFR

3 22868

39 CFR

111 24266
PROPOSED RULES:
111 22176

40 CFR

33 22144
52 ..... 22869, 23802–23805
180 22364
228 22144
435 22558
PROPOSED RULES:
51 22177
52 ..... 22902, 23162
60 22506
180 24071
228 23163
250 22332
435 22560
712 24542
762 24542

41 CFR

41 CFR—Continued
9–7 23507
9–15 23507
15–3 22145
101–25 22558
101–43 24051
101–44 24052
101–45 24052
114–25 23150

43 CFR

PUBLIC LAND ORDERS:
5617 22365

45 CFR

4 22145
84 ..... 22676, 22888
250 23508
1060 23151
1067 22365
1068 22145
1611 24271
PROPOSED RULES:
144 24291
166 22336
168 24291
175 24291
176 24291
178 24291
178a 24291
190 24291

46 CFR

148 22145
502 23509
PROPOSED RULES:
10 22903
12 22903
35 23517
50 22296
54 22296
56 22296
58 22296
61 22296
107 22296
108 22296
109 22296
151 22903
153 23518
502 22383

47 CFR

2 ..... 23509, 24054
73 ..... 22558, 24055, 24272, 24273
74 22558
76 23510
81 ..... 22869–22872, 23510
83 ..... 22869–22872, 23510
87 ..... 23509, 24054
91 24274
94 24276
PROPOSED RULES:
31 24291
61 23615
64 23615
73 ..... 22183, 22569, 23165
76 23519

V 42 93 MAY 13 77 UMI

49 CFR	
1	22366
99	24277
172	22366, 22880
175	22366, 22880
581	24056
1033	22367, 22368, 22880, 24278
1036	23511
1041	22369
1100	23806
1320	22369, 23840
1322	22369, 23842

49 CFR—Continued	
PROPOSED RULES:	
218	24293
Ch. II	22184
50 CFR	
26	23151
33	22874, 24060
611	22559
PROPOSED RULES:	
32	22903

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date	Pages	Date
22125–22354	May 2	23499–23596	9
22355–22556	3	23597–23794	10
22557–22858	4	23795–24044	11
22859–23125	5	24045–24227	12
23127–23497	6	24229–24709	13

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Nectarine Reg. 9]

PART 916—NECTARINES GROWN IN CALIFORNIA

Minimum Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California nectarines during the period May 14 through July 15, 1977. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 916 (7 CFR Part 916), regulating the handling of nectarines grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Nectarine Administrative Committee established under the amended marketing agreement and order and upon other information, it is found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based upon the Department's appraisal of the current and prospective market conditions for California nectarines. The committee estimates that 10,977,000 packages of nectarines will be available for fresh shipment during the 1977 season compared to the record large 11,218,000 packages shipped last season. The 1977 California nectarine crop is reported to be of excellent quality at this time with good sizing. Industry reports indicate that 1977 fresh shipments of California peaches and plums will be larger than last season which will provide strong market competition for fresh California nectarines. The grade and size requirements are necessary to prevent the shipment of California nectarines of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality nectarines in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting on May 4, 1977, after giving due notice, to consider supply and market conditions for nectarines and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of nectarines. Shipments of 1977 season California nectarines are expected to begin about May 15, 1977, therefore, this regulation should apply to all shipments in order to effectuate the declared policy of the act. The provisions of this regulation are identical with the recommendation of the committee and compliance with the provisions of this regulation will not require of handlers any preparation which cannot be completed by the effective date. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified.

§ 916.351 Nectarine Regulation 9.

Order. (a) Nectarine Regulation 7 (41 F.R. 18804, 28784) is hereby terminated as of the effective date hereof.

(b) During the period May 14, 1977, through July 15, 1977, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines grade at least U.S. No. 1: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inches in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 118 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 112 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(4) Any package or container of Crimson Gold, June Belle, June Grand, May Grand, Red June, Spring Grand, Armking, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(5) Any package or container of Early Sungrand, Independence, Moon Grand, Star Grand I, Star Grand II, Sun Flame, Summer Grand, Sun Grand, Kent Grand, Early Star, Firebright, or Red Diamond variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

V 42 93 MAY 13 77 UMI

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(6) Any package or container of Autumn Grand, Clinton-Strawberry, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Harry Grand, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Grand, Regal Grand, Richards Grand, Royal Grand, September Grand, Fairlane, Red Free, Bob Grand, or Tom Grand variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (6) are of a size that a 16 pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(7) When used herein, "U.S. No. 1" and "standard pack" shall have the same meaning as set forth in the United States Standards for Grades of Nectarines (7 CFR 51.3145–51.3160); the terms "standard basket" and "No. 22D standard lug box" shall have the same meanings as set forth in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms shall have the same meaning as when used in the marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated, May 11, 1977, to become effective May 14, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13870 Filed 5-12-77;8:45 am]

[Peach Reg. 9]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation, effective during the period May 14 through July 2, 1977, requires that fresh shipments of California peaches grade at least U.S. No. 1. It also establishes minimum sizes for certain specified varieties and a minimum size for all other varieties. The regulation recognizes the marketing situation facing the industry and is necessary to assure that the peaches shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: May 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the current and prospective market conditions for California peaches. The committee estimates that 12,022,000 packages of peaches will be available for shipment in the 1977 season compared to actual shipment of 11,457,000 packages last season. Industry reports also indicate that 1977 shipments of fresh California plums will total 9,132,000 packages compared to 7,911,000 packages last year. Fresh shipments of California nectarines are estimated at 10,977,000 packages compared to 11,218,000 packages a year ago. The estimated crops of California plums and nectarines will provide strong market competition for California fresh peaches. The grade and size requirements hereinafter set forth are necessary to prevent the handling of California peaches of a lower grade or smaller size than specified herein for such peaches so as to provide good-quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 14, 1977. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop thereof, and adequate information thereon was not available to the Peach Commodity Committee until May 4, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such peaches. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified was promptly submitted to the Department on May 4, 1977; shipments of the current crop of such peaches are currently underway; this regulation should be applicable to all such shipments during the period hereinafter specified in order to effectuate the declared policy of the act; the provisions of this regulation are identical, as to minimum grade and size, with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such peaches; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 917.443 Peach Regulation 9.

Order. (a) During the period May 14, 1977, through July 2, 1977, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, Springold, Springtime or Golden Supreme variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 108 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 108 peaches.

(3) Any package or container of Robin, any type of Babcock, Blazing Gold, Bonjour, Cardinal, Dixired, Gold Dust, June Lady, Merrill, Gemfree, Royal May, Early Coronet, Flavorcrest, Springcrest, Early Royal May, or May Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the box:

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 75 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 83 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Peterson Elberta, Redhaven, Regina, or Redtop variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) Any package or container of Alamar, Angelus, Belmont, Carnival, Fairtime, Fay Elberta, Fayette, Fiesta, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), Madera Gem, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Regular Elberta, Redglobe, Red Lady, Rio Oso Gem, Scarlet Lady, Summerset, Summertime, Suncrest, Toreador, July Lady, Windsor, Gem Crest, Autumn Gem, Cal Red, Early Fairtime, Early O'Henry, Fire Red, Red Cal, or Sparkle variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box:

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period May 14 through July 2, 1977, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) of this section unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches in any container when packed other than as specified in subparagraph (1) of this paragraph (b) are of a size that a 16 pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(c) [Reserved]

(d) Peach Regulation 7 (41 FR 20547, 27376) is hereby terminated as of the effective date hereof.

(e) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order: "U.S. No. 1" and "standard pack" shall have the same meaning, respectively, as when used in the United States Standards for Peaches (7 CFR 51.1210–1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" shall have the meanings as set forth, respectively, in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture."

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: May 11, 1977, to become effective May 14, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13871 Filed 5-12-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 and Subsequent Crops Peanut Farm Stored Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation, USDA, is amending the regulations which set forth the terms and conditions under which CCC will make farm storage loans on farmers stock peanuts for the 1976 and subsequent crops of peanuts. The regulations currently in force do not provide adequate storage deductions for early deliveries and do not incorporate references to the latest General Regulations Governing 1974 and Subsequent Crops Peanut Warehouse Storage Loans. The intended action will make the farm storage regulations up to date and will assist in providing for the orderly marketing of farm stored peanuts.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS) P.O. Box 2415, Washington, D.C. 20013 (202–447–9224).

SUPPLEMENTAL INFORMATION: In order to incorporate amendment 1, provide for an increase in storage deductions for early deliveries, and update references to other applicable regulations, the regulations issued by Commodity Credit Corporation (CCC) published as the 1970 and Subsequent Crops Peanut Farm Stored Loan and Purchase Program Regulations (35 FR 12706, as amended; 7 CFR 1421.280–289) are hereby revised as to the 1976 and subsequent crops of peanuts. The material previously appearing in these regulations remains in full force and effect as to the crops years to which it was applicable.

Since 1976 crop peanuts under farm storage loans are now being acquired by CCC, it has been determined that compliance with the public participation and rulemaking procedure in 5 U.S.C. 553 would be impractical and contrary to the public interest. Therefore, these regulations are being issued without compliance with such procedure.

Accordingly, 7 CFR §§ 1421.280 through 1421.289 are revised to read as follows:

Sec.

1421.280 Purpose.
1421.281 Availability.
1421.282 Eligible peanuts.
1421.283 Determination of type and quality of farmers stock peanuts.
1421.284 Storage deduction for early delivery.
1421.285 Determination of quantity.
1421.286 Price support rates.
1421.287 Delivery charge.
1421.288 Maturity of loans.
1421.289 Settlement.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended; 15 U.S.C. 714 (b) and (c); secs. 101, 401, 403, 405, 63 Stat. 1051, as amended; (7 U.S.C. 1441, 1421, 1423, 1425).

§ 1421.280 Purpose.

This subpart and the General Regulations Governing Price Support for the 1976 and Subsequent Crops, to the extent that the provisions thereof are not made inapplicable by the provisions of this subpart, contain the terms and conditions under which CCC will make farm-stored peanut loans to, and purchases from, eligible producers of eligible 1976 and subsequent crops of farmers stock peanuts. Notwithstanding the provisions of the general regulations, CCC will not make warehouse storage loans directly to individual producers on 1976 and subsequent crops of peanuts. The General Regulations Governing 1974 and Subsequent Crops Peanut Warehouse Storage Loans, 39 FR 25949 and any amendments and annual crop supplements thereto (hereinafter referred to in this subpart as "the peanut warehouse storage regulations") contain the terms and conditions under which eligible producers may obtain price support advances on eligible 1974 and subsequent crops of warehouse stored farmers stock peanuts from certain cooperative marketing associations which, acting in behalf of such producers collectively, will obtain price support warehouse storage loans from CCC.

§ 1421.281 Availability.

Producers desiring price support for farmers stock peanuts must request a farm-stored peanut loan or notify the ASCS county office of intentions to sell to CCC no later than the dates set forth in the applicable annual peanut crop supplement to the regulations in this subpart.

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§ 1421.282 Eligible peanuts.

(a) *General.* In order to be eligible for a farm-stored peanut loan or for purchase, farmers stock peanuts, as defined in § 1446.3(f) of this chapter of the peanut warehouse storage regulations, must meet the requirements of this section in addition to the other eligibility requirements of § 1421.4 of the general regulations.

(b) *Eligible producer.* The peanuts must have been produced by an eligible producer in one of the areas defined in § 1446.4(b) of this chapter in the peanut warehouse storage regulations. For the purposes of this subpart, an eligible producer is a producer who meets the requirements of § 1421.3 of the general regulations and of § 1446.6 of this chapter in the peanut warehouse storage regulations.

(c) *Types.* The peanuts must be one of the types specified in § 1446.3(s) of this chapter in the peanut warehouse storage regulations.

§ 1421.283 Determination of type and quality of farmers stock peanuts.

The type and quality of each lot of farmers stock peanuts acquired by CCC as a result of a loan or purchase shall be determined at the time of delivery to CCC by a Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture. The cost of such determination shall be assumed by the producer.

§ 1421.284 Storage deduction for early delivery.

The storage deduction for early delivery provided for in § 1421.23 of the general regulations shall be five (5) cents per day per ton for Virginia-type peanuts or four and two tenths (4.2) cents per day per ton for all other types of peanuts from the date delivery is accomplished to and including, the original loan maturity date.

§ 1421.285 Determination of quantity.

The quantity of peanuts placed under farm-stored peanut loans shall be determined in accordance with § 1421.18 of the general regulations and shall be expressed in units of tons and tenths of tons.

§ 1421.286 Price support rates.

The basic price support loan rates by types for farmers stock peanuts placed under loan shall be as set forth in the annual peanut crop supplement to the regulations in this subpart.

§ 1421.287 Delivery charge.

A delivery charge of 20 cents per ton net weight will be made for the quantity of peanuts acquired by CCC as a result of a loan or purchase and shall be handled in accordance with § 1421.11 of the general regulations. As used in this subpart, the term "net weight" shall have the meaning specified in § 1446.3 (m) of this chapter of the peanut warehouse storage regulations.

§ 1421.288 Maturity of loans.

Farm-stored peanut loans will mature on demand but not later than the date specified in the annual peanut crop supplement to the regulations in this subpart.

§ 1421.289 Settlement.

(a) *General.* Settlement for eligible peanuts acquired by CCC under a loan or purchase will be made with the producer as provided in paragraphs (a), (d), (e), (g), (j), and (k) only of § 1421.22 of the general regulations and in this section.

(b) *Settlement values.* The settlement value of the peanuts acquired by CCC shall be the amount computed on the basis of (1) the net weight and quality thereof; (2) the support prices, premiums and discounts provided in the annual peanut crop supplement to the regulations in this subpart; (3) an allowance of four-tenths of a cent ($0.004) per pound, net weight, to compensate the producer for shrinkage during storage; and (4) discounts of (i) $2 per ton, net weight, for each full 1 percent of foreign material in excess of 10 percent, and (ii) $10 per ton, net weight, for peanuts containing more than 10 percent moisture.

Signed at Washington, D.C., on May 5, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-13816 Filed 5-12-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER J—LOAN AND GRANT PROGRAM (GROUP)

[FmHA Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

PART 1933—LOAN AND GRANT PROGRAM (GROUP)

Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule but with comments requested.

SUMMARY: This rule revises Community Facility loan regulations to broaden the benefits of the Community Facility programs. The regulations are recertified as part of a general reorganization of FmHA regulations intended to provide clarity and uniformity in FmHA codification.

DATES: Effective May 13, 1977. Comments must be received on or before June 13, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Judd M. Hudson, telephone 202-447-7667.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration is establishing under Chapter XVIII, Title 7, a new Subchapter J "Loan and Grant Programs (Group)—Part 1933, Loan and Grant Programs (Group)," in the Code of Federal Regulations. Subpart A, "Community Facility Loans," (§§ 1933.1–1933.50) of this new Part 1933 is revised, transferred, and redesignated from Part 1823, Subpart A (38 FR 29026, as amended at various Intervals) of this Chapter XVIII.

BACKGROUND

On August 17, 1976, a document was published in the FEDERAL REGISTER (41 FR 34767–34772) proposing to amend various sections of Subpart A of Part 1823 of this Chapter XVIII. Comments were received and considered, however, only § 1823.13 was adopted (with change) in the FEDERAL REGISTER, dated February 4, 1977, at 42 FR 6825. The (other) proposed amendments [and comments received] involving §§ 1823.2, 1823.3, 1823.4, 1823.5, 1823.6, 1823.7, 1823.9, 1823.11, 1823.14, 1823.25, 1823.28, 1823.29, 1823.42, and the deletion of § 1823.15 have been considered and are included in this revision-redesignation. On page 14416 of the FEDERAL REGISTER dated March 15, 1977, there was published a notice of proposed rulemaking of Miscellaneous Amendments to permit joint financing with other lenders. Interested persons had until April 14, 1977, to submit written comments. No written objections were received. These amendments are incorporated in this regulation. Overall, this revision-redesignation broadens the benefits of the community facilities programs such as water systems and sanitary sewerage systems. This rule affords the full cooperation of FmHA with appropriate State agencies to insure maximum support for making and processing insured loans for community facilities and rural development. This includes equal opportunity for participation by Indian tribes along with other residents of a State, whether or not State development strategies include Indian reservations within the State's boundaries.

Comments received pursuant to publication of this document in the FEDERAL REGISTER will be considered and if acceptable, incorporated therein.

Accordingly, 7 CFR Chapter XVIII is amended as follows:

Subpart A—Community Facility Loans

§§ 1823.1—1823.48 [Removed]

1. Subpart A of 7 CFR Part 1823 is removed.

2. FmHA hereby promulgates new Subchapter J, Part 1933, Subpart A, to Chapter XVIII, and adds §§ 1933.1 through 1933.50 under CFR as set forth below:

Subpart A—Community Facility Loans

Sec.
1933.1 General.
1933.2 Processing applications.
1933.3 Preparation of appraisal reports.
1933.4 Borrower contracts and bonds.
1933.5 Application review and approval.
1933.6 Preparation for loan closing.
1933.7 Loan closing.
1933.8 Actions subsequent to loan closing.
1933.9 Planning and performing development.
1933.10 Borrower accounting methods, management reporting and audits.
1933.11 Security inspections.
1933.12 Loan cancellation.
1933.13 Loan servicing.
1933.14 Subsequent loans.
1933.15 Delegation and redelegation of authority.
1933.16 State supplements and guides.
1933.17 Appendix A Community facilities.
1933.18 Appendix B Community facilities, planning, bidding, contracting, constructing.
1933.19 Appendix C Information pertaining to preparation of notes or bonds and bond transcript documents for public body applicants.
1933.20 Guides, Community Facilities. (Guides included in this section may be used by FmHA officials in administering this program. They are not published in the FEDERAL REGISTER. However, they are available in National, State, and County Offices of FmHA.)
1933.21—1933.50 [Reserved]

AUTHORITY: 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development; 7 CFR 2.70.

§ 1933.1 General.

This Subpart outlines the policies and sets forth the procedures for making and processing insured loans for community facilities. The Farmers Home Administration (FmHA) shall cooperate fully with appropriate State agencies in the making of loans in a manner which will assure maximum support to the State's strategies for rural development. FmHA State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use as prescribed in this Subpart are to be considered for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State.

§ 1933.2 Processing applications.

(a) *Preapplications.* (1) The County Supervisor, or other person designated by the State Director will, as needed, assist applicants in completing Form AD–621, "Preapplication for Federal Assistance," and in filing written notice of intent and request for priority recommendation with the appropriate clearinghouses (except Federally recognized Indian tribes) which will be dealt with in accordance with § 1901.352(c) of this Chapter. The County Supervisor will forward one copy of Form AD–621 along with clearinghouse comments and priority recommendations and Form FmHA 440–46, "Environmental Impact Assessment" in accordance with paragraph (d) of this Section to the State Director. He also will inform the applicant that it may be necessary to apply for credit from commercial sources. He will explain that if credit for the project is available from commercial sources at reasonable rates and terms the applicant is not eligible for FmHA financing.

(2) The State Director will review each Form AD–621 along with other information that he deems necessary to determine whether financing from commercial sources at reasonable rates and terms is available. If credit elsewhere is indicated, he will instruct the County Supervisor to so inform the applicant and recommend the applicant apply to commercial sources for financing. Projects may be funded jointly with other lenders provided the requirements of § 1933.17 (a)(6) of this subpart. Joint financing occurs when two or more lenders (or any combination of lenders) make separate loans to supply the funds required by one applicant for a project. If FmHA assistance is necessary, the preapplication and applicant will be processed in accordance with this Subpart.

(i) In order to provide a basis for referral of preapplications of only those applicants who may be able to finance projects through commercial sources, State Directors should maintain liaison with representatives of banks, investment bankers, financial advisors, and other lender representatives in the State. State Directors with their assistance, should maintain criteria for determining preapplications which should be referred to commercial lenders. A list of lender representatives interested in receiving such referrals should be maintained.

(ii) The State Director shall coordinate selection of preapplications to be processed with the State A–95 or other appropriate State agency.

(iii) Form AD–622, "Notice of Preapplication Review Action," will be prepared by the State Director within forty-five (45) days from receipt of the preapplication by FmHA, stating the results of the review action. The original and one copy of Form AD–622 will be sent to the County Supervisor who will sign the original and deliver it to the applicant.

(b) *Applications.* When the State Director determines that the application will be further processed and Form AD–622 is delivered in accordance with paragraph (a)(2)(iii) of this section he will assign responsibility to the District Director, a Community Program Specialist (field), or a member of the Community Program Staff for assisting the applicant and the County Supervisor in application docket assembly and processing. An experienced employee must work with each applicant. The County Supervisor will remain as local contact with the applicant.

(1) The application docket will include Form AD–624 "Application for Federal Assistance (For Construction Programs)," (Revised 5–76) and other related forms, materials, and information. The applicant will be assembled in accordance with § 1933.20(a)(15) or other appropriate State guides developed in accordance with § 1933.16 of this Subpart. State Directors will have applications in process representing approximately 150 percent of the current State loan fund allocation. The County Supervisor will inform applicants at the time Form AD–622 is delivered if they may proceed with application assembly. Those whose preapplications are not included in the 150 percent will be advised against incurring obligations for legal and engineering work, taking options on land rights, and inviting construction bids or making other commitments which cannot be fulfilled without loan funds until funds are actually made available.

(2) When an applicant is notified to proceed with an application, the County Supervisor should arrange for a conference with the applicant to provide copies of appropriate appendixes and forms; furnish guidance necessary for orderly application processing; and to initiate a processing checklist for establishing a time schedule for completion of items using Form FmHA 442–39, "Processing Check List (Other Than Public Bodies)," or Form FmHA 442–40, "Processing Check List (Public Bodies)," adopted for use in the State. The County Supervisor will confirm decisions made at this conference by letter to the applicant and a copy of the processing checklist. He will retain the original and a copy of the processing checklist in the County Office and forward a copy to the District Director and a copy to the State Office. The original and copy of the checklist retained in the County Office will be kept current as application processing actions are taken. The copy will be routed as follows for the District Director's and the State Office's use in updating their copy of this form: County Office to District Director; District Director to State Office; State Office to County Office. As the application is being processed, and the need develops for additional conferences, the County Supervisor will arrange with the applicant for such conferences to extend and update the processing checklist.

(c) *Review of decision.*—If at any time prior to loan approval the County Supervisor is informed that favorable action will not be taken on a preapplication or application, he will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by the FmHA Administrator may be requested by the applicant in accordance § 1933.17(a)(12)(vii).

(1) When the State Director receives a copy of the review request from the applicant, he will send a report on the matter to the Administrator.

(2) The Administrator will notify the applicant and the State Director in writing of his decision and the reasons therefor.

(d) *Environmental impact assessments and statements.* Environmental impact assessments and statements will

V 42 93 MAY 13 77 UMI

be prepared in accordance with Subpart G of Part 1901 of this Chapter. Form FmHA 440–46, will be submitted to the State Office with Form AD–621.

§ 1933.3 Preparation of appraisal reports.

When the State Director requires an appraisal Form FmHA 442–10, "Appraisal Report—Water and Waste Disposal System," may be used with appropriate supplements. Form FmHA 442–10 may be modified as appropriate or other appropriate format may be used for facilities other than water and waste disposal. Appraisal reports prepared for use in connection with the purchase of existing essential community facilities or when required by § 1933.17 (a) (6) (i) (c) and (a) (9) (F) of this Subpart, may be prepared by the FmHA engineer/or, if desired by the State Director, some other qualified appraiser. The State Director may require an applicant to provide an appraisal prepared by an independent qualified appraiser, however, the State Director must determine that the appraised value shown in such reports reflects the present market value.

§ 1933.4 Borrower contracts and bonds.

(a) *Agreements.* The State Director will, with assistance as necessary by the Office of the General Counsel (OGC), concur in agreements between borrowers and third parties such as contracts for professional and technical services and contracts for the purchase of water or treatment of waste. State Directors are expected to work closely with representatives of engineering and architectural societies, bar associations, commercial lenders, accountants associations, and the like in developing standard forms of agreements, where needed, and other such matters in order to expedite application processing, minimize referrals to OGC, and resolve problems which may arise.

(b) *Bond counsel.* All tax exempt public bodies are required to obtain the services of recognized bond counsel in the preparation of evidence of indebtedness except as provided in § 1933.19(a) (1) (ii). Prior approval of the National Office is required for the exception set for in § 1933.19(a) (1) (iv). When requesting National Office approval, the State Director will submit sufficient evidence for a determination.

§ 1933.5 Application review and approval.

(a) *Procedures for review.* Ordinarily FmHA staff review will proceed as applications are being developed. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the staff and approval officials. Prior to presenting the assembled application to the approval official:

(1) The County Supervisor will complete the project summary. Use Form FmHA 442–45, "Project Summary—Water and Waste Disposal," and other utility type projects for utility type projects or Form FmHA 442–43 "Project Summary—Community Facilities (other than utility-type projects) for all other types of projects.

(2) The FmHA staff engineer or architect, as appropriate, will attach his written analysis and recommendations on Form FmHA 442–43 or FmHA 442–45.

(3) The Chief, Community Programs, will include on Forms FmHA 442–43 or FmHA 442–45 his written analysis and recommendations and prepare a letter of conditions listing all the requirements which the applicant must agree to meet within a specified time. All letters of conditions will be addressed to the applicant, signed by the State Director or other FmHA representative, designated by the State Director and mailed or handed to the applicant. Upon signing or authorizing signature of the letter of conditions, the State Director will immediately forward one copy of Forms FmHA 442–43 or FmHA 442–45 to the National Office, Attention: Water and Waste Disposal Loan Division or Community Facilities Loan Division, as appropriate.

(i) Requirements listed in letters of conditions will ordinarily include those relative to: Maximum amount of loan which may be considered, term of loan and any payment deferment, number of users (members) and verification required, contributions, interim financing, security requirements, organization, business operations, insurance and bonding (including applicant/borrower and contractor), construction contract documents and bidding, accounts, records, and audit reports required, adoption of Form FmHA 442–47, "Loan Resolution (Public Bodies)," for public bodies or Form FmHA 442–9, "Association Loan Resolution (Security Agreement)," for other than public bodies, closing instructions, and other requirements.

(ii) Each letter of conditions will contain the following paragraphs:

"This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by FmHA by written amendment to this letter. Any changes not approved by FmHA shall be cause for discontinuing processing of the application."

"This letter is not to be considered as a loan approval or as a representation as to the availability of funds. The docket may be complete on the basis of a loan not to exceed $. If FmHA makes the loan, the interest rate will be that charged by FmHA at the time of the loan approval."

"Please complete and return the attached Form FmHA 442–46, 'Letter of Intent to Meet Conditions,' if you desire that further consideration be given your application."

(iii) State Directors may add the following: "If the conditions set forth in this letter are not met within days from the date hereof, FmHA reserves the right to discontinue the processing of the application."

(b) *Projects requiring National Office review.* Prior National Office review is required for certain proposals (See Subpart A of Part 1901 of this Chapter).

(1) Applications to be forwarded to the National Office should be assembled in the following order from top to bottom:

(i) Transmittal memorandum including:

(A) Recommendation.

(B) Date of expected obligation.

(C) Any unusual circumstances.

(ii) Copies of the following: (A) Proposed letter of conditions.

(B) Comments from the applicable State, Regional, and metropolitan clearinghouses.

(C) Form FmHA 442–45 or FmHA 442–43.

(D) Form FmHA 442–7, "Initial Operating Budget."

(E) Preliminary or Architectural Engineering report.

(F) Form FmHA 442–3, "Balance Sheet." This form may be supplemented to provide further details if desired.

(G) For community facility loan applicants whose proposals do not meet the assured income or tax based security requirements of § 1933.17 (a) (6) (i) (c) and (D) (3), an income and expense statement for the last five years of operation will be submitted if available.

(H) For other community facility loans being secured in accordance with paragraph (b) (1) (ii) (G) of this section, submit a detailed explanation of the proposed security; evidence that the application cannot be processed and the loan secured in accordance with paragraph (b) (1) (ii) (G) of this section; evidence supporting the efforts by the applicant in persuading appropriate public bodies to provide the proposed facility and services and the results, and comments of the Regional Attorney concurring in the applicants legal authority to give the proposed security.

(I) Financial Feasibility Report when required by § 1933.17(a) (7) (iii).

(J) Proposed lease agreements, management agreements or other agreements when facility management will be provided by other than the applicant.

(K) Other forms and documents on which there are specific questions.

(2) For applications to be reviewed in the State or field at least those items shown in § 1933.5(b) (1) (ii) should be available.

(c) *For all applications.* The County Supervisor with assistance as needed from the State Office will discuss the requirements of the letter of conditions with the applicant's representatives and afford them an opportunity to execute Form FmHA 442–46.

(1) The letter of condition should not ordinarily be issued unless the State Director expects to have adequate funds in the State allocation to fund the project within the next 12 months based on historic allocations or other reliable projections.

(2) If the applicant declines to execute Form FmHA 442–46, the County Supervisor will immediately notify the State Director and provide him with complete information as to the reasons for such declination. He will provide the District Director with an information copy of his report.

(3) If the applicant executes Form Fm HA 442–46, the County Supervisor will

complete Form(s) FmHA 442–14, "Association Project Fund Analysis," and Form FmHA 440–1, "Request for Obligation of Funds," and forward the original and four copies of (each) Form FmHA 442–14, and Form FmHA 440–1 to the State Director.

(d) *Obligating funds.* State Directors may obligate funds when they are available and in accordance with the following:

(1) Funds may not be obligated until the applicant has legal authority to contract for a loan and enter into the required agreements.

(2) If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the original of Form FmHA 440–1.

(3) The State Director will request that funds be obligated for the project by preparing Form FmHA 440–1, in an original and four copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that funds are available. The Finance Office will reserve funds for the project and notify the State Director of such reservation by forwarding Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete the obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his reports to the National Office as required by FmHA Instruction 2015–C in order that notification required by that instruction may be accomplished and the applicant is informed of loan approval not later than the date of obligation. Notice of approval to the applicant will be accomplished by providing the applicant with the signed copy of Form FmHA 440–1. The State Director will record the actual date of applicant notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office project file.

§ 1933.6 Preparation for loan closing.

(a) *Obtaining closing instructions.* Completed dockets will be reviewed by the State Director and transmitted to OGC with a request for closing instructions.

(b) *Preparation for closing.* Upon receipt of closing instructions, the County Supervisor will discuss with the applicant and its architect or engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing.

(c) *User (member) and cash contribution audit and verification.* In connection with a loan to be secured by a pledge of user fees or revenues, the State Director will require a member of his immediate staff or the District Director to authenticate the number of users obtained prior to loan closing or the commencement of construction, whichever occurs first. Such individual will review each signed user agreement and check evidence of cash contributions. If during his review, he receives any indication that all signed users may not connect to the system, he will make such additional investigation as he deems necessary to determine the number of users who will connect to the system. He will record his determination in a memorandum to the State Director and provide a copy to the County Supervisor.

(d) *Preloan closing compliance review.* The staff member or District Director conducting the audit and verification required in paragraph (c) of this section will also complete Form FmHA 400–8, "Compliance Review (Nondiscrimination by receipt of financial assistance through FmHA)." Prior to loan closing or the commencement of construction whichever occurs first, a copy of the form will be forwarded to the State Director and a copy filed in the County Office docket.

(e) *Ordering loan checks.* Checks will not be ordered until: (1) Form FmHA 440–57 has been received from the Finance Office as stated in § 1933.5(d) (3).

(2) The applicant has complied with approval conditions and closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto.

(3) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(f) *Multiple advances of FmHA funds.* When FmHA provides loan funds during the construction period using interim (temporary) instruments described in § 1933.19(a) (6), the following action will be taken prior to the issuance of the permanent instruments: (1) The Finance Office will be notified of the anticipated date for the retirement of the interim instruments and the issuance of permanent instruments of debt.

(2) The Finance Office will prepare a statement of account including accrued interest through the proposed date of retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the County Supervisor.

(3) The County Supervisor will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately. In developing the permanent instruments the sequence of preference set out in § 1933.19(a) (5) will be followed.

(g) *Joint financing.* When a project is jointly financed, the State Director will reach any needed agreement or understanding with the representatives of the other source of funds on distribution of responsibilities for handling various aspects of the project. These responsibilities will include supervision of construction, inspections and determinations of compliance with appropriate regulations concerning equal employment opportunities, wage rates, nondiscrimination in making services or benefits available, and environmental compliance. If any problems develop which cannot be resolved locally, complete information should be sent to the National Office for advice.

§ 1933.7 Loan closing.

Loans will be closed in accordance with the closing instructions issued by the OGC and § 1933.17(a) (13) and as soon as possible after receiving the check.

(a) *Authority to execute, file, and record legal instruments.* County Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgments, and other certificates.

(b) *Preparation of mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even though the indebtedness is to be evidenced by more than one note.

(c) *Source of funds for insured loans.* All loans will be made from the Rural Development Insurance Fund (RDIF).

(d) *Unused funds.* Obligated funds planned for project development which remain after all authorized costs have been provided for will be disposed of in accordance with § 1933.17 (a) (13) (vii). See (Part 1862 of this Chapter FmHA Instruction 451.2) as to the method of returning loan and grant funds to the Finance Office.

(e) *Loan checks.* Whenever a loan check is received, lost, or destroyed, the County Supervisor will take the appropriate actions outlined in FmHA Instruction 102.1. Checks which cannot be delivered within a reasonable amount of time, no more than 20 days, will be handled in accordance with FmHA Instruction 102.1.

(f) *Posting management system records.* Record on Form FmHA 405–10, "Management System Card—Association or Organization," any actions to be completed subsequent to loan closing.

(g) *Use of and accountability for funds.* Loan funds and any funds furnished by the applicant to supplement the loan, including contributions to purchase major items of equipment, machinery, and furnishings may be deposited and handled in accordance with Part 1803 of this Chapter. (FmHA Instruction 402.1)

§ 1933.8 Actions subsequent to loan closing.

(a) *Mortgages.* The real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the borrower. The original instrument, if returnable after recording or filing, will be retained in the borrower's County Office case folder.

V 42 93 MAY 13 77 UMI

(b) *Notes.* For a loan from the RDIF, a conformed copy of the note will be sent to the Finance Office immediately after loan closing.

(c) *Multiple advances—bond(s).* When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper right-hand corner of such paper by the County Office. The permanent bond(s) should be forwarded to the Finance Office as soon as possible after the last advance is made.

(d) *Bond registration record.* Form FmHA 442–28, "Bond Registration Book," may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(e) *Disposition of title evidence.* All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the borrower when the loan has been closed.

(f) *Material for State Office.* When the loan has been closed, the County Supervisor will submit to the State Director:

(1) The completed docket.

(2) A statement covering information other than the completion of legal documents showing what was done in carrying out loan closing instructions.

(g) *State Office review of loan closing.* The State Director will review the County Supervisor's statement concerning loan closing; the security instruments, and other documents used in closing to determine whether the transaction was closed properly. All material submitted by the County Supervisor, including the executed contract documents with the certification of the attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to the OGC for post closing review. OGC will review the submitted material to determine whether all legal requirements have been met. OGC's review of FmHA's standard forms will be only for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. When construction will start prior to FmHA loan closing the executed construction contract documents and certification by the applicant's attorney will be referred to the OGC for review prior to commencement of such construction. It is not expected that facility development including construction will be held up pending receipt of the opinion from OGC. When the opinion from OGC is received, the State Director will advise the County Supervisor of any deficiencies that must be corrected and return all material that was submitted for review.

(h) *Safeguarding bond shipments.* FmHA personnel will follow the procedures for safeguarding mailings and deliveries of bonds and coupons outlined in FmHA Instruction 103.1, whenever they mail or deliver these items.

(i) *Water stock certificates.* Water stock certificates will be filed in the loan docket in the County Office.

§ 1933.9 Planning and performing development.

(a) *Contract approval.* The State Director is responsible for approval of all construction contracts utilizing the legal advice and guidance of OGC as necessary. The authority to use the negotiated methods of contracting for amounts greater than $50,000 as provided in § 1933.18(a)(9)(ii)(D) may only be granted by the National Office and will not be considered when an FmHA grant is involved. When an applicant requests such authorization, the State Director will submit his recommendations and items in § 1933.18(a)(9)(ii)(D) and the following to the National Office for review:

(1) Applicant's written request to utilize methods of procurement other than competitive bidding and justification for the use of such negotiations.

(2) State Director's and FmHA engineer/architect comments and recommendations including, if possible, an evaluation of previous work of proposed construction firm.

(3) Regional attorney's opinion and comments regarding the legal adequacy of the proposed procurement method and proposed contract documents.

(4) Applicant's Attorney's opinion and comments regarding the legal adequacy of the proposed contract documents and evidence that the applicant has the legal authority to enter into and fulfill the contract.

(5) Copy of the proposed contract.

(b) *Prior contracts.* Where legally binding contracts have been entered into by the applicant and contractor prior to the filing of a preapplication, the State Director will determine that such action was without intent to avoid FmHA standards and regulations. The applicant must modify the contract documents where necessary by written change order to fully comply with the provisions of § 1933.18 or, where this is not practicable, the State Director may make an exception in writing, with the concurrence of the Regional Attorney, in accordance with § 1933.18(a)(9)(ii)(E). When construction has been performed prior to the filing of a preapplication, the applicant's engineer or architect must provide a written certificate that the construction in place fully complies with the plans and specifications approved by the applicant. In addition, the applicant must certify that they and their contractors complied with all statutory and executive order requirements relative to FmHA financing for construction already performed, even though these requirements may not have been included in the contract documents.

(c) *Machinery and equipment.* When substantial amounts of funds are necessary for purchase of machinery and equipment, associations ordinarily will be required to call for bids in a manner specified by the loan approval official to assure the best obtainable price.

(d) *Bid irregularities.* Any irregularities in the bids received or other matters pertaining to the contract award having legal implications will be cleared with OGC before the State Director consents to the contract award.

(e) *Noncompliance.* State Directors, upon receipt of information indicating borrowers or their officers, employees, or agents are not performing in compliance with § 1933.18(a)(9), shall request the Regional Office of the Inspector General to investigate the matter and provide him a report of such investigation. He will be responsible for taking such action as appropriate to resolve the issue.

(f) *Development inspections.* The State Director will designate an FmHA representative to assist the County Supervisor in monitoring the construction of all projects being financed, wholly or in part, with FmHA funds. This assistance will include construction inspections and a review of each project inspection report, each change order and each partial payment estimate and other invoices such as payment for engineering and legal fees and other materials determined necessary to effectively monitor each project. Project monitoring will include periodic inspections to review partial payment estimates prior to their approval and review project development in accordance with plans and specifications. Each inspection will be recorded using Form FmHA 424–12, "Inspection Report." The original Form FmHA 424–12 will be filed in the project case folder and copies furnished the State Director, the District Director and the designated FmHA representative. The State Director will review each inspection report and will determine that each project is being effectively monitored. In all cases where the governing body has entered into an agreement for technical services with an engineer or if such services are being made available by another Federal or State Agency, the County Supervisor is authorized to review partial payment estimates prepared by the project engineer and accept them for payment after they have been approved by the borrower. Each such payment estimate will contain a certification by the project engineer or architect that all material purchased and all work performed is in accordance with the plans and specifications. When there is no project engineer or architect, the County Supervisor may review and accept estimates for payments which have been approved by the borrower after determining that funds are requested for authorized purposes. If there is any indication that construction is not being completed in accordance with the plans and specifications or that any other problems exist, the County Supervisor should notify the State Director immediately and withhold all payments on the contract.

(g) *Construction contracts without performance and payment bond.* Section 1933.20(a)(17) "Construction Contract Documents," may be used for construction projects when a performance and payment bond is not provided in accordance with § 1933.18(a)(9)(ii)(F)(3). Evidence of payment in full for all materials, labor, and any other items procured under such contract will be furnished by the contractor. Form FmHA 424–10, "Release by Claimants," and Form MmHA 424–9, "Certificate of Contractor's Release," may be used for this purpose in accordance with § 1933.18(a)(9)(ii)(F)(3).

§ 1933.10 Borrower accounting methods, management reporting and audits.

(a) *Accounting methods and records.* Section 1933.17(a)(14)(i) lists the requirements for the types of accounting methods, record keeping and their approval.

(b) *Management reports.* Section 1933.17(a)(14)(ii) lists the requirements for management reports. Management assistance will be based on such factors as observation of borrower operations and review of the periodic financial reports. The amount and type of assistance provided will be that needed to assure borrower success and compliance with its agreements with FmHA.

(1) County Supervisors will obtain all management report data from the borrower and promptly forward to the State Director with appropriate comments.

(2) District Directors will, between the sixth and ninth month of operation of the first year, review the borrower's records and accounts and report his findings and recommendations on Form FmHA 442–4, "District Director's Report (Association Organization Borrowers)."

(i) Form FmHA 442–4 will be prepared and the borrower's positive action will be reviewed quarterly for each delinquent borrower or other borrower having financial problems.

(ii) A copy of all Form FmHA 442–4 reports will be submitted to the State Director.

(3) *The State Director* is responsible for the review of all management reports. Ordinarily, review findings and instructions regarding further management assistance will be determined within 30 days of submission for delinquent and problem borrowers and 40 days for other borrowers.

(i) Copies or review findings, instructions for further assistance, and positive action plans on delinquent borrowers and borrowers experiencing financial problems will be forwarded to the National Office.

(ii) The State Director may, after the end of the borrower's third full fiscal year of operation, exempt it from submitting management reports provided it:

(A) Is current on its loan payments.

(B) Is meeting the conditions of its agreements with FmHA.

(C) Has demonstrated its ability to successfully operate and manage the organization and has not obtained subsequent loans in the last 3 years which have significantly altered the scope of the project.

(iii) Borrowers qualifying for this exemption will still be required to comply with § 1933.17(a)(14)(iv) and (v).

(iv) The State Director may reinstate the requirements for submission for periodic management reports for those borrowers who become delinquent or otherwise are not carrying out their agreements with FmHA or require more frequent submission of management reports. The State Director will reinstate this requirement for borrowers receiving a subsequent loan which will significantly alter the scope of the project.

(v) The State Director may accept management reports which are not prepared on page 1 of Form FmHA 442–2, "Statement of Income and Expense for the Fiscal Year to Date," schedule 1 but contain like information. However, page 2 of this form must be used by all borrowers required to furnish management reports.

(vi) Ordinarily, the requirement for the applicant to submit a copy of its annual budget will not be waived.

(c) *Audits and financial statements.* Section 1933.17(a)(14)(iv) lists the requirements for audits and financial statements.

(1) *The County Supervisor* will obtain all audit reports and financial statements from the borrower and forward promptly to the State Director through the District Director with appropriate comments.

(2) *The State Director* is responsible for the review of audits and financial statements and for recommendations and instructions for the borrower assistance.

(i) *Review of audits.* For borrowers required to have audits, the State Director will review each audit for compliance with current instructions and the Audit Guide, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits for FmHA Borrowers and Grantees." The borrower will be required to furnish any additional information necessary to satisfy the audit requirement. Section 1933.20(a)(21) of this Subpart may be used in the audit review process.

§ 1933.11 Security inspections.

A representative of the borrower will ordinarily accompany the County Supervisor during each inspection.

(a) *Initial inspection.* The County Supervisor and the FmHA representative designated by the State Director to assist the County Supervisor in project monitoring will inspect each facility at the end of the eleventh full month of operation. The results of this inspection will be reported to the State Director on Form FmHA 424–12. The State Director will assure that appropriate action will be taken to correct project deficiences.

(b) *Subsequent inspections.* The County Supervisor will make subsequent inspections of borrower security property and facilities during each third year after the initial inspection. The results of this inspection will be reported to the State Director on Form FmHA 424–12.

(c) *Special inspections.* The County Supervisor may request, or the State Director may determine, the need for a member of his State staff to make certain security inspections. In such cases, the State Director will detail a member of his staff to make such inspections.

(d) *Follow-up inspections.* If any inspection discloses deficiencies or exceptions, or otherwise indicates a need for subsequent inspections prior to the third year, the State Director will prescribe the type and frequency of follow-up inspections. These inspections will be made until all deficiencies and exceptions have been corrected.

§ 1933.12 Loan cancellation.

Loans which have been approved and obligations which have been established may be canceled before closing as follows:

(a) *Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation."* The County Supervisor or State Director may prepare and execute Form FmHA 440–10 in accordance with the Forms Manual Insert. For a loan made from the RDIF, if the check has been received or is received subsequently in the County Office, the County Supervisor will return it to the United States Treasury Regional Disbursing Office with a copy of Form FmHA 440–10.

(b) *Notice of Cancellation.* If the docket has been forwarded to the OGC, that office will be notified of the cancellation by a copy of Form FmHA 440–10. Any application for title insurance, if ordered, will be canceled. The borrower's attorney and engineer, if any, should be notified of the cancellation. The County Supervisor may provide the borrower's attorney and engineer with a copy of his notification to the applicant.

§ 1933.13 Loan servicing.

Loans will be serviced in accordance with Subpart F of Part 1861 of this Chapter (FmHA Instruction 451.5 or § 1951–A and § 1953–A)

§ 1933.14 Subsequent loans.

Subsequent loans will be processed in accordance with this regulation.

§ 1933.15 Delegation and redelegation of authority.

The State Director is responsible for implementing the authorities contained in this regulation and to issue State supplements redelegating these authorities to appropriate FmHA employees. Loan approval authority is contained in Subpart A of Part 1901 of this Chapter. (FmHA Instruction 440.2)

§ 1933.16 State supplements and guides.

(a) *State supplements.* State Directors may supplement this regulation as appropriate to meet State and local laws and regulations and to provide for orderly application processing and efficient service to applicants. State supplements shall not contain any requirements pertaining to bids, contract awards, and materials more restrictive than those in § 1933.18 of this regulation.

(b) *State guides.* State Directors may develop guides for use by applicants if guides in § 1933.20 are not adequate.

V 42 1933 MAY 13 77 UMI

State Directors may prepare guides for items needed for the application; items necessary for the docket; and items required prior to loan closing or construction starts.

§ 1933.17 Appendix A—Community facilities.

(a) This section includes information and procedures specifically designed for use by applicants including their professional consultants and/or agents who provide such assistance and services as architectural engineering, financial, legal or other services related to application processing and facility planning and development. The appendix is made available as needed for such use.

(1) *General.* This Section includes FmHA policies and requirements pertaining to loans for community facilities. It provides applicants with guidance for use in proceeding with their application. FmHA shall cooperate fully with appropriate State agencies to give maximum support of the State's strategies for development of rural areas. State and substate A-95 agencies may recommend priorities for applications. FmHA will fully consider all A-95 agency review comments and priority recommendations in selecting applications for funding.

(2) *Applicant eligibility and priority.* Facilities financed by FmHA shall primarily serve rural residents and be located in rural areas except as provided in § 1933.17(a)(3)(iii)(K). The terms "rural" and "rural areas" shall not include any area in any city or town having a population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

(i) Applicants eligible for loans include but are not limited to municipalities, counties, and other political subdivisions of a State and other organizations operated on a nonprofit basis such as:

(A) Districts.

(B) Authorities.

(C) Associations, cooperatives and corporations operated on a not-for-profit basis.

(D) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes.

(E) Existing private corporations. Applicants organized under the general profit corporation laws may be eligible if they actually will be operated on a not-for-profit basis under their charter, by-laws, mortgage, or supplemental agreement provisions as may be required as a condition of loan approval.

(ii) Applicants must certify in writing and FmHA shall determine that the applicant is unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.

(iii) Each applicant must have or will obtain the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for the obtaining, giving security for, and repaying the proposed loan. The applicant shall be responsible for operating, maintaining, and managing the facility and for providing for its continued availability and use at reasonable rates and terms. This responsibility shall be exercised by the applicant even though the facility may be operated, maintained or managed by a third party under contract, management agreement, or written lease. Leases may be used when this is the only feasible way to provide the service and is the customary practice.

(iv) FmHA shall require an agreement that if at any time it shall appear to the Government that the borrower is able to refinance the amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

(v) Preference for available loan funds will normally be given to public bodies. When this is not practicable:

(A) Loans for facilities providing a utility-type service such as water and sewer systems, natural gas distribution systems, and cable TV may be made to other than public-body-type organizations, when operated on a not-for-profit basis. Security for such loans will be obtained in accordance with § 1933.17(a)(6)(i).

(B) Loans for services and facilities basic to social, cultural, recreational needs, public health and safety, such as fire and rescue facilities, hospitals and health clinics, community and other public buildings, and similar facilities may be made to other than public-body-type organizations when such facilities are fully available to the public; it is not practicable for the public entity they serve to finance them; and the proposal meets appropriate security requirements of § 1933.17(a)(6)(i).

(vi) Nonprofit organization eligibility. A private nonprofit organization, to be eligible for an essential community facility loan, must have significant ties with the local rural community. Such ties are necessary to ensure to the greatest extent possible that a facility under private control will carry out a public purpose and continue to primarily serve the local rural residents. Such ties may be evidenced by such items as:

(A) Association with or control by a local public body or bodies, or, broadly based ownership and control by members of the community;

(B) Substantial public funding through taxes, revenue bonds, or other local Government sources, and/or, substantial voluntary community funding such as would be obtained through a community-wide funding campaign.

(vii) Project priority. In determining project priorities, FmHA shall give due consideration to State development strategies, projects needing improvements to comply with the Safe Drinking Water Act, clearinghouse comments and priority recommendations and assign priorities in accordance with the following:

(A) Water and sewer system applications from any municipality or other public agency (including an Indian Tribe on a Federal or State reservation or other Federally recognized Indian tribal group) in a rural community having a population not in excess of 5,500 having an inadequate water or sewer system.

(B) Those projects which will enlarge, extend, or otherwise modify existing facilities to provide service to additional rural residents.

(C) Those projects which involve the merging of ownership, management, and operation of smaller facilities thereby providing for more efficient management and economical service to more rural communities and residents and more orderly development of the rural area in which the facilities are located.

(3) *Eligible loans purposes.* Funds may be used:

(i) To construct, enlarge, extend, or otherwise improve community water, sanitary sewerage, solid waste disposal, and storm waste water disposal facilities.

(ii) To construct, enlarge, extend, or otherwise improve community facilities providing essential service to rural residents. Such facilities include but are not limited to those providing or supporting overall community development such as fire and rescue services; transportation; traffic control; community, social, cultural, and recreational benefits; supplemental and supporting structures for rural electrification or telephone systems or facilities such as headquarters and office buildings, storage facilities, and maintenance shops only when they are not eligible for Rural Electrification Administration financing. Funds may be used for development of industrial park sites, consisting of land and land improvements (e.g., clearing, grading, drainage), necessary access ways and utility extensions to and throughout the site when the park is determined to be an integral part of community development. Funds may not be used in connection with industrial parks to finance onsite utility systems, or business and industrial buildings.

(iii) For items relating to those facilities in paragraphs (i) and (ii) of this section as follows:

(A) Fees, services, and costs such as legal, engineering, fiscal advisory, recording, planning, establishing or acquiring rights through appropriation permit, agreement, or condemnation. Fees for "loan finding" are not an eligible cost item.

(B) Paying interest installments in connection with loans to be repaid from facility revenue until such time as the facility is generating sufficient revenue to be self supporting. Ordinarily, this will be limited to an amount sufficient to pay not more than 3 years interest after the estimated loan closing date. Funds may be included for interest installments for loans secured by general obligation bonds through the period when taxes are available for payment, ordinarily not to exceed two years.

(C) Purchase existing facilities when it is determined that the purchase is necessary to provide efficient service through

a community owned and operated facility and a satisfactory agreement between buyer and seller is reached and receives FmHA concurrence.

(D) Construct buildings and works of modest design, size, and cost, essential to the successful operation or protection of authorized community facilities and secondary facilities such as gas or electric service lines to convey fuel or energy for, or utilities for, primary facilities.

(E) Construct or relocate roads, bridges, utilities, fences, and other public improvements, or relocate roads, bridges, utilities, fences, and other private improvements.

(F) Acquire interest in land, rights such as water rights, leases, permits, rights-of-way, and other evidence of land or water control which are necessary for development of the facility.

(G) Purchase or rent equipment necessary to install, maintain, extend, protect, operate, or utilize facilities.

(H) Initial operating expenses for a period ordinarily not exceeding one year when the borrower is unable to pay such expenses.

(I) Refinancing debts incurred by or on behalf of a community when all of the following conditions exist:

(*1*) The debt being refinanced is the secondary part of the total loan.

(2) The debts were incurred for the facility, or any part thereof, or any service being financed.

(3) Arrangements cannot be made with the creditors to extend or modify the terms of the debt so that a sound basis will exist for making a loan.

(J) Paying obligations for construction incurred before loan approval. Construction work should not be started and obligations for such work or materials should not be incurred before the loan is approved. However, if there are compelling reasons for proceeding with construction before loan approval, applicants may request FmHA approval to pay such obligations. If upon receipt of such request FmHA determines that:

(*1*) A necessity exists for incurring obligations before loan approval;

(2) The obligations will be incurred for authorized loan purposes;

(3) Contract documents have been approved by FmHA;

(*4*) The applicant has the legal authority to incur the obligations at the time proposed, and payments of the debts will remove any basis for any mechanic's, materialmen's or other liens that may attach to the security property, FmHA may authorize payment of such obligations at the time of loan closing. FmHA's authorization to pay such obligations however, is on the condition that it is not committed to make the loan; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan approval requirements. The applicant request and FmHA authorization for paying such obligations shall be written.

(K) FmHA loan funds may be used alone or in connection with funds provided by the applicant or from other sources. When the utility is to serve both rural and urban areas, FmHA loan funds may be used to finance that portion of a utility project serving rural residents regardless of location of the facility. Since "matching funds" are not a requirement for FmHA loans, shared revenues may be used with such loans for project construction. Applicants expecting funds from other agencies for use in completing projects being partially financed with FmHA funds will present evidence that funds from such other agencies needed for construction of the project will be available before closing the FmHA loan or the commencement of construction, which ever occurs first.

(*4*) *Facilities for public use.* All facilities financed under the provisions of this subpart shall be for public use.

(i) Facilities providing a utility type service such as water and waste disposal will be installed so as to afford service to all users living within the area which logically should be served by the central system unless State or local law or ordinance precludes such service.

(ii) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, or national origin.

(iii) This does not preclude financing or construction of:

(A) Projects in phases when it is not practical to finance or construct the entire project at one time, and

(B) When any portion of the income ically feasible to serve the entire area provided economic feasibility is determined on the basis of the entire system and not by considering the cost of separate extensions to or parts thereof; the applicant publicly announces a plan for extending service to areas not initially receiving service from the system; and those families living in the areas not to be initially served receive written notice from the applicant that service will not be provided until such time as it is economically feasible to do so.

(C) Extension of services to industrial areas when service is made available to users located along the extensions.

(iv) The applicant will be required to notify each potential user of the availability of the service.

(A) If a mandatory hookup ordinance will be adopted, the required bond ordinance or resolution advertisement will be considered adequate notification.

(B) Facilities where it is not economwill be derived from user fees and a mandatory hookup ordinance will not be adopted, each potential user will be afforded an opportunity to request service by signing a Users Agreement. Those declining service will be afforded an opportunity to sign a statement to such effect. FmHA has guides available for these purposes in all FmHA offices.

(v) Before a loan is made to an applicant other than a public body, the articles of incorporation or loan agreement will include the following condition:

"In the event of dissolution of this corporation, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property and assets of the corporation shall go and be distributed to one or more nonprofit corporations or public bodies as may be selected by the board of directors of this corporation and approved by at least 75 percent of the users or members to be used for, and devoted to, the purpose of a community facility project or other purpose to serve the public welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, directors, stockholders, or others having financial or managerial interest in the corporation either for the reimbursement of any sum subscribed, donated or contributed by such members or for any other purposes, provided that nothing herein shall prohibit the corporation from paying its just debts."

(5) *Rates and terms.* (i) Loans will bear interest at the rate of 5 percent on the unpaid principal balance.

(ii) Loans will ordinarily be scheduled for repayment on terms similar to those used in the State for financing such facilities but in no case shall they exceed 40 years from the date of the note(s) or bond(s) or the useful life of the facility, whichever is less. In all cases in which the FmHA is jointly financing with another lender, the FmHA payments of principal and interest should approximate amortized installments.

(A) If the borrow will be retiring other debts represented by bonds or notes, the repayment on such bonds may be considered in developing the repayment schedule for the FmHA loans.

(B) Principal payments may be deferred in whole or in part for a period not to exceed the end of the third full year after the estimated date of loan closing. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the National Office. Deferments of principal will not be used to:

(*1*) Postpone the levying of taxes or assessments.

(2) Delay the collection of the full rates which the borrower has agreed to charge users for its services as soon as major benefits or the improvements are available to those users.

(3) Create reserves for normal operation and maintenance.

(*4*) Make any capital improvements except those approved by FmHA determined to be essential to the repayment of the loan or to the obtaining of adequate security thereof.

(5) Accelerate the payment of other debts.

(6) *Security.* Loans will be secured by the best security position available. When processing a loan utilizing joint financing, FmHA will obtain at least a parity position with the other lender. A parity position is to insure that in a joint financing venture each lender's security position will be subordinated to that of the other, and in the event of default, such as a deficit in revenues available for debt servicing and in cases involving foreclosures or other actions, each lender will be affected on a proportionate basis. Loans will be secured in a manner which will adequately protect the interest of FmHA during the repayment period of the loan. Specific require-

V 42 93 MAY 13 77 UMI

ments for security for each loan will be included in a letter of conditions.

(i) Other-than-public bodies. Loans to other-than-public body applicants will be secured as follows:

(A) Loans to borrowers operating utility type facilities such as water and sewer systems, natural gas distribution systems, cable TV, will be secured as follows:

(*1*) Assignments of borrower income will be taken and perfected by filing, if legally permissible; and

(*2*) A lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, and similar property rights, including leasehold interest, used, or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds. In unusual circumstances where it is not feasible to obtain a lien on such land (such as land rights obtained from Federal or local Government agencies, and from railroads) and the FmHA State Director determines that the interest of FmHA otherwise is secured adequately, the lien requirement may be omitted as to such land rights. It will be the responsibility of the applicant to obtain and record such releases, consents, subordinations to such property rights from holders of outstanding liens or other instruments, as it determines, with the advice of its attorney, are necessary for the construction, operation, and maintenance of the facility.

(*3*) When the loan is approved or the acquisition of real property subject to an outstanding lien indebtedness, the next highest priority lien obtainable will be taken.

(*4*) When easements, rights-of-way, of leases only are obtainable on sites for structures such as reservoirs and pumping stations, releases, consents, or subordinations may be required by FmHA.

(*5*) Other security. Promissory notes from individuals, stock or membership subscription agreements, individual member's liability agreements, or other evidences of debt, as well as mortgages or other security instruments encumbering the private property of members of the association may be pledged or assigned to FmHA as additional security in any case in which the interest of Fm HA will not be otherwise adequately protected.

(*6*) In those cases where there is a substantial number of other than full time residents and facility costs result in a higher than reasonable rate for such full time residents, the loan will be secured by an assignment or pledge of general obligation bonds, taxes or assessments from public bodies or other organizations having authority to issue bonds backed by taxes or assessments.

(B) Loans for solid waste projects may be secured by a pledge of solid waste disposal revenue, only when the revenue pledged includes that from the solid waste project plus revenue from other facilities of the applicant with tie-in enforcement rights, or by the taxing power of participating local governments.

(C) Loans for other community facilities such as social, cultural recreational needs, public health and safety, may be secured through assignments of assured income which will have permanency for the life of the loan, from sources such as insurance premium rebates, or commitments from industries or public bodies. Additional security may be taken as determined necessary by the State Director.

(*1*) In those cases where an assignment of assured income is not available, a loan may be considered provided the organization and facilities have:

(*i*) Been in existence and are able to present evidence of financially successful operation of a similar facility for a period of time sufficient to indicate project success and have available real and chattel property which has a present market value, determined by a qualified appraiser, equal to or exceeding the amount of the loan to be obtained plus any other indebtedness on the proposed security property. National Office concurrence is required for those applications in which the applicant has been in existence for less than five years and/or has not operated on a financially successful basis for at least the last five years.

(*2*) Such loans will be secured by liens on real and chattel property used in connection with the facility, an assignment of income and any other security the State Director determines necessary for a sound loan. If the State Director determines that the loan will be adequately secured with a lien on real estate or chattel property having a present market value equal to or exceeding the indebtedness, he may delete the lien requirements on either the real estate or chattel property.

(*3*) In those exceptional cases where the proposal does not meet the requirements outlined in paragraph (a)(6)(i)(C) of this section, such proposals may be considered only:

(*i*) When the applicant is a new organization or one that has not operated the type of facility being proposed.

(*ii*) When there is a demonstration of exceptional community support such as substantial financial contributions, and aggressive leadership in the formation of the organization and proposed project which indicates a commitment of the entire community.

(*iii*) After the State Director has determined that adequate and dependable revenues will be available to meet all operation expenses, debt repayment and the required reserve.

(*iv*) When the security required by paragraph (a)(6)(i)(C) of this section is available.

(*v*) With prior National Office review and concurrence.

(D) *Public bodies.* Loans to such borrowers will be evidenced by notes, bonds, warrants, or other contractual obligations as may be authorized by relevant State statutes and by borrower's documents, resolutions, and ordinances.

(*1*) Loans to borrowers operating utility type facilities such as water and sewer sytems, natural gas distribution systems, cable TV, may be secured by:

(*i*) The full faith and credit of the borrower when the debt is evidenced by general obligation bonds.

(*ii*) Pledges of taxes or assessments.

(*iii*) General obligation bonds, taxes, or assessments. In those cases involving water and waste disposal projects where there is a substantial number of other than full-time residents and facility costs result in a higher than reasonable rate for such full-time residents, the loan will be secured by an assignment or pledge of general obligation bonds, taxes, or assessments from public bodies or other organizations having the authority to issue or pledge such bonds, taxes, or assessments.

(*iv*) Pledges of facility revenue and when permitted by State law liens on real and personal property.

(*2*) Loans for solid waste projects may be secured by bonds pledging solid waste disposal revenue, only when the revenue pledged includes that from the solid waste project plus revenue from other facilities of the applicant with tie-in enforcement rights, or by the taxing power of participating local governments.

(*3*) Loans for other community facilities such as social, cultural, recreational needs, and public health and safety, and the like will be secured by one or a combination of the following:

(*i*) General obligation bonds.

(*ii*) Assessments.

(*iii*) Bonds which pledge other taxes.

(*iv*) Bonds pledging revenues of the facility being financed when such bonds provide for the mandatory levy and collection of taxes in the event revenues later become insufficient to properly operate and maintain the facility and to retire the loan.

(*v*) Assignment of assured income which will have permanency for the life of the loan from sources such as insurance premium rebates, commitments from industries or other public bodies. Additional security may be taken as determined necessary by the State Director.

(*4*) In those cases where security is not available in accordance with paragraph (a)(6)(i)(C) of this section, a proposal may be considered, provided the organization and facilities have:

(*i*) Been in existence and are able to present evidence of the financially successful operation of a similar facility for a period of time sufficient to indicate project success. National Office concurrence is required for those applications in which the applicant has been in existence for less than five years and/or has not operated on a financially successful basis for at least the last five years; and

(*ii*) Such loans will be secured by an assignment of income and liens on real and/or personal property having a present market value equal to or exceeding the indebtedness. If State law precludes securing the loan in such manner, the loan will be secured in the best manner consistent with State law and customary security taken by private lenders in the State such as revenue

bonds and any other security the State Director determines necessary for a sound loan.

(*5*) In those exceptional cases where the proposal does not meet the requirements outlined in paragraphs (a)(6)(C) and (D) of this section, proposals may be considered in accordance with paragraph (a)(3)(i) of this section, except that liens will be taken on real and personal property when legally permissible.

(E) *Public bodies and other than public bodies.* (*1*) *Title for right-of-way or easement.* Applicants are responsible for obtaining continuous and adequate rights-of-way and interests in land needed for the construction, operation and maintenance of the facility. When a lien will be taken on a site for structures such as a reservoir or pumping station, and the applicant is able to obtain only a right-of-way or easement on such site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing the ownership of the land and all mortgages or other liens defects, or encumbrances, if any. Consents, releases or subordinations will be obtained from the holders of outstanding liens or mortgages as may be necessary to give FmHA the required security. The applicant will take such title clearance steps as may be necessary or required by FmHA.

(*2*) *Water rights.* When legally permissible an assignment will be taken on water rights owned or to be acquired by the applicant the following will be furnished as applicable:

(*i*) A statement by the applicant's attorney regarding the nature of the water right owned or to be acquired by the applicant (such as conveyance of title, appropriation and decree, application and permit, public notice and appropriation and use).

(*ii*) A copy of a contract with another company or municipality to supply water or stock certificates in another company representing right to receive water.

(*3*) *Membership authorization.* For organizations other than public bodies, the membership will authorize a utility type project and its financing except that the State Director may, with the concurrence of the OGC, accept the loan resolution without such membership authorization when State statutes and the organization's charter and bylaws do not require such authorization; and

(*i*) The organization is well established and is operating with a sound financial base; or

(*ii*) The members of the organization have all signed an enforceable user agreement with a penalty clause and have made the required meaningful user cash contribution, except for members presently receiving service or when State statutes or local ordinances require mandatory use of the facility.

(*7*) *Economic feasibility requirements.* All projects financed under the provisions of this Section must be based on taxes, assessments, revenues, fees or other satisfactory sources in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the FmHA staff and approval official.

(*i*) Applicants for loans for utility facilities dependent on user fees for debt payment shall base their income and expense forecast on realistic user estimates in accordance with the following:

(A) In estimating the number of users and establishing rates or fees on which the loan will be based for new systems and for extension or improvements to existing systems, consideration should be given to the following:

(*1*) An estimated number of maximum initial users should not be used when setting user fees and rates since it may be several years before all residents in the community will need the services provided by the system. In establishing rates a realistic number of initial users should be employed.

(*2*) User agreements from individual vacant property owners will not be considered when determining project feasibility unless:

(*i*) The owner has plans to develop the property in a reasonable period of time and become a user of the facility; and

(*ii*) The owner agrees in writing to make a monthly payment at least equal to the proportionate share of debt service attributable to the vacant property until the property is developed and the facility is utilized on a regular basis; and

(*iii*) A bond or escrowed security deposit is provided to guarantee the monthly payment required in paragraph (a)(7)(i)(A)(2)(ii) of this section and to guarantee an amount at least equal to the owners proportionate share of construction costs. If a bond is provided, it must be executed by a surety company that appears on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State where the project is located. The guarantee shall be payable jointly to the borrower and the Farmers Home Administration; and

(*iv*) Such guarantee will mature not later than 4 years from the date of execution and will be finally due and payable upon default of a monthly payment or at maturity, unless the property covered by the guarantee has been developed and the facility is being utilized on a regular basis.

(*3*) Income from vacant property owners other than those authorized by paragraph (a)(7)(i)(A)(2) of this section will be considered only as extra income.

(B) In order to establish realistic user estimates, the following are required:

(*1*) Meaningful potential user cash contribution. Contributions shall be high enough to indicate sincere interest on the part of the potential user but not so high as to preclude service to low-income families. Contributions ordinarily shall be an amount approximating one year's minimum use fees and shall be paid in full before loan closing or the commencement of construction, whichever occurs first. User cash contributions are required except for users presently receiving service when user agreements contained in paragraph (a)(7)(i)(C) are not required or in those cases where FmHA determines that users cannot make a cash contribution.

(*2*) Except for users presently receiving service an enforceable user agreement with a penalty clause is required unless State statutes or local ordinances require mandatory use of the system and the applicant agrees in writing to enforce such statutes or ordinances, or an exception is otherwise approved by FmHA.

(C) User connection program. In those cases where all or part of the borrower's debt payment ability revenues will come from user fees, applicants must provide a positive program to encourage connection by all users as soon as service is available for review and approval by FmHA before loan closing or commencement of construction, whichever occurs first. Such a program shall include:

(*1*) An aggressive information program to be carried out during the construction period. The borrower should send written notification to all signed users at least three weeks in advance of the date service will be available, starting the date users will be expected to have their connections completed, and the date user charges will begin.

(*2*) Positive steps to assure that installation services will be available. These may be provided by the contractor installing the system, local plumbing companies, or local contractors.

(*3*) Aggressive action to see that all signed users can finance their connections. This might require collection of sufficient user contributions to finance connections. Extreme cases might necessitate additional loan funds for this purpose; however, loan funds should be used only when absolutely necessary and when approved by FmHA prior to loan closing.

(ii) Facilities for new developing communities or areas. Developers are normally expected to provide essential community facilities in new or developing areas and such facilities shall be installed in compliance with appropriate State statutes and regulations. FmHA financing will be considered to an eligible applicant in such cases when failure to complete development would result in an adverse economic condition for the rural area (not the community being developed); the proposal is necessary to the success of an area development plan; and loan repayment can be assured by:

(A) The applicant already having sufficient assured revenues to repay the loan; or

(B) Developers providing a bond or escrowed security deposit in accordance with paragraph (a)(7)(i)(A)(2) of this section sufficient to meet expenses attributable to the area in question until a sufficient number of the building sites are occupied and connected to the facility to provide enough revenues to meet operating, maintenance, debt service, and reserve requirements; or

(C) Developers paying cash for the increased capital cost and any increased

V 42 93 MAY 13 77 UMI

operating expenses until the developing area will support the increased costs; or

(D) The full faith and credit of a public body where the debt is evidenced by general obligation bonds; or

(E) The loan is to a public body evidenced by a pledge of tax assessments; or

(F) The user charges can become tax lien upon the property being served and income from such lien can be collected in sufficient time to be used for its intended purposes.

(iii) Financial feasibility reports. Applicants will provide a financial feasibility report prepared by a qualified firm or individual. Projects for other than utility type facilities, dependent on revenues from the facility to repay the loan and proposing modifications which will significantly affect the applicant's financial operations will be prepared by a qualified firm or individual not having a direct interest in the management or construction of the facility. For other projects the financial feasibility report will normally be included as a part of the preliminary engineer/architectual report unless additional information is specifically requested by FmHA. Guides outlining the minimum content requirements of financial feasibility reports are available at local FmHA offices.

(8) *Reserve requirements.* Provision for the accumulation of necessary reserves over a reasonable period of time will be included in the loan documents and in assessments, tax levies, or rates charged for services. In those cases where statutes providing for extinguishing assessment liens of public bodies when properties subject to such liens are sold for delinquent State or local taxes, special reserves will be established and maintained for the protection of the borrower's lien of assessment.

(i) *General obligation or special assessment bonds.* Ordinarily, the requirements for reserves will be considered to have been met if general obligation or other bonds which pledge the full faith and credit of the political subdivision are used, or special assessment bonds are used, and if such bonds provide for the annual collection of sufficient taxes or assessments to cover debt service, operation and maintenance, and a reasonable amount for emergencies and to offset the possible nonpayment of taxes or assessments by a percentage of the property owners, or a statutory method is provided to prevent the incurrence of a deficiency.

(ii) *Other than general obligation or special assessment bonds.* Each borrower will be required to establish and maintain reserves sufficient to assure that loan installments will be paid on time, to pay for emergency maintenance, and for extensions to facilities. It is expected that borrowers issuing bonds or other evidences of debt pledging facility revenues as security will ordinarily plan their reserve program to provide for a total reserve in amount, equal, at least, to one average loan installment. It is also expected that ordinarily such reserve will be accumulated at the rate of at least one-tenth of the total each year until the desired level is reached.

(9) *General requirements.* (i) *Planning, bidding, contracting, constructing.* (See § 1933.18.)

(ii) *Insurance and bonding.* Property insurance, workmen's compensation insurance, liability insurance, and fidelity bond requirements will not normally be over and above those proposed by the borrower provided the coverage is found to be adequate, and in accordance with the following:

(A) *Property insurance.* Fire and extended coverage may be required on all aboveground structures, including borrower-owned equipment and machinery housed therein, usually in the amount of their value. This does not apply to water reservoirs, standpipes, elevated tanks, and other noncumbustible materials used in treatment plants, clearwells, clarification units, filters, and the like. Where lift stations are properly ventilated, property insurance is not required except for the value of the pumping equipment and electrical equipment therein.

(B) *Workmen's compensation.* The borrower will carry suitable workmen's compensation insurance for all of its employees in accordance with applicable State laws.

(C) *Liability and property damage insurance.* Requirements for liability insurance will be carefully and thoroughly considered in connection with each project financed. Public liability and property damage insurance amounts will be established accordingly. If the borrower owns trucks, tractors, or other vehicles that are driven over public highways, public liability and property damage insurance will be required.

(D) *Malpractice insurance.* The need for and requirements for malpractice insurance will be carefully and thoroughly considered in connection with each health care facility financed. The applicant will maintain such insurance as determined necessary by the governing body, with the advice of the applicant's attorney and concurred in by FmHA.

(E) *Fidelity bonds.* The borrower will provide fidelity bond coverage for the positions of officials entrusted with the receipt and disbursement of its funds and the custody of valuable property. The amount of the bond will be at least equal to the maximum amount of the money that the borrower will have on hand at any one time exclusive of loan funds deposited in a supervised bank account. Unless prohibited by State law, the United States will be named as coobligee in the bond. Corporate fidelity bonds will be obtained except that in unusual circumstances FmHA may give prior approval to cash bonds. Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used.

(F) *Purchasing land, rights, and existing facilities.* Applicants are required to assure that prices paid for land, rights, and facilities are reasonable and fair. FmHA may require an appraisal by an independent appraiser, or an FmHA employee.

(G) *Notes and bonds.* Notes and bonds will be completed on the date of loan closing except for the entry of subsequent multiple advances where applicable. The amount of each note or bond will be in multiples of $100.

(1) Form FmHA 440-22, "Promissory Note (Association or Organization)," will ordinarily be used for loans to nonpublic bodies.

(2) Section 1933.19 contains instructions for preparation of notes and bonds evidencing indebtedness of public bodies.

(H) *Environmental impact statements.* The need for an environmental impact statement will be determined by FmHA in accordance with Subpart G of Part 1901 of this Chapter (FmHA Instruction 1901-G). The applicant will provide any information required.

(I) *Health care facilities.* Applicants will provide a statement from the appropriate State agency certifying that the proposed health care facility is not inconsistent with the State Medical Facilities Plan. In addition, a statement will be provided from the appropriate State agency or regional Department of Health, Education and Welfare (HEW) engineer certifying that the proposed facility will meet the minimum standards for design and construction contained in the Public Health Service/Health Resources Administration (PHS/HRA), HEW Publication (No. HRA 74-4000), "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities"; the statement will also contain the life/safety aspects of the 1967 and 1973 editions of the National Fire Protection Association (NFPA) 101 Life Safety Code, or any subsequent codes that may be designated by the Secretary of HEW. Any exceptions must have prior National Office concurrence.

(J) *Lease agreements.* Where the right of use or control of real property not owned by the applicant/borrower is essential to the successful operation of the facility during the life of the loan, such right will be evidenced by written agreements or contracts between the owner(s) of the property and the applicant/borrower. Lease agreements shall not contain provisions for restricted use of the site or facility, forfeiture or summary cancellation clauses and shall provide for the right to transfer and lease without restriction. Lease agreements will ordinarily be written for a term at least equal to the term of the loan. Such lease contracts or agreements will be approved by the FmHA loan approving official with the advice and counsel of the Regional Attorney, Office of the General Counsel, as to the legal sufficiency of such documents. A copy of the lease contract or agreement will be included in the loan docket.

(10) *Other Federal, State and local requirements.* Each application shall contain the comments, necessary certifications and recommendations of appropriate regulatory or other agency or institution having expertise in the planning, operation and management of

similar facilities. Proposals for facilities financed in whole or in part with FmHA loans will be coordinated with appropriate Federal, State, and local agencies in accordance with the following:

(i) *Compliance with special laws and regulations.* Applicants will be required to comply with Federal, State, and local laws and any regulatory commission rules and regulations pertaining to:

(A) Organization of the applicant and its authority to construct, operate, and maintain the proposed facilities;

(B) Borrowing money, giving security therefor, and raising revenues for the repayment thereof;

(C) Land use zoning; and

(D) Following unless an exception is granted by FmHA:

(1) Health and sanitation standards

(2) Design and installation standards.

(ii) *State Pollution Control or Environmental Protection Agency standards.* Water and waste disposal facilities will be designed, installed, and operated in such manner that they will not result in the pollution of water in the State in excess of established standards and that any effluent will conform with appropriate State and Federal Water Pollution Control Standards.

(iii) *Consistency with other development plans.* FmHA financed facilities will not be inconsistent with any development plans of State, multijurisdictional area, counties, or municipalities in which the proposed project is located.

(iv) *State agency regulating water rights.* Each FmHA financed facility will be in compliance with appropriate State agency regulations which have control of the appropriation, diversion, storage and use of water and disposal of excess water. All of the rights of any landowners, appropriators, or users of water from any source will be fully honored in all respects as they may be affected by facilities to be installed.

(v) *National historic preservation.* All projects will be in compliance with the provisions of the National Historic Preservation Act of 1966 in accordance with Part 1890 N of this Chapter. (FmHA Instruction 1901-F)

(vi) *Civil Rights Act of 1964.* All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 in accordance with Subpart E of Part 1901 of this Chapter.

(vii) *Architectural Barriers Act of 1968.* All facilities financed with FmHA loans and grants and which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this act.

(11) *Professional services and contracts related to the facility.* (i) *Professional services.* Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Professional services of the following may be necessary: Engineer, architect, attorney, bond counsel, accountant, auditor as defined in paragraph (a)(14)(iv)(C)(1) of this section; appraisers, and financial advisory or fiscal agent (if desired by applicant). Contracts or other forms of agreement between the applicant and its professional and technical representatives are required and are subject to FmHA concurrence. Form FmHA 442.19, "Agreement for Engineering Services," may be used when appropriate. Section 1933.20(a)(20) "Agreement for Engineering Services (FmHA/EPA—Jointly Funded Projects)" on projects jointly funded by FmHA and EPA. Section 1933.20(a)(14) may be used in the preparation of the legal services agreement.

(ii) *Contracts for other services.* Contracts or other forms of agreements for other services including management, operation, and maintenance will be developed by the applicant and presented to FmHA for review and approval.

(iii) *Fees.* Fees provided for in contracts or agreements required in paragraph (a)(11)(i) and (ii) of this section shall be reasonable. They shall be considered to be reasonable if not in excess of those ordinarily charged by the profession for similar work when FmHA financing is not involved.

(12) *Applying for FmHA loans.* (i) *Pre-application.* Applicants desiring loans will file Form AD-621, "Preapplication for Federal Assistance," with the appropriate FmHA County Office. They will also file written notice of intent and a request for priority recommendations with the appropriate A-95 clearinghouse agency.

(ii) *Preapplication review.* Upon receipt of the preapplication, FmHA will tentatively determine eligibility including the likelihood of credit elsewhere at reasonable rates and terms and availability of FmHA loan funds. The determination as to availability of other credit will be made after considering present rates and terms available for similar proposals (not to be based upon 5 percent interest and 40-year repayment terms); the repayment potential of the applicant; long-term cost to the applicant; and average user or other charges.

(iii) In those cases where FmHA determines that loans at reasonable rates and terms should be available from commercial sources, FmHA will notify the applicant so that it may apply for such financial assistance. Such applicants may be reconsidered for FmHA loans upon their presenting satisfactory evidence of inability to obtain commercial financing at reasonable rates and terms.

(iv) Applicants should not proceed with planning nor obligate themselves for expenditures until authorized by FmHA.

(v) *Applicants are:* (A) Responsible for completing their applications in accordance with guidance from FmHA.

(B) Responsible for assembling their applications. They may utilize their professional technical representatives or other competent sources to assist in assembling their applications.

(vi) *Application conference.* Before starting to assemble the application and after the applicant selects its professional and technical representatives, it should arrange with FmHA for an application conference to provide a basis for orderly application assembly. FmHA will provide applicants with a list of documents necessary to complete the application.

(vii) *Review of decision.* If an application is rejected, the applicant may request a review of this decision from the Administrator of FmHA. The address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250. The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(13) *Closing loans and fund delivery.*—(i) *Loan resolutions.* Loan resolutions will be adopted by both public and other-than-public bodies using Forms FmHA 442-47 and FmHA 442-9 respectively. These resolutions will supplement or add to provisions included elsewhere in this regulation. The association will agree:

(A) To indemnify the Government for any payments made or losses suffered by the Government on behalf of the association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

(B) To comply with applicable local, State and Federal laws, regulations and ordinances.

(C) To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, establishment of adequate reserves and to continually operate and maintain the facility in good condition. No free service or use of the facility will be permitted.

(D) To acquire and maintain such insurance coverage including fidelity bonds, as may be required by the Government.

(E) To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof in such a manner as may be required by the Government and to provide the Government without its request, a copy of each such audit and to make and forward to the Government such additional information and reports as it may, from time to time, require.

(F) To provide the Government at all reasonable times, access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

(G) To serve any applicant within the service area who desires services and can be feasibly and legally served and to obtain the concurrence of the FmHA

V 42 93 MAY 13 77 UMI

prior to refusing services to such applicant. Upon failure to provide services which are feasible and legal, such applicant shall have a direct right of action against the association under this agreement.

(H) To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds or notes or other debt instruments such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.

(I) To refinance the unpaid balance, in whole or in part, of its debt upon the request of the Government if at any time it should appear to the Government that the association is able to refinance its bonds by obtaining a loan for such purposes from reasonable cooperative or private sources at reasonable rates and terms.

(J) To provide for, execute, and comply with Form FmHA 400–4, "Nondiscrimination Agreement," and Form FmHA 400–1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in or attached as a rider to each construction contract and subcontract involving in excess of $10,000.

(K) To place the proceeds of the loan on deposit in an account in a bank and in a manner approved by the Government.

(L) Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof or interest therein, not to permit others to do so, without the prior written consent of the Government.

(M) Not to borrow any money from any source, enter into any contract or agreement, or incur any other liabilities in connection with making enlargements, improvements or extensions to, or for any other purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the debt to FmHA.

(N) That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government, at its option, may:

(*1*) Declare the entire principal amount then outstanding and accrued interest, due and payable;

(2) For the account of the association (payable from the source of funds pledged to pay the bonds or notes or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default; and/or

(3) Take possession of the facility, repair, maintain and operate, or otherwise dispose of the facility. Default under the provisions of the resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the association and default under any such instrument may be construed by the Government to constitute default hereunder.

(ii) *Interim financing.* In all loans, exceeding $50,000, where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds. When interim commercial financing is used, the application will be processed, including obtaining construction bids, to the stage where the FmHA loan would normally be closed, that is immediately prior to the start of construction. When the interim financing funds have been expended, the FmHA loan will be closed. Multiple advances may be used in conjunction with interim commercial financing when the applicant is unable to obtain sufficient funds through interim commercial financing in an amount equal to the loan. The FmHA loan proceeds (including advances) will be used to retire the interim commercial indebtness. Before the FmHA loan is closed, the applicant will be required to provide FmHA with statements from the contractor, engineer, architect, and attorney that they have been paid to date in accordance with their contracts or other agreements and, in the case of the contractor, that he has paid his suppliers and subcontractors. If such statements cannot be obtained, the loan may be closed provided:

(A) Statements to the extent possible are obtained;

(B) The interests of FmHA can be adequately protected and its security position is not impaired;

(C) Adequate provisions are made for handling the unpaid accounts by withholding or escrowing sufficient funds to pay such claims.

(iii) *Multiple advances.* In the event interim commercial financing is not legally permissible or not available, multiple advances of FmHA loan funds are required. Multiple advances will be used only for loans in excess of $50,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period. Advances should not exceed 24 in number nor extend longer than two years beyond loan closing. Normally, the retained percentage withheld from the contractor to assure construction completion will be included in the last advance.

(A) Section 1933.19(a) (5) and (6) contain instructions for making multiple advances to public bodies.

(B) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay cost of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The applicant will prepare Form FmHA 440–11, "Estimate of Funds Needed," to show the amount of funds needed during the 30-day period. Form AD–627, "Report of Federal Cash Transactions," will be prepared and submitted with each Form FmHA 440–11 after the initial advance of funds is made.

(iv) *Applicant contribution.* Applicants contributing funds toward the project cost shall deposit these funds in its construction account on or before loan closing or start of construction whichever occurs first. Project costs, paid prior to the required deposit time with applicant funds shall be appropriately accounted for.

(v) *Evidence of and disbursement of other funds.* Applicants expecting funds from other sources for use in completing projects being partially financed with FmHA funds will present evidence that funds from such other sources will be available before loan closing, or the commencement of construction, whichever occurs first. Ordinarily, the funds provided by the applicant or from other sources will be disbursed prior to the use of FmHA loan funds. If this is not possible, funds will be disbursed on a pro rata basis.

(vi) *Supervised bank account.* Loans funds and any funds furnished by the applicant may be deposited in a supervised bank account in a bank having Federal Deposit Insurance Corporation (F.D.I.C.) coverage. Funds placed in a supervised bank account are public monies under 12 U.S.C. 265, and therefore, any amount which exceeds the F.D.I.C. coverage will require a collateral pledge pursuant to Treasury Circular Number 176. If a supervised bank account is not used, arrangements will be agreed upon for the prior approval by FmHA of the bills or vouchers upon which warrants will be drawn, so that the necessary control of payments from loan funds can be maintained and FmHA records can be kept current. Periodic audits of nonsupervised accounts shall be made by FmHA at such times and in such manner as the FmHA State Director prescribes in the conditions of loan approval. Mandatory State laws regulating the depositories to be used shall be complied with.

(vii) *Payment for construction.* Payment for construction will be made in accordance with the construction contract in amounts approved on Form FmHA 424–18, "Partial Payment Estimate." Advances for contract retainage will not be made until such retainage is due and payable under the terms of the contract. Form AD–629, "Outlay Report and Request for Reimbursement for Construction Programs," will be used to account for funds expended in the last 30 day period. Each payment estimate must be approved by the governing body of the borrower. The review and acceptance of partial payment estimates by FmHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and specifications. A final Form AD–627 will be submitted to FmHA to include the final advance and all other advances not later than 90 days after the final advance has been made.

(viii) *Funds remaining after construction is completed.* Should loan funds remain available, including obligated funds not advanced, after all costs incident to

the basic project have been paid or provided for, such funds may be used for needed extensions, enlargements, and improvements of the project with the prior permission of the FmHA State Director. If the additional work is to be undertaken by the contractor(s) already engaged in the construction of the project, the additional work may be authorized by a change order. Remaining project funds not needed for authorized extensions, enlargements or improvements shall be returned to FmHA as a repayment on the loan in a proportionate amount of the FmHA loan to the total planned project cost, unless other disposition is required by the bond ordinance or resolution or by the State statutes.

(ix) *Obtaining insurance, and fidelity bonds.* Required property insurance policies, liability insurance policies, and fidelity bonds will be obtained by the time of loan closing or start of construction, whichever shall occur first.

(x) *Distribution of recorded documents.* The originals of the recorded deeds, easements, permits, certificates of water rights, leases, or other contracts and similar documents which are not to be held by FmHA will be returned to the borrower. The original mortgage(s) and water stock certificates, if any, if not required by the recorder's office will be retained by FmHA.

(14) *Borrower accounting methods, management reporting and audits.*

(i) *Accounting methods and records.* (A) *Method of accounting.* The methods of accounting will be such that separate accounts are to be maintained on the individual project being financed by FmHA when it is a unit of a larger organization. Borrowers shall maintain their accounting records on the accrual basis unless State statutes or regulatory Agencies provide otherwise, or an exception to this requirement is made by FmHA.

(*1*) *Exception to accrual method.* The State Director may approve a basis of accounting other than accrual when the resultant financial statements will present fairly the financial position and results of operations of the organization. For organizations who have audits by independent public accountants, whether or not required by paragraph (a) (14) (iv) of this section, the basis of accounting other than accrual must have the written approval of the organization's auditor before granting a waiver so that the basis of accounting will not be a factor in keeping the auditor from rendering an unqualified opinion.

(B) *Records.* Each borrower shall retain all records, books and supporting material for a period of 3 years after the issuance of the audit reports and financial statements in paragraph (a) (14) (iv) of this section. This material will be available upon request to FmHA, the Comptroller General, or to their representatives.

(C) *Approval requirement.* Prior to loan closing or commencing with construction, whichever shall occur first, each borrower shall provide and obtain approval from the FmHA State Director for its accounting and financial reporting system, including the agreement with its auditor, if an auditor is required as determined in paragraph (a) (14) (iv) (A) of this section.

(ii) *Management reports.* These reports will furnish the management with a means of evaluating prior decisions and serve as a basis for planning future operations and financial conditions. In those cases where revenues from multiple sources are pledged as security for an FmHA loan, two reports will be required; one for the project being financed by FmHA and one combining the entire operation of the borrower. In those cases where FmHA loans are secured by general obligation bonds or assessments and the borrower combines revenues from all sources, one management report combining all such revenues will suffice. The following management data will be submitted by the borrower to the County FmHA Supervisor.

(A) *Financial information.* (*1*) Form FmHA 442–2, "Statement of Budget, Income and Equity." (Schedule 1 "Statement of Budget, Income and Equity." and Schedule 2, "Projected Cash Flow.")

(2) Prior to the beginning of each fiscal year, two copies, with data entered in column three only of page one, annual budget of schedule 1 and all of schedule 2, will be submitted to the County Supervisor. Twenty (20) days after the end of each of the first three quarters of each year, two copies with all information furnished on schedule 1 will be submitted. More frequent submissions may be required by FmHA when necessary. For the fourth quarter of each year, submit together with the yearend financial requirements of paragraph (a) (14) (iv) and (v) of this section. The submission dates to the County Supervisor will be 90 days following yearend for audited statements and 60 days following yearend for unaudited statements. The fourth quarter submission may serve the dual purpose of management report and yearend financial requirement for Statement of Income. Refer to paragraph (a) (14) (v) of this section and the Forms Manual Insert for Form FmHA 442–2.

(B) *Additional information.* (*1*) A list of the names and addresses of all members, partners, directors, as appropriate, also indicating the officers and their terms of office will be included with the other information required at the end of the year.

(2) Borrowers delinquent on payment to FmHA or experiencing financial problems, will develop a positive action plan to resolve financial problems. The plan will be reviewed with FmHA and updated at least quarterly. A guide for developing a positive action plan is available at the local FmHA office.

(iii) *Substitute for Management Reports.* In those cases where FmHA loans are secured by the general obligation of the public body or tax assessments which total 100 percent of the debt service requirements, the State Director may authorize an annual audit to be substituted for other management reports.

(iv) *Audits and financial statements.* (A) *Audit requirements.* Audits are required annually of borrowers as follows:

(*1*) Where gross annual income exceeds $100,000.

(2) Others as FmHA State Director may require.

(B) *Public body borrowers.* Audit reports prepared in accordance with State statutes or regulatory Agencies are acceptable provided they contain the financial information necessary and are prepared on a frequency sufficient to furnish borrowers and FmHA the information for proper loan analysis. A copy of the audit report will be submitted to the County Supervisor as soon as possible but in no case later than 90 days following the period covered by the audit. Public bodies should refer to the FmHA Audit guide in paragraph (a) (14) (iv) (C) (2) of this section for further information and guidance.

(C) *Other borrowers.* Borrowers other than public bodies and public bodies where the State has no audit requirements are required to have their records audited by an independent public accountant on an annual basis. A copy of the audit report will be submitted to the County Supervisor as soon as possible but in no case later than ninety (90) days following the period covered by the audit.

(*1*) *Independent public accountant defined.* Audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) *Audit guide.* Audits will be prepared in accordance with the requirements of the handbook, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees." The handbook is available at all FmHA offices.

(v) *Borrowers not required to have audits.* Borrowers whose gross annual income for a full year of operation is less than $100,000 and who do not have an annual audit made by an independent public accountant, will within 60 days following the end of each fiscal year, furnish the FmHA with annual financial statements, consisting of a verification of the organization's balance sheet and statement of income and expense by an appropriate official of the organization. Forms FmHA 442–2, "Statement of Budget, Income and Equity," and FmHA 442–3, "Balance Sheet," may be used. For borrowers using Form 442–2, the dual purpose of fourth quarter management reports, when required, and annual statements of income will be met with this one submission.

V 42 93 MAY 13 77 UMI

§ 1933.18 Appendix B—Community facilities—Planning, bidding, contracting, constructing.

(a) This section includes information and procedures specifically designed for use by applicants including the professional or technical consultants and/or agents who provide such assistance and services, as architecture, engineering, financial, legal or other services related to planning, bidding, contracting, and constructing community facilities. This section is made available as needed for such use.

(1) *General.* This section outlines the policies for planning and developing essential community facilities.

(2) *Technical services.* Applicants are responsible for providing the engineering or architectural services necessary for planning, designing, bidding; contracting, and constructing their facilities. Such services may be provided by the applicants' "in house" engineer or architect or through contract as authorized in § 1933.17(a)(11).

(3) *Design policies.* Facilities financed by the FmHA will be designed and constructed in accordance with sound engineering and architectural practices, and meet the requirements of State and local agencies having jurisdiction in such matters.

(i) *Location of facilities in flood plain area.* Ordinarily facilities will not be located in the 100-year flood plain level except for supply and treatment plants in which event applicants will evaluate the proposal from the standpoint of special design and additional initial and maintenance costs, and provide FmHA with the recommendations of appropriate agencies such as the U.S. Army Corps of Engineers, the Soil Conservation Service (SCS), or appropriate State official. Facilities located in special flood and mudslide prone areas must comply with the eligibility and insurance requirements of Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(ii) *Water systems.* (A) *Capacity.* The systems must have sufficient capacity to provide for reasonable fire protection and growth.

(B) *Pressure.* Maximum operating pressure should not exceed 90 psi, minimum should not be less than 20 psi, calculated at maximum use flow.

(C) *Pipe.* All pipe used shall meet current product standards and American Society for Testing and Materials (ASTM) standards. Further, if plastic pipe is used its operating pressures shall not exceed two-thirds of its rated working pressure, and its wall thickness shall not be less than .090 inches.

(D) *System testing.* Leakage shall not exceed 10 gallons per inch or pipe diameter per mile of pipe per 24 hours.

(E) *Service through individual installations.* Community water systems may provide service through individual installations to individuals or small clusters of users within the central system service area but who are beyond the physical or economic limits of the central system, when it is more feasible to provide such service through individual or remote facilities. The determination shall be made taking into consideration such items as: Quantity, quality of the water that may be developed; cost of the individual facility as compared with the cost per user on the central system; and health and pollution problems attributable to individual facilities.

(*1*) Agreements between the community and individuals for the installation and payment for individual facilities and their operation will be subject to approval by FmHA.

(2) Applicants providing service through individual facilities will obtain such security as the FmHA determines is necessary to assure collection of any sum the individual is obligated to repay the applicant, if taxes or assessments are not pledged as security.

(3) Notes representing indebtedness owed an association by a user for an individual facility will be scheduled for repayment over a period not to exceed the useful life of the individual facility or the loan, whichever is the shorter. The interest rate will be the same as the rate owed the community on its FmHA loan.

(*4*) If the applicant cannot levy taxes or assessments against property being served through individual installations, arrangements are to be made for:

(*i*) Easements for the installation and ingress to and egress from the installation.

(*ii*) Satisfactory method for denying service in the event of nonpayment of user fees.

(F) *Quality.* The systems must provide water of a quality that meets the current primary drinking water regulations (PDWR) in compliance with the Safe Drinking Water Act, PC 93-523, December 16, 1974.

(iii) *Sanitary sewerage systems.* (A) The systems must have sufficient capacity to provide for reasonable growth.

(B) Collection and treatment facilities shall be designed and installed so as to meet the requirements of the State Environmental Protection (Water Pollution Control) Agency.

(iv) *Combined sanitary and storm sewerage systems.* Combined systems will not be financed except that improvements to existing combined systems may be financed, provided it would be impractical to provide separate systems and the proposal is approved by the State Environmental Protection (Water Pollution Control) Agency.

(v) *Solid waste disposal systems.* (A) Preliminary and final plans and designs shall address both site selection, planning, landfill design, drainage control, roadways, utilities, and other problems such as those which may arise due to water leaking into or from landfills and allow for proper handling of landfill gases.

(B) Each system will be in compliance with appropriate State and local Department of Health or environmental quality requirements.

(*4*) *Utility purchase contracts.* Applicants proposing to purchase water or other utility service from private or public sources shall have written contracts for such supply, and all such contracts will be reviewed and approved by FmHA prior to their execution by the applicant. Form FmHA 442-30, "Water Purchase Contract," may be used. Such contracts will:

(i) Include a definite commitment by the supplier to furnish at a specified point a specified minimum quantity of water or other service and provide that in case of shortages, all of the supplier's users will share the shortages proportionately. If it is impossible to obtain a firm commitment for a minimum supply at all times, a contract may be executed and approved, if adequate evidence is provided to enable FmHA to make a positive determination that the supplier has adequate supply and treatment facilities to furnish its other users and the applicant for the foreseeable future, and that a suitable alternative supply could be arranged within the repayment ability of the borrower if it should ever become necessary.

(ii) Set out the ownership and maintenance responsibilities of the respective parties including the master meter if a water meter is installed at the point of delivery.

(iii) Specify the initial rates and provide some kind of escalator clause which will permit rates for the association to be raised or lowered proportionately as certain specified rates for the supplier's regular customers are raised or lowered. Provisions may be made for altering rates in accordance with the decisions of the appropriate State agency which may have regulatory authority.

(iv) Run for a period of time which is at least equal to the repayment period of the loan. State Directors may approve contracts for shorter periods of time if the supplier cannot legally contract for such period, or if the applicant and supplier find it impossible or impractical to negotiate a contract for the maximum period permissible under State law provided:

(A) The contract contains adequate provisions for renewal; or

(B) A determination is made that in the event the contract is terminated, there are or will be other adequate sources of water available to the applicant that can be developed or purchased feasibly.

(v) Set out in detail the amount of connection or demand charges, if any, to be made by the supplier as a condition to making the service available to the association. However, the payment of such charges from loan funds shall not be approved unless FmHA determines that it is more feasible and economical for the borrower to pay such a connection charge than it is for the borrower to provide the necessary supply by other means.

(vi) Provide for a pledge of the contract to FmHA as part of the security for the loan.

(vii) Not contain provisions for:

(A) Construction of facilities which will be owned by the supplier. This does not preclude the use of money paid as a connection charge for construction to be done by the supplier.

(B) Options for the future sale or transfer. This does not preclude an agreement recognizing that the supplier and borrower may at some future date agree to a sale of all or a portion of the facility.

(5) *Contracts to treat sewage.* Applicants preparing to enter into a contract with private or public sources to treat raw sewage shall have written contracts for such service and all such contracts are subject to FmHA concurrence. Paragraph (a)(4) of this section may be used as a guide to preparation of contracts for sewage treatment.

(6) *Preliminary engineering and architectural reports.* Reports shall be prepared in accordance with customary professional standards. FmHA has guides for preparing preliminary architectural/engineering reports for water, sewer, solid waste, storm sewer projects, and other community facilities.

(7) *Construction contract forms.* Standard contract documents prescribed for use by borrowers and grantees in Federally assisted projects may be used for all community facility projects including water and waste disposal systems and buildings, such as hospitals and nursing homes. These standard documents are published by FmHA as § 1933.20(a)(19) and may be reviewed at the local FmHA office. Applicants may obtain copies of the documents from the American Consulting Engineers Council, 1155 15th Street NW., Washington, D.C. 20005; Associated General Contractors of America, 1957 E Street NW., Washington, D.C. 20006; and the National Society of Professional Engineers, 2029 K Street NW., Washington, D.C. 20006. When these standard contract documents are used, it will normally not be necessary to obtain prior approval of the Office of the General Counsel.

(i) For those projects where a performance and payment bond is not provided, "Construction Contract Documents," may be used as indicated in § 1933.20(a)(17). This guide may be obtained from the local FmHA office.

(ii) Contract documents such as those of the American Institute of Architects (AIA) may be used for appropriate projects when modified to comply with this regulation and by including FmHA supplemental general conditions. Such documents must be submitted for prior review and approval by the Regional Attorney.

(8) *Performing construction.* Borrowers may accomplish construction through contracts with others or by using their own personnel and equipment, provided a licensed engineer or architect, as appropriate, inspects the construction and furnishes inspection reports as required by paragraph (a)(12) of this section. In either case the requirements of paragraph (a)(9) of this section apply. Payments for construction will be handled in accordance with § 1933.17(a)(13)(iii)(B).

(9) *Procurement, bidding, and contracting.* (i) These standards do not relieve the borrower of the contractual responsibilities arising under its contracts. The borrower is the responsible authority, without recourse to the FmHA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a loan. This includes but is not limited to: Disputes, claims, protests of awards, source evaluation or other matters of a contractual nature. Matters concerning violation of laws are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(ii) Borrowers may use their own procurement regulations which reflect applicable State and local laws, rules and regulations, provided that procurements made with FmHA loan funds adhere to the standards set forth as follows:

(A) The borrower shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending loan funds. Borrower officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the borrower officers, employees, or agents, or by contractors, or their agents.

(B) All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The borrower should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade. Performance specifications and the term "or equal" may be used for equipment and materials. In specifying pipe, however, the acceptable materials(s) should be designed into the project to assure proper installation of the material chosen and to avoid uncertainty and misunderstanding. This can be done in the following ways:

(*1*) By reference to nationally known materials standards such as the American Society for Testing and Materials (ASTM), American Water Works Association (AWWA), and Federal specification and standards, or the standards of similar agencies. In referring to standards, however, care must be exercised to assure that the desired type of material is selected since many standards cover two or more types.

(2) By specifying two or more materials, any one of which is acceptable to the owner.

(3) By specifying the particular material required for the project. In specifying materials, the owner and his consultant will consider all materials suitable for the project. Where materials which would normally be suitable are not included for bidding, the owner and his consultant must be prepared to justify the selection of the material used.

(C) The borrower shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(*1*) Proposed procurement actions shall be reviewed by borrower officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical practical procurement. Where substantial amounts of funds are necessary for purchase of machinery and equipment, applicants ordinarily will be required to call for bids in a manner specified by the loan approval official to assure the best obtainable price.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material or product to be procured. Such description shall not contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the borrower to utilize small business and minority-owned business sources. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing loan funds. Applicants shall, when submitting contract documents as required in paragraph (a)(9)(ii)(H) of this section provide FmHA with a written statement or other evidence of the steps taken to comply with this requirement.

(*4*) The "cost-plus-a-percentage-of-the-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (a)(9)(ii)(C)(*6*) of this section is necessary to accomplish sound procurement. However, procurements of $50,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained, the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the borrower, price and other factors considered. Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the borrower. Any or all bids may be rejected when it is in the borrower's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations

(6) Procurements may be negotiated if it is impracticable and infeasible to use formal advertising. Generally, procurements may be negotiated by the borrower if:

(i) The public exigency will not permit the delay incident to advertising; or

(ii) The material or service to be procured is available from only one person or firm; (All contemplated sole source

V 42 93 MAY 13 77 UMI

procurements where the aggregate expenditure is expected to exceed $50,000 shall be referred to the FmHA for prior approval) or

(*iii*) The aggregate amount involved does not exceed $50,000; or

(*iv*) No acceptable bids have been received after formal advertising.

(*7*) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

(D) Procurement records or files for purchases not handled in accordance with paragraph (a)(9)(ii)(C) (*5*) and (*6*) of this section and those in excess of $50,000 shall provide at least the following pertinent information:

(*1*) The applicant's written request to utilize methods of procurement other than competitive bidding and justification for the use of such negotiations.

(*2*) A written consent from the FmHA making an exception to the requirements contained in paragraph (a)(9)(ii)(D) (*1*) and (*6*) of this section and (G) of this section in regards to formal competitive bidding and the architect/engineer-contractor relationship. Such consent shall not be given when FmHA financing includes a grant.

(*3*) A detailed tabulation of similar type projects of comparative construction costs of several facilities recently completed within the geographical area by contractors other than the bidder. Such tabulation must show that the cost of constructing the proposed facility through use of negotiated contract will be less than the cost of comparable facilities constructed through competitive bidding.

(*4*) A firm total construction cost guaranteed in writing by the contractor. Any extra cost which may result from errors or omissions shall be the responsibility of the contractor.

(*5*) Final plans and specifications that are complete and in sufficient detail to indicate what is covered by the contract. The plans and specifications should include such items as site layout and all appurtenant work; structural and finish materials; electrical heating, plumbing, ventilating, and air conditioning equipment; fixed equipment included in the construction contract as well as any other fixed equipment.

(*6*) The applicant will submit a detailed listing and cost estimate of equipment and supplies not included in the construction contract necessary to properly operate the facility.

(*7*) Contractor's and applicant's statement that the facility will equal or exceed all applicable Federal, State, and local requirements. Where applicable, certificate of need, permits or other clearances are available, they will be included.

(*8*) Evidence that the applicant has hired an on-site full-time construction inspector who is completely independent from the contractor and is responsible only to the owner. Such inspector must be qualified to interpret plans and specifications and to advise the applicant of the full technical scope of the proposed project. This inspector must be hired prior to the execution of the construction contract.

(*9*) The applicant's evaluation of the contractors' performance for previous similar projects and those in which the contractor performed both the design and construction.

(*10*) The applicant's and contractor's written agreement in which they agree to comply with all FmHA regulations.

(E) Applicants awarding construction contracts prior to filing a preapplication with FmHA must comply with the following:

(*1*) Provide conclusive evidence that the contract was entered into without intent to circumvent the requirements of FmHA instructions. Such evidence will consist of at least the following:

(*i*) The lapse of a reasonable period of time between the date of contract award and the date of filing preapplication which clearly indicates an irreconcilable failure of previous financial arrangements, or

(*ii*) A written statement explaining initial plans for financing the project and reasons for failure to obtain the planned credit.

(*2*) Modify the outstanding contract to conform with the provisions of this instruction. Where this is not possible, modifications will be made to the extent practicable and as a minimum the contract must comply with all State and local laws and regulations as well as statutory requirements and executive orders related to the FmHA financing where all construction is complete and it is impracticable to modify the contracts, the applicant must provide the certification required by paragraph (a)(9)(ii)(E)(*4*) of this section. Any exceptions to full compliance with this regulation must be approved by FmHA with advice from the office of the General Counsel.

(*3*) Provide a certification by its engineer or architect certifying that any construction performed complies fully with the plans and specifications.

(*4*) Provide a certification that the applicant and his contractor complied with all statutory and executive requirements related to FmHA financing, for construction already performed, even though their requirements may not have been included in the contract documents.

(F) The borrower shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts:

(*1*) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. A realistic liquidated damage provision also should be included.

(*2*) All contracts, amounts for which are in excess of $10,000 shall contain suitable provisions for termination by the borrower including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(*3*) In all contracts for construction or facility improvement awarded in excess of $100,000, the borrower shall require bonds assuring performance and payment of 100 percent of the contract cost. For contracts of lesser amounts the borrower may require such bonds. When a performance and payment bond is not provided, contractors will furnish evidence of payment in full for all materials, labor, and any other items procured under the contract. Form FmHA 424–10, "Release by Claimants," and Form FmHA 424–9, "Certificate of Contractor's Release," map be obtained at the local FmHA office and used for this purpose. When a performance and payment bond is provided, the United States acting through the Farmers Home Administration will be named as co-obligee in these bonds unless prohibited by State law.

(*4*) All contracts in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, as amended, entitled "Equal Employment Opportunity." In addition and without reference to the number of employees, each contractor shall be required not to discriminate on the basis of race, color, religion, national origin, and sex.

(*i*) Bid conditions—hometown plans—imposed plans. All construction contracts in excess of $10,000 financed by FmHA, in areas which have hometown or imposed plans are subject to the Model Equal Employment Opportunity EEO Bid Conditions issued by the Department of Labor. See Attachment I to Guide 17. The Department of Labor's Regional Offices of Federal Contract Compliance maintain current lists of areas covered by these plans. They can provide specific information on such areas. Each State Director should seek the advice of OGC as to compliance with any such plans in his jurisdiction. The following reports will be required from plan areas.

(*ii*) Contractors will submit on a monthly basis, Standard Form 257 Monthly Employment Utilization Report.

(*5*) All contracts for construction shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The borrower shall report all suspected or reported violations to the FmHA.

(*6*) All negotiated contracts (except those of $2,500 or less) awarded by borrowers shall include a provision to the effect that the borrower, FmHA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions.

(*7*) If the contract exceeds $100,000, the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. 1957–g) and Section 308 of the Water Pollution Control Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. The contract should contain provisions obligating the contractor as a condition for the award of the contract as follows:

(*i*) To notify the owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

(*ii*) To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

(*iii*) To include or cause to be included the above criteria and requirements of paragraph (a)(9)(ii)(F)(*7*)(*i*) and (*ii*) of this section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

(*8*) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

(*9*) Each contract in excess of $2,500 shall contain FmHA supplemental general conditions. These conditions are contained in the FmHA Guide, § 1933.20 (a)(18) "Supplemental General Conditions," and may be obtained from the local FmHA Office.

(G) No engineer or architect (individual or firm) who has prepared plans and specifications or who will be responsible for supervising the construction will be considered acceptable as a bidder. Any firm or corporation in which such architect or engineer is an officer, employee, or holds or controls a substantial interest will not be considered an acceptable bidder. Contracts or purchases by the construction contractor may not be awarded or made to a supplier or manufacturer if the engineer or architect (firm or individual) who prepared the plans and specifications has a corporate or financial affiliation with the supplier or manufacturer. Bids will not be awarded to firms or corporations which are owned or controlled wholly, or in part by a member of the governing body of the applicant or to an individual who is such a member. Arrangements which split responsibility of contractors (separate contracts for labor and material, extensive subcontracting, and multiplicity of small contracts on the same job), should be avoided whenever it is practical to do so. Contracts may be awarded to suppliers or manufacturers for furnishing and installing certain items which have been designed by the manufacturer and delivered to the job site in a finished or semifinished state such as prefabricated buildings and lift stations. Contracts may also be awarded for materials delivered to the job site and installed by a patented process or method.

(H) The applicant's attorney will review the executed contract documents including performance and payment bonds and provide FmHA with his certification that they have been properly executed and that the persons executing these documents have been properly authorized to do so. That contract documents, including bid bonds and bid tabulation sheets will be forwarded to FmHA for approval. All contracts will contain a provision that they are not in full force and effect until they have been approved by FmHA. The FmHA State Director is responsible for approval of all construction contracts utilizing the legal advice and guidance of the Office of the General Counsel where necessary. If the construction contract utilized the format of a guide form which has been approved by FmHA, it will not be necessary to submit individual contract documents to the OGC for prior approval. If the construction contract does not utilize the format of guide forms previously approved by FmHA, OGC approval of the contract will be obtained prior to its use.

(I) The construction contract will require that all change orders be approved by FmHA.

(10) *Preconstruction conference.* Prior to beginning construction, FmHA will review the planned development with the applicant, its engineer, resident inspector, attorney, the contractor, and other interested parties. The conference will thoroughly cover the items included in Form FmHA 424–16, "Record of Preconstruction Conference," and the discussions and agreements will be documented on the form.

(11) *Applicant/borrower monitor reports.* Each applicant or borrower will be required to monitor, and provide a report to FmHA on actual performance during the construction for each project financed, or to be financed, in whole or in part with FmHA funds to include:

(i) A comparison of actual accomplishments to the construction schedule established for the period. Form AD–629, "Outlay Report and Request for Construction Programs," and Form FmHA 424–18 "Partial Payment Estimate," will be used for this purpose.

(ii) A narrative statement will be attached to Form AD–629 giving full explanation of the following:

(A) Reasons established goals were not met.

(B) Analysis and explanation of cost overruns or high unit costs and how payment is to be made for the same.

(iii) If events occur between reports which have a significant impact upon the project, the applicant/borrower will notify FmHA as soon as any of the following conditions are known:

(A) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(B) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

(12) *Resident inspection.* Full-time resident inspection is required for all construction unless a written exception is made by FmHA. Unless otherwise agreed, the resident inspector will be provided by the consulting architect/engineer. Prior to the preconstruction conference, the architect/engineer will submit a resume of qualifications of the resident inspector to the applicant and to FmHA for acceptance in writing. If the applicant provides the resident inspector, it must submit a resume of the inspector's qualifications to the project architect/engineer and FmHA for acceptance in writing prior to the preconstruction conference. The resident inspector will attend the preconstruction conference where his duties and responsibilities will be fully discussed. The resident inspector will work under the general supervision of the project architect/engineer. A guide format for preparing daily inspection reports and Form FmHA 424–18 are available on request from FmHA.

(i) *Inspectors daily diary.* The inspector will maintain a daily diary in accordance with the following:

(A) The diary shall be maintained in a hard-bound book.

(B) The diary book shall have all pages numbered and all entries in ink.

(C) All entries shall be entered on a daily basis beginning with the date and weather conditions.

V 42 93 MAY 13 77 UMI

(D) Daily entries shall include daily work performed, number of men and equipment used in the performance of work, and all significant happenings during that day.

(E) The daily diary will be made available to FmHA personnel and will be reviewed during project inspections.

(ii) *Prefinal inspections.* A prefinal inspection will be made by the borrower, resident inspector, project architect or engineer, representatives of other agencies involved in project financing, the County Supervisor, the FmHA representative designated by the State Director to assist the County Supervisor in project development, and a member of the FmHA State Office staff, preferably the State Staff architect or engineer. A list of items necessary for project completion will be developed and agreed upon during the prefinal inspection. The inspection results will be recorded by the member of the State Office staff on Form FmHA 424–12, "Inspection Report," and a copy provided all appropriate parties.

(iii) *Final inspection.* A final inspection will be made by FmHA before final payment is made. Final payment will not be made until FmHA and the borrower concur in writing that the construction has been completed as planned.

(13) *Changes in development plans.* (i) Changes in development plans may be approved by FmHA when requested by borrowers, provided:

(A) Funds are available to cover any additional costs;

(B) The change is for an authorized loan purpose; and

(C) It will not adversely affect the soundness of the facility operation or FmHA's security.

(ii) Changes will be recorded on Form FmHA 424–7, "Contract Change Order." Change orders must be approved by the FmHA State Director or his designated representative.

(iii) Changes should be accomplished only after FmHA approval on all changes which affect the work and shall be authorized only by means of a contract change order. The change order will include items such as:

(A) Any changes in labor and material and their respective cost.

(B) Changes in facility design.

(C) Any decrease or increase in quantities based on final measurements that are different from those shown in the bidding schedule.

(D) Any increase or decrease in the time to complete the project.

(iv) All changes shall be recorded on a chronologically numbered contract change order as they occur. Change orders will not be included in payment estimates until approved by all parties.

§ 1933.19 Appendix C—Information pertaining to preparation of notes or bonds and bond transcript documents for public body applicants.

(a) This section includes information for use by public body applicants in the preparation and issuance of evidences of debt ("bonds" or "debt instruments"). This information is made available to applicants as appropriate for application processing and loan docket preparation.

(1) *Policies.* (i) This section outlines the policies of the FmHA with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments") by applicants whose obligations bear interest that is not subject to Federal income tax.

(ii) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Tax exempt public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized Bond Counsel firm which has had experience in municipal financing with such investors as investment dealers, banks, and insurance companies.

(iii) At the option of the applicant for issues of $250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not for the preparation of the other documents and of the bond docket when the applicant, FmHA, and Bond Counsel have agreed in advance as to the method of preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparation of the bond transcript documents.

(iv) At the option of the applicant and with the prior approval from the National Office of FmHA, for issues of $50,000 or less, the applicant need not use Bond Counsel if:

(A) The amount of the issue does not exceed $50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(B) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what Bond Counsel would charge as compared with what the local attorney will charge without Bond Counsel:

(C) The local attorney is able and experienced in handling this type of legal work.

(D) The applicant understands that, if it is required by FmHA to refinance its loan pursuant to the statutory refinancing requirements, it will probably have to obtain at its expense a Bond Counsel's opinion at that time.

(E) All bonds will be prepared in accordance with this regulation and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(F) Many matters necessary to comply with FmHA requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of Bond Counsel will be issued by the Office of the General Counsel of the U.S. Department of Agriculture for the guidance of FmHA.

(2) *Bond transcript documents.* Any questions with respect to FmHA requirements should be discussed with local FmHA representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, who will furnish one complete set to FmHA:

(i) Copies of all organizational documents.

(ii) Copies of general incumbency certificate.

(iii) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(iv) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(v) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(vi) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(vii) Specimen bond, with any attached coupons.

(viii) Attorney's no-litigation certificate.

(ix) Certified copies of resolutions or other documents pertaining to the bond award.

(x) Any additional or supporting documents required by Bond Counsel.

(xi) For loans involving multiple advances of FmHA loan funds, a preliminary approving opinion of Bond Counsel if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(xii) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation. It is permissible for such opinions to contain language referring to the last sentence of Section 306(a)(1) or to Section 309A(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (a)(1) or 1929a(h)), and providing that if the bonds evidencing the indebtedness in question are acquired by the Federal Government and sold on an insured basis from the Agriculture Credit Insurance Fund, or the Rural

Development Insurance Fund, the interest on such bonds will be included in gross income for the purposes of the Federal income tax statutes.

(3) *Interim financing from commercial sources during construction period for loans of $50,000 or more.* In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds.

(4) *Permanent instruments for FmHA loans to repay interim commercial financing.* Such loans will be evidenced by one of the types of instruments in the order of preference shown in paragraph (a)(5) of this section.

(5) *Multiple advances of FmHA funds using permanent instruments.* Where interim financing from commercial sources is not available, FmHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods. FmHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(i) *First preference—Form FmHA 440–22.* If legally permissible, use Form FmHA 440–22, "Promissory Note Association or Organization," for insured loans.

(ii) *Second preference—single instruments with amortized installments.* If Form FmHA 440–22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each FmHA advance on the reverse thereof or on an attachment to the instrument. Form FmHA 440–22 should be followed to the extent possible. Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(iii) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments combined interest and principal as required by the first two preferences.

(A) The repayment terms described in paragraph (a)(5)(ii) of this section "Second preference" apply.

(B) The instruments shall contain in substance the following provisions:

(*1*) A statement of principal maturities and due dates.

(*2*) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled.

(iv) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of paragraph (a)(7) of this section. Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph (a)(5)(iii) of this section.

(6) *Multiple advances of FmHA funds using temporary debt instrument.* When none of the instruments described in paragraph (a)(5) of this section are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advance of FmHA loan funds and will be for the full amount of the FmHA loan. The instrument will be prepared by Bond Counsel and approved by the State Director and OGC. At the same time FmHA delivers the last advance, the borrower will deliver the permanent bond instrument to FmHA to replace the temporary debt instrument and the canceled temporary instrument will be delivered to the borrower. The approved debt instrument will show at least the following:

(i) The date from which each advance will bear interest.

(ii) The interest rate.

(iii) A payment schedule providing for interest on outstanding principal at least annually.

(iv) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

(7) *Minimum bond specifications.* The provisions of paragraph (a)(7) are of this section minimum specifications only, and must be followed to the extent legally permissible.

(i) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than $1,000). Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FmHA. Coupon bonds will not be used unless required by statute.

(ii) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the FmHA Finance Office.

(iii) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(iv) *Date of bonds.* Bonds will be dated as of the day of delivery.

(v) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds or other evidence of indebtedness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semi-annual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixth or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month. Borrowers scheduled to make monthly payments will be given a monthly payment card jacket at the time of loan closing. These borrowers will submit payment directly to the Finance Office.

(vi) *Place of payment.* Payments on bonds purchased by FmHA should be submitted to the FmHA Finance Office by the borrower.

(vii) *Redemptions.* Bonds should contain customary redemption provisions, subject, however, to unlimited right of redemption without premium of any bonds held by FmHA except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in paragraph (a)(5) of this section.

(viii) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal

V 42 93 MAY 13 77 UMI

indebtedness. Junior and subordinate bonds may be issued without restriction.

(ix) *Scheduling of FmHA payments when joint financing is involved.* In all cases in which FmHA is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA payments of principal and interest should approximate amortized installments.

(x) *Precautions.* The following types of provisions in debt instruments should be avoided.

(A) Provisions for the holder to manually post each payment to the instrument.

(B) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA, may post the date and amount of each advance or repayment on the instrument.

(8) *Bidding by FmHA.* Where a public bond sale is required by State statutes, FmHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FmHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FmHA is required to bid, the bid will be made at the applicable FmHA interest rate.

Dated: April 20, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-13746 Filed 5-12-77;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-A]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart A—General

MISCELLANEOUS AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: FmHA amends its regulations to correct the maximum amount of loss payable as reflected in § 1980.20 to conform to the language in Form 449-34, "Loan Note Guarantee." The previous wording of § 1980.20 was erroneous and this amendment will eliminate the inconsistency between the regulation and terms of the guarantee note.

EFFECTIVE DATE: This amendment is effective on May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Darryl H. Evans, Loan Specialist, 202-447-4150.

SUPPLEMENTARY INFORMATION: Section 1980.20 of Part 1980, Title 7, Code of Federal Regulations (41 FR 47462) is amended by revising the first sentence of the introductory paragraph. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules.

This amendment, however, is not published for proposed rulemaking since the purpose of the change is merely a clarification and does not impose any additional burden on the applicants and lenders. Publication as a proposal is therefore unnecessary.

Accordingly, in § 1980.20, the first sentence of the introductory paragraph is revised to read as follows:

§ 1980.20 Loan guarantee limits.

The maximum loss covered by the Form FmHA 449-34, "Loan Note Guarantee," can never exceed the lesser of: (a) 90 percent of principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), any loan subsidy due, and 90 percent of principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization; or (b) 90 percent of the principal advanced to or assumed by the borrower under said note(s) or assumption agreement(s) and any interest due (including any loan subsidy) thereon. • • •

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(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357; 88 Stat. 392, delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 25, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-13769 Filed 5-12-77;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 702—RESERVES

Regular Reserves

AGENCY: National Credit Union Administration.

ACTION: Final Rule.

SUMMARY: These rule prescribe the requirements for the establishment and maintenance of reserves for Federal credit unions. This revision is necessary to bring the rule in conformance with the recent amendment of Section 116 of the Federal Credit Union Act (Pub. L. 95-22; 91 Stat. 49), which, for a certain category of Federal credit unions, revised the percent of gross income to be transferred to the Regular Reserve.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Bellenghi, Assistant Administrator for Examination and Insurance, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456, 202-254-8760.

SUPPLEMENTARY INFORMATION: Amended Section 116 of the Federal Credit Union Act contains two noteworthy changes. First, those Federal credit unions which have been in operation for more than four years and have assets of $500,000 or more, are now required to transfer 10 percent of gross income to the regular reserve until the regular reserve equals 4 percent of outstanding loans and risk assets and then 5 percent of gross income until the Regular Reserve equals 6 percent of outstanding loans and risk assets. The 4 percent and 6 percent levels were formerly 7½ percent and 10 percent, respectively. Note, however, that the 7½ percent and 10 percent levels are still applicable to Federal credit unions which have not been in operation for more than four years or which have less than $500,000 in assets. Second, Section 116, as amended, authorizes the Administrator to decrease the reserve requirement when, in his opinion, such decrease is necessary or desirable.

For those Federal credit unions which have a regular reserve exceeding the greater applicable percent established by Section 116 of the Federal Credit Union Act, § 702.1 provides guidelines for the transfer of such excess, if the FCU so chooses, to a supplemental reserve or to the Undivided Earnings Account.

The notice, public participation, and deferred effective date requirements of 5 U.S.C. 553 were not followed in connection with the revision to §§ 702.1 and 702.2. Such procedures were found to be unnecessary because the revision merely conforms §§ 702.1 and 702.2 to the recent amendment of Section 116 of the Federal Credit Union Act.

Accordingly, 12 CFR 702 is amended, effective immediately, as follows: by revising §§ 702.1 and 702.2 to read as follows:

§ 702.1 Reserves.

Federal credit unions shall establish and maintain such reserves as may be required by the Act, or by regulation, or in special cases by the Administrator. A Federal credit union which has a Regular Reserve in excess of the greater applicable percent established by Section 116 of the Federal Credit Union Act may transfer the excess to a supplemental reserve or to the Undivided Earnings Account; provided, however, that such transfer is appropriately approved by the board of directors after careful consideration of the financial condition of the credit union, of present and anticipated future reserve needs, and of full and fair disclosure as set forth in § 702.3.

§ 702.2 Regular Reserves.

(a) Each Federal credit union shall establish and maintain a Regular Reserve as provided by Section 116 of the Federal Credit Union Act. The totals of the Regular Reserve Account and the Allowance for Loan Losses Account shall be combined for determining the applicable percentage of gross income to be transferred to the Regular Reserve.

(b) Charges to the Regular Reserve for loan losses shall be made in accordance with full and fair disclosure and as set forth in the Accounting Manual for Federal Credit Unions.

(c) (1) The Administrator may decrease the reserve requirements as set forth in Section 116 of the Act when, in his opinion, such decrease is necessary or desirable and, the Administrator may approve the charge of losses other than losses on loans to the Regular Reserve.

(2) Applications for approval to decrease the reserve requirements or to charge to the Regular Reserve losses other than losses on loans shall be made in writing to the Regional Director. The application shall:

(i) Be authorized by the board of directors;

(ii) State the need for a decreased transfer or state the amount, cause, and nature of the losses;

(iii) Be accompanied by a copy of the credit union's current statement of financial condition, and a copy of the current delinquent loan list. The Regional Director may request such other information as he may deem necessary.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).)

C. AUSTIN MONTGOMERY,
Administrator.

MAY 6, 1977.

[FR Doc.77-13688 Filed 5-12-77;8:45 am]

Title 17—Commodities and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-20002]

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Annual Report Form U5S

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments.

SUMMARY: Form U5S is amended by deleting references to various instructions to the form which now provide that registered holding companies and their subsidiaries may file a combined annual report on Form U5S in lieu of separate annual reports on Form 10-K, which are filed by most public issuers under the Securities Exchange Act of 1934 ("1934 Act"). This action is being taken contemporaneously with other Commission action which conforms the annual reporting requirements under the 1934 Act applicable to certain regulated issuers with those generally applicable to other issuers. As amended, Form U5S will continue to be filed by registered holding companies and their subsidiaries for regulatory purposes, and separate annual reports on Form 10-K will be filed to satisfy the investor disclosure requirements under the 1934 Act.

EFFECTIVE DATE: The amendments will be effective as to reports for the calendar year 1977. to be filed on or before May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Andrew F. McDonald, Division of Corporate Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-523-5683.

SUPPLEMENTARY INFORMATION: The Commission amends its annual report Form U5S (17 CFR 259.5s) filed under the Public Utility Holding Company Act of 1935 ("1935 Act") (49 Stat. 838; 15 U.S.C. 79a et seq.) pursuant to Rule 1(c) (17 CFR 250.1(c)) of the Rules and Regulations under the 1935 Act. Form U5S is the annual report filed by registered holding companies under the 1935 Act on behalf of themselves and their subsidiaries. These companies have, in the past, been permitted to file annual reports on Form U5S as a substitute for annual reports on Form 10-K, which are filed by most public issuers subject to the reporting requirements of Sections 13 or 15(d) of the 1934 Act (48 Stat. 881; 15 U.S.C. 78 et seq.). As amended, Form U5S will no longer relieve holding companies and their subsidiaries which are public issuers from complying with the annual reporting requirements of Form 10-K. A modified Form U5S will still be required for regulatory purposes under the 1935 Act.

This action is being taken concurrently with the adoption by the Commission of a proposal to rescind Form 12-K (17 CFR 249.312) and to amend various rules under the 1934 Act applicable thereto. Issuers regulated by various Federal agencies have previously filed copies of their annual reports with those agencies as an exhibit to Form 12-K in lieu of complying with the annual reporting requirements of Form 10-K and have also been excused from fully complying with the reporting requirements of Form 10-Q. The Commission's views with respect to the necessity for rescinding Form 12-K are contained in Securities Exchange Act Release No. 12769 (September 3, 1976). The amendments to Form U5S are necessary to conform the annual reporting requirements that apply to registered holding companies and those of their subsidiaries which are themselves registered issuers under the 1934 Act to the reporting requirements applicable to other public utility companies.

On October 5, 1976, the proposed amendments and a full explanation of their purpose were issued for comment by Holding Company Act Release No. 35-19705 (41 FR 44863, October 13, 1976). The comment period expired November 15, 1976. Eleven holding companies submitted a joint response to the proposal, five of which also responded separately. An additional holding company responded independently. All comments on the proposal were critical. Generally, the respondents recommended that one or the other of the annual report forms be modified to the extent needed to cover the requirements of both the 1934 and 1935 Acts. Inclusion of the regulatory details required under the 1935 Act in a Form 10-K, however, would substantially increase its size and diminish its utility as a convenient and uniform disclosure document for investors under the 1934 Act. The presentation of the two forms as two parts of a single report, also suggested, would not make any real difference in terms of the work involved, but would create unnecessary legal uncertainties as to the status of the contents of a double report under each of the two independent Acts.

Accordingly, 17 CFR 259.5s, Form U5S, for annual reports filed under Section 5(c) of the 1935 Act is amended as follows:

1. The portion of the facing sheet referring to a filing pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 is deleted.

2. General instructions 1(b), 2(b), and the last sentence of instruction 2(c) are deleted. Instruction 1(a) is renumbered as instruction 1 and instructions 2(c) to 2(f), inclusive, are renumbered as instructions 2(b) to 2 (e).

3. Item 2, "Securities Registered on Exchanges," is deleted. The other items will not be renumbered at this time.

4. Item 8(b), "Holders of Capital Stock," is deleted and Item 8(a) is renumbered as Item 8.

5. The clause "and under the Securities Exchange Act of 1934" is deleted from the instruction to Item 13.

6. The second sentence of instruction 1(b) of the *Instructions as to Financial Statements* is amended to read:

The individual corporate and consolidated statements included in the consolidating statements with respect to those members of the system that file annual reports on Form 10-K shall correspond to the financial statements so filed on Form 10-K..

7. The clause "except in the case of a system company filing this report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934" is deleted from the fourth sentence of said instruction 1(b).

8. Instruction 1(c) of the *Instructions as to Financial Statements* is amended to read:

(c) There shall be included with the financial statements for each member company the schedules specified in Rule 5-04 of Regulation S-X, to the extent required by that regulation, except Schedules II, III, IV, X, XVII, XVIII and XIX, provided that any schedule of a subsidiary company may be omitted if the information required is included and separately identified in the consolidated schedules of its parent, or elsewhere in the financial statements or in the answers to any of the items of the Form.

Any required schedule may be incorporated by reference to any prior filing under any act administered by the Commission, to

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the extent permitted by Rule 24 [17 CFR 201.24] of the Commission's Rules of Practice. If the information required in any schedule of any system company is contained in any schedule or schedules of such company's report to the Federal Power Commission, duplicates of such schedules with appropriate references may be used to satisfy the requirements of this form.

9. Instruction 2 of the *Instructions as to Exhibits* is deleted.

(15 U.S.C. 79n.)

By the Commission.

ANDREW MACDONALD,
Special Counsel, Division of Corporate Regulation.

MAY, 1977.

[FR Doc.77-13718 Filed 5-12-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0026]

CHEMICAL COMPOUNDS IN FOOD-PRODUCING ANIMALS

Criteria and Procedures for Evaluating Assays for Carcinogenic Residues in Edible Products of Animals; Extension of Comment Period

In the matter of 21 CFR Parts 8, 500, 514, and 571.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document extends to July 25, 1977, the time for submitting comments on the regulations regarding criteria and procedures for evaluating assays for carcinogenic residues in edible animal products. The extension, based upon a request submitted by the Animal Health Institute, will provide time for the submission of more extensive comments.

DATE: New deadline for comments, July 25, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued regulations, published in the FEDERAL REGISTER of February 22, 1977 (42 FR 10412), regarding criteria and procedures for evaluating assays for carcinogenic residues in edible products of animals. In the preamble to the regulations, the Commissioner recognized that over 3 years had passed since the regulations were proposed and that the final regulations resolved some issues not specifically dealt with in the proposal but raised by the comments. For these reasons, the Commissioner provided until April 25, 1977 for interested persons to submit further comments on these specified issues:

The Commissioner has received a request for extension of the comment period (on file with the Hearing Clerk, Food and Drug Administration) from the Animal Health Institute (AHI) 1717 K St. NW., Washington, DC 20006, requesting that the comment period be extended for approximately 90 days. In its request, AHI asserts that (1) the regulations are of great significance to its membership, (2) if AHI's comments are to be of the greatest use to FDA and the public, AHI must call upon the full scientific resources of all of its members, and (3) the public interest will clearly be served by the Commissioner's granting an extension of the comment period within which to provide meaningful comment.

On March 23, 1977, AHI filed citizen petitions requesting the Commissioner both to stay the effective date of the regulations and to reconsider and revoke them. But the petitions also addressed the specific issues on which the Commissioner solicited additional information. Although the petitions were subsequently denied on April 27, 1977, the appropriate comments in the petitions will be considered in the preparation of any revised final order. The quality of these comments suggests that extending the comment period to permit an even more extensive submission by AHI and other parties on these issues will be in the public interest. Accordingly, the Commissioner concludes that the request for extension should be granted and hereby extends the comment period on the regulations until July 25, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments, in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document, regarding these regulations. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

(Federal Food, Drug, and Cosmetic Act (secs. 402, 403, 409, 512, 701(a), 706, 52 Stat. 1046-1048 as amended, 1055, 72 Stat. 1785-1788 as amended, 74 Stat. 399-403, 82 Stat. 343-351 (21 U.S.C. 342, 343, 348, 360b, 371(a), 376)).)

Dated: May 5, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-13359 Filed 5-12-77;8:45 am]

[Docket No. 77N-0032]

RECODIFICATION EDITORIAL AMENDMENTS; CORRECTION

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This is a correction of a final rule published at page 15673 in the FEDERAL REGISTER of March 22, 1977 (FR Doc. 77-7952).

EFFECTIVE DATE: March 22, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Compliance Regulations and Policy Staff (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The following correction is made:

On page 15675, in the middle column, the heading for Part 503 is corrected to read "Part 502"; and the references to "§ 503.22" and "Section 503.22" appearing in the lines directly under the part heading are corrected to read "§ 502.19" and "Section 502.19" respectively.

Dated: May 4, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-13360 Filed 5-12-77;8:45 am]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Dexamethasone Injection

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration approves a new animal drug application (104-606V) filed by Carter-Glogau Laboratories Division, Chromalloy Pharmaceuticals, Inc., 5160 West Bethany Home Rd., Glendale, AZ 85301, proposing safe and effective use of dexamethasone sodium phosphate injection in the treatment of dogs for inflammatory conditions, and as supportive therapy in canine posterior paresis, before or after surgery, and in nonspecific dermatosis. The Commissioner of Food and Drugs is amending § 522.540 (21 CFR 522.540) to reflect this approval.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 307-443-3430.

SUPPLEMENTARY INFORMATION: In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m. Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended in § 522.540 by revising paragraph (b)(2) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * * *

(b) * * *

(2) *Sponsor.* See number in § 510.600 (c) of this chapter as follows:

(i) No. 000864 for use of 2.0 milligrams dexamethasone or 4.0 milligrams dexamethasone sodium phosphate injections.

(ii) No. 000381 for use of 4.0 milligrams dexamethasone sodium phosphate injection.

* * * * *

Effective date: This regulation becomes effective on May 13, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 6, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-13776 Filed 5-12-77;8:45 am]

[Docket No. 76P-0405]

PART 701—COSMETIC LABELING

Establishment of Names of Fluorocarbon (Halocarbon) Propellant Ingredients

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document establishes more descriptive names in cosmetic ingredient labeling for seven fluorocarbon (halocarbon) propellants. This rule is based upon a petition submitted by the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA). The new names must be used in labeling of cosmetics containing one or more such propellants and will be more informative to the consumer.

DATES: All packages labeled on or after November 9, 1977 shall comply. Objections by June 13, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Wenninger, Bureau of Foods (HFF-441), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1061.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a proposed rule, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52078), to amend Part 701: Cosmetic Labeling to establish names for certain fluorocarbon (halocarbon) propellants which would be more descriptive and informative than the functional names then in use. In response to the proposal one comment was received from a trade association. This response favored the proposal.

The Commissioner of Food and Drugs has, on his own initiative, made a correction in the "chemical name or description" and the "chemical formula" for chlorofluorocarbon 114 in the regulation.

The Commissioner has not established a separate effective date for compliance when ordering new labeling (as was proposed) to give companies greater flexibility in implementing the new labeling requirements. However, the effective date for complying with the regulation in the labeling of packages is adopted as proposed. Any labeled packages in inventory on the effective date of this order may be used and introduced into interstate commerce until the existing inventory of such labeled packages is depleted.

Therefore, under the Fair Packaging and Labeling Act (secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) and the Federal Food, Drug and Cosmetic Act (sec. 701(e), 70 Stat. 919, as amended (21 U.S.C. 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Part 701 as follows:

1. By revising § 701.3(c)(1) to read as follows:

* * * * * *

§ 701.3 Designation of ingredients.

* * * * * *

(c) * * *

(1) The name specified in § 701.30 as established by the Commissioner for that ingredient for the purpose of cosmetic ingredient labeling pursuant to paragraph (e) of this section;

* * * * * *

2. By adding to Subpart C a new § 701.30 to read as follows:

§ 701.30 Ingredient names established for cosmetic ingredient labeling.

The Commissioner establishes the following names for the purpose of cosmetic ingredient labeling pursuant to paragraph (e) of § 701.3:

Chemical name or description	Chemical formula	Established label name
Trichlorofluoromethane	CCl_3F	Chlorofluorocarbon 11.
Trichlorofluoromethane and 0.3 pct nitromethane	$CCl_3F+CH_3NO_2$	Chlorofluorocarbon 11 S.
Dichlorodifluoromethane	CCl_2F_2	Chlorofluorocarbon 12.
Chlorodifluoromethane	$CHClF_2$	Hydrochlorofluorocarbon 22.
1, 2-dichloro-1, 1, 2, 2-tetrafluoroethane	$CClF_2CClF_2$	Chlorofluorocarbon 114.
1-chloro-1, 1-difluoroethane	CH_3CClF_2	Hydrochlorofluorocarbon 142 B.
1, 1-difluoroethane	CH_3CHF_2	Hydrofluorocarbon 152 A.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 13, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to any provision that may be stayed by the filing of proper objections, packages labeled on or after November 9, 1977 shall comply with this final regulation. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 5(c), 6(a), Pub. L. 89-755, 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455); sec. 701(e), Pub. L. 717, 70 Stat. 919 as amended (21 U.S.C. 371(e)).)

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13497 Filed 5-9-77;9:54 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-342]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Norman, Oklahoma

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 28, 1974, in 39 FR 31315, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the city of Norman, Oklahoma. Map No. H 400046 Panel 22 indicates that Lot 1, Block 1, Sherwood Forest No. 2, Norman, Oklahoma, as recorded in Book 9, Pages 12 and 13, in the office of the Clerk of Cleveland County, Oklahoma, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Ad-

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ministration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 400046 Panel 22 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 23, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13651 Filed 5-12-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grove City, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, in 39 FR 17523, the Federal Insurance Administrator published a list of communities with special hazard areas which included Grove City, Ohio. Map No. H 390173A Panel 02 indicates that Lot 36, Park Ridge Subdivision, Grove City, Ohio, as recorded in Volume 3486, Page 710 of Deeds, in the office of the Recorder of Franklin County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 390173A Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13652 Filed 5-12-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grove City, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, in 39 FR 17523, the Federal Insurance Administrator published a list of communities with special hazard areas which included Grove City, Ohio. Map No. H 390173A Panel 04 indicates that Lot 25, Section Two, Brook Park Subdivision, Grove City, Ohio, as recorded in Book 50, Page 4 of Plats in the office of the Recorder of Franklin County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 390173A Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administator.

[FR Doc.77-13653 Filed 5-12-77;8:45 am]

[Docket No. FI-2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Albuquerque, New Mexico

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 14, 1976, in 41 FR 28970, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Albuquerque, New Mexico. Map No. H 350002 Panel 25 indicates that Lots F and G, Block 8-A, Replat of Blocks 2, 7, and 8 of Chelwood Park, Albuquerque, New Mexico, as recorded in Map Book C-3, Page 41, in the office of the County Clerk and Recorder of Bernalillo County, New Mexico, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 350002 Panel 25 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 20, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13654 Filed 5-12-1977;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 03 indicates that Lot 4, Block 3612, at 426 Overbrook Road, Ridgewood, New Jersey, as recorded in Book 5948, Pages 483 and 484, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13655 Filed 5-12-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 04 indicates that Lot 4, Block 4317, at 669 Alanon Road, Ridgewood, New Jersey, as recorded in Book 4485, Pages 394 and 396, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is

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pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 04 is hereby corrected to reflect that the existing structure on the above mentioned property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of atuhority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13656 Filed 5-12-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 03 indicates that Lot 22, Block 4005, at 141 South Irving Street, Ridgewood, New Jersey, as recorded in Book 4566, Pages 64 and 66, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above mentioned property are not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13657 Filed 5-12-77;8:45 am]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Wolfeboro, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 24, 1975, in 40 FR 3776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Wolfeboro, New Hampshire. Map No. 8 330239 Panel 07 indicates that Lot 17, Block 7, at 36 North Main Street, Wolfeboro, New Hampshire, as recorded in Book 515, Page 425 and Book 515, Page 427, in the Office of the Carroll County Registry, New Hampshire, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing two-story wood frame, combined office, showroom and workshop, is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 330239 Panel 07 is hereby corrected to reflect that the above mentioned structure is not within the Special Flood Hazard Area identified on January 17, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13658 Filed 5-12-77;8:45 am]

[Docket No. FI-403]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Kansas City, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 19, 1974, in 39 FR 40571, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Kansas City, Missouri. Map No. H 290173 Panel 34 indicates that Mission Lake, First Plat, Kansas City, Missouri, as recorded in Plat Book 34, Page 7, in the office of the Recorder of Jackson County, Missouri, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing Building Nos. 17 through 23, 27, and 28 are not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 290173 Panel 34 is hereby corrected to reflect that the above mentioned Buildings are not within the Special Flood Hazard Area identified on on November 8, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13659 Filed 5-12-77;8:45 am]

[Docket No. FI-880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grandview, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A Panel 04 indicates that Lot 3, Block 7, River Oaks First Plat, Grandview, Missouri, as recorded in Plat Book 33, Page 86, in the office of the Recorder of Jackson County, Missouri, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 290171A Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13660 Filed 5-12-77;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Quincy, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Quincy, Massachusetts. Map No. H&I 255219A Panel 03 indicates that Lot 1, Land Court 35537[A], Quincy, Massachusetts, as recorded in No. 97444, Book 488, Page 44, in the Norfolk Registry of Deeds or Dedham, Massachusetts, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures in the above property are with Zone C, and not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H&I 255219A Panel 03 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on July 30, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13661 Filed 5-12-77;8:45 am]

[Docket No. FI-327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Cohasset, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, in 39 FR 28889, the Federal Insurance Administrator published a list of communities

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with Special Flood Hazard Areas which included the Town of Cohasset, Massachusetts. Map No. H 250236A Panel 02 indicates that Lot S', as shown on Plan 2896–2, at 90 Gammons Road, Cohasset, Massachusetts, as recorded in Book 169, Page 121, in the Norfolk County Registry of Deeds, Dedham, Massachusetts, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 250236A Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13662 Filed 5–12–77;8:45 am]

[Docket No. FI–321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Baltimore, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, in F.R. 28256, the Federal Insurance Administrator published a list of communities with special hazard areas which included Baltimore, Maryland. Map No. H 240087 Panel 12 indicates that a portion of property located in Baltimore, Maryland, that is described and recorded in Liber R.H.B. 2489, Page 476 of Deeds, in the office of Land Records of Baltimore City, Maryland, is in its entirely within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently, acquired flood information, that a portion of the above property, which can be described as follows:

Commencing at a pipe set on the southeastern side of Sinclair Lane, 80 feet wide, as described in Ordinance No. 1117, of the Mayor and City Council of Baltimore approved July 21, 1930, at a point where said southeastern side of Sinclair Lane is intersected by the first or South 32 and ½ degrees east 30 and 8/10ths perch line of the tract of land described in the Deed from George Gebelein and wife to William C. Weber and wife, dated September 1, 1910, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 370, folio 93, the coordinates of said place of commencing being east 16,571.24 and North 6,882.38, thence S. 38°17'32" E., 22.64 feet to a point; thence S. 6°15'25" E., 726.54 feet to the actual point of beginning: thence N. 52°56'20" E., 705.83 feet to a point; thence S. 37°03'40" E., 263.00 feet to a point; thence S. 52°56'20" W., 862.64 feet to a point; thence N. 6°15'25" W., 306.19 feet to the actual point of beginning.

is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240087 Panel 12 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13663 Filed 5–12–77;8:45 am]

[Docket No. FI–835]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Annapolis, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 12, 1976, in 41 FR 1754, the Federal Insurance Administrator published a list of communities with special hazard areas which included Annapolis, Maryland. Map No. H 240009A Panel 03 indicates that 100 Chesapeake Avenue being the Northeastern 51 feet of Lot 144, Eastport, Annapolis, Maryland, recorded as Plat No. B–301 in Book 11, Folio 31, Speed 22 of Plats in the office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirment to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240009A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13664 Filed 5–12–77;8:45 am]

[Docket No. FI–321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Baltimore, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, in 39 FR 28256, the Federal Insurance Administrator published a list of communities with special hazard areas which included Baltimore, Maryland. Map No. H 240087 Panel 06 indicates that a piece of property being 1400 Weldon Place South, Baltimore, Maryland, as recorded in Liber R.H.B. 3195, Page 304, of Deeds in the office of the Clerk of Land Records of Baltimore City, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240087 Panel 06 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13665 Filed 5–12–77;8:45 am]

[Docket No. FI–410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 Panel 43 indicates that 305 Park Drive, being a portion of Lot 4, Section A as shown on a plat of Severna Park and recorded in Book 12, Folio 25 of Plats, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Commencing at the northernmost point of said Lot 4; thence S. 3°44' W., approximately 75 feet to a point; thence S. 29°44' W., approximately 47.85 feet to a point; thence S. 77°59' W., approximately 36.5 feet to the actual point of beginning; thence continuing S. 77°59' W., approximately 48.47 feet to a point; thence S. 84°29' W., approximately 48.47 feet to a point; thence S. 84°29' W., approximately 80.66 feet to a point; thence S. 25°16' E., approximately 79 feet to a point; thence S. 72°01' E., approximately 83 feet to a point; thence N. 07°28' E., approximately 115.75 feet to the actual point of beginning,

is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240008 Panel 43 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13666 Filed 5–12–77;8:45 am]

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[Docket No. FI-226]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of DeQueen, Arkansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 26, 1974, in 39 FR 11184, the Federal Insurance Administrator published a list of communities with special hazard areas which included DeQueen, Arkansas. Map No. H 050204A Panel 02 indicates that Lots 2 through 5 and 8 through 11, Block 1; Lots 17 and 18, Block 2; and Lots 13 and 15, Block 3; Tall Pine Subdivision, DeQueen, Arkansas, as recorded in Book 141, Page 157 of Plats, in the Courthouse of Sevier County, Arkansas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 050204A Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13641 Filed 5-12-77;8:45 am]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of San Jose, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On January 27, 1975, in 40 FR 3986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of San Jose, California. Map No. H 060349A Panel 42 indicates that Lots 4 through 10, 17 through 31, 53 through 75, and 80 through 103, Tract No. 5809, San Jose, California, as recorded in Book 375 of Maps, Pages 4 and 5, in the office of the Recorder of Santa Clara County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, be establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, *provided* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060349A Panel 42 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13683 Filed 5-12-77;8:45 am]

[Docket No. FI-340]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Huntington Beach, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 21, 1974, in 39 FR 30118, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Huntington Beach, California. Map No. H 065034A Panel 12 indicates that Lots 2 through 5, and 12 through 22, Tract 8961, and Lots 1 through 6, 33 and 34, Tract No. 8332, as recorded in Plat Book No. 388, Pages 11 through 13, and Plat Book No. 367, Pages 36 and 37, respectively, in the office of the County Recorder of Orange County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year. *Provided* That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. M 065034A Panel 12 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 9, 1974 and August 27, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13684 Filed 5-12-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7487]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Limitations on Percentage Depletion in the Case of Oil and Gas Wells

AGENCY: Internal evenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to limitations on percentage depletion in the case of oil and gas wells. Changes to the applicable tax law were made by the Tax Reduction Act of 1975. These regulations provide rules regarding the making of elections to apply the exemption for average daily production of oil to production of gas. In addition, the regulations impose recordkeeping requirements with respect to certain transfers of oil or gas property and in cases where depletion is claimed for secondary or tertiary production.

DATE: The regulations apply in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6618).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 17, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 613 and 613A of the Internal Revenue Code of 1954, (40 FR 48691). The amendments were proposed to conform the regulations in part to the provisions of section 501 of the Tax Reduction Act of 1975 (89 Stat. 47). A public hearing was held on January 22, 1976. After consideration of all comments regarding the proposed amendments, the attached Treasury decision is adopted. The proposed amendments, as published by the notice of proposed rule making, included § 1.613A-7 dealing with definitions. Section 1.613A-7 is reserved in this Treasury decision and is being reproposed with additional rules to show in detail the intended application of the definitions. The new notice of proposed rulemaking appears in the same issue of the FEDERAL REGISTER as this Treasury decision. Sections 1.613A-2, 1.613A-3, and 1.613A-4 are also reserved and are included in the new notice.

IN GENERAL.

With certain exceptions, the Tax Reduction Act repealed percentage depletion for oil and gas after December 31, 1974. In general, exemption from the repeal of percentage depletion is provided for certain production of independent producers and royalty owners, sometimes called the small producer exemption. Initially, an exemption of 2,000 barrels of average daily production for oil (or up to 12,000,000 cubic feet for natural gas if the taxpayer so elects) is provided. The amount is reduced by 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of 1,000 barrels per day is reached. The depletion rate for oil and gas covered under this exemption is also phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. In the case of secondary or tertiary production prior to 1984, the small producer exemption permits a taxpayer to take percentage depletion at a 22 percent rate on the exempt quantity.

The new law provides for certain limitations on the application of the small producer exemption. The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's taxable income from all sources (computed without regard to depletion, net operating loss carrybacks and capital loss carrybacks). Moreover, the exemption relating to average daily production is not available to a transferee of any interest in a proven oil or gas property transferred after December 31, 1974. The new law also provides that the small producer exemption does not apply to a taxpayer who directly or through a related person sells oil or natural gas, or any product derived from oil or natural gas, through a retail outlet or to certain persons. The small producer exemption is also not available to any taxpayer who, directly or through a related person, engages in the refining of crude oil and whose refinery runs exceed 50,000 barrels on any day during the taxable year.

ELECTION UNDER SECTION 613A(c)(4)

Rules regarding the making of elections to apply the exemption for average daily production of oil to such production of gas are provided in the regulations. In response to comments, the gas election has been simplified so that a taxpayer may make the election by merely claiming percentage depletion deductions for the taxable year based on the election.

RECORDKEEPING REQUIREMENTS

Recordkeeping requirements are imposed by the regulations with respect to certain transfers of oil or gas property and in cases where depletion is claimed for secondary or tertiary production. In response to comments, the requirement for the retention of records has been clarified to provide that records need to be retained so long as the contents of such records may become material in the administration of any Internal Revenue Law.

DRAFTING INFORMATION

The principal author of this regulation was Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations. Accordingly, 26 CFR Part 1 is amended as follows:

PAR. 1. Paragraph (c)(2) of § 1.613-2 is amended by revising so much thereof as precedes the example, by redesignating the example as example (1), and by adding a new example (2) immediately thereafter, to read as set forth below

PAR. 2. There are inserted immediately after § 1.613-7 the following new sections to read as set forth below

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

WILLIAM E. WILLIAMS,
Acting Commission of Internal Revenue.

Approved: March 27, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

§ 1.613-2 Percentage depletion rates.

* * * * * *

(c) *Rules for application of paragraph (a) of this section.* * * *

(2) In cases in which there are produced from a mineral property two or

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more minerals, each entitled to a different percentage depletion rate under section 613(b) and this section or any of which is entitled to cost depletion only, the percentage depletion allowance is the sum of the results obtained by applying the percentage applicable to each mineral (zero, if not entitled to percentage depletion) to the "gross income from the property" attributable to such mineral. The sum so computed is subject to the limitation provided in section 613(a) and § 1.613–1, that is, 50 percent of the taxpayer's taxable income from the property (computed without allowance for depletion). Such taxable income (computed in accordance with § 1.613–4) is the total taxable income resulting from the sale of all minerals produced from the mineral property (as defined in section 614 and the regulations thereunder). The provisions of this subparagraph may be illustrated by the following examples:

Example (1). • • •

Example (2). Oil and gas are produced from a single mineral property of a taxpayer who operates a retail outlet for the sale of oil products within the meaning of section 613A(d)(2). The taxpayer is not entitled to percentage depletion on the gross income attributable to the oil, but is entitled to percentage depletion on the gross income attributable to gas which is regulated gas under section 613A(b)(2)(B). Accordingly, the taxpayer's maximum allowable percentage depletion deduction would be zero percent of gross income from the property with respect to oil, plus 22 percent (see section 613A(b)(1)) of gross income from the property with respect to gas. This maximum deduction would be subject to the limitation provided for in section 613(a), *i.e.*, 50 percent of "taxable income from the property (computed without allowance for depletion)," such taxable income being the overall taxable income resulting from the sale of both oil and gas. However, in the case of oil or gas production which qualifies for percentage depletion under section 613A(c), see the special allocation rules contained in section 613 A(c)(7)(C) and (E) and § 1.613A–4.

• • • • •

§ 1.613A–1 Post-1974 limitations on percentage depletion in case of oil and gas wells; general rule.

Except as otherwise provided in section 613A and the regulations thereunder, in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613. In the case of a taxable year beginning before January 1, 1975, and ending after that date, the percentage depletion allowance (but not the cost depletion allowance) with respect to oil and gas wells for such taxable year shall be determined by treating the portion thereof in 1974 as if it were a short taxable year for purposes of section 613 and the portion thereof in 1975 as if it were a short taxable year for purposes of section 613A.

§ 1.613A–2 Exemption for certain domestic gas wells. [Reserved]

§ 1.613A–3 Exemption for independent producers and royalty owners. [Reserved]

§ 1.613A–4 Limitations on application of § 1.613A–3 exemption. [Reserved]

§ 1.613A–5 Election under section 613A(c)(4).

The election under section 613A(c)(4) is an annual election which the taxpayer may make by claiming percentage depletion deductions for the taxable year based upon such election. The election may be made, on an original or amended tax return or a claim for credit or refund, at any time prior to the expiration of the statutory period (including any extensions thereof) for the filing of a claim for credit or refund by the taxpayer. The election may be changed by the taxpayer by filing an amended return or a claim for credit or refund. The election allows the taxpayer to treat as his depletable natural gas quantity an amount equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the election applies. The election applies to secondary or tertiary production, as well as primary production, but in determining the taxpayer's depletable natural gas quantity with respect to secondary or tertiary production the taxpayer's depletable oil quantity shall be determined without regard to section 613A(c)(3)(A)(ii) with respect to production from secondary or tertiary processes.

§ 1.613A–6 Recordkeeping requirements.

(a) *Principal value of property demonstrated.* In the case of a transfer (as defined in § 1.613A–7(n)) after December 31, 1974, of an interest in an oil or gas property (as defined in § 1.613A–7(p)), the transferee (as defined in section 1.613A–7(o)) shall keep records showing the terms of the transfer, any geological and geophysical data in the possession of the transferee or other exploratory data with respect to the property transferred, and any other information which bears upon the question of whether at the time of the transfer the principal value of the property transferred had been demonstrated by prospecting, exploration, and discovery work.

(b) *Production from secondary or tertiary processes.* Every taxpayer who claims depletion with respect to oil or gas produced by secondary or tertiary processes (as defined in § 1.613A–7(k)) shall keep records of the secondary and tertiary processes applied and maintain records of the amount of production so resulting.

(c) *Retention of Records.* The records required by this section shall be kept at all times available for inspection by authorized Internal Revenue officers or employees, and shall be retained so long as the contents may become material in the administration of any Internal Revenue law.

§ 1.613A–7 Definitions. [Reserved]

[FR Doc.77–13686 Filed 5–12–77;8:45 am]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7486]

PART 53—FOUNDATION EXCISE TAXES

Valuation of Foundation Assets

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the valuation of a private foundation's noncharitable assets for purposes of calculating its minimum investment return. These regulations aid private foundations in computing how much they must contribute to charitable activities. The document also contains two minor clarifying changes of language in two other regulations under section 4942.

DATES: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT:

David A. Rood of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202–566–3288.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 27, 1976, the FEDERAL REGISTER published proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4942(e)(2) of the Internal Revenue Code of 1954 as it read prior to enactment of the Tax Reform Act of 1976, 41 FR 47053. Interested parties were given an opportunity to submit comments and to request a public hearing by December 13, 1976. No such comments or requests were received.

These amendments do not reflect the changes to valuation principles under section 4942(e) applicable to taxable years beginning after December 31, 1975, that are contained in section 1303 of the Tax Reform Act of 1976. Regulations that reflect these changes will be the subject of a future notice of proposed rulemaking.

Adoption of amendments to the regulations. Accordingly, 26 CFR Part 53 is amended as proposed.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

Approved: May 6, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 53.4942(a)–2 is revised by inserting paragraph (c)(4)(i)(b) to read as follows:

§ 53.4942(a)–2 Computation of undistributed income.

• • • • • •

(c) *Minimum investment return.* • • •

(4) *Valuation of assets*—(i) *Certain securities.* • • •

(b) For purposes of this subdivision, commonly accepted methods of valuation must be used in making an appraisal. Valuations made in accordance with the principles stated in the regulations under section 2031 constitute acceptable methods of valuation.

• • • • •

PAR. 2. Section 53.4942(a)–3 is revised by replacing the phrase "any distributions" in the second sentence of paragraph (c)(2)(i) with the phrase "amounts treated as redistributions" and by restructuring the third sentence of paragraph (c)(2)(iv). The revised provisions read as follows:

§ 53.4942(a)–3 Qualifying distributions defined.

• • • • •

(c) *Certain contributions to 501(c)(3) organizations.* • • •

(2) *Distribution requirements.* (i) In order for a donee organization to meet the distribution requirements of subparagraph (1)(i) of this paragraph, it must, not later than the close of the first taxable year after its taxable year in which any contributions are received, distribute (within the meaning of this paragraph) an amount equal in value to the contributions received in such prior taxable year and have no remaining undistributed income for such prior taxable year. In the event that a donee organization redistributes less than an amount equal to the total contributions from donor organizations which are required to be redistributed by such donee organization by the close of the first taxable year following the taxable year in which such contributions were received, amounts treated as redistributions of such contributions shall be deemed to have been made pro rata out of all such contributions, regardless of any earmarking or identification made by such donee organization with respect to the source of such distributions. See paragraph (d)(2)(ix) of § 53.4942(a)–2 for the treatment of amounts deemed not to have been so redistributed. For purposes of this paragraph, the term "contributions" means all contributions, whether of cash or property, and the fair market value of contributed property determined as of the date of the contribution must be used in determining whether an amount equal in value to the contributions received has been redistributed.

• • • • •

(iv) In order to satisfy distribution requirements under section 170(b)(1)(E)(ii) or this paragraph, a donee organization may elect to treat as a current distribution out of corpus any amount distributed in a prior taxable year which was treated as a distribution out of corpus under paragraph (d)(1)(iii) of this section, provided that (*a*) such amount has not been availed of for any other purpose, such as a carryover under paragraph (e) of this section or a redistribution under this paragraph for a prior year, (*b*) such corpus distribution occurred within the preceding 5 years, and (*c*) such amount is not later availed of for any other purpose. Such election must be made by attaching a statement to the return the foundation is required to file under section 6033 with respect to the taxable year for which such election is to apply. Such statement must contain a declaration by an appropriate foundation manager (within the meaning of section 4946(b)(1)) that the foundation is making an election under this paragraph and it must specify that the distribution was treated under paragraph (d)(1)(iii) of this section as a distribution out of corpus in a designated prior taxable year (or years). For purposes of elections made under this subdivision, see § 1.9100–1 of this chapter (Income Tax Regulations) relating to extensions of time for making certain elections.

• • • • •

[FR Doc.77–13706 Filed 5–12–77;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—PROHIBITIONS

Motors and Motorized Equipment in Middle Fork Feather Wild River Zones, Calif.

AGENCY: Forest Service, USDA.

ACTION: Final rule (interim regulation).

SUMMARY: This interim regulation prohibits possessing or using motors or motorized equipment in the Middle Fork Feather Wild River Zones except on the Stag Point and Cleghorn Bar trails or when authorized by a permit. Similar prohibitions existed under various regulations that were amended, revoked, or revised effective February 15, 1977. The revised regulations overlooked the need to protect these wild river zones. This need is being met temporarily by this interim regulation which will expire 90 days after publication in the FEDERAL REGISTER (August 11, 1977). Meanwhile, a permanent regulation will be drafted after written comments on a notice of proposed rulemaking published in today's FEDERAL REGISTER have been considered.

DATES: This regulation is effective on May 13, 1977. Unless amended sooner, it will expire on August 11, 1977.

ADDRESSES: Send Comments to Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT:

Bill Derr, Telephone 415–556–4963.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) of October 2, 1968, as amended, designates the entire Middle Fork of the Feather River downstream from the confluence of its tributaries one kilometer south of Beckwourth as a component of the national wild and scenic rivers system. The Act requires the lands included in the river area to be described and classified into three types of areas, including "wild river areas" which are those sections "that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America."

The Chief of the Forest Service described and classified the land and issued a development plan for it at 35 FR 4219. Two wild river areas were classified and described, which are known as the Bald Rock Canyon Wild River Zone and the Upper Canyon Wild River Zone. Regarding management direction for these zones, the plan states "Public vehicular access to the river in this zone will be limited to the 'four 'vehicular ways' shown on the map of the river area." Two of these vehicular ways are closed to the public, and this regulation continues to require a permit for their use. The other two are known as the Stag Point and Cleghorn Bar Trails which are open for public use.

Besides the need to restrict vehicular access to these wild portions of the river, the Forest Service has previously found it necessary to prohibit other motors and motorized equipment in the area. The wild nature of the river makes the operation of motor boats unsafe. And the operation of any type of motor, whether portable or stationary, is incompatible with the primitive nature of the zones and interferes with their quiet enjoyment. Some types of motors could cause water pollution or other damage to property or to the wild and pristine character of the property.

For all of these reasons, the California Regional Forester has prohibited all motors and motorized equipment in these wild river zones, except on the Stag Point and Cleghorn Bar trails or when authorized by permit, since April 30, 1973. These prohibitions were established under various sections in 36 CFR Chapter II as it existed before February 15, 1977. Effective on that date, each of those sections was amended, revoked, or revised so as to inadvertently preclude continuing these prohibitions. Consequently, the primary purpose of this interim regulation is not to establish new restrictions but to restore substantially the same prohibitions which were previously in effect.

INADEQUACY OF EXISTING PROHIBITIONS

36 CFR 261.70(b) requires that regulations issued under Subpart C of 36 CFR Part 261 not be contrary to or duplicate any prohibition established under existing regulations. 36 CFR 261.16(a) pro-

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hibits possessing or using a motor or motorized equipment, with certain exceptions, in a national forest wilderness. The two wild river zones covered by this regulation are not a part of any such wilderness so that the above prohibition does not apply. However, the same considerations which establish the need for § 261.16(a) are equally applicable to this regulation.

36 CFR 261.54(a), 261.55(b), and 261.56 provide a method for prohibiting the possession or use of certain types of vehicles. 36 CFR 261.58(n) provides a method for prohibiting the possession or use of a motor boat. However, none of these regulations permits prescribing the possession or use of a motor or motorized equipment not contained in a vehicle or boat. In any case, no prohibitions in these wild river zones have been established under those regulations. It is essential that the possession and use in the wild river zones of all types of motors, whether portable or stationary, be regulated. To avoid confusion of the public as well as erroneous citations by forest officers, this should all be done in a single regulation.

PENALTY FOR VIOLATION

Any violation of this regulation shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. See 16 U.S.C. 551 and 1281(d).

NEED FOR IMMEDIATE EFFECTIVE DATE

This regulation must be made effective immediately upon publication in the FEDERAL REGISTER because: (1) It is essential to restore the previous prohibitions which have inadvertently been allowed to lapse;

(2) The regulation is necessary for the protection of public safety and property, as indicated in detail above;

(3) The regulation is necessary to continue the policy of the Chief of the Forest Service as expressed in the development plan at 45 FR 4219; and

(4) The regulation is necessary to preserve the character of the wild river zones as mandated by Congress in the Wild and Scenic Rivers Act.

This regulation is only temporary, and the public is being given notice of, and an opportunity to participate in, the promulgation of any permanent rule which will replace it.

For these reasons, compliance with the notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable, unnecessary, and contrary to the public interest.

REGULATION

In consideration of the foregoing and pursuant to 36 CFR 261.70 and the authority delegated to me at 42 FR 3009, in order to establish reasonable rules of public conduct and protect property and public safety, 36 CFR 261.75 is amended to read:

§ 261.75 Interim regulation applicable to Region 5, California Region, as defined in § 200.2.

(a) *Definitions.* In this section: (1) "Middle Fork of the Feather River" means the river and land area in or adjacent to Plumas National Forest described as the "River Area" in the notice at 35 FR 4219 or any amendment to that notice.

(2) "Motorized equipment" means any equipment having or using an engine or motor, except small battery-powered handheld devices such as cameras, shavers, flashlights, and Geiger counters.

(3) "Wild river zone" means the area described as the Bald Rock Canyon Wild River Zone or as the Upper Canyon Wild River Zone in the notice at 35 FR 4219 or any amendment to that notice.

(b) *Prohibitions:* (1) Possessing or using motorized equipment in the wild river zone of the Middle Fork of the Feather River, except on the Stag Point Trail or the Cleghorn Bar Trail, is prohibited.

(2) Paragraph (b)(1) of this section does not apply to any equipment authorized by a permit from the Forest Supervisor, Plumas National Forest, containing such terms and conditions as he considers necessary for the protection or preservation of the wild river zone or the health, safety or welfare of its users. Violation of any term or condition of such a permit is prohibited.

(c) *Expiration date.* Unless amended sooner, this section expires on August 11, 1977.

(30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 10 (d), Pub. L. 90-542; 82 Stat. 916 (16 U.S.C. 1281(d)); 35 FR 4219; 42 FR 2968, 7 CFR 2.60; 42 FR 2960, 36 CFR 261.70; 42 FR 3009.)

The Chief of the Forest Service has concurred in my issuance of this interim regulation. A copy of his concurrence will be available in my office (See "ADDRESSES" above).

DOUGLAS R. LEISZ,
Regional Forester,
California Region.

[FR Doc.77-13689 Filed 5-12-77;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Contractor Use of Agency Official Mail; Miscellaneous Revisions in Regulations Governing Official Mail Privilege of Federal Agencies

AGENCY: United States Postal Service.

ACTION: Final Rule.

SUMMARY: This rule is intended to accomplish two principal things. First, it establishes a licensing procedure to govern the use of official mail envelopes and labels by Government contractors. The new licensing procedure is intended to prevent the misuse of these envelopes and labels and to assure that the Postal Service receives adequate compensation for services provided to private users of official envelopes and labels. Second, it consolidates, clarifies, and eliminates redundancies in agency use of the official mail privilege now found in PSM 137.23–137.3.

EFFECTIVE DATE: May 11, 1977.

ADDRESS: Manager, Government Revenue and Examination Branch, Finance Department, United States Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Ivan N. Hall, 202–245–5005.

SUPPLEMENTAL INFORMATION: On October 6, 1976, the Postal Service published in the FEDERAL REGISTER (41 FR 44059) a notice of proposed rulemaking setting forth proposed changes in sections 137.231 and 137.242 of the Postal Service Manual. The proposed changes were intended to set up a licensing procedure for the use of official mail by Government contractors. The proposed regulations would have authorized any Government agency to apply for a special permit under which it might authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of the agency, matter printed at Government expense. Similarly, the regulations would have authorized any Government agency to apply for a special permit under which it might authorize other contractors to use official envelopes and labels for a specified time, or on a specific contract-by-contract basis. Unauthorized contractor use of official envelopes was to be forbidden, and an agency was to be granted a permit only after making adequate reimbursement arrangements with the Postal Service.

Interested persons and agencies were invited to submit written data, views, or arguments concerning the proposed regulations. Upon request, the initial comment period was extended six weeks (41 FR 50301).

Several comments were received. A few private contractors requested the Postal Service to issue them permits for the use of official indicia when mailing material to Federal agencies. The Postal Service responded to these requests by explaining that under the proposal, a permit would be obtained by the Federal agency which wished to license contractors to use official mail indicia. Permits would not be issued directly to private contractors by the Postal Service.

Two Federal agencies requested the issuance of permits to authorize the use of official mail indicia by printer-mailer contractors in the performance of specific contracts. Pending final adoption of the proposed regulations, the Postal Service has consulted with the affected agencies to avoid any potential disruptions in contract operations.

Three agencies suggested that compliance with the proposed licensing procedure would impose a significant administrative or cost burden on agency operations. One agency declared that in view of the "red tape" involved in supervising contractor use of official envelopes and labels, it was preferable to require the contractor to handle its own administrative costs. A second agency declared that it would be "far more practical and economical" for Federal agencies to eliminate contractor use of official envelopes and insert a cost reimbursement factor into the contract. This agency also pointed out that the cost of any additional contractor recordkeeping related to the use of official indicia would be

passed back to the Government. Finally, a third agency indicated that it did not concur in the need for the proposed regulations, and stated the belief that its existing procedures assured adequate postal reimbursement. Accordingly, this agency requested a formal exemption from the proposed licensing procedures.

The Postal Service has no wish to impose unnecessary administrative or cost burdens on those agencies which find it essential to authorize contractors to mail matter on behalf of the Government. However, we believe that the financial interests of the Postal Service, as well as those of Federal agencies in general, will best be served by more positive accountability for contractor use of official envelopes and labels. Neither the Postal Service nor any Federal agency should be required to absorb the costs of contractor mailings which are not accounted for, or those which are not related to the fulfillment of a Government contract. Accordingly, we believe it would be unwise to grant any permanent agency exemptions from the proposed regulations.

Furthermore, we do not anticipate that agencies will incur significant additional costs or administrative burdens as a result of the proposed regulations. As pointed out in agency comments, if compliance with the new licensing system should appear burdensome with regard to any particular contract, the affected agency might avoid the problem completely by requiring the contractor to use regular postage. Including postage in the contract total as a reimbursable administrative cost would lighten the recordkeeping and paperwork requirements of both the agency and the contractor, and discourage contractor use of official envelopes if such use would not produce any substantial benefits for the agency.

Where contractor use of official envelopes might substantially facilitate the execution or administration of a contract, for example in a contract for printing and mailing a Government publication, or a contract for the manufacture and delivery of small articles, we believe that the new licensing system would not add measurably to administrative costs or workload.

Finally, one agency, which found the proposed permit process "reasonable and consistent with similar permit processes already in effect for official mail", suggested a number of changes in the proposed regulations. This agency advised that the regulations should be clarified to avoid confusion regarding information to be furnished by agencies to the Postal Service, or the factors considered in determining whether to permit an agency to authorize contractor use of official envelopes. We have revised pertinent portions of the proposed regulation to prevent misinterpretation, and to assure the fairness and objectivity of the permit granting process. The modifications we have adopted should allay any fears that the proposed regulations were intended to apply retroactively, or to preempt any agency's prerogative to determine the form of its own operations. The proposal has also been modified to reflect that reply envelopes and labels are to be furnished to contractors generally only in accordance with the licensing procedure set up under the regulations. The option to furnish reply envelopes or labels to members of the public is generally not to be used in dealing with contractors. Moreover, the intent of the proposal has been clarified by specifying that all official envelopes and labels furnished to contractors must be preaddressed to a Federal Government office or officer, except envelopes or labels furnished to printer-mailer contractors. Other changes have been made to eliminate unnecessary material and to conform the regulation to the other changes being made in the regulations governing agency use of official mail.

The Postal Service recognizes that some agencies will find it necessary to modify their contracting and administration procedures to effect the new licensing procedures, or to establish alternatives to contractor use of official envelopes. The Manager, Government Revenue and Examination Branch, Finance Department, is authorized to suspend, temporarily, the application of the new regulations to any agency to avoid disruptions of Government operations.

The changes reflected in new and revised sections 137.23, .24, .26, .27, and .28 and in the revision of section 137.3 are primarily intended to consolidate, clarify and eliminate redundancy in present sections 137.23, .24, .25, .26, .27 and 137.3. Notably, the two substantially similar forms of agency official mail indicia found in present sections 137.231 and .232 are combined into one, eliminating unnecessary duplication in the Postal Service Manual. Because the postal emblem in the official mail indicium is a variation of the Postal Service emblem registered as a trademark and service mark by the U.S. Patent Office, the letter R enclosed in a circle has been added to the indicia in new sections 137.242 and 137.243. In addition, section 137.3 relating to census and naturalization mail has been amended to track more closely the statutory language and to conform to current practice.

New section 137.252 tracks the statutory language on the furnishing of official reply envelopes and labels, 39 U.S.C. 3202(b), more closely than does former section 137.242. In light of the general provisions of the Postal Reorganization Act and the requirement that agencies reimburse the Postal Service for the "equivalent amount of postage due" for their official mailings (including mailings under official reply envelopes or labels), 39 U.S.C. 3206(a), the primary interest of the Postal Service in this area is in assuring that the Postal Service is reimbursed fully for all official mailings, not in policing the agencies in their use of the official mail privilege. The agencies themselves, whose funds are at stake, are responsible for assuring that their mailings are in accordance with the law.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following amendment of the Postal Service Manual, effective May 11, 1977:

PART 137—OFFICIAL MAIL

Sections 137.23 through 137.3 are revised to read as follows:

.23 Authorized Departments and Agencies

.231 Departments and agencies authorized to use official mail services are as follows:

ACTION
Administrative Conference of the United States
Administrative Office of the United States Courts
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Advisory Committee on National Growth Policy Process
Advisory Council on Historic Preservation
Agency for International Development
Agriculture, Department of
Air Force, Department of the
Alaska Power Administration
Alaska Railroad
Alcohol Drug Abuse and Mental Health Administration
Alcohol, Tobacco and Firearms, Bureau of
American Battle Monuments Commission
American Revolution Bicentennial Administration
Appalachian Regional Commission
Architect of the Capitol
Architectural & Transportation Barriers Compliance Board
Army, Department of the
Board for International Broadcasting
Bonneville Power Administration
Botanic Garden, United States
Business Economics, Office of
Census, Bureau of the
Center for Disease Control
Central Intelligence Agency
Civil Aeronautics Board
Civil Rights, Commission on
Civil Service Commission, United States
Coast Guard, United States
Commerce, Department of
Commission on Federal Paperwork
Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped
Commodity Futures Trading Commission
Community Services Administration
Comptroller of the Currency, Office of the
Congressional Budget Office
Cost Accounting Standards Board
Cost of Living Council
Council on Wage and Price Stability
Court of Claims, United States
Court of Customs and Patent Appeals, United States
Court of Military Appeals, United States
Customs, Bureau of
Customs Court, United States
Defense Civil Preparedness Agency
Defense Communications Agency
Defense Contract Audit Agency
Defense, Department of
Defense Intelligence Agency
Defense Investigative Service
Defense Logistics Agency
Defense Manpower Commission
Defense Mapping Agency
Defense Nuclear Agency
Delaware River Basin Commission
District of Columbia Court of Appeals
Domestic & International Commerce, Bureau of
Drug Enforcement Administration
Economic Advisers, Council of
Economic Development Administration
Education, Office of

V42N93 MAY 13 77 UMI

Employment & Training Administration (Employment Security)
Energy Research & Development Administration
Engraving and Printing, Bureau of
Environmental Protection Agency
Environmental Quality, Council on
Equal Employment Opportunity Commission
Farm Credit Administration
Farmers Home Administration
Federal Aviation Administration
Federal Bureau of Investigation
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Deposit Insurance Corporation
Federal Energy Administration
Federal Highway Administration
Federal Home Loan Bank Board
Federal Law Enforcement Training Center
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Power Commission
Federal Prison Industries, Incorporated
Federal Railroad Administration
Federal Reserve System, Board of Governors
Federal Supply Service
Federal Trade Commission
Fine Arts, Commission of
Fish and Wildlife Service
Food and Drug Administration
Foreign Claims Settlement Commission of the United States
Foreign Direct Investments, Office of
General Accounting Office
General Services Administration
Geological Survey
Government Financial Operations, Bureau of
Government Printing Office
Great Lakes Basin Commission
Harry S. Truman Scholarship Foundation
Health, Education, and Welfare, Department of
Health Resources Administration
Housing and Urban Development, Department of
Immigration and Naturalization Service
Indian Affairs, Bureau of
Indian Claims Commission
Inter-American Foundation
Interior, Department of the
Internal Revenue Service
International Boundary and Water Commission
Interstate Commerce Commission
Joint Chiefs of Staff
Justice, Department of
Kennedy, John F., Center for the Performing Arts
Labor, Department of
Land Management, Bureau of
Law Enforcement Assistance Administration
Library of Congress
Management and Budget, Office of
Marine Corps, United States
Marine Mammal Commission
Maritime Administration
Merchant Marine Academy, United States
Mines, Bureau of
Mining Enforcement and Safety Administration
Minority Business Enterprise, Office of
Mint, Bureau of the
Missouri River Basin Commission
National Advisory Council on Economic Opportunity
National Aeronautics and Space Administration
National Bureau of Standards
National Capital Planning Commission
National Commission on Electronic Fund Transfers
National Commission on Libraries and Information Science
National Commission Productivity and Work Quality
National Commission on Water Quality
National Credit Union Administration
National Foundation on the Arts and the Humanities
National Gallery of Art
National Highway Traffic Safety Administration
National Institute of Education
National Institutes of Health
National Labor Relations Board
National Mediation Board
National Park Service
National Science Foundation
National Security Council
National Transportation Policy Study Commission
National Transportation Safety Board
Navy, Department of the
New England River Basins Commission
Nuclear Regulatory Commission
Occupational Safety and Health Commission
Oceanic and Atmospheric Administration, National
Office of Drug Abuse Policy
Office of Information for the Armed Forces
Office of International Affairs
Office of Technology Assessment
Organization of American States
Outdoor Recreation, Bureau of
Overseas Private Investment Corporation
Panama Canal Company
Pan American Health Organization (Sanitary Bureau)
Patent Office
Pennsylvania Avenue Development Corporation
Pension Benefit Guaranty Corporation
Postal Rate Commission
Presidential Clemency Board
Prisons, Bureau of
Public Debt, Bureau of the
Public Health Service
Railroad Retirement Board
Reclamation, Bureau of
Regional Action Planning Commissions
Renegotiation Board
St. Lawrence Seaway Development Corporation
Saline Water, Office of
Secret Service, United States
Securities and Exchange Commission
Selective Service System
Small Business Administration
Smithsonian Institution
Social and Rehabilitation Service
Social Security Administration
Southeastern Power Administration
Southwestern Power Administration
Special Action Office for Drug Abuse Prevention
Special Representative for Trade Negotiations, Office of the
State, Department of
Superintendent of Documents
Superior Court of the District of Columbia
Supreme Court of the United States
Tax Court, United States
Technical Information Service, National
Telecommunications, Office of
Telecommunications Policy, Office of
Tennessee Valley Authority
Transportation, Department of
Transportation Systems Center
Travel Service, United States
Treasurer of the United States, Office of the
Treasury, Department of the
United States Information Agency
United States International Trade Commission
United States Soldier's & Airmen's Home
University of Health Sciences—Uniformed Services
Upper Mississippi River Basin Commission
Urban Mass Transportation Administration
Veterans Administration
Water Resources Council

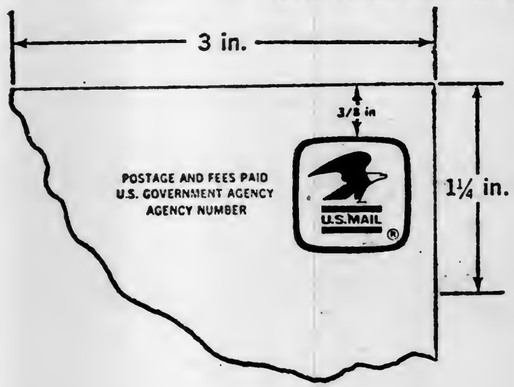
.232 Departments and agencies created since publication of the list in 137.231 and other departments or agencies not appearing on the list may inquire of the Manager, Government Revenue and Examination Branch, Finance Department, regarding possible authorization to use official mail services.

.233 The right of an officer to use the official mail privilege ceases immediately when he leaves office.

.24 Indicium.

.241 An area 1¼ inches by 3 inches is reserved in the upper righthand corner of the mail piece for the indicium. No other markings may appear in this area except borders extending no further than one-quarter inch from the envelope edges.

.242 a. The indicium for letter size official mail must not be handwritten or typewritten and must consist of the postal emblem (actual size shown below) located ⅜ inch from the top edge of the mail piece; and, to the left of the postal emblem, the words Postage and Fees Paid, the name of the department or agency, and the agency number.

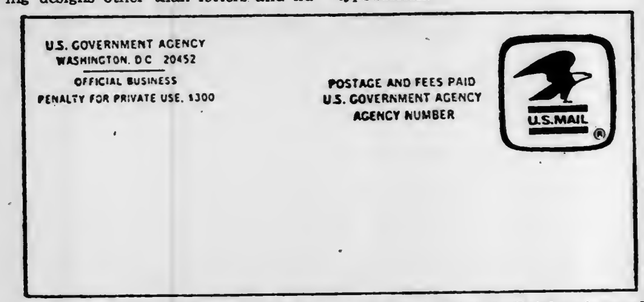


b. The postal emblem may be reduced in size to not less than ⅝ inch by ⅝ inch and the indicium area to not less less than 1 inch by 2 inches.

c. Use of the postal emblem as part of the indicium is optional on larger than letter-sized mail.

d. The postal emblem may be omitted on self-mailers completely printed by computer with no provisions for printing designs other than letters and numerals, provided the items are faced, sorted, and tied in bundles by ZIP Code.

.243 Official mail of departments or agencies must bear in the upper left corner of the mail piece (as shown below) the complete return address and the words Official Business, Penalty for Private Use, $300. The return address and statement may not be handwritten or typewritten.



.244 Official mail of designated State extension directors must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted without prepayment of postage, followed by the name and title of the designated officer and the words Cooperative Agricultural Extension Work—Acts of May 8 and June 30, 1914. The postal emblem, the words Postage and Fees Paid U.S. Department of Agriculture, and the agency number must apear in the upper right corner of the address side.

.245 Official mailings by agricultural experiment stations must bear in the upper left corner of the address side the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the officer in charge of the station, followed by the word Publication. The title of the bulletin or report may be used. The postal emblem, the words Postage Paid U.S. Department of Agriculture, and the agency number must appear in the upper right corner of the address side.

.246 The markings required in 137.242 through .245 may not be used to transmit mail other than official mail.

.247 Mail of departments and agencies which is not sent by use of official envelopes or labels as provided in 137.242 through .245 must have postage prepaid. The regular rates and conditions apply.

.25 Reply and Contractor Use.

.251 Except as provided in 137.252, .253, and .254, a department or agency authorized to use the official mail privilege may not loan or furnish official envelopes or labels to any private person, concern, or organization, or permit the use of such envelopes or labels for private benefit.

.252 A department or agency authorized to use the official mail privilege may furnish printed official reply envelopes and labels, preaddressed to a Federal Government office or officer, to a person, concern, or organization from or through whom official matter is desired. Reply envelopes and labels may not be furnished to bidders, nor may they be furnished to contractors under this provision other than for the return of extraordinary, non-recurring matter. (For envelopes and labels for contractors generally, see 137.253. .254.)

.253 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of that department or agency matter printed at Government expense. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.254 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize non-printer-mailer contractors to use official envelopes and labels, preaddressed to a Federal Government office or officer, for the transmission of official matter for a specified time, or in the performance of specific contracts with the office or officer. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.255 The Manager, Government Revenue and Examination Branch, Finance Department, or his designee, shall review each request under 137.253, or .254 and permit the department or agency to authorize contractor use of official envelopes and labels for a period of one year if he determines that the department or agency has established sufficient accountability procedures to insure reimbursement to the Postal Service for mail service provided to contractors. In making this determination, the Manager, or his designee, shall consider factors including, but not limited to, the following:

a. Any relevant misuse of the official mail privilege, including the misuse of official envelopes or labels for the transmission of nonofficial matter by contractors licensed by the department or agency under 137.253 or .254;

b. Any relevant failure of the department or agency comply with official mail reimbursement instructions issued by the Manager under 137.21, including failure to establish accurate methods for estimating or measuring the volume of official mail;

c. The method, such as use of a permit imprint, bulk permit, or meter, proposed by the department or agency for obtaining adequate information to insure full reimbursement for the proposed contractor use of official mail.

.256 Official envelopes and labels used by any person, concern, organization, or contractor, as provided in 137.252, .253, and .254 must bear the printed return address of one of the authorized departments or agencies listed in 137.231 and be printed in the form set out in 137.242 and .243. No return name and address of a private person, concern, organization, or contractor may be shown. When a special service is required, the envelope or label must be preprinted with the type of special service desired. Private users of official envelopes and labels may not add their own markings for these services. ♦

.257 Departments and agencies authorized to use the official mail privilege must reimburse the Postal Service for the private use of official envelopes and labels under 137.252, .253, .254, as provided in instructions issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Departments and agencies, and any contractors authorized by them to use official envelopes and labels, shall promptly furnish, in the manner and form requested, all information, including but not limited to contractor name, points and dates of mailing, classes, quantities, and single-piece weights of mail matter, the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.26 Weight and Size Limits

.261 *Weight.*—Official mail must conform to the weight limitations in sections 131.31, 134.31, 135.31 (except that parcels weighing 70 pounds may be accepted at all post offices), and 136.3.

V 42 93 MAY 13 77 UMI

.262 *Size.*—a. If physically possible, mail should be prepared to be within the range of sizes which can be machine processed, and also most efficiently hand processed. This range of sizes, referred to as letter-size mail, is as follows:

Characteristic	Minimum mailable size (inches)	Maximum letter size (inches)
Height	3	5¾
Length	5	11½
Thickness [1] (must be uniform)	0.007	0.25

[1] Cards exceeding 4¼ in. in height and/or 6 in. in length must be at least 0.009 in. thick and should not be thicker than 0.013 in.

b. If mail pieces must be larger than letter-size, mailers should avoid the use of items over 9 inches by 12 inches whenever possible. Items larger than that are especially difficult to handle even by manual methods.

c. Mail, other than letter-size mail, may not exceed 100 inches in combined length and girth. See 135.32 for instructions on how to measure.

.263 *Shape.*—a. Envelopes, cards, and self mailers must be rectangular, regardless of size or class of mail.

b. Letter-size mail must have a maximum ratio of height to length of 1 to 1.4, and a minimum ratio of 1 to 2.5.

.27 Services to be Provided

.271 *Treatment.*—All official mail must be treated as first-class mail, unless it is endorsed to a lower class. EXCEPTION: Pieces weighing over 13 ounces must be treated as third- or fourth-class mail unless endorsed as priority mail. Official mail endorsed to indicate a special service must be given the service indicated. (See Publication 42 regarding international mail.) EXCEPTION: Reply envelopes and labels and envelopes and labels used by contractors must be preprinted with special service endorsements (see 137.256). Endorsements which are typewritten, handwritten, rubber stamped or applied by adhesive stickers are not acceptable on preprinted reply envelopes and labels.

.272 *Forwarding, Return, and Address Correction Services.*—Official mail on which forwarding, return, or address correction service has been requested must be given the service requested without being rated for collection of postage due. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for postage due accruing on official mail.

.273 *Mailing Permits.*—Applications for mailing permits must be handled in the following manner:

a. *Postage Meter*

(1) *License.* The regular procedures prescribed in Part 144 must be followed. EXCEPTION: Prepayment is not required at time of setting. Meters must be set to maximum capacity to preclude unnecessary settings, and billings must be handled on a centralized basis from headquarters. A special official mail meter-stamp design is prescribed for meters used for official mail (see 144.41). The license to use a postage meter Form 3601–A, Application For A Postage Meter License, must be approved by the Government Revenue and Examination Branch. A copy of the license must be provided to the post office at the authorized location as the authority to set the meters without prepayment. Form 3610, Record of Meter Setting, must be executed and maintained by the meter-setting employee for each Federal Government entity. A separate ledger should also be maintained for Government meters. The original of Form 3603, Receipt of Postage Meter Setting, must be given to the agency and the copy forwarded to the Government Revenue and Examination Branch, along with a copy of the postage Form 3610 for billing purposes.

(2) *Mailings.* Federal Government agencies are not entitled to send official mail at nonprofit rates or other subsidized rates, but must use the full unphased rates for all classes of mail matter for which postage rates are phased. This includes mailings made at second-class, controlled circulation, and special fourth-class rates. Post offices serving Federal Government agencies using postage meters must monitor such mailings for possible postage deficiencies.

b. *Second Class*

(1) *Application.* Federal Government agencies may apply for second-class mail privileges for periodical publications which meet the basic qualifying conditions stated in 132.22 by completing Form 3501, Application for Second-Class Mail Privileges. Form 3501 and two copies of the publication on which the application is based should be filed at the post office of the place where the known office of publication is located. Postmasters must verify the circulation of the publication for which an application is filed and complete the appropriate items on the application. The verification results must be recorded in column (c) on the back of the application. The postmaster's report portion on the front must be completed giving a description of the records examined which substantiate the circulation of the publication. The application and a copy of the publication must be transmitted to the Director, Office of Mail Classification, for processing.

(2) *Mailings.* Official mail sent at second-class rates must meet the provisions of Parts 125 and 132. Exception: The provisions of 125.68 and 132.25 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked SECOND-CLASS MAIL or SECOND-CLASS MAIL NEWSPAPER (as appropriate) preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

(1) *Application.* Federal Government agencies may apply by letter or memorandum to mail publications at controlled circulation rates if they meet the qualifying conditions in 133.21. The application and a copy of the publication on which it is based may be filed at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) *Mailings.* Official mail sent at controlled circulation rates must meet the provisions of Part 133. Exception: The provisions of 133.3 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked CONTROLLED CIRCULATION RATE preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

d. *Bulk Third-Class Permits*

(1) *Application.* Federal Government agencies may apply to mail at regular bulk third-class rates by letter or memorandum. The application may be filed at the post office where the mailings will be presented or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) *Mailings.* Official mail sent at bulk third-class rates must meet the provisions of Part 134. Exception: The provisions of 134.422 and 134.423 do not apply to such mailings. The address side of each piece, or its envelope or wrapper, must be plainly marked THIRD-CLASS BLK RT preferably in a position beneath the official indicium and above the address of the recipient. See 137.275c for billing of postage charges.

e. *Permit Imprints*

(1) *Application.* Federal Government agencies may apply to mail identical pieces of first- and fourth-class mail under the permit imprint system. The application may be filed by letter, memorandum or on Form 3601, Application to Mail Without Affixing Postage Stamps, either at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications filed at local post offices must be forwarded by the postmaster to the Director. A special form of permit imprint is prescribed for official mail sent at first- and fourth-class rates (see 145.4).

(2) *Mailings.* Official mail sent under permit imprint must meet the provisions of Part 145. Exception: The provision of 145.13, 145.33, 145.561, and 145.562 do not apply to such mailings. Form 3083, Trust Account Receipts and Withdrawals, does not reflect mailings made under permit imprint by Federal Government agencies. See 137.275b for billing of postage charges.

f. *Approved Applications*

If an application for any mailing permit is approved, each postmaster at the post office of entry must be advised. Postmasters must insure that mailings are properly presorted and otherwise prepared in accordance with the requirements of their classification.

.274 *Fees.*—Postmasters must not collect fees due for second-class or permit

imprint applications nor must they collect annual bulk-mailing fees. The fees must be included in the next regular billing made to the respective agency by the Government Revenue and Examination Branch at Headquarters.

.275 *Mailing Statements for Billing Purposes.*—a. *Form 3542, Statement showing number of Copies of Second-class or Controlled Circulation Publication Mailed.* Federal Government agencies must file Form 3542 at the entry post office for official mail sent at second-class and controlled circulation rates. The postmaster must forward the forms to Headquarters for billing purposes. Preparation of Form 3541, *Computation of Second-Class or Controlled Circulation Postage*, is not required.

b. *Form 3602, Statement of Mailing Matter With Permit Imprints.* Federal Government agencies must present Form 3602 at the post office when first- and fourth-class official mail is sent under the permit imprint system. At the end of each accounting period Form 3602 and corresponding Forms 3607, *Weighing and Dispatch Certificate*, together with Forms 3609, *Record of Permit Imprint Mailings*, must be forwarded by the postmaster to Headquarters for permit-imprint billing purposes.

c. *Form 3602–PC, Bulk Rate Mailing Statement—Third-Class Mail.* Federal Government agencies must present Form 3602–PC at the post office when official mail is sent at bulk third-class rates. The front of the form must be fully completed by the mailer to identify the mailing agency and must include the following information:

(1) The permit number should be a six-digit coding. Zeros should be added at the end of the authorized permit number if it is not a six-digit coded number (for example 005–200).

(2) The date and total number of pieces in the mailing should be complete and legible.

(3) The designation of type of matter mailed such as circulars, books, or catalogs, should be indicated in the appropriate block.

(4) The weight of a single piece should be indicated in ounces and carried five places to the right of the decimal point. Examples are:

1 ounce to be written as—1.00000
¾ ounce to be written as—.75000
⅔ ounce to be written as—.66667
½ ounce to be written as—.50000
⅓ ounce to be written as—.33333
¼ ounce to be written as—.25000

(5) The back of Form 3602–PC must be fully completed and signed by the receiving employee.

.276 *Forwarding Billing Records.*—All mailing statements and copies of Forms 3541, 3541A, 3602, 3602–PC, 3603, and 3610 pertinent to official mailings and meter settings must be forwarded to the following address at Headquarters for billing purposes:

Manager, Government Revenue & Examination Branch, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West SW. Washington, DC 20260.

The Forms 3602 and 3602–PC must be forwarded at the end of each accounting period. The other forms should be forwarded when mailings or meter settings occur.

.277 *Exception Reports.*—a. *Irregular Mailings*—(1) *Improper Preparation.* If any official mailing other than first class or priority mail is not properly prepared or otherwise fails to qualify for a rate with which the pieces are endorsed, the mail must not be accepted. For presorted mail that does not comply with preparation requirements, a report must be submitted immediately to the Government Revenue and Examination Branch so that the agency can be billed at the appropriate rate.

(2) *Mailings Without Authorization.* If official mail is presented for acceptance as second-class, controlled circulation, bulk third-class, permit imprint or metered mail at a post office without authorization, it must be accepted and processed by the post office in accordance with 137.81. An exception report must be submitted with the mailing statment or other record to the Government Revenue and Examination Branch.

.28 Zip Coding of Mail.

.281 *Addressing.*—The address on all official mailings of Federal departments and agencies under 137.2 must include the ZIP Code number.

.282 *Presorting and Postage Charges.*—If identical pieces of individually addressed matter are included in a single mailing at the bulk rates in 131.12, 134.-12, 135.122, 135.132 and 136.13, the mail must be prepared as prescribed for each bulk category.

137.3 Census and Naturalization Mail.

.31 *Census mail.*—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Commerce or to one of its bureaus or agencies, may be used to transmit mail relating to a collection of statistics, survey, or census authorized by title 13, United States Code.

.32 *Naturalization mail.*—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Justice, to the Immigration and Naturalization Service, or to any of its officials may be used by clerks of courts to transmit mail relating to naturalization.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401, 3201, 3206, 3209.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-13435 Filed 5-12-77;8:45 am]

Title 45—Public Welfare

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1611—ELIGIBILITY

AGENCY: Legal Services Corporation.

ACTION: Amendment to Appendix A.

SUMMARY: This amendment increases the Maximum Annual Income Levels for individuals Eligible for Legal Assistance. The Legal Services Corporation Act requires the Corporation to establish these levels. The amounts set forth below are one hundred twenty-five percent (125%) of the official poverty threshold as defined by the Office of Management and Budget. That definition was revised on April 25, 1977.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Davis, Office of the General Counsel, Legal Services Corporation, 733 15th Street, NW., Suite 700, Washington, D.C. 20005, 202–376–5113.

Accordingly, 45 CFR Part 1611 is amended by revising Appendix A to read as follows:

APPENDIX A—MAXIMUM INCOME LEVELS AUTHORIZED BY THE LEGAL SERVICES CORPORATION REGULATION 1611.3(b)

FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit:	*Amount*
1	$3,713
2	4,913
3	6,113
4	7,313
5	8,513
6	9,713

For family units with more than six members, add $960 for each additional member.

POVERTY GUIDELINES FOR ALASKA

Size of family unit:	*Amount*
1	$4,650
2	6,150
3	7,650
4	9,150
5	10,650
6	12,150

For family units with more than six members, add $1200 for each additional member.

V 42 93 MAY 13 77 UMI

POVERTY GUIDELINES FOR HAWAII

Size of family unit:	Amount
1	$4,288
2	5,663
3	7,038
4	8,413
5	9,788
6	11,163

For family units with more than six members, add $1100 for each additional member.

ALICE DANIEL,
General Counsel,
Legal Services Corporation.

[FR Doc.77-13822 Filed 5-12-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21097; RM-2779]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Chadron, Nebr., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 248 for Channel 234 and deleting Channel 228A at Chadron, Nebraska. Petitioner, Big Sky Company, stated that the substitution of channels would permit it to utilize a site which would meet spacing requirements. Deletion of Channel 228A would eliminate the current intermixture of channels and would permit its use elsewhere.

EFFECTIVE DATE: June 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATICN CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER; (PROCEEDING TERMINATED)

Adopted: May 3, 1977.

Released: May 6, 1977.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Chadron, Neraska).

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted January 27, 1977, 42 FR 6855, on a petition filed by Big Sky Company ("petitioner") inviting comments on two proposals: (1) substitution of FM Channel 248 for Channel 234 (both Class C) and deletion of Channel 228A; or (2) substitution of Channel 248 for Channel 234 and Channel 259 for Channel 228A at Chadron, Nebraska. There were no oppositions to the proposals. Petitioner filed supporting comments in which it reaffirmed its intention to apply for Channel 248, if assigned.

2. Chadron (pop. 5,853), in Dawes County (pop. 9,693)[1], is located in northwestern Nebraska approximately 390 kilometers (240 miles) northeast of Denver, Colorado. It is served by a daytime-only station, KCSR(AM), of which petitioner is licensee. FM Channels 228A and 234[2] are assigned at Chadron but are unoccupied and unapplied for. Channel 248 could be substituted for Channel 234 in conformity with the minimum distance separation requirements.

3. Because of the rejection of its proposed use of Channel 234, petitioner proposed a substitution of a channel which would permit the utilization of the site it wishes to employ. Substitution of Channel 248 for Channel 234 would meet that objective. We believe that the public interest would be served by making the proposed substitution and thereby facilitating the prompt commencement of service. Moreover, the use of this channel would not be restricted to any particular area, so that any other applicant would have a choice in site location. The *Notice* also stated that, if any party were interested in the asignment of a second Class C channel (259) to Chadron, it should come forward with a showing of public interest need, among other things. Since no interest was shown, Channel 259 will not be substituted for Channel 228A. Further, since no showing of interest to retain the assignment has been made, Channel 228A will be deleted, thus eliminating the current intermixture of channels. This action would also allow the channel to be used elsewhere.

4. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

5. In view of the foregoing, *it is ordered,* That effective June 16, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Chadron, Nebraska, is amended as follows:

City:	Channel No.
Chadron, Nebraska	248

6. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 77-13693 Filed 5-12-77;8:45 am]

[1] Both population figures are taken from the 1970 U.S. Census.

[2] Petitioner tendered an application for a construction permit on June 1, 1976, to operate an FM station on Channel 234 in Chadron, but the application was rejected because the site specified was short-spaced to the site of Station KNEB-FM operating on Channel 231 in Scottsbluff, Nebraska. Petitioner's application was returned on Oct-20, 1976.

[Docket No. 21037; RM-2755; RM-2842]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Summersville and Mullens, W. Va., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class B FM Channel 225 to Summersville, West Virginia, and Channel 224A to Mullens, West Virginia, as first FM assignments to each community. Petitioner, R & S Broadcasting Company, Inc., states that the Summersville Class B channel assignment would provide for a station which could render substantial first and second aural service to areas and populations which presently do not receive such service. The channel assignment to Mullens would provide that community with its first local aural broadcast service.

EFFECTIVE DATE: June 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: May 2, 1977.

Released: May 6, 1977.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Summersville, Pineville and Mullens, West Virginia.)

By the Chief, Broadcast Bureau:

1. The Commission herein considers the Notice of Proposed Rule Making, adopted December 30, 1976, 42 FR 3186, in the above-captioned proceeding instituted in response to a petition filed by R&S Broadcasting Company, Inc. ("R&S"). The petition proposed the assignment of Class B Channel 225 as a first FM channel to Summersville, West Virginia. R&S filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned. A counterproposal (RM-2842) to assign Channel 224A to Pineville, West Virginia, was filed by Wyoming Broadcasting Company ("Wyoming"), licensee of daytime-only Station WWYO at Pineville.

2. Summersville (pop. 2,429), in Nicholas County (pop. 22,552),[1] is located approximately 64 kilometers (40 miles) east of Charleston, West Virginia, and 161 kilometers (100 miles) west of Staunton, Virginia. There is no local broadcast service in Summersville or Nicholas County. R&S has submitted information which indicates a level of commercial and economic activity in the Nicholas County area sufficient to support the assignment of a first FM channel. Petitioner claims that its station would provide first and second aural services to 38,659 persons in an area of 3,906 square kilometers (1,508 square miles) and 10,538 persons in an area of 873 square kilometers (337 square miles), respectively. Channel 225 could be assigned to Summersville in conformity with the minimum distance separation requirements provided a transmitter site is selected that would not preclude the use of Channel 224A at Mullens, West Virginia, which also is being assigned in this document.

3. The preclusion study shows that twelve communities are located in the precluded areas as a result of the proposed assignment of Channel 225 to Summersville, eight[2] of which have no FM assignments. R&S was requested to indicate in its comments whether alternate FM channels would be available for these communities. In response it showed that Channel 253 could be assigned to either Richwood, Marlinton, Sutton or Webster Springs. The transmitter site at Richwood would have to be located 10 kilometers (6 miles) northeast and at Sutton 10 kilometers (6 miles) south of the communities. Channel 227 is also available for Webster Springs, but the transmitter site would have to be located 32 kilometers (20 miles) northeast. Channel 224A is available to either Mullens or Pineville. R&S asserts that Fayetteville, Richwood, Sutton and Webster Springs would be located within the Summersville 60 dBu contour, and that Marlinton or Spencer, but not both, would also be located within the Summersville 60 dBu contour, depending on where the alternate site were to be selected. Spencer and Sutton each has a Class IV full-time AM station.

4. Pineville (pop. 1,187), in Wyoming County (pop. 30,095), is located 37 kilometers (23 miles) southwest of Beckley, West Virginia. It has a daytime-only AM station for local aural broadcast service.

5. In support of its proposal, Wyoming submitted information with respect to Pineville and its need for a first FM channel assignment. It states that Channel 224A could be assigned to Pineville if the transmitter site of the Channel 225 station at Summersville were to be located at least 10 kilometers (6 miles) east of the community.

6. R&S in reply comments states that it does not oppose the Wyoming counterproposal but urges the assignment of Channel 224A to Mullens instead of Pineville because it is the larger of the two communities. It suggests that the Summersville applicant should select its transmitter site which would make possible the assignment of Channel 224A to the Pineville-Mullens area. R&S points out that, under the Commission's 10-mile rule (§ 73.203(b)), an applicant for Pineville could apply for the Mullens Channel 224A facility.

7. After carefully considering all the comments filed, the Commission believes the public interest would be served by assigning Channel 225 to Summersville, West Virginia, and Channel 224A to Mullens, West Virginia. Although eight communities without FM assignments would be located in the precluded areas created by the assignment of Channel 225 to Summersville, two of them would have alternate channels available for assignment, and five would be located within the Summersville 60 dBu contour. There would be one community without an FM assignment and without the benefit of FM service from the Summersville assignment. However, two communities have local AM service. Ordinarily, a Class A channel would be assigned to a community the size of Summersville, but a Class B channel assignment here would provide for an FM station which could render substantial first and second aural service to areas and populations which presently do not receive such service.

8. The Wyoming counterproposal urged the assignment of Channel 224A to Pineville. However, it appears that Channel 224A is the only available channel which could be assigned to either Pineville or Mullens. We believe it would be more in the public interest to make the assignment to Mullens because it would provide for an FM station to a larger community which does not have a local aural broadcast service. Pineville has a daytime-only station. In any event, the assignment to Mullens would not prevent its usage at Pineville as the channel will be available for application under the provisions of § 73.203(b) of the Commission's Rules.[3]

9. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

10. Accordingly, *it is ordered,* That effective June 15, 1977, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules and Regulations) is amended for the listed communities to read as follows:

City:	Channel No.
Mullens, West Virginia	224A
Summersville, West Virginia	225

11. *It is further ordered,* That the counterproposal of Wyoming Broadcasting Company is granted to the extent indicated and is denied in all other respects.

12. *It is further ordered,* That the Wyoming Motion for Leave to File Additional Pleading is denied.

13. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-13692 Filed 5-12-77;8:45 am]

[1] All population figures cited are taken from the 1970 U.S. Census.

[2] *West Virginia:* Richwood (pop. 3,717); Fayetteville (1,712); Mullens (2,967); Marlinton (1,286); Webster Springs (1,038); Sutton (1,031); Spencer (2,261); Pineville (1,187).

[3] Wyoming has sought leave to file an additional pleading in response to R&S's reply comments, but we do not believe that it has shown good cause for accepting this unauthorized pleading. Therefore, we shall deny its motion. However, this action does not meaningfully aggrieve Wyoming as it will be able to file for use of Channel 224A in Pineville as it has all along desired to do.

[Docket No. 21036; RM-2738]

PART 73—RADIO BROADCAST SERVICES

Noncommercial Educational Channel Assignments Under the United States-Mexico FM Broadcast Agreement, Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first noncommercial educational channel to Oxnard, California. Petitioner, Faith Media, Inc., states that the station would provide Oxnard and surrounding communities with their first educational radio service and would provide a balanced medium of expression, cultural exchange, and vital information for a more unified community.

EFFECTIVE DATE: June 16, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: May 3, 1977.

Released: May 6, 1977.

In the matter of amendment of § 73.507(a), noncommercial educational channel assignments under the United States-Mexico FM broadcast agreement. (Oxnard, Calif.).

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its Notice of Proposed Rule Making adopted December 23, 1976, 42 FR 2086, inviting comments on a proposal filed by Faith Media, Inc. ("petitioner"), which seeks the assignment of noncommercial educational FM (Class B) Channel 212 to Oxnard, California. Supporting comments were filed by petitioner. Opposing comments were filed by Edward G. Atsinger III, licensee of Station KDAR, Oxnard, California ("KDAR").

2. Oxnard (pop. 71,225) is located in Ventura County (pop. 376,430),[1] approxi-

[1] Both population figures are taken from the 1970 U.S. Census.

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mately 97 kilometers (60 miles) west of Los Angeles, California.

3. The Notice observed that the Oxnard proposal was consistent with applicable criteria called for by the United States-Mexico FM Broadcast Agreement.[2] However the concurrence of the Mexican Government was required and has since been obtained.

4. In supporting comments petitioner states that the proposed assignment would provide Oxnard and surrounding communities with their first educational radio service, and that such a station would provide a balanced medium of expression, cultural exchange, and vital information for a more unified community. Petitioner reaffirmed its intention to file an application for authority to construct a new educational FM broadcast station located at Oxnard, if the channel is assigned.

5. In opposing comments, KDAR argues that petitioner does not operate, own, control, or appear to be affiliated with any educational institution in Oxnard or Ventura County or anywhere in the State of California, and that none of its officers or directors, nor any of the original incorporators are Oxnard residents. KDAR contends that, in light of these assertions and several other points it made, petitioner is not qualified to apply for the proposed channel.

6. Commission believes that the public interest would be served by assigning Channel 212 to Oxnard, California.[3] It has been shown that an interest exists in providing the city and surrounding communities with a first local educational radio service. As to the arguments raised by KDAR with regard to the qualifications of petitioner to apply for the proposed assignment, the Notice stated that, before a permit could be granted, petitioner would have to establish that it is an educational organization within the meaning of the Commission's rules, and that it would use the station in furtherance of an educational program. The matters raised by KDAR as to petitioner's ability to file an application for the proposed channel would be more appropriately considered and resolved at the application stage rather than in a rule making proceeding. Thus, in assigning the channel, no consideration is given to Faith Media, Inc.'s qualifications to be the licensee of an educational FM station.

7. Authority for the action taken herein is contained in Sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

8. In view of the foregoing, *it is ordered*, That effective June 16, 1977, § 73.-507(a) of the Commission's Rules, the Table of Assignments for noncommercial educational FM channel, is amended for the listed community to read as follows:

City:	Channel No.
Oxnard, Calif.	212

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-13691 Filed 5-12-77;8:45 am]

[Docket No. 19478; RM-1842; FCC 77-299]

PART 91—INDUSTRIAL RADIO SERVICES

Expansion of Permissible Uses of 450–470 MHz Off-Set Frequencies in Business Radio Service

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and ordering reversing action taken in the second report and order, Docket No. 19478.

SUMMARY: On November 25, 1975, the Commission adopted a Second Report and Order in Docket No. 19478 (Amendment of Part 91 of the Commission's Rules and Regulations to expand the permissible uses of the 450–470 MHz off-set frequencies in the Business Radio Service). Among the actions taken, the Commission eliminated the requirement for frequency coordination of off-set channels and provided for fixed station use of off-set channels adjacent to "mobile only" frequencies in the 450–470 MHz band.

The American Petroleum Institute (API), however, filed a Petition for Reconsideration of the Commission's action in eliminating frequency coordination and restricting "fixed" use of the off-set frequencies. For the reasons indicated in the Petition for Reconsideration and which are summarized in the Memorandum Opinion and Order, API sought that the frequency coordination requirement be re-imposed and that "fixed" off-set stations be allowed to operate in the 460.875–464.975 MHz base station band.

After consideration of the arguments presented, the Commission determined that acceeding to the API requests would be in the best public interest. Accordingly, our action in the Second Report and Order, insofar as it was at variance with the API Petition for Reconsideration, was reversed and the Rules were so amended.

API had also sought clarification of the term "output power." The Commission defined "output power" as the actual transmitter output power, not the "power delivered to the antenna transmission line" as had been suggested by API.

EFFECTIVE DATE: June 13, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Letterman or Mr. James E. McNally, Jr., Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau (202–632–6497).

SUPPLEMENTARY INFORMATION: Adopted: April 28, 1977.

Released: May 9, 1977.

In the matter of amendment of Part 91 of the Commission's rules and regulations to expand the permissible uses of 450–470 MHz off-set frequencies in the Business Radio Service; memorandum opinion and order (proceeding terminated).[1]

By the Commission: Chairman Wiley concurring in the result; Commissioner Lee absent; Commissioner White dissenting and issuing a statement in which Commissioner Washburn joins.

Preliminary Statement

1. On November 25, 1975, we adopted amendments to § 91.554(c) of the Rules to permit the use of the off-set (12.5 kHz) Business channels in areas other than "industrial complexes," and to allow "mobile assignments" made on frequencies between 465.875 to 469.975 MHz to be utilized in "fixed" modes of operation. We also dropped the requirement for "coordination" of off-set assignments (amending Section 91.8 in doing so), and provided certain exceptions to the mandatory 20-foot limitation on off-set station antenna height. See Second Report and Order, Docket No. 19478, 450–470 MHz—Business Radio Service, 56 FCC 2d 1004 (1975).

2. Partial reconsideration of these actions has been asked by the Central Committee on Telecommunications of the American Petroleum Institute (API); and this request has been supported, in general, by the National Association of Business and Educational Radio, Inc. (NABER). Specifically, API wants the "coordination requirement" for off-set operation "reinstated" and wants "fixed" station use permitted on the off-set frequencies in both the base (460.875–464.975 MHz) and mobile (465.875–469.975 MHz) Business bands. In the latter regard, API also recommends that 5-MHz channel pairing "be required for operational-fixed systems" employing "off-set assignments." Finally, API asks clarification of the two-watt power limitation (see § 91.554(c)), seeking a ruling, to the effect, that the limitation "relates to the power delivered to the antenna transmission line and not simply to [transmitter] output power."

II. Measurement of "Output" Power

3. As to the output power limitation, we must reject API's suggestion. Output power has been interpreted traditionally to mean either the transmitter output power or the effective radiated power (ERP) of a particular system. Since ERP is not conveniently measured, it should be apparent, here, that the reference is to transmitter output power. Furthermore, it is our practice, in enforcing our rules relative to transmitter power, to compare the measured transmitter output power with the value specified for that particular transmitter in the Commission's publication, Radio Equipment List—Equipment Acceptable for Licensing. Since transmitters have been type accepted for the output power appearing in the Radio Equipment List, it would be inappropriate to sanction a procedure which, in effect, would increase transmitter power to levels necessary to compensate for auxiliary equipment or line loss.

4. In addition, combiners, cavities, duplexers, and the like are not normally considered as part of a transmitter, nor are they specified in the application for type acceptance. Since the line loss resulting from the optional use of these devices will vary, it would be confusing in the extreme to designate "the power delivered to the antenna transmission line" as the output power to be measured. Accordingly, as indicated, the relief asked by API in this regard will be denied.

III. Off-Set "Fixed" Use in the Base Station Band (460.875–464.975)

5. As noted, API asks that "fixed stations" be permitted to operate in the base station Business band (460.875–464.975 MHz). It also recommends that 5-MHz pairing be required for such operations. In support, API states that under the present plan (with fixed usage restricted to the mobile band, 465.875–469.975 MHz), the possibility exists for a maximum of 44 "duplex channel pairs," using 5-MHz spacing. While this allocation, API observes, may be sufficient to meet the immediate needs of the industry, it feels it is too limited to serve the industry's long-term requirements. Further, API believes 5-MHz pairing (possible only if use of the base station band is permitted) will lead to more efficient use of the available off-set channels. At the same time, it claims, such pairing will have no adverse impact on co-channel, off-set mobile operations. Thus, it recommends that in "fixed" use, 5-MHz pairing be made mandatory.

6. The principal reason that fixed use of off-set frequencies was restricted to the mobile only band was to insure that mobile units operating on the regularly assigned (non-off-set) channels would not receive interference on the associated (mobile receive) base station's transmit frequency. By confining fixed usage to off-set frequencies in the mobile band, a frequency separation of approximately 5 MHz (on the average) was established (i.e., between the fixed off-set station's transmit frequency and that of a regularly authorized base station), and this frequency separation gave assurance that fixed use on the off-set frequencies would not result in degradation to regularly authorized, mobile unit reception. Under that approach, while there was some possibility that fixed off-set frequency usage could cause interference to a regularly assigned (primary) base station's reception of associated mobile units, in view of the invariant geographic position of the two stations, we felt that any such interference could be easily detected; and, accordingly, we determined that the frequency restriction on fixed usage of off-set channels was desirable.

7. Nevertheless, we can understand the reasons underlying petitioner's request to permit fixed usage in the base station band; and, consequently, we have analyzed further the interference potentials of off-set frequency operations adjacent to primary base mobile facilities. We have concluded that while the possibility of some interference does exist, it appears that it would be sufficiently minimal to warrant a grant of the relief petitioner asks. In this connection, we note that it does appear that the signals of fixed, off-set stations (operating on assignments in the base station band) would not be strong enough (except in unusual circumstances) to preclude reception (by adjacent mobile units) of the signals of a primary base station. This would be so, for one reason, because of the 20 dB protection accorded primary-base to primary-mobile communications, due to the 12.5 kHz off-set spacing. Thus, in practically every case, the signal strength of a primary base station will be significantly greater than the "effective" signal strength of a 12.5 kHz off-set station. Further, because of the stringent limitations placed on permissible power (two watts) and antenna height (20 feet) of off-set stations, there is added assurance that there will be no significant interference problems between primary and off-set (adjacent) channel operations. Accordingly, as indicated, we have decided to permit the use of the base station band (460.875–464.975 MHz) together with the mobile band (465.875–469.975 MHz) for fixed usage on the off-set frequencies.

8. However, we do not agree with API that 5-MHz pairing is necessary or even desirable. In this connection, we would point out that duplex or two-frequency (two path) modes of operation are not employed or needed in all fixed systems. Further, we believe it will be better if we maintain maximum flexibility in "how" the available off-set channels are used. We see "required" 5-MHz spacing as incompatible with this objective and, therefore, we will not impose it. Nonetheless, though, should such pairing appear to be appropriate in a particular system configuration (designed and used for some particular purpose in which 5-MHz spacing leads to operating efficiencies), this will be allowed (for it is not barred) at the option of the licensee.

IV. Frequency Coordination Requirements

9. Petitioners ask that we reconsider decision to eliminate our requirement for frequency coordination as it has been applied to off-set operation in the 450–470 MHz band. In this connection, in our Second Report and Order, we determined that coordination was not essential. This conclusion was based on the fact that off-set authorizations were to be granted on a secondary (non-interference) basis to adjacent channel stations assigned "primary" channels in the bands in question and also with the express understanding that interference from "dominant" stations would have to be accepted. Further, we reasoned, even if coordination were required, it would offer no guarantee that stations subsequently authorized on the "primary" channels would not cause interference to existing off-set operations and, in these circumstances, we felt frequency coordination should not be mandatory.

10. While the petitioners do not take direct issue with our rationale, they point out that although off-set operation is to be on a secondary basis—notwithstanding the fact that licensees must accept such interference as may be caused by "dominant" stations—and even though the "use" visualized for the "off-sets" is to be "intensive" in nature and off-set licensees must expect interference and possible congestion inter se, still, petitioners assert, these considerations do not form a proper predicate for abandoning our present coordination policy, particularly where past experience has shown coordination of off-set assignments have served a useful purpose, leading to a more orderly and efficient use of these frequencies in the areas in which they could be employed. They add that if unanticipated co-channel interference can be avoided, i.e., co-channel interference between stations licensed for off-set operation, then such steps as are available to us to promote this objective should be followed and not discarded.

11. Continuing, petitioners point out that coordination will be helpful in maximizing spectrum efficiency in those instances in which off-sets are used for permissible purposes in fixed-station configurations. It is especially important in such situations, they say, that interference potentials be avoided to the degree possible; and they believe coordination will help in this respect. Finally, they state, while off-set assignments will be made only on a secondary basis, will be restricted in power, and will be "intensive" in the nature of their use, still, these assignments, as they are now, will be employed to meet important communication requirements of eligible users. They are not "junk" frequencies, petitioners say, and systems now installed and in operation are costly and in virtually every case serve vital communication requirements of the licensed users. Making them available on a wider geographic basis than has been the case to the present time, they conclude, is not less, but more, reason to continue coordination requirements in effect.

12. We find merit in petitioners' arguments. Further, we are cognizant of the fact that our policy has been to intensify our efforts to foster the more effective and efficient use of the scarce spectrum available for land mobile use. Frequency coordination has served this purpose; and we have used it as a "tool" to this end. Thus, we are inclined to agree, as petitioners have suggested, that coordination will serve a desirable purpose,

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[2] The Agreement and the Commission's rules implementing it apply to the area within 199 miles of the United States-Mexico border.

[3] In this case it is not necessary to withhold action pending the resolution of the rule making proceeding in Docket No. 20735 relating to educational assignment policies.

[1] See 40 FR 57682.

V 42 93 MAY 13 77 UMI

here, as such a tool, in eliminating and curtailing interference and congestion in instances where reason and factual knowledge make it feasible to do so.

13. Also, on reconsideration, we are persuaded that should use of off-sets in urbanized areas increase in substantial measure—and that might well be expected—the need for coordination is even more evident than it is now, where off-set operations have, in general, been confined to "industrial complexes" usually situated in more remote locations in which possible co-channel interference and congestion has been met, as a practical consequence, through geographic spacing. That will not necessarily be so under our new off-set allocation and assignment plan; and we are aware that in such circumstances we must not be less careful in making assignments than what our processes permit us to be. Therefore, in order to facilitate the coordination process, we will ask applicants to specify the area of operation with reference to geographic coordinates, eliminate authorizations for wide area operations, and provide for authorizing multiple frequency operations only when properly justified.

14. There is one further aspect of this subject we believe we should mention. That relates to the potential burden to applicants which might derive out of imposing coordination requirements. We have reviewed this aspect of the matter in the light of the fact that an applicant, in applying for off-sets, has an option to either go through the frequency coordination committee or provide the study himself. In rural areas, the latter process will not be a difficult task; and in the heavily populated urban areas, where such off-set stations may be established, the job of selecting a frequency for recommendation becomes necessarily more complex. In such case, the service becomes a more valuable one, and apparently a desirable one, at least in the view of the parties seeking reconsideration of our action in this particular respect. Overall, then, these matters weighed in the light of counterbalancing factors, we have decided to modify our decision on coordination; and, accordingly, we will continue the coordination requirements previously in effect and apply them to off-set operation in accordance with our expanded allocation and assignment plan for these channels, and with the modification mentioned in the previous paragraph.

V. Conclusion

15. In conclusion, then, we have decided to amend, in part, our decisions in the Second Report and Order in order to reinstate frequency coordination of the off-set frequencies and to permit "fixed" operation in the base station band between 460.875 and 464.975 MHz. However, 5 MHz pairing will not be made mandatory; rather, licensees will be given discretion to employ that mode of operation should it appear to them to be useful or desirable in "fixed" systems authorized on off-set frequencies. Finally, we have made our intent clear as to the meaning of the term, "output power", as employed in § 91.554(c) of the Rules. It is properly construed as "transmitter output power", and not the "power delivered to the antenna transmission line". API's views in this regard are accordingly rejected.

16. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, it is ordered that, effective June 13, 1977, § 91.554(c) is amended as shown below.

17. It is further ordered, that the Petition for Partial Reconsideration filed by the Central Committee on Telecommunications of the American Petroleum Institute, is granted, to the degree indicated in the foregoing opinion, and in all other respects, is denied.

18. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission,[2]
Vincent J. Mullins,
Secretary.

A. Part 91 of the Commission's Rules is amended as follows:

§ 91.8 [Amended]

1. In § 91.8(a)(1), subparagraph (x) is deleted.

2. Section 91.554(c) is amended to read as follows:

§ 91.554 Frequencies available.

* * * * *

(c) Frequencies separated by 12.5 kHz from regularly assigned frequencies in the 457.525–460.650, 460.875–464.975, and 465.875–469.975 MHz bands may be assigned for use by mobile stations of two watts or less output power which may also serve the function of a base, fixed, or mobile relay station. All operation shall be on a secondary, non-interference basis to regularly assigned adjacent frequency operations and shall be entitled to no protection from such stations. Wide area operations will not be authorized. The area of normal day-to-day operation shall be described in the application in terms of a maximum distance from its approximate geographic center (latitude and longitude). Mobile stations, when used as fixed stations, shall be exempt from the limitations of § 91.103(b). Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back radio of at least 15 dB. Except as provided below, the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 20 feet above the ground.

Dissenting Statement of Commissioner Margita E. White in Which Commissioner Washburn Joins

I have dissented to the majority's decision in this case because I am not convinced that the public interest will be served by reinstating the added regulatory burden of frequency coordination for low power 12.5 KHz "off set" frequencies in the Business Radio Service.

API, in its Petition for Partial Reconsideration filed on January 9, 1976, requested, among other things, that the frequency coordination requirement be reinstated based on an anticipated "significant increase in the use of the [12.5 KHz] frequency assignments in gas and chemical plants" and hence the "critical need . . . for protection from existing and potential co-channel interference sources."

Based on the record at that time, I may have agreed with API. However, we now have the benefit of 1½ years experience with the "off set" frequency assignments without frequency coordination. The number of users has increased, but I am not sure that the increase can correctly be called "significant." More importantly the number of actual interference cases on these channels has not been great. In fact, in the past seventeen months the staff only can recall one reported case of interference and that was caused by a primary, rather than a secondary, user. The staff has continued to hear of potential interference cases but they have not been of significant magnitude to be documented in the record or even cause for a flurry of license modifications to correct the problem.

The fact is that I can find little evidence on which to support a decision for an increased regulatory burden on future licensees.

[FR Doc.77-13785 Filed 5-12-77;8:45 am]

[Docket No. 20665; FCC 77-289; RM-2324]

PART 94—PRIVATE OPERATIONAL FIXED MICROWAVE SERVICE

Elimination of Required Annual Measurement of Transmitter Power and Frequency

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: A Memorandum Opinion and Order denying two petitions for reconsideration to reinstate the annual measurement requirements deleted in Docket 20665, Report and Order.

EFFECTIVE DATE: June 13, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James McNally or Herb Zeiler, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau (202) 632-6497.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 89, 91, and 93 of the Commission's rules and regulations to eliminate the required annual measurement of transmitter power, frequency, and modulation and to specify transmitter power in terms of output. Amendment of § 94.85 of the Commission's rules to eliminate the required annual measurement of transmitter power and frequency in the Private Operational-Fixed Microwave Service. Memorandum opinion and order.[1]

[1] See 42 FR 48520.

[2] See attached Dissenting Statement of Commissioner White in which Commissioner Washburn joins.

Adopted: April 27, 1977.

Released: May 9, 1977.

1. On July 27, 1976, the Commission adopted a Report and Order in the above-entitled proceeding that was published in the Federal Register on August 11, 1976 (41 FR 33900). The action amended Parts 89, 91, and 93 of the Commission's Rules to eliminate the requirement for annual transmitter measurements (power, frequency, and modulation) and to specify radio frequency output power as the preferred method of transmitter power measurement.

2. Petitions for reconsideration have been filed by Bell Communications, Inc. (Bell Communications), and by Chicago Communication Service, Inc. (Chicago Communication). The petitioners request the Commission to reconsider its decision to eliminate the requirement for annual measurements of transmitter power, frequency, and modulation. Comments in support to the petitions were filed by the National Association of Business and Educational Radio, Inc. (NABER) and the Land Mobile Section of the Electronic Industries Association (EIA).[1a]

3. Bell Communications supports its petition primarily by its claim that, unless specifically required, licensees will not have their radio equipment properly maintained, thus increasing the possibility of interference problems. Chicago Communication advances substantially the same point, and stresses the importance of proper equipment maintenance, particularly the "maintenance of frequency and deviation within authorized limits * * * the single most important consideration in assuring optimum radio systems performance." It, too, argues, as does Bell Communications, that the discipline introduced by the mandatory annual measurement requirements is needed in order to have licensees comply with the Commission's transmitter performance standards.

4. The NABER and EIA comments supported the petitions. They also contend that the small user, who comprises a majority of the land mobile population and is generally unsophisticated when it comes to the technical aspects of a radio system, might not spend the money for maintenance checks if they are not required to do so, and this could result in poorer equipment performance and an increase in the number of interference problems.

5. These arguments were presented in substance in the comments filed in the proceeding and were fully considered before we reached our decision. In fact, Chicago Communication made substantially the same points in support of its reconsideration petition as those in its comments filed in response to our Notice of Proposed Rule Making. Therefore, nothing of substance is before us now which was not previously considered and which warrants reconsideration of our decision. Accordingly, the petitions will be denied.

6. We wish to make clear, however, the meaning and intent of our decision in this proceeding which may not be fully understood. We have not decided to relax our equipment maintenance requirements, as it has been suggested in some of the comments. There should be no doubt about that. Further, there should be no question but that it is (and will continue to be) the licensee's responsibility to insure that his radio equipment is properly maintained so as to comply with the Commission's technical rules at all times. To achieve this result, some equipment may have to be checked once a year, others once a month, while still others may need adjustments at other time intervals. Proper maintenance has to be geared to the requirements of the particular system and the age and condition of the radio equipment. All too often in the past, licensees have relied exclusively on the prescribed annual measurements for discharging their responsibilities in this area, regardless of the condition, age, or performance of their equipment. As we have indicated, annual measurements and maintenance may be adequate in some cases, too much others, and not enough in still others. By eliminating the requirement that the radio transmitters be checked once a year, we are placing the entire responsibility for proper equipment maintenance where it properly belongs, on the licensees and on their maintenance experts, such as the petitioners here.

7. We fully agree with Bell Communications that periodic measurements are necessary and we would welcome industry preventive maintenance programs, as urged by NABER. Our decision in this proceeding would make it possible for our licensees and their service and maintenance experts to adopt those preventive maintenance programs which could best suit their needs and would best achieve the desired results.

8. Finally, we wish to take this opportunity to amend § 94.85 to delete the annual measurement requirements from Part 94 of the Commission's rules. The same reasoning as applied in our decision to amend Parts 89, 91, and 93 also applies under Part 94, and, therefore, conducting a separate rule making proceeding for this purpose is unnecessary. Accordingly, we are amending § 94.85 as shown below.

9. In accordance with the foregoing, it is ordered that the petitions for reconsideration submitted by Bell Communications, Inc., and Chicago Communication Service, Inc., are denied. It is further ordered that this proceeding is terminated. It is further ordered that § 94.85 is amended as shown below effective June 13, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission,
Vincent J. Mullins,
Secretary.

Part 94 of the Commission's Rules and Regulations is amended as follows:

Section 94.85 is amended as follows:

§ 94.85 Transmitter measurements.

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter is maintained within the tolerance prescribed in this part. This determination shall be made, and the results thereof entered in the station records in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequency or its stability.

(b) The licensee of each station shall employ a suitable procedure to determine that the power delivered by the transmitter to the antenna and the maximum effective radiated power (ERP) does not exceed the limitations specified in the microwave station authorization. Such a procedure may consist of measuring the power output of the transmitter, recording the measurements, and calculating both the power delivered to the antenna system and the ERP. This determination shall be made, and the results thereof entered in the station records in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the power delivered to the antenna or the ERP.

[FR Doc.77-13783 Filed 5-12-77;8:45 am]

[1a] Comments in opposition to the petitions were filed by Merrill T. See. These comments were filed late but for good cause shown have been considered.

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 16, Amdt. 99-11]

PART 99—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Statements of Employment and Financial Interests

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to revise Appendix C of the Department of Transportation's regulations governing employee conflict of interest. This document makes several additions to the list of positions the incumbents of which are required to submit statements of employment and financial interests.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Booker T. Wade, Jr., Attorney-Advisor, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. 202-426-4723.

SUPPLEMENTARY INFORMATION: The persons principally responsible for drafting this document are: program—Aubrey B. Robertson, Office of Personnel and Training; legal—Booker T. Wade, Jr., Office of the General Counsel.

Since this amendment relates to Departmental management, procedures, and practices, notice and public proce-

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dure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 99 of title 49, Code of Federal Regulations, is amended as follows:

APPENDIX C [Amended]

In Appendix C, Section 1, under the caption "Materials Transportation Bureau," the following amendments are made:

1. After the listing of "Deputy Director, Office of Hazardous Materials Operations," and before the listing of "Director, Office of Pipeline Safety Operations," the following is inserted:

Chief, Technology Division
Chief, Regulations Division
Chief, Operations Division

2. After the listing of "Deputy Director, Office of Pipeline Safety Operations," and before the listing of "Administrative Officer," the following is inserted:

Chief, Technical Division
Chief, State Programs Division
Chief, Regulations Division
Chief, Industry Programs Division
Chief, Operations Division
Petroleum Engineer (GS-13 and higher)

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e); 49 CFR 99.735-31 (b).)

Issued in Washington, D.C. on April 26, 1977.

WILLIAM P. DAVIS,
Acting Assistant
Secretary for Administration.

[FR Doc.77-13815 Filed 5-12-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[SO No. 1266]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Certain Unit-Grain Trains Subject to Reduced Carload Minimum Weight

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1266).

SUMMARY: The Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to reduce minimum weights per car to 157,000 lbs. on each of two remaining unit-grain trains to be shipped under a tariff requiring the shipment of five consecutive train loads of 2,312.5 net tons of grain per train, subject to a per car minimum weight of 185,000 lbs. The total weight of the grain to be transported by each train and the total weight of the five consecutive shipments are to remain at the weights specified by the tariff. Because of soft track resulting from spring thaws, it is necessary that the maximum load transported by each car be reduced below the minimum carload weights required by the applicable tariff.

DATES: Effective 12:01 a.m., May 9, 1977. Expires 11:59 p.m., June 4, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, TLX 89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 6th day of May, 1977.

It appearing, that because of tariff requirements the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is operating a unit-grain train transporting shipments of 2,312.5 tons of 2,000 lbs. subject to a tariff requirement that each car transport at least 185,000 lbs.; and that such unit-train must make five consecutive trips, each trip to comprise the same number of cars as those preceding or following; that three of the five consecutive trips have been completed in full accordance with tariff provision; that truck deterioration due to spring thaws has necessitated reduction of weight limits over territory traversed to a maximum of 157,000 lbs. per car; that such reduction in weight limits prevents compliance by the shipper with the minimum weight limit provisions of the tariff; that the MILW is willing and able to provide sufficient additional cars to transport the required 2,312.5 tons per trip; that the shipper is willing and able to load 185,000 lbs. of grain in each car furnished as required by tariff but is prevented from doing so by the present inability of the MILW to comply fully with its tariff provisions; that notice and public procedure herein are impracticable and contrary to public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1266 **Service Order No. 1266.**

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate certain unit-grain trains subject to reduced carload minimum weight.*—The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) be, and it is hereby, authorized to operate one unit-grain train on two remaining trips of a five-trip shipment under the provisions of MILW Tariff 18710-C, ICC B-8437 and MILW Tariff 18710-D, ICC B-8483, subject to a minimum weight of 157,000 lbs. per car, 2,312.5 tons per trip, and 11,562.5 tons per shipment of five consecutive trips. Reference to this order must be endorsed on bills-of-lading and waybills of all cars in unit-grain trains transported subject to the reduced carload minima authorized herein.

(b) *Rules and Regulations Suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., May 9, 1977.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 4, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13624 Filed 5-12-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 201, 330]

[Docket No. 77N-0010]

OVER-THE-COUNTER DRUGS

General Conditions for Use and Labeling of Inactive Ingredients

Correction

In FR Doc. 77-10583, appearing in the issue of Tuesday, April 12, 1977, (42 FR 19156), the following corrections should be made: On page 19158, second column, second full paragraph, the ninth line from the bottom now reading "quirement is that the listing of any active" should read "quirement is that the listing of any inactive". On page 19160, first column, the first word of § 330.3(j) now reading "Indentifiers" should read "Identifiers".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 888]

[Docket No. R-77-311]

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

Massena and Watertown, N.Y., Market Areas

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend the section 8 Fair Market Rents applicable to new construction and substantial rehabilitation for the Massena and Watertown, New York, market areas. It is necessary to the operation of the section 8 program that fair market rents remain as current as possible. The National Housing Act requires that these rent levels be published in the FEDERAL REGISTER before they can become effective, and current data indicates need for revising certain levels.

COMMENT DATE: May 27, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, by calling (202) 472-4810.

SUPPLEMENTARY INFORMATION: Recent data and comments have been received from the Albany Insuring Office indicating an immediate need to publish revised Fair Market Rents for the Massena and Watertown market areas.

Interested persons are encouraged at all times to submit information and data on those rents which will be considered in initiating revisions as needed. It has been determined that it is impracticable and unnecessary to provide a 30-day period for comments on these proposed revisions and that a 15-day period is reasonable and in the public interest.

NOTE.—A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk at the above address.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, the Secretary proposes to incorporate in Part 888, Subpart A, at 41 FR 14668 and 14669, revised Schedules A for the Massena and Watertown market areas, respectively, as set forth below.

(Sec. 7(d) Department of HUD Act (42 USC 3535(d)).)

Issued at Washington, D.C., May 5, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing,
Federal Housing Commissioner.

SCHEDULE A

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These Fair Market Rents have been trended ahead two years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-Bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units and (3) single room occupancy dwelling units are those for 0-Bedroom units of the same type.

Insuring Office, Albany, N.Y.—Region II, New York

Market Area	Structure type	Number of bedrooms				
		0	1	2	3	4 or more
Massena...	Detached			401	483	528
	Semidetached/row			294	352	429	479
	Walkup	235	277	332	395	446
	Elevator	299	333	416		
Watertown.	Detached			401	483	528
	Semidetached/row			294	352	429	479
	Walkup	235	277	332	395	446
	Elevator	299	333	416		

[FR Doc.77-13598 Filed 5-12-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

OIL AND GAS WELLS

Limitations on Percentage Depletion

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document contains proposed regulations relating to limitations on percentage depletion in the case of oil and gas wells. Changes to the applicable tax law were made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976. These regulations clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 27, 1977. The amendments are proposed to be effective in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-6618.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regu-

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lations (26 CFR Part 1) under sections 612, 613, 613A, 702, 703, and 705 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 501 of the Tax Reduction Act of 1975 (89 Stat. 47) and sections 1901 (a) (86) and 2115 of tho Tax Reform Act of 1976 (90 Stat. 1779, 1907) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). The proposed regulations provide rules which supplement those appearing as final regulations in the same issue of the FEDERAL REGISTER as this notice of proposed rule making. They also contain 67 examples illustrating the application of the proposed rules.

IN GENERAL

With certain exceptions, the Tax Reduction Act repealed percentage depletion for oil or gas sold on or after January 1, 1975. In general, exemption from the repeal of percentage depletion is provided for certain domestic production of independent producers and royalty owners, sometimes called the small producer exemption. Initially, an exemption of 2,000 barrels of average daily production for oil (or 12,000,000 cubic feet for natural gas if the taxpayer so elects) is provided. The amount is reduced by 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of 1,000 barrels per day is reached. The depletion rate for oil and gas covered under this exemption is also phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. Average daily production includes only actual production and therefore does not take lease bonuses or advanced royalties into account. If the taxpayer's average daily production exceeds the exemption, the percentage depletion allowable under the small producer exemption with respect to production from each property must be proportionately reduced. In the case of secondary or tertiary production prior to 1984, the small producer exemption permits a taxpayer to take percentage depletion at a 22 percent rate on the exempt quantity.

COMPUTATION OF DEPLETION ALLOWANCE IN THE CASE OF A PARTNERSHIP

The law provides that in the case of a partnership the depletion allowance shall be computed by the partners and not by the partnership. Partnership basis in domestic oil or gas properties is to be allocated to the partners proportionately. Each partner maintains an individual basis account and computes his own allowance for either percentage depletion or cost depletion on his interest in partnership domestic oil or gas properties.

LIMITATIONS ON THE SMALL PRODUCER EXEMPTION

The new law provides for certain limitations on the application of the small producer exemption. The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's taxable income from all sources computed without regard to certain deductions. Moreover, the exemption relating to average daily production is not available to a transferee of any interest in a proven oil or gas property transferred after December 31, 1974. The new law also provides that the small producer exemption does not apply to a taxpayer who is a "retailer". A retailer is a person who directly or through a related person sells oil, natural gas or any product derived from oil or natural gas, through a retail outlet or to certain persons. However, if the gross receipts from the sale of oil or gas, or products derived therefrom, by all retail outlets of the taxpayer (or related persons) do not exceed $5 million for the taxable year, those retail sales will not result in the taxpayer being treated as a retailer for that year. Also for purposes of determining a retailer, bulk sales of oil or gas to commercial or industrial users are disregarded. In addition, foreign sales of oil, gas or any product derived from oil or gas, are disregarded if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year. The small producer exemption is alo not available to any taxpayer who, directly or through a related person, engages in the refining of crude oil and whose refinery runs exeed 50,000 barrels on any day during the taxable year.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations. The proposed amendments to 26 CFR Part 1 are as follows:

PAR. 1. Paragraph (d) of § 1.612–3 is revised to read as follows:

§ 1.612–3 Depletion; treatment of bonus and advanced royalty.

* * * * *

(d) *Percentage depletion deduction with respect to bonus and advanced royalty.* In lieu of the allowance based on cost depletion computed under paragraphs (a) and (b) of this section, the payees referred to therein may be allowed a depletion deduction in respect of any bonus or advanced royalty for the taxable year in an amount computed on the basis of the percentage of gross income from the property as provided in section 613 and the regulations thereunder. However, for an exception applicable to certain bonuses and advanced royalties received in connection with oil or gas, see paragraph (f) (1) of § 1.613A–7 of this chapter.

* * * * *

§ 1.613 [Deleted]

PAR. 2. Section 1.613 is deleted.

PAR. 3. Section 1.613–1 is amended by designating the paragraph contained therein as paragraph (a) and by adding a new paragraph (b), to read as follows:

§ 1.613–1 Percentage depletion; general rule.

(a) *In general.* In the case of a taxpayer computing the deduction for depletion under section 611 with respect to minerals on the basis of a percentage of gross income from the property as defined in section 613(c) and §§ 1.613–3 and 1.613–4, such deduction shall be the percentage of such gross income as specified in section 613(b) and § 1.613–2. The deduction shall not exceed 50 percent of the taxpayer's taxable income from the property (computed without allowance for depletion). Such taxable income shall be computed in accordance with § 1.613–5. In no case shall the deduction for depletion computed under this section be less than the deduction computed upon the cost or other basis of the property provided in section 612 and the regulations thereunder. The apportionment of the deduction between the several owners of economic interests in a mineral deposit will be made as provided in paragraph (c) of § 1.611–1 of this chapter. For rules with respect to "gross income from the property" and for definition of the term "mining", see §§ 1.613–3 and 1.613–4. For definitions of the terms "property", "mineral deposit" and "minerals", see paragraph (d) of § 1.611–1 of this chapter.

(b) *Denial of percentage depletion in case of oil and gas wells.* Except as otherwise provided in section 613A and the regulations thereunder, in the case of oil or gas which is produced after December 31, 1974, and to which gross income is attributable after such date, the allowance for depletion shall be computed without regard to section 613.

PAR. 4. Sections 1.613A–2, 1.613A–3, 1.613A–4, and 1.613A–7 are revised to read as follows:

§ 1.613A–2 Exemption for certain domestic gas wells.

(a) The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to:

(1) Regulated natural gas (as defined in paragraph (c) of § 1.613A–7),

(2) Natural gas sold under a fixed contract (as defined in paragraph (d) of § 1.613A–7), and

(3) Any geothermal deposit (as defined in paragraph (e) of § 1.613A–7)

in the United States or in a possession of the United States which is determined to be a gas well within the meaning of former section 613(b)(1)(A) (as in effect before enactment of the Tax Reduction Act of 1975), and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section. For special rules applicable to partnerships, trusts, and estates, see paragraphs (e) and (f) of § 1.613A–3.

(b) The provisions of this section may be illustrated by the following examples:

Example (1). A is a producer of natural gas which is sold by A under a contract in effect on February 1, 1975. The contract provides for an increase in the price of the gas sold under the contract to the highest price paid to a producer for natural gas in the area. The gas sold by A qualifies under section 613A(b)(2)(B) for percentage depletion as gas sold under a fixed contract until its price increases, but does not so qualify thereafter.

Example (2). B is a producer of natural gas which is sold by B under a contract in effect on February 1, 1975. The contract provides that beginning January 1, 1980, the price of the gas may be renegotiated. Such a provision does not disqualify gas from qualifying for the exemption under section 613A(b)(2)(B) with respect to the gas sold prior to January 1, 1980. However, gas sold on or after January 1, 1980, does not qualify for the exemption whether or not the price of the gas is renegotiated.

§ 1.613A–3 Exemption for independent producers and royalty owners.

(a) *General rule.* (1) Except as provided in section 613A(d) and § 1.613A–4, the allowance for depletion under section 611 with respect to oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after that date, shall be computed in accordance with section 613 with respect to:

(i) So much of the taxpayer's average daily production (as defined in paragraph (f) of § 1.613A–7) of domestic crude oil (as defined in paragraphs (a) and (g) of § 1.613A–7) as does not exceed the taxpayer's depletable oil quantity (as defined in paragraph (h) of § 1.613A–7), and

(ii) So much of the taxpayer's average daily production of domestic natural gas (as defined in paragraphs (a) and (b) of § 1.613A–7) as does not exceed the taxpayer's depletable natural gas quantity (as defined in paragraph (i) of § 1.613A–7),

and the applicable percentage (determined in accordance with the table in paragraph (c) of this section) shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

(2) Except as provided in section 613A(d) and § 1.613A–4, the allowance for depletion under section 611 with respect to oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such date and before January 1, 1984, shall be computed in accordance with section 613 with respect to:

(i) So much of the taxpayer's average daily secondary or tertiary production (as defined in paragraph (k) of § 1.613A–7) of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to section 613A(c)(3)(A)(ii), and

(ii) So much of the taxpayer's average daily secondary or tertiary production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to section 613A(c)(3)(A)(ii)),

and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

(3) For purposes of this section, there shall not be taken into account any production with respect to which percentage depletion is allowed pursuant to section 613A(b) or is not allowable by reason of section 613A(c)(9).

(4) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a calendar year taxpayer, owns an oil producing property with 100,000 barrels of production to which income was attributable for 1975 and a gas producing property with 1,200,000,000 cubic feet of production to which income was attributable for 1975. Under section 613A(c)(4), the oil equivalent of 1,200,000,000 cubic feet of gas is 200,000 barrels, bringing A's total production of oil and gas to which income was attributable for 1975 to the equivalent of 300,000 barrels of oil. A's average daily production was 821.92 barrels (300,000 barrels÷365 days) which is less than the depletable oil quantity (2,000 barrels) before reduction for any election by A under section 613A(c)(4). Accordingly, A may make such an election with respect to his entire gas production and thereby be entitled to percentage depletion with respect to his entire 1975 income from production of oil and gas. A's allowable depletion pursuant to section 613A(c) for his oil and gas properties would be the amount determined under section 613(a) computed at the 22 percent rate specified in section 613A(c)(5) for 1975.

Example (2). B, a calendar year taxpayer, owns oil producing properties with 365,000 barrels of production to which income was attributable for 1975. B was a retailer of oil and gas for only the last 3 months of 1975. B's average daily production for 1975 was 1,000 barrels (365,000 barrels÷365 days).

Example (3). C, a calendar year taxpayer, owns property X with 500,000 barrels of primary production to which income was attributable for 1975 and property Y with 200,000 barrels of primary production to which income was attributable for 1975. Property Y had been transferred to C on January 1, 1975, on which date it was a proven property. Therefore, the exemption under section 613A(c)(1) does not apply to C with respect to production from property Y. C's average daily production for 1975 was 1369.86 barrels (500,000 barrels÷365 days) which did not take into account the nondepletable production from property Y.

Example (4). In 1975, D received his annual payment of a recoupable advanced royalty of $100*x* in connection with oil property. Later in 1975, $60*x* (of the $100*x* advanced royalty) was recovered from production from the property. In 1976, D received another advanced royalty payment of $100*x*. Later in 1976, $140*x* ($40*x* of the $100*x* advanced royalty received in 1975 and the $100*x* advanced royalty received in 1976) was recouped from production from the property. Neither advanced royalty payment was attributable to production in excess of D's depletable oil quantity. D is entitled to percentage depletion for 1975 only with respect to $60*x* of the advanced royalty received

$$\left(100x \text{ dollars} \times \frac{\$60x}{\$100x}\right)$$

D is entitled to percentage depletion for 1976 with respect to the $100*x* received in 1976. With respect to the $40*x* received in 1975 not attributable to production in 1975, D is not entitled to percentage depletion for any year. Of course, D is entitled in 1975 to determine the allowable cost depletion with respect to the entire $100*x* received in 1975.

Example (5). In 1976, E leased an oil property to F, receiving a lease bonus. With respect to the lease bonus, E is entitled to take cost depletion but not percentage depletion.

Example (6). G owns an oil property with producing wells X and Y on it. G converts well X into an injection well. Prior to the application of the secondary process, it is estimated that without such application the annual production from well X would have been 50*x* barrels of oil and from well Y would have been 100*x* barrels of oil. For the taxable year in which injection is commenced production from well X is 10*x* barrels and from well Y is 180*x* barrels. Forty *x* barrels of oil [190*x* barrels of oil (actual production from the property) − 150*x* barrels (estimate of primary production from the property)] qualifies as secondary production.

Example (7). H, a calendar year taxpayer, owns a domestic oil well which produced 100,000 barrels of oil in 1975. The proceeds from the sale of 15,000 barrels of that production are not includible in H's income until 1976. The 15,000 barrels produced in 1975 are included in H's average daily production for 1976 and excluded from such production for 1975.

(b) *Phase-out table.* For purposes of section 613A(c)(3)(A)(i) and § 1.613A–7(h)(1) (relating to depletable oil quantity)—

In the case of production during the calendar year:	*Tentative quantity in barrels*
1975	2,000
1976	1,800
1977	1,600
1978	1,400
1979	1,200
1980 and thereafter	1,000

(c) *Applicable percentage.* For purposes of section 613A(c)(1) and paragraph (a) of this section—

In the case of production during the calendar year:	*Applicable percentage*
1975	22
1976	22
1977	22
1978	22
1979	22
1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

(d) *Production in excess of depletable quantity.*—(1) *Primary production.* (i) If the taxpayer's average daily production of domestic crude oil exceeds his depletable oil quantity, the allowance pursuant to section 613A(c)(1)(A) and paragraph (a)(1)(i) of this section with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable under section 613(a) for all of the taxpayer's oil produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (c) of this section) as the amount of his depletable oil quantity bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.

(ii) If the taxpayer's average daily production of domestic natural gas exceeds his depletable natural gas quantity, the allowance pursuant to section 613A(c)(1)(B) and paragraph (a)(1)(ii) of this section with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable pursuant to section 613(a) for all of the taxpayer's natural gas produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified

V 42 93 MAY 13 77 UMI

in paragraph (c) of this section) as the amount of his depletable natural gas quantity in cubic feet bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the taxpayer for such year.

(2) *Secondary or tertiary production.* (i) If the taxpayer's average daily secondary or tertiary production of domestic crude oil exceeds his depletable oil quantity (determined without regard to section 613A(c)(3)(A)(ii)), the allowance pursuant to section 613A(c)(6)(A)(i) and paragraph (a)(2)(i) of this section with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable pursuant to section 613(a) for all taxpayer's secondary or tertiary production of oil from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (a)(2) of this section) as the amount of his depletable oil quantity (determined without regard to section 613A(c)(3)(A)(ii)) bears to the aggregate number of barrels representing the average daily secondary or tertiary production of domestic crude oil of the taxpayer for such year.

(ii) If the taxpayer's average daily secondary or tertiary production of domestic natural gas exceeds his depletable natural gas quantity (determined without regard to section 613A(c)(3)(A)(ii)), the allowance pursuant to section 613A(c)(6)(A)(ii) and paragraph (a)(2)(ii) of this section with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable pursuant to section 613(a) for all of the taxpayer's secondary or tertiary production of natural gas from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (a)(2) of this section) as the amount of his depletable natural gas quantity in cubic feet (determined without regard to section 613A(c)(3)(A)(ii)) bears to the aggregate number of cubic feet representing the average daily secondary or tertiary production of domestic natural gas of the taxpayer for such year.

(3) *Taxable income from the property.* If both oil and gas are produced from the property during the taxable year, then for purposes of section 613A(c)(7)(A) and (B) and this paragraph the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall be allocated between the oil production and the gas production in proportion to the gross income from the property during the taxable year from each. In addition, if both gas with respect to which section 613A(b) and § 1.613A–2 apply and oil or gas with respect to which section 513A (c) and this section apply are produced from the property during the taxable or gas with respect to which section 613A(d)(1) and paragraph (a) of § 1.613A–4 the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall also be so allocated.

(4) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns Y and Z oil producing properties. With respect to properties Y and Z, the percentage depletion allowable pursuant to section 613(a) (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) for 1975 was $100*r* and $200*r*, respectively. A's average daily production for 1975 was 4,000 barrels. A's allowable depletion pursuant to section 613A(c) with respect to property Y was $50*r*

$$\left(\$100r \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right).$$

A's allowable depletion pursuant to section 613A(c) with respect to property Z was $100*r*

$$\left(\$200r \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right).$$

Example (2). B owns gas producing properties which had secondary gas production for 1975 of 3,285,000,000 cubic feet, which under section 613A(c)(4) is equivalent to 547,500 barrels of oil. B's average daily secondary production for 1975 was 1,500 barrels (547,500 barrels÷365). B elected to have section 613A(c)(4) apply to such gas production. With respect to such production, the percentage depletion allowable pursuant to section 613(a) (computed at the rate specified in section 613A(c)(6)(A)) was $150*r*. B also owns an oil producing property which had primary oil production for 1975 of 365,000 barrels. With respect to such oil property, the percentage depletion allowable pursuant to section 613(a) (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) was $100*r*. B's average daily production for 1975 was 1,000 barrels (365,000 barrels÷365). B's depletable oil quantity for 1975 was 500 barrels (2,000 barrels tentative quantity −1,500 barrels average daily secondary production). B's allowable depletion pursuant to section 613A(c) withrespect to the oil property was $50*r*

$$\left(\$100r \text{ depletion} \times \frac{500 \text{ depletable oil quantity}}{1{,}000 \text{ average daily production}}\right).$$

Example (3). Assume the same facts as in example (2) except that B's primary production was 6,000,000 cubic feet of natural gas daily rather than its equivalent under section 613A(c)(4) of 1,000 barrels of oil and that B elected to have that section apply to such gas. B's allowable depletion pursuant to section 613A(c) with respect to his primary production is $50*r*, the same as in example (2).

Example (4). C is a partner with a one-third interest in Partnerships CDE and CFG with each partnership owning a single oil property. C's percentage depletion allowable under section 613(a) (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) for 1975 was $20*r* with respect to his allocable share of 195,000 barrels of Partnership CDE production and $40*r* with respect to his allocable share of 600,000 barrels of Partnership CFG production. C's average daily production is 3,000 barrels (1,095,000 total production÷365 days). C's allocable depletion pursuant to section 613A (c) with respect to his share of the production of Partnership CDE is $13.33*r*

$$\left(\$20r \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{3{,}000 \text{ average daily production}}\right)$$

C's allowable depletion pursuant to section 613A(c) with respect to his share of the production of Partnership CFG is $26.67*r*

$$\left(\$40r \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{3{,}000 \text{ average daily production}}\right)$$

Example (5). H owns a property which, during his fiscal year which began on June 1, 1975, and ended on May 31, 1976, produced gas qualifying under section 613A (b) and oil qualifying under section 613A(c). For the fiscal year H's gross income from the property was $400*r*, of which $100*r* was from gas and $300*r* was from oil. For the oil his gross income from the property for the period beginning June 1, 1975, and ending December 31, 1975, was $100*r* and for the 1976 portion of the fiscal year was $200*r*. The percentage depletion allowance (before applying the 50 percent limitation of section 613(a) or the 65 percent limitation of section 613A(d)(1)) was $22*r* for the gas, $22*r* for the oil in 1975, and $44*r* for the oil in 1976. His taxable income from the property for the fiscal year was $100*r*. In accordance with paragraph (d)(3) of this section, the taxable income from the property is allocated $25*r* to the gas

$$\left(\$100r \text{ taxable income from the property} \times \frac{\$100r \text{ gross income from gas from the property}}{\$400r \text{ total gross income from the property}}\right),$$

$25*r* to the 1975 oil

$$\left(\$100r \text{ taxable income from the property} \times \frac{\$100r \text{ gross income from 1975 oil from the property}}{\$400r \text{ total gross income from the property}}\right)$$

and $50*r* to the 1976 oil

$$\left(\$100r \text{ taxable income from the property} \times \frac{\$200r \text{ gross income from 1976 oil from the property}}{\$400r \text{ total gross income from the property}}\right).$$

With the application of the 50 percent of taxable income from the property limitation, the allowable percentage depletion (computed without reference to section 613A) is limited to $12.50*r* for the gas, $12.50*r* for the oil in 1975, and $25*r* for the oil in 1976.

(e) *Partnerships.* (1) In the case of a partnership, the depletion allowance under section 611 with respect to production from domestic oil and gas properties shall be computed separately by the partners and not by the partnership. The determination of whether cost or percentage depletion is applicable is to be made at the partner level. Each partner shall be entitled to his proportionate share of the adjusted basis of each partnership domestic oil or gas property. The allocation is to be made as of the later of the date of acquisition of the oil or gas property by the partnership or January 1, 1975. A partner's proportionate share of the adjusted basis of such property shall be determined in accordance with his interest in partnership capital. However, a partner's share of the adjusted basis shall be determined in accordance with his interest in partnership income if the partnership agreement so provides, unless either written provision has been made for the share of any partner in partnership income to be reduced for any purpose other than merely to reflect the admission of a new partner or at the time of allocation any partner expects his income interest to be reduced pursuant to an understanding with another partner or partners. In the case of an agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Appropriate adjustments shall be made to the partners' adjusted bases for any partnership capital expenditures relating to such properties that are made after such allocation. Each partner must separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis pursuant to section 1016 (including adjustments for any depletion allowed or allowable with respect to such property), and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. Moreover, the adjusted basis of a partner's interest in a partnership shall be decreased (but not below zero) pursuant to section 705 by the amount of

the partner's deduction for depletion allowed or allowable with respect to domestic oil and gas wells. Upon the disposition of an oil or gas property by the partnership, each parther shall subtract his adjusted basis in such property from his allocable portion of the amount realized from the sale of such property to determine his gain or loss. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in oil and gas property shall be an amount equal to the sum of the partner's adjusted bases in such property as determined under this paragraph.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, B, and C have equal interests in capital in Partnership ABC. On January 1, 1970, the partnership acquired a producing domestic oil property. On January 1, 1975, the partnership's basis in the property was $90*x*. The partnership allocates the basis of the property to each partner in proportion to the partner's interest in partnership capital. Accordingly, each partner had a basis of $30*x* allocated to him. Each partner must separately compute his depletion allowance. The amount of percentage depletion allowable for each partner for 1975 was $10*x*. On January 1, 1976, each partner's adjusted basis in the property was $20*x* ($30*x* minus $10*x*). On January 1, 1976, the oil property was sold for $150*x*. Each partner's gain was $30*x* ($50*x* allocable share of amount realized minus his adjusted basis of $20*x*). Then each partner must adjust his basis in his partnership interest to reflect such gain.

Example (2). The facts are the same as in example (1) except that on January 1, 1976, the property was not sold but transferred by the partnership to partner A (in a distribution to which section 751 did not apply). A's basis in the property was $60*x* (sum of A, B, C's adjusted bases in property).

Example (3). The facts are the same as in example (1) with the exception that in 1975 C was a retailer of oil and gas and was only entitled to a cost depletion deduction of $5*x*. C's gain from the sale of the mineral property was $25*x* ($50*x* allocable share of amount realized minus his adjusted basis of $25*x* ($30*x* minus $5*x*)).

Example (4). D, a calendar year taxpayer, is a partner in Partnership DEF which owns a domestic producing oil property. On January 1, 1975, the partnership's adjusted basis in the property was $900*x*. On January 1, 1975, D's adjusted basis in his partnership interest was $300*x* and his adjusted basis in the partnership's oil property was $300*x*. D's allowable percentage depletion for 1975 with respect to production from the oil property was $50*x*. On January 1, 1976, D's adjusted basis in his partnership interest was $250*x* and his adjusted basis in the partnership's oil property was $250*x* ($300*x* minus $50*x*).

Example (5). On January 1, 1975, G's adjusted basis in Partnership GHI's proven domestic oil property is $5*x*. On January 1, 1975, G sells his partnership interest to I for $100*x* when the election under section 754 is in effect. I has a special basis adjustment for the oil property of $95*x* (the difference between I's basis, $100*x*, and his share of the basis of partnership property, $5*x*). I is not entitled to percentage depletion with respect to his distributive share of the oil property income because he is a transferee of an interest in a proven oil property. However, under the cost depletion method, at an assumed rate of 10 percent, the allowance for 1975 with respect to I's interest in the oil property which has a basis to him of $100*x* ($5*x*, plus his special basis adjustment of $95*x*) is $10*x*.

Example (6). On January 1, 1960, Partnership JK acquired a domestic producing oil property. On January 1, 1975, the partnership's adjusted basis in the property was zero. On January 1, 1975, L is admitted as a partner to the partnership which had not made an election under section 754. Since the partnership's adjusted basis in the oil property is zero, L's proportionate share of the basis in the oil property is also zero. L is not entitled to percentage depletion because he is a transferee of a proven oil property (see paragraph (g) of this section). Since the property's basis is zero, L is also not entitled to any cost depletion with respect to production from the property.

(f) *Trusts and estates.* (1) In the case of production from domestic oil and gas properties held by a trust or estate, the depletion allowance under section 611 shall be computed initially by the trust or estate. The determination of whether cost or percentage depletion is applicable shall be made at the trust or estate level, but such determination shall not result in the disallowance of cost depletion to a beneficiary of a trust or estate for whom cost depletion exceeds percentage depletion. The limitations contained in section 613A (c) and (d) shall be applied at the trust or estate level in its computation of percentage depletion pursuant to section 613A and shall also be applied by a beneficiary (the ultimate taxpayer) with respect to any percentage depletion apportioned to him by the trust or estate. For purposes of adjustments to the basis of oil or gas properties held by a trust or estate, in the absence of clear and convincing evidence to the contrary, it shall be presumed that no beneficiary is affected by any section 613A(d) limitation or by the rules contained in section 613A(c) (8) and (9) (relating to businesses under common control and members of the same family and to transfers, respectively), or has any oil or gas production from sources other than the trust or estate.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A is the income beneficiary of a trust the only asset of which is a domestic producing oil property. In 1975 the property had production of 2,920,000 barrels of oil. In that year, the trustee distributed one-half of the trust's net income and accumulated the other one-half for the benefit of the remainderman. The percentage depletion computed by the trust with respect to such production (computed as if section 613 applied to all of such production at the rate specified in section 613A(c)(5)) for 1975 was $200*x*. The trust's average daily production for 1975 was 8,000 barrels (2,920,000÷365 days). The trust's allowable depletion pursuant to section 613A(c) with respect to such production was $50*x*

$$\left(\$200x \text{ depletion} \times \frac{2{,}000 \text{ depletable oil quantity}}{8{,}000 \text{ average daily production}}\right).$$

The percentage depletion of $50*x* was apportioned between the trustee and A so that each received $25*x* of such depletion. The $25*x* depletion received by A is attributable to one-half of the trust's depletable oil quantity, i.e., 1,000 barrels per day. A has oil production from other sources totaling 500 barrels per day. Accordingly, A's average daily production was 1,500 barrels which did not exceed his depletable oil quantity of 2,000 barrels.

Example (2). B, a retailer of oil and gas, is the income beneficiary of a trust the only asset of which is a domestic producing oil property. In 1975 the trustee distributed one-half of the trust's net income and accumulated the other one-half for the benefit of the remainderman. One-half of the percentage depletion computed by the trust with respect to the production from the property was apportioned to B. Since B is a retailer of oil and gas, he is not entitled to deduct any of the percentage depletion apportioned to him. However, B is entitled to take cost depletion with respect to one-half of the production from the oil property, notwithstanding the fact that depletion was computed at the trust level on the basis of percentage depletion.

(g) *Businesses under common control; members of the same family.*—(1) *Component members of a controlled group.* For purposes of only the depletable quantity limitations contained in section 613A(c) and this section, component members of a controlled group of corporations (as defined in paragraph (1) of § 1.613A–7) shall be treated as one taxpayer. Accordingly, the group shares the depletable oil (or natural gas) quantity prescribed for a taxpayer for the taxable year and the secondary production of a member of the group will reduce the other members' share of the group's depletable quantity.

(2) *Aggregation of business entities under common control.* If 50 percent or more of the beneficial interest in two or more corporations, trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest) as defined in subparagraph (2) in § 1.613A–7(m), the tentative quantity determined under the table in section 613A(c)(3)(B) for a taxpayer for the taxable year shall be allocated among all such entities in proportion to the respective production of barrels of domestic crude oil (and the equivalent in barrels to the cubic feet of natural gas determined under subparagraph (4)(ii) of this paragraph).

(3) *Allocation among members of the same family.* In the case of individuals who are members of the same family, the tentative quantity determined under the table in section 613A(c)(3)(B) for a taxpayer for the taxable year shall be allocated among such individuals in proportion to the respective production of barrels of domestic crude oil (and the equivalent in barrels to the cubic feet of natural gas determined under subparagraph (4)(ii) of this paragraph) during the period in question by such individuals.

(4) *Special rules.* For purposes of section 613A(c)(8) and this section:

(i) The family of an individual includes only his spouse and minor children, and

(ii) Each 6,000 cubic feet of domestic natural gas shall be treated as 1 barrel of domestic crude oil.

(5) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). A owns 50 percent of the stock of Corporation M and 50 percent of the stock of Corporation N. Both corporations are calendar year taxpayers. For 1976 Corporation M's production of domestic crude oil was 8,000,000 barrels (365,000 of which was secondary production) and Corporation N's was 2,000,000 barrels (all of which was primary production). The tentative quantity (2,000 barrels per day) determined under the table in section 613A(c)(3)(B) must be allocated between the two corporations in proportion to their respective barrels of production of domestic crude oil during the taxable year. Corporation M's allocable share of the tentative quantity is

$$1{,}600 \text{ barrels} \left(2{,}000 \times \frac{8{,}000{,}000}{10{,}000{,}000}\right)$$

and Corporation N's allocable share is 400 barrels

$$\left(2{,}000 \times \frac{2{,}000{,}000}{10{,}000{,}000}\right).$$

With respect to M's primary production, M's depletable oil quantity is 600 barrels (1,600 barrels−1,000 barrels [365,000 secondary production÷365 days]). N's depletable oil quantity, unaffected by M's secondary production, is 400 barrels.

Example (2). Corporations O and P are members of a controlled group and are treated as one taxpayer as provided in subparagraph (1) of this section. Corporation O owns oil properties A and B. Property A had primary production for 1975 of 800,000 barrels of oil. Property B had secondary production for 1975 of 365,000 barrels of oil. Corporation P owns oil property C which had primary production of 600,000 barrels for 1975. The allowable percentage depletion wirh respect to property B's secondary production was $360*x*. The controlled group's average daily production was 4,000 barrels [(800,000 plus 600,000)÷365]. The controlled group's depletable oil quantity was 1,000 barrels [2,000 tentative quantity−1,000 average daily secondary production (365,000÷365)]. The allowable percentage depletion pursuant to section 613(a) (computed as if section 613 applied to all of the production at the rate specified in section 613A(c)(5)) was $800*x* with respect to production from property A and $600*x* with respect to production from property C.

Corporation O's allowable depletion pursuant to section 613A(c) with respect to property B's secondary production (for which depletion is allowable before primary production) for 1975 was $360*x*. Corporation O's allowable depletion pursuant to section 613A(c) with respect to property A was $200*x*

V 42 NO 93 MAY 13 77 UMI

$\left(\$800x \text{ depletion} \times \frac{1{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right)$.

Therefore, Corporation O's allowable depletion pursuant to section 613A(c) was $560x ($360x relating to property B plus $200x relating to property A). Corporation P's allowable depletion pursuant to section 613A(c) with respect to property C was $165x

$\left(\$690x \text{ depletion} \times \frac{1{,}000 \text{ depletable oil quantity}}{4{,}000 \text{ average daily production}}\right)$.

(h) *Transfer of oil or gas property.* (1) In the case of a transfer (as defined in paragraph (n) of § 1.613A–7) of an interest in any proven oil or gas property (as defined in paragraph (p) of § 1.613A–7), paragraph (a)(1) of this section shall not apply to a transferee (as defined in paragraph (o) of § 1.613A–7) with respect to production of crude oil or natural gas attributable to such interest, and such production shall not be taken into account for any computation by the transferee under this section. However, such a transfer shall not affect the applicability of paragraph (a) (2) (relating to secondary or tertiary production) of this section.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). Individual A transfers proven oil properties to Corporation M in an exchange to which section 351 applies for shares of its stock. Since there is no allocation requirement pursuant to section 613A (c)(8) between A (the transferor) and Corporation M (the transferee), the transfer of such proven properties by A is a transfer for purposes of section 613A(c)(9) and percentage depletion is not allowable to Corporation M with respect to such properties.

Example (2). Corporation N sells proven oil property to Corporation O, its wholly-owned subsidiary. Since the transfer was made between corporations which are members of the same controlled group of corporations, Corporation O is entitltled to percentage depletion with respect to production from such property so long as the tentative oil quantity is allocated between the two corporations.

Example (3). B, owner of a proven oil property, died on January 1, 1975. Pursuant to the provisions of B's will, B's estate transferred the oil property on April 1, 1975, into a trust. On July 1, 1976, pursuant to a requirement in B's will, the trustee distributed the oil property to C. The transfer of the oil property by the estate to the trust and later distribution of such property by the trust to C are transfers at death. Therefore, the trust was entitled to compute percentage depletion with respect to the production from the oil property when such property was owned by the trust and C is entitled to percentage depletion with respect to production from the oil property after distribution.

Example (4). On January 1, 1975, property which produces oil resulting from secondary processes was transferred to D. The exemption under section 613A(c) applies to D because section 613A(c)(9) (relating to transfers of oil or gas property) does not apply with respect to secondary production. In addition, even if at the time of transfer the production from the property was primary and D applied secondary processes to the property transferred and obtained secondary production, D would be entitled to percentage depletion with respect to the secondary production.

Example (5). On July 1, 1975, E and F entered into a contract whereby F is to drill a well on E's unproven property and is to own the entire working interest in the property until F has recovered all the costs of drilling, equipping, and operating the well. Thereafter 50 percent of the working interest would revert to E. In accordance with the contract, 50 percent of the working interest reverted to E on July 1, 1976. F is entitled to percentage depletion because the transfer of the working interest to him occurred when the property was unproven on July 1, 1975, which is the date of the contract establishing his right to the working interest. E is entitled to percentage depletion with respect to his working interest since the reversion of such interest with respect to which E was eligible for percentage depletion is not a transfer. However, if on the date of the contract E's property was proven (although not proven when E acquired such property), F would not be entitled to claim percentage depletion with respect to any of the working interest income. Nonetheless, E would still be entitled to percentage depletion with respect to his working interest since the reversion of such interest is not a transfer.

Example (6). On January 1, 1975, G subleased an oil property to H, retaining a ½ royalty interest with the option to convert his royalty into a 50 percent working interest. On July 1, 1975, the property was proven and on July 1, 1976, G exercised his option. G is entitled to claim percentage depletion with respect to his working interest since the conversion of the royalty interest which is eligible for percentage depletion pursuant to section 613A(c) into an interest which constituted part of an interest previously owned by G is not a transfer pursuant to § 1.613A–7(n)(8).

Example (7). I and J (both of whom are minors) are beneficiaries of a trust which owned a proven oil property. The oil property was transferred to the trust on January 1, 1975, by the father of I and J. For 1975, the trustee allocated all the income from the oil property to I. For 1976, the trustee allocated all the income from such property to J. On January 1, 1977, the trustee distributed such property to I and J as equal tenants in common. Since I, J, and their father are members of the same family within the meaning of section 613A(c)(8)(C), the transfer of the property to the trust by the father, the shifting of income between I and J, and the distribution of the oil property by the trust to I and J are not transfers for purposes of section 613A(c)(9). However, the distribution of the oil property will constitute a transfer to each distributee on the date on which he reaches majority.

Example (8). In 1975 K transferred a proven oil property productive at 5,000 feet to L. Subsequent to the transfer, L drilled new wells on the property finding another reservoir at 10,000 feet. The two zones were combined under section 614 as a single property. L is not entitled to percentage depletion on the gross income attributable to the production from the productive zone at 5,000 feet, but is entitled to percentage depletion on the gross income attributable to the production from the productive zone at 10,000 feet because that zone was not part of the proven property until the date of development expenses by L, which is after the date of the transfer. Accordingly, L's maximum allowable percentage depletion deduction for 1975 would be zero percent of gross income from the property with respect to the production from 5,000 feet, plus 22 percent of gross income from the property with respect to the production from 10,000 feet. This maximum deduction would be subject to the limitation provided for in section 613(a), *i.e.*, 50 percent of "taxable income from the property (computed without allowance for depletion)," such taxable income being the overall taxable income resulting from the sale of production from both zones, and would also be subject to the limitations provided in section 613A.

Example (9). On July 1, 1975, M transferred an oil property with a fair market value of $100x to N. On February 1, 1976, N commenced production of oil from the property. The fair market value of the property on February 1, 1976, as reduced by actual costs incurred by N for equipment and intangible drilling and development costs, was $300x. Since the value of the property on transfer was not 50 percent or more of the value on February 1, 1976, the property transferred to N was not a proven property. However, if there had been only marginal production from the property so that the fair market value of the property on February 1, 1976, was $40x rather than $300x, the property transferred to N would have been a proven property provided the other requirements of proven property were met.

Example (10). O is the owner of a remainder interest in a trust created January 1, 1970. On such date, the trust held oil and gas properties. On January 1, 1976, O's interest for the first time entitled him to the trust' sincome from oil and gas production from such properties. The transfer of the interest in oil and gas property to O is deemed to have occurred on January 1, 1976, the date O's interest was created.

Example (11). On January 1, 1976, P, Q, and R entered into a partnership for the acquisition of oil and gas leases. It was agreed that the sharing of income will be divided equally among P, Q, and R. However, it was further agreed that with respect to the first production obtained from each property acquired P will receive 80 percent thereof and Q and R each will receive 10 percent thereof until $100x has been received by P. On February 1, 1976, Partnership PQR acquired an unproven property and production therefrom was shared pursuant to the partnership agreement. P is entitled to percentage depletion with respect to the production specially allocated to him since the transfer of right to such production is deemed to have been made on the date the partnership agreement became applicable to the specific property, at which time the property was unproven. Similarly, when $100x has been obtained and Q and R each commence receiving 33⅓ percent of the revenue, Q and R are entitled to percentage depletion with respect to their entire interests. However, if the property had been proven when acquired by the partnership, P, Q, and R would not be entitled to claim any percentage depletion with respect to production from the property.

Example (12). On December 30, 1960, S placed producing oil property in trust for the benefit of his nephew, T, and executed a trust agreement which required the trustee of the trust to transfer the oil property to T on January 1, 1975. The trustee's transfer of the oil property to T on January 1, 1975, is deemed to have occurred on December 30, 1960. Since the transfer is deemed to have occurred before January 1, 1975, section 613A(c) applies with respect to the production from the oil property Moreover, if the trustee was not required to transfer the oil property on a specific date but was given discretion to select the date of transfer, the transfer of such property would still be deemed to have occurred on December 30, 1960. However, the result would be different if the trust agreement had provided that the trustee, at his discretion, may transfer the oil property to T on January 1, 1975, but is not under any obligation to transfer the property to T on January 1, 1975, or on any other date. Since the transfer was discretionary, the date of the actual transfer governs.

Example (13). On January 1, 1974, U acquired an oil property. On February 1, 1974, U granted V an option to purchase such oil property. V exercised his option on March 2, 1975, and subsequently the oil property is conveyed to him. The date of the transfer is March 2, 1975, the day V exercised his option (on which date both parties were bound).

Example (14). On July 1, 1974, W executed a deed conveying oil and gas property to X. W delivered the deed to X on January 1, 1975. Under state law, the mere execution of the deed without delivery did not give X any rights in the property. Title to the oil property passes to X on date of delivery. Therefore, the date of transfer is January 1, 1975.

Example (15). Y, owner of a proven oil property, transferred his interest therein on July 25, 1975, to a revocable trust of which he is treated as the owner under section 676. Y is not deemed a transferee and section 613A(c) applies to Y because immediately preceding the transfer he was entitled to percentage depletion on the production from such property.

Example (16). On January 1, 1975, a proven oil property was transferred to Z; therefore, section 613A(c)(1) did not apply with respect to the production from such property. After Z's death, neither Z's estate nor its beneficiaries are entitled to percentage depletion with respect to the decedent's oil property since Z was a transferee of proven property.

Example (17). Partnership ABC, owner of producing oil and gas properties, admitted D as a partner in 1976 in consideration of cash. The shares of Partners A, B, and C of the partnership income were proportionately reduced so that D had a 25 percent interest in the income. D is not entitled to percentage depletion with respect to his share of partnership oil and gas income because D is a transferee for purposes of section 613A(c)(9).

Example (18). On January 1, 1975, E and F formed Partnership EF to which E contributed proven oil property. For 1975, pursuant to the partnership agreement 70 percent of the mineral income from the property was allocated to E and 30 percent of the mineral income from the property was allocated to F. F is not entitled to percentage depletion with respect to production from the property because he is a transferee of an interest in proven property. However, E is not a transferee of an interest in proven property because he was entitled to percentage depletion on the oil produced with respect to such property immediately before the transfer. Therefore, E is entitled to percentage depletion with respect to the income allocated to him. However, if in 1976 the partnership agreement were revised so that E's interest in the income was increased by 10 percent, E would not be entitled to percentage depletion with respect to the additional 10 percent interest because E is a transferee with respect thereto.

Example (19). G is the owner of a ½ interest in a partnership owning a proven oil property and as such is entitled to ½ of the income from the property. G received a distribution on July 1, 1975, from the partnership of a ½ interest in the proven oil property. Although the transfer of such interest is a transfer for purposes of section 613A (c) (9), G is still entitled to percentage depletion with respect to the ½ interest in the oil production from the property since G was entitled to percentage depletion on such production with respect to such property immediately before the transfer. If the entire property were distributed to G his percentage depletion allowance would still be based on only ½ of the oil produced.

Example (20). H and I contributed property X and property Y respectively to Partnership HI. The partnership agreement provides that all the gross income from property X is to be allocated to H and all the gross income from property Y to to be allocated to I. For 1975 H and I each received $100x gross income. Although the contributions of the properties by H and I are transfers for purposes of section 613A(c)(9), both H and I are entitled to percentage depletion with respect to the $100x income received since each was entitled to percentage depletion allowance with respect to the property contributed immediately before the transfer. However, if no special allocation of income were made but H and I are to share equally in the income from both properties, each would be entitled to a depletion allowance based on only one-half of the production with respect to the property he had contributed. If property X produces $100x of gross income from the property and property Y produces $200x of gross income from the property, H would be entitled to percentage depletion but only with respect to $50x (50 percent of $100x) of gross income from the property and I would be entitled to percentage depletion with respect to $100x (50 percent of $200x) of gross income from the property.

(i) *Special rule for fiscal year taxpayers.* In applying this section to a taxable year which is not a calendar year, each portion of such taxable year which occurs during a single calendar year shall be treated as if it were a short taxable year.

(j) *Information furnished by partnerships, trusts, estates, and operators.* Each partnership, trust, or estate producing domestic crude oil or natural gas, and each operator of a well from which domestic crude oil or natural gas was produced, shall provide each partner, beneficiary or person holding a nonoperating interest, as the case may be, with all information in its possession necessary to determine the amount of his depletion deduction allowable with respect to such crude oil or natural gas. For example, a partnership will be required to provide each partner with such partnership information relating to each property as: the partner's share of gross income from the property, the partner's share of operating expenses, the partner's share of depreciation, the partner's share of allocated overhead, the partner's share of estimated reserves, the partner's share of production in barrels or cubic feet for the taxable year, the partner's original share of the partnership adjusted basis of properties producing domestic crude oil or domestic natural gas, and the partner's allocable share of any subsequent adjustments made to the basis of such properties by the partnership. In addition, upon the disposition of an oil or gas property by the partnership, the partnership shall inform each partner of his allocable portion of the amount realized from the sale of such property.

§ 1.613A–4 Limitations on application of § 1.613A–3 exemption.

(a) *Limitation based on taxable income.* (1) The aggregate amount of a taxpayer's deductions allowed pursuant to section 613A(c) for the taxable year shall not exceed 65 percent of the taxpayer's taxable income for the year, adjusted to eliminate the effects of:

(i) Any depletion with respect to an oil or gas property (other than a gas property with respect to which the depletion allowance for all production is determined pursuant to section 613A (b)) for which percentage depletion would exceed cost depletion in the absence of the depletable quantity limitations contained in section 613A(c) (1) and (6) or the taxable income limitation contained in section 613A (d) (1);

(ii) Any net operating loss carryback to the taxable year under section 172;

(iii) Any capital loss carryback to the taxable year under section 1212; and

(iv) In the case of a trust, any distributions to its beneficiaries, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267 (c) (4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.

The amount disallowed (as defined in paragraph (q) of § 1.613A–7) shall be carried over to the succeeding year and treated as an amount allowable as a deduction pursuant to section 613A(c) for such succeeding year, subject to the 65-percent limitation of section 613A(d)(1). For rules relating to corporations filing a consolidated return, see the regulations under section 1502. With respect to fiscal year taxpayers, except as provided in § 1.613A–1 for taxable years beginning before January 1, 1975, and ending after that date, the limitation shall be calculated on the entire fiscal year and not applied with respect to each short period included in a fiscal year. For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction after the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties pursuant to section 613A(c). Accordingly, the maximum amount allowable as a deduction pursuant to section 613A(c) after application of this paragraph (65 percent x adjusted taxable income) shall be allocated to properties for which percentage depletion pursuant to section 613A(c) would be allowed in the absence of the limitation contained in section 613A(d) (1) by application of the same proportion. However, once it is determined that after application of this paragraph cost depletion exceeds percentage depletion with respect to a property, the amount so allowable shall be reallocated among the remaining properties, and the portion of the amount disallowed which is allocable to such property shall be the amount by which percentage depletion pursuant to section 613A(c) before application of this paragraph exceeds cost depletion. See example (1) of subparagraph (2) of this paragraph. If the taxpayer becomes entitled to the deduction in a later year (i.e., because the disallowed depletion does not exceed 65 percent of his taxable income for that year after taking account of any percentage depletion deduction otherwise allowable for that year), then the basis of his properties must be adjusted downward (but not below zero) by the amount of the deduction in proportion to the portion of the amount disallowed to the respective properties in the year of the disallowance. However, if the property in question was disposed of by the taxpayer prior to the beginning of such later year, the amount of the deduction in such later year shall be reduced by the lesser of the taxpayer's adjusted basis in the property at the time it is disposed of or the difference between such basis and the adjusted basis which the taxpayer would have had in the property in the absence of the 65-percent limitation.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). A owns producing oil properties M, N and O. With respect to property M, the depletion allowable pursuant to section 613A(c) for 1975 without regard to section 613A(d)(1) was $60x (cost depletion would have been $40x). With respect to property N, the depletion allowable pursuant to section 613A (c) for 1975 without regard to section 613A(d)(1) was $90x (cost depletion would have been zero). With respect to property O, the depletion pursuant to 613A(c) for 1975 without regard to section 613A(d)(1) was $50x (cost depletion would have been $10x). A's taxable income (as adjusted under § 1.613A–4(a)(1)) for 1975 was $100x; accordingly, A's percentage depletion pursuant to section 613A(c) for 1975 was limited to $65x (65 percent×$100x taxable income). Of that amount, $19.5x

$\left(65x \text{ dollars} \times \frac{\$60x}{\$60x+\$90x+\$50x}\right)$

is tentatively allocated to property M, $29.25x

$\left(65x \text{ dollars} \times \frac{\$90x}{\$90x+\$60x+\$50x}\right)$

is tentatively allocated to property N and $16.25x

$\left(65x \text{ dollars} \times \frac{\$50x}{\$50x+\$90x+\$60x}\right)$

is tentatively allocated to property O. Since cost depletion of $40x with respect to property M exceeded the percentage depletion of $19.5x allowable on such property, A claimed the cost depletion. Accordingly, the only percentage depletion deduction allowable to A pursuant to section 613A(c) for 1975 is with respect to properties N and O. Therefore, the entire $65x of amount allowable must be reallocated between properties N and O. Of that amount, $41.79x

$\left(65x \text{ dollars} \times \frac{\$90x}{\$90x+\$50x}\right)$

is allocated to property N and $23.21x

$\left(65x \text{ dollars} \times \frac{\$50x}{\$50x+\$90x}\right)$

is allocated to property O. The amount disallowed to A under section 613A(d)(1) is $95x ($200x aggregate depletion allowable before application of section 613A (d)(1)—$105x [$40x cost depletion allowable on property M+$41.79x percentage depletion allowable on property N after application of section 613A(d)(1)+$23.21x depletion allowable on property O after application of section 613A(d)(1)). For purposes of basis adjustments, $20x ($60x percentage depletion before limitation—$40x cost depletion allowed) of the amount disallowed is allocated to property M. The balance of the amount disallowed of $75x is allocated $48.12x

$\left(75x \text{ dollars} \times \frac{\$90x}{\$90x+\$50x}\right)$

to property N and $26.79x

$\left(75x \text{ dollars} \times \frac{\$50x}{\$50x+\$90x}\right)$

to property O.

Example (2). The amount disallowed to B as a deduction under this paragraph is $50x for 1975 and $125x for 1976 (including the $50x carried over from 1975). B may carry forward the $125x as a deduction to 1977 and subsequent years.

Example (3). C is a fiscal year taxpayer whose fiscal year ended on May 31, 1975. For purposes of applying the 65 percent of taxable income limitation, the period beginning January 1, 1975, and ending May 31, 1975, is treated as a short taxable year. The depletion allowable pursuant to section 613A(c) without regard to section 613A(d)(1) for such short taxable year was $80x and A's taxable income (as adjusted under § 1.613A–4(a)(1)) during such short taxable year was $100x. Only $65x (65 percent× $100x adjusted taxable income) of the deduction pursuant to section 613A(c) was decuctible for such portion of 1975, in addition to any percentage depletion allowable for June 1, 1974, through December 31, 1974.

Example (4). Under the trust law of State X, a trustee is required to allocate 22 percent of gross mineral income to the principal of a trust for purposes of maintaining a reserve for depletion and the depletion deduction is entirely allocated to the trustee. In 1975 the gross income of a trust in State X the only assets of which were oil properties was $1,000. The trust's allowable percentage depletion pursuant to section 613A(c) without regard to section 613A(d)(1) was $220. The trust incurred expenses

V 42 N 93 MAY 13 1977 UMI

of $150 for the taxable year and made distributions to beneficiaries (who are not described in the exception for family members set forth in subparagraph (1)(ii) of this paragraph) of $630 ($1,000 gross income—$220 allocated to principal—$150 expenses). For purposes of applying the 65 percent limitation, the trust's taxable income was $550 ($1,000 gross income—$150 expenses—$300 exemption). The limitation under section 613A(d)(1) was $357.50 (65% × $550 taxable income). Accordingly, the trust's percentage depletion allowance was unaffected by the 65 percent limitation.

Example (5). In 1975 D sold an oil property for which his adjusted basis was $20*x*. The amount disallowed for the taxable year to D under section 613A(d) was $10*x*. The amount of the carryover under that section to 1976 was 0 ($10*x* disallowed amount—$10*x* [$20*x* adjusted basis of property on sale—$10*x* adjusted basis which taxpayer would have had in property in absence of the 65-percent limitation]). However, if the adjusted basis of the property on disposition had been 0, the amount of the carryover to 1976 would have been $10*x* ($10*x* disallowed amount—0 adjusted basis of property on sale).

Example (6). In 1975 E owned producing oil properties M, N, O, P, Q, and R. With respect to property M, the allowable cost depletion was $100*x* (the allowable percentage depletion pursuant to section 613A(c) without regard to the depletable quantity and taxable income limitations contained in section 613A(c)(1), (6) and (d)(1) would have been $90*x*). With respect to property N, the allowable percentage depletion pursuant to section 613A(c) before applying section 613A(d)(1) was $80*x* (cost depletion would have been $0). With respect to property O, the allowable cost depletion was $60*x* (the allowable percentage depletion pursuant to section 613A(c) before applying section 613A(d)(1) would have been $70*x*). With respect to property P, the allowable percentage depletion pursuant to section 613A(b) was $55*x* (cost depletion would have been $40*x*). With respect to property Q which produces both gas subject to section 613A(b)(1)(B) and oil subject to section 613A(c), the allowable percentage depletion was $45*x* (cost depletion would have been $10*x*). With respect to property R, the allowable cost depletion was $40*x* (the allowable percentage depletion pursuant to section 613A(c) before applying section 613A(c)(7)(A) would have been $50*x*). Under paragraph (a)(1)(i) of this section, for purposes of applying the 65 percent limitation under section 613A(d)(1), E's taxable income shall be reduced by the allowable depletion with respect to property M (for which cost depletion exceeded percentage depletion even in the absence of section 613A(c)(1), (6), and (d)) and property P (for which all depletion is determined pursuant to section 613A(b)), but shall not be reduced by the allowable depletion with respect to properties N, O, Q, and R.

(b) *Retailers excluded.* (1) Section 613A(c) and § 1.613A–3 shall not apply in the case of any taxpayer who is a retailer as defined in paragraph (r) of § 1.613A–7.

(2) The application of this paragraph may be illustrated by the following examples, all of which assume that the $5,000,000 gross receipts requirement of section 613A(d)(2) is met:

Example (1). A, owner of producing oil and gas properties, also owns 5 percent in value of the stock of Corporation M, a retailer of oil and gas. None of A's production is sold through Corporation M. Since A may benefit from Corporation M's sales of oil and gas through his ownership interest in Corporation M, A is considered to be selling oil or natural gas through Corporation M, a related person. Accordingly, the exemption under section 613A(c) does not apply to A, even though none of A's production is sold through Corporation M.

Example (2). Corporation N, a retailer of oil and gas, owns 5 percent in value of the stock of Corporation O, owner of producing oil and gas properties. None of Corporation O's production is sold through Corporation N. Since Corporation O has no direct or indirect ownership interest in Corporation N, and therefore does not benefit from Corporation N's sales of oil and gas, and since none of Corporation O's production is sold through Corporation N, the exemption under section 613A(c) applies to Corporation O.

Example (3). Corporation P, a producer of oil, owns 70 percent in value of the stock of Corporation Q. Corporation Q owns 30 percent in value of the stock of Corporation R. Corporation R owns 30 percent in value of the stock of Corporation S, a retailer of oil and gas. P indirectly owns 6.3 percent (70 percent × 30 percent × 30 percent) in value of the stock of Corporation S. Since P may benefit from Corporation S's sales of oil and gas through his indirect ownership interest in Corporation S, P is not entitled to percentage depletion.

Example (4). B is the owner of certain oil and gas properties in Texas and is also the owner of a service station in Washington, D.C., which he leases to Corporation T. None of B's production is sold to Corporation T. The exemption under section 613A(c) applies to B. However, if B's production were sold to Corporation T, the exemption under section 613A(c) would not apply to B because B is selling oil or natural gas to a person given authority to occupy a retail outlet leased by the taxpayer, B.

Example (5). C has a ⅛ royalty interest and Corporation U has a ⅞ working interest in an oil property. Corporation V, a retailer of oil, owns 5 percent in value of the stock of Corporation U. C has no interest in either corporation. All of the production from the property is sold through Corporation V, C receiving from Corporation U ⅛ of its receipts therefor. The exemption under section 613A(c) does not apply to Corporation U because Corporation U is selling oil or natural gas through Corporation V, a related person that is a retailer. However, the exemption applies to C because C, as owner of a nonoperating mineral interest, is not treated as an operator of a retail outlet merely because his oil or gas is sold on his behalf through a retail outlet operated by an unrelated person.

Example (6). D owns and operates retail grocery stores where refined oil may be purchased. D also owns oil and gas producing properties. If the sales of refined oil at each store location constitute less than 5 percent of the gross receipts from all sales made at that store, D is not considered a retailer by reason of such sales.

Example (7). Lessee E sells natural gas to lessor F directly from a wellhead gathering pipeline system for F's local agricultural use, in transactions incidental to the acquisition of a natural gas lease. Such sales of natural gas to F are not sales through a retail outlet.

Example (8). Corporation W produces natural gas some of which it sells at retail. For purposes of determining whether Corporation W is a retailer selling gas through a retail outlet within the meaning of § 1.613A–7(r), the business office of Corporation W where a purchaser would normally contact the corporation with respect to its sales to him is considered the place at which those sales of natural gas are made.

Example (9). G, husband, is the sole owner and operator of a retail outlet which sells oil and gas. H, wife, owns producing oil and gas properties. G is not related to H for purposes of section 613A(d).

Example (10). I, husband, and J, wife, are community property owners of 10 percent in value of the stock of Corporation X which is a retailer of oil and gas. I and J are each treated as owning 5 percent of Corporation X. Therefore, neither I nor J qualify for the exemption under section 613A(c).

Example (11). Corporation Y, an electing small business corporation as defined in section 1371, owns producing oil and gas properties. K, a retailer of oil and gas, is a 50 percent interest shareholder of Corporation Y. None of Corporation Y's production is sold through K. Corporation Y is eligible for percentage depletion.

Example (12). Corporation Z, a producer of natural gas, makes bulk sales of natural gas at the wellhead to industrial users. For purposes of determining whether Corporation Z is a retailer under § 1.613A–7(t), such bulk sales are disregarded.

Example (13). L, a calendar year taxpayer, is the owner of a producing oil property. For 1976, L was a retailer of oil and gas for the last 122 days of the year. L's gross income from the oil property for the taxable year was $150*x* and his taxable income from the property was $30*x*. L is treated as a retailer with respect to $80*x* of gross income from the property

$$\left(\$150x \text{ dollars} \times \frac{122}{366}\right)$$

and $10*x* of taxable income from the property

$$\left(\$30x \text{ dollars} \times \frac{122}{366}\right).$$

Therefore, L is entitled to percentage depletion with respect to $100*x* of gross income from the property ($150*x* minus $80*x*). However, the allowable percentage depletion is limited by the 50 percent of taxable income from the property limitation to $15*x* (50 percent × $30*x* taxable income).

Example (14). Corporation M is a partner in Partnership MNO which is the owner of an operating interest in a producing oil property. Corporation P, a retailer of oil and gas, owns 5 percent in value of the stock of Corporation M. Partnership MNO sells its production to Corporation P. Corporation M is retailing oil through Corporation P, a related person, because its share of the oil is being sold on its behalf by the partnership through a retail outlet operated by a person related to Corporation M. Therefore, the exemption under section 613A(c) does not apply to Corporation M.

Example (15). M and N are beneficiaries of a trust which is a retailer of oil and gas. M has a 5 percent interest in the income of the trust for M's lifetime. N's interest in the trust entitles N to 5 percent of the income of the trust after M's death. The trust is a related person of M but not N while M is alive. Accordingly, during M's lifetime N is not disqualified from the exemption provided by section 613A(c) but M is.

Example (16). Assume the same facts as in example (15) except that M has a 4 percent interest in the income of the trust. M is disqualified from the exemption provided by section 613A(c) with respect to the income from the trust but not with respect to income from other sources.

(c) *Certain refiners excluded.* (1) Section 613A(c) and § 1.613A–3 shall not apply in the case of any taxpayer who is a refiner as defined in paragraph (s) of § 1.613A–7.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation M owns a refinery which has refinery runs in excess of 50,000 barrels on at least one day during the taxable year. Corporation M also owns 5 percent interest in Corporation N, owner of producing oil and gas properties. None of Corporation N's production is sold to Corporation M. The exemption under section 613A(c) does not apply to Corporation N because Corporation M, a related person of Corporation N, engages in the refining of crude oil.

Example (2). A and B are equal partners in Partnership AB, which owns oil and gas producing properties. A owns a refinery which has refinery runs in excess of 50,000 barrels on at least one day during the taxable year and which buys all of Partnership AB's production. B has no ownership interest in any refinery. B is not a refiner.

§ 1.613A–7 Definitions.

For purposes of section 613A and the regulations thereunder: (a) *Domestic.* The term "domestic", as applied to oil and gas wells (or to production from such wells), refers to such wells located in the United States or in a possession of the United States, as defined in section 638 and the regulations thereunder.

(b) *Natural gas.* The term "natural gas" means any product (other than crude oil as defined in paragraph (g) of this section) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

(c) *Regulated natural gas.* Natural gas is considered to be "regulated" only if all of the following requirements are met: (1) The gas must be domestic gas produced and sold by the producer (whether for himself or on behalf of another person) before July 1, 1976,

(2) The price for which the gas is sold by the producer must not be adjusted to reflect to any extent the increase in liability of the seller for tax under chapter 1 of the Code by reason of the repeal of percentage depletion for gas,

(3) The sale of the gas must be subject to the jurisdiction of the Federal Power Commission for regulatory purposes,

(4) An order or certificate of the Federal Power Commission must be in effect (or a proceeding to obtain such an order or certificate must have been instituted), and

(5) The price at which such gas is sold must be taken into account, directly or indirectly, in the issuance of the order or certificate by the Federal Power Commission.

Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence that the increases are wholly attributable to a purpose or purposes unrelated to the repeal of percentage depletion for gas, such as increases to reflect additional State and local real property or severance taxes, increases for additional operating costs (such as costs of secondary or tertiary processes), increases up to the highest area rate fixed by the Federal Power Commission for interstate sales (provided repeal of percentage depletion is not reflected in such rate), increases for additional drilling and related costs, or increases to reflect changes in the quality of gas sold. In the absence of a statement in writing by the Federal Power Commission that the price of the gas in question was not in fact regulated, the requirement of subparagraph (5) of this paragraph is deemed to have been met in any case in which the Federal Power Commission issues an order or certificate approving the sale to an interstate pipeline company or, in a case in which it is established by the taxpayer that the Federal Power Commission has influenced the price of such gas, an order or certificate permitting the interstate transportation of such gas. In addition, an "emergency" sale of natural gas to an interstate pipeline, which, pursuant to the authority contained in 18 CFR 2.68, 2.70, 157.22, and 157.29, may be made without prior order approving the sale, is deemed to have met the requirements of subparagraphs (3), (4), and (5) of this paragraph. For purposes of meeting the requirements under this paragraph, it is not necessary that the total gas production from a property qualify as "regulated natural gas"; the determination of whether mineral production is "regulated natural gas" shall be made with respect to each sale of the mineral or minerals produced.

(d) *Natural gas sold under a fixed contract.* The term "natural gas sold under a fixed contract" means domestic natural gas sold by the producer (whether for himself or on behalf of another person) under a contract, in effect on February 1, 1975, and at all times thereafter before such sale, under which the price for such gas during such period cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under chapter 1 of the Code by reason of the repeal of percentage depletion for gas. The term may include gas sold under a fixed contract even though production sold under the contract had previously been treated as regulated natural gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence. See paragraph (c) of this section for examples of increases which do not take increases in tax liabilities into account. An additional example would be increases of a fixed percentage or fixed dollar amount pursuant to escalation clauses designed merely to reflect projected effects of inflation. However, if the adjustment provided for in the contract permits the possible increase in Federal income tax liability of the seller to be taken into account to any extent or provides for an increase in the price of the contract to the highest price paid to a producer for natural gas in the area, or if the price may be renegotiated, then gas sold under the contract after such an increase becomes permissible is not gas sold under a fixed contract. For purposes of meeting the requirements of this paragraph, it is not necessary that the total gas production from a property qualify as "natural gas sold under a fixed contract", for the determination of "natural gas sold under a fixed contract" is to be made with respect to each sale of each type of natural gas sold pursuant to each contract.

(e) *Geothermal deposit.* The term "geothermal deposit" means a geothermal reservoir consisting of heat, largely stored in rocks, and, to a lesser extent, in aqueous fluid in the form of liquid or vapor.

(f) *Average daily production.* (1) The term "average daily production" means the taxpayer's aggregate production of domestic crude oil or natural gas, as the case may be, which is produced after December 31, 1974, and to which gross income from the property is attributable during the taxable year divided by the number of days in such year. As used in the preceding sentence the term "taxpayer" includes a small business corporation as defined in section 1371 and the regulations thereunder. Notwithstanding the provisions of § 1.612–3, of this chapter, in computing the average daily production for a taxable year only oil or gas which has been produced by the close of such taxable year shall be taken into account. For example, advanced royalties (to the extent that actual production during the taxable year is insufficient to earn such royalties) and lease bonuses, while taken into account for purposes of sections 61 and 612 (relating to the definition of gross income and cost depletion, respectively), would not be taken into account in computing the percentage depletion allowance pursuant to section 613A(c). Average daily production does not include production resulting from secondary or tertiary processes.

(2) In the case of a fiscal-year taxpayer, subparagraph (1) of this paragraph shall be applied separately to each short taxable year under section 613A(c)(10).

(3) In the case of a taxpayer holding a partial interest in the production from any property (including an interest of a partner in property of his partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production (which is produced after December 31, 1974, and to which gross income from the property is attributable during the taxable year) of such property by the taxpayer's percentage participation in the revenues from such property during such year. With respect to a holder of a net profits interest in an oil and gas property, such taxpayer's production shall be deemed to be that portion of production which produced the same fraction of the property's gross income as the fractional interest of the taxpayer in the net profits from the property.

(g) *Crude oil.* The term "crude oil" means—(1) A mixture of hydrocarbons which existed in the liquid phase in natural underground reservoirs and which remains liquid at atmospheric pressure after passing through surface separating facilities,

(2) Hydrocarbons which existed in the gaseous phase in natural underground reservoirs but which are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and

(3) Natural gas liquid recovered from gas well effluent in lease separators or field facilities before any conversion process has been applied to such production.

(h) *Depletable oil quantity.* The taxpayer's depletable oil quantity, within the meaning of section 613A(c)(1)(A), shall be equal to:

(1) The tentative quantity determined under the table contained in section 613A(c)(3)(B) and paragraph (b) of § 1.613A–3, reduced (but not below zero) by

(2) The taxpayer's average daily secondary or tertiary production for the taxable year.

(i) *Depletable natural gas quantity.* The taxpayer's depletable natural gas quantity, within the meaning of section 613A(c)(1)(B), shall be equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the taxpayer elects to have section 613A(c)(4) apply. The taxpayer's depletable oil quantity for any taxable year shall be reduced (in addition to any reduction previously required to be made under paragraph (h)(2) of this section) by the number of barrels with respect to which an election under section 613A(c)(4) has been made. See § 1.613A–5.

(j) *Barrel.* The term "barrel" means 42 United States gallons.

(k) *Secondary or tertiary production.* The term "secondary or tertiary production" means the increased production of crude oil or natural gas from a domestic well at any time after the application of a secondary process. The increased production is the excess of actual production over the maximum primary production which would have resulted during the taxable year if such process had not been applied. Such increased production may be due to an increase in either the rate or the duration of recovery. A secondary process is a process applied for the recovery of hydrocarbons in which substances in a liquid or gaseous state are injected into the reservoir to supplement or augment the energy required to move the hydrocarbons through the reservoir, except that no process which must be introduced early in the productive life of the mineral property in order to be reasonably effective (such as cycling of gas in the case of a gas-condensate well) is a secondary process. A process (such as fire flooding or miscible fluid injection) introduced early in the productive life of the mineral property will not be disqualified as a secondary process if a later introduction of such process in such property would still have been reasonably effective.

(l) *Controlled group of corporations.* The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that "more than 50 percent" shall

V 42 93 MAY 13 77 UMI

be substituted for "at least 80 percent" each place it appears in section 1563(a).

(m) *Related person.* (1) A person is a "related person" to another person, within the meaning of section 613A(d)(2) and (4), paragraphs (b) and (c) of § 1.613A–4, and paragraphs (r) and (s) of this section, if either a significant ownership interest in such person is held by the other, or a third person has a significant ownership interest in both such persons. For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be. The term "significantly ownership" means:

(i) With respect to any corporation, direct or indirect ownership of 5 percent or more in value of the outstanding stock of such corporation,

(ii) With respect to a partnership, direct or indirect ownership of 5 percent or more interest in the profits or capital of such partnership, and

(iii) With respect to an estate or trust, direct or indirect ownership of 5 percent or more of the beneficial interests in such estate or trust.

(2) A person is a "related person" to another person, within the meaning of section 613A(c)(8)(B) and paragraph (g)(2) of § 1.613A–3, if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children.

(n) *Transfer.* The term "transfer" means any change in legal or equitable ownership by sale, exchange, gift, lease, sublease, assignment, contract, or other disposition (including any contribution to or any distribution by a corporation, partnership, or trust), any change in the membership of a partnership or the beneficiaries of a trust, or any other change by which a taxpayer's proportionate share of the income subject to depletion of an oil or gas property is increased. However, the term does not include:

(1) A transfer of property at death (including a distribution by an estate, whether or not a pro rata distribution),

(2) An exchange to which section 351 applies.

(3) A change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of such trust or is a lineal descendant of the settlor or any other vested beneficiary of such trust, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.

(4) A transfer of property between corporations which are members of the same controlled group of corporations (as defined in section 613A(c)(8)(D)(i)),

(5) A transfer of property between business entities which are under common control (within the meaning of section 613A(c)(8)(B)) or between related persons in the same family (within the meaning of section 613A(c)(8)(C)),

(6) A transfer of property between a trust and members of the same family (within the meaning of section 613A(c)(8)(C)) to the extent that both (i) the beneficiaries of that trust are and continue to be members of the family that transferred the property, and (ii) the tentative oil quantity is allocated among the members of such family,

(7) A reversion of all or part of an interest with respect to which the taxpayer was eligible for percentage depletion pursuant to section 613A(c), or

(8) A conversion of a retained interest which is eligible for such depletion into an interest which constituted all or part of an interest previously owned by the taxpayer also eligible for such depletion.

However, subparagraphs (2), (4), and (5) of this paragraph shall apply only so long as the tentative quantity determined under the table contained in section 613A(c)(3)(B) is allocated under section 613A(c)(8) between the transferor and transferee or among members of a controlled group of corporations. For purposes of subparagraphs (3) and (6), an individual adopted by a beneficiary is a lineal descendant of that beneficiary. For purposes of subparagraphs (7) and (8), a taxpayer previously ineligible for percentage depletion solely by reason of section 613A(d)(2) or (4) will be considered to have been eligible for such depletion. A transfer is deemed to occur on the day on which a contract or other commitment to transfer such property becomes binding upon both the transferor and transferee, or, if no such contract or commitment is made, on the day on which ownership of the interest in oil or gas property passes to the transferee.

(o) *Transferee.* The term "transferee", as used in section 613A(c)(9), paragraph (h) of § 1.613A–3, and this section includes the original transferee of proven property and his successors in interest. A person shall not be treated as a transferee of an interest in a proven oil or gas property to the extent that such person was entitled to a percentage depletion allowance on mineral produced with respect to such property immediately before the transfer. However, a person shall be treated as a transferee of an interest in a proven property to the extent that the interest such person receives is greater than the interest in such property he held immediately before the transfer. For example, where the owner of a proven oil property transfers his entire interest therein to a partnership of which he is a member and, as a consequence, becomes entitled to a depletion allowance based on only one-third of the oil produced with respect to that property, he (the transferor) is not denied percentage depletion with respect to the one-third interest in oil production which he still possesses. If the partnership agreement had made an effective allocation (under section 704 and § 1.704–1 of this chapter) of all the income in respect of such property to the transferor partner, he would be entitled to percentage depletion on the entire oil production from that property. For this purpose, a person who has transferred oil or gas property pursuant to a unitization or pooling agreement shall be treated as having been entitled to a depletion allowance immediately before the transfer to him of his interest in the unit or pool with respect to all of the mineral in respect of which he receives gross income from the property pursuant to the unitization or pooling agreement, except to the extent such income is attributable to consideration paid by him for such interest in addition to oil or gas property and equipment affixed thereto.

(p) *Interest in proven oil or gas property.* The term "interest in an oil or gas property" means an economic interest in oil or gas property, including working or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under section 636, production payments from oil or gas properties. The term also includes an interest in a partnership or trust holding an economic interest in oil or gas property but does not include shares of stock in a corporation owning such an interest. An oil or gas property is "proven" if its principal value has been demonstrated by prospecting, exploration, or discovery work. The principal value of the property has been demonstrated by prospecting, exploration, or discovery work only if at the time of the transfer:

(1) Any oil or gas has been produced from a deposit, whether or not produced by the taxpayer or from the property transferred;

(2) Prospecting, exploration, or discovery work indicate that it is probable that the property will have gross income from oil or gas from such deposit sufficient to justify development of the property; and

(3) The fair market value of the property is 50 percent or more of the fair market value of the property, minus actual expenses of the transferee for equipment and intangible drilling and development costs, at the time of the first production from the property subsequent to the transfer and before the transferee himself transfers his interest.

For purposes of this paragraph, the property is to be determined by applying section 614 and the regulations thereunder to the transferee at the time of the transfer. If the transfer is of an interest in a partnership or trust, the determination shall be made with respect to each property owned by the partnership or trust.

The term "prospecting, exploration, or discovery work" includes activities which produce information relating to the existence, location, extent, or quality of any deposit of oil or gas, such as seismograph surveys and drilling activities (whether for exploration or for the production of oil or gas).

(q) *Amount disallowed.* The amount disallowed, within the meaning of section 613A(d)(1) and paragraph (a) of § 1.613A–4, is the excess of the amount of the aggregate of the taxpayer's allowable depletion deductions (whether based upon cost or percentage depletion) computed without regard to section 613A(d)(1) over the amount of the aggregate of such deductions computed with regard to such section. Such disallowed amount shall be carried over to the succeeding year and treated as an amount allowable as a deduction pursuant to section 613A(c) for such succeeding year, subject to the 65-percent limitation of section 613A(d)(1) and the rules contained in section 613A–4(a).

(r) *Retailer.* The term "retailer" means any taxpayer who directly, or through a related person (as defined in paragraph (m)(1) of this section), sells oil or natural gas, or any product derived from oil or natural gas:

(1) Through any retail outlet operated by the taxpayer or a related person, or

(2) To any person: (i) Obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

(ii) Given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy any retail outlet owned, leased, or in any way controlled by the taxpayer or a related person.

However, such taxpayer shall not be considered a retailer in any case where, during the taxable year of the taxpayer, the combined gross receipts from sales of oil or natural gas, or products derived therefrom, of all retail outlets taken into account under the preceding sentence (including sales through a retail outlet of oil, natural gas, or a product derived from oil or natural gas, which had previously been the subject of a sale described in subparagraph (2)(i) of this paragraph) do not exceed $5 million. For purposes of the preceding two sentences, bulk sales of oil or natural gas before it has been manufactured or converted into a refined product to commercial or industrial users shall be disregarded. In addition, sales of oil, natural gas, or any product derived from oil or natural gas, which are made outside the United States shall be disregarded if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year. The term "any product derived from oil or natural gas" means gasoline, kerosene, Number 2 fuel oil, refined lubricating oils, diesel fuel, methane, butane, propone, and similar products which are recovered from petroleum refineries or field facilities. A retail outlet is any place where sales of oil, natural gas, or a product of oil or natural gas, accounting for more than 5 percent of the gross receipts from all sales made at such place during the taxpayer's taxable year, are systematically made to any person or persons for any purpose other than for resale. For purposes of this paragraph, a taxpayer shall be deemed to be selling oil or natural gas (or a product derived therefrom) through a related person in any case in which any sale of oil or natural gas (or a derivative product) by the related person produces gross income from which the taxpayer may benefit by reason of his direct or indirect ownership interest in the related person. In such cases (and in any case in which the taxpayer is himself selling through a retail outlet referred to in section 613A(d)(2)(A) or is selling such items to a person described in section 613A(d)(2)(B)), it is immaterial whether the oil or natural gas which is sold, or from which is derived a product which is sold, was produced by the taxpayer. Of course, a taxpayer shall be deemed to be selling oil or natural gas (or a derivative product) through a related person in any case in which the related person acquires for resale oil or natural gas (or a derivative product) which the taxpayer produced or caused to be made available for acquisition by the related person. An owner of a nonoperating mineral interest (such as a royalty) shall not be treated as an operator of a retail outlet merely because his oil or gas is sold on his behalf through a retail outlet operated by an unrelated person. In addition, the mere fact that a member of a partnership is a retailer shall not result in characterization of the remaining partners as retailers; however, if the partnership itself is a retailer its partners having a 5 percent or more interest in the partnership's profits or capital are treated as retailers. Similarly, if a trust is a retailer, only its beneficiaries having a 5 percent or more current income interest from the trust are treated as retailers. A person who is a retailer during a portion of the taxable year shall be treated as a retailer with respect to a fraction of his gross and taxable income from his oil or gas properties for the taxable year, the numerator of which is the number of days during the taxable year in which the taxpayer is a retailer and the denominator of which is the total number of days during the taxable year; except that a person who ceases to be a retailer during the taxable year before his first production of oil or gas during such year shall not be treated as a retailer for any portion of such year.

(s) *Refiner.* A person is a refiner if such person or a related person (as defined in paragraph (m)(1) of this section) engages in the refining of crude oil (whether or not owned by such person or related person) and if the total refinery runs of such person and any persons so related to him exceed 50,000 barrels on any day during the taxable year. Refining is any operation by which the physical or chemical characteristics of crude oil or crude oil products are changed, exclusive of such operations as passing crude oil through separators to remove gas, placing crude oil in settling tanks to recover basic sediment and water, and dehydrating crude oil.

PAR. 5. Section 1.702–1 is amended by adding new paragraph (e) at the end thereof to read as follows:

§ 1.702–1 Income and credits of partner.

* * * * * * *

(e) *Cross-reference.* In the case of a disposition of an oil or gas property by the partnership, see the rules contained in section 613A(c)(7)(D) and § 1.613A–3(e) of this chapter.

§ 1.703 [Deleted]

PAR. 6. Section 1.703 is deleted.

PAR. 7. Section 1.703–1 is amended by redesignating subdivision (vii) of paragraph (a)(2) as subdivision (viii) and inserting a new subdivision (vii), to read as follows:

§ 1.703–1 Partnership computations.

(a) *Income and deductions.* * * *

(2) * * *

(vii) The deduction for depletion under section 611 with respect to domestic oil and gas wells.

* * * * * * *

§ 1.705 [Deleted]

PAR. 8. Section 1.705 is deleted.

PAR. 9. Paragraph (a) of § 1.705–1 is amended by redesignating subparagraph (4) as subparagraph (6) and inserting new subparagraphs (4) and (5) to read as follows:

§ 1.705–1 Determination of basis of partner's interest.

(a) *General rule.* * * *

(4) The basis shall be decreased (but not below zero) by the amount of the partner's deduction for depletion allowed or allowable under section 611 with respect to domestic oil and gas wells.

(5) The basis shall be adjusted (but not below zero) to reflect any gain or loss to the partner resulting from a disposition by the partnership of a domestic oil or gas property.

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WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

[FR Doc.77-13707 Filed 5-12-77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 40]

FARM LABOR CONTRACTOR REGISTRATION

Issuance by States of Certificates of Registration and Employee Identification Cards

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: Section 8 of the Farm Labor Contractor Registration Act, 7 U.S.C. 2047, authorizes the Secretary to enter into agreements with Federal and State agencies to utilize their services

V 42 93 MAY 13 77 UMI

and facilities, and delegates to such agencies certain authority, other than rulemaking, as the Secretary deems necessary in carrying out the provisions of the Act. Under that authority, and by this proposal, the Secretary is providing the method and procedure for entering into such agreements with any State.

DATES: Comments will be received on this proposal until June 9, 1977.

ADDRESSES: Comments should be sent to the Administrator, Wage and Hour Division, Room S–3502, New Department of Labor Building, Employment Standards Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Paul E. Myerson, Counsel for Employment Standards, Division of General Legal Services, Office of the Solicitor, Room N2464, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone No. 202–523–8244.

SUPPLEMENTAL INFORMATION: The authority conferred by Section 8 does not require the issuance of regulations as a prerequisite to entering into an agreement, and contracts with one or more States may be executed prior to issuance of this regulation in final form. However, regulations are deemed necessary to inform the various States and the public that the Department is considering the execution of such contracts, and to explain the provisions thereof. This document was prepared under the direction and control of Donald S. Shire, Associate Solicitor for General Legal Services, Office of the Solicitor, Department of Labor.

Accordingly, it is hereby proposed to add to 29 CFR Part 40, an amended § 40.41 and a new § 40.43, which will read as follows: (Italics denote language added.)

§ 40.41 Office of filing, action.

(a) Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed at any of the offices designated in §§ 40.11 and 40.31 respectively shall be transmitted promptly to the appropriate regional office of the Wage and Hour Division, Employment Standards Administration, *except as provided in paragraph (b) of this section.*

(b) Each application for a Certificate of Registration or a Farm Labor Contractor Employee Identification Card filed in a State authorized to issue such documents on behalf of the Administrator shall be processed by the appropriate State agency. See § 40.43 of this Part.

§ 40.43 Issuance of Farm Labor Contractor Certificate of Registration and Farm Labor Contractor Employee Identification Card by States.

(a) Pursuant to Section 8 of the Act, the Secretary may enter into an agreement with any State authorizing that State to issue Certificates of Registration and Farm Labor Contractor Employee Identification Cards on behalf of the Administrator.

(b) Every agreement entered into pursuant to this Section shall require that Certificates of Registration and Farm Labor Contractor Employee Identification Cards be issued by the State in conformity with the provisions of the Act, and the regulations, interpretations and guidelines issued thereunder.

(c) Any agreement entered into pursuant to this Section shall be terminated, without hearing, after written notice by the Secretary, the Administrator, or the appropriate State official.

(d) Every Certificate of Registration and every Farm Labor Contractor Employee Identification Card issued by a State pursuant to this Section shall have the same force and effect as if it had been issued by the Administrator under § 40.42 of this Part.

(e) Every Certificate of Registration and every Farm Labor Contractor Employee Identification Card issued by the Administrator under § 40.42 of this Part shall be valid in any State covered by an agreement under this Section.

(f) The Secretary, in accordance with the provisions of this Section, has entered into an agreement with each State listed herein below:

None.

(g) Every agreement entered into pursuant to this Section is available for public inspection and copying in accordance with 29 CFR Part 70.

Signed at Washington, D.C., on this 3d day of May 1977.

RAY MARSHALL,
Secretary of Labor,
U.S. Department of Labor.

[FR Doc.77–13860 Filed 5–12–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 261]

MOTORS AND MOTORIZED EQUIPMENT IN THE MIDDLE FORK FEATHER WILD RIVER ZONES, CALIF.

Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would continue the prohibition against possessing or using motors or motorized equipment in the Middle Fork Feather Wild River Zones except on the Stag Point and Cleghorn Bar trails or when authorized by a permit. Similar prohibitions existed under various regulations that were amended, revoked, or revised effective February 15, 1977. The revised regulations overlooked the need to protect these wild river zones. This need is being met temporarily by an interim regulation published in today's FEDERAL REGISTER which will expire August 11, 1977. Meanwhile, a permanent regulation will be drafted after written comments on this proposal have been considered.

COMMENT DATE: Comments must be in writing and must be received by June 13, 1977.

ADDRESS: Send Comments to: Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT:

Bill Derr, Telephone 415–556–4963.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) of October 2, 1968, as amended, designates the entire Middle Fork of the Feather River downstream from the confluence of its tributaries one kilometer south of Beckwourth as a component of the national wild and scenic rivers system. The Act requires the lands included in the river area to be described and classified into three types of areas, including "wild river areas" which are those sections "that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America."

The Chief of the Forest Service described and classified the land and issued a development plan for it at 35 FR 4219. Two wild river areas were classified and described, which are known as the Bald Rock Canyon Wild River Zone and the Upper Canyon Wild River Zone. Regarding management direction for these zones, the plan states "Public vehicular access to the river in this zone will be limited to the four 'vehicular ways' shown on the map of the river area." Two of these vehicular ways are closed to the public, and this proposed regulation would continue to require a permit for their use. The other two are known as the Stag Point and Cleghorn Bar Trails which are open for public use.

Besides the need to restrict vehicular access to these wild portions of the river, the Forest Service has previously found it necessary to prohibit other motors and motorized equipment in the area. The wild nature of the river makes the operation of motor boats unsafe. And the operation of any type of motor, whether portable or stationary, is incompatible with the primitive nature of the zones and interferes with their quiet enjoyment. Some types of motors could cause water pollution or other damage to the wild and pristine character of the property.

For all of these reasons, the California Regional Forester has prohibited all motors and motorized equipment in these wild river zones, except on the Stag Point and Cleghorn Bar trails or when authorized by permit, since April 30, 1973. These prohibitions were established under various sections in 36 CFR Chapter II as it existed before February 15, 1977. Effective on that date, each of those sections was amended, revoked, or revised so as to inadvertently preclude continuing these prohibitions. Consequently, the primary purpose of this proposal is not to establish new restrictions but to continue with substantially the same prohibitions which were previously in effect.

INADEQUACY OF EXISTING PROHIBITIONS

36 CFR 261.70(b) requires that regulations issued under Subpart C of 36 CFR Part 261 not be contrary to or duplicate any prohibition established under existing regulations. 36 CFR 261.16(a) prohibits possessing or using a motor or motorized equipment, with certain exceptions, in a national forest wilderness. The two wild river zones involved in this proposal are not a part of any such wilderness so that this prohibition does not apply. However, the same considerations which establish the need for § 261.16(a) are equally applicable to this proposal.

36 CFR 261.54(a), 261.55(b), and 261.56 provide a method for prohibiting the possession or use of certain types of vehicles. 36 CFR 261.58(n) provides a method for prohibiting the possession or use of a motor boat. However, none of these regulations permits proscribing the possession or use of a motor or motorized equipment not contained in a vehicle or boat. In any case, no prohibitions in these wild river zones have been established under those regulations. It is essential that the possession and use in the wild river zones of all types of motors, whether portable or stationary, be regulated. To avoid confusion of the public as well as erroneous citations by forest officers, this should all be done in a single regulation.

PENALTY FOR VIOLATION

If the proposed regulation is promulgated, any violation of it shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. See 16 U.S.C. 551 and 1281(d).

PROPOSED RULE

In consideration of the foregoing and pursuant to 36 CFR 261.70 and the authority delegated to me at 42 FR 3009, in order to establish reasonable rules of public conduct and protect property and public safety, I propose to amend 36 CFR 261.75 to read:

§ 261.75 Regulations applicable to Region 5, California Region, as defined in § 200.2.

(a) *Definitions.* In this section: (1) "Middle Fork of the Feather River" means the river and land area in or adjacent to Plumas National Forest described as the "River Area" in the notice at 35 FR 4219 or any amendment to that notice.

(2) "Motorized equipment" means any equipment having or using an engine or motor, except small battery-powered handheld devices such as cameras, shavers, flashlights, and Geiger counters.

(3) "Wild river zone" means the area described as the Bald Rock Canyon Wild River Zone or as the Upper Canyon Wild River Zone in the notice at 35 FR 4219 or any amendment to that notice.

(b) *Prohibitions.* (1) Possessing or using motorized equipment in the wild river zone of the Middle Fork of the Feather River, except on the Stag Point Trail or the Cleghorn Bar Trail, is prohibited.

(2) Paragraph (b)(1) of this section does not apply to any equipment authorized by a permit from the Forest Supervisor, Plumas National Forest, containing such terms and conditions as he considers necessary for the protection or preservation of the wild river zone or the health, safety or welfare of its users. Violation of any term or condition of such a permit is prohibited.

(30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 10(d), Pub. L. 90–542; 82 Stat. 916 (16 U.S.C. 1281(d)); 35 FR 4219; 42 FR 2968, 7 CFR 2.60; 42 FR 2960, 36 CFR 261.70; 42 FR 3009.)

DOUGLAS R. LEISZ,
Regional Forester,
California Region.

[FR Doc.77–13687 Filed 5–12–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 144, 168, 175, 176, 178, 178a, and 190]

STUDENT CONSUMER INFORMATION; STATE STUDENT ASSISTANCE TRAINING; STUDENT ELIGIBILITY; PROCEDURES FOR LIMITATION, SUSPENSION, OR TERMINATION OF INSTITUTIONAL ELIGIBILITY

Extension of Comment Period

AGENCY: Office of Education, HEW.

ACTION: Proposed rules, extension of comment period.

SUMMARY: The Office of Education extends the comment period for four Notices of Proposed Rulemaking that appeared in the FEDERAL REGISTER on April 8, 1977. The four Notices involved proposals concerning: 1. Institutional and Financial Assistance Information for Students (Student Consumer Information) (42 FR 18747); 2. Incentive Grants for State Student Financial Assistance Training Programs (42 FR 18750); 3. Eligibility for Student Assistance (42 FR 18738); and 4. Procedures for Limitation, Suspension, or Termination of Institutional Eligibility for Programs under Title IV of the Higher Education Act of 1965, as amended (42 FR 18743). The comment period is being extended because several persons have requested additional time to comment on the proposed rules.

DATES: Comments for all four documents must now be received on or before May 23, 1977.

ADDRESSES: Send comments to: Division of Eligibility and Agency Evaluation, Room 3030, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Mr. John R. Proffitt at the above address, Telephone 202–245–9875.

SUPPLEMENTARY INFORMATION: Availability of Comments For Public Inspection.

Comments will be available for public inspection in Rooms 3030, 3661, and 4068, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

Dated: May 4, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: May 9, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc.77–13798 Filed 5–12–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 31]

[Docket No. 21230; FCC 71–301]

CLASS A AND CLASS B TELEPHONE COMPANIES

Uniform System of Accounts

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: These proposed rules would amend the Commission's Accounting Rules and Regulations (Uniform System of Accounts), 47 CFR §§ 31.100:2, 31.100:3, 31.2–22 and 31.6–60 (1976). The amendments are intended to bring the Commission's Uniform System of Accounts into accord with the ratemaking principles adopted in the Commission's Phase II Final Decision and Order in American Telephone and Telegraph Co., FCC 77–150, ____ FCC 2d ____ (Docket No. 19129), released March 1, 1977. The Commission noted in its Decision that certain of the ratemaking principles adopted therein would require changes to the rules under which Class A and Class B telephone companies presently keep their books of account and determined that such changes should be pursued in a separate proceeding. Under section 220(i) of the Communications Act, 47 U.S.C. 220(i) (1971), notice of proposed changes to the accounting rules must be given to the several States so that they may have opportunity to comment on the proposals. Accordingly, the present Notice of Proposed Rulemaking is issued to give the State Commissions notice of FCC's intent to change the accounting rules, appraise the State Commissions of the proposed new rules and solicit any pertinent comments on the proposed rules which they may choose to submit.

DATES: Comments from the State Commissions should be submitted on or before June 13, 1977 and reply comments on or before June 23, 1977. The proposed

V 42 93 MAY 13 7 7 UMI

effective date for the amendments is January 1, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Virginia O. Brockington, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau, 202–632–3864.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies.

Adopted: April 28, 1977.

Released: May 9, 1977.

By the Commission: Commissioner Lee absent; Commissioner Hooks concurring in the result.

1. Notice is hereby given, pursuant to Sections 4i, 4j and 220 of the Communications Act of 1934, 47 U.S.C. 154i, 154j and 220 (1971), of proposed rulemaking in the above-captioned matter.

2. In our Phase II Final Decision and Order (Decision) in American Telephone and Telegraph Co., FCC 77–150 FCC 2d (Docket No. 19129), released March 1, 1977, we prescribed among other things, the treatment of certain plant and expense items for ratemaking purposes. Although the investigation in Docket No. 19129 was limited to the operations of the American Telephone and Telegraph Company and the Associated Bell System Companies (AT&T), we believe that the conclusions reached therein should be rules of general applicability and that the Commisison's Uniform System of Accounts, Part 31 of our rules and regulations, 47 CFR 31.1 et seq., should be rules of general applicability and that the Commission's Uniform System of Accounts, Part 31 of our rules and regulations, 47 CFR 31.1 et seq., should therefore reflect the rate base prescriptions. However, as we noted in our Decision, orderly implementation of certain of those prescriptions—namely, Plant Under Construction and Plant Held for Future Use—will require amendment of the Uniform System. See Decision, paras. 154, 162.

3. Turning first to the question of Plant Under Construction, Account 100.2, 47 CFR 31.100:2, our Decision differentiated between short- and long-term construction projects and specified the circumstances under which investment in each would be allowed in the rate base and the circumstances under which interest during construction would be accrued with respect to the latter. See Decision, paras. 150–1. Accordingly, to reflect these accounting prescriptions we propose the revisions to §§ 31.100:2 and 31.2–22 of our Rules, 47 CFR 31.100:2, 31.2–22, set forth below.

4. Similarly, with respect to Plant Held for Future Use, Account 100.3, 47 CFR 31.100:3, we prescribed in our Decision a bifurcated treatment which differentiates between property that will be placed in service in the near future and that which will enter later. We stated that continued inclusion of such property presently in the rate base turns on whether the property is held under a definite plan for imminent use. See Decision, para. 159. We further concluded that an objective test for determining "imminent use" would be appropriate and concluded that actual use within a two year period would be a reasonable standard. Id at 160. Accordingly, we propose the revisions to 47 CFR 31.100:3 set forth in the Appendix to make clear that amounts invested in property held for future use may remain in Account 100.3 no more than two years. Further, we propose that for investment in property held in Account 100.3, but not actually placed in service within two years, the amounts of such investment must be transferred to Account 103, 47 CFR 31.103, Miscellaneous Physical Property, absent a waiver, See Decision, para. 161.

5. In our Decision, we also treated the payments AT&T makes to academic institutions and individual academics for a variety of services, See Decision, paras. 231–3 and footnote III. As we noted, we are concerned whether "academia" payments benefit the interstate ratepayer. The present accounting for such payments prevents us from identifying or inquiring into the propriety of most such payments. Accordingly, we propose to add to § 31.6–60 of our rules, 47 CFR 31.6–60, a note requiring carriers to identify all academic payments and to indicate the name of the recipient, the amount and the purpose thereof.

6. Accordingly, pursuant to section 220(i) of the Act, 47 U.S.C. 220(i), we hereby give notice to the state commissions of the above proposed accounting changes. If, within 30 days from the date of the Notice, we have received no comments, the accounting changes proposed herein shall become effective for calendar year 1978.

7. This Notice of Proposed Rulemaking is issued under authority contained in sections 4(i), 4(j) and 220 of the Communications Act of 1934, 47 U.S.C. §§ 154 (i), 154(j), and 220 (1971).

8. In accordance with applicable procedures set forth in 47 CFR 1.415 (1976), interested persons may file comments on or before June 13, 1977 and reply comments on or before June 23, 1977.

9. In accordance with the provisions of § 1.419 of the Commission's rules, 47 CFR 1.419 (1976), an original and 5 copies of all statements or briefs shall be furnished to the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Broadcast and Dockets Reference Room.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended to read as follows:

§ 31.1–15 [Amended]

1. In § 31.1–15 the reference to § 31.2–22(b)(10)(ii) in parentheses at the end of paragraphs (d), (e) and (g) is changed to read § 31.2–22(b)(10).

2. In § 31.100:2, paragraph (a) is amended, paragraph (b) is redesignated as paragraph (e), and new paragraphs (b), (c) and (d) are added to read as follows:

§ 31.100:2 Telephone plant under construction.

(a) This account shall include the original cost of construction of telephone plant, other than station apparatus and station connections, that is not completed ready for service. It shall include interest during construction, except as provided for in paragraph (c) of this section, taxes during construction, and all other elements of costs of such construction work. (Note also §§ 31.2–20 to 31.2–22 and account 231.)

(b) This account shall be subdivided so as to show separately the cost of construction projects (1) designed to be completed in 1 year or less and (2) designed to be completed in over 1 year.

(c) When plant includible in subdivision (1) is not ready for service at the end of 1 year, the cost of the plant shall be transferred to subdivision (2) of this account without further direction or approval by this Commission. If a construction project has been suspended for six months or more, the cost of the plant includible in subdivision (1) shall be transferred to subdivision (2) of this account without further direction or approval by this Commission. No amount of interest during construction shall be accrued retroactively in this account for any telephone plant which was once included in subdivision (1) of this account.

(d) When the cost of telephone plant has been included in subdivision (2) of this account, interest during construction shall be accrued as provided for in § 31.2–22(b)(10). (See paragraph (c) of this section.)

(e) When any telephone plant, the cost of which has been included in this account, is completed ready for service, the cost thereof shall be credited to this account and charged to the appropriate telephone plant or other accounts.

NOTE: There may be charged directly to the appropriate plant accounts the cost of any construction project which is estimated to be completed ready for service within two months. There may also be charged directly to the plant accounts the cost of any construction project for which the gross additions to plant are estimated to amount to less than $10,000.

3. In § 31.100:3 paragraph (a) is revised to read as follows:

§ 31.100:3 Property held for future telephone use.

(a) This account shall include the original cost of property other than station apparatus, owned and held for no longer than 2 years under a definite plan for use in telephone service. At the end of 2 years the original cost of the property shall be transferred to account 103, "Miscellaneuos physical property." Should a carrier desire to retain the property in this account for a longer period, it shall request direction or approval of this Commission according to the circumstances surrounding that property.

* * * * *

4. In § 31.2–22 paragraph (b)(10) is amended to read as follows:

§ 31.2–22 Cost of construction.

* * * * *

(b) * * *

(10) "Interest during construction" includes the amount of interest upon all moneys including the company's own funds, used in the acquisition or construction of telephone property. Interest during construction, compounded annually, shall be accrued by construction projects, as provided for in § 31.100:2(d), at the prime rate and charged to account 100.2, "Telephone plant under construction," and credited to account 313, "Interest income." During a period of suspension of a construction project, no interest charge for a longer period than 6 months from the date of its suspension shall be included in these accounts unless specifically authorized by this Commission. No interest charges shall be included in these accounts on expenditures for construction projects which have been definitely abandoned.

* * * * *

5. § 31.6–60 is amended by adding a note to read as follows:

§ 31.6–60 Purpose of operating expense accounts.

* * * * *

NOTE.—The company's records shall be maintained so that payments to individuals for academic programs, payments to organizations for conducting seminars and payments for company-run seminars, identifiable by recipient and by service performed, shall be readily available for reports to this Commission.

[FR Doc.77–13784 Filed 5–12–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 218]

[Docket No. RSOR–3, Notice 8]

BLUE SIGNAL PROTECTION OF WORKMEN

Railroad Operating Rules; Rescheduling of Hearing Date

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Rescheduling of Hearing on Notice of Proposed Rulemaking (NPRM).

SUMMARY: On April 18, 1977, the FRA published in the FEDERAL REGISTER an NPRM concerning the dual requirement for the use of an effective locking device and the display of a blue signal at each manually operated switch providing access to track upon which workmen are working on, under, or between railroad rolling equipment (42 FR 20154). The purpose of this notice is to change the date for the public hearing on this proposed rule to Wednesday, June 1, 1977.

DATES: Written comments must be received on or before May 21, 1977. Comments received after that date will be considered to the extent practicable.

A public hearing will be held on Wednesday, June 1, 1977, at 10 a.m.

ADDRESSES: *Submission of written comments.* Written comments should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street S.W., Washington, D.C. 20590.

Examination of written comments. All written comments received will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street S.W., Washington, D.C.

Hearing to be held at: Rm. 4234, 400 Seventh St. S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Anne-Marie Hyland, 202–426–8836.

SUPPLEMENTARY INFORMATION: On April 18, 1977, the FRA published an NPRM concerning the dual requirement for the use of an effective locking device and the display of a blue signal at each manually operated switch providing access to track upon which workmen are working on, under, or between railroad rolling equipment (42 FR 20154). The notice asked for public comment concerning the alleged redundancy of these dual requirements. Written comments received on or before May 31, 1977, will be considered before final action is taken in this proceeding. In addition, a public hearing is scheduled for May 19, 1977.

Because of conflicting commitments on May 19, 1977, the United Transportation Union (UTU) has requested that the hearing be rescheduled. In order to assure the UTU an opportunity to present its views at the public hearing, the FRA has decided to cancel the May 19, 1977, hearing and to reschedule the hearing date.

FRA has decided to hold the hearing on Wednesday, June 1, 1977, in Room 4234, 400 Seventh Street, S.W., Washington, D.C. at 10 a.m. This date has been selected because it appears to be the earliest date which will accommodate previous scheduling arrangements of FRA personnel and other parties that have advised FRA of their intent to participate at the hearing.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by sec. 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94–348, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary. (49 CFR 1.49(n)).)

Issued in Washington, D.C., on May 11, 1977.

RAYMOND K. JAMES,
Chief Counsel.

[FR Doc.77–13901 Filed 5–12–77;8:45 am]

V 42 93 MAY 13 77 UMI

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

EXPERT PANEL ON NITRITES AND NITROSAMINES

Meeting and Agenda

Notice is hereby given of a meeting of the Expert Panel on Nitrites and Nitrosamines to be held in the Jefferson Auditorium, South Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C., May 31, 1977, at 9:30 a.m.

During the meeting, consideration will be directed to the problems involved when nitrite is used at levels necessary only to give products their characteristic organoleptic properties without offering protection against the development of botulinal toxin. Other methods of preservation, such as heating, freezing, drying, salting, irradiation and use of chemical preservatives will be examined to see if the dangers of botulism can be eliminated or minimized without destruction of the product's traditional properties.

The objectives of the Panel's deliberations would be to see (1) if the reduced nitrite usage would eliminate nitrosamine formation where it is still a problem and reduce the amounts of residual nitrite to which consumers are subjected, while at the same time permitting production of products with typical cured characteristics; and (2) whether product characteristics would be retained when other means of preservation are employed; and to consider any matters relevant thereto.

A review of the botulism hazard with cured meats, requested by the panel during their last meeting, will be presented. Also, an update will be presented on the status of nitrite usage in poultry products.

The meeting will be open to the public and under the direction of the Panel Chairperson or her designee. Written statements may be filed with the Panel before or after the meeting. Any member of the public who wishes to attend or who has further questions should contact: Irwin Fried, Product Labels, Packaging and Standards Staff, Scientific and Technical Services, Food Safety and Quality Service, Room 202-Annex Building, U.S. Department of Agriculture, Washington, D.C. 20250. Area Code 202-447-6042. Any person wishing to file a statement may send it to the above address.

Subsequent meetings will be held on or about June 27, July 25, and September 7, 1977.

Dated: May 9, 1977.

HARRY C. MUSSMAN,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc.77-13832 Filed 5-12-77;8:45 am]

Rural Electrification Administration

BIG RIVERS ELECTRIC CORP.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $176,000,000 to Big Rivers Electric Corporation, of Henderson, Kentucky. These loan funds will be used to finance the construction of a 235 NW coal-fired generating unit, approximately 50 miles of 161 kV transmission line and related facilities, and new headquarters facilities and modifications.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Marshall R. Dorsey, Manager, Big Rivers Electric Corporation, P.O. Box 24, Henderson, Kentucky 42420.

In order to be considered, proposals must be submitted by June 13, 1977, to Mr. Dorsey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Big Rivers and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 5th day of May 1977.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc.77-13830 Filed 5-12-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30842, 30847, 30853; Order 77-5-26]

EMERGENCY AIR TRANSPORTATION REQUIREMENTS

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of May, 1977.

On May 4, 1977, Alaska Airlines, Inc. (ASA) requested an exemption from Title 4 of the Federal Aviation Act of 1958 (The Act) pursuant to Section 416(b) of the Act to carry persons, property and mail between Fairbanks or Anchorage, Alaska, on the one hand, and Nome and Kotzebue, Alaska, on the other hand. ASA also requests exemption authority to operate between Fairbanks and Point Barrow. On May 5, 1977, Alaska International Air, Inc. (AIA) and Northern Air Cargo, Inc. (NAC) also filed a request for an exemption from Title IV of the Act to authorize the carriage of property and mail over certain designated routes currently operated by Wien Air Alaska, Inc. (Wien). All of the requests have been prompted by the imminent possibility of a pilot work stoppage against Wien which, should it occur, will commence at midnight (EDST), Saturday, May 7. The applicants maintain that the points affected are extremely isolated and have a vital dependence on air service for foodstuffs and basic supplies. The exemptions are requested for the purpose of continuing the provision of essential air service to the affected Alaskan communities. If granted, the exemptions would be contingent upon and effective for the duration of the strike.

Upon consideration of the various requests, the Board has determined that an extreme emergency may be created at points on Wien's system should the work stoppage materialize. The Board recognizes the particular vulnerability of these communities to cessations in air service due to their special dependence on air transportation. However, because of the number of requests which have been submitted and the desire of the Board to effect expeditious and effective responses to this situation, we have decided to delegate authority to the Director, Bureau of Operating Rights beginning on May 6, 1977, and, terminating on June 5, 1977 (unless sooner terminated or extended), to grant or deny, in whole or in part, any and all requests for exemption or special operating authorizations which may arise out of this exigency.

As in the past, we reiterate that, by our actions herein it is not our intention to intervene in a labor controversy to favor one side against the other, nor to contravene any national labor policy. Our sole purpose is to alleviate, to the extent possible, public hardship which inevitably results from such strikes. (See Order 75-12-77, December 17, 1975, and Order 76-9-139, September 24, 1976.) We believe that the actions taken by the Director pursuant to the authority delegated herein will not impact adversely upon any labor negotiations and can have only an extremely negligible effect, if any, upon the forces normally in play between management and labor in these situations.

Accordingly, *It is ordered*, That: 1. Authority is hereby delegated to the Director, Bureau of Operating Rights (the Director), to act for the Board on requests for emergency exemption under Section 416(b) of the Act and/or for special operating authority to conduct operations for the transportation of persons, property and mail between and among points affected by the work stoppage anticipated against Wien Air Alaska, Inc. beginning May 7, 1977;

2. In the absence of a further order of the Board, all operating authority granted pursuant to this order of delegation shall expire not later than June 5, 1977;

3. In the exercise of delegated authority, the Director is authorized in his discretion to act before the receipt of answers, and petitions for review of the Director shall not stay the effective date thereof;

4. Communications subject to the procedures established herein may be made orally pursuant to 14 CFR 300.2(c)(5), but such application shall be put into telegraphic or written form within 24 hours and, if in telegraphic form, shall be followed within 5 days with a written notice served in accordance with the Board's rules of practice;

5. Any interested person objecting to any provision of this order shall file such objections with the Board within 5 days from the date of service of this order, but the filing of objections shall not stay the effectiveness of this order;

6. This order may be amended or revoked at any time at the discretion of the Board; and

7. This order shall be served on all certificated air carriers of interest, the states of Alaska, Washington, all affected cities, and union representatives of the employees of both Alaska Airlines and Wien Air Alaska.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-13778 Filed 5-12-77;8:45 am]

[Docket No. 29035; Order 77-5-28]

WIEN AIR ALASKA, INC. Subsidy Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of May 1977.

By this order, the Board is proposing to establish final subsidy rates for Wien Air Alaska, Inc. (Wien) to be effective on and after March 23, 1976. Orders 76-3-147 [1] and 76-4-181 [2] instituted an investigation of Wien's subsidy mail rates, reopened its final subsidy rate as of March 23, 1976 [3] and directed the carrier to supply relevant information for the year ended March 31, 1976, and for forecast annual periods ending March 31, 1977, and March 31, 1978.

The requested information was received on July 30, 1976. Subsequent to analysis of this information, an informal mail rate conference was convened on March 3, 1977, pursuant to Rules 311-321 of the Rules of Practice.

After a full examination of all the available data, we have tentatively determined that under honest, economical, and efficient management, the fair and reasonable annual rates of compensation to be paid to Wien are those proposed herein.

For calendar years 1974 and 1975, Wien experienced highly favorable system rates of return on investment.[4] It was on the basis of these rates of return that this investigation was originally instituted. Preliminary reports filed with the Board indicate that Wien's system rate of return for calendar year 1976 declined to 7.1 percent from the levels reached in the previous two years.

At the informal conference, the parties recognized forecast system needs of $2.8 and $2.4 million for annual periods ending March 31, 1977, and 1978, respectively, and a projected subsidy-eligible need of $2.1 million for each period. (See attached Appendix A.[5]) These forecasts take into account labor cost increases based on currently effective contracts, as well as traffic levels projected on an assumption of declining pipeline activity. (See attached Appendix B.)

Although the general wage inflation evident in the Alaskan economy as a result of the pipeline-related activity should continue to exert pressure on Wien's operating costs, the Board feels that management possesses sufficient flexibility to deal with this problem as it arises. We, therefore, feel that an annual subsidy rate of $2.1 million for the period ending March 31, 1978, should allow Wien an opportunity to maintain and develop the air services vital to the state of Alaska.

Farther in the future, as the general inflationary trend of the Alaskan economy subsides with the stabilization of petroleum-related activity and as Wien realizes the full cost savings from closing its F-27 maintenance base in Fairbanks, we are confident that Wien's financial results will improve to the point where reduction of its subsidy rate will be necessary. We believe that the improvement will be sufficient to allow a $300,000 annual reduction in subsidy effective April 1, 1978, and a further $250,000 annual reduction effective April 1, 1979, and still afford Wien the opportunity to earn a fair and reasonable rate of return.

Although we are aware of the difficulties involved in forecasting future subsidy needs with precision, we believe that, on the basis of the carrier's historical performance and reasonable expectations of the future, these proposed subsidy rates are both fair and reasonable. We would make it clear, however, that should events prove otherwise, the Board would not hesitate to reopen this rate should it appear excessive, nor would we view with prejudice any petition from Wien requesting increased compensation should events so dictate.

Based on the foregoing, we find that under honest, economical, and efficient management, the fair and reasonable annual rates of compensation to be paid to Wien, in addition to the service mail rates as established in other Board orders, are as follows:

	Dollars
March 23, 1976, through March 31, 1978	2,061,893
April 1, 1978, through March 31, 1979	1,750,048
April 1, 1979, and thereafter	1,500,059

On May 7, 1976, Saturn Airways, Inc. (Saturn), petitioned for leave to intervene in Docket 29035. In support of its petition, Saturn alleges that it is authorized to engage in supplemental air transportation between Alaska and the other forty-nine states, it is an applicant in Docket 28731 for authorization to perform charter cargo service within Alaska, and it has been granted exemption authority to perform trips under MAC contract within the state of Alaska. Because Wien holds certificate authority to perform scheduled and charter cargo flights in these markets, Saturn alleges that it is a competitor and, thus, is directly affected by the relationship of such cargo operations and the subsidy need determinations to be made here. Saturn cites Seaboard and Western Airlines, Inc. v. CAB [6] in support of its right to intervene

[1] Dated March 23, 1976.
[2] Dated April 30, 1976.
[3] Pending the determination of a final subsidy rate, Wien has been receiving a temporary rate on the basis of the previous final rates established by Order E-26790, May 14, 1968.
[4] Reported net income, before subsidy, plus interest expense, against adjusted investment; 1974, 14.1 percent, 1975, 10.6 percent.
[5] Appendices A and B were filed as a part of the original document.
[6] 181 F. 2d 515 (D.C. Cir. 1949), cert. denied, 399 U.S. 963 (1950).

V 42 93 MAY 13 77 UMI

on the grounds of this competitive relationship. Saturn further alleges that its participation in this proceeding may reasonably be expected to assist in the development of a sound record, no existing party can properly represent Saturn's interests, and its participation will not unduly burden the issues or delay the proceedings.

Wien filed an answer in opposition to this petition on May 17, 1976. In this answer, Wien alleges that Saturn is not entitled to intervene of right, and that it has failed to show that any of its interests will be affected by the proceeding, or that its participation may be expected to assist the Board in resolving the issues herein and will not result in delay.

Wien further alleges that the Board has long recognized that the pendency of an application for authority to engage in air transportation within a geographical area does not entitle the applicant to intervene in proceedings relating to existing services within that area. Wien also claims that Saturn is not a competitor in any realistic sense. The only possible area of regularly authorized competition is with respect to off-route charter operations permitted by Part 292 of the Economic Regulations. Wien claims that Saturn is not assisted by Order 75–10–41, which granted Saturn an exemption to operate a specified number of military charters within Alaska, because that order recited the inability of the Alaskan certificated carriers to provide the service involved, reaffirmed the Board's prohibition against operations within Alaska by supplemental air carriers, and authorized only 27 flights.

Wien further asserts that, even if one were to assume for the sake of argument that there might be some basis for claimed competition between the two carriers, Saturn should not be allowed to intervene. Saturn has failed to set forth in sufficient detail the level of competitive activity between it and Wien and, even where competition could exist, those operations are not underwritten with subsidy. Wien also claims that Saturn cannot be expected to assist in the development of a sound record and its intervention will only result in the delay and burdening of the proceeding.

On June 7, 1976, Saturn filed a motion for leave to file an unauthorized document and a consolidated reply to the answers of Wien and Alaska Airlines, Inc.[7] In this reply, Saturn claims that although past competition with Wien may have been minimal, the possibility of substantial additional economic competition exists under the present operating authority held by the two carriers and this competition could be unfairly encouraged and supported as a result of the subsidy determinations made in this proceeding. Saturn further states that the concern here is not the direct underwriting of thesee operations, but the potential for excess mail payments for other services which would indirectly [8] subsidize them. Since the effect of subsidy determinations on the future competitive position of Wien will directly impact Saturn, the carrier claims a right to participate and protect itself, again citing the Seaboard case.

By virtue of a merger on November 30, 1976, Trans International Airlines, Inc. (TIA), has become the successor to Saturn's interests in this proceeding. We will, therefore, deal with the petition as if it were TIA's.

In arriving at a decision with regard to the disposal of this petition, we concerned ourselves with the extent of TIA's competitive interest vis-a-vis Wien. Finding that this interest is inconsequential, we will deny TIA's petition to intervene in Docket 29035.

In its original petition, TIA bases its claim of substantial interest in this proceeding on three different types of operating authority. Subsequent to the filing of its petition and consolidated reply, TIA requested that its application for intrastate operating authority within Alaska, filed in Docket 28731, be dismissed. The application was dismissed by Order 77–3–17,[9] to be effective March 21, 1977. This basis for its intervention claim is, therefore, rendered moot.

TIA also claimed a competitive interest by virtue of its exemption authority granted in Order 75–10–41. We do not view this authority as being competitive with that held by Wien, since this special authority was granted, in part, because none of the Alaskan certificated carriers possessed the equipment necessary to provide the desired military charter services.

The only truly competitive authority held by both TIA and Wien involves charter operations between Alaska and the other forty-nine states. TIA's certificate authorizes it to engage in supplemental air transportation in this market, among others. Wien's authority in this market is subject to Part 292 of the Economic Regulations, and trips operated in this market under Part 292 authority must be "• • • casual, occasional, or infrequent, • • •."

Past charter operations conducted by Wien in this market have been minimal, at best, and we have no indication that the level of future operations of this type will increase. In fact, the forecasts used in the determination of the subsidy rates proposed herein were based on operations totally exclusive of charter. Combined with the fact that these operations are not underwritten with subsidy, plus our view that the proposed subsidy rates obviously do not represent an overpayment for those services eligible for subsidy, we do not feel that denial of its petition for leave to intervene will peril any of TIA's interests.

Therefore, based on the above, we have decided to deny the petition of TIA, as successor to Saturn's interests, for leave to intervene as a party in this proceeding. We would like to make it clear, however, that denial of this petition will in no way affect the ability of TIA to submit a memorandum with respect to this order pursuant to sec. 302.302.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204 (a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

It is ordered, That: 1. Wien Air Alaska, Inc. is directed to show cause why the Board should not fix, determine, and publish as the fair and reasonable final rates of compensation to be paid Wien for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between the points between which the carrier has been, is presently, or hereafter may be authorized to transport mail by its certificate of public convenience and necessity, the sum of (a) the carrier's service mail pay as established in other orders of the Board,[10] and (b) subsidy as follows:

1. For the period March 23, 1976, through March 31, 1976, inclusive, the sum of $61,516.26;

2. For each calendar month on and after April 1, 1976, in which miles designated by the Postmaster General for the transportation of mail are flown, an amount determined by multiplying the appropriate rate stated below by the scheduled miles flown during the month, or the appropriate base mileage times the number of days in the month, whichever is lower: [11]

Period of operation	Rate per mile (cents)	Daily base mileage
Apr. 1 through Apr. 30, 1976	107.64	6,350
May 1 through Oct. 31, 1976	53.36	8,400
Nov. 1, 1976 through Apr. 30, 1977	107.64	6,350
May 1 through Oct. 31, 1977	53.36	8,400
Nov. 1, 1977 through Mar. 31, 1978	107.64	6,350
Apr. 1 through Apr. 30, 1978	91.36	6,350
May 1 through Oct. 31, 1978	45.29	8,400
Nov. 1, 1978 through Mar. 31, 1979	91.36	6,350
Apr. 1 through Apr. 30, 1979	78.31	6,350
May 1 through Oct. 31, 1979, and the like 6-month period in each succeeding year	38.82	8,400
Nov. 1, 1979 through Apr. 30, 1980, and the like 6-month period in each succeeding year	78.31	6,350

Provided, That the rates set forth above shall be reduced by any adjusted annual capital gain in accordance with the provisions set forth in Appendix B to the Capital Gains Proceeding, 29 C.A.B. 384 (1959), as such Appendix may be amended from time to time, and said Appendix B is incorporated by reference herein.

The scheduled revenue plane miles flown shall be computed on the direct airport-to-airport mileage between the points actually served on each revenue trip operated over Wien's authorized routes pursuant to its flight schedules filed with the Board including all revenue trips operated as extra sections thereto.

[8] Emphasis supplied by Saturn.

[7] We will grant Saturn's motion.

[9] March 3, 1977.

[10] This order is not intended to affect Wien's service mail rates as established in other applicable orders of the Board.

[11] In accordance with normal practice with regard to Alaskan carriers, the rate is designed to provide Wien with 60 percent of the annual payment for services during the low-revenue, higher-subsidy-need months of November through April.

The compensation proposed herein shall be in lieu of, and not in addition to, the mail compensation heretofore received by Wien for mail transported on and after March 23, 1976.

2. All further procedures herein shall be in accordance with the Rules of Practice, particularly Rule 302, et seq., and if there is any objection to the rates specified in this Order, notice thereof shall be filed within 10 days, and, if notice is filed, written answer and supporting documents shall be filed within 30 days, after the date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the final subsidy rate specified herein.

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

5. The June 7, 1976, motion of Trans International Airlines, Inc., as successor to Saturn Airways, Inc., for leave to file an unauthorized document be and it is hereby granted.

6. The petition of Trans International Airlines, Inc., as successor to Saturn Airways, Inc., for leave to intervene in Docket 29035 be and it is hereby denied.

7. This Order shall be served on Wien Air Alaska, Inc., and the Postmaster General of the United States.

This order will be published in the FEDERAL REGISTER.

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By the Civil Aeronautics Board.

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PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–13779 Filed 5–12–77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Data

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P–28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1976, for which tabulations were completed between April 1, 1977, and April 30, 1977.

Dated: May 9, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
McGehee City	Desha	Feb. 1, 1977	5,413
Springdale City	Benton and Washington	Jan. 26, 1977	20,875
Idaho: Middleton City	Canyon	Feb. 28, 1977	1,488
Illinois:			
Homewood Village	Cook	Sept. 28, 1976	19,679
Lake Forest City	Lake	Feb. 15, 1977	18,243
Morris City	Grundy	do	8,563
Tinley Park Village	Cook and Will	Jan. 25, 1977	23,207
Warrenville City	Du Page	Mar. 2, 1977	4,388
Washington City	Tazewell	Feb. 24, 1977	10,045
Wayne Village	Du Page and Kane	Jan. 11, 1977	820
Indiana: Columbia City	Whitley	Feb. 23, 1977	5,022
Michigan:			
Belleville City	Wayne	Feb. 2, 1977	3,200
Chocolay Township	Marquette	do	4,780
Fraser City	Macomb	Feb. 11, 1977	13,986
Genoa Township	Livingston	Jan. 19, 1977	7,229
Portage City	Kalamazoo	Feb. 2, 1977	36,533
South Carolina: Moncks Corner Town	Berkeley	Jan. 10, 1977	3,213
Texas: Crockett County		Jan. 11, 1977	4,177
Wisconsin:			
Cedarburg Town	Ozaukee	Feb. 8, 1977	5,152
Osseo City	Trempealeau	Feb. 14, 1977	1,481
Whitewater City	Jefferson and Walworth	Jan. 19, 1977	10,942

[FR Doc.77–13535 Filed 5–12–77;8:45 am]

Domestic and International Business Administration

CHILDREN'S HOSPITAL MEDICAL CENTER ET AL

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00076. Applicant: Children's Hospital Medical Center, Department of Pathology, Bldg. G, Rm. 906, 320 Longwood Ave., Boston, MA 02115. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of plant, animal, and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. In addition, the article will be used in the courses Ultrastructure and Cytochemistry which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cyto-chemical staining methods to localize various enzymes. Application received by Commissioner of Customs: January 7, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77–00082. Applicant: University of California, San Diego, Division of Anatomy, Department of Surgery, M–004 La Jolla, California 92093. Article: Ultramicrotome, Model LKB 8800A and accessories, Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning of embryonic tissues at varying stages of gestation during fine structural studies conducted on the brain, spinal cord, and vertebral regions of normal and abnormal mutant mouse and chick embryos in which neural tube closure is defective. The objectives of the experiments conducted will be to determine developmental interactions between the embryonic neural tube and its surrounding notochordial and vertebral tissues as well as changes in intraneural cerebrovascularity in response to abnormal and neural development, and to correlate structural modifications in the surface of the neural ventricular cells observed by means of transmission electron microscopy with those seen by means of scanning electron microscopy. Application received by Commissioner of Customs: January 10, 1977. Advice sub-

V 42 9 3 MAY 13 7 7 UMI

mitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77–00083. Applicant: University of Arizona, Department of Plant Pathology, Room 104, Bldg. 36, Tucson, Arizona 85721. Article: Ultramicrotome, Model LKB 8800A and accessory. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning plant, animal and fungal tissues embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells introduced by changes in their biochemical and physical environments. In addition, the article will be used in the course Methods in Plant Pathology which involves a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77–00085. Applicant: Boston University School of Medicine, 80 E. Concord Street, Boston, MA 02118. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of neonatal lung, aorta, and purified elastin specimens. Investigations will include ultrastructural studies on normal and pathologic lung and other tissues, developmental studies on *in vivo* and *in vitro* lung systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interaction and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77–00088. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for the sectioning of normal and abnormal tissues from humans, dogs, rabbits, rats and mice, viruses, bacteria, leukocytes and cultured mammalian cells. Investigations will include light, fluorescence, phase-contrast and electron microscopic studies of morphologic, radioautographical, immuno-cytochemical preparations of the above cited specimens. Relatively low magnification ultrastructural studies of cell relationships, cell-substratum relationships and morphometric analyses as well as high resolution studies of enzyme localization and membrane interactions and subcellular changes induced by bio-chemical, physiological and pathological influences will be carried out. The article will also be used for the instruction of technicians, post-doctoral fellows, research associates, and research investigators who must learn techniques for thick and thin sectioning. One to several graduate students in the Department of Cell Biology will also receive the same instruction to enable them to perform research projects in electron microscopy in fulfilling requirements for the Ph.D. Degree in Cell Biology. Application received by commissioner of customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Docket Number: 77–00098. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used to section various animal tissues which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic animal tissue, developmental studies on nervous system, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: January 19, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, s being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT–2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT–2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application Docket Number 69–00665–33–46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70–00077–33–46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorvall Model MT2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77–13741 Filed 5–12–77;8:45 am]

STANFORD UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00090. Applicant: Stanford University, 851 Welch Road, Palo Atlo, CA. 94304. Article: Electron Microscope, Model EM 201; Plate Camera and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of biological materials, including fixed and stained tissues, tissue culture material, and thin films. Experiments will involve study of synaptic populations in developing nervous tissue of the chicken and rodent. Tissues from fetal and neonatal animals will be studied in an attempt to gain information about the processes underlying the formation of connection in the adult brain. A second experiment involves the study of hypothalamic neurons which darken at specified times of the estrus cycle in rodents. The study will determine if protein synthesis or other metabolism factors correlate with this darkening. Tissue culture preparations of young neurons will involve electron microscopy as a means of assessing adhesion between developing cells. Finally, the article will be used for preparation of electron microscopic teaching materials, to be used in the cell biology and histology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (August 31, 1976).

Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article is intended to be used. We know of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special
Import Programs Division.

[FR Doc.77–13740 Filed 5–12–77;8:45 am]

YALE UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may persent their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 2, 1977.

Amended regulations issued under cited Act (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00195. Applicant: Yale University, Purchasing Dept., 20 Ashmun Street, New Haven, Conn. 06520. Article: Micro bomb combustion calorimeter and accessories. Manufacturer: Swedish Enthalpy, Sweden. Intended use of article: The article is intended to be used for combustion calorimetry studies to determine the thermal energy content. Application received by commissioner of customs: April 21, 1977.

Docket Number: 77–00196. Applicant: Yale University School of Medicine—Section of Cell Biology, 333 Cedar Street, New Haven, Conn. 06510. Article: Electron Microscope, Model JEM–100CX/SEG and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry on research on tissues, cells, subcellular components from a variety of sources. The structure, surface morphology, and interaction of cells and subcellular components with physiological and experimental ligands will be investigated. Experiments to be conducted will cover analysis of structural aspects of basic functions, e.g., vessel (capillary) permeability; secretary process in cells producing digestive enzymes and hormones; membrane biogenesis in hepatic cells, and membrane biogenesis as altered by neoplastic transformation in mouse leukemia cells. The article will also be used for advanced training and research of graduate students, postdoctoral fellows and research associated. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77–00197. Applicant: William Paterson College, 300 Pompton Road, Wayne, New Jersey 07470. Article: Cryokit for Cryo-ultramicrotomy, Model LKB 14800–1 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study the effects of cryo-protectants on animal tissues, e.g., heart, spleen and liver tissues of rats. The experiments to be conducted include the use of cryo-protectants, such as fluorocarbon compounds, as a media for storing frozen tissues for extended periods of time. Enzyme activity levels will be measured and the tissue will be examined under the electron microscope for structural damage. The objectives pursued in the course of the investigations include the development of a suitable media for storing frozen organs so that when the tissue is thawed there is negligible damage to the structure and the biochemical activities of the organ. In addition, the article will be used in the courses: Electron Microscopy and Independent Study to prepare undergraduate students for jobs as electron microscopy technicians and graduate students for conducting research and for preparation for thesis work for their doctorate in other institutions. Application received by Commisisoner of Customs: April 21, 1977.

Docket Number: 77–00198. Applicant: Oklahoma Children's Memorial Hospital, 940 N.E. 13th Street, Oklahoma City, Oklahoma 73126. Article: (Ultramicrotome) Ultrotome, Model UM IV 2128–010 LKB and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the examination and investigation of biological materials related primarily to effects of disease or experimental conditions on living systems. Experiments to be conducted will include: (i) Studies of viral infestations as possible etiological explanations for various diseases in children. (ii) Studies of role of platelets and plasma clotting proteins in the formation of clots both in vivo and in model systems, (iii) Studies of specific labeling of membrane constituents to map topography of membranes and changes which alter when parameters are altered. In addition, the article will be used for educational purposes in a course in electron microscopy to train people in fields other than morphological sciences how to use electron microscopy to acquire information about the molecular structure of their experimental systems to augment their own particular expertise. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77–00199. Applicant: Massachusetts General Hospital, Department of Pathology, Fruit Street, Boston, Massachusetts 02114. Article: LKB 8800A Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study biological, mainly mammalian tissues, and culture systems derived from experimental animals and man, and exhibit both normal and pathologic structure. Properties of materials and phenomenon to be studied are those necessary for the understanding of cellular interactions in culture systems including tumor destruction, and those necessary for the understanding of vesicular transport of macromolecules into and out of individual cells under varying experimental conditions. The experiments to be conducted are designed to elucidate the function of basophils and mast cells in cell-mediated hypersensitivity reactions, particularly with regard to an understanding of the role of these cells in immunologic tumor rejection. The objectives to be pursued in the course of the investigation are to reveal at the ultrastructural level the structural basis and accurate quantitation of transport of macromolecules into and from cells under physiological and pathologic conditions. Application re-

V 42 93 MAY 13 77 UMI

ceived by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00200. Applicant: University of Wisconsin, Madison, Dept. Food Microbiology and Toxicology, 1925 Willow Drive, Madison, Wisconsin 53706. Article: Ultrotome III Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study biological materials including plant, animal, and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic microbial plant and animal tissues, developmental studies on bacterial systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human diseased tissues. The article will also be used in training of graduate and post doctorate students. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00201. Applicant: Howard University, 2400 Sixth St., NW., Washington, D.C. 20059. Article: Electron Microscope, Model Elmiskop 102. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used as part of a multiuse cell and molecular biology laboratory in which studies will be conducted involving the ultracytochemical localization of viral-induced antigens on the surface of cell membranes and in the cell nucleus; the use of autoradiography to localize sites of synthesis of proteins and nucleic acids and of hormone (iodinated) on membrane receptors of ovarian testicular and luteal tissues; in hybridization studies to localize DNA & RNA binding sites on chromosomes of normal and transformed human and non-human cells; and in cardiac dynamics to examine nerve-muscle contacts. Both very thin sections, coated and negatively stained macromolecules at varying tilt angles, autoradiograms and replicas of freeze-etched material will be examined with the article. In addition, the article will be used in the training of faculty scientists and predoctoral and postdoctoral trainees. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00202. Applicant: Mayo Foundation, 200 First Street, SW., Rochester, Minnesota 55901. Article: Electron Microscope, Model EM 400 HTG with High Tilt Goniometer and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article will be used for studies of biological materials that will include human and animal tissues and cells from normal as well as a variety of spontaneous and experimentally induced pathological states. Materials will also encompass non-cellular biologicals ranging from urine sediment to tissue fluid extracts, plasma proteins and coagulation factors. Many of the studies will include solid tissues such as kidney and skin biopsies, and others will include macromolecular biological specimens ranging from cell free DNA to purified enzymes. Non-cellular biological materials would include crystals of inorganic compounds and virus particles.

The experiments to be conducted will include: consideration of the normal function, biochemistry and ultrastructure of cells in culture and surgically obtained tissues; a consideration of subcellular enzyme activity and localization in a variety of disease states including cancer, atherosclerosis and hematologic disorders; the analysis for clinical diagnosis of kidney, cardiac and soft tissue tumor biopsies; the description and characterization through high resolution electron microscopy of enzyme, DNA, and virus structure; the intracellular localization of specific antigens or substances stored within cells (such as catecholamines, or inorganic ions); a description of plasma membrane changes associated with cell transformation or experimental manipulation; and the localization of specific subcellular sites of action of transforming chemicals. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00203. Applicant: Geophysical Institute, C. T. Elvey Bldg., University of Alaska, Fairbanks, Alaska 99701. Article: Micrometeorological System and accessories. Manufacturer: Grant Instruments Ltd., United Kingdom. Intended use of article: The article will be used for climatological research in remote areas of Alaska. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00204. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article intended to be used for the study of a wide variety of tissues from humans and experimental animals. Experiments to be conducted include the following:

(1) Studying liver biopsy material from patients with non A, B hepatitis to determine the identity of new virus not yet characterized.

(2) Studying the liver disease which occurs with high frequency in patients who have undergone renal transplantation.

(3) Investigation of channels formed by groups of microtubules within the axon.

The objectives of these investigations are to understand at a structural level the physiological phenomena which occur in these tissues were applicable to determine the etiologic agent causing the cellular dysfunction. In addition, the article will be used in the following educational courses:

(a) General Pathology for sophomore medical students—to provide a background of the existing knowledge of disease processes in human body and to provide a basis for understanding future progress which will be made in diagnosis and treatment of these diseases.

(b) Residency training in pathology—to produce trained specialist of the highest quality for clinical practice and academic medicine.

(c) Graduate study in comparative pathology and microbiology—to provide an introduction to the use of sophisticated scientific instruments in the study of experimental diseases.

Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00205. Applicant: University of Pennsylvania, 3451 Walnut Street, Philadelphia, Pennsylvania 19104. Article: Mass Spectrometer, Model CH 7-A and accessories. Manufacturer: Varian Mat GmbH, West Germany. Intended use of Article: The article will be used for investigations in respiratory physiology, particularly of gaseous exchanges, at the whole body, organ, cellular and molecular levels. The pertinent projects are as follows: (1) Measurement of CO Production and Catabolism; (2) Metabolism of Oxygen; and (3) Measurement of very low absolute concentration of gases such as O_2, CO and CO_2 in solution.

This work will be carried out in the Department of Physiology in the Medical School in which there are at any one time about 20 Postdoctoral Research Fellows and 30 graduate students in Physiology and/or Bioengineering and/or Biophysics and Biochemistry. Application received by Commissioner of Customs: April 21, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-13772 Filed 5-12-77;8:45 am]

Economic Development Administration

ACCESSORIES BY PEARL, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Accessories by Pearl, Inc., 330 Fifth Avenue, New York, New York 10001, a producer of apparel belts, was accepted for filing on May 5, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on May 23, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-13712 Filed 5-12-77;8:45 am]

Maritime Administration

MERCANTILE NATIONAL BANK AT DALLAS

Approval of Applicant as Trustee

In FR Doc. 75-1540 appearing in the FEDERAL REGISTER issue of January 16, 1975, (40 FR 2851), notice was given that the Mercantile National Bank at Dallas, a Texas banking corporation, with offices at 1704 Main Street, Dallas, Texas, was approved as a trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.303.

Notice is hereby given that Mercantile National Bank at Dallas, survivor as a Texas banking corporation incident to merger of Mercantile National Bank at Dallas into Mercantile Bank, National Association, with the surviving corporation being Mercantile National Bank at Dallas effective July 31, 1975, was approved as trustee pursuant to Pub. L. 89-46 and 46 CFR 221.21-221.30.

Dated: May 10, 1977.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-13747 Filed 5-12-77;8:45 am]

[Docket No. S-557]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc. (PLI) has filed an application for approval of a consulting agreement by which PLI will render advice and assistance to the Delta Queen Steamboat Co. (Steamboat) relative to the overall business and operation of river passenger vessels called the *Delta Queen* and the *Mississippi Queen* (the "vessels") which carry passengers on the U.S. inland waterway system comprising the Mississippi and Ohio Rivers. Such advice and assistance is relative to the overall business and operation of the vessels including, but not limited to, advice and assistance regarding owner's performance (1) on matters involving the operation, maintenance, and repair of the vessels and (2) on matters involving the furnishing of food and lodging ("hotel services") on the vessels and the marketing thereof. The consulting agreement is to terminate on December 31, 1980, unless sooner terminated by either party upon six months' notice. In addition to consulting fees and bonuses to be paid to PLI for reaching certain defined goals, the contract also contains a provision by which PLI has the option to purchase 40 percent of the equity of Steamboat under certain and specific conditions, at book value at the time of the exercise.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a) of the Merchant Marine Act, 1936, as amended) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on May 23, 1977, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Date: May 9, 1977.

JAMES S. DAWSON, Jr.
Secretary.

[FR Doc.77-13748 Filed 5-12-77;8:45 am]

National Bureau of Standards

REVIEW OF NBS INTERAGENCY REPORT 75-795, RECOMMENDED CRITERIA FOR RETROFIT MATERIALS AND PRODUCTS ELIGIBLE FOR TAX CREDIT

Request for Public Comments

National Bureau of Standards Interagency Report (NBSIR) 75-795, "Recommended Criteria for Retrofit Materials and Products Eligible for Tax Credit," issued in November 1975, is being submitted for industry and public review. This report is to be revised, expanded and reissued to recommend criteria for materials and products which may be promulgated by the Federal Energy Administration (FEA) as Standards for Weatherization Materials to be used in their Weatherization Program (Sec. 413, Pub. L. 94-385, 90 Stat. 1152 (42 U.S.C. 6863)). As part of the revision, the public and industry are asked to submit to the National Bureau of Standards their comments on the report and to suggest other energy-saving materials and products which should be considered for inclusion in the FEA Weatherization Program. Suggestions of other energy-savings materials and products should be accompanied by technical information on properties and performance supporting their use and energy savings which may be achieved. These suggestions will be reviewed by NBS for consideration in the FEA Weatherization Program.

Persons and organizations wishing to participate in the public review of NBSIR 75-795 should contact Mrs. Marie Dickey, at the National Bureau of Standards, Center for Building Technology, Washington, D.C. 20234 (Telephone 301/921-3407). Those contacting NBS will be sent a copy of NBSIR 75-795. Comments concerning NBSIR 75-795 and suggestions for energy-saving materials and products to be considered in the Weatherization Program should be received by NBS before June 11, 1977.

Dated: May 9, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-13609 Filed 5-12-77;8:45 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Allocation of Duty-Free Quotas for Calendar Year 1977 Among Producers Located in Guam and American Samoa

On December 28, 1976, the Departments of the Interior and Commerce published in the FEDERAL REGISTER a joint notice announcing the rules to be used by the Departments in the allocation of 1977 calendar year quotas for duty-free entry into the Customs territory of the United States of watches and watch movements assembled in the Virgin Islands, Guam, and American Samoa (41 FR 56378 et seq.). Section 5 of this notice relating to Guam provides that annual quotas for calendar year 1977 would be allocated as soon as practicable after April 1, 1977, and would be based on the following criteria:

(1) The number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1976; and (2) the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1976 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation.

In making allocations under this formula, 40 percent would be assigned to production and shipment history and 60 percent to wages as specified above.

Section 9 of the annual rules provided that in the determination of calendar

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year 1977 quotas for the new entrant in Guam, to which a quota allocation was previously made pursuant to Section 8 of the Rules for Allocation of Watch Quotas for Calendar Year 1976 (40 FR 59767 et seq.), and which would not have a full year's operation as a basis for computation of a quota for calendar year 1977, the Departments would take into account these circumstances and make appropriate adjustments.

Section 6 of the annual rules provided that the annual quota for calendar year 1977 would be allocated to the producer in American Samoa as soon as practicable after April 1, 1977, and referred to the Departments' policies relative to the allocation of a quota in American Samoa as set forth in their notice of June 9, 1967 (32 FR 8316 et seq.).

Representatives of the Departments visited each quota holder in Guam and American Samoa during February or March to verify the data submitted in support of individual quota applications. The verification indicated that firms had been accurate in reporting the number of units which were entered into the customs territory of the United States during calendar year 1976, as well as the amount of wages paid during calendar year 1976 to persons whose pay was attributable to Headnote 3(a) watch assembly operations in the territories. The Departments note, however, that because the new entrant firm in Guam is to receive an adjusted quota pursuant to Section 9 of the annual rules, and because there is only one other firm which received a quota in 1976 that is still active in 1977, there is no basis upon which the distributive criteria contained in Section 5 of the annual rules can be applied. Consequently, the Departments have allocated amounts to the two Guam firms which take into account the expressed needs of the firms with respect to their 1977 operations, and the Departments' estimate of the firms' ability to utilize the quota and make economic contributions to the territory. The quota amounts also reflect the setting aside of 300,000 units of the 1977 Guam quota for possible allocation to new firms, as announced in the Departments' joint notice dated April 7, 1977 (42 FR 19172).

GUAM

Name of firm:	Number of units
1. Jerlian Watch Co. Inc	236,000
2. Phoenix Industries, Inc	80,000

AMERICAN SAMOA

1. Pacific Time Corporation	309,000

Pursuant to Section 2 of the allocation rules assigned quota may be adjusted downward during the calendar year in the event it becomes apparent that shipments through December 31, 1977 by any firm will be less than 90 percent of the number of units allocated to it. Any quota which becomes available under this Section will be reallocated as appropriate in a manner best suited to contribute to the economy of the affected territory.

Dated: May 9, 1977.

RUTH G. VAN CLEVE,
Director, Office of Territorial Affairs, U.S. Department of the Interior.

ROBERT E. SHEPHERD,
Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc 77-13796 Filed 5-12-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 16, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1977, November 18, 1976 (41 FR 50975):

SIC 7349: Custodial Services, Officer's Athletic Center, Pentagon, Washington, D.C.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-13770 Filed 5-12-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 a commodity produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: JUNE 16, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1977, November 18, 1976 (41 FR 50975):

CLASS 7920: Brush, Floor Sweeping—7920-00-238-2442, 7920-00-238-2443, 7920-00-263-9848, 7920-00-292-2368.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-13771 Filed 5-12-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from May 2 through May 6, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (June 27, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Eagle Creek Dam and Reservoir, Lincoln and Otero Counties, N. Mex., May 3: Proposed is the construction of an earthen and rock fill dam on Eagle Creek to provide domestic water storage for the Village of Ruidoso. The reservoir will cover approximately 70 surface acres. A section of State Highway 532, 0.8 mile in length, and a small local service powerline will be inundated. The highway and powerline would be relocated as part of the project. (ELR Order No. 70549.)

Final

Boulder Planning Unit, Kaniksu N.F., Boundary County, Idaho, May 2: The statement refers to a land use plan for the Boulder Planning Unit, Kaniksu

National Forest. The proposed plan would allocate resources and specify land use prescriptions for National Forests lands only, which make up 96 percent, or 55,640 acres, of the 58,000 acres within the planning unit. The selected alternate was developed through a land use allocation process which utilizes current resource inventories to determine the capability and suitability of the land to support its various uses. Adverse impacts will result from timber harvest activity. Comments made by: COE, DOI, EPA, FPC, state and local agencies, and concerned citizens. (ELR Order No. 70542.)

Oregon Butte Unit Plan, Umatilla National Forest, Washington and Oregon, May 3: The proposed Oregon Butte Unit Land Use Plan sets forth the allocation of 404,840 acres of National Forest land to various resource uses and activities. This land is on the Umatilla National Forest in Asotin, Columbia, Garfield, and Walla Walla Counties, Washington, and Union, Umatilla, and Wallowa Counties, Oregon. Adverse effects include displacement of certain wildlife species, some increase in sedimentation, and intermittent reduction in air quality. Comments made by: DOI, COE, EPA, FPC, USDA, state and local agencies, and concerned citizens. (ELR Order No. 70550.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

Draft

Duluth Stormwater Flood Control (2), several counties in Minnesota, May 3: Proposed is the Duluth Stormwater Flood Control Project, which includes both structural and non-structural measures. The selected plan consists of structural measures to accommodate the 100-year or 1-percent flood on 14 of the 42 study area streams. Floodplain regulation and flood insurance will be used exclusively on the remaining 28 study area streams. Erosion control features are proposed for 6 of the 14 streams. Structural modifications include three floodwater impoundments, channel protection measures, by pass conduits along new routes, and enlargement of numerous existing drainage structures. Short term adverse impacts would result from construction. (St. Paul District) (ELR Order No. 70548.)

Final

Indian River Power Station, Unit 4, Sussex County, Del., May 6: Proposed is the construction of Unit 4 of the Indian River Power Station in Sussex County, Delaware. The Delmarva Power and Light Company has proposed the addition to the station of a 400-megawatt bituminous coal-fired electric generating unit and associated structures. The project would utilize an additional 217 acres along the Indian River and a tributary, Island Creek. Adverse effects include changes in the temperature and salinity of the water, increased salt deposition on adjacent land, decreased visibility due to smoke from the cooling tower, and the loss of 175 acres of woodland due to dry-ash disposal. (Philadelphia District). Comments made by: DOI, EPA, DOC, USDA, HUD, FEA. (ELR Order No. 70555.)

Reserve Mining Co. Discharge Structure (Permit), Lake County, Minn., May 6: The Reserve Mining Company proposes to install a heated water discharge structure in Lake Superior. This structure would enable Reserve's Lakeside Power Plant to discharge approximately 106,000 gpm of cooling water into Lake Superior. The delta stabilization dike would be an attempt to stabilize the tailings delta at Silver Bay and prevent the further release of abestiform fibers into Lake Superior. Adverse effects include the destruction of 5,850 acres of terrestrial habitat. About 4,420 acres of public land would be used along with 3.9 miles of State designated recreation trails and 8.1 miles of non-designated recreational trails. (St. Paul District). Comments made by: EPA, USDA, DOC, HEW, DOT, USCG, AHP, FPC. (ELR Order No. 70558.)

Wilkerson Creek Bridge, Replacement, Hyde County, N.C., May 5: The project involves the replacement of an obsolete swing-span highway bridge across the Atlantic Intracoastal Waterway (AIWW) at Wilkerson Creek with a high-level, fixed-span bridge. The proposed new bridge would improve traffic flow on US 264, reduce traffic hazards created by the narrow bridge, and improve the flow of land and waterborne traffic. The action will result in the elimination of 38 acres of second-growth pine woodland, and some short term construction-related impacts. (Wilmington District). Comments made by: EPA, HEW, AEC, USCG, DOT, DOI, USDA, state, and local agencies, and concerned citizens. (ELR Order No. 70554.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Final

Scarborough Wastewater Collection, Cumberland County, Maine, May 3: Proposed is the design and construction of a sewage treatment plant for the Town of Scarborough, Maine. The project consists of construction of a series of interceptors, pumpstations, and force mains to service the six Consent Ordered areas plus Prout's Neck and Pleasant Hill. This 1.8 mgd facility is expected to serve a projected sewered population of 14,558 by the year 2000. The effluent from the new Oak Hill Treatment plant will be discharged to the Fore River in Sputh Portland. Long term adverse effects resulting from the action are related to impacts on land use, socioeconomic characteristics, and air and water quality. (Region I). Comments made by: DOC, HUD, DOI, COE, DOT, EPA, AHP, state and local agencies. (ELR Order No. 70551.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Maple Grove and Boundary Creek Additions, Hennepin County, Minn., May 2: Proposed is the provision of HUD mortgage insurance under Section 203(b) for the 1170 dwelling unit Boundary Creek Development in the city of Maple Grove, Minnesota. The development, bound on the north by the city of Chaplin, and on the east by the city of Brooklyn Park, is approximately 15 miles from the Minneapolis Central Business District, and covers an area of one square mile. A small, three-acre neighborhood shopping center is also planned to serve the residential project. Adverse effects include increased noise pollution, and an increased demand for public services and facilities. (ELR Order No. 70543.)

Sommerall Subdivision, Harris County, Texas, May 2: Proposed is the development of 273.82 acres into a planned community composed of single-family homes, with some commercial reserves in Harris County, Texas. The development provides for the planning and controlling of a wide range of living accommodations for approximately 4200 people. Adverse effects would include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 70548.)

Mission Bend Subdivision, Harris and Fort Bend Counties, Tex., May 6: Proposed is the acceptance of an application by Fox & Jacobs, Inc. for approval of the Mission Bend Subdivision for home mortgage insurance purposes. The development plan includes the construction of 588 single family units on 134 acres. The average FHA insured house proposed for Mission Bend will have approximately 1700 sq. ft. and will contain, on the average, 3.5 bedrooms. Adverse impacts include disruption or destruction of plant and animal communities on the site, conversion of agricultural land to residential use, and increases in air and noise pollution. (ELR Order No. 70557.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Section 104(h)

Final

Helena, Mont.—Eastside No. 2 Sanitary Sewer, Lewis and Clar Counties, Mont., May 2: The proposed action is the installation of 7,300 feet of sanitary sewer main in Helena, Montana. The sewer main, which varies in diameter from 12 to 24 inches, is an extension of an existing main, and will tie into a major outfall main 24 inches in diameter. Sewerage collected by the proposed facility flows to a sewage plant and is discharged, after secondary treatment, into Lake Helena. Construction impacts will result. Comments made by: HEW, EPA, local agencies, and, interested parties. (ELR Order No. 70545.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Room 3373, 12th and Constitution Ave. NW., Washington, D.C. 20423, 202-275-7692.

Final

E. Cooper and Berkeley Railroad Co., Berkeley County Line, Berkeley County, S.C., May 4: Proposed is the granting of authority to South Carolina Public Railways Commission, in behalf of the East Cooper and Berkeley Railroad Company, to construct and operate a line of railroad in Berkeley County, South Carolina. The 15.5-mile project runs between a connection with a mainline of the Seaboard Coast Line Railroad at State Junction, located at milepost 393 between Codesville and Bethera; and the property of Amoco Chemical Corporation. Construction of this line will require the commitment of approximately 221 acres of undeveloped land. Operation of the facility will result in increased energy consumption and air pollution. Comments made by: EPA, USDA, DOI, state agencies and interested parties. (ELR Order No. 70553.)

DEPARTMENT OF TRANSFORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHAY ADMINISTRATION

Draft

I-630, I-430—I-30, Pulaski County, Ark., May 2: The proposed action is the construction of a multi-lane interstate facility in

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Little Rock, Arkansas. The completed project will be approximately 7.4 miles in length and will connect Interstate Routes 30 and 430. Approximately 2.56 miles of this route have been completed and 2.44 miles are currently under construction. These portions were designed as a six-lane interstate facility. Adverse effects include the relocation of residences and businesses, and the utilization of approximately 433 acres for the roadway and its right-of-way. (ELR Order No. 70541.)

I-91 (Hartford-Enfield), I-29 (Windsor-Manchester) Hartford County, Conn., May 3: This statement presents proposals for the Interstate 91 (I-91) and Interstate 291 (I-291) transportation corridors located in Hartford County, Connecticut. It is proposed to reconstruct I-91 to provide three travel lanes in each direction from I-84 in Hartford to the Massachusetts State Line in Enfield, a distance of 19.5 miles. I-291 is proposed to be constructed as a new limited access expressway providing two travel lanes in each direction between its termini at I-91 and I-86, a distance of 5.9 miles. The construction of both proposals would require the relocation of 97 families and 18 businesses. (Region 1.) (ELR Order No. 70562.)

Final

Daly Avenue Route, Wisconsin Rapids, Wood County, Wis., May 2: The proposed action involves construction of an urban, four-lane divided street located within the city limits of Wisconsin Rapids, Wisconsin. The project termini are the intersection of West Grand Avenue (S.T.H. 13,73) on the west and Eighth Street (S.T.H. 13) on the east. Project length is approximately two miles. The construction will require acquisition of two acres of right-of-way. A 4(f) statement is included concerning encroachment upon Lyons and Demitz parks. (Region 5). Comments made by: DOT, DOI, EPA, HEW, COE and concerned citizens. (ELR Order No. 70544.)

Supplement

U.S. 18-151 Corridor, Dodgeville-Mt. Horeb (S-1), Dane, Iowa Counties, Wis., May 2: This statement supplements two final approved EISs for proposed highway improvements in the USH 18-151 corridor extending from the Dodgeville area to the Mt. Horeb area. The first statement discussed impacts for the 21 mile segment between Dodgeville and Mt. Horeb, while the second statement discussed impacts for a bypass of Mt. Horeb, a segment of about 3.6 miles. This supplement incorporates additional studies subsequently undertaken, as directed by the Wisconsin Highway Commission, and addresses the following issues of public concern: Land conservation, project cost, local service, and staging potentials. (ELR Order No. 70539.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-13630 Filed 5-12-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 2, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Simulation Technology will hold open meetings at the Human Resources Laboratory, Williams AFB, Arizona on June 7, 8, and 9, 1977 from 8:30 a.m. to 5:30 p.m. each day.

The Committee will receive briefings and hold discussions on Air Force simulator programs and technology.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-13732 Filed 5-12-77;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows:

Wednesday, June 15, 1977, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0845 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter is to work on a study of specialized intelligence data requirements.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 6, 1977.

[FR Doc.77-13631 Filed 5-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 727-6; OPP-50297]

AGRICULTURE DEPARTMENT ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 11312-EUP-20. U.S. Department of Department of Agriculture, Hyattsville, Maryland 20782. This experimental use permit allows the use of 220 pounds of the insecticide carbaryl on rangeland to evalute control of Mormon crickets. A total of 2,560 acres is involved; the program is authorized only in the States of Colorado, Idaho, Nevada, Utah, and Wyoming. The experimental use permit is effective from April 14, 1977, to April 14, 1978. A permanent tolerance for residues of the active ingredient in or on grasses and grass hay has been established (40 CFR 180.169).

No. 39644-EUP-1. Environmental Chemicals, Inc., Barrington, Illinois 60010. This experimental use permit allows the use of 15.84 pounds of the insecticide temephos in flooded areas and mosquito breeding areas to evaluate control of mosquitoes. A total of 143 acres is involved; the program is authorpany, Marysville, Ohio 43040. This experimental use permit is effective from April 14, 1977, to April 14, 1978.

No. 538-EUP-8. O. M. Scott & Sons Company, Marysville, Ohio 43040. This experimental use permit allows the use of 240 pounds of the herbicide oxadiazon on ornamentals to evaluate control of grassy and broadleaf weeds. A total of 20 acres is involved; the program is authorized only in the States of Alabama, California, Florida, New Jersey, Ohio, Oklahoma, Oregon, Tennessee, and Texas. The experimental use permit is effective from April 14, 1977, to April 14, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated May 4, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-13627 Filed 5-12-77;8:45 am]

[FRL-727-4]

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

List of Violating Facilities

Pursuant to Section 306 of the Clean Air Act (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604), Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub. L. 92-500), and Executive Order 11738, EPA has been authorized to provide certain prohibitions and requirements concerning the administration of the Clean Air Act and Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans. On April 16, 1975, regulations implementing the requirements of the statutes and the Executive Order were promulgated in the FEDERAL REGISTER (see 40 CFR Part 15, 40 FR 17124, April 16, 1975). Section 15.20 of the regulations provides for the establishment of a List of Violating Facilities which will reflect those facilities ineligible for use in nonexempt Federal contracts, grants or loans.

The representatives of any facility under consideration for listing are afforded the opportunity to appear at a Listing Proceeding conducted by the Director, Office of Federal Activities. Listing occurs when the Director determines there is adequate evidence of noncompliance with clean air or water standards. Federal, State, and local criminal convictions, civil adjudications, and administrative findings of noncompliance may serve as a basis for consideration of listing. However, in the case of a State or local civil adjudication or administrative finding, EPA may consider listing only at the request of the Governor.

The List of Violating Facilities is contained in two sublists. Sublist 1 includes those facilities listed on the basis of a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. Sublist 2 includes those facilities listed on the basis of any injunction, order, judgment, decree, or other form of civil ruling by a Federal, State, or local court issued as a result of noncompliance; or a conviction in a State or local court for noncompliance; or on the basis of noncompliance with an order under seciton 113(a) of the Clean Air Act or section 309(a) of the Federal Water Pollution Control Act, have given rise to the initiation of court action under section 113(b) of the Clean Air Act or section 309(b) of the Federal Water Pollution Control Act, or have been subjected to equivalent State or local proceedings to enforce clean air or water standards.

No agency in the Executive Branch of Government shall enter into, renew, or extend any nonexempt contract, subcontract, grant, subgrant, loan or subloan where a facility listed would be utilized for the purposes of any such agreement.

The purpose of this Notice is to remove from Sublist 2 the facilities of Star-kist Caribe, Inc., Mayaguez, Puerto Rico, and Del Monte de Puerto Rico, Inc., Mayaguez, Puerto Rico.

Pursuant to this authority, the Director, Office of Federal Activities, U.S. Environmental Protection Agency, certifies that the following facilities are on the List of Violating Facilities as of April 22, 1977. The List of Violating Facilities will be revised periodically as any listings or de-listings occur.

LIST OF VIOLATING FACILITIES

Sublist 1: Allied-Chemical Corporation, Semet-Solvay Division, Ashland, Kentucky.
Sublist 2: No facilities listed.

Dated: April 29, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities (A-104).

[FR Doc.77-13629 Filed 5-12-77;8:45 am]

[OPP-50296]

HERCULES INC., ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency mits to the following applicants. Such permits are in accordance with, and sub- (EPA) has issued experimental use perject to, the provisions of 40 CFR Part 172, which refines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 891-EUP-30. Hercules Incorporated, Wilmington, Delaware 19899. This experimental use permit allows the use of 10,800 pounds of the herbicide N-chloroacetyl-N-(2,6-diethylphenyl glycine ethyl ester on sugarbeets and soybeans to evaluate control of annual weeds and seedlings of certain perennial grasses. A total of 4,020 acres of sugarbeets and 3,670 acres of soybeans is involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, North Carolina, North Dakota, Nebraska, Ohio, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from April 11, 1977, to April 11, 1978. Temporary tolerances for residues of the active ingredient in or on sugarbeets and soybeans have been established.

No. 476-EUP-75. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 708 pounds of the herbicide S-ethyl cyclohexylethylthiocarbamate on sugarbeets to evaluate control of annual grasses and broadleaf weeds. A total of 180 acres is involved; the program is authorized only in the States of Idaho, Nebraska, and Washington. The experimental use permit is effective from April 19, 1977, to April 19, 1978. A permanent tolerance for residues of the active ingredient in or on sugarbeets has been established (40 CFR 180.212).

No. 239-EUP-79. Chevron Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 6,285 pounds of the insecticide acephate on forests to evaluate control of spruce budworms, Gypsy moth larvae and larch casebearers. A total of 17,620 acres is involved; the program is authorized only in the States of Idaho, New Hampshire, Maine, and Vermont. The experimental use permit is effective from May 11, 1977, to May 11, 1978.

Interested parties wishing to review the experimental use permits are referred to oom E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.))

Dated: May 4, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-13625 Filed 5-12-77;8:45 am]

[FRL 727-7]

SCIENCE ADVISORY GROUP ENVIRONMENTAL HEALTH ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held at 9:00 a.m. on June 1, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be (1) to conclude the Committee's deliberations on a report of the Study Group on Mutagenicity Testing which reviewed the scientific aspects of draft EPA Guidelines for the registration of pesticides relating to mutagenicity testing; (2) to hear and discuss a preliminary report of the Committee's Study Group on Pentachlorophenol Contaminants which, i.a., is examining the potential hazard to humans attributable to registered uses of pentachlorophenol; (3) to discuss an Agency request for advice and assistance on an evaluation of the scientific principles and premises underlying Agency policies and procedures for establishing tolerances for pesticide residues on agricultural commodities; and (4) to be briefed on and to discuss currently contemplated proposed regulations under section 4 (Testing of Chemical Substances and Mixtures) of the Toxic Substances Control Act, and particularly some of the scientific aspects of the contemplated regulations relating to health. The Agenda will also include (5) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. May 24, 1977. Please call Ms. Barbara Robinson on (703) 557-7720.

LLOYD T. TAYLOR,
Acting Staff Director, Science Advisory Board.

MAY 9, 1977.

[FR Doc.77-13628 Filed 5-12-77;8:45 am]

[FRI 728-4; PP5G1826/T99]

GLYPHOSATE

Establishment of a Temporary Tolerance

Monstanto Co., 800 North Lindbergh Blvd., St. Louis Mo. 63166, has submitted a pesticide petition (PP6G1826) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for residues of the herbicide glyphosate (*N*-(Phosphonomethyl) glycine and its metabolite aminomethylephosphonic acid in or on the raw agricultural commodities sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 per per million (ppm).

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The scientific data considered in making these determinations were that the metabolism of glyphosate in plants and

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animals is adequately understood, and there is an adequate analytical method of enforcement (gas chromatography with a phosphorus specific flame photometric detector). The toxicological data reviewed included acute dog and rat feeding studies, a mouse carcinogenic study, rat reproduction tests, mouse mutagenicity results, rabbit teratogenic analysis, 2-year rat and dog feeding studies as well as cholinesterase-inhibition and hen neurotoxicity studies. A no-effect level of 100 ppm has been determined. Permanent tolerances have been established for residues of glyphosate in or on grain crops at 0.1 ppm (negligible residue), forage grasses at 0.2 ppm (negligible residue), soybeans at 0.2 ppm (negligible residue), and soybean forage and hay at 0.4 ppm (40 CFR 180.364). Food and feed additive tolerances have also been established for residues of glyphosate in potable water at 0.1 ppm (21 CFR 193.235) and dried citrus pulp at 0.4 ppm (21 CFR 561.253). The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires May 6, 1978. Residues not in excess of 0.1 ppm remaining in or on sugarcane after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: May 6, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13799 Filed 5-12-77;8:45 am]

[FRL 728-1; PF71]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

ICI United States, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897 has submitted a petition (PP 7E1941) to the Environmental Protection Agency which proposes amending 40 CFR 180 by establishing a tolerance for residues of the fungicide 5-butyl-2-(ethylamino)-4-hydroxy-6-methylpyrimidine in or on the raw agricultural commodity melons at 0.2 part per million (ppm). The proposed analytical method for determining residues is a gas chromatographic procedure using a nitrogen detector. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 21, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202/426-2454. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-13802 Filed 5-12-77;8:45 am]

[FRL 728-3; OPP-33000/501]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington D.C. 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 20—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before July 12, 1977. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquires and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before June 13, 1977.

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/501)

EPA File Symbol 115-GT. Continental Chemical Co., 2750 Grand Ave., Cleveland OH 44104. DI-SAN NO. 180. Active Ingredients: Octyl decyl dimethyl ammonium chloride 5.0%; Didecyl dimethyl ammonium chloride 2.5%; Dioctl dimethyl ammonium chloride 2.5%; Isopropyl alcohol 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 115-GI. Continental Chemical Co. DI-SAN NO. 175. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA Reg. No. 239-2211. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. ORTHO DIFOLATAN 4 FLOWABLE. Active Ingredients: Captafol 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Significant new use pattern. PM21.

EPA Reg. No. 239-2369. Chevron Chemical Co. ORTHO DIFOLATAN 4 FLOWABLE SEED PROTECTANT. Active Ingredients: Captfol 39%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Significant new use pattern. PM21.

EPA Reg. No. 239-2418. Chevron Chemical Co. ORTHO ORTHENE 75S SOLUBLE POWDER. Active Ingredients: Acephate (O,S Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM16.

EPA File Symbol 239-EUGE. Chevron Chemical Co. ORTHO LIQUID LAWN DISEASE CONTROL. Active Ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 29.6%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 239-EUGL. Chevron Chemical Co. ORTHO ROSE DISEASE CONTROL. Active Ingredients: Triforine-N,N'-[1,4-piperazinediylbis(2,2,2 - trichloroethylidene)] bis (formamide) 6.5%. Republished: Application proceeds under method of support 2(b) rather than 2(a). PM21.

EPA File Symbol 239-EUGI. Chevron Chemical Co. ORTHO VEGETABLE & GARDEN FUNGICIDE. Active Ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 29.6%. Republished: Application proceeds under method of support 2(b) rather than 2(c). PM21.

EPA Reg. No. 239-2443. Chevron Chemical Co. ORTHENE FOREST SPRAY. Active Ingredients: Acephate (O,S-Dimethyl acetylphosphoramidothioate) 75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM16.

EPA File Symbol 239-EUUI. Chevron Chemical Co. ORTHO DIPOLATAN VITAVAX 1-2 FLOWABLE SEED PROTECTANT. Active Ingredients: Captafol 10%; Carboxin 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 239-EULR. Chevron Chemical Co. ORTHOCIDE VITAVAX 25-50 SEED PROTECTANT. Active Ingredients: Captan 25%; Carboxin 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 239-EULL. Chevron Chemical Co. ORTHO TRIFORINE EC. Active Ingredients: Triforine (N,N'-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)] bis [formamide]) 18.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA Reg. No. 241-243. American Cyanamid Co., Agricultural Div., PO Box 400, Princeton NJ 08540. PROWL HERBICIDE. Active Ingredients: ([N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine]) 43.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New use and revised offer to pay statement submitted. PM25.

EPA File Symbol 241-ELU. American Cyanamid Co. PROWL 10-C HERBICIDE. Active Ingredients: ([N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine]) 10.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM25.

EPA File Symbol 372-UI. Mallinckrodt, Inc., 3600 N. Second St., St. Louis MO 63147. DUOSAN. Active Ingredients: Thiophanatemethyl (Dimethyl [(1,2-phenylene) bis (iminocarbonothioyl)] bis [carbamate]) 15%; A coordination product of zinc ion and manganese ethylenebis dithiocarbamate 60%. Republished: Application proceeds under method of support 2(b) rather than 2(a). PM21.

EPA Reg. No. 239-2369

the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755-9315
PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, and 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before July 12, 1977. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before June 13, 1977.

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/502)

EPA File Symbol 3682-UU. E. W. Smith Chemical Co., 15020 E. Proctor Ave., City of Industry CA 91746. EMSTROL D-D. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C10) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (60% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 4170-RE. Betco Corp., 1125 Brown Ave., Toledo OH 43607. SANI-BET DISINFECTANT-SANITIZER FUNGICIDE DEODORIZER. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 4476-TO. Morton Pharmaceuticals, 1625-39 N. Highland, Memphis TN 38108. MORTON INSECT SPRAY NO. 2. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 6.500%. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 4476-IN. Morton Pharmaceuticals. MORTON FLEA SPRAY NO. 2. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounda 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of support: Application proceeds under 2(b) of interim policy. PM17.

EPA Reg. No. 4643-14. Dearborn Chemical Div., Chemed Corp., 300 Genesee St., Lake Zurich IL 60047. DEARCIDE 708. Active Ingredients: Methylene Bisthiocyanate 5.0; % Sodium Bisulfate 71.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA Reg. No. 5667-99. Barrett Chemical Co., Inc., H & Luzerne Sts., Philadelphia PA 19124. BARRETT'S CLEANER CONCENTRATE NO. 18. Active Ingredients: Butoxy polypropoxy polyethoxy ethanoliodine complex 12.47%; Polyethoxy polypropoxy polethoxy ethanol-iodine complex 0.37%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34.

EPA File Symbol 5667-RNL. Barrett Chemical Co., Inc., BARRETT'S SANITIZER NO. 23. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. MP31.

EPA File Symbol 5700-T. Kellermeyer Chemical Co., 1025 Brown Ave., Toledo OH 43607. TEAM ALAGE CONTROL. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 5700-A. Kellermeyer Chemical Co. TEAM COOLING TOWER TREATMENT. Active Ingredients: Poly[oxyethylene - (dimethyliminio) ethylene(dimethyliminio)ethylenedichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 6020-RO. MOM Chemical Co., Inc., 7775 N.W. 66th St., Maimi FL 33166. DEODORIZING BRIGHTNER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 6125-GR. Bixon Chemical Co., 50-19 97th Pl., Corona NY 11368. QUAT NO. 8. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-L. Palmetto Chemical & Supply Co., Inc., PO Box 1218, 600 Stitt St., Monroe NC 28110. AQUACIDE CONCENTRATED SWIMMING POOL ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM 24.

EPA File Symbol 6889-A. Palmetto Chemical & Supply Co., Inc., DEO-CIDE DISINFECTANT DEODORIZER SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-T. Palmetto Chemical & Supply Co., Inc., SLIMETROL INDUSTRIAL WATER COOLING TOWER ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-I. Palmetto Chemical & Supply Co., Inc., POWERCIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 0.8%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium Ethylenediamine Tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-0. Palmetto Chemical & Supply Co., Inc., DC-1000. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 5.0%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 6900-148. The J. J. Dill Co., 1407 Ravine Rd., PO Box 788, Kalamazoo MI. 49006 DILL DIAZINON EMS INSECTICIDE.

Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 47.33%; Aromatic petroleum derivative solvent 29.94%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15.

EPA File Symbol 6921-A. Tesch Chemical Co., Inc., 1281 E. Midway Rd., Appleton WI 54911. SPEEDEE Q. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 7173-RAI. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. ROZOL CANARY SEED HOUSE MOUSE KILLER. Active Igredients: 2-[(p-chlorophenyl) phenylacetyl]-1,3-Indandione 0.005%. Method of Support: Application proceeds under 2(b) of interim policy. PM11.

EPA File Symbol 7401-RTG. Volunteer Purchasing Group, Inc., PO Box 460, Bonham TX 75418. FERTI-LOME SPECIAL VEGETATION KILLER. Active Ingredients: Sodium Chlorate 18%. Method of Support: Application proceeds under 2(c) of interim policy. PM25.

EPA File Symbol 8075-O. Allen Chemical Co., 3235 NW 37th St., Miami FL 33142. SANICHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 8901-RO. Kocide Chemical Corp., PO Box 45539, Houston TX 77045. KOCIDE FLOWABLE SULFUR. Active Ingredients: Sulfur 52%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 9019-L. Malco Products, Inc., 316 Fairvico St., Barberton OH 44203. MALCO DS-75. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9619-I. Synthetic Labs, Inc., Victory Ln., Dracut MS 01826. GC #1. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9460-G. Professional Disposables, Inc., 150 N. MacQueaten Pkwy., Mount Vernon NY 10550. DISINFECTANT TOWELETTE. Active Ingredients: n-Alkyl Dimethyl Benzyl Ammonium Chlorides 0.1%; n-Alkyl Dimethyl Ethylbenzyl Ammonium Chlorides 0.1%; Isopropyl Alcohol 64.23%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9702-G. Allstate Chemical Co., 601 Trebisky Ave., Euclid OH 44143. ALGAE-KNOC 616. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 10114-E. Asplundh Tree Expert Co., Blair Mill Rd., Willow Grove PA 19090. ASPLUNDH CLEAR WAY. Active Ingredients: Bromacil (5-bromo-3-Sec-butyl-6-methyluracil) 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA Reg. No. 10182-7. ICI United States, Inc., Agricultural Chemicals Div., Concord Pike & New Murphy Rd., Wilmington DE 19897. PIRIMOR 50W. Active Ingredients: 2-(dimethylamino)- 5,6-dimethyl-4-pyrimidinyl dimethylcarbamate 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claims. PM16.

EPA File Symbol 10600-L. Suhm Laboratories, Inc., 6901 Industrial Loop, Greendale WI 53129. EX-A(3). Active Ingredients: Disodium cyanodithiomidocarbonate 3.66%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA Reg. No. 10807-16. Aero Mist, Inc., 990 Industrial Park Dr., Marietta GA 30060. MISTY WASP & HORNET KILLER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 26.375%. Method of Support: Application proceeds under 2(a) of interim policy. PM17.

EPA File Symbol 11511-RL. Shalco Chemical Corp., PO Box 2506, 2421 Lexington Ave., Toledo OH 43606. SHALCO VEGETATION CONTROLLER. Active Ingredients: Diquet dibromide (6,7-dihydrodipyrido (1,3-a:2',1'-c) pyrazinedium dibromide) 0.464%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM24.

EPA File Symbol 11511-RA. Shalco Chemical Corp. SHALCO LIQUID VEGETATION CONTROL. Active Ingredients: Diquat dibromide [6,7-dihydrodipyrido (1,2-A:2', 1'-c) pyrazinedilum dibromide] 1.85%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM24.

EPA File Symbol 11515-AU. ABC Chemical Corp., 14288 Meyers Rd., Detroit MI 48227. ABC TOWER ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene - (dimethyliminio) ethylene - dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 11515-AL. ABC Chemical Corp. ABC POOL ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio) - ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 11589-E. Pan America Chemical, 1201 NW 1 Ave., Miami FL 33123. PACCO CHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 11694-74. Dymon, Inc., 3401 Kansas Ave., Kansas City KS 66106. DC-450. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 12264-RE. Allstates Chemical Corp., PO Box 7482A, Houston TX 77008. ONWARD HD DISINFECTANT DETERGENT. Active Ingredients: Sodium Metasilicate 2.4%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzy ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 12288-R. Pompano Chemical & Cleaning Supply, Inc., 100 SE 20 Ave., Pompano Beach FL 33060. SUPER BLEACH. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 12646-R. Economy Chemical Co., PO Box 1197, Ft. Pierce, FL 33450. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 12711-E. Ike's Carter Pool, 1290 E. Commercial Blvd., Ft. Lauderdale FL 33339. IKECHLOR SUPER-12 SANITIZER. Active Ingredients: Sodium Hypochlorite 12.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 12724-R. Key West Chemical & Janitor Supply Inc., 909 Simonton St., Key West FL 33040. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 13978-E. South Miami Pool Company, Inc., 9619 S. Dixie Hwy., Miami FL 33156. SOUTH MIAMI SANI GUARD. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 14639-R. Clear Pool Maintenance, Inc., PO Box 9586, Riviera Beach FL 33404. CLEARINE. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 14770-E. Aaron & Douglas Pool Service, Inc., 735 S. Military Trail, West Palm Beach FL 33408. LIQUID CHLORINATING PRODUCT. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 14961-RT. Rex Chemical Corp., 2300 NW 23 St., Miami FL 33142. CLORO. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

APPLICATIONS RECEIVED (OPP-33000/503)

EPA Reg. No. 15575-17. Southland Agricultural Chemical, PO Box 6207, 1075 Chandler St., Montgomery AL 36106. CYTHION. Active Ingredients: Malathion 57.0%; Xylene 30.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM16.

EPA File Symbol 15749-E. Vermillion Chemical Service, Inc., 1306 Charity St., Abbeyville LA 70510. VERMILLION Q.A.C. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alykl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 18280-R. Aqua Pool, Inc., 940 NW 44th St., Ft. Lauderdale FL 33309. AQUA POOLS, INC. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 15749-G. Vermillion Chemical Service. VC-ALGAWAY. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% O14) dimethyl ethylbenzyl ammonium chlorides 5%. Me-

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thod of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 20429–G Warren Chemical Mfg., Inc., 600 Pleasant St., Norwood MA 02062. #520 LIQUID SANITIZER. Active Ingredients: Alkyl (C14, 50%; C12, 40%; C16, 10%) Dimethyl Benzyl Ammonium Chloride 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 20653–R. Crescent Pool Supply Co., 2310 S. State Rd. #7, Miramar FL 33023. CRESCENT POOL-TROL. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 21277–E. Palm Beach Chemical Co., 530 24th St., West Palm Beach FL 33407. PABECO POOL GUARD SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 21340–7. Chemlab Products, Birmingham AL. 35217 CHEM GUARD LEMON DISINFECTANT CONCENTRATE COEF. 38. Active Ingredients: Alkyl (C14, 58%; C16, 28%; C12, 14%) dimethyl benzyl ammonium chloride 10.00%; Isopropanol 5.00%; Essential oils 1.25%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 26764–R. Miller Machinery & Supply Co., PO Box 52, 604 Biscayne Annex, Miami FL 33152. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 30464–A. Willis Pool & Chemical, 1802 Butternut St., Abilene TX 79602. ALGAE GO CONCENTRATE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 30464–T. Willis Pool & Chmeical. W P TOWERCIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)ethylene dich'oride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 32922–G. Holiday Industries, 523 E. Rock Island, Grand Prairie TX 75050. POOL-GUARD ALGAE CONTROL NF CONCENTRATE. Active Ingredients: Poly[oxethylene (dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33356–E. Quality Chemical Company, 1835 NE 144th St., North Miami FL 33161. AQUA-KLEAR 100. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33356–L. Quality Chemical Co. CHLORO GUARD. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 33633–R. Water Maintenance Service, 8 S. 335 Madison St., Hinsdale IL 60521. WMS 300. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 34973–1. Down East Chemical Corp., 233 Oxford St., Portland ME 04111. D.E. FOOD PLANT CLEANER. Active Ingriedients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl chlorides 1.6%; Sodium Carbonate 3.0%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 35054–R. Makiki Electronics, PO Box 629, Hauula HA 96717. TERM-OUT. Kills Termites, Roaches, Ants. Active Ingredients: (5-Benzyl-3-Furyl) Methyl 2, 2-Dimethyl-3-(2-Methylpropenyl) Cyclopropanecarboxylate 00.250%; Related compounds 00.034%; Aromatic petroleum hydrocarbons 00.331%; Petroleum distillates 29.385%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added data. PM17.

EPA File Symbol 35135–U. Markay Laboratories, 209 S. Van Norman Rd., Montebello CA 90640. BIOCIDE 615–L. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 35300–E. Guardian Pools Inc., 650 N. State Rd., #7, Wollywood FL 33021. GUARDIAN CHLORINATING SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37921–R. North Miami Pool Co., Inc. 1658 NE 123rd St., N. Miami FL 33181. SANI CHLOR. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim. PM34.

EPA File Symbol 363330–E. Ronbar Labs., Inc., 32–02 Greenpoint Ave., L.I.C. NY 11101. SAN–IT. Active Ingredients: Alkyl (C14, 60%; C16, 30%; C12, 5%; C18, 5%) Dimethyl Benzyl Ammonium Chlorides 5.0%; Alkyl (C12, 68%; C14, 32%) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%. Method of Support: Application proceeds under 2(b) of intermi policy. PM31 EPA File Symbol 37829–E. The Pool Supply People Inc., 4202 Peter Rd., Plantation FL 33317. PSP POOL SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim. PM34.

EPA File Symbol 37629–E. The Pool Supply People Inc., 4202 Peter Rd., Plantation FL 33317. PSP POOL SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37837–R. Spec Pool Service & Equipment Corp., 14855 NW 7th Ave., Miami FL 33168. SPEC CHLOR POOL SANTITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37840–R. Superior Swimming Pool Co., 4678 E. 10 Ln., Hialeah FL 33013. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37808–R. Everwhite Inc., 20450 NE 15th Ct., Miami FL 33179. EVERWHITE SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 37815–R. Ihnen Pools, 3129 NW 35 Ave., Lauderdale Lake FL 33317. IHNEN SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37789–R. A.B.C. Pool Service, Inc., 1550 W. 84 St., Hialeah FL 33014. A.B.C. HOT SHOT SANITIZER. Active Ingredients: Sodium Hypochlorite 9.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 38459–G. Dolphin Chemical Co., 270 SW 33rd Ct., Ft. Lauderdale FL 33315. DOLPHINGUARD. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 38459–A. Dolphin Chemical Co. DOLPHINGUARD CONCENTRATE. Active Ingredients: Poly [oxyethylene(dimethyliminio)ethylene(dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 34.

EPA File Symbol 38688–E. C. H. Dexter Division, The Dexter Corp., One Elm St., Windsor Locks CT 06096. DEXSAN SC. Active Ingredients: Silver as metallic 0.1%. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 38723–E. Walter Louis Chemicals, 630 S. 5th St., Quincy IL 62301. INDUSTRIAL MICROBIOCIDE AM–41. Active Ingredients: Didecyl Dimethyl Ammonium Chlorides 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 38819–E. Solvent Manufacturing Co., Inc., 1517 Ocama Blvd., Midwest City OK 73110. SWIMMING POOL ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio)ethyline dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39047–R. 4 Share, Inc. 649 Ionia, NW, Grand Rapids MI 49502. 4-ALGAECIDE 18. Active ingredients: Poly (oxyethylene (dimethyliminio) Ethylene (dimethyliminio) ethylene dichloride) 18.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39310–E. Dominion Laboratories, Inc., 1922 Skyler Dr., Kalamazoo MI 49008. ALGAECIDE 12. Active ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39502–R. Intercem. 3703 E. Melville Way, Anaheim CA 92806. ULTRA GUARD. Active ingredients: Alkyl Dimethyl Benzyl Ammonium Chloride (C14, 60%; C12, 25%; C16, 15%) 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 39589–E. Delaware Valley Water Treatment Corp., PO Box 185, Medford NJ 08055. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39562–R. Consolidated Chemex Corp., 855 Industrial Hwy., Cinnaminson NJ 08077. CONSOLIDATED CHEMEX 60–E. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14, 50%; C12, 40%; C16, 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 39938–R. North American Systems, Inc., 24700 Miles Rd., Bedford Heights OH 44146. FILTER FRESH AUTOMATIC WATER FILTRATION SYSTEM. Active Ingredients: Metallic Silver 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 39974–E. Star Line Pools, Inc. STAR LINE ALGI-BAN CONCENTRATE. Active Ingredients: [Polyoxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 40231–R. Sunbeam Products, Inc., 623 Main St., Toledo OH 43605. SUNBEAM. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl 68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

APPLICATION RECEIVED (OPP 33000/504)

EPA File Symbol 168–LNI. Wasatch Chemical Div., Entrada Industries, Inc., 1979 S. 7th West, Salt Lake City UT 84106. WASCO BRAND TREE FUNGICIDE BLP. Active Ingredients: Methyl 2-benzimidazolecarbamate phosphate 0.70%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 211–32. Central Chemical Co., Inc., 3130 Brinkerhoff Rd., Kansas City MO 62115. PHENO-CEN SPRAY DISINFECTANT DEODORANT. Active Ingredients: o-Phenylphenol 0.1706%; o-Chloro-p-Phenylphenol 0.0348%; Ethanol 67.6460%. Method of Support: Application proceeds under 2(a) of interim policy. PM32.

EPA Reg. No. 257–46. Fuld-Stalfort, 1354 Old Post Rd., Havre de Grace MD 21018. P–19 PINE ODOR DISINFECTANT. Active Ingredients: Pine Oil 10.9%; o-Benzyl-p-Chlorophenol 5.0%; Soap 2.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 257–165. Fuld-Stalfort, Inc. MINTO-O-GREEN DISINFECTANT. Active Ingredients: Isopropyl Alcohol 27.000% Soap 6.280%; Essential Oils 2.190%; Sodium Salt of Ethylene Diamine Tetraacetic Acid 0.100%; O-benzyl-p-chlorophenol 3.890%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA Reg. No. 352–270. E. I. du Pont de Nemours & Co., Inc., Biochemicals Dept., 7056 DuPont Bldg., Wilmington DE 19898. LOROX LINURON WEED KILLER WETTABLE POWDER. Active Ingredients: Linuron [3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] 50%.Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added tank mix with Surflan on soybeans. PM25.

EPA File Symbol 400–REO. UniRoyal Chemical, Div. of UniRoyal, Inc., 74 Amity Rd., Bethany CT 06525. VITAVAX-75W SYSTEMIC FUNGICIDE. Active Ingredients: Carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) 75%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 400–RGN. UniRoyal Chemical. VITAVAX-10G. Active Ingredients: Carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 453–ETE. Koppers Co., Inc., Wood Treating Chemicals Dept., 5137 Southwest Ave., St. Louis, MO 63110. TRIBUCIDE 65 READY TO USE. Active Ingredents: Bis (Tri-n-Butyltin) Oxide 0.65%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 453–ETG. Koppers, Co., Inc. TRIBUCIDE 75 READY TO USE. Active Ingredients: Bis (Tri-n-Butyltin) Oxide 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 453–ETU. Koppers Co., Inc. KOPPERS TRIBUCIDE 50 READY TO USE. Active Ingredients: Bis (Tri-n-Butyltin) Oxide 0.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 524–306. Monsanto Co., Agricultural Products, 800 N. Lindbergh Ave., St. Louis, MO 63166. ROUNDUP. Active Ingredients: Isopropylamine salt of Glyphosate 41.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Addition to list of weeds controlled and revised offer to pay statement submitted. PM25.

EPA File Symbol 655–LET. Prentiss Drug & Chemical Co., Inc., 363 7th Ave, New York, NY 10001 PRENTOX ROACH BAIT INSECTICIDE (CONTAINS 2% BAYGON) Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 2.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12.

EPA File Symbol 876–EAR. Velsicol Chemical Corp., 341 E. Ohio St., Chicago, IL 60611. VELSICOL RAVAGE 75 WP. Active Ingredients: Buthidazole 75.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM24.

EPA Reg. No. 891–278. Hercules, Inc., Agricultural Chemical, Synthetics Dept., Wilmington, DE. 19898. TORAK P. EMULSIFIABLE CONCENTRATE INSECTICIDE. Active Ingredients: Dialifor [0,0-diethyl S-(2-chloro-1-phthalimidoethyl) phosphorodithioate] 40.5%; Related reaction products 4.5%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amended use. PM16.

[FR Doc.77-13801 Filed 5-12-77;8:45 am]

[FRL 727–8]

WASTEWATER COLLECTION AND TREATMENT FACILITIES

Availability of Final Environmental Impact Statement

Pursuant to section 102(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Wastewater Collection and Treatment Facilities, Scarborough, Maine.

The proposed project involves Federal financial assistance for the design and construction of a sewage treatment plant and a series of interceptors, pump stations, and force mains to service the six Consent Ordered areas plus Prout's Neck and Pleasant Hill, within the Town of Scarborough. The proposed sewage treatment facility is to be located on the site of the existing Oak Hill treatment facility, and is designed to handle 13 million gallons per day. This 1.8 mgd facility is expected to serve a projected sewered population of 14,558 by the year 2000.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on May 3, 1977. In accordance with CEQ's Guidelines (40 CFR 1500.11), no administrative action will be taken until thirty days after receipt of this

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FEIS by the Council. Copies of the FEIS are available for review from: Mr. Wallace Stickney, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts (telephone 617–223–4635).

Copies of the FEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region I Library, JFK Federal Center, Boston, Massachusetts.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C.

Information copies of the FEIS are available at cost (10 cents/page) from the Environmental Law Institute, Washington, D.C. 20036. Please reference ELR No. 70552.

Copies of the FEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: May 10, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77–13803 Filed 5–12–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. RM–2772]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS

Amherst, Virginia

Adopted: May 3, 1977.

Released: May 9, 1977.

By the Chief, Broadcast Bureau:

1. The Commission has before it a petition for rule making filed by Amherst Broadcasting Associates, Inc. ("petitioner"), proposing the assignment of Channel 300B to Amherst, Virginia, as a first FM assignment.

2. On May 21, 1976, the Commission sent petitioner a letter advising him that, since Amherst, a community of 1,108 persons, would normally only be assigned a Class A channel, a coverage showing under Roanoke Rapids and Anamosa and Iowa City[1] would be required before a Class B proposal could be considered. The letter requested petitioner to furnish data showing the extent of expected coverage and the area and population that would be receiving a first and second FM service based on the assumption of reasonable facilities. Also, the letter specifically called for data showing the extent of nighttime service provided by standard broadcast stations in this area.

3. On October 15, 1976, the Commission received petitioner's response in the form of an engineering report supplement. Although this supplement provided the requested Roanoke Rapids analysis indicating that some first and second FM service would be provided, the Anamosa-Iowa City showing indicating whether one or more AM stations already serve these areas at night was not provided. Therefore, we lack the necessary data regarding the extent of first and second nighttime aural service on which to premise issuance of a Notice of Proposed Rule Making. Therefore, the Commission has no other choice in these circumstances but to deny the petition. This action does not preclude consideration of a new petition should petitioner or other interested party come forward in the future with the required data as part of a complete petition.

4. Accordingly, *it is ordered,* That the petition for rule making (RM–2772), filed by Amherst Broadcasting Associates, Inc., is denied.

5. *It is further ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77–13814 Filed 5–12–77;8:45 am]

[1] Roanoke Rapids-Goldsboro, N.C., 9 F.C.C. 2d 672 (1967); Anamosa and Iowa City, Iowa, 40 F.C.C. 2d 520 (1974).

FEDERAL ENERGY ADMINISTRATION

STATE ENERGY CONSERVATION PROGRAM

Negative Determination of Environmental Impact; Oklahoma Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Oklahoma, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon the environmental assessment of impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment." National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration concludes that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Oklahoma are available upon request from the FEA Office of Communications and Public Affairs, Room 2134, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box ML, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Oklahoma Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., May 23, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–13723 Filed 5–12–77;8:45 am]

FEDERAL MARITIME COMMISSION

MARSILLES NORTH ATLANTIC USA, FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 2, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

John R. Attanasio, Esquire, Billig, Sher, & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No. 5660–22, among the members of the above-named Freight Conference, amends the basic agreement to provide that final decisions on conference matters may be made by telex, cable or telephone poll, and that all such decisions shall require the unanimous approval of the members.

Dated: May 10, 1977.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–13821 Filed 5–12–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G–4953, etc.]

SUN OIL CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

MAY 4, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G–4953 ..... B 4–14–77	Sun Oil Co., 2 Northpark East, P.O. Box 20, Dallas, Tex. 75221.	United Gas Pipeline Co., Red Fish Bay and Mustang Island Fields, Nueces County, Tex.	(1)	.....
CI62–113 ..... C 4–14–77	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Natural Gas Pipeline Co. of America, West Chester Field, Woodward County, Okla.	[2] 29.5¢	14.73
CI67–152 ..... B 4–14–77	Sun Gas Co.	Panhandle Eastern Pipe Line Co., South Peak Field, Ellis County, Okla.	(1)	.....
CI75–722 ..... B 4–14–77	Pioneer Production Corp.	El Paso Natural Gas Co., Eddy County, N. Mex.	(3)	.....
CI77–138 ..... C 4–25–77	Pan Eastern Exploration Co., P.O. Box 1642, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Beaver County, Okla.	[4] [5] $1.8360¢	14.65
CI77–250 ..... A 4–14–77	Pioneer Production Corp.	El Paso Natural Gas Co., Elizando Federal "A" No. 3 well, Eddy County, N. Mex.	[4] 145¢	14.73
CI77–405 ..... B 4–11–77	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Union Texas Petroleum, Pine and Cabin Creek units, Montana.	(7)	.....
CI77–420 ..... A 4–20–77	Canadian Superior Oil (U.S.) Ltd., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island block 296 field, offshore Louisiana.	[4] [8] $1.44	15.025
CI77–424 ..... B 4–21–77	Jake L. Hamon, P.O. Box 663, Dallas, Tex. 75221.	Valley Gas Transmission, Sojita field, Duval County, Tex.	(9)	.....
CI77–425 ..... A 4–25–77	Ladd Petroleum Corp., 830 Denver Club Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., blocks 290 and 291, ship shoal south addition area, offshore Louisiana.	[4] [5] $1.45	15.025
CI77–426 ..... A 4–25–77	Harper Oil Co., 904 Hightower Bldg., 105 North Hudson, Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Smith A–1 well, sec. 14–15N–18W, Custer County, Okla.	[10] $1.58	14.65
CI77–428 ..... A 4–15–77	Southern Union Supply Co., 1800 First International Bldg., Dallas, Tex. 75270.	Western Gas Interstate Co., North Vacuum Morrow field, Lea County, N. Mex.	[4] [5] $1.6764	14.73
CI77–429 ..... (G–18041) E 4–19–77	W. C. DeArman, et al., successor to Coastal States Gas Producing Co.), 1100 Milam Bldg., Houston, Tex. 77002.	Consolidated Gas Supply Corp., Newberry Lands, Wyoming and Logan Counties, W. Va.	[11] 62.85¢	15.025
CI77–430 ..... (G–18041) E 4–19–77	do	Consolidated Gas Supply Corp., Eunice, Dorothy-Sarita, Welch, and Oglebay-Norton lands, Raleigh and Boone Counties.	[11] 62.85¢	15.325
CI77–431 ..... (CI62–249) E 4–19–77	do	United Fuel Gas Co., Skillet, Fork, and Hare lands, Stafford district, Mingo County, W. Va.	62.85¢	15.325
CI77–432 ..... (CI63–1128) E 4–19–77	do	Consolidated Gas Supply Corp., Y. & O. lands, Crook district, Boone County, W. Va.	[11] 62.85¢	15.325
CI77–433 ..... (G–18041) E 4–19–77	do	United Fuel Gas Co., E. K. McClintin lease, Scott district, Putnam County, W. Va.	62.85¢	15.325
CI77–434 ..... (G–18041) E 4–19–77	do	Columbia Fuel Corp., Sharp-McMillen land, Jefferson district, Nicholas County, W. Va.	62.85¢	15.325
CI77–435 ..... (G–4241) B 4–14–77	R. Lacy, Inc., et al., P.O. Box 2146, Longview, Tex. 75601.	Lone Star Gas Co. (now Enserch Exploration, Inc.) Carthage field, Panola County, Tex.	(12)	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Plugged and abandoned.
[2] Pursuant to opinion Nos. 749, 770, and 770–A.
[3] Well depleted.
[4] Applicant proposes to collect the national rate as prescribed in opinion No. 770–A.
[5] Subject to adjustments pursuant to opinion No. 770–A.
[6] Subject to upward and downward Btu adjustments.
[7] Reserves depleted to the extent that it is unwarranted to continue sales.
[8] Applicant is willing to accept a permanent certificate in accordance with opinion No. 770, as amended.
[9] Nonproductive.
[10] Includes base $1.44, tax $0.1046 and Btu adjustments.
[11] Includes tax reimbursement of ¾¢ of any increase payable to seller.
[12] Includes 100 pct tax reimbursement.
[13] Applicant is filing for abandonment pursuant to Commission order issued Dec. 18, 1972.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.77–13589 Filed 5–12–77;8:45 am]

FEDERAL RESERVE SYSTEM

CENTRAL NATIONAL BANCSHARES, INC.

Proposed Acquisition of First Kansas Financial, Inc.

Central National Bancshares, Inc., Des Moines, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire, through merger, the assets of First Kansas Financial, Inc., Wichita, Kansas. Notice of the application was published on April 3, 1977, in The Kansas City Star and on April 8, 1977, in the Wichita Beacon, newspapers circulated in Kansas City, Missouri, and Wichita, Kansas, respectively.

Applicant states that following the proposed transaction First Mortgage

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Investment Company, Kansas City, Missouri, a subsidiary of First Kansas Financial, Inc., would, as a subsidiary of Applicant, engage in the following activities:

(1) Making, originating, acquiring, purchasing, arranging for, holding, warehousing, and selling, for its own account and for the accounts of others, loans of all types, and other extensions of credit, secured by mortgages or deeds of trust of real property, such as would be made by a mortgage company;

(2) Servicing such loans and other extensions of credit for any person; and

(3) Acting as insurance agent or broker selling credit life, accident and health, credit disability, mortgage redemption, and mortgage cancellation insurance related to loans and extensions of credit made by First Mortgage Investment Company, and selling general property damage and casualty insurance to bank subsidiaries of Central National Bancshares, Inc.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 3, 1977.

Board of Governors of the Federal Reserve System, May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13735 Filed 5-12-77;8:45 am]

[Reg. C; Docket No. R-0047]

NEW YORK STATE

Exemption Application Under the Home Mortgage Disclosure Act of 1975

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: On December 8, 1976, the Board issued an Order exempting New York State depository institutions that are subject to the State Banking Department's loan disclosure regulation (Supervisory Procedure G-107) from the disclosure requirements of the Home Mortgage Disclosure Act and implementing Regulation C. Pursuant to the Board's Order, the State Banking Department submitted amendments to its disclosure regulation, and the Board has determined that the amendments satisfy the requirements of the Order.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne J. Geary, Acting Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3946.

SUPPLEMENTARY INFORMATION: On June 22, 1976, the Banking Department of the State of New York applied to the Board for an exemption from the disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801-2809), as implemented by Regulation C (12 CFR 203). The Department's application was filed pursuant to section 306(b) of the Act (12 U.S.C. 2805(b)) and § 203.3(a)(3) and the Supplement to Regulation C (12 CFR 203.3(a)(3)), and was based upon the requirements of the Department's Supervisory Procedure G-107. Notice of the application, affording an opportunity for interested parties to submit comments, was published in the FEDERAL REGISTER on July 20, 1976 (41 FR 29917).

On December 8, 1976, based on the record before it, the Board approved the Department's exemption application. The Board's Order was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55583). The Board in its Order, however, required:

> That the New York State Banking Department promulgate an amendment to the provisions of its Supervisory Procedure G 107 to require depository institutions subject to that Procedure to disclose all mortgage loans acquired by any means during each fiscal year, commencing with the last full fiscal year ending prior to July 1, 1976, in at least the detail required pursuant to Section I of Appendix 9 of the Procedure.

Pursuant to that requirement, the Department submitted to the Board amendments to its Supervisory Procedure G-107. Notice of the submission, affording an opportunity for interested parties to submit comments, was published in the FEDERAL REGISTER on April 8, 1977 (42 FR 18659).

Having reviewed the amendments and the comments that were received, the Board has determined that the amendments satisfy the condition stated in its December 8, 1976 Order for the continuance of the exemption. Accordingly, pursuant to the Board's December 8 Order, all New York State-chartered commercial banks, mutual savings banks, and savings and loan associations that are subject to Supervisory Procedure G-107 continue to be exempted from the data compilation and disclosure requirements of the Home Mortgage Disclosure Act, as implemented by §§ 203.4 and 203.5 of Regulation C. All Federally-chartered depository institutions and any New York-chartered depository institutions that are not covered by Supervisory Procedure G-107 remain subject to Regulation C to the extent that they are not exempt pursuant to subparagraphs (a)(1) and (a)(2) of § 203.3 because of their asset size and the location of their offices.

By order of the Board of Governors, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-13734 Filed 5-12-77;8:45 am]

NORTHEAST UNITED BANCORP, INC. OF TEXAS

Acquisition of Bank

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, has amended its application for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares of First State Bank, Bedford, Texas ("Bank"). On January 19, 1976, the Board approved Applicant's proposal to acquire all of the voting shares of Bank; and on November 5, 1976, the Board approved Applicant's amended proposal to acquire 75 per cent or more of the voting shares of Bank. Applicant has now applied to acquire 51 per cent or more of Bank's voting shares. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application, as amended, may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 3, 1977.

Board of Governors of the Federal Reserve System, May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13736 Filed 5-12-77;8:45 am]

ROGER BILLINGS, INC.

Order Approving Acquisition of Additional Shares of Bank

Roger Billings, Incorporated, Delphos, Kansas, a registered bank holding company,[2] has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire an additional 10 per cent of the voting shares of The State Bank of Delphos, Delphos, Kansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant currently owns 26.8 per cent of the voting shares of Bank, and also engages in insurance activities.[2] Bank, with total deposits as of June 30, 1976 of approximately $4.7 million, controls approximately .05 per cent of the total deposits in commercial banks in the State[3] and is the fourth largest of the five banks in the relevant market with approximately 15.2 per cent of the total deposits in the market.[4] Applicant proposes to acquire 50 shares of Bank from a principal shareholder of Bank and Applicant. The proposed acquisition of additional shares of Bank would have no effect on competition, since Applicant and its officers, directors and principal shareholders together already control a majority of Bank's outstanding voting shares. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are considered generally satisfactory. Although Applicant would incur some debt in connection with this acquisition, it appears that income from Bank and Applicant's insurance activities would provide sufficient revenue to service the debt adequately without adversely affecting the financial condition of Bank. Accordingly, considerations relating to banking factors are consistent with approval. Although there are no immediate changes contemplated in the services or facilities of Bank as a result of this acquisition of additional voting shares, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Therefore, it is the Board's judgment that the proposed transaction is consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors,[5] effective May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13737 Filed 5-12-77;8:45 am]

SYB CORP.

Order Approving Formation of Bank Holding Company

CYB Corporation, Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of Stock Yards Bank, Oklahoma City, Oklahoma ("Bank").[1]

Notice of the amended application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was formed for the purpose of becoming a bank holding company. Upon acquisition of Bank,[2] Applicant would control .06 percent of the total deposits in commercial banks in Oklahoma.[3] Bank, the ninth largest of 72 banking organizations in the relevant market,[4] holds deposits of approximately $59.6 million, representing approximately 1.8 percent of the total deposits in commercial banks in the market.

Upon consummation of the proposal, 16 one-bank holding companies[6] would each acquire less than 5 percent of Applicant's voting shares, and the remainder of Applicant's shares would be held by present shareholders of Bank. The 16 banking organizations hold aggregate deposits of approximately $1.0 billion, representing approximately 9.6 percent of the total deposits in commercial banks in Oklahoma. Three of the 16 organizations are represented in the Oklahoma City market and hold aggregate deposits, including deposits held by Bank, amounting to $215.8 million or 6.6 percent of total market deposits. In this circumstance, it is doubtful that the acquisition of less than 5 percent of Applicant's stock by each of these organizations would adversely affect existing competition within the Oklahoma City market. Each of the other 13 organizations that would own shares of Applicant is located in a separate banking market. In light of the small interest each of the 16 organizations would acquire in Applicant, the Board concludes that consummation of the proposal would not increase the concentration of banking resources in any relevant market and would not have a significant adverse effect upon either existing or potential competition. Accordingly, the Board finds that competitive considerations are consistent with approval of the application.

Where, as here, a number of bank holding companies agree to acquire less than 5 percent each of the outstanding voting shares of another company or a bank, at least two issues warranting regulatory concern may arise: First, the companies' participation in the management or business of the other company or bank may be so extensive as to support the conclusion that each of the holding company-shareholders is not merely a passive investor, but is in fact engaging as an entrepreneur in the business of the other company or bank.[6]

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[1] Applicant registered as a bank holding company in 1971 at the request of the Federal Reserve Bank of Kansas City. Under § 225.2(b) of the Board's Regulation Y (12 CFR 225.2(b)) a rebuttable presumption existed that Applicant controlled The State Bank of Delphos, Delphos, Kansas; however, the Board has not made a determination that Applicant controlled that bank. By Order of September 14, 1976 the Board approved the application of Applicant to acquire 4.6 percent of the voting shares of Bank. See 62 Federal Reserve Bulletin 863.

[2] Applicant claims section 4(c)(11) as authority for its continuing to engage in its nonbanking activities. In the event the Board determines that Applicant is not entitled to that exemption, Applicant has agreed to either file an application pursuant to section 4(c)(8) or reduce its holdings of Bank's stock to less than 25 per cent of the outstanding voting shares.

[3] All banking data are as of December 31, 1975, except as noted.

[4] The relevant market is approximated by northern Ottawa and southern Cloud Counties.

[5] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

[1] By Order of May 6, 1975 (40 FR 21076), the Board approved an application by SYB Corporation to become a bank holding company through the acquisition of Bank. Consummation of the approved proposal was delayed pending receipt of a tax ruling from the Internal Revenue Service. In view of the length of time that has elapsed since the Board issued its Order approving the application and the substantial amendments that Applicant has made to the proposal, the Board has considered the amended proposal as if it were a new application.

Effective April 25, 1977, Bank changed its name to United Oklahoma Bank.

[2] Under a trust arrangement, shareholders of Bank are the beneficial owners of 20 percent of the shares of Oklahoma Bankers Life Insurance Company, Oklahoma City, Oklahoma ("OBLIC"). Under sections 2(g)(1) and 2(g)(2) of the Act, control of these shares would be attributed to Applicant upon its acquisition of Bank. The activities of OBLIC have not been determined to be permissible under section 4(c)(8) of the Act and, therefore, the indirect control of these shares by Applicant is prohibited. Accordingly, upon acquisition of Bank, Applicant is required to divest its indirect interest in OBLIC within the applicable time period provided in section 4(a)(2) of the Act.

[3] All banking data are as of June 30, 1976.

[4] The relevant market is approximated by the Oklahoma City Standard Metropolitan Statistical Area.

[5] At this time, only ten of the 16 bank holding companies have been formed. Regulatory approval has been granted to formation of an eleventh. The participation of the remaining holding companies in the above-described arrangement is contingent upon regulatory approval of their formation.

[6] The Board recently stated, in an interpretation under section 4 of the Act, that the exemption in section 4(c)(6) of the Act, under which a bank holding company is generally permitted to own up to 5 percent of the voting shares of a nonbank company without Board approval, should be interpreted as applicable only to passive investments, and does not authorize control relationships or entrepreneurial activity (63 Federal Reserve Bulletin 60 (1977)). The rationale of that interpretation is equally

V 42 93 MAY 13 77 UMI

Second, the group of shareholders itself may, through agreement or understanding among the members or through its structure alone, constitute a "company" within the meaning of section 2(b) of the Act (12 U.S.C. 1841(b)).

On the basis of the facts of record in the present case, the Board is not persuaded that the intention of the holding company-shareholders is to expand their banking businesses further through Applicant. Moreover, the Board does not find it necessary at this time to make a determination that the proposed stockholders of Applicant will themselves constitute an organization that fits the definition of "company" in section 2(b). The Board remains concerned, however, that the close association of bank holding companies as stockholders of Applicant could create potential opportunities for additional investments in banking or nonbanking businesses by this group under circumstances that could be insistent with the purposes of the Act. Accordingly, the Board's approval of this application, and its decision not to treat the stockholder group as a bank holding company itself, are subject to the following conditions:

1. The companies owning or controlling shares of Applicant will not engage in any other banking or nonbanking activities as part of a group that consists of substantially the same companies as are shareholders of Applicant.

2. The companies owning shares of Applicant will not enter into any formal or informal agreement or understanding among themselves concerning the manner in which shares of Applicant are to be voted.

3. None of the companies owning shares of Applicant will sell, assign, or transfer any of its shares of Applicant unless and until it has obtained the agreement of any purchaser, assignee or transferee to be bound by the provisions of this Order.

Should the Board have reason to believe at some future date that these companies are not acting independently as essentially passive investors, it will take appropriate steps to ensure that the regulatory purposes of the Act are not evaded.

The financial and managerial resources and future prospects of Applicant are dependent upon those of Bank, which are regarded as satisfactory. Applicant will issue voting common stock and nonvoting cumulative preferred stock in exchange for Bank's shares. Accordingly, considerations relating to banking factors are consistent with approval of the application. Although consummation of the transaction would have no immediate effect on area banking needs, considerations relating to the convenience and needs of the community to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

applicable to the acquisition of 5 percent holdings in banks or bank holding companies within the leeway provided in section 3(a)(3) of the Act.

On the basis of the record[7] the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[8] effective May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13738 Filed 5-12-77;8:45 am]

[Docket No. TCR 76-132]

WACHOVIA CORP.

Prior Certification Pursuant to the Bank Holding Company Tax Act of 1976

The Wachovia Corporation, Winston-Salem, North Carolina ("Wachovia") has requested a prior certification pursuant to Section 6158(a) of the Internal Revenue Code (the "Code"), as amended by Section 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its proposed sale of all the 20,000 issued and outstanding shares of common stock of Financial Courier Corporation (formerly Wachovia Courier Corporation), Winston-Salem, North Carolina ("Courier"), now held by Wachovia is neessary or appropriate to effectuate Section 4 of the Bank Holding Company Act (12 U.S.C. 1843 et seq.) ("BHC Act"). Wachovia has agreed to sell the shares of Courier to Pony Express Courier Corp., Atlanta, Georgia ("Pony Express") for $2,250,000 cash payable on the closing date.

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification.[1]

1. Wachovia is a corporation organized under the laws of the State of North Carolina in September 1968 to acquire and hold all the shares of Wachovia Bank and Trust Company, N.A. ("Bank").

2. On December 31, 1968, Wachovia acquired ownership and control of all of the outstanding voting shares (less directors' qualifying shares) of Bank.

3. Wachovia became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its ownership and control at that time of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on January 20, 1972. Wachovia would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its ownership and control on that date of more than 25 percent of the voting shares of Bank. Wachovia presently owns and controls 100 percent (less directors' qualifying shares) of the outstanding voting shares of Bank.

4. Courier was organized in May 1969 as a wholly owned subsidiary of Wachovia to engage in the business of providing courier service for transportating financial documents and data processing material. Such services are currently performed by its Bank, its correspondent banks, customers of Bank's data processing subsidiary and the Federal Reserve Bank of Richmond. Wachovia presently owns and controls the 20,000 issued and outstanding shares of common stock of Courier, all of which it acquired before July 7, 1970.

5. Wachovia has not filed an application with the Board, or otherwise obtained the Board's approval, pursuant to section 4(c)(8) of the BHC Act to retain the shares of Courier or engage in the activities carried on by Courier.[2]

6. Wachovia has contracted to sell the shares of Courier to Pony Express for cash.

[2] Although Wachovia has not sought Board approval to retain Courier, some or all of Courier's activities may be among those activities that the Board has previously determined to be closely related to banking, under section 4(c)(8). See CFR 225.4(a)(11) and 225.129; *National Courier Association* v. *Board of Governors of the Federal Reserve System*, 516 F. 2d 1229 (D.C. Cir. 1975). Under the Board's present procedures, however, the question whether, or to what extent, Wachovia would be permitted to retain these activities would not be determinable unless and until Wachovia filed an application for permission to retain the activities. In passing upon such an application the Board would be required to apply the second test set forth in § 4(c)(8) and to determine whether the performance of these activities by a subsidiary of Wachovia "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." In the absence of favorable action on such an application Wachovia would have no authority for retaining Courier beyond December 31, 1980, if it continued to be a bank holding company beyond that date. The legislative history of the Tax Act does not indicate a Congressional intent that companies subject to such a divestiture requirement exhaust the possibilities for retaining the activity before being eligible for tax relief, and in view of the paramount purpose of section 4 of the BHC Act, that "banking and commerce should remain separate," S. Rep. No. 1084, 91st Cong., 2d Sess. 12 (1970), it would appear that the disposition of a potentially permissible activity, without first seeking approval for retention, is at least "appropriate" to effectuate section 4.

[7] Dissenting Statement of Governor Coldwell filed as part of the original Document. Copies are available upon request from the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[8] Voting for this action: Vice Chairman Gardner and Governors Wallich, Partee and Lilly. Voting against this action: Governor Coldwell. Absent and not voting: Chairman Burns and Governor Jackson.

[1] This information derives from Wachovia's correspondence with the Board concerning its request for this certification, Wachovia's Registration Statement filed with the Board pursuant to the BHC Act and other records of the Board.

On the basis of the foregoing information it is hereby certified that:

(A) Wachovia is a qualified bank holding corporation, within the meaning of section 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfies the requirements of that subsection;

(B) Courier is "prohibited property" within the meaning of sections 6158(f)(2) and 1103(c) of the Code; and

(C) the sale of Courier is necessary or appropriate to effectuate section 4 of the BHC Act.

This certification is based upon the representations made to the Board by Wachovia and upon the facts set forth above. In the event the Board should hereafter determine the facts material to this certification are otherwise than as represented by Wachovia, or that Wachovia has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(3)), effective May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-13817 Filed 5-12-77;8:45 am]

WELLS FARGO & CO.

Order Approving Acquisition of Ben G. McGuire & Co.

Wells Fargo & Company, San Francisco, California, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire, through a recently established subsidiary, WF-BGM, Inc., San Francisco, California, all of the voting shares of Ben G. McGuire & Company, Houston, Texas ("Company"), a company that engages in the activities of mortgage lending and servicing loans and other extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 13060). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the third largest banking organization in California, controls one bank with total deposits of approximately $10.4 billion representing 10 per cent of the total deposits in commercial banks in the State.[1] Applicant also controls a number of other subsidiaries, including subsidiaries engaged in commerical leasing, real estate advisory services, loan servicing, and mortgage lending.

Company, operating from one office in Houston, Texas, is a mortgage lending and loan servicing company engaged in arranging interim financing with lenders for origination of permanent mortgage loans on commerical and income properties and in the ultimate servicing of such loans. Company has not been directly involved in funding mortgage loans, and loans that it has arranged have been closed in the loan investor's name, with the investor's funds. Although none of Applicant's subsidiaries is engaged in servicing mortgage loans in the Houston banking market,[2] Applicant's real estate advisory subsidiary operates an office in the Houston market and, among other things, originates real estate mortgage loans. However, the amount of such loans made by Applicant's subsidiary is not deemed significant when viewed in light of the large number of other competitors in the market.[3] Applicant's mortgage lending subsidiary also has an office in Houston, but it has not originated or serviced any mortgage loans through that office and Applicant has stated that it intends to close the office upon consummation of the proposed transaction. Therefore, in view of the limited nature of Applicant's present activities in the Houston banking market and the competitive structure of mortgage lending in that market, it appears that consummation of the proposal would not have any significant adverse effects on competition in the relevant area. Furthermore, there is no evidence in the record indicating that consummation of this proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices or other adverse effects upon the public interest.

Upon consummation of the proposed acquisition, Applicant would offer McGuire the capability to fund directly mortgage loans and warehouse them for short periods of time. To fund such operations, Applicant proposes to downstream some of its commercial paper funds to Company. Through increased access to money markets, Company should also be able to offer a wider range of mortgage loan closings, including residential loans, and to enter additional service markets in Texas. In addition, the policies of Applicant's mortgage lending subsidiary regarding the financing of public housing projects and servicing of FHA loans to low-income borrowers would be extended to McGuire. Accordingly, it appears that the acquisition proposal would produce benefits to the public that are consistent with and lend weight toward approval of this application.

As a source of funds for the proposed acquisition ($3.5 million), Applicant will use a portion of excess proceeds remaining from a $50 million debt issue in 1973. Thus, it appears that the cost of the proposed acquisition will be met with funds currently on hand, without diverting financial resources from Applicant's operations.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that Applicant's acquisition of Company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco.

By order of the Board of Governors,[4] effective May 6, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-13739 Filed 5-12-77;8:45 am]

[1] Unless otherwise indicated, all banking data are as of December 31, 1976.

[2] The relevant market for purposes of reviewing this application is the Houston RMA, approximated by Harris County and portions of Brazoria, Fort Bend, Liberty, Montgomery and Waller Counties.

[3] Within the Houston banking market, McGuire and Applicant generally compete with 6 commercial banks, 17 mortgage banking firms, and 10 savings and loan associations.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson and Partee. Absent and not voting: Chairman Burns and Governor Lilly.

FEDERAL TRADE COMMISSION

CORRECTIVE ADVERTISING

Additional Opportunity To Present Views

On March 7, 1977, there was published in the FEDERAL REGISTER (42 FR 12924) a notice of opportunity to submit comments on a petition to adopt an interpretive rule or policy statement on corrective advertising. Interested parties were afforded the opportunity to present the Commission their written views concerning the proposed rule or policy statement, including such pertinent information, suggestions or objections as they may desire to submit. Such views were to be submitted not later than May 6, 1977, to the Assistant Director for National Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

The Commission has determined that additional opportunity for presentation of written views is warranted. Accordingly, the Commission extends the time during which such views may be submitted to not later than June 6, 1977.

Issued: May 13, 1977.

By direction of the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13708 Filed 5-12-77;8:45 am]

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GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR D–146]

PUBLIC BUILDINGS AND SPACE

Designations and Redesignations of Federal Buildings

APRIL 22, 1977.

To: Heads of Federal agencies.

1. *Purpose.* This bulletin announces the designations of 6 Federal buildings and the redesignations of 24 Federal buildings.

2. *Expiration date.* This bulletin expires June 30, 1977. However, the building designations and redesignations announced by this bulletin will remain in effect until canceled or superseded.

3. *Designation.* The names of the buildings being designated are as follows:

DESIGNATED NAMES

Social Security Building, 104 North Mentor Street, Pasadena, CA 91101.
U.S. Post Office, Loop Station, 211 South Clark Street, Chicago, IL 60604.
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, NY 10007.
Federal Building, U.S. Courthouse, 100 South Clinton Street, Syracuse, NY 13202.
Federal Building, U.S. Courthouse, Carlos E. Chardon Avenue, Hato Rey, PR 00918.
Federal Building, U.S. Courthouse, 26 Veterans Drive, Charlotte Amalie, St. Thomas, VI 00801.

4. *Redesignation.* The former and new names of the buildings being redesignated are as follows:

Former name	*New Name*
Federal Bldg., U.S. Post Office and Courthouse, 4th and F Sts., Anchorage, Alaska 99510.	Federal Bldg., U.S. Courthouse, 4th and F Sts., Anchorage, Alaska 99510.
Federal Office Bldg. and Parking Facility, Fairbanks, Alaska.	Federal Bldg., 101 12th Ave., Fairbanks, Alaska 99701.
Courthouse, FOB and Parking Facility, East Broward Blvd. and Northeast 3d Ave., Fort Lauderdale, Fla. 33302.	Federal Bldg., U.S. Courthouse, East Broward Blvd. and Northeast 3d Ave., Fort Lauderdale, Fla. 33302.
Courthouse and Federal Office Bldg., Orlando, Fla. 32801.	Federal Bldg., U.S. Courthouse, 80 North Hughey Ave., Orlando, Fla. 32801.
U.S. Post Office and Courthouse, 56 Forsyth St., Atlanta, Ga. 30301.	U.S. Courthouse, 56 Forsyth St., Atlanta, Ga. 30301.
U.S. Post Office and Courthouse, East Ford St., Augusta, Ga. 30901.	U.S. Courthouse, East Ford St., Augusta, Ga. 30901.
U.S. Courthouse and Federal Office Bldg. Alton, Ill. 62002.	Federal Bldg., U.S. Courthouse, 501 Belle St., Alton, Ill. 62002.
Federal Office Bldg., Mount Vernon, Ill. 62864.	Federal Bldg., 105 South 6th St., Mount Vernon, Ill. 62864.
Federal Office Bldg., Indianapolis, Ind. 46204.	Federal Bldg., 575 North Pennsylvania St., Indianapolis, Ind. 46204.
U.S. Courthouse and Federal Office Bldg., New Albany, Ind. 47150.	Federal Bldg., U.S. Courthouse, 121 West Spring St., New Albany, Ind. 47150.
Federal Office Bldg., Ann Arbor, Mich. 48104.	Federal Bldg., Liberty and 4th Sts., Ann Arbor, Mich. 48104.
Federal Office Bldg., Saginaw, Mich. 48607.	Federal Bldg., Warren and Genesee Aves., Saginaw, Mich. 48607.
Courthouse and Federal Office Bldg., Winston-Salem, N.C. 27101.	Federal Bldg., U.S. Courthouse, 251 North Main St., Winston-Salem, N.C. 27101.
U.S. Courthouse and Federal Office Bldg., Akron, Ohio 43308.	Federal Bldg., U.S. Courthouse, 2 South Main St., Akron, Ohio 44308.
National Environmental Research Center, Vine St. and St. Claire Ave., Cincinnati, Ohio 45220.	Environmental Research Center, 26 St. Clair St., Cincinnati, Ohio 45268.
Federal Office Bldg. and Parking Facility, Columbus, Ohio 43215.	Federal Bldg., 200 North High St., Columbus, Ohio 43215.
U.S. Courthouse and Federal Office Bldg., Dayton, Ohio 45402.	Federal Bldg., U.S. Courthouse, 200 West 2nd St., Dayton, Ohio 45402.
Federal Office Bldg., Oklahoma City, Okla. 73102.	Federal Bldg., 5th and Robinson Sts., Oklahoma City, Okla. 73102.
Federal Office Bldg., Huron, S.D. 57350.	Federal Bldg., 201 4th St. SW., Huron, S.D. 57350.
U.S. Border Station Facility, Laredo, Tex. 78040.	U.S. Border Station, Termination of I–35, Laredo, Tex. 78040.
Border Patrol Sector, headquarters, Marfa, Tex. 79843.	U.S. Border Patrol Sector, headquarters, Old Fort D.A. Russell, Marfa, Tex. 79843.
U.S. Court, San Antonio, Tex. 78205.	U.S. Courthouse, 655 East Durango Blvd., San Antonio, Tex. 78205.
Federal Office Bldg., San Antonio, Tex. 78205.	Federal Bldg., 727 East Durango Blvd., San Antonio, Tex. 78205.
U.S. Post Office Courthouse, 221 Ferguson St., Tyler, Tex. 74701.	Federal Bldg., U.S. Post Office and Courthouse, 221 West Ferguson St., Tyler, Tex. 74701.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–13729 Filed 5–12–77;8:45 am]

SECRETARY OF DEFENSE

Revocation of delegations of authority

[FPMR Temporary Regulation F–424]

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in utility proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires May 31, 1977.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F–22	Sept. 12, 1968	Delegation of authority to the Secretary of Defense—regulatory proceeding.
F–307	Oct. 11, 1974	Do.
F–319	Dec. 27, 1974	Do.
F–361	Apr. 2, 1976	Do.

Dated: April 29, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–13730 Filed 5–12–77;8:45 am]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

[FPMR Temporary Regulation F–425]

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires May 31, 1977.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number	Date	Subject
F–29	Oct. 17, 1968	Delegation of authority to the Secretary of Defense—Regulatory Proceeding.
F–44	Mar. 14, 1969	Do.
F–328	Jan. 27, 1975	Do.
F–362	June 2, 1976	Do.

Dated: April 29, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–13731 Filed 5–12–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Safety and Occupational Health Study Section.

Date: June 2–3, 1977.

Place: Linden Hill Hotel, Room 111, 5400 Pooks Hill Road, Bethesda, Maryland 20014.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 10:20 a.m., on June 2; Closed: Remainder of meeting.

Contact Person: John F. Bester, Ph. D., Executive Secretary, Park Building, Room 3–40, NIOSH, 5600 Fishers Lane, Rockville, Maryland 20857. Phone: 301–443–4493.

Purpose: The Committe is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include reading of minutes of previous meeting, and administrative and staff reports. During the closed session beginning at 10:35 a.m., June 2, 1977, through adjournment on June 3, 1977, the Study Section will be performing the initial review of research grant and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Determination of the Director, Center for Disease Control, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

V 42 93 MAY 13 77 UMI

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 9, 1977.

WILLIAM C. WATSON, JR.,
Director, Center for Disease Control.

[FR Doc.77-13727 Filed 5-12-77;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Pulmonary Functions and Respiratory Therapy Subcommittee of the Anesthesiology Device Classification Panel.	June 1, 8:30 a.m., room 5051, HEW-N., 330 Independence Ave. SW., Washington, D.C.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 4 p.m.; Dennis J. Cotter (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of pulmonary function devices as listed below to Dennis J. Cotter, acting executive secretary. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The subcommittee will continue to complete the supplementary data sheets for the following devices: blood gas analyzer kit; indwelling hydrogen ion (pH) gas analyzer; non-indwelling hydrogen ion (pH) gas analyzer; indwelling carbon-dioxide partial pressure gas analyzer; indwelling carbon-monoxide partial pressure gas analyzer; non-indwelling carbon monoxide partial pressure gas analyzer; indwelling oxygen partial pressure gas analyzer; non-indwelling oxygen partial pressure gas analyzer; ear oximeter; gas densitomer.

Committee name	Date, time, and place	Type of meeting and contact person
2. Dentifrice and Dental Care Panel.	June 1 and 2, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 1, 9 a.m. to 10 a.m.; open committee discussion June 1, 10 a.m. to 4:30 p.m., June 2, 9 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
3. Anesthesiology Device Classification Panel.	June 2, 8:30 a.m., room 5051, HEW-N., 330 Independence Ave. SW., Washington, D.C.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 4:30 p.m.; Dennis J. Cotter (HFK-450), 8757 Georgia Ave., Silver Spring Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of anesthesiology devices as listed below to Dennis J. Cotter, executive secretary. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will continue to complete the supplementary data sheets for the following devices: ocsillometer; spyhgmomanometer; transcutaneous ultrasonic blood flowmeter; automatic non-ultrasonic blood pressure monitor. manual non-ultrasonic blood pressure monitor; noninvasive carbon-dioxide monitor; infusion rate monitor; noninvasive oxygen monitor; noninvasive pH monitor; spinal-fluid pressure monitor; AC-powered spinal-fluid pressure monitor; invasive blood pressure transducer; invasive blood-flow transducer; noninvasive blood-flow transducer; carbon-dioxide exhaled gas monitor; electrical impedance ventilatory frequency monitor; carbon-dioxide absorbent; carbon-dioxide absorber; breathing circuit connector; breathing circuit bacterial filter; head strap; non-rebreathing valve; breathing circuit Y-piece; conduction anesthesia block anesthesia kit; spinal needle introducer; stopcock; board arm; manual infusion apparatus; transfusion set; dry heat blood warmer; water bath blood warmer; ether dropper; ether hook; nonheated anesthesia vaporizer; laryngo-tracheal (lta) anesthesia kit; medicinal atomizer; bit block; dental protector; tube introducing forceps; nonrigid laryngoscope; rigid laryngoscope; catheter stylet; portable air compressor cylinder/pipeline gas pressure gauge; gas cylinder stand; medical gas yoke assembly; binasopharyngeal (with connectors) airway; inflatable cuff; tracheal tube fixers; cuff spreader; differential ventilation tracheal/bronchial tube clinical hyperbaric chamber; cardio-pulmonary (excluding equipment) emergency cart; mechanical cardiac resucitator; collection bottle; trap bottle; bronchial suction catheter; tracheal suction catheter; tracheostomy suction catheter; suction gauge; suction kit; aspiration pump; suction tip; levin tube; anesthetist cabinet; patient cart; patient restraint; conductive shoe cover; conductive shoe; anesthetist stool; positioning support; anesthetist table; operating room table; anesthetist tray.

Committee name	Date, time, and place	Type of meeting and contact person
4. Dermatology Advisory Committee.	June 2, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dermatology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of human skin sensitization and phototoxicity data on topicycline; review of new safety and effectiveness data and labeling for Kwell; guidelines for clinical studies on topical steroids; review of adrenal suppression studies; evaluations of other aspects of the current guidelines; consideration of the labeling for bichloracetic acid; and update of FDA actions.

Committee name	Date, time, and place	Type of meeting and contact person
5. Radiological Device Classification Panel.	June 3, 8:30 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 4 p.m.; Lillian Yin Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Earl R. Miller, M.D., will report on the "Second Image Receptor Conference." Interested persons are encouraged to present information pertinent to classification of radiological devices to the executive secretary. Submission to data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 18, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will review the classification of radiological devices and will recommend exemptions for devices in Class I (General Controls Category) from registration, records and reports, and good manufacturing practices.

The panel will classify medical cyclotron, medical neutron generator, and medical synchrotron.

Committee name	Date, time, and place	Type of meeting and contact person
6. Ophthalmic Panel	June 3 and 4, 9 a.m., Conference room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 3, 9 a.m. to 10 a.m.; open committee discussion June 3, 10 a.m. to 4:30 p.m., June 4, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
7. Miscellaneous External Drug Products Panel.	June 5 and 6, 9 a.m., Conference room J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion June 5, 9 a.m. to 4:30 p.m.; open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

V 42 93 MAY 13 77 UMI

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
8. Obstetrical and Gynecological Device Classification Panel.	June 6, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 3 p.m.; open committee discussion 3 p.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-4238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulations.

Agenda—Open public hearing. Howard Ory, M.D., will discuss "A Review of the Association Between Intrauterine Contraceptive Devices and Acute PID"; Robert Israel, M.D., will discuss "Recurrence of Fertility Following Use of Contraceptive Agents"; Richard Sweet, M.D., will discuss "Pelvic Infection—The Role of the IUD"; Louise Tyrer, M.D., will discuss "Pelvic Infection and Subsequent Fertility with IUD's"; and Richard Soderstrom, M.D., will discuss "The IUD and Salpingitis—A Frequent Response." Interested persons are encouraged to present to the executive secretary, information pertinent to the risk to future fertility of intrauterine contraceptive devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will discuss the risk to future fertility of intrauterine contraceptive devices.

Committee name	Date, time, and place	Type of meeting and contact person
9. Ophthalmic Drugs Advisory Committee.	June 6, 9 a.m., Conference room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Mary K. Bruch (HFK-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in diseases and disorders of the eye.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the status of review of data on pimaricin; status of antiviral drugs for ophthalmic use; specific elements required in guidelines for ophthalmic antiviral drugs; review of NDA 17-918 for celestone ophthalmic solution; and discussion of the update of FDA actions.

Committee name	Date, time, and place	Type of meeting and contact person
10. Gastrointestinal Drugs Advisory Committee.	June 6 and 7, 9 a.m., Conference Room A, Parklawn Bldg., Rockville, Md.	Open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 5 p.m., June 7, 9 a.m. to 2 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the report from the Hepatotoxicity Subcommittee; IND 11,134 (chenodeoxycholic acid); and IND 13,020 (ursodeoxycholic acid).

Committee name	Date, time, and place	Type of meeting and contact person
11. Endoscopic and Electrosurgical Devices Subcommittee of the Obstetrical and Gynecological Device Classification Panel.	June 7, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Lillian Yin, Ph. D., (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. John Gunning, M.D., will discuss "Thermal Coagulator for Laparoscopic Tubal Sterilization"; Robert Neuwirth, M.D., will discuss "Approaches to the Evaluation of New Methods of Hysteroscopic Sterilization"; and Herbert Patrick, M.S.E.E., will discuss "Electrical Considerations for Laparoscopy." Interested persons are encouraged to present to the executive secretary, information pertinent to devices used in hysteroscopic female sterilization and thermal coagulators. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The subcommittee will draft guidelines for a product development protocol for devices used in hysteroscopic female sterilization and thermal coagulators.

Committee name	Date, time, and place	Type of meeting and contact person
12. Clinical Chemistry Device Classification Panel.	June 9 and 10, 9 a.m., room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 9, 9 a.m. to 10 a.m.; open committee discussion June 9, 10 a.m. to 5 p.m., June 10, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of clinical chemistry devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 3, 1977, and submit a brief statement pertinent to classification, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will classify the following in vitro diagnostic products: adolase; beta-gulcuronidase; hydroxybutyric dehydrogenase; prostaglandins; sorbitol dehydrogenase; pregnenolone; desoxycorticosterone; lactose; corticoids; lysozyme; leucinc arylamidase (LAP); ornithine carbamyl transferase; malic dehydrogenase; phosphohexose isomerase; phospholipids; lipids (total); cystine; tyrosine; hydroxyproline; trypsin; chymotrypsin; aminolevulinic acid; oxytocin; bradykinin; calcitonin; carbon monoxide; formininoglutamic acid (FIGLU); fatty acids; general purpose instruments; blood pH; blood volume.

Committee name	Date, time, and place	Type of meeting and contact person
13. Oral Cavity Panel.	June 9 and 10, 9 a.m., Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 9, 9 a.m. to 10 a.m.; open committee discussion June 9, 10 a.m. to 4:30 p.m., June 10, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the contest of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
14. Dental Device Classification Panel.	June 13 and 14, 9 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 13, 9 a.m. to 10 a.m.; open committee discussion June 13, 10 a.m. to 4 p.m., June 14, 9 a.m. to 4 p.m.; D. Gregory Singleton, D.D.S., (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of the listed devices to the executive secretary. Submission of data relative

V 42 93 MAY 13 77 UMI

to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The dental panel will discuss the classification and complete supplementary data sheets for the following devices: abrasives; polishing agents; strip; wheel; articulators; cavity varnish; preformed crown; preformed lusp; impression material; denture adhesive; pin system; root canal post; splint; x-ray training device; bracket adhesive; cavity primer; denture coating; gold and stainless steel crisp; plastic denture; artificial backing and facing teeth; artificial posterior teeth with metal insert; rapid wax applicator; wax carver; plastic filling instrument; depth gauge instrument; dental instrument handle; periodontic probe; crown remover; collar and crown scissors; surgical tissue scissors; instrument sharpener; cement spatula; tongue depressor; wedge; surgical illuminator, with sheath; fiberoptic light unit; surgical operating light; electric bone saw; suture; ionator; parallelometer; retractor; rubber dam; ethylene oxide gas sterilizer; dental syringe; restorative syringe; tray; atomizer bottle; cuspidor.

Committee name	Date, time, and place	Type of meeting and contact person
15. Hepatotoxicity Subcommittee of the Gastrointestinal Drugs Advisory Committee.	June 13 and 14, 9 a.m., Conference room A, Parklawn Bldg., Rockville, Md.	Open public hearing June 13, 9 a.m. to 10 a.m.; open committee discussion June 13, 10 a.m. to 5 p.m., June 14, 9 a.m. to 2 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of functional evaluation of hepatotoxicity, specific tests, screening, and toxicology.

Committee name	Date, time, and place	Type of meeting and contact person
16. Hematology Device Classification Panel.	June 14 and 15, 9 a.m., room 1400, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 14, 9 a.m. to 10 a.m.; open committee discussion June 14, 10 a.m. to 5 p.m., June 15, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of automated differential cell counters (peripheral blood cell differential analyzers for WBC, platelets, and RBC characteristics); semiautomated cell-locating devices; P&B (prothrombin and proconventin); heparin neutralization test and heparin assays. Submission of data relative to classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 1, 1977, and submit a brief statement of the general nature of the information they wish to present, the names and addresses of proposed participants, data and references pertinent to classification, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will classify the following in vitro diagnostic products: automated differential cell counters (peripheral blood cell differential analyzers for WBC, platelets, and RBC characteristics); P&P (prothrombin and proconvertin) semiautomated cell-locating devices; heparin neutralization test and heparin assays.

Committee name	Date, time, and place	Type of meeting and contact person
17. Psychopharmacological Agents Advisory Committee.	June 16, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Stephen C. Groft (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Review of NDA 16-949 (Limbitrol), report of the Toxicology Advisory Committee on Prolactin; and followup action report.

Committee name	Date, time, and place	Type of meeting and contact person
18. Contraceptive and Other Vaginal Drug Products Panel.	June 22 and 23, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 22, 9 a.m. to 10 a.m.; open committee discussion June 22, 10 a.m. to 4:30 p.m., June 23, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
19. Vitamin, Mineral, and Hematinic Panel.	June 23 and 24, 9 a.m., Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 23, 9 a.m. to 10 a.m.; open committee discussion June 23, 10 a.m. to 4:30 p.m., June 24, 9 a.m. to 4:30 p.m.; Thomas DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
20. Biometric and Epidemiological Methodology Advisory Committee.	June 24, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Robert T. O'Neill, Ph. D., (HFD-232), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4594.

General function of the committee. Reviews and evaluates scientific studies and data with respect to, and otherwise advises the Commissioner on, epidemiological and biometrical methodology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Consideration of oral contraceptive guidelines and the report crossover designs.

Committee name	Date, time, and place	Type of meeting and contact person
21. Gastroenterological and Urological Device Classification Panel.	June 24 and 25, 8 a.m., Captain's room, Channel Inn Motel, 650 Water St. SW., Washington, D.C.	Open public hearing June 24, 8 a.m. to 9 a.m.; open committee discussion June 24, 9 a.m. to 5 p.m.; open public hearing June 25, 8 a.m. to 9 a.m.; open committee discussion June 25, 9 a.m. to 4 p.m.; Thomas L. Anderson, M.D., (HFK-460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to dialysis devices and endoscopes/surgical devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by June 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The following devices will be classified: dialysis devices-organ preservation devices: pulsatile hypothermic perfusion apparatus with or without oxygenator; nonpulsatile hypothermic perfusion apparatus with or without oxygenator; disposable perfusion set; freezing container with or without bag and/or preservatives; ice storage container with or without bag and/or preservatives.

Endoscopes/surgical devices, biopsy instruments: biopsy forcep covers, gastrointestinal biopsy instrument set; endoscopic equipment: cytology brush, electric cord for endoscopes, enteroscope, esophago-gastroduodenoscope, esophagoscope, eyepiece attachment for insertion of prescription lens, flexible fiberoptic teaching attachment, gastroscope, endoscopic inflation bulb, automatic CO_2, laparoscope, measuring device for panendoscope, miscellaneous adaptor bulbs, nephroscope, obturators, fiberoptic peritoneoscope, flexible sigmoidoscope, rigid sigmoidoscope, endoscopic smoke removal tube, special lens instruments, sphyncteroscope, trocar, ureteroscope, urethroscope; gastrointestinal intraluminal diagnostic devices: electrode PH stomach, electrogastrograph, gastrointestinal motility system (electrical), GI string and tubes to locate internal bleeding; physiologic function monitors; closed circuit TV and video tape, external pressure recorders, amplifiers and transducers, photographic equipment, nonpowered rectal probe, radio pill; urine collecting devices: paste on devices for incontinence; electrosurgical units and accessories: patient return wristlet, flexible snare, rigid self-opening snare; evacuators: manual operated bladder evacuator, blood evacuator system, urine evacuator system; stone removal nonelectric: bladder stone tripsor, dislodger stone basket ureteral metal, flexible stone dislodger; suprapubic drainage devices: punch catheter instruments, punch catheter kits, suprapubic drainage sets, suprapubic drainage tubes, suprapubic drains, surgical instruments, applicator, esophageal bougie, gastrointestinal bougie, injection cannula, circumcision shield, clamp holder, electrical clamps, non-electrical clamps, colostomy spur crusher, cotton carrier, electric forceps, nonelectric forceps, hemorrhodial ligator hooks, irrigators, locking device for intestinal clamp, needle holder, needles, penile clamps, plastic bell circumcision device, pneumoperitoneum needle, probe, rectal dilators, rectal directors, rectal probes, rectal speculum; surgical devices: non-self-retaining retractors, self-retaining retractors, rings laparotomy, scissors, scoops, nonelectrical snare, sponge holder, bladder neck spreader; surgical light sources: fiberoptic retractors, transabdominal instruments: administration set for peritoneal dialysis.

June 25—Endoscopes/surgical devices—transurethral surgical instruments: adaptors to the cord, cystoscopic rongeur, electric cords, endoscopic needles, contact jelly, lubricating jelly, miscellaneous electrical adaptors and attachments, and bulbs, scissors for cystoscope; intestinal tubes (X-ray opaque): double lumen tube for intestinal decompression, double lumen tube for small intestinal intubation with balloon, single lumen tube with mercury-weighted balloon; therapeutic devices—accessory therapeutic devices: corrugated rubber sheath, pure latex sheet drape with self-retaining finger cot, leggings, protective garments for incontinence, ribdam, sheath with finger cot with straps for attachment for patient, sterile lubricant, stirrups, table, tourniquet, vidrape type barriers; cooling devices: esophageal cooler, prostatic cooler; therapeutic devices—endoscopic equipment: Renal

V 42 93 MAY 13 77 UMI

water jet catheter system, instruments for dilatation: ureteral catheter dilators, esophageal dilators, filiform followers, filiforms, interconnected metal sounds, mechanical urethral dilators, urethral sounds, urethrometers, urethrotomes, intraluminal therapy: intragastric hypothermia apparatus, kangaroo tube feeding set, sterile infant gavage set; upper tract catheters: nephrostomy catheter, pyelostomy catheter, ureterostomy catheter; ureteral catheters and accessories: ureteral catheter adaptors, ureteral catheter connectors, ureteral catheter holders, ureteral stylet; urethral catheters: foley catheter, special foley catheter, hemostatic type catheter, inflation valves catheter, pediatric catheter, three-way catheter, tieman catheter, urethral-diverticulum catheter, closed bottom-emptying drainage unit, closed urine drainage sets, guide for catheters, sterile irrigation trays, stylets for catheters; diagnostic device—surgical instruments: urological bougie.

Committee name	Date, time, and place	Type of meeting and contact person
22. Antimicrobial panel	June 24, 25, and 26, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on June 24; Hancock room, Holiday Inn, Chevy Chase, Md. on June 25 and 26.	Open public hearing June 24, 9 a.m. to 10 a.m.; open committee discussion June 24, 10 a.m. to 4:30 p.m., June 25 and 26, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The members of the Panel on Review of Miscellaneous External Drug Products will also attend the above meeting on June 25 only.

Committee name	Date, time, and place	Type of meeting and contact person
23. Neurologic Drugs Advisory Committee.	June 27 and 28, 9 a.m., Conference room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 27, 9 a.m. to 10 a.m.; open committee discussion June 27, 10 a.m. to 4:30 p.m.; open public hearing June 28, 9 a.m. to 10 a.m.; open committee discussion June 28, 10 am. to 4:30 p.m.; Stephen C. Groft (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in neurologic diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the update on hepatotoxicity related to Dantrium; L-5-Hydroxytryptophan in the treatment of myoclonus; ACTH treatment of multiple sclerosis; review of NDA 17-965, 17-966 and 17-967 (Parke-Davis); review of drug efficacy study implementation (DESI) data for Antivert; and review of DESI data for Tigan.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be annouced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14 (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 10, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13774 Filed 5-12-77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Microbiology Device, Classification Panel.	June 6 and 7, 9 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing June 6, 9 a.m. to 10 a.m.; open committee discussion June 6, 10 a.m. to 5 p.m., June 7, 9 a.m. to 2:30 p.m.; closed committee deliberations June 7, 2:30 p.m. to 4:30 p.m.; Thomas M. Tsakeris (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of microbiology culture media products to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 20, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Microbiology Device Classification Panel will discuss the classification of microbiological culture media products. Included for consideration by the panel will be microbiological rapid identification kits and systems.

Closed committee deliberations. The panel will review a transitional new drug application. This portion of the meeting will be closed to protect trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
2. Pulmonary Allergy and Clinical Immunology Advisory Committee.	June 16 and 17, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing June 16, 9 a.m. to 10 a.m.; open committee discussion June 16, 10 a.m. to 4 p.m., June 17, 10 a.m. to 1:30 p.m.; closed presentation of data June 17, 1:30 p.m. to 3 p.m.; I. David Wolfson (HFD-160), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3500.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergenic and/or immunologic mechanisms.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the role of aerosol adrenergic agents in the treatment of childhood asthma; experimental design and labeling for bronchodilators used in the treatment of asthma: role of "acute" and "stable" asthmatic population and employment of predicted values of pulmonary tests; IND 11-998 (oral cromolyn) benefit/risk status in the treatment of food allergies and ulcerative colitis/proctitis; an evaluation of safety and efficacy considerations with respect to oral "mucolytic" agents; and discussion of IND 8292 (carbocysteine).

Closed presentation of data. Review of IND 8292. This portion of the meeting will be closed to permit the presentation of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
3. Blood and Blood Derivatives Panel.	June 17 and 18, 9 a.m., room 116, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing June 17, 9 a.m. to 10 a.m.; open committee discussion June 17, 10 a.m. to 5:30 p.m., June 18, 8:30 a.m. to 12 noon; closed committee deliberations June 18, 1 p.m. to 4 p.m.; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of blood products labeling; donor frequency recommendations; blood grouping and typing reagents; source plasma (human); revision of reviews of stored red blood cell products; revision of reviews of plasma fraction products; and any comments or questions from the public.

Closed committee deliberations. Review of data submissions of producers of plasma fractionation products including normal serum albumin (human), plasma protein fraction (human), Rh_0 (D) immune globulin (human), factor IX complex (human) and blood grouping and typing reagents. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14 (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal

V42N93 MAY 13 77 UMI

privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to signficantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: May 7, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-13717 Filed 5-12-77;8:45 am]

[Docket No. 77G-0092]

FISHER, CHRISTEN, AND SABOL

Withdrawal of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP 2G0005) proposing affirmation that magnesium acetate and zinc acetate used in a vitamin-mineral food supplement are generally recognized as safe (GRAS).

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202-472-4750).

SUPPLEMENTARY INFORMATION: Purusant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is ussued:

In accordance with § 171.7, *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7, formerly § 121.52, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), Fisher, Christen, and Sabol, Suite 507-511, 1000 Connecticut Ave. NW., Washington, DC 20036, has withdrawn its petition (GRASP 2G0005), notice of which was published in the FEDERAL REGISTER of March 7, 1973 (38 FR 6214), proposing that magnesium acetate and zinc acetate for use in vitamin-mineral food supplements are generally recognized as safe.

Dated: May 2, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-13775 Filed 5-12-77;8:45 am]

[Docket Nos. 76N-0172, 76N-0231, 76N-0232, 76N-0233]

FURAZOLIDONE, ET AL.

Hearing

Correction

In FR Doc. 77-10387, appearing in the issue of Friday, April 8, 1977 (42 FR 18660), the docket numbers in the heading should read as set forth above.

[Docket No. 77N-0148]

METABOLIC, INC.

Opportunity for Hearing on Intent To Revoke U.S. License No. 415

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is proposing to revoke U.S. License Number 415, issued to Metabolic, Inc., 4520 Yoakum Blvd., Houston, TX, for the manufacture of four biological products at six locations. The proposed revocation is based upon (1) failure of the establishment's locations to conform with standards designed to ensure the continued safety, purity, and potency of the manufactured products and health of donors, and (2) failure of the "responsible head" to exercise control of the establishment in matters related to compliance with the standards.

DATES: The licensee may submit a written request for a hearing to the Hearing Clerk, Food and Drug Administration, by June 13, 1977, and any data justifying a hearing must be submitted by July 12, 1977. Other interested persons may submit comments on the proposed revocation to the Hearing Clerk by July 12, 1977.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Donna C. Williams, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014 (301-443-1920).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is proposing to revoke U.S. License Number 415, issued to Metabolic, Inc., with locations at 417 LaBranch St., Houston, TX; 4520 Yoakum Blvd., Houston; 2429 Jensen St., Houston; 47-49 W. Ashley St., Jacksonville, FL; 822 Howard Ave., New Orleans, LA; and 300 Luckie St., Atlanta, GA, and the product licenses for the manufacture and preparation of of Source Plasma (Human), Normal Serum Albumin (Human), Immune Serum Globulin (Human), and Tetanus Immune Globulin (Human).

Food and Drug Administration inspections of several locations operating under the establishment license revealed that the establishment and the licensed products manufactured there do not comply with the applicable standards, which are designed to ensure the continued safety, purity, and potency of the manufactured products and to protect human donors. The Commissioner concludes that the pattern and types of noncompliance with the standards demonstrate a failure of the responsible head to control the operations and constitute a danger to public health.

In a letter dated February 25, 1977, issued pursuant to §§ 601.5(b)(4) and 601.6 (21 CFR 601.5(b)(4) and 601.6), FDA suspended the licenses and advised Metabolic, Inc., of the Commissioner's intent to revoke U.S. License Number 415 for four locations and the products manufactured at those locations, and set forth the grounds for such suspension and proposed revocation. Pursuant to § 601.6(b), and at the request of the licensee, revocation was held in abeyance pending resolution of the matters involved. The licensee closed two of the suspended locations, and licenses to manufacture Source Plasma (Human) at those locations were revoked at the request of the manufacturer. After a reasonable period for the licensee to achieve compliance and at the request of the licensee, the two remaining suspended locations were reinspected. In addition, a previously unsuspended location was also inspected to determine if similar significant deviations existed at other locations of the establishment. Continued noncompliance at the suspended locations as well as the disclosure of the same types of deviations from standards at the previously unsuspended location resulted in the agency suspending all locations of the establishment and the decision to proceed to revoke the license.

Copies of the letter of February 25, 1977 and of a letter of April 26, 1977, concerning the recent followup inspections, are on file at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

The grounds for revocation include the following significant deviations found during the recent inspections at one or more of the locations, most of which continued from the earlier inspections that lead to the suspension. Further grounds are set forth in the February 25 and April 26 letters.

1. More than the maximum permissible amount of whole blood was removed from donors at one time (21 CFR 640.65 (b)(6)).

2. The amount of whole blood removed from donors within a 7-day period exceeded the maximum permissible amount; donors were plasmapheresed more than twice within 7 days (21 CFR 640.65(b)(5)).

3. Donor suitability was not adequately determined in that:

(a) Samples of blood for the serum protein electrophoresis test were not always drawn at least every 4 months, or at the earliest opportunity thereafter; nevertheless, the donors continued to be plasmapheresed (21 CFR 640.65(b)(1)(i) and (ii)).

(b) Although test results for the serum protein electrophoresis were not in the donor file, donors continued to be plasmapheresed (21 CFR 640.65(b)(1)(i)).

(c) Donors were plasamapheresed, up to 22 times, past the date when the required annual physical examination was to have been performed (21 CFR 640.63 (b)).

4. Equipment was not performing in the manner for which it was designed so as to assure compliance with the official requirements prescribed for Source Plasma (Human)—there were discrepancies between known protein and hematocrit control values and the actual values obtained when controls were tested; nevertheless, no action was taken to resolve the discrepancies (21 CFR 606.60 (a)).

5. Temperature records showed that freezers used to store Source Plasma (Human) had not been maintained at a temperature of —20° C or colder. There were no records to identify the units involved, or to explain the conditions that caused the plasma to be exposed to excessive warm storage temperatures (21 CFR 640.76(a) and 600.12(a).

6. There were inadequate procedures for notifying collection facilities and donors of a reactive test for hepatitis B surface antigen (HB•Ag), resulting in multiple collections of Source Plasma (Human) from donors having a reactive test for HB•Ag before receipt of test results (21 CFR 610.41 and 640.63(a)).

7. Records of each step in the manufacture and distribution of products were not made in such a manner that successive steps in the manufacture and distribution of any lot could be traced by the FDA inspector (21 CFR 600.12(a)).

8. There was a lack of control and supervision by the responsible head of the establishment in all matters related to compliance with the applicable provisions of the license and regulations (21 CFR 600.10(a)).

In addition, FDA inspections discovered evidence of (1) at least two interstate shipments of products made after the February suspension of the license in violation of the Public Health Service Act (42 U.S.C. 262(a)) and (2) shipments of a product designated as Immune Serum Globulin based upon a release obtained from the Bureau of Biologics, FDA, but which product was further processed after release and prior to shipment contrary to the provisions of 21 CFR 610.1 and resulting in the product being misbranded.

Pursuant to § 12.21(b) (21 CFR 12.21 (b), formerly 21 CFR 2.111(b) prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), the Commissioner is offering an opportunity for a hearing. A written request for a hearing by the licensee may be submitted to the Hearing Clerk, Food and Drug Administration, by June 13, 1977, and any data justifying a hearing must be submitted by July 12, 1977. Other interested persons may submit comments on the proposed revocation to the Hearing Clerk, Food and Drug Administration, by July 12, 1977.

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13715 Filed 5-12-77;8:45 am]

[Docket No. 77N-0148]

METABOLIC, INC.

Revocation of License To Manufacture Source Plasma (Human) at Two Locations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner has revoked the establishment and product licenses of Metabolic, Inc., U.S. License No. 415, to manufacture Source Plasma (Human) at two locations: Metabolic, Inc., 1907 S. Staples St., Corpus Christi, TX, and 5104 Almeda St. Houston, TX.

DATE: Revocation has been effective since March 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Donna C. Williams, Bureau of Biologics, (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014 (301-443-1920).

SUPPLEMENTARY INFORMATION: On February 25, 1977, pursuant to §§ 601.5(b) and 601.6 of the biologics regulations (21 CFR 601.5(b) and 601.6), the Food and Drug Administration (FDA) suspended U.S. License No. 415, issued to Metabolic, Inc., for locations at 1907 S. Staples St., Corpus Christi, TX, and 5104 Almeda St., Houston, TX, and the product license for Source Plasma (Human) and advised the manufacturer of its intention to revoke the license. The suspension followed FDA inspections of these locations. The inspections revealed that the product manufactured at those locations failed to comply with the provisions of the license and the applicable standards established in Parts 600, 606, and 640 of the biologics regulations (21 CFR Parts 600, 606, and 640), which are designed to ensure the continued safety, purity, and potency of the manufactured products and to protect human donors. The agency concluded that the types of noncompliance constituted a danger to public health.

In response to the suspension, and in lieu of either holding the matter in abeyance or going forward to a hearing, the manufacturer advised FDA, in a letter of March 24, 1977, that the two locations were closed and requested revocation of the license for these locations and the product manufactured there. In so doing, the manufacturer waived an opportunity for a hearing. Copies of the FDA letter of February 25, 1977, and the March 24, 1977, letter from Metabolic, Inc., are on file at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262) and the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), U.S. License No. 415 was revoked for the two locations designated in the letter dated March 31, 1977. This notice of revocation is published pursuant to § 601.8 (21 CFR 601.8), which was published in the FEDERAL REGISTER of January 25, 1977 (42 FR 4718).

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13716 Filed 5-12-77;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on May 20, 1977, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9 a.m. and adjourn at 3:15 p.m.

The National Council on Educational Research is established under Section 405(b) of the General Educational Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and

V 42 N 93 MAY 13 77 UMI

to insure the implementation of educational renewal and reform based upon the findings of educational research.

The entire meeting will be open to the public. The tentative agenda is as follows:

9:00—Convene.
9:00–9:05—Approve March 17–18 minutes.
9:05–9:30—Acting Director's Report.
9:30–11:30—Program Committee Report: Presentation on Fundamental Research by Dr. Sheldon White, Chairman, Committee on Fundamental Research Relevant to Education, Assembly of Behavioral and Social Sciences of the National Research Council; Comments by the Committee.
11:30–12:15—Review and Reports Committee Report: Implementation of Council Resolution No. 18.
12:15–1:00—Lunch.
1:00–1:30—Executive Committee Report: NCER Policy Framework Council Bylaws.
1:30–2:15—Executive Committee and Acting Director: FY 1979 Planning.
2:15–3:15—General Business.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after adoption. Minutes require approval by the Council at a subsequent meeting and are available to the public one week following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, Telephone: 202–254–7900.

Dated: May 2, 1977.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[FR Doc.77–13754 Filed 5–12–77;8:45 am]

Office of Human Development

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

Announcement of Grants for FY '77 (Program Announcement No. 13638–771)

The Administration on Aging, Office of Human Development, announces that applications will be accepted until June 20, 1977 from public and nonprofit private agencies, organizations, and institutions seeking to compete for new grant awards in Fiscal Year 1977 under the Multidisciplinary Centers of Gerontology Program authorized by Title IV–C of the Older Americans Act of 1965, as amended (42 U.S.C. 3001, 3035 et. seq.). It is expected that awards will be made by the Administration on Aging in August 1977. Regulations applicable to this program include the Administration on Aging general regulations, 45 CFR Part 901, and the cost principles in 45 CFR Part 74 Subpart Q.

A. PROGRAM PURPOSE

The Title IV–C legislative mandate sets forth basic functions and purposes to be met by a multidisciplinary center of gerontology. Thus, an application for a grant to establish or support a multidisciplinary center of gerontology should indicate that the center has or will take steps toward establishing the resources and capabilities for performing the following tasks:

(1) Recruit and train personnel at the professional and sub-professional levels;

(2) Conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas;

(3) Provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services to them;

(4) Serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research;

(5) Stimulate the incorporation of information on aging into the teaching of biological, behavorial, and social sciences at colleges or universities;

(6) Help to develop training programs on aging in schools of social work, public health, health care administration, education, and in other such schools at colleges and universities, and;

(7) Create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging.

These tasks, as set forth by Title IV–C of the Older Americans Act, assign responsibility to the center to act as a focal point for aging related activity within the grantee institution. The research, training, demonstrations, consultation, and assistance carried out by multidisciplinary centers under the Title IV–C program are not intended to duplicate or supplant similar activities supported by other Older American Act programs, or by other Federal agencies such as the National Institute on Aging. Rather, such centers are designed to build upon, augment, and integrate work in gerontology across the biolmedical, behavioral, and social sciences, and to apply those resources to the problems of older persons at the community level.

B. ELIGIBLE APPLICANTS

Applications for grants to establish or support multidisciplinary centers of gerontology may be submitted by any public or private nonprofit agency, organization, or institution.

C. AVAILABLE FUNDS

Funds to support grants under the Title IV–C multidisciplinary centers of gerontology program have been appropriated at a level of $3.8 million for fiscal year 1977. About $1.7 million will be available for new Title IV–C grant awards. The remaining $2.1 million is reserved for continuation grants to center projects which were begun in fiscal year 1976, the first year of the Title IV–C program.

New grants will be awarded in two categories:

(1) *Developmental grants*— to support the establishment of multidisciplinary centers or to assist recently established institutes on aging in developing and realizing their potential for becoming multidisciplinary centers of gerontology. It is expected that 10–12 grants will be awarded in this category, ranging from $50,000 to $75,000 per year. Applicants may apply for support for a project period up to two years in duration.

(2) *Operational grants*—to assist already well established multidisciplinary centers of gerontology to strengthen and integrate their research, training, demonstration, education, and service activities in the field of aging. It is expected that 5–6 grants will be awarded in this category, ranging from $150,000 to $200,000 per year. Applicants may apply for support for a project period up to two years in duration.

In fiscal year 1976, the first year of the program, 64 developmental grant applications were submitted. Of these 13 were funded at an average annual budget of $65,000. In addition, 28 operational grant applications were submitted, of which 7 were funded at an average annual budget of $160,000.

D. PROGRAM OBJECTIVES AND PRIORITIES FOR FUNDING

Under the Title IV–C program, a multidisciplinary center of gerontology is intended to be a focal point for research, training, demonstration, and education in the field of aging. It will constitute a point of leadership within its institutional and community setting for initiating, developing, and coordinating research, training, demonstration projects, and related efforts in aging on a multidisciplinary basis. Equally important, the center will have the responsibility of linking its resources for multidisciplinary research, training, and education in aging for practical application to the multifaceted problems of older persons. Through affiliations with community care and service agencies, by providing consultation and assistance to Network on Aging agencies, by disseminating information relating to programs and services for older persons, the center of gerontology would realize its full potential for improving the lives of the nation's older population.

In this regard, an applicant for a Title IV–C grant is expected to show significant levels of ongoing interests and activity in training and research related to aging. Further, applicants are expected to have or be able to quickly develop affiliations with Network and Aging agencies, and with public and private institutions providing direct services to older persons. Such affiliations include an acute care teaching hospital serving older persons, and extended care facility, day care and home care services, senior centers, an organization providing legal services to older persons, recreational and cultural facilities and institutions, a community mental health center, or a gerontology research, education, and clinical center operated by the Veterans Administration which in itself has such affiliations.

E. COST SHARING

Although no mandatory cost sharing policy is in effect for Title IV–C projects, it is generally expected that grantees will provide at least 5 percent of total project costs. Grantee contributions must be project related and allowable under the Departments' applicable cost principles in 45 CFR Part 74 Subpart Q.

F. THE APPLICATION PROCESS

(1) *A–95 Clearinghouse Notice*—In compliance with the Office of Management and Budget circular A–95, applicants who request grant support must, prior to submission of an application, notify *both* the State *and* Areawide Clearinghouses of the intent to apply for Federal assistance. Some State and Areawide Clearinghouses provide forms on which such information is to be submitted. Applicants should contact the appropriate State and Areawide Clearinghouses (listed in the FEDERAL REGISTER, Volume 42, p. 2210, Jan. 10, 1977) for information on how they can meet the A–95 requirements.

(2) *Application Submission*—To be considered for a grant under the Multidisciplinary Center of Gerontology Program, all applications must be submitted on Standard Form 424 *Application for Federal Assistance*. Two additional forms are to be submitted, *Grant Cost Sharing Proposal* (OMB No. 85–R–0019), and *Protection of Human Subjects, Assurance/Certification/Declaration*. These forms are provided by the Administration on Aging in the Title IV–C application kit.

One signed original and two copies of the grant application and all pertinent documents are required for submission and four additional copies are requested with the original. The original and the four additional copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development (See Section H below).

Copies are to be submitted concurrently to the cognizant State Agency on Aging and the Office of Aging in the cognizant Department of Health, Education, and Welfare regional office. These agencies review the applications and forward their comments to the Commissioner on Aging.

(3) *Application Consideration*—Applications which do not conform to this announcement, or are received after the June 20, 1977 deadline or are not complete, will not be accepted and applicants will be notified accordingly.

All accepted grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside of the Administration on Aging, Office of Research, Demonstrations, and Manpower Resources. The results of the competitive review supplement and assist the Commissioner on Aging's discretionary consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouses, State and Area Agencies on Aging, the HEW Regional Offices and the Administration on Aging headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside the Government.

The Commissioner determines the final action to be taken with respect to each grant application, and the applicant is notified of that action.

(4) *Grant Awards*—(a) The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting center projects. No grant is made in any State unless the Commissioner has consulted with the designated State Agency on Aging regarding such grant.

(b) The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total period for which support is anticipated.

G. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing applications for developmental and operational grants will be reviewed and evaluated by the review panel against the following criteria, respectively.

(1) *Criteria for Evaluating Developmental Grant Proposals.*

a. The applicant's resources and capabilities for undertaking the tasks mandated for multidisciplinary centers of gerontology by Title IV–C of the Older Americans Act. (Weight 0–30 points)

b. The capability and commitment on the part of the applicant for continued activity as the focal point within its institutional setting for: (a) initiating, developing, and coordinating multidisciplinary research, training, demonstration projects and related activities in aging; and (b) providing technical assistance and consultation to public and voluntary agencies responsible for service programs to the elderly (Weight 0–40 points)

c. Clarity, specificity and appropriateness of project objectives and of the proposed steps to accomplish these objectives. Weight 0–20 points)

d. The nature and extent of the center's commitment to developing resources responsible to the needs of low income and minority older persons. (Weight 0–25 points)

e. Appropriateness and reasonableness of proposed budget. (Weight 0–10 points)

(2) *Criteria for Evaluating Operational Grant Proposals.*

a. The applicant's resources and capabilities for carrying out the tasks mandated for multidisciplinary centers of gerontology by Title IV–C of the Older Americans Act. (Weight 0–30 points)

b. The capability and commitment on the part of the center for sustaining its focal point position within its institutional and community settings for linking multidisciplinary research and training to service programs on behalf of older persons. (Weight 0–40 points)

c. Clarity, specificity, and appropriateness of project objectives and of the proposed steps to accomplish these objectives. (Weight 0–20 points)

d. The nature and extent of the center's commitment to developing resources responsible to the needs of low income and minority older persons. (Weight 0–25 points)

e. Appropriateness and reasonableness of proposed budget. (Weight 0–10 points)

H. CLOSING DATE FOR RECEIPT OF APPLICATIONS

Grant applications must be received by the Office of Human Development at the following address no later than 4:30 P.M., June 20, 1977: Department of Health, Education, and Welfare, Office of Human Development, Grants and Contracts Division, Mary E. Switzer Building, 330 C Street, S.W., Room 1427, Washington, D.C. 20201. (Attention 13638–771.)

Applications should not be sent or carried directly to the Administration on Aging. The Office of Human Development will receive all applications, acknowledge their receipt by return post card, and transmit them to the Administration on Aging.

I. LATE APPLICATIONS

Late applications will not be accepted and applicants will be notified accordingly.

J. AVAILABILITY OF APPLICATION FORMS

Applicant kits are available from:

Office of Research, Demonstrations, and Manpower Resources, Administration on Aging, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Room 4644, Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program Number 13.638 Multidisciplinary Centers of Gerontology.)

Dated: April 29, 1977.

ARTHUR S. FLEMMING,
Commissioner on Aging.

Approved: May 9, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development.

[FR Doc.77–13753 Filed 5–12–77;8:45 am]

[Program Announcement No. 13627–772]

RESEARCH AND DEMONSTRATIONS IN VOCATIONAL REHABILITATION

Announcement of Grants for Fiscal Year 1977

The Rehabilitation Services Administration, Office of Human Development, announces that applications will be accepted until June 20, 1977, from State vocational rehabilitation agencies and other public or nonprofit agencies or or-

V 42 93 MAY 13 77 UMI

ganizations wishing to compete for grants in Fiscal Year 1977 under the Research and Demonstration Projects for Vocational Rehabilitation authorized by Title II, section 202(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762) to assist in the rehabilitation of handicapped individuals.

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for award.

Regulations applicable to this program were published in the FEDERAL REGISTER in Subpart A and Subpart D of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

Scope of this program announcement. This program announcement identifies general program objectives and funding priorities of the Research and Demonstration Projects for Vocational Rehabilitation Projects for Vocational Rehabilitation for Fiscal Year 1977. Competitions in special emphasis areas will be announced separately in the FEDERAL REGISTER.

A. *Program purpose.* The purpose of the Research and Demonstration Program in Vocational Rehabilitation is to conduct research, design demonstration projects, and plan related activities which bear directly on the development of methods, procedures and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially the most severely handicapped ones.

Grants made under Title II, Section 202(a), research, test and demonstrate new methods, systems and approaches that can be used promptly, effectively and efficiently.

B. *Eligible applicants.* Any State vocational rehabilitation agency, and other public or nonprofit agency or organization, including institutions of higher learning may apply for a grant under this announcement.

C. *Available funds.* Of the $29 million appropriated by the Congress for research and demonstration projects in Fiscal Year 1977, the Rehabilitation Services Administration expects to award an estimated $3.4 million for new and competing extension grants in the program areas identified below.

It is expected that some 27 grants will be awarded pursuant to this announcement. The range of funds per grant is expected to be from $50,000 to $200,000, with the average award expected to be $126,000. Generally, projects will be supported for periods of one to five years. The funds currently available will sustain the budget for the first year of the project. Support of any additional time remaining in the project will depend on funds available, the grantee's satisfactory performance in achieving the project objectives for which the grant was awarded, and the grantee's continued assurance of supporting the priorities of the Rehabilitation Research and Demonstration Program.

D. *Project objectives and funding priorities.* Research and demonstration projects in vocational rehabilitation are intended to discover new knowledge and to overcome knowledge gaps in significant areas by the development of methods, procedures and devices to assist in the provision of vocational rehabilitation services to disabled individuals, especially those with severe handicaps. The primary function of research is to make service delivery more effective.

Fiscal Year 1977 project objectives and funding priorities have been developed for the following research areas. These have been developed to enable applicants to be responsive to the information and service needs of the Rehabilitation Services Administration. The number after each funding priority should be included in any inquiries regarding a specific research objective:

1. UNIVERSE OF NEEDS

Objective. To review current research efforts on conceptualization of disability based on functional limitations; categorize current efforts; identify approaches which have the greatest promise for assisting in the planning and delivery of vocational rehabilitation services; and prioritize gaps in research so that future efforts may address them.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Function limitations: State of the Art Review (A-3). (A conference of investigators who are researching functional limitations will be organized as a part of the project effort.)

2. REHABILITATION—GENERAL

Objective #1. To study the clinical course and rehabilitation associated with severe head trauma; to identify the rehabilitation needs of patients with severe head trauma, and to develop service delivery models to meet those needs.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Severe Head Trauma: A Comprehensive Medical Approach to Rehabilitation (Collaborative) (D-37 and D-38).

Objective #2. To study the clinical course and problems during and after medical care associated with severe burns, and to develop service delivery models to meet these needs.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Comprehensive Medical Rehabilitation Approach for Severe Burns (D-39 and D-40).

Objective #3. To demonstrate a community outreach rehabilitation program for the homebound.

Funding priority. Priority will be given to those applications which address the objective in terms of: Homebound Prevention Through a Community Outreach Rehabilitation Program (D-44).

3. REHABILITATION IN SPINAL CORD INJURY

Objective #1. To provide new knowledge in treating and preventing secondary complications of SCI.

Funding priority. Funding priority will be given to those applicaitons which address the objective in terms of: Innovative Preventive and Treatment Techniques in Spinal Cord Injury Complications (Urologic Management) (E-46, E-47, and E-48).

Objective #2. To provide new knowledge in treating and preventing secondary complications of SCI.

Funding priority. Funding priority will be given to those applications which address the objective in terms of: Innovative Preventive and Treatment Techniques in Spinal Cord Injury Complications (Thrombophlebitis and Circulatory Problems) (E-49).

Objective #3. To provide new knowledge of the psychological adjustment and other characteristics of persons following spinal cord injury (Competition limited to existing RSA supported Model SCI Systems).

Funding priority. Funding priority will be given to those applications which address the objective in terms of: Psychological Adjustment and Characteristics in Recent Spinal Cord Injuries Related to Rehabilitaiton Outcomes (Collaborative research within eleven designated RSA Model SCI Systems) (E-53).

4. REHABILITATION IN PULMONARY DISEASE

Objective. To develop predictive criteria of the rehabilitation potential of persons with chronic obstructive pulmonary disease. This work is based upon presently supported research at the University of Nebraska Regional Chest Center.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Predictive Criteria of Rehabilitation Potential in COPD (A collaborative study) (H-2).

5. REHABILITATION IN SENSORY DISABILITIES

Objective. To study preparation and placement of partially sighted handicapped persons, and identification of potential job settings.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Job Placement Activities for Partially Sighted Persons (I-16).

6. END-STAGE RENAL DISEASE

Objective #1. To develop supplemental data collection in relation to the medical, psycho-social, and vocational aspects of end-stage renal disease utilizing the data collection system developed by Bureau of Quality Assurance/Health Services Administration in order to adequately plan and budget for provision of services.

Funding priority. Priority will be given to those applications which address the above objective in terms of: Development of a Special Project Survey Questionnaire Supplemental to ESRD-Medical Information System Relating to the current Medical, Psycho-Social and Vocational Aspects of End-Stage Renal Disease (J-5).

Objective #2. To review all literature and current data to bring up-to-date what is currently known about the medical, psycho-social, vocational, and technological aspects of end stage renal disease in order to have a basis for the planning of comprehensive rehabilitation services.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A State of the Art in the Medical, Psycho-Social, Vocational, Technological, and Legislative Aspects of End-Stage Renal Disease (J-6).

Objective #3. To develop a series of models for flow paths in the rehabilitation of categorized types of clients with end stage renal disease. Categorization based on setting of treatment, i.e. center dialysis, self-care dialysis, home dialysis and transplantation will be used to develop as practical rehabilitation plans for the subject/clients.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Feasibility Study on the Development of a Series of Model Plans for Rehabilitation of Clients with End-Stage Renal Disease (J-7).

Objective #4. To obtain quantitative data regarding the types of patients in need of rehabilitative and supportive programs, the types of social-psychological problems most severe for long term dialysis and transplant patients, and the factors helping or hindering the rehabilitation of these patients.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Medical, Psycho-Social and Vocational Evaluation of Kidney Transplant and Dialysis Patients/Clients Whose Treatment Began Four (4) or More Years Ago (J-8).

7. REHABILITATION IN MENTAL ILLNESS

Objective #1. To develop and validate procedures for the delivery of rehabilitation services for the maintenance of the ex-mental patient on the job.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Determination of the Rehabilitation Services Necessary to Maintain the Ex-Mentally Ill Client on the Job (K-2).

Objective #2. To determine the kinds, nature and optimum combination of services necessary to place the ex-mental patient in a job.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Determination of the Rehabilitation Services Necessary for the Placement of the Ex-Mentally Ill Client (K-3).

8. BARRIER REMOVAL

Objective #1. To develop a model for the delivery of sexual adjustment counseling services that meet the needs of rehabilitation clients.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Sexual Adjustment Counseling Services for Rehabilitation Clients (P-3).

Objective #2. To assess what visual presentations are effective in creating positive attitudes toward disabled persons.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Use of Visual Presentation in Barrier Removal (P-4).

9. PROGRAM MANAGEMENT CAPACITIES

Objective #1. To obtain accurate data on present staffing patterns of rehabilitation employees currently employed at all levels in state, private and public programs. To project types and number of employees needed, and turnover rates of all categories for the next five years. To project data on numbers and types of employees needed to fill gaps in manpower needs for next five years and project data on types of education and training required for each category of employee. To suggest ways of recruiting and utilizing staff effectively.

To analyze all of the factors that contribute to a total viable manpower program and present information on how to develop a total manpower program, including data, policy guidelines, education training and recruiting.

Funding priority. Funding priority will be given to those applications which address the above objectives in terms of: Manpower Development Research on Total Manpower Needs for the Rehabilitation Program and How to Effectively Recruit, Train and Use Manpower with Particular Reference to Shortage Categories (R-22).

Objective #2. To lay out the parameters for three separate telework demonstrations aimed at improving the delivery of services to the severely handicapped via alternative telecommunications modes; to prepare test and evaluation plans for these demonstrations which will compare costs, benefits and effectiveness of the various delivery systems and measure the overall impact of each delivery system on meeting the needs of the severely handicapped; comparing the systems with each other and with current modes of delivering the same services.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Telecommunications and the VR Client—Analysis (R-23).

Objective #3. To prepare test and evaluation plans for three demonstrations of vocational rehabilitation staff training via alternative modes of telecommunications to test the cost effectiveness and benefits of the various delivery systems and its impact on staff training.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: Staff Training Via Telecommunications—Analysis (R-24).

10. RESEARCH AND EVALUATION UTILIZATION

Objective #1. To train service agency personnel in recent available knowledge and techniques in service delivery to the severely disabled and to develop guidelines on Independent Living Programs.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Research Utilization Conference: Capacity Building Based Upon New Knowledge from R&E Projects to Serve the Most Severely Disabled (S-20).

Objective #2. To establish a National Rehabilitation Information Center, including establishing a collection of information, a catalogue of information, circulation and copy services, access to computerized data, and dissemination procedures for summaries of new R&D reports.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: National Rehabilitation Information Center (S-23).

11. REHABILITATION IN CARDIOVASCULAR DISEASE

Objective. To develop a state of the art on psycho-social and vocational aspects related to overall coronary care, including the role of the family, employer, and community in the patient's rehabilitation.

Funding priority. Funding priority will be given to those applications which address the above objective in terms of: A Comprehensive Review of Psychological, Sociological, and Vocational Research and Practice in Cardiovascular Research (F-16).

E. THE APPLICATION PROCESS

Application Submission. In order to be considered for a grant under the Rehabilitation Research and Demonstration Program, all applications must be submitted on standard forms available from the Division of Grants and Contract Management, Office of Human Development. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for projects on Rehabilitation Research and Demonstrations.

One signed original and three copies of the grant application, including all attachments, are required. The original and two copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development. The other copy is to be submitted concurrently to the cognizant State Vocational Rehabilitation Agency. This agency reviews the appli-

V 42 93 MAY 13 77 UMI

cations and forwards its comments to the Commissioner.

Application Consideration. The Commissioner determines the final action to be taken with respect to each grant application. Applications in response to this announcement which are late are not accepted and applicants are notified accordingly. Otherwise, all applications will be considered for funding.

All accepted applications are subjected to a competitive review and evaluation conducted by qualified persons outside of Federal employment. The results of the competitive review supplement and assist the Commissioner's consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the State Agencies of Vocational Rehabilitation, the HEW Regional Offices and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of the Government.

When the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Grant Awards. The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting Rehabilitation Research and Demonstration projects. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

Competing grant applications will be reviewed and evaluated by persons outside of the Rehabilitation Research and Demonstrations Office against the following criteria:

1. The project objectives address the RSA objectives listed above in this program announcement and those stated in the application package relating to the specific funding priority.

2. The project objectives focus on the development of new or innovative techniques to achieve the RSA project objective(s).

3. The application contains a substantive plan for dissemination of findings to potential users including feedback mechanisms on use and specific outcomes.

4. The project findings will be presented so that they are immediately implementable.

5. The hypotheses to be tested in each project are clearly stated so that the findings relate directly to the project objective(s).

6. The application contains a plan for the thorough review and analysis of literature related to the project.

7. The project's proposed design is complete and feasible, includes measurable objectives and an evaluation component.

8. The project's proposed staff is capable; the staffing pattern appropriate and the applicant organization's facilities and resources are adequate.

9. Applicant organization has a good track record in the conduct of similar and related activities.

10. Project's budget is feasible, and reasonable; all costs are well justified in relation to anticipated project results.

11. Project seems likely to be completed within the proposed time schedule.

12. Projects which will utilize other public resources (in addition to this grant) will receive special consideration.

13. Project does not supplant activities which are funded under other Federal programs (DDO, AoA, VA, etc.).

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is June 20, 1977. Applications may be mailed or hand delivered to: Receiving Office; Division of Grants and Contracts Management; Office of Human Development, DHEW; Room 1427, Mary E. Switzer Building; 330 C Street SW.; Washington, D.C. 20201 (Attention: 13627-772). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

An application will be considered to have arrived by the closing date if:

1. The application was sent by registered or certified mail no later than June 20 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is sent by mail and received on or before the closing date in the Department of Health, Education, and Welfare, the Office of Human Development, or the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or

3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than COB June 20, in any case.

H. LATE APPLICATIONS

Late Applications will not be accepted and applicants will be notified accordingly.

I. AVAILABILITY OF APPLICATION FORMS

Application kits which contain the prescribed application forms, the project description, and information for the application may be obtained by making a request, containing the funding priority, and number to:

Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. 20201. Attention: (13627-772).

(Catalogue of Federal Domestic Assistance Program Number: 13.627, Research and Demonstrations.)

Dated: May 6, 1977.

JOSEPH A. MOTTOLA,
Acting Commissioner, Rehabilitation Services Administration.

Approved: May 9, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development.

[FR Doc.77-13722 Filed 5-10-77;1:53 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-77-756]

LAND O LAKES ESTATES

Hearing

In the matter of: Land O Lakes Estates Jack L. Cooper, President and Leisure America, Inc. Respondent, OILSR No. 0-3479-46-72, 77-38-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720:165(b) Notice is hereby given that:

1. Land O Lakes Estates, Jack L. Cooper, President and Leisure America, Inc., authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 25, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Land O Lakes Estates subdivision, located in Edgefield County, South Carolina, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 12, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on June 9, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before May 18, 1977.

Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 26, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13781 Filed 5-12-77;8:45 am]

[Docket No. N-77-755]

McSHEPHERD RANCHES

Notice of Hearing

In the matter of: McShepherd Ranches (River Oaks Unit), Milton A. Rister, Vice President and McShepherd Ranches, Inc. Respondent, OILSR No. 0-3575-49-525, 77-28-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. McShepherd Ranches (River Oaks Unit), Milton A. Rister, Vice President and McShepherd Ranches, Inc., authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued March 21, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for McShepherd Ranches (River Oaks Unit) located in Williamson County, Texas, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 11, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on June 3, 1977 at 10 a.m.

5. The followng time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before May 16, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 26, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13782 Filed 5-12-77;8:45 am]

[Docket No. N-77-757]

SAN JUAN MEADOWS

Notice of Hearing

In the Matter of: San Juan Meadows, Seymour Brier, Co-Trustee and San Juan Meadows, Trust Respondent, OILSR No. 0-1029-02-146, 76-341-IS.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. San Juan Meadows, Seymour Brier, Co-Trustee and San Juan Meadows, Trust, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 5, 1976, with was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)() and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales. Registration alleging that the Statement of Record and Property Report for San Juan Meadows located in Apache County, Arizona, contain untrue statements of material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 10, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on June 15, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before May 16, 1977.

Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 26, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-13780 Filed 5-12-77;8:45 am]

Bureau of Land Management

[Serial No. I-8872]

IDAHO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 2, 1977.

The Bureau of Reclamation, Department of the Interior, filed application Serial No. I-8872, on August 30, 1974, for a withdrawal in relation to the following described lands:

BOISE MERIDIAN

T. 7 S., R. 30 E.,
Sec. 13, SW¼SE¼.
T. 6 S., R. 31 E.,
Sec. 1, Lot 1.

The areas described aggregate 80.19 acres in Power and Bingham Counties.

The applicant desires to acquire the land to facilitate the operation, maintenance, and protection of the American Falls Reservoir Irrigation Facility.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 24, 1974, page 37785, Volume No. 39, Document No. 74-24862.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Man-

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agement, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management within 30 days of date of publication of this notice.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief, Branch of
Lands and Minerals Operations.

[Filed Doc.77-13724 Filed 5-12-77;8:45 am]

[Serial No. I-10293]

IDAHO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 2, 1977.

The Bureau of Land Management, Department of the Interior, filed application Serial No. I-10293, on January 15, 1976, for a withdrawal in relation to the following described lands:

BOISE MERIDIAN

HUCKLEBERRY RECREATION SITE

T. 45 N., R. 3 E.
Sec. 4: Lot 14;
Sec. 9: Lot 4.

The area described aggregates 54 acres in Shoshone County.

The applicant desires to protect the scenic and recreation values of the land for future public use.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on March 11, 1976, page 10455, Volume No. 41, Document No. 76-6953.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management within 30 days of date of publication of this notice.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-13725 Filed 5-12-77;8:45 am]

[OR 2375 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Land

MAY 4, 1977.

1. Pursuant to the Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869 et seq.), the following land has been voluntarily reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 26 N., R. 22 E.,
Sec. 8, lot 1.

The area described contains 20.50 acres in Chelan County.

2. The subject land is subject to the conditions and limitations of Sec. 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075), as amended (16 U.S.C. 818).

3. The subject land is located adjacent to the Columbia River approximately 28 miles north of the City of Wenatchee. Elevation ranges from 700 to 830 feet above sea level, and the topography is characterized by a gentle to moderate slope. Vegetation consists primarily of sagebrush and native grasses. In the past, the land has been considered for public recreational use, and it will be managed together with adjoining national resource lands, for multiple use management.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 9, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77-13632 Filed 5-12-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

Illinois Natural History Survey, Urbana, Illinois 61801, Brooks M. Burr.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1470

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Collect 24 specimens of the fountain darter, Etheostoma fonticola, for scientific study.

3. APPLICANT (Name, complete address and phone number (if individual, business, agency, or institution for which permit is requested)):
Brooks M. Burr
Illinois Natural History Survey
Urbana, Illinois 61801
(217) 333-6848

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
SEX: ☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT: 6' 0" | WEIGHT: 155 lbs.
DATE OF BIRTH: 8/15/49 | COLOR HAIR: brown | COLOR EYES: brown
PHONE NUMBER WHERE EMPLOYED: (217) 333-6848 | SOCIAL SECURITY NUMBER: 554-76-4575
OCCUPATION: Student-Research Assistant
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Scientific collecting (by dip net or seine) in the San Marcos River near or at the town of San Marcos, Hays Co., Texas.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number.)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of document.)
I have been informed that one must first obtain a federal permit for collection of an endangered species before the state permit.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 15 June 1977

11. DURATION NEEDED: about 1 month

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Section 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Brooks M. Burr
DATE: 30 March 1977

3-200
16-74
GPO 837 - 42

Attachments under 50 CFR: Section 17.22 "permit for scientific purposes." (1) a. Common and scientific name of species sought to be covered by permit: Fountain darter, *Etheostoma fonticola.*

b. Number to be taken-24 individuals; Age-1 or 2 years olds; Sex-12 males; 12 females.

c. Activity sought to be authorized: "taking" for scientific study.

(2) The species sought to be taken is still in the wild and according to J. R. Schenck and B.G. Whiteside, 1976 Copeia:697-702, *E. fonticola* population estimates stand at about 103,000 individuals rather than 1,000 individuals as was formerly thought. They further state that the San Marcos population is in no "immediate threat • • • with regard to scientific collecting."

(3) Removal of 24 individuals would result in their being sacrificed for study.

(4) not applicable.

(5) Illinois Natural History Survey, Urbana, Illinois 61801.

Species sought will not be displayed or maintained, but used for a scientific study detailed below.

(6) Not applicable.

(7)-(8) My purpose for obtaining a federal permit to take 24 specimens of the endangered fountain darter is to further clearify the evolutionary and systematic position of this species which has been almost completely ignored in taxonomic studies. I have conducted a thorough morphological study of the darter subgenus *Microperca* which contains the fountain darter and 2 other species. I desire to add further supporting evidence to my phylogenetic placement of the 3 species by conducting a biochemical study of a number of their enzyme systems. This would consist of quick-freezing on dry ice 24 specimens of *E. fonticola* from the San Marcos River at San Marcos, Hays Co., Texas and later removing muscle and liver tissue for the enzyme analysis. The remaining portions of the caracasses would be preserved and deposited in the permanent fish collection of the Illinois Natural History Survey. I have pointed out in paragraph (2) of this attachment that taking 24 individuals from the San Marcos locality will in no way threaten the "endangered" status of this species.

My friend, Mr. John R. Schenck has agreed to collect the 24 individuals for me. He is the person who conducted the ecological studies on the species and is best qualified to know where, when, and how to collect them. Mr. Schenck held a federal permit for collection of this species up until its expiration a few months ago.

Specimens will be collected by dip net or seine and will be taken if/when this permit is approved. Therefore, the duration of the permit would only be for a month or so depending on how soon Mr. Schenck's schedule permits a trip to the San Marcos site. If the permit is approved within 60 days then we could collect the specimens sometime in June, 1977.

This work is part of a PhD thesis being conducted at the University of Illinois. Allowing me to collect this species would greatly enhance my dissertation and I will be glad to make known to the Department of the Interior my findings.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-731-07; please refer to this number when submitting comments. All relevant comments received on or before June 13, 1977 will be considered.

Dated: May 9, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, United
States Fish and Wildlife Service.

[FR Doc.77-13526 Filed 5-12-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112, Charles L. Bieler, Director.

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OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Endorse only one)

☐ IMPORT OR EXPORT LICENSE ☒ (X) PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

Export 1/1 black lemur, Lemur macaco endangered species for breeding in captivity.

3. APPLICANT: (Give name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

San Diego Zoological Garden
P.O. Box 551
San Diego, Calif. 92112
Phone: 231-1515

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

Public Zoo - Wildlife exhibition research program - in addition to educational and related activities.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Charles L. Bieler
Director, San Diego Zool. Garden
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

Export from San Diego, California to Bristol, United Kingdom

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number)

1962 - 10 (under 1944 law issued 1962)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

Pending issuance of this permit.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
ASAP

11. DURATION NEEDED
until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b), etc.) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) — DATE
9 December 1976

>300
16-740

ZOOLOGICAL SOCIETY OF SAN DIEGO,
9 December 1976.

DIRECTOR (FWS/LE),
Fish and Wildlife Service, Department of the Interior, Washington, D.C.

DEAR SIR: The San Diego Zoological Garden requests an endangered species permit to export one male and one female black lemur, *Lemur macaco*.

1. Common and scientific names of the species or subspecies, number, age and sex of the wildlife to be covered in the permit.

The San Diego Zoo has a male and female black lemur, *Lemur macaco*, born at our institution. We propose to sell these primates to the Bristol, Clifton and West of England Zoological Society, Clifton, Bristol BS8 3HA United Kingdom. The male was born on 24 May 1971 and the female 15 March 1975.

2. Copy of the contract or other agreement under which such wildlife is to be imported, showing the country of origin, name and address of the seller or consignor, date of the contract, number and weight (if available), and description of the wildlife.

Attached are photocopies of letters from G. R. Greed, Zoo Director. Data to fulfill this section are contained in these letters.

3. A full statement of justification for the permit, including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes as appropriate and the planned disposition of the wildlife upon termination of the project.

In 1965, after years of negotiation with the Malagasy Government, the San Diego Zoo was made an official depository of various lemur species, including *Lemur macaco*. Our goal was to learn the captive husbandry of the primates, propagate them and send them to zoos within the United States and the rest of the world so that the species could be conserved in captivity. By establishing them in different continents and countries we should ensure their survival regardless of national calamity, whether natural or man-made. The pair going to Bristol are an effort to continue and expand the captive breeding population.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The black lemurs will be held on the premises of the Bristol, Clifton and West of England Zoological Society, which has the reputation of being one of Briton's leading zoological gardens. It is a privately owned Society and is totally independent. It is a non-profit making organization and financed by its own endeavors. There is an admission charge to the zoo and the attendance averages three quarters of a million visitors annually. The postal address is: Bristol, Clifton and West of England Zoological Society, Clifton, Bristol BS8 3HA.

5. A statement that of the time of the application the wildlife to be removed is still in the wild, was born in captivity, or has been removed from the wild.

The pair of lemurs to be sent to the Bristol Zoo was born in the San Diego Zoo. The male was born on 24 May 1971, the female on 15 March 1975.

6. The resume of the applicant's attempts to obtain the wildlife to be imported from sources which would not cause the death or removal of additional animals from the wild.

All the animals in this transaction were born in captivity, thus will not be a drain on the natural population of wild lemurs.

(v). For the five years preceding the date of this application, provide a detailed description of all mortalities involving the species covered in the application and held by the applicant, if any (or any other wildlife of the same genus or family held by the applicant), including the causes of such mortalities and the steps taken to avoid or decrease such mortalities.

The Bristol Zoo formerly exhibited the black lemur in 1950 and bred one animal which survived 48 hours. Attached is a list of five *Lemur catta* which died within the last five years, detailing birth or acquisition, medical histories and post morten findings for these animals.

Lemur fulvus mayottensis. No deaths, but one female has aborted twice, on 25 February 1975 and 2 April 1976. No cause found for this.

Lemur mongoz. A youngster born 1 May 1976 was found dead at two days. Post mortem showed neonatal colibacillosis.

7(i). A complete description, including photographs or diagrams, of the area and facilities in which the wildlife will be housed.

The Bristol Zoo maintains lemurs both in its zoo gardens which are open to the public and on its conservation area within its country estate which is not open to the public. The following is an inventory of the species of lemurs owned by this Society which also shows their present location. *Lemur catta*, 8 males, 5 females (including 6 males, 3 females at Hollywood Tower Estate); *Lemur fulvus mayottensis*, two pairs, all at Hollywood Tower Estate; *Lemur mongoz*, four pairs, all at Hollywood Tower Estate; *Lemur macaco*, 1 male at Hollywood Tower Estate.

The pair of black lemurs to be sent to England are to be kept on the Hollywood Tower Estate in their conservation area and it is intended only to exhibit their progeny within the zoo. The holding facilities for these animals will consist of a wooden, well insulated building, approximately 16' x 16' x 8' high with four main enclosures and a fifth holding pen. The pair of lemur will be allocated two internal enclosures and have access to one outside enclosure, 20' x 16' x 12' high, south facing and covered in 1" weld mesh, wind protection being given by marine plywood. Heating is given to the internal enclosures by electric heating and the indoor facilities are adequately furnished with shelves and perches. Likewise the outside enclosures, which have grass floors.

7 (ii). A brief resume of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related species to be imported.

Personal resumes of the Bristol, Clifton and West of England Zoological Society's senior staff are enclosed. In their zoo careers these officers have experience in the propagation of the following closely related lemurs:

Mongoose Lemur, *Lemur mongoz*.
Ring-tailed Lemur, *Lemur catta*.
Brown Lemur, *Lemur fulvus mayottensis* (partial success).

7 (iii). A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

No studbook for the black lemur exists. Both zoos are willing to participate in a studbook if one is started.

7 (iv). A detailed description of the type, size and construction of the container: Arrangements for feeding, watering and otherwise caring for the wildlife in transit: And the arrangements for caring for the wildlife on importation into the United States.

The lemurs will be trucked to the Los Angeles Airport in a zoo vehicle accompanied by two zoo keepers. The animals will be placed on TWA's flight No. 760 at 12:35 PM arriving London the next morning at 6:40 AM. In the event TWA should not be operating we would use the following alternate route: British Airways flight No. 596 leaving Los Angeles 5:30 PM arriving next day at 12:40 PM. Both of these flights are nonstop.

In addition, the Bristol, Clifton and West of England Zoological Society will have a licensed vehicle available to transport the animals from Heatherow Airport, London to their quarantine premises, as authorized under the Ministry of Agriculture, Fisheries and Foods, London regulations.

8 (iv). The planned disposition of such wildlife upon termination of the activities sought to be authorized.

All dead mammals are sent to the Bristol University where a thorough post mortem examination is undertaken. This work is done in the Department of Comparative Pathology under Professor I. A. Silver, M.A., M.R.C.V.S. who is authorized by the Bristol, Clifton and West of England Zoological Society to cooperate fully with other scientific organizations, who might require dead specimens for scientific research.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and other applicable parts in Subchapter B of Chapter I, Title 50 and I further certify that the information submitted in this application for permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

CLYDE A. HILL,
Curator of Mammals.

Lemur catta deaths within last 5 yr (Bristol Zoo)

Date of death	Sex	Date acquired or born	Post mortem findings
June 15, 1972	Female	Born Mar. 24, 1972	Injuries (caused by monkey in adjoining cage.)
Aug. 16, 1974[1]	Male	Purchased June 27, 1968 (father of baby below).	No gross lesions found. Histology showed no pathological abnormality. No sign of any inflammatory process and no indications of a possible viral infection. Cause of death undetermined.
Aug. 17, 1974[1]	do	Born Mar. 25, 1974	Corneal ulceration and keratitis. Severe ulceration of tongue. Terminal bronchopneumonia.
May 4, 1975	do	Born May 2, 1975	Abandoned by mother May 3, 1975.
Mar. 13, 1976	do	Purchased Oct. 16, 1963.	Question clinical diabetes.

[1] Baby treated for conjunctivitis from Aug. 8, developed nervous signs the day before death. Father was taken ill suddenly on Aug. 15, with vomiting and respiratory symptoms. The twin baby also showed signs of conjunctivitis Aug. 17, but recovered in a few days.

Name: Geoffrey R. Greed.
Position: Director, Bristol, Clifton & West of England Zoological Society
Date of birth: 30th May 1937.
Duties: See attached position description.
Education: G.C.E. (Oxford/Cambridge) 1954/55.
Experience: January 1962 to August 1964. Chester Zoo, Keeper, Section Officer. November 1964 to April 1966. Munich Zoo, Keeper. May 1966 to May 1974. Bristol Zoo, Assistant to the Director, Curator of Animal Assistant Director. June 1974—to date. Bristol Zoo, Director.
Supplemental: Presently in charge of Bristol, Clifton and West of England Zoological Society with a permanent staff slighty in excess of 100, augmented during the season by a further 250 staff. The animal collection consists of 262 specimens of 66 species.

Function of Job

The Zoo Director is responsible for the development and operation of the Zoo. He provides technical advice relating to the care, exhibition, and collection of animals. Performs promotional duties.

Duties and Responsibilities

1. Supervises the development and operation of the Zoo.

2. Identifies and classifies all Zoo specimens, determining their requirements with regard to space, shelter, climate, feed, etc., and acts accordingly. Secures Zoo specimens as required.

3. Directs feeding schedules and modifications as required.

4. Organises and directs a daily log of operations, permanent record of acquisitions, natural increases, exchanges, sales, sickness, treatment, deaths, etc.

5. Maintains herd records and pedigrees as required.

6. Initiates the draft current and capital budgets for the Zoo.

7. Arranges and conducts tours through the Zoo and other educational functions, maintaining good public relations at all times.

8. Formulates and directs advanced employee training programmes.

9. Responsible for initiating new phases of Zoo development (planning and design).

10. Maintains effective working relationships with other zoos, research institutions, veterinary persons, governmental agencies, and other allied groups.

11. Maintains effective working relationships between all employees engaged in care, development, and operations.

12. Assembles data, prepares administrative reports, and handles business correspondence.

13. Carries out or directs zoological and related research in co-operation with the University and similar institutions. May publish papers on his work.

14. Prepares new releases regarding activities at the Zoo, for distribution upon approval of the Council.

15. Prepares monthly and annual reports, including in them recommendations for improvements in the Zoo.

16. Performs related duties as required.

Supervision Received and Given

General supervision is received from the Council of the Bristol, Clifton and West of England Zoological Gardens. The Zoo Director is given wide scope for use of independent judgment in the operation of the Zoo, pertaining to animal care. He has important supervisory responsibilities.

Name: Brian Moore.
Position: Overseer.
Date of birth: 24th July 1947.
Duties: See attached position description.
Education: English Language, English Literature and French to O Level standard at Grammar School.
Experience: 1966—Keeper, Bristol, Clifton & West of England Zoologic Society. 1972—Senior Keeper, Bristol, Clifton & West of England Zoological Society. 1973—Overseer, Bristol, Clifton and West of England Zoological Society.

Overseer—Function of Job

Under a minimum of supervision from the Zoo Director and the Head Keeper, an employee in this position is responsible for supervising and assisting a medium size group of subordinate employees in all phases of care and cleaning maintenance in the breeding estate area, outside of all animal enclosures.

Duties and Responsibilities

1. Is responsible for the administration and operation of the day-to-day function of the livestock department of the breeding estate, outside of the animal enclosures, including the cleaning, maintenance, and upkeep of the breeding estate, walkways, roads and landscaped areas.

2. Is responsible to bring to the attention of the Director all necessary repairs in his department.

3. Performs various administrative duties such as timekeeping, and related personnel matters. Assembles data, prepares reports such as occurrence, damage etc. Handles correspondence related to his duties.

4. Is responsible for the day-to-day safety of employees.

5. Performs related duties as required.

Name: Donald Packham.
Position: Head Keeper.
Date of birth: 15th June 1932.
Duties: See attached position description.
Education: Educated to the standard of Technical College.
Experience: 1948—Keeper, Bristol, Clifton & West of England Zoological Society. 1956—Senior Keeper, Bristol, Clifton & West of England Zoological Society. 1973—Head

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Overseer, Bristol, Clifton & West of England Zoological Society. 1975—**Head Keeper**, Bristol, Clifton & West of England Zoological Society.

Organization Membership: Associated British Wild Animal Keepers. (A.B.W.A.K.)

HEAD KEEPER—Function of Job

To perform supervisory work with a minimum of direction from the Zoo Director, involving responsibility for the operation of the Livestock Department.

Duties and Responsibilities

1. Supervises a large group of skilled workers engaged in the care of the animal collection.

2. Controls the condition of the animal collection in regard to health and takes appropriate action to maintain a high level throughout, involving the assistance of a veterinary surgeon under contract.

3. Assists the Zoo Director in the detailed planning and development of animal accommodation and exhibits.

4. Initiates improvements to animal accommodation and exhibits, in regard to animal compatibility, sanitation, servicing, maintenance, and the aesthetic appearance of exhibits.

5. Carries out public relations and Zoo tour duties as assigned.

6. Performs and supervises on the job training and assists the Zoo Director in the formulating of advanced employee training programmes.

7. Deputies for the Zoo Director in his absence.

8. Performs related duties as required.

Supervision Received and Given

General supervision is received from the Zoo Director but an employee in this position is allowed considerable scope in the use of independent thought and action.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or argumuents, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–582–07; please refer to this number when submitting comments. All relevant comments received on or before June 13, 1977 will be considered.

Dated: May 9, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77–13527 Filed 5–12–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Barbara Tata Rice, P.O. Box 264, Seagoville, Texas 75159.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (only one): [X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
Import 5 baby elephants (E. S.) Profagation, public display, entertainment, educational lectures, behavioral science, scientific research

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Barbara Tata Rice
P.O. Box 264
Seagoville, Texas 75159
214 287-4226

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS [X] MS.
HEIGHT: 5' 7" WEIGHT: 145
DATE OF BIRTH: 1-15-50
COLOR HAIR: Br. COLOR EYES: Br.
PHONE NUMBER WHERE EMPLOYED:
SOCIAL SECURITY NUMBER: 015-36-8215
OCCUPATION: elephant exhibitor, breeder, & trainer's
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Columbus Zoo att. Mr. Sharpe
Caldwell Zoo Att. Hayes Caldwell
South West Research Ins. San Antonio Texas att. Dr. Dean
Walt Disney Prod. Att. Larry Landsburg & Gatti- Charles Prod..

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Self employed business - amusement for mass audience , breeding, lecture for educational purposes, study of behavioral science.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Same
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Import from Calcutta, India direct to Dallas , Texas

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [ ] NO
IF "YES," INDICATE LICENSE OR PERMIT NUMBER AND TYPE
U.S. Dept. of Agriculture
Barbara Rice Exhibitor 74-RE-14
Breeder Permit Texas 00244

8. IS REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
IF "YES," INDICATE NAME OF JURISDICTION AND TYPE OF DOCUMENT(S)
Calcutta, India
Invoice enclosed

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ 50.00

10. DESIRED EFFECTIVE DATE: soon as possible

11. DURATION NEEDED: As long as it takes to make arrangement by air

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (By self): Barbara Tata Rice
DATE: 3/18/1977

3-200 (6/74) — 17.22

(12)
(1) Indian elephants: 5 female, age 3–4 years, importing.
(2) Born in captivity.
(3) Not applicable as they were born in captivity.
(4) Born in captivity on logging farm, Calcutta, India.
(5) Corner of Combine and Ballard Rd., Seagoville, Texas, five acre farm with three acres fenced and secured for exercise and play. Trees for shade and a 50' lake for swimming. New 160' by 75' barn under construction with concrete floor, running water, drains, electric, heat, and ventilation, will be complete within 30 days. Elephants will be used by various zoos for breeding and for entertainment all over United States and Canada: 1 promised to Columbus Zoo, Columbus, Ohio, on 2 year breeding loan, attn. Mr. Sharpe; 1 promised to South West Research Institute, San Antonio, Texas, for scientific research, one summer only, attn. Dr. Dean; 1 for donation to Caldwell Zoo, Tyler, Texas, to be later replaced by adult male, attn. Hayes Caldwell, no money involved; remainder to go on exhibitional tour and exhibited by Bucky Steele or myself only; Gatti-Charles Prod., attn. Patricia Gatti, Orange, Calif.
(6) Yes.
(i) Refer to number 5.
(ii) I have had first hand experience for raising and caring for baby elephants for the past 8 years. My partner, Bucky Steele, has been involved with elephants for the past 30 years.
(iii) I agree to cooperate with breeding program and to maintain a studbook.
(iv) I just had built a new elephant semi-trailer for transport, completely planked, insulated, and ventilated, 40 ft. length.
(v) In the 5 years preceding the date of this application there have been no mortalities.
(7) Enclosed.
(8) I am justified in obtaining a permit because I had my order in for the baby elephants before they went on the endangered species list and because this has been my livelihood for the past 8 years.
(i) Exhibition, entertainment, propagation, study of behavioral science, educational lectures, and scientific research.

(ii) By loaning elephants to various zoos and research centers, by making extensive personal studies of their behavior, and by going on exhibitional tour.
(iii) By offering my animals to be used for breeding and also for scientific research as we are most interested in every aspect concerned. I also will readily agree that if in the future, if there are any studies or Government projects involving elephants that you may feel free to contact us as our animals and facilities will be at your disposal. We will be most happy to accommodate you in any way.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO, U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–660–07; please refer to this number when submitting comments. All relevant comments received on or before June 13, 1977 will be considered.

Dated: May 9, 1977.

DONALD G. DONABOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–13528 Filed 5–12–77;8:45 am]

National Park Service

HISTORIC AMERICAN BUILDINGS SURVEY ADVISORY BOARD

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Historic American Buildings Survey (HABS) Advisory Board will be held on June 2 and 3, 1977, starting at 9:15 a.m., in the conference room of the Del Coronado Hotel in San Diego, California.

The HABS Advisory Board was established by the Secretary of the Interior on November 17, 1933, and sanctioned by an Act of Congress, August 21, 1935, to render advice on matters related to the task of preserving records of the historic architectural monuments of the United States.

The present membership of the HABS Advisory Board is as follows:

Mr. D. O. Davies, New Castle, Pennsylvania.
Dr. John Douglas Forbes, Hon. AIA, Charlottesville, Virginia, Sec'y.
Mr. John Drews Henderson, AIA, San Diego, California, Chairman.
Mrs. Victorine Du Pont Homsey, FAIA, Wilmington, Delaware.
Mr. George McMath, AIA, Portland, Oregon, Vice Chairman.
Ms. Barbara Wriston, Art Institute of Chicago, Illinois.
Mr. John Cullinane, Chmn., AIA Historic Resources Committee (ex officio).
The Librarian of Congress (or his representative) (ex officio).

Among other things, the Advisory Board agenda will consist of reports from the Chief of the Historic American Buildings Survey, staff reports on HABS projects and exhibits, and reports of the subcommittee.

The meeting is open to the public, and any person may file with the Board a written statement concerning the matters being discussed; however, facilities and space for accommodating members of the public are limited.

Further information concerning these meetings may be obtained from the Historic American Building Survey Division, National Park Service, Washington, D.C. (202) 523–5474. Minutes of the meeting may be acquired through the Executive Secretary of the Board, Mrs. Lucy Pope Wheeler, HABS (202) 523–5474, after the succeeding meeting.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

[FR Doc.77–13720 Filed 5–12–77;8:45 am]

PICTURED ROCKS NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Pictured Rocks National Lakeshore Advisory Commission will be held June 2, 1977, at 10:00 a.m. (EDT) in the Community Building in Munising, Michigan.

The Commission was established by Public Law 89–668 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Pictured Rocks National Lakeshore.

The members of the Commission are:

Mr. Edward N. Locke (Chairman).
Mr. Leo Gariepy.
Mr. Glenn C. Gregg.
Mr. David C. West.
Mr. James Becker.

Matters to be discussed at the meeting include a road system for Pictured Rocks National Lakeshore including a major "cross-park" road.

The meeting is open to the public. Interested persons may file written statements with the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert L. Burns, Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862, telephone 906–387–2607.

Minutes will be available for public inspection two weeks after the meeting at Pictured Rocks National Lakeshore headquarters at Sand Point, four miles east of Munising, Michigan.

Date: May 5, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77–13719 Filed 5–12–77;8:45 am]

Office of the Secretary

[INT FES 77–13]

PROPOSED NAVAJO-EL PASO/CONSOLIDATION COAL LEASE AND MINING ON THE NAVAJO RESERVATION, SAN JUAN COUNTY, NEW MEXICO

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Navajo-El Paso/Consolidation Coal Lease and Mining Plan on the Navajo Reservation, San Juan County, New Mexico. The statement supplements the final environmental statement for the proposed El Paso Gasification Project (INT FES 77–3).

The statement considers the human, economic and physical environmental affects associated with the Federal approvals of a lease and mining and reclamation plans for coal strip mining operation. It is anticipated that 677,940,000 tons of low sulphur coal will be excavated from 40,287 acres of Navajo Reservation lands during the next 35 years.

Copies of the final statement are available for inspection at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245, Telephone (202) 343–8248.

Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona 86515, Telephone: (602) 871–4366.

Bureau of Indian Affairs, Albuquerque Area Office, First National Bank Bldg.—East, 5301 Central Avenue, N.E., Albuquerque, New Mexico 87108, Telephone: (505) 766–3060.

Bureau of Indian Affairs, Shiprock Agency, Shiprock, New Mexico 87420.

Single copies of the final environmental statement may be obtained from the Navajo Area Office, Bureau of Indian Affairs, Window Rock, Arizona 86515.

Dated: May 11, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77–13844 Filed 5–12–77;8:45 am]

WATCHES AND WATCH MOVEMENTS

Allocation of Duty-Free Quotas for Calendar Year 1977 Among Producers Located in Guam and American Samoa

Cross Reference: For a document issued jointly by the Department of the Interior and the Department of Commerce dealing with the allocation of duty-free quotas for watches and watch movements assembled in Guam and American Samoa, see FR Doc. 77–13796 appearing under the Department of Commerce in the Notices section of this issue.

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-23]

COLOR TELEVISION RECEIVING SETS

Prehearing Conference and Hearing

Notice is hereby given that a Prehearing Conference will be held in connection with this investigation, at 10:00 a.m., on May 24, 1977, in the Hearing Room of the International Trade Commission, Room 331, 701 E Street, N.W., Washington, D.C. On or before May 17 and May 23, the parties will have filed and served Prehearing Briefs in conformity with the Order for Prehearing Briefs issued May 6, 1977. The purpose of this Prehearing Conference is to review such prehearing briefs and resolve and other necessary matters in preparation for the hearing. With respect hereto, counsel shall submit proposed agendas on or before May 20, 1977, to the Presiding Officer.

Notice is also given that the hearing in this proceeding will commence at 10:00 a.m. on June 7, 1977, in the Hearing Room of the International Trade Commission, Room 331, 701 E Street, N.W., Washington, D.C., and will continue daily until completed.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued May 10, 1977.

JUDGE MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-13818 Filed 5-12-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Setcretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this ninth day of May, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending May 6, 1977

Name of applicant	Location of enterprise	Principal product or activity
G & H Building Components, Inc.	Riverside, N.J.	Manufacture of panels and roof trusses for building contractors.
L. B. J & T. Inc.	Cookeville, Tenn.	Bowling and recreation center.
Plourde Bros. Hardware, Inc.	Hudson, Wis.	Retail sales of hardware and related items.
Urania Enterprises, Inc.	Urania, La.	Retail sale of groceries, household items, and gasoline.
Sheridan Retirement Center, Inc.	Sheridan, Wyo.	Retirement and nursing care center.
High Country Development Corp.	Rawlins, Wyo.	Motel.
The Building Block, Inc.	Las Animas, Colo.	Sales of home remodeling products.
Broulim's Super Market, Inc.	Montpelier, Idaho.	Supermarket.
Petersen Enterprises	Rexburg, Idaho.	Restaurant.

[FR Doc.77-13744 Filed 5-12-77;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Thursday, June 2, 1977, in the Shore Room, Edgewater Inn, 2411 Alaskan Way, Seattle, Washington. The meeting is open to the public.

The purpose of this meeting is to discuss and consider recommendations on proposed citation guidelines for multi-employer worksites, review the OSHA standards on scaffolds, and hear from committee members on safety and health problems in the construction industry.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits.

Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue, NW, Room N-3635, Washington, D.C. 20210. Phone: (202-523-8024).

Materials provided to members of the committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 10th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor, Occupational Safety and Health.

[FR Doc.77-13825 Filed 5-12-77;8:45 am]

[V-77-7]

BAKER TANK CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of Application.* Notice is hereby given that Baker Tank Company, P.O. Box 40, Arp, Texas 75750, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.451 (a) (4), (5), and (10) dealing with scaffolds.

The place of employment affected by the application is as follows:

Baker Tank Company, P.O. Box 40, Arp, Texas 75750.

The applicant certifies that employees who would be affected by the variance have been notified of the application by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by §1926.451(a) (4), (5), and (10). Section 1926.451(a) (4) and (5) reads as follows:

(4) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beams scaffolding and floats (see paragraphs (p) and (w) of this section). Scaffolds 4 to 10 feet in height having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) Guardrails shall be 2×4 inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be minimum of 4 inches in height.

The applicant states that its business is of a specialized nature involving steel plate erection by members of the boilermaker's trade.

The applicant contends that the scaffolds used in building tanks are mobile and are frequently raised as are the tank sections, in order to position the next set of steel plates. The scaffolds used do not have toeboards because tools are placed in well designed "loose tool" containers provided for that purpose. In addition, the applicant proposes to rope off the area directly below and in close proximity to the scaffold and to permit only those employees, and tools currently being used by them, on the scaffolds. As a further precaution, a taut wire is installed midway betwen the innermost plank face of the scaffold platform and the tank face. The applicant states that because the scaffolds must be moved frequently, it would be more hazardous to constantly remove and replace toeboards.

The applicant also proposes to place guardrail supports at 10' 6" intervals in lieu of the 8' requirement of § 1926.451 (a) (5). This would allow consistent bracket spacing since the applicant further desires to use 10' 6" spans for its scaffold planking although § 1926.451 (a) (16) allows a maximum span of 10'. The planks proposed to be used are rough full-dimensioned 2"×12"×13' planks of Douglas Fir or Southern Yellow Pine of select structural grade. The Douglas Fir has a fiber stress of 1,900 and a modulus of elasticity of 1,900,000, while the Southern Yellow Pine has a 2,500 fiber stress and a modulus of elasticity of 2,000,000. The applicant contends that the scaffolds he is using are safe, even though the span is one-half foot longer than the maximum length allowed, because of the increased strength of the wood.

A copy of the application will be made available for inspection and copying upon request at the Office of Variance Determination, U.S. Department of Labor, Room N-3668, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1425 W. Pioneer Drive, Irving, Texas 75061.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than June 13, 1977. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than June 13, 1977, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

II. *Interim Order.* It appears from the application for variance and interim order that the proposed scaffolding described in the application, with certain variations, will provide a place of employment as safe as those which would prevail if the applicant were to comply fully with 29 CFR 1926.451(a) (4), (5), and (10). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardship to the applicant and its employees. Therefore, it is ordered, pursuant to section 6(d) of the Occupational Safety and Health Act of 1970, 29 CFR 1905.11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that the Baker Tank Company, be, and is hereby authorized to use scaffolds in accordance with the following conditions, in lieu of complying with the toeboard and span requirements in § 1926.451(a) (4), (5), and (10):

(a) The applicant's loose tools and equipment shall be kept in well-designed tool containers. This does not include fitup bars, key plates, key channels, or long handled maul which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgement from the scaffold area.

(b) Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: "Danger Overhead Work."

(c) The space between the innermost edge of the scaffold platform and the curved plate structure of the tank shell shall not exceed 12" without protective measures. A taut wire rope supported on scaffold brackets at plank level may be used to divide any space exceeding 12" in lieu of using a guardrail or tie-off system.

(d) Not more than three employees shall be working on a 10' 6" span of scaffold planking at any time.

(e) The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10' 6". These brackets shall be welded to the steel plates.

(f) Scaffold planks of rough full-dimensioned 2"x12"x13' Douglas Fir or Southern Yellow Pine of select structural grade or equivalent planking shall be used. The Douglas Fir shall have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine shall have at least 2,500 fiber stress and 2,000,000 modulus of elasticity. Three planks with full thickness 2"x12"x13' dimensions may be used in lieu of two 2"x12" x13" planks provided that they are clamped or bonded together at the midpoint of the span, in order to spread the weight of the employees.

(g) All planking shall be secured from movement or overlapped in accordance with § 1926.451(a) (12).

(h) Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2"×4" wood rails by 29 CFR 1926.451(a)(5). Guardrail supports shall be located at no greater than 10' 6" intervals.

Baker Tank Company, shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of May 13, 1977, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 9th day of May, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-13826 Filed 5-12-77;8:45 am]

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, continued under Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees,

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will meet on June 1, starting at 9:30 a.m., in Room S4215 ABC, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Proposed Amendment to Part 1960, Final review and approval on the expansion of Subpart F—Field Federal Safety and Health Councils.

II. Ad Hoc Committee on 29 CFR Part 1960, Review and approval of the Committee recommendations regarding § 1960.31—Report by Employees of Unsafe or Unhealthful Working Conditions.

III. Ad Hoc Committee on Recommendations of House Report, January 26, 1976, "Safety in the Federal Workplace" review and approval of proposed Implementation Plan.

IV. Reports by: A. Standing Committee on National Programs, status of the next national safety and health program "Target—Prevention and Protection."

B. Standing Committee on Federal Safety and Health Conferences, status report of Philadelphia, New Orleans and Anaheim Conferences.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business May 27 will be provided to members of the Council and included in the record of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business May 25. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Mr. Walter J. Mason, Executive Director, FACOSH, Department of Labor, OSHA, First Floor—South, 2100 M Street NW., Washington, D.C. 20210, telephone 202–653–5500.

Signed at Washington, D.C., this 9th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77–13824 Filed 5–12–77;8:45 am]

Office of the Secretary

ALL ITEMS CONSUMER PRICE INDEX

U.S. City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94–283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the FEDERAL REGISTER the fact that the United States City Average All Items Consumer Price Index (1967=100) increased 15.4 percent from its 1974 annual average of 147.7 percent to its 1976 annual average of 170.5. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index thus increased 15.4 percent from its 1974 annual average of 100 to its 1976 annual average of 115.4.

Signed at Washington, D.C., on this 5th day of April, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77–13831 Filed 5–12–77;8:45 am]

BOB LEE MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

In F.R. Doc. 77–7588 appearing at page 14185 in the FEDERAL REGISTER of March 15, 1977, the following dates in the Appendix under Petitioner Carmen Garcia, Inc., No. TA–W–1712, are corrected:

1. The "Date received" is corrected to read "Feb. 7, 1977" and

2. The "Date of petition" is corrected to read "Jan. 31, 1977."

Signed at Washington, D.C., this 4th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77–13827 Filed 5–12–77;8:45 am]

BOB LEE MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Correction

In FR Doc. 77–7588 appearing at page 14185 in the FEDERAL REGISTER of March 15, 1977, the following dates in the Appendix under Petitioner Henry Garcia Industrial Co., No. TA–W–1724, are corrected:

1. The "Date received" is corrected to read "Feb. 7, 1977" and

2. The "Date of petition" is corrected to read "Jan. 31, 1977."

Signed at Washington, D.C., this 4th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77–13828 Filed 5–12–77;8:45 am]

[TA–W–1712]

CARMEN GARCIA, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1712: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 7, 1977, which was filed by the International Ladies' Garment Workers' on behalf of workers and former workers producing brassieres at the Cidra, Puerto Rico plant of Carmen Garcia, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lady Suzanne Foundations, Inc., its customers, Carmen Garcia, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

Significant total or partial separations. Average annual employment at the Cidra plant declined 26.8 percent in 1976 compared to 1975. The plant closed in December 1976 and all workers were permanently laid off.

Sales or production, or both, have decreased absolutely. Annual sales by the Cidra plant declined 29.7 percent in value in 1976 compared to 1975.

Annual production at the Cidra plant decreased 24.8 percent in quantity in 1976 compared to 1975.

Increased imports. Imports of brassieres, bras-lettes and bandeaux increased in quantity in each year between 1971 and 1976; from 4,995 thousand dozens in 1971 to 8,751 thousand dozens in 1976. The ratio of imports to domestic production of brassieres, bra-lettes and bandeaux increased in each year between 1971 and 1975; from 26.2 percent in 1971 to 42.3 percent in 1975.

Contributed importantly. Carmen Garcia Inc. was a stitching shop for Lady Suzanne Foundations Inc. in Brooklyn, N.Y. Both companies were owned by the same parent corporation. All of the brassieres sewn at the Cidra plant were shipped to Lady Suzanne. The Office of Trade Adjustment Assistance conducted a survey of customers of Lady Suzanne. Most of the customers indicated that they decreased purchases from Lady Suzanne and increased purchases of imported brassieres. The single largest customer of Lady Suzanne reported that 90 percent of the brassieres supplied by their other domestic suppliers were produced abroad.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at the Cidra, Puerto Rico plant of Carmen Garcia, Incorporated, contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cidra, Puerto Rico plant of Carmen Garcia, Incorporated, who became totally or partially separated from employment on or after January 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–13829 Filed 5–12–77;8:45 am]

[TA–W–1724]

HENRY GARCIA, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1724: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 7, 1977, which was filed by the International Ladies' Garment Workers' on behalf of workers and former workers producing brassieres at the Las Piedras, Puerto Rico plant of Henry Garcia, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lady Suzanne Foundations, Inc., its customers, Henry Garcia Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

Significant total or partial separations. Average annual employment at the Las Piedras plant declined 32.6 percent in 1976 compared to 1975. The plant closed in December 1976 and all workers were permanently laid off.

Sales or production, or both, have decreased absolutely. Annual sales by the Las Piedras plant declined 37.3 percent in value in 1976 compared to 1975.

Annual production at the Las Piedras plant decreased 38.2 percent in quantity in 1976 compared to 1975.

Increased imports. Imports of brassieres, bra-lettes and bandeaux increased in quantity in each year between 1971 and 1976; from 4,995 thousand dozens in 1971 to 8,751 thousand dozens in 1976. The ratio of imports to domestic production of brassieres, bra-lettes and bandeaux increased in each year between 1971 and 1975; from 26.2 percent in 1971 to 42.3 percent in 1975.

Contributed importantly. Henry Garcia Inc. was a stitching shop for Lady Suzanne Foundations Inc. in Brooklyn, N.Y. Both companies were owned by the same parent corporation. All of the brassieres sewn at the Las Piedras plant were shipped to Lady Suzanne. The Office of Trade Adjustment Assistance conducted a survey of customers of Lady Suzanne. Most of the customers indicated that they decreased purchases from Lady Suzanne and increased purchases of imported brassieres. The single largest customer of Lady Suzanne reported that 90 percent of the brassieres supplied by their other domestic suppliers were produced abroad.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at the Las Piedras, Puerto Rico plant of Henry Garcia, Incorporated, contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Las Piedras, Puerto Rico plant of Henry Garcia, Incorporated, who became totally or partially separated from employment on or after January 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–13833 Filed 5–12–77;8:45 am]

TELEVISION RECEIVERS

On March 22, 1977, the International Trade Commission determined that increased imports of television receivers are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 16489).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on television receivers. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received 11 petitions for certification of eligibility for adjustment assistance from workers engaged in the final assembly of television receivers. To date, the Department has certified seven of these petitions and denied three of them. An investigation is in process in the remaining case. As of January 31, 1977, 8596 workers had applied for adjustment assistance, and $6,280,642 had been paid out to 5775 of them.

2. The Department of Labor estimates that another 600 workers at plants whose workers have been certified may apply for and may receive adjustment assistance. Employment at the majority of plants in the industry, including those whose workers have been certified, has either remained constant or increased slightly over the past year. Two of the plants, however, have laid off a total of about 1700 workers over the past year. In spite of an improvement in the domestic industry's fortunes in 1976, the Labor Department estimates that as many as 500 workers may be laid off from plants producing television receivers over the coming year. An increase in import penetration of the domestic market should add to the number.

3. New York and Arkansas have been most seriously affected by layoffs that have occurred at final assembly plants in the television industry since 1976. Local unemployment rates in the counties of primary impact were well above the national average, exceeding 11 percent in December 1976. The rural nature and depressed economic climate of these impacted areas limit the reemployment prospects of the displaced workers. Consequently, a number of them may enroll in training programs and/or consider relocating.

4. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the program claims of most of the displaced workers. Although actual levels of enrollment are higher than expected levels in the areas of greatest need, funding appears to be adequate to sustain the programs. The Employment and Training Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

V42 93 MAY 13 77 UMI

Copies of the Department's report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (phone 202–523–7665).

Signed at Washington, D.C., this 10th day of May 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77–13830 Filed 5–12–77;8:45 am]

AMERICAN CAN CO., ET AL.

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 23, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 23, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
American Can Co. (USWA).	Hillside, N.J.	May 2, 1977	Apr. 26, 1977	TA-W-2,035	Beer, soda, coffee, and and peanut cans.
Canteen Corp. (United auto, aerospace, agricultural, and implement workers).	Springfield, Ohio	do	Apr. 28, 1977	TA-W-2,036	Vending machines.
Crystal Systems, Inc. (workers)	Chardon, Ohio	Apr. 27, 1977	Apr. 22, 1977	TA-W-2,037	Watch crystal blanks for electronic digital watches.
Elder's Manufacturing Co. (workers).	Webb City, Mo	Apr. 26, 1977	Apr. 21, 1977	TA-W-2,038	Men's and boys' dress and sport shirts.
Do	Carl Junction, Mo.	do	do	TA-W-2,039	Do.
Prairie Manufactor Co. (workers).	East Prairie, Mo	May 2, 1977	Apr. 25, 1977	TA-W-2,040	Women's dress slacks, postal uniforms, industrial uniforms, and jeans.
Sandler of Boston (workers).	New Bedford, Mass.	do	Apr. 27, 1977	TA-W-2,041	Women's boots and shoes.
Vogue Industries, Inc. (company).	Lowell, Mass	Apr. 28, 1977	Apr. 26, 1977	TA-W-2,042	Stainless steel flatware.

[FR Doc.77–13285 Filed 5–12–77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77–33]

SPACE PROGRAM ADVISORY COUNCIL (SPAC) LIFE SCIENCES COMMITTEE

Meeting

The SPAC Life Sciences Committee will meet on June 1–2, 1977, at NASA Headquarters, 400 Maryland Avenue, Washington, D.C. 20546. The meeting will be held in Room 5026, Federal Office Building 6. Members of the public will be admitted on a first-come first-served basis, up to the seating capacity of the room, which is about 60 persons.

The SPAC Life Sciences Committee serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space travel, with exobiology, and with other life forms. Its academic interests include: physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, plant biology, nutrition and food technology, exbiology, biology of gravity and rhythms, ecology and biotechnology. The current Chairman is Dr. G. Donald Whedon. There are 19 members.

The following list sets forth the approved agenda and schedule for the June 1–2, 1977, meeting of the Life Sciences Committee. For further information, please contact Dr. S. P. Vinograd: Area Code 202–755–3723.

JUNE 1, 1977

TIME AND AGENDA

0830–0945 Teleoperators. (Purpose: To brief the Life Sciences Committee on the teleoperator program and to review teleoperator technology from the perspective of the Life Sciences.)

0945–1020 Gravitational Biology Program. (Purpose: To advise the Life Sciences Committee of the current status of this program and to discuss new initiatives.)

1030–1050 Administrative. (Purpose: To inform the Committee members of views and comments of the Chairman, to approve the minutes of the last meeting, and to review the status of action items.)

1050–1150 NASA Life Sciences Overview. (Purpose: Briefing by the NASA Director for Life Sciences on the progress and status of the program and review of the SR&T program components for the Life Sciences Committee.)

1300–1350 Closed Environmental Control System. (Purpose: To apprise the Life Sciences Committee of the status of program planning in this area for Life Sciences Committee discussion and comments.)

1350–1405 Report of Planetary Quarantine and Containment Task Team. (Purpose: The Life Sciences Committee task team, appointed by the Chairman during the November, 1976 meeting, will present its findings and recommendations.)

1405–1435 Basic Ecology Program. (Purpose: Review and discussion of program planning in basic biological ecology.)

1445–1700 Future Studies of Mars. (Purpose: Three briefings on the subject presented for Life Sciences Committee discussion and comments):

1445–1535 Plans for Future Mars Exploration.
1535–1555 Science Payload Planning.
1555–1610 Returned Sample Studies on Earth vs. Earth Orbit.
1610–1700 Life Sciences Committee Discussion.

JUNE 2, 1977

0830–1100 Potential Uses of Space. (Purpose: Presentation of a series of six briefings by NASA organizational elements active in this general area for Life Sciences Committee discussion and comments regarding Life Sciences aspects.)

0830–0850 Space Processing.
0850–0910 Satellite Power System Program.
0910–0930 Space Industrialization.
0930–0950 Technology Utilization Program.
0950–1010 University Space Applications Program.
1010–1030 Life Sciences Perspective.
1030–1100 Life Sciences Committee Discussion.

1100–1230 Discussion. (Purpose: To formulate position on the Life Sciences program goals, objectives, and plans; to finalize recommendations on the specific issues discussed.)

KENNETH R. CHAPMAN,
Assistant Administrator for the Department of Defense and Interagency Affairs National Aeronautics and Space Administration.

[FR Doc.77–13709 Filed 5–12–77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EDUCATION PROGRAMS PANEL

Meeting

MAY 5, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Programs Panel will convene at 9:00 a.m. each day in Rooms 1023 and 1025 at 806 Fifteenth Street NW., Washington, D.C. on June 8 and 9, 1977.

The purpose of the meeting is to review Projects applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b (c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 Fifteenth Street NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13710 Filed 5–12–77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

MAY 9, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806–15th Street NW., Washington, D.C. 20506, in Room 1130, from 9 am to 5:30 pm on June 9 & 10, 1977.

The purpose of this meeting is to review applications submitted to the Editing Program of the National Endowment for the Humanities, for projects beginning October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b (c) and that it is essential to close the meeting to protect the free exchange on internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506 or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–13711 Filed 5–12–77;8:45 am]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a closed meeting of the Special Projects Advisory Panel to the National Council on the Arts will be held on June 6–7, 1977, from 9:30 a.m. to 5:30 p.m. each day, in Room 1340 (6) and Room 1422 (7), Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552 b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 6, 1977.

[FR Doc.77–13726 Filed 5–12–77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77–133]

FLOAT GLASS FROM ITALY

Countervailing Duties

AGENCY: Customs Service, Treasury.

ACTION: Notice of desire to contest filed by American manufacturer, producer or wholesaler.

SUMMARY: This notice is to advise the public that the Customs Service has received notification of the desire of a number of American manufacturers to contest a negative countervailing duty determination with regard to float glass from Italy.

EFFECTIVE DATE: This notice is effective on May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202–566–2938).

The Customs Service received on May 31, 1974, a petition filed on behalf of ASG Industries, Inc., PPG Industries, Inc., Libbey-Owens-Ford Company, and C–E Glass, alleging that imports of float glass from Italy benefit from the payment or bestowal of bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). On January 7, 1976, Treasury Decision 76–9, published in the FEDERAL REGISTER (41 FR 1274), stated that it had been determined that imports of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. (SIV) and Fabbrica Pisana, S.p.A. (Pisana) did indeed benefit from bounties or grants "by reason of various incentive programs including investment grants, special tax reductions, low-interest rate financing and the reduction of the contribution to state welfare organizations by the float glass manufacturers."

Upon the subsequent receipt of information with respect to SIV, it was determined "that no bounty or grant is being or has been paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. (SIV)", and T.D. 76–9 was thereby modified so as to exclude float glass from Italy produced by SIV (42 FR 13016). Notification was received by the Department of the Treasury on March 25, 1977, of the desire of the petitioners in this matter, ASG Industries, Inc., PPG Industries, Inc., Libbey-Owens-Ford Company, and C-E Glass, to contest the above negative determination with regard to imports of float glass from Italy produced by SIV. In accordance with the provisions of section 516(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19

V42 93 MAY 13 77 UMI

U.S.C. 1516(d)), notice is hereby given of the petitioner's desire to contest such determination.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: May 3, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-13745 Filed 5-12-77;8:45 am]

[T.D. 77-130]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

MAY 4, 1977.

Notice is hereby given that pursuant to section 24.18(b), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 22, 1977.

Installation:	*Biweekly excess cost*
Montreal, Canada	$14,017.00
Toronto, Canada	20,818.00
Kindley Field, Bermuda	7,481.00
Nasau, Bahama Islands	10,505.00
Vancouver, Canada	7,488.00
Winnipeg, Canada	1,905.00

JOHN A. HURLEY,
Assistant Commissioner of Customs (Administration).

[FR Doc.77-13752 Filed 5-12-77;8:45 am]

[T.D. 77-134]

TUNA FISH; TARIFF-RATE QUOTA

Calendar Year 1977

MAY 9, 1977.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for calendar year 1977.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, Tariff Schedules of the United States (TSUS), is based on the U.S. pack of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1977 tariff-rate quota is applicable to tuna fish described in item 112.30, TSUS, entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20209 (202-566-8592).

SUPPLEMENTARY INFORMATION: It has now been determined that 111,245,982 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1977 at the rate of 6 per centum ad valorem under item 112.30, Tariff Schedules of the United States. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Pursuant to the provisions of item 112.30, Tariff Schedules of the United States, the above quota is based on the United States pack of canned tuna during the calendar year 1976.

JOHN A. HURLEY,
Acting Commissioner of Customs.

[FR Doc.77-13751 Filed 5-12-77;8:45 am]

Office of the Secretary

ASSET DEPRECIATION RANGE GUIDELINES

Study of Industrial Steam and Electric Generation and/or Distribution Systems and Waste Reduction Plants

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated simultaneous studies of guideline depreciation periods and repair allowance percentages for industrial steam and electric generation and/or distribution systems and waste reduction plants, assets currently included in asset guideline classes 00.4 and 39.0 respectively, (Rev. Proc. 77-10 1977-12 I.R.B. 4), under the Class Life Asset Depreciation Range System (IRC Secs. 167(m) and 263(f), and Reg. Sec. 1.167(a)-11).

All persons interested in these studies may submit comments in writing to OIE. While OIE has obtained information on industrial steam and electric generation and/or distribution systems from some of OIE's past industry studies (e.g. pulp and paper industry, textile industry, chemical industry, steel industry, etc.), information from all interested persons is solicited. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on May 26, 1977, at which information needs and procedures for obtaining and analyzing the requisite information will be discussed. Agenda for the meeting, exact time and place, and background material may be obtained by writing to OIE.

All communications concerning this study should be addressed to:

Office of Industrial Economics, Projects 00.4 & 39.0, P.O. Box 28018, Washington, D.C. 20005.

KARL RUHE,
Director, Office of Industrial Economics.

[FR Doc.77-13742 Filed 5-12-77;8:45 am]

ASSET DEPRECIATION RANGE GUIDELINES

Study of Professional, Scientific, & Controlling Instruments, Photographic & Optical Goods, Watches & Clocks

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated a study of guideline depreciation periods and repair allowance percentages for assets used in the manufacture of professional, scientific, and controlling instruments, photographic and optical goods, watches and clocks currently covered by asset guideline class 38.0 (Rev. Proc. 77-10 1977-12 I.R.B. 4), under the Class Life Asset Depreciation Range System (IRC Secs. 167(m) and 263(f), and Reg. Sec. 1.167(a)-11).

All persons interested in this study may submit comments in writing to OIE. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on June 7, 1977, at which information needs and procedures for obtaining and analyzing the requisite information will be discussed. Agenda for the meeting, exact time and place, and background material may be obtained by writing to OIE.

All communications concerning this study should be addressed to:

Office of Industrial Economics, Project 38.0, P.O. Box 28018, Washington, D.C. 20005.

Dated: May 10, 1977.

KARL RUHE,
Director, Office of Industrial Economics.

[FR Doc.77-13743 Filed 5-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 19 (Sub-No. 35)]

ALLEGHENY AND WESTERN RAILWAY CO., ET AL.

Abandonment Near New Castle, Lawrence County, Pennsylvania

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Allegheny and Western Railway Company, Buffalo, Rochester, and Pittsburgh Railway Company and the Baltimore and Ohio Railroad Company of its line of railroad near New Castle, in Lawrence County, Pa., a total distance of 2.5 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because of the low level of traffic over the line in the last few years. Consequently, there will not be any change in air quality and fuel consumption, although there may be some temporary adverse effects on the environment during salvage operations.

The Greater New Castle Development Corporation recently constructed an industrial park near New Castle along the subject right-of-way. The proposed action will have a serious adverse effect on the park due to the potential loss of industrial investment by rail dependent firms. Although this action may retard development that could substantially increase the economic base of the community, abandonment will not preclude development. The right-of-way has been determined to be suitable for recreation use following abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13807 Filed 5-12-77;8:45 am]

[Notice 388]

ASSIGNMENT OF HEARINGS

MAY 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-No. 631), Curtis, Inc., MC 115331 (Sub-No. 413), Truck Transport Incorporated, MC 116763 (Sub-No. 348), Carl Subler, Trucking Inc. MC 118989 (Sub-No. 141), Container Transit, Inc., MC 124211 (Sub-No. 261), Hilt Truck Line, Inc., MC 128273 (Sub-No. 240), Midwestern Distribution, Inc., MC 135732 (Sub-No. 25), Aubrey Freight Lines, Inc. and MC 123048 (Sub-No. 343), Diamond Transportation System, Inc. now being assigned for continued hearing on July 25, 1977 (2 weeks), at the Milwaukee Inn, 916 East State Street, Milwaukee, Wisconsin.

MC 142370, Paul Londino, DBA Scranton Transfer, now assigned May 23, 1977, at Little Rock, Ark. is canceled and reassigned for May 23, 1977 (1 week) in the Grand Jury Room 229, Federal Courthouse, Fort Smith, Arkansas.

No. 36027, Van Waters & Rogers, Inc., V. Transport Clearings of Los Angeles, ET AL, now being assigned May 27, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 105045 Sub 66, R. L. Jefferies Trucking Co., Inc. now being assigned May 17, 1977 (1 day) at Jacksonville, Florida and will be held at the Voyager Building, Room 100, 2255 Phillips Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13811 Filed 5-12-77;8:45 am]

[Notice 389]

ASSIGNMENT OF HEARINGS

MAY 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 134922 Sub No. 226, B. J. McAdams, Inc. now assigned June 7, 1977 (1 day) at San Francisco, California instead of June 6, 1977 at San Francisco, California in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13812 Filed 5-12-77;8:45 am]

[AB 19 (Sub-No. 32)]

BALTIMORE AND OHIO RAILROAD CO.

Abandonment Near Green Spring and Petersburg in Hampshire, Hardy and Grant Counties, West Virginia

APRIL 27, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Baltimore and Ohio Railroad Company of a portion of its South Branch between Green Spring and Petersburg, a distance of 51.40 miles, all in Hampshire, Hardy, and Grant Counties, W. Va., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the expected increases in fuel consumption, air pollution, and noice instrusions resulting from the proposed action should not be significant. Although several commercial sites have been established along the affected corridor, no industries are scheduled to locate in these areas and no active industrial recruitment program appears to exist. Therefore, approval of the proposed abandonment should not seriously affect community and rural development. Should the action be approved, interest has been expressed in obtaining the corridor for a public use trail and public access to the South Branch of the Potomac River.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13792 Filed 5-12-77;8:45 am]

[AB 6 (Sub-No. 42)]

BURLINGTON NORTHERN INC.

Abandonment Between Nifa and West Batavia in Kane County, Illinois

APRIL 27, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of

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Energy and Environment has concluded that the proposed abandonment by Burlington Northern Inc., of 3.15 miles of branch line between Nifa and West Batavia, in Kane County, Ill., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that in view of the fact that only two carloads moved over the line in the 30-month period ending June 30, 1976, diversion to motor carrier and the associated environmental impacts will be minimal. Furthermore, abandonment should have little or no effect on plant and animal species on or adjacent to the rail right-of-way.

There are no economic development plans in the area reliant upon continued service from the subject rail line. Consequently, the proposed abandonment should have no serious adverse effect on rural or community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13793 Filed 5-12-77;8:45 am]

[AB 18 (Sub-No. 17)]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Portion Greenbrier Branch Between North Caldwell and Durbin, in Greenbrier and Pocahontas Counties, West Virginia

APRIL 28, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments, which were made by the applicants, have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13795 Filed 5-12-77;8:45 am]

[Rule 19, Ex Parte No. 241;
Exemption No. 137]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

TO: *All Railroads: It appearing,* That there are substantial shortages of plain gondolas on the lines of the Southern Pacific Transportation Company (SP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the SP of certain of these cars; that the SP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the SP; and that use of these cars by the SP will substantially relieve gondola shortages on the SP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondolas owned by the National Railways of Mexico (NDM) identified herein may be used by the Southern Pacific Transportation Company (SP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain gondolas identified herein available empty on lines other than the SP must be returned to the SP either loaded or empty and may not be returned to the NDM by any line other than the SP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified in Appendix A hereto:

Effective May 6, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., May 6, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

APPENDIX A TO
REVISED EXEMPTION NO. 137
REPORTING MARKS NDM

NDM 55001	NDM 55388	NDM 55764	NDM 56094
NDM 55006	NDM 55394	NDM 55772	NDM 56102
NDM 55030	NDM 55395	NDM 55776	NDM 56112
NDM 55050	NDM 55403	NDM 55787	NDM 56115
NDM 55052	NDM 55406	NDM 55796	NDM 56125
NDM 55057	NDM 55411	NDM 55805	NDM 56134
NDM 55061	NDM 55426	NDM 55809	NDM 56137
NDM 55075	NDM 55449	NDM 55815	NDM 56149
NDM 55080	NDM 55466	NDM 55817	NDM 56150
NDM 55086	NDM 55470	NDM 55822	NDM 56173
NDM 55089	NDM 55472	NDM 55824	NDM 56205
NDM 55093	NDM 55475	NDM 55825	NDM 56208
NDM 55096	NDM 55476	NDM 55834	NDM 56224
NDM 55105	NDM 55481	NDM 55835	NDM 56237
NDM 55108	NDM 55487	NDM 55847	NDM 56240
NDM 55112	NDM 55491	NDM 55855	NDM 56248
NDM 55115	NDM 55495	NDM 55857	NDM 56252
NDM 55129	NDM 55497	NDM 55858	NDM 56254
NDM 55140	NDM 55509	NDM 55864	NDM 56263
NDM 55145	NDM 55522	NDM 55868	NDM 56270
NDM 55160	NDM 55527	NDM 55870	NDM 56278
NDM 55162	NDM 55538	NDM 55879	NDM 56296
NDM 55182	NDM 55552	NDM 55886	NDM 56300
NDM 55189	NDM 55588	NDM 55890	NDM 56308
NDM 55195	NDM 55603	NDM 55891	NDM 56309
NDM 55196	NDM 55606	NDM 55897	NDM 56328
NDM 55213	NDM 55612	NDM 55901	NDM 56329
NDM 55228	NDM 55616	NDM 55910	NDM 56346
NDM 55241	NDM 55617	NDM 55917	NDM 56364
NDM 55243	NDM 55621	NDM 55922	NDM 56365
NDM 55244	NDM 55647	NDM 55927	NDM 56369
NDM 55245	NDM 55658	NDM 55930	NDM 56376
NDM 55251	NDM 55660	NDM 55933	NDM 56379
NDM 55253	NDM 55667	NDM 55946	NDM 56380
NDM 55261	NDM 55669	NDM 55949	NDM 56399
NDM 55266	NDM 55677	NDM 55953	NDM 56418
NDM 55272	NDM 55684	NDM 55956	NDM 56423
NDM 55273	NDM 55693	NDM 55958	NDM 56427
NDM 55275	NDM 55701	NDM 55962	NDM 56437
NDM 55281	NDM 55707	NDM 55985	NDM 56440
NDM 55286	NDM 55711	NDM 55999	NDM 56448
NDM 55298	NDM 55718	NDM 56013	NDM 56455
NDM 55307	NDM 55724	NDM 56028	NDM 56458
NDM 55332	NDM 55725	NDM 56045	NDM 56462
NDM 55338	NDM 55727	NDM 56054	NDM 56465
NDM 55340	NDM 55730	NDM 56060	NDM 56477
NDM 55347	NDM 55738	NDM 56065	NDM 56489
NDM 55351	NDM 55740	NDM 56071	NDM 56490
NDM 55364	NDM 55753	NDM 56085	NDM 56494
NDM 55379	NDM 55759	NDM 56086	NDM 56497

[FR Doc.77-13788 Filed 5-12-77;8:45 am]

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FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 10, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before May 31, 1977.

FSA No. 43362—*Joint Water-Rail Container Rates—Far Eastern Shipping Company.* Filed by Far Eastern Shipping Company, (No. 8), for itself and interested rail carriers. Rates on general commodities, between rail carriers terminals on the U.S. Atlantic and Gulf Coast, and ports in Japan, Hong Kong, Australia, The Philippines, Singapore, Thailand and West Malaysia. Grounds for relief—Water competition. Tariffs—Far Eastern Shipping Company Westbound tariffs I.C.C. Nos. 4, 6, and 7, F.M.C. Nos. 16, 22, and 28, respectively, and Eastbound triffs I.C.C. Nos. 3 and 5, F.M.C. Nos. 21 and 29, respectively. Rates are published to become effective on June 5, 1977, and later.

FSA No. 43363—*Iron and Steel Articles to Almeda, Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–672), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from specified points in Delaware, Maryland, and Pennsylvania, to Almeda, Texas. Grounds for relief—Rate relationship. Tariff—Supplement 269 to Southwestern Freight Bureau, Agent, tariff 301–F, I.C.C. No. 5098. Rates are published to become effective on June 9, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13789 Filed 5–12–77;8:45 am]

[AB 45 (Sub–No. 33)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Pyatts and Vergennes in Perry and Jackson Counties, Illinois

APRIL, 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad Company of its line of railroad between Pyatts and Vergennes, a distance of 7.4 miles, in Perry and Jackson Counties, Ill., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 24 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic on the subject line has been declining to a point where 117 cars were handled in the 12 month period ending June 1976. Given this level of traffic, abandonment would result in the addition of less than 2 trucks each working day on the area highways. A diversion of this magnitude will not significantly affect air quality, fuel consumption or traffic congestion. Furthermore, there are no definitive economic development plans which would conflict with the proposed abandonment. The line is not considered suitable for other public purposes upon abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13804 Filed 5–12–77;8:45 am]

[AB 43 (Sub–No. 32)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between LeRoy and Fisher in McLean and Champaign Counties, Illinois

APRIL 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad Company of 20.96 miles of its branch line between LeRoy and Fisher, in McLean and Champaign Counties, Ill., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that diversion of current traffic moving over the line to motor carriers would involve only a small amount of additional highway miles traveled in the involved area. Consequently, air pollution, highway congestion, fuel consumption, noise levels, and other ecological conditions will only be minimally affected.

In view of the lack of definitive economic or industrial plans in the area, rural and community development would not be seriously affected by abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13791 Filed 5–12–77;8:45 am]

[AB 43 (Sub–No. 30)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Waggoner and Glen Carbon in Montgomery, Macoupin, and Madison Counties, Illinois

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad of its line between Waggoner and Glen Carbon, a distance of 53.92 miles, in Montgomery, Macoupin, and Madison Counties, Ill., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that all but one of the stations served by the line proposed for abandonment are served by other railroads, and that the resultant diversion of rail traffic to motor carrier would have minimal impact on air pollution, fuel consumption and ecological conditions.

Illinois Terminal Railroad Company traffic moving over the subject line via trackage rights will be rerouted over a parallel ICG line with little or no circuitry.

No definitive economic or industrial plans exist which rely upon continued rail service over the line proposed for abandonment. Consequently, there will not be a serious adverse effect on rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13806 Filed 5–12–77;8:45 am]

[Notice No. 166]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by June 13, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76932 filed April 29, 1977. Transferee: Service Transport Lines, Inc., 618 Galveston, West Sacramento, California, 95691. Transferor: PCP Transportation Company, 9500 South Norwalk Boulevard, Santa Fe Springs, California, 90670. Transferee's representative: Art Hayashida, 618 Galveston, West Sacramento, California, 95691. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 127756, issued March 9, 1967, as follows: *General commodities*, with normal exceptions and except livestock, commodities requiring mechanical refrigeration or temperature control, and automobiles, trucks, and buses, Between the San Francisco Bay Area (the San Francisco Bay area includes all points in the cities of San Francisco, San Jose, and Richmond, and the unincorporated community of San Pablo, and those points within a described boundary) and Sacramento, Stockton, Manteca, and Modesto, Calif., serving all intermediate points and off-route points within 15 miles of specified highways, restricted against service at the plants and facilities of Pacific Clay Products, over certain specified regular routes; *General commodities*, with normal exceptions, and except livestock, commodities requiring mechanical refrigeration or temperature control and automobiles, trucks, and buses, over irregular routes, Between points in the San Francisco Bay area; Between points within 15 miles of Sacramento, including Sacramento; Between points within 15 miles of Modesto, including Modesto. Restriction: The service authorized is subject to the following conditions: No service shall be rendered in the transportation of clay pipe, clay pipe fittings, brick and flue lining, sacked fire clay, concrete utility vaults and burial vaults. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77064, filed April 19, 1977. Transferee: GOLDEN TRIANGLE TRUCKING, INC., 1131 S. Memorial Drive, Nederland, Tex. 77627. Transferor: Kermic Smith and Clarence Joseph Herbert, Jr., doing business as Golden Triangle Trucking Company, 1131 S. Memorial Drive, Nederland, Tex. 77627. Applicant's representative: Austin L. Hatchell, Attorney at Law, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 138270 (Sub–No. 2), issued April 28, 1977 as follows: *Gravel*, in bulk, from Longville, La., to Beaumont, Orange, Port Arthur, and Vidor, Tex. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77079, filed April 12, 1977. Transferee: BUILDING SYSTEMS TRANSPORTATION, INC., Box 142, Washington Court House, Ohio, 43160. Transferor: Van's Transportation, Inc., 2803 Cincinnati-Dayton Road, P.O. Box 367, Middletown, Ohio 45042. Applicant's representative: Paul F. Berry, 8 East Broad Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 139083, issued November 18, 1974, as follows: *Steel buildings*, knocked down, *and fabricated metal products*, from points within 3 miles of Washington Court House, Ohio, to points in Kentucky, that part of Pennsylvania on and west of U.S. Highway 15, that part of West Virginia on and north of U.S. Highway 60, and that part of Indiana on and south of a line beginning at the Ohio-Indiana State line and extending along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois State line; and *empty containers* used for the transportation of the commodities specified above, from points in Kentucky, that part of Pennsylvania on and west of U.S. Highway 15, that part of West Virginia on and north of U.S. Highway 60, and that part of Indiana on and south of a line beginning at the Ohio-Indiana State line and extending along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois State line, to points within 3 miles of Washington Court House, Ohio. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77098, filed April 21, 1977. Transferee: LESLIE A. PARKER, R.D. No. 2, Eldred, Pa. Transferor: Floyd E. Hubbard, Jr., East Main Rd., North East, Pa. 16428. Applicants' representative: William J. Hirsch, Attorney at Law, 43 Court St., Suite 1125, Buffalo, N.Y. 14202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits, Nos. MC 111848 Sub–1, Sub–4, and Sub–6, issued November 7, 1972, October 30, 1974, and June 11, 1976, respectively, as follows: *Engines* (except aircraft and missile engines), *pumps, compressors*, and *parts thereof* (transported separately or in connection therewith), between points in Erie and Cattaraugus Counties, N.Y., and Erie and McKean Counties, Pa., on the one hand, and, on the other, points in Arizona, Colorado, Illinois, Indiana, Kansas, Louisiana, Michigan, Mississippi, New Mexico, Ohio, Oklahoma, Pennsylvania, and Texas. *Engines, pumps, compressors*, and *parts thereof* (transported separately or in connection therewith), *rough castings, rough forgings, steel bars, patterns, weldments, fire brick, ferro alloy briquettes*, and *tooling*, between points in McKean, Crawford, Clearfield, Warren, Franklin, and Erie Counties, Pa., on the one hand, and, on the other, Olean, N.Y. *Engines, pumps,*

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compressors, and *parts thereof* (transported separately or in connection therewith), *rough castings, rough forgings, steel bars, patterns, weldments, ferro alloy briquettes*, and *tooling*, between points in McKean County, Pa., and Olean, N.Y., on the one hand, and, on the other, points in Ohio. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Dresser Industries, Inc., of Olean, N.Y. *Engines* (except aircraft and missile engines), *pumps, compressors*, and *parts*, for the foregoing commodities, between Olean, N.Y., on the one hand, and, on the other, points in Alabama, Kentucky, Minnesota, Missouri, Tennessee, West Virginia, and Wisconsin. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Dresser Industries, Inc., Dresser Clark Division of Olean, N.Y. *Engine parts*, between Olean, N.Y., on the one hand, and, on the other, points in Alabama, Arizona, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Van Der Horst Corporation of America, Olean, N.Y. *Railroad diesel engine parts*, between Olean, N.Y., on the one hand, and, on the other, points in Iowa. Restriction: The operations authorized next above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Van Der Horst Corporation of America. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–77100, filed April 26, 1977. Transferee: GILBERT TRANSPORT, INC., 1219 Twinbrooke, Houston, Tex. 77088. Transferor: Hunt Transportation Inc., 10770 I Street, Omaha, Nebr. 68127. Applicants' representative: Donald Stern, Attorney at Law, Suite 530, Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 82841, Sub-No. 66 and Sub-No. 83, issued May 7, 1970, January 24, 1972, and July 5, 1972, respectively as follows: *Paper and paper products*, and *products produced or distributed by manufacturers and converters of paper and paper products* (except commodities in bulk), from the plant site of Bowaters Southern Paper Corporation at or near Calhoun (McMinn County), Tenn., to points in Oklahoma, Missouri, Kansas, Nebraska, Iowa, Wisconsin, Colorado, and New Mexico, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized under the commodity description immediately above is restricted to traffic originating at the immediately above-named plant site. Also *wood pulp, paper*, and *paper products*, from the plant sites of Southland Paper Mills, Inc., at Herty and Sheldon, Tex., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Nebraska, New Mexico, South Dakota, Utah, Wisconsin, and Wyoming, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized next above are restricted against the transportation of newsprint from Herty, Tex., to points in Kansas. And *charcoal briquettes*, in bags, from points in Baxter County, Ark., to points in the United States (except Memphis, Tenn., Kansas City, St. Louis, and Springfield, Mo., Little Rock, Ark., and points in Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. And *materials and supplies*, except in bulk, used in the manufacture of the commodities next above, from points in Louisiana, Illinois, Kansas, and Missouri (except Kansas City, St. Louis, and Springfield), to points in Baxter County, Ark. Transfere presently holds no authority from this Commission. Application has not been filld for temporary authority under Section 210a(b).

No. MC–FC–77104, filed April 9, 1977. Transferee: DELIGHT TRANSPORTATION, INC., doing business as Delight Transportation Company, 307 W. Calvert Street, South Bend, Ind. 46613. Transferor: Edward Bruce Wagoner, doing business as Delight Transportation Company, 307 W. Calvert Street, South Bend, Ind. 46613. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 139697, issued August 6, 1976, as follows: *Lawn and garden tractors, parts* and *attachments* thereof, and materials, equipment, and supplies used in the manufacture of such commodities (except in bulk), with restrictions, between South Bend, Ind., on the one hand, and, on the other, points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77106, filed May 3, 1977. Transferee: MOSER MACHINERY MOVERS, a corporation, 3014 Shasta Circle South, Los Angeles, Calif. 90065. Transferor: Kenneth Moser, doing business as Machinery Movers, 3014 Shasta Circle South, Los Angeles, Calif. 90065. Applicants' representative(s): Kenneth Moser, 3014 Shasta Circle South, Los Angeles, Calif. 90065. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 127134 (Sub-No. 1), issued July 25, 1968, as follows: Irregular routes: *Printing machinery and equipment*, and *printing materials and supplies* when the transportation thereof is incidental to the transportation of printing machinery and equipment, between Los Angeles, Calif., on the one hand, and, on the other, points in Maricopa, Pima, and Yuma Counties, Ariz., and Clark County, Nev. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77107, filed May 3, 1977. Transferee: A–1 TRANSIT, INC., 6202 East Concord Boulevard, Inver Grove Heights, Minn. 55075. Transferor: Dakota Express, Inc., 550 East Fifth St. South, South St. Paul, Minn. 55075. Applicants' representatives: Bradford E. Kistler, Attorney for Transferee, P.O. Box 82028, Lincoln, Nebr. 68401; Donald L. Stern, Attorney for transferor, 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought for purchase by transferee of that portion of the rights of transferor set forth in Certificates Nos. MC 83217, MC 83217 (Sub-No. 8), and MC 83217 (Sub-No. 9), issued by the Commission July 9, 1969, April 4, 1958, and August 27, 1958, respectively, as follows: *Household goods* as defined by the Commission, and general commodities, with the usual exceptions, between Flandreau, S. Dak., and points within 15 miles of Flandreau, on the one hand, and, on the other, points in Minnesota; *household goods*, as defined by the Commission, between Flandreau, S. Dak., and points in South Dakota within 100 miles thereof, on the one hand, and, on the other, points in Nebraska and Iowa; *general commodities*, with the usual exceptions, between points in Lincoln County, Minn., on the one hand, and, on the other, Sioux Falls, Gary, Brookings, and Watertown, S. Dak.; and general commodities, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, and commodities requiring special equipment, between Flandreau, S. Dak., and Lake Benton, Minn., over specified routes, serving the intermediate point of Elkton, S. Dak. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13813 Filed 5–12–77;8:45 am]

[AB 10 (Sub-No. 9)]

NORFOLK AND WESTERN RAILWAY CO.

Abandonment Between Boaz and Jarratt, in Isle of Wight, Southampton and Sussex Counties, Va.

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments, which were made by the Crater Planning District Commission and Sussex County, Va., have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13790 Filed 5–12–77;8:45 am]

[AB 36 (Sub-No. 3)]

OREGON SHORT LINE RAILROAD CO.

Abandonment and Abandonment of Operation by Union Pacific Railroad Company of Oregon's West Belt Branch Between Menan and Edmonds, in Jefferson and Madison Counties, Idaho

APRIL 27, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Oregon Short Line Railroad Company of its line and the abandonment of operations by the Union Pacific Railroad Company over the same line between a point near Menan to a point near Edmonds, a distance of 15.68 miles, in Jefferson and Madison Counties, Idaho, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the line has handled no traffic since 1973, there are alternative rail heads in close proximity to the subject line, and there is an adequate highway network in the area. The line to be abandoned crosses over the Snake River and appropriate state agencies are aware of and shall be responsible for assuring salvage activities are consistent with state law governing such actions. Interest has been expressed in acquiring the right-of-way for possible recreation uses; therefore, the assessment recommends an appropriate public use condition.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13810 Filed 5–12–77;8:45 am]

[AB 15 (Sub-No. 1)]

PETALUMA AND SANTA ROSA RAILROAD CO.

Abandonment Between Sebastopol and Turner in Sonoma County, Calif.

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Petaluma and Santa Rosa Railroad Company (P&SR) of its line between Sebastopol and Turner, in Sonoma County, Calif., a distance of 5.52 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that since P&SR will continue to serve the northernmost 1.4 miles of the line, no shippers will lose direct rail access as a result of abandonment. Therefore, there will be no diversion of rail traffic to motor carrier and no increases in fuel consumption, air pollution, or highway congestion.

Abandonment could eliminate future job opportunities in the case of one company at Turner. However, due to the relatively small number of these jobs, such elimination is not expected to have a serious adverse impact on rural and community development.

It is determined that the right-of-way is suitable for use for other public purposes. Therefore, a condition is suggested which would give interested public agencies 120 days in which to offer to purchase the right-of-way.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13809 Filed 5–12–77;8:45 am]

[AB 12 (Sub-No. 45)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Biola Junction and Biola, in Fresno County, Calif.

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line between Biola Jct. and Biola, in Fresno County, Calif., a distance of approximately 8.68 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that inasmuch as Southern Pacific will continue to serve the easternmost 0.686 miles on the line following abandonment, diversion of rail traffic to motor carrier on the remaining portion of line would not result in a significant increase in energy consumption, air pollution, or highway traffic.

Abandonment would adversely affect an industrial development project at Biola. However, due to the relatively small number of jobs involved, and due to Biola's location outside the part of the county in which industrial development efforts are to be concentrated, abandonment is not expected to have a serious adverse impact on rural and community development. Also, abandonment is not expected to prevent the local community services district from carrying out its operational plans. It was determined that the right-of-way is suitable for use for other public purposes. Therefore, the TAS suggests imposition of a condition which would give public agencies 180 days to offer to purchase the right-of-way.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washing-

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ton, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13794 Filed 5–12–77;8:45 am]

[AB 12 (Sub-No. 48)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Culver Junction and Inglewood in Los Angeles County, California

APRIL 29, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line between Culver Junction and Inglewood, a distance of 8.57 miles, in Los Angeles County, Calif., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that no significant environmental impacts would result from abandonment because the line has handled a minimal volume of traffic, and alternative lines of the Atchison, Topeka and Santa Fe Railroad Company, as well as the applicant's "Exposition Line", are within four highway miles from stations on the line to be abandoned. Interest has been expressed in acquiring the right-of-way for alternative transportation, utility and possible recerational uses; therefore, the assessment recommends an appropriate public use condition. Impacts upon air quality and fuel consumption resulting from a diversion to motor carrier are considered minimal. Other impacts resulting from this action upon water quality, noise and wildlife are found to be likewise minimal.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13808 Filed 5–12–77;8:45 am]

WASHINGTON COUNTY RAILROAD CO., ET AL

Abandonment of Service and Leasing

[AB 19 (Sub-No. 20); Finance Docket No. 28348]

APRIL 29, 1977.

Washington County Railroad Company and Baltimore and Ohio Railroad Company, abandonment portion Hagerstown branch between Weverton and Hagerstown, also portion of the Antietam branch near Security, all in Washington County, Maryland.

Western Maryland Railway Company—lease and operate—Washington County Railroad Company, subsidiary of Baltimore and Ohio Railroad Company in Washington County, Maryland.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C., 4321 et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13805 Filed 5–12–77;8:45 am]

[Notice No. 5]

WATER CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following is notice of filing of application for temporary authority under section 311(a) of the Interstate Commerce Act. One copy of a petition, if any, must be served on applicant, or its authorized representative, if any, and the petitioner must certify that such service has been made. The petition must identify the operating authority upon which it is predicated, specifying the "W" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the petitioner shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a petition shall be governed by the completeness and pertinence of the petitioner's information.

A copy of the application is on file and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office of the Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. W–1316 TA. By order entered May 10, 1977, the Motor Carrier Board granted American Export Lines, Inc., 17 Battery Place, New York, N.Y. 10004, 180-days temporary authority to engage in the business of transportation by water vessel, in interstate commerce, by non-self propelled vessels with the use of separate towing vessels, of internal reactor components and accessories, from Portsmouth, N.H., via the Panama Canal, to Long Beach, Calif., under a continuing contract with Combustion Engineering, Inc. A. E. Leo, 17 Battery Place, New York, N.Y. 10004 representative for applicant. Any interested person may file a petition for reconsideration by June 2, 1977. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13786 Filed 5–12–77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Federal Communications Commission	2
Federal Home Loan Bank Board	3
Federal Maritime Commission	4
Federal Reserve System	5, 6
Federal Trade Commission	7
Interstate Commerce Commission	8

1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 9 a.m., May 11, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Briefing by Ambassador Boyd on U.S.–U.K. Talks to be held in London beginning May 16, 1977.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: Ambassador Boyd will be leaving for London at the end of this week and his schedule permits him to brief the Board on May 11, 1977. The following Members have voted that agency business requires that the Board be briefed at the earliest possible time and that no earlier notice of the meeting was possible. Acting Chairman Lee R. West, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member R. Tenney Johnson. Additionally, the following Members have voted that the meeting will be closed to public observation under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B): Acting Chairman Lee R. West, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member R. Tenney Johnson.

EXPLANATION OF THE CLOSING

This meeting will concern the current U.S.–U.K. negotiations and the position to be taken by the United States during these negotiations. Public disclosure, particularly to foreign governments, of opinions, evaluations, and strategies in the negotiations could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the Board finds that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action without the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed to public observation.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson

ASSISTANTS TO BOARD MEMBERS

Mr. Charles M. Palmer
Mr. John T. Golden
Mr. Elias C. Rodriquez
Mr. Frederic D. Houghteling
Mr. Robert E. Cohn
Mr. John R. Hancock
Mr. James L. Casey

OFFICE OF THE MANAGING DIRECTOR

Dr. Norma Maine Loeser

OFFICE OF THE GENERAL COUNSEL

Mr. James C. Schultz
Mr. Peter B. Schwarzkopf
Ms. Carol Light

BUREAU OF INTERNATIONAL AFFAIRS:

Mr. Rosario J. Scibilia

BUREAU OF OPERATING RIGHTS:

Mr. Bruce E. Cunningham

OFFICE OF THE SECRETARY:

Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

OTHER:

Ambassador Alan Boyd, Department of State
Dr. W. Stephen Piper, Assistant to Ambassador Alan Boyd
Ms. Rose Basiliko, Alderson Reporting Company

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B).

JAMES C. SCHULTZ,
General Counsel.

MAY 9, 1977.

[S–387–77 Filed 5–11–77;9:11 am]

2

AGENCY HOLDING THE MEETING: Federal Communications Commission.

FEDERAL REGISTER DATE OF PREVIOUS ANNOUNCEMENT: May 11, 1977.

PREVIOUSLY ANNOUNCED TIMES AND DATE OF MEETINGS: 9:30 a.m. (Closed), 10:00 a.m. (Open), May 12, 1977.

CHANGES IN THE MEETINGS: The following agenda items were inadvertently listed and should be deleted:

Agenda and Item No.	*Subject*
Cable television, 1	Application for Review of Bureau action dismissing as moot a petition for order to show cause, filed by Apple Valley Broadcasting, Inc., licensee of Television Broadcast Station KAPP (ABC, Channel 35), Yakima, Washington.
Hearing, 2	Application for review of a Review Board decision denying an application for additional time in which to construct UHF television station WCTF, Channel 19, Cleveland, Ohio (Docket No. 20585).

Actions on the above items were completed by the Commission on May 4, 1977, via the Notation Action procedure.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: May 9, 1977.

[S–388–77 Filed 5–11–77;9:11 am]

3

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 89, page 23579, May 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 11, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFOMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting: Personal Request by Mr. Philip Glasgo for Access to Board Records No. 22, May 11, 1977.

[S–389–77 Filed 5–11–77;10:52 am]

4

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: May 18, 1977—10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

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STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public: 1. Monthly Report of Actions Pursuant to Delegated Authority.

2. Agreements Nos. 8090-14, 9522-26, 9615-19, and 10117-1; modifications of conference and rate agreements providing for intermodal authority.

3. (1) Agreement 10175: Discussion Agreement between the Atlantic and Gulf-Indonesia Conference (Agreement 8080) and the Pacific/Indonesian Conference (Agreement 6060); (2) Agreement 10176: Discussion Agreement between the Atlantic and Gulf-Singapore, Malaya and Thailand Conference (Agreement 8240) and the Pacific-Straits Conference (Agreement 5680); (3) Agreements 5680-18, 6060-17, 8080-14, 8240-11: Modifications of four Conference's basic agreements.

4. Agreement No. 10235: the Consolidated Forwarders Intermodal Corporation.

5. Agreement 10117-2—Extension of Term of the U.S. North Atlantic Spain Rate Agreement.

6. Agreement No. 3103-64: Modification of the Japan/Korea-Atlantic and Gulf Freight Conference Agreement; Agreement No. 5700-26: Modification of the New York Freight Bureau Agreement; Agreement No. 3103-64(A): Petition of the J/KAGFC for Interim Extension of Intermodal Authority.

7. Docket No. 76-45: *Eastern Cement Corporation* v. *Port of Palm Beach District*, Possible Violation Section 15, Shipping Act, 1916.

8. Special Docket No. 493—*Union Camp International Sales Corp.* v. *Sea-Land Service, Inc.*

9. Special Docket No. 494—*Brunswick Corporation* v. *Sea-Land Service, Inc.*

10. Special Docket No. 497—*Smith and Johnson (Shipping) Inc.* v. *Sea-Land Service, Inc.*

11. Special Docket No. 498—*Union Carbide Corporation* v. *Sea-Land Service, Inc.*

12. Special Docket No. 499—*Letraset Consumer Products Inc.* v. *Lykes Bros. Steamship Co., Inc.*

Portions closed to the public: 1. Seatrain Gitmo, Inc.—New Provisions and Rates For Movement of Government Cargo; U.S. Atlantic and Gulf to Puerto Rico.

2. Docket No. 72-43—Criteria for Establishing Level of Military Rates Not Detrimental to Commerce of United States Under Section 18(b)(5), Shipping Act, 1916; Order of Discontinuance.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[S-390-77 Filed 5-11-77;10:52 am]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

ADDITION OF PREVIOUSLY ANNOUNCED AGENDA ITEM

The Board of Governors has previously announced a meeting to be held on Wednesday, May 11, 1977, which will be closed to public observation under exception(s) of the Government in the Sunshine Act (5 U.S.C. § 552b(c)). One of the items announced for inclusion at that meeting was consideration of any agenda items carried forward from a previous meeting. The purpose of this announcement is to inform the public that the following such item, postponed from April 27, 1977, will be considered at this meeting:

Possible candidates for a position at a Federal Reserve Bank. This item will therefore no longer be scheduled for the previously announced closed meeting on Friday, May 13, 1977.

The previously announced closed item for the May 11 meeting is:

Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees.

The meeting will be held at 10:00 a.m. in the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 10, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-384-77 Filed 5-11-77;9:11 am]

6

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, May 18, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. The appointment of a Federal Reserve Bank director.
2. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting on May 4, 1977.
3. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 10, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-385-77 Filed 5-11-77;9:11 am]

7

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 2 p.m., Friday, May 20, 1977.

PLACE: Room 432, Federal Trade Commission Building 6th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) The Bureau of Consumer Protection will brief the Commission as to the status of the following evaluation studies: Unavailability of advertised items, ad monitoring and substantiation, over-the-counter drugs (antacid warning) rule, warranties rule, franchise rule, and the holder-in-due-course rule.

CONTACT PERSON FOR MORE INFORMATION:

Leonar J. McEnnis, Jr., Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-391-77 Filed 5-11-77;2:18 pm]

8

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 9:30 a.m., Tuesday, May 17, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue, N.W., Washington, D.C.

STATUS: Open Regular Conference.

MATTERS TO BE CONSIDERED: 1. Briefing on Rail Abandonments; and 2. Empty/Loaded Truck Mile Study.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Telephone (202) 275-7552.

[S-386-77 Filed 5-11-77;9:11 am]

register
federal

FRIDAY, MAY 13, 1977
PART II

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Construction Orders; Intention To Issue to Certain Major Fuel Burning Installations

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FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; General Motors Corp., Et Al.

The Federal Energy Administration (FEA) hereby gives Notice of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Unit No.	Location
OCU—3090-1-1 3090-1-2 3090-1-3	General Motors Corp./GMAD	Proposed truck assembly plant.	3	Undesignated.
OCU—7490-1-1	The Upjohn Co	Portage Rd. plant	1	Kalamazoo, Mich.
OCU—0540-1-1 0540-1-2	Anheuser-Busch, Inc	Morehead Malt plant	2	Morehead, Minn.
OCU—7410-2-1 7410-2-2	United States Steel Corp	Gary works	2	Gary, Ind.
OCU—6290-2-1 6290-2-2	Republic Steel Corp	Lime plant	2	Grand River, Ohio.
OCU—7410-5-2 7410-5-4	United States Steel Corp	Minnesota ore operations (Minntac).	2	Mountain Iron, Minn.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either 1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, 2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents make publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102.(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environment impact statement.

Public comment on the proposal to issue a Construction Order to the installations listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Pursuant to 10 CFR 303.173(a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9 a.m. on May 23 and 24, 1977, at the Federal Building, Room 1903, 219 S. Dearborn Street, Chicago, Illinois 60604. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to George Evans, FEA Region V, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, 313–886–5168. The request should be received before 4:30 p.m. Wednesday, May 18, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 20, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to N. Allen Andersen, Regional Administrator, Federal Energy Administration, Federal Office Building, 175 West Jackson Boulevard, Room A–333, Chicago, Illinois 60604, before 4:30 p.m., Friday, May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m. Thursday, May 19, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentation and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible,

for the presentation of all relevant data, views and arguments.

AN FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentation, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., and the FEA Regional Office, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the —— Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction Order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston Massachusetts 02113—617–223–3701.
II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212–264–1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215–597–3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree St. N.E., 8th Floor, Atlanta, Georgia 30309—404–526–2837.
V. N. Allen Andersen, Regional Administrator, Federal Office Building, Room A–333, 175 West Jackson Blvd., Chicago, Illinois 60604—312–353–0540.
VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214–749–7345.
VII. Nell Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816–374–2061.
VIII. Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303–234–2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415–556–7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206–442–7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A–1 and A–2 of Form FEA C–607–S–0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A–1 contained basic identifying data for a particular MFBI. Schedule A–2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A–1 and A–2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A–1 and A–2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C–607–S–0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;
(2) Copper refining and melting furnaces;
(3) Chemical plant process heaters and recovery furnaces;
(4) Oxygen blown steelmaking vessels;
(5) Primary float glass tanks;
(6) Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's

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that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–0. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ---------- Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185)).

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–3090–1–1	General Motors Corp./GMAD	Proposed truck assembly plant.	Boiler 1	Not disclosed.
OCU–3090–1–2			Boiler 2	
OCU–2090–1–3			Boiler 3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

General Motors Corporation/GMAD shall be referred to as the "owner". The Proposed Truck Assembly Plant Boilers 1, 2, and 3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicabe to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to understimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows: (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and conastruct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–7490–1–1	The Upjohn Co.	Portage Rd. plant	Boiler 8	Kalamazoo, Mich.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

The Upjohn Company shall be referred to as the "Owner". Portage Road Plant Boiler 8 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–O and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including,

V42 93 MAY 13 77 UMI

as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–O submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–O submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey," the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report," cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs requested in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historicaly shown a profit profile.

APPENDIX C—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installaton	Unit	Location
OCU–0540–1–1 OCU–0540–1–2	Anheuser-Busch, Inc.	Morehead malt plant	29–100 29–101	Morehead, Minn.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Anheuser-Busch, Incorporated shall be referred to as the "owner". Morehead Malt Plant Units 29–100 and 29–101 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal

V 42 93 MAY 13 77 UMI

transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MBFI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an indepedent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years. In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX D—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–7410–2–1	United States Steel Corp.	Gary works	8	Gary, Ind.
OCU–7410–2–2			9	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

United States Steel Corporation shall be referred to as the "owner". The Gary Works Units 8, and 9 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.-(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational.

FEA expects, however (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX E—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and detetrminations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–6290–2–1	Republic Steel Corp.	Lime plant	Kiln 4	Grand River, Ohio.
OCU–6290–2–2			Kiln 5	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Republic Steel Corporation shall be referred to as the "owner". Lime Plant Kiln 4 and Kiln 5 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey"). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985

V 42 93 MAY 13 77 UMI

already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the *"Availability Report"*, cited above), that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX F—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–7410–2–1 OCU–7410–2–2	United States Steel Corp.	Gary works	8 9	Gary, Ind.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

United States Steel Corporation shall be referred to as the "owner". The Gary Works Units 8, and 9 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBIs' location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER.

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

V 42 N 93 MAY 13 77 UMI

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book,* (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, the FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13695 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; Dartmouth College

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue a Construction Order pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installation in the early planning process:

Docket No.	Owner	Installation	Unit	Location
OCU-2350-1-1	Dartmouth College, trustees of Dartmouth College.	Dartmouth College heating plant.	1	Hanover, N.H.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding this proposed Construction Order.

The proposed order would require the above-named installation in the early planning process to be designed and constructed to be capable of using coal as its primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue a Construction Order to the above-named installation. The Construction Order will not become effective, however, until FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or (2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installation listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the enviromental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

Pursuant to 10 CFR 303.173 (a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9:00 a.m. on May 24, 1977, at the J. W. McCormack Post Office and Courthouse Building, Room 208, Park Square, Boston, Massachusetts 02109. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Richard Meister, FEA Region I, 150 Causeway Street, Boston, Massachusetts 02114, (617) 223-3701. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Robert Mitchell, Regional Administrator, Federal Energy Administration, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building 12th and Pennsylvania Avenue, N.W., Washington, D.C., and the FEA Regional Office, Library, 7th Floor, 150 Causeway Street, Boston, Massachusetts 02114, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed Construction Order to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the ———— Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction Order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113 (617) 223-3701.
II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007 (212) 264-1021.
III—J. A. LaSala, Regional Administrator, 1421 Cherry Street, Rm. 1001, Philadelphia, Pennsylvania 19102 (215) 597-3390.
IV—Donald Allen, Regional Administrator, 1655 Peachtree Street NE., 8th Floor, Atlanta, Georgia 30309 (404) 526-2837.
V—N. Allen Andersen, Regional Administrator, Federal Office Building, Room A-333, 175 West Jackson Blvd., Chicago, Illinois 60604 (312) 353-0540.
VI—Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235 (214) 749-7345.
VII—Neil Adams, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226 (816) 374-2061.
VIII—William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111 (415) 556-7216.
X—Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (206) 442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source

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because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C–607–S–0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;
(2) Copper refining and melting furnaces;
(3) Chemical plant process heaters and recovery furnaces;
(4) Oxygen blown steelmaking vessels;
(5) Primary float glass tanks;
(6) Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–0. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ------ Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.X.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–2350–1–1	Dartmouth College/trustees of Dartmouth College.	Dartmouth College heating plant.	3	Hanover, N.H.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Dartmouth College/Trustees of Dartmouth College shall be referred to as the "owner". Dartmouth College Heating Plant 3 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production. national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection. therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey," the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, EPA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order,* FEA has evaluated the additional capital investment costs required in order to design and construct the MBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book,* (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability, to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77–13699 Filed 5–12–77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; General Motors Corp., Et Al.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

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Docket No.	Owner	Installation	Number of Unit	Location
OCU-3090-2-1	General Motors Corp./GMAD	Proposed passenger car assembly plant.	3	Oklahoma City, Okla.
OCU-3090-2-2				
OCU-3090-2-3				
OCU-8160-1-1	E. I. DuPont de Nemours and Co., Inc./National Distillers and Chemical Corp./Syngas Co.	Deer Park plant	2	Deer Park, Tex.
OCU-8160-1-2				
OCU-7230-1-1	Texaco, Inc./Jefferson Chemical Co., Inc.	Neches plant	1	Port Neches, Tex.
OCU-8340-1-3	Exxon Corp./Exxon Chemical Co., U.S.A.	Baton Rouge chemical plant	3	Baton Rouge, La.
OCU-8340-1-4				
OCU-8340-1-5				
OCU-6650-4-1	Shell Oil Co./Geismar Chemical Co.	Geismar plant	1	Geismar, La.
OCU-6650-6-1	Shell Oil Co	Norco manufacturing complex.	3	Norco, La.
OCU-6650-6-2				
OCU-6650-6-3				
OCU-6650-7-1	do	Deer Park manufacturing complex.	2	Deer Park, Tex.
OCU-6650-7-2				
OCU-8240-1-1	Fort Howard Paper Co	Muskogee mill	1	Muskogee, Okla.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and construction to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either 1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, 2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installations listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Pursuant to 10 CFR 303.173 (a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9:00 a.m. on May 24 and 25, 1977, in Room 250, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Texas 75235, (214) 749-7727. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state way the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to Delbert Fowler, Regional Administrator, Federal Energy Administration, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., and the FEA Regional Office, Reading Room, 2626 West Mockingbird Lane, Dallas, Texas 75235, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction Order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.
II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.
V. N. Allen Andersen, Regional Administrator, Federal Office Building, Room A-333, 175 West Jackson Blvd., Chicago, Illinois 60604—312-353-0540.
VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.
VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.
VIII. Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. *Determination of candidate universe.* On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C-607-S-0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

1. Refinery heaters and furnaces;
2. Copper refining and melting furnaces;
3. Chemical plant process heaters and recovery furnaces;
4. Oxygen blown steelmaking vessels;
5. Primary float glass tanks;
6. Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A-3 of Form FEA C-607-S-0. Schedule A-3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A-3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A-3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a

V 42 93 MAY 13 77 UMI

Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ---------- Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-3090-2-1	General Motors Corp./GMAD	Proposed passenger car assembly plant.	Boiler 1	Oklahoma City, Okla.
OCU-3090-2-2			Boiler 2	
OCU-3090-2-3			Boiler 3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

General Motors Corporation/GMAD shall be referred to as the "owner". The Proposed Passenger Car Assembly Plant Boilers 1, 2 and 3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1979 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observers, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change cost discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the FMBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-8160-1-1	Syngas Co./E. I. DuPont de Nemours and Company, Inc./National Distillers and Chemical Corp.	Deer Park Plant	Boiler	Deer Park, Tex.
OCU-8160-1-2			Superheater.	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Syngas Company/E.I. DuPont de NeMours and Company, Incorporated/National Distillers and Chemical Corporation shall be referred to as the "owner". The Deer Park Plant Boiler and Superheater shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS.

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the

V42 93 MAY 13 77 UMI

MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX C—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-7230-1-1	Texaco, Inc./Jefferson Chemical Co., Inc.	Neches plant	Boiler HK-9.	Port Neches, Tex.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Texaco, Incorporated/Jefferson Chemical Company, Incorporated shall be referred to as the "owner". Neches Plant Boiler HK-9 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Cost transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

V42 93 MAY 13 77 UMI

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book,* (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX D—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–8340–1–3	Exxon Corp./Exxon Chemical Co., U.S.A.	Baton Rouge plant	MEX–B–1	Baton Rouge, La.
OCU–8340–1–4			MEX–B–2	
OCU–8340–1–5			MEX–B–3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Exxon Corporation/Exxon Chemical Company, U.S.A. shall be referred to as the "owner". Baton Rouge Plant MEX–B–1, MEX–B–2, and MEX–B–3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to asure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFB's' location. FEA observes, however, that the FMBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX E—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–6650–4–1	Shell Oil Co./Geismar Chemical Co.	Geismar plant	EPP–GEP–BLR–1	Geismar, La.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company/Geismar Chemical Company shall be referred to as the "owner". Geismar Plant EPP–GEP–BLR–1 shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.*

Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

V42 93 MAY 13 77 UMI

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (millions tons)*
1977	732.1
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1895	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Cost transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

FEA FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX F—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-6650-6-1	Shell Oil Co.	Norco manufacturing complex.	EPP-MOP-BLR-1	Norco, La.
OCU-6650-6-2			EPP-MOP-BLR-2	
OCU-6650-6-3			EPP-MOP-BLR-3	

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner." The Norco Manufacturing Complex, EPP-MOP-BLR-1, EPP-MOP-BLR-2, and EPP-MOP-BLR-3 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C-607-S-0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A-2 of Form FEA C-607-S-0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
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1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
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1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.*

V 42 93 MAY 13 77 UMI

FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI"s which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.*

FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

Appendix G—Proposed Findings and Rationale for Notice of Intention to Issue a Construction Order

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–6650–7–1	Shell Oil Co.	Deer Park manufacturing complex.	EPP–DPM–BLR–1	Deer Park, Tex.
OCU–6650–7–2			EPP–DPM–BLR–2	

These findings, determinations and consideration, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner". The Deer Park Manufacturing Complex, EPP–DPM–BLR–1 and EPP–DPM–BLR–2 shall be referred to as the "MFBI's".

I. PROPOSED FINDINGS

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.*

This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data shows a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developements will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production Potential (million ton)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook:

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER.

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

Appendix H—Proposed Findings and Rationale for Notice of Intention To Issue a Construction Order

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–8240–1–1	Fort Howard Paper Co.	Muskogee mill	Pulverized coal boiler	Muskogee, Okla.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Fort Howard Paper Company shall be referred to as the "owner". Muskogee Mill Pulverized Coal Boiler shall be referred to as the "MFBI".

I. PROPOSED FINDINGS

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve. Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves as expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable

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to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	854.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from EPA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. FACTORS WHICH ESECA REQUIRES FEA TO CONSIDER

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13704 Filed 5-12-77;8:45 am]

federal register

FRIDAY, MAY 13, 1977

PART III



FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Prohibition Orders; Intention To Issue to Certain Installations

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FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; International Paper Co. and Fraser Paper, Ltd.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0738	International Paper Co.	Jay plant	1, 2	Jay, Maine.
OCU-1888	Fraser Paper, Ltd.	Madawaska Mill	6, 7	Madawaska, Maine.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act; and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(7) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance data extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9:00 a.m. on May 24, 1977, at the J. W. McCormack Post Office and Courthouse Building, Room 208, Park Square, Boston, Massachusetts 02109. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Richard Meister, FEA Region I, 150 Causeway Street, Boston, Massachusetts 02114, (617) 223-3701. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Robert Mitchell, Regional Administrator, Federal Energy Administration, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, Library, 7th Floor, 150 Causeway Street, Boston, Massachusetts 02114, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Nell Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibtion Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to

V 42 93 MAY 13 77 UMI

enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment, if any (respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified thhat the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each FMBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.
b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.
b. Twice the cost of land acquisitions required for conversions to coal burning.
c. The total of 1) and 2) is divided by 2 and then multiplied by a 10-percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFB's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, that is, projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: ---------- Installation), Washington, D.C. 20461, (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy seq.), as amended by Pub. L. 94-385; E.O. seq.), as amended by Pub. L. 94-385; E.Q. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
COU-0738	International Paper Co.	Jay plant	1, 2	Jay, Maine.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". Jay Plant Units 1 and 2 shall be referred to as the "MFBI's" and as "Jay 1 and 2".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Jay 1 and 2 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–8–0), filed on May 16, 1976, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Jay 1 and 2 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Feeders.
6. Scales.
7. Air heaters.
8. Combustors.
9. Soot blowers.
10. Special instrumentation and controls.
11. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Jay 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Jay 1 and 2 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.* 1. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Jay 1 and 2 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Jay 1 and 2 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a–c, above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Jay 1 and 2 will represent an annual cost increase of $712,138.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Jay 1 and 2 is reasonable.

As a result of conversion, International will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Jay 1 and 2 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

Although conversion to the burning of coal would be expected to increase the cost of operating at Jay 1 and 2, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determination is based on consideration of the substantial savings of petroleum products that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of International as examined in the following analysis of financial capability, the nature of the expected operation of these boilers, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Jay 1 and 2 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESEOA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Jay 1 and 2.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under the authority of Section 2(a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings attributable to compliance with this NOI, and all other NOI's currently under consideration, International's total annual costs after conversion will increase by $783,345.

B. Because the issuance of a Prohibition Order to Jay 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Jay 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

V 42 N 93 MAY 13 77 UMI

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	475.5
	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Jay 1 and 2 will be able to burn coal of the following characteristics and comply with all appplicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately)	[2] 2.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	172

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BON Districts 1 through 8 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	23,998
1979	50,226
1980	59,538
1981	70,628
1982	74,364
1983	79,254
1984	96,525

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 6 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	2,090
1979	4,268
1980	6,504
1981	7,369
1982	17,258
1983	19,298
1984	19,298

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 6 with a 2.21–2.51 percent sulfur content (which includes the 2.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 2.21–2.51*
1978	175
1979	555
1980	966
1981	966
1982	966
1983	3,006
1984	3,006

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 1 through 6 uncommitted coal production that meets the requirements of Jay 1 and 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 1 through 6. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Jay 1 and 2 would probably come from BOM District 1 as the primary source of supply and from BOM District 2 as the alternate supply area. While these supply regions are the nearest available sources able to supply complying coal to Jay 1 and 2, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Jay 1 and 2 is to originate coal in the Altoona, Pennsylvania region in BOM District 1 on the Consolidated Railroad Corporation (ConRail). ConRail would move it to Boston, Massachusetts, where the Boston and Maine would pick it up and move it to Portland, Maine. The Maine Central would then deliver the coal to Jay 1 and 2. The total rail distance is about 720 miles.

The alternate route from the primary supply area originates coal from BOM District 1 on Conrail to their docks at Ashtabula Harbor, Ohio where it would be loaded on self-propelled carriers or barges and carried to unloading docks in Montreal, Canada. The Canadian National and Grand Trunk Railway would move it to Danville Junction, Maine where the Maine Central would pick up the coal and deliver it to Jay 1 and 2. The total rail distance is about 480 miles with a water leg of about 500 miles.

An alternate route from the alternate supply area would orignate coal in Washington and Greene Counties, Pennsylvania, in BOM District 2 from mines served by Conrail which would move it via Pittsburgh, Pennsylvania, and Buffalo, New York, to Worcester, Massachusetts. The Boston and Maine would then move the coal via Lowell and Haverhill, Massachusetts, to Portland, Maine. The Maine Central Railroad would deliver it to Jay 1 and 2. The total rail distance is about 975 miles.

3. *Originating trunk carrier.* ConRail, the originating carrier of coal from both the primary and alternate sources for Jay 1 and 2 has approximately 47,000 hopper cars in service with an active repair and replacement program. Using an average number of 20 deliveries per year per 79 ton car, ConRail may require as many as 127 additional cars to handle the increased demand from Jay 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carries in the originating vicinity. Their capacity to build new hopper cars in their own shops exceeds 6,000 per year, and they anticipate no significant constraints in adding adequate capacity for all foreseeable demands.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under section 2(a) of ESECA. FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI's facilities.* Freight service to Jay 1 and 2 is provided by the Maine Central as illustrated above. Jay 1 and 2 have indicated that coal receiving, storage, and handling equipment would need to be installed. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Jay 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Jay 1 and 2 presently exist, and alternate routes are available.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1888	Fraser Paper Ltd.	Madawaska Mill	6,7	Madawaska, Maine.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Fraser Paper Ltd. shall be referred to as the "owner" and as "Fraser Paper". Madawaska Units 6 and 7 shall be referred to as the "MFBI's" and as "Madawaska 6 and 7".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Madawaska 6 and 7 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Fraser Paper, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C-602-S-0), filed on March 31, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Fraser Paper filed with FEA dated July 23, 1976, and other information available to FEA, the following plant equipment and facilities at Madawaska 6 and 7 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source: 1. Combustors; 2. Soot blowers; 3. Unloaders; 4. Conveyors; 5. Crushers; 6. Pulverizers; 7. Scales; 8. Feeders; 9. Special instrumentation and controls; 10. Ash handling and ponding; 11. Additional storage property; 12. Bunkers; 13. Building.

C. FEA proposes to find that on June 22, 1974, Madawaska 6 and 7 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Madawaska 6 and 7 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total estimated initial capital investment costs, including financial costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Madawaska 6 and 7 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel

V 42 NO 93 MAY 13 1977 UMI

cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Madawaska 6 and 7 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Madawaska 6 and 7 will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Madawaska 6 and 7 is reasonable.

As a result of conversion, Fraser Paper will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, an average net decrease in the annual cost of operation of the boilers should result.

The use of coal at Madawaska 6 and 7 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Madawaska 6 and 7 are totally offset by the current fuel cost differential between oil and coal burning at Madawaska 6 and 7, and potential future increases in the fuel cost differential, in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*— a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Madawaska 6 and 7 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977).

Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Fraser Paper. FEA related these additional capital investment costs to the total capitalization of Fraser Paper and the remaining useful life after conversion of Madawaska 6 and 7.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Fraser Paper to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and costs exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Fraser Paper MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Fraser Paper's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Madawaska 6 and 7 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Madawaska 6 and 7 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	243.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(b) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Madawaska 6 and 7 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

BTU's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 2.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1978 and thereafter	175

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 1 through 6 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	23,998
1979	50,226
1980	59,538
1981	70,626
1982	74,364
1983	79,254
1984	96,525

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 6 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	2,090
1979	4,268
1980	6,504
1981	7,369
1982	17,258
1983	19,298
1984	19,298

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 6 with 2.21–2.51 percent sulfur content (which includes the 2.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2 (a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons), percent sulfur 2.21–2.51*
1978	175
1979	555
1980	966
1981	966
1982	966
1983	3,006
1984	3,006

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 1 through 6 uncommitted coal production that meets the requirements of Madawaska 6 and 7 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be brought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 1 through 6. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Madawaska 6 and 7 would probably come from BOM District 1 as the primary supply area and from BOM District 2 as the alternate supply area. While these supply regions are the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Madawaska 6 and 7 is to originate coal in BOM District 1 in the Altoona, Pennsylvania region on Consolidated Railroad Corporation (Conrail) which would move it to Boston, Massachusetts. The Boston and Maine Railroad would pick it up and move it to Portland, Maine. From Portland, the Maine Central would move the coal via Augusta to Bangor and then the Bangor and Aroostook Railroad would pick it up and deliver it to Madawaska 6 and 7. The total rail distance is about 1,015 miles.

The alternate route from the primary supply area would originate coal on Conrail to its docks at Ashtabula Harbor, Ohio. Self-propelled carriers or barges would move it through the Welland Canal, Lake Ontario and the St. Lawrence River to coal docks at Quebec, Canada. The Canadian National Railroad would then move the coal to St. Leonard, New Brunswick and the Bangor and Aroostook would deliver it to Madawaska 6 and 7. The total rail distance is about 600 miles, with a water leg of about 600 miles.

As an alternate route from an alternate source, coal would originate in Greene and Washington Counties, Pennsylvania in BOM District 2 and be moved by Conrail via Pittsburgh, Pennsylvania, and Buffalo, New York, to Worcester, Massachusetts. The Boston and Maine would move it via Lowell and Haverhill, Massachusetts, to Portland, Maine. The Maine Central would then move the coal via Augusta to Bangor, Maine, and the Bangor and Aroostook Railroad would deliver it to Madawaska 6 and 7. The total rail distance is about 1,260 miles.

3. *Originating trunk carrier.* Conrail, the originator of coal for Madawaska 6 and 7 has approximately 47,000 hopper cars in service, and capacity in its shops to build over 6,000 new hopper cars per year. Using an average of 20 deliveries per year per 79 ton car, Conrail may need as many as 95 additional cars to handle the increased demand from Madawaska 6 and 7. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. Conrail visualizes no difficulty in increasing capacity to meet this and other foreseeable increases in demand.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to car-

V 42 93 MAY 13 77 UMI

rying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* The Bangor and Aroostook Railroad is the destination carrier to Madawaska 6 and 7. Coal was used as the primary boiler fuel at Madawaska 6 and 7 until 1969. The plant reports that coal receiving and handling facilities will have to be reinstalled and some facilities moved. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Madawaska 6 and 7.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Madawaska 6 and 7 presently exist, and alternate routes are available.

[FR Doc.77-13696 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; International Paper Co.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0779	International Paper Co	Texarkana plant	1	Texarkana, Tex.
OCU-0786	do	Pine Bluff plant	1,2	Pine Bluff, Ark.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to the issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 24 and 25, 1977, in Room 250, Federal Energy Administration, 2626 West Mockingbird Lane, Dallas, Texas 75235. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Darryl Greenwell, FEA Region VI, 2626 West Mockingbird Lane, Dallas, Texas 75235, 214-749-7727. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Delbert Fowler, Regional Administrator, Federal Energy Administration, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Reading Room, 2626 West Mockingbird Lane, Dallas, Texas 75235, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen (15) copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02114—617-223-3701.

II. Alfred Kleinfield, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, NE, 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order.)

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control

V 42 93 MAY 13 77 UMI

requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment costs, if any respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (repondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.
b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.
b. Twice the cost of land acquisitions required for conversions to coal burning.
c. The total of (1) and (2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: ---------- Installation), Washington, D.C. 20461, (202) 566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C. May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0779	International Paper Co.	Texarkana plant	1	Texarkana, Tex.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". The Texarkana Plant Unit 1 shall be referred to as the "MFBI" and as "Texarkana 1".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Texarkana 1 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

'A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12-14, (Form FEA C-602-S-0) filed on May 20, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, nothwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Texarkana 1 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Combustors; 2. Air heaters; 3. Soot blowers; 4. Special instrumentation and controls; 5. Crushers; 6. Unloaders; 7. Conveyors; 8. Pulverizers; 9. Scales; 10. Feeders; 11. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Texarkana 1 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Texarkana 1 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973-1975, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.*

Curtailment of natural gas supply. Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that the MFBI will experience a substantial curtailment of its present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Texarkana 1 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Texarkana 1 will result in an increase in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.-c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential hereafter "NOCD", (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Texarkana 1, will represent an annual cost increase of $1,005,837.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable. By converting from burning natural gas to burning coal as the primary energy source the MFBI would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because the MFBI will eventually experience a substantial curtailment of its supply of natural gas. If the prohibition order were not issued to the MFBI it could alternately replace its current natural gas supply with either petoleum products or coal for the period following such substantial curtailment of its natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for this MFBI resulting from operating on coal as the primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $1,005,837

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Texarkana is not unreasonable.

Burning of coal by Texarkana 1 as its primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that the MFBI could experience annual savings in its total fuel costs should it convert to coal instead of converting to petroleum products, there would be a net increase in the costs to the MFBI.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Texarkana 1 by $1,005,837 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the MFBI, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of the MFBI.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Texarkana 1 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Texarkana 1 will experience a substantial curtailment of its present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (*Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II*, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Texarkana 1 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position

V 42 93 MAY 13 77 UMI

as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Texarkana 1.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, International's total annual costs after conversion will increase by $738,345.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Texarkana 1 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Texarkana 1 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THIS MFBI DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" indentifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at Texarkana 1 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately)	[2] 0.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	151

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to the MFBI (in a probable regional supply/demand relationship related to the location of the MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a 0.61–1.0 percent sulfur content (which includes the 0.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons), Percent sulfur 1.61–1.0*
1978	2,831
1979	5,578
1980	9,839
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Texarkana 1 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.* 1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Texarkana 1 would probably come from BOM District 8 as the primary supply area and from BOM District 17 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be tranferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Texarkana 1 is to originate coal in BOM District 8 near Hazard, Kentucky on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Louisville, Kentucky to Memphis, Tennessee where the St. Louis Southwestern (SSW) picks it up for delivery to Texarkana 1. The total rail distance is about 900 miles.

The alternate route for coal delivery from the primary supply area would originate in BOM District 8 on the Kanawha River, West Virginia. Barges of the Ohio River Company or the Crounse Corporation would carry it via the Ohio and Mississippi Rivers to coal docks at Memphis, Tennessee where the Chicago, Rock Island and Pacific (CRIP) would reload the coal and move it to Little Rock, Arkansas where the Missouri Pacific (MP) would pick it up to deliver to Texarkana 1. The total rail distance is about 280 miles with a water leg of about 980 miles.

An alternate route for coal delivery from the alternate supply area would originate in BOM District 17 in the Grand Junction, Colorado area. The Denver and Rio Grande Western (D&RGW) would carry it to Pueblo, Colorado. The Atcheson, Topeka and Santa Fe (ATSF) will then take the coal via Boise City, Oklahoma, to Amarillo, Texas where the Fort Worth and Denver would then take the coal to Fort Worth, Texas. The St. Louis and Southwestern would pick up the coal for delivery to Texarkana 1. The total rail distance is about 1210 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Texarkana 1 has about 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 117 additional cars to handle the increased demand from Texarkana 1. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major contraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at those mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* The SSW and MP both provide freight service to Texarkana, Texas. Texarkana 1 has indicated that coal unloading and handling facilities would need to be installed. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Texarkana 1.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Texarkana 1 presently exist, and alternate routes are available.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0786	International Paper Co.	Pine Bluff plant	1,2	Pine Bluff, Ark.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". Pine Bluff Plant Units 1 and 2 shall be referred to as the "MFBI's" and as "Pine Bluff 1 and 2".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Pine Bluff 1 and 2 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section

V 42 93 MAY 13 77 UMI

II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 20, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Pine Bluff 1 and 2 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders; 2. Conveyors; 3. Crushers; 4. Scales; 5. Feeders; 6. Air heaters; 7. Combustors; 8. Soot blowers; 9. Controls; 10. Ash handling and ponding.

C. FEA proposes to find that on June 22, 1974, Pine Bluff 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE SURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Pine Bluff 1 and 2 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the year 1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.*

Curtailment of natural gas supply. Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Pine Bluff 1 and 2 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Pine Bluff 1 and 2 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Pine Bluff 1 and 2 will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as the primary energy source at these MFBI's is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at these MFBI's would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Pine Bluff 1 and 2 will experience a substantial curtailment of their present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (*Final Revort Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II*, Federal Energy Administration, October 1975.) This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Pine Bluff 1 and 2 would be substantially curtailed.

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Pine Bluff 1 and 2 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet References Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Pine Bluff 1 and 2.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, International's total annual costs after conversion should increase by $738,345.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Pine Bluff 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Pine Bluff 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984.

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	723.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	306.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers, of the type used at Pine Bluff 1 and 2 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,375
Sulfur (percent)	[2] 0.7

[1] Mimimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1979 and thereafter	303

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristics expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,816
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	18,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a 0.61–1.0 percent sulfur content (which includes the 0.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 0.61 to 1.0*
1978	2,831
1979	5,578
1980	9,834
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Pine

V 42 93 MAY 13 77 UMI

Bluff 1 and 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Pine Bluff 1 and 2 would probably come from BOM District 8 as the primary supply area and from BOM District 13 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to these plants, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Pine Bluff 1 and 2 would originate in BOM District 8 in the Hazard, Kentucky, area on the Louisville and Nashville (L&N) Railroad. The L&N would move the coal via Louisville, Kentucky to Memphis, Tennessee, where the St. Louis Southwestern (SLSW) would then deliver the coal to Pine Bluff 1 and 2. The total rail distance is about 750 miles.

An alternate route for coal delivery from the primary supply area originates in BOM District 8 near Clinton, Tennessee, on the Southern Railway (Southern) which moves the coal via Chattanooga to Memphis, Tennessee, where the SLSW would then deliver the coal to Pine Bluff 1 and 2. The total rail distance is about 560 miles.

An alternate route from the alternate supply area would originate coal in BOM District 13 in the Birmingham, Alabama area on the Southern Railway. Southern would carry the coal to meridian, Mississippi where the Illinois Central Gulf would then haul the coal via Vicksburg, Mississippi, to Tallulah, Louisiana. Missouri Pacific would then carry the coal for delivery to Pine Bluff 1 and 2. The total rail distance about 460 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Pine Bluff 1 and 2 has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 223 additional cars to handle the increased demand from Pine Bluff 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at those mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Heavy rail freight service is provided to plants in the Pine Bluff, Arkansas area by both the St. Louis Southwestern and the Missouri Pacific Railroads. Pine Bluff 1 and 2 has reported that coal unloading and handling equipment and facilities would need to be installed. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Pine Bluff 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Pine Bluff 1 and 2 presently exist, and alternate routes are available.

[FR Doc.77-13697 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; Kennecott Copper Corp.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-2979	Kennecott Copper Corp.	Utah Copper division	1, 2, 3, 4	Salt Lake City, Utah.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4 (b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance data extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective data specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 24, 1977, at The Salt Palace, Room 220, South Temple West, Salt Lake City, Utah 84101. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Luther Clemmer, FEA Region VIII, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, 303-234-2165. The request should be received before 4:30 p.m., Thursday, May 19, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 23, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Dudley Faver, Regional Administrator, Federal Energy Administration, P.O. Box 262 47, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, before 4:30 p.m., Monday, May 23, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 20, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguements should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, 1075 South Yukon Street, Lakewood, Colorado 80226, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Installation". Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02114—617-223-3701.
II. Alfred Kleinfield, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, NE, 8th Floor, Atlanta, Georgia 30309—404-526-2837.
V. N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.
VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.
VII. Nell Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.
VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order

V 42 93 MAY 13 77 UMI

to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million Btu's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million Btu's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C–602–S–O), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a suplemental questionnaire (Form FEA C–602–S–1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effect of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS.

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate base on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows: a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows: a. New and refurbished equipment costs minus the investment tax credit, plus.

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of (1) and (2) is divided by 2 and then multipled by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage.) FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs oc operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent Btu basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: ---------- Installation), Washington, D.C. 20461, 202–566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX: PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2979	Kennecott Copper Corp.	Utah Copper division	1, 2, 3, 4	Salt Lake City, Utah.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Kennecott Copper Corporation shall be referred to as the "owner" and as "Kennecott". "Utah Copper Division Units 1, 2, 3 and 4" shall be referred to as the "MFBI's" and as "Utah Copper 1, 2, 3 and 4."

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Utah Copper 1, 2, 3 and 4 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretation stated below:

A. Kennecott, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6 and 12–14 (Form FEA C–602–S–0), filed on June 26, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Kennecott filed with FEA dated August 12, 1976, and other information available to FEA, the following plant equipment and facilities at Utah Copper 1, 2, 3 and 4 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Coal handling facilities;
2. Car thaw shed;
3. Car unloading system; and
4. Coal storage.

C. FEA proposes to find that on June 22, 1974, Kennecott had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Utah Copper 1, 2, 3 and 4 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the Owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Utah Copper 1, 2, 3 and 4 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in

V 42 93 MAY 13 77 UMI

appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Utah Copper 1, 2, 3 and 4 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD" (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Utah Copper 1, 2, 3 and 4, will represent an annual cost increase of $792,606.

3. *Reasonableness of additional cost of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as their primary energy source, these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $792,606.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Utah Copper 1, 2, 3 and 4 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFBI's would experience annual savings in their total fuel costs should they convert to coal instead of converting to petroleum products, there would be a net increase in the costs ot these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Utah Copper 1, 2, 3 and 4 by $792,606 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Utah Copper 1, 2, 3, and 4 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Utah Copper 1, 2, 3, and 4 will experience a substantial curtailment of their present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities, Volumes I and II, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Utah 1, 2, 3 and 4 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dunn and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Kennecott. FEA related these additional capital investment costs to the total capitalization of Kennecott and the remaining useful life after conversion of Utah Copper 1, 2, 3 and 4.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Kennecott to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Kennecott MFBI's. Notwithstanding the potential value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Kennecott's total annual costs after conversion will increase by $792,606.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Utah Copper 1, 2, 3 and 4 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Utah Copper 1, 2, 3 and 4 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BCM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Utah Copper 1, 2, 3 and 4 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.0

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1978 and thereafter	521

c. *National planned production, characteristic coal.* FEA's "Availability Report" has has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following (Availability Report):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 19, 21, and 22 as follows (Availability Report):

Year:	*Production (thousand tons)*
1978	24,781
1979	41,692
1980	53,947
1981	64,581
1982	69,510
1983	75,863
1984	93,722

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 19, 21, and 22 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	4,696
1979	7,195
1980	7,416
1981	7,416
1982	9,017
1983	9,017
1984	9,017

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 19, 21, and 22 with a 0.61–1.01 percent sulfur content (which includes the 1.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons), percent sulfur 0.61–1.01*
1978	1,955
1979	4,043
1980	4,133
1981	4,133
1982	5,733
1983	5,733
1984	5,733

The regional planned production of coal stated in paragraph A.3.c., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has indentified nationally and in BOM Districts 19, 21, and 22 uncommitted coal production that meets the requirements of Utah Copper 1, 2, 3, and 4 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 19, 21, and 22. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering; University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.* 1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal from Utah Copper 1, 2, 3, and 4 would probably come from BOM District 19 as the primary supply area and from BOM District 20 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Utah Copper 1, 2, 3, and 4 is to originate coal in BOM District 19, in the Casper, Wyoming, area on the Burlington Northern (BN) Railroad. The BN would move it to Wendover, Wyoming, where Colorado & Southern (C&S) would then carry the coal to Cheyenne, Wyoming. Union Pacific would then pick it up and deliver it to Utah Copper 1, 2, 3, and 4. The total rail distance is about 735 miles.

The alternate route from the primary supply area originates coal in the Casper, Wyoming area, on the BN which moves it to Wendover, Wyoming where the C&S picks it up to move it to Denver, Colorado via Cheyenne, Wyoming. The Denver and Rio Grande Western (D&RGW) then moves it via Grand Junction, Colorado and Provo, Utah, for delivery to Utah Copper 1, 2, 3 and

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4. The total rail distance is about 945 miles.

An alternate route from the alternate supply area originates coal in BOM District 20 in the Salt Lake City area where trucks would deliver the coal to Utah Copper 1, 2, 3 and 4.

3. *Originating trunk carrier.* The BN, originating carrier of coal for Utah Copper 1, 2, 3 and 4 has about 19,000 hopper cars in service. Using an average number of 20 deliveries per year per 77-ton car, the BN may need as many as 146 additional cars to handle the increased demand from Utah Copper 1, 2, 3 and 4. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Utah Copper 1, 2, 3 and 4 has indicated that the boilers currently burn coal and natural gas on an interruptable basis. Both rail (D&RGW) and trucks have been used for coal deliveries, however, if coal is used exclusively, additional storage must be developed. Coal is presently transported to the plant site by trucks. A new coal pile location has been considered along with a new rail spur line to the new location. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Utah Copper 1, 2, 3 and 4.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Utah Copper 1, 2, 3 and 4 presently exist, and alternate routes are available.

[FR Doc.77-13698 Filed 5-12-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Installations; Brown Co., et al.

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0004	Brown Co., Specialty Papers Division.	Parchment plant	9, 10	Parchment, Mich.
OCU-1356	A. E. Staley Manufacturing Co	Decatur plant	19, 20, 21	Decatur, Ill.
OCU-1853	Marathon Oil Co.	Robinson refinery	9, 10	Robinson, Ill.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plan equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determing the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held

beginning at 9 a.m. on May 23 and 24, 1977, at the Federal Building, Room 1903, 219 S. Dearborn Street, Chicago, Illinois 60604. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to George Evans, FEA Region V, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, 312-886-5168. The request should be received before 4:30 p.m., Wednesday, May 18, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 20, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to N. Allen Anderson, Regional Administrator, Federal Energy Administration, Federal Office Building, 175 West Jackson Boulevard, Room A-333, before May 20, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Thursday, May 19, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Federal Office Building, 175 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.
II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E.—8th Floor, Atlanta, Georgia 30309—404-526-2837.
V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.
VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.
VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.
VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. DETERMINATION OF CANDIDATE UNIVERSE

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the ef-

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fects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a Btu equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or wether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. SITE SPECIFIC ANALYSIS

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);
b. Unit capacity;
c. Fuel consumption for 1975;
d. The last year coal was burned at the installation;
e. Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);
f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and
g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);
b. The utilization factor of the MFBI was less than 20 percent;
c. Space required for coal use at the installation was inadequate or unavailable;
d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;
e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} Btu's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows: a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of 1) and 2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent BTU basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: ---------- Installation), Washington, D.C. 20461 (202–566–7941).

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU–0004	Brown Co., Specialty Papers Division.	Parchment plant----------	9, 10	Parchment, Mich.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

The Brown Company shall be referred to as the "owner" and as "Brown." Parchment Plant Units 9 and 10 shall be referred to as the "MFBI's" and as "Parchment 9 and 10."

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Parchment 9 and 10 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Brown, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on April 28, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Brown filed with FEA dated August 20, 1976, and other information available to FEA, the following plant equipment and facilities at Parchment 9 and 10 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source: 1. Special instrumentation and controls; 2. Bunkers; 3. Unloaders and shakers; 4. Conveyors; 5. Ash handling and ponding equipment; 6. Burners; 7. Thawers; 8. Crushers; 9. Pulverizers; 10. Scales; 11. Pile handling equipment.

C. FEA proposes to find that on June 22, 1974, Parchment 9 and 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Parchment 9 and 10 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Parchment 9 and 10 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Parchment 9 and 10 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Parchment 9 and 10, will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as the primary energy source at these MFBI's is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at these MFBI's would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Parchment 9 and 10 will

V 42 N 93 MAY 13 77 UMI

experience a substantial curtailment of their present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.) This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Parchment 9 and 10 would be substantially curtailed.

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Parchment 9 and 10 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Brown. FEA related these additional capital investment costs to the total capitalization of Brown and the remaining useful life after conversion of Parchment 9 and 10.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Brown to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all Other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Brown MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Brown's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Parchment 9 and 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Parchment 9 and 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Parchment 9 and 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,700
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demands from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	130

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8 percent sulfur content (which includes the 1.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41 to 1.8*
1978	226
1979	897
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Parchment 9 and 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*

1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal for Parchment 9 and 10 would probably come from BOM District 8 as the primary supply area and from BOM District 2 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery in Parchment 9 & 10 is to originate coal in BOM District 8 near Wayland, Kentucky, on the Chesapeake and Ohio (Chessie System). The Chessie System would move it via Ashland, Kentucky, Columbus and Toledo, Ohio, to Wayne, Michigan, where Consolidated Railroad Corporation (Conrail) picks up and delivers the coal to Parchment 9 and 10. The total rail distance is about 610 miles.

The alternate route from the primary supply area originates coal in BOM District 8 near Hazard, Kentucky, on the Louisville and Nashville (L&N) which moves it to Cincinnati, Ohio, where Conrail would pick up and deliver the coal Parchment 9 and 10. The total rail distance is about 530 miles.

An alternate route from the alternate supply area would originate coal in BOM District 2 near Pittsburgh, Pennsylvania, on Conrail which would deliver the coal to Parchment 9 and 10. The total rail distance is about 520 miles.

3. *Originating trunk carrier.* The Chessie System, the originating carrier of coal for Parchment 9 & 10 has approximately 75,000 hopper cars in service and plans to add 5,000 more in the near future. Using an average number of 20 deliveries per year per 75-ton car, the Chessie System may need as many as 130 additional cars to handle the increased demand from Parchment 9 and 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticapted demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating, alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* Freight service to Parchment 9 and 10 is provided by Conrail as illustrated above. Parchment 9 and 10 has indicated that coal has been used in the past and has been delivered by Conrail.

There are no obstacles to the delivery of coal to Parchment 9 and 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Parchment 9 and 10 presently exist, and alternate routes are available.

APPENDIX B—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1356	A. E. Staley Manufacturing Co.	Decatur plant	19, 20, 21	Decatur, Ill.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

A. E. Staley Manufacturing Company shall be referred to as the "owner" and as "Staley". Decatur Plant Units 19, 20, and 21 shall be referred to as the "MFBI's" and as "Decatur 19, 20 and 21."

V 42 93 MAY 13 77 UMI

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

FEA proposes to find that on June 22, 1974, Decatur 19, 20 and 21 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Staley, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 21, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Staley filed with FEA dated July 22, 1976, and other information available to FEA, the following plant equipment and facilities at Decatur 19, 20 and 21 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source.

1. Scales.
2. Feeders.
3. Air heaters.
4. Combustors.
5. Soot blowers.
6. Special instrumentation and controls.
7. Ash handling and ponding equipment.
8. Unloaders.
9. Conveyors.
10. Crushers.
11. Stokers.

C. FEA proposes to find that on June 22, 1974, Decatur 19, 20 and 21 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Decatur 19, 20 and 21 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*

a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilitiea associated with the burning of coal at Decatur 19, 20, and 21 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Decatur 19, 20 and 21 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c, above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Decatur 19, 20 and 21 will represent an annual cost increase of $228,024.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as their primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $624,886.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas of petroleum products as the primary energy source at Decatur 19 20 and 21 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFB's could experience annual savings in its total fuel cost should it convert to coal instead of converting to petroleum products, there would be a net increase in the costs to these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Decatur 19, 20 and 21 by $624,886 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable in further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

4. *Financial capability of the owner.*

a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Decatur 19, 20 and 21 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Staley. FEA related these additional capital investment costs to the total capitalization of Staley and the remaining useful life after conversion of Decatur 19, 20 and 21. FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Staley to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Staley MFBI's.

Notwithstanding the potential offsetting value of fuel lost savings attributable to compliance with this NOI and all other NOI's currently under consideration; Staley's total annual costs after conversion will increase by $624,886.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Decatur 19, 20 and 21 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Decatur

19, 20 and 21 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE MFBI'S DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. *Coal availability.*

1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine development will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8

3. *Characteristic coal production and demand. FEA's* "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Response from those companies identified planned production of coal which is not now committed to specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the types used at Decatur 19, 20 and 21 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's per lb (minimum)	10,000
Moisture (percent maximum)	15
Ash (percent maximum)	20
Volatile (percent minimum)	15
Ash softening temperature (degrees fahrenheit, minimum)	1,900
Sulfur (percent maximum, approximate)	1.06

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	211

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	61,390
1979	112,998
1980	141,696
1981	169,688
1982	179,742
1983	193,201
1984	228,474

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of the MFBI's from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	23,720
1979	41,682
1980	46,902
1981	54,781
1982	58,159
1983	62,984
1984	72,417

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1979	3,268
1979	9,149
1980	16,321

V42N93 MAY 13 77 UMI

Year:	Demand (thousand tons)
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.61 to 1.4 percent sulfur content (which includes the 1.08 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent Sulfur 0.61 to 1.4
1978	2,831
1979	5,825
1980	10,484
1981	11,673
1982	16,937
1983	16,937
1984	16,937

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Decatur 19, 20 and 21 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Ditsricts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. (Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*

1. *Location of MFBI's and coal supply.* Based on an FEA Study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for the Decatur Plant would probably come from BOM District 8 as the primary supply area and from BOM District 11 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Decatur 19, 20 and 21 is to originate coal in BOM District 8 near Hazard, Kentucky on the Louisville and Nashville Railroad (L&N). The L&N would move it via Louisville, Kentucky and Rerra Nourte, Indiana.

The total rail distances is about 568 miles.

The alternate route from the primary supply area originates coal in BOM District 8 area Hazard, Kentucky on the L&N which would haul it via Louisville, Kentucky to Bloomington, Indiana where the Illinois Central Gulf Railroad (ICG) would pick it up and carry via west to Newton, Illinois for delivery to Decatur 19, 20 and 21. The total rail distance is about 518 miles.

An alternate route from the alternate supply area would originate coal in BOM District 11 near Vincennes, Indiana on the Baltimore and Ohio line (Chessie System) which would move it to Olney, Illinois, where ICG picks up and delivers the coal to Decatur 19, 20 and 21. The total rail distance is about 136 miles.

3. *Originating trunk carrier.* The L&N, originating carrier of coal for Decatur 19, 20 and 21 has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 165 additional cars to handle the increased demand from Decatur 19, 20, and 21. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at these mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* The destination carrier of coal from the primary supply area is N&W which, Staley indicated, has delivered coal to Decatur 19, 20 and 21 in the past.

There are no other obstacles to the delivery of coal to Decatur 19, 20, and 21.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Decatur 19, 20 and 21 presently exist, and alternate routes are available.

Appendix C—Proposed Findings and Rationale for Notice of Intention to Issue a Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1853	Marathon Oil Co.	Robinson refinery	9,10	Robinson, Ill.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Marathon Oil Company shall be referred to as the "owner" and as "Marathon". Robinson Refinery Units 9 and 10 shall be referred to as the "MFBI's" and as "Robinson 9 and 10".

I. Capability and necessary plant equipment to burn coal

FEA proposes to find that on June 22, 1974, Robinson 9 and 10 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Marathon, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 21, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Marathon filed with FEA dated July 23, 1976, and other information available to FEA, the following plant equipment and facilities at Robinson 9 and 10 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders
2. Crushers
3. Conveyors
4. Pulverizers
5. Feeders
6. Air heaters
7. Combustors
8. Soot blowers
9. Special instrumentation and controls
10. Ash handling and ponding equipment
11. Electric switch gear

C. FEA proposes to find that on June 22, 1974, Robinson 9 and 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Robinson 9 and 10 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Robinson 9 and 10 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Robinson 9 and 10 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Robinson 9 and 10, will represent an annual cost increase of $403,378.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Robinson 9 and 10 is reasonable.

As a result of conversion, Marathon will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Robinson 9 and 10 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

Although conversion to the burning of coal would be expected to increase the cost of operating at Robinson 9 and 10, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determination is based on consideration of the substantial savings of petroleum products that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of Marathon as examined in the following analysis of financial capability, the nature of the expected operation of these boilers and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Robinson 9 and 10 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Marathon. FEA related these additional capital investment costs to the total capitalization of Marathon and the remaining useful life after conversion of Robinson 9 and 10.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Marathon to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Marathon MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Marathon's total annual costs after conversion will increase by $403,378.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Robinson 9 and 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Robinson 9 and 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

V 42 93 MAY 13 77 UMI

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Robinson 9 and 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Ash softening temp. (°F)	[1] 2,000
Sufur (approximately) (percent)	[2] 3.7

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	104

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8, and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	28,934
1979	52,077
1980	58,396
1981	67,882
1982	71,985
1983	77,668
1984	89,345

f. *Regional ESECA prohibition order demand for coal, regardless or characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8, and 13 with a 2.21–3.71 percent sulfur content (which includes the 3.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 2.21–3.71
1978	77
1979	1,330
1980	1,530
1981	1,531
1982	1,531
1983	1,531
1984	1,531

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Robinson 9 and 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders isued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8, and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Robinson 9 and 10 would probably come from BOM District 8 as the primary supply area and from BOM District 11 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Robinson 9 and 10 is to originate coal in BOM District 8 near Hazard, Kentucky, on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Louisville, Kentucky, to Bloomington, Indiana, where the Illinois Central Gulf (ICG) picks it up for delivery to Robinson 9 and 10. The total rail distance is about 420 miles.

The alternate route from the primary suply area originates coal near Stearns, Kentucky, on the Southern Railway which moves it via Louisville, Kentucky, to Mt. Carmel, Illinois, where Conrail picks it up to deliver to Robinson 9 and 10. The total rail distance is about 350 miles.

An alternate rout from the alternate supply area would originate coal in BOM District 11 in Sullivan County on Illinois Central Gulf which would deliver the coal to Robinson 9 and 10. The total rail distance is about 30 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Robinson 9 and 10, has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75 ton car, the L&N may need as many as 125 additional cars to handle the increased demand from Robinson 9 and 10. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Freight service to Robinson 9 and 10 is provided by Illinois Central Gulf and Conrail, as illustrated above. This refinery used coal as a boiler fuel until about 1970 and no delivery problems are foreseen. These carriers report that unloading and handling facilities would need to be modernized. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Robinson 9 and 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Robinson 9 and 10 presently exist, and alternate routes are available.

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V 42 93 MAY 13 77 UMI

federal register

FRIDAY, MAY 13, 1977

PART IV



DEPARTMENT OF LABOR

Office of the Secretary

■

PUBLIC JOB PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

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Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PUBLIC JOB PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These rules are promulgated to amend the Comprehensive Employment and Training Act of 1973 (CETA) regulations in 29 CFR Parts 94, 95, 98, and 99. These changes relate primarily to the public jobs program under title VI of CETA. The principal purpose of this rulemaking document is to further implement the amendments made to title VI by the "Emergency Jobs Program Extension Act of 1976" by providing additional guidance to prime sponsors for the operation and administration of the "projects" which were authorized by the amendments.

EFFECTIVE DATE: June 13, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Emergency Jobs Programs Extension Act of 1976 amended Title VI of CETA by adding Secs. 607, 608 and 609. The Title VI program was divided into two separate programs as follows:

(1) Sec. 607 required prime sponsors to continue the old Title VI public service employment program by reserving enough funds to sustain throughout Fiscal Year 1977 the number of Title II and Title VI public service job participants who were in the program on June 30, 1976. Sec. 607 also required prime sponsors to fill at least 50 percent of the slots which become vacant in the Title VI level of sustainment with low-income welfare (AFDC) recipients and long-term unemployed persons.

(2) Secs. 607–609 created a second Title VI program by requiring prime sponsors to use all remaining Title VI funds to run "projects" in which only low-income, long-term unemployed and AFDC recipients would be eligible to participate.

Section 702(a) of CETA states that the Secretary may prescribe such rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor, Employment and Training Administration published in the March 15, 1977, FEDERAL REGISTER (42 FR 14288) proposed rulemaking to revise the regulations.

At that time, the Department invited interested persons to submit comments on the proposed rulemaking to the Department by April 14, 1977. About 125 letters containing comments were received by the Department. Each of the comments in these letters was carefully studied with respect to its merits and in relation to other comments received on the same or similar subjects. The following significant changes have been made in response to these comments received on the March 15, 1977, proposed rulemaking.

DISCUSSION OF MAJOR COMMENTS AND CHANGES

SEC. 94.4 DEFINITIONS

The Department received many letters commenting on the definition of "ineligible for unemployment compensation" in paragraph (sss). The commenters felt that the language used was not entirely consistent with the intent of Congress because of various technical problems with individual State unemployment compensation laws. Under these laws individuals are eligible for unemployment compensation, but may not be able to receive benefits because of a technical disqualification. They are therefore both ineligible for participation in the title VI program and unable to receive unemployment benefits. The Department agrees with these commenters and has changed the definition to include any individual who is eligible for unemployment compensation, but is not able to receive unemployment benefits for any reason.

95.33 TYPES OF MANPOWER ACTIVITIES ALLOWABLE

The Department proposed that day care programs comply with applicable State and local standards, including State licensing requirements. The Department also proposed to delete the requirement that day care programs meet the Federal Interagency Day Care Standards because it had learned that those standards and requirements were extremely burdensome for the prime sponsors. Three commenters opposed this change because they believed that the standards were basically sound and because they believed that deletion of the requirements was premature. The commenters noted, however, that Congress recently suspended the staffing provisions of the standards for social services programs funded under Title XX of the Social Security Act, which is the major source of Federal funding for day care programs. They also noted that Congress has required the Department of Health, Education, and Welfare to reassess all the standards by July 1, 1977, a process which is now underway. The Department will follow this reassessment closely. In the meantime, however, because of the very real administrative burdens the present standards entail, the Department will only require day care under CETA to conform to State and local standards.

SEC. 98.25 RETIREMENT PROGRAMS

The majority of the comment letters received by the Department concerned this revised section of the regulations. Commenters brought to the Department's attention the probability that the proposed change would create problems for prime sponsors in the some States where State retirement laws require that certain CETA participants be covered by the appropriate retirement systems and where the laws also mandate that the employers' contribution to these retirement systems on behalf of the participants may not be withdrawn. In addition several comments were received stating that the existing retirement systems in several localities preclude the establishment of an escrow or reserve account as described in paragraphs (b)(1) and (3) of this section.

In proposing this revised section the Department gave serious consideration to the fact that changes, including amending existing laws and procedures, might be necessary to enable some prime sponsor areas to provide continued retirement benefits. However, these concerns were outweighed by the need to insure that CETA funds are used to most effectively benefit participants. Participation in retirement programs, especially for public service employment positions or projects of limited duration, is not the most effective way to use public employment funds; not only does such participation greatly reduce the amount of money available for jobs, but in many cases it has been found that the money was not providing any real benefit to the participants. It should be noted, however, that the regulations do not prevent CETA employees from participating in retirement systems. They only restrict the use of CETA funding to those cases in which CETA participants clearly benefit by obtaining vesting or transitioning into employment covered by the retirement system.

Section 98.25 shall become effective on prime sponsors and eligible applicants on October 1, 1977. However, the Regional Administrator, with the approval of the Regional Solicitor, may allow a prime sponsor or eligible applicant which is in a State whose law prohibits the implementation of procedures required by § 98.25, an extension of not more than one calendar year or up to the end of the next regular session of the State legislature, whichever occurs earlier. Such an extension may be granted only upon a showing by a legally supported opinion of the State Attorney General that the State legislature must change or modify a particular State law or laws so that the prime sponsor or eligible applicant may comply with § 98.25 in its use of CETA funds and that the procedures of § 98.25 may not be legally implemented by order of the Governor or by other executive authority. An extension may only be given on a Statewide basis and will be applicable to all prime sponsors and eligible applicants within the State which are covered by the affected State laws.

SEC. 99.1 SCOPE AND PURPOSE

Several comments were received recommending that the language in paragraph (e) of this section be strengthened to mandate that a 35 percent veterans quota be established for the filling of the newly created jobs. However, several other comment letters opposed the setting of any such goals or quotas. The CETA statute does not provide for the establishment of any such quotas. Consequently, the Department reiterates the Secretary's expressed desire for a national goal of 35 percent for veteran participation in the newly created public service employment jobs under Title II and Title VI of CETA.

SEC. 99.33 PUBLIC SERVICE JOB ACTIVITIES IN THE TITLE VI LEVEL OF SUSTAINMENT

The language relating to community capital improvement projects in areas of excessively high unemployment has been deleted for two reasons. First, it is largely duplicative of the language in § 98.12. And secondly, it contains inappropriate restrictions not contained in § 98.12. In addition the parallel language contained in § 99.74 has been deleted.

SEC. 99.42 ELIGIBILITY FOR PARTICIPATION IN TITLE VI PROGRAMS

The Department received many letters commenting on the unemployment status portion of the Title VI eligibility criteria in paragraphs (a)(1)(i) and (ii) of this section. The commenters felt that the criteria were not entirely consistent with the intent of Congress. Further, the use of the criteria eliminated many individuals from eligibility because of the technical provisions of various State unemployment compensation laws. The Department agrees with the commenters and has made the following change. An individual will be eligible if he/she is unemployed at the time of application and has been unemployed for 15 weeks out of the 20 weeks immediately prior to application and during the period of unemployment either (1) has been eligible for and receiving unemployment compensation benefits, or (2) has been ineligible for unemployment compensation.

A number of comments were received regarding the income eligibility criteria in paragraph (a)(1) of this section. It was brought to the Department's attention that in the cases of some families of less than four persons, the 70 per centum of the lower living standard income level is actually lower than the poverty guidelines established by the Office of Management and Budget (OMB). Since, in providing the lower living standard income level Congress intended to raise the income criteria for participation in Title VI programs from that which is used for Title I programs, paragraph (a)(1) was amended to state that an eligible person must either be economically disadvantaged as defined in § 94.4(s) or a member of a family whose income is at or below 70 per centum of the lower living standard income level.

The Department also received several comments which expressed concern over the methodology for determining current family income in the computation of the lower living standard income level. Specifically, the commenters recommended that the second sentence of paragraph (a)(2)(i) be deleted. That sentence read "only that portion of public assistance payments received by the applicant which the applicant will be disqualified from receiving due to the enrollment of the applicant under Title VI (e.g., payments under the Aid to Families with Dependent Children of Unemployed Fathers program) shall be excluded." The commenters felt that this regulation was almost impossible to administer and would result in a great deal of confusion on the part of prime sponsors, State employment security agencies (SESA's), public assistance agencies and applicants.

The Department agrees with the commenters. The language of the regulation was taken from section 608 of the statute which was added by the "Emergency Jobs Programs Extension Act of 1976". The intent of the provision is exceedingly unclear, except that Congress wanted to protect public assistance recipients from being excluded from participation in the title VI program because of the amount of their public assistance payments. However, the methodology apparently envisioned by the provision is administratively inconsistent not only with the income computation methodology of the Social Security Act (public assistance), but also with the income computation methodology used to qualify economically disadvantaged" individuals for CETA programs. The Department, therefore, while remaining faithful to the congressional intent, has simplified the proposed methodology by deleting the second sentence in paragraph (a)(2)(i).

Additionally editorial, stylistic and technical changes have been made in this revision.

Parts 94, 95, 98, and 99 of Title 29, of the Code of Federal Regulations are amended as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Section 94.4, Definitions, is amended by revising paragraphs (ooo) and (ppp), and adding paragraphs (rrr), (sss), and (ttt) to read as follows:

§ 94.4 Definitions.

• • • • •

(ooo) "Project" shall mean, for purposes of Part 99 of this title the same thing as the term "project and activity" used in Sections 607–9 of the Act, that is, "project" shall mean a definable task or group of related tasks which:

(1) Will be completed within a definable time period, not exceeding one year;

(2) Will have a public service objective;

(3) Will result in a specific product or accomplishment; and

(4) Would otherwise not be done with existing funds.

(ppp) "Project applicant" shall mean:

(1) A State;

(2) A State agency;

(3) A unit of general local government;

(4) An agency of a unit of general local government;

(5) A combination or association of units of general local government the primary purpose of which is to assist the governmental units to provide public services;

(6) A special purpose political subdivision having the power to levy taxes and spend funds within an area served by one or more units of general local government;

(7) A local education agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(8) An institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965;

(9) A community based organization as defined in paragraph (k) of this section;

(10) A community development corporation;

(11) A nonprofit group or organization serving Indians or Native Hawaiians; or

(12) A private non-profit organization or institution engaged in public service.

• • • • •

(rrr) "Exhaustee" shall mean an individual who has made a claim for unemployment compensation and has exhausted all such benefits to which the individual was entitled including Extended Benefits (EB), Federal Supplemental Benefits (FSB), Disaster Unemployment Assistance (DUA), Trade Readjustment Allowance (TRA), Special Unemployment Assistance (SUA), Unemployment Compensation for Federal Employees (UCFE), and/or Unemployment Compensation for Exservicemen (UCX). Exhaustee status will continue through the existing regular benefit year, at which time a new claim may be filed creating a new status of eligible or ineligible for unemployment compensation.

(sss) "Ineligible for unemployment compensation" shall mean the status of an individual who is for any reason, including disqualification ineligible for unemployment compensation benefits including SUA, DUA, EB, TRA, FSB, UCX, and UCFE. This includes any individual who is employed in an occupation not covered by unemployment compensation laws, or who is a new entrant or reentrant to the labor force, or who has been unemployed for such an extended period of time that the individual has no work history for unemployment compensation purposes.

(ttt) "Level of sustainment" shall mean, the number of Title II and Title VI slots which the prime sponsor may sustain throughout FY 1977, that is, the number of slots which the program contained on June 30, 1976, or on October 31, 1976, whichever was higher.

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

2. Section 95.33(d)(5)(iii)(B) is revised to read as follows:

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§ 95.33 Types of manpower activities allowable.

. . . . .

(d) . . .
(5) . . .
(iii) . . .

(B) Child care: Day care programs shall comply with applicable State and local standards, including State licensing requirements.

3. Section 95.34 is amended by renumbering paragraph (f) as (f)(1) and by renumbering paragraph (f)(1) as (f)(2) to read as follows:

§ 95.34 Training allowances.

. . . . .

(f) (1) Dependents allowances. Dependents allowances of $5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum of $20 for six or more dependents shall be provided to participants receiving basic allowances or who would be receiving basic allowances were it not for their receipt of unemployment compensation payments. Participants eligible for dependents allowances from other sources shall not be precluded from receiving dependents allowances funded under the Act.

(2) Dependents allowances shall be reduced pro rata only for absences without good cause. The reduction of the weekly dependents allowance shall be based on the ratio of the number of hours of absence without good cause to the number of hours which the individual is scheduled to participate in activities for which he/she receives allowances.

. . . . .

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

4. Section 98.12 is amended by adding the following sentence at the end of paragraph (b)(3).

§ 98.12 Allowable Federal costs.

. . . . .

(b) . . .
(3) . . . Participants, however, may participate in the winterization/weatherization of privately owned rental housing under projects funded and approved by the Federal Energy Administration or the Community Services Administration, (704(f).)

. . . . .

5. Section 98.25 is revised to read as follows:

§ 98.25 Retirement programs.

(a) The Act provides for temporary training and employment. Therefore, the inclusion of CETA participants in a retirement system is not encouraged. Funds under the Act, however, may be paid into a retirement system on behalf of participants in on-the-job training, work experience and public service employment in public or private non-profit agencies who:

(1) Obtain unsubsidized employment with the employer, provided the time spent as a CETA participant is accredited service under the employer's retirement plan;

(2) Obtain unsubsidized employment with another employer provided benefits are portable; or

(3) Obtain vesting.

(b) Examples of methods of administering such retirement system accounts are as follows:

(1) Payments are made first into a reserve account and are not paid into the retirement fund until the participant obtains a status described in paragraphs (a) (1) through (3) to this section. The amount held in the reserve account is then adjusted quarterly to reflect the turnover of participants and the projected funds needed to cover current participants; or

(2) Payments are made first into a reserve account for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a) (1) through (3) of this section, and the payments are not paid into the retirement fund until the participants obtain that status. If this method is used, the amount held in the reserve account and the actuarial rate shall be adjusted or determined at least annually; or

(3) Payments are made directly into the retirement fund for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a) (1) through (3) of this section. The amount held in the fund shall be adjusted or redetermined at least quarterly to reflect the actual number of participants who have acquired a status described in paragraph (a) (1) through (3) of this section. If this method is used, the amount of accumulated principal and interest earned on contributions made on behalf of participants not described in paragraphs (a) (1) through (3) of this section who terminate their program participation or who, for whatever reason, are no longer considered members in the retirement program must be retrievable.

(c)(1) If other than an actuarial method of benefit determination is used, there shall be at least a quarterly reprogramming back into the CETA program of any contributions (principal and interest) made on behalf of participants not described in paragraphs (a) (1) through (3) of this section who terminate their program participation, or who, for whatever reason, are no longer considered members in the retirement program.

(2) If an actuarial method is used in determining the number of participants who will benefit, a redetermination of the actuarial rate shall be made at least annually.

(3) Funds set aside in a reserve account may earn interest. Any interest earned shall be retained in the reserve account and shall be taken into consideration during reprogramming. Any interest earned on what may reasonably be determined to be a participant's portion of the reserve fund account may also be paid into the retirement fund when the participant obtains a status described in paragraphs (a) (1) through (3) of this section.

(d) Effective October 1, 1977, costs for retirement programs will be allowed only under an approved plan that meets the requirements of paragraph (a) of this section.

(e) Expenditures may be made from program funds for taxes under the Federal Insurance Contributions Act (FICA), 26 U.S.C. 3101 et seq.

6. Part 99 is revised to read as follows:

PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

Sec.
99.1 Scope and purpose of this Part 99.
99.2 Allocation of funds.
99.3 Eligibility for funds.

Subpart B—Grant Application

99.10 General.
99.11 Planning process; advisory councils.
99.12 Content and description of grant application.
99.13 Application for Federal assistance.
99.14 Comprehensive Title VI plan.
99.15 Assurances and certifications.
99.16 Grant signature sheet.
99.17 Comment and publication procedures relating to submission of grant application.
99.18 Submission of grant application; standards for reviewing grant applications.
99.19 Application approval; application disapproval; grant agreement.
99.20 Use of alternative eligible applicant; services by the Secretary.
99.21 Modifications.

Subpart C—Program Operation Requirements for Prime Sponsors

99.30 General.
99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.
99.32 Program performance requirements for prime sponsors.
99.33 Public service job activities in the Title VI level of sustainment.
99.34 Maintenance of effort.
99.35 Linkages with other employment and training programs; training and supportive services.
99.36 Placement goals.
99.37 Compensation and working conditions for participants.
99.38 Place of residence for participants.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

99.40 Apportionment of the prime sponsor's allocation.
99.41 Project approval.
99.42 Eligibility for participation in Title VI programs.
99.43 Verification of participant eligibility.
99.44 Special considerations on selection.
99.45 Administrative staff selection and compensation.

Subpart E—Administrative Provisions

99.70 General.
99.71 Payments, financial management systems and audit.
99.72 Reporting requirements.
99.73 Reallocation of funds.
99.74 Allowable Federal costs.

Sec.
99.75 Grantee contracts and subgrants.
99.76 Allocations of allowable costs among program activities.
99.77 Basic personnel standards for eligible applicants.
99.78 Adjustments in payments.
99.79 Termination of grant and closeout procedures.
99.80 Retention of records.
99.81 Program income and procurement standards.
99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.
99.83 Assessment and evaluation.
99.84 Hearings and judicial review.

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

99.90 General.
99.91 Grant responsibility.
99.92 Distribution of funds.
99.93 Eligibility for funds.
99.94 Funding of prime sponsors.
99.95 Participant eligibility.
99.96 Comments and publication procedures relating to submission of application for funding.
99.97 Planning process; advisory councils.
99.98 Travel requirements.
99.99 Nepotism and conflict of interest.
99.100 Nondiscrimination; political activities.
99.101 Subgrants.

Subpart A—General

§ 99.1 Scope and purpose of this Part 99.

(a) This part contains the Department of Labor's regulations governing the establishment and operation of a public service and employment and training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845, and the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94-444.

(b) This program is intended to sustain enrollment under Titles II and VI of the Act throughout Fiscal Year 1977, and to create project opportunities with funds in excess of those needed for sustaining enrollment.

(c) Provision is also made for a shift in emphasis toward serving persons who are long-term unemployed or AFDC recipients and whose family incomes are 70 percent or less of the lower living standard income level. All persons enrolled in projects must meet the above criteria. In addition, at least 50 percent of the vacancies which occur or which already exist in the Title VI level of sustainment must be filled with long-term unemployed persons and AFDC recipients. Persons filling the remaining vacancies may meet the original Title VI eligibility criteria. A prime sponsor, however, may fill all vacancies with long-term unemployed persons and AFDC recipients.

(d) Definitions for terms and abreviations used in this part which are not found in this Part may be found at § 94.4 of this title.

(e) Prime sponsors are encouraged to develop to the maximum extent feasible ways of assuring participation of veterans in the newly created public service employment positions.

(f) Pursuant to § 98.21 of this title, prime sponsors shall assure equal employment opportunity in the selection of eligible participants for projects. In the establishment of eligibility pools for participants, prime sponsors shall have ample lead time to assure that those in the pool adequately reflect the characteristics of their unemployed populations (i.e., minorities, women).

(g) Statutory authority for the regulations contained in this part is found in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of the substantive regulations in this part.

(h) Pub. L. 94-444 was signed into law on October 1, 1976. Therefore, as of October 1, 1976, certain provisions of Pub. L. 94-444 became immediately applicable, including sections 3(a)(1), 3(a)(2), and 11.

§ 99.2 Allocation of funds.

(a) The Secretary shall allocate not less than 2 percent of the funds available for Title VI of the Act to those eligible applicants defined in § 99.3 which are Indian tribes, bands, and groups qualified under section 302(c)(1) of the Act (sec. 602(e) and sec. 603 (a)(1)).

(b) Not less than 90 percent of the funds remaining after the application of paragraph (a) of this section shall be allocated among eligible applicants defined in § 99.3 which are prime sponsors under Title I of the Act according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of such applicants compared to the number of unemployed persons who reside in all eligible applicants' areas in all the States (sec. 603 (a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the ratio of the excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant, to the total excess number of unemployed persons who reside within the jurisdictions of all eligible applicants. In allocating funds to an eligible applicant which is not a State, the term "excess number" shall mean the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant. For allocating funds to an eligible applicant which is a State, the term "excess number" shall mean either the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II of the Act in the geographical area served by such State prime sponsor (under Title I or Title II), whichever is greater (sec. 603 (a)(2)(C)).

(3) Twenty-five percent of the funds shall be allocated for use on behalf of residents of areas of substantial unemployment. An area of substantial unemployment, other than in relation to Indian tribes, bands, and groups, is any area within a prime sponsor's jurisdiction which has a population of at least 10,000 persons, qualifies for a minimum allocation of $25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all areas of substantial unemployment (sec. 603(a)(2)(b)).

(c)(1) The remaining funds, not to exceed 10 percent of the funds remaining after application of paragraph (a) of this section, may be distributed to prime sponsors under Title VI by the Secretary as the Secretary deems appropriate to carry out the purpose of Title VI, taking into account both changes in rates of unemployment, and the need for additional funds to continue the same level of public service employment activities previously supported under the Act within the jurisdiction of the eligible applicant (sec. 603(b)).

(2) When any portion of these funds is to be allocated using a formula, the Secretary shall not later than 30 days prior to such allocation publish in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received within 30 days of the FEDERAL REGISTER notice, the Secretary shall publish final allocations (sec. 603 (d)).

(d) For purposes of paragraphs (b) and (c) of this section, the term "jurisdiction" means the jurisdiction of each unit of general local government as described in § 95.3(a)(2) of this subtitle, whether or not such unit has entered into a consortium of units of general local government for the purposes of § 95.3(a)(3) of this subtitle (sec. 603 (c)).

(e)(1) An eligible applicant shall distribute to a program agent, as defined in paragraph (e)(3) of this section, funds to be utilized to serve residents of the program agent's area unless the program agent declines to operate a program. In which case, the eligible applicant shall make other arrangements to serve the residents of the program agent's jurisdiction (sec. 204(d)(1)).

(2) If the Secretary does not specify an amount to be distributed to a program agent, the eligible applicant shall distribute funds to the program agent using the same rationale used by the Secretary in distributing funds to eligible applicants.

(3) The term "program agent" under this part shall mean any unit of general local government (or combination of such

V 42 1933 MAY 13 7 7 UMI

units) located within an eligible applicant's jurisdiction which has a population of 50,000 or more (sec. 204(d)(1)).

(4) Notwithstanding paragraph (e)(1) of this section, a program agent which is a member of a consortium may make agreements agreed to by the consortium for the administration of funds for the benefit of the residents of the eligible program agent's area:

§ 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. The term "eligible applicant" shall mean prime sponsors qualified for Fiscal Year 1977 under Title I of the Act and Indian tribes, bands, and groups qualified for Fiscal Year 1977 under section 302(c)(1) of the Act (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant which is a unit of local government, within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the Regional Administrator, in writing, its desire to be served by the State (sec. 204(a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless the other unit has not submitted an approvable application for such areas, or has stated its desire to the RA, in writing, to be served by such larger unit (sec. 204(a)).

(d)(1) An eligible applicant shall distribute funds to program agents as provided in § 99.2(e) (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the RA determines that the other program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its area (sec. 204(d)(3)).

(e) Funds for areas of substantial unemployment.

(1) An eligible applicant or program agent which contains an area or areas of substantial unemployment shall make available for services to residents of each such area those funds allocated to the eligible applicant under § 99.2(b)(3) (sec. 603(a)(2)(b)).

(2) An eligible applicant other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment, shall, to the extent feasible, allocate funds allocated under § 99.2(b)(3) according to § 96.3(f)(1) of this subtitle.

(3) If the eligible applicant is a State whose entire jurisdiction qualifies as an area of substantial unemployment, the eligible applicant shall, to the extent feasible, allocate the funds allocated to it under § 99.2(b)(3) according to § 96.3(f)(2) of this subtitle.

(4) If an eligible applicant believes that there is an area of substantial unemployment within its jurisdiction that has not been designated as such by the Secretary it may recommend that such area be considered by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the decision and the reasons therefor.

Subpart B—Grant Application

§ 99.10 General.

(a) This subpart contains the procedures for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) The Secretary reserves the right to temporarily waive any of the grant procedures in this subpart and provide immediate funding authority when, and if, strict adherence to a procedure would result in a funding delay which would necessitate the lay-off of currently employed participants.

§ 99.11 Planning process; advisory councils.

To receive financial assistance under Title VI of the Act, eligible applicants shall submit an appropriate comprehensive Title VI plan, pursuant to § 99.12. In developing and modifying such a plan, an eligible applicant shall utilize the planning process and the advisory councils pursuant to § 95.13 (b), (c), (d), and (e) of this subtitle.

§ 99.12 Content and description of grant application.

(a) To apply for a grant, each eligible applicant shall complete and submit a grant application.

(b) Copies of all grant application forms and instructions are contained in the Forms Preparation Handbook (ET Handbook No. 311).

(c) Each grant application shall consist of an Application for Federal Assistance, a Comprehensive Title VI Plan, Assurances and Certifications, and a Grant Signature Sheet. §§ 99.13–16 describes the contents of the grant application.

§ 99.13 Application for Federal Assistance.

The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested. It provides information concerning the area to be served and the number of people expected to benefit from the program. The Standard Form 424 contained in Federal Management Circular (FMC) 74–7 is being used as the Application for Federal Assistance.

§ 99.14 Comprehensive Title VI Plan.

(a) The Comprehensive Title VI Plan is a statement of how the eligible applicant intends to use Title VI funds and to coordinate its activities with other employment and training programs and services operating within its jurisdiction. The Comprehensive Title VI Plan consists of the Narrative Description of the Title VI Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, the Project Data Summary, and the Program Summary which are described below in paragraphs (b) through (h) of this section.

(b) The Narrative Description of the Title VI program identifies and explains the employment and training problems within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and states the results expected from the program. The Narrative Description requirements in this paragraph (b) are an abbreviated version of the Narrative Description requirements for Title II (§ 96.14(b)(2)(1) of this title). If the information required has already been provided in the current Title II Narrative Description, a copy of the Title II Narrative Description may be attached in order to comply with the requirements in this paragraph. The Narrative Description of the Title VI program must include the following items:

(1) *Objectives and needs for the assistance.* (i) Program purpose; and

(ii) Analysis of need—A brief description of the labor market of the area including labor force and a description of the population groups most in need of services at this time.

(2) *Results and benefits expected.* This item should explain how the quantified results in Section I of the PPS impact on the needs of the labor force and the community services to be provided.

(3) *Approach.* (i) What provisions have been made to sustain the June 30, 1976, level of enrollment in both Titles II and VI, or to retain the October 31, 1976 level, if higher?

(A) Identify the June 30, 1976, level of enrollment in Titles II and VI. Identify the October 31, 1976, level, if different.

(B) Identify the level of enrollment at the time of grant execution, if higher than either of the preceding. If the level of enrollment is higher, describe how these excess participants will be accommodated (e.g., transfer to projects, terminate, place in jobs).

(C) Estimate the amount of funds it will take to sustain the June 30, 1976, level of enrollment or to retain the October 31, 1976, level of enrollment, whichever level of enrollment is higher.

(D) Identify the number of participants that will be sustained under Title II.

(E) Identify the number of participants that will be in the Title VI level of sustainment.

(F) If any former participants are to be reinstated in the program under the provisions of § 99.40(c), state the number of individuals involved. Submit adequate documentation to allow the RA to determine that such individuals qualify for reinstatement, including the name, position, date of termination and reason for termination of each participant and any additional information required by the RA.

(ii) Describe the methods which will be used to provide any training and supportive services to long-term unemployed persons.

(iii) Provide the estimated average annual wage rate for PSE occupations and the method of obtaining this wage rate, keeping in mind the aim of obtaining a nationwide rate of $7,800.

(iv) Describe unmet public service needs.

(v) Describe the method of recruiting low-income AFDC recipients and long-term unemployed persons, and the method which will be used to verify such persons' eligibility for the program. Describe the procedures that will be used to track and monitor the flow of participants in order to comply with the different eligibility requirements of § 99.42(a) and (b).

(vi) Explain the basis for distributing funds within the eligible applicant's area.

(vii) Describe what steps will be taken to provide services to disabled, special and recently discharged veterans and to welfare recipients.

(viii) For newly eligible applicants, eligible applicants operating independently for the first time and eligible applicants serving geographical area(s) in addition to that served in the previous program year, describe the continuity of service to be provided.

(ix) Describe the process for selecting delivery agents and project operators including:

(A) The methods and criteria to be used in the selection of delivery agents and project operators;

(B) The methods and criteria to be used for soliciting and approving project applicants.

(x) Describe the linkages established with other employment and training and related agencies.

(xi) Identify the percentage of Title VI positions planned to be filled with veterans.

(4) *Management and administrative plan.* (i) Provide an organizational chart.

(ii) Describe internal administrative controls, including personnel or merit system and grievance procedures.

(5) *Maintenance of effort data.* Estimate the number of jobs that will be filled by rehiring former employees who have been terminated or laid off. (Under § 99.34, the RA may request additional documentation on this item.)

(c) *Program planning summary.* The program planning summary requires an eligible applicant to provide a quantitative statement of planned enrollment levels, the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities), and planned outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals in each to be served.

(d) *Budget information summary.* The budget information summary requires an eligible applicant to:

(1) Provide a quantitative statement of planned expenditures and obligations;

(2) Indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); and

(3) State planned quarterly obligations and planned expenditures by program activity.

(e) *Monthly schedule.* The monthly schedule contains an estimate of total number of participants who will be enrolled in Title VI programs at the end of each month and of the total cumulative expenditures expected to have been incurred by the end of each month.

(f) *Public service employment occupational summary.* The public service employment occupational summary provides a description of proposed job opportunities, occupations and wages for similar nonsubsidized jobs in the employing agency at the sustaining level. The above information should not be provided for projects.

(g) *Project data summary.* The project data summary provides a description of each proposed project.

(h) *Program summary.* The program summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area. The above information should not be provided for projects.

§ 99.15 Assurances and certifications.

(a) The assurances and certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The assurances and certifications form will be provided in the grant application package.

(b) When prime sponsors are planning to fund job opportunities authorized under Section 304(a) of the Act, paragraphs (3), (4), (5), and (6), they must submit a certification to the RA in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 604(a)).

§ 99.16 Grant Signature Sheet.

The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the RA to the grantee, the Title of the Act under which funding is authorized and the name, title and signature of the approving official on both sides.

§ 99.17 Comment and publication procedures relating to submission of grant application.

(a) Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this subtitle, except that newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Indian prime sponsors, and appropriate labor organizations may be simultaneous with submission of the grant application to the RA.

(b) Each eligible applicant shall submit a copy of its grant application to appropriate State and sub-state clearinghouse(s) at the same time that it submits its application to the RA.

§ 99.18 Submission of grant application; standards for reviewing grant applications.

(a) Each eligible applicant shall submit its grants application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 99.12.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the RA shall use the standards set forth in § 95.17(b) of this subtitle.

§ 99.19 Application approval; application disapproval; grant agreement.

The procedures set forth in §§ 95.18 and 95.19 of this subtitle shall apply for Title VI applications and grant agreements.

§ 99.20 Use of alternative eligible applicant; services by the Secretary.

The provisions detailed in § 95.20 of this subtitle shall apply to applications and grants made pursuant to Title VI of the Act.

§ 99.21 Modifications.

The modification procedures set forth in § 95.21 of this subtitle shall apply to Title VI grants.

Subpart C—Program Operation Requirements for Prime Sponsors

§ 99.30 General.

(a) This subpart contains the program operation requirements governing prime sponsors with respect to the creating and expanding of public service job opportunities for unemployed and underemployed persons (secs. 205, 602(a)).

(b) This subpart also contains special provisions governing prime sponsors of areas of excessively high unemployment, which include:

(1) Prime sponsors of areas having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the RA, and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of exces-

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sively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(2) Prime sponsors which are "exceptional circumstance" prime sponsors under section 102(a)(4) of the Act and which certify to the RA in the grant application or a request for modification that application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(3) Prime sponsors which are "concentrated employment program" prime sponsors under section 102(a)(5) of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area; and

(4) Prime sponsors which are State prime sponsors serving areas which are eligible for assistance under Title II of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the Title II area.

§ 99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.

(a)(1) A prime sponsor shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle.

(2) A prime sponsor of an area of excessively high unemployment shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle, except that the provisions of § 96.21(c), (d) and (e) of this subtitle shall not apply.

(b) The responsibilities of program agents, as defined in § 99.2(e)(3), shall be those provided in § 96.22 of this subtitle.

§ 99.32 Program performance requirements for prime sponsors.

(a) A prime sponsor shall use funds under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved Comprehensive Title VI Plan and within the monthly schedule.

(b)(1) The RA shall review the program performance of each prime sponsor on a monthly basis and determine the adequacy of the prime sponsor's performance with respect to the expenditure and enrollment levels provided for in the Program Planning Summary, Budget Information Summary, and the monthly schedule.

(2) If a prime sponsor operates at a level in variance from the monthly schedule, the RA may prescribe corrective action and/or technical assistance.

(c) The RA, on a monthly basis, shall make a general review of the prime sponsor's performance and goals to determine the responsiveness of the prime sponsor's program to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

§ 99.33 Public service job activities in the Title VI level of sustainment.

(a) A prime sponsor may use funds reserved for sustaining enrollment under Title VI to provide:

(1) Public service jobs which provide maximum employment opportunities for eligible persons (sec. 602(a));

(2) Public service employment programs which meet the requirements of § 96.23 of this subtitle (sec. 602(a));

(3) Basic manpower activities and services described in § 95.33(d)(1), (2), (4), (5), and (6) of this title (sec. 201);

(4) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, if the prime sponsor certifies to the RA in the grant application or a modification that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 640(a));

(5) Where funds are utilized pursuant to paragraphs (a)(3) and (a)(4) of this section, all provisions under this part shall apply, except for references in such provisions to §§ 96.20, 96.21 (b)(c)(d)(e)(g) and (h), 96.23, 96.31, 96.32, 96.33, and 96.34 of this subtitle. In addition, those provisions applicable for program under Title I, or Part A of Title III shall apply. However, when Title VI funds are used to fund public service employment, all of the provisions of this part shall apply.

(b) Funds allocated to prime sponsors of areas of excessively high unemployment may also be used for public service employment programs which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b)(2), (3), and (8) shall not apply.

§ 99.34 Maintenance of effort.

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the prime sponsor without assistance under the Act (sec. 602(c), 205(c)(25)).

(b) To assure maintenance of effort, the prime sponsor shall see that all programs under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or employment benefits;

(3) Shall not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs under federally supported programs other than those under the Act (secs. 602(c), 208(a)(1)).

(c) Prime sponsors, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under Title VI. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (h) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) No prime sponsor shall hire or allow the hiring of any person into any job funded under this part when any other person is on lay-off from the same or any substantially equivalent job (secs. 602(c), 205(c)(7)(8)). If layoffs of regular employees occur during the grant period, participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Such participants shall be transferred to positions not affected or be laid off or terminated. Prime sponsors shall try to transfer them to Title I, if appropriate, or shall attempt to place them into unsubsidized employment before laying them off or terminating them (secs. 602(c), 205(c)(7)(8)).

(e) Former employees who lost their jobs due to a bona fide lay-off may be hired into positions supported under this Part provided that such hiring does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(f) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the prime sponsor can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under this part; and

(2) The promotional opportunities of regular employers will not be infringed upon.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or hiring freeze.

(h) Prime sponsors, program agents, or subgrantees which utilize funds under this part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which are normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) of this section nor of any other requirements of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable.

Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

(i) Funds shall not be used to provide public services, through a private or nonprofit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area if such funding will result in a reduction of the customary level of such service by the State, political subdivision, or local educational agency.

(j) RAs and prime sponsors shall carefully review all programs to insure compliance with all maintenance of effort requirements.

§ 99.35 Linkages with other employment and training programs; training and supportive services.

(a) Each prime sponsor, where appropriate, shall maintain linkages with other employment and training programs as provided under the provisions of § 96.32 of this subtitle.

(b) As appropriate, each prime sponsor shall provide training and supportive services for participants as specified by § 96.31 of this subtitle.

§ 99.36 Placement goals.

Public service employment programs, to the extent feasible, shall meet placement goals as described in § 96.33 of this subtitle (secs. 602(c), 211(b)). The provisions of § 96.33(c)–(f), however, shall not be applicable to participants in projects as described in § 99.40(a)(2).

§ 99.37 Compensation and working conditions for participants.

(a) Participants in public service employment programs and projects shall be compensated pursuant to § 96.34 of this subtitle.

(b) A prime sponsor may establish, on an area basis, jobs and wage structures for participants, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide, federally supported annual average wage rate equivalent of $7,800 per full-time position within the overall $10,000 federally supported salary limitation provided to public service jobholders. However, this provision in no way is intended to relieve a prime sponsor from compensating participants in accordance with paragraphs (a), (c), (d), (e), and (f) of this section. The RA is authorized to make recommendations, on an area basis, to prime sponsors pertaining to the provisions set forth in this paragraph.

(c) Participants in classroom training programs shall be compensated pursuant to § 95.34 of this subtitle.

(d) Participants in on-the-job training programs and projects shall be compensated pursuant to § 95.35 of this subtitle.

(e) Participants in work experience programs shall be compensated in accordance with § 95.33(d)(4)(viii) of this subtitle. When participants enrolled in work experience are working in projects, wages shall equal the highest of either of the rates specified in § 95.33(d)(4)(viii) of this subtitle or the prevailing rates of pay for persons employed in similar occupations by the same employer. When a participant in a work experience activity is performing the tasks of a regular public service employment type job, wages must be comparable to those paid for the regular public service job, as specified in § 96.34 of this subtitle.

(f) The salary limitations specified in § 96.34(c) of this subtitle shall apply to compensation provided participants under Title VI.

(g) Participants in public service employment may only be placed in above entry level positions or in supervisory positions in projects to the extent consistent with the provisions of § 96.23(b)(11) and (12) of this subtitle.

§ 99.38 Place of residence for participants.

(a) *General.* (1)(i) At time of both application and selection, program participants shall reside within the geographic area for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may a prime sponsor hire a person from the jurisdiction of another prime sponsor or of a program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection.

(2) A prime sponsor or program agent may receive additional funds as a subgrantee of another prime sponsor or program agent to enroll residents of the other prime sponsor's or program agent's jurisdiction in any public service job or other manpower program under Title VI. The prime sponsor or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other prime sponsor's or program agent's jurisdiction.

(3) *Consortia of eligible applicants.* If two or more jurisdictions eligible to be prime sponsors have found a consortium to operate programs under Titles I, II, and VI, residents of any designated area within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) of this subtitle shall apply: *Provided*, That the total amount of funds spent for residents of each participating prime sponsor equals the amount of funds that the area would have received if the consortium had not been formed.

(b) Funds provided under § 99.2(b)(3) shall be used only on behalf of residents of geographic areas eligible for assistance under Title II of the Act.

(c) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional prime sponsors.* The provisions of paragraphs (a) and (b) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional prime sponsors.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

§ 99.40 Apportionment of the prime sponsor's allocation.

(a) *General.* (1)(i) Each prime sponsor shall reserve from the funds available during Fiscal Year 1977 for its use under Title VI, an amount which, when added to the funds available during Fiscal Year 1977 for its use under Title II, shall be sufficient to sustain throughout FY 1977 the number of Titles II and VI participants who were in the program on June 30, 1976.

(ii) However, if the number of participants enrolled in Titles II and VI on October 31, 1976, plus any rehires who were terminated from Titles II and VI and who are approved for reinstatement in accordance with paragraph (c) of this section, is higher than the June 30, 1976, level of participants, the prime sponsor may reserve funds to carry the higher level into the new grant period. The prime sponsor should be aware, however, that its allocation, which shall be keyed to the June 30, 1976 level, may not be sufficient to operate at the higher level throughout FY 1977.

(iii) (A) Funds reserved in accordance with paragraph (a)(1)(i) of this section shall not be used to support a level of opportunities in excess of the June 30, 1976, level or the level of opportunities on the date of grant execution.

(B) Funds reserved in accordance with paragraph (a)(1)(ii) of this section shall not be used to support a level of opportunities in excess of the October 31, 1976, level plus any rehires who have been approved for reinstatement under paragraph (c) of this section or the level of opportunities on the date of grant execution.

(iv) Where the enrollment level at the time of grant execution is higher than the Title VI level of sustainment, prime sponsors may transfer these excess participants into projects or into their programs under Titles I or II, to the extent that the participants being transferred met the appropriate eligibility criteria at the time of enrollment in CETA.

(2) Funds remaining after the application of paragraph (a)(1) of this section shall be used for new projects as defined in § 94.4(ooo) of this title, not to exceed 12 months and subject to the approval procedures in § 99.41 (sec. 607(b)).

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(b) *Enrollment of Title VI participants.* (1) At least fifty percent of the participants enrolled in vacancies or openings in the Title VI level of sustainment shall meet the eligibility criteria in § 99.42(a).

(2) Those vacancies not filled by individuals meeting the new eligibility criteria shall be filled by individuals meeting the eligibility criteria in § 99.42 (b).

(3) All participants enrolled in projects as specified in § 99.40(a)(2) and § 99.41 shall meet the eligibility criteria in § 99.42(a) of this Part.

(4) Individuals enrolled in Title VI may be rehires as defined in § 94.4(qqq), of this title, provided that the maintenance of effort provisions of § 99.34 are not violated. In addition, prime sponsors may give preference to unemployed, qualified former health and safety personnel for public health and safety positions, when selecting individuals pursuant to paragraph (b)(2) of this section (sec. 607(c)(2)).

(5) The cumulative and current number of participants meeting the eligibility criteria in § 99.42(a) who are enrolled in vacancies or openings in the Title VI level of sustainment shall at all times approximate 50 percent or greater of all participants enrolled in vacancies or openings in the Title VI level of sustainment.

(6) In paragraphs (b) (1), (2), and (3) of this section, persons enrolled after grant execution shall not include Title II participants who are moved into Title VI during the initial separation of Titles II and VI participants.

(c) Any rehire who, after June 30, 1976, and before October 1, 1976, was laid off from a job supported under Titles II and VI because of the provisions of § 96.24 (e) and (f) of this subtitle may be reinstated by the prime sponsor into a Title VI position supported pursuant to paragraph (a)(1) of this section without regard to requirements of paragraphs (b) (1) and (2) of this section. However, reinstatement shall be subject to RA determination that they were laid off because of § 96.24 (e) and (f), after review of information provided in § 99.14 (b)(3)(i)(F). The reinstatement provision of this section shall not relieve a prime sponsor from compliance with § 99.34(d) (sec. 609(c)).

§ 99.41 Project approval.

(a) Funds remaining after funds are reserved for supporting the level of opportunities determined in § 99.40(a)(1) shall be utilized for public service jobs in new projects, as defined in § 94.4(ooo), not to exceed one year in duration. (As part of these new projects, prime sponsors may utilize those funds for manpower program activities as described in § 95.33(d) (1), (2), (4), (5), (6), and (7) of this title (sec. 607(b)).

(b) Such projects shall be funded as follows:

(1) Each prime sponsor shall establish procedures for its own use and the use of its program agents for notifying potentially eligible project applicants (as defined in § 94.4(ppp) of the application process and cut-off date for acceptance of applications.

(2) Each prime sponsor is responsible for establishing procedures for its own use and the use of its program agents, whereby, upon receipt, a copy of each project application shall be submitted to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the application (sec. 609(a)).

(i) No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a proposed project in which that member (or any organization with which that member is associated) has a direct interest (sec. 609(a)).

(3) Prime sponsors and program agents should give consideration to providing a substantial portion of the project funds to project applicants which are nonprofit agencies.

(4) In reviewing project applications, prime sponsors, and program agents should carefully consider any proposed expenditures for materials, supplies, equipment, and space in relation to the duration of the proposed projects.

(5) Prime sponsors and program agents shall not disapprove a project application without first considering any comments and recommendations submitted by the planning council and providing the project applicant and the council with a written statement of the reasons for the disapproval (sec. 609(b)).

(6) In program agent areas, decisions on approving or disapproving project applications shall be made in accordance with § 96.22 of this subtitle.

(7) Appropriate labor organizations should be consulted in the design of projects where collective bargaining agreements exist with the employing agency.

§ 99.42 Eligibility for participation in Title VI programs.

(a) The following criteria shall be used by prime sponsors in determining participant eligibility pursuant to § 99.40(a)(2) and (b)(1) and in selecting participants for these positions (sec. 608(a)).

(1) An eligible person must either be economically disadvantaged as defined in § 94.4(s) of this subtitle or be a member of a family which has a current total family income, determined pursuant to paragraph (a)(2) of this section, at or below 70 per centum of the lower living standard income level, as defined in § 94.4 (nnn), and must meet the residency requirements of § 99.38 of this Part, and must be a person.

(i) Who is unemployed at the time of application and during the 20 weeks immediately prior to application has been receiving unemployment compensation for 15 or more weeks; or

(ii) Who is unemployed at the time of application and during the 20 weeks immediately prior to application is ineligible for unemployment compensation as defined in § 94.4(sss) and has been unemployed for 15 or more weeks; or

(iii) Who is unemployed at the time of application and was unemployed during 15 of the 20 weeks immediately prior to application, and who, during that 15 week period, was first ineligible for unemployment compensation as described in paragraph (a)(1)(ii) of this section and then became eligible for and received unemployment benefits.

(iv) Who, at the time of application, is unemployed and is an exhaustee as defined in § 94.4(rrr) of this title; or

(v) Whose family is receiving Aid to Families with Dependent Children (AFDC), including AFDC—Unemployed Fathers, under Title IV of the Social Security Act.

(2)(i) In determining current family income, the prime sponsor shall annualize, based on the three months preceding application, total family income, utilizing the same exclusions (e.g., unemployment compensation) used to determine family income for the Participant Record.

(ii) In instances where, due to seasonal employment, summer employment for youth, or other circumstances, the three months period is unrepresentative, the prime sponsor shall compute family income by totaling all family income received during the twelve months prior to application, except for those exclusions indicated in paragraph (a)(2)(i) of this section (sec. 608(a)(2)).

(3) The prime sponsor shall take reasonable steps to insure that funds used pursuant to § 99.40 (a)(2) and (b)(1) are equitably allocated among the categories of eligible persons described in subdivisions (i), (ii), (iii), and (iv) of paragraph (a)(1) of this section. Such equitable allocation shall be made in light of the composition of the population of unemployed eligible persons served by the prime sponsor, to the extent that such data are available. No one group shall be served exclusively, and no group shall be excluded from service (sec. 608(c)).

(4) Participants under Title I, Title IV, section 302 and section 303 of the Act, participants under Sections 5 and 6 of the Emergency Employment Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Title II or VI activities funded through the Department, may be transferred pursuant to § 99.40 (a)(2) or (b)(1) if they met the requirements of paragraph (a)(1) of this section and § 99.38 at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release discharge, for participation in a project under § 99.40 (a)(2) and (b)(1) without regard to paragraphs (a)(1) (i), (ii), (iii), and (iv) of this section which would otherwise pertain

(38 U.S..C 2013): *Provided*, The veteran has not obtained permanent full-time unsubsidized employment between the time of release and the time of application for participation in Title VI.

(b) In order to be eligible pursuant to § 99.40(b)(2), an individual shall be:

(1)(i) A person who has been unemployed for at least 30 days, as defined in § 94.4(hhh), prior to application, or who is underemployed, as defined in § 94.4 (fff), and who meets the residence requirements of § 99.38, is eligible pursuant to § 99.40(b)(2). The term residence is defined in § 96.27(f) of this subtitle; or

(ii) A person who has been unemployed for at least 15 days, as defined in § 94.4(hhh), except for the provision of § 94.4(hhh)(3), prior to application, or who is underemployed, as defined in § 94.4(fff) and who meets the residence requirements of § 99.38, is eligible for a job funded under § 99.40(b)(2) in areas of excessively high unemployment.

(2) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon release, for participation in an activity under § 99.40 (a)(1) and (b)(2) without regard to the 15- or 30-day unemployment requirement which would otherwise pertain (38 U.S.C. 2013): *Provided*, The veteran has not obtained permanent, full-time unsubsidized employment between the time of release and the time of application for participation in Title VI.

(3) A person participating in a public employment program under a Section 5 or Section 6 grant funded by the Emergency Employment Act (EEA) may be transferred into an activity under § 99.40 (b)(2), in order to provide for the orderly phaseout of the EEA grant, if he/she met the requirements of § 99.38 at the time his/her entry into EEA, and provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(4) Title I, Title II, Title IV, section 302, and section 303 participants under the Act, and participants under Title X of the Public Works and Economic Development Act, who are enrolled in Titles II or VI activities funded through the Department may be transferred pursuant to § 99.40(b)(2) only if they met the requirements of paragraph (b)(1) of this section at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employment program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed for this title, and is immediately eligible if the individual also meets the requirements of § 99.38.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for paragraph (b)(1) of this section.

(c) The following requirements are applicable in the selection process of participants for all jobs and activities filled under Title VI:

(1) The selection of participants shall be made in accordance with the provisions of § 96.25 of this subtitle.

(2) A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title VI, unless even with such full-time employment, an applicant pursuant to § 99.40(b)(2) still meets the requirements of paragraph (b)(1) of this section.

(3) Citizenship may not be used as a criterion to prevent persons from participating in a program under Title VI. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or refugees, including refugees who are parolees.

(4) While the selection of eligible full-time students for participation in programs funded under Title VI is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. Prior to providing for such participation, prime sponsors should give special consideration to those persons most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title VI.

(5) A participant in a Title VI program may change jobs within a particular prime sponsor's or program agent's jurisdiction without reestablishing eligibility pursuant to paragraphs (a) or (b) of this section, but may not be employed in a job or activity for any other prime sponsor or program agent without again establishing eligibility pursuant to paragraphs (a) or (b) of this section.

(6) The provisions of §§ 96.28 and 96.30, special consideration for most severely disadvantaged persons and groups to be provided special consideration, shall apply to programs funded under Title VI.

(7) The significant segments of a prime sponsor's population shall be served on an equitable basis, as provided in § 96.29 of this subtitle. In selecting individuals eligible pursuant to paragraphs (a) of this section, the requirements of paragraph (a)(3) of this section are in addition to serving significant segments equitably.

§ 99.43 Verification of participant eligibility.

(a) A prime sponsor is responsible for assuring the eligibility of all participants under Title VI. The eligibility requirements of subdivisions (i), (ii), (iii), and (iv) of § 99.42(a)(1) are verifiable. Prime sponsors shall be liable for any payments made to participants determined ineligible during program audits or reviews or otherwise. Decisions on whether to verify eligibility and on the method of verification rest with the prime sponsor except as provided in paragraphs (b) and (c)(3) of this section.

(b) To facilitate the rapid implementation of this program, the prime sponsor may enroll without prior verification, applicants who attest to their eligibility. Within 60 days of these participants' enrollment, the prime sponsor shall obtain written verification of their eligibility from the State employment security agencies (SESAs) and/or welfare agencies. Participants who are found to be ineligible shall be terminated immediately and the prime sponsor shall not be liable for wages and benefits paid to these participants prior to the receipt of the written verification.

(c) In order to protect their liability, prime sponsors are encouraged to develop arrangements and procedures for the verification of participants as follows:

(1) Arrangements, including cooperative agreements, with SESAs for the verification of individuals whose applications indicate that they qualify pursuant to subdivisions (i), (ii), and (iii) of § 99.42(a)(1); and

(2) Arrangements with public welfare agencies for the verification of individuals whose applications indicate that they qualify as an AFDC recipient (§ 99.42(a)(1)(iv)).

(3) To the extent that there are arrangements pursuant to paragraphs (c)(1) and (2) of this section and these arrangements are described in an approved grant, the prime sponsor shall not be responsible for verifying those eligibility requirements covered in those arrangements, nor shall it be liable for any costs resulting from its reliance on such arrangements.

(d) As unemployment compensation recipients approach their 15th week or their exhaustion status, SESAs will be informing them of their possible eligibility for Title VI programs. Prime sponsors shall work with the SESA in the development of arrangements for informing these individuals of their possible eligibility for available opportunities.

§ 99.44 Special considerations on selection.

In providing public service jobs and determining hours of work for individuals eligible pursuant to §§ 99.40(a)(2) and 99.40(b)(1), each prime sponsor shall take into consideration the household support obligations of the individuals and shall give special consideration

V42 I93 MAY 13 77 UMI

to such alternative working arrangements as flexible hours of work, shared time and part-time jobs, for participants with particular needs, e.g., parents of young children, older persons, and handicapped individuals (sec. 608(d)).

§ 99.45 Administrative staff selection and compensation.

(a) The Title VI administrative staff shall be selected and compensated in accordance with the provisions of § 96.35 of this subtitle.

(b) When administrative funds are utilized to pay the wages of supervisory personnel for projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

Subpart E—Administrative Provisions

§ 99.70 General.

This subpart contains regulations on the administration of grants under Title VI of the Act. The regulations in this subpart reference the sections of Part 98 of this subtitle which apply to Title VI grants.

§ 99.71 Payments, financial management systems and audit.

Sections 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply to grants under Title VI of the Act (secs. 702(b), 713).

§ 99.72 Reporting requirements.

(a) Section 98.7 of this subtitle shall apply to Title VI programs (secs. 702(12), 713).

(b) Section 98.8 of this subtitle requiring submission of the Program Status Report and Monthly Report shall apply to programs under Title VI. To assure the effective implementation of the program and the least disruption during its phase-down, the Secretary may require the prime sponsor to submit information on a more frequent basis.

(c) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Participant Characteristics shall apply to programs under Title VI.

(d) Section 98.10 of this subtitle requiring submission of a Report of Federal Cash Transactions shall apply to programs under Title VI.

§ 99.73 Reallocation of funds.

(a) Irrespective of requirements under § 98.11 of this subtitle, the RA may make such reallocation, as he deems appropriate, of any amount of any allocation under Title VI of the Act to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the RA determines that a reallocation is appropriate, he shall give the grantee and the appropriate Governor 30-day notice of the proposed action to remove funds from the grant. Such notice shall include the specific reasons for the action being taken.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. The RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the FEDERAL REGISTER.

(d) The procedures set out in this section are in lieu of any other procedure which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the same area or to eligible applicants to serve other areas. In reallocating such funds to serve other areas, priority shall be given first to eligible applicants within the same State and then to eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas (sec. 606).

§ 99.74 Allowable Federal costs.

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI grants. In addition, the 15 percent administrative funds may be used to purchase construction supplies and materials to be used in projects.

99.75 Grantee contracts and subgrants.

Section 98.27 of this title shall apply to Title VI grants, except that contracts and subgrants may not extend more than 6 months beyond the term of the grant.

§ 99.76 Allocations of allowable costs among program activities.

Section 98.13 of this subtitle shall apply to Title VI grants.

§ 99.77 Basic personnel standards for eligible applicants.

(a) Section 98.14 of this title shall apply to Title VI grants (sec. 703(14)).

(b) The basic personnel standards, as set forth in § 98.14 of this subtitle, shall apply only to an eligible applicant's staff and not to program participants. However, in filing public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met.

§ 99.78 Adjustments in payments.

Section 98.15 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.79 Termination of grant and closeout procedures.

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.80 Retention of records.

Section 98.18 of this subtitle shall apply to Title VI grants (sec. 703(a)(12)).

§ 99.81 Program income and procurement standards.

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI grants.

99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.

(a) Sections 98.21, 98.22 and 98.23 of this subtitle apply to Title VI programs (secs. 703(1), 710 and 712);

(b) Sections 98.24, 98.25, 98.26, 98.28, and 98.29 of this subtitle relating to general benefits and working conditions, retirement programs, procedures for resolving issues, nonfederal status of participants, and Davis-Bacon Act provisions, shall apply to Title VI programs.

§ 99.83 Assessment and evaluation.

Sections 98.30 through 98.34 shall apply to Title VI grants (sec. 703(14)).

§ 99.84 Hearings and judicial review.

Sections 98.40 through 98.49 of this subtitle shall apply to Title VI grants (except as otherwise provided in this part).

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

§ 99.90 General.

This subpart contains special conditions for grants under Title VI of the Act to Indian tribes on Federal and State reservations, recognized tribes in the State of Oklahoma, and Alaskan Native Villages in the State of Alaska. To the extent that any provisions of this subpart differ from any other provision of this part, the provisions of this subpart shall govern. Otherwise, the requirements of this part 99 apply to programs under this subpart.

§ 99.91 Grant responsibility.

The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to eligible applicants as defined under § 99.90 above. For purposes of this subpart, all references to RA in this Part 99 shall be read as Director, Division of subpart, all references to RA in this part subpart, all references to RA in this part

§ 99.92 Distribution of funds.

Funds for use under this subpart shall be not less than 2 percent of all funds appropriated for Title VI programs. Such funds shall be allocated among the designated prime sponsors on the basis of the prime sponsor's Indian and Alaskan Native rate of unemployment compared to the rate of unemployment in all eligible areas. In making such allocations, the Secretary shall use the best data available. Within prime sponsors which are consortia, the Secretary shall allocate funds among the member reservations on the basis of identifiable areas of high unemployment. To the extent feasible, a nonconsortium prime sponsor shall allocate funds within its area on the basis of identifiable areas of high unemployment.

§ 99.93 Eligibility for funds.

Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages shall be eligible for Title VI funds provided they meet the requirements of § 96.42 of this subtitle, except that recognized tribes in Oklahoma and Alaskan Native villages are exempt from the Federal or State reservation requirement.

§ 99.94 Funding of prime sponsors.

(a) A prime sponsor, if necessary, shall update its Preapplication for Federal Assistance (SF-424) to include a request for funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a Preapplication shall comply with § 97.111 of this subtitle.

(b) A consortium, if necessary, shall amend its consortium agreement to insure that it covers activities funded under Title VI of the Act.

(c) Funds made available pursuant to Title VI shall be included in existing Fiscal Year 1977 grants via a modification if appropriate. If new grants are executed, they shall be for a period not to exceed 12 months.

(d) The Title VI modification of the new grant shall consist of the Employment Plan and the Grant Sheet. New grants shall also include appropriate Assurances and Certifications. The Employment Plan shall consist of:

(1) A full narrative description of the program;

(2) A program planning summary;

(3) A budget information summary;

(4) An occupational summary;

(5) A program summary; and

(6) A monthly plan.

§ 99.95 Participant eligibility.

Indian and Alaskan Natives who meet the eligibility and residency requirements of this part shall be eligible to participate in programs funded under Title VI.

§ 99.96 Comments and publication procedures relating to submission of application for funding.

Each eligible applicant shall provide an opportunity for comment on its Title VI plan as set out in § 97.115 of this subtitle.

§ 99.97 Planning process; advisory councils.

Eligible applicants shall utilize in their planning process the services of their planning councils authorized under § 97.113 of this subtitle. In addition, the provision of § 99.41 shall apply to the project application approval process.

§ 99.98 Travel requirements.

Travel regulations for grantees under this subpart shall be those at § 97.161(f)(7) of this subtitle.

§ 99.99 Nepotism and conflict of interest.

(a) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(b) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

(c) Each prime sponsor shall establish safeguards to prohibit employees under the grant, board members, or tribal council members from using their positions for private gain for themselves or others with whom they have family, business or other ties.

§ 99.100 Non-discrimination: political activities.

Sections 98.21 and 98.23 shall be applicable to programs under this subpart except to the extent that those provisions conflict with 42 U.S.C. 2000e(b)

§ 99.101 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire as staff qualified Indians in accordance with 42 U.S.C. 2000e–2(i).

Signed in Washington, D.C., this 4th day of May 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-13797 Filed 5-12-77;8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 93—FRIDAY, MAY 13, 1977

V 42 93 MAY 13 77 UMI

federal register

FRIDAY, MAY 13, 1977
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ENVIRONMENTAL PROTECTION AGENCY

CONSUMER PRODUCT SAFETY COMMISSION

■

FULLY HALOGENATED CHLOROFLUOROALKANES

Proposed Prohibitions and Notice of CPSC Action

V42N93 MAY 13 77
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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 2, 189, 310, 500, 510, 700, 801]

[Docket No. 76N-0460]

CERTAIN FLUOROCARBONS (CHLOROFLUOROCARBONS) IN FOOD, FOOD ADDITIVE, DRUG, ANIMAL FOOD, ANIMAL DRUG, COSMETIC AND MEDICAL DEVICE PRODUCTS AS PROPELLANTS IN SELF-PRESSURIZED CONTAINERS

Proposed Prohibition on Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to prohibit the use of certain fluorocarbons, which are fully halogenated chlorofluoroalkanes (chlorofluorocarbons), as propellants in self-pressurized containers in products subject to the Federal Food, Drug, and Cosmetic Act (FFDCA). This action is proposed because chlorofluorocarbons may deplete stratospheric ozone, leading to an increase in skin cancer, climate changes, and other adverse effects. Essential uses of chlorofluorocarbons, specified in the regulation, would not be subject to the regulation.

Related actions: (1) A final rule has been published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017) that requires warning statements on foods, drugs, animal food, animal drugs, cosmetics, and medical devices in self-pressurized containers that contain chlorofluorocarbon propellants. (2) The Environmental Protection Agency (EPA) is issuing in the FEDERAL REGISTER a proposed rule which would prohibit, under the Toxic Substances Control Act (TSCA) the manufacture, processing or initial distribution in commerce of chlorofluorocarbons for aerosol propellant uses except for specified essential uses. (3) The Consumer Product Safety Commission (the Safety Commission) has published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21807) a proposed rule to require a warning on consumer aerosol products subject to the Consumer Product Safety Act that contain chlorofluorocarbon propellants. The Safety Commission is issuing in the FEDERAL REGISTER a Notice of Commission Action in Response to the Environmental Protection Agency's Proposed Ban with respect to Nonessential Uses of Fully Halogenated Chlorofluoroalkanes as Propellants in Consumer Aerosol Products.

DATE AND ADDRESS FOR SUBMISSION OF COMMENTS: Interested persons may, on or before July 12, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this notice of FDA's proposed action. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. The comment period will be open, for the limited purpose described below, for 30 days after the conclusion of the hearing to be held by EPA. Comments on the actions proposed by EPA and CPSC should be directed to the respective agency at the address indicated in the document proposing the action.

PROPOSED EFFECTIVE DATES: Food, drug, device or cosmetic products manufactured or packaged on or after December 15, 1978, and finished products initially introduced into interstate commerce on or after April 15, 1979 would have to comply with the regulation.

FOR FURTHER INFORMATION CONTACT:

Buzz L. Hoffmann, Deputy Director, Environmental Impact Staff (HFS-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4502.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is proposing to prohibit the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to the FFDCA. The products to which the regulation applies are human food (including food additives), human drugs (including biological products), animal food, animal drugs, cosmetics, and medical devices. The proposed prohibition would not apply to uses, specified in the rule, that the Commissioner has concluded are essential.

The Food and Drug Administration is proposing this prohibition to reduce the risk of stratospheric ozone depletion posed by the release of chlorofluorocarbons. A reduction of stratospheric ozone may increase the amount of ultraviolet radiation reaching the earth, and as a result increase the incidence of skin cancer, change climate, and produce other adverse effects. Chlorofluorocarbon release may also affect climate by increasing infrared absorption in the atmosphere.

The Commissioner of Food and Drugs took the initial steps toward phasing out the use of chlorofluorocarbons in products subject to the FFDCA in a proposal to require warning statements (Docket No. 76N-0459), and in a notice of intent to propose rules and request for information (Docket No. 76N-0460), which published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52071, 52070, respectively). The preamble to the proposal to require a warning statement set forth the Commissioner's reasons for believing that regulatory action is necessary to phase out use of chlorofluorocarbons. The Commissioner published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017) a final rule requiring a warning statement on products subject to the FFDCA. In the preamble to the final rule, the Commissioner discussed the comments received on the proposed warning statement. The Commissioner relies on the administrative record relating to the required warning statement (Docket No. 76N-0459), which is publicly available, to support and demonstrate the need for this proposal to prohibit the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to the FFDCA. The Commissioner has discussed below the proposed regulation, the comments submitted on the notice of intent, and the coordination of FDA's regulatory action with the action of other Federal agencies.

PROPOSED REGULATION

The proposed regulation declares that any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant is adulterated and/or misbranded with the exceptions noted below. In addition, any drug product for human or animal use in a self-pressurized container that contains a chlorofluorocarbon propellant is a new drug or a new animal drug. This proposed regulation applies to any fully halogenated chlorofluoroalkane (chlorofluorocarbon) used in a self-pressurized container as a propellant to expel a different liquid or solid material under pressure. The reason for covering only propellant uses and an explanation of the applicability of the definition are given in the preamble to the final rule establishing the warning requirement published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017).

Because only propellant uses are covered at this stage, the proposed phaseout does not apply to the use of chlorofluorocarbon as an aerating agent in foamed or sprayed food products, such as dessert toppings or cheese spreads. The use of chlorofluorocarbons as an aerating agent encompasses the stabilizer use of chlorofluorocarbons referred to in the final rule relating to the warning requirement published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018). In this proposal, the term "aerating agent" is used rather than the term "stabilizer" to describe the function chlorofluorocarbons perform in foamed or sprayed food products because the "aerating agent" term is more precise and is the term currently used in the food additive regulations. The use as an aerating agent is provided for under a food additive regulation that, at the present time, permits use of a chlorofluorocarbon both as a propellant and an aerating agent. The proposed revision of the regulation would ensure that the chlorofluorocarbon is used as an aerating agent, with any propellant side effect being no more than is minimally necessary to achieve the aerating function. The Food and Drug Administration intends to propose to prohibit nonpropellant uses of chlorofluorocarbons, other than essential uses, in conjunction with the planned EPA proposed phaseout of nonpropellant uses. The projected date for the FDA proposal is June 1978.

The Commissioner notes that some uses of chlorofluorocarbon propellants in foods may be "prior sanctioned" uses

that are not within the definition of a food additive in section 201(s) of the act (21 U.S.C. 321(s)), and, as a result, are not subject to the requirements in section 409 of the act governing food additives (21 U.S.C. 348). The Commissioner is proposing this ban on the propellant uses of chlorofluorocarbons in foods in reliance on section 402 of the act (21 U.S.C. 342), as well as on section 409; section 402 applies to all foods, including "prior sanctioned" uses. Thus, any food containing a nonessential chlorofluorocarbon propellant in violation of a final rule issued as a result of this proposal, would be considered an adulterated food under the act, notwithstanding the fact that the use may have been prior sanctioned with respect to the food additive requirements of the act.

The proposed regulation exempts certain products containing a cholorofluorocarbon in a self-pressurized container from the adulteration and misbranding provisions because the use of the chlorofluorocarbon in these products has been found to be essential. Any drug product whose use of a chlorofluorocarbon has been found essential is required, however, to have an approved new drug application (NDA). Five specific uses of chlorofluorocarbon as a propellant in self-pressurized containers are set forth in the proposed regulation as essential uses. The rationale for including these products is discussed in the preamble to the final rule establishing the warning requirement published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22017) and below in this document.

The proposed regulation also provides that any person may petition the agency to request that other products containing a chlorofluorocarbon propellant be added to the list of uses considered essential. To demonstrate that the use of the chlorofluorocarbon is essential, the petition must be supported by an adequate showing that (i) there are no technically feasible alternatives to the use of a chlorofluorocarbon in the product, (ii) the product provides a substantial health, environmental, or public benefit unobtainable without use of the chlorofluorocarbon, and (iii) the use does not involve a significant release of chlorofluorocarbon into the atmosphere or, if it does, the release is warranted by the benefit conveyed.

Modification of the proposed list of essential uses may be made as a result of comments received on this proposal. Anyone who submits a comment requesting another use chlorofluorocarbons to be exempted from the phaseout regulation should include the information required to be submitted in support of a petition.

After publication of the final regulation, a product containing a chlorofluorocarbon can only be exempted from the phaseout regulation by submitting a petition requesting an amendment to the regulation. Further, if the product is a drug product, an NDA or a new animal drug application (NADA) would have to be submitted and approved.

Many of the drug products containing a cholorofluorocarbon whose use has not been found to be essential are now covered by an approved NDA or NADA. Holders of such approved applications will not be able to market their products after the effective date of the final regulations since such products will be adulterated and/or misbranded. Therefore, holders of these approved applications will either have to reformulate their products in self-pressurized containers, eliminating the chlorofluorocarbon, or discontinue them. Since it is proposed that no products containing a chlorofluorocarbon as a propellant in a self-pressurized container, except the exempted products, be manufactured after December 15, 1978, any holder of an approved NDA or NADA who is reformulating the product should submit a supplemental application by October 1, 1978, to permit prompt review, and approval before December 15, 1978. These supplements should be complete and contain the information required in § 314.8 (21 CFR 314.8) or § 514.8 (21 CFR 514.8). Since the December 15, 1978, date for discontinuing manufacturing and the April 15, 1979, date for initial introduction into interstate commerce apply to all products subject to FDA's control, it will be advantageous for each NDA holder or NADA holder who is reformulating his product to be certain that his supplemental application is complete. If an NDA holder or NADA holder does not plan to reformulate the drug product, he should submit a letter requesting that the NDA or NADA for the drug product containing a chlorofluorocarbon be withdrawn and stating that the right to a hearing on the withdrawal of the application is waived.

Most of the drug products containing a chlorofluorocarbon for a use that is considered essential are the subject of an approved NDA. However, some metered-dose adrenergic bronchodilator drug products for oral inhalation and some contraceptive vaginal foams are marketed without NDA's. Since any drug containing a chlorofluorocarbon as a propellant in a self-pressurized container is a new drug, it will be necessary for a manufacturer of an "essential" drug product not covered by an NDA to submit and obtain an approved application. It is proposed that such an application must be submitted no later than 180 days after the date of publication of the final regulation and must be approved by December 15, 1978, for the firm to continue manufacturing the product. It is therefore recommended that each firm required to submit an application under this requirement discuss the type of information needed to support the application with FDA before submitting the application.

Any sponsor of an investigational new drug (IND) or of a claimed exemption for a new animal drug (VIND) for a drug product containing a chlorofluorocarbon as a propellant would also be required by the proposed regulations to amend the IND or VIND notice to review the formulation. The sponsor could, however, petition the agency to have the use of the chlorofluorocarbon in the investigational drug be declared an essential use.

Although the use of chlorofluorocarbon in certain products is exempt from these proposed phaseout regulations, the Commissioner wishes to make it clear that as technology changes, this list may be revised. If another suitable propellant becomes available or alternate route of administration for any essential product is identified, the manufacturer will be expected to reformulate his product accordingly. If any manufacturer of one of the products on the list of essential uses submits data in support of a reformulated product that does not include a chlorofluorocarbon, the Commissioner will consider proposing an amendment to the regulation to delete that product from the exempt list.

COMMENTS ON THE NOTICE OF INTENT

In the notice of intent and request for information that published on November 26, 1976, the Commissioner announced his intention to phase out nonessential uses of chlorofluorocarbons in FDA-regulated products. The Commissioner has discussed below in numbered paragraphs the comments received on the notice of intent to the extent they relate to the action being proposed in this document, unless the matter has already been adequately discussed and disposed of in the preamble to the final rule establishing the warning statement.

Fifty-three comments were received in response to the notice of intent to propose a phaseout. These comments were received within the comment period or within 1 week of its close. Comments received within a week could be analyzed in the normal course, and these comments have been treated as if they had been timely filed. Late comments were screened, and they did not present any new matter significantly different from the issues raised in the timely comments. Those persons who wish to make further comments on this proposal should do so during the comment period.

In response to two requests for an extension of time to comment, the Commissioner granted an extension of time to comment on the notice of intent with respect to two reports cited in the requests as forthcoming and as the basis for seeking an extension. The reports referred to were a report by International Research and Technology Corporation and Policy Models, Inc., (IRT Study) done under contract with EPA on the economic impact of a phaseout of chlorofluorocarbon propellants, and a NASA update of projections of ozone depletion. Two additional submissions were made on the basis of the extension of time, and neither discussed the NASA update. The NASA update in a preliminary version became available recently and is discussed in the preamble to the final rule relating to the warning requirement. Some of the other information in these submissions related to issues discussed in the preamble to the final rule relating to the warning requirement.

V 42 N 93 MAY 13 77 UMI

The comment on the IRT Study are discussed below.

ESSENTIAL USES

1. One comment complained of the absence of adequate FDA criteria for determining which uses are essential and expressed doubt that the term was meant in its literal sense of "absolutely necessary; indispensable." Only life-sustaining products could meet such a test. Because of the uncertainty of the criteria, the comment, from a major supplier of fluorocarbons, submitted information about all uses of chlorofluorocarbons and the "product and process benefits" of the various aerosol uses of chlorofluorocarbons in FDA-regulated products. The benefits listed include nonflammability and, in the case of antiperspirants and deodorants, even distribution, personal hygiene, reduction of valve clogging, and "direction of application"; in the case of perfumes and colognes, avoidance of alteration of the fragrance; in the case of hair care products, "an evenly-applied light spray"; in the case of pancoatings, "even distribution of minimal product"; in the case of medicinals and pharmaceuticals, dosage control, prevention of product degradation, no back contamination, reduction of child-ingestion hazards, and application to sensitive areas without touching; and, in the case of veterinary pet products, better application to unrestrained animals.

The Commissioner has stated in the proposed rule the criteria for determining whether a product is essential. Essentiality means both that there are no technically feasible aerosol or nonaerosol alternatives to using a chlorofluorocarbon in a product and that the product provides a substantial public benefit, such as a therapeutic medical benefit. A product need not be indispensable to life but in the Commissioner's judgment, the benefit must be important and consist of more than added convenience or enhancement of appearance. Benefit is a broad concept that can encompass economic consequences, but an economic impact solely upon the manufacturer of the product would not ordinarily be sufficient to make a use essential, since most regulations involve an economic impact upon the manufacturer for a short term or even longer. A substantial economic impact on consumers or other users could conceivably be an element to make a use essential but only in conjunction with some other significant benefit provided by the product.

A product containing chlorofluorocarbon propellants will not be deemed essential solely because it has some advantages over other products. Most products containing chlorofluorocarbon propellant alternative form that achieves and continue to be marketed, in a nonpropellant alternative for that achieves substantially the same function, e.g., deodorants in solid form, hair sprays in pump dispensers, and liquid colognes. Thus, the use of self-pressurized containers for these products is not essential, notwithstanding benefits in terms of convenience or greater consumer satisfaction. If the alternative form presents other hazards, the Commissioner will take regulatory action as appropriate to deal with all unsafe products subject to the FFDCA.

The Commissioner therefore disagrees with the comment to the extent that it suggests that the product benefits listed are sufficient to make the general classes of products essential across-the-board. The Commissioner has discussed below, and in the final rule relating to the warning requirement, the comments submitted with respect to the essentiality of specific products.

2. Many comments related to essentiality determination for product uses not subject to this proposed regulation, including liquid food freezant uses, polystyrene food packaging uses, and ethylen oxide sterilization equipment.

This proposed rule applies only to propellant uses of chlorofluorocarbons in self-pressurized containers. The Commissioner will defer consideration of the submissions relating to uses not subject to this proposal until he undertakes consideration of the proposal to phase out all other uses of chlorofluorocarbons. All the nonpropellant uses of chlorofluorocarbon will be considered in the next phase, when EPA also examines these uses. The propellant use of chlorofluorocarbon is by far the principal use of chlorofluorocarbons in FDA-related products. A proposed rule to phase out nonessential, nonpropellant uses of chlorofluorocarbons is tentatively planned for issuance in June 1978. This schedule will permit a coordinated examination of the environmental and economic consequences of the phaseout of nonpropellant uses.

3. One comment adjusted to the statement made in the notice of intent that every prescription drug product would be assessed to determine if the use of a chlorofluorocarbon in the product was essential. The comment indicated that all prescription drugs should be exempt from the phaseout regulations because all prescription drugs confer health benefits and thus are essential.

The Commissioner is not persuaded by this comment which completely disregards the reason a drug is distributed in a self-pressurized container. Some products are in self-pressurized containers because it is the most effective delivery system possible, while other drugs are in self-pressurized containers merely for convenience. The fact that a prescription drug confers a health benefit is not the issue, if other means of product delivery exist and the self-pressurized container provides no special public benefit.

4. Many comments requested that one or more specific OTC or prescription products for topical administration be exempted from the phaseout regulations and/or exempted from the warning statement, e.g., topical analgesics, sunburn, and minor burn remedies. Comments from other manufacturers for some of the same types of products requested exemptions until suitable replacement propellants were found, or they requested a reasonable time for an orderly and economic transition. Types of products identified in these comments were topical analgesics, sunburn and minor burn remedies, topical antimicrobial agents, surgical scrubs, insect bite products, topical antifungal agents, topical antiflammatory agents, topical anesthetics, a surgical spray dressing, and a product for treatment of seborrheic dermatitis of the scalp.

The Commissioner has carefully considered the requests for an exemption of topical drug products in the preamble to the final rule requiring a warning and concludes that none of these topical products should be exempted from the warning or phaseout regulations. He does recognize, however, the need for a reasonable time for manufacturers to find suitable replacements if they plan to reformulate their products. The time in which chlorofluorocarbons are to be removed from these products is discussed elsewhere in this preamble.

5. One comment requested that a prescription vaginal foam product for the treatment of atrophic vaginitis be exempted. The Commissioner concludes that the effectiveness of the product is not dependent upon the foam delivery system. The basis for the exemption request was that there were no suitable alternatives to the chlorofluorocarbon propellants in the product. No data were presented to show why this product had to be administered as a foam and why other delivery systems would not be satisfactory.

6. One comment, from a manufacturer that used chlorofluorocarbons in the synthesis of two inhalation anesthetic drug products, requested that these products be exempted from the phaseout regulations.

At this time, the Commissioner is only proposing regulations that would prohibit the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to FDA control. The chlorofluorocarbons used by this manufacturer are used in the preparation of the product and not distributed in self-pressurized containers, and thus such a use is not covered by this proposal.

7. One comment requested that a pre-surgical skin cleaner containing chlorofluorocarbon 113 be exempt from the phaseout regulations. The comment indicated that the only alternative was diethyl ether which had the disadvantage of being highly flammable.

This drug product is supplied as a liquid, to be applied to the skin with the aid of cotton swabs, and not as an aerosol in a self-pressurized container. Therefore, it is not covered by this proposal or the warning statement requirement which covers only propellants in self-pressurized containers.

8. One comment, from a manufacturer of vegetable oil-based cookware spray using a chlorofluorocarbon propellant, stated that no suitable replacement for chlorofluorocarbons is available. The company noted that hydrocarbon propellants are flammable and that nitrous oxide and carbon dioxide combine with the oil resulting in a shaving cream appearance when sprayed.

The Commissioner believes other delivery methods are feasible. For example, dab-on applicators exist or can be developed. He concludes, therefore, that the use of chlorofluorocarbons for this purpose is not essential.

OTHER HALOCARBONS

9–10. The Commissioner invited comments on the health and environmental risks from all halocarbons, in addition to chlorofluorocarbons, and particularly the hydrochlorofluorocarbons. A chemical supplier submitted information to show that hydrochlorofluorocarbons pose a significantly lower risk of ozone depletion than chlorofluorocarbons.

As described in the preamble to the final rule requiring a warning statement, there have been recent reports that certain hydrochlorofluorocarbons are weakly mutagenic and/or teratogenic and are not likely to be marketed before 1980 pending further toxicological study. Several papers were also submitted reporting data on the reaction rates of chlorofluorocarbons and hydrochlorofluorocarbons with the hydroxyl radical (Ref. 1). These papers show that the chlorofluorocarbons react least rapidly of all halocarbons tested with hydroxyl radical and, thus, would pose the greatest risk to stratospheric ozone. The hydrochlorofluorocarbons have faster reaction rates with hydroxyl radical, suggesting that they have shorter tropospheric lifetimes and pose lesser risks to stratospheric ozone. A recent publication by H. B. Singh (Ref. 2), however, suggests that the actual concentration of tropospheric hydroxyl radicals may be about five times lower than the concentration currently used to predict tropospheric lifetimes. If this were so, all tropospheric lifetime estimates woud be revised upward. This would be particularly significant in the case of hydrochlorofluorocarbons. The Commissioner invites further comment from the scientific community on the significance of this paper.

The Commissioner concludes that it is premature at this point to resolve whether the release to the atmosphere of hydrochlorofluorocarbons and halocarbons other than chlorofluorocarbons pose unacceptable risks. He recognizes that the available data suggests that the risk from hydrochlorofluorocarbons is considerably less than the risk from chlorofluorocarbons, but the data available are still limited. The Commissioner will consider carefully any further information submitted on this issue. The Food and Drug Administration will continue to cooperate with EPA, CPSC, and other Federal agencies on the further exploration of the issues about environmental and other risks from halocarbons.

11. One comment addressed the formation of decomposition products resulting from the breakdown of hydrochlorofluorocarbons in the troposphere. The expected decomposition products would include hydrogen chloride, hydrogen fluoride, and carbonyl halides. The comment concluded that the carbonyl halides formed, although toxic in concentrated form, would not pose any hazard to health in the concentrations which would result should global aerosol chlorofluorocarbon release be converted on an equal weight basis to hydrochlorofluorocarbons. Another comment, supporting the use of hydrochlorofluorocarbons, pointed out that the greenhouse effect of these compounds would be many times less than that which might occur from the release of chlorofluorocarbons because hydrochlorofluorocarbons have been shown to be much weaker absorbers in the 8 to 12 micrometer region. Further comment on these matters is invited.

OTHER COMMENTS

12. One comment recommended methylene chloride as a desirable part of alternate hydrocarbon propellant systems. The comment discussed the flammability-suppressant and solvency properties of methylene chloride as factors favoring its adoption as a component of alternate propellant systems. The comment stated that atmospheric half-life is measured in days rather than years and animal toxicity studies reported thus far in two species indicate that methylene chloride will ultimately be proven a "very safe and suitable component of most cosmetic aerosols."

The Commissioner is aware that methylene chloride is currently being used as a component in the propellant system of some products in self-pressurized containers. The long-term toxicological properties of methylene chloride are presently being investigated both in government-sponsored studies and those supported by private industry. The Commissioner notes that methylene chloride is closely related in chemical structure to chloroform which has recently been shown to be carcinogenic, and the use of which is restricted under 21 CFR 300.-513 and 700.18. The Food and Drug Administration has invited the submission of information in a notice published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21843) about the health risks to the immediate user of all halocarbons.

13. One comment viewed the Commissioner's action as based on opposition to aerosols. The comment characterized aerosols as beneficial and energy-saving.

The Commissioner is proposing the action not because of any generalized opposition to aerosols, but because of the health and environmental risks posed by products containing chlorofluorocarbon propellants, as already fully discussed. The comment did not provide any data or information to support the assertion that aerosols are energy-saving.

PROPOSED EFFECTIVE DATE

14. Some comments urged a delay in the effectiveness of a phaseout until alternative hydrochlorofluorocarbon propellants were tested for safety and became commercially available. A leading supplier of chlorofluorocarbons urged a delay on this basis until January 1980. A trade association of cosmetic manufacturers suggested December 1980 as the effective date to minimize the economic impact, particularly on aerosol manufacturers and the cosmetic industry. The comment argued that the uncertainty about the availability of a hydrochlorofluorocarbon alternative made it difficult for industry to plan. Manufacturers might incur the cost of switching to hydrocarbon propellants, and some companies might cease to make aerosols, only to find out later that hydrochlorofluorocarbons could safely be used and would be available as an alternative.

The Commissioner recognizes the difficulties manufacturers face because of the uncertainties about the availability of hydrochlorofluorocarbons. He also commends the supplier of the chemical for acting responsibly to ensure that the safety of the chemical has been substantiated before it is marketed. Delay until 1980, however, involves a considerable period of time, and there is no assurance that hydrochlorofluorocarbons would be found to be safe. If for some reason the tests were not completed by 1980 or were not conclusive, there would undoubtedly be requests for further delay. The risks from chlorofluorocarbon use would continue during this period.

Those who requested the delay have attempted to minimize the environmental and health risks posed by chlorofluorocarbons. The Commissioner believes those risks are serious and must be weighed heavily in any examination of the inflation impact. The Commissioner recognizes that a phaseout will have a substantial economic impact on some firms. But the Commissioner is not persuaded that he should delay the phaseout to wait for the safety of possible alternative propellants to be tested. If a self-pressurized container were essential, a delay might be justified to permit development of an alternative propellant or a resolution of uncertainties about its feasibility or safety. A self-pressurized container is not essential, however, in products subject to the FFDCA, except in a few limited products exempted from the phaseout. The Commissioner concludes, therefore, that a delay to test the safety of a possible propellant alternative is not warranted.

In proposing the effective date, the Commissioner has provided a reasonable period for companies to phase out uses of self-pressurized containers with chlorofluorocarbon propellants. The inflation impact of a phaseout has been comprehensively analyzed on the basis of a phaseout of manufacture of chlorofluorocarbons for propellant uses in October 1978, approximately 18 months from the issuance of this proposal. The proposed phaseout of use in manufacturing or packaging products subject to the FFDCA would be December 1978, and the cut-off for initial introduction into interstate commerce of finished products would be April 1979. The effective date of December 1978 will be ap-

V 42 93 MAY 13 77 UMI

proximately 1 year from the date the final regulation is issued. Six months were allowed after the cessation of manufacturing of the chemical by suppliers to complete processing and shipment of stocks on hand. The Commissioner believes this is an ample time period for manufacturers to switch to alternative means of product delivery. Furthermore, the Commissioner's intention to phase out these uses has been known since November 1976, and industry has had the opportunity to develop alternative plans for a considerable period. In the notice of intent, the Commissioner asked for information on the time needed to make substitutions, but apart from the comments already discussed, little information was submitted.

The comments on the proposed warning statement indicated that inventories of packaged products can be large. Accordingly, in fixing the effective dates, the Commissioner has been careful to allow adequate time between the cessation of manufacturing or packaging products and the time for initial introduction into interstate commerce.

The effective dates of December 1978 and April 1979 apply to all products subject to FDA control, including approved new drugs and new animal drugs in aerosol form that have not been found essential. Supplemental NDA's or NADA's for drugs that have been reformulated to remove the chlorofluorocarbon should be submitted on or before October 1, 1978. Every attempt will be made to review them as soon as possible. A well-prepared supplemental NDA or NADA will assist in this review.

Coordination With Other Federal Agencies

This proposal was developed after consultation with EPA and the Consumer Product Safety Commission, and essentially parallels and complements the phaseout of propellant uses proposed by EPA. Both the EPA and FDA phaseout proposals apply to all chlorofluorocarbons, i.e., all fully halogenated chlorofluoroalkanes. The proposals of both agencies apply only to propellant uses. A phaseout of nonpropellant uses of chlorofluorocarbons will be proposed later by both agencies. The effective dates for the proposed phaseout of propellant uses have been developed on a coordinated basis. The EPA proposed regulation would become effective on October 15, 1978, with respect to manufacture of the basic chemical. The FDA proposal is directed at finished foods, drugs, cosmetics, and devices containing chlorofluorocarbons and does not contain an earlier effective date for phasing out manufacture of the basic chemical. The Food and Drug Administration has proposed to make its regulation effective on December 15, 1978, for food, drug, cosmetic, and device products manufactured or packaged after that date. This date is comparable to the December 15, 1978, effective date EPA is proposing under TSCA for processing products containing chlorofluorocarbon propellants. Both agencies are proposing April 15, 1979, as the effective date for halting any further introduction into interstate commerce of finished products containing chlorofluorocarbon propellants.

The Food and Drug Administration proposed prohibition applies to uses of chlorofluorocarbon propellants in self-pressurized containers subject to the FFDCA. The Environmental Protection Agency action is being proposed under TSCA which excludes from its coverage any food, food additive, drug, cosmetic, or device when manufactured, processed, or distributed for use as these articles. The Environmental Protection Agency and FDA have coordinated their proposals to avoid unnecessary duplication, prevent gaps in coverage, and promote efficient enforcement of the pertinent laws. The proposed regulation by EPA applies to the manufacture of chlorofluorocarbon for use as an aerosol propellant other than essential uses in FDA-regulated products and essential uses specified in the EPA phaseout regulation. At present, according to EPA, all fully halogenated chlorofluorokane propellants are manufactured in an identical manner regardless of potential end use. At the manufacturing stage, the ultimate intended use is undetermined or not clearly established. Since FDA will have prohibited nonessential propellant uses in FDA-regulated products, it is reasonable to believe that chlorofluorocarbons would not be manufactured for these uses. The scope of the proposed EPA regulation will promote effective enforcement of the requirements of TSCA in these circumstances.

Congress clearly did not intend to create regulatory gaps by creating the exclusion for FDA-regulated products. The legislative history of the purpose of the exclusion stated in H. Rept. No. 94–131, 94 Cong., 2d Sess. (1976) indicates that the exclusion from TSCA is applicable only to the extent FDA can regulate the risk posed by the product. Under section 801(d) of the FFDCA (21U.S.C. 381(d)), FDA cannot prevent the export of some proucts, such as cosmetics, if the products are permitted to be used in the country of export, even though the products pose an unreasonable risk to residents of the United States when used in the foreign country. The Environmental Protection Agency may regulate under TSCA the manufacture for export of chemical substances that EPA determines present an unreasonable risk of injury to the health or environment of the United States. EPA is making such a determination in the case of chlorofluorocarbons pursuant to section 12(a)(2) of TSCA. The Environmental Protection Agency proposed regulation helps to avert gaps in the regulatory control over those exports that FDA cannot regulate.

EPA Hearing

In issuing a final rule, EPA will observe the procedure mandated under TSCA, which provides for a hearing and opportunity for cross-examination on material issues of disputed fact. These procedures are not required under the FFDCA for this proposed rule. The Commissioner concludes that holding a public hearing would generally be duplicative and unnecessary in view of the hearing to be held by EPA. The only issues that would not potentially be addressed in the EPA hearings would be essentiality determinations for foods, food additives, drugs, cosmetics, and devices containing chlorofluorocarbons. These issues can be adequately examined through notice-and-comment procedures. Accordingly, the Commissioner does not intend to provide a separate public hearing with respect to whether he should issue the rule proposed in this document.

The Food and Drug Administration does intend, however, to offer interested persons an opportunity for 30 days after completion of the EPA hearing and cross-examination procedure to comment on whether specific information brought out through the EPA procedures, and not previously available, warrants any change in the rule proposed here. The record for the proposed rule will be held open after the end of the comment period for this limited purpose. The Commissioner will accept only submissions identifying specific information with particularity and will not consider wholesale submissions of unanalyzed portions of the EPA hearing record, such as a submission of a full transcript of the hearings.

As indicated above, the Commissioner intends to issue the final rule with respect to a phaseout of uses in self-pressurized containers at the same time EPA issues its rule. However, this proceeding will be one of the initial uses by EPA of its new procedures. If the EPA hearing takes substantially longer than projected, the Commissioner will consider issuing a final rule governing a phaseout of chlorofluorocarbon use in self-pressurized containers in products subject to the FFDCA if he determines that such action before EPA promulgates its rule is necessary to protect the public health and environment. In such a situation, he intends to provide an opportunity, when he issues the rule, for persons to comment on specific information brought out through the EPA hearing that might warrant revocation or modification of the rule. If feasible and appropriate in the circumstances, the Commissioner will consider giving this opportunity to provide further comments before issuing the final rule.

Citizen Petition

The National Resources Defense Council (NRDC) petitioned the Commissioner on October 26, 1976 to phase out propellant uses of chlorofluorocarbons in foods, drugs, and cosmetics. The petition is on file with the Hearing Clerk (Docket No. 76P–0456) and was cited in the proposed rule relating to the warning requirement on self-pressurized containers with chlorofluorocarbons. The Commissioner proposes in this document to phase out nonessential propellant uses of chlorofluorocarbons. He has also issued a final rule requiring a warning on these products. Thus, the action requested in the petition has been granted except with respect to the proposed effective date. The petition is denied to the exent it requested that the effective date for the phaseout be established as November 1, 1977. The Commissioner has discussed above the reasons for proposing the effective dates for the phaseout indicated in this document.

Draft Environmental Impact Statement

A draft environmental impact statement on this proposed action, entitled "Fluorocarbons: Environmental and Health Implications" has been prepared. The statement is available for public inspection in the office of the Assistant Commissioner for Public Affairs, Rm. 15B–42, and the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. A limited number of copies will be available upon request, and requests for single copies may be forwarded to either office.

Interested persons may submit comments (preferably in quadruplicate) on the draft environmental impact statement to the Hearing Clerk at the above address on or before July 12, 1977.

All comments received on the draft environmental impact statement and the proposed rule will be available for public inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday at the office of the Hearing Clerk.

References

1. Notice of Intent (Docket No. 76N–0460), Comment C0051 (Howard, Carleton J. and K. M. Evenson, "Rate constants for the reactions of OH with CH_3 and fluorine, chlorine, and bromine substituted methanes at 296 K," NOAA, Aeronomy Laboratory in Boulder, Colorado; Howard, Carleton J., and K. M. Evenson "Rate constants for the reactions of OH with ethane and some halogen substituted ethanes at 296K," NOAA, Aeronomy Laboratory in Boulder, Colorado; and Howard, Carleton J., "Rate constants for the gas-phase reactions of OH radicals with ethylene and halogenated ethylene compounds," NOAA, Aeronomy Laboratory in Boulder, Colorado).

2. Singh, H. B., "Atmospheric halocarbons: Evidence in favor of reduced average hydroxyl radical concentration in the troposphere," Geophysical Research Letters, 4:101–104 (1977).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 402, 409, 501, 502, 505, 507, 512, 601, 701(a), 52 Stat. 1042–1043 as amended, 1046–1047 as amended, 1049–1054 as amended, 1055, 57 Stat. 463 as amended, 72 Stat. 1785–1788 as amended, 82 Stat. 343–351 (21 U.S.C. 331, 342, 348, 351, 352, 355, 357, 360b, 361, 371(a))) and the National Environmental Policy Act of 1969 (sec. 102(2), 83 Stat. 853 (42 U.S.C. 4332)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

SUBCHAPTER A—GENERAL

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

1. By adding new Subpart G consisting at this time of § 2.125 to read as follows:

Subpart G—Provisions Applicable to Specific Products Subject to the Federal Food, Drug, and Cosmetic Act

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

(a) As used in this section:

(1) "Chlorofluorocarbon" means any fully halogenated chlorofluoroalkane.

(2) "Propellant" means a liquified or compressed gas that is used in whole or in part to expel from a self-pressurized container liquid or solid material different from the propellant, but the term does not include the use of a chlorofluorocarbon as an aerating agent for foamed or sprayed food products.

(b) Chlorofluorocarbons are widely used in products subject to the Federal Food, Drug, and Cosmetic Act, with the principal use being as propellants in self-pressurized containers. Information recently developed indicates that chlorofluorocarbons may reduce the amount of ozone in the stratosphere, and thus increase the amount of ultraviolet radiation reaching the earth. An increase in ultraviolet radiation may increase the incidence of skin cancer, change the climate, and produce other effects of unknown magnitude on humans, animals, and plants. Chlorofluorocarbons may also affect the climate by increasing infrared absorption in the atmosphere.

(c) Except as provided in paragraph (e) of this section, any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant is adulterated and/or misbranded in violation of the act, and any drug product in a self-pressurized container that contains a chlorofluorocarbon propellant is a new drug or a new animal drug.

(d) The use of a chlorofluorocarbon as a propellant in a self-pressurized container of a drug product will not result in the drug product being adulterated and/or misbranded provided a new drug application or new animal drug application for the drug product has been approved, a petition has been filed as provided by paragraph (f) of this section and paragraph (e) of this section has been amended to specify the use as essential.

(e) The adulteration and misbranding provisions of paragraph (c) of this section shall not apply to the following essential uses of chlorofluorocarbons:

(1) Metered-dose steroid human drugs for nasal inhalation,

(2) Metered-dose steroid human drugs for oral inhalation,

(3) Metered-dose adrenergic bronchodilator human drugs for oral inhalation,

(4) Contraceptive vaginal foams for human use,

(5) Cytology fixatives.

(f) Any person may file a petition in accordance with Part 10 of this chapter to amend paragraph (e) of this section to specify a use of chlorofluorocarbons in a product as not being subject to the adulteration and misbranding provisions in paragraph (c) of this section. The petition must be supported by an adequate showing that:

(1) There are no technically feasible alternatives to the use of a chlorofluorocarbon in the product,

(2) The product provides a substantial health benefit, environmental benefit, or other public benefit that would not be obtainable without the use of the chlorofluorocarbon, and

(3) The use does not involve a significant release of chlorofluorocarbons into the atmosphere or that the release is warranted in view of the consequences if the use were not permitted.

(g) Any holder of an approved new drug application or new animal drug application for a drug product containing a chlorofluorocarbon in a self-pressurized container, except those drug products listed in paragraph (e) of this section shall submit to the Food and Drug Administration on or before October 1, 1978 either a supplemental application complying with the requirements of § 314.8 or § 514.8 or a letter requesting that a new drug application or a new animal drug application for the drug product containing chlorofluorocarbon be withdrawn and that the right to a hearing on the withdrawal of the application is waived.

(h) The manufacturer of any drug product listed in paragraph (e) of this section that is not covered by an approved new drug application or new animal drug application shall submit a new drug application in accord with § 314.1 or § 514.1 of this chapter on or before June 15, 1978. It is recommended that each firm required to submit an application under this section discuss the type of information needed in the application with the Food and Drug Administration before submitting the application.

(i) Any sponsor of a "Notice of Claimed Investigational New Drug" (IND notice) or "Notice of Claimed Exemption for a New Animal Drug" (VIND notice) for a drug product containing a chlorofluorocarbon shall amend the IND or VIND notice on or before December 15, 1978 to revise the formulation removing the chlorofluorocarbon or submit the information required under paragraph (f) of this section to amend paragraph (e) of this section to show that the use of chlorofluorocarbons is essential.

(j) The Commissioner will initiate action to withdraw approval of an application or terminate an IND or VIND notice in accordance with the applicable provisions of section 505 of the act and Parts 312 and 314 of this chapter or section 512 of the act and Parts 511 and 514 of

V 42 93 MAY 13 77 UMI

this chapter upon failure of a holder of an approved new drug application or approved new animal drug application or sponsor of an IND or VIND notice to comply with the applicable provisions of this section.

(k) Food, drug, device, or cosmetic products manufactured or packaged on or after December 15, 1978 and finished products initially introduced into interstate commerce on or after April 15, 1979 shall comply with this regulation.

SUBCHAPTER B—FOODS FOR HUMAN CONSUMPTION

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

2. By amending § 173.345 by revising paragraph (b) and (c) (1) (i) to read as follows:

§ 173.345 Chloropentafluoroethane.

• • • • • •

(b) The additive is used or intended for use alone or with one or more of the following substances: Carbon dioxide, nitrous oxide, propane, and octafluorocyclobutane complying with § 173.360, as an aerating agent for foamed or sprayed food products, with any propellant effect being incidental and no more than is minimally necessary to achieve the aerating function, except that use is not permitted for those standardized foods that do not provide for such use.

(c) • • •

(1) • • •

(i) The name of the additive, chloropentafluoroethane.

• • • • • •

PART 189—SUBSTANCES PROHIBITED FROM DIRECT ADDITION OR USE AS HUMAN FOOD

3. By adding a new § 189.191 to read as follows:

§ 189.191 Chlorofluorocarbon propellants.

This use of chlorofluorocarbons in human food as propellants in self-pressurized containers is prohibited as provided by § 2.125 of this chapter.

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 300—GENERAL

4. By adding new Subpart C consisting at this time of § 300.100 to read as follows:

Subpart C—Substances Generally Prohibited From Drugs

§ 300.100 Chlorofluorocarbon propellants.

The use of chlorofluorocarbons in human drugs as propellants in self-pressurized containers is generally prohibited except as provided by § 2.125 of this chapter.

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 500—GENERAL

Subpart B—Specific Administrative Rulings and Decisions

5. By adding new § 500.49 to read as follows:

§ 500.49 Chlorofluorocarbon propellants.

The use of chlorofluorocarbons as propellants in self-pressurized containers is prohibited from use in all animal drugs, animal food, and related products as provided by § 2.125 of this chapter.

SUBCHAPTER G—COSMETICS

PART 700—GENERAL

Subpart B—Requirements for Specific Cosmetic Products

6. By adding new § 700.23 to read as follows:

§ 700.23 Chlorofluorocarbon propellants.

The use of chlorofluorocarbons in cosmetics as propellants in self-pressurized containers is prohibited as provided in § 2.125 of this chapter.

SUBCHAPTER H—MEDICAL DEVICES

PART 801—LABELING

7. By adding new § 801.417 to read as follows:

§ 801.417 Chlorofluorocarbon propellants.

The use of chlorofluorocarbon in devices as propellants in self-pressurized containers is generally prohibited except as provided in § 2.125 of this chapter.

Interested persons may, on or before July 12, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document contains a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that an inflation impact statement has been prepared. A copy of the inflation impact statement is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 10, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-13773 Filed 5-11-77;10:00 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 712, 762]

[FRL 724-8; OTS-060002]

TOXIC SUBSTANCES CONTROL

Fully Halogenated Chlorofluoroalkanes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and informal hearing.

SUMMARY: This rule will eliminate almost all of the manufacture, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes used as aerosol propellants which are subject to the Toxic Substances Control Act. It is intended to reduce the emissions of such fully halogenated chlorofluoroalkanes to the atmosphere, thereby reducing the health and environmental risks caused by depletion of the ozone layer. It also requires reporting on continued manufacture, processing, and use of fully halogenated chlorofluoroalkanes.

Elsewhere in this FEDERAL REGISTER issue, the Food and Drug Administration (FDA) proposes a rule which will ban the use of fully halogenated chlorofluoroalkanes in most food, drug, and cosmetic products.

DATES: Comments on the proposed rule must be received before July 15, 1977. An informal hearing on the proposed rule is scheduled to begin August 1, 1977, at 9 a.m.

All requests for participation at the informal hearing must be received before July 9, 1977. Information on the informal hearing procedures is set forth in the proposed "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act" (40 CFR Part 750), published at 42 FR 20640 (April 21, 1977).

ADDRESSES: Hearing will be held at: Room 3305, Environmental Protection Agency, 401 M St. SW., Washington, D.C. Send comments to: Room 725 WSME, Environmental Protection Agency, 401 M St. SW., Washington, .C. 20460.

FOR FURTHER INFORMATION CONTACT:

Perry W. Brunner, Office of Toxic Substances (WH-557), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-426-9000).

SUPPLEMENTARY INFORMATION: Joni T. Repasch is the Record and Hearing Clerk for this rulemaking. The official record of rulemaking is located in Room 725 WSME, EPA Headquarters, 401 M Street SW., Washington, D.C. 20460, and is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday excluding holidays. Additional documentation is included in the three major support documents: The Economic Impact of Potential Regulation of Fluorocarbon Aerosols, Essential Use Determinations, and Chlorofluorocarbon Problem Assessment. These and other documents are available for viewing and copying in Room 725 WSME.

I. BACKGROUND

A. THE NATURE OF THE PROBLEM

The purpose of this regulation is to protect man and the environment from damage caused by man-made perturbations in the natural atmosphere, particularly destruction of ozon in the stratosphere. The primary consequence of such perturbations is an increase in the amount of ultraviolet radiation reaching the earth.

Ultraviolet radiation is light with wavelengths shorter than the visible light that we see with our eyes. It is this portion of the spectrum that is associated with suntanning, sunburning, skin cancer, and adverse effects on a wide variety of living organisms.

Ultraviolet radiation is thought to cause or to be a contributory factor to two different types of skin cancer in people. One, nonmelanoma skin cancer, is relatively common, occuring at the rate of about 150 cases per 100,000 population each year in the United States. However, it is very rarely fatal. The other, melanoma skin cancer, is much rarer, occurring at the rate of about four cases per 100,000 population each year in the United States. Melanoma is fatal to about 30 percent of the people who contract it. The incidence of both types of skin cancer is rising rapidly. The association of ultraviolet radiation with nonmelanoma skin cancer is firmly established as indicated in the support document Chlorofluorocarbon Problem Assessment and the National Academy of Sciences report, Halocarbons, Environmental Effects of Chlorofluoromethane Release. The association between ultraviolet radiation and melanoma skin cancer is not as well established as the association with nonmelanoma skin cancer but it is still strong enough to warrant serious concern.

Most of the ultraviolet radiation produced by the sun is absorbed in the atmosphere before reaching the earth's surface. The screening takes place in the stratosphere—the portion of the atmosphere that extends from about five to thirty miles above the earth's surface. The ultraviolet radiation is absorbed by oxygen in two separate reactions. First, an oxygen molecule (02) absorbs ultraviolet light and is split into its component oxygen atoms (0). These oxygen atoms then combine with oxygen molecules to form ozone (03). Second, the ozone molecules themselves absorb ultraviolet radiation and are broken down again to oxygen molecules and free oxygen atoms.

This cycle of reactions results in a net creation of ozone. However, the total amount of ozone in the stratosphere does not show a long-term increasing trend because other naturally occurring chemical reactions destroy ozone and keep the total amount in balance. The most important of these involves a reaction between nitrogen oxides (NO_x), ozone, and molecular oxygen.

The amount of ozone present in the stratosphere varies naturally within somewhat undefined, but wide limits. Seasonal fluctuations of two to ten percent are well within the normal range.

In recent years, concern has developed that human activities could alter the chemical composition of the stratosphere in a way that would encourage additional ozone-destroying reactions, leading to a net decrease in the amount of ozone present and thus an increase in the amount of damaging ultraviolet radiation reaching the earth's surface. It has been suggested, for example, that additional nitrogen oxides might be introduced into the stratosphere either directly as a combustion product from the exhaust of supersonic transport aircraft (SST) or indirectly as a result of the increasing use of nitrogen fertilizers. This additional amount of nitrogen oxides would then be available for the ozone-destroying reaction referred to above. It is generally agreed that the number of SST flights now occurring or reasonably projected to occur is too small to be of major concern. To date, the theory regarding nitrogen fertilizers remains an untested hypothesis.

A more substantial problem for the present involves the introduction of chlorine into the stratosphere from chlorine-containing chemical substances introduced into the atmosphere by man. In the stratosphere, chlorine atoms will enter into a reaction sequence resulting in the destruction of ozone molecules.

Theoretically it might be possible for compounds containing other elements of the same chemical family as chlorine—specifically, fluorine, bromine, and iodine—produce similar ozone destroying effects in the stratosphere. The available data indicate that fluorine atoms introduced into the stratosphere do not have a significant effect on ozone, while virtually no data exist on the atmospheric chemistry of iodine. There is some reason to believe that bromine might be even more destructive than chlorine to stratosphere ozone, but there is considerable uncertainty at this time whether bromine-containing compounds are stable enough in the lower atmosphere to ever reach the stratosphere.

Among the man-made compounds containing chlorine, a distinction can be drawn between those that contain hydrogen atoms or double bonds, and those that do not. The available data indicate that the former type of compounds may largely be removed from the atmosphere through natural breakdown processes before ever reaching the stratosphere. The latter group of compounds, which can reach the stratosphere, can also be divided into two groups.

The first group consists of compounds made up of carbon and chlorine only. Of these compounds, only carbon tetrachloride is of concern. The existing atmospheric burden of carbon tetrachloride indicates that it is currently a large source of stratospheric chlorine. However, this burden is due primarily to large releases in the past, since the toxicological hazards of this compound have now severely limited its present emissive uses.

The second group, comprised of molecules consisting of some combination of carbon, fluorine, and chlorine, but having no hydrogen atoms and no double bonds, appears to pose the most significant threat to stratospheric ozone associated with man-made chemical substances. This group of compounds is denoted as the fully halogenated chlorofluoroalkanes. The available data indicate that these compounds are not readily susceptible to removal processes in the lower atmosphere and most, if not all, of these compounds released at the earth's surface will eventually release chlorine into the atmosphere where the chlorine can destroy ozone.

Among the fully halogenated chlorofluoroalkanes, the two compounds currently being released to the atmosphere in the largest amounts are the chlorofluoroalkanes F-11 (trichlorofluoromethane) and F-12 (dichlorodifluoromethane). The contribution of chlorine by fully halogenated chlorofluoroalkanes other than F-11 and F-12 is currently small by comparison.

The fully halogenated chlorofluoroalkanes released at the earth's surface as a result of their various uses are transported upward by atmospheric motions without significant decomposition until they reach stratospheric levels where the energy of ultraviolet radiation is high enough to chemically decompose them. When this occurs, the chlorine atoms from the molecules are released into the stratosphere, where they destroy ozone molecules until competing reactions convert the chlorine to a substance which can be transported out of the stratosphere. No decrease in stratospheric ozone from this source has yet been observed. However, the calculated effect from the amount of these compounds so far released would not be distinguishable from natural variations in ozone levels.

In all respects in which it has been possible to check the theory described above against real-world observations, the theory has been confirmed. F-11 and F-12 are found in the lower atmosphere and in the stratosphere at levels consistent with the theory. Their ozone destroying potential under stratospheric conditions has been demonstrated in laboratory experiments.

Accordingly, scientific controversy has increasingly centered not on whether continued use of these compounds will result in a depletion of the ozone layer, but on how much of a depletion would result. Eight months ago the National Academy of Sciences estimated that continued release of F-11 and F-12 at 1973 rates would eventually result in a depletion of the ozone layer of between two and twenty percent, with their best

V 4 2 9 3 MAY 13 7 7 UMI

estimate being that about a seven percent depletion would result. Further studies since then have continued to yield estimates in the seven percent range. Though a number of studies are now in progress to explore this matter further, EPA is not aware of developments that would give cause to believe that a significantly different risk estimate will emerge from them.

These questions of atmospheric chemistry are discussed more fully in the support document, Chlorofluorocarbon Problem Assessment.

B. USES AND ALTERNATIVES

At present, fully halogenated chlorofluoroalkanes are used in aerosol products, in refrigerators and air conditioners, as foam blowing agents, and as solvents. The major use in the United States, approximately fifty percent, is as aerosol propellants.

EPA has divided its regulatory effort into two phases in view of the different types of considerations in addressing the various uses. The first phase concerns only aerosol propellants uses. The second phase will commence later this year and will address all other uses (including uses as an active ingredient in aerosol products.

Aerosol products release the propellant during normal use. In contrast, except for unintentional leakage, a refrigerator will keep the fully halogenated chlorofluoroalkane sealed within the unit during use. While disposal controls for refrigerators may be possible, this approach is not feasible for aerosols. In addition, substitute propellants or alternatives exist for most aerosol uses, whereas less is known about acceptable alternatives for the other uses. Finally, refrigerant and other nonpropellant uses are more integral to the functioning of society and the economy than aerosol uses, and hence are more difficult to evaluate in considering an appropriate regulatory course.

Because of the above considerations, more time is needed to assess the technical and economic feasibility of substitute products and systems for nonpropellant uses and to investigate the feasibility of developing disposal mechanisms. Consequently a determination of unreasonable risk for nonaerosol propellant uses has been postponed for further evaluation in the second phase.

With respect to aerosol propellant uses, technically feasible and economically acceptable alternatives exist for most uses of fully halogenated chlorofluoroalkane propellants. They fall into two categories: alternative propellants and alternative delivery systems.

Hydrocarbon gas propellants are already in wide use for many classes of products. Until recently, they were not widely used in personal care products because of concern about flammability. Now, the possibility of hydrocarbon propellants in combination with a flame retardant appears to result in acceptable flammability levels. Compressed gases such as carbon dioxide are also being used. Both alternatives may result in reducing retail prices by as much as fifteen percent.

Alternative delivery systems include mechanical pump spray (mist) devices and liquid, powder, and wax preparations. Deodorants, cleaning agents, and shoe polishes, for example, are packaged in several different forms. Indeed, aerosol formulations are a relatively recent innovation. In addition, industry will undoubtedly continue to innovate to produce additional alternatives.

II. FINDING OF UNREASONABLE RISK

A. The most widely accepted models clearly indicate that continued release of these compounds at current levels for an indefinite period will have adverse environmental consequences, potentially affecting the entire global population now and in future generations. Increased levels of ultraviolet radiation are generally believed to lead to an increased incidence of skin cancer in view of the evidence that (1) exposure to ultraviolet radiation causes or is a significant contributor to both melanoma and nonmelanoma skin cancer, and (2) the frequency of these cancers appears to bear a direct relation to the intensity of exposure. Although the effects of the predicted increase of ultraviolet radiation on terrestrial and aquatic life cannot be quantified, the great bulk of the evidence suggests that there would be such effects and that such effects would be detrimental. Also, the development of adverse climatic effects is possible as discussed in the support documents and the report of the National Academy of Sciences.

B. Quantitative estimates of skin cancer rates are somewhat speculative. However, one estimate, using what appears to be a relatively conservative assumption that the percentage increase of nonmelanoma skin cancer is proportional to the percentage decrease in stratospheric ozone by a ratio of two to one, is that 15,000 cases of nonmelanoma skin cancer during the next century would be prevented in the United States alone by banning U.S. aerosol propellant uses of these compounds in 1978, as opposed to allowing such uses to continue indefinitely. As discussed in the support document, the ratio may be much higher, namely, from 3 to 8.8. While the impact of regulatory action on the incidence of Melanoma skin cancer is far less certain, it is reasonable to expect the avoidance of some increase by reducing further ozone depletion.

C. Restricting the use of fully halogenated chlorofluoroalkanes as aerosol propellants will result in an average economic impact to industry in the range from $169 million to $267 million annually for the four-year period following proposal of both the EPA and FDA regulations. Since there are a number of less expensive substitutes readily available for many of the uses that will be prohibited, the switch to these substitutes will actually result in consumer savings which are expected to range from $58 million to $240 million annually. The range of values in both the industry cost and consumer savings estimates indicate the possible pricing adjustments by industry to reduce the impact of regulation.

D. In view of the foregoing, the case for regulation is clear. At the price of a substantial one-time, readily absorbed economic cost which does not deprive society of essential products, a large number of threatened skin cancers and potentially serious, albeit unknown, effects on agricultural resources, climate, and the biosphere that would otherwise be suffered by future generations, would be prevented.

E. The principal argument that has been set forth for not regulating now is that the extent of the risk is so uncertain that action should be deferred until more scientific data are in hand. Even assuming that future studies will contribute a degree of additional precision to current estimates, a delay is considered unacceptable for the following reasons:

1. The National Academy of Sciences found, based on its assessment of the problem in 1976, that "selective regulation of fully halogenated chlorofluoroalkane uses and releases is almost certain to be necessary at some time and to some degree of completeness". The proposed regulation is "selective" since it addresses only about one-quarter of the total world-wide use, and only those for which continued reliance on the fully halogenated chlorofluoroalkanes is nonessential. Even if ozone depletion were to turn out to be at the low end of the range estimated by the Academy, or even somewhat lower, regulation of this limited character would be justified.

2. There is no substantive evidence which indicates that the Academy estimates will change significantly with further study. More recent studies have tended to confirm the central figure of seven percent ozone depletion. If that estimate in fact turns out to be correct, relatively small but nevertheless definite costs would be incurred by a delay in regulation. Although the risk estimates cited above rest on theoretical mathematical models and should not be taken as more than a rough indication of the possible size of the problem, they do underline that under accepted theories of carcinogenesis, some increase in cancer can be expected to result from any increase in ultraviolet radiation, and that given the high current incidence of nonmelanoma skin cancer and the large size of the exposed population, the increase in the number of cases can be expected to be numerically large from even a small increase in ultraviolet radiation.

3. It is very possible that more comprehensive regulation of fully halogenated chlorofluoroalkane releases will prove necessary, particularly if estimates of ozone depletion from current releases are revised upwards, if other man-made sources of ozone destruction are detected, or if additional damage resulting from perturbations of the natural atmosphere are demonstrated. In such a case, it will have been important for the United States to have addressed the least essential uses of these compounds already, both to lay a foundation for further regulatory steps within the United States and as a basis for encouraging other countries to take parallel regulatory steps.

F. Therefore, the Administrator has concluded that the continued depletion of stratospheric ozone as the result of discharges from nonessential aerosol products containing fully halogenated chlorofluoroalkane propellants presents an unreasonable risk of injury to health and the environment, and that proposal of this regulation is necessary, Mindful, however, of the economic impact of such action, an 18-month phase out schedule is considered appropriate since such a schedule will insure that such products are removed from the economy in a manner which allows for an orderly adjustment to the introduction of substitute products.

The Administrator has also determined that this proposed rule should apply to exports under the authority of section 12(a)(2) of TSCA. Since the changes in ozone levels and the resultant adverse effects are not restricted to the country from which fully halogenated chlorofluoroalkanes are emitted, their export presents an unreasonable risk of injury to the health and the environment of the United States. Further, since environmental discharges in foreign countries can harm the global environment, the United States convened an international meeting of the principal governments involved in the manufacture and processing of fully halogenated chlorofluoroalkanes on April 26–28, 1977, and will continue its efforts to encourage world-wide reductions in the use of fully halogenated chlorofluoroalkanes.

III. LEGAL AUTHORITY

A. EPA AUTHORITY UNDER THE TOXIC SUBSTANCES CONTROL ACT

This proposed rule is authorized by Sections 3(2), 6(a)(2)(A)(i), 8(a), and 12(a)(2) of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, Oct. 11, 1976; 90 Stat. 2003; 15 U.S.C. 2601 et seq.). Under Section 6(a)(2)(A)(i), the Administrator may regulate the manufacture, processing, and distribution in commerce of "chemical substances," as the latter term is defined in Section 3(2). Excluded from the term "chemical substance" are "any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide," Section 3(2)(B)(ii), and "any food, food additive, drug, cosmetic, or devise (as such terms are defined in Section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device" Section 3(2)(B)(vi).

The information available to EPA indicates that there are six firms in the United States which manufacture fully halogenated chlorofluoroalkanes; that none of those firms manufacture fully halogenated chlorofluoroalkanes solely for use in or as a food, food additive, drug, cosmetic, or device; and that none of those firms use a process for the manufacture of fully halogenated chlorofluoroalkane propellants which differs according to the potential end use of the product. Thus, at the time of manufacture, it is impossible to determine whether a fully halogenated chlorofluoroalkane is "• • • manufactured • • • for use as a food, food additive, drug, cosmetic, or device" within the meaning of Section 3(2)(B)(vi).

TSCA is interpreted as authorizing the regulation of the manufacture of a substance even though the possibility exists that it may eventually become a food, food additive, drug, cosmetic, device, or component thereof, if there also exists a reasonable possibility that it is being manufactured for other purposes as well. Accordingly, under the circumstances described above, EPA is authorized to regulate the manufacture of all fully halogenated chlorofluoroalkanes for propellant uses. Section 3(2)(B)(vi) does however limit EPA's authority to regulate processing and distribution of fully halogenated chlorofluoroalkanes since in these stages it would normally be possible to determine that a fully halogenated chlorofluoroalkane is being "• • • processed or distributed in commerce for use as a food, food additive, drug, cosmetic, or device."

Section 3(2) also affects the extent to which fully halogenated chlorofluoroalkanes used in pesticides registered under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) may be regulated under TSCA. The proposed rule does not differentiate between the manufacture of fully halogenated chlorofluoroalkanes for possible use in pesticides and manufacture for other purposes since, at the time of manufacture, a fully halogenated chlorofluoroalkane is not a pesticide. A fully halogenated chlorofluoroalkane does not become a pesticide within the meaning of FIFRA until its value for pesticide purposes is established and it becomes a component of a pesticide product. (See discussion of proposed TSCA definition of chemical substance at 42 FR 13132, March 9, 1977).

It is not clear whether Section 3(2)(B)(ii) of TSCA permits EPA to regulate the processing of fully halogenated chlorofluoroalkanes which may take place as part of the manufacture of pesticide products. EPA invites comments on this issue, and specifically, on whether regulating such processing of chlorofluorocarbons is legally or functionally equivalent to regulating the manufacture of pesticide products registered under FIFRA.

EPA may ban distribution of bulk fully halogenated chlorofluoroalkanes for use in aerosol pesticides since at time of distribution the chlorofluoroalkane is not a pesticide under FIFRA. EPA may not ban the distribution of the finished pesticide article, however, since by then the fully halogenated chlorofluoroalkanes have become an actual component of the pesticide.

EPA proposes to issue reporting requirements under section 8(a) to facilitate enforcement of this regulation.

B. OTHER EPA LEGAL AUTHORITIES

Before pursuing regulatory action under TSCA Section 6(a), the Administrator, under Sections 6(c) and 9(b), must decide whether the risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by other Federal laws administered by EPA. If the Administrator concludes that the risk could be eliminated or reduced by another law administered by EPA, then he may regulate under TSCA only if he also finds, in his discretion, that it is in the public interest to use TSCA.

There are four sections of the Clean Air Act which could conceivably be used to limit the emissions from aerosol propellant uses of fully halogenated chlorofluoralkanes. Sections 108 and 109 of the Act call for the setting of National Ambient Air Quality Standards for those pollutants which in the judgment of the Administrator have an adverse effect on public health ad welfare and come from numerous or diverse stationary or mobile sources. In view of the limited number of the facilities which produce the compounds of concern, the mechanism of the Nationl Ambient Air Quality Standard which requires the formulation, approval, and implementation of state plans to attain the standard would be administratively complex and more burdensome on all parties in comparison to the product controls available under TSCA.

Sections 111 and 112 of the Act empower the Administrator to regulate emisssions from a building, structure, facility, or installation which emits an air pollutant. These sections do not appear to be adaptable to the control of products containing fully halogenated chlorofluoroalkanes as propellants.

FIFRA is the only other statute administered by EPA which provides authority for addressing the full halogenated chlorofluoroalkane problem. While FIFRA could be used to reduce or eliminate the risk posed by pesticide products using fully halogenated chlorofluoroalkane propellants, the Administrator has determined that it is in the public interest to use TSCA to the extent possible within the jurisdictional limits set by Section 3(2)(b)(ii) of TSCA.

In order to ban the use of such pesticide products under FIFRA, it would be necesary to cancel the registrations of approximately 2,000 pesticides. Unless pesticide registrants were to agree to voluntarily cancel their registrations, EPA would be compelled to hold cancellation hearings for all such products. Cancellation hearings could be lengthy and costly, and they are particularly inappropriate in this case since EPA is already required to hold a public hearing under Section 6(c) of TSCA. The TSCA hearing will be comprehensive in nature whereas FIFRA would necessitate a number of separate administrative proceedings for uses which are responsible for less than two percent of all

V42N93 MAY 13 77 UMI

fully halogenated chlorofluoroalkane emissions. The Administrator has thus determined that FIFRA should not be used in light of the inefficiency and cost of using two EPA statutes simultaneously to achieve the same result.

Pesticide registrants may, of course, request essential use exemptions from this proposed rule as some registrants have already done.

C. COORDINATION WITH OTHER STATUTES

EPA shares jurisdiction over fully halogenated chlorofluoroalkanes with other Federal agencies. As discussed previously, Section 3(2)(B)(vi) of TSCA creates an exemption for articles regulated by FDA under the Federal Food, Drug, and Cosmetic Act. No comparable exemption exists for consumer products; hence, EPA's jurisdiction overlaps the authority of the Consumer Product Safety Commission (CPSC) to regulate consumer products containing chemical propellants.

EPA, FDA, and CPSC have coordinated their actions, keeping in mind the requirements of Section 9 of TSCA, to insure comprehensive regulatory coverage while minimizing overlapping regulation and to promote effective enforcement. An interagency workgroup, consisting of representatives of EPA, FDA, and CPSC, and observers from the Department of Commerce, provides a mechanism for continuous consultation among the agencies.

CPSC, in November 1976, made a preliminary finding that aerosol products using fully halogenated chlorofluroalkanes present an unreasonable risk of injury to consumers as the result of the destruction of ozone in the stratosphere and that no feasible consumer product safety standard would adequately protect the public. The Commission directed its staff to prepare a draft proposal under Section 8 of the Consumer Product Safety Act to declare such aerosol products banned hazardous products. CPSC subsequently has agreed to terminate its proceedings to the extent that timely EPA action makes CPSC regulation unnecessary, thereby avoiding subjecting industry to three separate actions banning aerosol propellants. In addition, on April 29, 1977, CPSC proposed a regulation which would require labeling of fully halogenated chlorofluroalkanes aerosol products as an interim measure until a ban can be effected.

FDA is also proposing a rule today to ban FDA regulated products containing fully halogenated chlorofluoroalkane aerosol propellants. A phase out of nonpropellant uses regulated by FDA will be considered later in conjunction with the second phase of EPA's regulatory approach.

The effective dates for the EPA and FDA regulations have been coordinated. The FDA proposal is directed at finished foods, drugs, cosmetics, and devices containing fully halogenated chlorofluoralkanes and therefore does not contain an effective date for phasing out manufacture of the basic chemical whereas EPA's regulation prohibits manufacture of the basic chemical for aerosol propellant uses as of October 15, 1978. The FDA regulation is effective December 15, 1979, as the cutoff date beyond which products manufactured or packaged after that date. As of December 15, 1978 the EPA regulation prohibits the distribution of bulk fully halogenated chlorofluoroalkanes for processing into aerosol products and the processing of fully halogenated chlorofluoralkanes with the exceptions noted previously.

Both agencies have proposed April 15, 1978, as the cutoff date beyond which manufacturers and processors of the finished articles may no longer introduce them into commerce. FDA and EPA intend that the effective dates be compatible to the fullest extent possible. While the terminology used by each Agency varies somewhat, the differences reflect the wording of the authorizing statutes.

D. PREEMPTION OF STATE LAWS

This proposed regulation may affect the authority of a State to establish regulations concerning fully halogenated chlorofluoroalkanes. Section 18 provides that when EPA restricts the manufacture of or otherwise regulates a chemical under Section 6, a State may issue only requirements which are identical, mandated by other Federal laws, or which prohibit the use of the chemical. Upon request by a State, the Administrator may grant an exemption permitting State regulation if such requirement (1) would not cause a person or activity to be in violation of a requirement under the TSCA regulation, and (2) would provide a greater degree of protection and not unduly burden interstate commerce.

The Agency invites views from interested parties on the relationship between this proposed rule and State laws.

IV. DISCUSSION OF THE PROPOSED RULE

A. SCOPE

This regulation applies only to the "fully halogenated chlorofluoroalkane" propellants. The reasons for this coverage are summarized above and elaborated in the support document, Chlorofluorocarbon Problem Assessment.

There are only four fully halogenated chlorofluoroalkanes currently being used as aerosol propellants, namely, F-11, F-12, F-114, and F-115. Most of the other fully halogenated chlorofluoroalkanes appear to be unsuitable for propellant use because of inappropriate chemical-physical properties or known toxicological hazards.

Regardless of whether or not a fully halogenated chlorofluoroalkane is being used or could be used, the restrictions are applied to all members of this class to eliminate the existing problem and to preclude any possibility of the same problem reemerging with other similar compounds.

As noted above, only aerosol propellant uses are covered by this rule. Excluded from the scope are those fully halogenated chlorofluoroalkanes which are used in aerosols either as: a) the active ingredient, or b) both the active ingredient and the propellant. An example of the former is the use of fully halogenated chlorofluoroalkanes as solvents in aerosol electronic degreasers. Examples of the latter are electronic chillers, boat signal horns, and drain openers.

B. DEFINITIONS

Definitions of many of the terms used in this regulation also appear in Section 3 of TSCA, and at 42 FR 13130 (March 9, 1977) (proposed 40 CFR Part 700.) To the extent that the definitions proposed herein differ, they are controlling for purposes of this Part.

The terms "manufacture," "process," and "distribute in commerce" are given the same meaning as set forth in TSCA and proposed 40 CFR Part 701, except that the definitions include manufacture, processing, and distribution for export from the United States. Export was included pursuant to the finding made above that exports present an unreasonable risk to the environment of the United States.

C. PROPOSED BANS AND EXEMPTIONS

Section 762.11(a) prohibits any person from manufacturing fully halogenated chlorofluoroalkanes for any aerosol propellant use after October 15, 1978. Exemptions are made for those uses found to be essential by EPA (§ 762.21) and FDA (21 CFR 2.125).

Section 762.11(b) exempts until December 15, 1978, any person who imports fully halogenated chlorofluoroalkanes into the United States. This exemption for two months is necessary to avoid inequitable disparities in the treatment of foreign and domestically produced chemical substances and articles. The possible disparity is raised by the TSCA definition of "manufacture" which includes "to import into the customs territory of the United States • • •" Without this exemption, import of fully halogenated chlorofluoroalkanes would be banned on October 15, 1978, even though U.S. producers could continue to process fully halogenated chlorofluoroalkanes until December 15, 1978. By making the latter date applicable to both foreign and domestic businesses, both groups will be simultaneously prohibited from producing or importing finished aerosol products after December 15, 1978. Exempting importers until such times as EPA bans distribution in commerce is not desirable since it would permit importers to manufacture and process fully halogenated chlorofluoroalkanes after U.S. businesses are precluded from doing the same.

Section 762.12 prohibits any person from processing fully halogenated chlorofluoroalkanes for any aerosol propellant use which is not exempted after December 15, 1978. Processing is permitted for the exempted, essential uses listed in § 762.21, for use as a pesticide registered under FIFRA, and for use in food, food additives, drugs, cosmetics, and devices. Processors with products in the third

category should refer to FDA's proposed regulation.

Section 762.13(a) prohibits any manufacturer or bulk distributor (defined in § 762.1(b)) from distributing the bulk fully halogenated chlorofluoroalkane for processing into an aerosol propellant article after December 15, 1978, except for use in an FDA regulated product or as permitted by § 762.21. Fully halogenated chlorofluoroalkanes intended for use in pesticides are not exempted from this prohibition, as explained in the legal authority section.

Section 762.13(b) prohibits any processor from distributing a finished aerosol product after April 15, 1979. Pesticides and those articles regulated by FDA are exempted by virtue of section 3(2) of TSCA. Essential uses (§ 762.21) are also exempted.

By making § 762.13(b) applicable only to processors (who are the manufacturers of the finished articles), EPA is permitting wholesalers and retailers who have purchased articles containing aerosol propellants from processors to continue to distribute and sell their existing stocks. Articles already sold and introduced into commerce by the processor on or before April 15, 1979, may continue in commerce.

All prohibitions and exemptions under §§ 762.11–762.13 apply to exports from the United States. The manufacture of nonexempt fully halogenated chlorofluoroalkanes is prohibited for both direct export as a raw chemical and for later export as a component of a domestically manufactured article.

The foregoing approach is considered the least burdensome and the most appropriate means of regulating fully halogenated chlorofluoroalkanes. Labeling, reporting, and notice requirements cannot remedy the basic problem, that of emissions into the atmosphere. Similarly, controlled disposal is not feasible.

A prohibition of the manufacture, processing, and distribution in commerce of nonessential fully halogenated chlorofluoroalkane propellants is the only practicable regulatory alternative. While the Agency expects that its ban on manufacture will be complied with, prohibition of processing and distribution is also necessary to insure that persons do not divert fully halogenated chlorofluoroalkanes manufactured for other uses to make products which are prohibited.

D. ESSENTIAL USES

During development of this rule, various persons requested exemptions for certain products using fully halogenated chlorofluoroalkane aerosol propellants. The criteria EPA used and the information EPA considered in evaluating whether to grant these requests, as well as the decisions EPA reached, are described in the support document *Essential Use Determinations*.

Essential uses are listed in § 762.21. The desirability of continued use of these products will be reevaluated in the second phase of EPA's regulatory approach. The use of F-11 or F-12 as propellant in the following products was considered nonessential: battery terminal protection spray, spray paints, solid lubricant sprays, mold release agents for nonplastic materials, most pesticide sprays, diamond grit spray, paper frictionizing indicator spray and electronic cleaners.

EPA will consider additional requests for essential use exemptions. The Agency will look with disfavor upon any such requests received after July 15, 1977, unless good cause for delay in making the request is found to exist.

E. REPORTING REQUIREMENTS

A reporting requirement, proposed under Section 8(a) of TSCA, directs manufacturers and processors of fully halogenated chlorofluoroalkanes to submit annual reports to EPA regarding uses for which fully halogenated chlorofluoroalkanes were manufactured and processed and the quantities associated with each use.

In requiring all manufacturers and processors to submit annual reports, EPA assumes that there are no manufacturers or processors who manufacture or process fully halogenated chlorofluoroalkanes solely for aerosol propellant uses which are not covered by the proposed rule i.e., totally exempted by virtue of Section 3(2)(B)(vi) of TSCA. If EPA learns that there are such manufacturers or processors, the reporting requirement will be amended to exclude such manufacturers or processors.

F. ECONOMIC IMPACTS

The combined economic impact of the EPA and FDA regulations have been estimated. A support document for this regulation *The Economic Impact of Potential Regulation of Fluorocarbon Aerosols* comprises the Economic Impact Statement required by Circular A-107 of the Office of Management and Budget.

Economic impact is measured against a baseline forecast for the aerosol industry and propellant manufacturers in the absence of regulations. Impacts were estimated in terms of changes in value added for the different sectors of the industry and in terms of effects on employment, consumers, and small businesses.

The economic impacts on the aerosol industry of the proposed 18-month compliance schedule is estimated to range from $169 million to $267 million annually for the four-year period following proposal of this regulation. The range of impacts is dependent on the possible pricing adjustments of the aerosol industry to reduce the impact of the regulation. The corresponding savings to consumers will range from $58 million to $240 million annually reflecting the lower costs of the likely alternatives to fully halogenated chlorofluoroalkane aerosol products. This savings is estimated at an average reduction of 8 to 19 cents per unit for the replacement products.

An examination of how the economic impacts would vary if the phase out schedule where changed was also conducted. A six-month phase out schedule would result in an estimated 46 percent increase in economic impact over the proposed 18-month schedule. Extending the schedule from 18 to 30 months would have far less impact than the six to 18 month extension.

By banning manufacture, processing, and distribution on successive dates, EPA has attempted to allow the orderly disposition of stocks in existence on the date of the manufacturing ban.

Dated: May 10, 1977.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend 40 CFR by adding the following Part 712:

PART 712—CHLOROFLUOROCARBONS—REPORTING REQUIREMENTS

Sec.
712.1 Scope.
712.2 Definitions.
712.3 Reporting Requirements.
712.4 Confidentiality.

AUTHORITY: Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605); Sec. 8(a), 90 Stat. 2027 (15 U.S.C. 2607).

§ 712.1 Scope.

This part requires manufacturers and processors of fully halogenated chlorofluoroalkanes to make annual reports to the Environmental Protection Agency.

§ 712.2 Definitions.

For the purpose of this part:

(a) "Aerosol propellant" shall have the meaning set forth in § 762.2b of this chapter;

(b) "Manufacture" shall have the meaning set forth in § 762.2(g) of this chapter;

(c) "Process" shall have the meaning set forth in § 762.2(h) of this chapter.

§ 712.3 Reporting requirements.

(a)(1) During March of each year beginning in 1980, each manufacturer of fully halogenated chlorofluoroalkanes and each processor of fully halogenated chlorofluoroalkanes for aerosol propellant uses shall submit an annual report to the Environmental Protection Agency. Such annual report shall cover the previous calendar year and shall state: (i) the uses for which such fully halogenated chlorofluoroalkanes were manufactured and/or processed, (ii) the quantities associated with each use and (iii) the name and business address of the person from whom such chlorofluoroalkanes were purchased and the name and business address of the person to whom such chlorofluoroalkanes were sold, respectively. The uses required to be stated in such report shall include the essential aerosol propellant uses as listed in § 762.21 of this chapter and in 21 CFR 2.125, all other aerosol propellant uses, and nonaerosol propellant uses including but not limited to such uses as refrigerants, foams and solvents.

(2) The report shall include the following statement, signed by a responsible agent of the manufacturer or processor submitting such report:

V 42 93 MAY 13 77 UMI

I certify that, to the best of my knowledge and belief, the contents of this Report are accurate and complete.

(b) Each annual report shall be submitted by registered mail to the Director of the Enforcement Division of the EPA Regional Office within whose region the person submitting such a report has his principal place of business.

§ 712.4 Confidentiality.

(a) Persons submitting information under § 712.3 may assert a claim of business confidentiality by marking such information as confidential when submitted. In formation not so marked may be publicly disclosed by EPA. The procedures set forth in §§ 2.201–2.213 of this chapter will be followed in administering this section.

It is proposed to establish a new 40 CFR 762 to read as follows:

PART 762.—CHLOROFLUOROCARBONS

Sec.
762.1 Scope.
762.2 Definitions.
762.11 Manufacture: Prohibitions and Exemptions.
762.12 Processing: Prohibitions and Exemptions.
762.13 Distribution in Commerce: Prohibitions and Exemptions.
762.21 Essential Use Exemptions.

AUTHORITY: Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605); Sec. 8(a), 90 Stat. 2027 (15 U.S.C. 2607); Sec. 12(a)(2), 90 Stat. 2033 (15 U.S.C. 2611).

§ 762.1 Scope.

This part prohibits the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes used as aerosol propellants which are subject to the Toxic Substances Control Act, and lists various exemptions to the prohibitions.

§ 762.2 Definitions.

For the purposes of this Part:

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "aerosol propellant" means a liquified or compressed gas in a container where the purpose of the liquified or compressed gas is to expel from the container liquid or solid material different from the aerosol propellant.

(c) The term "bulk distributor" means any processor who purchases fully halogenated chlorofluoroalkanes from a manufacturer of such compounds for the purpose of resale prior to their being processed into an article.

(d) The term "chemical substance",

(1) Except as provided in subparagraph (2), means any organic or inorganic substance of a particular molecular identity, including—

(i) Any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and

(ii) Any element or uncombined radical.

(2) Such term does not include—

(i) Any mixture,

(ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) Tobacco or any tobacco product,

(iv) Any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) Any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code), and

(vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(e) The term "commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce described in clause (1).

(f) The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture (1) includes distribution in commerce for export from the United States, and (2) means to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(g) The term "manufacture" means to import into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States), produce, or manufacture, and includes manufacture for export from the United States.

(h) The term "process" (1) includes process for export from the United States and (2) means the preparation of a chemical substance or mixture, after its manufacture, or distribution in commerce—

(i) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(ii) As part of an article containing the chemical substance or mixture.

(i) The term "processor" means any person who processes a chemical substance or mixture.

(j) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(k) The term "United States", when used in the geographic sense, means all of the States.

§ 762.11 Manufacture: Prohibitions and Exemptions.

(a) After October 15, 1978, no person may manufacture any fully halogenated chlorofluoroalkane for any aerosol propellant use except as follows:

(1) For those essential uses listed in § 762.21; or

(2) For those essential uses for food, food additives, drugs, cosmetics and devices listed in 21 CFR 2.125.

(b) Paragraph (a) of this Section shall not apply to any person who imports fully halogenated chlorofluoroalkanes into the United States prior to December 16, 1978.

§ 762.12 Processing: Prohibitions and Exemptions.

After December 15, 1978, no person may process any fully halogenated chlorofluoroalkane for any aerosol propellant use except as follows:

(a) For use in an article which is a food, food additive, drug, cosmetic, or device [1];

(b) For use as a pesticide registered under Section 3 of FIFRA; or

(c) For those essential uses listed in § 762.21.

§ 762.13 Distribution in Commerce: Prohibitions and Exemptions.

(a) After December 15, 1978, no manufacturer or bulk distributor may distribute in commerce any fully halogenated chlorofluoroalkane for processing any aerosol propellant article except as follows:

(1) For use in an article which is a food, food additive, drug, cosmetic, or device [1]; or

(2) For those essential uses listed in § 762.21.

(b) After April 15, 1979, no processor may distribute in commerce any article containing a fully halogenated chlorofluoroalkane except for the following articles:

(1) An article which is a food, food additive, drug, cosmetic, or device,[1] or;

(2) A pesticide product registered under Section 3 of FIFRA; or

(3) An article listed in § 762.21.

§ 762.21 Essential Use Exemptions.

The following aerosol propellant uses of fully halogenated chlorofluoroalkanes are essential uses:

[1] The Food and Drug Administration has promulgated separate regulations on use of fully halogenated chlorofluoroalkanes in these articles.

(a) Mercaptan stench warning devices
(b) Release agent for plastic molds
(c) Flying insect pesticides for use in nonresidential food handling establishments and poultry coops; and for space-spraying of aircraft.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605); Sec. 8(a), 90 Stat. 2027 (15 U.S.C. 2607); Sec. 12(a)(2), 90 Stat. 2033 (15 U.S.C. 2611).)

[FR Doc.77-13840 Filed 5-11-77;10:00 am]

V42 93 MAY 13 77 UMI

CONSUMER PRODUCT SAFETY COMMISSION

NON-ESSENTIAL USES OF FULLY HALOGENATED CHLOROFLUOROALKANES AS PROPELLANTS IN CONSUMER AEROSOL PRODUCTS

Commission Action In Response to the Environmental Protection Agency's Proposed Ban

In this document the Consumer Product Safety Commission (CPSC) announces its action in response to the Environmental Protection Agency's (EPA) "Proposed Regulation of Fully Halogenated Chlorofluoroalkanes" appearing elsewhere in this issue of the FEDERAL REGISTER. That proposed regulation covers chlorofluorocarbons in aerosol products under the Commission's jurisdiction which were preliminarily found by the Commission to present an unreasonable risk of injury to consumers from the destruction of the ozone layer for which no feasible consumer product safety standard is adequate to protect the public. The EPA action renders banning action by the Commission unnecessary at this time; however, the Commission will continue to closely monitor the EPA's regulatory actions and if it becomes appropriate the Commission may issue its own banning regulation.

BACKGROUND

On November 22, 1976, the CPSC granted a petition from the Natural Resources Defense Council to begin regulatory proceedings leading to a ban of certain fluorocarbons in aerosols. The Commission decided that, on the basis of information available, certain aerosol consumer products with chlorofluorocarbon propellants may present an unreasonable risk of injury to consumers from the destruction of the ozone layer and that no feasible consumer product safety standard could adequately protect the public.

The Commission instructed its staff to prepare a notice proposing to ban aerosol consumer products containing the compounds dichlorodifluoromethane, trichlorofluoromethane and other fluorocarbon compounds with similar physical and chemical properties as propellants. The ban would address the apparent unreasonable risk of injury associated with these products resulting from the destruction of ozone in the stratosphere.

In that decision, the Commission recognized that the EPA, under the Toxic Substances Control Act, planned to propose regulatory action with respect to the non-essential uses of certain chlorofluorocarbon propellants. Therefore, it was the Commission's intent that, if EPA proposed a rule within a reasonable period of time and proceeded with regulatory action which would render Commission action in the matter to be unnecessary, the Commission would consider terminating its proceeding.

The Commission's staff was directed to cooperate closely with the EPA and the Food and Drug Administration (FDA), which had announced their intention to phase out the non-essential uses of fluorocarbons in products under their jurisdictions. Since that time the staff has been working closely with the Interagency Chlorofluorocarbon Work Group (a committee including EPA, FDA and CPSC) to develop the proposed EPA prohibition on the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes for non-essential aerosol propellant uses, which appears elsewhere within this issue of the FEDERAL REGISTER. The Commission has reviewed EPA's proposed ban and has determined that further banning action by the Commission is unnecessary at this time.

It should be noted that, until such time as a ban becomes effective, the Commission proposed a regulation (42 FR 21807, April 29, 1977) under section 27(e) of the Consumer Product Safety Act requiring manufacturers of such products to (1) notify the Commission of the consumer products containing these propellants, (2) notify consumers at the point of purchase, by labeling, of the chlorofluorocarbon propellant contained in the product, and (3) include a warning statement on chlorofluorocarbon containing aerosol consumer products.

Dated: April 22, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-12165 Filed 5-11-77;10:00 am]

V 42 N 93 MAY 13 77 UMI

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Vol.42–No.93
5–13–77
BOOK 2:
PAGES
24551–24709

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24551
BOOK 2 OF 2 BOOKS
FRIDAY, MAY 13, 1977
PART VI



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

V42N93 MAY 13 77 UMI

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Alabama	AL77,1063, AL77–1064, AL77–1066, AL77–1067
Indiana	IN77–2070, IN77–2084, IN77–2085
Ohio	OH77–2072

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL77–1007	Jan. 28, 1977.
AL77–1025	Mar. 4, 1977.
AL77–1027	Mar. 18, 1977.
Georgia: GA77–1009	Jan. 18, 1977.
Hawaii: HI77–5030	Mar. 4, 1977.
Indiana:	
IN77–2006	Feb. 4, 1977.
IN77–2008; IN77–2009; IN 77–2012; IN77–2016; IN 77–2017	Feb. 11, 1977.
Kentucky:	
KY76–1091	Sept. 3, 1976.
KY76–1132	Nov. 12, 1976.
KY77–1010	Feb. 11, 1977.
KY77–1035	Apr. 8, 1977.
Nevada: NV77–5146	Apr. 29, 1977.
New Hampshire: NH77–2003	Jan. 28, 1977.
Pennsylvania: PA76–3169	May 21, 1976.
Texas:	
TX76–4193	Dec. 28, 1976.
TX77–4054	Mar. 4, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL77–1023 (FL77–1065)	Feb. 25, 1977.
Idaho:	
ID77–5023 (ID77–5045)	Do.
Indiana:	
IN76–2147 (IN77–2082); IN 76–2148 (IN77–2083)	Oct. 29, 1976.
Iowa:	
IA76–4146 (IA77–4100)	Sept. 10, 1976.
IA77–4064 (IA77–4099)	Mar. 18, 1977.
Kentucky:	
KY76–1110 (KY77–1059)	Sept. 24, 1976.
KY76–1129 (KY77–1058)	Nov. 26, 1976.
Michigan:	
MI77–2019 (MI77–2055)	Feb. 18, 1977.
MI77–2036 (MI77–2052)	Mar. 4, 1977.
New York:	
NY76–3240 (NY77–3011)	Aug. 20, 1976.
NY76–3278 (NY77–3013)	Nov. 19, 1976.
NY76–3280 (NY77–3012)	Nov. 12, 1976.
Ohio:	
OH76–2053 (OH77–2078)	Apr. 16, 1976.
OH76–2054 (OH77–2074)	Apr. 23, 1976.
OH76–2055 (OH77–2077)	Apr. 30, 1976.
OH76–2060 (OH77–2075)	May 7, 1976
OH76–2062 (OH77–2079)	May 21, 1976.
OH76–2071 (OH77–2069); OH76–2073 (OH77–2080).	June 4, 1976.
OH76–2074 (OH77–2080); OH76–2075 (OH77–2078).	June 11, 1976.
OH76–2076 (OH77–2077)	June 18, 1976.
OH76–2110 (OH77–2079)	Sept. 17, 1976.
OH76–2117 (OH77–2073)	Oct. 1, 1976.
OH77–2005 (OH77–2081)	Jan. 21, 1977.
OH77–2037 (OH77–2080)	Mar. 11, 1977.
OH77–2056 (OH77–2076)	Apr. 15, 1977.
Pennsylvania:	
PA76–3177 (PA77–3058)	June 11, 1976.
PA76–3179 (PA77–3050); PA76–3183 (PA77–3056); PA76–3205 (PA77–3057).	June 18, 1976.
PA76–3211 (PA77–3055)	July 30, 1976.
PA76–3250; (PA77–3054); PA76–3251 (PA77–3053).	Sept. 24, 1976.
Texas:	
TX76–4140 (TX77–4101)	Aug. 6, 1976.
TX76–4195 (TX77–4102)	Dec. 28, 1976.

Signed at Washington, D.C., this 6th day of May 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION
STATE: Alabama
DECISION NO.: AL77-1064
DESCRIPTION OF WORK: Heavy Construction
COUNTIES: *See below
DATE: Date of Publication

*Counties: Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, Tallapoosa.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Carpenters	$ 3.75				
Piledrivermen	4.00				
Cement masons	3.60	.40	1%		½ of 1%
Electricians	9.30				
Ironworkers:					
Structural, Ornamental and Reinforcing	8.25	.40	.47		.07
Laborers:					
Unskilled laborers	3.11				
Asphalt rakers	3.11				
Painters	3.90				
Truck drivers	2.55				
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Asphalt distributor	3.60				
Asphalt roller	3.60				
Asphalt spreader	3.60				
Backhoes	4.15				
Bulldozers	6.28				
Cranes, derricks, draglines	4.15				
Front end loader	3.30				
Motor patrol	5.79				
Oiler-greaser	6.91	.30	.20		.10
Pumps	7.57	.30	.20		.10
Scrapers	7.91	.30	.20		.10

NEW DECISION
STATE: Alabama
DECISION NO.: AL77-1063
DESCRIPTION OF WORK: Sewer and Water Line Construction
COUNTIES: *See below
DATE: Date of Publication

*Counties: Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, and Tallapoosa.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	4.75				
Carpenters	5.75				
Laborers:					
Laborers	2.50				
Air tool operator	3.40				
Pipelayers	2.75				
Plumbers & pipefitters	5.00				
Truck driver	2.58				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.63				
Bulldozer	4.50				
Trenching machines	4.66				
Front end loader	4.37				

V 42 9 3 MAY 13 77 UMI

NEW DECISION

STATE: Alabama
DECISION NO.: AL77-1066
DESCRIPTION OF WORK: Sewer and Water Line Construction
COUNTIES: *See below
DATE: Date of Publication

Counties: Blount, Cherokee, Clay, Cleburne, Colbert, Cullman, DeKalb, Fayette, Franklin, Jackson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph, Winston

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement masons	5.80				
Ironworkers	8.80				
Laborers	2.30				
Pipelayers	3.50				
Truck Drivers	3.65				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Drilling machine	6.00				
Mechanic	5.83				
Loaders	4.91				
Air compressor	6.00				
Bulldozer	5.25				
Trenching machine	5.00				

NEW DECISION

STATE: Alabama
DECISION NO.: AL77-1067
DESCRIPTION OF WORK: Heavy Construction
COUNTIES: *See below
DATE: Date of Publication

*Counties: Blount, Cherokee, Clay, Cleburne, Colbert, Cullman, DeKalb, Fayette, Franklin, Jackson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph, and Winston.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$ 9.50	.75	1.00		.02
Carpenters	8.01	.30	.25		
Electricians	8.75	.40	17%+.20		1%
Laborers	4.52	.20	.30		
Painters	9.53				
Plumbers and pipefitters	9.45	.45	.45		.10
Sheet metal workers	9.50	.55	.60		.05
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Air compressor	5.30	.35	.30		
Backhoe	6.40				
Bulldozers	8.55	.35	.30		
Cranes, derrick draglines	7.66				
Drilling machine operator	8.55	.35	.30		
Front end loader	5.50				
Gradall	6.36				
Graders	8.55	.35	.30		
Hoists	8.78	.30	.30		
Mechanics	8.55	.35	.30		
Motor patrol	5.50				
Oilers-greasers	5.88				
Pumps	5.30	.35	.30		
Rollers	8.78	.30	.30		
Scrapers	8.78	.30	.30		
Shovels	8.55	.35	.30		
Tractors	5.26				

NEW DECISION

STATE: INDIANA
DECISION NO.: IN77-2070
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.
COUNTY: GRANT
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$5.94				
CARPENTERS	4.98				
CEMENT MASONS	4.84				
DRYWALL FINISHERS	5.40				
DRYWALL HANGERS	5.24				
ELECTRICIANS	6.04				
HEATING MECHANICS	5.75				
LABORERS:					
Laborers	3.87				
Landscapers	3.82				
PAINTERS	4.85				
PLUMBERS	4.84				
ROOFERS	4.66				
SHEET METAL WORKERS	4.24				
SOFT FLOOR LAYERS	4.75				
TILE SETTERS	5.00				
TRUCK DRIVERS	3.88				
POWER EQUIPMENT OPERATORS:					
Backhoe operator	7.56				
Bulldozer operator	7.71				

NEW DECISION

STATE: INDIANA
DECISION NO.: IN77-2084
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).
COUNTIES: *SEE BELOW
DATE: Date of Publication

*Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Brown Co.	$11.43	.50	.35		.05
Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	11.06	.45	.65		
Switzerland Co.	11.61	.60	.85		.02
BOILERMAKERS:					
Brown, Crawford, Jackson, Jennings, Lawrence, & Orange Cos.	11.70	.80	1.00		.03
Jefferson, Scott, Switzerland, & Washington Cos.	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Stonemasons:					
Brown, Jackson, & Jennings Cos.	9.90	.40	.30		.02
Crawford Co.	8.00				
Jefferson, & Switzerland Cos.	8.75				
Lawrence, Orange, & Washington Cos.	10.09				
Scott Co.	9.83	.40	.40		
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Brown (Hamblin, Washington, & Van Buren Twps.), Jackson, Jefferson, Jennings, & Scott Cos.:					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; & burners	9.94	.55	.65		.03
Brown (Remainder of Co.):					
Carpenters; Soft floor layers	9.10	.60	.35		.01
Millwrights; Piledrivermen	9.35	.60	.35		.01
Crawford Co.:					
Carpenters	9.92	.45	.80		
Millwrights	10.34	.45	.70		
Piledrivermen; Welders; & burners	10.17	.45	.80		

UMI

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Lawrence & Orange Cos.:					
Carpenters; Soft floor layers	$10.04	.50	.40		
Millwrights; Piledrivermen	10.44	.50	.40		
Switzerland Co.:					
Carpenters; Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen; Welders; & Burners	9.99	.55	.65		.03
Washington Co.:					
Carpenters; Piledrivermen; & Soft floor layers	9.65	.30	.30		
Millwrights	10.40	.30	.60		.02
CEMENT MASONS:					
Crawford Co.	9.80	.65	.55		
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Switzerland Co.	7.50				
ELECTRICIANS:					
Brown Co.	10.40	.40	1%+.30		.01
Crawford, Lawrence, & Orange Cos	11.65	.40	1%		½%
Jackson, Jefferson, Scott, & Washington Cos.	11.60	.50	1%+.40		½%
Jennings Co.	11.00	4%	5%		½%
Switzerland Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.30	.70	1%+.40		.5%
Over 18 mi. radius up to & incl 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.60	.70	1%+.40		.5%
Over 21 mi. radius up to & incl 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.70	.70	1%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.85	.70	1%+.40		.5%

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Brown Co.:					
Elevator constructors	$10.68	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.:					
Elevator constructors	11.00	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Switzerland Co.:					
Elevator constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Brown, Jackson (No. of #50), Jennings (Except from North Vernon, s/w to the corner of Jennings Co.), & Lawrence (No. of #54)	11.59				
Crawford, Jackson (So. of #50), Jefferson, Jennings (From North Vernon, s/w to the corner of Jennings Co.), Lawrence (South of #54 & #50), Orange, Scott, & Washington Cos.	8.90	.35	.45		
IRONWORKERS:					
Brown, Jackson (N. ½ of Co.), Jennings (N. ½ of Co.), & Lawrence (Except So. 2/3 of Co.)	10.65	.75	1.10		.05
Crawford, Jackson (So. ½ of Co.), Jefferson, Jennings (So. ½ of Co.), Lawrence (So. 2/3 of Co.), Orange, Scott, & Washington Cos.	10.50	.75	.95		.05
Switzerland Co.:					
Ornamental; Structural	11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Brown, & Jackson Cos.	$10.54	.61	.35		.04
Crawford, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.29		.20		.01
Switzerland Co.	11.67		.25		.025
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Brown, Jackson, & Jennings Cos.	9.90	.40	.30		.02
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Brown, Jackson, & Jennings Cos.:					
Marble setters' helpers; & Tile setters' helpers	7.60				
Terrazzo workers' helpers	8.95				
PAINTERS:					
Brown Co.:					
Brush; Drywall; Vinyl; Paperhangers; Rollers	8.40			.30	
Structural steel	9.15			.30	
Sandblasting; Spray; Epoxy brush	9.40			.30	
Spray epoxy	10.40			.30	
Crawford, Jefferson, Scott, & Washington Cos.:					
Within 35 mi. radius of Jefferson Co., Ky. Court House:					
New Construction:					
Basic	7.82	.25	.20		.03
Special	8.17	.25	.20		.03
Spray	8.39	.25	.20		.03
Old Construction:					
Basic	7.48	.25	.20		.03
Special	7.83	.25	.20		.03
Spray	7.93	.25	.20		.03
Over 35 mi. radius of Jefferson Co., Ky. Court House:					
New Construction:					
Basic	8.17	.25	.20		.03
Special	8.52	.25	.20		.03
Spray	8.62	.25	.20		.03
Old Construction:					
Basic	7.83	.25	.20		.03
Special	8.18	.25	.20		.03
Spray	8.38	.25	.20		.03

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Jackson, & Jennings Cos.:					
Brush; Rollers; Drywall taping & hanging	$9.45		.50		
Spray; Sandblast; Stage	10.45		.50		
Lawrence, & Orange Cos.:					
Brush repaint	7.10				
Sandblasting; Spray	9.00				
Vinyl hanging	8.10				
Structural steel; Brush, new construction; Roller applicator; Drywall	8.00				
Switzerland Co.:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; & Steamcleaning	9.30				
Spray; Epoxy	9.80				
PLASTERERS:					
Brown Co.	9.10				
Crawford Co.	10.58				
Jackson, Jefferson, Jennings; Lawrence, Orange, Scott, & Washington Cos.	9.60				
Switzerland Co.	7.50				
PLUMBERS; Steamfitters:					
Brown, Jackson, Lawrence, Orange, & Washington Cos.	10.95	.50	.75		.15
Crawford, Jefferson, Scott, & Switzerland Cos.	11.65	.50	.90	c	.02
Jennings Co.	11.20	.50	.30		.05
ROOFERS:					
Brown, Jackson, Jennings, & Lawrence Cos.:					
Composition & waterproof	10.43	.35	.40		
Slate, tile, asbestos & precast slab	10.68	.35	.40		
Helpers	8.93	.35	.40		

UMI

DECISION NO. IN77-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (CONT D):					
Crawford, & Orange Cos.:					
Composition; Waterproofers	$9.23	.50	.40		
Gypsum plank; Slate; Tile; & Concrete slab	9.48	.50	.40		
Helpers	6.31	.50	.40		
Jefferson, Scott, & Washington Cos.:					
Roofers	7.40	.50	.20		
Slate; Tile; & Precast concrete slabs	7.80	.50	.20		
Helpers	4.80	.50	.20		
Switzerland Co.	11.47		.85		.01
SHEET METAL WORKERS:					
Brown, Jackson, Jennings, Lawrence, Orange, & Washington Cos.	11.25	.60	.60		.08
Crawford, Jefferson, Scott, & Switzerland Cos.	11.86	.60+d	.60		.09
SPRINKLER FITTERS	11.65	.65	.95		.08
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day					
FOOTNOTES: a. 6 paid holidays: A through F. b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years. c. 1 paid holiday: Christmas Eve Day d. 3% of gross earnings to SASMI					
LABORERS:					
GROUP I	7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

DECISION NO. IN77-2084

LABORERS (BUILDING CONSTRUCTION):	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

DECISION NO. IN77-2084

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & tutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

DECISION NO. IN77-2084

POWER EQUIPMENT OPERATORS

Brown County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.55	.40	.40		.05
GROUP 2	9.70	.40	.40		.05
GROUP 3	8.35	.40	.40		.05
GROUP 4	7.55	.40	.40		.05

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane); Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman,, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Mixer Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

UMI

DECISION NO. IN77-2084

POWER EQUIPMENT OPERATORS

Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor, cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

DECISION NO. IN77-2084

TRUCK DRIVERS:

Crawford County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$7.345	.325	12.00a		
GROUP 2	7.455	.325	12.00a		
GROUP 3	7.565	.325	12.00a		
GROUP 4	7.635	.325	12.00a		
GROUP 5	7.675	.325	12.00a		
GROUP 6	7.405	.325	12.00a		
GROUP 7	7.515	.325	12.00a		
GROUP 8	7.175	.325	12.00a		
GROUP 9	7.215	.325	12.00a		

CLASSIFICATIONS

GROUP 1
Single axle straigh trucks, batch truck, wet or dry, over 3(3/4E) batches
GROUP 2
Tandem trucks or dog-legs, trucks over 15 ton payload, single-axle semi-truck (3 axle unit) Low-boys single axle (3-axle unit) Low-boys single axle (3-axle unit), Winch trucks or A-frames when used to transport material; Batch truck wet or dry, over 3(3/4E) batches, farm tractors pulling trailers
GROUP 3
Tandem axle semi-trucks (4-axle unit), drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment 12 cu. yds. & under; Low-Boys, Tandem axle (4 axle unit), drivers on pavement breakers
GROUP 4
Tandem-Tandem Semi-Trucks (5-axle unit Low Boys Tandem (5-axle unit)
GROUP 5
Drivers on equipment when not self-loaded or pusher loaded on such Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Toutnatrailers, Tournarockers or similar equipment over 12. cu. yds. Truck Mechanic Drivers on mixer trucks all types
GROUP 6
Drivers on bituminous distributors two-man
GROUP 7
Drivers on bituminous distributors one-man
GROUP 8
Drivers of pickup trucks when hauling equip. supplies & materials to & from & on the job site.
GROUP 9
Helpers, Greasers, Tire Men & Members tenders batch boards

FOOTNOTES:
a. Per Week Per Employee

DECISION NO. IN77-2084

TRUCK DRIVERS

Jefferson & Washington Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
WINCH TRUCKS; A-frames when used to transport materials; Euclids & other heavy earth moving equipment; Lowboys	$7.13	$13.50a	$14.00a	b	
TRUCK MECHANICS; Concrete mixer trucks (all types, hauling only on the job site)	7.05	13.50a	14.00a	b	
TRUCKS OVER 3 TONS; Semi-trailer; Tandem axle or pole trailers & dumps; Farm tractor when used to pull building material or equipment	6.98	13.50a	14.00a	b	
TRUCKS 3 TONS & UNDER; Truck mechanics helper	6.87	13.50a	14.00a	b	
TRUCK HELPER & WAREHOUSEMEN	6.75	13.50a	14.00a	b	

FOOTNOTES:
a. per week per man on payroll more than 20 consecutive days
b. 20 hours' paid vacation for employees working 1 year with a minimum of 650 hours & 40 hours' paid vacation for employee working 1 year with a minimum of 1200 hours.

DECISION NO. IN77-2084

TRUCK DRIVERS

Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.05	13.50a	14.00a	b	
GROUP 2	8.10	13.50a	14.00a	b	
GROUP 3	8.15	13.50a	14.00a	b	
GROUP 4	8.20	13.50a	14.00a	b	
GROUP 5	8.25	13.50a	14.00a	b	
GROUP 6	8.30	13.50a	14.00a	b	
GROUP 7	8.40	13.50a	14.00a	b	
GROUP 8	8.45	13.50a	14.00a	b	
GROUP 9	8.50	13.50a	14.00a	b	
GROUP 10	8.55	13.50a	14.00a	b	
GROUP 11	8.70	13.50a	14.00a	b	

CLASSIFICATIONS

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. Per Week per employee
b. 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.

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NEW DECISION

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NO.: IN77-2085 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette, Franklin, Ohio, Ripley, & Union Cos.	$11.46	.75	.85		.02
Henry & Rush Cos.	11.43	.50	.35		.05
Randolph & Wayne Cos.	11.57	.50	.75		.01
BOILERMAKERS	11.70	.80	1.00		.03
BRICKLAYERS; Stonemasons:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	8.85	.60			
Henry & Randolph Cos.	9.85	.50	.45		.01
Ohio Co.	8.75				
Ripley Co.	9.00		.30		
CARPENTERS; Millwrights; Piledrivermen; Soft floor layers:					
Fayette, Henry, Randolph, Rush (Carthage Twp.), Union, & Wayne Cos.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Franklin, Ohio, Ripley Cos.:					
Carpenters; Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen; Welders; Burners	9.99	.55	.65		.03
Rush Co. (Except Carthage Twp.):					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; Burners	9.94	.55	.65		.03
CEMENT MASONS:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	8.30		1.30		
Henry Co.	8.23	.40	.35		
Ohio & Ripley Cos.	7.50				
Randolph Co.	9.75	.60			
ELECTRICIANS:					
Fayette, Franklin, Henry, Randolph, Union, & Wayne Cos.	10.55	.40	1%+.30		.2%
Ohio Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	11.30	.70	1%+.40		.5%

DECISION NO. IN77-2085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT D):					
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	$11.60	.70	1%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court in Cincinnati, Ohio	11.70	.70	1%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	11.85	.70	1%+.40		.5%
Ripley & Rush Cos.	11.00	4%	5%		½%
ELEVATOR CONSTRUCTORS:					
Fayette, Franklin, Ohio, Ripley, & Union Cos.:					
Elevator constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Henry & Rush Cos.:					
Elevator constructors	10.68	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Randolph Co.:					
Elevator constructors	9.66	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Fayette, Henry, Randolph, Rush, Union (N/W ½ of Co.), & Wayne Cos.	11.59				
Franklin, Ohio, Ripley, & Union (S/E ½ of Co.) Cos.	10.10		.35		.005
IRONWORKERS:					
Fayette(Part of Co.), Henry, & Rush Cos.	10.65	.75	1.10		.05
Fayette (Part of Co.), Randolph (So. part incl. Union City, but exclu. Winchester), Union, & Wayne Cos.:					
Within 15 mi. radius of Dayton, Ohio	10.51	.75	1.05		.04
Beyond 15 mi. radius of Dayton, Ohio	10.66	.75	1.05		.04

DECISION NO. IN77-2085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (CONT'D):					
Fayette (Part of Co.), Franklin, Ohio, & Ripley Cos.:					
Ornamental; Structural	$11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02
Randolph Co. (Rem. of Co.)	10.75	.75	.95		.01
LATHERS:					
Franklin, Ohio, Ripley, & Union Cos.	11.67		.25		.025
Henry & Randolph Cos.	8.55		.35		.01
Rush Co.	10.54	.61	.35		.04
MARBLE SETTERS; Tile setters:					
Fayette, Rush, & Wayne Cos.					
Tile setters	8.85	.60			
Henry, & Randolph Cos.:					
Marble setters	9.85	.30	.45		.01
Tile setters	9.60	.30	.45		.01
PAINTERS:					
Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	7.85				
Sandblasting; Spray	8.85				
Structural steel; Scaffold over 30 ft.	8.10				
Epoxy	9.85				
Stage & Spray helper	8.35				
Ohio & Ripley Cos.:					
Brush; Roller; Wallwashing; Dry-wall taping & finishing; Wall-paper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; & Steamcleaning	9.30				
Spray; Epoxy	9.80				
PLASTERERS:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	8.45	.80	.50		.01
Henry Co.	8.23	.40	.35		.01
Ohio & Ripley Cos.	7.50				
Randolph Co.	8.40	.65			.01

DECISION NO. IN77-2085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.	$10.80	.50	.55	c	.15
Ohio & Ripley Cos.	11.47	.75	1.05		.05
ROOFERS:					
Fayette, Franklin, Rush, Union, & Wayne Cos.:					
Composition & Waterproof	10.43	.35	.40		
Slate, tile, asbestos & pre-cast slab	10.68	.35	.40		
Helpers	8.93	.35	.40		
Henry & Randolph Cos.:					
Slate, tile, & asbestos	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Composition, damp & waterproof	8.70	.40	.20		
Ohio & Ripley Cos.:	11.47		.85		.01
SHEET METAL WORKERS:					
Fayette, Franklin, Henry, Ripley, Rush, & Union Cos.	11.25	.60	.60		.08
Ohio Co.	11.205	.88	.81		.04
Randolph & Wayne Cos.	10.95	.55+d	.84		.15
SPRINKLER FITTERS	11.65	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 2 paid holidays: C & D
d. $.38 per hour to SASMI

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DECISION NO. IN77-2085

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fayette, Henry, Randolph, Rush, Union, & Wayne Counties					
GROUP I	$7.05	.60	.45		.09
GROUP II	7.25	.60	.45		.09
GROUP III	7.35	.60	.45		.09
GROUP IV	8.05	.60	.45		.09
Remaining Counties					
GROUP I	7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry mill washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & tutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

DECISION NO. IN77-2085

POWER EQUIPMENT OPERATORS

Fayette, Henry, Randolph, Rush, Union, & Wayne Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.55	.40	.40		.05
GROUP 2	9.70	.40	.40		.05
GROUP 3	8.35	.40	.40		.05
GROUP 4	7.55	.40	.40		.05

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane); Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

DECISION NO. IN77-2085

POWER EQUIPMENT OPERATORS

Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor, cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

DECISION NO. IN77-2085

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.05	13.50a	14.00a	b	
GROUP 2	8.10	13.50a	14.00a	b	
GROUP 3	8.15	13.50a	14.00a	b	
GROUP 4	8.20	13.50a	14.00a	b	
GROUP 5	8.25	13.50a	14.00a	b	
GROUP 6	8.30	13.50a	14.00a	b	
GROUP 7	8.40	13.50a	14.00a	b	
GROUP 8	8.45	13.50a	14.00a	b	
GROUP 9	8.50	13.50a	14.00a	b	
GROUP 10	8.55	13.50a	14.00a	b	
GROUP 11	8.70	13.50a	14.00a	b	

CLASSIFICATIONS

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. Per Week per employee
b. 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.

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NEW DECISION

STATE: OHIO
COUNTIES: DARKE & SHELBY
DECISION NO. OH77-2072
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$4.75				
BRICKLAYERS	6.00				
CARPENTERS	4.74				
CEMENT MASONS	4.91				
DRYWALL FINISHERS	4.73				
DRYWALL HANGERS	4.50				
ELECTRICIANS	5.00				
LABORERS	3.50				
PAINTERS	5.00				
PLUMBERS	5.40				
ROOFERS	4.83				
SHEET METAL WORKERS	5.50				
SOFT FLOOR LAYERS	5.00				
TILE SETTERS	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.70				
Bulldozer	5.55				
Front end loader	4.73				

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1007 - Mod. # 3 (42 FR-5619 - January 28, 1977) Jefferson & Shelby Counties, Alabama					
Change:					
Sprinkler fitters	10.35	.65	.95		.08
Power Equipment Operators:					
GROUP A	8.64	.40	.30		.10
GROUP B	8.31	.40	.30		.10
GROUP C	7.44	.40	.30		.10
GROUP D	9.34	.40	.30		.10
GROUP E	8.83	.40	.30		.10
GROUP F	7.57	.40	.30		.10
Decision # AL77-1025 - Mod. # 2 (42 FR-15277 - March 4, 1977) Lawrence, Limestone and Morgan Counties, Alabama					
Change:					
Carpenters:					
Carpenters, & Soft floor layers	7.25	.35	.20		.03
Millwrights	7.89	.35	.20		.03
Piledrivermen	7.66	.35	.20		.03
Plumbers, pipefitters, steamfitters:					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 & Rt. 20 to Wheeler Lake including Moulton & Wren, excluding Bankhead National Park), Limestone Co. & Morgan Co.	9.95	.50	.50		.10
Lawrence Co., (remaining portion)	10.40	.40	.50		.08

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1027 - Mod. # 2 (42 FR-15260 - March 18, 1977) Colbert and Lauderdale Counties, Alabama					
Change:					
Cement Masons:					
Cement masons	8.06				
Power tool operators	8.31				
Plasterers	8.31				
Plumbers & steamfitters	10.40	.40	.50		.08
DECISION #GA77-1009 - Mod. #3 (42 FR-5623 - January 28, 1977) Chatham County, Georgia					
Change:					
Sprinkler Fitters	10.35	.65	.95		.08
DECISION #HI77-5030 - Mod. #4 (42 FR 12379 - March 4, 1977) Statewide Hawaii					
Change:					
Plasterers' Hod Carriers:					
Hod carriers	$8.01	.64	$1.06	.38	.13
Mortar mixers	8.21	.64	1.06	.38	.13

MODIFICATIONS P. 3

DECISION NO. IN77-2006 - Mod. #3 (42 FR 7046 - February 4, 1977) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Dearborn Co.	$11.61	.60	.85		.02
Vanderburgh Co.	11.50	.45	.40		.03
Boilermakers:					
Dearborn Co.	9.40	.75	1.00	1.40	.02
Bricklayers:					
Bartholomew, & Monroe Cos.:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers & Tile setters	9.90	.40	.30		.02
Delaware Co.:					
Bricklayers; Marble setters; & Stonemasons	9.85	.50	.45		.01
Tile setters	9.60	.50	.45		.01
Grant Co.:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers & Tile setters	9.45	.70	.40		
Vanderburgh Co.:					
Bricklayers; Stonemasons	10.38	.85	.50		
Marble setters; Terrazzo workers; & Tile setters	10.30		.50		
Carpenters:					
Bartholomew Co. (Rem. of Co.):					
Carpenters; & Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen	9.94	.55	.65		.03
Dearborn Co.:					
Carpenters; & Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen	9.99	.55	.65		.03
Delaware Co.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Millwrights	9.90	.55	.35		.08

MODIFICATIONS P. 4

DECISION NO. IN77-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Grant Co.:					
Carpenters	$9.48	.80	.60		.05
Vanderburgh Co.:					
Carpenters; Soft floor layers	9.65	.40	.35		
Piledrivermen	9.90	.40	.35		
Millwrights	10.34	.45	.70		
Cement masons:					
Dearborn Co.	7.50				
Delaware & Grant Cos.	9.75	.60			
Vanderburgh Co.	9.80	.65	.55		
Vigo Co.	10.20	.60	.25		
Ironworkers:					
Bartholomew, Delaware (So. 2/3 of Co.), Grant (S/W portion) & Monroe Cos.	10.65	.75	1.10		.05
Benton & Tippecanoe Cos.	9.99	.75	1.05		.02
Lathers:					
Dearborn Co.	11.67		.25		.025
Painters:					
Bartholomew Co.:					
Brush; Drywall taping & finishing; & Rollers	9.45		.50		
Sandblasting; Spray; Swing stage	10.45		.50		
Structural steel	9.45		.50		
Dearborn Co.:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; Steamcleaning	9.30				
Spray	9.80				
Delaware Co.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray	9.30		.60		
Steeplejack; Water towers	9.55		.60		

MODIFICATIONS P. 5

DECISION NO. IN77-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Vanderburgh Co.:					
Brush; Roller	$8.95	.65	.30		
Sandblasting	9.70	.65	.30		
Spray	9.95	.65	.30		
Pipefitters; Steamfitters:					
Dearborn Co.	11.35	.875	1.15		.08
Plasterers:					
Dearborn Co.	7.50				
Vigo Co.	9.75	.50	.50		
Plumbers:					
Dearborn Co.	11.47	.75	1.05		.05
Plumbers; Steamfitters:					
Benton, Tippecanoe, & Vigo Cos.	11.25	.40	.80		.10
Delaware Co.	10.80	.50	.55	g	.15
Vanderburgh Co.	12.28	.50	.80		.06
Roofers:					
Delaware Co.:					
Slate, tile & Asbestos; Composition, damp & waterproofers	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Sprinkler fitters	11.65	.65	.95		.08
Omit:					
Laborers' schedule					
Add:					
Laborers' schedule					

MODIFICATIONS P. 6

DECISION NO. IN77-2006 (CONT'D)

LABORERS (BUILDING CONSTRUCTION):

	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

MODIFICATIONS P. 7

DECISION NO. IN77-2008 - Mod. #2
(42 FR 8908 - February 11, 1977)
Decatur County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters; Soft floor layers	$9.74	.55	.65		.03
Piledrivermen	9.99	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Sprinkler fitte.s	11.65	.65	.95		.08
Laborers:					
Group I	7.40	.60	.45		.09
Group II	7.60	.60	.45		.09
Group III	7.70	.60	.45		.09
Group IV	8.40	.60	.45		.09

DECISION NO. IN77-2009 - Mod. #1
(42 FR 8910 - February 11, 1977)
Clark, Floyd, & Harrison Counties, Indiana

Change:					
Boilermakers	$9.40	.75	1.00	1.40	.02
Bricklayers	9.83	.40	.40		
Laborers:					
Group I	7.40	.60	.45		.09
Group II	7.60	.60	.45		.09
Group III	8.15	.60	.45		.09
Group IV	8.40	.60	.45		.09

DECISION NO. IN77-2012 - Mod. #1
(42 FR 8913 - February 11, 1977)
Jackson County, Indiana

Change:					
Bricklayers	$7.92	.40	.30		.02

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DECISION NO. IN77-2016 - Mod. #1
(42 FR 8913 - February 11, 1977)
Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Morgan, & Shelby Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Hamilton & Madison Cos.	$9.85	.50	.45		.01
Carpenters:					
Johnson (city of Edinburgh), & Shelby (Rem. of Co.) Cos.:					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; Burners	9.94	.55	.65		.03
Madison Co.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Painters:					
Madison Co.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray; Pressure cleaning equipment	9.30		.60		
Wallcovering (using own tools)	9.05		.60		
Steeplejack & water towers	9.55		.60		
Plumbers; Steamfitters:					
Madison Co.	10.80	.50	.55	c	.15
Roofers:					
Hamilton & Madison Cos.:					
Slate, Tile & Asbestos	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Composition, damp & waterproof	8.70	.40	.20		
Sprinkler fitters	11.65	.65	.95		.08
Tile setters:					
Madison Co.	9.60	.50	.45		.01

DECISION NO. IN77-2016 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Hamilton, Hancock, & Madison Cos.:					
Group I	$7.05	.60	.45		.09
Group II	7.25	.60	.45		.09
Group III	7.35	.60	.45		.09
Group IV	8.05	.60	.45		.09
Boone Co.:					
Group I	7.25	.60	.45		.09
Group II	7.45	.60	.45		.09
Group III	7.55	.60	.45		.09
Group IV	8.25	.60	.45		.09
Shelby Co.:					
Group I	7.50	.60	.45		.09
Group II	7.70	.60	.45		.09
Group III	7.80	.60	.45		.09
Group IV	8.50	.60	.45		.09
Hendricks, Johnson, & Morgan Cos.:					
Group I	7.40	.60	.45		.09
Group II	7.60	.60	.45		.09
Group III	7.70	.60	.45		.09
Group IV	8.40	.60	.45		.09

DECISION NO. IN77-2017 - Mod. #2
(42 FR 8920 - February 11, 1977)
Adams, Blackford, Dekalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Counties, Indiana

Change:					
Bricklayers:					
Blackford, & Jay Cos.	9.85	.50	.45		.01
Wabash Co.	9.45	.70	.40		
Carpenters:					
Adams, Huntington, Wabash, & Wells Cos.:					
Carpenters; Soft floor layers	9.48	.80	.60		.03

DECISION NO. IN77-2017 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Blackford, & Jay Cos.:					
Carpenters; Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Cement masons:					
Blackford, Huntington, Jay, Wabash, & Wells Cos.	9.75	.60			
Painters:					
Blackford, Jay, & Wells (To the south city limits of Bluffton) Cos.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray; Pressure cleaning equipment	9.30		.60		
Wallcovering (using own tools)	9.05		.60		
Steeplejack & water towers	9.55		.60		
Plumbers; Steamfitters:					
Jay Co.	10.80	.50	.55	f	.15
Roofers:					
Blackford & Jay Cos.:					
Slate, tile & asbestos	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Composition, damp, & waterproof	8.70	.40	.20		
Sprinkler fitters	11.65	.65	.95		.08
Tile setters:					
Blackford & Jay Cos.	9.60	.50	.45		.01
Laborers:					
Adams, Dekalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley Cos.:					
Group I	7.25	.60	.45		.09
Group II	7.45	.60	.45		.09
Group III	7.55	.60	.45		.09
Group IV	8.25	.60	.45		.09

DECISION NO. IN77-2017 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Blackford & Jay Cos.:					
Group I	$7.05	.60	.45		.09
Group II	7.25	.60	.45		.09
Group III	7.35	.60	.45		.09
Group IV	8.05	.60	.45		.09

DECISION #KY76-1091 - Mod. #4
(41 FR-37470 - September 3, 1976)
Christian County (Ft. Campbell only), Kentucky

Change:					
Ironworkers	9.90	.45	.65		.02
Lathers	8.15		.20	.40	.01
Sheet metal workers	9.30	.44	.31		.04

DECISION #KY76-1132 - Mod. #5
(41 FR-52260 - November 12, 1976)
Franklin County, Kentucky

Change:					
Sprinkler Fitters	11.65	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY77-1010 - Mod. #3 (42 FR-8940 - February 11, 1977) Fayette County, Kentucky					
Change:					
Sprinkler fitters	11.65	.65	.95		.08
DECISION #KY77-1035 - Mod. #1 (42 FR-18812 - April 8, 1977) Warren County, Kentucky					
Change:					
Lathers	8.15		.20	.40	.01
Sprinkler Fitters	11.65	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV77-5146 - Mod. #1 (42 FR 22082 - April 29, 1977) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevsda					
Change:					
Carpenters:					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10-mile radius of Las Vegas, Nevada; area within a 5-mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$10.36	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors;					
Power saw operators	10.51	.65	.90	1.00	.10
Piledrivermen	10.56	.65	.90	1.00	.10
Millwrights	10.96	.65	.90	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV77-5146 (Cont'd):					
Change (Cont'd):					
Carpenters (Cont'd):					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah) (Cont'd):					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	$10.86	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors;					
Power saw operators	11.01	.65	.90	1.00	.10
Pliedrivermen	11.06	.65	.90	1.00	.10
Millwrights	11.46	.65	.90	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:					
Carpenters	11.11	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors;					
Power saw operators	11.26	.65	.90	1.00	.10
Piledrivermen	11.31	.65	.90	1.00	.10
Millwrights	11.71	.65	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described above:					
Carpenters	12.36	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors;					
Power saw operators	12.51	.65	.90	1.00	.10
Piledrivermen	12.56	.65	.90	1.00	.10
Millwrights	12.96	.65	.90	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NH77-2003- Mod #2 (42 FR 5625- January 28, 1977) Rockingham County, New Hampshire					
Change:					
Glaziers	$8.12	.57	.64		.03
Laborers:					
Remainder of County (including Salem):					
Building, heavy, and highway:					
Laborers	6.76	.60	.70		.10
Pneumatic tool ops, drillers, pavement breakers	7.26	.60	.70		.10
Blasters and powdermen	7.26	.60	.70		.10
Plasterers' tenders	6.91	.60	.70		.10

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MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3169 - Mod. # 3					
(41 FR 21133 - May 21, 1976)					
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania					
Change:					
POWER EQUIPMENT OPERATORS:					
HEAVY CONSTRUCTION					
GROUP I	$12.60	5.5%	9.5%	c	1.2%
GROUP II	12.34	5.5%	9.5%	c	1.2%
GROUP III	11.47	5.5%	9.5%	c	1.2%
GROUP IV	11.26	5.5%	9.5%	c	1.2%
GROUP V	10.95	5.5%	9.5%	c	1.2%
GROUP VI	10.78	5.5%	9.5%	c	1.2%
GROUP VII	10.27	5.5%	9.5%	c	1.2%
GROUP VIII	9.53	5.5%	9.5%	c	1.2%
HIGHWAY CONSTRUCTION:					
POWER EQUIPMENT OPERATORS:					
GROUP I	12.35	5.5%	9.5%	a	1.2%
GROUP II	12.12	5.5%	9.5%	a	1.2%
GROUP III	11.51	5.5%	9.5%	a	1.2%
GROUP IV	10.99	5.5%	9.5%	a	1.2%
GROUP V	10.62	5.5%	9.5%	a	1.2%
GROUP VI	10.27	5.5%	9.5%	a	1.2%
GROUP VII	9.53	5.5%	9.5%	a	1.2%
TRUCK DRIVERS:					
HEAVY & HIGHWAY CONSTRUCTION:					
CLASS I	8.17	.7175	.70	a&b	
CLASS II	8.27	.7175	.70	a&b	
CLASS III	8.47	.7175	.70	a&b	

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4193 - Mod. #6					
(41 FR 56594 - December 28, 1976)					
Bee, Kleberg & Nueces Cos., Texas					
Change:					
Ironworkers	$ 7.74	.55	1.00		.04
DECISION #TX77-4054 - Mod. #4					
(42 FR 12671 - March 4, 1977)					
Brazos County, Texas					
Change:					
Bricklayers	10.53	.63	.60		.06

NOTICES

SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: FL77-1065
Supersedes Decision No. FL77-1023 dated February 25, 1977 in 42 FR 11191.
DESCRIPTION OF WORK: Building Construction, (does not includ single family homes and garden type apartments up to and including 4 stories); and Heavy and Highway Construction.

COUNTIES: See below*
DATE: Date of Publication

*COUNTIES: Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only and including Melabar Radar Site), Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.53	.50	.35		.06
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	7.56	.40	.25		
Blocklayers	7.56	.40	.25		
Manhole bricklayers	7.56	.40	.25		
Plasterers	7.56	.40	.25		
Terrazzo workers	7.56	.40	.25		
Tile setters	7.56	.40	.25		
Cement masons	7.41	.40	.25		
Masonry cutting or grinding machine operator	7.71	.40	.25		
Carpenters, gypsum dry hangers	7.41	.50	.40		.05
Millwrights	9.80	.45	.45		.06
Piledrivermen	7.71	.50	.40		.05
Saw operator (radial)	7.71	.50	.40		.05
Soft floor layers	7.41	.50	.40		.05
Electricians:					
Base Zone (within 40 miles of the Union Office, 215 Ridgewood Ave., Daytona Beach):					
Electricians	8.74	.45	17+.48		1%
Cable splicers	8.99	.45	17+.48		1%
Zone 1 (beyond 40 miles from the Union Office):					
Electricians	9.19	.45	17+.48		1%
Cable splicers	9.44	.45	17+.48		1%
Ironworkers:					
Structural, finishers, burners, rodmen, welders, riggers and machinery movers	9.33	.65	.60	.65	.05
Shearers	9.58	.65	.60	.65	.05
Laborers:					
Laborers	5.70	.45	.30		
Hod carriers; kattlemen (excl. roofing & water proofing); mortar mixers; pipelayers; plasterers' tenders; well point dewatering; air tool operator; powderman; paving curb & gutter, & sidewalk form setters; concrete workers	5.85	.45	.30		
Nozzlemen	6.52	.45	.30		

FL77-1065 - (cont'd)

Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen:					
Lineman	$9.32	.45	1%		½ of 1%
Cable splicers	9.47	.45	1%		½ of 1%
Class A operators	9.32	.45	1%		½ of 1%
Class B operators	6.52	.45	1%		½ of 1%
Groundman over 1 year	4.82	.45	1%		½ of 1%
Groundman under 1 year	4.00	.45	1%		½ of 1%
Painters:					
Brush; roller	7.95		.30		.05
Spray	8.65		.30		.05
Mitten	8.65		.30		.05
Tar, bituminous, & similar materials, asphalt (excl. asphalt base aluminum & varnish)	8.65		.30		.05
Paperhanging	8.65		.30		.05
Sandblasting	8.65		.30		.05
Plumbers, pipefitters, & steamfitters	9.40	.49	.51	.60	.05
Roofers:					
Roofers	7.40	.35	.25		.15
Helpers	5.30	.35	.25		.15
Kettlemen	5.95	.35	.25		.15
Sheet metal workers	9.72	.60	.33		
Sprinklar fitters	10.16	.60	.90		.10
Welders - rate for craft.					

NOTICES

FL77-1065 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.40	.50	.35		.05
GROUP II	8.80	.50	.35		.05
GROUP III	8.30	.50	.35		.05
GROUP IV	7.90	.50	.35		.05
GROUP V	7.20	.50	.35		.05

GROUP I: Cranes, hydraulic or derrick on structural or reinforcing iron, cranes or derrick, clam shell, dragline, piledriver operator (including auger & boring machine op. for drilling in piling), backhoe (including hydraulic), hydraulic crane, gradall, shovel, motor patrol, mechanic heavy equipment, side boom cat & multi-drum hoist,

GROUP II: Bulldozer & trenching machine, bridge crane, highlift, straddle buggy, hoist, earth hauling scraper (regardless how powered), pump crete & front end loader

GROUP III: Winch truck, concrete/asphalt paver, fork lift engineer, boring machine, well drilling machine & mobile cleaning plant

GROUP IV: Tractor, well point pump & installation man, lubrication engineer equipment greaser, air compressor, & firemen

GROUP V: Motor boat, oiler, mechanic helper, pumpman (other than well point), roller (steel & rubber tires) self-powered, conveyor, welding machine (three or more combustion engines & Pulver mixer)

SUPERSEDEAS DECISION

STATE: Idaho
DECISION NUMBER: ID77-5045
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. ID77-5023 dated February 25, 1977, in 42 FR 11195.
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north half), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	$11.75	.44	$1.02		
Remaining Counties and Idaho County (south half)	10.56	.52	1.17		
BOILERMAKERS	11.575	.775	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.85	.55	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Counties	9.75	.50	.50		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	10.50				
Blaine, Camas, Cassia, Cooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	9.90	.35	.40		
Clearwater, Idaho, Latah, Lewis, Nez Perce, Shoshone Counties:	11.01	.65	.70		.04
CARPENTERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the northern boundary of Township #29 North), Kootanai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Carpenters Piledrivermen; Sawfilers; Stationary power woodworking tool operator; Floor layar; Floor finisher; Floor sander	9.74	.60	.55		.055
	9.89	.60	.55		.055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Cont'd):					
Benewah, Bonner, etc. (Cont'd):					
Shingler (wood and composition)	$9.94	.60	.55		.055
Carpenters (burned, charred, creosotad or similarly treated material); Boom man	9.99	.60	.55		.055
Millwrights and Machine erector	10.24	.60	.55		.055
Piledriver (creosoted material)	10.14	.60	.55		.055
Remaining Counties and Idaho County (south of the northern boundary of Township #29 North):					
Carpenters; Floor layers; Shinglers; Drywall Applicator and Installer	9.18	.52	.50	.50	.10
Saw Filer; Piledrivermen; Bridgeman and Wharf Builders	9.35	.52	.50	.50	.10
Millwrights; Machine erectors; Piledriverman's boom man	9.47	.52	.50	.50	.10
CEMENT MASONS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Cement masons	9.64	.50	.75		.04
Gunnite; Power machine; Power tools; Power Troweling machine; Troweling magnesite or other material with oxichloride base	9.79	.50	.75		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd):					
Remaining Counties and Idaho County (south of 46th Parallel):					
Cement masons.	$8.67	.74	.45	.50	.10
Power trowel; Power grinder; Gunnite and composition floor layer	8.87	.74	.45	.50	.10
ELECTRICIANS:					
Ada, Adams, Boise, Canyon, Elmore; Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	10.75	.70	3% + .50		1%
Cable splicers	10%overJR	.70	3% + .50		1%
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Electricians	12.13	.57	1% + .40		.02
Cable splicers	12.53	.57	1% + .40		.02
Remaining Counties:					
Electricians; Technicians	10.60	.45	1% + .50		1%
Cable splicers	11.66	.45	1% + .50		1%
ELEVATOR CONSTRUCTORS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Elevator constructors	11.95	.545	.35	3% + a	.02
Elevator constructors' helpers	70%JR	.545	.35	3% + a	.02
Elevator constructors' helpers (Prob.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (Cont'd):					
Remaining Counties, except Adams, Lemhi, Valley, Washington Counties:					
Elevator constructors	$10.03	.545	.35	3% + a	.02
Elevator constructors' helpers	7.02	.545	.35	3% + a	.02
Elevator constructors' helpers (Prob.)	5.015				
GLAZIERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley, Washington Counties	9.30	.35	.30		
Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis, Nez Perce Counties	8.03	.40	.25	b + .28	
Bonner, Boundary, Kootenai, Shoshone Counties	9.73	.35	.10	.43	
Remaining Counties	7.12	.21		b	
IRONWORKERS:					
Ornamental; Reinforcing; Structural:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	11.00	.73	1.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd):					
Those portions of Adams, Idaho, Valley, Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line	$10.90	.58	$1.00	.25	.03
Remaining Counties and those portions of Adams, Idaho, Valley, Washington Counties located south of the Weiser-Gibbonsville Line	9.89	.55	1.00		.02
LATHERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.35	.50			
MARBLE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.00	.55	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Counties	8.95	.50	.50		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	9.75				
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	11.01	.65	.70		.04
PAINTERS:					
Ada, Adams, Boise, Canyon, Elmore (except Mt. Home AFB), Gem, Gooding (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties:					
Painters and Tapers	8.75	.45	.30		.07
Elmore (Mt. Home AFB):					
Painters and Tapers	9.75	.45	.30		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties:					
Brush; Roller, Perfataper	$8.71	.35	.10		.005
Structural steel; Swing stage; Spray	9.16	.35	.10		.005
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Brush	9.77	.40	.70		.02
Spray; Steel; Steam cleaning; Rollers (over 9" or 10" handle); Finish drywall taper	10.02	.40	.70		.02
Swing Stage; Over 30 ft. high	10.12	.40	.70		.02
Bituminastic; Sand blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	10.17	.40	.70		.22
PLASTERERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.53	.50			
Remaining Counties	9.07	.50	.45	.35	
PLASTERERS' TENDERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	8.60	.65	.70		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (Cont'd):					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Plumbers	$10.42	.59	.70		.10
Helpers	7.29	.59	.70		.10
ROOFERS:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	8.60	.60	.30	.50	
Roofers working with coal tar and pitch products	10.60	.60	.30	.50	
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, Teton Counties	9.15		.40		
Benewah, Bonner, Boundary, Kootenai, Shoshone Counties	9.04	.50	.50		.01
Clearwater, Idaho County (north of the 46th Parallel), Latah, Lewis, Nez Perce Counties:					
Roofers; Kettlemen; Waterproofer	10.05				
SHEET METAL WORKERS:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton Counties	9.18	.37	3% + .20	.75	.08
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	12.10	.57	1.225		.10
Remaining Counties	10.21	.57	.50		.14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties	$7.00	.25	.10		.10
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	9.05	.40	.60		
Remaining Counties	7.50				
SPINNKLER FITTERS	11.38	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.00	.55	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida, Power Counties	8.95	.50	.50		
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	11.01	.65	.70		.04
WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate for 6 months' to 5 years' service, to Vacation Plan. Six Paid Holidays: A through F.

b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay. Also 7 Paid Holidays: A, B, C, E, F, plus Veterans' Day and the Day after Thanksgiving.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
(AREA 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Cable splicers; Leadman pole sprayer	$12.78	.45	1%	.10	1/2%
Lineman; Pole sprayer; Heavy line equipment man; Certified lineman welder	11.54	.45	1%	.10	1/2%
Tree trimmer	10.42	.45	1%	.10	1/2%
Line equipment man	9.95	.45	1%	.10	1/2%
Head groundman (chipper); Head groundman; Powderman; Jackhammer man	8.69	.45	1%	.10	1/2%
Groundman; Tree trimmer helper	8.18	.45	1%	.10	1/2%
(AREA 2):					
Remaining Counties:					
All power construction over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1,000 KVA or greater capacity, all communications, underground work, 34.5 KV, streets and highway lighting and motor traffic controls:					
Groundman	6.98	.35	1%		3/4%
Equipment operators	8.44	.35	1%		3/4%
Cable splicers	10%overJR	.35	1%		3/4%
Lineman	9.27	.35	1%		3/4%
All power construction of 34.5 KV and under when performed for an operating utility. Street lighting when performed for an operating utility or municipality:					
Groundman	6.71	.35	1%		3/4%
Equipment operator	7.87	.35	1%		3/4%
Lineman	8.74	.35	1%		3/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
(AREA 1)					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Group 1	$ 8.10	.65	.70		.02
Group 2	8.25	.65	.70		.02
Group 3	8.35	.65	.70		.02
Group 4	8.40	.65	.70		.02
Group 5	8.45	.65	.70		.02
Group 6	8.50	.65	.70		.02
Group 7	8.55	.65	.70		.02
Group 8	8.70	.65	.70		.02
Group 9-A	8.15	.65	.70		.02
Group 9-B	8.20	.65	.70		.02
Group 9-C	8.60	.65	.70		.02
Group 9-D	8.65	.65	.70		.02
(AREA 2)					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Group 1	7.21	.65	.87	.20	.10
Group 2	7.31	.65	.87	.20	.10
Group 3	7.41	.65	.87	.20	.10
Group 4	7.51	.65	.87	.20	.10
Group 5	7.56	.65	.87	.20	.10
Group 6	7.81	.65	.87	.20	.10
Group 7	8.06	.65	.87	.20	.10
Underground Work:					
Group 8	7.36	.65	.87	.20	.10
Group 9	7.51	.65	.87	.20	.10
Group 10	7.81	.65	.87	.20	.10

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LABORERS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include stripping of forms, hand operating jack on slip form construction, application of concrete curing compounds, pumpcrete machine, signaling, handling the nozzle of squeezecrete or similar machine - 6" and smaller); Concrete Signalman; Crusher Feeder; Demolition (to include clean-up, burning, loading, wrecking and salvage of all material); Driller Helper; Dumpman; Fence Erector (to include guard rails, guide and reference posts, sign posts, and right-of-way markers); General Laborers; Grout Machine Header Tender; Nipper; Riprap Man; Scaleman; Stake Jumper; Structural Mover (to include separating foundation, preparation, cribbing, shoring, jacking and unloading of structure); Tailhoseman (water nozzle); Track Laborer (RR); Truck Loader; Timber Bucker and Faller (by hand); Window Cleaner (prior to completion of construction)

Group 2: Cement Finisher Tender; Cement Handler; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine Feeder, Stacker; Form Setter, paving; Driller Helper (when required to move and position machine); Nozzleman, water and air or steam; Pipe Layer, corrugated metal culvert; Pipewrapper; Pot Tender; Powderman Helper; Power Tool Operator: gas, electric, pneumatic; Sandblast Tailhoseman; Scaffold Erector, wood or steel; Railroad Equipment, power driven, except dual mobile power spiker or puller; Rodder and Spreader; Wheelbarrow, power driven; Well-point Man; Vibrator up to 4"

Group 3: Asphalt Raker; Asphalt Roller, walking; Chain Saw Operator with attachments; Concrete Saw, walking; Grade Checker, using level; Jackhammer Operator; Multi-section Pipe Layer; Nozzleman (to include squeeze and flo-crete nozzle); Pavement Breaker; Power Buggy Operator; Railroad Power Spiker or Puller, dual mobile; Tamper (to include operation of Barco, Essex and similar tamper and pavement breakers); Trencher, Shawnee; Water Pipe Liner; Wagon Drills

Group 4: Chain Saw (faller); Laser Beam Operator; Pipe Layer (to include optional: Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, and Lagger but not including laying corrugated metal culvert pipe)

Group 5: Concrete Stack (to include Laborers when working on free standing concrete stacks for smoke or fume control above 40 ft. high); Mortar Mixer

Group 6: Caisson Worker, free air; High Scaler

LABORERS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 7: Brush Machine (to include Horizontal Construction Joint Clean-up Brush Machine, power propelled); Drills (to include Down-the-hole Drills with 3¼ inch piston or larger and Out-of-the hole Drills with 4½ inch piston or larger); Gunnite (to include operation of machine and nozzle); Hod Carrier; Monitor Operator, Air Track or similar mounting; Nozzleman (to include Jet Blasting Nozzleman over 1,200 pounds, Jet Blast Machine, power propelled, Sand Blast Nozzle); Vibrator Operator, 4 inches and over

Group 8: Air Track Drills with Dual Masts and Drills; Powderman

TUNNEL and SHAFT, FREE AIR

Group 9:
- Class A: Bull Gang; Pump Crete Crewman, including distributing pipe, assembling and dismantle and Nipper
- Class B: Brakeman; Dumpman
- Class C: Miner and Nozzleman for Concrete and Laser Beam Operator on tunnels
- Class D: Raise and Shaft Miner; Laser Beam Operator on raises and shafts

LABORERS
(Area 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-markers); Crusher Helper; Cribbing and Shoring (in open ditches); Machinery and Parts Cleaner; Leverman - manual or mechanical; Demolition - Salvage; Landscaper; Tool Room Man; Janitor

LABORERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 2: Chuck Tender; Driller Helper; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and Water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumperete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Peving Breaker; Powderman Helper; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter - airport paving; Gunman (gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway- curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Group 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with manufacturers' rating 3" or over

Group 7: Powderman

UNDERGROUND WORK

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Muckers; Bullgang

Group 9: Form Setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spiling and/or Caisson Workers; Vibrator (over 4")

POWER EQUIPMENT OPERATORS (AREA 1) Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*	Zone 3*				
Group 1	$ 8.70	$ 9.20	$ 9.65	.80	.90		.03
Group 2	9.00	9.50	9.95	.80	.90		.03
Group 3	9.55	10.05	10.50	.80	.90		.03
Group 4	9.70	10.20	10.65	.80	.90		.03
Group 5	9.85	10.35	10.80	.80	.90		.03
Group 6	10.10	10.60	11.05	.80	.90		.03
Group 7	10.35	10.85	11.30	.80	.90		.03

*ZONE 1: Area within a fifteen (15) mile radius from the center of the following Cities: Lewiston, Idaho and Spokane, Washington.
*ZONE 2: Area within a fifteen (15) mile to forty-five (45) mile radius from the center of the above-named cities.
*ZONE 3: Area over forty-five (45) mile radius from the center of the above-named Cities.
With the exception that the area within a fifteen (15) mile radius of the center of the City of Coeur d' Alene, Idaho shall be considered within Zone 1.

POWER EQUIPMENT OPERATORS: (AREA 2): Remaining Counties and Idaho County (south of the 46th Parallel):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$8.56	.70	.75		.10
Group 2	8.72	.70	.75		.10
Group 3	9.09	.70	.75		.10
Group 4	9.40	.70	.75		.10
Group 5	9.57	.70	.75		.10
Group 6	9.75	.70	.75		.10
Group 7	10.11	.70	.75		.10
Group 8	10.34	.70	.75		.10
Group 9	10.57	.70	.75		.10
Group 10	10.81	.70	.75		.10

POWER EQUIPMENT OPERATORS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender; Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Batch Plant and Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (Hydra-hammer and similar); Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator, (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor petrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader-type Loader (Dumor, Adams, or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loaders (overhead and front-end under 4 yds., R/T); Locomotive Engineer; Mixermobile; Mucking Machines; Power or Curb Extruder (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (Crawler including Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 4: Asphalt Plant Operator; Crusher; Grizzle and Screening Plant Operator; H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, Multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yards and over); Surface Heater and Planer Machine; Turnhead (with re-screening)

Group 5: Automatic Subgrader (ditches and trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yds.); Concrete Slip form Paver; Cranes all (under 65 tons); Derricks and Stifflegs (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over)(Robbin's Reverse Circulation and similar); Loader Operator (Front End and Overhead 4 yds. to 8 yds.); Piledriving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with two scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yds. and over); Cranes, all - 65 tons and over; Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front-end over 8 yds. to 12 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Brakemen; Crusher; Plant Feeder (mechanical); Deckhand; Drill Helpers; Grade Checkers; Heater Tender; Land Plane; Oilers; Pumpman

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (Cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw - multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader Machine Operator; Fireman - all; Heavy Duty Mechanic Helper or Welder Helper; Hoist - single drum; Hydraulic Monitor Operator - skid mounted; Oiler (single piece of equipment); Pugmixer - box or screed Operator; Spray Curing Machine; Tractor - rubber-tired farm type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master - Joy) (Tractor mounted); Drills; Churn - Core - Calyx or Diamond; Front End and Overhead Loaders and similar machines - (up to and including 4 yds.) - (rubber-tired); Grout Pump; Hydra-hammer; Locomotive Engineer; Longitudinal Float Machine; Mixer-mobile; Spreader Machine; Tractor - rubber-tired - using Backhoe, Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar, Asphalt Spreaders

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator - mechanic (diesel - electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines - under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (Finishing High type Pavement); Skidder - rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only); Service Oiler

Group 6: Asphalt Pavers - self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes up to and including 50 ton; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches)(Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tower Crane Operator; Tractor - Crawler type - including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls - Euclid and similar - to and including 40 yds.

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes - over 50 ton; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader - CMI or Equivalent; Front End and Overhead Loaders and similar machines (over 7 yds.); Power shovels and Draglines (over 3½ yds.); Quad type tractors with all attachments; Tournapulls Euclid and similar - over 40 yds. to and including 50 yds.; Multiple Scraper Units

Group 8: Tournapulls - Euclid and similar - over 50 yds. to and including 75 yds.

Group 9: Tournapulls - Euclid and similar - over 75 yds. to and including 100 yds.

Group 10: Tournapulls - Euclid and similar - over 100 yds.

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(AREA 1) Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Group 1	$9.28	$1.07	.70		
Group 2	9.32	1.07	.70		
Group 3	9.38	1.07	.70		
Group 4	9.47	1.07	.70		
Group 5	9.68	1.07	.70		
Group 6	9.72	1.07	.70		
Group 7	9.78	1.07	.70		
Group 8	9.82	1.07	.70		
Group 9	9.93	1.07	.70		
Group 10	9.97	1.07	.70		
Group 11	10.28	1.07	.70		
Group 12	10.42	1.07	.70		
Group 13	10.58	1.07	.70		
Group 14	10.72	1.07	.70		
(AREA 2) Remaining Counties and Idaho County (south of the 46th Parallel)					
Group 1	8.41	.65	.65	.25	.10
Group 2	8.47	.65	.65	.25	.10
Group 3	8.53	.65	.65	.25	.10
Group 4	8.59	.65	.65	.25	.10
Group 5	8.64	.65	.65	.25	.10
Group 6	8.90	.65	.65	.25	.10
Group 7	8.96	.65	.65	.25	.10
Group 8	9.02	.65	.65	.25	.10
Group 9	9.13	.65	.65	.25	.10
Group 10	9.19	.65	.65	.25	.10
Group 11	9.25	.65	.65	.25	.10
Group 12	9.31	.65	.65	.25	.10
Group 13:					
Class A	8.79	.65	.65	.25	.10
Class B	8.90	.65	.65	.25	.10
Class C	9.13	.65	.65	.25	.10
Class D	9.31	.65	.65	.25	.10
Class E	9.42	.65	.65	.25	.10
Class F	9.54	.65	.65	.25	.10
Class G	9.82	.65	.65	.25	.10
Class H	10.05	.65	.65	.25	.10
Class I	10.28	.65	.65	.25	.10
Group 14	9.70	.65	.65	.25	.10

TRUCK DRIVERS
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. and under; Fuel Truck Driver (steam cleaner and washer); Helper and Swamper; Leverperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (over 6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end and bottom dump (over 12 yds. including 20 yds.)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 to 10,000 gallons)

Group 9: Transit Mixers and Trucks hauling concrete, (10 yds. to 15 yds.); Trucks, side, end and bottom dump (over 20 yds. including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

TRUCK DRIVERS (Cont'd)
(AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end and bottom dump (over 40 yds. to 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, and and bottom dump (over 100 yds.)

TRUCK DRIVERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed - 2 axle and pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed - 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle Truck or Bus)

Group 4: Transit Mix Truck - 3 yds. and under; Truck Helpers; Slurry or concrete pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer - Low Boy - up to 96,000 lbs. GVW; Bulk Cement Tanker - up to 96,000 lbs. GVW; Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift); Ross, Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

TRUCK DRIVERS (Cont'd)
(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 6: Transit Mix Truck, over 3 yds. - 6 yds.

Group 7: Water Tank Truck - (over 4,000 gallons); Fuel Truck - over 1,000 gallons; Distributor or Spreader Truck

Group 8: Transit Mix Truck - over 6 yds. - 8 yds.; Dumptors; Field Tireman; Serviceman

Group 9: Transit Mix Truck - over 8 yds. to 10 yds.; Snow Plow (Truck mounted)

Group 10: Low Boy - 96,000 lbs. GVW and over; Bulk Cement Tanker - 96,000 lbs. GVW and over

Group 11: Transit Mix Truck - over 10 yds.

Group 12: Turnarocker and similar equipment

Group 13: Truck - side, end and bottom dump
Class A: 6 yds. and under
Class B: Over 6 yds. - including 12 yds.
Class C: Over 12 yds. - including 20 yds.
Class D: Over 20 yds. - including 30 yds.
Class E: Over 30 yds. - including 40 yds.
Class F: Over 40 yds. - including 50 yds.
Class G: Over 50 yds. - including 75 yds.
Class H: Over 75 yds. - including 100 yds.
Class I: Over 100 yds.

Group 14: Truck Mechanic

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SUPERSEDEAS DECISION

STATE: Indiana
COUNTIES: *See Below
DECISION NUMBER: IN77-2082
DATE: Date of Publication
Supersedes Decision No. IN76-2147, dated October 29, 1976 in 41 FR 47747
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction

*Lake, LaPorte, Porter, & St. Joseph	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Lake & Porter Counties	$10.96	.66	.72		.12
LaPorte & St. Joseph Counties	12.83	.50	.21		
BOILERMAKERS	11.70	.80	1.00		.03
BRICKLAYERS:					
Lake & Porter Counties:					
Bricklayers; Marble setters & Stone Masons	11.30	.60	.55		.02
Tile setters	11.20	.45	.55		.02
LaPorte County:					
Bricklayers; Marble setters & Stone masons	11.30	.60	.55		.02
St. Joseph County:					
Bricklayers; Stonemasons	10.24	.70	.65		.05
Marble setters	9.30	.40	.35	a	.01
CARPENTERS:					
Lake, LaPorte, & Porter Counties					
Carpenters	11.33	.50	.57		.05
Millwrights	11.38	.50	.57		.05
St. Joseph County:					
Building construction:					
Carpenters; Millwrights; Pile-driversmen; Soft floor layers	9.58	.45	.50		.05
Heavy & Highway construction:					
Carpenters	9.98	.60	.60		.05
CEMENT MASONS:					
Building construction:					
Lake County (Hammond Area)	10.79	.85	.55		.03
Lake County (Remainder of Co.); Porter County (Western ½ of Co.)	9.47	.80	.65		.01
LaPorte County; Porter County (Eastern ½ of Co.)	10.08	.80	1.00		.03
Heavy and Highway construction:					
Porter County (Eastern ½ of Co.)	9.42	.60	.90		.03
Porter County (Western ½ of Co.)	9.47	.60	.65		.01
St. Joseph County	9.66	.60	.80		.04
Highway, Bridge, & Airport Construction:					
Lake County (Hammond Area)	10.10	.60	.55		.01
Lake County (Remainder of Co.)	10.00	.60	.65		.01
LaPorte County	9.42	.60	.90		.03

DECISION NO IN77-2082

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Lake County	$11.40	5%	6.3%		.7%
LaPorte & Porter Counties	11.40	3%	5%		.2%
St. Joseph County	10.65	4.8%	5%		.2%
ELEVATOR CONSTRUCTORS:					
Lake & Porter Counties:					
Elevator constructors	11.91	.545	.35	4%+b+c	.02
Helpers	8.34	.545	.35	4%+b+c	.02
Helpers (Prob.)	5.955				
LaPorte & St. Joseph Counties:					
Elevator constructors	10.29	.545	.35	4%+b+c	.02
Helpers	7.20	.545	.35	4%+b+c	.02
Helpers (Prob.)	5.145				
IRONWORKERS:					
Lake, LaPorte (Michigan City), & Porter Counties	11.58	.65	1.18		.06
LaPorte (Remainder of Co.), & St. Joseph Counties	10.40	.65	.80		.01
LATHERS:					
Lake & Porter Counties	10.44		.40		
LaPorte & St. Joseph Counties	9.07	.38	.35		.01
LEADBURNERS	9.25	.35		d	.01
PAINTERS:					
Lake County (Hammond Area):					
Commercial:					
Brush	7.90	.42	.35		.02
Sandblasting; Spray	8.65	.42	.35		.02
Paperhanging; Vinyl	8.15	.42	.35		.02
Industrial:					
Brush & Roller	8.65	.42	.35		.02
Sandblasting; Sign painters; Spray	9.40	.42	.35		.02
Lake County (Gary Area) & Porter County (North of Highway #6):					
Commercial:					
Brush	9.10	.47	.40		.05
Sandblasting; Spray; Steam-Cleaning; machine spray stripping	9.85	.47	.40		.05
Paperhanger	9.35	.47	.40		.05

DEICSION NO IN77-2082

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Industrial:					
Brush Sandblasting; Spray; Steam-cleaning; Machine spray stripping	$10.20	.47	.40		.05
LaPorte County (Southern portion of County); St. Joseph County:	10.95	.47	.40		.05
Brush; Drywall Tapers & Finish; Paperhanging; Spray & Vinyl	8.29		.20		
LaPorte County (No. portion of Co.)					
Brush; Tapers	9.00				
Paperhangers	9.00				
PLASTERERS					
Lake County (Hammond Area)	9.44	.60	.55		.01
Lake County (Gary Area); Porter County (Valparaiso)	9.33	.60	.65		.01
LaPorte, Porter (Eastern ½ west to, but not including Chesterton) Counties	10.00	.80	1.00		.03
PLUMBERS:					
Lake County (Hammond Area)	11.17	.90	.75		.02
Lake County (Gary Area), LaPorte County (except LaPorte City, Michigan City, Trail Creek, & Long Beach); & Porter County	11.20	.65	1.20		.02
LaPorte County (Michigan City, Trail Creek, & Long Beach)	11.77	.50	.55		.02
PLUMBERS; Steamfitters:					
LaPorte County (LaPorte City); St. Joseph County	10.60	.48	.80		.10

DECISION NO. IN77-2082

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Lake & Porter Counties:					
Composition, Damp & waterproof workers; Slate, Tile & Asbestos	$11.86	.55	.35		
LaPorte & St. Joseph Counties:					
Composition, Damp & waterproof	9.50	.40	.30		.03
Slate, Tile & Asbestos	9.65	.40	.30		.03
SHEET METAL WORKERS:					
Lake, LaPorte, & Porter Counties	10.67	.48	.67		.10
St. Joseph County	10.53	.65	.615		.035
SPRINKLER FITTERS:					
Lake County (30-mile radius from Chicago, Illinois City Hall)	11.10	.75	.90		.15
Lake County (Remainder of Co.), LaPorte, Porter, & St. Joseph Counties	11.65	.65	.95		.08
TRUCK DRIVERS:					
Lake & Porter Counties:					
2 to 3 axles	8.15	24.00e	22.00 e	.40	
4 axles	8.35	24.00e	22.00 e	.40	
5 axles	8.55	24.00e	22.00 e	.40	
6 axles	8.75	24.00e	22.00 e	.40	
St. Joseph County (Building Construction):					
Pick-up	6.94	13.50e	19.50 e	f	
Single axle	7.15	13.50e	19.50 e	f	
Tandem or fuel	7.26	13.50e	19.50 e	f	
Tri axle	7.31	13.50e	19.50 e	f	
Semi trailer	7.36	13.50e	19.50 e	f	
LaPorte Co. (Bldg., Construction)					
4 wheel; sheet metal	6.80	21.50e	22.00 e	g	
6 wheel; semis	6.90	21.50e	22.00 e	g	
Transit mix	7.20	21.50e	22.00 e	g	
Euclids	7.30	21.50e	22.00 e	g	
Winch	7.05	21.50e	22.00 e	g	

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F providing the employee works either the 5 days preceding or the 5 days following the holiday.
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
per man per week
1 week's paid vacation for 3 years' service, 2 weeks for 10 years' service, & 3 weeks for 15 years' service.
1 year's service - 1 week's vacation; 3 years' service - 2 weeks' vacation; 10 years' service - 3 weeks' vacation; 20 years' service - 4 weeks' vacation

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprentice Tr.
Linemen; Technicians	$ 9.68	.45	1%		.5%
Heavy equipment operator "A"	9.19	.45	1%		.5%
Heavy equipment operator "B"	7.57	.45	1%		.5%
Powder man & equipment mechanic	7.39	.45	1%		.5%
Senior groundman truck driver w/w	6.32	.45	1%		.5%
Groundman truck driver with winch	6.07	.45	1%		.5%
Groundman truck driver w/o winch	5.32	.45	1%		.5%
Senior groundman after 5 years	6.06	.45	1%		.5%
Senior groundman after 12 months	5.89	.45	1%		.5%
Groundman 0-12 months	4.99	.45	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.98	.45	1%		.5%
Heavy equipment operator "A"	9.26	.45	1%		.5%
Heavy equipment operator "B"	7.63	.45	1%		.5%
Powder man & equipment mechanic	7.45	.45	1%		.5%
Senior groundman truck driver w/w	6.43	.45	1%		.5%
Groundman truck driver with winch	6.14	.45	1%		.5%
Groundman truck driver w/o winch	5.39	.45	1%		.5%
Senior groundman after 5 years	6.18	.45	1%		.5%
Senior groundman after 12 months	6.01	.45	1%		.5%
Groundman 0-12 months	5.09	.45	1%		.5%

LABORERS (Sewer, Tunnel, & water Construction) St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.52	.60	.45		.09
GROUP 2	7.67	.60	.45		.09
GROUP 3	7.72	.60	.45		.09
GROUP 4	7.82	.60	.45		.09
GROUP 5	7.92	.60	.45		.09
GROUP 6:					
A.	7.72	.60	.45		.09
B.	7.87	.60	.45		.09
C.	8.32	.60	.45		.09
D.	7.82	.60	.45		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

1 of 3

LABORERS (BUILDING CONSTRUCTION):	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

LABORERS: 2 of 3

AREAS

AREA I: All territories west of Cline Avenue Lake Michigan Shorelines to Illinois State Line & Newton & Jasper Counties; All territories east of Cline Avenue, Lake County; All territory north of U. S. Highway No. 20, Porter County, including all Lake Michigan Shore Front east of Cline Avenue in Lake County

AREA IA: Porter County South of U. S. Highway No. 20, Starke, LaPorte Counties

AREA IB: Elkhart, Kosciusko, LaGrange, Marshall & St. Joseph Counties

AREA IIA: Fayette, Henry, Rush, Wayne, Union, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison & Randolph Counties

AREA IIB: Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, Whitley, Benton, Boone, Carroll, Cass, Clinton, Montgomery, Pulaski, Tippecanoe, White, Fulton, Howard, Miami, & Tipton Counties

AREA IIIA: Marion & Shelby Counties

AREA IIIB: Clay, Fountain, Greene, Hendricks, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, Warren, Bartholomew, Brown, Dearborn, Decatur, Franklin, Jackson, Johnson, Jennings, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Ripley, Clark, Crawford, Floyd, Harrison, Jefferson, Perry, Scott, Switzerland, & Washington Counties

AREA IIIC: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties

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LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

GROUP V:
A. Boiler setter laborers (Fire brick tear out with air tools)
B. Boiler setter laborers (Fire brick)
C. Boiler setter laborers (Mortar mixers)
D. Expeditor, bottom man & bell man

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Lake County	Remaining Counties				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$7.85	$7.15	.60	.45		.09
GROUP 2	8.00	7.30	.60	.45		.09
GROUP 3	8.05	7.35	.60	.45		.09
GROUP 4	8.15	7.45	.60	.45		.09
GROUP 5	8.70	8.00	.60	.45		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting struccures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

Lake, LaPorte, & Porter Counties

POWER EQUIPMENT OPERATORS Building, Sewer & Tunnel Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class I	$ 10.30	.65	.85		.05
Class II	9.80	.65	.85		.05
Class III	8.25	.65	.85		.05
Class IV	7.25	.65	.85		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket of 1 cu. yd. & over; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete tower; cranes, all; cranes, tower; derricks, all; derricks, traveling; fork-lift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoists, two tugger one floor; hydraulic boom truck; locomotive, all; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, less than 1 cu. yd.; engineer acting as conductor in charge of crew; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoists, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; motor patrol; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150 combination - small equipment operator; forklift trucks; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5) winches 4 electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

POWER EQUIPMENT OPERATORS

St. Joseph County

Building, Sewer & Tunnel Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.52	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV : Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

Lake, LaPorte, & Porter Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.35	.65	.85		.05
CLASS II	9.90	.65	.85		.05
CLASS III	9.45	.65	.85		.05
CLASS IV	8.35	.65	.85		.05
CLASS V	7.40	.65	.85		.05
St. Joseph County					
CLASS I	10.25	.65	.85		.05
CLASS II	9.80	.65	.85		.05
CLASS III	9.35	.65	.85		.05
CLASS IV	8.25	.65	.85		.05
CLASS V	7.30	.65	.85		.05

CLASSIFICATIONS

CLASS I: Auto patrol; Automatic dry batch plant; Automated sub-grader; Automated slip form paver; Automated finish machine; Backhoe - tractor mounted, ½ yd or over; Ballast regulator (R.R.); Concrete mixer, 27 cu. ft. or over; Concrete pump; Core drilling machine; Crane or derrick with any attachments, incl. Clamshell, Dragline, Shovel, Backhoe, etc.; Dredge engineer; Dredge op.; Euclid loader; Gradall; Lead greaser; Highlift shovel 3 yds. & over; Hoist - 2 & 3 drum; Locomotive op.; Lead mechanic; Mucking machine; Panelboard concrete plant (Central mix type); Paver - Hetherington; Pile drive, Skid or crawler; Road paving mixer; Ross carrier; Throttle valve & compressor or clever Brooks type combination; Throttle valve and Fireman combination on horizontal or upright boiler; Tournapull or similar type equipment; Tractor - boom; Trench machine; Tug boat op.; Winch truck with "A" Frame; Scoops, Tournapulls or similar type machines used in tandem

CLASS II: Backhoe - tractor mounted, with less than ½ yd.; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Bulldozer; Concrete mixer, less than 27 cu. ft.; Elevating grader; Excavating loader, portable; Greaser; Highlift shovel under 3 yds.; Jersey spreader or base paver; Mechanic; Pull grader, power control; Roller, asphalt, waterbound macadam, bituminous macadam, brick surface; Sheepfoot roller (self-propelled) with blade; Surface heater & planer; Tamper-multiple vibrating, asphalt waterbound macadam, bituminous macadam, brick surface; Tractor - push; Tractor with scoop; Widener, Apsco or similar type

CLASS III: Assistant plant engineer; Back filler; Bituminous distributor; Broom & belt machine; Bull float; Concrete finishing machine; Concrete spreader, power driven; Digger, post-hole, power driven; Finishing machine & bull float; Form grader; Form tamper, motor driven; Hoist - 1 drum; Multiple tamping machine; Paving breaker; Roller, earth & subbase material; Roller sheepfoot (self-propelled); Sub-grader; Tamper-multiple vibrating-earth & subbase material; Tractaire; Tractaire with drill; Tractor with all attachments, except backhoe & including highlift, endloaders of 1 cu. yd. capacity & less

CLASS IV: Air compressor; Conveyors, all; Fireman on boiler; Generator; Assistant mechanic; Power curing spraying machine; Pull broom, power propelled; Seaman tiller; Spike machine (R.R.); Striping machine, paint, motor driven; Throttle valve; Welding machine; Wellpoint systems

CLASS V: Assistant greaser; Deck hand; Hetherington driver; Mechanical heater (1 to 5); Outboard or inboard motor boat; Oiler; Power saw, concrete, power driven; Truck crane oiler-driver; Water pump; Helper on C.M.I. & similar type equipment grasscutters

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION)

LaPorte County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$7.98	$21.50a	$22.00a		
CLASS 2	8.13	21.50a	22.00a		
CLASS 3	8.18	21.50a	22.00a		
CLASS 4	8.23	21.50a	22.00a		
CLASS 5	8.28	21.50a	22.00a		
CLASS 6	8.33	21.50a	22.00a		
CLASS 7	8.38	21.50a	22.00a		
CLASS 8	8.43	21.50a	22.00a		
CLASS 9	8.48	21.50a	22.00a		

CLASSIFICATIONS

CLASS 1
Drivers of pick-up trucks, helpers, greasers, tire men, tending batch boards & warehousemen

CLASS 2
Drivers on single axle straight trucks, batch truck wet or dry 3(3½) batches or less

CLASS 3
Drivers on single axle water trucks bituminous distributors (2-man) single axle fuel trucks

CLASS 4
Drivers on single axle "Dog Legs", tandem trucks, winch trucks or "A-Frame when used for transportation batch trucks (wet or dry) over 3(3½) batches

CLASS 5
Drivers on liquid asphalt tankers, tandem axle fuel trucks, bituminous distributors, (1 man) tandem axle water trucks

CLASS 6
Drivers on tandem trucks over 15 tons payload, single axle semi-trucks, farm tractors, hauling material, drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks, euclid bottom dump & hug bottom dump, tournatrailers, tournarockers or similar equip. (12 cu. yds. & under), mixer trucks (all types), pulling tilt-top trailer (single axle), low-boys (single axle), truck mounted pavement breakers

CLASS 7
Drivers on tandem "Dog Legs" trucks, truck mechanics, builders, semi-water trucks, sprinkler trucks, heavy equip., type water wagon

CLASS 8
Drivers on tri-axle trucks, tandem axle semi-trucks, drivers on equip., when not self loaded or pusher loaded, such as Koehring or similar dumpsters, track trucks, euclid bottom dump & hug bottom dump, tournatrailers, tournarockers, or similar equipment (over 12 cu. yds., drivers on truck pulling tilt-top trailer (tandem-axle) low-boys, tandem axle

CLASS 9
Drivers on tandem, tandem semi-trucks, drivers on heavy equip., type water wagon over 5,000 gallons, drivers on trucks pulling tilt-top trailer (tri-axle) low-boys, tandem-tandem axle

FOOTNOTE:
a. Per week Per Employee.

DECISION NO. IN77-2082

TRUCK DRIVERS:
HEAVY & HIGHWAY CONSTRUCTION
St. Joseph County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
GROUP A	$8.38	19.50a	22.00a		
GROUP B	8.33	19.50a	22.00a		
GROUP C	8.28	19.50a	22.00a		
GROUP D	8.23	19.50a	22.00a		
GROUP E	8.18	19.50a	22.00a		
GROUP F	8.13	19.50a	22.00a		
GROUP G	8.08	19.50a	22.00a		
GROUP H	8.03	19.50a	22.00a		
GROUP I	7.98	19.50a	22.00a		
GROUP J	7.93	19.50a	22.00a		
GROUP K	7.88	19.50a	22.00a		
GROUP L	7.78	19.50a	22.00a		

CLASSIFICATIONS

GROUP A-Acey Wagons over 3 Buckets
GROUP B-Acey Wagons to and including 3 Buckets
GROUP C-Tandem-tandem Semi-Trucks-Truck Mechanics-Heavy Equipment Type Water Wagon over 5,000 Gallons-Tri-Axle Trucks pulling Tilt-Top Trailers- Low Boys, Tandem-tandem Axle
GROUP D-Tri-Axle Trucks-Tandem Semi-Trucks-Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.-Tandem Axle Trucks pulling Tilt-Top Trailers-Low Boys, Tandem Axle-Tri-Axle Batch
GROUP E-Tandem "Dog-Legs" Trucks-Semi-Water Trucks-Sprinkler Trucks-Heavy Equipment Type Water Wagons 5,000 Gallons & Under
GROUP F-Truck Mounted Pavement Breakers-Tandem Trucks over 15 Ton Payload-Single Axle Semi-Trucks-Farm Tractors hauling material-Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under-Mixer Trucks, All Types-Single Axle Trucks pulling Tilt-Top Trailer Lowboys, Single Axle
GROUP G-Tandem Axle Fuel Trucks-Tandem Axle Water Trucks-Bituminous Distributor (one man)
GROUP H-Single Axle Dog-Legs-Tandem Trucks or Dog-Legs-Winch Trucks or A Frames used for Transportation-Batch Trucks Wet or Dry over 3 (3½) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks
GROUP I-Single Axle Fuel Trucks-Single Axle Water Trucks-Bituminous Distributors (two man)
GROUP J-Single Axle Straight Trucks-Batch Trucks, Wet or Dry 3 (3½) Batches or less-Grease & Maintenace Trucks servicing Single Axle Trucks
GROUP K-Helpers, Greasers, Tire Men, Batch Board Tenders
GROUP L-Pick-Up Trucks

FOOTNOTE: a-PER WEEK PER EMPLOYEE

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SUPERSEDEAS DECISION

STATE: Indiana
COUNTIES: *See Below
DECISION NUMBER: IN77-2083
DATE: Date of Publication
Supersedes Decision No. IN76-2148 dated October 29, 1976 in 41 FR 47755
DESCRIPTION OF WORK: Heavy and Highway Construction

*Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Jasper, Newton, and Starke Counties	$11.33	.50	.57		.05
Elkhart County	9.98	.60	.60		.05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jessup, Rosedale, Carbondale, and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), and Warren Counties	10.45	.60	.50		.08
Remainder of State of Indiana	9.98	.55	.45		.05
CEMENT MASONS:					
Adams, Allen, Dekalb, Huntington, Noble, Steuben, and Whitley Counties	9.05	.75			.01

DECISION NO IN77-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Benton, Carroll (Northeast section of Co., south & west to, but not incl. Flora in the eastern section, & south to, but not incl. Rockfield, & west to, but not incl. Yeoman), Cass, Clinton, Fountain, Fulton, Howard, Jasper (exoluding northeastern portion of Co., but including Wheatfield), Miami, Montgomery, Newton, Pulaski (excluding northern 2/3 of Co.), Tippecanoe, Warren, & White Cos.	$ 8.60	.45	.65		
Jasper (northeastern portion of Co. west to, but not incl. Wheatfield), Pulaski (northern 2/3 of Co.), & Starke Cos.	9.42	.60	.90		.03
Marshall Co.	9.66	.60	.80		.04
Blackford, Delaware, Grant, Jay, Randolph, Wabash, & Wells Cos.	9.75	.60			
Elkhart, Kosciusko, & LaGrange Cos.	10.03		.30		.02
Hamilton (northern ½ of Co.), Hancock (eastern ½ of Co.), Henry, Madison, & Tipton Cos.	8.23	.40	.35		
Decatur, Fayette, Franklin, Rush, Union, & Wayne Cos.	8.30		1.30		
Boone, Hamilton (southern ½ of Co., north to the new Rte. Indiana Hwy #32 incl. Noblesville), Hancock (southern & western part, north to but not incl. Wilkinson & east to, but not incl. Fortville), Hendricks, Johnson, Marion & Morgan (northern ½ of Co.) Cos.	9.41	.65	.25		.04
Crawford, Dubois, Perry, Posey, Spencer, Vanderburgh, & Warrick Cos.	9.80	.65	.55		
Greene Co.	8.35	.40	.20		

DECISION NO IN77-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Daviess, Gibson, Knox, Martin & Pike Cos.	$ 8.90	.60	.50		
Clark, Floyd, & Harrison Cos.	9.28	.60	.30		
Dearborn, Ohio, Ripley, & Switzerland Cos.	7.50				
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Clay, Owen (extreme western part of Co.), Parke, Putnam, Vermillion, & Vigo Cos.	10.20	.60	.25		
Sullivan Co.	9.75	.40	.70		.01
IRONWORKERS:					
Adams, Allen, Blackford, Dekalb, Delaware (northeastern 1/3 of Co.), Grant (excluding s/w portion), Huntington, LaGrange (eastern ½ of Co.), Noble, Steuben, Wabash, Wells, & Whitley Cos.	10.75	.75	.95		.01
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	10.40	.65	.80		.01
Jasper (Northern ½ of Co.), & Newton Cos.	11.58	.65	1.18		.06
Clark, Crawford, Floyd, Harrison Jackson (southern ½ of Co.), Jefferson, Jennings (southern ½ of Co.), Lawrence (southern 2/3 of Co.), Martin (eastern ½ of Co.), Orange, Scott, & Washington Cos.	10.50	.75	.95		.05
Marion Co.	10.50	.75	1.10		.05
Dubois, Gisbon, Martin (western ½ of Co.), Perry, Pike, Posey, Spencer, Vanderburgh & Warrick Cos.	8.15	.25	.25		

DECISION NO IN77-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd):					
Bartholomew, Boone, (southeastern ½ of Co.), Brown, Clinton (eastern 1/3 of Co.), Decatur (western ½ of Co.), Delaware (southern 2/3 of Co.) Grant (S/W Portion), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (northern ½ of Co.), Jennings (northern ½ of Co.), Johnson, Lawrence (northeastern 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (eastern ½ of Co. excluding Greencastle), Rush, Shelby, & Tipton Cos.	$10.65	.75	1.10		.05
Benton, Boone, (northwestern ½ of Co.), Carroll, Cass, Clinton (western 2/3 of Co.), Fountain Jasper (southern ½ of Co.), Miami, Montgomery, Tippecanoe, Warren, & White Cos.	9.99	.75	1.05		.02
Fayette, Jay, Randolph, Union, & Wayne Cos.	10.51	.75	1.05		.04
Clay, Daviess, Greene, Knox, Lawrence (northwestern 1/6 of Co.), Parke, Putnam (western ½ of Co. incl. Greencastle), Sullivan, Vermillion, & Vigo Cos.	10.15	.75	1.70		.10
Dearborn, Decatur (eastern ½ of Co.), Franklin, Ohio, Ripley & Switzerland Cos.	11.08	.75	.85		.03
PAINTERS:					
Adams, Allen, Dekalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	8.25	.37	.35		.10
Sandblasters; Spray	9.25	.37	.35		.10

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DECISION NO IN77-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Bartholomew, Decatur, Jackson & Jennings Cos.:					
Brush; Roller; & Steel	$ 9.45		.50		
Spray	10.45		.50		
Benton, Clinton, Fountain, Montgomery, Putnar (excluding Greencastle), Tippecanoe, & Warren Cos.:					
Brush; Roller	8.45				
Structural Steel	8.70				
Sandblasting	9.50				
Spray	11.72				
Blackford, Carroll, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, Wells (to the south city limits of Bluffton), & White Cos.:					
Brush	8.55		.60		
Spray	9.30		.60		
Boono, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (north ½ of Co.) & Shelby Cos.:					
Brush	9.31	.39	.20		
Spray	10.31	.39	.20		
Brown, Greene, Monroe, Morgan (excluding north ½ of Co.) & Owen Cos.:					
Brush	8.40			.30	
Structural Steel	9.15			.30	
Spray	9.40			.30	
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Cos.:					
Brush	7.82	.25	.20		.03
Spray	8.39	.25	.20		.03

DECISION NO IN77-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Daviess, Gibson, & Knox Cos.:					
Brush	$ 7.65				
Spray	8.65				
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; roller; wallwashing; Drywall taping & finish; paperhanging & vinyl; seamless floors & finishing floors; sanding	9.30				
Sandblasting & Steam clean	10.05				
Spray; Epoxy	9.80				
Tanks, elevators, bridges, Steeples over 40 ft.	10.40				
Dubois, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Cos.:					
Brush	10.10	.65	.30		
Spray	11.10	.65	.30		
Elkhart, Kosciusko, Marshall, Pulaski & Starke Cos.:					
Brush; Drywall taping & finish Paperhangers; Spray & Vinyl	8.29		.20		
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	7.85				
Sandblasting; Spray	8.85				
Structural Steel; Scaffold over 30 ft.	8.10				
Epoxy	9.85				
Jasper, & Newton Cos.:					
Brush	8.65	.42	.35		.02
Spray	9.40	.42	.35		.02
Lawrence, Martin, & Orange Cos.:					
Brush; & Structural Steel	8.00				
Parke, & Vermillion Cos.:					
Brush	9.15			.25	
Spray	10.65			.25	
Sullivan, & Vigo Cos.					
Brush	8.50			.25	
Spray	9.50			.25	

DECISION NO IN77-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Sullivan, & Vigo Cos.: (Cont'd)					
Structural steel up to 30'	$ 8.75			.25	
Structural steel 30' to 100'	9.50			.25	
Structural steel over 100'	10.50			.25	

PAID HOLIDAYS:
A-New Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOONOTE:
a. 6 paid holidays: A through F.

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.15	.60	.45		.09
GROUP 2	7.30	.60	.45		.09
GROUP 3	7.35	.60	.45		.09
GROUP 4	7.45	.60	.45		.09
GROUP 5	8.00	.60	.45		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Seeler applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Laser beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

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1 of 3

DECISION NO. IN77-2083

POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.30	.40	.40		.08
GROUP II	9.20	.40	.40		.08
GROUP III	8.77	.40	.40		.08
GROUP IV	7.96	.40	.40		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	9.60	.70	.80		.08
GROUP II	8.50	.70	.80		.08
GROUP III	8.07	.70	.80		.08
GROUP IV	7.26	.70	.80		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	10.40	.35	.35		.08
GROUP II	9.30	.35	.35		.08
GROUP III	8.87	.35	.35		.08
GROUP IV	8.06	.35	.35		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.20	.40	.50		.08
GROUP II	9.10	.40	.50		.08
GROUP III	8.67	.40	.50		.08
GROUP IV	7.86	.40	.50		.08

POWER EQUIPMENT OPERATORS 2 of 3

Group 1: Air Compressors in Manifold with throttle valve; Asphalt Plant Engineer; Auto Grade or similar type machine; Auto Patrol; Backhoe on Farm type Tractor, 45 H.P. and over; Ballast Regulator (R. R.); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bull Dozer; Caisson Drilling Machine; Cherry Picker - 15 ton or over; Chip Spreader; Concrete Mixer 21 cu. ft. or over; Core Drilling Machine; Crane or Derrick with any attachment including clamshell, dragline, shovel, backhoe, etc.; Dredge Engineer; Dredge Operator; Drilling Machine on which the drill is an integral part; Earth Mover - rubber tired (paddle wheel, 619, 631, TS-24 or similar type); Earth Mover, rubber tired - tandem (50 cents per hour additional for each bowl); Elevating Grader; Fork Lift (10 ton or over); P.C.C. Formless Paver; Cradall; Gravel Processing Plant (Portable); Operator of Guard Rail Post Driver; Highlift Shovel - 1-1/2 cu. yd. or over; Hoist (2 drums and over); Helicopter - Crew; Hydraulic Boom Truck; Keystone (Skimmer Scoop); Loader - self-propelled (Belt-chain Wheel); Locomotive Operator; Mucking Machine; Panel Board Concrete Plant (Central Mix type); Paver-Hetherington; Pile Driver - Skid or Crawler; Road Paving Mixer; Rock Breaking Plant; Rock Crushing Plant (portable); Roller - Asphalt, Waterbound Macadam; Bituminous Macadam, Brick Surface; Roller with Dozer Blade; Root Rake, Tractor Mounted; Self-propelled Widener; Stump Remover, Tractor Mounted; Surface Heater and Planer; Tandem Push Tractor (50 cents per hour additional); Tractor - Boom, Winch or Hoe Head; Tractor - Push; Tractor Mounted Spreader; Tree Mover; Trench Machine (over 24"); Tug Boat Operator; Well Drilling Machine; Winch Truck with A-Frame

Group 2: Air Compressor with throttle valve or Clever Brooks type combination; Backfiller; Back Hoe on Farm type Tractor, under 45 H.P.; Bull Float; Cherry Picker under 15 ton; Chip Spreader (self-propelled); Concrete Pump; Concrete Mesh Depressor - independently operated; Concrete Spreader - power driven; End Loader under 1-1/2 cu. yd.; Excavating Loader - portable; Finishing Machine and Bull Float; Gunite Machine; Head Greaser; Mechanic; Mesh or Steel Placer; Multiple Tamping Machine (R.R.); P.C.C. Concrete Belt Placer; Pull Grader - power control; Refrigerating Machine - freezing operation; Ross Carrier; Sheepfoot Roller (self-propelled); Tamper - Multiple Vibrating - Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface; Trench Machine 24" and under; Tube Float; Welder

POWER EQUIPMENT OPERATORS (Cont'd) 3 of 3

Group 3: Assistant Plant Engineer; Base Paver (Jersey or similar type machine); Concrete Finishing Machine; Concrete Mixer - less than 21 cu. ft.; Curb Machine; Farm Tractor - including farm tractor with all attachments except backhoe and including high lift end loaders of 1 cu. yd. capacity or less; Fireman (on boiler); Hoist (one drum); Operator, 5 pieces of minor equipment; Paving Breaker; Power Broom, self-propelled; Roller (Earth and Sub-base material); Slurry Seal Machine; Spike Machine (R.R.); Tamper - Multiple Vibrating - Earth and Sub-base material); Throttle Valve; Throttle Valve and Fireman combination on horizontal or upright boiler; Tractaire with Drill; Tractor - 50 H.P. or over; Well Point System; Widener (Apsco or similar type)

Group 4: Air Compressor; Assistant to Engineer - Oiler; Automatic Dry Batch Plant; Bituminous Distributor; Bituminous Patching Tamper; Belt Spreader; Broom and Belt Machine; Chair Cart (self-propelled); Coleman Type Screen; Conveyor (portable); Deck Hand; Digger Post Hole (power-driven); Fork Lift - under 10 ton; Form Grader; Form Tamper (motor driven); Generator; Gresser Helper; Hetherington Driver; Hetherington Helper; Hydra Seeder; Mechanics Helper; Mechanical Heater; Operator 1 thru 4 pcs. of minor equipment; Outboard or Inboard Motor Boat; Power Curing Spraying Machine; Power Saw - Concrete (power driven); Pug Mill; Pull Broom (power type); Seaman Tiller; Straw Blower or Brush Mulcher; Striping Machine, Paint (motor driven); Sub-grader; Tractaire; Tractor (below 50 H.P.); Truck Crane Oiler - Driver; Spreader; Water Pump; Welding Machine - 2 of 300 amps or over

DECISION NO. IN77-2083

TRUCK DRIVERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP A	$8.38	19.50a	22.00a		
GROUP B	8.33	19.50a	22.00a		
GROUP C	8.28	19.50a	22.00a		
GROUP D	8.23	19.50a	22.00a		
GROUP E	8.18	19.50a	22.00a		
GROUP F	8.13	19.50a	22.00a		
GROUP G	8.08	19.50a	22.00a		
GROUP H	8.03	19.50a	22.00a		
GROUP I	7.98	19.50a	22.00a		
GROUP J	7.93	19.50a	22.00a		
GROUP K	7.88	19.50a	22.00a		
GROUP L	7.78	19.50a	22.00a		

CLASSIFICATIONS

GROUP A-Acey Wagons over 3 Buckets

GROUP B-Acey Wagons to and including 3 Buckets

GROUP C-Tandem-tandem Semi-Trucks-Truck Mechanics-Heavy Equipment Type Water Wagon over 5,000 Gallons-Tri-Axle Trucks pulling Tilt-Top Trailers- Low Boys, Tandem-tandem Axle

GROUP D-Tri-Axle Trucks-Tandem Semi-Trucks-Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.-Tandem Axle Trucks pulling Tilt-Top Trailers-Low Boys, Tandon Axle-Tri-Axle Batch

GROUP E-Tandem "Dog-Legs" Trucks-Semi-Water Trucks-Sprinkler Trucks-Heavy Equipment Type Water Wagons 5,000 Gallons & Under

GROUP F-Truck Mounted Pavement Breakers-Tandem Trucks over 15 Ton Payload-Single Axle Semi-Trucks-Farm Tractors hauling material-Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under-Mixer Trucks, All Types-Single Axle Trucks pulling Tilt-Top Trailer Lowboys, Single Axle

GROUP G-Tandem Axle Fuel Trucks-Tandem Axle Water Trucks-Bituminous Distributor (one man)

GROUP H-Single Axle Dog-Legs-Tandem Trucks or Dog-Legs-Winch Trucks or A Frames used for Transportation-Batch Trucks Wet or Dry over 3 (3CE) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks

GROUP I-Single Axle Fuel Trucks-Single Axle Water Trucks-Bituminous Distributors, (two man)

GROUP J-Single Axle Straight Trucks-Batch Trucks, Wet or Dry 3 (3CE) Batches or less-Grease & Maintenace Trucks servicing Single Axle Trucks

GROUP K-Helpers, Greasers, Tire Man, Batch Board Tenders

GROUP L-Pick-Up Trucks

FOOTNOTE: a. PER WEEK PER EMPLOYEE

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LABORERS: SEWER, TUNNEL, & WATER CONSTRUCTION 1 of 2

	ZONE 2	ZONE 2A	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP 1	$7.52	$7.15	$7.20	$6.95	$7.35
GROUP 2	7.67	7.30	7.35	7.10	7.50
GROUP 3	7.72	7.35	7.40	7.15	7.55
GROUP 4	7.82	7.45	7.50	7.25	7.65
GROUP 5	7.92	7.55	7.60	7.35	7.75
GROUP 6:					
A.	7.72	7.35	7.40	7.15	7.55
B.	7.87	7.50	7.55	7.30	7.70
C.	8.32	7.95	8.00	7.75	8.15
D.	7.82	7.45	7.50	7.25	7.65

Fringe Benefits Payments			
H & W	Pensions	Vacation	Education and/or Appr. Tr.
$.60	.45		.09

ZONES

ZONE 1: Jasper, Lake, LaPorte, Newton, Porter, & Starke Counties (Excluded from this schedule)

ZONE 2: Elkhart & St. Joseph Counties

ZONE 2A: Kosciusko, LaGrange, & Marshall Counties.

ZONE 3: Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Madison, Miami, Montgomery, Noble, Pulaski, Randolph, Rush, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties

ZONE 4: Marion & Shelby Counties

ZONE 5: Bartholomew, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, DuBois, Floyd, Fountain, Franklin, Gibson, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Sullivan, Switzerland, Vanderburgh, Vermillion, Vigo, Warren, Warrick, & Washington Counties

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Counties

POWER EQUIPMENT OPERATORS: TUNNEL AND SEWER CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.95	.40	.40		.05
GROUP II	8.95	.40	.40		.05
GROUP III	8.45	.40	.40		.05
GROUP IV	7.75	.40	.40		

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic in shop; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Shop mule; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties 1 of 2

POWER EQUIPMENT OPERATORS
Tunnel & Sewer Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.55	.40	.50		.08
GROUP II	10.45	.40	.50		.08
GROUP III	10.25	.40	.50		.08
GROUP IV	8.00	.40	.50		

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes, Draglines, Derricks, Electric Overhead Cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all Equipment, Tractor Highlift, Fork lifts, Tournadozer, Mixer over 1½S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Truck Crane, Tournapull, Tractor operating Scoops, Bulldozer, Push Tractor, Finishing Machine on Asphalt, Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressors, Hetherington Paver Operator, Farm Tractor with half Yard bucket and/or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipment, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Filler, Elevating Machine, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machine, Pipe Cleaning Machines, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractor Without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine Freezing Operator, Chair Cart - Self Propelled, Hydra Seeder, Straw Blower, Concrete Mixers with Skip, all one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Operator, Rock Spreader, Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Enginser, Loaders, Hydra Crane Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled, Winch or Hydraulic Boom Truck

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POWER EQUIPMENT OPERATORS 2 of 2

GROUP IV Mixers 1½S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tuggers, Truck Crane Drivers, House Elevators when used for hoisting Material, Two to Four Generators or Welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on Earth, Engine Tenders, Firemen, Wagon Drill, Flexplane, Conveyor, Two to Four Water Pumps, Siphon and Pulsometer, Switchman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Digger, Self-propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Track Jack, Mud Jack, Operator to do Winter Repair Work in Shop between November 1st and March 1st, Concrete Buggies motor driven, Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine, Concrete & Blacktop Curb Machine, Dock Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

Jasper, Newton, Pulaski, & Starke Counties

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Class I	$ 10.30	.65	.85		.05
Class II	9.80	.65	.85		.05
Class III	8.25	.65	.85		.05
Class IV	7.25	.65	.85		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket of 1 cu. yd. & over; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete tower; cranes, all; cranes, tower; derricks, all; derricks, traveling; forklift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoists, two tugger one floor; hydraulic boom truck; locomotive, all; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, less than 1 cu. yd.; engineer acting as conductor in charge of crew; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoists, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; motor patrol; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150 combination - small equipment operator; forklift trucks; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches 4 olectric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Counties

POWER EQUIPMENT OPERATORS: TUNNEL AND SEWER CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 10.35	.40	.40		.05
GROUP II	9.45	.40	.40		.05
GROUP III	8.30	.40	.40		.05
GROUP IV	7.50	.40	.40		.05

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or temper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic in shop; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Shop mule; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Elkhart, Fulton, Kosciusko, LaGrange, Marshall, & Noble Counties

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.52	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV : Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

Statewide, except Crawford, DuBois, Fountain, Gibson, Miami (Peru & Grissom AFB), Perry, Pike, Posey, Spencer, Vanderburgh, Vermillion, Warren, Clinton (Frankfort), & Warrick Counties

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Linemen; Technicians	$ 9.68	.45	1%		.5%
Heavy equipment operator "A"	9.19	.45	1%		.5%
Heavy equipment operator "B"	7.57	.45	1%		.5%
Powder man & equipment mechanic	7.39	.45	1%		.5%
Senior groundman truck driver w/w	6.32	.45	1%		.5%
Groundman truck driver with winch	6.07	.45	1%		.5%
Groundman truck driver w/o winch	5.32	.45	1%		.5%
Senior groundman after 5 years	6.06	.45	1%		.5%
Senior groundman after 12 months	5.89	.45	1%		.5%
Groundman 0-12 months	4.99	.45	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.98	.45	1%		.5%
Heavy equipment operator "A"	9.26	.45	1%		.5%
Heavy equipment operator "B"	7.63	.45	1%		.5%
Powder man & equipment mechanic	7.45	.45	1%		.5%
Senior groundman truck driver w/w	6.43	.45	1%		.5%
Groundman truck driver with winch	6.14	.45	1%		.5%
Groundman truck driver w/o winch	5.39	.45	1%		.5%
Senior groundman after 5 years	6.18	.45	1%		.5%
Senior groundman after 12 months	6.01	.45	1%		.5%
Groundman 0-12 months	5.09	.45	1%		.5%

LINE CONSTRUCTION Clinton (Frankfort only) & Miami (Peru & Grissom AFB)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LINEMEN; Heavy equipment operators "A"	$ 10.03	.45	1%		½ of 1%
CABLE SPLICERS	10.89	.45	1%		½ of 1%
HEAVY EQUIPMENT OPERATORS "B"	8.07	.45	1%		½ of 1%
POWDERMAN; Equipment mechanic	7.89	.45	1%		½ of 1%
SENIOR GROUNDMAN - truck driver with winch	6.61	.45	1%		½ of 1%
GROUNDMAN - truck driver with winch	6.32	.45	1%		½ of 1%
SENIOR GROUNDMAN AFTER 5 YEARS	6.30	.45	1%		½ of 1%
SENIOR GROUNDMAN AFTER 12 MONTHS	6.11	.45	1%		½ of 1%
GROUNDMAN - truck driver without winch	5.65	.45	1%		½ of 1%
GROUNDMAN 0 to 12 MONTHS	5.23	.45	1%		½ of 1%

LINE CONSTRUCTION

Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Line truck operators; Hole digger; Stool handling cable splicer	$11.65	.40	1%		
GROUNDMAN	10.29	.40	1%		
TRUCK DRIVER	10.60	.40	1%		
Fountain, Vermillion, & Warren Counties					
LINEMEN; Groundman equipment operator	10.67	.40	1%+.30		½%
GROUNDMAN TRUCK DRIVER W/WINCH	8.75	.40	1%+.30		½%
GROUNDMAN TRUCK DRIVER WO/WINCH	8.19	.40	1%+.30		½%
GROUNDMAN	7.78	.40	1%+.30		½%

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Clinton (City of Clinton and abutting municipalities)

DECISION NO.: IA77-4099 DATE: Date of Publication

Supersedes Decision No. IA77-4064, dated March 18, 1977, in 42 FR 15266.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction.

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.85		.65		
CARPENTERS:					
Carpenters	8.90	.45	.60		
Piledriverman	9.30	.45	.60		
Millwrights	11.00	0%	7%		.20
CEMENT MASONS	9.35		.65		
ELECTRICIANS:					
Electricians	10.95	.45	5.5%		.03
Cable splicers	11.20	.45	5.5%		.03
GLAZIERS	9.80	.60	1.00		
IRONWORKERS	11.22	.50	.375		.07
LABORERS:					
GROUP 1 - Common laborers	8.03	.30	.25		
GROUP 2 - Operator on air or power tools; mortar mixer man; any work 35 ft. high or over; cement dumper, puddlers or vibrator man and men working with concrete pump hose; ditch work 8 ft. below ground level; any man working with creosote materials	8.28	.30	.25		
GROUP 3 - Cutting torch burner; caisson & cofferdam workers	8.33	.30	.25		
MARBLE SETTERS	9.70	.35	.50		
PAINTERS:					
Brush	8.97	.45	.65		.12
Spray; Structural steel	9.22	.45	.65		.12
PLASTERERS	9.85		.65		
PLUMBERS & STEAMFITTERS	10.31	.60	.60		.10
ROOFERS	11.20		.40		
SHEET METAL WORKERS	10.10	.43	.40		.10
SOFT FLOOR LAYERS	8.90	.45	.60		
SPRINKLER FITTERS	11.48	.65	.95		.08
TERRAZZO WORKERS	9.70	.35	.50		
TILE SETTERS	9.70	.35	.50		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 9.45	.40	.50		.08
GROUP 2	8.05	.40	.50		.08
GROUP 3	7.00	.40	.50		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Craneman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Bucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Heiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Gresser, LeTourneaupull & similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Plexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-Propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread) Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Roaster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cemen & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

DECISION NO. IA77-4099

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Construction, alteration or repair of bridges, locks, dams levees, docks & on drainage & soil conservation work thereon, which relates to the Mississippi River	$10.53	.45	.70		.04
Other heavy & highway construction:					
Carpenters & piledrivermen	8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
GROUP 1	7.30	.30	.20		
GROUP 2	7.05	.30	.20		
GROUP 3	6.80	.30	.20		
GROUP 4	6.65	.30	.20		
GROUP 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe Layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operators of air trace, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt Curb Machines; Formen, not mechanical; Bull float, hand operated; Scalers; Timberman; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers, electric drills, hammers, and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborer; Rodman; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4099

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 7.98	.65	.50		.08
GROUP 2	7.34	.65	.50		.08
GROUP 3	6.94	.65	.50		.08
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Paving or Spreader Operator; Hoisting Engineer (steel erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paving; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Plexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanical Helper or Group Greaser Helper; Farm-Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pump on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-Dry

NOTICES

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Des Moines (City of Burlington and abutting municipalities and Burlington Ordnance Plant)

DECISION NO.: IA77-4100

DATE: Date of Decision

Supersedes Decision No. IA76-4146, dated September 10, 1976, in 41 FR 38713.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway (does not include rest areas which include building structures) Construction

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		.10
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.52		.20		
CARPENTERS:					
Carpenters	9.25	.45	.75		.04
Millwrights & piledrivermen	9.93	.45	.75		.04
CEMENT MASONS	10.25				
ELECTRICIANS	10.90	.38	1%		1%
GLAZIERS	9.80	.60	1.00		
IRONWORKERS	10.25	.50	.30		
LABORERS:					
GROUP 1 - Common laborers; Signal man; Wrecking deck hand	7.87	.30			
GROUP 2 - Plaster tender; Mortar mixer; Mason tender; Stone & marble setter tender; Drill operator; Jackhammer man; Air tamper; Air spade (electric or pneumatic); Spraying equipment & all mechanically operated tools; Excavation work over 6 ft. deep below ground level or basement level	8.03	.30			
GROUP 3 - Tile layers (sewers)	8.13	.30			
GROUP 4 - Gunniting & sandblasting	8.24	.30			
GROUP 5 - Tunnel & sewer mucker & miner over 6 ft. deep; Caisson worker & drill operator in tunnel & caisson; Powdermen	8.34	.30			
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	5%	a	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	8.06	.45	5%	a	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	8.24	.45	5%	a	1/2%

DECISION NO. IA77-4100

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.46	.45	5%	a	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.73	.45	5%	a	1/2%
PAINTERS:					
GROUP 1 - Brush	8.05		.15		
GROUP 2 - Rollers	8.15		.15		
GROUP 3 - Sign	8.55		.15		
GROUP 4 - Structural steel over 25 ft. from the ground or floor; bridges, water towers & stage work	8.75		.15		
GROUP 5 - Spray gun & sandblasting	9.05		.15		
PLASTERERS	9.88				
PLUMBERS & STEAMFITTERS	10.25	.40	.90		.05
ROOFERS	8.28			.25	
SHEET METAL WORKERS	9.85	.45	.40		.10
SOFT FLOOR LAYERS	9.25	.45	.75		.04
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS:					
GROUP 1 - Warehouseman; Helpers; Teamsters; Mechanic helpers; Greasers; Single axle flat beds & dump trucks; Pulling air compressors & welding machines; Batch trucks 2-34B batches or less; Chip spreader	8.02	13.50p/w			
GROUP 2 - Chester axle; Tandems; 6 wheel trucks; Semi-trailers; Carryall; Winch; Mixers; Batch over 2-34B	8.23	13.50p/w			
GROUP 3 - Track trucks; Euclid type truck; Oil distributors; Front & rear; All types of dumpsters; Pavement breakers	8.33	13.50p/w			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
FOOTNOTE:					
a - Seven Paid Holidays A thru G					
PAID HOLIDAYS:					
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving					

NOTICES

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DECISION NO. IA77-4100

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.45	.40	.50		.08
GROUP 2	8.05	.40	.50		.08
GROUP 3	7.00	.40	.50		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONA

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator, Mixer Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required), File Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman and Drier, Concrete Pump, Concrete Spreader (servicing 1 paver), Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull and similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement and Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-propelled Sheepsfoot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screen Operator, Apsco Spreader or similar machine Slusher, Forklift (over 6000 lbs. capacity or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (spitzing Motor), Dope Chop Machine, Distributor (Back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

DECISION NO. IA77-4100

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	$ 8.20	.38			
CEMENT MASONS	8.20	.38			
LABORERS:					
Group 1	7.30	.30	.20		
Group 2	7.05	.30	.20		
Group 3	6.80	.30	.20		
Group 4	6.65	.30	.20		
Group 5	6.55	.30	.20		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a boa'n chair, swinging stage, life belt, tag line or block and tackle; Drill operator of air tracs, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Streaser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common labor; Rodmen; Tending to carpenters; Hot asphalt labor

DECISION NO. IA77-4100

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 7.98	.65	.50		.08
Group 2	7.34	.65	.50		.08
Group 3	6.94	.65	.50		.08
TRUCK DRIVERS	7.14	.45			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power Shovel, Crane, Backhoe and Dragline; Central Mix Plant Operator; Dredge Engineer; Dredge Leverman; Pavor or Spreader Operator; Hoisting Engineer (steel erection); Motor Patrol; Piledriver Machine; Concrete Mixer; Tow or Push Boat Operator; Master Mechanic; C.M.I. Paver; C.M.I. Subgrader (or equivalent); Asphalt Plant; Front Endloader; Scraper; Bulldozer; Push Cat; Tractor Pulling, Scraper; Sideboom Tractor; Churn or Rotary Drill; Trenching Machine (Cleveland 80 or similar capacity); Asphalt Laydown; Asphalt Screed; Asphalt Heater-Planer Unit; Asphalt Roller; Self-Propelled Elevating Grader or similar machine; Spreader (concrete); Horizontal Boring Machine; Mechanics-Welders; Group Equipment Greaser; Concrete Pump; Self-Propelled Curb Machine

GROUP 2 - Concrete Curb Breaking Machine; Concrete Widening Machine; Paving Breaker; Barber-Greene, Haiss Loader or similar machine; Tractor Pulling Ripper, Disc, Sheepsfoot or Flat Roller; Self-Propelled Sheepsfoot Roller; Self-Propelled Roller (other than asphalt); Distributor; Screening and Washing Plant; Self-Propelled Vibrating Compactor; Trenching Machine (other than above); Steel Placing Machine; Conveyor; Finishing Machine (on concrete); Flexplane; Bull Float; Form Grader

GROUP 3 - Boiler; Mechanical Broom; Oiler or Mechanics Helper or Group Greaser Helper; Farm-Type Tractor (pulling disc, harrow or roller); Welding Machine; Pump Operator (other than dredge); Boom and Winch Truck; Compressor; Tank Car Heater (combination boiler and booster); Pumps on Well Points and Deep Wells for Dewatering; Truck Crane Combination Driver-Oiler; Concrete Curbing Machine; Safety Boat; Batch Plant-Dry

SUPERSEDEAS DECISION

STATE: Kentucky
COUNTIES: *See below
DECISION NUMBER: KY77-1058
DATE: Date of Publication
Supersedes Decision No.: KY76-1129 dated November 26, 1976 in 41-FR-52257
DESCRIPTION OF WORK: Building Construction (does not include single homes and garden type apartments up to and including 4 stories.)

*Counties: Hardin Jefferson, and Meade

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.66	.50	1.00		.02
Boilermakers	10.80	.75	1.00		
Bricklayers:					
Bricklayers & concrete block layers	9.83	.40	.40		
Caulkers	9.83	.40	.40		
Cleaners	9.83	.40	.40		
Pointers	9.83	.40	.40		
Stone masons	9.83	.40	.40		
Carpenters:					
Carpenters	9.65	.30	.30		
Carpenters when work in excess of 30' to 100' above ground or a solid floor on scaffold skip hoist, tower or slip form	9.90	.30	.30		
Carpenters, when working in excess of 100' above ground or a solid floor on scaffold skip hoist, tower or slip form	10.15	.30	.30		
Carpenters, when working on suspended or swinging scaffold	9.90	.30	.30		
Cement masons	9.28	.60	.30		
Electricians, linemen and hole digger	11.60	.50	1%+.40		¼ of 1%
Elevator constructors	11.00	.545	.35	4%+a&b	.02
Elevator constructors' helpers	7.70	.545	.35	4%+a&b	.02
Elevator constructors' helpers (prob.)	5.50				
Glaziers	8.90	.35	.45		
Ironworkers:					
Conveyormen, machinery movers	10.50	.75	.85		.05
Structursl, ornamental & reinforcing	10.50	.75	.85		.05
Riggers, fence erectors, shee-ters	10.50	.75	.85		.05
Lathers	10.29		.20		.01
Leadburners	8.25	.30		c	.01
Marble, tile & terrazzo workers	9.20	.40	.40		
Marble, tile & terrazzo workers' helpers	8.60				
Millwrights	10.40	.30	.60		.02

77-KY-1058 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Zone 1 - 35 mile raduis from Jefferson Co.Courthouse, Louisville, Ky.					
New Construction:					
Basic	8.62	.35	.20		.03
Special	8.97	.35	.20		.03
Spray	9.07	.35	.20		.03
Old Construction:					
Basic	8.08	.35	.20		.03
Special	8.43	.35	.20		.03
Spray	8.53	.35	.201		.03
Zone 2 - Over 35 mile raduis from Jefferson Co., Courthouse, Lousiville, Ky.					
New Construction:					
Basic	8.97	.35	.20		.03
Special	9.32	.35	.20		.03
Spray	9.42	.35	.20		.03
Old Construction:					
Basic	8.43	.35	.20		.03
Special	8.78	.35	.20		.03
Spray	8.88	.35	.20		.03
Work on bridges (over navigable water) $2.00 per hour premium all zones					
Piledrivermen	9.65	.30	.30		
Plasterers	9.85				
Plumbers:					
Zone 1 Jefferson County	11.15	.60	.90	.77	.10
Zone 2 Outside Jefferson & Warren Counties and within 35-mile raduis of Jefferson & Warren Counties Courthouses and entire Ft. Knox Reservation	11.60	.60	.90	.77	.10
Zone 3 Beyond 35-mile raduis of Jefferson & Warren Counties Courthouses	11.85	.60	.90	.77	.10

77KY-1058 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Roofers	7.55	.60	.25		
Slate, tile & precast concrete slab	7.95	.60	.25		
Helpers	3.80	.60	.25		
Sheet metal workers:					
Zone 1 Jefferson County & Ft. Knox Reservation in Hardin and Meade Counties	11.08	1.077	.80		.14
Zone 2 Hardin & Meade Counties excluding Ft. Knox Reservation	12.23	1.077	.80		.14
Soft floor layers	9.65	.30	.30		
Sprinkler fitters	11.65	.65	.95		.08
Steamfitters:					
Zone 1 Jefferson	10.84	.50	.80	1.00	.08
Zone 2 Outside Jefferson County to 35-mile raduis of Jefferson & Warren Counties Courthouses and all of Ft. Knox	11.29	.50	.80	1.00	.08
Zone 3 Beyond 35-mile raduis of Jefferson & Warren Counties Courthouses	11.54	.50	.80	1.00	.08

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F, plus Washington's Birthday, Christmas Eve and Good Friday providing employee has worked 45 full days during the 120 calendar days prior to the holidays and the regular scheduled work days immediately preceding and following the holidays.

PAID HOLIDAYS:
A-New Year's, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

77KY-1058 - (Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	6.90	.35	.35		
GROUP II	7.10	.35	.35		
GROUP III	7.25	.35	.35		
GROUP IV	7.40	.35	.35		
GROUP V	8.10	.35	.35		

GROUP I:
Laborers, general, mobile, sweeper

GROUP II:
Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker.

GROUP III:
Air track driller, mason tender, side rail setter (metal), stackman

GROUP IV:
Powder introflax burning road, gunnite nozzle man operator, sewer, tunnel laborers (free air), sand hog or mucker (free air).

GROUP V:
Holeman driller, piers, augured caissons, sand miner (tunnel free air), caisson workers.

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77KY-1058 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.80	.35	.35		.05
CLASS B	7.51	.35	.35		.05
CLASS C	6.89	.35	.35		.05

CLASS A:
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift, (regardless of lift height), all types of boom cats, core drill, hoist tow or push boat, concrete paver, Gradeall, hoist, hyster, pumpcrete, Ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydr crane, backfiller, gurries, sub-grader

CLASS B:
All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor

CLASS C:
Bituminous distributor, cement gun, conveyor, mud jackm joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper

77KY-1058 - (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.61	a	b	b	
GROUP II	7.51	a	a	b	
GROUP III	7.44	a	a	b	
GROUP IV	7.33	a	a	b	
GROUP V	7.21	a	a	b	

GROUP I:
Winch trucks, A-Frame when used to transport building materials, Euclids and other heavy earth moving equipment, lowboys, fork lift trucks, when used inside warehouse of storage area

GROUP II:
Truck mechanics, concrete mixer trucks (all types, hauling only on the job site)

GROUP III:
Trucks over 3 tons, semi-trailer tandem axle or pole trailers and dumps, farm tractor when used to pull building material or equipment

GROUP IV:
Trucks 3 tons and under, mechanic helper

GROUP V:
Truck helper, warehousemen

FOOTNOTE:

a. Employer contributes $21.00 per week to Health and Welfare and $20.00 per week to Pension for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period

b. Employee who have been regularly employed on a project by an employer for one year and who worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employee who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours)

SUPERSEDEAS DECISION

STATE: Kentucky COUNTY: Boyd
DECISION NUMBER: KY77-1059 DATE: Date of Publication
Supersedes Decision No.: KY76-1110 dated September 24, 1976 in 41 FR-42113
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.05	.50	.70		.03
Boilermakers	10.25	.60	.80		.02
Bricklayers:					
Bricklayers	10.63				
Stone masons	10.63				
Carpenters:					
Carpenters	9.72	.40	.50		.03
Millwrights	10.79	.40	.37		.03
Piledrivermen	10.01	.40	.50		.03
Cement masons	10.11				
Electricians:					
Electricians	10.37	.50	1%+.47	1.02	.04
Cable splicers	10.89	.50	1%+.47	1.02	.04
Line Construction:					
Cable splicers	11.53	.45	1%+.42	1.02	½ of 1%
Groundmen	8.38	.45	1%+.42	1.02	½ of 1%
Linemen	10.48	.45	1%+.42	1.02	½ of 1%
Operators: All mechanical equipment	10.48	.45	1%+.42	1.02	½ of 1%
Elevator Constructors	9.38	.445	.29	~~1%~~ 2%+a+b	.02
Elevator Constructors' helpers	70%JR	.445	.29	~~1%~~ 2%+a+b	.02
Elevator Constructors' helpers (prob.)	50%JR				
Glaziers	9.30		.20	.20	
Ironworkers:					
Structural, Ornamental, Reinforcing	10.26	.65	.70		.01
Lathers	7.865		.10		
Leadburners	8.25	.30		d	.01
Painters:					
Commercial:			.25		
Brush	7.53		.25		
Roller	7.69		.25		
Spray	8.05				
Industrial:			.25		
Brush	8.68		.25		
Roller & Spray	9.26				.01
Plasterers	10.11				
Plumbers & Steamfitters:					
Within a 5 mile raduis of 17th Street and Winchester Avenue, Ashland	9.72	.50	.85	c+1.00	.10
Over 5 mile and within a 15 mile radius of 17th Street and Winchester Avenue, Ashland	9.92	.50	.85	c+1.00	.10

KY77-1059 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Steamfitters Cont'd:					
Over 15 and within 30 mile radius of 17th and Winchester Avenue, Ashland	10.12	.50	.85	c+1.00	.10
Over 30 miles radius of 17th Street and Winchester Avenue, Ashland	10.22	.50	.85	c+1.00	.10
Roofers	9.75		.40		
Sheet metal workers	10.58	.45+e	.40		.05+.02
Soft floor layers	9.72	.40	.50		.03
Sprinkler fitters	11.65	.65	.95		.08
Welders - Receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES:
a. Six paid Holidays: A through F.

b. Employer contributes 1% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who worked in business less than 5 years.

c. Two Paid Holidays: C and F.

d. Nine Paid Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calender days prior to the holiday and the regular scheduled work days immediately preceding and following the holidays.

e. Employer contributes 3% of gross income to Stabilization Agreement of Sheet Metal Industry fund.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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KY77-1059 - (Cont'd)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	7.18	.35	.35		
Group 2	7.33	.35	.35		
Group 3	7.35	.35	.35		
Group 4	7.38	.35	.35		
Group 5	7.47	.35	.35		
Group 6	7.68	.35	.35		
Group 7	7.88	.35	.35		
Group 8	8.38	.35	.35		

LABORERS

Group 1: Laborers, carpenters' helpers, concrete men, wreckers, wall men, handlers of empty oxygen and acetylene bottles

Group 2: Hod carriers, mortar men, cement finishers' helpers, lathers and plasterers' tenders.

Group 3: Wrapping, heating and applying hot and cold tar on all pipes, applying tape on pipes and operating of tester

Group 4: Deck hand and scow men

Group 5: Jackhammer and electrical, gas or air power driven tools, burning torch, wagon drill operators and tile layers, handling or all creosote material, signal men, tool room men, asphalt raker and sandblasters

Group 6: Rock and powdermen

Group 7: Sand hog or mucker, tunnel miners

Group 8: Caisson workers

77KY-1059 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.80	.35	.35		.05
CLASS B	7.51	.35	.35		.05
CLASS C	6.89	.35	.35		.05

CLASS A:
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshsel, concrete mixer (21 cu. ft. or over), concrete pump, crane, orusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller, (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift, (regardless of lift height), all types of boom cats, core drill, hop tow or push boat. concrete paver, Gradeall, hoist, hyster, pumpcrete, Ross carrier, side boom, tail boo, rotary drill, hydro hammer, mucking machine, rock spreador attached to equipment, scoopmobile, Ke Cal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader

CLASS B:
All air compressor (600 cu. ft, per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rook), tractor (50 hp. and over) bull float, finish machine, outboard motor boat flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless or ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor

CLASS C:
Bituminous distributor. cement gun, conveyor. mud jack joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment deckhand oiler, hydraulic post driver, and drill helper

KY77-1059 - (Cont'd)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	7.91	a	b	.80	
Group 2	8.01	a	b	.80	
Group 3	8.16	a	b	.80	
Group 4	8.21	a	b	.80	
Group 5	8.26	a	b	.80	
Group 6	8.31	a	b	.80	
Group 7	8.56	a	b	.80	

TRUCK DRIVERS

Group 1: Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flatbody material trucks (straight jobs), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cu. yds.)

Group 2: Tank trucks (straight)

Group 3: Dump trucks (5 cu. yds. or over), semi-dump trucks, semitrailers whether flat, rack or pole and hauling or pushed by trucks or tractors, agitator or mixer trucks (up to 5 cu. yds.), farm type tractors, tank truc (semi)

Group 4: Lowboys, trailers, winch trucks, fork-trucks, distributors trucks (front and back end), truck cranes, monorail

Group 5: Euclids, dempsters, turnarookers, roes carriers, athey wagons or similar equipment, A-Frame, hydro-lifts, dual purpose trucks and mechanics

Group 6: Agitators or mixer trucks (5 cu. yds. and over)

Group 7: Material checkers and receivers mechanics helpers

FOOTNOTES:
a. $58.50 per month for employees employed over 30 days or more.
b. $34.67 per month for employees employed over 30 days or more.

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SUPERSEDEAS DECISION

STATE: Michigan — COUNTY: Marquette
DECISION NO.: MI77-2052 — DATE: Date of Publication
Supersedes Decision NO. MI77-2036, dated March 4, 1977 in 42 FR 12615
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.06	.60	.50		.05
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS & STONEMASONS	8.03	.65	.50		.01
CARPENTERS & SOFT FLOOR LAYERS	9.34	.60	.50		.01
CEMENT MASONS	7.53	.65	.50		.01
ELECTRICIANS	7.10	.45	1%		.5%
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4%+a+b	.02
Helpers	7.03	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	9.15	.50	1.00	1.40	.04
LABORERS:					
Laborers	7.30	.55	.35		.04
Chipping Hammers; Concrete Mixers, Green Cutter (Air, Electric or Gas), Material Mixers, Mortar Mixers, Mortor driven buggy operator, sand-blasters, Tamping machines, vibrator operators	7.40	.55	.35		.04
LATHERS	8.85	.54	.10	.50	.01
MILLWRIGHTS	9.44	.60	.50		.01
PAINTERS:					
Brush & Glaziers	8.00				
PLASTERERS	7.98	.65	.50		.01
SHEET METAL WORKERS	8.88	.50	.55		
SPRINKLER FITTERS	11.65	.65	.95		.08
TILE-MARBLE & TERRAZZO WORKERS	7.78	.65	.50		.01
TILESETTERS' HELPERS	7.18	.45	.35		.01
TRUCK DRIVERS:					
Regular	7.72	22.00c	16.00c		
Heavy Duty, double axle and semi	7.85	22.00c	16.00c		
Euclid type equipment	8.08	22.00c	16.00c		

DECISION NO. MI77-2052

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators					
Regular Equipment Operator Crane, Dozer, Front End Loaders Job Mechanic	8.72	.80	1.00	10%	.02
Air Track Drill, Boom Truck Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pump, 6" andover, Pumpcrete, Belt Crete, Squeeze crete, Sweeping Machine, trencher, Winches, Well points and Greeze Systems	7.99	.80	1.00	10%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-MeMorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation payd credit for employee who has worked in business less than 5 years.

c. Per week, Per employee

SUPERSEDEAS DECISION

STATE: Michigan — COUNTIES: Genesee, Lapeer, Saginaw, St. Clair & Shiawassee
DECISION NUMBER: MI77-2055 — DATE: Date of Publication
Supersedes Decision Number MI77-2019, dated February 18, 1977 in 42 FR 10238
DESCRIPTION OF WORK: Residential Construction consisting of Single Family Homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$11.39	1.24	1.19		
Remainder of Counties	8.92	.72	1.28		.02
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.	11.15	.50	1.00		
Saginaw County	10.52	.60	.50		
St. Clair County	11.11	.90	.57		
CARPENTERS:					
Saginaw County	7.27	.60	.50		.01
St. Clair County	10.48	.75	9%	11%	.04
Remainder of Counties	9.84	.60	.50		.01
CEMENT MASONS:					
Genesee & Shiawassee Counties	9.90	.48	.45		.02
Lapeer County	9.80	.50	1.00		
Saginaw County	9.82	.60	.50		
St. Clair County	10.39	.90	.57		
ELECTRICIANS:					
Genesee, Lapeer & Shiawassee Cos.	6.63	.40	1%+.75		.02
Saginaw County	11.70		1%+.70		4%
St. Clair County	11.34	1.75	1%+1.00		.06
ELEVATOR CONSTRUCTORS:					
St. Clair County					
Constructors	11.75	.545	.35	4%	.02
Helpers	70%JR	.545	.35	4%	.02
Helpers	50%JR				
Remainder of Counties					
Constructors	10.42	.495	.32	4%	.02
Helpers	70%JR	.495	.32	4%	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiwassee Cos.	9.09	.55	.70		.02
Saginaw County	8.45		.50	.25	.01
St. Clair County	9.77	.55	.65		
IRONWORKERS:					
Structural & Ornamental	10.43	8%	14%	17%	.09
Reinforcing	9.42	.98+.25	14%	15%	.07

DECISION NO. MI77-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Saginaw County					
Laborers; Mortar Mixers (Hand)	8.04	.55	.35		.04
Plaster Mixers & Tenders	8.24	.55	.35		.04
Genesee, Lapeer & Shiawassee Cos					
Laborers	8.39	.55	.55		.04
Air, Gas & Electric Tool Oprs.	8.49	.55	.55		.04
Mortar Mixers	8.49	.55	.55		.04
Crock or Pipelayers	8.69	.55	.55		.04
St. Clair County					
Laborers; Mason Tenders	9.00	.55	.35		.04
Mortar Mixers	9.12	.55	.35		.04
Air, Gas & Electric Tool Oprs.	9.25	.55	.35		.04
Crock or Pipelayers	9.35	.55	.35		.04
LATHERS	8.85	.64	.10	.50	.01
MARBLE, TILE & TERRAZZO WORKERS:					
Genesee, Lapeer & Shiawasee Cos	9.79	.50	1.00		
Saginaw County	9.95				
St. Clair County:					
Marble Masons	11.58	.50	.80		
Terrazzo Workers	10.80	.50	.80		
Tile setters	11.17	.50	.80		
PAINTERS:					
Genesee & Eastern ½ of Shiawassee Counties: West of Hwy. #53 in Lapeer	9.40	.50	.60		
Saginaw County	9.95		.35		.02
St. Clair Co; & East of Hwy. #53 in Lapeer County	10.71	.50	.50		.01
Western ½ of Shiawassee County	10.35	.42	.40		.005
PLASTERERS:					
Genesee, Shiawassee	9.83	.50	.25		.03
Lapeer County	10.05	.50	1.00		
St. Clair County	10.64	.90	.57		
PLUMBERS:					
Genesee, Lapeer & Shiawassee Cos.	10.74	.80	1.00		
Saginaw County	9.83	.66	.85		.01
St. Clair County	10.12	1.48	1.20	.125	.05

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DECISION NO. MI77-2055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
St. Clair County					
Regular Engineer	10.52	.80	.85	10%	.05
Regular Crane Operator	10.82	.80	.85	10%	.05
Remainder of Counties					
Regular Equipment Operator; Scraper; Dozer; Grader, Front End Loader	11.40	.80	1.00	10%	.05
Bob Cat & Similar Type Equip.	10.85	.80	1.00	10%	.05
Air Compressors; Generators	9.45	.80	1.00	10%	.05
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.	10.85	.60	.40		
Saginaw County	10.50	.75	.50		
St. Clair County	7.20				
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	9.69	.79	1.20	1.00	
Saginaw County	10.66	.65	1.00		.03
St. Clair County	10.135	1.60	10%	11%	.11
SOFT FLOOR LAYERS:					
St. Clair County	9.45	.75	7%	8%	.03
Remainder of County	8.88	.60	.50		.01
SPRINKLER FITTERS	11.67	.60	.90		.08
TRUCK DRIVERS:					
Genesee, Lapeer & Shiawassee Cos.	8.08	a17.00	a22.00		
Saginaw County					
Truck drivers	7.57	a24.00	a22.00	.26	
8 Cubic Yards & over	7.67	a24.00	a22.00	.26	
Euclid Type Equipment	7.87	a24.00	a22.00	.26	
St. Clair County					
Truck Drivers	9.19	a20.00	a25.00		
Semi Trucks	9.34	a20.00	a25.00		

FOOTNOTE:
a. Per Week, per Employee

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: BROOME
DECISION NO.: NY77-3011 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3240 dated August 20, 1976 in 41 FR 35439
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.30	.81	.35		.04
BOILERMAKER	11.50	.75	10%		.02
BRICKLAYERS:					
Bricklayers, cement masons plasterers and atone mason	9.36	.45	.35		
CARPENTERS, (BUILDING):					
Carpenters and soft floor layers	8.96	.35	.50		
Millwrights and piledrivermen	9.21	.35	.50		
CARPENTERS & PILEDRIVERMEN, (HEAVY & HIGHWAY)	9.47	.35	.50	g	.045
CEMENT MASONS, (HEAVY AND HIGHWAY)	9.19	.56	.45		.05
ELECTRICIANS	9.85	.70	12+.37	.43	.05
ELEVATOR CONSTRUCTORS	9.425	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	6.60	.495	.32	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	4.71				
GLAZIERS	7.18	.35	.30		.01
IRONWORKERS, STRUCTURAL, ORNAMENTAL AND REINFORCING	9.75	.56	.72		
LABORERS, (BUILDING):					
Laborers & wreckers	7.83	.60	.60		
Sewer pipelayers, tunnel laborers, rockmen & drillers, powdermen, pneumatic tool, electric tool, jackhammers and similar mechanical tools with 3/4" bits and over	8.11	.60	.60		
Hod carriers, mortar mixers (hand or machine), asphalt rakers, asphalt levelers, vibrator operator	8.00	.60	.60		
Mason tenders, scaffolf builders bootmen working in concrete	7.94	.60	.60		
LATHERS	9.03	.325	.25		.05
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	11.10	.65	12+.60	d	½%
Cable splicer	12.21	.65	12+.60	d	½%
Groundman digging machine operator	9.99	.65	12+.60	d	½%
Groundman mobile equipment operator	8.88	.65	12+.60	d	½%

DECISION NO. NY77-3011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Groundman truck driver	8.325	.65	12+.60	d	½%
Groundman dynamite man & mechanic	8.88	.65	12+.60	d	½%
MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS	9.36	.45	.35		
PAINTERS:					
Painters	7.70	.35	.30		.03
Rollers over 10", sandblasting, awing scaffold, steam cleaning spray helper	8.20	.35	.30		.03
Structural steel, building, steeple jack and spray	8.70	.35	.30		.03
PLUMBERS:					
Plumbers	9.68	.72	.55		.21
Steamfitters	9.68	.72	.55		.21
ROOFERS	8.30	.64	1.20		
SHEET METAL WORKERS	9.60	3%+.60	.70		.02
SPRINKLER FITTER	11.86	.65	.95		.08
TRUCK DRIVERS, (BUILDING):					
Transit-mix, dump trucks and road oilers	5.10			e+f	
Euclids and fuel trucks	5.24			e+f	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. NY77-3011

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day; G-Labor Day & Memorial Day

FOOTNOTES:
a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, X-Mas Eve, and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

e. One week vacation after 7 months steady work, and 2 weeks vacation after 3 years steady work, 3 weeks after 10 years of steady work.

f. Holidays: A through F; providing employee works 3 days in the calendar week in which the holiday occurs and the scheduled work day before and after the holiday.

g. Holidays: Labor Day and Independence Day.

DECISION NO. NY77-3011

2-LAB-2-3

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS A	$8.04	.70	.70	a	
CLASS B	8.24	.70	.70	a	
CLASS C	8.44	.70	.70	a	
CLASS D	8.64	.70	.70	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

NOTICES

DECISION NO. NY77-3011

11-PEO-1

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.75	.50	.90	a	.10
CLASS II	9.50	.50	.90	a	.10
CLASS III	9.25	.50	.90	a	.10
CLASS IV	9.00	.50	.90	a	.10
CLASS V	8.70	.50	.90	a	.10
CLASS VI	7.33	.50	.90	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; (provided an employee works the day before and the day after the holiday).

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION
Class I - Cranes with boom and jib, 175 feet and over.

Class II - Cranes with boom and jib, 130 feet and over.

Class III - Cranes with boom and jib 100 feet and over.

Class IV - Automatic fine grader, backhoe, cableway, caisson auger, cherry picker (straddle mobile type), cherry picker (hydralic crane) over 5 ton, compressor, pump, generator or welding machines (when used in a battery or not more than four (4), crane derrick, diesel power unit, dragline, excavators (gradall type, hydraulically operated), front end loader (4 cubic yards and over), high speed conveyors (in one line), piledriver, shovel, two and three drum hoist, vibra or sonic hammer controls (when not mounted by rig operator), tower crane.

Class V - "A" frame truck (when used in setting of installation of material), bulldozer, carry-all scraper , cherry picker (5 ton or under), compressor (300 cubic feet and over), concrete paver and mixer, (16S and over), concrete pump, core boring machine, machine, crop dryer (when used as heater), dinkey locomotive, elevator cage hoist, fork lift, full time welder on maintenance, front end loader (under 4 cubic yard), grease truck, high pressure boiler, one drum hoist, maintenance engineer, post hole figger, power grader, pumps (4 inch and over), roller, side boom, test boring machine, tractor mounted backhoe, trenching machine, two cage elevator hoist, tugger hoist, vibro tamp, well drill, well point system.

Class VI - Concrete mixer (under 16S), conveyor, (over 12 foot), firemen, hydraulic pumps, oiler, mechanical heaters (more than two (2) mechanical heaters), power driven welding machine

DECISION NO. NY77-3011

23-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$9.59	.55	1.00	a	.10
GROUP II	9.27	.55	1.00	a	.10
GROUP III	8.59	.55	1.00	a	.10
GROUP IV	7.80	.55	1.00	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working day before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (5" c. over crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over) head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kelman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greasman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

NOTICES

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS 1	$8.14	.60	.65	a	
CLASS 2	8.19	.60	.65	a	
CLASS 3	8.24	.60	.65	a	
CLASS 4	8.39	.60	.65	a	
CLASS 5	8.54	.60	.65	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK
COUNTY: DUTCHESS
DECISION NO.: NY77-3012
DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3280 dated November 12, 1976 in 41 FR 50174
DESCRIPTION OF WORK: Building Conatruction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and Highway construction

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.18	5%	10%	20%	
BOILERMAKERS	12.33	5%	15%	7%	.02
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS AND TILE SETTERS	9.30	1.85	2.00	g	.05
CARPENTERS, BUILDING: Wappingers Falls, New Hackensack Pawling and Beacon, carpenters, piledrivermen and soft floor layers	10.02	.85	.65	.80+k+1	.10
Remainder of County: Carpenters and soft floor layers	10.02	7½%	7½%	.80	.10
CARPENTERS, HEAVY AND HIGHWAY: Wappingers Falls, New Hackensack, Pawling, and Beacon: Carpenters	10.02	.85	.65	.80+k+1	.10
Remainder of County: Carpenters	10.02	7½%	7½%	.80	.10
CEMENT MASONS, BRICKLAYERS, STONE MASONS (HEAVY & HIGHWAY)	9.80	1.85	2.00	h	.05
ELECTRICIANS: Twps. of Pawling, Beacon, Fishkill, E. Fishkill	10.60	.79	1%+.75	.60	½%
Remainder of County	10.00	.75	1%+.85	5%+a+k	½%
Entire County: except Beacon and Fishkill: Repair, renovation, alteration and new installations of Electricial systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.35	.75	1%	.30	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	10.59	.495	.32	c+d	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.41	.495	.32	c+d	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	5.295				
GLAZIERS	10.70	.66	1.66	.47	.01
IRONWORKERS, STRUCTURAL, ORNA. & REINFORCING	9.75	1.45	2.02	1.50	
LATHERS	8.20	10%	.95		.01
LEAD BURNERS	10.75	.40	.25	e	.01
LINE CONSTRUCTIONS: Lineman	11.10	.50	1%+.50	f	3/8%
Cable splicer	12.21	.50	1%+.50	f	3/8%
Groundman digging machine operator	9.99	.50	1%+.50	f	3/8%
Groundman mobile equipment operator	8.88	.50	1%+.50	f	3/8%
Groundman truck driver	8.325	.50	1%+.50	f	3/8%
Groundmao dynamite man & Mechanic	8.88	.50	1%+.50	f	3/8%
MARBLE SETTERS HELPERS	10.45			b	
PAINTERS: Brush	9.08	.52	.20	i	
Bridges, towers, fire escapes, smoke stacks, flag poles, swing state, window jacks, boat swain chair, safety belts, and spray structural steel	10.08	.52	.20	i	
PILEDRIVERMEN: Dock & wharf builders	10.92	1.25	1.73	.65	.02
PLUMBERS AND STEAMFITTERS	10.00	1.50	.60	1.30	.05
ROOFERS, ASPHALT SHINGLE	7.65	1.00	1.65	m	.35
ROOFERS, SLATE & TILE, ASBESTOS, SLAB, ASPHALT BUILTUP	10.15	1.00	1.65	m	.35
ROOFERS, PITCH, PITCH BUILTUP	10.65	1.00	1.65	m	.35
SHEET METAL WORKERS	10.24	10%	.17%	10%	.02
SPRINKLER FITTERS	11.86	.65	.95		.08
TERRAZZO WORKERS' HELPERS	10.50				
TILE SETTERS' HELPERS	10.15				
WELDERS - receive prescribed for craft performing operation to which welding is incidental					

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DECISION NO. NY77-3012

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F; (provided employee is on the payroll two weeks prior to the holiday).

b. Holidays: A through F, Washington's Birthday, Lincoln's Birthday, Good Friday and Columbus Day provided the employee is employed 3 days before the holiday or any of the 3 days following the holiday.

c. Holidays: A through F.

d. Employer contributes 2% of the basic hourly rate for 6 month to 5 years of service or 4% of the basic hourly rate for 5 years or more of service as vacation pay credit.

e. Holidays: A through F; Washington's Birthday, Good Friday and Xmas Eve providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

f. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

g. Holidays: A through F; and two hours off on Election Day for the purpose of voting.

h. Holidays: A through F; Wahsington's Birthday; Good Friday; Columbus Day; Veteran's Day and Nov. Election Day.

i. Holiday: C providing the employee works within the period of (June 20 to July 4th).

k. Employees receive two hours off on Election Day for purpose of voting.

l. Holidays: A through F providing the employee works 7 days before and after the holiday.

m. Employee receives two hours off on Election Day for the purpose of Voting, provided the employee has received 4 hours pay that day.

N.Y. 14-LAB-1-I

DECISION NO. NY77-3012	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: BUILDING					
General laborers	$7.68	.86	1.50	a +.40	
Hod carriers (plasters' helpers), scaffold builders (padlock & self-supporting scaffold 14 ft. or under all runways), mortar mixers (machine & hand), concrete mixers (by machine under 21-E), vibrators, form setters, pipe layers, asphalt rakers, handling reinforcement rods, working labor foremen, drillers & jackhammer op., signalmen, gunniting, motor buggs, water pump 2" or under, Barco machines, wreckers, paving breakers, power saw operator, other machine operators	7.93	.86	1.50	a +.40	
Blasters, laser beam op.	8.08	.86	1.50	a +.40	

FOOTNOTE:

a. Two hours off with pay on Election Day.

DECISION NO. NY77-3012

15-LAB-2-J-J

SEWER, ROAD, STREET AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Laborers:					
General laborers	$7.85	.86	1.55	a	
Concrete men, joint setter, signal man, mason tender, pipe layer, riprap and dry stone layers, asphalt workers, screed bar operator, steel tod carrier, jackhammerman, wagon driller, air-trac operator, nippers, powderman, high scalers, power buggy operator, vibratory operator, other compactor, wrecking laborers, gunite and sandblasting, coal passer	8.10	.86	1.55	a	
Concrete finisher on Highways, blaster, form setter, laser beam operator	8.45	.86	1.55	a	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Holiday's: A through F and Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Veteran's Day and November Election Day provided the employee works (7) calendar days before or after the holiday.

DECISION NO. NY77-3012

N.Y.-7-PEO-1-J 1 of 2

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION: Poughkeepsie and South thereof

GROUP I: Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-Euclid loader or similar type, cherry picker (cableway), compressor (Steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsometer, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vil. roller

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-½ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone cursher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hopper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plaster roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cutting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI:

A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. Second engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton capacity or greater (3900 maintowac or similar) irrespective of manufacturer and regardless of how the same is rigged (except for pile rigs).

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION: Poughkeepsie and South thereof

GROUP VI (CONT'D):
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII: Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overhead crane, power house plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

POWER EQUIPMENT OPERATORS, BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$12.855	6%+1.00	10%+b	a	1½%
GROUP II	11.94	6%+1.00	10%+b	a	1½%
GROUP III	11.795	6%+1.00	10%+b	a	1½%
GROUP IV	11.665	6%+1.00	10%+b	a	1½%
GROUP V	10.5125	6%+1.00	10%+b	a	1½%
GROUP VI					
A	14.51	6%+1.00	10%+b	a	1½%
B	13.3675	6%+1.00	10%+b	a	1½%
C	9.5675	6%+1.00	10%+b	a	1½%
D	12.3675	6%+1.00	10%+b	a	1½%
E	11.0875	6%+1.00	10%+b	a	1½%
F	11.94	6%+1.00	10%+b	a	1½%
G	17.0825	6%+1.00	10%+b	a	1½%
H	10.5125	6%+1.00	10%+b	a	1½%
I	16.7975	6%+1.00	10%+b	a	1½%
J	15.0825	6%+1.00	10%+b	a	1½%
K	16.0825	6%+1.00	10%+b	a	1½%
L	13.355	6%+1.00	10%+b	a	1½%
M	13.855	6%+1.00	10%+b	a	1½%
GROUP VII	13.0825	6%+1.00	10%+b	a	1½%

FOOTNOTES:

a. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day, X-mas Day.

b. Employer contributes $2.00 per day to an Annuity Fund.

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS: Remainder of County

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4: Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6: LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CMB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$9.99	.85	.60	a	.10
GROUP 2	10.06	.85	.60	a	.10
GROUP 3	10.17	85	.60	a	.10
GROUP 4	10.36	85	.60	a	.10
GROUP 5	10.69	.85	.60	a	.10
GROUP 6	10.84	.85	.60	a	.10
GROUP 7	11.02	.85	.60	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS: Poughkeepsie and South thereof:

GROUP I: Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, compressor (steel erection), concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, Crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" frame

GROUP II: Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III: Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drills machine, loader-1½ yds. and under, lighting unit (portable & generator), locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher quarry master, stone crusher, welding machine (steel erection-excavation), well drilling machine, well point system

GROUP IV: Air tractor drill, batch plant, bending machine, concrete breaker concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mixer-concrete-under 21E, mulching grass spreader heater-all types, pump 4 inches and over, pump station (water & sewer), pump-gypsum, etc., pump-plaster, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steam jenny, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, thaw jet burner or similar equipment, vibrator (1 to 5), fine grading machine

GROUP V: Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck), stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4". roller motorized (walk behind) welder's helper

HEAVY & HIGHWAY - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP VI: Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII: Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional koader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: over 4 cu. yd. capacity $1.00 per hour additional

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$11.25	6%+1.00	9¼%+.25	a	1½%
GROUP II	10.45	6%+1.00	9¼%+.25	a	1½%
GROUP III	10.325	6%+1.00	9¼%+.25	a	1½%
GROUP IV	10.20	6%+1.00	9¼%+.25	a	1½%
GROUP V	9.20	6%+1.00	9¼%+.25	a	1½%
GROUP VI	11.45	6%+1.00	9¼%+.25	a	1½%
GROUP VII	10.825	6%+1.00	9¼%+.25	a	1½%

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; November Election Day and Veteran's Day.

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DECISION NO. NY77-3012

27-PEO-2-3

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr
REMAINDER OF COUNTY:					
GROUP I	$10.15	.90	.60	a	.15
GROUP II	9.82	.90	.60	a	.15
GROUP III	9.10	.90	.60	a	.15
GROUP IV	8.27	.90	.60	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working d before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backho (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or c crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and ove head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader or mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-auto mated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capaci concrete paver (over 16S), concrete pump (under 5"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.) hi-pressure - boiler (15 lobs. and over), hoist (one drum) Rolman plant loador and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

DECISION NO. NY77-3012

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concret or pavement grinder), power broom (towed), power heaterman, revinius widener shell winder, steam cleaner, tractor.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: NASSAU & SUFFOLK
DECISION NO.: NY77-3013 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY76-3278 dated November 19, 1976 in 41 FR 51348
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.45	1.43	.94	1.25	
BOILERMAKERS	12.33	5%	15%	7%	.02
BRICKLAYERS:					
Suffolk County:					
Center Moriches on the south shore and following Chichester Avenue, north of Walding River and areas east thereof including the Off shore islands:					
Bricklayers, cement masons, and plasterers	9.40	.40	3.00	.30	
Remainder of County:					
Bricklayers (Rehabilitation work on residential structures over 4 stories to include demolition, repair and alteration on existing structures which are intended for predominantly residential use	8.62	1.13	1.33		
Bricklayers	10.69	1.13	3.38	.30	.01
Cement Masons	9.50	1.36	1.13	1.75	.01
Plasterers	9.60	1.55		1.35	.01
BRICKLAYERS:					
Nassau County:					
Bricklayers (Rehabilitation work on residential structures over 4 stories to include demolition, repair and alteration on existing structures which are intended for predominantly residential use)	8.62	1.13	1.33		
Bricklayers	10.69	1.13	3.38	.30	.01
Cement Masons	9.50	1.36	1.13	1.75	.01
Plasterers	9.60	1.55		.35	.01
CARPENTERS: Nassau County Except thatpart south of the Southern State Parkway, West of Seaford Creek -- also Smithtown Islip line on the east. Long Island Sound on the north, and Middle Island Railroad track on the south:					

DECISION NO. NY77-3013

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: Nassau County (Cont'd)					
Carpenters, Piledrivers, Millwrights, Soft Floor Layer	9.78	1.30	1.29	.85	.06
Remainder of County:					
Carpenters, Soft Floor Layers, Millwrights, Dock Builders, Piledrivermen (Rehabilitation work on residential structures over 4 stories to include demolition, repair, and alteration on existing structures which are intended for predominantly residential use)	9.16	1.25	.49		.02
Carpenter, Soft Floor Layers, Millwrights, Dockbuilders, Piledrivermen	10.92	1.25	1.73	.65	.04
CARPENTERS: Suffolk County					
Fishers Island; Building carpenters & soft floor layers	9.75	.70	.45		
Remainder of County: Building carpenters, soft floor layers, piledrivermen, timbermen, wharf & dock builders,	10.42	1.08	1.46	.90	.06
CARPENTERS, HEAVY & HIGHWAY: Carpenters, dock and wharf carpenters, piledrivermen	10.42	1.08	1.46	.90	.06
ELECTRICIANS & LINEMEN	12.05	77/8%+.40	13½%	5%	5/8%
ELEVATOR CONSTRUCTORS	10.12	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS HELPERS	7.59	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	5.06				
ELEVATOR CONSTRUCTORS REPAIR	8.50	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS REPAID HELPERS	6.38	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS MODERNIZATION	9.35	.495	.32+a	b+c	.02
ELEVATOR CONSTRUCTORS MODERNIZATION HELPERS	7.01	.075	.32+a	b+c	.02
GLAZIERS	10.70	.66	1.66	.47	.01

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Page 3

DECISION NO. NY77-3013	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS, STRUCTURAL	11.75	1.30	3.00	1.60+i	.07
IRONWORKERS, ORNAMENTAL FINISHERS	10.33	1.06	2.44	.78	.04
IRONWORKERS, REINFORCING	10.10	.785	1.765	.75+h	.01
LABORERS, (BUILDING):					
Laborers, mason tenders, and mortar mixers	7.25	10%	13%	.75+e	
LATHERS, METAL	10.41	.945	1.985	.75+h	.03
LATHERS NAIL-ON SUFFOLK COUNTY:	11.35	.94	.20		
LEAD BURNERS	10.75	.40	.25	d	.01
MARBLE CARVERS	10.15	1.13	1.19	g	
MARBLE CUTTERS & SETTERS	10.00	1.13	1.19	g	
MARBLE SAWERS, RUBBERS AND POLISHERS	9.77	1.13	1.19	g	
MARBLE HELPERS, CRANE OPERATORS & DERRICKMEN	8.28	1.13	1.19	g	
MILLWRIGHTS	10.92	1.25	1.73	.65	.04
PAINTERS, SUFFOLK COUNTY:					
Brush	7.65	2.25	.60	.50	.10
Structural steel & spray	10.59	2.25	.60	.50	.10
PAINTERS, NASSAU COUNTY:					
Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream:					
Painter	9.20	8½%	5%+j	3%	
Spray & scaffold	11.17	8½%	5%+j	3%	
Fire escape	10.51	8½%	5%+j	3%	
West of Port Washington Blvd. and north of Powerhouse Road on the shore and west of Long Beach Road and South of Sunrise Highway on the South Shore:					
Structural steel	7.50	8%	11%		
Structural steel, spray	8.50	8%	11%		
Remainder of County:					
Painters	8.66	.97	1.50	.50	.03

Page 4

DECISION NO. NY77-3013	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS, NASSAU COUNTY:	10.75	.80	1.05	1.05	.20
PLUMBERS, SUFFOLK COUNTY:	10.40	1.37	1.45	1.30	.21
ROOFERS:					
Composition, damp and waterproofing	9.45	1.01	2.28	1.50	.01
Slate and tile	10.82	.55	1.20	1.75	
SHEET METAL WORKERS:					
Fishers Island, Suffolk County Remainder of Suffolk County and all of Nassau County	10.95	.50	.66		.07
	11.095	3%+.90	4%+1.20	3%+.75	1%+.03
STEAMFITTERS AND SPRINKLER FITTER	10.52	2.65	1.12	.86	.07
STONE DERRICKMEN AND RIGGERS	11.42	.98	1.01		
STONEMASONS	10.25	.50	1.00		
TERRAZZO WORKERS	10.38	1.21	1.50		
TILE SETTERS	8.75	.80	2.10		
TILE SETTERS' FINISHERS	7.90	.50	1.27		
TRUCK DRIVERS, (BUILDING):					
Ready-mix concrete, sand gravel & asphalt, bulk cement	8.87	.9675	1.8525	e+f	
Euclid and tournapulls operators	8.725	.9675	1.8525	e+f	
TUCK POINTERS:					
Tuckpointers & waterproofers	8.72	.70	1.44	.50	.015
Steam cleaners	8.97	.70	1.44	.50	.015
Sandblasters	9.72	.70	1.44	.50	.015
TRUCK DRIVERS, (HEAVY):					
Euclid and turnapull operators	8.825	.9675	1.8525	e+f	
TRUCK DRIVERS, (HIGH RISE)	8.94	.9675	1.8525	e+f	

Page 5

DECISION NO. NY77-3013

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $7.00 per day to Annuity Fund.

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday; Columbus Day; Armistice Day & Election Day.

c. Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A through F; Washington's Birthday, Xmas Eve and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, Veteran's Day, (providing employee works two days in the calendar week in which the holiday falls and each remaining workday during such calendar week).

f. For each 15 days worked within the contract year an employee will receive one day's vacation with pay, with a maximum vacation of three weeks per year.

g. Holidays: ½ days pay for Labor Day.

h. Work on Christmas Eve and New Year's Eve will terminate at noon, but employees will receive a full day's pay.

i. New Years Eve and X-Mas Eve: If an employee works a full-half day on the working day immediately preceeding New Years day and X-Mas day, they shall receive a full days' pay.

j. Employer contributes $5.00 per day to an Annuity Fund.

Page 6

10-LAB-2-3

DECISION NO. NY77-3013 HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Concrete and curb form setters, Asphalt rakers	$ 7.85	10%	13%	.75+a	
Asphalt workers and roller boys, Asphalt top shovelers and smoothers, Asphalt tampers	7.65	10%	13%	.75+a	
Jackhammers, and drill men, Hoppermen, Carpenters' tenders, Pipe jointers and setters, Concrete laborers (structures), Stone spreading laborers, Trackmen, Grading and excavating laborers, Yard laborers, Puddlers on concrete pavement, Laborers (other than above) on concrete pavement, Landscape laborers, Asphalt plant (batcher and hopper men)	7.25	10%	13%	.75+a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shapes up the scheduled day before and the schedule day after the holiday.

Page 7

N.Y.-5-PEO-1- A , 1 of 2

DECISION NO. NY77-3013

BUILDING CONSTRUCTION

	Basic Hourly Rate*	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	$ 11.73	8%	1.65	a	.15
Backhoe, dragline, gradall, piledriver, shovel	12.005	8%	1.65	a	.15
Batching plant (on site of Job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)	11.905	8%	1.65	a	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	10.555	8%	1.65	a	.15
Boiler, bulldozer, compressor (on crane) compressor (pilework), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action diaphragm), pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	11.555	8%	1.65	a	.15
Boom truck, crane (crawler or truck), conveyor-multi, plant engineer, stone spreader (self-propelled)	11.755	8%	1.65	a	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), track tamper (2 engineers each), welding machine	11.305	8%	1.65	a	.15
Crane and boom truck (setting structural or stone)	12.13	8%	1.65	a	.15
Bulldozer (used for excavation), fireman, loading machine, powerboom, scoop (carry-all scrapper), vac-all	11.18	8%	1.65	a	.15
CHI or maxim spreader, concrete spreader, derrick, sideboom tractor	12.105	8%	1.65	a	.15
Compressor (structural steel)	11.705	8%	1.65	a	.15
Concrete saw or cutter, mixer (with skip) mixer (2 small, with or without skip), pump (up to 3 inches), tractor-caterpillar or wheel	10.805	8%	1.65	a	.15

Page 8

N.Y.-5-PEO-1 - A 2 of 2

DECISION NO. NY77-3013

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
Crane with clam shell bucket	12.005	8%	1.65	a	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	12.255	8%	1.65	a	.15
Boom lengths of 150' (including jib) but less than 250'	12.505	8%	1.65	a	.15
Boom lengths of 250' (including jib) but less than 350'	12.755	8%	1.65	a	.15
Boom lengths of 350'	13.255	8%	1.65	a	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	11.50	8%	1.65	a	.15
Dredge	11.88	8%	1.65	a	.15
Elevator, forklift, hoist (1 drum)	11.93	8%	1.65	a	.15
Forklift (walk-behind, power operated)	11.72	8%	1.65	a	.15
Grader	11.33	8%	1.65	a	.15
Hoist (2 and drum)	12.07	8%	1.65	a	.15
Hoist (multiple platform)	14.60	8%	1.65	a	.15
Mechanical compactors (hand operated), trench machine (hand)	10.18	8%	1.65	a	.15
Hoist tandem platform	12.98	8%	1.65	a	.15
Hydra-hammer, ridge cutter	10.72	8%	1.65	a	.15
Lead engineer	13.205	8%	1.65	a	.15
Loading machine (with capacity of 10 yds or over	11.43	8%	1.65	a	.15
Oiler, stump chipper	10.205	8%	1.65	a	.15
Power buggies	10.43	8%	1.65	a	.15
Roller, trench machine	11.805	8%	1.65	a	.15
Scoop, carry-all, scraper in tandem	12.18	8%	1.65	a	.15
Sideboom tractor (used in tank work)	12.265	8%	1.65	a	.15
Striping machine	11.23	8%	1.65	a	.15
Tank work	12.03	8%	1.65	a	.15
Tower crane (engineer)	12.50	8%	1.65	a	.15
Tower crane (oiler)	10.055	8%	1.65	a	.15
Welding machine, structural steel	11.78	8%	1.65	a	.15

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.
b. Basic hourly rate includes $1.00 Vacation fund.

Page 9

NY-6-PEO-2-3-A 1 of 2

DECISION NO. NY77-3013

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
Asphalt spreader, boom truck, boring machine (other than post holes), CHI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker	$ 11.73	8%	1.65	a	.15	
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel	12.10	8%	1.65	a	.15	
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	11.955	8%	1.65	a	.15	
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	9.48	8%	1.65	a	.15	
Boiler	11.23	8%	1.65	a	.15	
Boring machine (post holes)	11.67	8%	1.65	a	.15	
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet) pump (submeraible), pump (well point) roller (5 ton and over), scoop (carry-all, scraper), maintenance man (tower crane), vac-all, welding and burning	10.92	8%	1.65	a	.15	
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	11.455	8%	1.65	a	.15	
Compressor (2 or more in battery)	11.15	8%	1.65	a	.15	
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	11.615	8%	1.65	a	.15	
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine	10.545	8%	1.65	a	.15	
Loading machine, with bucket capacity of 10 yards or over	11.17	8%	1.65	a	.15	

Page 10

NY-6-PEO-2-3 2 of 2

DECISION NO. NY77-3013

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	O
POWER EQUIPMENT OPERATORS (Cont'd.):						
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip) mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter	9.83	8%	1.65	a	.15	
Dredge	11.565	8%	1.65	a	.15	
Generator	10.84	8%	1.65	a	.15	
Generator (small)	9.515	8%	1.65	a	.15	
Grader	11.135	8%	1.65	a	.15	
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	11.945	8%	1.65	a	.15	
Lead engineer	113.83	8%	1.65	a	.15	
Mechanic	9.53	8%	1.65	a	.15	
Mechanic helper	9.19	8%	1.65	a	.15	
Mechanical compactors (machine drawn), roller (over 5 tons)	11.27	8%	1.65	a	.15	
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	9.50	8%	1.65	a	.15	
Portable heaters	11.095	8%	1.65	a	.15	
Powerbroom	9.975	8%	1.65	a	.15	
Pump (concrete)	11.19	8%	1.65	a	.15	
Scoop (carry-all, scraper in tandem)						
tower crane (engineer)	12.255	8%	1.65	a	.15	
Tractor (caterpilla or wheel)	9.305	8%	1.65	a	.15	

FOOTNOTES:
a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day. Provided employee is employed the day before and after the holiday

UMI

SUPERSEDEAS DECISION

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NO.: OH77-2069
DATE: Date of Publication
Supersedes Decision No. OH76-2071, dated June 4, 1976 in 41 FR 22752.
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

*Allen, Auglaize, Mercer, & Van Wert

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.45	.50	.75		
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble masons; Stonemasons; Terrazzo workers; & Tile setters	11.08		.20		
CARPENTERS; Soft floor layers	9.77	.50	.70		.02
CEMENT MASONS	10.20	.50			.05
ELECTRICIANS	10.94	.32	1%+.37		.04
ELEVATOR CONSTRUCTORS:					
Elevator constructors	9.66	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	8.00		.45		
IRONWORKERS	10.66	.75	1.05		.04
LABORERS:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	7.85	.55	.40		.05
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers	8.00	.55	.40		.05
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tamper; Torch man; Tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.15	.55	.40		.05
Blaster-Powder man; Gunite ops.; Muckers & miners (tunnel & caisson) free air; Sandblasters (& Wagon drill/operator	8.35	.55	.40		.05

DECISION NO. OH77-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	$10.75	.40		c	.01
LINEMEN; Equipment operators	11.18	.45	1%		
MILLWRIGHTS	10.82	.50	.70		.02
PAINTERS:					
Brush; Roller; Dry wall taping	7.65	.50	.50		.01
Wall covering; Swing stage; Cherry pickers- brush & roller	7.90	.50	.50		.01
Spray; Sandblasting; Steam cleaning; Mitts; Work on petroleum storage tanks (over 30' high) brush, rollers or spray	8.05	.50	.50		.01
Structural steel (open skeleton), brush & roller	7.95	.50	.50		.01
PILEDRIVERMEN	10.37	.50	.70		.02
PLASTERERS	9.94	.50	.30		.02
PLUMBERS; Steamfitters	11.35	.40	.65		.05
ROOFERS	10.545	.60	.65		.02
SHEET METAL WORKERS	10.95	.55	.84		.15
SPRINKLER FITTERS	12.30	.65	.95		.08

Welders: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Nine paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve provided employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. OH77-2069

POWER EQUIPMENT OPERATORS	ZONE I Basic Hourly Rates	ZONE II Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	$11.11	.46	1.00		.11
GROUP B	11.23	10.95	.46	1.00		.11
GROUP C	10.88	10.59	.46	1.00		.11
GROUP D	10.07	9.81	.46	1.00		.11
GROUP E	9.74	9.48	.46	1.00		.11
GROUP F	8.28	8.03	.46	1.00		.11

ZONE I: Allen & Van Wert Cos.
ZONE II: Auglaize & Mercer Cos.

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.N.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening troncher rollers, welder operator

DECISION NO. OH77-2069

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbr. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

UMI

SUPERSEDEAS DECISION

STATE: OHIO COUNTY: COLUMBIANA
DECISION NO.: OH77-2075 DATE: Date of Publication
Supersedes Decision No. OH76-2060, dated May 7, 1976 in 41 FR 19001
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	9.815	7.5%	7%		.01
BRICKLAYERS; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Twps. of E. Liverpool, Franklin, Madison, St. Clair, Wayne & Yellow Creek	9.80	.50	.50		
Twps. of Butler, Hanover, Knox, & West	10.40	.70	.45		.01
Remainder of Co.	11.54	.60	.60		.02
CARPENTERS	9.45	.87	.65		.02
CEMENT MASONS	10.57	.50	.50		.05
ELECTRICIANS:					
Twps. of Butler, Fairfield, Perry, Salem, & Unity	12.55	.56	5%		.3%
Twp. of Knox	11.20	.40	1%+.25		.3%
Remainder of Co.:					
Electricians	10.26	8%	4.5%	8%+a	1%
Cable splicers	10.66	8%	4.5%	8%+a	1%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	10.99	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.37	.40	.20		
IRONWORKERS	11.76	.40	1.15		.07
LABORERS:					
General laborers; Carpenters' tenders	7.60	.55	.40		.05
Brick & Cement mason tenders; Plasterers' tenders; Mortarmen	7.765	.55	.40		.05
Pipelayers; Air tool & power tool operators; Jackhammer operators	7.80	.55	.40		.05
LINE CONSTRUCTION:					
Knox Twp.:					
Linemen; Cable splicers	11.20	.40	1%+.25		.25%
Truck drivers	7.95	.40	1%+.25		.25%
Line equipment operators	10.60	.40	1%+.25		.25%
Groundman over 1 year	7.50	.40	1%+.25		.25%
Groundman under 1 year	7.05	.40	1%+.25		.25%

DECISION NO. OH77-2075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:(Cont'd):					
Butler, Fairfield, Perry, Salem, & Unity Twps.:					
Cable splicers; Linemen; & Pole digging equipment	$12.37	.45	1%		½%
Groundman:					
1st 6 mos.	6.185	.45	1%		½%
2nd 6 mos.	7.42	.45	1%		½%
2nd year	8.66	.45	1%		½%
3rd year	9.28	.45	1%		½%
Over 3 years	9.90	.45	1%		½%
Remainder of Co.:					
Linemen; Heavy equipment ops.	10.26	8%	4½%	8%	½%
Groundmen; Truck drivers	9.36	8%	4½%	8%	½%
Cable splicers	10.66	8%	4½%	8%	½%
MILLWRIGHTS	9.43	.40	.50		.01
PAINTERS:					
Brush; Rollers; Waterproofers	10.665	.60	.40		
Spray	11.165	.60	.40		
Drywall taping	10.815	.60	.40		
Open structural steel	10.88	.60	.40		
PLASTERERS:					
Twps. of Knox, Butler, West, & Hanover	10.40	.70	.45		.01
Remainder of Co.	10.88	.50	.50		.03
PLUMBERS; Steamfitters	12.31	.75	.50		.03
ROOFERS	10.74	.37	.40		.02
SHEET METAL WORKERS	11.84	.75	.79		.04
SPRINKLER FITTERS	12.30	.65	.95		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

DECISION NO. OH77-2075

FOOTNOTES:
a. Nine paid holidays: A through F, Day after Thanksgiving, Day before Christmas, & Good Friday
b. Six paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road buildor & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-scagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reiga-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

DECISION NO. OH77-2075

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sasgen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tubo Finisher or broom C.M.I. or similar type; Tugger Hoist

CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster

CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)

CLASS V - Oiler

CLASS VI - Riga-pile driving or caisson type

SUPERSEDEAS DECISION

STATE: OHIO COUNTY: TUSCARAWAS
DECISION NO.: OH77-2074 DATE: Date of Publication
Supersedes Decision No. OH76-2054, dated April 23, 1976 in 41 FR 17285
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.335	.50	.80		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS; Stonemasons	10.40	.70	.45		.01
CARPENTERS	9.89	.40	.30		.02
CEMENT MASONS; Plasterers	10.40	.70	.45		.01
ELECTRICIANS:					
Northern part of Co.	11.20	.40	1%+.25		.3%
Southern part of Co.	10.30	.28	1%+.60		.03
ELEVATOR CONSTRUCTORS:					
Elevator constructors	11.16	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	9.49	.70	.77		.03
IRONWORKERS	10.62	.60	.60		.03
LABORERS:					
Laborers; Carpenters' tenders; Concrete handlers; Finisher tender; Guard rail erector	7.53	.55	.40		.05
Bottom men scaffold builders; Air & power driven tools; Burners; Pipelayers; Mason & plasterers' tenders; Hod carriers; Laser beam set up men					
Blasters & Dynamite men	7.73	.55	.40		.05
Gunnite operators	8.13	.55	.40		.05
LINE CONSTRUCTION:					
Cable splicers; Linemen; & Equipment operators	10.83	.35	1%		½%
Groundmen:					
0-6 mos.	5.51	.35	1%		½%
After 6 mos.	5.87	.35	1%		½%
After 12 mos.	6.26	.35	1%		½%
After 18 mos.	6.62	.35	1%		½%
MARBLE SETTERS	9.10	.70	.45		
MILLWRIGHTS; Piledrivermen	10.35	.40	.30		.02
PAINTERS:					
Brush; Rollers	9.17	.55	.50		.02
Paperhangers	9.27	.55	.50		.02
Spray	9.67	.55	.50		.02
Drywall	9.57	.55	.50		.02

DECISION NO. OH77-2074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS	$11.32	.35	.35		.08
ROOFERS	10.74	.57	.40		.02
SHEET METAL WORKERS	10.46	.45	.60		.02
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS	9.05	.70	.45		
TERRAZZO GRINDERS	8.52	.70	.45		
TERRAZZO WORKERS' HELPERS	8.20	.70	.45		
TILE SETTERS	8.94	.70	.45		
TILE SETTERS' HELPERS	8.09	.70	.45		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

DECISION NO. OH77-2074

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge, (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, flcating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat.
GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.
GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, men lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and ober discharge), trenchers 24" and under.
GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator.
GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, oilefplanes, concrete spreading mach., crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finifheing machines, form trenchers, high pressure pumps over 2" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power).
GROUP F - Oiler, helper, signalman, inboard, & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge.

UMI

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NO.: OH77-2073
Supersedes Decision No. OH76-2117 dated October 1, 1976 in 41 FR 43631.
DESCRIPTION OF WORK: Building and Residential Construction

COUNTIES: FULTON & LUCAS
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.83	.50	1.00		.04
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble setters; & Stonemasons	11.655	.73	.80		.01
CARPENTERS; Millwrights; & Piledrivermen	11.97	.73	.50		.05
CEMENT MASONS	12.64	.50			.02
ELECTRICIANS	12.35	.50	1%+.55		.2%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.525	.50	.85		.01
IRONWORKERS	11.75	.73	1.06		.05
LATHERS	11.90	.65	.10		.01
LINE CONSTRUCTION:					
Linemen	12.76	.45	1%	c	.25%
Cable splicers	13.01	.45	1%	c	.25%
PAINTERS:					
Brush; Drywall tapers; Paperhangers	10.49	.65	.70		
Bridge; Railings; Powerhouse; Refinery tanks	11.04	.65	.70		
Sandblasting; Spray; Pressure cleaning	11.04	.65	.70		
PLASTERERS	12.20	.65			
PLUMBERS; Steamfitters; Pipefitters	12.03	.80	.85		.09
ROOFERS	11.51	.73	.85		.02
SHEET METAL WORKERS	11.825	.65	1.00		.045
SOFT FLOOR LAYERS	10.30	.73	.50		.04
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS; Tile setters	11.02	.65	.50	.25	
TERRAZZO WORKERS' HELPERS; Tile setters' helpers	10.00	.65	.50	.50	

DECISION NO. OH77-2073

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
c. Nine paid holidays: A through F, Day after Thanksgiving Day, Christmas Eve, & New Year's Eve

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fulton County:					
Unskilled laborers	$8.52	.55	.40		
Mason tenders; Gunite pot men	8.64	.55	.40		
All power driven tools & buggies; Burners; Torchmen; Nozzlemen for concrete pump	8.665	.55	.40		
Plasterers' tenders	8.695	.55	.40		
Nozzle operators for gunite work	9.17	.55	.40		
Bellmen; Bottom men; Brick expeditor	8.755	.55	.40		
Lucas County:					
Unskilled laborers	10.61	.55	.40		.01
Mason tenders	10.74	.55	.40		.01
Gunnite pot men; Mortar mixers	10.81	.55	.40		.01
Concrete pump nozzle men; All power driven tools; Power buggies	10.765	.55	.40		.01
Pipe layers; Bellmen; Bottom men for fire brick work only	10.865	.55	.40		.01
Nozzle operators for gunnite work	11.52	.55	.40		.01

DECISION NO. OH77-2073

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom truck (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixers paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat.

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under.

GROUP D - Compressors on building construction, conveyors (building material) generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator.

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines bullfloats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled subgreder, tire repairmen, tractors pulling sheeps foot roller or grader, vibrator compactors (with integral power)

GROUP F - Oiler, helper, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge.

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SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: OH77-2076
COUNTIES: MAHONING & TRUMBULL
DATE: Date of Publication
Supersedes Decision No. OH77-2056, dated April 15, 1977, in 42 FR 20083.
DESCRIPTION OF WORK: Building and Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS:					
Mahoning Co. (Smith Twp.)	10.40	.70	.45		.01
Mahoning Co. (Rem. of Co.)	11.54	.60	.60		.02
Trumbull Co.	11.84	.40	.50		.02
CARPENTERS:					
Commercial Building	9.45	.87	.65		.02
Residential	9.27	1.07	.80		.02
CEMENT MASONS:					
Mahoning & Trumbull (Twps. of Hubbard & Liberty) Cos.	10.57	.50	.50		.05
Trumbull (Rem. of Co.) Co.	10.30	.40			.01
ELECTRICIANS:					
Mahoning (Milton Twp.) & Trumbull (Excluding Hubbard & Liberty Twps.) Cos.	11.76	.60	5%		.7%
Mahoning (Austintown, Beaver, Berlin, Broadman, Canfield, Ellsworth, Coitsville, Goshen, Green, Jackson, Poland, Springfield, & Youngstown Twps.) & Trumbull (Hubbard & Liberty Twps.) Cos.	12.55	.56	5%		.3%
Mahoning (Smith Twp.) Co.:					
Commercial Building	11.20	.40	1%+.25		.3%
Residential (4 units only)	7.25	.30	1%+.10		.3%
ELEVATOR CONSTRUCTORS:					
Elevetor constructors	10.99	.545	.35	4%+a+b	.02
Helpers	7.69	.545	.35	4%+a+b	.02
Helpers (Prob.)	5.495				
GLAZIERS	10.37	.40	.20		
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	11.76	.40	1.15		.07
Sheeters	12.26	.40	1.15		.07
Bucker-up	11.885	.40	1.15		.07

DECISION NO. OH77-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Building & Construction	$8.95	.55	.40		.05
Jackhammer op. (all machine driven tools, electric, gas or air & gas buggies)	9.08	.55	.40		.05
Mortar mixers (hand or machine)	9.07	.55	.40		.05
Trenching & shaft excavations (7' or more)	9.13	.55	.40		.05
Jackhammer op. in trench & shaft excavation (7' or more)	9.07	.55	.40		.05
Power & dynamite & sewer pipelayers	9.27	.55	.40		.05
Scrap iron burning	9.05	.55	.40		.05
Gunnite scaffold man (over 25')	9.35	.55	.40		.05
Gunnite nozzlemen; Gunnite gunman	9.53	.55	.40		.05
Plasterers hod carriers	9.15	.55	.40		.05
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Linemen; Cable splicer; Operator - pole digging equipment	12.37	.45	1%		½%
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Mahoning Co.	12.305				
MARBLE SETTERS' HELPERS ; Terrazzo workers' helpers; & Tile setters' helpers:					
Mahoning (Excluding Smith Twp.)	11.455				
MILLWRIGHTS; Piledrivermen	10.60	1.07	.80		.02

DECISION NO. OH77-2076

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Dipping; Hydro jet cleaning; Paperhangers; Roller; Steamcleaning; Wall washing; & Waterproofing	$10.665	.60	.40		
Spray; Epoxy-mastic (Brush & Roller)	11.165	.60	.40		
Dry wall taping	10.815	.60	.40		
Open structural steel	10.88	.60	.40		
PLASTERERS:					
Mahoning Co.	10.88	.50			.03
Trumbull Co.	9.65	.50			.03
PLUMBERS; Steamfitters:					
Mahoning & Trumbull (Hubbard & Liberty Twps.) Cos.	12.31	.75	.50		.03
Trumbull Co.	10.75	.57	.65		.01
ROOFERS	11.21	.60	.70		.01
SHEET METAL WORKERS	11.84	.75	.79		.04
SOFT FLOOR LAYERS:					
Commercial Building	9.27	1.07	.80		.02
Residential	8.77	1.07	.80		.02
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS' HELPERS; Tile setters' helpers:					
Mahoning Co. (Smith Twp.)	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 2% for employee in business less than 5 years.
c. Nine paid holidays: A through F, Washington's Birthday; Good Friday; & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. OH77-2076

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin-western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finishor comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic ae weldor; Metro clip harvestor w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvestor w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sasgen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

DECISION NO. OH77-2076

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster
CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)
CLASS V - Oiler
CLASS VI - Rigs-pile driving or caisson type

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Dump; Flat bottom; Stake body; Batch; Water wagons; & Pickups	$9.435	.40	$22.00a		
Semis; Tandems; Mixers; Semi-water wagons; Fuel trucks; & Distributor trucks	9.655	.40	22.00a		
Euclid wagon; DW 10 caterpillars or equipment; Carry-all	9.905	.40	22.00a		
Tractor trailer (low boy)	10.005	.40	22.00a		

FOOTNOTE:
a. per week per employee

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: HANCOCK & WOOD
DECISION NUMBER: OH77-2077 DATE: Date of Publication
Supersedeas Decision Nos. OH76-2055, dated April 30, 1976 in 41 FR 18261 and OH76-2076, dated June 18, 1976 in 41 FR 24851
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.83	.50	1.00		.04
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Hancock & Wood (Twps. of Perry & Bloom) Cos.	10.70	.50	.35		.01
BRICKLAYERS; Blocklayers; Marble masons; & Stonemasons:					
Wood Co. (Twps. of Perryborough, Ross & Lake)	11.655	.73	.80		.01
Wood Co. (Remainder of Co.)	11.86	.65	.45		.01
CARPENTERS:					
City of Fostoria in Hancock & Wood Cos.	10.36	.50	.80	a	.04
Remainder of Hancock & Wood Cos.	11.97	.73	.50		.05
CEMENT MASONS:					
Hancock & Wood (Except Perry & Bloom Twps.) Cos.	12.64	.50			.02
Wood Co. (Twps. of Perry & Bloom	10.70	.50	.35		.01
ELECTRICIANS	12.35	.50	1%+.55		.2%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.15	.545	.35	4%b+c	.02
Helpers	70%JR	.545	.35	4%b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Hancock Co.	7.50		.40		
Wood Co.	10.525	.50	.85		.01
IRONWORKERS	11.75	.73	1.06		.05
LATHERS	11.90	.65	.10		.01
LEADBURNERS	10.75	.40		d	.01
LINE CONSTRUCTION:					
Linemen	12.76	.45	1%	e	½%
Cable splicer	13.01	.45	1%	e	½%
MILLWRIGHTS; PILEDRIVERMEN	11.97	.73	.50		.05
PAINTERS:					
Hancock Co.:					
Brush; Roller; Washing & Cleaning Drywall	8.30	.40	.50		
Work between 40' & 60' above ground level	8.55	.40	.50		
60' above ground or floor level	9.40	.40	.50		

DECISION NO. OH77-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wood Co.:					
Brush; Paperhangers; Drywall tapers & finishers	$10.49	.65	.70		
Structural steel (brush)	10.04	.65	.70		
Sandblasting; Spray	11.04	.65	.70		
PLASTERERS	12.20	.65			.01
PLUMBERS; Steamfitters; Pipefitters	12.03	.80	.85		.09
ROOFERS	11.51	.73	.85		.02
SHEET METAL WORKERS	11.825	.65	1.00		.045
SOFT FLOOR LAYERS:					
Hancock & Wood (Except Fostoria) Cos.	10.30	.73	.50		.04
Wood Co. (Fostoria)	10.36	.50	.80	a	.04
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS; Tile setters:					
Wood Co. (Except twps. of Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids)	11.02	.65	.50	.25	
TERRAZZO WORKERS' HELPERS; Marble setters' helpers; & Tile setters' helpers	10.00	.65	.50	.50	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 9 paid holidays: A through F, New Year's Eve, Day after Thanksgiving, & Christmas Eve

DECISION NO. OH77-2077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Hancock County):					
GROUP A					
Building & construction laborers, signalman, flagman, tool cribman, carpenter tenders, finisher tenders, concrete handler, utility construction laborer, guardrail erectors	$ 7.38	.55	.40		.02
GROUP B					
Bottom men, scaffold builders, tunnel laborers, pipelayers, air & power driven tools, burner on demolition work, swinging scaffold, mucker, caisson work, cofferdam worker, powder men and dynamite blasters, creosote workers, mortar mixers tenders, plaster tender, hod carrier, laser beam set up men	7.58	.55	.40		.02
GROUP C					
Gunnite Operators	7.98	.55	.40		.02
LABORERS (Wood County):					
Unskilled laborers	10.61	.55	.40		.01
Mason tenders	10.74	.55	.40		.01
Mortar mixers; Gunnite pot men	10.81	.55	.40		.01
All power driven tools & buggies	10.76½	.55	.40		.01
Pipelayers	10.86½	.55	.40		.01

DECISION NO. OH77-2077

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.

GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under

GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity; side loader), post driver, post hole digger, pavement breaker (hydraulic or cable),road widening trencher rollers,welder operator

GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submerisble pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW

DECISION NUMBER: OH77-2078 DATE: Date of Publication

Supersedes Decision Nos. OH76-2053, dated April 16, 1976 in 41 FR 16303 and OH76-2075, dated June 11, 1976 in 41 FR 23913

DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories)

*Erie, Huron, Ottawa, Richland, & Sandusky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Erie (Western ½), Ottawa, & Sandusky Cos.	$11.83	.50	1.00		.04
Erie (Eastern ½), & Huron Cos.	13.93				
Richland Co.	11.335	.50	.80		.02
BOILERMAKERS	12.45	.70	.80		.03
BRICKLAYERS; Marble setters; Plasterers; Terrazzo workers; & Tile setters:					
Erie, Huron, Ottawa, & Sandusky Cos.	10.70	.50	.35		.01
BRICKLAYERS; Blocklayers; Marble masons; Stonemasons; Terrazzo workers; & Tile setters:					
Richland Co.	10.19	.50	.85		.02
CARPENTERS; Soft floor layers	10.36	.50	.80	a	.04
CEMENT MASONS:					
Erie, Huron, Ottawa, & Sandusky Cos.	10.70	.50	.35		.01
Richland Co.	10.05				
ELECTRICIANS:					
Erie, & Huron (Northern ½) Cos.	11.85	.53	1%		.1%
Huron (Southern ½), & Richland Cos.	10.90	.48	1%+.30		.1%
Ottawa & Sandusky Cos.	12.35	.50	1%+.55		.2%
ELEVATOR CONSTRUCTORS:					
Erie & Huron Cos.:					
Elevator constructors	11.955	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Ottawa & Sandusky Cos.:					
Elevator constructors	12.15	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Richland Co.:					
Elevator constructors	11.16	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				

DECISION NO. OH77-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Erie & Huron Cos.	$11.98	.55	.65		.01
Ottawa & Sandusky Cos.	10.525	.50	.85		.01
IRONWORKERS:					
Erie & Huron Cos.	11.72	.60	.95		.03
Ottawa & Sandusky Cos.	11.75	.73	1.06		.05
Richland Co.	10.62	.60	.60		.03
LATHERS:					
Erie & Huron Cos.	11.60				.01
Ottawa & Sandusky Cos.	11.90	.65	.10		.01
LEADBURNERS	10.75	.40		d	.01
MILLWRIGHTS; Piledrivermen:					
Erie (E. of B & O Railroad tracks), Huron, & Richland Cos.	11.45	.67	1.15		.03
Erie (W. of B & O Railroad tracks), Ottawa, & Sandusky Cos.	11.97	.73	.50		.05
PAINTERS:					
Erie, Huron, & Sandusky Cos.:					
Brush; Rollers; Washing & Cleaning dry wall	8.20	.50	.50		
Work between 40' & 60' above ground level	8.45	.50	.50		
60' above ground or floor level	9.30	.50	.50		
Ottawa Co.:					
Brush; Paperhangers; Drywall tapers & finishers	10.49	.65	.70		
Open structural steel-brush	10.04	.65	.70		
Sandblasting; Spray; & Pressure cleaning	11.04	.65	.70		
Richland Co.:					
Brush; Roller; Washer; & Cleaner	8.05		.50		
Drywall; Paperhangers; Wall coverer; Pot tender	8.50		.50		
Structural steel; Tanks & towers; hazardous materials incl. epoxy	8.55		.50		

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DECISION NO. OH77-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Richland Co.	$9.75				
PLUMBERS; Steamfitters:					
Erie, Huron, & Richland Cos.	11.63	.50	.80		.05
Ottawa & Sandusky Cos.	12.03	.80	.85		.09
ROOFERS:					
Erie, Huron, Ottawa, & Sandusky Cos.	13.18	.25	.50		
Richland Co.	10.74	.57	.40		.02
SHEET METAL WORKERS:					
Erie, Huron, & Sandusky Cos.	11.13		.80		.02
Ottawa Co.	11.825	.65	1.00		.045
Richland Co.	10.46	.45	.60		.02
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS' HELPERS: Marble setters' helpers; & Tile setters' helpers:					
Ottawa & Sandusky Cos.	10.00	.65	.50	.50	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. OH77-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Erie, Huron, Ottawa, & Sandusky Cos.):					
Building & construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	$9.11	.55	.40		.05
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	9.31	.55	.40		.05
Gunnite operator	9.71	.55	.40		.05
LABORERS (Richland Co.):					
General laborer; Carpenter tender; Concrete handler	7.96	.55	.40		.02
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar mixer; & Formsetter	8.16	.55	.40		.02
Gunnite operator	8.56	.55	.40		.02
LINE CONSTRUCTION:					
Erie & Huron (Northern ½) Cos.: Linemen; Technicians; Equipment operators	11.85	.53	1%		.1%
Huron (Southern ½), & Richland Cos.:					
Equipment operators; Lineman	10.30	.33	1%+.25		.25%
Line truck driver	6.70	.33	1%+.25		.25%
Groundman	6.18	.33	1%+.25		.25%
Ottawa & Sandusky Cos.:					
Technicians	12.33	.45	1%	a	.25%
Linemen	12.76	.45	1%	a	.25%
Cable splicers	13.01	.45	1%	a	.25%

DECISION NO. OH77-2078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
FOOTNOTE: a. 9 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve					
POWER EQUIPMENT OPERATORS:					
Erie & Huron Counties:					
GROUP A	$11.67	.46	1.00		.11
GROUP B	11.52	.46	1.00		.11
GROUP C	11.17	.46	1.00		.11
GROUP D	10.39	.46	1.00		.11
GROUP E	10.07	.46	1.00		.11
GROUP F	8.64	.46	1.00		.11
Ottawa, Richland, & Sandusky Cos.:					
GROUP A	11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

GROUP A - A-frames, air compressor on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24"wide), tug boat

DECISION NO. OH77-2078

POWER EQUIPMENT OPERATORS (CONT'D):

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.
GROUP C - Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under
GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher rollers, welder operator
GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)
GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submersible pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2079 DATE: Date of Publication
Supersedes Decision Nos. OH76-2062, dated May 21, 1976 in 41 FR 21120 & OH76-2110, dated September 17, 1976 in 41 FR 40402
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*BUTLER, CLERMONT, & HAMILTON

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Butler (Middletown & Vic.)	$11.57	.50	.75		.01
Butler (Rem. of Co.), Clermont, & Hamilton Cos.	11.46	.75	.85		.02
BOILERMAKERS	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Stonemasons:					
Butler Co.	10.435	.45	.35	.45	.01
Clermont & Hamilton Cos.	11.245	.55	.35		.02
CARPENTERS:					
Carpenters	10.55	.60	.65		.075
Millwrights	10.69	.50	.85		.10
Piledrivermen	10.55	.60	.65		.075
CEMENT MASONS	10.88	.55	.70		.15
ELECTRICIANS:					
Butler Co.:					
Electricians	11.40	.40	1%+.65		½%
Cable splicers	11.90	.40	1%+.65		½%
Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House	11.30	.70	1%+.40		.5%
18 to 21 mi. radius from Hamilton Co. Court House	11.60	.70	1%+.40		.5%
21 to 25 mi. radius from Hamilton Co. Court House	11.70	.70	1%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House	11.85	.70	1%+.40		.5%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	11.15	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Butler (Hamilton & Vic.), Clermont, & Hamilton Cos.	10.10		.35		.005
Butler (Rem. of Co.)	9.88		.50		.01
IRONWORKERS:					
Butler (S. ½ of Co.), Clermont, & Hamilton Cos.:					
Ornamental & Structural	11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02

DECISION NO. OH77-2079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (CONT'D):					
Butler Co. (Rem. of Co.):					
Ornamental; Reinforcing; & Structural	$10.66	.75	1.05		.04
LATHERS:					
Butler Co.	11.04		.20		.01
Clermont & Hamilton Cos.	11.67		.25		.025
LINE CONSTRUCTION:					
Butler Co:					
Inside city limits of Middletown & Hamilton:					
Equipment ops.; Linemen	11.40	.40	1%+.65		½%
Outside & west of Interstate Hwy #75:					
Equipment ops.; Linemen	11.75	.40	1%+.65		½%
Outside & east of Interstate Hwy #75:					
Equipment ops.; Linemen	11.95	.40	1%+.65		½%
Clermont & Hamilton Cos.:					
Linemen	11.30	.70	1%+.40		.5%
MARBLE SETTERS:					
Clermont & Hamilton Cos.	10.585	.55	.35		
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Butler Co.	9.88	.45	.35		
MARBLE SETTERS' HELPERS	9.635				
PAINTERS:					
Butler Co.:					
Commercial:					
Brush	9.58				
Spray	10.08				
Industrial:					
Brush	9.73				
Spray	10.23				
Clermont & Hamilton Cos.:					
Commercial:					
Brush	10.65		.25		
Spray	11.05		.25		
Industrial:					
Brush	10.80		.25		
Spray	11.20		.25		

DECISION NO. OH77-2079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS; Steamfitters:					
Clermont & Hamilton Cos.	$11.35	.875	1.15		.08
PLASTERERS	11.445		.50		.02
PLUMBERS; Steamfitters:					
Butler Co.:					
North ½ of Co.	11.45	.60	1.00		.05
South ½ of Co.	11.37	.65	1.10		.02
PLUMBERS; Gas fitters:					
Clermont & Hamilton Cos.	11.47	.75	1.05		.05
ROOFERS	11.47		.85		.01
SHEET METAL WORKERS:					
Butler Co.	10.95	.55	.84		.15
Clermont & Hamilton Cos.	11.205	.88	.81		.04
SOFT FLOOR LAYERS	8.70	.60	.65		.05
SPRINKLER FITTERS	12.30	.65	.95		.08
TERRAZZO WORKERS	10.535	.55	.35		
TERRAZZO WORKERS' HELPERS & & GRINDERS	9.585				
TILE SETTERS	10.535	.55	.35		
TILE SETTERS' HELPERS	9.535				

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 2% for less than 5 years.

DECISION NO. OH77-2079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction):					
Butler Co.:					
Common laborers	$8.79	.55	.40		.05
Asphalt rakers; Tamper; Smoother hand air pump; Hand air tamper chisel; Vibrator power tamper op.	8.89	.55	.40		.05
Gunnite operators; Sandblaster; Concrete pumps & hose men	9.14	.56	.40		.05
Mason tenders; Mortar mixers; & Scaffold builders	9.12	.55	.40		.05
Clermont & Hamilton Cos.:					
GROUP 1	9.30	.55	.40		.05
GROUP 2	9.40	.55	.40		.05
GROUP 3	9.45	.55	.40		.05
GROUP 4	9.50	.55	.40		.05
GROUP 5	9.65	.55	.40		.05
GROUP 6	9.80	.55	.40		.05
GROUP 7	10.05	.55	.40		.05

Group 1: Common Laborers, Cement Masons Helpers, Hand Operated Mechanical Mule, Mechanical Sweeper, Signal Man.

Group 2: Bottom Man, Pipelayer

Group 3: Burning Torch Operator, Jackhammer, Mechanical and Air Tamper Operator, Mechanical Concrete Buggies, power operated mechanical mule, Concrete Pump hose Man, Vibrator Man

Group 4: Plasterer's Tender, Mason Tender, Stone Mason Tender, Bottom Jackhammer Man

Group 5: Plaster Mixer Pump Operator

Group 6: Tunnel Laborer

Group 7: Gunnite Nozzle Operator

UMI

DECISION NO. OH77-2079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Demolition Construction):					
Clermont & Hamilton Cos.:					
Wrecking laborers	$8.77	.55	.40		.05
Jackhammer man; Burner; & wall man	8.92	.55	.40		.05
POWER EQUIPMENT OPERATORS:					
GROUP A	11.11	.46	1.00		.11
GROUP B	10.95	.46	1.00		.11
GROUP C	10.59	.46	1.00		.11
GROUP D	9.81	.46	1.00		.11
GROUP E	9.48	.46	1.00		.11
GROUP F	8.03	.46	1.00		.11

Group A: A-frame, air compresson on steel erection, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggyback operation), boom turcks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicoptar and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum) mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriars (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat

Group B: Asphalt paver, bulldozer, C.M.I. type equipment, endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines power grader, power scoops, power scrapers, push cat

Group C: Air compressor (pressureizing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), submersible pumps (4" and over discharge), trenchers 24" and under

DECISION NO. OH77-2079

POWER EQUIPMENT OPERATORS: (Cont'd)

Group D: Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers, welder operator

Group E: Backfillers and tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concerte spreading machine, c.ushers, deck hands, drum firemen (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 1/2" discharge, hydro seeders, self propelled power spreader, self-propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)

Group F: Oiler, helper, signalman, inboard and outboard motor boat launch, light plant operator, power driven heaters (oil fire), powered boilers (less than 15 lbs. pressure, pumps under 4" discharge, submersible pumps under 4" discharge

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2080 DATE: Date of Publication
Supersedes Decision Nos. OH76-2073, dated June 4, 1976 in 41 FR 22754;
OH76-2074, dated June 11, 1976 in 41 FR 23911; &
OH77-2037, dated March 11, 1977 in 42 FR 18793
DESCRIPTION OF WORK: Building & Residential Construction

*ASHTABULA, CUYAHOGA, LAKE, LORAIN, PORTAGE, STARK, & SUMMIT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake, & Lorain Cos.	$13.93				
Ashtabula (Rem. of Co.)	10.74	.45	.70		.02
Remaining Cos.	11.335	.50	.80		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage & Summit Cos.:					
Commercial Construction	10.97	.57	.50		.02
Residential Construction	9.27	.50	.40		.02
Stark Co.	10.40	.70	.45		.01
CARPENTERS; Millwrights; Piledrivermen; Soft floor layers:					
Ashtabula, Cuyahoga, & Lake Cos.					
Carpenters; Soft floor layers	11.60	.67	1.00		.03
Millwrights; Piledrivermen	11.45	.67	1.15		.03
Portage & Summit Cos.:					
Carpenters	11.00	.40	.50		.02
Millwrights; Piledrivermen	11.45	.67	1.15		.03
Soft floor layers	10.40	.40	.70		
Stark Co.:					
Carpenters	9.89	.40	.30		.02
Millwrights; Piledrivermen	10.35	.40	.30		.02
Soft floor layers	9.73	.40	.30		.02
Lorain Co.:					
Carpenters; Soft floor layers	10.36	.50	.80	a	.04
Millwrights; Piledrivermen	11.45	.67	1.15		.03
CEMENT MASONS:					
Ashtabula Co.	10.66	.60	.50		
Cuyahoga Co.	12.88				
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	10.24	.45	.50		
Residential Construction	9.27	.45	.50		

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	$12.15	.50	1%+.43		.02
Lake Co.:					
Commercial Construction	11.88	.70	1%+.50		.3%
Residential Construction	5.90	.50	1%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	11.68	.60	1%+.80		.1%
Residential Construction	6.48	.60	1%		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	12.33	.47	1%+.50		.2%
Residential Construction	7.25	.47	1%+.50		.2%
Portage (Rem. of Co.) & Stark Co.:					
Commercial Construction	11.20	.40	1%+.25		.3%
Residential Construction	7.25	.30	1%+.10		.3%
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor)	11.76	.60	5%		.7%
Ashtabula Co. (Rem. of Co.)	11.70	.65	1%+.75		.2%
ELEVATOR CONSTRUCTORS:					
Ashtabula Co.:					
Elevator constructors	9.95	.495	.32	4%+b+c	.02
Helpers	70%JR	.495	.32	4%+b+c	.02
Helpers (Prob.)	50%JR				
Cuyahoga, Lake, & Lorain Cos.:					
Elevator constructors	11.955	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Portage, Stark, & Summit Cos.:					
Elevator constructors	11.305	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Ashtabula, Cuyahoga, Lake, Lorain, & Portage Cos.	11.98	.55	.65		.01
Stark & Summit Cos.	9.49	.70	.77		.03

UMI

Page 4

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment op.; Line truck driver; Linemen	$11.70	.65	1%+.75		½%
Groundmen:					
Over 12 mos.	8.75	.65	1%+.75		½%
6 - 12 mos.	7.60	.65	1%+.75		½%
0 - 6 mos.	6.45	.65	1%+.75		½%
Cuyahoga & Lorain (Columbia Twp.) Cos.:					
Cable splicers; Equipment ops.; Linemen; & Welders	12.73	.35	1%		½%
Lake Co.:					
Equipment operators; Linemen	11.63	.70	1%+.50		½%
Lorain (Rem. of Co.) Co.:					
Cable splicers; Equipment ops.; & Linemen	11.68	.60	1%+.80		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Frankin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	11.23	.57	1%+.65		½%
Cable splicers	12.03	.57	1%+.65		½%
Groundmen; Truck drivers	5.62	.57	1%+.65		½%
Equipment operators	8.42	.57	1%+.65		½%
Portage (Rem. of Co.) Co.:					
Cable splicer; Linemen; Pole digging equipment	12.37	.45	1%		½%
Stark Co.:					
Cable splicers; Linemen	11.20	.40	1%+.25		.25%
Truck drivers	7.95	.40	1%+.25		.25%
Groundmen:					
Over 1 yr's experience	7.50	.40	1%+.25		.25%
Under 1 yr's experience	7.05	.40	1%+.25		.25%
Line equipment ops.	10.60	.40	1%+.25		.25%
MARBLE SETTERS:					
Ashtabula Co.	10.66	.60	.50		.01
Cuyahoga Co.	11.25	.95	1.00		$40.00p/yr
Lake Co.	11.57	.50	.80		.01
Lorain Co.	11.35	.52	.40		
Portage & Summit Cos.	10.11	.70	.25		
Stark Co.	9.10	.70	.45		

Page 3

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Ashtabula (except NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	$11.72	.60	.95		.03
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	11.76	.40	1.15		.07
Bucker-up	11.885	.40	1.15		.07
Sheeter	12.26	.40	1.15		.07
Stark Co.:					
Ornamental; Reinforcing; & Structural	10.62	.60	.60		.03
Bucker-up	10.745	.60	.60		.03
Sheeter-side	10.87	.60	.60		.03
Sheeter-roof	11.12	.60	.60		.03
LATHERS:					
Ashtabula, Cuyahoga, Lake, Lorain (Eastern portion), & Summit (No. part of Co.) Cos.	13.03		1.00		.01
Lorain (Rem. of Co.)	11.60				.01
Portage & Summit (So. part of Co.) Cos.	11.01	.57	.15	d	.01
LEADBURNERS	10.75	.40			.01
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor):					
Cable splicer op.; Linemen; Pole digging equipment op.	12.37	.45	1%		½%
Groundmen:					
Over 3 yrs.	9.90	.45	1%		½%
3rd yr.	9.28	.45	1%		½%
2nd yr.	8.66	.45	1%		½%
1st 6 mos.	7.42	.45	1%		½%
	6.185	.45	1%		½%

Page 6

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Ashtabula, Cuyahoga, Lake, & Summit (No. of Rte. #303) Cos.	$12.28	.75	1.00		.02
Lorain Co.	11.63	.50	.80		.05
Portage & Summit (So. of Rte. #303) Cos.	10.61	.79	.90		.04
Stark Co.	11.57	.45	.55	e	.05
ROOFERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	13.18	.25	.50		
Portage, Stark, & Summit Cos.:					
Roofers	10.74	.57	.40		.02
Helpers:					
1st yr.	60%JR	.57	.40		.02
2nd yr.	70%JR	.57	.40		.02
3rd yr.	80%JR	.57	.40		.02
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos.	11.38	.60	1.10		.02
Lorain Co.	11.83	.60	.60		.04
Portage, Stark, & Summit Cos.	10.46	.45	.60		.02
SPRINKLER FITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	11.42	1.05	.80		.05
Lake, Portage, Stark, & Summit Cos.	12.30	.65	.95		.08
STEAMFITTERS:					
Lorain Co.	11.63	.50	.80		.05
TERRAZZO WORKERS:					
Ashtabula Co.	10.66	.60	.50		.01
Cuyahoga Co.	11.25	.95	1.00		$40.00p/yr
Lake Co.	11.57	.50	.80		.01
Lorain Co.	11.35	.52	.40		
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.	10.40	.70	.45		

Page 5

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS:					
Ashtabula, Cuyahoga, & Lake Cos.	$11.06	.52	.50		
Portage & Summit Cos.	9.61		.25		
PAINTERS:					
Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part):					
Brush; Rollers; Paperhangers	11.66	.63	.74		.05
Swing stage; Window jack	11.96	.63	.74		.05
Tapers	12.36	.63	.74		.05
Lorain (Except NE part):					
Commercial Construction:					
Brush	8.70				
Spray	9.30				
Roller; Taping	8.95				
Residential Construction:					
Brush	8.35				
Spray	8.85				
Taping	8.75				
Portage (Rem. of Co.), & Summit (Rem. of Co.) Cos.:					
Brush; Rollers; Paperhangers	9.40	.62	.60		
Drywall finisher & taper; Spray	9.90	.62	.60		
Structural steel	9.65	.62	.60		
Stark Co.:					
Brush; Roller	9.17	.55	.50		.02
Paperhangers	9.27	.55	.50		.02
Drywall	9.57	.55	.50		.02
Spray	9.67	.55	.50		.02
Drywall with machines	9.92	.55	.50		.02
PIPEFITTERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	11.42	1.05	.80		.05
PLASTERERS:					
Ashtabula Co.	10.66	.60	.50		.01
Cuyahoga Co.	13.18				$40.00p/yr
Lake Co.	11.57	.50	.80		.01
Lorain Co.	11.35		.40		.01
Portage, & Summit Cos.	10.11	.45	.50		.01
Stark Co.	10.40	.70	.45		

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DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Ashtabula Co.	$10.66	.60	.50		
Cuyahoga Co.	10.495	1.36			
Lake Co.	11.57	.50	.80		$40.00p/yr
Lorain Co.	11.35		.40		.01
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.	8.94	.70	.45		
TILE SETTERS' HELPERS:					
Cuyahoga & Lake Cos.	11.59		.50		
Portage & Summit Cos.	9.61	.52	.25		
Stark Co.	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

LABORERS (Ashtabula County):					
Sheeting & shoring men; Asphalt rakers & tampers; Dumpmen (Batch truck); Signalmen; Concrete workers; Building wreckers; Tool checkers; Carpenters' tenders; Construction laborers; All work not mentioned in classifications below to be paid at the rate of construction laborers	$8.85				

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Spreader box men (asphalt); Stone masons' assistant; Plasterers or mortar mixers squeeze man	$9.00				
Air & machine driven tool op.; Sewer pipe layers; Bottom men (6' & over); Power driven wheelbarrows & sweepers; Brick batter & droppers	9.05				
Stackmen; Swinging scaffold men	9.15				
Tunnel laborers	9.25				
Gunnite ops.	9.35				
Power blasters	9.40				
LABORERS (Cuyahoga County):					
Construction	9.97	1.27	1.20		
Sewer & Utility; Power driven tools & vibrators	10.12	1.27	1.20		
Jackhammer; Acetylene burners; Muckers	10.17	1.27	1.20		
Swinging scaffolds	10.22	1.27	1.20		
Gunnite ops.; Blasters; Shooters; Caisson; Well cylinders; Mine workers w/o air; & Cofferdams	10.29	1.27	1.20		
Topman on free standing radial stack	10.47	1.27	1.20		
LABORERS (Lake County):					
Building & Construction	9.80	.55	.40		
Gunite op.; Blasters & shooters; Caissons; Wells; Cylinder cofferdams; Mine workers w/o air; Swing scaffolds; Acetylene burners; Vibrators; Top man on free standing radial stacks; Slip forms higher than 30'; Fire brick tenders	10.05	.55	.40		

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Lorain County):					
Building & construction; Signalmen; Flagmen; Tool crib; Carpenter tender; Finisher tender; Concrete handler; Guard rail erector	$9.13	.55	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson worker; Cofferdam workers; Powder men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set up man	9.33	.55	.40		.05
Gunnite operator	9.73	.55	.40		.05
LABORERS (Portage & Summit Cos.):					
Residential Construction	7.70	.50	.30		.02
Common laborers; Welders' helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	9.25	.50	.30		.02
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or electric	9.40	.50	.30		.02
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	9.45	.50	.30		.02

DECISION NO. OH77-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Gunite nozzlemen; Tunnel miners; Water line caulkers; Dynamite men; Pump hose nozzlemen	$9.75	.50	.30		.02
LABORERS (Stark County):					
Building & construction; Signalmen; Flagmen; Tool cribman; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	7.96	.55	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers tenders; Hod carrier; Laser beam set-up men	8.16	.55	.40		.05
Gunnite operator	8.56	.55	.40		.05
POWER EQUIPMENT OPERATORS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
GROUP A	11.67	.46	1.00		.11
GROUP B	11.52	.46	1.00		.11
GROUP C	11.17	.46	1.00		.11
GROUP D	10.39	.46	1.00		.11
GROUP E	10.07	.46	1.00		.11
GROUP F	8.64	.46	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

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DECISION NO. OH77-2080

GROUP A - A-Frames; Air compressor on steel erection; All rotary drills used on caisson work for foundations & sub-structure work; Boiler op. or compressor op, when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. (hoisting builders materials); Helicopter winch op.;(hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack ops.; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Panelboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction site); Tower derricks; Trench machines (over 24" wide)

GROUP B - Asphalt paver; Bulldozer; CMI type equipment; Endloaders; Kohlman type loaders (dirt loading); Mucking machines; Power graders; Power scoops; Power scrapers; Push cats

GROUP C - Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boiler (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder operator

GROUP E - Backfillers and tampers; Batch plant; Bar & joint installing machine; Bull floats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractors (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over 4" discharge); Hydro seeders; Self-propelled power spreader; Self-propelled subgrader; Tractors (pulling sheep foot roller or grader); Tire repairman; Vibratory compactors (with integral power)

GROUP F - Oiler; Helpers; Signalman; Light plant op.; Power driven heaters (oil fired); Power boilers (less than 15 lbs. pressure); Submersible pumps (under 4" discharge); Pumps (under 4" discharge)

SUPERSEDEAS DECISION

STATE: OHIO
COUNTIES: *SEE BELOW
DECISION NUMBER: OH77-2081
DATE: Date of Publication
Supersedes Decision No.: OH77-2005 dated January 21, 1977, in 42 FR 4093
DESCRIPTION OF WORK: Building Construction (Does not include family homes & garden type apartments up to and including 4 stories)

*CLARK, FRANKLIN, GREENE, LAWRENCE, LICKING, MADISON, MONTGOMERY, MUSKINGUM, PICKAWAY, PIKE, ROSS, & SCIOTO

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Greene, & Montgomery Cos.	$ 11.57	.50	.75		.01
Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos	11.92	.45	.85		.02
Lawrence, Pike, & Scioto Cos.	11.05	.50	.70		.03
BOILERMAKERS	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Clark Co.	10.60				
Franklin, Madison, & Pickaway Cos.:					
Bricklayers; Stonemasons	10.64	.80	.80		.02
Rubble work	9.64	.40	.70		.01
Marble setters; Terrazzo workers; & Tile setters	10.65				
Greene, & Montgomery Cos.:					
Bricklayers; Caulkers; Cleaners Pointers; & Stonemasons	10.35	.75	.75		.02
Marble setters; Terrazzo workers; & Tile setters	9.16	.75	.25		
Lawrence Co.	9.00				
Licking & Muskingum Cos.	9.68	.45	.50		.02
Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners Pointers; & Stonemasons	10.50				
Scioto Co.:					
Bricklayers; Caulkers; Cleaners Marble setters; Pointers; & Stonemasons	9.90				
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Clark, Franklin, Licking, Madison, Muskingum, & Pickaway:					
Carpenters; Soft floor layers	9.67	.40	.50		.02
Millwrights; Piledrivermen	10.27	.40	.50		.02
Greene, & Montgomery Cos.:					
Carpenters; & Piledrivermen	10.35	.65	1.00		.05
Millwrights	10.44	.65	.72		
Soft floor layers	9.30	.65	.70		.05

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D):					
Lawrence, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	$9.72	.40	.50		.03
Piledrivermen	10.01	.40	.50		.03
Millwrights	10.79	.40	.37		.03
CEMENT MASONS:					
Clark Co.	10.60				
Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	9.90	.50	.20		.03
Greene, & Montgomery Cos.	9.78	.50	.60		.07
Lawrence Co.	9.00				
Pike & Scioto Cos.	10.92				
ELECTRICIANS:					
Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	10.44	.45	1%+.75		.04
Franklin, Madison (E. portion), Pickaway (N. & central portions)	10.98	.28	1%+.60		.03
Greene, & Montgomery Cos.:					
Electrical communications installers - Zone I (within 11 mile radius of 3rd & Main Street, Dayton)	11.08	.45	1%+.1.00		.5%
Electrical communications installers - Zone II (beyond 11 mile radius of 3rd & Main Street, Dayton)	11.31	.45	1%+.1.00		.5%
Lawrence Co.	10.37	.50	1%+.45	1.00	.04
Licking Co.	10.30	.28	1%+.60		.03
Muskingum Co.	10.00	.28	1%+.60		.03
Pickaway (S. part), Pike (N. part), & Ross Cos.	10.95	.29	1%		.02
Pike (S. part), & Scioto Cos.	10.50	.50	1%+.40	.52	.04
ELEVATOR CONSTRUCTORS:					
Clark, Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.:					
Elevator constructors	11.16	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
Greene, & Montgomery Cos.:					
Elevator constructors	10.635	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D):					
Lawrence, Pike, & Scioto Cos.:					
Elevator constructors	$10.945	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Clark, & Montgomery, Cos.	9.88		.50		.01
Franklin, Licking, Madison, Muskingum, Pickaway, Pike, & Ross Cos.	9.77	.57			.005
Lawrence, & Scioto Cos.	9.50		.20		
IRONWORKERS:					
Clark (W 3/4), Greene, & Montgomery Cos.:					
Within 15 mile radius of Local Union #290 office	10.51	.75	1.05		.04
Beyond 15 mile radius of Local Union #290 office	10.66	.75	1.05		.04
Clark (E. 1/4), Muskingum, Pike, & Ross Cos.	10.60	.75	1.35		.05
Franklin Co.	10.35	.75	1.35		.05
Lawrence, & Scioto Cos.	10.26	.65	.70		.01
Licking, Madison, & Pickaway Cos.	10.50	.75	1.35		.05
LATHERS:					
Clark, Franklin, Licking, Madison, Muskingum, & Pickaway Cos.	10.65		.10		.01
Greene, & Montgomery Cos.	11.04		.20		.01
Lawrence Co.	9.315		.10		
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Clark Co.:					
Cable splicers & Linemen	9.11	.35	1%		.25%
Equipment operators:					
0 to 1/2 yr.	5.49	.35	1%		.25%
1/2 yr. to 1 yr.	6.54	.35	1%		.25%
1 yr. or more	7.66	.35	1%		.25%
Groundmen or Truck drivers:					
0 to 1 yr.	4.47	.35	1%		.25%
1 yr. or more	5.27	.35	1%		.25%

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Franklin Co.:					
Cable splicers & Linemen	$9.20	.35	1%		1/2%
Equipment operators:					
0 to 1/2 yr.	5.87	.35	1%		1/2%
1/2 to 1 yr.	7.00	.35	1%		1/2%
1 yr. or more	8.20	.35	1%		1/2%
Groundmen or Truck drivers:					
0 to 1 yr.	4.78	.35	1%		1/2%
1 yr. or more	5.64	.35	1%		1/2%
Greene, & Montgomery Cos.:					
Linemen within 11 mile radius of 3rd & Main Street, Dayton	11.08	.45	1%+1.00		1/2%
Linemen beyond 11 mile radius of 3rd & Main Street, Dayton	11.31	.45	1%+1.00		1/2%
Lawrence, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Union), & Scioto Cos.:					
Linemen; & Operators: All mechanized equipment	10.48	.45	1%+.40	1.00	1/2%
Cable splicers	11.33	.45	1%+.40	1.00	1/2%
Groundmen	8.38	.45	1%+.40	1.00	1/2%
Licking Co.:					
Cable splicers	11.66	.45	1%		1/2%
Equipment ops.; Linemen	10.98	.45	1%		1/2%
Groundman; Truck drivers:					
Over 1 yr.	8.72	.45	1%		1/2%
0 - 1 yr.	7.79	.45	1%		1/2%
Madison Co.(Twps. of Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant); & Pickaway Co.(Twps. of Darby, Circleville, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, & Washington):					
Cable splicers; Equipment ops.					
Linemen	11.56	.35	1%		1/2%
Groundmen:					
0 to 6 mos.	5.51	.35	1%		1/2%
After 6 mos.	5.87	.35	1%		1/2%
After 12 mos.	6.26	.35	1%		1/2%
After 18 mos.	6.62	.35	1%		1/2%

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Muskingum Co.:					
Cable splicer; Equipment ops.; & Linemen	$10.53	.35	1%		1/2%
Groundmen:					
0 to 6 mos.	5.51	.35	1%		1/2%
After 6 mos.	5.87	.35	1%		1/2%
After 12 mos.	6.26	.35	1%		1/2%
After 18 mos.	6.62	.35	1%		1/2%
Pickaway (Twps. of Deer Creek, Perry, Pickaway, Salt Creek, & Wayne), Pike (N. part), & Ross Cos.:					
Equipment ops. & Linemen	10.95	.28	1%		.02
Truck drivers	6.47	.28	1%		.02
Groundmen	6.17	.28	1%		.02
MARBLE SETTERS' HELPERS; Terrazzo Workers' Helpers; & Tile Setters' Helpers:					
Franklin, Madison, & Pickaway Cos.:					
Marble setters' helpers; Terrazzo workers' helpers; & Tile setters' helpers	8.50				
Terrazzo base grinders	8.85				
Terrazzo floor grinders	8.65				
Greene, & Montgomery Cos.:					
Marble setters' helpers; Terrazzo workers' helpers; & Tile setters' helpers	8.34				
Lawrence, & Scioto Cos.:					
Marble setters' helpers	9.635				
Terrazzo workers' helpers & grinders	9.585				
Terrazzo base grinders	10.005				
Tile setters' helpers	9.535				
PAINTERS:					
Clark Co.:					
Brush; Paperhangers (Tools furnished)	7.80	.10	.25		
Swing stage	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural steel	8.35	.10	.25		

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Franklin, Madison, & Pickaway Cos.:					
Brush; Paperhanger; Roller; & Wall washing	$9.45	.55	.55		
Spray	9.95	.55	.55		
Structural steel; & Swing stage	9.75	.55	.55		
Sandblasting; Steamcleaning; & Water tanks	10.15	.55	.55		
Drywall tapers & Finishers	9.85	.55	.55		
Greene & Montgomery Cos.:					
Brush; & Roller	11.05	.40	.40		.02
Scaffolds; Structural steel; & Swing stage	11.45	.40	.40		.02
Sandblasting; Spray; & Steam-cleaning	11.55	.40	.40		.02
Paperhangers	11.30	.40	.40		.02
Spackling & Finishing; & Taping	11.05	.40	.40		.02
Steeple jack work	11.80	.40	.40		.02
Lawrence Co.:					
Brush; Roller	7.65				
Drywall taping; & Structural steel	8.50				
Spray	9.00				
Paperhangers; & Wallwashing	8.15				
Licking & Muskingum Cos.:					
Brush; & Paperhangers	7.00				
Structural steel	7.65				
Spray	7.45				
Smoke stacks; Tanks; & Water towers	7.65				
Pike, & Scioto Cos.:					
Brush; Paperhangers; Tapers; Wall covering, washing; Exterior buildings under 40'	10.20		.40		
Rollers; Floor sanding; Power tools	10.45		.40		
Sandblasting; Steamcleaning; Hazardous material; & Burning	11.20		.40		
Ross Co.:					
Brush; Roller; & Taping	8.25				
Structural steel	8.50				
Sandblast; & Spray	9.00				

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DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Clark, Greene, & Montgomery Cos.	$11.25				
Franklin, Licking, Madison, Muskingum, Pickaway, & Ross Cos.	9.94	.50	.30		.02
Lawrence Co.	9.00				
Pike, & Scioto Cos.	10.92				
PLUMBERS; & Steamfitters:					
Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Madison (W. of Rte. #38 incl. city of London) Cos.	11.01	.58	.80		.04
Franklin, Licking, Madison (E. of Rte #38 not incl. city of London), Pickaway, & Ross Cos.	11.82	.55	.80		.05
Greene (exclu. Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Montgomery Cos.	11.81	.55	.80		.03
Lawrence, Pike, & Scioto Cos.	10.87	.55	.75		
Licking Co.		.55	.80		.05
Muskingum Co.	11.32	.35	.35		.08
ROOFERS:					
Clark, Greene, & Montgomery Cos.:					
Composition, damp, & waterproof workers	10.50	.80	.50		
Slate, Tile, & Asbestos	10.72	.80	.50		
Helpers:					
1st yr.	60%JR	.80	.50		
2nd yr.	70%JR	.80	.50		
3rd yr.	80%JR	.80	.50		
4th yr.	90%JR	.80	.50		
Franklin, Licking, Madison, Pickaway, & Ross Cos.	10.545	.60	.65		.02
Lawrence, Muskingum, Pike, & Scioto Cos.	10.45		.40		
SHEET METAL WORKERS:					
Clark, Greene, & Montgomery Cos.	10.95	.55+d	.84		.15
Franklin, Lawrence, Licking, Madison, Muskingum, Pickaway, Pike, Ross, & Scioto Cos.	10.82	.45+d	1.05		.10
SPRINKLER FITTERS	12.30	.65	.95		.08

DECISION NO. OH77-2081

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 3% of gross earnings to SASHI

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Clark Co.:					
Laborers general; Carpenters' tenders; Waterboy; Flagman; & Signalman	$7.60	.55	.40		.05
Plasterers' tenders; Mason tenders; Mortar mixers; Air & machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	7.85	.55	.40		.05
Miners & muckers for tunnel & caisson; Powder man & blaster	8.10	.55	.40		.05
Franklin Madison & Pickaway Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape; Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all windows; A man on bucket pouring concrete; Conveyor belt	8.09	.55	.40		.05
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jack hammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy ops.; Power wheelbarrow ops.; Asphalt &					

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.29	.55	.40		.05
Greene & Montgomery Cos.:					
Unskilled	8.44	.55	.40		.05
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers by hand; Swinging scaffold over 15'	8.59	.55	.40		.05
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & Bottom men	8.64	.55	.40		.05
Caisson work; Scaffold with power tools	8.69	.55	.40		.05
Torch man on wrecking	8.74	.55	.40		.05
Caisson work with jackhammer	8.89	.55	.40		.05
Gunnite op.; Wagon drill op.; & blaster-powder man	8.94	.55	.40		.05
Tenders to bricklayers & masons	9.07	.55	.40		.05
Tenders to lathers & plasterers	9.11	.55	.40		.05
Lawrence, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.27	.55	.40		.05
Sheeting & Shoring men	7.37	.55	.40		.05
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.42	.55	.40		.05

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DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies	$7.52	.55	.40		.05
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	7.84	.55	.40		.05
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	8.19	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	7.97	.55	.40		.05

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Muskingum Co.:					
Planters (landscape); Tree trimmers; Plumbers' helpers; Carpenters' tenders; Building & construction laborers	$7.77	.55	.40		.05
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters; Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; Stone mason tenders; Sheeting & shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	8.02	.55	.40		.05
Brick droppers; Lock tenders; Powdermen or blasters	8.02	.55	.40		.05
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunite					

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	7.46	.55	.40		.05
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	7.26	.55	.40		.05
TRUCK DRIVERS:					
Franklin & Pickaway Cos.:					
Dump & Straight	8.46	$17.00a			
Tandem & Semi-farm tractor	8.56	17.00a			
Lowboy	8.66	17.00a			
Footnote: a. Per week per employee					
Greene & Montgomery Cos.:					
General	6.03	$19.00a	$8.00a	b	
Footnotes: a. Per week per employee b. 1 yr. of employment - 1 wk's vac., 7 yrs. of employment - 2 wks' vac. providing the employee has been on payroll for 8 months during the previous 12 month period.					

DECISION NO. OH77-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
Lawrence(West of Coal Grove & W. of State, Rte. #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	$7.48	$16.50a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason tending work); Euclids	8.40	16.50a			
Footnote: a. Per week per employee					

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DECISION NO. OH77-2081

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP A	$11.11	.46	1.00		.11
GROUP B	10.95	.46	1.00		.11
GROUP C	10.59	.46	1.00		.11
GROUP D	9.81	.46	1.00		.11
GROUP E	9.48	.46	1.00		.11
GROUP F	8.03	.46	1.00		.11

CLASSIFICATION DEFINITIONS

GROUP A: A-frame; Air compressor on steel erection; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Cradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/boom; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Streddle carriers (building construction on site); Tower derricks; Trench machines (over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air Compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction; Conveyors (building material); Cunica machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder op.

GROUP E: Back fillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½' discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boilers (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Lackawanna Susquehanna Wayne & Wyoming

DECISION NO.: PA77-3050

DATE: Date of Publication

Supersedes Decision No. PA76-3179 dated June 18, 1976, in 41 FR 24955.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$9.95	.65	.60		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers & Stonemasons:					
Scranton in Lackawanna County;	10.90	.65	.70		.01
Carbondale in Lackawanna County	9.95		1.05		
Susquehanna & Wyoming Counties	10.85	.50	.50		
Carpenters:					
Lackawanna, Susquehanna and Wayne Counties	9.65	.43	.50		.05
Wyoming County					
East of Susquehanna River	9.65	.43	.50		.05
West of Susquehanna River	10.61	.40	.50		.03
Cement masons:					
Wyoming, Wayne, Susquehanna Counties, Scranton in Lackawanna County	9.15	.40	.40		
Carbondale in Lackawanna Co.	9.95		1.05		
Electricians:					
Lackawanna, Susquehanna and Wayne County	9.75	.50	1%+.50	.50	.10
Wyoming County					
East of Susquehanna River	9.75	.50	1%+.50	.50	.10
West of Susquehanna River	10.74	.50	1%+.75		.03
Elevator Constructors	10.595	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	7.42	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	5.30				
Glaziers	9.20	.40	.60		
Ironworkers:					
Lackawanna, Wayne, & Wyoming Counties					
Structural & Ornamentel	11.25	e			.10
Reinforcing	11.15	e			.10
Susquehanna County	9.75	.56	.72		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Lackawanna, Wayne, Susquehanna & Northern part of Wyoming County:					
Unskilled and Window Cleaners	8.80	.48	.50		
Semi skilled Laborers: Jackhammer operators, (each man when two required for operation of jackhammer) Vibrator and Buster Men, Wagon Drill and all men handling dynamite. Gas buggies 2" pumps and concrete mixers (up to 2 bags) and all pneumatic tools	8.95	.48	.50		
Plaster tenders and Mason tenders and haldling of all material to be used Masons & Scaffold Builders	9.20	.48	.50		
Non-metallic pipe layers and making of joints, clay, terra cotta, ironstone, vitrified concrete handling of burning torches, asphalt or other material	8.95	.48	.50		
Southern part of Wyoming County:					
Unskilled	8.77	.30	.70		
Semi skilled laborers, Pneumatic and other mechanical tool op.; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason, Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches asphalt or other hot material, cement finishers and blasters helpers	8.97	.30	.70		
Plasterers tenders, blaster, wagon drill ops.	9.09	.30	.70		
Mason tenders & scaffold builders	9.17	.30	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	$10.04		.10		.01
Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Lineman, dynamite man	10.30	.35	3%		3/8%
Winch truck driver	7.28	.35	3%		3/8%
Groundman	6.97	.35	3%		3/8%
Marble Setters	10.00		.50		
Millwrights:					
Lackawanna, Susquehanna & Wayne Counties	10.23	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.23	.43	.50		.05
West of Susquehanna River	10.61				
Painters:					
Brush & Roller	8.10		1.00		
Spray	9.60		1.00		
Steel	9.10		1.00		
Piledrivermen	10.42	1.88	1.30	d	.12
Plasterers	9.30	.40	.40		
Plumbers	10.74	.40	.75		.04
POWER EQUIPMENT OPERATORS					
GROUP 1	12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, dragline, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION CONT'D.:

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreaders, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Composition & Kettleman	$9.81	.42	.47		
Helpers	9.58	.42	.47		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS:					
Lackawanna, Wayne Susquehanna Counties	9.65	.43	.50		.05
Wyoming County	8.63	.35	.40		.03
SPRINKLER FITTERS	11.61	.60	.90		.08
PIPEFITTERS	10.75	.39	.75		.04
TRUCK DRIVERS:					
Class I	7.92				
Class II	7.99				
Class III	8.48				

TRUCK DRIVERS CLASSIFICATION DEFINITION

CLASS I: Helper, stake body truck (single axle), dumpster

CLASS II: Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles asphalt distributots, farm tractor when used for transportation, stake body truck (tandem)

CLASS III: Euclid type, off-highway equipment - back or belly dump trucks and doublehitched equipment, straddle (Ross) carrier, low-bed trailers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Indpendence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service for vacation pay credit.

b. Paid Holidays: A through F.

c. Paid holidays, A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day.

e. Employer contributes 2.05 to a Combined Health & Welfare and Pension Fund.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Elk, Forest, McKean & Warren
DECISION NO.: PA77-3053 DATE: Date od Publication
Supersedes Decision No: PA76-3251 dated September 24, 1976. in 41 FR 42142.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$11.10	.60	.70		.02
ZONE 2	11.04	.35	.50		.04
ZONE 3	10.81	1.02	.55		

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Elk County
ZONE 2 - Forest County
ZONE 3 - McKean & Warren Counties

BOILERMAKERS	9.815	7.5%	7%		.01
BRICKLAYERS, CEMENT MASONS & STONEMASONS					
ZONE 1	10.35	.50	.50		
ZONE 2	10.15	.45	.70		

AREAS COVERED BY BRICKLAYERS ZONES

ZONE 1 - Elk, McKean & Warren Counties
ZONE 2 - Forest County

CARPENTERS & SFOT FLOOR LAYERS					
ZONE 1	9.24	6%	8%	6%	.4%
ZONE 2	8.86	6%	6%	2%	4%

AREA COVERED BY CARPENTERS & SOFT FLOOR LAYERS ZONES

ZONE 1 - Elk, Forest, all of McKean County except Kane & Bradford
ZONE 2 - McKean County - Twps of Kane, Bradford & Warren County

ELECTRICIANS					
ZONE 1	11.35	.35	1%+.20	.60	.10
ZONE 2	10.75	.55	1%+.35		1%

DECISION NO. PA77-3053

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Elk, Forest & Warren Counties
ZONE 2 - McKean County

	Basic Hourly Rate	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	$ 9.41	.30	.20		
ZONE 2	9.74	1.40	.55		.10
ZONE 3	9.74	.62	.77		.01

AREA COVERED BY GLAZIER ZONES

ZONE 1 - Forest & Warren Counties
ZONE 2 - McKean County
ZONE 3 - Elk County

IRONWORKERS					
ZONE 1	10.00	1.11	1.10		.10
ZONE 2	9.685	.70	1.155		.07

AREAS COVERED BY IRONWORKERS ZONES

ZONE 1 - Forest & Warren Counties
ZONE 2 - Elk & McKean Counties

LABORERS					
Common laborer, carpenter tender scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (Loading and Unloading), concret pitman, puddler, mason tender	7.80	8%	6.5%		3.5%
Mechanical tamper (power) powered wheelbarrows and buggies & worklifts, sweepers and similar, mortar mixer, ball bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting					

DECISION NO. PA77-3053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
torch, carryeyable pumps, chain saw operator, pipe layers, all material conveyors and elevators, aignal man, walk behind fork lift or aimilar, whacker, aand blaster, maintenance man, west brick buggies or aimilar, acaffold builder for plasterers' regardless of height, hod carrier, plaster tender, form cleaning machine operator, plaster applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tools)	$ 8.05	8%	6.5%		3.5%
Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, welder, driller (cable tools)	8.60	8%	6.5%		3.5%
Wrecking Laborers	7.80	8%	6.5%		3.5%
Low Burner	8.05	8%	6.5%		3.5%
Jackhammer Operator	8.05	8%	6.5%		3.5%
High Burner	8.85	8%	6.5%		3.5%
High Burner Helper	8.55	8%	6.5%		3.5%
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION					
Linemen, dynamite man, heavy equipment operator	10.30	.35	3%		3/8 of 1%
Winch truck op.	7.28	.35	3%		3/8 of 1%
Groundman	6.97	.35	3%		3/8 of 1%
MARBLE SETTERS					
Elk, McKean & Warren Cos.	10.10	.50	.50		
MILLWRIGHTS					
ZONE 1	9.19	6%	6%	22%	4%
ZONE 2	8.90	.35	.20		.02
ZONE 3	8.65	.25			.02

DECISION NO. PA77-3053

AREAS COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Elk & Forest Counties
ZONE 2 - McKean County
ZONE 3 - Warren County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1					
Brush & Roller	$ 6.75		a		
Spray	7.25		a		
ZONE 2					
Commercial					
Brush & Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Induatrial					
Brush & Roller	9.60	.55	.80		
Spray	10.60	.55	.80		
ZONE 3					
Brush	7.56	6%			
Spray	8.14	6%			
ZONE 4					
Brush & Roller	8.10				
Spray	9.25				

AREAS COVERED BY PAINTERS ZONES

ZONE 1 - Elk
ZONE 2 - Forest County; Township in Warren County; Spring Creek, Southwest Triump and Eldred, township in McKean County, Wetmore, Hamlin, Hamilton, Serqent, and Norwich
ZONE 3 - Remainder of Warren County
ZONE 4 - Remainder of McKean County

UMI

DECISION NO. PA77-3053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$10.60	5%	10%		.50%
PLASTERERS					
Elk, McKean & Warren Cos.	9.60	.50	.50		
PLUMBERS & STEAMFITTERS					
ZONE 1	10.40	.73	.87		.21
ZONE 2					
Contracts under $10,000	9.94	.60	.65		.08
Contracts over $10,000	10.45	.60	.65		.08
ZONE 3					
Contracts under $500.00	8.32	.33	.50		.04
Contracts over $500.00	11.39	.33	.50		.04
ZONE 4	9.72	.30	.50		.04

AREAS COVERED BY PLUMBERS & STEAMFITTERS ZONES

ZONE 1 - Elk County
ZONE 2 - Forest County & Tidioute Twp in Warren County
ZONE 3 - McKean County
ZONE 4 - Remainder of Warren County

DECISION NO. PA77-3053

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

DECISION NO. PA77-3053

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonablo distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for altsrations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumperete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

DECISION NO. PA77-3053

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil etabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helpor

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1	$10.53	.77	1.50		.06
ZONE 2	8.50	.50	.45	.15+b	

AREAS COVERED BY ROOFERS ZONES

ZONE 1 - Elk & Forest Counties
ZONE 2 - McKean & Warren Cos.

SHEET METAL WORKERS	9.58	.75	.80		.055
SPRINKLER FITTERS	11.61	.60	.90		.08
SOFT FLOOR LAYERS					
ZONE 1	8.65	5%	8%	6%	.40 of 1%
ZONE 2	6.90	.35	.20		.02
ZONE 3	8.15	.25			.02

AREAS COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Elk, Forest Counties
ZONE 2 - McKean County
ZONE 3 - Warren County

TILE SETTERS & TERRAZZO WORKERS					
ZONE 1	10.10	.50	.50		
ZONE 2	9.65	.45	.45		

AREA COVERED BY TILE SETTERS & TERRAZZO WORKERS

ZONE 1 - Elk, McKean & Warren Counties
ZONE 2 - Forest County

DECISION NO. PA77-3053

WELDERS - rate of craft

FOOTNOTES:

a. Paid Holiday: Labor Day, provided the employee has worked six calendar months and appears on the payroll during the pay period in which the holiday occurs.

b. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months 40 hours paid vacation.

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford, Venango

DECISION NO.: PA77-3054 DATE: Date of Publication

Supersedes Decision No.: PA76-3250, dated September 24, 1976, in 41 FR 42131.

DESCRIPTION OF WORK: Building Construction(does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$11.10	.60	.70		
ZONE 2	10.28	.30	.30		.02

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson
ZONE 2 - Crawford and Venango

BOILERMAKERS					
ZONE 1	9.815	7.5%	7%		.01
ZONE 2	10.88	.50	.85		.01

AREA COVERED BY BOILERMAKERS ZONES

ZONE 1 - Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Venango
ZONE 2 - Crawford

BRICKLAYERS & STONEMASONS					
ZONE 1	9.80	.60	.80		.03
ZONE 2	10.15	.45	.70		
ZONE 3	10.66	.30	.40		
ZONE 4	10.10	.50	.50		

AREA COVERED BY BRICKLAYERS & STONEMASONS ZONES

ZONE 1 - Cambria
Zone 2 - Clarion, Clearfield, Jefferson, Venango
ZONE 3 - Crawford
ZONE 4 - Cameron
ZONE 5 - Bedford

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & SOFT FLOOR LAYERS					
ZONE 1	$9.17	6%	8%	6%	.4%
ZONE 2	9.00	5½%	5%	2%	1/2%
ZONE 3	9.25	6%	6%	4½%	½%

AREA COVERED BY CARPENTER & SOFT FLOOR LAYERS ZONES

ZONE 1 - Bedford, Cambria, Cameron, Clarion, Clearfield, Crawford Counties
ZONE 2 - Venango County

CEMENT MASONS					
ZONE 1	9.93	.60	1.59		
ZONE 2	9.25	12%	6%		
ZONE 3	9.78	.30	.40		
ZONE 4	9.65	.45	.45		

AREA COVERED BY CEMENT MASONS

ZONE 1 - Clearfield, Jefferson
ZONE 2 - Bedford, Cameron
ZONE 3 - Crawford
ZONE 4 - Clarion & Venango

ELECTRICIANS					
ZONE 1	11.35	.35	1%+.20	.60	.05
ZONE 2	10.75	.55	1%+.35		
ZONE 3	11.75	.40	1%		4 of 1%
ZONE 4	11.50	3%	3%		½%

DECISION NO. PA77-3054

AREA COVERED ELECTRICIANS ZONES

ZONE 1 - Bedford, Cambria, Clearfield, Clarion & Jefferson
ZONE 2 - Cameron
ZONE 3 - Crawford
ZONE 4 - Venango

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	9.74	.62	.72	.58	.01
ZONE 2	9.41	.30	.20		

AREA COVERED BY GLAZIERS ZONES

ZONE - 1 Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson Counties
ZONE - 2 Crawford & Venango Counties

IRONWORKERS					
ZONE 1	10.29	.785	1.155		.03
ZONE 2	9.34	.50	.60		
ZONE 3	10.00	1.11	1.01		.10
ZONE 4	9.77	.40	.85		.07
ZONE 5	9.685	.70	1.155		.07

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Cambria & Clarion
ZONE 2 - Bedford County
ZONE 3 - Crawford County
ZONE 4 - Venango County
ZONE 5 - Cameron, Clearfield & Jefferson

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE 1					
CLASS I	$ 7.94	.71	.60		
CLASS II	8.065	.71	.60		
CLASS III	8.19	.71	.60		
CLASS IV	8.44	.71	.60		
CLASS V	8.64	.71	.60		
ZONE 2					
CLASS I	7.49	.71	.60		
CLASS II	7.565	.71	.60		
CLASS III	7.59	.71	.60		
CLASS IV	7.64	.71	.60		
CLASS V	7.74	.71	.60		
CLASS VI	7.99	.71	.60		
CLASS VII	8.04	.71	.60		
ZONE 3					
CLASS I	7.80	8%	6.5%		3.5%
CLASS II	8.05	8%	6.5%		3.5%
CLASS III	8.60	8%	6.5%		3.5%
ZONE 4					
CLASS I	8.03	.72	.60		
CLASS II	8.13	.72	.60		
CLASS III	8.48	.72	.60		
CLASS IV	8.58	.72	.60		
CLASS V	8.33	.72	.60		
CLASS VI	8.73	.72	.60		
CLASS VII	8.33	.72	.60		
CLASS VIII	8.58	.72	.60		

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
ZONE 5					
CLASS I	$ 6.95	10%	8%		
CLASS II	7.45	10%	8%		
CLASS III	7.55	10%	8%		
CLASS IV	7.45	10%	8%		
CLASS V	7.00	10%	8%		
ZONE 6					
CLASS I	7.10	10%	8%		
CLASS II	7.60	10%	8%		
CLASS III	7.70	10%	8%		
CLASS IV	7.60	10%	8%		
CLASS V	7.15	10%	8%		

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE 1 - Clarion & Jefferson Counties

CLASS I - Laborers, carryable pumps, west brick buggy or similar vibrator operators, walk behind forklift or similar (non self-propelled), stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, incl. starting & stopping)

CLASS II - West brick buggy or similar (self-propelled), pwer wheelbarrows & buggies, walk behind forklift or similar (self-propelled), wagon drill helper, drill mounted on truck, track or similar), blaeter's helpers, all operators of compacting equipment, pipe layer, burner, jackhammerman, concrete buster

CLASS III - Hod carrier, scaffold builder, bell & bottom man on furnaces & stacks, mortar mixer, mortar mixing machine (regardless of power used, inc. starting & stopping), grout machine feeder & pump operator, wagon drill operator, concrete saw operator wagon

CLASS IV - Gunnite nozzleman

CLASS V - Blaster

ZONE 2 - Venango County

CLASS I - Building laborer, west brick buggy or similar, walk behind fork-lift or similar (non self-propelled), stripper and mover of forms, window cleaner, cement finisher, tool room man, footers

CLASS II - Powered wheelbarrows, buggies

CLASS III - Mason tender, pipe layer, bottom man (10' below grade)

CLASS IV - Mortar mixer, mason plaster, concrete, other, hod carrier - mason, plaster (any method), scaffold builder, concrete buster-jackhammer (air tool, electric, other) other mechanical or power toole concrete saw, carryable pumps and operating all operators of compacting equipment, grout machine

DECISION NO. PA77-3054

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED (CONT'D)

ZONE 2 (Cont'd)

CLASS IV (Cont'd) - feeder and pump operator, all material conveyors (regardless of power used, including starting & stopping), bell and bottom man on furnaces & stacks

CLASS V - Burner (demolition) groundman, jack hammer man, drill man blaster helper, wagon drill helper

CLASS VI - High (climber)

CLASS VII - Blaster, wagon drill operator

ZONE 3 - Cameron County

CLASS I - Common laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building material handlers (loading and Unloading) concrete pitman, puddler, mason tender

CLASS II - Mechanical tampers (power) powered wheelbarrows and buggies & work-lifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted trucks, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting torch, carryable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whscker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plasterers tender, form cleaning machine operator, plaster applicating and/or pump machine operator, paving breaker asphalt raker, lancer, berfix cutting fool, gunnite potman, blacksmith, tool dresser (cable tools)

CLASS III - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, walder, drill (cable tools)

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DECISION NO. PA77-3054

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED (CONT'D)

ZONE 4 - Crawford County

CLASS I - Common laborers

CLASS II - Mason tender, hod carriers, mortar mixers, scaffold builder

CLASS III - Pipelayers (concrete & clay)

CLASS IV - Blaster, mechanical tampers, powered wheel-barrow, wagon drill operators

CLASS V - material, buggy handler, blaster helper, all power tool operators, wagon drill helpers & drill runner

CLASS VI - Burners

When working in piers, trenches, open coffer dams & caissons at depths more than ten (10) feet below the lowest adjacent grade:

CLASS VII - Bottom man

CLASS VIII - All power operators, drill man

CLASS IX - Drill man

ZONE 5 - Bedford County

CLASS I - Unskilled laborers

CLASS II - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS III - Blasters

DECISION NO. PA77-3054

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED (CONT'D)

ZONE 5 (Cont'd)

CLASS IV - Air track men, demolition of chimneys & erection of towers, antennas, cooling towers, (or power plants) or other similar work 10' in height, suspension or workmen in swinging-cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterer tenders

ZONE 6 - Cambria and Clearfield Counties

CLASS I - Unskilled laborers

CLASS II - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS III - Blasters

CLASS IV - Air track men, demolition of chimneys & erection of towers, antennas, cooling towers, (on power plants) or other similar work 10' in height, suspension or workmen in swinging-cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterer tenders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE:					
ZONE 1					
CLASS I	$ 6.05	.40	.50		
CLASS II	6.20	.40	.50		
CLASS III	6.55	.40	.50		
ZONE 2					
CLASS I	5.95	.40	.50		
CLASS II	6.10	.40	.50		
CLASS III	6.45	.40	.50		

NOTICES

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE: (Cont'd)					
ZONE 3					
CLASS I	$ 6.80	8%	6.5%		3.5%

LANDSCAPE LABORERS DEFINITION AND AREA COVERED

ZONE 1 - Clarion, Crawford, Jefferson & Venango Counties

CLASS I - Landscape laborer

CLASS II - Skilled landscape laborers

CLASS III - Landscape tractor operator

ZONE 2 - Cambria, Clearfield and Bedford Counties

CLASS I - Landscape laborer

CLASS II - Skilled landscape laborers

CLASS III - Landscape tractor operator

ZONE 3 - Cameron County

CLASS I - Wrecking laborer

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 8.97		.20		.01
ZONE 2	8.97		.35		.01
ZONE 3	8.53	.45	1.10		.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - Clearfield & Jefferson Counties
ZONE 2 - Bedford, Cameron & Cambria Counties
ZONE 3 - Clarion County

LEAD BURNERS	10.75	.40	.25		.01
LINE CONSTRUCTION					
ZONE 1					
CLASS I	12.04	.35	3%		3/8%
CLASS II	7.20	.35	3%		3/8%
CLASS III	8.41	.35	3%		3/8%
ZONE 2					
CLASS I	10.30	.35	3%		3/8%
CLASS II	7.28	.35	3%		3/8%
CLASS III	6.97	.35	3%		3/8%

LINE CONSTRUCTIONS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE 1 - Bedford, Cambria, Clarion, Clearfield & Jefferson Counties

CLASS I - Lineman

CLASS II - Groundman

CLASS III - Winch truck operator

ZONE 2 - Cameron, Crawford & Venango Counties

CLASS I - Linemen dynamite man, heavy equipment operator

CLASS II - Winch truck operator

CLASS III - Groundman

NOTICES

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS					
ZONE 1	$ 9.80	.60	.80		.03
ZONE 2	9.78	.30	.40		
ZONE 3	9.65	.45	.45		
ZONE 4	9.53	.60	1.10		
ZONE 5	8.80	.60	.00		.03

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Cambria County

ZONE 2 - Crawford County

ZONE 3 - Venango County

ZONE 4 - Jefferson County

ZONE 5 - Bedford County

MARBLE SETTERS HELPERS: Counties covered Bedford, Cambria, Clarion and Jefferson	7.95		.10		
MILLWRIGHTS	9.19	6%	6%	22%	1%

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1					
Commercial					
Brush & Roller	$ 8.54	.65	.45		.12
Spray	9.04	.65	.45		.12
Industrial					
Brush	9.44	.65	.45		.12
Spray	9.94	.65	.45		.12
Roller	10.45	.65	.45		.12
ZONE 2					
Brush	6.75			b	
Spray	7.25			b	
ZONE 3					
Commercial					
Brush & Roller	8.40	.45	.60		
Spray	9.40	.45	.60		
Industrial					
Brush & Roller	8.90	.45	.60		
Spray	9.90	.45	.60		

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Bedford, Cambria counties, Beaver, Ringgold, Porter Twps. in Jefferson County

ZONE 2 - Brockway Twp., in Jefferson County

ZONE 3 - Cameron, Clarion, Clearfield, Crawford, Venango Counties, remainding Twps in Jefferson County

PILEDRIVERMEN	10.60	5%	10%		50¢
PLASTERERS					
ZONE 1	9.78	.30	.40		
ZONE 2	9.65	.45	.45		
ZONE 3	9.39	.39	.70		
ZONE 4	9.00		5%		.01

DECISION NO. PA77-3054

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Crawford County
ZONE 2 - Clarion, Venango Counties
ZONE 3 - Clearfield, Jefferson Counties
ZONE 4 - Bedford, Cambria Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS					
ZONE 1	$10.16	.30	.25		.04
ZONE 2	10.81	.41	.50		.04
ZONE 3					
Contracts Under $10,000	9.94	.60	.65		.08
Contracts Over $10,000	10.45	.60	.65		.08
ZONE 4	10.40	.73	.87		.21

AREA COVERED PLUMBERS AND STEAMFITTERS ZONES

ZONE 1 - Clarion County
ZONE 2 - Twps. in Crawford County, Beaver, Spring, Cussawago, Venango, Cambridge, Rockdale, Bloomfield and Sparta
ZONE 3 - Venango County & Remainder of Crawford County
ZONE 4 - Bedford, Cambria, Cameron, Clearfield, Jefferson

DECISION NO. PA77-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jabs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

UMI

DECISION NO. PA77-3054

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½"discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

DECISION NO. PA77-3054

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propolled or ridden), pipe dream, roiler, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for shaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

NOTICES

24684

DECISION NO. PA77-3054	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1	$9.29	.45	.30		
ZONE 2	10.53	.77	1.50		.06

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Crawford, Venango Counties
ZONE 2 - Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson

SHEET METAL WORKERS					
ZONE 1	10.08	.82	1.23		.13
ZONE 2	9.76	1.17	1.03		.05
ZONE 3	9.76	.62	1.50		.06

AREA COVERED BY SHEET METAL ZONES

ZONE 1 - Cameron, Clearfield, Crawford & Venango
ZONE 2 - Bedford
ZONE 3 - Cambria, Clarion & Jefferson

TRUCK DRIVERS					
ZONE 1					
CLASS I	6.96	c	d		
CLASS II	7.04	c	d		
CLASS III	7.11	c	d		
CLASS IV	6.86	c	d		
ZONE 2					
CLASS I	7.58	6.5%	5.6%	e	
CLASS II	7.63	6.5%	5.6%	e	
CLASS III	7.65	6.5%	5.6%	e	
CLASS IV	7.74	6.5%	5.6%	e	
CLASS V	7.67	6.5%	5.6%	e	
CLASS VI	7.94	6.5%	5.6%	e	
CLASS VII	7.76	6.5%	5.6%	e	
CLASS VIII	7.92	6.5%	5.6%	e	
ZONE 3					
CLASS I	7.20	.20	.20		
CLASS II	7.30	.20	.20		
CLASS III	7.40	.20	.20		
CLASS IV	7.50	.20	.20		
CLASS V	7.35	.20	.20		
CLASS VI	7.45	.20	.20		
CLASS VII	7.40	.20	.20		

DECISION NO. PA77-3054	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D)					
ZONE 3					
CLASS VIII	$ 7.70	.20	.20		
CLASS IX	7.80	.20	.20		
CLASS X	7.45	.20	.20		
CLASS XI	7.70	.20	.20		

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED

ZONE 1 - Bedford, Cambria, Clearfield & Jefferson Counties

CLASS I - Service, dump, flat top, jeep, fuel & water

CLASS II - Transit mix, dump trailer, winch truck

CLASS III - Euclids & tractor trailer

CLASS IV - Helper

ZONE 2 - Clarion & Venango Counties

CLASS I - Warehouseman, Chauffeur, and Ambulance Driver, Service Truck (pick-up, Jeep, Busses, Station Wagon, Panel truck, Escort Vehicle, including Fuel and Water Trucks)

CLASS II - Dump and Flat Top (including Fuel and Water Trucks, Fork Lift in Warehouse or job site storage area and single Axle Trucks with power tail-gate); Distributor Truck over 33,000 lbs. gross weight (Oil, Tar Asphalt products Two man operation, Both men)

CLASS III - Transit Mix, Single Axle

CLASS IV - Transit Mix, Single Tandem Axle

CLASS V - Heavy Duty Tractor and Trailer with High Bed, 4 wheels

NOTICES

24685

UMI

DECISION NO. PA77-3054

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE 2 (Cont'd)

CLASS VI - Heavy Duty Tractor and Trailer with Low Bed, 6 to 16 Wheels and Pole Trailer and Wide Load

CLASS VII - Distributor Truck up to 33,000 lbs. gross weight (Oil, Tar Asphalt products) One Man Operation; Truck with Dolly and Scissor Truck; Truck with Dump Trailer or Tandem, including Fuel and Water, Tandem Axle Truck with power Tailgate and Scissor Truck; Euclids or Equivalent, Tri-axle including Mixer, drivers towing equipment

CLASS VIII - Winch Truck and Form Truck

ZONE 3 - Cameron County

CLASS I - Trucks up to 30,000 lbs. includes pickups, fuel and water trucks), warehousemen

CLASS II - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS III - Tri-Axle Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS IV - Low Boy

CLASS V - Concrete Mixer Trucks

CLASS VI - Concrete Mixer Trucks (Tri-Axle)

CLASS VII - Semi-Trailer

CLASS VIII - Earth Moving Equipment up to 35 Ton (Belly Dump, Side Dump, End Dump, etc.)

DECISION NO. PA77-3054

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE 3 (Cont'd)

CLASS IX - Earth Moving Equipment over 35 Ton (Belly Dump, Side Dump, End Dump, etc.)

CLASS X - A-Frame and Winch Trucks (when used for hauling material on bed of truck)

CLASS XI - Distributor Truck (Oil, Tar, Asphalt, etc.)

ZONE 4
CLASS I - Truck Drivers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. PA77-3054

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays A through F, plus Washington's Birthday and Good Friday, providing the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

b. Paid Holidays: Labor Day, provided the employee has worked six calendar months and appears on the payroll during the pay period in which the holiday occur.

c. $59.90 per month

d. $14.00 per week

e. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Greene, Somerset & Potter
DECISION NO.: PA77-3055 DATE: Date of Publication
Supersedes Decision No.: PA76-3211 dated, July 30, 1976, in 41 FR 32091.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE I	$11.10	.60	.70		
ZONE II	10.81	1.02	.55		.04

AREA COVERED BY ASBESTOS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

BOILERMAKERS					
ZONE I	12.05	.75	1.00		.02
ZONE II	9.815	7.5%	7%		.01

AREA COVERED BY BOILERMAKERS ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

BRICKLAYERS & STONEMASONS					
ZONE I	10.15	.45	.71		
ZONE II	9.30	.45	.70		.03
ZONE III	10.35	.50	.50		

AREA COVERED BY BRICKLAYERS AND STONEMASONS

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE I	$ 9.24	6%	8%	6%	.4%
ZONE II	9.73	6%	8%	6%	.2%

AREA COVERED BY CARPENTERS ZONES

ZONE I - Somerset & Potter Counties

ZONE II - Greene County

CEMENT MASONS					
ZONE I	9.93	.60	1.59		
ZONE II	9.25	12%	6%		
ZONE III	10.10	.50	.50		

AREA COVERED BY CEMENT MASONS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

ELECTRICIANS					
ZONE I	11.35	.35	1%+.20	.60	.05
ZONE II	9.23	.28	1%+.20	.50	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

GLAZIERS					
ZONE I	9.74	.62	.72	.58	.01
ZONE II	9.74	1.40	.55		.10
ZONE III	8.09	.25	.30		.01

NOTICES

DECISION NO. PA77-3055

AREA COVERED BY GLAZIERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Northern part of Potter County

ZONE III - Southern part of Potter County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS					
ZONE I	$ 8.95	.60	.50	5%	.03
ZONE II	9.685	.70	1.155		.07
ZONE III	9.34	.50	.60		

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Greene County

ZONE II - Potter County

ZONE III - Somerset County

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE I					
CLASS 1	$7.94	.71	.60		
CLASS 2	8.065	.71	.60		
CLASS 3	8.19	.71	.60		
CLASS 4	8.44	.71	.60		
CLASS 5	8.64	.71	.60		
ZONE II					
CLASS 1	7.80	8%	6.5%		3.5%
CLASS 2	8.05	8%	6.5%		3.5%
CLASS 3	8.60	8%	6.5%		3.5%
ZONE III					
CLASS 1	7.10	10%	8%		
CLASS 2	7.60	10%	8%		
CLASS 3	7.70	10%	8%		
CLASS 4	7.60	10%	8%		
CLASS 5	7.15	10%	8%		

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE I - Greene County

CLASS 1 - Laborers, carryable pumps, west brick buggy or similar, vibrator operators, walk behind forklift or similar (non self-propelled), stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, incl. starting & stopping)

CLASS 2 - West brick buggy or similar (self-propelled), power wheelbarrows & buggies, walk behind forklift or similar (self-propelled), wagon drill helper, drill runner, drill runner's helper, (incl. drill mounted on truck, track or similar), blaster's helpers, all operators of compacting equipment, pipe layer, burner, jackhammerman, concrete buster

CLASS 3 - Hod carrier, scaffold builder, bell & bottom man on furnances & stacks, mortar mixer, mortar mixing machine (regardless of power used, inc. starting & stopping), grout machine feeder & pump operator, concrete saw operator, wagon drill operator

CLASS 4 - Gunnite nozzleman

CLASS 5 - Blaster & wagon drill operator

NOTICES

DECISION NO. PA77-3055

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE II - Potter County

CLASS 1 - Common laborer, carpenter tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (loading and unloading), concrete pitman, puddler, mason tender

CLASS 2 - Mechanical tampers (power) powered wheelbarrows and buggies & work-lifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jackhammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burnercutting torch, carryayable pumps, chain saw operator, pipe layers, all material conveyors and elevators, signal man, walk behind fork lift or similar, whacker, sand blaster, maintenance man, west brick buggies or similar, scaffold builder for plasterers' regardless of height, hod carrier, plaster tender, form cleaning machine operator, plaster applicating and/or pump machine operator, paving breaker, asphalt raker, lancer, berfix cutting tool, gunnite potman blacksmith, tool dresser (cable tools)

CLASS 3 - Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and temper, walder, driller (cable tools)

ZONE III - Somerset County

CLASS 1 - Unskilled laborers

CLASS 2 - Ditch, trench or sumpwork exceeding 10' in depth including caissons

CLASS 3 - Blasters

CLASS 4 - Air track men, demolition of chimneys and erection of towers, antennas, cooling towers (on power plants) or other similar work in excess of 10' in height, suspension of workmen in swinging - cages, suspended scaffolds, swings, bosun's chair

CLASS 5 - Plasterers tenders

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	$10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE I					
Linemen, dynamite man, heavy equipment operator	10.30	.35	3%		3/8%
Winch truck operator	7.28	.35	3%		3/8%
Groundman	6.97	.35	3%		3/8%
ZONE II					
Linemen	12.04	.35	3%		3/8%
Groundman	7.20	.35	3%		3/8%
Winch truck operator	8.41	.35	3%		3/8%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE I - Potter County

ZONE II - Greene & Somerset Counties

MILLWRIGHTS	9.19	6%	6%	.22%	1/2%
PAINTERS					
ZONE I					
Commercial					
Brush	7.90	.55	.35		.05
Spray	9.025	.55	.35		.05
Industrial					
Brush	8.40	.55	.35		.05
Spray	9.525	.55	.35		.05

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
ZONE II					
Comercial					
Brush & Roller	$8.59	.75	.45		.02
Spray	9.09	.75	.45		.02
Industrial					
Brush	9.44	.75	.45		.02
Spray	9.94	.75	.45		.02
ZONE III					
Commercial					
Brush and Roller	9.10	.55	.80		
Spray	10.10	.55	.80		
Industrial					
Brush, Roller and Spray	10.10	.55	.80		

AREA COVERED BY PAINTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

PILEDRIVERMEN	10.60	5%	10%		.50 of 1%
PLASTERERS					
ZONE I	9.39	.37	.70		
ZONE II	9.00		5%		.01
ZONE III	10.10	.50	.50		

DECISION NO. PA77-3055

AREA COVERED BY PLASTERERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS					
ZONE I	$10.40	.73	.87		.21
ZONE II	10.37	.70	1.10		.07
ZONE III	9.76	.64	.20		.05

AREA COVERED BY PLUMBERS & STEAMFITTERS ZONES

ZONE I - Somerset County & the extreme eastern portion of Greene County

ZONE II - Remainder of Greene County

ZONE III - Potter County

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
ZONE I					
CLASS 1	$10.775	.65	.80		.09
CLASS 1-A	10.025	.65	.80		.09
CLASS 1-B	11.275	.65	.80		.09
CLASS 1-C	11.525	.65	.80		.09
CLASS 2	10.625	.65	.80		.09
CLASS 3	9.80	.65	.80		.09
CLASS 3-A	10.30	.65	.80		.09
CLASS 4	9.80	.65	.80		.09
CLASS 5	9.05	.65	.80		.09
CLASS 6	8.80	.65	.80		.09
CLASS 6-A	8.90	.65	.80		.09
CLASS 6-B	9.05	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE I - Green County

CLASS 1 - Austin-Western or similar type up to 25 ton, austin-western or or similar type 25 ton or over, auto grader (CMI or similar), backhoe, batch plant when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge (without oiler) cableway, caisson drill, central mix plant, cranes (excluding overhead) truck or crawler type) cranes - tower (mobile) cranes tower (climbing type), derrick-traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice), derrick boats, dragline, dredge, engineer-maintenance (mechanic weekly rated), franki or similar type, pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes, Hi Lift 4 yds. or over hoist-hod (2 cages up to 10 floors) hoist-single cage with Chicago boom attached hoist (50 ft. or over) (stacks stoves or furnaces), hoist (slipform jobs) hop-to or similar type with 180° swing, hop-to or s similar type with 360° swing kocal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with selfloading attachment), mix mobile or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver - guard rail (truck mounted pumpkrete-mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar, tractors - boom mounted (all types) tractors (all types with hydraulic backhoe attached), tug boat, whirley

DECISION NO. PA77-3055

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

CLASS 1-A - Austin-Western or similar type up to 25 tons with jib, austin western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up to & including 150 ft. (truck or crawler type) cranes - mobile (any type 15 ton or over) hoist-rod (2 cages over 10 floors)

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. (truck or crawler type), engineer - lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75

CLASS 2 - Auger - truck or tractor mounted, back filling machine, boat - meterial or personnel carrying (powered) boat of job work (inboard or outboard), bull-dozer, cable layer, compactor with blade, concrete belt placer, crane - over-head, crushing & screening plants, drill - davey or similar type, drill - core (truck or skid mounted), drill - well & core (truck mounted) elevator (new buildings and major remodeling old), euclid loader, excavating equipment (all other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), Hi-Lift less than 4 yds, hoist - one drum (4 floors or over), hoist - hod (building 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic), mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for constr. jobs ie.. cooling, concrete & holding banks), ross carrier (or similar type) scoop (single bowl) self-powered & tractor drawn) spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material) trencher, well point systems, grout pump (10 H.P. or over) paver operator asphalt (spreader), pumpcrete or similar type (not self-propelled) pumpkrete machine operator (stationary), tire repairman (when assigned to job), welder repairman) asphalt plant operator, athey loader

DECISION NO. PA77-3055

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

CLASS 3 - Oilers, compactor (ridden or self-propelled), crane (carry) curb builder (self-propelled) drills-wells and horizontal, elevator (alterations of old building), forklifts (ridden or self-propelled), hoist one drum (regardless of power used) pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finishing (CMI or similar type), tugger, truck (winch) truck or hydraulic boom (when hoisting & placing), ballast regulator, boring machine, broom, power (except push type), conveyor over 1 and up to units (regardless of power used) form line machine, hoists (monorail) regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer morter - over 10 cu. ft. (regardless of power used), spray cure machine power driven steam jenny (or similer type) syphon (steam or air), welding machine single (300 amp or over) (other than electrically driven

CLASS 3-A - Convevors 4 units or more

CLASS 4 - Ballast Regulator, Boring Machine, Broom, power (except puat type), Compressor - Single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used), Form line machine, Generator (over 5 KW), Hoists (Monorail) (regardless of power used), Hoist Roof (regardless of power used), Huck machine or similar type, Mixer Concrete (regardless of power used), Mixer Morter - over 10 cu ft (regardless of power used), pump (over 1½" discharge regardless of power used), Spray Cure Machine (power Driven), steam jenny (or similar type), syphon (steam or air), Welding machine single (300 amp or over) other than electrically driven, plant, private or industrial air or steam valve

CLASS 5 - Compressor - 65 cu. ft. or under (regardless of power used), conveyor one (1) unit (regardless of power used), heaters - up to and including 6, jack motor hydraulic (single type) power driven, ladavator, mixer mortar (10 cu. ft. or under), mulching machine, pin puller (powered), pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment), tie tamper (multiple heads), tractor farm (when used for landscaping), water blaster

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanical helper

CLASS 6-A - Crane truck oiler and fireman

CLASS 6-B - Oiler truck crane 50 ton or over, mechanic helper

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

ZONE II - Somerset & Potter Counties

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationery) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for eraction purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

DECISION NO. PA77-3055

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings), euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering matsrial), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

DECISION NO. PA77-3055

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil etabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CHI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generatore (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under); mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tampar (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE I	$10.53	.77	1.50		.06
ZONE II	8.50	.50	.45	.15+e	

AREA COVERED BY ROOFERS ZONES

ZONE I - Greene & Somerset Counties

ZONE II - Potter County

SHEET METAL WORKERS					
ZONE I	9.58	.75	.90		.03
ZONE II	10.08	.82	1.23		.13

AREA COVER BY SHEET METAL WORKERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

SOFT FLOOR LAYERS					
ZONE I	9.24	6%	6%	6%	.5%
ZONE II	9.24	5%	8%	6%	.4 of 1%

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE I - Greene County

ZONE II - Somerset & Potter Counties

SPRINKLER FITTERS	11.61	.60	.90		.08

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS					
ZONE I	$ 9.24	.60	1.10		.065
ZONE II	9.73	.68	.68		.19
ZONE III	9.76	.64	.45	.20	.05

AREA COVERED BY STEAMFITTERS ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

TERRAZZO WORKERS					
ZONE I	10.15	.45	.71		
ZONE II	9.77	.45	.75		
ZONE III	10.10	.50	.50		

AREA COVERED BY TERRAZZO WORKER ZONES

ZONE I - Greene County

ZONE II - Somerset County

ZONE III - Potter County

TILE SETTERS					
ZONE I	9.50	.60	1.40		
ZONE II	10.10	.50	.50		

AREA COVERED BY TILE SETTERS ZONES

ZONE I - Greene and Somerset Counties

ZONE II - Potter County

UMI

DECISION NO. PA77-3055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
ZONE I					
CLASS 1	$ 6.96	a	b		
CLASS 2	7.04	a	b		
CLASS 3	7.11	a	b		
CLASS 4	6.86	a	b		
ZONE II					
CLASS 1	7.58	6.5%	5.6%	c	
CLASS 2	7.63	6.5%	5.6%	c	
CLASS 3	7.65	6.5%	5.6%	c	
CLASS 4	7.74	6.5%	5.6%	c	
CLASS 5	7.67	6.5%	5.6%	c	
CLASS 6	7.94	6.5%	5.6%	c	
CLASS 7	7.76	6.5%	5.6%	c	
CLASS 8	7.92	6.5%	5.6%	c	
ZONE III					
CLASS 1	7.20	.20	.20		
CLASS 2	7.30	.20	.20		
CLASS 3	7.40	.20	.20		
CLASS 4	7.50	.20	.20		
CLASS 5	7.35	.20	.20		
CLASS 6	7.45	.20	.20		
CLASS 7	7.40	.20	.20		
CLASS 8	7.70	.20	.20		
CLASS 9	7.80	.20	.20		
CLASS 10	7.45	.20	.20		

DECISION NO. PA77-3055

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED

ZONE I - Somerset County

CLASS 1 - Service, dump, flat top, jeep, fuel & water

CLASS 2 - Transit mix, dump trailer, winch truck

CLASS 3 - Euclids & tractor trailer

CLASS 4 - Helper

ZONE II - Greene County

CLASS 1 - Warehouseman, chauffeur, and ambulance driver, service truck (pick-up, jeep, busses, station wagon, panel truck, escort vehicle, including fuel and water trucks)

CLASS 2 - Dump and flat top (including fuel and water trucks, fork lift in warehouse or job site storage area and single axle trucks with power tail-gate); distributor truck over 33,000 lbs. -ross weight (oil, tar asphalt products two man operation, both men)

CLASS 3 - Transit mix, single axle

CLASS 4 - Transit mix, single axle

CLASS 5 - Heavy duty tractor and trailer with high bed, 4 wheels

CLASS 6 - Heavy duty tractor and trailer with low bed, 6 to 16 wheels and pole trailer and wide load

CLASS 7 - Distributor truck up to 33,000 lbs. gross weight (oil, tar asphalt products) one man operation; truck with dolly and scissor truck; truck with dump trailer or tandem, including fuel and water, tandem axle truck with power tailgate and scissor trucks; euclids or equivalent, tri-axle including mixer, drivers towing equipment

CLASS 8 - Winch truck and form truck

DECISION NO. PA77-3055

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA COVERED (CONT'D)

ZONE III - Potter County

CLASS 1 - Trucks up to 30,000 lbs. includes pickups, fuel and water trucks), warehousemen

CLASS 2 - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 3 - Tri-axle trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 4 - Low Boy

CLASS 5 - Concrete mixer trucks

CLASS 6 - Concrete mixer trucks (Tri-Axle)

CLASS 7 - Semi-trailer

CLASS 8 - Earth moving equipment up to 35 ton (belly dump, side dump, end dump, etc.)

CLASS 9 - Earth moving equipment over 35 ton (belly dump, side dump, end dump, etc.)

CLASS 10 - A-frame and winch trucks (when used for hauling material on bed of truck)

CLASS 11 - Distributor truck (oil, tar, asphalt, etc.)

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. PA77-3055

FOOTNOTES:

a. $59.00 per month

b. $14.00 per week

c. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

d. Paid Holidays: New Year's Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

e. One to three months service 10 hours, three to six months service 20 hours, six to nine months service 30 hours, nine to twelve months service 40 hours paid vacation

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SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lehigh
DECISION NO.: PA77-3056 DATE: Date of Publication
Supersedes Decision No. PA76-3183 dated June 18, 1976, in 41 FR 24862.
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	10.11	.52	.70		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers	9.75	.60	1.05		.01
Carpenters	10.20	.44	.72		
Cement Masons	9.65	.60	.50		
Electricians	10.90	.35	1%+.80		.02
Elevator Constructors	11.06	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers	7.75	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers (prob.)	5.535				
Glaziers	8.89	.40	.30		.01
Ironworkers, Structural	11.45	.84	1.21		
Ironworkers, Reinforcing	11.45	.84	1.21		
Ironworkers, Ornamental	11.45	.84	1.21		
Laborers, Building:					
Unskilled laborers	6.97	.35	.45		
Operator of jackhammer paving breaking & other pneumatic & mechanical tools, wagon drills & men handling dynamite, handling & using, cutting & burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same & cofferdams (below 10 feet)	6.85	.35	.45		
Plasterers & mason tenders, scaffold builders & handling of all materials to be used by plasterers & masons, brick & blocks loaded on pallets, cement finishers tenders, gunniting and molder-D & sand blasters helpers	7.27	.35	.45		
Barko tamper operator	7.47	.35	.45		
Lathers	9.71	.40	.25		.01

DECISION NO. PA77-3056	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Linemen & cable splicers	10.83	.40	1%		3/4 of1%
Groundmen	6.46	.40	1%		3/4 of 1%
Winch truck operator	7.55	.40	1%		3/4 of 1%
Marble setters	8.50	.60	1.05		
Marble setters helpers	6.97	.60	.75		
Millwrights	10.60	.44	.72		
Painters:					
Brush	8.05	.83	.60		
Structural steel	9.05	.83	.60		
Spray	9.05	.83	.60		
Plasterers	9.65	.40	.50		.01
Plumbers	10.02	.57	.92		.08
Roofers:					
Albany, Maxatany and Windsor Composition, damp, waterproofing, slate & tile	10.60	.45	.25	d	
Remainder of County:					
Composition & slate	10.93	.15	.50		
Composition & slate helpers	7.21	.15	.50		
Sheet Metal Workers	9.71	1.17	1.03		.05
Sprinkler Fitters	11.61	.60	.90		.08
Piledrivermen	10.42	1.88	1.30	e	.12
Steamfitters	10.02	.57	.92		.08
Stone Masons	9.75	.60	1.05		
Terrazzo workers	8.75	.60	1.05		
Tile setters	8.50	.60	1.05		
Truck drivers	7.95	f	g	h	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. PA77-3056

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six paid holidays: A through F.

c. Eight paid holidays; A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday, & is available for work the days preceding & following the holiday.

d. Paid Holidays: Election Day and Labor Day.

e. Paid Holidays: Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day, Thanksgiving Day and Christmas Day.

f. Employer contributes $67.31 per month to a Health & Welfare Fund.

g. Employer contributes $47.68 per month to a pension fund.

h. When an employee has been employed for one year but less than five years he shall receive one weeks vacation.

DECISION NO. PA77-3056

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicoptere, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

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SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Sullivan
DECISION NO.: PA77-3057 DATE: Date of Publication
Supersedes Decision No. PA76-3205 dated June 18, 1976 in 41 FR 24872.
DESCRIPTION OF WORK: Building construction (does not include single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	9.95	.65	.60		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers	9.35	.40	.50		
Carpenters:					
Benton Air Force Base	10.61	.40	.50		.03
Remainder of County	10.14	.40	.50		.03
Cement masons	9.45				
Electricians:					
Eastern part of County	10.74	.50	1%+.75		.03
Western part of County	9.23	.40	1%+.35	.60	.02
Ironworkers:					
Structural	11.25	a			.10
Reinforcing	11.15	a			.10
Laborers:					
Unskilled & window washers	8.77	.30	.70		
Mason tenders incl. scaffold builders	9.17	.30	.70		
Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the juriadiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blaster helpers, power buggies, walk along hoist	8.97	.30	.70		
Plasterers tenders, blasters & wagon drill operators	9.09	.30	.70		
Line construction:					
Linemen & cable splicer	10.30	.35	3%		3/8 of 1%
Groundman-truck driver	7.28	.35	3%		3/8 of 1%
Groundman	6.97	.35	3%		3/8 of 1%
Millwrights	11.29	.40	.50		.03

DECISION NO. PA77-3057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Plasterers	9.60				
Plumbers	9.76	.64	.45	.20	.05
Glaziers	9.20	.40	.60		
Roofers	9.20	.75	.70		
Sheet metal workers	11.12	.73	.40		.02
Soft floor layers	8.63	.35	.40		.03
Piledrivermen	10.42	1.88	1.30	b	.12
Sprinkler fitters	11.61	.60	.90		.08
Steamfitters	9.76	.64	.45	.20	.05
Stone masons	9.35	.40	.50		
Terrazzo workers	8.70	.40	.50		
Welders - Rate of craft					

FOOTNOTES:

a. Employer contributes $2.05 per hour to a combined health and welfare and pension fund.

b. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

DECISION NO. PA77-3057

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. T
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, tronch shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trenoher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Erie
DECISION NO.: PA77-3058 DATE: Date of Publication
Supersedes Decision No. PA76-3177, dated June 11, 1976, in 41 FR 23916.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	11.40	.60	1.00		.03
BRICKLAYERS	11.11	.30	.40		
CARPENTERS	10.10	.45	.30		.02
CEMENT MASONS	9.92	.45	.75		.015
ELECTRICIANS	10.90	4%	3%+1%		1/2 of 1%
ELEVATOR CONSTRUCTORS	9.95	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.41	.30	.20		
IRONWORKERS:					
Structural	10.00	1.11	1.01		.10
Ornamental	10.00	1.11	1.01		.10
Reinforcing	10.00	1.11	1.01		.10
LATHERS	10.88	.30	.10		.02
LABORERS:					
Building & common, carpenter tender, heaters & salamandera, power sweepers, power vacuum sweepers, pumps including 1-1/2", signal man concrete bucket, wrecking & demolition, window washing	8.10	.60	.50		.01
Bricklayer & mason tendars, electric operated conveyor, electric operated hoist, fork lift up to 9 ft., plumber & sewer laborers, scaffold builders, float grinder & sander	8.20	.60	.50		.01
Burners, concrete saw operator, hod carriers, mortar mixers, plaster tankers, powered wheelbarrows & buggies	8.30	.60	.50		.01
Dual vibrator roller (walk behind type) Serfix cutting tool, blasters helpers, drill operator helper, jackhammer & air tool operators, mechanical tampers & air tampers, vibrator - air or otherwise	8.35	.60	.50		.01

DECISION NO. PA77-3058

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS (Cont'd)					
Mixing mortar for more than 3 masons by hand	8.40	.60	.50		.01
Blasters, drill operators, gunite nozzle man & machine man	8.50	.60	.50		.01
Plaster mixing machine & pump	8.55	.60	.50		.01
LINE CONSTRUCTION:					
Linemen, Heavy equipment Operator	10.30	.35	3%		3/8 of 1%
Winch - Truck driver	7.28	.35	3%		3/8 of 1%
Groundmen	6.97	.35	3%		3/8 of 1%
MARBLE SETTERS	9.90	.30	.40		
MILLWRIGHTS	10.25	.45	.30		.02
PAINTERS:					
Brush	8.51	.45	.40		.03
Structural steel	9.15	.45	.40		.03
Spray	8.94	.45	.40		.03
PILEDRIVERMEN	9.75	.30	.30		.02
PLASTERERS	9.76	.45	.75		.015
PLUMBERS	10.31	.41	.50		.04
ROOFERS:					
Composition	9.29	.45	.30		
SHEET METAL WORKERS	9.58	.75	.80		.075
SOFT FLOOR LAYERS	10.10	.45	.30		.02
SPRINKLER FITTERS	11.61	.60	.90		.08
STEAMFITTERS	10.31	.41	.50		.04
STONEMASONS	11.11	.30	.40		
TERRAZZO WORKERS	9.90	.30	.40		
TILE SETTERS	9.90	.30	.40		

WELDER: Receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. PA77-3058

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	$10.92	.65	.80		.10
Class 1-A	11.21	.65	.80		.10
Class 1-B	11.48	.65	.80		.10
Class 1-C	11.76	.65	.80		.10
Class 2	10.45	.65	.80		.10
Class 3	10.29	.65	.80		.10
Class 4	9.47	.65	.80		.10
Class 5	8.90	.65	.80		.10
Class 6	8.63	.65	.80		.10
Class 6-A	8.90	.65	.80		.10
Class 6-B	9.35	.65	.80		.10

POWER EQUIPMENT OPERATORS

Class 1: Auger (truck or tractor mounted), Austin Western or similar type, Austin Western or similar type up to 25 tons (25 tons or over requires an oiler), Backhoe, Backhoe (under 5/8 yd.), Batch Plant - Automatic, Boom - side, Cableways, Conveyors Belts - up to 4 floors, Conveyor Belts - over 4 units, Crane - Tower (climbing type), Derrick (all types), Derrick - Traveler, Dragline, Drill - Caisson, Electro Matic or similar, Gradall (remote control or otherwise), Helicopter, Helicopter - hoisting opereting, Hi-lift (3 yards or over), Hoist - on 50 ft. stack or over, Hoist on slip form job, Hoist - hod (single cage), Hoist - hod (2 cages up to 10 floors), Hop-to or similar type with 360 degree swing, Hop-to or similar type with 360 degree swing under 5/8 yd., Koehring Scooper, Kocal or similar type, Lowerman, Mix Mobile or similar type, Mixer - concrete paving, Mixer - paving (self-propelled), Multiple Bowl Machines or Multi-engine, Pile Driver - Franki or similar type, Pile Driver (when assistance is required it will be an operating engineer), Placer - belt (concrete), Plant - Central Mix, Quad Nine, Shovels (all types), Shovels under 5/8 yd.) Tractors - boom mounted (all types), Tugboat, Whirlers, Boat - job work (inboard or outboard), Buildozar, Carrier Ross or similar type, Compactor - (with blade attached), Curb Builder - self-propelled, Drill - Core, Drill - Wall and Core (truck mounted), Engineer - maintenance (daily rated) Grader, Grader - Elevating, Greaser - equipment, Hi-lift (less than 3 yards), Hoist 2 drums in one unit, Hop-to or similar type with 180 degree swing, Tractors (all types with hydraulic backhoe attached), Cranes, Tower, Matro Chip Harvester (or similar type), Mixer - paving mixer - mortar - over 10 cu. ft., Plant - crushing and screening, Pumpcrete - mobile or similar type, Road Builder - Automatic, Scoop - self-powered and Tractor drawn (single bowl), Spray Cura Machine (power driven), Spreader, Steam Janny (or similar type), Syphon (steam or air) Tractors (all types with hydraulic backhoe attached)

Class 1-A: Austin Western or similar type with jib + 25c, Austin Western or similar type 25 tons or over with jib + 25c, Cranes (excluding over head cranes), Crane -placed on building structure, Hoist single cage with Chicago Boom attached + 25c, Engineer - lead, Hoist hod (2 cages over 10 floors), Cranes - 100 feet to 150 feet

Class 1-B: Cranes - 150 feet to 200 feet

Class 1-C: Cranes - 200 feet and over

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POWER EQUIPMENT OPERATORS (Cont'd)

Class 2: Backfilling Machine, Boat - material or personnel, Compressor and air pump, Compressor and air tugger, Compressor and gunite machine (combination), Compressors and sandblasting unit (combination), Compressors (two), crane - overhead, Fork lift - elevating - lull or similar type generators - two, Grade - sub, Jumbo - power, Layer - cable, Layer - pipe - no joint, Lift Slab Machine, Locomotive, Machines - other minor, machines - small (two), Mucking Machine, Mobile Tower, Pipe - bending Machine (pipeline only), Pipe - cleaning machine, Pipe - wrapping machine, Plant - asphalt operator, Plant - portable crushing and screening, Plant - refrigeration pump - grout, Spreader-concrete, Asphalt and Stone, Well point systems (Section IC), Winch Truck (handling steel), Wire wrapping machine - pre-stress, Drill - Davey or similar, Drill - truck mounted and/or core drill for testing, Elevator (new buildings and major remodeling of old), Hoist one drum, Paver - asphalt, Post Driver - guard rail (other than truck mounted), Post Driver - guard rail (truck mounted), Pumpcrete - or similar type (not self-propelled), Tire Repairman, Trencher Machine, Welder, Welding Machines (up to and including 4)

Class 3: Boiler, Breaker - pavement (self-propelled or ridden), Compactor (ridden or self-propelled), Crane - carry, Crusher - stone, Drill - well (horizontal), Drill (self-propelled and self contained), Elevator (alterations of old buildings), Finisher - broom (C.M.I. or similar type), Finishing Machine and Spreader (concrete), Forklifts (ridden or self-propelled), Form Line Machine, Minor equipment (all other), Motorman, Pipe Dream, Roller, Saw - concrete (ridden or self-propelled), Soil Stabilizer, Tractors (when used for snaking and hauling), Truck - winch, Tugger

Class 4: Compressor (single (over 65 cu. ft. regardless of power used, Hoist - monorail (regardless of power used), Pump (over 1½ inch discharge regardless of power used), Oiler - truck crane (50 tons or over and Fireman)

Class 5: Blaster - water, Boring Machine, Broom - power, Compressor - 65 cu. ft. or under (regardless of power used) (2 gun painters), Conveyor - 1 story (regardless of power used), Conveyor (over 1 and up to 3 units regardless of power used), Generator (4 KW or over), Hauck Machine or similar type, Heaters - up to and including four), Jack and Pump - motor hydraulic, Jenny - steam (or similar type), Ladavator, Mixer - concrete (regardless of power used), Mixer - mortar (over 10 cu. ft. regardless of power used), Mobile - track (or similar type), Mulching Machine, Pin Puller, Pulverizer, Pump - 1¼ inch discharge or less, Regulator - Ballast, Seeding Machine, Shoulder, Spray Cure Machine, Syphon - (steam or air), Tie Tamper (multiple heads), Tractor - farm (when used for landscaping), Welding machine - single (300 amp. or over), Oiler, Truck Crane.

Class 6: Brake man, Deck hand, Helicopter signalman, Oiler, Mechanic helper

Class 6-A: Oiler, Truck crane

Class 6-B: Oiler, Truck crane (50 tons or over)

Paid Holidays: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six Paid Holidays: A through F.

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX77-4101 DATE: Date of Publication
Supersedes Decision No. TX76-4140, dated August 6, 1976, in 41 FR 33184.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.88	.42	.60		.08
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS-STONEMASONS	9.27	.45	.30	.25	.05
CARPENTERS:					
Carpenters	7.77	.38	.40	.40	.02
Millwrights	8.07	.38	.40	.40	.02
CEMENT MASONS	6.68				
ELECTRICIANS:					
Electricians	10.24	.30	3%		1%
Cable splicers	10.49	.30	3%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	7.99	.445	.29	3%+a+b	.02
Helpers	70%JR	.445	.29	3%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	6.80				
IRONWORKERS	7.85	.55	1.00	.50	.07
LABORERS:					
Common laborers; Pipelayers, concrete & clay (non-metallic)	5.09	.28	.30		.02
Air tool operators (jackhammer, vibrator)	5.18	.28	.30		.02
Bell hole man; Mason tenders	5.20	.28	.30		.02
Mortar mixers; Plasterers' tenders	5.46	.28	.30		.02
LATHERS	9.26				.01
LINE CONSTRUCTION:					
Lineman	8.255	.28	1%		1/2%
Groundman	5.58	.28	1%		1/2%
Groundman, 1st, year	4.12	.28	1%		1/2%
MARBLE SETTERS	6.99	.35	.30	.25	
MARBLE SETTERS' HELPERS	4.87				
PAINTERS:					
Brush; Paperhanger; Taper & floater	7.925		.20		.05
Spray; Structural steel	8.175		.20		.05
Spray on structural steel; Sandblasting	8.425		.20		.05

DECISION NO. TX77-4101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$ 9.26				.01
PLUMBERS-PIPEFITTERS	10.10	.40	.55		.10
ROOFERS:					
Roofers	5.50				
Kettlemen	4.83				
Waterproofers	5.14				
SHEET METAL WORKERS	9.08	3%+.30	.50		.07
SOFT FLOOR LAYERS	4.55				
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	6.99	.35	.30	.25	
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.87				
Floor machine operators	5.07				
Base machine operators	5.22				
TILE SETTERS	6.99	.35	.30	.25	
TILE SETTERS' HELPERS	4.87				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 3 yrs. - 2%; over 3 yrs. - 4% of basic hourly rate.
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.32	.35	.75		
GROUP 2	7.44	.35	.75		
GROUP 3	6.27	.35	.75		
GROUP 4	6.03	.35	.75		

CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; All rollers (5 tons or over); Backfiller; Backhoe; Blade graders (self-propelled); Bull clam; Bulldozers; Cableway; Clamshell operator; Crane (power operated, all types); Derricks (power operated, all types); Draglines; DW-10 caterpillar and similer tractors; Elevating graders (self-propelled); Euclid; Fork lift used on construction; Gasoline or diesel-driven welding machines (7 to 12); Gradall; Heavy duty mechanic; High lifts; Hoist (two drums or more); Locomotives; Mixer (14 cu. ft. or over); Mixmobile; Paving mixers (all sizes); Piledrivers; Pumpcrete machine operator; Rock crusher operator on job; Scoopmobile; Scrapers; Shovel (power operated); Turnapulls; Trenching machines (all sizes); Winch truck; All other equipment of similar nature, coming within the heavy equipment class, when power operated

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); Blade graders (towed); Building elevator used on construction; Flex planes; Form graders; Hoist (single drum); Mixer (less than 14 cu. ft.); Pneumatic roller; Pulsometers; Pump (2½ or larger shall require a light equipment operator); Three to six welding machines or any three pieces or equipment of equal or similar nature, coming within the light equipment class when power operated; Roller (under 5 tons); Truck crane drivers

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Galveston & Harris

DECISION NO.: TX77-4102 DATE: Date of Publication

Supersedes Decision No. TX76-4195, dated December 28, 1976, in 41 FR 56598

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS:					
Galveston County	10.13	.38	.50		.05
Harris County	10.53	.63	.60		.06
CARPENTERS:					
Carpenters	10.00	.75	.70		.05
Millwrights	10.36	.75	.70		.05
Piledrivermen	10.00	.75	.70		.05
CEMENT MASONS:					
Galveston County	9.86	.52	.55		
Harris County	9.12	.49	.55		.05
ELECTRICIANS:					
Galveston County	11.34	.40	1%+.40		.06
Harris County	11.05	.55	5%		.04
ELEVATOR CONSTRUCTORS:					
Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.07	.60	.425		.01
IRONWORKERS	10.28	.55	1.00		.10
LABORERS:					
GROUP 1 - Common	6.93	.28	.40		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator	7.105	.28	.40		.02
GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers	7.205	.28	.40		.02
GROUP 4 - Well driller	7.48	.28	.40		.02
GROUP 5 - Well driller tender	7.055	.28	.40		.02
GROUP 6 - Blaster, powderman	7.355	.28	.40		.02
LATHERS (Harris County only)	9.92	.50	.35		.02
LINE CONSTRUCTION:					
Lineman & cable splicer	11.62	.40	1%		1/2%
Groundmen (1st 6 mos.)	4.07	.40	1%		1/2%
Groundmen (2nd 6 mos.)	4.88	.40	1%		1/2%
Groundmen	6.74	.40	1%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Galveston County	$ 9.26				
Harris County	9.51				
MARBLE MASONS' FINISHERS	7.15				
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	10.46				
GROUP 2 - All pneumatic and electric tools and steam cleaning	10.815				
GROUP 3 - All tape and float on drywall	10.585				
GROUP 4 - All paper and vinyl hanging	10.71				
GROUP 5 - All spray painting, sandblasting & waterblasting	10.855				
GROUP 6 - Steeple jack work, hot materials	11.12				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.295	.365	.35	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	9.67	.365	.35	.40	.04
GROUP 3 - Tape, float & drywall	9.42	.365	.35	.40	.04
GROUP 4 - Steeple jack work, hot materials	9.92	.365	.35	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	9.00	.55	.45	.665	.02
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	9.25	.55	.45	.665	.02
GROUP 3 - Painters on rework & repaint	8.245	.55	.45	.665	.02
PIPEFITTERS:					
That part of Galveston County east of the Trinity River:					
Commercial work up to $50,000	10.55	.445	.50		.03
Commercial work $50,000 & over	11.005	.445	.50		.03

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DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS (CONT'D):					
Harris County and that part of Galveston County west of the Trinity River	$10.85	.45	.65		.045
PLASTERERS	9.70	.77	.30		.02
PLUMBERS:					
Galveston County:					
Commercial work up to $50,000	10.55	.445	.50		.03
Commercial work $50,000 & over	11.005	.445	.50		.03
Harris county	10.72	.55	.70		.12
ROOFERS	8.89	.20	.25	.25	.03
SHEET METAL WORKERS:					
Galveston County	9.42	.60	.25	.50	.10
Harris County	10.18	.275	.595	.32	.06
SOFT FLOOR LAYERS	9.17	.35	.45		.09
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS:					
Galveston County	9.26				
Harris County	9.51				
TERRAZZO WORKERS' FINISHERS:					
Terrazzo workers' finishers	7.15				
Terrazzo floor machinemen	7.30				
Terrazzo base machinemen	7.45				
TILE SETTERS:					
Galveston County	9.26				
Harris County	9.51				
TILE SETTERS' FINISHERS	7.15				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash, grease, fireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
GROUP 4 - Euclids (not self-loading	$ 8.61				
GROUP 5 - Warehou emen	8.10				
GROUP 6 - Material checkers; pick-up drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4102

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.38	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Rack Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

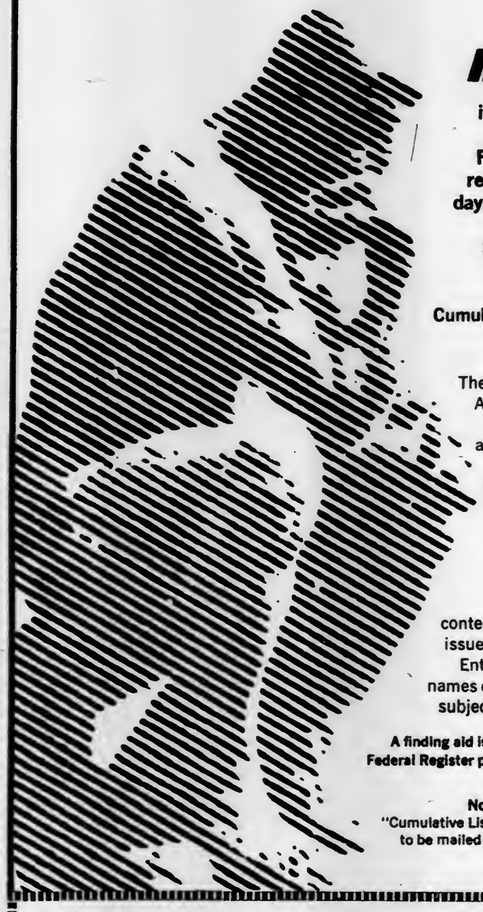
GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

[FR Doc.77-13426 Filed 5-12-77;8:45 am]

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RESOLUTION CHART

MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100/20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.